

Planning Commission Agenda

July 11, 2024 - 5:30 p.m.

Daniel Grannan – Chair
Tonia Herring
Richard Laxton
Deborah MacArthur Anderson
Karen Cunningham



Terry Thompson– Vice Chair
Larry Schenavar
Alternate 1 – Gregory Acker
Alternate 2 – Kimberly Salter
Chuck Dixon – School Board*

- 1) Call to Order
- 2) Roll Call
- 3) Moment of Silence
- 4) Pledge of Allegiance
- 5) Adoption of Agenda
- 6) Approval of Minutes: **June 6th, 2024**
- 7) Citizen Input: 3 minutes
- 8) Public Hearings:
- 9) **Conduct a Public Hearing for APPLICATION NO. PV24-0003 brought by Pez Vela Pointe, LLC – A Variance request of the City of Crystal River Land Development Code (LDC) to allow for the sale of alcoholic beverages on a parcel of land situated less than the required 500-foot separation from a park open to the public pursuant to section 5.05.03. Alcoholic beverage sales, of the LDC, for property addressed as 513 NW 2nd Avenue, Crystal River.**
- 10.) Unfinished Business
- 11.) New Business: Receive consensus from the Planning Commission to reschedule the Planning Commission meeting of September 5, 2024, to Thursday, September 19, 2024, 5:30 p.m.
- 12.) Citizen Input: 5 minutes
- 13.) Staff Comments
- 14.) Commissioner’s Comments
- 15.) Chairman’s Comments
- 16.) Adjournment

NOTICE TO PUBLIC

Any person who decides to appeal any decision of the Planning Commission with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to provide that a verbatim record of the proceeding is made, which record includes testimony and evidence upon which the appeal is to be based. (Section 286.0105, Florida Statutes)

Any person requiring reasonable accommodation at this meeting because of a disability or physical impairment should contact the City of Crystal River, City Manager's Office, 123 N. W. Highway 19, Crystal River, FL 34428 (352) 795-4216, at least two (2) days prior to the meeting.

*Appointed by School Board pursuant to §163.3174, Florida Statutes.

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Planning Commission Minutes (Draft)
June 06, 2024 - 5:30 p.m.

Daniel Grannan – Chair
Tonia Herring
Richard Laxton
Deborah MacArthur Anderson
Karen Cunningham



Terry Thompson– Vice Chair
Larry Schenavar
Alternate 1 – Gregory Acker
Alternate 2 – Kimberly Salter
Chuck Dixon – School Board*

- 1) Call to Order at 5:28 P.M.
- 2) Roll Call

Commissioners Present: Daniel Grannan, Terry Thompson, Deborah MacArthur Anderson, Tonia Herring, Kimberly Salter, and Gregory Acker.

Commissioners Absent: Richard Laxton, Karen Cunningham, and Larry Schenavar.

- 3) Moment of Silence was led by Chairman Grannan.
- 4) Pledge of Allegiance was led by Chairman Grannan.
- 5) Adoption of Agenda: Motion to adopt the agenda was made by Vice Chairman Thompson; seconded by Commissioner Acker- Motion carried 6-0
- 6) Approval of Minutes: **April 4th, 2024-** Motion to approve minutes of April 4, 2024, was made by Vice Chairman Thompson; seconded by Chairman Grannan- Motion carried 6-0
- 7) Citizen Input: 3 minutes- None.
- 8) Public Hearings:

- A.) **Conduct a Quasi-Judicial Public Hearing for APPLICATION NO. PV24-0002 brought by Highwater Ranch LLC** – A two-part variance request of the City of Crystal River Land Development Code (LDC) to allow for a residential swimming pool (without an overhead enclosure) 1) exceeding the maximum allowed 45 percent impervious surface ratio (ISR) in the RW, Residential Waterfront zoning district pursuant to Section 4.02.01 Standards for lot design; and 2) having less than the required minimum setback of ten (10) feet behind the front plane of the house pursuant to Section 5.01.13 Swimming pool and pool enclosures, of the LDC, for Lot 10, Block 12, Woodland Estates, Unit No. 2, Plat Book 3, Page 89, of the Public Records of Citrus County, Florida (ALTKEY 1062403) and which address is 1500 NW 18th Court, Crystal River, Florida.

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Staff presentation: Growth Management Director, Jenette Collins presented the application to the commission. Mrs. Collins detailed the location of the proposed pool and the lot. Additionally, she reviewed the minimum requirements of the Crystal River Land Development Code in regard to the pool's orientation on the lot. In the end Mrs. Collins concluded that the variance request as presented was not found to be a minimal variance; that the pool area could be reduced in size to increase the setback. However, three conditions of approval were provided for the commissioners' consideration.

Commissioner Comments: Commissioner Mac Arthur inquired about the access to the garage if the driveway was eliminated to decrease impervious surface. Mrs. Collins stated that the driveway to be removed was in a different location from the driveway in front of the house that was to remain.

Applicant presentation: Brought by Brenda McKenzie, a consultant for the applicant and agent for Richey Pools. Ms. McKenzie explained that asking for 3% over lot coverage is a minimal request. She detailed that a local engineering firm would be assisting with the design to maintain the integrity of the property. Chairman Grannan asked about the height of the pool Brenda responded it would meet the condition agreed on by city staff and the engineering firm of 2 feet. Vice Chairman Thompson asked about the size of the pool. Ms. McKenzie responded, 22x30 with a small spa and deck. Chairman Grannan asked about a fence and cover in the future. Ms. McKenzie explained all parties are aware of the condition that would prevent future enclosure. Mrs. Collins explained the LDC on enclosures. Ms. McKenzie answered additional questions from the commissioners.

Commissioner discussion: Commissioner MacArthur Anderson recommended an amendment to add screening to the buffer with vegetation. Motion was amended to include the buffer. Motion to approve with the three conditions as recommended by staff and with the fourth condition to require a vegetation buffer was made by Commissioner Herring; seconded by Vice Chair Thompson

Conditions of Approval:

1. The pool deck shall not exceed a 2-foot height above the natural pre-construction grade of the subject property.
2. The pool shall not have an overhead enclosure (e.g. screen enclosure) but must otherwise be enclosed with fencing as required by applicable city and Florida building codes.
3. The applicant shall install and maintain a natural berm of eight (8) inches in height or a natural swale of eight (8) inches in depth between the edge of the pool deck and the waterbody (canal).
4. A vegetative buffer shall be provided between the edge of the right-of-way and the swimming pool to be installed and maintained by the property owner.

Motion carried 6-0

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B.)

1. **Conduct a Public Hearing for APPLICATION NO. PCA24-0002 brought by Frye One Pete's Pier LLC** – A Small-Scale Comprehensive Plan Amendment to the Future Land Use Map to change 0.16 acres +/- from MDR, Medium Density Residential to CW, Waterfront Commercial, for Lot 1A, Aqua Vista, Plat Book 11, Page 144 of the public records of Citrus County, Florida, (ALTKEY 1996970); and which address is 447 SW 1st Place, Crystal River; and

Voting Conflict- Vice Chairman Thompson submitted Form 8B Memorandum of Voting Conflict for County, Municipal, and other Local Public Officers to recuse himself from this agenda item.

Staff Presentation: Assistant Growth Management Director, Carly Hanson presented the application for Future Land Use Map change simultaneous with Zoning Map amendment request (next item). Ms. Hanson detailed the location of the property and discussed the future land use and zoning for the property. She reviewed the proposal and how it would impact the Future Land Use Map. Ms. Hanson detailed that the application was inconsistent with the Comprehensive Plan, and that the compatibility of the proposal could not be determined, based on the application. Staff recommended denial of this application.

Commissioner discussion: Chairman Grannan inquired about the uses that would be allowed under the proposed zoning. Mrs. Collins explained that this item could not be conditioned, and all permissible uses would be allowed under the new zoning.

Applicant presentation: Brought by Boe Braccio and consultant Terry Thompson. Mr. Thompson detailed the size of the lot makes it unbuildable but that it meets the intent of the current zoning of Pete's Pier. Mr. Thompson explained that this parcel has always been used as part of the marina.

Commissioner comments: Commissioner MacArthur Anderson asked what the intended use would be under the proposed zoning. Mr. Braccio explained that it would continue to be used the same way it has been and added that the issue is parking. Mr. Braccio answered additional questions from the commissioners. Motion to approve was made by Commissioner Acker; seconded by Commissioner MacArthur Anderson- Motion carried 3-2

2. **Conduct a Quasi-Judicial Public Hearing for APPLICATION NO. PZMA24-0002 brought by Frye One Pete's Pier LLC** – An amendment to the Official Zoning Map to change 0.16 acres +/- from R-W, Residential Waterfront to CW, Waterfront Commercial, for Lot 1A, Aqua Vista, Plat Book 11, Page 144 of the public records of Citrus County, Florida, (ALTKEY 1996970), and which address is 447 SW 1st Place, Crystal River.

