

**CITY OF VERO BEACH, FLORIDA
JANUARY 5, 2010 9:30 A.M.
REGULAR CITY COUNCIL MEETING
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

A G E N D A

1. CALL TO ORDER

- A. Roll Call
- B. Invocation – Father Michael Goldberg/St. Augustine Episcopal Church
- C. Pledge of Allegiance

2. PRELIMINARY MATTERS

- A. Agenda Additions, Deletions, and Adoption
- B. Proclamations
 - 1. Plaques presented to Employees Retiring from the City
- C. Public Comment
- D. Adoption of Consent Agenda
 - 1. Regular City Council Minutes – December 1, 2009
 - 2. City Council Workshop Minutes – November 16, 2009
 - 3. Special Call City Council Minutes – December 8, 2009
 - 4. Solid Waste Franchise Agreement – Fletcher’s Hauling, Inc.
 - 5. SR A1A from St. Lucie/Indian River County Line to Coquina Lane – Landscape Maintenance Memorandum of Agreement
 - 6. Award of Bid No. 370-09/PW – Relay Testing Service Contract for the Power Plant and Electrical T&D
 - 7. Change Order and Final Payment for Televent Miner & Miner – ArcFM Implementation with Data Collection Services

(The matters listed on the consent agenda will be acted upon by the City Council in a single vote unless any Councilmember requests that any specific item be considered separately.)

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending the definition of “Restricted Sales and Services” of Chapter 60, Appendix, Definitions, of Part III, Title VI, Vero Beach Code; limiting Retail and Personal Service Stores to 4,000 square feet of floor area; excluding stores with Warehousing, Heath and Fitness Clubs, and Stores that sell Motor Vehicle Parts; excluding Hardware Stores with outdoor merchandise displays and laundry and dry cleaning stores with on-site cleaning and clothing repair services; excluding stores with Drive-In, Drive-Up, or Drive-Through Facilities and Stores that offer for sale predominately pre-packaged food products, beverages, and other frequently or recurring needed household items between the hours of 11:00 p.m. and 6:00 a.m., including deliveries between this same time period; providing for conflict and severability; providing for an effective date.
- B) An Ordinance of the City of Vero Beach, Florida, amending Chapter 72, Landscaping and Tree Protection, of the Code of the City of Vero Beach, relating to Landscaping Requirements, Tree Classification and Protection; providing for Tree Grades and Standards; providing for Tree Removal Permit Procedures; providing for Protection of Trees before and during Site Development; providing for Pruning Guidelines; providing for Enforcement and Penalties; providing for Conflict and Severability; providing for an Effective date.
- C) An Ordinance of the City of Vero Beach, Florida, amending Article III, Section 2-119, of the Vero Beach Code of Ordinances relating to Eligibility for Appointment to the Utilities Commission; providing for an effective date.
- D) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of Annexed Land from Indian River County Designation of C-2 (Conservation-2) to a Comparable City of Vero Beach Designation of ES (Environmentally Significant) for the property consisting of three separate parcels, located between the 45th Street and Gifford Dock Road along the Western Shore of the Indian River, including a portion of Government Lot 3 lying in Section 24, Township 32 South, Range 39 East, containing 16.7 acres, more or less; and providing for an effective date.
- E) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation of RM-6 (Multiple Family Residential) to a comparable City of Vero Beach designation of R-1AAA (Single Family Residential), for the property consisting of three separate parcels located between 45th Street and Gifford Dock Road along the Western Shore of the Indian River, including a portion of Government Lot 3 lying in Section 24, Township 32 South, Range 39 East, containing 16.7 acres, more or less; and providing for an effective date.

- F) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of Annexed Land from Indian River County designation of C-2 (Conservation) to a comparable City of Vero Beach designation of CV (Conservation) for the property located along the Western Shore of the Indian River, South of 45th Street including Government Lot 1 and 2 together with the Northwest ¼ of the Southeast ¼ and the North ¼ of the Southeast ¼ of said Section 25 lying in Section 25, Township 32 South, Range 39 East, containing 124 acres more or less; and providing for an effective date.
- G) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation of RS-1 (Single Family Residential) to a comparable City of Vero Beach designation of P-1 (Park-Conservation) for the property located along the Western Shore of the Indian River, South of 45th Street including Government Lot 1 and 2 together with the Northwest ¼ of the Southeast ¼ and the North ¼ of the Southeast ¼ of said Section 25 lying in Section 25, Township 32 South, Range 39 East, containing 124 acres more or less; and providing for an effective date.
- H) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of annexed land from Indian River County of designation M-1, (Medium Density Residential-1) to a comparable City of Vero Beach designation of RM (Residential Medium) for the property North of the intersection of 33rd Street and 13th Avenue, including a portion of the Northeast Quarter of Section 35, Township 32 South, Range 39 East, containing 22.17 acres, more or less; and providing for an effective date.
- I) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation RM-6, Multiple Family Residential to a comparable City of Vero Beach designation of RM-8, Medium Density Multiple Family for the property North of the Intersection of 33rd Street and 13th Avenue, including a portion of the Northeast quarter of Section 35, Township 32 South, Range 39 East, containing 22.17 acres, more or less; and providing for an effective date.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City Council of the City of Vero Beach, Florida, releasing from all City Easements the Northeasterly 3 feet of Lot 3, Block 35; the Northeasterly and Southwesterly 3 feet of Lot 4, Block 35; and the Southwesterly 3 feet of Lot 5, Block 35, Royal Park Subdivision Plat No. 7.

5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 77, Architectural Review, Section 77.04 by creating new paragraph (I); providing that

building elevations, construction of site plans, design drawings, or similar materials submitted as part of Architectural Review application be prepared by a State licensed design professional, if required by the Florida Statutes or Florida Building Code for submittal of a building or other development permit application; providing for conflict and severability; and providing for an effective date.

6. CITY CLERK'S MATTERS

7. CITY MANAGER'S MATTERS

8. CITY ATTORNEY'S MATTERS

9. CITY COUNCIL MATTERS

A. Old Business

1. Interview Process for the New City Councilmember – Requested by Mayor Sawnick

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

1. Correspondence
2. Committee Reports
3. Comments

A) Pension & Insurance Plans to be reviewed by the Finance Commission

B. Vice Mayor Sabin Abell's Matters

1. Correspondence
2. Committee Reports
3. Comments

C. Councilmember Tom White's Matters

1. Correspondence
2. Committee Reports
3. Comments

D. Councilmember Brian Heady's Matters

1. Correspondence
2. Committee Reports
3. Comments

- E. Councilmember Matters
 - 1. Correspondence
 - 2. Committee Reports
 - 3. Comments

11. ADJOURNMENT

Council Meetings will be televised on Channel 13 and replayed.

This is a Public Meeting. Should any interested party seek to appeal any decision made by Council with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings and that, for such purpose he may need to ensure that a record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based. Anyone who needs a special accommodation for this meeting may contact the City's Americans with Disabilities Act (ADA) Coordinator at 978-4920 at least 48 hours in advance of the meeting.

**CITY OF VERO BEACH, FLORIDA
JANUARY 5, 2010 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

Mayor Kevin Sawnick, present; Vice Mayor Sabin Abell, present; Councilmember Tom White, present; and Councilmember Brian Heady, present **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

B. Invocation

The invocation was given by Father Michael Goldberg of St. Augustine Episcopal Church.

C. Pledge of Allegiance

The audience and the Council joined together in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mr. Heady requested that the following items be added on to the agenda under his matters: 1) Request to Finance Commission, 2) Request to Utilities Commission, 3) Meeting with Public Service Commission (PSC) complainants and City; 4) Early discussion of budget savings, 5) Public interviews of applicants; 6) Flyer Representative Debbie Mayfield sent out; 7) Spokesman for the City and 8) OUC Contract with Attorney's answers.

Mr. Abell made a motion to adopt the agenda as amended. Mr. Heady seconded the motion and it passed unanimously.

B. Proclamations

1. Plaques presented to Employees Retiring from the City

Mayor Sawnick presented Mr. Joe DeMarzo and Mrs. Sue Siket with plaques thanking them for the services that they have provided to the City of Vero Beach.

C. Public Comment

Mr. Charlie Myers, City Employee, was thankful for all of the years that he has worked for the City, but had some concerns about the things that he is hearing that Council wants to take away from the employees, such as their sick time and retirement benefits. He mentioned that this was the first time that his Department did not have a Christmas party. He said at their annual Christmas party it was always a tradition that the employees bring gifts in for the needy and that was not done this year. He told Council if they decide to do away with benefits then they will not get the quality of employees that they have now. They will have people come to work for the City, but won't stay because they will just be waiting until something else comes up. He has been working for the City for 26 years and some of the employees that he talks to are scared about what this Council is going to do concerning their benefits, especially their retirement benefits.

Mr. Heady said that he was not aware of any proposal to eliminate retirement benefits.

Mr. Gabbard agreed that there have been no decisions made. In the next couple of months they will be discussing it more and there will be some tough decisions that will have to be made. He expressed that it was his decision to do away with the funds for the Christmas parties that the Departments have every year. He said hopefully that one day they can be reinstated. He wanted to make it clear that they all realize how valuable their employees are.

Mr. Heady did not want the public to think that benefits have been taken away. He knows of no proposal and doesn't think legally they could take away an employees retirement when they have vested rights.

Mr. White suggested that staff meet with some of the employees around the City and explain to them what is going on.

Mr. Gabbard said that he would put something together and send it out to all the employees.

Mr. Joseph Guffanti commented that Council was about to select a new Councilmember. He hoped that all of them realize that the days of the smoke free, back door rooms away from the press, and the wheeling and dealing is over. He suggested that they hold all the interviews in public so that the public has the advantage of knowing what is going on.

Mr. Heady told Mr. Guffanti that the Mayor has put discussion of the interview process on the agenda and it will be addressed.

Mrs. Pilar Turner is aware of all the budget considerations and wanted to know if the people who were taking down the Christmas decorations on Sunday were being paid overtime.

Mr. Gabbard assured her that was not the case. He said that they have a contract with the company that puts the Christmas decorations up and also takes them down and it is based on a flat fee.

Ms. Faith Russell, St. Francis Manor, addressed her utility bill. She said that most people living at St. Francis Manor have a very low income. Her electric bill is more than half what she pays for rent. She came to the meeting today to see if there was anyone who could help her. She doesn't want to live on the street because she can't afford to pay her electric bill.

Mayor Sawnick explained to Ms. Russell that since the City has switched over to OUC, she should see a decrease in her utility bill. He said that their Customer Service Department is available to help her with working out a plan to pay her bill. He said that this Council will continue to look at ways to reduce the utility rates.

Mr. Gabbard said that he would meet with Ms. Russell to discuss her circumstances.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – December 1, 2009**
- 2. City Council Workshop Minutes – November 16, 2009**
- 3. Special Call City Council Minutes – December 8, 2009**
- 4. Solid Waste Franchise Agreement – Fletcher's Hauling, Inc.**
- 5. SR A1A from St. Lucie/Indian River County Line to Coquina Lane – Landscape Maintenance Memorandum of Agreement**
- 6. Award of Bid No. 370-09/PW – Relay Testing Service Contract for the Power Plant and Electrical T&D**
- 7. Change Order and Final Payment for Televent Miner & Miner – ArcFM Implementation with Data Collection Services**

Mr. White made a motion to adopt the consent agenda. Mr. Abell seconded the motion. Mr. Heady asked that items 2D-4) and 2D-6) be pulled off of the consent agenda. Mr. White amended his motion to adopt the consent agenda with the exception of items 2D-4) and 2D-6). Mr. Abell seconded the amended motion and it passed unanimously.

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending the definition of "Restricted Sales and Services" of Chapter 60, Appendix, Definitions, of Part III, Title VI, Vero Beach Code; limiting Retail and Personal Service Stores to 4,000 square feet of floor area; excluding stores with Warehousing, Heath and Fitness Clubs, and Stores that sell Motor Vehicle Parts; excluding Hardware Stores with outdoor merchandise displays and laundry and dry cleaning stores with on-site cleaning and clothing repair services; excluding stores with Drive-In, Drive-Up, or Drive-Through Facilities and Stores that offer for sale predominately pre-packaged food products, beverages, and other frequently or recurring needed household items between the hours of 11:00 p.m. and 6:00 a.m., including deliveries between this same time period; providing for conflict and severability; providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, explained that the intent of this Ordinance is to amend the definition of “restricted sales and services” in the City’s Land Development Regulations. Also, the intent of the Ordinance is to eliminate problems with interpretations as well as the application to the definition of limiting retail and personal service stores in the code. He said that staff and the Planning and Zoning Board both recommend approval of the Ordinance.

Mr. Heady asked Mr. McGarry to give three examples of interpretation problems that this has caused.

Mr. McGarry recalled that there was an individual who wanted to have a hardware store in this district and hardware stores are excluded from the district under the present conditions.

Mr. Heady said then this opens things up by allowing more businesses in this district.

Mr. McGarry answered yes.

At 9:58 a.m. Council took a short break because the sound system was not working.

Mr. Heady thought that by having a larger retail store in this district it might bring in more traffic.

Mr. McGarry explained that the intent of the C-1A district is too have small stores in place.

Mr. White brought up that the Vision Plan which called for the maximum square footage of 4,000 square feet.

Mr. McGarry explained that in the Vision Plan they are referring to Miracle Mile.

Mayor Sawnick opened and closed the public hearing at 10:05 a.m., with no one wishing to be heard.

Mayor Sawnick made a motion to approve the Ordinance on first public hearing and set the second public hearing for January 19, 2010. Mr. Abell seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

B) An Ordinance of the City of Vero Beach, Florida, amending Chapter 72, Landscaping and Tree Protection, of the Code of the City of Vero Beach, relating to Landscaping Requirements, Tree Classification and Protection; providing for Tree Grades and Standards; providing for Tree Removal

Permit Procedures; providing for Protection of Trees before and during Site Development; providing for Pruning Guidelines; providing for Enforcement and Penalties; providing for Conflict and Severability; providing for an Effective date.

Mayor Sawnick read the Ordinance by title only.

Mr. McGarry reported that this Ordinance would amend Chapter 72 of the City's Land Development Regulations. The Vero Beach Vision Plan adopted by the City Council in 2005 identified the need to better protect the City's tree canopy. The tree protection aspects of the current Ordinance are difficult to enforce and the penalties for removing trees without a permit, especially older more significant trees, are totally inadequate. He felt that the passing of this Ordinance would clear things up. The Planning and Zoning Board has been involved in putting this Ordinance together and the Tree and Beautification Commission has reviewed it twice. Both the Planning and Zoning Board and the Tree and Beautification Commission recommend approval.

Mr. Heady referred to item 2D-5) on the agenda, "SR A1A from St. Lucie/Indian River County Line to Coquina Lane – Landscape Maintenance Memorandum of Agreement" and asked if they will be complying with this new Ordinance.

Mr. McGarry explained that this Ordinance would not apply to them because the landscaping that they are doing is in the right-of-way.

Mayor Sawnick opened and closed the public hearing at 10:09 a.m., with no one wishing to be heard.

Mr. Sawnick made a motion to approve the Ordinance. Mr. Abell seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

C) An Ordinance of the City of Vero Beach, Florida, amending Article III, Section 2-119, of the Vero Beach Code of Ordinances relating to Eligibility for Appointment to the Utilities Commission; providing for an effective date.

Mayor Sawnick read the Ordinance by title only.

Mayor Sawnick reported that this Ordinance will allow a representative from Indian River Shores to have representation on the Utilities Commission.

Mr. White asked if Indian River Shores does not renew their franchise agreement with the City of Vero Beach can they remove the Indian River Shores representative that will be sitting on the Utilities Commission.

Mr. Charles Vitunac, City Attorney, explained that if Indian River Shores decides not to renew the franchise agreement then they would have to look at this Ordinance at that time.

Mr. Heady suggested putting a sunset clause in this Ordinance saying that if Indian River Shores does not renew their service agreement that there would not be a need to have a representative from Indian River Shores on the Commission.

Mr. Vitunac said that he would add that to the Ordinance.

Mayor Sawnick opened and closed the public hearing at 10:12 a.m., with no one wishing to be heard.

Mr. Abell made a motion to approve the Ordinance with the amendment made. Mr. White seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

Mr. Heady requested that item 9A-1) be moved up and heard at this time.

1. Interview Process for the New City Councilmember – Requested by Mayor Sawnick

Mayor Sawnick did not see a need for Council to interview each applicant one on one since there were only a total of five applicants. He said that they would hold public interviews on January 12th. The candidates will come into the Chambers (one at a time), then Council can ask them a question, they will go through all five applicants; they will rank them and then make a motion to appoint someone.

Mr. Heady brought up the suggested guidelines that he came up with to handle the interviews. He thought that it was important that when they first interview the candidates that only one candidate present in the room and then the second phase would be to have all five candidates come back in to see how they interact with Council.

Mr. Vitunac explained that they can ask the applicant to leave the room, but they can't make them because they have a right to be there.

Mr. Abell did not think it would be a fair process if one candidate stayed for all of the interviews and the rest did not.

Mayor Sawnick said that they could randomly draw names to see who will go first.

It was made clear that one applicant would come in at a time to answer questions, and the second round of questions all the applicants would be present.

The date set for the Special Call meeting to hold the interviews will be on Thursday, January 14, 2010 at 1:30 p.m.

D) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of Annexed Land from Indian River County Designation of C-2 (Conservation-2) to a Comparable City of Vero Beach Designation of ES (Environmentally Significant) for the property consisting of three separate parcels, located between the 45th Street and Gifford Dock Road along the Western Shore of the Indian River, including a portion of Government Lot 3 lying in Section 24, Township 32 South, Range 39 East, containing 16.7 acres, more or less; and providing for an effective date.

Mayor Sawnick read both Ordinances 3-D) and 3-E) by title only and both Ordinances were discussed together.

Mr. Abell made a motion to approve the Ordinance. Mr. White seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

E) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation of RM-6 (Multiple Family Residential) to a comparable City of Vero Beach designation of R-1AAA (Single Family Residential), for the property consisting of three separate parcels located between 45th Street and Gifford Dock Road along the Western Shore of the Indian River, including a portion of Government Lot 3 lying in Section 24, Township 32 South, Range 39 East, containing 16.7 acres, more or less; and providing for an effective date.

Mr. McGarry reported that back in September Council adopted a Resolution transmitting these Ordinances to the Florida Department of Community Affairs (FDCA) for review and comments. FDCA reviewed the transmitted amendments and did not identify any objections to the amendments. He said in the back of the room there is a sign up sheet for anyone who wished to be notified by FDCA of their notification of compliance.

Mayor Sawnick opened and closed the public hearing at 10:27 a.m., with no one wishing to be heard.

Mr. Heady asked how does this change the development rights of this property owner.

Mr. McGarry explained that currently under the County zoning regulations it is RM-6 and basically because of the wetlands the County would recognize one unit per parcel. He said right now this property would be very difficult to develop because of the wetlands.

Mr. White commented that looking at the future the County land future use designation is C-2 Conservation and under the existing it is RM-6 Multi-Family up to six units per acre.

He said that the City's future land use will be ES (environmentally significant) up to one unit per two acres. He asked Mr. McGarry if that was correct.

Mr. McGarry said that the only designation allowing development on this property would be ES.

Mr. White asked if this will have any effect on the future plans that they have been talking about for this area. He said that they talked about leaving the large parcel strictly for conservation and then hopefully someday a walk-thru Park could be developed on the other land.

Mr. Vitunac told Mr. White that at this point all those plans are dead. He said that some staff members and Mr. Abell had a meeting with St. John's Water Management and discussed some potential plans for the area and they said that they would not allow anything to be developed there. Staff asked them to take the request before their Board of Directors and they never heard back from them.

Mayor Sawnick asked Mr. Vitunac that if he had any documents on this matter to please forward copies to Council.

Mr. Abell made a motion to approve the Ordinance. Mayor Sawnick seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

F) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of Annexed Land from Indian River County designation of C-2 (Conservation) to a comparable City of Vero Beach designation of CV (Conservation) for the property located along the Western Shore of the Indian River, South of 45th Street including Government Lot 1 and 2 together with the Northwest ¼ of the Southeast ¼ and the North ¼ of the Southeast ¼ of said Section 25 lying in Section 25, Township 32 South, Range 39 East, containing 124 acres more or less; and providing for an effective date.

Mayor Sawnick read this Ordinance by title only.

Mayor Sawnick opened and closed the public hearing at 10:35 a.m., with no one wishing to be heard.

Mayor Sawnick made a motion to approve the Ordinance. Mr. White seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

G) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation of RS-1 (Single Family Residential) to a comparable City

of Vero Beach designation of P-1 (Park-Conservation) for the property located along the Western Shore of the Indian River, South of 45th Street including Government Lot 1 and 2 together with the Northwest ¼ of the Southeast ¼ and the North ¼ of the Southeast ¼ of said Section 25 lying in Section 25, Township 32 South, Range 39 East, containing 124 acres more or less; and providing for an effective date.

Mayor Sawnick read the Ordinance by title only.

Mayor Sawnick opened and closed the public hearing at 10:37 a.m., with no one wishing to be heard.

Mr. White made a motion to approve the Ordinance. Mr. Abell seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

H) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of annexed land from Indian River County of designation M-1, (Medium Density Residential-1) to a comparable City of Vero Beach designation of RM (Residential Medium) for the property North of the intersection of 33rd Street and 13th Avenue, including a portion of the Northeast Quarter of Section 35, Township 32 South, Range 39 East, containing 22.17 acres, more or less; and providing for an effective date.

Mayor Sawnick read both Ordinances 3-H and 3-I) by title only.

Mr. McGarry reported that this is a vacant parcel owned by the Historian Corporation and it is designated M-1 by the County. Its zoning under the County is six units per acre and under the proposed Ordinance the land would be designated in the City's future land use plan as RM (Residential Medium) which is ten units per acre.

Mr. Abell made a motion to approve the Ordinance. Mr. Heady seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

I) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation RM-6, Multiple Family Residential to a comparable City of Vero Beach designation of RM-8, Medium Density Multiple Family for the property North of the Intersection of 33rd Street and 13th Avenue, including a portion of the Northeast quarter of Section 35, Township 32 South, Range 39 East, containing 22.17 acres, more or less; and providing for an effective date.

Mr. White asked why are they going to RM-8 and not keeping it at RM-6.

Mr. McGarry explained that they do not have an RM-6.

Mayor Sawnick opened and closed the public hearings for both 3-H) and 3-I) at 10:40 a.m., with no one wishing to be heard.

Mr. Abell made a motion to adopt the Ordinance. Mr. Heady seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City Council of the City of Vero Beach, Florida, releasing from all City Easements the Northeasterly 3 feet of Lot 3, Block 35; the Northeasterly and Southwesterly 3 feet of Lot 4, Block 35; and the Southwesterly 3 feet of Lot 5, Block 35, Royal Park Subdivision Plat No. 7.**

Mayor Sawnick read the Resolution by title only.

Mr. Monte Falls, Public Work's Director, reported that the easement release that Council has in front of them was submitted by the Applicant back in November. The different City Departments as well as outside utility providers have reviewed the application and there were no objections to the release of easement. This house is located in the Royal Park subdivision and has been torn down. The applicant is Andy Beindorf and he is planning to build a house on this lot and wants to have the easements released.

Mr. Heady complimented staff on moving so quickly with this matter. He said that they did not even receive the application until November and it is only the beginning of January and the problem is being taken care of. He said that this speaks highly of staff.

Mr. White made a motion to approve the Resolution. Mr. Abell seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 77, Architectural Review, Section 77.04 by creating new paragraph (I); providing that building elevations, construction of site plans, design drawings, or similar materials submitted as part of Architectural Review application be prepared by a State licensed design professional, if required by the Florida Statutes or Florida Building Code for submittal of a building or other development permit application; providing for conflict and severability; and providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. McGarry reported that an issue came up regarding design materials included in applications submitted to the Architectural Review Commission (ARC) for design review that have been prepared by individuals not licensed as an architect or engineer to practice in the State of Florida. Recently the ARC was unable to review an application prepared by architects not licensed to practice in the State, as any review would have constituted a violation of the professional standards for the licensed architects serving on the Commission. The ARC unanimously recommended approval of the proposed Ordinance at its meeting held on October 28, 2009. At a public hearing held on December 3, 2009, the Planning and Zoning Board recommended the draft Ordinance for consideration and approval by the City Council.

Mr. Heady put on the overhead the actual rendering submitted by the applicant that appeared before the ARC. If they were to approve this Ordinance what it would do is prohibit the ARC from looking at this rendering because it wasn't prepared by a licensed architect in the State of Florida. A rendering like this to cause a developer additional expense by having to have an architectural stamp on the rendering seems to him a burden that should not be placed on developers. He felt that the ARC should be able to look at a rendering even though it is not prepared by a licensed architect.

Mr. McGarry reminded Council that the ARC is only an Advisory Commission. The problem that occurred was that the ARC would not review the application. It didn't matter what the rendering looked like. The fact was that it was prepared by an unlicensed State of Florida architect. Some of the Commission members expressed that it was against their ethics to do this and they could be brought up by the State and charges could be imposed.

Mr. Abell mentioned that renderings are very preliminary in the process and Mr. McGarry deals with that issue. He said that once Mr. McGarry has approved a rendering then an architect is needed to get the final details before it is taken to the ARC.

Mr. McGarry briefly went over how the process works. He said that the ARC has the opportunity when they have a new design to review it before it comes to him for a permit review.

Mayor Sawnick made a motion to approve the Ordinance on first reading and set the public hearing for January 19, 2010. Mr. White seconded the motion and it passed 3-1 with Mr. Heady voting no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

At this time, Council took a five-minute break.

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

A) Item Pulled off of the consent agenda 2D-4) Solid Waste Franchise Agreement – Fletcher's Hauling, Inc.

Mayor Sawnick was concerned that this company was doing business in the City before this franchise was ever granted to the hauler.

Mr. Falls explained that they issue these franchise agreements to private haulers who are offering roll off dumpster services. Sometimes what happens is a new contractor comes into the City and is not aware of the requirements.

Mr. Heady noted in the backup material it shows that there is a contractor from Malabar. He understood that this is a non-exclusive franchise agreement. He asked Mr. Falls if there were other haulers who wanted to have a franchise agreement with the City could they come in and ask for one. He recalled that a couple of months ago there was a local hauler (Rigby family) who went before the County Commissioners requesting a franchise agreement.

Mr. Falls answered yes and said that they have about a dozen of these franchise agreements.

Mr. Heady just wanted to make it clear that a hauler providing these services could come to the City requesting a franchise agreement.

Mr. Heady made a motion to approve the Solid Waste Franchise Agreement for Fletcher's Hauling, Inc. Mr. Abell seconded the motion and it passed unanimously.

B) Item Pulled off of the consent agenda 2D-6) Award of Bid No. 370-09/PW – Relay Testing Service Contract for the Power Plant and Electrical T&D

Mr. Randall McCamish, Transmission and Distribution Director, explained that every five years they do test relays to make sure everything is operating properly.

Mr. Heady commented that in looking over the bids, if a split bid was possible on a portion of this they could have saved some money. He asked if any consideration was given to split the contract.

Mr. McCamish said that the question was asked but the company declined to do it.

Mr. Abell made a motion to approve Award of Bid No. 370-09/PW – Relay Testing Service contract for the Power Plant and Electrical T&D. Mayor Sawnick seconded the motion and it passed unanimously.

8. CITY ATTORNEY'S MATTERS

Mr. Vitunac wanted to give Council a quick outline on what is going on concerning the PSC complaint. He said that on December 1st Dr. Faherty and Mr. Heran filed a complaint with PSC (copy on file in the Clerk's office). His office retained a PSC specialist because an answer had to be filed by December 31st which it was. It was a motion for an extension of time and a motion to dismiss. He said the five main issues of the complaint are 1) Changes to the City's electric rate structure; 2) Elimination of City Municipal Surcharge under 25-9.0525; 3) PSC enforcement of Section 366.04(7)(a); 4) Review of Territorial Agreement (Docket No. 800596-EU, Order No. 10382, dated November 3, 1981) between City and Florida Power and Light (FP&L) and 5) Representation of, and Equal Protection for 61% of outside City electric customers.

Mr. Heady explained that when he learned that the City was going to hire an expert out of Tallahassee he was concerned with the cost associated with hiring an attorney. He then met with the City Attorney, City Manager, Acting Utilities Director and the two people who filed the complaint, Dr. Faherty and Mr. Heran. Within a very short period they came to an agreement and the complaint was pulled back. Mr. Heady said that the complaint at this point is a non-issue to the extent that it is in abeyance and will stay there as long as the City shows good faith in their promise to extend to FP&L an open door to look at their utilities to see if there is some room to selling it and as long as they agree to sit down and involve Indian River Shores. He thought that they were moving forward on the things that he felt would satisfy the complaint.

Mr. Vitunac stated that he called the attorney in Tallahassee and told him to call off the motion to dismiss until he tells him to do so. He thought after attending that meeting, Dr. Faherty was happy with the way things were moving and the fact that Mr. Heady set the meeting up and he said that they would voluntarily withdraw or put in abeyance the hearing. They always have the right to restart it and the City always has the right to call up their motion to dismiss. In the interest of saving a lot of money they will let it sit and see what happens.

9. CITY COUNCIL MATTERS

A. Old Business

1. Interview Process for the New City Councilmember – Requested by Mayor Sawnick

This item was heard earlier in the meeting.

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

1. Correspondence

2. Committee Reports

Mayor Sawnick reported that he took a tour of OUC. He said that they began taking steps to lower City electric bills and it was a great step that the Council took five years ago to get out of the FMPA contract. He also attended the Royal Palm Pointe Tree Lighting Ceremony and Boat Parade, he spoke to some students at the Charter School, he attended Coffee with the Council and the groundbreaking for the new Boys and Girls facility.

3. Comments

A) Pension & Insurance Plans to be reviewed by the Finance Commission

Mayor Sawnick asked Council for permission to ask the Finance Commission to meet and give their recommendations on the City's pension and insurance plans.

Mr. White agreed that this was a good idea.

Mr. Steve Maillet, Finance Director, mentioned that the Finance Commission will be meeting in late February or early March and he asked if these items could also be heard at that meeting.

Mayor Sawnick said that was fine, but he wanted to make sure that the Finance Commission brought back their recommendations to Council.

Mr. Heady noted that under his matters that he also had Finance Commission listed. He said that he would like to request permission from Council to allow the Finance Commission to hold a brainstorming workshop to discuss the declining revenues being experienced throughout the State of Florida. He asked that the workshop be held in the month of January. Council had no problems with this request.

B. Vice Mayor Sabin Abell's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mr. Abell reported that he also attended the Royal Palm Pointe Tree Lighting Ceremony and Boat Parade, the City Council Quarterly meeting, a Land Acquisition Committee meeting and Coffee with the Council.

3. Comments

C. Councilmember Tom White's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mr. White commented that 2009 has been a very interesting year for the City of Vero Beach. The City Council has worked hard with staff over the years to make sure that things are done correctly. There has been a lot of misinformation starting from utilities right down to what is happening with employees. The employees are upset mainly because of rumors and because of the big push to get the City of Vero Beach out of the utility business. The City of Vero Beach has a millage rate of \$1.93. Over the years the City Council has continuously voted to lower the millage rate. We are operating a four million dollar less budget then we were three or five years ago. So they have to make constant cuts and do what is right. The increases with the utility bills this year came as a pass-through from FMFA. He said that five years ago they did exit the contract and are now officially out of it. They have made the right decision in going with OUC. He said this year they have spent more time defending the utilities of the City and explaining the facts. However, he has found out that people don't want to hear the facts, they just want their bills lowered. He said that if there was any feasible way of doing it this Council would do it. Hopefully everyone's first bill in January will show a decrease and then in February there will be another decrease and they also will be very competitive with FP&L. His whole point in making this speech was to wish everyone a happy New Year. He said that 2010 will be a banner year for the City of Vero Beach.

3. Comments

D. Councilmember Brian Heady's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

1. Request to Finance Commission

This item was discussed earlier in the meeting.

- 2. Request to Utilities Commission**
- 3. Meeting with PSC complainants and City**
- 4. Early Discussion of Budget Savings**
- 5. Public Interviews of Applicants**
- 6. Flyer that Representative Mayfield Mailed Out**
- 7. Spokesman for the City**
- 8. OUC Contract with Attorney's Answers**

Mr. Heady commented that he received a flyer in the mail that was paid for by taxpayers' expense and mailed out by their Representative Debbie Mayfield. When he received the flyer he called the City Attorney and City Manager because if you read through this important petition that their Representative sent out, it identifies things that is misinformation and is not true. He thinks that all of their citizens in the rate area should be concerned about their utility rates. They clearly had reasons to voice their concerns when their electric bills went through the ceiling, but there also should be concerns raised

when a Representative that is paid to represent you sends out things about the City that just is not true.

Mr. Abell added to Mr. Heady's comments that he has circled things in the flyer that are wrong and that have been addressed. He said that Representative Mayfield has an office across the hall and he has not seen her in a year. They have been trying to get an appointment with her to no avail. He said that nothing in this flyer is correct and many things that are in there have been addressed and she has been sent copies of the information.

Mayor Sawnick mentioned that he met with Representative Mayfield about a month ago and she said that she would let him know about things before they are taken public. He had not seen this flyer until this morning. He is the type of person that even if you disagree on a matter that you still need to talk about it, which means even though they disagree on certain issues they need to work with their Representatives.

Mr. Gabbard stated that he is trying to contact Representative Mayfield to meet with her about this flyer. He said that it is incorrect and had they been contacted and informed that she was going to do a piece like this they could have helped her.

Mr. John Lee, Acting Electric Utilities Director, reported that he was at the County Commission meeting this morning and this flyer was brought up by Commissioner Gary Wheeler. Commissioner Wheeler said that the flyer was intended to insight and inflame people based on inaccurate information. Mr. Lee said that the flyer is a very well crafted piece of misinformation. He said the reality is that their rates are competitive with other rates in the State of Florida. This notion that they are not regulated by PSC is true, but they (PSC) do look at their rates and have oversight with them.

Mr. Heady commented that the City Council, prior to the Election, debated sending out some information to the public and the public came in and spoke out and had the opportunity to "fuse" the City Council from spending money and the City Council was wise by not sending anything out. He referred to the flyer and said that the citizens have no representation in preventing a waste of tax dollars.

Mr. Heady brought up one thing that was discussed at the meeting that he had with staff and Dr. Faherty and Mr. Heran, which was that the City set up a joint Committee to sit down and debate different issues. This kind of Committee can bring before Council some facts and figures so that they know what they are talking about before they have to hire consultants to tell them where they are and where they should go.

Mayor Sawnick asked Mr. Heady to bring this up at their next meeting and to have something in writing as to what he would envision that this Committee would meet about.

Mr. Heady explained that the Committee would be similar to the CCNAC Committee, but without the consultant. They would have a couple of citizens from the County,

Indian River Shores and from the City and this Committee would sit down and look at different issues.

Mr. Gabbard mentioned that one of the things that was discussed in that meeting was selling off pieces or giving up service territory, specifically they talked about Indian River Shores and South Beach. He told Council that he felt they were setting themselves up for failure because they have already sent a letter to FP&L and other major utilities that are interested or may be interested in purchasing the entire system. He said anyone interested in their utilities are interested in the customers so if there is uncertainty about how many customers there will be, he thought it would severely impact the offers that they might generate.

Mr. Heady wanted to borrow Mr. Gabbard's crystal ball because he was telling them what a Committee that has not even been formed yet is going to come up with. This Committee is to meet and put the facts out. The problems that have been in existence is because there has been an unwillingness to sit down at the table and discuss the issues.

Mr. Abell excused himself from the meeting at 11:42 a.m.

Mr. Gabbard continued by saying that if they are going to have a Committee like what Mr. Heady is describing that the marching orders need to be clear.

Mayor Sawnick mentioned that they have invited electric providers to come to their March utility meeting. He suggested waiting until after that meeting and then discuss this again at that time.

Mr. Heady said that he had no interest in waiting until March to discuss the idea of creating a Committee to put the facts on the table. He said that is what the problem has been in the past. He said this is not at all like the water issues and why CCNAC meets. He said with that Committee the parameters have already been set.

Mayor Sawnick suggested asking the Utilities Commission to look at these things.

Mr. Heady stated that he also wanted to ask permission from the Council for the Utilities Commission to meet for this exact purpose. They need to hear from the Utilities Commission and they need to be on board with this and they can make recommendations to the Council on who they feel should sit on this joint Committee. It is important to do this in order to stop unwanted and unnecessary litigation, which are great expenses to the City.

Mr. White felt strongly that the City Council is where the buck stops. They are the ones responsible no matter what staff or Committees do. They get blamed or credited for whatever goes on. He agreed with taking this to the Utilities Commission and let them look at it. Council are the ones that need to go out and do the research and find out what is going on.

Mr. Heady mentioned that he went to Orlando and took a tour of OUC. He came back with a list of questions for OUC and the forty-four questions were answered by OUC and have since been given out to the complaints so that they know there is a meaningful effort to get answers to questions that are legitimate questions about their utilities.

Mayor Sawnick again suggested to Mr. Heady that this be taken to the Utilities Commission and then they can go from there.

Mr. Lee brought up again that he was at the County Commission meeting this morning and something similar to this came up. He said that the County Commission recently expanded the role of their Utilities Commission. Their Utilities Commission used to just discuss water issues but now they are also discussing electric issues. The person that did the presentation at the County Commission meeting today suggested that the County take some serious action immediately. He would encourage that when these discussions are taking place that some people from the City attend those meetings and listen. It seems that they are following the same path that the City is and he would suggest that they first allow the County to have their meeting, they attend the meeting and then invite them to attend their Utilities Commission meeting in March and then as a collective body decide how they want to move forward.

Mr. Heady was given the approval from Council to allow the Utilities Commission to meet in the near future to discuss some of these issues.

Mr. Heady mentioned the letter that they received from OUC, which included the answers to his questions. Also in the letter it mentioned that they would like for someone to be the spokesperson/point person for the City of Vero Beach. He said that he would volunteer to be that person and requested that he be given the responsibility.

Mr. Gabbard commented that FMPA requested that one of their elected officials sit on their Board and that person was former Councilmember Ken Daige. He was not exactly sure when OUC was talking about a point person what they meant. He said that himself and Mr. Lee have contact with OUC on issues almost daily. He said they would gladly volunteer to take that role as they do now. He thought that OUC was concerned that they were going to have different Councilmembers and staff calling them all the time with various questions and they would rather just have one person doing it.

Mr. Heady thought that they were looking for someone on the Council to be the point person. He made it clear that he did not want to be involved in the daily discussions that staff has with OUC.

Mayor Sawnick felt that Mr. Gabbard should be the point person.

Mr. Heady expressed that Mr. Gabbard was not on the Council.

Mayor Sawnick had no problems if OUC actually wanted to have someone from Council being that point person. He said if in fact that is what they are requesting then they can

discuss it at their next meeting. Mr. White wanted to see something in writing from OUC saying that this is what they are requesting.

Mr. Heady brought up the OUC contract. He said that the OUC contract was a bone of contention during the election as to who read and who didn't read it. There were questions about a redacted contract versus a non redacted contract. Clearly the contract signed by then Mayor White contained many changes. He went through the contract and 32963 went through it also. They found 115 changes they said that they counted. At the time this was being discussed he asked to see a copy of the contract and was told it was not available to the public. He protested to the City Clerk and wanted to see the contract that Council was voting on. At that time he was told that Council was voting on recommendations by the consultant and then he was given a copy of the redacted contract.

Mr. Heady referred to the document that was recently prepared by the City Attorney (on file in the Clerk's office) that shows the redacted contract and the final contract and the different changes that were made. The question comes up as to if these are material changes. He said that they are "material" to someone or they would not have been changed. He thought that when Mayor White signed the contract, he signed it with the belief that it was the contract that was voted on. Mr. White confirmed that was true. Mr. Heady continued by saying that he has concerns that the Mayor is given a contract to sign that has 115 changes and the list of changes has been identified by the City Attorney. He asked that before their next meeting that Councilmembers are supplied with who requested these changes, when were they made, at whose expense and which changes is not material.

Mr. Vitunac commented that first of all what was redacted was just numbers. He said that there was some time between the redacted contract and the adoption of the final version. He said that all the changes are material and make the contract better, but doesn't change the meaning of the contract.

Mr. Heady mentioned that there were portions excluded from the contract.

Mayor Sawnick asked Mr. Vitunac to write up a report on what the changes were in the contract.

Mr. Vitunac said that he can provide the Council with a copy of that right now, but he will go back and make what he has even clearer. He has reviewed each of the changes and there was nothing materially changed and the essential understanding of the contract has not been changed.

Mr. Heady asked who requested these changes.

Mr. Vitunac said it was the consultant.

Mr. Heady said that when the consultant presented the contract to City Council for approval it was stamped final draft. Then she went and made these changes. He asked Mr. Vitunac who paid for these changes.

Mr. Vitunac said that the City did.

Mr. Heady asked Mr. Vitunac to get him a number, before the next meeting, of the total dollar amount charged by this consultant after the contract was approved by the City Council.

Mr. Heady then brought up a meeting that he attended that was held at the 3 Avenues location. He said one of the things that came up at that meeting was about the cooperation of City staff on this project. He thanked Mr. McGarry for his hard work and that it was reassuring to hear that City staff was so cooperative.

Mr. J. Rock Tonkel, from Grand Harbor, requested to speak. He said that it was encouraging to see the attention that is being made to the issue regarding the utility rates. He has three specific requests. He asked where would he get a copy of the changes to the contract as referred to earlier (he was given a copy of this), his next question was where does he get the specifics about where different funds are used.

Mr. Maillet explained the general administrative charges (operating system of the electric company) and the transfer. The profit portion is transferred to the General Fund for operations within the City. He will talk in depth to Mr. Tonkel after the meeting.

Mr. Tonkel said that his third and final request was to get a copy of the questions and responses from OUC that Mr. Heady referred to earlier in the meeting. Mr. Heady provided Mr. Tonkel with this information.

11. ADJOURNMENT

Mr. White made a motion to adjourn today's meeting at 12:11 p.m. Mayor Sawnick seconded the motion and it passed unanimously.

/tv

**CITY OF VERO BEACH, FLORIDA
JANUARY 5, 2010 9:30 A.M.
REGULAR CITY COUNCIL MINUTES
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

1. CALL TO ORDER

A. Roll Call

Mayor Kevin Sawnick, present; Vice Mayor Sabin Abell, present; Councilmember Tom White, present; and Councilmember Brian Heady, present **Also Present:** James Gabbard, City Manager; Charles Vitunac, City Attorney and Tammy Vock, City Clerk

B. Invocation

The invocation was given by Father Michael Goldberg of St. Augustine Episcopal Church.

C. Pledge of Allegiance

The audience and the Council joined together in the Pledge of Allegiance to the flag.

2. PRELIMINARY MATTERS

A. Agenda Additions, Deletions, and Adoption

Mr. Heady requested that the following items be added on to the agenda under his matters: 1) Request to Finance Commission, 2) Request to Utilities Commission, 3) Meeting with Public Service Commission (PSC) complainants and City; 4) Early discussion of budget savings, 5) Public interviews of applicants; 6) Flyer Representative Debbie Mayfield sent out; 7) Spokesman for the City and 8) OUC Contract with Attorney's answers.

Mr. Abell made a motion to adopt the agenda as amended. Mr. Heady seconded the motion and it passed unanimously.

B. Proclamations

1. Plaques presented to Employees Retiring from the City

Mayor Sawnick presented Mr. Joe DeMarzo and Mrs. Sue Siket with plaques thanking them for the services that they have provided to the City of Vero Beach.

C. Public Comment

Mr. Charlie Myers, City Employee, was thankful for all of the years that he has worked for the City, but had some concerns about the things that he is hearing that Council wants to take away from the employees, such as their sick time and retirement benefits. He mentioned that this was the first time that his Department did not have a Christmas party. He said at their annual Christmas party it was always a tradition that the employees bring gifts in for the needy and that was not done this year. He told Council if they decide to do away with benefits then they will not get the quality of employees that they have now. They will have people come to work for the City, but won't stay because they will just be waiting until something else comes up. He has been working for the City for 26 years and some of the employees that he talks to are scared about what this Council is going to do concerning their benefits, especially their retirement benefits.

Mr. Heady said that he was not aware of any proposal to eliminate retirement benefits.

Mr. Gabbard agreed that there have been no decisions made. In the next couple of months they will be discussing it more and there will be some tough decisions that will have to be made. He expressed that it was his decision to do away with the funds for the Christmas parties that the Departments have every year. He said hopefully that one day they can be reinstated. He wanted to make it clear that they all realize how valuable their employees are.

Mr. Heady did not want the public to think that benefits have been taken away. He knows of no proposal and doesn't think legally they could take away an employees retirement when they have vested rights.

Mr. White suggested that staff meet with some of the employees around the City and explain to them what is going on.

Mr. Gabbard said that he would put something together and send it out to all the employees.

Mr. Joseph Guffanti commented that Council was about to select a new Councilmember. He hoped that all of them realize that the days of the smoke free, back door rooms away from the press, and the wheeling and dealing is over. He suggested that they hold all the interviews in public so that the public has the advantage of knowing what is going on.

Mr. Heady told Mr. Guffanti that the Mayor has put discussion of the interview process on the agenda and it will be addressed.

Mrs. Pilar Turner is aware of all the budget considerations and wanted to know if the people who were taking down the Christmas decorations on Sunday were being paid overtime.

Mr. Gabbard assured her that was not the case. He said that they have a contract with the company that puts the Christmas decorations up and also takes them down and it is based on a flat fee.

Ms. Faith Russell, St. Francis Manor, addressed her utility bill. She said that most people living at St. Francis Manor have a very low income. Her electric bill is more than half what she pays for rent. She came to the meeting today to see if there was anyone who could help her. She doesn't want to live on the street because she can't afford to pay her electric bill.

Mayor Sawnick explained to Ms. Russell that since the City has switched over to OUC, she should see a decrease in her utility bill. He said that their Customer Service Department is available to help her with working out a plan to pay her bill. He said that this Council will continue to look at ways to reduce the utility rates.

Mr. Gabbard said that he would meet with Ms. Russell to discuss her circumstances.

D. Adoption of Consent Agenda

- 1. Regular City Council Minutes – December 1, 2009**
- 2. City Council Workshop Minutes – November 16, 2009**
- 3. Special Call City Council Minutes – December 8, 2009**
- 4. Solid Waste Franchise Agreement – Fletcher's Hauling, Inc.**
- 5. SR A1A from St. Lucie/Indian River County Line to Coquina Lane – Landscape Maintenance Memorandum of Agreement**
- 6. Award of Bid No. 370-09/PW – Relay Testing Service Contract for the Power Plant and Electrical T&D**
- 7. Change Order and Final Payment for Televent Miner & Miner – ArcFM Implementation with Data Collection Services**

Mr. White made a motion to adopt the consent agenda. Mr. Abell seconded the motion. Mr. Heady asked that items 2D-4) and 2D-6) be pulled off of the consent agenda. Mr. White amended his motion to adopt the consent agenda with the exception of items 2D-4) and 2D-6). Mr. Abell seconded the amended motion and it passed unanimously.

3. PUBLIC HEARINGS

- A) An Ordinance of the City of Vero Beach, Florida, amending the definition of "Restricted Sales and Services" of Chapter 60, Appendix, Definitions, of Part III, Title VI, Vero Beach Code; limiting Retail and Personal Service Stores to 4,000 square feet of floor area; excluding stores with Warehousing, Heath and Fitness Clubs, and Stores that sell Motor Vehicle Parts; excluding Hardware Stores with outdoor merchandise displays and laundry and dry cleaning stores with on-site cleaning and clothing repair services; excluding stores with Drive-In, Drive-Up, or Drive-Through Facilities and Stores that offer for sale predominately pre-packaged food products, beverages, and other frequently or recurring needed household items between the hours of 11:00 p.m. and 6:00 a.m., including deliveries between this same time period; providing for conflict and severability; providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. Tim McGarry, Planning and Development Director, explained that the intent of this Ordinance is to amend the definition of “restricted sales and services” in the City’s Land Development Regulations. Also, the intent of the Ordinance is to eliminate problems with interpretations as well as the application to the definition of limiting retail and personal service stores in the code. He said that staff and the Planning and Zoning Board both recommend approval of the Ordinance.

Mr. Heady asked Mr. McGarry to give three examples of interpretation problems that this has caused.

Mr. McGarry recalled that there was an individual who wanted to have a hardware store in this district and hardware stores are excluded from the district under the present conditions.

Mr. Heady said then this opens things up by allowing more businesses in this district.

Mr. McGarry answered yes.

At 9:58 a.m. Council took a short break because the sound system was not working.

Mr. Heady thought that by having a larger retail store in this district it might bring in more traffic.

Mr. McGarry explained that the intent of the C-1A district is too have small stores in place.

Mr. White brought up that the Vision Plan which called for the maximum square footage of 4,000 square feet.

Mr. McGarry explained that in the Vision Plan they are referring to Miracle Mile.

Mayor Sawnick opened and closed the public hearing at 10:05 a.m., with no one wishing to be heard.

Mayor Sawnick made a motion to approve the Ordinance on first public hearing and set the second public hearing for January 19, 2010. Mr. Abell seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

B) An Ordinance of the City of Vero Beach, Florida, amending Chapter 72, Landscaping and Tree Protection, of the Code of the City of Vero Beach, relating to Landscaping Requirements, Tree Classification and Protection; providing for Tree Grades and Standards; providing for Tree Removal

Permit Procedures; providing for Protection of Trees before and during Site Development; providing for Pruning Guidelines; providing for Enforcement and Penalties; providing for Conflict and Severability; providing for an Effective date.

Mayor Sawnick read the Ordinance by title only.

Mr. McGarry reported that this Ordinance would amend Chapter 72 of the City's Land Development Regulations. The Vero Beach Vision Plan adopted by the City Council in 2005 identified the need to better protect the City's tree canopy. The tree protection aspects of the current Ordinance are difficult to enforce and the penalties for removing trees without a permit, especially older more significant trees, are totally inadequate. He felt that the passing of this Ordinance would clear things up. The Planning and Zoning Board has been involved in putting this Ordinance together and the Tree and Beautification Commission has reviewed it twice. Both the Planning and Zoning Board and the Tree and Beautification Commission recommend approval.

Mr. Heady referred to item 2D-5) on the agenda, "SR A1A from St. Lucie/Indian River County Line to Coquina Lane – Landscape Maintenance Memorandum of Agreement" and asked if they will be complying with this new Ordinance.

Mr. McGarry explained that this Ordinance would not apply to them because the landscaping that they are doing is in the right-of-way.

Mayor Sawnick opened and closed the public hearing at 10:09 a.m., with no one wishing to be heard.

Mr. Sawnick made a motion to approve the Ordinance. Mr. Abell seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

C) An Ordinance of the City of Vero Beach, Florida, amending Article III, Section 2-119, of the Vero Beach Code of Ordinances relating to Eligibility for Appointment to the Utilities Commission; providing for an effective date.

Mayor Sawnick read the Ordinance by title only.

Mayor Sawnick reported that this Ordinance will allow a representative from Indian River Shores to have representation on the Utilities Commission.

Mr. White asked if Indian River Shores does not renew their franchise agreement with the City of Vero Beach can they remove the Indian River Shores representative that will be sitting on the Utilities Commission.

Mr. Charles Vitunac, City Attorney, explained that if Indian River Shores decides not to renew the franchise agreement then they would have to look at this Ordinance at that time.

Mr. Heady suggested putting a sunset clause in this Ordinance saying that if Indian River Shores does not renew their service agreement that there would not be a need to have a representative from Indian River Shores on the Commission.

Mr. Vitunac said that he would add that to the Ordinance.

Mayor Sawnick opened and closed the public hearing at 10:12 a.m., with no one wishing to be heard.

Mr. Abell made a motion to approve the Ordinance with the amendment made. Mr. White seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

Mr. Heady requested that item 9A-1) be moved up and heard at this time.

1. Interview Process for the New City Councilmember – Requested by Mayor Sawnick

Mayor Sawnick did not see a need for Council to interview each applicant one on one since there were only a total of five applicants. He said that they would hold public interviews on January 12th. The candidates will come into the Chambers (one at a time), then Council can ask them a question, they will go through all five applicants; they will rank them and then make a motion to appoint someone.

Mr. Heady brought up the suggested guidelines that he came up with to handle the interviews. He thought that it was important that when they first interview the candidates that only one candidate present in the room and then the second phase would be to have all five candidates come back in to see how they interact with Council.

Mr. Vitunac explained that they can ask the applicant to leave the room, but they can't make them because they have a right to be there.

Mr. Abell did not think it would be a fair process if one candidate stayed for all of the interviews and the rest did not.

Mayor Sawnick said that they could randomly draw names to see who will go first.

It was made clear that one applicant would come in at a time to answer questions, and the second round of questions all the applicants would be present.

The date set for the Special Call meeting to hold the interviews will be on Thursday, January 14, 2010 at 1:30 p.m.

- D) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of Annexed Land from Indian River County Designation of C-2 (Conservation-2) to a Comparable City of Vero Beach Designation of ES (Environmentally Significant) for the property consisting of three separate parcels, located between the 45th Street and Gifford Dock Road along the Western Shore of the Indian River, including a portion of Government Lot 3 lying in Section 24, Township 32 South, Range 39 East, containing 16.7 acres, more or less; and providing for an effective date.**

Mayor Sawnick read both Ordinances 3-D) and 3-E) by title only and both Ordinances were discussed together.

Mr. Abell made a motion to approve the Ordinance. Mr. White seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

- E) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation of RM-6 (Multiple Family Residential) to a comparable City of Vero Beach designation of R-1AAA (Single Family Residential), for the property consisting of three separate parcels located between 45th Street and Gifford Dock Road along the Western Shore of the Indian River, including a portion of Government Lot 3 lying in Section 24, Township 32 South, Range 39 East, containing 16.7 acres, more or less; and providing for an effective date.**

Mr. McGarry reported that back in September Council adopted a Resolution transmitting these Ordinances to the Florida Department of Community Affairs (FDCA) for review and comments. FDCA reviewed the transmitted amendments and did not identify any objections to the amendments. He said in the back of the room there is a sign up sheet for anyone who wished to be notified by FDCA of their notification of compliance.

Mayor Sawnick opened and closed the public hearing at 10:27 a.m., with no one wishing to be heard.

Mr. Heady asked how does this change the development rights of this property owner.

Mr. McGarry explained that currently under the County zoning regulations it is RM-6 and basically because of the wetlands the County would recognize one unit per parcel. He said right now this property would be very difficult to develop because of the wetlands.

Mr. White commented that looking at the future the County land future use designation is C-2 Conservation and under the existing it is RM-6 Multi-Family up to six units per acre.

He said that the City's future land use will be ES (environmentally significant) up to one unit per two acres. He asked Mr. McGarry if that was correct.

Mr. McGarry said that the only designation allowing development on this property would be ES.

Mr. White asked if this will have any effect on the future plans that they have been talking about for this area. He said that they talked about leaving the large parcel strictly for conservation and then hopefully someday a walk-thru Park could be developed on the other land.

Mr. Vitunac told Mr. White that at this point all those plans are dead. He said that some staff members and Mr. Abell had a meeting with St. John's Water Management and discussed some potential plans for the area and they said that they would not allow anything to be developed there. Staff asked them to take the request before their Board of Directors and they never heard back from them.

Mayor Sawnick asked Mr. Vitunac that if he had any documents on this matter to please forward copies to Council.

Mr. Abell made a motion to approve the Ordinance. Mayor Sawnick seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

F) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of Annexed Land from Indian River County designation of C-2 (Conservation) to a comparable City of Vero Beach designation of CV (Conservation) for the property located along the Western Shore of the Indian River, South of 45th Street including Government Lot 1 and 2 together with the Northwest ¼ of the Southeast ¼ and the North ¼ of the Southeast ¼ of said Section 25 lying in Section 25, Township 32 South, Range 39 East, containing 124 acres more or less; and providing for an effective date.

Mayor Sawnick read this Ordinance by title only.

Mayor Sawnick opened and closed the public hearing at 10:35 a.m., with no one wishing to be heard.

Mayor Sawnick made a motion to approve the Ordinance. Mr. White seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

G) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation of RS-1 (Single Family Residential) to a comparable City

of Vero Beach designation of P-1 (Park-Conservation) for the property located along the Western Shore of the Indian River, South of 45th Street including Government Lot 1 and 2 together with the Northwest ¼ of the Southeast ¼ and the North ¼ of the Southeast ¼ of said Section 25 lying in Section 25, Township 32 South, Range 39 East, containing 124 acres more or less; and providing for an effective date.

Mayor Sawnick read the Ordinance by title only.

Mayor Sawnick opened and closed the public hearing at 10:37 a.m., with no one wishing to be heard.

Mr. White made a motion to approve the Ordinance. Mr. Abell seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

H) An Ordinance of the City of Vero Beach, Florida, amending the Future Land Use Map by changing the Land Use Designation of annexed land from Indian River County of designation M-1, (Medium Density Residential-1) to a comparable City of Vero Beach designation of RM (Residential Medium) for the property North of the intersection of 33rd Street and 13th Avenue, including a portion of the Northeast Quarter of Section 35, Township 32 South, Range 39 East, containing 22.17 acres, more or less; and providing for an effective date.

Mayor Sawnick read both Ordinances 3-H and 3-I) by title only.

Mr. McGarry reported that this is a vacant parcel owned by the Historian Corporation and it is designated M-1 by the County. Its zoning under the County is six units per acre and under the proposed Ordinance the land would be designated in the City's future land use plan as RM (Residential Medium) which is ten units per acre.

Mr. Abell made a motion to approve the Ordinance. Mr. Heady seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

I) An Ordinance of the City of Vero Beach, Florida, amending the Official Zoning Map by changing the designation of annexed land from Indian River County designation RM-6, Multiple Family Residential to a comparable City of Vero Beach designation of RM-8, Medium Density Multiple Family for the property North of the Intersection of 33rd Street and 13th Avenue, including a portion of the Northeast quarter of Section 35, Township 32 South, Range 39 East, containing 22.17 acres, more or less; and providing for an effective date.

Mr. White asked why are they going to RM-8 and not keeping it at RM-6.

Mr. McGarry explained that they do not have an RM-6.

Mayor Sawnick opened and closed the public hearings for both 3-H) and 3-I) at 10:40 a.m., with no one wishing to be heard.

Mr. Abell made a motion to adopt the Ordinance. Mr. Heady seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

4. RESOLUTIONS FOR ADOPTION WITHOUT PUBLIC HEARING

- A) A Resolution of the City Council of the City of Vero Beach, Florida, releasing from all City Easements the Northeasterly 3 feet of Lot 3, Block 35; the Northeasterly and Southwesterly 3 feet of Lot 4, Block 35; and the Southwesterly 3 feet of Lot 5, Block 35, Royal Park Subdivision Plat No. 7.**

Mayor Sawnick read the Resolution by title only.

Mr. Monte Falls, Public Work's Director, reported that the easement release that Council has in front of them was submitted by the Applicant back in November. The different City Departments as well as outside utility providers have reviewed the application and there were no objections to the release of easement. This house is located in the Royal Park subdivision and has been torn down. The applicant is Andy Beindorf and he is planning to build a house on this lot and wants to have the easements released.

Mr. Heady complimented staff on moving so quickly with this matter. He said that they did not even receive the application until November and it is only the beginning of January and the problem is being taken care of. He said that this speaks highly of staff.

Mr. White made a motion to approve the Resolution. Mr. Abell seconded the motion and it passed 4-0 with Mr. Heady voting yes, Mr. White yes, Mr. Abell yes, and Mayor Sawnick yes.

5. FIRST READINGS BY TITLE FOR ORDINANCES AND RESOLUTIONS THAT REQUIRE A FUTURE PUBLIC HEARING

- A) An Ordinance of the City of Vero Beach, Florida, amending Chapter 77, Architectural Review, Section 77.04 by creating new paragraph (I); providing that building elevations, construction of site plans, design drawings, or similar materials submitted as part of Architectural Review application be prepared by a State licensed design professional, if required by the Florida Statutes or Florida Building Code for submittal of a building or other development permit application; providing for conflict and severability; and providing for an effective date.**

Mayor Sawnick read the Ordinance by title only.

Mr. McGarry reported that an issue came up regarding design materials included in applications submitted to the Architectural Review Commission (ARC) for design review that have been prepared by individuals not licensed as an architect or engineer to practice in the State of Florida. Recently the ARC was unable to review an application prepared by architects not licensed to practice in the State, as any review would have constituted a violation of the professional standards for the licensed architects serving on the Commission. The ARC unanimously recommended approval of the proposed Ordinance at its meeting held on October 28, 2009. At a public hearing held on December 3, 2009, the Planning and Zoning Board recommended the draft Ordinance for consideration and approval by the City Council.

Mr. Heady put on the overhead the actual rendering submitted by the applicant that appeared before the ARC. If they were to approve this Ordinance what it would do is prohibit the ARC from looking at this rendering because it wasn't prepared by a licensed architect in the State of Florida. A rendering like this to cause a developer additional expense by having to have an architectural stamp on the rendering seems to him a burden that should not be placed on developers. He felt that the ARC should be able to look at a rendering even though it is not prepared by a licensed architect.

Mr. McGarry reminded Council that the ARC is only an Advisory Commission. The problem that occurred was that the ARC would not review the application. It didn't matter what the rendering looked like. The fact was that it was prepared by an unlicensed State of Florida architect. Some of the Commission members expressed that it was against their ethics to do this and they could be brought up by the State and charges could be imposed.

Mr. Abell mentioned that renderings are very preliminary in the process and Mr. McGarry deals with that issue. He said that once Mr. McGarry has approved a rendering then an architect is needed to get the final details before it is taken to the ARC.

Mr. McGarry briefly went over how the process works. He said that the ARC has the opportunity when they have a new design to review it before it comes to him for a permit review.

Mayor Sawnick made a motion to approve the Ordinance on first reading and set the public hearing for January 19, 2010. Mr. White seconded the motion and it passed 3-1 with Mr. Heady voting no, Mr. White yes, Mr. Abell yes and Mayor Sawnick yes.

At this time, Council took a five-minute break.

6. CITY CLERK'S MATTERS

None

7. CITY MANAGER'S MATTERS

A) Item Pulled off of the consent agenda 2D-4) Solid Waste Franchise Agreement – Fletcher's Hauling, Inc.

Mayor Sawnick was concerned that this company was doing business in the City before this franchise was ever granted to the hauler.

Mr. Falls explained that they issue these franchise agreements to private haulers who are offering roll off dumpster services. Sometimes what happens is a new contractor comes into the City and is not aware of the requirements.

Mr. Heady noted in the backup material it shows that there is a contractor from Malabar. He understood that this is a non-exclusive franchise agreement. He asked Mr. Falls if there were other haulers who wanted to have a franchise agreement with the City could they come in and ask for one. He recalled that a couple of months ago there was a local hauler (Rigby family) who went before the County Commissioners requesting a franchise agreement.

Mr. Falls answered yes and said that they have about a dozen of these franchise agreements.

Mr. Heady just wanted to make it clear that a hauler providing these services could come to the City requesting a franchise agreement.

Mr. Heady made a motion to approve the Solid Waste Franchise Agreement for Fletcher's Hauling, Inc. Mr. Abell seconded the motion and it passed unanimously.

B) Item Pulled off of the consent agenda 2D-6) Award of Bid No. 370-09/PW – Relay Testing Service Contract for the Power Plant and Electrical T&D

Mr. Randall McCamish, Transmission and Distribution Director, explained that every five years they do test relays to make sure everything is operating properly.

Mr. Heady commented that in looking over the bids, if a split bid was possible on a portion of this they could have saved some money. He asked if any consideration was given to split the contract.

Mr. McCamish said that the question was asked but the company declined to do it.

Mr. Abell made a motion to approve Award of Bid No. 370-09/PW – Relay Testing Service contract for the Power Plant and Electrical T&D. Mayor Sawnick seconded the motion and it passed unanimously.

8. CITY ATTORNEY'S MATTERS

Mr. Vitunac wanted to give Council a quick outline on what is going on concerning the PSC complaint. He said that on December 1st Dr. Faherty and Mr. Heran filed a complaint with PSC (copy on file in the Clerk's office). His office retained a PSC specialist because an answer had to be filed by December 31st which it was. It was a motion for an extension of time and a motion to dismiss. He said the five main issues of the complaint are 1) Changes to the City's electric rate structure; 2) Elimination of City Municipal Surcharge under 25-9.0525; 3) PSC enforcement of Section 366.04(7)(a); 4) Review of Territorial Agreement (Docket No. 800596-EU, Order No. 10382, dated November 3, 1981) between City and Florida Power and Light (FP&L) and 5) Representation of, and Equal Protection for 61% of outside City electric customers.

Mr. Heady explained that when he learned that the City was going to hire an expert out of Tallahassee he was concerned with the cost associated with hiring an attorney. He then met with the City Attorney, City Manager, Acting Utilities Director and the two people who filed the complaint, Dr. Faherty and Mr. Heran. Within a very short period they came to an agreement and the complaint was pulled back. Mr. Heady said that the complaint at this point is a non-issue to the extent that it is in abeyance and will stay there as long as the City shows good faith in their promise to extend to FP&L an open door to look at their utilities to see if there is some room to selling it and as long as they agree to sit down and involve Indian River Shores. He thought that they were moving forward on the things that he felt would satisfy the complaint.

