



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.12.

12/3/2020

### Subject:

4725 Fay Blvd Land Trust (Carmine Ferraro) requests a change of zoning classification from BU-1-A with a BDP, to BU-1 and an amendment to existing BDP. (20Z00031) (Tax Account 2309941) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) with a Binding Development Plan, to BU-1 (General Retail Commercial) and an amendment to existing BDP.

### Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-1-A to BU-1 and to amend an existing BDP for the purpose of developing a hardware store with an outdoor garden center. BU-1 zoning classification is considered to be consistent with CC (Community Commercial) FLU (Future Land Use) designation. There is a companion SSCPA application to change the FLU designation from NC to CC.

The applicant is also seeking to amend the existing BDP. The existing BDP, which includes the Family Dollar property, prohibits the following uses: adult entertainment, package liquor stores, gaming rooms, adult arcade, internet cafe, billiard hall, single family residence, group homes, foster homes, resort dwellings, coin laundromat. These uses will remain prohibited in the amended BDP. The existing BDP also limits ingress and egress as follows: A.) Close existing Adams Place driveway permanently, which is located on the southwest corner of property; and B.) Construct full access driveway on Adams Place to line up with the driveway on the adjacent property to the west (Gas Station/ Convenience Store). The Family Dollar drive aligns with the gas station / convenience store. The amended BDP will allow the Adams Place driveway to be re-opened on the SW corner of the property.

The closing of the existing driveway on the southwest corner of Adams Place as stated in the existing BDP was to limit traffic on Adams Place because of children and pedestrians accessing the public school on Balfern Street just south of the parcel.

The applicant has submitted a concept plan in support of this zoning request showing a 10,000 sq.ft hardware store with a 2,000 sq. ft. garden center. The concept plan does not meet the minimum requirements of the County's Site Plan Code and cannot be used to satisfy that requirement. Also, interdepartmental reviews have

not been conducted and the feasibility of layout cannot be confirmed without a formal site plan review. Staff has prepared an Addendum to the Staff Comments outlining their preliminary comments.

BU-1-A zoning allows for limited retail shops and personal services to serve the needs of nearby low-density residential neighborhoods, and does not permit retail items to be displayed outdoors. The BU-1 zoning classification encompasses land devoted to general retail shopping, offices and personal services, and allows for more intensive retail uses than BU-1-A. BU-1 also allows retail items of substantial size to be displayed outdoors. Such retail items include, but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, and boats.

The developed character of the area is a mixture of residential, residential professional, neighborhood commercial, and institutional.

The Board may wish to consider whether this request to BU-1 is consistent and compatible with the surrounding area and whether the proposed BDP mitigates the potential impacts of the request. The Board may also wish to consider the 2018 Port St. John SAS recommendations.

On November 18, 2020, the Port St. John Dependent Special District Board heard the request and voted 6:1 for denial.

On November 23, 2020, the Planning and Zoning Board heard the request and unanimously recommended approval with the additional stipulation in the BDP that a gate be placed at the Adams Place driveway/service entrance.

### **Clerk to the Board Instructions:**

When resolutions are received, please execute and return to Planning and Development.



BOARD OF COUNTY COMMISSIONERS

Planning and Development

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

**Application for Zoning Action, Comprehensive Plan Amendment, or  
Variance**

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 20700031

Existing FLU: NC Existing Zoning: BU-1A

Proposed FLU: \_\_\_\_\_ Proposed Zoning: BU-1

**PROPERTY OWNER INFORMATION**

*and amendment to  
existing BDP*

If the owner is an LLC, include a copy of the operating agreement.

Carmine Ferraro Trustee 4725 Fay Blvd Land Trust

|                              |                     |                     |              |
|------------------------------|---------------------|---------------------|--------------|
| Name(s)                      | Company             |                     |              |
| <u>4265 Quechua Rd</u>       | <u>Port St John</u> | <u>FL</u>           | <u>32927</u> |
| Street                       | City                | State               | Zip Code     |
| <u>carmel32927@gmail.com</u> |                     | <u>321-536-5200</u> |              |
| Email                        | Phone               | Cell                |              |

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

|         |         |       |          |
|---------|---------|-------|----------|
| Name(s) | Company |       |          |
| Street  | City    | State | Zip Code |
| Email   | Phone   | Cell  |          |

## APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element \_\_\_\_\_
- ☐ Other Amendment (CP): \_\_\_\_\_
- ☒ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☒ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 1.59

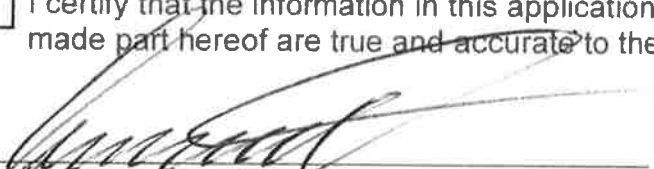
Reason for Request:

Property is under contract for sale to an Ace Hardware Developer that intends to build a +/-10,000SF freestanding retail store. The south driveway on Adams Place needs to be re-opened to create a safer situation for large truck and delivery vehicles that service both Family Dollar and the proposed user.



The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☐ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☐ An approval of this application does not entitle the owner to a development permit.
- ☐ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

  
Signature of Property Owner or  
Authorized Representative

Date

9/4/2020

State of Florida

County of Brevard

Subscribed and sworn to me before me this 4<sup>th</sup> day of, September, 20 20.

personally appeared Carmine Ferraro, who is personally known to me or  
produced FL DL as identification, and who did / did not take an oath.

  
Notary Public Signature

Seal



Office Use Only:

Accela No. 20Z00031 Fee: \$849.00 Date Filed: 9-2-2020 District No. 1

Tax Account No. (list all that apply) 2309941

Parcel I.D. No.

23 35 23 JM 81 12  
Twp Rng Sec Sub Block Lot/Parcel

Planner: PB Sign Issued by: PB Notification Radius: 500 ft

MEETINGS

DATE

TIME

☐ P&Z

☒ PSJ Board

November 18, 2020

6:00 p.m.

☐ NMI Board

☒ LPA

November 23, 2020

3:00 p.m.

☐ BOA

☒ BCC

December 3, 2020

5:00 p.m.

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials [Signature]

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☒ Yes ☐ No

If yes, list Port St. John

Location of subject property:

Description of Request:

Revise existing BDP &  
Rezone from BU-1-A To BU-1

ACCELA # 20200031

## DOCUMENT SUBMITTAL REQUIREMENTS

| Application type                          | Application               | Authorization to Act Form <sup>1</sup> | Recorded Property Deeds | Legal Description of Request <sup>2</sup> | Certified Survey <sup>8</sup> | Property Appraisers Map | Concurrency | School Concurrency <sup>3</sup> | Wetland Survey <sup>4</sup> | CUP Worksheet & Sketch <sup>5</sup> | Comp Plan Information <sup>6</sup> | Notice to Applicants | Neighbors Affidavit <sup>7</sup> | Letter to Zoning Official | Variance Hardship Worksheet <sup>9</sup> | *Additional Documentation | Fees |
|---|---------------------------|--|-------------------------|---|-------------------------------|-------------------------|-------------|---------------------------------|-----------------------------|-------------------------------------|------------------------------------|----------------------|----------------------------------|---------------------------|--|---------------------------|------|
|   | NUMBER OF COPIES REQUIRED |  |                         |   |                               |                         |             |                                 |                             |                                     |                                    |                      |                                  |                           |  |                           |      |
| Staff to check indicating receipt         | ✓                         | NA                                     | ✓                       | ✓   | NA                            | ✓                       |             | NA                              | NA                          |                                     |                                    | ✓                    |                                  |                           |  |                           | ✓    |
| Comprehensive Plan Amendment <sup>6</sup> | 1                         | 1                                      | 1                       | 2   | 2                             | 1                       |             | 1                               |                             |                                     | 1                                  |                      |                                  |                           |  | *                         | Y    |
| Zoning request                            | 1                         | 1                                      | 1                       | 1   | 1 <sup>8</sup>                | 1                       | 1           | 1                               | 1                           |                                     |                                    | 1                    |                                  |                           |  | *                         | Y    |
| Conditional Use Permit (CUP)              | 1                         | 1                                      | 1                       | 1   | 1 <sup>8</sup>                | 1                       |             |                                 |                             | 1                                   |                                    | 1                    |                                  |                           |  |                           | Y    |
| AA – Waiver                               | 1                         | 1                                      |                         |   | 1                             | 1                       |             |                                 |                             |                                     |                                    |                      | 1                                | 1                         |  |                           | Y    |
| AA – Easement or Flag lot                 | 1                         | 1                                      | 1                       | 1   | 1                             | 1                       |             |                                 |                             |                                     |                                    |                      |                                  |                           |  |                           | Y    |
| Variance                                  | 1                         | 1                                      | 1                       | 1   | 1                             | 1                       |             |                                 |                             |                                     |                                    |                      |                                  |                           | 1  | *                         | Y    |

<sup>1</sup>If the property is not owned in entirety by the applicant, either an Authorization to Act form or a notarized letter from each/all property owners of the subject property is required.

<sup>2</sup>Legal Description must be typed on a separate sheet, if not easily described on the deed.

<sup>3</sup>School Board Concurrency application is required if the request represents an increase of more than one residential unit.

<sup>4</sup>Wetland Survey required on Commercial or Industrial property.

<sup>5</sup>CUP applications require a completed worksheet and a sketch plan with the application signed by a planner.

<sup>6</sup>Must include Comprehensive Plan Amendment supplemental form reviewed by a planner prior to submitting formal application. The supplement must include a written statement explaining the rational and the appropriate data and analysis necessary to support the proposed change.

<sup>7</sup>Administrative waivers requiring a signed affidavit from all abutting property owners indicating no objection to the requested waiver of lot size, width or depth requirement. The affidavit must state the specific request.

<sup>8</sup>Survey must be submitted if requested by staff.

<sup>9</sup>Variance Hardship Worksheet must be filled out completely, addressing the six criteria for a hardship.

**\*Additional information may be requested by staff dependent upon the requested action. These include but are not limited to impact analysis studies:**

**Traffic Impact Analysis (TIA):** TIA must be submitted if required by the County Traffic Engineer. Analysis methodology must be coordinated with the Traffic Engineering Office.

**Environmental Impact Analysis:** The analysis must be conducted by a qualified environmental professional and dated less than one year old. The analysis must document the types of habitat found on site; identify vegetation types, soils types, wetlands, floodplain; and any other environmental concerns.

**Water and Sewer Demand:** Identify the potable water and sanitary sewer demand for the amendment based on the current and proposed future land use designations using the per capita water and wastewater standards of the applicable service provider.

# CALCULATION OF PUBLIC HEARING APPLICATION FEES -ZONING OFFICE

## **PUBLIC HEARING APPLICATION FEES**

**BASE FEE**

**ACREAGE FEE**

**UNIT FEE**

**SUB-TOTAL**

### **REZONING**

|                                    |          |                 |  |            |
|------------------------------------|----------|-----------------|--|------------|
| Environmental Area                 | 511.00   |                 |  |            |
| Residential Professional           | 960.00   |                 |  |            |
| General Use and Agricultural Use   | 849.00*  | ( -5) x 24**    |  |            |
| Single-Family Residential          | 849.00*  | ( -5) x 24**    |  |            |
| Single-Family Mobile Home          | 849.00*  | ( -5) x 24**    |  |            |
| → Commercial/Planned Commercial    | 1,184.00 | ( 2 ) x 24 = 48 |  | \$1,232.00 |
| Tourist Commercial                 | 1,855.00 | ( ) x 45        |  |            |
| Industrial/Planned Industrial      | 1,855.00 | ( ) x 45        |  |            |
| Planned Unit Development           | 5,661.00 | ( ) x 45        |  |            |
| Single-Family Attached Residential | 960.00   | ( ) x 24        |  |            |
| Multiple-Family Residential        | 960.00   | ( ) x 24        |  |            |
| Recreational Vehicle Park          | 1,408.00 | ( ) x 24        |  |            |
| Mobile Home Park/Mobile Home Co-op | 1,408.00 | ( ) x 24        |  |            |

### **CUP'S OR ROU APPLICATIONS**

|                                    |        |
|------------------------------------|--------|
| Fee per request (with rezoning)    | 447.00 |
| Fee per request (without rezoning) | 849.00 |

### **OTHER APPLICATION FEES**

|   |          |
|---|----------|
| Consultant fee Retainer per Tower Application     | 6,934.00 |
| Transfer of Development Rights                    | 1,520.00 |
| Comprehensive Plan Appeals (Vested Rights)        |          |
| One (5.0 acres or less) Single-family residential | 433.00   |
| All other Appeals                                 | 1,733.00 |
| Variance/Appeals of Administrative Interpretation |          |
| Base Fee  | 598.00   |
| Fee for each additional request                   | 182.00   |
| Special Hearing Fee for P & Z / LPA               | 3,692.00 |
| Special Hearing Fee for BOA                       | 1,872.00 |
| All Other Unlisted Zoning Applications            | 849.00   |
| Miscellaneous                                     |          |

### **COMPREHENSIVE PLAN AMENDMENTS**

|                                     |           |               |
|-------------------------------------|-----------|---------------|
| Small Scale Amendment               | 919.00    |               |
| Large Scale Amendment               | 1,785.00  | \$43 per acre |
| Maximum Fee on a Single Application | 17,334.00 |               |

SUB-TOTAL \*\*\*~~1,232.00~~  
300.00

### **FEES COLLECTED FOR ADMINISTRATIVE ACTIONS**

|   |        |
|---|--------|
| Office of Natural Resources zoning review (if applicable) | 300.00 |
| flag lot &/or easement review                             | 360.00 |
| Land Development PUD review                               | 100.00 |
| flag lot &/or easement review                             | 150.00 |
| Address Assignment review of flag lot &/or easement       | 100.00 |
| Zoning fee  | 277.00 |

### **BASE FEE ADJUSTMENTS**

|   |           |
|---|-----------|
| * If area for these requests have the potential for only one more lot, the fee is | 288.00    |
| ** Maximum acreage fees for these requests shall be                               | 2,240.00  |
| *** Maximum Planned Unit Development Fee shall be                                 | 13,432.00 |
| **** Maximum fee for all other zoning requests shall be                           | 8,955.00  |

TOTAL ~~1,532.00~~

**Zoning Information Worksheet**

Owner(s): Carmine Ferraro Trustee  
(Does this match the warranty deed?)

Applicant(s): Carmine Ferraro  
(Does this person have authorization from everyone listed on the warranty deed?)

Parcel ID#: 23-35-23-JM-81-10  
(If more than one parcel, they must share a property line to be on the same application.)

Present Zoning: B4-1-A

Is there a BDP or a CUP on the property? Yes/No: \_\_\_\_\_ (If yes, attach BDP)

Existing BDP states: No access to Adams Place  
See attached BDP

Requested Zoning/CUP: Rezone from B4-1-A to B4-1 and  
Revise BDP

BDP Requested? Yes/No: \_\_\_\_\_

If CUP Request, do you have a CUP worksheet filled out by the applicant? Yes/No

Previously Approved Zoning Actions on lot:

13PZ-00084, Z-11412, Z-10985(62), AZ-75

Is this a non-conforming lot of record? Yes/No/Why?

Non-Conforming to: \_\_\_\_\_

Is this a substandard lot? Yes/No/Why?

What is the FLU Designation of the property?: NC

- Is the requested zoning consistent with the FLU? Yes/No (See compatibility table)
- If no, what is the requested **small scale plan amendment**? (Must be 10 acres or less)

Change FLU To CC application 20PZ00088

Character of the Area – List the recent zoning changes in same section? (Last 3 years)

Action #, Date of action and State what changed?

Z# 18PZ00074

If this is a CUP request, list all CUP's on adjacent properties: NA

Abutting property zoning: N Road S RP/BU-1-A E RU-1-9 W BU-1-A

JPA/Special Board/Special Section? Yes/No (Circle one and make a note on the application) PSJ, NMI, MIRA  
ROCKLEDGE, MELBOURNE, PALM SHORES, TITUSVILLE, PALM BAY or within 500' of PALM BAY EXTENSION

Reason for Rezoning Request: Change zoning to BU-1 to have a Hardware Store (Ace Hardware) Revise BDP to allow access to Adams Place

- If proposing single-family or multi-family how many units? NA
- If proposing a CUP for alcohol, how many seats? NA Bar or Restaurant? NA
  - Do you have a certified survey indicating there are no churches or schools within 400'? Yes/No
  - Do you have a site plan showing the layout and parking configuration? Yes/No
  - Do you have a CUP worksheet filled out by the applicant? Yes/No
- If the request is for commercial zoning, do you have a wetland survey that includes a legal description of the wetland? Yes/No (If no, NR must have checked no on the front of the application)

Existing structures/uses on the property? Existing Church

Describe the character of the area based upon Administration Policy 3 of FLUE (attached):

Parcel and abutting Parcel to west have NC FLU, Parcel to South and East have Res 4 FLU. Closest CC is 600 ft west in Next Block

Concerns raised as part of request: There is no CC FLU in this Block abuts Res 4 to south and East

Other options discussed with applicant: Revise BDP only and Leave Parcel BU-1-A and FLU NC

Did you print out the Property Appraiser's Map for this property?  
Did you mark the map?  
Did you stamp the deed(s)?

Paul Boddy  
Planner Signature

9-4-2020  
Date

### **Administrative Policy 3**

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foresee ably be affected by the proposed use;
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
  - 1. Historical land use patterns;
  - 2. Actual development over the immediately preceding three years; and
  - 3. Development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.



**Planning & Development**  
**Central Cashier**  
 2725 Judge Fran Jamieson Way  
 Building A, Room 114  
 Melbourne, FL 32940

# **RECEIPT OF PAYMENT**

**Payment Date: 9/4/2020**  
**Receipt #: 578920**  
**Transaction Id# 884**

| Payment Method | Payment Reference # | Amount Paid | Comments |
|----------------|---------------------|-------------|----------|
| Check          | 884                 | \$1,532.00  |          |
|                |                     | \$1,532.00  | Total    |

## **4725 FAY BLVD SANCT, COCOA, FL 32927**

Zoning Rezoning \$1,532.00

**20Z00031**

| Fee             | Invoice # | Amount     |
|-----------------|-----------|------------|
| NRMO            | 680923    | \$300.00   |
| Zoning/Variance | 680923    | \$1,232.00 |

**Grand Total \$1,532.00**

**Additional Fees may apply to obtain a Certificate of Completion, a Certificate of Occupancy, Pre-Power, or Final Inspection.**  
**To verify fees please visit the Brevard County Planning & Development Search.**

[www.brevardcounty.us/PlanningDev](http://www.brevardcounty.us/PlanningDev)  
**P (321) 633-2068 F (321) 633-2052**



## Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

### NOTES:

- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ☐ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

carme133427@ or MAIL.COM  
e-mail address



fax number

or U.S. Mail \_\_\_\_\_

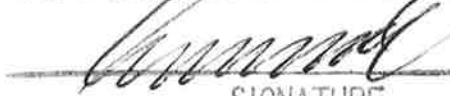
Yes/No

I have received a copy of this notice:

(APPLICANT SIGNATURE)

Prepared by and record and return to  
TIMOTHY F. PICKLES, ESQ.  
WATSON, SOULEAU, DELEO,  
BURGETT & PICKLES, P.A.  
3490 North U.S. Highway 1  
Post Office Box 236007  
Cocoa, FL 32923-6007  
(321) 631-1550  
07-1663  
REC \$18.50  
DOC \$

THIS INSTRUMENT CONTAINS THE OFFICIAL  
RECORD BOOK AND PAGE NUMBERS DESCRIBING  
THE PARCELS TO BE ADVERTISED.

  
SIGNATURE  
Less and except  
ORB 7510, Pages 2546-  
2549

**WARRANTY DEED**

GRANTOR Mission Investment Fund of the Evangelical Lutheran Church in America, Inc., a  
Minnesota not-for-profit corporation a/k/a Mission Investment Fund of the  
Evangelical Lutheran Church in America, a Minnesota not-for-profit corporation

GRANTEE Carmine Ferraro, as Trustee of the 4725 Fay Blvd Land Trust Agreement #1, dated  
2/10/2008, with full power and authority to protect, conserve, sell, lease or  
encumber, or otherwise to manage and dispose of the herein described property

GRANTEE'S MAILING ADDRESS 3860 Curtis Blvd, Unit 636  
Cocoa, FL 32927

DATE March 10, 2008

LEGAL DESCRIPTION OF PROPERTY LOCATED IN BREVARD COUNTY, FLORIDA

Lot 12, Block 81, except the East 45 feet thereof, PORT ST JOHN UNIT THREE, according  
to the plat thereof, as recorded in Plat Book 22, Pages 25 through 35, of the Public Records of  
Brevard County, Florida

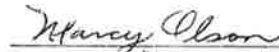
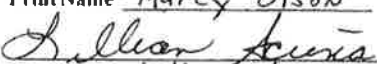
The grantor, for and in consideration of the sum of TEN DOLLARS, and other good and valuable  
considerations to the grantor in hand paid by the grantee, the receipt of which is acknowledged, has granted,  
bargained and sold to the grantee, and the grantee's heirs and assigns forever the land described above. The  
grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims  
of all persons whomsoever.

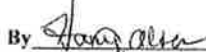
This conveyance is subject to restrictions and matters appearing on the plat or otherwise common to the  
subdivision, public utility easements of record and taxes for the year 2008, which are not yet due and  
payable.

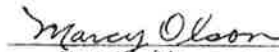
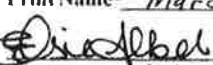
Execution of deed witnessed by


GRANTOR

Mission Investment Fund of the Evangelical  
Lutheran Church in America, Inc., a Minnesota  
not-for-profit corporation a/k/a Mission  
Investment Fund of the Evangelical Lutheran  
Church in America, a Minnesota not-for-profit  
corporation

  
Print Name Marcy Olson  
  
Print Name Lillian Acuna

By   
Print Name HARVEY OLSON  
As its Vice President  
8765 West Higgins Road, Chicago, IL 60631

  
Print Name Marcy Olson  
  
Print Name Elsie Albello

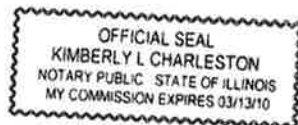
By   
Print Name Eva M. Roby  
As its Exec. Vice Pres.  
8765 West Higgins Road, Chicago, IL 60631

ACKNOWLEDGMENT

STATE OF Illinois  
COUNTY OF Cook

The foregoing instrument was acknowledged before me this 10 day of MARCH, 2008,  
by HARVEY OLSON, as its VICE PRESIDENT, of Mission Investment  
Fund of the Evangelical Lutheran Church in America, Inc, a Minnesota not-for-profit corporation  
a/k/a Mission Investment Fund of the Evangelical Lutheran Church in America, a Minnesota not-for-  
profit corporation who is personally known to me or who has produced a driver's license as identification  
and who did not take an oath

Notary Public



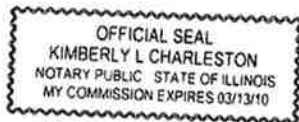
Kimberly L Charleston  
Name Kimberly L CHARLESTON  
State of Illinois at Large (SEAL)  
My Commission Expires 3-13-10

ACKNOWLEDGMENT

STATE OF Illinois  
COUNTY OF Cook

The foregoing instrument was acknowledged before me this 10 day of MARCH, 2008,  
by EVA M Ruby, as its EXEC VICE President of Mission Investment  
Fund of the Evangelical Lutheran Church in America, Inc, a Minnesota not-for-profit corporation  
a/k/a Mission Investment Fund of the Evangelical Lutheran Church in America, a Minnesota not-for-  
profit corporation who is personally known to me or who has produced a driver's license as identification  
and who did not take an oath

Notary Public



Kimberly L Charleston  
Name Kimberly L CHARLESTON  
State of Illinois at Large (SEAL)  
My Commission Expires 3-13-10

Appraiser's Identification Number 23-35-23-JM-81-12

Existing BDP  
20Z00031  
4725 Fay Blvd Land Trust

Prepared by : Carmine Ferraro, Trustee  
4725 Fay Blvd Land Trust #1, U/A/D 02/10/2008  
4265 Fay Blvd, Cocoa, FL 32927

## **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into on May 13, 2014 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and 4725 FAY BLVD LAND TRUST AGREEMENT #1 U/A/D 02/10/2008 (hereinafter referred to as "Developer/Owner").

### **RECITALS**

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner desires to develop the property as BU-1-A (Restricted Neighborhood Retail Commercial and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. Developer/Owner desires to modify that certain Binding Development Plan dated March 4, 2008 recorded in Official Record Book 5848, Page 4612, and

3. This agreement shall supercede in the event where there is a conflict with with any prior agreement in force.

4. Notwithstanding the uses permitted in BU-1-A, the Developer/Owner agrees that the following uses shall be prohibited: adult entertainment, package liquor stores, gaming rooms, adult arcade, internet café, billiard hall, single family residence, group homes, foster homes, resort dwellings, coin laundromat.

5. The Developer/Owner shall limit ingress and egress as follows:

A. Close existing Adams Place driveway permanently, which is located on southwest corner of property.

B. Construct full access driveway on Adams Place to line up with the driveway on the adjacent property to the west (Gas Station/ Convenience Store)

6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the property. This agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this property.

7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

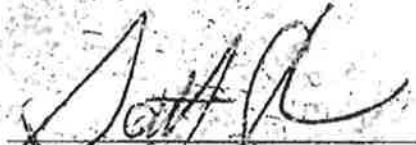
8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on May 13, 2014. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.

9. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.


10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s) unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action described in Paragraph 9 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

  
Scott Ellis, Clerk  
(SEAL)

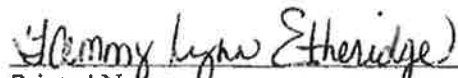
BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

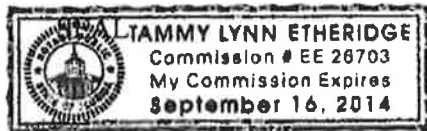
  
\_\_\_\_\_, Chairman  
As approved by the Board on MAY 13 2014


STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 13 day of May, 2014 by Mary Bolin Lewis, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Public:

  
Printed Name: Tammy Lynn Etheridge  
My commission expires: 9-16-14



STATE OF FLORIDA  
COUNTY OF BREVARD  
This is to certify that the foregoing  
is a true and current copy of Building  
Development Plan witness my hand  
and official seal this 22 day of  
May 2014  
SCOTT ELLIS, Clerk of Circuit Court  
BY  D.C.

[Signature]  
Printed Name: Iman G. Iden

[Signature]  
Printed Name: Diana L. Archambault

4725 FAY BLVD LAND TRUST AGREEMENT #1  
U/A/D 02/10/2008

By: [Signature]  
Its: Trustee

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2014, by Carmine Ferraro as Trustee of 4725 FAY BLVD LAND TRUST AGREEMENT #1 U/A/D 02/10/2008, who is personally known to me or who has produced \_\_\_\_\_ as identification.



SEAL

Notary Public

[Signature]  
Printed Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**Exhibit "A"**

**Legal Description:**

**Lot 12, Block 81, except the East 45 feet, PORT ST. JOHN UNIT THREE, according to the plat thereof, as recorded in Plat Book 22, Pages 25 through 35, of the Public Records of Brevard County, Florida.**

**Street Address: 4725 Fay Blvd.**



# JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Campanile, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

Joanne Pace  
(Signature)

LOUIS R. CAMPANILE  
(Print Name)

Joanne C. Pace

MORTGAGEE NAME/ADDRESS

Louis R. Campanile

9025 South Highway A1A  
Melbourne Beach, FL 32951

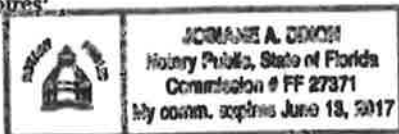
Louis R. Campanile  
(Mortgagee Signature)

STATE OF Florida §

COUNTY OF Indian River §

The foregoing instrument was acknowledged before me this 27<sup>th</sup> March day of, 20 14, by, who is personally known to me or who has produced Florida Driver License identification.

My commission expires:



Commission No.:

Notary Public

SEAL

(Name typed, printed or stamped)

WITNESSES:

Joanne C Pace  
(Signature)  
Joanne C Pace  
(Print Name)

MORTGAGEE NAME/ADDRESS

Eveline Campanile

9025 South Highway A1A  
Melbourne Beach, FL 32951

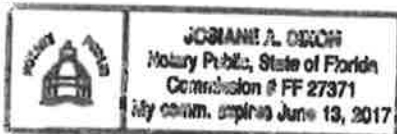
Eveline Campanile  
(Mortgagee Signature)

STATE OF Florida §

COUNTY OF Indian River §

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of March, 2016 by , who is personally known to me or who has produced Florida Driver License as identification.

My commission expires:



Commission No.:

Notary Public

SEAL

(Name typed, printed or stamped)

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Wurster, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

Kimberly Wurster  
WITNESSES:  
Scott Wurster  
(Signature)  
SCOTT WURSTER  
(Print Name)  
Kimberly Wurster

MORTGAGEE NAME/ADDRESS

Scott Wurster

1630 N. Henry  
Cocquille, Oregon, 97423

Scott Wurster  
(Mortgagee Signature)

STATE OF Oregon §

COUNTY OF Coos §

The foregoing instrument was acknowledged before me this 26<sup>th</sup> <sup>March</sup> day of, 2014, by, who is personally known to me or who has produced \_\_\_\_\_ as identification. by Scott Wurster.

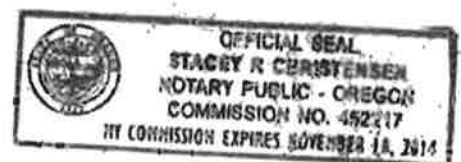
My commission expires: 11-18-2014

Stacey R Christensen  
Notary Public

SEAL \_\_\_\_\_

Commission No.: 452217

(Name typed, printed or stamped)



Scott Wurster

WITNESSES:

Kimberly Wurster  
(Signature)

Kimberly Wurster  
(Print Name)

SCOTT WURSTER

MORTGAGEE NAME/ADDRESS

Kimberly Wurster

1630 N. Henry  
Cocquille, Oregon, 97423

Kimberly Wurster  
(Mortgagee Signature)

STATE OF Oregon §

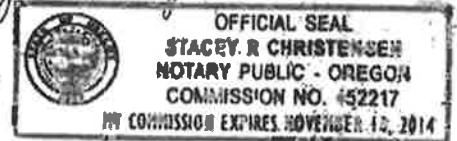
COUNTY OF Coos §

The foregoing instrument was acknowledged before me this 26<sup>th</sup> <sup>March</sup> day of, 2014, by, who is personally known to  
me or who has produced \_\_\_\_\_ as identification. by Kimberly Wurster

My commission expires: 11-18-2014

Stacey Christensen

Notary Public



SEAL \_\_\_\_\_

(Name typed, printed or stamped)

Commission No.: 452217

# JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Yusem, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

  
(Signature)

PATRICK GAUSSO  
(Print Name)

MORTGAGEE NAME/ADDRESS

Melvyn R. Yusem

10522 SW 133<sup>rd</sup> Place  
Miami, Florida 33186

  
(Mortgagee Signature)

STATE OF FLORIDA §

COUNTY OF MIAMI-DADE §

The foregoing instrument was acknowledged before me this 31 day of, 2014, by , who is personally known to me or who has produced DL# as identification.

My commission expires:

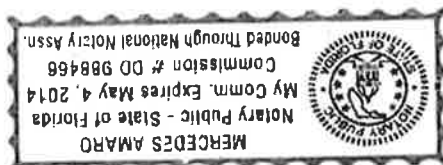
Notary Public



SEAL

(Name typed, printed or stamped)

Commission No.:



WITNESSES:

[Signature]  
(Signature)

PATRICK GOUSSA  
(Print Name)

MORTGAGEE NAME/ADDRESS

Tina Yusem

10522 SW 133<sup>rd</sup> Place  
Miami, Florida 33186

[Signature]  
(Mortgagee Signature)

STATE OF FLORIDA §

COUNTY OF MIAMI-DADE §

The foregoing instrument was acknowledged before me this 31 day of, 2014, by , who is personally known to me or who has produced DL as identification.