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Commissioner comments: Motion to deny was made by Commissioner Herring; seconded by Chairman Grannan- Motion carried 3-2

- 10.) Unfinished Business: None.
- 11.) New Business: None.
- 12.) Citizen Input: 5 minutes: None.
- 13.) Staff Comments- Mrs. Collins reminded the Planning Commissioners that next month's meeting is on the second Thursday, July 11.
- 14.) Commissioner's Comments: None.
- 15.) Chairman's Comments: None.
- 16.) Adjournment: Motion to adjourn the meeting was made by Chairman Grannan: and seconded by Vice Chairman Thompson. Motion carried 6-0 Adjourned at 6:28 P.M.

*Appointed by School Board pursuant to §163.3174, Florida Statutes.

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CITY OF CRYSTAL RIVER PLANNING COMMISSION

STAFF REPORT

Growth Management Department

MEETING DATE:	July 11, 2024
VARIANCE APPLICATION NO. PV24-0003 – PEZ VELA POINTE, LLC (TIPSY TARPON)	
VARIANCE REQUESTED:	A Variance request of the City of Crystal River Land Development Code (LDC) to allow for the sale of alcoholic beverages on a parcel of land situated less than the required 500-foot separation from a park open to the public pursuant to section 5.05.03. <i>Alcoholic beverage sales</i> , of the LDC.
SUBJECT PROPERTY:	Section 21, Township 18S, Range 17E; specifically, Parcel ID: 17E18S210230 0010 (Altkey: 3527397) as identified in the records of the Citrus County Property Appraiser, and which address is 513 NW 2 nd Avenue, Crystal River. A complete legal description of the property is on file with the Planning and Development Services Department.
ACREAGE:	Approximately 31,246 square feet +/- (0.72 acres +/-).
ZONING DISTRICT:	CW, Waterfront Commercial
FLOOD ZONE:	According to the Flood Insurance Rate Map (FIRM), the subject property is in Flood Zone AE with a Base Flood Elevation (BFE) of 12 feet, as found on FIRM Panel Number 12017C0188E. (Effective date: January 15, 2021)
SURROUNDING AREA:	North – PI, Public Institutional (Little Springs Park across US Highway 19) South – waterbody (Kings Bay on the Crystal River) East – CW (vacant commercial across NW 2 nd Ave and the Kings Bay Riverwalk) West – CW (Bayside restaurant across a water canal off Kings Bay)
PREPARED BY:	Jenette Collins, AICP, Growth Management Director

BACKGROUND INFORMATION: This application is brought by Pez Vela Pointe, LLC to allow for the sale of alcoholic beverages at the Topsy Tarpon which parcel is located 100 feet from Little Springs Park rather than the minimum required 500-foot separation from a public city park pursuant to Section 5.05.03 *Alcoholic Beverages*, of the LDC. The subject parcel is located on US 19 (aka S Suncoast Blvd), a 100-foot, 4-lane major arterial highway, directly across the street from Little Springs Park and is adjacent to NW 2nd Ave which runs parallel to the Kings Bay Riverwalk. Little Springs Park serves as a neighborhood park containing a pavilion, picnic tables, and grill, and a natural spring feature on approximately one acre, adjacent to city hall.

Development of the subject property began in 2021 to allow for an outdoor restaurant (mobile food truck), an open pavilion with bar, and restrooms. In 2023, a wooden stage with tiki roof was added to allow for entertainment. The business opened in March 2024 after acquiring all necessary development approvals from the city. It is noted that the pavilion is located approximately 370 feet “as the crow flies” from Little Springs Park. The surrounding area has been developed commercially.

The business currently has a state issued 4COP-SFS (Special Food Service for restaurants) liquor license, which requires 51 percent of its gross revenues to be derived from the sale of food and non-alcoholic beverages. The business maintains an approved mobile food truck that is permitted on site as a “special use” permit for “mobile outdoor commercial kitchen” in the Downtown Commercial Waterfront Overlay District of the city’s Community Redevelopment Area (CRA) Overlay District. However, the business owner has advised that gross sales of alcoholic beverages are now exceeding the revenue derived from

food sales. To comply with the Florida Department of Alcoholic Beverages & Tobacco (FL ABT), the owner is seeking to obtain a 4COP-Quota liquor license, which applies to sale of all liquor without the required food sales. The FL ABT application for alcohol beverage license requires a zoning approval sign-off from the local government jurisdiction, which is what has prompted this variance request. The owner contends that he has made a substantial investment to establish the Topsy Tarpon and if unable to attain the 4COP-Quota liquor license the business will be forced to close.

ANALYSIS: The Land Development Code (LDC), Section 5.05.03 *Alcoholic Beverages* states in part:

- A. *The sale of alcoholic beverages shall not be permitted on any parcel of land if any part of said parcel is situated within five hundred (500) feet from any point on a building or structure used as a school, hospital, religious facility, public library, or a park or playground open to the public.*

Section 5.05.03 further states:

- E. *The setbacks contained in this section shall not apply to those businesses within the city limits of the City of Crystal River, holding an occupational license as a restaurant, and otherwise duly licensed as such under any requirements of state or local law, which derives at least fifty-one (51) percent of its gross revenues from the sale of food and non-alcoholic beverages, and which does not sell or serve alcoholic beverages after the hours for serving food have elapsed.*

The intent of alcohol beverage distance separation requirements may serve to mitigate incompatibilities between uses, limit the oversaturation of bars in an area, prevent access of alcoholic beverages by minors and/or promote the public health, safety and general welfare of the community.

Florida Statutes (F.S.), section 562.45¹ (see backup) speaks to state beverage laws and local ordinances as regulated through the FL ABT. In this case, section 562.45(2)(a), F.S. is relevant (see excerpt below with emphasis on the bolded text).

*Florida Statutes, section 562.45(2)(a) Nothing contained in the Beverage Law may be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the hours of business and location of place of business, and prescribing sanitary regulations therefor, of any licensee under the Beverage Law within the county or corporate limits of such municipality. However, except for premises licensed on or before July 1, 1999, and except for locations licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to chapter 509, a location for on-premises consumption of alcoholic beverages may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school **unless the county or municipality approves the location as promoting the public health, safety, and general welfare of the community under proceedings as provided in s. 125.66(5), for counties, and s. 166.041(3)(c), for municipalities.** This restriction may not, however, be construed to prohibit the issuance of temporary permits to certain nonprofit organizations as provided for in s. 561.422. **The division may not issue a change in the series of a license or approve a change of a licensee's location unless the licensee provides documentation of proper zoning from the appropriate county or municipal zoning authorities.***

¹ 2023 Florida Statutes, Section 562.45 Penalties for violating Beverage Law; local ordinances; prohibiting regulation of certain activities or business transactions; requiring nondiscriminatory treatment; providing exceptions.

The referenced section 166.041(s)(c), F.S., relates to the list of permitted uses as allowed by local zoning ordinances. The bar use is permitted by right in the CH zoning district. The Variance process provides an administrative mechanism for the city to consider the alcohol beverage separation standard case-by-case based on the individual merits of a subject property and the surrounding area.

Several facts are found relevant in considering this variance request:

The business plan for the Tippy Tarpon intended to derive the majority of its gross revenues from food sales, but the market trend has dictated a larger demand for liquor sales. The pavilion with bar sits at the southernmost point of the parcel oriented toward Kings Bay on the Crystal River, and it is not clearly visible to Little Springs Park. The subject property parcel sits across a heavily traveled major highway from the park.

The subject area is part of the Crystal River Community Redevelopment Area (CRA), which promotes mixed use development. The subject property is also located within the designated Downtown Commercial Waterfront Overlay District, which the LDC describes as "...being created with the intention of promoting private development, achieving a high degree of public use with parks, hotels, public assembly areas and river themed retail commercial uses." The Tippy Tarpon is unique in that it provides an open, tiki restaurant-bar atmosphere where its patrons can enjoy the waterfront view of Kings Bay, that is in keeping with the intent of the Downtown Commercial Waterfront Overlay District.

