



22 S Orange St Fellsmere, Florida 32948
Telephone: (772) 646-6322 Fax: (772) 646-6359

AGENDA

PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY MEETING WEDNESDAY FEBRUARY 7, 2024 – 5:05 P.M.

<https://meet.goto.com/649781877>

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC HEARING:

a) **RESOLUTION NO. 2024-02** A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT RESOLUTION NO. 2024-03 APPROVING THE CONDITIONAL USE PERMIT AND FINAL DEVELOPMENT PLAN FOR ONE (1) MOBILE FOOD VENDING UNIT OWNED BY FRUTERIA NUNO, LLC AND LOCATED AT 32 NORTH BROADWAY, FELLSMERE, FLORIDA IN THE NORTH BROADWAY OVERLAY DISTRICT PURSUANT TO THE LAND DEVELOPMENT CODE SECTIONS 3.23 AND 9.6. / **PUBLIC HEARING**

b) **RESOLUTION NO. 2024-14** A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT ORDINANCE NO. 2024-06 AMENDING THE CITY OF FELLSMERE OFFICIAL ZONING MAP TO ADD A ZONING CLASSIFICATION OF PDD-PLANNED DEVELOPMENT DISTRICT FOR 5.20 ACRES, MORE OR LESS LOCATED ON THE EAST SIDE OF OPERATION HOPE AND OWNED BY TEAGAN, LLC, A FLORIDA LIMITED LIABILITY COMPANY. / **PUBLIC HEARING**

RESOLUTION NO. 2024-15 A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT RESOLUTION NO. 2024-16 APPROVING THE FINAL DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT ON 5.20 ACRES, MORE OR LESS, FOR

A STORAGE AND MAINTANENCE BUILDING LOCATED ON THE EAST SIDE
OF OPERATION HOPE AND OWNED BY TEAGAN, LLC, A FLORIDA LIMITED
LIABILTY COMPANY. / **PUBLIC HEARING**

5. PUBLIC COMMENTS:

6. NEXT MEETING: February 21, 2024

7. ADJOURMENT:

GENERAL SUBJECT MATTER TO BE CONSIDERED: The public can listen to and, if applicable, participate in the public meeting at 22 S. Orange St., Fellsmere, FL in the Council Chambers, in person, online or by phone.

Courtesy Access to Meeting

As a courtesy to the public, the city will attempt to provide coverage of the meeting by internet or telephonic means. Due to unforeseen technical or other difficulties access to the meeting may be interrupted or may not be possible at all via internet or by telephonic means, which will result in your inability to participate in the meeting. Should such technical difficulties occur, the meeting will continue without interruption and without your participation. To be assured of participation in the proceedings you must attend the meeting in person. For your information participation by internet or telephone does not constitute "presence" at the meeting under Florida law.

To join meeting from your computer, tablet, or smartphone:

<https://meet.goto.com/649781877>

To join meeting using your phone call+1 (224) 501-3412 Access Code: 649-781-877

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that: If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26 Florida Statutes, any person who may need special accommodations or translators for this meeting must contact the City Clerk's Office at (772) 646-6301 or the TDD Line 772-783-6109 at least 48 hours in advance of the meeting.

Copies of the proposed Ordinance and Resolution are available for review in the Office of the City Clerk, 22 S. Orange Street, Fellsmere FL between the hours of 8:30 a.m. and 12 noon and 1:00 p.m. and 5:00 p.m., Monday through Friday. Interested parties may appear at the meeting and be heard with respect to the proposed Ordinance and Resolution. The City Clerk must receive written comments at least 3 days prior to the Council meetings.

De conformidad con la Sección 286.0105 de los Estatutos de la Florida, la Ciudad informa al público de que: Si una persona decide apelar una decisión tomada por la junta, agencia o comisión con respecto a cualquier asunto considerado en dicha reunión o audiencia, necesitará un registro de los procedimientos, y que, para tal fin, él o ella puede necesitar asegurarse de que se realice un registro literal de los procedimientos, registro que incluya el testimonio y la evidencia sobre la cual se basará la apelación.

De acuerdo con la Ley de Estadounidenses con Discapacidades y la Sección 286.26 de los Estatutos de la Florida, las personas con discapacidades que necesiten adaptaciones especiales para participar en esta reunión deben comunicarse con la secretaria municipal al (772) 646-6301 o comunicarse con la Línea TDD 772-783-6109, al menos 48 Horas antes de la reunión.

Copias de las propuestas Ordenanzas y / o Resoluciones están disponibles para su revisión en la Oficina de la secretaria municipal de la ciudad, 22 S. Orange Street, Fellsmere FL entre las 8:30 a.m. y 12 mediodía y 1:00 p.m. y 5:00 p.m. de lunes a viernes. Las personas interesadas pueden asistir a la reunión y ser escuchadas con respecto a las propuestas de las Ordenanzas y Resoluciones. La secretaria municipal debe recibir comentarios por escrito al menos tres (3) días antes de las reuniones del Consejo.

P&Z02072024AGENDA.DOC

REGULAR MEETING

CITY COUNCIL CHAMBERS

MEETING DATES **PZ:** February 7, 2024, **COUNCIL:** February 15, 2024

REQUEST: Conditional Use and Final Development Plan Approval to allow one (1) food truck in the CR-512 Old Town overlay district with onsite parking, a outdoor porch addition and 12' x 12' outdoor gazebo both to be used for future outdoor seating and/or dining. The property is located at 32 N. Broadway Street, the applicant is Mr. Eric Nuno.

REASON FOR REQUEST: To allow the owner to complete site plan improvements to operate a permanently placed mobile food service with future outdoor seating located on site. Please refer to Resolution #2024-03 for a list of requested design relief and recommended conditions of approval.

DESCRIPTION: Food trucks are allowed as a Conditional Use if approved by City Council. The applicant is proposing site and perimeter and onsite landscaping that will meet the City of Fellsmere standards for the OTD Old Town District Overlay. The site will be served by new on-site parking that will be located to the south and west of the existing building. The new seating areas will be implemented in phases as shown on the Final Development Plan, with the existing driveway that serves the south parking area to be abandoned and removed in its entirety when the rear alleyway is completed.

CONCURRENCY ISSUES:

Water – Water service exists to the existing property. Adequate capacity exists within the water plant and service lines to accommodate the added demand.

Sewer – The use will be serviced by sewer service. Currently, adequate capacity exists within the sewer plant and service lines to accommodate the added demand.

Transportation – A traffic study has not been provided; however, it appears that the use would not cause excessive trip generation as a result of the uses proposed on site. The City has proposed within the proposed resolution a clause that would require the applicant cease or curtail any retail activities until such a time as any parking issue is remedied on site.

Stormwater – The plan as submitted is compliant with the standard for projects located within the FWCD that are not subject to oversight from SJWRMD – in essence, holding back 2" over the entire site. This site is also under the purview of a Master Stormwater system that accounts for all properties lying along N. Broadway.

Solid Waste – Mandatory solid waste service for nonresidential uses. Adequate capacity exists within the Indian River County landfill.

Recreation – Not applicable for nonresidential uses.

Public Schools – Not applicable for nonresidential uses.

CONSISTENCY WITH COMPREHENSIVE PLAN: The property has a OTD, Old Town District future land use and an OTD, Old Town District Commercial zoning district classification. Permanently placed Food trucks are only allowed with Conditional Use approval.

CONDITIONS OF APPROVAL: Please refer to City Council Resolution #2024-03 containing the recommended conditions of approval.

STAFF RECOMMENDATION: Recommend the Planning and Zoning Board recommend City Council approval of the request with the attached site sketch and conditions of approval.

RECOMMENDED PZ/LPA MOTION/ACTION: Via Resolution #2024-02, recommend the City Council approve the Conditional Use as set forth in City Council Resolution #2024-03.

RESOLUTION NO. 2024-02

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT RESOLUTION NO. 2024-03 APPROVING THE CONDITIONAL USE PERMIT AND FINAL DEVELOPMENT PLAN FOR ONE (1) MOBILE FOOD VENDING UNIT OWNED BY FRUTERIA NUNO, LLC AND LOCATED AT 32 NORTH BROADWAY, FELLSMERE, FLORIDA IN THE NORTH BROADWAY OVERLAY DISTRICT PURSUANT TO THE LAND DEVELOPMENT CODE SECTIONS 3.23 AND 9.6.

WHEREAS, the Planning and Zoning Commission/Local Planning Agency held an advertised public hearing on _____, 2024 to consider a Conditional Use Permit and Site Plan for Fruteria Nuno, LLC (the “Applicant”) located on land as described in Resolution No. 2023-60 (“the Land”); and

WHEREAS, the Planning and Zoning Commission/Local Planning Agency has reviewed the Conditional Use Permit and Final Development Plan and determined them to be in conformity with the Comprehensive Plan and applicable provisions of the Land Development Code.

NOW, THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere, as follows:

SECTION 1. The Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere in accordance with Section 17.19 E. 3. held a Public Hearing and heard comments from the public on _____, 2024 regarding the Conditional Use Permit and Site Plan for the Applicant.

SECTION 2. The Conditional Use Permit and Site Plan are in conformity with the official plans and policies of the City and with the general purpose, goals, objectives, policies and standards of the Comprehensive Plan, Land Development Code and the Code of Ordinance of the City of Fellsmere. The following findings of fact are made:

- a. The proposed conditional use will not have an undue adverse effect upon nearby property.
- b. The proposed conditional use is compatible with the existing or planned character of the neighborhood in which it would be located.
- c. All reasonable steps have been taken to minimize any adverse effect of the proposed conditional use on the immediate vicinity through building design, site design, landscaping, and screening.
- d. The proposed conditional use will be constructed, arranged, and operated so as not to interfere with the development and use of neighboring property, in accordance with applicable district regulations.

- e. The proposed conditional use will be served by adequate public facilities and services, including roads, police protection, fire protection, solid waste disposal, water, sewer, drainage structures, parks and mass transit.

SECTION 3. The Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere, Florida, recommends to the City Council that they adopt Resolution No. 2024-03 approving the Conditional Use Permit and Site Plan for one (1) Mobile Food Vending Unit.

SECTION 4. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was moved for adoption by Commission Member _____ . The motion was seconded by Commission Member _____ and, upon being put to a vote, the vote was as follows:

Chair, Revis "Buddy" Akers	_____
Commission Member Michael Barone	_____
Commission Member Jose Cardozo	_____
Commission Member Michael T. Rhueman	_____
Commission Member Claudia Luna	_____
Alternate Commission Member Dominic Foti	_____
Alternate Commission Member Eric Boissat	_____

The Chairman thereupon declared this Resolution fully passed and adopted this _____ day of _____, 2024.

PLANNING & ZONING COMMISSION
CITY OF FELLSMERE, FLORIDA

REVIS "BUDDY" AKERS, CHAIRMAN

ATTEST:

Dulce Villasenor, Commission/Agency Secretary

**RESOLUTION
NO. 2024-03**

A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, PERTAINING TO THE GRANTING MAJOR RELIEF BY CONDITIONAL USE PERMIT AND SITE PLAN APPROVAL FOR ONE (1) MOBILE FOOD VENDING UNIT OWNED BY FRUTERIA NUNO, LLC LOCATED AT 32 NORTH BROADWAY IN THE NORTH BROADWAY OVERLAY DISTRICT; PROVIDING FOR RATIFICATION; CONSISTENCY WITH THE COMPREHENSIVE PLAN AND THE LAND DEVELOPMENT CODE; APPROVAL OF CONDITIONAL USE PERMIT AND SITE PLAN; CONDITIONS OF APPROVAL; REPEAL OF CONFLICTING PROVISIONS; SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Fruteria Nuno, LLC (hereinafter the “Applicant”) have applied for a Conditional Use Permit (“CUP”) and Site Plan approval for a parcel of land described in Exhibit ‘A’ attached hereto and by this reference made a part hereof (the “Property”); and

WHEREAS, the Applicant has applied for a Conditional Use Permit and Site Plan approval for one (1) Mobile Food Vending Unit for the Property; and

WHEREAS, the Planning and Zoning Commission heard the Applicant’s request and received the input, comments and evidence from all interested persons and determined that the Conditional Use Permit and Site Plan were consistent with the applicable provisions of the Comprehensive Plan 2035 and Land Development Code and thereafter recommended approval of the Conditional Use Permit and Site Plan at their _____, 2024 meeting; and

WHEREAS, the City Council has received the input, comments and evidence from all interested persons, citizens, and affected persons; and

WHEREAS, the City Council has determined that the approval of the Applicant's request for a Conditional Use Permit and Site Plan are consistent with the Goals, Objectives, and Policies of the Comprehensive Plan, the Land Development Code and the Code of Ordinances of the City of Fellsmere as required in Section 17.19C of the Land Development Code (“LDC”); and

WHEREAS, the City Council has determined that the approval of the Site Plan is consistent with Article XIV of the Land Development Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fellsmere, Indian River County, Florida, as follows:

SECTION 1. RATIFICATION. The above recitals are hereby ratified, confirmed and adopted as legislative findings of the City Council.

SECTION 2. CONSISTENT WITH COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE. The Conditional Use Permit Application is consistent with the general purpose, goals, objectives, policies and standards of the Comprehensive Plan 2035, Land Development Code and the Code of Ordinance of the City of Fellsmere. The following findings of fact are made:

- a. The proposed conditional use will not have an undue adverse effect upon nearby property.
- b. The proposed conditional use is compatible with the existing or planned character of the neighborhood in which it would be located.
- c. All reasonable steps have been taken to minimize any adverse effect of the proposed conditional use on the immediate vicinity through building design, site design, landscaping, and screening.
- d. The proposed conditional use will be constructed, arranged, and operated so as not to interfere with the development and use of neighboring property, in accordance with applicable district regulations.
- e. The proposed conditional use will be served by adequate public facilities and services, including roads, police protection, fire protection, solid waste disposal, water, sewer, drainage structures, parks and mass transit.

SECTION 3. APPROVAL OF CONDITIONAL USE PERMIT AND SITE PLAN. Subject to the requirements and conditions set forth in Section 4 of this Resolution, the Conditional Use Permit and Site Plan for one (1) Mobile Food Vending Unit for the Property located at 32 North Broadway Street and more particularly described in Exhibit 'A', are hereby approved.

