

Law Offices
NEILL GRIFFIN MARQUIS, PLLC
311 South Second Street
Suite 200
Fort Pierce, FL 34950

Richard V. Neill+
Richard V. Neill, Jr. +
Renée Marquis-Abrams*
Ian Eielson Osking
Brandon M. Hale

*Board Certified Wills, Trusts, & Estates Lawyer
☆Certified Circuit Civil/County Court Mediator
+ Board Certified Civil Trial Lawyer
+ Of Counsel

Mailing Address:
Post Office Box 1270
Fort Pierce, FL 34954-1270
Telephone: (772) 464-8200
Fax: (772) 464-2566

January 16, 2020

Mayor William G. Thiess
2512 Lightlewood Lane
Fort Pierce, Florida 34946

Mr. James Grimes
3203 North Indian River Drive
Fort Pierce, FL 34946

Ms. Ingrid M. Van Hekken
304 Anchor Way
Fort Pierce, FL 34946

Mr. Dale Reed
2811 North Indian River Drive
Fort Pierce, FL 34946

Mr. John Langel
2511 North Indian River Drive
Fort Pierce, FL 34946

Mr. Timothy Ritter
2513 Lightlewood Lane
Fort Pierce, Florida 34946

RE: Town of St. Lucie Village

Gentlemen and Ms. Van Hekken:

Please accept the following as our attorney's report for the January 21st meeting.

1. All Aboard Florida. I have sent out the correspondence discussed at the last meeting. I have communicated with the County; and, Bill and I are planning to meet with the County and FDOT on January 29. FDOT is apparently offering some assistance regarding the project. The last info I had was that the actual crossing drawings might be expected by this month and the work is expected to begin by the 4th quarter this year.

Also, Donna had an email from Diane Ray regarding the noise from blowing the horns continuously in the middle of the night. A copy of the email exchange is enclosed. I don't know that there's anything to be done, short of "quiet zones". Who should respond to her?

2. Caribee Colony/IRLWC. Phil Lounibos alerted us to the fact that he had received a Notice for Lease. We are pulling and reviewing information. A copy of the Notice and drawings is enclosed.

I suggest that the Village respond and oppose the permit, and I would like to have some funds authorized to consult with outside counsel, perhaps \$2,500 again.

If owners who received notice are interested, it would be a good idea for them to respond as well.

3. Demming Road. Mayor Thiess and I met with Mr. and Mrs. King and their attorney, Bob Raynes with the Gunster law firm. Their surveyor produced a report, a copy of which is enclosed, which seems to show less fill than we would have anticipated. Bill, Steve Cooper and I are evaluating a settlement or solution.
4. Vacation Rentals. I have reviewed and enclose Ian's initial draft of vacation rental provisions, together with a copy of the ordinance of the Town of Indian River Shores which Ingrid shared. I will continue to work on this.
5. Business Hours. I have done some research, particularly focused on the issue of serving alcohol. It does seem that one can regulate the hours of service of alcohol, as well as business hours generally. Please see the enclosed Attorney General opinions. I'll plan to discuss this generally but would like input on whether we should focus on liquor or take a more general approach. Also, is there any business in the Village that actually operates outside of the 7 a.m. to 10 p.m. timeframe?
6. Audit. I have received and forwarded you a copy of the Audit report for 2017-2018 fiscal year. We'll discuss it Tuesday.
7. Fort Capron Ditch Culvert. No action is needed at this time.
8. Zoning Queries. I have heard nothing further concerning Mr. and Mrs. Delo concerning the Bowling Alley property.

I did have an additional query, about a parcel on U.S. 1 that somehow bears the address of 3615 Old Dixie. Looking at the Property Appraiser's map and our zoning ordinance and atlas, the property is clearly on the US-1 side of the property between US-1 and Old Dixie and, accordingly, zoned commercial and I have so indicated.

9. Codification of Zoning Amendment. I need to get with Bill and get the corrections that he had noticed, put those together with a couple of corrections we noticed in relation to the Permitted Use Table, get those incorporated into the document, and then also add the revisions from 2018-6.
10. 3532 N. U.S 1 (Northside Nursery). There was a query on this matter and I sent Carl the enclosed email.
11. 465 Rouse Road (Cartwright). I think we've about concluded this.
12. Comprehensive Plan Amendment. I've had my associate, Brandon Hale, review intervening legislation to get an idea of what needs to be addressed in our EAR which is due July 1. He also has worked with Laura in creating and checking a list of parcels to be included in a map amendment. A copy of Brandon's basic emails related to the EAR is enclosed.
13. TNT Construction (Information Request). Ms. Kairalla is a realtor with TNT Construction, the company is requesting information regarding developmental approvals for 2018-2019, and they seem mostly concerned with residential development. I'll follow up on this item.

January 16, 2020

14. Sarasola Generator. This is still under review.
15. Occupational Licenses. I am carrying forward this note that it is probably time to update and revise the governing Village ordinance.
16. St. Lucie School. I've been told that the issue of transferring the property to the Village will be discussed early this year.
17. Shade Tree Studio. I have followed up with Pat Cochran in accordance with our discussions at last meeting and he had also heard from Scott concerning what Scott was able to accomplish. I don't think anything further will be required of me and I will drop this matter.
18. Referrals to Special Magistrate:
 - a. 4050/4058 N US 1 (Zito)
 - b. 2450 N US 1 (Top Notch Marine)
 - c. 3429-3463 Old Dixie (Danks) - we are working on related paperwork.
 - d. 3100 N. US 1 (Sarasola)

Do feel free to call if there's anything you want to discuss with me before the meeting.

With best regards.

Yours very truly,

Richard V. Neill, Jr.

RVNjr/mk
Enclosures

cc: Donna Dennis, Clerk (w/encls.)
Scott Dennis (w/encls.)
Cathy Townsend (w/encls.)
Wesley Taylor (w/encls.)

Laura Marotta

From: Richard Neill <richard.neill@stlucievillagefl.gov>
Sent: Tuesday, January 14, 2020 2:12 PM
To: Laura Marotta
Subject: FW: RAILROAD TRACK NOISE

Importance: High

From: Donna Dennis
Sent: Monday, January 06, 2020 2:14 PM
To: Diane Ray
Cc: William Thiess; Richard Neill; LMarotta@NeillGriffin.com
Subject: Re: RAILROAD TRACK NOISE

Hi Diane,

Thank you for your letter - it was a pleasure speaking with you on Friday.

I am including here in copy our Village Mayor, Bill Thiess, as well as our Village Attorney, Richard Neill, Jr.

They will have the best advice as to how to proceed with the FEC Railroad concerning your complaint.

Best regards,

Donna
Donna Dennis
Clerk
St. Lucie Village, FL
772-466-6900

Please Note: Florida has a broad public records law. As a result, any written communication created or received by Town of St. Lucie Village officials and employees will be made available to the public and media upon request, unless otherwise exempt. Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in person.

From: Diane Ray <ddray46@yahoo.com>
Sent: Saturday, January 4, 2020 8:10:34 AM
To: Donna Dennis
Subject: RAILROAD TRACK NOISE

Good Morning Donna,

I am a resident in Riverwoods, ft pierce and I have been here a year and half now---I addressed a concern to Richard from the FI Eastern Railroad about the BLOWING OF THE HORN IN THE MIDDLE OF THE NIGHT SO MANY TIMES---- he said the local council or public authority would handle this, (this was at least 6 months ago) The other day I called him again saying where is the rule in how many times to blow the horn????? If there was a set amount of times then all the conductors would do this---but it seems different conductors have their own amount of times to blow it---All I asked him was to limit the amount of times---I also mentioned when I was awake I counted 13 horn blows --THIS IS JUST RIDICULOUS!!!!!! Something needs to be addressed on this and fixed---I'm hopeful you can help with this situation

The person I spoke with is Richard Reustle, phone # 434-534-1922---PLEASE CONTACT HIM

Thank You

Diane Ray

Laura Marotta

From: Richard V. Neill, Jr.
Sent: Friday, January 10, 2020 9:26 AM
To: Ian Osking
Cc: Laura Marotta
Subject: FW: Dock extension application by IRLWC

2 of 4

Richard V. Neill, Jr., of
Neill Griffin Marquis, PLLC
Post Office Box 1270
Ft. Pierce, FL 34954
Telephone: 772-464-8200
Fax: 772-464-2566
rneilljr@neillgriffin.com

CONFIDENTIALITY

The information contained in this e-mail, including any attachments, is privileged and confidential, intended only for the use of the individual or entity to whom it is directed. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this e-mail or any attachment is strictly prohibited. If you have received this transmittal in error, please reply to the sender that you have received it in error and then delete it. Thank you.

From: Richard Neill [<mailto:richard.neill@stlucievillagefl.gov>]
Sent: Friday, January 10, 2020 9:24 AM
To: Richard V. Neill, Jr.
Subject: FW: Dock extension application by IRLWC

From: Lounibos, L P [<mailto:lounibos@ufl.edu>]
Sent: Monday, January 06, 2020 5:12 PM
To: bbthiess@gmail.com
Cc: Richard Neill; Donna Dennis; Scott Dennis
Subject: Re: Dock extension application by IRLWC

Bill & Richard,

Thanks for the prompt reply to my first query about the IRLWC's new (?) dock application to DEP. I don't know the extent of Village residents who received this snail mailed document, but both Paul and Ann Sinnott and Julie's mom, next door, have copies.

As the URL for accessing the complete application is so lengthy and not in digital form, I've elected to append photocopies of all the pages that were received today by USPS.

Hopefully, this will enable you to determine whether this is the same, or a different, application that was formerly reviewed by the Village.

BOARD OF TRUSTEES OF THE NATIONAL ANTHROPOLOGICAL ARCHIVES

Index

NOTICE is hereby given pursuant to Section 253.105, Florida Statutes, that the Board of Trustees of the Internal Improvement Trust Fund has received an application 56-0171407-006-PI from Indian River Lagoon Waterfront Cottages & Cabree Colony, Inc. c/o Robert Pruitt, 3011 North Indian River Drive, Fort Pierce, FL 34946, requesting a new sovereignty submerged land lease for the Indian River Lagoon Waterfront Cottages docking facility within Indian River within the Indian River-Vero Beach-Ft. Pierce Aquatic Preserve, Fort Pierce, (Lat. N 27° 29' 26.55" Long. W -80° 20' 11.03"). Section 25, Township 37S, Range 41E, Saint Lucie County, for the purpose of reconfiguring and adding to an existing docking facility. The applicant is proposing to increase the number of slips from 3 to 11 and install 508 sq. ft. of additional over water structure. Anyone interested in reviewing the entire application for the proposed activity may do so at

http://explore.dep.state.nj.us/43/OnlineServices/RequestCommand-InitiateNewTest-&InitiateN
ame={Profile-Permitting-Authorization}&Criteria={EmptyType-any}&CreatedDate={&C
reatedDate=23/10/2013 17:45:01-FO-SEP-171451

or by contacting Emily Rodriguez at 561-681-6633 or Emily M. Rodriguez@Floridaep.gov.

Anyone having any questions or comments regarding the proposed project should file them in writing by email to Emily.M.Rodriguez@floridatrans.gov before 5:00 p.m. on January 28, 2020.

**REPORT OF SPECIFIC PURPOSE SURVEY
for ROBERT PRUITT ***

Map of Specific Purpose Survey:

The Map of the Specific Purpose Survey and in accord with the Boundary Survey previously provided to the office on 3/26/14 and updated on 8/24/2016 for the sole purpose of establishing the Mean High Water line and location of specific improvements along said Mean High Water line. This is a field survey, and the location of the Lease area was created by this office. This survey map and report is not valid until the signature and original raised seal of the Florida-licensed Surveyor and Mapper. The signature and seal are found at the end of this report. The map and report are not full and complete without the other.

Legal Description: See attached Exhibit "A"

Accuracy:

This Survey was prepared in accordance with the standards for the practice of Surveying and Mapping as set forth in the Florida Statutes.