Mr. Vitunac stated that he called the attorney in Tallahassee and told him not to call off the motion to dismiss until he tells him to do so. He thought after attending that meeting, Dr. Faherty was happy with the way things were moving and the fact that Mr. Heady set the meeting up and he said that they would voluntarily withdraw or put in abeyance the hearing. They always have the right to restart it and the City always has the right to call up their motion to dismiss. In the interest of saving a lot of money they will let it sit and see what happens.

9. CITY COUNCIL MATTERS

A. Old Business

1. Interview Process for the New City Councilmember – Requested by Mayor Sawnick

This item was heard earlier in the meeting.

B. New Business

10. INDIVIDUAL COUNCILMEMBERS' MATTERS

A. Mayor Kevin Sawnick's Matters

1. Correspondence

2. Committee Reports

Mayor Sawnick reported that he took a tour of OUC. He said that they began taking steps to lower City electric bills and it was a great step that the Council took five years ago to get out of the FMPA contract. He also attended the Royal Palm Pointe Tree Lighting Ceremony and Boat Parade, he spoke to some students at the Charter School, he attended Coffee with the Council and the groundbreaking for the new Boys and Girls facility.

3. Comments

A) Pension & Insurance Plans to be reviewed by the Finance Commission

Mayor Sawnick asked Council for permission to ask the Finance Commission to meet and give their recommendations on the City's pension and insurance plans.

Mr. White agreed that this was a good idea.

Mr. Steve Maillet, Finance Director, mentioned that the Finance Commission will be meeting in late February or early March and he asked if these items could also be heard at that meeting.

Mayor Sawnick said that was fine, but he wanted to make sure that the Finance Commission brought back their recommendations to Council.

Mr. Heady noted that under his matters that he also had Finance Commission listed. He said that he would like to request permission from Council to allow the Finance Commission to hold a brainstorming workshop to discuss the declining revenues being experienced throughout the State of Florida. He asked that the workshop be held in the month of January. Council had no problems with this request.

B. Vice Mayor Sabin Abell's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mr. Abell reported that he also attended the Royal Palm Pointe Tree Lighting Ceremony and Boat Parade, the City Council Quarterly meeting, a Land Acquisition Committee meeting and Coffee with the Council.

3. Comments

C. Councilmember Tom White's Matters

- 1. Correspondence**
- 2. Committee Reports**

Mr. White commented that 2009 has been a very interesting year for the City of Vero Beach. The City Council has worked hard with staff over the years to make sure that things are done correctly. There has been a lot of misinformation starting from utilities right down to what is happening with employees. The employees are upset mainly because of rumors and because of the big push to get the City of Vero Beach out of the utility business. The City of Vero Beach has a millage rate of \$1.93. Over the years the City Council has continuously voted to lower the millage rate. We are operating a four million dollar less budget then we were three or five years ago. So they have to make constant cuts and do what is right. The increases with the utility bills this year came as a pass-through from FMPA. He said that five years ago they did exit the contract and are now officially out of it. They have made the right decision in going with OUC. He said this year they have spent more time defending the utilities of the City and explaining the facts. However, he has found out that people don't want to hear the facts, they just want their bills lowered. He said that if there was any feasible way of doing it this Council would do it. Hopefully everyone's first bill in January will show a decrease and then in February there will be another decrease and they also will be very competitive with FP&L. His whole point in making this speech was to wish everyone a happy New Year. He said that 2010 will be a banner year for the City of Vero Beach.

3. Comments

D. Councilmember Brian Heady's Matters

- 1. Correspondence**
- 2. Committee Reports**
- 3. Comments**

1. Request to Finance Commission

This item was discussed earlier in the meeting.

- 2. Request to Utilities Commission**
- 3. Meeting with PSC complainants and City**
- 4. Early Discussion of Budget Savings**
- 5. Public Interviews of Applicants**
- 6. Flyer that Representative Mayfield Mailed Out**
- 7. Spokesman for the City**
- 8. OUC Contract with Attorney's Answers**

Mr. Heady commented that he received a flyer in the mail that was paid for by taxpayers' expense and mailed out by their Representative Debbie Mayfield. When he received the flyer he called the City Attorney and City Manager because if you read through this important petition that their Representative sent out, it identifies things that is misinformation and is not true. He thinks that all of their citizens in the rate area should be concerned about their utility rates. They clearly had reasons to voice their concerns when their electric bills went through the ceiling, but there also should be concerns raised

when a Representative that is paid to represent you sends out things about the City that just is not true.

Mr. Abell added to Mr. Heady's comments that he has circled things in the flyer that are wrong and that have been addressed. He said that Representative Mayfield has an office across the hall and he has not seen her in a year. They have been trying to get an appointment with her to no avail. He said that nothing in this flyer is correct and many things that are in there have been addressed and she has been sent copies of the information.

Mayor Sawnick mentioned that he met with Representative Mayfield about a month ago and she said that she would let him know about things before they are taken public. He had not seen this flyer until this morning. He is the type of person that even if you disagree on a matter that you still need to talk about it, which means even though they disagree on certain issues they need to work with their Representatives.

Mr. Gabbard stated that he is trying to contact Representative Mayfield to meet with her about this flyer. He said that it is incorrect and had they been contacted and informed that she was going to do a piece like this they could have helped her.

Mr. John Lee, Acting Electric Utilities Director, reported that he was at the County Commission meeting this morning and this flyer was brought up by Commissioner Gary Wheeler. Commissioner Wheeler said that the flyer was intended to insight and inflame people based on inaccurate information. Mr. Lee said that the flyer is a very well crafted piece of misinformation. He said the reality is that their rates are competitive with other rates in the State of Florida. This notion that they are not regulated by PSC is true, but they (PSC) do look at their rates and have oversight with them.

Mr. Heady commented that the City Council, prior to the Election, debated sending out some information to the public and the public came in and spoke out and had the opportunity to "fuse" the City Council from spending money and the City Council was wise by not sending anything out. He referred to the flyer and said that the citizens have no representation in preventing a waste of tax dollars.

Mr. Heady brought up one thing that was discussed at the meeting that he had with staff and Dr. Faherty and Mr. Heran, which was that the City set up a joint Committee to sit down and debate different issues. This kind of Committee can bring before Council some facts and figures so that they know what they are talking about before they have to hire consultants to tell them where they are and where they should go.

Mayor Sawnick asked Mr. Heady to bring this up at their next meeting and to have something in writing as to what he would envision that this Committee would meet about.

Mr. Heady explained that the Committee would be similar to the CCNAC Committee, but without the consultant. They would have a couple of citizens from the County,

Indian River Shores and from the City and this Committee would sit down and look at different issues.

Mr. Gabbard mentioned that one of the things that was discussed in that meeting was selling off pieces or giving up service territory, specifically they talked about Indian River Shores and South Beach. He told Council that he felt they were setting themselves up for failure because they have already sent a letter to FP&L and other major utilities that are interested or may be interested in purchasing the entire system. He said anyone interested in their utilities are interested in the customers so if there is uncertainty about how many customers there will be, he thought it would severely impact the offers that they might generate.

Mr. Heady wanted to borrow Mr. Gabbard's crystal ball because he was telling them what a Committee that has not even been formed yet is going to come up with. This Committee is to meet and put the facts out. The problems that have been in existence is because there has been an unwillingness to sit down at the table and discuss the issues.

Mr. Abell excused himself from the meeting at 11:42 a.m.

Mr. Gabbard continued by saying that if they are going to have a Committee like what Mr. Heady is describing that the marching orders need to be clear.

Mayor Sawnick mentioned that they have invited electric providers to come to their March utility meeting. He suggested waiting until after that meeting and then discuss this again at that time.

Mr. Heady said that he had no interest in waiting until March to discuss the idea of creating a Committee to put the facts on the table. He said that is what the problem has been in the past. He said this is not at all like the water issues and why CCNAC meets. He said with that Committee the parameters have already been set.

Mayor Sawnick suggested asking the Utilities Commission to look at these things.

Mr. Heady stated that he also wanted to ask permission from the Council for the Utilities Commission to meet for this exact purpose. They need to hear from the Utilities Commission and they need to be on board with this and they can make recommendations to the Council on who they feel should sit on this joint Committee. It is important to do this in order to stop unwanted and unnecessary litigation, which are great expenses to the City.

Mr. White felt strongly that the City Council is where the buck stops. They are the ones responsible no matter what staff or Committees do. They get blamed or credited for whatever goes on. He agreed with taking this to the Utilities Commission and let them look at it. Council are the ones that need to go out and do the research and find out what is going on.

Mr. Heady mentioned that he went to Orlando and took a tour of OUC. He came back with a list of questions for OUC and the forty-four questions were answered by OUC and have since been given out to the complaints so that they know there is a meaningful effort to get answers to questions that are legitimate questions about their utilities.

Mayor Sawnick again suggested to Mr. Heady that this be taken to the Utilities Commission and then they can go from there.

Mr. Lee brought up again that he was at the County Commission meeting this morning and something similar to this came up. He said that the County Commission recently expanded the role of their Utilities Commission. Their Utilities Commission used to just discuss water issues but now they are also discussing electric issues. The person that did the presentation at the County Commission meeting today suggested that the County take some serious action immediately. He would encourage that when these discussions are taking place that some people from the City attend those meetings and listen. It seems that they are following the same path that the City is and he would suggest that they first allow the County to have their meeting, they attend the meeting and then invite them to attend their Utilities Commission meeting in March and then as a collective body decide how they want to move forward.

Mr. Heady was given the approval from Council to allow the Utilities Commission to meet in the near future to discuss some of these issues.

Mr. Heady mentioned the letter that they received from OUC, which included the answers to his questions. Also in the letter it mentioned that they would like for someone to be the spokesperson/point person for the City of Vero Beach. He said that he would volunteer to be that person and requested that he be given the responsibility.

Mr. Gabbard commented that FMPA requested that one of their elected officials sit on their Board and that person was former Councilmember Ken Daige. He was not exactly sure when OUC was talking about a point person what they meant. He said that himself and Mr. Lee have contact with OUC on issues almost daily. He said they would gladly volunteer to take that role as they do now. He thought that OUC was concerned that they were going to have different Councilmembers and staff calling them all the time with various questions and they would rather just have one person doing it.

Mr. Heady thought that they were looking for someone on the Council to be the point person. He made it clear that he did not want to be involved in the daily discussions that staff has with OUC.

Mayor Sawnick felt that Mr. Gabbard should be the point person.

Mr. Heady expressed that Mr. Gabbard was not on the Council.

Mayor Sawnick had no problems if OUC actually wanted to have someone from Council being that point person. He said if in fact that is what they are requesting then they can

discuss it at their next meeting. Mr. White wanted to see something in writing from OUC saying that this is what they are requesting.

Mr. Heady brought up the OUC contract. He said that the OUC contract was a bone of contention during the election as to who read and who didn't read it. There were questions about a redacted contract versus a non redacted contract. Clearly the contract signed by then Mayor White contained many changes. He went through the contract and 32963 went through it also. They found 115 changes they said that they counted. At the time this was being discussed he asked to see a copy of the contract and was told it was not available to the public. He protested to the City Clerk and wanted to see the contract that Council was voting on. At that time he was told that Council was voting on recommendations by the consultant and then he was given a copy of the redacted contract.

Mr. Heady referred to the document that was recently prepared by the City Attorney (on file in the Clerk's office) that shows the redacted contract and the final contract and the different changes that were made. The question comes up as to if these are material changes. He said that they are "material" to someone or they would not have been changed. He thought that when Mayor White signed the contract, he signed it with the belief that it was the contract that was voted on. Mr. White confirmed that was true. Mr. Heady continued by saying that he has concerns that the Mayor is given a contract to sign that has 115 changes and the list of changes has been identified by the City Attorney. He asked that before their next meeting that Councilmembers are supplied with who requested these changes, when were they made, at whose expense and which changes is not material.

Mr. Vitunac commented that first of all what was redacted was just numbers. He said that there was some time between the redacted contract and the adoption of the final version. He said that all the changes are material and make the contract better, but doesn't change the meaning of the contract.

Mr. Heady mentioned that there were portions excluded from the contract.

Mayor Sawnick asked Mr. Vitunac to write up a report on what the changes were in the contract.

Mr. Vitunac said that he can provide the Council with a copy of that right now, but he will go back and make what he has even clearer. He has reviewed each of the changes and there was nothing materially changed and the essential understanding of the contract has not been changed.

Mr. Heady asked who requested these changes.

Mr. Vitunac said it was the consultant.

Mr. Heady said that when the consultant presented the contract to City Council for approval it was stamped final draft. Then she went and made these changes. He asked Mr. Vitunac who paid for these changes.

Mr. Vitunac said that the City did.

Mr. Heady asked Mr. Vitunac to get him a number, before the next meeting, of the total dollar amount charged by this consultant after the contract was approved by the City Council.

Mr. Heady then brought up a meeting that he attended that was held at the 3 Avenues location. He said one of the things that came up at that meeting was about the cooperation of City staff on this project. He thanked Mr. McGarry for his hard work and that it was reassuring to hear that City staff was so cooperative.

Mr. J. Rock Tonkel, from Grand Harbor, requested to speak. He said that it was encouraging to see the attention that is being made to the issue regarding the utility rates. He has three specific requests. He asked where would he get a copy of the changes to the contract as referred to earlier (he was given a copy of this), his next question was where does he get the specifics about where different funds are used.

Mr. Maillet explained the general administrative charges (operating system of the electric company) and the transfer. The profit portion is transferred to the General Fund for operations within the City. He will talk in depth to Mr. Tonkel after the meeting.

Mr. Tonkel said that his third and final request was to get a copy of the questions and responses from OUC that Mr. Heady referred to earlier in the meeting. Mr. Heady provided Mr. Tonkel with this information.

11. ADJOURNMENT

Mr. White made a motion to adjourn today's meeting at 12:11 p.m. Mayor Sawnick seconded the motion and it passed unanimously.

/tv

3-A)

ORDINANCE NO. 2009- _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE DEFINITION OF “RESTRICTED SALES AND SERVICES” OF CHAPTER 60, APPENDIX, DEFINITIONS, OF PART III, TITLE VI, VERO BEACH CODE; LIMITING RETAIL AND PERSONAL SERVICE STORES TO 4,000 SQUARE FEET OF FLOOR AREA; EXCLUDING STORES WITH WAREHOUSING, HEALTH AND FITNESS CLUBS, AND STORES THAT SELL MOTOR VEHICLE PARTS; EXCLUDING HARDWARE STORES WITH OUTDOOR MERCHANDISE DISPLAYS AND LAUNDRY AND DRY CLEANING STORES WITH ON-SITE CLEANING AND CLOTHING REPAIR SERVICES; EXCLUDING STORES WITH DRIVE-IN, DRIVE-UP, OR DRIVE-THROUGH FACILITIES AND STORES THAT OFFER FOR SALE PREDOMINATELY PRE-PACKAGED FOOD PRODUCTS, BEVERAGES, AND OTHER FREQUENTLY OR RECURRING NEEDED HOUSEHOLD ITEMS BETWEEN THE HOURS OF 11:00 P.M. AND 6:00 A.M, INCLUDING DELIVERIES BETWEEN THIS SAME TIME PERIOD; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the permitted use category of “restricted sales and services,” which is a restrictive subset of the all inclusive “general retail sales and services” category, has created problems in its interpretation and application by the Planning and Development Department staff, property owners, and business owners; and

WHEREAS, the Planning and Development Department staff held workshops with the Planning and Zoning Board on October 1 and 15, 2009, to discuss the issues related to the definition of “restricted sales and services” and review proposed language to revise the definition; and

WHEREAS, the Planning and Zoning Board requested staff to move forward, provided guidance, and requested staff to move forward with preparation of an Ordinance to amend the definition of “restricted sales and services;” and

WHEREAS, the Planning and Zoning Board held a public hearing November 5, 2009, on the proposed text amendment and made a recommendation of approval to the City Council; and

WHEREAS, the City Council finds that the adoption of this Ordinance amending the definition of “restrictive sales and services” in Chapter 60, Appendix, Definitions of Part III, Title VI of the City of Vero Beach Code is in the public interest and is consistent with the criteria for text amendments to the City’s Land Development Regulations in Section 65.22(i)(3) of the Vero Beach Code that requires such amendments to be consistent with the goals, objectives, and policies of the comprehensive plan and internally consistent with the purposes, permitted uses, bulk regulations, and other standards of the Land Development Regulations;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Amendment of Chapter 60, Appendix, Definitions

The definition of “restrictive sales and services” in Chapter 60, Appendix. Definitions, is hereby amended as follows:

~~*Restricted sales and services:* Small limited shops and stores limited to retail sales of frequently needed small convenience items or services typically needed on a frequent and recurring basis such as barber and beauty care, small scale drugstores, dry cleaning pickup stations (excluding cleaning and repair services), small specialty food shops such as wine and cheese stores, imported food shops, or similar unique limited item shops (excluding general food market stores such as 7-11, Majik Market, Little General Store and similar stores); interior decorators and/or designers with retail sales and no warehousing; and home furnishing and accessory shops with no warehousing. This land use classification is intended to accommodate shops with limited inventory or goods directed expressly to a special market area including:~~

- ~~(1) — A household market area in the immediate vicinity as opposed to city-wide or region;~~

- ~~(2) — A specialized market with customized service demand; or~~
- ~~(3) — A tourist oriented market area in the immediate vicinity.~~

~~Scuba shops, repair shops, motor vehicle parts, health spas, wholesale, warehousing and discount stores and similar general sales are expressly excluded.~~

Restricted sales and services: Retail and personal service stores with a floor area of no greater than 4,000 square feet that are intended to primarily serve markets for specialty goods and services or tourist-oriented and neighborhood markets in the immediate vicinity. Such uses shall expressly exclude the following: hardware stores with outside merchandise displays; stores with warehousing; stores with drive-in, drive-up or drive-through facilities; laundry or dry cleaning stores with on-site cleaning and clothing repair services; health and fitness clubs; stores that sell motor vehicle parts; and stores that offer for sale predominately pre-packaged food products, beverages, and other frequently or recurring needed household items between the hours of 11:00 p.m. and 6:00 a.m., including deliveries during this same time period,

Section 2. Conflict and Severability.

In the event any provision of this ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this ordinance, the more strict provision shall apply and supersede. If any provision of this article is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this article, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 3. Effective Date.

This ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the ____ day of _____, 2009, and was advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a public hearing to be held on the ____ day of _____, 2009, and was also advertised in the Indian Press Journal on the ____ day of _____, 2009, as being scheduled for a second public hearing to be held on the ____ day of _____, 2009, at the conclusion of which hearing it was

moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Sabin C. Abell	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Thomas P. White	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Charles R. Wilson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

**CITY OF VERO BEACH,
FLORIDA**

Tammy K. Vock
City Clerk

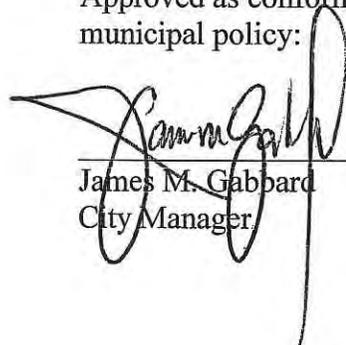
Sabin C. Abell
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to
municipal policy:

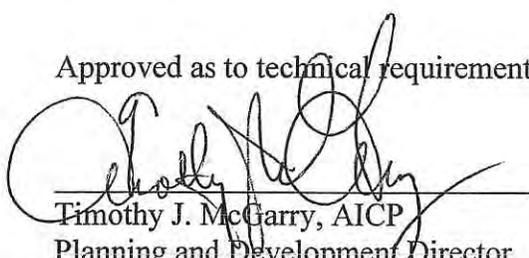


Charles P. Vitunac
City Attorney



James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

EXHIBIT ONE

**DEFINITIONS FOR
RESTRICTED SALES AND SERVICES AND
GENERAL RETAIL SALES AND SERVICES
CHAPTER 60. APPENDIX. DEFINITIONS
VERO BEACH CODE**

Restricted sales and services: Small limited shops and stores limited to retail sales of frequently needed small convenience items or services typically needed on a frequent and recurring basis such as barber and beauty care, small scale drugstores, dry cleaning pickup stations (excluding cleaning and repair services), small specialty food shops such as wine and cheese stores, imported food shops, or similar unique limited item shops (excluding general food market stores such as 7-11, Majik Market, Little General Store and similar stores); interior decorators and/or designers with retail sales and no warehousing; and home furnishing and accessory shops with no warehousing. This land use classification is intended to accommodate shops with limited inventory or goods directed expressly to a special market area including:

- (1) A household market area in the immediate vicinity as opposed to city-wide or region;
- (2) A specialized market with customized service demand; or
- (3) A tourist-oriented market area in the immediate vicinity.

Scuba shops, repair shops, motor vehicle parts, health spas, wholesale, warehousing and discount stores and similar general sales are expressly excluded.

General retail sales and services: Retail sale or rental from the premises of goods or both goods and services for personal, informational or instructional service; department stores; hardware stores (without lumberyards or major storage areas); supermarkets; pet shops; large specialty shops; furniture stores (without major warehousing); decorating services and sales; carpet stores; dry goods stores; and similar personal sales and services; household goods and services; Fire Prevention Code Class IV or Class V dry cleaning establishments using only nonflammable Class IV solvents such as perchlorethelene, except for spotting as provided in section 9.6(m) of the Fire Prevention Code; lawn and garden supplies; agricultural products and feed stores; office equipment and supplies; and other similar goods and services. These activities exclude the following: restaurants and food service establishments; sale or rental of motor vehicles, except small parts and accessories; sale of construction materials, except paint, fixtures, and hardware; vehicular service and maintenance activities, including filling stations.

EXHIBIT TWO

**FLOOR AREA STATISTICS
ON EXISTING C-1A RETAIL AND SERVICES USES
OCEAN DRIVE/CARDINAL DRIVE
BUSINESS DISTRICT**

Number of Retail and Service Establishments: 52

Total Estimated Floor Area: 100,494 s.f.

Average Floor Area Per Establishment: 1,932 s.f.

Median Floor Area of Establishments: 1,225 s.f.

Distribution of Establishments by Floor Area

1,000 s.f. or less:	14
1,001 s.f. to 2,000 s.f.	20
2,001 s.f. to 3,000 s.f.	8
3,001 s.f. to 4,000 s.f.	7
4,001 s.f. to 5,000 s.f.	3

Largest Floor Area of an Establishment: 4,624 s.f.

Mr. Mucher said if we don't understand, he doubts they would.

Mr. Ryan asked Mr. McGarry to bring this up to the council.

Mr. McGarry said that he would bring this up to council as an item.

→ B. Issues with Restrictive Sales and Services Definition

Mr. McGarry spoke about the problems with the restrictive sales and service definition, which was discussed at the board's last meeting. He said there is a representative present who is interested in putting a small scale hardware store in this district. He handed out a Floor Area Fact Sheet detailing businesses and square footages in the Ocean Drive/Cardinal Drive District (attached) and suggested putting a limit on floor area of 3,500 square feet.

A discussion regarding the businesses on the fact sheet followed, including how this would affect Super Stop (nonconforming as it is now) and some examples of store, such as Sigfried of Germany with 4,400 square feet of floor area and some clothing stores with 3,000.

Mr. Andrew Kennedy, 3001 Ocean Drive, said John Talmadge and his wife Christian were here and would give an overall presentation and spoke of the many ways this use would benefit the tenant, landlord and employees working there.

Mr. John Talmadge, 2131 Stony Point Drive, Sebastian, gave a PowerPoint presentation (on file in Planning), which highlighted communities similar to Vero and that the one thing they all have in common is a community hardware store. He said Christian and he, along with our son Jackson, work together and that people hear of our name and think it's a corporate store. He said it's not; it's not a franchise. He said it's a cooperative and that it gives us access to good pricing and good products while allowing us the flexibility to do what we want with the inventory. He said we are looking at a 4,000 to 5,000 square foot store.

Mr. Mucher said the number we heard from Andrew [Kennedy] at the last meeting was 2,500 square feet.

Mr. Talmadge said 2,800 square feet and what he is providing here is to keep people from having to cross the island.

Mr. Mucher said you just heard us talking about a 3,300 to 3,500 square foot number unless you convince us to increase that number substantially.

Mr. Talmadge said the number he gave is our optimum and that the number Mr. Mucher gave was something they could do.

Mr. Mucher said he had gotten the idea last time there was a specific property in mind.

Mr. Terry Torres, 1555 Club Drive, representing the landlord of the property, Hale Family Trust, said the square footage is 3,975 to be more precise and that we currently have 2,800 square feet of the 3,975 available. He said it's always possible it could become a single tenant. He also said the Hale family supported this type of use with their property. He spoke about the differences between a typical 20,000 square foot hardware store and the small one being proposed that would fit in with the local aesthetics and would be in keeping with other neighboring uses, such as the Island Tile and the Designer Hardware stores. He felt a fairly good range as being up to 4,600 square feet.

Mr. McGarry suggested picking a number of 4,000 or 5,000.

Mr. Torres spoke of the convenience of not having to travel to Sewell's when you just need a screw or a washer. He said an additional convenience is that they could always have an item brought in on a day's notice from their main store on Oslo Road. He urged the board to support this request. He concluded saying it would be a very good thing to accommodate a business that he thinks would be an excellent business for our community.

Mr. Talmadge continued his presentation explaining that the merchandise would be specialized, such as stainless steel and brass, so they would last a long time on the island.

A discussion followed about the hours they planned to operate such a business, how the pricing would remain comparable to those on the mainland, how the site was actually the old Hale store that's been vacant, how part of the site was currently a beauty salon, and how there was adequate parking to support such a use.

Mr. Ryan was concerned with the aesthetics describing a similar store on Sanibel Island that had outdoor storage and how unattractive it appeared.

Mr. Talmadge said he completely understands and that is why this would be an outpost to our larger store and that he had no plans for external storage.

Mr. McGarry said we could put that in the definition.

~~In discussion, some members thought keeping the size 3,500 square feet would be appropriate while others said they wouldn't object to increasing it to 4,000.~~

Mr. Doty said in all fairness to the issue, when it was Hale, it was a drive-through and it was all one operation that goes back to the 70s and 80s.

Mr. McGarry said he would like to exclude that for drive throughs.

Mr. Mucher asked Mr. Talmadge, can you live without outside displays and storage?

Mr. Talmadge said they make very limited use of outdoor displays and that they couldn't put anything that stays overnight at their existing site and that he would expect they would have a monument sign.

Several of the members supported a store size of 4,000 square feet.

Mr. McGarry made sure they understood this would affect everybody, not just this site.

Mr. Mucher said he knows we're not spot zoning; he just didn't think that building is a huge size for a business of this type.

Mr. McGarry said he would amend the overlay district since they had come up with 5,000 square feet as a measure. He said he would bring it back to the board for further consideration.

IV. PLANNING DEPARTMENT MATTERS

None.

V. CHAIRMAN'S MATTERS

None.

VI. ADJOURNMENT

The meeting adjourned at 2:32 p.m.

gkb

10/01/09

**FLOOR AREA FACT SHEET ON
C-1A RETAIL AND SERVICE USES
OCEAN DRIVE/CARDINAL DRIVE
BUSINESS DISTRICT**

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ATTACHMENT

**DEFINITIONS FOR
RESTRICTED SALES AND SERVICES AND
GENERAL RETAIL SALES AND SERVICES
CHAPTER 60. APPENDIX. DEFINITIONS
VERO BEACH CODE**

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Mr. Norris said he seconds that and has a question for the applicant.

Mr. Daniel Zink, Pastor of Vero Worship Center, 7055 29th Court. responding to Mr. Norris's request to tell the board a little bit about his organization, said the church began about a year and a half ago and explained a little of the church's background, including its affiliation with a group called the Master Builders and that it is a charismatic church. He said they believe in the bible as absolutely infallible and that they are main line Protestants and evangelical.

Mr. Norris asked if they would have to come back for a follow up.

Mr. McGarry said they are going to have a change of use, which might be an administrative approval because they probably have the parking they need in the shopping center.

The motion to recommend council approval was unanimously approved (6-0) on a roll call vote: Mr. Vogt, aye; Mr. Norris, aye; Ms. Pease, aye; Mr. Mucher, aye; Mr. McCracken, aye; Mr. Kennedy, aye.

IV. PLANNING DEPARTMENT MATTERS

→ A. Proposed Revised Definition of "Restricted Sales and Services" in Chapter 60, Appendix. Definitions

Mr. McGarry said this is one of the issues the Planning Department chose to take on to do and is a good example of somebody coming to us. He said there's a lot more going on than just the application. He said at the last minute he didn't realize he had enough time to advertise this for a public hearing. He said he did an outline of the proposed language for restricted sales and services (attached). He said he basically followed what was discussed at the last meeting and that it covers almost every establishment other than restaurants. He said he got rid of the ambiguous language and decided to incorporate the intent of the district. He reviewed the proposed changes and the reasons why.

Mr. Vogt said he was fine with the health spas, but was concerned with the proposed hours of operation saying 11 p.m. is too late and 5 a.m. is too early.

A brief discussion followed about the times different stores close and how people should be notified if the hours of operation are changed and how visitors would relish having a convenience store like that open for extended hours. Some members didn't object to the later hours and asked if staff checked hours of operation for existing businesses.

Mr. McGarry said they had not, but would.

There was a lengthy discussion about the existing drive-through dry cleaning business and how this would impact it.

Mr. Mucher understood that the dry cleaning would be grandfathered unless there was substantial damage. He asked why is it [the dry cleaning business] such a terrible thing? He said he would argue that it should be allowed and that his office is directly across the street from it and that he didn't see it as an evil.

Mr. McGarry said he's just following what was in the ordinance. He said this is for the C-1A and that only a few areas in the city have this. He said he would suggest he was getting too ambitious here and maybe he could exclude this. He said this fits all the C-1A and that he could address it to the overlay district, which is more pedestrian oriented.

A discussion followed about drive ins, drive ups, and drive throughs and whether they should be excluded. The issue of dry cleaners was revisited and whether actual on-site cleaning should be permitted as opposed to being a pick up location. The dry cleaning issue brought up laundromats and how they are different.

Mr. McGarry said it's a different process and that it's not a pick up station.

A discussion followed where it was noted that there used to be a laundromat that operated 24 hours a day. During this discussion, one member wondered why you would have to cross a bridge to get you clothes done. Another member suggested when this is brought back before the board to invite the operators of these facilities to come and comment on this.

In concluding, several alternatives were considered to modify the proposal with the end result being staff would bring this item back to the board as a public hearing and that changes could be made at that time.

V. CHAIRMAN'S MATTERS

None.

VI. ADJOURNMENT

The meeting adjourned at 2:25 p.m.

gkb

MINUTES - APPROVAL PENDING - REGULAR MEETING OF THE CITY PLANNING AND ZONING BOARD – NOVEMBER 5, 2009, 1:30 P.M., COUNCIL CHAMBER, CITY HALL, VERO BEACH, FLORIDA

PRESENT: Chairman Dennis Ryan; Ms. Connie Pease; Mr. Bob Sammons; Mr. Mark Mucher; Mr. Charles Vogt; Mr. Scott McCracken; Mr. Kevin Doty; Mr. Hank Flores, Current Planning Manager; Mr. Wayne Coment, Assistant City Attorney; Ms. Ginny Beigel, Secretary

EXCUSED ABSENCES: Mr. Richard Kennedy; Mr. Ed Llerena

UNEXCUSED ABSENCE: Mr. Cliff Norris

I. PRELIMINARY MATTERS

A. Agenda Additions and/or Deletions

None. The excused absences of Mr. Kennedy and Mr. Llerena were noted.

II. APPROVAL OF MINUTES

A. Regular Meeting – October 1, 2009

Ms. Pease moved for approval of the minutes; Mr. Vogt seconded the motion and it was unanimously approved (7-0).

III. PUBLIC HEARING

[LEGISLATIVE]

→ A. Public Hearing on a Proposed Ordinance to Amend the Definition of "Restricted Sales and Services" in Chapter 60, Appendix. Definitions

Mr. Flores mentioned that this issue had been brought before the board several times, so he wasn't going to review the changes in the backup made based on those previous discussions (on file in Planning). He said if you have any questions, please ask.

Ms. Pease asked if there would be any property rights issues by limiting the square footage.

Mr. Coment said it actually makes it better because we have more definitive criteria instead of something nebulous.

Mr. Sammons asked could a hardware store have feed and things like that? He was concerned about it getting all over and wondered if it were possible to regulate such sales.

Mr. Ryan said to be careful with that because many hardware stores sell birdfeed and things along those lines.

Mr. Flores said hay and things like that need to be stored outside and said no outside storage would be permitted.

Mr. Vogt noted there would be no outside storage and the floor area would be limited to 4,000 square feet.

Mr. Mucher said he thought we were pretty much agreed last time. He asked why are we here?

Mr. Flores said because this is the public hearing.

As discussed at the board's previous meeting, the hours of operation were again considered and the majority favored 6 a.m. to 11 p.m. In addition, they chose to limit deliveries to the same schedule.

Mr. Vogt pointed out a minor correction to the Planning Department's name in the first whereas clause in the ordinance that staff will amend by replacing Zoning with Development.

No one wished to speak for or against the proposal.

Mr. Mucher said he would move staff recommendation with the exception of changing the hours of operation from 5 a.m. to 6 a.m. and of sales to operations or whatever our attorney feels is necessary. Mr. Coment said he would stick some language in it. Mr. Sammons seconded it and it was unanimously approved (7-0) on a roll call vote: Chairman Ryan, aye; Ms. Pease, aye; Mr. Sammons, aye; Mr. Mucher, aye; Mr. Vogt, aye; Mr. McCracken, aye; Mr. Doty, aye.

IV. PLANNING DEPARTMENT MATTERS

None.

V. CHAIRMAN'S MATTERS

None.

Mr. Doty said while he knows this is not on the agenda, he would like to throw this out and that he didn't know if this is something the this board should consider or something city council might want to consider. He spoke of how he is really tired of driving through the grass storm in traffic when landscapers blow all the grass cuttings into the street and that he doesn't understand it. He said it seems rude throwing it out there for somebody else to clean up. He said he thinks there should be an ordinance to say it should be kept on your property.

3-B)

ORDINANCE NO. 2009 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING CHAPTER 72, LANDSCAPING AND TREE PROTECTION, OF THE CODE OF THE CITY OF VERO BEACH, RELATING TO LANDSCAPING REQUIREMENTS, TREE CLASSIFICATION AND PROTECTION; PROVIDING FOR DEFINITIONS; PROVIDING FOR TREE GRADES AND STANDARDS; PROVIDING FOR TREE REMOVAL PERMIT PROCEDURES; PROVIDING FOR PROTECTION OF TREES BEFORE AND DURING SITE DEVELOPMENT; PROVIDING FOR PRUNING GUIDELINES; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, except for minor amendments enacted over the years, the City's existing regulations governing landscaping and tree protection have not been substantively revised since Chapter 72, Landscaping and Tree Protection, of the Code was enacted by Ordinance 84-15 in July 1984; and

WHEREAS, the Vero Beach Vision Plan adopted by the City Council in 2005 called for strengthening the regulations on preservation and/or relocation of the City's existing tree canopy, including increased penalties for violations to more effectively encourage compliance; and

WHEREAS, the City of Vero Beach Tree and Beautification Commission has asked for comprehensive revisions to the existing regulations that would enhance tree protection; and

WHEREAS, the Planning and Development Department staff also has concerns regarding the effectiveness of the tree protection elements and the administration of the existing regulations; and

WHEREAS, in order to address the above issues and concerns, the Planning and Development Department staff, in consultation with the City of Vero Beach Planning and Zoning Board, has prepared this ordinance to substantively revise the existing landscaping and tree protection provisions of Chapter 72; and

WHEREAS, the City Council finds that the amendments to Chapter 72 provided for in this ordinance are consistent with the requirements and criteria in Section 65.22(i) of the Code and that it promotes the public interest by improving the effectiveness of the City's landscaping and tree protection regulations;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Amendment of Chapter 72.

Chapter 72, Landscaping and Tree Protection, is hereby amended as follows:

~~CHAPTER 72. LANDSCAPING AND TREE PROTECTION~~

~~ARTICLE I. IN GENERAL~~

~~Sec. 72.01. Purpose.~~

~~The purpose of this chapter is to encourage reduced energy consumption, conserve water, improve the value and appearance of the community, and comply with the policies of the comprehensive plan by requiring landscaping on all projects subject to site plan review. Further, it establishes protective regulations for trees in order to better control flooding, air pollution, and noise, and to aid soil conservation and protect native trees. The standards of this chapter shall be the minimum.~~

~~Sec. 72.02. Definitions.~~

~~For the purpose of this chapter, the following words shall have the definitions indicated:~~

~~*DBH (diameter at breast height):* Shall mean, for the purposes of this chapter, a tree diameter as measured from the base of the tree, taken at 4.5 feet above the surrounding grade.~~

~~*Developed area:* That portion of a plot or parcel upon which a building, structure, pavement, gravel, landscaping, or other improvements have been placed.~~

~~*Encroachment:* Any protrusion of a vehicle outside of a parking space, vehicular use area, or accessway into a landscaped area.~~

~~*Ground cover:* Low growing plants or sod planted in such a manner as to form a continuous cover over the ground and usually growing no higher than two feet.~~

~~*Landscaping:* Any of the following or combination thereof: material such as, but not limited to, lawn grass, ground covers, vines, shrubs, hedges, palms or trees, and nonliving~~

~~durable material commonly used in the landscape, such as, but not limited to, rocks, mulch, sand, or paving for pedestrian use (but excluding paving used for vehicles), benches, fountains, exterior landscape accent lighting fixtures, and any other item of exterior furniture.~~

~~——— *Mulch:* Small, nonliving aggregate material such as gravel, rock, pebbles, bark, pine needles, or wood shavings, used as a ground cover.~~

~~——— *Off-street parking area:* All areas used for the display or parking of any and all types of vehicles, boats, trailers, or other equipment, whether such vehicles, boats, or equipment are self-propelled or not, and all land upon which such vehicles traverse the property as a function of the primary use, including, but not limited to, activities of a drive-in nature such as filling stations, grocery and dairy stores, banks, restaurants, and the like.~~

~~——— *Primary tree protection zone:* The yard areas as established and required by the zoning ordinance of the City of Vero Beach.~~

~~——— *Screening:* The masking out or concealing of any objectionable area through the use of earthen berms and vegetation.~~

~~——— *Secondary tree protection zone:* All areas not included in the primary tree protection zone. Subdivision streets, rights of way, and easements are also defined as being within the secondary tree protection zone. Land improvements in this zone shall be situated so that the maximum number of trees is preserved.~~

~~——— *Shrubs and hedges:* A woody plants of relatively low height, distinguished from a tree by having several streams rather than a single trunk.~~

~~——— *Tree:* A plant species having an average mature crown spread of 15 feet or greater when growing in the City of Vero Beach and having a trunk of five feet or greater in height that eventually can be maintained in a clean condition, clear or lateral woody growth.~~

~~——— *Tree canopy:* The top layer or crown of the tree.~~

~~——— *Tree removal:* Removal of a tree includes the act of removing a tree and any act which will cause a tree to die within a period of one year; e.g., damage inflicted upon the root system by heavy machinery, changing the natural grade above the root system or around the trunk, damage inflicted on the tree permitting infection or pest infestation or application of any chemical, or paving with concrete, asphalt, or impervious material to within five feet of the outside diameter of trees.~~

ARTICLE II. LANDSCAPING

Sec. 72.03. Landscape plan.

~~——— (a) *Requirement before construction.* A landscape plan is required for any construction requiring site plan approval excluding single family lots. Before commencing~~

~~construction and simultaneously with site plan application, the applicant for site plan review shall submit to the planning department a landscape plan as required by this chapter.~~

~~(b) *Site data.* All items of the landscape design are to be selected not only for their functional value but for their aesthetic value as well and must complement the whole. All items of the proposed landscape design including existing vegetation shall be indicated on the landscape plan, which shall include the item's location, species, height, spread, spacing, and quality. Plant species indicated on a landscape plan that have been approved by the planning and zoning board shall not be changed without prior approval by the planning director.~~

Sec. 72.04. Requirements for landscaping.

~~(a) *Off street parking perimeter landscaping adjacent to public rights of way.* Where an off street parking area or open pit type retention area is adjacent to a public right of way the following landscape treatment shall be provided:~~

~~(1) A landscape strip ten feet in width located between the right of way and the off-street parking area and or open pit type retention area.~~

~~(2) One tree shall be provided for each 50 lineal feet, or fraction thereof, in the landscape strip.~~

~~(3) A continuous hedge shall be provided in the landscape strip.~~

~~(4) Ground covers shall be provided in the remainder of the landscape strip.~~

~~(b) *Off street parking perimeter landscaping adjacent to abutting property.* Where an off street parking area or open pit type retention area is adjacent to abutting property the following landscape treatment shall be provided:~~

~~(1) A landscape strip five feet in width located between the off street parking area or open pit type retention area and the abutting property.~~

~~(2) One tree shall be provided for each 40 lineal feet, or fraction thereof, in the landscape strip.~~

~~(3) A continuous hedge shall be provided in the landscape strip.~~

~~(4) Ground covers shall be provided for the remainder of the landscape strip.~~

~~(c) *Off street parking interior landscaping:*~~

~~(1) A 100 square foot planter island containing at least one tree shall be provided at the end of each row of parking.~~

~~(2) An additional 12 square feet of planter island shall be provided for each parking space. Planter islands shall be located so as to best relieve the expanse of paving. One tree shall be provided for each 225 square feet, or fraction thereof, of these planter islands.~~

~~(3) Ground covers shall be provided for the remainder of the planter island.~~

~~(d) Landscaping for all other open space areas:~~

~~(1) One tree shall be provided for each 2,500 square feet or fraction thereof of open space in excess of requirements stated above.~~

~~(2) Ground covers shall be provided for the remainder of the open space areas.~~

~~(d) Landscaping for all other open space areas:~~

~~(1) One tree shall be provided for each 2,500 square feet or fraction thereof of open space in excess of requirements stated above.~~

~~(2) A continuous hedge or other landscape screening shall be provided between open-pit type retention areas and abutting properties and rights of way.~~

~~(3) Ground covers shall be provided for the remainder of the open space areas.~~

Sec. 72.05. Landscaping specifications.

~~(a) Trees:~~

~~(1) A minimum of two-thirds of all required trees shall meet all of the following minimum specifications:~~

~~a. Twelve feet in height;~~

~~b. Three inch DBH;~~

~~c. Four feet of clear trunk; and~~

~~d. Seven foot canopy spread.~~

~~(2) All other trees shall meet all of the following minimum specifications:~~

~~a. Eight feet in height;~~

~~b. Two inch DBH~~

~~c. Three feet of clear trunk; and~~

- ~~_____ d. _____ Five foot canopy spread.~~
- ~~_____ (3) _____ A grouping of three palms may be substituted for a tree (other than a large scale canopy tree) to meet up to 25 percent of the total tree requirements. Palms shall have a minimum height of 12 feet at the time of planting.~~
- ~~_____ (4) _____ Specifications within each group of trees shall be considered collectively, and failure to comply with all criteria shall be considered a violation of the section.~~
- ~~_____ (5) _____ A minimum of one third of the total required trees shall be large-scale canopy trees having a mature crown spread of 30 feet or greater.~~
- ~~_____ (6) _____ All canopy trees shall be maintained in their natural state with minor pruning to avoid conflict with overhead wires and warning signs being allowed with approval of the city.~~
- ~~_____ (b) _____ *Hedges:*~~
- ~~_____ (1) _____ Hedges shall be a minimum of 24 inches in height at the time of planting.~~
- ~~_____ (2) _____ Hedges shall be planted a maximum of 30 inches on center.~~
- ~~_____ (c) _____ *Ground covers:* All ground covers shall be planted in such a manner as to achieve 100 percent coverage within 180 days.~~
- ~~_____ (d) _____ *Generally:*~~
- ~~_____ (1) _____ All plant material shall be Florida number one or better in quality and free from all insects, disease, and pests.~~
- ~~_____ (2) _____ All landscaping shall be installed in a sound workmanlike manner and according to accepted good planting procedures.~~
- ~~_____ (3) _____ All landscaped areas shall be irrigated with an automatic irrigation system.~~
- ~~_____ (4) _____ All plant material shall be compatible with the climate, proposed physical improvements, existing and proposed public and private improvements and the proposed site drainage plan.~~
- ~~_____ (5) _____ All required landscaped areas shall be protected from vehicular encroachment.~~
- ~~_____ (6) _____ Fifty percent of the required landscape material shall be a species included on the attached list of drought-tolerant trees and shrubs.~~

~~(7) All synthetic, nondegradable root ball wrappings shall be removed prior to planting. Only paper or cotton burlap wrappings and cotton rope or twine may remain around the root ball after planting.~~

~~(e) Maintenance:~~

~~(1) All landscaped areas shall be maintained so as to present a neat and orderly appearance.~~

~~(2) All dead plant material shall be promptly replaced.~~

~~(3) The city shall require that established trees having a DBH of five inches or more that are removed or excessively pruned without benefit of a tree removal permit be replaced with trees that exceed the minimum size requirements of subsection 72.05(a). The minimum size of such a replacement tree shall be 16 feet in height, with a five inch DBH. Excessive pruning is considered "topping" or removal of more than one third of the living canopy.~~

~~(f) Landscaping of existing developed or redeveloped properties. Whenever an existing structure is altered in any way requiring minor change approval, the landscaping shall be upgraded to meet these requirements, unless, in the opinion of the planning director, such upgrading is impractical or would have an adverse impact on the applicant's site or an adjacent property. When no structural change is involved a voluntary change in landscaping that results in an improvement to the appearance of the property is allowed without approval.~~

Sec. 72.06. Final inspection required.

~~On all projects requiring landscape plan approval pursuant to this Code, the planning department shall perform a final landscape inspection prior to the issuance of a certificate of occupancy by the building department. A certificate of occupancy shall not be issued unless the landscaping is completed in strict compliance with an approved site plan and the requirements set forth herein.~~

Sec. 72.07. Modifications.

~~Modifications to the above may be approved by the planning director in cases where there is compliance with the general purpose of this chapter and where the landscaping requirements pose an unreasonable hardship on developers of property. Modifications may also be approved by the planning director based on practical matters such as the number of existing trees in a given area, the number of trees a given amount of land will support, and the physical characteristics of a site and surrounding sites.~~

Sec. 72.08. Adjustments and appeals.

~~Appeals of decisions of the planning director shall be to the planning and zoning board. The planning and zoning board may approve, modify, or deny the requested adjustment but shall~~

~~approve or modify only if it determines that approval of an adjustment would not be contrary to the public interest and would be in keeping with and would preserve the intent of this chapter and that literal enforcement of the above standards would be impracticable and would result in unnecessary and unreasonable hardship.~~

Sec. 72.09. Enforcement and penalty.

~~— The planning department shall inspect all projects and determine whether or not the required landscaped areas are being properly maintained as required in subsection 72.05(d). If a violation exists, the violation will be noted and the property owner or developer will be given written notice to correct such violation within 30 days. The quality of all material replaced must equal or exceed the quality at the time it was planted. Failure to correct the cited violation may result in code enforcement board action.~~

ARTICLE III. TREE PROTECTION

Sec. 72.10. Applicability.

~~— This article shall apply to all trees and to all land within the City of Vero Beach, except:~~

- ~~— (1) — Trees classified "undesirable" pursuant to section 72.19, with the exception that removal of any tree previously not on the undesirable list and required by an approved site plan, shall be replaced with an alternative approved species meeting the specifications of section 72.05.~~
- ~~— (2) — Licensed plant or tree nurseries, but only for the relocation of those trees for the sale or intended sale to the general public in the ordinary course of the licensee's business;~~
- ~~— (3) — All groves of citrus trees in active or inactive commercial operation;~~
- ~~— (4) — Tree removal by a governmental entity or public utility necessary to effectuate a quasi-governmental or governmental function.~~

Sec. 72.11. Tree protection prior to development.

- ~~— (1) — Prior to the removal of any trees, any development on a single family residential lot shall be required to obtain site plan approval through the minor site plan approval process.~~
- ~~— (2) — The planning director shall have the authority to require reasonable measures to protect trees, including the power to require that the building be moved or redesigned if necessary.~~

Sec. 72.12. Tree replacement program.

~~The following methods shall be used to replace trees which have been removed:~~

- ~~(1) *Primary tree protection zone.* No more than one third of the combined sum of the DBH of all trees within the primary tree protection zone shall be removed. The party responsible for removal of more than one-third of the combined sum of the DBH of all trees in the primary tree protection zone shall replant a number of trees which will create a combined sum of the DBH equal to at least two-thirds of the combined sum of the DBH of all trees at the predevelopment stage. The replacement trees shall be a minimum of ten feet in height at the time of planting and shall be the same species as those removed unless an alternative species is approved. At the discretion of the planning director, the replacement trees, except any trees that were required by an approved site plan [subsection 72.05(e)(2)], may be planted in locations on city property or right of way approved by the city engineer.~~
- ~~(2) *Secondary tree protection zone.* No more than two thirds of the combined sum of the DBH of all trees within the secondary tree protection zone shall be removed. The party responsible for removal of more than two-thirds of the combined sum of the DBH of all trees in the secondary tree protection zone shall replant a number of trees which will create a combined sum of the DBH equal to at least one-third of the combined sum of the DBH of all trees at the predevelopment stage. The replacement trees must be a minimum of ten feet in height at the time of planting and must be the same species as those removed unless an alternative species is approved. At the discretion of the planning director, the replacement trees, except any trees that were required by an approved site plan [subsection 72.05(e)(2)], may be planted in locations on city property or right of way approved by the city engineer.~~
- ~~(3) *Tree replacement fund.* Except for any trees that were required by an approved site plan, the party responsible for removal of trees in excess of what is allowed in subsections (1) and (2) above, shall either plant the replacement trees on site or shall pay the estimated cost of replacement trees and associated cost for planting of said trees to the city to be deposited into the tree replacement fund. Any payments deposited in said fund, shall be used solely for the purpose of purchasing, planting and maintaining trees on city property or right of way.~~
- ~~(4) Except for any trees that were required by an approved site plan, the party responsible for removal of the trees without benefit of a required permit that do not meet the requirements of subsection (5) below, shall either plant double the number of replacement trees or shall pay double the estimated cost of replacement trees and associated cost for planting of said trees to the city to be deposited into the tree replacement fund.~~

- ~~(5) Except for any trees that were required by an approved site plan, trees which are dead, diseased or weakened by age, storm or fire, or classified undesirable, that are removed from the primary and secondary tree protection zones shall not require replacement or payment to the tree replacement fund.~~

Sec. 72.13. Permit procedures.

~~(a) *Permits required.* No person shall cut down, destroy, remove, relocate, or effectively destroy through damaging any tree situated on any real property located within the City of Vero Beach without first obtaining a permit as herein provided.~~

~~(b) *Application.* The application for any permit required by this article shall include: A written statement indicating the reasons for removal, relocation or replacement of trees, the replacement program the applicant is using, and two copies of an accurate and legible site plan drawn on an 8 1/2 inch by 11 inch format showing the following:~~

~~(1) Within the primary and secondary tree protection zones, the plan shall designate all trees to be retained and those proposed to be removed, relocated, or replaced. Trunk diameters measured at DBH must be given for all trees. All trees shall be identified by common and/or botanical name.~~

~~(2) The total amount of caliper to be removed/relocated or replaced.~~

~~(3) The location of existing and proposed improvements, including, but not limited to, structures, paving, utility easements, and drainage retention areas.~~

~~(4) The removal of a dead tree shall not require a site plan.~~

~~(c) *Consideration for issuance of a permit.* The following factors shall be considered in the issuance of a tree removal permit for:~~

~~(1) The necessity to remove trees which pose a safety hazard or cause disruption to public services;~~

~~(2) The necessity to remove trees which unreasonably restrict bona fide agricultural use of the property;~~

~~(3) The extent to which tree removal is likely to result in damage to the property of other owners, public or private, including damage to lakes, ponds, streams, or rivers through run-off or erosion;~~

~~(4) A proposed landscape plan indicating where the applicant has planted or will plant trees to replace those that are proposed to be removed;~~

~~(5) Topography of the land and the effect of tree removal on erosion, soil retention, and the diversion or increased flow of surface water;~~

- ~~(6) Good forestry practices; i.e., the number of healthy trees that a given parcel of land will support;~~
- ~~(7) The necessity to remove trees in order to construct proposed improvements to allow economic enjoyment of the property, including:

 - ~~i. The need for access around the proposed structure for construction equipment (maximum of ten feet);~~
 - ~~ii. The need for access to the building site for construction equipment;~~
 - ~~iii. Essential grade changes.~~~~
- ~~(8) The extent of any damage or hardship other than a financial nature which would result to the applicant from a denial of the requested permit;~~
- ~~(9) The species and size of the trees proposed for removal.~~

~~(d) *Application review.* The city shall take action within 15 working days after receipt of complete application filed pursuant to this chapter. In the event that the application is denied, the denial shall set forth in writing the reason for the denial. When site plan approval is required, the application must go before the planning and zoning board. The time for approval of a tree removal permit shall be extended until such time as a decision has been made by the planning and zoning board.~~

Sec. 72.14. Restricted plants and trees.

~~No person shall plant or cause to be planted or permit to be planted anywhere within the limits of the city any tree classified undesirable.~~

ARTICLE IV. TREE AND SHRUB CLASSIFICATIONS

Sec. 72.15. Drought-tolerant tree species.

Common Name	Botanical Name
Chase Tree	Vitex Angus-Castus
Chinese Elm	Ulmus Parvifolia
Crape Myrtle	Lagerstroemia Indica
Southern Red Cedar	Juniperus Virginiana
Golden Rain Tree	Koelreuteria Elegans
Laurel Oak	Quercus Laurifolia
Live Oak	Quercus Virginiana
Podocarpus	Podocarpus Spp.
Sabal Palm/Cabbage Palm	Sabal Palmetto
Siberian Elm	Ulmus Pumila

Tree of Heaven	Ailanthus Laevis
Turkey Oak	Quereus Laevis
Washington Palm	Washingtonia Robusta
Wax Myrtle	Myrica Cerifera
Chapmans Oak	Quereus Chapmanial
East Palatka Holly	Ilex Cassine
Dahoon Holly	Ilex Cassine
Italian Cypress	Hibiscus Tiliaceus
Screw Pine	Pandanus Utilus
South Florida Slash Pine	Pinus Elliotti Var. Densa

Sec. 72.16. Drought-tolerant shrub species.

<i>Common Name</i>	<i>Botanical Name</i>
Eleagnus	Elaeagnus Pungens
Firethorn (Pyracantha)	Pyracantha Coccinea
Leatherleaf Mahonia	Mahonia Bealei
Shining Sumac	Rhus Copallina
Wax Myrtle	Myrica Cerifera
Yaupon Holly	Ilex Vomitoria
Yellow Elder	Tecoma Stans
Pittosporum	Pittosporum Tobira
Variegated Pittosporum	Pittosporum Tobiara "Variegata"
Cactus	Hylocereus Undatus
Agave	Agave Spp.
Carissa	Carissa Grandiflora
Sea Grape	Coccoloba Uvifera
Ligustrum	Ligustrum Lucidum
Plumbago	Plumbago Capensis
Cocoplum	Chrysobalanus Ieaco
Coontie	Zamia Pumila
Pampas Grass	Cortaderia Sellouana
Oleander	Nerium Oleander
Podocarpus	Podocarpus Macrophylla
Hawthorne	Rapiolepis Majestic
Dwarf Pittosporum	Pittosporum Wheelerii
Bird of Paradise	Sterlitzia Regina
Crinum Lilies	Crinum Spp.
East Palatka Holly	Ilex Cassine
Dahoon Holly	Ilex Cassine
Coontie	Zamia Floridania
Coontie	Zamia Furfureaceae
King Sago	Cycas Revoluta
Queen Sago	Cycas Circinalis
Dracaena	Dracaena Marginata

European Fan Palm	Livistonia Chinesis
Yucca	Yucca Alofolia
Sandankwwa Viburnum	Viburnum Suspensum
Spanish Stopper	Eugenia Myrtoides
White Stopper	Eugenia Azillaris
Red Stopper	Eugenia Rhombea

Sec. 72.17. Classification preservation.

~~These trees shall be preserved to the greatest extent possible. In cases when they are removed, replacement in a location specified by the planning director is required:~~

<i>Common Name</i>	<i>Botanical Name</i>
Black Mangrove	Avicennia Germinans
Buttonwood	Conocarpus Erectus
White Mangrove	Laguncularia Racemosa
Red Mangrove	Rhizophora Mangle
Seagrape	Coccoloba Uvifera
Torchwood	Amyris Elemifera
Marlberry	Ardisia Escallonoides
Buck Thorn	Bumelia Tenax
Gumbo Limbo	Bursera Simaruba
Satinleaf	Chrysophyllum Oliviforme
Fiddlewood	Citharexylum Fruticosum
Pidgeon Plum	Coccoloba Diversifolia
Butterbough	Exothea Paniculata
Ironwood	Krugiodendron Ferreum
Lancewood	Ocotea Coriacea
Wild Olive	Osmanthus Americana
Cherry Laurel	Prunus Caroliniana
Myrsine	Rapanea Quayanesis
White Wood	Schoepfia Chripophylloides
False Mastic	Sideroxylon Foetidissium
Blolly	Torrubia Longifolia
Florida Elm	Ulmus Floridana

Sec. 72.18. Classification desirable.

~~These trees may be removed or relocated by first obtaining a tree removal permit:~~

<i>Common Name</i>	<i>Botanical Name</i>
Red Maple	Acer Rubrum
Pond Apple	Annona Glabra
Water Hickory	Carya Aquatica

Scrub Hickory	Carya Floridana
Hackberry	Celtis Laevigata
Cornel	Cornus Strieta
Persimmon	Diospyros Virginiana
Cherokee Bean	Erythrina Herbacea
White Stopper	Eugenia Axillaris
Spanish Stopper	Eugenia Buxifolia
Naked Stopper	Eugenia Dierana
Florida Privet	Forestiera Porulosa
Ash	Fraxinus Caroliniana
Loblolly Bay	Gordonia Lasianthus
Dahoon Holly	Ilex Cassine
Sweet Bay	Magnolia Virginiana
Red Mulberry	Morus Rubra
Wax Myrtle	Myrica Cerifera
Black Gum	Nyssa Sylvatica
Red Bay	Persea Borbonia
Swamp Bay	Persea Palustris
Canary Island Date Palm	Phoenix canariensis
Medjool Date Palm	Phoenix dactylifera "Medjool"
Sand Pine	Pinus Clausa
Long leaf Pine	Pinus Pialustris
Slash Pine	Pinus Elliottii
Chapmans Oak	Quereus Chapmani
Laurel Oak	Quereus Laurifolia
Myrtle Oak	Quereus Myrtifolia
Live Oak	Quereus Virginiana
Sand Live Oak	Quereus Virginiana Germinata
Shining Sumac	Rhus Coppallina
Cabbage Palm	Sabal Palmetto
Pond Cypress	Taxodium Ascendens
Bald Cypress	Taxodium Distichum
Hercules Club	Zanthoxylum Clava hereulis
Wild Lime	Zanthoxylum Fagara
Paradise Tree	Simarouba Glauca
Southern Magnolia	Magnolia Grandiflora
East Palatka Holly	Ilex Cassine

Sec. 72.19. Classification undesirable.

~~These trees may be removed except where removal would be detrimental to flood control, erosion control, or soil conservation:~~

Common Name	Botanical Name
Australian Pine	Casuarina Cunninghamiana

Australian Pine	Casuarina Lepidophloia
Australian Pine	Casuarina Equisetifolia
Australian Pine	Casuarina glauca
Ear pod Tree	Enterolobium Cyclorarpum
Chinaberry	Melia Azedarach
Brazilian Pepper Tree	Schinus Terebinthifolius
Melaleuca, Punk or Paper Tree	Melaleuca Quinquenervia
Norfolk Island Pine	Araucaria Excelsa
Silk Oak	Grevillea Robusta
Carrotwood	Cupaniopsis anacardioides
Schefflera	Schefflera actinopyhylla
Earleaf Acacia	Acacia auriculiformis
Orchid Tree	Bauhinia variegata
Laurel Fig	Ficus microcarpa
Mimosa, Silk Tree	Albizia julibrissin
Woman's Tongue	Albizia lebbeck
Bischofia, Toog	Bischofia javanica

CHAPTER 72. LANDSCAPING AND TREE PROTECTION

ARTICLE I. IN GENERAL

Sec. 72.01. Title.

This chapter shall constitute and may be cited as the “Landscaping and Tree Protection Ordinance” of the City of Vero Beach.

Sec. 72.02. Intent.

The intent of this chapter is to promote the public health, safety, and general welfare through the preservation, protection, and enhancement of the natural beauty, environment, and property values in the city by regulation of the maintenance, removal, planting, and preservation of landscaping, trees, palms, and natural areas in compliance with the policies of the comprehensive plan.

In addition to aesthetic enhancements, the tree and palm preservation and landscaping requirements of this chapter will contribute to moderation of storm water runoff, erosion reduction, natural screening of development, energy conservation by providing shade and evaporative cooling through transpiration, air pollution and carbon dioxide level reduction, noise reduction, and habitat for birds, small mammals, and other wildlife.

Sec. 72.03. Definitions.

As used in this chapter:

Certified arborist means an arborist certified by the International Society of Arboriculture or other nationally recognized organization.

Clearing means the removal of vegetation, including trees of less than 2 inches DBH.

Crown means the above-ground parts of a tree that give the tree canopy its shape at maturity.

DBH (diameter at breast height) means the trunk diameter of a tree or palm determined as follows:

- (a) Single trunk: The diameter of the trunk measured at 4.5 feet above the soil line.
- (b) Multiple trunks above the soil line and below 4.5 feet above the soil line: The diameter of the trunk measured at the narrowest point below the lowest fork.
- (c) Multiple trunks at the soil line: The totaled diameter of the two largest trunks measured at 4.5 feet above the soil line.
- (d) Combination of (b) and (c): The totaled diameter measured as applicable for such combination.

Dead or beyond recovery means a tree or palm that is in an overall state of irrecoverable decline, as determined by a certified arborist, or that has more than 50 percent dead woody growth.

Encroachment means any protrusion of a vehicle outside of a parking space, vehicular use area, or access way into a landscaped area.

Florida-friendly landscaping means landscaping practices that promote preservation of Florida's natural resources and protection of the environment as further defined in Section 373.185, Florida Statutes.

Ground cover means mulch, low growing plants, usually growing no higher than 2 feet, or sod installed in such a manner as to form a continuous cover over the ground.

Hazardous or unsafe means the condition of a tree or palm that constitutes a threat of injury to persons or damage to property due to structural defect or a weakened or damaged condition.

Hedge means a fence, screen, or barrier formed by a dense row of plant material such as shrubs or low trees.

Landscaping means any combination of material such as, but not limited to, lawn grass, ground cover, vines, shrubs, trees, or palms, and nonliving durable material commonly used in the landscape such as, but not limited to, rocks, mulch, sand, or paving for pedestrian use (but excluding paving used for vehicles), benches, fountains, exterior landscape accent lighting fixtures, and any other similar items.

Large-scale canopy tree means a tree having a crown spread of 40 feet or greater in diameter when mature.

Mangrove means rooted trees and seedlings of red mangrove (*Rhizophora mangle*), black mangrove (*Avicenna germinans*), and white mangrove (*Laguncularia racemosa*), but only when having a coastal or estuarine association.

Mulch means small, nonliving organic or non-organic aggregated material such as gravel, rocks, pebbles, tree bark, pine needles, wood or rubber chips, or wood shavings used or intended for use as a protective ground covering in landscaping.

Native means vegetation species known to be in existence in Florida before the arrival of Columbus in the New World.

Off-street parking area means all areas used for the display or parking of any and all types of vehicles, boats, trailers, or other equipment, whether such vehicles, boats, or equipment are self-propelled or not, and all land upon which such vehicles traverse the property as a function of the primary use, including, but not limited to drive-through and drive-up lanes.

Palm means a tropical evergreen plant species, characteristically having an un-branched trunk with a crown of large pinnate or palmate leaves.

Protected tree and protected palm mean trees and palms receiving special protection under this chapter based on the minimum DBH of a tree or the minimum height of a palm.

Pruning means the cutting or removing of any part of the branching structure of a tree or palm in the crown, trunk, or root areas.

Relocation means the act of removing or causing removal of a tree or palm from the ground in which it grew or was planted and re-planting the tree or palm in a different location on the same lot or site with the intent of preserving such tree or palm.

Removal means the act of removing or causing removal of a tree or palm from the ground in which it grew or was planted or effectively causing its removal or destruction by damaging the trunk; tipping or other harmful or excessive pruning; damaging or removing major limbs, roots, or canopy volume; changing the natural grade above the root system or around the trunk; damaging the tree or palm such that it permits infection or pest infestation; applying any chemical or substance to or near the tree or palm; paving with concrete, asphalt, or other impervious material adjacent to or near the tree or palm; or any other action that causes the tree or palm to be dead or beyond recovery whether or not the tree or palm is physically removed.

Screening means the masking out or concealing of any visually objectionable area through the use of earthen berms or vegetation.

Shrub means a woody plant of relatively low height, generally distinguished from a tree by having several stems rather than a single trunk.

Site means the lot, parcel, or tract of land subject to any provision of this chapter.

Specimen tree means a tree receiving maximum special protection under this chapter based on species and minimum DBH.

Tipping or topping means the poor maintenance practice of indiscriminately cutting the branches or stems of a tree at right angles leaving long stubs and often used to control the size of a tree or the tree canopy or crown. Also known as rounding-over, heading-back, dehorning, capping, or hat-racking.

