

**APPEAL**

CD Plus Application #: \_\_\_\_\_ Application Submittal Date: 2/18/2022 Rec'd (VS) 12:20 pm  
 Fee Paid: \$ \_\_\_\_\_ Date of Acceptance: \_\_\_\_\_  
 Employee Name Accepting Application (print name): \_\_\_\_\_  
 Rejected on \_\_\_\_\_ Rejected by: \_\_\_\_\_  
 Reason for Rejection: \_\_\_\_\_

APPELLANTS: **DONNA CSIRE and DARLENE SHELLEY**  
 APPLICANT: \_\_\_\_\_

MAILING ADDRESS: c/o ATTORNEY RALF BROOKES ESQ 1217 E Cape Coral Parkway 107 Cape Coral Fl 33904

PHONE #: 2399105464 FAX #: 8663416086 E-MAIL ADDRESS: RalfBrookes@Gmail.com

APPEALING DECISION OF:  
 \_\_\_\_\_ LAND USE ADMINISTRATOR RENDERED ON \_\_\_\_\_  
 PLANNING AND LAND DEVELOPMENT REGULATION BOARD RENDERED ON 1/19/2022

SUMMARY OF THE DECISION TO BE APPEALED (MAY ATTACH ADDITIONAL SHEETS):  
SPECIAL EXCEPTION APPLICATION #4965 ("RF2 STORAGE")  
LA JOLLA COVE LLC & SPAN LLC and WALKER DOUGLAS (APPLICANT)  
 NOTE: APPELLANTS ARE ADVERSELY AFFECTED PROPERTY OWNERS WITHIN ABUTTING HOA

BASIS FOR THE APPEAL (MAY ATTACH ADDITIONAL SHEETS):  
 \_\_\_\_\_  
 ATTACHED SEPARATE SHEETS

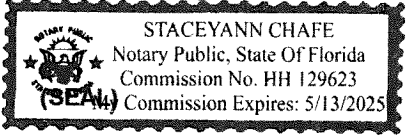
UNIFIED LAND DEVELOPMENT CODE REFERENCE: 2.05.05 (general), 2.07.03 (special exceptions)  
 PROPERTY APPRAISER'S PARCEL # (if applicable): \_\_\_\_\_  
 LEGAL DESCRIPTION: Subject Parcel ID 32-11-31-0000-01010-0021  
 APPELLANTS ARE ADVERSELY AFFECTED PROPERTY OWNERS WITHIN ABUTTING HOA

LOCATION: SEE ATTACHED MAP  
 FUTURE LAND USE MAP DESIGNATION: \_\_\_\_\_ ZONING DISTRICT: \_\_\_\_\_  
 OVERLAY DISTRICT: \_\_\_\_\_

List below any applications currently under review or recently approved associated with this application:  
 \_\_\_\_\_

I HEREBY CERTIFY THAT ALL INFORMATION ON THIS APPLICATION IS CORRECT:  
 Signature of owner OR person authorized to represent this application  
 Signature(s) *Donna Csire*  
 Printed or typed name(s): Donna Csire  
 Notary: This instrument was acknowledged before me on this 18th day of February, 2022 by  
DARLENE SHELLEY who is/are personally known to me, or who has/have produced  
FL DRIVER LICENSE as identification.