Data Sources:

Reference monuments were obtained from the client and/or his/her representatives. All materials were reviewed with the full knowledge and authorization of the issuing company and/or individual. The survey was conducted by the office and was not a boundary survey. Furthermore, the upland Survey consists of Cook Design and Assessment by Shawmaster Engineering. Furthermore, the upland Survey monuments as shown herein, was issued by this office and dated 3/26/2014. There has been no field locations of improvements on this site since that date.

Measurement Methods:

All equipment was tested and calibrated. Two sets of traverse angles were turned and a level traverse directly connected the two nearest property corners. The remaining property corners were from this traverse by side ties using a redundancy of measurements.

General:

- *Courses and distances shown as plotted (P) attempt to duplicate those on the original plat of Koblegards Subdivision. However, this plot is mostly unreadable and found at control, adjacent recorded plat data and dimensions reflected with the Tax Assessor's office were used to determine the subject properties courses and distances. See for bearing base.
- *North Indian River Drive adjacent to the subject property is not plotted, nor is any official record (provided) of a Maintenance Right of Way or other means of Right of Way. However, in review with the clients representing Records of a Right of Way, Treasure Coast Abstract and Title Insurance Company, it was presented the existing edge of pavement should be held to as an existing right of way.
- *The specific purpose of this map is to show limits of a proposed Sovereign Submerged Land Lease Parcel.
- *Drawing File Name: SLG-Koblegard/KoblegardsSLG-6-10-19
- *This is a field Survey with the below limitations

Limitations:

- *The improvements located within the herein described parcels, other than directly adjacent to the line, were last surveyed in the field on 3/26/2014 and shall not be relied upon for field sufficiency subsequent to that date.
- *The improvements located within the herein described parcels are shown on pages 5 thru 8.
- *No submerged land/lease boundary monumentation was set by this surveyor.
- *The existing shoreline 1000 feet in both directions is natural and/or seawall.

This Survey is not to be used for any other purpose than that for which it was prepared and shall not be relied upon for any other purpose.

REPORT OF SPECIFIC PURPOSE SURVEY for Robert Pruitt

Notes: (Continued)

The Mean High Water Line as shown hereon is in accordance with the Mean High Water Line established by the field on shown on the Survey prepared on 1-26-2014 and updated with the Mean High Water Line, topography and proposed Dock Improvements, by this office. The Mean High Water Elevation as shown hereon was established by the Bureau of Surveying and Mapping of the Department of Environmental Protection at Elevation (+) 0.33 feet NAVD (North American Vertical Datum) of 1988 on August 24, 2016.

This Survey was prepared using the Plat of Record of only. No other documents were provided and no search of the public records was performed by this office.

I, acceptance of this survey all parties agree that the signing surveyor's liability is limited to the amount paid for said Survey.

The Legal Description of the Upland Parcel shown hereon was provided by the client and/or his/her representatives.

The ownership of fence lines has been determined as part of this Survey.

I set calls to found survey control are relative to the nearest property corner, intersection of lines, point curvatures (PC), point of reverse curvatures (PRC) or other identifiable point.

Compliance with local zoning requirements and or with requirements set forth by other State, Public and/or Private entities has not been verified as part of this Survey.

This map may have been photographically or digitally reduced or enlarged with or without the knowledge of the issuing agent. It is incumbent upon the end user to determine the scale indicated hereon as reliable for the intended uses. Certification is made only to the original scale as indicated.

This Survey shall not be copied, transferred or assigned without the specific written permission of Karner Surveying, Inc.

Surveying, Inc.

Address: 3005, 3009 and 3011 N. Indian River Drive, Fort Pierce, Florida

Prepared For:

Robert Pruitt

Certified to and prepared for the sole and exclusive benefit of:
Robert Pruitt and the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and shall not be relied upon by any other entity or individual who is not a party to this Survey.

Surveyor and Mapper in Responsible Charge:

Regina C. Karner, P.S.M., Registration No. LS 4363

KARNER SURVEYING, INC. LE 87257

2740 SW Norton Avenue, Suite #133, Palm City, FL 34990

Tel.: (772) 286 7206

Signed:



Date: 11/14/2019

This Survey is of the Specific Purpose Survey made for the lot and contains units associated with all other plans.

Surveyor's Report
Proposed Sovereign Submerged Land
Lease Parcels

KARNER SURVEYING

LEGAL DESCRIPTION RIPARIAN UPLAND PROPERTY

Parcel A:
Parcel ID Number: 1428-503-0014-000-2, Property Address: 3011 N Indian River
for Informational Purposes Only. Parcel ID Number: 1428-503-0014-000-2, Property Address: 3011 N Indian River Drive

beginning at the intersection of the North line of Lot 13 of KOBLEBARD'S SUBDIVISION as per plat thereof on file in St. Lucie County, Florida, and the centerline of North Indian River, thence run westerly along the North line thereof 201.2 feet, thence southerly at right angles to said North line 101.0 feet, then easterly parallel to South line of Indian River 141.0 feet to North line of Lot 13 aforesaid, thence westerly along said North line 12 feet to the point of beginning.

Parcel B:
for Informational Purposes Only: Parcel ID Number 1428-503-0012-000-5/ 3009 N Indian River Drive, Parcel ID Number 1428-503-0013-000-7/ 3005 N Indian River Drive, and Parcel ID Number 1428-503-0011-000-1/ N Indian River Drive

Parcel C:
The Twelve (12) and Thirteen (13) of KOBLEBARD'S SUBDIVISION of part of Lot 4 of Russell's Subdivision in Section 34, Township 34 South, Range 40 East, as per plat of said subdivision on file in Plat Book 1, at page 37, of the public records of St. Lucie County, Florida, excepting therefrom the following described property: Beginning at the intersection of North line of Lot 13 of Koblebard's Subdivision as per plat thereof on file in Plat Book 1, at page 37, public records of St. Lucie County, Florida, and the centerline of North Indian River Drive, thence run westerly along the North line thereof 201.2 feet, thence southerly at right angles to said North line 101.0 feet, then easterly parallel to South line of Indian River 141.0 feet to North line of Lot 13 aforesaid, thence westerly along shore of Indian River 141.0 feet to North line of Lot 13 aforesaid, thence westerly along said North line 12 feet to the point of beginning. Excepting right of way for North Indian River Drive.

EXHIBIT "A"

PROPOSED SOVEREIGN SUBMERGED LAND LEASE PARCEL

A PARCEL OF SOVEREIGN SUBMERGED LAND Lying in Section 34, Township 34 South, Range 40 East, in the Indian River, St. Lucie County, Florida, CONTAINING 3.10 ACRES, MORE OR LESS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

Beginning at the intersection of the North line of Lot 13 of KOBLEBARD'S SUBDIVISION as per plat thereof on file in Plat Book 1, at page 37, of the public records of St. Lucie County, Florida, and the centerline of North Indian River Drive, thence South 50°16'53" East 57.28 feet to a point of intersection of the proposed Northern line of a River Drive, Submerged Land Lease Parcel and the Mean High Water Line and the POINT OF BEGINNING. Thence the following courses and distances along the proposed banks of the Sovereign Submerged Land Lease parcel: North 17°51'39" East 33.35 feet, South 16°17'15" East 38.97 feet, North 15°08'21" West 22.51 feet, North 77°31'39" East 33.35 feet, South 16°17'15" East 38.97 feet, North 17°51'39" East 4.46 feet, South 15°08'21" West 24.70 feet, South 17°51'39" West 48.00 feet, North 15°08'21" West 85.56 feet, South 17°51'39" West 94.65 feet to the point of intersection with said Mean High Water Line, thence along said Mean High Water Line North 21°07'07" West 9.53 feet to the Point of Beginning.

Containing 7384.5 Square Feet

This Sheet is part of the Sample Purpose Survey, and has not been filed and completed unless provided with all other sheets.

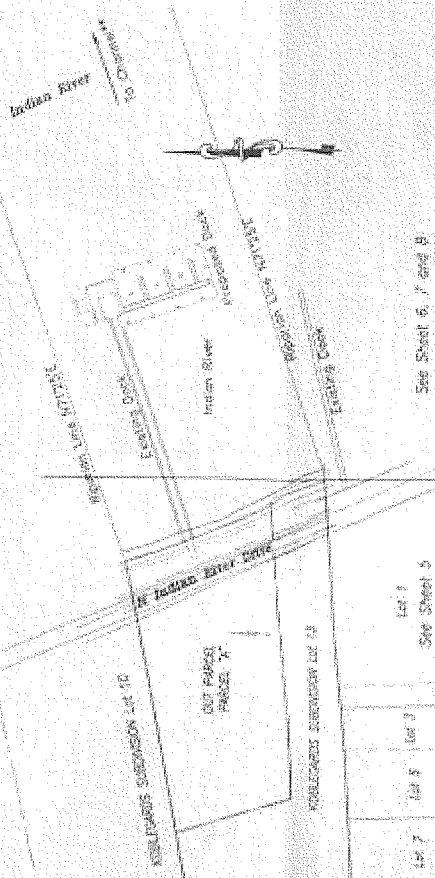
Legal Descriptions
Proposed Sovereign Submerged Land
Lease Parcels
Existing Conditions and Legal Description
and Sketch
Prepared for Robert Pruitt



KARNER SURVEYING
Incorporated
Professional & Commercial Surveying Services
2740 S.W. Marco Downs Blvd #553
Palm City, Florida 34909
888-398-7246 Fax 888-322-8181