The subject property is located in the "Downtown Crystal River Entertainment District" which was adopted by city ordinance (No. 23-O-10) effective on January 9th, 2023, amending Chapter 3. Alcoholic Beverages, of the Crystal River Code of Ordinances. The ordinance allows for "open alcoholic beverage container" to be permitted in the district under certain conditions for registered participants. The Tippy Tarpon is not currently a registered participant but may qualify upon registration and satisfying the FL ABT licensing requirement for sale of alcoholic beverages.

REQUIRED FINDINGS FOR GRANTING A VARIANCE: Pursuant to Section 9.02.02 of the Crystal River Land Development Code, in order for an application for a variance to be approved or approved with conditions, the planning commission shall make a positive finding, based on the evidence submitted, with regard to each of the following conditions.

- 1. *There is a specific hardship affecting the development of the lot resulting from the strict application of the provisions of the LDC;*** The lot (parcel) has been developed with a mobile outdoor commercial kitchen and bar which obtained all necessary approvals by the city. The "hardship" stems from the parcel's proximity to a public park whereby the business must be operated so that 51 percent of its gross revenues are derived from food sales rather than alcohol beverage sales.
- 2. *The hardship is not a result of actions of the owner and is not based solely on a desire to reduce development costs;*** The "hardship" associated with the request is not necessarily based on the action of the owner, but rather by circumstance that the business' gross revenue of alcohol beverage sales exceed food sales. This places the business in nonconformance status with the city's alcohol beverage ordinance of the LDC and at risk of penalty by the FL ABT. The business owner states that he intends to continue with the sale of food.
- 3. *The need for the proposed variance is due to the physical shape, configuration, or topographical condition of the lot in such a manner as to distinguish it from other adjacent or nearby lots or from***

other lots in the district; The proposed variance is not related to the physical shape, configuration, or topographical of the lot, but due to alcohol beverage sale separation requirements of section 5.05.03 for parcels within five hundred (500) feet from any point on a building or structure used as a school, hospital, religious facility, public library, or a park or playground open to the public. No changes are proposed to the existing site design.

4. **The proposed variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby lots or other lots in the zoning district;** The variance of section 5.05.03, of the LDC, will allow approval by the city for the business to continue to operate having 4COP-Quota liquor license, which applies to sale of all liquor without the requirement for food sales. Granting the requested variance would not convey a special privilege available to other property owners in the immediate neighborhood, provided all other requirements of the LDC are met.
5. **The grant of the proposed variance does not confer on the applicant any special privilege that is prohibited by this LDC to other lands, buildings, or structures in the same zoning district;** The property has been developed in conformance with the required site dimensional standards of the LDC for the CH zoning district.
6. **The proposed variance does not substantially increase congestion on surrounding streets, does not increase the danger of fire or other hazard, and is not otherwise detrimental to the health, safety, or general welfare of the public;** The variance will not increase congestion. Use of the site is not proposed to change from how it has been operating and has not been found to be a detriment to the health, safety and general welfare of the public.
7. **The development following the proposed variance is compatible with adjacent and nearby development and does not alter the essential character of the district;** The use is compatible with adjacent and nearby development within the CRA and the Downtown Commercial Waterfront Overlay District, which promotes a mixture of uses to sustain a downtown venue. The site is also located within the City's designated Downtown Crystal River Entertainment District, which provides a mechanism to allow "open alcoholic beverage container" for registered participants.
8. **The variance granted is the minimum variance that results in reasonable use of the land, building, or structure;** The variance as requested will allow for the continued operation of the restaurant-bar use, except that revenues from food sales will not be required to exceed alcohol beverage sales. The request for the parcel situated 100 feet from the park represents an 80% variance. The pavilion where the business is conducted is approximately 370 feet from the park property.
9. **The effect of the proposed variance is consistent with the general intent of the LDC and the specific intent of the relevant standards and criteria; and** The general intent of the LDC specific to Section 5.05.03 *Alcoholic Beverage* is to provide adequate separation between the sale of alcoholic beverages and certain public uses such as park which may be frequented by minors. Although the 500-foot separation standard cannot be attained, the site is separated from the park by a US Highway 19, a 4-lane major arterial highway which may serve to meet the intent of the provisions for separation of the uses.
10. **The effect of the proposed variance is consistent with the comprehensive plan.** The request is consistent with the comprehensive plan which is silent to alcohol beverage sales.

Based on the analysis provided and the findings of fact, staff contends that the requested variance may be appropriate given the location of the business is within the CRA's Downtown Commercial Waterfront Overlay District, the Downtown Crystal River Entertainment District, and situated across US Highway 19 from Little Springs Park. The site has been approved for and continues to operate a mobile food kitchen and meets all other standards of the LDC except for not being able to derive at least fifty-one (51) percent of its gross revenues from the sale of food.

PLANNING COMMISSION ACTION: The Planning Commission shall approve, deny, or approve with conditions the application for variance, based upon making positive findings regarding conditions set forth in subsection 9.02.02. A., of the LDC.

ATTACHMENTS:

1. Section 562.45, Florida Statutes
2. PowerPoint and Support Information
3. Site Plan/Application submittal with Backup

The 2023 Florida Statutes (including Special Session C)


[Title XXXIV](#)
ALCOHOLIC BEVERAGES AND
TOBACCO

[Chapter 562](#)
BEVERAGE LAW:
ENFORCEMENT

[View Entire
Chapter](#)

562.45 Penalties for violating Beverage Law; local ordinances; prohibiting regulation of certain activities or business transactions; requiring nondiscriminatory treatment; providing exceptions.—

(1) Any person willfully and knowingly making any false entries in any records required under the Beverage Law or willfully violating any of the provisions of the Beverage Law, concerning the excise tax herein provided for shall be guilty of a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). It is unlawful for any person to violate any provision of the Beverage Law, and any person who violates any provision of the Beverage Law for which no penalty has been provided shall be guilty of a misdemeanor of the second degree, punishable as provided in s. [775.082](#) or s. [775.083](#); provided, that any person who shall have been convicted of a violation of any provision of the Beverage Law and shall thereafter be convicted of a further violation of the Beverage Law, shall, upon conviction of said further offense, be guilty of a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).




(2)(a) Nothing contained in the Beverage Law may be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the hours of business and location of place of business, and prescribing sanitary regulations therefor, of any licensee under the Beverage Law within the county or corporate limits of such municipality. However, except for premises licensed on or before July 1, 1999, and except for locations licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to chapter 509, a location for on-premises consumption of alcoholic beverages may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location as promoting the public health, safety, and general welfare of the community under proceedings as provided in s. [125.66\(5\)](#), for counties, and s. [166.041\(3\)\(c\)](#), for municipalities. This restriction may not, however, be construed to prohibit the issuance of temporary permits to certain nonprofit organizations as provided for in s. [561.422](#). The division may not issue a change in the series of a license or approve a change of a licensee's location unless the licensee provides documentation of proper zoning from the appropriate county or municipal zoning authorities.

(b) Nothing in the Beverage Law shall be construed to affect or impair the power or right of any county or incorporated municipality of the state to enact ordinances regulating the type of entertainment and conduct permitted in any establishment licensed under the Beverage Law to sell alcoholic beverages for consumption on the premises, or any bottle club licensed under s. [561.14](#), which is located within such county or municipality.

(c) A county or municipality may not enact any ordinance that regulates or prohibits those activities or business transactions of a licensee regulated by the Division of Alcoholic Beverages and Tobacco under the Beverage Law. Except as otherwise provided in the Beverage Law, a local government, when enacting ordinances designed to promote and protect the general health, safety, and welfare of the public, shall treat a licensee in a nondiscriminatory manner and in a manner that is consistent with the manner of treatment of any other lawful business transacted in this state. Nothing in this section shall be construed to affect or impair the enactment or enforcement by a county or municipality of any zoning, land development or comprehensive plan regulation or other ordinance authorized under ss. 1, 2, and 5, Art. VIII of the State Constitution.

History.—s. 15, ch. 16774, 1935; s. 3, ch. 19301, 1939; CGL 1940 Supp. 4151(240), 7648(6); s. 4, ch. 29964, 1955; s. 1, ch. 57-327; s. 573, ch. 71-136; s. 2, ch. 72-230; s. 1, ch. 87-365; s. 24, ch. 91-60; s. 4, ch. 97-165; s. 2, ch. 99-156; s. 128, ch. 2014-17; s. 13, ch. 2023-309.