Tree means a plant species having an average mature crown spread of 15 feet or greater and having a trunk of 3 feet or greater in height that is or eventually can be maintained in a clean condition, clear of lateral woody growth.

Tree canopy means the top layer or crown of a tree.

Tree location plan means a drawing, aerial photograph, or other graphic representation showing the location of trees and palms on a lot or site and identifying those proposed to be preserved, relocated, replaced, or removed and other information required by this chapter.

Tree protection zone means areas surrounding trees and palms where physical intrusion is prohibited to prevent damage to trees and palms and their root systems during site development and construction.

Tree replacement fund means the fund established and maintained by the city pursuant to this chapter to allow an alternative means for mitigation of tree and palm removal by providing funding for the planting and maintenance of trees and palms on public property and rights-of-way in furtherance of the intent of this chapter.

Definitions in Florida Statutes, this Code, and any other applicable code may be referred to if relevant and as the context herein permits. Singular words include the plural and plural words include the singular where the context requires.

Sec. 72-04. Violations; enforcement.

Any person who violates a provision of this chapter, or fails to comply therewith, or with any of the requirements thereof, may be prosecuted by any means provided by this Code or by general law. The provisions of this chapter may be enforced and correction of a continuing violation may be obtained by any means provided by this Code and by any other legal or equitable means available to the city.

Secs. 72.05-72.10. Reserved.

ARTICLE II. LANDSCAPING

Sec. 72.11. Landscape plan required.

(a) Requirement before construction. An approved landscape plan is required for any site development or construction requiring site plan approval, excluding single-family and duplex lots. The applicant for site plan review shall submit the required landscape plan to the planning and development department with the site plan application. The applicant shall also comply with all applicable requirements of this chapter regarding removal, relocation, and replacement of any specimen tree or protected tree or palm existing on the subject property or site and protection of trees and palms during site development and construction.

(b) Site data. All elements of the landscape design shall be selected not only for their functional value but for their aesthetic value as well and must complement the design as a whole. All elements of the proposed landscape design, including existing vegetation, shall be shown on the landscape plan. The location, species, height, spread, spacing, and quality of each element shall be specified. Plant species specified on a landscape plan that has been approved pursuant to this chapter shall not be changed without prior approval of the planning director.

(c) Design quality. It is strongly encouraged that landscape plans be prepared by registered landscape architects to ensure the highest quality of design.

Sec. 72.12. Minimum landscaping requirements.

(a) Application of requirements. The landscaping requirements of this section shall be cumulative and provided on the site to the extent applicable for development or construction subject to this article.

(b) Off-street parking and retention areas adjacent to public rights-of-way. Whenever any off-street parking area or open-pit type stormwater retention or detention area is to be

located on the site such that it is adjacent to a public right-of-way the following landscaping treatment shall be provided:

- (1) A landscape strip at least 10 feet in width located between the right-of-way and the off-street parking areas and open-pit type stormwater retention and detention areas.
- (2) A minimum of one tree in the landscape strip for each 40 lineal feet and fraction thereof.
- (3) A continuous hedge in the landscape strip except where interrupted by required trees.
- (4) Ground cover in the remainder of the landscape strip.

(c) *Off-street parking and retention areas adjacent to abutting property.* Whenever any off-street parking area or open-pit type stormwater retention or detention area is to be located on the site such that it is adjacent to abutting property the following landscaping treatment shall be provided:

- (1) A landscape strip at least 5 feet in width located between the abutting property and the off-street parking areas and open-pit type stormwater retention and detention areas.
- (2) A minimum of one tree in the landscape strip for each 40 lineal feet and fraction thereof.
- (3) A continuous hedge in the landscape strip except where interrupted by required trees.
- (4) Ground cover for the remainder of the landscape strip.

(d) *Off-street parking interior.* The following landscaping treatment shall be provided in the interior of all off-street parking areas:

- (1) A minimum of 100 square feet of landscape area located at the ends of each row of parking.
- (2) A minimum of one tree in each landscape area located at the ends of each row.
- (3) At least 15 square feet of additional interior landscape area for each parking space, designed and located so as to best relieve the expanse of paving.
- (4) A minimum of one tree for each 225 square feet of additional interior landscape area and fraction thereof required by (3) above.

(5) Ground cover for the remainder of the landscape areas.

(e) Other open space areas. The following landscaping treatment shall be provided in all other required open space areas:

(1) A minimum of one tree for each 2,500 square feet of required open space and fraction thereof that is not satisfied by the landscape areas and landscape strips installed on the site pursuant to (b) through (d) of this section.

(2) Ground cover for the remainder of the open space areas, excluding conservation easement areas and wetlands.

(f) Existing trees and palms. Existing trees and palms on site that are in good health and sound structural condition, which meet the standards for trees and palms required to be installed pursuant to a landscaping plan, may be counted toward meeting the minimum landscaping requirements of this article.

Sec. 72.13. Landscaping specifications.

(a) Generally. The following standards shall apply to all landscaping and plant materials installed on the site:

(1) All plant material shall be Florida grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.

(2) The “Florida-friendly Plant Database” published by the University of Florida at <http://www.floridayards.org> is hereby adopted and shall provide the standards for acceptable native, drought tolerant, and salt tolerant tree, palm, shrub, and other plant species.

(3) At least 50 percent of required plant material shall be drought-tolerant species.

(4) At least 50 percent of required plant material shall be native Florida species.

(5) At least 50 percent of required plant material on Orchid Island shall be high salt-tolerant species.

(6) All required landscaping shall be installed in a sound and workmanlike manner according to accepted good planting procedures.

(7) An automated irrigation system shall be provided for all required landscape areas for irrigation during establishment and selectively during times of drought. Irrigation system design and installation shall employ the most current water saving devices, including, but not limited to, moisture sensors and drip irrigation where appropriate to conserve water.

(8) All plant material shall be compatible with the local climate, proposed physical site improvements, existing and proposed public and private improvements, and the proposed stormwater management plan for the site.

(9) All landscape areas shall be protected from vehicular encroachment.

(10) All synthetic, non-degradable root ball wrappings shall be removed prior to planting. Only paper or cotton burlap wrappings and cotton rope or twine may remain around the root ball of trees or palms after planting.

(b) Trees. The following standards shall apply to all required trees installed on the site:

(1) The latest edition of "Grades and Standards for Nursery Plants" published by the Florida Department of Agriculture and Consumer Services, Division of Plant Industry, is hereby adopted and shall provide the minimum specifications for trees. The species of trees are graded in the aforementioned document under Matrices Numbers 1-5 listed in the index of plant materials.

(2) A minimum of two-thirds of all required trees shall meet all of the following minimum specifications based on the natural tree shape for the species:

MATRIX TYPE # / SHAPE:	 #1 ROUNDED	 #2 PYRAMIDAL	 #3 COLUMNAR	 #4 VASE	 #5 OVAL
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3 inches DBH, 4 feet of clear trunk.

<u>Height</u>	12'	9'	12'	9'	10'
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<u>Canopy spread</u>	6'	4'	3½'	5'	4'
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(3) All other required trees shall meet all of the following minimum specifications based on the natural tree shape for the species:

MATRIX TYPE # / SHAPE:	 #1 ROUNDED	 #2 PYRAMIDAL	 #3 COLUMNAR	 #4 VASE	 #5 OVAL
---------------------------------------	--	--	---	---	---

2 inches DBH, 3 feet of clear trunk.

Height	10'	6'	9'	7'	8'
Canopy spread	5'	3'	3'	3½'	3'

(4) A grouping of three or more palms or a single palm that has or will have a crown spread of at least 15 feet at maturity may be substituted for each required tree, except any required large-scale canopy tree, to satisfy up to 25 percent of the total tree requirements. Such palms shall have a minimum height of 12 feet at the time of planting.

(5) Specifications within each group of trees shall be considered collectively and the applicant shall comply with all criteria.

(6) A minimum of one-third of the total required trees shall be large-scale canopy trees.

(7) All trees shall be installed in their natural state with only necessary minor pruning.

(c) Hedges. The following standards shall apply to required hedges installed on the site:

(1) Plant material shall be a minimum of 24 inches in height at the time of planting.

(2) Plants shall be installed no more than 30 inches on center.

(d) Ground cover. All required ground cover plant material shall be planted in such a manner and in sufficient quantity to achieve 100 percent coverage within 180 days.

Sec. 72.14. Existing developed properties and redeveloped properties.

Whenever an existing structure or site is altered or improved in any way requiring site plan approval, the landscaping shall be upgraded to meet the minimum requirements of this article. However, the planning director may vary or modify this requirement if he determines in

his professional opinion that upgrading of the landscaping to fully meet the aforementioned minimum requirements is not in reasonable proportion to the nature and scope of alterations or improvements to the existing structure or site. In making such a determination, the planning director must find that the modifications approved are consistent with the intent of this article, are not in conflict with the policies of the comprehensive plan, and will not adversely impact adjoining properties.

Sec. 72.15. Modification of requirements.

The planning director may modify or vary the requirements of this article if he determines in his professional opinion that all the following conditions exist:

- (1) The physical characteristics of the site and surrounding properties make strict compliance with the requirements of this article impractical and unreasonably burdensome to the applicant;
- (2) The modifications approved are consistent with the intent of this chapter and are not in conflict with the policies of the comprehensive plan; and
- (3) The modifications approved will not adversely impact adjoining properties.

Sec. 72.16. Final inspection required.

On all projects requiring landscape plan approval pursuant to this chapter, a final landscape inspection and approval by the planning and development department shall be required prior to the issuance of a certificate of occupancy by the building department. No certificate of occupancy shall be issued until all required landscaping is completed in strict compliance with the approved site plan, landscape plan, and the requirements of this Code as determined by the planning and development department after inspection. If the planning director determines in his professional opinion that the conditions so warrant, he may authorize the building official to issue a conditional certificate of occupancy which shall be strictly contingent upon all required landscaping being brought into compliance with the approved site plan, landscape plan, and the requirements of this Code within a reasonable amount of time as determined by the planning director.

Sec. 72.17. Continuing maintenance required.

Any person owning or occupying the site shall have the continuing duty and obligation to maintain or cause the maintenance of all landscaping required pursuant to this article by the approved site plan, landscape plan, or this Code in compliance with the following minimum maintenance standards:

- (1) All landscaping and landscape areas shall be maintained so as to present a neat and orderly appearance.

- (2) All dead plant material shall be promptly replaced with plant material meeting the requirements of the approved site plan and landscape plan.
- (3) Trees and palms that are removed, excessively pruned, dead, or beyond recovery shall be replaced pursuant to the permitting requirements of section 72.42 and the mitigation requirements of section 72.44.

Secs. 72.18-72.30. Reserved

ARTICLE III. TREE CLASSIFICATIONS

Sec. 72.31. Specimen trees.

The following trees are classified as specimen trees:

- (1) Any tree of the species identified below that has a DBH that equals or exceeds that specified.

<u>Common Name</u>	<u>Scientific Name</u>	<u>DBH (inches)</u>
Live Oak	Quercus virginiana	20
Laurel Oak	Quercus laurifolia	20
Water Oak	Quercus nigra	15
Sand Live Oak	Quercus geminate	15
Buttonwood	Conocarpus erectus	15
Gumbo Limbo	Bursera simaruba	15
Sycamore	Platanus occidentalis	15
Bald Cypress	Taxodium ascendens	15
Southern Red-Cedar	Juniperus virginiana	15
Swamp Tupelo	Nyssa sylvatica	15
Florida Elm	Ulmus floridana	15
Southern Magnolia	Magnolia Grandiflora	15
Blolly	Guapira discolor	12
Red Maple	Acer rubrum	12
Red Bay	Persea borbonia	12
American Holly	Ilex opaca	12
Flowering Dogwood	Cornus florida	12
Sweetgum	Liquidambar styraciflua	12
Sugarberry	Celtis laevigata	12
Loblolly Bay	Gordonia lasianthus	12
Red Mulberry	Morus rubra	12
Hercules' Club	Zanthoxylim clava-herculis	12
Swamp Bay	Persea palustris	12
Wild Lime	Zanthoxylum fagara	8
Chapman Oak	Quercus chapmanii	8

Scrub Hickory	<i>Carya floridana</i>	8
Seagrape	<i>Coccoloba uvifera</i>	8
Stopper	<i>Eugenia</i> spp.	8

- (2) Any hardwood tree species not listed in (1) above that has a DBH of 20 inches or greater and is in good health and sound structural condition, excluding tree species classified as invasive pursuant to section 72.33.

Sec. 72.32. Protected trees and palms.

The following trees and palms are classified as protected trees and palms:

- (1) Any tree species having a DBH of 3 inches or greater but less than that specified in section 72.31 for a specimen tree, excluding tree species classified as invasive pursuant to section 72.33 or exempted from the provisions of article IV of this chapter.
- (2) Palms 12 feet or greater in height regardless of DBH, excluding palm species classified as invasive pursuant to section 72.33 or exempted from the provisions of article IV of this chapter.

Sec. 72.33. Invasive trees and palms.

The tree and palm species listed as invasive exotics in the latest edition of the *List of Invasive Plant Species* published by the Florida Exotic Pest Plant Council and available at www.fleppc.org are classified as invasive trees and palms, and shall include, but is not limited to, the following species:

<u>Common Name</u>	<u>Scientific Name</u>
<u>Australian-pine, river sheoak</u>	<u>Casuarina cunninghamiana</u>
<u>Australian-pine,</u>	<u>Casuarina lepidophloia</u>
<u>Australian-pine, beach sheoak</u>	<u>Casuarina equisetifolia</u>
<u>Australian-pine (suckering), gray sheoak</u>	<u>Casuarina glauca</u>
<u>Ear-pod Tree</u>	<u>Enterolobium cyclorarpum</u>
<u>Chinaberry</u>	<u>Melia azedarach</u>
<u>Brazilian Pepper</u>	<u>Schinus terebinthifolius</u>
<u>Melaleuca, punk or paper bark</u>	<u>Melaleuca quinquenervia</u>
<u>Norfolk Island Pine</u>	<u>Araucaria excelsa</u>
<u>Silk Oak</u>	<u>Grevillea robusta</u>
<u>Carrotwood</u>	<u>Cupaniopsis anacardioides</u>
<u>Schefflera</u>	<u>Schefflera actinophylla</u>
<u>Earleaf Acacia</u>	<u>Acacia auriculiformis</u>
<u>Orchid Tree</u>	<u>Bauhinia variegata</u>
<u>Laurel Fig</u>	<u>Ficus microcarpa</u>
<u>Mimosa, Silk Tree</u>	<u>Albizia julibrissin</u>

Woman's Tongue
Bischofia, Toog

Albizia lebbeck
Bischofia javanica

Secs. 72.34-72.40. Reserved

ARTICLE IV. TREE AND PALM PROTECTION

Sec. 72.41. Permit required; exemptions.

(a) Permit required. An approved tree removal permit issued pursuant to the provisions of this article shall be required before removal of any specimen tree, protected tree or palm, or any tree or palm required by an approved site plan or landscape plan.

(b) Exemptions. The following shall be exempt from the permit requirements of this article:

- (1) Trees and palms classified as invasive pursuant to section 72.33, except when the tree or palm was required by an approved site plan or landscape plan.
- (2) Trees and palms grown or sold by licensed plant or tree nurseries, but only for the relocation of those trees and palms for sale or intended for sale in the ordinary course of the licensee's business.
- (3) All citrus trees.
- (4) Trees and palms removed by a governmental entity or public utility when located in public right-of-way or utility easement where the tree or palm interferes with the physical construction of improvements within the right-of-way or easement.
- (5) Trees or palms removed by a governmental entity when required by Federal Aviation Administration regulations where the tree or palm interferes with navigable airspace.
- (6) Trees having a DBH of less than 3 inches, except trees required by an approved site plan or landscape plan.
- (7) Palms less than 12 feet in height, except palms required by an approved site plan or landscape plan.
- (8) Mangroves. However, any person trimming, cutting, or removing any mangroves or performing any other action affecting mangroves or causing any such actions shall comply with all permit and other requirements of the Florida Department of Environmental Protection, the St. Johns River Water Management District, and all other governmental and regulatory agencies that now have or may in the future have jurisdiction over and regulate such actions.

Sec. 72.42. Permit application; review and approval.

(a) Application. A permit application for tree or palm removal shall be submitted to the planning and development department on a form specified by the planning director together with all required supporting materials and a nonrefundable application fee. If the tree or palm removal is in conjunction with a site plan or other development approval, the permit application shall be submitted with the site plan or development application.

(b) Multiple trees or palms. A single permit application may be provided for removal of multiple protected trees and palms. A separate application shall be required for removal of each specimen tree.

(c) Contents of application. The application shall include the following:

- (1) Description of each tree and palm proposed to be removed, including species, DBH, height, and condition.
- (2) Reasons for removal.
- (3) Description of efforts and options the applicant has considered and evaluated to preserve the tree or palm through relocation or through alteration of any proposed structure or site improvement design or location, if applicable.
- (4) Mitigation the applicant proposes to provide for each tree or palm to be removed, if required by section 72.43.
- (5) If the applicant elects to pay into the city tree replacement fund the cost for purchase and installation of some or all required replacement trees or palms in lieu of installing the replacement trees or palms on the site, a description and accounting of such costs together with supporting documents as may be required by the planning director.
- (6) Two copies of an accurate and legible tree location plan provided on minimum 8½ inch by 11 inch and maximum 24 inch by 36 inch paper specifying the following information:
 - a. Location of all existing trees and palms, identifying those to be removed.
 - b. The proposed location for relocated or replacement trees and palms;
 - c. DBH of each relocated or replacement tree and palm and the height of each palm;

- d. The common or scientific name for each relocated or replacement tree and palm; and
 - e. The location of existing and proposed improvements, including, but not limited to, structures, paving, utility easements, power lines, and stormwater retention and detention areas.
- (7) Written determination and report of a certified arborist for any tree or palm to be removed because it is dead or beyond recovery whenever such determination and report are deemed necessary by the planning director because the condition of the tree or palm or the cause of such condition can not be readily determined without the professional services of a certified arborist. The professional services of a certified arborist and all supporting materials, inspections, and reports shall be provided by the applicant at the applicant's expense.

The planning director may waive or modify any of the above permit application requirements that are deemed unnecessary due to the nature and scope of the proposed tree or removal. If the proposed tree or palm removal is tied to an approved landscape plan or site plan, the information provided in the approved landscape or site plan may be used to fulfill some or all of the above application requirements. if approved by the planning director.

(d) *Application review; conditions for permit approval.* The following specified authority, procedures, and conditions shall apply to the review of permit applications and permit approval:

- (1) *Specimen trees.* All permit applications for removal of any specimen tree shall be reviewed by the planning and zoning board. Such review shall be pursuant to the procedures provided by section 64.08 of this Code for major site plan review, including notice and public hearing requirements, but excluding those provisions which by their nature have no application to this chapter. The planning and zoning board shall approve issuance of the permit upon finding one or more of the following conditions exist:
 - a. The tree is in a hazardous or unsafe condition.
 - b. The location or condition of the tree creates a danger of causing disruption to public utilities or services.
 - c. The tree is dead or beyond recovery due to disease, infection, infestation, damage, or other condition from natural causes.
 - d. The tree is within a power line right-of-way or easement and cannot be properly pruned.

- e. The tree is located on that portion of the site where structural or other construction or site development is proposed; such tree location inordinately burdens, restricts, or limits the reasonable use of the property; and the applicant has made every reasonable effort to the maximum extent practicable to preserve the tree through its relocation or through alteration of the design or location of the structure or other site improvement. For purposes of this subsection “reasonable use” of the property includes existing and reasonably foreseeable non-speculative land uses permitted by the land development regulations of the city that are suitable for the subject property and compatible with adjacent land uses.

Permit approval may include reasonable conditions deemed necessary by the planning and zoning board to assure compliance with the purpose and intent of this chapter.

- (2) *Protected trees and palms.* All permit applications for removal of any protected tree or palm shall be reviewed by the planning director. Such review shall be pursuant to the procedures provided by section 64.05 of this Code for code compliance certification review, excluding those provisions which by their nature have no application to this chapter. The planning director shall approve issuance of the permit upon finding one or more of the following conditions exist:

- a. The tree or palm is in a hazardous or unsafe condition.
- b. The location or condition of the tree or palm creates a danger of causing disruption to public utilities or services.
- c. The tree or palm is dead or beyond recovery due to disease, infection, infestation, damage, or other condition from natural causes.
- d. The tree or palm is within a power line right-of-way or easement and cannot be properly pruned.
- e. The tree or palm is located on that portion of the site where structural or other construction or site development is proposed; such tree or palm location inordinately burdens, restricts, or limits the reasonable use of the property; and the applicant has made every reasonable effort to the maximum extent practicable to preserve the tree or palm through its relocation or through alteration of the design or location of the structure or other site improvement. For purposes of this subsection “reasonable use” of the property includes existing and reasonably foreseeable non-speculative land uses permitted by the land development regulations of the city that are suitable for the subject property and compatible with adjacent land uses.

- f. The tree or palm or its root system is causing damage to a structure, areas or improvements used for pedestrian or vehicular traffic, or utilities.

Permit approval may include reasonable conditions deemed necessary by the planning director to assure compliance with the purpose and intent of this chapter.

- (3) Other trees and palms required by an approved site plan or landscape plan. All permit applications for removal of any tree or palm required by an approved site plan or landscape plan, other than a tree classified as specimen shall be reviewed by the planning director. Such review shall be pursuant to the procedures provided by section 64.05 of this Code for code compliance certification review, excluding those provisions which by their nature have no application to this chapter. The planning director shall approve issuance of the permit upon finding one or more of the following conditions exist:

- a. The tree or palm is in a hazardous or unsafe condition.
- b. The location or condition of the tree or palm creates a danger of causing disruption to public utilities or services.
- c. The tree or palm is dead or beyond recovery due to disease, infection, infestation, damage, or other condition from natural causes.
- d. The tree or palm is within a power line right-of-way or easement and cannot be properly pruned.
- e. The tree or palm is located on that portion of the site where structural or other construction or site development is proposed; such tree or palm location inordinately burdens, restricts, or limits the reasonable use of the property; and the applicant has made every reasonable effort to the maximum extent practicable to preserve the tree or palm through its relocation or through alteration of the design or location of the structure or other site improvement. For purposes of this subsection "reasonable use" of the property includes existing and reasonably foreseeable non-speculative land uses permitted by the land development regulations of the city that are suitable for the subject property and compatible with adjacent land uses.
- f. The tree or palm or its root system is causing damage to a structure, areas or improvements used for pedestrian or vehicular traffic, or utilities.

Permit approval may include reasonable conditions deemed necessary by the planning director to assure compliance with the purpose and intent of this chapter.

(e) Waiver or modification of requirements.

- (1) The permit application requirement for removal of a specimen tree may be waived and issuance of the permit authorized by the city manager whenever the planning director determines based on reasonable and probable grounds that a specimen tree is in a hazardous and unsafe condition that poses an imminent danger of injury to persons or property requiring immediate removal,
- (2) The permit application requirement for removal of a protected tree may be waived and issuance of the permit authorized by the planning director whenever the planning director determines based on reasonable and probable grounds that a protected tree or palm is in a hazardous and unsafe condition that poses an imminent danger of injury to persons or property requiring immediate removal.
- (3) The requirements of this article may be waived or modified to the extent determined necessary by the city manager in the interest of public health, safety, and welfare during a state of local emergency declared pursuant to article III, chapter 34 of this Code,

(f) Expiration of permit. A permit issued pursuant to this article shall expire 30-days after issuance. However, the planning director may grant a reasonable extension of time for good cause shown upon written request of the permit holder made prior to such expiration. A permit issued concurrently with site plan approval shall run concurrently with the site plan approval and may be renewed or extended together with such site plan.

(g) Abandonment of application. A permit application shall be deemed abandoned 30 days after filing if within such time the applicant fails to provide all information or supporting documents required for approval. The planning director may grant a reasonable extension of time for completion of the application or issuance of the permit for good cause shown upon written request of the applicant.

Sec. 72.43. Mitigation required; tree replacement fund; mitigation exceptions.

(a) Applicability. Except as otherwise provided in this section, the removal of any specimen tree, protected tree or palm, or tree or palm required by an approved site plan or landscape plan shall be mitigated by the installation of replacement trees and palms pursuant to the requirements of this section.

(b) Specimen trees. Mitigation of specimen tree removal shall meet or exceed the following requirements:

- (1) Replacement trees shall be the same species as the tree removed. If such species is not available in sufficient size or quantity or is otherwise shown to be impractical or not reasonably possible, another species from the specimen tree classification may be approved by the planning director as a replacement.

(2) The total DBH of the replacement trees shall equal or exceed the total DBH of the trees removed. Multiple approved replacement trees meeting the requirements of this section may be installed to satisfy the DBH replacement requirement provided acceptable spacing and design are provided as determined and approved by the planning director.

(3) Replacement trees shall be a minimum of 3 inches DBH.

(4) Replacement trees shall be a minimum overall planted height of 12 feet at the time of installation.

(5) Replacement trees shall be Florida grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.

(c) *Protected trees and palms.* Mitigation of protected tree or palm removal shall meet or exceed the following requirements:

(1) Replacement trees and palms shall be the same species as the tree or palm removed. If such species is not available in sufficient size or quantity or is otherwise shown to be impractical or not reasonably possible, any native species may be approved by the planning director as a replacement.

(2) The total DBH of the replacement trees and palms shall equal or exceed one-half of the total DBH of the trees and palms removed. Multiple approved replacement trees and palms meeting the requirements of this section may be installed to satisfy the DBH replacement requirement provided acceptable spacing and design are provided as determined and approved by the planning director.

(3) Replacement trees shall be a minimum of 2 inches DBH.

(4) Replacement trees and palms shall be a minimum overall planted height of 10 feet at the time of planting.

(5) Replacement trees and palms shall be Florida grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.

(d) *Trees and palms required by an approved site plan or landscape plan.* Mitigation for removal of any tree or palm required by or relocated, preserved, or installed pursuant to an approved site plan or landscape plan shall meet or exceed the following requirements:

(1) Removal of any tree or palm meeting the classification of a specimen tree or protected tree or palm at the time of removal shall be mitigated pursuant to the requirements of this section for such classification of tree or palm.

- (2) Removal of any tree or palm, other than a tree or palm meeting the classification of a specimen tree or protected tree or palm shall be mitigated by replacement with the same species and having the same or greater DBH and height.
- (3) Removal of any tree or palm meeting the classification of an invasive tree or palm at the time of removal shall be mitigated by replacement with an approved non-invasive species with the appropriate DBH and height pursuant to (1) and (2) above.
- (4) Replacement trees and palms shall be Florida grade No. 1 or better in quality as established by the Florida Department of Agriculture and Consumer Services and shall be free from all disease, insects, and other pests.

(e) *Time for mitigation.* All mitigation by installation of replacement trees or palms, except that required in conjunction with an approved site plan or landscape plan as specified below, shall be completed within 30 days after removal of the tree or palm. Such time may be extended by the planning director for good cause shown upon written request of the permit holder. Mitigation by installation of replacement trees or palms required in conjunction with development or redevelopment of a site pursuant to an approved site plan or landscape plan shall be completed prior to the final landscaping inspection.

(f) *Inspection required.* The permit holder shall notify the planning and development department within 5 days after installation of the trees and palms provided in mitigation. Upon notification the planning director or his agent shall make inspection of the site and shall either approve the mitigation or notify the permit holder or his agent of any violations which must be corrected in order to comply with the permit conditions and requirements and this Code. In any instance requiring re-inspection, the permit holder shall pay the assessed re-inspection fee before compliance may be certified.

(g) *Tree replacement fund; alternative mitigation.*

- (1) There is hereby established a city tree replacement fund for the purpose and intent of providing applicants with an alternative means for mitigating the removal of specimen trees and protected trees and palms by allowing payment by the applicant into such fund the amount that it would cost for purchase and installation of the required replacement trees and palms. The amount of such costs shall be as determined or approved by the city engineer. All amounts paid into the fund shall be reserved solely for the purchase, installation, and maintenance of trees and palms on public property and rights-of-way within the city.
- (2) The applicant for a tree removal permit may, with the approval of the planning and zoning board for removal of a specimen tree or approval of the planning director for removal of a protected tree or palm, mitigate the removal by payment into the city tree replacement fund the amount that it would cost for purchase and installation of the required replacement trees and palms in lieu of installing some

or all of the required replacement trees or palms on the property or site. The removal of any tree or palm required by an approved site plan or landscape plan shall be mitigated by replacement and may not be mitigated pursuant to this subsection.

- (3) The tree or palm removal permit shall not be issued until the applicant electing to mitigate tree or palm removal pursuant to this section has paid the amount approved for mitigation into the city tree replacement fund.

(h) Exceptions to mitigation requirements. The following exceptions and modifications shall apply to the mitigation requirements of this section:

- (1) Single-family and duplex property. The number of replacement trees and palms and the total replacement DBH required by this section for mitigation may be reduced, adjusted, or otherwise modified by the planning director for any single-family or duplex lot whenever the planning director determines in his professional opinion that the trees and palms preserved on the lot plus the replacement trees or palms to be provided are of sufficient number and quality to substantially comply with the purpose and intent of this chapter.
- (2) Relocated trees and palms. Successful relocation of a specimen tree, protected tree or palm, or a tree or palm required by an approved site plan or landscape plan on the lot or site pursuant to an approved permit shall not require mitigation. Relocation shall be deemed successful only if the tree or palm survives and is thriving one year after relocation, otherwise the relocated tree or palm shall be deemed removed and require mitigation or in compliance with this section. A relocated tree or palm required by an approved site plan or landscape plan shall remain subject to the replacement requirements of this chapter regardless of successful relocation.
- (3) Replacement trees and palms. Any replacement tree or palm planted pursuant to required mitigation or an approved permit for replacement of a specimen tree, protected tree or palm, or tree or palm required by an approved site plan or landscape plan that does not survive or is not thriving one year after planting shall be replaced with another tree or palm of the same species and equal or greater in size and quality as such unsuccessful replacement tree.
- (4) Dead or unsafe trees and palms. Except for a tree or palm required by an approved site plan or landscape plan, mitigation shall not be required for removal of a specimen tree or protected tree or palm that is dead or beyond recovery due to natural causes or that is in a weakened and unsafe condition due to age, storm, fire, insects, disease, or other natural causes.

Sec. 72.44. Removal without permit unlawful.

(a) Removal without permit. It shall be unlawful and a violation of this Code for any person to directly or indirectly through any means, remove cause the removal of any specimen tree, protected tree or palm, or any tree or palm required by an approved site plan or landscape plan without first obtaining the permit required by section 72.41.

(b) Minimum penalties. The following specified minimum penalties shall apply for each violation of (a) and (d) of this section:

<u>Tree or palm species removed</u>	<u>Penalty each tree or palm</u>
<u>Specimen live oak</u>	<u>\$500.00</u>
<u>Specimen other tree species</u>	<u>\$250.00</u>
<u>Protected live oak</u>	<u>\$500.00</u>
<u>Protected other tree or palm species</u>	<u>\$250.00</u>
<u>Tree or palm required by site plan or landscape plan*</u>	<u>\$150.00</u>
<u>(*other than a specimen tree or protected tree or palm)</u>	

(c) Remedial permit and enhanced mitigation required. Any person having admitted or having been found responsible for a violation of paragraph (a) shall within a reasonable amount of time:

- (1) Submit the permit application required pursuant to section 72.42 to the planning and development department and pay double the established application and permit fees; and
- (2) Provide double the mitigation that would have been required pursuant to section 72.43 had the tree or palm been removed, relocated, or replaced pursuant to an approved permit.

The requirements of this subsection shall be in addition to and not in lieu of any punishment, penalty, or costs imposed, assessed, or paid. A reasonable amount of time allowed for compliance with this subsection shall be determined by the authority having jurisdiction of the violation.

(d) Failure to mitigate violation. Failure of any person having admitted or having been found responsible for a violation of paragraph (a) to comply with the remedial permit or mitigation requirements of paragraph (c) shall be unlawful and a violation of this Code. Each day of noncompliance past the date given for compliance shall be a separate violation subject to the minimum penalties provided in paragraph (b) for each corresponding tree or palm.

Sec.72.45. Protection before and during site development and construction.

(a) Requirements. All trees and palms required pursuant to the approved site plan or landscape plan to be preserved, relocated, or installed on the site shall be protected before and

during all land clearing, site development, and construction in accordance with the following minimum requirements of this section:

- (1) All trees and palms required to be preserved or relocated shall be clearly marked prior to commencement of any land clearing or site development.
- (2) All required preserved, relocated, and installed trees and palms shall be protected from damage or injury during construction by the designation of tree protection zones pursuant to the following standards:
 - a. Prior to development activities, a temporary tree protection fence shall be installed around each existing tree or palm or groups of trees and palms to be preserved that designates the tree protection zone for this tree or palm or groups of trees or palms.
 - b. Immediately following the installation of new or relocated trees or palms, a temporary tree protection fence shall be installed around each new or relocated tree or palm or groups of trees or palms that designates tree protection zones for this tree or palm or groups of trees or palms.
 - c. Each required tree protection zone shall have a minimum radius of 1.25 feet of protected area for each inch of DBH of tree or palm to be protected or 5 feet whichever is greater.
 - d. Temporary tree protection fences shall be clearly visible and kept intact through construction and shall be at least 3 feet in height with supporting stakes to ensure the fences remain anchored in the ground.
 - e. The temporary tree protection fences may be removed only after all materials and equipment are removed from the site.
- (3) Within tree protection zones, the following are prohibited:
 - a. Construction activity, including the movement of equipment, machinery, and vehicles and the storage of building materials, debris, fill, soil or other materials.
 - b. Use, storage or cleaning of vehicles, machinery, and equipment.
 - c. Discharge, dumping, or disposal of material or waste, such as but not limited to any paint, stain, oil, solvent, chemical, asphalt, cement, concrete, mortar, or any residue thereof.
 - d. Placement of any structure or site improvement, except for landscaping or related irrigation improvements.

(b) Guidance on tree care during construction. Applicants are encouraged to supplement the above minimum requirements by following the tree care guidance recommendations published by the International Society of Arboricultural at www.treesaregood.com.

Sec. 72.46. Planting invasive trees and palms discouraged; removal.

(a) The planting anywhere within the city of any tree or palm species classified as invasive pursuant to section 72.33 is strongly discouraged.

(b) Trees and palms classified as invasive pursuant to section 72.33 may be removed without a permit except where such tree or palm was required by an approved site plan or landscape plan.

Sec. 72.47. Pruning

(a) Acceptable pruning practices. In order to produce and promote strong, healthy, and attractive trees and palms, pruning and maintenance of specimen trees, protected trees and palms, and trees and palms required by an approved site plan or landscape plan shall be performed in compliance with the provisions of this section or otherwise in conformance with certified arborist approved standards.

(1) Crown thinning. Crown thinning may be used as a method of pruning to increase light penetration and air movement through the crown of a tree by selective removal of branches pursuant to the following guidelines:

- a. Favor branches with strong, U-shaped angles of attachment.
- b. Remove branches with weak, V-shaped angles of attachment and/or included bark.
- c. Work toward resulting in lateral branches that are evenly spaced on the main stem of young trees.
- d. Remove any branches that rub or cross another branch.
- e. Make sure that lateral branches are no more than one-half to three-quarters of the diameter of the stem to discourage the development of co-dominant stems.
- f. Do not remove more than one-quarter of the living crown of a tree at one time, and if necessary, only do so over successive years.

(2) Crown raising. Crown raising may be used as a method of pruning to provide clearance for pedestrians, vehicles, buildings, lines of sight, and vistas by removing lower branches pursuant to the following guidelines:

- a. Maintain live branches on at least two-thirds of a tree's total height. Removing too many lower branches will hinder the development of a strong stem.
 - b. Remove basal sprouts and vigorous epicormic sprouts.
- (3) Crown reduction. Crown reduction may be used as a method of pruning to reduce the height of a tree pursuant to the following guidelines:
- a. Use crown reduction pruning only when absolutely necessary.
 - b. Make the pruning cut at a lateral branch that is at least one-third the diameter of the stem to be removed.
 - c. Remove the entire branch if it is necessary to remove more than half of the foliage from a branch.

(b) Harmful pruning practices. No specimen tree, protected tree or palm, or tree or palm required by an approved site plan or landscape plan shall subjected to topping, tipping or other excessive pruning practices. Any such pruning that causes the destruction or killing of such tree or palm or otherwise results in its removal shall be a violation of this Code and subject to the mitigation requirements of this chapter.

Secs. 72.48-72.60. Reserved.

Section 2. Conflict and Severability.

In the event any provision of this ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this ordinance, the more strict provision shall apply and supersede. If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 3. Effective Date.

This ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the ____ day of _____, 2009, and was advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a public hearing to be held on the ____ day of _____, 2009, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Sabin C. Abell	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Thomas P. White	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Charles R. Wilson	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

CITY OF VERO BEACH, FLORIDA

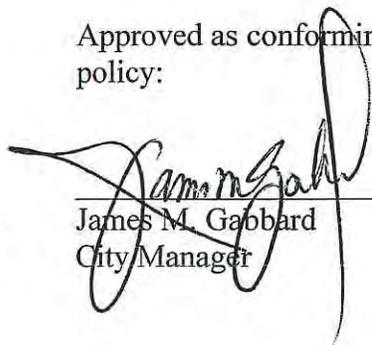
 Tammy K. Vock
 City Clerk

 Kevin Sawnick
 Mayor

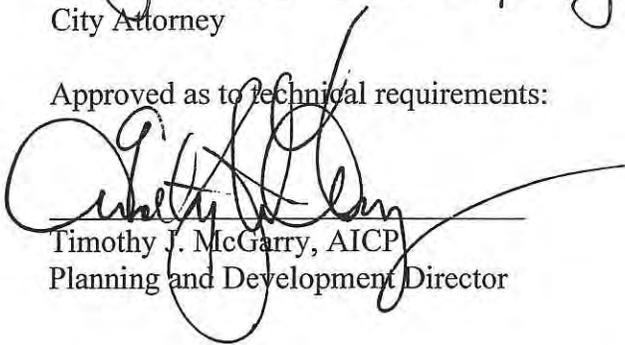
Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:


 Charles P. Vitunac *Asst. City Atty.*
 City Attorney


 James M. Gabbard
 City Manager

Approved as to technical requirements:


 Timothy J. McGarry, AICP
 Planning and Development Director

IV. PLANNING DEPARTMENT MATTERS

Mr. McGarry said we are working on finishing up the overlay district based on all the workshops. He said he would like to go to hearing, but bring you an update under **PLANNING DEPARTMENT MATTERS**. He said he would like to go ahead and advertise for June.

Mr. Ryan asked the consensus of the board.

Mr. Norris asked could we hear it today?

Mr. McGarry said he would like to give you a copy to look at.

Mr. Mucher asked what are some of the pertinent issues?

Mr. McGarry said he wants to make the new sign regulations apply to every sign in that district; he wants these signs to meet our regulations. He also said sandwich board signs have been thrown out because council didn't support it nor did the owners. He said the Oceanside Business Association did a survey and the majority didn't like it. Responding to an observation by one of the members thinking it was more disinterest, he said based on the survey, most did not like it. He mentioned a few other minor changes he made, but that the signs were the major change.

Mr. Ryan asked that they get this backup in advance of the packet sent for their meeting to which no one objected and to which Mr. McGarry agreed.

V. CHAIRMAN'S MATTERS

Mr. Ryan said he wanted to remind everyone that the deadline to rsvp for the dinner is May 11.

VI. ADJOURNMENT

The regular meeting adjourned at 2:01 p.m. with the workshop commencing at that time.

VII. WORKSHOP

A. Review Proposed Revisions to the Landscape Ordinance

Mr. McGarry reviewed the backup (on file in Planning) and said Maria based them on a review of Florida standards. He said he is open to questions or comments.

Mr. Norris said some time ago he had sent a letter to the city requesting that the family member of the Canary Date Palm be added.

Mr. McGarry said this does not preclude you from planting them, but there would be a 50 percent threshold.

Ms. Lewicka said it is a more tropical tree.

Mr. McGarry said they just can't be included and are more appropriate in south Florida. He confirmed with Mr. Norris that it is not restricted nor is it considered invasive.

Mr. Vogt said there really are two categories of trees: 1. landmark and 2. prohibited with the remaining falling under all others. He said that would be included in all others.

Mr. Mucher asked did you give much thought to excluding the cabbage palm or garbage palm?

Mr. McGarry said it's the state tree. In response to Mr. Mucher's concerns about the 30-day expiration date and 30-day extension in relation to hurricanes, Mr. McGarry said we would probably adjust it.

Mr. Mucher said this whole thing seems to be geared more toward tree companies, particularly in the area of pruning rather than an owner-type activity. He said it's hard for an owner to be familiar with whatever statutes these refer to.

Mr. Vogt asked have you run it by any tree companies for any comments or suggestions?

Ms. Lewicka said she talked to a few people, but didn't know right now the names of the companies and that it was why we proposed different standards. For example, she said, the current standards the city uses are not the same standards used in nurseries.

There was a brief discussion about the changes and about perhaps requiring a landscape architect or tree surgeon and how this proposal is following the county's code and other jurisdictions and that the pruning section could be modified. Some of the members felt everyone who does this type of work should be given a copy to review.

Ms. Lewicka said Nanette Haynes of the Public Works department is familiar with the ordinance.

Mr. McGarry said it had been given to the tree commission and that he doesn't see it as a major issue and that your comments on the pruning were on the mark.

Mr. Doty said when you send it out, you're asking the regulated to draft loopholes and have it become unregulated. In continuing, he said a tree pruning company is going to say it's too restrictive. He said this is really a quality of life issue.

A discussion followed that included the previously mentioned suggestion to let professionals in related fields review the proposal and the possibility of adding a clause prohibiting the spiking of trees.

Ms. Nancy Offutt said she loves trees, everyone she knows loves trees; she said she is thinking of private property rights. She said as Mr. Mucher pointed out last time, with reference to mitigation, you have to ask for permission to remove a tree for the benefit of the greater good. She said that's an impact fee. She said if you clear your lot, it's your lot, and if you want to remove one tree for a swimming pool, if you have been providing the city's canopy all along, the city should be paying you. She said she doesn't expect anyone to agree, but she's putting it on the record.

Ms. Offutt also said you need a longer period for a tree permit to expire. She said say you're thinking of an addition or adding a pool, by the time you get the permit, it would take you longer to go to the next step.

Mr. Ryan said if he's not mistaken, most people already have their plans in for whatever they want to do.

Permitting procedures were briefly discussed and how this might be geared more toward building activities as opposed to normal tree issues and toward professional tree companies as opposed to owner-type maintenance.

Mr. McGarry said he doesn't think 30 days is bad.

Mr. Mucher said he knows he personally doesn't do anything within 30 days.

Ms. Debra Atwell, 6435 Atlantic Boulevard, said she hates to hear the cabbage palm being maligned. She spoke of a blight to the Bay Laurel and another disease standing on the door of the Sabal Palm. As she spoke about trees and plants, she said she would like to see magnificent trees banked and saved rather than demolished and how they might be used. She provided examples of excessive trimming and explained how, as an example, it stresses cabbage palms and the results.

There was a discussion about the need to protect the trees now for the future and a suggestion that the city should work with the county in doing this.

Ms. Atwell asked with reference to landmark trees, when was the last time we did a tally? She asked what is the criterion?

Mr. McGarry said we designate them by species and certain sizes.

Ms. Atwell spoke of her 25 years in the area and the landmark trees discovered on her property by chance, such as the largest Live Oak on the east coast and a three-headed sabal palm. She said she is sure people would love to come forward about their own trees.

B. Review Proposed Amendments to the Flood Damage Protection Ordinance

Mr. McGarry reviewed the backup (on file in Planning) and spoke about "V" Flood Zones, how certain developments approved within the city were not consistent with the ordinance, and how the county has always allowed breakaway walls. He said we decided to look over the city's ordinance to see what we could do to make it consistent with the county's. He said we included provisions for breakaway walls in the "V" Zones, but have gone a little further with the requirements by providing clear language about what could be added in that breakaway area. He explained what breakaway walls were and how they wouldn't damage the property.

Mr. Norris asked about the schedule for this proposal and said he would like to little more time to look at it and take action at a later date.

There was a brief discussion about the "A" Zones.

With reference to the fact that this proposal doesn't seem to apply to mobile home parks and that there are stilted trailers, Mr. McGarry said one park is in an industrial district and has a variance.

It was decided to table this for further discussion so Mr. McGarry might provide graphics that will show more of what this would do.

The meeting adjourned at 2:49 p.m.

gkb

Mr. McGarry said staff will be bringing this to you for an update and to get your input.

C. Holiday Inn Dumpster

Responding to a request by Mr. Sammons for the status of this issue, Mr. McGarry said they got a minor amendment to the site plan, enclosed it, and didn't take up any parking. He said at this point in time, they are in compliance. During discussion he answered a member's question about whether there was a sewer connection. He said we would have to change the code because it has to be in an enclosed building and that we reviewed it with the Health Department. He said turns out you really can't do it that way.

There was a brief discussion about what constitutes outdoor dining, how patrons bringing food out to a table would not and how someone serving you at the table would.

VI. CHAIRMAN'S MATTERS

The first meeting in July has been canceled for the board members to take their annual vacation.

VII. ADJOURNMENT

The meeting adjourned and the workshop opened at 2:41 p.m.

VIII. WORKSHOP

A. Proposed Landscape and Tree Protection Ordinance Revisions

Mr. McGarry said based on the board's previous comments, we modified the ordinance and sent it to 12 businesses, such as landscape architects and tree service companies for input.

Ms. Lewicka said we received one response from an architect, who had some good ideas and who thought it should require plans to be designed by landscape architects. She said another suggestion mentioned included adding new irrigation systems with water saving devices, which we included in our ordinance.

Ms. Lewicka said other than that the big change is going from landmark to specimen trees, which is consistent with the county's, and reserve the term landmark for something that is significant. She reviewed the backup (on file in Planning).

Mr. McGarry said we added ANSI standards, which made it more like the county's guidelines and came from the Florida Department of Agriculture. He continued reviewing the backup, highlighting the major changes to the proposed ordinance.

Mr. Doty said he thinks you should keep the arborist requirement and noted a few minor corrections, which Mr. McGarry said he would make.

In a brief discussion, it was noted the only time an arborist would be needed if it's not clear the tree is dead. When a question about whether it was possible to have a minimum of 50 percent of the required plant material have a high salt tolerance, it was noted a lot of the drought tolerant species are salt tolerant.

Mr. Mucher asked what if they can't find enough plants?

Mr. McGarry said the planning director has the authority to modify the plan. He also agreed to remove the word "high," leaving it salt tolerant.

It was noted permits would not be issued to a company who hasn't paid its penalties or is under code enforcement action and that repeat offenses drive up the cost. In the case of hurricanes, the city would probably have after-the-fact permits for emergencies. The discussion concluded with suggestions for notifying the public, nurseries and contractors either in the form of brochures, a page or two on the city's web site, or even a mention in the Press Journal.

Mr. McGarry said staff would schedule the public hearing for the first meeting in August.

The meeting adjourned at 3:09 p.m.

gkb

A few other suggestions were tossed around, such as the utilization of the parking garage at Park Place, which is just about to full capacity and how they have a variance.

Mr. Vogt brought up problems with the beach post office and suggested a traffic pattern similar to the main office and that it seems a no brainer.

Mr. James Gillon, 2743 Ocean Drive, spoke of his background, both on the original vision team and as a member of the mayor's parking task force in Miami Beach, and as in past meetings, he emphasized the need to implement a parking district. He asked the board to urge the council to get this going.

Mr. Michael O'Haire, 3111 Cardinal Drive, said he is a lawyer in town and is very surprised by the report that we don't have a parking problem. He said maybe I'm spoiled. He said in Vero Beach it wouldn't occur to him to walk four or five blocks and that people just aren't used to it. In addition, he said he could tell you from representing hotel developers, two enormous constraints: one is FAR and the other is parking under the existing code. He said at the same time we don't want to encroach on the residenetial areas. He said he doesn't always agree with Jim Gillon, but does think the time to address this is now. He said he would encourage you to pass it on to council for some action.

There was a brief discussion about an enormous parking garage built in Key West and how it is under utilized and how the trolley system is geared to cruise ships.

Mr. McGarry said he would ask that you recommend to the council to accept this report, and if you want to add anything, that would be fine.

Mr. Kennedy said he would move adoption of the report as presented. Mr. McCracken said he will second that, Mr. Chairman. He said the only thing he doesn't care for in the report: he's not in favor of paying for the parking and that he would be against that portion of the report. The motion was unanimously approved (5-0) on a roll call vote: Mr. Vogt, aye; Mr. Norris, aye; Ms. Pease, aye; Mr. McCracken, aye; Mr. Kennedy, aye.

Mr. Kennedy said it is a very good report; thank you very much.

Mr. Vogt called for a 5-minute recess at about 3:19; the meeting resumed at 3:24 p.m.

V. PUBLIC HEARING

[LEGISLATIVE]

- A. Public Hearing to Consider Proposed Amendments to Chapter 72, Landscaping and Tree Protection

Mr. McGarry said we have had two workshops, that he would go over the substantive changes, and reviewed the backup (on file in Planning). When he concluded, he said Eric Menger from the airport would like us to consider an additional change. He said staff had a few minor changes, which was given to the board as a handout (attached).

There was a brief discussion about who would be held accountable for removing trees without permits. Staff said the owner and that they would hold tree services accountable too. Should a tree be removed that was diseased and there is no proof, those responsible will have to mitigate it. Tree permits to plant trees are not required.

Mr. Eric Menger, Airport Director, said he would try to be brief and distributed a handout (attached), which he also showed on the overhead. He explained that he would like the ordinance to be amended to include an exemption from mitigation when they are federally required to remove trees and suggested adding the exemption in Section 72.01 as it relates to promoting public health, safety, and general welfare. He said he is not talking about airport development. He said when they built the airport terminal, they had to follow every requirement. He said that was different and other developments at the airport or businesses would have to follow the ordinance to the "T." He asked that they look at exempting the federally required clearing.

Mr. Menger spoke about the required survey, a more detailed aerial survey that meets the FAA criteria, which city council recently approved. He said the trees are beginning to encroach approach surfaces that the FAA requires us to keep clear. He said he doesn't have any choice; the city doesn't have any choice. He said it's a federal law. In speaking of this situation, he said the FAA would pay for this with a federal grant. He said he wanted to make sure that this one item was included and read suggested verbiage.

Mr. McCracken said the FAA trumps our jurisdiction anyway. He asked why mention it?

Mr. McGarry said if it's not in this ordinance and it will go through city council and the airport commission for approval. He said it's best to have it in here. He said right now you could get a permit; it's the mitigation. He said he had Eric bring this up because the last time trees were cut for this reason, he took some criticism for it. He said an exemption would be okay for airport hazard trees for public safety reasons.

Mr. Kennedy said better safe than sorry.

In response to questions by members, Mr. Menger explained the precision with which this survey would be able to determine the exact trees to be topped or removed and how it was most cost effective to remove them. He said if there were specimen trees, we would make our best effort to relocate them.

Briefly confirming that there were valid reasons for this request, Mr. Kennedy asked would you recommend that we make a motion to include an exclusion for the airport?

Mr. McGarry said he's got the language and that we would add it.

Mr. Kennedy said he'll make that motion. Mr. Norris seconded it.

There was a brief discussion about mitigation and the difficulties in finding new locations to mitigate these trees.

Mr. Kennedy asked that the motion be restated.

Mr. McGarry said to include airport hazard trees subject to my and attorney's reviews to exempt these trees from that process and adopt. Mr. Kennedy concurred; Ms. Pease seconded the recommendation and it was unanimously approved (5-0) on a roll call vote: Mr. Vogt, aye; Mr. Norris, aye; Ms. Pease, aye; Mr. McCracken, aye; Mr. Kennedy, aye.

VI. PLANNING DEPARTMENT MATTERS

Mr. McGarry said he was going to schedule the scoping meeting for the evaluation and appraisal report (EAR) for the next meeting.

VII. CHAIRMAN'S MATTERS

None.

VIII. ADJOURNMENT

The meeting adjourned at 3:52 p.m.

gkb

ORDINANCE NO. 2009-____

**AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA,
AMENDING ARTICLE III, SECTION 2-119, OF THE VERO
BEACH CODE OF ORDINANCES RELATING TO ELIGIBILITY
FOR APPOINTMENT TO THE UTILITIES COMMISSION;
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the City Council of the City of Vero Beach finds it is important that a resident of The Town of Indian River Shores have representation on the Utilities Commission; and

WHEREAS, this type of change requires an amendment to the City Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1 – Amendment to Section 2-119.

Section 2-119(f) of the Code of the City of Vero Beach, which reads as follows:

“Utilities commission. The purpose of the utilities commission shall be to recommend measures to the city council in all phases of the operation and management of the city's utilities. To the extent practicable, at least three members shall be residents of the city.”

is hereby amended to read as follows, with the new language underlined:

“Utilities commission. The purpose of the utilities commission shall be to recommend measures to the city council in all phases of the operation and management of the city's utilities. At least one member shall be a resident of the Town of Indian River Shores. To the extent practicable, at least three members shall be residents of the city.”

Section 2 – Effective Date.

This ordinance shall become effective upon final passage.

This Ordinance was read for the first time on the ____ day of _____, 2009, and was advertised in the Vero Beach Press Journal on the ____ day of _____, 2009, as being scheduled for a public hearing to be held on the ____ day of _____, 2009, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick

Yes **No**

Vice Mayor Sabin C. Abell, Jr.

Yes **No**

Councilmember Thomas P. White

Yes **No**

Councilmember Brian T. Heady

Yes **No**

Councilmember Charles R. Wilson

Yes **No**

ATTEST:

CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:



Charles P. Vitunac
City Attorney

James M. Gabbard
City Manager

This instrument prepared by the
Office of the City Attorney
City of Vero Beach
Post Office Box 1389
Vero Beach, Florida 32961-1389

CODING: Words stricken are deletions; words underlined are additions.

RESOLUTION NO. 2009 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, RELEASING FROM ALL CITY EASEMENTS THE NORTHEASTERLY 3 FEET OF LOT 3, BLOCK 35; THE NORTHEASTERLY AND SOUTHWESTERLY 3 FEET OF LOT 4, BLOCK 35; AND THE SOUTHWESTERLY 3 FEET OF LOT 5, BLOCK 35, ROYAL PARK SUBDIVISION PLAT NO. 7.

WHEREAS, pursuant to Section 2-373 of the Vero Beach Code of Ordinances, City Council is authorized to abandon and/or release utility easements; and

WHEREAS, the City of Vero Beach has easements over, across, and under the property described hereinbelow and depicted in the sketch attached to this Resolution as Exhibit "A;" and

WHEREAS, the property owners have requested the release of the City-held easements which encumber their property; and

WHEREAS, the Public Works and Engineering Department of the of the City of Vero Beach has determined that the existing easements are no longer needed by the City and that the release would be in the public interest,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

1. As recommended by the Public Works and Engineering Department of the City of Vero Beach, Florida, the City Council of the City of Vero Beach, Florida, does hereby abandon all right, title, and interest that it may have in the following easements, being more particularly bounded as shown and described in Exhibit "A" attached hereto and incorporated herein by this reference, as follows:

SEE ATTACHED EXHIBIT "A" (SHEET 1 OF 2) – Legal Description of Property
SEE ATTACHED EXHIBIT "A" (SHEET 2 OF 2) – Sketch of Property Description

2. The release of these side lot easements does not constitute a release of nor affect the existing five-foot rear utility easement.

3. This Resolution shall become effective on _____, 2010.

This Resolution was heard on the _____ day of _____, 2010, at which time it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Sabin C. Abell	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Thomas P. White	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

CITY OF VERO BEACH, FLORIDA:

Sign: _____
 Print: Tammy K. Vock
 Title: City Clerk

Sign: _____
 Print: Kevin Sawnick
 Title: Mayor

STATE OF FLORIDA
 COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Kevin Sawnick, as Mayor, and attested by Tammy K. Vock, as City Clerk of the City of Vero Beach, Florida. They are personally **known to me** and **did not** take an oath.

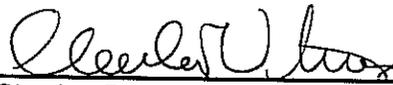
NOTARY PUBLIC

[NOTARY SEAL]

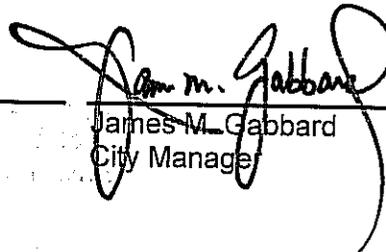
Sign: _____
 Print: _____
 State of Florida at Large
 My Commission Number: _____
 My Commission Expires: _____

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

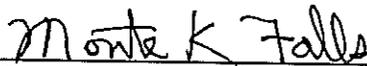


 Charles P. Vitunac
 City Attorney



 James M. Gabbard
 City Manager

Approved as to technical requirements:



 Monte K. Falls
 Director, Engineering & Public Works

This document was prepared in
 The Office of the City Attorney
 Post Office Box 1389
 Vero Beach, Florida 32961-1389

EXHIBIT "A"
PROPERTY DESCRIPTION
RELEASE OF EASEMENT #2009-RE-0378
BLOCK 35, ROYAL PARK SUBDIVISION PLAT NO. 7
Parcel #33-39-01-00005-0350-00003.0

Situated in the State of Florida, County of Indian River, City of Vero Beach, and being a part of Block 35 of Royal Park Subdivision Plat No. 7, as recorded in Plat Book 1, Page 36 of the Public Records of Indian River County, Florida, and being more particularly bounded and described as follows:

The northeasterly 3 feet of Lot 3, Block 35;

The northeasterly and southwesterly 3 feet of Lot 4, Block 35;

Together with

The southwesterly 3 feet of Lot 5, Block 35;

Containing 1275 square feet more or less.

Note: The release of these side lot easements does not constitute a release of nor affect the 5 foot rear utility easement.


David R. Gay, PSM #5973



The seal is circular with a double-line border. The outer ring contains the text "DAVID R. GAY" at the top and "Professional Surveyor" at the bottom. The inner ring contains "STATE OF FLORIDA" at the top and "LICENSE # 5973" at the bottom. The center of the seal features a star and the word "SURVEYOR".

ROYAL PARK, PLAT No. 7
 PLAT BOOK 1, PAGE 36

ANITA AVE

BLOCK 28

SUBJECT RELEASE
 OF EASEMENTS
 (3' UTILITY)

BLOCK 24

WHIPPOORWILL LANE
 (70' R/W)

SCALE 1"=40'

3' UTILITY EASEMENT
 (TYPICAL)

LOT 6

LOT 5

BLOCK 35

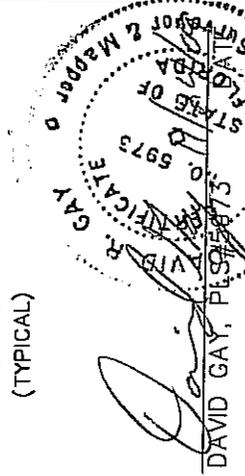
LOT 4

3' UTILITY EASEMENT
 (TYPICAL)

LOT 3

LOT 2

5' UTILITY EASEMENT
 (TYPICAL)



THIS SKETCH IS NOT A SURVEY

CITY OF VERO BEACH
 DEPARTMENT OF PUBLIC WORKS
 AND ENGINEERING
 SURVEY DIVISION

SKETCH OF PROPERTY DESCRIPTION
 RELEASE OF EASEMENT
 LOTS 3-5, BLOCK 35, ROYAL PARK, PLAT No. 7

EXHIBIT "A"

CITY PROJECT NO.
 2009-RE-378

DATE	DRWN BY	CHKD BY	DESCRIPTION
11/09	DG	MKF	

REV. NO. 1

DATE

DESCRIPTION

SHEET 2 OF 2

DAVID GAY, PLS 5973



DEPARTMENTAL CORRESPONDENCE

TO: James M. Gabbard, City Manager
DEPT: City Manager

VIA: Monte K. Falls, PE, Director
DEPT: Public Works *MKFALLS 12/21*

FROM: David R. Gay, PSM, Chief Surveyor *DRG*
DEPT: Public Works

DATE: December 21, 2009

**RE: Release of Easement Application #2006-RE-378
Lots 3, 4 & 5, Block 35, Royal Park Subdivision Plat No. 7
2702 Whippoorwill Lane**

The referenced application has been received for consideration by the City and was routed for review by various City departments, as well as outside utilities. All responses (copies attached) were favorable for the requested release of easement. Therefore, we do not object to releasing the easements on the northeasterly 3 feet of Lot 3, the northeasterly and southeasterly 3 feet of Lot 4, and the southwesterly 3 feet of Lot 5, Block 35, Royal Park Subdivision Plat No. 7 (per the attached sketch and description).

Please contact us if you have any questions.

Attachments

DRG:MKF/ntn

T:\REVIEWS\Release of Easement\2009-RE-0378 Lots 3, 4 & 5, Blk 35, Royal Park\Recommendation
Memo_JGabbard_Dec 21 2009.docx

CITY OF VERO BEACH

RELEASE OF EASEMENT REVIEW SUMMARY

Application No. 2009-RE-0378
 Applicant Paul A. & Ana Maria P. Beindorf
 Property Address: 2702 Whipoorwill Lane
 Subdivision: Lots 3, 4 & 5, Block 35, Royal Park Plat No. 7
 Parcel No. 33-39-01-00005-0350-00003.0
 Related Project No.

Application Reviewed By:

COVB Electrical Engineering
 COVB Water & Sewer
 COVB Planning & Development
 AT&T
 Comcast Cable
 Florida City Gas Co.

X
X
X
X
X

<u>Do Not Object</u>	<u>Do Not Object with Conditions</u>	<u>Object</u>
----------------------	--------------------------------------	---------------

X		
X		
X		
X		
X		

Date: December 21, 2009

The City of Vero Beach Public Works Department has received a request to abandon the drainage/utility easement(s) on the referenced property. A property description and sketch is attached for your information.

Description of requested easement release:

The northeasterly 3 feet of Lot 3, Block 35; The northeasterly and southeasterly 3 feet of Lot 4, Block 35; and the southwesterly 3 feet of Lot 5, Block 35, Royal Park Plat No. 7

The Department of Public Works has reviewed the responses and comments received from the other reviewing departments/agencies and we recommend the following action:

DO NOT OBJECT
 DO NOT OBJECT WITH COMMENTS
 OBJECT

X

Our comments and/or conditions of approval are as follows:

Reviewed by Public Works:

David Gay

 Printed Name: David Gay, Chief Surveyor

 Date of Review: 12/21/2009

CITY OF VERO BEACH
DEPARTMENT OF PUBLIC WORKS
(772) 978-4870
(772) 978-4879 FAX

To: COVB Electrical Engineering
COVB Water & Sewer
COVB Planning & Development

X
X
X

AT&T
Comcast Cable
Florida City Gas Co.

X
X

From: David R. Gay, PSM
Chief Surveyor

Date: November 25, 2009

RE: **RELEASE OF EASEMENT REQUEST**

Applicant: **Paul A. & Ana Maria P. Beindorf**
Property Address: **2702 Whippoorwill Lane**
Subdivision: **Lots 3, 4 & 5, Block 35, Royal Park Plat No. 7**
Parcel No. **33-39-01-00005-0350-00003.0**
Application No. **2009-RE-0378**
Related Project No.

The City of Vero Beach Public Works Department is requesting to abandon the drainage/utility easement(s) on the referenced property. A property description and sketch is attached for your information.

Description of requested easement release:

The northeasterly 3 feet of Lot 3, Block 35; The northeasterly and southeasterly 3 feet of Lot 4, Block 35; and the southwesterly 3 feet of Lot 5, Block 35, Royal Park Plat No. 7

Please indicate below whether your department/agency approves or disapproves of this action so the information may be considered by the City. Please sign this form and transmit a copy via fax to (772) 978-4879. The original signed form should be returned to the City of Vero Beach Public Works Department at 1053 20th Place, Vero Beach, FL 32960.

DO NOT OBJECT
DO NOT OBJECT WITH CONDITIONS
OBJECT

X

If you OBJECT to this action or DO NOT OBJECT WITH CONDITIONS, please briefly explain why:

Signature of Agency Reviewer:

Printed Name:

Agency:

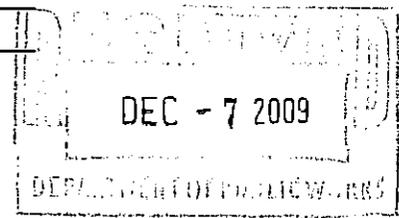
Date of Review

Joseph DeMarzo

Joseph DeMarzo

COVB Elec Eng

12/7/09



**CITY OF VERO BEACH
DEPARTMENT OF PUBLIC WORKS
(772) 978-4870
(772) 978-4879 FAX**

To: COVB Electrical Engineering
COVB Water & Sewer
COVB Planning & Development

X
X
X

AT&T
Comcast Cable
Florida City Gas Co.

X
X

From: David R. Gay, PSM
Chief Surveyor

Date: November 25, 2009

RE: **RELEASE OF EASEMENT REQUEST**

Applicant: **Paul A. & Ana Maria P. Beindorf**
 Property Address: **2702 Whippoorwill Lane**
 Subdivision: **Lots 3, 4 & 5, Block 35, Royal Park Plat No. 7**
 Parcel No. **33-39-01-00005-0350-00003.0**
 Application No. **2009-RE-0378**
 Related Project No.

The City of Vero Beach Public Works Department is requesting to abandon the drainage/utility easement(s) on the referenced property. A property description and sketch is attached for your information.

