



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - Development and Environmental Services Group

J.1.

10/22/2024

Subject:

Consideration of a Tentative Settlement Agreement Under the Florida Land Use and Environmental Dispute Resolution Act for Property Located at 134 Diane Circle

Fiscal Impact:

None.

Dept/Office:

Code Enforcement / County Attorney's Office

Requested Action:

Consider comment from the property owner and the public, and take one of the following actions: (1) Accept a tentative settlement agreement as submitted and direct staff to proceed to implement it, authorizing the County Manager to execute a non-statutory development agreement in a form approved by the County Attorney; (2) Modify the tentative settlement agreement and direct staff to proceed to implement it as modified, authorizing the County Manager to execute a non-statutory development agreement in a form approved by the County Attorney; or (3) Reject the tentative settlement agreement.

Summary Explanation and Background:

On October 28, 2022, Joseph Traska submitted a building permit application for an accessory structure consisting of two shipping containers on his property located at 134 Diane Circle in an unincorporated beachside area between Indialantic to the south, and Melbourne to the north (the "Property").

On March 24, 2023, the Building Department issued a building permit for the structure, depicted in the plans as two shipping containers stacked in a perpendicular arrangement. Mr. Traska later commenced construction.

On October 17, 2023, after receiving a complaint regarding the shipping container structure, Code Enforcement commenced an investigation. During the investigation, it was learned that Mr. Traska's building permit had been issued in error, in violation of the Brevard County Code of Ordinances. Subsequently, the Building Official issued a Stop Work Order as Mr. Traska's construction in the field deviated from the permitted plans in violation of Sec. 22-47(110) of the Code. Code Enforcement issued a Notice of Violation for this offense, as well as for the stacking of shipping containers in violation of Sec. 62-1102 of the Code. That Code section provides, in pertinent part:

"A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no stacking of containers shall be allowed."

Code Enforcement Hearing and Special Magistrate Order

On December 19, 2023, Code Enforcement Special Magistrate Stewart Capps held a hearing on this case. On February 14, 2024, the Special Magistrate issued a Findings of Fact, Conclusions of Law and Order & Lien for Costs. The Special Magistrate found that the actual structure built on the property deviated from the permitted building plans. He further found that the structure is comprised of shipping containers stacked on top of each other in violation of Brevard County Code. The Special Magistrate ordered Mr. Traska to unstack the shipping containers and obtain an approved revision to his building permit, in full compliance with the Code, or return the Property to its configuration prior to construction, by March 14, 2024. The Order provided for a fine in the amount of \$25 per day to be assessed beginning March 15, 2024 until compliance is determined by Code Enforcement.

The Florida Land Use and Environmental Dispute Resolution Act

On February 26, 2024, Mr. Traska's attorneys invoked a procedure known as FLUEDRA (the Florida Land Use and Environmental Dispute Resolution Act), which is codified at Section 70.51, Florida Statutes. FLUEDRA is intended to provide a means to resolve land use and enforcement disputes outside of litigation. The process is rarely utilized, but when it is properly invoked, it is mandatory and the County was required to participate in the process and share equally in the cost of the proceedings. Notably, invoking the process tolls the time for an owner to initiate legal proceedings.

Pursuant to FLUEDRA, the County and Mr. Traska participated in a public mediation process facilitated by Special Magistrate James Stokes. According to the statute, the goal of mediation under FLUEDRA "is to focus attention on the impact of the governmental action giving rise to the request for relief and to explore alternatives to the development order or enforcement action...." The mediation was attended by County staff, Mr. Traska and his attorneys, and members of the public both opposed to, and in favor of, Mr. Traska's shipping container structure. After hours of mediation, County staff and Mr. Traska agreed to a tentative settlement agreement. The tentative settlement agreement represents the efforts of County staff to negotiate a potential resolution in good faith, while addressing concerns of neighboring property owners to the greatest extent possible. However, it was understood that County staff did not have the authority to bind the County, and that Board approval would ultimately be required.

Tentative Settlement Agreement

The tentative agreement required Mr. Traska to submit a request to revise his building permit. The submittal was required to:

- address the difference between the approved construction plans and the actual configuration of the shipping containers;
- include a certified survey, signed by a Professional Engineer or Professional Land Surveyor, confirming that the Property is at least one-half (0.5) acre in size;
- provide for exterior balcony/deck area(s) to be enclosed on the accessory structure's East and South-facing sides with an opaque barrier sufficient to shield view of neighboring properties;
- include exterior renderings and details of the exterior façade, to include materials, demonstrating that the industrial appearance of the shipping containers has been mitigated and conforming to the single-

- family residential appearance of the area surrounding the Property; and
- include a landscape plan with sight triangle depicting vegetative buffer sufficient for visual screening between open exterior balcony/deck area(s) and neighboring residences along the south property line (may include existing vegetation).

To mitigate concerns of neighbors regarding the potential use of the structure as a vacation rental, additional residence, or raucous party pad, the parties agreed to the following use restrictions:

- The accessory structure shall not be used as living quarters.
- The accessory structure shall not be rented, in whole or in part, for any purpose.
- The accessory structure shall not contain a kitchen.
- The accessory structure shall not be occupied or used for any purpose other than storage between the hours of 10:00 PM and 6:00 AM.

Finally, if the Board approves the tentative settlement agreement, the County will waive any accrued fines and costs in relation to the Code Enforcement case upon Mr. Traska's compliance with agreed-upon conditions and modifications, and when all necessary inspections have been passed.

At the time of filing this agenda report, Mr. Traska had submitted the necessary request to revise his building permit. Upon review of the submittal, the Building Department requested that Mr. Traska submit (1) total electrical load calculations; (2) electrical riser to include wire size, number of conductors, type of raceway, and over current protection; (3) total square footage with area calculations; (4) outside railing detail; (5) new 2023 Florida energy calculations; and (6) new Florida product approvals for windows and doors.

The Planning and Development Department reviewed Mr. Traska's architectural renderings and submittals, and provided the following comments:

"The location of a two-story stacked container storage in close proximity to the side yard setback line does not easily fit the neighborhood scale and presents challenges to the urban community as well as adjacent neighbor. The tall structure would benefit from a modern interpretation of the existing neighborhood vernacular in an effort to add animation and relief to the adjacent property as well as to soften the bold differences of materials.

The rendering relies heavily on the appearance of industrial materials and finishes in lieu of traditional forms and surfaces. The side elevation adjacent the property line should embrace features from the established neighborhood and residence as a subordinate accessory structure in an effort to be compatible with the fabric of the residential area and zoning. The elevations depicted in contrast appear to present the structure as a small commercial business with double one lite entry doors, large container doors and hardware, dark colored metal or applied fluted material walls covering most of the structure which retain much of the appearance of the original metal container. White residential style single hung style glazing, divided light doors and windows, are a contrast rather than addition to the theme of the presentation. More attention is encouraged addressing neighborhood proportions and buffering of the structure adjacent the existing neighbors home by use of massing, materials, textures and color to be compatible."

During the drafting of the mediated tentative agreement, Mr. Traska requested a revision through his attorney.

Specifically, Mr. Traska requested that language in the tentative agreement stating the structure shall not be occupied or used for any purpose other than storage between the hours of 10:00 PM and 6:00 AM be revised to remove the occupancy prohibition, allowing "occupancy of the accessory structure between the hours of 10:00 PM and 6:00 AM ... as related to use as storage." Given the concerns of neighbors that the structure might be used for a vacation rental or late night hangout, the Board may wish to consider directing a modification to the agreement to unequivocally clarify that storage is the only allowed use during the hours of 10:00 PM and 6:00 AM, and that no occupancy is permitted except for the storing of items or retrieval of stored items without unnecessary delay.

Board Action

After accepting public comment, the Board has three options:

- (1) The Board may accept the tentative settlement agreement as submitted and direct staff to proceed to implement it by non-statutory development agreement.
- (2) Modify the tentative settlement agreement and direct staff to proceed to implement it as modified by non-statutory development agreement if Mr. Traska accepts the modifications.
- (3) Reject the tentative settlement agreement. If the Board rejects the tentative agreement, the Code Enforcement proceedings will no longer be abated. Mr. Traska will continue to accrue fines until he either unstacks the shipping containers and obtains an approved revision to his building permit in full compliance with the Code or returns the Property to its original configuration prior to construction (i.e., removes the containers). Because of FLUEDRA's tolling provision, Mr. Traska has time remaining to file an appeal of the Code Enforcement Magistrate's order should he choose to do so.

Attachments

1. Tentative Settlement Agreement
2. Property Survey
3. Traska Revised Building Plan Submittal
4. Traska Architectural Renderings Submittal
5. Traska Landscape Renderings Submittal
6. Traska Request for Relief Under the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes
7. Citizen Written Comments

Clerk to the Board Instructions: Please return a memo of the Board's action to the Planning and Development Department Director and the County Attorney.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

October 23, 2024

M E M O R A N D U M

TO: Morris Richardson, County Attorney

RE: Item J.1., Consideration of a Tentative Settlement Agreement under the Florida Land Use and Environmental Dispute Resolution Act for Property Located at 134 Diane Circle

The Board of County Commissioners, in regular session on October 22, 2024, approved Option 3: Reject the tentative settlement agreement; the Code Enforcement proceedings will no longer be abated; and Mr. Traska will continue to accrue fines until he either unstacks the shipping containers and obtains an approved revision to his building permit in full compliance with the Code, or returns the property to its original configuration prior to construction (i.e., removes the containers); and because of FLUEDRA's tolling provision, Mr. Traska has time remaining to file an appeal of the Code Enforcement Magistrate's order should he choose to do so.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/ds

cc: Each Commissioner
Code Enforcement

ATTACHMENT 1 - TENTATIVE SETTLEMENT AGREEMENT

TENTATIVE SETTLEMENT AGREEMENT

On August 7, 2024, pursuant to the Florida Land Use and Environmental Dispute Resolution Act (FLUEDRA), the parties hereto attended a public mediation/hearing facilitated by Special Magistrate James Stokes, and reached the following tentative agreement, subject to the approval of the Board of County Commissioners, which shall be in its sole discretion and at a publicly advertised meeting.

Joseph Traska, represented by legal counsel, and Brevard County, hereby agree to the following terms regarding the shipping container accessory structure located at 134 Diane Circle, Indialantic, Florida (the "Property"):

1. Within 60 days of the date of this Agreement, Mr. Traska shall submit a request to revise Brevard County Building Permit ID 22BC20772. The submittal shall:
 - a. address the difference between the approved construction plans and the actual configuration of the shipping containers;
 - b. include a certified survey, signed by a Professional Engineer or Professional Land Surveyor, confirming that the Property is at least one-half (0.5) acre in size;
 - c. provide for exterior balcony/deck area(s) to be enclosed on the accessory structure's East and South-facing sides with an opaque barrier sufficient to shield view of neighboring properties;
 - d. include exterior renderings and details of the exterior façade, to include materials, demonstrating that the industrial appearance of the shipping containers has been mitigated and conforming to the single-family residential appearance of the area surrounding the Property; and
 - e. include a landscape plan with sight triangle depicting vegetative buffer sufficient for visual screening between open exterior balcony/deck area(s) and neighboring residences along the south property line (may include existing vegetation).
 2. The County shall review the requested revisions for compliance with the Florida Building Code and this Agreement.
 3. If the requested revisions, identified in Section 1, are found to be compliant with the requirements of the Florida Building Code and the terms of this Agreement, then consideration of this Agreement shall be scheduled for the next available meeting of the Board of County Commissioners. The County shall provide notice of such meeting to all property owners within 500 feet of the Property.
 4. If the Board of County Commissioners approves this Agreement, the County shall reopen and revise Brevard County Building Permit ID 22BC20772 to conform with the submittal approved by County staff.
 5. If the Board of County Commissioners approves this Agreement, the approved rendering of the accessory structure and landscape plan shall be incorporated in a development order to be recorded and run with the Property.
-

6. The parties agree to the following terms regarding the use of the accessory structure:
- The accessory structure shall not be used as living quarters.
 - The accessory structure shall not be rented, in whole or in part, for any purpose.
 - The accessory structure shall not contain a kitchen.
 - The accessory structure shall not be used for any purpose other than storage between the hours of 10:00 PM and 6:00 AM.

If the Board of County Commissioners approves this Agreement, the foregoing terms shall be incorporated in a development order to be recorded and run with the Property.

7. Each party shall bear their own respective fees and costs related to the FIUEDRA proceeding. The cost of the special magistrate shall be split equally.
8. This Agreement is binding upon Mr. Traska and shall become final if approved by the Board of County Commissioners within 120 days of the date hereof.
9. Upon approval of this Agreement by the Board of County Commissioners, the County shall abate the accrual of additional fines in relation to Code Enforcement Case No. 23CE-01219. Once the above-referenced modifications have been completed and all necessary inspections have been passed, the Board of County Commissioners shall waive any accrued fines and costs in relation to Code Enforcement Case No. 23CE-01219 and shall release any associated lien.
10. The parties agree to execute any and all documents necessary to carry out the spirit and intent of this Agreement, including a development order to be recorded and run with the Property.
11. This Agreement shall be effective as of the date of the last signature below.

Joseph Traska, Petitioner

Date

10-14-24

Tad Calkins, Director

Planning and Development Department

Date

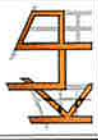
10/14/2024

Schoolfield Properties
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Telephone: (407) 414 2566
Facsimile: (407) 847 2850

ALICIA N. KELLY, ESQ.
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Attorney for Petitioner

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Facsimile: (321) 633-2096

SARAH BEAZLEY, ESQ.
Assistant County Attorney
Florida Bar No. 1004381
Attorney for Respondent



KLP SDS DESIGN SERVICES

235 S. Maitland Avenue, Suite 216
Maitland, FL 32751
Phone: (407) 947-7549
FAX: (407) 947-7549
EMAIL: info@kpsdsdesign.com

Pedro L. Medina, P.E.
Professional Engineer
FL P.E. # 73579
pedro@prodcl.com

NOTES:

1. EXISTING STORAGE CONTAINER ON PROPERTY IS TO BE RELOCATED AND BE RE PURPOSED IN THIS PROJECT.

2. "ACCESSORY BUILDING" TO BE INSULATED AND AIR CONDITIONED SPACE

ACCESSORY BUILDING

134 DIANE CIRCLE
INDIATLANTIC, FL 32903

JOB NO. 134-2022

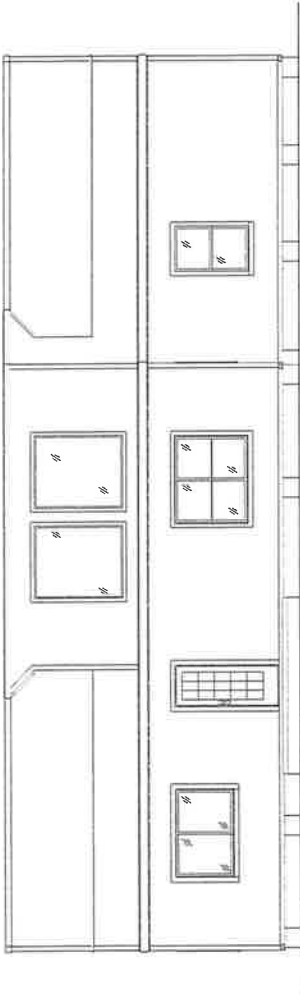
DRAWN BY TIM PERRY

DATE 12/19/23

SCALE N.T.S.

COVER SHEET

CS



134 ACCESSORY BUILDING

NOTES:

- EXISTING STORAGE CONTAINER ON PROPERTY IS TO BE RELOCATED AND BE RE PURPOSED IN THIS PROJECT.
- "ACCESSORY BUILDING" TO BE INSULATED AND AIR CONDITIONED SPACE

INDEX OF DRAWINGS:

- CS COVER SHEET
- SP SITE PLAN
- A0 FOUNDATION PLAN
- A1 FLOOR PLAN
- A2 ELEVATIONS
- A3 ELEVATIONS
- E1 ELECTRICAL PLAN
- S1 STRUCTURAL DETAILS
- S2 DETAILS
- L1 EXISTING LANDSCAPE PLAN
- SP1 GRADING AND DRAINAGE PLAN

DESIGN LOAD REQUIREMENTS:

- Uninhabitable attic without storage: 10psf.
- Uninhabitable attic with limited storage: 20psf.
- Roof live load: 20psf.
- Roof dead load: 10psf.
- Roof snow load: 30psf.
- Roof wind load: 150psf.
- Roof seismic load: 10psf.
- Roof other than sleeping room: 40psf.
- Roof stairs: 10psf.

CONSTRUCTION TYPE V-B

- NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET THE REQUIREMENTS OF THE 2021 FLORIDA BUILDING CODE, RESIDENTIAL 6TH EDITION ASCE 7-22.
- DESIGN WIND SPEED - V and 124 MPH V.U. - 160MPH
 - RISK FACTOR II
 - WIND EXPOSURE - CATEGORY I
 - WIND EXPOSURE ADJUSTMENT COEF. - 1.0
 - HEIGHT AND EXPOSURE ADJUSTMENT COEF. - 1.0
 - COMPONENTS AND CLADDING REQUIREMENTS - SEE WINDUP AND DRAIN REQUIREMENTS

KLP SDS DESIGN SERVICES

Tim Perry
235 S. Maitland Avenue, Suite 216
Maitland, Florida 32751
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Pedro L. Medina, P.E.
Professional Engineer
FL P.E. # 73579
pedro@prodcl.com

Date: 2024.09.03
09:04:11-0400



HELP DESIGN SERVICES
 3235 S. WINDWARD AVENUE, SUITE 216
 AURORA, FL 32751
 Phone (407) 947-7549
 E-MAIL TKPSD200@AOL.COM

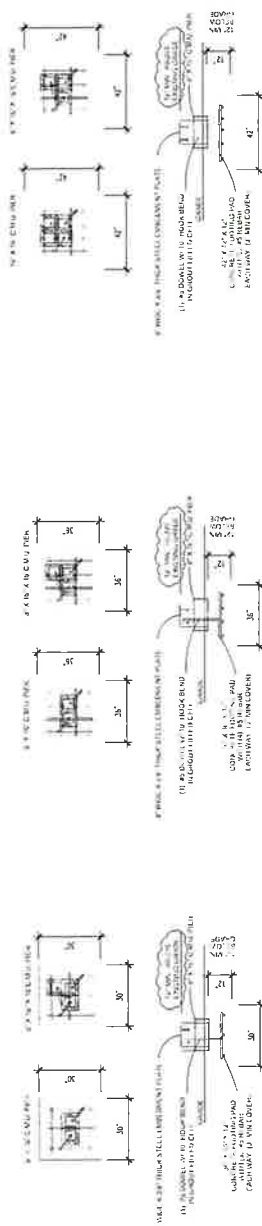
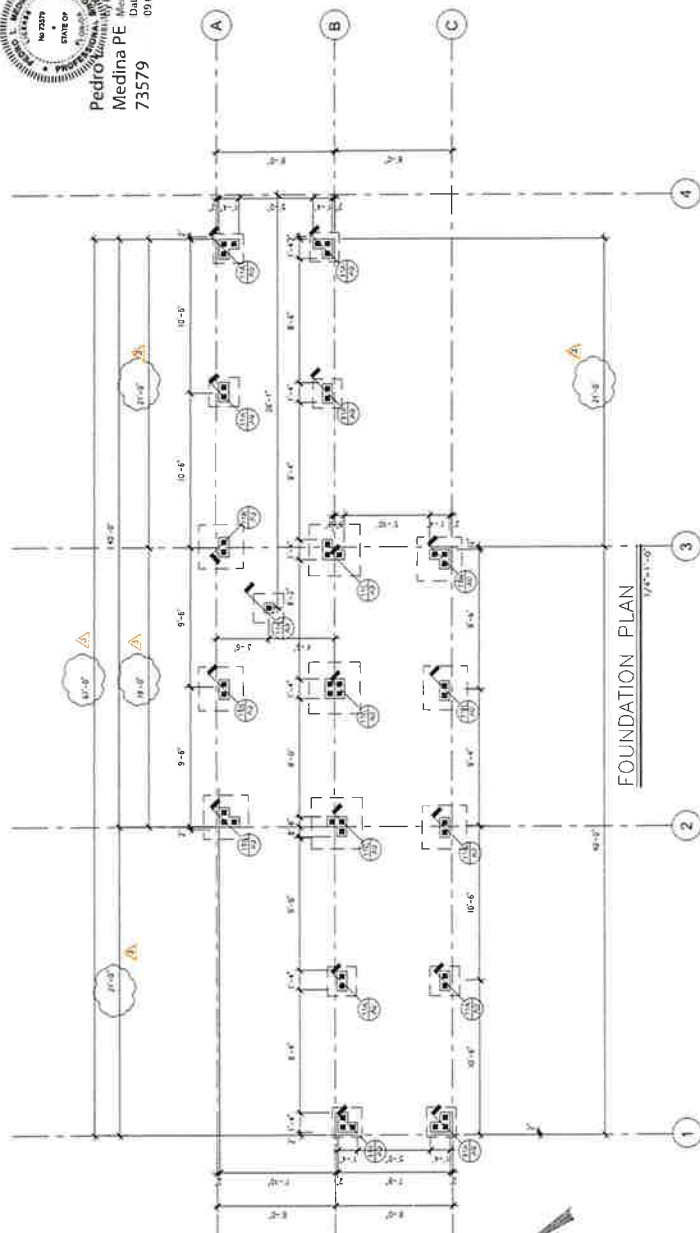
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ACCESSORY BUILDING
134 DIANE CIRCLE
INDIAN ATLANTIC, FL. 32903

JOB NO P0823	REVISIONS
DRAWN BY RM HUNTER	1 12-5-2022
DATE 12/15/23	2 3-1-2023
SCALE 1" = 6"	3 11-17-2023
	4 06-27-2024

FOUNDATION

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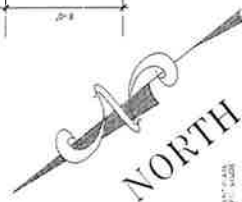


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FOUNDATION PIER

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THE UNIVERSITY OF CHICAGO PRESS

