

**BOARD OF COUNTY COMMISSIONERS**

**DATE:** January 29, 2013

**AGENDA ITEM NO.** 24

**Consent Agenda** ☐

**Regular Agenda** ☐

**Public Hearing** ☒

**County Administrator's Signature:**

*RSJ*

**Subject:**

Zoning Case No. (Q) Z-3-9-12 (William D. Harris & Gloria K. Harris Revocable Trust)

**Department:**

Strategic Planning and Initiatives

**Staff Member Responsible:**

Larry Arrington, Director

**Recommended Action:**

I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS (BOARD) APPROVE THE REQUEST TO AMEND THE ZONING ATLAS FROM C-2 (GENERAL RETAIL AND LIMITED SERVICES DISTRICT) TO C-3 (COMMERCIAL, WAREHOUSE, WHOLESALE, AND INDUSTRIAL SUPPORT DISTRICT), WITH THE FOLLOWING FINDING:

APPROVAL OF THE ZONING AMENDMENT DOES NOT NULLIFY THE REQUIREMENT FOR THE SITE TO COMPLY WITH ALL REQUIREMENTS OF THE COUNTY CODE, INCLUDING THOSE RELATED TO LAND DEVELOPMENT (INCLUDING SITE PLAN REQUIREMENTS), AIR QUALITY, WATER QUALITY, AND PUBLIC HEALTH.

(THE LOCAL PLANNING AGENCY RECOMMENDATION IS INCLUDED AT THE END OF THE FOLLOWING SUMMARY EXPLANATION)

**Summary Explanation/Background:**

The applicant has operated a Fats, Oil and Grease (F.O.G.) Facility on a property designated as C-2 on the zoning map since 2011. To the west of the subject site, within the City of Pinellas Park, are various commercial uses and a business park (with a "heavy commercial" zoning designation). The properties east of the subject property are zoned for commercial/retail uses. North of the subject property, across the CSX railroad right-of-way, are properties with C-3, M-1 (Light Manufacturing and Industry) and M-2 (Heavy Manufacturing and Industry) zoning, and industrial land use designations. A residential subdivision is also in close proximity to the property, as is an assisted living facility.

Following code enforcement action and notices of air quality complaints, the applicant submitted an application for the required C-3 zoning in order to be able to legally operate a Fats, Oil and Grease (F.O.G.) Facility on the site. Although notified that they did not have proper zoning clearance or site plan approval for the F.O.G. operation, they elected to continue to operate their processing facility. Consequently, the applicant was issued a notice to cease and desist by the County prior to the case being heard by the Local Planning Agency (LPA) in September of 2012.

*WJ*

The attached Staff Report, which was prepared for the September 13, 2012, LPA hearing, provides more detailed background on the applicant's request for a rezoning. The Report includes the LPA's subsequent recommendation to continue the application for 90 days in order to provide the applicant time to try and arrive at a suitable solution that evidenced their ability to address the ongoing violations of the County's air quality ordinance, as well as the site plan and stormwater concerns. The minutes from that hearing are also attached for the Board's consideration.

During the 90 day period, the applicant met with County staff on a variety of site plan details and options in the attempt to address the operational and site plan concerns, and to try and demonstrate an ability to re-locate all of the processing operation inside the building (required by the C-3 zoning).

Throughout this time, the applicant continued to operate the facility in violation of the cease and desist order, and additional odor violations were reported. The County filed a Complaint for Injunctive Relief on October 5, 2012, and filed a Motion for Temporary Injunction on October 15, 2012. The Motion for Temporary Injunction seeks to have the Defendants, Reliable Septic & Sewer, Inc. and M&D Grease Disposal, Inc., cease the operation of a F. O. G. facility on the subject site until the property is rezoned to a category that permits such use, and until they obtain the requisite zoning clearance and approved site plan as required by the Pinellas County Code. The Motion for Temporary Injunction was heard on December 18 and 19, 2012, and the parties are waiting for Judge John Carassas to make a ruling.

The attached "Update/Supplement" to the Original staff report was prepared by staff for the December 13, 2012 LPA hearing. It provides a status to the LPA on the items they requested the applicant to address during the 90 day continuance period. The minutes from the December 13 LPA hearing are also included and provide significant background on the reasons for the LPA's ultimate decision to disagree with the staff recommendation of approval and recommend denial of the application, without prejudice.

As noted on the Original staff report and the Supplement to that report, staff had recommended approval of the zoning change purely on the basis of compatibility of the C-3 zoning designation with the surrounding zoning and land use designations, and the fact that the C-3 zoning could provide a transition to the industrial uses to the north. The Board will note, however, that the staff report and staff recommendation do evidence staff's reservations regarding the suitability of this particular permitted use within the C-3 zoning being located on the subject property.

As evident from review of the meeting minutes, during the 90 day period the applicant was continuing to operate the F.O.G. facility, additional odor complaints were being received by the County from businesses and residents. With that knowledge, as well as the information and testimony received, several LPA members indicated concern over the willingness of the applicant to comply with County regulations. Additionally, one LPA member specifically disagreed with the staff conclusion that the C-3 zoning district (i.e., the most intense commercial zoning) was appropriate at that location, as there were other less intense uses in the area, including residential uses within approximately 500 feet of the facility. The member noted that this might simply be the wrong location for the introduction of C-3 zoning, and confirmed with staff that the odor issues began with the operation of the F.O.G. facility – a facility that requires a change to C-3 in order to operate.

Forty eight (48) letters and a petition with 137 signatures have been received in opposition to the case, and four (4) letters of complaints; copies are available for review and are on file in the Office of the Clerk of the Court and Comptroller, Board Records Department.

Ultimately, the LPA's recommendation of Denial without Prejudice, versus Denial, still provides the applicant with the opportunity to submit a new application sooner than six (6) months, if they are able to demonstrate that the onsite operation of the F.O.G. facility can comply with County regulations. Their recommendation to the Board of County Commissioners therefore is:

**LOCAL PLANNING AGENCY RECOMMENDATION:** The LPA recommended that the request be **Denied Without Prejudice** (the vote was 5-0, in favor of the motion).

**Fiscal Impact/Cost/Revenue Summary:**

N/A

**Exhibits/Attachments Attached:**

December 13, 2012, Staff Report with LPA Recommendation; Conceptual Site Plan; Al Navaroli's Feedback; Letter to Peter Hessling; Comments to Applicant; LPA Minutes of December 13, 2012 LPA Hearing; September 13, 2012 Staff Report; Zoning Maps, Resolution & (Correspondence is available in the Board Records Department)

**LOCAL PLANNING AGENCY (LPA) RECOMMENDATION to the  
BOARD OF COUNTY COMMISSIONERS**



**Regarding: Case No. Z-3-9-12 (LPA Report No. 15-9-12)  
a.k.a. "Reliable Septic" Zoning Request**

**LPA Recommendation:** The LPA recommends that the request be **Denied Without Prejudice** (the vote was 5-0, in favor of denial)

**Synopsis of LPA findings associated with their recommendation:** *The LPA acknowledged the activities undertaken by the applicant to address the outstanding issues and concerns, but also felt that the applicant, by continuing to operate the processing facility after being issued the cease and desist order, had not demonstrated a genuine desire to comply with County regulations.*

**LPA Public Hearing: December 13, 2012**

**PLANNING STAFF RECOMMENDATION - presented for consideration at the  
December 13, 2012 LPA hearing:**

**Staff recommends the following to the LPA:**

1. That the LPA find that the proposed amendment of the Zoning Atlas from C-2 to C-3 is consistent with the Pinellas County Comprehensive Plan (based on compatibility with the surrounding zoning and land use designations), and that they therefore recommend approval of the amendment to the Board of County Commissioners, for the reasons stated in this Report; but
2. That the LPA acknowledge that staff does have reservations regarding the proximity of this specific use (i.e., a F.O.G. plant) in close proximity to the existing established uses in the surrounding area due to the nature of the business, the potential for ongoing impacts to the neighbors, and the fact that the building and site were not originally designed for this use; and
3. Therefore, if the LPA recommends approval of the zoning amendment to the Board, that the recommendation include the following findings and provisions:
  - a) Approval of the zoning amendment does not nullify the requirement for the site to comply with all requirements of the County Code, including those related to land development (including site plan requirements), air quality, water quality, and public health, and

- b) If and until the site operations can occur in a manner that does not violate the County Code, onsite operations must cease until such time as all onsite activities are in compliance with County Codes and existing documented violations of the Code are addressed.

**The information below is provided as an UPDATE/SUPPLEMENT to the Staff Report and Recommendation originally presented at the September 13, 2012, LPA hearing regarding: *Case No. Z-3-9-12 (LPA Report No. 15-9-12) - William D. Harris & Gloria K. Harris, Revocable Trust [Reliable Septic]***

At the September 13, 2012, LPA public hearing, following the staff presentation, the applicant's testimony, and public testimony, the LPA **continued this request for 90 days** (i.e., to the December 13, 2012 hearing). **The LPA specifically continued the case pending receipt of the following from the applicant:**

1. Proposed site plan demonstrating good faith and minimal community impact
2. Detailed operational plan listing all required permits and dates of submitted applications, and/or explanations given as to why applications have not been submitted.
3. List of equipment which has been installed or purchased.

The **ORIGINAL staff report (attached)** that was presented at the September hearing provides the background and details on this case, including the significant issues regarding odors associated with the operation of the Fat, Oil and Grease facility (the F.O.G. facility), the lack of an approved site plan for the operation, and the stormwater management concerns associated with a lack of pollutant containment. This **UPDATE/SUPPLEMENT** to the staff report addresses those activities and conditions that have changed since the LPA heard this case in September. Both the original staff report and this update should therefore be read together to provide a complete assessment of the conditions that led to this request for a zoning change, as well as to evaluate the current conditions and findings presented below.

Prior to the date of the LPA hearing in September, the applicant was issued a cease and desist notice by the County Administrator based on: improper zoning for the use in operation, lack of a zoning clearance and lack of a site plan for operation of the F.O.G. plant on the subject property. That cease and desist order remains in effect today (however, County staff have confirmed that the applicant has continued to operate the F.O.G. plant in violation of the cease and desist order, which was discovered as a result of additional odor complaints from the neighbors).

Pinellas County issued an industrial pre-treatment permit to the applicant in 2011. That permit, by County Code, is for the discharge of treated wastewater into the County's sewer system. That permit also required that the applicant meet all other County regulations associated with the operation of this type of use on the subject property. The County's zoning regulations require that this type of use be located in an enclosed building and at least in the C-3 zoning district, that a zoning clearance be obtained and that a site plan be approved for the change in use associated with the property expansion and transition from vehicle storage to a F.O.G. facility. The lack of these items resulted in the code enforcement citation and the subsequent request for a zoning change.

The following summarizes the status of the items subsequently requested by the LPA in September following their consideration of this request for a zoning change.

## **Status of the Applicant's Site Plan**

Subsequent to the September LPA hearing, and following the LPA's direction, the applicant retained professional engineering assistance in order to attempt to address their site plan-related issues.

Following receipt of information from the applicant's representative, Mr. Al Navaroli (the County's Development Review Services Manager) conducted a meeting with the applicant on November 15, 2012. That meeting also included engineering and air quality staff, as well as staff from the County Attorney's office and the Planning Department. At that meeting the applicant's representative discussed their conceptual site plan (**attached**) and responded to questions and comments from staff. Staff provided feedback to the applicant on the submitted plans.

Mr. Al Navaroli, the County's Development Review Manager, provided the applicant's representative with written feedback on November 21, 2012, (**attached**) following submittal of revised site plan details. Mr. Navaroli indicated to the applicant that there appears to be the *potential* to satisfy stormwater management requirements as long as certain requirements (identified in Mr. Navaroli's email correspondence) are met. Mr. Navaroli does indicate that additional information is required, however, in order to make any sort of final determination (the information provided by the applicant was not a full site plan with the necessary detailed calculations and data, etc.).

## **Status of Odor Control and Operational Measures**

As of the date of this report, there is ongoing discussion regarding whether the measures proposed by the applicant will successfully eliminate the potential for offensive odors or contaminant discharges. In fact, there have been documented odor issues associated with the operation since the LPA hearing in September (since the order to cease and desist). The timing of some of those complaints might suggest they are driven by onsite activities (like tank removal) being undertaken in an attempt to resolve the issues; however – as indicated - the applicant has not ceased operations during this time, which might also be a reason for certain of the odor complaints.

On November 20, 2012, the applicant's legal representative provided the following to Mr. Peter Hessling, the Manager of the County' Air Quality Division, following a meeting with them on October 30, 2012. As described in the letter (**attached**), the following items were indicated as being included with the letter:

1. A schematic of the Reliable facility detailing the modified waste treatment process;
2. A schematic of the Reliable facility detailing the proposed odor treatment process;
3. A list of the existing and proposed facility equipment; and
4. Technical specifications of the existing and proposed waste treatment and odor treatment equipment.

Mr. Hessling continues to be in communication with the applicant and provided specific comments to the applicant's representative on November 29, 2012, (**attached**) regarding their operational plans. In some cases, the questions from staff are a result of receiving differing, or incomplete answers from the applicant at different times. As of the date of this report, a final consensus regarding the means to effectively address the outstanding issues (via site plan

measures and operational measures) has not been arrived at; although there continues to be positive work in that direction.

For example, there have been significant changes made at the site by the applicant in the attempt to address the variety of issues identified, including the majority of the receiving and processing operation being brought inside the building. However, at the time of this staff report it appears that one tank remains outside the building. This is integral to consideration of the zoning request as this is not allowed under the requested C-3 zoning district. All of the operations must be within the building in order to comply with the zoning code.

