

City of Palm Coast, Florida

Agenda Item

Agenda Date: October 15, 2025

Department	COMMUNITY DEVELOPMENT	Amount
Division	PLANNING	Account #
Subject: 56 Hargrove Grade Zoning Map Amendment – Application # 6185		
Presenter: Michael Hanson, AICP, Senior Planner		
Attachments: 1. Ordinance 2. Staff Report 3. Business Impact Estimate 4. Distant Aerial 5. Close Aerial 6. Future Land Use Map 7. Existing Zoning Map 8. Proposed Zoning Map 9. Boundary Survey, Affidavit, Title Opinion 10. Application, Owner Authorization, Corporate Identities 11. Applicant Cover Letter and Analysis 12. Traffic Report 13. Environmental Report and Environmental Email Correspondence 14. Public Notice Documentation		
Background: This item was continued to the September 17th, 2025 agenda at the August 20, 2025 Planning and Land Development Regulation Board Meeting at request of the applicant. This item was continued a second time to the October 15th, 2025 agenda during the September 17th, 2025 Planning and Land Development Regulation Board Meeting at request of the applicant. <u>Request:</u> Michael Chiumento, III, as agent for Hard Rock Materials Inc., is proposing to rezone ±10.44 acres of vacant land located on the north side of Hargrove Grade from the Light Industrial and Warehousing (IND-1) zoning district to the Heavy Industrial (IND-2) zoning district in order for the property owner to develop the subject parcel with a proposed concrete batch plant. <u>Background:</u> The property owner purchased the vacant subject property in April 2025 from Hargrove Mini Storage Inc. The subject property is part of the Hargrove Industrial Park and is currently zoned for IND-1 uses. It is designated as Industrial on the Future Land Use Map (FLUM). The previous property owner recently received a development order for a recreational vehicle & boat storage facility with a total of ±150,988 square feet under Application #4859. The current rezoning application was submitted during the active period for the recent development order. At this time the new owner, Hard Rock Materials, proposes to rezone the site to accommodate a concrete batch plant on the site so that they can expand their		

business of selling ready-mix concrete into Palm Coast.

Project Description: Concrete batch plants are a specified heavy industrial use that is allowed within the IND-2 zoning district subject to the regulations provided by the Unified Land Development Code (LDC) Section 4.14 – Industrial Uses. This rezoning application is conceptual in nature, and if approved by the City Council the applicant will be required to submit for a Technical Site Plan prior to development to ensure compliance with the Comprehensive Plan, LDC, and any other local, state, or federal regulation or law.

Concrete is made by combining cement, aggregate material (typically gravel and crushed rock), and water. The proposed user would store the ingredients for making ready-mix concrete on site and would bring the necessary materials from another location. The applicant does not propose a cement manufacturing use on this site. Both cement manufacturing and concrete batch plants are separate uses; however, they are overall related in that they are both utilized in the production of concrete.

As rezonings are conceptual, the actual size of the proposed concrete batch plant will be determined during the subsequent Technical Site Plan (TSP) Application. TSP approval is required prior to the applicant receiving a development order, and during the TSP phase, the project submittal will be required to ensure compliance with all applicable laws and regulations pertaining to site development.

Public Participation: The applicant hosted a neighborhood meeting as required by Unified Land Development Code (LDC) Section 2.05.02 at 5:45 p.m. Monday August 11, 2025, in the meeting room of the Flagler County Public Library. The applicant also met the public notice requirements of LDC Section 2.05.03.

Only one member of the public attended the neighborhood meeting. Additionally, the applicant, project's engineer, and the staff planner attended. The attendee was concerned about fencing on the property and wanted to know about potential amount of traffic on Hargrove Grade. The applicant and engineer explained that the property owner would likely have about 15 truck trips per day.

Staff has not received further public participation regarding the project as of drafting this staff report.

Recommended Action:

Staff recommends that the Planning and Land Development Regulation Board determine the proposed rezoning (Application No. 6185) is consistent with the Comprehensive Plan and recommend approval to City Council to rezone ±10.44 acres from the IND-1 zoning district to the IND-2 zoning district.

ORDINANCE NO. 2025-_____
REZONING APPLICATION NO. 6185
56 HARGROVE GRADE REZONING

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AMENDING THE OFFICIAL ZONING MAP, AS ESTABLISHED IN SECTION 2.06 OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE, FOR ±10.44 ACRES OF CERTAIN REAL PROPERTY DESCRIBED AS TAX PARCEL IDENTIFICATION NUMBER 16-11-30-5935-00000-0010, GENERALLY LOCATED ON THE NORTH SIDE OF HARGROVE GRADE AT ITS INTERSECTION WITH HARGROVE LANE AND BEING MORE PARTICULARLY DESCRIBED IN ATTACHED EXHIBIT A, FROM LIGHT INDUSTRIAL AND WAREHOUSING (IND-1) TO HEAVY INDUSTRIAL (IND-2); PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City of Palm Coast, as the governing body of the City, pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes, and the City of Palm Coast Unified Land Development Code, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Chapter 2 - Review Authority, Enforcement, and Procedures of the City of Palm Coast Unified Land Development Code have been satisfied; and

WHEREAS, the City Council of the City of Palm Coast has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various City reviewing departments, and the recommendation of the Planning and Land Development Regulation Board (PLDRB); and

WHEREAS, the City Council has considered the findings in the staff report and the following findings of fact:

1. The rezoning is consistent with the purposes, goals, objectives, and policies of the City of Palm Coast Comprehensive Plan;
2. The rezoning is compatible as defined in the Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for rezoning;
3. The rezoning will result in a logical, timely and orderly development pattern;
4. The staff report has demonstrated sufficient justification that there are changed circumstances, which would require the rezoning request.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS.

The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

SECTION 2. OFFICIAL ZONING MAP AMENDED.

The ±10.44 acres of certain real property described as tax parcel identification number 16-11-30-5935-00000-0010, generally located on the north side of Hargrove Grade at its intersection with Hargrove Lane and being more particularly described in attached Exhibit A, from Light Industrial and Warehousing (IND-1) to Heavy Industrial (IND-2).

SECTION 3. SEVERABILITY.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 4. CONFLICTS.

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall become effective immediately upon its passage and adoption. [OR BECOME EFFECTIVE IMMEDIATELY UPON THE EFFECTIVE DATE OF ORDINANCE NO. ____ AS ADOPTED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AND PURSUANT TO THE CITY CHARTER. IF ORDINANCE NO. ____ DOES NOT BECOME EFFECTIVE, THEN THIS ORDINANCE SHALL BECOME NULL AND VOID.]

APPROVED on the first reading after due public notice and hearing this ____ day of _____, 2025.

ADOPTED on the second reading after due public notice and hearing this _____ day of _____, 2025.

ATTEST:

CITY OF PALM COAST, FLORIDA

KALEY COOK, CITY CLERK

MICHAEL NORRIS, MAYOR

APPROVED AS TO FORM AND LEGALITY

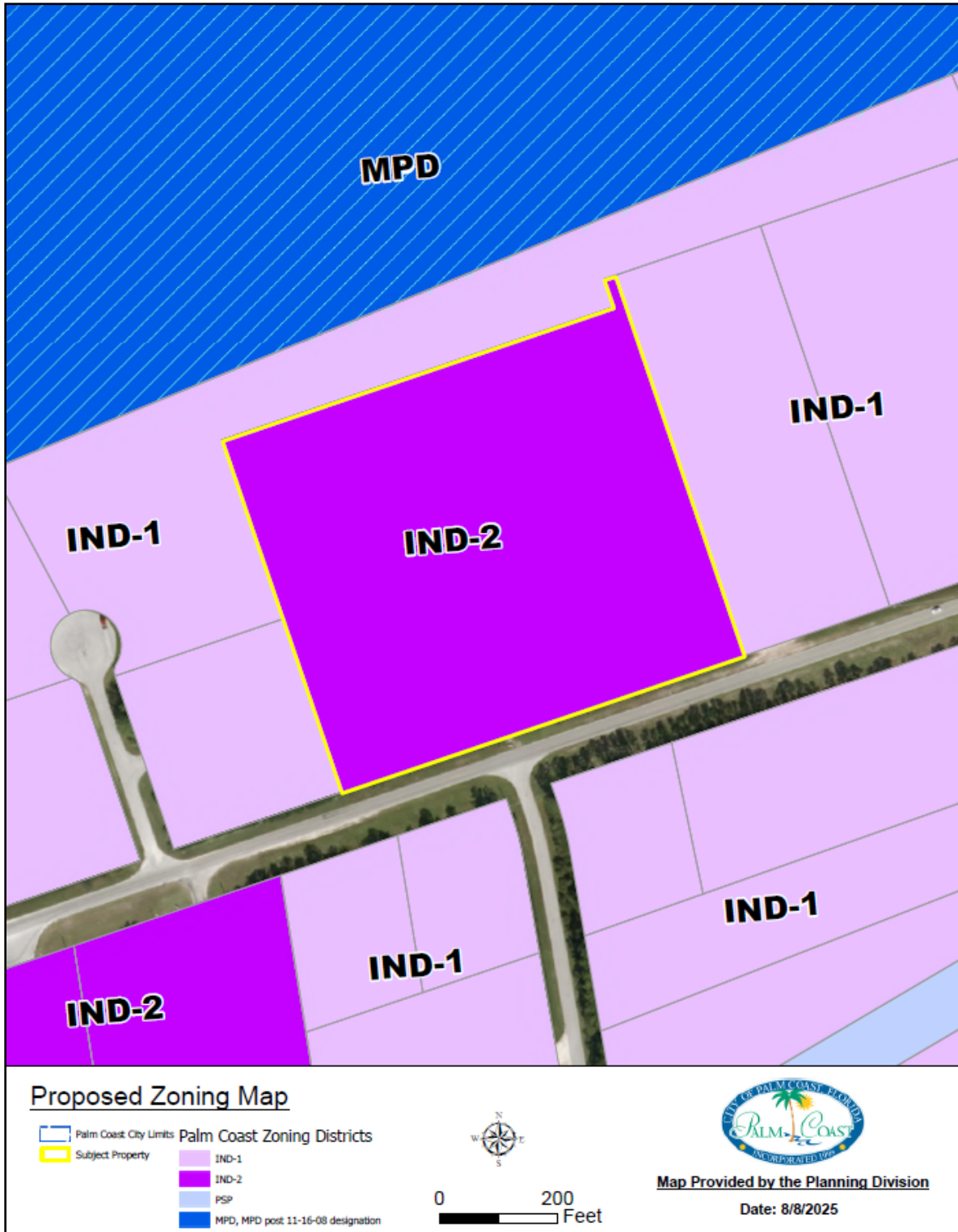
MARCUS DUFFY, CITY ATTORNEY

EXHIBIT A
LEGAL DESCRIPTION

Parcel Identification Number: 16-11-30-5935-00000-0010

LOT 1, WATERSIDE SUPER CENTER, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 38, PAGE 90, PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA.

EXHIBIT B
REVISED OFFICIAL ZONING MAP





**COMMUNITY DEVELOPMENT DEPARTMENT
OFFICIAL ZONING MAP AMENDMENT STAFF REPORT
PLANNING AND LAND DEVELOPMENT REGULATION BOARD
PUBLIC HEARING ON AUGUST 20, 2025**

OVERVIEW

Application Number: 6185
Applicant: Michael Chiumento, III, Esquire, Chiumento Law, agent for owner
Property Description: The north side of Hargrove Grade at its intersection with Hargrove Lane
Property Owner: Hard Rock Materials Inc.
Parcel ID #: 16-11-30-5935-00000-0010
Parcel Address: 56 Hargrove Grade
Current FLUM: Industrial
Current Zoning: Light Industrial and Warehousing (IND-1)
Current Use: Vacant
Size of Property: ±10.44 acres
Requested Action: Rezoning from the Light Industrial and Warehousing (IND-1) Zoning District to the Heavy Industrial (IND-2) Zoning District

ANALYSIS

REQUESTED ACTION

Michael Chiumento, III, as agent for Hard Rock Materials Inc., is proposing to rezone ±10.44 acres of vacant land located on the north side of Hargrove Grade from the Light Industrial and Warehousing (IND-1) zoning district to the Heavy Industrial (IND-2) zoning district in order for the property owner to develop the subject parcel with a proposed concrete batch plant.

BACKGROUND/SITE HISTORY

The property owner purchased the vacant subject property in April 2025 from Hargrove Mini Storage Inc. The subject property is part of the Hargrove Industrial Park and is currently zoned for IND-1 uses. It is designated as Industrial on the Future Land Use Map (FLUM).

The previous property owner recently received a development order for a recreational vehicle & boat storage facility with a total of ±150,988 square feet under Application #4859. The current rezoning application was submitted during the active period for the recent development order. At this time the new owner, Hard Rock Materials, proposes to rezone the site to accommodate a concrete batch plant on the site so that they can expand their business of selling ready-mix concrete into Palm Coast.

PROJECT DESCRIPTION

Concrete batch plants are a specified heavy industrial use that is allowed within the IND-2 zoning district subject to the regulations provided by the Unified Land Development Code (LDC) Section 4.14 – Industrial Uses. This rezoning application is conceptual in nature, and if

approved by the City Council the applicant will be required to submit for a Technical Site Plan prior to development to ensure compliance with the Comprehensive Plan, LDC, and any other local, state, or federal regulation or law.

Concrete is made by combining cement, aggregate material (typically gravel and crushed rock), and water. The proposed user would store the ingredients for making ready-mix concrete on site and would bring the necessary materials from another location. The applicant does not propose a cement manufacturing use on this site. Both cement manufacturing and concrete batch plants are separate uses; however, they are overall related in that they are both utilized in the production of concrete.

As rezonings are conceptual, the actual size of the proposed concrete batch plant will be determined during the subsequent Technical Site Plan (TSP) Application. TSP approval is required prior to the applicant receiving a development order, and during the TSP phase, the project submittal will be required to ensure compliance with all applicable laws and regulations pertaining to site development.

LAND USE AND ZONING INFORMATION

USE SUMMARY TABLE:

CATEGORY:	EXISTING:	PROPOSED:
Future Land Use Map (FLUM)	Industrial	Industrial
Zoning District	IND-1	IND-2
Use	Vacant Land	Vacant Land
Acreage	±10.44 acres	±10.44 acres

SURROUNDING LAND USES:

NORTH:	FLUM:	Industrial, DRI-Mixed Use
	Zoning:	IND-1, Palm Coast Park MPD
EAST:	FLUM:	Industrial
	Zoning:	IND-1
SOUTH:	FLUM:	Industrial
	Zoning:	IND-1
WEST:	FLUM:	Industrial
	Zoning:	IND-1, IND-2

SITE DEVELOPMENT REQUIREMENTS:

Criteria	Current Zoning – IND-1	Proposed Zoning – IND-2
Min. Lot Size	20,000 square feet	1 acre
Min. Lot Width	100 feet	150 feet
Max. Impervious Surface Ratio	0.70	0.65
Min. Front Setback	25 feet	35 feet
Min. Rear Setback	10 feet	15 feet
Min. Interior Side Setback	10 feet	15 feet
Max. Building Height	65 feet	65 feet
Max. Floor Area Ratio	0.35	0.35 ⁽¹⁾

- (1) The 2050 Comprehensive Plan limits the floor area ratio (FAR) to 0.35 in IND-2 zoned properties. The LDC's limit of 0.45 is inconsistent with the Comprehensive Plan and will be amended to be consistent with the Comprehensive Plan in the near future pursuant to Comprehensive Plan Policy 1.1.5.2.

ANALYSIS BASED ON UNIFIED LAND DEVELOPMENT CODE, CHAPTER 2, SECTION 2.05.05

The Unified Land Development Code, Chapter 2, Part II, Section 2.05.05 states: *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;

Staff Finding: The zoning and land use pattern along Hargrove Grade and Hargrove Lane is zoned primarily for light industrial uses; however, there is an existing property approximately 200 feet southwest of the subject property that is zoned for heavy industrial uses under the IND-2 zoning district. Both the IND-1 and IND-2 zoning districts are compatible and consistent with the Industrial future land use designation. The site is currently vacant and in the rear of the property is a large man-made pond. The property has some natural vegetative screening. During potential development, any use will have to meet the required building setbacks and landscape buffer requirements. It is worth noting that the required landscape buffers do not vary when discussing IND-1 or IND-2; however, as depicted in the above table, the building setbacks are larger in the IND-2 zoning districts. Any industrial development has to meet the industrial performance metrics as adopted within LDC Section 4.14. The proposed concrete batch plant is specified as an allowable use within IND-2. Per discussion with the applicant and project's engineer, they expect the maximum water usage for the site to be approximately 8,000 gallons per day (GPD). The closest City potable water well is approximately 1,000 feet away, and its 500-foot radial wellfield protection zone does not encroach into the subject property. LDC Sec 10.03 establishes regulations for the wellfield protection and the applicant will be required to meet St. Johns River Water Management District regulations. During the subsequent Technical Site Plan application, the location of the proposed well, its depth, and GPD utilized for the use will be further analyzed. Staff has reached out to City utilities and the city's contracted hydrogeologist for comment, and the initial indication is that the usage is not significant, but the water well should be located near the south portion of the property so that it will be as far away from the City's potable water supply wells as possible.

B. The proposed development must be consistent with the Comprehensive Plan and the provisions of this LDC;

Staff Finding: The requested rezoning is consistent with the following policies and goal of the Comprehensive Plan:

- **Chapter 1 Future Land Use Element:**

Policy 1.1.1.1 - The following future land use designations shall be established on the FLUM:

E. Industrial –

Purpose and Intent: This designation identifies areas suitable for both heavy and light industrial uses to provide employment opportunities for higher skilled jobs with higher pay scales.

Allowable Uses: Heavy industrial uses to include those that are major users of electricity and water, produce greater amounts of solid wastes and air emissions, or substantially impact the landscape through mining and mineral extraction. Light industrial uses to include limited manufacturing and product assembly, warehousing, storage yards and facilities, and business and research parks involving trucking and shipping activities.

Density: None.

Development Allowances and Restrictions: An industrial use's proximity to wellfields shall be considered. Commercial and institutional uses are also allowed within this designation only when necessary to provide support facilities for large employment centers.

The proposed rezoning to IND-2 is consistent with the Industrial FLUM designation. The City has adopted industrial performance metrics under LDC Section 4.14 that the applicant will have to follow to develop the site for industrial uses. These requirements can require third party permitting for water usage air quality. The project engineer has stated that the project will seek an air quality permit from Florida Department of Environmental Permitting. The subject property is outside of the nearest potable water supply well's primary wellfield protection radius.

Policy 1.1.4.3 – Land use patterns will be required to be efficient and not disproportionately increase the cost of providing and maintaining public facilities, as well as providing housing and transportation strategies that will foster energy conservation.

The proposed IND-2 zoning district would increase the available stock of heavy industrial property within the City. The proposed rezoning would not likely provide any net increase to the cost of providing and maintaining public facilities over the current IND-1 zoning. Public services are available to serve the property; however, due to the amount of water necessary for the proposed use, a private well would be necessary for the property. The application material discusses a proposed private well that would have a flow rate of three gallons per minute. The City's contracted hydrogeologist requests the project's private water well be located along the south property line as far as is reasonably possible from the city's potable water supply wells to the northwest and northeast of the site.

C. The proposed development must not impose a significant financial liability or hardship for the City;

Staff Finding: Potable water and sewer services are available to serve the project. The proposed rezoning amendment does not impose significant financial liability for the City. The project will be required to pay necessary impact fees during its development. Therefore, it's unlikely to impose a significant financial liability on 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;

Staff Finding: The proposed rezoning to IND-2 will be compatible with the overall neighborhood as the location is designated for industrial use and there is existing property that is zoned IND-2 approximately ±200 feet away from the property. Therefore, the proposed rezoning is likely not out of character for the neighborhood, nor would it constitute a threat to the health, welfare, or safety of the neighboring residents. The future development of the site will have to apply for a Technical Site Plan application and will be analyzed to ensure its development meets all applicable codes and regulations to ensure that it does not constitute a threat to the general health, welfare, or safety of the City's inhabitants.

E. The proposed development must comply with all other applicable local, state and federal laws, statutes, ordinances, regulations, or codes.

Staff Finding: The subject property will be required to comply with the City's LDC, Comprehensive Plan, and the requirements of all other applicable local, state and federal agencies throughout the development process.

ANALYSIS BASED ON UNIFIED LAND DEVELOPMENT CODE, CHAPTER 2, SECTION 2.06.03

The Unified Land Development Code, Chapter 2, Part II, Sec. 2.06.03 states: "*The Planning and Land Development Regulation Board and City Council shall consider the following criteria, in addition to the findings listed in Subsection 2.05.05, when reviewing a rezoning application*":

A. Whether it is consistent with all adopted elements of the Comprehensive Plan and whether it furthers the goals and objectives of the Comprehensive Plan;

Staff Finding: As noted previously in the analysis prepared for LDC Chapter 2, Part II, Section 2.05.05 of this staff report, the requested zoning district is consistent with the goals, objectives, and policies of the Comprehensive Plan.

B. Its impact upon the environment and natural resources;

Staff Finding: Upon the potential approval this rezoning request, the property owners will be required to meet all applicable environmental and natural resource-based regulations and laws at the time of development for the subject property. The applicant has already purchased wetland mitigation credits from St. Johns River Water Management District for the site's development. Furthermore, they will likely be required to comply with Florida Department of Environmental Permitting regulations to obtain an air permit as part of the TSP process.

C. Its impact on the economy of any affected area;

Staff Finding: The proposed rezoning will allow the property to be potentially developed with a concrete batch plant. The property owner is a company that has numerous concrete batch plants across northeast Florida, and if the rezoning is approved, it will allow them to expand their business operations to the City. Such development will likely provide some new jobs within the city and the property's development will expand the non-residential tax base for the community.

D. Its impact upon necessary governmental services such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste, or transportation;

Staff Finding: This rezoning does not impact schools. There are existing nearby connections for potable water and sanitary sewer. The Hargrove Industrial park dead-ends, and all inbound and outbound trips into the Hargrove Industrial park come from US-1. US-1 is a major arterial thoroughfare designed to move large amounts of trips across the state. The applicant provided a Trip Generation Analysis for the proposed use conducted by their traffic engineer. The Trip Generation Analysis provided a comparison of the theoretical maximum trips based on a potential maximum development of 175,000 gross square feet. The analysis identifies ITE land use code 140 (manufacturing) as the most intense IND-2 related land use type, which has a maximum potential of 862 daily trips with 116 A.M. peak hour and 135 P.M. peak hour trips compared to ITE land use type 110 (general light industrial) as the most intense IND-1 related land use type, noting that its maximum potential trips generated would be 708 daily trips with 123 A.M. peak hour trips and 60 P.M. peak hour trips. Therefore, the proposed rezoning results in a theoretical maximum increase of 154 daily trips and 75 P.M. peak hour trips. It is worth noting that these numbers are theoretical maximums, and will be affected by site conditions, such as wetlands, stormwater retention ponds, landscaping requirements, and maximum impervious surface ratio of the site, so it is unlikely for any development to be able to achieve these theoretical maximums. The applicant's trip generation analysis states that the proposed concrete batch plant would be substantially less than the theoretical maximums with an average of 27 A.M. peak hour trips and 7 P.M. peak hour trips. The analysis evaluated similar concrete batch plants in Jacksonville with study dates conducted in October 2024. The City's Senior Transportation Planner concurred with this finding and noted that the proposed use results in a reduction in trips for the site compared to what the existing zoning could generate.

E. Any changes in circumstances or conditions affecting the area;

Staff Finding: There are no changes in circumstances or conditions affecting the area. The Hargrove Industrial park was designed for industrial uses and is designated Industrial on the FLUM. IND-2 is consistent with the Industrial FLUM designation. The proposed rezoning is not anticipated to cause any unique changes in circumstances to the area aside from an increase in traffic to the area. Any potential environmental impacts from the proposed development will be further analyzed during the Technical Site Plan application process, and the applicant will be required to comply with all environmental regulations and permitting requirements.