SECTION 4. CONDITIONS OF APPROVAL. The approval of the Conditional Use Permit and Site Plan are subject to and expressly conditioned on the continuous satisfaction of, and compliance with, the following conditions and requirements:

1. Before commencement of development, the Applicant shall obtain all Federal, State, County and Local permits as may be applicable to any new development, redevelopment, or use of the Property and to continuously keep such permits current and in good standing. Issuance of this development order by the City does not create any right on the part of the Applicant to obtain a permit from a Federal, State, County or Local agency and does not create any liability on the part of the City for issuance of a development permit if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a Federal, State, County or Local agency or undertakes actions that result in a violation of Federal, State, County or Local law. See Section 166.033 F.S.
2. After the first year following the issuance of a Certificate of Occupancy or a final inspection for the improvements, the City Council shall have the authority to hold hearings at any time to review the Mobile Food Vending Units activity

for compliance with all conditions and requirements of approval and all applicable ordinances and resolutions of the City. If the use of the Property is not in compliance, the City Council may amend the Conditions of Approval, revoke or suspend the Local Business Tax Receipt (occupational license), terminate the Final Site Plan and Conditional Use, or refer the matter to the Code Enforcement Special Master as a code violation for other sanctions as deemed appropriate.

3. The use, occupancy, development, or redevelopment of the Property shall be limited to and in accordance with the Site Plan attached as Exhibit 'B' and this Resolution. Where specific provisions in this Resolution or in the Land Development Code are not addressed on the Site Plan, the specific provisions of this Resolution or in the Land Development Code shall apply to the development on the Property.
4. All public or private improvements required under the terms of this Resolution shall be constructed at the expense of and by the Applicant as approved by the City.
5. Noncompliance with the following sections of the Land Development Code is approved:
 - A. 5.3(DD) Alcohol may be served subject to receipt of all required local and state permits and licenses.
 - B. 7.2(G) Relief from the parking space requirement from 21 required spaces to 18 provided spaces subject to Payment in Lieu of Parking as required by the Land Development Code rate of \$3,500.00 per space.
 - C. 9.3(A)(5)(a) Relief from the minimum 4:12 roof slope requirement for the existing building and front porch area.
 - D. 9.3(B)(3)(a)(2) Relief to allow one (1) money transfer vending machine and one (1) other machine dispensing or containing merchandise. The money transfer vending machine shall be placed at the front porch of the principal building and at its north end. The propane tank shall be placed on the side of the principal building.
 - E. 9.3(I)(6)-Waive payment for improvements to the adjacent alleyway swale. 9.4(A)(2)(a) Relief from the first floor of the establishment matching the same elevation as the sidewalk along N. Broadway.
 - F. 9.4(G)(3) Deferral from Architectural elevations being submitted for the 20' x 20' pergola until such time as a building permit is applied for. The structure shall meet the architectural standards for the overlay district.
 - G. 9.4 (B)(1)(b) Deferral from requiring access from the rear alleyway until the rear alleyway is constructed. Upon completion of the alleyway, the removal of the existing driveway abutting Broadway Street is required and

shall be completed within sixty (60) days. The Applicant shall be responsible for any and all repairs or restoration of the Broadway sidewalk system impacted by the driveway.

- H. 9.4(B)(4) Relief from the 0-3' Front setback requirement. The existing structure has a setback of approximately 40'.
 - I. 9.4(C)(1) Payment in lieu planting and maintenance of Street Trees along Broadway due to future construction. The City will procure, install and maintain required trees at a later date. Payment shall be \$150.00 of required caliper for a total cost of \$1,125.00. Payment shall be made to the City within twelve months of effective date of this Resolution.
 - J. 9.4(G)(1) Relief from the Civic Space requirement as the site is developed to promote on-street seating and gathering space.
 - K. Memorialize that no new Open Space (interior) trees will be required as a result of the development provided that the existing exceptional specimen trees found on site (Live Oaks) are kept and maintained in a manner consistent with the Land Development Code.
- 6. The Applicant shall install the required landscaping not omitted thru relief that meets the Old Town District (OTD) overlay requirements within twelve (12) months of the effective date of this Resolution. The applicant shall prepare a landscape plan for review and approval by the City no later than thirty (30) days prior to installation of required landscaping.
 - 7. The Applicant shall install one handicap parking space with ADA path to main entrance to serve the development within ninety (90) days of the effective date of this Resolution.
 - 8. The Applicant shall obtain a driveway/patio permit for the installation of new brick-paver patio and/or concrete sidewalks.
 - 9. The Applicant shall remove all improvements upon the Property that are in conflict with the Final Site Plan and Landscape Plan and return such areas to sod or landscaping.
 - 10. Concurrent with the construction of any portion of the brick paver or concrete outdoor dining pad/gazebo, the Applicant shall construct an ADA compliant access to the proposed patio area from the North Broadway sidewalk.
 - 11. The Applicant is proposing to use a stabilized millings surface for the proposed parking area. The Applicant shall maintain the millings surface parking free of grass or weed intrusions and keep the millings surface in a neat and orderly arrangement confined only to the areas shown on the Final Site Plan. At the sole discretion of the City, the Applicant shall convert the millings surface parking spaces to an alternative City-approved stabilized surface within sixty (60) days of receiving written notification from the City.

12. All new signs, site lighting and all site furnishings will require compliance with the sign, lighting, and architectural standards of the OTD, Old Town Overlay District to the extent signs, lighting and site furnishings are so regulated. Signage on umbrellas or street furniture is prohibited.
13. No outdoor sales shall be conducted from a vehicle, trailer, truck, or other device and/or vehicle, with the exception of the singular approved food truck.
14. Prior to the public hearing for this Resolution the Applicant shall execute a Non-Exclusive Cross Access/Cross Parking/Stormwater Easement and Agreement with the City of Fellsmere in the form attached hereto as Exhibit 'C' and deliver same to the City Clerk. The Agreement shall be recorded in the Public Records at the cost of the Applicant.
15. The Applicant shall subscribe for and maintain solid waste pick up service from a solid waste hauler having a franchise with the City and shall have constructed the required dumpster enclosure within ninety (90) days of the completion of the alley improvements.
16. Prior to the public hearing for this Resolution the Applicant shall execute a Unity of Title across all lots within the Property in the form attached hereto as Exhibit 'D' and deliver same to the City Clerk. The Unity of Title shall be recorded in the Public Records at the expense of the Applicant.
17. Prior to the public hearing for this Resolution the Applicant shall convey to the City without charge a five (5') foot wide alley dedication along the west property line, as more particularly described in Exhibit 'E' attached hereto and deliver same to the City Clerk.
18. The Applicant shall comply with all requirements in Section 5.3 DD Mobile Food Vending Units of the Land Development Code.
19. As provided in Section 9.3(G)(7) - The Applicant shall provide payment in the amount of \$2,100 into the city's transit fund prior to commencement of Phase II.
20. Applicant shall obtain a Business Tax Receipt (BTR) from the City of Fellsmere for the one (1) mobile food vending unit and all other businesses or vending units on site.
21. If the parking provided on site is determined by the City, at its sole discretion, to be inadequate to serve the demand for parking generated by the use of the Property, the Applicant shall be required to limit the use of the Property commensurate with the available parking to support such use or construct additional parking within sixty (60) days of receipt of written directive of the City.
22. The Applicant shall enter into a required payment agreement with the City for the Indian River County Impact Fees requirement for Restaurant Uses prior to issuance of a building permit for each phase of construction as noted below:

PHASE I- Construction of a 16.5'x 33' food truck pad and utilization of the existing front porch for a 10 x 10 outdoor seating area equaling \$14,362.92.

PHASE II- Conversion of a 10'x 10' area for outdoor seating area equaling \$1,930.50.

PHASE III- Construction of a 20'x 20' pergola/seating area equaling \$7,744.00.

The applicant will be required to pay for any upcharges if at any time the IRC fee schedule is amended.

23. As provided in Section 17.19 I, Land Development Code, the Conditional Use Permit and Site Plan granted by this Resolution may be revoked for:

A. Violation of any condition or requirement imposed in this Resolution.

B. Upon complaint and proof of adverse effect on adjacent properties.

The Conditional Use Permit and Site Plan may be revoked only after the City Council holds a public hearing, unless the permittee consents to a revocation of the Conditional Use Permit and Site Plan. If the permittee provides written consent to the revocation to the City Manager or designee, he shall revoke the Conditional Use Permit and Site Plan and notify the City Council of the revocation.

24. A violation of any of the conditions or requirements of approval shall constitute a code violation subject to enforcement through the Code Enforcement Special Master, unless a different remedy is specifically provided in any such condition or requirement, in which case such different remedy shall either supersede this provision or be in addition to code enforcement action as determined by the City.

SECTION 5. REPEAL OF CONFLICTING PROVISIONS. All previous resolutions or parts thereof, which conflict with the provisions of this Resolution, to the extent of such conflict, are superseded and repealed.

SECTION 6. SEVERABILITY. If any section, part of a sentence, paragraph, phrase or word of this Resolution is for any reason held to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Resolution without such unconstitutional, invalid or inoperative part.

SECTION 7. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was moved for adoption by Council Member _____ The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

The Mayor thereupon declared this Resolution duly passed and adopted this _____ day of _____, 2024.

CITY OF FELLSMERE, FLORIDA

Joel Tyson, Mayor

ATTEST:

Maria Sanchez-Suarez, City Clerk

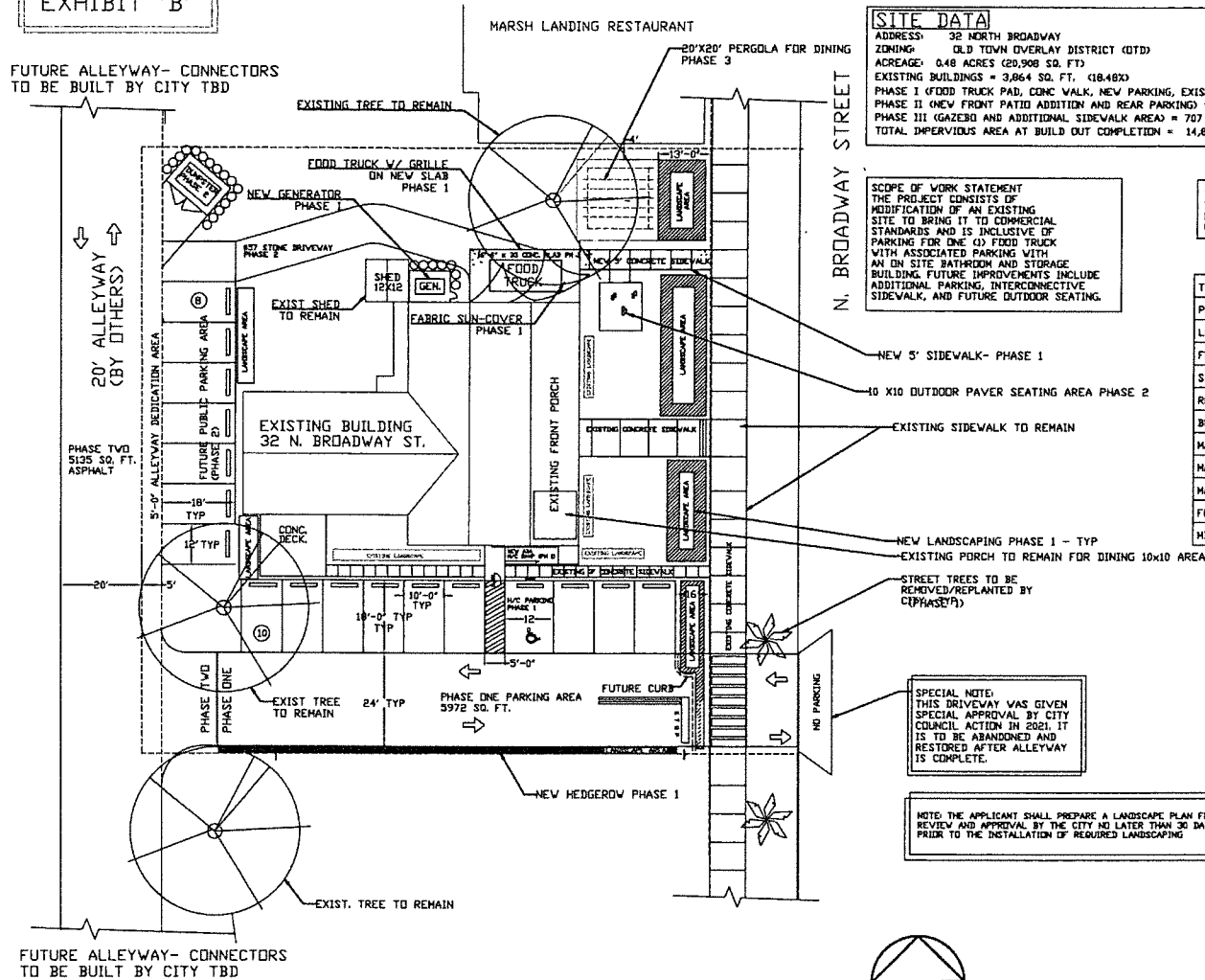
**EXHIBIT “A”
TO
RESOLUTION NO. 2024-03**

Legal Description of Real Property

Lots 10, 11,12, 13,14, and 15, Block 97, Town of Fellsmere, according to the map or plat thereof, as recorded in Plat Book 2, Page(s) 3 and 4, of the Public Records of St. Lucie County, Florida now lying in Indian River County, Florida.

EXHIBIT 'B'

FUTURE ALLEYWAY- CONNECTORS
TO BE BUILT BY CITY TBD



SITE DATA

ADDRESS: 32 NORTH BROADWAY
ZONING: OLD TOWN OVERLAY DISTRICT (OTD)
ACREAGE: 0.48 ACRES (20,908 SQ. FT.)
EXISTING BUILDINGS = 3,864 SQ. FT. (18,487)
PHASE I (FOOD TRUCK PAD, CONC. WALK, NEW PARKING, EXIST PATIO CONV.) = 7622.58 SQ. FT. (36,452)
PHASE II (NEW FRONT PATIO ADDITION AND REAR PARKING) = 2,688.75 SQ. FT. (12,853)
PHASE III (GAZEBO AND ADDITIONAL SIDEWALK AREA) = 707 SQ. FT. (3,382)
TOTAL IMPERVIOUS AREA AT BUILD OUT COMPLETION = 14,882.33 711X [1000] ALLOWED

SCOPE OF WORK STATEMENT
THE PROJECT CONSISTS OF
MODIFICATION OF AN EXISTING
SITE TO BRING IT TO COMMERCIAL
STANDARDS AND IS INCLUSIVE OF
PARKING FOR ONE (1) FOOD TRUCK
WITH ASSOCIATED PARKING WITH
AN ON SITE BATHROOM AND STORAGE
BUILDING. FUTURE IMPROVEMENTS INCLUDE
ADDITIONAL PARKING, INTERCONNECTIVE
SIDEWALK, AND FUTURE OUTDOOR SEATING.

TRAFFIC IMPACT STATEMENT:
BASED UPON ITE MANUAL V.110 THE TOTAL
NUMBER OF DAILY TRIPS IS EXPECTED TO BE
UNDER THE IRC 400 COUNT THRESHOLD.