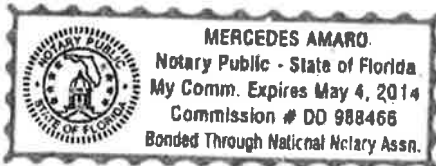
My commission expires:

Notary Public

SEAL

(Name typed, printed or stamped)

Commission No.:



JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Salib, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

Jennifer P. Roland  
(Signature)

Jennifer P. Roland  
(Print Name)

MORTGAGEE NAME/ADDRESS

Sami K. Salib

415 S. Carpenter Road  
Titusville, Florida 32796

Sami K. Salib  
(Mortgagee Signature)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of April, 2014, by who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



JONDA ERWIN  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm. # EE 122311  
Expires 2/13/2016

Commission No.:

Notary Public

Jonda Erwin

SEAL \_\_\_\_\_

(Name typed, printed or stamped)

WITNESSES:

[Signature]  
(Signature)

Jennifer P. Roland  
(Print Name)

MORTGAGEE NAME/ADDRESS

Violette W. Salib

415 S. Carpenter Road  
Titusville, Florida 32796

Violet W. Salib  
(Mortgagee Signature)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> April day of, 20 14, by [Signature] who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



JONDA ERWIN  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# EE168911  
Expires 2/13/2018

Commission No.:

Notary Public

Jonda Erwin

SEAL

(Name typed, printed or stamped)



JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser – Odenheimer, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

Renee Prager  
(Signature)

Renee Prager  
(Print Name)

MORTGAGEE NAME/ADDRESS

Mark Odenheimer

545 Avon Court  
River Vale, New Jersey 07675

[Signature]  
(Mortgagee Signature)

STATE OF NY §

COUNTY OF NY §

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2014, by , who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:

Commission No.:

Notary Public

SEAL

(Name typed, printed or stamped)

**DIANE T. WORLEY**  
Notary Public, State of New York  
No. 01WO6114444  
Qualified in New York County  
Commission Expires August 16, 2016

# JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Carmel, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

Diana L Archambault  
(Signature)

Diana L Archambault  
(Print Name)

MORTGAGEE NAME/ADDRESS

Carmel Development, LLC

3860 Curtis Blvd #636  
Port St. John, Florida 32927

Carmine Ferraro, President  
CCB Holdings, Inc  
AS MANAGING MEMBER.

STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2014, by Carmine Ferraro, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



Commission No.:

Notary Public

SEAL Diana L Archambault

(Name typed, printed or stamped)

WITNESSES:

Diana L. Archambault  
(Signature)

Diana L. Archambault  
(Print Name)

MORTGAGEE NAME/ADDRESS

Carmine Ferraro

4265 Quechua Road, Cocoa, FL  
Port St. John, Florida 32927

[Signature]  
(Mortgagee Signature)

STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2014, by Carmine Ferraro, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



Commission No.:

Notary Public

SEAL

[Signature]  
(Name typed, printed or stamped)

WITNESSES:

Diana L. Archambault  
(Signature)

Diana L. Archambault  
(Print Name)

MORTGAGEE NAME/ADDRESS

Pamela S. Ferraro

4265 Quechua Road, Cocoa, FL  
Port St. John, Florida 32927

Pamela S. Ferraro  
(Mortgagee Signature)

STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2014, by Pamela S. Ferraro, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



Commission No.:

Notary Public

SEAL

[Signature]  
(Name typed, printed or stamped)

This instrument prepared by and return to:  
Timothy F. Pickles, Esquire  
WATSON, SOILEAU, DELEO, BURGETT,  
PICKLES & BAUGHAN, P.A.  
Post Office Box 236007  
Cocoa, Florida 32923-6007  
Our File No 04-3989  
REC. \$10.00

### ASSIGNMENT OF INTEREST IN NOTE AND MORTGAGE

The undersigned, being one of the owners and holders of the note and mortgage herein described

MORTGAGOR CARMINE FERRARO, AS TRUSTEE OF THE 4725 FAY BOULEVARD LAND TRUST AGREEMENT NO 1 U/A/D FEBRUARY 10, 2008

MORTGAGEE JOSIAH B RUTTER REVOCABLE LIVING TRUST

DATED March 1, 2008

ENCUMBERING THE FOLLOWING DESCRIBED PROPERTY

LOT 12, BLOCK 81, EXCEPT THE EAST 45 FEET THEREOF, PORT ST JOHN UNIT THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 22, PAGE 25 THROUGH 35, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

AND RECORDED IN OFFICIAL RECORDS BOOK 5856, PAGE 2065, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, SAID MORTGAGE GIVEN TO SECURE A DEBT IN THE ORIGINAL PRINCIPAL SUM OF THIRTY THOUSAND (\$30,000.00) DOLLARS

hereby assigns his interest in said note and mortgage without recourse, for consideration received, to CARMEL DEVELOPMENT, LLC, a Florida limited liability company, whose mailing address is 3860 Curtus Boulevard #36, Port St John, FL 32924, effective 1-7, 2009 2010

DATED THIS 7<sup>th</sup> DAY OF JANUARY, 2009 2010

JOSIAH B RUTTER REVOCABLE LIVING TRUST

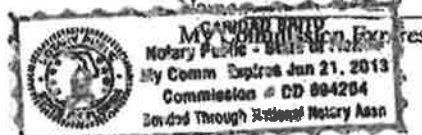
BY [Signature]  
JOSIAH B RUTTER, TRUSTEE

### ACKNOWLEDGMENT

STATE OF FLORIDA  
COUNTY OF DADE

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of JANUARY, 2009 2010, by JOSIAH B RUTTER, individually and as Trustee of the Josiah B Rutter Revocably Living Trust, who is personally known to me or who has produced \_\_\_\_\_ as identification and who did not take an oath

Notary Public



(SEAL)

Prepared by : Carmine Ferraro, Trustee  
4725 Fay Blvd Land Trust #1, U/A/D 02/10/2008  
4265 Fay Blvd, Cocoa, FL 32927

## **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into on \_\_\_\_\_, 2020 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and 4725 FAY BLVD LAND TRUST AGREEMENT #1 U/A/D 02/10/2008 (hereinafter referred to as "Developer/Owner").

### **RECITALS**

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner desires to develop the property as BU-1 (as a hardware store with outdoor garden center) and pursuant to the Brevard County Code, Section 62-1482; and

WHEREAS, as part of its plan for development of the property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. Developer/Owner desires to modify that certain Binding Development Plan dated March 4, 2008 recorded in Official Record Book 5848, Page 4612, and subsequently modified again on May 13, 2014 recorded in Official Record Book 7129, Page 1312

3. This agreement shall supercede in the event where there is a conflict with with any prior agreement in force.

4. Notwithstanding the uses permitted in BU-1, the Developer/Owner agrees that all of the uses listed in BU-1 shall remain prohibited unless permitted in BU-1A, except the following ; Hardware store with outdoor garden center. Developer shall retain the right to all permitted uses listed in the BU-1A (Restricted Neighborhood Retail Commercial) pursuant to the Brevard County Code, Section 62-1481

5. The Developer/Owner shall modify the access as follows; open the previously closed Adams Place driveway which is located on southwest corner of property.

6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the property. This agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this property.

7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on \_\_\_\_\_. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.

9. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s) unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action described in Paragraph 9 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

\_\_\_\_\_, Chairman  
As approved by the Board on \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Public:

SEAL

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

WITNESSES:

DEVELOPER/OWNER

4725 FAY BLVD LAND TRUST AGREEMENT #1

U/A/D 02/10/2008

Printed Name: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Printed Name: \_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_ as \_\_\_\_\_ of 4725 FAY BLVD LAND TRUST AGREEMENT #1 U/A/D 02/10/2008, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Public

SEAL

Printed Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_



**Exhibit "A"**

Legal Description:

Lot 12, Block 81, except the East 45 feet, PORT ST. JOHN UNIT THREE, according to the plat thereof, as recorded in Plat Book 22, Pages 25 through 35, of the Public Records of Brevard County, Florida.

Street Address: 4725 Fay Blvd.

Less and Except:

**A PORTION OF LOT 12, BLOCK 81, EXCEPT THE EAST 45 FEET THEREOF, PORT ST. JOHN UNIT THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 22, PAGES 25 THROUGH 35, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 12, BLOCK 81, THENCE ALONG THE WEST LINE OF SAID LOT 12, ALONG THE EAST RIGHT OF WAY OF ADAMS PLACE, N 00°27'48" W, 55.75 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE WEST LINE OF SAID LOT 12, ALONG THE EAST RIGHT OF WAY OF ADAMS PLACE N 00°27'48" W, 224.25 FEET TO A POINT OF CURVATURE; THENCE 39.27 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", AND A CHORD BEARING AND DISTANCE OF N 44°32'12" E, 35.36 FEET TO A POINT OF TANGENCY; THENCE ALONG THE NORTH LINE OF SAID LOT 12, ALONG THE SOUTH RIGHT OF WAY OFF AY BOULEYARD, N 89°32'12" E, 165.35 FEET; THENCE DEPARTING THE NORTH LINE OF SAID LOT 12, S 00°27'48" E, 103.70 FEET; THENCE S 89°32'12" W, 27.60 FEET; THENCE S 00°27'48" E, 125.00 FEET; THENCE S 71°25'18" W, 109.57 FEET; THENCE N 77°28'34" W, 60.15 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 0.99 ACRES MORE OR LESS.**

Street Address: 4755 Fay Blvd



# Brevard County Property Appraiser

Titusville • Viera • Melbourne • Palm Bay

## PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 2309941  
Owners Ferraro, Carmine Trustee  
Mailing Address 3860 Curtis Blvd 636 Cocoa FL 32927  
Site Address 4725 Fay Blvd Unit Sanct Cocoa FL 32927  
Parcel ID 23-35-23-JM-81-12  
Property Use 7100 - Church  
Exemptions None  
Taxing District 1900 - Unincorp District 1  
Total Acres 1.59  
Subdivision Port St John Unit 3  
Site Code 0307 - Fay Blvd  
Plat Book/Page 0022/0025  
Land Description Port St John Unit 3 Lot 12 Blk 81 Exc E 45 Ft & Orb  
7306 Pg 436

## VALUE SUMMARY

| Category                  | 2020      | 2019      | 2018      |
|---------------------------|-----------|-----------|-----------|
| Market Value              | \$272,860 | \$302,830 | \$279,830 |
| Agricultural Land Value   | \$0       | \$0       | \$0       |
| Assessed Value Non-School | \$272,860 | \$302,830 | \$279,830 |
| Assessed Value School     | \$272,860 | \$302,830 | \$279,830 |
| Homestead Exemption       | \$0       | \$0       | \$0       |
| Additional Homestead      | \$0       | \$0       | \$0       |
| Other Exemptions          | \$0       | \$0       | \$0       |
| Taxable Value Non-School  | \$272,860 | \$302,830 | \$279,830 |
| Taxable Value School      | \$272,860 | \$302,830 | \$279,830 |

## SALES/TRANSFERS

| Date       | Price     | Type | Parcel   | Deed      |
|------------|-----------|------|----------|-----------|
| 03/14/2008 | --        | QC   | Improved | 5850/4857 |
| 03/10/2008 | \$450,000 | WD   | Improved | 5850/5050 |
| 08/14/2007 | --        | QC   | Improved | 5809/9719 |
| 08/21/2006 | \$334,500 | WD   | Improved | 5712/7016 |
| 11/01/1997 | \$77,000  | 07   | Vacant   | 3730/1529 |
| 02/09/1988 | --        | QC   | --       | 2885/2876 |
| 08/18/1986 | \$58,000  | WD   | --       | 2725/0742 |

## BUILDINGS

### PROPERTY DATA CARD #1

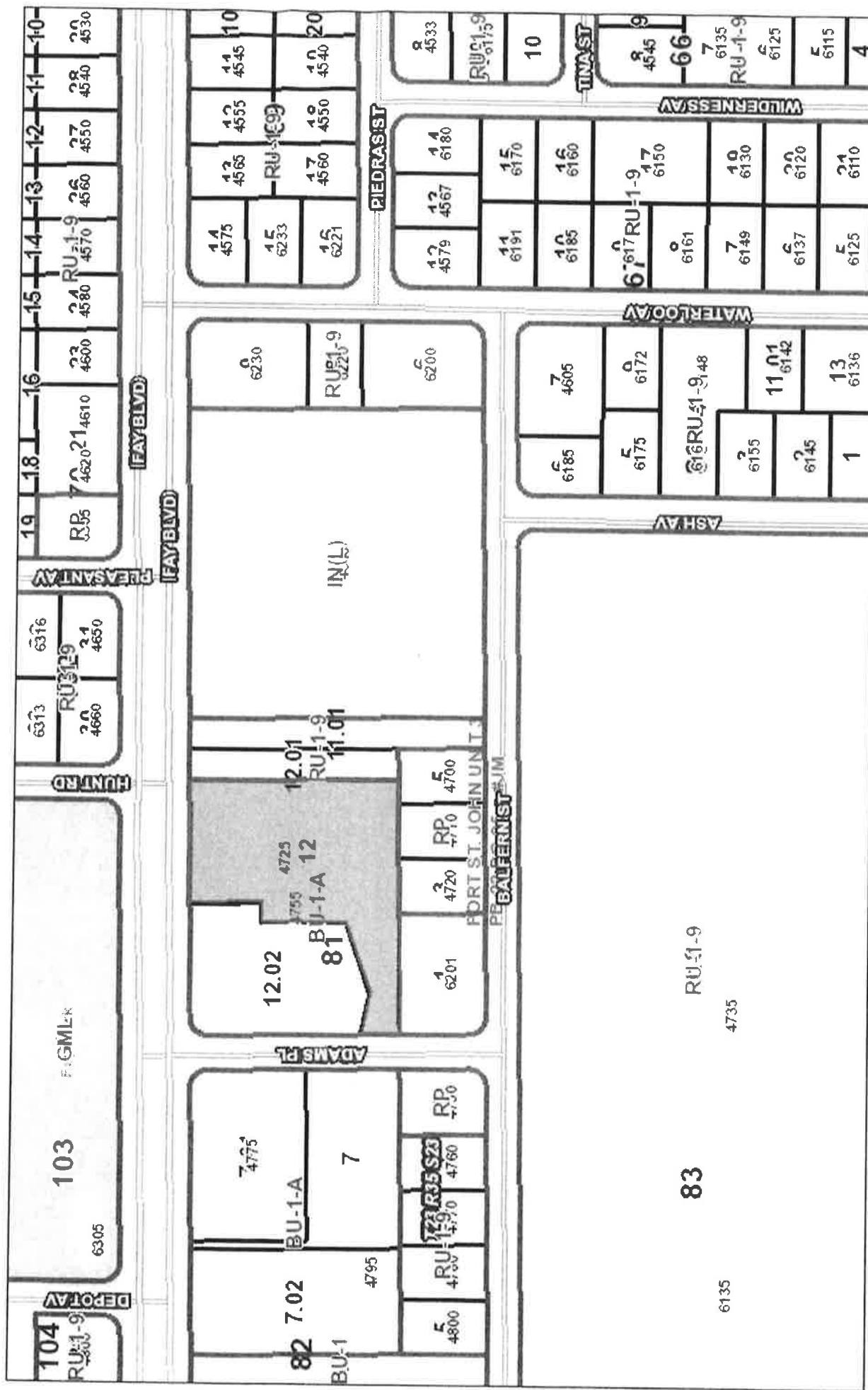
Building Use: 7100 - Church

| Materials       | Details         |                     |
|-----------------|-----------------|---------------------|
| Exterior Wall:  | Vinyl/Aluminum  | Year Built 1999     |
| Frame:          | Wood Frame      | Story Height 9      |
| Roof:           | Bu-Tg/Mmbm      | Floors 1            |
| Roof Structure: | Bar Joist Rigid | Residential Units 0 |
|                 |                 | Commercial Units 0  |

### Sub-Areas

|                 | Extra Features       |        |
|-----------------|----------------------|--------|
| Base Area (1st) | 2,880 Covered Patio  | 1,200  |
| Carport         | 672 Paving - Asphalt | 24,272 |

# ArcGIS Web Map



| Section | Zoning |
|---------|--------|
|         |        |

Address

Street Label

1:2,400

0.08 mi

0.13 km

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

### **Administrative Policy 1**

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

#### **Criteria:**

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

### **Administrative Policy 3**

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
  2. actual development over the immediately preceding three years; and
  3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

##### **Criteria:**

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
  1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
  2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
  3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

#### **Administrative Policy 5**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

##### **Criteria:**

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

#### **Administrative Policy 6**

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

#### **Administrative Policy 7**

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

#### **Administrative Policy 8**

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application.”

### **CONDITIONAL USE PERMITS (CUPs)**

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.
- (c) General Standards of Review.
  - (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
- b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
- c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

(2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.



- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

## DEFINITIONS OF CONCURRENCY TERMS

**Maximum Acceptable Volume (MAV):** Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

**Current Volume:** Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

**Volume with Development (VOL W/DEV):** Equals Current Volume plus trip generation projected for the proposed development.

**Volume/Maximum Acceptable Volume (VOL/MAV):** Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

**Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV):** Ratio of volume with development to the Maximum Acceptable Volume.

**Acceptable Level of Service (CURRENT LOS):** The Level of Service at which a roadway is currently operating.

**Level of Service with Development (LOS W/DEV):** The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**20Z00031**

**4725 Fay Blvd Land Trust**

**BU-1-A (Restricted Neighborhood Retail Commercial) with BDP (Binding Development Plan) to  
BU-1 (General Retail Commercial) with amendment to existing BDP**

Tax Account Number: 2309941  
Parcel I.D.: 23-35-23-JM-81-12  
Location: On the south side of Fay Blvd., 190 feet east of Adams Place,  
in the Port St. John area (District 1)  
Acreage: 1.59 acre  
  
Port St. John Board: 11/18/2020  
Local Planning Agency: 11/23/2020  
Board of County Commissioners: 12/03/2020

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

|  | <b>CURRENT</b>                      | <b>PROPOSED</b>                                      |
|--|-------------------------------------|--|
| <b>Zoning</b>  | BU-1-A with BDP                     | BU-1 with amended BDP**                              |
| <b>Potential*</b>  | 13,852 sq. ft. Commercial           | 13,852 sq. ft. commercial                            |
| <b>Can be Considered under the<br/>Future Land Use Map</b> | Yes NC<br>(Neighborhood Commercial) | No,<br>BU-1 requires CC***<br>(Community Commercial) |

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

\*\* The applicant has submitted a BDP (Binding Development Plan) to amend the existing BDP.

\*\*\* The applicant has submitted a companion Small Scale Comprehensive Plan Amendment application to change the Future Land Use Map (FLUM) from NC (Neighborhood Commercial) to CC (Community Commercial) under **20PZ00088**.

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from BU-1-A (Restricted Neighborhood Retail Commercial) to BU-1 (General Retail Commercial) and to amend an existing Binding Development Plan (BDP) for the purpose of developing a hardware store with an outdoor garden center. A hardware store is not a permitted use in BU-1-A zoning, but it is a permitted use in BU-1

zoning. Bu-1 zoning classification is considered to be consistent with CC Future Land Use Designation

The applicant has not provided a site plan showing the location, size, access and parking for the proposed hardware store with outdoor garden center.

The applicant is also seeking to amend the existing BDP (Binding Development Plan). The existing BDP (**13PZ-00084**), which includes the Family Dollar property, states *"the Developer/Owner agrees that the following uses shall be prohibited: adult entertainment, package liquor stores, gaming rooms, adult arcade, internet cafe, billiard hall, single family residence, group homes, foster homes, resort dwellings, coin laundromat"*.

Along with, *The Developer/Owner shall limit ingress and egress as follows:*

*A. Close existing Adams Place driveway permanently, which is located on the southwest corner of property.*

*B. Construct full access driveway on Adams Place to line up with the driveway on the adjacent property to the west (Gas Station / Convenience Store). The Family Dollar drive aligns with the gas station / convenience store.*

The closing of the existing driveway on the southwest corner of Adams Place as stated on the existing BDP was to limit traffic on Adams Place because of children and pedestrians accessing the public school on Balfern Street just south of the parcel.

In the proposed BDP, the Developer/Owner agrees to limit to all BU-1-A uses and limiting the BU-1 uses to a hardware store with an outdoor garden center only. The applicant is also requesting to open the previously closed Adams Place driveway located on the southwest corner of the property for ingress and egress that was closed in the previous BDP. The previous BDP (**13PZ-00084**) prohibited the following BU-1-A uses: adult entertainment, package liquor stores, gaming rooms, adult arcade, internet cafe, billiard hall, single family residence, group homes, foster homes, resort dwellings, coin laundromat". These prohibited BU-1-A uses would remain prohibited in the proposed BDP.

BU-1-A zoning allows for limited retail shops and personal services to serve the needs of nearby low-density residential neighborhoods. BU-1-A does not permit retail items to be displayed outside the buildings. Also, BU-1 zoning classification encompasses land devoted to general retail shopping, offices and personal services. BU-1 allows for more intensive retail uses than BU-1-A such as automobile repair (minor), automobile sales and storage, automobile tires and mufflers (new), sales and service. BU-1 zoning also permits the manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products. BU-1 also allows retail items of substantial size be permitted to be displayed outside the buildings. Such retail items include, but are not limited to motor vehicles, utility sheds, nursery items such as plants and trees, and boats.

October, 1975, Administrative zoning action **AZ-75** changed the zoning from RU-1 to RU-1-9.

December, 2004, Administrative zoning action **Z-10985(62)** changed the zoning from RU-1-9 to IN(L) (Institutional Use Low Intensity) for an existing church built in 1999.

December, 2007, Zoning action **Z-11412** changed the zoning from IN(L) (Institutional Use Low Intensity) to BU-1-A with a BDP.

March 06, 2014, Zoning action **13PZ-00084** removed existing BDP in BU-1-A zoning and replaced the existing BDP with a new BDP.

The 2018, PSJ SAS did not recognize any Future Land Use (FLU) or zoning changes were needed for this property.

## **Land Use**

The subject property retains the NC (Neighborhood Commercial) FLU (Future Land Use) designation. The current BU-1-A zoning is consistent with the NC Future Land Use designation per 62-1255 (2). The proposed BU-1 zoning is not consistent with the current NC Future Land Use designation. A companion Small-Scale, Comprehensive Plan Amendment (SSCPA) application, **20S.10 (20PZ00088)** to change the Future Land Use designation from NC to CC (Community Commercial) was submitted accompanying this zoning request for the proposed BU-1 zoning to be consistent with the FLU designation.

## **Environmental Constraints**

### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Fay Blvd., between Grissom Parkway and Highway US-1, which has a Maximum Acceptable Volume (MAV) of 33,800 trips per day, a Level of Service (LOS) of D, and currently operates at 42.38% of capacity daily. The maximum development potential from the proposed rezoning and BDP limiting the development to a Hardware store increases the percentage of MAV utilization by 02.10%. With the maximum development potential for the proposed Hardware/Paint store, the corridor is anticipated to operate at 44.48% of capacity daily (LOS D). The maximum development potential of the proposed Hardware store would not create a deficiency in LOS.

No school concurrency information has been provided as this is a proposed commercial development.

The parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located directly in front of the parcel in the center of Fay Blvd.

The parcel is serviced by The City of Cocoa water.

Land Use Policy 1.2 addresses residential density requirements for sewer and potable water. This policy does not address commercial development requiring sewer and potable water.

### **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.** The companion application (**20PZ00088**) proposed change to the FLUM on this parcel is from NC (Neighborhood Commercial) to CC (Community Commercial). The proposed change to the zoning from BU-1-A to BU-1 is consistent with the proposed change to the FLUM to CC, if it were to be approved.

There is no CC (Community Commercial) FLU in the surrounding block of this parcel. The abutting parcel to the west has FLU of NC (Neighborhood Commercial). The abutting parcels to the east and south have FLU of RES 4 (Residential 4).

The Community Commercial (CC) corridors are approximately 1.3 miles east and west of the subject parcel.

On October 4, 2018, the Board of County Commissioners directed staff to conduct a Small Area Study of Port St. John after a request was made to change the Future Land Use designation from Residential 4 (RES 4) to Community Commercial (CC) and a Zoning change request from Institutional Use – Low Intensity (IN(L)) to General Retail Commercial (BU-1) on a 1.78 acre parcel of land located on the south side of Fay Boulevard, west of the subject parcel. This property remains vacant.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The subject parcel is currently zoned BU-1-A and is developed with an existing church built 1999.

The surrounding area in the same block of the subject parcel has FLU designations of NC and RES 4 which are not consistent with the proposed BU-1 zoning classification.

There has been one zoning action along with a change to the FLU within a half-mile of the subject property within the last four years.

On October 04, 2018, application **18PZ00073**, a companion small scale application to the rezoning application **18PZ00074**, changed the FLU from RES 4 to CC on the easterly 1.78 acres of the parcel, located on the south side of Fay Blvd, approximately 465 feet west of the subject property.

On January 19, 2019, application **18PZ00074** changed the zoning from IN(L) to BU-1 with a Binding Development Plan (BDP) limiting development to an approximate 9,300 sq. ft. retail store on the east 1.78 acres of the parcel, located on the south side of Fay Blvd, approximately 465 feet west of the subject property.

## **Surrounding Properties**

The abutting parcel to the east is a vacant parcel with RU-1-9 zoning. Further to the east in the same block is IN(L) developed parcel with a Church and RU-1-9 zoned lots developed with single-family homes.

The abutting parcels to the south have RP (Residential Professional) zoning and BU-1-A zoning. The RP zoned parcels are vacant land and the BU-1-A zoned parcel is developed with a Day Care Center.

The abutting parcel to the west has BU-1-A zoning and is subject to the same BDP and conditions that is on the subject parcel. This BDP limits the BU-1-A uses, and requires an ingress/egress driveway constructed on Adams Place to line up with the convenience store's driveway on the west side of Adams place. The BDP also states to close the existing Adams Place driveway permanently which is located at the Southwest corner of the parcel. This parcel is developed with a commercial neighborhood retail store, Family Dollar.

The block to the west of the subject parcel, along the west side of Adams Place, has BU-1-A and RP zoning. The BU-1-A zoned parcels are developed with commercial buildings. The RP zoned parcel is developed with a single-family residence. Also, in this block there is a parcel approximately 465 feet west of the subject property with BU-1 zoning (**18PZ00074**) which has a FLU of CC.

The current BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

The proposed BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

IN(L) is an Institutional (Light) classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

RP is a residential-professional zoning classification, intended to promote low to medium density residential development along with low intensity commercial usage. Minimum lot area requirements in the RP classification are 7,500 square feet, with 75 feet of width and depth.

## **For Board Consideration**

The Board may wish to consider whether this request to BU-1 is consistent and compatible with the surrounding area and whether the proposed Binding Development Plan mitigates the potential impacts of the request. The Board may also wish to consider the 2018 Port St. John SAS recommendations.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review & Summary**  
**Item # 20Z00031**

**Applicant:** Carmine Ferraro

**Zoning Request:** BU-1A to BU-1 with BDP Amendment

**Note:** Applicant wants hardware store with outdoor garden center.

**PSJ Hearing Date:** 11/18/20; **LPA Hearing Date:** 11/23/20; **BCC Hearing Date:** 12/03/20

**Tax ID No:** 2309941

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

**Land Use Comments:**

**Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Paola fine sand, Tavares fine sand and Orsino fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

**Protected and Specimen Trees**

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.



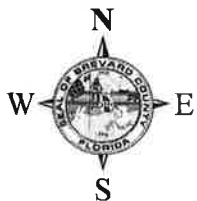
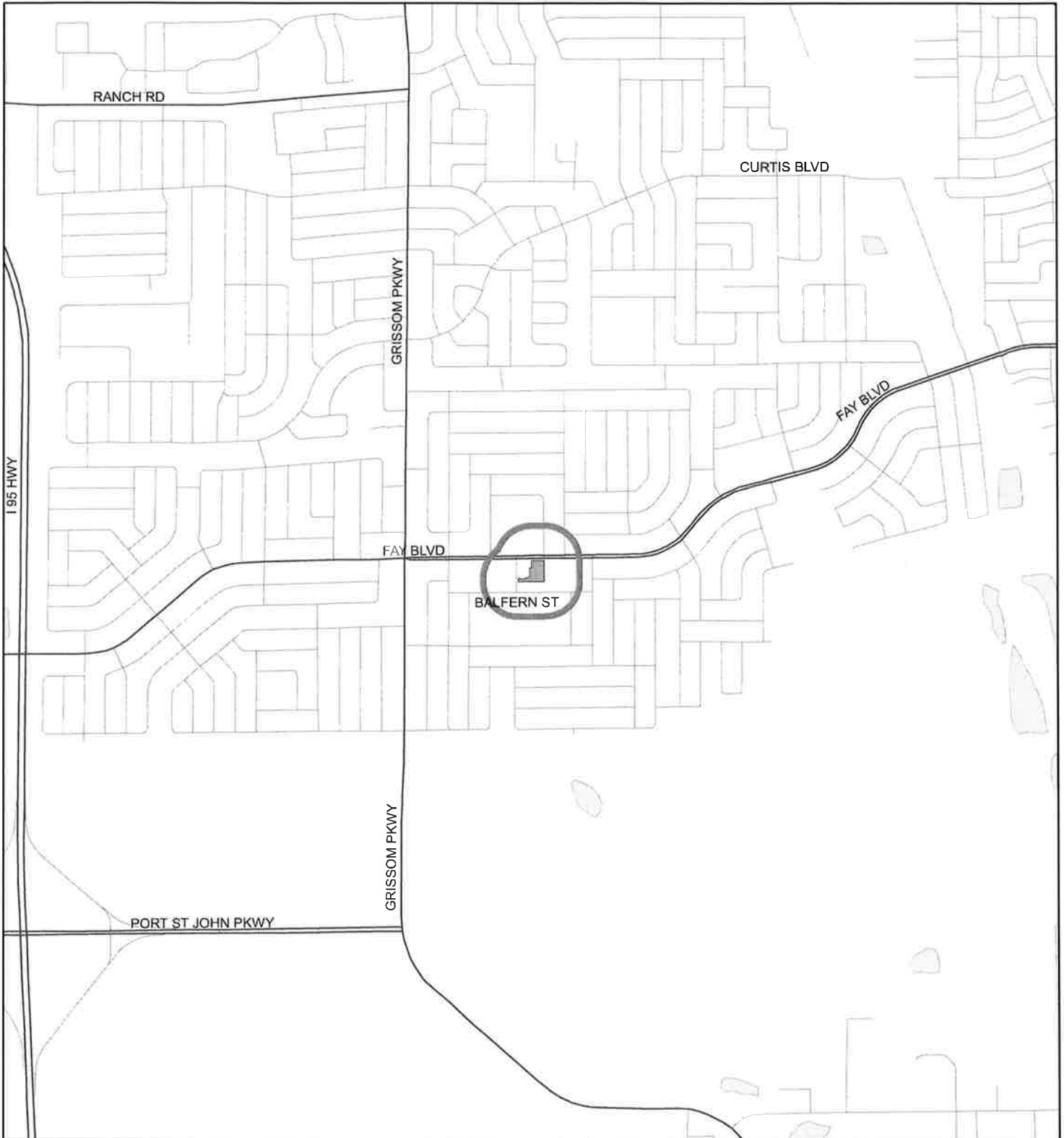
**Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. In addition, a large Florida Scrub Jay polygon is mapped over the parcel and surrounding areas. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