EMBEDMENT PLATES



B EXTENSION DOGS MUST BE UP AT OR EXCEEDED 11/1, 11/2, 11/3, 11/4, 11/5, 11/6, 11/7, 11/8, 11/9, 11/10, 11/11, 11/12, 11/13, 11/14, 11/15, 11/16, 11/17, 11/18, 11/19, 11/20, 11/21, 11/22, 11/23, 11/24, 11/25, 11/26, 11/27, 11/28, 11/29, 11/30, 12/1, 12/2, 12/3, 12/4, 12/5, 12/6, 12/7, 12/8, 12/9, 12/10, 12/11, 12/12, 12/13, 12/14, 12/15, 12/16, 12/17, 12/18, 12/19, 12/20, 12/21, 12/22, 12/23, 12/24, 12/25, 12/26, 12/27, 12/28, 12/29, 12/30, 1/1, 1/2, 1/3, 1/4, 1/5, 1/6, 1/7, 1/8, 1/9, 1/10, 1/11, 1/12, 1/13, 1/14, 1/15, 1/16, 1/17, 1/18, 1/19, 1/20, 1/21, 1/22, 1/23, 1/24, 1/25, 1/26, 1/27, 1/28, 1/29, 1/30, 2/1, 2/2, 2/3, 2/4, 2/5, 2/6, 2/7, 2/8, 2/9, 2/10, 2/11, 2/12, 2/13, 2/14, 2/15, 2/16, 2/17, 2/18, 2/19, 2/20, 2/21, 2/22, 2/23, 2/24, 2/25, 2/26, 2/27, 2/28, 2/29, 2/30, 3/1, 3/2, 3/3, 3/4, 3/5, 3/6, 3/7, 3/8, 3/9, 3/10, 3/11, 3/12, 3/13, 3/14, 3/15, 3/16, 3/17, 3/18, 3/19, 3/20, 3/21, 3/22, 3/23, 3/24, 3/25, 3/26, 3/27, 3/28, 3/29, 3/30, 3/31, 4/1, 4/2, 4/3, 4/4, 4/5, 4/6, 4/7, 4/8, 4/9, 4/10, 4/11, 4/12, 4/13, 4/14, 4/15, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/24, 4/25, 4/26, 4/27, 4/28, 4/29, 4/30, 5/1, 5/2, 5/3, 5/4, 5/5, 5/6, 5/7, 5/8, 5/9, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/16, 5/17, 5/18, 5/19, 5/20, 5/21, 5/22, 5/23, 5/24, 5/25, 5/26, 5/27, 5/28, 5/29, 5/30, 5/31, 6/1, 6/2, 6/3, 6/4, 6/5, 6/6, 6/7, 6/8, 6/9, 6/10, 6/11, 6/12, 6/13, 6/14, 6/15, 6/16, 6/17, 6/18, 6/19, 6/20, 6/21, 6/22, 6/23, 6/24, 6/25, 6/26, 6/27, 6/28, 6/29, 6/30, 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/13, 7/14, 7/15, 7/16, 7/17, 7/18, 7/19, 7/20, 7/21, 7/22, 7/23, 7/24, 7/25, 7/26, 7/27, 7/28, 7/29, 7/30, 7/31, 8/1, 8/2, 8/3, 8/4, 8/5, 8/6, 8/7, 8/8, 8/9, 8/10, 8/11, 8/12, 8/13, 8/14, 8/15, 8/16, 8/17, 8/18, 8/19, 8/20, 8/21, 8/22, 8/23, 8/24, 8/25, 8/26, 8/27, 8/28, 8/29, 8/30, 8/31, 9/1, 9/2, 9/3, 9/4, 9/5, 9/6, 9/7, 9/8, 9/9, 9/10, 9/11, 9/12, 9/13, 9/14, 9/15, 9/16, 9/17, 9/18, 9/19, 9/20, 9/21, 9/22, 9/23, 9/24, 9/25, 9/26, 9/27, 9/28, 9/29, 9/30, 10/1, 10/2, 10/3, 10/4, 10/5, 10/6, 10/7, 10/8, 10/9, 10/10, 10/11, 10/12, 10/13, 10/14, 10/15, 10/16, 10/17, 10/18, 10/19, 10/20, 10/21, 10/22, 10/23, 10/24, 10/25, 10/26, 10/27, 10/28, 10/29, 10/30, 10/31, 11/1, 11/2, 11/3, 11/4, 11/5, 11/6, 11/7, 11/8, 11/9, 11/10, 11/11, 11/12, 11/13, 11/14, 11/15, 11/16, 11/17, 11/18, 11/19, 11/20, 11/21, 11/22, 11/23, 11/24, 11/25, 11/26, 11/27, 11/28, 11/29, 11/30, 12/1, 12/2, 12/3, 12/4, 12/5, 12/6, 12/7, 12/8, 12/9, 12/10, 12/11, 12/12, 12/13, 12/14, 12/15, 12/16, 12/17, 12/18, 12/19, 12/20, 12/21, 12/22, 12/23, 12/24, 12/25, 12/26, 12/27, 12/28, 12/29, 12/30, 12/31, 1/1, 1/2, 1/3, 1/4, 1/5, 1/6, 1/7, 1/8, 1/9, 1/10, 1/11, 1/12, 1/13, 1/14, 1/15, 1/16, 1/17, 1/18, 1/19, 1/20, 1/21, 1/22, 1/23, 1/24, 1/25, 1/26, 1/27, 1/28, 1/29, 1/30, 2/1, 2/2, 2/3, 2/4, 2/5, 2/6, 2/7, 2/8, 2/9, 2/10, 2/11, 2/12, 2/13, 2/14, 2/15, 2/16, 2/17, 2/18, 2/19, 2/20, 2/21, 2/22, 2/23, 2/24, 2/25, 2/26, 2/27, 2/28, 2/29, 2/30, 3/1, 3/2, 3/3, 3/4, 3/5, 3/6, 3/7, 3/8, 3/9, 3/10, 3/11, 3/12, 3/13, 3/14, 3/15, 3/16, 3/17, 3/18, 3/19, 3/20, 3/21, 3/22, 3/23, 3/24, 3/25, 3/26, 3/27, 3/28, 3/29, 3/30, 3/31, 4/1, 4/2, 4/3, 4/4, 4/5, 4/6, 4/7, 4/8, 4/9, 4/10, 4/11, 4/12, 4/13, 4/14, 4/15, 4/16, 4/17, 4/18, 4/19, 4/20, 4/21, 4/22, 4/23, 4/24, 4/25, 4/26, 4/27, 4/28, 4/29, 4/30, 5/1, 5/2, 5/3, 5/4, 5/5, 5/6, 5/7, 5/8, 5/9, 5/10, 5/11, 5/12, 5/13, 5/14, 5/15, 5/16, 5/17, 5/18, 5/19, 5/20, 5/21, 5/22, 5/23, 5/24, 5/25, 5/26, 5/27, 5/28, 5/29, 5/30, 5/31, 6/1, 6/2, 6/3, 6/4, 6/5, 6/6, 6/7, 6/8, 6/9, 6/10, 6/11, 6/12, 6/13, 6/14, 6/15, 6/16, 6/17, 6/18, 6/19, 6/20, 6/21, 6/22, 6/23, 6/24, 6/25, 6/26, 6/27, 6/28, 6/29, 6/30, 7/1, 7/2, 7/3, 7/4, 7/5, 7/6, 7/7, 7/8, 7/9, 7/10, 7/11, 7/12, 7/13, 7/14, 7/15, 7/16, 7/17, 7/18, 7/19, 7/20, 7/21, 7/22, 7/23, 7/24, 7/25, 7/26, 7/27, 7/28, 7/29, 7/30, 7/31, 8/1, 8/2, 8/3, 8/4, 8/5, 8/6, 8/7, 8/8, 8/9, 8/10, 8/11, 8/12, 8/13, 8/14, 8/15, 8/16, 8/17, 8/18, 8/19, 8/20, 8/21, 8/22, 8/23, 8/24, 8/25, 8/26, 8/27, 8/28, 8/29, 8/30, 8/31, 9/1, 9/2, 9/3, 9/4, 9/5, 9/6, 9/7, 9/8, 9/9, 9/10, 9/11, 9/12, 9/13, 9/14, 9/15, 9/16, 9/17, 9/18, 9/19

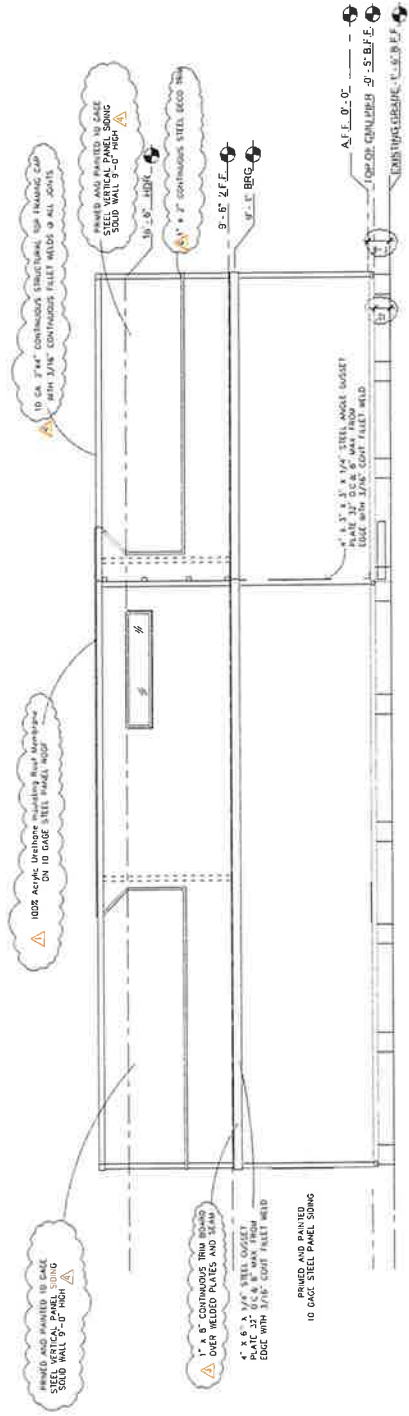
ENTIRELY SOLD BY
ELECTRO MEDICAL, P.O. #1, #71179
UNLIMITED QUANTITIES OF TWO SUCCESSIVELY
ISSUED NOT COMPLETED SOLD AND
REPAIRED AND THE SQUARE WOULD
BE OFFERED ON AN ELECTRONIC
COIN

ACCESSORY BUILDING
134 DIANE CIRCLE
INDIANTLANTIC, FL. 32903

JOB NO P#623	REVISIONS
DRAWN BY TIM PERRY	1/25-2022
DATE 12/15/21	2/3-2022
SCALE 1" = 1'-0"	3/28-2022

ELEVATIONS

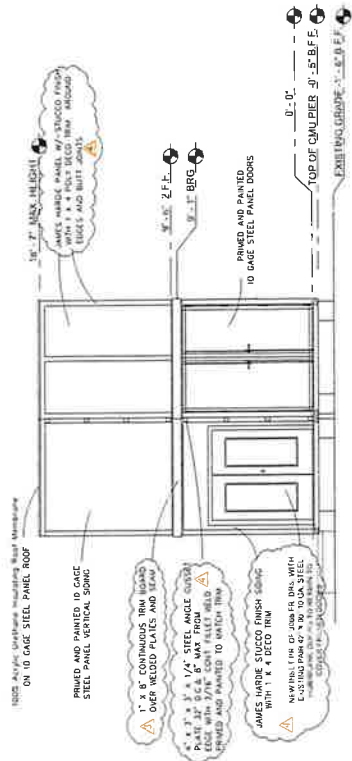
A-3



REAR ELEVATION

 $\frac{1}{4} = 0.25$

Pedro L. Medina PE 73579
 Medina PE 73579
 Date: 2024.09.03
 09:06:11 -04'00'



REAR ELEVATION

WATER EAST VIEW

 $\frac{1}{4} \pi - 0^{\circ}$ 

1. ALL EQUIPMENT AND OBJECTS MUST BE SUPPORTED
 2. ALL SURF AND FURNISHINGS TO BE METAL (ALUMINUM OR ALUMINUM- WELDED) MAY CONTAIN PLASTIC HOUSING AND DR. (BUT NOT DAMPER)
 3. COMBINATION PLUMBING TO BE 2" DIA. TO PVC UNLESS OTHERWISE NOTED
 4. ALL ELECTRICAL WIRING TO BE CONFORMANT WITH THE FLORIDA ELECTRICAL CODE (FEC) 2021 FLORIDA F.E.C. CODE
 5. SCAFFOLDING, SHUTTERING, FORMWORK, AND OTHER TEMPORARY STRUCTURES TO BE INSTALLED WITH MIN. 5" THICK ALUMINUM OR STEEL PLATE
- THESE SPECIFICATIONS AND A PRICE SCHEDULE FOR THE WORK SHALL BE SUBMITTED WITH THE BID.

$$\frac{1}{4} \approx 0.25$$

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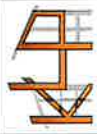
100 FALLS ROAD BR
 WILMINGTON, N. C. 27378
 919-735-1234
 MAIL NOT COMPLETED AND
 REPAID AND THE SIGNATURE MUST
 BE VERIFIED ON ANY ELECTRONIC
 ORDER

ACCESSORY BUILDING
134 DIANE CIRCLE
INDIANATLANTIC, FL. 32903

JOB NO	RELVISITAS
P8643	12-5-2002
DRAWN BY	1-1-2003
TIM PERRY	1-1-2003
DATE	1-27-2002
12/5/03	1-27-2002
SCALE	1/8" = 1'-0"

ELECTRICAL
FLOORPLAN

1. 1



315 WILLOW HALL, SUITE 105
MARTIN, FL 32751
Phone: (407) 947-7549
FAX: (407) 947-7550
EMAIL: PEDRO@PEDIRO.COM
PEDIRO L. Medina, P.E.
Professional Engineer
FL P.E. # 73579
pedro@pedro.com

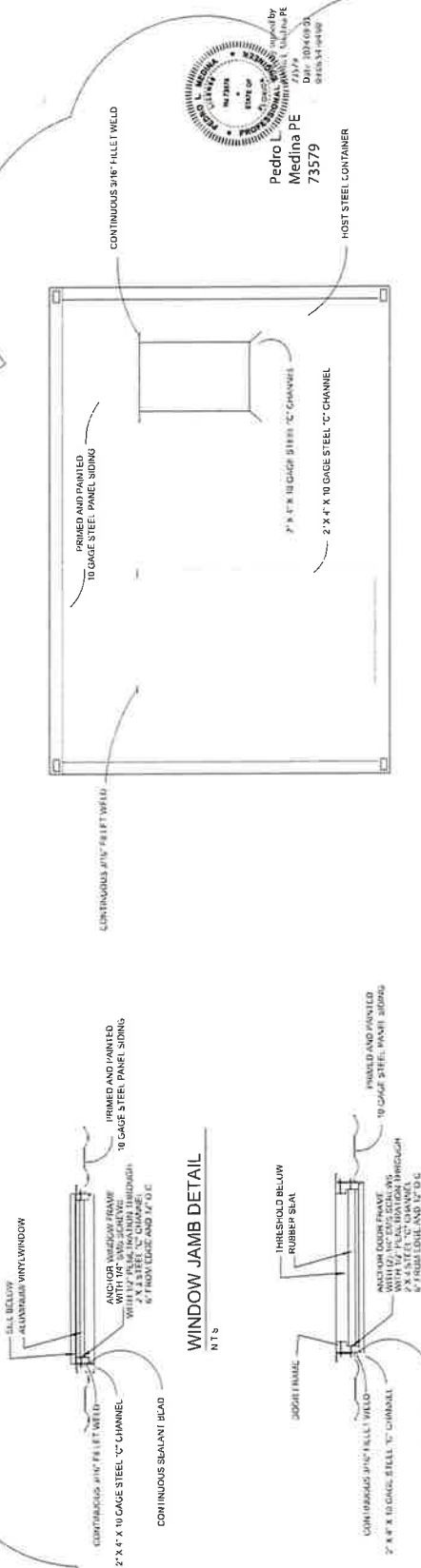
Sealed by State of Florida
Professional Engineer
No. 73579
Expiration Date: 12/31/2022
Seal No. 73579
Seal Date: 12/31/2022
Seal State: FL
Seal Type: Professional Engineer
Seal Material: Plastic
Seal Color: Blue
Seal Size: 2" x 2"

ACCESSORY BUILDING
134 DIANE CIRCLE
INDIATLANTIC, FL 32903

REVISIONS	DATE	SCALE
JOB NO. 10023	12/15/2022	NTS
DRAWN BY: J. PEREZ	12/15/2022	
CHECKED BY: J. PEREZ	12/15/2022	
DATE: 12/15/2022		
SCALE: NTS		

DETAILS

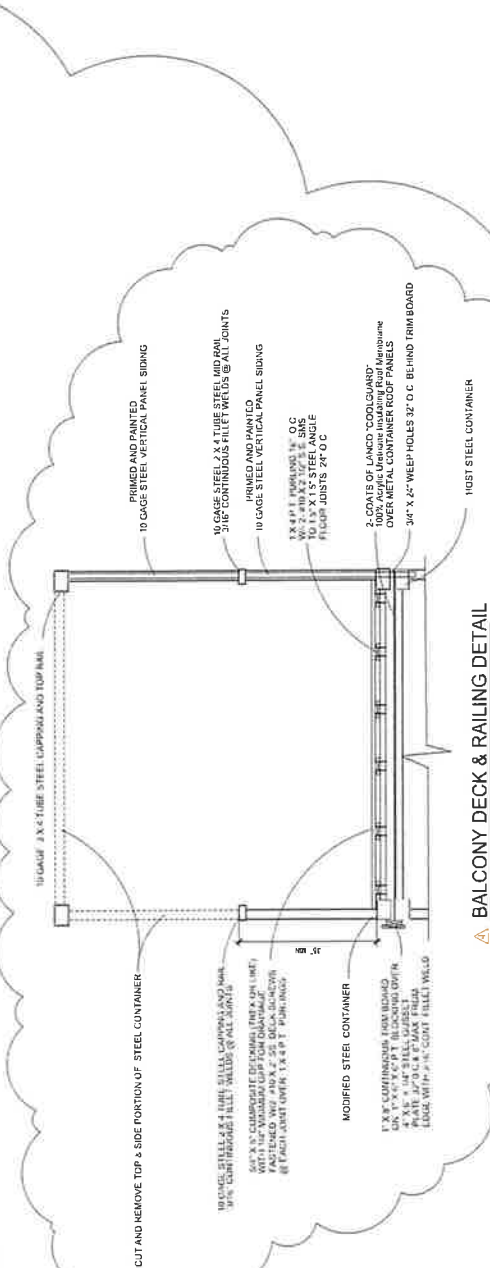
S1



WINDOW JAMB DETAIL
NTS

WINDOW & DOOR JAMB DETAIL
NTS


DOOR JAMB DETAIL
NTS



BALCONY DECK & RAILING DETAIL
NTS

DESIGN LOAD REQUIREMENTS

- a) Uninhabitable attic without storage: 10psf
- b) Uninhabitable attic with limited storage: 20psf,
- c) Habitable attics and attics served with fixed stairs: 30psf,
- d) Balconies (exterior) and decks: 60psf,
- e) Guards and handrails: 200psf,
- f) Guard in-fill components: 50psf,
- g) Passenger vehicle garages: 50psf,
- h) Rooms other than sleeping room: 40psf,
- i) Sleeping rooms: 30psf,
- j) Stairs: 60psf.



S&P DESIGN SERVICES, INC.
 315 WILSON AVE. SUITE 200
 MANTOLONG, FL 32751
 Phone: (407) 947-7549
 Email: info@sandps.com

Pedro L. Medina, P.E.
 Professional Engineer
 FL P.E. # 73579
 pedro@prodcl.com

SEAL OF THE STATE OF FLORIDA
 PROFESSIONAL ENGINEER
 PEDRO L. MEDINA
 No. 73579
 Date: 2024.09.03

ACCESSORY BUILDING
 134 DIANE CIRCLE
 INDIATLANTIC, FL. 32903


REVISIONS

JOB NO.	DATE	BY	REVISION
1003	12-5-2022	DM	1. INITIAL DESIGN
1003	12-5-2022	DM	2. REVISED DESIGN
1003	12-5-2022	DM	3. REVISED DESIGN
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DETAILS

S2

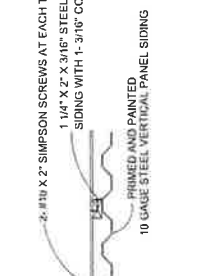
HARDIE PANEL SIDING APPLIED TO
 STEEL PANEL SIDING WITH "3M" PANEL BONDING ADHESIVE
 WITH CONTINUOUS VERTICAL 5/16" BEAD AT VERTICAL RIB



10" / 1'-8"

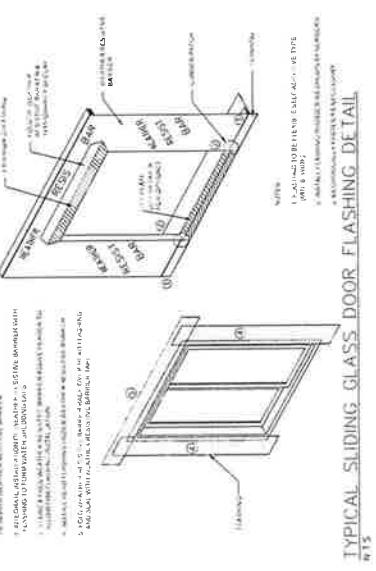
DIRECT PANEL SIDING APPLICATION

HARDIE PANEL OR LAP SIDING FASTENED
 PER MANUFACTURE SPECIFICATIONS
 TO 2 X 4 P.T. PURLINGS 24" O.C. MAX.



2 X 4 P.T. PURLINGS 24" O.C. MAX.

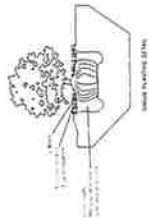
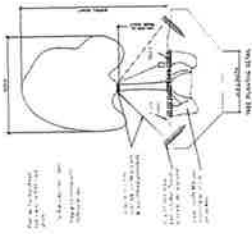
SIDING APPLICATION OVER PURLING



TYPICAL SLIDING GLASS DOOR FLASHING DETAIL
 N.T.S.

[illegible]

- [illegible]

[illegible]

Pedro Medina PE 73579
Medina PE 73579
Date: 2024.09.03
09.07.29.-04'00'



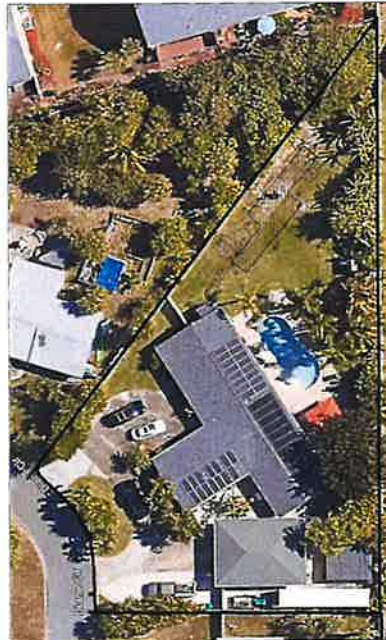
HELP DESK SERVICES
205.500.4040 ext 28
MAYTLAND, FL 32751
Phone (407) 947-7549
EMAIL TKPSD2005@AOL.COM

Pedro L Medina, P.E.
Professional Engineer
FL P.E. # 73579
pedroprod.com

DIGITAL SIGNED BY:
JIMMY MESSIA, JR. #15128
PROVIDED EVIDENCE OF HIS SIGNATURE
AND NON CONSENSUED SIGNED AND
MAILS AND THE SIGNATURE MUST
BE VERIFIED ON ANY ELECTRONIC
SIGNED

ACCESSORY BUILDING
134 DIANE CIRCLE
INDIAN LANTIC, FL. 32903

JOB NO P4623	DRAWN BY TIM PERRY	DATE 12/15/21	SCALE N1S
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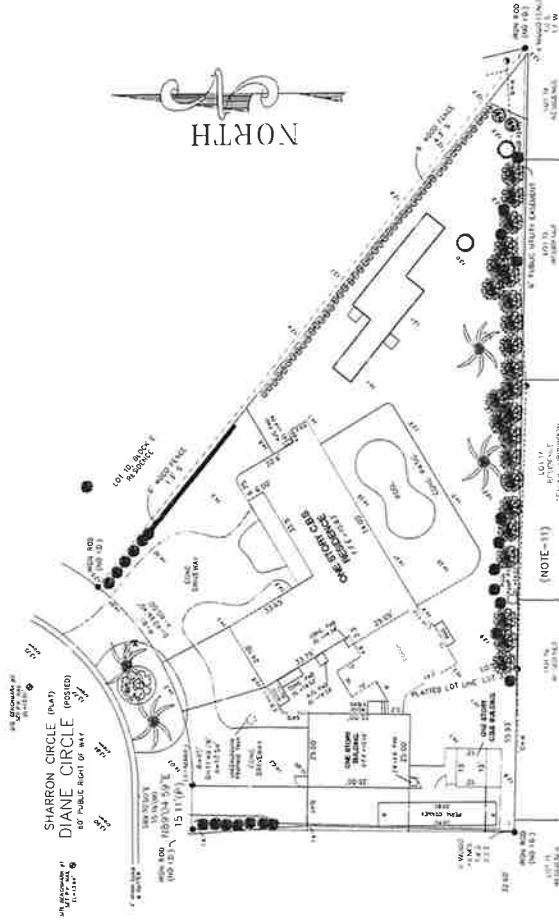
LANDSCAPE
PLAN

AERIAL VIEW



STREET VIEW

EXISTING LANDSCAPING PLAN



LANDSCAPING PLAN











ATTACHMENT 5 - TRASKA LANDSCAPE RENDERINGS SUBMITTAL







ATTACHMENT 6 - TRASKA FLUEDRA REQUEST

February 26, 2024

SENT VIA FEDERAL EXPRESS AND ELECTRONIC MAIL:

Jason Steele, Chair
Brevard County Board of County Commissioners
490 Centre Lake Drive Suite 175
Palm Bay, FL 32907

Frank Abbate
Brevard County Manager
2725 Judge Fran Jamieson Way, Bldg. C
Viera, FL 32940

SENT VIA ELECTRONIC MAIL:

Morris Richardson
Brevard County Attorney
2725 Judge Fran Jamieson Way
Viera, FL 32940

Re: Request for Relief under the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes

Dear Commissioner Steele, Mr. Abbate, and Mr. Richardson:

This correspondence is transmitted to you on behalf of Joseph Traska ("Owner"), the owner of real property located at 134 Diane Circle Indialantic, FL 32903 (the "Property") and is intended to serve as a formal request for relief pursuant to Section 70.51, Fla. Stat. (the Florida Land Use and Environmental Dispute Resolution Act" or "FLUEDRA").