### **Containment of Contaminants**

One outstanding concern is the containment issue and the potential for spills. While the applicant proposes to install a lip at the doorway to contain spillage at that location, the fact that the metal building was simply not designed to function as a containment structure results in process material actually seeping out of the sides of the building. There is not only potential for odors to emanate from this spillage but also the potential for ground contamination, and ultimately – should the material reach the stormwater system – the potential for water quality violations. (In contrast, the County's F.O.G. Plant is co-located with the County's Solid Waste operation – the entire Solid Waste operation is located inside of a permitted and engineered containment system to prevent the potential for ground or surface water contamination). This issue of containment at the applicant's site is an item that is still under discussion between the applicant and the County.

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**In Summary, staff continues to believe that the requested re-zoning to C-3 can be considered to be consistent with the surrounding zoning and land use designations, primarily as it serves as a transition to the light industrial uses to the north.**

**Staff does, however, have concern over whether this is the correct use to allow at this location, largely due to the offensive nature of the odors associated with the business, and the consequences of spillage and poor containment. As noted in the prior staff report, the original use and building were for commercial vehicle storage with related office uses. Conversion of the onsite building (not designed originally with containment in mind) and conversion of the property to a use of this type on a site not originally intended for this type of operation leaves staff with concern over whether all of the County Code requirements can be adequately satisfied.**

**Use of the property as a F.O.G. facility requires that the applicant/property owner be able to comply with the County's Code (including air and water quality performance standards). Therefore, it should be clear that recommending approval of the zoning change does not condone ongoing violations, and all necessary and continued action by the County, as authorized by County Code, will be exercised if necessary in order to cause any persistent violations to cease.**

### **CORRESPONDENCE RECEIVED TO DATE:**

164 signatures (letters & petition) received in opposition  
Letter from Kevin Hennessy, comments from Al Navaroli & Pete Hessling

# **Conceptual Site Plan**

## **(as of Nov 12, 2012)**



# A.C.L. RAILROAD

## LEGEND:

IMPERVIOUS AREAS = PERVIOUS AREAS = PROPOSED = DEVELOPED AREA OF CONCERN = (APPROXIMATE AREA = 6,130 S.F.)

1" = 20'  
NORTH

R/W LINE

90TH AVENUE  
ASPHALT PAVING

EDGE OF PAVING

EDGE OF PAVING

ASPHALT DRIVEWAY

S.44°23'14"E 206.40'

PROPOSED SWALE

R/W LINE

ASPHALT DRIVEWAY

ENTRANCE

EXIT

TEMPORARY PARKING

TEMPORARY PARKING

ONE WAY TRAFFIC

32.1'

19' TYP.

2.0' 9.0' 12.0' 5.0'

PINS: 18-30-16-57168-000-0030-0040-0050

EXISTING BUILDING

2,400 SF

F.F. = 15.50'

20.0'

12.0' 12.0' 12.0'

70.0'

40.0'

25.7'

12.2' 12.2'

25.0' TYP.

7.5'

3.0'

PROPOSED SWALE

PROPOSED RETENTION POND

VOLUME = 1,192 CU. FT.

BOTTOM AREA = 158.2 S.F.

TOP AREA = 1033.5 S.F.

AVERAGE AREA = 596 S.F. USING DEPTH = 2.0'

(ABLE TO TREAT MORE THAN 2" OF

RUNOFF FROM AREA OF CONCERN)

PIN: 19-30-16-57168-000-0020

S.00°13'44"E 125.00'

125.00'

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

OWNER/DEVELOPER: WILLIAM HARRIS  
6690 90TH AVE., N.  
PINELLAS PARK, FL 33782

ADDRESS: 6660 90TH AVE., N. PINELLAS PARK

## LEGAL DESCRIPTION:

LOTS 3, 4 AND 5, MELODY PARK SUBDIVISION, AS RECORDED IN PLAT BOOK 28,  
PAGE 10 PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

FLOOD ZONE: ZONE C

COMMUNITY PANEL NO. 1202510004 E

REVISED MAP: FEBRUARY 17, 1989

## PROJECT SUMMARY & SITE DATA:

	EXISTING	PROPOSED
TOTAL BUILDING AREA	= 2,800 SF (15.6%)	2,800 SF (15.6%)
TOTAL ASPHALT	= 4,292 SF (23.9%)	4,292 SF (23.9%)
TOTAL CONCRETE	= 2,915 SF (16.2%)	2,656 SF (14.8%)
TOTAL IMPERVIOUS AREA	= 10,007 SF (55.7%)	9,748 SF (54.3%)
TOTAL GREEN/PERVIOUS AREA	= 7,945.45 SF (44.3%)	8,204 SF (45.7%)
TOTAL SITE AREA	= 17,952.45 SF (40.412 ACRES)	

ZONING: C-2

PROPOSED USE:

COMMERCIAL

## STORMWATER CALCULATIONS:

6,130 S.F. X (2"/12") = 1,020 CU. FT.

PROPOSED RETENTION POND:

TOP AREA = 1,033 S.F.

BOTTOM AREA = 158.2 S.F.

AVERAGE AREA = 596 S.F.

PROPOSED DEPTH = 2.0'

THEREFORE, THE PROPOSED

POND VOLUME = 1,192 CU. FT.

## NOTES:

THIS IS ONLY A PRELIMINARY SITE  
PLAN THAT IS SUBJECT TO FURTHER  
FUTURE REVISIONS.  
REMOVE ALL ABANDONED TANKS  
AND EQUIPMENT AND REGRADE THE  
SITE TO IMPROVE DRAINAGE.  
PROPOSED PERVIOUS PARKING  
SHALL CONSIST OF MARIFI  
GEOTEXTILE, GEOWEB, AND NO. 57  
STONE.

PROPOSED SWALE

PIN: 19-30-16-57168-000-0020

S.00°13'44"E

125.00'

125.00'

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

PROPOSED SWALE

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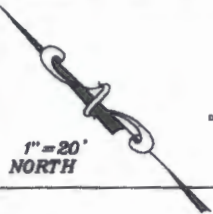
RELIABLE SEPTIC & SEWER  
PROPOSED SITE PLAN  
PAVING AND DRAINAGE  
PINELLAS COUNTY, FLORIDA

4939 CROSS BAYOU  
BOULEVARD NEW PORT  
RICHEY, FL 34659 (727)  
848-1829 (727) 848-2701

U.S. Water  
Solutions Corporation

2  
2

A.C.L. RAILROAD



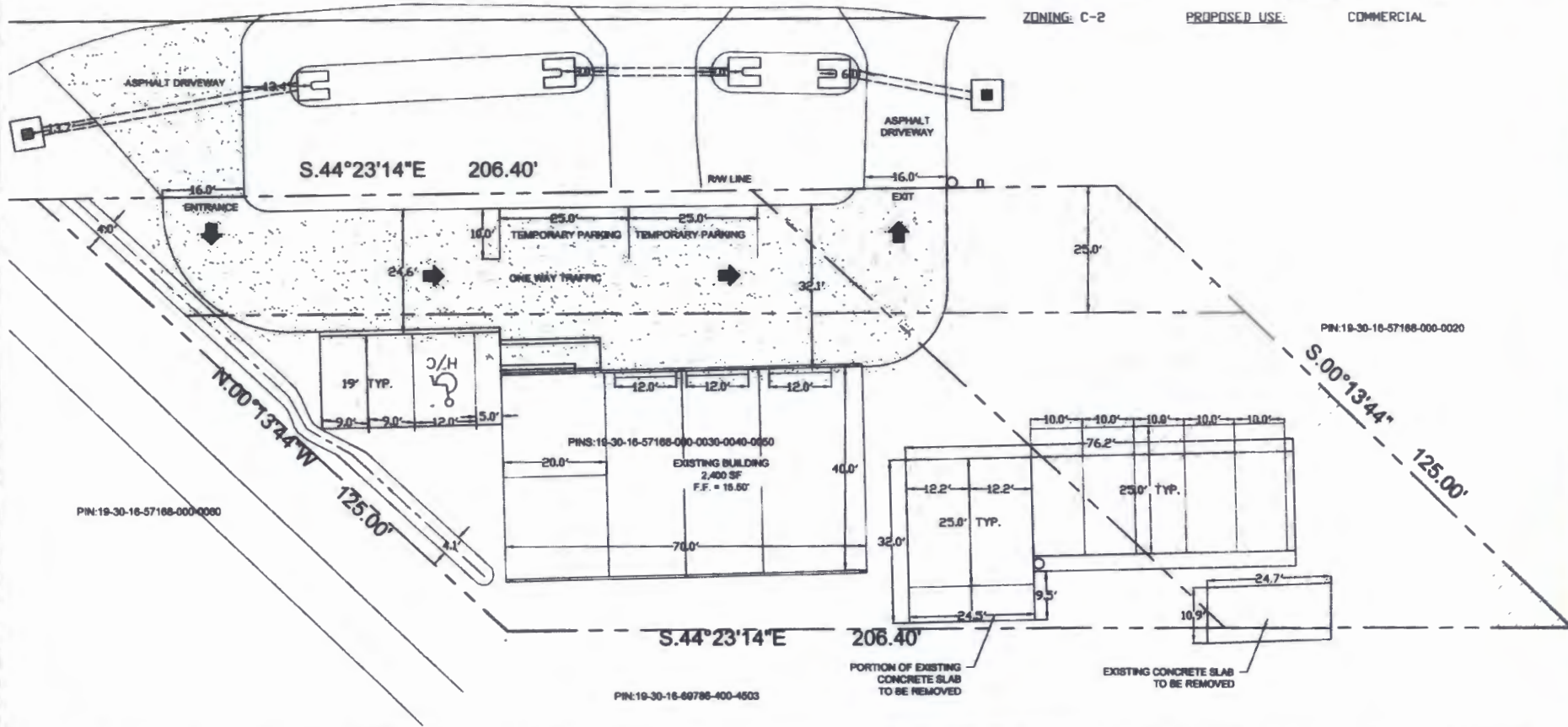
**LEGEND:**  
 IMPERVIOUS AREA = [Solid line]  
 DEVELOPED AREA OF CONSIDERATION = [Dashed line]

R/W LINE

90TH AVENUE  
 ASPHALT PAVED

EDGE OF PAVING

EDGE OF PAVING



OWNER/DEVELOPER WILLIAM HARRIS  
 6690 90TH AVE., N.  
 PINELLAS PARK, FL 33782

ADDRESS: 6660 90TH AVE., N. PINELLAS PARK

LEGAL DESCRIPTION:  
 LOTS 3, 4 AND 5, MELODY PARK SUBDIVISION, AS RECORDED IN PLAT BOOK 28,  
 PAGE 10 PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA.

FLOOD ZONE: ZONE C  
 COMMUNITY PANEL NO. 1202510004 E  
 REVISED MAP: FEBRUARY 17, 1989

PROJECT SUMMARY & SITE DATA:	EXISTING	PROPOSED
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TOTAL SITE AREA	= 17,952.45 SF / 0.412 ACRES	

ZONING: C-2

PROPOSED USE:

COMMERCIAL

RELIABLE SEPTIC & SEWER  
 EXISTING SITE PLAN  
 PAVING AND DRAINAGE  
 PINELLAS COUNTY, FLORIDA

4939 CROSS BAYOU  
 BOULEVARD NEW PORT  
 RICHEY, FL 34652 (727)  
 848-8256 (727) 848-7701

**U.S. Water**  
 service corporation

1  
 2

**Al Navaroli's Feedback  
to Applicant on  
Conceptual Site Plan  
(November 21, 2012)**

## Sadowsky, David S

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**From:** Navaroli, Albert L  
**Sent:** Wednesday, November 21, 2012 11:23 AM  
**To:** Kevin Hennessy; Sadowsky, David S  
**Cc:** 'Mo Kader'; Michael Albert  
**Subject:** RE: Reliable - Revised Site Plan

The general concept plan submitted has the potential to satisfy the stormwater betterment requirement for the existing western portion of the site and additionally provide required treatment for the new eastern expanded parking area. As discussed in our meeting, the ability to construct the swales, as shown, and function properly to flow to outfall point(s) will require existing topographical information as well as proposed grades in the improved areas (especially proposed spot elevations within the swale) in order to attain an approval of the concept drainage system. A cursory review provides a few site plan related comments:

- The proposed mulch tank odor control system is immediately adjacent to the proposed swale conveyance on the south perimeter. In a heavy rain, what prevents the mulch (and any possible contaminants) from entering the swale and accumulating in the stormwater treatment system.
- It is my understanding that there is and will be an outside the building pump tank/lift station also near the south swale. What measures are or will be in place to contain any spillage (malfunction, tank rupture, etc.) such that the material in the tank does not enter the swale (i.e. stormwater treatment system). The Land Development Code requires that solid waste management facilities be operated from completely enclosed buildings. In our meeting on the 15<sup>th</sup> of Nov. I thought it was said that all outside tanks were removed. A site plan must show all existing as well as proposed improvements.
- Details of the proposed outfall weir structure will be required. Outfall from the stormwater treatment system should be connected to the existing drainage structures in the right-of-way.

### Albert Navaroli

Pinellas County Building & Development Review Services  
(727) 464-3587

[anavaroli@pinellascounty.org](mailto:anavaroli@pinellascounty.org)

*All government correspondence is subject to the public records law.*

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**From:** Kevin Hennessy [<mailto:khennessy@llw-law.com>]  
**Sent:** Tuesday, November 20, 2012 1:56 PM  
**To:** Sadowsky, David S; Navaroli, Albert L  
**Cc:** 'Mo Kader'; Michael Albert  
**Subject:** Reliable - Revised Site Plan  
**Importance:** High

David and Al,

Attached please find a revised site plan. I believe this plan response to all of the comments received at the pre-application meeting. The plan provides significant water quality betterment from the existing historic condition. Please note that a barrier will be placed in the bay door entries to prevent an unexpected spill from exiting the building and reaching the County roadside swale in front of the building. Further, truck exteriors will be washed at an off site truck washing facility. Let me know if you have any questions.