Description of requested easement release:

The northeasterly 3 feet of Lot 3, Block 35; The northeasterly and southeasterly 3 feet of Lot 4, Block 35; and the southwesterly 3 feet of Lot 5, Block 35, Royal Park Plat No. 7

Please indicate below whether your department/agency approves or disapproves of this action so the information may be considered by the City. Please sign this form and transmit a copy via fax to (772) 978-4879. The original signed form should be returned to the City of Vero Beach Public Works Department at 1053 20th Place, Vero Beach, FL 32960.

DO NOT OBJECT
DO NOT OBJECT WITH CONDITIONS
OBJECT

✓

If you OBJECT to this action or DO NOT OBJECT WITH CONDITIONS, please briefly explain why:

Signature of Agency Reviewer:

Printed Name:

Agency:

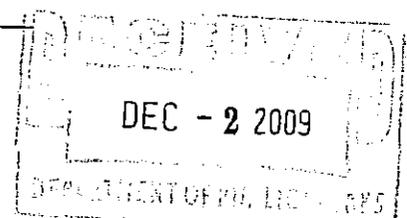
Date of Review

Todd A. Young

TODD A. YOUNG

C.O.V.B. WATER & SEWER

12/1/09



**CITY OF VERO BEACH
DEPARTMENT OF PUBLIC WORKS
(772) 978-4870
(772) 978-4879 FAX**

To:	COVB Electrical Engineering	<input checked="" type="checkbox"/>	AT&T	<input checked="" type="checkbox"/>
	COVB Water & Sewer	<input checked="" type="checkbox"/>	Comcast Cable	<input checked="" type="checkbox"/>
	COVB Planning & Development	<input checked="" type="checkbox"/>	Florida City Gas Co.	<input type="checkbox"/>

From: David R. Gay, PSM
Chief Surveyor

Date: November 25, 2009

RE: **RELEASE OF EASEMENT REQUEST**

Applicant: **Paul A. & Ana Maria P. Beindorf**
 Property Address: **2702 Whippoorwill Lane**
 Subdivision: **Lots 3, 4 & 5, Block 35, Royal Park Plat No. 7**
 Parcel No. **33-39-01-00005-0350-00003.0**
 Application No. **2009-RE-0378**
 Related Project No.

The City of Vero Beach Public Works Department is requesting to abandon the drainage/utility easement(s) on the referenced property. A property description and sketch is attached for your information.

Description of requested easement release:

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Please indicate below whether your department/agency approves or disapproves of this action so the information may be considered by the City. Please sign this form and transmit a copy via fax to (772) 978-4879. The original signed form should be returned to the City of Vero Beach Public Works Department at 1053 20th Place, Vero Beach, FL 32960.

DO NOT OBJECT
 DO NOT OBJECT WITH CONDITIONS
 OBJECT

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

If you OBJECT to this action or DO NOT OBJECT WITH CONDITIONS, please briefly explain why:

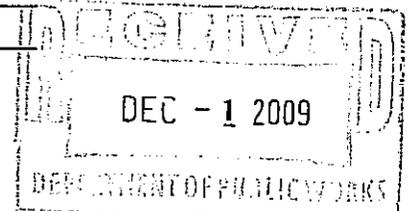
Signature of Agency Reviewer:
 Printed Name:
 Agency:
 Date of Review

[Handwritten Signature]

 Timothy J. McGarry

 Planning & Development

 11/25/09



CITY OF VERO BEACH
DEPARTMENT OF PUBLIC WORKS
(772) 978-4870
(772) 978-4879 FAX

To: COVB Electrical Engineering
COVB Water & Sewer
COVB Planning & Development

X
X
X

AT&T
Comcast Cable
Florida City Gas Co.

X
X

From: David R. Gay, PSM
Chief Surveyor

Date: November 25, 2009

RE: **RELEASE OF EASEMENT REQUEST**

Applicant: Paul A. & Ana Maria P. Beindorf
Property Address: 2702 Whippoorwill Lane
Subdivision: Lots 3, 4 & 5, Block 35, Royal Park Plat No. 7
Parcel No. 33-39-01-00005-0350-00003.0
Application No. 2009-RE-0378
Related Project No.

The City of Vero Beach Public Works Department is requesting to abandon the drainage/utility easement(s) on the referenced property. A property description and sketch is attached for your information.

Description of requested easement release:

The northeasterly 3 feet of Lot 3, Block 35; The northeasterly and southeasterly 3 feet of Lot 4, Block 35; and the southwesterly 3 feet of Lot 5, Block 35, Royal Park Plat No. 7

Please indicate below whether your department/agency approves or disapproves of this action so the information may be considered by the City. Please sign this form and transmit a copy via fax to (772) 978-4879. The original signed form should be returned to the City of Vero Beach Public Works Department at 1053 20th Place, Vero Beach, FL 32960.

DO NOT OBJECT
DO NOT OBJECT WITH CONDITIONS
OBJECT

✓

If you OBJECT to this action or DO NOT OBJECT WITH CONDITIONS, please briefly explain why:

Signature of Agency Reviewer:

Charles L Adams

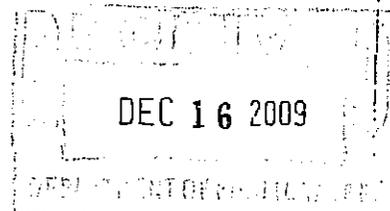
Printed Name:

Agency:

Date of Review

12/16/2009

Charles L Adams
Area Manager C&E
AT&T - Florida



CITY OF VERO BEACH
DEPARTMENT OF PUBLIC WORKS
(772) 976-4870
(772) 976-4879 FAX

To: COVB Electrical Engineering
COVB Water & Sewer
COVB Planning & Development

X
X
X

AT&T
Comcast Cable
Florida City Gas Co.

X
X

From: David R. Gay, PSM
Chief Surveyor

Date: November 25, 2009

RE: **RELEASE OF EASEMENT REQUEST**

Applicant: Paul A. & Ana Maria P. Belndorf
Property Address: 2702 Whippoorwill Lane
Subdivision: Lots 3, 4 & 5, Block 35, Royal Park Plat No. 7
Parcel No. 33-38-01-00005-0350-00003.0
Application No. 2009-RE-0378
Related Project No.

The City of Vero Beach Public Works Department is requesting to abandon the drainage/utility easement(s) on the referenced property. A property description and sketch is attached for your information.

Description of requested easement release:

The northeasterly 3 feet of Lot 3, Block 35; The northeasterly and southeasterly 3 feet of Lot 4, Block 35; and the southwesterly 3 feet of Lot 5, Block 35, Royal Park Plat No. 7

Please indicate below whether your department/agency approves or disapproves of this action so the information may be considered by the City. Please sign this form and transmit a copy via fax to (772) 978-4879. The original signed form should be returned to the City of Vero Beach Public Works Department at 1053 20th Place, Vero Beach, FL 32960.

DO NOT OBJECT
DO NOT OBJECT WITH CONDITIONS
OBJECT

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

If you OBJECT to this action or DO NOT OBJECT WITH CONDITIONS, please briefly explain why:

Signature of Agency Reviewer:

Donald C. Stephens

Printed Name:

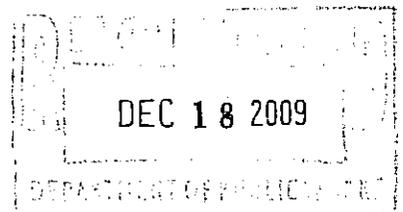
Donald C. Stephens

Agency:

Comcast

Date of Review

12/18/09



NOV 20 2009

City of Vero Beach

APPLICATION FOR RELEASE OF EASEMENT
City of Vero Beach - City Manager's Office
1053 20th Place - P.O. Box 1389
Vero Beach, FL 32961-1389
(772) 978-4710 / Fax (772)-778-3856

Receipt No: 1892472 PAID
Date: Nov 19, 2009 2:21:44 P.M. U

RELEASE OF EASEMENT 2009 R/E-378

MISC REVENUE	\$	225.00-
Payment Due:	\$	225.00
CHECK Tendered:	\$	225.00
Change:	\$	0.00

Provide (Furnish: Copy of Deed, Parcel Number, Property Sketch)

Application No. 2009 -RIE- 378

Property: Block 35 Plat No. 7 of Royal Palm
Plat thereof as recorded in Plat Book 1, Page 26
Books of Indian River County Florida

Description is Applicable:

Monte Falls, Director of Public Works and Engineering

Owner: PAUL A. BEINDORF Address: 4865 13th Place
ANA MARIA P. BEINDORF VERO BEACH, FL. 32966

Applicant: _____ Address: _____

Phone: 567-968? Signature: [Signature] Date: 11/18/09

I/We hereby request release of the easement described as follows:

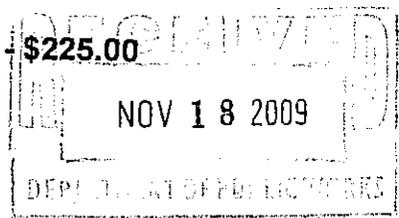
2702 Whipoorwill Lane
33-39-01-00005-0350-00003.0

Reason(s) for Request: TO BUILD A RESIDENCE ON LOT 3,420

Use back of sheet for additional space, if necessary.

MAKE CHECK PAYABLE TO: CITY OF VERO BEACH - \$225.00

001.0000.369.090100



5-A)

DEPARTMENTAL CORRESPONDENCE

TO: James M. Gabbard, City Manager

FROM: Timothy J. McGarry, AICP
Director of Planning and Development 

DATE: December 9, 2009

SUBJECT: **First Reading of an Ordinance to Amend Section 77.04 Creating a Paragraph (i) That Requires Preparation of Design Materials by Architects or Engineers Licensed to Practice in the State of Florida**

Request

The Planning and Development Department requests that the attached draft ordinance to amend Section 77.04 of Chapter 77, Architectural Review, in the City's Land Development Regulations be placed on the City Council's January 5, 2010, meeting agenda for First Reading. The draft ordinance will require one public hearing before the City Council.

Background

An issue has arisen regarding design materials included in applications submitted to the ARC for design review that have been prepared by individuals not licensed as an architect or engineer to practice in the State of Florida. The Architectural Review Commission (ARC) was unable to recently review an application prepared by architects not licensed to practice in the state as any review would have constituted a violation of the professional standards for the licensed architects serving on the commission.

The current code does not address this issue. Therefore, the site plan application for the aforementioned project will be able to go through the development review process without architectural review, which circumvents the intent of the architectural review requirements.

Although architectural review is mandatory, the recommendations of the ARC are only advisory. Both the staff and the ARC believe it would too burdensome and costly to amend the code to require that design materials included in all design review applications be prepared by a licensed design professional (architect or engineer of record).

Therefore, this issue was addressed in the proposed ordinance by only requiring preparation of materials by design professionals for projects that the Florida Statutes or Florida Building Code require submittal of a building permit or other development permit application by a design professional. In general, this means multiple family and nonresidential development projects.

Action of ARC and Planning and Zoning Board

The ARC unanimously recommended approval of the proposed ordinance at its meeting held on October 28, 2009. At a public hearing held on December 3, 2009, the Planning and Zoning Board recommended the draft ordinance for consideration and approval by the City Council.

Recommendation

The staff recommends that the City Council approve the advertising and scheduling of the public hearing for this proposed ordinance.

TJM/tf
Attachment

ORDINANCE NO. 2009 - _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING CHAPTER 77, ARCHITECTURAL REVIEW, SECTION 77.04 BY CREATING NEW PARAGRAPH (I); PROVIDING THAT BUILDING ELEVATIONS, CONSTRUCTION OF SITE PLANS, DESIGN DRAWINGS, OR SIMILAR MATERIALS SUBMITTED AS PART OF AN ARCHITECTURAL REVIEW APPLICATION BE PREPARED BY A STATE LICENSED DESIGN PROFESSIONAL, IF REQUIRED BY THE FLORIDA STATUTES OR FLORIDA BUILDING CODE FOR SUBMITTAL OF A BUILDING OR OTHER DEVELOPMENT PERMIT APPLICATION; PROVIDING FOR CONFLICT AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 77, Architectural Review, requires that preliminary and/or final design applications for various projects be submitted to the Architectural Review Commission (ARC) for design review; and

WHEREAS, Section 77.04 of Chapter 77, which specifies the application requirements and procedures for processing and review of preliminary and final design applications, has no requirements that site plans, drawings, building elevations, or similar design materials submitted in the applications be prepared by an architect or engineer licensed to practice in the State of Florida; and

WHEREAS, a recent preliminary design review application was submitted to the ARC with site plan and drawings prepared by architects not licensed to practice in Florida; and

WHEREAS, the ARC was unable to review this application, because licensed architects serving on the commission stated any review of the application would constitute a violation of their professional standards;

WHEREAS, the site plan application for the project submitted for preliminary design review may now proceed through the development review process without any architectural review, which defeats the purposes of Chapter 77 to maintain the urban, small town character

and qualities of Vero Beach and improve the overall design and quality in the exterior appearance of buildings and structures; and

WHEREAS, the Planning and Development Department staff prepared this draft ordinance to address this problem, including language to encourage applicants for projects requiring architectural design review to use the services of a licensed Florida architect even if a building permit application does not require preparation by a licensed professional; and

WHEREAS, the ARC unanimously approved this proposed Ordinance on October 28, 2009, for submittal to the Planning and Zoning Board and City Council for eventual adoption; and

WHEREAS, the City Council finds that this amendment to Chapter 77 provided for in this ordinance is consistent with the requirements and criteria of Section 65.22(i) of the Code and is in the public interest;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1 - Amendment of Chapter 77, Architectural Review, Section 77.04, Design Review Applicability and Procedures.

Section 77.04, Design Review Applicability and Procedures, is hereby amended by creating new paragraph (i) that reads as follows:

(i) *Requirements for preparation by a Florida licensed design professional.* If required by the Florida Statutes or Florida Building Code for submittal of a building or other development permit application, any building elevations, construction or site plans, design drawings, or similar materials prepared for a preliminary or final design application shall be prepared by a design professional licensed to practice in the State of Florida. Even if not required by the Florida Statutes or Florida Building Code, the ARC strongly encourages all applicants to use the services of a licensed Florida architect to ensure a well designed project.

Section 2. Conflict and Severability.

In the event any provision of this ordinance conflicts with any other provision of this Code or any other ordinance or resolution of the City of Vero Beach on the subject matter of this

ordinance, the more strict provision shall apply and supersede. If any provision of this ordinance is held to be invalid, unconstitutional, or unenforceable for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this ordinance, which shall be deemed separate, distinct, and independent provisions enforceable to the fullest extent possible.

Section 3 - Effective Date.

This Ordinance shall become effective upon final adoption by the City Council.

This Ordinance was read for the first time on the ____ day of _____, 2010, and was advertised in the Indian River Press Journal on the ____ day of _____, 2010, as being scheduled for a public hearing to be held on the ____ day of _____, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Sabin C. Abell	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Thomas P. White	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
[Vacant]	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

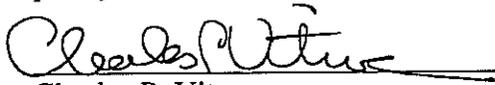
CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

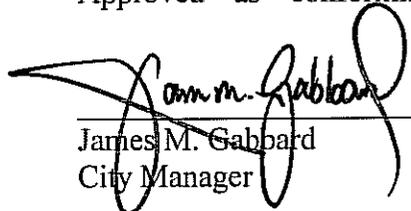
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:
policy:

Approved as conforming to municipal

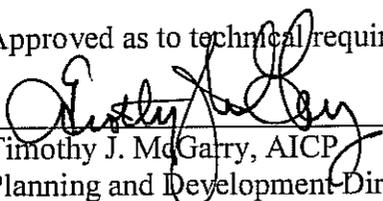


Charles P. Vitunac
City Attorney



James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

DEPARTMENTAL CORRESPONDENCE

TO: Mayor Kevin Sawnick and City Councilmembers

FROM: Timothy J. McGarry, AICP
Director of Planning and Development

DATE: December 16, 2009

SUBJECT: Public Hearings to Adopt Ordinances for Large Scale Future Land Use Map and Zoning Map Amendments for Annexed Properties (DCA #09-1)

Request

The attached ordinances are requested to be placed on the City Council's January 5, 2010 meeting agenda for adoption. The ordinances require six (6) public hearings and are amending the Future Land Use Map and Zoning Map designations for three (3) annexed properties.

Overview

In September, the City Council held public hearings, and subsequently adopted a resolution transmitting the above referenced draft ordinances to the Florida Department of Community Affairs (FDCA) for review and comment. On December 1, 2009, pursuant to 9J-5, Florida Administrative Code and Chapter 163, Part II, Florida Statutes, the FDCA sent to the City the attached Objections, Recommendations, and Comments (ORC) Report. As noted in the report, FDCA did not identify any objections to the proposed amendments. The Planning and Development Department staff has revised the ordinances in response to FDCA's report and requests that City Council consider the revised ordinances for final adoption.

Background

The amendments to the Future Land Use and Zoning Maps are required to be adopted to bring annexed properties under the City's Land Development Regulations. Pursuant to adopted City Council policy, the proposed future land use and zoning designations for these properties are comparable to its existing Indian River County designations, unless otherwise noted in the attached applicable staff report.

Agenda Contents

As no significant issues were raised at the Planning and Zoning Board public hearings and the previous City Council transmittal public hearings on these ordinances, rather than preparing a separate staff report for the City Council, the staff report prepared for the Planning and Zoning Board has been included in this agenda package for each set of ordinances.

The Florida Department of Community Affairs (FDCA) staff reviewed the transmitted amendments and contacted City staff with follow-up questions concerning the City's environmental policies and land development regulations in regards to comments made by the

Treasure Coast Regional Planning Council (copy attached). The Florida Department of Community Affairs' staff was subsequently satisfied with the responses to the questions and did not identify any objections to the amendments. Therefore, no changes were made to the initially transmitted amendment package other than updates to the ordinances.

Each set of the revised ordinances along with its appropriate staff reports has been organized into separate attachments labeled A through C.

Recommendation

The staff recommends that the City Council adopt the attached ordinances with the exhibits.

TJM/CBF:tf

Attachments



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

December 1, 2009

The Honorable Sabin C. Abell
Mayor, City of Vero Beach
1053 20th Place
Vero Beach, Florida 32961-1389



Dear Mayor Abell:

The Department of Community Affairs has completed its review of the proposed City of Vero Beach Comprehensive Plan Amendment (DCA Number 09-1), which was received as a complete amendment on September 28, 2009. Copies of the proposed amendment have been distributed to the appropriate state, regional, and local agencies for their review, and their comments are enclosed. The Department has reviewed the Comprehensive Plan Amendment for consistency with Rule 9J-5, Florida Administrative Code, and Chapter 163, Part II, Florida Statutes. The Department does not identify any objections and this letter serves as the Objections, Recommendations and Comments Report.

For your assistance, we have attached procedures for final adoption and transmittal of the comprehensive plan amendment. If you have any questions, please call Laura Regalado, Community Planner, at (850) 921-3762.

Sincerely,

Charles Gauthier, Director
Division of Community Planning

CG/lmr

Enclosures: Review Agency Comments; Transmittal Procedures

- cc: Mr. James M. Gabbard, City Manager, City of Vero Beach
- Mr. Timothy J. McGarry, AICP, Planning and Development Director, City of Vero Beach
- Mr. Michael J. Busha, AICP, Executive Director, Treasure Coast Regional Planning Council

2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: www.dca.state.fl.us

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

TRANSMITTAL PROCEDURES

Upon receipt of this letter, The City of Vero Beach has 60 days in which to adopt, adopt with changes, or determine that the City will not adopt the proposed amendment. The process for adoption of local government comprehensive plan amendments is outlined in s. 163.3184, F. S., and Rule 9J-11.011, F.A.C. The City must ensure that all ordinances adopting comprehensive plan amendments are consistent with the provisions of Chapter 163.3189(2)(a), F.S.

Within ten working days of the date of adoption, the City must submit the following to the Department:

- Three copies of the adopted comprehensive plan amendments;
- A listing of additional changes not previously reviewed;
- A listing of findings by the local governing body, if any, which were not included in the ordinance; and
- A statement indicating the relationship of the additional changes to the Department's Objections, Recommendations and Comments Report.

The above amendment and documentation are required for the Department to conduct a compliance review, make a compliance determination and issue the appropriate notice of intent.

In order to expedite the regional planning council's review of the amendments, and pursuant to Rule 9J-11.011(5), F.A.C., please provide a copy of the adopted amendment directly to the Executive Director of the Treasure Coast Regional Planning Council.

Please be advised that Section 163.3184(8)(c), F.S., requires the Department to provide a courtesy information statement regarding the Department's Notice of Intent to citizens who furnish their names and addresses at the local government's plan amendment transmittal (proposed) or adoption hearings. In order to provide this courtesy information statement, local governments are required by law to furnish the names and addresses of the citizens requesting this information to the Department. **Please provide these required names and addresses to the Department when you transmit your adopted amendment package for compliance review. In the event there are no citizens requesting this information, please inform us of this as well.** For efficiency, we encourage that the information sheet be provided in electronic format.



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

November 23, 2009
Amended 10/30/09 Letter

Mr. D. Ray Eubanks
Bureau of Local Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Vero Beach 09-1, Amended Comprehensive Plan Amendment ORC Review

Dear Mr. Eubanks:

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (DEP or Department) has reviewed the above-referenced amendment under the provisions of Chapter 163, Part II, *Florida Statutes (F.S.)*, and Chapters 9J-5 and 9J-11, *Florida Administrative Code (F.A.C.)*. Our review was based on the potential impacts of the proposed land use designation or policy change on resources or facilities within the scope of the Department's regulatory and proprietary authorities. The Department submits the following comments and recommendations to assist your agency in developing the state's response to the proposed amendments.

Upon further review of the amendment package, the Department has the following comments regarding Future Land Use Map amendment C09-000008. According to the National Wetlands Inventory, aerial photos, and the Soil Survey of Indian River County, Florida, the entire parcel appears to consist of wetlands. The parcel also lies within the FEMA designated 100 year Flood Zone A. Additionally, the DEP Submerged Lands and Environmental Resources Program states that the parcel is a high salt marsh wetland system that is connected to the Indian River Malabar to Vero Beach Aquatic Preserve during high tides and storm events. While the City's regulations would limit the number of dwelling units to three, any development on the parcel would potentially impact existing wetlands and the Indian River Lagoon ecosystem and Aquatic Preserve.

The Department finds that proposed land use change to the 16.7-acre parcel from *Conservation (1 du/40 acres)* to *Environmentally Significant (1 du/2 acres)* is inconsistent with Rule 9J-5.013(3)(b), *F.A.C.*, which states that "[f]uture land uses which are incompatible with protection and conservation of wetlands and wetland functions shall

Mr. Ray Eubanks
Vero Beach 09-1-Amended
November 23, 2009
Page 2 of 2

be *directed away from wetlands*. The type, intensity or density, extent, distribution and location of allowable uses . . . are land use factors which shall be considered when directing incompatible uses away from wetlands." [Emphasis added.] The amendment is also inconsistent with Rule 9J-5.013(2)(c)6., F.A.C., because it fails to provide for the protection of natural functions of soils, wildlife habitats, surface waters and floodplains.

Thank you for the opportunity to comment on this proposal. If I may be of further assistance, please call me at (850)245-2172.

Sincerely,

Suzanne E. Ray

Environmental Specialist III, AICP
Office of Intergovernmental Programs

/ser

Bob Dennis/DCA/FLEOC
11/18/2009 01:09 PM

To Ray Eubanks/DCA/FLEOC@fleoc
cc
bcc
Subject Fw: C-7 Form

Vero Beach 09-1

Bob Dennis
Regional Planning Administrator
Division of Community Planning
Florida Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100
(850) 922-1765
(850) 488-3309 FAX
bob.dennis@dca.state.fl.us

The Department of Community Affairs is committed to maintaining the highest levels of service and values your feedback. Please take a few moments to complete our Customer Service Survey by visiting <http://www.dca.state.fl.us/CustomerServiceSurvey/>. We look forward to hearing from you. However, if you require assistance or a response from the agency, please use the "Contact Us" webpage at <http://www.dca.state.fl.us/contactus/>.

Florida has a broad public records law and all correspondence, including email addresses, may be subject to disclosure.

----- Forwarded by Bob Dennis/DCA/FLEOC on 11/18/2009 01:07 PM -----



"Stephanie Heidt"
<sheidt@tcrpc.org>
11/18/2009 12:33 PM

To <bob.dennis@dca.state.fl.us>,
<laura.regalado@dca.state.fl.us>
cc "Terry Hess" <thess@tcrpc.org>
Subject C-7 Form

Attached please find the C-7 forms for the Vero Beach 09-1 comprehensive plan amendments. Sorry this was not sent to you with our staff report. We were a bit confused about the process, but now understand these forms need to be submitted with our reports.

Please do not hesitate to contact me if you need additional information.

Stephanie Heidt
Administrative Coordinator
Treasure Coast Regional Planning Council
772.221.4060
sheidt@tcrpc.org

FORM C-7

TREASURE COAST REGIONAL PLANNING COUNCIL
 AMENDMENT REVIEW FORM
 FY 2009-2010

1. Local Government Name: **Vero Beach**
2. Amendment Number: **09-1**
3. Is the RPC precluded from commenting on the proposed plan or element pursuant to s. 163.3184(5), F.S., or Rule 9J-11.0084, L.O.F.; or commenting on the proposed amendment pursuant to s. 163.32465(4)(b), F.S.? (YES) (NO)
4. Date DCA Notified RPC that Amendment Package was Complete, if Applicable:
5. Date Amendment Review must be Completed and Transmitted to DCA: **11/1/09**
6. Date the Amendment Review was transmitted to DCA: **10/30/09**

7. Description of the Amendment:

Three amendments to the Future Land Use Map of the City Comprehensive Plan.

Please complete the following table for each individual proposed amendment to the Future Land Use Map (FLUM) only:

Existing FLUM Category	Proposed FLUM Category	Existing Maximum Density (DU/Acre)	Proposed Maximum Density (DU/Acre)	Existing Maximum Intensity (FAR)	Proposed Maximum Intensity (FAR)	Net Increase or (Decrease) in Maximum Density	Non-Residential Net Increase or (Decrease) in Potential Floor Area
Medium Density Residential	Residential Medium	8	10	N/A	N/A	44	N/A
Conservation	Conservation	3	0	N/A	N/A	(3)	N/A
Conservation	Environmentally Significant	1	8	N/A	N/A	7	N/A
Total						48	

Add additional rows as necessary. Please PROVIDE TOTALS in bottom row.

8. Is the Amendment consistent with the Strategic Regional Policy Plan?

Amendment C09-000008 is inconsistent with the SRPP.

9. Applicable Strategic Regional Policy Plan Goals and Objectives:

Goal 6.5, Strategy 6.5.1, Goal 6.6, Strategy 6.6.1

10. The effects on the Proposed Amendment on Regional Resources or Facilities Identified in the Strategic Regional Policy Plan:

Potential negative impacts on salt marsh wetlands in; Indian River Lagoon

11. Extra-Jurisdictional Impacts that would be Inconsistent with the Comprehensive Plan of the Affected Local Government:

None identified.

Analysis of the effects of the proposed amendments on the following issues to the extent they are addressed in the Strategic Regional Policy Plan on:

12. Compatibility among local plans including, but not limited to, land use and compatibility with military bases:

No incompatibilities identified.

13. Impacts to significant regional resources and facilities identified in the Strategic Regional Policy Plan, including, but not limited to, impacts on groundwater recharge and the availability of water supply:

(see response to #10)

14. Affordable housing issues and designation of adequate sites for affordable housing:

Not considered an issue for these amendments.

15. Protection of natural resources of regional significance identified in the Strategic Regional Policy Plan including, but not limited to, protection of spring and groundwater resources, and recharge potential:

(see response to #10)

16. Compatibility with regional transportation corridors and facilities including, but not limited to, roadways, seaports, airports, public transportation systems, high speed rail facilities, and intermodal facilities:

No incompatibilities identified.

17. Adequacy and compatibility with emergency preparedness plans and local mitigation strategies including, but not limited to, the impacts on and availability of hurricane shelters, maintenance of county hurricane clearance times, and hazard mitigation:

No inadequacies or incompatibilities identified.

18. Analysis of the effects of extra-jurisdictional impacts which may be created by the amendment:

No extrajurisdictional impacts identified.



St. Johns River Water Management District

Kirby B. Green III, Executive Director • David W. Fisk, Assistant Executive Director

10 BD
11/9/09

4049 Reid Street • P.O. Box 1429 • Palatka, FL 32178-1429 • (386) 329-4500
On the Internet at www.sjrwmd.com

November 2, 2009

Mr. D. Ray Eubanks
Plan Review and Processing Administrator
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

RE: Vero Beach Proposed Comprehensive Plan Amendment
DCA Amendment #09-1

Dear Mr. Eubanks:

St. Johns River Water Management District (District) planning staff have reviewed the above-referenced proposed comprehensive plan amendment. The proposed amendment consists of three future land use map (FLUM) changes. District staff review focuses on water supply availability and related water resource issues in an effort to link land use planning and water supply planning. In the review of water supply availability, District staff consider infrastructure, permitted allocation under District-issued consumptive use permit (CUP), and source.

District staff have no comments because no substantial water supply availability or related water resource issues attributable to the proposed FLUM changes were identified. However, it should be noted that the property subject to the City's C09-000007 FLUM change is located within an area permitted as a mitigation bank by the District. Any proposed activities on the property are subject to the restrictions of the conservation easement and the terms of the permit for the mitigation bank.

We appreciate the opportunity to provide comments. If you have any questions, please contact me at (386) 329-4311 or pbrown@sjrwmd.com.

Sincerely,

Peter Brown, AICP
Policy Analyst
Office of Communications and Governmental Affairs

- cc: Timothy McGarry, Vero Beach
- Michael Busha, Treasure Coast Regional Planning Council
- Jim Quian, Florida Department of Environmental Protection
- Michelle Reiber, St. Johns River Water Management District
- Kraig McLane, St. Johns River Water Management District
- Ann Benedetti, St. Johns River Water Management District

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10 BD
11/9/09

FLORIDA DEPARTMENT OF STATE
Kurt S. Browning
Secretary of State
DIVISION OF HISTORICAL RESOURCES

November 2, 2009

Mr. Ray Eubanks
Department of Community Affairs
Bureau of State Planning
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Historic Preservation Review of the Vero Beach 09-1 Comprehensive Plan Amendment
(Indian River County)

Dear Mr. Eubanks:

According to this agency's responsibilities under Section 163, *Florida Statutes*, and Chapter 9J-5, *Florida Administrative Code*, we reviewed the above document to determine if data regarding historic resources were given sufficient consideration in the request to amend the Vero Beach Comprehensive Plan.

We reviewed three proposed amendments to the Future Land Use Map to consider the potential effects of these actions on historic resources. While our cursory review suggests that the proposed changes may have no adverse effects on historic resources, it is the city's responsibility to ensure that the proposed revisions will not have an adverse effect on significant archaeological or historic resources.

Nevertheless, we do have some concerns about Amendment C09-000005, consisting of 22+ acres. Although this tract does not contain any sites included in the Florida Master Site File or listed in the *National Register of Historic Places*, it remains the city's responsibility to ensure that potentially significant historic resources will not be adversely affected by this action. This parcel appears to have at least moderate archaeological site probability. The most effective way to guarantee that such sites are not damaged is for the city to sponsor or require historic resource surveys so that it can ensure its archaeological resources and historic structures fifty years of age or older will be considered when substantive changes in land use are proposed.

If you have any questions regarding our comments, please feel free to contact Susan M. Harp of the Division's Compliance Review staff at (850) 245-6333.

Sincerely,

Laura A. Kammerer, Historic Preservationist Supervisor
Compliance Review Section
Bureau of Historic Preservation

xc: Mr. Bob Dennis

500 S. Bronough Street • Tallahassee, FL 32399-0250 • <http://www.flheritage.com>

Director's Office
(850) 245-6300 • FAX: 245-6436

Archaeological Research
(850) 245-6444 • FAX: 245-6452

Historic Preservation
(850) 245-6333 • FAX: 245-6437



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

October 30, 2009

10
BD
11/9/09

Mr. D. Ray Eubanks
Bureau of Local Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Re: Vero Beach 09-1, Comprehensive Plan Amendment ORC Review

Dear Mr. Eubanks:

The Office of Intergovernmental Programs of the Florida Department of Environmental Protection (DEP or Department) has reviewed the above-referenced amendment under the provisions of Chapter 163, Part II, *Florida Statutes (F.S.)*, and Chapters 9J-5 and 9J-11, *Florida Administrative Code (F.A.C.)*. Our review was based on the potential impacts of the proposed land use designation or policy change on resources or facilities within the scope of the Department's regulatory and proprietary authorities. Based on our review of the proposed amendment, the Department has found no provision that requires comment, recommendation or objection.

Thank you for the opportunity to comment on this proposal. If I may be of further assistance, please call me at (850)245-2172.

Sincerely,

Suzanne E. Ray

Environmental Specialist III, AICP
Office of Intergovernmental Programs

/ser



"Riddle, Andrew"
<Andrew.Riddle@dot.state.fl.us>

10/26/2009 02:44 PM

To "Ray.Eubanks@dca.state.fl.us"
<Ray.Eubanks@dca.state.fl.us>,
"bob.dennis@dca.state.fl.us" <bob.dennis@dca.state.fl.us>
cc "Bush, Lois" <Lois.Bush@dot.state.fl.us>

bcc

Subject Vero Beach 09-1 - FDOT District Four Review

I am writing to advise you that the Department will not be issuing an ORC report on the proposed Comprehensive Plan Amendment 09-1 for the City of Vero Beach. The Department would like to provide the following comments on the proposed amendments:

- The proposed C09-05 amendment changes the future land use map designation on a 22.17 acre parcel from the County's M-1 designation (Medium Density Residential, with up to eight units per acre) to the City's RM designation (Residential Medium, with up to 10 units per acre). The City's analysis notes the potential net increase of 44 units, but does not perform an analysis of the impacts of those units on the transportation system. Road access to the amendment site does not currently exist, but would likely be achieved by the extension of a local roadway (Pickerill Lane) that intersects US 1. The segment of US 1 nearest the amendment site is currently operating at LOS B, with an adopted standard of LOS D. It is also a Transportation Regional Incentive Program (TRIP)-funded roadway segment adjacent to the Vero Beach Municipal Airport, which will be modified by the addition of turn lane(s). By 2035, there is the potential that US 1 will exceed the adopted LOS standard.
- The C09-08 item involves the reclassification of 16.7 acres on three parcels from the County's C-2 FLUM designation (Conservation, with one unit per 40 acres) to the City's ES FLUM designation (Environmentally Significant, with one unit per two acres allowed). The proposed amendment results in an increase in maximum development potential of eight units. Though a small number, these trips would, at a minimum, occur on what is currently an unimproved dirt road (45th Street) perpendicular to Indian River Boulevard. By 2035, there is the potential that Indian River Boulevard will exceed the adopted LOS standard.

Though the increase in maximum development potential from both of these amendments is relatively small, the City should perform short- and long-term analyses of the impacts on the transportation system and coordinate with the Indian River MPO should adverse impacts to US 1 or Indian River Boulevard be noted.

- No comments are identified for the C09-07 amendment. The proposed amendment results in a decrease in potential net density, and therefore no net new trips. The item involves the reclassification of 124 acres from the County's C-2 designation (Conservation-2, with one unit per 40 acres) to the City's CV designation (Conservation, with zero units allowed).

Thank you.

Andrew Riddle, AICP
Office of Modal Development
FDOT - District Four
3400 West Commercial Boulevard
Fort Lauderdale, FL 33309

TREASURE COAST REGIONAL PLANNING COUNCIL
INDIAN RIVER - MARTIN - PALM BEACH - ST. LUCIE

October 5, 2009

OCT 7 2009

10 BD

Mr. Ray Eubanks, Administrator
Plan and Review Processing
Office of Comprehensive Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100

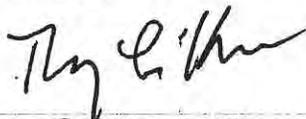
Subject: City of Vero Beach Comprehensive Plan
Draft Amendments - DCA Reference No. 09-1

Dear Mr. Eubanks:

This is to acknowledge the receipt of materials pertaining to the above-referenced amendments on September 30, 2009. Staff anticipates presenting its report and recommended comments to Council at the regular meeting of November 20, 2009. Pursuant to Section 163.3184, *Florida Statutes*, a written report will be submitted to you by November 1, 2009.

If you have any questions, please feel free to call.

Sincerely,



Terry L. Hess, AICP
Deputy Director

TLH:sh

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Phone (772) 221-4060 - Fax (772) 221-4067 - www.tcrpc.org

DRAFT
Subject to Modifications

TREASURE COAST REGIONAL PLANNING COUNCIL

MEMORANDUM

To: Regional Planning Council Members AGENDA ITEM ____

From: Staff

Date: December 11, 2009 Regional Planning Council Meeting

Subject: Local Government Comprehensive Plan Review
Draft Amendments to the City Vero Beach Comprehensive Plan
DCA Reference No. 09-1

Introduction

The Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, *Florida Statutes*, requires that the Treasure Coast Regional Planning Council (TCRPC) review local government comprehensive plan amendments prior to their adoption. Under the provisions of this law, the Department of Community Affairs (DCA) prepares an Objections, Recommendations, and Comments (ORC) Report on a proposed amendment only if requested to do so by the local government, the regional planning council, an affected person, or if an ORC Report is otherwise deemed necessary by the DCA. If an ORC Report is to be prepared, then the TCRPC must provide DCA with its findings of consistency or inconsistency with the Strategic Regional Policy Plan (SRPP), and provide any comments and recommendations for modification on the proposed amendments within 30 days of its receipt.

Background

The City of Vero Beach has proposed three amendments to the Future Land Use Map (FLUM) of the City Comprehensive Plan. The City has requested a formal review of the amendments by the DCA.

Evaluation

The FLUM amendments are for properties that the City has previously annexed. The City considers the new FLUM designations assigned to be compatible with the designations assigned to the properties under the Indian River County Comprehensive Plan. The amendments are summarized on Table 1 and the approximate locations of the properties are shown on the attached exhibits.

DRAFT

Subject to Modifications

Table 1
Proposed Amendments to the Future Land Use Map
City of Vero Beach Comprehensive Plan
DCA Reference No. 09-1

Amendment Number/Name	Approx. Acreage	Current FLUM Designation	Proposed FLUM Designation	Approximate Location
C09-000005	22.2	Medium Density Residential (M-1)	Residential Medium (RM)	North of intersection of 33 rd Street and 13 th Avenue.
C09-000007	124.0	Conservation (C-2)	Conservation (CV)	South of 45 th Street, along western shore of Indian River Lagoon.
C09-000008	16.7	Conservation (C-2)	Environmentally Significant (ES)	Between 45 th Street and Gifford Dock Road, along western shore of Indian River Lagoon.
Total:	162.9			

Key to FLUM Designations

City Designations

- ES Environmentally Significant – maximum one dwelling unit per two acres
- CV Conservation (no residential development permitted)
- RM Residential Medium – maximum 10 dwelling units per acre

County Designations

- C-2 Conservation – maximum one dwelling unit per 40 acres
- M-1 Medium Density Residential – maximum 8 dwelling units per acre

1. Amendment #C09-000005

This 22.2 acre property is located just northeast of the intersection of 13th Avenue and 33rd Street (see Exhibits 2-3). The property is currently vacant and, according to the amendment materials, is 100% wooded and vegetated. No development has yet been proposed for this property.

The current FLUM designation under the County plan is Medium Density Residential (maximum 8 dwelling units per acre). The proposed City designation is Residential Medium (maximum 10 dwelling units per acre). The land uses on surrounding properties are:

	Existing	FLUM
North	Medical Park	Commercial/Industrial*
East	Professional services, vacant	Low Density Residential *
South	Home for the aged, single family residential	Residential Medium; High Density Residential *
West	Vacant	Commercial; Commercial/Industrial*

* County FLUM designation

DRAFT
Subject to Modifications

The property was annexed on October 3, 2006. The amendment was initiated by the City. The City acknowledges there could be an increase of 44 dwelling units under the new designation, but the property lies within the Urban Service Area and there would be no adverse effects on service levels for public facilities. The City considers the property, which is located between areas of single family residential and commercial land uses, to be an appropriate transitional use at the allowable density. Adequate school capacity will be determined at the site plan stage.

2. Amendment #C09-000007

This 124 acre property is located south of 45th Street, along the western shore of the Indian River Lagoon at the northern boundary of the City (see Exhibit 4). The property was annexed in May, 2007.

The property currently serves as a mitigation bank for the development of properties that impact salt water wetlands. The property is privately owned. There is no proposed change in use. The FLUM designation under the County Comprehensive Plan is Conservation (C-2). The proposed designation under the City Plan is Conservation (CV). The land uses on surrounding properties are:

	Existing	FLUM
North	Vacant Land	Conservation *
East	Indian River Lagoon	
South	Vacant Land	Medium Density*, Environmentally Sensitive
West	Vacant Land, home for the aged	Medium Density Residential *

* County FLUM designation

As indicated above, this property serves as a saltwater mitigation bank providing credits for development of properties that impact saltwater wetlands. The City Conservation designation is to be applied to "areas which contain or possess lands with qualities and features that play an essential role in the normal function of the local, regional and Indian River Lagoon ecosystems." Such lands shall remain undeveloped and uses allowed are open space, conservation and compatible passive recreation. These lands are candidates for public acquisition. The location of this property is classified as wetlands and the parcel is within the flood hazard area.

3. Amendment #C09-000008

This 16.7 acre property is located to the immediate north of amendment #C09-000007; between 45th Street and Gifford Dock Road (see Exhibits 5-6). The property is privately owned, and was annexed by the City in August, 2007.

The property is currently vacant. The City is considering a site-plan for single family residential development. The FLUM designation under the County Comprehensive

DRAFT

Subject to Modifications

Plan is Conservation (C-2). The proposed FLUM designation by the City is Environmentally Significant. According to the City Comprehensive Plan, this designation is "for islands, riverfronts, environmentally sensitive areas and lands adjacent to environmentally sensitive lands". However, single family residential development is permitted on lands designated as Environmentally Significant at up to 1 dwelling unit per two acres on the mainland. The land uses on surrounding lands are:

	Existing	FLUM
North	Grand Harbor Development of Regional Impact (DRI)	Medium Density Residential
East	Indian River Lagoon	_____
South	Outfall canal, vacant land	Conservation
West	Grand Harbor DRI	Medium Density Residential; Conservation

This property has been used as a mosquito impoundment since the 1950s. It is surrounded by a dike, ditches, a borrow area and Gifford Park Road. The property consists of isolated wetlands with a "reduced wetlands value", according to the City. According to the amendment materials, there is no direct connection with the Indian River Lagoon. However, as the attached letter from the Florida Department of Environmental Protection (FDEP) dated October 16, 2009 indicates, the property is a "high salt marsh wetland system. The site is connected to the Indian River Malabar to Vero Beach Aquatic Preserve, during high tides and storm events. This is evident in the obligate salt marsh vegetation found on the west end of the property. The nature of this type of wetland system is to be inundated several times during the year with salt water" (see Attachment A). The property is within a flood hazard area.

The proposed FLUM designation for this site, according to the City, is in part based on access to adequate public utilities and good street access (Gifford Dock Road). This is the lowest density designation allowed by the City. Although the property could accommodate as many as 8 or 9 dwelling units based on the FLUM designation, the City indicates that a maximum of 3 dwelling units could be developed on the property based on "environmental restrictions, other applicable ordinances and Indian River County requirements". Because of wetlands regulations, development would be limited to one dwelling unit per lot of record. There are 3 lots of record for this property. This property was offered for purchase under the County Environmental Lands Program, but was not considered as a high priority for purchase by the County's Land Acquisition Advisory Committee. According to Indian River County staff, there was some discussion about acquiring the property for a public boat ramp to complement the adjoining County access and dock.

Extrajurisdictional Impacts

Under the informal agreement facilitated by the TCRPC, local governments in the northern three counties of the region are to provide copies of amendment materials to

DRAFT

Subject to Modifications

other local governments that have expressed an interest in receiving such materials. The City provided copies of the amendment materials to Indian River County, the Town of Indian River Shores, the City of Fellsmere, the City of Sebastian and the Indian River County School District. Council sent a memorandum to each of these local governments and organizations on October 14, 2009 seeking comments regarding any areas of potential conflict. As of the date of the preparation of this report, no responses have been received.

Effects on Significant Regional Resources or Facilities

Analysis of the proposed amendments indicates that amendments C09-000005 and C09-000007 would not have adverse effects on significant regional resources or facilities. However, the development of property in Amendment #C09-000008 would directly impact salt marsh wetlands systems and have negative impacts on the Indian River Lagoon. The City should take all necessary precautions to see that development does not negatively impact existing wetlands or the Indian River Lagoon ecosystem and Aquatic Preserve.

Analysis of Consistency with Strategic Regional Policy Plan

Comments/Recommendation for Modification

1. Amendment #C09-000005

Evaluation of aerial photography suggests this 2.2 acre site may be covered with native pine flatwoods in relatively good condition. The City did not provide any information regarding the quality and type of native habitat, or about the existence of animal species. Furthermore, the City Plan does not include any requirements for the preservation of native habitat. No development is currently proposed for the property. Council recommends that prior to development approval on this property:

- a. a written assessment of ecological or environmental resources and potential impacts be prepared, consistent with Regional Policy 6.7.1.3; and
- b. any development plan for the property be required to maximize the amount of upland natural communities protected consistent with Regional Policy 6.7.1.2. As a minimum, the City should strive to protect 25 percent of the upland natural communities on the project site. The benefits of this strategy include 1) water conservation by reducing the area in need of irrigation; 2) providing habitat for wildlife; and 3) sequestering carbon in the effort to protect against climate change.

DRAFT
Subject to Modifications

2. Amendment #C09-000008

The proposed designation of this property as Environmentally Significant by the City seems consistent with the character as a high salt marsh wetland system (see FDEP letter dated October 16, 2009). The City's decision to allow residential development on 2-acre lots on such lands does not seem to be consistent with the character of such lands; nor does it seem compatible with the existing County designation as Conservation.

According to information received from the City, development on the property will be limited to 3 residential dwellings. This is based, in part, on the information that the property contains 3 lots of record. The County staff confirmed that their information indicates there are 3 lots of record. Despite this limitation, it will still be difficult to utilize these lands for residential use (see Attachment A).

Based on the information provided by FDEP in Attachment A, it would be impossible to have any development on the subject parcel without directly impacting wetlands. Therefore, the proposed amendment allowing an increased level of development on this parcel is inconsistent with SRPP Policy 6.6.1.1, which indicates that no activity shall be allowed that results in the alteration, degradation or destruction of wetlands. Allowing development of wetlands on this parcel is also inconsistent with Regional Goal 6.5, Protection of estuarine resources, Strategy 6.5.1, Maintain and enhance the functions and values of the Region's estuaries; and Policy 6.5.1.1, Improve and restore the Indian River Lagoon estuary system.

The most appropriate FLUM designation on the subject parcel would be Conservation (CV). The City should not assign a FLUM designation that allows increased development rights on the subject parcel unless the City has a mechanism to transfer development rights from environmentally sensitive areas to other less sensitive areas. The subject parcel is especially sensitive because it is in a low-lying coastal hazard area. This area is expected to be directly impacted by sea level rise later in this century. Increasing the intensity of development on the subject parcel is likely to exacerbate efforts to address sea level rise issues in the future, and increase the cost of infrastructure required to provide services to the development as sea level rises.

Consistency with Strategic Regional Policy Plan

The contract agreement with the DCA requires the TCRPC to include a determination of consistency with the SRPP as part of the written report to be submitted to the DCA. The TCRPC finds proposed amendments #C09-000005 and #C09-000007 to be CONSISTENT with the SRPP. Proposed amendment #C09-000008 is found to be INCONSISTENT with the SRPP.

DRAFT
Subject to Modifications

Recommendation

The Treasure Coast Regional Planning Council should adopt the above comments and instruct staff to transmit the report to the Department of Community Affairs.

Attachments

List of Attachments

Attachment

- A October 16, 2009 letter from the Florida Department of Environmental Protection
-



Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

October 16, 2009

Carter Associates, Inc.
1708 21st Street
Vero Beach, Florida 32960

Attention: John H. Blum, P.E.

Indian River County - ERP
Oculina Bank (Osprey Estates)
File No. 31-0294393-001

Dear Mr. Blum:

The Department of Environmental Protection received your response to the March 20, 2009, request for additional information (RAI) on September 16, 2009. The information requested below is required to sufficiently review the application, pursuant to Chapters 373 and 403, Florida Statutes, and Florida Administrative Code (F.A.C.) Chapters 62-302, 62-330, 62-343, 40C-4, 40C-40, 40C-41 and 40C-42.

1. Thank you for modifying the project design to reduce or eliminate adverse impacts to wetlands and other surface water. The Department acknowledges that the applicant modified a portion of the project based on the Department's May 20, 2009 recommendations, specifically the applicant has:
 - Eliminated the 20 foot wide new road and will be utilizing the existing road, Gifford Dock Road/45th Street, and
 - Minimized the size of the wetland impact area on each parcel by constructing still homes.

As previously stated in the May 20th RAI, when considering whether to approve an application, the Department looks at the degree of impact to wetlands and other surface waters caused by the proposed structure, and whether the impacts can be mitigated. The subject sites are NOT isolated but are a high salt marsh wetland system. The site is connected to the Indian River Malabar to Vero Beach Aquatic Preserve, during high tides and storm events. This is evident in the obligate salt marsh vegetation found on the west end of the property. The nature of this type of wetland system is to be inundated several times during the year with salt water. Additional project modification must be provided to reduce wetland impacts to the fullest extent possible on each tract. [SJRWMD A.H. Section 12]

Oculina Bank (Osprey Estates)

File No.: 31-0294393-001

Page 2 of 9

Based on the current plans, Department staff offers the following suggestions: [Sections 12.2.1, 12.2.1.1 A.H.]

- Modify the location of tracts 1 and 3 to the western end of the property off Gifford Dock Road/45th Street. The subject site is located between Grand Harbor development which has a preservation area on the south end and CGW Mitigation Bank. Development and impacts to the wetlands along the western end of the wetland system would allow for wildlife utilization within the eastern portion of this system;
 - The construction of stilt homes will reduce the wetland impacts but will not eliminate the impacts. Based on the drawings, the eastern extents of the concrete driveways are very wide and can be reduced. Reduce the width of the eastern ends of the driveways and relocate them directly under the footprint of the stilt homes;
 - Eliminate the pool and pool deck. This is an avoidable impact;
 - As stated in the previous RAI and acknowledged by the applicant in the RAI response, the remaining wetlands, including the mangroves, will be required to be placed in a perpetual conservation easement as partial mitigation for the impacts to wetlands and surface waters. Therefore the mangroves will be required to remain in their natural state. However, the construction of stilt homes elevates the homes for adequate views of the Indian River Aquatic Preserve.
2. Please provide documentation that the division of the approximately 16 acre lot into three (3) separate lots was a legal lot split. This will include a warranty deed to each lot showing ownership by the applicant. [this information was not included in the submittal to the Department as indicated in the RAI response package]
- In addition, please provide a statement from Indian River County that the lots are zoned for private, single-family use.
3. Based on Sheet C-2 the east/west portion of Gifford Dock Road is to be improved by elevating the grade. Have the proposed improvements been approved by Indian River County? Please provide specific details to why this portion of the road is to be elevated and the perimeter installed with a retaining wall. This road has been used for many years by residents to access the Indian River County property and dock at the northeast end of Gifford Dock Road. These improvements can be entirely eliminated by modifying the impacts on tract 3 to the west as indicated above.

In addition, the Department cannot permit road improvements [Operating Agreement between SRWMD and the DEP]. All road improvement details and notations must be removed from all drawings.

Wetland Impacts

4. As stated above, the subject site is a high salt marsh wetland system. The site is connected to the Indian River Malabar to Vero Beach Aquatic Preserve, during high tides and storm events. This is evident in the obligate salt marsh vegetation found on the west end of the property. The nature of this type of wetland system is to be inundated several times during the year with salt water.

Please have all figures, tables, and drawings changed to REMOVE all notations indicating altered or non-tidal.

5. Based on the information provided above, the inundation of salt water several times a year would submerge any septic/drainfields that may be installed and would lead to contamination of ground water, wetland systems and eventually the Indian River Aquatic Preserve. Therefore the Department strongly suggests that the applicant either connects to the existing sewer line that is located on the west side of Indian River Boulevard or use composting toilets at the homes.

However, if the applicant wishes to proceed with septic/drainfields, the applicant must provide documentation from an engineer that clearly demonstrates that contamination will not occur from a septic tank/drainfield when this site is flooded.

6. The applicant must provide the sanitary systems to be used. Detailed information regarding the type to be used and specific details to the systems and the locations on each tract must be on the drawings. Please provide.
7. Based on the information received, the applicant will not be connecting to the existing water line? Therefore, please provide engineering documentation that during times of inundation of salt water from the Indian River the well will not be affected by saltwater intrusion.

The well type, details and location must be on all drawings. Please provide.

8. In addition, the proposed boardwalks through wetlands and docks in the aquatic preserve must be included in the impacts to each tract. Please revise and provide accordingly.

To date, the following has not been received:

9. Please provide draft Articles of Incorporation and Declaration of Covenants and Restrictions for the proposed property owner's association. Please incorporate the Department's recommended language or language with equivalent effect, into these documents [40C-4.301(1)(j), F.A.C.]

Mitigation

10. The following was requested in the March 20th RAI but has not yet been received:

Please note that the conservation easement documentation (enclosed with the March 20, 2009 RAI) will be required for the placement of a perpetual conservation easement as (or partial) mitigation.

11. Please note that based on the impact tables provided, the total impact area for the three (3) tracts is 2.08, not 1.5 acres as indicated in the RAI response. In addition the stilt homes, although they significantly reduce the impacts, must be included as an impact. Please revise.
12. Based on the RAI response, the following is provided as mitigation:
 - a) Rotational Impoundment Management Plan (RIM) that includes 10 tidal culverts;
 - b) Dike removal and hydrologic ditch connection;
 - c) Exotic removal and replanting native vegetation; and
 - d) A conservation easement over the remaining on-site wetlands and surface waters (above the mean high water level).

The mitigation plan is addressed in chronological order:

- a) As stated above, this site is a functional high salt marsh system that is already tidally connected to the Indian River. Therefore a RIM plan would not be appropriate mitigation for this project;
 - b) This site has two (2) existing concrete culverts that connect this area to the Indian River during times when seasonally high tides do not occur. Additional hydrologic ditch connections do not appear to be needed. Please provide a separate, dimensional and scaled plan view drawing that only shows the areas proposed for dike removal. This drawing should include, but is not limited to, the current elevations and proposed elevations. In addition please provide specific details to the methods and equipment that will be used for the dike removal. Please locate and show the two (2) culverts on all the drawings;
 - c) Exotic plant removal is a requirement of the conservation easement. Therefore it cannot be used as part of the mitigation. Please provide a separate, dimensional and scaled plan view drawing that only shows the areas proposed for planting of native wetland vegetation. In addition please provide specific details to the methods and equipment that will be used for the plantings and the type, number, center and size of plants to be used;
 - d) As stated above, the conservation easement documents must be provided.
-
13. ~~Once the project has been reduced to meet SJRWMD A.H. Section 12, additional mitigation plans have been received (as described above several of the proposed plans are not appropriate), and specific details to the dike removal and planting plans are received the mitigation will be reviewed to make sure it meets the requirements of 62-345, F.A.C.~~

Dock

Please note that your project is located on sovereign submerged lands and within the Indian River, Malabar to Vero Beach Aquatic Preserve and therefore must comply with all the requirements set forth under Chapter 18-20, Florida Administrative Code (F.A.C.) and 18-21, F.A.C.

14. Please revise each plan view drawing to meet the following:
- The access walkway cannot exceed four (4) feet in width [18-21.004(5)(b)(1)];
 - No portion of the mooring area, boat lift, can be located along the access walkway [18-21.003(29) & (67)];
 - No more than two (2) vessels can moor at this structure at any time. Please change the slip numbers on tracts 2 and 3 to indicate only one (1) and (2) slips to prevent any future confusion;
 - Width of the waterbody (MHW to MHW).
15. Please provide a profile drawing of each boardwalk and dock from commencement to the terminus. This drawing shall include, but is not limited to, the dimensions, slips, handrail locations, elevations, wetlands and surface water the boardwalk transverses, and water depths (referenced from mean low water level).
16. The Department noted that the applicant will provide the following after April 1, 2010:
Please clearly stake the location of the proposed access walkway, terminal platform, and slips. Each of the four corners of both the slips and the terminal platform must be staked. Once the area has been staked, the Department will conduct a site inspection to verify the submitted seagrass and water depth survey. Please note that seagrass surveys do not begin until April 1st. The Department will notify the applicant after the inspection has been completed.
To comply with 12.2.1 Applicant's Handbook (A.H.) (SJRWMD) there must be a minimum clearance of one foot between the deepest draft of the vessel and the top of the resources.
17. Your project is within an Outstanding Florida Water (OFW), and your project must be shown to be clearly in the public interest. Please demonstrate that your project is clearly in the public interest.

In determining whether a project is clearly in the public interest, the department will consider and balance the following criteria:

- Whether the project will adversely affect the public health, safety, or welfare or the property of others;
- Whether the project will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
- Whether the project will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;

4. Whether the project will adversely affect the fishing or recreational values or marine productivity in the vicinity of the project;
 5. Whether the project will be of temporary or permanent nature;
 6. Whether the project will adversely affect or will enhance significant historical and archeological resources under the provisions of section 267.061; and
 7. The current condition and relative value of functions being performed by areas affected by the proposed activity. [See 373.414, F.S.]
18. The following was not clearly provided as requested in the March 20th RAI:
Please clearly delineate which mitigation projects proposed are to be used as mitigation for the impacts to wetlands and on-site surface water and which are to demonstrate that the project is clearly in the public interest.
19. The applicant's response item # 33 states the following regarding "public benefits resulting from the project", "Approximately \$3,800,000.00 purchase savings for taxpayer to purchase, preserve, enhance, and restore 14+ acres of impounded salt marsh (price is based upon impoundment sale in 2006 @ \$250k/ac. and cost of additional mitigation onsite)". Please provide specific details to exactly what this statement is describing.
20. Please note that the applicant must provide separate mitigation and public interest projects for the impacts to wetlands and surface waters above the mean high water level and the impacts to the river bottom of the Indian River Aquatic Preserve and the resources.
21. The list of items in the applicant's response item # 33 does not include accompanying details or figures. Please provide details to each item listed. For example, please provide details, diagram of the new seagrass and manatee signs at the existing public park. Where are they going? Are there existing signs at the facility? Please note that Florida Fish & Wildlife Conservation Commission has approved signage for both seagrass and manatees.

Please remember that a RIM plan is not appropriate for this site and must be removed from the mitigation proposal.

STORMWATER TREATMENT

(Chapters 62-330, 62-343, 40C-4, 40C-40, and 40C-42, F.A.C.)

-
22. Please provide either a full-sized or 11" X 17" drawing that shows the various basins described in pages 3 through 6 of the stormwater calculations. The drawing must have a clear and consistent scale. The 8½" X 11" nodal diagrams are not sufficient to verify basin areas.
 23. Please revise drawings to include areas of "Existing stabilized pathway" and any areas that are claimed as existing impervious. These areas should be shown with cross-hatching, stippling, or shading so that they are clearly differentiated from other areas on the drawings. Note that if these areas will be disturbed or will be subject to regular

- vehicular traffic, then appropriate stormwater treatment to current criteria must be provided.
24. The areas of the houses were not included as impervious surface in the calculations of required water quality treatment volume. Under the rules and St. Johns River Water Management District (SJRWMD), roof areas must be included as impervious surface. Even though the proposed homes will be elevated, the roof areas will concentrate pollutants which will then be flushed off during a rain event. Please revise the design calculations and engineering drawings to include the area of the proposed houses as impervious surface.
 25. Are roof drains anticipated? Explain in detail how the runoff from the roofs will be captured and treated by the proposed stormwater systems. Revise engineering drawings to depict the location of the proposed roof drains. If necessary, revise stormwater calculations accordingly and resubmit.
 26. It is unclear why the concrete pool deck areas were considered "open area" and not impervious area in the stormwater calculations. Please revise the calculations and resubmit.
 27. It is not appropriate to include the swimming pools as part of the retention volume for the stormwater treatment system as appears to have been done. Please revise the calculations and resubmit.
 28. Please provide plan view drawings of each retention area (in close up) with sufficient topographic information to verify the stage/storage information provided in the engineering calculations.
 29. Please revise the engineering drawings to include, in full detail, cross-sections of each retention area including, but not limited to, the side slopes and the elevations for bottom of the ponds, the top of the bank, the seasonal high ground water table elevation (SHGWT), and the water table elevation found at the time of the geotechnical investigation. Also, include any other substantial characteristics for all the cross-sections.
 30. The driveway for Tract 3 (the northern lot) is not sloped to direct stormwater runoff into the retention area. Please revise the design and resubmit.
 31. Is stormwater treatment in any wetland area proposed? Treatment of stormwater in natural wetlands is not appropriate. Please revise the design and resubmit.
 32. The projects, as proposed, will result in highly impervious areas subject to vehicular traffic. Revise the design of the overflow structures for the dry retention ponds to include mechanisms suitable for preventing oils, greases, and floating trash from leaving the retention areas.
 33. How will the dry retention areas be stabilized? Will they be seeded or sodded? What species will be used to survive the high salt concentrations at the site?

34. Please provide 1 copy of the standard construction/installation practices and specifications used by the Indian River Mosquito Control District for installation of the proposed cross culverts. If this information is voluminous, please provide on a CD.
35. Please provide the input and output files for the ICPR routing analyses on a CD.
36. As noted in item #2, above, based on the current operating agreement between the Department and the SJRWMD, the Department cannot permit road improvements [<http://www.dep.state.fl.us/water/wetlands/erp/rules/guide.htm>]. All road improvement details and notations must be removed from all drawings.
37. To what datum is the elevation information on the drawings and in the geotechnical report referenced? Is it NGVD 29 or NAVD 88 or something different?
38. Please submit a copy of the geotechnical report that has been signed, sealed and dated by the registered professional engineer.
39. Where will the fill material for the proposed project be obtained? Please provide detailed specifications for the fill material to be used.
40. Item #2 of the previous RAI was not addressed. The reviewer has contacted staff in the Palm Bay office of the SJRWMD and has received concurrence that compensatory storage volume is appropriate for projects in this area. This request is also consistent with other projects in the area that the Department has reviewed. Please demonstrate that appropriate compensating storage is provided for proposed fill impacts to the regulated floodplain.
41. The reviewer was unable to verify that sufficient water quality treatment volume will be provided by the proposed design. Please revise the stormwater calculations and engineering drawings based on the comments above and resubmit.
42. The reviewer was unable to verify that the required water quality treatment volume will recovery within 72 hours following a storm event. Please revise the stormwater calculations and engineering drawings based on the comments above and resubmit.
43. Please revise the ICPR routing analyses based on the comments above and resubmit.
44. Demonstrate that issues regarding any potential impacts to historical or archaeological resources have been appropriately addressed with the Florida Department of State, Division of Historical Resources. A written response from DOS/DHR that any concerns have been addressed must be provided.
45. Demonstrate that issues regarding the project's potential impacts to threatened and endangered species have been appropriately addressed with the Florida Fish and Wildlife Conservation Commission's Bureau of Protected Species Management, Division of Wildlife.
46. Please submit only two copies of the response to this RAI. Submit two copies of any revised drawings in full size, signed, dated and sealed by the professional engineer of record. Also provide one set of engineering drawings in reduced size (11" X 17").

Oculina Bank (Osprey Estates)

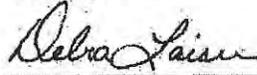
File No.: 31-0294393-001

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The Department reserves the right to request additional information once the responses to this request have been received. Any application, which has not been technically completed within 90 days from the date of receipt of a request for additional information by the Department, may be denied. In order to expedite the review of your application, use the application number 31-0294393-001 on all correspondence, and submit one copy of all requested information.

If you have questions, please do not hesitate to contact me at 407/893-7874, or by email at Debra.Laisure@floridadep.net.

