

Karen Phillips

From: Travis Walker [twalker@whaclaws.com]
Sent: Tuesday, September 07, 2010 3:05 PM
To: Karen Phillips
Subject: Appeal of Variance Denial for St. James Orthodox Church

Ms. Phillips,

Per our conversation we will be appealing the decision of the Planning and Zoning Board regarding the above referenced. A formal letter shall follow.

Thanks,

Travis R. Walker, Esq.

Sent from my iPhone

WEISS, HANDLER, ANGELOS & CORNWELL, P.A.
ATTORNEYS AT LAW

OPERATING ACCOUNT II
10521 SW VILLAGE CENTER DRIVE SUITE 101
PORT SAINT LUCIE, FL 34987

Wachovia Bank,
a division of Wells Fargo Bank, N.A.
66-643670

1879

PAY TO THE ORDER OF

City of Port St. Lucie
One hundred fifty 00/100

\$ 150.00

DOLLARS

MEMO Fee - St. James Catholic Church

⑈001879⑈ ⑈0670084⑈ ⑈11100000⑈ ⑈9380⑈ ⑈15⑈

AUTHORIZED SIGNATURE

[Signature]

Security Features Included Details on Back



CITY OF PORT ST. LUCIE
CITY CLERKS OFFICE
121 SW Port St. Lucie Blvd. Port St. Lucie, FL 34984
(772) 871-5157

1984

DATE 9-13-10

RECEIVED FROM *Weiss Handler* \$ 150 00
One hundred fifty 00/100 DOLLARS

FOR *St James Church*

AMOUNT OF ACCOUNT	
THIS PAYMENT	
BALANCE DUE	

CASH
 CHECK
 M.O.

BY *[Signature]*

THANK YOU





CITY OF PORT ST. LUCIE

CITY CLERK'S OFFICE

.....
A CITY FOR ALL AGES

September 10, 2010

CERTIFIED MAIL

Travis Walker
Weiss, Handler, Angelos & Cornwell, P.A.
10521 SW Village Center Drive
Suite 101
Port St. Lucie, FL 34987

Attn: Mr. Walker

RE: ZONING APPEAL 10-5, Appeal the decision of the Planning & Zoning Board of September 7, 2010, to deny granting a variance request to Chapter 153.04(V)(1)(b) Sidewalks and Bikepaths of the Landscaping, Land Clearing Code to remove the requirement to build a sidewalk along Deacon Avenue, P10-082

Please consider this notice of Public Hearing before the City Council serving as Board of Zoning Appeals to be held on **Monday, September 20, 2010, at 1:30 p.m.** or as closely thereafter as business permits, at the Port. St. Lucie Council Chambers, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

Any back-up material you wish to have put into the packet should be in the City Clerk's office by 12:00 noon on Wednesday, September 15, 2010.

If you should have any questions, please do not hesitate to contact me at 871-5157.

Sincerely,

Karen A. Phillips, CMC
City Clerk

cc: Daniel Holbrook, Director Planning & Zoning
Pam E. Hakim, Assistant City Attorney

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
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1. Article Addressed to:

Travis Walker
 Weiss, Hamdler, Angelos &
 Cornwell, P.A.
 10521 SW Village Center Drive
 Suite 101
 Port St. Lucie, FL 34987

2. Article Number
 (Transfer from service label)

7010 1060 0002 0493 5219

PS Form 3811, February 2004

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102595-02-M-1540

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 Street, Apt. No.,
 or PO Box No. *10521 SW Village Center Dr. Suite 101*
 City, State, ZIP+4® *Port St. Lucie, FL 34987*

PS Form 3800, August 2003 See Reverse for Instructions



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CITY OF PORT ST. LUCIE

CITY CLERK'S OFFICE

.....
A CITY FOR ALL AGES

September 10, 2010

CERTIFIED MAIL

Joe Friscia
Friscia Engineering
459 NW Prima Vista Blvd.
Port St. Lucie, FL 34984

Attn: Mr. Friscia

RE: ZONING APPEAL 10-5, Appeal the decision of the Planning & Zoning Board of September 7, 2010, to deny granting a variance request to Chapter 153.04(V)(1)(b) Sidewalks and Bikepaths of the Landscaping, Land Clearing Code to remove the requirement to build a sidewalk along Deacon Avenue, P10-082

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If you should have any questions, please do not hesitate to contact me at 871-5157.

Sincerely,

Karen A. Phillips, CMC
City Clerk

cc: Daniel Holbrook, Director Planning & Zoning
Pam E. Hakim, Assistant City Attorney

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1. Article Addressed to:

Joe Firiscia
 Friscia Engineering
 459 NW Prima Vista Blvd.
 Port St. Lucie, FL 34984

2. Article Number (Transfer from service label) 7010 1060 0002 0493 5202

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540

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 X *[Signature]*

B. Received by (Printed Name) _____ C. Date of Delivery _____

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4. Restricted Delivery? (Extra Fee) Yes

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Sent To *Joe Firiscia Friscia Engineering*
 Street, Apt. No., or PO Box No. *459 NW Prima Vista Blvd*
 City, State, ZIP+4 *Port St Lucie FL 34984*

PS Form 3809, August 2005 See Reverse for Instructions

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 Street, Apt. No., or PO Box No. *459 NW Prima Vista Blvd*
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 Port St. Lucie, FL 34984

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 X *[Signature]*

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CITY OF PORT ST. LUCIE
PLANNING AND ZONING BOARD MEETING MINUTES
SEPTEMBER 7, 2010

A Regular Meeting of the PLANNING AND ZONING BOARD of the City of Port St. Lucie was called to order by Chair Parks at 1:30 p.m., on September 7, 2010, at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

MEETING CALLED TO ORDER

ROLL CALL

Members Present: Susan E. Parks, Chair
James J. Rich, Vice Chair
Bryan Gardner, Secretary
William Blazak
Ken Martin
Charles Rooksberry

Members Not Present: Donald Lesko

Others Present: Jerry Bentrutt, City Manager
Pam E. Booker Hakim, Senior Assistant
City Attorney
Daniel Holbrook, Planning and Zoning
Director
Anne Cox, Assistant Planning
And Zoning Director
John Finizio, Planner
Katherine Huntress, Planner
Bridget Kean, Senior Planner
Thresiamma Kuruvilla, Planner
Ernie Ojito, Alternate Member
Marty Sanders, St. Lucie County
School District
April C. Stoncius, Records Specialist

PLEDGE OF ALLEGIANCE

Chair Parks led the assembly in the Pledge of Allegiance.

APPROVAL OF MINUTES

There were no minutes to approve.

6. CONSENT AGENDA

A. P09-107 SUNLIGHT COMMUNITY CHURCH @ SLW - SITE PLAN

7. PUBLIC HEARINGS

Chair Parks stated, "The applicant or agent for the applicant must be present. If no representative is present for the application, it may be tabled to the following month's meeting. Anyone wishing to speak on any item may approach the podium after the issue has been opened for the public to comment. Each person wishing to speak may do so for not more than three minutes. Please state your name when you come to the podium. You may speak only once for each agenda item. Your comments and concerns are very welcome. However, we must maintain order and provide time for everyone."

P10-082 ST. JAMES ORTHODOX CHURCH - VARIANCE

Mr. Holbrook said, "This is a variance application, and as a part of the review staff has had a series of meetings with other agencies. We are going to touch on a concept of the project to address issues that have been raised from the meetings that City staff has had regarding Deacon Avenue. We are bringing it forward to you because it is important, and it plays into this variance. The variance application should be considered separate. We will ask if you have any comments or general suggestions. At this point, it is very conceptual; it is just an idea. We are bringing it forward so that you know what staff is working on, and to give us any direction that you would like. We will provide updates from the City Manager's direction as well at that time."

Ms. Huntress said, "Joseph T. Friscia of Friscia Engineering and the Law Firm of Weiss, Handler, Angelos, and Cornwell are acting as the agents for the St. James Orthodox Church. The property is located at 2201 SE Airoso Boulevard and is 1.888 acres. The future land use is Residential High Density, and the zoning is Institutional. To the north is single-family residential zoning, and there are existing single-family residences. To the south is Commercial General Special Exception Use. The zoning is where the Community Center is."

Mr. Holbrook said, "To the west of Airoso is the Municipal Complex, Buildings A, B, and C. East of Airoso are overflow parking areas north of Deacon. South of Deacon is the Community Center, and the City owns several lots to the east of the Community Center and across the street." Chair Parks asked, "How much of the property behind the Church is City property?" Ms. Huntress replied, "Tract H is owned by the Church, and Tract D is owned by the City. The overflow parking for the Community

Center is on that tract, and there are also picnic benches and a covered area. The request is to grant a variance to Chapter 153.04(V)(1)(b) Sidewalks and Bikepaths of the Landscaping, Land Clearing Code to remove the requirement to build a sidewalk along Deacon Avenue. Said Code requires that existing development located along existing streets seeking major revisions of a Site Plan shall provide a sidewalk along the property line within the street right-of-way; whereas the applicant is proposing to provide no sidewalk along Deacon Avenue. P10-038, St. James Orthodox Church Site Plan Amendment Application is scheduled for the October 5, 2010, Planning and Zoning Board Meeting. The project consists of a proposed 3,335 square foot, one-story church, and an existing 7,150 square foot, two-story multi-purpose building. There is an existing bus stop on Deacon Avenue just south of the church. There is no bus shelter, sidewalk, or platform. There are two benches, one on either side of Deacon Avenue. The Treasure Coast Connector and the Treasure Coast Trolley use this bus stop with three buses occupying the westbound traffic lane for approximately 15 minutes every hour on the hour from 7:00 a.m. to 6:00 p.m. daily."