# LOCATION MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/8/2020

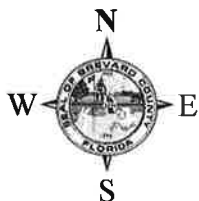
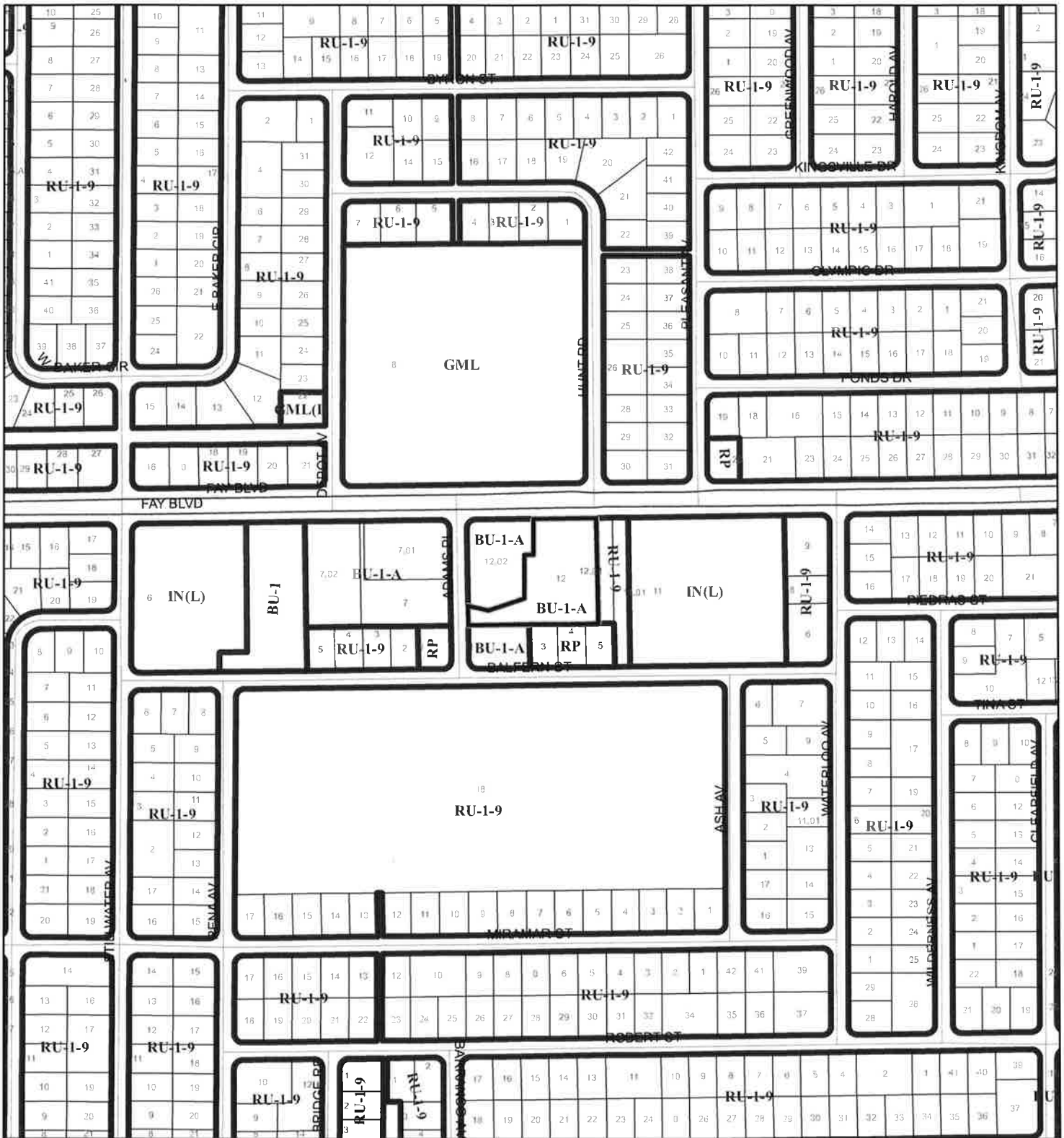
— Buffer

■ Subject Property

# ZONING MAP

## 4725 FAY BLVD LAND TRUST

### 20Z00031



1:4,800 or 1 inch = 400 feet

- Subject Property
- Parcels
- Zoning

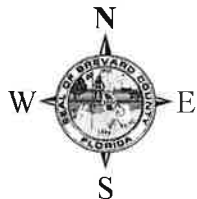
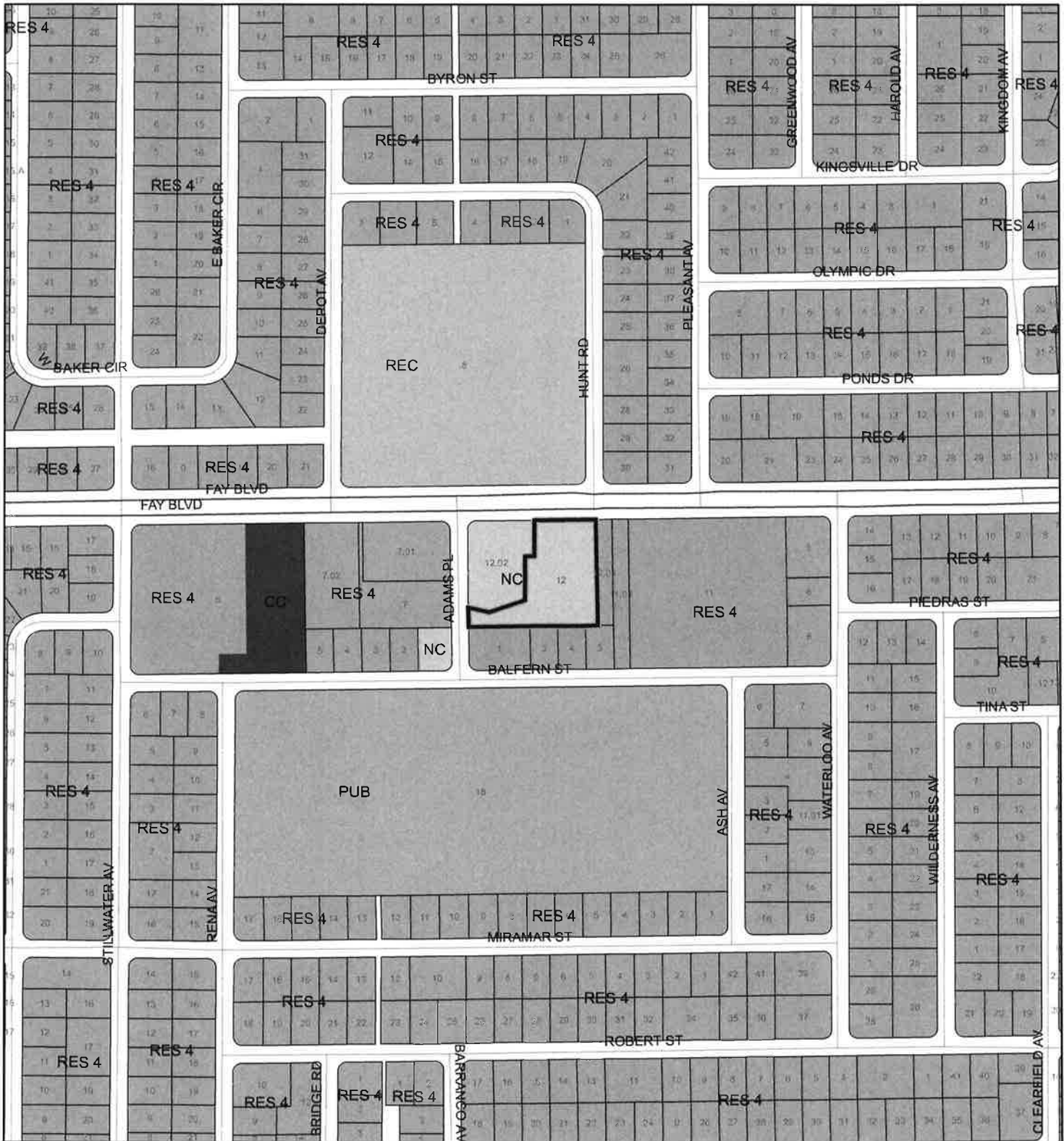
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/8/2020

# FUTURE LAND USE MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

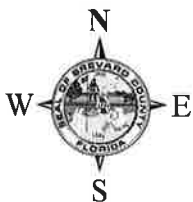
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/8/2020

# AERIAL MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/8/2020

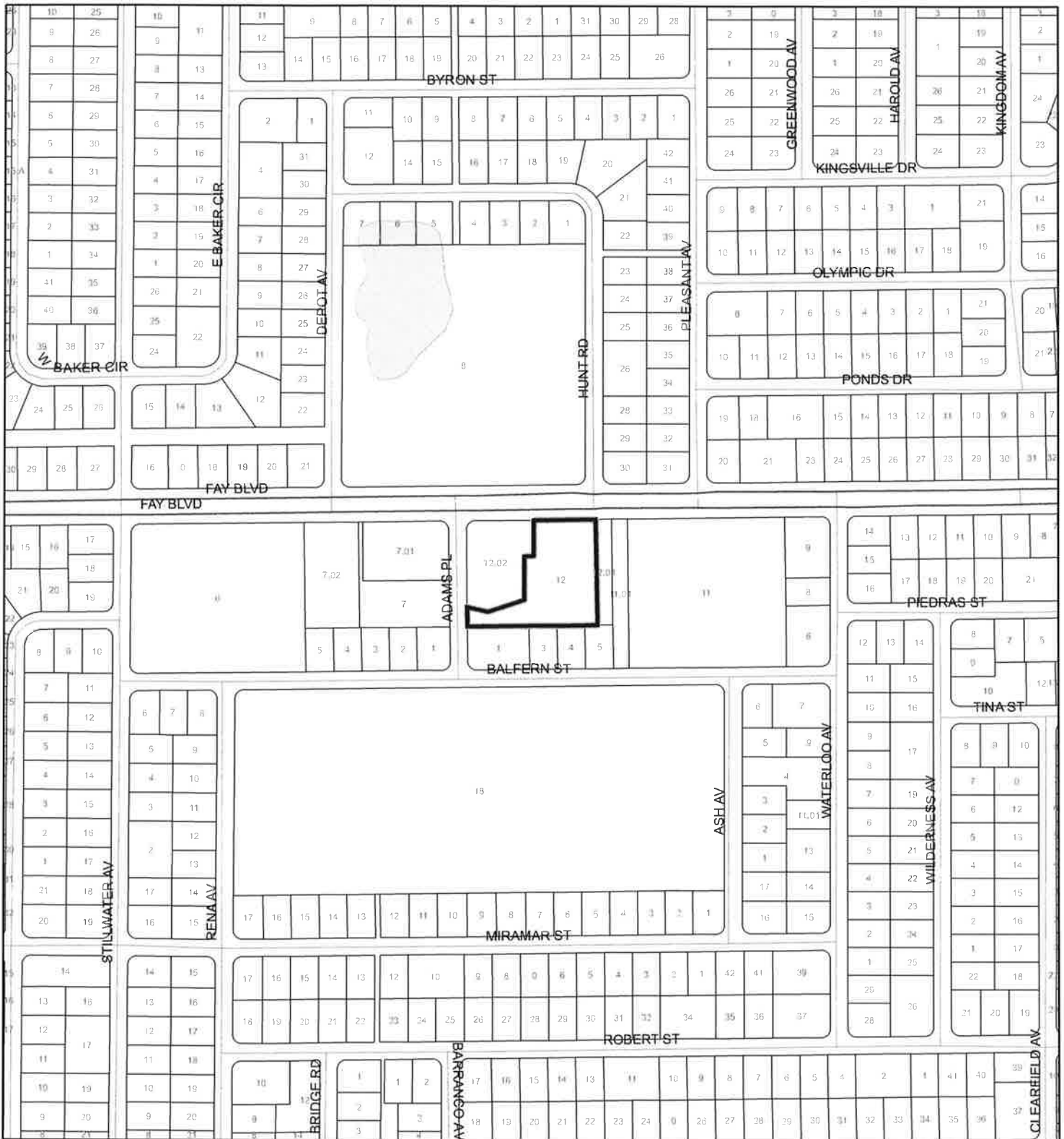
— Subject Property

□ Parcels

# NWI WETLANDS MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/8/2020

## National Wetlands Inventory (NWI)

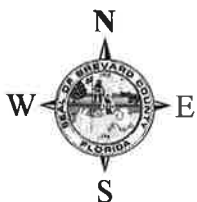
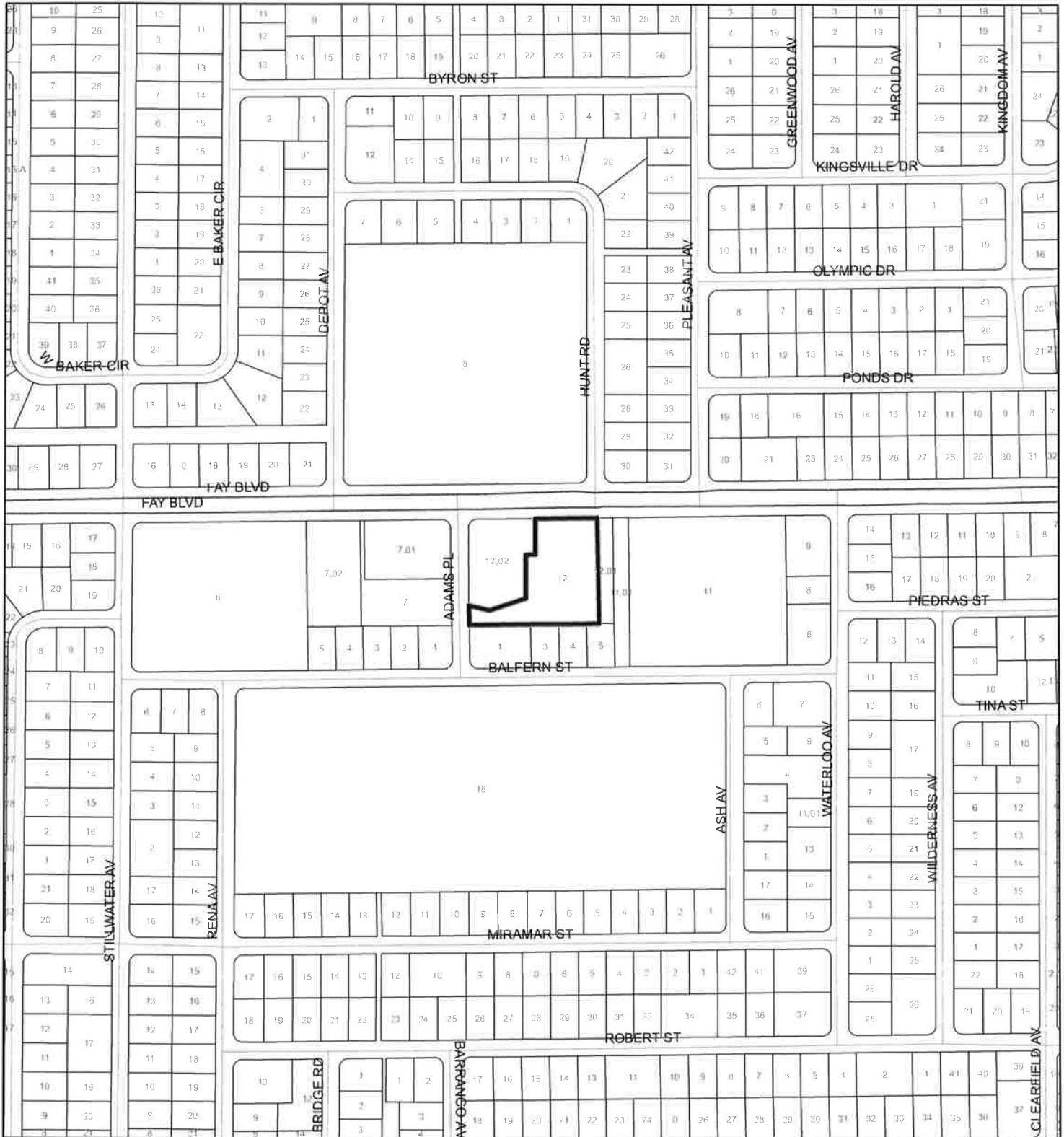
|  |                                   |  |                 |
|--|-----------------------------------|--|-----------------|
|  | Estuarine and Marine Deepwater    |  | Freshwater Pond |
|  | Estuarine and Marine Wetland      |  | Lake            |
|  | Freshwater Emergent Wetland       |  | Other           |
|  | Freshwater Forested/Shrub Wetland |  | Riverine        |
|  | Subject Property                  |  | Parcels         |



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/8/2020

## SJRWMD FLUCCS WETLANDS

-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

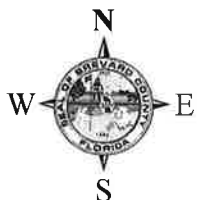
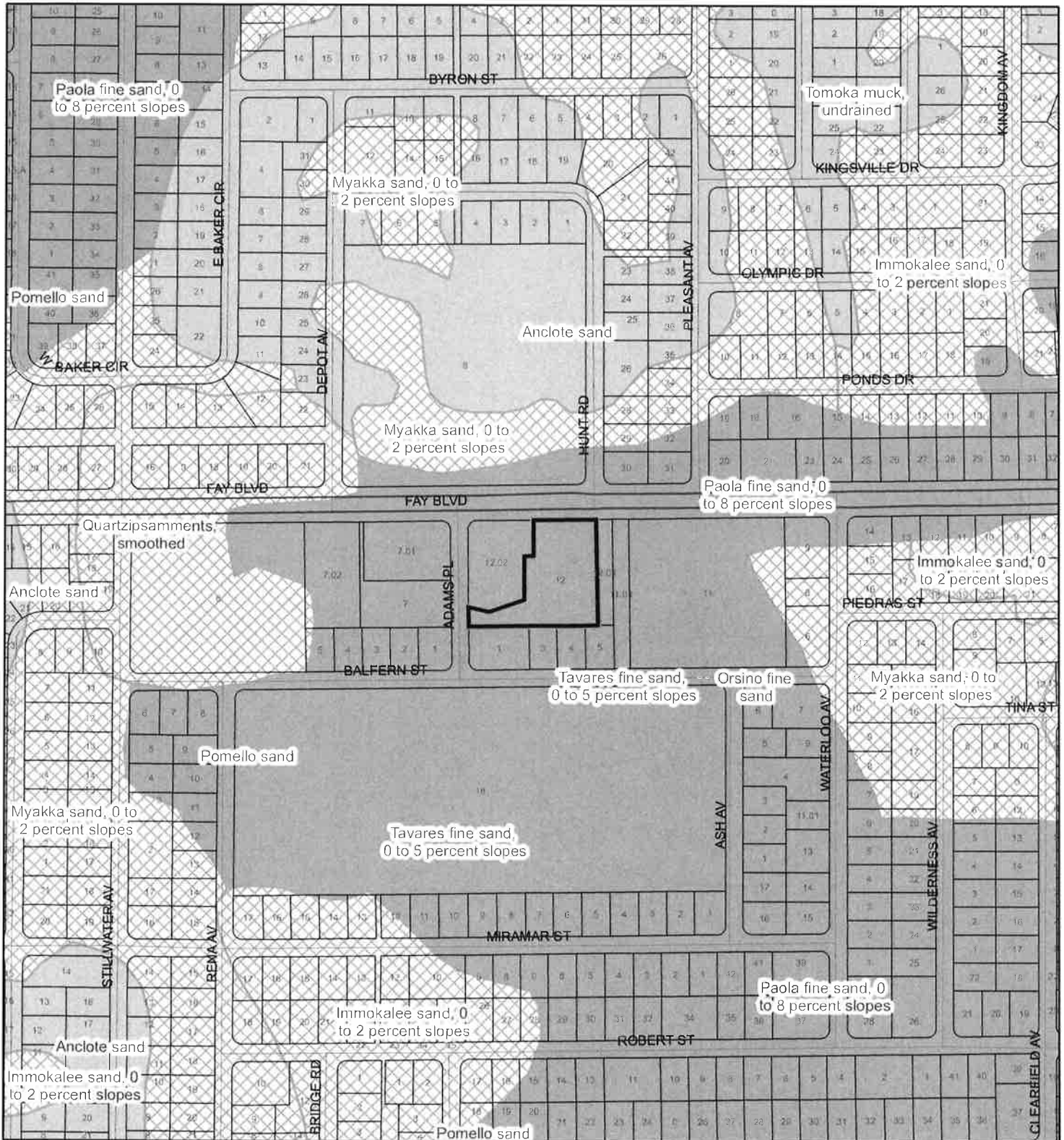
 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/8/2020

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

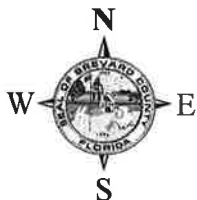
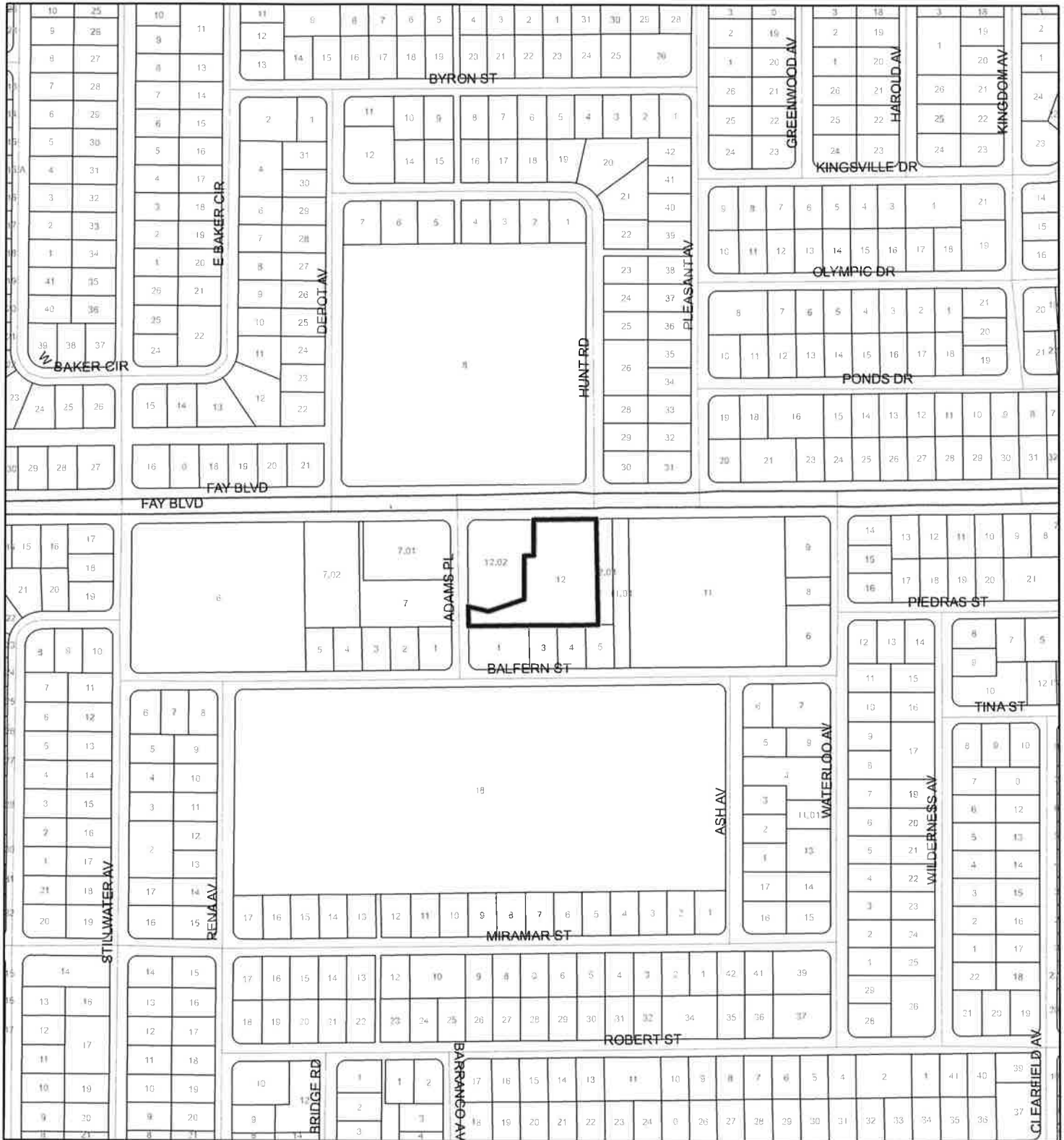
- Subject Property
- Parcels



# FEMA FLOOD ZONES MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2020

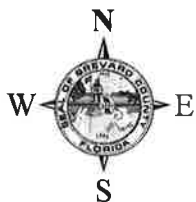
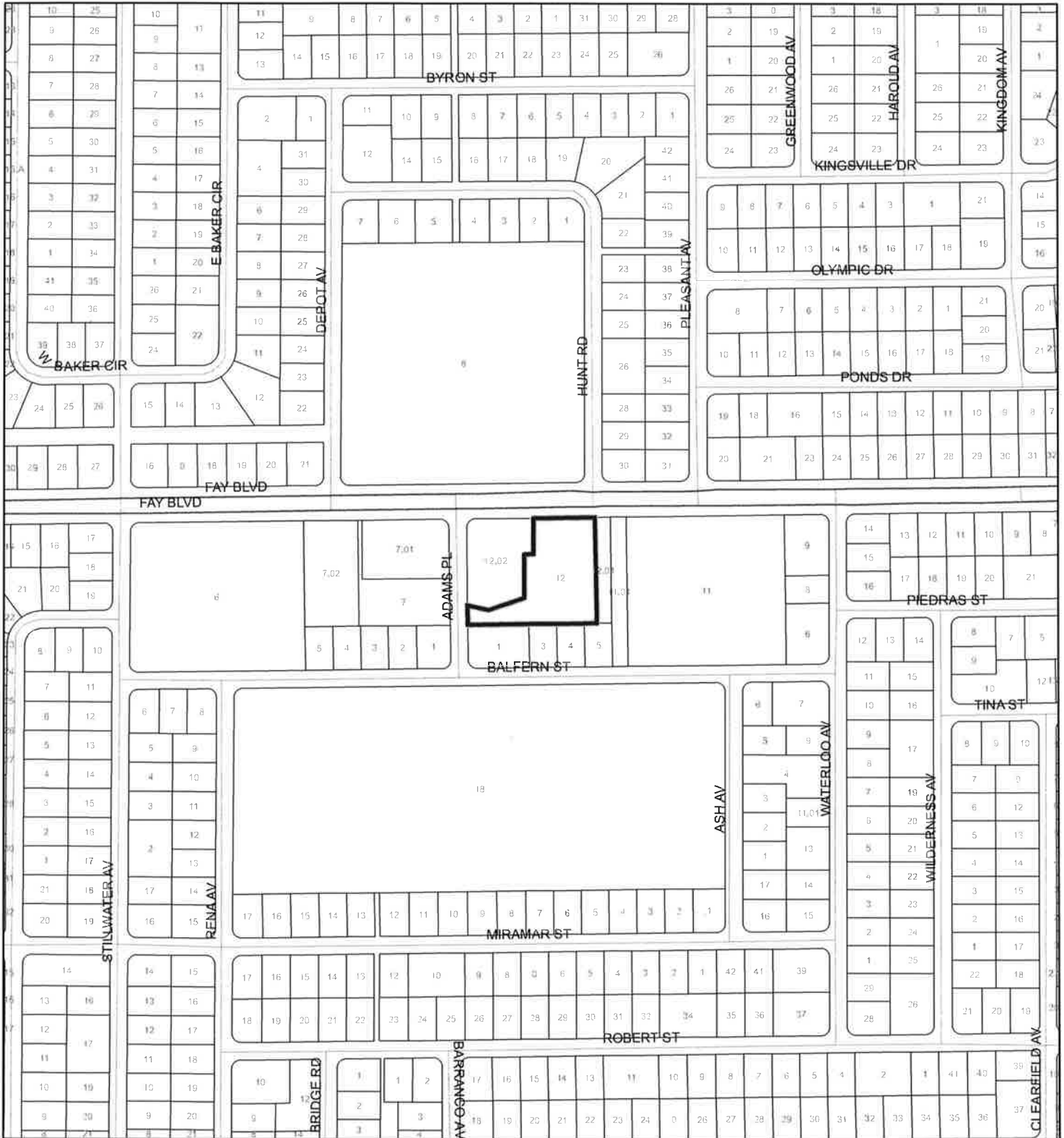
## FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  | Parcels    |                      |

# COASTAL HIGH HAZARD AREA MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:4,800 or 1 inch = 400 feet

— Subject Property

□ Parcels

**Coastal High Hazard Area**

■ SurgeZoneCat1

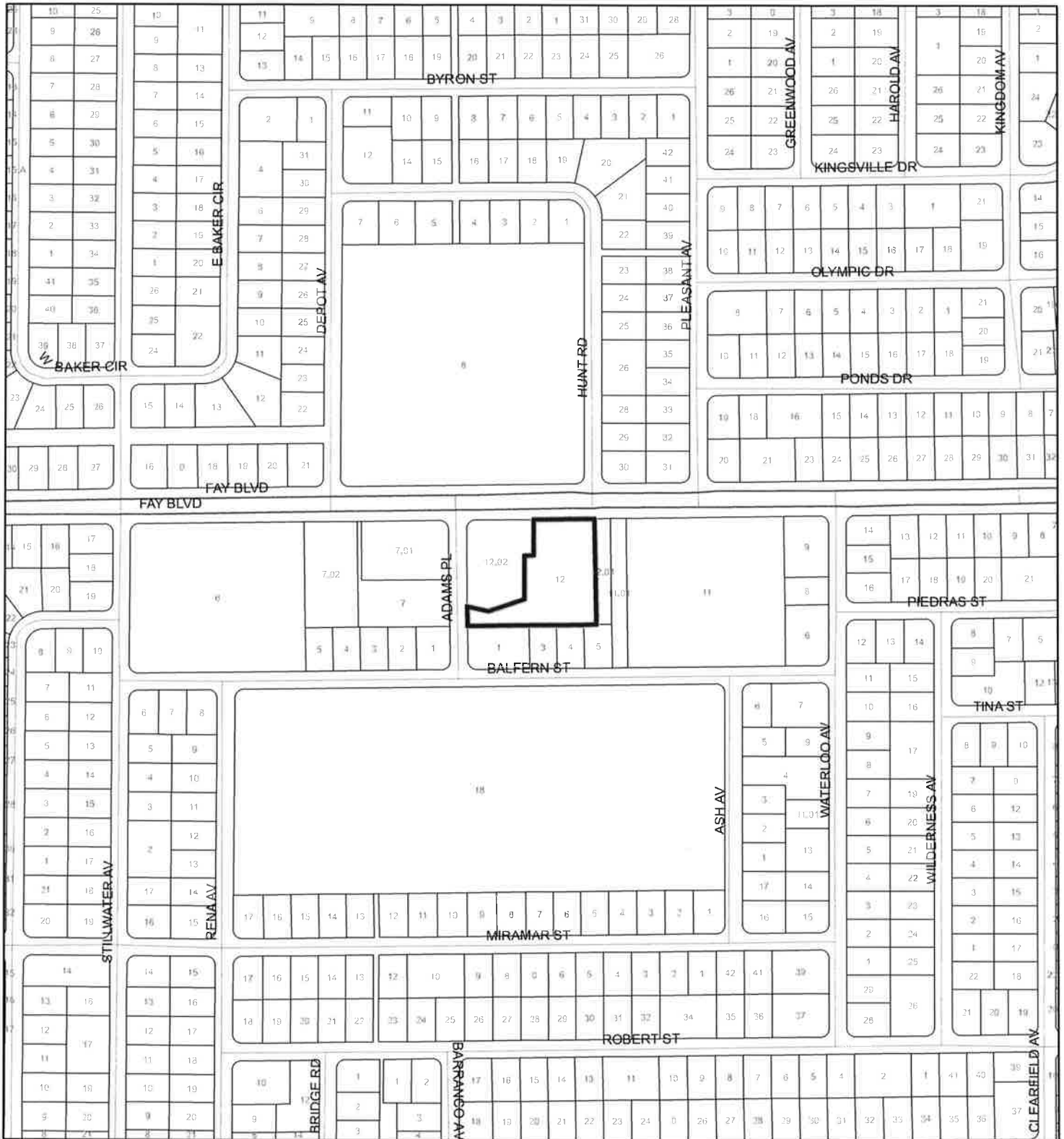
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Produced by BoCC - GIS Date: 9/8/2020