Surveyed 8-10-18
Reviewed 11-15-18
Job # - 1428-4222
Sheet 3 of 5

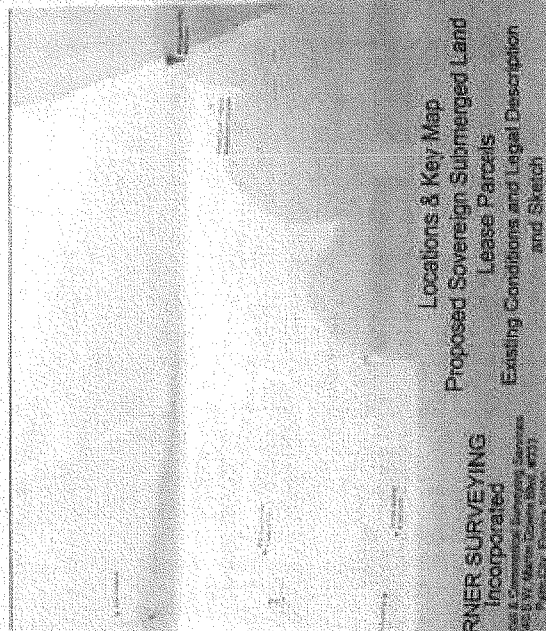
KEY MAP



See Sheet 6, 7 and 8

See Sheet 5

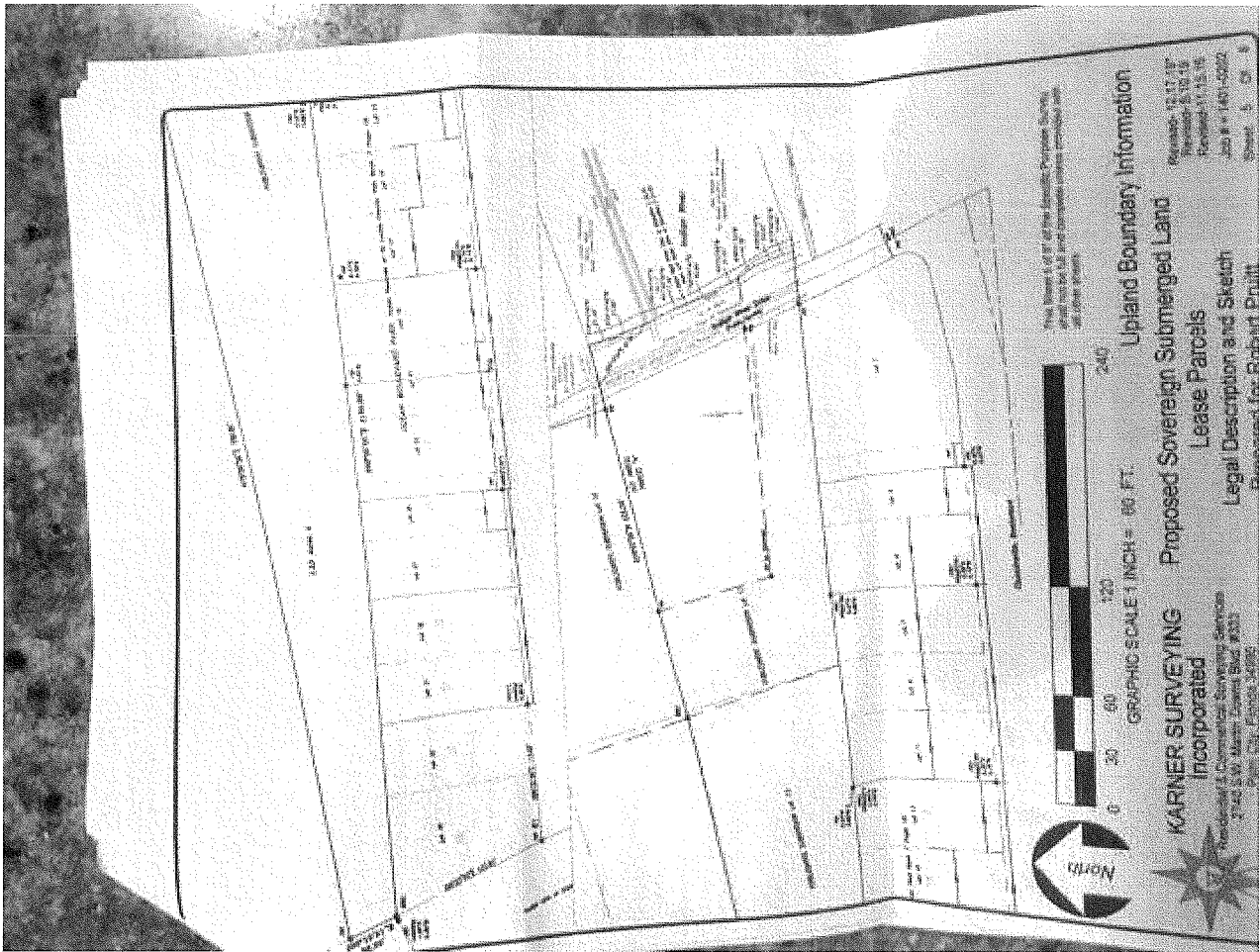
LOCATION MAP (Not to Scale)

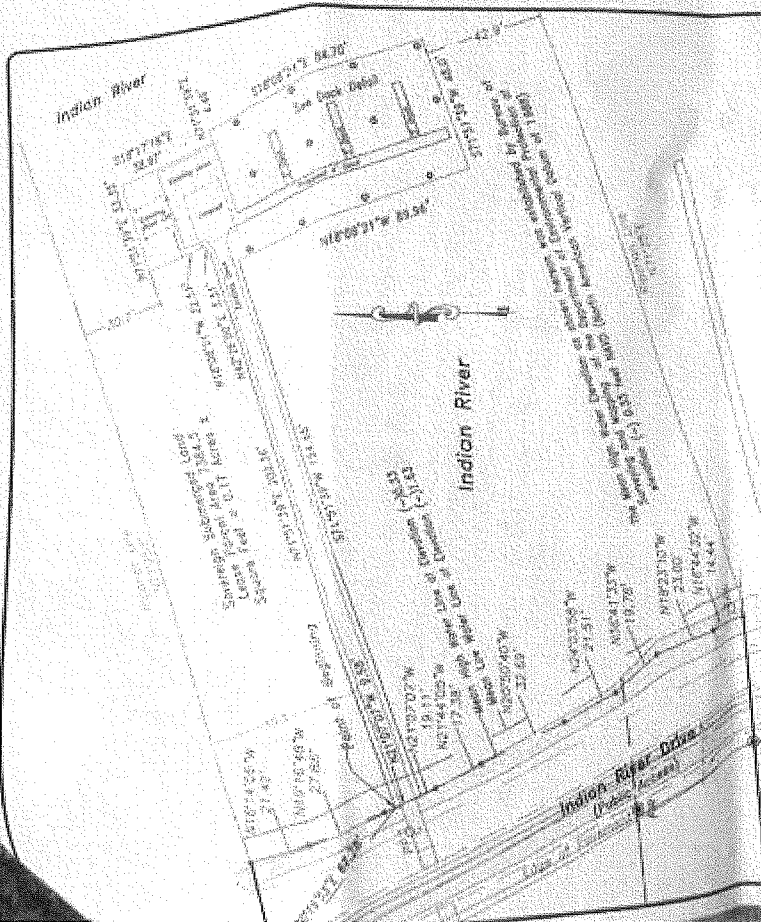


Locations & Key Map
Proposed Sovereign Submerged Land
Lease Parcels
Existing Conditions and Legal Description
and Sketch

KARNER SURVEYING
Incorporated
Professional & Commercial Surveying Services
2740 E.W. Martin Street, Suite 400
Palm Bay, Florida 32909

Revised: 12-11-18
Revised: 8-10-18
Revised: 12-18-18
Job #: 1801-0001





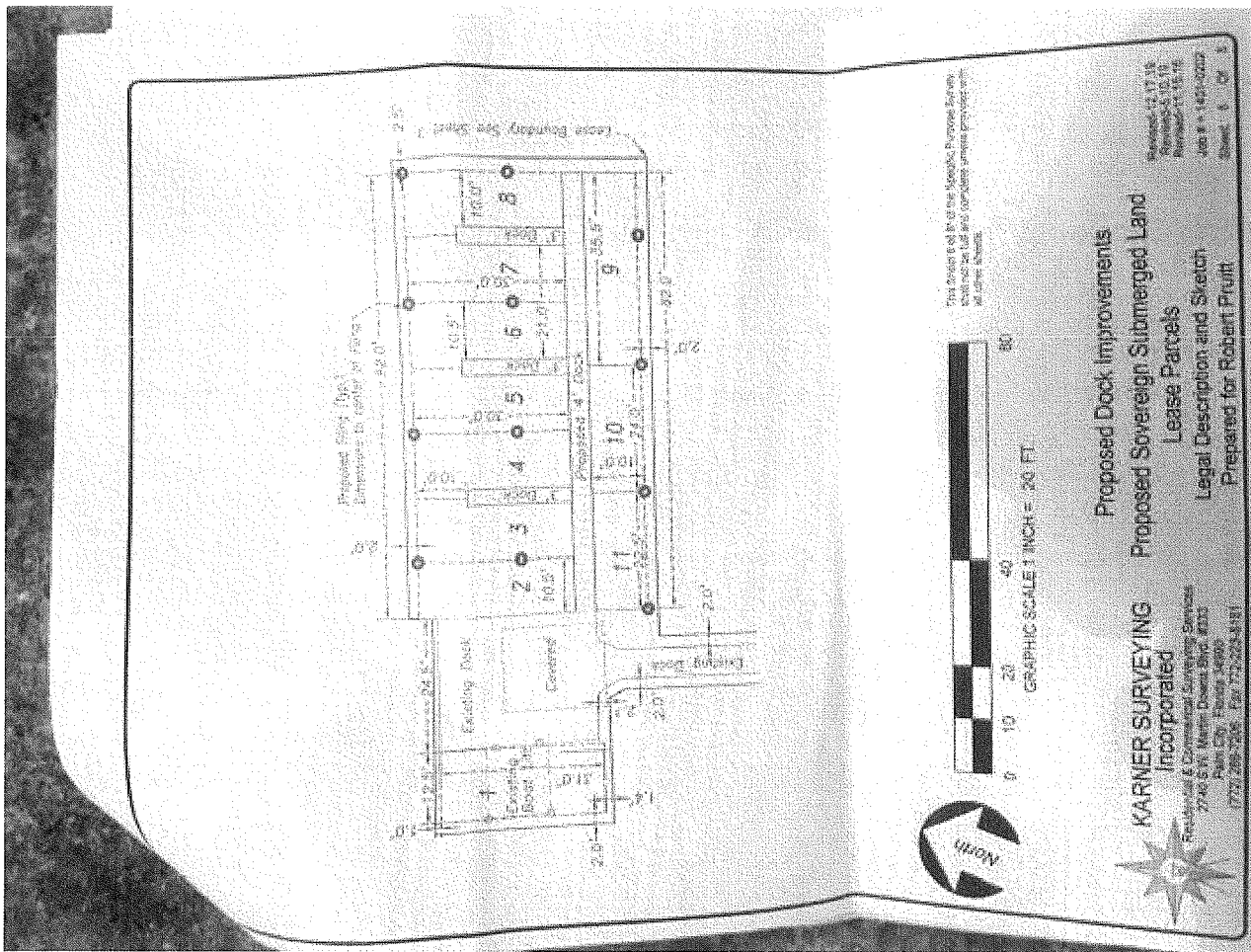
This Sheet is of the Sovereign Submerged Land Lease Parcel and contains no other information.

Project 12-17-18
Revised 12-18
Revised 12-18
Job # 12-18-0000
Sheet 1 of 1

KARNER SURVEYING
Incorporated
2000 N. Main Street, Suite 100
Tampa, FL 33602
Phone: 813-281-1111
Fax: 813-281-1112
Email: karnersurveying.com

Proposed Sovereign Submerged Land Lease Parcel
Legal Description and Sketch

KARNER SURVEYING
Incorporated
2000 N. Main Street, Suite 100
Tampa, FL 33602
Phone: 813-281-1111
Fax: 813-281-1112
Email: karnersurveying.com



Sent from my iPad

On Jan 6, 2020, at 3:17 PM, "bbthiess@gmail.com" <bbthiess@gmail.com> wrote:

[External Email]

Phil & Julie,

I have not seen the documents that you received so I cannot comment on the scope of the project and whether it is the same as what Richard commented on previously. Please make sure to forward all to Richard or send him a link.

I do think we need to discuss at the next meeting of the Village Board and I will leave it up to Richard as to whether it will be an agenda item or part of his report. Regarding your direct response to DEP, I think that would be a very good idea because it will be helpful if they hear directly from the residents and not just the Village Attorney or Board. That goes for your neighbors too, so I would encourage you to talk to them and suggest they respond. I think DEP's standard for noticing adjacent properties may be 500' from project, but that does not mean folks beyond that distance cannot comment as well.

Bill

-----Original Message-----

From: Lounibos,L P <lounibos@ufl.edu>
Sent: Monday, January 6, 2020 1:59 PM
To: BBThiess@gmail.com
Cc: Richard Neill <richard.neill@stlucievillagefl.gov>
Subject: Dock extension application by IRLWC

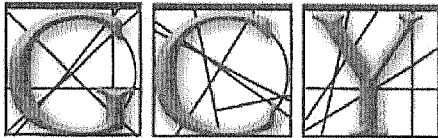
Dear Bill and Richard,

Today Julie and I received in the mail a Notice from DEP about the application of Robert Pruitt for a dock extension and 'reconfiguration' for their rentals known as Indian River Lagoon Waterfront Cottages. The DEP representative who sent us this copy, Emily Rodriguez, indicates that comments or questions about this proposed project are due to her in writing by 5pm Jan. 28. Although we have not accessed the full application from the URL included in this Notice, based on surveyor's maps and drawings included with the notice, this proposal by IRLWC looks very similar to one reviewed about a year ago by the Village Board. Do you, Bill and Richard, have any insights as to why we are now receiving this notification from DEP? (Is this perhaps a revised application that was modified in response to criticisms from the Village?) Should Julie and I, as the Pruitt's closest neighbors in the Village, respond directly to DEP about the application?

Do you anticipate that this application will (re)appear on the Agenda for the next Village meeting?

Thank you for any insights,
Phil & Julie Lounibos
3001 N Indian River Dr.

Sent from my iPad



PROFESSIONAL SURVEYORS & MAPPERS
I N C O R P O R A T E D

Post Office Box 1469 ♦ Palm City, FL 34991
Martin: 772.286.8083 ♦ Fax: 772.283.6174
Statewide: 800.386.1066 www.gcyinc.com

Mr. David King
3103 N. Indian River Drive
Ft. Pierce, FL 34946

December 17, 2019

Regarding culverts placed in St. Lucie Village, 12.05.2019.