Ms. Huntress continued, "The St. Lucie County School Board uses the adjacent park to the east of the church for parent pick up and drop off for school buses that use the westbound lane of Deacon Avenue. The park is also used as overflow parking for the Community Center. On August 18, 2010, the Planning and Zoning Department held a meeting with representatives from the Church, the Council on Aging, the St. Lucie County School Board, the St. Lucie County TPO, the St. Lucie County Housing and Community Services, the Engineering Department, and the Parks and Recreation Department to gain insight into each institution's experience and knowledge of Deacon Street, and to explore opportunities to enhance the facilities. The following questions were discussed, and the results are included in the backup material:

- 1) How does your institution utilize Deacon Avenue or the facilities on it?
- 2) What issues are you aware of with the street?
- 3) Are there opportunities to address these issues?

As a result of that meeting, the applicant has offered to do the following in lieu of constructing the sidewalk on Deacon Avenue:

- 1) Contribute \$13,125 towards the bus hub, sidewalks or however the City sees fit to enhance the pedestrian and bus stop activity on Deacon Avenue. This amount is based upon the Church engineer's good faith estimate for construction of the sidewalk

along Thanksgiving Avenue, and is the maximum amount that the Church can afford.

2) Allow overflow parking from the Community Center on the Church property with the exception of when the soup kitchen is in operation, or when Vespers or Sunday services are being conducted.

3) Allow 3-4 parking spaces on the eastern end of the property to be used for Park & Ride if and when the appropriate steps and procedures are taken to designate the area for Park & Ride uses."

Ms. Huntress advised, "Last week staff was given direction by the City Manager to put together a working group. The Planning and Zoning Department staff finds the request to be inconsistent with the variance criteria as stipulated in Section 158.295(C) of the Zoning Code and recommends denial."

Ms. Huntress stated, "If the City decides to pursue a capital improvement project to address sidewalks on Deacon Avenue along with the applicant's committed contribution, then staff finds that this proposal would meet the general intent of Chapter 153.04(V)(1)(b), which reads, 'In areas where the City plans to install and finance the construction of a sidewalk, the developer shall be required to pay the current bid price for the installation of the proposed sidewalk for the length of the subject property unless a previous agreement or ordinance indicates otherwise.' If this variance is granted, then staff would recommend that it incorporate the proposal from Mr. Walker's letter dated August 19, 2010."

Vice Chair Rich asked, "Is parking going to be an issue?" Ms. Huntress replied, "No, because they would meet the Code." Vice Chair Rich questioned, "Have you ever had an applicant dictate when you can use their parking lot for overflow?" Ms. Huntress responded, "The overflow parking is in the park adjacent to them. The hours of operation would be different, so I don't see a conflict." Vice Chair Rich inquired, "In lieu of paying or meeting the requirements for the sidewalks and culverts, would you allow a for-profit business to contribute to a fund?" Ms. Huntress answered, "I don't think that there is any difference." Mr. Sanders asked, "Is there any proposed agreement regarding the long-term ability to share parking?" Mr. Holbrook said, "There is a formal letter from their legal counsel offering three items, which would provide for the use of overflow parking, and a monetary contribution. I would say it is more than just an idea, because they have put it in writing. It is not a formal agreement, but it is something that could be

considered." Mr. Sanders inquired, "Is it irrevocable, or can they revoke it at will?" Mr. Holbrook advised, "They have submitted a variance application, and that is part of their application. If agreements need to be entered into by the parties, then that could happen."

Mr. Blazak commented, "The existing landscaping seems to be the cost deterrent in this construction. Is this from an approved Site Plan from the City?" Ms. Huntress advised, "It was from a previously approved Site Plan." Mr. Blazak said, "Was there no consideration to put in sidewalks when it was designed?" Ms. Huntress replied, "No." Mr. Blazak asked, "Is that why there aren't sidewalks on the other side of the street at the Community Center?" Ms. Huntress replied in the affirmative. Mr. Holbrook stated, "Approximately three years ago, there were a series of events where our citizens were getting hit by vehicles, and there was also a death. Direction was given from the Council to stiffen the requirements, and the School Board assisted us with that. A majority of the City doesn't have sidewalks off of the arterials. The City's requirements for development were amended as to the Landscape Code requiring that sidewalks be installed for new developments. If somebody wanted to modify their Site Plan to include a fence or a small pad for an outdoor patio, it triggered the requirement for a sidewalk. The amendment was that the sidewalk requirement would be in place for a new development or for Site Plan amendments, which were major amendments. This Site Plan amendment, which will be before the Board next month, is a major amendment. The more that we looked at it, the more needs surfaced. That is how we started talking about the project, because there are other safety needs that arose. The pictures in the back up material speak to how the different agencies are utilizing Deacon Avenue."

Mr. Holbrook continued, "The general idea was that safety issues needed to be addressed, regardless of the outcome of this Board's decision today. We have direction to move forward and start a working group. The City owns a good portion of the land in that area. The idea is to address bike paths, bus transit facilities, additional parking, and incorporate commuter parking into that facility. Mr. Buchwald from the St. Lucie County TPO is here, as well as representatives from Parks and Recreation, and the Engineering Department. When we met we discussed incorporating these multi-modal approaches that would be a perfect grant project, whether it is funded through state or federal grants. That is the approach that staff is going to take, regardless of the outcome of this application."

Vice Chair Rich asked, "Has there ever been any discussion of closing Deacon Avenue at Airoso?" Mr. Holbrook replied, "We

started discussing it last month, and we went over everything from whether to close the road, or alter it. Circulation is the key, so how things are designed will come into play. We are just dealing with the concepts right now. We have not put anything on paper yet as far as any type of physical layout."

TRAVIS WALKER, Attorney with Weiss, Handler, Angelos and Cornwell, P.A. on behalf of the applicant said, "Here with me is also Cynthia Angelos, Esquire, Father Rios with St. James Orthodox Church, as well as members of the congregation, and the Engineer, Mr. Friscia. The Church has been in existence for 30 years on this property. They have provided services for a long time, and they run Sarah's Kitchen. Certain members of the City staff volunteer at the soup kitchen, and last week they provided 152 meals for needy people, including 37 children. They have never complained or insisted upon any restrictions, up until this letter, to allow people from the Community Center to use their parking lot. There was a meeting with the School Board, the Community Transit Authority, the TPO, and the City to better understand the connectivity that occurs on Deacon Avenue, and the transportation issues that occur and what type of bus usage is there. There is a need for extra services, and a need for connectivity. There was a consensus to create a capital improvement program in the future, wherein the Church would contribute. The TPO and St. Lucie County will get together to create a transportation hub, not just a sidewalk. We want to create something wonderful that provides greater connectivity throughout the City, and that is the way we believe we should progress."

Mr. Walker continued, "The first half of the sidewalk on Thanksgiving was proposed in our Site Plan. In the spirit of cooperation, we agreed to extend Thanksgiving to the end of boundary line. There are no sidewalks on Thanksgiving or Deacon outside of our property line, so there are no sidewalks to connect. In your packet you should have a proposal with a good faith estimate from our engineer showing that the creation, installation, and construction of the sidewalk along Deacon would cost up to five times as much. That doesn't include a gravity wall that would be considered as well. The cost to construct that is what brought this before you today. Our law firm is handling this on a pro bono basis, because we believe this Church provides a great service to the area. We don't want the Church to not be able to build a new church, because they have to install a sidewalk. The property is uniquely situated, and there are no sidewalks that connect this property. Most properties in the City of Port St. Lucie don't have sidewalks on both sides of the property. Usually, someone has to build one sidewalk, but typically not two. The increased cost of the

adjoining sidewalks would be far too much to bear. If this Board were to approve the variance, we would be bound by the terms of this letter including the contribution of \$13,125 towards a bus stop, sidewalks, or however the City sees fit to enhance the pedestrian and bus stop activity on Deacon Avenue. This amount is based upon the City Engineer's good faith estimate for the construction of the sidewalk along Thanksgiving Avenue, which we have agreed to do. It is the maximum amount the Church can afford. We would allow overflow parking on the Church's property, with the exception of when the soup kitchen is in operation or Sunday services are being conducted. We also wanted to provide a park and ride opportunity. The final term was to allow three to four parking spaces at the Church's parking lot to be used for a park and ride, if and when the area is designated for that use. We respectfully request that you approve the variance, with the conditions as delineated in the City staff report."

Mr. Martin asked, "What is the total estimated cost of the entire improvement to the parcel?" Mr. Walker replied, "Unfortunately, I don't have the cost estimate for the entire site, but it is a 3,200 square foot building; it is not a very large building." Mr. Martin said, "If you consider \$200 a square foot, which is a conservative estimate, you are talking about approaching \$1 million worth of improvements. They don't want to pay more than \$13,000 for a sidewalk to move forward potentially on a \$1 million project." Mr. Walker stated, "Improvements have been on their minds for a while, and they have raised a lot of funds trying to get it completed. It is going to take a substantial amount of time that may exceed the amount of time that the capital improvement program would take." Ms. Angelos advised, "The total cost estimate was \$600,000. We are willing to bear the cost of a regular sidewalk, but there are swales because of Deacon Avenue. The City Engineer indicated it would be about \$15,000, which increases the cost from \$13,100, and could go up to \$55,000 depending on what the needs are. We are willing to contribute the cost of a regular sidewalk, but as staff saw the needs of Deacon Avenue are tremendous. The thought was we will contribute our fair share and whatever improvements meet the needs of the School Board, the Council on Aging, and the Parks Department could be done by an equal fair share, either by a grant or by those entities."

Vice Chair Rich asked, "Would a special taxing district be more appropriate, since this project started this proposed fund that may or may not be used in the future? If the sidewalk isn't made, would the money go back to the applicant?" Ms. Hakim replied, "At this point in time, I'm not sure. I haven't been involved in recent meetings, but I think that is part of the

purpose of the working group meetings. It is to look at all of the options available for using that money. We could enter into a formal agreement with the parties, as I'm sure they wouldn't object to formalizing the items mentioned in Mr. Walker's letter. It is not unusual and has been done in the past with developers for property. The money doesn't go back to them, it is to be used by the City to make improvements depending on the grants that are available, and what additional funds are received by the City. It would be used to enhance the transportation issues in this area."

Mr. Blazak stated, "We can treat this like a road improvement agreement. I think it is a fair resolution to the situation, as there are a lot of things that need to be done." Ms. Hakim advised, "It is what the developer would call a proportionate share for their contribution to the improvements." Mr. Blazak clarified, "I didn't say a proportionate share, I said a contribution."