F. Compatibility with proximate uses and development patterns, including impacts to the health, safety, and welfare of surrounding residents;

Staff Finding: The proposed rezoning is isolated to a single property within an industrial park that was intended for industrial uses. The proposed zoning district is compatible with the surrounding developmental pattern and the potential for impacts to the health, safety, and welfare of surrounding residents will be minimized as the project will have to comply with all applicable laws, regulations, and Comprehensive Plan policies in addition to meeting the LDC regulations pertaining to Industrial Uses found in Section 4.14, including the Performance Standards for Industrial Uses found in table 4-5 within that section. This section of the LDC also sets standards for air quality that the project will be evaluated for during a Technical Site Plan application.

G. Whether it accomplishes a legitimate public purpose:

Staff Finding: The proposed rezoning allows the property owner to develop the property under heavy industrial uses. The distribution of zoning districts over the City's available land mass

significantly limits the development of industrial uses within the City as the predominant land use designation is residential. Industrial land use can help diversify the City's tax base towards more nonresidential sources of income. This potential use will ultimately result in the creation of some new jobs within the city; however, because the rezoning is conceptual in nature, the applicant has not been able to provide an estimate as to the number of jobs created with the proposed use.

PUBLIC PARTICIPATION

The applicant hosted a neighborhood meeting as required by Unified Land Development Code (LDC) Section 2.05.02 at 5:45 p.m. Monday August 11, 2025, in the meeting room of the Flagler County Public Library. The applicant also met the public notice requirements of LDC Section 2.05.03.

Only one member of the public attended the neighborhood meeting. Additionally, the applicant, project's engineer, and the staff planner attended. The attendee was concerned about fencing on the property and wanted to know about potential amount of traffic on Hargrove Grade. The applicant and engineer explained that the property owner would likely have about 15 truck trips per day.

Staff has not received further public participation regarding the project as of drafting this staff report.

RECOMMENDATION

Staff recommends that the Planning and Land Development Regulation Board determine the proposed rezoning (Application No. 6185) is consistent with the Comprehensive Plan and recommend approval to City Council to rezone ±10.44 acres from the IND-1 zoning district to the IND-2 zoning district.



**THE CITY OF PALM COAST
160 LAKE AVENUE
PALM COAST, FL 32164**

**BUSINESS IMPACT ESTIMATE
PURSUANT TO F.S. 166.041(4)**

**Meeting Date: September 16, 2025
Ordinance Number: 2025-XX
Posted To Webpage: August 12, 2025**

This Business Impact Estimate is given as it relates to the proposed ordinance titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AMENDING THE OFFICIAL ZONING MAP, AS ESTABLISHED IN SECTION 2.06 OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE, FOR ±10.44 ACRES OF CERTAIN REAL PROPERTY DESCRIBED AS TAX PARCEL IDENTIFICATION NUMBER 16-11-30-5935-00000-0010, GENERALLY LOCATED ON THE NORTH SIDE OF HARGROVE GRADE AT ITS INTERSECTION WITH HARGROVE LANE AND BEING MORE PARTICULARLY DESCRIBED IN ATTACHED EXHIBIT A, FROM LIGHT INDUSTRIAL AND WAREHOUSING (IND-1) TO HEAVY INDUSTRIAL (IND-2); PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

The sections below are not required to be completed if the ordinance involves any one of the following types of regulations. Please check if applicable:

- ☐ 1. Ordinances required for compliance with federal or state law or regulation;
- ☐ 2. Ordinances relating to the issuance or refinancing of debt;
- ☐ 3. Ordinances relating to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ 4. Ordinances required to implement a contract or an agreement, including, but not limited to, any federal, state, local, or private grant, or other financial assistance accepted by a municipal government;
- ☐ 5. Emergency ordinances;

- ☐ 6. Ordinances relating to procurement; or
- ☒ 7. Ordinances enacted to implement the following:
- ☐ a. Development orders, and development agreements, and development permits, as those terms are defined in S 163.3164, and development agreements, as authorized by the Florida Local Government Development Acts SS. 163.3220-163.3243;
 - ☒ b. Comprehensive Plan amendments and land development regulation amendments initiated by an application by a private party other than the county;
 - ☐ c. Sections 190.005 and 190.046;
 - ☐ d. Section 553.73, relating to the Florida Building Code; or
 - ☐ e. Section 633.202, relating to the Florida Fire Prevention Code.

Part I. Summary of the proposed ordinance and statement of public purpose:

The proposed ordinance amends the City's Official Zoning Map for ±10.44 acres of certain real property described as tax parcel identification number 16-11-30-5935-00000-0010, generally located on the north side of Hargrove Grade at its intersection with Hargrove Lane from the Light Industrial and Warehousing (IND-1) zoning district to the Heavy Industrial (IND-2) zoning district. This rezoning project is requested by the property owner.

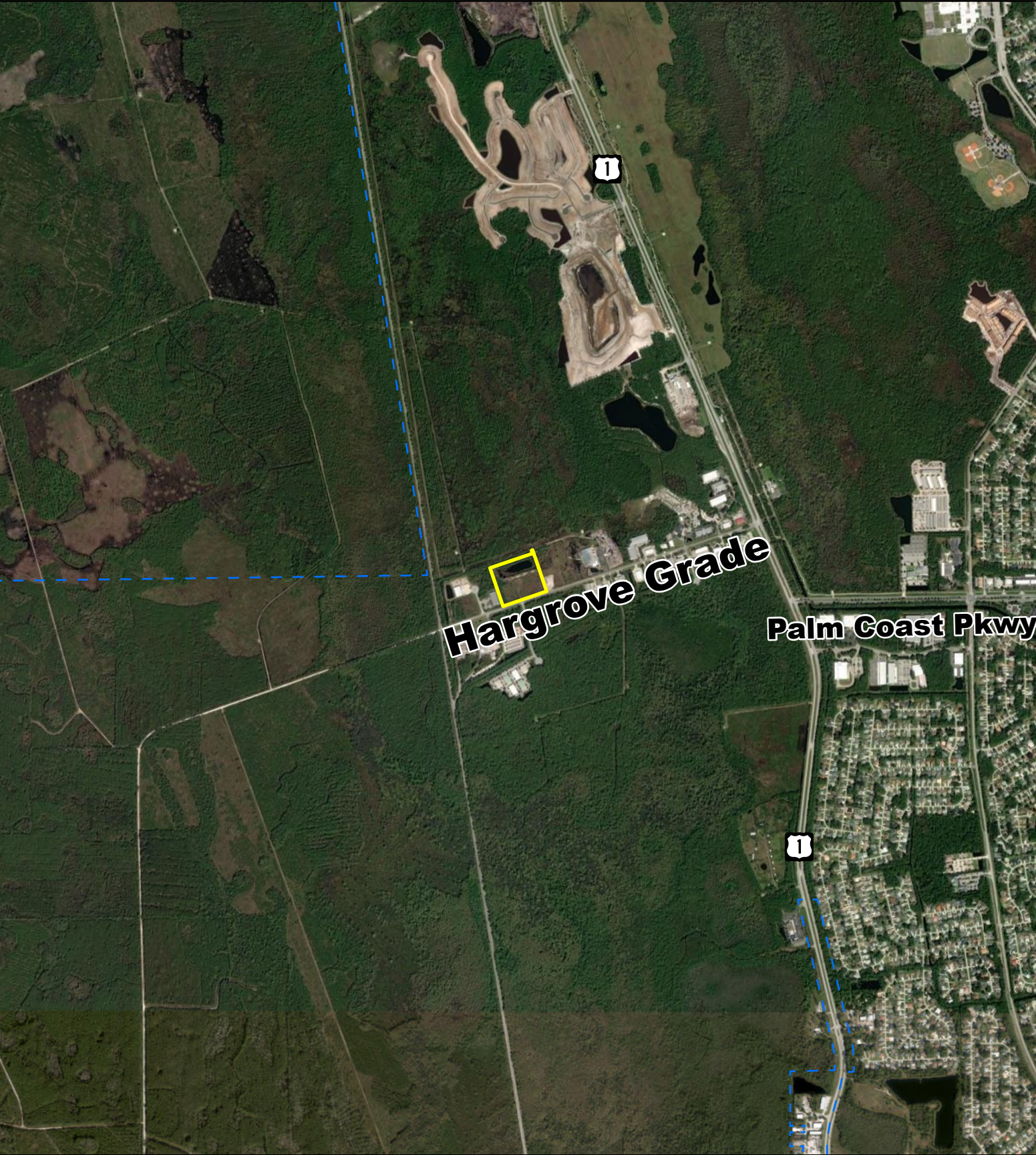
The public purpose of this ordinance helps to expand the City's stock of land zoned for heavy industrial uses, which enable the City to expand its nonresidential tax base. The proposed use for a Concrete Batch Plant, is an allowed use under IND-2 and could potentially assist the community in providing a competitive local source for concrete used in construction. This public purpose aligns with the City's adopted Comprehensive Plan Policy 11.1.5.4 – *The City shall continue to support the "Buy Local" and other initiatives aimed at boosting locally-owned small businesses by leveraging marketing strategies, hosting events, and offering incentives to encourage residents to support them.*

Part II. Estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Palm Coast:

- (a) **Estimate of direct compliance costs that businesses may reasonably incur if the proposed ordinance is enacted:** Not applicable.
- (b) **Identification of any new charges or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible:** Not applicable.
- (c) **An estimate of the City of Palm Coast's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs:** Not applicable.
- (d) **Does this proposed ordinance have a direct impact on affordable housing? If so, explain.** Not applicable.

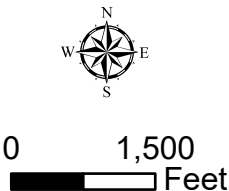
Part III. Good faith estimates of the number of businesses likely to be impacted by the ordinance. Not applicable.

Part IV. Additional Information (if any): Not applicable.



Distant Aerial

-  Palm Coast City Limits
-  Subject Property



Map Provided by the Planning Division

Date: 8/8/2025

The City of Palm Coast prepares and uses this map/map data for its own purposes. This map/map data displays general boundaries and may not be appropriate for site specific uses. The City uses data believed to be accurate; however, a degree of error is inherent in all maps. This map/map data is distributed AS-IS without warranties of any kind, either expressed or implied including, but not limited to, warranties of suitability to a particular purpose or use. This map/map data is intended for use only at the published scale. Detailed on-the-ground surveys and historical analyses of sites may differ substantially from this map/map data.



Close Up Aerial

-  Palm Coast City Limits
-  Subject Property

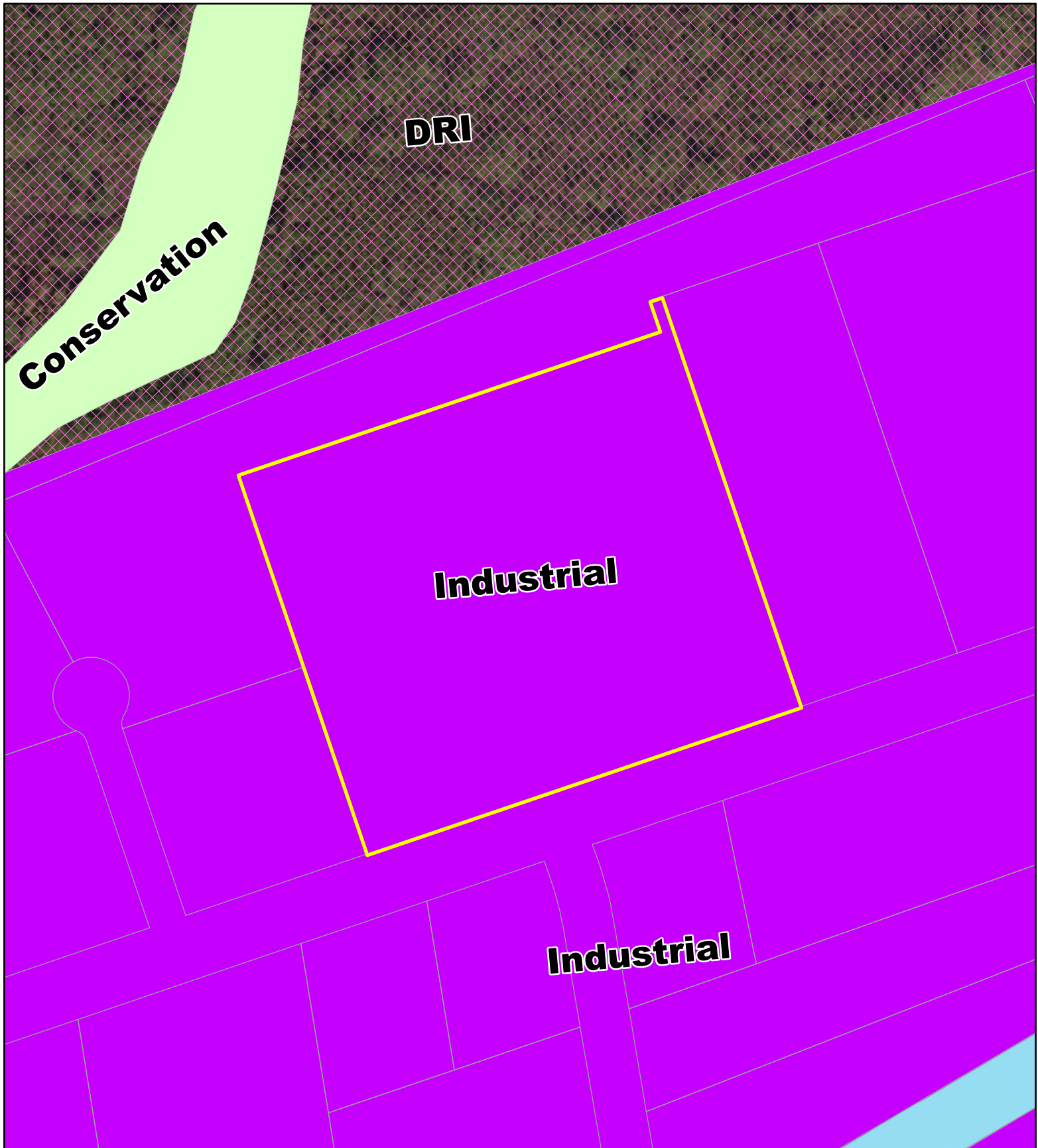


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Feet

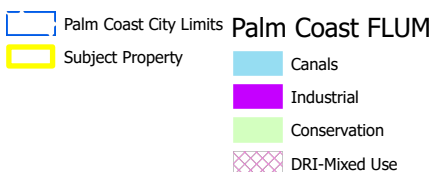


Map Provided by the Planning Division

Date: 8/8/2025



Future Land Use Map

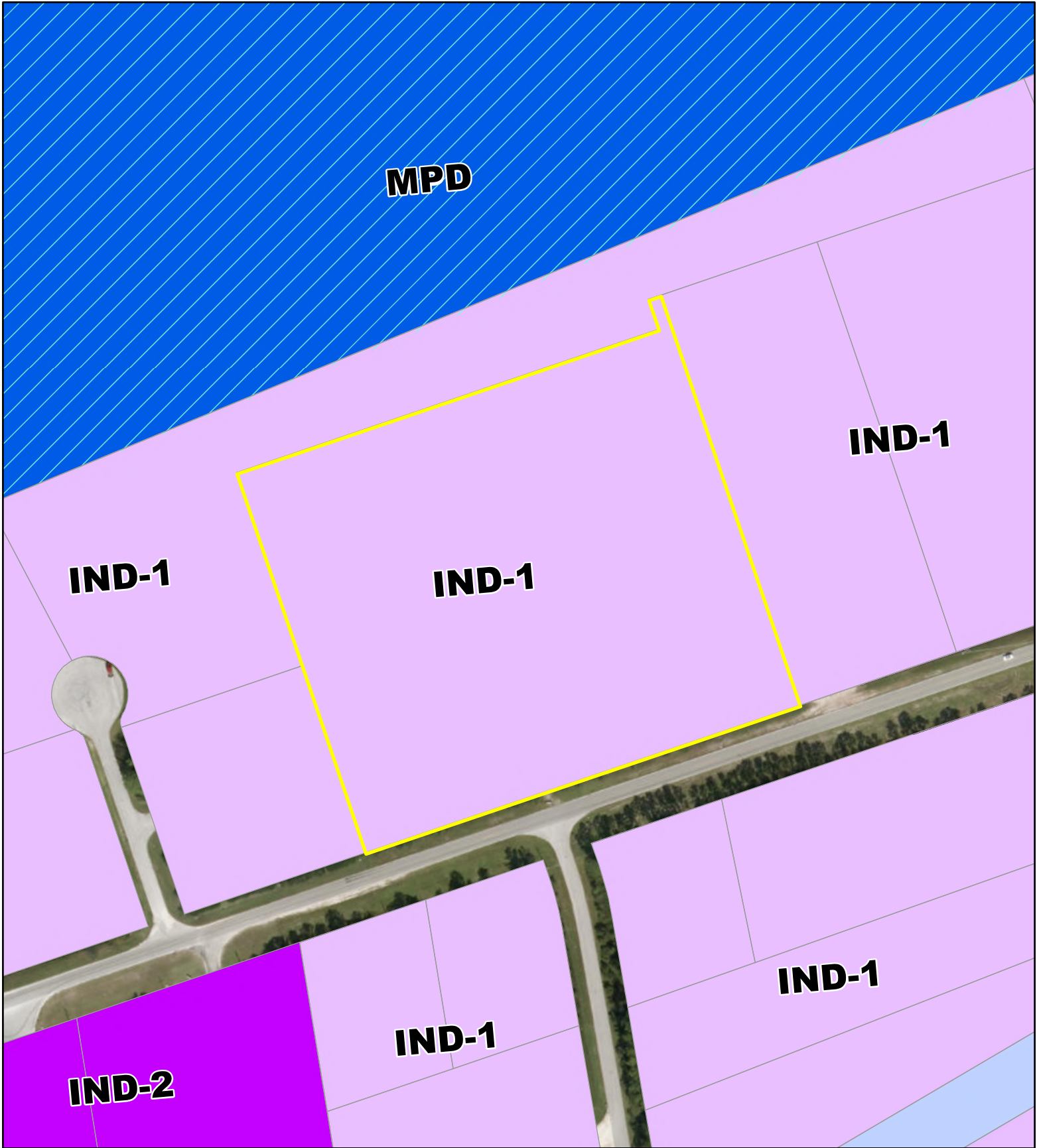


0 200 Feet



Map Provided by the Planning Division

Date: 8/8/2025



Existing Zoning Map

-  Palm Coast City Limits
-  Subject Property
- Palm Coast Zoning Districts**
-  IND-1
-  IND-2
-  PSP
-  MPD, MPD post 11-16-08 designation

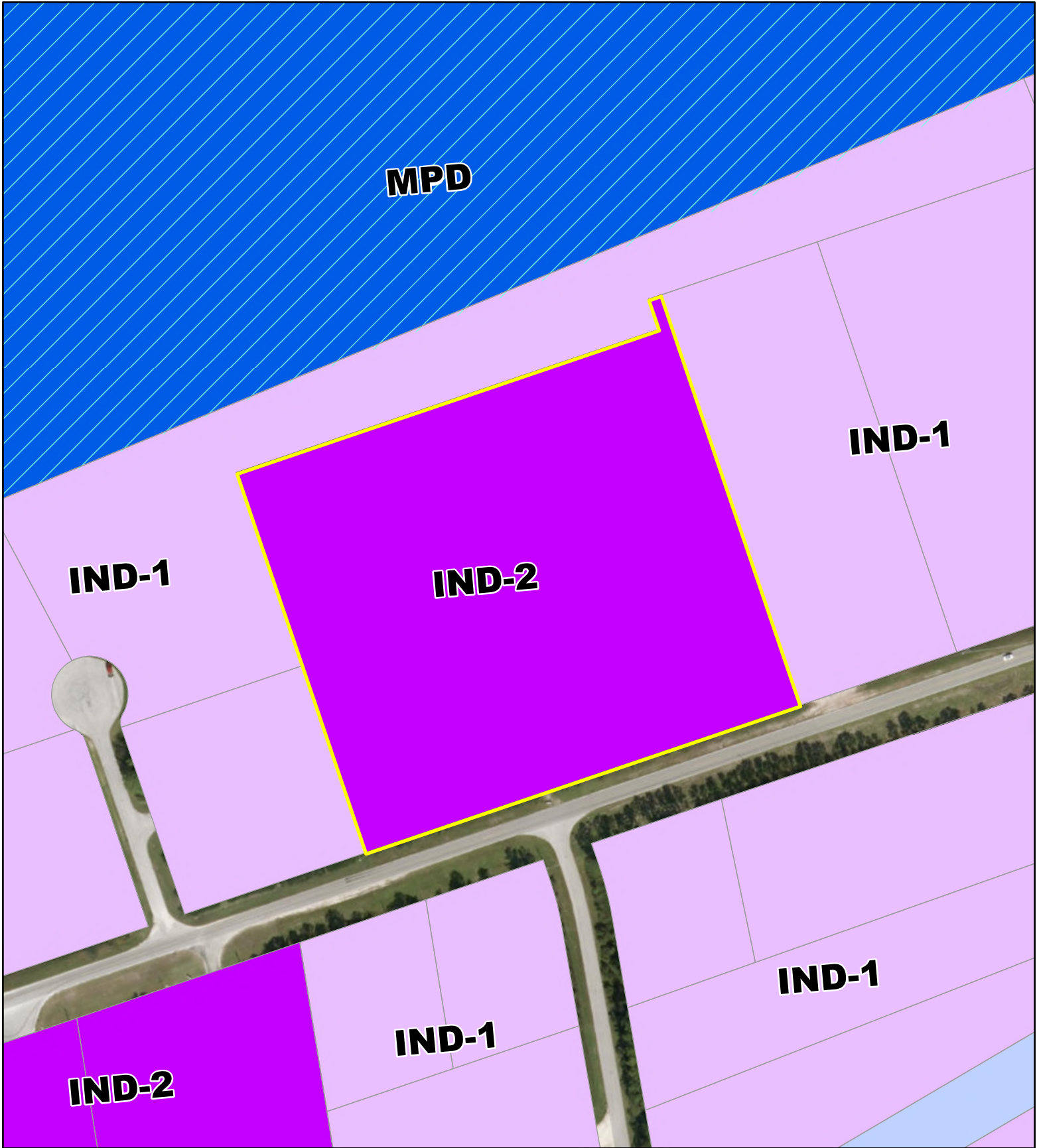


0 200
Feet



Map Provided by the Planning Division

Date: 8/8/2025



Proposed Zoning Map

- Palm Coast City Limits

Subject Property
- IND-1

IND-2

PSP

MPD, MPD post 11-16-08 designation
- Palm Coast Zoning Districts



0 200 Feet



Map Provided by the Planning Division

Date: 8/8/2025



www.gpi.com

A Full Service

1230 Pine Street, Suite 200
Pine Bluff, AR 71601

Phone: (501) 533-1234

Fax: (501) 533-1235

Field Engineer: J. Smith

Surveyor: J. Smith

State of Arkansas License
No. 12345

Expiration Date: 12/31/2025

Survey No. 12345

Project No. 12345

Client: HARGROVE MINI-STORAGE, INC.