TABLE 9.4.3.4 'SITE DEVELOPMENT STANDARDS'

PROPOSED	REQUIRED
LOT WIDTH	100' 50'-0" MIN.
FRONT SETBACK	16' 0'-3' FEET
SIDE SETBACK	5' 0' OR 25'
REAR SETBACK	5' < OR EQUAL TO 5'
BUILDING LENGTH	62' LESS THAN 200'
MAX HEIGHT 1 STORIES	3 STORIES MAX. HT.
MAX COVERAGE	85% 100% ALLOWED
MAX SIZE	3000 SQ.FT. UP TO 20,000 ALLOWED
FLOOR AREA RATIO	1 UP TO 2.0 ALLOWED
MIN. UNIT SIZE	3000SF 500 SF. MINIMUM

NEW 5' SIDEWALK- PHASE 1
10 X10 OUTDOOR PAVER SEATING AREA PHASE 2
EXISTING SIDEWALK TO REMAIN
NEW LANDSCAPING PHASE 1 - TYP
EXISTING PORCH TO REMAIN FOR DINING 10x10 AREA
STREET TREES TO BE
REMOVED/REPLANTED BY
C(PHASE 1)

SPECIAL NOTE:
THIS DRIVEWAY WAS GIVEN
SPECIAL APPROVAL BY CITY
COUNCIL ACTION IN 2021. IT
IS TO BE ABANDONED AND
RESTORED AFTER ALLEYWAY
IS COMPLETE.

NOTE: THE APPLICANT SHALL PREPARE A LANDSCAPE PLAN FOR
REVIEW AND APPROVAL BY THE CITY NO LATER THAN 30 DAYS
PRIOR TO THE INSTALLATION OF REQUIRED LANDSCAPING



PROPOSED SITE PLAN - FRUITERIA NUND 32 N. BROADWAY ST.
1"= 30'-0"

FRUITERIA NUND DEVELOPMENT PLAN 32 N. BROADWAY

FINAL DEVELOPMENT PLAN		
No.	Revisions/Notes	Date

Site Name and Address

Project Name and Address
FRUITERIA NUND
32 N. BROADWAY
FELLSHORE, FL 32948

Project	Sheet
Date JAN 23, 2024	A-1
Drawn AS NOTED	1 OF 1

**EXHIBIT “C”
TO
RESOLUTION NO. 2024-03**

**NON-EXCLUSIVE CROSS ACCESS/CROSS PARKING AND STORMWATER EASEMENT
AND AGREEMENT**

NON-EXCLUSIVE CROSS ACCESS/CROSS PARKING/STORMWATER EASEMENT AND AGREEMENT

THIS AGREEMENT, is made to be effective as of the ____ day of _____, 2024, by FRUTERIA NUNO, LLC, whose address is _____, Florida 32949, hereinafter referred to as "Grantor" to the CITY OF FELLSMERE, FLORIDA, a municipal corporation existing under the laws of the State of Florida, whose address is 22 S. Orange Street, Fellsmere, Florida 32948, hereinafter referred to as "Grantee" or "City". When referring to both the Grantor and Grantee they shall be known as the "Parties".

*Whenever used herein the term Grantor and Grantee include all parties to this instrument and their heirs, legal representatives, successors and assigns.

RECITALS

The Grantor is the owner of that certain parcel of land located at 32 North Broadway, Fellsmere, Florida 32948, which is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof, hereinafter referred to as "Grantor's Land". The Grantor has requested relief from certain Land Development Code provisions and the City's Land Development Code requires all on-site parking to be provided with cross-parking and cross access allowances. As a condition of granting relief from certain provisions of the Land Development Code and to affect the ability to utilize the parking for cross access and on-site cross parking, the Grantor gives this Non-Exclusive Cross Access/Cross Parking/Stormwater Easement and Agreement to the City for the purpose of conveying stormwater from the Grantor's Land and other lands eligible to utilize the City-owned stormwater treatment facility to the City owned stormwater treatment facility, providing for cross-access to and from neighboring parcels along the parking drive aisle and providing cross parking within a portion of the on-site parking area.

AGREEMENT

NOW, THEREFORE, for and in consideration of the sum of Ten and no/100 Dollars (\$10.00), the approval of a conditional use for a mobile food vending unit, the approval of a site plan, the mutual covenants herein contained, and for other valuable and good consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee hereby agree as follows:

1. Ratification. The above recitals are true and correct and by this reference are incorporated as if fully set forth herein.
2. Easements. Grantor hereby grants and conveys to Grantee, its successors and assigns the following authorizations, easements, rights, and interest in gross:
 - i. A perpetual, non-exclusive easement across, over, through and under that certain easement area as described in Exhibit "B" attached hereto and by this reference made a part thereof, hereinafter referred to as "Cross Access Area";

- ii. for use by the general public for the purpose of ingress and egress for pedestrian, bicycle and vehicular traffic to and from the parcels of land (lots) adjoining the Grantor's Land in order to facilitate traffic flow between the properties and reduce traffic movement to and from the adjoining street. The Grantee shall have the right at its sole discretion, but not the obligation to construct, reconstruct, improve, maintain and repair the Cross Access Area; and
 - iii. A perpetual, non-exclusive easement across, over, through and under that certain easement area as described in Exhibit "C" attached hereto and by this reference made a part thereof, hereinafter referred to as "Cross Parking Area"; for use by the general public for the purpose of parking and ingress and egress for pedestrian, bicycle and vehicular traffic to and from the parcels of land (lots) adjoining the Grantor's Land in order to facilitate traffic flow between the properties and reduce traffic movement to and from the adjoining street; and
 - iv. A perpetual, non-exclusive easement across, over, through and under that certain area as described in Exhibit "D" attached hereto and by this reference made a part thereof, hereinafter referred to as "Stormwater Area", for use by the City to collect, convey and store stormwater runoff from the Grantor's Land and pass through stormwater runoff from other lands. The Grantee shall have the right at its sole discretion, but not the obligation to obtain permits, construct, reconstruct, improve, maintain and repair the Stormwater Area.
3. Grantee's Rights and Responsibilities. The Grantee shall have the right to keep the Cross Access Area, Cross Parking Area and Stormwater Area, hereinafter collectively referred to as "Easement Areas", free from (a) trees, undergrowth or other obstructions, whether natural or artificial; (b) anything which may constitute a hazard or endanger persons attempting to permit, construct, reconstruct, improve, expand, reduce, install, operate, maintain, repair, replace or inspect the Easement Area; (c) anything which may increase the cost of permitting, constructing, reconstructing, improving, expanding, reducing, installing, operating, maintaining, repairing, replacing, inspecting or using any of the improvements within the Easement Areas and (d) anything which may unreasonably interfere with any of Grantee's easements, rights and interest under this Agreement. Should Grantee elect at its sole discretion to implement any of the Grantees rights hereunder regarding the Cross Access Area and/or Stormwater Area, the Grantee shall be responsible for making such applications and executing such permits as may be necessary, and paying all costs necessary to permit, construct, reconstruct, improve, expand, reduce, install, operate, maintain, repair, replace or inspect the Cross Access Area and/or Stormwater Area.
4. Grantor's Use and Acknowledgment. The Grantor hereby reserves for itself the right to use the Easement Areas; however, the Grantor's use or use by their guests, invitees, lessees, licensees or others may not (i) violate any provision of this Agreement; (ii) constitute a hazard or endanger persons attempting to construct, reconstruct, improve, expand, reduce, install, operate, maintain, repair, replace or inspect within the Easement Areas; (iii) obstruct passage or the use of the Easement Areas or (iv) unreasonably interfere with any of Grantee's easements, rights or interest under this Agreement. The Grantor acknowledges and confirms that the rights and interests granted and retained herein do not relieve the Grantor from

continuing to comply with all conditions of all approvals of development permits that have been or may be issued for the Grantor's Land and all rules and regulations that govern the use of the Grantor's Land. Grantor may obtain a permit and construct the Cross Access Area, Cross Parking Area and/or Stormwater Area. In the event, Grantor constructs improvements in support of the Cross Access Area, Cross Parking Area and/or Stormwater Area that lies outside the boundaries of the Grantor's Land, the Grantor shall be reimbursed on a pro-rata share basis for the cost of said off-site improvements through a cost reimbursement agreement with the City, the terms of which shall be determined by the City. The Grantee shall be responsible for making such applications and executing such permits as are necessary for the construction of the Cross Parking Area and shall be responsible for all costs and expenses necessary to permit, construct, reconstruct, improve, expand, reduce, install, operate, maintain, repair, replace or inspect the Cross Parking Area.

5. Common Permit. Grantor acknowledges and confirms their ongoing requirements to comply with St. Johns River Water Management District requirements to obtain a General Permit and, if applicable, an Environmental Resource Permit for development or redevelopment of the Grantor's Land. Grantor further acknowledges and confirms that the cost of all permits and all permit conditions that may be imposed by the St. Johns River Water Management District as part of the Grantor's General Permit shall be the financial responsibility of the Grantor. The Grantor further acknowledges and confirms their authorization of the Grantee to make application and execute such permits on Grantor's behalf as may be necessary to implement the Grantee's rights granted hereunder.
6. Sovereign Immunity. Nothing contained in this Agreement shall be construed as a waiver of any immunity from, or limitation of, liability the Grantee may have under the Doctrine of Sovereign Immunity of Section 768.28 Florida Statutes, as amended. In the event any claim or lawsuit is brought against the Grantee the Grantee shall not be liable to pay a claim or a judgment by any one person or entity or any claim or judgment or portions thereof which when totaled with all other claims or judgments paid arising out of the same incident or occurrence, which exceeds the amount of liability as set forth in Section 768.28 Florida Statutes, provided that the payment of said claim(s) shall be further limited to the actual amount of insurance proceeds paid for such claim(s). Nothing in this Agreement shall be construed as consent by the Grantee to be sued by third parties in any matter whether arising out of this Agreement or anything else whatsoever.
7. Taxes. Grantor shall pay all personal property taxes and assessments on its property and structures. Grantor shall also pay all real estate taxes levied against Grantor's Land and improvements thereon. Grantor shall pay all other fees and assessments arising out of Grantor's use of the Easement Areas. Real estate taxes mean all real estate taxes (ad valorem taxes), public and special governmental charges and assessments.
8. Ownership. Grantor hereby covenants with Grantee that the Grantor is lawfully seized of the above-described land (Grantor's Land) in fee simple, and that the Grantor has good right and lawful authority to convey the easements established

hereby.

9. Miscellaneous. The following provisions shall govern this Agreement:

A. Entire agreement. This is the parties' entire agreement. It contains all agreed on terms and conditions regarding the subject matter hereof and supersedes all prior agreements, representations, communications and understandings, which shall have no further force and effect.

B. Amendment. This Agreement shall not be amended or modified at any time except by a writing duly executed by each of the parties.

C. Successors and Assigns. The easement(s) conveyed, granted and declared herein shall be deemed to run with title to the Grantor's Land in perpetuity and are freely assignable by the parties hereto.

D. Severability. If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, it shall be excised and the balance of the Agreement shall be given full force and effect, and no other provision or provisions herein contained shall be invalid, inoperative, or unenforceable to any extent whatsoever, if, absent the excised portion, the Agreement remains within the parties' intent.

E. Notices. All notices, consents, requests, instructions, approvals, and other communications provided for herein and all legal process in regard hereto shall be validly given, made or served, if in writing and delivered personally, sent by registered or certified mail (return receipt requested), postage prepaid, or legibly transmitted by facsimile or electronic transmission (with proof of sending) and promptly confirmed by mail, to the respective addresses set forth above, as the case may be. Notice duly made hereunder shall be effective the day of its having been delivered personally, faxed or electronically transmitted and two (2) days after its having been mailed. The addresses may be changed by giving notice of the new address as set forth herein.

F. Rules of Construction. The following rules govern this Agreement: (a) Gender, etc. As used herein, the singular includes the plural, the plural includes the singular, and the use of any gender shall be deemed to include the opposite and neutral gender as the case may be; (b) Captions. All section, schedule and exhibit headings are inserted herein for the convenience of the parties and shall not be used in any way to modify, limit, construe, or otherwise affect the interpretation of this Agreement; (c) Construction. The parties shall be deemed to have participated equally in preparation of this Agreement. Neither this Agreement nor any provision herein shall be construed more strictly for or against either party by reason of that party's responsibility for drafting. (d) Reference to Agreement. *Hereof, herein, or hereunder* and other compounds of *here* shall mean and refer to the entire agreement and not to any particular section, article, provision, exhibit, or paragraph unless so required by context.

G. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida without regard to conflicts of laws. Notwithstanding

this, if judicial proceedings between the parties are necessary to enforce or interpret the provision hereof, venue for such judicial proceedings shall be in the State Courts of Florida in Indian River County or the Federal courts having jurisdiction over Florida for the Southern District of Florida.

H. Right to Injunction Relief. Grantor and Grantee recognize that Grantee would suffer substantial and irreparable damage in the event of a breach of Grantor's agreements contained herein. Grantor and Grantee recognize that in the event of a breach of this Agreement, Grantee shall be entitled to an injunction to enforce the terms of this Agreement and that such injunction relief shall be in addition to any other rights that may be available to the Grantee.

I. Parties in interest. This Agreement shall be binding upon the parties hereto and upon their respective heirs, personal representatives, successors-in-title and assigns, and all other persons, parties or legal entities claiming by, through or under such parties.

J. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, and all of which shall constitute one and the same instrument.

K. Effect of Invalidation. If any particular provision of this Agreement is held to be invalid by any court, the validity of such provision shall not affect the validity of the remaining provisions hereof.

L. Waiver. Each of the parties may, by written notice to the other, (i) extend the time for the performance of any of the obligations or other actions of the other party; (ii) waive compliance with any of the covenants of the other party contained in this Agreement; or (iii) waive, in whole or in part, performance of any of the obligations of the other party. The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or similar breach.

M. Attorneys' Fees. In the event of litigation regarding the enforcement, breach or interpretation of this Agreement or otherwise to enforce its provisions, the prevailing party in such proceedings shall be entitled to recover, in addition to any relief the court may allow, reasonable attorneys' fees, paralegal charges and costs incurred in connection with such proceeding, including those incurred in connection with any related appellate or bankruptcy proceeding.

N. Headings. The headings of sections and subsections are only for convenient reference and will not be deemed to limit, construe, affect, modify or alter the meaning of the sections or subsections.

O. Time of Essence. Time is of the essence of Grantor's and Grantee's obligations under this Agreement.

IN WITNESS WHEREOF, the Grantor and Grantee have hereunto set Grantor's and Grantee's hand and seal the day and year above written.