Sincerely,



Debra Laisure, P.E.
Manager of Engineering Support
Submerged Lands and Environmental
Resources Program

Cc: Chris Boland, (Chris.Boland@myFWC.com)
Tamy Dabu, ACOE-Merritt Island (tamy.s.dabu@usace.army.mile)
Timothy McGarry, City of Vero Beach-Planning & Development, tmcgarry@covb.org
Roland Deblois, Indian River County, rdeblois@ircgov.com

List of Exhibits

Exhibit

- 1 General Location Map
 - 2 Future Land Use Map (Amendment #C09-000005)
 - 3 Location Map of Amendment #C09-000005
 - 4 Future Land Use Map (Amendment #C09-000007)
 - 5 Future Land Use Map (Amendment #C09-000008)
 - 6 Location Map of Amendment #C09-000008)
-

Exhibit I
General Location Map
City of Vero Beach

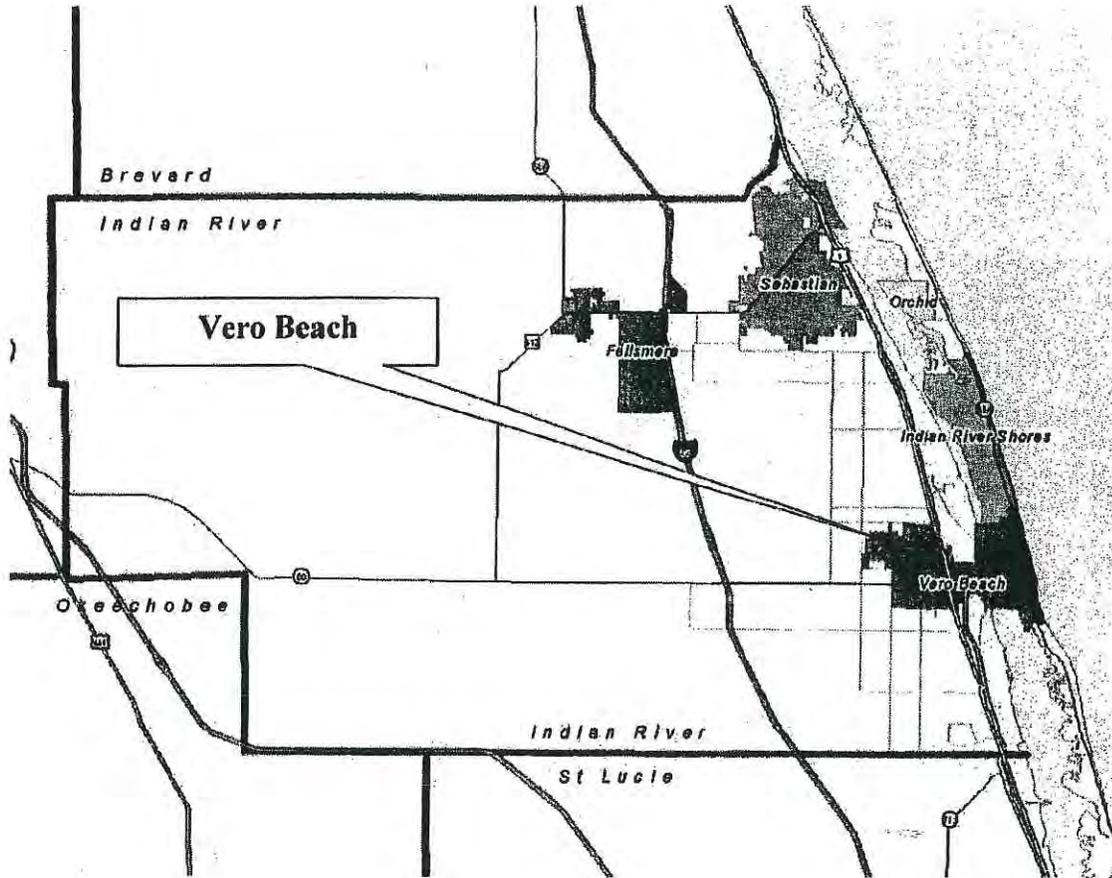
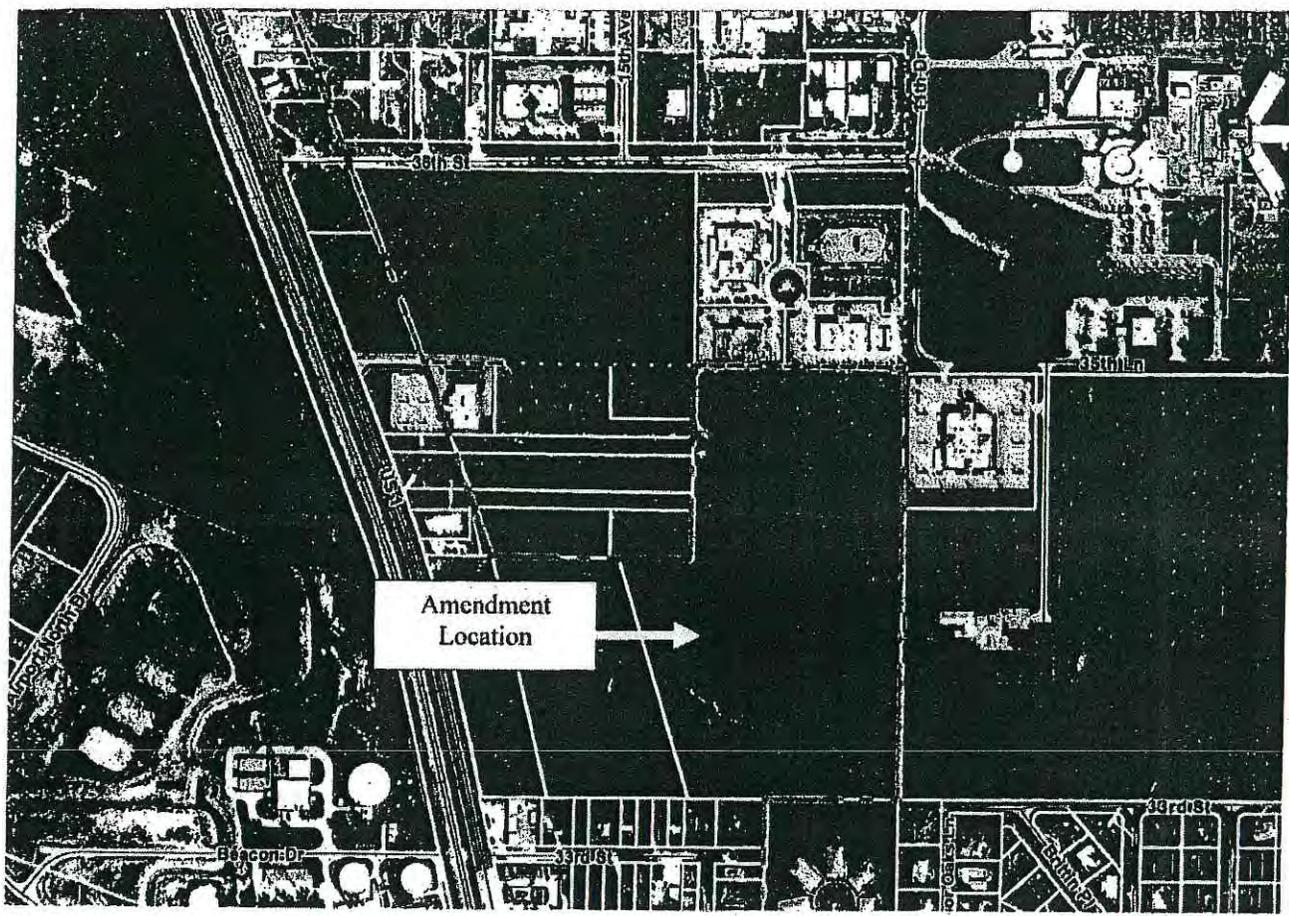
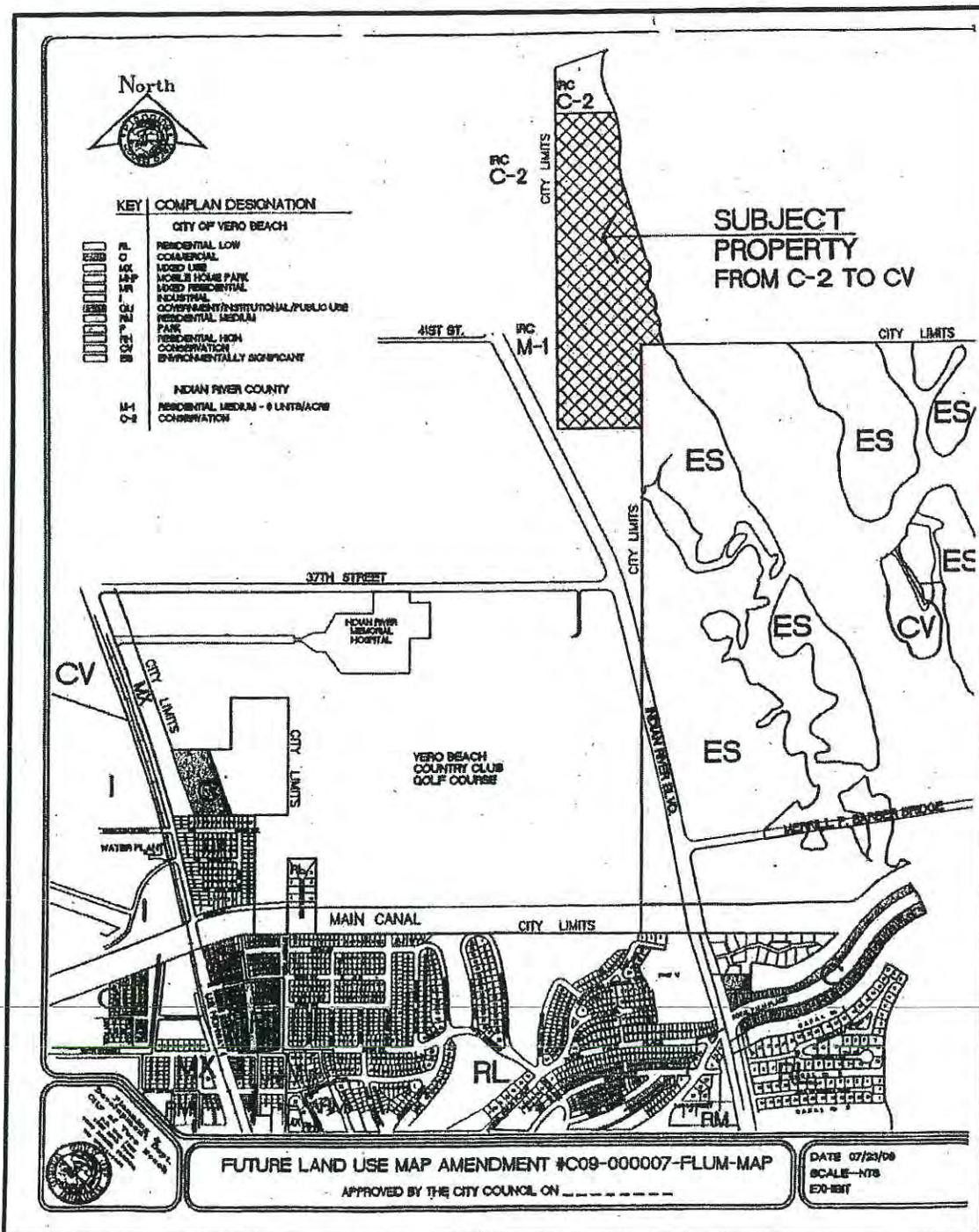


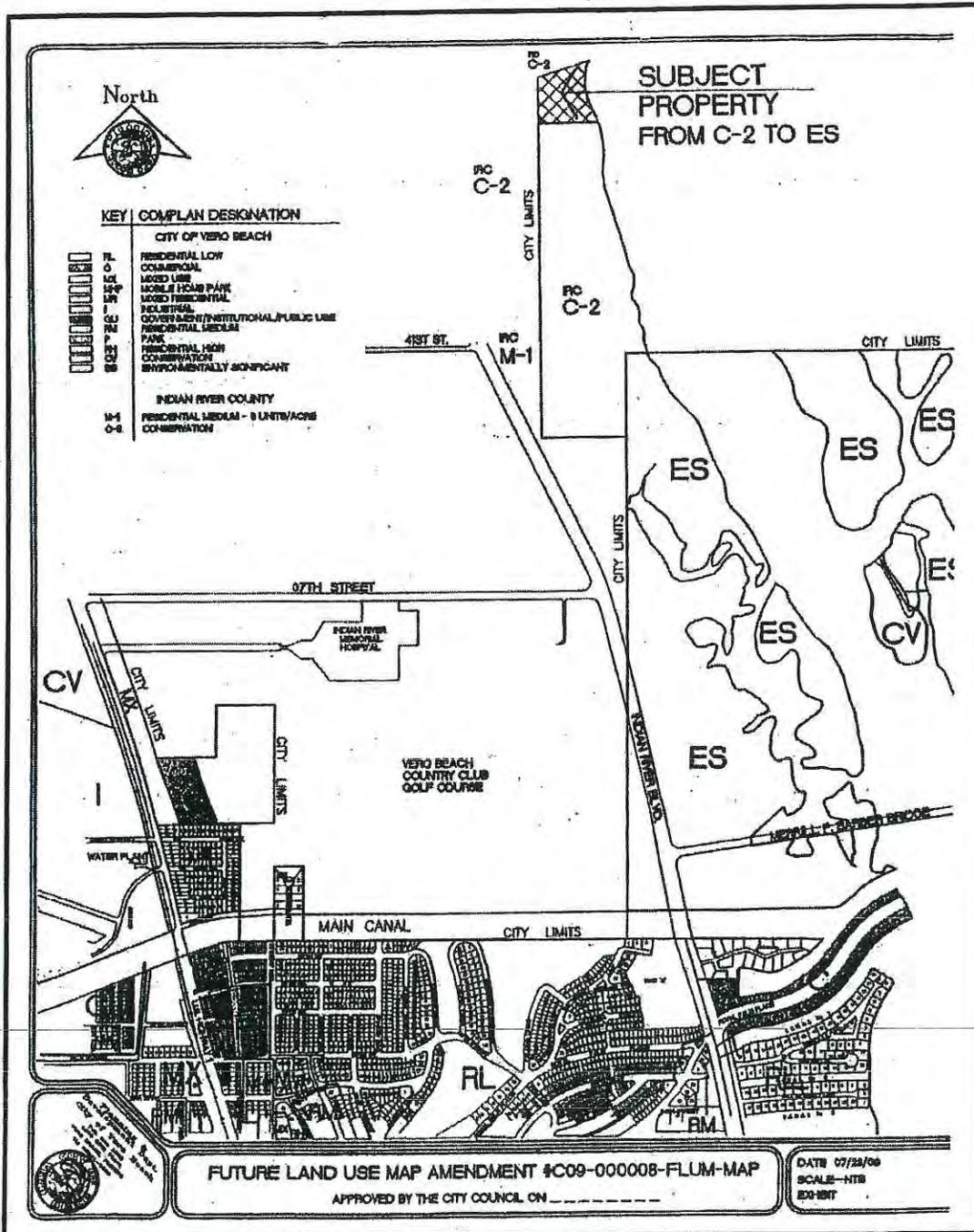
Exhibit 3
Location of Amendment #C09-000005



**Exhibit 4
Future Land Use Map
(Amendment #C09-000007)**



**Exhibit 5
Future Land Use Map
(Amendment #C09-000008)**



3-D)
and
3-E)



ATTACHMENT A

Large Scale Future Land Use Map Amendment to
Designate 16.7 Acres ES (Environmentally Significant) and
Zoning Map Amendment to Designate those Acres
R-1AAA (Single Family Residential)

City of Vero Beach City Council
Adopted _____, 2010



DEPARTMENTAL CORRESPONDENCE

TO: Chairman Ryan and Members of the Planning and Zoning Board

THROUGH: Timothy J. McGarry, AICP
Planning and Development Director

FROM: Hank Flores, AICP
Current Planning Manager

DATE: July 28, 2009

SUBJECT: Large Scale Future Land Use Map Amendment to Designate 16.7 acres to ES (Environmentally Significant) and Zoning Map Amendment to Designate those acres to R-1AAA

Future Land Use Map Number: C09-000008-FLUM-MAP
Zoning Map Amendment Number: Z09-000014-MAP

Overview

This staff sponsored request is for approval of a large-scale (involving more than 10 acres) Future Land Use Map amendment and Zoning District Map amendment for property annexed into the City in 2007. This report provides: 1) description and conditions information on the amendment; and 2) review of impacts, consistency, and compatibility of amendment. The report concludes with staff's recommendation.

The proposed Future Land Use Map and Zoning Map designations are comparable with the County's Future Land Use Map and Zoning Map designations for the subject property, which is consistent with adopted City Council policies on land use and zoning designation for annexed properties.

Description and Conditions

The property was annexed into the City on August 21, 2007. Per Florida Statute Section 171.062(2), land annexed into municipalities remains under county land use and zoning jurisdiction until the annexing municipality adopts comprehensive plan amendments to include

the annexed area. However, beginning in July 2006, the City was not allowed to make amendments to its Comprehensive Plan due to noncompliance with state statutes dating back to 1999 and changes to the Chapter 163, FS. In early 2008, the City adopted and transmitted required Comprehensive Plan amendments to the Florida Department of Community Affairs (DCA). On April 1, 2008, the City was notified of its compliance with an effective date of April 24, 2008. With the approval of EAR-based amendments in 2008 and recent Senate Bill 360 in 2009, the City was able to move forward with amendments.

Background on Subject Property

Amendment/Zoning:	Between 45 th Street and Gifford Dock Road along the western shore of the Indian River. Annexed into City on August 21, 2007, by City Ordinance No. 2007-11. The land is currently owned by Oculina Bank, a Florida limited liability company and was formerly owned by Stephen Jankun of Lobo Properties North, Inc.
Land Area:	Three parcels containing 16.7 acres.
Location:	East/south side of Gifford Dock Road. Bounded on the south side by a Florida Department of Transportation (FDOT) drainage canal and to the east by the Indian River.
Existing County Future Land Use Designation:	The property is designated C-2, Conservation.
Proposed City Future Land Use Designation:	ES, Environmentally Significant
Existing County Zoning:	The property is zoned RM-6, Multiple-Family Residential (six units per acre).
Proposed City Zoning:	R-1AAA, Single-Family Residential
Surrounding Existing Land Use Pattern:	North – County, (RM-6, Multiple Family Residential), Grand Harbor South - City, (Proposed P-1 Currently RM-6) Vacant East – Indian River West - County, (RM-6, Multiple Family Residential), Grand Harbor

Environment

The subject property has been utilized as a mosquito impoundment since the 1950's and is surrounded by an upland dike, ditches, borrow areas, and the eastern extension of Gifford Dock Road. A second berm exists along the eastern shoreline of the impoundment. The area within the impoundment consists of isolated wetlands of reduced wetland value. There is no direct connection between the subject property and the Indian River lagoon.

According to Flood Insurance Rating Maps, the parcel is within the AE-7 and AE-8 Flood Zones, which are considered flood hazard areas. The site lies along the mid coastal ridge.

Utilities and Services

The property is within the Urban Service Area of the city and adjacent to the City's current water and sewer service area and capacity is available in the system to provide necessary services. The property is located within the City's Electric Service Area.

Transportation System

The subject property is bounded on the west and northwest sides by Gifford Dock Road (the eastern extension of Gifford Dock Road is located on the subject property and is maintained by Indian River County), on the east side by the Indian River lagoon, and on the south side by the an FDOT (Florida Department of Transportation) outfall canal. Gifford Dock Road intersects with 45th Street.

Review of Impacts on Facilities, Consistency, and Compatibility

In this section, an analysis of the reasonableness of the land use amendment request will be presented. Specifically, this analysis will address:

- Impacts on available public facilities;
- Consistency with the City's comprehensive plan; and
- Compatibility with the surrounding area.

Available Public Facilities

The request is to designate the land use designation on 16.7 acres from C-2, Conservation-2 - one unit per 40 acres - to ES, Environmentally Significant - one unit per two acres. For this land use amendment request, a comparison of the county and city regulations in relation to the maximum number of units that could be built on the site, given the size of the property and the maximum density allowed under the proposed land use designation. The site information used for the analysis is as follows:

1. Existing County Land Future Use Designation: **C-2 (Conservation - one unit per 40 acres)**
2. Use under Existing County Zoning Designation: **RM-6 (Multiple Family Residential - up to six units per acre)**
3. Proposed City Future Land Use Designation: **ES (Environmentally Significant –up to one unit per two acres)**
4. Use under Proposed City Zoning Designation: **R-1AAA (Single Family Residential – up to one unit per two acres)**

As indicated in the analysis described above, the total number of residential units possible under the proposed Future Land Use and Zoning designations would decrease with the proposed amendment.

A review of the proposed land use amendment and decrease in density potential indicates there will not be an adverse effect on service levels for any public facility as a result of the land use designation amendment. As with all projects, a detailed concurrency analysis will be done in conjunction with site development. That concurrency analysis will address facility service levels and demand.

Consistency with Comprehensive Plan

Land Use Element Policy 1.5 states that the Environmentally Significant (ES) Future Land Use designation shall be applied to areas of the City, which are suitable for single-family residential uses with very low density (one unit per two acres), based on access to adequate public utilities, good street access, and areas which are a transition between single family and more intensive uses.

The subject property is located within the urban service area, and has access to adequate public utilities and street access. The property is located in an area that is considered a transition area between single family and less intensive residential uses. Located near existing low and medium density residential development, the property is appropriate for residential development with densities of up to one unit per two acres. The proposed amendment would allow the lowest possible residential development allowed by the Code of Ordinances on the subject property. Therefore, the proposed amendment is consistent with Land Use Element Policy 1.5.

The proposed amendment would result in a reduced number of potential residential units. Based on the proposed Future Land Use and Zoning District designations, one unit per two acres might be possible. Taking into account the environmental restrictions of the property, other applicable regulations of the Code of Ordinances, as well as Indian River County requirements, a maximum of three (3) residential units – one on each lot – would be permitted from the proposed designations.

Compatibility with the surrounding area

Overall, there will be no significant change in the compatibility of the subject property with the surrounding properties. The annexed property is adjacent to vacant property to the south and west, the Indian River to the east, and Grand Harbor to the north-northwest.

Conclusion

The proposed amendment is consistent with the comprehensive plan, compatible with the surrounding land uses, and is not expected to cause adverse impacts on the environment or the provision of public services.

Recommendation

Based on the analysis, the staff recommends that the Planning and Zoning Board acting as the Local Planning Agency recommend that the City Council approve the proposed Future Land Use Map amendment and the Zoning Map amendment designating the subject 16.7 acres to ES (Environmentally Significant) and zoning to R-1AAA, respectively.

Please let this office know if you have any questions.

Attachments

3-D)

ORDINANCE NO. 2010 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP BY CHANGING THE LAND USE DESIGNATION OF ANNEXED LAND FROM INDIAN RIVER COUNTY DESIGNATION OF C-2 (CONSERVATION-2) TO A COMPARABLE CITY OF VERO BEACH DESIGNATION OF ES (ENVIRONMENTALLY SIGNIFICANT) FOR THE PROPERTY CONSISTING OF THREE SEPARATE PARCELS, LOCATED BETWEEN 45TH STREET AND GIFFORD DOCK ROAD ALONG THE WESTERN SHORE OF THE INDIAN RIVER, INCLUDING A PORTION OF GOVERNMENT LOT 3 LYING IN SECTION 24, TOWNSHIP 32 SOUTH, RANGE 39 EAST, CONTAINING 16.7 ACRES, MORE OR LESS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the City of Vero Beach Comprehensive Plan on July 21, 1992; and

WHEREAS, Sections 163.3184, 163.3187 and 163.3189, Florida Statutes, and Chapter 9J-5, Florida Administrative Code, provide authority to adopt this Ordinance amending the Comprehensive Plan; and

WHEREAS, the Planning and Zoning Board, acting as the Local Planning Agency, held a public hearing on the comprehensive plan amendment request on August 6, 2009, after due public notice; and

WHEREAS, the Planning and Zoning Board made a recommendation that the City Council adopt the comprehensive plan amendment listed below and transmit same to the Florida Department of Community Affairs; and

WHEREAS, the Vero Beach City Council held a Transmittal Public Hearing on September 15, 2009, after advertising pursuant to Section 163.3184(15)(b)(1), Florida Statutes; and

WHEREAS, the City Council approved the transmittal of the comprehensive plan amendment to the Florida Department of Community Affairs for review; and

WHEREAS, the City Council announced at the transmittal public hearing the intention to hold and advertise a final public hearing at the adoption stage of the plan amendment; and

WHEREAS, the Florida Department of Community Affairs received the complete Comprehensive Plan Amendment on September 28, 2009, pursuant to Section 163.3184(4), Florida Statutes; and

WHEREAS, the Florida Department of Community Affairs reported a finding of no objections following review of the proposed Comprehensive Plan amendment and documented the same in correspondence dated December 1, 2009.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Comprehensive Plan Amendment Adoption and Transmittal

The amendment to the Vero Beach Comprehensive Plan identified in Section 2 is hereby adopted, and three (3) copies are to be transmitted to the State of Florida Department of Community Affairs and one (1) copy each is to be transmitted to the Treasure Coast Regional Planning Council and Indian River County.

Section 2. Amendment to the Future Land Use Map

The Future Land Use Map designation for the property, more particularly described in the attached Exhibit "A," is hereby changed from that of Indian River County designation of C-2 (Conservation-2, 1 unit per 40 acres), to the City of Vero Beach designation of ES, Environmentally Significant (one unit per two acres), as graphically depicted in the attached Exhibit "B."

[SEE ATTACHED EXHIBIT "A"]

Property Description, Voluntary Annexation #2006-AX-02

[SEE ATTACHED EXHIBIT "B"]

Location and Future Land Use Designation of Subject Property and Surrounding Properties

Section 3. Authorization to Transmit Plan Amendment

The City Planning and Development Director is directed to transmit a certified copy hereof to the authorities designated under Section 163.3184(3) Florida Statutes, and proceed herewith in accordance with the provisions of Chapter 163, Part II, Florida Statutes.

Section 4. Effective Date

The effective date of this ordinance and, therefore, this plan amendment shall be the date a final order is issued by the Florida Department of Community Affairs or Administration Commission finding the amendment in compliance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier.

This Ordinance was read for the first time on the ____ day of _____, 2009, and was advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a public hearing to be held on the ____ day of _____, 2009, and was also advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a second public hearing to be held on the ____ day of _____, 2010,

at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

Mayor Kevin Sawnick

Yes

No

Vice Mayor Sabin C. Abell

Yes

No

Councilmember Thomas P. White

Yes

No

Councilmember Brian T. Heady

Yes

No

(Vacant)

Yes

No

ATTEST:

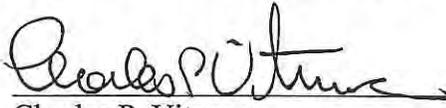
CITY OF VERO BEACH, FLORIDA

Tammy K. Vock
City Clerk

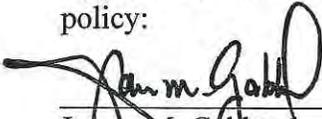
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to municipal policy:

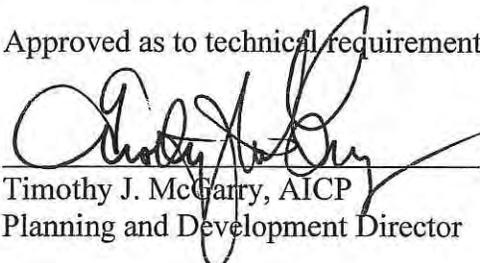


Charles P. Vitunac
City Attorney



James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

EXHIBIT "A"
PROPERTY DESCRIPTION
VOLUNTARY ANNEXATION #2006-AX-02
PORTION OF GOVERNMENT LOT 3, SECTION 24-32-39

Situated in the State of Florida, County of Indian River, and being a portion of Government Lot 3, Section 24, Township 32 South, Range 39 East, and being more particularly bounded and described as follows:

Beginning at the Southwest corner of Government Lot 3, Section 24, Township 32 South, Range 39 East, said point being the south quarter corner of said Section 24;

Thence North 00°04'13" West along the west line of said Government Lot 3 for a distance of 665.74 feet;

Thence North 60°21'52" East for a distance of 748.65 feet to an intersection with the survey control line;

Thence South 17°09'57" East along said survey control line for a distance of 793.95 feet;

Thence South 19°10'05" East for a distance of 307.42 feet to a point on the south line of said Government Lot 3;

Thence North 89°14'33" West along the south line of said Government Lot 3 for a distance of 968.00 feet to the Point of Beginning;

Containing 16.69 acres more or less.



David R. Gay, PSM #5973



The seal is circular with a double border. The outer border contains the text "DAVID R. GAY" at the top and "Professional Surveyor" at the bottom. The inner border contains "STATE OF FLORIDA" at the top and "LICENSE #5973" at the bottom. The center of the seal contains the word "CERTIFICATE".

N:_ADMINISTRATIVE\Property Descriptions\2007\2006AX02.LoboProperties.portion Govt Lot 3.June8 2007.doc

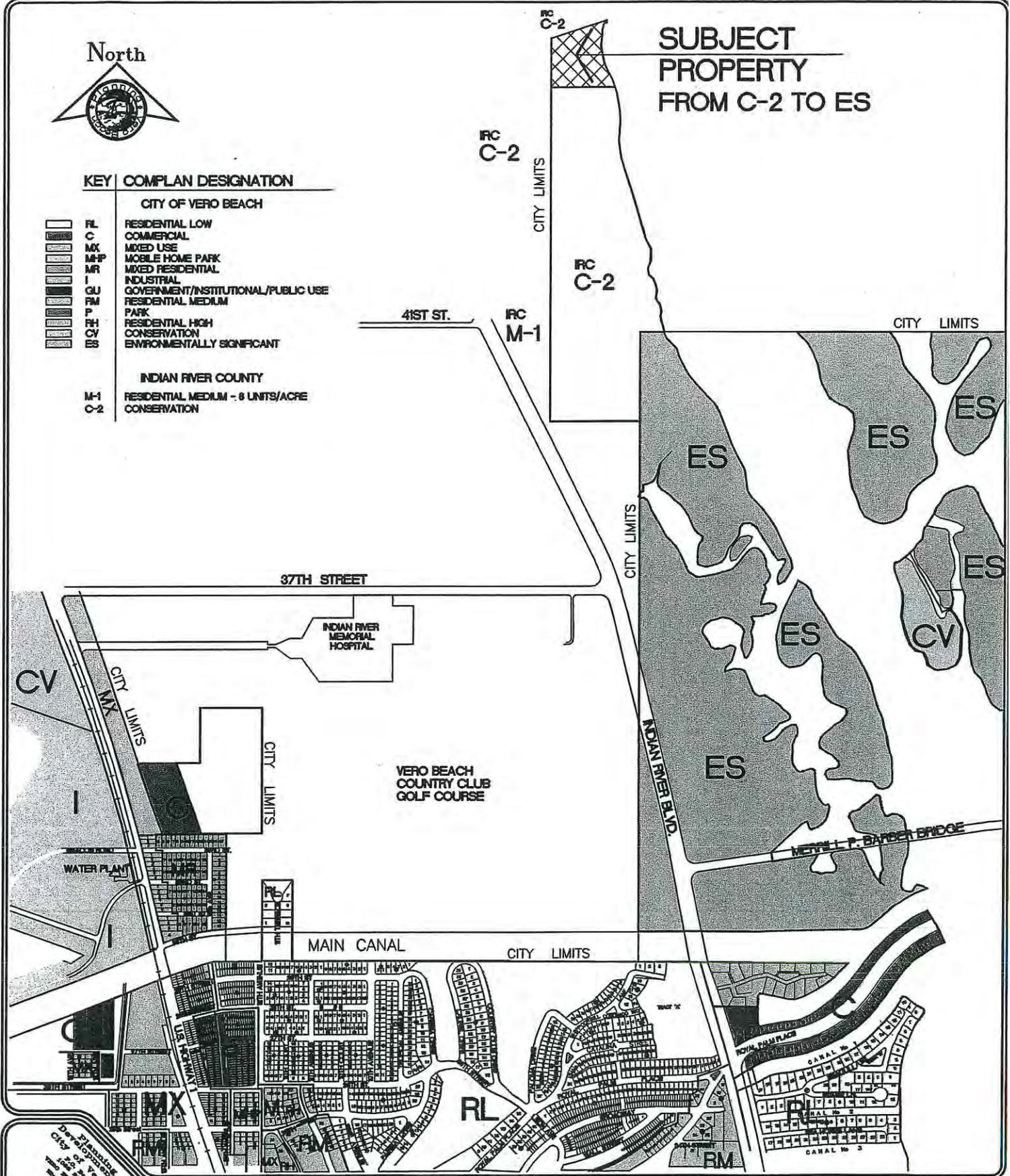
North



SUBJECT PROPERTY FROM C-2 TO ES

KEY COMPLAN DESIGNATION

CITY OF VERO BEACH	
FL	RESIDENTIAL LOW
C	COMMERCIAL
MX	MIXED USE
MP	MOBILE HOME PARK
MR	MIXED RESIDENTIAL
I	INDUSTRIAL
GU	GOVERNMENT/INSTITUTIONAL/PUBLIC USE
FM	RESIDENTIAL MEDIUM
P	PARK
RH	RESIDENTIAL HIGH
CV	CONSERVATION
ES	ENVIRONMENTALLY SIGNIFICANT
INDIAN RIVER COUNTY	
M-1	RESIDENTIAL MEDIUM - 8 UNITS/ACRE
C-2	CONSERVATION



Planning Dept.
City of Vero Beach
225 West 1st Street
Vero Beach, FL 32980
386-239-1111



FUTURE LAND USE MAP AMENDMENT #C09-000008-FLUM-MAP

APPROVED BY THE CITY COUNCIL ON _____

DATE 07/28/09
SCALE-NTS
EXHIBIT B

3-E)

ORDINANCE NO. 2010 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING MAP BY CHANGING THE DESIGNATION OF ANNEXED LAND FROM INDIAN RIVER COUNTY DESIGNATION OF RM-6 (MULTIPLE FAMILY RESIDENTIAL) TO A COMPARABLE CITY OF VERO BEACH DESIGNATION OF R-1AAA (SINGLE FAMILY RESIDENTIAL), FOR THE PROPERTY CONSISTING OF THREE SEPARATE PARCELS LOCATED BETWEEN 45TH STREET AND GIFFORD DOCK ROAD ALONG THE WESTERN SHORE OF THE INDIAN RIVER, INCLUDING A PORTION OF GOVERNMENT LOT 3 LYING IN SECTION 24, TOWNSHIP 32 SOUTH, RANGE 39 EAST, CONTAINING 16.7 ACRES, MORE OR LESS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 171.044, Florida Statutes, provides for voluntary annexation of property into a municipality; and

WHEREAS, the city received a voluntary annexation application for the property described herein and the city annexed said property on August 21, 2007, Ordinance No. 2007-11; and

WHEREAS, pursuant to Section 171.062(2), Florida Statutes, land annexed into municipalities remains under county land use and zoning jurisdiction until the annexing municipality adopts comprehensive plan amendments to include the annexed area; and

WHEREAS, the Vero Beach City Council has adopted the large scale amendment to the Comprehensive Plan Future Land Use Map to designate this property from Indian River County designation C-2, Conservation, to the City of Vero Beach designation of ES, Environmentally Significant; and

WHEREAS, the Planning and Zoning Board held a public hearing on the zoning map designation on August 6, 2009, and made a recommendation to the Vero Beach City Council; and

WHEREAS, after the Vero Beach City Council finds the proposed amendment to the Official Zoning Map to be consistent with the Future Land Use Map and the goals, objectives, and policies of the Comprehensive Plan;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Zoning Map Designation

The Official Zoning Map designation, for the properties more particularly described in the attached Exhibit "A," is hereby changed from that of Indian River County designation RM-6, Multiple Family Residential, to the City of Vero Beach designation of R-1AAA, Single Family Residential, as graphically depicted in the attached Exhibit "B."

[SEE ATTACHED EXHIBIT "A"]

Property Description

[SEE ATTACHED EXHIBIT "B"]

Location and Zoning of Subject Property and Surrounding Properties

Section 2. Effective Date

This ordinance shall become effective upon the effective date of the large scale comprehensive plan amendment.

This Ordinance was read for the first time on the ____ day of _____, 2009, and was advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a public hearing to be held on the ____ day of _____, 2009, and was also advertised in the Indian River Press Journal on the

day of _____, 2009, as being scheduled for a second public hearing to be held on the ____ day of _____, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Sabin C. Abell	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Thomas P. White	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vacant)	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

**CITY OF VERO BEACH,
FLORIDA**

Tammy K. Vock
City Clerk

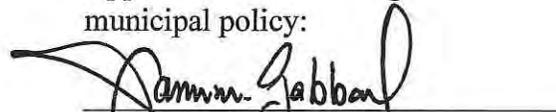
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to
municipal policy:



Charles P. Vitunac
City Attorney



James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

EXHIBIT "A"
PROPERTY DESCRIPTION
VOLUNTARY ANNEXATION #2006-AX-02
PORTION OF GOVERNMENT LOT 3, SECTION 24-32-39

Situated in the State of Florida, County of Indian River, and being a portion of Government Lot 3, Section 24, Township 32 South, Range 39 East, and being more particularly bounded and described as follows:

Beginning at the Southwest corner of Government Lot 3, Section 24, Township 32 South, Range 39 East, said point being the south quarter corner of said Section 24;

Thence North 00°04'13" West along the west line of said Government Lot 3 for a distance of 665.74 feet;

Thence North 60°21'52" East for a distance of 748.65 feet to an intersection with the survey control line;

Thence South 17°09'57" East along said survey control line for a distance of 793.95 feet;

Thence South 19°10'05" East for a distance of 307.42 feet to a point on the south line of said Government Lot 3;

Thence North 89°14'33" West along the south line of said Government Lot 3 for a distance of 968.00 feet to the Point of Beginning;

Containing 16.69 acres more or less.


David R. Gay, PSM #5978



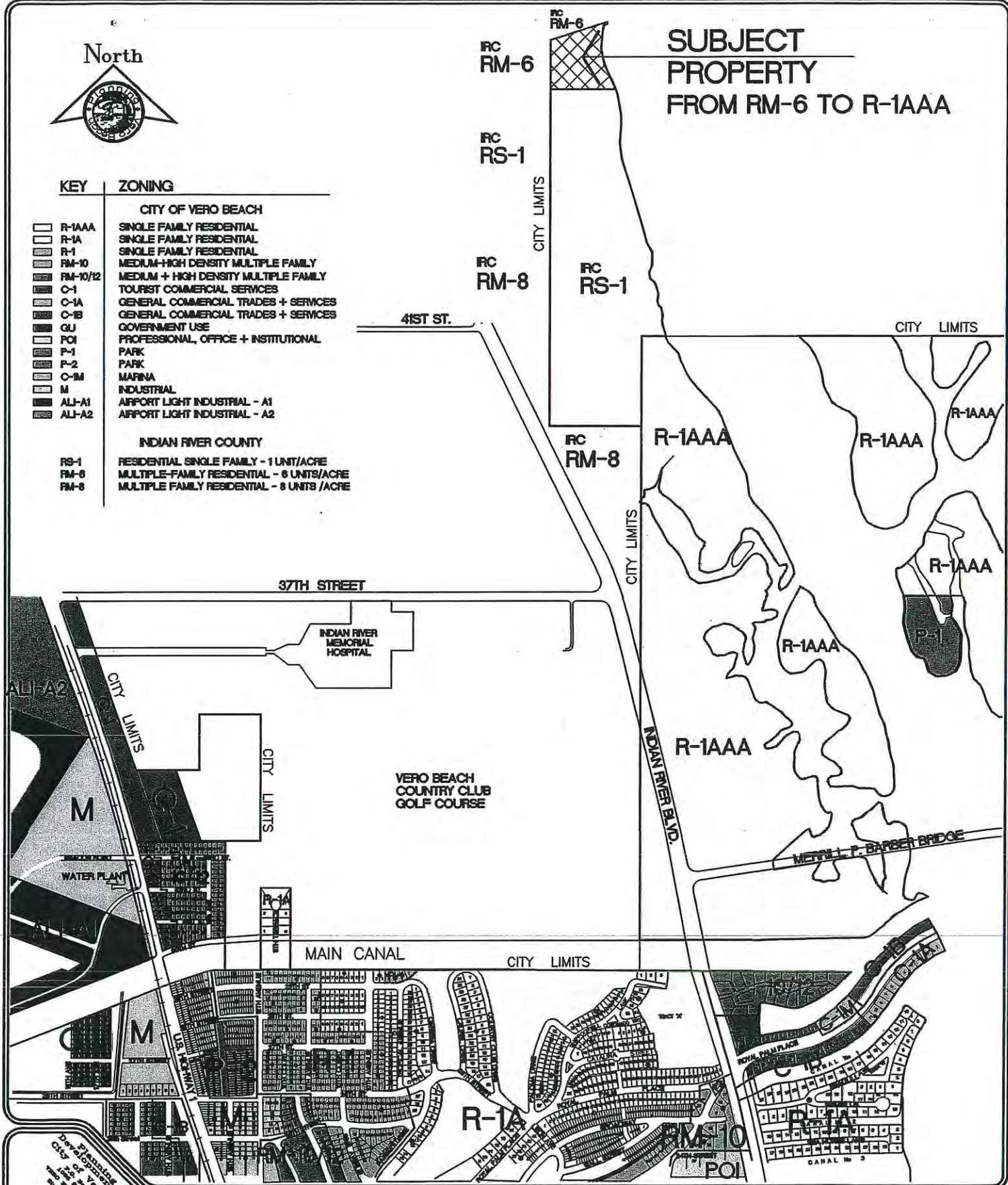
North



SUBJECT PROPERTY FROM RM-6 TO R-1AAA

KEY ZONING

KEY	ZONING
CITY OF VERO BEACH	
[Symbol]	R-1AAA SINGLE FAMILY RESIDENTIAL
[Symbol]	R-1A SINGLE FAMILY RESIDENTIAL
[Symbol]	R-1 SINGLE FAMILY RESIDENTIAL
[Symbol]	RM-10 MEDIUM-HIGH DENSITY MULTIPLE FAMILY
[Symbol]	RM-10/12 MEDIUM + HIGH DENSITY MULTIPLE FAMILY
[Symbol]	C-1 TOURIST COMMERCIAL SERVICES
[Symbol]	C-1A GENERAL COMMERCIAL TRADES + SERVICES
[Symbol]	C-1B GENERAL COMMERCIAL TRADES + SERVICES
[Symbol]	QU GOVERNMENT USE
[Symbol]	POI PROFESSIONAL, OFFICE + INSTITUTIONAL
[Symbol]	P-1 PARK
[Symbol]	P-2 PARK
[Symbol]	C-M MARINA
[Symbol]	M INDUSTRIAL
[Symbol]	ALI-A1 AIRPORT LIGHT INDUSTRIAL - A1
[Symbol]	ALI-A2 AIRPORT LIGHT INDUSTRIAL - A2
INDIAN RIVER COUNTY	
[Symbol]	RS-1 RESIDENTIAL SINGLE FAMILY - 1 UNIT/ACRE
[Symbol]	RM-6 MULTIPLE-FAMILY RESIDENTIAL - 6 UNITS/ACRE
[Symbol]	RM-8 MULTIPLE FAMILY RESIDENTIAL - 8 UNITS /ACRE



Planning Dept.
City of Vero Beach
125 West 1st Street
Vero Beach, FL 32980
Tel: 888-367-7272

ZONING MAP AMENDMENT # Z09-000014
APPROVED BY THE CITY COUNCIL ON _____

DATE 07/28/09
SCALE-NTS
EXHIBIT B

3-F)
and
3-G)



ATTACHMENT B

Large Scale Future Land Use Map Amendment
To Designate 124 Acres CV (Conservation) and
Zoning Map Amendment to Designate those
Acres P-1 (Park-Conservation)

City of Vero Beach City Council
Adopted _____, 2010



DEPARTMENTAL CORRESPONDENCE

TO: Chairman Ryan & Members of the Planning and Zoning Board

THROUGH: Timothy J. McGarry, AICP
Planning and Development Director

FROM: Gayle A. Lafferty
Planner

DATE: July 16, 2009

SUBJECT: Large Scale Future Land Use Map Amendment to Designate 124 Acres CV and Zoning Map Amendment to Designate those acres P-1. General Location: 45th St./Indian River Boulevard. Future Land Use Map Number: C09-000007-FLUM-MAP; and Zoning Map Amendment Number Z09-000013].

Overview

This staff sponsored request is for approval of a large-scale (involve more than 10 acres) Future Land Use Map amendment and Zoning Map Amendment for a property annexed into the City in 2007. This report provides: 1) description and conditions information on the amendment; 2) review of impacts, consistency and compatibility of amendment. The report concludes with staff's recommendation of approval.

The proposed Future Land Use Map and Zoning Map designations are comparable with the County's Future Land Use Map and Zoning Map designations for the subject property, which is consistent with adopted City Council policies on land use and zoning designation for annexed properties.

Description and Conditions

The property was annexed into the City on May 1, 2007. Per Florida Statute Section 171.062(2), land annexed into municipalities remains under county land use and zoning jurisdiction until the annexing municipality adopts comprehensive plan amendments to include the annexed area. However, beginning in July 2006, the City was not allowed to

make amendments to its Comprehensive Plan due to noncompliance with state statutes dating back to 1999 and changes to the Chapter 163, FS. In early 2008, the City adopted and transmitted required Comprehensive Plan amendments to the Florida Department of Community Affairs (DCA). On April 1, 2008, the City was notified of its compliance with an effective date of April 24, 2008. With the approval of EAR-based amendments in 2008 and recent Senate Bill 360 in 2009, the City was able to move forward with amendments.

Background on Subject Property

Amendment/Zoning:	South of 45 th Street along western shore of Indian River. Annexed into City on May 1, 2007, by City Ordinance No. 2007-03. The land is owned by Chow, Gregory, Wilcox Partnership.
Land Area:	One vacant parcel of 124 acres.
Location:	Along the western shore of the Indian River, south of 45 th Street.
Existing County Future Land Use Designation:	The property is designated C-2, Conservation.
Proposed City Future Land Use Designation:	CV, Conservation.
Existing County Zoning:	The property is zoned RS-1, Single-Family Residential.
Proposed City Zoning:	P-1(Park-Conservation)
Surrounding Existing Land Use Pattern:	North – City, (RM-6, Multiple Family Residential), vacant land. South - City, (R-1AAA, Single Family Residential), vacant land, and County (RM-8, Multiple Family Residential), vacant land. East –City (R-1AAA, Single Family Residential), vacant land, and the Indian River West - County, (RS-1, Single Family Residential), vacant, and (RM-8, Multiple Family Residential), Homes for the Aged.

Planning and Zoning Board
45th St/Indian River Blvd
July 16, 2009

Figures 1 and 2 depict the general location and land use designation and zoning of the subject property and surrounding properties.

Environment

The site is a vacant property is a dedicated saltwater mitigation bank providing credits for development of properties that impact saltwater wetlands. According to Flood Insurance Rating Maps the parcel is within the AE-7 flood zone.

Utilities and Services

The property is within the Urban Service Area of the county and city. The property is within the City's water and sewer and electric service area.

Transportation System

The subject property is bounded on the east side by the Indian River and to the west by Indian River Boulevard which is an Indian River County Roadway.

Review of Impacts on Facilities, Consistency and Compatibility

In this section, an analysis of the reasonableness of the Future Land Use Map amendment request will be presented. Specifically, this analysis will address:

- Impacts on available public facilities;
- Consistency with the City's comprehensive plan; and
- Compatibility with the surrounding area.

Available Public Facilities

The request is to designate the land use designation on 124 acres CV, Conservation. For this land use amendment request, a comparison of the county and city regulations in relation to the maximum number of units that could be built on the site, given the size of the property and the maximum density allowed under the proposed land use designation. The site information used for the analysis is as follows:

1. Existing County Land **C-2 - Conservation**
Use Designation:
2. Use under Existing County **RS-1 - 1 unit/ acre**
Zoning Designation:
3. Proposed City Future Land : **CV - Conservation**
Use Designation

4. Use under Proposed City Zoning Designation: **P-1 - Park - Conservation**
0 Units/Acre, Vacant, wetlands

As indicated in the above analysis the proposed future land use designation will decrease the overall density of the subject property. The proposed City future land use designation is comparable to the County's; therefore the future impacts on public facilities, including schools, should not change with this request.

Consistency with Comprehensive Plan

Land Use Element Policy 1.2 states that the Conservation (CV) land use designation shall be applied to areas of the City which contain or possess lands with qualities and features that play an essential role in the normal function of the local, regional and Indian River Lagoon ecosystems. Lands designated as Conservation (CV) shall remain undeveloped. This land use category shall allow open space, conservation and compatible limited passive recreational uses. These lands are candidates for public acquisition.

The subject property is located within the urban service area, and has access to adequate public utilities, and good street access is available. The property is located in an area that is classified as wetlands (Estuarine/Marine and Freshwater Forested/Shrub Wetlands). The proposed amendment would allow this area to remain in a vacant state as a wetland. Therefore, the proposed amendments are consistent with Land Use Element Policy 1.2.

Compatibility with the surrounding area

Overall, there will be no change in the compatibility of the subject property with the surrounding properties. The annexed property is surrounded by vacant wetlands and a Home for the Aged.

Conclusion

The proposed amendment is consistent with the comprehensive plan, compatible with the surrounding land uses, and is not expected to cause adverse impacts on the environment or the provision of public services.

Recommendation

Based on the analysis, the staff recommends that the Planning and Zoning Board recommend that the City Council approve the proposed land use amendment and the zoning for designating 124 acres to CV, Conservation, and zoning those 124 acres to P-1, Park – Conservation.

Attachments

3-F)

ORDINANCE NO. 2010 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP BY CHANGING THE LAND USE DESIGNATION OF ANNEXED LAND FROM INDIAN RIVER COUNTY DESIGNATION OF C-2 (CONSERVATION) TO A COMPARABLE CITY OF VERO BEACH DESIGNATION OF CV (CONSERVATION) FOR THE PROPERTY LOCATED ALONG THE WESTERN SHORE OF THE INDIAN RIVER, SOUTH OF 45TH STREET INCLUDING GOVERNMENT LOT 1 AND 2 TOGETHER WITH THE NORTHWEST ¼ OF THE SOUTHEAST ¼ AND THE NORTH ¼ OF THE SOUTHEAST ¼ OF SAID SECTION 25 LYING IN SECTION 25, TOWNSHIP 32 SOUTH, RANGE 39 EAST, CONTAINING 124 ACRES MORE OR LESS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the City of Vero Beach Comprehensive Plan on July 21, 1992; and

WHEREAS, Sections 163.3184, 163.3187 and 163.3189, Florida Statutes, and Chapter 9J-5, Florida Administrative Code, provide authority to adopt this Ordinance amending the Comprehensive Plan; and

WHEREAS, the Planning and Zoning Board, acting as the Local Planning Agency, held a public hearing on the comprehensive plan amendment request on August 6, 2009, after due public notice; and

WHEREAS, the Planning and Zoning Board made a recommendation that the City Council adopt the comprehensive plan amendment listed below and transmit same to the Florida Department of Community Affairs; and

WHEREAS, the Vero Beach City Council held a Transmittal Public Hearing on September 15, 2009, after advertising pursuant to Section 163.3184(15)(b)(1), Florida Statutes; and

WHEREAS, the City Council approved the transmittal of the comprehensive plan amendment to the Florida Department of Community Affairs for review; and

WHEREAS, the City Council announced at the transmittal public hearing the intention to hold and advertise a final public hearing at the adoption stage of the plan amendment; and

WHEREAS, the Florida Department of Community Affairs received the Comprehensive Plan Amendment on September 28, 2009, pursuant to Section 163.3184(4), Florida Statutes; and

WHEREAS, the Florida Department of Community Affairs reported a finding of no objections following review of the proposed Comprehensive Plan amendment and documented the same in correspondence dated December 1, 2009.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Comprehensive Plan Amendment Adoption and Transmittal

The amendment to the Vero Beach Comprehensive Plan identified in Section 2 is hereby adopted, and three (3) copies are to be transmitted to the State of Florida Department of Community Affairs and one (1) copy each is to be transmitted to the Treasure Coast Regional Planning Council and Indian River County.

Section 2. Amendment to the Future Land Use Map

The Future Land Use Map designation for the property, more particularly described in the attached Exhibit "A," is hereby changed from that of Indian River County designation of C-2, Conservation (1 unit per 40 acres), to the City of Vero Beach

designation of CV – Conservation (0 units), as graphically depicted in the attached Exhibit “B.”

[SEE ATTACHED EXHIBIT “A”]

Property Description, Voluntary Annexation #2007-AX-03

[SEE ATTACHED EXHIBIT “B”]

Location and Future Land Use Designation of Subject Property and Surrounding Properties

Section 3. Authorization to Transmit Plan Amendment

The City Planning and Development Director is directed to transmit a certified copy hereof to the authorities designated under Section 163.3184(3) Florida Statutes, and proceed herewith in accordance with the provisions of Chapter 163, Part II, Florida Statutes.

Section 4. Effective Date

The effective date of this ordinance and, therefore, this plan amendment shall be the date a final order is issued by the Florida Department of Community Affairs or Administration Commission finding the amendment in compliance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier.

This Ordinance was read for the first time on the ____ day of _____, 2009, and was advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a public hearing to be held on the ____ day of _____, 2009, and was also advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a second public hearing to be held

on the ____ day of _____, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

Mayor Kevin Sawnick	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Vice Mayor Sabin C. Abell	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Thomas P. White	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Councilmember Brian T. Heady	<input type="checkbox"/> Yes	<input type="checkbox"/> No
(Vacant)	<input type="checkbox"/> Yes	<input type="checkbox"/> No

ATTEST:

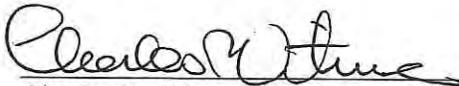
**CITY OF VERO BEACH,
FLORIDA**

Tammy K. Vock
City Clerk

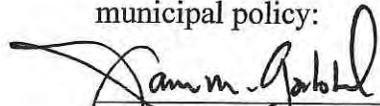
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to
municipal policy:



Charles P. Vitunac
City Attorney



James M. Gabhard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

EXHIBIT "A"
PROPERTY DESCRIPTION
VOLUNTARY ANNEXATION #2006-AX-03
PORTIONS OF SECTION 25-32-39

Situated in the State of Florida, County of Indian River, and being a part of Section 25, Township 32 South, Range 39 East, and being more particularly bounded and described as follows:

A tract of land lying in Section 25, Township 32 South, Range 39 East, Indian River County, Florida, being comprised of the following described parcels:

Government Lot 1 and Government Lot 2;

Together with;

The Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, and the North 30 feet of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 25;

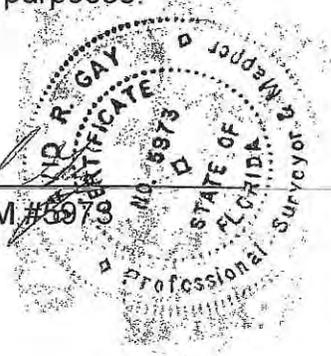
Less;

The West 686.49 feet thereof;

Also less and except;

The North 40 feet of Government Lot 1 in Section 25, Township 32 South, Range 39 East, lying west of the Indian River, previously conveyed for right-of-way purposes.

Said parcel containing 124 acres more or less.


David R. Gay, PSM #5973


North



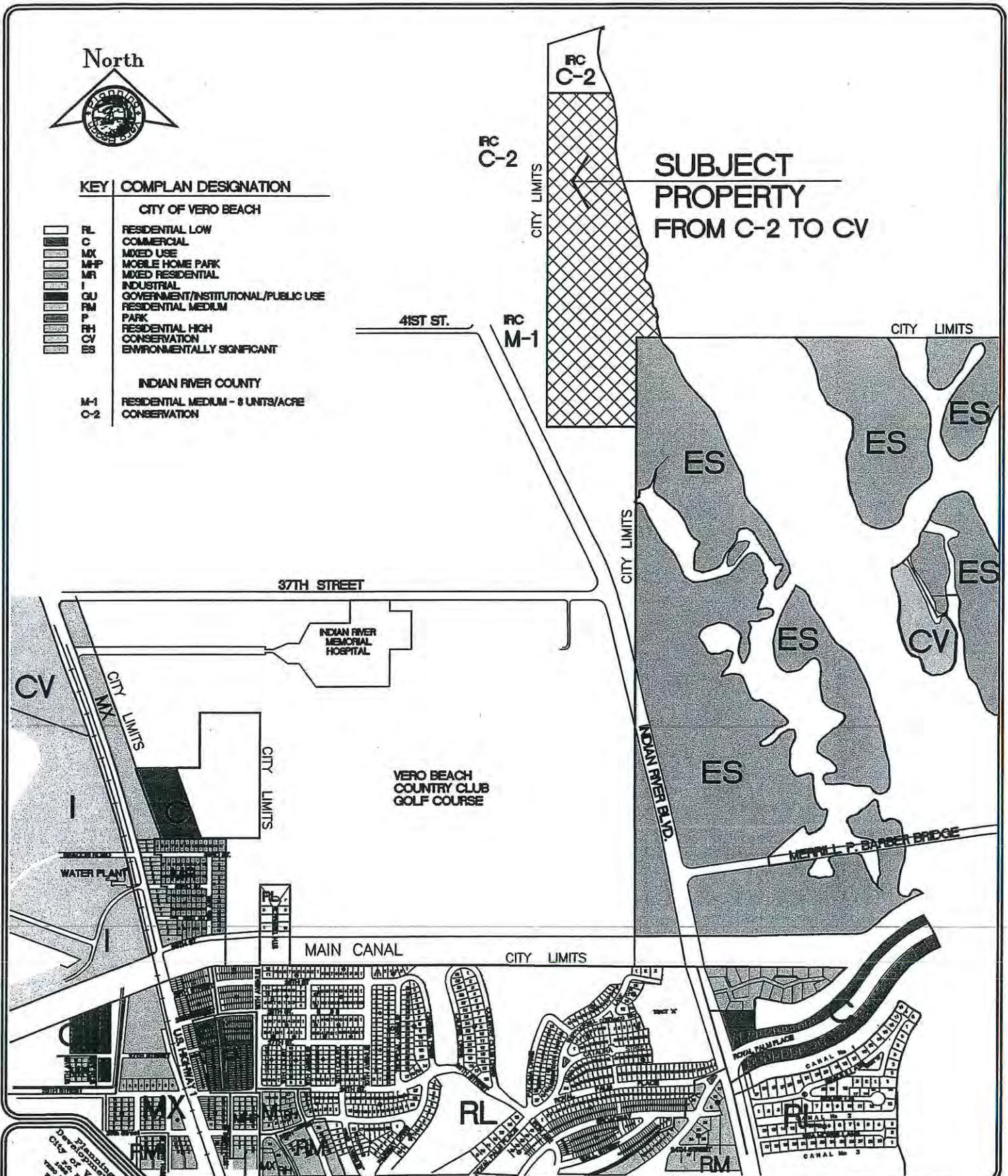
KEY | COMPLAN DESIGNATION

KEY	COMPLAN DESIGNATION
CITY OF VERO BEACH	
[White Box]	RL RESIDENTIAL LOW
[Horizontal Lines Box]	C COMMERCIAL
[Diagonal Lines Box]	MX MIXED USE
[Dotted Box]	MHP MOBILE HOME PARK
[Vertical Lines Box]	MR MIXED RESIDENTIAL
[Cross-hatch Box]	I INDUSTRIAL
[Dark Grey Box]	GU GOVERNMENT/INSTITUTIONAL/PUBLIC USE
[Medium Grey Box]	RM RESIDENTIAL MEDIUM
[Light Grey Box]	P PARK
[Dark Grey Box]	FH RESIDENTIAL HIGH
[Light Grey Box]	CV CONSERVATION
[Dark Grey Box]	ES ENVIRONMENTALLY SIGNIFICANT

INDIAN RIVER COUNTY

M-1	RESIDENTIAL MEDIUM - 8 UNITS/ACRE
C-2	CONSERVATION

SUBJECT PROPERTY FROM C-2 TO CV



Planning & Development Dept.
City of Vero Beach
No. 1000
1000
1000

FUTURE LAND USE MAP AMENDMENT #C09-000007-FLUM-MAP

APPROVED BY THE CITY COUNCIL ON _____

DATE 07/23/09
SCALE-NTS
EXHIBIT B

3-6)

ORDINANCE NO. 2009 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING MAP BY CHANGING THE DESIGNATION OF ANNEXED LAND FROM INDIAN RIVER COUNTY DESIGNATION OF RS-1 (SINGLE FAMILY RESIDENTIAL) TO A COMPARABLE CITY OF VERO BEACH DESIGNATION OF P-1 (PARK-CONSERVATION) FOR THE PROPERTY LOCATED ALONG THE WESTERN SHORE OF THE INDIAN RIVER, SOUTH OF 45TH STREET INCLUDING GOVERNMENT LOT 1 AND 2 TOGETHER WITH THE NORTHWEST ¼ OF THE SOUTHEAST ¼ AND THE NORTH ¼ OF THE SOUTHEAST ¼ OF SAID SECTION 25 LYING IN SECTION 25, TOWNSHIP 32 SOUTH, RANGE 39 EAST, CONTAINING 124 ACRES MORE OR LESS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 171.04, Florida Statutes, provides for voluntary annexation of property into a municipality; and

WHEREAS, the city received a voluntary annexation application for the property described herein and the city annexed said property on May 1, 2007, Ordinance No. 2007-03; and

WHEREAS, pursuant to Section 171.062(2), Florida Statutes, land annexed into municipalities remains under county land use and zoning jurisdiction until the annexing municipality adopts comprehensive plan amendments to include the annexed area; and

WHEREAS, the Vero Beach City Council has adopted the large scale amendment to the Comprehensive Plan Future Land Use Map to designate this property from Indian River County designation of C-2 (Conservation), to the City of Vero Beach designation of CV (Conservation); and

WHEREAS, the Planning and Zoning Board held a public hearing on the zoning map designation on August 6, 2009, and made a recommendation to the Vero Beach City Council; and

WHEREAS, after the Vero Beach City Council finds the proposed amendment to the Official Zoning Map to be consistent with the Future Land Use Map and the goals, policies, and objectives of the Comprehensive Plan;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Zoning Map Designation

The Official Zoning Map designation, for the properties more particularly described in the attached Exhibit "A," is hereby changed from that of Indian River County designation of RS-1, Single Family Residential, to the City of Vero Beach designation of P-1, Parks - Conservation, as graphically depicted in the attached Exhibit "B."

[SEE ATTACHED EXHIBIT "A"]

Legal Description of Properties

[SEE ATTACHED EXHIBIT "B"]

Location and Zoning of Subject Property and Surrounding Properties

Section 2. Effective Date

This ordinance shall become effective upon the effective date of the large scale comprehensive plan amendment.

This Ordinance was read for the first time on the ____ day of _____, 2009, and was advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a public hearing to be held on the ____ day of _____, 2009, and was also advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a second public hearing to be held on the ____ day of _____, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember _____ seconded by Councilmember _____, and adopted by the following vote:

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

Mayor Kevin Sawnick

Yes No

Vice Mayor Sabin C. Abell

Yes No

Councilmember Thomas P. White

Yes No

Councilmember Brian T. Heady

Yes No

(Vacant)

Yes No

ATTEST:

**CITY OF VERO BEACH,
FLORIDA**

Tammy K. Vock
City Clerk

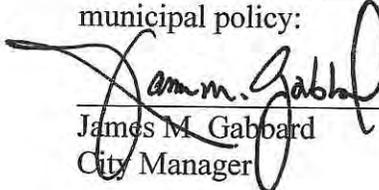
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to
municipal policy:

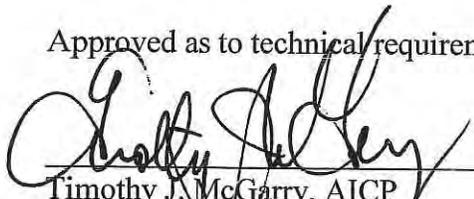


Charles P. Vitunac
City Attorney



James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

EXHIBIT "A"
PROPERTY DESCRIPTION
VOLUNTARY ANNEXATION #2006-AX-03
PORTIONS OF SECTION 25-32-39

Situated in the State of Florida, County of Indian River, and being a part of Section 25, Township 32 South, Range 39 East, and being more particularly bounded and described as follows:

A tract of land lying in Section 25, Township 32 South, Range 39 East, Indian River County, Florida, being comprised of the following described parcels:

Government Lot 1 and Government Lot 2;

Together with;

The Northwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, and the North 30 feet of the Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 25;

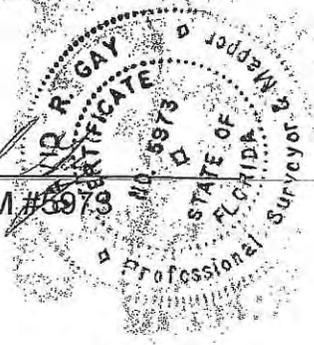
Less;

The West 686.49 feet thereof;

Also less and except;

The North 40 feet of Government Lot 1 in Section 25, Township 32 South, Range 39 East, lying west of the Indian River, previously conveyed for right-of-way purposes.

Said parcel containing 124 acres more or less.