I. OVERVIEW

This FLUEDRA Request is the result of Brevard County's public opposition and subsequent enforcement actions that severely, unreasonably, and unfairly burden Owner's Property because they seek to prevent Owner from constructing a structure on the Property in accordance with construction plans approved by Brevard County.

As fee simple owner of the Property and the Respondent in the code enforcement action, Traska is the "owner" under Section 70.51(2)(d), *Florida Statutes*. Brevard County, is a "governmental entity" as defined by Section 70.51(2)(f), *Florida Statutes*. Pursuant to Section 70.51(3), Florida Statutes, if an owner believes an ".....enforcement action of a governmental entity is unreasonable or unfairly burdens the use of the owner's real property..... the owner may

file a claim for relief under the Act. As more-fully stated herein, Owner believes Brevard County's actions are unreasonable and unfairly burden the Property.

On October 28, 2022, Owner submitted to Brevard County a building permit application to construct an accessory building on the Property. A copy of pages 1-3 of the building permit application are attached hereto as Exhibit A.

On March 24, 2023, Brevard County issued a building permit to Owner to construct the accessory building on the Property utilizing shipping containers as detailed in select pages from the Brevard County approved plans attached hereto as Exhibit B.

After permit issuance, Owner began construction of the structure on the Property in compliance with the approved plans. In October 2023, Owner was advised by his structural engineer that the second floor of the structure should be oriented parallel to the first floor instead of perpendicular to the first floor as reflected on the approved plans. Owner's structural engineer made the determination that parallel orientation would be "safer and more stable than the original design". A copy of the structural engineer's assessment report is attached hereto as Exhibit C.

On October 17, 2023, Brevard County issued a Stop Work Order to Owner. The Stop Work Order directed Owner to discontinue construction on the Property and directed Owner to submit revised drawings reflecting the parallel alignment of the second floor. A copy of the Stop Work Order is attached hereto as Exhibit D.

On October 26, 2023, Owner met with Brevard County to discuss the Stop Work Order. During the meeting, Brevard County relayed to Owner that the second floor of the structure must be removed. Despite Owner's attempts to negotiate with Brevard County aesthetic changes to the structure, Brevard County relayed to Owner that they would not approve any revised plans submitted by Owner that reflected a second floor of the structure (neither parallel nor perpendicular orientation to the first floor) constructed from shipping container materials. Removal of the second floor was the sole option Brevard County offered to Owner.

On October 27, 2023, Brevard County Code Enforcement issued a Violation Notice, alleging that Owner's construction of an accessory structure on the Property substantially deviated from the approved plans and that the accessory structure is being constructed from stacked shipping containers and further demanding that Owner unstack the shipping containers. A copy of relevant pages of the Violation Notice attached hereto as Exhibit E.

On November 7, 2023, the County initiated an enforcement proceeding before the County's Code Enforcement Special Magistrate. A copy of select pages of the Notice of Hearing attached hereto as Exhibit F. The Hearing was held on December 19, 2023. At the conclusion of the Hearing, the Special Magistrate directed the County and Owner to submit memorandums for his review and consideration. A copy of the County's memorandum is attached hereto as Exhibit G and a copy of Owner's memorandum is attached hereto as Exhibit H.

At the December 19, 2023 Code Enforcement Special Magistrate hearing Owner provided to Brevard County a copy of his revised plans reflecting the second floor orientation parallel to the first floor. A copy of Owner's revised plans are attached hereto as Exhibit I. At the hearing, Brevard County indicated that it would not approve Owner's revised plans reflecting a two story structure constructed from shipping container materials.

On February 16, 2023, the County's Code Enforcement Special Magistrate issued Findings of Fact, Conclusions of Law and Order & Lien for Costs, further unfairly and unreasonably burdening Owner's Property by imposing a \$550.00 Enforcement Cost, ordering Owner to "unstack" the shipping containers, and providing for additional fines should Owner fail to "unstack" the shipping containers. A copy of the Findings of Fact, Conclusions of Law and Order & Lien for Costs is attached hereto as Exhibit J.

II. REQUEST FOR RELIEF

A. Owner's Proposed Use of the Property.

The Property is currently zoned RU-1-11. The Future Land Use designation for the Property is RES 15. The Property consists of .45 acres containing a single family residence. Owner submitted a building permit application to construct a two story accessory structure on the Property. Accessory buildings and uses customary to residential uses are permitted under the Property's current zoning. As detailed in the Brevard County approved plans (Exhibit B), the second floor of the two story accessory structure was constructed utilizing metal shipping containers.

B. Summary of the "Development Order" or "Enforcement Action" at Issue.

Pursuant to Section 70.51(3), a property owner who believes that either a "development order" or an "enforcement action" is unreasonable and unfairly burdens the use of the owner's property may apply for relief under FLUEDRA. A "development order" is defined by FLUEDRA as:

[A]ny order or notice of proposed state or regional governmental agency action, which is or will have the effect of granting, denying, or granting with conditions an application for a development permit, and includes the rezoning of a specific parcel.

§70.51(2)(a), Fla. Stat.

A "development permit" is defined as:

[A]ny building permit, zoning permit, subdivision approval, certification, special exception, variance, or any other similar action of local government, as well as any permit authorized to be issued under state law by state, regional, or local government which has the effect of authorizing the development of real property including, but not limited to, programs implementing chapters 125, 161, 163, 166, 187, 258, 372, 373, 378, 380, and 403.

§70.51(2)(b), Fla. Stat.

Brevard County's issuance of the building permit for the Property constitutes a "development permit" under FLUEDRA. Relatedly, Brevard County's Stop Work Order, code violation(s) and Findings of Fact, Conclusions of Law and Order & Lien for Costs constitute both "development orders" and "enforcement actions" under FLUEDRA.

C. Brief Statement of Impact.

Owner's proposed use of the Property consists of the construction of a two story accessory structure from shipping container materials. Brevard County's development orders and enforcement actions are unreasonable and unfairly burden the Property because they are erroneously based on an interpretation that the construction of the accessory structure constitutes "stacking" of containers.

Brevard County's public opposition and subsequent enforcement actions severely and adversely impact Owner's property rights because they leave Owner with no option other than to remove the second floor of the accessory structure in direct contravention of the Brevard County approved plans for the Property and the permit issued by Brevard County. In reasonable reliance upon the Brevard County approved plans and related permit, Owner has incurred substantial expense in the construction of the accessory structure. As such, Owner has been and will continue to be unreasonably and unfairly burdened by Brevard County's actions.

D. Certificate of Service Showing the Parties, Including the Governmental Entity, Served.

The Certificate of Service is attached.

E. Relief Requested.

Brevard County's Findings of Fact, Conclusions of Law and Order & Lien for Costs is the conclusion of the County's enforcement process. As a result, Owner has exhausted all available non-judicial County administrative remedies prior to pursuing this action. Owner requests all relief available under FLUEDRA, including, but not limited to, mediation, and hearing before a Special Magistrate, in order to develop the Property consistent with the approved building plans. Owner reserves the right amend this request and to present the Special Magistrate with a formal memorandum further outlining its position and the legal authorities which support its claim that Brevard County's actions unreasonably and unfairly burden Owner's use of his Property. Owner notes that the filing of this FLUEDRA request for relief tolls the time for seeking judicial review of the development order and enforcement actions. Owner reserves the right to pursue all available alternative legal remedies as may be appropriate.

Cordially,

Alicia N. Kelly, Esq.
Attorney for Owner/Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2024, a true and correct copy of this document was sent via electronic mail and overnight FedEx delivery to Jason Steele at 490 Centre Lake Drive Suite 175 Palm Bay, FL 32907 (d5.commissioner@brevardfl.gov), and sent via electronic mail and overnight FedEx delivery to Frank Abbate at 2725 Judge Fran Jamieson Way Viera, FL 32940 (frank.abbate@brevardfl.gov) and via electronic mail to Morris Richardson (morris.richardson@brevardfl.gov).

/s/ Alicia N. Kelly

Florida Bar #115374

101 Park Place Blvd. Suite 3

Kissimmee FL 34741

(407) 414 2566 (telephone)

(407) 847 2850 (facsimile)

Email designation pursuant to Fla R.

Jud. Admin 2.516

Primary: alicia@schoolfieldproperties.com

Secondary: efiling@schoolfieldproperties.com

Attorney for Owner/Petitioner

EXHIBIT LIST

- Exhibit A- Building Permit Application
- Exhibit B- Approved Building Plans
- Exhibit C- Structural Engineer Assessment Report
- Exhibit D- Stop Work Order
- Exhibit E- Violation Notice
- Exhibit F- Notice of Hearing
- Exhibit G- County's Memorandum
- Exhibit H- Owner's Memorandum
- Exhibit I- Owner's Revised Building Plans
- Exhibit J- Findings of Fact, Conclusions of Law and Order & Lien for Costs



BREVARD COUNTY BUILDING CODE
 2725 Judge Fran Jamieson Way, A114
 Viera, FL 32940

Phone: (321) 633-2187 Email: InspectMail@brevardfl.gov

R

BUILDING PERMIT APPLICATION

Florida Building Code in effect: 7th Edition

Project Information

Select the option which best describes the job site:

- ☒ Residential: Any one- or two-family building or accessory
- ☐ Commercial: Any building other than a one-or two-family dwelling

Briefly describe the work to be done:

Accessory Bldg for game room/office/man cave

Description of work

Site Address:

134 Diane Circle	Indialantic	FL	32903
Street	City	State	Zip Code

Owner's Information

Complete the Property Owner Email Opt-Out Form if the Owner does not wish to receive emails.

Joseph	Traska	321 361 8848
First Name	Last Name	Phone Number
134 Diane Circle	Indialantic	FL 32903
Street	City	State Zip Code

jpтрaska@yahoo.com

Email Address

Applicant's Information

Indicate "Owner/Builder" in the License Number field if applicable.

Owner/Builder	Joseph	Traska
License Number	First Name	Last Name

Business Name	Phone Number
Street	City State Zip Code

Email Address

Subcontractor Information

Write N / A if not applicable or T. B. D. if not yet determined. Include the Subcontractor's full name, not their company name. Do not list state registration numbers.

Plumbing Contractor First and Last Name	License Number	Phone Number
<u>Blandino, Joseph</u>	<u>ER13014470</u>	<u>321 693 0333</u>
Electrical Contractor First and Last Name	License Number	Phone Number
HVAC Contractor First and Last Name	License Number	Phone Number
Roofing Contractor First and Last Name	License Number	Phone Number
Specialty Contractor First and Last Name	License Number	Phone Number

Cost of Project

Cost of Project Dollar Amount: 28000

Project-Specific Information

For fences, provide the following information:

Material	Height	Total Linear Feet
----------	--------	-------------------

For reroofs, provide the following information:

Roof Covering Material	Underlayment	Pitch	Roof Area (squares)
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For new construction, additions, and accessory structures, provide the following information:

<u>0</u>	<u>0</u>	<u>0</u>	<u>Base 640</u>
New Housing Units	New Bedrooms	New Conditioned Sq. Ft.	Total New Sq. Ft.

Sanitary Service, select one: ☒ Sewer ☐ Septic

Potable Water Service, select one: ☐ Private ☐ Public ☐ Well

Site plan number if applicable

Master plan number if applicable

Additional Notices

Warning to owner: Your failure to record a Notice of Commencement may result in your paying twice for improvements to your property. A Notice of Commencement must be recorded and posted on the job site before the first inspection. If you intend to obtain financing, consult with your lender or an attorney before recording your Notice of Commencement.

*NOTICE: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county or that may be required from other governmental entities such as water management district, state agencies or federal agencies.

I hereby acknowledge my responsibility as owner or operator of the structure described herein, to comply with the provisions of Florida Statute 469.003, Asbestos Abatement, and to notify the Florida Department of Environmental Protection of my intentions to remove asbestos, when applicable with State and Federal law.

Applicant's Affidavit

Application is hereby made to obtain a permit to do the work and installations as indicated. I acknowledge and accept responsibility for compliance with all applicable codes, regulations and ordinances as well as the payment of all legally constituted fees regarding this development application, including but not limited to ALL REVIEW FEES, PERMIT FEES, IMPACT FEES AND RESERVATION FEES.

Signature: Contractor
State of Florida, Brevard County

Date:

Subscribed and sworn to before me, by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, personally appeared _____, who is personally known to me or produced _____ as identification, and who did/did not take an oath.

Notary Public Signature

Seal

OWNER'S AFFIDAVIT: I certify that all the foregoing information is accurate and that all work will be done in compliance with all applicable laws regulating construction and zoning.

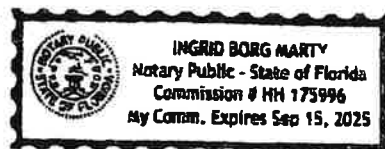
Signature: Owner
State of Florida, Brevard County

Date: OCT 4 2022

Subscribed and sworn to before me, by means of ☒ physical presence or _____ online notarization, this 04 day of OCTOBER, 20 22, personally appeared JOSEPH TRASKA, who is personally known to me or produced FL. DRIVER LICENSE as identification, and who did/did not take an oath.

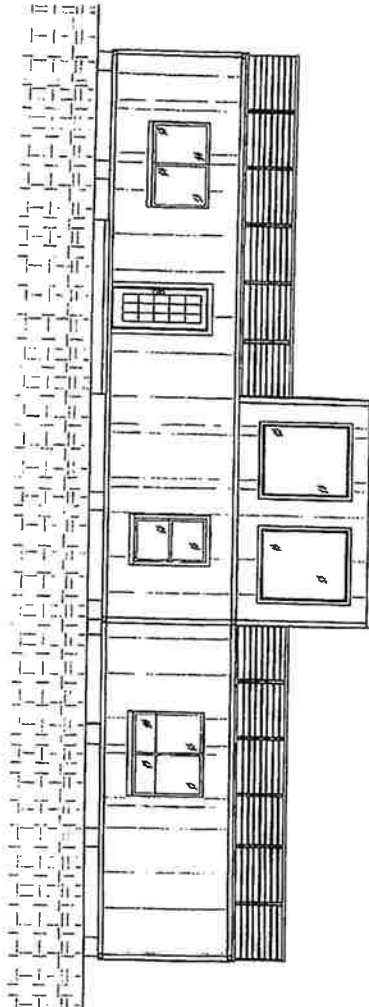
Ingrid Borg Marty
Notary Public Signature

Seal



FINAL INSPECTION IS REQUIRED Failure to obtain a final inspection may result in a penalty.

ANALYTICAL CHEMISTRY
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. 20535



TRASKA "MAN CAVE"

REFERENCED BUILDING CODES:

- 2020 FLORIDA BUILDING CODE 7th EDITION, RESIDENTIAL
2020 FLORIDA BUILDING CODE 7th EDITION, BUILDING
2020 FLORIDA BUILDING CODE 7th EDITION, PLUMBING
2020 FLORIDA BUILDING CODE 7th EDITION, MECHANICAL
2020 FLORIDA BUILDING CODE 7th EDITION, ENERGY CONSERVATION
NATIONAL ELECTRICAL CODE 2017

DESIGN LOAD REQUIREMENTS:

- a) Unbreakable steel without hinges 190pt.
- b) Unbreakable steel with forged hinges 30pt.
- c) Heavily steel and steel riveted with iron stake 30pt.
- d) Quarts (crushed) and stake 50pt.
- e) Quarts and hinges 20pt.
- f) Quarts 10pt.
- g) Quarts and technical 50pt.
- h) Quarts riveted gauges 50pt.
- i) Heavily steel with hinges 30pt.
- j) Heavily steel with hinges 30pt.
- k) Steeling room 30pt.
- l) Stairs 60pt.

CONSTRUCTION TYPE V-B

NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET OR EXCEED REQUIREMENTS OF THE 2020 FLORIDA BUILDING CODE RESIDENTIAL 7TH EDITION ASCE 7-16

1. DESIGN WIND SPEED - V ASSESS 2 MPH V 41 - 110 MPH
2. RISK FACTOR II
3. WIND EXPOSURE - CATEGORY (C)
4. INTERNAL PRESSURE COEFFICIENT - (ASCE 7-16) ENCLOSED BUILDINGS - 0.18
5. HEIGHT AND EXPOSURE ADJUSTMENT COEFF - (1.38)
6. COMPONENTS AND CLADDING - PER FBC 1600 7TH EDITION R301.2(2)
- SEE WINDOW AND DOOR REQUIREMENTS

NOTE:

EXISTING STORAGE CONTAINER ON PROPERTY IS TO BE RELOCATED AND BE RE PURPOSED IN THIS PROJECT.

INDEX OF DRAWINGS:

- CS COVER SHEET
- SP SITE PLAN
- A0 FOUNDATION PLAN
- A1 FLOOR PLAN
- A2 ELEVATIONS
- A3 ELEVATIONS
- E1 ELECTRICAL PLAN
- S1 STRUCTURAL DETAILS
- L1 EXISTING LANDSCAPE PLAN



Pedro L. Weissbergally, DMD
 • by Robert
 Medina, DMD
 PE 734-241-0100

TRASKA ACCESSORY BUILDING

"MAN CAVE" 134 DIANE CIRCLE
INDIANTLANTIC, FL. 32903



HELP DESIGN SERVICE
225 S. WALTON AVE., STE 200
MANTLAND, FL 32755
Phone (407) 947-7544
EMAIL: INFO@HDSFL.COM

Padro L. Medina, P.E.
Professional Engineer
Fl. P.E. # 73579
padro@pradell.com

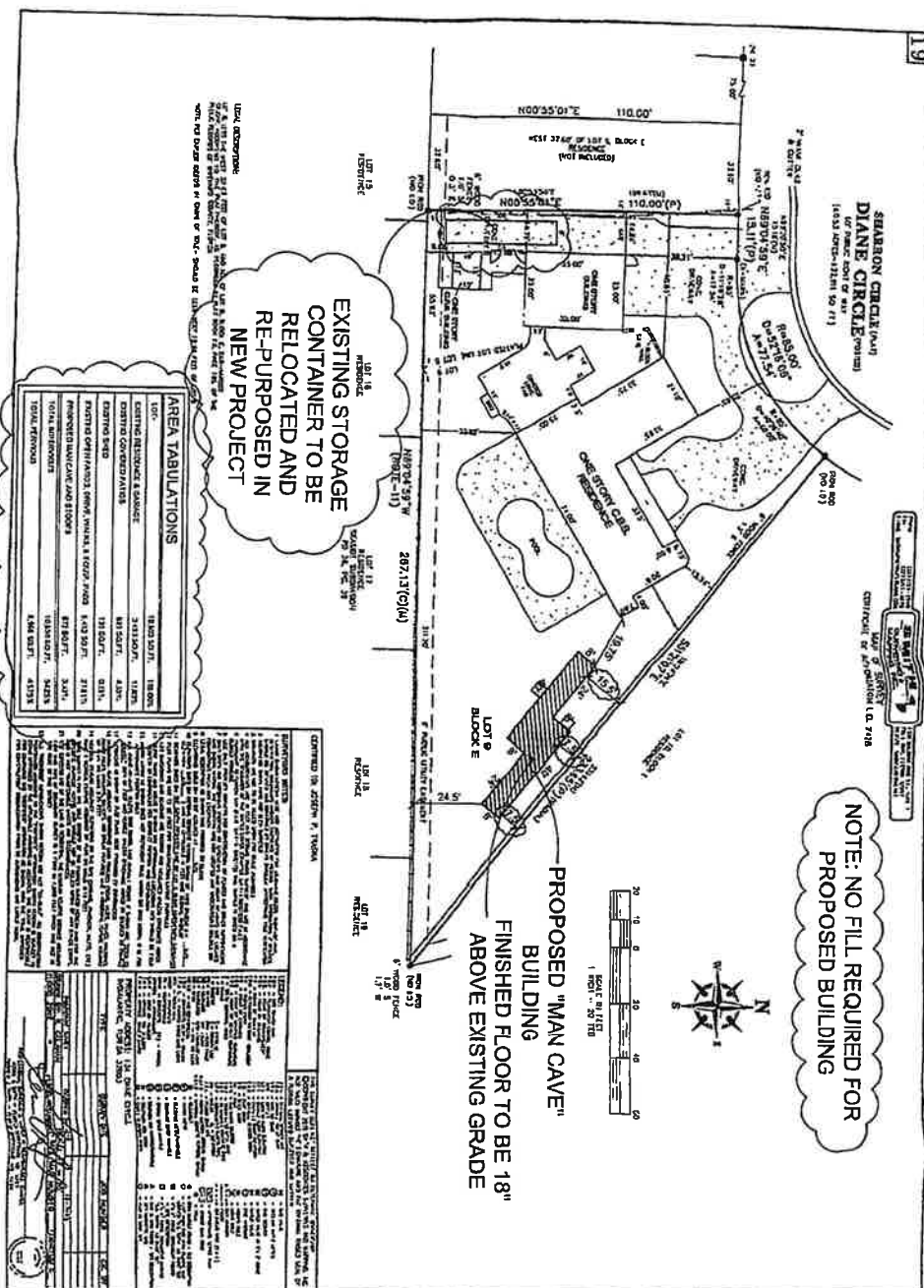
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DATE: 06/15/72	
SCALE: N.T.S.	