Address: 56 HARGROVE GRADE

Sections 9 & 16-TOWNSHIP 11 SOUTH-RANGE 30 EAST

PLAUGER COUNTY, FLORIDA

Checkered by: J. Smith

Approved by: J. Smith

Job No. H1234.1

Date: 11/12/2021

Scale: 1" = 100'

North Arrow

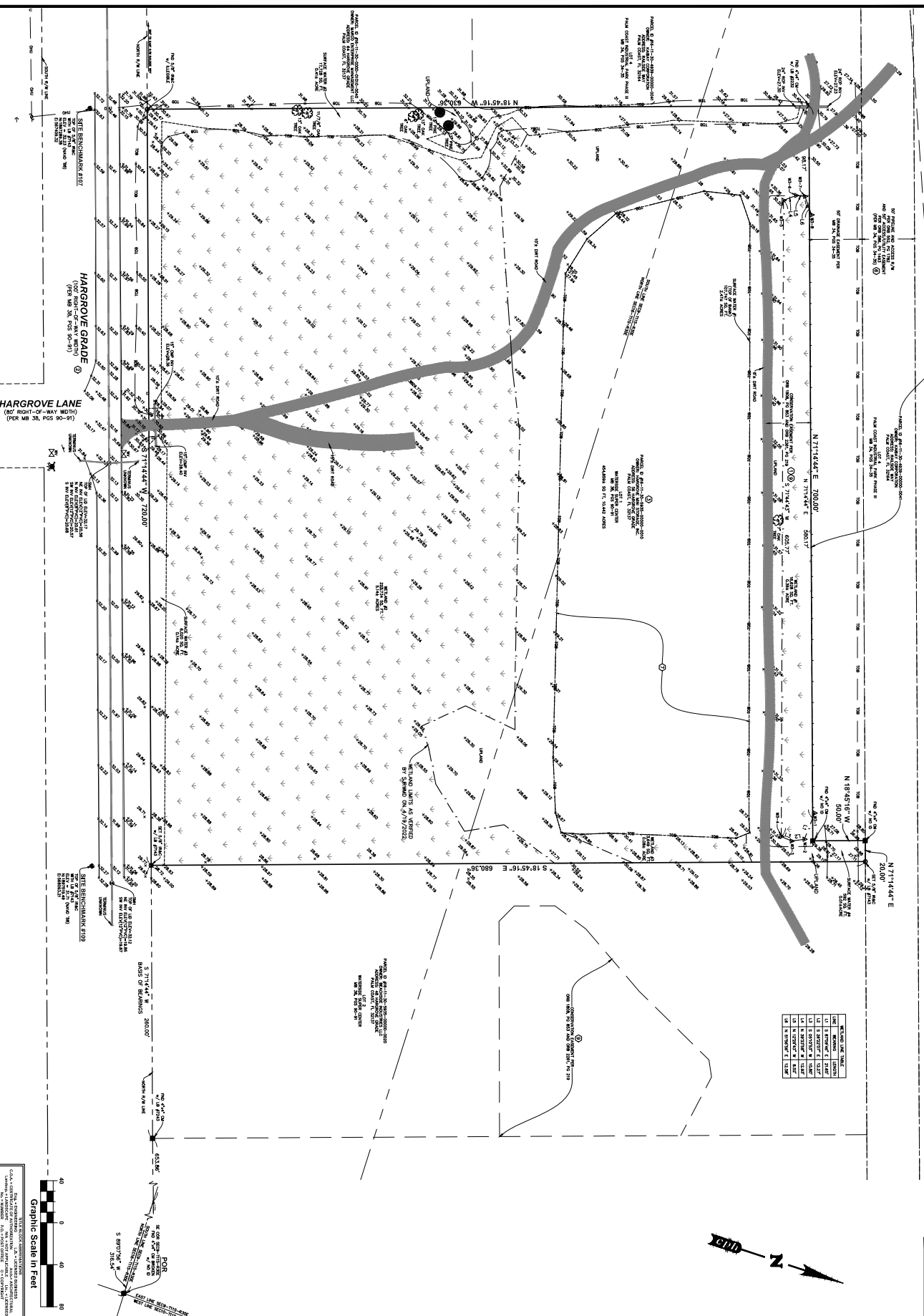
Graphic Scale in Feet

THIS SURVEY IS NOT VALID WITHOUT THESE NOTES

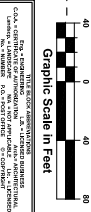
Sheet No.

V1.1

BOUNDARY & TOPOGRAPHIC SURVEY
(ALTA/NSPS LAND TITLE SURVEY)
HARGROVE MINI-STORAGE, INC
56 HARGROVE GRADE
SECTIONS 9 & 16-TOWNSHIP 11 SOUTH-RANGE 30 EAST
PLAUGER COUNTY, FLORIDA



Station	Bearing	Distance
1	N 71°14'44" E	700.00'
2	N 19°45'16" W	50.00'
3	N 71°14'44" E	50.00'
4	N 19°45'16" W	50.00'
5	N 71°14'44" E	50.00'
6	N 19°45'16" W	50.00'
7	N 71°14'44" E	50.00'
8	N 19°45'16" W	50.00'
9	N 71°14'44" E	50.00'
10	N 19°45'16" W	50.00'



Prepared by and Return to:
Michael D. Chiumento III, Esq.
CHIUMENTO LAW, PLLC
145 City Place, Suite 301
Palm Coast, FL 32164
Attn: Caroline McNeil

**Affidavit
Survey - No Additional Improvements**

BEFORE ME, the undersigned authority, duly authorized to take acknowledgments and administer oaths, personally appeared **George R. Petty, President** of Hard Rock Materials, Inc. ("Affiant"), who depose(s) and say(s) under penalties of perjury that:

1. This affidavit is made with regard to the following described property:

Lot 1, Waterside Super Center, according to the map or plat thereof as recorded in Map Book 38, Page 90, Public Records of Flagler County, Florida.

2. Affiant is the fee simple owner of the real property described under item 1 above ("Property").

3. Affiant has reviewed the survey of the Property prepared by CPH, dated January 11, 2021 and recertified on June 6, 2023 under Job No. H16201.1.

4. There has been no construction on the Property since the original survey and no construction on adjoining land that would encroach onto the Property.

Hard Rock Materials, Inc.

By: George R. Petty
George R. Petty, President

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was sworn to and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 19 day of May, 2025 by George R. Petty, as President of Hard Rock Materials, Inc., who ☐ is personally known or ☒ has produced a driver's license as identification.

[Notary Seal]

Christine Moore
Notary Public



Michael D. Chiumento
Michael D. Chiumento III
William J. Bosch
Vincent L. Sullivan
Diane A. Vidal
Kareen Movsesyan
Sydney L. Nix
Mark A. Hall
Eric R. Sloan
Meredith Wearsch
Thomas R. Pycraft, *of-counsel*

Michael D. Chiumento III
Managing Partner
Michael3@legalteamforlife.com



145 City Place, Suite 301
Palm Coast, FL 32164
Tel. (386) 445-8900
Fax: (386) 445-6702

2 Camino Del Mar
Palm Coast, FL 32137

By Appointment Only:
57 W. Granada Blvd.
Ormond Beach, FL 32174

March 5, 2025

City of Palm Coast
Attn: Ray Tyner
160 Lake Avenue
Palm Coast, FL 32164

RE: Hard Rock Materials – Cement Plant
Parcel Identification No. 16-11-30-5935-00000-0010

Dear Mr. Tyner:

I have reviewed the title with respect to the property as described in Exhibit “A” attached hereto: Based upon my examination of the title search, it is my legal opinion that as of February 28, 2025; that fee simple title to the property is vested in **Hargrove Mini-Storage, LLC, a Florida limited liability company**, subject to the following matters:

1. All matters contained on the Plat of Waterside Super Center, as recorded in Plat Book [38, Page 90](#), Public Records of Flagler County, Florida.
2. Reservations contained in Dedication of Street Right of Way recorded in O.R. Book [185, Page 202](#), Public Records of Flagler County, Florida.
3. Covenants, conditions and restrictions recorded February 26, 1982, in O.R. Book [187, Page 355](#) and O.R. Book [602, Page 113](#), Public Records of Flagler County, Florida.
4. Access and Utility Easement recorded in O.R. Book [552, Page 1782](#), Public Records of Flagler County, Florida.
5. Assignment of Rights recorded in O.R. Book [553, Page 1847](#), and O.R. Book [693, Page 443](#), Public Records of Flagler County, Florida.
6. Easement Agreement recorded in O.R. Book [586, Page 1493](#), Public Records of Flagler County, Florida.
7. Borrow Pit Affidavit recorded in O.R. Book [601, Page 1888](#), Public Records of Flagler County, Florida.
8. Development Order Approval recorded in O.R. Book [1724, Page 573](#), Public Records of Flagler County, Florida.

9. Conservation Easement recorded in O.R. Book [1808, Page 853](#) and rerecorded in O.R. Book [2261, Page 219](#), Public Records of Flagler County, Florida.
10. Rights of the lessees under unrecorded leases.
11. Utility Agreement for Water and Wastewater Service recorded in O.R. Book [2845, Page 1199](#), Public Records of Flagler County, Florida.
12. Development Order recorded in O.R. Book [2861, Page 688](#), Public Records of Flagler County, Florida.

Sincerely,

A handwritten signature in black ink, appearing to read 'MDC', with a long horizontal stroke extending to the right.

Michael D. Chiumento
Attorney
MDC/cm

EXHIBIT “A”

Lot 1, Waterside Super Center, according to the map or plat thereof as recorded in Plat Book [38](#),
[Page 90](#), Public Records of Flagler County, Florida.



city of PALM COAST

GENERAL - APPLICATION

DATE 03/17/2025

APPLICATION TYPE REZONING OTHER

PROJECT NAME		Hard Rock Materials			
LOCATION OF SUBJECT PROPERTY (PHYSICAL ADDRESS)		56 HARGROVE GRADE PALM COAST FL 32137			
PROPERTY APPRAISER'S PARCEL NUMBER		16-11-30-5935-00000-0010			
LEGAL DESCRIPTION		WATERSIDE SUPER CENTER MB 38 PG 90 LOT 1 (10.44 AC)			
SUBDIVISION NAME					
SECTION	16	BLOCK	00000	LOT	0010
PROPERTY ACRES		10.4408	PROPERTY SQ FT		454801
FUTURE LAND USE MAP DESIGNATION		INDUSTRIAL	EXISTING ZONE DISTRICT		IND-1
OVERLAY DISTRICT					
COMMUNITY PANEL NUMBER				MAP PANEL DATE	
FLOOD ZONE		X			
PRESENT USE OF PROPERTY		INDUSTRIAL LIGHT AND WAREHOUSE			
DESCRIPTION OF REQUEST / PROPOSED DEVELOPMENT (MAY ATTACH ADDITIONAL SHEETS)					
Application to Rezone from IND-1 to IND-2					
PROPOSED NUMBER OF LOTS				IS THERE EXISTING MORTGAGE?	No



City of PALM COAST

OWNER	APPLICANT / AGENT
Name: HARGROVE MINI STORAGE INC	Name: MICHAEL D. CHIUMENTO III
Mailing Address: 625 GREENS DAIRY RD DELAND, FL 32720	Mailing Address: 145 CITY PLACE SUITE 301 PALM COAST, FL 32164
Phone Number: (386) 445-8900	Phone Number: (386) 445-8900
E-mail Address: MICHAEL3@LEGALTEAMFORLIFE.COM	E-mail Address: CMCNEIL@LEGALTEAMFORLIFE.COM
MORTGAGE HOLDER	ENGINEER OR PROFESSIONAL
Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:
ARCHITECT	TRAFFIC ENGINEER
Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:
SURVEYOR	LANDSCAPE ARCHITECT
Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:
ATTORNEY	
Name:	
Mailing Address:	
Phone Number:	
E-mail Address:	

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

APPLICANT / OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of perjury, I declare that all the information contained in this development application is true and correct. By signing this Electronic Submission Form, I consent to use electronic communications, electronic records, and electronic signatures rather than paper documents for the form(s) provided on this web site. I understand that my electronic signature is legally binding, as stated by [2016 Florida Statutes Title XXXIX Chapter 668 Section 50](#)

Signature of Property Owner or Applicant

MICHAEL D CHIUMENTO III

Property Owner Letter of Authorization
*****IF APPLICANT IS NOT THE PROPERTY OWNER*****

Dear Planning Manager,

I/We, 1 Hargrove Mini Storage, Inc. being the
(All property owners)

current property owner(s) of the property legally described as

Parcel # 1 16-11-30-5935-00000-0010 and also described as

Subdivision _____, Section _____, Block _____, Lot _____.

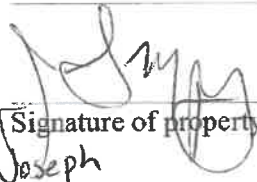
Street address 56 Hargrove Grade, Palm Coast, FL 32137
Type text here Type text here Type text

Do hereby designate and authorize Michael D. Chiumento III, Esq. & Hard Rock Materials, Inc.
(name of authorized agent)

representing Hargrove Mini Storage, Inc.
(All property owners)

To sign on my/our behalf, as my/our agent to submit an application for a

Rezoning from IND-1 to IND-2
(type of application)


Signature of property owner
Joseph

Joseph S Matuszczak
Print Name

John Matuszczak, as President of Hargrove Mini-Storage, Inc.

Print Name

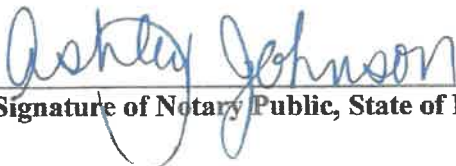
Print Name

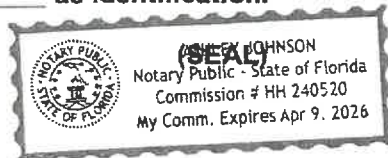
NOTARY: This instrument was acknowledged before me on this by means of ☒ physical presence

or ☐ online notarization 26 day of February, 2025 by

John Matuszczak, as President of Hargrove Mini-Storage, Inc. who is/are personally known to me, or who

has/have produced FLDL as identification.


Signature of Notary Public, State of Florida



AFFIDAVIT OF CORPORATE IDENTITY/AUTHORITY

STATE OF FLORIDA

COUNTY OF _____

COMES NOW, Joseph John Matuszczak, being first duly sworn, who deposes and

says:

(1) That he/she is the President, an officer of Hargrove Mini-Storage, Inc.

corporation existing under the laws of the State of Florida

(2) That he/she is authorized to execute the following deeds or instruments on behalf of the above
named corporation: _____ relating to the following

described real property: 56 Hargrove Grade, Palm Coast, FL

(3) That this affidavit is made to induce the City of Palm Coast to accept the above described property.

Signature of owner OR person authorized to represent this application
Hargrove Mini-Storage, Inc.

Joseph
Signature John Matuszczak, President

Joseph S Matuszczak
Print

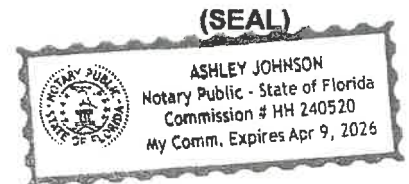
NOTARY: This instrument was acknowledged before me on this by means of ☒ physical presence

or ☐ online notarization 26 day of February, 2025 by

John Matuszczak, as President of Hargrove Mini-Storage, Inc. who is/are personally known to me, or who

has/have produced FLDL as identification.

Ashley Johnson
Signature of Notary Public, State of Florida





[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Profit Corporation
HARGROVE MINI-STORAGE, INC.

Filing Information

Document Number P96000033256
FEI/EIN Number 59-3372708
Date Filed 04/12/1996
State FL
Status ACTIVE

Principal Address

35 HARGROVE GRADE
PALM COAST, FL 32137

Changed: 04/05/2021

Mailing Address

625 Greens Dairy Road
Deland, FL 32720

Changed: 04/05/2018

Registered Agent Name & Address

MATUSZCZAK, Daniel Ryan
625 Greens Dairy Road
Deland, FL 32720

Name Changed: 02/01/2020

Address Changed: 04/05/2018

Officer/Director Detail

Name & Address

Title President

Matuszczak, Joseph
625 Greens Dairy Road
Deland, FL 32720

Title VP

Matuszczak, Paul
625 Greens Dairy Road
Deland, FL 32720

Title Treasurer

Matuszczak, Daniel
625 Greens Dairy Road
Deland, FL 32720

Annual Reports

Report Year	Filed Date
2023	03/24/2023
2024	02/08/2024
2025	01/22/2025

Document Images

01/22/2025 -- ANNUAL REPORT	View image in PDF format
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04/05/2021 -- ANNUAL REPORT	View image in PDF format
02/01/2020 -- ANNUAL REPORT	View image in PDF format
04/12/2019 -- ANNUAL REPORT	View image in PDF format
04/05/2018 -- ANNUAL REPORT	View image in PDF format
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04/20/1998 -- ANNUAL REPORT	View image in PDF format
05/16/1997 -- ANNUAL REPORT	View image in PDF format

Florida Department of State, Division of Corporations



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Profit Corporation

HARD ROCK MATERIALS, INC.

Filing Information

Document Number P03000059089

FEI/EIN Number 02-0693307

Date Filed 05/21/2003

Effective Date 05/19/2003

State FL

Status ACTIVE

Principal Address

4410 INDUSTRIAL PARK ROAD
GREEN COVE SPRINGS, FL 32043

Mailing Address

4410 INDUSTRIAL PARK ROAD
GREEN COVE SPRINGS, FL 32043

Registered Agent Name & Address

BLACKBURN, DENNIS
5150 BELFORT ROAD SOUTH
BLDG. 500
JACKSONVILLE, FL 32256

Name Changed: 01/26/2010

Address Changed: 01/26/2010

Officer/Director Detail

Name & Address

Title PRES

PETTY, GEORGE R
2201 MANGROVE LANE
GREEN COVE SPRINGS, FL 32043

Title TR,S

PETTY, THERESA G
2201 MANGROVE LANE
GREEN COVE SPRINGS, FL 32043

Annual Reports

Report Year	Filed Date
2022	02/04/2022
2023	02/28/2023
2024	04/04/2024

Document Images

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02/04/2022 -- ANNUAL REPORT	View image in PDF format
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02/02/2007 -- ANNUAL REPORT	View image in PDF format
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02/16/2005 -- ANNUAL REPORT	View image in PDF format
04/15/2004 -- ANNUAL REPORT	View image in PDF format
05/21/2003 -- Domestic Profit	View image in PDF format

Michael D. Chiumento
Michael D. Chiumento III
William J. Bosch
Vincent L. Sullivan
Diane A. Vidal
Kareen Movsesyan
Sydney L. Nix
Mark A. Hall
Eric R. Sloan
Meredith A. Wearsch
Thomas R. Pycraft, *of-counsel*

Michael D. Chiumento III
Managing Partner
Michael3@legalteamforlife.com



145 City Place, Suite 301
Palm Coast, FL 32164
Tel. (386) 445-8900
Fax: (386) 445-6702

2 Camino Del Mar
Palm Coast, FL 32137

By Appointment Only:
57 W. Granada Blvd.
Ormond Beach, FL 32174

March 17, 2025

City of Palm Coast
Via City Portal

RE: 56 Hargrove Grade, Palm Coast, Florida 32137
Application for Rezoning

Dear Mr. Tynor:

Our firm has the pleasure of representing Hard Rock Materials, Inc. (hereinafter "Hard Rock") in connection with the enclosed Rezoning Application. The real property is approximately 10.44 acres located on Hargrove Grade in Palm Coast (hereinafter the "Property"). The property is presently owned by Hargrove Mini-Storage, Inc. (hereinafter "Hargrove") who has authorized our office to proceed with this application. Hard Rock is presently under Contract to purchase the Property from Hargrove to construct and develop a concrete plant on the Property. Please find enclosed Hard Rock's application for rezoning.

REZONING

The Property is presently zoned in the City of Palm Coast as IND-1. This application for rezoning requests the zoning designation be changed from IND-1 to IND-2. The intent of the rezoning is to allow for heavy industrial use on the property to allow for the operation of the cement plant. The operation of a cement plant under the current IND-1 zoning designation would not be in compliance with the City's Land Development Code. This request is consistent with the City's comprehensive plan and land development regulations.

In conclusion, we believe this zoning change will be appropriate as it is consistent with the surrounding parcels. please find enclosed Hard Rock's application for rezoning. Once you have had an opportunity to review the application, we respectfully request a meeting with City planning department to discuss any outstanding issues. If you have any questions regarding this submittal package, please do not hesitate to contact me.

Sincerely,

Michael D. Chiumento III
Attorney Enclosures

Chiumento Law, PLLC
Michael D. Chiumento
Michael D. Chiumento III
William J. Bosch
Vincent L. Sullivan
Diane A. Vidal
Mark A. Hall
Kareen Movsesyan
Eric Sloan
Tom Pycraft, of counsel

Michael D. Chiumento III
Managing Partner
Michael3@legalteamforlife.com



145 City Place, Suite 301
Palm Coast, FL 32164
Tel. (386) 445-8900
Fax: (386) 445-6702

2 Camino Del Mar
Palm Coast, FL 32137

By Appointment Only:
57 W. Granada Blvd.
Ormond Beach, FL 32174

April 24, 2025

City of Palm Coast
Attn: Michael Hanson, Planner
160 Lake Avenue
Palm Coast, FL 32164
Via Portal Only

**RE: Hard Rock Materials, Inc./Waterside Super Center
Application #6185**

Dear Mr. Hanson:

In connection with the above-referenced application, I am in receipt of “Staff Comments 1st Submittal – Deficiency” and have the following responses:

City Comment #2: As it relates to a more legible copy of the boundary survey, we are attaching an updated electronic version in the portal of the survey which should be legible when zoomed in and out of.

City Comment #3: The following is a summary of review findings as it relates to the Land Development Code:

2.05.05 LDC

A. The proposed development must not be in conflict with or contrary to public interest.

The proposed rezoning will provide additional industrial uses to the area to meet community demand and will provide additional employment opportunities to the local community.

B. The proposed development must be consistent with the Comprehensive Plan and provisions of this LDC.

The rezoning provides needed public services and revenues based on projected population and employment growth.

C. The proposed development must not impose a significant financial liability or hardship for the City.

The Rezoning will not impose significant financial liability or hardship to the City. The project will provide additional industrial opportunities to an already developed industrial area.

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.

The proposed development will not create a hazard, nuisance or constitute a threat to the general health, welfare or safety of the City's inhabitants because it will be creating a purpose for the currently undeveloped land. Currently City inhabitants are using the undeveloped land as a dumping zone for waste and other household trash items that should be taken to a dump. In addition, the property has been frequented for use and consumption of alcoholic beverages, many times, those uninvited visitors leaving behind their waste from their beverages. The proposed use will bring an additional industrial usage to an already developed industrial community.

E. The proposed development must comply with all other applicable local, state, and federal laws, statutes, ordinances, regulations, or codes.

The proposed development will comply with all applicable local, state, and federal laws, statutes, ordinances, regulations and codes.

2.06.03 LDC

A. Whether it is consistent with all adopted elements of the Comprehensive Plan and whether it furthers the goals and objectives of the Comprehensive Plan.

The rezoning provides attractive job opportunities with an attractive industrial area while providing for the diverse needs of the citizens of Palm Coast.

B. Its impact on environmental or natural resources.

The proposed development will not have any impact on environmental or natural resources.

C. Its impact on the economy of any affected area.

The rezoning from IND-1 to IND-2 will provide an expansion of the already allowed industrial uses and will meet the community demand for concrete services to our local community.

D. Its impact upon necessary governmental services such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste or transportation systems.

The rezoning will have no additional impact on schools, sewage disposal, potable, drainage, fire protection, solid waste or transportation systems than the existing zoning.

E. Any changes in circumstances or conditions affecting the area.

The continued growth in the expansion of the City will allow this rezoning to provide a service that will

meet those ever-growing needs.

F. Compatibility with proximate uses and development patterns, impacts to the health, safety, and welfare of the surrounding residents.

The proposed rezoning will have no adverse impact on the surrounding residents as the property does not directly abut any residential community and is in an already zoned industrial area.

G. Whether it accomplishes a legitimate public purpose.

The rezoning provides legitimate public purpose by providing community needs for services as growth continues.

City Comment #5: Please see attached Traffic Report which is being submitted in the portal for review.

City Comment #6: Please see attached updated submittal of property owners within 500 feet of the property which is being submitted in the portal for review.

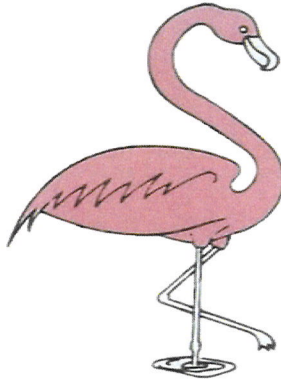
I trust this satisfies the remaining items as listed in Staff Comments 1st Submittal dated 4/7/2025, please contact me should you need anything further at this time.

Sincerely,

A handwritten signature in black ink, appearing to read 'MDC', with a long horizontal stroke extending to the right.