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/8/2020

 Subject Property

 Parcels

## Septic Overlay

 40 Meters

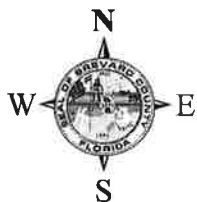
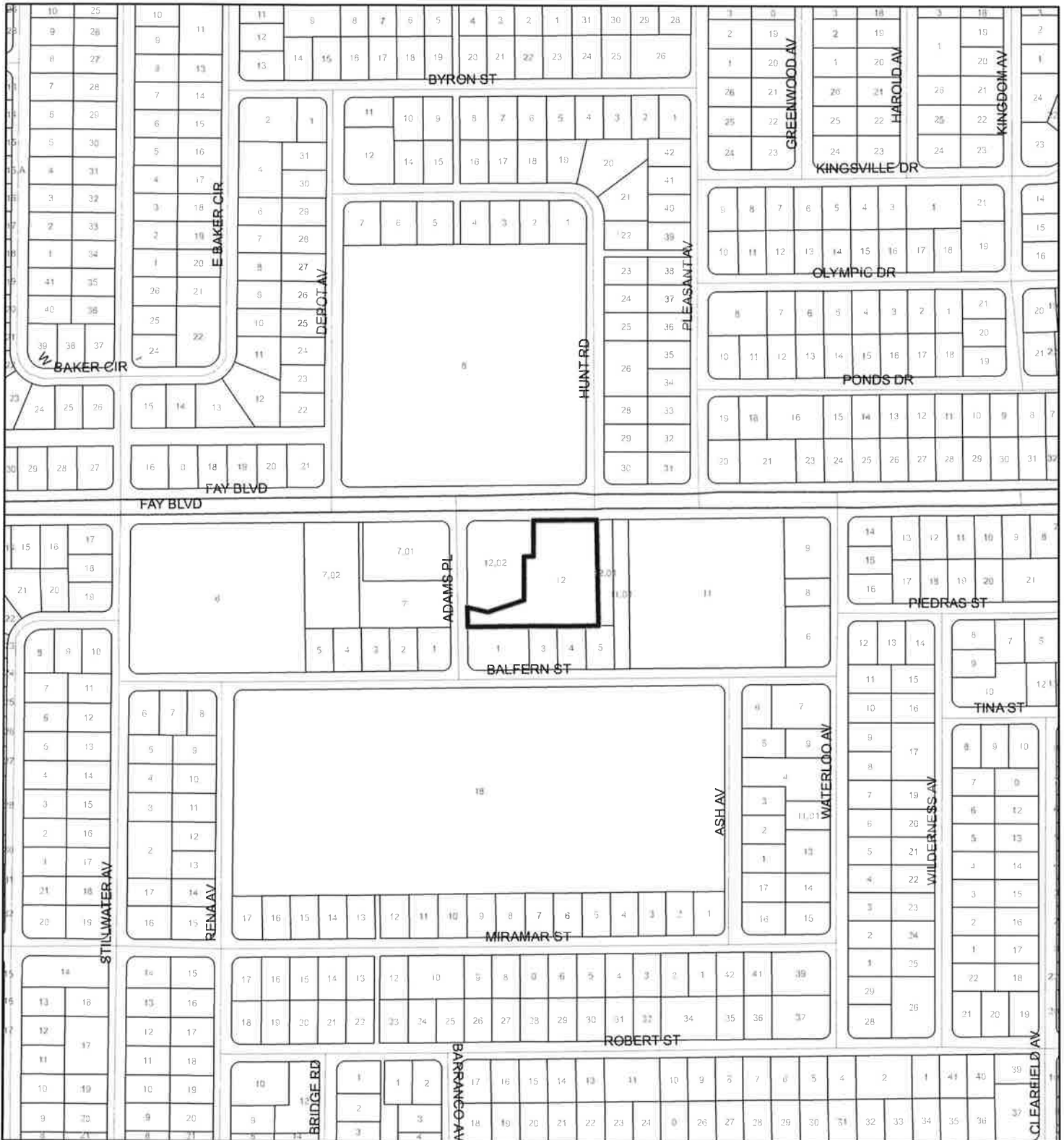
 60 Meters

 All Distances

# EAGLE NESTS MAP

4725 FAY BLVD LAND TRUST

20Z00031



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels



Eagle Nests  
FWS 2010

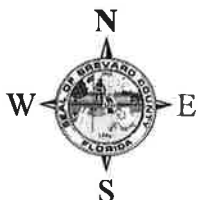
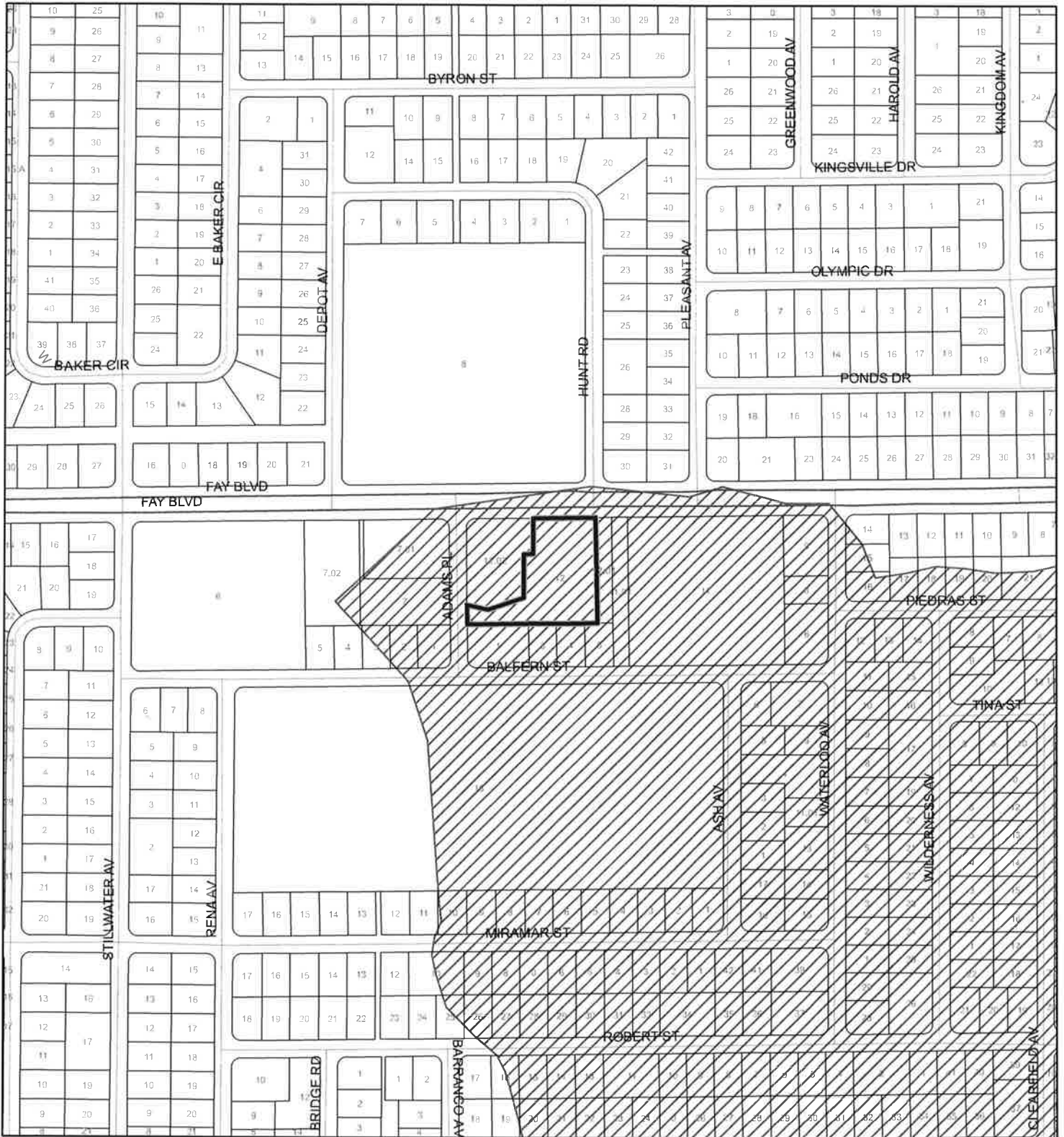
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/8/2020

# SCRUB JAY OCCUPANCY MAP

4725 FAY BLVD LAND TRUST




20Z00031



1:4,800 or 1 inch = 400 feet

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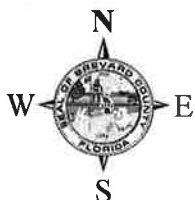
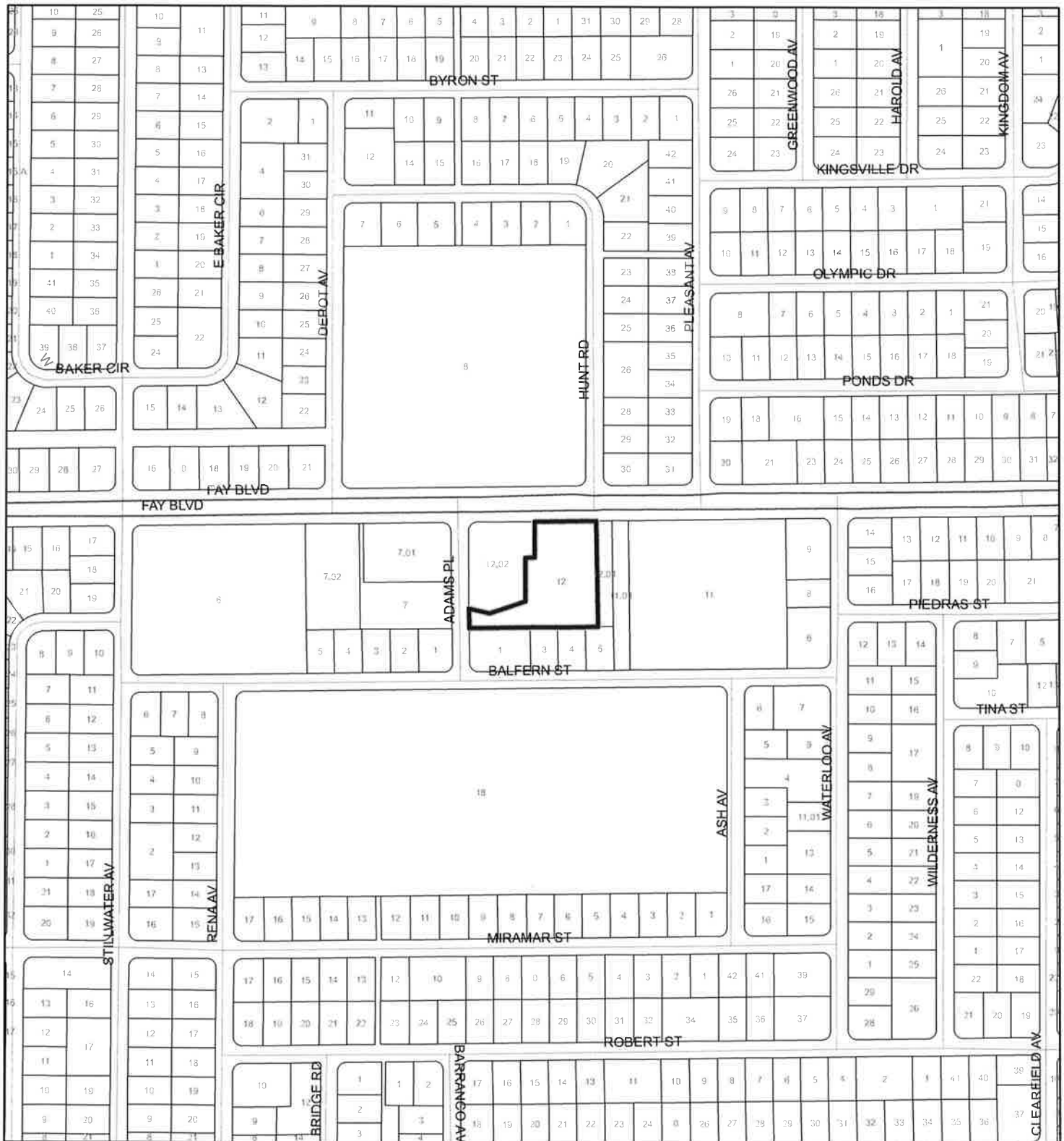
Produced by BoCC - GIS Date: 9/8/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

4725 FAY BLVD LAND TRUST

20Z00031





1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/8/2020

## SJRWMD FLUCCS Upland Forests

-  Upland Coniferous Forest - 4100 Series
-  Upland Hardwood Forest - 4200 Series
-  Upland Mixed Forest - 4300 Series
-  Tree Plantations - 4400 Series

 Subject Property  Parcels

Existing BDP  
20Z00031  
4725 Fay Blvd Land Tru

Prepared by : Carmine Ferraro, Trustee  
4725 Fay Blvd Land Trust #1, U/A/D 02/10/2008  
4265 Fay Blvd, Cocoa, FL 32927

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into on May 13, 2014 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and 4725 FAY BLVD LAND TRUST AGREEMENT #1 U/A/D 02/10/2008 (hereinafter referred to as "Developer/Owner").

### **RECITALS**

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner desires to develop the property as BU-1-A (Restricted Neighborhood Retail Commercial and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.



2. Developer/Owner desires to modify that certain Binding Development Plan dated March 4, 2008 recorded in Official Record Book 5848, Page 4612, and

3. This agreement shall supercede in the event where there is a conflict with with any prior agreement in force.

4. Notwithstanding the uses permitted in BU-1-A, the Developer/Owner agrees that the following uses shall be prohibited: adult entertainment, package liquor stores, gaming rooms, adult arcade, internet café, billiard hall, single family residence, group homes, foster homes, resort dwellings, coin laundromat.

5. The Developer/Owner shall limit ingress and egress as follows:

A. Close existing Adams Place driveway permanently, which is located on southwest corner of property.

B. Construct full access driveway on Adams Place to line up with the driveway on the adjacent property to the west (Gas Station/ Convenience Store)

6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the property. This agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this property.

7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on May 13, 2014. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.



9. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s) unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action described in Paragraph 9 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

  
Scott Ellis, Clerk  
(SEAL)

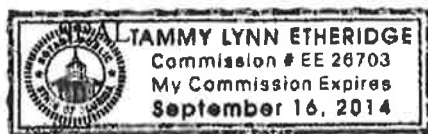
BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

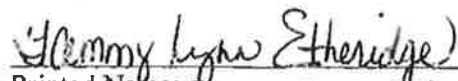
  
\_\_\_\_\_, Chairman  
As approved by the Board on MAY 13 2014

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 13 day of May, 2014 by Mary Bolin Lewis, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Public:



  
Printed Name: Tammy Lynn Etheridge  
My commission expires: 9-16-14

STATE OF FLORIDA  
COUNTY OF BREVARD

This is to certify that the foregoing  
is a true and current copy of Building  
Development Plan witness my hand  
and official seal this 22 day of  
May 2014

SCOTT ELLIS, Clerk of Circuit Court

BY  D.C.

[Signature]  
Printed Name: Imma G. Iden

[Signature]  
Printed Name: Diana L. Archambault

4725 FAY BLVD LAND TRUST AGREEMENT #1  
U/A/D 02/10/2008

By: [Signature]  
Its: Trustee

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2014, by Carmine Ferraro as Trustee of 4725 FAY BLVD LAND TRUST AGREEMENT #1 U/A/D 02/10/2008, who is personally known to me or who has produced \_\_\_\_\_ as identification.



SEAL

Notary Public

[Signature]

Printed Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

**Exhibit "A"**

**Legal Description:**

**Lot 12, Block 81, except the East 45 feet, PORT ST. JOHN UNIT THREE, according to the plat thereof, as recorded in Plat Book 22, Pages 25 through 35, of the Public Records of Brevard County, Florida.**

**Street Address: 4725 Fay Blvd.**

# JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Campanile, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

Joanne C. Pace  
(Signature)

LOUIS R. CAMPANILE

(Print Name)

Joanne C. Pace

MORTGAGEE NAME/ADDRESS

Louis R. Campanile

9025 South Highway A1A  
Melbourne Beach, FL 32951

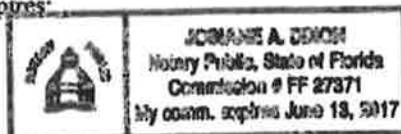
Louis R. Campanile  
(Mortgagee Signature)

STATE OF Florida §

COUNTY OF Indian River §

The foregoing instrument was acknowledged before me this 27<sup>th</sup> <sup>March</sup> day of, 20 14, by, who is personally known to me or who has produced Florida Driver License identification.

My commission expires:



Commission No.:

Notary Public

SEAL

(Name typed, printed or stamped)

WITNESSES:

Joanne C. Pace  
(Signature)  
Joanne C. Pace  
(Print Name)

MORTGAGEE NAME/ADDRESS

Eveline Campanile

9025 South Highway A1A  
Melbourne Beach, FL 32951

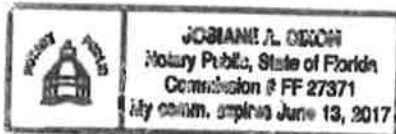
Eveline Campanile  
(Mortgagee Signature)

STATE OF Florida §

COUNTY OF Indian River §

The foregoing instrument was acknowledged before me this 27<sup>th</sup> March day of, 2014, by , who is personally known to me or who has produced Florida Driver License as identification.

My commission expires:



Commission No.:

Notary Public

SEAL

Joseane A. Giron

(Name typed, printed or stamped)

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Wurster, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

*Kimberly Wurster*  
WITNESSES:  
*Scott Wurster*  
(Signature)  
SCOTT WURSTER  
(Print Name)  
*Kimberly Wurster*

MORTGAGEE NAME/ADDRESS

Scott Wurster

1630 N. Henry  
Cocquille, Oregon, 97423

*Scott Wurster*  
(Mortgagee Signature)

STATE OF Oregon §

COUNTY OF Coos §

The foregoing instrument was acknowledged before me this 26<sup>th</sup> <sup>March</sup> day of, 2014, by, who is personally known to me or who has produced \_\_\_\_\_ as identification. by Scott Wurster.

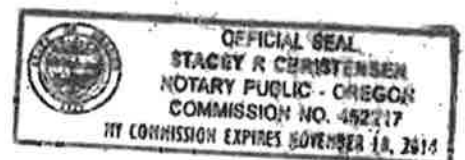
My commission expires: 11-18-2014

*Stacy R Christensen*  
Notary Public

SEAL \_\_\_\_\_

Commission No.: 452217

(Name typed, printed or stamped)



Scott Wurster

WITNESSES:

Kimberly Wurster  
(Signature)

Kimberly Wurster  
(Print Name)

SCOTT WORSTER

MORTGAGEE NAME/ADDRESS

Kimberly Wurster

1630 N. Henry  
Cocquille, Oregon, 97423

Kimberly Wurster  
(Mortgagee Signature)

STATE OF Oregon §

COUNTY OF Coos §

The foregoing instrument was acknowledged before me this 26<sup>th</sup> <sup>March</sup> day of, 2014, by, who is personally known to me or who has produced \_\_\_\_\_ as identification. by Kimberly Wurster.

My commission expires: 11-18-2014

Stacey R Christensen

Notary Public

SEAL \_\_\_\_\_

(Name typed, printed or stamped)

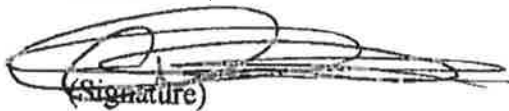
Commission No.: 452217



JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Yusem, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

  
(Signature)

PATRICK GAUSSO  
(Print Name)

MORTGAGEE NAME/ADDRESS

Melvyn R. Yusem

10522 SW 133<sup>rd</sup> Place  
Miami, Florida 33186

  
(Mortgagee Signature)

STATE OF FLORIDA §

COUNTY OF MIAMI-DADE §

The foregoing instrument was acknowledged before me this 31 day of, 2014, by, who is personally known to me or who has produced DL# as identification.

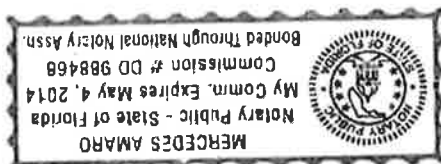
My commission expires:

Notary Public

SEAL

(Name typed, printed or stamped)

Commission No.:





WITNESSES:

[Signature]  
(Signature)

PATRICK GOUSSA  
(Print Name)

MORTGAGEE NAME/ADDRESS

Tina Yusem

10522 SW 133<sup>rd</sup> Place  
Miami, Florida 33186

[Signature]  
(Mortgagee Signature)

STATE OF FLORIDA §

COUNTY OF MIAMI-DADE §

The foregoing instrument was acknowledged before me this 31 day of, 2014, by, who is personally known to me or who has produced DL as identification.

My commission expires:

Commission No..

Notary Public

SEAL

[Signature]  
(Name typed, printed or stamped)



JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Salib, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

Jennifer P. Roland  
(Signature)

Jennifer P. Roland  
(Print Name)

MORTGAGEE NAME/ADDRESS

Sami K. Salib

415 S. Carpenter Road  
Titusville, Florida 32796

Sami K. Salib  
(Mortgagee Signature)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of April, 2014, by who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



JONDA ERWIN  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm. # EE12311  
Expires 2/13/2016

Commission No.:

Notary Public

Jonda Erwin

SEAL \_\_\_\_\_

(Name typed, printed or stamped)

WITNESSES:

[Signature]  
(Signature)

Jennifer P. Roland  
(Print Name)

MORTGAGEE NAME/ADDRESS

Violette W. Salib

415 S. Carpenter Road  
Titusville, Florida 32796

Violet W. Salib  
(Mortgagee Signature)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 3rd day of April, 2014, by who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



JONDA ERWIN  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# EE168911  
Expires 2/13/2013

Commission No.:

Notary Public

SEAL

(Name typed, printed or stamped)

Jonda Erwin

# JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Odenheimer, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

Renee Prager  
(Signature)

Renee Prager  
(Print Name)

MORTGAGEE NAME/ADDRESS

Mark Odenheimer

545 Avon Court  
River Vale, New Jersey 07675

[Signature]  
(Mortgagee Signature)

STATE OF NY §

COUNTY OF NY §

The foregoing instrument was acknowledged before me this 7th day of April, 2014, by , who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:

Commission No.:

Notary Public

SEAL

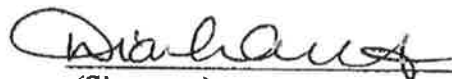
(Name typed, printed or stamped)

**DIANE T. WORLEY**  
Notary Public, State of New York  
No. 01WO6114444  
Qualified in New York County  
Commission Expires August 16, 2016

## JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated March 1, 2008 given by 4725 Fay Blvd Land Trust Agreement No 1 u/a/d 02/10/2008, as mortgagor, in favor of the undersigned, Note Purchaser - Carmel, as mortgagee, recorded in Official Records Book 5856, page 2065, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

### WITNESSES:

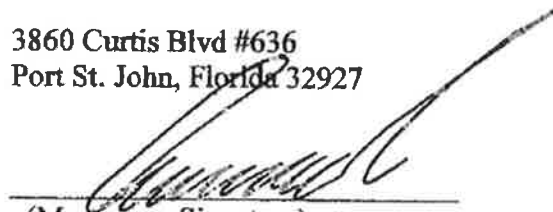
  
(Signature)

Diana L Archambault  
(Print Name)

### MORTGAGEE NAME/ADDRESS

Carmel Development, LLC

3860 Curtis Blvd #636  
Port St. John, Florida 32927

  
(Mortgagee Signature)  
Carmine Ferraro, President  
CCG Holdings, Inc  
AS MANAGING MEMBER.

STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2014, by Carmine Ferraro me or who has produced as identification.

My commission expires:



Commission No.:

Notary Public

SEAL 

(Name typed, printed or stamped)

WITNESSES:

Diana L. Archambault  
(Signature)

Diana L. Archambault  
(Print Name)

MORTGAGEE NAME/ADDRESS

Carmine Ferraro

4265 Quechua Road, Cocoa, FL  
Port St. John, Florida 32927

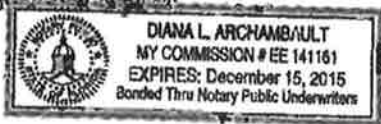
[Signature]  
(Mortgagee Signature)

STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2014, by Carmine Ferraro, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



Commission No.:

Notary Public

SEAL

[Signature]  
(Name typed, printed or stamped)

WITNESSES:

Diana L. Archambault  
(Signature)

Diana L. Archambault  
(Print Name)

MORTGAGEE NAME/ADDRESS

Pamela S. Ferraro

4265 Quechua Road, Cocoa, FL  
Port St. John, Florida 32927

Pamela S. Ferraro  
(Mortgagee Signature)

STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of April, 2014, by Pamela S. Ferraro, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires:



Commission No.:

Notary Public

SEAL

[Signature]  
(Name typed, printed or stamped)

This instrument prepared by and return to:  
Timothy F. Pickles, Esquire  
WATSON, SOILEAU, DELEO, BURGETT,  
PICKLES & BAUGHAN, P.A.  
Post Office Box 236007  
Cocoa, Florida 32923-6007  
Our File No 04-5989  
REC. \$10.00

**ASSIGNMENT OF INTEREST IN NOTE AND MORTGAGE**

The undersigned, being one of the owners and holders of the note and mortgage herein described

MORTGAGOR CARMINE FERRARO, AS TRUSTEE OF THE 4725 FAY BOULEVARD LAND TRUST AGREEMENT NO 1 U/A/D FEBRUARY 10, 2008

MORTGAGEE JOSIAH B. RUTTER REVOCABLE LIVING TRUST

DATED March 11, 2008

ENCUMBERING THE FOLLOWING DESCRIBED PROPERTY

LOT 12, BLOCK 81, EXCEPT THE EAST 45 FEET THEREOF, PORT ST JOHN UNIT THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 22, PAGE 25 THROUGH 35, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA

AND RECORDED IN OFFICIAL RECORDS BOOK 5856, PAGE 2065, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, SAID MORTGAGE GIVEN TO SECURE A DEBT IN THE ORIGINAL PRINCIPAL SUM OF THIRTY THOUSAND (\$30,000.00) DOLLARS

hereby assigns his interest in said note and mortgage without recourse, for consideration received, to CARMEL DEVELOPMENT, LLC, a Florida limited liability company, whose mailing address is 3860 Curtis Boulevard #36, Port St John, FL 32924, effective 1-7, 2009 ~~2010~~

DATED THIS 7<sup>th</sup> DAY OF JANUARY, 2010 ~~2009~~

JOSIAH B. RUTTER REVOCABLE LIVING TRUST

BY 

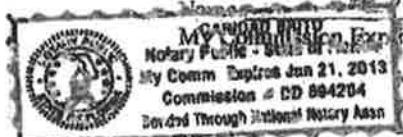
JOSIAH B. RUTTER, TRUSTEE

**ACKNOWLEDGMENT**

STATE OF FLORIDA  
COUNTY OF DADE

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of JANUARY, 2010, by JOSIAH B. RUTTER, individually and as Trustee of the Josiah B. Rutter Revocably Living Trust, who is personally known to me or who has produced \_\_\_\_\_ as identification and who did not take an oath

Notary Public: 



(SEAL)

Prepared by : Carmine Ferraro, Trustee  
4725 Fay Blvd Land Trust #1, U/A/D 02/10/2008  
4265 Fay Blvd, Cocoa, FL 32927

## **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into on \_\_\_\_\_, 2020 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and 4725 FAY BLVD LAND TRUST AGREEMENT #1 U/A/D 02/10/2008 (hereinafter referred to as "Developer/Owner").

### **RECITALS**

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner desires to develop the property as BU-1 (as a hardware store with outdoor garden center) and pursuant to the Brevard County Code, Section 62-1482; and

WHEREAS, as part of its plan for development of the property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, it grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.



2. Developer/Owner desires to modify that certain Binding Development Plan dated March 4, 2008 recorded in Official Record Book 5848, Page 4612, and subsequently modified again on May 13, 2014 recorded in Official Record Book 7129, Page 1312

3. This agreement shall supercede in the event where there is a conflict with with any prior agreement in force.

4. Notwithstanding the uses permitted in BU-1, the Developer/Owner agrees that all of the uses listed in BU-1 shall remain prohibited except the following ; Hardware store with outdoor garden center. Developer shall retain the right to all permitted uses listed in the BU-1A (Restricted Neighborhood Retail Commercial) pursuant to the Brevard County Code, Section 62-1481, with the exception of the following uses, adult entertainment, package liquor stores, gaming rooms, adult arcade, internet café, billiard hall, single family residence, group homes, foster homes, resort dwellings, coin laundromat. which shall remain prohibited.

5. The Developer/Owner shall modify the access as follows; open the previously closed Adams Place driveway which is located on southwest corner of property and indentify this driveway with signage stating "Delivery Entrance Only – Not for Customer Traffic" and provide a gate that is opened and closed for such deliveries.

6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the property. This agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this property.

7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by

the Board of County Commissioners on \_\_\_\_\_. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.

9. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s) unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action described in Paragraph 9 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

\_\_\_\_\_, Chair  
As approved by the Board on \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, Chair of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Public:

SEAL

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

WITNESSES:

DEVELOPER/OWNER  
4725 FAY BLVD LAND TRUST AGREEMENT #1  
U/A/D 02/10/2008

Printed Name: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Printed Name: \_\_\_\_\_

STATE OF \_\_\_\_\_)

COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_ as \_\_\_\_\_ of 4725 FAY BLVD LAND TRUST AGREEMENT #1 U/A/D 02/10/2008, who is personally known to me or who has produced \_\_\_\_\_ as identification.

Notary Public

SEAL

Printed Name: \_\_\_\_\_

My commission expires: \_\_\_\_\_

**Exhibit "A"**

**Legal Description:**

Lot 12, Block 81, except the East 45 feet, PORT ST. JOHN UNIT THREE, according to the plat thereof, as recorded in Plat Book 22, Pages 25 through 35, of the Public Records of Brevard County, Florida.

Street Address: 4725 Fay Blvd.