PV24-0003
Variance of the Land Development Code (LDC)
PEZ VELA POINTE, LLC
(Topsy Tarpon)

Crystal River Planning Commission Meeting of July 11, 2024

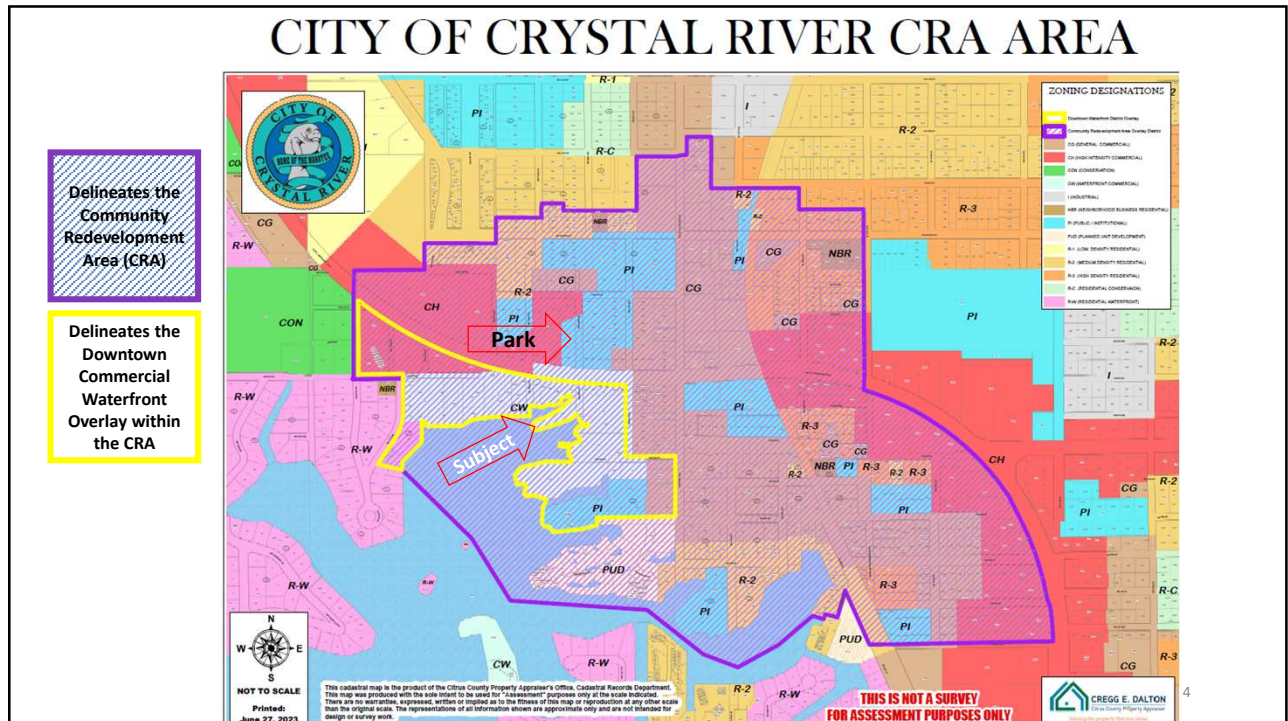
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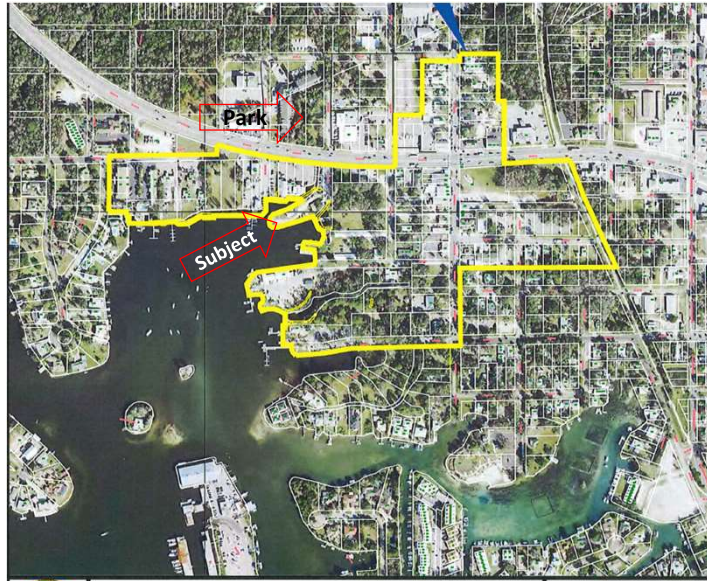
3



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Downtown Crystal River Entertainment District

- Adopted January 9, 2023
- Allows open alcoholic beverage container in public areas of designated area (in yellow) purchased from registered participant with certain conditions.



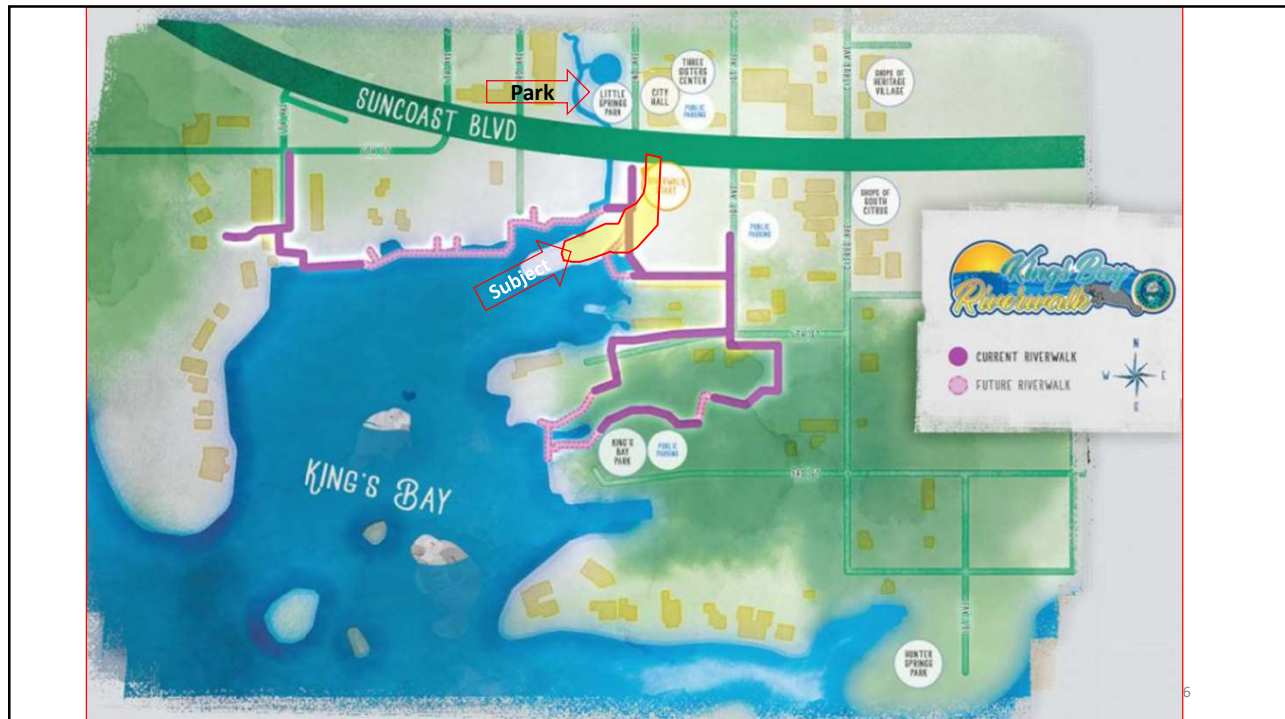
CRYSTAL RIVER ENTERTAINMENT DISTRICT

EXHIBIT 'A'
Sheet 1 of 1

Crystal River Planning Commission Meeting of July 11, 2024

5

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Below Left: The subject property which operates as the Tippy Tarpon was posted on June 14, 2024. The property is located on the south side of US Hwy 19.

Below Right: Looking north from the subject property across US Hwy 19 toward Little Springs Park (contains pavilion, picnic tables, grill, and a natural spring feature).



Crystal River Planning Commission Meeting of July 11, 2024

7

7

Below Left: The pavilion.

Below Right: Inside the pavilion (seating, bar, and mobile food vending area).



Crystal River Planning Commission Meeting of July 11, 2024

8

8

Below Left: Southeast side of site as it abuts Kings Bay (exterior wooden stage with tiki roof area.



Below Right: Northwest of the site across inlet from existing Bayside Kraft Kitchen Restaurant (formerly Charlie's Fish House Restaurant).



Crystal River Planning Commission Meeting of July 11, 2024

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9

Below Left: Looking west on US Hwy 19 from the front of the subject property.




Below Right: Looking East on US Hwy 19 from the front of the subject property.