Michael D. Chiumento III
Attorney
MDC/cm

Enclosures [in portal]

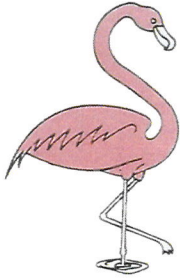


CONCRETE BATCH PLANT TRIP GENERATION ANALYSIS

FLAGLER COUNTY, FLORIDA

April 2025

BUCKHOLZ TRAFFIC



BUCKHOLZ TRAFFIC
3585 KORI ROAD
JACKSONVILLE, FLORIDA 32257
(904) 886-2171 jwbuckholz@aol.com

April 22, 2025

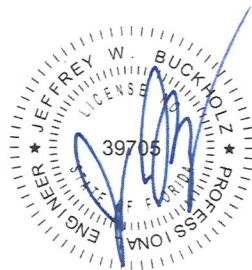
Mr. Jonithan Thomas
Hard Rock Materials
4410 Industrial Park Road
Green Cove Springs, Florida, 32043-8243

Re: Concrete Batch Plant Trip Generation Study; Flagler County, Florida

Dear Mr. Thomas:

Attached is the requested trip generation analysis. If you have any questions or comments regarding this study, please contact me.

Sincerely,



Jeffrey W. Buckholz, P.E., PTOE
Principal

This item was digitally signed and sealed by Jeffrey W. Buckholz, P.E. on 4/22/25. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

INTRODUCTION

This proposed concrete batch plant will be located on the north side of Hargrove Grade approximately three-quarters of a mile west of US 1 in the city of Palm Coast, Florida. Access to the development will be provided via one full-access driveway on Hargrove Grade opposite Hargrove Lane. Hargrove Grade is a two-lane undivided urban minor collector with a posted speed limit of 35 mph.

Attachment A provides the proposed site plan. The facility is expected to be fully developed and open for business by 2026.

TRIP GENERATION – PROPOSED DEVELOPMENT

The latest edition of ITE's Trip Generation Manual does not include a concrete batch plant land use. Therefore, AM peak hour and PM peak hour weekday trip generation values were established by counting existing concrete batch plants currently operating in Northeast Florida. Four plants were surveyed - one of which was not operating on the day of the count and another of which was only operating during the AM peak period. The data is provided in Tables 1 through 3 with the trip generation results (and percentage trucks) summarized in Table 4. During an average weekday the new concrete batch plant is expected to generate 27 trips during the AM peak hour (13 entering and 14 exiting) and 7 trips during the PM peak hour (2 entering and 5 exiting). All of these trips will be new trips.

TRIP GENERATION – MAXIMUM DEVELOPMENT WITH PROPOSED NEW ZONING

It is estimated that 175,000 sf of building space could be reasonably constructed on the site. Using ITE land use code 140 (Manufacturing) as the most intense use, the maximum trip generation for the site with the proposed new Heavy Industrial zoning is provided in Table 5. During an average weekday the maximum development would be expected to generate 862 trips with 116 trips occurring during the AM peak hour and 135 trips occurring during the PM peak hour. All of these trips would be new trips.

TRIP GENERATION – MAXIMUM DEVELOPMENT WITH EXISTING ZONING

Using ITE land use code 110 (General Light Industrial) as the most intense use, the maximum trip generation for the site with the existing Light Industrial zoning is provided in Table 6. During an average weekday the maximum development would be expected to generate 708 trips with 123 trips occurring during the AM peak hour and 60 trips occurring during the PM peak hour. All of these trips would be new trips.

TABLE 1
SRM Concrete Batch Plant
3570 Masters Road - Jacksonville, FL
DRIVEWAY COUNTS - ALL VEHICLES

Friday, October 18, 2024

	DRIVEWAY		BOTH
	IN	OUT	
6:30-6:45 AM	2	3	5
6:45-7:00 AM	0	3	3
7:00-7:15 AM	0	1	1
7:15-7:30 AM	1	1	2
7:30-7:45 AM	3	1	4
7:45-8:00 AM	1	1	2
8:00-8:15 AM	2	1	3
8:15-8:30 AM	2	1	3
AM PEAK PERIOD:	11	12	23
	48%	52%	

AM PEAK HOUR:	8	4	12
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Thursday, October 17, 2024

	DRIVEWAY		BOTH
	IN	OUT	
3:30-3:45 PM	0	3	3
3:45-4:00 PM	1	0	1
4:00-4:15 PM	1	1	2
4:15-4:30 PM	0	2	2
4:30-4:45 PM	1	1	2
4:45-5:00 PM	0	1	1
5:00-5:15 PM	1	2	3
5:15-5:30 PM	1	0	1
PM PEAK PERIOD:	5	10	15
	33%	67%	

PM PEAK HOUR:	2	6	8
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BUCKHOLZ TRAFFIC

TABLE 2
CEMEX Concrete Batch Plant
7460 Philips Highway - Jacksonville, FL
DRIVEWAY COUNTS - ALL VEHICLES

Friday, October 18, 2024

	DRIVEWAY		BOTH
	IN	OUT	
6:30-6:45 AM	7	11	18
6:45-7:00 AM	6	10	16
7:00-7:15 AM	2	5	7
7:15-7:30 AM	4	0	4
7:30-7:45 AM	3	6	9
7:45-8:00 AM	6	3	9
8:00-8:15 AM	12	6	18
8:15-8:30 AM	8	7	15
AM PEAK PERIOD:	48	48	96
	50%	50%	

AM PEAK HOUR:	29	22	51
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Thursday, October 17, 2024

	DRIVEWAY		BOTH
	IN	OUT	
3:30-3:45 PM	0	4	4
3:45-4:00 PM	0	1	1
4:00-4:15 PM	1	0	1
4:15-4:30 PM	0	0	0
4:30-4:45 PM	0	1	1
4:45-5:00 PM	0	1	1
5:00-5:15 PM	0	1	1
5:15-5:30 PM	0	0	0
PM PEAK PERIOD:	1	8	9
	11%	89%	

PM PEAK HOUR:	1	5	6
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BUCKHOLZ TRAFFIC

TABLE 3
SRM Concrete Batch Plant
4707 Gordon Street- Jacksonville, FL
DRIVEWAY COUNTS - ALL VEHICLES

Tuesday, October 22, 2024

	DRIVEWAY		BOTH
	IN	OUT	
6:30-6:45 AM	5	2	7
6:45-7:00 AM	3	0	3
7:00-7:15 AM	1	3	4
7:15-7:30 AM	0	4	4
7:30-7:45 AM	1	4	5
7:45-8:00 AM	0	0	0
8:00-8:15 AM	2	2	4
8:15-8:30 AM	0	1	1
AM PEAK PERIOD:	12	16	28
	43%	57%	

AM PEAK HOUR:	9	9	18
---------------	---	---	----

Friday, October 18, 2024

NO ACTIVITY - GATES LOCKED

	DRIVEWAY		BOTH
	IN	OUT	
3:30-3:45 PM	0	0	0
3:45-4:00 PM	0	0	0
4:00-4:15 PM	0	0	0
4:15-4:30 PM	0	0	0
4:30-4:45 PM	0	0	0
4:45-5:00 PM	0	0	0
5:00-5:15 PM	0	0	0
5:15-5:30 PM	0	0	0
PM PEAK PERIOD:	0	0	0

BUCKHOLZ TRAFFIC

TABLE 4

WEEKDAY TRIP GENERATION SUMMARY

Concrete Batch Plants - Jacksonville, Florida

		Trips per Location	
	<u>2024 Dates</u>	<u>AM PEAK HOUR</u>	<u>PM PEAK HOUR</u>
SRM	10/18 / 10/17	12	8
CEMEX	10/18 / 10/17	51	6
ARGOS Southside	10/22 / 10/21	18	NOT OPERATING
ARGOS Westside	10/18 / 10/17	NOT OPERATING	NOT OPERATING
Average		27	7

		%Entering / %Exiting	
	<u>2024 Dates</u>	<u>AM PEAK PERIOD</u>	<u>PM PEAK PERIOD</u>
SRM	10/18 / 10/17	48% / 52%	33% / 67%
CEMEX	10/18 / 10/17	50% / 50%	11% / 89%
ARGOS Southside	10/22 / 10/21	43% / 57%	NOT OPERATING
ARGOS Westside	10/18 / 10/17	NOT OPERATING	NOT OPERATING
Average		47% / 53%	22% / 78%

		Percent Trucks	
	<u>2024 Dates</u>	<u>AM PEAK PERIOD</u>	<u>PM PEAK PERIOD</u>
SRM	10/18 / 10/17	91%	60%
CEMEX	10/18 / 10/17	82%	11%
ARGOS Southside	10/22 / 10/21	93%	NOT OPERATING
ARGOS Westside	10/18 / 10/17	NOT OPERATING	NOT OPERATING
Average		89%	36%

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TABLE 5

TRIP GENERATION CALCULATIONS

MANUFACTURING

Land Use Code 140

T = Number of Vehicle Trip Ends

Size of Buildings = 175,000 gsf (X = 175.0 kgsf)

<u>TIME PERIOD</u>	<u>TOTAL</u> TRIP GENERATION <u>EQUATION</u>	<u>TOTAL</u> TRIP <u>ENDS</u>	<u>PERCENT</u> <u>ENTERING</u>	<u>PERCENT</u> <u>EXITING</u>	<u>TOTAL</u> TRIP ENDS <u>ENTERING</u>	<u>TOTAL</u> TRIP ENDS <u>EXITING</u>
WEEKDAY						
Daily	$T = 3.77 (X) + 201.98$	862	50%	50%	431	431
AM Peak Hour	$T = 0.61 (X) + 9.54$	116	76%	24%	88	28
PM Peak Hour	$T = 0.87 (X) - 17.50$	135	31%	69%	42	93

SOURCE: Institute of Transportation Engineers, "Trip Generation", 11th Edition (2021)

BUCKHOLZ TRAFFIC

TABLE 6

TRIP GENERATION CALCULATIONS

GENERAL LIGHT INDUSTRIAL

Land Use Code 110

T = Number of Vehicle Trip Ends

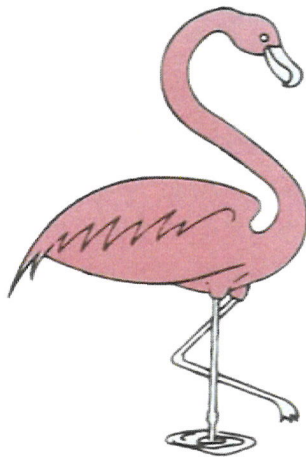
Size of Building = 175,000 gsf (X = 175.0 kgsf)

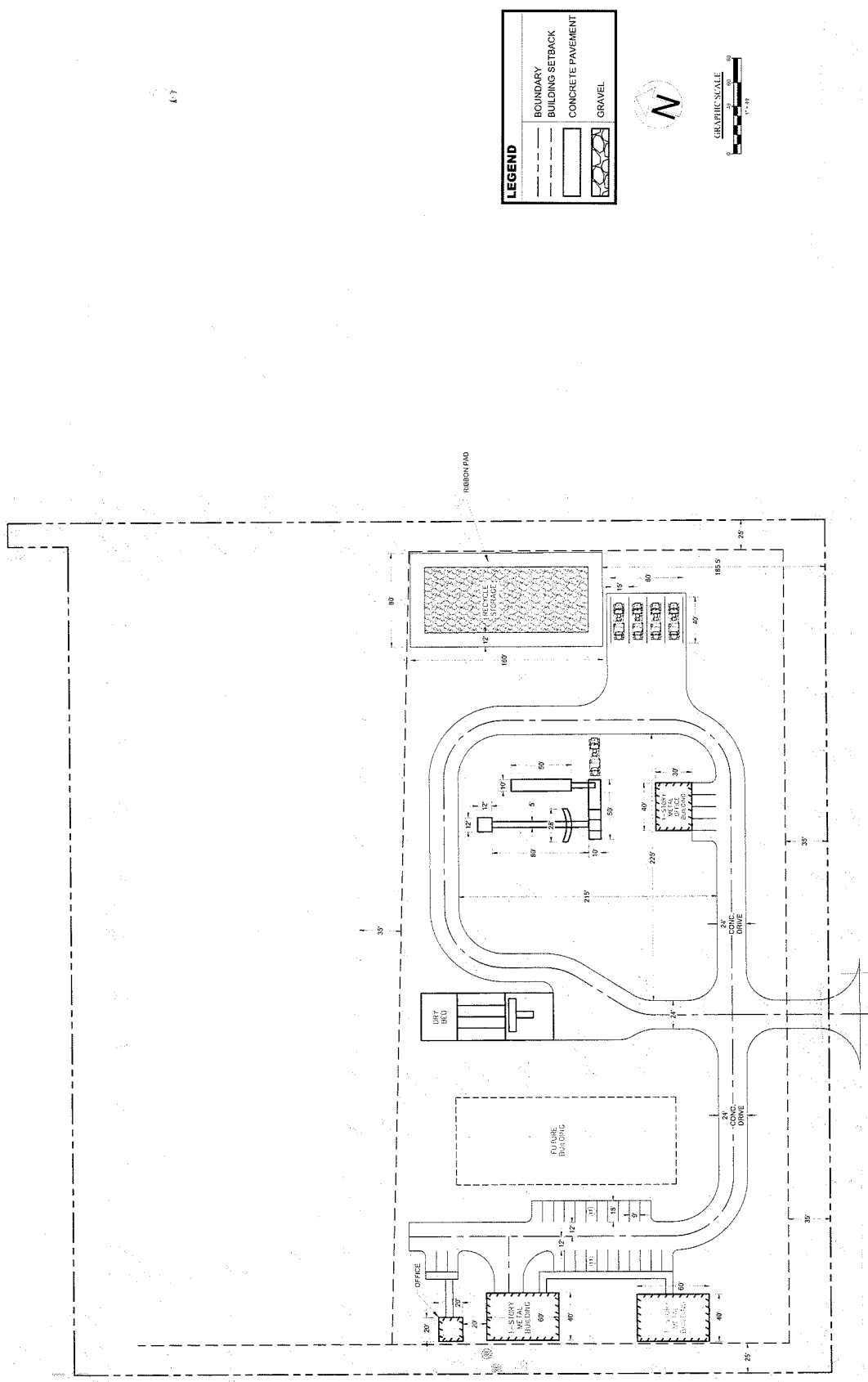
<u>TIME PERIOD</u>	<u>TOTAL</u> TRIP GENERATION <u>EQUATION</u>	<u>TOTAL</u> TRIP <u>ENDS</u>	<u>PERCENT</u> <u>ENTERING</u>	<u>PERCENT</u> <u>EXITING</u>	<u>TOTAL</u> TRIP ENDS <u>ENTERING</u>	<u>TOTAL</u> TRIP ENDS <u>EXITING</u>
WEEKDAY						
Daily	$T = 3.76 (X) + 50.47$	708	50%	50%	354	354
AM Peak Hour	$T = 0.68 (X) + 3.81$	123	88%	12%	108	15
PM Peak Hour	$\ln(T) = 0.72 \ln(X) + 0.38$	60	14%	86%	8	52

SOURCE: Institute of Transportation Engineers, "Trip Generation", 11th Edition (2021)

BUCKHOLZ TRAFFIC

ATTACHMENT A





PRELIMINARY ECOLOGICAL ASSESSMENT REPORT

HARGROVE MINI STORAGE FLAGLER COUNTY, FLORIDA

DECEMBER 2020



*Engineers
Architects
Planners
Surveyors
Landscape Architects
Traffic/Transportation
Environmental Scientists
Construction Management*

Prepared by:

CPH, Inc.
500 West Fulton St.
Sanford, FL, 32771

**PRELIMINARY ECOLOGICAL ASSESSMENT REPORT
HARGROVE MINI STORAGE
FLAGLER COUNTY, FLORIDA**

DECEMBER 2020

TABLE OF CONTENTS

	<u>Page</u>
1.0 INTRODUCTION.....	1
2.0 METHODOLOGY	1
3.0 EXISTING CONDITIONS	2
3.1 Soils.....	2
3.2 Vegetation and Land Use Types	3
3.3 Wetlands & Surface Waters	5
4.0 REGULATORY CONSIDERATIONS	6
4.1 St. Johns River Water Management District	6
4.2 Florida Department of Environmental Protection	6
4.3 U.S. Army Corps of Engineers	7
5.0 PROTECTED FAUNA AND FLORA	8
5.1 Records Search.....	8
5.2 Field Investigation	9
5.3 Protected Fauna and Flora Regulatory Considerations	10
5.3.1 Migratory Bird Treaty Act.....	10
5.3.2 Bald Eagle.....	11
5.3.3 Wood Stork Core Foraging Area	11
5.3.4 Gopher Tortoise	12
5.3.5 USFWS Florida Scrub jay Consultation Area	12
6.0 IMPAIRED WATERS	13
7.0 PAST REGULATORY AUTHORIZATIONS	13
8.0 PRELIMINARY WETLAND MITIGATION ASSESSMENT	15
9.0 SUMMARY & RECOMMENDATIONS	16

APPENDICES

APPENDIX A – Figures

FIGURE 1	Location Map
FIGURE 2	Soils Map
FIGURE 3	Preliminary Vegetation and Land Use Map
FIGURE 4	Wetland and Surface Water Location Map
FIGURE 5	Species Map
FIGURE 6	FDEP Impaired Waters/Basins Map
FIGURE 7	Conservation Easement Map

1.0 INTRODUCTION

CPH, Inc. (CPH), Environmental Services, conducted a preliminary ecological assessment on the Hargrove Mini Storage project site located in In the City of Palm Coast in Flagler County, Florida. The purpose of this preliminary assessment is to provide: 1) a general estimate of the type and extent of upland habitat types and confirm the approximate extent and configuration of areas expected to fall within the wetland regulatory jurisdiction of the U.S. Army Corps of Engineers (ACOE) and St. John's River Water Management District (SJRWMD); 2) conduct a public database search for known or probable geographic distribution of protected species within these habitat types; 3) a preliminary review for protected wildlife (and plant) species occurrence based on direct observation during the field investigations; 4) quality of the on-site wetland habitats, if applicable; and 5) special environmental designations on, or within close proximity to, the subject project area.

The 10.44-acre subject project area is located north of Hargrove Grade, south of Wellfield Grade, east of the Florida East Coast Railway, and west of U.S. Highway 1, in Section 16, Township 11 South, Range 30 East, Flagler County, Florida (**Figure 1, Appendix A**). Vegetation associations and landscape descriptions were identified from aerial photography, the Soil Conservation Service (SCS) *Soil Survey of Flagler County, Florida* and groundtruthing. There are three (3) soil types and six (6) vegetation and land use classifications mapped within the subject project area boundaries. Vegetation and land uses are generally classified in accordance with the *Florida Land Use, Cover and Forms Classification System* (FLUCFCS) (FDOT 1999). CPH's on-site field investigations were conducted on October 29, and November 30, 2020.

2.0 METHODOLOGY

On October 29, and November 18, 2020, scientists performed pedestrian surveys of the subject project area for the presence of protected flora and fauna and wetlands and surface waters. Prior to the reconnaissance level survey, a list of potentially occurring protected flora and fauna was compiled based upon on-site habitat types and known or probable geographic distribution of protected species within these habitat types.

3.0 EXISTING SITE CONDITIONS

The 10.44-acre Hargrove Mini Storage project area is a vacant property that is comprised of an excavated pond, ditches, pine forests, wet prairie, freshwater marsh and open land. The site was cleared most recently between 2014 and 2016. The canopy trees in the forested areas are generally less than 20-feet tall. At the center of the subject project area is a section of cleared land. Based on aerial photos this area was cleared sometime after November 2019 and has very little vegetation. At the time of the site inspections, it was being used as for storage of pipes, structures, dumpsters, tires, pallets and pumps with large areas of exposed soil. A linear constructed wetland is located at the north end of the subject project area. The wetland was constructed as part of a previous SJRWMD permit authorization for the subject property. The project area is bordered by Hargrove Grade to the south, vacant land to the east, a canal and vacant land to the north and a warehouse and vacant land to the west. The subject project is in the City of Palm Coast, Flagler County, Florida.

3.1 Soils

The *Soil Survey of Flagler County, Florida* identifies three (3) soil map units within the subject project area (**Figure 2**). A summary of the characteristics of these soil types, as described by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS), formerly Soil Conservation Service (SCS) Soil Survey Geographic (SSURGO) database is as follows:

Pinesda-Wabasso complex

These very deep, nearly level and poorly drained soils are on broad, low flats on the flatwoods. The Wabasso soil is in a slightly higher position on the landscape the Pinead soil. The *Hydric Soils of Florida Handbook, Fourth Edition* (Hurt 2007), lists this soil complex as having a 60% hydric composition (Pineda), and 10% hydric inclusions (Riviera). Slopes are smooth to concave and range from 0 to 2 percent. The seasonal high water table is at a depth of 6 to 18 inches for as much as 6 months and can recede to a depth of more than 40 inches during extended dry periods. Permeability is slow or very slow. Available water capacity is low.

Hicoria, Riviera and Gator soils, depressional

These very deep, nearly level and very poorly drained soils are in depressions on the flatwoods. Undrained areas are ponded for 6 to 9 months or more each year. The *Hydric Soils of Florida Handbook, Fourth Edition* (Hurt 2007), lists this map unit as hydric. Slopes are concave and range from 0 to 1 percent. In most years, undrained areas of this map unit are ponded, and as much as 24 inches of water is above the surface for 6 months or more except during extended dry periods. Permeability is slow and moderately slow in Hicoria soil and is slow and very slow in the Riviera and Gator soils. The available water capacity is moderate to high in the Hicoria soil, low in the Riviera soil and very high in Gator soil.

Pomona fine sand

This very deep, poorly drained and nearly level soil is in broad flatwood areas. The *Hydric Soils of Florida Handbook, Fourth Edition* (Hurt 2007), lists this soil as containing 15 percent hydric inclusions. The seasonal high water table is at a depth of 6 to 18 inches for 1 to 3 months and is at a depth of 10 to 40 inches for more than 6 months in most years. Permeability is moderate to moderately slow. Available water capacity is low.

3.2 Vegetation and Land Use Types

There are six (6) vegetation and land use classifications mapped within the subject project boundaries. Vegetation and land use classifications are generally classified in accordance with the *Florida Land Use, Cover and Forms Classification System* (FLUCFCS) (FDOT 1999). The following descriptive titles and FLUCFCS numbers assess the project's vegetation and land uses and are presented on **Figure 3**.

Open Land (FLUCFCS No. 190)

This land use classification includes undeveloped land and vacant land without structures with street patterns. This area is located in the center of the subject project area. A majority of the area has no vegetation present. This area is currently being used as a storage area for miscellaneous construction and utility supplies including pumps, pipes, concrete

structures, electrical vaults, pallets, mowers, a covered trailer, machine parts, an outhouse, dumpsters and tools.

Pine-Mesic Oak (FLUCFCS No. 425)

This habitat type is a conifer dominate forest that grows with a strong association of hardwoods and oaks tolerant of mesic soils conditions. This habitat was observed on the western half of the subject project area. A majority of the canopy is between 15 and 20 feet tall. Dominant vegetation observed included slash pine (*Pinus elliotii*), wax myrtle (*Morella cerifera*), salt bush (*Baccharis halimifolia*), dog fennel (*Eupatorium capillifolium*) and broomsedge (*Andropogon glomeratus*). Other vegetation observed included, bracken fern (*Pteridium aquilinum*), goldenrod (*Solidago* sp.), saw palmetto (*Serenoa repens*) and various sedges and grasses.

Ditches (FLUCFCS No. 510)

This land use classification is reserved for linear man-made ditches and swales. The ditches located along the south and west subject project boundaries and are connected to, or are a part of the roadside swale of Hargrove Grade. The ditch located on the northeast corner of the subject project area is a part of the stormwater canal system and conveys water to St. Joe Canal. The ditches are between 1 and 2 feet deep with defined banks on both sides. The canal has a steep bank and is approximately 35 feet wide at the top of bank and 4 feet deep. Vegetation observed in the ditches include sedges, blackberry, yellow-eyed grass and Caesar weed (*Urena lobata*).