**Less and Except:**

**A PORTION OF LOT 12, BLOCK 81, EXCEPT THE EAST 45 FEET THEREOF, PORT ST. JOHN UNIT THREE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 22, PAGES 25 THROUGH 35, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 12, BLOCK 81, THENCE ALONG THE WEST LINE OF SAID LOT 12, ALONG THE EAST RIGHT OF WAY OF ADAMS PLACE, N 00°27'48" W, 55.75 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG THE WEST LINE OF SAID LOT 12, ALONG THE EAST RIGHT OF WAY OF ADAMS PLACE N 00°27'48" W, 224.25 FEET TO A POINT OF CURVATURE; THENCE 39.27 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°00'00", AND A CHORD BEARING AND DISTANCE OF N44°32'12" E, 35.36 FEET TO A POINT OF TANGENCY; THENCE ALONG THE NORTH LINE OF SAID LOT 12, ALONG THE SOUTH RIGHT OF WAY OFF AY BOULEYARD, N 89°32'12" E, 165.35 FEET; THENCE DEPARTING THE NORTH LINE OF SAID LOT 12, S 00°27'48" E, 103.70 FEET; THENCE S 89°32'12" W, 27.60 FEET; THENCE S 00°27'48" E, 125.00 FEET; THENCE S 71°25'18" W, 109.57 FEET; THENCE N 77°28'34" W, 60.15 FEET TO THE POINT OF BEGINNING, SAID PARCEL CONTAINING 0.99 ACRES MORE OR LESS.**

Street Address: 4755 Fay Blvd



BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

**TO:** Board of County Commissioners

**FROM:** Tad Calkins, Director – Planning & Development 

**Cc:** Frank Abbate, County Manager  
John Denninghoff, P.E., Assistant County Manager

**DATE:** November 19, 2020

**SUBJECT:** 20Z00031 4725 Fay Blvd. (Carmine Ferraro) Addendum to Staff Comments

---

On November 4, 2020, the Applicant provided staff a copy of a concept plan for the proposed Ace Hardware store in support of the rezoning application from BU-1-A to BU-1 (20Z00031). On November 18, 2020, the Applicant also provided the proposed concept plan to the Port St. John Dependent Special District Board members during their meeting. This rezoning application is requesting to revise the existing BDP to re-open the Adams Place driveway. There is also a companion Small-Scale Comprehensive Plan Amendment (SSCPA) (20PZ00088) changing the land use from Neighborhood Commercial (NC) to Community Commercial (CC). These items will be heard at the December 3, 2020 Board of County Commissioners meeting. Both applications were recommended for denial at the November 18, 2020 Port St. John Dependent Special District Board meeting. Both items are scheduled to be heard at the November 23, 2020 Local Planning Agency (LPA) meeting. Preliminary review of the proposed concept plan is as follows:

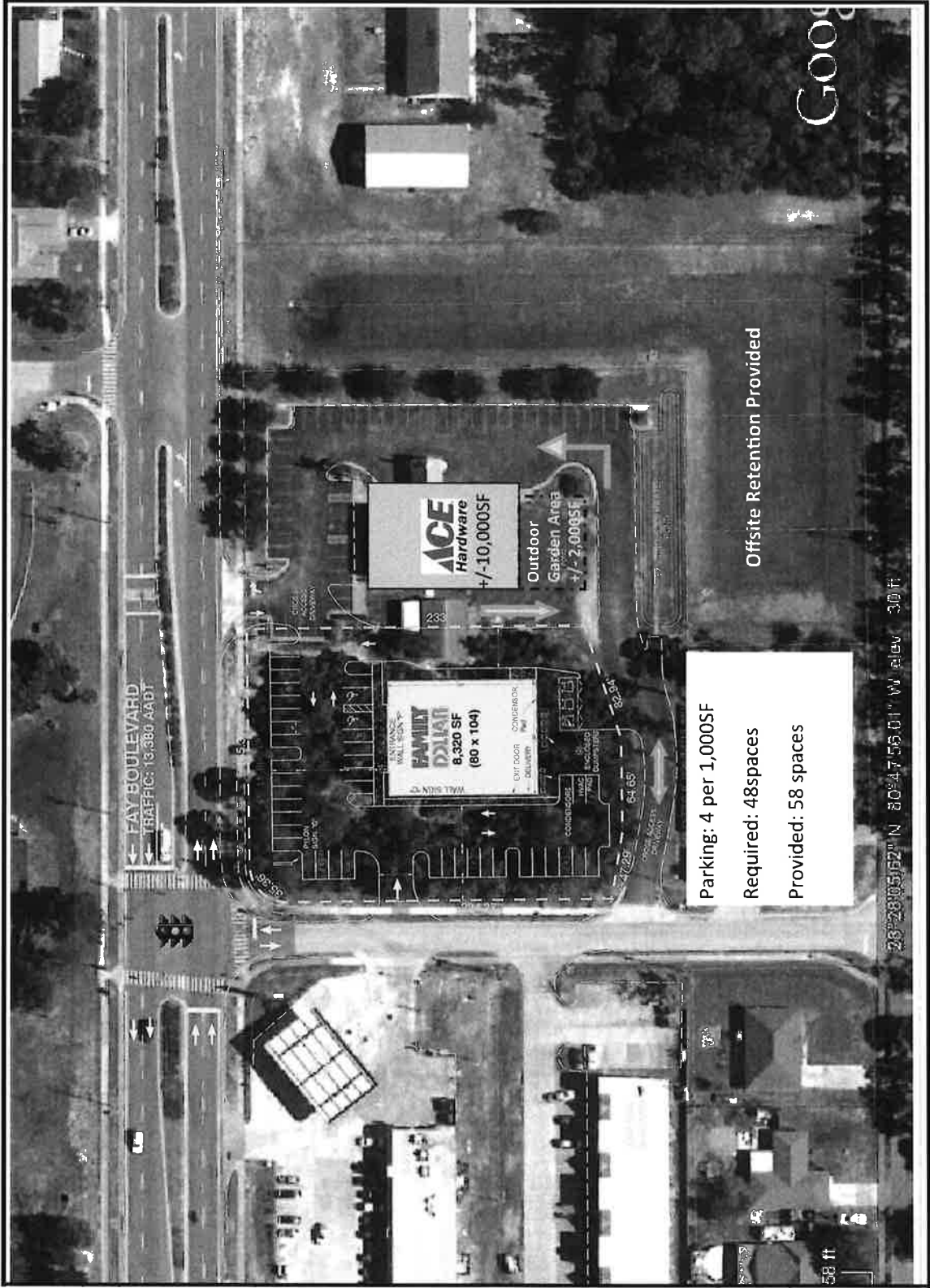
1. The proposed re-opening of Adams Place does not meet FDOT access management/driveway spacing requirements.
2. Site needs to accommodate an ADA accessible route from the County sidewalk to the building.
3. Property may need additional stormwater treatment area, if the impervious surface area exceeds 75%.
4. The required parking on-site (Ace Hardware) is calculated at 48 spaces accounting for the Outdoor Garden Area.
5. The site will need to accommodate a dumpster location.
6. Cross-access easements will be required between the two property owners.

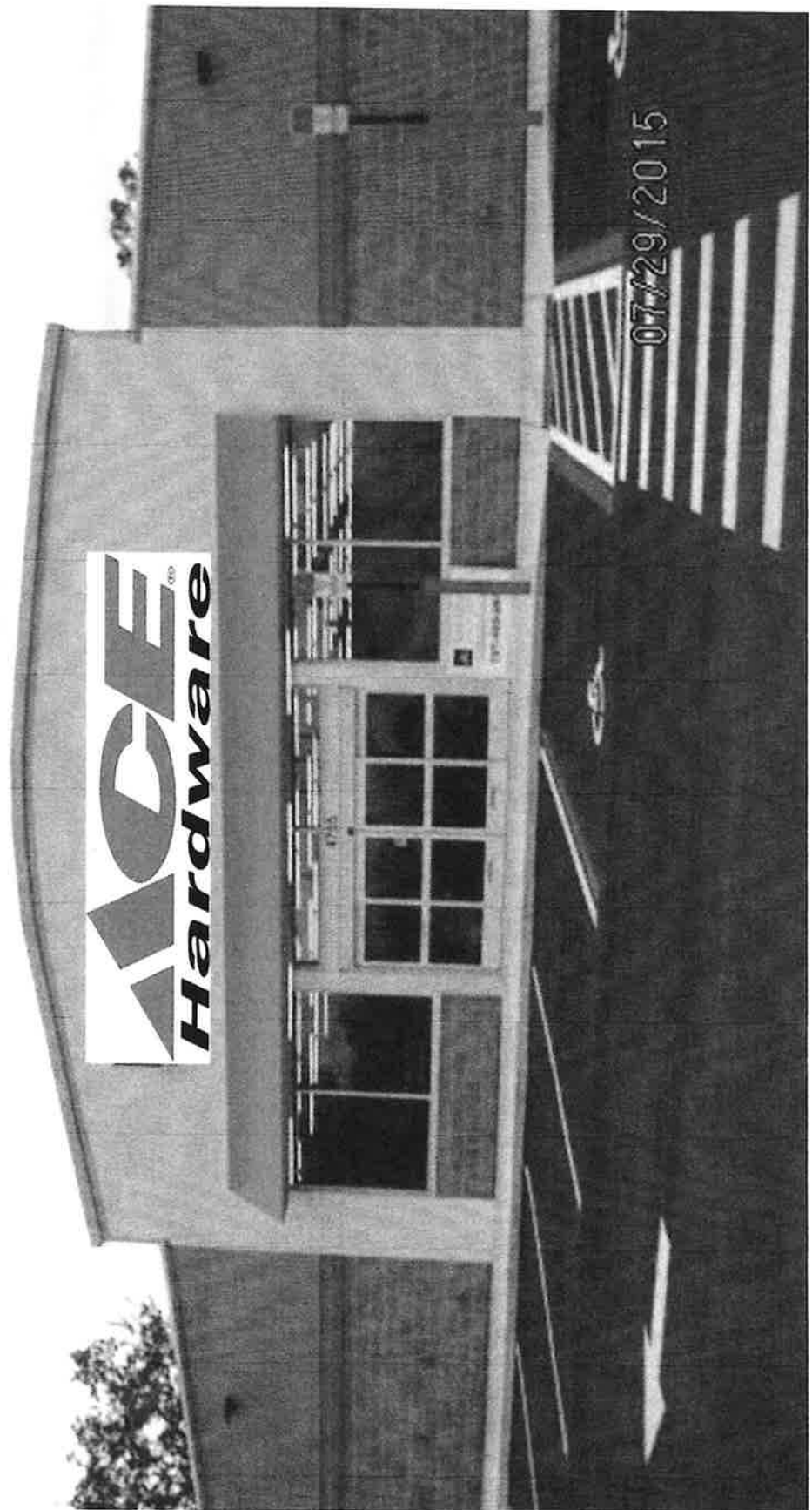
**Please note:** The concept plan does not meet the minimum requirements of the County's Site Plan Code and cannot be used to satisfy that requirement. Also, interdepartmental reviews have not been conducted and the feasibility of layout cannot be confirmed without a formal site plan review.

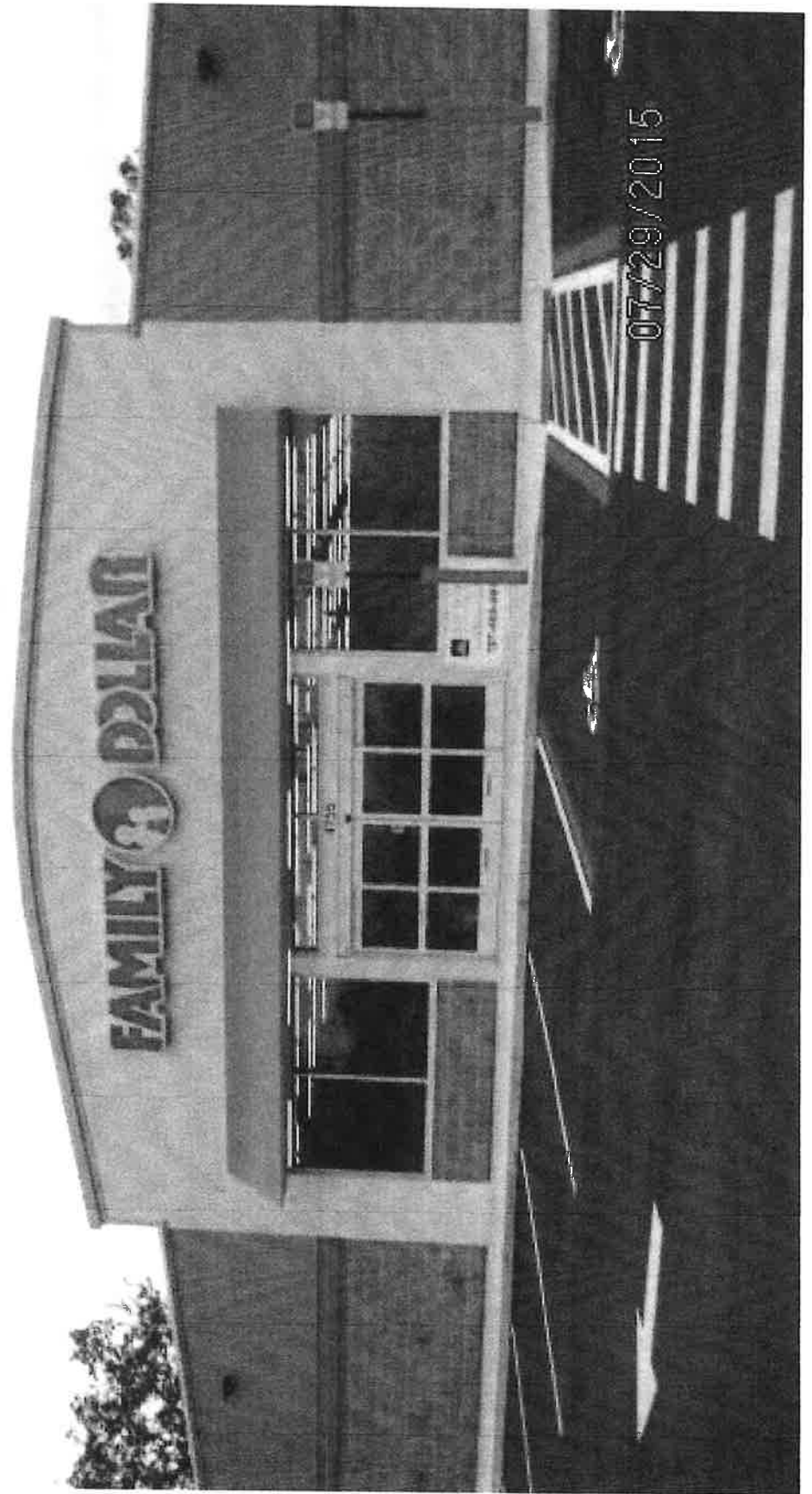
The Board may wish to consider the proposed concept plan in its determination as to whether the plan mitigates potential impacts with the existing development and the surrounding area.

Attachment: Concept Plan submitted, November 4, 2020.

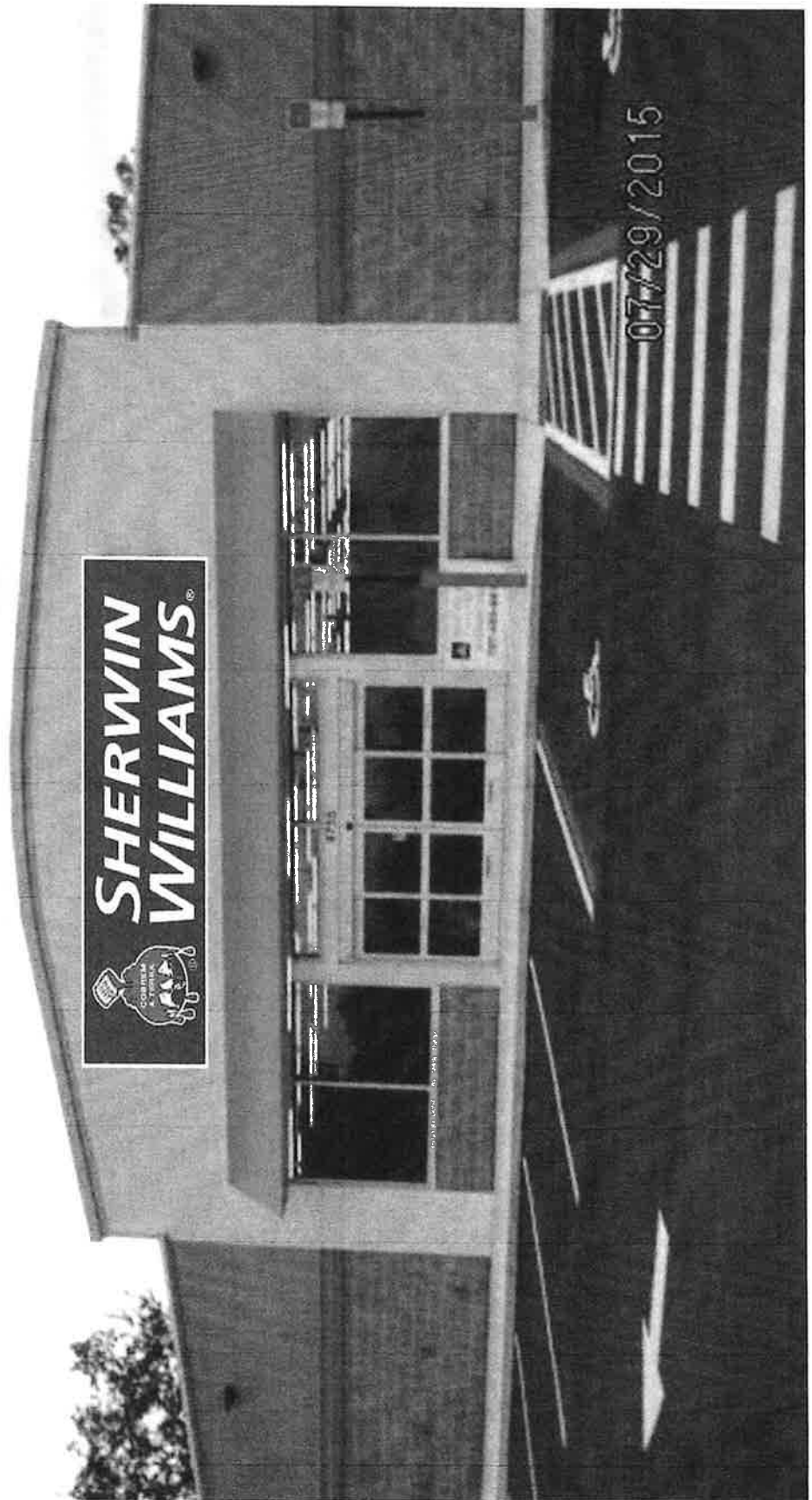
PROPOSED ACE HARDWARE—4725 FAY BLVD, PORT ST JOHN, FL.











# **TRAFFIC IMPACT STUDY**

## **Ace Hardware & Garden Center**

### **Port St. John, Florida**

**August 31, 2020**

*prepared for:*

**CITY OF PORT ST. JOHN**

*submitted on behalf of:*

**4725 Fay Blvd. Land Trust**

*prepared by:*

**MPH Transportation Planning, Inc. & Pennoni Inc.**

**QA/QC Engineer:**

*Angela Garland*

**Angela Garland, P.E., P.T.O.E.**

**FLA License # 55387**

**Signature of Preparer:**

*Michael Hemmen*

**Michael Hemmen, AICP**

**Certificate # 012190**

## TABLE OF CONTENTS

|  |    |
|--|----|
| LIST OF FIGURES AND TABLES.....                      | 2  |
| EXECUTIVE SUMMARY.....                               | 3  |
| INTRODUCTION.....                                    | 4  |
| EXISTING CONDITIONS .....                            | 6  |
| TRIP GENERATION .....                                | 7  |
| TRIP DISTRIBUTION.....                               | 8  |
| ROADWAY LEVEL OF SERVICE (LOS) ANALYSIS .....        | 10 |
| INTERSECTION ANALYSIS .....                          | 11 |
| Safety Analysis.....                                 | 12 |
| Right Turn Lane Analysis .....                       | 15 |
| CONCLUSIONS and RECOMMENDATIONS.....                 | 16 |
| APPENDICES: Correspondence and Documentation.....    | 17 |
| Appendix A: Correspondence .....                     | 18 |
| Appendix B: Traffic Counts and Analysis Reports..... | 19 |

## LIST OF FIGURES AND TABLES

### FIGURES

|   |    |
|---|----|
| 1. Project Location Map with Existing Traffic Data..... | 5  |
| 2. PM Peak Hour Project Impacts.....                    | 9  |
| 3. Driveway Geometry.....                               | 13 |
| 4. Driveway Obstruction Examples.....                   | 14 |

### TABLES

|   |    |
|---|----|
| 1. Project Trip Generation.....                     | 7  |
| 2. Project Trip Distribution... ..                  | 8  |
| 3. Roadway Level Of Service Analysis.....           | 10 |
| 4. Intersection Impacts.....                        | 11 |
| 5. Intersection Level of Service (LOS) Results..... | 12 |

## EXECUTIVE SUMMARY

The results of the Traffic Impact Study conducted for the Ace Hardware & Garden Center on Fay Blvd. in Port St. John, Florida provides the following conclusions. The actual trip assessment for the proposed new 12,000 sq. ft. hardware store and garden center is **110 daily trips (81 new)** and **32 p.m. peak hour trips (24 new)**. The traffic generated by this proposed project will be dispersed on the area roadway network so that the maximum peak hour directional volume on any roadway segment of **Fay Blvd.** will be **8 trips**. The project is a re-development of a previous church site. The existing building will be replaced by the new hardware store. The site plan indicates that the two existing Family Dollar driveways will be shared with the hardware store for customer access. A second driveway connection on Adams Place further south of the Fay Blvd. signalized intersection will be retained for commercial truck deliveries as a one-way enter only driveway. This will provide safe access for large delivery vehicles and avoid vehicle conflicts and potential intersection blockage at the opposing driveways for the Circle K gas station and convenience store and the Family Dollar store only 75 feet from the traffic signal controlled intersection at Fay Blvd. Field observations indicated stopped queues from the intersection blocking access to both driveways.

The project is located within the city of Port St. John, Florida on Fay Blvd. under the jurisdiction of Brevard County and the City. This study utilized historical traffic from the FDOT traffic database and intersection turn movement counts collected in August 2020. A critical component of the traffic study is intersection and turn lane evaluations on Adams Place at the Fay Blvd. intersection and at the project driveway.

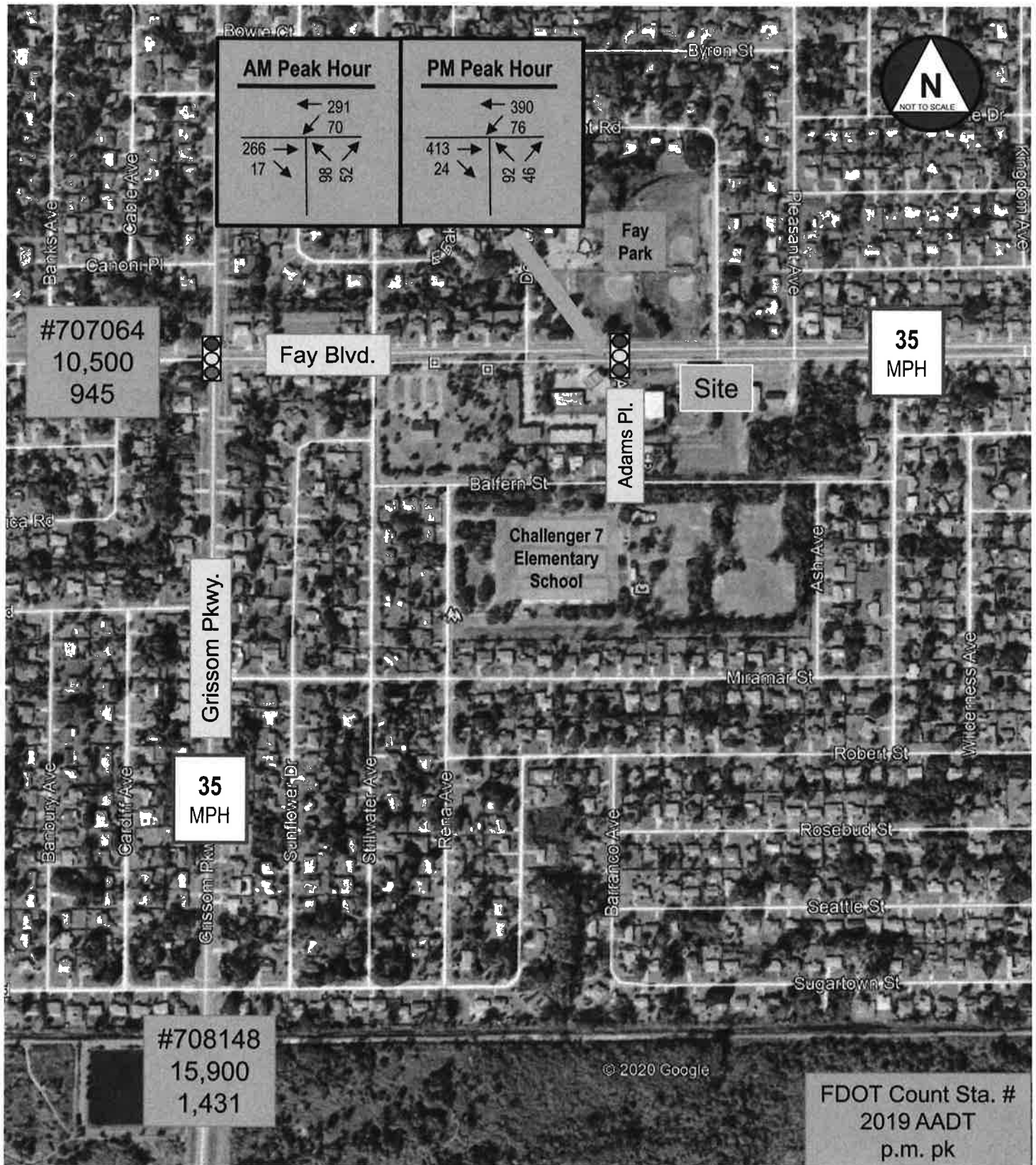
The existing Fay Blvd. roadway segments are operating within the current level of service (LOS) standards. Traffic on the impacted roadway segments and intersection is determined to continue to operate within standards based on the data collection and analysis of traffic impacts associated with the proposed store. It is recommended that the separate delivery driveway be maintained to avoid large vehicle conflicts at the driveways located near the intersection with Fay Blvd. No other off-site transportation improvements are required for project approval.

## INTRODUCTION

MPH Transportation Planning, Inc. (MPH) is assisting 4725 Fay Blvd. Land Trust with transportation impacts for the proposed new 12,000 sq. ft. Ace Hardware & Garden Center at the southeast corner of Fay Blvd. and Adams Place in Port St. John, Florida. This project is a re-development of a previous church building adjacent to the Family Dollar store. The existing building will be replaced with a new Ace Hardware store built on-site. A traffic study methodology was proposed to determine the acceptable trip generation, distribution and analysis procedures for this project. It was determined that the p.m. peak hour trip impacts were the determining criteria for assessing driveway and intersection impacts.

**Figure 1 - Project Location Map with Existing Traffic Data** provides location information and traffic counts. Available 2019 traffic data from FDOT and the Space Coast Transportation Planning Organization (SC-TPO) was reviewed. This data was supplemented with intersection turn movement counts during the 7-9 a.m. and 4-6 p.m. peak periods. This data is used to establish current level of service (LOS) on the adjacent segments of Fay Blvd. and to analyze intersection operations including turn lane analysis. Access to the project site will utilize the two existing (shared) driveways with the Family Dollar one each on Fay Blvd. and Adams Place. Additionally, there is a southern driveway connection on Adams Place that should be maintained for delivery and service vehicles. It can be a restrictive (enter only) driveway for large delivery trucks to keep them away from the intersection and potential lane/driveway blockage.

This study contains an assessment of the proposed development utilizing trip rates from the Institute of Transportation Engineers (ITE) Trip Generation 10<sup>th</sup> Edition to determine daily and peak hour project traffic for the new land use. Trip generation gross volumes will be reduced by the applicable pass-by rates per the ITE Handbook. Project trip distributions are based on data collected for adjacent street traffic and locations of interacting land uses within the project's impact area. Utilizing this information, an assignment of p.m. peak hour project trips onto the local area roadway network are made to the adjacent roadway segments. Gross project trip volumes will be used in assessing driveway and intersection traffic operations.



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MPH 20-17 8/27/20

**Ace Hardware Store – Port St. John, FL**  
**Project Location & Existing Traffic**

Figure 1  
Page 5

## EXISTING CONDITIONS

Roadway traffic volumes and peak hour directional traffic data were reviewed for this project at locations indicated on **Figure 1 – Project Location with Existing Traffic Data**. Roadway segment daily volumes on Fay Blvd. are 13,090 on the 4-lane divided segment east of Grissom Pkwy. Traffic volumes drop to 9,280 daily vehicles west of Grissom Pkwy. where Fay Blvd. transitions to a 2-lane undivided roadway. Adams Place is a short 425 foot long 2-lane undivided connector roadway from Fay Blvd. to Balfern Street where the Challenger 7 Elementary School is located. The immediate roadway network, as depicted in Figure 1, consists of Grissom Parkway to the west, Balfern Street to the south and Fay Blvd. to the north. Adams Place is adjacent to the project site and has existing driveway access for the Family Dollar store and Circle K Gas station/convenience store less than 75 feet south of the Fay Blvd. intersection.

Fay Blvd. is a 4-lane divided roadway with a westbound left turn lane at Adams Place. It is an urban principal arterial roadway with a posted speed of 35 mph in the area of the project. It has sidewalks on either side of the highway with no bike lanes. There is no regularly scheduled transit service in the area. The intersection is under traffic signal control. It also is a school crossing zone attended by school crossing guards during the a.m. and p.m. school arrival and departure times.

Adams Place is a 2-lane undivided local collector with a 25 mph posted speed. It is bordered by commercial development along its entire length.

**Figure 1** also displays the critical directional intersection traffic volumes during the a.m. and p.m. peak period. These volumes are used later with new project traffic to analyze intersection impacts and turn lane requirements at the project driveway.

## TRIP GENERATION

The Institute of Transportation Engineers (ITE) Trip Generation 10<sup>th</sup> Edition was used to calculate project trip estimates for the new land use for Daily & PM peak hour. Trip information is summarized in **Table 1 –Trip Generation** below.

**TABLE 1: Trip Generation**  
**Ace Hardware with Garden Center**  
**Port St. John, Florida**

| Land Use       |     |        |                |        |       | Distribution |      | Trips |     | 26%     |           |
|----------------|-----|--------|----------------|--------|-------|--------------|------|-------|-----|---------|-----------|
| Description    | ITE | Period | ITE rate       | Unit*  | Trips | Enter        | Exit | In    | Out | Pass By | Net Trips |
| Hardware Store | 816 | Daily  | (T) = 9.14 (X) | 12.000 | 110   | 50%          | 50%  | 55    | 55  | 29      | 81        |
| Hardware Store | 816 | AM     | (T) = 1.08 (X) | 12.000 | 13    | 54%          | 46%  | 7     | 6   | 3       | 10        |
| Hardware Store | 816 | PM     | (T) = 2.68 (X) | 12.000 | 32    | 47%          | 53%  | 15    | 17  | 8       | 24        |

Source: ITE Trip Generation: 10th Edition

Units: ksf = 1,000 square feet

The evaluating criteria is gross building square footage. Pass-by rates are applicable to the hardware store. There is a questionable decrease in trip rate for ITE LU 816 in the latest (10<sup>th</sup>) Edition of ITE Trip Generation. It has been reduced by 82% for daily trips and almost 50% for PM peak hour trips. MPH contacted ITE headquarters in Washington D.C. for an explanation. Traffic studies from the smaller stand-alone independent hardware stores were isolated from the big box Home Depot and Lowes type stores to better represent the small business paint and hardware stores that serve smaller communities. These studies showed a dramatic difference in the trips associated with the smaller (less than 20,000 square foot) stores versus the big box stores that often cater to contractors and commercial installers versus the mom and pop retailers who support a local community.

This data is used to develop external distribution of project trips onto the adjacent roadway network from the project site as discussed in the next section of this report.