Crystal River Planning Commission Meeting of July 11, 2024

10

10

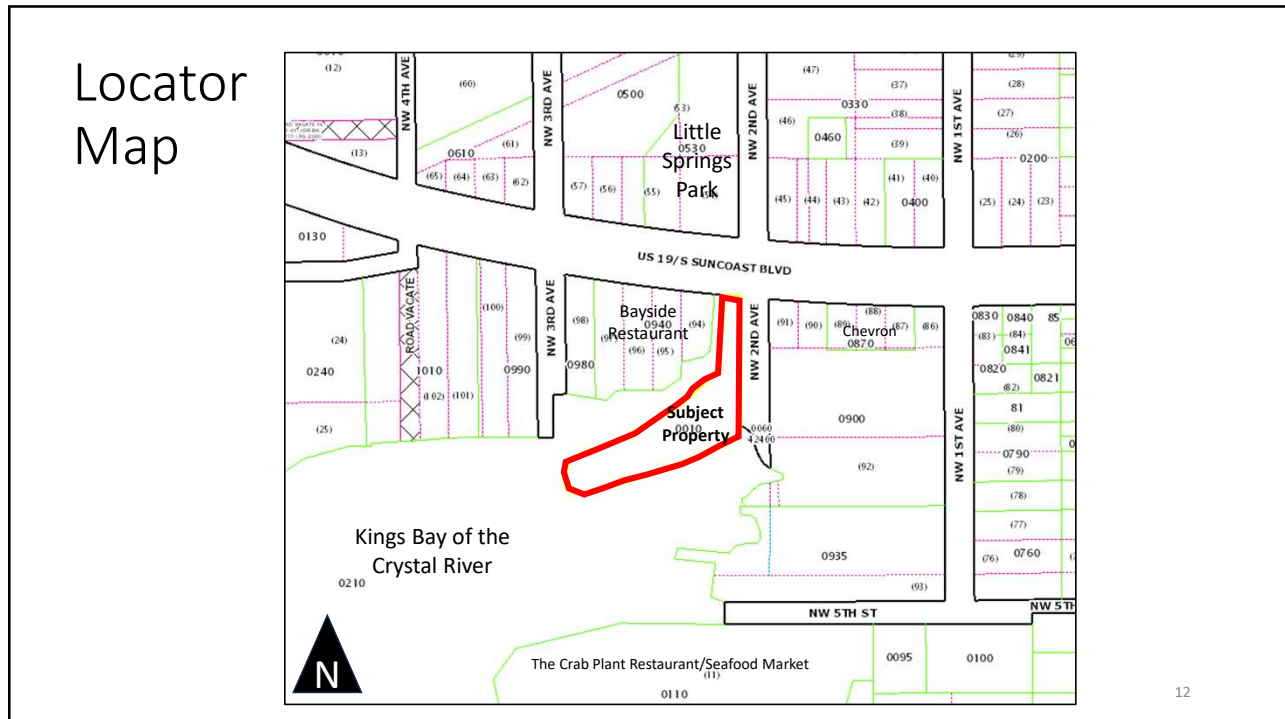


QUESTIONS?

PV24-0003
Variance of the Land Development Code (LDC)
PEZ VELA POINTE, LLC
(Topsy Tarpon)

Crystal River Planning Commission Meeting of July 11, 2024

11



12



VARIANCE APPLICATION

PV24-0003
Growth Management Department
123 NW Highway 19
Crystal River, FL 34428
Phone 352-705-4216

Return to: development@crystalriverfl.org

Office Use Only: Paid <u>5-24-24</u>	Date <u>5-24-24</u>
Residential - \$400	Commercial - \$600
ATF-DOUBLE FEE	

RECEIVED
MAY 24 REC'D
MM

Applicant Information:

Name: Christopher Aaron Kofmehl Phone 352-601-0185
 Street Address: 12062 W. Appletree Place Crystal River, FL 34428
CITY ST ZIP
 Email Address: bluecrabeak@gmail.com

Site Information:

Site Address: 513 N.W. 2nd Ave Crystal River, FL 34428
 Alt Key #: 3527397 Parcel ID # 17 E 1852 10230 0010
(AVAILABLE AT THE CITRUS COUNTY PROPERTY APPRAISER'S WEBSITE: www.citruspa.org)

Legal Description: Please SEE Exhibit A

(or attach description on a separate page)

Subdivision SYLVAN GLEN Lot: 94 Block: _____

Current Zoning District: Commercial waterfront, within the CRA, within the entertainment district

Flood Zone: AE Base Flood Elevation: 12.0
(This information shall be based on the latest Flood Insurance Rate Maps)

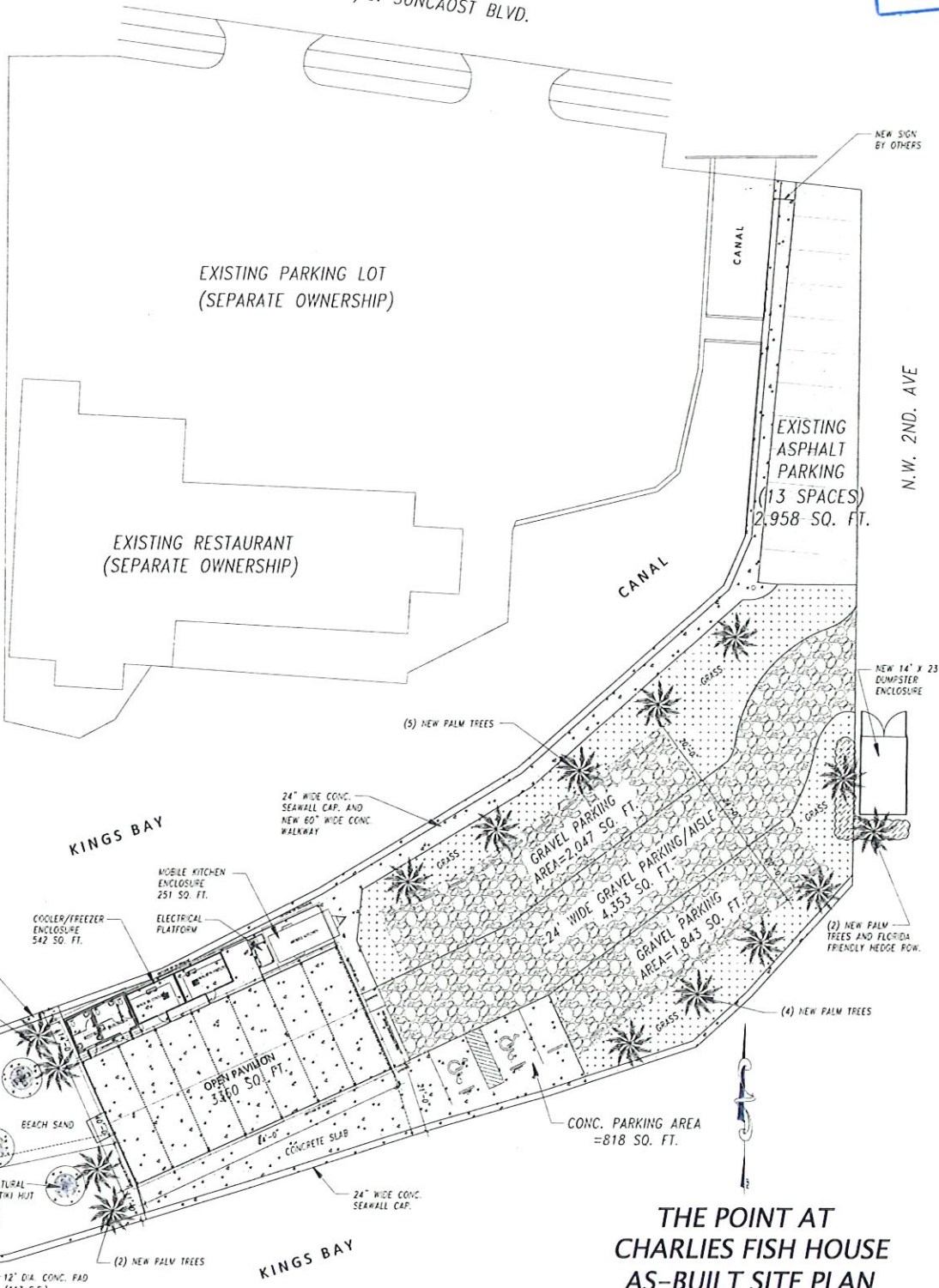
The applicant for a variance has the burden of proof of demonstrating that the application for a variance complies with each of the requirements of Section 9.02.02(A).