Chair Parks opened the Public Hearing. There being no comments, Chair Parks closed the Public Hearing. Mr. Blazak moved to grant the variance and accept the conditions proposed by the applicant. Secretary Gardner seconded the motion. The motion failed by roll call vote, with Mr. Blazak, Chair Parks, and Secretary Gardner voting in favor, and Mr. Martin, Mr. Rooksberry, and Vice Chair Rich voting against.

Chair Parks said, "I'm sorry, but you need five votes to pass, and you did not receive them. It will go to the City Council for their review. The applicant's request for a variance is denied by the Planning and Zoning Board. It may be appealed by the Board of Zoning Appeals, and you may apply for the appeal at the City Clerk's office within 15 days."

8. DISCUSSION ITEMS/NEW BUSINESS

9. OLD BUSINESS

ADJOURN

There being no further business, the meeting adjourned at 4:00 p.m.

Bryan Gardner, Secretary

April C. Stoncius, Records Specialist

WEISS, HANDLER,
ANGELOS & CORNWELL, P.A.

CYNTHIA G. ANGELOS**
WILLIAM J. CORNWELL***
DAVID K. FRIEDMAN
HENRY B. HANDLER
CAROL A. KARTAGENER
SETH A. KOLTON
TRAVIS R. WALKER
HOWARD I. WEISS***

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BOCA RATON (561) 997-9995

OF COUNSEL
RAOUL LIONEL FELDER +
PETER P. LINDLEY
HARRY WINDERMAN

KEN FRUITT, SENIOR ADVISOR
GOVERNMENT RELATIONS
& PUBLIC POLICY
(NOT ADMITTED TO FL BAR)

*FL, VA BARS
**FL, GA BARS
***FL, NY BARS
†NY BAR, NOT ADMITTED IN FL
‡BOARD CERTIFIED
MARITAL & FAMILY LAW
‡ADMITTED UNITED STATES
DISTRICT COURT, SOUTHERN
DISTRICT OF FLORIDA

September 10, 2010

Mayor Patricia P. Christensen
City of Port St. Lucie
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, Florida 34984
mayor@cityofpsl.com

Vice-Mayor Jack Kelly
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Councilwoman Michelle Berger
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Councilwoman Linda Bartz
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Councilman Christopher Cooper
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121 S.W. Port St. Lucie Blvd.
Port St. Lucie, Florida 34984
District3@cityofpsl.com

RE: St. James Orthodox Church

Dear Mayor Christensen and Members of the City Council:

Please be advised that our office is assisting St. James Orthodox Church in obtaining a variance and site plan approval for a new church on Airoso Boulevard across from City Hall.

At issue is the determination that St. James is required to construct two sidewalks, as a condition of site plan approval. One of the required sidewalks is to be on Thanksgiving Avenue and the other required sidewalk is to be on Deacon Avenue. Construction of the sidewalk on Thanksgiving is approximately \$13,000; however, the construction of the sidewalk and improvements requested on Deacon is in upwards of

\$53,000. This is an unequitable situation for St. James Orthodox Church as the street is fundamentally being used by the City of Port St. Lucie for entrance into the Community Center and the City's Pavilion on the opposite side of the street; the Treasure Coast Connector (Council on Aging) which has bus pick ups on Deacon every 15 minutes all day; and, St. Lucie County School Board which utilizes Deacon twice a day as a primary bus stop for more than one school. The Church only uses Deacon for services on Sundays at 9:30 am; once on Saturday evenings at 5:00 pm for a one hour service; and, just recently for a soup kitchen on Tuesdays at 5:30 pm.

Mr. Holbrook, Director of Planning and Zoning, arranged for a meeting prior to the Planning and Zoning Board meeting with the Church, the School Board, the City Parks and Recreation Department, the City Engineering Department, Treasure Coast Connector and the Transportation Planning Organization (TPO). At the meeting in which we represented the Church, Peter Buckwald, the Director of the TPO, indicated that the situation existing on Deacon was one that would warrant grants from the Federal government for the extensive improvements that are needed. Since that meeting, the City Manager has approved the formalization of a working group to identify this as a capital improvement project and move the project forward. The first formal meeting of this working group is scheduled for the end of this month. Had this been done prior to submission of the Church's site plan, Staff would have approved the variance through payment of the Church's fair share contribution as offered in the attached letter from Travis Walker of this firm. Further, it is our understanding that all parties involved, including Planning, Engineering and Parks and Recreation for the City, as well as the other governmental entities that impact the road, have no objection (in fact support) the attached fair share contribution proposed by our client.

In closing, as Mr. Holbrook attempted to convey to the Planning and Zoning Board at the meeting, if St. James were required to construct the sidewalk on Deacon, it very well could result in later being substantially modified or possibly being closed in the future based on the needs of the City, School Board, Council on Aging, etc. Accordingly,

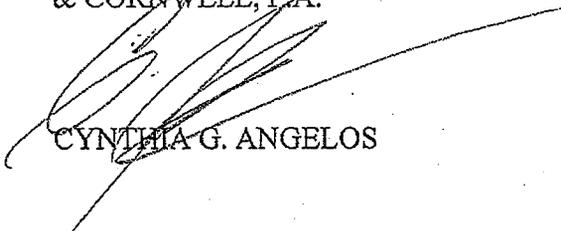
Page 3 of 3
September 10, 2010

we respectfully request that the Council grant the variance with the conditions as set forth in the letter from Travis Walker attached hereto at the September 20, 2010 City Council meeting.

Thank you for your time and consideration to this matter.

Very truly yours,

WEISS, HANDLER, ANGELOS
& CORNWELL, P.A.



CYNTHIA G. ANGELOS

CGA/cm
Enclosure

Cc Daniel Holbrook, Director of Planning and Zoning
Pam Booker, Assistant City Attorney
Reverend Ernesto Rios

WEISS, HANDLER,
ANGELOS & CORNWELL, P.A.

CYNTHIA G. ANGELOS**
WILLIAM J. CORNWELL***
DAVID K. FRIEDMAN
HENRY B. HANDLER
CAROL A. KARTAGENER
SETH A. KOLTON
TRAVIS R. WALKER
HOWARD I. WEISS***

ATTORNEYS AT LAW
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SUITE 101
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PORT ST. LUCIE (772) 345-5297 (LAWS)
FAX (772) 345-5296
WWW.WEISSANDHANDLER.COM
E-MAIL CANGELOS@WHACLAW.COM

BOCA RATON OFFICE
2255 GLADES ROAD
SUITE 218A
BOCA RATON, FLORIDA 33431
BOCA RATON (561) 997-9995

OF COUNSEL
RAOUL LIONEL FELDER †
PETER P. LINDLEY
HARRY WINDERMAN

KEN FRUITT, SENIOR ADVISOR
GOVERNMENT RELATIONS
& PUBLIC POLICY
(NOT ADMITTED TO FL BAR)

*FL, VA BARS
**FL, GA BARS
***FL, NY BARS
†NY BAR, NOT ADMITTED IN FL
‡BOARD CERTIFIED
MARITAL & FAMILY LAW
*ADMITTED UNITED STATES
DISTRICT COURT, SOUTHERN
DISTRICT OF FLORIDA

August 19, 2010

VIA EMAIL

Katie Huntress
City of Port Saint Lucie
121 SW Port Saint Lucie Blvd.
Port Saint Lucie, Florida 34984
khuntress@cityofpsl.com

Re: St. James Orthodox Church ("Church") Variance Application

Dear Ms. Huntress,

Please accept this letter as an amendment to the above referenced Variance Application. Our client is willing to do the following as an alternative to the construction of the sidewalk along Deacon Road, which is the subject of the Variance request:

1. Contribute \$13,125 towards a bus hub, sidewalks or however the City sees fit to enhance the pedestrian and bus stop activity on Deacon Road. This amount is based upon the Church's engineer's good faith estimate for construction of the sidewalk along Thanksgiving Avenue, and is the maximum amount that the Church can afford.
2. Allow overflow parking from the Community Center on the Church property with the exception of when the soup kitchen is in operation, or when Vespers or Sunday services are being conducted.
3. Allow 3-4 parking spaces on the eastern end of the property to be used for Park & Ride if and when the appropriate steps and procedures are taken to designate the area for Park & Ride uses.

Please let me know if you have any questions.

Very truly yours,

WEISS, HANDLER, ANGELOS
& CORNWELL, P.A.



TRAVIS R. WALKER
For the Firm

cc: Jerry Bentrott, City Manager
Pam Hakim, Esq.
Deacon Street Meeting Attendees
Joe Friscia, P.E



ITEM # 7(A)

**City of Port St. Lucie
Planning and Zoning Department
A City for All Ages**

TO: PLANNING AND ZONING BOARD MEETING OF SEPTEMBER 7, 2010
FROM: KATHERINE H. HUNTRESS, PLANNER *KHH*
RE: VARIANCE APPLICATION (PROJECT NO. P10-082)
ST. JAMES ORTHODOX CHURCH
DATE: AUGUST 26, 2010

APPLICANT: Joseph T. Friscia, Friscia Engineering, and Weiss, Handler, Angelos, and Cornwell, PA are acting as agents; the authorization letters are attached to the staff report.

OWNER: St. James Orthodox Church

LOCATION: The property is located at 2201 SE Airoso Boulevard.

LEGAL DESCRIPTION: Tract H, Block 690, Port St. Lucie Section 18.

SIZE: 1.888 acres.

EXISTING ZONING: I (Institutional).

FUTURE LAND USE: RH (Residential High Density).

EXISTING USE: St. James Orthodox Church.

REQUESTED VARIANCE: The request is to grant a variance to Chapter 153.04(V)(1)(b) Sidewalks and Bikepaths of the Landscaping; Land Clearing Code to remove the requirement to build a sidewalk along Deacon Avenue. Chapter 153.04(V)(1)(b) Sidewalks and Bikepaths of the Landscaping; Land Clearing Code requires that existing development located along existing streets seeking major revisions of a site plan shall provide a sidewalk along the property line within the street right-of-way; whereas the applicant is proposing to provide no sidewalk along Deacon Avenue.