Signed, sealed and delivered
in the presence of:

WITNESSES AS TO ALL:

Print Name: _____
Address: _____

Print Name: _____
Address: _____

Print Name: _____
Address: _____

Print Name: _____
Address: _____

GRANTOR:
FRUTERIA NUNO, LLC, a Florida
limited liability company

Maria R. Nuno, Member

Francisco Nuno, Member

Eric Alejandro Nuno, Sr., Member

Juan Nuno, Member

GRANTEE:

CITY OF FELLSMERE, FLORIDA

Joel Tyson, Mayor

ATTEST:

Maria F. Suarez-Sanchez, City Clerk

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization this ____ day of _____, 202_, by Joel Tyson, Mayor of City of Fellsmere, Florida, who are personally known to me or who have produced _____ as identification.

SEAL

Notary Public, State of Florida

Print Name: _____

My Commission Expires: _____

My Commission No.: _____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 202_, by Maria R. Nuno, Francisco Nuno, Eric Alejandro Nuno, Sr., and Juan Nuno all Managers of Fruteria Nuno, LLC, who are personally known to me or who have produced _____ as identification.

SEAL

Notary Public, State of Florida

Print Name: _____

My Commission Expires: _____

My Commission No.: _____

2023.12.12 Matter No. 23-139 Cross access-Cross Parking-Stormwater Easement and Agreement Exhibit "C"

EXHIBIT "A"

GRANTOR'S LAND

Lots 10, 11, 12, 13, 14, and 15, Block 97, Town of Fellsmere, according to map or plat thereof, as recorded in Plat Book 2, Pages 3 and 4, of the Public Records of St. Lucie (now Indian River) County, Florida.

EXHIBIT "B"

CROSS ACCESS AREA

The Parties agree that the location of the Cross Access Area has not been determined by the City and when the City determines the location of the Cross Access Area an amendment to this Agreement will be prepared replacing this Exhibit "B" with a new Exhibit "B" setting forth the legal description of Cross Access Area. The Amendment shall be recorded in the Public Records of Indian River County, Florida.

EXHIBIT "C"

CROSS PARKING AREA

The Parties agree that the location of the Cross Parking Area has not been determined by the City and when the City determines the location of the Cross Parking Area an amendment to this Agreement will be prepared replacing this Exhibit "C" with a new Exhibit "C" setting forth the legal description of Cross Parking Area. The Amendment shall be recorded in the Public Records of Indian River County, Florida.

EXHIBIT "D"

STORMWATER AREA

The Parties agree that the location of the Stormwater Area has not been determined by the City and when the City determines the location of the Stormwater Area an amendment to this Agreement will be prepared replacing this Exhibit "D" with a new Exhibit "D" setting forth the legal description of Stormwater Area. The Amendment shall be recorded in the Public Records of Indian River County, Florida.

EXHIBIT "D"
TO
RESOLUTION NO. 2024-03

UNITY OF TITLE

**This Instrument Prepared by
And Return to:**
Warren W. Dill, Esq.
Dill, Evans & Rhodeback
1565 US Highway 1
Sebastian, FL 32958

DECLARATION OF UNITY OF TITLE

WHEREAS, the undersigned is/are the fee simple owner(s) of the following described property situated in the City of Fellsmere, Indian River County, Florida.

Legal Description(s):

Lots 10, 11, 12, 13, 14 and 15, Block 97, Town of Fellsmere, according to the map or plat thereof as recorded in Plat Book 2, Page 3, Public Records of St Lucie County, Florida, now lying in Indian River County, Florida.

Also known as 32 North Broadway, Fellsmere, Florida 32948.

WHEREAS, the undersigned has made application for issuance of a development order on a project designed in a manner which necessitates the above-described parcels being held in single ownership as one entire tract.

NOW, THEREFORE, the undersigned declares that such parcels will in the future, be held and treated as one single parcel of land, which is not to be divided for sale or transfer of ownership other than as a single tract unless then current Land Development Code requirements are met.

The covenant stated herein shall be considered binding on all future successors and owners and shall be strictly enforceable by the City of Fellsmere, Florida in accordance with its Land Development Code and shall remain valid until such time as released in writing by an authorized representative of the City of Fellsmere, Florida, by recorded document.

The Unity of Title was prepared for the use and benefit of the City of Fellsmere and it is not intended for use by any other party.

WITNESS the hand and seal of the undersigned, this ____ day of _____, 2024.

NAME(S) OF ALL OWNER(S): Fruteria Nuno, LLC, a Florida limited liability company

MAILING ADDRESS: 32 North Broadway, Fellsmere, Florida 32948

Signed and sealed in the presence of the
following witnesses:

AS TO ALL:

Signature of Witness: _____

Printed Name of Witness: _____

Address: _____

Signature of Witness: _____

Print Name of Witness: _____

Address: _____

Signature of Owner: _____

Print Name: Maria R. Nuno, Member

Signature of Owner: _____

Print Name: Francisco Nuno, Member

Signature of Owner: _____

Print Name: Eric Alejandro Nuno, Sr., Member

Signature of Owner: _____

Print Name: Juan Nuno, Member

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me on this ____ day of _____, 2024
by means of ☐ physical presence or ☐ online notarization, by Francisco Nuno, Maria R. Nuno, Eric
Alejandro Nuno, Sr., and Juan Nuno all Managers of Fruteria Nuno, LLC, who are personally known to me
or whom have produced _____ as identification.

SEAL

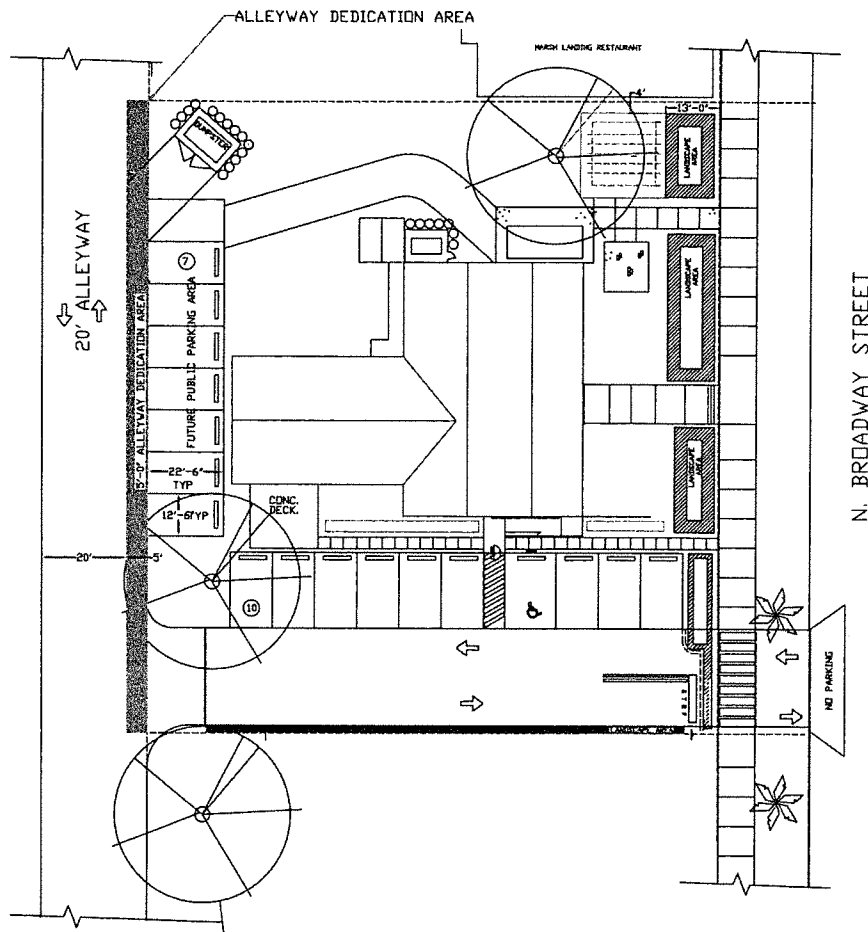
Notary Public, State of Florida

Printed Name: _____

Commission Number: _____

Commission Expiration: _____

EXHIBIT 'E'



ALLEYWAY DEDICATION AREA LEGAL DESCRIPTION:
THE WESTERLY FIVE (5') LOTS 10,11,12,13,14,15
BLOCK 97, TOWN OF FELLSMERE, ACCORDING TO
THE MAP OR PLAT THEREOF AS RECORDED IN PLAT
BOOK 2, PAGE 3, PUBLIC RECORDS OF ST. LUCIE
(NOW INDIAN RIVER) COUNTY FLORIDA.

N. BROADWAY STREET



PROPOSED SITE PLAN - FRUITERIA NUNDO 32 N. BROADWAY ST.
1"= 30'-0"

FRUITERIA NUNDO SITE PLAN 32 N. BROADWAY

FINAL SITE PLAN		
No.	Building/Room	Date

Site Name and Address

Project Name and Address

FRUITERIA NUNDO
32 N. BROADWAY
FELLSMERE, FL 32940

Project	Date

DATE: JAN 03, 2004
BY: AS NOTED

A-1
1 OF 1

PLANNING COMMISSION/LOCAL PLANNING AGENCY
REGULAR MEETING
CITY COUNCIL CHAMBERS

#4(b)

MEETING DATES **PZ:** February 7, 2024, **COUNCIL:** February 15, 2024

REQUEST: A request for an amendment to the City of Fellsmere Official Zoning Map from C-2, General Commercial to PDD- Planned Development and Final Development Plan Approval to allow for a proposed Storage and Maintenance Building for commercial vehicles with associated offices and parking areas.

REASON FOR REQUEST: To allow the owner to complete a zoning map amendment and obtain final development plan approvals to operate a storage and maintenance facility for commercial vehicles with associated offices and parking areas. Please refer to Resolution #2024-16 for a list of requested design relief and recommended conditions of approval.

DESCRIPTION: The site contains approximately 5.37 acres; as the property is over 5 acres, the applicant is required to go through a zoning map amendment from C-2 to PDD and must be developed under the PDD guidelines. The applicant is seeking approval to construct a 3,750 square foot building that will be used for the maintenance of commercial vehicles- the building will also contain associated offices and parking areas.

CONCURRENCY ISSUES:

Water – Water is required to be brought to service exists to the proposed project. Adequate capacity exists within the water plant and service lines to accommodate the added demand.

Sewer – The use will be serviced by sewer service. Currently, adequate capacity exists within the sewer plant and service lines to accommodate the added demand.

Transportation –A traffic study has not been provided; however, it appears that the use would not cause excessive trip generation as a result of the uses proposed on site. The City has proposed within the proposed resolution a clause that would require the applicant to cease or curtail any activities that would create any adverse effects for this or surrounding properties.

Stormwater – The plan as submitted is compliant with the standard for projects located within the FWCD that are not subject to oversight from SJWRMD – in essence, holding back 2" over the entire site.

Solid Waste – Mandatory solid waste service for nonresidential uses. Adequate capacity exists within the Indian River County landfill.

Recreation – Not applicable for nonresidential uses.

Public Schools – Not applicable for nonresidential uses.

CONSISTENCY WITH COMPREHENSIVE PLAN: The property has a GC, General Commercial future land use and a C-2, Commercial zoning district classification. Properties being developed over the 5 acre threshold are required to develop under the guidelines of the PDD, Planned Development District classification.

CONDITIONS OF APPROVAL: Please refer to City Council Resolution #2024-16 containing the recommended conditions of approval.

STAFF RECOMMENDATION: Recommend the Planning and Zoning Board recommend City Council approval of the zoning map amendment request and the approval of the Final Development Plan with conditions per the attached Final Development Plan and listed conditions of approval as set forth in City Council Resolution #2024-16.

RECOMMENDED PZ/LPA MOTION/ACTION: Via Resolution #2024-14, recommend the City Council approve the zoning map amendment request the change from C-2 to PDD as set forth in City Council Resolution #2024-06; and via Resolution #2024-15, recommend the City Council approve the Final Development Plan with conditions, as set forth in City Council Resolution #2024-16.

RESOLUTION NO. 2024-14

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT ORDINANCE NO. 2024-06 AMENDING THE CITY OF FELLSMERE OFFICIAL ZONING MAP TO ADD A ZONING CLASSIFICATION OF PDD-PLANNED DEVELOPMENT DISTRICT FOR 5.20 ACRES, MORE OR LESS LOCATED ON THE EAST SIDE OF OPERATION HOPE AND OWNED BY TEAGAN, LLC, A FLORIDA LIMITED LIABILITY COMPANY.

WHEREAS, Teagan, LLC, a Florida limited liability company owns 5.20 acres, more or less with a Future Land Use Map designation of General Commercial (GC) as described in Ordinance No. 2024-06 (the “Land”); and

WHEREAS, the Planning and Zoning Commission/Local Planning Agency held an advertised public hearing on _____, 2024 to consider the adoption of an amendment to the City of Fellsmere Official Zoning Map to zone the Land as PDD- Planned Development District; and

WHEREAS, the Planning and Zoning Commission/ Local Planning Agency has determined that the proposed amendment to the Official Zoning Map as set forth in Ordinance No.2024-06 is consistent with the Comprehensive Plan and applicable provisions of the Land Development Code.

NOW,THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission/ Local Planning Agency for the City of Fellsmere, as follows:

SECTION 1. The Planning and Zoning Commission/ Local Planning Agency for the City of Fellsmere, Florida, in accordance with Section 163.3174 Florida Statutes 2023, as amended, and Sections 17.17 C. and E. Land Development Code, as amended, held a Public Hearing and heard comments from the public on _____, 2024 regarding the proposed amendment to the City’s Official Zoning Map for PDD-Planned Development District zoning.

SECTION 2. The requested amendment to the City’s Official Zoning Map for PDD-Planned Development District zoning is consistent with the Comprehensive Plan, Section 17.15 A. 4. b) of the Land Development Code, as amended, and other applicable provisions of the Land Development Code all of the City of Fellsmere. The following additional findings of fact are made:

1. The amendment is not in conflict with any applicable portions of the Land Development Code;
2. The amendment is consistent with all elements of the City of Fellsmere Comprehensive Plan;
3. The amendment is consistent with existing and proposed land uses within the

area;

4. The surrounding land uses in the area of the amendment support the amendment;
5. The amendment would not result in excessive demands on public facilities, and the amendment would not exceed the capacity of such public facilities, including but not limited to transportation facilities, sewage facilities, water supply, parks, drainage, schools, solid waste, mass transit and emergency medical facilities;
6. The amendment would not result in significant adverse impacts on the natural environment;
7. The amendment would result in an orderly and logical development pattern;
8. The amendment would not be in conflict with the public interest, and is in harmony with the purpose and interest of the Land Development Code.

SECTION 3. The Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere, Florida, recommends to the City Council that they adopt Ordinance No. 2024-06 amending the Official Zoning Map to PDD-Planned Development District for the Land.