Variance Request: Please enter a description of request and Land Development Code Sections that pertain to the requested action.
https://library.municode.com/fl/crystal_river/codes/code_of_ordinances?nodeId=PTIICOOR_APXALADE_CO_CH9VACORE_9.02.00VA

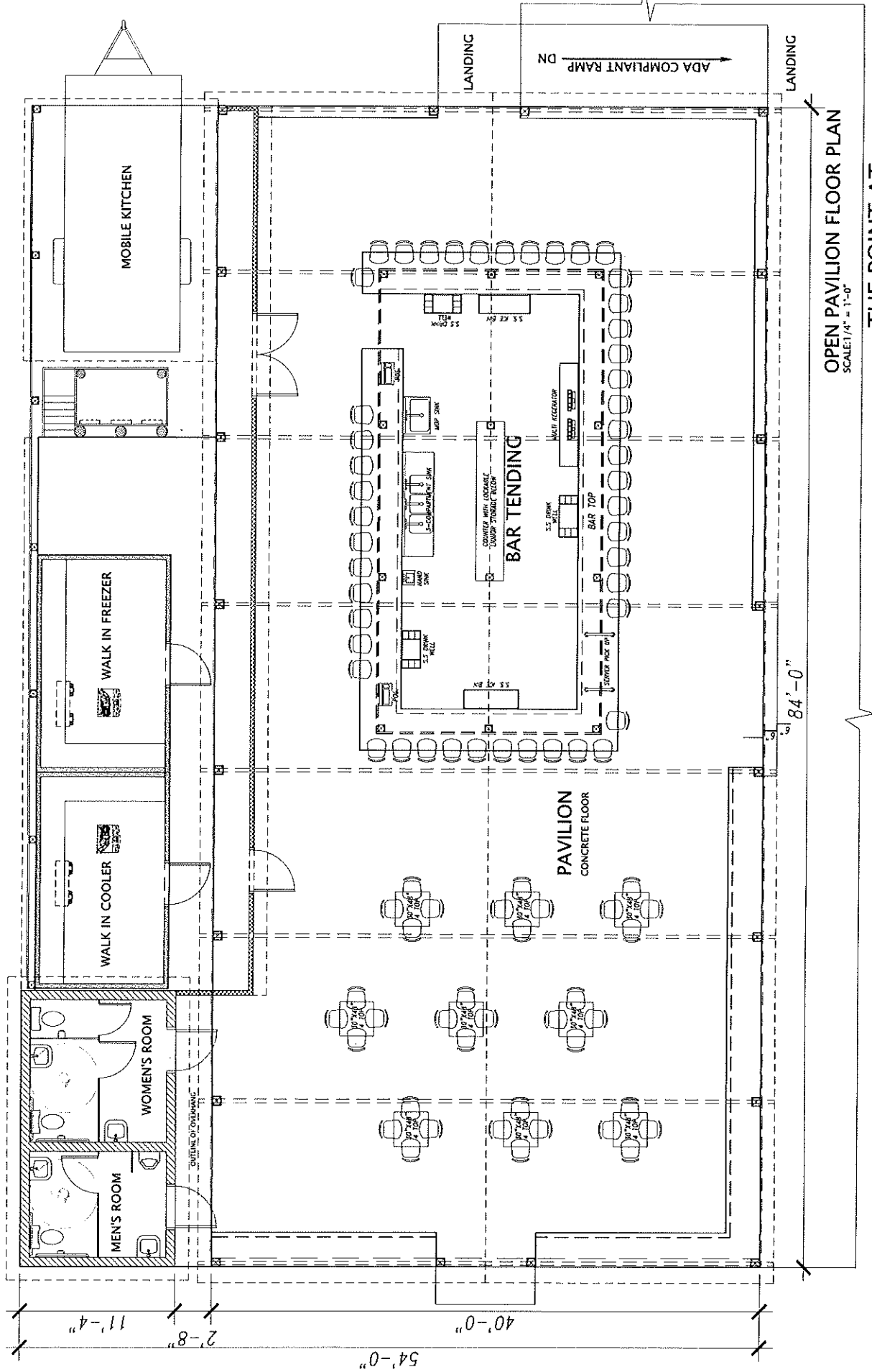
Variance of Section 5.05.03 for the sale of alcoholic beverages on a parcel situated less than 500 feet from a park open to the public, (Little Springs Park)

RECEIVED
MAY 24 REC'D
 By **MM**

US HWY 19/S. SUNCAOST BLVD.



THE POINT AT CHARLIES FISH HOUSE
AS-BUILT SITE PLAN
 SCALE: 1"=20'-0"



OPEN PAVILION FLOOR PLAN
SCALE: 1/4" = 1'-0"

THE POINT AT
CHARLIE'S FISH HOUSE

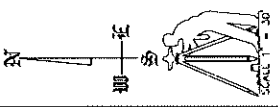
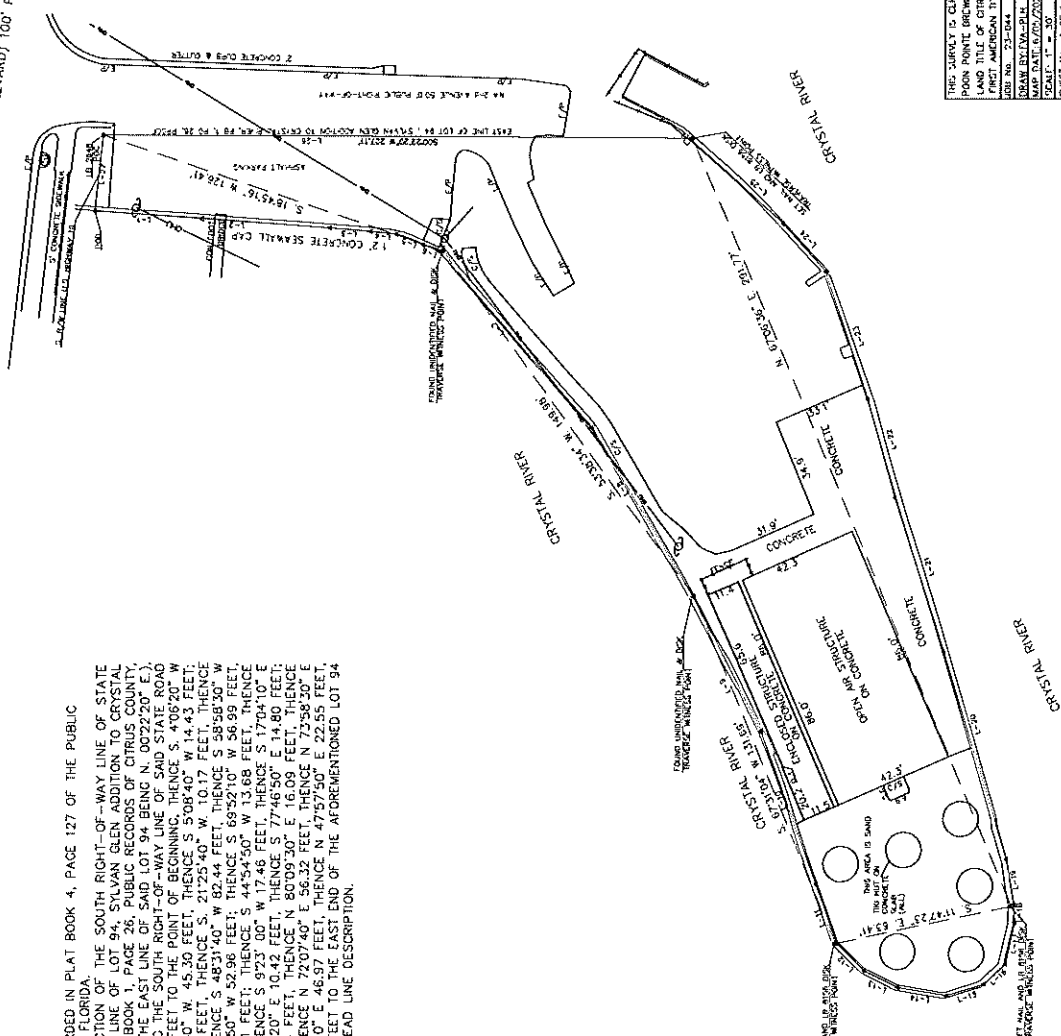
PLAT OF A BOUNDARY AND LOCATION SURVEY