## TRIP DISTRIBUTION

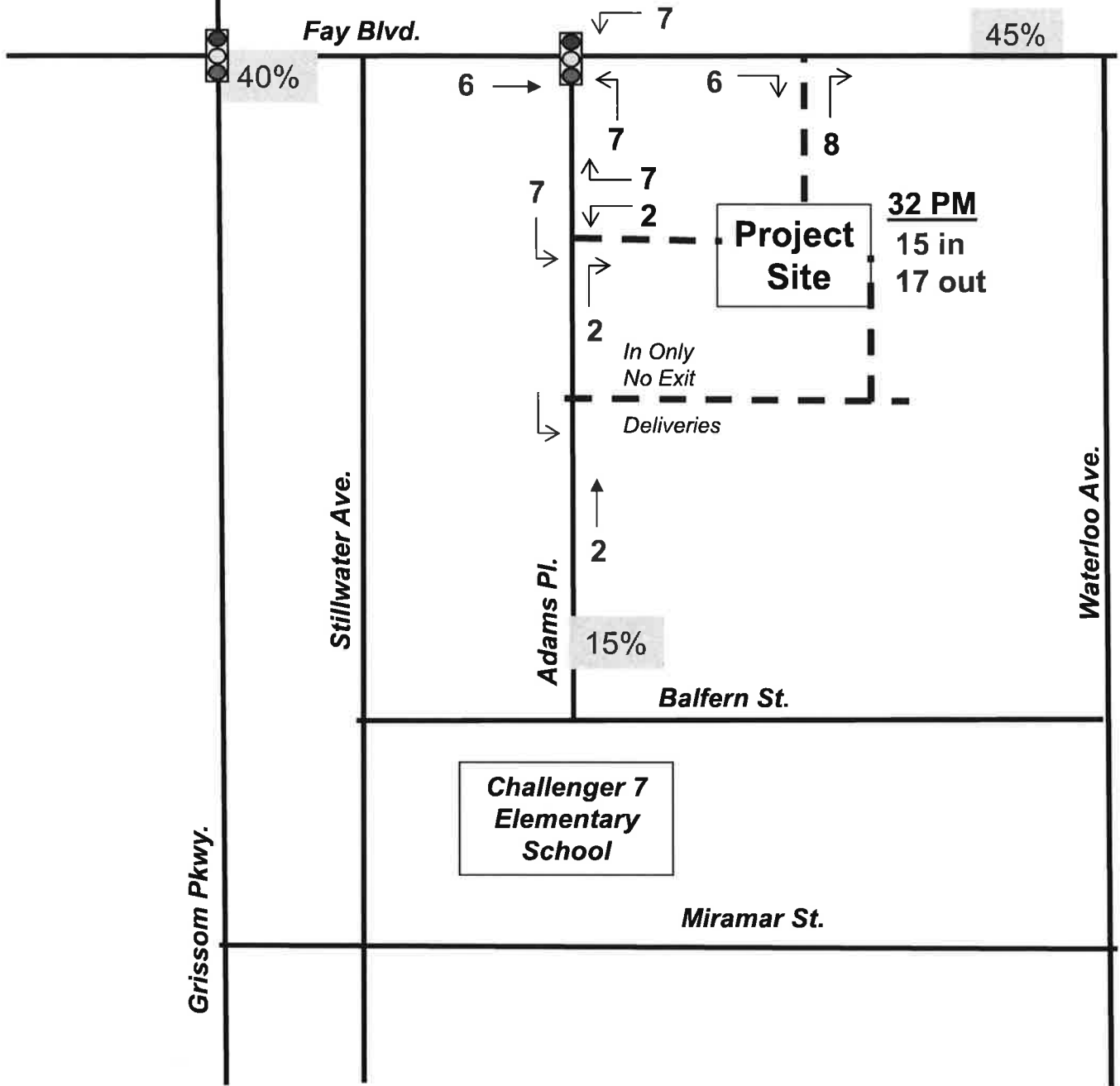
The distribution of project trips on the roadway is a manual assignment derived from the intersection traffic data collected by MPH staff at the adjacent intersection and review of existing locations of interacting land-uses. Trip generation numbers from Table 1 are factored by these nominal distribution criteria to develop trip impact estimates for the adjacent roadway segments to the project site. The results of these calculations are displayed in **Figure 2–Project Traffic Impacts** and in **Table 2 – Project Trip Distribution** below.

**TABLE 2: Project Trip Distribution  
Ace Hardware with Garden Center**

| Net New Daily Project Trips     |                     | Enter | 40    | Exit | 40    | 2-Way |
|---------------------------------|---------------------|-------|-------|------|-------|-------|
| Roadway                         | Segment             | %     | Trips | %    | Trips | Total |
| Fay Blvd                        | East of Adams Place | 45%   | 18    | 45%  | 18    | 36    |
|                                 | West of Adams Place | 40%   | 16    | 40%  | 16    | 32    |
| Adams Place                     | South of Fay Blvd.  | 15%   | 6     | 15%  | 6     | 12    |
|                                 | Total               | 100%  | 40    | 100% | 40    | 80    |
| PM Peak Project Trip Assignment |                     | Enter | 15    | Exit | 17    | 2-Way |
| Roadway                         | Segment             | %     | Trips | %    | Trips | Total |
| Fay Blvd                        | East of Adams Place | 45%   | 7     | 45%  | 8     | 15    |
|                                 | West of Adams Place | 40%   | 6     | 40%  | 7     | 13    |
| Adams Place                     | South of Fay Blvd.  | 15%   | 2     | 15%  | 2     | 4     |
|                                 | Total               | 100%  | 15    | 100% | 17    | 32    |

Notes    Project Distributions are estimated from adjacent street traffic & interacting land uses  
             Daily Project Trips represent the Net New Trip Impacts from Table 1.  
             PM Peak Trips are the gross trip estimates used for driveway & turn lane analysis.

Peak-hour trip impacts provide driveway detail for intersection and turn lane analysis for site plan review. Driveway evaluation consists of the gross trips entering or exiting the site. The highest directional new project traffic impact during the peak hour would be: 8 vehicles exiting the project site onto eastbound Fay Blvd. in the PM peak hour.



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MPH 20-17 8/27/20

**Ace Hardware Store – Port St. John, FL  
PM Peak Hour Project Traffic Impacts**

Figure 2  
Page 9

## ROADWAY LEVEL OF SERVICE (LOS) ANALYSIS

Data for Brevard County roadway level of service (LOS) for the adjacent roadway was extracted from the Space Coast TPO tables for Fay Blvd. roadway segments. **Table 3: Roadway Level of Service** provides the most recent available data for roadway segments adjacent to the project site.

**TABLE 3: Roadway Level of Service**  
***Ace Hardware with Garden Center***

Port St. John, Florida

| Roadway   | Segment #/description    | Period | MSV    | Traffic | Res'vd. | Project | V/C  | LOS |
|-----------|--------------------------|--------|--------|---------|---------|---------|------|-----|
| Fay Blvd. | 549 Grissom to Arequippa | Daily  | 33,800 | 13,090  |         | 36      | 0.39 | C   |
|           | 229 Deer to Grissom      | Daily  | 15,600 | 9,280   |         | 32      | 0.60 | C   |

Source: Space Coast TPO 2019 Traffic Database (Count Station 229 & 549)

Reserved trips represent trip impacts from approved development

Project trips represent New Daily traffic from Table 2

Maximum Service Volume (MSV) from Space Coast TPO database.

As indicated in the table above, no reserved trips are recorded for any roadway segment. There are no known development projects that would increase traffic on the roadway segments adjacent to the project site within the next year. This analysis uses the daily traffic count collected in 2019. Net New two way daily project trips were utilized to represent a conservative analysis. All roadway segments remain below the standard LOS "D" threshold associated with both roadway segments.

Additionally, 2020 traffic remains well below 2019 volumes as recorded on local area FDOT permanent count stations as a result of the Covid19 pandemic. However, the peak our volumes collected on Fay Blvd. compare favorably with the 2019 peak hour volumes with less than a 3% reduction on the segment in front of the project site. There is speculation that a significant reduction in traffic volumes will be observed for an extended period and potentially never return to historical volumes as work from home increasingly becomes the norm for a significant population of the work force. At this time the data collected indicates no operational problems based on Highway Capacity Software (HCS) analysis and field observations.

## INTERSECTION ANALYSIS

MPH staff collected turn movement counts at the Fay Blvd./Adams Place intersection on Wednesday, August 26, 2020. The detailed printouts from the data collection are included in the report appendix. The Challenger 7 Elementary School had resumed a normal class schedule. A crossing guard was assisting school children across Fay Blvd. in the morning 7-9 a.m. peak period. School was out prior to the 4-6 p.m. peak data collection period. **Table 4: Intersection Impacts** displays the a.m. and p.m. peak hour trips, both existing and project by approach and directional movement. Traffic in the p.m. peak hour has 25% more trips than in the a.m. peak hour. The p.m. volumes are used in the Highway Capacity Software (HCS) intersection analysis.

**Table 4 - Intersection Impacts**  
**Signal Controlled Intersection Impacts**

| Approach       | <i>Fay Blvd.</i> |      |           |    | <i>Adams Place</i> |    |           |
|----------------|------------------|------|-----------|----|--------------------|----|-----------|
| <b>AM Peak</b> | Westbound        |      | Eastbound |    | Northbound         |    |           |
| Movement       | Lt               | Thru | Thru      | Rt | Left               | Rt | Totals    |
| 2020           | 70               | 291  | 266       | 17 | 98                 | 52 | 794       |
| <b>Project</b> | <b>4</b>         |      | <b>2</b>  |    | <b>2</b>           |    | <b>8</b>  |
| 2021           | 74               | 291  | 268       | 17 | 100                | 52 | 802       |
| <b>PM Peak</b> | Westbound        |      | Eastbound |    | Northbound         |    |           |
| Movement       | Lt               | Thru | Thru      | Rt | Left               | Rt | Totals    |
| 2020           | 76               | 390  | 413       | 24 | 92                 | 46 | 1041      |
| <b>Project</b> | <b>7</b>         |      | <b>6</b>  |    | <b>7</b>           |    | <b>20</b> |
| 2021           | 83               | 390  | 419       | 24 | 99                 | 46 | 1061      |

Notes: 2020 traffic volumes from Figure 1  
Project Traffic (BOLD) from Figure 2

Gross project volumes from **Table 1: Trip Generation** were used as input to **Table 2: Trip Distribution** versus the reduced pass-by volumes. The 20 p.m. peak hour project trips are only a 1.92% increase in existing traffic. This represents a conservative analysis. This table simply illustrates that no adverse conditions could result at the intersection from such minimal project volumes in either the a.m. or p.m. peak hours. This data was analyzed using the traffic signal control module of the Highway Capacity Software developed for FDOT by the McTrans Center at the University of Florida, College of Engineering. Results of this analysis is detailed in **Table 5 – Intersection Analysis** below.

**Table 5 - Intersection Level of Service (LOS)**

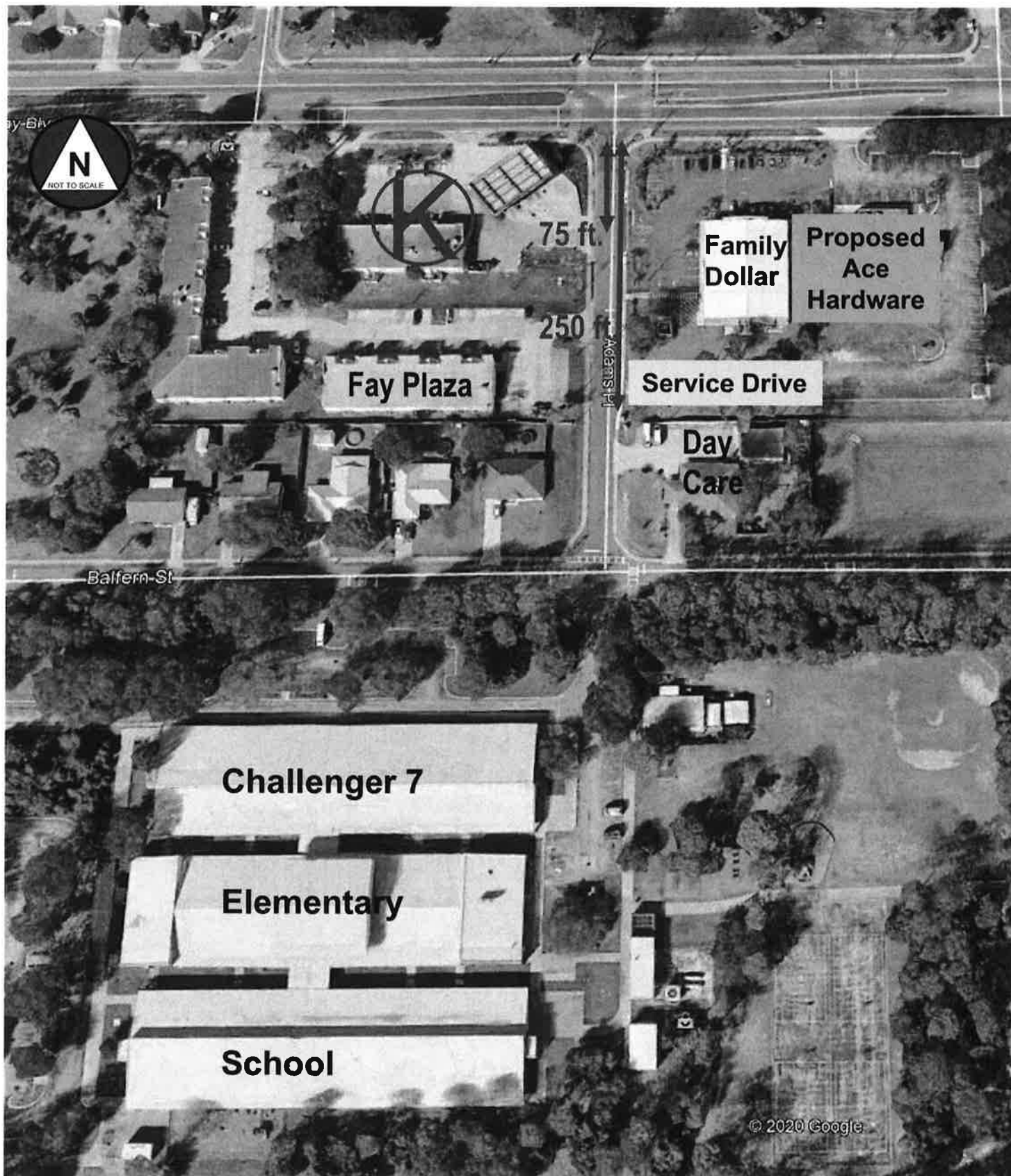
| Traffic |    | Fay Blvd. |       |     |       | Adams Place |       |              |       |
|---------|----|-----------|-------|-----|-------|-------------|-------|--------------|-------|
| Signal  |    | EB        |       | WB  |       | NB          |       | Intersection |       |
| Control |    | LOS       | Delay | LOS | Delay | LOS         | Delay | LOS          | Delay |
| 2020    | PM | A         | 3.6   | A   | 3.5   | C           | 24.4  | A            | 6.0   |
| 2021    | PM | A         | 3.6   | A   | 3.5   | C           | 25.1  | A            | 6.2   |

Delay expressed in AVERAGE seconds per vehicle.

The results of the HCS analysis indicates traffic moves with minimal delay on Fay Blvd. throughout the day. The Adams Place approach also has minimal delay and a good portion of that traffic is able to make a right turn on red even during the peak hour of operation. The only exception is during school arrival and departure times when the school crossing guard utilizes the pedestrian crossing button to increase the Fay Blvd. delay to 24 seconds while students safely cross Fay Blvd.

### ***Safety Analysis***

Field observations indicated an operational problem at the Fay Blvd./Adams Place intersection and the driveways to the Family Dollar & the Circle K only 75 feet south of that intersection. Several times during both the a.m. and p.m. peak periods there were lane blockages at the two opposing driveways for the Circle K and Family Dollar. One time the left turning traffic from westbound Fay Blvd. blocked the through lane on eastbound Fay Blvd. as traffic backed up entering the Circle K and Family Dollar. This is the main reason that the service drive entrance 250 feet south of the Fay Blvd. intersection is important to both the proposed Ace Hardware as well as the existing Family Dollar. This driveway would allow delivery vehicles to safely enter the two sites without blocking access to either customer access or creating a dangerous queue and potential blockage to through traffic on Fay Blvd. Both stores get periodic deliveries from large vans or truck-trailer combinations throughout the day. Each store gets one or two weekly deliveries on large semi-tractor rigs from their respective distribution centers. The delivery vehicle service drive is essential to safe vehicle operations for the driving public at this intersection. **Figures 3 and 4** illustrate the existing driveway geometry and examples of driveway blockages observed several times during both the a.m. and p.m. periods of field observations. This analysis supports the recommendation to maintain a delivery driveway separate from the customer entrances only 75 feet from the intersection.



**MPH**

MPH 20-17 8/27/20

**Ace Hardware Store – Port St. John, FL  
Driveway Geometry**

Figure 3  
Page 13



**MPH**

MPH 20-17 8/27/20

***Ace Hardware Store – Port St. John, FL***  
**Driveway Obstruction Examples**

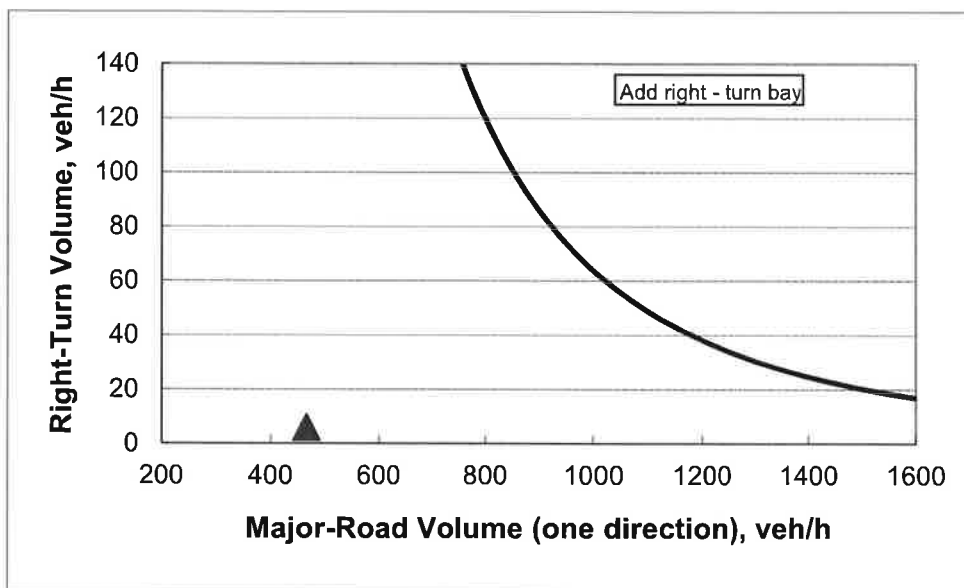
Figure 4  
Page 14

### ***Right Turn Lane Analysis***

FDOT criteria for evaluating right turn lanes is established in the FDOT Driveway Information Guide. Right turn lanes are not required on 4-lane divided roadways until the right turn volume exceeds 85 vehicles in the peak hour. The highest right turn volume for the new Ace Hardware would be **6** vehicles entering from Fay Blvd. in the p.m. peak hour. Another resource in evaluating turn lane requirements is the NCHRP Report 457: Evaluating Intersection Improvements. Output from the right turn lane analysis utilizing the NCHRP Report 457 criteria for the project driveway is provided below.

***Roadway Geometry: Fay Blvd. 4-lane divided urban minor arterial  
2 lanes eastbound at project driveway.***

| Input Variable   | Value |
|--|-------|
| Major-road speed, mph:   | 35    |
| Major-road volume (one direction), veh/h:  | 465   |
| Right-turn volume, veh/h:  | 6     |
| Output Variable  | Value |
| Limiting right-turn volume, veh/h:   | 557   |
| <b>Guidance for determining the need for a major-road right-turn bay for a 4-lane roadway:</b> |       |
| <b>Do NOT add right-turn bay.</b>  |       |





## **CONCLUSIONS and RECOMMENDATIONS**

Based on the data and analysis provided in the previous sections of this report the following conclusions on traffic operations and recommendations are provided below.

### **Conclusions:**

1. The proposed Ace Hardware store and garden center on Fay Blvd. within the city of Port St. John, Brevard County, FL is estimated to generate 110 (81 net new) daily trip impacts. The PM Peak hour will have approximately 32 total trips (24 net new) impacting adjacent roadways.
2. The adjacent segments of Fay Blvd. currently meet LOS standards (LOS D) and will remain well below this threshold with the addition of project trips.
3. The existing project driveways are shared with the adjacent Family Dollar store. They are located on: Fay Blvd. east of Adams Place restricted to right-in/right-out; and on Adams Place 75 feet south of Fay Blvd. for customer access and 250 feet south of Fay Blvd. for delivery vehicles.
4. Project trips will not adversely impact either roadway.
5. Safety concerns for potential driveway and roadway blockage at or near the intersection promote the delivery driveway to the south be maintained for overall driver safety.
6. Right turn lane analysis indicates that no right turn lane on Fay Blvd. is required using either the standard FDOT Driveway Handbook criteria or the more stringent NCHRP Report 457 criteria.

### **Recommendations:**

1. Approve the project driveway connections as provided in the project site plan submitted by the project's civil engineer.

## **APPENDICES: Correspondence and Documentation**

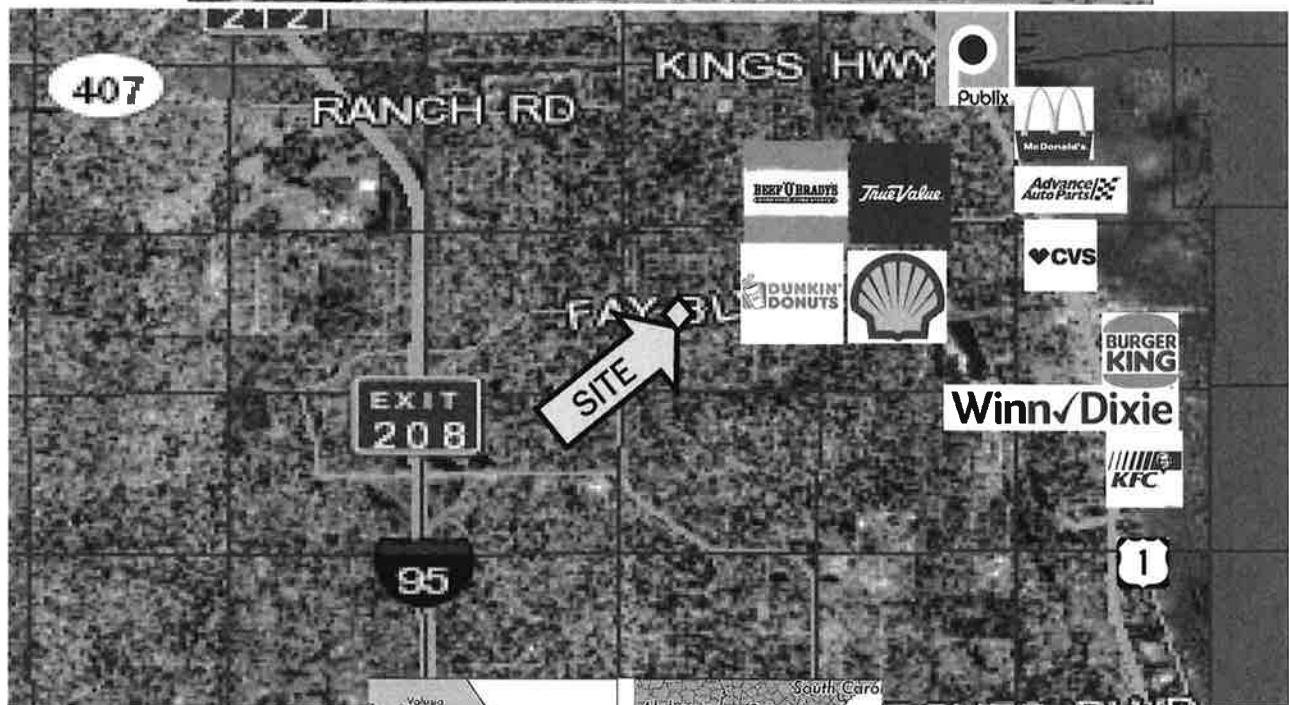
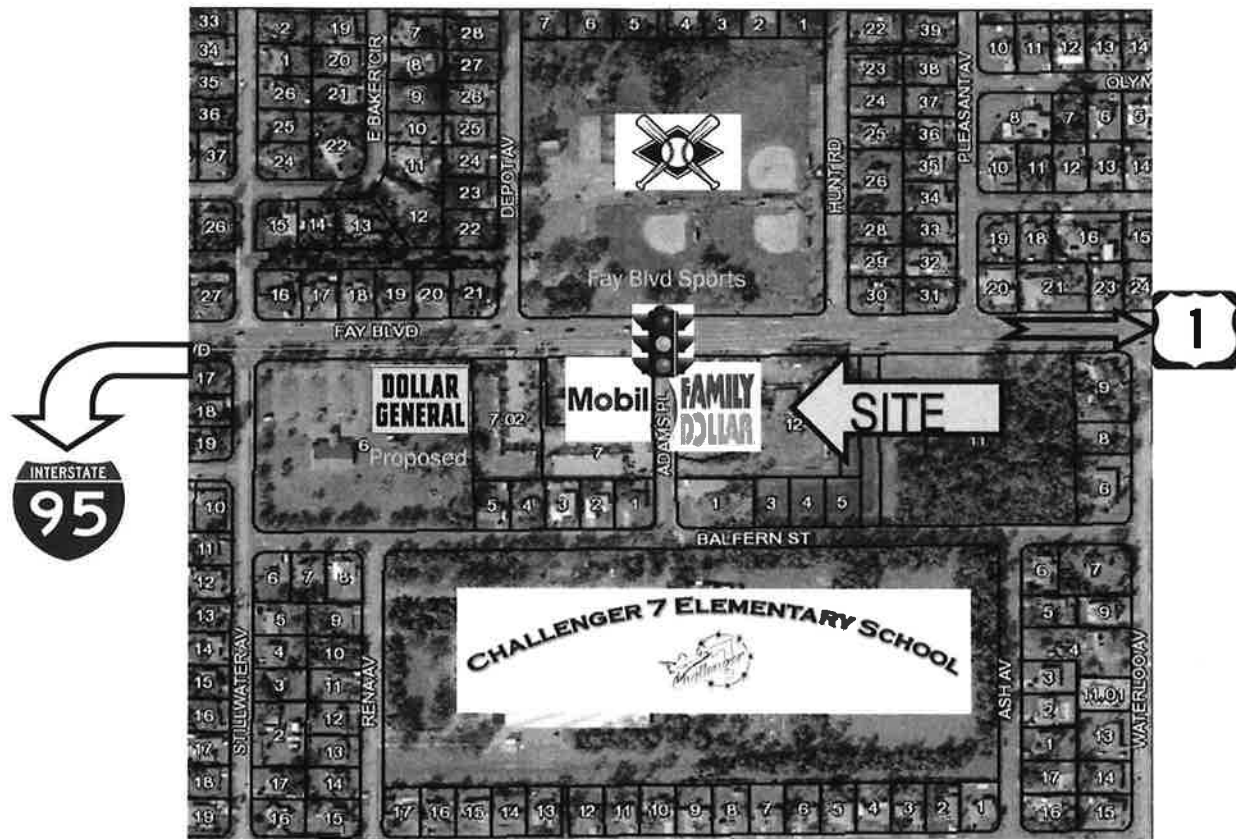
## ***Appendix A: Correspondence***

—

# 4725 FAY BLVD, PORT ST JOHN, FL 32927

+/- 1.6 ACRE SITE - ZONED NEIGHBORHOOD COMMERCIAL

Signalized Intersection of Fay Blvd & Adams Place



FAMILY DOLLAR  
APPROVAL STAMP

SCALE: 1" = 60'

FL - PORT ST JOHN  
FAY BOULEVARD

SITE PLAN # 2

Site Data Summary

Area Summary:

Total Site Area: 43,181 SF (0.99 Ac)  
 Building: 8,320 SF  
 Asphalt Paving: 21,125 SF  
 Concrete: 1,585 SF

Parking Summary:

Required: 34 Spaces (Ratio: 1/250SF)  
 Provided: 35 Spaces  
 Space Size: 9 x 18

Building Setbacks:

Front: 50'  
 Side: 5' (25' ROW)  
 Rear: 25'

Notes:

If Risk Class 0-2, No Bollards will be placed in Front of the store.

FD # 710898

Original Approval Date: 09/23/2013

Drawn By:

Rev #1: 09/04/2014

Rev #2: 09/25/2014

Rev #3: 10/17/2014

BGM

Prepared For:



Hunt Real Estate

5100 W. Kennedy Blvd #100  
 Tampa, FL 33609  
 813-289-5511



## **Land Use: 816**

### **Hardware/Paint Store**

#### **Description**

A hardware/paint store is a free-standing building that sells hardware and paint supplies. Building materials and lumber store (Land Use 812) and home improvement superstore (Land Use 862) are related uses.

#### **Additional Data**

Time-of-day distribution data for this land use are presented in Appendix A. For the five general urban/suburban sites with data, the overall highest vehicle volumes during the AM and PM on a weekday were counted between 10:15 and 11:15 a.m. and 1:00 and 2:00 p.m., respectively.

The sites were surveyed in the 1990s and the 2010s in California, Oregon, South Dakota, Texas, and Wisconsin.

#### **Source Numbers**

358, 531, 880, 959, 966

## Hardware/Paint Store (816)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA  
On a: Weekday

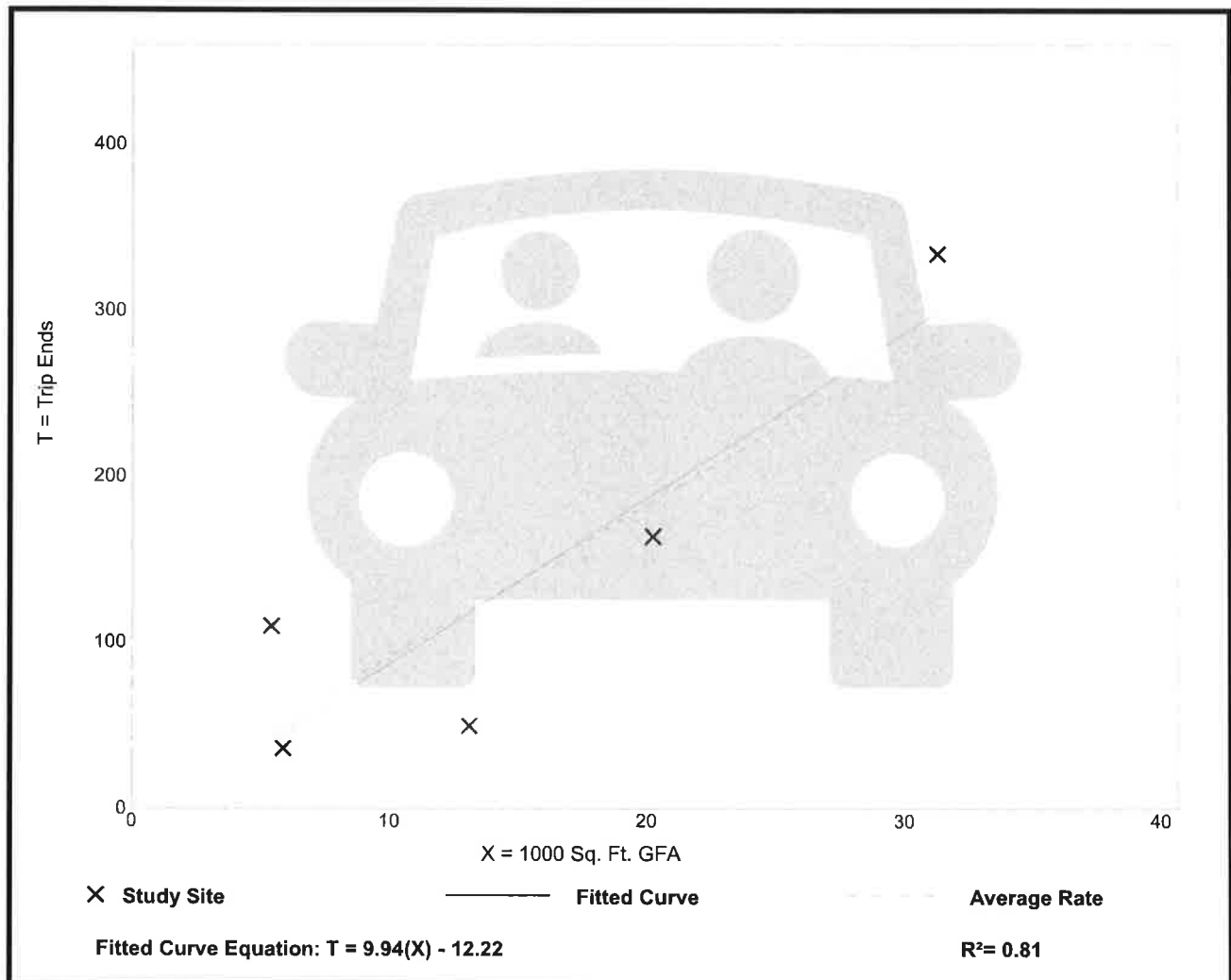
Setting/Location: General Urban/Suburban  
Number of Studies: 5  
Avg. 1000 Sq. Ft. GFA: 15  
Directional Distribution: 50% entering, 50% exiting

### Vehicle Trip Generation per 1000 Sq. Ft. GFA

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 9.14         | 3.82 - 20.33   | 4.43               |

### Data Plot and Equation

Caution – Small Sample Size



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## Hardware/Paint Store (816)

**Vehicle Trip Ends vs:** 1000 Sq. Ft. GFA  
**On a:** Weekday,  
 Peak Hour of Adjacent Street Traffic,  
 One Hour Between 7 and 9 a.m.