David R. Gay, PSM #5973


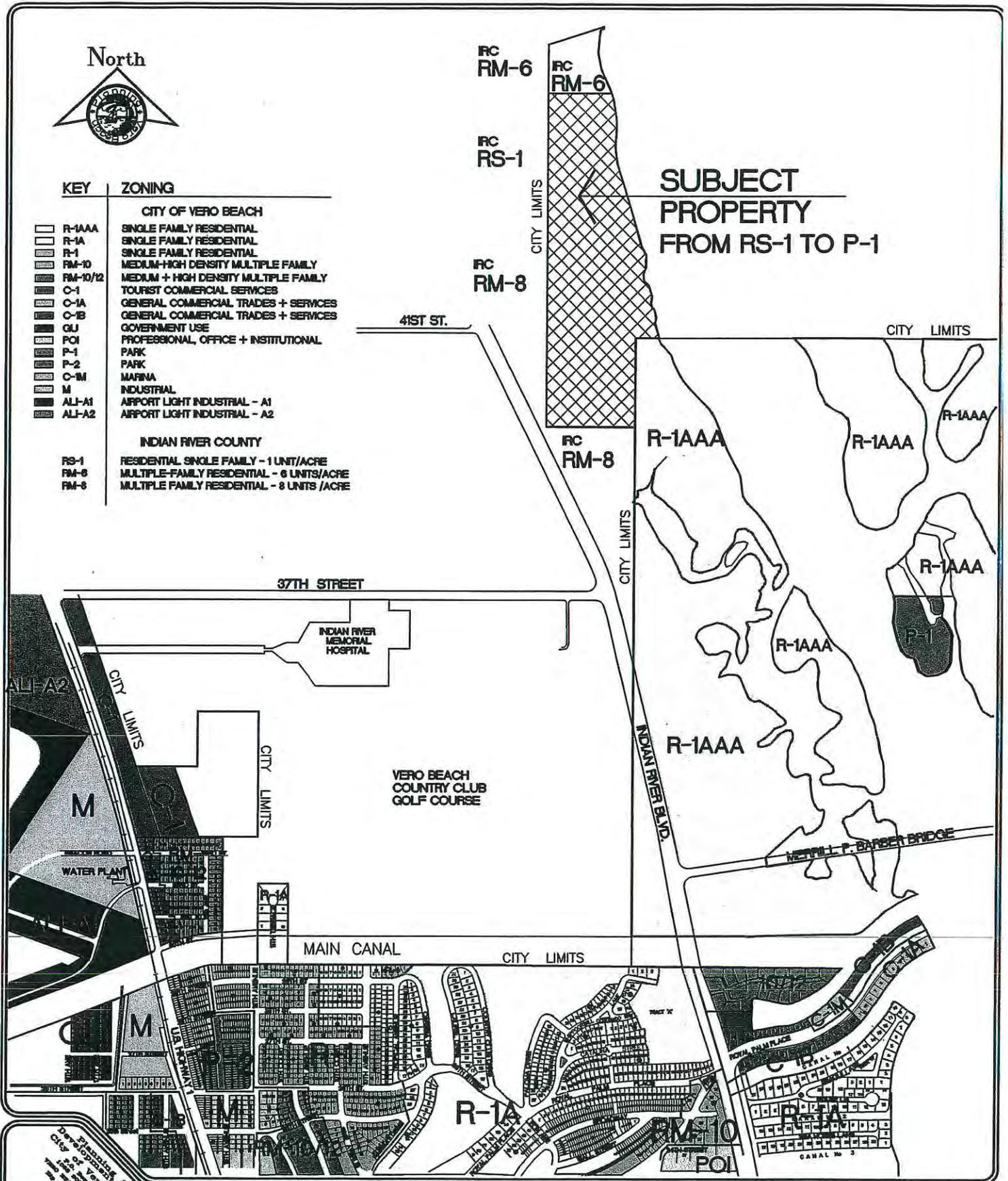
North



KEY ZONING

KEY	ZONING
[Symbol]	CITY OF VERO BEACH
[Symbol]	R-1AAA SINGLE FAMILY RESIDENTIAL
[Symbol]	R-1A SINGLE FAMILY RESIDENTIAL
[Symbol]	R-1 SINGLE FAMILY RESIDENTIAL
[Symbol]	RM-10 MEDIUM-HIGH DENSITY MULTIPLE FAMILY
[Symbol]	RM-10/12 MEDIUM + HIGH DENSITY MULTIPLE FAMILY
[Symbol]	C-1 TOURIST COMMERCIAL SERVICES
[Symbol]	C-1A GENERAL COMMERCIAL TRADES + SERVICES
[Symbol]	C-1B GENERAL COMMERCIAL TRADES + SERVICES
[Symbol]	GU GOVERNMENT USE
[Symbol]	POI PROFESSIONAL, OFFICE + INSTITUTIONAL
[Symbol]	P-1 PARK
[Symbol]	P-2 PARK
[Symbol]	C-1M MARINA
[Symbol]	M INDUSTRIAL
[Symbol]	ALI-A1 AIRPORT LIGHT INDUSTRIAL - A1
[Symbol]	ALI-A2 AIRPORT LIGHT INDUSTRIAL - A2
[Symbol]	INDIAN RIVER COUNTY
[Symbol]	RS-1 RESIDENTIAL SINGLE FAMILY - 1 UNIT/ACRE
[Symbol]	RM-8 MULTIPLE-FAMILY RESIDENTIAL - 6 UNITS/ACRE
[Symbol]	RM-8 MULTIPLE FAMILY RESIDENTIAL - 8 UNITS /ACRE

SUBJECT PROPERTY FROM RS-1 TO P-1



ZONING MAP AMENDMENT # Z09-000013
 APPROVED BY THE CITY COUNCIL ON _____

DATE 07/23/08
 SCALE-NTS
 EXHIBIT B

3-H)
and
3-I)



ATTACHMENT C

Large Scale Future Land Use Map Amendment to
Designate 22.17 Acres RM (Residential Medium) and
Zoning Map Amendment to Designate those Acres
RM-8 (Medium Density Multiple Family)

City of Vero Beach City Council
Adopted _____, 2010



DEPARTMENTAL CORRESPONDENCE

TO: Chairman Ryan & Members of the Planning and Zoning Board

THROUGH: Timothy J. McGarry, AICP *TJM*
Planning and Development Director

FROM: Maria Lewicka, AICP *ML*
Urban Designer

DATE: July 10, 2009

SUBJECT: Large Scale Future Land Use Map Amendment to designate 22.17 acres RM and Zoning Map Amendment to designate those acres RM-8 at the Northeast Intersection of 33rd Street and 13th Avenue.

Future Land Use Map Amendment Number: C09-000005-FLUM-Map; Zoning Map Amendment Number: Z09-000011.

Overview

This staff sponsored request is for approval of a large-scale (involve more than 10 acres) Future Land Use Map designation amendment to the Comprehensive Plan.

The amendments are to designate in the Future Land Use Map annexed land and apply the appropriate zoning category. This report provides: 1) description and conditions information on the amendment; 2) review of impacts, consistency and compatibility of amendment. The report concludes with staff's recommendation of approval.

The proposed Future Land Use Map and Zoning Map designations are comparable with the County's Future Land Use Map and Zoning Map designations for the subject property, which is consistent with adopted City Council policies on land use and zoning designation for annexed properties.

Description and Conditions

This is a request for approval of a large-scale future land use map designation amendment and zoning on property annexed into the City in October 3, 2006. Per Florida Statute Section 171.062(2), land annexed into municipalities remains under county land use and zoning jurisdiction until the annexing municipality adopts comprehensive plan amendments to include the annexed area.

The property was annexed into the City on October 3, 2006. However, beginning in July 2006, the City was not allowed to make amendments to its Comprehensive Plan due to noncompliance with state statutes dating back to 1999 and changes to the Chapter 163, FS. In early 2008, the City adopted and transmitted required Comprehensive Plan amendments to the Florida Department of Community Affairs (DCA). On April 1, 2008, the City was notified of its compliance with an effective date of April 24, 2008 with the approval of EAR-based amendments in 2008 and recent Senate Bill 360 passed in 2009, the City was able to move forward with amendments.

Background on Subject Property

Amendment/Zoning: 33rd Street/US 1. Annexed into City on October 3, 2006, by City Ordinance No. 2006-13. The property is owned by Astoria Group Corporation.

Land Area: One vacant parcel of 22.17 acres.

Location: At the northeast intersection of the 33rd Street and 13th Avenue.

Existing County Future Land Use Designation: The property is designated M-1, Medium Density Residential-1, (up to 8 units per acre) on the County's Future Land Use Map (FLUM).

Proposed City Future Land Use Designation: RM, Residential Medium (up to 10 units per acre).

Existing County Zoning: The property is zoned RM-6, Multiple Family Residential (up to 6 units per acre) on the County's official Zoning Map.

Proposed City Zoning: The city zoning of the property is RM-8, Medium Density Multiple Family (up to 8 units per acre).

Surrounding Existing Land Use Pattern:

North – County, (MED, Medical) Grove Place Medical Park
South – County, (RM-6, Multifamily Residential), Homes for the Aged, City, (RM-10/12, Medium and High Density Multiple Family), single family residential development
East – County, (MED, Medical), Professional Service and vacant, (RS-3, Single Family Residential), Hanley Hall Alco Hope

West - County, (CG, Commercial Gneral), vacant,
City, (C-1, Highway Oriented Commercial), vacant

Figures 1 and 2 depict the general location and future land use designation and zoning of the subject property and surrounding properties.

Environment

The land is currently vacant. Hundred percent of the property is wooded with trees and vegetated. According to Flood Insurance Rating Maps, the parcel is within an X-Other Areas zone, which is not considered a flood hazard area.

Utilities and Services

The property is within the Urban Service Area of the county and city. The property is located within the City's current water and sewer service area and capacity is available in the system to provide necessary services. The property is located within the City's Electric Service Area.

Transportation System

The subject property is not bounded by any city or county roadways. It is located north from the intersection of 33rd Street and 13th Avenue both classified as local roadways.

Review of Impacts on Facilities, Consistency and Compatibility

In this section, an analysis of the reasonableness of the future land use amendment designation will be presented. Specifically, this analysis will address:

- Impacts on available public facilities;
- Consistency with the City's comprehensive plan; and
- Compatibility with the surrounding area.

Available Public Facilities

The request is to designate the future land use designation on 22.17 acres from M-1, Medium Density Residential-1, to RM, Residential Medium. For this land use amendment request, a general comparison of the county and city regulations in relation to the maximum number of units that could be built on the site, given the size of the property and the maximum density allowed under the proposed land use designation is analyzed. The site information used for the analysis is as follows:

1. Size of Area: **22.17 acres**
2. Existing Zoning Designation: **RM-6 (max. density 6 units/acre)**

- 3. Use under Existing County Zoning Designation: **133 Multiple Family Units**
- 4. Proposed Zoning Designation: **RM-8 (max. density 8 units/acre)**
- 5. Use under Proposed City Future Land Use Designation: **177 Multiple Family Units**

Based on the analysis described above, the total number of residential units allowed could increase by approximately 44 units with this amendment.

A review of the proposed land use amendment and increase in density indicates there will not be an adverse effect on service levels for any public facility as a result of the land use designation amendments.

School Capacity Availability Determination

Based on the zoning analysis, the total number of residential units allowed could increase by approximately 44 units with this amendment. The number of students projected to be generated from the proposed amendment based on the adopted student generation rates is as follows:

Number of students under existing county zoning:

Elementary School:	133 units x 0.037 = 4.92
Middle School:	133 units x 0.015 = 2.00
High School:	133 units x 0.014 = 1.86

Number of students under proposed city zoning:

Elementary School:	177 units x 0.037 = 6.50
Middle School:	177 units x 0.015 = 2.66
High School:	177 units x 0.014 = 2.48

The determination that adequate school capacity is available at the time of evaluation will be confirmed by the Conditional School Capacity Availability Determination Letter (SCADL) issued by the School District. The Conditional SCADL does not vest school capacity.

Consistency with Comprehensive Plan

Land Use Element Policy 1.5 states that the Residential Medium (RM) land use designation shall be applied to areas of the City which are suitable for single and multifamily residential uses with moderate densities (up to 10 units/acre), based on access to adequate public utilities, street access and areas which are a transition between single family and more intensive uses.

The subject property is located within the urban service area, and has access to adequate public utilities. The street access may be provided by extension of 33rd Street or 35th Lane. The property is located in an area that is considered a transition between single family and more intensive commercial uses. Located near existing low and medium density residential development, and more intensive commercial uses, the property is appropriate for residential development with densities up to 10 units/acre. The proposed amendments would allow medium density residential development on the subject property. Therefore, the proposed amendments are consistent with Land Use Element Policy 1.5.

Compatibility with the surrounding area

Overall, there will be no significant change in the compatibility of the subject property with the surrounding properties. The annexed property is surrounded by land uses such as single and multiple family residential and medical facilities.

Zoning Designation

The subject property is proposed to be zoned RM-8, Medium Density Multiple Family Residential District. The existing County zoning is RM-6, Multiple Family Residential. Based on the findings of compatibility of the surrounding properties and the existing development land use pattern, as well as maintaining consistency with Comprehensive Plan, Land Use Element Policy 1.5, as outlined above, the staff supports the RM-8 zoning designation. However, it should be noted that the proposed City zoning district allowed two more units per acre.

Conclusion

The proposed amendments are consistent with the comprehensive plan, compatible with the surrounding land uses, and are not expected to cause adverse impacts on the environment or the provision of public services. Based upon the analysis in the "Review of Impacts on Facilities, Consistency and Compatibility" the proposed amendment meets the review standards of Section 65.22(i).

Recommendation

Based on the analysis, the staff recommends that the Planning and Zoning Board recommend that the City Council approve the proposed future land use map amendment and the zoning for designating 22.17 acres to RM, Residential Medium (up to 10 units per acre), and zoning those 22.17 acres to RM-8, Medium Density Multiple Family (up to 8 units per acre).

3-H)

ORDINANCE NO. 2010 – ____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE FUTURE LAND USE MAP BY CHANGING THE LAND USE DESIGNATION OF ANNEXED LAND FROM INDIAN RIVER COUNTY OF DESIGNATION M-1, (MEDIUM DENSITY RESIDENTIAL-1) TO A COMPARABLE CITY OF VERO BEACH DESIGNATION OF RM (RESIDENTIAL MEDIUM) FOR THE PROPERTY NORTH OF THE INTERSECTION OF 33RD STREET AND 13TH AVENUE, INCLUDING A PORTION OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 32 SOUTH, RANGE 39 EAST, CONTAINING 22.17 ACRES, MORE OR LESS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council adopted the City of Vero Beach Comprehensive Plan on July 21, 1992; and

WHEREAS, Sections 163.3184, 163.3187 and 163.3189, Florida Statutes, and Chapter 9J-5 Florida Administrative Code, provide authority to adopt this Ordinance amending the Comprehensive Plan; and

WHEREAS, the Planning and Zoning Board, acting as the Local Planning Agency, held a public hearing on the comprehensive plan amendment request on August 6, 2009, after due public notice; and

WHEREAS, the Planning and Zoning Board made a recommendation that the City Council adopt the comprehensive plan amendment listed below and transmit same to the Florida Department of Community Affairs; and

WHEREAS, the Vero Beach City Council held a Transmittal Public Hearing on September 15, 2009, after advertising pursuant to Section 163.3184(15)(b)(1), Florida Statutes; and

WHEREAS, the City Council approved the transmittal of the comprehensive plan amendment to the Florida Department of Community Affairs for review; and

WHEREAS, the City Council announced at the transmittal public hearing the intention to hold and advertise a final public hearing at the adoption stage of the plan amendment; and

WHEREAS, the Florida Department of Community Affairs received the Comprehensive Plan Amendment on September 28, 2009, pursuant to F.S. 163.3184(4); and

WHEREAS, the Florida Department of Community Affairs reported a finding of no objections following review of the proposed Comprehensive Plan amendment and documented the same in correspondence dated December 1, 2009.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Comprehensive Plan Amendment Adoption and Transmittal

The amendment to the Vero Beach Comprehensive Plan identified in Section 2 is hereby adopted, and three (3) copies are to be transmitted to the State of Florida Department of Community Affairs and one (1) copy each is to be transmitted to the Treasure Coast Regional Planning Council and Indian River County.

Section 2. Amendment to the Future Land Use Map

The Future Land Use Map designation, for the property more particularly described in the attached Exhibit "A," is hereby changed from that of Indian River County designation of M-1, Medium Density Residential (8 units/acre), to the City of Vero Beach designation of RM, Residential Medium (10 units/acre), as graphically depicted in the attached Exhibit "B."

[SEE ATTACHED EXHIBIT "A"]

Property Description, Voluntary Annexation #2006-AX-01

[SEE ATTACHED EXHIBIT "B"]

**Location and Future Land Use Designation of Subject Property and
Surrounding Properties**

Section 3. Authorization to Transmit Plan Amendment

The City Planning and Development Director is directed to transmit a certified copy hereof to the authorities designated under Section 163.3184(3) Florida Statutes, and proceed herewith in accordance with the provisions of Chapter 163, Part II, Florida Statutes.

Section 4. Effective Date

The effective date of this ordinance and, therefore, this plan amendment shall be the date a final order is issued by the Florida Department of Community Affairs or Administration Commission finding the amendments in compliance with Section 163.3184(1)(b), Florida Statutes, whichever occurs earlier.

This Ordinance was read for the first time on the ____ day of _____, 2009, and was advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a public hearing to be held on the ____ day of _____, 2009, and was also advertised in the Indian River Press Journal on the ____ day of _____, 2009, as being scheduled for a second public hearing to be held on the ____ day of _____, 2010, at the conclusion of which hearing it

was moved for adoption by Councilmember _____, seconded by
Councilmember _____, and adopted by the following vote:

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

Mayor Kevin Sawnick

Yes No

Vice Mayor Sabin C. Abell

Yes No

Councilmember Thomas P. White

Yes No

Councilmember Brian T. Heady

Yes No

(Vacant)

Yes No

ATTEST:

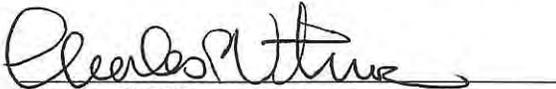
**CITY OF VERO BEACH,
FLORIDA**

Tammy K. Vock
City Clerk

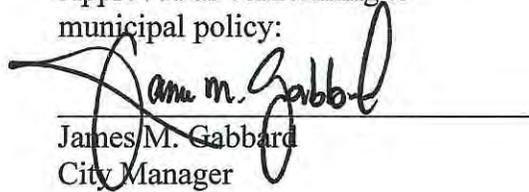
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:

Approved as conforming to
municipal policy:

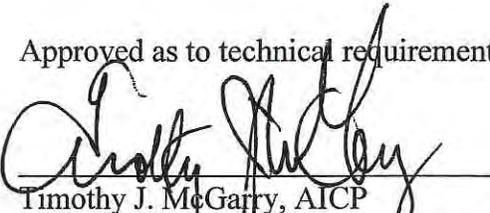


Charles P. Vitunac
City Attorney



James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

EXHIBIT "A"
PROPERTY DESCRIPTIONS
VOLUNTARY ANNEXATION #2006-AX-01
PARCEL IN SECTION 35-32-39
PARCEL ID #32-39-35-00000-1000-00015.0

Situated in the State of Florida, County of Indian River, and being a part of the Northeast quarter of Section 35, Township 32 South, Range 39 East, and being more particularly bounded and described as follows:

The East 660 feet of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 35, Township 32 South, Range 39 East, lying in Indian River County, Florida;

And the following described parcel:

Beginning at a point 660 feet West of the Southeast corner of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 35, Township 32 South, Range 39 East, which is the Southwest corner of the above described property;

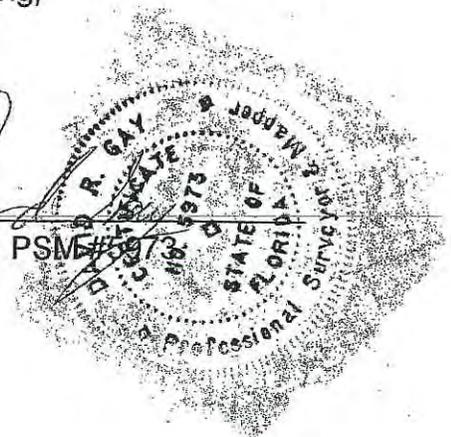
Thence, with a back angle of $105^{\circ}42'36''$, turn to the left 780.54 feet Northwesterly to a point 625 feet East of the East right-of-way line of U.S. Highway No. 1;

Thence South $89^{\circ}28'23''$ East for a distance of 220.13 feet to a point on the monumented 660 foot line West of the Northeast $\frac{1}{4}$ line of said Section 35;

Thence South $00^{\circ}31'56''$ West along the said monumented 660 line West of the Northeast $\frac{1}{4}$ line for a distance of 751.04 feet to the Point of Beginning;

Surveyed parcel containing 22.17 acres more or less.


David R. Gay, PSME #597



North



37th STREET

IRC
C/I

INDIAN RIVER
MEMORIAL
HOSPITAL

CV

MX

CITY LIMITS

IRC
L-1

VERO BEACH
COUNTRY CLUB
GOLF COURSE

SUBJECT
PROPERTY
FROM M-1 TO RM

NORTH DRIVE

BEACON ROAD

WATER PLANT



IRC
M-1

CITY LIMITS

KEY | COMPLAN DESIGNATION

CITY OF VERO BEACH	
RL	RESIDENTIAL LOW
MR	MIXED RESIDENTIAL
MX	MIXED USE
C	COMMERCIAL
I	INDUSTRIAL
GU	GOVERNMENT/INSTITUTIONAL/PUBLIC USE
CV	CONSERVATION
P	PARK
INDIAN RIVER COUNTY	
L-1	RESIDENTIAL SINGLE FAMILY - 3 UNITS/ACR
M-1	RESIDENTIAL MEDIUM - 8 UNITS/ACRE
C/I	COMMERCIAL/INDUSTRIAL



MX

29TH STREET

28TH STREET

27TH STREET

29TH AVENUE

28TH AVENUE

27TH AVENUE

12 11 10 9 8 7 6 5 4 3 2 1

14 13 12 11 10 9 8 7 6 5 4 3 2 1

9 8 7 6 5 4 3 2 1

9 8 7 6 5 4 3 2 1

5 4 3 2 1

12 11 10 9 8 7 6 5 4 3 2 1

14 13 12 11 10 9 8 7 6 5 4 3 2 1

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1 2 3 4 5 6 7 8 9 10

1 2 3 4 5 6 7 8 9 10

1 2 3 4 5 6 7 8 9 10

CAROLINA CT

Planned & Developed by
City of Vero Beach
1000 1st St. Vero Beach
FL 32980

FUTURE LAND USE MAP AMENDMENT #C09-000005-FLUM-MAP

APPROVED BY THE CITY COUNCIL ON _____

DATE 07/20/09

SCALE - NTS

EXHIBIT B

3-I)

ORDINANCE NO. 2010 – _____

AN ORDINANCE OF THE CITY OF VERO BEACH, FLORIDA, AMENDING THE OFFICIAL ZONING MAP BY CHANGING THE DESIGNATION OF ANNEXED LAND FROM INDIAN RIVER COUNTY DESIGNATION RM-6, MULTIPLE FAMILY RESIDENTIAL TO A COMPARABLE CITY OF VERO BEACH DESIGNATION OF RM-8, MEDIUM DENSITY MULTIPLE FAMILY FOR THE PROPERTY NORTH OF THE INTERSECTION OF 33RD STREET AND 13TH AVENUE, INCLUDING A PORTION OF THE NORTHEAST QUARTER OF SECTION 35, TOWNSHIP 32 SOUTH, RANGE 39 EAST, CONTAINING 22.17 ACRES, MORE OR LESS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 171.044 Florida Statutes provides for voluntary annexation of property into a municipality; and

WHEREAS, the city received a voluntary annexation application for the property described herein and the city annexed said property on October 3, 2007, Ordinance No. 2006-13; and

WHEREAS, pursuant to F.S. 171.062(2), land annexed into municipalities remains under county land use and zoning jurisdiction until the annexing municipality adopts comprehensive plan amendments to include the annexed area; and

WHEREAS, the Vero Beach City Council has adopted the large scale amendment to the Comprehensive Plan Future Land Use Map to designate this property from Indian River County designation M-1, Medium Density Residential-1, to the City of Vero Beach designation of RM, Residential Medium; and

WHEREAS, the Planning and Zoning Board held a public hearing on the zoning map designation on August 6, 2009, and made a recommendation to the Vero Beach City Council; and

WHEREAS, after the Vero Beach City Council finds the proposed amendment to the Official Zoning Map to be consistent with the Future Land Use Map and the goal, policies, and objectives of the Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:

Section 1. Zoning Map Designation

The Official Zoning Map designation, for the properties more particularly described in the attached Exhibit "A," is hereby changed from that of Indian River County designation RM-6, Multiple Family Residential, to the City of Vero Beach designation of RM-8, Medium Density Multiple Family, as graphically depicted in the attached Exhibit "B."

[SEE ATTACHED EXHIBIT "A"]

Legal Description of Properties

[SEE ATTACHED EXHIBIT "B"]

Location and Zoning of Subject Property and Surrounding Properties

Section 2. Effective Date

This ordinance shall become effective upon the effective date of the large scale comprehensive plan amendment.

This Ordinance was read for the first time on the _____ day of _____, 2009, and was advertised in the Indian River Press Journal on the _____ day of _____, 2009, as being scheduled for a public hearing to be held on the _____ day of _____, 2009, and was also advertised in the Indian River Press Journal on the _____ day of _____, 2009, as being scheduled for a second public hearing to be held on the _____ day of _____, 2010, at the conclusion of which hearing it was moved for adoption by Councilmember _____, seconded by Councilmember _____, and adopted by the following vote:

[THE REMAINDER OF THIS PAGE IS LEFT INTENTIONALLY BLANK.]

Mayor Kevin Sawnick
Vice Mayor Sabin C. Abell
Councilmember Thomas P. White
Councilmember Brian T. Heady
(Vacant)

<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input type="checkbox"/>	No

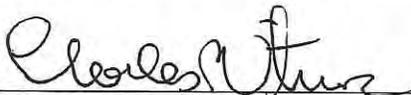
ATTEST:

**CITY OF VERO BEACH,
FLORIDA**

Tammy K. Vock
City Clerk

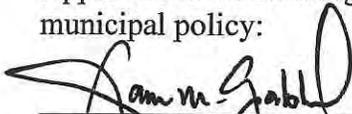
Kevin Sawnick
Mayor

Approved as to form and legal sufficiency:



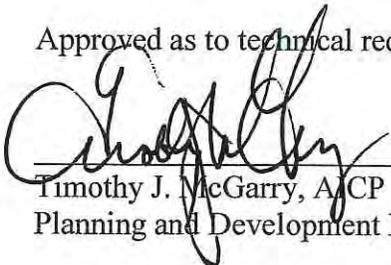
Charles P. Vitunac
City Attorney

Approved as conforming to
municipal policy:



James M. Gabbard
City Manager

Approved as to technical requirements:



Timothy J. McGarry, AICP
Planning and Development Director

EXHIBIT "A"
PROPERTY DESCRIPTIONS
VOLUNTARY ANNEXATION #2006-AX-01
PARCEL IN SECTION 35-32-39
PARCEL ID #32-39-35-00000-1000-00015.0

Situated in the State of Florida, County of Indian River, and being a part of the Northeast quarter of Section 35, Township 32 South, Range 39 East, and being more particularly bounded and described as follows:

The East 660 feet of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 35, Township 32 South, Range 39 East, lying in Indian River County, Florida;

And the following described parcel:

Beginning at a point 660 feet West of the Southeast corner of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 35, Township 32 South, Range 39 East, which is the Southwest corner of the above described property;

Thence, with a back angle of $105^{\circ}42'36''$, turn to the left 780.54 feet Northwesterly to a point 625 feet East of the East right-of-way line of U.S. Highway No. 1;

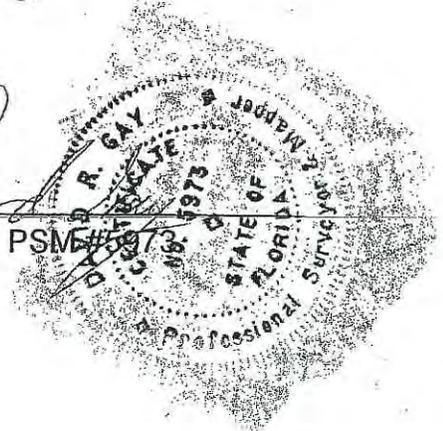
Thence South $89^{\circ}28'23''$ East for a distance of 220.13 feet to a point on the monumented 660 foot line West of the Northeast $\frac{1}{4}$ line of said Section 35;

Thence South $00^{\circ}31'56''$ West along the said monumented 660 line West of the Northeast $\frac{1}{4}$ line for a distance of 751.04 feet to the Point of Beginning;

Surveyed parcel containing 22.17 acres more or less.



David R. Gay, PSM #150



North



37th STREET

IRC MED

INDIAN RIVER MEMORIAL HOSPITAL

ALI-A2

CITY LIMITS

IRC CG

IRC MED

CITY LIMITS

IRC RM-6

SUBJECT PROPERTY FROM RM-6 TO RM8

VERO BEACH COUNTRY CLUB GOLF COURSE

IRC RS-3

M

BEACON ROAD

WATER PLANT

33rd ST. RM 10/12

IRC RM-6

32nd ST.

CITY LIMITS

31st ST.

30th ST.



KEY ZONING

CITY OF VERO BEACH	
[Symbol]	R-1A SINGLE FAMILY RESIDENTIAL
[Symbol]	R-1 SINGLE FAMILY RESIDENTIAL
[Symbol]	RM-10/12 MEDIUM + HIGH DENSITY MULTIPLE FAMILY
[Symbol]	C-1 HIGHWAY ORIENTED COMMERCIAL
[Symbol]	C-1B GENERAL COMMERCIAL TRADES + SERVICES
[Symbol]	QU GOVERNMENT USE
[Symbol]	P-2 PARK
[Symbol]	M INDUSTRIAL
[Symbol]	ALI-A1 AIRPORT LIGHT INDUSTRIAL - A1
[Symbol]	ALI-A2 AIRPORT LIGHT INDUSTRIAL - A2
INDIAN RIVER COUNTY	
[Symbol]	RS-3 RESIDENTIAL SINGLE FAMILY - 3 UNITS/ACRE
[Symbol]	RM-6 RESIDENTIAL MEDIUM - 6 UNITS/ACRE
[Symbol]	CG GENERAL COMMERCIAL
[Symbol]	MED MEDICAL



ZONING MAP AMENDMENT # Z09-000011

APPROVED BY THE CITY COUNCIL ON _____

DATE 07/20/09

SCALE-NTS

EXHIBIT B

SUBJECT TO CHANGE

AGENDA

CITY MANAGER'S OFFICE

JANUARY 5, 2010

Consent Agenda

1. Regular City Council Minutes – December 1, 2009
2. Solid Waste Franchise Agreement – Fletcher's Hauling, Inc.
3. SR A1A from St. Lucie/Indian River County Line to Coquina Lane – Landscape Maintenance Memorandum of Agreement
4. Award of Bid No. 370-09/PW – Relay Testing Service Contract for the Power Plant and Electrical T&D
5. Change Order and Final Payment for Televent Miner & Miner – ArcFM Implementation with Data Collection Services

City Manager's Matters

A)

COUNCIL AGENDA REPORT
MEETING OF JANUARY 5, 2010

TO: The Honorable Mayor and Members of the City Council

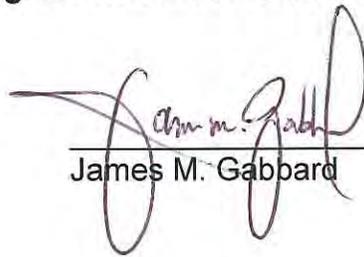
FROM: James M. Gabbard, City Manager

DATE: December 16, 2009

**SUBJECT: SOLID WASTE FRANCHISE AGREEMENT – FLETCHER’S
HAULING, INC.**

Attached is a memorandum from Monte Falls, dated December 14, 2009, providing background information and a recommendation for the above-referenced item.

It is the recommendation of the City Manager's Office that the Council approve a solid waste franchise agreement with Fletcher's Hauling, Inc.



James M. Gabbard

:jav
Attachments

xc: Monte Falls
Stephen Maillet

N:\AGENDA\SOLIDWASTEGMS\FRANCHISE AGREEMENT - FLETCHER'S HAULING.DOC



DEPARTMENTAL CORRESPONDENCE

TO: James M. Gabbard, City Manager
DEPT: City Manager

FROM: Monte K. Falls, PE, Director
DEPT: Public Works MKF 12/14

DATE: December 14, 2009

RE: **Solid Waste Franchise Agreement**

Recommendation:

- Place this item on the agenda of the January 5, 2010, City Council meeting;
- Award a solid waste franchise agreement to Fletcher's Hauling Inc.

Funding:

No funding is required for this item.

Background:

The City of Vero Beach allows sanitation service providers to offer roll-off container service within the city limits via non-exclusive franchise agreements (Section 66.14 of the municipal code). To date we have granted thirteen franchises.

On October 21, 2009, we sent a notice to Fletcher's Hauling Inc. advising them that they were not authorized to perform roll-off container service in the City of Vero Beach, and that any services offered following receipt of the certified notice was in violation of Section 66.14 of the City Code. As a result of that notice Fletcher's Hauling Inc. has requested to enter into a franchise agreement with the City.

The attached agreement has been executed by Fletcher's Hauling Inc. and they have provided the necessary certificates of insurance.

Cc: Charles Vitunac, City Attorney
Steve Maillet, Finance Director
Bruce Fletcher, Fletcher's Hauling Inc.

Attachment

MKF/mb

EXHIBIT "A"

FRANCHISE AGREEMENT

This Franchise Agreement ("Agreement") is hereby made and entered into this _____ day of _____, _____, by and between the City of Vero Beach, Florida, a municipal corporation organized under the laws of the State of Florida ("City"); and **Fletcher's Hauling, Inc.**, a _____ Corporation
(full legal name of services provider) (i.e.: corporation; partnership; LLC; etc., and state)
whose business address is **1950 Flashy Ln., Malabar, FL 32950** ("Franchisee").

WITNESSETH:

For and in consideration of the granting to Franchisee of a non-exclusive franchise to provide roll-off container solid waste collection and disposal services within the City of Vero Beach, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Franchisee mutually agree and promise as follows:

SECTION I. GRANT OF FRANCHISE AND TERM.

- (A) Grant of Non-Exclusive Franchise. Pursuant to Section 66-14 of the Code of Ordinances of the City of Vero Beach, the City hereby grants a non-exclusive right, privilege and franchise to Franchisee to provide roll-off container solid waste collection and disposal services from property located within the corporate limits of the City of Vero Beach, Florida ("Franchise Area") in accordance with the terms of this Agreement, and the laws of the City of Vero Beach, Indian River County, the State of Florida and the United States of America.
- (B) Term. The term of this Agreement shall be for a period of five (5) years, beginning on the date this Agreement is executed by the City Council of the City of Vero Beach.

SECTION II. DEFINITIONS.

- (A) General. To the extent that any definition contained herein conflicts with any similar definition contained in any federal, state, or local law, the definition contained herein shall prevail. However, nothing contained herein shall be interpreted to require the Franchisee to undertake any conduct that is prohibited by Applicable Law. Whenever the context may require, any pronoun which is used in this Agreement shall include the corresponding masculine, feminine and neutral forms and the singular shall include the plural and vice versa.

- (B) "Applicable Law" shall mean any local, state or federal statute, law, constitution, charter, ordinance, judgment, order, decree, permit, rule, regulation, directive, policy, standard or similar binding authority, or a judicial or administrative interpretation of any of the same, which are in effect or are enacted, adopted, promulgated, issued enforced or amended by a governmental body during the term of this Agreement, and relate in any manner to the performance of the City or Franchisee under this agreement.
- (C) "Collect and Collection" shall mean the process whereby solid waste is picked up and removed from the location where it is generated, and then transported to a state-approved landfill, transfer station, materials recycling facility or other disposal or processing facility.
- (D) "Container," see "Roll-off Container" below.
- (E) "De Minimus Amount" shall mean the amount of solid waste that lawfully may be included in a container of recovered materials or construction or demolition debris. A de minimus amount of solid waste is 10%, by volume or weight, whichever is more restrictive, as determined by measurement or visual inspection by the Director.
- (F) "Director" shall mean the Director of Public Works of the City of Vero Beach, or the Director's designee. Also referred to as the Director of Solid Waste Management, or Solid Waste Management Director.
- (G) "Franchise Area" shall mean all property located within the corporate limits of the City of Vero Beach.
- (H) "Roll-off Container" shall mean either open-top/scow-type container capable of accepting bulk construction or other non-putrescible materials; or enclosed containers, such as the kind used with compaction devices, of ten (10) cubic yards capacity or larger. A roll-off container must be capable of being serviced by mechanical equipment.
- (I) "Solid Waste" shall include garbage, yard trash, refuse, debris, special waste, ash, sludge, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from domestic, commercial, industrial, mining, agricultural, or governmental operations.

SECTION III. FRANCHISEE'S AUTHORITY; GENERAL PERFORMANCE AND OBLIGATIONS OF FRANCHISEE.

- (A) Authorized independent collector. The Franchisee is hereby authorized to provide roll-off container solid waste collection and disposal service within the city limits of the City of Vero Beach, Florida. The Franchisee shall be an independent collector and shall provide, at its own expense, all labor, insurance, supervision, machinery and equipment, plant building, trucks and any other tools, equipment, accessories and

things necessary to maintain the standard of collection and disposal set forth herein and in Ordinance No. 2003-32.

- (B) Protection of Adjacent Property and Utilities. The Franchisee shall conduct its work with due care and in such a manner as to avoid damage to adjacent private or public property, including utilities, and shall immediately repair or pay for any damage incurred through its operations.
- (C) Spillage. The Franchisee shall not litter or cause any spillage to occur upon the premises wherein the collection shall occur or on any rights of way or public property. During hauling, all solid waste shall be contained, tied, covered, or enclosed so that leaking, spilling or blowing of waste are prevented. The Franchisee shall promptly clean up all spillage. It shall be the responsibility of the Franchisee to make sure that the size of container and frequency of collection is adequate for the amount of waste material deposited in the container.
- (D) Disposal Site. The Franchisee shall dispose of waste only at landfills approved by the appropriate local, state and federal governmental agencies. The City reserves the right to approve or disapprove sites, taking into account costs, routes within the City and the rules and regulations of the governmental body having jurisdiction over said sites or facilities.
- (E) Office. The Franchisee shall establish and maintain an office. The Franchisee shall maintain sufficient telephones with local telephone numbers where service inquiries and complaints can be received by the Franchisee. The Franchisee's office shall be staffed with trained, responsible persons on duty during collection hours. The Franchisee shall use either a telephone answering service or answering machine to receive service inquiries and complaints during those times when the office is closed. The Franchisee also shall develop a system, subject to the Director's approval, for receiving emergency calls from the public at anytime, and for communicating with the City regarding emergency matters.
- (F) Complaints. All complaints shall be resolved by the Franchisee.
- (G) Permits and Licenses. The Franchisee shall obtain, at its sole expense, any and all permits and licenses required by applicable law in connection with this agreement, and Franchisee shall maintain the same in full force and effect throughout the term of this agreement. Any revocation of Franchisee's licenses or permits shall be reported to the City within three (3) calendar days.
- (H) Unauthorized Collectors. The Franchisee agrees to defend the City in the protection of the right of the Franchisee to protect against encroachment by unauthorized collectors within the service area.
- (I) Hours. No collection activities shall begin before 6:00 a.m. or continue later than 7:00 p.m. All collections shall be made as quietly as possible with a minimum of noise

and disturbance to the customers and the public. The Franchisee shall modify its collection schedule upon request of the City.

- (J) Title to Waste. Title to all waste shall be vested in the Franchisee upon being loaded for transport in containers as defined herein.
- (K) Prohibitions on biological, biomedical and hazardous waste. The Franchisee shall not collect biological, biomedical, or hazardous waste of any kind. Franchisee shall not collect any solid waste that the Franchisee reasonably believes is biological, biomedical, or hazardous waste. The Franchisee shall immediately notify the Director if any customer, person or entity delivers or attempts to deliver such material to the Franchisee, or places such waste in any container of Franchisee. The City shall have the right to inspect the solid waste collected by the Franchisee at any time.

SECTION IV. VEHICLES AND EQUIPMENT.

- (A) Vehicles and equipment. Franchisee shall provide an adequate number of vehicles and equipment, approved by the City, for collection services and back up in the event of any breakdowns. Equipment shall be kept in good repair, appearance, and in a safe and sanitary condition at all times. Vehicles used by the Franchisee in the performance of this Agreement shall be clearly identified on each side with the Franchisee's name and local telephone number.
- (B) Location of containers. Collection containers or receptacles shall be placed at locations that are mutually acceptable to the Franchisee and the customer, and in compliance with the City's land-use ordinances. Containers shall be located on private property. City property may be used for the siting of containers only with the written approval by City. If a dispute should arise between a customer and the Franchisee regarding the location of the collection site, the parties shall consult with the Director who will then designate the location.

SECTION V. FRANCHISEE PERSONNEL.

The Franchisee shall assign a qualified person or persons to be in charge of the Franchisee's operations in the City. The Franchisee shall provide the City with a written list containing the names and telephone numbers, including emergency telephone numbers, of the Franchisee's operations manager and other key personnel.

- (A) All of the Franchisee's employees shall be properly trained and qualified to perform the tasks assigned to them. The Franchisee shall provide routine training in operating and safety procedures.
- (B) Each driver of the Franchisee's vehicles shall at all times carry a valid Florida driver's license for the type of vehicle that is being driven.

- (C) The Franchisee's employees shall treat all customers in a polite and courteous manner. All personnel of Franchisee shall refrain from belligerent behavior and profanity. The Franchisee shall promptly take appropriate action to correct and such behavior or language.
- (D) Franchise personnel shall not request tips or payment of any kind from customers. Invoices for services rendered by the Franchisee shall be sent to the customer at an agreed upon billing address.
- (E) No person shall be denied employment by the Franchisee for reasons of race, creed or religion. The Franchisee shall comply with all applicable laws relating to wages, hours, overtime, disability and all other matters relating to the employment and protection of employees, now or hereafter in effect.

SECTION VI. COLLECTION CONTRACTS.

- (A) Franchisee may contract to provide services with any person, organization, firm or entity ("entities") within the City if such entities have requested the service.
- (B) Franchisee agrees to provide the Solid Waste Division with the location of its containers and the names, addresses, and number of pick-ups made.
- (C) If the Director orders removal of a container and the subject container remains in service more than forty-eight (48) hours after telephone or written notice by the City to the Franchisee to remove the container; then, in either or both cases, the Franchisee shall pay the City fifty dollars (\$50.00), per day, until the container is removed.

SECTION VII. SOURCE SEPARATION.

Source separation is encouraged.

SECTION VIII. RATES; BILLING.

- (A) Rates. The collection service rates may be negotiated between the Franchisee and the customer.
- (B) Billing. Billing for collection services and collection of amounts due Franchisee shall be the sole responsibility of the Franchisee.

SECTION IX. FRANCHISE FEE.

- (A) The Franchisee shall pay to the City a franchise fee equal to six percent (6%) of Franchisee's monthly gross receipts attributable to services provided under this Agreement. This franchise fee payment shall be made on or before the fifteenth (15th) day of each month for all service fees collected by the Franchisee during the immediately preceding month.

- (B) The leasing or sale of compactors is not intended to be regulated by this Franchise Agreement. The leasing or sale of compactors is not subject to Franchise Fees. Collection and disposal services from compactors, however, shall be subject to Franchise Fees and shall be considered roll-off container solid waste collection and disposal service for purposes of this Agreement.

SECTION X. BOOKS, RECORDS, REPORTS; PUBLIC RECORDS.

- (A) Franchise records. The Franchisee shall keep records of wastes collected and charges therefore. The City shall have the right to review those records, which in any way pertain to the payments due it as well as the billing of all customers by the Franchisee during this Agreement. During the term of this Agreement, the Franchisee shall make its City franchise records and related materials (including, but not limited to, dump tickets, customer invoices, transaction files) available to the City at all reasonable times. Failure to furnish the City with the requested materials or to maintain complete and accurate City franchise and all other related books and records, or to make such books and records available to the City, shall be considered material breach of this Agreement, and the City shall be entitled to terminate this franchise and to collect any damages resulting therefrom. Franchisee must keep all franchise and other related books and records on file for not less than three (3) years from the date of termination of the franchise, by either party, or the termination of the franchise term, whichever is later.
- (B) Annual Report. Beginning at the fiscal year-end after this Agreement is signed by both City and Franchisee, the Franchisee shall furnish the Director with an original and one copy of an annual report on or before the forty-fifth (45th) day following the Franchisee's fiscal year-end. The report date shall be submitted to the Director on the date of the Franchisee's acceptance of this Agreement. The report shall include an income statement showing the gross revenue received by the Franchisee from the collection of solid waste materials and other services provided by the Franchisee under this agreement. The report shall provide all information needed by the City to comply with the reporting requirements established by state and federal law.
- (C) Public Records. The Franchisee shall allow public access to all documents, papers, letters, and other material that is subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Franchisee in conjunction with this Agreement. The Franchisee shall immediately inform City of any and all public records requests made to Franchisee and coordinate with City the Franchisee's compliance with such request.

SECTION XI. COMPLIANCE WITH LAWS.

The Franchisee and its employees shall observe and comply with all present and future federal, state, and local laws, rules, regulations, requirements, ordinances, orders and mandatory guidelines that may pertain or apply to the services rendered hereto.

SECTION XII. INDEMNITY.

The Franchisee shall indemnify and hold harmless City, its departments, elected officials, officers, employees and agents, from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees and costs through trial and appeal, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of Franchisee, and/or persons and entities employed or utilized by Franchisee, in the performance of or arising out of this Agreement, or arising out of the violation of any law or regulation by Franchisee or persons or entities employed or utilized by Franchisee. Should the City be sued therefrom, the Franchisee shall be notified of and have the duty to defend such suits; provided, however, that the City has the sole option to defend such suits itself, or to hire independent counsel, and thereafter to tax all such defense costs and fees to the Franchisee. The Franchisee specifically agrees to pay any such judgment rendered against the City in any such case, and to reimburse the City, in full, for all costs and fees.

SECTION XIII. INSURANCE.

(A) General

Before starting and until acceptance of the work by the City, the Contractor shall procure and maintain insurance of the types and to the limits specified below.

The contractor shall require each of his subcontractors to procure and maintain, until completion of that subcontractor's work, insurance of types and to the limits specified below. It shall be the responsibility of the contractor to ensure that all his subcontractors comply with all of the insurance requirements contained herein relating to such subcontractors. The City reserves the right to request proof of subcontractor's insurance from the contractor.

(B) Coverage

Except as otherwise stated, the amounts and types of insurance shall conform to the following minimum requirements:

- (1) **Workers' Compensation** - Coverage to apply for all employees for Statutory Limits in compliance with the applicable state and federal laws. Companies with three (3) or fewer employees shall be required to have workers' compensation coverage meeting the minimum requirements of this section. In addition, the policy must include:
 - (a) Employer's Liability with a limit of \$100,000 each accident and disease.

- (b) Notice of Cancellation and/or Restriction - The policy must be endorsed to provide the City with thirty (30) days notice of cancellation and/or restriction.
 - (c) If any operations are to be undertaken on or about navigable waters, coverage must be included for the U.S. Longshoremen & Harbor Workers Act and Jones Act.
- (2) **Commercial General Liability** - Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy filed by the Insurance Services Office and must include:
- (a) Minimum limits of \$1,000,000 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.
 - (b) Premises and Operations.
 - (c) Independent Contractors.
 - (d) Products and Completed Operations - Contractors shall maintain in force until at least three years after completion of all services required under the contract, coverage for products and completed operations, including Broad Form Property Damage.
 - (e) Broad Form Contractual Coverage applicable to this specific contract, including any hold harmless and/or indemnification agreement.
 - (f) Additional Insured - The City is to be specifically included as an additional insured for the liability of the City resulting from operations performed by or on behalf of the Contractor in performance of this Contract and for liability of the City for acts or omissions of the City in connection with the general supervision of such operations. Contractor's insurance including that applicable to the City as an additional insured shall apply on a primary basis and any other insurance maintained by the City shall be in excess of and shall not contribute with contractor's insurance. Contractor's insurance shall contain a severability of interest provision, providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.
 - (g) Notice of cancellation and/or Restriction - The policy must be endorsed to provide the City with thirty (30) days notice of cancellation and/or restriction.
 - (h) Coverage on an occurrence basis.

- (3) **Business Auto Policy** - Coverage must be afforded on a form no more restrictive than the latest edition of the Business Auto Policy filed by the Insurance Services Office and must include:
- (a) Minimum Limits of \$1,000,000 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.
 - (b) Owned Vehicles.
 - (c) Hired and Non-Owned Vehicles.
 - (d) Notice of Cancellation and/or Restriction - The policy must be endorsed to provide the City with thirty (30) days notice of cancellation and/or restriction.
 - (e) Additional Insured - The City is to be specifically included as an additional insured. Contractor's insurance including that applicable to the City as an additional insured shall apply on a primary basis and any other insurance maintained by the City shall be in excess of and shall not contribute with Contractor's insurance. Contractor's insurance shall contain a severability of interest provision, providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Named Insured in the same manner as if separate policies had been issued to each.

(C) Certificates of Insurance

Certificates of insurance evidencing the insurance coverage specified in the previous paragraphs shall be filed with the City before operations are begun. The required certificates of insurance not only shall name the types of policies provided, but also shall refer specifically to this contract and section and the above paragraphs in accordance with which insurance is being furnished, and shall state that such insurance is as required by such paragraphs of this contract.

If the initial insurance expires prior to the completion of the work, renewal certificates of insurance and required copies of policies shall be furnished thirty (30) days prior to the date of their expiration.

SECTION XIV. DEFAULT; TERMINATION; REMEDIES.

- (A) **Default.** In the event that the Franchisee defaults in the performance of any obligations to be performed by it hereunder or fails to comply with federal, state and local laws, regulations, ordinances or resolutions, the City may, in its sole discretion, after thirty (30) days written notice to the Franchisee, terminate this Agreement.

- (B) Date of termination for default. Termination shall be effective upon the date specified in City's written notice to Franchisee and upon such date this Agreement shall be deemed immediately terminated and upon such termination all liability of the City under this Agreement shall cease. The Franchisee shall reimburse the City for all direct and indirect costs of providing interim collection service.
- (C) Remedies. All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other, or of any other remedy available to the City, at law or in equity. The prevailing party in any litigation arising hereunder shall reimburse the other party for its costs and attorney's fees resulting from such litigation, through trial and appeal.

SECTION XV. GENERAL PROVISIONS.

- (A) Survival. Except as otherwise expressly provided herein, each obligation in this Agreement to be performed by Franchisee shall survive the termination or expirations of this Agreement.
- (B) Waiver. The failure of the City at any time to require performance by the Franchisee of any provision hereof shall in no way affect the right of the City thereafter to enforce the same. No waiver by the City of any breach of any provision hereof shall be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.
- (C) Governing law and venue. This Agreement shall be governed by and interpreted pursuant to the laws of the State of Florida. The venue for any and all legal action necessary to interpret or enforce this Agreement shall be in Indian River County, Florida.
- (D) Severability. The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent the entire Agreement from being deemed void, at the option of the City, should a provision which is of the essence of the Agreement, at the option of the City, be determined to be void.
- (E) Modification of the Agreement. This Agreement constitutes the entire agreement and understanding between the parties hereto and supercedes all prior and contemporaneous agreements and understandings, representations and warranties, matters, whether oral or written, relating to such matters and this Agreement shall not

be considered modified, altered, changed, or amended in any respect unless in writing and signed by the parties hereto. Such modification shall be in the form of an Amendment executed by both parties.

- (F) Independence of parties. It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners or joint venturers between the parties hereto, or as constituting the Franchisee as the agent, representative, or employee of the City for any purpose whatsoever. The Franchisee is to be and shall remain an independent contractor with respect to all services performed under this Agreement.
- (G) Resolution of disputes. Any and all disputes or disagreements arising out of this Agreement shall be subject to the decision of the Director, with the right of the Franchisee to appeal pursuant to Section 2-202 of the Code of Ordinances of the City of Vero Beach.
- (H) Representations of the Franchisee. The Franchisee represents that: (a) it is a corporation duly organized under the laws of the State of Florida; (b) this Agreement has been duly authorized, executed, and delivered in the State of Florida; and (c) it has the required power and authority to perform this Agreement.
- (I) Notices. All dealings, contacts, notices, and payments between the Franchisee and the City shall be directed by the Franchisee to the Director and by the City to the Franchisee's Project Manager, each of whom shall be designated and identified to the other party, in writing, upon execution of this Agreement. Any notice, demand, communication, or request required or permitted under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

As to the City:

Name: Monte K. Falls, P.E.
Title: Director, Public Works
Street Address: 3405 Airport West Drive, Vero Beach, FL 32960
Mailing Address: PO Box 1389, Vero Beach, FL 32961-1389
Telephone: (772) 978-5300
Facsimile: (772) 770-5836

As to Franchisee:

Name: Bruce Fletcher, Fletcher's Hauling, Inc.
Title: President, Owner
Street Address: 1950 Flashy Ln. Malabar, FL 32950
Mailing Address: same as above
Telephone: (321) 725-2329
Facsimile:

Except as otherwise provided in this Agreement, all notices, certificates, reports, requests, demands, materials and any other communications hereunder or pursuant to this Agreement shall be in writing and deemed to have been duly given: (i) upon delivery (personally, by courier service such as FedEx or by other messenger) to the address of the appropriate party's designated representative; or (ii) upon receipt as evidenced by the appropriate form of the United States Postal Service after mailing by United States registered or certified mail, return receipt requested, postage prepaid to such address; or (iii) upon mailing if such registered or certified mail is refused by the recipient or returned unclaimed to the sender.

- (J) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original copy and all of which shall constitute one and the same instrument.
- (K) Headings. Captions and headings in this Agreement are for ease of reference only and shall not constitute a part of this Agreement nor affect its meaning, construction, or effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year above written.

WITNESS:

Sign: Melinda Blades
Print: Melinda Blades

Sign: _____
Print: _____

ATTEST:

Sign: _____
Print: Tammy K. Vock
Title: City Clerk

Approved as to form and legal sufficiency:

[Signature]
City Attorney

Approved as to technical requirements:

Mark K Falls
Director, Public Works Department

FRANCHISEE (insert name):
a Fletcher's Hauling, Inc.
(corporation; partnership; LLC; etc and state)

By: [Signature]
Print: Bruce Fletcher
Title: President, Owner

CITY OF VERO BEACH, FLORIDA

Sign: _____
Print: _____
Title: Mayor

Approved as conforming to municipal policy:

[Signature]
City Manager

THIS DOCUMENT PREPARED IN
THE OFFICE OF THE CITY ATTORNEY
PO BOX 1389
VERO BEACH, FL 32961-1389

PRODUCER Bob Lancaster Insurance Agency 1917 S. Harbor City Blvd. Melbourne, FL 32901 Phone (321)726-1620 Fax (321)676-1627	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.														
INSURED FLETCHER'S HAULING INC. 1950 Flashy Lane Malabar, FL 32950-	<table border="1"> <tr> <th>INSURERS AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A: SCOTTSDALE INSURANCE COMPAN</td> <td></td> </tr> <tr> <td>INSURER B: FLORIDA CITRUS BS & INDUSTRIES</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURERS AFFORDING COVERAGE	NAIC #	INSURER A: SCOTTSDALE INSURANCE COMPAN		INSURER B: FLORIDA CITRUS BS & INDUSTRIES		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
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COVERAGES

THE POLICIES OF INSURANCE LISTED HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<input type="checkbox"/>	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR _____ GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	CPS1007349	05/15/09	05/15/10	EACH OCCURRENCE 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) 50,000 MED EXP (Any one person) 5,000 PERSONAL & ADV INJURY 1,000,000 GENERAL AGGREGATE 2,000,000 PRODUCTS - COMP/OP AGG 2,000,000
	<input type="checkbox"/>	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON OWNED AUTOS _____				COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	<input type="checkbox"/>	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO _____				AUTO ONLY - EA ACCIDENT OTHER THAN EA ACC AUTO ONLY: AGG
	<input type="checkbox"/>	EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE _____ <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE AGGREGATE
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER / MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below OTHER	10642948	04/01/09	04/01/10	<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT 1,000,000 E.L. DISEASE - EA EMPLOYEE 1,000,000 E.L. DISEASE - POLICY LIMIT 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 CERTIFICATE HOLDER IS PROVIDED COVERAGE AS ADDITIONAL INSURED PER THE ATTACHED FORM

FAX 772 770 6836

CERTIFICATE HOLDER

CANCELLATION

CITY OF VERO BEACH PUBLIC WORKS DEPT ATTN: MELINDA BLADES 3405 AIRPORT WEST DR VERO BEACH, FL 32960	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.
CPS1007349	05/15/2009	FLETCHER'S HAULING, INC.	09017

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

With respect to this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization whom you are required to add as an additional insured on this policy under a written contract, written agreement or written permit which must be:

- a. Currently in effect or becoming effective during the term of the policy; and
- b. Executed prior to the "bodily injury," "property damage," or "personal and advertising injury."

The insurance provided to these additional insureds is limited as follows:

- 1. That person or organization is an additional insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:
 - a. Your acts or omissions; or
 - b. The acts or omissions of those acting on your behalf.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

- 2. With respect to the insurance afforded to these additional insureds, the following exclusions are added to item 2. **Exclusions of SECTION I - COVERAGES:**

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- 3. The limits of insurance applicable to the additional insured are those specified in the written contract, written agreement or written permit or in the Declarations for this policy, whichever is less. These limits of insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations for this policy.
- 4. Coverage is not provided for "bodily injury," "property damage," or "personal and advertising injury" arising out of the sole negligence of the additional insured.
- 5. The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of an architect's, engineer's or surveyor's rendering of or failure to render any professional services including:

Includes copyrighted material of ISO Properties, Inc., with its permission. Copyright, ISO Properties, Inc., 2004

Client#: 68080

FLECHAUL

ACORD™ CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY) 12/09/09
PRODUCER Euclid Insurance Agencies, LLC 4450 W Eau Gallie Blvd., #164 Melbourne, FL 32934 800 407-4077	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED Fletcher's Hauling, Inc. 1950 Flashy Lane Malabar, FL 32950	INSURERS AFFORDING COVERAGE INSURER A: Redland Insurance Company INSURER B: INSURER C: INSURER D: INSURER E:	NAIC # 37303

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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		GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC				EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPI OF AGG \$
A	X	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	RICFL0003216	07/30/09	07/30/10	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
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		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
		OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
CITY OF VERO BEACH IS LISTED AS ADDITIONAL INSURED WITH RESPECT TO THE BUSINESS AUTO. 30 DAYS NOTICE OF CANCELLATION APPLIES.

CERTIFICATE HOLDER

CANCELLATION

CITY OF VERO BEACH OFFICE OF THE DIRECTOR PUBLIC WORKS DEPARTMENT P.O. BOX 1389 VERO BEACH, FL 32961-1389 ATTN: MELINDA BLADES	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 
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COUNCIL AGENDA REPORT
MEETING OF JANUARY 5, 2010

TO: The Honorable Mayor and Members of the City Council

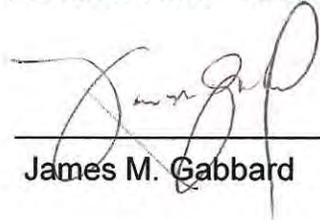
FROM: James M. Gabbard, City Manager

DATE: December 16, 2009

SUBJECT: SR A1A FROM ST. LUCIE/INDIAN RIVER COUNTY LINE TO COQUINA LANE - LANDSCAPE MAINTENANCE MEMORANDUM OF AGREEMENT

Please find attached a memorandum from Monte Falls, dated December 15, 2009, which provides background information and a recommendation on the above-referenced subject.

It is the recommendation of the City Manager's Office that Council approve the Landscape Maintenance Memorandum of Agreement with the Florida Department of Transportation for SR A1A from St. Lucie/Indian River County Line to Coquina Lane.



James M. Gabbard

:jav
Attachments

xc: Monte Falls
Stephen Maillet

N:\AGENDA\PUBLICWORKS\2010\FDOT LANDSCAPE MAINT MOA - SRA1A.DOC



DEPARTMENTAL CORRESPONDENCE

TO: James M. Gabbard, City Manager
DEPT: City Manager

FROM: Monte K. Falls, Director
DEPT: Public Works and Engineering

*MK FALLS
12/15*

DATE: December 15, 2009

RE: **SR A1A from St. Lucie/Indian River County Line to Coquina Lane
Landscape Maintenance Memorandum of Agreement**

Recommendation:

- Place this item on the City Council agenda for the January 5, 2009 meeting;
- Approve the Maintenance Memorandum of Agreement (MMA) with the Florida Department of Transportation (FDOT) for landscape improvements as outlined in Exhibit A of the agreement.

Funding:

No additional funding is required.

Background:

As you know, the FDOT is preparing to resurface State Road A1A from the St. Lucie/Indian River County line to just north of Coquina Lane. This project includes some landscaping improvements which will be funded by FDOT's standard 4% of contract funds. Within the city limits the landscape improvements will be located east of SR A1A adjacent to the Castaway Cove Wave III and Castaway Cove Wave IV developments. These developments have agreed to maintain the proposed landscaping (see attached). However, FDOT requires the local governmental agency to execute a MMA to assure (FDOT) that the landscaping is maintained. Given the benefit of the landscaping and the minimal amount of maintenance required we recommend that the MMA be executed.

Attachments

Cc: Michael Stewart, PE, AIM Engineering & Surveying, Inc.
Elisabeth Hassett, District IV Landscape Architect, FDOT

MKF/ntn



Florida Department of Transportation

CHARLIE CRIST
GOVERNOR

3400 West Commercial Boulevard
Fort Lauderdale, FL 33309-3421

STEPHANIE C. KOPELOUSOS
SECRETARY

October 22, 2009

Mr. Monte Falls
Director of Public Works
City of Vero Beach
3405 Airport West Drive
P.O. Box 1389
Vero Beach, Florida 32961-1389

Dear Mr. Falls:

RE: District Four Maintenance Memorandum of Agreement for State Road A1A from Shorewinds Lane (M.P. 4.62) to North of Coquina Lane (M.P. 5.47). FM #421695-1-52-01.

Enclosed are four (4) original Maintenance Memorandum of Agreement including a set of plans that reflect the landscape improvements that will be constructed for State Road A1A in the City of Vero Beach.

Please have these executed by the City at their earliest convenience returning **all four (4)** to me, with one sealed copy of the Resolution approving such action. Gerry O'Reilly, P.E., the Department's Transportation Development Engineer District IV, will execute and date the originals returning one for your file.

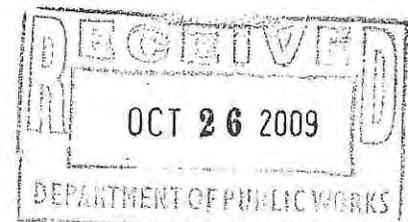
Important: Please do not fill in the date on the first paragraph on page one.

Please contact the Project Manager, Mr. Fernando Morales at (954)486-1400 if you have any questions regarding this project and if you have questions regarding this agreement please call me at (954)777-4219 or Mary Ann Randolph at (954)677-7897.

Sincerely,

Elisabeth A. Hassett
District IV Landscape Architect

CC: F. Morales, P.E.
File



CASTAWAY COVE WAVE III HOMEOWNERS ASSOCIATION, INC.
C/o Elliott Merrill Community Management
835 20th Place, Vero Beach, FL 32960
Ph: (772) 569-9853; Fax: (772) 569-4300

MEMORANDUM

TO: Monte Falls, PE
Public Works Director
C/O City of Vero Beach
1053 20th Place
Vero Beach, FL 32961-1389

FROM: Bob Whitehead, CMCA, AMS
On behalf of the Board of Directors

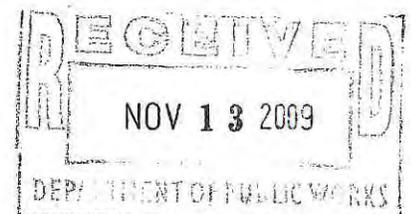
DATE: November 9, 2009

RE: **Live Oak Trees**

The Board of Castaway Cove Wave III has received the information regarding the resurfacing of SR A1A from the St. Lucie/Indian River County Line to North of Coquina Lane. In the letter received we are asked about the proposed installation of Live Oak Trees in the right-of-way in front of the community.

Could the community request two of the proposed Oaks be substituted with a flowering tree similar to the Royal Poinciana already planted on Castaway Cove Wave VI's A1A frontage?

At this time, I would like to inform you that the Board has accepted the proposition, placement and responsibility of the upkeep of the trees presented. Thank you.



RUDOLF E. RADO CY

1295Admiral's Walk
Vero Beach, FL 32963-2383
772-234-6289
rudolferadocy@aol.com

October 26, 2009

Mr. Monte K. Falls, PE
Public Works Director
City of Vero Beach
1053 20th Place - P. O. Box 1389
Vero Beach, FL 32961-1389

Dear Mr. Falls:

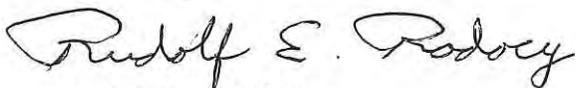
I am writing as President of Castaway Cove Wave VI Homeowners Association, Inc. regarding a portion of the SR A1A resurfacing from the St. Lucie/Indian River County Line to North of Coquina Lane, as addressed in your letter to me of October 21. The portion of concern regards the placement of live oak trees between our wall and the highway.

Our Board of Directors voted unanimously to accept the tree placement in accordance with the FDOT proposal, as appended to your letter. It is our understanding that the City and FDOT will be responsible for installation, and our HOA will be responsible for maintenance.

I am sharing the proposal with Elliott Merrill Community Management, our agency to which we contract for ongoing maintenance. Bob Whitehead, our Elliott Merrill liaison, indicated that placement of existing sprinkler lines has implications for future tree and sidewalk location.

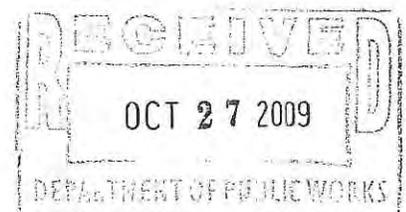
We appreciate your willingness to contact us regarding the desirability of additional trees and will look forward (albeit with some aggravation regarding construction!) to the project's implementation.