PROPOSED PROJECT: P10-038 St. James Orthodox Church Site Plan Amendment Application is scheduled for the October 5, 2010, Planning and Zoning Board meeting. The proposed project consists of a 3,335 square foot, 1 story church, and an existing 7,150 square foot, 2 story multi-purpose building.

SURROUNDING USES: North = RS-2 (Single Family Residential) zoning, existing single family residences. South = CG/SEU (Commercial General/Special Exception Use) zoning; existing City of Port St. Lucie Community Center. East = I (Institutional) zoning; existing City of Port St. Lucie overflow parking for the Community Center, covered picnic tables, and vacant land. West = I (Institutional) and RS-2 (Single Family Residential) zoning; existing City of Port St. Lucie Municipal Complex and a single family residence.

Note: There is an existing bus stop on Deacon Avenue just south of the church. There is no bus shelter, sidewalk, or platform. There are two benches, one on either side of Deacon Avenue. The Treasure Coast Connector and the Treasure Coast Trolley use this bus stop with three buses occupying the westbound traffic lane for approximately 15 minutes every hour on the hour from 7:00 a.m. to 6:00 p.m. daily (see attached photos).

The St. Lucie County School Board uses the adjacent park to the east of the church for parent pick up and drop off for school buses that use the westbound lane of Deacon Avenue (see attached schedule from Marty Sanders). The park is also used as overflow parking for the Community Center.

On August 18, 2010, the Planning and Zoning Department held a meeting with representatives of the Church, the Council on Aging, the St. Lucie County School Board, the St. Lucie County TPO, the St. Lucie County Housing and Community Services, the Engineering Department, and the Parks and Recreation Department to gain insight into each institution's experience and knowledge of Deacon Street, and to explore opportunities to enhance the facilities. The following questions were discussed and the results are attached:

- How does your institution utilize Deacon Avenue or facilities on it?
- What issues are you aware of with the street?
- ~~Are there opportunities to address these issues?~~

Staff has scheduled a meeting with the City Manager to discuss the results of this meeting and seek direction.

IMPACTS AND FINDINGS

Compatibility with variance criteria:

- 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

- a. *Applicant response: "Construction of the sidewalk along Deacon Avenue would be cost prohibitive and a hardship on the Church as construction of the sidewalk would cost much more than a standard sidewalk. A copy of the estimate for the construction of the sidewalks is enclosed for your reference. The sidewalk would require extensive construction due to the slope, trees, pipe, swale and driveways on the south side of the property. The Church is a non-profit religious institution that does not have the economic resources to complete said construction."*

- b. *Staff evaluation: The applicant's response inadequately addresses this criterion. The Engineering Department has stated that the cost associated with the retaining wall, reconstruction of existing driveways, and removal/replacement of the driveway culvert pipes causes the construction cost of the sidewalk to escalate.*

The attached e-mail and Engineering Cost Estimate for the Deacon Street Sidewalk from Friscia Engineering indicates the cost to be approximately \$53,850.00. This estimate shows the cost of the 5' sidewalk at \$20.00 per linear foot, and shows the linear footage to be 300. The Engineering Department has indicated that the contract cost of recent sidewalk projects in the City have cost an average of \$43.39 per linear foot.

There are no special conditions or existing circumstances that are peculiar to the land, structure, or building involved that are not applicable to other lands, structures, or buildings in the same zoning district.

-
- 2) That the special conditions and circumstances do not result from any action of the applicant.

- a. *Applicant response: "The conditions of the property are not by the result of actions by the applicant."*

- b. *Staff evaluation: The applicant's response inadequately addresses this criterion. The existing conditions and circumstances are a direct result of actions of the applicant.*

3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district.

a. *Applicant response: "The property and property owner are unique as the property is zoned institutional, the property has frontage on three roads, the property has a significant slope in conjunction with driveways and a swale, the project would cost approximately ten times the cost of building a typical sidewalk and the property owner is a non-profit church."*

b. *Staff evaluation: Due to the estimated construction costs of the sidewalk on Deacon Avenue, the applicant has offered to do the following in lieu of constructing the sidewalk:*

- *Contribute \$13,125.00 towards a bus hub, sidewalks, or however the City sees fit to enhance the pedestrian and bus stop activity on Deacon Avenue. This amount is based upon the Church's engineer's good faith estimate for construction of the sidewalk along Thanksgiving Avenue, and is the maximum amount that the Church can afford.*
- *Allow overflow parking from the Community Center on the Church property with the exception of when the soup kitchen is in operation, or when Vespers or Sunday services are being conducted.*
- *Allow 3-4 parking spaces on the eastern end of the property to be used for Park & Ride if and when the appropriate steps and procedures are taken to designate the area for Park & Ride uses.*

The Engineering Department has estimated that the cost of a 5' wide 340' sidewalk on Deacon Avenue with no retaining walls, driveways, or drainage modifications, would cost approximately \$15,432.00. The applicant has offered to contribute \$13,125.00 towards any future improvements. Granting the requested variance may confer on the applicant special privilege that is denied by this chapter to other buildings or lands in the same zoning district.

4) That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant.

a. *Applicant response: "Present interpretation of the Code by Staff would deprive the Church of the ability to complete the site plan adjustment, and to build the proposed new Church."*

- b. *Staff evaluation: The applicant's response inadequately addresses this criterion. The literal interpretation of the provisions of this chapter would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would not work unnecessary and undue hardship on the applicant.*
- 5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
- a. *Applicant response: "The original plan did not include construction of sidewalks along Thanksgiving and Deacon. In the spirit of cooperation the Church agreed to construct the sidewalk along Thanksgiving. The Church therefore mitigated the requested variance."*
- b. *Staff evaluation: The development consists of a one story church, and a two story multi-purpose building. Reasonable use of the land exists now; therefore the requested variance would not be the minimum variance that would make possible the reasonable use of the land, buildings, or structures. The applicant has provided a written commitment dated August 19, 2010, to contribute to any future improvements to Deacon Avenue. If the City pursues a comprehensive project to address multiple issues this could provide the private contribution that may be required for a future public/private partnership.*
- 6) That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- a. *Applicant response: "The general intent and purpose of the chapter will not be injurious or detrimental to the area as granting the variance will not cause any injury or detriment to the area."*
- b. *Staff evaluation: Granting of the variance will not be in harmony with the general intent and purpose of the chapter. There is a need for sidewalks on Deacon Avenue, and if they are not constructed it will be detrimental to the public welfare.*
- 7) That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.
-
- a. *Applicant response: "The Applicant will comply with all conditions and safeguards required by City of Port St. Lucie Code."*
- b. *Staff evaluation: The applicant acknowledges this. As a result of the meeting on August 18, 2010, the applicant provided a written commitment to address the identified issues.*
-

RELATED PROJECTS:

P10-038 St. James Orthodox Church Site Plan Amendment Application
Site Plan Review Committee recommended approval May 12, 2010.
Scheduled for the October 5, 2010, Planning and Zoning Board meeting.

P10-079 St. James Orthodox Church Landscape Modification Application
Site Plan Review Committee recommended approval August 11, 2010.
Scheduled for the September 13, 2010, City Council meeting.

Note: The proposed landscape modification request is to waive the requirement for a landscape buffer wall to be located along the eastern boundary of the project and to replace it with a standard perimeter landscape strip to serve as buffering.

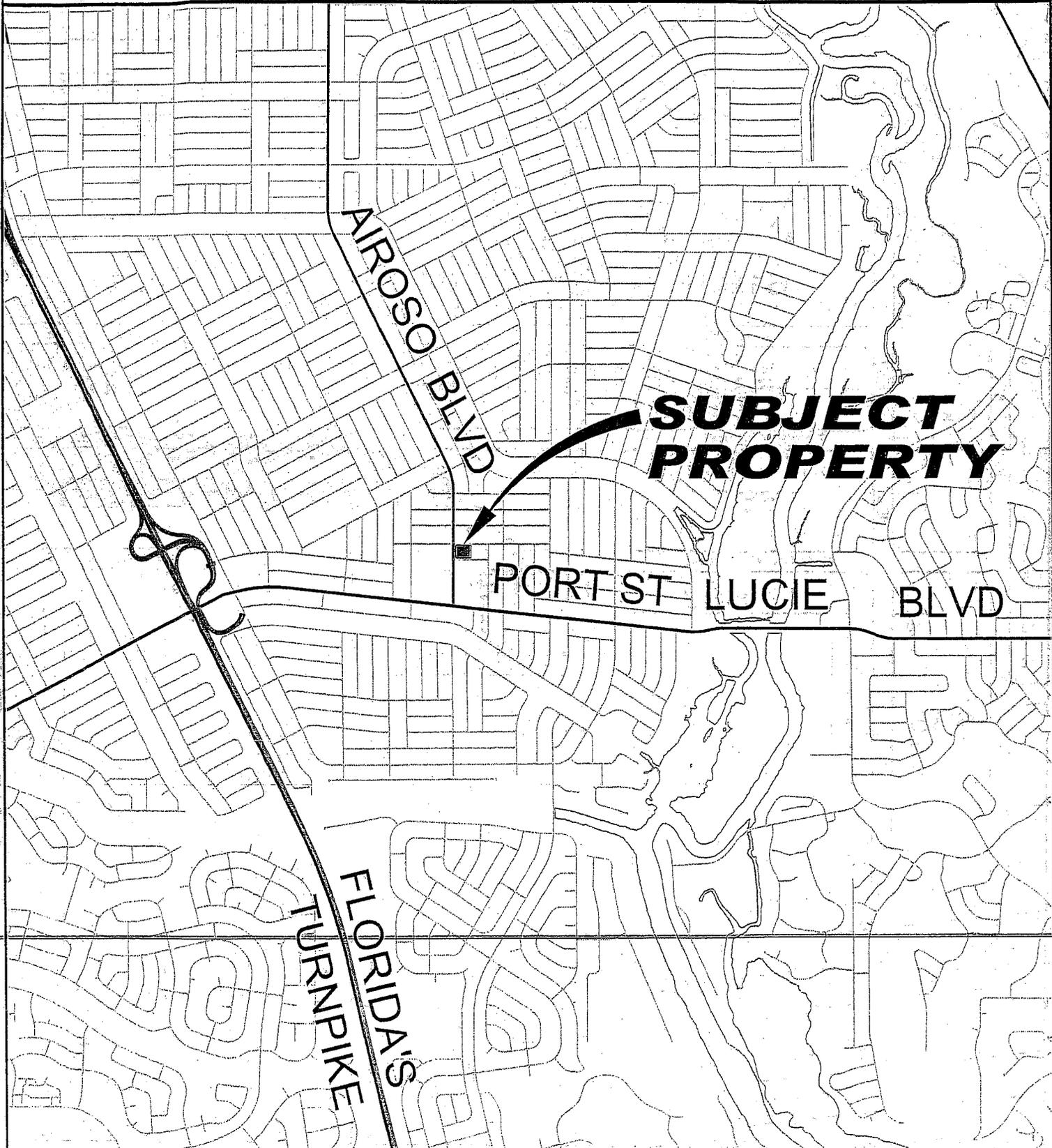
STAFF RECOMMENDATION:

The Planning and Zoning Department staff finds the request to be inconsistent with variance criteria as stipulated in Section 158.295(C) of the Zoning Code and recommends denial.