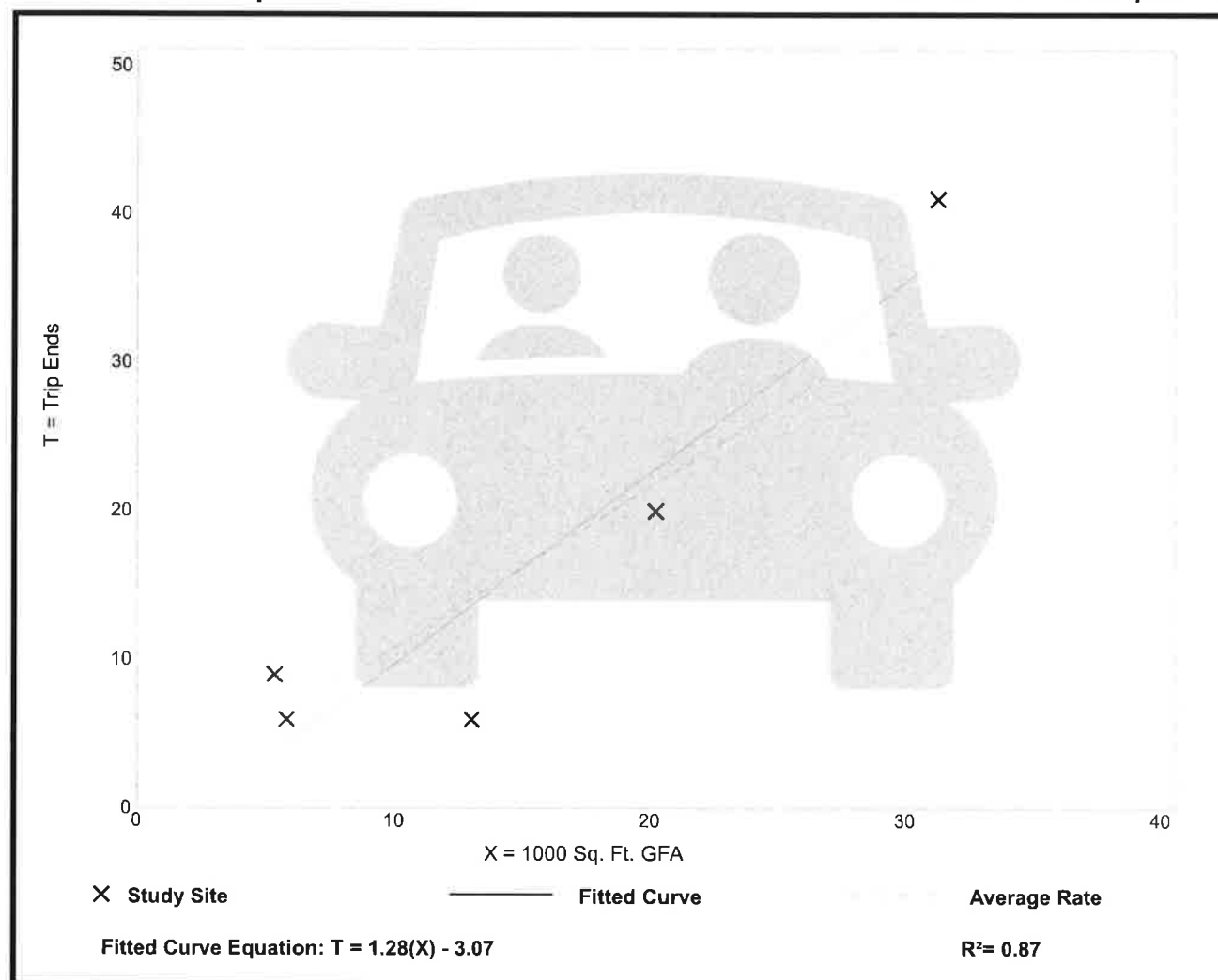
**Setting/Location:** General Urban/Suburban  
 Number of Studies: 5  
 Avg. 1000 Sq. Ft. GFA: 15  
 Directional Distribution: 54% entering, 46% exiting

### Vehicle Trip Generation per 1000 Sq. Ft. GFA

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 1.08         | 0.46 - 1.66    | 0.38               |

### Data Plot and Equation

*Caution – Small Sample Size*



*Trip Gen Manual, 10th Edition • Institute of Transportation Engineers*



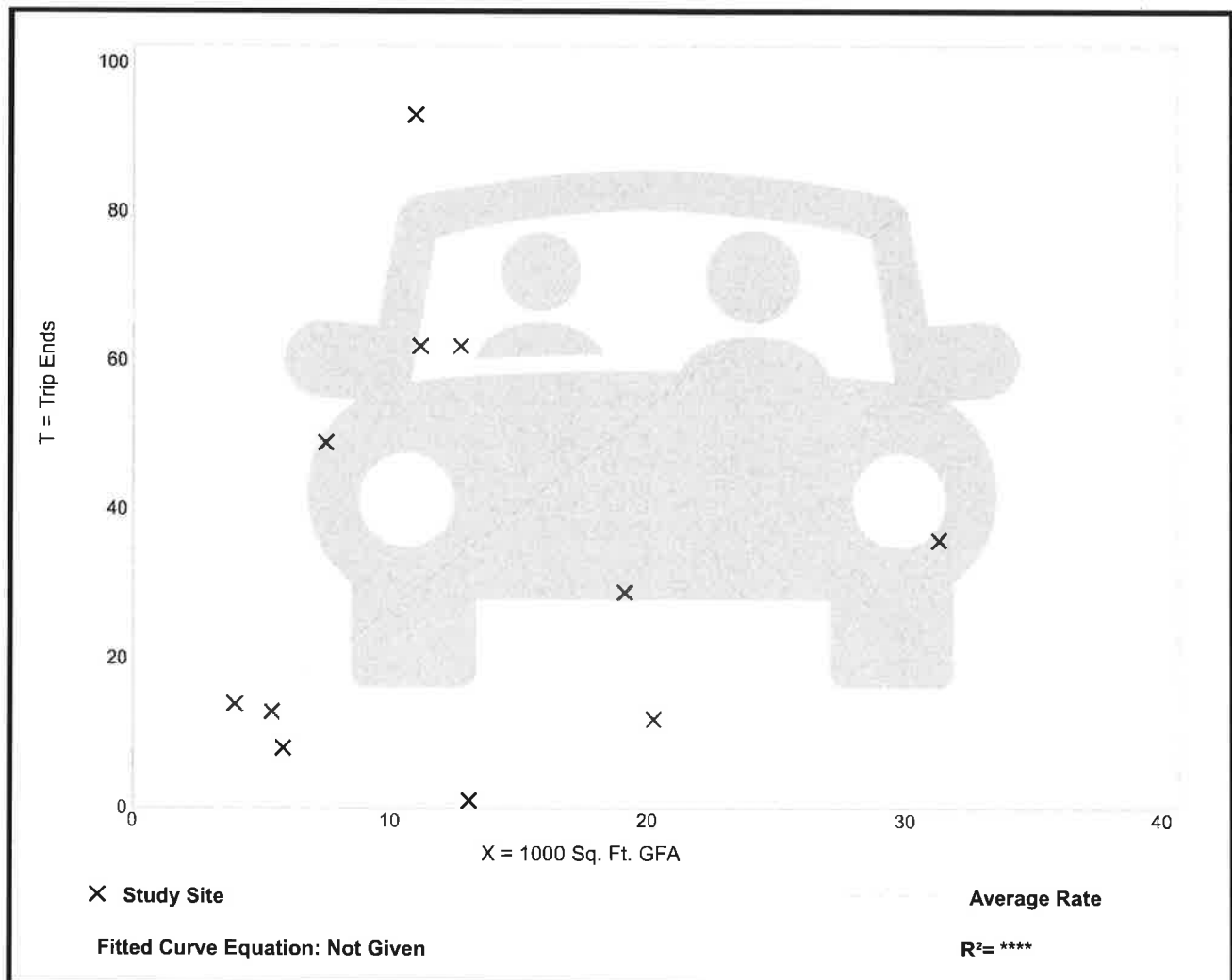
## Hardware/Paint Store (816)

Vehicle Trip Ends vs: 1000 Sq. Ft. GFA  
 On a: Weekday,  
 Peak Hour of Adjacent Street Traffic,  
 One Hour Between 4 and 6 p.m.  
 Setting/Location: General Urban/Suburban  
 Number of Studies: 11  
 Avg. 1000 Sq. Ft. GFA: 13  
 Directional Distribution: 47% entering, 53% exiting

### Vehicle Trip Generation per 1000 Sq. Ft. GFA

| Average Rate | Range of Rates | Standard Deviation |
|--------------|----------------|--------------------|
| 2.68         | 0.08 - 8.45    | 2.68               |

### Data Plot and Equation



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***Appendix B: Traffic Counts and Analysis Reports***

# MPH Transportation Planning

Tallahassee, Florida

850-510-6461

Project No. MPH20-17

PSJ Ace Hardware

Fay Blvd. at Adams Place

File Name : FayBlvd

Site Code : 00000000

Start Date : 8/26/2020

Page No : 1

## Groups Printed- Vehicles

|             | ADAMS<br>From North |               | FAY BLVD<br>From East |      |               | ADAMS<br>From South |      |      |               | FAY BLVD<br>From West |      |               |               |
|-------------|---------------------|---------------|-----------------------|------|---------------|---------------------|------|------|---------------|-----------------------|------|---------------|---------------|
| Start Time  | PED                 | App.<br>Total | Th                    | Lt   | App.<br>Total | Rt                  | Lt   | ROR  | App.<br>Total | Rt                    | Th   | App.<br>Total | Int.<br>Total |
| Factor      | 1.0                 |               | 1.0                   | 1.0  |               | 1.0                 | 1.0  | 1.0  |               | 1.0                   | 1.0  |               |               |
| 07:00       | 0                   | 0             | 59                    | 9    | 68            | 6                   | 12   | 3    | 21            | 6                     | 44   | 50            | 139           |
| 07:15       | 1                   | 1             | 57                    | 16   | 73            | 3                   | 18   | 5    | 26            | 4                     | 62   | 66            | 166           |
| 07:30       | 7                   | 7             | 63                    | 23   | 86            | 6                   | 28   | 4    | 38            | 4                     | 54   | 58            | 189           |
| 07:45       | 0                   | 0             | 78                    | 23   | 101           | 19                  | 36   | 7    | 62            | 5                     | 77   | 82            | 245           |
| Total       | 8                   | 8             | 257                   | 71   | 328           | 34                  | 94   | 19   | 147           | 19                    | 237  | 256           | 739           |
| 08:00       | 1                   | 1             | 75                    | 14   | 89            | 5                   | 23   | 3    | 31            | 3                     | 76   | 79            | 200           |
| 08:15       | 0                   | 0             | 75                    | 10   | 85            | 5                   | 11   | 3    | 19            | 5                     | 59   | 64            | 168           |
| 08:30       | 0                   | 0             | 48                    | 12   | 60            | 2                   | 12   | 4    | 18            | 1                     | 69   | 70            | 148           |
| 08:45       | 0                   | 0             | 53                    | 8    | 61            | 6                   | 18   | 2    | 26            | 8                     | 58   | 66            | 153           |
| Total       | 1                   | 1             | 251                   | 44   | 295           | 18                  | 64   | 12   | 94            | 17                    | 262  | 279           | 669           |
| 16:00       | 0                   | 0             | 112                   | 22   | 134           | 4                   | 19   | 7    | 30            | 8                     | 129  | 137           | 301           |
| 16:15       | 4                   | 4             | 94                    | 13   | 107           | 9                   | 31   | 1    | 41            | 6                     | 87   | 93            | 245           |
| 16:30       | 0                   | 0             | 95                    | 26   | 121           | 10                  | 19   | 2    | 31            | 4                     | 104  | 108           | 260           |
| 16:45       | 0                   | 0             | 89                    | 15   | 104           | 8                   | 23   | 5    | 36            | 6                     | 93   | 99            | 239           |
| Total       | 4                   | 4             | 390                   | 76   | 466           | 31                  | 92   | 15   | 138           | 24                    | 413  | 437           | 1045          |
| 17:00       | 0                   | 0             | 89                    | 16   | 105           | 8                   | 24   | 2    | 34            | 9                     | 85   | 94            | 233           |
| 17:15       | 0                   | 0             | 92                    | 13   | 105           | 9                   | 26   | 4    | 39            | 16                    | 107  | 123           | 267           |
| 17:30       | 0                   | 0             | 82                    | 15   | 97            | 8                   | 35   | 3    | 46            | 9                     | 80   | 89            | 232           |
| 17:45       | 0                   | 0             | 133                   | 17   | 150           | 2                   | 18   | 3    | 23            | 6                     | 90   | 96            | 269           |
| Total       | 0                   | 0             | 396                   | 61   | 457           | 27                  | 103  | 12   | 142           | 40                    | 362  | 402           | 1001          |
| Grand Total | 13                  | 13            | 1294                  | 252  | 1546          | 110                 | 353  | 58   | 521           | 100                   | 1274 | 1374          | 3454          |
| Apprch %    | 100.0               |               | 83.7                  | 16.3 |               | 21.1                | 67.8 | 11.1 |               | 7.3                   | 92.7 |               |               |
| Total %     | 0.4                 | 0.4           | 37.5                  | 7.3  | 44.8          | 3.2                 | 10.2 | 1.7  | 15.1          | 2.9                   | 36.9 | 39.8          |               |

|   | ADAMS<br>From North |               | FAY BLVD<br>From East |      |               | ADAMS<br>From South |      |      |               | FAY BLVD<br>From West |      |               |               |
|---|---------------------|---------------|-----------------------|------|---------------|---------------------|------|------|---------------|-----------------------|------|---------------|---------------|
| Start Time                                  | PED                 | App.<br>Total | Th                    | Lt   | App.<br>Total | Rt                  | Lt   | ROR  | App.<br>Total | Rt                    | Th   | App.<br>Total | Int.<br>Total |
| Peak Hour From 07:00 to 08:45 - Peak 1 of 1 |                     |               |                       |      |               |                     |      |      |               |                       |      |               |               |
| Intersection                                | 07:30               |               |                       |      |               |                     |      |      |               |                       |      |               |               |
| Volume                                      | 8                   | 8             | 291                   | 70   | 361           | 35                  | 98   | 17   | 150           | 17                    | 266  | 283           | 802           |
| Percent                                     | 100.0               |               | 80.6                  | 19.4 |               | 23.3                | 65.3 | 11.3 |               | 6.0                   | 94.0 |               |               |
| 07:45                                       |                     |               |                       |      |               |                     |      |      |               |                       |      |               |               |
| Volume                                      | 0                   | 0             | 78                    | 23   | 101           | 19                  | 36   | 7    | 62            | 5                     | 77   | 82            | 245           |
| Peak Factor                                 |                     |               |                       |      |               |                     |      |      |               |                       |      |               | 0.818         |
| High Int.                                   | 07:30               |               | 07:45                 |      |               | 07:45               |      |      |               | 07:45                 |      |               |               |
| Volume                                      | 7                   | 7             | 78                    | 23   | 101           | 19                  | 36   | 7    | 62            | 5                     | 77   | 82            |               |
| Peak Factor                                 |                     | 0.286         |                       |      | 0.894         |                     |      |      | 0.605         |                       |      | 0.863         |               |
| Peak Hour From 07:00 to 08:45 - Peak 1 of 1 |                     |               |                       |      |               |                     |      |      |               |                       |      |               |               |
| By Approach                                 | 07:15               |               | 07:30                 |      |               | 07:15               |      |      |               | 07:45                 |      |               |               |
| Volume                                      | 9                   | 9             | 291                   | 70   | 361           | 33                  | 105  | 19   | 157           | 14                    | 281  | 295           |               |
| Percent                                     | 100.0               |               | 80.6                  | 19.4 |               | 21.0                | 66.9 | 12.1 |               | 4.7                   | 95.3 |               |               |
| High Int.                                   | 07:30               |               | 07:45                 |      |               | 07:45               |      |      |               | 07:45                 |      |               |               |
| Volume                                      | 7                   | 7             | 78                    | 23   | 101           | 19                  | 36   | 7    | 62            | 5                     | 77   | 82            |               |
| Peak Factor                                 |                     | 0.321         |                       |      | 0.894         |                     |      |      | 0.633         |                       |      | 0.899         |               |

MPH Transportation Planning  
Tallahassee, Florida

Project No. MPH20-17  
PSJ Ace Hardware  
Fay Blvd. at Adams Place

850-510-6461

File Name : FayBlvd  
Site Code : 00000000  
Start Date : 8/26/2020  
Page No : 2

|   | ADAMS<br>From North |               | FAY BLVD<br>From East |      |               | ADAMS<br>From South |      |      |               | FAY BLVD<br>From West |      |               |               |
|---|---------------------|---------------|-----------------------|------|---------------|---------------------|------|------|---------------|-----------------------|------|---------------|---------------|
| Start Time                                  | PED                 | App.<br>Total | Th                    | Lt   | App.<br>Total | Rt                  | Lt   | ROR  | App.<br>Total | Rt                    | Th   | App.<br>Total | Int.<br>Total |
| Peak Hour From 16:00 to 17:45 - Peak 1 of 1 |                     |               |                       |      |               |                     |      |      |               |                       |      |               |               |
| Intersection                                | 16:00               |               |                       |      |               |                     |      |      |               |                       |      |               |               |
| Volume                                      | 4                   | 4             | 390                   | 76   | 466           | 31                  | 92   | 15   | 138           | 24                    | 413  | 437           | 1045          |
| Percent                                     | 100.0               |               | 83.7                  | 16.3 |               | 22.5                | 66.7 | 10.9 |               | 5.5                   | 94.5 |               |               |
| 16:00                                       |                     |               |                       |      |               |                     |      |      |               |                       |      |               |               |
| Volume                                      | 0                   | 0             | 112                   | 22   | 134           | 4                   | 19   | 7    | 30            | 8                     | 129  | 137           | 301           |
| Peak Factor                                 |                     |               |                       |      |               |                     |      |      |               |                       |      |               | 0.868         |
| High Int.                                   | 16:15               |               | 16:00                 |      |               | 16:15               |      |      |               | 16:00                 |      |               |               |
| Volume                                      | 4                   | 4             | 112                   | 22   | 134           | 9                   | 31   | 1    | 41            | 8                     | 129  | 137           |               |
| Peak Factor                                 |                     | 0.250         |                       |      | 0.869         |                     |      |      | 0.841         |                       |      | 0.797         |               |
| Peak Hour From 16:00 to 17:45 - Peak 1 of 1 |                     |               |                       |      |               |                     |      |      |               |                       |      |               |               |
| By Approach                                 | 16:00               |               | 16:00                 |      |               | 16:45               |      |      |               | 16:00                 |      |               |               |
| Volume                                      | 4                   | 4             | 390                   | 76   | 466           | 33                  | 108  | 14   | 155           | 24                    | 413  | 437           |               |
| Percent                                     | 100.0               |               | 83.7                  | 16.3 |               | 21.3                | 69.7 | 9.0  |               | 5.5                   | 94.5 |               |               |
| High Int.                                   | 16:15               |               | 16:00                 |      |               | 17:30               |      |      |               | 16:00                 |      |               |               |
| Volume                                      | 4                   | 4             | 112                   | 22   | 134           | 8                   | 35   | 3    | 46            | 8                     | 129  | 137           |               |
| Peak Factor                                 |                     | 0.250         |                       |      | 0.869         |                     |      |      | 0.842         |                       |      | 0.797         |               |

# MPH Transportation Planning

Tallahassee, Florida

850-510-6461

Project No. MPH20-17

PSJ Ace Hardware

Fay Blvd. at Adams Place

File Name : FayBlvd

Site Code : 00000000

Start Date : 8/26/2020

Page No : 1

Groups Printed- Buses & Trucks

|             | ADAMS<br>From North |               | FAY BLVD<br>From East |     |               | ADAMS<br>From South |      |     |               | FAY BLVD<br>From West |       |               |               |
|-------------|---------------------|---------------|-----------------------|-----|---------------|---------------------|------|-----|---------------|-----------------------|-------|---------------|---------------|
| Start Time  | PED                 | App.<br>Total | Th                    | Lt  | App.<br>Total | Rt                  | Lt   | ROR | App.<br>Total | Rt                    | Th    | App.<br>Total | Int.<br>Total |
| Factor      | 1.0                 |               | 1.0                   | 1.0 |               | 1.0                 | 1.0  | 1.0 |               | 1.0                   | 1.0   |               |               |
| 07:00       | 0                   | 0             | 0                     | 0   | 0             | 0                   | 0    | 0   | 0             | 0                     | 1     | 1             | 1             |
| 07:15       | 0                   | 0             | 1                     | 0   | 1             | 0                   | 0    | 0   | 0             | 0                     | 1     | 1             | 2             |
| 07:30       | 0                   | 0             | 0                     | 0   | 0             | 0                   | 1    | 0   | 1             | 0                     | 0     | 0             | 1             |
| 07:45       | 0                   | 0             | 1                     | 1   | 2             | 0                   | 0    | 0   | 0             | 0                     | 1     | 1             | 3             |
| Total       | 0                   | 0             | 2                     | 1   | 3             | 0                   | 1    | 0   | 1             | 0                     | 3     | 3             | 7             |
| 08:00       | 0                   | 0             | 1                     | 0   | 1             | 0                   | 0    | 0   | 0             | 0                     | 2     | 2             | 3             |
| 08:15       | 0                   | 0             | 6                     | 0   | 6             | 0                   | 1    | 0   | 1             | 0                     | 1     | 1             | 8             |
| 08:30       | 0                   | 0             | 0                     | 0   | 0             | 0                   | 0    | 0   | 0             | 0                     | 1     | 1             | 1             |
| 08:45       | 0                   | 0             | 1                     | 0   | 1             | 1                   | 0    | 0   | 1             | 0                     | 3     | 3             | 5             |
| Total       | 0                   | 0             | 8                     | 0   | 8             | 1                   | 1    | 0   | 2             | 0                     | 7     | 7             | 17            |
| 16:00       | 0                   | 0             | 3                     | 0   | 3             | 0                   | 0    | 0   | 0             | 0                     | 7     | 7             | 10            |
| 16:15       | 0                   | 0             | 0                     | 0   | 0             | 0                   | 1    | 0   | 1             | 0                     | 0     | 0             | 1             |
| 16:30       | 0                   | 0             | 2                     | 0   | 2             | 0                   | 0    | 0   | 0             | 0                     | 0     | 0             | 2             |
| Total       | 0                   | 0             | 5                     | 0   | 5             | 0                   | 1    | 0   | 1             | 0                     | 7     | 7             | 13            |
| Grand Total | 0                   | 0             | 15                    | 1   | 16            | 1                   | 3    | 0   | 4             | 0                     | 17    | 17            | 37            |
| Apprch %    | 0.0                 |               | 93.8                  | 6.3 |               | 25.0                | 75.0 | 0.0 |               | 0.0                   | 100.0 |               |               |
| Total %     | 0.0                 | 0.0           | 40.5                  | 2.7 | 43.2          | 2.7                 | 8.1  | 0.0 | 10.8          | 0.0                   | 45.9  | 45.9          |               |

|   | ADAMS<br>From North |               | FAY BLVD<br>From East |      |               | ADAMS<br>From South |       |     |               | FAY BLVD<br>From West |       |               |               |
|---|---------------------|---------------|-----------------------|------|---------------|---------------------|-------|-----|---------------|-----------------------|-------|---------------|---------------|
| Start Time                                  | PED                 | App.<br>Total | Th                    | Lt   | App.<br>Total | Rt                  | Lt    | ROR | App.<br>Total | Rt                    | Th    | App.<br>Total | Int.<br>Total |
| Peak Hour From 07:00 to 08:45 - Peak 1 of 1 |                     |               |                       |      |               |                     |       |     |               |                       |       |               |               |
| Intersection                                | 08:00               |               |                       |      |               |                     |       |     |               |                       |       |               |               |
| Volume                                      | 0                   | 0             | 8                     | 0    | 8             | 1                   | 1     | 0   | 2             | 0                     | 7     | 7             | 17            |
| Percent                                     | 0.0                 |               | 100.0                 | 0.0  |               | 50.0                | 50.0  | 0.0 |               | 0.0                   | 100.0 |               |               |
| 08:15                                       |                     |               |                       |      |               |                     |       |     |               |                       |       |               |               |
| Volume                                      | 0                   | 0             | 6                     | 0    | 6             | 0                   | 1     | 0   | 1             | 0                     | 1     | 1             | 8             |
| Peak Factor                                 |                     |               |                       |      |               |                     |       |     |               |                       |       |               | 0.531         |
| High Int.                                   | 6:45:00 AM          |               | 08:15                 |      |               | 08:15               |       |     |               | 08:45                 |       |               |               |
| Volume                                      | 0                   | 0             | 6                     | 0    | 6             | 0                   | 1     | 0   | 1             | 0                     | 3     | 3             |               |
| Peak Factor                                 |                     |               |                       |      | 0.333         |                     |       |     | 0.500         |                       |       | 0.583         |               |
| Peak Hour From 07:00 to 08:45 - Peak 1 of 1 |                     |               |                       |      |               |                     |       |     |               |                       |       |               |               |
| By Approach                                 | 07:00               |               | 07:30                 |      |               | 07:30               |       |     |               | 08:00                 |       |               |               |
| Volume                                      | 0                   | 0             | 8                     | 1    | 9             | 0                   | 2     | 0   | 2             | 0                     | 7     | 7             |               |
| Percent                                     | -                   |               | 88.9                  | 11.1 |               | 0.0                 | 100.0 | 0.0 |               | 0.0                   | 100.0 |               |               |
| High Int.                                   | -                   |               | 08:15                 |      |               | 07:30               |       |     |               | 08:45                 |       |               |               |
| Volume                                      | -                   | -             | 6                     | 0    | 6             | 0                   | 1     | 0   | 1             | 0                     | 3     | 3             |               |
| Peak Factor                                 | -                   | -             |                       |      | 0.375         |                     |       |     | 0.500         |                       |       | 0.583         |               |
| Peak Hour From 16:00 to 17:45 - Peak 1 of 1 |                     |               |                       |      |               |                     |       |     |               |                       |       |               |               |
| Intersection                                | 16:00               |               |                       |      |               |                     |       |     |               |                       |       |               |               |
| Volume                                      | 0                   | 0             | 5                     | 0    | 5             | 0                   | 1     | 0   | 1             | 0                     | 7     | 7             | 13            |
| Percent                                     | 0.0                 |               | 100.0                 | 0.0  |               | 0.0                 | 100.0 | 0.0 |               | 0.0                   | 100.0 |               |               |
| 16:00                                       |                     |               |                       |      |               |                     |       |     |               |                       |       |               |               |
| Volume                                      | 0                   | 0             | 3                     | 0    | 3             | 0                   | 0     | 0   | 0             | 0                     | 7     | 7             | 10            |
| Peak Factor                                 |                     |               |                       |      |               |                     |       |     |               |                       |       |               | 0.325         |
| High Int.                                   |                     |               | 16:00                 |      |               | 16:15               |       |     |               | 16:00                 |       |               |               |
| Volume                                      | 0                   | 0             | 3                     | 0    | 3             | 0                   | 1     | 0   | 1             | 0                     | 7     | 7             |               |
| Peak Factor                                 |                     |               |                       |      | 0.417         |                     |       |     | 0.250         |                       |       | 0.250         |               |

MPH Transportation Planning  
Tallahassee, Florida

Project No. MPH20-17  
PSJ Ace Hardware  
Fay Blvd. at Adams Place

850-510-6461

File Name : FayBlvd  
Site Code : 00000000  
Start Date : 8/26/2020  
Page No : 2

|   | ADAMS<br>From North |               | FAY BLVD<br>From East |     |               | ADAMS<br>From South |       |     |               | FAY BLVD<br>From West |       |               |               |
|---|---------------------|---------------|-----------------------|-----|---------------|---------------------|-------|-----|---------------|-----------------------|-------|---------------|---------------|
| Start Time                                  | PED                 | App.<br>Total | Th                    | Lt  | App.<br>Total | Rt                  | Lt    | ROR | App.<br>Total | Rt                    | Th    | App.<br>Total | Int.<br>Total |
| Peak Hour From 16:00 to 17:45 - Peak 1 of 1 |                     |               |                       |     |               |                     |       |     |               |                       |       |               |               |
| By Approach                                 | 16:00               |               | 16:00                 |     |               | 16:00               |       |     |               | 16:00                 |       |               |               |
| Volume                                      | 0                   | 0             | 5                     | 0   | 5             | 0                   | 1     | 0   | 1             | 0                     | 7     | 7             |               |
| Percent                                     | -                   |               | 100.0                 | 0.0 |               | 0.0                 | 100.0 | 0.0 |               | 0.0                   | 100.0 |               |               |
| High Int.                                   | -                   |               | 16:00                 |     |               | 16:15               |       |     |               | 16:00                 |       |               |               |
| Volume                                      | -                   | -             | 3                     | 0   | 3             | 0                   | 1     | 0   | 1             | 0                     | 7     | 7             |               |
| Peak Factor                                 | -                   | -             |                       |     | 0.417         |                     |       |     | 0.250         |                       |       | 0.250         |               |

## SHORT REPORT

| General Information |                             |  |  |  | Site Information |                        |  |  |  |
|---------------------|-----------------------------|--|--|--|------------------|------------------------|--|--|--|
| Analyst             | M.Hemmen                    |  |  |  | Intersection     | Fay Blvd. at Adams Pl. |  |  |  |
| Agency or Co.       | MPH Transportation Planning |  |  |  | Area Type        | CBD or Similar         |  |  |  |
| Date Performed      | 8/30/2020                   |  |  |  | Jurisdiction     | Brevard County         |  |  |  |
| Time Period         | PM Peak Hour                |  |  |  | Analysis Year    | 2020                   |  |  |  |

### Volume and Timing Input

|                                   | EB       |      |      | WB   |                       |    | NB   |      |      | SB |    |    |
|-----------------------------------|----------|------|------|------|-----------------------|----|------|------|------|----|----|----|
|                                   | LT       | TH   | RT   | LT   | TH                    | RT | LT   | TH   | RT   | LT | TH | RT |
| Number of Lanes                   |          | 2    | 0    | 1    | 2                     |    | 0    |      | 0    |    |    |    |
| Lane Group                        |          | TR   |      | L    | T                     |    |      | LR   |      |    |    |    |
| Volume (vph)                      |          | 413  | 24   | 76   | 390                   |    | 92   |      | 46   |    |    |    |
| % Heavy Vehicles                  |          | 1    | 1    | 1    | 1                     |    | 1    |      | 1    |    |    |    |
| PHF                               |          | 0.90 | 0.90 | 0.90 | 0.90                  |    | 0.90 |      | 0.90 |    |    |    |
| Pretimed/Actuated (P/A)           |          | A    | A    | A    | A                     |    | A    |      | A    |    |    |    |
| Startup Lost Time                 |          | 2.0  |      | 2.0  | 2.0                   |    |      | 2.0  |      |    |    |    |
| Extension of Effective Green      |          | 2.0  |      | 2.0  | 2.0                   |    |      | 2.0  |      |    |    |    |
| Arrival Type                      |          | 3    |      | 3    | 3                     |    |      | 3    |      |    |    |    |
| Unit Extension                    |          | 3.0  |      | 3.0  | 3.0                   |    |      | 3.0  |      |    |    |    |
| Ped/Bike/RTOR Volume              | 0        | 0    | 0    | 0    | 0                     |    | 0    | 0    | 17   |    |    |    |
| Lane Width                        |          | 12.0 |      | 12.0 | 12.0                  |    |      | 12.0 |      |    |    |    |
| Parking/Grade/Parking             | N        | 0    | N    | N    | 0                     | N  | N    | 0    | N    |    |    |    |
| Parking/Hour                      |          |      |      |      |                       |    |      |      |      |    |    |    |
| Bus Stops/Hour                    |          | 0    |      | 0    | 0                     |    |      | 0    |      |    |    |    |
| Minimum Pedestrian Time           |          | 3.2  |      |      | 3.2                   |    |      | 3.2  |      |    |    |    |
| Phasing                           | EW Perm  | 02   | 03   | 04   | NB Only               |    | 06   | 07   | 08   |    |    |    |
| Timing                            | G = 41.0 | G =  | G =  | G =  | G = 10.0              |    | G =  | G =  | G =  |    |    |    |
|                                   | Y = 5    | Y =  | Y =  | Y =  | Y = 4                 |    | Y =  | Y =  | Y =  |    |    |    |
| Duration of Analysis (hrs) = 0.25 |          |      |      |      | Cycle Length C = 60.0 |    |      |      |      |    |    |    |