*Staceyann Chafe*  
 Signature of Notary Public, State of Florida



**TO: CITY COUNCIL, CITY OF PALM COAST**

**BASIS AND JUSTIFICATION FOR APPEAL**

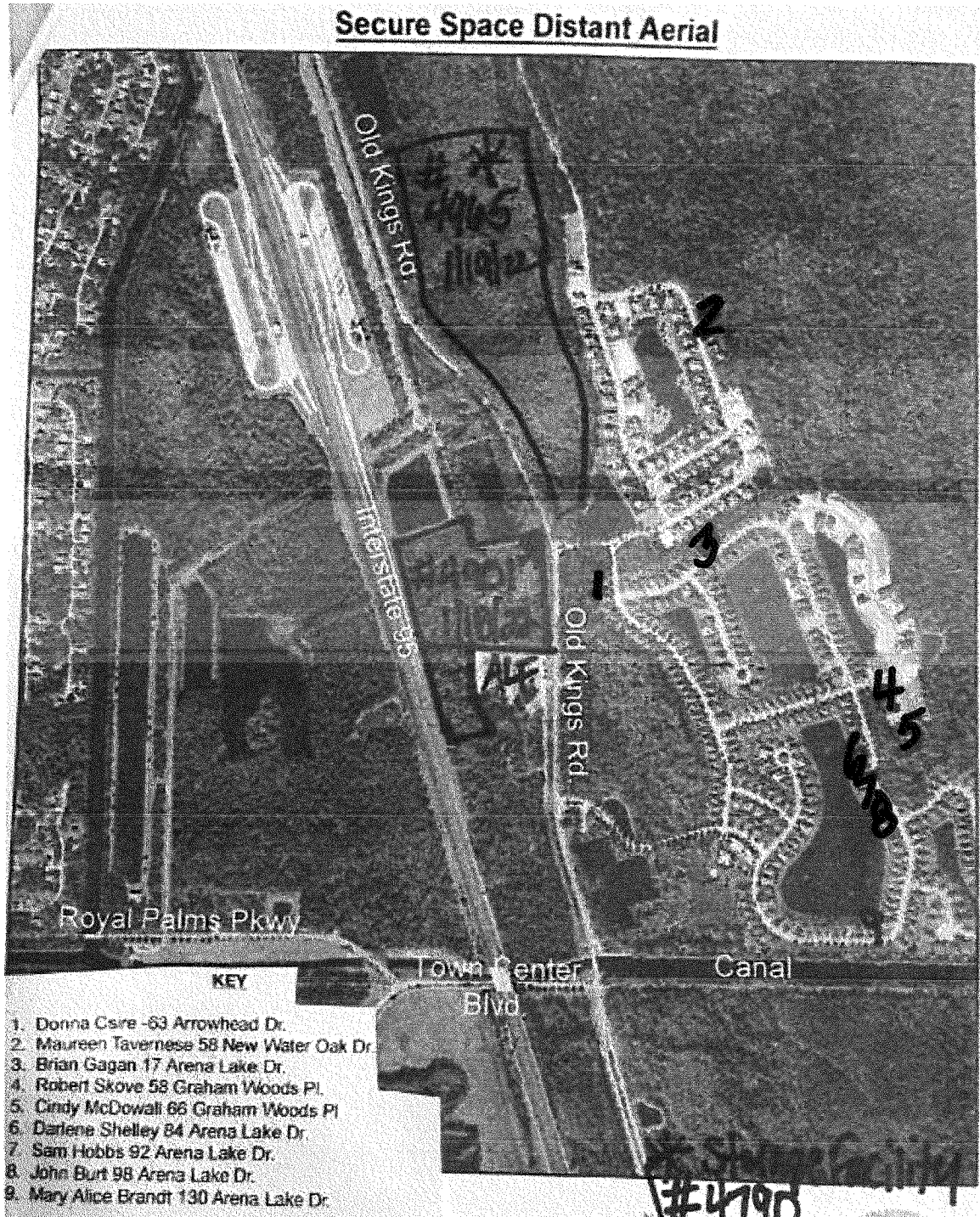
**Special Exception Application #4965**

The application for storage facility #4965 was incomplete, and Petitioners did not receive notice that was mailed to their HOA despite residing in the HOA. There were no public comments at the PLDRB meeting on 1/19/2022 because no property owners in Hidden Lakes and Toscana knew about the meeting, as signs were not required for the Special Exception. The city of Palm Coast did not have it on the Planning Map on the Land Development website, and the notification letter was not sent to the local Toscana address. Toscana's corporate office did not share it with the residents. This was fundamentally unfair and lacked constitutional procedural due process. Therefore, Application #4965 should not have been heard on January 19, 2022, and should be remanded for a quasi-judicial hearing that meets the requirements of constitutional procedural due process, notice and an opportunity to be heard.

Petitioner Donna Csire is the closest in proximity to the project. Donna Csire resides at 63 Arrowhead Dr. Palm Coast abutting a small strip of HOA owned land that abuts Old King's Road. Darlene Shelley 84 Arena Lake Dr. Palm Coast who entered objections to the other noticed storage

NOTICE OF APPEAL – BASIS FOR APPEAL

facility Special Exception #4901 in the area and submitted a petition in opposition to the approvals with additional 1049 residents' signatures but did not receive notice of #4695.



NOTICE OF APPEAL – BASIS FOR APPEAL

The #4965 application was incomplete because there were no required renderings for Special Exception #4965. Further, the application for storage facility #4965 did not explain how it met each of the criteria in the Land and Development Code.

There was no competent, substantial evidence that storage facility #4965 met each of the criteria in the Land and Development Code. The Application Presented to the PLDRB by the Applicant's Representative Estelle Lens on January 19, 2022 for Application #4965 proposes unsubstantiated answers to the requirements of Land Development Code 2.05.05 and is not supported by competent, substantial evidence of compliance with the LDC criteria contained in Sections 2.05.05 (general requirements), 2.07.03 (special exceptions) reproduced below:

**LDC Sec. 2.05.05. *Review findings.*** When reviewing a development order application, the approval authority shall determine whether sufficient factual data was presented in order to render a decision. The decision to issue a development order shall be based upon the following including, but not limited to:

- A. The proposed development must not be in conflict with or contrary to the public interest;
- B. The proposed development must be consistent with the Comprehensive Plan and the provisions of this LDC;
- C. The proposed development must not impose a significant financial liability or hardship for the City;
- D. The proposed development must not create an unreasonable hazard, or nuisance, or constitute a threat to the general health, welfare, or safety of the City's inhabitants; and
- E. The proposed development must comply with all other applicable local, state, and federal laws, statutes, ordinances, regulations, or codes.