Sincerely,

**NOVEMBER 20, 2012**

**Letter from Applicant to  
Peter Hessling**





*Reply To: Bradenton*

November 20, 2012

**Via U.S. Mail and E-Mail to: [phessling@pinellascounty.org](mailto:phessling@pinellascounty.org)**

Peter A. Hessling, Division Director  
Pinellas County Air Quality Division  
300 South Garden Avenue  
Clearwater, FL 33756

**RE: Reliable Septic & Sewer, Inc. and M&D Grease Disposal, Inc.  
LLW Matter No.: 4835-001**

Dear Mr. Hessling,

This letter is in response to our prior meeting at AQD on October 30, 2012, and the letter dated October 1, 2012 to Todd Burbine, Esq. from Jason Ester enclosing your reply to Mr. Burbine's letter. Enclosed please find the following information that we committed to preparing at our meeting:

1. A schematic of the Reliable facility detailing the modified waste treatment process;
2. A schematic of the Reliable facility detailing the proposed enhanced odor treatment process;;
3. A list of the existing and proposed facility equipment; and
4. Technical specifications of the existing and proposed waste treatment and odor treatment equipment.

It is our position that with the movement of the entire FOG Treatment inside the existing building, and the proposed ventilation of the building combined with the Odoban deodorizer spray system and mulch system that no objectionable odors will escape the premises. In response to the specific comments in your letter we provide the following information.

### **INSPECTIONS**

The cover letter raises concern over AQD inspectors being allowed to inspect the premises in response to odor complaints. My clients recognize that as a condition of the County permit and the County Code properly accredited County inspectors are allowed reasonable entry and access to inspect the permitted facility. Nevertheless as we discussed this does not require my clients or their employees to immediately stop any work activities in which they are engaged

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*See Things Differently*

BRADENTON  
101 Riverfront Boulevard  
Suite 620  
Bradenton, Florida 34205  
00149444-1  
p | 941-708-4040 • f | 941-708-4024

JACKSONVILLE  
245 Riverside Avenue  
Suite 150  
Jacksonville, Florida 32202  
p | 904-353-6410 • f | 904-353-7619

TALLAHASSEE  
315 South Calhoun Street  
Suite 830  
Tallahassee, Florida 32301  
p | 850-222-5702 • f | 850-224-9242

WEST PALM BEACH  
515 North Flagler Drive  
Suite 1500  
West Palm Beach, Florida 33401  
p | 561-640-0820 • f | 561-640-8202

[www.llw-law.com](http://www.llw-law.com)

to escort them around the facility or to answer their inquiries. My clients will advise their employees of the County's right for reasonable entry, during normal business hours, that they are not required to escort the inspectors nor are they required to answer the inspector's questions. That all questions will be referred to the Alberts or their designee.

#### **REQUESTED INFORMATION**

1. As a supplement to Reliable's prior response, it is Reliable's position that the odor issues have been adequately addressed and that the complaints originate from a small number of neighbors attempting to influence the County to deny the request to rezone the property and shut down the Reliable and M&D operations; a business that predates the presence of the neighbors raising these objections. Nevertheless in a continued effort to be good citizens, and at great expense, my clients have redesigned the FOG treatment operations to move them entirely indoors. Further potential sources of odor are being treated through use of odor spray systems, a mulch filled odor cleansing pit, and ventilation of the building directing air flow through these systems and dispersing exhausted air. The details of the system are contained in the attached schematics and technical information.
2. As a supplement to Reliable's prior response Reliable would direct AQD to the manifests in the County's possession concerning FOG waste Reliable has previously delivered to the County FOG plant for treatment. Further Reliable segregates FOG waste from septic waste by using different tank trucks for each waste. Finally Reliable operates within the limits of its Industrial Wastewater Discharge Permit concerning flow and waste quality and any issues concerning wastewater flow is and will be immediately addressed with County Wastewater and Pinellas Park Wastewater staff. Further my clients will add the facility now processes considerably less than the permit allows due to the actions of AQD staff in directing customers not to use this facility by issuance of an improper cease and desist order.
3. As a supplement to Reliable's prior response please see the enclosed revised schematics and technical information. In addition for details on quantities, rates and capacities of processed waste please refer to the Industrial Wastewater Discharge Permit Issued by the County and reports submitted to County wastewater staff. Further, a meter provided by The City of Pinellas Park connected to the discharge also provides such information.
4. As a supplement to Reliable's prior response please see the enclosed revised schematics and technical information.
5. As a supplement to Reliable's prior response please see the enclosed revised schematics

and technical information. Also please refer to the Industrial Wastewater Discharge Permit issued by the County and reports required by that permit to be submitted to County wastewater staff.

6. A meeting with AQD staff occurred on October 30, 2012.

#### **CORRECTIVE ACTIONS TAKEN TO REMEDIATE THE ALLEGED CODE VIOLATIONS**

1. As indicated AQD staff have confirmed roll-off use has been discontinued. Potential other sources of objectionable odors are being addressed. See enclosed schematics and technical information.
2. As indicated in the AQD response odor complaints have decreased. My clients nevertheless have continued to invest in additional odor control improvements as discussed herein. My clients remain committed to being good citizens but the facility has always been a location for the handling, off-loading, storage and transport of septic and FOG waste. Any potential source of odor from the FOG waste processing operation is being addressed, which includes activities that predated the permitting and initiation of the FOG plant operations. The neighbors have therefore come to the nuisance and the reasonableness of their claims to be adversely affected by my clients operations must be considered in context with that reality. Nevertheless my clients will continue to strive to improve their operations and work to improve relationships with their neighbors.
3. All pumps are contained within the building.
4. The centrifuge will be raised to allow solids to be deposited directly onto the waste hauling truck, eliminating the use of the backhoe previously employed to load the solids onto the waste truck. In addition deodorizing equipment will be moved indoors and a ventilation system installed.
5. Tanks are to be entirely removed with the exception of the pump tank.
6. Please see enclosed schematics, technical information and responses provided above.

#### **CLOSING RESPONSE**

With the modifications to the facility described herein my clients will have effectively moved the entire FOG operations indoors and implemented a comprehensive plan for addressing all potential sources of odor. Nevertheless the business continues to be engaged in the hauling,



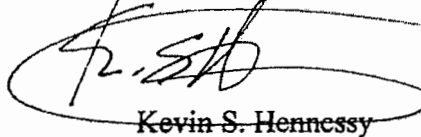
Peter A. Hessling, Division Director  
Pinellas County Air Quality Division  
November 20, 2012  
Page. 4

off- loading, storage and transport of septic and FOG waste which few individuals desire to have next door. Nevertheless the business has been engaged in these activities for upwards of thirty years at these premises; the trucks and equipment come in contact with these wastes and are therefore not always attractive or pleasant to the senses. Be that as it may, the County certainly recognizes the important public purpose that is served by waste haulers and recyclers such as my clients and the handling of these issues must be handled with an air of reasonableness.

Since beginning its operations in 2010, my clients have spent in upwards of \$200,000 on FOG Plant operations and improvements; that does not include recent expenditures of attorneys and engineers. Further, these expenses continue in the face of the monthly loss of thousands of dollars of revenue, due to actions of County staff in serving the Cease and Desist letter. Should my clients be forced to close their business, damages will be in the hundreds of thousands of dollars.

The actions already implemented, and proposed herein are a reasonable response to this situation. We would therefore request confirmation that upon implementation of the odor control improvements agreed upon herein that the County will rescind its cease and desist letter.

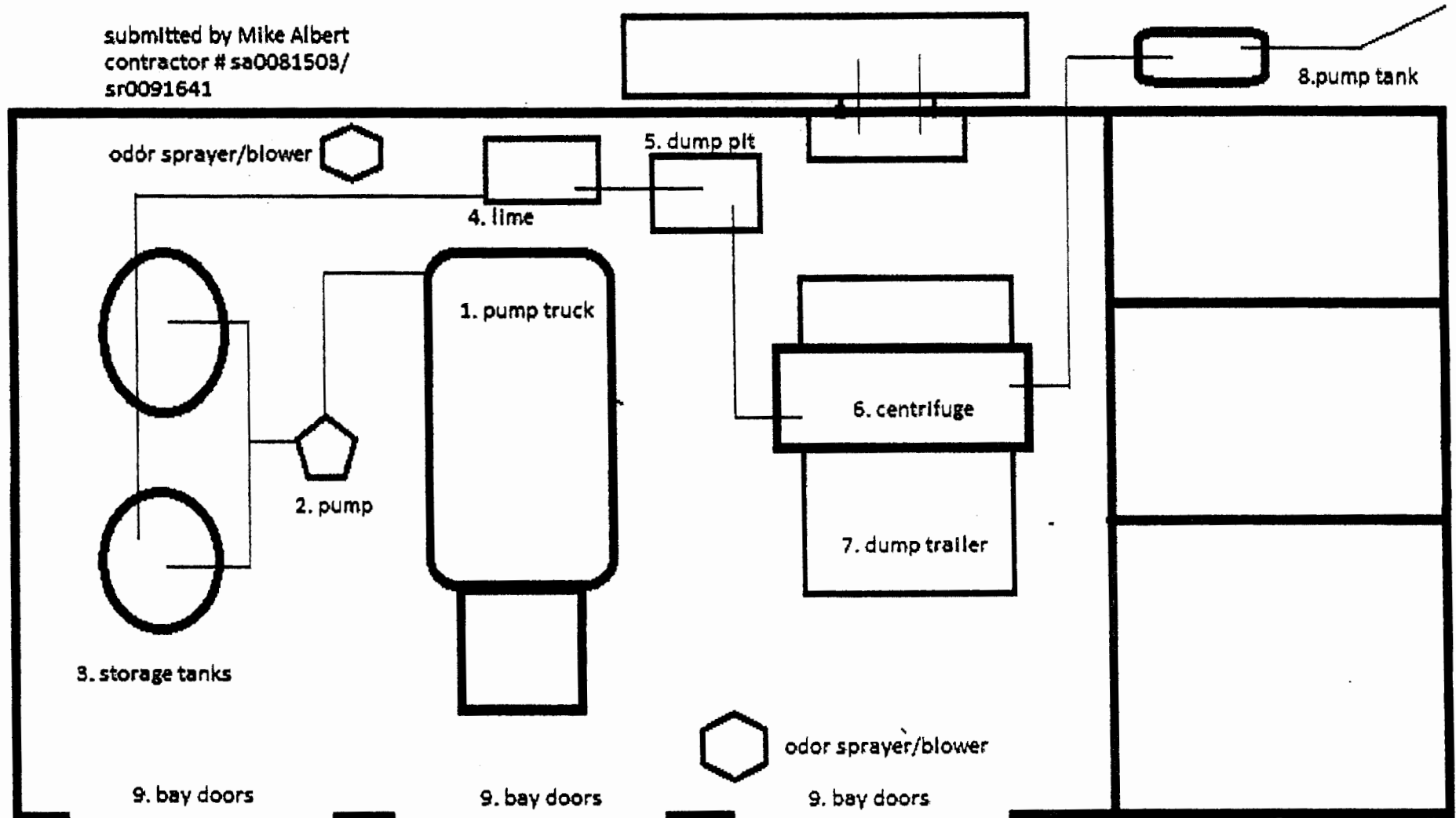
Sincerely,  
**LEWIS, LONGMAN & WALKER, P.A.**



Kevin S. Hennessy

cc: Gary Robbins (Via E-Mail to [grobbins@pinellascounty.org](mailto:grobbins@pinellascounty.org))  
David Sadowsky (Via E-Mail to [dsadowsky@pinellascounty.org](mailto:dsadowsky@pinellascounty.org))  
Jason Ester, Assistant County Attorney (Via E-Mail to: [jester@co.pinellas.fl.us](mailto:jester@co.pinellas.fl.us))  
R. Todd Burbine, Esq. (Via E-Mail to: [rtb@tblawfirm.com](mailto:rtb@tblawfirm.com))  
Mo Kader, P.E., (Via E-Mail to: [mkader@uswatercorp.net](mailto:mkader@uswatercorp.net))  
Mr. & Mrs. Michael Albert (Via E-Mail to: [reliablereptic@yahoo.com](mailto:reliablereptic@yahoo.com))

submitted by Mike Albert  
contractor # sa0081508/  
sr0091641



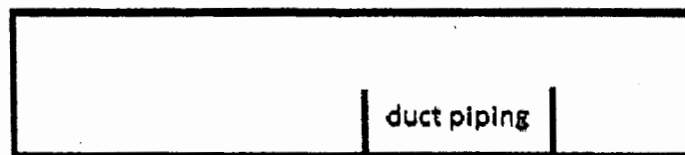
1. pump truck-delivers wastewater to facility
2. pump-used to remove wastewater from truck, dispensing into top of storage tanks
3. storage tanks- for storage of wastewater, prior to processing
4. lime- lime is introduced into the wastewater stream for odor and coagulation
5. dump pit- separation of large debris