If the City decides to pursue a capital improvement project to address sidewalks on Deacon Avenue along with the applicant's committed contribution, then staff finds that this proposal would meet the general intent of Chapter 153.04(V)(1)(b), "*In areas where the City plans to install and finance the construction of a sidewalk, the developer shall be required to pay the current bid price for the installation of the proposed sidewalk for the length of the subject property unless previous agreement or ordinance indicates otherwise.*" If this variance is to be granted then staff would recommend that it incorporate the proposal from Mr. Walker's letter dated August 19, 2010.

(NOTE TO APPLICANT: Any request for a variance that is denied by the Planning and Zoning Board may be appealed to the Board of Zoning Appeals. Appeal applications are made through the City Clerk's office and must be submitted within 15 days after the Planning and Zoning Board hearing).

SITE LOCATION



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS, Division of M.I.S.

-PZ2008.DWG

VARIANCE
TRACT "H" BLOCK 690
PORT ST LUCIE SECTION 18

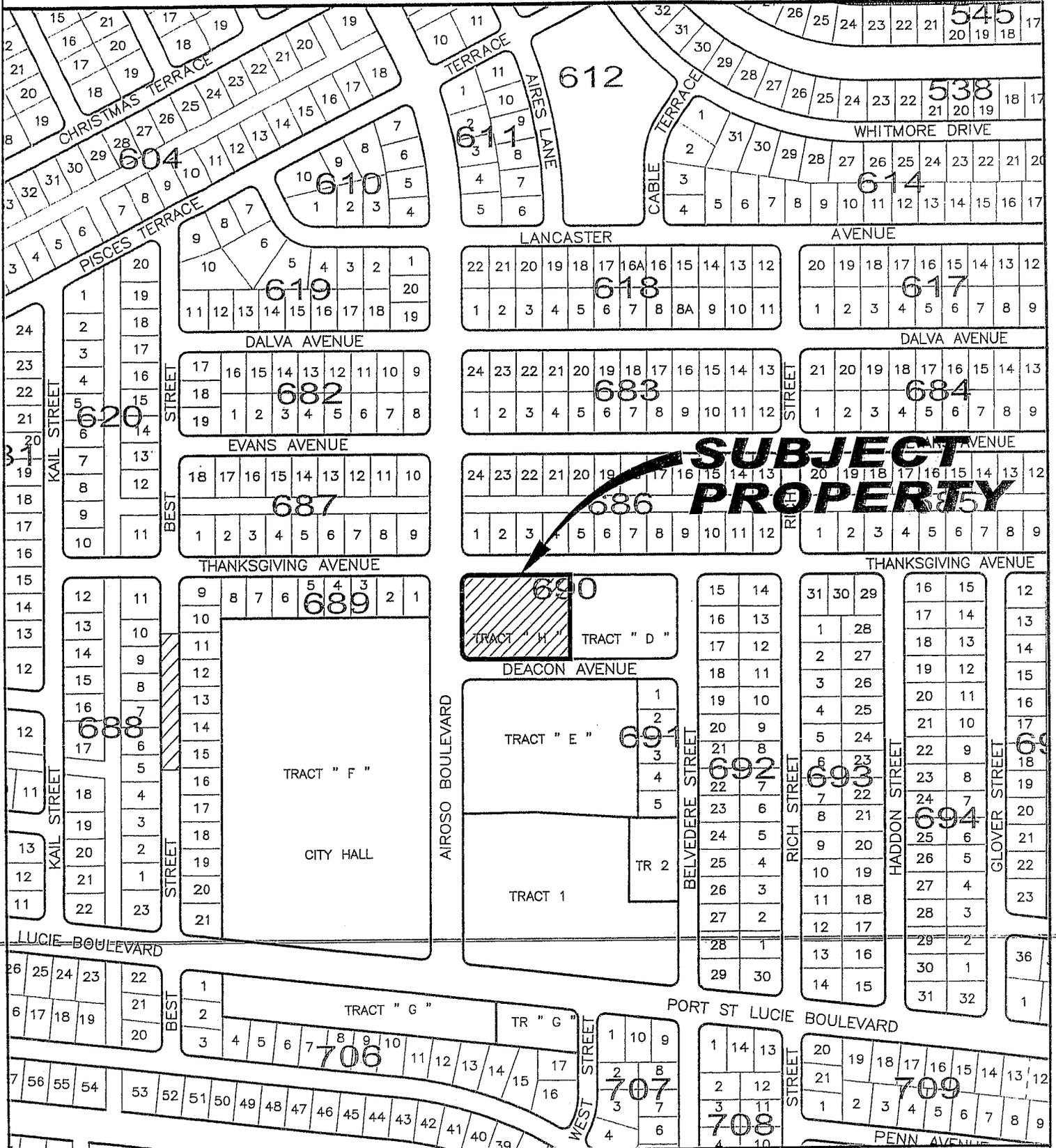
DATE: 8/4/10

APPLICATION NUMBER:
P10-82

CADD FILE NAME:
P10-082L

SCALE: 1" = .5 MI

SITE LOCATION



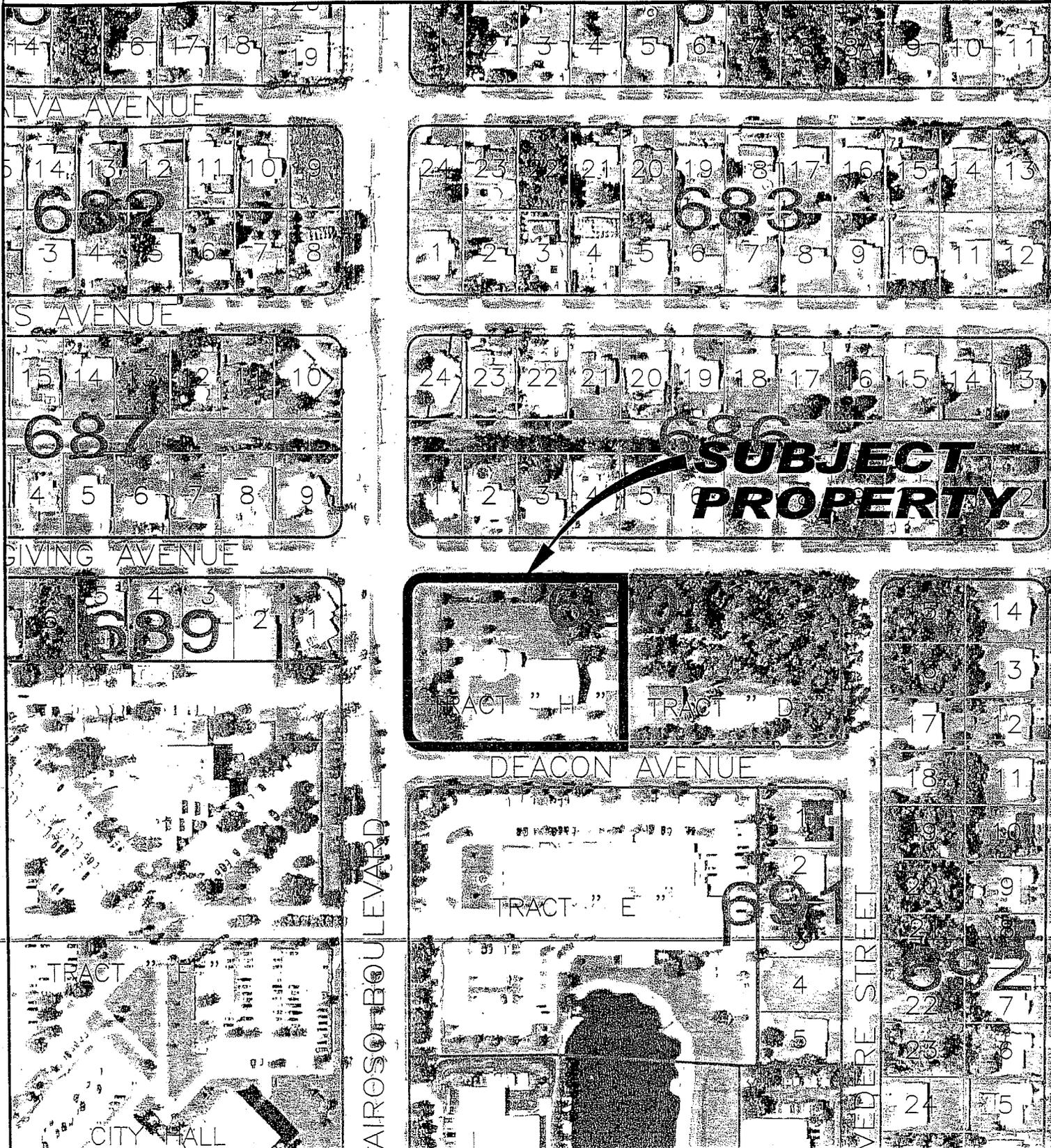
CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS, Division of M.I.S. PZ2008.DWG

VARIANCE
TRACT "H" BLOCK 690
PORT ST LUCIE SECTION 18

DATE: 8/4/10
APPLICATION NUMBER:
P10-82
CADD FILE NAME:
P10-082M...
SCALE: 1"=400'

SITE LOCATION



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS, Division of M.I.S.