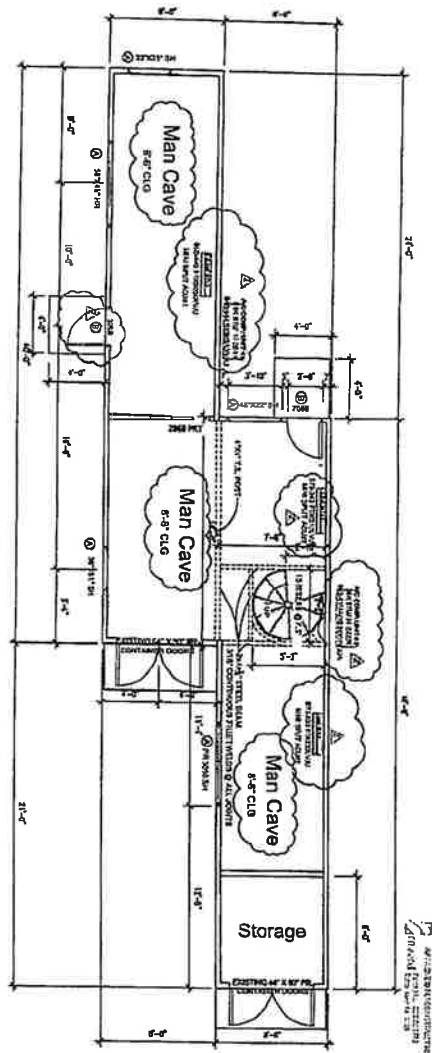
COVER SHEET



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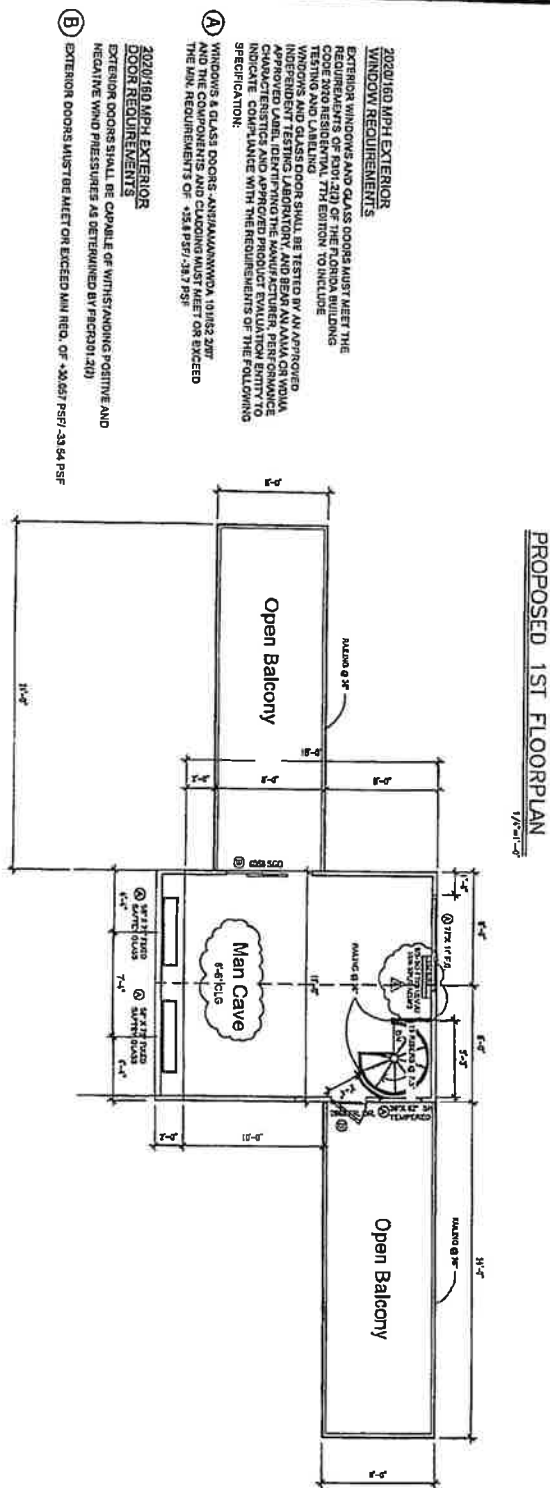


SITE PLAN



AREA CALCS.

ROOM	AREA (SQ. FT.)	PERIMETER (LINEAR FT.)
Man Cave	100.00	140.00
Storage	100.00	140.00
Open Balcony	100.00	140.00
TOTAL	300.00	420.00



- 2020/160 MPH EXTERIOR WINDOW REQUIREMENTS**
 EXTERIOR WINDOWS AND GLASS DOORS MUST MEET THE REQUIREMENTS OF FBC 2020 OF THE FLORIDA BUILDING CODE, MINIMUM 7th EDITION, TO INCLUDE:
 1. INDEPENDENT TESTING LABORATORY, AND BEGRAN ALUMINA CR VIOLET, CHANGING THE MANUFACTURE, PERFORMANCE INDICATE COMPLIANCE WITH THE REQUIREMENTS OF THE FOLLOWING SPECIFICATION:
 2. WINDOWS & GLASS DOORS: ANSI/MAAWWQ 10182-2007 AND THE COMING 10182-2007 SET ON EXCEED THE MIN. REQUIREMENTS OF: 33.4 PSF/34.1 PSF
- 2020/160 MPH EXTERIOR DOOR REQUIREMENTS**
 EXTERIOR DOORS SHALL BE CAPABLE OF WITHSTANDING POSITIVE AND NEGATIVE WIND PRESSURES AS DETERMINED BY FBC 2020 (20)
- EXTERIOR DOORS MUST BE MET OR EXCEED MIN. REQ. OF: 40.657 PSF/33.54 PSF**

A1

PROPOSED FLOORPLAN

DATE	SCALE	1/4" = 1'-0"
DATE	SCALE	1/4" = 1'-0"

TRASKA ACCESSORY BUILDING
 "MAN CAVE" 134 DIANE CIRCLE
 INDIANTLANTIC, FL. 32903

PROFESSIONAL ENGINEER
 Pedro L. Medina, P.E.
 No. 73579
 State of Florida

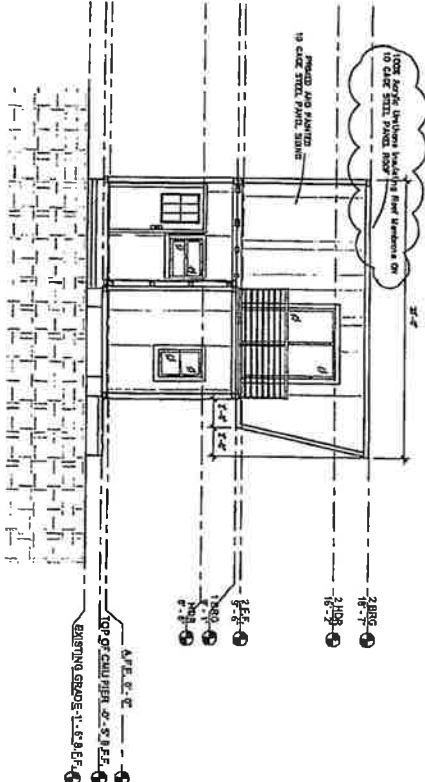
KEY DESIGN SERVICES
 23 S. BAY AVE. SUITE 201
 MIAMI, FL 33131
 (305) 371-7348
 FAX: (305) 371-7349
 E-MAIL: info@kdsdesign.com
 Pedro L. Medina, P.E.
 F.L.P.E. # 73579
 pedro@kdsdesign.com



NOTORIOUS BOMB IN
DISCLOSED WITHIN A P.T. FIVE
PERIODS OF ABOUT 15 MINUTES
AND NOT CONSIDERED PROBABLY
A BOMB AND NOT SIGNIFICANT
IN THE WORLD OR ANY ECONOMIC
SYSTEM

REVISIONS	DATE	BY:	JOB NO.
12-5-2012	DR/ALYN	P-9031	
2-1-2013	TE/TKP		
		DATE:	
		08/15/22	
		SCALE:	
		1/4"=1'-0"	

A-2

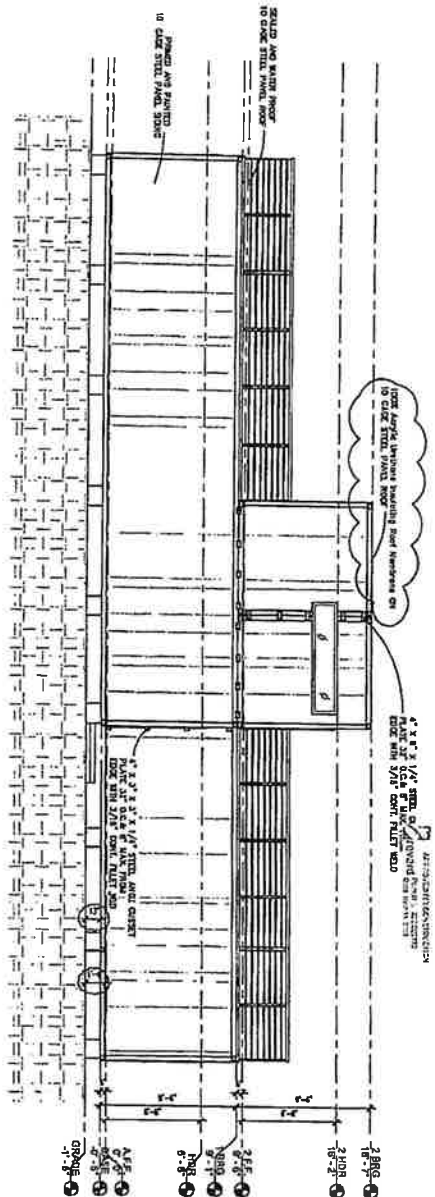


LEFT ELEVATION

[illegible]

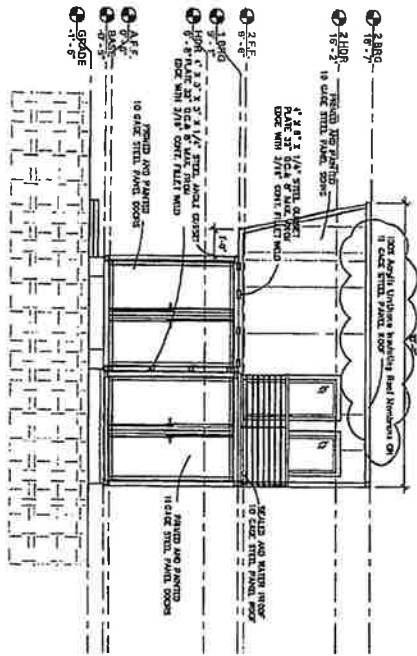
CONSTRUCTION TYPE V-B

NOTE: THIS BUILDING HAS BEEN DESIGNED TO MEET OR EXCEED THE REQUIREMENTS OF THE 2006 INTERNATIONAL RESIDENTIAL CODE (IRC) AND THE 2006 INTERNATIONAL BUILDING CODE (IBC) FOR CATEGORY II. WIND SPEED - V=140 MPH (157 KPH). WIND EXPOSURE - CATEGORY II. INTERNAL PRESSURE COEFFICIENT - (SC=0.18) EXPOSED BUILDINGS - 0.18. EXTERNAL PRESSURE COEFFICIENTS - (SE=0.18) EXPOSED BUILDINGS - 0.18. COMPARTMENT AND CLADDING REQUIREMENTS - SEE WINDOW AND DOOR REQUIREMENTS.



REAR ELEVATION

1/8\"/>



RIGHT ELEVATION

1/8\"/>



TRASKA ACCESSORY BUILDING
"MAN CAVE" 134 DIANE CIRCLE
INDIANTLANTIC, FL. 32903

JOB NO.	REVISIONS
PK001	1/15/2022
DRAWN BY:	13319
DATE:	08/15/22
SCALE:	1/8\"/>

ELEVATIONS

A-3

TRASKA DESIGN SERVICES
134 DIANE CIRCLE
INDIANTLANTIC, FL. 32903
PHONE: (813) 731-1319
FAX: (813) 731-1320
EMAIL: TRASKA@TRASKA.COM
PETER L. TRASKA, P.E.
Professional Engineer
FL P.E. # 73579
ped@traskadesign.com

TRASKA DESIGN SERVICES
134 DIANE CIRCLE
INDIANTLANTIC, FL. 32903
PHONE: (813) 731-1319
FAX: (813) 731-1320
EMAIL: TRASKA@TRASKA.COM



K&P DESIGN SERVICES
161 KENNEDY BLVD. STE. 101
MAYLAND, FL 32751
Phone: (407) 941-7519
Fax: (407) 941-7519
E-Mail: info@kpsd.com
Pedro L. Medina, P.E.
Professional Engineer
FL P.E. # 73575
pedro@kpsd.com

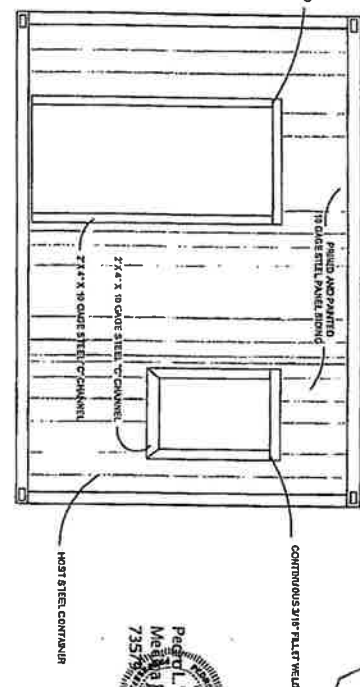
SEALING: Pedro L. Medina, P.E.
DATE: 06/18/22
BY: [Signature]
FOR: TRASKA ACCESSORY BUILDING
PROJECT NO. 22-0001
SHEET NO. 1 OF 1

TRASKA ACCESSORY BUILDING
"MAN CAVE" 134 DIANE CIRCLE
INDIAN LANTIC, FL. 32903

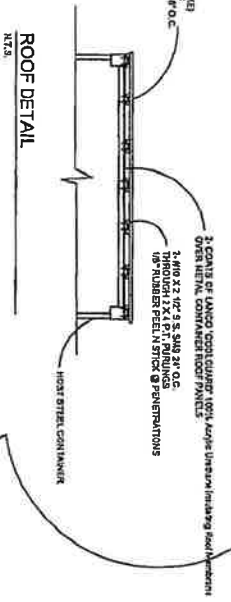
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DRAWN BY: [Signature]
DATE: 06/18/22
SCALE: N.T.S.

DETAILS
S1

SECTION 05110 - ROOFING
PART 1 - SUMMARY
A. Single-Ply Membrane Roofing
1. 60 mil. PVC Membrane

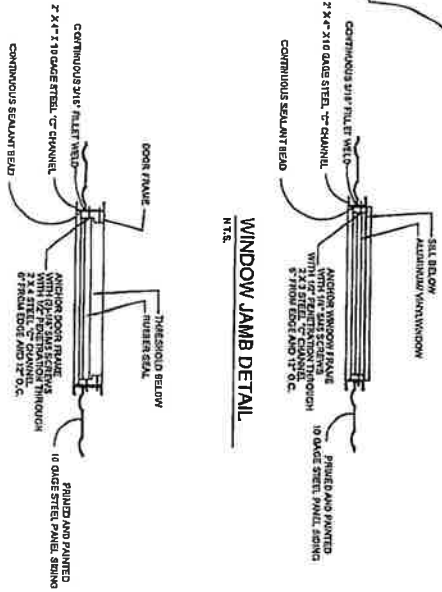


WINDOW & DOOR JAMB DETAIL
N.T.S.



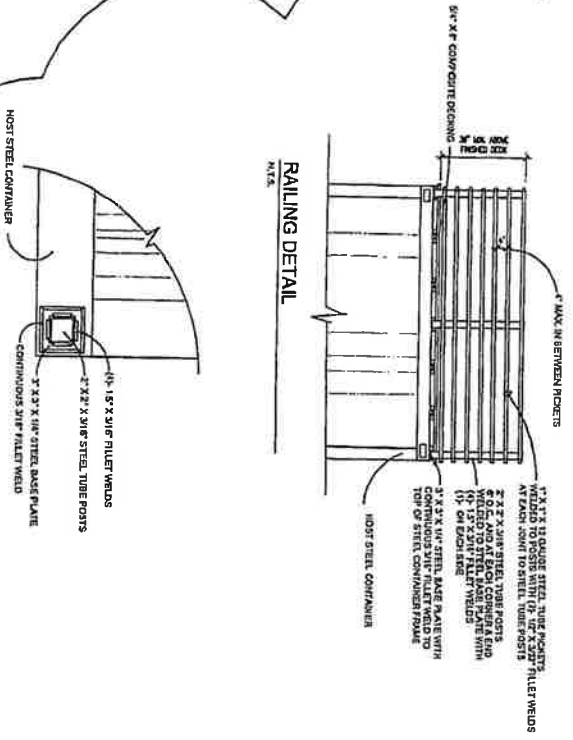
ROOF DETAIL
N.T.S.

WINDOW JAMB DETAIL
N.T.S.

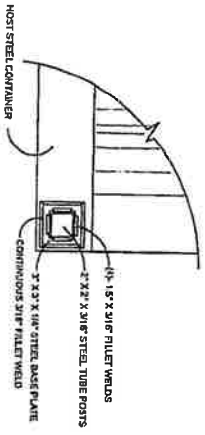


DOOR JAMB DETAIL
N.T.S.

RAILING DETAIL
N.T.S.

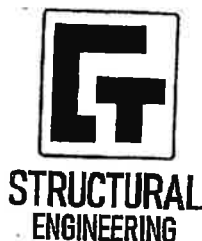


TOP VIEW POST DETAIL
N.T.S.



DESIGN LOAD REQUIREMENTS

- a) Uninhabitable attic without storage: 10psf,
- b) Uninhabitable attic with limited storage: 20psf,
- c) Habitable attics and attics served with fixed stairs: 30psf,
- d) Balconies (exterior) and decks: 60psf,
- e) Guards and handrails: 200psf,
- f) Guard in-fill components: 50psf,
- g) Passenger vehicle garages: 50psf,
- h) Rooms other than sleeping room: 40psf,
- i) Sleeping rooms: 30psf,
- j) Stairs: 60psf.



November 10, 2023

ATTN: Joe Traska

RE: Residential Structural Assessment Report
Subject: 134 Diane Circle, Indialantic, FL - Accessory Building

Dear Mr. Traska,

GT Structural Engineering, LLC was hired to analyze the existing structural condition of a steel accessory building at the above address. On November 6, 2023, Jonathan Grant accomplished a site visit to the property to assess the existing structural condition. The focus of the assessment was to compare the current design concept to the original configuration in the design documents.

The current configuration of the steel building utilizes the inherent strengths of the original material. The current configuration is safer and more stable than the original design. This assessment occurred prior to completion of construction during a "work stop" period. The steel structure will meet the Florida Building Code when construction is complete.

The accessory building construction is incomplete due to a notice of violation and stop work issued by Brevard County on October 27, 2023, for Case No. 23CE-01219. Although the status of the structure is incomplete, it is still safe for construction loads and environmental loads. Some of the original structure has been left in place to help with installation. The full height doors and the top tube steel provide additional stability for the construction phase. The corners of the second floor structures are welded to the corners of the first-floor structures. These welds provide over 5 times the required strength to resist design winds. Additional steel plates have been welded

GT Structural Engineering, LLC
1680 Highway A1A Suite 5, Satellite Beach, FL 32937
john@gtstructural.com

Page 1 of 2

from the second floor to the first-floor structures at each foundation around the structure. These plates provide additional hold down strength significantly higher than the required forces. Likewise, the first floor has been welded to the embed plates on the piers of the foundations. Even though incomplete, the structure is well capable of resisting hurricane force winds. Finally, the foundations are of adequate size to keep the structure upright using the FBC presumptive load-bearing values of the soil.

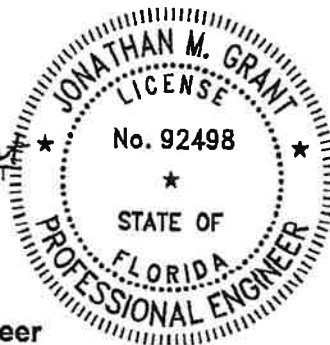
The current drawings provide adequate guidance to help provide additional work on the accessory structure in its current state. However, the owner informed me that updated design documents are in progress. Timelines from the design professionals are outside of his control. He pointed out several modifications that further increase safety and stability.

If there are any further questions or if I can assist you further, please feel free to contact me with the information provided below.

Respectfully,

Jonathan M. Grant
Digitally signed by JONATHAN M GRANT
Date: 2023.11.10 01:36:09-05'00'

Jonathan Grant, PE
FL PE # 92498
President | Structural Engineer
Mobile: 1.321.271.1471



10/17/23

**YOU ARE HEREBY DIRECTED TO
STOP**

Address: 134 Diane Circle, Indianapolis

All work on this site until the provisions of the Florida Building Code and the requirements of the Brevard County Code of Ordinances have been met. Specific code violations include but are not limited to the following:

Construction of shipping containers
is a manner that does not have County
approval. Deviation from the approved
engineered drawings.

Submit new revised drawing to the County for approval or denial.

Work may not resume until the code related issues have been, resolved with the Brevard County Building Official.

Failure to comply with this order is a violation of law including, but not limited to, 125.69, Florida Statutes and 22-51, Brevard County Code of Ordinances. A violation is punishable by up to \$500 per day, or 60 days in jail. Section 22-51 (108.4.1), Brevard County Code of Ordinances provides an appeal process to appeal the decisions of the Building Official. The request for appeal must be submitted in writing and filed with Brevard County Planning and Development within thirty (30) days. Do Not Remove Placard.

For additional information call 321-633-2072

Building
Official: Danny W. Delant 10/17/23



g and Development Department
Code Enforcement Division
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

NOTICE OF VIOLATION

October 27, 2023

CASE NO. 23CE-01219
Certified Mail/Hand Delivery
Posting & 1st Class Mail

JOSEPH P TRASKA
134 DIANE CIR
INDIALANTIC FL 32903-2556

Subject property legal description and/or street address:
Township: 27 Range: 37 Section: 24 Subd: 86 Block: E Lot: 8
Tax Account: 2726849

a/k/a: 134 DIANE CIR INDIALANTIC FL 32903
Unit Info:

Dear Sir/Madam,

You are hereby notified as the owner/person responsible for the subject property, that an inspection of the premises on 10/27/2023 indicates that a violation of the Brevard County Code exists. The violation(s) could be an initial violation, recurring violation or a repeat violation. The property is in violation of:

Section 22-47(Ch. 110), Brevard County Code of Ordinances, "Violations and Penalties."

Specifically, the partially built structure that currently exists on the property is substantially deviated from the approved construction plans contained in Permit ID 22BC20772 including, but not limited to, the top container being modified from its permitted configuration. The magnitude and scope of the alteration led to the Chief Building Official issuing a "Stop Work Order" on construction. To comply, obtain an approved revision to the permit (in full compliance with Brevard County Code) for the accessory structure under Permit ID 22BC20772, or return the property to its original configuration.

Section 62-1102, Brevard County Code of Ordinances, "Definitions and Rules of Construction."

Specifically, an accessory structure has been built on the property that is constructed from stacked shipping containers. Under Brevard County Code, "no stacking of containers shall be allowed." To comply, unstack the shipping containers. If the unstacked containers remain on the property, they must be placed in a manner that complies with Brevard County Code of Ordinances.

October 27, 2023

This correspondence will serve as official notification that the above stated violation(s) must be corrected within 24 hrs / 5 10 30 / 60 days of this notice or date of posting of this notice for initial violation(s) only. FAILURE TO COMPLY BEFORE THIS DATE WILL RESULT IN THE COMMENCEMENT OF APPROPRIATE ENFORCEMENT ACTION AND/OR POSSIBLE FINE AND ENFORCEMENT COSTS SHOULD THIS MATTER BE REFERRED TO THE SPECIAL MAGISTRATE FOR RESOLUTION. If the cited violation(s) are of a recurring or repeat nature, or a Natural Resource violation that is irreversible/irreparable, your appearance will be required at this specified hearing. (There will be no time to cure for violations that are irreversible/irreparable or repeat.)

For further information regarding this matter, you may contact the undersigned Code Enforcement Officer or Inspector.