SECTION 4. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was moved for adoption by Commission Member _____ . The motion was seconded by Commission Member _____ and, upon being put to a vote, the vote was as follows:

Chair, Revis "Buddy" Akers	_____
Commission Member Michael Barone	_____
Commission Member Jose Cardozo	_____
Commission Member Michael T. Rhueman	_____
Commission Member Claudia Luna	_____
Alternate Commission Member Dominic Foti	_____
Alternate Commission Member Eric Boissat	_____

The Chairman thereupon declared this Resolution fully passed and adopted this _____ day of _____, 2024.

PLANNING & ZONING COMMISSION
CITY OF FELLSMERE, FLORIDA

REVIS "BUDDY" AKERS, CHAIRMAN

ATTEST:

Dulce Villasenor, Commission/Agency Secretary

**ORDINANCE
NO. 2024-06**

AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE CITY OF FELLSMERE OFFICIAL ZONING MAP TO CHANGE THE ZONING CLASSIFICATION FROM C-2 GENERAL COMMERCIAL TO PDD-PLANNED DEVELOPMENT DISTRICT FOR LAND HAVING A COMPREHENSIVE FUTURE LAND USE MAP DESIGNATION OF GENERAL COMMERCIAL (GC) CONTAINING 5.20 ACRES, MORE OR LESS, LOCATED AT 12201 COUNTY ROAD 512, ON THE EAST SIDE OF OPERATION HOPE FOR A STORAGE AND MAINTENANCE BUILDING OWNED BY TEAGAN, LLC, A FLORIDA LIMITED LIABILITY COMPANY; PROVIDING FOR RATIFICATION; PROVIDING FOR CONSISTENCY WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; PROVIDING FOR ZONING; PROVIDING FOR ZONING MAP; FURTHER PROVIDING FOR SEVERABILITY, CONFLICT, AND AN EFFECTIVE DATE.

WHEREAS, Teagan, LLC, a Florida limited liability company, the owner of the land described herein, (the “Applicant”) filed an Application with the City of Fellsmere to amend the City’s Official Zoning Map to incorporate said land thereon as PDD-Planned Development District; and

WHEREAS, the Applicant owns 5.20 acres, more or less with a Future Land Use Map designation of General Commercial (GC), as described on Exhibit “A” attached hereto and by this reference made a part hereof; and

WHEREAS, The Applicant has petitioned the City to amend the City’s Official Zoning Map to a zoning district of Planned Development District (PDD) for said land; and

WHEREAS, the Planning and Zoning Commission/Local Planning Agency held a duly noticed public hearing on _____, 2024, and made a finding that the Planned Development District (PDD) zoning designation was consistent with the Comprehensive Plan and applicable provisions of the Land Development Code and recommended that the City Council approve the zoning request; and

WHEREAS, the City Council held a duly advertised public hearing, made a finding that the PDD zoning designation was consistent with the Comprehensive Plan and applicable provisions of the Land Development Code; and

WHEREAS, the City Council has determined that the PDD zoning is in the best interest of the public health, safety, environmental and general welfare and that it is appropriate to adopt this amendment to the Official Zoning Map.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. RATIFICATION. The above recitals are hereby ratified, adopted and

incorporated herein as legislative findings of the City Council.

SECTION 2. CONSISTENCY WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE. The Application to amend the City's Official Zoning Map is consistent with the Comprehensive Plan, Section 17.15 A. 5. of the Land Development Code and other applicable provisions of the Land Development Code all of the City of Fellsmere. The following additional findings of facts are made:

1. The amendment is not in conflict with any applicable portions of the Land Development Code;
2. The amendment is consistent with all elements of the City of Fellsmere Comprehensive Plan;
3. The amendment is consistent with existing and proposed land uses within the area;
4. The surrounding land uses in the area of the amendment support the amendment;
5. The amendment would not result in excessive demands on public facilities, and the amendment would not exceed the capacity of such public facilities, including but not limited to transportation facilities, sewage facilities, water supply, parks, drainage, schools, solid waste, mass transit and emergency medical facilities;
6. The amendment would not result in significant adverse impacts on the natural environment;
7. The amendment would result in an orderly and logical development pattern;
8. The amendment would not be in conflict with the public interest, and is in harmony with the purpose and interest of the Land Development Code.

SECTION 3. ZONING. The following described land is hereby given a City Zoning Classification of PDD-Planned Development District.

LEGAL DESCRIPTION

See Exhibit "A" attached hereto and by this reference made a part hereof.

SKETCH OF LEGAL DESCRIPTION

See Exhibit "A" attached hereto.

SECTION 4. ZONING MAP. The Official Zoning Map of the City shall be amended to include the subject land and reflect the designated zoning district.

SECTION 5. SEVERABILITY. If any section, part of a sentence, phrase or word of this Ordinance is for any reason held to be unconstitutional, inoperative or void, such holdings shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part.

SECTION 6. CONFLICT. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of conflict.

SECTION 7. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption.

The foregoing Ordinance was moved for adoption by Council Member _____ . The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Mayor, Joel Tyson	_____
Council Member Fernando Herrera	_____
Council Member Inocensia Hernandez	_____
Council Member Gerald Renick	_____
Council Member Jessica Salgado	_____

The Mayor thereupon declared this Ordinance fully passed and adopted this _____ day of _____, 2024.

CITY OF FELLSMERE, FLORIDA

ATTEST:

Joel Tyson, Mayor

Maria Suarez-Sanchez, CMC, City Clerk

I HEREBY CERTIFY that Notice of the public hearing on this Ordinance was published in the Press Journal, as required by State Statute, that the foregoing Ordinance was duly passed and adopted on the _____ day of _____, 2024, and the first reading was held on the _____ day of _____, 2024, and the second reading and public hearing was held on the _____ day of _____, 2024.

Maria Suarez-Sanchez, CMC, City Clerk

EXHIBIT "A"
TO
ORDINANCE NO. 2024-06
AND
RESOLUTION NO. 2024-16

That part of Tract 1646 lying South of State Road 512 (Fellsmere Road) and that part of Tract 1647 lying North of Fellsmere Farms Drainage District Canal No. 16. Fellsmere Farms Company Subdivision of unsurveyed Township 31 South, Range 37 East, according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for St. Lucie County, Florida recorded in Plat Book 2, Page 1 and 2, said lands situate, lying and being in Indian River County, Florida.

LESS AND EXCEPT the East 100 feet of the above-described lands. Also, less the West 383.48 feet of both Tracts 1646 and 1647.

RESOLUTION NO. 2024-15

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT RESOLUTION NO. 2024-16 APPROVING THE FINAL DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT ON 5.20 ACRES, MORE OR LESS, FOR A STORAGE AND MAINTANENCE BUILDING LOCATED ON THE EAST SIDE OF OPERATION HOPE AND OWNED BY TEAGAN, LLC, A FLORIDA LIMITED LIABILTY COMPANY.

WHEREAS, the Planning and Zoning Commission/Local Planning Agency held a public hearing on _____, 2024 to consider the Final Development Plan for a planned development located on land as described in Resolution No. 2024-16 (“the Land”); and

WHEREAS, the Planning and Zoning Commission/Local Planning Agency has reviewed the Final Development Plan and determined it to be in conformity with the Comprehensive Plan and applicable provisions of the Land Development Code.

NOW, THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere, as follows:

SECTION 1. The Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere in accordance with Section 17.15 of the Land Development Code held a Public Hearing and heard comments from the public on _____, 2024 regarding the Final Development Plan for a development.

SECTION 2. The Final Development Plan is in conformity with the official plans and policies of the City and the requirements of Section 17.15 A.4.b). of the Land Development Code. The following additional findings of fact are made:

- a. There are adequate public facilities to serve the proposed use and complies with Section 17.24 of the Code.
- b. There is adequate fire protection to serve the proposed use.
- c. Ingress and egress to property and proposed structures are adequate with reference to automotive and pedestrian safety, traffic flow and control, provision of services, and access in case of fire or catastrophe.
- d. Off-street parking areas are adequate with conditions imposed, with attention to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, convenience to the units it is designed to serve, and landscaping for the buffering of abutting property where applicable.
- e. Recreation and open spaces are adequate, with attention to the location, size and development of the areas in regard to their adequacy, their effect on privacy of

adjacent living areas, and their relationship to community wide open spaces and recreation facilities.

- f. Density of development is adequate, within the framework of the permitted density.
- g. General character and compatibility are adequate, with reference to ensuring the proposed development will be designed so as not to cause substantial depreciation of property values or reduce the safety, light and general convenience of neighboring developments.
- h. The environmental impact of the development is acceptable on the total land area of the property including how development will affect protected species, wetlands, surficial aquifer recharge areas, physical features, and natural resources.
- i. Rendering, architectural elevation, or photograph of the proposed development are adequate.
- j. Water and sewer improvements are in accordance with standards and specifications of the city.
- k. The site plan provides for dedication of the necessary rights-of-way.

SECTION 3. The Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere, Florida, recommends to the City Council that they adopt Resolution No. 2024-16 approving the Final Development Plan for a planned development.

SECTION 4. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was moved for adoption by Commission Member _____ . The motion was seconded by Commission Member _____ and, upon being put to a vote, the vote was as follows:

Chair, Revis “Buddy” Akers	_____
Commission Member Michael Barone	_____
Commission Member Jose Cardozo	_____
Commission Member Michael T. Rhueman	_____
Commission Member Claudia Luna	_____
Alternate Commission Member Dominic Foti	_____
Alternate Commission Member Eric Boissat	_____

The Chairman thereupon declared this Resolution fully passed and adopted this
_____ day of _____, 2024.

PLANNING & ZONING COMMISSION
CITY OF FELLSMERE, FLORIDA

REVIS "BUDDY" AKERS, CHAIRMAN

ATTEST:

Dulce Villasenor, Commission/Agency Secretary

2023.12.19 Matter No. 23-018 Resolution No. 2024-15

RESOLUTION NO. 2024-16

A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, APPROVING THE FINAL DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT CONSISTING OF 5.20 ACRES, MORE OR LESS OWNED BY TEAGAN, LLC FOR A STORAGE AND MAINTENANCE BUILDING LOCATED AT 12201 COUNTY ROAD 512 ON THE EAST SIDE OF OPERATION HOPE PROVIDING FOR RATIFICATION; PROVIDING FOR CONSISTENT WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; PROVIDING FOR FINAL DEVELOPMENT PLAN APPROVAL WITH CONDITIONS; AND FURTHER PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING PROVISIONS AND AN EFFECTIVE DATE.

WHEREAS, Teagan, LLC, a Florida limited liability company, the owner of the land described herein, (the “Applicant” or “Owner”) filed an Application with the City of Fellsmere for a Final Development for a storage and maintenance building (the “Project”); and

WHEREAS, the Applicant owns 5.37 acres, more or less, as described on Exhibit “A” attached hereto and by this reference made a part hereof (the “Property”); and

WHEREAS, the Applicant submitted an Application for Planned Development District Zoning, for the development of a storage and maintenance building on the Property, to be adopted along with the Final Development Plan; and

WHEREAS, the Planning and Zoning Commission/Local Planning Agency held a duly noticed public meeting on _____, 2023 to review the Final Development Plan for the Project and determined that it is in conformance with the official plans and policies of the City and the requirements of Article XVII Section 17.15 of the Land Development Code and recommended that the City Council approve the Final Development Plan; and

WHEREAS, the City Council has determined at a duly advertised public hearing that the Final Development Plan is in the best interest of the public health, safety, environmental and general welfare and that it is appropriate to approve the Final Development Plan subject to the conditions contained herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fellsmere, Indian River County, Florida, as follows:

SECTION 1. RATIFICATION. The above recitals are hereby ratified, confirmed and adopted as legislative findings by the City Council.

SECTION 2. CONSISTENT WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE. The Final Development Plan for the Project meets the provisions of the Comprehensive Plan and Land Development Code Section 17.15. The following additional findings of fact are made:

- a. There are adequate public facilities to service the proposed use and complies with Section 17.24 Concurrency Management of the Code.
- b. There is adequate fire protection to service the proposed use.

- c. Ingress and egress to Property and proposed structures are adequate with reference to automotive and pedestrian safety, traffic flow and control, provision of services, and access in case of fire or catastrophe.
- d. Off-street parking areas are adequate with conditions imposed, with attention to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, convenience to the units it is designed to serve, and landscaping for the buffering of abutting property where applicable.
- e. Recreation and open spaces are adequate, with attention to the location, size and development of the areas in regard to their adequacy, their effect on privacy of adjacent living areas, and their relationship to community wide open spaces and recreation facilities.
- f. Density of development is adequate, within the framework of the permitted density.
- g. General character and compatibility are adequate, with reference to ensuring the proposed development will be designed so as not to cause substantial depreciation of property values or reduce the safety, light and general convenience of neighboring developments.
- h. The environmental impact of the development is acceptable on the total land area of the Property including how development will affect protected species, wetlands, surficial aquifer recharge areas, physical features, and natural resources.
- i. Renderings, architectural elevations, or photographs of the proposed development are adequate.
- j. Water and sewer improvements are in accordance with standards and specifications of the City.
- k. The Final Development Plan provides for dedication of the necessary rights-of-way.

SECTION 3. FINAL DEVELOPMENT PLAN APPROVAL WITH CONDITIONS.

The Final Development Plan dated May, 2023 prepared by Carter Associates, INC. as signed by the Mayor on , 202_ and maintained on file in the Community Development Department and City Clerk's office is approved. The following conditions shall apply.

- 1) The use, occupancy, development, phasing or redevelopment of the Property shall be limited to and in accordance with the Final Development Plan attached as Exhibit "B", and by this reference made a part hereof. Where specific provisions in this Resolution or in the Land Development Code are not addressed on the Final Development Plan, the specific provisions of this Resolution or in the Land Development Code shall apply to the development of the Property.
- 2) Before commencement of development, the Applicant shall obtain all Federal, State, County and Local permits as may be applicable to any new development, redevelopment or use of the Property and to continuously keep such permits current and in good standing. Issuance of this development order by the City does not create any right on the part of the Applicant to obtain a permit from a Federal, State, County or Local agency and does not create any liability on the

part of the City for issuance of a development order if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a Federal, State, County or Local agency or undertakes actions that result in a violation of Federal, State, County or Local law. See Section 166.033 F. S.