NOTICE OF APPEAL – BASIS FOR APPEAL

**LDC Sec 2.07.03. Review findings.** No application for a special exception use shall be approved unless the Planning and Land Development Regulation Board finds that the request meets the findings listed in Subsection 2.05.05 and the following:

- A. Is consistent with the specific requirements for that particular use as set forth in this LDC;
- B. Meets the concurrency requirements of this LDC; and
- C. Is compatible with the surrounding neighborhoods and promotes the value of surrounding land, structures, or buildings. Compatibility shall be reviewed in light of the following components:
  1. Architectural design;
  2. Fencing and screening, landscaping;
  3. Noise reduction, sign, and light control;
  4. Storm drainage, sanitation collection;
  5. Police and fire protection;
  6. On and off-site traffic control;
  7. Off-street parking and loading; and
  8. Other matters relevant to assuring that the proposed development site fosters desirable conditions and compatibility with the existing environment.

The applicant failed to meet its burden of demonstrating compliance with Section 2.05.05. The application failed to meet rezoning LDC Section 2.05.05 A because the application is contrary to public interest, 2.05.05 D because of dangerous traffic concerns and because of the lack of compatibility with proximate residential uses.

The application failed to meet Section 2.05.05 (A) because it will not be consistent with surrounding land which is single family residential homes and in conflict with their interest. The application failed to meet Section 2.05.05(B) because no competent substantial evidence was submitted of consistency. Failed to submit competent, substantial evidence to

## NOTICE OF APPEAL – BASIS FOR APPEAL

demonstrate compliance with Section 2.05.05(C). The application failed to meet Section 2.05.05 (D) because it is not compatible with surrounding areas. There were no independent studies done to address dangerous traffic conditions in this area that looked at cumulative impacts of all three of the storage use approvals in the area. The data did not consider peaks such as weekends and holidays in the trip calculations presented. The ITE trip calculations report was used in all three (3) recent special exceptions for storage facilities within 1/2 mile of each other on Old Kings Road. (#4790, #4901, and #4965) However the transportation impacts were not analyzed or looked at concurrently with the other project's competing egress and ingress from two separate entrances of two residential communities with nearly 600 homes. Each project was analyzed in a vacuum and should have taken into account the cumulative traffic impacts of all three (3) projects. Old Kings Road in a narrow two lane road that has been widened to four lanes at both the north and south ends, but not in this area. No current traffic study has been completed to determine if adding all of these three storage facility using cars, trucks, RVs and boats is even feasible.

The City of Palm Coast is approving these applications without funding for the widening of Old Kings Road, at the cost of the health, welfare, and safety of the local residents. This section of Old Kings Road is curvy

## NOTICE OF APPEAL – BASIS FOR APPEAL

and narrow, with 2 blind curves. The entrances to Hidden Lakes and Toscana communities are in direct competition with the proposed application #4901 and #4965 storage facilities entrances.

This will create unmitigated dangerous conditions for rear end collisions as well as head on collisions with oversized vehicles, traffic, and residents try to circumvent all of these hazards on a dangerous road not designed to support it. The lack of turning lanes will result in traffic backups preventing the safe flow of traffic into and out of the communities and nearby Assisted Living Facility. This violates the criteria in 2.05.05 A, B, and D, and 2.06.03 E (conditions affecting the area) and F.

**WITNESS LIST**

Donna Csire resides at 63 Arrowhead Dr. Palm Coast (386) 263-8333

Darlene Shelley 84 Arena Lake Dr. Palm Coast (609) 290-0534

Robert Skove 58 Graham Woods Pl. Palm Coast; (443) 699-0070

John Burt 98 Arena Lake Dr. Palm Coast; (386) 225-1383

Maureen Tavernese 58 New Water Oak Dr. Palm Coast; (631) 379-2347

Mary Alice Brandt 130 Arena Lake Palm Coast; (386) 338-3533

Cindy McDowall 66 Graham Woods Pl. Palm Coast; (386) 276-2708

Brian Gagan 17 Arena Lake Dr. Palm Coast 32137; and (400) 216-9937

Sam Hobbs 92 Arena Lake Dr. Palm Coast; (702) 349-1800