Dear Mr. King,

Our survey crew was tasked on December 5, 2019 to measure the existing ground level as seen in an open trench where two culverts were being placed below an existing road bed on or near your property. The following photographs 1-5 show the conditions present and the natural ground level below the road surface within the open trench as well as the newly place culverts before they were backfilled.

The elevation of the prior existing ground level as seen in these picture No. 1 is 4.47 feet (NGVD 88 Datum). Photo shows where my staff is pointing to this level point.

The existing road surface elevation (before backfill as seen in photos 1-5) was measured as 4.87 feet (NGVD 88 Datum).

The elevations of the culverts are as follows:

Western Culvert:

North Invert: 3.35 feet (NGVD 88 Datum)

South Invert: 3.43 feet (NGVD 88 Datum)

Eastern Culvert:

North Invert: 3.37 feet (NGVD 88 Datum)

South Invert: 3.43 feet (NGVD 88 Datum)

The two culverts were measured as 13"x17" elliptical aluminum culverts.

I certify that the measurements shown hereon are correct.

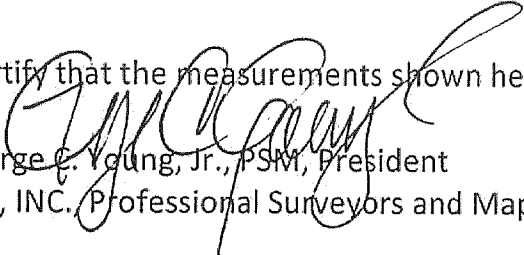

George C. Young, Jr., PSM, President
GCY, INC. Professional Surveyors and Mappers



Photo 1

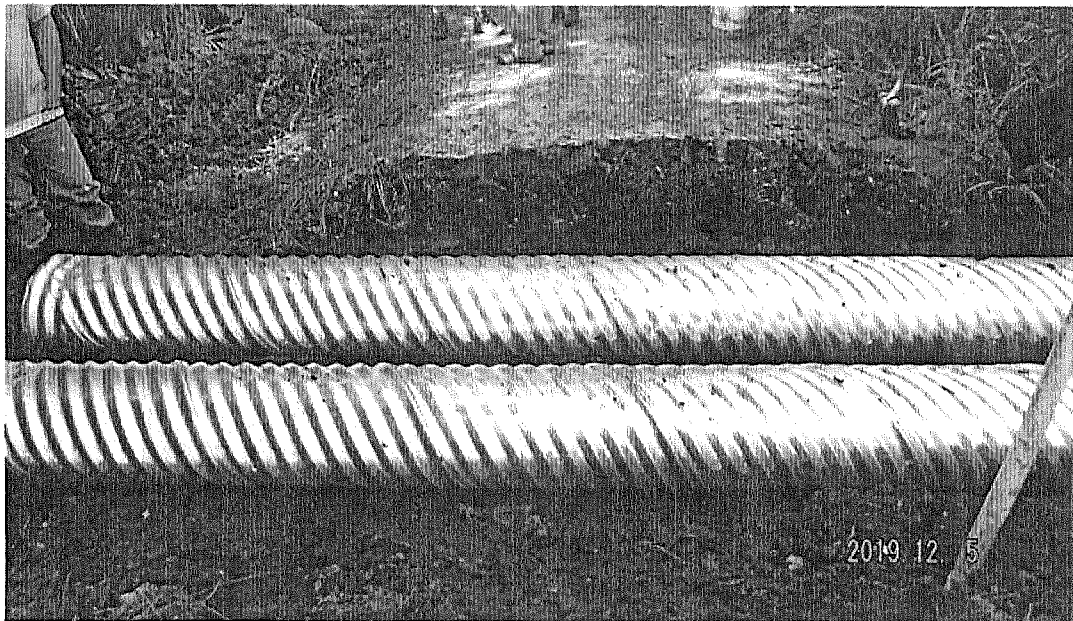


Photo 2



Photo 3

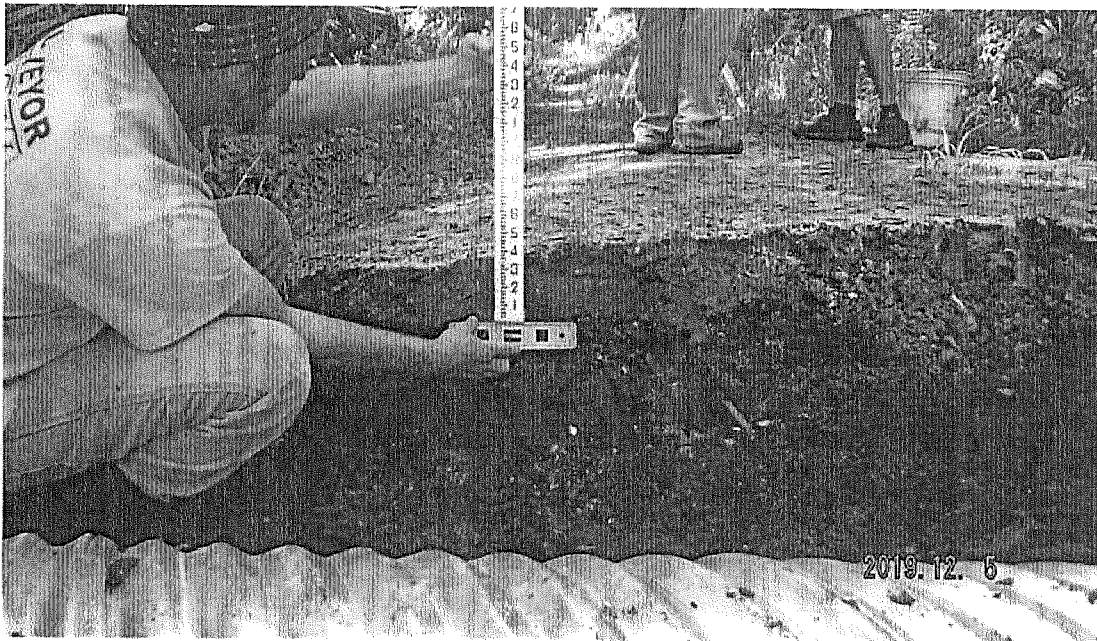


Photo 4

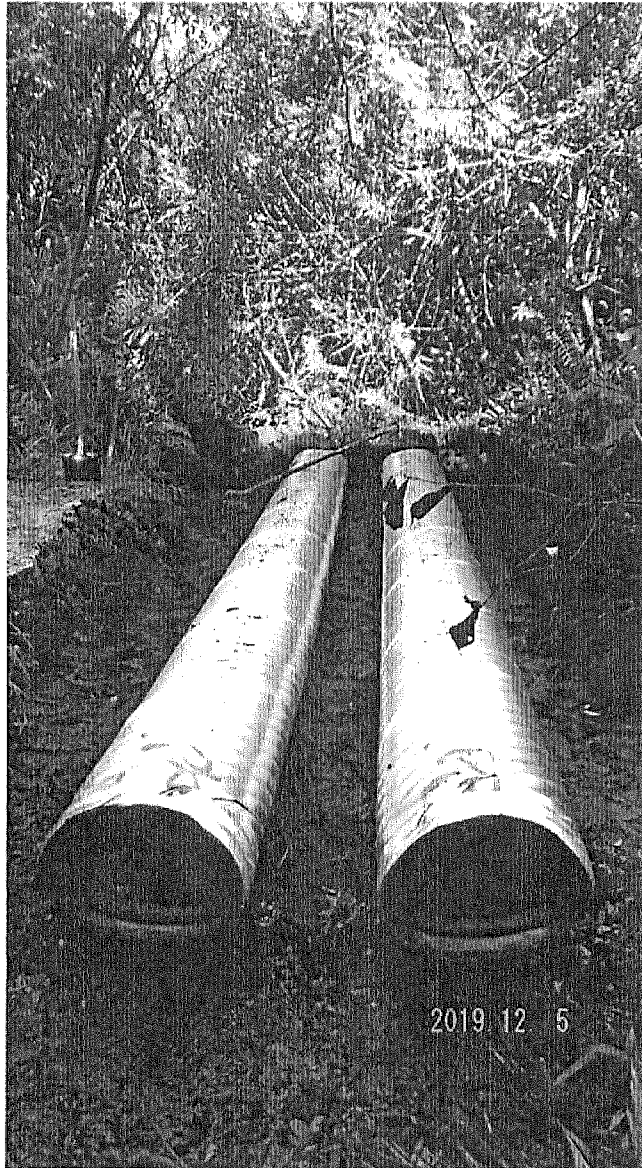


Photo 5

PROPOSED VACATION RENTAL ORDINANCE

Section 1. Amendment to the Permitted Use Table of the St. Lucie Village Land Development Code.

1. The Permitted Use Table is hereby amended to include Short Term Vacation rentals as a permissible use in R-1 and R-2 districts subject to Administrative Review.
2. The Permitted Use Table is hereby amended to include Events as a permissible use in all zoning districts subject to Conditional Use approval.

Section 2. Amendment to Section 2 Definitions and Interpretations of the St. Lucie Village Land Development Code

1. The following definitions are hereby included within Section 2 of the St. Lucie Village Land development Code:

EVENTS Any planned or organized gathering of persons for a like purpose. Events shall not include gatherings at bars, night clubs, restaurants, or any other commercial establish at which each attendee attends for the commercial purpose of which the venue is permitted for.

SHORT-TERM VACATION RENTAL A residence or similar unit which is rented or leased on a nightly basis to transient persons or entities.

TRANSIENT PERSONS Any person who rents or leases a residence on a nightly basis and who does not intend on that residence being there permanent home or address.

Section 3. Amendment to Section 3.5.3 Extra Requirements for Conditional or Permitted Uses.

1. Section 3.5.3 (C), of the St. Lucie Village Land Development Code is hereby amended to include:

(36) **Events**

(a) Additional Application Requirements:

1. If the applicant is not the owner of the property where the Event is scheduled to take place, submit proof of permission from the owner or such person as having the right and authority to grant the same.
2. Proof of sufficient parking for the event.
3. A statement of the number of attendees of the event.

4. A statement that the person hosting the event and all attendees will comply with all rules and regulations of St. Lucie Village, Florida, including all sound and zoning ordinances.
5. A statement as to whether or not alcohol will be served or sold at or during the event.

(b) Additional Standards:

1. Minimum Parking: All events must provide sufficient parking as to ensure that all attendees of the event are able to park their vehicles. Such parking shall be not less than one (1) parking space per every three (3) event attendees.
2. Maximum Occupancy: All Events shall only be open to the number of attendees as the St. Lucie County Fire Marshal shall deem safe for a given location, venue, establishment.
3. Restroom Facilities: There shall be provided restroom facilities sufficient to allow guests to relieve themselves adequately. Such facilities shall be not fewer than one (1) restroom (or portable restroom) per 100 persons.
4. In order to maintain the health, safety, and general environment of St. Lucie Village and its various zoning districts, all events must terminate and be completely closed during 11:00 p.m. and 7 a.m. each day.

(37) **Short Term Vacation Rentals**

(a) Additional Application Requirements:

1. Proof of a Florida Department of Revenue Certificate of registration for purposes of collecting and remitting tourist development taxes, sales surtaxes, and transient rental tax;
2. Proof of a Florida Department of Business and Professional Regulation license as a transient public lodging establishment;
3. Submit an affidavit of compliance with this section and any other applicable local, state, and federal laws, regulations, and standards to include, but not limited to, Chapter 509, Florida Statutes, and Rule Chapters 61C and 69A, Florida Administrative Code.