Jeff King, Ext. 58265
Code Enforcement Officer

Brevard County Code Enforcement: (321) 633-2086

Florida Department of Environmental Health: (321) 633-2100

Brevard County Natural Resources Management Office: (321) 633-2016

Brevard County Fire Safety: (321) 633-2056

Enclosures

CC:

JASON STEELE - D5 COMMISSIONER 2725 JUDGE FRAN JAMIESON WAY VIERA FL 32940

**CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA**

Case 23CE-01219
Tax Account 2726849

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**, a political
subdivision of the State of Florida,
Petitioner,

vs.

JOSEPH P TRASKA,
Respondent(s).

NOTICE OF HEARING

Pursuant to section 2-173, Code of Ordinances of Brevard County, Florida, you are hereby notified that a Public Hearing will be conducted in the above - style cause on:

Date: Tuesday, December 19, 2023
Time: 9:00 a.m.
Location: Government Center, 2725 Judge Fran Jamieson Way, Building "C",
Space Coast Room (2nd Floor), Viera, Florida 32940

If the violation(s) described on the Statement of Violation attached is/are corrected prior to the hearing, please contact the Code Enforcement Office at (321) 633-2086 to request an inspection to confirm compliance. The case may be heard even if the violation(s) has been corrected prior to hearing. A hearing is required for recurring, repeat and irreparable violations.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you may be entitled to certain assistance. Please contact the Code Enforcement Hearing Staff at (321) 409-9453 at least 48 hours prior to the Hearing.

Certificate of Service:

I HEREBY CERTIFY and attest that a true and correct copy of the above and foregoing Notice of Hearing has been furnished by posting the property and by Certified Mail to the following address:

JOSEPH P TRASKA
134 DIANE CIR
INDIALANTIC, FL 32903-2556

On 12-01-2023

BREVARD COUNTY CODE ENFORCEMENT


Jeff King
Code Enforcement Officer

cc: ALICIA KELLY, ATTORNEY SCHOOLFIELD PROPERTIES 101 PARK PLACE BLVD. SUITE 3 KISSIMMEE, FL 34741

**CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA**

**BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA,
a political subdivision
of the State of Florida,
Petitioner,**

CASE NO. 23CE-01219

vs.

**JOSEPH P TRASKA,
Respondent(s).**

STATEMENT OF VIOLATION(S)

Pursuant to Section 2-173, Code of Ordinances of Brevard County, Florida, the undersigned hereby gives notice of violation(s) of the Code of Ordinances of Brevard County, Florida; and hereby refers this matter to a public hearing before the Code Enforcement Special Magistrate of Brevard County Florida.

1. Location/address where violation(s) exists:

Township: 27 Range: 37 Section: 24 Subdivision: 86 Block: E Lot: 8

a/k/a 134 DIANE CIR INDIALANTIC FL 32903

Unit Info:

Tax Account: 2726849

2. Name and address of owner/person in charge/or violator at location where violation exists:

JOSEPH P TRASKA

134 DIANE CIR

INDIALANTIC FL 32903-2556

CASE NO. 23CE-01219

NOTICE OF VIOLATION (not previously heard by the Special Magistrate):

a) Description of violation(s) of Codes of Brevard County:

Section 22-47(Ch. 110), Brevard County Code of Ordinances, "Violations and Penalties."

Specifically, the partially built structure that currently exists on the property is substantially deviated from the approved construction plans contained in Permit ID 22BC20772 including, but not limited to, the top container being modified from its permitted configuration. The magnitude and scope of the alteration led to the Chief Building Official issuing a "Stop Work Order" on construction. To comply, obtain an approved revision to the permit (in full compliance with Brevard County Code) for the accessory structure under Permit ID 22BC20772, or return the property to its original configuration.

Section 62-1102, Brevard County Code of Ordinances, "Definitions and Rules of Construction."

Specifically, an accessory structure has been built on the property that is constructed from stacked shipping containers. Under Brevard County Code, "no stacking of containers shall be allowed." To comply, unstack the shipping containers. If the unstacked containers remain on the property, they must be placed in a manner that complies with Brevard County Code of Ordinances.

b) Date violation(s) first observed: 10-02-2023

c) Date owner/person in charge given Notice of Violation: 10-27-2023

d) Date on/by which violation(s) to be corrected: 11-07-2023

e) Date of re-inspection: 11/7/2023

f) Results of re-inspection: Violation(s) remain uncorrected.

CASE NO. 23CE-01219

Based upon the foregoing, the undersigned hereby certifies that the above-described violation(s) has existed, and/or continues to exist, that attempts to secure compliance with the Code of Ordinances of Brevard County, Florida have failed as aforesaid, and that the violations(s) should be referred to the Code Enforcement Special Magistrate of Brevard County, Florida for public hearing.

IF YOU HAVE ANY QUESTIONS IN REGARD TO THIS NOTICE PLEASE CALL THE OFFICER WHO SIGNED THIS NOTICE AT THE FOLLOWING:

DATED 12-01-2023



Jeff King, Ext. 58265
Code Enforcement Officer

Brevard County Code Enforcement: (321) 633-2086

Brevard County Code Enforcement Hearing Office: (321) 409-9453

Florida Department of Environmental Health: (321) 633-2100

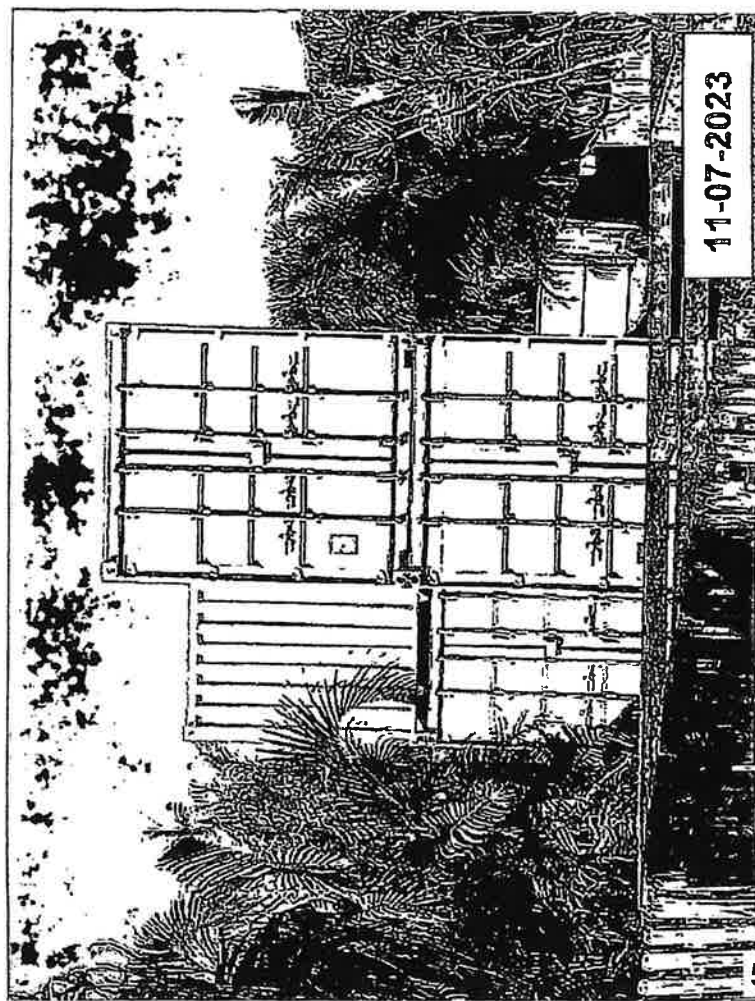
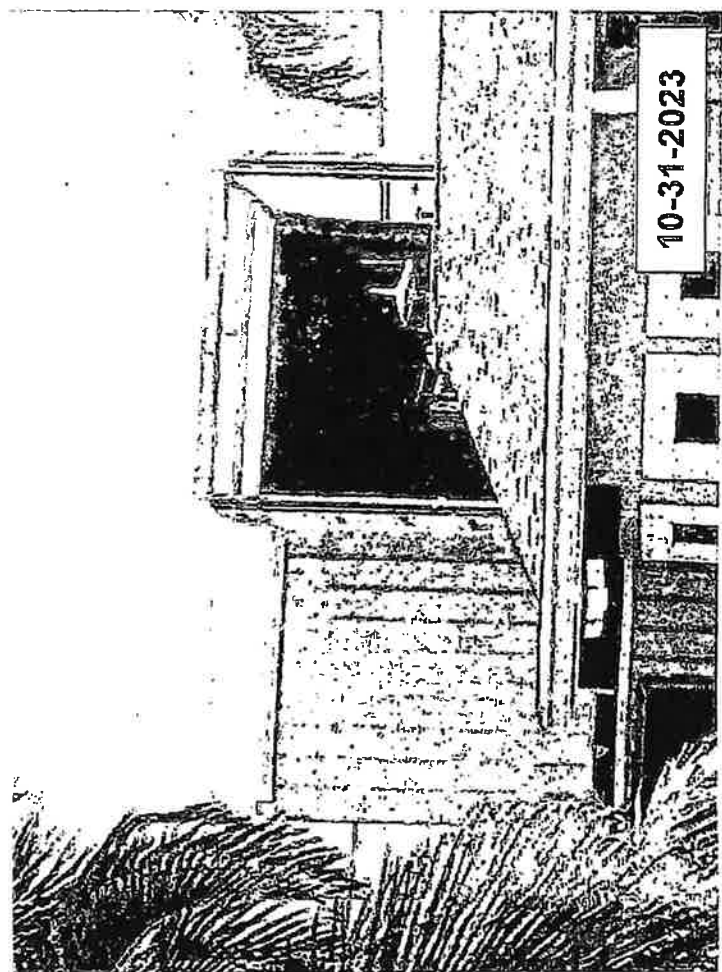
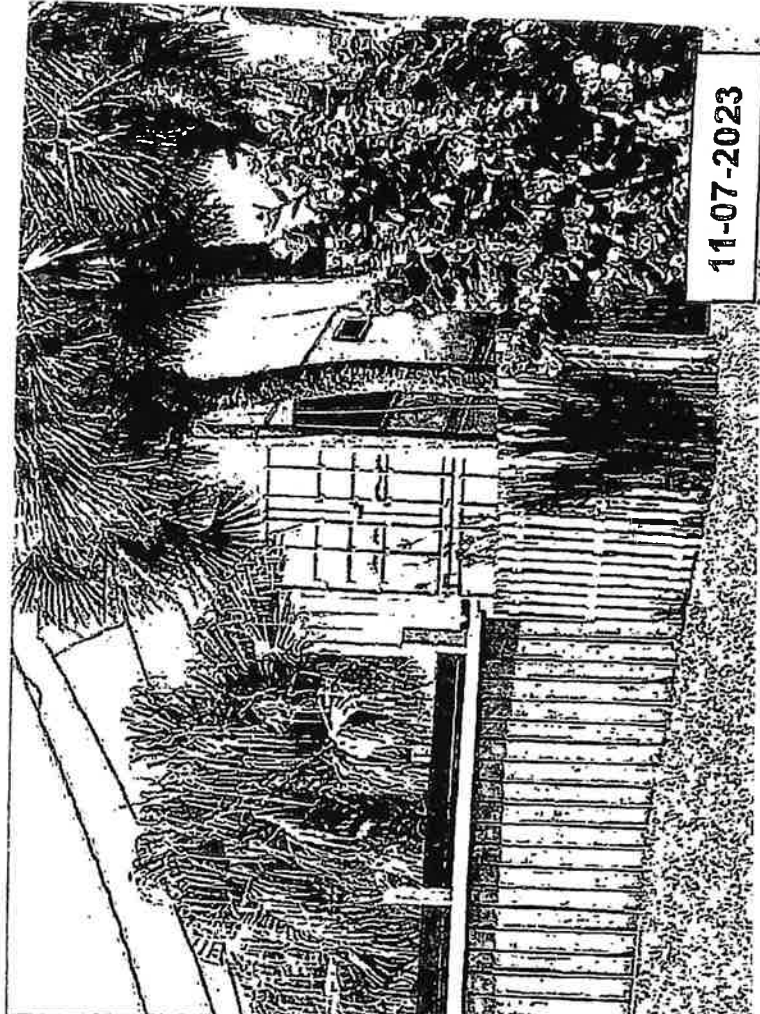
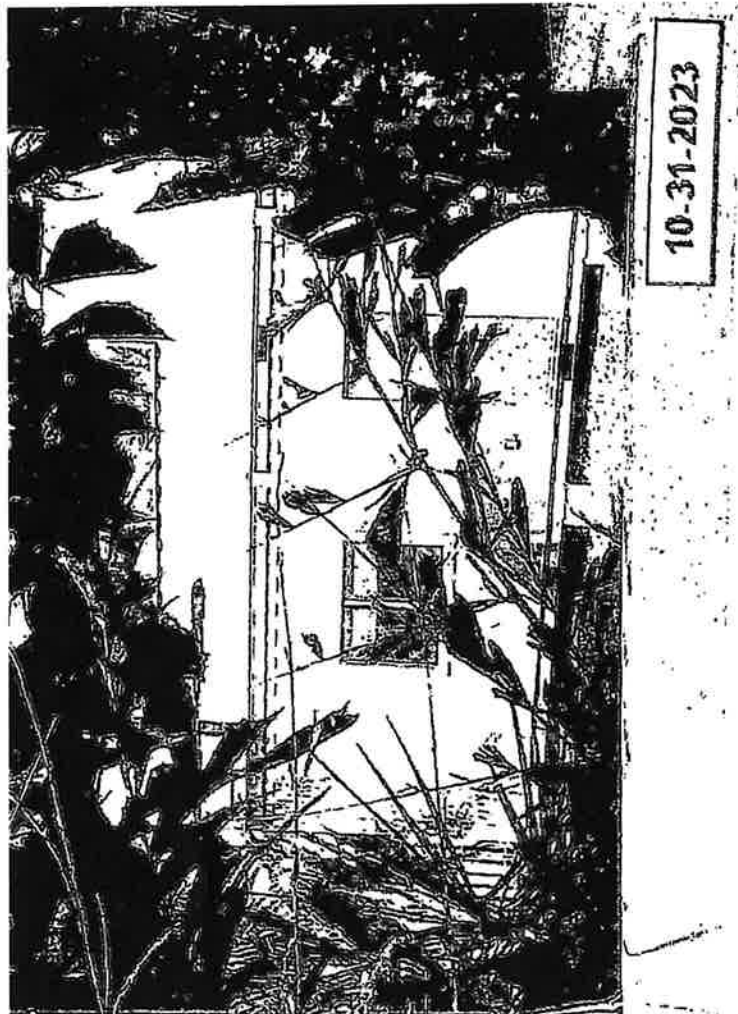
Brevard County Natural Resources Management Office: (321) 633-2016

Brevard County Fire Safety: (321) 633-2056

Enclosures

CC: JOSEPH P TRASKA 134 DIANE CIR INDIALANTIC FL 32903-2556

ALICIA KELLY, ATTORNEY SCHOOLFIELD PROPERTIES 101 PARK PLACE BLVD. SUITE 3
KISSIMMEE FL 34741



CODE ENFORCEMENT SPECIAL MAGISTRATE OF
BREVARD COUNTY, FLORIDA

CASE NO. 23CE-01219

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA, a
political subdivision of the State of Florida,
Petitioner,

vs.

JOSEPH P. TRASKA,
Respondent.

COUNTY'S CLOSING ARGUMENT

At the request of the Special Magistrate, the County provides this written closing argument for the Code Enforcement Hearing held on December 19, 2023 in 23CE-01219. At the Hearing, the County presented evidence in the form of witness testimony and exhibits establishing that Respondent violated two provisions of Brevard County Code: Section 22-47(110) and Section 62-1102, Brevard County Code.

Respondent violated two provisions of Brevard County Code when he partially constructed a "man cave" accessory structure made from stacked shipping containers located at 134 Diane Circle in Indialantic, Florida (hereinafter the "Property"). The evidence supports violations of Section 22-47(110) and Section 62-1102, Brevard County Code.

Section 22-47, Brevard County Code, states:

Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or

drawing submitted and permitted there under, shall be punished as provided in section 22-51 of the Brevard County Code. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued. Upon conviction of any such violation such person shall be punished within the limits as provided by law and local ordinance.

Section 22-47(110), Brevard County Code.

Respondent violated this provision of the Brevard County Code by building a structure that deviated from the building plans Respondent had previously submitted and were initially approved by the County. Chief Building Official Terry Talbert testified at the Hearing that he visited the Property and performed a walk-through inspection with Respondent. Chief Building Official Talbert reviewed the building plans submitted for permitting by Respondent and compared them to what he observed at the Property. He testified there were differences between the building plans for which Respondent had been issued a permit and the actual structure that had been built on the Property; specifically, the top level of the structure was rotated 90 degrees and the balcony area surrounded by railings had been changed. Exhibits in evidence at the Hearing support a violation of Section 22-47(110), Brevard County Code. Photos of the structure and Respondent's building plans were entered as exhibits during the Hearing. A comparison of the photos and the plans shows significant differences between the structure Respondent planned to build and the version of the structure that was actually built on the Property.

Second, the evidence presented at the Hearing shows Respondent violated Section 62-1102, Brevard County Code. This provision states:

A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no stacking of containers shall be allowed.

Section 62-1102, Brevard County Code.

The accessory structure in question on the Property is comprised of shipping containers. This is plainly evident in the photos of the structure and Respondent's building plans. The shipping containers are stacked in violation of Brevard County Code. This is also visible in the County's exhibits in evidence and is confirmed by

the testimony of Chief Building Official Talbert and Code Enforcement Officer Jeff King.

Respondent argues that the shipping containers are not stacked. Brevard County Code does not define "stacking," however, the language in Section 62-1102, Brevard County Code, is clear and unambiguous. If statutory language is clear and unambiguous, the statute's plain and ordinary meaning must control, unless this leads to an unreasonable result or a result clearly contrary to legislative intent. *Daniels v. Florida Dept. of Health*, 898 So.2d 61, 65 (Fla. 2005).

Cambridge Dictionary defines a stack as "a pile of things arranged one on top of another." Thus, Section 62-1102, Brevard County Code, is reasonably interpreted as a prohibition on arranging shipping containers one on top of another. It is clear from the evidence presented at the hearing that Respondent has placed shipping containers on top of other shipping containers. The photos depict a two-story structure comprised of multiple shipping containers on top of each other. Chief Building Official Talbert testified that he observed the shipping containers arranged on top of each other when he visited the Property. Respondent's building plans reflect that the structure is comprised of shipping containers arranged on top of each other. Respondent contends that because the shipping containers have been fastened together by welding, they can no longer be considered as stacked. This defies the plain meaning of the word. Welding the shipping containers together does not transform the shipping containers or change the fact that they are arranged one on top of another. As such, Respondent's structure is in violation of Section 62-1102, Brevard County Code.

To the extent that Respondent makes any argument that the shipping container accessory structure is permissible under Brevard County Code or that the County is precluded from enforcing its code here because Respondent's building plans were initially approved by the County, this would be contrary to well-established jurisprudence in Florida. A building permit issued in violation of law or under mistake of fact confers no right or privilege on the grantee, and in such cases, the building permit may be properly revoked. See, e.g., *Metropolitan Dade County v. Fontainebleu Gas & Wash, Inc.*, 570 So.2d 1006 (Fla. 3rd DCA 1990); *Abenkay Realty Corp. v. Dade County*, 185 So.2d 777 (Fla. 3rd DCA 1966); *Godson v. Town of Surfside*, 8 So.2d 497 (Fla. 1942). The issuance of a building permit will not estop the government authority from enforcing its ordinances and revoking a permit which

has been obtained in violation of its ordinance. *Town of Lauderdale-by-the-Sea v. Meretsky*, 773 So. 2d 1245 (Fla. 4th DCA 2000).

CONCLUSION

Respondent's "man cave" accessory structure comprised of shipping containers violates Section 22-47(110) and Section 62-1102, Brevard County Code. The structure on the Property differs substantially from the building plans submitted to the County in violation of Section 22-47(110), Brevard County Code. The structure is comprised of multiple shipping containers that are arranged one on top of another; the shipping containers are, in the plain meaning of the word, stacked. Section 62-1102, Brevard County Code, prohibits the Respondent from stacking shipping containers in his construction of an accessory structure. For these reasons the County asks that the Special Magistrate find Respondent in violation of these two provisions of Brevard County Code.

OFFICE OF THE BREVARD COUNTY ATTORNEY

2725 Judge Fran Jamieson Way

Building C - Suite 308

Viera, Florida 32940

321.633.2090

321.633.2096 Fax

By: /s/ Sarah Beazley_____

Sarah Beazley

Assistant County Attorney

Florida Bar No. 1004381

CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA

Case 23CE-01219
Tax Account 2726849

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA, a Political
Subdivision of the State of Florida,

Petitioner,

v.

JOSEPH P. TRASKA,

Respondent.

RESPONDENT'S SUPPLEMENTAL CLOSING ARGUMENT
AND INCORPORATED MEMORANDUM OF LAW

I. INTRODUCTION

Respondent, Joseph P. Traska ("Mr. Traska"), by and through undersigned counsel, submits this Supplemental Closing Argument and Incorporated Memorandum of Law (Respondent's "Closing Argument"), and states:

At issue before this tribunal are two, inextricably intertwined alleged code violations – stacked, if you will. Indeed, the linchpin of the subject dispute is a single Brevard County code enforcement officer's arbitrary interpretation and application of one deceptively simple word – "**stacking**." Unfortunately, Mr. Traska – an active member of the United States Armed Forces and Brevard County, Florida – has now for many months, unfairly borne the increasing weight of the Petitioner's stacking refusal to accept responsibility for and correct its systemic failures.

In its written Closing Argument dated January 17, 2024, the Petitioner doubled down on its employee's laughing endorsement of ostensibly the only "common sense" interpretation of "stacking." To wit, "Cambridge Dictionary defines a stack as '*a pile of things arranged one on top of another.*'" (emphases added).

Notably, Mr. Traska wholly agrees with this definition. And yet, “one of these things is not like the others.” *Sesame Street* (National Educational Television network broadcast November 10,



1969, et al.)



“It is a basic tenet of statutory construction that statutes will not be interpreted so as to yield an absurd result.” *Wollard v. Lloyd's & Cos. of Lloyd's*, 439 So. 2d 217, 218-19 (Fla. 1983) (internal citations omitted). Here, acceptance of the Petitioner’s acontextual interpretation and application of “stacking” would yield a dually absurd result. On one hand, the Petitioner would effectively be allowed to unstack several months of internal failures and finger-pointing. Conversely, Mr. Traska would be unjustly and irreparably harmed, as the mental, emotional, and financial costs of the Petitioner’s windfall are further stacked on his shoulders.

While the motive for the Petitioner’s actions remains unclear, the arbitrariness of its interpretation and application of the law¹ to Mr. Traska, is glaring. Simply stated, Brevard County

¹ Specifically, the Petitioner misinterprets and applies Brevard County Code of Ordinances §§ 62-1102 (“Definition and Rules of Construction”) and 22-24 (Ch. 110) (“Violations and Penalties”).

fails to provide a person of ordinary intelligence fair notice that his or her contemplated conduct is forbidden by the Brevard County Code of Ordinances (“BCCO”). Specifically, section 62-1102 is vague and ambiguous, casting doubt on its validity. Here, scrutiny of the legislative history and intent of the Brevard County Board of County Commissioners (“BOCC”) is clearly appropriate. Moreover, equitable estoppel bars the Petitioner from enforcing section 62-1102 against Mr. Traska.

II. SUMMARY

On October 4, 2022, Mr. Traska submitted to the Petitioner a building application for construction of an accessory building on his property. After several months, and several revisions by Mr. Traska to satisfy the Petitioner’s exacting review process, the Petitioner approved Mr. Traska’s plans and issued a construction permit.² Nearly every page of the construction plans approved the Petitioner indicate that shipping containers were to be utilized in the **construction** (not stacking) of Mr. Traska’s building. In good faith, patently justifiable reliance upon the Petitioner’s approval and permit issuance, Mr. Traska incurred substantial expenses to construct his accessory building.