Reservoirs less than 10-acres (FLUCFCS No. 534)

This land use classification is reserved for man-made impoundments of water that are less than 10 acres in total area. The man-made pond is located on the north half of the subject project area. The pond is rectangular in shape. Vegetation observed at the periphery of the surface water included cattails (*Typha* sp.) and torpedo grass (*Panicum repens*). Water lilies (*Nymphaeaceae* sp.) were observed in the deeper portions of the pond.

Freshwater Marsh (FLUCFCS No. 641)

This habitat type is composed of predominantly non-woody vegetation on hydric soil and is typically inundated for periods during the wet season. This linear area is located along the north boundary of the subject project area. Dominant species observed included spade leaf (*Centella* sp.), St. Johns-wort (*Hypericum* sp.), yellow eyed grass (*Xyris* sp.), saw palmetto, torpedo grass and maidencane (*Panicum hemitomen*).

Wet Prairie (FLUCFCS No. 643)

This habitat type is composed of predominantly grassy vegetation on hydric soil and is usually distinguished from marshes by having less water and shorter herbage. Dominant species observed included maidencane, torpedo grass, saw grass (*Caladium* sp.), wax myrtle and broomsedge. Other vegetation observed included cinnamon fern (*Osmunda cinnamomeum*), royal fern (*Osmunda regalis*), dog fennel, soft rush (*Juncus effuses*), beakseges (*Rhynchospora* sps.), spikerushes (*Eleocharis* sps.), slash pine, sweet bay (*Magnolia virginiana*), Chinese tallow (*Triadica sebifera*), sedges (*Cyperus* sp.), dollarweed (*Hydrocotyle umbellata*), dock (*Rumex* sp.), Peruvian primrose-willow (*Ludwigia peruviana*), Mexican primrose (*Ludwigia octovalvis*), meadowbeauty (*Rhexia* sp.), foxtail (*Setaria* sp.), yellow eyed grass, quiltworth arrowhead (*Sagittaria isoetiformis*), cypress (*Taxodium ascendens*) saplings, St. John's-wort and algal mats.

3.3 Wetlands & Surface Waters

According to wetland delineation methodologies outlined in the *Corps of Engineers Wetland Delineation Manual* (1987), the *2008 Corps Interim Regional Supplement to the Corps Wetland Delineation Manual: Atlantic & Gulf Coastal Plain Region* and the State of Florida Unified Wetland Delineation Methodology (Section 62-340, F.A.C.), two (2) wetland areas (FLUCFCS Nos. 641 and 643) and four (4) surface waters (FLUCFCS Nos. 510 and 534) were observed within subject project boundaries during the field investigations (**Figure 4**).

4.0 REGULATORY CONSIDERATIONS

4.1 St. Johns River Water Management District

The SJRWMD regulates wetlands that are isolated and those considered within or connected to “Waters of the State” pursuant to Chapter 403 of the Florida Statutes, Rules 62-302 and 62-330 of the Florida Administrative Code (F.A.C.). Development activities altering wetlands and/or drainage will require a Statewide Environmental Resource Permit (SWERP) from the SJRWMD. Different ERP Permits for various activities, General Permits and exemptions can be found in the *State of Florida Environmental Resource Permit Applicant's Handbook, Volume I*. Specific design standards, basin specific criteria and procedures can be found in the *State of Florida Environmental Resource Permit Applicant's Handbook, Volume II*. Typical protocol for a project includes a SJRWMD representative reviewing and approving the delineation of the landward extent of wetlands and surface waters subsequent to a pre-application meeting and prior to the submittal of a permit or permit modification application for construction.

Applicants must provide reasonable assurances that a regulated activity will not cause adverse secondary impacts to the water resources, specifically aquatic or wetland dependent fish and wildlife that are listed as threatened, endangered or of special concern. Secondary impacts to the habitat functions of wetlands associated with adjacent upland activities will not be considered adverse if upland buffers with a minimum width of 15 feet and an average width of 25 feet are provided abutting those wetlands to remain under the permitted design.

In most circumstances, SJRWMD will require mitigation to compensate for direct and secondary impacts to the water resources (wetlands and surface waters).

4.2 Florida Department of Environmental Protection

The U.S. Environmental Protection Agency (EPA) requires coverage under the National Pollutant Discharge Elimination System (NPDES) generic permit for discharge from large and small construction activities for any project that results in the clearing of one or more

acres, pursuant to 40 CFR parts 122 and 124 and the Florida Department of Environmental Protection (FDEP), pursuant to rule 62-621.300 (4), F.A.C. The EPA has delegated responsibility to the FDEP to administer the NPDES permits for the State of Florida. In association with this permit, a Stormwater Pollution Prevention Plan (SWPPP), which will be implemented during the construction of the project, will also be required. The primary functions of the NPDES requirements are to ensure that sediment and erosion during construction of the project is controlled. The NPDES permit typically requires use of Best Management Practices to ensure compliance with water quality standards. In addition, coverage under the generic permit for discharge of produced ground water from a non-contaminated site activity must be secured for any construction-related dewatering activity pursuant to Rule 62-621.302.

4.3 U.S. Army Corps of Engineers

The ACOE regulates wetlands connected to “Waters of the United States” and “Adjacent Waters” pursuant to Section 404 of the Clean Water Act. Based on the U.S. Supreme Court decision Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, No. 99-1178 (January 9, 2001) (SWANCC) isolated wetlands are considered non-jurisdictional for the ACOE. Based on the U.S. Supreme Court decision consolidated cases Rapanos v. United States and Carabell v. United States, 126 S. Ct. 2208 (2006) (RAPNOS) the ACOE is required to establish a physical, biological, or chemical nexus of connection to traditional navigable waters (TNW) of the United States to claim jurisdiction. **After a preliminary review of the subject project, areas meeting the jurisdictional definition of “Waters of the United States” and “Adjacent Waters” pursuant to Section 404 of the Clean Water Act (FLUCFCS Nos. 510, 534 and 643) were observed within the subject project area.**

Should permitting with the ACOE be required, dredge and fill activities within “Waters of the United States” and “Adjacent Waters” will require either Section 404 Individual Permit or verification to use permits issued through the General or Nationwide Permit Program. The ACOE guidelines request that all impacts associated with a particular project be submitted for consideration under one permit application. Typical protocol for a project would include

an ACOE representative reviewing and approving the delineation of the landward extent of wetlands after the submittal of a permit application. If less than 0.5 acres of impact are proposed, a Nationwide Permit will be required to authorize wetland impacts. However, if more than a 0.5-acre impact is proposed an Individual Permit will be required to authorize wetland impacts. If proposed impacts are minor, less than 0.10 acre, the ACOE can be notified of the proposed construction through a pre-construction notification (PCN) letter.

The ACOE will require mitigation to compensate for direct and secondary impacts to the wetlands under their jurisdiction. There are exceptions to this requirement which is evaluated on a case by case basis.

5.0 PROTECTED FAUNA AND FLORA

Preliminary ecological investigations included review of published and unpublished literature concerning the subject project and surrounding area, solicitation of databases on protected species, field investigations to generally delineate and characterize the habitats and a preliminary field survey for the occurrence of protected flora and fauna.

5.1 Records Search

Prior to initiation of field work, a records review of documented wildlife observations (Wildlife Occurrence Database System) maintained by the Florida Fish and Wildlife Conservation Commission (FFWCC) was conducted. Other resources used as aids included the following: aeriels, *Soil Survey of Flagler County, Florida*; Florida Natural Areas Inventory (FNAI); and Official Lists of Endangered and Potentially Endangered Fauna and Flora in Florida (FFWCC). The records review did not indicate recorded observations or occurrences of protected species on the subject project area (**Figure 5**). **However, according to the public databases the subject project area is located within the USFWS Florida Scrub Jay Consultation Area.**

5.2 Field Investigation

CPH biologists conducted field investigations of the subject project area on October 29 and November 18, 2020. General reconnaissance of the project area was conducted, looking for the occurrence of federal or state-listed flora and fauna as well as general wildlife utilization.

Regulatory oversight for protected fauna and flora is the responsibility of the U.S. Fish and Wildlife Service (USFWS), FFWCC and the Florida Department of Agriculture and Consumer Services (DACS). The USFWS is the federal agency responsible for protecting the nation's fish and wildlife resources through implementation of the Endangered Species Act of 1973, as amended. ("ESA," 16 U.S.C. 1513-1543). **Species (or their signs) protected under the ESA were not observed on the subject project area during the field investigations.**

The Florida Fish and Wildlife Conservation Commission (FFWCC) regulate the taking of species listed as endangered, threatened or of special concern and their nests through Rules listed in 68A-27 Florida Administrative Code. The FFWCC also provides technical assistance to other agencies that have regulatory authority over activities, which may affect fish and wildlife and their habitat. **State protected species protected under Rules 68A-27, Florida Administrative Code, were not observed within, or adjacent to, the subject project area during the field investigations.**

Section 581.185, Florida Statutes and Chapter 5B-40, F.A.C., delegates authority to the Florida Department of Agriculture and Consumer Services (DACS) to designate and regulate plants listed as "endangered," "commercially exploited" and "threatened." It is unlawful for an individual to harvest endangered or commercially exploited plants from the private land of another or any public land without first obtaining written permission of the landowner and a permit from DACS. It is unlawful for an individual to harvest a threatened plant from private land or public land without first obtaining written permission of the landowner. **Three DACS protected plants – cinnamon fern (*Osmunda cinnamomeum*), royal fern (*Osmunda regalis*) and saw palmetto (*Serenoa repens*), listed as Commercially Exploited plants**

- were observed within the subject project during the field investigations. The presence of these species will not affect development approval of the subject project area.

Wildlife utilization is a measure of direct observations or evidence of animals' presence (e.g. scat, tracks, dens, etc.). Potential wildlife utilization was evaluated on the basis of food sources, nesting areas, roosting areas, den areas and protective covering. During the field investigations, direct observations or signs of wildlife on the subject project included Carolina wren (*Thryothorus ludovicianus*), American crow (*Corvus brachyrhynchos*), mourning dove (*Zenaida macroura*), and black vulture (*Coragyps atratus*). The disturbed nature of the site, previous land used activities and proximity to roads and industrial uses is a deterrent to significant wildlife utilization of the project area.

5.3 Protected Fauna and Flora Regulatory Considerations

Below is a discussion of select species or groups of wildlife that frequently affect development sites or can affect a project even though these species are not physically located on the development site.

5.3.1 Migratory Bird Treaty Act

The USFWS also administers and enforces the Migratory Bird Treaty Act (MBTA) of 1918, as amended, (16 USC 703-712) which makes it unlawful to pursue, hunt, take, capture, kill or sell birds listed therein ("migratory birds"). The statute does not discriminate between live or dead birds and also grants full protection to any bird parts including feathers, eggs and nests. A migratory bird is any species or family of birds that live, reproduce or migrate within or across international borders at some point during their annual life cycle. The current list of birds protected under the MBTA was published in the *Federal Register* on April 16, 2020 which became effective on May 18, 2020. In total, 1,093 bird species are protected by the MBTA. **Provided construction activities do not directly kill or harm birds, their nests**

or eggs, development of the subject project has a low probability of violating the MBTA.

5.3.2 Bald Eagle

The Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d) and the regulations derived therefrom (50 CFR 22) state, in part, that no person shall take any bald eagle or any golden eagle, alive or dead, or any part, nest, or egg thereof with “take” meaning to pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb. Both Federal and State laws and regulations make it unlawful to take any listed species with “take” meaning to harass, harm pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct.

According to the FFWCC database, there are no active nests documented as occurring within the subject project boundary (**Figure 5**). The closest documented bald eagle nest (Nest FL011) is located over four (4) miles northeast of the subject project area. **The presence of this nest will not adversely affect development of the subject project due to the distance between the nest and the project. Eagle activity was not observed within, or adjacent to, the subject project area during the field investigation.**

5.3.3 Wood Stork Core Foraging Area

The wood stork (*Mycteria americana*) is listed as Endangered by the USFWS and the FFWCC. The wood stork is protected under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* and Florida Chapter 68A, Florida Administrative Code. Inundated forested wetlands, cypress strands and domes, mixed hardwood swamps and sloughs provide nesting habitat. Shallow freshwater marshes, ponds, flooded pastures and ditches provide suitable foraging habitat. Wood storks nest in colonies and will return to the same colony site for many years so long as the site and the surrounding feeding habitat continue to supply the needs for the birds. The USFWS has determined the extent of the Core Foraging Area (CFA) as approximately 15 miles, for central Florida counties, from the nesting

colony. **The subject project area is not located within a Wood Stork Core Foraging Area (Figure 5).**

5.3.4 Gopher Tortoise

The gopher tortoise (*Gopherus polyphemus*) is listed as a “Threatened” species by the FFWCC and is protected by state law under Chapter 68A-27, Florida Administrative Code. The gopher tortoise is found throughout Florida and is generally associated with longleaf pine and xeric oak sand hills but is also located in scrub, xeric hammock, pine flatwoods, dry prairie, coastal grasslands and dunes, mixed hardwood-pine and a variety of disturbed habitats. If the gopher tortoise is observed, or signs of the tortoise such as burrows are observed, their presence must be addressed prior to on-site construction activities. The FFWCC is the state agency responsible for overseeing the management of this species including permitting. **During the field investigations, evidence of a gopher tortoise population was not observed on the subject project area.**

5.3.5 USFWS Florida Scrub Jay Consultation Area

The Florida scrub jay (*Aphelocoma coerulescens coerulescens*) is listed as a Threatened species by the USFWS through the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.* The USFWS issues a Biological Opinion (BO) for projects and its effects on the threatened Florida scrub jay in accordance with Section 7 or Section 10 of the Endangered Species Act of 1973, as amended (ESA) (87 stat. 884; 16 U.S.C. 1531 *et seq.*). The BO will spell out the negotiated mitigation measures taken by the property to ensure the listed species is not adversely affected.

According to the USFWS database the closest known scrub jay territory is located half a mile east of the subject project area (Figure 5). **The subject project area is located within the USFWS Florida Scrub Jay Consultation Area. Based upon field observations, scrub jays and their habitat were not observed within the subject project area during the field investigations. Due to the lack of suitable**

habitat, further consultation with the USFWS is not a consideration for this project unless the owner desires to receive written confirmation of the “no effect” determination for the Florida scrub jay.

6.0 IMPAIRED WATERS

Under federal law the Environmental Protection Agency (EPA) requires that states develop lists of waterways to be designated as Impaired Waters. Impaired Waters are those that do not meet water quality standards set by the states as stated in subsection 303(d) of the Clean Water Act (CWA). In 1999, the Florida Watershed Restoration Act (FWRA) was approved to develop the listing criteria and methodology (Chapter 62.303, F.A.C.). Total Maximum Daily Loads (TMDL) and the science-based approach to guiding the identification and verification of listed waterways is being developed. The EPA approved Impaired Waters list is on a five (5) year rotation for assessment.

The FDEP verified the impaired waters assessment by conducting specific studies. The FDEP’s most recent mapping data (January 2020) for impaired waters in the vicinity of the subject project is shown on **Figure 6. The subject project is located within Pringle Branch which is listed as an impaired basin for fecal coliform and bacteria.** FDEP and the five water management districts intend to limit the discharge of nutrients to prevent violations of water quality standards and perceived man-induced nutrient enrichment. It is anticipated each new development project will have to demonstrate, through stormwater management design that the project will not adversely affect downstream receiving waters.

7.0 PAST REGULATORY AUTHORIZATIONS

A search was conducted on publically available databases to discover previous and/or existing regulatory approvals for the subject project area. The subject project area is included in at least two (2) regulatory approvals according to the SJRWMD website.

The SJRWMD issued Permit 18453-1 to ITT Community Development Corporation on October 10, 1988 for the Palm Coast Industrial Park North Ditch Project. The authorization included 30.4 acres, which includes the subject project area for construction of a surface water management system consisting of a linear ditch. Each individual development on the 30-acre tract would need to provide a stormwater permit prior to construction because Permit No. 18453-1 did not meet SJRWMD water quality criteria. The 30.4-acre project area included a single 3.0-acre cypress wetland of low quality that was authorized for impact with no mitigation required. The canal and was constructed, the site was cleared and an approximately 3.0-acre pond was constructed under this authorization. Both the 3.0-acre impacted wetland and the 3.0-acre pond were located within the subject project area. Permit 18453-1 expired on October 10, 1993.

The SJRWMD issued Permit 106617-1 to 73 Merchant Street, LLC on November 18, 2008 for the Costa Trans Warehouse Project. The authorization included 14.5 acres, which includes the subject project area and areas east of the subject project area. The authorization was for construction of a surface water management system for a warehouse and office development with associated asphalt driveways, parking area and sidewalks. The permit included authorization to impact a 0.18- acre low quality isolated cypress forest, which was located within the subject project area, and a 0.21-acre portion of direct impact with associated 0.09 acres of secondary impact to a 0.61-acre wet prairie. The permit also authorized impacts to 3.16 acres of surface waters for conversion to a wet detention stormwater management pond and fill of upland cut ditches. Mitigation was required for the proposed wetland impacts. The approved mitigation plan included two (2) conservation easements on the remaining 0.40 acres of enhanced on-site wet prairie, 0.43 acres of enhanced upland buffer adjacent to the wet prairie and 0.50 acres of wetland creation and 0.88 acres of associated upland buffer. The 0.588-acre conservation easement is located on the subject project area (**Figure 7**). The other conservation easement is 0.746 acres and is located east of the subject project area.

The conservation easements were recorded in 2011. In 2018 it was discovered that no legal descriptions were attached to the easements and the easements were re-recorded to correct the error on November 30, 2018.

The permit required annual monitoring and reporting of the wetland mitigation areas. In 2012, the SJRWMD deemed the wetland mitigation had met the permitted success criteria and released the permittee from further monitoring and reporting.

Permit 106617-1 expired on November 18, 2013. The Costa Trans Warehouse Project was not constructed. The development activities were limited to the completion of the wetland mitigation areas, a temporary construction entrance (which is still in place) and leveling the remainder of the development area and seeding it with bahia grass. The isolated 0.18-acre cypress forest, located on the subject project area and the 0.21-acre herbaceous wetland, located east of the subject project area, were impacted by grading and planting of bahia sod. The proposed impacts to the surface waters appear to not have been conducted.

No other regulatory authorizations were discovered during the public records search.

8.0 PRELIMINARY WETLAND MITIGATION ASSESSMENT

As part of the permitting process, avoidance and minimization criteria must be addressed. Before mitigation to compensate for wetland impacts is accepted, an applicant must clearly show that all alternatives to avoid and minimize impacts to wetlands are exhausted. If it is determined that impacts to wetlands are unavoidable, then proposed mitigation options will be evaluated by the regulatory agencies. The subject project is located in the Pellicer Creek and Matanzas River Basin (Basin 9).

Under current permitting guidelines mitigation options are limited to on-site and/or off-site mitigation through preservation, restoration, enhancement or creation of wetlands (type for type preferably). It should be noted that the ACOE policy is to accept mitigation bank credits before other mitigation options. There are two (2) Mitigation Banks, Brick Road Mitigation Bank and Fishtail Mitigation Bank, that are currently selling mitigation credits that include Basin 9 in their service area. Both banks do not have freshwater herbaceous credits available. Both banks offer joint federal and state freshwater forested credits for \$72,000 per credit. Herbaceous credits would be required to satisfy type for type mitigation; however, the SJRWMD and ACOE have historically allowed forested freshwater credits

to be used in lieu of herbaceous credits in cases where no herbaceous credits are available and the it can be proven that the impact area was historically forested.

On-site areas that have been previously permitted and mitigated by SJRWMD Permit 106617-1, including the 3.16 acres of surface waters and the 0.17-acre cypress forest (now part of the wet prairie) should not require mitigation from the SJRWMD for proposed impacts.

9.0 SUMMARY & RECOMMENDATIONS

The 10.44-acre Hargrove Mini Storage project is located in Section 16, Township 11 South, Range 31 East, in Flagler County, Florida. The subject project area is a vacant property that is comprised of an excavated pond, ditches, pine forests, wet prairie, freshwater marsh and open land utilized for utility and construction material storage.

According to wetland delineation methodologies outlined in the *Corps of Engineers Wetland Delineation Manual* (1987), the *2008 Corps Interim Regional Supplement to the Corps Wetland Delineation Manual: Atlantic & Gulf Coastal Plain Region* and the State of Florida Unified Wetland Delineation Methodology (Section 62-340, F.A.C.), two (2) wetland areas (FLUCFCS Nos. 641 and 643) and four (4) surface waters (FLUCFCS Nos. 510 and 534) were observed within subject project boundaries during the field investigations

CPH biologists conducted a field investigation of the subject project on October 29, and November 30, 2020. General reconnaissance of the site was conducted, looking for the occurrence of federal or state-listed flora and fauna as well as general wildlife utilization. State listed protected species (or their signs) were not observed within the subject project during the field investigations.

The subject project area is located within the USFWS Florida Scrub Jay Consultation Area. Based upon field observations, scrub jays and their habitat were not observed within the subject project area during the field investigations. Due to the lack of suitable habitat, further consultation with the

USFWS is not a consideration for this project unless the owner desires to receive written confirmation of the “no effect” determination for the Florida scrub jay.

The subject project area is included in at least two (2) regulatory approvals according to the SJRWMD website. The SJRWMD issued Permit No. 18453-1 to ITT Community Development Corporation on October 10, 1988, for the Palm Coast Industrial Park North Ditch Project. This permit resulted in the clearing of the on-site forests and wetlands and construction of a stormwater drainage canal and burrow pit. Permit No. 18453-1 expired on October 10, 1993.

The SJRWMD issued Permit No. 106617-1 to 73 Merchant Street, LLC on November 18, 2008 for the Costa Trans Warehouse Project. The authorization included 14.5 acres, which includes the subject project area and areas east of the subject project area for construction of a surface water management system for a warehouse and office development with associated asphalt driveways, parking area and sidewalks. Wetland impacts were authorized and an associated on-site mitigation plan was constructed and encumbered by a conservation easement. Permit No. 106617-1 expired on November 18, 2013. The Costa Trans Warehouse Project was not constructed. The development activities were limited to the completion of the wetland mitigation, a temporary construction entrance (which is still in place) and leveling the remainder of the development area and seeding it with bahia.

Proposed impacts to the on-site wetlands and surface waters will require compensatory mitigation for the SJRWMD and the ACOE. The subject project area is located in Basin 9- Pellicer Creek and Matanzas. There are two (2) Mitigation Banks currently selling mitigation credits for projects in Basin 9. On-site areas that have been previously permitted and mitigated for wetland impacts should not require compensatory wetland mitigation from the SJRWMD for proposed impacts.

As a preliminary assessment, the findings of this report concerning native vegetation and land use may be subject to change upon more detailed analysis. Additionally, failure to detect a listed species does not necessarily infer species absence as wildlife are mobile, exhibit seasonality of occurrence and generally have low population levels. Further, nothing in this report regarding environmental laws, rules and regulations is intended to be a legal interpretation or opinion, thus readers of this report should contact an attorney concerning any matters of law.