6. centrifuge- separation solids of water
7. dump trailer- collection of solids
8. pump tank- treated wastewater to city sewer
9. bay doors- will remain closed, except entering/exiting

submitted by: mike albert  
contractor: sa0081503/sr0091641

mulch pit

\*mulch pit:  
approximately 3-4 feet deep  
-bottom rock/shell  
-2-3 feet mulch  
-lime if needed



duct piping



exhaust/in line static fans



blower fan w/odor  
sprayer



blower fans w/odor sprayers



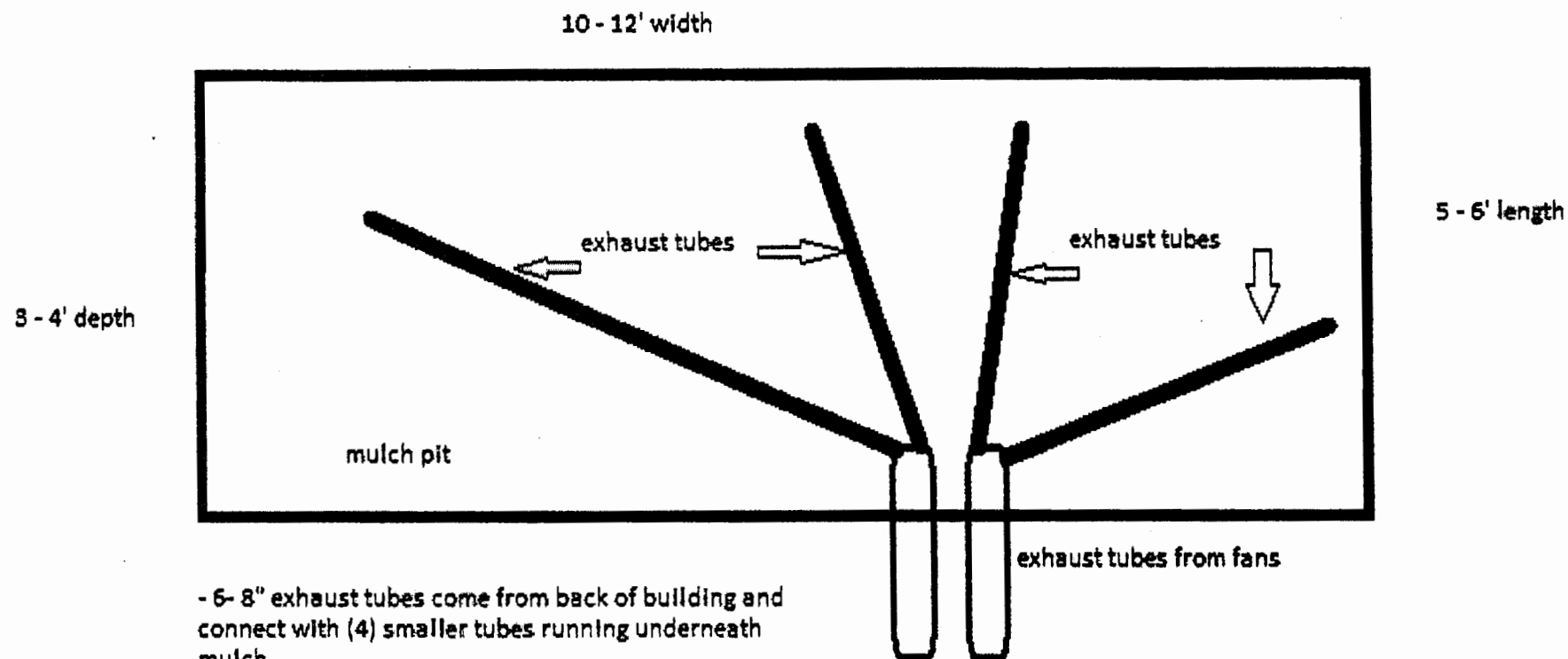
bay door

bay door

bay door

Existing List of Processing & Odor Control Equipment

- (1) Sharples Model P-3400 Decanter Centrifuge
- (2) 8,000 gallon storage tanks
- (1) 7 x 14 Tilt Magic Dump Trailer
- (2) Fog Master Nozzle Jet Odor Control Mist Sprayers
- (1) Barnes Centrifugal Blower fan
- (1) Lakewood High Industrial Blower Fan
- (3) Barnes ½ horsepower sludge pump
- (1) Barnes 1/3 horsepower sump pump
- (1) MQ Power Generator
- (1) 1987 Mack Roll Off Truck
- (1) 20 yard dumpster
- misc plastic liner & filters



- 6- 8" exhaust tubes come from back of building and connect with (4) smaller tubes running underneath mulch.

Mulch pit consists of a rock/shell bottom approximately 1'. 2 -3' of mulch will be on top where the smaller exhaust tubes will be located.

submitted by:  
mike albert  
contractor #  
sa0081503/sr0091641

### Proposal for Odor Control System

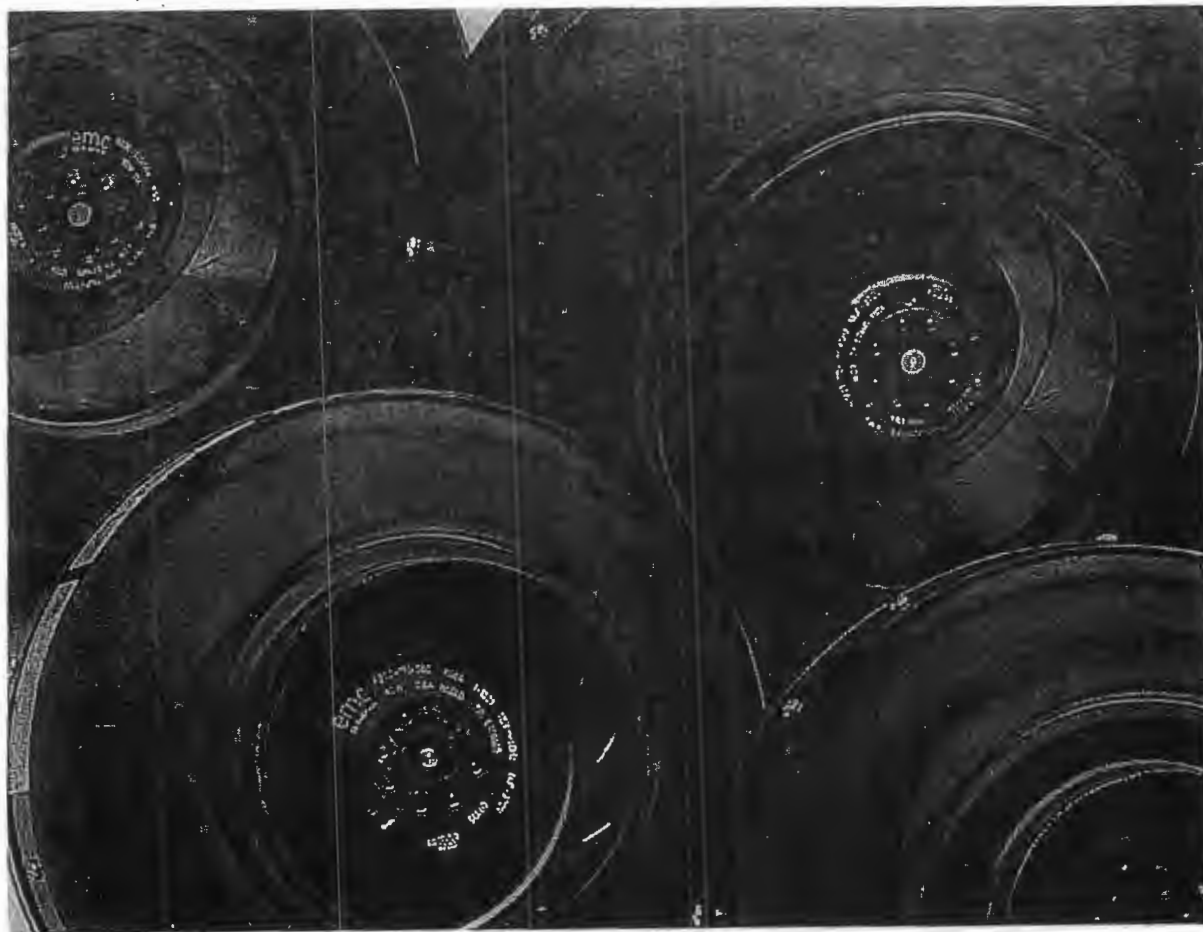
- Installation & Purchase of (2) S & P/Breidert Pv 315 Inline centrifugal 12" exhaust fans.
- (2) Shop/Blower fans to force air/sprayer mist to exhaust fans.
- Installation & Purchasing of piping system from back of shop into exhaust treat pit, (mulch pit).  
Piping system will consist of black perforated/silver flex 12-24" pipe. The pipe will have a direct hook up to back of shop where exhaust fans blow out.
- Installation of mulch pit; crushed shell, mulch, lime-when and if needed.  
The mulch will be changed out every two weeks.
- Installation & Purchase of (2) 4" Poly Lock-Poly Air Odor Control Vents.  
These vents will be installed on the inside storage tanks. They are activated carbon vents.



## PV Series In-Line Centrifugal Duct Fans

For High Static Pressure Applications

Catalog PV04-May 2007



**Power Vent**

The World's Leading Producer of  
**Air Movement Products**

**Soler&Palau**  
Ventilation Group

**Soler & Palau (S&P) USA and Canada** are the most recent additions to, and are wholly owned subsidiaries of, Soler & Palau Ventilation Group which was founded in 1951. S&P Group is the World's leading producer of air movement products with an emphasis on developing and producing leading edge products to HVAC and other associated industries.

Over the past 50 years the company has expanded its product ranges and operations within Europe and beyond. Across the globe, S&P has established the most effective means through subsidiaries, distributors and partners for the distribution of our products. Today S&P has facilities in many countries, among these are: Australia, Belgium, China, England, France, Germany, Holland, Italy, Portugal, Mexico, the USA and Canada. Worldwide, S&P is represented by an established and renowned network of distributors and partner companies.

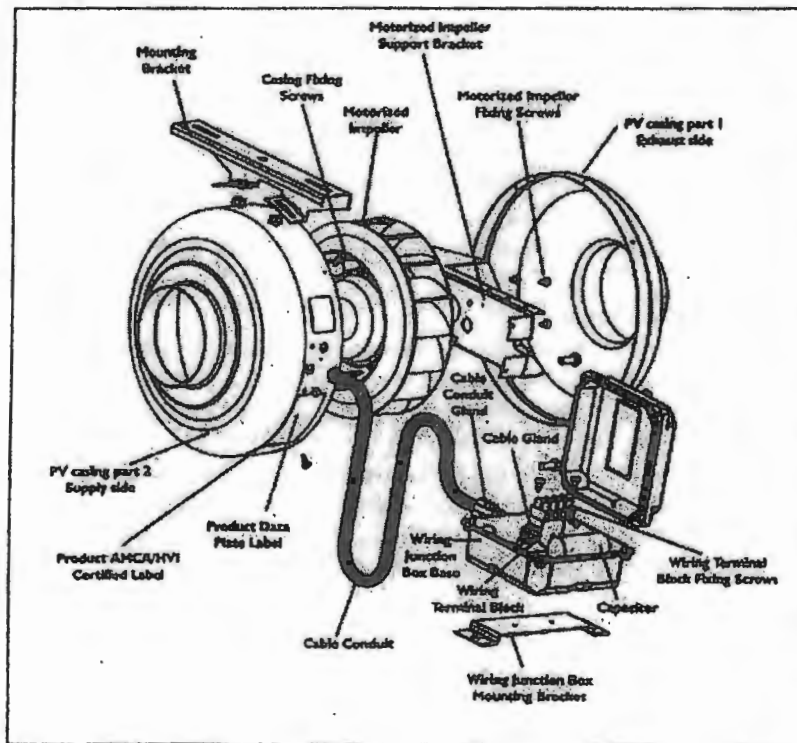
### POWER VENT (PV) SERIES

The POWER VENT (PV) series of direct drive centrifugal in-line duct ventilation fans consists of twelve model sizes 4", 5", 6", 8", 10" & 12.4" respectively. All models are designed for direct connection in-line with standard diameter round ducting. Airflow performance values range from 108 CFM (PV-100) up to 942 CFM (PV-315x).

All PV fan models incorporate a powerful external rotor motor that has been factory matched to a nonoverloading backward curved centrifugal fan wheel.



This powerful combination enables the PV fans to deliver exceptional airflow performances against high static pressure typically found in ducted ventilation systems. All motors within PV fans are fully speed controllable using voltage or frequency control regulators.



The PV series of duct exhaust or supply fans have been specifically designed for simple installation and many years of maintenance free operation. The PV fans can be mounted at any angle and at any point along the duct. The totally enclosed motor design allows the PV fans to operate in high moisture, lint and dust laden air. All models are manufactured with high quality materials and workmanship that is supported by a comprehensive five (5) year warranty.

All PV fans feature a corrosion resistant galvanized steel casing with a black baked enamel coating and are supplied with a strong mounting bracket and prewired remotely mounted wiring junction box. The fan is connected to the wiring junction box with a UL Listed flexible conduit that provides the installer with a completely flexible choice for positioning and installation.



## Applications

The PV fans are ideally suited for a wide range of residential, commercial and industrial exhaust and intake ventilation applications. Among typical applications would include the following:



### Residential

- Kitchen Range Hoods
- Warm or Cool Air Transfer
- Bathrooms
- Laundry Rooms (Dryer Boosting)
- Radon Mitigation



### Commercial

- Conference Rooms
- Offices
- Bars & Restaurants
- Cafeterias
- Locker Rooms
- Make-Up Air Applications



### Industrial

- Warehouses
- Welding Fume Extraction
- Spot Ventilation
- Equipment Cooling
- Workshops & Smoking Areas

## Technical Specifications

All twelve PV model sizes (PV 100, 100x, 125, 125x, 150, 150x, 200, 200x, 250, 250x, 315 & 315x) include the following specifications:

### Warranty

**Five (5) year limited warranty.**

### Casing

- Manufactured from high grade pressed galvanized steel, with black baked enamel coating.
- Extra long inlet and discharge collars make installation quick and trouble free.
- Supplied with a strong galvanized steel mounting bracket.
- Supplied with a remote mounting, prewired wiring junction box.

### Wheel / Impeller

- Backward curved centrifugal type.
- Factory matched to an external rotor motor and dynamically balanced to eliminate vibration.

### Accessories

- A wide range of accessories is available to complete the most demanding installation.
- Available with cord set.