On October 27, 2023, following several successful inspections throughout the construction process, the Petitioner suddenly and unexpectedly issued a Stop Work Order (“SWO”) and subsequent Notice of Violation (“NOV”).

Alas, the NOV is nigh more than apparent “buyer’s remorse” by the Petitioner, the byproduct of an employee’s woeful overreaction to media coverage of – literally – the aesthetic preferences of a handful of Mr. Traska’s outspoken neighbors. In response, the Petitioner bastardized the BCCO to pacify public discontent. To ensure its snare on Mr. Traska tightly fixed, the Petitioner necessarily conditioned compliance with the NOV on Mr. Traska’s removal of the second floor of his accessory building. While the SWO seemingly innocuously invited Mr. Traska to “submit new revised drawing to [Petitioner] for approval or denial,” the only option offered by the Petitioner to Mr. Traska, was not an option at all. Rather, it was an ultimatum – abandon the Petitioner’s previously approved construction, or else. Ironically, the Petitioner’s only “option” for compliance directly contravenes construction plans approved by the Petitioner.

² Notably, the Petitioner’s review process included the scrutiny of – and ultimately, approval from – no less than five (5) of its own departments.

As detailed herein, the BCCO cannot be justly construed against Mr. Traska because, (1) the BCCO is vague and ambiguous; (2) the Petitioner's interpretation of the BCCO contravenes the intent of its drafters; and (3) equitable estoppel bars the Petitioner's conduct. Any ruling by this tribunal other than dismissal of the Petitioner's NOV would deviate from clearly established law, resulting in a miscarriage of justice.

III. THE LANGUAGE OF THE ORDINANCE IS VAGUE AND AMBIGUOUS, AND THEREFORE SHOULD BE INTERPRETED IN FAVOR OF THE RESPONDENT

Here, adherence to the essential requirements of the law requires this tribunal to evaluate the ambiguity and vagueness of the BCCO, prior to considering any alleged code violation.

Florida law requires that terms used in a zoning ordinance reference clear, determinable criteria, and if such criteria do not exist, the zoning ordinance is a nullity. The County Commission cannot delegate to an administrator arbitrary discretion to determine the meaning of a zoning code, *Henry v. Bd. of County Comm'rs of Putnam County*, 509 So. 2d 1221, 1222 (Fla. 5th DCA 1987). When a person of common intelligence reviewing the ordinance cannot determine what must be done in order to meet the required criteria, the ordinance is "void for vagueness" because it is vulnerable to subjective discretion on the part of the quasi-judicial board, and can be applied in an arbitrary and discriminatory fashion, *See, eg., Park of Commerce Associates v. City of Delray Beach*, 606 So.2d 633, 635 (Fla. 5th DCA 1992); *aff'd*, 636 So.2d 12 (Fla. 1994).

The ordinance at issue, Sec. 62-1102.(a.), provides as follows:

"A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no **stacking** of containers shall be allowed."

The BCCO incorporates the term "stacking"; however, it fails to reference or provide clear criteria as to what "stacking" constitutes, **in the context of the BCCO**. As demonstrated at the December 19, 2023 Special Magistrate hearing on the cause at issue, none of the Petitioner's witnesses could consistently articulate what constituted "stacking." Notably, Sec. 62-1002.(a.) was not applied at any stage of the Petitioner's permit application process. Rather, it was only applied by the Petitioner following a complaint by one of Mr. Traska's disgruntled neighbors.

The Petitioner initially relayed to the complainants that Mr. Traska had complied with the BCCO and there was no violation. Dissatisfied with this response, Mr. Traska's neighbors

took to local media outlets, who began reporting on the issue. In response to one-sided media coverage, the Petitioner arbitrarily determined that Sec. 62-1002.(a.) could be considered applicable to Mr. Traska's actions and subsequently issued the code violations at issue.

The Petitioner has misapplied its ordinances in an attempt to pacify complaints voiced by Mr. Traska's neighbors. Cases that have been decided in favor of a landowner often arise from a departure from the essential requirements of law frequently stemming from situations in which the local governing body misconstrues local ordinances in order to satisfy the political demands of its constituents, *See, e.g., City of Tampa v. City National Bank of Florida*, 974 So.2d, 408, 410-415 (Fla. 2d CDA 2007); *Colonial Apartments, LP v. City of Deland*, 577 So.2d 593, 596-598 (Fla. 5th DCA 1991). It would be a miscarriage of justice for this tribunal to make a finding that Mr. Traska violated the code, because its vagueness renders it impossible for Mr. Traska to have had fair notice that his actions may have been forbidden by the ordinance and the ordinance has been applied arbitrarily by the Petitioner.

"Municipal ordinances are subject to the same rules of construction as are state statutes" *Rinker Materials Corp. v. City of North Miami*, 286 So.2d 552, 553-54 (Fla. 1973) (*citing Rose v. Town of Hillsboro Beach*, 216 So.2d 258 (Fla. 4th DCA 1968)). "The starting point for any statutory construction issue is the language of the statute itself-and a determination of whether that language plainly and unambiguously answers the question presented." *State v. Peraza*, 259 So.3d 728, 730 (Fla. 2018). "[T]he plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Conage v. United States*, 346 So.3d 594, 598 (Fla. 2022) (*quoting Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997)).

"[S]ince zoning regulations are in derogation of private rights of ownership, words used in a zoning ordinance should be given their broadest meaning when there is no clear definition or clear intent to the contrary and the ordinance should be interpreted in favor of the property owner." (emphasis added) *Rinker Materials Corp.*, 286 So.2d at 553. Here, the language of the ordinance at issue is ambiguous. Specifically, the BCCO fails to provide a definition of "stacking", thus leaving the term vulnerable to multiple interpretations. The ordinance at issue, Sec. 62-1102.(a.), provides as follows:

"A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no **stacking** of containers shall be allowed."

Both the BCCO and Florida Building Code fail to define “stacking” in relation to the utilization of shipping container materials for construction of accessory or primary structures. Yet, Sec. 62-2117.5(1)(7)(B.) regulating the use of portable temporary storage units in residential areas provides some clarity as to the intent behind “stacking”,

“Portable temporary storage units shall not be stacked vertically” (emphasis added).

Clearly, the language prohibiting the stacking of containers in Section 62-1102(1) relates to Section 62-2117.5(1)(7)(B.), in that the vertical stacking of portable temporary storage units is not permissible. However, no section of the BCCO prohibits the utilization of shipping container materials in the **construction** of either primary or accessory structures. In fact, Sec. 62-2115 (Metal buildings) of the BCCO specifically allows for metal buildings to be used as accessory structures in residential land use categories.

“Stacking” is ordinarily defined as “*an orderly pile or heap.*”³ Based on a plain interpretation of this definition, the utilization of shipping container materials in the **construction** of a structure does not constitute “stacking”. “Stacking” is not some academic concept of defective structural engineering. Nothing in the materials of a metallic container makes stacking a poor construction practice, and a good argument could be made to the contrary. A citizen could very well cut a steel container into it’s component parts, i.e., sheets, and beams and posts and then use those components to soundly construct a second floor. Alas, if the assembly of those component parts ended up looking too much like a container then presumably the Petitioner would call it stacking and condemn it for its appearance. Effectively, the Petitioner is using its building code to legislate some vague aesthetic about “containers,” rather than to ensure sound engineering and construction practices.

IV. AS WRITTEN, THE ORDINANCE FAILS TO ACKNOWLEDGE THE INTENT OF THE BOARD OF COUNTY COMMISSIONERS, AND THEREFORE, SHOULD BE INTERPRETED IN FAVOR OF THE RESPONDENT.

Sec. 62-2. of the BCCO provides:

“In the construction of this chapter, the rules and definitions set out in this section shall be observed, *unless such construction would be inconsistent with the*

³ See *Stacking*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/stacking#dictionary-entry-1> (last visited December 27, 2023).

manifest intent of the board of county commissioners. The rules of constructions and definitions set out in this section shall not be applied to any section of this chapter which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

Generally. All general provisions, terms, phrases and expressions contained in this chapter shall be liberally construed in order that the true intent and meaning of the board of county commissioners may be fully carried out. Terms used in this chapter, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the state for such terms.....
(emphasis added)”

The code clearly intends that rules and definitions be interpreted in a manner that reflects the intent and meaning of the board of county commissioners. Here, Sec. 62-1102 (1) was modified in 2019 to include the addition of Sec. 62-1102 (1)(a). Prior to 2019, Sec. 62-1102(1) did not include subsection (a). Before modification to include subsection (a), the code provided as follows:

“Accessory buildings or structures include but are not limited to private garages, storage sheds, carports, greenhouses, gazebos, cabanas, utility buildings/rooms, verandas, glass rooms, porches, screened porches or awnings, swimming pools and screened enclosures, and private residential boat docks with up to two slips for use of the occupants of the principal residential structure. Buildings or structures secondary and incidental to agricultural uses include, but are not limited to stables, barns, paddock areas and storage areas. Accessory buildings or structures may have a full or half bath; but may not have living quarters or a kitchen, unless such structure is a guesthouse consistent with section 62-1932”.

At the April 9, 2019 Brevard County Board of County Commissioners meeting, the commission discussed the multiple code violations involving the use of shipping containers for **storage** on residential property and had prior to this meeting directed staff to analyze and provide proposed options for the commission’s consideration as to how to incorporate shipping containers for **storage** on residential property within the code. To wit,

“Tad Calkins, Planning and Development Director, stated staff is seeking legislative intent and permission to advertise an amendment to the zoning regulations to allow or prohibit shipping containers as residential accessory structures, *Currently the Code does not specifically mention shipping containers; they have a Zoning interpretation that considers shipping containers as*

commercial equipment; and it does not allow them to be utilized on residential property.”⁴

Staff proposed to the commission three possible options: 1. Codify the current interpretation which would prohibit them in residential and agricultural Zoning Classifications; 2. Allow the shipping containers for the use of residential accessory storage buildings in all residential Zoning Classifications and residential agricultural Zoning Classifications as the County currently regulates accessory structures; 3. Allow the shipping containers for use as a residential accessory **storage** building in the zoning Classifications, but develop a set of criteria and conditions that would allow them to be permitted.⁵

*“Commissioner Pritchett..... 95 percent of them are located in her District; there are a lot of these containers that people have been using for **storage**she would like to go with Option 3.... But she thinks there has to be some type of criteria as far as setbacks and how they are placed; and she wants to make sure they are regulated to keep from having **junk yards**.....”⁶*

*“Commissioner Tobia inquired if the Board went with Option 2 and he decided to build a three level container shed out back, **would there be any inspection process** or could he just get a crane and stack three of them up”⁷.*

*“Mr. Calkins explained when they looked at this from the Florida Building Code Standpoint, they looked at the container in an unaltered state; when it is unaltered [sic], they feel it meets the Building Code; the requirement and the concern would be wind load and tying them down just like any **shed or storage building**; and once people start stacking them, he thinks that would be altering it and they would have to look at getting an engineer to certify that it meets the requirement of the Florida Building Code, similar to what they will do with tiny homes.”⁸*

⁴ Brevard County Board of County Commissioners meeting minutes of April 9, 2019, (Item I.i.) LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: SHIPPING CONTAINERS AS RESIDENTIAL ACCESSORY STORAGE STRUCTURES, page 40.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Brevard County Board of County Commissioners meeting minutes of April 9, 2019, (Item I.i.) LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: SHIPPING CONTAINERS AS RESIDENTIAL ACCESSORY STORAGE STRUCTURES, page 41.

At the October 8, 2019 Board of County Commissioners meeting and in response to commission directive at April 9, 2019 meeting, staff prepared a proposed code revision to allow for shipping containers for use as residential storage buildings with proposed restrictions/conditions.⁹

"A new or decommissioned cargo shipping container may be used as a residential **storage** building subject to the same requirements as accessory structures in residential zoning classifications, subject to the following:

- a. The use of only one single-unit cargo container per residential lot of more than one acre.
- b. A building permit shall be required.
- c. No other use is allowed within the container other than storage.
- d. No exterior labels or wording on the exterior of the container.
- e. Limited to a maximum of 320 square feet.
- f. No stacking of containers.
- g. To be located behind the principal building.
- h. Container to be shielded from view by six foot fencing, screening, or landscaping on lots less than five acres.
- i. A cargo shipping container approved under this section will not be deemed to be a temporary use allowed under Section 62-211.5."¹⁰

"Commissioner Pritchett stated... *it should be more like a shed and not so many criteria put on it*; and she really come to the conclusion that she thought that was a good idea.....C might be a good idea but the Board can come back to it, because some people are starting to build houses with these and they are getting quite creative; *but that might need to be under another category other than storage sheds.....she is real comfortable using the same parameters as a shed, but throwing in no stacking, and it may be appropriate that if they have railroad stuff on it, maybe they paint it so that it looks more like a neighborhood shed...."*¹¹

"Commissioner Pritchett replied (in response to request for clarification from Commissioner Tobia regarding item B) she thinks the Board needs to permit it just like sheds are permitted".¹²

"Commissioner Tobia inquired if the county does or does not require a building permit for a shed right now".¹⁰

"Mr. Calkins replied building permits are required"¹⁰

"Commissioner Tobia asked if the County allows stacking of [storage] *sheds*"¹⁰

"Mr. Calkins responded no, *sheds are not necessarily stacked*".¹³

⁹ Brevard County Board of County Commissioners meeting minutes of October 8, 2019, (Item H.1.) PUBLIC HEARING, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI, DIVISION 1, PROVIDING FOR CARGO SHIPPING CONTAINERS AS RESIDENTIAL STORAGE SHEDS (FIRST READING), page 18.

¹⁰ Brevard County Board of County Commissioners Agenda Package for October 8, 2019 meeting, page 288.

¹¹ Brevard County Board of County Commissioners meeting minutes of October 8, 2019, (Item H.1.) PUBLIC HEARING, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI, DIVISION 1, PROVIDING FOR CARGO SHIPPING CONTAINERS AS RESIDENTIAL STORAGE SHEDS (FIRST READING), pages 18-19.

¹² *Id.* at 19.

¹³ *Id.* at 20.

"Commissioner Tobia questioned if sheds [sic] are not allowed to be stacked".¹¹
"Mr. Calkins replied no, *sheds [sic] are not allowed to be stacked; but staff does not necessarily regulate that.*"¹¹

Mr. Calkins "what staff looked at in creating this is they mimicked the sheds but there was a little more emphasis on trying to screen these Conex boxes because of the aesthetics of them, and the concerns with the aesthetics."¹¹

Commissioner Tobia questioned "*if the Board were to go with B, F, and G, if it would be fair to say it is treating them no different than sheds*".¹¹

"Mr. Calkins replied he believes the answer is yes, *they would be considered a shed at that point*".¹¹

Motion was made by Commissioner Pritchett, seconded by Commissioner Tobia to move forward with the *same criteria as a shed with requirements and B, F, and G*. Motion approved 4-1.¹⁴

After the motion was approved, "Mr. Calkins stated.....*perhaps staff can redo what the proposed and align it better with sheds.....they would look at them as a shed.....* He stated the motion is okay, but clarification what comes back, *what he is hearing the Board say, is it wants to look at storage containers the same as sheds...staff already has criteria for sheds*, it may just be modifying the definition of a shed to include the storage containers, and that may be the only Code revision needed"¹⁵

At the October 22, 2019, Brevard County Board of County Commissioners meeting,

"*Tad Calkins stated.....at the first reading the Board wanted to move forward to allow these containers to be utilized for storage sheds with the same requirement of the existing shed locations, permit requirements, and provisions of no shed [sic] stacking; and in the ordinance being presented today, it contains those provisions.*"¹⁶

Clearly, the Brevard County Commission's intent was not to prohibit the use of shipping container materials in the construction of structures. Sec. 62-1102 (1)(a) was added to Sec. 62-1102(1) simply because sheds fall within the definition of accessory structures. Notably, Sec. 62-1102(1) includes (but is not limited to) garages, gazebos, cabanas, glass rooms and sheds as accessory buildings or structures. Moreover, Sec. 62-1102(1) allows for construction of a full or half bath in accessory buildings or structures, presumably, to utilize accessory buildings or structures for non-storage purposes.

¹⁴ *Id.* at 21.

¹⁵ *Id.*

¹⁶ Brevard County Board of County Commissioners meeting minutes of October 22, 2019, (Item H.1.) PUBLIC HEARING, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI, DIVISION 1, PROVIDING FOR CARGO SHIPPING CONTAINERS AS RESIDENTIAL STORAGE SHEDS. (SECOND READING), page 14.

Prior to adoption of subsection (a), Sec. 62-1102(1) encompassed a broad range of definitions of accessory structures or buildings. A shed fell within one of these definitions, instead of delineating a separation of sheds from the same classification as a cabana or utility room when the code was modified, subsection (a) was added to apply specifically (and only) to shipping containers when they are utilized as sheds.

The commission intended to include provisions to allow for shipping containers to be utilized as sheds; however, there was a concern that shipping containers utilized as sheds would be “stacked” vertically in a manner similar to their vertical placement on cargo ships during transport, or in construction or storage yards when shipping containers are placed vertically on top of each other on a temporary basis. As questioned by Commissioner Tobia and answered in the negative by Tad Calkins, sheds are not permitted to be stacked.

The legislative history of Sec. 62-1102 (1)(a) clearly establishes the commission’s intent to allow for the use of shipping containers as sheds in residential districts. Importantly, however, the commission’s intent was ONLY to prohibit “stacking” of shipping containers used as sheds. The commission did not intend that Sec. 62-1102 (1)(a) would be utilized to prohibit the use of shipping container materials in the construction of accessory structures. The “stacking” prohibition applies to a shipping container utilized solely for storage.

Mr. Traska’s shipping container materials used in the construction of an accessory structure is clearly outside the Brevard County Board of Commissioner’s contemplation of shipping containers to be utilized as sheds.

V. THE PETITIONER IS EQUITABLY ESTOPPED FROM ENFORCING SECTION 62-1102 (1)(a) AGAINST RESPONDENT.

The doctrine of equitable estoppel may be invoked against a governmental body as if it were an individual. *Hollywood Beach Hotel Co. v. City of Hollywood*, 329 So.2d 10 (Fla.1976). A municipality shall not prohibit development where a property owner (1) in good faith (2) upon some act or omission of the government (3) has made such a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the right he acquired. *Hollywood Beach*, 329 So.2d at 15-16.

Equitable estoppel is invoked where the proposed plans have been approved by the governmental body and the owner acts in reliance upon that approval. *Fla. Cos. V. Orange Cnty.*, 411 So. 2d 1008, 1009-12 (Fla. 5th DCA 1982). “Stripped of the legal jargon which lawyers and

judges have obfuscated it with, the theory of estoppel amounts to nothing more than an application of the rules of fair play. One party will not be permitted to invite another onto a welcome mat and then be permitted to snatch the mat away to the detriment of the party induced or permitted to stand thereon. A citizen is entitled to rely on the assurances and commitments of a zoning authority and if he does, the zoning authority is bound by its representations, whether they be in the form of words or deeds..." *Town of Largo v. Imperial Homes*, 309 So.2d 571 (Fla. 2nd DCA 1975).

Here, Mr. Traska submitted a building permit application for an accessory building on October 28, 2022 (See Mr. Traska's Exhibit D). Mr. Traska's application was reviewed by several of the Petitioner's departments, including the Zoning Department. Mr. Traska submitted revised plans four times from October 2022 through March 2023 when the Petitioner issued a building permit to Mr. Traska to construct his proposed accessory building. No less than five departments reviewed Mr. Traska's application and subsequent resubmittals each time Mr. Traska submitted revisions. Mr. Traska's originally submitted plans, revised plans, and the plans ultimately approved by The Petitioner clearly delineate the use of the containers in his construction. Nearly every page of the approved plans (See Mr. Traska's Exhibit A) contains details referencing the use of the containers in the construction of Mr. Traska's intended building. The Petitioner was well aware, at every point during the review process, that Mr. Traska intended to utilize shipping container materials in the construction of his accessory building. The plans and drawings Mr. Traska provided to the Petitioner were reasonably read, construed, understood, and interpreted by Petitioner.

After Petitioner issued the building permit, Mr. Traska began construction on the accessory building. As described during his testimony at the December 19, 2023, Special Magistrate hearing, Mr. Traska has incurred in excess of \$100,000.00 in construction costs thus far. Mr. Traska acted in good faith reliance upon the Petitioner's extensive review of Mr. Traska's permit application and subsequent issuance of the building permit. After public objection to Mr. Traska's construction, the Petitioner erroneously interpreted Sec. 62-1102 (1)(a) as applicable and issued the code violation(s) at issue here. Mr. Traska materially changed his position and has undeniably incurred substantial expense in reliance upon the permission granted and permit issued by Petitioner. Similar to the cause at issue, in *Sakolsky v. City of Coral Gables*, 151 So.2d 433, 436 (Fla. 1963), it was determined that a permit "intentionally and lawfully

issued by the proper municipal officers can have no other purpose than to authorize action by the permittee in reliance on its terms. Notice or knowledge of mere equivocation independent of actual infirmities or pending official action cannot in this situation operate to negate or prevent reliance on the official act”.

Petitioner has demanded that Mr. Traska remove the second floor of his structure, contrary to the approved plans Mr. Traska received a permit for. In *Florida Companies v. Orange County*, 411 So.2d at 1010-12, the Fifth District held that the county was equitably estopped from denying subdivision plat approval based on a failure to include individual septic tanks because the county had induced Florida Companies to build a sewage treatment plant on its initial approval. Similar to the issue at hand, Mr. Traska applied for and received a permit to construct an accessory building with a second floor. After beginning construction and passing several inspections for the foundation of the structure, Petitioner has demanded that the second floor of Mr. Traska’s structure be removed. **The Petitioner allowed Mr. Traska to proceed with his construction and must now be estopped from applying the ordinance at issue to the injury of Mr. Traska who recognized the Petitioner’s authority and proceeded with the construction of his accessory building only after getting its sanction to do so.** The Petitioner must now be estopped from requiring Mr. Traska to remove the second floor of his structure because the Petitioner induced Mr. Traska to build the structure reflected in the approved plans (which clearly detailed the second floor of the structure) and building permit.

Petitioner has implied that it mistakenly issued Mr. Traska’s building permit. However, there was no mistake made by Petitioner in issuing Mr. Traska’s building permit. The Petitioner acted fully and properly within its ministerial obligation to issue Mr. Traska a permit to construct his accessory building. A permit which Mr. Traska had a clear legal right to after complying with all of Petitioner’s procedures for permit issuance. The mistake made by the Petitioner was the issuance of the NOV to Mr. Traska based on a wrongful application/interpretation of Sec. 62-1102 (1)(a) to the facts at hand.

VI. CONCLUSION

For the reasons cited herein, Mr. Traska respectfully requests that the Special Magistrate dismiss the code violations cited in the NOV. Although not the primary focus of the code violations at issue, Mr. Traska has provided a copy of his revised building plans (Mr. Traska’s

Exhibit E). Mr. Traska has not submitted his revised plans because at the December 19, 2023 Special Magistrate hearing, Petitioner staff indicated that there was no possibility his revised plans would be approved unless he removed the second floor of his structure in contravention of his approved plans. Until the “stacking” issue is resolved in Mr. Traska’s favor, submission of his revised plans would be moot.

Further, the NOV cites to Section 22-47(Ch. 110), “Violations and Penalties” of the BCCO, which forbids construction without a “detailed statement or drawing submitted and permitted there under”; however, this provision is inapplicable to Mr. Traska’s situation as he has fully complied by submitting detailed drawings of his structure and received a permit from the Petitioner for his construction. Mr. Traska incorporates the audio recording and transcript of the December 19, 2023 Special Magistrate hearing into the record.