PZ2008.DWG

VARIANCE

TRACT "H" BLOCK 690
PORT ST LUCIE SECTION 18

AERIAL JAN 2009

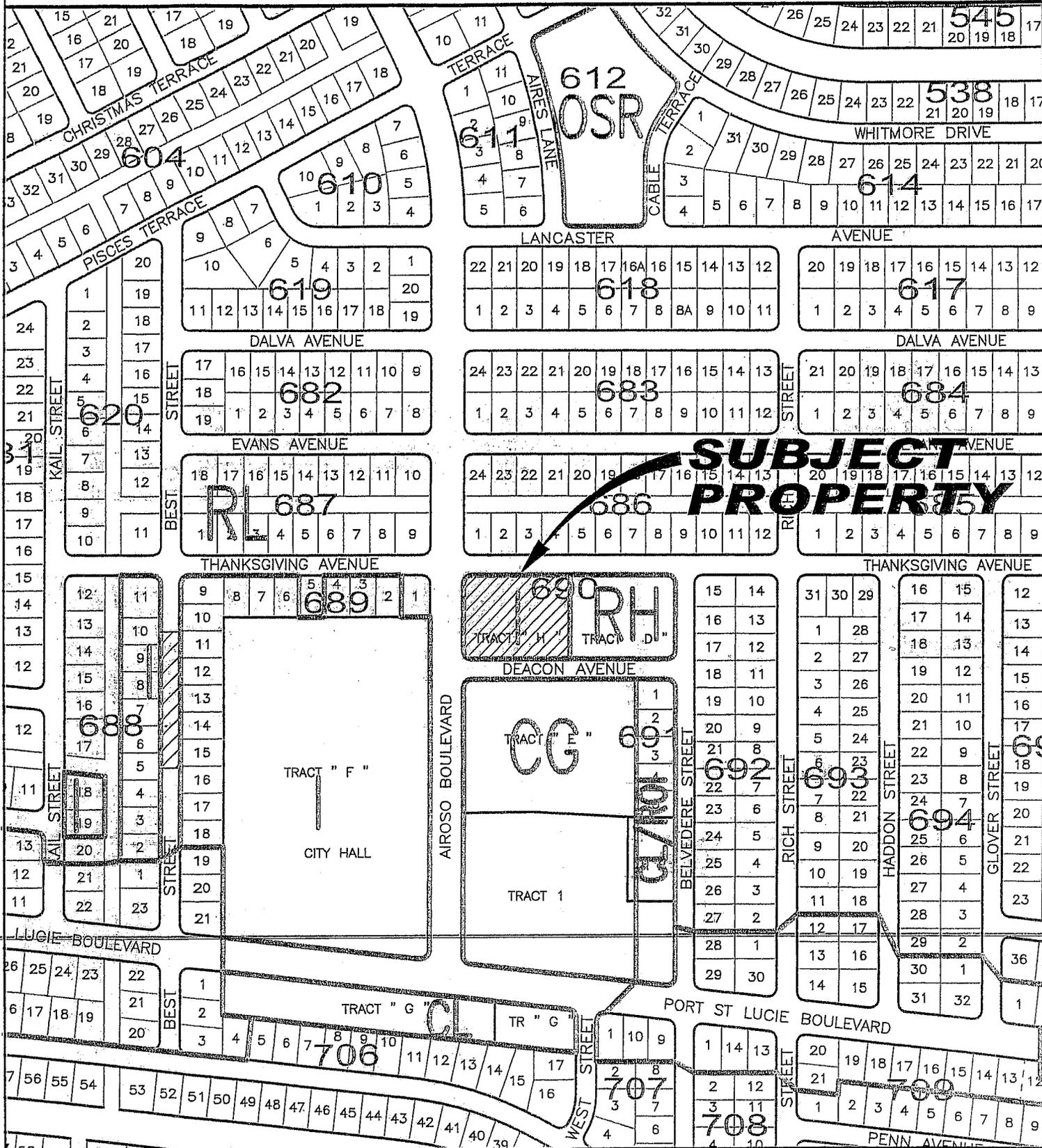
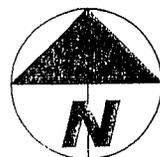
DATE: 8/4/10

APPLICATION NUMBER:
P10-82

CADD FILE NAME:
P10-082A

SCALE: 1"=200'

FUTURE LAND USE



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS, Division of M.I.S. PZ2008.DWG

VARIANCE
TRACT "H" BLOCK 690
PORT ST LUCIE SECTION 18

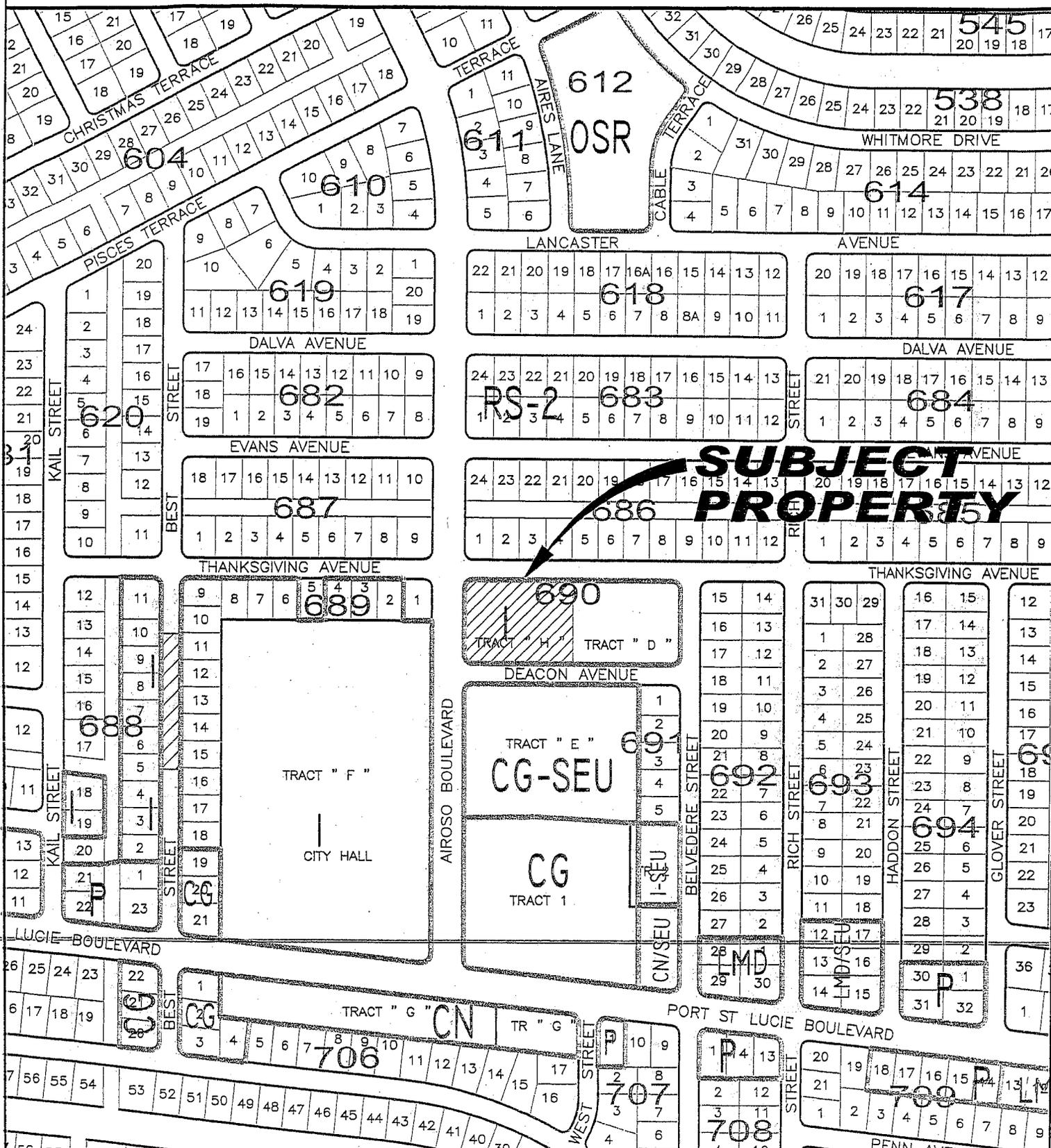
DATE: 8/4/10

APPLICATION NUMBER:
P10-82

CADD FILE NAME:
P10-082M

SCALE: 1" = 400'

EXISTING ZONING



CITY OF PORT ST. LUCIE
PLANNING & ZONING DEPT.