(b) Additional Standards:

1. Minimum Parking: Minimum off street parking shall be provided as one (1) space per three (3) transient occupants. Garage spaces shall count if the space is open and available and the transient occupants are given vehicular access to the garage. On-street parking shall not be permitted.
2. Maximum Occupancy: The following specific site considerations in subsection a., b., and c. shall limit any short-term vacation rental occupancy to whichever is less, but not to exceed the permitted maximums provided under subsection d., as applicable below:
 - a. One (1) person per one hundred fifty (150) gross square feet of permitted, air conditioned living space; or
 - b. The Maximum number of occupants allowed shall be restricted in accordance with any septic tank permit and the assumed occupancy/conditions the permit was issued under by the St. Lucie County Health Department; or
 - c. Two (2) persons per sleeping room, meeting the requirement for a sleeping room, plus two (2) additional persons that may sleep in a common area.
 - d. The maximum number of occupants for any vacation rental unit shall be limited to ten (10) occupants per unit
3. Noise. It shall be unlawful for any vacation rental guest to cause any sound or noise to be heard from a distance of more than fifty (50) feet from the nearest point of the vacation rental unit during the hours of 10:00 p.m. and 7 a.m. each day, and on Sunday from 7:00 am to 1:00 p.m.
3. The following information shall be posted within the short-term vacation rental unit:
 - a. On the back of or next to the main entrance door or on the refrigerator there shall be provided as a single page the following information:
 1. The name, address, and phone number of the short-term vacation rental responsible party;
 2. The maximum occupancy of the unit;
 3. Notice that quiet hours are to be observed between 10:00 pm and 7 a.m. daily or as superseded by any St. Lucie Village noise regulation;

4. The maximum number of vehicles that can be parked at the unit, along with a sketch of the location of the off-street parking spaces;
5. The days of trash and recycling pickup; and
6. The location of the nearest hospital.

(c) Remedies/Enforcement. Violations of this section shall be subjected to penalties as part of a progressive enforcement program with the primary focus on compliance and compatibility with adjoining properties, versus penalties and legal actions. To accomplish a safe and effective vacation rental program it is key that short-term vacation rental responsible parties are responsive and responsible in the management of the property for compliance with the St. Lucie Village Land Development Code. Code Enforcement activities will be as provided in the St. Lucie Village Land Development Code.

1. Warnings. Warnings shall be issued for first-time violations and have a correction/compliance period associated with it. Such warnings may include notice to other agencies for follow-up by such agencies, such as the Department of Business and Professional Regulation, the Department of Revenue, the St. Lucie County Tax Collector, the St. Lucie County Property Appraiser, and the St. Lucie County Fire Department, as applicable. Non-compliance with a correction compliance period shall result in the issuance of a citation.
2. Fines per violation shall be set by Resolution of the Board of Aldermen of the Town of St. Lucie Village, Florida, for the first (1st), second (2nd), third (3rd), and further repeat violations. The Board of Aldermen may utilize the Code Enforcement mechanism located with the St. Lucie Village Land Development Code or may utilize the civil citation mechanism.
3. Additional remedies. Nothing contained herein shall prevent the Town of St. Lucie Village, Florida, from utilizing any other or additional remedies which may include, but not be limited to, suspension or revocation of a Short-Term Vacation Rental Certificate, injunctive relief, liens, and other civil and criminal penalties as provided by law, as well as referral to other enforcing agencies.

ORDINANCE 546

AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, INDIAN RIVER COUNTY, FLORIDA, RELATING TO SHORT-TERM VACATION RENTALS; AMENDING THE LAND DEVELOPMENT CODE CHAPTER 161 SUPPLEMENTAL REGULATIONS TO ESTABLISH REQUIREMENTS FOR SHORT-TERM VACATION RENTALS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

Be it ordained by the Town Council of the Town of Indian River Shores, Florida, that the Town's Land Development Code (LDC), Chapter 161 - Supplemental Regulations, is amended to add a new section as follows:

SECTION 1: Short Term Vacation Rentals

1. Definitions:

- A. **Vacation rental:** Any residential dwelling which is rented or leased more than three (3) times in a calendar year to a tenant, individual, group of individuals, or party for a period of less than 30 days, or which is advertised or held out to the public as a dwelling which may be regularly rented or leased for a period of less than 30 days. The term "vacation rental(s)" as used in this ordinance shall also mean "short-term vacation rental(s)."
- B. **Designated Responsible Party:** The term "designated responsible party" means the owner, or any person eighteen (18) years of age or older designated by the owner, tasked with responding to requests, complaints, or other problems relating to or emanating from the short-term vacation rental. There shall only be one designated responsible party for each short-term vacation rental. An owner may retain a private property management company to serve as the designated responsible party.

2. Vacation rental registration:

- A. For purposes of vacation rental regulations, "bedroom" is defined as follows: any room used principally for sleeping purposes and meeting applicable building code requirements for a bedroom.
- B. The owner of a vacation rental unit or the designated responsible party shall obtain a separate registration form required for each vacation rental unit. A registration may be transferred to a new owner upon submission of updated registration information and execution of, and assumption of, registration obligations and conditions on a form provided by the Town Building Department.
 - 1) Registration shall be managed by the Town Building Department.
 - 2) A Vacation Rental Registration Form, supplemental to the Local Business Tax Application, shall be submitted to the Town Building Department.
 - 3) Prior to issuance of a Business Tax Receipt, an inspection of the vacation rental unit shall be conducted by a Town Building Inspector for compliance with the requirements of this section.

C. Registration form submittal requirements are as follows:

- 1) Rental unit owner and designated responsible party contact information (cell phone number, email address, mailing address).
- 2) Documentation that the applicant has obtained the following:
 - a. State DBPR license for vacation rental unit
 - b. Local business tax receipt from the Town of Indian River Shores
 - c. Local tourist tax account from the Clerk of the Circuit Court
- 3) Parking compliance information: number of garage and/or carport spaces, maximum number of bedrooms, maximum number of automobiles allowed, and location of spaces on improved or stabilized driveway.
- 4) Verification that carbon monoxide alarms, if required by code, and state licensed fire protection items have been provided in the vacation rental unit: smoke alarms, emergency lighting, and fire extinguisher.
- 5) Unit interior under air information: square footage and number of bedrooms.
- 6) Acknowledgment form executed and dated by the rental unit owner and/or designated responsible party. The acknowledgment form shall provide information regarding the following Town requirements for vacation rentals:
 - a. Prohibition for commercial events at residence, including weddings
 - b. Special parking regulations
 - c. Noise regulations: Compliance with the provisions of Section 96.06 of the Town Code of Ordinances relating to prohibition of certain noises and further that there be no excessive noise that would cause annoyance to any reasonable person of normal sensitivity from 10:00 p.m. to 7:00 a.m. No amplification system, device or sound system speakers, shall be used outdoors or directed outdoors in a manner that is audible from an adjacent residential property.
 - d. Sea turtle protection and dune protection (for rental units east of State Road A1A).
 - e. Limitation of dock/boat use (for waterfront rental units): No more than two (2) boats moored per dock; dock used by unit owner or renter only; no live-aboard use.
 - f. Fire safety requirements and maximum sleeping occupancy limitations.
 - g. Fines and citation penalties for violations.
- 7) Acknowledgement that the following information will be posted or displayed inside the vacation rental unit prior to inspection of the unit by the Town staff and shall thereafter be continuously posted or displayed inside the vacation rental unit:
 - a. Property address
 - b. Designated responsible party contact information:
 - (1) The name and telephone number of the designated responsible party shall be prominently posted on the front exterior of the short-term vacation rental in a place visible to the public.
 - (2) The designated responsible party must be available at the posted telephone number twenty-four (24) hours a day, seven (7) days a week and capable of directly responding, or directing a designated agent to directly respond, to and

resolve any issues or concerns raised by transient occupants, Town staff, or law enforcement when the short-term vacation rental is occupied. If necessary, the designated responsible party must be willing and able to come to the short-term vacation rental unit within two (2) hours following notification to address any issue that is not capable of being addressed by telephone.

- c. Maximum number of parked automobiles, boats, and approved parking locations
 - d. Trash and recycling pick-up days and protocol for placing and retrieving Waste Management containers
 - e. Noise regulations: No excessive noise that would cause annoyance to any reasonable person of normal sensitivity from 10:00 p.m. to 7:00 a.m.
 - f. Location of smoke alarms, emergency lighting, and fire extinguisher
 - g. Emergency information
 - h. Maximum sleeping occupancy (number of persons)
- 8) Acknowledgment that the applicant has contacted any applicable property owner's association or homeowners/condominium association and is aware of private restrictions, if any, that may affect operation of a vacation rental at the subject residence.
- 9) Alternative Compliance Procedure. A homeowner's association may deliver a letter to the Town Manager certifying that procedures have been adopted within its development for short-term rentals that meet and exceed the provisions of this section. Upon receipt of this certification, the Town Manager shall issue a letter of compliance for short-term rentals within that development and no further registration shall be required.

3. Vacation rental local regulations:

- A. To the extent that there is no conflict with these vacation rental regulations, all Town regulations applicable to a residential unit that is not operated or used as a vacation rental unit shall also apply to a vacation rental unit.
- B. Parking and storage of boats and recreational vehicles shall conform to the requirements of Land Development Code 161.01.
- C. Vacation Rental Special Parking Regulations:
 - 1) For a vacation rental, the number of automobiles that may be parked outside of a carport or garage shall be limited to one automobile per bedroom, plus one (1), not to exceed a total of five (5) automobiles parked outside the carport or garage. Automobiles parked outside of a carport or garage shall be parked within a designated and improved or stabilized driveway that has been permitted and not within any required yard area.
 - 2) For all vacation rentals, all automobiles, except for service and delivery vehicles, shall be parked on-site and shall not be parked within a road right-of-way except within a designated and improved or stabilized driveway that has been permitted.
 - 3) Automobiles parked with a designated and improved or stabilized driveway shall not obstruct any sidewalks or pedestrian walkways.
- D. The overnight maximum sleeping occupancy of a vacation rental unit shall not exceed two (2) persons per bedroom plus two (2) additional persons. Notwithstanding the above,

a maximum (cap) of ten (10) persons shall apply to each unit whether the unit is served by public sewer service or by an on-site sewage treatment and disposal system (septic/drain field system). The unit occupancy limit shall be stated on the local license.

- E. Fire protection items required for the vacation rental license shall be provided in the vacation rental unit. In addition, a carbon monoxide (CO) alarm, when required under Section R315, Carbon Monoxide Alarms of the Florida Building Code-Residential, shall be provided.
- F. Changes in the designated responsible party and/or changes in the designated responsible party's contact information shall be provided to the Building Department within ten (10) days of the change.
- G. The local business tax receipt number, the occupancy limit, the maximum number of vehicles allowed to be parked on site outside any garage or carport, and the noise regulations statement contained in these regulations, shall appear or be stated in any vacation rental unit advertisement or any rental offering associated with a vacation rental unit.
- H. Each year, the applicant shall submit a copy of a valid current state license to the Town Building Department upon renewal of their business tax receipt.

4. Interim Operation of Vacation Rental Unit:

Because of the length of time it may take to comply with all of the new requirements on this section, all short term vacation rental owners may lawfully operate until January 31, 2020, to obtain a Local Business Tax receipt from the Town and come into full compliance with the new standards and requirements imposed by this section. All short term vacation rental owners who do not comply with this ordinance within the aforementioned period will receive a citation of violation of these regulations. Once cited, short term vacation rental property owners will have thirty (30) days to come into compliance with the regulations or incur a fine set by the Code Enforcement Board.

5. Claim of Contract Impairment:

It is not the intent of this ordinance to impair any existing contracts, leases, or reservations that are evidenced by writing. An owner who asserts the enacted ordinance amendment impairs a short term vacation rental contract in effect on or before January 31, 2020, shall submit the contract, lease or reservation, evidenced in writing, to the Town Building Department for review and consideration.

6. Enforcement:

- A. Enforcement of compliance with the administrative provisions of short term vacation rentals shall be by the Town Building Department. If requirements for registration or other administrative provisions are not complied with, a notice of non-compliance shall be mailed to the owner or owner's agent of record giving thirty (30) days to bring the vacation rental unit into compliance. Failure to comply will result in suspension of the right to operate the residence as a short-term vacation rental. During any period of suspension, a unit may not be operated as a short-term vacation rental.
- B. Matters relating to public health and safety including illegal commercial use, noise, parking violations, sanitation issues, and number of persons on site shall be by the Public Safety Department or by the Town Building Department. A written warning of violation shall be

first given and if the violation continues or is repeated, then a notice of violation shall be issued which shall be enforced by referral to the Town Code Enforcement Board.