### Lane Group Capacity, Control Delay, and LOS Determination

|                                  | EB |       |  | WB               |       |  | NB   |       |  | SB |  |  |
|----------------------------------|----|-------|--|------------------|-------|--|------|-------|--|----|--|--|
|                                  |    |       |  |                  |       |  |      |       |  |    |  |  |
| Adjusted Flow Rate               |    | 486   |  | 84               | 433   |  |      | 134   |  |    |  |  |
| Lane Group Capacity              |    | 2185  |  | 550              | 2203  |  |      | 263   |  |    |  |  |
| v/c Ratio                        |    | 0.22  |  | 0.15             | 0.20  |  |      | 0.51  |  |    |  |  |
| Green Ratio                      |    | 0.68  |  | 0.68             | 0.68  |  |      | 0.17  |  |    |  |  |
| Uniform Delay d <sub>1</sub>     |    | 3.5   |  | 3.4              | 3.5   |  |      | 22.8  |  |    |  |  |
| Delay Factor k                   |    | 0.11  |  | 0.11             | 0.11  |  |      | 0.12  |  |    |  |  |
| Incremental Delay d <sub>2</sub> |    | 0.1   |  | 0.1              | 0.0   |  |      | 1.7   |  |    |  |  |
| PF Factor                        |    | 1.000 |  | 1.000            | 1.000 |  |      | 1.000 |  |    |  |  |
| Control Delay                    |    | 3.6   |  | 3.5              | 3.5   |  |      | 24.4  |  |    |  |  |
| Lane Group LOS                   |    | A     |  | A                | A     |  |      | C     |  |    |  |  |
| Approach Delay                   |    | 3.6   |  | 3.5              |       |  | 24.4 |       |  |    |  |  |
| Approach LOS                     |    | A     |  | A                |       |  | C    |       |  |    |  |  |
| Intersection Delay               |    | 6.0   |  | Intersection LOS |       |  |      |       |  | A  |  |  |

## SHORT REPORT

| General Information |                             |  |  |  | Site Information |                         |  |  |  |
|---------------------|-----------------------------|--|--|--|------------------|-------------------------|--|--|--|
| Analyst             | M.Hemmen                    |  |  |  | Intersection     | Fay Blvd. at Adams Pl.  |  |  |  |
| Agency or Co.       | MPH Transportation Planning |  |  |  | Area Type        | CBD or Similar          |  |  |  |
| Date Performed      | 8/30/2020                   |  |  |  | Jurisdiction     | Brevard County          |  |  |  |
| Time Period         | PM Peak Hour                |  |  |  | Analysis Year    | 2021 Existing + Project |  |  |  |

### Volume and Timing Input

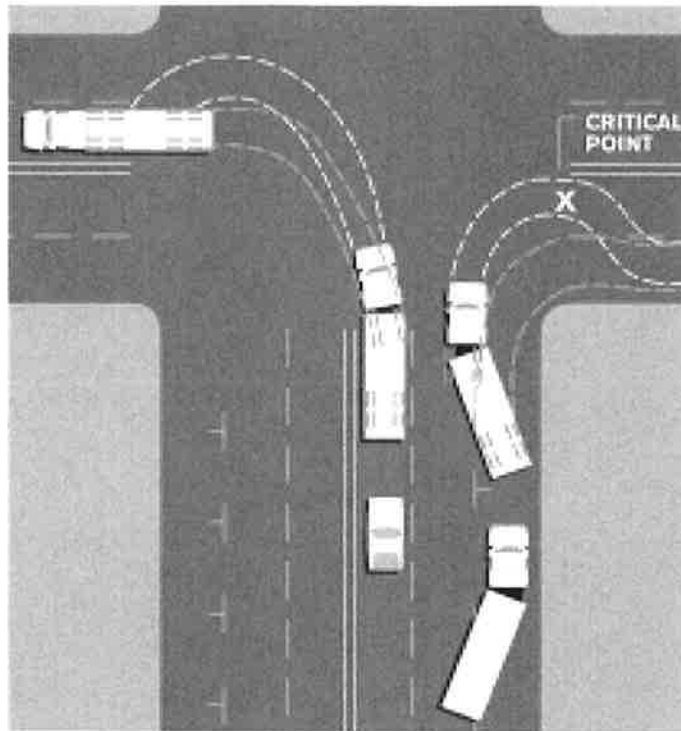
|                                   |          | EB  |      |      | WB   |      |    | NB       |                       |      | SB |     |    |     |  |
|-----------------------------------|----------|-----|------|------|------|------|----|----------|-----------------------|------|----|-----|----|-----|--|
|                                   |          | LT  | TH   | RT   | LT   | TH   | RT | LT       | TH                    | RT   | LT | TH  | RT |     |  |
| Number of Lanes                   |          |     | 2    | 0    | 1    | 2    |    | 0        |                       | 0    |    |     |    |     |  |
| Lane Group                        |          |     | TR   |      | L    | T    |    |          | LR                    |      |    |     |    |     |  |
| Volume (vph)                      |          |     | 419  | 24   | 83   | 390  |    | 99       |                       | 46   |    |     |    |     |  |
| % Heavy Vehicles                  |          |     | 1    | 1    | 1    | 1    |    | 1        |                       | 1    |    |     |    |     |  |
| PHF                               |          |     | 0.90 | 0.90 | 0.90 | 0.90 |    | 0.90     |                       | 0.90 |    |     |    |     |  |
| Pretimed/Actuated (P/A)           |          |     | A    | A    | A    | A    |    | A        |                       | A    |    |     |    |     |  |
| Startup Lost Time                 |          |     | 2.0  |      | 2.0  | 2.0  |    |          | 2.0                   |      |    |     |    |     |  |
| Extension of Effective Green      |          |     | 2.0  |      | 2.0  | 2.0  |    |          | 2.0                   |      |    |     |    |     |  |
| Arrival Type                      |          |     | 3    |      | 3    | 3    |    |          | 3                     |      |    |     |    |     |  |
| Unit Extension                    |          |     | 3.0  |      | 3.0  | 3.0  |    |          | 3.0                   |      |    |     |    |     |  |
| Ped/Bike/RTOR Volume              |          | 0   | 0    | 0    | 0    | 0    |    | 0        | 0                     | 17   |    |     |    |     |  |
| Lane Width                        |          |     | 12.0 |      | 12.0 | 12.0 |    |          | 12.0                  |      |    |     |    |     |  |
| Parking/Grade/Parking             |          | N   | 0    | N    | N    | 0    | N  | N        | 0                     | N    |    |     |    |     |  |
| Parking/Hour                      |          |     |      |      |      |      |    |          |                       |      |    |     |    |     |  |
| Bus Stops/Hour                    |          |     | 0    |      | 0    | 0    |    |          | 0                     |      |    |     |    |     |  |
| Minimum Pedestrian Time           |          |     | 3.2  |      |      | 3.2  |    |          | 3.2                   |      |    |     |    |     |  |
| Phasing                           | EW Perm  | 02  |      | 03   |      | 04   |    | NB Only  |                       | 06   |    | 07  |    | 08  |  |
| Timing                            | G = 41.0 | G = |      | G =  |      | G =  |    | G = 10.0 |                       | G =  |    | G = |    | G = |  |
|                                   | Y = 5    | Y = |      | Y =  |      | Y =  |    | Y = 4    |                       | Y =  |    | Y = |    | Y = |  |
| Duration of Analysis (hrs) = 0.25 |          |     |      |      |      |      |    |          | Cycle Length C = 60.0 |      |    |     |    |     |  |

### Lane Group Capacity, Control Delay, and LOS Determination

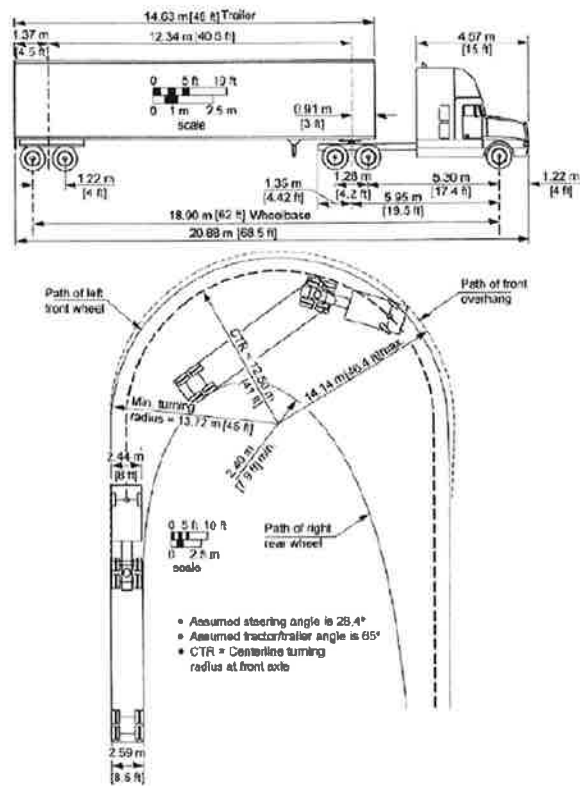
|                                  | EB  |       |  | WB               |       |  | NB   |       |  | SB |  |  |
|----------------------------------|-----|-------|--|------------------|-------|--|------|-------|--|----|--|--|
| Adjusted Flow Rate               |     | 493   |  | 92               | 433   |  |      | 142   |  |    |  |  |
| Lane Group Capacity              |     | 2185  |  | 547              | 2203  |  |      | 263   |  |    |  |  |
| v/c Ratio                        |     | 0.23  |  | 0.17             | 0.20  |  |      | 0.54  |  |    |  |  |
| Green Ratio                      |     | 0.68  |  | 0.68             | 0.68  |  |      | 0.17  |  |    |  |  |
| Uniform Delay d <sub>1</sub>     |     | 3.6   |  | 3.4              | 3.5   |  |      | 22.9  |  |    |  |  |
| Delay Factor k                   |     | 0.11  |  | 0.11             | 0.11  |  |      | 0.14  |  |    |  |  |
| Incremental Delay d <sub>2</sub> |     | 0.1   |  | 0.1              | 0.0   |  |      | 2.2   |  |    |  |  |
| PF Factor                        |     | 1.000 |  | 1.000            | 1.000 |  |      | 1.000 |  |    |  |  |
| Control Delay                    |     | 3.6   |  | 3.5              | 3.5   |  |      | 25.1  |  |    |  |  |
| Lane Group LOS                   |     | A     |  | A                | A     |  |      | C     |  |    |  |  |
| Approach Delay                   | 3.6 |       |  | 3.5              |       |  | 25.1 |       |  |    |  |  |
| Approach LOS                     | A   |       |  | A                |       |  | C    |       |  |    |  |  |
| Intersection Delay               | 6.2 |       |  | Intersection LOS |       |  |      |       |  | A  |  |  |



## TRACTOR TRAILER TURNING RADIUS



*Design Controls and Criteria*



## **PORT SAINT JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES**

The Port Saint John Dependent Special District Board met in regular session on Wednesday, November 18, 2020, at 6:00 p.m., at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, Florida Room, Viera.

Board members present were: Vaughan Kimberling, Chair, Randy Rodriguez, Vice Chair; Carmella Chinaris; Wendy Porter-Hyde; Greg Messer; and Kevin Shropshire.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Jane Hart, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

The meeting was called to order at 6:00 p.m.

### **Excerpt of Complete Minutes**

#### **4725 Fay Blvd Land Trust (Carmine Ferraro)**

A Small Scale Comprehensive Plan Amendment (20S.10), to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial). The property is 1.59 acres, located on the south side of Fay Blvd., approx. 170 feet east of Adams Place. (4725 Fay Blvd., Port St. John) (20PZ00088) (Tax Account 2309941) (District 1)

Carmine Ferraro stated he and his clients purchased the property in 2008 with the hopes of a Walgreens deal, and after a lot of discussion with the board and neighbors he agreed to a Binding Development Plan (BDP), but the Walgreens never happened. He said in 2014 he came back to the board for the Family Dollar store, and he worked with the board as well as the neighbors, and re-formulated the BDP, and now Family Dollar is established and doing well. He said since then, they tried a few times to rezone the remaining 1.59 acres with other uses that did not make sense and did not make it beyond the initial stages. He stated one attempt to rezone was withdrawn by the applicant right before the meeting because it was a controversial use. He said the proposed use before the board now is a good use, which is an ACE Hardware and he believes it is a good fit as a neighborhood hardware store. He stated the current zoning is BU-1-A with a BDP, but he has to modify the BDP again because when they met with ACE Hardware, the franchisee had to get it approved by corporate, and in looking at traffic circulation and patterns, corporate saw that the adding of delivery truck traffic to the existing Family Dollar entrance was not a good idea. They preferred to have a separate driveway farther down the road at the Adams Place driveway. [Mr. Ferraro distributed a proposed conceptual site plan to the board. The plan can be found in file 20Z00031, located in the Planning and Development Department]

Mr. Ball noted staff has not reviewed the proposed site plan for compliance with County Code, and when the site plan is formally submitted it will be reviewed. He further noted that Mr. Ferraro is asking for removal of the condition that the Adams Place driveway be closed. He pointed out that Public Works has said the spacing between the existing driveway and the proposed driveway does not meet FDOT setbacks.

Mr. Ferraro stated the concept plan is the beginning of a long process, but it will follow County Code. He said ACE Hardware wants the driveway re-opened. He said FDOT is considering pushing traffic as far back from an intersection as possible, because the closer to an intersection, the more dangerous situations can become from congestion. He stated he has created a circular path, and he has been told by ACE Hardware that deliveries will be once a week unless there is a special event. Family Dollar has one delivery per week and the truck is making the left-hand turn into the existing Family Dollar driveway. He is proposing the deliveries come in through the back driveway and come around so there will be a circular path of traffic. The second requirement of ACE Hardware was an

outdoor garden center, which is consistent with most of their stores; they can do them indoors, but they prefer them outdoors because it allows them to bring in the types of plantings and supplies typically seen at an ACE Hardware. He said he knew they could address the first requirement by modifying the BDP. He has ordered a traffic study by an independent traffic engineer and will submit it to staff before the County Commission meeting. He went on to say that he thought the outdoor garden center would be easy to accomplish, but found out that under the current zoning of BU-1-A all activities have to be within enclosed walls, so that meant no garden center. He said he went back to ACE Hardware and said he would submit the application for a BDP, and got them to agree to an indoor garden center. He stated when he submitted the application he was told that a hardware store is not a permitted use in the BU-1-A zoning classification. He read a portion of the BU-1-A zoning classification, "The following uses, or other uses of similar nature that are compatible with the character of uses specifically set forth in this subsection are permitted. All business uses and product shall be confined within substantial buildings completely enclosed with walls and a roof." He said from reading that, he thought it would not be a problem to bring in a retail store similar to Family Dollar. He noted some of the uses under BU-1-A include antique shops, bakeries, bookstores, computer sales, confectionaries, ice cream stores, drug stores, florist shops, jewelry stores, luggage shops, and paint and wallpaper stores, which he thought was similar to a hardware store. He stated he did not see the words 'hardware store' but figured he had a similar type of retail use. Staff told him that was not the case and that he can't do a hardware store in BU-1-A, and he would need BU-1 zoning. He stated once he knew that in BU-1 there was not a restriction on outdoor sales, he could bring back the outdoor garden center, so he applied for BU-1. He went on to say that staff informed him that BU-1 could not be approved under the current Future Land Use designation of Neighborhood Commercial, and he was told he needed to change the land use to Community Commercial in order to allow BU-1. [Mr. Ferraro showed the board photos of the current Family Dollar store, an ACE Hardware store, and a Sherwin Williams store and informed the board that all three structures are the same metal buildings with stucco finish. The photos can be found in file 20Z00031, located in Planning and Development.] He stated all three structures are the same, but he cannot have an ACE Hardware in BU-1-A. He said he advised ACE Hardware that he was going to ask the County to change the Future Land Use Map, which is not an easy thing to do. It is a very serious consideration to change the land use map because a precedent is being created. He said he decided to ask for BU-1 and restrict it to hardware only in a BDP. He stated the proposed ACE Hardware is a great use for Port St. John, but it currently can't be done because of the land use, and his interpretation is that the code is in default and he should be able to have a hardware store in BU-1-A. He suggested there may need to be a conversation with the County Commission that it may be time to re-visit the code because it may be antiquated. He asked what the difference is in selling a hammer in Family Dollar and selling a hammer in a hardware store. He pointed out there are some negative staff comments about the request, but he wanted the board to know why he is frustrated. He noted he found one supporting property in Port St. John that at one time was going to be a Dollar General, and the property was rezoned from another zoning to BU-1, but in order to do that they changed the Future Land Use Map to Community Commercial, so there is a precedent four parcels away.

Ms. Chinaris asked if the parcel Mr. Ferraro is referring to is the strip between the church and the back of the strip center. Mr. Ferraro replied yes. Ms. Chinaris pointed out that the Port St. John board recommended denial of that change, and the County Commission voted in favor for it to happen, and this board was not happy about that precedent. Mr. Ferraro said he wishes he could rezone without changing the land use, and staff has been very cooperative, but there is not much they can do within the scope of the code. He said he would like to move on to part two of his requests.

Mr. Kimberling asked if Mr. Ferraro wanted to talk about Item H.3. Mr. Ferraro replied yes.

Mr. Ball stated it is up to the Chair as far as how the board hears the requests.

Mr. Kimberling stated he would like to first address the land use change. He said the small area study talks about Community Commercial properties, and the proposed location for the ACE Hardware is in violation of the study. The small area study has a requirement that Community Commercial developments have to be two miles apart. The proposed ACE Hardware location is 1.32 miles away. He said it is an example of how the study is trying to help the board. The small area study recommends three locations where these developments can go; one is at Port St. John Parkway and Grissom Parkway; one is at Curtis Boulevard and Fay Boulevard; and one is at Fay Boulevard and U.S. Highway 1. Those are the areas the study recommended for Community Commercial. He said if the board moves forward on the rezoning, it would be in contradiction with the small area study. He said the small area study also talks about where the Community Commercial developments are to be located; for example, they need to be located on a collector and arterial highway intersection, and the subject property is on a collector and intersection, so it does not meet that criteria either. He stated he believes the reason for that criteria are the type of traffic going into the property.

Mr. Ferraro stated he agrees with Mr. Kimberling, and that is what is frustrating about needing the requested changes.

Mr. Kimberling stated he wants the board to be aware that the subject property does not fall into the criteria of where the study recommends Community Commercial, and it is too close to another Community Commercial designation. He reminded the board that if it approves Item H.2., it will put all the work that was done on the study in jeopardy, and he doesn't know the County's position on that.

Ms. Chinaris stated the small area study is great work and she wouldn't personally want to contradict anything in it. She said she wanted to table the small area study recommendation for clarification, but she is adamantly opposed to the Future Land Use change. She said they do not have the traffic study and that was one of the things that was the hold up with the Family Dollar store, and when he gets the traffic study, if it's not within the next few months, the traffic is going to increase by one-third when the kids who are homeschooling right now go back to Challenger Elementary. She said she doesn't think it is a precedent the people of Port St. John want, which is a land use of Community Commercial at that location.

Mr. Kimberling stated he was on the board when the Family Dollar was being discussed, and when there was going to be a liquor store with a drive-up window at the subject property's location, but the client withdrew his request.

Mr. Ferraro stated the applicant at that time wanted to do a farm store, and the liquor store idea was blown out of proportion. The applicant wanted to do a farm store where people could drive up and buy milk and eggs, and he wanted to sell alcohol as well. He said what happened was that the newspaper heard about it and when he showed up at the zoning meeting there were a lot of people there and he called the applicant who said to withdraw the request.

Mr. Kimberling reminded the board that the access road Mr. Ferraro wants to re-open through a change to the BDP was closed because of the school and the students who walk down the sidewalk, and Family Dollar had to modify their site plan to accommodate the concerns this board had, and they closed the Adams Place driveway. He noted Mr. Ferraro is now asking to change the BDP to re-open that driveway, and the school is still there, so he doesn't see that the situation has changed.

Mr. Ferraro stated he would like to address that during the rezoning request discussion, unless the board would like to hear them together.

Mr. Kimberling said he would like to keep them separate because if the board doesn't get past H.2., there is no point hearing H.3. He stated he wants to make sure the board is aware of the history and what the small area study did and how it affects the requested land use change.

Mr. Ferraro stated he was the vice chair of the small area study committee, and he was surprised at the last meeting because there were a lot of recommendations in the study that had to do with citizen input of people who took their time to come to the meetings. He said at the last meeting the committee was told that it had gone off the rails, and that the recommendations the committee spent so much time on now needed to be reconsidered because they weren't meeting the scope of the study. He said he felt somewhat pressured to go with the flow and remove some of the recommendations, and he felt it was a little manipulative. He also felt that at the last minute there was a presentation by Mr. Ball about the three zoning items out of the blue, and he had no idea what the three zoning items had to do with the small area study. He noted that the final item said 'no recommendation', and he asked why the committee would put a recommendation in a study to go to the County that said 'no recommendation'. He suggested it was in there to try to keep some other zoning matters from going forward. He said he was planning on speaking at the County Commission about it because he wasn't happy with the outcome of the study, and he doesn't feel that the study reflects or represents the citizens input. He stated almost every recommendation that had to do with greenspace, parks, and other things, was voted out of the study. He said he doesn't believe the board should consider the study whatsoever. He said he thinks it was manipulated and put together for a purpose, and he will find out what the purpose is, because he doesn't like to be manipulated, and he felt very manipulated when he left that meeting. He asked why the committee spent six months getting together to talk about things if there are just a few items in the study. He said the committee was told not to put too much in the study and that it should pick the top three recommendations. He asked the board not to give the small area study any consideration.

Mr. Kimberling stated he would like to keep the focus on the requests to be heard by the board and not the small area study.

Mr. Ferraro said if it is being used to defend against the board looking at ACE Hardware, then he wants the board to understand what he believes occurred at the last meeting.

Mr. Kimberling stated it is has been tabled until January, and he knows what is in there because he read it and he and Mr. Ferraro were both on the committee and they know it talks about Community Commercial. He said he wants the board to fully understand what the small area study said as opposed to the request tonight for an ACE Hardware.

Mr. Ferraro stated he understands the board is concerned about the traffic and it is a consideration for the Community Commercial request.

Ms. Chinaris stated she doesn't see the benefit to making the land use Community Commercial at that location, and all she sees is the downside. She said it does not fit with the surrounding area, and the traffic study will prove it is inappropriate so close to a school by opening up the back driveway for tractor trailers.

Mr. Kimberling asked what would prevent customers from using the Adams Place driveway.

Mr. Ferraro replied he was hoping to get some feedback from this board and the County Commission. He said he is willing to put up signage and even put into the BDP that it will be limited to delivery traffic only, and they are also going to ask Family Dollar to use it because that will remove those large trucks from the front of the property making the left-hand turn off of Fay Boulevard onto Adams Place and then making a sharp left about 75 feet in from the corner. He said he would be willing to put whatever language in the BDP that he needs to.

Mr. Kimberling stated when Family Dollar presented their site plan, the orientation of the loading dock was set to accommodate the entrance that they have, so if the trucks came in the other way, they wouldn't be able to get to the loading dock the way it was designed.

Mr. Ferraro stated Family Dollar would have to modify their site plan.

Mr. Kimberling stated in his opinion, it's the wrong store to be in that location. He said a sign is not going to stop anybody from driving through the driveway to the hardware store, but a barricade of some kind would.

Mr. Ferraro stated he would be willing to consider whatever the board wants to offer as a recommendation. With Family Dollar, he offered to put up a gate and close the driveway, but when he met with the School Board and the Principal of Challenger Elementary they both said they didn't want to do that. When the application went before the County Commission, they said to design it the best way possible and people would understand that when children come out of the school, the crossing guards would be there, and there have not been any incidents that he knows of since Family Dollar has been open.

Mr. Kimberling stated that is what this board looked at with Family Dollar because it is a legitimate concern having kids walk through there with no crossing guard in that area, but there would be truck and car traffic going into those stores, and that's why the BDP was done the way it was done and the entrance was moved up and the configuration of the store was such that a truck could come in from up front and back up to the loading dock. What Mr. Ferraro is proposing, to allow Family Dollar to use the back driveway, will not help the trucks unless they re-design the loading dock area. It would help customers coming and going, so what would keep the cars from using the back driveway, which was the concern this board had several years ago.

Mr. Ferraro stated it would have to be in the BDP and it would have to be enforced by ACE Hardware, and it would be a requirement for them to open the store and they would have to self-police it. [Mr. Ferraro presented a turning radius to the board. The turning radius can be found in file 20Z00031, located in Planning and Development].

Mr. Ball noted for the board's edification, staff has handed out the PowerPoint presentation that was presented to the small area study committee with the three areas identified.

Greg Messer stated in looking at the back driveway, he can see people coming out of the school and making a right-hand turn into the hardware store parking lot to try to get to Fay Boulevard and avoid the stoplight.

Mr. Kimberling noted there are also children walking down the sidewalk.

Mr. Ferraro stated currently, under the BU-1-A zoning, he can operate any of the other uses, so if ACE Hardware doesn't work and Sherwin Williams wants to come in, they are permitted to do so. He

said when you look at the turning radiuses, tractor trailer trucks have a very large turning radius, and a typical truck is 45 – 50 feet, and when that truck is trying to make a left-hand turn right now into that property, it crosses over the full-access driveway and has to stop if there is traffic there. He said what he is proposing is to alleviate that and make it a better situation, to allow limited traffic to go toward the back driveway in additional language in the BDP, it will make the intersection and the driveway safer. He said he believes what the traffic study is going to show is not that the intersection is not going to be less busy, but that by alleviating tractor trailer traffic and pushing it down the road to the next driveway, it will make it less congested.

Ms. Chinaris asked if Mr. Ferraro is saying that increasing exponentially the tractor trailer traffic on that street, and making the turn from a two-lane street, where there is no leeway on the right-hand side into the driveway beyond, is a better scenario than fewer tractor trailers making a sharp left where there is leeway to go out to the right-hand side.

Mr. Ferraro stated he is saying there will be additional tractor trailer traffic there at some point in the future. Under the current BDP, there is no choice for tractor trailer traffic to make the sharp left 75 feet from the corner of Fay Boulevard going down Adams Place to make the left to get into Family Dollar to access the property next door, and that is a worse scenario than allowing a truck to go down the road where there is less traffic and execute the left-hand turn safely.

Ms. Chinaris mentioned the recommendation of the small area study of Neighborhood Commercial.

Mr. Ball noted the subject property was not contemplated in the study.

Ms. Chinaris stated she doesn't believe that changing the Future Land Use to Community Commercial is going to help the tractor trailer traffic going in and out of that spot. If the BDP is in place and the Future Land Use is not changed, then the chances of having a commercial property going in there that requires a lot of tractor trailer traffic is reduced, and that is what the board should be concerned about, what fits in that area, and it is not this.

Mr. Messer asked if there is a possibility of putting two entrances off of Fay Boulevard, where the truck traffic can come in and make a U shape around the building. Mr. Ferraro replied he does not believe so, because it would have to line up with the traffic light. Mr. Messer noted that would eliminate the Adams Place issue. Mr. Ferraro stated if the traffic was coming from I-95 they might be able to execute a right-hand turn, but coming from U.S. 1 it would be a problem.

Mr. Kimberling noted Port St. John Parkway is already zoned appropriately and has room for this type of business. Mr. Ferraro stated that is not where ACE Hardware wants to be.

Mr. Kimberling stated the issues are going to be access and the back driveway, and to avoid all of the issues the store should move somewhere else. They can move 1.3 miles down the street to an area that can accommodate it.

Motion by Carmella Chinaris to deny the change to the Future Land Use. The motion failed for lack of a second.

Motion by Kevin Shropshire, seconded by Wendy Porter-Hyde, to table the item until after the small area study is approved and when a traffic study is submitted.

Mr. Rodriguez stated what the board hasn't talked about is that the property doesn't meet the criteria for Community Commercial, and when the board looks at that it needs to look at everything about the property. At the far end of the block, which the board hasn't talked about at all, there are residential homes, and when the zoning is lifted up to Community Commercial and BU-1, it is that much closer to those homes. It lessens the potential for downzoning and he doesn't think it should be on that block.

Mr. Ferraro stated he needs to stay on the current public hearing schedule and he would accept a denial from the PSJ board.

Vaughan Kimberling called for a vote on the motion as stated, and it failed 5:2, with Kimberling, Chinaris, Messer, Rupe, and Rodriguez voting nay.

Motion by Carmella Chinaris, seconded by Randy Rodriguez, to deny the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC. The motion passed unanimously.

**4725 Fay Blvd Land Trust (Carmine Ferraro)**

A change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) with a BDP (Binding Development Plan) to BU-1 (General Retail Commercial) and an amendment to existing BDP. The property is 1.59 acres, located on the south side of Fay Blvd., approx. 170 feet east of Adams Place. (4725 Fay Blvd., Port St. John) (20Z00031) (Tax Account 2309941) (District 1)

Motion by Carmella Chinaris, seconded by Greg Messer, to deny the change of zoning classification from BU-1-A with a BDP to BU-1 and an amendment to existing BDP. The motion passed 6:1, with Randy Rodriguez voting nay.



## **LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES**

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, November 23, 2020, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by Chair Mark Wadsworth, at 3:00 p.m.

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; Peter Filiberto, Vice Chair; and Joe Buchanan.

Staff members present were: Amanda Elmore, Interim Planning and Development Director; Cheryl Campbell, Comprehensive Planner; Abigail Jorandby, Assistant County Attorney; and Michelle Adams, Administrative Secretary.

### **Excerpt of Complete Minutes**

#### **4. 4725 Fay Blvd Land Trust (Carmine Ferraro)**

A change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) with a BDP (Binding Development Plan) to BU-1 (General Retail Commercial) and an amendment to existing BDP. The property is 1.59 acres, located on the south side of Fay Blvd., approx. 170 feet east of Adams Place. (4725 Fay Blvd., Port St. John) (20Z00031) (Tax Account 2309941) (District 1)

No public comment.

Ron Bartcher stated Mr. Ferraro wants to open the back driveway that was closed, but there is currently not a barrier that prevents vehicles from using it. He asked if ACE Hardware needs to have the driveway open for customer traffic, or do they only need it for deliveries. Mr. Ferraro replied only for deliveries.

Mr. Bartcher asked if Mr. Ferraro would be willing to put up a gate of some kind that would prevent traffic from using the driveway, so that the only time the gate would be open would be when there is a delivery and an employee opens the gate for the truck. He said his concern is that there is a preschool behind the property and just beyond that is an elementary school, so there could be a lot of kids near the driveway entrance.

Mr. Ferraro replied he would be willing to put that in the BDP, and he would also put up signs for deliveries only. He noted ACE Hardware can also restrict deliveries to certain times of day when the school is letting out for the day.

Mr. Bartcher asked how often there are deliveries. Mr. Ferraro replied there is typically one delivery per week unless there is a special event.

Motion by Ron Bartcher, seconded by Joe Buchanan, to approve the change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) with a BDP (Binding Development Plan) to BU-1 (General Retail Commercial) and an amendment to existing BDP, with an additional stipulation in the BDP that a gate be placed at the driveway access service entrance. The motion and it passed unanimously.



BOARD OF COUNTY COMMISSIONERS

H.12  
Rita Pritchett, District 1 Commissioner  
2000 South Washington Avenue, Ste. 2  
Titusville, FL 32780  
(321) 607-6901  
D1.commissioner@brevardfl.gov

Planning and Development  
Zoning Meeting December 3, 2020  
4725 Fay Blvd Land Trust - 20PZ00031

Commissioner Pritchett spoke to Carmine Ferraro by phone regarding the above item on December 2, 2020.

Carmine Ferraro is requesting a Small-Scale Comprehensive Plan Amendment to change the Future Land Use Designation from NC to CC and a change of zoning classification from BU-1-A with a BDP, to BU-1 with an amendment to existing BDP.