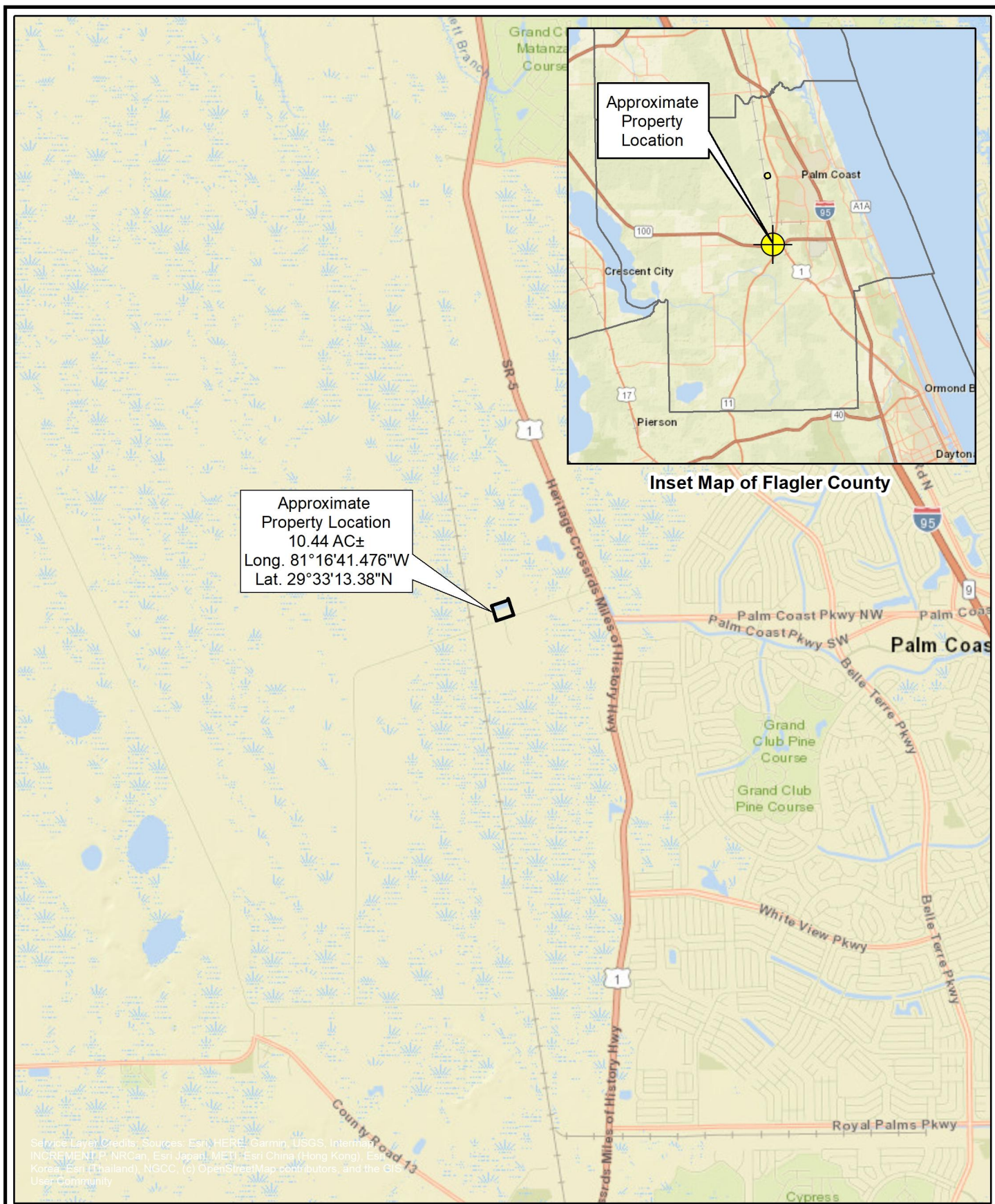
APPENDIX A

Figures

HARGROVE MINI STORAGE

Preliminary Ecological Assessment Report

Flagler County, Florida



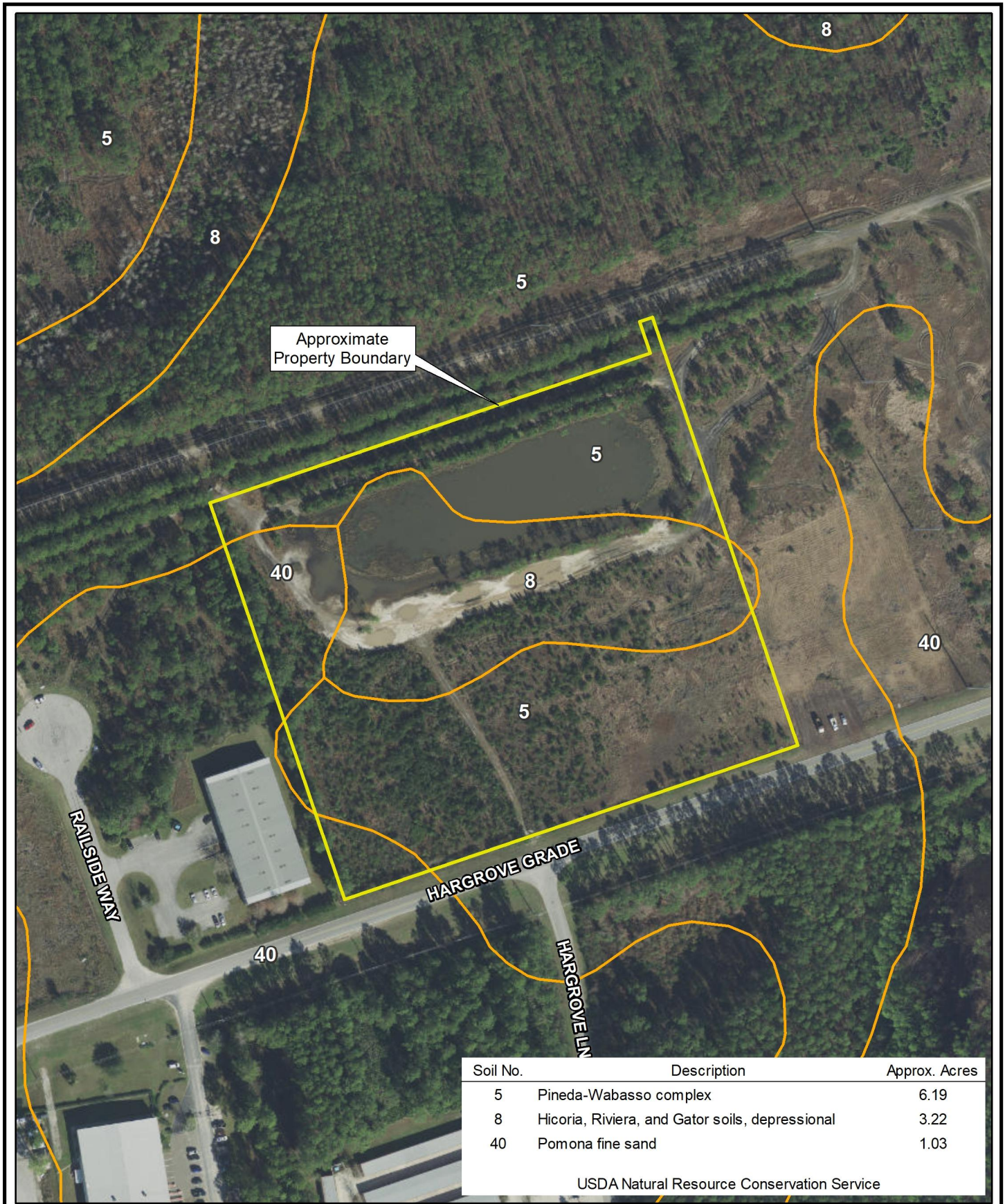
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Date: 12/7/2020	
Photo Date: N/A	
Project No. H16201.1	
Biologist: AM	GIS: DM



LOCATION MAP

HARGROVE MINI STORAGE
SECTION 16, TOWNSHIP 11 SOUTH, RANGE 30 EAST
FLAGLER COUNTY, FLORIDA

**FIGURE
1**



Soil No.	Description	Approx. Acres
5	Pineda-Wabasso complex	6.19
8	Hicoria, Riviera, and Gator soils, depressional	3.22
40	Pomona fine sand	1.03

USDA Natural Resource Conservation Service



Scale 1" = 200'
 Date: 12/8/2020
 Photo Date: 2020
 Project No. H16201.1
 Biologist: AM GIS: DM



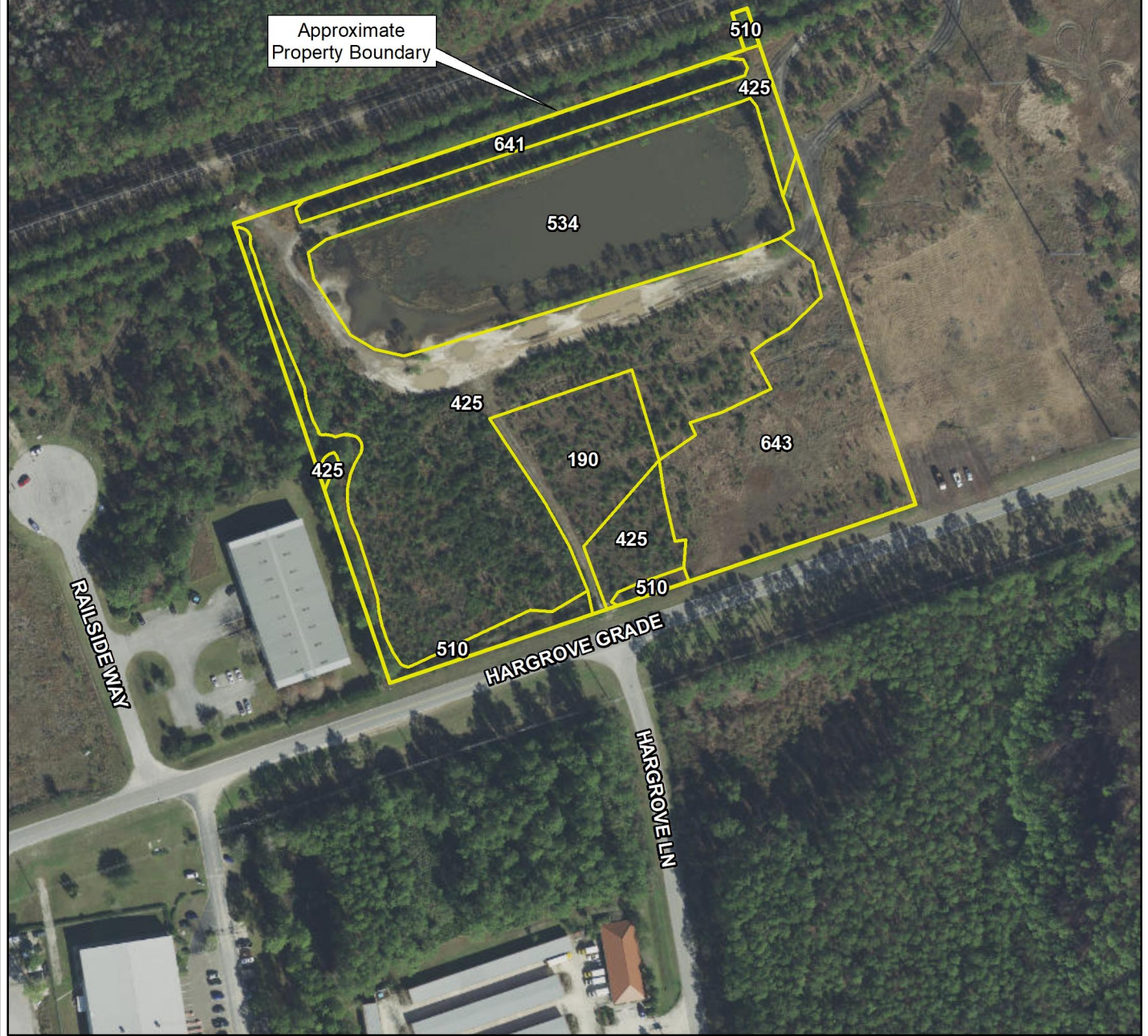
SOILS MAP

HARGROVE MINI STORAGE
 SECTION 16, TOWNSHIP 11 SOUTH, RANGE 30 EAST
 FLAGLER COUNTY, FLORIDA

**FIGURE
2**

FLUCFCS CODE	FLUCFCS CLASSIFICATION	APPROXIMATE ACREAGE	PERCENTAGE OF SITE
190	Open Land	0.68	6.51%
425	Temperate Hardwood	4.70	45.02%
510	Ditch	0.47	4.50%
534	Reservoirs less than 10 acres	2.47	23.66%
641	Freshwater Marshes	0.41	3.93%
643	Wet Prairies	1.71	16.38%

Florida Land Use, Cover and Forms Classification System (FDOT 1999)



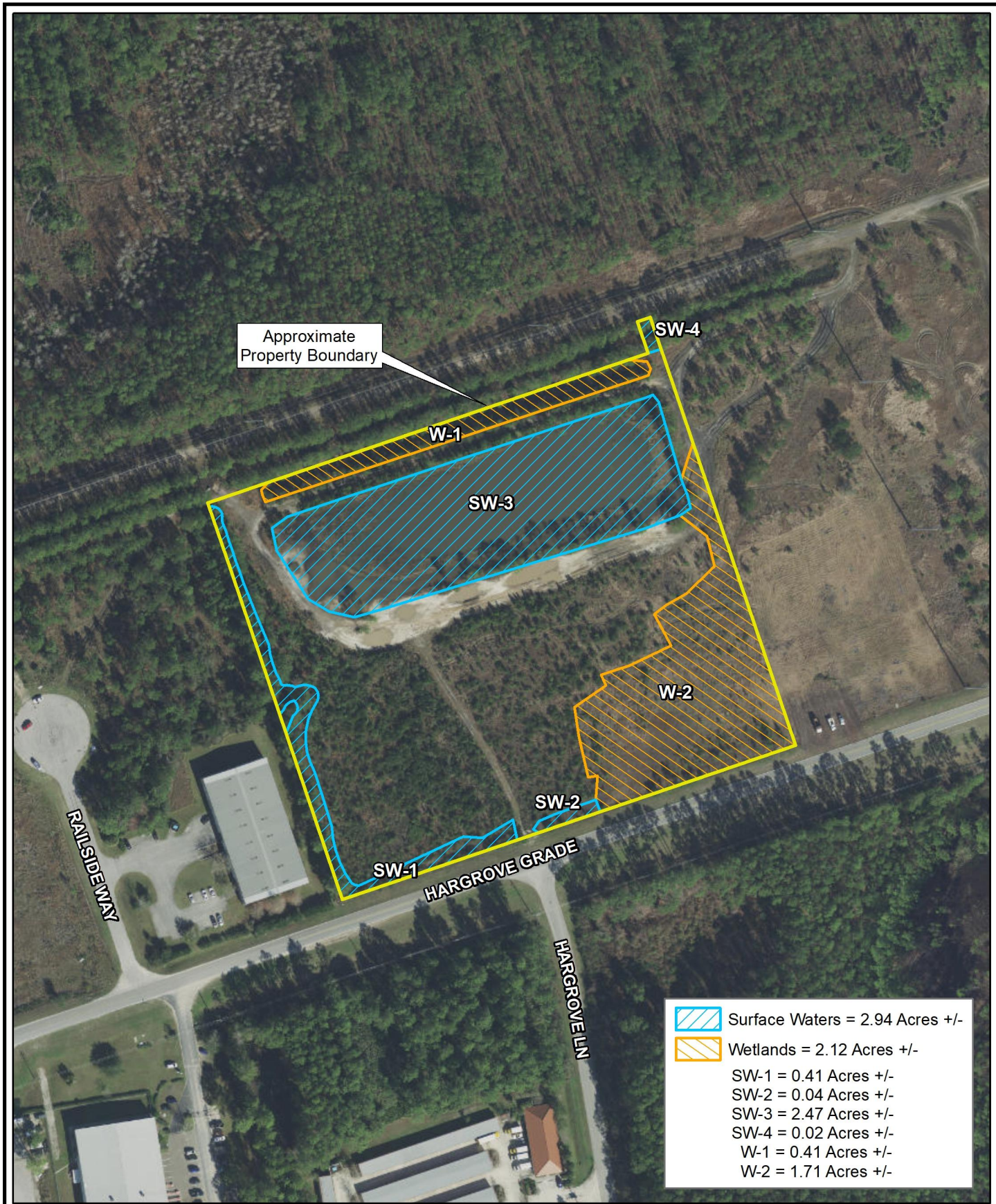
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 Date: 12/9/2020
 Photo Date: 2020
 Project No. H16201.1
 Biologist: AM GIS: DM



PRELIMINARY VEGETATION AND LAND USE MAP

HARGROVE MINI STORAGE
 SECTION 16, TOWNSHIP 11 SOUTH, RANGE 30 EAST
 FLAGLER COUNTY, FLORIDA

**FIGURE
3**



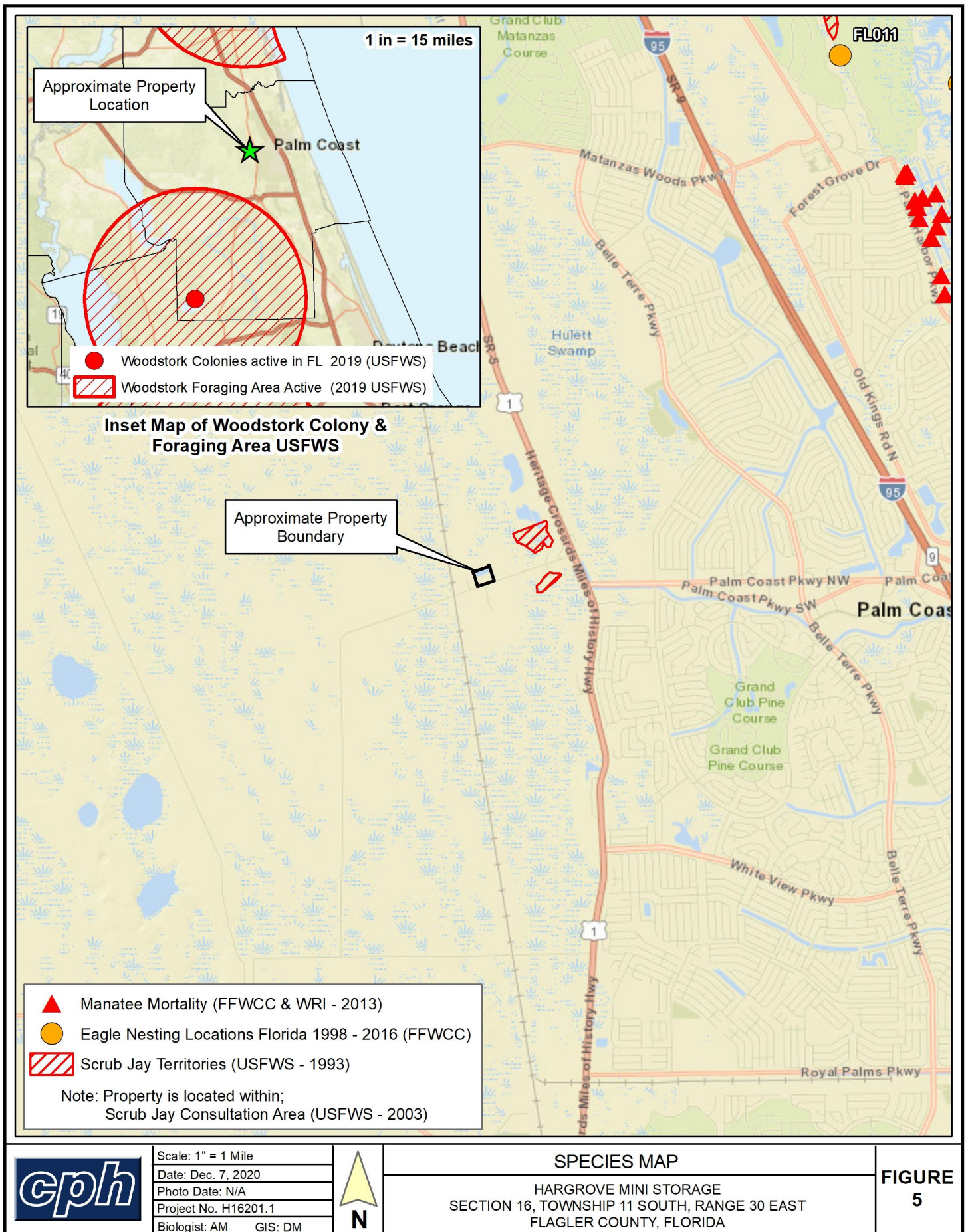
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 Photo Date: 2020
 Project No. H16201.1
 Biologist: AM GIS: DM

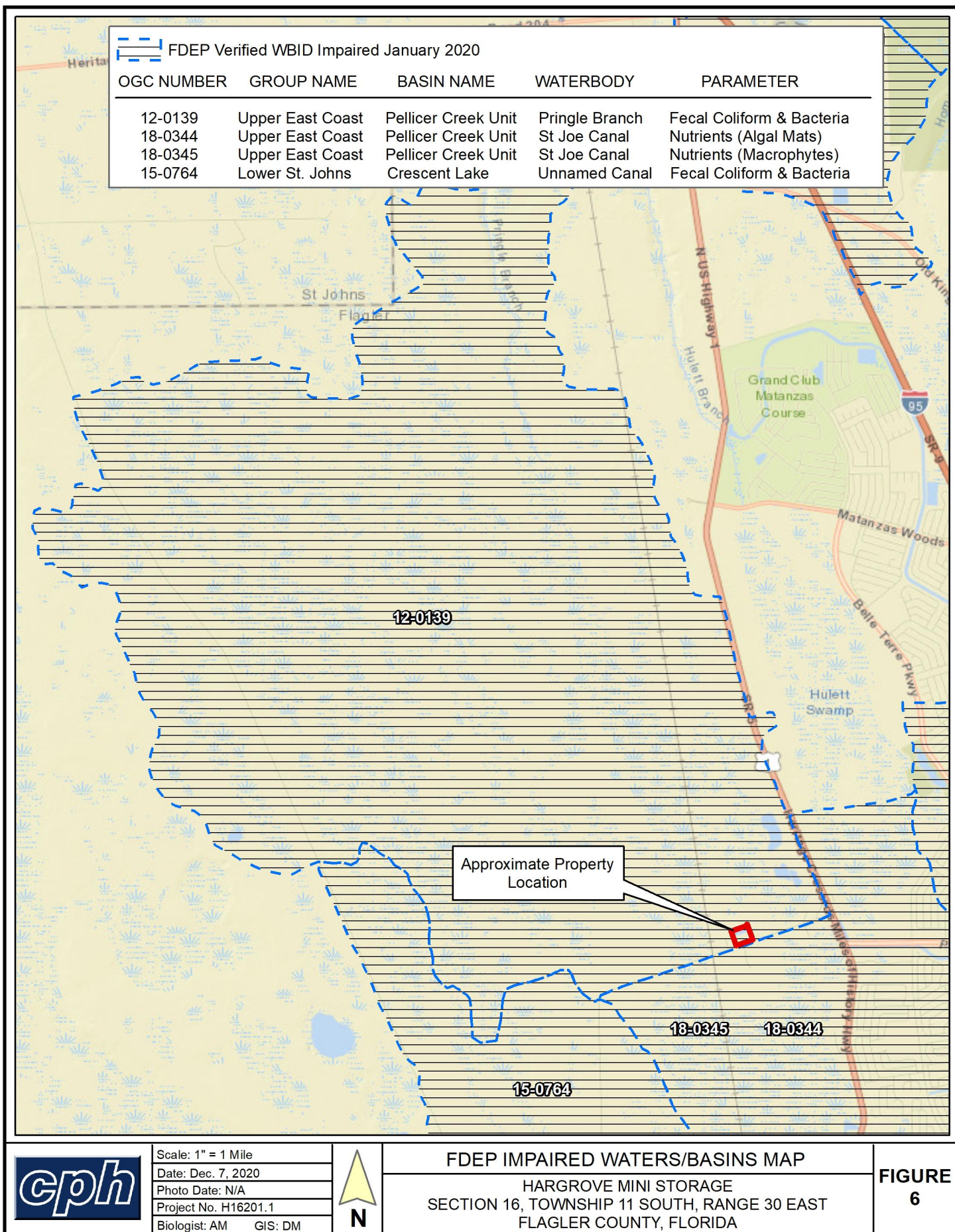


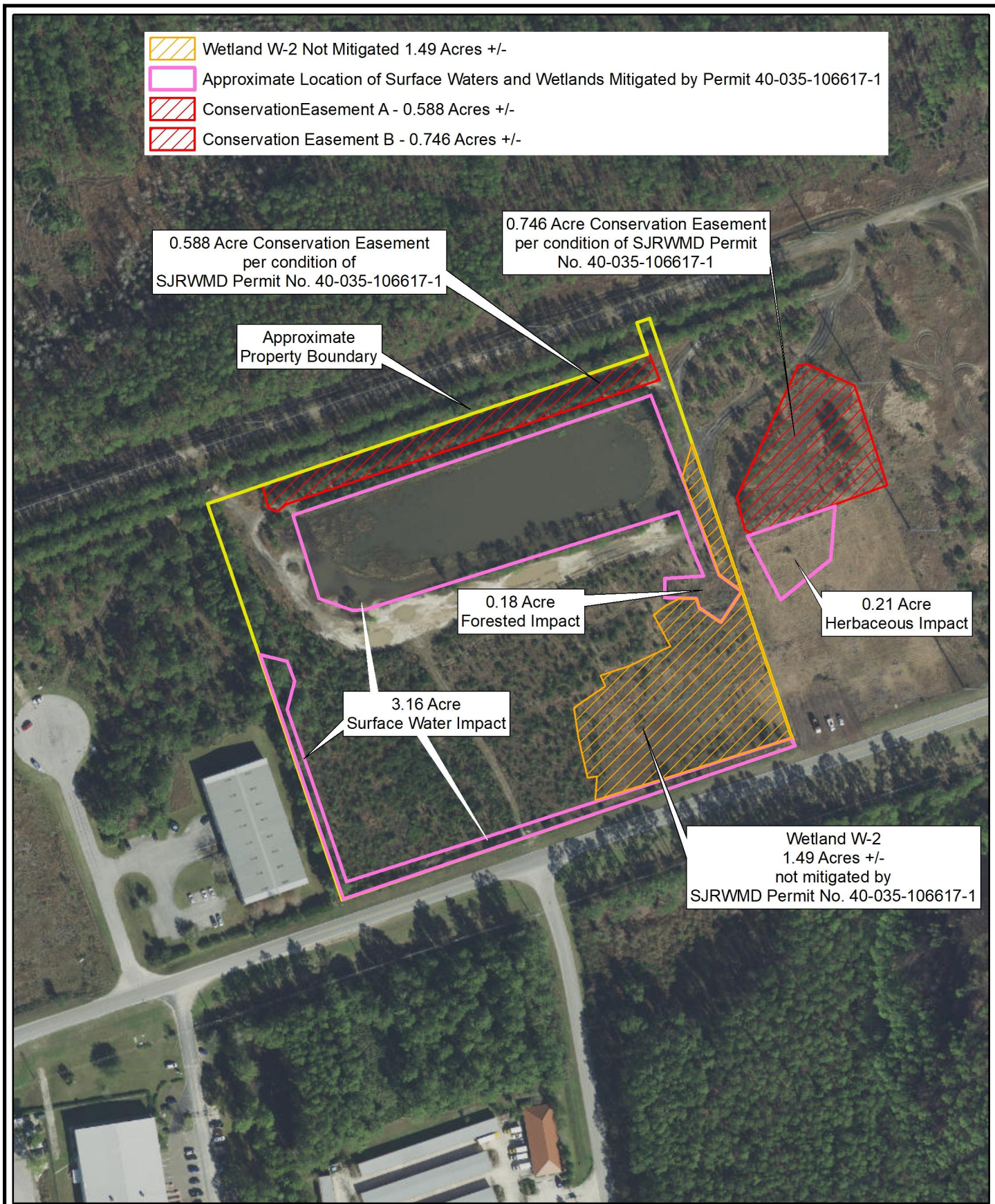
WETLAND AND SURFACE WATER LOCATION MAP

HARGROVE MINI STORAGE
 SECTION 16, TOWNSHIP 11 SOUTH, RANGE 30 EAST
 FLAGLER COUNTY, FLORIDA

FIGURE
 4







Scale 1" = 200'