U.S. HIGHWAY NUMBER 19 (AKA SOUTH SUNCOAST BOULEVARD) 100' PUBLIC RIGHT-OF-WAY

LEGAL DESCRIPTION AS RECORDED IN PLAT BOOK 4, PAGE 127 OF THE PUBLIC RECORDS OF CITRUS COUNTY, FLORIDA.
 COMMENCE AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD NO. 55 AND THE EAST LINE OF LOT 94, SYLVAN GLEN ADDITION TO CRYSTAL RIVER, AS RECORDED IN PLAT BOOK 1, PAGE 26, PUBLIC RECORDS OF CITRUS COUNTY, FLORIDA, (THE BEARING OF THE EAST LINE OF SAID LOT 94 BEING N. 00°22'20" E.), THENCE N. 82°46'00" W. ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID STATE ROAD NO. 55 TO THE POINT OF BEGINNING, THENCE S. 4°05'20" W. 37.84 FEET, THENCE S. 26°04'00" W. 14.30 FEET, THENCE S. 08°17'43" FEET, THENCE S. 14°25'00" W. 20.04 FEET, THENCE S. 21°25'00" W. 17.48 FEET, THENCE S. 22°44'20" W. 5.79 FEET, THENCE S. 48°31'40" W. 82.44 FEET, THENCE S. 68°52'10" W. 58.99 FEET, THENCE S. 70°10'40" W. 22.01 FEET, THENCE S. 44°54'50" W. 13.68 FEET, THENCE S. 25°51'50" W. 13.39 FEET, THENCE S. 9°23' 00" W. 17.48 FEET, THENCE S. 17°04'10" E. 14.80 FEET, THENCE S. 42°46'20" E. 10.42 FEET, THENCE N. 80°09'30" E. 16.09 FEET, THENCE N. 87°20'30" E. 6.34 FEET, THENCE N. 77°46'50" E. 14.80 FEET, THENCE N. 72°52'40" E. 78.20 FEET, THENCE N. 72°07'40" E. 56.32 FEET, THENCE N. 73°58'20" E. 35.99 FEET, THENCE N. 71°30'10" E. 46.97 FEET, THENCE N. 47°57'50" E. 22.55 FEET, THENCE N. 42°05'20" E. 44.52 FEET TO THE EAST END OF THE AFOREMENTIONED LOT 94 AND THE END OF THIS BULKHEAD LINE DESCRIPTION.

LINE TABLE PLAT

L-1	584°08'20" W	37.84
L-2	584°08'20" W	14.30
L-3	580°16'20" W	20.04
L-4	580°16'20" W	17.48
L-5	521°25'00" W	17.48
L-6	518°31'40" W	82.44
L-7	518°31'40" W	82.44
L-8	548°58'30" W	88.93
L-9	548°58'30" W	88.93
L-10	568°52'10" W	58.99
L-11	570°10'40" W	22.01
L-12	544°54'50" W	13.68
L-13	544°54'50" W	13.68
L-14	509°23'00" W	17.48
L-15	517°04'10" E	14.80
L-16	517°04'10" E	14.80
L-17	577°46'50" E	14.80
L-18	577°46'50" E	14.80
L-19	577°46'50" E	14.80
L-20	577°46'50" E	14.80
L-21	577°46'50" E	14.80
L-22	577°46'50" E	14.80
L-23	577°46'50" E	14.80
L-24	577°46'50" E	14.80
L-25	577°46'50" E	14.80
L-26	577°46'50" E	14.80
L-27	577°46'50" E	14.80



Patrick L. Henson
 Digitally signed
 Henson
 Date: 2023.06.07
 133601-0007

THE SURVEY IS CONTROLLED BY:
 POON POON BREWING COMPANY, LLC, GREEN & GREEN, P.A.,
 LAND TITLE OF CITRUS COUNTY, INC AND
 FIRST AMERICAN TITLE INSURANCE COMPANY

ANDERSON SPECIALTY SERVICES, INC.
 9200 East Orange Avenue
 Foral City, Florida 34436
 (352) 270-0146

DATE: 06/07/2023
 FIELD DATE: 06/07/2023
 SHEET NO. 1 OF 1
 PAGES: 20-29

THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT OF 2020, CHAPTER 349, FLORIDA STATUTES, AND THE RULES OF THE BOARD OF SURVEYING AND MAPPING, CHAPTER 61, FLORIDA ADMINISTRATIVE CODE.

THE SURVEYOR'S CERTIFICATION:
 I, PATRICK L. HENSON, REGISTERED LAND SURVEYOR, NO. 133601-0007, STATE OF FLORIDA, DO HEREBY CERTIFY THAT I HAVE PERSONALLY CONDUCTED THIS SURVEY AND THAT I AM A MEMBER IN GOOD STANDING OF THE SURVEYING AND MAPPING BOARD OF THE STATE OF FLORIDA. I HAVE READ AND UNDERSTAND THE CONTENTS OF THIS SURVEY AND I HAVE FOUND IT TO BE ACCURATE AND CORRECT. I HAVE NOT BEEN CONVICTED OF ANY CRIMINAL OFFENSES THAT WOULD IMPAIR MY ABILITY TO PERFORM MY DUTY AS A SURVEYOR. I HAVE NOT BEEN CONVICTED OF ANY CRIMINAL OFFENSES THAT WOULD IMPAIR MY ABILITY TO PERFORM MY DUTY AS A SURVEYOR. I HAVE NOT BEEN CONVICTED OF ANY CRIMINAL OFFENSES THAT WOULD IMPAIR MY ABILITY TO PERFORM MY DUTY AS A SURVEYOR.

Variance Provisions

In order for an application for a variance to be approved or approved with conditions, the Planning Commission shall make a positive finding, based on the evidence submitted, with regard to each of the following provisions. Submit an explanation to each of the provisions below.

Findings	Provisions (Sec. 9.02.02(A))
✓	1. There is a specific hardship affecting the development of the lot resulting from the strict application of the provisions of the LDC. <i>(Explain how you will be deprived of reasonable use of the land, building, or structure, equivalent to the use made of lands, buildings or structures in the same neighborhood. Show that you have an unnecessary hardship, more than mere inconvenience or a preference for more lenient standards.)</i>
	2. The hardship is not a result of actions of the owner and is not based solely on a desire to reduce development costs. <i>(It is not enough to say that the development will cost more in order to comply. You must show the substantial and undue nature of that additional cost as compared to others subject to the same restriction.)</i>
	3. The need for the proposed variance is due to the physical shape configuration, or topographical condition of the lot in such a manner as to distinguish it from other adjacent or nearby lots or from other lots in the district. <i>(An example would be a pie shaped lot where the lot narrows dramatically towards the front yard and the side yard setback prohibits you from building an addition.)</i>
	4. The proposed variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby lots or other lots in the zoning district. <i>(Explain that if the variance is not approved would any development of the proposed property be possible?)</i>
	5. The grant of the proposed variance does not confer on the applicant any special privilege that is prohibited by this LDC to other lands, buildings, or structures in the same zoning district. <i>(Is what you want to do something that other properties in the same zoning district have been allowed to do? If so, how does the ordinance prevent you from doing so?)</i>
	6. The proposed variance does not substantially increase congestion on surrounding streets, does not increase the danger of fire or other hazard, and is not otherwise detrimental to the health, safety, or general welfare of the public. <i>(Will granting the variance harm public safety? (Example: A property owner may prove an unnecessary hardship exists from limitations on on-site drives and parking for a commercial use. The increased traffic and stormwater effects could prove to harm public safety)</i>
	7. The development following the proposed variance is compatible with adjacent and nearby development and does not alter the essential character of the district. <i>(Will the variance cause the character of your neighborhood to change?)</i>
	8. The variance granted is the minimum variance that results in reasonable use of the land, building, or structure. <i>(Have you looked at all other options to do what you want to do and found that the variance you are seeking is for the least amount necessary?)</i>

	9. The effect of the proposed variance is consistent with the general intent of the LDC and the specific intent of the relevant standards and criteria. <i>(Will what you are proposing have any negative effects on your neighbors or any other property or to public property?)</i>
	10. The effect of the proposed variance is consistent with the comprehensive plan. <i>(City staff will assist with this.)</i>

Notes:

1. Any variance authorized by the Planning Commission, and not used and acted upon by the applicant, or the applicant's successor in interest, within one (1) year from the date on which the decision of the Planning Commission is reduced to a written order, or if appealed, the date on which the order becomes final, shall be deemed abandoned and be void and of no further force and effect.
2. A variance shall not be granted which authorizes a use that is not permissible in the zoning district in which the property subject to the variance is located.
3. A variance shall not be granted which authorizes any use or standard that is expressly prohibited by this LDC.
4. No nonconforming use of adjacent lands, structures, or buildings in the same zoning district, and no permitted use of land, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

Attachments:

1. Deed or other proof of ownership.
2. A site plan.


 SIGNATURE Owner Agent 5-23-24
 Date

Christopher Aaron Katmell
 PRINT NAME

STATE OF FLORIDA

COUNTY OF Citrus

The foregoing instrument was acknowledged (Or Affirmed) before me this 23rd day of May, 2024, who is/are personally known to me or has/have produced _____ as identification.