### Motor

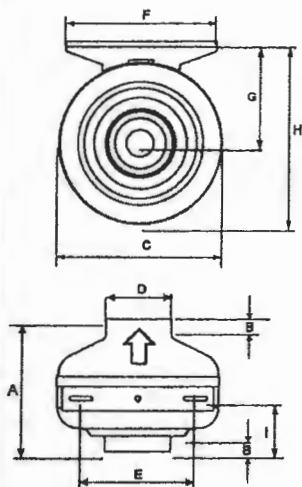
- Totally enclosed permanent split capacitor start and run external rotor motors.
- 115V 60Hz (single phase) electrical connection.
- Permanently sealed, self lubricating precision ball bearings.
- Safety Thermal Overload Protection Cut-Out (Automatic Reset Type).
- All Models are suitable for working airstreams up to 140° F

### Code Approval

- All models have been independently safety tested by Underwriters Laboratories, Inc. and are UL and cUL Listed.
- Independently safety tested by Intertek Laboratories, and are ETL Listed.
- Independently tested for Airflow Performance. The PV range is licensed to bear the AMCA seal for Air Performance.
- The PV product range is certified by the Home Ventilating Institute (HVI) for Air Performance.



## Dimensions in inches/mm



Model	A	B	C	D	E	F	G	H	I	Weight lb(kg)
PV-100	7 1/4 194	1	9 1/4 241	3 7/8 98	6 11/16 170	8 7/8 225	6 1/4 154	10 11/16 275	3 1/4 83	7 3.0
PV-100x	7 1/4 194	1	9 1/4 241	3 7/8 98	6 11/16 170	8 7/8 225	6 1/4 154	10 11/16 275	3 1/4 83	7 3.0
PV-125	7 1/4 194	1	9 1/4 241	4 7/8 124	6 11/16 170	8 7/8 225	6 1/4 154	10 11/16 275	3 1/4 87	7 3.0
PV-125x	7 1/4 194	1	9 1/4 241	4 7/8 124	6 11/16 170	8 7/8 225	6 1/4 154	10 11/16 275	3 1/4 87	7 3.0
PV-150	8 1/4 216	1	13 1/4 333	5 7/8 149	6 11/16 170	8 7/8 225	7 3/8 200	14 3/8 365	3 76	11 5.0
PV-150x	8 1/4 216	1	13 1/4 333	5 7/8 149	6 11/16 170	8 7/8 225	7 3/8 200	14 3/8 365	3 76	11 5.0
PV-200	8 1/4 216	1	13 1/4 333	7 7/8 200	6 11/16 170	8 7/8 225	7 3/8 200	14 3/8 365	3 1/4 94	11 5.0
PV-200x	8 1/4 216	1	13 1/4 333	7 7/8 200	6 11/16 170	8 7/8 225	7 3/8 200	14 3/8 365	3 1/4 94	11 5.0
PV-250	8 1/4 216	1	13 1/4 333	9 7/8 251	6 11/16 170	8 7/8 225	7 3/8 200	14 3/8 365	3 1/4 83	13 6.0
PV-250x	8 1/4 216	1	13 1/4 333	9 7/8 251	6 11/16 170	8 7/8 225	7 3/8 200	14 3/8 365	3 1/4 83	13 6.0
PV-315	9 1/4 230	1	15 1/4 401	12 1/4 312	6 11/16 170	8 7/8 225	9 1/4 234	17 1/4 435	3 1/4 89	21 10.0
PV-315x	9 1/4 230	1	15 1/4 401	12 1/4 312	6 11/16 170	8 7/8 225	9 1/4 234	17 1/4 435	3 1/4 89	21 10.0

### Sound

Fan sound levels are measured in sones. At this time there are no sone level test standards available through HVI due to the fact that remote mounted fan noise levels are in proportion to the following: type of duct, length of duct, fan distance from the intake source and other random factors. It is generally accepted that remote mounted venting is usually quieter than standard (in room) venting.

### Air Performance

Trade Name	Model No.	Nom. RPM	Volts	Max. Watts	CFM v Static Pressure (SP) Ins. WG									Max. SP	Duct Dia. Ins.
					0"	0.125"	0.25"	0.375"	0.5"	0.75"	1.0"	1.25"	1.5"		
Power Vent-100	PV-100	1400	115	57	108	100	92	85	78	66	52	33	18	1.7	4"
Power Vent-100x	PV-100x	2880	115	84	153	142	130	120	111	96	80	63	34	1.85	4"
Power Vent-125	PV-125	2350	115	58	128	104	85	74	63	47	32	15	-	1.43	5"
Power Vent-125x	PV-125x	2745	115	85	206	190	170	153	135	110	88	62	33	1.77	5"
Power Vent-150	PV-150	2750	115	78	245	205	177	157	129	93	59	-	-	1.2	6"
Power Vent-150x	PV-150x	3075	115	149	438	420	395	368	335	285	240	203	161	2.29	6"
Power Vent-200	PV-200	3100	115	130	402	375	350	327	296	239	179	135	85	1.94	8"
Power Vent-200x	PV-200x	2930	115	180	544	515	485	446	415	360	312	273	230	2.44	8"
Power Vent-250	PV-250	3000	115	200	587	555	525	495	472	412	355	312	270	2.61	10"
Power Vent-250x	PV-250x	3045	115	214	618	595	570	540	510	450	390	340	297	2.8	10"
Power Vent-315	PV-315	2600	115	170	654	605	570	525	487	408	333	265	203	2.21	12.4"
Power Vent-315x	PV-315x	2450	115	370	942	905	859	811	762	622	508	440	390	3.9	12.4"

Performance certified for installation type D-Ducted Inlet, Ducted outlet. Performance ratings do not include the effects of appurtenances (accessories). Speed (RPM or RPS) shown is nominal. Performance is based on actual speed of test.

All products manufactured by S&P have undergone extensive tests and quality assurance programs to ensure that the products supplied meet the latest international performance and safety standards. Soler & Palau is an ISO9001 registered company, and has onsite ENAC and AMCA third party accredited test laboratory facilities.

### Accessories



BOC  
Interior  
Air Valve



CAR  
Backdraft  
Damper



ACOP-VENT  
Antivibrating  
coupling



SIL  
Sound  
Attenuator



PER  
Plastic louver  
shutter



SC 15  
Variable speed  
control



MFL  
Filtration  
Box



Soler Palau USA  
6393 Powers Avenue  
Jacksonville, FL 32217  
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800.961.7379  
www.solerpalau-usa.com

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Toronto, ON M9V 3Y8  
866.733.0333  
866.385.5346  
www.solerpalaucanada.com

Distributed By:



Soler & Palau USA certifies that the PV range shown herein is licensed to bear the AMCA Seal. The ratings shown are based on tests and procedures performed in accordance with AMCA Publication 211 and comply with the requirements of the AMCA Certified Ratings Program.



\*PV 150x and larger ENERGY STAR® qualified.

**Peter Hessling's  
Comments to Applicant  
on Operational Plans  
(November 29, 2012)**

Comments on M&D Grease Disposal, Inc. response letter dated 11/20/2012; addressing odor control issues

- **Inspections:** During inspections we recognize employees do not have to immediately stop work activities. However, all facilities are expected to accommodate the conduct of the inspection and avoid unreasonable delay in this effort.
- Pinellas County Air Quality Division was not the issuer of the Cease and Desist Order and did not direct anyone to not use the FOG facility.
- **Odor Complaints:** The letter contends that the “odor issues have been adequately addressed” and “complaints originate from a small number of neighbors attempting to influence the County”.
  - Air Quality does not think the odors have been adequately addressed. We have kept the citizens up to date regarding actions taken by both the County and the facility. We have continued to receive complaints, 16 since the County issued the Cease and Desist Order. The most recent complaints, 3 in October, ranged from mild to moderate, and 2 in November, were both rated as strong odors. It has been pointed out in the past discussions and meetings, there are multiple odor emissions points from the receiving and processing of FOG materials at the facility. Some have been addressed to varying degrees but other aspects of the operations still need to be adequately contained, captured and controlled.
  - The issue of citizens complaining is not in and of itself sufficient or cause for Air Quality to take action. The County investigates and determines if an odor complaint is valid. In the case of Reliable/M&D, the County has many verified complaints, and continues to receive them.
  - The last complaint investigation showed that there was a strong odor in the area of the discharge tank. This was during the time another tank was being removed and it would be difficult to separate odor from the discharge tank from the soil being disturbed from the tank removal.
- **Schematic of Process:** A new diagram was submitted with process changes.
  - The diagram shows the bay doors to the building will now be closed at all times, except of entering and exiting. Blowers have been added to the design. Keeping the doors closed can only be done with proper air balancing. No design or airflows were provided to determine this. Reliable/M&D attempted keeping the doors closed before, but had to open some doors due to the heat buildup in the metal building.
  - Odoban mist hazard concerns/considerations – the MSDS for the specific product used should be reviewed to determine if there are any exposure hazards from its use in an enclosed building in the manner proposed.
  - The diagram now depicts the “debris pit” right before entering the centrifuge. Previously, this was the first activity from unloading the trucks to remove large pieces before the pump. Is this correct?
  - One of the apparent sources of odors has been spillage and/or overflows. How is the flow to the “pump tank” designed to prevent it from overflowing? Is this tank still going to be open vented to the air or vented the mulch pit, or controlled with an activated carbon vent?
  - The plans and proposals submitted (both for odor control and the site plan) do not mention or include containment or clean-up measures for any spills, or overflows which can contribute to odor episodes and possibly getting outside the building on the ground.
- **Schematic of Mulch Pit:** A new diagram was submitted for a mulch pit, not a mulch tank, presumably as a bio-filter. A confidence level in the adequacy of this system in resolving the odor issues cannot be provided due to certain lack of design details.
  - This appears to be a self designed unit with no engineering calculations of air flow volume and rates provided. The specific fan model identified (an S&P PV 315) operates at different CFM’s dependent on the static pressure under which it is operating. This detail was not provided. There are no calculations provided which show how the building will be in essence maintained under a negative pressure ( i. e.- the air flows of the exhaust fans will pull air into any openings/vents in the building) while processing is occurring and all air and thus odorous emissions would be discharged through the bio-filter system. There are no calculations or support detail which show that the size of the mulch pit system is adequate or proper for meeting the

necessary odor treatment before discharge to the open air at ground level as proposed. Below are further design detail questions.

- It is unknown how the provided design considered the main design concerns of:
  - Temperature;
  - pH;
  - pollutant concentration;
  - macronutrient feeding (if applicable/necessary);
  - moisture levels (this is a critical factor);
  - residence time (this is a critical factor);
  - compaction/density of bed media; and
  - gas channeling.
  - are air distribution tubes in the rock/shell or on top it and embedded in the mulch? Some design papers indicate the air distribution tubes are embedded in the gravel layer.
- As an open pit, this will be exposed to the rain, water sheet flow from the property. How is the pit protected from filling with water? The site plan drawings also show a drainage swale in the same area between the building and fence. Is there enough room to accommodate both?

**DECEMBER 13, 2012**

**LPA MINUTES**

Clearwater, Florida, December 13, 2012

The Pinellas County Local Planning Agency (LPA) (as established by Section 134-12 of the Pinellas County Land Development Code, as amended) met in regular session in the County Commission Assembly Room, Fifth Floor, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida at 9:04 A.M. on this date with the following members present:

Lauralee G. Westine  
David Brandon  
Cathy Harrelson  
Steve Klar  
Ronald Schultz (alternate)

Not Present:

Jeff Parker  
Michael Bessette (non-voting School Board Representative)

Also Present:

Gordon R. Beardslee, Division Manager, Planning Department  
John F. Cueva, Zoning Manager, Planning Department  
Elizabeth S. Freeman, Planning Section Manager, Planning Department  
Peter A. Hessling, Environmental Division Manager, Air Quality  
Al Navaroli, Division Manager, Building and Development Review Services  
David Walker, Planning Department  
Marcella Faucette, Program Planner  
Carl E. Brody, Senior Assistant County Attorney  
David S. Sadowsky, Senior Assistant County Attorney  
Other interested individuals  
Michael P. Schmidt, Board Reporter, Deputy Clerk

CALL TO ORDER

Acting as Chairman, Vice-Chairman Westine called the meeting to order at 9:04 A.M.

MINUTES OF NOVEMBER 8, 2012 MEETING

Upon motion by Mr. Brandon, seconded by Mr. Schultz and carried, the minutes of the November 8, 2012 meeting were approved.

PUBLIC HEARING ITEMS

Legal notice having been published for the items on the agenda, as evidenced by affidavit of publication filed with the Clerk, public hearing was held on the following:

PROPOSED AMENDMENTS TO THE PINELLAS COUNTY ZONING ATLAS AND/OR FUTURE LAND USE MAP

APPLICATION OF WILLIAM D. HARRIS AND GLORIA K. HARRIS, REVOCABLE TRUST, FOR A CHANGE OF ZONING FROM C-2, GENERAL RETAIL COMMERCIAL AND LIMITED SERVICES, TO C-3, COMMERCIAL, WHOLESALE, WAREHOUSING, AND INDUSTRIAL (Z-3-9-12) (LPA 15-9-12) – DENIED WITHOUT PREJUDICE

Public hearing was held on the application of William D. Harris and Gloria K. Harris, Revocable Trust, for a change of zoning from C-2 to C-3 (Z-3-9-12) (LPA 15-9-12), re a parcel of land containing approximately 0.41 acre located on the south side of 90<sup>th</sup> Avenue North, 100 feet west of 66<sup>th</sup> Street North in the unincorporated area of Pinellas Park (street address: 6660 90<sup>th</sup> Avenue North).