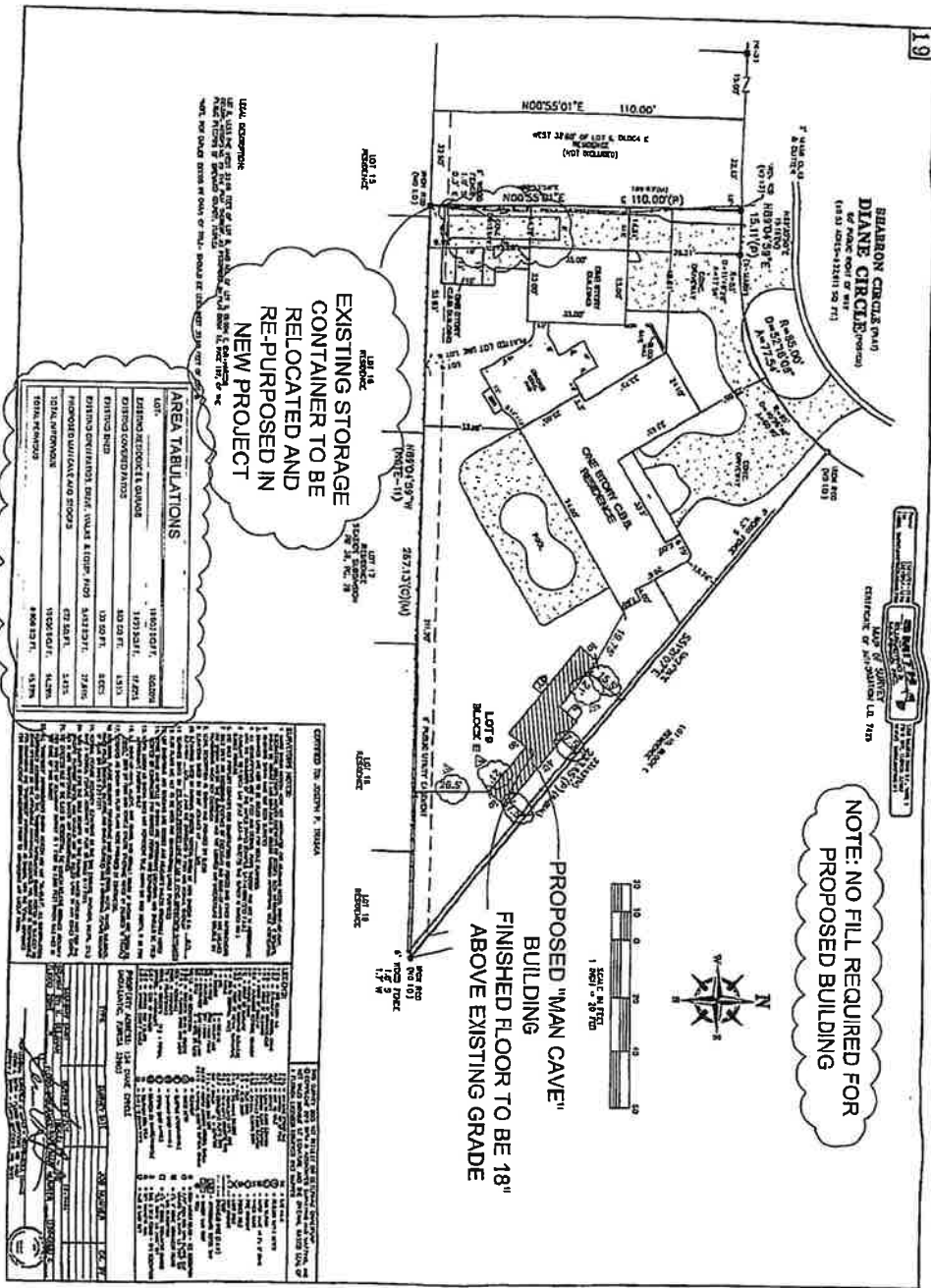
WHEREFORE, the Respondent, Mr. Traska, by and through the undersigned counsel, requests the Special Magistrate dismiss this action in its entirety, and award such other and further relief in favor of the Respondent as the Special Magistrate deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically mailed to the Petitioners on this 18th day of January, 2024.

/s/ Alicia N. Kelly
Florida Bar #115374
101 Park Place Blvd. Suite 3
Kissimmee FL 34741
(407) 414 2566 (telephone)
(407) 847 2850 (facsimile)
Primary: alicia@schoolfieldproperties.com
Secondary: efiling@schoolfieldproperties.com
Attorney for Respondent

SITE PLAN

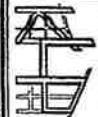


Pedro L. Medina, P.E.
 PE 73579 16842-0500



TRASKA ACCESSORY BUILDING

"MAN CAVE" 134 DIANE CIRCLE
 INDIANTLANTIC, FL. 32903



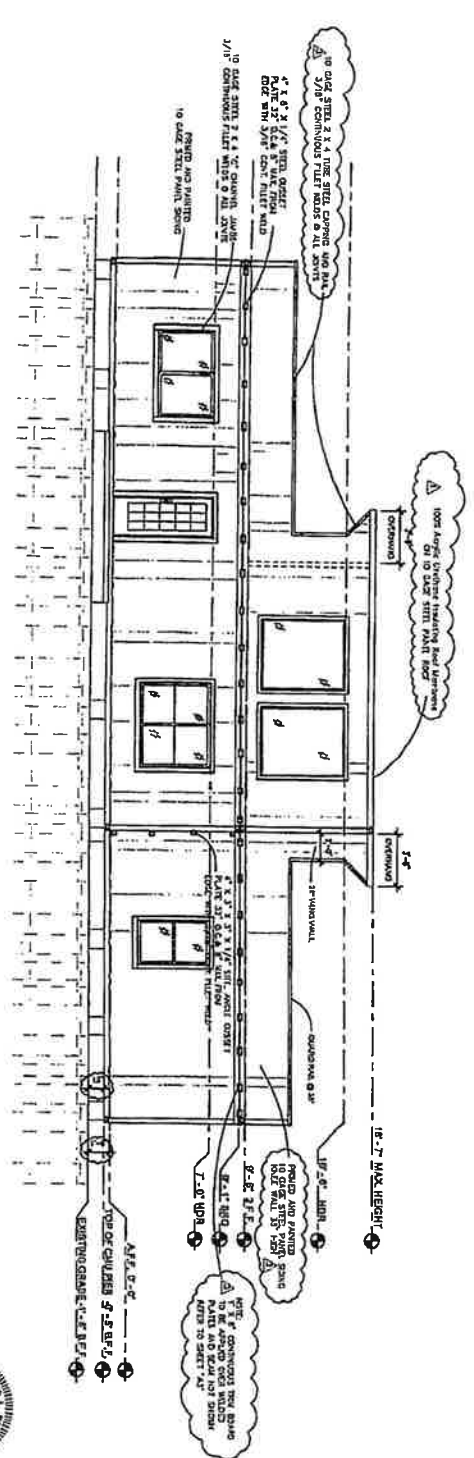
TRASKA ACCESSORY BUILDING
 134 DIANE CIRCLE, S.W.
 INDIANTLANTIC, FL. 32903
 Phone: (407) 941-1546
 Fax: (407) 941-1546
 E-mail: info@traskaaccessory.com
 Web: www.traskaaccessory.com

TRASKA ACCESSORY BUILDING
 134 DIANE CIRCLE, S.W.
 INDIANTLANTIC, FL. 32903
 Phone: (407) 941-1546
 Fax: (407) 941-1546
 E-mail: info@traskaaccessory.com
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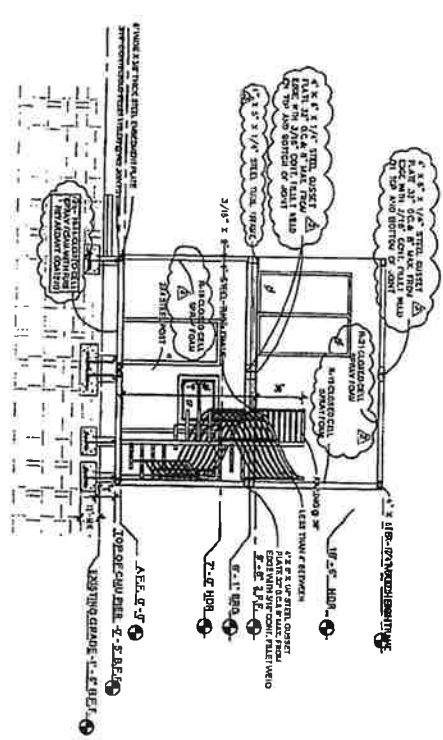
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 Phone: (407) 941-1546
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SITE PLAN

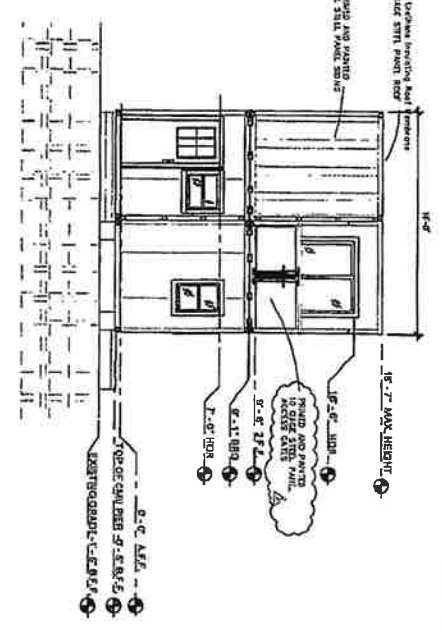
SP



FRONT ELEVATION
1/4"=1'-0"



CROSS SECTION
1/4"=1'-0"



LEFT ELEVATION
1/4"=1'-0"

CONSTRUCTION TYPE V-B

NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET CODE RECOMMENDATION FOR EXISTING BUILDING

1. DESIGN WIND SPEED - 140 MPH (150 MPH)

2. RISK FACTOR - 1

3. INTERNAL PRESSURE AND SUCTION COEFFICIENTS - 0.18

4. EXISTING BUILDING - 1950s 7TH EDITION R401.2.1

Pedro L. Medina, P.E.
Medina
PE 73579
1/23/16 05:00



TRASKA ACCESSORY BUILDING
"MAN CAVE" 134 DIANE CIRCLE
INDIANTLANTIC, FL. 32903

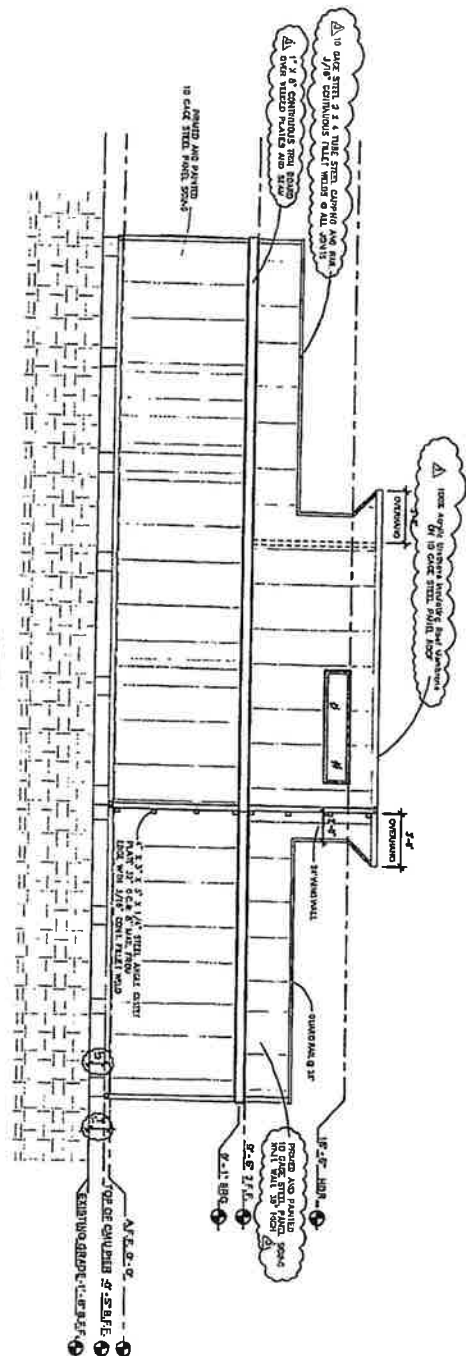
TRASKA DESIGN SERVICES
135 S. W. 10th Ave. Ste. 100
MARTIN, FL. 32551
Phone: (407) 814-7519
Email: info@traskadesign.com
Pedro L. Medina, P.E.
Professional Engineer
FL, P.E. # 73579
pedro@traskadesign.com

TRASKA DESIGN SERVICES
135 S. W. 10th Ave. Ste. 100
MARTIN, FL. 32551
Phone: (407) 814-7519
Email: info@traskadesign.com

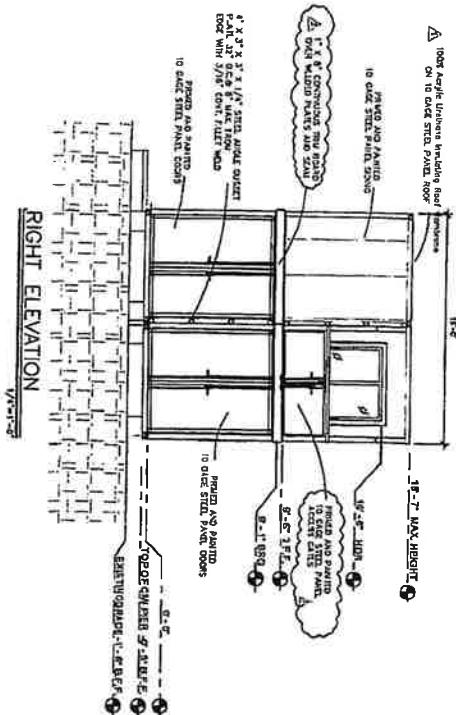
DESIGN	TRASKA
DATE	06/16/21
SCALE	1/4"=1'-0"
PROJECT	TRASKA
LOCATION	TRASKA
DATE	06/16/21
SCALE	1/4"=1'-0"

A-2

ELEVATIONS



REAR ELEVATION
1/4"=1'-0"



RIGHT ELEVATION
1/4"=1'-0"

CONSTRUCTION TYPE V-B

NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET
BOLDED REQUIREMENTS OF THE 2000 FLORIDA BUILDING
CODE REVISIONS FOR SECTION ASCE 7-16

1. DESIGN WIND SPEED - V = 140 MPH (V-B - 140 MPH)
2. DESIGN WIND DIRECTION - 90°
3. DESIGN WIND EXPOSURE - ADJUSTED FOR EXPOSURE
4. DESIGN WIND CATEGORY - II (SEE SECTION 6.1.6)
5. SEE WINDY AND SOON REQUIREMENTS

Pedro L. Medina, P.E.
Professional Engineer
No. 73579
Date: 02/12/21



TRASKA ACCESSORY BUILDING
"MAN CAVE" 134 DIANE CIRCLE
INDIANTLANTIC, FL. 32903

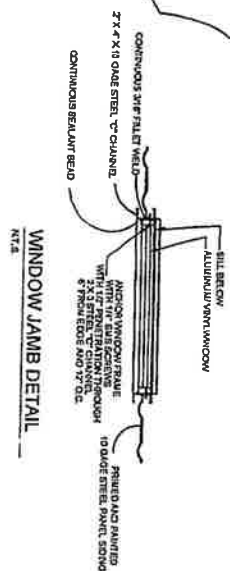
NO. 10	REVISED
PROJ. 10	DATE: 02/12/21
DESIGN BY: A.L.M.	DATE: 02/12/21
DATE: 02/12/21	DATE: 02/12/21
SCALE: 1/4"=1'-0"	

ELEVATIONS

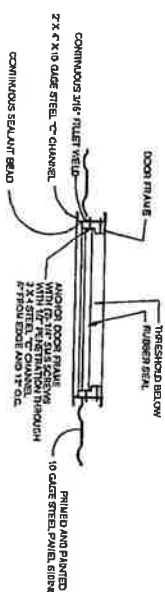
A-3

KIP DESIGN SERVICES
134 DIANE AVE. RT 88
INDIANTLANTIC, FL. 32903
Phone (407) 341-7549
Fax (407) 341-7549
www.kipdesign.com
Pedro L. Medina, P.E.
Professional Engineer
No. 73579
pedro@kipdesign.com

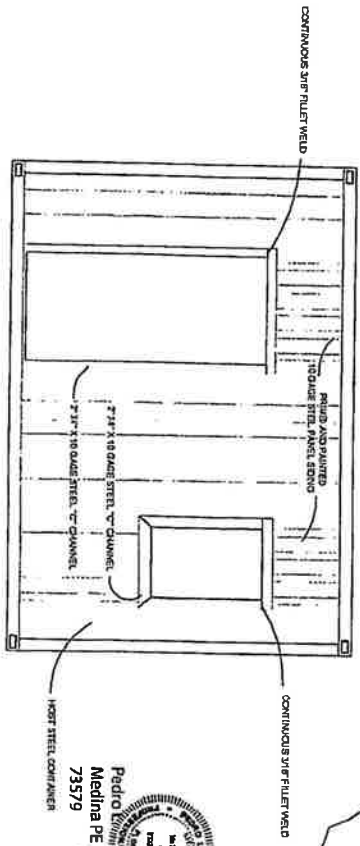
CONTRACT NO. 10
PROJECT NO. 10
DATE: 02/12/21
SCALE: 1/4"=1'-0"



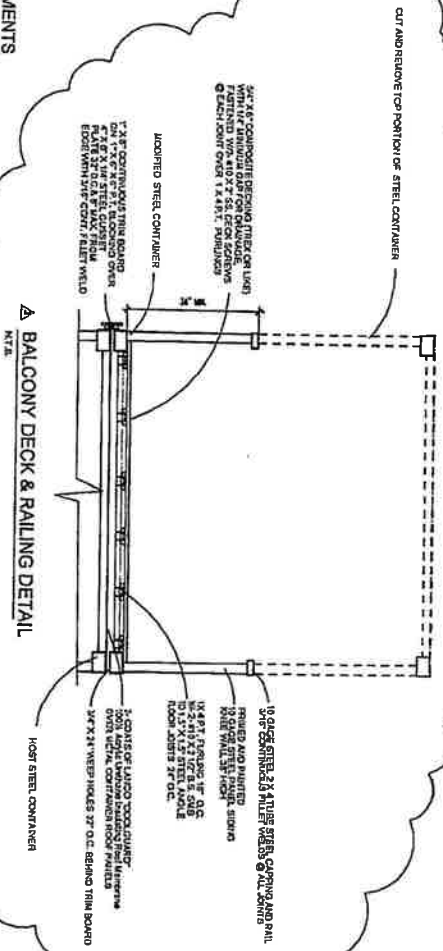
WINDOW JAMB DETAIL
N.T.S.



DOOR JAMB DETAIL
N.T.S.



WINDOW & DOOR JAMB DETAIL
N.T.S.



BALCONY DECK & RAILING DETAIL
N.T.S.

- DESIGN LOAD REQUIREMENTS**
- a) Uninhabitable attic without storage: 10psf,
 - b) Uninhabitable attic with limited storage: 20psf,
 - c) Habitable attics and attics served with fixed stairs: 30psf,
 - d) Balconies (exterior) and decks: 80psf,
 - e) Guards and handrails: 200psf,
 - f) Guard in-fill components: 50psf,
 - g) Passenger vehicle garages: 50psf,
 - h) Rooms other than sleeping room: 40psf,
 - i) Sleeping rooms: 30psf,
 - j) Stairs: 60psf.

DESIGNED BY
Pedro Medina
73579
16-027-4310



TRASKA ACCESSORY BUILDING
"MAN CAVE" 134 DIANE CIRCLE
INDIANTLANTIC, FL. 32903

ADD NO.	REVISION
DATE	BY
6/6/17	7/1/17
SCALE	N.T.S.

DETAILS

S1

**CODE ENFORCEMENT SPECIAL MAGISTRATE
BREVARD COUNTY, FLORIDA**

**BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA, a political subdivision
of the State of Florida,**
Petitioner,

CASE NO: 23CE-01219

vs.
JOSEPH P TRASKA,
any subsequent purchasers, successors in interest, or assigns,
Respondent(s).

STATE OF FLORIDA (COUNTY OF BREVARD)
CERTIFICATION I hereby certify this is a true
and correct copy of the Finding of Fact/
Order of Imposition. Witness my hand on this

16 February 2024
Debra M. League
Clerk to the Special Magistrate

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER & LIEN FOR COSTS

THIS CAUSE came on for public hearing before the Special Magistrate on 12/19/2023 after due notice to the Respondents, and the Special Magistrate having heard testimony under oath, received evidence, and issued his Findings of Fact, Conclusions of Law and Order, thereupon issued his oral Order which was reduced to writing and furnished to the Respondents, as follows:

I. FINDINGS OF FACT: There are violations of SPECIFICALLY:

- (a) The Respondents summary of the legislative history of 62-1102 interesting and beneficial but does not change the clear and unambiguous meaning of this section providing "no stacking of container shall be allowed".
- (b) The Respondents further make interesting argument of equitable estoppel which applies when a property owner in good faith took action upon on some act or omission of the government and has made a substantial change in position incurring extensive obligations and expenses. This argument would be more appropriate if the hearing involved "vested rights" and is not a determination for the Special Magistrate in this proceeding.
- (c) Brevard County, Chief Building Official, Terry Talbert, testified that there was differences between the building plan for which the Respondent has been issued a permit and the actual structure that has been built on the property involving the front level of the structure being rotated 90 degrees and the balcony area surrounded by railings being changed.
- (d) The accessory structure in question is comprised of shipping containers. This is plainly evident in the photos of the structure and the Respondent's building plans. The Respondent erected a two-story structure comprised of multiple shipping containers stacked on top of each other.
- (e) The partially built accessory structure constructed from stacked shipping containers is substantially deviated from the approved construction plans contained in Permit ID 22BC20772 including, but not limited to, the top container being modified from its permitted configuration. The magnitude and scope of the alteration led to the Chief Building Official issuing a "Stop Work Order" on construction. Additionally, under Brevard County Code, "no stacking of containers shall be allowed." To comply, unstack the shipping containers and obtain an approved revision to the permit, in full compliance with code, for the accessory structure under Permit ID 22BC20772, or return the property to the original configuration of the property prior to construction. If the unstacked containers remain on the property, they must be placed in a manner that complies with Brevard County Code.

On property described as: Tax Account: 2726849
Township: 27 Range: 37 Section: 24 Subdivision: 86 Block: E Lot: 8
Also Identified as: 134 DIANE CIR, INDIALANTIC, FL 32903

CFN 2024033028, OR BK 9994 PAGE 1693,
Recorded 02/16/2024 at 01:33 PM, Rachel M. Sadoff,
Clerk of Courts, Brevard County
Pgs:2

II. CONCLUSIONS OF LAW: Based upon the testimony heard and the evidence presented, the Special Magistrate concludes there is a violation of the following County Code Sections:

CASE NO: 23CE-01219

Section 22-47(110), Brevard County Code: Violations and Penalties

Section 62-1102, Brevard County Code: Definitions and Rules of Construction

Violations INITIAL

HEIGHTENED THREAT to public health, safety, or welfare: YES _____ NO XX

III ORDER

Based upon the foregoing Findings of Fact and Conclusion of Law, it is hereby ORDERED THAT:

Respondents are to bring the property into compliance by March 14, 2024 (30 days).