- 3) After the first year following the issuance of a Certificate of Occupancy or a final inspection for the improvements, the City Council shall have the authority to hold hearings at any time, upon notice to the Applicant and the property owner, to review the activity for compliance with all conditions and requirements of approval and all applicable ordinances and resolutions of the City. If the land use of the Property is not in compliance with the use specified in the approved Planned Development and the conditions in this Resolution, the City Council may amend the Conditions of Approval, terminate the Planned Development Permit or refer the matter to the Code Enforcement Special Master as a code violation for other sanctions as deemed appropriate.
- 4) All public or private improvements required under the terms of this Resolution shall be constructed at the expense of and by the Applicant as approved by the City.
- 5) If the parking provided on site is determined by the City, at its sole discretion, to be inadequate to serve the demand for parking generated by the use of the Property, the Applicant shall be required to limit the use of the Property commensurate with the available parking to support such use or construct additional parking within sixty (60) days of receipt of written directive of the City.
- 6) Relief from the following Sections of the Land Development Code are approved until major redevelopment or the occurrence of the stated activity as determined by the City:
 - A. 9.3(A)(1) and 9.3(A)(4) Relief from the Architectural Standards regulations as these provisions were created to have specific building design criteria for structures that front CR-512. The proposed building lies approximately 330' south of the CR-512 corridor and would not adversely affect the aesthetic corridor being created by the General District regulations. The relief would only apply to this project site, with any additional structures that front CR-512 meeting the General District regulations for architectural design.
 - B. 9.3(B)(3)(d) Relief from the service doors to be located only at the rear of the proposed structure.
 - C. 9.3(C)(10) Relief from the Building foundation planting requirements but only from the rear and sides of the building since these areas are designed for heavy vehicular traffic.
 - D. 9.3(G) Deferral from the Civic Space Requirement since the site is technically not developed to engage the active CR-512 corridor. A Civic Space that will meet City of Fellsmere standards will be constructed at the time the northern outparcel is developed along the CR-512 road frontage.

- E. 9.3(H)Deferral from the Public Frontage and throughfare standards. Additional inter-connecting sidewalks and driveways to internal and adjacent properties will be constructed at the time the northern outparcel is developed along the CR-512 frontage.
 - F. 9.4(H)(7)(b) Deferral to the construction of a sidewalk along CR-512 until such a time as an outparcel to the north is developed along the CR-512 road frontage.
 - G. 9.7(A)(1) Relief from the proposed building to be oriented toward CR-512. The site as proposed lies approximately 330' from the CR-512 corridor. The applicant intends to create a secondary driveway perpendicular to CR-512 that the building will be oriented toward.
- 11) The Applicant shall provide an electronic as-built plan to the City within ninety (90) days of receiving a Certificate of Completion for the Project in a form acceptable to the City.
 - 13) The Applicant shall sign a five (5) foot wide Limited Access Easement to regulate access to CR512 immediately upon request of Indian River County or the City.
 - 14) If the building is ever removed or destroyed, all of the above relief in Section 8 shall immediately cease.
 - 15) Prior to issuance of a Certificate of Completion/Occupancy the Applicant shall:
 - a. Immediately upon request by the City enter into a Non-Exclusive Cross Access and Drainage Easement with the City for cross parking, access and drainage all without charge to the city. The drainage easement to the City shall be over the entire perimeter landscape areas, dry retention, and wet pond areas of the site for future use in support of CR512 widening and regional stormwater system.
 - b. Construct a connection to CR512 to all Indian River County standards and requirements located to the east side of the Property;
 - c. Applicant shall design and receive a County permit for a left turn lane from CR512 at the proposed access location.
 - 16) Prior to the public hearing for this Resolution the Applicant shall convey to the City without charge a ten foot (10') wide strip of land lying at the north property line and adjacent and parallel to County Road along CR-512 as required for its future expansion, and deliver same to the City Clerk. As more particularly described in Exhibit "C" attached hereto.
 - 17) All landscaping shall meet the CR-512 Frontage overlay district standards at time of planting. All landscaping shall be maintained in perpetuity by the Applicant.
 - 18) Pursuant to 9.7(C)(4) The applicant shall provide additional landscaping along the entire length of the west property line to effectively screen the Property from adjacent development(s) with a 'Type A' buffer screen.
 - 19) The Applicant shall subscribe for and maintain solid waste pick up service from a solid waste hauler having a franchise with the City and shall have constructed the required dumpster enclosure within ninety (90) days of the effective date of this Resolution.

- 20) Applicant shall install street lighting at the entryway of the Property near CR-512. Upon installation, the City shall be responsible for all operational and maintenance costs associated with the street light.
- 21) Mr. and Mrs. Lilly hold a Corrective Mortgage Deed on the Property and have signed a Mortgage Joinder and Consent and Partial Release of Corrective Mortgage accepting the Final Development Plan and Warranty Deed to the City for CR512 widening. See Exhibit "D".
- 22) A violation of any of the conditions or requirements of approval shall constitute a code violation subject to enforcement through the Code Enforcement Special Master, unless a different remedy is specifically provided in any such condition or requirement, in which case such different remedy shall either supersede this provision or be in addition to code enforcement action as determined by the City.
- 23) A violation of any of the conditions or requirements of approval shall constitute a code violation subject to enforcement through the Code Enforcement Special Master, unless a different remedy is specifically provided in any such condition or requirement, in which case such different remedy shall supersede this provision.

SECTION 4. SEVERABILITY. If any section, part of a sentence, paragraph, phrase or word of this Resolution is for any reason held to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Resolution without such unconstitutional, invalid or inoperative part.

SECTION 5. REPEAL OF CONFLICTING PROVISIONS. All previous resolutions or parts thereof, which conflict with the provisions of this Resolution, to the extent of such conflict, are superseded and repealed.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect concurrently with the effective date of Ordinance No. 2024-06. If Ordinance No. 2024-06 does not become effective, this Resolution shall automatically become void and of no further force or effect.

The foregoing Resolution was moved for adoption by Council Member _____ . The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Mayor, Joel Tyson	_____
Council Member Fernando Herrera	_____
Council Member Inocencia Hernandez	_____
Council Member Gerald Renick	_____
Council Member Jessica Salgado	_____

The Mayor thereupon declared this Resolution duly passed and adopted this _____ day of _____, 2024.

CITY OF FELLSMERE, FLORIDA

ATTEST:

Joel Tyson, Mayor

Maria Suarez-Sanchez, CMC, City Clerk

HEREBY CERTIFY that Notice of the public hearings on this Resolution was published in the Press Journal, as required by the Land Development Code, that the foregoing Resolution was duly passed and adopted on the _____ day of _____, 2024, and the first reading was held on the _____ day of _____, 2024, and the second reading and public hearing was held on the _____ day of _____, 2024.

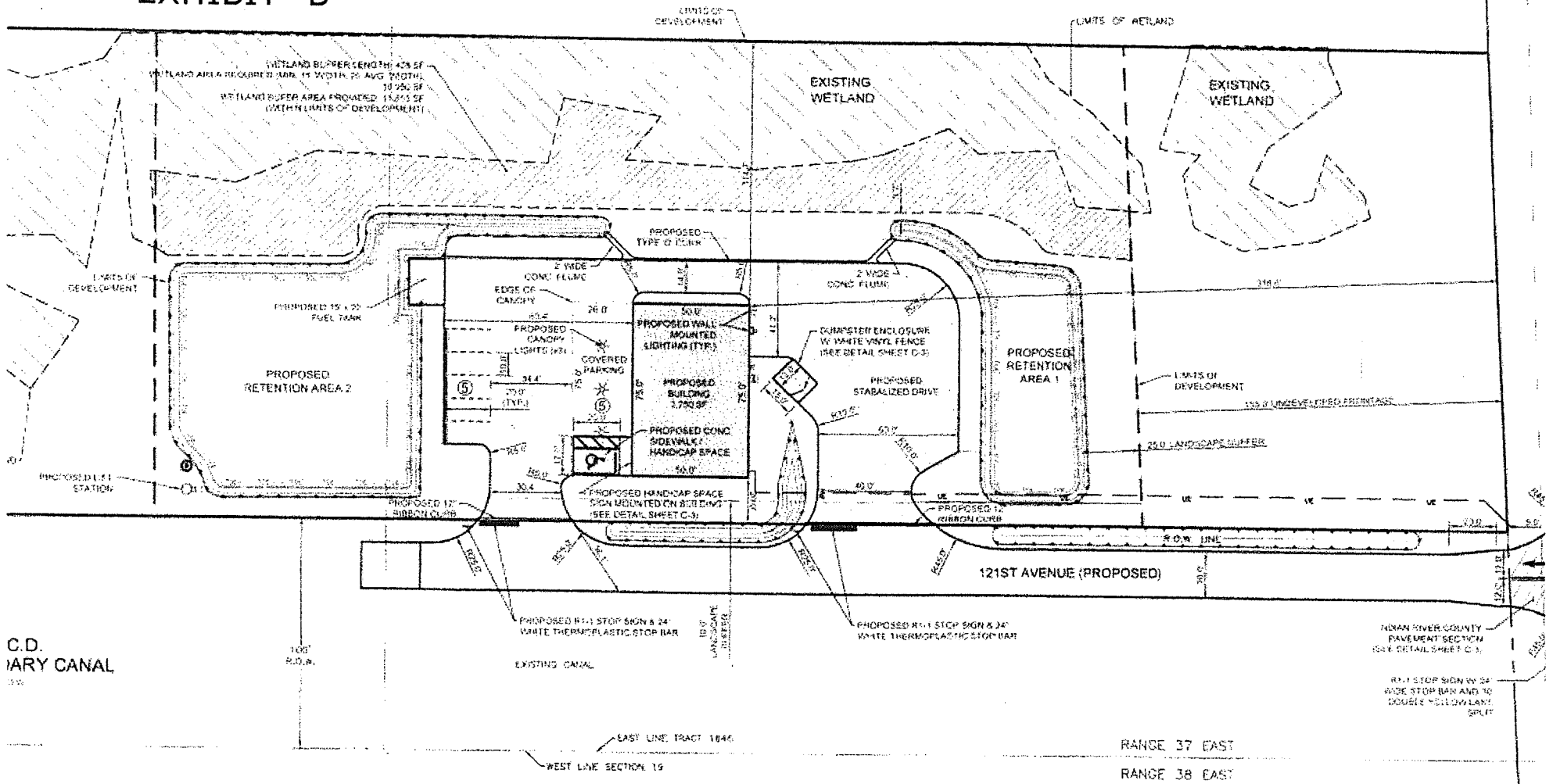
Maria Suarez-Sanchez, CMC, City Clerk

2023.12.19 Matter No. 23-018 Resolution 2024-16

EXHIBIT 'A' LEGAL DESCRIPTION OF PROPERTY - STORAGE AND MAINTENANCE

FELLSMERE FARMS COMPANY S/D OF UNSURVEYED TWP 31 S RNG 37 E PBS 2 - 1
& 2 MORE PART DESC AS THAT PART OF TR 1646 LYING S OF SR 512 AND THAT
PART OF TR 1647 LYING N OF FELLSMERE FARMS DRAINAGE DISTRICT CANAL NO
16 LESS AND EXCEPT THE E 100 FT OF THE ABOVE DESC LAND ALSO LESS THE W
383.48 FT OF BOTH TRS 1646 AND 1647

EXHIBIT "B"



Storage and Maintenance Building

12201 County Road 512
City of Fellsmere, FL 32948



John Brown & Sons
775 2nd Avenue
Vero Beach, FL 32982

Sheet No.	Project Name	Project Location	Project Date
1	Storage and Maintenance Building	12201 County Road 512	2012

Storage and Maintenance Building
PRELIMINARY & FINAL DEVELOPMENT PLAN
12201 County Road 512
City of Fellsmere, FL 32948



John Brown & Sons
775 2nd Avenue
Vero Beach, FL 32982

SHEET
C-0

SHEET INDEX

- S-1 BOUNDARY AND TOPOGRAPHIC SURVEY
- C-1 PRELIMINARY AND FINAL DEVELOPMENT PLAN
- C-2 PAVING GRADING DRAINAGE AND UTILITY PLAN
- C-3 PAVING AND DRAINAGE DETAILS AND EROSION CONTROL PLAN
- C-4 LIFT STATION DETAILS
- C-5 GENERAL UTILITY DETAILS
- C-6 GENERAL UTILITY DETAILS
- L-1 LANDSCAPE PLANS

PROJECT CONTRACTOR: ROBERT LORING 774 444333
PLANNING AND DESIGN: PUNNORAGOTYOFELLSMERE.COM
BUILDING DIVISION: JAMES BOWLES 774 444333 A BOWLES & ASSOCIATES
CIVIL ENGINEERING: LARRY WOODS PE AT 774 224 4279
ST. JOHN'S WATER REVENUE MANAGEMENT DISTRICT - MIAMI CROSBY PE 304 404 8827
FELLSMERE WATER CONTROL DISTRICT - GEORGE BRADSHAW PE 874 404 4070
CONSULTING CITY ENGINEER: TOM JESSEN PE AT 874 404 4070

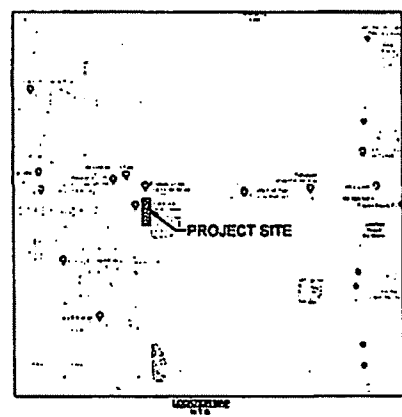
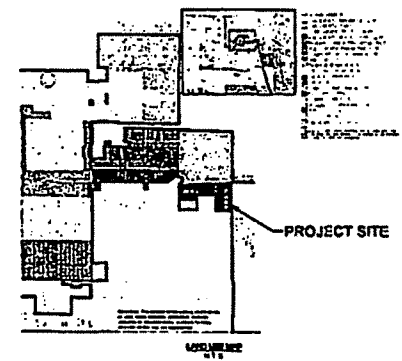
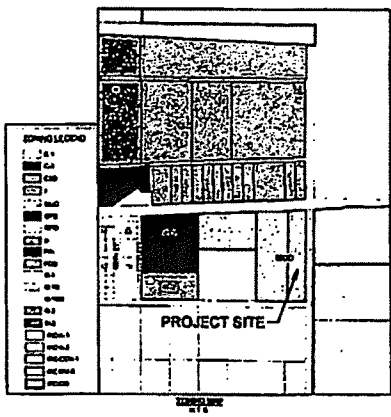
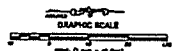
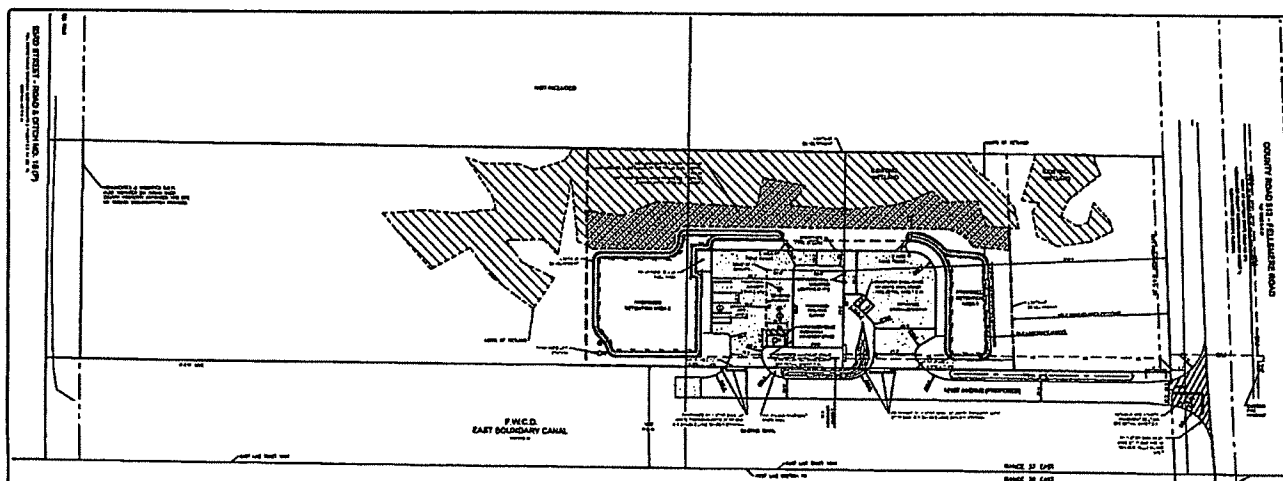


EXHIBIT "B"



WIT-045A

[illegible]**TRADING DEBIT STATEMENT**

NOTE: THIS IS THE FIRST TIME IT IS NOT ASSUMED THAT THIS INDICATOR WILL CREATE A SIGNIFICANT IMPACT. THE STUDY DOES NOT APPEAR TO SUFFICE ANY TIME WOULD BE REQUIRED TO COLLECT MORE DATA.