- C. A first violation of this section, upon referral to the Code Enforcement Board, shall result in a fine levied by the Code Enforcement Board of up to \$250 per day of violation. A subsequent violation shall result in a fine of up to \$500 a day for each day of violation.
- D. In addition to any other remedy available to the Town, the town or any adversely affected party may enforce this section in law or equity. Any citizen of the Town may seek injunctive relief to prevent a violation of this section.

7. Schedule of Regulatory Fees:

A fee schedule shall be adopted by resolution of Council for initial registration, renewals, transfer of ownership, and for such other reasonable charges of regulation as Council determines necessary.

SECTION 2: Inclusion in the Code of Laws and Ordinances

The provisions of this Ordinance shall become and be made a part of the Land Development Code of the Town of Indian River Shores. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or any other appropriate word.

SECTION 3: Scrivener's Errors

Sections of this ordinance may be renumbered or re-lettered and corrections of typographical errors which do not affect the intent may be authorized by the Town Manager, or the Town Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

SECTION 4: Conflict. All ordinances or parts of ordinances in conflict herewith or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5: Severability. If any provision of this ordinance or the application hereof is held invalid, such invalidity shall not affect the other provisions or applications, and to this end, the provisions.


SECTION 6: Effective Date. This Ordinance shall take effect upon its final reading and approval.


1st Reading: October 24, 2019

Published: November 2, 2019

PASSED AND ADOPTED upon second and final reading at a regular meeting of the Town Council of the Town of Indian River Shores, Florida, on the 14th day of November, 2019.

By:


Thomas F. Slater Mayor

Attest: 
Laura Aldrich, Town Clerk

Florida Attorney General Advisory Legal Opinion

Number: AGO 77-139

Date: December 30, 1977

Subject: Restrictions on business hours

MUNICIPALITIES--EXTENT OF POLICE POWER TO REGULATE CLOSING HOURS OF CERTAIN BUSINESSES

To: William F. Fann, Jr., Village Attorney, Miami Shores Village

Prepared by: Frank A. Vickory, Assistant Attorney General

QUESTION:

To what constitutional limitations is a municipality subject when it attempts to restrict the business hours of restaurants, gasoline service stations, and grocery stores presently operating on a 24 hour daily basis?

SUMMARY:

The question of a municipality's right to regulate the hours of business operation of retail businesses pursuant to its police power depends upon whether the regulation is required for the public health, morals, peace, safety, or welfare and whether the regulation is reasonable and substantially connected with the public interest sought to be served.

The issues raised by your request deal with the authority for and limitations on a local government's exercise of its police power to prescribe regulations for the conduct of lawful retail businesses in the interest of the public peace, health, morals, safety, or welfare.

The Fourteenth Amendment to the United States Constitution, applicable to the states, provides that no person may be deprived by the state of life, liberty, or property without due process. Section 9, Art. I, State Const., contains a similar provision. As a general proposition, due process of law is deprived by arbitrary or unreasonable regulations of hours or days of business which such regulation serves no public purpose. Reasonable prohibitions upon doing business at such hours as are injurious to the public health, however, do not result in a violation of the due process clauses of

either the Florida or the United States Constitution. See 16A C.J.S. *Constitutional Law* s. 671 and cases cited therein; see also 16 Am. Jur.2d *Constitutional Law* s. 325 and cases cited therein; and see discussion in *Wednesday Night, Inc. v. City of Ft. Lauderdale*, 272 So.2d 502 (Fla. 1972); *Robbins v. Webb's Cut Rate Drug Co.*, 16 So.2d 121 (Fla. 1943); *State v. Ives*, 167 So. 394 (Fla. 1936).

It is undisputed that an individual has an inherent right to engage in a lawful business or trade. It is also axiomatic, however, that a municipal corporation (as an arm of the state) may impose reasonable restrictions upon the conduct of such activities in the interest of the public peace, health, morals, or general welfare, so long as such regulation is exercised reasonably, within constitutional limitations, not arbitrarily, and not in such a manner as to restrain trade or to unfairly discriminate. Of course, a municipality may not, under the guise of protecting the public, arbitrarily interfere with, or unnecessarily restrict, a lawful business or occupation. In every case, a court, to determine the validity of certain regulations as applied to certain business, must consider both the general character or scope of the business and whether the limitations on its conduct have a reasonable relation to a legitimate public purpose. See 62 C.J.S. *Municipal Corporations* ss. 234-236, and cases cited therein. See also *Griffin v. Sharpe*, 65 So.2d 751 (Fla. 1953), and *Wiggins v. Jacksonville*, 311 So.2d 406 (1 D.C.A. Fla., 1975).

Clearly, the issue of constitutional limits on the exercise of the police power to regulate the conduct of business in the interest of the public defies an easy or "black-letter" answer. Since the answer to your request would depend so heavily upon the facts and reasons behind the particular restrictions proposed, and since, of course, the courts are the final judges as to what are proper subjects of the police power, I can only attempt in this opinion to set forth general guidelines concerning exercise of the police power in the manner contemplated by your letter. As stated by the Florida Court in *Miami v. Shell's Super Store, Inc.*, 50 So.2d 883 (Fla. 1951), the authorities touching the power of municipalities to enact and enforce regulations such as the proposed restrictions do not all point the same way.

In many instances where regulations restricting business hours have been upheld, it is because the court has found a link between the type of business regulated and the health or safety of the public. For instance, several cases have dealt with regulation of business hours of barbershops, a type of business which is subject to strict regulation in any event for protection of the public against contagious diseases. In *Amodio v. West New York*, 43 A.2d 889 (N.J. 1945), the New Jersey Supreme Court upheld regulation of business hours as "necessary in order to protect the general welfare and health of persons working in barber shops" who are apparently more

vulnerable to contagious diseases if they work long, exhausting hours (*id.* at 891, 892). The Florida Supreme Court, however, has held that regulation of barbers can go to "competency of the barbers, sanitation and protection of the public against the spread of communicable disease" and that so long as it is confined to those subjects it is valid, but otherwise such regulation of business hours is "apt to be an unreasonable restriction on one's right to engage in a lawful business and make an honorable living." *Miami v. Shell's Super Store, Inc.*, 50 So.2d 883, 884 (Fla. 1951). *Cf.* *Robbins v. Webb's Cut Rate Drug Co.*, 16 So.2d 121 (Fla. 1943), and *State v. Ives*, 167 So. 394 (Fla. 1936), cited in *Shell's Super Store* for the proposition that if it becomes necessary for the health or safety of barbers or the public, closing hours or any other reasonable regulation may be imposed.

Regulation of business hours has also been upheld in numerous other instances based upon the type of business involved. In *Connecticut v. Gordon*, 125 A.2d 477 (1956), the Connecticut Supreme Court of Errors upheld a regulation forbidding auction sales after 6:00 p.m. The court found that such businesses usually involve itinerant salespersons who conduct auctions on an infrequent enough basis that great crowds of people are brought together for relatively short periods of time. The court noted that "[w]henver crowds of people congregate, especially after dark, whether at regular or irregular periods, problems of safety, health and morality which affect orderly and peaceful living are created" (*id.* at 481) and that the local regulation in question was a reasonable means of dealing with these attendant problems. Likewise, several cases have upheld regulation of business hours when the business involved is of a coin-operated, unsupervised nature, e.g., coin laundries or car washes. In *People v. Raub*, 155 N.W.2d 878 (Ct. App. Div. 1 Mich. 1968), the court upheld the conviction of the owner of a self-service car wash for violating a city ordinance prohibiting operation of such businesses between 10 p.m. and 7 a.m. The court found the ordinance valid since it was based upon protection of the public safety and welfare. The record apparently showed that such businesses are conducive to "rowdiness, 'gang' groupings, and like activity." Specifically, residents in the vicinity of defendant's business complained of excessive litter, noise, beer drinking, and other disturbances at late evening and during early morning hours. The court also determined in upholding the ordinance that it was not violative of equal protection by singling out only certain types of business. It found specifically that it was the unsupervised nature of such coin-operated businesses that resulted in the evils sought to be cured by regulation, indicating that a supervised car wash at a service station, e.g., could not be similarly regulated. See also, e.g., *Gibbons v. Chicago*, 214 N.E.2d 740 (Ill. 1966), cert. denied 385 U.S. 829 (1966); *Township of Little Falls v. Husni*, 352 A.2d 595 (N.J. 1976).

My research has revealed, however, that the greater number of the courts considering restrictive business hour regulations have held them invalid. As a general rule, and especially with regard to retail establishments, it can be said that a community must show a very clear need, based upon problems which attend operation of a certain type of business in a particular community at certain times of the day, before such regulations are held valid. The Florida Supreme Court has so held in *Ex Parte Harrell*, 79 So. 166 (Fla. 1918), which involved a Tallahassee ordinance requiring all places of business selling "goods, wares, and general merchandise" to close by 6:30 p.m. The city defended the ordinance by saying only that it was necessary to conserve the public health, morals, and safety. The court found on the contrary that the regulation does not "in any manner, directly or remotely, even tend to promote public health, public morals, the public safety, or the good order and peace of the community; but, on the contrary, we think that the provision . . . is an unwarranted governmental interference with the personal rights of the merchant class of the citizens of the town . . ." *Id.* at 167. See also *Perry Trading Co. v. City of Tallahassee*, 174 So. 854 (Fla. 1938); *City of Miami et al. v. Shell's Super Store, Inc.*, *supra*; and *cf. Zaconik v. City of Hollywood*, 85 F. Supp. 52 (S.D. Fla. 1949), holding that where a retail business adopted a method of effecting sales embracing some of the features of public auction sales but differing in certain respects, application of an ordinance prohibiting the sale of certain goods after 6 p.m. to such retail business and its method of doing business would be violative of rights guaranteed by the Federal Constitution.

A number of courts have held, even if the municipality can show that crime control and other problems result when a certain business operates on a 24-hour basis, that regulation of business hours cannot be upheld. A leading case is *Fasino v. Borough of Montvale*, 300 A.2d 195 (N.J. Sup. Ct. 1973), in which the court found unconstitutional an ordinance requiring retail and grocery stores to be closed during the hours from 11 p.m. to 6:30 a.m. The town advanced two reasons to support its ordinance: It eliminates noise, light, and traffic that accompany all-night operations and it fosters more effective law enforcement of an area with an inadequately staffed police department. The court rejected both arguments as insufficient to justify the regulation. The right of individual business persons to operate unfettered by regulation was seen as too fundamental to yield to any but a very clear public need for such regulation. The court concluded, therefore, in response to the first basis advanced by the town for its ordinance, that "more appropriate legislation would have been directly aimed at the detriment perceived by the [town], i.e., direct regulation of traffic speed on local streets, direct prohibition of glaring lights, or prohibition of raucous noises." *Id.* at 202; accord: *Dyess v. Williams*, 444 S.W.2d 701 (Ark. 1969), in which the Arkansas Supreme Court said, "There is no need for the town to attain its

objective indirectly by closing all places engaged in lawful business after midnight. . . . [T]he sweep of the ordinance goes too far beyond the necessities of the situation." *Id.* Cf. *Singer v. Ben How Realty*, 33 So.2d 409 (Fla. 1948), holding that an ordinance prohibiting the use of machines emanating annoying noises during certain periods of week days and at any hour on Sundays was not per se void and unconstitutional.

As to the second argument, the court found that the town simply could not attempt to solve the problems of an inadequate police force by regulating legitimate businesses so as to reduce the need for such protection. In effect, the court found that the public had a right to adequate police protection and that the town could not use a restrictive ordinance on business to avoid the additional expense that would be required to provide it. See also *Jackson v. Murray-Reed-Sloane and Co.*, 178 S.W.2d 847 (Ct. App. Ky. 1944).