Fine assessed in the amount of \$25 per day beginning March 15, 2024 until compliance as determined by the Officer/Inspector.

FINES MAY BE IMPOSED AS A LIEN IN COMPLIANCE WITH F.S.162.09 AT THE NEXT AVAILABLE HEARING.

SPECIAL REQUIREMENTS: _____

To ensure compliance with this Order, pursuant to the applicable laws and at Respondent(s)' expense, the County may: Tow _____ Demolish _____ Secure _____

ENFORCEMENT COSTS ASSESSED IN THE AMOUNT OF \$550.00 ARE TO BE PAID WITHIN 30 DAYS OF THIS HEARING DATE.

Enforcement costs are hereby imposed as a lien on Respondents real and personal property in compliance with Florida Statute 162.09; including any fines assessed for irreversible or irreparable violations and any extraordinary costs assessed.

IT SHALL BE THE RESPONDENTS' RESPONSIBILITY TO CONTACT THE CODE ENFORCEMENT OFFICER/BUILDING INSPECTOR WITHIN 24 HOURS AFTER THE VIOLATION HAS BEEN CORRECTED TO STOP THE FINE FROM ACCRUING AT (321) 633-2086.

DONE AND ORDERED this _____ day of _____, 2024.

CODE ENFORCEMENT SPECIAL
MAGISTRATE BREVARD COUNTY, FLORIDA

Stewart B. Capps

You have a right to appeal this Order to the Circuit Court within a period of 30 days from the date of this Order, in accordance with Brevard County Code, Section 2-178.

ALL PAYMENTS PAYABLE TO THE BOARD OF COUNTY COMMISSIONERS and mailed to: Code Enforcement ATTN: Central Cashiers, 2725 Judge Fran Jamieson Way, Bldg A, Room 114, Viera, FL 32940.

CC: JOSEPH P TRASKA 134 DIANE CIR, INDIALANTIC, FL 32903-2556
ALICIA KELLY, ATTORNEY, SCHOOLFIELD PROPERTIES 101 PARK PLACE BLVD. SUITE 3,
KISSIMMEE, FL 34741

ATTACHMENT 7 - CITIZEN COMMENT

Richardson, Morris

From: AL MILLIAN [REDACTED]
Sent: Tuesday, October 8, 2024 12:53 PM
To: Richardson, Morris; Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5
Subject: Container's (man cave)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Please think when you're voting to keep or remove this if it was in your back yard how hard you would fight to have it removed. It's about 20 yards from my bedroom window and about the same from my neighbors living rooms. I know he has found a loophole in the law to keep it but according to a friend of mine a property appraiser it will probably effect our property value up to 10 percent that could be up to half million dollars with eight properties. Not to mentioned it's a little scary with this incoming hurricane it's about 200 yards from the ocean. Thank you and stay safe!
Al Millian



From: [Bluma Bofford](#)
To: [Richardson, Morris](#)
Subject: 134 Diane Cir. Indialantic
Date: Sunday, October 13, 2024 2:26:32 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello Mr. Richardson,

My name is Bluma Bofford, I am residing at 110 Waters Edge Lane, Indialantic FL 32903
My home is right behind 134 Diane Cir. Indialantic

I am shocked to see what's have been going on all these months. Law has been broken, and no one has done anything to make Mr. Traska to make it right.
Brevard County made a mistake by issuing a wrong permit and now not doing anything about it.
Mr. Traskas permit must be revoked immediately. Why Brevard County allowed it to go so far and for so long ?


It just goes to show, we have no government, and laws are written just because.

If I sound angry to you, I have every right to be angry. We are having a lot of storms in Brevard County.
If this crazy monstrosity build on 134 Diane Cir. falls apart (at some point it will) and causes damage to other homes
in our neighborhood, rest assured, Brevard County is going to get a lawsuit and its going to get ugly.

All I can say, what a shame !

Bluma Bofford

Bluma Bofford, Realtor
Century 21Circle
1090 N Hwy A1A
Indialantic, FL 32903



From: [Elena Stetsenko](#)
To: [Richardson, Morris](#)
Subject: Traska vs Brevard county case
Date: Tuesday, October 15, 2024 9:34:10 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Mr. Richardson,

I am reaching out regarding an ongoing case of Traska vs Brevard country which is going to the BOCC meeting on October 22nd.

Regardless of the proposed “compromise” to require Mr. Traska make certain additional changes to the container structure, those won’t resolve the issues that the surrounding neighborhood is facing.

The structure below is less than 50 feet from our house. No matter what cosmetic improvements are done to it, the stacked containers will pose an increased risk and potential loss/damage of nearby properties, especially during the hurricane season. For someone who has experienced living through Andrew and multiple other hurricanes in South Florida, the idea that this container would continue standing in our neighborhood is very troubling. Would anyone feel safe next to this structure when the next Milton” comes directly our way?



I am requesting that when the county makes final determination about the outcome of this issue, the voices of the neighboring properties owners are given full consideration. We are not at any fault and shouldn't be the ones who would bear the consequences if the case were not fairly resolved.

Sincerely,

Elena and Alexander Stetsenko

120 Waters Edge Ln

Indialantic, FL 32903

From: [Rick Rapplevea](#)
To: [Richardson, Morris](#)
Cc: alicia@schoolfieldproperties.com
Subject: 134 Diane Cir
Date: Tuesday, October 15, 2024 1:50:40 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Greetings,

I am Frederick Rapplevea who resides with my wife Patricia at 140 Waters Edge Ln, Indialantic, FL 32903. We share an adjacent property line in our backyard of approximately 75 feet with Mr. Traska at 134 Diane Circle. The contested accessory building in his backyard is visible from ours, as well as from the inside of our home through some windows.

We would like to express our support of the current mitigation agreement between Mr. Traska and Brevard County. We attest that we have no objection to any concessions or variance granted by the County to Mr. Traska regarding this issue, and believe he and the County are acting in good faith. We are hoping they find an expeditious resolution and urge the County Commission to approve so this project can move forward. Furthermore, we do not concur with any fines levied against Mr. Traska as the County acknowledged that the plans were approved in error.

Please feel free to contact me if you have any questions or concerns regarding this matter.

Sincerely,
Frederick & Patricia Rapplevea
140 Waters Edge Ln
Indialantic, FL 32903

Lane, Karen

From: Ashlee Miller <miller_ashlee@yahoo.com>
Sent: Monday, October 21, 2024 11:22 PM
To: Lane, Karen
Subject: Regarding public hearing on 10/22

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Concerned Bar Colony citizen here...

This email is in regards to the public hearing on October 22nd 2024, involving the property of Joseph Traska. While I am not directly affected by the structure that has been built on this property, I cannot ignore the concerns I have about what this structure could possibly bring in the future. My main concern is that it could potentially be an Airbnb and it is not just a "man cave." After hearing about all of the Airbnb issues that Indian Harbour Beach citizens have had to deal with, I cannot help but be concerned about that possibility. If this structure is actually an Airbnb, would it open the door for other homeowners to build on their property for an Airbnb? What would Airbnbs do to our quiet and peaceful single family neighborhood? These are all questions and concerns that several neighbors I have talked to have. This is why I wanted to reach out to you. Myself and other Bar Colony citizens want our concerns to be recognized, voices to be heard, and opposition to be taken into consideration. I trust our Brevard County Commissioners to make the right decision and I thank you for your time.

Lane, Karen

From: I Media <interprisemedia@gmail.com>
Sent: Monday, October 21, 2024 4:04 PM
To: Lane, Karen
Subject: 134 Diane Circle , Indialantic

Follow Up Flag: Follow up
Flag Status: Flagged

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I would like to voice my concerns about the issue at 134 Diane Circle
From what I understand, the structure that was erected does not conform to the code of Brevard County single home neighborhoods.

I request that the structure in questions be removed or disassembled. The use of this structure seems to be for an Air B&B. As a neighbor of this property, I don't want this type of activity in so close to my long time residency here in Brevard County.

If allowed to remain it seems to me to set a precedence for this type of activity, which I am totally against.

Please do not let this continue to a quite neighborhood.
M Swift

Lane, Karen

From: Ron Henson <ronhenson1951@gmail.com>
Sent: Monday, October 21, 2024 5:40 PM
To: Lane, Karen
Subject: County Commissioners Meeting 10/22/24 - Re: 134 Diane Circle

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Brevard County Commissioners:

We are the residents/owners of the property located at 2220 Sea Ave, Indialantic FL. We received notification of the public hearing on the property located at 134 Diane Circle, Indialantic FL. We are opposed to the accessory structure being proposed on this property for the following reasons:

1. The structure is in violation of existing building codes.
2. The structure violates the integrity of a single family neighborhood.
3. The structure invades upon adjacent neighbors.
4. The structure is an eyesore to the community at large.

As elected county commissioners, your constituency looks to you to protect the well being of our communities and neighborhoods. We expect you to uphold the laws that govern property owners in Brevard County in helping to ensure a healthy vibrant community. Approving the resolution in favor of the owner of 134 Diane Circle undermines what you have been elected to uphold.

Thank you for allowing our input.

Ronald V. Henson
Margaret O. Henson

Lane, Karen

From: John Sine <jsine1@yahoo.com>
Sent: Monday, October 21, 2024 9:27 AM
To: Lane, Karen
Subject: Reference 134 Diane Circle Indialantic

Follow Up Flag: Follow up
Flag Status: Completed

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Reference Property address 134 Diane Circle (Meeting on Oct. 22, 2024)

I live in the neighborhood within 500 feet of the referenced property and apologize I cannot make the meeting in person. Below are my comments/concerns:

- I can NOT believe this structure meets code for this single-family resident neighborhood and if it does NOT meet code, it should be removed & definitely NOT given any type of variances to leave it there.
 - If the county mistakenly gave approval for this structure, then the county should probably pay to remove it.
- This structure is an eyesore & I don't care how much you dress it up
- It is also an invasion of privacy for all the surrounding residence.
- I would be vary surprised if anyone on the commission would want this structuring peering over the fence line and looking directly into their back yards or windows.
- If you allow this, what kind of precedent does this set for our single-family neighborhood & what kind of structures will be going in the future all around us.

Best Regards,

John Sine

165 Joan Place

Indialantic, FL. 32903

J1. Consideration of a Tentative
Settlement Agreement Under Florida
Land Use and Environmental Dispute
Resolution Act for Property Located at
134 Diane Circle

Regarding the TRASKA MAN CAVE:

It is obvious that this is intended to live in.



4 Stacked Shipping Containers

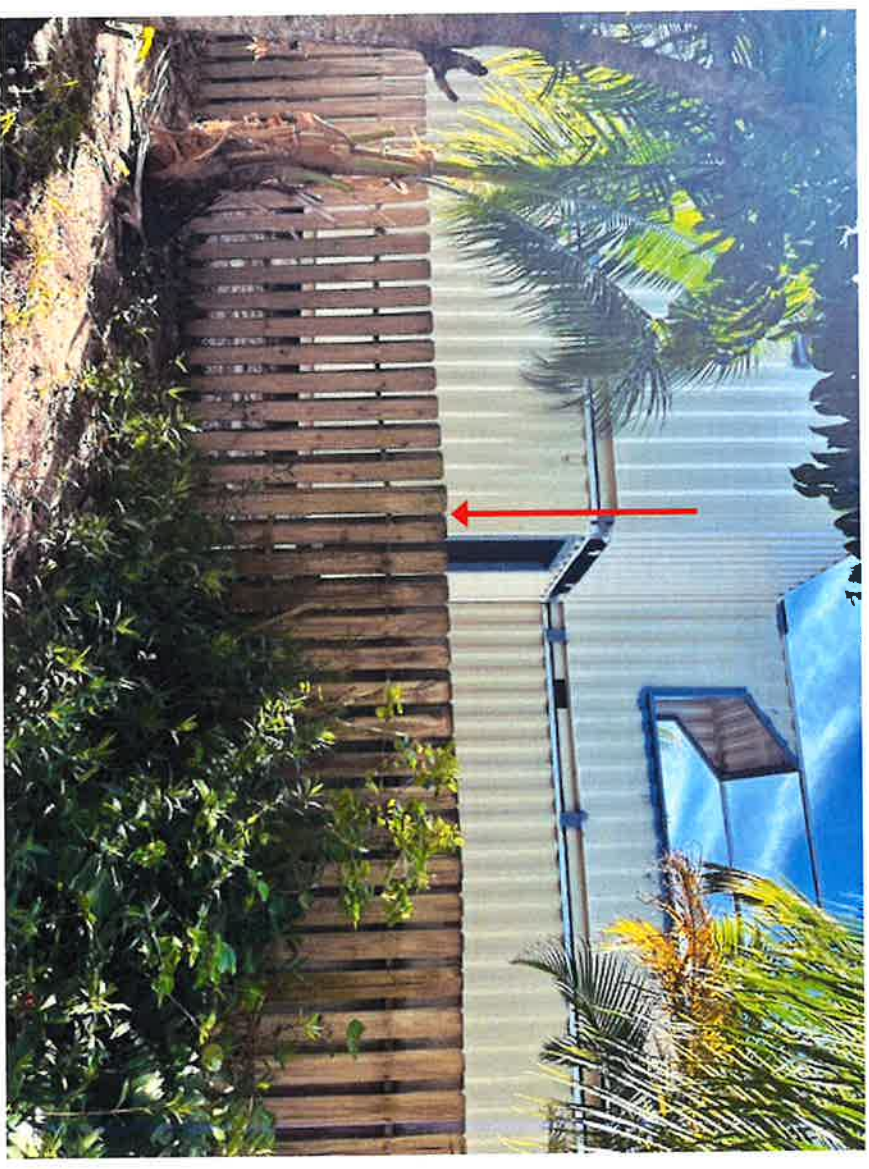
40ft High Cube container dimensions

- The exterior dimensions of a 40ft high cube shipping container are: 40' (length) x 8' (width) x 9'6" (height).
- Its interior dimensions are: 39'5" (length) x 7'9" (width) x 8'10" (height).
- They offer roughly 305 sq ft of storage space each.

**The stacked
storage
container
structure is 60
feet in length**



The 4 stacked storage containers are raised up on concrete blocks instead of a solid foundation. The structure is ~ 25 feet tall and is perilously close to the fence/property line.



The 4 stacked storage containers are raised up on concrete blocks instead of a solid foundation. Visible through the fence, it is evident that the structure is lifted off the ground, which is SAND.



Code Violation: Sec. 62-1102. 1 (a)

The code says that a shipping container can **ONLY** be used for residential storage, not to live in.

These types of containers may be used as storage only...and **only one container per the code that is allowed.**



Code Violation #1

(Sec. 62-2100.5.)

The zoning is single-family residential (RU-1-11) and there is an existing dwelling/house on the property, as well as a detached garage and also a separate poolhouse/storage building.

The property is .45 acres, so the maximum allowable number of accessory structures is two (2).

....the man cave is the 3rd accessory structure, which is against the code. (see attached property data card from BCPAO)

Code Violation #2

Article VII, Chapter 62

There is no record of a County-approved land development application/AKA site plan permit, which is separate from a building permit.

A Site Plan in accordance with **Article VII, Chapter 62**, shall be required for the construction or expansion of a building, structure, infrastructure, or complex of buildings or structures.

A building permit shall not be issued unless the construction plans are accompanied by an approved site development plan.

A County building permit was issued in error and there is no record of a County-approved site plan permit.

BASS Online Permit Submittal

The building permit was submitted via the BASS system.

It is easy to follow the record where the building permit was repeatedly denied, and the reviewers were requesting an approved site plan permit.

Eventually, a file was uploaded that was labelled “approved site plan”, however it was not actually a County-approved site plan!

This is where the breakdown occurred, and the freight train went off the tracks and we ended up with a pile of stacked storage containers beyond the fence. They ALL need to be removed.

Code Violation #4

(Sec. 62-2101.5. - Additional building height

This structure is 4 shipping containers.

Each container is 40' long and 12' tall, staggered to be 60' in total length and 24' tall on a questionable foundation of concrete blocks on a pile of uneven sand.

And it is too close to the property line.

Code Violations #5, #6 & #7

(Florida Building Code Sec 22-48 –

Lowest floor elevation and lot drainage – parts (a), (c), & (g))

in violation – this would have been addressed with the Site Plan permit process.

The site plan permit process would also have addressed the need for a concrete foundation, signed by a civil engineer. The storage container would then have been required to be attached to the concrete foundation with hurricane straps. Instead, they just used bobcat equipment to basically scrape a pile of dirt (complete with the decaying lawn grass!) into a pile and then added concrete blocks footings beneath the structure as a foundation...elevating it ~18" in the air. (I can see this through my fence...please see the attached photos.) It has not been properly graded and is not securely fastened to any foundation.

This is not drawn to scale and is skewed to minimize the appearance. It is closer to the fence than shown and the structure is wider and taller than pictured.



Again, not an accurate rendering. The adjacent structure shown (my house) is not a 2 story. It is a 1-story and is dwarfed by this structure that towers over the backyard. It is visible from every room in my house.



This rendering does not even show the fence between our property! There is not this much open space between the structure and the fence (not pictured). It also does not show that he has now planted BAMBOO and SUGARCANE along the perimeter of the property line, including within the water retention area for drainage.

Also, is still appears to be stacked shipping containers. No effort to blend in with the neighborhood.



According to the statute, the goal of mediation under FLUEDRA “is to focus attention on the impact of the governmental action giving rise to the request for relief and to explore alternatives to the development order or enforcement action....”

Tentative Settlement Agreement

The tentative agreement required Mr. Traska to submit a request to revise his building permit.

The submittal was required to:

- address the difference between the approved construction plans and the actual configuration of the shipping containers;
- include a certified survey, signed by a Professional Engineer or Professional Land Surveyor, confirming that the Property is at least one-half (0.5) acre in size;
- provide for exterior balcony/deck area(s) to be enclosed on the accessory structure's East and South-facing sides with an opaque barrier sufficient to shield view of neighboring properties;

• include exterior renderings and details of the exterior façade, to include materials, demonstrating that the industrial appearance of the shipping containers has been mitigated and conforming to the single-family residential appearance of the area

surrounding the Property; and

- include a landscape plan with sight triangle depicting vegetative buffer sufficient for visual screening between open exterior balcony/deck area(s) and neighboring residences along the south property line (may include existing vegetation).

To mitigate concerns of neighbors regarding the potential use of the structure as a vacation rental, additional residence, or raucous party pad, the parties agreed to the following use restrictions:

- The accessory structure shall not be used as living quarters.
- The accessory structure shall not be rented, in whole or in part, for any purpose
- The accessory structure shall not contain a kitchen.
- The accessory structure shall not be occupied or used for any purpose other than

storage between the hours of 10:00 PM and 6:00 AM.

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- provide for exterior balcony/deck area(s) to be enclosed on the accessory structure's East and South-facing sides with an opaque barrier sufficient to shield view of neighboring properties;
- include exterior renderings and details of the exterior façade, to include materials, demonstrating that the industrial appearance of the shipping containers has been mitigated and conforming to the single-family residential appearance of the area surrounding the Property; and
- include a landscape plan with sight triangle depicting vegetative buffer sufficient for visual screening between open exterior balcony/deck area(s) and neighboring residences along the south property line (may include existing vegetation).

To mitigate concerns of neighbors regarding the potential use of the structure as a vacation rental, additional residence, or raucous party pad, the parties agreed to the following use restrictions:

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 - The accessory structure shall not contain a kitchen.
 - The accessory structure shall not be occupied or used for any purpose other than storage between the hours of 10:00 PM and 6:00 AM.
-

The Planning and Development Department reviewed Mr. Traska's architectural renderings and submittals, and architect Steve Torp provided the following comments:

"The location of a two-story stacked container storage in close proximity to the side yard setback line does not easily fit the neighborhood scale and presents challenges to the urban community as well as adjacent neighbor. The tall structure would benefit from a modern interpretation of the existing neighborhood vernacular in an effort to add animation and relief to the adjacent property as well as to soften the bold differences of materials. The rendering relies heavily on the appearance of industrial materials and finishes in lieu of traditional forms and surfaces. The side elevation adjacent the property line should embrace features from the established neighborhood and residence as a subordinate accessory structure in an effort to be compatible with the fabric of the residential area and zoning. The elevations depicted in contrast appear to present the structure as a small commercial business with double one lite entry doors, large container doors and hardware, dark colored metal or applied fluted material walls covering most of the structure which retain much of the appearance of the original metal container. White residential style single hung style glazing, divided light doors and windows, are a contrast rather than addition to the theme of the presentation. More attention is encouraged addressing neighborhood proportions and buffering of the structure adjacent the existing neighbors home by use of massing, materials, textures and color to be compatible."

Additionally, at the time of filing this agenda report, Mr. Traska had requested a revision to the mediated tentative agreement through his attorney, and had yet to sign and return the tentative agreement.

Specifically, Mr. Traska requested that language in the tentative agreement stating the structure shall not be occupied or used for any purpose other than storage between the hours of 10:00 PM and 6:00 AM be revised to allow "occupancy of the accessory structure between the hours of 10:00 PM and 6:00 AM ... as related to use as storage."

The Board may wish to consider directing a modification to the agreement to clarify that storage is the only allowed use during the hours of 10:00 PM and 6:00 AM, and that no occupancy is permitted except for the storing of items or retrieval of stored items without unnecessary delay.

We humbly request that the BOCC choose the following action:

Reject the tentative settlement agreement.

If the Board rejects the tentative agreement, the Code Enforcement proceedings will no longer be abated. Mr. Traska will continue to accrue fines until he either unstacks the shipping containers and obtains an approved revision to his building permit in full compliance with the Code or returns the Property to its original configuration prior to construction (i.e., removes the containers). Because of FLUEDRA's tolling provision, Mr. Traska has time remaining to file an appeal of the Code Enforcement Magistrate's order should he choose to do so.

Photos from Code Enforcement Inspection



Code Enforcement Officer: Jeff King



COUNTY EXHIBIT


Composite A -- Photos

Dated: _____ to _____

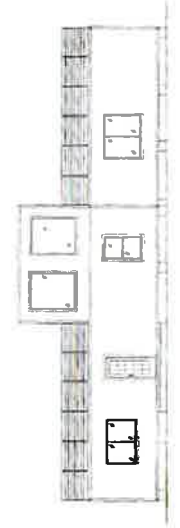
Renderings – 134 Diane Circle



Initial Permit Application for 134 Diane Circle



County Exhibit



TRASKA "MAN CAVE"

TRASKA ACCESSORY BUILDING

134 DIANE CIRCLE

ATLANTA, GA 30303

DATE: 01/11/2017

TIME: 10:00 AM

BY: [Signature]

FOR: [Signature]

PROJECT NO.

DATE

TIME

BY

FOR

REFERENCE TO BUILDING CODES

2015 International Building Code (IBC)

2015 International Residential Code (IRC)

2015 International Energy Conservation Code (IECC)

2015 International Mechanical Code (IMC)

2015 International Plumbing Code (IPC)

2015 International Fire Code (IFC)

2015 International Electrical Code (IEC)

2015 International Fuel Gas Code (IFGC)

2015 International Existing Building Code (IEBC)

2015 International Green Building Code (IGBC)

2015 International Stormwater Management Code (ISWMC)

2015 International Sign Code (ISC)

2015 International Vehicle Code (IVC)

2015 International Zoning Ordinance (IZO)

2015 International Building Code (IBC)

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DESIGN AND CONSTRUCTION

1. The building shall be constructed in accordance with the 2015 International Building Code (IBC).

2. The building shall be constructed in accordance with the 2015 International Residential Code (IRC).

3. The building shall be constructed in accordance with the 2015 International Energy Conservation Code (IECC).

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14. The building shall be constructed in accordance with the 2015 International Zoning Ordinance (IZO).

NOTES

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COVER SHEET

CS