Susan L. Hughes (SEAL)
 Notary Public





The hardship affecting "Topsy Tarpon" is a common hardship that has affected other dining establishments in Crystal River.

We are a waterfront tiki bar and restaurant with a full food ~~menu~~^{menu}, 45 items to be exact. We pride ourselves in the food items that we serve.

Our family has been in business in Crystal River for over 60 years. We are located in the music districts in Crystal River. We offer live music 4-5 days a week. We have patrons who come to our establishment for a full course meal and non-alcoholic drinks. We also have customers that come for the beautiful ambience, live music, wonderful appetizers and cocktail drinks. We offer all of this and more. A tropical atmosphere with boat docking. The same style dining experience as Crackers Bar & Grill, which is a few hundred feet away on Kings Bay and Hwy 19. Crackers has a 4COP Quata license

For the same reasons we need to acquire one, St. Johns Tavern, Norton's Bar & Grill also have a 4 COP Quota License for this reason as well.

These restaurants are all within a ^{very} close proximity to us and are also near other parks and playgrounds (Water Pad).

For the Topsy Tarpon to lose its ability to sell liquor and to serve in our cocktails would be a devastating financial loss that our business could not recover from. We would be forced to close after a huge financial investment that we have made in this great city. In the music district the city created to have businesses like "Topsy Tarpon".

There are five other restaurants within a 1,000 foot radius that serve liquor, three of which have the 4 COP Quota License within this same 1,000 foot radius. There are 3 parks one of which is a water park for children, only separated by a 2 lane

Street. From a bar and grill with a 4 COP Quota License, (Topsy Tarpon is Separated from Little Springs Park by a 4 Lane hwy with a Concrete Median) and within 500 feet of another Bar/ Grill with a 4 COP Quota License. There have not been any adverse situations arising from these two establishments effecting these Parks.

Bottom Line if the

Topsy Tarpon is unable to supply liquor for our Cocktails like these other establishments do, we will be unable to fairly compete with these other restaurants which will result in lost revenue that will force us to close our doors ~~and~~ while losing hundreds of thousands of dollars in our property as well as into downtown Crystal River. This would be a devastating blow to us, our employees and our community.

Thank you for your consideration,

Chris Kolmehl



THIS DOCUMENT PREPARED BY/RETURN TO:
James David Green, Esquire
Florida Bar Number 0241430
Green & Green, P.A.
9030 West Fort Island Trail, Suite 5
Crystal River, Florida 34429
(352)795-4500

CORRECTIVE WARRANTY DEED

(This *Corrective Warranty Deed* is being recorded to include a complete legal description for the Property, as contained in that *Warranty Deed* dated July 20, 2023, recorded in Official Record Book 3411, Pages 2193-2195, Public Records of Citrus County, Florida.)

THIS INDENTURE, made this 1st day of November, 2023, between **PCK LAND HOLDINGS, LLC**, a Florida Limited Liability Company, whose address is 224 NW Highway 19, Crystal River, Florida, 34429, hereinafter referred to as "Grantor", and **PEZ VELA POINTE, LLC**, a Florida Limited Liability Company, whose post office address is 12062 West Apple Tree Place, Crystal River, Florida, 34428 hereinafter referred to as "Grantee",

WITNESSETH, that said grantor, for and in consideration of the sum of TEN AND 00/100----- (\$10.00)-----Dollars, and other good and valuable considerations to said Grantor in hand paid by Grantee, the receipt whereof is hereby acknowledged, have granted, bargained and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate and being in Citrus County, Florida, to-wit:

SEE EXHIBIT A ATTACHED HERETO

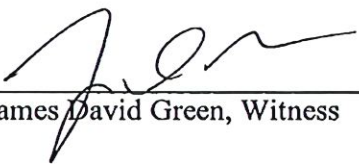
Subject to Restrictions, Reservations and Easements of record, if any.

and said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

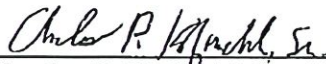
Grantor hereby covenants and warrants that this property does not constitute either the residence or the homestead of any of the Grantors or Grantors' spouse, or anyone dependent upon Grantors, as the same is defined by the laws and the Constitution of the State of Florida.

IN WITNESS WHEREOF, Grantors have hereunto set Grantors' hands and seals the day and year first above written.

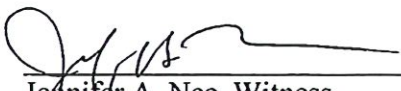
Signed, sealed and delivered
in our presence:


James David Green, Witness

**PCK LAND HOLDINGS, LLC, a Florida
Limited Liability Company**

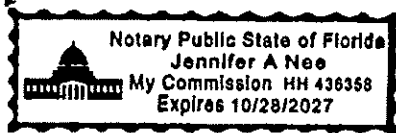
By: 
Charles P. Kofmehl, Sr., Managing Member

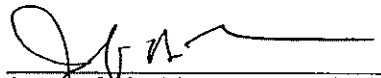
By: 
Eva C. Kofmehl, Managing Member


Jennifer A. Nee, Witness

**STATE OF FLORIDA
COUNTY OF CITRUS**

The foregoing instrument was acknowledged before me, this 1st day of November, 2023, by means of physical presence or online notarization, by **Charles P. Kofmehl, Sr.**, Managing Member, **PCK LAND HOLDINGS, LLC**, a **Florida Limited Liability Company**, who presented a valid Florida Driver License for identification.

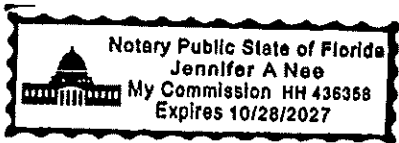


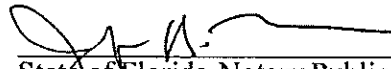


State of Florida-Notary Public

**STATE OF FLORIDA
COUNTY OF CITRUS**

The foregoing instrument was acknowledged before me, this 1st day of November, 2023, by means of physical presence or online notarization, by **Eva C. Kofmehl**, Managing Member, **PCK LAND HOLDINGS, LLC**, a **Florida Limited Liability Company**, who presented a valid Florida Driver License for identification.





State of Florida-Notary Public

EXHIBIT A

BEGIN AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF STATE ROAD No. 55 AND THE EAST LINE OF LOT 94, SYLVAN GLEN ADDITION TO CRYSTAL RIVER, AS RECORDED IN PLAT BOOK 1, PAGE 26, PUBLIC RECORDS OF CITRUS COUNTY, FLORIDA, (THE BEARING OF THE EAST LINE OF SAID LOT 94 BEING N. 00°22'20" E.), THENCE N. 83°46'00" W. ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID STATE ROAD No. 55 A DISTANCE OF 26.69 FEET THENCE S. 4°06'20" W 37.84 FEET; THENCE S 4°11'50" W. 45.30 FEET, THENCE S 5°08' 40" W 14.43 FEET; THENCE S 6°16'20" W 9.04 FEET, THENCE S. 21°25'40" W. 10.17 FEET, THENCE S.22°44'30" W 5.79 FEET, THENCE S 48°31' 40" W 82.44 FEET, THENCE S 58°58'30" W 68.93 FEET; THENCE S 62°58'50" W 52.96 FEET; THENCE S 69°52'10" W 56.99 FEET, THENCE S 70°10'40" W 22.01 FEET; THENCE S 44°54'50" W 13.68 FEET, THENCE S 25°51'50" W 13.39 FEET, THENCE S 9°23' 00" W 17.46 FEET, THENCE S 17°04'10" E 13.67 FEET, THENCE S 42°46'20" E 10.42 FEET, THENCE S 77°46'50" E 14.80 FEET; THENCE N 87°20'30" E 6.34 FEET, THENCE N 80°09'30" E 16.09 FEET, THENCE N 72°52'40" E 76.20 FEET, THENCE N 72°07'40" E 56.32 FEET, THENCE N 73°58'30" E 35.99 FET, THENCE N 71°30'10" E 46.97 FEET, THENCE N 47°57'50" E 22.55 FEET, THENCE N 42°43'39" E 44.18 FEET; THENCE N. 00°22'20" E., 207.11 FEET TO THE POINT OF BEGINNING.