It should be noted that the same reasons advanced by the court in *Fasino* to hold a closing ordinance unconstitutional might also be applied to coin laundries, car washes, barbershops, auctions, etc., all discussed above; i.e., it is arguable in regard to such businesses that the town has no power to enact closing ordinances to control indirectly the problems caused by the operation of such businesses. Yet, *Fasino* apparently viewed with favor the cases upholding restrictive ordinances regulating such businesses. It distinguishes its own situation largely based upon the fact that it involved a retail establishment selling food and other essential items. The court noted that such stores serve a valuable community interest by providing basic human needs. The court quoted at length from *Olds v. Klotz*, 3 N.E.2d 371, 373 (Ohio 1936), in which the Ohio Supreme Court said:

"Food is vital to health, and even to life itself All the authorities seem to be in accord with the proposition that the police power does not extend to the limitation of hours within which retail stores, selling either groceries or other commodities or both, may be kept open to customers. Every business has some relation to the public welfare . . . ; but the regulation thereof is not within the police power unless the relation to the public interest and the common good is substantial and the terms of the law or ordinance are reasonable and not arbitrary in character." (Emphasis supplied.)

A number of cases in other jurisdictions have also struck down regulations applied to food and other retail stores. See, e.g., *Town of McCool v. Blaine*, 11 So.2d 801 (Miss. 1943); *Goodin v. Philadelphia*, 75 So.2d 297 (Miss. 1954); *Justesen's Food Stores, Inc. v. Tulane*, 84 P.2d 140 (Cal. 1938).

Your letter also specifically addresses itself to the question of

business hour regulation regarding restaurants and service stations. In *State v. Grant*, 216 A.2d 790 (N.H. 1965), the New Hampshire Supreme Court was faced with an ordinance requiring all restaurants to be closed between midnight and 6 a.m. The court upheld the ordinance, finding that the record established that all-night restaurants fostered excessive noise and other similar disturbances, and hence that the regulation "could be found to bear a substantial relation to the maintenance of order and protection of persons and property in the area." See also *Burlington v. Jay Lee, Inc.*, 290 A.2d 23 (Vt. 1972), in which the Vermont Supreme Court reached essentially the same conclusion in regard to a similar ordinance. But cf. *Goodin v. Philadelphia*, 75 So.2d 279 (Miss. 1954), in which the Mississippi Supreme Court struck down a business hour ordinance challenged by a restaurant owner but directed to all businesses. The court, however, noted that its decision was based upon the lack of a showing that there was "a causal relationship between this sweeping ordinance and [the preservation of good order and peace of the municipality] It makes no distinction between the good and the bad."

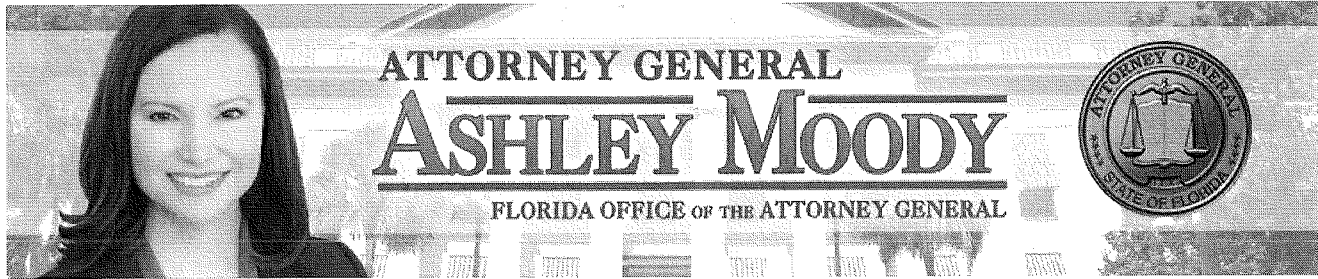
Research has revealed only one case involving regulation of business hours for service stations. Such a regulation was upheld in *Bi-Lo Stations, Inc. v. Alsip*, 318 N.E.2d 47 (1 D.C.A. Ill., 1974). The court found that all-night stations had become the target of serious crimes against persons and property, particularly between midnight and 6 a.m., the hours covered by the closing regulation. The court was "satisfied, upon this record, that the compulsory closing provisions . . . are neither arbitrary nor unreasonable, and that the regulation is a constitutional one, reasonably related to the public health, safety, and welfare of the Village." *Fasino, supra*, was distinguished by the court from the situation before it because *Fasino* dealt with a general closing ordinance not directed to a single type of business shown to cause an increase in crime of open 24 hours a day. It should be again noted, however, that the distinction is difficult to make, since *Fasino* did say that closing regulations cannot be used to solve indirectly such problems as noise and inadequate police protection which could be directly addressed through noise regulations or an improved police force.

In sum, it is clear that a categorical answer to your inquiry is not possible. As the Supreme Court said in *Nebbia v. New York*, 291 U.S. 502, 525 (1933):

"[T]he guaranty of due process, as has often been held, demands only that the law shall not be unreasonable, arbitrary, or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained. It results that a regulations valid for one sort of business, or in given circumstances, may be invalid for another sort, or for the same business under other circumstances, because the reasonableness of

each regulation depends upon the relevant facts." (Emphasis supplied.)

Because each fact situation is unique, I have attempted by the foregoing discussion of leading decisions on closing regulations to provide you with guidelines that can be applied in your particular set of circumstances. Ultimately, of course, this is a question subject to judicial determination.

**Advisory Legal Opinion - AGO 83-68**[Print Version](#)

Number: AGO 83-68

Date: September 30, 1983

Subject: Regulation of hours of bottle club; noncharter county

Mr. James G. Yaeger
County Attorney
Lee County
Post Office Box 398
Fort Myers, Florida 33902-0398

RE: COUNTIES--Licensing and regulation of bottle clubs

Dear Mr. Yaeger:

This is in response to your request for an Attorney General Opinion on the following questions:

1. Does a noncharter county have authority to regulate the hours of bottle clubs, i.e., unlicensed premises where there are no alcoholic beverage sales transactions being made and which have on-premise consumption of alcoholic beverages?
2. If the answer to #1 above is in the affirmative, can the fixing of hours be regulated through proper zoning amendment procedures to the county zoning regulations establishing said hours of on-premise consumption of alcoholic beverages?
3. Furthermore, can a nonchartered county amend its occupational license ordinance to include a new license requirement and category for bottle clubs to further regulate said unlicensed premises through said license/permitting procedure on a local level?

QUESTIONS ONE AND TWO

As your first two questions are interrelated they will be answered together.

Chapter 125, F.S., implements the provisions of s. 1(f), Art. VIII, State Const., which gives noncharter counties the powers of self-government provided by general or special law. Section 1(f), Art. VIII,

State Const., also authorizes the board of county commissioners of a noncharter county to enact ordinances, as prescribed by Ch. 125, F.S., which are not inconsistent with general law. See *Speer v. Olson*, 367 So.2d 207, 210 (Fla. 1978). As provided in s. 125.01(3)(b), F.S.:

"The provisions of this section shall be liberally construed in order to effectively carry out the purpose of this section and to secure for the counties the broad exercise of home rule powers authorized by the State Constitution."

The legislative and governing body of a county is empowered by Ch. 125, F.S., to carry on county government and, to the extent such power is not inconsistent with general or special law this power shall include, but shall not be restricted to, *inter alia*, establishing, coordinating and enforcing zoning and such business regulations as are necessary for protection of the public. Section 125.01(1)(h), F.S. See also s. 125.01(1)(w), F.S. (county governing body is empowered to "[p]erform any other acts not inconsistent with law which are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law").

In the case of *Speer v. Olson*, 367 So.2d 207 (Fla. 1978), the Florida Supreme Court stated that unless the Legislature has preempted a particular subject which relates to county government by either general or special law the county governing body has full authority to act through the exercise of home rule power by reason of the first sentence of s. 125.01(1), F.S., which provides that "[t]he legislative and governing body of a county shall have the power to carry on county government." *Id.* at 211. The court found that there was no statute, either general or special, authorizing or restricting the action taken by the county in that case (county proceeded under home rule powers to issue general obligation bonds to acquire sewage and water systems and to pledge net revenues from the operation of these facilities and ad valorem taxes levied within area for payment of bonds) and that therefore the county was authorized, pursuant to s. 125.01(1), F.S., to proceed under its home rule power to accomplish this purpose.

There does not appear to be any specific statutory or constitutional provision authorizing the board of county commissioners to regulate the business hours for consumption of alcoholic beverages at unlicensed alcoholic vendor premises or "bottle clubs." *Cf.* s. 125.01(1)(o), F.S., which empowers the county governing body to "[e]stablish and enforce regulations for the sale of alcoholic beverages in the unincorporated areas of the county pursuant to general law," (e.s.); s. 562.14(1), F.S., providing in pertinent part that "[e]xcept as otherwise provided by county or municipal ordinance, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the division between the hours of midnight and 7 a.m. of the following day" (e.s.); and AGO's 73-197, 75-252. However, while there is no specific authority for the action contemplated here, neither is there a restriction on or prohibition against such regulation contained in any statutory provision or the Florida Constitution of

which I am aware, nor has any such provision been brought to my attention. Therefore, utilizing the rationale of the *Speer v. Olson* case, it would appear that the home rule power extended to noncharter counties through s. 1(f), Art. VIII, State Const., and s. 125.01, F.S., would empower the Board of County Commissioners of Lee County to regulate such "bottle clubs."

In *Patch Enterprises, Inc. v. McCall*, 447 F.Supp. 1075 (M.D. Fla., 1978), a challenge to a county ordinance prohibiting establishments which dealt in alcoholic beverages from permitting the sale or consumption of alcoholic beverages on their premises between certain hours was initiated by the operators of a "bottle club." The ordinance defined "establishments which deal in alcoholic beverages" to include "bottle clubs," hotels, motels, restaurants and night clubs and a definition of "alcoholic beverages" was also provided. Among the issues raised by the plaintiffs in challenging the county ordinance were whether the ordinance unconstitutionally denied equal protection of the laws to the "bottle club" owners by including them in a prohibited classification that was unreasonably and arbitrarily discriminated against and whether the proscription of the ordinance was so unjustifiable and unreasonable as to constitute a denial of the due process rights of the plaintiffs. With regard to the equal protection argument, it was found that the ordinance did not define the class of persons whom it regulated by means of a suspect criteria. The court stated that "[i]t is an intrinsic power of state governments and their subdivisions, fortified by the federal Constitution's Twenty-first Amendment, to regulate the sale, distribution, importation, and use of alcoholic intoxicants, so long as that regulation does not irrationally and invidiously discriminate." 447 F.Supp. at 1079. In addition, the court determined that in enacting socio-economic, general welfare legislation, states and their subdivisions are accorded a wide latitude of discretion to select implementing classifications. *Patch Enterprises v. McCall*, *supra* at 1079.

In considering the due process challenge brought by the "bottle club" owners against the county ordinance, the court set forth the test of substantive due process as being whether a state can justify the infringement of its legislative activity upon personal rights and liberties. A state has a broad scope of discretion in which to regulate the conduct of its citizens so long as the legislative activity does not encroach upon constitutional guarantees or conflict with federal statutory law. To withstand a due process challenge, the legislative activity in question need only be shown not to be arbitrary or unreasonable. If a legitimate interest of the state (or a subdivision thereof) is involved and the legislation aims to effect such interest and the legislation is a reasonably related means to achieve the intended end, it will be upheld. The legislative goals which the county asserted for enacting this ordinance were the protection of the safety and welfare of county residents. The court determined that the legislation in question was a reasonable means to achieve that goal. The court further found that there was no inconsistent or preemptive state law which would make the subject county ordinance *ultra vires*.

Therefore, it would appear that a noncharter county exercising its home rule power as provided by s. 1(f), Art. VIII, State Const., and s. 125.01, F.S., is empowered to regulate the consumption of alcoholic beverages at unlicensed alcoholic vendor business premises or "bottle clubs" by county ordinance if such legislation is directed to the goal of protecting the safety and welfare of county residents and if the classification of "bottle clubs" by the county commission is not arbitrary or unreasonable and that such regulation may but is not required to take the form of zoning ordinances. Cf. *State v. Noel*, 169 So. 549 (Fla. 1936); *City of Miami Beach v. State*, 129 So.2d 696 (Fla. 1961); *Hardage v. City of Jacksonville Beach*, 399 So.2d 1077 (1 D.C.A. Fla., 1981); AGO's 74-319, 74-362.