Sincerely,



Rudolf E. Radocy
President, Castaway Cove Wave VI HOA

ec: Bob Whitehead, Elliott Merrill Community management



SECTION No.: 88070
FM No. (s): 421695-1-52-01
COUNTY: Indian River
S.R. No.: A1A

**DISTRICT FOUR
MAINTENANCE MEMORANDUM OF AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the DEPARTMENT and the City of Vero Beach, a municipal corporation, existing under the Laws of Florida, hereinafter called the AGENCY.

WITNESSETH:

WHEREAS, the DEPARTMENT has jurisdiction over State Road A1A as part of the State Highway System as described in Exhibit A; and

WHEREAS, the DEPARTMENT seeks to install and have maintained by the AGENCY certain landscape improvements within the right of way of State Road A1A as described within Exhibit B; and

WHEREAS, as part of the continual updating of the State of Florida Highway System, the DEPARTMENT, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain the highway facility as described in Exhibit A attached hereto and incorporated by reference herein, within the corporate limits of the agency and

WHEREAS, the AGENCY is of the opinion that highway facilities within the AGENCY'S limits that contain landscape improvements to medians and areas outside the travelway to the right of way line and areas within the travelway that may contain specialty surfacing (concrete pavers, stamped asphalt or stamped concrete), including any hardscape (if applicable), but excluding standard concrete sidewalk, shall be maintained by periodic pruning, mowing, fertilizing, weeding, litter pick-up, necessary replanting, irrigation repair and/or repair of any median concrete replacements associated with the specialty surfacing (if applicable) as needed; and

WHEREAS, it is the intent of the AGENCY and the DEPARTMENT that the AGENCY shall maintain all right of way within the medians, outside the travelway and improvements made to the travelway that was made at the request of the AGENCY; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS, the AGENCY by Resolution No. _____ dated _____, 20____, attached hereto and by this reference made a part hereof, desires to enter into this Agreement and authorizes its officers to do so;

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. The recitals set forth above are true and correct and are deemed incorporated herein.
2. **INSTALLATION OF FACILITIES**

The DEPARTMENT hereby agrees to install or cause to be installed *landscape improvements* described as: plant materials, irrigation and/or hardscape on the highway facilities substantially as specified in the initial plans and specifications hereinafter referred to as the Project (s) and incorporated herein as Exhibit B. If there are any major changes to the plans, the DEPARTMENT shall provide the modified plans to the AGENCY and the AGENCY shall provide their approval or disapproval to the DEPARTMENT within 10 business days. The DEPARTMENT may elect to withdraw the landscape improvements if changes are not approved within the given time frame. *Hardscape* shall mean, but not be limited to, any landscape accent lighting, any non-standard roadway, sidewalk, median or crosswalk surfacing, such as, but not be limited to concrete pavers, stamped asphalt or color stained and/or stamped concrete, fountain, tree grates, and/or decorative free standing wall.

3. **MAINTENANCE OF FACILITIES**

- A. The AGENCY agrees to maintain the landscape improvements, as existing and those to be installed, within the physical limits described in Exhibit A and as defined as: plant materials, irrigation, and / or hardscape within the medians and areas outside the travelway to the right of way line and areas within the travelway containing specialty surfacing as existing and as described in Exhibit B. The non-standard improvements outside the travelway shall be maintained by the AGENCY regardless if the said improvement was made by the DEPARTMENT, the AGENCY, or others by periodic pruning, mowing, fertilizing, weeding, curb and sidewalk edging, litter pickup, necessary replanting, and / or repair following the DEPARTMENT'S landscape safety and maintenance guidelines and Exhibit C, the Maintenance Plan. The AGENCY'S responsibility for maintenance shall include all landscaped / turfed and hardscape areas within the median and areas outside the travelway to the right-of-way and areas within the travelway containing specialty surfacing. It shall be the responsibility of the AGENCY to restore an unacceptable ride condition of the roadway caused by the differential characteristics of non-standard surfacing and the associated header curb and concrete areas on DEPARTMENT right-of-way within the limits of this Agreement.
- B. Such maintenance to be provided by the AGENCY is specifically set out as follows: to maintain, which means to properly water and fertilize all plants; to keep them as free as practicable from disease and harmful insects; to properly mulch the planting beds; to keep the premises free of weeds; to mow the grass to the proper height; to properly prune all plants which at a minimum includes: (1) removing dead or diseased parts of plants, (2) pruning such parts thereof to provide clear visibility to signage or for those using the roadway and or sidewalk; (3) preventing any other potential roadway hazards. Plants shall be those items which would be scientifically classified as plants and include but are not limited to trees, shrubs, groundcover and sod. To maintain also means to remove or replace dead or diseased plants in their entirety, or to remove or replace those that fall

below original project standards. Palms shall be kept fruit free year round. To maintain also means to keep the header curbs that contain the specialty surfacing treatment in optimum condition. To maintain also means to keep the hardscape areas free from weeds and to repair said hardscape as is necessary to prevent a safety hazard. To maintain also means to keep litter removed from the median and areas outside the travel way to the right of way line. All plants removed for whatever reason shall be replaced by plants of the same species type, size, and grade as specified in the original plans and specifications. Any changes to the original plans shall be submitted by permit application to the DEPARTMENT for review and approval.

- C. If it becomes necessary to provide utilities (water/electricity) to the medians or areas outside the travelway for these improvements, all costs associated with the utilities associated with landscape accent lighting and/or irrigation including, but not limited to the impact and connection fees, and the on-going cost of utility usage for water and electrical, are the maintaining AGENCY'S responsibility.

(1) The AGENCY shall be directly responsible for impact and connection fees

AND

- (2) The AGENCY shall become responsible for the above named ongoing utility costs upon final acceptance of the construction Project by the DEPARTMENT and thereafter. The construction Project is accepted prior to the start of the Plant Establishment and Contractor's Warranty Period.

AND

- (3) The AGENCY shall be responsible for all the improvements immediately after final acceptance of the construction Project by the DEPARTMENT except for plants. The AGENCY shall be responsible for the maintenance of all improvements after the completion of the Plant Establishment and Contractor's Warranty Period.

- D. The above named functions to be performed by the AGENCY may be subject to periodic inspections by the DEPARTMENT at the discretion of the DEPARTMENT. Such inspection findings will be shared with the AGENCY and shall be the basis of all decisions regarding, repayment, reworking or Agreement termination. The AGENCY shall not change or deviate from said plans without written approval of the DEPARTMENT.

4. NOTICE OF MAINTENANCE DEFICIENCIES

- A. If at any time after the AGENCY has undertaken the landscape improvement's maintenance responsibilities mentioned above, it shall come to the attention of the DEPARTMENT'S District Secretary that the limits, or a part thereof, are not properly maintained pursuant to the terms of this Agreement, said District Secretary may at his/her option, issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the AGENCY, placing said AGENCY on notice thereof. Thereafter the AGENCY shall have a period of thirty (30) calendar days within which to correct the cited

deficiencies. If said deficiencies are not corrected within this time period, the DEPARTMENT may at its option, proceed as follows:

- (1) Maintain the landscape improvements or any part thereof, with DEPARTMENT or Contractor's personnel and invoice the AGENCY for expenses incurred, or
- (2) Terminate the Agreement in accordance with Paragraph 9 of this Agreement and remove, by the DEPARTMENT or Contractor's personnel, all of the landscape improvements installed under this Agreement or any preceding Agreements, except as to trees and palms, and charge the AGENCY the reasonable cost of such removal.

B. The AGENCY agrees to reimburse the DEPARTMENT all monies expended by the DEPARTMENT for the Project listed in Exhibit B in the amounts listed in those plans should the landscape improvement fail to be maintained in accordance with the terms and conditions of this Agreement.

5. FUTURE DEPARTMENT IMPROVEMENTS

It is understood between the parties hereto that the landscape improvements covered by this Agreement may be removed, relocated or adjusted at any time in the future as determined to be necessary by the DEPARTMENT in order that the adjacent state road be widened, altered or otherwise changed to meet with future criteria or planning of the DEPARTMENT. The AGENCY shall be given sixty (60) calendar days notice to remove said landscape improvements at AGENCY'S expense after which time the DEPARTMENT may remove same. All permits (including tree permits), fees, and any mitigation associated with the removal, relocation or adjustments of these improvements are the maintaining AGENCY'S responsibility.

6. FUTURE AGENCY IMPROVEMENTS

The AGENCY may construct additional landscape improvements within the limits of the rights of ways identified as a result of this document, subject to the following conditions:

- (a) Plans for any new landscape improvements shall be subject to approval by the DEPARTMENT. The AGENCY shall not change or deviate from said plans without written approval by the DEPARTMENT.
- (b) The AGENCY shall procure a permit from the DEPARTMENT.
- (c) All landscape improvements shall be developed and implemented in accordance with appropriate state safety and roadway design standards.
- (d) The AGENCY agrees to comply with the requirements of this Agreement with regard to any additional landscape improvements installed at no cost to the DEPARTMENT.

7. ADJACENT PROPERTY OWNER IMPROVEMENTS

The DEPARTMENT may allow an adjacent property owner to construct additional landscape improvements within the limits of the rights of way identified in Exhibit A of this Agreement that the AGENCY shall be responsible for maintaining under this Agreement subject to the following conditions:

- (a) Plans for any new landscape improvements shall be subject to approval by the DEPARTMENT and shall require a valid permit attached with a letter of consent to said plans by the AGENCY. The plans shall not be changed or deviated from without written approval by the DEPARTMENT and the AGENCY.
- (b) All landscape improvements shall be developed and implemented in accordance with appropriate state safety and roadway design standards.
- (c) The AGENCY agrees to comply with the requirements of this Agreement with regard to any additional landscape improvements installed by an adjacent owner.

8. PROJECT COST

The DEPARTMENT agrees to enter into a contract for the installation of the Project for an amount not to exceed \$21,000.00 as defined in Exhibit D. This amount may be reduced or eliminated at the sole discretion of the DEPARTMENT or due to budgetary constraints of the DEPARTMENT.

The DEPARTMENT'S participation in the Project cost, as described in Exhibit D is limited to only those items which are directly related to this Project.

The AGENCY shall be invited to assist the DEPARTMENT in final inspection upon completion of the Plant Establishment and Contractor's Warranty Period.

9. AGREEMENT TERMINATION

This Agreement may be terminated under any one (1) of the following conditions:

- (a) By the DEPARTMENT, if the AGENCY fails to perform its duties under this Agreement, following ten (10) days written notice.
- (b) By the DEPARTMENT, for refusal by the AGENCY to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the AGENCY in conjunction with this Agreement.

10. AGREEMENT TERM

- A. The term of this Agreement commences upon execution by all parties. The term of this Agreement shall last as long as the landscape improvements exist.
- B. If the DEPARTMENT cancels the Project described in Exhibit B, this Agreement becomes void and the original Agreement is reinstated if any.

11. LIABILITY AND INSURANCE REQUIREMENTS

- A. With respect to any of the AGENCY'S agents, consultants, sub-consultants, contractors, and/or sub-contractors, such party in any contract for this project shall agree to indemnify, defend, save and hold harmless the DEPARTMENT from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, subconsultants, contractors and/or subcontractors. The AGENCY shall provide to the DEPARTMENT written evidence of the foregoing upon the request of the DEPARTMENT. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the DEPARTMENT for its own negligence.
- B. In the event that AGENCY contracts with a third party to provide the services set forth herein, any contract with such third party shall include the following provisions:
- (a) AGENCY'S contractor shall at all times during the term of this Agreement keep and maintain in full force and effect, at contractor's sole cost and expense, Comprehensive General Liability with minimum limits of \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and Worker's Compensation insurance with minimum limits of \$500,000.00 per Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability and Worker's Compensation policy without restrictive endorsements, as filed by the Insurance Services Office and shall name the DEPARTMENT as an additional insured.
 - (b) AGENCY'S contractor shall furnish AGENCY with Certificates of Insurance of Endorsements evidencing the insurance coverages specified herein prior to the beginning performance of work under this Agreement.
 - (c) Coverage is not to cease and is to remain in full force and effect (subject to cancellation notice) until all performance required of AGENCY'S contractor is completed. All policies must be endorsed to provide the DEPARTMENT with at least thirty (30) days notice of cancellation and or/or restriction. If any of the insurance coverages will expire prior to the completion of work, copies of renewal policies shall be furnished at least (30) days prior to the date of expiration.
12. This writing embodies the entire Agreement and understanding between the parties hereto and there are no other Agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.
13. The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained

shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of TWENTY FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year.

14. The DEPARTMENT'S District Secretary shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution or fulfillment of the service hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto.
15. This Agreement may not be assigned or transferred by the AGENCY in whole or part without the consent of the DEPARTMENT.
16. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this agreement is decided.
17. NOTICES

Any and all notices given or required under this Agreement shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses:

If to the Department:
State of Florida Department of Transportation
3400 West Commercial Blvd.
Ft. Lauderdale, FL 33309-3421
Attention: Elisabeth A. Hassett, R.L.A.
FDOT District IV Landscape Architect

If to the Agency:
City of Vero Beach
3405 Airport West Drive
Vero Beach, Florida 32961-1389
Attention: Monte Falls
Title: Dir. of Public Works

18. LIST OF EXHIBITS

- Exhibit A: Project Location & Maintenance Boundaries
- Exhibit B: Project Plans
- Exhibit C: Maintenance Plan
- Exhibit D: Approximate Project Cost

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first above written.

CITY OF VERO BEACH

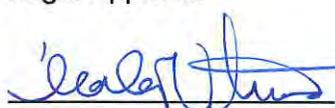
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
Chairperson/Mayor

By: _____
Transportation Development Director

Attest: _____ (SEAL)
Clerk

Attest: _____ (SEAL)
Executive Secretary

Legal Approval Date
 _____
Attorney 12.15.09

Legal Approval Date

Office of the General Counsel

SECTION No.:	88070
FM No. (s)	421695-1-52-01
COUNTY:	Indian River
S.R. No.:	A1A

EXHIBIT A

PROJECT LOCATION AND MAINTENANCE BOUNDARIES

I. PROJECT LOCATION:

State Road A1A from Indian River County Line (M.P.0.0) to North of Coquina Lane (M.P.5.47)

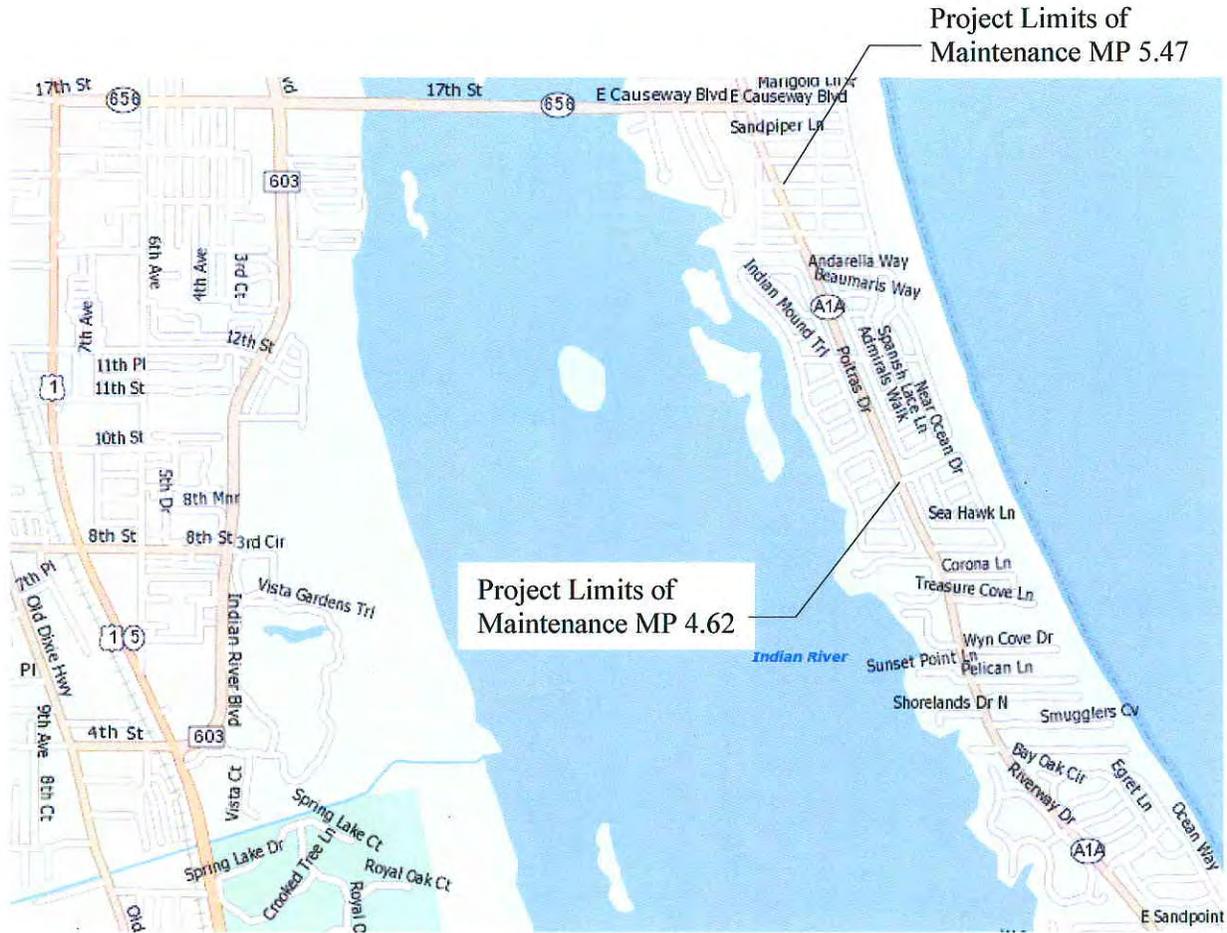
II. PROJECT LIMITS OF MAINTENANCE:

State Road A1A from Shorewinds Lane (M.P.4.62) to North of Coquina Lane (M.P.5.47)

III. PROJECT MAINTENANCE MAP: See Attached Map

SECTION No.:
FM No. (s)
COUNTY:
S.R. No.:

88070
421695-1-52-01
Indian River
A1A



SECTION No.:	88070
FM No. (s)	421695-1-52-01
COUNTY:	Indian River
S.R. No.:	A1A

EXHIBIT B

PROJECT PLANS

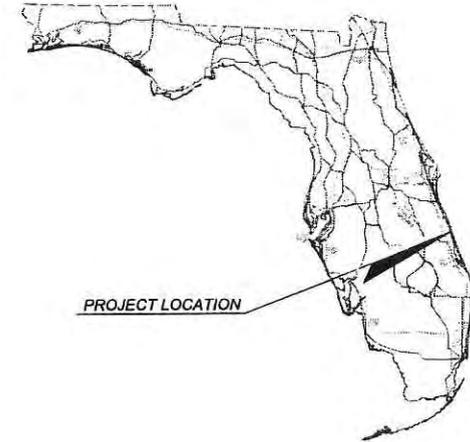
The DEPARTMENT agrees to install the Project in accordance with the plans and specifications attached hereto and incorporated herein.

Please see attached plans prepared by: ACAI Associates, Inc., Tom Vageline.
Date: 9/18/09

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

LANDSCAPE PLANS

FINANCIAL PROJECT ID 421695-1-52-01
INDIAN RIVER COUNTY (88070)
STATE ROAD NO. A1A
FROM ST. LUCIE COUNTY/INDIAN RIVER COUNTY LINE
TO NORTH OF COQUINA



INDEX OF LANDSCAPE PLANS

SHEET NO.	SHEET DESCRIPTION
LD-1	LANDSCAPE COVER SHEET
LD-2	LANDSCAPE TABULATION OF QUANTITIES
LD-3	LANDSCAPE GENERAL NOTES
LD-4 to LD-26	LANDSCAPE PLAN

DESIGN STANDARDS AND SPECIFICATIONS
FLORIDA DEPARTMENT OF TRANSPORTATION
DESIGN STANDARDS DIRECTOR
AND STANDARD SPECIFICATIONS FOR ROADS AND
BRIDGES CONSTRUCTION DATED 2007
AS AMENDED BY CONTRACT DOCUMENTS

APPLICABLE DESIGN STANDARDS MODIFICATIONS: 01/01/09

FOR DESIGN STANDARDS MODIFICATIONS USE AN
"ADDITIONAL SHEET" AT THE END OF THE DRAWING WITH THE
APPROPRIATE DATE AND NUMBER.

PLANS PREPARED BY:

acai

ARCHITECTURE ENGINEERING
PLANNING CONSTRUCTION AND
CONSTRUCTION MANAGEMENT
2801 W. CYPRUS CREEK ROAD, STE. 100
FORT LAUDERDALE, FL 33309
407.644.1100 407.644.4771 FAX 407.644.1078

NOTE: THE SCALE OF THESE PLANS MAY
HAVE CHANGED DUE TO REPRODUCTION.

Tom Vageline
Leslie Wetherell

NOT FOR CONSTRUCTION

KEY SHEET REVISIONS		
DATE	#1	DESCRIPTION

LANDSCAPE PLANS
LANDSCAPE ARCHITECT OF RECORD: TOM VAGELINE, ASLA

R.L.A. NO.: LA0000562

FISCAL YEAR	SHEET NO.
11	LD-1

FDOT PROJECT MANAGER: LESLIE WETHERELL, P.E.

Pay Item Number	Symbol	Botanical Name	Common Name	Specifications	Sheet Numbers											Total	
					LD-4	LD-5	LD-6	LD-7	LD-8	LD-9	LD-10	LD-11	LD-12	LD-13	LD-14		LD-15
		Trees															
583-1-1	SP	Sabal palmetto	Sabal Palms	FG 10' - 20' HT. Mature (5' Stagguard Heights)	8			10	10	10	13	12	26	13			102
	QV	Quercus virginiana	Live Oak	#30 - 15" AO X 4" - 5" SPR 3" CAL (AS)											4		4
	LI	Lagerstroemia indica	Crape Myrtle Pink	#7 - 12' - 14' OA 4" SPR (6' - 8' OC)											3		3
		Shrubs															
582-1-1	SR	Serenoe repens	Saw Palmetto	#3 - 24" OA X 30" SPR (5' OC)	37												37
	IV	Ilex vomitoria	Schellings Dwarf Holly	#3 - 36" OA X 18" SPR (2.5' OC) (Mixed Random W/IF)		300	300										600
	IF	Illicium floridanum	Florida Anise	36" OA X 12" SPR (5' OC) (Mixed Random W/IF)		450	450										900
		Groundcover															
582-1-1	TD	Tripsacum dactyloides	Fakahatchee Grass	12" OA X 16" SPR (2' OC)				180	240	160	220	220	440	220	110		1770
	HD	Helianthus debilis	Beach Sunflower	12" OA X 12" SPR (18" - 24" OC)	280												280

Pay Item Number	Symbol	Botanical Name	Common Name	Specifications	Sheet Numbers											Total	
					LD-16	LD-17	LD-18	LD-19	LD-20	LD-21	LD-22	LD-23	LD-24	LD-25	LD-26		
		Trees															
583-1-1	SP	Sabal palmetto	Sabal Palms	FG 10' - 20' HT. Mature (5' Stagguard Heights)			3	7									10
	QV	Quercus virginiana	Live Oak	#30 - 15" AO X 4" - 5" SPR 3" (AS)	11	12	7		2	6	6	9	10	2	7		72
	LI	Lagerstroemia indica	Crape Myrtle Pink	#7 - 12' - 14' OA 4" SPR (6' - 8' OC)													
		Shrubs															
582-1-1	SR	Serenoe repens	Saw Palmetto	#3 - 24" OA X 30" SPR (5' OC)													
	IV	Ilex vomitoria	Schellings Dwarf Holly	#3 - 36" OA X 18" SPR (2.5' OC) (Mixed Random W/IF)													
	IF	Illicium floridanum	Florida Anise	36" OA X 12" SPR (5' OC) (Mixed Random W/IF)													
		Groundcover															
582-1-1	TD	Tripsacum dactyloides	Fakahatchee Grass	12" OA X 16" SPR (2' OC)			80	140									220
	HD	Helianthus debilis	Beach Sunflower	12" OA X 12" SPR (18" - 24" OC)													

NOT FOR CONSTRUCTION

Handwritten signature: James M. Caputo

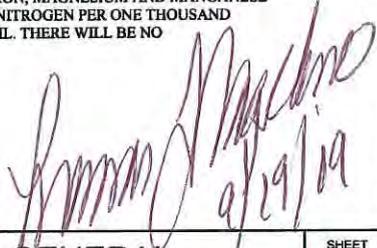
NOTICE: THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE SIGNED AND SEALED UNDER RULE 61010-11.011, F.A.C.

REVISIONS						 <small>ARCHITECTURE ENGINEERING SURVEYING CONSULTING AND CONSTRUCTION MANAGEMENT INC. 5015 U.S. HIGHWAY 90, SUITE 100, FORT LAUDERDALE, FL 33404 REGISTERED ENGINEERS * LICENSE NO. 12000</small>	STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			TABULATION OF QUANTITIES	SHEET NO. LD-2
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
							AIA	INDIAN RIVER	421695-1-52-01		

GENERAL NOTES

1. ALL THE PLANT MATERIALS SHALL BE FLORIDA #1 OR BETTER AS SET FORTH BY THE CURRENT EDITION OF THE FLORIDA DEPARTMENT OF AGRICULTURE GRADES AND STANDARDS FOR NURSERY PLANTS.
2. ALL PLANTINGS SHALL BE INSTALLED PER FLORIDA DEPARTMENT OF TRANSPORTATION INDEX NOS. 544 & 546 AS WELL AS SECTION 580 OF THE STANDARD SPECIFICATION FOR ROAD AND BRIDGE CONSTRUCTION DATED 2009.
3. ALL SHADE TREES SHALL BE PLANTED MINIMUM OF 15' FROM THE LIGHT POLES, AND 75" FOR SMALL TREES AND PALMS.
4. SITE PREPARATION SHALL INCLUDE THE ERADICATION AND REMOVAL OF ANY EXOTIC NUISANCE VEGETATION, WEEDS, GRASS, CLEAN UP OF ANY DEAD MATERIAL, DEBRIS AND RUBBISH.
5. THE LANDSCAPE CONTRACTOR SHALL BE AWARE OF THE LOCATION OF ALL EASEMENTS AND UTILITIES ABOVE AND BELOW THE GROUND AND SHALL CALL FOR UTILITY STATEMENT FORTY-EIGHT (48) HOURS BEFORE ANY DIGGING OPERATIONS BEGIN. ALL PLANT PITS LOCATED IN THE EASEMENTS SHALL BE HAND DUG. THE LANDSCAPE CONTRACTOR SHALL REPAIR ALL THE DAMAGE TO THE UNDERGROUND UTILITIES CAUSED BY DIGGING, AT NO COST TO THE DEPARTMENT.
6. ALL TREES WILL BE A MINIMUM OF 4' FROM UNDERGROUND UTILITY LINES.
7. ALL PLANT MATERIAL SYMBOLS SHOWN ON THE LANDSCAPE PLAN SHALL BE CONSIDERED DIAGRAMMATIC AND SHOULD BE ADJUSTED IN THE FIELD BY THE CONTRACTOR TO AVOID ALL UTILITIES, AND ALL OTHER OBSTRUCTIONS.
8. ALL AREAS DISTURBED DURING THE CONSTRUCTION SHALL BE SODDED WITH BAHIA, UNLESS OTHERWISE NOTED, I.E., SODDED, PAVED.
9. ALL SIZES SHOWN FOR THE PLANT MATERIAL ON THE PLAN, ARE TO BE CONSIDERED MINIMUM. ALL PLANT MATERIAL MUST MEET OR EXCEED THESE MINIMUM REQUIREMENTS FOR BOTH HEIGHT AND SPREAD. ANY OTHER REQUIREMENTS FOR SPECIFIC SHAPE OR EFFECT AS NOTED ON THE PLAN SHALL ALSO BE REQUIRED FOR ACCEPTANCE. ALL THE TREES SHALL BE SINGLED TRUNK, UNLESS OTHERWISE NOTED ON THE PLANS.
10. TREES AND SHRUBS SHALL BE FERTILIZED WITH A GENERAL PURPOSE FERTILIZER WITH A 1:1:1 RATIO OF NITROGEN, PHOSPHOROUS, POTASSIUM FERTILIZER. APPLICATION RATES ARE TO BE ACCORDING TO MANUFACTURER RECOMMENDATIONS FOR INSTALLATION OF NEWLY ESTABLISH PLANT MATERIAL. PALMS SHALL BE FERTILIZED WITH A PALM SPECIAL FERTILIZER, THAT IS 100% ORGANIC, A 2:1:1 RATIO, CONTAINING NITROGEN, PHOSPHOROUS, POTASSIUM AS MAJOR ELEMENTS AND CONTAINING MINOR ELEMENTS, INCLUDING IRON, MANGANESE, MAGNESIUM AND ZINC. APPLICATION SHALL BE ACCORDING TO THE MANUFACTURER SPECIFICATIONS FOR NEWLY ESTABLISHED PLANT MATERIAL. AREAS TO BE SODDED SHALL BE FERTILIZED WITH A 100% ORGANIC GENERAL PURPOSE FERTILIZER AT A RATIO OF 1:1:1, CONTAINING NITROGEN, PHOSPHOROUS, POTASSIUM ANALYSIS WITH IRON, MAGNESIUM AND MANGANESE AS MINOR ELEMENTS. APPLICATIONS SHALL BE AT THE RATE OF 1 POUND OF ACTUAL NITROGEN PER ONE THOUSAND SQUARE FEET AND SHALL BE FULLY INCORPORATED INTO THE TOP TWO INCHES OF SOIL. THERE WILL BE NO FERTILIZATION DURING THE MONTHS OF DECEMBER, JANUARY AND FEBRUARY..

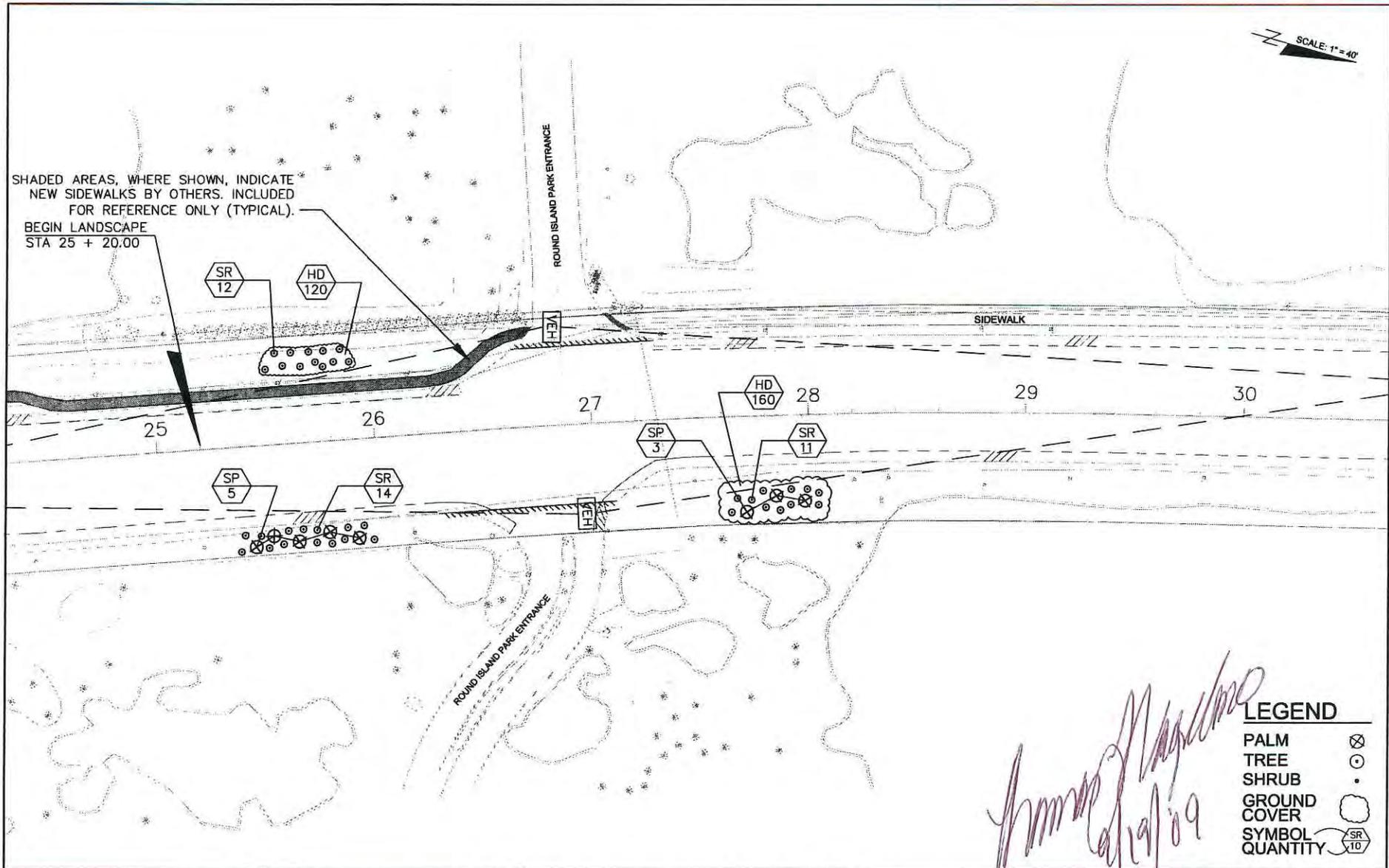
NOT FOR CONSTRUCTION


 Sumner Macdonald
 9/29/19

REVISIONS							STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION			<p style="font-size: 24pt; font-weight: bold; color: red;">GENERAL NOTES</p>	SHEET NO.
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		LD-3
						AIA	INDIAN RIVER	421695-1-52-01			

SCALE: 1" = 40'

SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).
 BEGIN LANDSCAPE STA 25 + 20.00



LEGEND

PALM	⊗
TREE	○
SHRUB	•
GROUND COVER	⊙
SYMBOL QUANTITY	SR 10

Handwritten signature and date: [Signature] 1/19/09

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REVISIONS		REVISIONS	
DATE	BY	DATE	BY

acai
 ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 2025 F STREET, SUITE 100
 FORT LAUDERDALE, FL 33304
 (954) 341-1111

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
A1A	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-4

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SCALE: 1" = 40'

OYSTER BAR SALT MARSH CONSERVATION AREA

SIDEWALK

LEGEND

- PALM ⊗
- TREE ○
- SHRUB •
- GROUND COVER ☁
- SYMBOL QUANTITY SR 10

Handwritten signature and date: [Signature] 9/19/09

REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
ARCHITECTURE, ENGINEERING,
 ROOFING, CONSULTING, AND
 CONSTRUCTION MANAGEMENT
 2827 S. OYSTER BAR BLVD. STE. 200
 TITUS LAKE, FL 32928
 407.263.8844

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

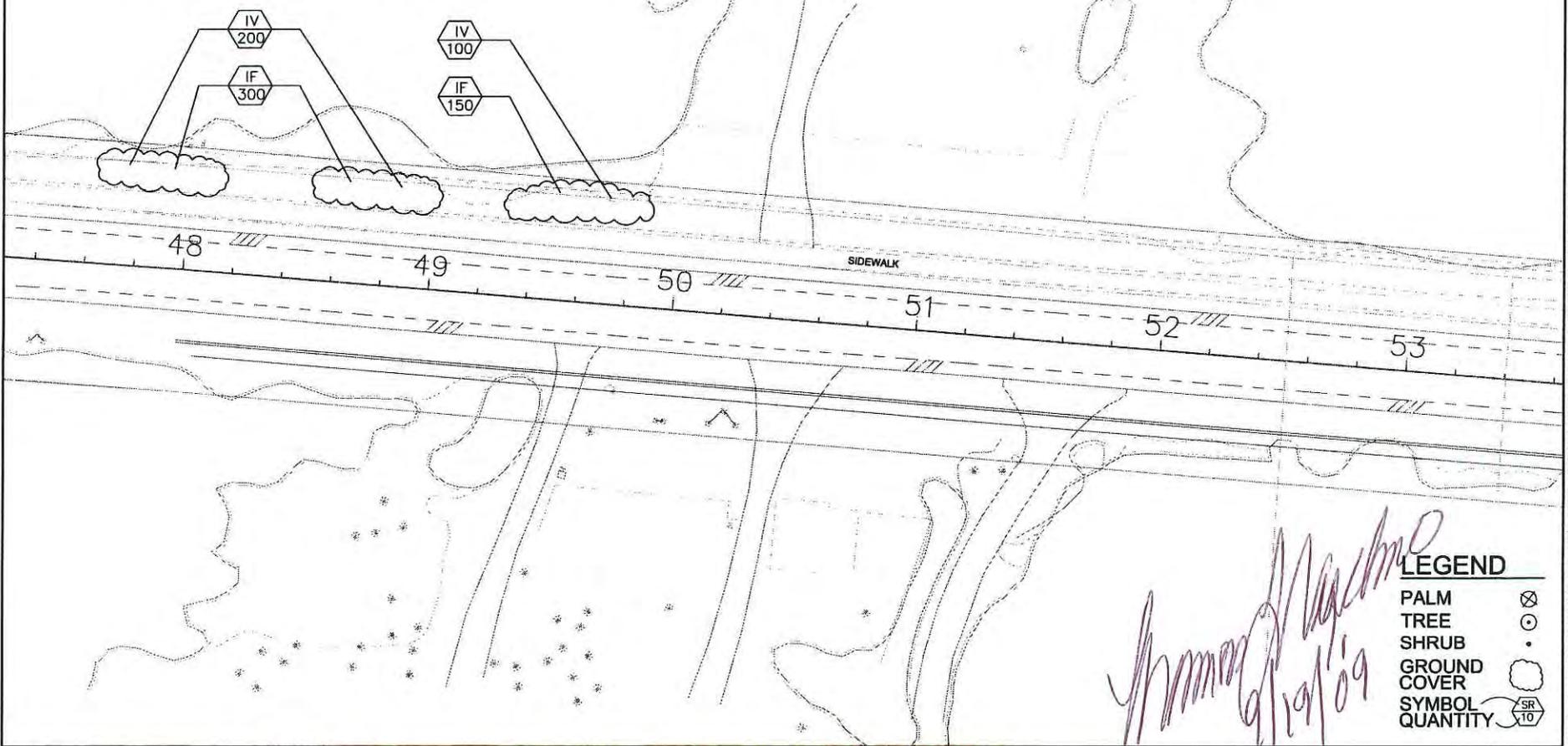
LANDSCAPE PLAN

SHEET NO.
LD-5

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SCALE: 1" = 40'

OYSTER BAR SALT MARSH CONSERVATION AREA



LEGEND

- PALM
- TREE
- SHRUB
- GROUND COVER
- SYMBOL QUANTITY

Handwritten signature and date: 9/19/09

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REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
ARCHITECTURE ENGINEERING
 ROOFPING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 200 N. STATE ROAD 101, SUITE 100
 WEST PALM BEACH, FL 33411
 PHONE: 561.832.4200
 FAX: 561.832.4201
 WWW.ACAI.COM

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
A1A	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-6

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REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

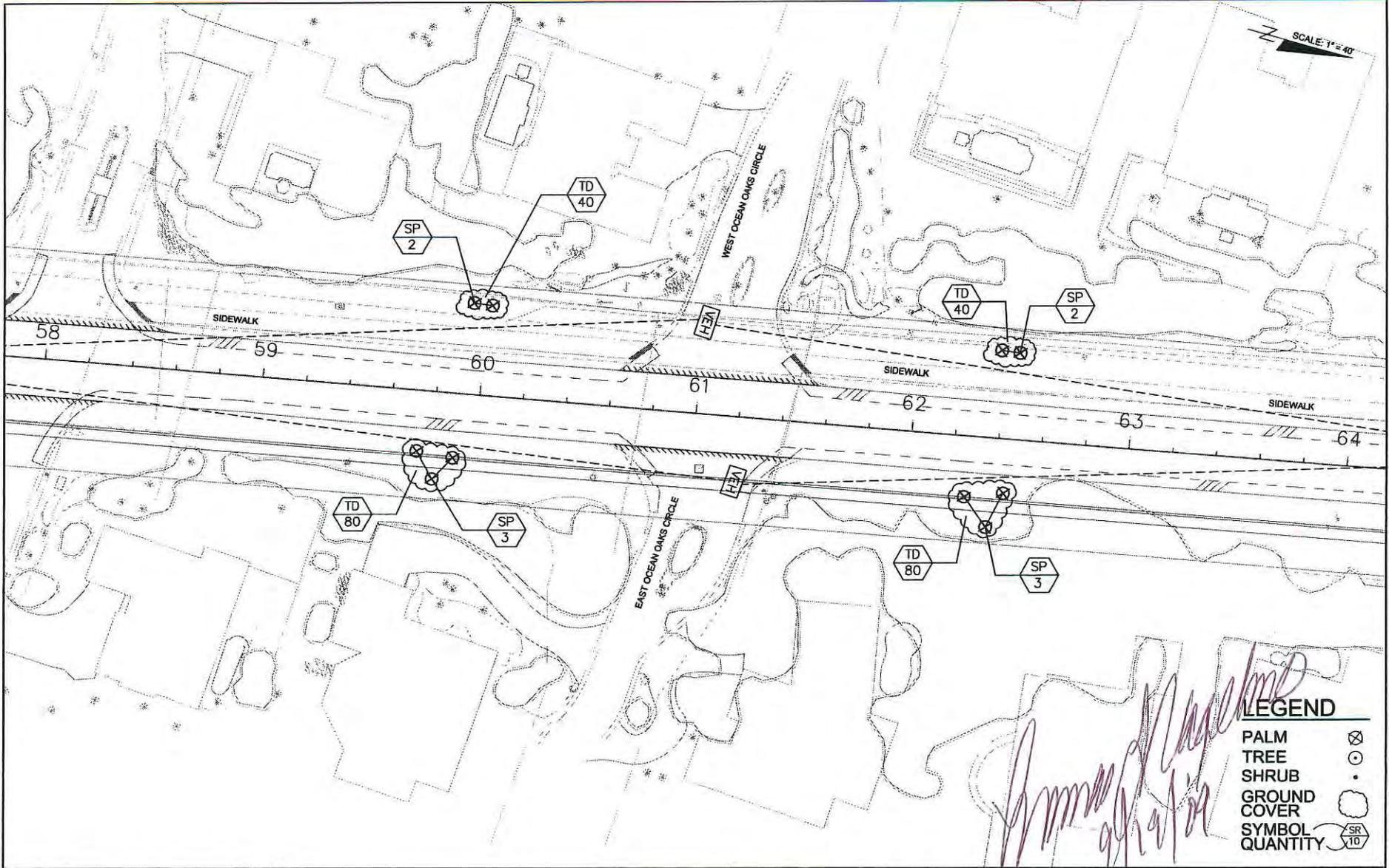
acai
 ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 505 S. CROSS CREEK PALM STE. 300
 FORT LAUDERDALE, FL 33308
 (954) 341-0000

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
A1A	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-7

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REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

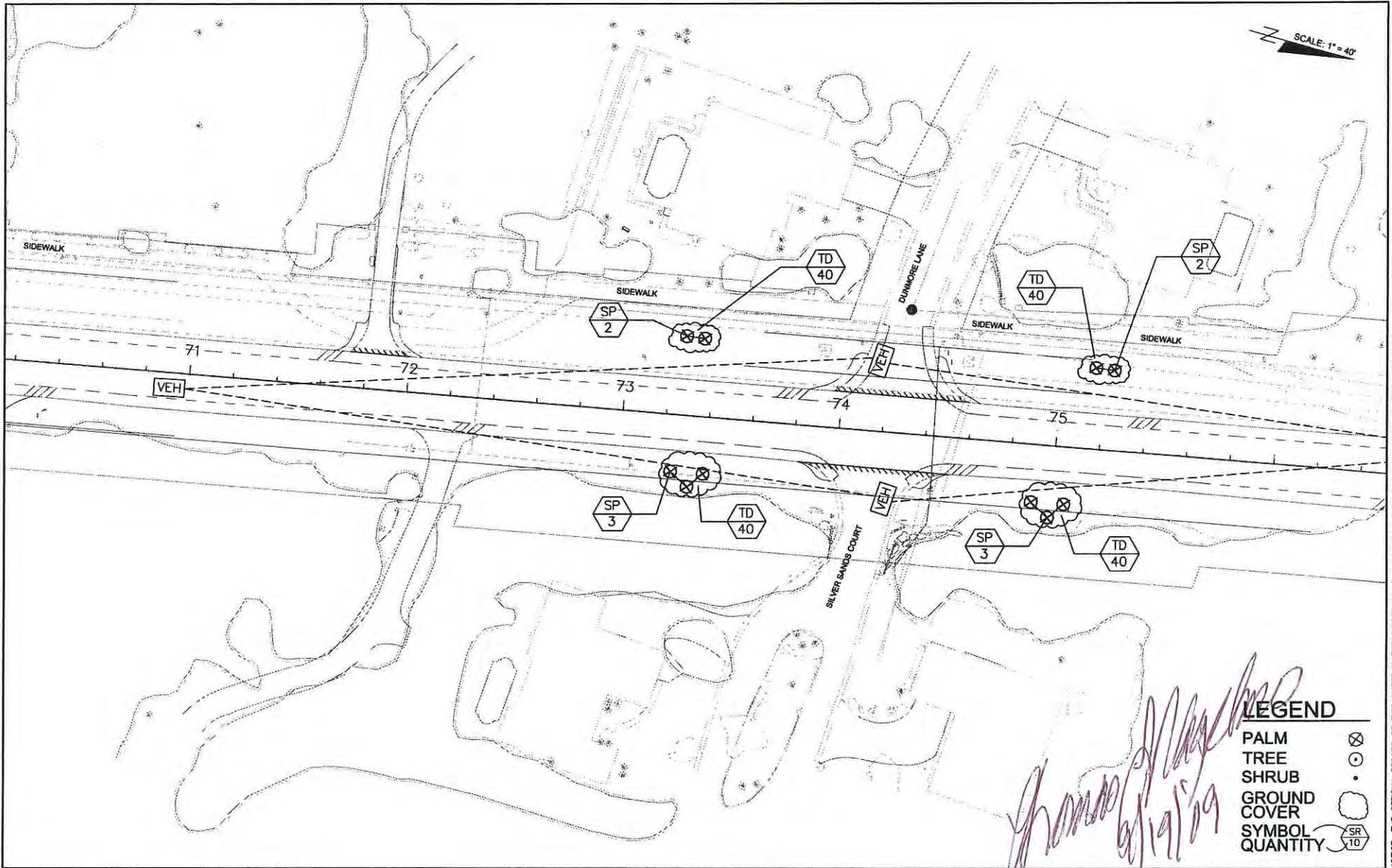
acai
ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 200 W. OCEAN BLVD. SUITE 200
 WEST LAKEVILLE, FL 33409
 (407) 882-2270

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-8

SCALE: 1" = 40'



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LEGEND

PALM	⊗
TREE	⊙
SHRUB	•
GROUND COVER	☁
SYMBOL QUANTITY	SR 10

REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 207 W. CYPRUS CIRCLE SUITE 100
 FORT LAUDERDALE, FL 33309
 954-943-1823 888-919-7878 CC0310788

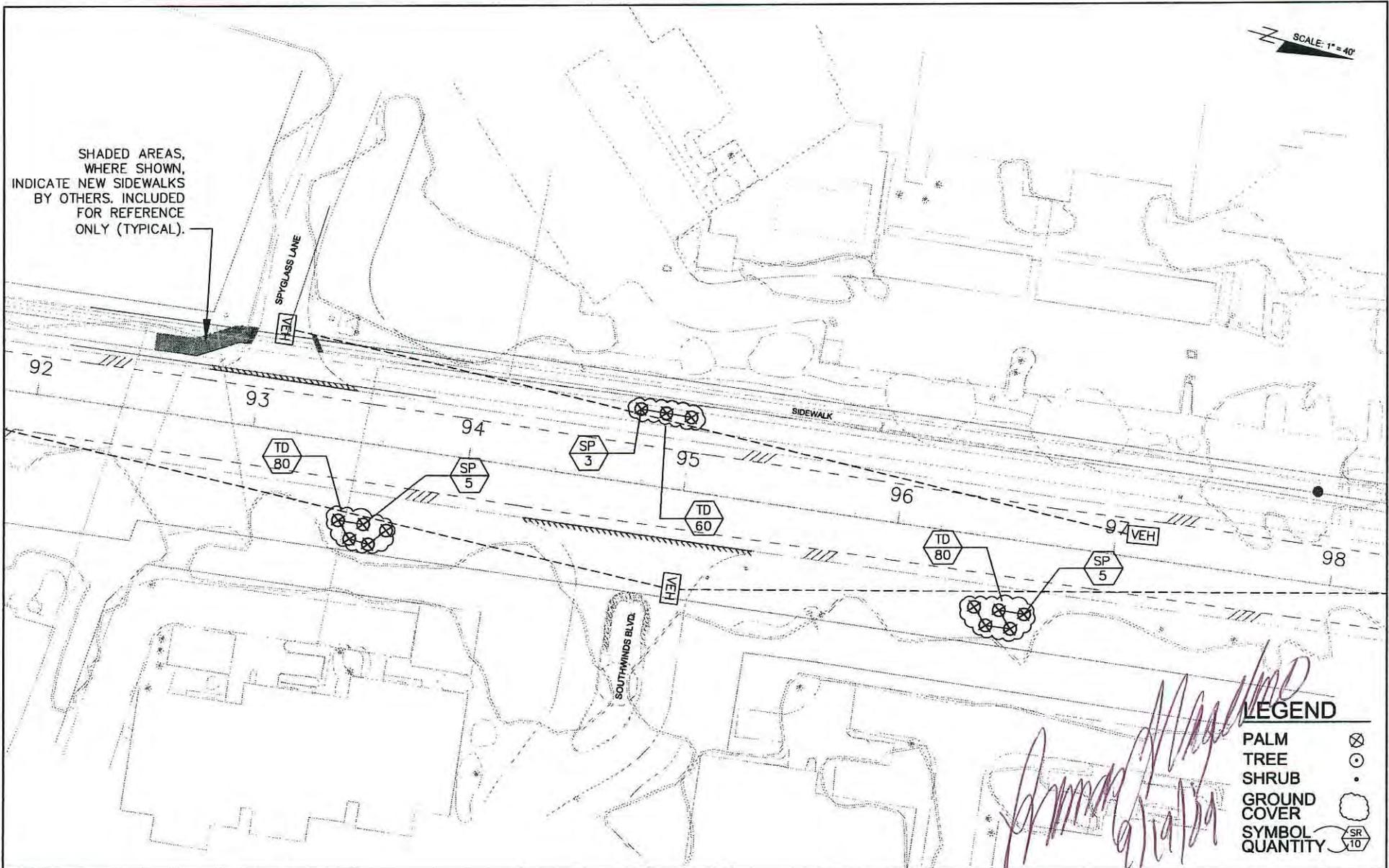
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
A1A	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-9

SCALE: 1" = 40'

SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).



LEGEND

PALM	⊗
TREE	⊙
SHRUB	•
GROUND COVER	☁
SYMBOL QUANTITY	SR 10

REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
 ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 3014 N. CYREN CREEK ROAD, STE. 300
 FORT LAUDERDALE, FL 33309
 PHONE: 954.376.1111 FAX: 954.376.1112

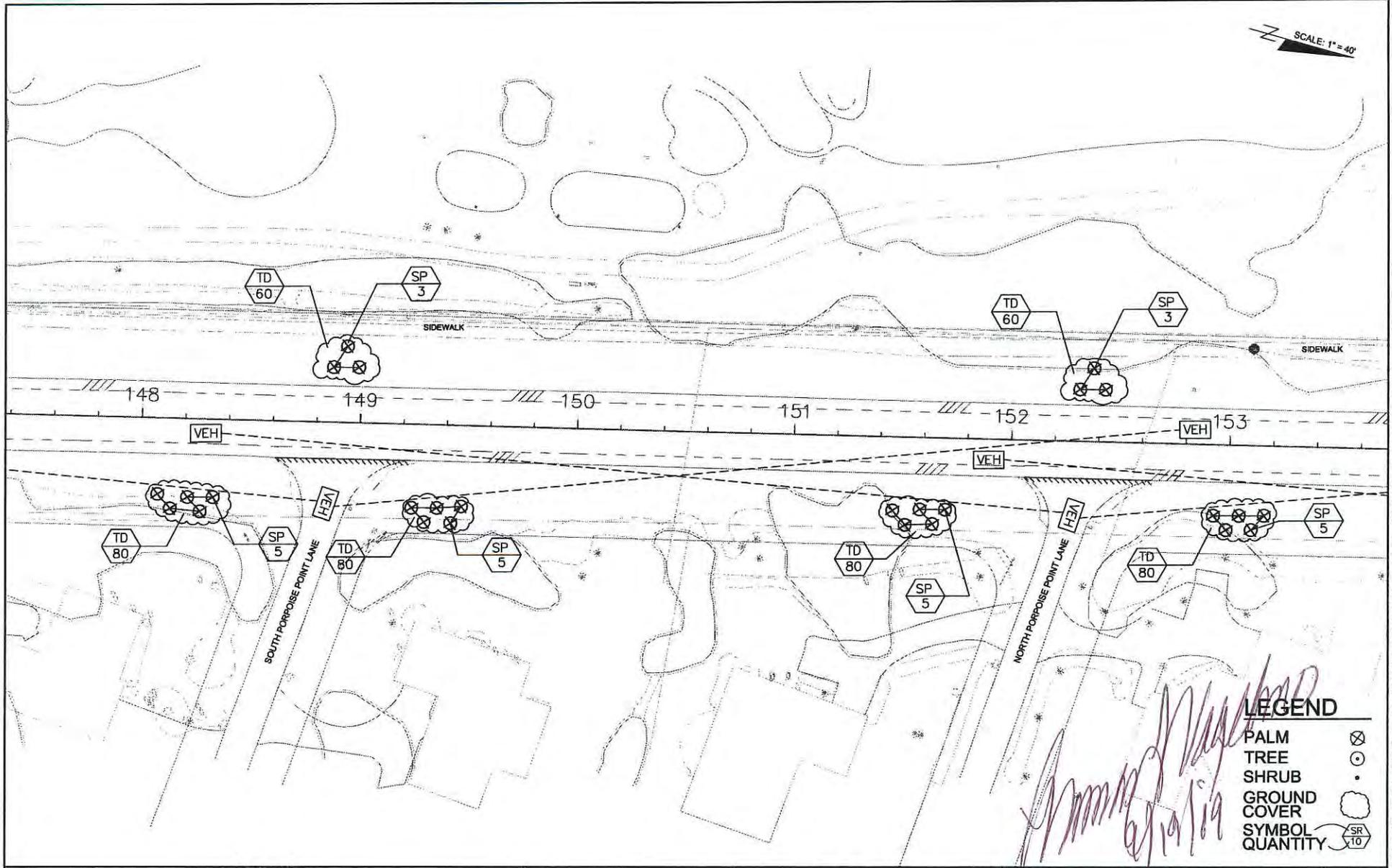
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
A1A	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-10

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SCALE: 1" = 40'



LEGEND

PALM	⊗
TREE	○
SHRUB	●
GROUND COVER	☁
SYMBOL QUANTITY	SR TO

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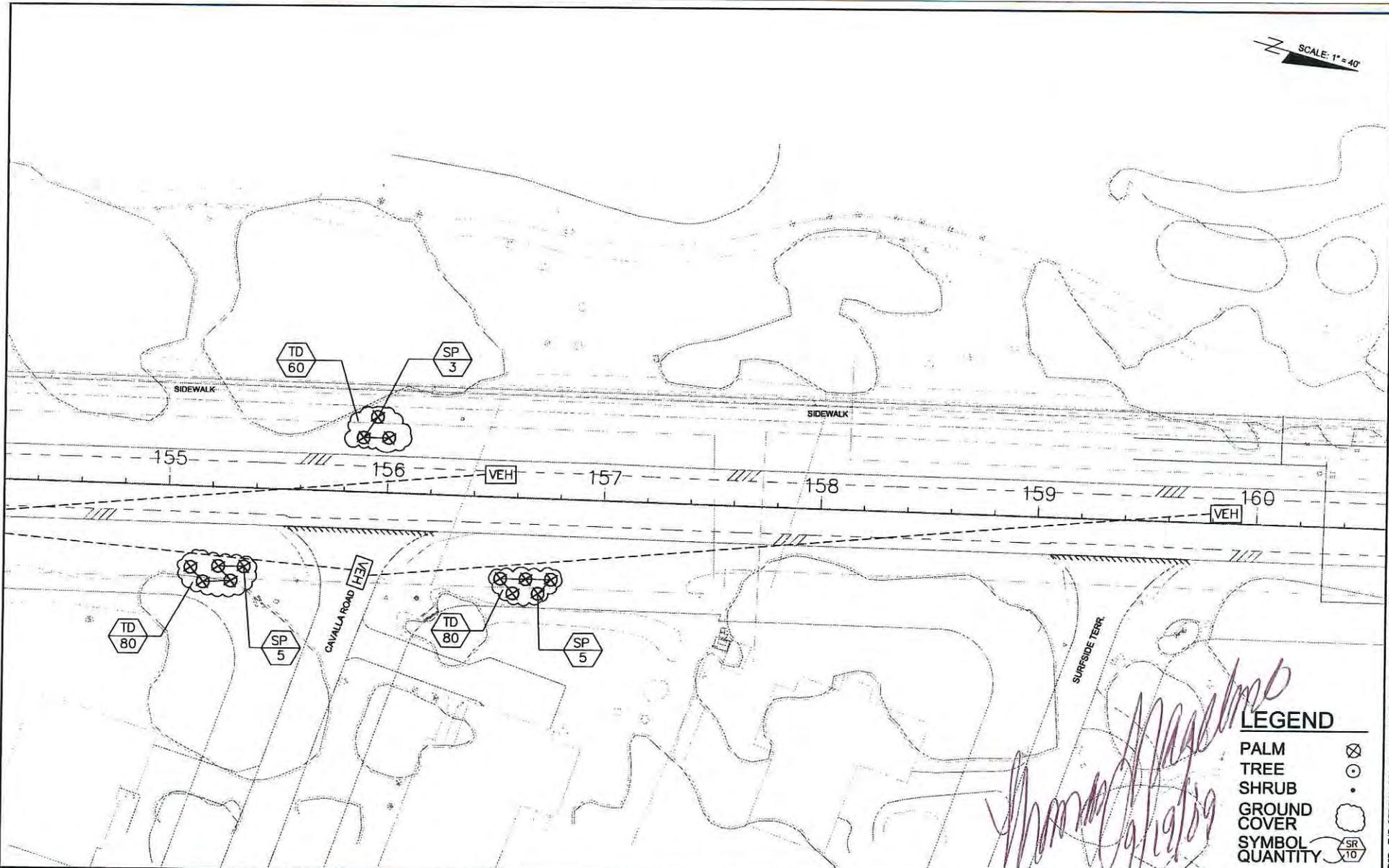
acai
ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 200 W CYREN CROSS BLVD STE 200
 FORT LAUDERDALE, FL 33309
 954.353.1383

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ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-12

SCALE: 1" = 40'



LEGEND

PALM	⊗
TREE	⊙
SHRUB	•
GROUND COVER	☁
SYMBOL QUANTITY	SR TD

REVISIONS					
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acai ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 1071 W. CYPRUS CREEK BLVD. STE. 300
 PALM BAYHILLS, FL 32909
 AEC01021 88804279 C0010789

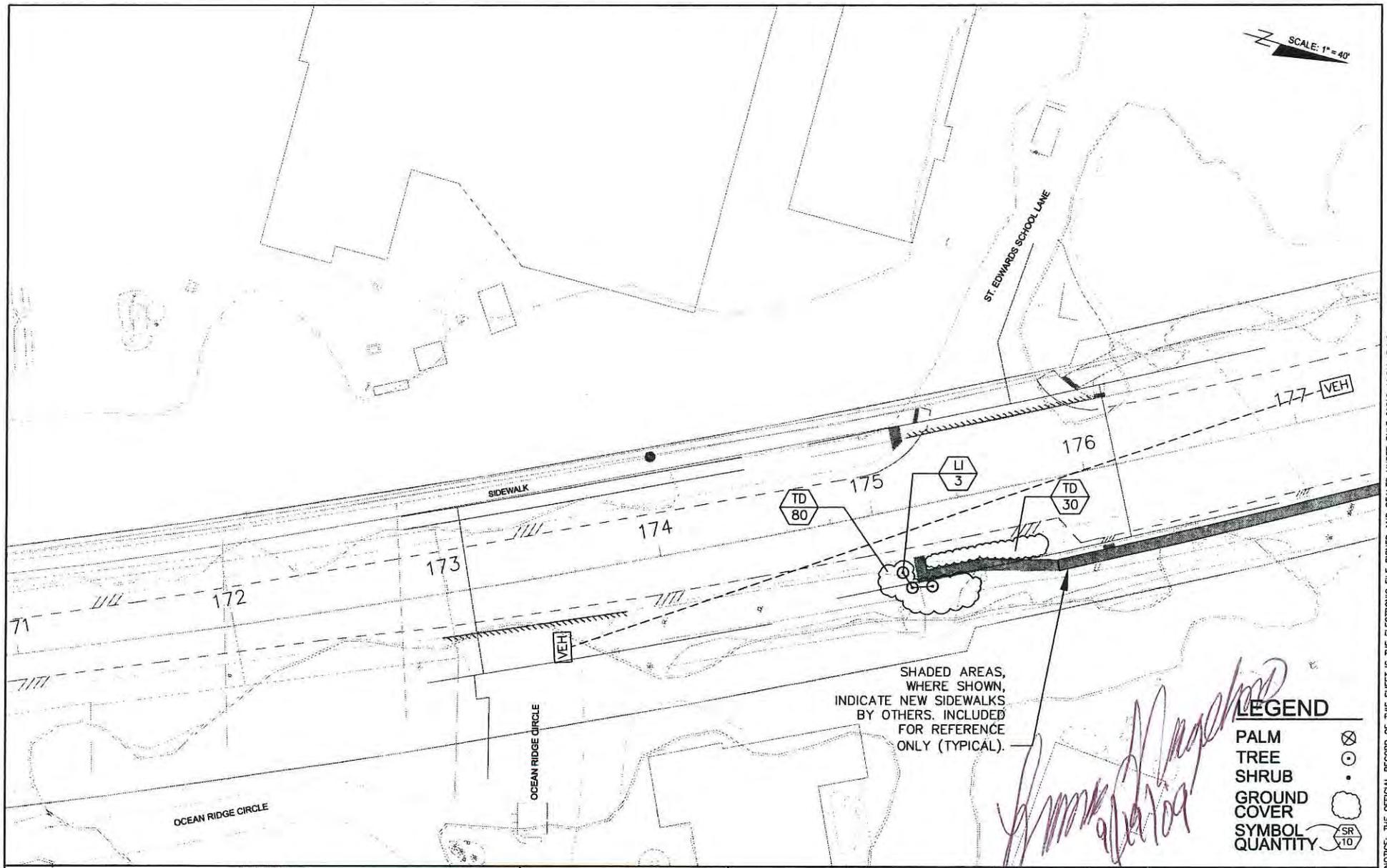
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
A1A	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-13

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SCALE: 1" = 40'



SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).