Referring to an aerial photograph and the zoning and land use map, Mr. Cueva pointed out the location of the subject property, described surrounding land uses, and provided historical background information regarding the application; whereupon, he indicated that a petition and letters in opposition to the application have been received containing a total of 164 signatures; and presented the following recommendation based on the findings of the staff report, which has been filed and made a part of the record:

1. Staff recommends that the LPA find that the proposed amendment of the Zoning Atlas from C-2 to C-3 is consistent with the Pinellas County Comprehensive Plan (based on compatibility with the surrounding zoning and land use designations) and, therefore, recommends approval of the amendment to the Board of County Commissioners (BCC) for the reasons stated in the Report; but
2. That the LPA acknowledge that staff does have reservations regarding the proximity of the specific use (i.e., a fat, oil, and grease [FOG] plant) in proximity to the existing established uses in the surrounding area due to the nature of the business, the potential for ongoing impacts to the neighbors, and the fact that the building and site were not originally designed for the use; and



3. Therefore, if the LPA recommends approval of the zoning amendment to the Board, that the recommendation include the following findings and provisions:
  - a. Approval of the zoning amendment does not nullify the requirement for the site to comply with all requirements of the County Code, including those related to land development (including site plan requirements), air quality, water quality, and public health, and
  - b. If and until the site operations can occur in a manner that does not violate the County Code, onsite operations must cease until such time as all onsite activities are in compliance with County Codes and existing documented violations of the Code are addressed.

Mr. Cueva indicated that the case was previously heard at the September 13, 2012 LPA meeting; and that subsequent to a staff presentation and testimony from the applicant and local citizens, the LPA continued the application for 90 days pending receipt of the following from the applicant:

1. Proposed site plan demonstrating good faith and minimal community impact.
2. Detailed operational plan listing all required permits and dates of submitted applications, and/or explanations given as to why applications have not yet been submitted.
3. List of equipment which has been installed or purchased.

Mr. Cueva related that Messrs. Navaroli and Hessling are in attendance and can provide further information regarding the applicant's progress in meeting the above prerequisites and answer questions pertaining to the site plan, air quality, and similar topics; whereupon, he reiterated that while the C-3 zoning is consistent as outlined in the staff report, staff has concerns regarding the numerous complaints received from local residents regarding odors and spillage.

Thereupon, Attorney Kevin Hennessey, Bradenton, appeared and being duly sworn, indicated that he represents the applicant, and introduced the following individuals:

- Michael and Danielle Albert – Applicant and operator of facility.
- William Harris – Applicant and former operator of facility.
- Mo Kader – Engineer with U.S. Water Services Corporation.

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Mr. Hennessey presented historical background information regarding the application, and related that his client is seeking a zoning change from C-2 to C-3; whereupon, referring to Section 134.339C of the Pinellas County Code, he discussed the criteria the LPA considered at its September meeting when reviewing the application, including:

- The existing conditions and uses in the surrounding area.
- A justification for the proposed use.
- Impacts on the surrounding properties and communities.
- Consistency with the Comprehensive Plan.
- Impacts on the flood plain and mitigation.

Mr. Hennessey indicated that Reliable Septic and Sewer, Inc. has been in operation at its current location for approximately 30 years; that Mr. and Mrs. Albert applied for and were granted a Pinellas County Utilities Industrial Wastewater Discharge Permit subsequent to purchasing the business approximately three years ago and have been operating a FOG facility since that time; and that a three-year permit was issued when the permit was transferred from Reliable Septic and Sewer, Inc. to M & D Grease Disposal, Inc.; whereupon, Mr. Hennessey discussed the commercial and industrial uses proximate to the facility, and related that the facility does not require a state or federal permit; that the C-3 zoning request is consistent with surrounding uses; and that the applicant has moved nearly all facility equipment into an onsite metal building in an effort to be a good neighbor and to alleviate any concerns about odor.

Michael Albert, Pinellas Park, appeared and being duly sworn, indicated that he is the applicant; that he purchased the business from his parents, William and Gloria Harris; that the business provides septic and grease services for local businesses and for Pinellas County Government; and that after researching the possibility, and realizing he could operate a FOG plant cheaper than the County, he decided to incorporate FOG operations as part of the business; whereupon, during discussion and in response to queries and comments by the members, Mr. Albert provided further information related to the Pinellas County Utilities Industrial Wastewater Discharge Permit; and Vice-Chairman Westine clarified that a wastewater discharge permit only allows for the processing of wastewater and does not authorize the operation of a FOG facility.

William Harris, Pinellas Park, appeared and being duly sworn, indicated that he owns the subject property, is a lifelong resident of the community; owns several businesses in Pinellas County, and considers that Reliable Septic and Sewer provides a valuable service. During discussion and in response to queries by the members, Mr. Harris discussed past and present business operations, and indicated that prior to the initiation of FOG plant operations, the business had never received any complaints; whereupon, Mr. Hennessey discussed the onsite

metal building constructed in 2004, relating that a raised edge encircles almost the entire perimeter; and that the backup materials provide information regarding how a potential spill would be handled.

At the request of Vice-Chairman Westine, Mr. Hennessey provided a current copy of the Pinellas County Utilities Industrial Wastewater Discharge Permit for M & D Grease Disposal, Inc.; whereupon, Mo Kader, Seffner, appeared and being duly sworn, indicated that he works for U.S. Water Services Corporation as an engineer; and that he inspected the site and has met with County technical staff several times. He related that, in his opinion, issues regarding the site plan and those regarding stormwater can be addressed through best-management practices and collaboration with County staff.

Thereupon, Mr. Hennessey indicated that the sole purpose of the hearing is to determine whether the requested rezoning is appropriate; that C-3 zoning allows the operation of a solid waste facility as long as it is fully enclosed; that the business is in compliance with the zoning requirements; and that his request is for the LPA to recommend approval of the application to the BCC.

Vice-Chairman Westine referred to a cease-and-desist letter ordering the applicant to halt operation of the FOG facility pending compliance with the County Code, and questioned whether the applicant is still operating the FOG plant. Mr. Hennessey related that he has challenged the appropriateness of the cease-and-desist letter, since his position is that the LPA Board members and County staff do not have the authority to issue such a letter; and that a lawsuit has been filed; whereupon, he related that his client has significantly reduced business operations with regard to the FOG facility; and that the facility does not presently receive FOG materials from other haulers, only what the company transports with regard to its own contracts.

During further discussion and in response to queries by Mr. Brandon, Mr. Cueva, with input by Vice-Chairman Westine, indicated that from a technical standpoint, the Industrial Wastewater Discharge Permit is in conflict with the current C-2 zoning; whereupon, Attorney Sadowsky presented further information regarding the wastewater discharge permit, and related that those who apply for such a permit are required to comply with all county, state, and federal laws; that county laws include requirements with respect to having the correct zoning, having a site plan, and having zoning clearance; that the applicant does not have the correct zoning; that it was his obligation to make sure he had the correct zoning; and that the County issued the cease-and-desist order, which is to be in force until the applicant comes into compliance with the County Code.

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Responding to queries by Ms. Harrelson, Attorney Sadowsky provided further information regarding the application, and indicated that the case is unusual because the actual use on the property existed prior to the zoning request; and following lengthy discussion, Ms. Harrelson related that she has concerns regarding how performance standards would be met in order for the zoning to be consistent; whereupon, in response to queries by Mr. Brandon regarding the pulling of permits, Mr. Sadowsky indicated that while many departments have cross-communications with the Zoning Department, Pinellas County Utilities does not; that the applicant should have been aware of the process since he had gone through the process in 2004 when getting approval of the steel building; and reiterated that those who apply for such a wastewater discharge permit are required to comply with all county, state, and federal laws.

In response to the Vice-Chairman's call for persons wishing to be heard, the following individuals appeared and being duly sworn, stated their concerns regarding air quality, smell, negative impact on surrounding businesses, sewage, waste overflow, property values, proximity to residential neighborhood, and non-compliance, and responded to comments and queries by the members:

Ted Legakis, Pinellas Park  
Michael Dearing, Pinellas Park  
Oliver J. Turzak, P.E., Palm Harbor  
Raymond Wiggins, Pinellas Park  
Tammy Wittenbeck, Pinellas Park

In response to queries by the members and concerns expressed by the objectors, Mr. Albert provided information regarding business operations, hours of operation, and odor associated with the collection of grease; whereupon, Mr. Hennessey discussed topics regarding various requirements associated with the permit, indicating that, in his experience, a zoning check is completed by the County prior to the issuance of a permit; that the permit does not say that zoning must be obtained prior to commencing operations; that the operation is grandfathered as an appropriate use; and that it seems somewhat unusual that staff is discussing conditioning the application on the site plan.

Thereupon, Mr. Hennessey related that the entire FOG operation takes place indoors; that the outdoor trenches no longer exist; that the outdoor storage tanks are no longer in operation; that complaints regarding objectionable odors in proximity to the facility have diminished; that some local residents who signed a petition in opposition to the application have indicated that they no longer object; and that the facility does not deal with port-a-potty waste; whereupon, Mr. Hennessey requested that members concur with staff's recommendation, and recommend approval of the application to the BCC.

During discussion and in response to queries by Mr. Klar and Ms. Harrelson, Mr. Hennessey explained the difference between the Environmental Protection Agency (EPA) and the Department of Environmental Protection (DEP), relating that the former is a federal agency and the latter is a state agency; that the DEP conducted an inspection of the facility and had no issues relating to the outside operation of the FOG plant; that the primary concern pertained to the site being a wastewater treatment facility; that the cease-and-desist order is related to the zoning incompatibility of the property; and that Mr. Hessling has indicated that the order was not issued by his office; whereupon, Mr. Hennessey related that although his clients do not object to “surprise” inspections by Air Quality Division (AQD) staff and will allow them reasonable entry and access to inspect the facility, it is not always feasible to immediately suspend operations in order to speak with and escort AQD inspectors through the building.

In response to queries by Vice-Chairman Westine, Mr. Sadowsky presented additional information regarding the requirements for obtaining a wastewater discharge permit and complying with its various requirements. He related that the FOG plant is a Solid Waste Management Facility, is a brand new use, and is not allowed in a C-2 zoning district; whereupon, he clarified that while the storage of the trucks inside of the garage is a permitted use in a C-2 zoning district, the processing of septic and grease waste is not allowed on the premises; and that the applicant is going through the process of obtaining the correct zoning, developing a site plan, and getting zoning clearance in order to legally operate the facility, and Mr. Brandon provided input.

Mr. Sadowsky related that because the DEP had previously delegated its Air Quality Program to the County, it no longer engages in onsite air quality inspections and mainly deals with issues pertaining to stormwater discharge; whereupon, during discussion and in response to queries by the members, Mr. Hessling provided a brief summary of the case, discussed the objectionable odor provisions contained in the County Code and State Regulations, and presented information regarding how the Air Quality Division operates. He related that the AQD is in a reactive mode; that there are only two primary inspectors who conduct investigations in response to citizen complaints; that odors at the facility likely occurred when the waste was pumped from the truck and/or during processing within the building; that occasionally the odors can be strong at distances of up to 500 feet downwind of the facility; and that the applicant has made significant operational changes regarding how the FOG waste is processed, contributing to a lessening of citizen complaints.

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Discussion ensued and in response to queries by Ms. Harrelson and Mr. Brandon, Mr. Hessling explained the difference between the terms “noxious” and “toxic,” relating that noxious odors are those that can make a person physically ill and toxic particulates are more closely related to having a poisoning effect on the body. Mr. Hessling related that the odors in question are noxious, are associated with the decomposition of organic waste, and are what the local residents have been smelling; and that, in his opinion, if the facility were properly designed, constructed, maintained, and operated, and various odor control devices were installed, the odors could be significantly diminished; whereupon, he discussed the obstacles and limitations in creating a completely odor-free facility, and discussion ensued regarding the requirements contained in state and county permits.

In response to queries by Vice-Chairman Westine and Mr. Brandon, Mr. Hessling indicated that only one other privately-operated FOG plant operates in Pinellas County and is located in the Ulmerton Road/49<sup>th</sup> Street North area; that although the facility is much larger than that of the applicant, it only received one odor complaint during 2012; and that its various odor control systems were likely installed on a voluntary basis.

Thereupon, Vice-Chairman Westine closed the public hearing and discussion ensued among the members.

Ms. Harrelson related that Reliable Septic and Sewer provides a valuable service to the community; and that the applicant has a right to own and operate a business, but that because the business has substantially changed its operations during the past three years, she does not feel that the performance standards have been met; and that the C-3 zoning is not consistent with the surrounding uses.

Mr. Klar indicated that since technology is available which could be installed at the FOG plant that would virtually eliminate noxious odors to the surrounding neighborhood, he questioned whether the Board could include conditions relating to the zoning approval. Attorney Brody clarified that no conditions could be tied to the approval of the application; and that the members could only find the zoning to be consistent or not consistent with the neighborhood; whereupon, Mr. Brandon expressed concerns that the applicant continues to operate the FOG facility and seems to have a cavalier attitude regarding the cease-and-desist order; that without conditions placed on the application, there is no way to enforce odor control measures; and that based on past performance, he has no confidence that the applicant would voluntarily install odor control devices at the facility.

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Mr. Schultz related that if he were running a business and receiving complaints from the neighbors, he would attempt to rectify the problem; and that since the facility has been receiving complaints for a long period of time, he wonders why the problem remains unresolved.

Following input by the members, brief discussion ensued regarding the Vice-Chairman's participation in relation to expressing her concerns and crafting language for a motion.

\* \* \* \*

At this time, 10:40 A.M., Mr. Brandon assumed the gavel.

\* \* \* \*

Vice-Chairman Westine prefaced her comments by stating that even though she is a small business owner and a big believer in small businesses and even though the FOG facility was able to obtain a permit for the discharge of wastewater, she respectfully disagrees with staff regarding the suitability of C-3 zoning on the subject parcel, opining that C-3 zoning is not consistent with the surrounding area; whereupon, she remarked that she agreed with staff that the applicant should have known from past experience that obtaining correct zoning, having a site plan, and having zoning clearance were prerequisites for operating a FOG facility, in addition to obtaining a wastewater permit.