QUESTION THREE

Chapter 205, F.S., the "Local Occupational License Tax Act" provides, *inter alia*, that a county governing body may levy an occupational license tax for the privilege of engaging in or managing any business, profession or occupation within its jurisdiction. Such a tax may be levied pursuant to a resolution or ordinance by the governing body of the county. Section 205.032, F.S. The authority of a county governing body to levy an occupational license tax is subject to a number of conditions imposed pursuant to s. 205.033, F.S., including a condition that such tax be based upon reasonable classifications and be uniform throughout any class. Section 205.033(1)(a), F.S.

I am aware of no statutory provision which would prohibit a noncharter county from levying an occupational license tax for the privilege of engaging in or managing a "bottle club" business within its jurisdiction. Therefore, I am of the view that a county may levy an occupational license tax on such businesses as long as the provisions of Ch. 205, F.S., are complied with and it meets the requirements of s. 205.033(1)(a), F.S. Cf. *Segal v. Simpson*, 121 So.2d 790, 792 (Fla. 1960) ("bottle clubs" are lawful business enterprises and as such may not be prohibited under the power to license).

In sum, it is my opinion unless and until legislatively or judicially determined otherwise that a noncharter county is empowered by s. 1(f), Art. VIII, State Const. and s. 125.01, F.S., to regulate the consumption of alcoholic beverages at unlicensed alcohol vendor business premises, or "bottle clubs," if such regulation is directed to the goal of protecting the safety and welfare of county residents and if the classification of such establishments is not done in an arbitrary or unreasonable manner. In addition, a noncharter county may but is not required to levy an occupational license tax upon businesses pursuant to Ch. 205, F.S., so long as the requirements of s. 205.033(1)(a), F.S. are satisfied.

Sincerely,

Jim Smith

Attorney General

Prepared by:

Gerry Hammond

Assistant Attorney General

Florida Toll Free Numbers:

- Fraud Hotline 1-866-966-7226
- Lemon Law 1-800-321-5366

Laura Marotta

From: Richard Neill <richard.neill@stlucievillagefl.gov>
Sent: Thursday, January 16, 2020 11:57 AM
To: Laura Marotta
Subject: FW: Commercial Properties - Yeshua Grace Transformation LLC

From: Richard Neill
Sent: Tuesday, December 31, 2019 1:45 PM
To: Carl Peterson
Cc: Scott Dennis; Donna Dennis (donna.dennis@stlucievillagefl.gov); 'William Thiess'; Laura Marotta
Subject: RE: Commercial Properties - Yeshua Grace Transformation LLC

Carl,

I've taken a look at the information on these parcels and now understand that they make up the Northside Nursery property.

On the two southern properties, there are apparent violations or non-conformities in that there is commercial use of the residential property which lies to the east of the midpoint between Old Dixie Hwy and U.S. 1.

With the property on the east side being zoned residential, commercial use is not permitted.

I do recall that there were variances granted in relation to certain use of the property, on certain terms, but I think that one could argue that the variances are no longer in effect. No such determination has, however, been made.

Do feel free to pass this information from me, as Village Attorney, to the inquirer.

Regards,

Richard

Richard V. Neill, Jr.
Town Attorney
Town of St. Lucie Village, Florida

Neill Griffin Marquis, PLLC
Post Office Box 1270
Ft. Pierce, FL 34954
Telephone: 772-464-8200
Fax: 772-464-2566
richard.neill@stlucievillagefl.gov

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communication. If you received this email in error, please notify the sender by reply e-mail and delete all materials from all computers.

From: Carl Peterson
Sent: Monday, December 30, 2019 3:03 PM
To: Richard Neill
Subject: Re: Commercial Properties - Yeshua Grace Transformation LLC

I was going to just send an email that we don't have anything when I know your ok.

On Dec 30, 2019, at 2:49 PM, Richard Neill <richard.neill@stlucievillagefl.gov> wrote:

Carl,

There is **no commercial** on Old Dixie in the Village. At the south end, there is some with Light Industrial land use. Crystal Water has a variance, but I don't think it's transferrable.

And, Scott is right that, generally, commercial is limited to the west side of the line which runs north and south halfway between US 1 and Old Dixie.

And, we should always caveat responses that we don't know of any violations, but that doesn't mean they don't exist.

And, I don't typically fill out their forms.

Richard

Richard V. Neill, Jr.
Town Attorney
Town of St. Lucie Village, Florida

Neill Griffin Marquis, PLLC
Post Office Box 1270
Ft. Pierce, FL 34954
Telephone: 772-464-8200
Fax: 772-464-2566
richard.neill@stlucievillagefl.gov

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From: Carl Peterson
Sent: Tuesday, December 24, 2019 11:38 AM
To: Richard Neill; Scott Dennis; Donna Dennis
Subject: Fwd: Commercial Properties - Yeshua Grace Transformation LLC

Group, Please see the public records request attached. Are these properties commercial on Old Dixie?

Carl Peterson BCA CFM
772-528-2777
Carl.peterson@stlucievillagefl.gov

Per F.S. 668.6076 Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone.

Begin forwarded message:

From: "liens@lienone.com" <liens@lienone.com>
Date: December 24, 2019 at 10:02:41 AM EST
To: Carl Peterson <carl.peterson@stlucievillagefl.gov>
Subject: Commercial Properties - Yeshua Grace Transformation LLC

Dear Mr. Peterson,

Thank you for your assistance over the phone. I have attached three different parcels for this commercial property. It is all owned by Yeshua Grace Transformations LLC.

Regards

Stuart Thomas
LIEN ONE, INC.
5801 Congress Avenue— Suite 214
Boca Raton, FL 33487
O: [561-353-5000](tel:561-353-5000)
F: 561-353-5010
E: liens@lienone.com
W: lienone.com

Laura Marotta

From: Richard V. Neill, Jr.
Sent: Tuesday, January 14, 2020 3:40 PM
To: Laura Marotta
Subject: FW: SLV status - EAR

Importance: High

From: Brandon Hale
Sent: Tuesday, January 14, 2020 3:02 PM
To: Richard V. Neill, Jr.
Subject: RE: SLV status - EAR

Richard,

I have finally been able to dig in and digest the statute and the changes made by the legislature. To me, it seems in brief summary that the large substantive changes made that stood out to me are as follows:

163.3180 Concurrency – Adds significant requirements for local governments that continue to implement a transportation concurrency system. However, because SLV does not have public transportation I do not think this new provision affects SLV.

163. 3251 Manufacturing Development Program - Sets forth provisions for a local manufacturing development program and master development approval for manufacturers, allows a local government to adopt a model ordinance establishing a local manufacturing development program. Seeing as how SLV has a number of commercial manufacturers along US hwy 1, this might be something that needs to be changed if SLV chooses to enact a manufacturing development program.

163.3206 Fuel Terminals – Provides that after July 1, 2014, a local government may not amend its comprehensive plan, land use map, zoning, or land use regulations to conflict with a fuel terminals classification as a permitted and allowable use, including an amendment that causes a fuel terminal to be a nonconforming use.

163.3178 Coastal Management Element – Adds requirements to the redevelopment component of the Coastal Management Element, which must: (1) reduce the flood risk in coastal areas that result from high tide events, storm surge, and flash floods, stormwater runoff, and the related impacts of sea level rise; (2) encourage removal of coastal real property from the FEMA flood zone designations; (3) Be consistent with more stringent than the flood resistant construction requirements in the Florida building code and federal flood plain management regulations; (4) require construction seaward of the coastal construction control line to be consistent with Chapter 161, FS.; and (5) encourage local govt's to participate in the National Flood insurance program community rating system to achieve flood insurance premium discounts for their residents.

163.3177 Sanitary Sewer, Solid Waste, Drainage, Potable Water, and Natural Groundwater Aquifer Recharge Element – provides that a local government that does not own, operate, or maintain its own water supply facilities and is served by a public water utility with a permitted allocation of greater than 300 million gallons per day is not required to amend its comp plan in response to an updated regional water supply plan or maintain its work plan if the local govt's usage is less than 1% of the public water utilities total permitted allocation. However, since most of SLV derives its water from wells, I am not sure that this applies.

163.3245 Sector Plans – modified the section to reduce the minimum amount of total land area required for a sector plan from 15k acres to 5k acres. Although because SLV is only about 460 acres, I don't believe this applies.

163.3246 Local Government Comprehensive Planning Certification Program – Connected City Corridor Pilot Program – Creates a connected-city corridor plan amendment pilot program to encourage growth of high-tech industry and innovation through a locally controlled comp plan amendment process. However, Pasco county is the pilot program for this and it does not appear that other municipalities are required to comply at this time but I believe may request certification to participate.

In addition to the above, we will need to be sure to update all maps to reflect the previously annexed properties, including the Future Land Use Map.

Of course, there are other statutory changes but a vast majority are definitional changes, changes to word use, changes to rules regarding military bases, or changes to cross references. In looking at everything, it does appear that we will need to make some changes to the comp plan, especially with regards to the Coastal Management Element and possibly the new Manufacturing Development Program, as well as verbiage changes and changes to any renumbered or repealed referenced statutes.

I hope this is what you are looking for – please let me know if there is anything further that I can do.

Brandon M. Hale, Esq.
Neill Griffin Marquis, PLLC
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Fort Pierce, FL 34950
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bhale@neillgriffin.com

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From: Richard V. Neill, Jr. <RNeillJr@neillgriffin.com>
Sent: Wednesday, January 1, 2020 10:15 AM
To: Brandon Hale <BHale@neillgriffin.com>
Cc: Laura Marotta <LMarotta@neillgriffin.com>
Subject: RE: SLV status - EAR

Brandon,

End of next week is fine.

I am trying to make sure we are focused and efficient. I know that you've spent time on this, and the big picture does matter, but, for EAR purposes, study of the comp plan and Chapter 163 isn't meaningful unless it's done in the context of the changes by the legislature.

That's why I'm asking what did the legislature change (during the period in question—since the last EAR)?

The DEO/DCA will be deciding on the EAR and any comp plan changes, so I think that we can rely on what it reports as far what changes have been adopted. Don't think we have to check that—probably do need to look for 2019 session changes, though.

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From: Brandon Hale
Sent: Tuesday, December 31, 2019 4:41 PM
To: Richard V. Neill, Jr.
Cc: Laura Marotta
Subject: RE: SLV status - EAR

Richard,

So far, it seems as though the governing statute for the EAR is the "Community Planning Act," Fla. Stat. 163.3161 et seq.

In looking through your file on the 2020 EAR, it appears that the Florida Department of Economic Opportunity provided us with a full list of all statutory changes for Chapter 163, Part II, which have been organized by year. The links provided are:

<http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/statutorychangestoch163.pdf?sfvrsn=2> (for years 1986 – 2015)

and

<http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/20162018cpactupdate.pdf?sfvrsn=2> (for years 2016-2018)

Currently, I am in the process of reviewing these changes to identify exactly what, if anything, will need to be updated on the EAR. I am also attempting to review the legislative history to verify that the information provided in the list of changes is accurate. It does appear that a lot of the changes are definitional, procedural, or irrelevant to our scenario.

Is it acceptable to provide you with a list of what I think may need to be updated by the end of the week?

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From: Richard V. Neill, Jr. <RNeillJr@neillgriffin.com>
Sent: Tuesday, December 31, 2019 10:08 AM
To: Brandon Hale <BHale@neillgriffin.com>
Cc: Laura Marotta <LMarotta@neillgriffin.com>
Subject: SLV status - EAR

Brandon,

I think what we need, in order to determine how to address the EAR, is to know what legislative changes had been made in the time period in question; so, what did each adopted statute/revision change? (I am guessing that they have added issues that need to be addressed in a comprehensive plan but don't know that.)

Should also be sure that the provision applies to municipalities.

Are you able to identify and outline the changes?

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