Date: 12/17/2020

Photo Date: 2020

Project No. H16201.1

Biologist: AM GIS: DM



CONSERVATION EASEMENT MAP

HARGROVE MINI STORAGE

SECTION 16, TOWNSHIP 11 SOUTH, RANGE 30 EAST

FLAGLER COUNTY, FLORIDA

FIGURE
7

Fwd: SJRWMD - MB Credit Transaction Application Confirmation # 887068

From: Bill Schroeder (bill@mitigationdev.com)
To: danmatuszczak@yahoo.com
Date: Wednesday, April 3, 2024 at 03:44 PM EDT

Dan- here is the final confirmation that you have purchased the credits and it will satisfy the conditions you have in your permit

Sent from my iPhone

Begin forwarded message:



<logo.png>

www.sjrwmd.com/ePermit

From: appnotify@sjrwmd.com
Date: April 3, 2024 at 3:24:09 PM EDT
To: Bill Schroeder <bill@mitigationdev.com>
Cc: cmccammon@sjrwmd.com, danmatuszczak@yahoo.com, e-reg-mail@sjrwmd.com, jason@fletcherdavisco.com
Subject: SJRWMD - MB Credit Transaction Application Confirmation # 887068
Reply-To: applicationsupport@sjrwmd.com

Thank you for your application to modify a mitigation bank ledger.

Confirmation Number:	887068
Applicant(s):	Brick Road Mitigation Holdings LLC
Ledger permit number:	106896-7
New application number:	106896-37
Mitigation bank credit transaction name:	Hargrove Mini Storage
Compliance number:	1489400, 1489401

Following are the application details for your records:

Mitigation Bank: Brick Road - Phases A & B - UMAM

Basin: 9
Community type: Forested Freshwater
Applicant: Brick Road Mitigation Holdings LLC
Transaction type: Purchase/ Allocation
Who issued?: District Permit
Permit # 106617-2
Transfer permit # Transfer Seq #
Project ID: Project date:
Agency name:
Project name: Hargrove Mini Storage
Credits: 1.22 Transaction date: 03-Apr-2024
Comments:

The District has received your application to modify the above mitigation bank ledger, and the application is being evaluated by staff. The new application number and associated compliance item numbers are listed above. Please include the new application number, the mitigation bank credit transaction name, and compliance item numbers on any additional correspondence with the District regarding your submittal. Please address all email correspondence to ApplicationSupport@sjrwmd.com

Sincerely,
Reid Hilliard
Environmental Resource Program Manager

PLEASE NOTE: The appnotify@sjrwmd.com and e-reg-mail@sjrwmd.com mailboxes are not monitored. Use one of the following email addresses if you need to respond:
Pending applications: ApplicationSupport@sjrwmd.com; Permitted Projects: ComplianceSupport@sjrwmd.com

St. Johns River Water Management District
4049 Reid Street • Palatka, FL 32177
Website: www.sjrwmd.com
Connect with us: [Newsletter](#), [Facebook](#), [Twitter](#), [Instagram](#), [YouTube](#), [Pinterest](#)

SALES AND RESERVATION AGREEMENT

This Sales and Reservation Agreement (the "Agreement") is entered into effective as of this 7th day of December, 2023 (the "Effective Date") by and between Brick Road Mitigation Holdings, LLC ("Seller") whose address is 101 E. Town Place, Suite 150, St. Augustine, Florida 32092 and Dan Matuszczak ("Buyer") whose address is 35 Hargrove Grade, Palm Coast, FL 32137.

BACKGROUND

Buyer is obtaining permits for a project known as Hargrove Mini Storage located in Flagler County, Florida. Buyer is obtaining these permits from the following (check applicable box) ☒ (Saint Johns River Water Management District ("SJRWMD") /Florida Department of Environmental Protection ("DEP")), identified by [SJRWMD/DEP] permit application number 106617-2, ☐ and the United States Army Corps of Engineers ("ACOE"), identified by ACOE permit application number N/A (collectively, the "Permits"). It is anticipated that [SJRWMD/DEP] or ACOE will impose a requirement as a condition to granting the Permits that certain mitigation credits be purchased by Buyer to satisfy the conditions of the Permits. The number of mitigation credits required by each agency may not be the same.

Seller is the owner of Brick Road Mitigation Bank (the "Bank"), a mitigation bank with freshwater UMAM mitigation credits under SJRWMD Permit Number 4-035-106896-2 (the "State Credits") and with UMAM freshwater mitigation credits under ACOE Instrument Number SAI-2003-06373 (the "Federal Credits") (the State Credits and the Federal Credits are collectively referred to as "Credits"). Seller desires to sell Credits to Buyer for the purpose of meeting Buyer's requirements under the Permits. Buyer has determined that the Credits available from Seller will meet Buyer's needs and Buyer therefore desires to obtain an option to acquire Credits from Seller. Credits can be any combination of: (1) State Credits not paired with a Federal Credit ("Unpaired State Credits"), (2) Federal Credits not paired with a State Credit ("Unpaired Federal Credits"), or (3) State Credits and Federal Credits paired together ("Paired State and Federal Credits"); the desired combination of credits are referred to herein as "Credits." If Buyer purchases Unpaired Federal Credits from Seller, as part of the purchase, Buyer represents to Seller that the project does not require corresponding State Credits.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein and the payment of the Deposit, hereinafter defined, the receipt and sufficiency of which are hereby acknowledged, Seller and Buyer hereby agree as follows:

1. Recitals. The recitals set forth in the Preamble are material parts of this Agreement and are incorporated herein by reference.
2. Purchase Price. Check applicable box and complete last sentence –
 - a) ☒ Buyer purchases only State Credits and no Federal Credits, purchase price is \$130,000 per Credit;
 - b) ☐ Buyer purchases State Credits and Federal Credits, purchase price is \$ _____ per Credit;
 - c) ☐ Buyer purchases no State Credits and only Federal Credits, purchase price is \$ _____ per Credit.

Based upon the foregoing, the total purchase price to be paid by Buyer to Seller will be \$158,600 (the "Purchase Price"). Buyer will pay the Purchase Price by Buyer's certified check or wire transfer of immediately available funds.

3. Credit Reservation. Seller hereby reserves 1.22 State Credits and 0 Federal Credits for Buyer, which credits shall be specified and set forth in the Credit Reservation Letter as provided for in Paragraph 4 hereof (the "Reservation"). The Credits shall be reserved in basin 9.

4. Credit Reservation Letter. After Buyer and Seller execute this Agreement and upon Buyer's request, Seller will address a Reservation Letter to the [SJRWMD/DEP] detailing the specific Credits reserved by Seller. Seller will also provide a similar Reservation Letter to the ACOE if so requested by Buyer or an ACOE agent.

5. Term. The Sales and Reservation shall commence upon the Effective Date and shall expire on March 31, 2024 (the "Expiration Date").

6. Deposit. Upon execution of this Agreement, Buyer shall pay to Seller the sum of \$2,500 (hereinafter the "Deposit"). Unless otherwise indicated, the Deposit shall be applied against the total Purchase Price. The Deposit shall be non-refundable to Buyer unless (a) Seller breaches this Agreement in which event the Deposit shall be fully refundable to Buyer or (b) Buyer terminates this Agreement prior to the issuance of the SJRWMD/DEP permit or ACOE permit if no SJRWMD/DEP permit is required.

7. Payment of Full Purchase Price. Buyer must pay Seller the full Purchase Price prior to the earlier of the following events: (a) the commencement of any land clearing or work activities pursuant to either the SJRWMD/DEP permit or the ACOE permit as having mitigation in place before work begins is generally a requirement of said permits, or (b) expiration of the term of this Agreement. At the time of payment of Purchase Price, Buyer will verify in writing the [SJRWMD/DEP] permit application number and ACOE permit application number. To purchase the Credits, Buyer shall notify Seller of the means of Buyer's payment to Seller.

8. Transfer of Credits. Upon Seller's timely receipt of the full Purchase Price for the Credits, Seller shall transfer the purchased Credits to Buyer, and Seller and Buyer shall cooperate in notifying the appropriate governmental agencies that such transfer of the Credits is complete. If Buyer fails to timely pay the Purchase Price for any Credits, then Seller may terminate this Agreement and refuse to transfer any of the Credits to Buyer.

9. Effect of Condemnation or Regulatory Action

- a) Condemnation. If the Bank property or any part thereof is involuntarily taken prior to Closing pursuant to eminent domain proceedings, or if such involuntary proceedings are commenced prior to Closing, and as a result Seller determines that it will be unable to transfer any or all of the Reserved Credits to Buyer at Closing as specified in this Agreement, then either Buyer or Seller may terminate this Agreement by providing written notice at any time prior to Closing (as defined herein) and Buyer's Deposit shall be refunded. If this Agreement is terminated as provided in this subsection, neither party shall have any further rights or obligations hereunder, except as expressly provided herein. Seller covenants not to request or consent to any condemnation action that would result in Seller's inability to transfer the Reserved Credits to Buyer at Closing as specified in this Agreement without Buyer's approval.
- b) Seller Regulatory Action. If Seller is unable to transfer the Reserved Credits to Buyer as provided in this Agreement because of the action or order of any regulatory agency, regardless of whether or not Seller has contested or challenged such action or order, Seller may terminate this Agreement by providing written notice to Buyer at any time prior to Closing. If Seller elects to terminate this Agreement as provided in this subsection, the Deposit shall be refunded to Buyer and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.
- c) Buyer Regulatory Action. If Buyer is prevented by any regulatory agency from acquiring the Reserved Credits from Seller as provided in this Agreement, or if Buyer's mitigation plan is not approved by the SJRWMD or ACOE, Buyer may terminate this Agreement by providing written notice to Seller at any time prior to Closing, and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

10. Seller's Representations and Warranties. Seller hereby makes the following representations and warranties:

- a) Authorization, Execution and Delivery. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of Seller, constitutes the binding agreement of Seller and is enforceable in accordance with its terms.
- b) Availability and Reservation of the Reserved Credits. As of the date of this Agreement, the Seller has enough Credits to satisfy Seller's obligations under this Agreement and such Credits are approved by all requisite governmental agencies. During the period beginning on the Effective Date and ending upon:
(i) Closing or (ii) termination of this Agreement prior to Closing, Seller will not sell, or contract for the sale of, Credits from the Bank in an amount that would cause the Bank's outstanding Credits balance at Closing to be less than the number of Credits necessary to satisfy Seller's obligations under this Agreement. Seller shall take all actions reasonably necessary both before and after closing to enforce, defend and maintain the Reserved Credits and Buyer's right thereto.
- c) Validity. SJRWMD Permit Number 4-035-113478-1 and ACOE Instrument Number SAJ-2007-05851 (together the "Credit Permits") are valid and in effect as of the date of this Agreement and Seller is in compliance with the requirements of the Credit Permits.

11. Buyer's Representations and Warranties. Buyer hereby makes the following representations and warranties.

- a) Authorization, Execution and Delivery. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of the Buyer, constitutes the valid and binding agreement of the Buyer and is enforceable in accordance with its terms.
- b) In entering into this Agreement, Buyer has not been induced by, and has not relied upon, any representations, warranties or statements, whether express or implied, made by the Seller or any agent, employee or other representative of the Seller, which are not expressly set forth herein.
- c) Buyer shall take all actions reasonably necessary to obtain its SJRWMD and ACOE Permits as contemplated herein.

12. Notices. Any notice required hereunder shall be given in writing and shall be sent by (i) personal delivery, (ii) email transmission, or (iii) overnight courier service (with all fees prepaid) to the receiving party as follows:

SELLER: Brick Road Mitigation Holdings, LLC
 Attn: Bill Schroeder
 101 E. Town Place, Suite 150
 St. Augustine, Fla 32092
 bill@mitigationdev.com

BUYER: _____

 Attn: _____
 Email: _____

overnight courier service. If notice is made by email transmission, the notifying party shall request confirmation of receipt from the receiving party; there will be no deemed receipt of email transmission. If the time period or date by which or on which any right or election provided under this Agreement must be exercised, or by which or on which any act required hereunder must be performed, or by which or on which any notice or demand must be given or received, expires or occurs on a Saturday, Sunday or a holiday observed by local, state or Federal governments or state chartered or national banks in the State of Florida, then such time period or date shall be automatically extended through the end of the next day which is not a Saturday, Sunday or such a holiday. Any party sending a notice or other communication by email transmission shall also send a hard copy of such notice or other communication by one of the other means of providing notice set forth in this Section 12. Any notice or other communication shall be given to such other representative or at such other address as a party to this Agreement may furnish to the other party pursuant to this Section 12.

13. Default and Exclusive Remedies. In the event of Buyer's default hereunder Seller's exclusive remedy shall be to terminate the Agreement and retain the Deposit. In the event of Seller's default hereunder, Buyer's exclusive remedy shall be to terminate the Agreement and receive a refund of any consideration paid by Buyer to Seller. Neither Buyer nor Seller shall have recourse to any other remedies nor shall either party be liable for any consequential, special, punitive and exemplary damages of any nature under this Agreement.

14. Non-Disclosure. Buyer and Seller agree that the pricing and terms of this Agreement are confidential, and that both Buyer and Seller are strictly prohibited from disclosing the pricing and terms of this Agreement.

15. Attorneys' Fees. In connection with any litigation, including pretrial, trial, appellate or bankruptcy or collection proceedings, arising out of, under or relating to this Agreement, or in connection with any action for rescission of this Agreement or for declaratory or injunctive relief, the prevailing party shall be entitled to recover from the other party such prevailing party's actual, reasonable, out-of-pocket costs and reasonable attorneys' and paralegals' fees.

16. Severability. If any provisions of this Agreement are held to be illegal or invalid, the other provisions shall remain in full force and effect.

17. Binding Effect/No Third Party Beneficiary Intended. The obligations and covenants of this Agreement shall bind and benefit the successors, personal representatives, heirs and permitted assigns of the parties hereto. This Agreement is solely for the benefit of the parties hereto and is not intended for the use or benefit of any other person.

18. Captions. The captions for each paragraph of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, or the intent of any provision hereof.

19. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be and be taken to be an original, and all collectively but one instrument.

20. Facsimile Signatures. Facsimile signatures of this Agreement shall be deemed binding on all parties.

21. Governing Law/Venue. The laws of the State of Florida shall govern the validity, enforcement, and interpretation of this Agreement. The obligations of the parties are performable, and venue for any legal action arising out of this Agreement, shall lie in St. Johns County, Florida.

22. Entire Agreement/Amendments. This Agreement constitutes the sole and entire agreement between the parties hereto with respect to the Reserved Credits and supersedes all letters of intent, term sheets, letters of interest, understandings, promises, covenants, representations, statements, agreements and undertakings (whether written or oral), if any, with respect thereto, which may have been given, distributed, furnished or made prior to or

23. Assignment Buyer shall not have the right to assign this Agreement.

24. Waiver No waiver of any provision or condition of this Agreement by any party shall be valid unless in writing signed by such party. No such waiver shall be taken as a waiver of any other or similar provision or of any future event, act, or default.

25. Time of the Essence Time is of the essence of this Agreement and each and every provision hereof.

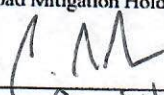
[signature page follows]

□

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

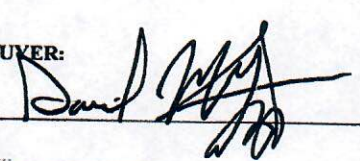
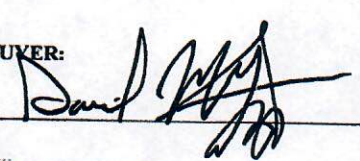
SELLER:

Brick Road Mitigation Holdings, LLC

By: 
Name: Dan Schwede
Title: Manager

Executed: 12/14, 2023

BUYER:


By: 
Name: Daniel Matuszczyk
Title: owner

Executed: 12/14, 2023

□

Michael Hanson, A.I.C.P

From: Thomas Freeman <tfreeman@cciwater.com>
Sent: Friday, June 13, 2025 3:06 PM
To: Michael Hanson, A.I.C.P
Cc: Irene Schaefer; Peter Roussell; Ray Tyner; David Robertson
Subject: FW: water consumption letter

Michael,

See below for the response and questions that were for the Hard Rock Materials project. Thank you

Thomas G. Freeman, P.G.
Hydrogeologist
Connect Consulting, Inc.
904-753-0000

From: David Robertson <d Robertson@cciwater.com>
Sent: Friday, March 14, 2025 11:23 AM
To: Peter Roussell <PRoussell@palmcoastgov.com>; Thomas Freeman <tfreeman@cciwater.com>
Cc: Ray Tyner <RTyner@palmcoastgov.com>
Subject: RE: water consumption letter

Peter/Ray,

Our initial thought is this should be okay. It would be preferable to have them locate the well as far from Wells SW-61 and SW-106 as possible on the south side of the property.

Having said that, can we ask them to provide more detail on the following questions if not already asked and approved before we provide a better opinion.

1. Is there a daily schedule for the hours of operation when well is in use?
2. What is estimated operating flow rate?
3. What is the source of water? Confined Surficial aquifer or Upper Floridan aquifer?
4. Is 100% of the water used for concrete mixing or are there other uses such as wash down and wash out of concrete trucks?
5. Is there any discharge of water from the operation and how would that be managed?

Feel free to call with any questions.

Thank you,

David S. Robertson, P.G.
Principal Hydrogeologist
Connect Consulting, Inc.
1210 Emmel Road
Lake Helen, FL 32744
Office: 386-473-7766

Mobile: 561-866-0540

E-Mail: drobertson@cciwater.com

From: Peter Roussell <PRoussell@palmcoastgov.com>

Sent: Thursday, March 13, 2025 3:05 PM

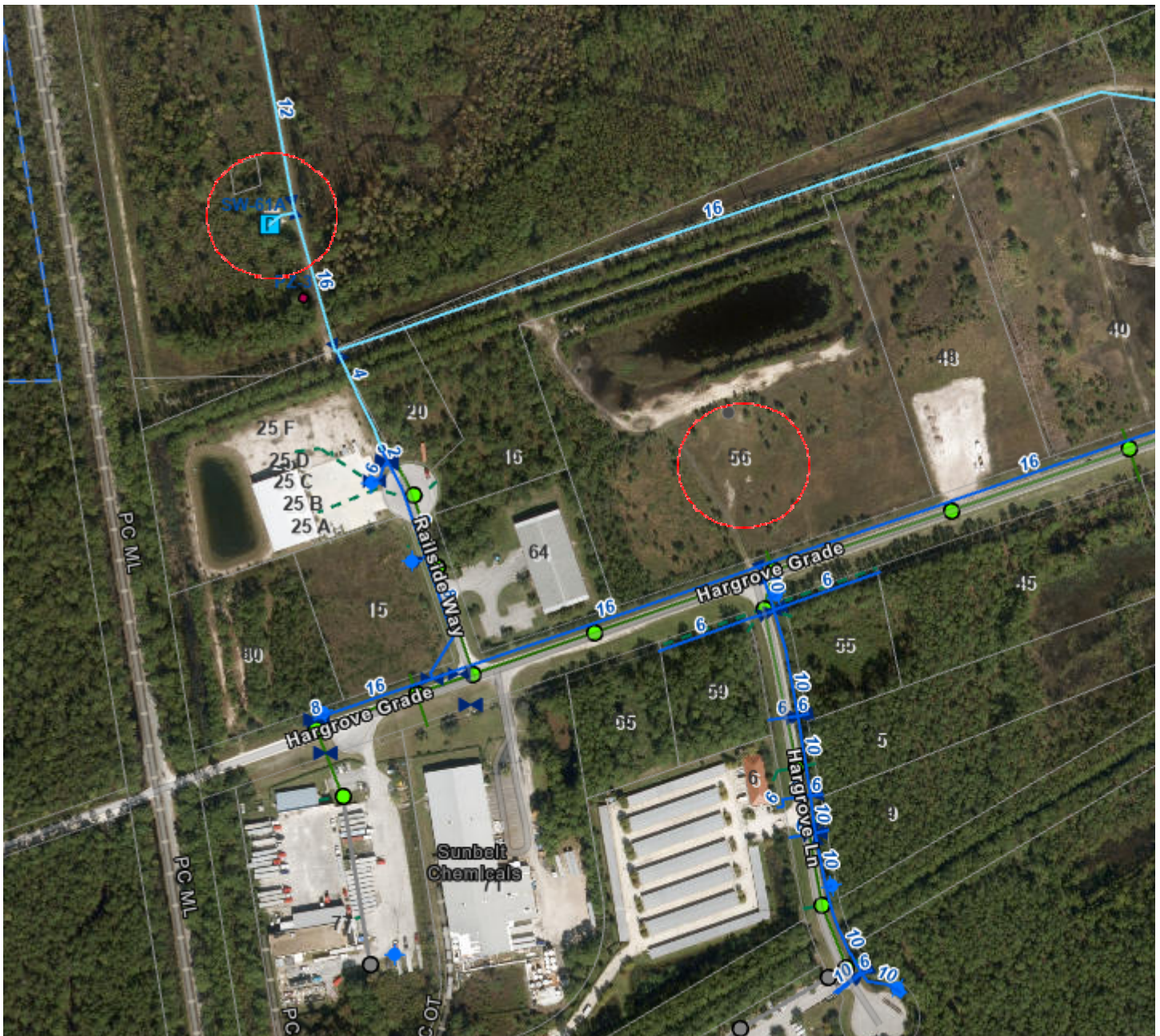
To: David Robertson <drobertson@cciwater.com>; Thomas Freeman <tfreeman@cciwater.com>

Cc: Ray Tyner <RTyner@palmcoastgov.com>

Subject: FW: water consumption letter

Dave and Thomas,

We are being asked about a facility that makes concrete. They are requesting that the possibility of installing a well. The attached letter indicates their plans. We are advocating commercial; industry and businesses and we may advise them of another location instead of being close to a production well site. In this case they are roughly 1,000 feet away which could be detrimental to our existing SW-61. Can you assess and offer some professional advice based on your experience and understanding of the mater at hand?