Prepared by:
GIS, Division of M.I.S. PZ2008.DWG

VARIANCE
TRACT "H" BLOCK 690
PORT ST LUCIE SECTION 18

DATE: 8/4/10

APPLICATION NUMBER:
P10-82

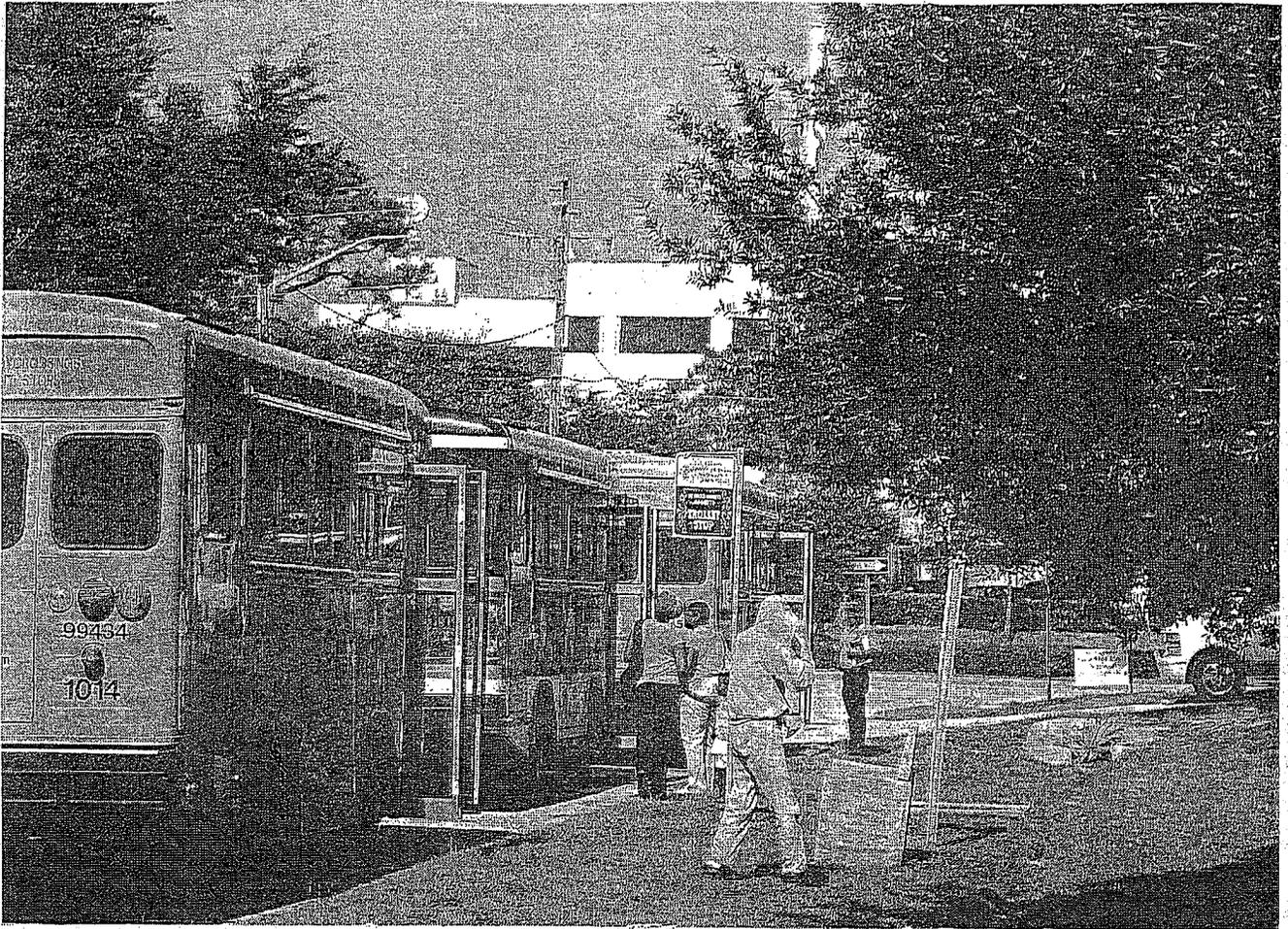
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P10-082M

SCALE: 1"=400'

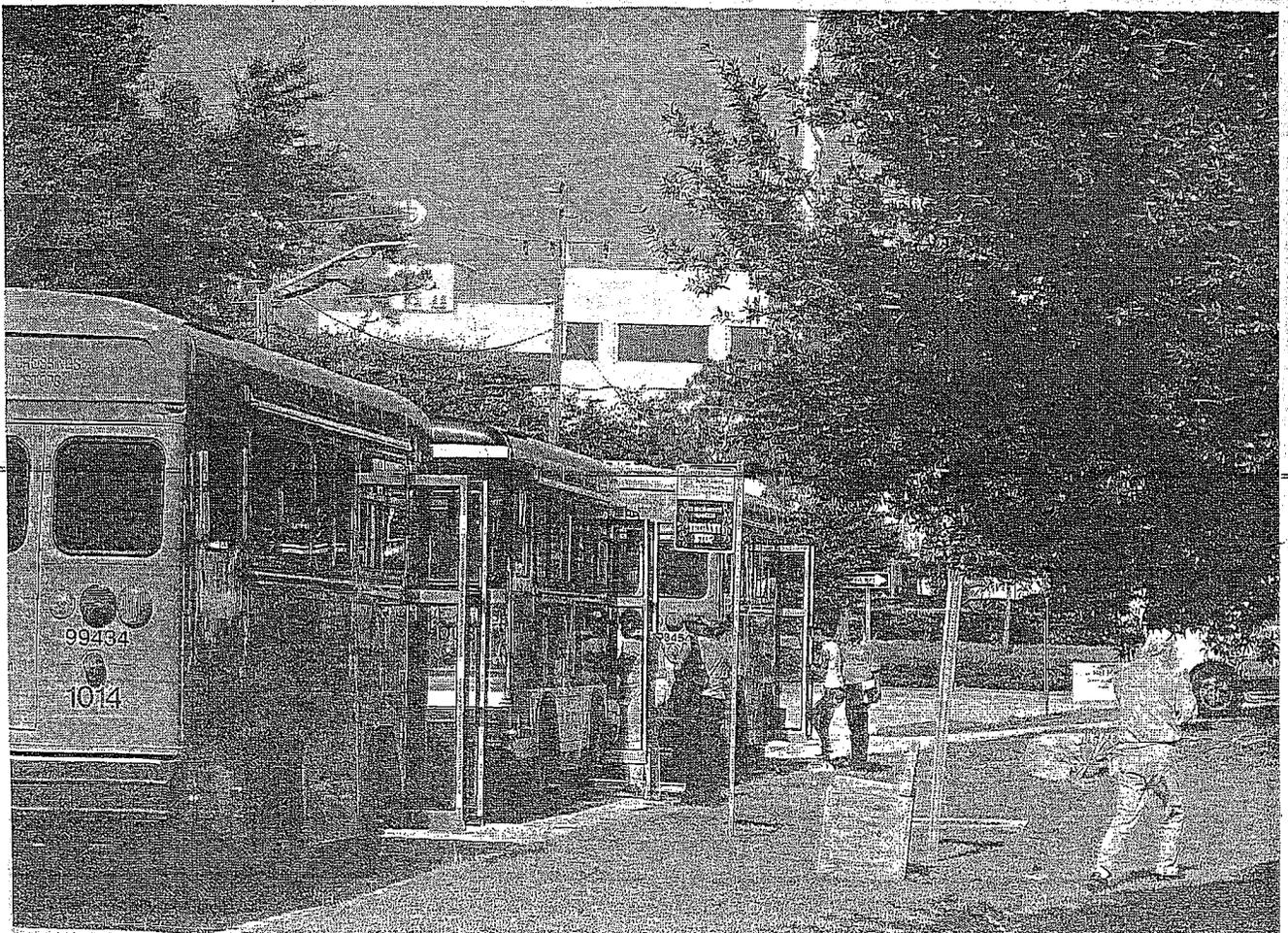


Looking west on Deacon Avenue - August 12, 2010 @ 10:00 a.m.





Looking west on Deacon Avenue - August 12, 2010 @ 10:00 a.m.





Looking west on Deacon Avenue - August 12, 2010 @ 10:00 a.m.



DEACON AVENUE MEETING NOTES BY INSTITUTIONAL USERS

AUGUST 18, 2010

HOW DOES YOUR INSTITUTION UTILIZE DEACON STREET OR FACILITIES ON IT?

SLC TPO:

- SIDEWALKS AND TRANSIT FUNDING

COA:

- TRANSPORTATION – TROLLEY, ROUTE 5 & 6 TRANSFER PASSENGERS – 400-500

ST. JAMES ORTHODOX CHURCH:

- SOUP KITCHEN TUESDAY
- VESPERS SATURDAY (1 HR.)
- SUNDAY MASS
- SPECIAL EVENTS

COMMUNITY CENTER, PARKS AND RECREATION DEPARTMENT:

- WEDDINGS, PARTIES, CHURCH, CLASSES, MEETINGS, CONFERENCES, GYM (CC)
- NORTH ENTRANCE FOR CC
- OVERFLOW PARKING
- HOURS OF OPERATION: MON-FRI 5:30 A.M. - 9:30 P.M. WEEKENDS 'TIL 1:00 A.M.
- OVER 5,000 PEOPLE MONTHLY

SLC SCHOOL BOARD:

- PARENT PICK-UP AND DROP OFF
 - SCHOOL BUSES - MAGNETS, LPA, FAIRLAWN
 - 20-50 STUDENTS PER SCHOOL
 - APPRX. 6:30, 7:30 A.M AND APPRX. 2:30, 3:30 P.M.
 - PALM POINTE 5:00 P.M., FAU LAB SCHOOL
 - CENTENNIAL - (NEIGHBORHOOD)
-

ENGINEERING DEPARTMENT:

- TWO 10' LANES
- 20' SWALES - DRAINAGE
- 60' ROW
- WATER MAINS
- UTILITIES IN SWALES

DEACON AVENUE MEETING NOTES BY INSTITUTIONALUSERS
AUGUST 18, 2010

WHAT ISSUES ARE YOU AWARE OF WITH THE STREET?

- SAFETY
- BUS PARKING (SAFETY)
- ONE LANE BLOCKED BY BUSES
- SCHOOL BUSES BLOCK OTHER LANE
- CC AND REGULAR TRAFFIC TRYING TO PASS
- WEATHER
- NO PULL-OFF
- NO SHELTER
- SEATING
- BUS BAYS
- PROXIMITY TO RESIDENTS
- SIDEWALKS
- SCHOOL - WORKS WELL (BUS CONTROLS TRAFFIC)
- BIKES AND RACKS
- PARENT PARKING
- LIGHTING
- VISIBILITY
- ROAD SURFACE - SUBGRADE BASE CRACKING
- FUNDING REPAIRS OF ROADS
- ROAD NOT DESIGNED FOR CAPACITY
- COST OF SIDEWALK ON DEACON

DEACON AVENUE MEETING NOTES BY INSTITUTIONAL USERS

AUGUST 18, 2010

ARE THERE OPPORTUNITIES TO ADDRESS THESE ISSUES?