LIVE LOCATING NOTE



John Brown & Sons

[illegible]

Storage and Maintenance Building



Preclinical and Final Development Phases

DOI

C-1

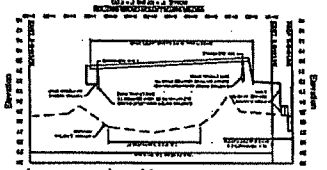
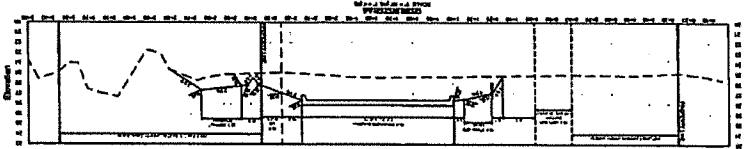
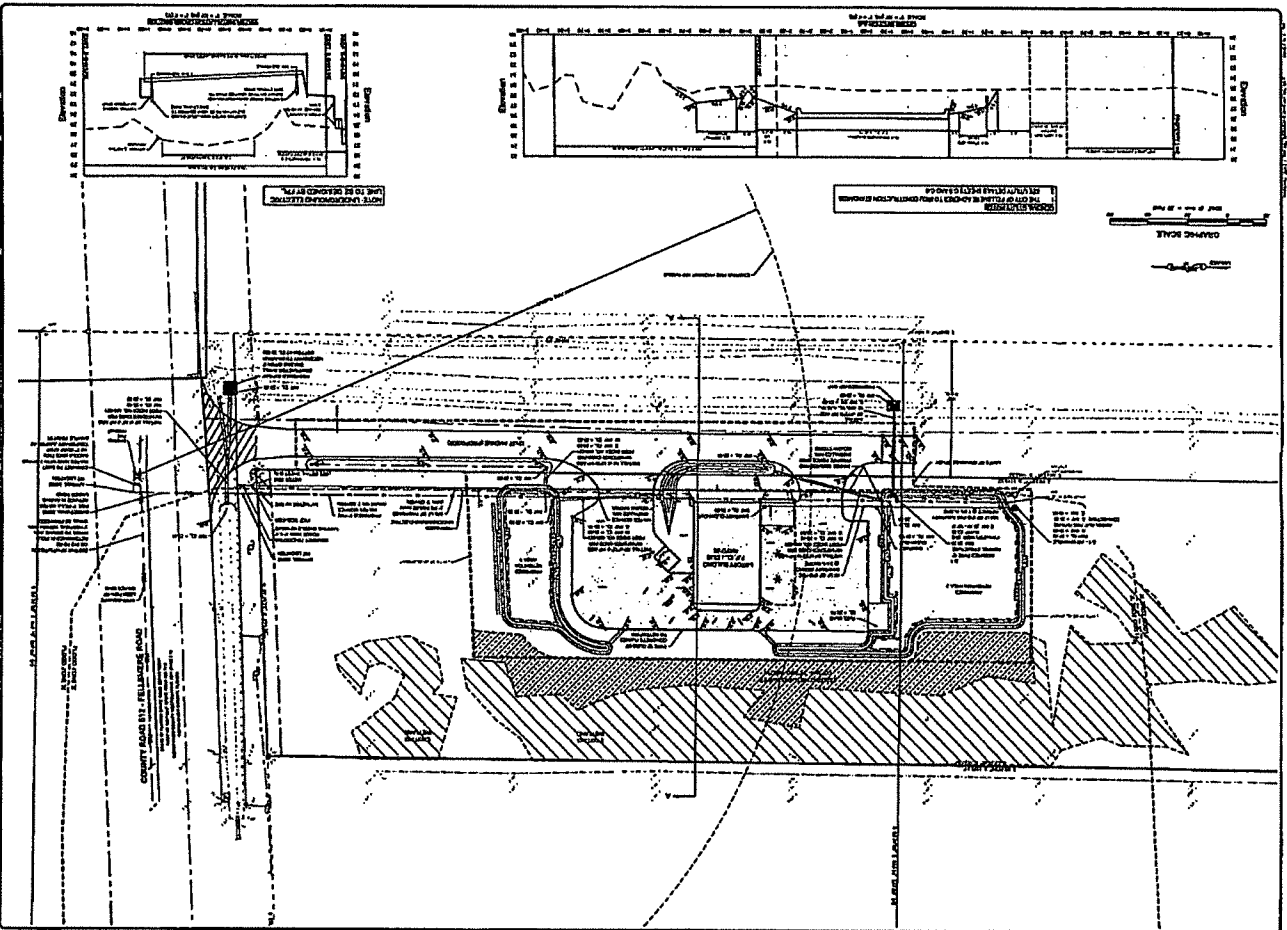


John Brown & Sons
 773 Third Avenue
 West Palm Beach, FL 33402

Storage and Distribution Building
PRELIMINARY & FINAL DEVELOPMENT PLAN
 12011 County Road 122
 City of Melbourne, FL 32954



Sheet C-2
Storage and Distribution Building
AND UTILITY PLAN

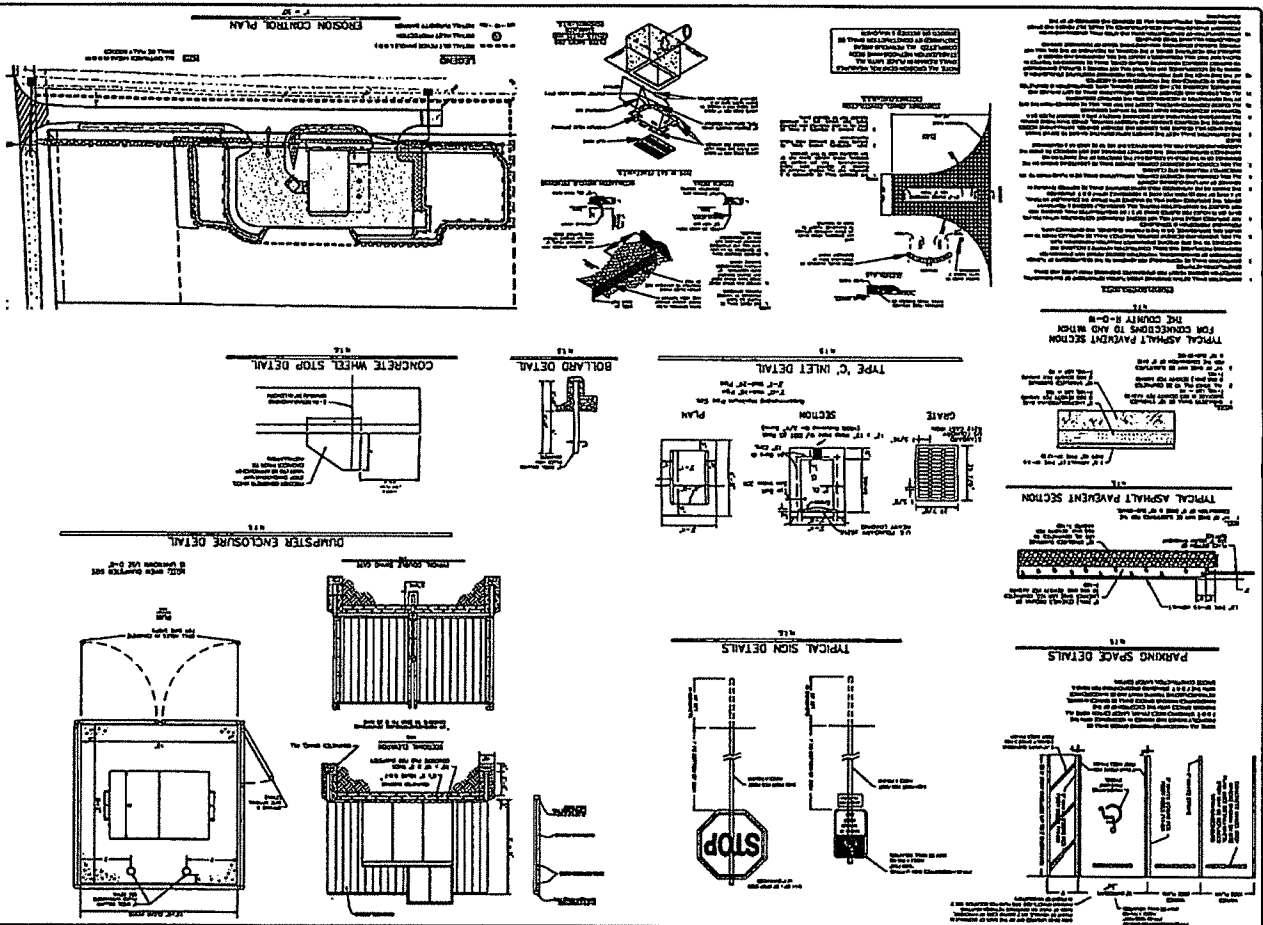


Storage and Maintenance Building
RESIDENTIAL & POLICE DEVELOPMENT PLAN
 12345 County Road 123
 City of Broward, FL 33400

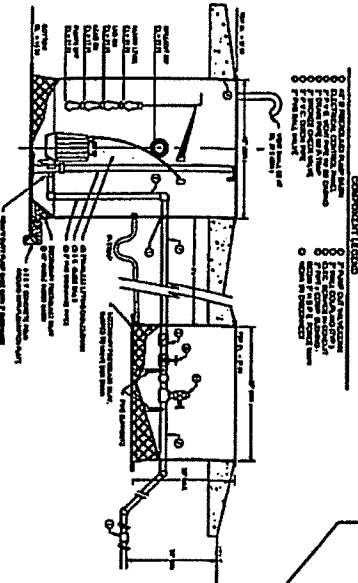
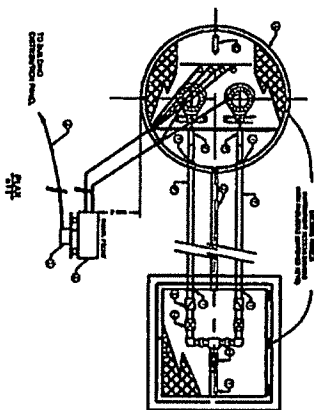
John Brown & Sons
 775 2nd Avenue
 Fort Lauderdale, FL 33301

CAI

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DUPLEX PUMP STATION DETAIL



NET WEIGHT INFORMATION			
QUANTITY OF CARTON	NET WEIGHT PER CARTON	LOW BY RATINGS	NET WEIGHT CARTON
2000000	27.00	10.00	40.00

CHOKER PUMP DATA	
PUMP HEAD/STROKE	• 84/22.5
PUMP STROKE/ROD	• 100/1.500
MAXIMUM PUMP CAPACITY	• 100 GPM
MAXIMUM PUMP PRESSURE	• 100 PSI
MAXIMUM PUMP SPEED	• 100 RPM
MAXIMUM PUMP WEIGHT	• 100 LBS
MAXIMUM PUMP LENGTH	• 100 FT
MAXIMUM PUMP DIAMETER	• 100 IN
MAXIMUM PUMP VOLUME	• 100 GALLONS
MAXIMUM PUMP POWER	• 100 HP
MAXIMUM PUMP TORQUE	• 100 FT-LBS

[illegible]

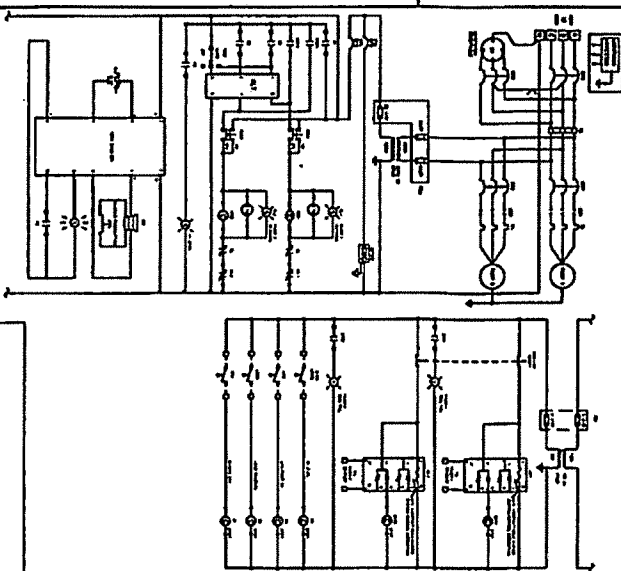
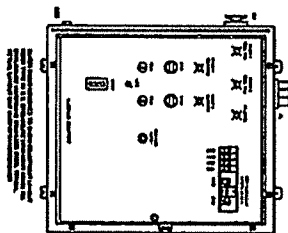
PUMP O'AYNOM SPECIAL ELECTRICAL NOTES:

1. The purpose of this study was to determine the effect of a 12-week training program on the physical fitness of 100 male and 100 female college students.
2. The study was conducted in the Department of Physical Education, University of California, Los Angeles, during the fall semester of 1970.
3. The subjects were divided into two groups: a control group and an experimental group. The control group consisted of 100 students who did not participate in any physical education program during the semester. The experimental group consisted of 100 students who participated in a 12-week training program.
4. The training program consisted of three sessions per week, each lasting 45 minutes. The sessions were designed to improve cardiovascular endurance, muscular strength, and flexibility.
5. The physical fitness of the subjects was measured at the beginning and end of the semester using a series of tests: a 1.5-mile run, a 1-minute sit-up test, a 1-minute push-up test, and a sit-and-reach test.
6. The results of the study showed that the experimental group had significantly higher scores than the control group on all four tests at the end of the semester.
7. The study concluded that a 12-week training program can significantly improve the physical fitness of college students.
8. The study was supported by a grant from the National Endowment for the Humanities.
9. The study was published in the *Journal of Physical Education and Sport*, 1971, 52(1), 1-6.
10. The study was conducted by Dr. J. P. Smith, Dr. M. J. Jones, and Dr. R. L. Brown.