Thanks

Peter Roussel
Deputy Director Of Utility
2 Utility Dr.
Palm Coast, FL 32137
Tel: 386-986-2374
www.palmcoast.gov



How are we doing?
Let us know below.
PalmCoast.gov/feedback

From: Ray Tyner <RTyner@palmcoastgov.com>

Sent: Tuesday, March 4, 2025 11:30 AM

To: Stephen Flanagan <SFlanagan@palmcoastgov.com>; Peter Roussell <PRoussell@palmcoastgov.com>

Cc: Jason DeLorenzo <JDeLorenzo@palmcoastgov.com>; Craig McKinney <CMcKinney@palmcoastgov.com>

Subject: FW: water consumption letter

Steve/Pete,

Hard Rock Materials Inc. is conducting due diligence for a proposed concrete plant at 56 Hargrove Grade. At my request, they provided the attached analysis of their anticipated water consumption.

While our production wells are located beyond the 500-foot wellhead protection zone, I have concerns about potential conflicts with our existing wells. They plan to construct a well and will likely need a Consumptive Use Permit (CUP). However, I am unsure of the depth of the well they intend to install. They did indicate a need for "clean" water, which suggests they may need to tap into the Intermediate Surficial Aquifer, like our existing production wells in the area.

Could you review this information and maybe consult with our Geologist to assess any potential conflicts? Let me know your thoughts.

Ray Tyner

Deputy Chief Development Officer

160 Lake Avenue

Palm Coast, FL 32164

Tel: 386-986-3745

www.palmcoast.gov



How are we doing?

Let us know below.

PalmCoast.gov/feedback

From: Jonithan Thomas <jthomas@hardrockmaterials.com>

Sent: Tuesday, March 4, 2025 8:31 AM

To: Ray Tyner <RTyner@palmcoastgov.com>

Subject: Fw: water consumption letter

From: Jonithan Thomas

Sent: Monday, March 3, 2025 3:11 PM

To: Randy Petty <pettyr56@gmail.com>

Subject: water consumption letter

Please read this

Michael Hanson, A.I.C.P

From: Caroline McNeil <cmcneil@legalteamforlife.com>
Sent: Monday, July 21, 2025 2:49 PM
To: Michael Hanson, A.I.C.P; Michael Chiumento III; Ray Tyner
Cc: Ms. Damaris Ramirez; Irene Schaefer
Subject: RE: Rezoning Application AR# 6185: 56 Hargrove Grade - Deficiency Letter

Michael

As it relates to your questions from environmental the answers are below in red. We are waiting on the analysis to include the UMAM scores regarding the current wetlands on the property and will provide to that as soon as we receive from CPH.

1. Is there a daily schedule for the hours of operation when well is in use?
Business hours for full operation is from 5:00am to 5:00 pm, we will have water sprinklers on the coarse aggregate
 2. What is estimated operating flow rate?
3 gallons per minute
 3. What is the source of water? Confined Surficial aquifer or Upper Floridan aquifer?
Confined Surficial aquifer
 4. Is 100% of the water used for concrete mixing or are there other uses such as wash down and wash out of concrete trucks?
Mixing and wash down 100%, washout of trucks will be recycling water from catch basin
 5. Is there any discharge of water from the operation and how would that be managed?
Yes, it will be collected in the catch basin and pump into the approved by SJRWM sediment ponds
- Water Usage Analysis for the proposed use's groundwater usage to include details such as the CUP permit (if applicable), estimated daily withdrawals, and the depth and size of any proposed wells, in order to assess potential impacts, if any, on the existing public wells in the area. **CUP permit only applies if the property will be over one million gallons per day and this property will be around 8,000 gallons per day. They are more than 500 feet from an existing City well that's located on another property. During pre-application meeting back in March with @Ray Tyner the client provided all of this water usage information. They will be close to 1,000 feet away from any other well on another property.**

Caroline McNeil

Florida Registered Paralegal

Real Estate Paralegal to Michael D. Chiumento III & Vincent L. Sullivan



Email: CMcNeil@LegalTeamForLife.com

Website: LegalTeamForLife.com

Facebook: [/legalteamforlife](https://www.facebook.com/legalteamforlife)

145 City Place, Suite 301, Palm Coast, FL 32164
T: 386.445.8900 ext. 102 | F: 386.445.6702

2 Camino Del Mar, Palm Coast, FL 32137
T: 386.445-8900

57 W. Granada Blvd. Ormond Beach, FL 32174
T: 386.238.9288



WE DO NOT ACCEPT OR REQUEST

CHANGES TO WIRING INSTRUCTIONS VIA EMAIL OR FAX.

Always call to verify.



Confidentiality Notice:

This e-mail & any documents accompanying it contain confidential information belonging to sender which may be legally privileged. The information is intended only for the use of the individual or entity to which it is intended. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking of any action in reliance upon the contents of this information is strictly prohibited. If you have received this transmission in error, please immediately notify us by the speediest means available and discard this transmission and any documents accompanying same.

From: Michael Hanson, A.I.C.P. <MHanson@palmcoastgov.com>

Sent: Wednesday, July 16, 2025 8:44 AM

To: Caroline McNeil <cmcneil@legalteamforlife.com>; Michael Chiumento III <michael3@legalteamforlife.com>

Cc: Ray Tyner <RTyner@palmcoastgov.com>; Ms. Damaris Ramirez <DRamirez@palmcoastgov.com>; Irene Schaefer <ISchaefer@palmcoastgov.com>

Subject: RE: Rezoning Application AR# 6185: 56 Hargrove Grade - Deficiency Letter

Good morning Caroline,

This project is still deficient. Staff did receive the emailed survey affidavit and documentation that you sent regarding the previous property owner's purchase of 1.22 wetland credits from SJRWMD, but we have not received the requested items for our Environmental Planner:

- Wetland Delineation and assessment that includes UMAM scores to evaluate the quality of the wetlands present on the property.
- Water Usage Analysis for the proposed use's groundwater usage to include details such as the CUP permit (if applicable), estimated daily withdrawals, and the depth and size of any proposed wells, in order to assess potential impacts, if any, on the existing public wells in the area. CUP permit only applies if the property will be over one million gallons per day and this property will be around 8,000 gallons per day.

Also, I had a similar project for a concrete batch plant recently, that our contracted Hydrogeologist requested answers to the following questions after we had the Water usage Analysis, if the team can answer the following it would be helpful:

1. Is there a daily schedule for the hours of operation when well is in use?
2. What is estimated operating flow rate?
3. Can they provide detail on the type and scope of modeling/hydrologic analysis they are proposing to conduct?
4. Is 100% of the water used for concrete mixing or are there other uses such as wash down and wash out of concrete trucks?
5. Is there any discharge of water from the operation and how would that be managed?

Once the application is complete, we'll coordinate with you for the neighborhood meeting, public notice requirements, and scheduling for public hearings.

Thank you and I hope that clarifies what we're looking for.

Michael Hanson, A.I.C.P

Planner

160 Lake Avenue

Palm Coast, FL 32164

Tel: 386-986-3787

www.palmcoast.gov



**How are we doing?
Let us know below.
PalmCoast.gov/feedback**

From: Caroline McNeil <cmcneil@legalteamforlife.com>

Sent: Friday, July 11, 2025 9:31 AM

To: Michael Hanson, A.I.C.P <MHanson@palmcoastgov.com>; Michael Chiumento III <michael3@legalteamforlife.com>

Cc: Ray Tyner <RTyner@palmcoastgov.com>; Ms. Damaris Ramirez <DRamirez@palmcoastgov.com>

Subject: RE: Rezoning Application AR# 6185: 56 Hargrove Grade - Deficiency Letter

Good morning

Just following up on the status of this application being scheduled for Planning Board.

Thank you

Michael D. Chiumento
Michael D. Chiumento III
William J. Bosch
Vincent L. Sullivan
Diane A. Vidal
Kareen Movsesyan
Meredith Wearsch
Mark Hall
Eric R. Sloan, *of-counsel*

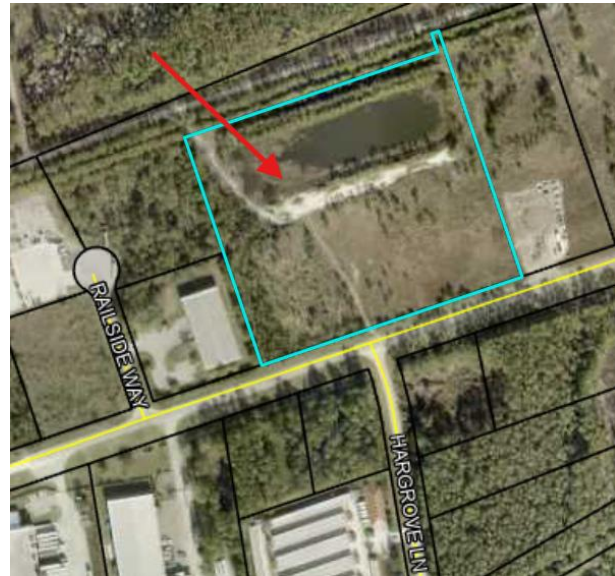
Michael D. Chiumento III
Managing Partner
Michael3@legalteamforlife.com



145 City Place, Suite 301
Palm Coast, FL 32164
Tel. (386) 445-8900
Fax: (386) 445-6702

2 Camino Del Mar
Palm Coast, FL 32137

By Appointment Only:
57 W. Granada Blvd.
Ormond Beach, FL 32174



July 29, 2025

To Whom It May Concern:

Hard Rock Materials, Inc. is the owner of 56 Hargrove Grade, Palm Coast, Florida, as further described below:

Lot 1, Waterside Super Center, according to the map or plat thereof as recorded in Map Book 38, Page 90, Public Records of Flagler County, Florida.

Currently the owner has a rezoning application into the City of Palm Coast to amend the existing zoning from IND-1 to IND-2. The subject property is located within the Hargrove Industrial Park and is designated as Industrial on the City's Future Land Use Map. The intent of the rezoning is to allow for the development of a concrete plant. This request is consistent with the City's comprehensive plan and land development regulations.

As required by City Code, we will be having a neighborhood meeting on Monday, August 11, 2025 **at 5:45 p.m. at the Flagler County Public Library, 2500 Palm Coast Parkway NW, Palm Coast, Florida 32137** to answer any of your questions. It is open to the public.

Sincerely yours,

Michael D. Chiumento III
Managing Partner

Chiumento Law, PLLC
Michael D. Chiumento
Michael D. Chiumento III
William J. Bosch
Vincent L. Sullivan
Diane A. Vidal
Mark A. Hall
Jared Trent
Kareen Movsesyan
Eric Sloan
Tom Pycraft, of counsel

*Michael D. Chiumento III
Managing Partner
Michael3@legalteamforlife.com*



145 City Place, Suite 301
Palm Coast, FL 32164
Tel. (386) 445-8900
Fax: (386) 445-6702

*2 Camino Del Mar
Palm Coast, FL 32137*

*By Appointment Only:
57 W. Granada Blvd.
Ormond Beach, FL 32174*

August 12, 2025

City of Palm Coast
Attn: Ray Tyner
160 Lake Avenue
Palm Coast, FL 32164

**RE: Rezoning Application No. 6185
56 Hargrove Grade, Palm Coast, Florida**

Dear Mr. Tyner:

On Monday, August 11, 2025 at 5:45 p.m., the Applicant on Application No. 6185 conducted a neighborhood information meeting held at the Flagler County Public Library, 2500 Palm Coast Parkway NW, Palm Coast, Florida 32137. As is noted by the attached sign-in sheet there was one (1) neighborhood member present at the meeting. Further present at the meeting was Michael Hanson, City Planner with the City of Palm Coast (also listed on the sign-in sheet), the applicant's engineer (also listed on the sign-in sheet) and myself.

During the neighborhood meeting, the attendees asked several questions regarding the aforementioned application. Below is a reproduction of those questions/concerns and the Applicant's response in *italics* directly beneath the question.

Please let us know if the City has any questions regarding this matter.

- **Concern regarding fencing on the property**
Applicant is in the process of applying for a permit with the City of Palm Coast to install a fence on the property that meets with the City's requirements.
- **Concern regarding the number of trucks traveling to and from the property daily.**
Given the plant's expected output, approximately 15 truck trips per day are anticipated. However, with the property being located in an already zoned industrial area, this increase is consistent with typical traffic levels for the surrounding businesses.

- **Inquiry regarding the timeframe for the project**
 - *The applicant is prepared to proceed immediately upon the zoning change and will submit all required site plans and permit applications to the City and other governing entities.*
- **Discussion regarding concrete plant vs. batch plant/redi-mix**
 - *The applicant clarified that they are opening a concrete plant, not a batch plant, and stated that they will comply with all applicable rules and regulations set forth by the governing agencies. They will also apply for all necessary permits required for their operations.*

Sincerely,

A handwritten signature in black ink, appearing to read 'MCA' with a long horizontal stroke extending to the right.

Michael D. Chiumento III
Attorney
MDC/cm

Enclosures

**Hard Rock Materials, Inc.
56 Hargrove Grade, Palm Coast, Florida**

NEIGHBORHOOD MEETING – MONDAY, AUGUST 11, 2025

NAME	ADDRESS	PHONE NUMBER	E-MAIL ADDRESS
S. VALKO	25 RAILSIDE WAY	386-888-0960	
HENRY VORPE PE	4201 BAYMEADOWS RD. JAX. FLA. 32217	904-730-3223	vorpefactorx@yahoo.com
Michael Hanson	160 Lake Avenue	386 986 3787	mhanson@palmcoastgov.com



NOTIFICATION AFFIDAVIT FOR OFFICIAL ZONING MAP AMENDMENT (REZONING)

COUNTY OF FLAGLER X
STATE OF FLORIDA X

Before me this 29 day of July, 2025 personally appeared

Thomas Davidson who after providing Drivers License as

identification and who did, ✓ did not take an oath, and who being duly sworn, deposes

and says as follows: "I have read and fully understand the provisions of this instrument".

ONE (1) signs have been posted on the subject property subject to a rezoning as described
(# of signs) with **Application #** 6185

✓ At least fourteen (14) calendar days before the hearing date advertising the date, time, and location of the Planning & Land Development Regulation Board (PLDRB)

AND/OR

 At least fourteen (14) calendar days before the hearing date advertising the date, time, and location of the City Council 1st public hearing.

AND/OR

 At least ten (10) calendar days before the hearing date advertising the date, time, and location of the City Council 2nd public hearing.

Thomas Davidson

Signature of Responsible Party

Thomas Davidson, 145 City Place, Suite 301, Palm Coast, FL 32164

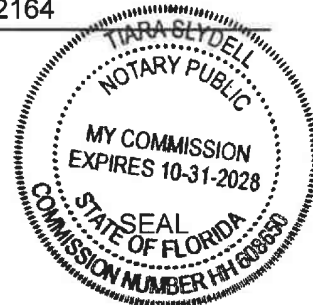
Print Name & Mailing Address

Tiara Slydell

Signature of Person Taking Acknowledgement

Tiara Slydell

Name of Acknowledger (Typed, Printed or Stamped)



This document, once executed, must be returned to a Land Development Technician in the City of Palm Coast Community Development Department prior to the hearing date. Failure to provide document by that time will result in the application not being placed on the agenda for a public hearing.

Please attach a photo of posted sign(s).

City of Palm Coast
NOTICE OF PUBLIC HEARING

Application Number: 6185

The City of Palm Coast Planning Board will hold a public hearing on the application at
5:30 P.M. on 8/20/2013

The City of Palm Coast City Council will hold a public hearing on this application at

M. on for the 1st Hearing

M. on for the 2nd Hearing

City Council public hearing not required

Description of Request

Special Occupancy ☐

Special Use

☒ **Accessory**

Public Use

Future Land Use & Zoning

Temporary Public Use

The applicant requests a rezoning from IND-1 to
IND-2 on the parcel 16-11-30-9135-00000-0000

Owner: IND-1 Property Size: 10.44 Acres

Applicant: Michael Chavira, III, Esq.

Public Hearing to be held at

Prepared by and to be returned to:
Michael D. Chiumento III, Esq.
CHIUMENTO LAW, PLLC
145 City Place, Suite 301
Palm Coast, FL 32164
Attn: Caroline McNeil

**DECLARATION OF
RESTRICTIVE COVENANTS**

THIS DECLARATION OF RESTRICTIVE COVENANTS (the "**Declaration**") is made as of the _____ day of October, 2025 by **HARD ROCK MATERIALS, INC., a Florida corporation**, whose address is 4410 Industrial Park Road, Green Cove Springs, FL 32043 (hereinafter referred to as "**Declarant**") and the City of Palm Coast affecting the described in **Exhibit "A"** (the "Property"), binding the Declarant and all successors and assigns.

W I T N E S S E T H:

WHEREAS, Declarant, proposes to develop and operate a concrete batch plant on the Property, with rezoning from IND-1 (Light Industrial) to IND-2 (Industrial) under consideration.

WHEREAS, the City and neighboring community have raised concerns regarding traffic, roadway debris, water use, air quality, hours of operation and related impacts.

WHEREAS, Declarant desires to voluntarily impose the following restrictions and obligations on the Property to address such concerns and promote compatibility with surrounding uses; and

NOW THEREFORE, Declarant covenants and agrees, and for itself and Declarant's Affiliates, and their respective successors, legal representatives and assigns, does hereby covenant and declare as follows:

COVENANTS

1. TRAFFIC RESTRICTIONS

- a. Daily trips (all vehicles entering or leaving the Property related to plant operations) shall not exceed two hundred (200) trips per day.
- b. Peak hour operations shall be managed consistent with the most recent traffic study profile, which anticipates no more than twenty-seven (27) AM peak-hour trips and seven

(7) PM peak-hour trips. If future operating conditions would materially exceed these peak-hour levels, Owner shall commission an updated traffic analysis and seek an amendment to this Covenant prior to such change.

2. TRUCK OPERATIONS AND ROADWAY PROTECTION

- a. Concrete loads shall be limited to nine (9) cubic yards per truck.
- b. Gross vehicle weight for trucks produced by the plant shall not exceed sixty-eight thousand (68,000) pounds.
- c. Owner shall install and continuously maintain an effective tire-wash or tire-cleaning system (pan or plastic-grid type) at site egress points to minimize tracking of debris onto public roads.
- d. Owner shall promptly remove any concrete debris attributable to site operations from public rights-of-way

3. WATER USAGE AND ENVIRONMENTAL PROTECTION

- a. Total water consumption associated with plant operations shall not exceed twenty-five thousand (25,000) avg. gpd during any seven (7) day period.
- b. Owner shall obtain and comply with all Florida Department of Environmental Protection (DEP) permits and any other permits governing water use, treatment, and discharge.
- c. No hazardous chemicals shall be used in concrete production; diesel fuel storage shall be permitted and maintained in compliance with all applicable fire marshal and DEP standards.

4. AIR QUALITY AND DUST CONTROL

- a. Owner shall operate and maintain an advanced dust-collection system meeting or exceeding DEP standards.
- b. Owner shall comply with applicable air-quality permit conditions, including annual inspections and monthly operating reports, and shall provide copies of such reports to the City upon reasonable written request.

5. FUEL STORAGE AND HAZARDOUS MATERIALS

- a. On-site diesel fuel storage shall be limited to an aggregate capacity not to exceed ten thousand (10,000) gallons and shall be double-walled and maintained in accordance with all applicable codes and permits.
- b. Except for diesel fuel as permitted above, no hazardous chemicals shall be stored or used in concrete production.

6. COMPLIANCE, ENFORCEMENT, AND REMEDIES

- a. So long as this Property is operated as a concrete batch plant, this Covenant shall run with the land and bind the Property and all successors and assigns. Any amendment shall be executed by the City and the Owner.
- b. The City of Palm Coast shall have standing to enforce this Covenant through injunctive relief or specific performance.
- c. Owner's failure to comply after written notice and a reasonable cure period (not less than twenty (20) business days, or longer where compliance reasonably requires more time) shall entitle the enforcing party to seek equitable relief and, where authorized by law, recovery of reasonable attorneys' fees and costs.

7. SEVERABILITY; NO WAIVER; AMENDMENT

- a. If any provision is determined invalid or unenforceable, the remaining provisions shall continue in full force and effect.
- b. No waiver of any breach shall be deemed a waiver of any other or subsequent breach.
- c. This Covenant may be amended or released only by a written instrument executed by the City and the Owner and recorded in the public records of the County where the Property is located.

8. CONVEYANCE

Any conveyance of any part or all of the Declarant's Property affected by the covenants and restrictions referenced above, shall include a reference to said covenants and restrictions; provided, however, that the binding nature of said covenants and restrictions shall not be affected by a failure to include such reference.

9. VIOLATION

In the case of any violation or attempted violation by Declarant and their respective heirs, successors, legal representatives, successors-in-title or assigns of any of the covenants or restrictions contained within this Declaration, the City of Palm Coast may enforce these covenants and restrictions by injunction or other appropriate proceedings and the prevailing party shall be entitled to recover its damages, costs and reasonable attorneys' fees.

10. ENFORCEABILITY

It is the intention of Declarant that should there be any provision or provisions of this Declaration which shall prove to be invalid, void, illegal or unenforceable by reason of present or future laws or rules or regulations of any governmental body or entity or any court of competent jurisdiction, such provision or provisions of this Declaration shall in no way affect, impair or

invalidate any of the remaining provisions of this Declaration, and all such remaining provisions shall remain in full force and effect. Furthermore, it is the intention of the Declarant that if any provision or provisions are declared to be invalid, void, illegal or unenforceable by reason of present or future laws, rules or regulations of any governmental body or entity or any court of competent jurisdiction, such provision or provisions shall be revised by such governmental body or entity or court to render same fully valid and, to the extent possible, conform to the terms of this Declaration. Such revised provision or provisions shall then be fully binding upon the Declarant as if they were contained in this Declaration.

IN WITNESS WHEREOF, the undersigned have executed this Restrictive Covenant as of the date first written above.

(SIGNATURES COMMENCE ON FOLLOWING PAGE)

DECLARANT:

Witness
Print Name: _____

HARD ROCK MATERIALS, INC,
a Florida corporation

Witness
Print Name: _____

By: _____
Name: George R. Petty
Title: President

STATE OF FLORIDA

COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me this _____ day of October, 2025 by George R. Petty, as President of Hard Rock Materials, Inc., a Florida corporation, who is personally known to me or who has produced _____ as identification and who did (did not) take an oath.

Notary Public

Printed Name

EXHIBIT "A"

DECLARANT'S PROPERTY

Lot 1, Waterside Super Center, according to the map or plat thereof as recorded in Map Book 38, Page 90, Public Records of Flagler County, Florida.