LEGEND

PALM TREE	
SHRUB	
GROUND COVER	
SYMBOL QUANTITY	

[Handwritten signature]

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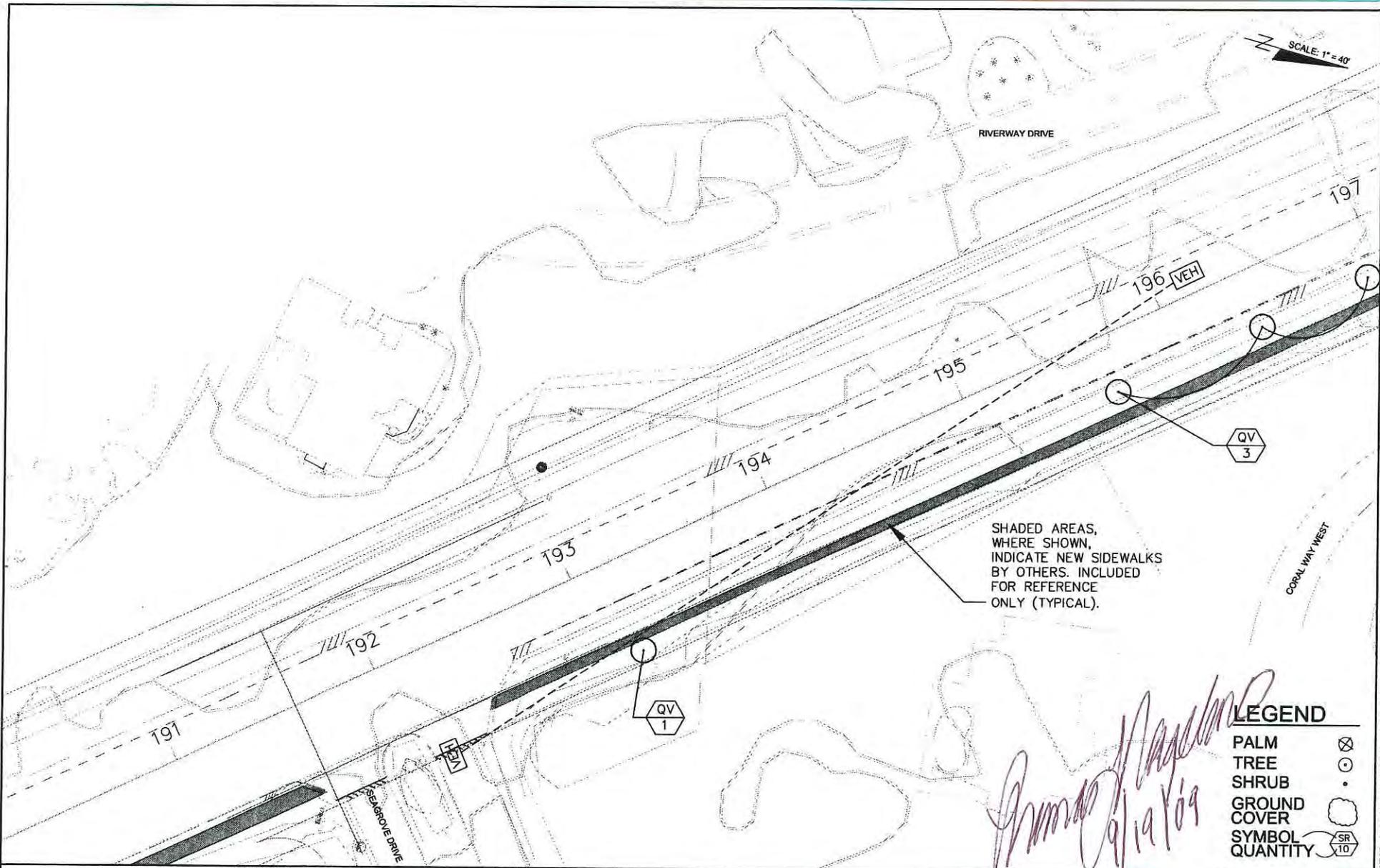
REVISIONS					
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acai ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 2075 S. CENTRAL EXPRESS BLVD. STE. 200
 FORT LINDSEY, FL 32036
 (407) 875-8800 FAX: (407) 875-8801

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A1A	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-14



LEGEND

- PALM
- TREE
- SHRUB
- GROUND COVER
- SYMBOL QUANTITY

Handwritten signature and date: 9/19/09

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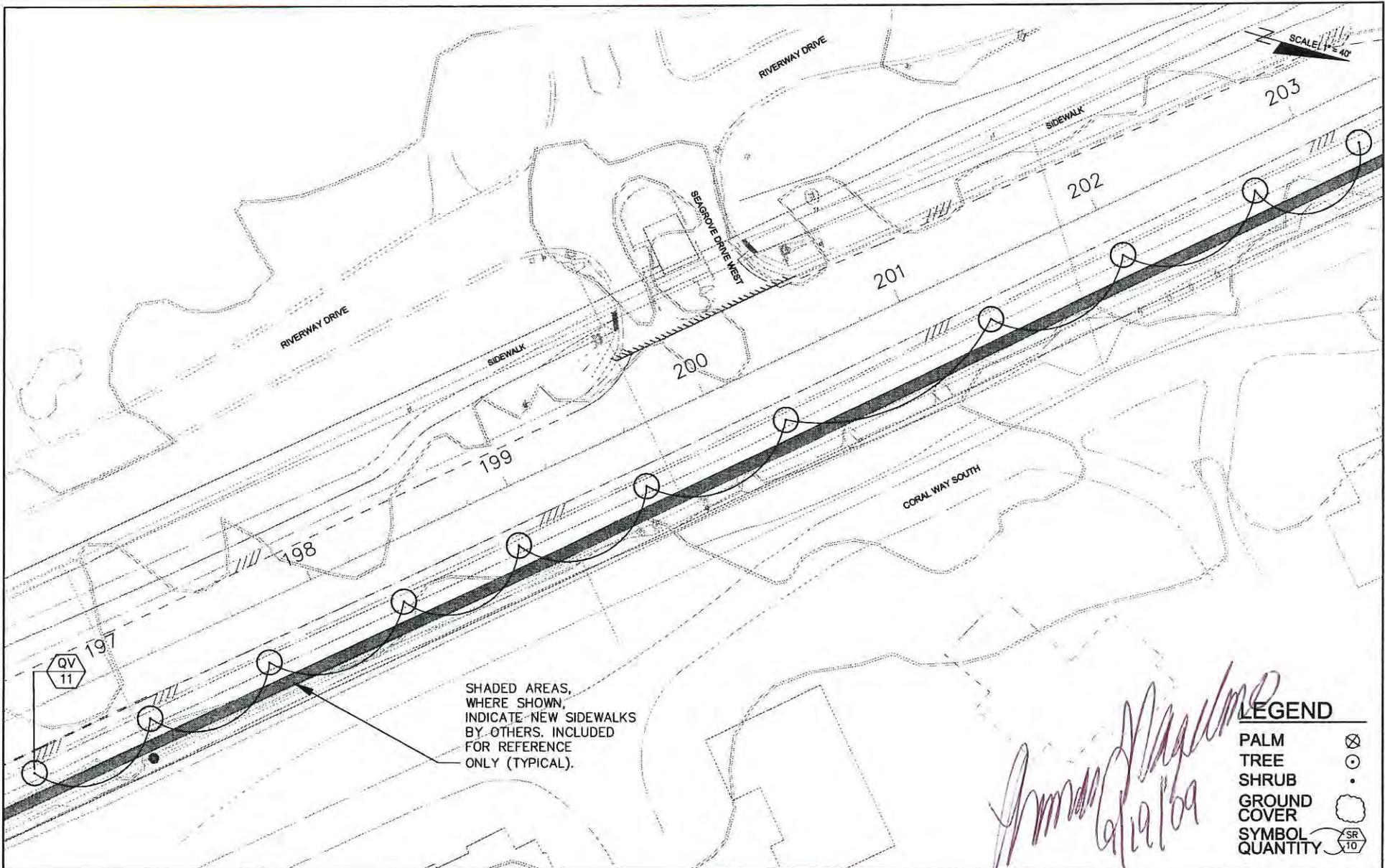
		REVISIONS	
DATE	BY	DATE	DESCRIPTION

acai
ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 2871 W. CYPRUS COURT SUITE 200
 FORT LAUDERDALE, FL 33309
 (954) 341-1111

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LANDSCAPE PLAN

SHEET NO.
LD-15



SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).

LEGEND

PALM	
TREE	
SHRUB	
GROUND COVER	
SYMBOL QUANTITY	

Arman Magulme
09/16/09

REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

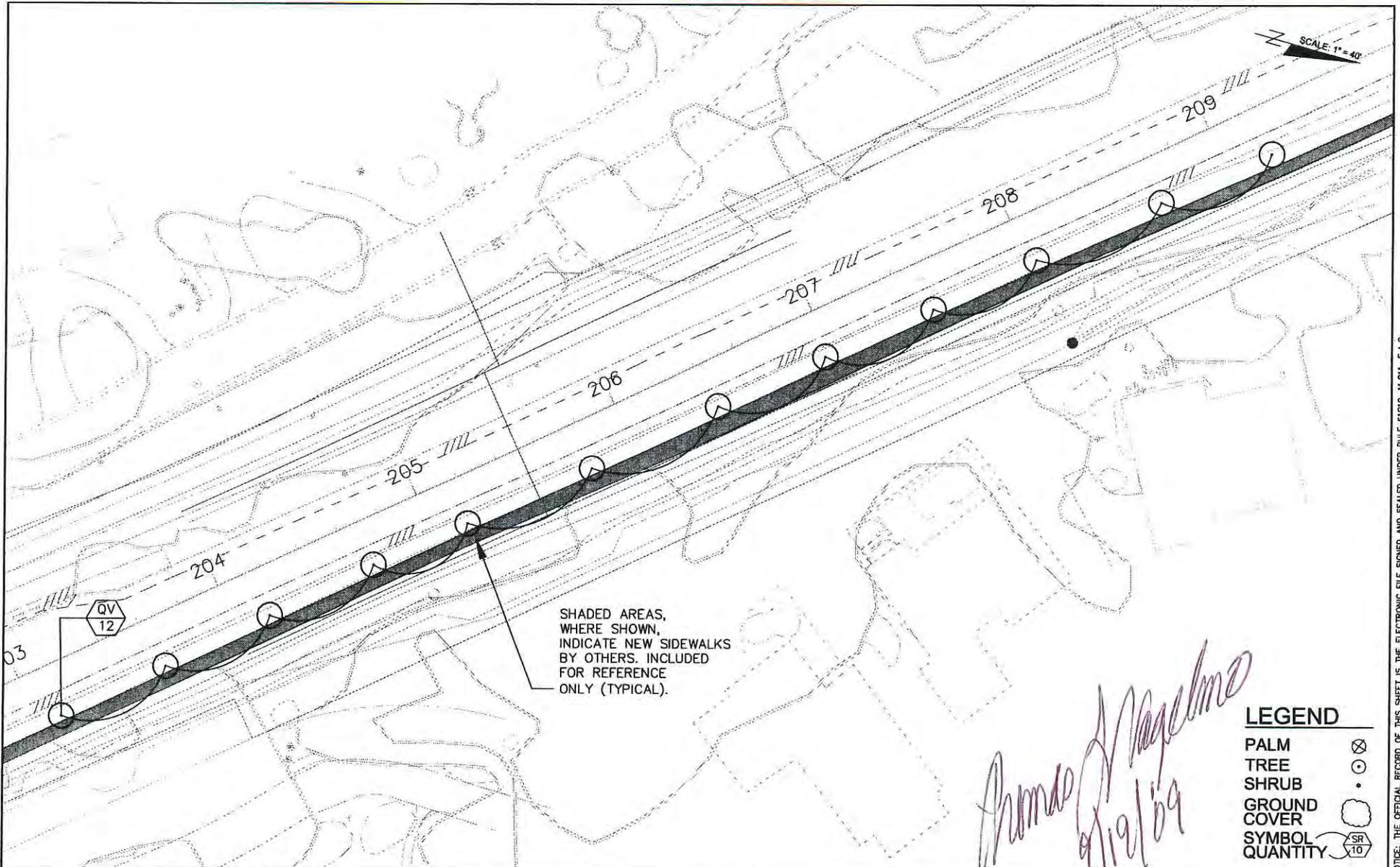
acai ARCHITECTURE ENGINEERING SURVEYING CONSULTING AND CONSTRUCTION MANAGEMENT
501 N. OCEAN DRIVE SUITE 200
FORT LAUDERDALE, FL 33304
JACQUELINE BROWN COLLETT

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
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LANDSCAPE PLAN

SHEET NO.
LD-16

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LEGEND

PALM	⊗
TREE	⊙
SHRUB	•
GROUND COVER	☁
SYMBOL QUANTITY	SR x10

REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 2801 N CYBER CREEK BLVD STE 200
 FORT LAUDERDALE, FL 33309
 352.412.2222 352.412.2229 0001078

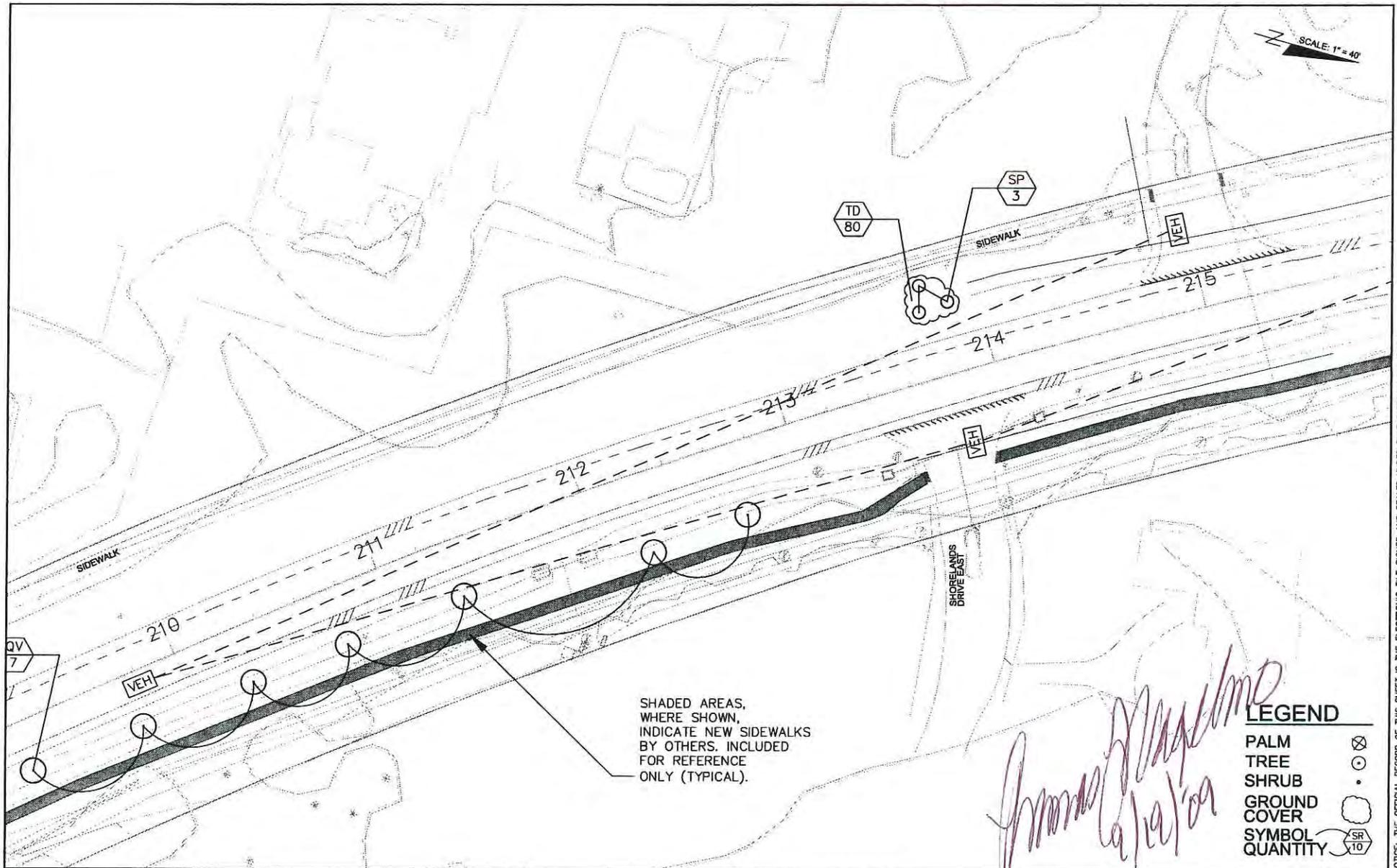
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
A1A	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-17

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SCALE: 1" = 40'



SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).

- LEGEND**
- PALM TREE
 - SHRUB
 - GROUND COVER
 - SYMBOL QUANTITY

Anna Magdalena

		REVISIONS			
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 801 S. OCEAN BLVD. STE. 200
 FORT LAUDERDALE, FL 33304
 (954) 371-2270

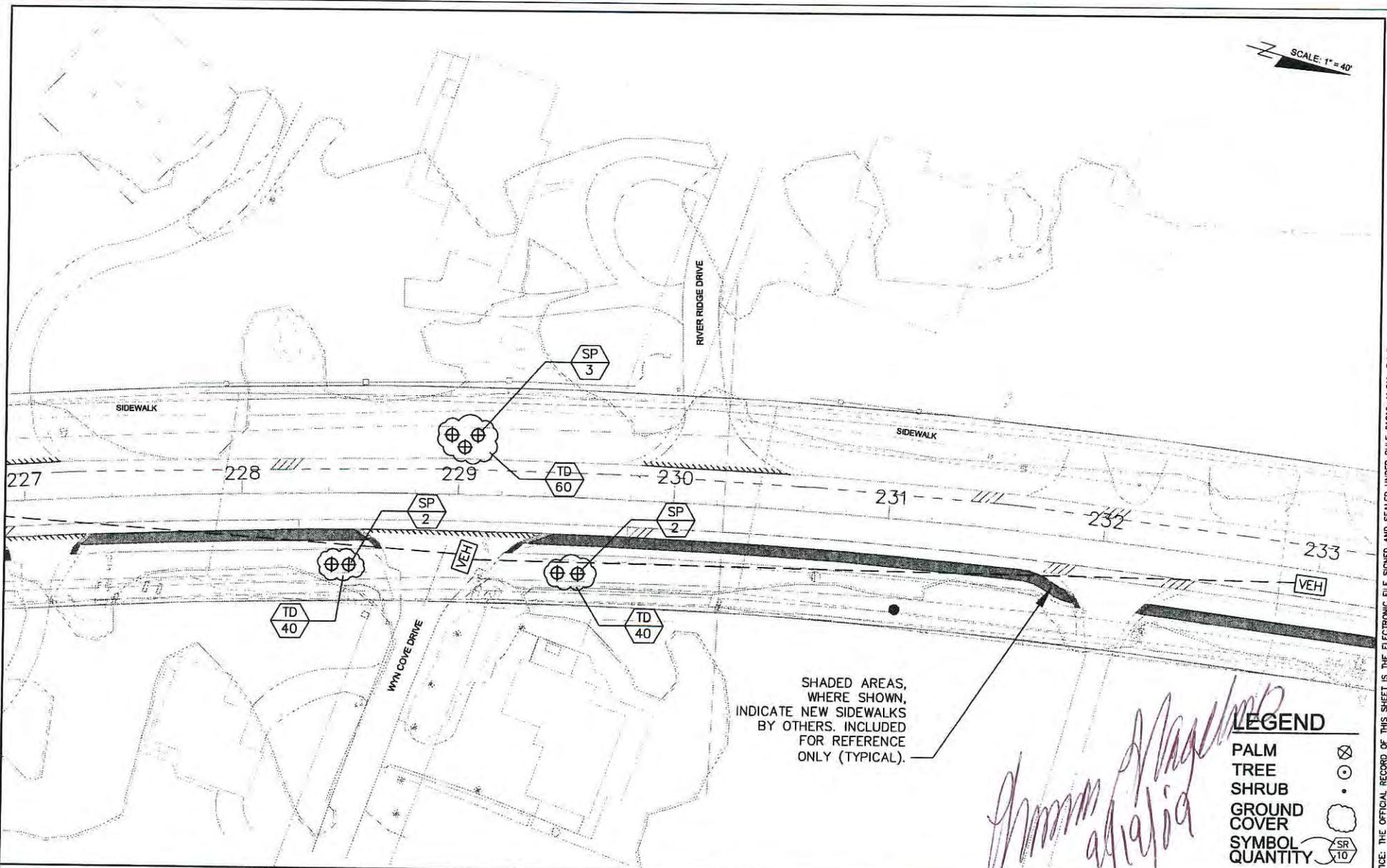
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-18

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SCALE: 1" = 40'



SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).

LEGEND

PALM	⊗
TREE	⊙
SHRUB	•
GROUND COVER	☁
SYMBOL QUANTITY	SR 10

Thomas Magelms
atapia

REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

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ARCHITECTURE ENGINEERING
ROOFING CONSULTING AND
CONSTRUCTION MANAGEMENT
2015 • 10000 US HWY 101, SUITE 200
FORT LAUDERDALE, FL 33308
AMERICA • ENERGY • COOLING

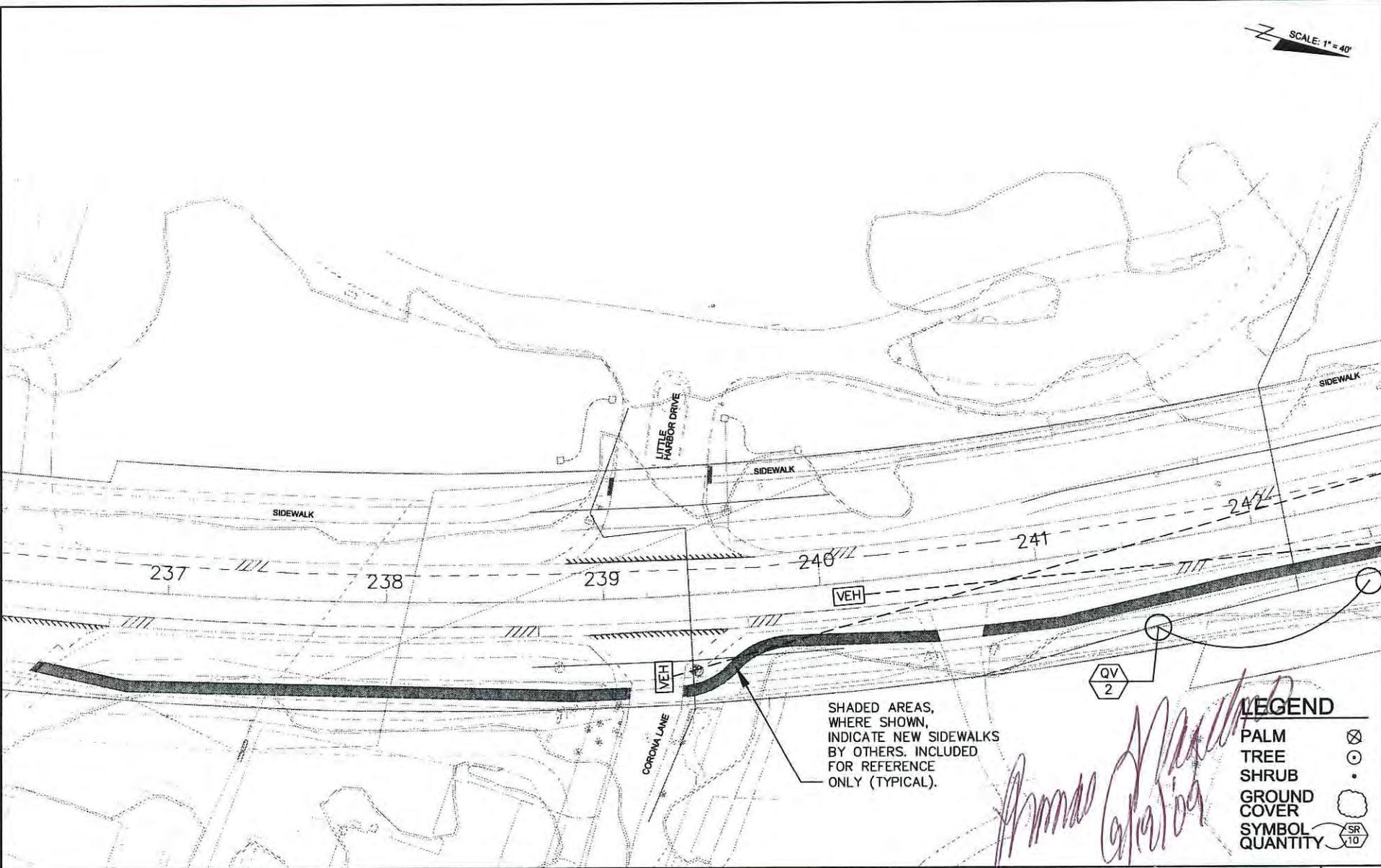
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-19

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SCALE: 1" = 40'



LEGEND

PALM	
TREE	
SHRUB	
GROUND COVER	
SYMBOL QUANTITY	

SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).

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REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 3817 W. CYPRUS CREEK BLVD. STE. 200
 FORT LAUDERDALE, FL 33309
 954.332.2000/479 0001770

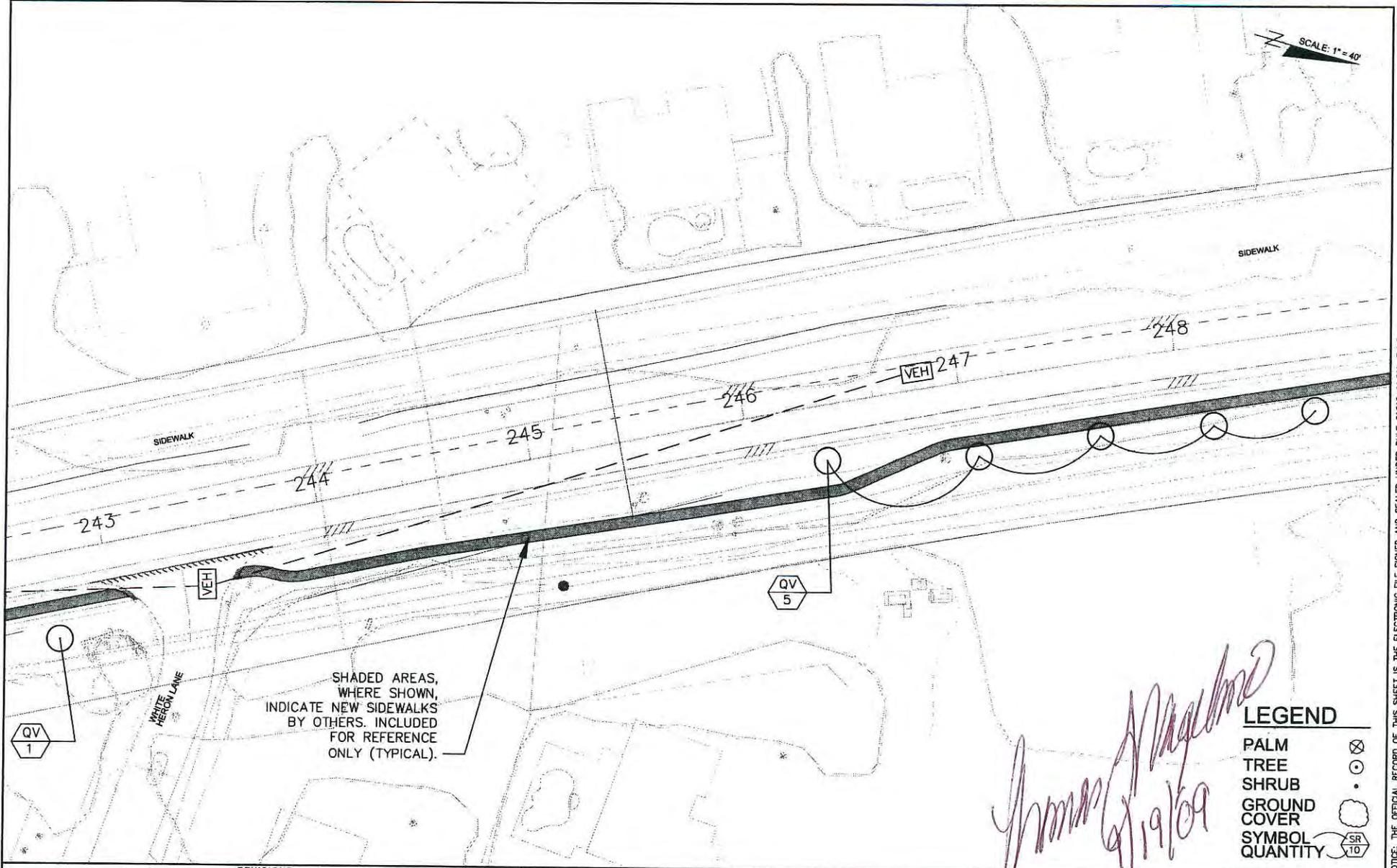
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-20

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SCALE: 1" = 40'



Thomas Magallon
9/19/09

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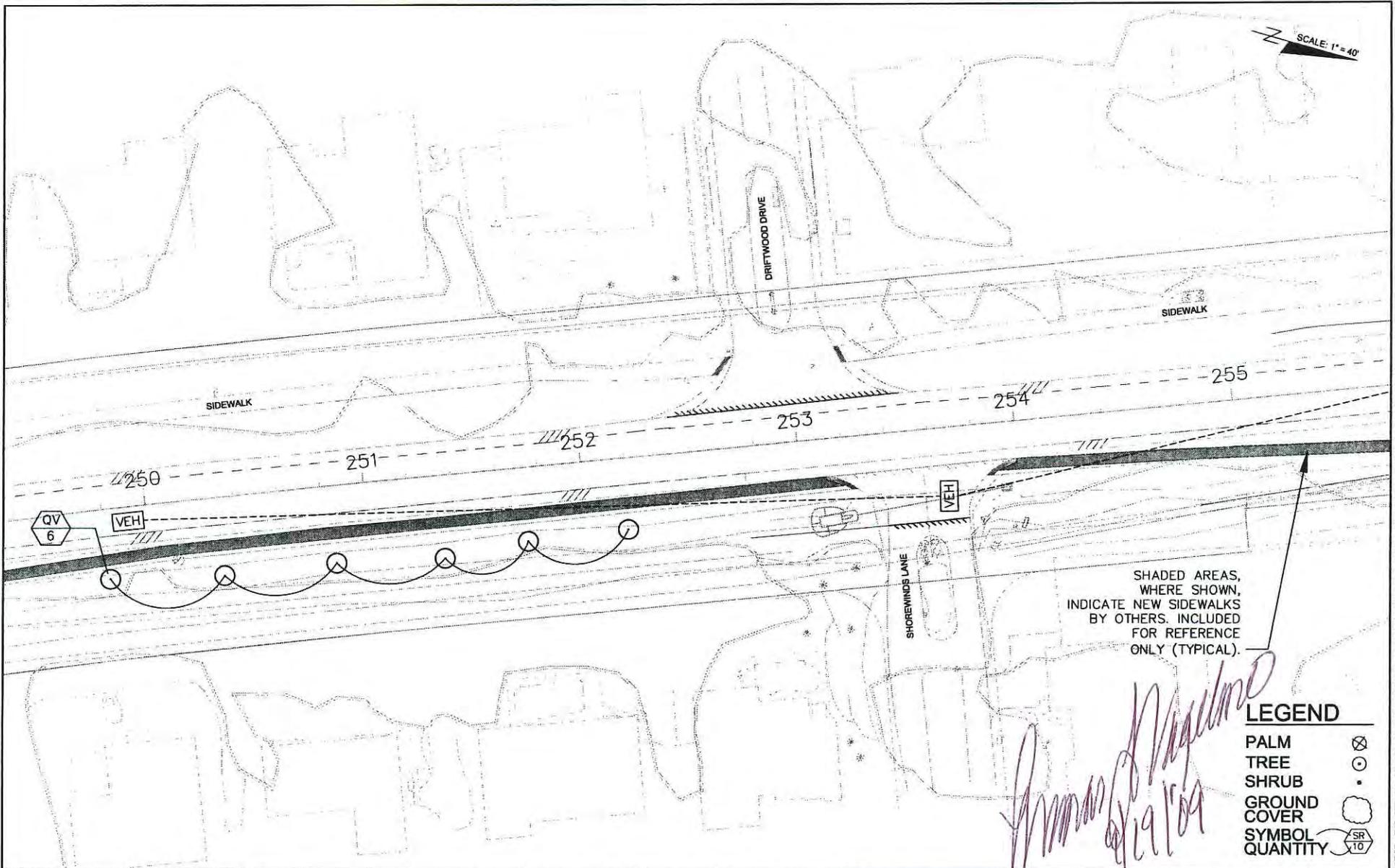
REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
ARCHITECTURE ENGINEERING
SIGNING CONSULTING AND
CONSTRUCTION MANAGEMENT
3807 W. CITRUS CREEK ROAD, STE. 200
FORT LAUDERDALE, FL 33309
ARCHITECT ENGINEER CONSULTANT

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ROAD NO.	COUNTY	FINANCIAL PROJECT ID
A1A	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-21



LEGEND

- PALM TREE
- SHRUB
- GROUND COVER
- SYMBOL QUANTITY

Handwritten signature and date: [Signature] 12/19/09

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DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai

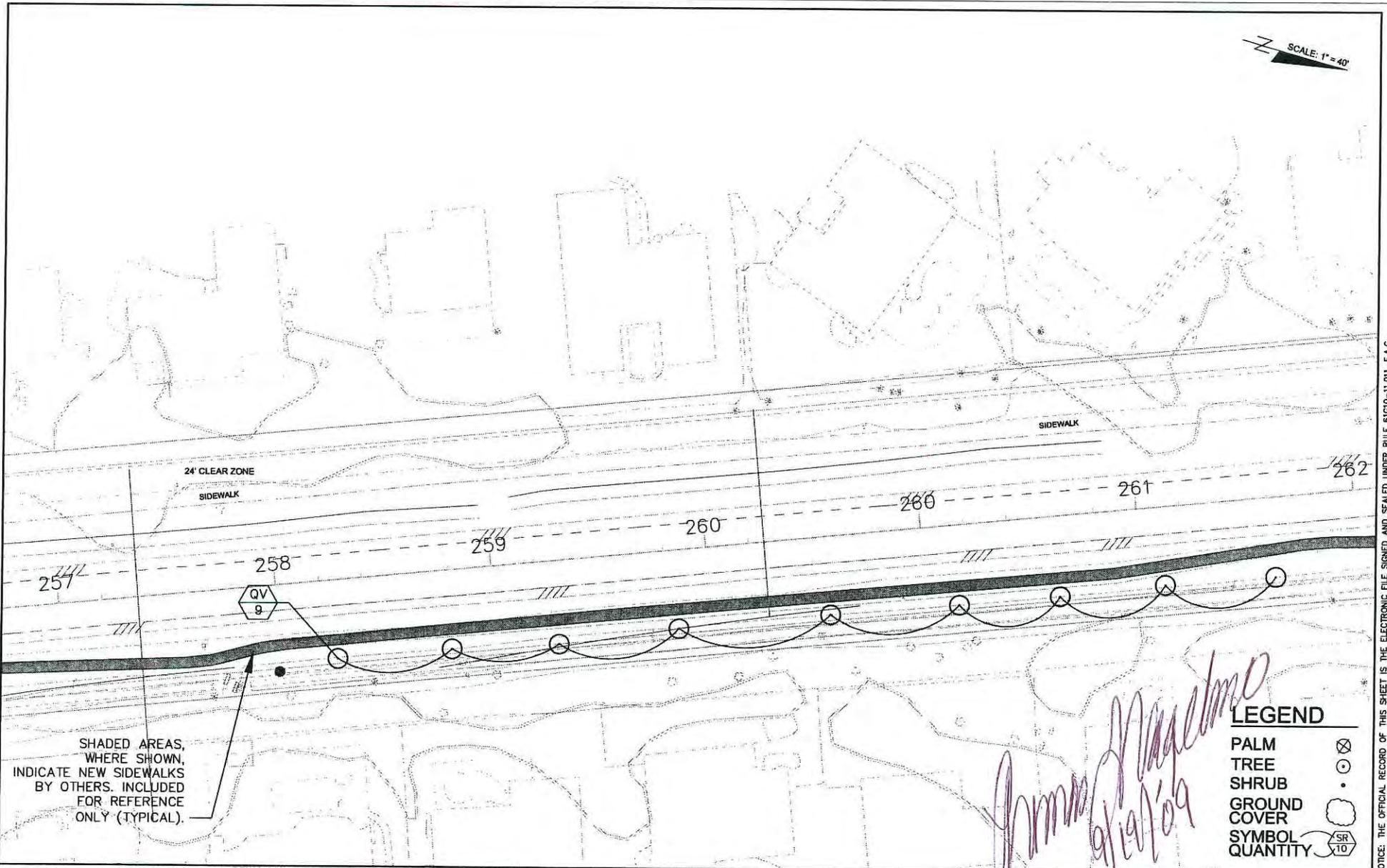
ARCHITECTURE ENGINEERING
ROOFING CONSULTING AND
CONSTRUCTION MANAGEMENT
200 N. COTTON CREEK ROAD, SUITE 200
FORT LAUDERDALE, FL 33309
954.875.1111

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-22

SCALE: 1" = 40'



SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).

LEGEND

PALM	
TREE	
SHRUB	
GROUND COVER	
SYMBOL QUANTITY	

REVISIONS					
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acai
ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 2001 N. CROSS CREEK BLVD. STE. 200
 FORT LAUDERDALE, FL 33309
 954-818-8888

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AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-23

NOTICE: THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE SIGNED AND SEALED UNDER RULE 61G10-11.001, F.A.C.

SCALE: 1" = 40'



SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL)

LEGEND

- PALM
- TREE
- SHRUB
- GROUND COVER
- SYMBOL QUANTITY

Handwritten signature and date: James C. [unclear] 10/10/09

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DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 2007 W. CYPRUS CREEK DRIVE, SUITE 300
 FORT LAUDERDALE, FL 33309
 ANDREW@ACAI.COM 954.375.1177

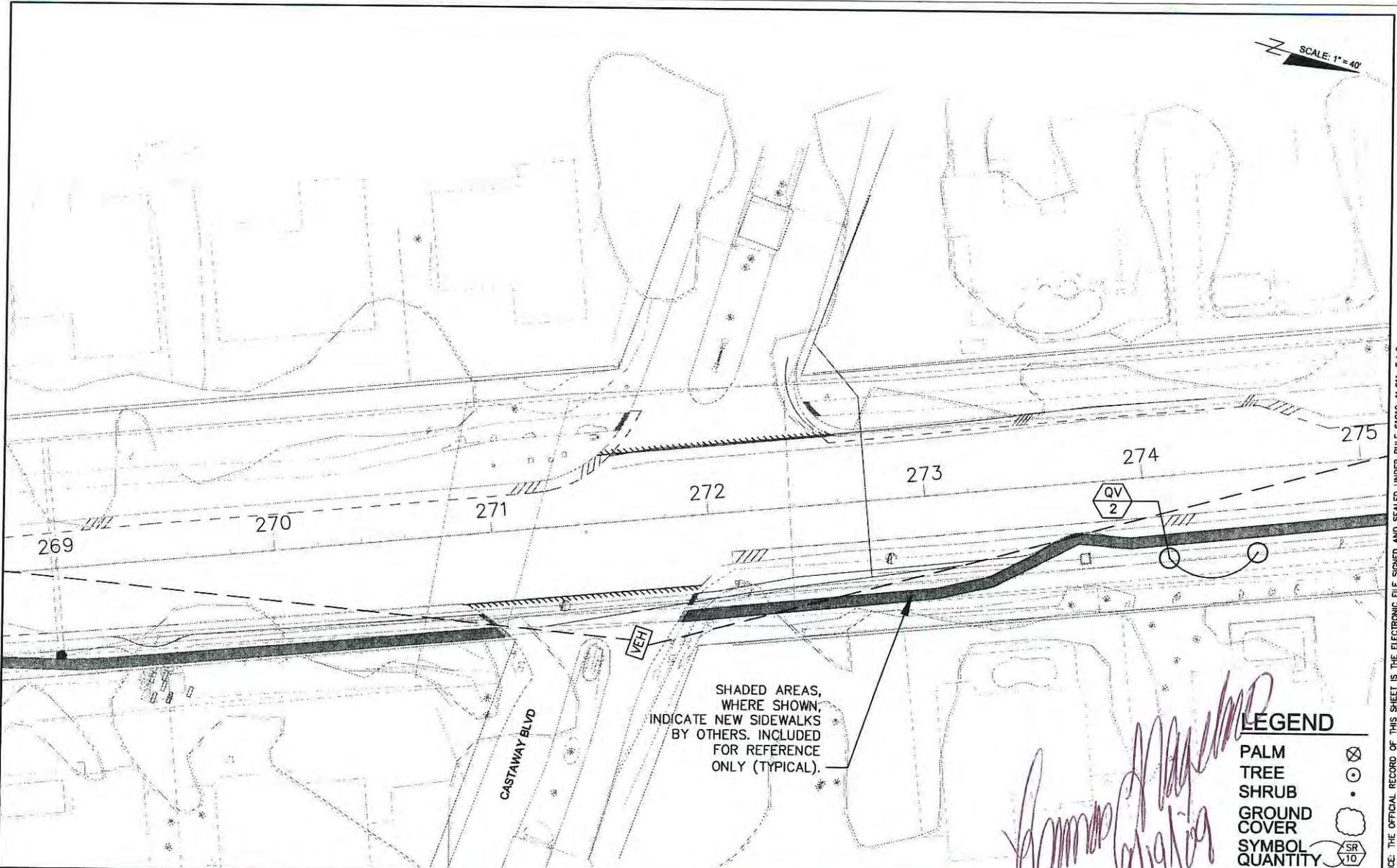
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-24

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SCALE: 1" = 40'



SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).

- LEGEND**
- PALM TREE
 - SHRUB
 - GROUND COVER
 - SYMBOL QUANTITY

DATE		BY		DESCRIPTION	

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ARCHITECTURE ENGINEERING
 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 800 N. CENTRAL EXPRESS BLVD. STE. 200
 FORT LAUDERDALE, FL 33304
 954.352.1232 954.352.1233

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

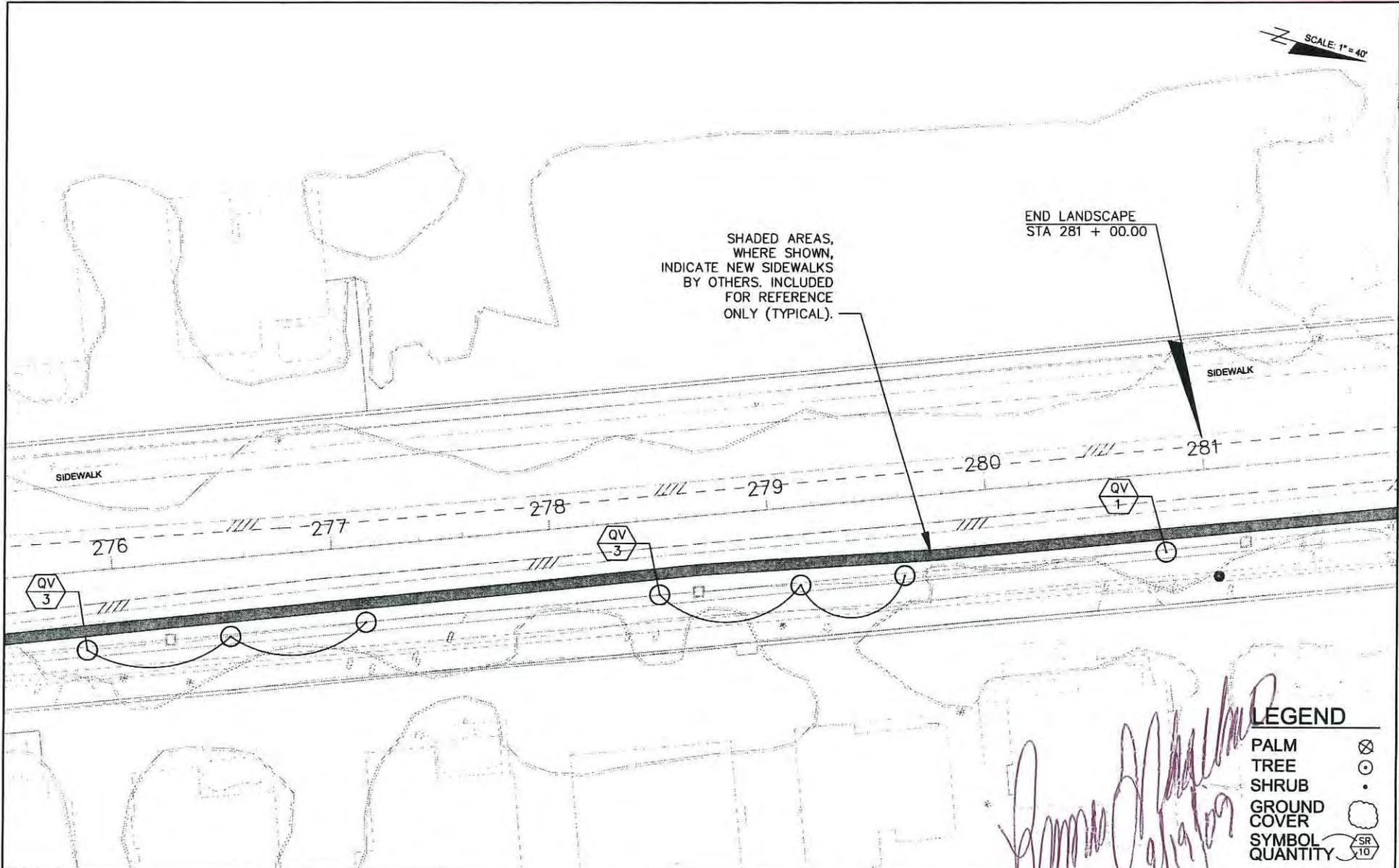
SHEET NO.
LD-25

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SCALE: 1" = 40'

SHADED AREAS, WHERE SHOWN, INDICATE NEW SIDEWALKS BY OTHERS. INCLUDED FOR REFERENCE ONLY (TYPICAL).

END LANDSCAPE STA 281 + 00.00



LEGEND

- PALM TREE
- SHRUB
- GROUND COVER
- SYMBOL QUANTITY

[Handwritten signature]

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REVISIONS					
DATE	BY	DESCRIPTION	DATE	BY	DESCRIPTION

acai
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 ROOFING CONSULTING AND
 CONSTRUCTION MANAGEMENT
 2025 P STREET, SUITE 200, FT. LAUDERDALE, FL 33305
 (954) 343-8888

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID
AIA	INDIAN RIVER	421695-1-52-01

LANDSCAPE PLAN

SHEET NO.
LD-26

Integrated Plant Management:

An assessment of each planting area's soil is recommended to periodically determine the nutrient levels needed to sustain healthy, vigorous plant growth.

Palms, shrubs, trees and turf areas shall be fertilized in such a manner and frequency to ensure that the plant material remains healthy and vigorously growing. Establishment of an integrated plant management program is encouraged to ensure healthy plants, which are free of disease and pests.

Mulching:

Mulch planting beds in such a manner as to: prevent weed growth; retain moisture to the plants; protect against soil erosion and nutrient loss; maintain a more uniform soil temperature; and improve the appearance of the planting beds. Avoid mulch mounded up on the trunks of trees, palms, and the base of shrubs to encourage air movement in this area that aids in lowering disease susceptibility. Cypress mulch is prohibited on state right of way.

Pruning:

All pruning, and the associated safety criteria, shall be performed according to American National Standard Institute ANSI A300 standards and shall be supervised by an International Society of Arboriculture (ISA) Certified Arborist. Pruning shall be carried out with the health and natural growth of plant materials in mind, and to specific pruning heights maintaining clear visibility for motorists, and vertical clearance for pedestrian, bicyclist, and truck traffic where applicable. Visibility windows must be maintained free of view obstructions and all trees and palms (with particular attention to fronds and fruit) maintained to prevent potential roadway and pedestrian hazards. The specific pruning heights are determined by understanding the designer's intent when selecting and placing the plants. The intended mature maintained height and spread of plants should be noted on the planting plans. (See Specific Requirements and Recommendations per Approved Landscape & Irrigation Design for these guidelines). The understory plant materials selected for use within the restricted planting areas (Limits of Clear Sight) of the medians are to be maintained at a height in compliance with FDOT Design Standards Index 546, Page 6 of 6, Window Detail. Vertical tree heights must meet *FDOT Maintenance Rating Program* (MRP) standards.

Staking and Guying:

All staking materials, except for replacements, are removed by the completion of FDOT warranty period or at one year (whichever comes first). Any subsequent staking and guying activities by the Agency must adhere to *FDOT Design Standards* guidelines (See Index 544). The Agency shall closely monitor staking and guying attachment materials so that they are securely fastened to avoid potential roadway hazards.

Turf Mowing:

All grassed areas are to be mowed and trimmed with sufficient frequency to maintain a deep, healthy root system while providing a neat and clean appearance to the urban landscape. All turf efforts: mowing, curb/sidewalk edging, and turf condition must meet *FDOT Maintenance Rating Program* (MRP).

Litter Control:

The project site shall remain as litter free as practicable. It is recommended to recycle this litter to avoid unnecessary waste by its reuse. Litter removal efforts must meet *FDOT Maintenance Rating Program* (MRP) standards.

Weeding/Herbicide:

All planting areas shall be maintained as weed free as practicable enlisting integrated pest management practices in areas specified on the plans and by maintaining proper mulch levels. Extreme care is recommended if using a chemical herbicide to avoid overspray onto plant materials. Any damage resulting from overspray is the applicator's responsibility to restore the plantings to the approved plans.

Plant Replacement:

Plant replacement shall be the same species and specification as the approved plan. Move and replace all plant materials that may conflict with utility relocations and service. Only plants graded Florida #1 or better, per the *Florida Department of Agriculture and Consumers Services, Grades and Standards for Nursery Plants* are permitted on FDOT roadways. Should it become necessary to change the species, a general use permit is required from FDOT for approval by the FDOT District Landscape Architect.

Hardscape (Specialty Surfacing):

All specialty pavers and tree grates shall be maintained in such a manner as to prevent any potential tripping hazards and protect damage to the pavers and tree grates. Final surface tolerance from grade elevations shall, at a minimum, meet the most current *Interlocking Concrete Pavement Institute (ICPI), Section 23 14 13 Interlocking Concrete Pavers*, Part 3.05. If the pavers or tree grates become damaged, they shall be replaced with the same type and specification as the approved plan.

Hardscape (Non-Standard Travelway Surfacing):

It shall be the responsibility of the AGENCY to restore an unacceptable ride condition of the roadway, including asphalt pavement, caused or contributed by the installation or failure of non-standard surfacing, and/or the header curb, on the Department of Transportation right-of-way within the limits of this Agreement. Pavement restoration areas or "patches" will have a minimum length of 10-ft, measured from the edge of the header curb, and a width to cover full lanes for each lane affected by the restoration.

Pavement restoration will be performed in accordance with the most current edition of the *FDOT Standard Specifications for Road and Bridge Construction*, and the *FDOT Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System*.

It shall be the responsibility of the AGENCY to maintain all signs located within a non-standard surfacing area. Such maintenance to be provided by the AGENCY shall include repair, replace of the sign panel, post, and base.

Hardscape (Landscape Accent Lighting)

Landscape accent lighting shall be maintained in such a manner as to prolong the life of the lighting fixture and prevent potential safety hazards. If the lighting fixtures and their system become damaged, they shall be replaced with the same type and specification as the approved plan.

Maintenance of Traffic Control

Reference the FDOT website regarding the selection of the proper traffic control requirements to be provided during routine maintenance and / or new installations of this DOT roadway.

Website: Series 600 Traffic Control through Work Zones

<http://www.dot.state.fl.us/rddesign/DesignStandards/Standards.htm>

Vegetation Management at Outdoor Advertising (ODA)

To avoid conflicts with permitted outdoor advertising, please reference the State of Florida website regarding the vegetation management of outdoor advertising. This website provides a portal to search the FDOT Outdoor Advertising Inventory Management System Database. The database contains an inventory of outdoor advertising structures, permits and other related information maintained by the Department.

Website: FDOT Outdoor Advertising Database

<http://www2.dot.state.fl.us/rightofway/Default.aspx>

Also, reference the Florida Highway Beautification Program website link for Vegetation Management at ODA signs for the Florida Statutes and Administrative Codes related to Vegetation Management at Outdoor Advertising Signs and Permit Applications for Vegetation Management and Outdoor Advertising Signs determining Mitigation Value of Roadside Vegetation.

Website: FDOT Environmental Management office for Landscape Architects

<http://www.dot.state.fl.us/emo/beauty/FLA.shtm>

II. Specific Project Site Maintenance Requirements and Recommendations:

There are no specific project maintenance requirements or recommendations other than the requirements indicated above.

REFERENCES

This reference list is provided as a courtesy. The list may not contain the most current websites. The most current references must be accessed for up to date information.

American National Standard Institute, *ANSI A300, (Part 1) for Tree Care Operations – Trees, Shrub, and Other Woody Plant Maintenance – Standard Practices (Pruning)*, available for purchase
<http://www.treespecialists.com/pdfs/pruningstandards.pdf>

Florida Department of Agriculture and Consumer Services, Division of Plant Industry, *Florida Grades and Standards for Nursery Stock*, available for purchase
<http://www.doacs.state.fl.us/pi/plantinsp/publications.html>

Florida Department of Transportation, *FDOT Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System, Index 544 Landscape Installation*
<http://www.dot.state.fl.us/rddesign/rd/RTDS/08/544.pdf>

Florida Department of Transportation, *FDOT Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System, Index 546 Sight Distance at Intersections*
<http://www.dot.state.fl.us/rddesign/rd/RTDS/08/546.pdf>

Florida Department of Transportation, *FDOT Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System, Index 700 Roadside Offsets*
<http://www.dot.state.fl.us/rddesign/rd/RTDS/08/700.pdf>

Florida Department of Transportation, *FDOT Plans Preparation Manual (PPM) Vol. I Chapters 2.11.5, Horizontal Clearance to Trees; Table 2.11.9 Horizontal Clearance and Clear Zone; Figure 4.1.2 Clear Zone; and Table 25.4.11.1 Clear Zone Width (feet) and Table 25.4.14.6 (for existing) trees*
<http://www.dot.state.fl.us/rddesign/PPMManual/2008/Volume1/zChap02.pdf>

Florida Department of Transportation, *FDOT Standard Specifications for Road and Bridge Construction, Section 580 Landscape Installation*
<http://www.dot.state.fl.us/specificationsoffice/Implemented/CurrentBK/CurrentSpecs/580.pdf>

Florida Department of Transportation, *Maintenance Rating Program Handbook*
<http://ombnet.dot.state.fl.us/procedures/bin/850065002.pdf>

Florida Department of Transportation, Landscape Architecture Website
<http://www.dot.state.fl.us/emo/beauty/beauty.shtm>

Interlocking Concrete Pavement Institute (ICPI)
<http://www.icpi.org/> <http://www.fisstate.org>

International Society of Arboriculture (ISA)
www.isa-arbor.com

Manual on Uniform Traffic Control Devices

<http://www.mutcd.fhwa.dot.gov>

Florida Irrigation Society

<http://www.fisstate.org>

Florida Department of Community Affairs (FCA), *Florida Board of Building Codes & Standards, Florida Accessibility Code for Building Construction*

http://www.dca.state.fl.us/fbc/publications/1_publications.htm

Guide to Roadside Mowing and Guide to Turf Management, available for purchase

<http://infonet.dot.state.fl.us/SupportServicesOffice/plist.htm>

Accessible Sidewalk Videos (ADA)

<http://www.access-board.gov/news/sidewalk-videos.htm>

SECTION No.:	88070
FM No. (s)	421695-1-52-01
COUNTY:	Indian River
S.R. No.:	A1A

EXHIBIT D

APROXIMATE PROJECT COST

This Exhibit forms an integral part of the DISTRICT FOUR (4) MAINTENANCE MEMORANDUM OF AGREEMENT between the State of Florida, Department of Transportation and the AGENCY.

Date: 9/18/09

APPROXIMATE PROJECT COST: \$ 21,000.00

SECTION No.: 88070
 FM No. (s) 421695-1-52-01
 COUNTY: Indian River
 S.R. No.: A1A

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Date: 9/18/09

APPROXIMATE PROJECT COST: \$ 21,000.00

Budget Cost Estimate

SR A1A

Prepared By: ACAI Associates, Inc. 9/18/09

<u>Pay Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Total</u>
	<u>City of Vero Beach (MP 4.62-MP 5.32)</u>			
	Live Oak / Quercus virginiana	28 EA	\$750.00	\$21,000.00
<u>Total</u>				<u>\$21,000.00</u>

COUNCIL AGENDA REPORT
MEETING OF JANUARY 5, 2010

TO: The Honorable Mayor and Members of the City Council

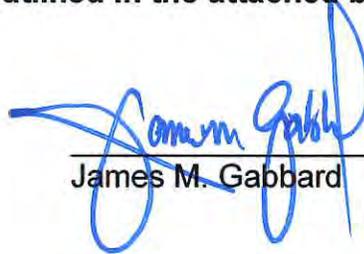
FROM: James M. Gabbard, City Manager

DATE: December 16, 2009

SUBJECT: AWARD OF BID NO. 370-09/PW – RELAY TESTING SERVICE CONTRACT FOR THE POWER PLANT AND ELECTRICAL T&D

Please find attached a memo from Randall McCamish, dated December 10, 2009, which provides a recommendation on the above-referenced subject.

It is the recommendation of the City Manager's Office that Council approve the Award of Bid No. 370-09/PW for a Relay Testing Service Contract to Circuit Breaker Sales and Service in the amount of \$14,220.00, for the Power Plant, and \$55,115.00 for Electrical T&D. This results in a total price of \$69,335.00, with funding from the accounts outlined in the attached back-up information.


James M. Gabbard

:jav
Attachments

xc: Randall McCamish
John Lee
Stephen Maillet



DEPARTMENTAL CORRESPONDENCE

*Since,
Place on Jan 5
Agenda - Consent
Thank you
Jim*

TO: James Gabbard, City Manager
FROM: Randall McCamish, Director Electric T & D *DM*
THROUGH: John Lee, Acting Electric Utility Director *376 - 12/15/09*
DATE: December 10, 2009
SUBJECT: Request for Council Approval

I am requesting that the following item be placed on the agenda for approval at the January 5, 2010 City Council meeting.

Relay Testing Service Contract, Power Plant and Electrical T & D, Bid # 370-09/PW:

Test 162 relays at the Power Plant and 612 relays for T & D – Award bid to Circuit Breaker Sales and Service, \$14,220.00 for the Power Plant, \$55,115.00 for T & D substations – Total \$69,335.00.

Justification – The Power Plant relays are due for testing in the next six months. The T& D relays are required by the Federal Energy Regulatory Commission to be tested on a regular basis and are scheduled to be tested in the next three years. This contract will fulfill that requirement. The bidder, Circuit Breaker Sales and Service, submitted the low bid and is fully qualified to fulfill these services. The cost for these services will be charged to account # 403.5400.531.694362 for the T & D relays, and to account # 403.5000.531.610313 for the Power Plant.

Cc: Phyllis Walton, Purchasing
Jim Stevens, Power Resources Director

INTERDEPARTMENTAL MEMO

Date: 11/13/09
To: Jim Stevens, Director, Power Resources
✓ Randall McCamish, Director, Electrical T&D
From: Phyllis Walton, Assistant Manager of Purchasing/Warehouse
Re: Bid #370-09/PJW Relay Testing Services Contract



Of the 325 bidders who were notified, 7 responded. Enclosed are the bids and the bid tabulation.

Please note that CE Power Solutions did not submit a bid bond according to the Invitation to Bid instructions and therefore is referenced on the bid tab for informational purposes only.

The question arose regarding splitting the award should two bids be more responsive than one. This would be a question of negotiation with the prospective awardees when you have short-listed the bidders.

Recommendations for the next Council meeting should be submitted to the City Manager by Noon Tuesday, one week prior to the scheduled meeting.

Should you have any questions regarding the bids, please do not hesitate to contact me.

Enclosures: Bid Tab
Six bids

**CITY OF VERO BEACH
COVB RELAY TESTING SERVICES CONTRACT
POWER PLANT & ELECTRICAL T&D
BID #370-09/PW
OPENED 11/12/09**

ITEM DESCRIPTION	Emerson Electrical Reliability Services	CE Power Solutions	Circuit Breaker Sales & Service	Aubrey Silvey Testing Services	Electric Power Systems	CET Electrical Testing DBA MET Electrical Testing LLC	WESCO
Power Plant (162 Relays)	\$10,680.00	\$12,336.00	\$14,220.00	\$22,500.00	\$18,491.00	\$23,444.00	\$55,999.00
T&D (612) Relays	78,320.00	57,737.00	55,115.00	67,440.00	109,585.00	115,207.00	260,750.00
Additional Standby Time (Per Hour)	110.00	170.00	80.00	90.00	90.00	100.00	See below ⁴
Optional Pricing Time & Materials	110.00 ¹	170.00	180.00	110.00/Hr	102.00 ²	108.00/Hr ³	
Bid Bond	√	Not provided	Ck #10356	√	√	√	√
Questionnaire	√	√	√	√	√	√	√
Drug Free	√	√	√	√	√	Not provided	√
ADDENDUM 1	√	√	√	√	√	√	√
ADDENDUM 2	√	√	√	√	√	√	√
	1Straight Time, Cost Plus 20% for Material & Parts (See note on Bid Schedule for additional hourly charges)				2Plus Hotel & Expense = \$140 per day	3Cost + 33%	4Per ABB Field Service Commercial Rate Schedule 1ZUL9520- 001 (Attached)
Purchasing Division							

COUNCIL AGENDA REPORT
MEETING OF JANUARY 5, 2010

TO: The Honorable Mayor and Members of the City Council

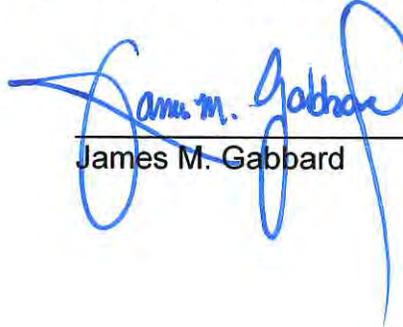
FROM: James M. Gabbard, City Manager

DATE: December 17, 2009

SUBJECT: CHANGE ORDER AND FINAL PAYMENT FOR TELEVENT MINER & MINER - ARCFM IMPLEMENTATION WITH DATA COLLECTION SERVICES

Please find attached a memo from Ted Fletcher, dated December 16, 2009, providing background information and a recommendation on the above-referenced item.

It is the recommendation of the City Manager's Office that Council approve the Change Order and Final Payment to Televent Miner & Miner for the ArcFM Implementation with Data Collection Services, in the amount of \$20,569.98. Funding will be as outlined in the attached back-up information.



James M. Gabbard

:jav
Attachments

xc: Ted Fletcher
John Lee
Steve Maillet



Electrical Engineering & New Construction

To: Jim Gabbard, City Manager

From: Ted Fletcher, Acting Director, Elec. Engineering and New Const. *T.F.*

Via: John Lee, Acting Electric Utilities Director *522 - 1217109*

Date: 12/16/09

**Re: Final Payment and Change Order for Telvent Miner & Miner ArcFM
Implementation with Data Collection Services**

Recommendation:

Place this on the City Council agenda for January 5, 2010

We have received and approved all of the task orders from Telvent Miner & Miner, Inc., and we recommend Council approve a change order to the original contract in the amount of \$20,569.98 and final payment be made to Telvent Miner and Miner, Inc. When we brought the original contract amount to Council, we had only an estimated total for the actual amount of poles, UG structures and anchor guys. Actual count was higher, resulting in a change order. With the final accounting, we have found this project to be in compliance with City specifications.

The funding is shared with the T & D Department and is already budgeted. The data collection portion of the contract will give the City Electric Utility an accurate account of "foreign" attachments to our facilities. These attachments have anticipated revenue of \$55,000 plus from outside agencies attached, such as A T & T, Comcast, etc. and others unknown.

Funding for this project will be from accounts 403.5410.531.611365(Electrical Engineering) 403.5400.531.69391(T & D Department). In addition, we are negotiating funding sources from A T & T and Comcast, as per our franchise agreements.

Background:

Telvent Miner & Miner, Inc. provides this department with software and hardware tools used to interface with the City's GIS Department. The ArcFM implementation will enable this department to analyze various system operations, limiting the need to obtain consultants for these important tasks.

The data collection server helps build an accurate data base for the software's users and provides the City with a true inventory of its electric facilities. This information is especially important in situations such as recovery from natural disasters and justifying claims made to Emergency Management Agencies. It can also provide for a more precise value of the systems worth.

JD/la

Telvent Miner & Miner
 4701 Royal Vista Circle
 Fort Collins, CO 80528



Fort Collins Phone
 970-223-1888
 fax: 970-223-5577

Mailing Instructions for Lockbox
 TELVENT MINER AND MINER INC
 6912 PAYSPIRE CIRCLE
 CHICAGO IL 60674

Denver Phone
 303-623-3119

INVOICE

Invoice #: 9110-0111

Date: 07-Dec-09

City of Vero Beach
 PO Box 1389
 Vero Beach , FL 32961-1389

Client ID: Vero Beach

Project #: 497

Services Provided Per Agreement No TMM-424

<i>M/S</i>	<i>Contract Amount</i>	<i>% Complete</i>	<i>Amount Complete</i>	<i>Prior Amount Invoiced</i>	
1.0 Design Phase	49,180.00	100%	49,180.00	49,180.00	
2.0 Develop & Deploy Phase	28,136.00		28,136.00	28,136.00	
3.0 Pilot Deliver	11,240.00	100%	11,240.00	11,240.00	
4.0 Production Delivery Submittal 1 Poles, UGstructures, Anchorguys	12,580.00	100%	12,580.00	12,580.00	32,275.36
5.0 Production Delivery Submittal 2 Poles, UGstructures, Anchorguys	10,730.00	100%	10,730.00	10,730.00	21,657.30
6.0 Production Delivery Submittal 3 Poles, UGstructures, Anchorguys	9,620.00	100%	9,620.00	9,620.00	40,681.14
7.0 Production Delivery Submittal 4 Poles, UGstructures, Anchorguys	9,620.00	100%	9,620.00	9,620.00	40,981.38
8.0 Production Delivery Submittal 5 Poles, UGstructures, Anchorguys	9,620.00	100%	9,620.00	9,620.00	27,548.96
9.0 Production Delivery Submittal 6 Poles, UGstructures, Anchorguys	9,620.00	100%	9,620.00	9,620.00	34,078.30
10.0 Production Delivery Submittal 7 Poles, UGstructures, Anchorguys	9,620.00	100%	9,620.00	9,620.00	21,176.22
11.00 Production Delivery Submittal 8 Poles, UGstructures, Anchorguys	9,620.00	100%	9,620.00	9,620.00	19,207.20
12.0 Production Delivery Submittal 9 Poles, UGstructures, Anchorguys Additional Poles, UGstructures, Anchorguys	9,620.00	100%	9,620.00	9,620.00	10,949.98 13,333.24
Actual Contract Price				441,095.08	
Estimated Contract Price				420,525.10	
Difference in Contract Amts				20,569.98	

Total does not include sales tax, where applicable
 Client is responsible for any additional Duties, Taxes, or Fees.