PUMP STATION SPECIFICATIONS

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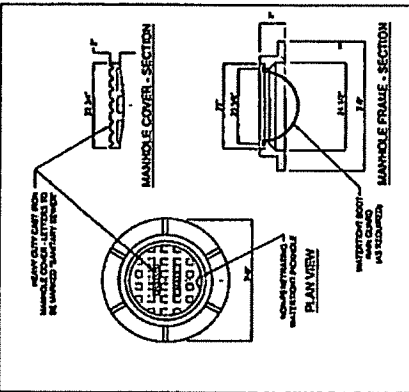
ELECTRICAL DIAGRAM

[illegible]

John Brown & Sons
775 23rd Avenue
Vero Beach, FL 32982

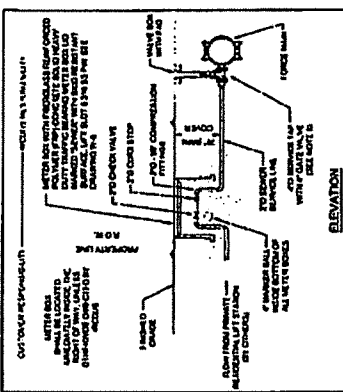
Storage and Maintenance Building
PRELIMINARY & FINAL DEVELOPMENT PLAN
—
12201 County Road 512
City of Fort Myers, FL 33948

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NOTES:

1. MANHOLE CASTING SHALL BE PROVIDED FOR ALL MANHOLES AND BE
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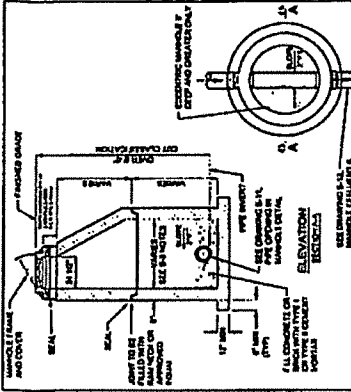


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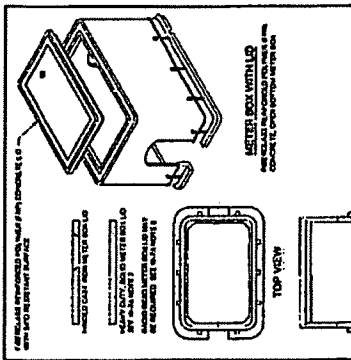
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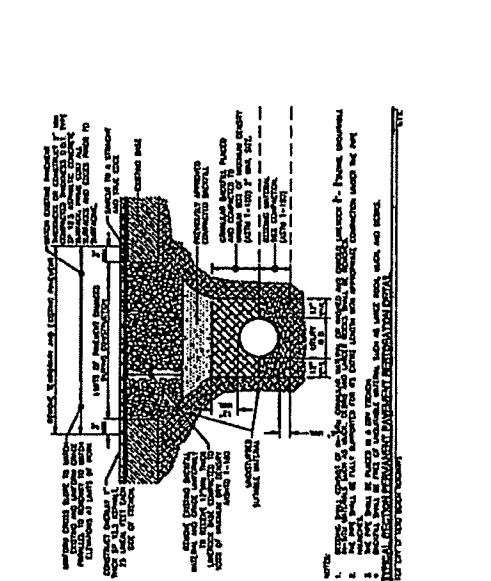
TO BE USED WHEN CUT CLASSIFICATION IS OVER 600 DEEP

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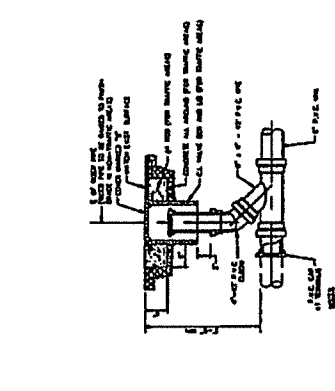
METER BOX WITH LID

TYPICAL OPEN BOTTOM W-5



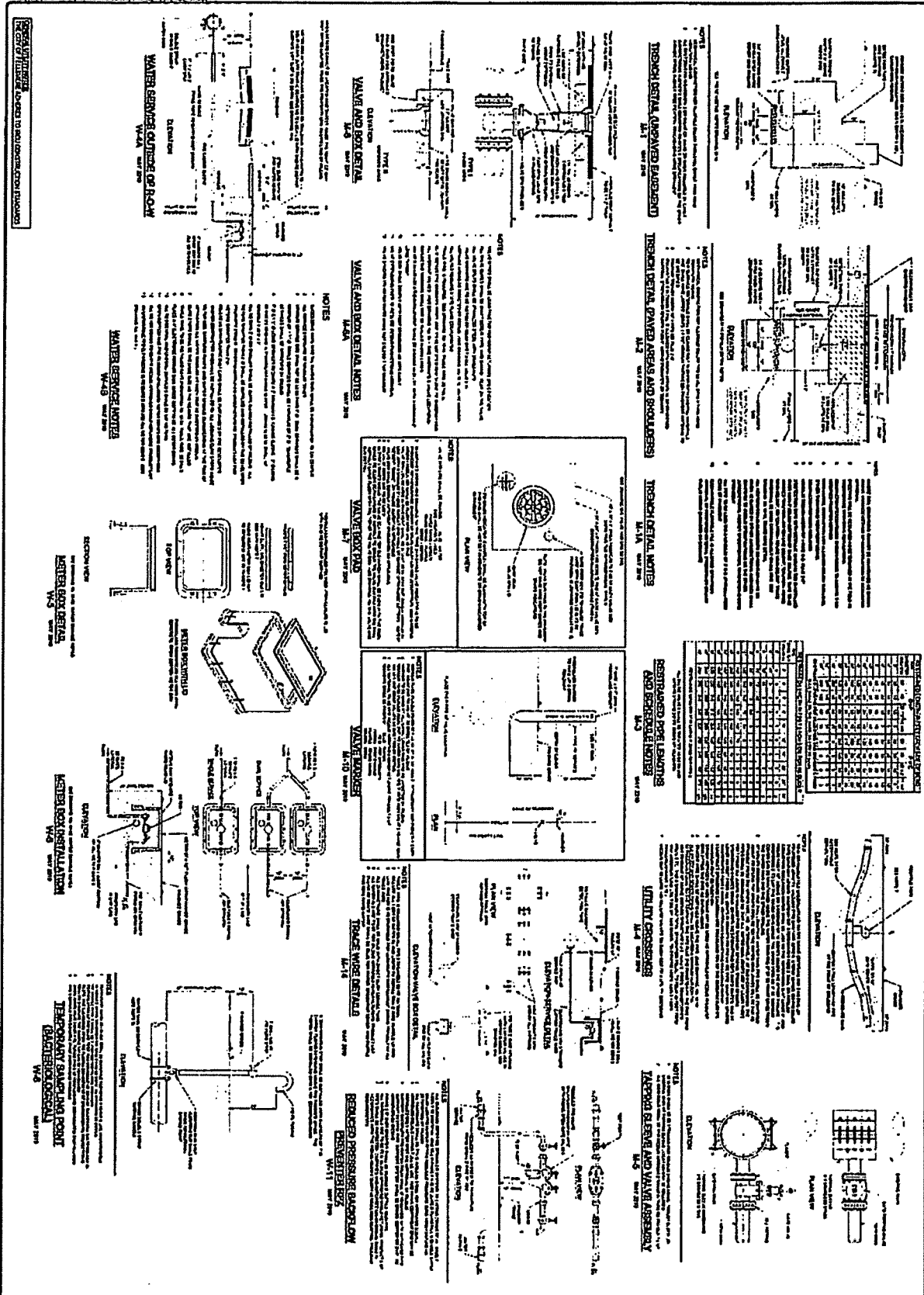
MANHOLE NOTES (S-7)

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SEWER SERVICE CLEANOUT

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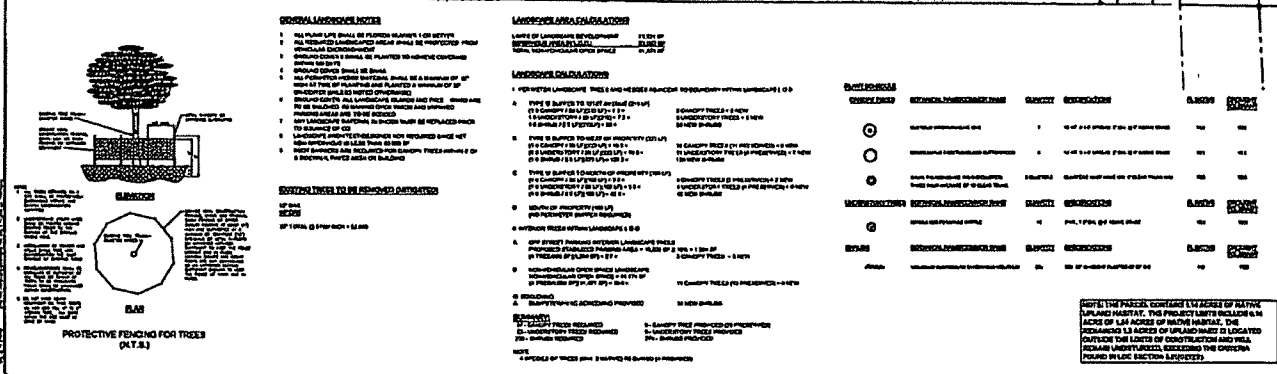


EXHIBIT "C"
TO
RESOLUTION NO. 2024-16
WARRANTY DEED

SALE: NONE
DOC. STAMPS: \$.70

This Instrument was prepared by
and should be returned to:

City of Fellsmere, Florida
Community Development Department
22 South Orange Street
Fellsmere, Florida 32948

.....(Space above this line for recording data).....

WARRANTY DEED

This Warranty Deed executed this _____ day of _____, 2023, by **Teagan, LLC**, a Florida limited liability company, whose address is **9720 146th Ave, Fellsmere, Florida 32948**, hereinafter collectively referred to as "Grantor", to **CITY OF FELLSMERE, FLORIDA**, a municipal corporation existing under the laws of the State of Florida, whose post office address is **22 S. Orange Street, Fellsmere, Florida 32948**, hereinafter referred to as "Grantee".

WITNESSETH that said Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00), and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in Indian River County, Florida, to-wit:

See attached Exhibit "A" to Warranty Deed

Together with all tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

Subject to governmental regulations, covenants, rights of way, restrictions, easements and reservations of record, if any, but this provision shall not operate to reimpose the same, and taxes for this year and subsequent years.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said Grantor, either in law or equity, to the proper use, benefit and behoof of the Grantee forever.

And the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that the land is free of all encumbrances, except taxes accruing subsequent to December 31, 2022.

Minimal documentary stamps are affixed hereto, because this conveyance is pursuant to the issuance of a development order. There are no open mortgages encumbering this property.

In Witness Whereof, the said Grantor has signed and sealed these presents the day and year first above written.

[SIGNATURES ON FOLLOWING PAGE]

EXHIBIT "C"

Signed, sealed and delivered
in our presence:

WITNESSES AS TO BOTH:

Sign: _____
Print: _____

Sign: _____
Print: _____

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online
notarization this _____ day of _____, 2023, by _____, who are ☐
personally known to me or ☐ have produced _____ as identification.

"SEAL"

Notary Public, State of Florida

Print Name: _____

My Commission Expires: _____

My Commission No. is: _____

NOTICE

In preparation of this instrument, the scrivener has not examined title to the described property and makes no warranty, representation or opinion,
either express or implied as to the title, quantity or boundaries of the property or the existence of any liens, unpaid taxes, or other encumbrances.

Matter No. 23-018

BK: 3280 PG: 1174

EXHIBIT "A"

That part of Tract 1646 lying South of State Road 512 (Fellsmere Road) and that part of Tract 1647 lying North of Fellsmere Farms Drainage District Canal No. 16, FELLSMERE FARMS COMPANY SUBDIVISION of unsurveyed Township 31 South, Range 37 East, according to the plat thereof on file in the Office of the Clerk of the Circuit Court in and for St. Lucie County, Florida recorded in Plat Book 2, page 1 and 2, said lands situate, lying and being in Indian River County, Florida.
LESS AND EXCEPT the East 100 feet of the above-described lands. Also less the West 383.48 feet of both Tracts 1646 and 1647.

EXHIBIT "D"
TO
RESOLUTION NO. 2024-16
MORTGAGEE'S JOINDER AND CONSENT

MORTGAGEE'S JOINDER AND CONSENT

James W. Lilly and Rena L. Lilly, husband and wife, whose address is 537 Albatross Terrace, Sebastian, FL 32958, hereinafter collectively referred to as "Mortgagee" is the owner and holder of a Corrective Mortgage Deed recorded in Official Records Book 3269, Page 1042 recorded in the Public Records of Indian River County, Florida, encumbering the following described land:

SEE COMPOSIT EXHIBIT "A" ATTACHED HERETO

The Mortgagee does hereby consent, ratify and join in the execution of the Final Development Plan and Warranty Deed to the City for CR512 right-of-way to which this Joinder and Consent is attached or a copy of which is attached for the purposes herein expressed and agrees that its Corrective Mortgage Deed shall be subordinated, in all respects, to the Final Development Plan and Warranty Deed.

IN WITNESS WHEREOF, the Mortgage has caused this Joinder and Consent to be signed this ____ day of _____, 2023.

Signed, sealed and delivered
in the presence of:

Print Name: _____

James W. Lilly

Print Name: _____

Rena L. Lilly

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

The foregoing instrument was sworn to, subscribed, and acknowledged before me by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2023, by James W. Lilly and Rena L. Lilly, who are ☐ personally known to me or ☐ has produced an _____ as identification.

"SEAL"

Notary Public, State of _____