Thereupon, Vice-Chairman Westine moved, seconded by Ms. Harrelson, that the application be denied without prejudice, specifically citing the six-month zoning proscription; whereupon, in response to advice by Attorney Brody that it would be appropriate for someone other than the Acting-Chair to make the motion, Ms. Harrelson moved, seconded by Mr. Schultz and carried unanimously, that the application be denied without prejudice.

\* \* \* \*

At this time, 10:44 A.M., Vice-Chairman Westine reassumed the gavel.

\* \* \* \*

PROPOSED ORDINANCE AMENDING THE PINELLAS COUNTY COMPREHENSIVE PLAN

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AN ORDINANCE OF THE COUNTY OF PINELLAS, UPDATING TABLE 15: THE SIX-YEAR SCHEDULE OF IMPROVEMENTS OF THE CAPITAL IMPROVEMENTS ELEMENT AND TABLE 15A: STATE HIGHWAY SYSTEM FACILITY CONSTRUCTION OF THE CAPITAL IMPROVEMENTS ELEMENT OF THE PINELLAS COUNTY COMPREHENSIVE PLAN (LPA 21-12-12) – RECOMMEND APPROVAL AS PER STAFF RECOMMENDATION

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Mr. Walker provided information regarding the Annual Update of the Capital Improvements Element of the Pinellas County Comprehensive Plan, and indicated that the State Community Planning Act requires every local government to adopt a local government comprehensive plan; that one of the required elements of the local plan is a Capital Improvements Element; and that the purpose of the element is to summarize the expenditure implications that are recommended to implement the goals, objectives, and policies of the various comprehensive plan elements (LPA 21-12-12).

Mr. Walker referred to Exhibits Nos. 1 and 2 titled *Table 15, Six-Year Schedule of Improvements* and *Table 15-A, State Highway System Facility Construction*, respectively. He indicated that the Community Planning Act requires that local governments annually update the Capital Improvements Element of their comprehensive plans; that the updates depict modifications to the six-year schedule of improvements and to the schedule of construction to the state highway system in order to maintain consistency with the annual Capital Improvements Program and with the Metropolitan Planning Organization's annual Transportation Improvement Program; and that the updates may include the addition of new projects, the deletion of projects, a change in the construction timing of projects, and/or any change in the costs of projects listed in the schedule of improvements.

Mr. Walker indicated that the two basic sections of the schedule of capital improvements within the Capital Improvements Element are governmental projects and enterprise projects; that enterprise projects support the St. Petersburg-Clearwater International Airport and Pinellas County Utilities, and those operations and their capital projects are mostly supported by revenues from user fee charges; that other capital projects that address improvements to facilities such as roads, surface water management, and parks are considered governmental projects, and those projects are funded by a variety of sources such as the Penny for Pinellas, grants, reimbursements, transportation impacts fees, local option gas taxes, and tourist development taxes; whereupon, Mr. Walker indicated that Penny for Pinellas funds approximately 75 percent of the governmental capital budget; that sales tax revenue collections



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from the “Penny” are sensitive to economic conditions; that Penny revenue has seen a dramatic decrease due to a challenging economy; and that until the recent recession, Penny revenues averaged an annual growth rate of approximately four percent, and Ms. Harrelson provided input.

Thereupon, Mr. Walker indicated that staff recommends that the LPA find that the proposed updates to Tables 15 and 15A, of the Capital Improvements Element are consistent with the Pinellas County Comprehensive Plan; and that staff further recommends that the LPA recommend adoption of the proposed updates to be reviewed by the County Commission at its January 29, 2013 meeting.

No one appeared in response to the Chairman’s call for persons wishing to be heard.

Thereupon, Mr. Brandon moved, seconded by Ms. Harrelson and carried unanimously, that the Council approve the amendments to the Capital Improvements Element.

#### ADJOURNMENT

Upon motion by Mr. Schultz, seconded by Mr. Brandon and carried, the meeting was adjourned at 10:53 A.M.

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Vice-Chairman

**SEPTEMBER 13, 2012**

**LPA REPORT**

## LOCAL PLANNING AGENCY (LPA) RECOMMENDATION to the BOARD OF COUNTY COMMISSIONERS



Regarding: Case No. Z-3-9-12 (LPA Report No. 15-9-12)

**LPA Recommendation:** The LPA continued the proposed zoning amendment for 90-days, requesting that the applicant come back with a detail operational plan, site plan and a list of all permits (including dates applied for, and copies of) that will be required to continue the business in an operable manner. (The vote was 5-2, in favor)

**LPA Public Hearing: September 13, 2012**

### **PLANNING STAFF RECOMMENDATION:** Staff recommends the following to the LPA:

1. That the LPA find that the proposed amendment of the Zoning Atlas from C-2 to C-3 is consistent with the Pinellas County Comprehensive Plan, and therefore recommend approval of the amendment to the Board of County Commissioners, for the reasons stated in this Report; and
2. If the LPA recommends approval of the zoning amendment to the Board, that the recommendation include the following findings and provisions:
  - a) Approval of the zoning amendment does not nullify the requirement for the site to comply with all requirements of the County Code, including those related to land development (including site plan requirements), air quality, water quality, and public health, and
  - b) If and until the site operations can occur in a manner that does not violate the County Code, onsite operations must cease until such time as all onsite activities are in compliance with County Codes and existing documented violations of the Code are addressed.

### **CASE SUMMARY**

**APPLICANT'S NAME:** William D. Harris & Gloria K. Harris, Revocable Trust

**DISCLOSURE:** N/A

**REPRESENTED BY:** R. Todd Burbine, Esq.

	<b>ZONING CHANGE</b>
<b>FROM:</b>	C-2, General Retail Commercial & Limited Services
<b>TO:</b>	C-3, Commercial, Wholesale, Warehousing & Industrial

### **PROPERTY DESCRIPTION :**

Approximately 0.41 acre located on the south side of 90th Avenue North, 100 ft. west of 66th Street North in the unincorporated area of Pinellas Park, (street address being: 6660 90th Avenue North).

**PARCEL ID(S):** 19/30/16/57168/000/0030

**PROPOSED BCC HEARING DATE:** October 16, 2012

**CORRESPONDENCE RECEIVED TO DATE:**

161 signatures (letters & petition) received in opposition & information from Pinellas County Air Quality Division.

**PERSONS APPEARING AT THE LOCAL PLANNING AGENCY HEARING:**

Six persons appeared in opposition.

**SURROUNDING ZONING AND LAND USE FACTS:**

	Land Use Category	Zoning Designation	Existing Use
<b>Subject Property:</b>	Commercial General	C-2	Septic Tank contractor/ Fats, Oils and Grease collection/disposal facility
<b>Adjacent Properties:</b>			
<b>North</b>	Transportation/Utility and Industrial Limited	CSX Railroad and Industrial area	Railroad; industrial uses
<b>East</b>	Commercial General	C-2	Billboard & commercial
<b>South</b>	Commercial General	C-2	Warehouse
<b>West</b>	Commercial General	C-2	Vacant commercial

<b>BACKGROUND</b>
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This site is presently designated as Commercial General on the Future Land Use Map, with a zoning designation of C-2, *General Retail Commercial and Limited Services*. The applicant is requesting a zoning change from the C-2 zoning district to C-3, *Commercial, Wholesale, Warehousing and Industrial Support* in order to allow for operation of a solid waste management facility for fats, oil and grease (referred to as a "FOG" facility). In order to operate a solid waste management facility within the C-3 zoning district, the solid waste management operation must be within a completely enclosed building [per Sec. 138-857(17) of the Pinellas County Code], and must comply with the performance standards contained within Section 138-1377 of the Code in order to ensure that requirements regarding potential for noise, needs for screening, prevention of pollution (including visible emissions, dust, dirt, odors and fumes), management of sewage and waste, and prevention of fire hazards are met.

Late last year, the applicant received an industrial pretreatment permit from the County's wastewater staff, allowing for the wastewater discharge associated with the treatment process to be discharged to the County's wastewater collection system. That permit is designed to protect the County's wastewater treatment facilities and operation, and does not represent a zoning clearance, site plan or building permit approval. At that time, the applicant commenced operation as a solid waste management facility. Prior to its use as a solid waste management/FOG facility, Reliable Septic had for many years used the site and building to house their trucks and business office.

Following a complaint earlier this year to County Code Enforcement, County staff discovered that this FOG facility was operating on the property without the required zoning, without site plan approval, and without building permits for the site and building modifications. Following commencement of the FOG operation, Air Quality, Watershed Management and Code Enforcement staff began receiving numerous reports and complaints of foul odors and water quality impacts associated with polluted site runoff

entering the County's stormwater system. Because of this, staff have met several times with the applicant regarding their site operations and issues.

The applicant, upon receiving notice of the incompatible zoning, applied for the zoning change to C-3 in order to remedy the zoning issue. They were advised that for operation of a solid waste management facility of this type in the requested C-3 zoning district, all solid waste management activities would need to take place fully within an enclosed building.

#### **COMPATIBILITY OF THE ZONING REQUEST WITH THE SURROUNDING AREA**

To the south and west of the subject site are warehouse/commercial uses in the unincorporated County and the City of Pinellas Park (with C-2 zoning in the County). The property immediately west of the subject site is located within the City and, while developed as a business park, has a "heavy commercial" zoning designation. The properties east of the subject property are also zoned for commercial use (including the property with a billboard to the immediate east). North of the subject property, across the CSX railroad right-of-way, are properties with C-3, M-1 and M-2 zoning, and industrial land use designations. To the west of the subject site are vacant commercial properties and a business park, and a residential subdivision located in the City of Pinellas Park. To the southwest is an assisted living facility.

Based on the proximity of the light industrial uses to the north, and the "heavy commercial" zoning designations to the west, staff finds that the proposed C-3 zoning, with its potential for commercial, warehouse and industrial support uses, is not inconsistent with the land use and zoning categories in the surrounding area. This finding with regard to the zoning request is based on an examination of zoning compatibility and land use compatibility. It is not based on an examination of existing site operation issues and concerns, which are separate matters by law and addressed under separate County and State regulations and codes.

#### **SUMMARY**

The current use of the subject site as a solid waste/FOG management facility is not consistent with the existing C-2 zoning on this property, which resulted in the original code enforcement notice and the applicant's subsequent request for a re-zoning to C-3. Staff finds that, if required performance standards are met, the requested re-zoning to C-3 can be considered to be consistent with the surrounding zoning and land use designations, primarily as it serves as a transition to the light industrial uses to the north.

Pinellas County has received numerous complaints about the operation of this FOG facility, especially with respect to odors emanating from the site, onsite improvements conducted without building permits or a site plan, and pollutant discharges to the County's stormwater system. If the zoning request is amended to C-3, operation of a wastewater treatment facility on the site must comply with all County Codes including zoning performance standards in the Zoning Code regarding pollution, odors/fumes, and the discharge of industrial sewage and waste into any stream, lake, stormwater management system or the ground.

The applicant has indicated that they are working to resolve existing Code violations and the issues raised by the Pinellas County Air Quality and Watershed Management Divisions associated with their existing business operation; however, site changes have continued to occur without Building Department or site plan review. For these reasons, staff advised the applicant on several occasions that it is likely in their best interest to consult a professional engineer regarding the improvements needed to satisfy County Code requirements, rather than continuing to make unauthorized site and building improvements.

In summary, while staff recommends that the re-zoning to the requested C-3 zoning district be approved, it is also recommended that the LPA recommendation clearly note that the applicant/property owner must operate in full compliance with the County's Code requirements, and any ongoing violations will result in necessary action by the County pursuant to County Code in order to cause any such violations to cease.

#### **IMPLEMENTATION OF THE PINELLAS COUNTY COMPREHENSIVE PLAN**

Staff finds that the proposed zoning request is consistent with the following adopted objective and policies of the Pinellas County Comprehensive Plan. (The consistency finding related to the zoning change does not relate to, or allow continuance, of any onsite operations that violate County Code).

#### **PLANNING TO STAY**

Principle 7: As Pinellas County moves toward build out, conflicts between land uses have the potential to increase as development activity shifts to redevelopment and infill urban development. To minimize the potential for conflicts, Pinellas County should ensure that its revitalization and redevelopment plans, codes and public participation procedures provide effective guidance for change in a highly urbanized county.

#### **FUTURE LAND USE ELEMENT**

Objective 1.11 Pinellas County shall implement its land use policies in a manner that clearly defines the future land use categories and the regulations pertaining to them that manage growth in Pinellas County.

1.12.2. Policy: Pinellas County shall permit commercial development in a manner that will maintain the economic vitality of recognized and established commercial areas.

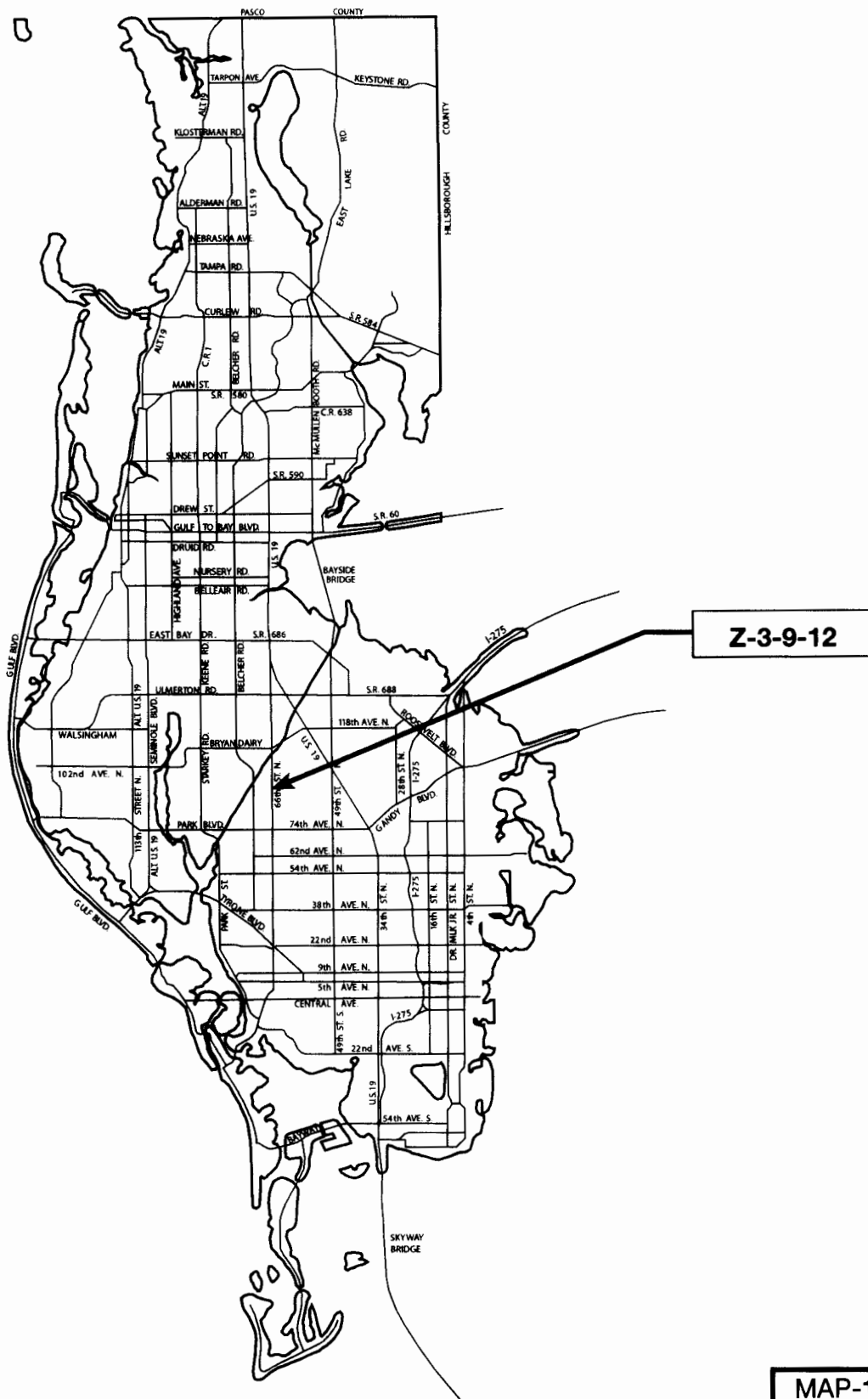
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#### **COUNTY DEVELOPMENT REGULATIONS**

Approval of this request does not provide assurance that the site can meet County development regulations, including concurrency management regulations, which apply at the time of site plan review.

Attachment (Maps)

# LOCATION MAP



Z-3-9-12

MAP-1

**Z-3-9-12**  
**LPA 15-9-12**

## Zoning

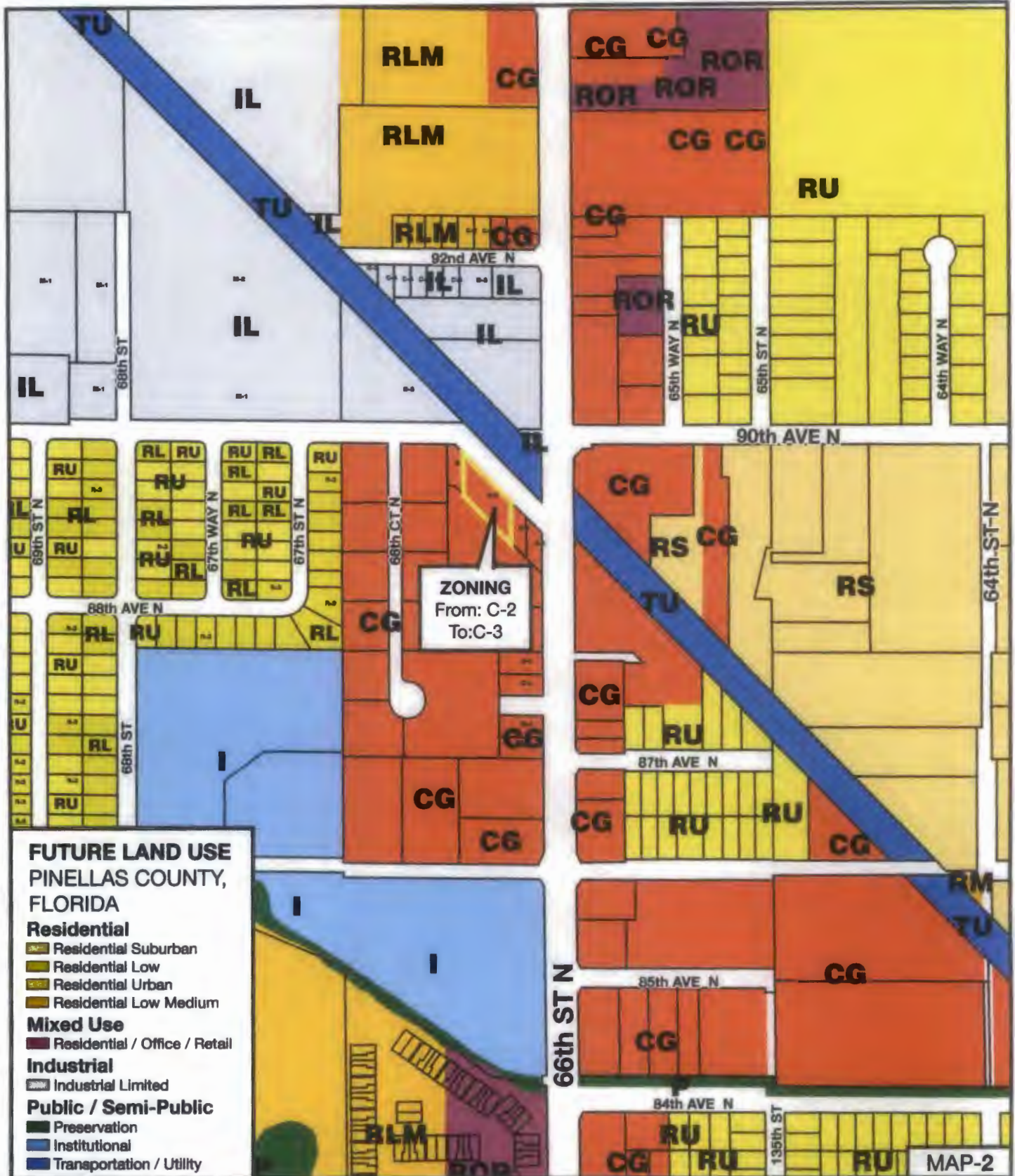
**From:** C-2, General Retail Commercial & Limited Services  
**To:** C-3, Commercial, Wholesale, Warehousing & Industrial

Parcel I.D. 19/30/16/57168/000/0030

Prepared by: Pinellas County Planning Department June 2012







**Z-3-9-12**  
**LPA 15-9-12**

**Zoning**

**From:** C-2, General Retail Commercial & Limited Services  
**To:** C-3, Commercial, Wholesale, Warehousing & Industrial

Parcel I.D. 19/30/16/57168/000/0030

Prepared by: Pinellas County Planning Department June 2012







**Z-3-9-12**  
**LPA 15-9-12**

**Zoning**

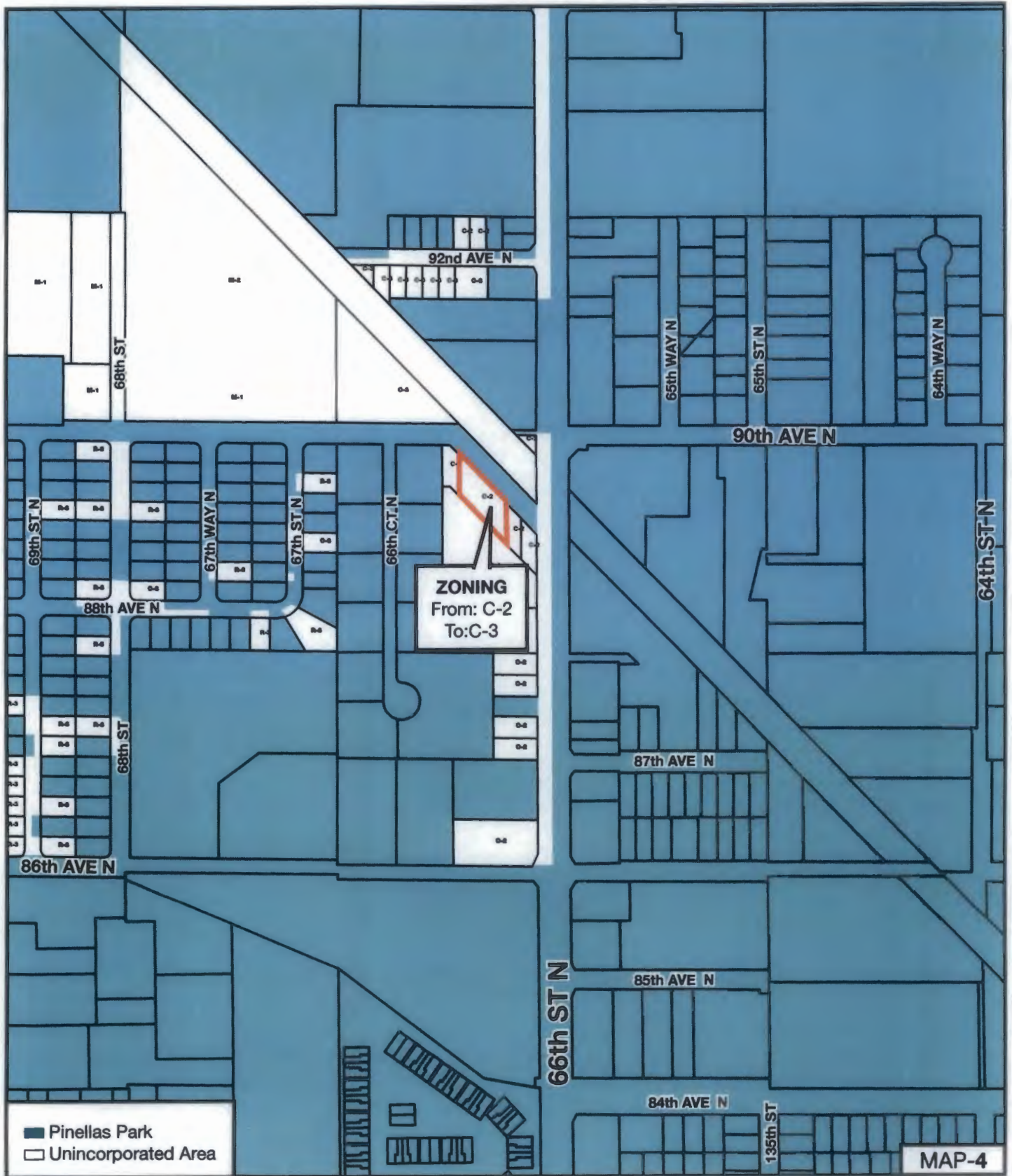
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Prepared by: Pinellas County Planning Department June 2012







**Z-3-9-12**  
**LPA 15-9-12**

**Zoning**

**From:** C-2, General Retail Commercial & Limited Services  
**To:** C-3, Commercial, Wholesale, Warehousing & Industrial

Parcel I.D. 19/30/16/57168/000/0030

Prepared by: Pinellas County Planning Department June 2012



RESOLUTION NO. \_\_\_\_\_

RESOLUTION CHANGING THE ZONING CLASSIFICATION OF APPROXIMATELY 0.41 ACRE LOCATED ON THE SOUTH SIDE OF 90TH AVENUE NORTH, 100 FT. WEST OF 66TH STREET NORTH IN THE UNINCORPORATED AREA OF PINELLAS PARK (STREET ADDRESS BEING: 6660 90TH AVENUE NORTH); PAGE 754 OF THE ZONING ATLAS, AS BEING IN SECTION 19, TOWNSHIP 30, RANGE 16; FROM C-2, GENERAL RETAIL COMMERCIAL & LIMITED SERVICES TO C-3, COMMERCIAL, WHOLESALE, WAREHOUSING & INDUSTRIAL; UPON APPLICATION OF WILLIAM D. HARRIS REVOCABLE TRUST THROUGH KEVIN S. HENNESSY, ESQUIRE, LEW, LONGMAN & WALKER, P.A., REPRESENTATIVE, Z-3-9-12

WHEREAS, William D. Harris Revocable Trust, Owner(s) of the property hereinafter described, has petitioned the Board of County Commissioners of Pinellas County to change the zone classification of the real property hereinafter described from C-2, General Retail Commercial & Limited Services to C-3, Commercial, Wholesale, Warehousing & Industrial; and

WHEREAS, legal notice of public hearing on such proposed change of zone classification was duly published as required by law, as evidenced by publisher's affidavit filed with the Clerk; and

WHEREAS, said public hearing has been held on the date and at the time specified in said published notice at which citizens and interested persons have been given opportunity to be heard, and all requirements of law and of rules promulgated by this Board have been complied with; and

WHEREAS, this Board has determined that the zone classification of said property should be changed.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pinellas County in regular session duly assembled this 29<sup>th</sup> day of January 2013, that the zone classification of the following described real property in Pinellas County, Florida, to wit:

MELODY PARK SUB LOTS 3, 4 & 5

be, and the same is hereby changed from C-2, General Retail Commercial & Limited Services to C-3, Commercial, Wholesale, Warehousing & Industrial.

Commissioner \_\_\_\_\_ offered the foregoing resolution and moved its adoption, which was seconded by Commissioner \_\_\_\_\_ upon the roll call the vote was:

Ayes:

Nays:

Absent and not voting:

APPROVED AS TO FORM  
OFFICE OF COUNTY ATTORNEY

By

  
Attorney