- SL TPO, BOARD - MULTIPLE FUNDING SOURCES, FEDERAL DOLLARS
 - LONG TERM SOLUTION -PUBLIC/SPIRITUAL PARTNERSHIP
 - COLLABORATION, COOPERATION
 - TRANSIT HUB - (MINI), PEDESTRIAN, BIKE, PUBLIC TRANSIT, PARK AND RIDE
 - INSIDE OF CC
 - TAKE OFF STREET - SAFER
 - CC - PUBLIC FACILITY
 - THREE ROUTES OUT OF LINE OF TRAFFIC
 - 1.79 ACRES PARK
 - OVERFLOW PARKING
 - HUB
 - SHELTER
 - CHURCH CONTRIBUTES TO OVERFLOW
 - MULTI-USE SITE
 - PARK AND RIDE
 - AGREEMENT WITH FDOT - \$
 - BIG ATTRACTOR - CC, CHURCH, COMMERCIAL, MUNICIPAL COMPLEX
 - HUMANITARIAN USES
 - ON STREET PARKING?
 - SHELTER, OVERHANG, WALKWAY, CONNECT TO CC
 - ABANDON ROAD AND BUILD HUB THERE
 - DESIGN CHURCH OR CC WITH OVERHANG
 - ADD SHADE TREES
 - PHASE THE PLAN TO UTILIZE WHAT WE HAVE NOW
 - MEMO OF UNDERSTANDING TO RECORD COMMITMENTS
 - START WITH END IN MIND
 - COMMUNICATION
 - OTHER COUNTIES
 - RETAIL PARTNERS
 - "GREEN" SHADE SHELTERS
-

Katherine Huntress

From: Clyde Cuffy
Sent: Thursday, August 26, 2010 11:28 AM
To: Katherine Huntress
Cc: Roxanne Chesser
Subject: FW: St. James Orthodox
Attachments: st. James orthodox Engineering Cost Estimate for Deacon Sidewalk.xls

Katie,
Here is the cost estimate Joe sent me some time ago. The cost associated with the retaining wall, reconstruction of existing driveways, and removal/replacement of the driveway culvert pipes causes the construction cost of the sidewalk to escalate. I dug up some contract cost of recent sidewalk projects we did within the City and got an average price of \$45.39 per linear foot of 5-ft wide sidewalk. This project has approx 340 LF on Deacon Ave so that would work out to be approx. \$15,432.60 (not including any retaining walls or driveway and drainage modifications).

From: Joe Friscia [mailto:frisciaeng@comcast.net]
Sent: Tuesday, May 25, 2010 9:02 AM
To: Clyde Cuffy
Cc: Peter Economys; Cynthia G. Angelos
Subject: St. James Orthodox

Clyde,

The cost estimate for construction of the Deacon Ave. sidewalk is attached.

Joe Friscia
Friscia Engineering
459 NW Prima Vista Blvd.
Port St. Lucie, FL 34984



459 N.W. Prima Vista Blvd., Port St. Lucie, FL 34984
PH: (772) 340-1990 FAX: (772) 340-7996
BPR & FBPE License No. 6124

St. James Orthodox Church
 Engineering Cost Estimate
 Deacon Avenue Sidewalk

Item	Amount	Cost	Total Cost
Remove and Replace Driveways	1500 sq. ft.	\$ 10.00	\$15,000.00
Remove and Replace 18" RCP	80 l.f.	\$ 50.00	\$4,000.00
Regrade Swale and Sod, Replace Swale Lin	230 l.f.	\$ 25.00	\$5,750.00
Construct Retaining Wall	260 l.f.	\$ 75.00	\$19,500.00
Construct 5' Concrete Sidewalk	300 l.f.	\$ 20.00	\$6,000.00
Remove Trees	8 each	\$ 200.00	\$1,600.00
Replace Trees	8 each	\$250.00	\$2,000.00
Total			\$53,850.00

Katherine Huntress

From: sandersm@stlucie.k12.fl.us
Sent: Wednesday, August 18, 2010 12:55 PM
To: Daniel Holbrook; CAngelos@whaclaws.com; Katherine Huntress; Jay Liss; vitalep@stlucie.k12.fl.us; Jennifer Gent; Chuck Proulx; Peter Buchwald; Marceia Lathou
Subject: Deacon Street Bus stops

As discussed in today's meeting, here are the times of the bus stops on Deacon Street:

<u>Bus</u>	<u>School</u>	<u>#students</u>	<u>AM Stop</u>	<u>PM Stop</u>
2517	FPC/FPWW	15	6:07 AM	2:30 PM
2430	LPA	33	6:18 AM	2:30 PM
2413	FLN	10	7:20 AM	3:40 PM
2329	FGM/FPM/PACE	12	8:30 AM	4:55 PM
2819	Palm Pointe	42	9:00 AM	4:45 PM

Under Florida's "Public Records" law, absent a specific exclusion, written communications to or from St. Lucie County School District employees are considered public records. E-mail communication with this correspondent may be subject to public and media disclosure upon request.

WEISS, HANDLER,
ANGELOS & CORNWELL, P.A.

CYNTHIA G. ANGELOS**
WILLIAM J. CORNWELL***
DAVID K. FRIEDMAN
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SUITE 218A
BOCA RATON, FLORIDA 33431
BOCA RATON (561) 997-9995

OF COUNSEL
RAOUL LIONEL FELDER †
PETER P. LINDLEY
HARRY WINDERMAN

KEN PRUITT, SENIOR ADVISOR
GOVERNMENT RELATIONS
& PUBLIC POLICY
(NOT ADMITTED TO FL BAR)

*FL, VA BARS
**FL, GA BARS
***FL, NY BARS
† NY BAR, NOT ADMITTED IN FL
‡ BOARD CERTIFIED
MARITAL & FAMILY LAW
* ADMITTED UNITED STATES
DISTRICT COURT, SOUTHERN
DISTRICT OF FLORIDA

August 19, 2010

VIA EMAIL

Katie Huntress
City of Port Saint Lucie
121 SW Port Saint Lucie Blvd.
Port Saint Lucie, Florida 34984
khuntress@cityofpsl.com

Re: St. James Orthodox Church ("Church") Variance Application

Dear Ms. Huntress,

Please accept this letter as an amendment to the above referenced Variance Application. Our client is willing to do the following as an alternative to the construction of the sidewalk along Deacon Road, which is the subject of the Variance request:

1. Contribute \$13,125 towards a bus hub, sidewalks or however the City sees fit to enhance the pedestrian and bus stop activity on Deacon Road. This amount is based upon the Church's engineer's good faith estimate for construction of the sidewalk along Thanksgiving Avenue, and is the maximum amount that the Church can afford.
2. Allow overflow parking from the Community Center on the Church property with the exception of when the soup kitchen is in operation, or when Vespers or Sunday services are being conducted.
3. Allow 3-4 parking spaces on the eastern end of the property to be used for Park & Ride if and when the appropriate steps and procedures are taken to designate the area for Park & Ride uses.

Please let me know if you have any questions.

Very truly yours,

WEISS, HANDLER, ANGELOS
& CORNWELL, P.A.


TRAVIS R. WALKER
For the Firm

cc: Jerry Bentrott, City Manager
Pam Hakim, Esq.
Deacon Street Meeting Attendees
Joe Friscia, P.E.

WEISS, HANDLER,
ANGELOS & CORNWELL, P.A.

CYNTHIA G. ANGELOS**
WILLIAM J. CORNWELL***
DAVID K. FRIEDMAN
HENRY B. HANDLER
CAROL A. KARTAGENER*
SETH A. KOLTON
TRAVIS R. WALKER
HOWARD I. WEISS***

ATTORNEYS AT LAW
10521 SW VILLAGE CENTER DRIVE
SUITE 101
PORT ST. LUCIE, FL 34987
PORT ST. LUCIE (772) 345-5297 (LAWS)
FAX (772) 345-5296
WWW.WEISSANDHANDLER.COM
E-MAIL CANGELOS@WHACLAW.COM

BOCA RATON OFFICE
2255 GLADES ROAD
SUITE 218A
BOCA RATON, FLORIDA 33431
BOCA RATON (561) 997-9995

OF COUNSEL
RAOUL LIONEL FELDER +
PETER P. LINDLEY
HARRY WINDERMAN

KEN FRUITT, SENIOR ADVISOR
GOVERNMENT RELATIONS
& PUBLIC POLICY
(NOT ADMITTED TO FL BAR)

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†NY BAR, NOT ADMITTED IN FL
✓BOARD CERTIFIED
MARITAL & FAMILY LAW
♦ADMITTED UNITED STATES
DISTRICT COURT, SOUTHERN
DISTRICT OF FLORIDA

July 27, 2010

VIA HAND DELIVERY

Daniel Holbrook
City of Port Saint Lucie
121 SW Port Saint Lucie Blvd.
Port Saint Lucie, Florida 34984

RECEIVED

JUL 27 2010

PLANNING DEPARTMENT
CITY OF PORT ST. LUCIE, FL

RECEIVED

JUL 27 2010

PLANNING DEPARTMENT
CITY OF PORT ST. LUCIE, FL

Re: St. James Orthodox Church ("Church") – 2201 SE Airoso Blvd.

Dear Mr. Holbrook,

It was a pleasure meeting with you yesterday in regards to the Church. Thank you for agreeing to find a mutually agreeable resolution to the problem by working to find additional funding for the construction of the sidewalk along Deacon. Per our meeting, the Church is willing to construct the sidewalk along Thanksgiving, notwithstanding that it leads to nowhere, if the City is willing to give equitable consideration of the same in regards to the requested sidewalk along Deacon.

Please find enclosed a Variance Application ("Application") in regards to the above referenced property. A copy of the site plan for the property is enclosed for your reference. The Application is a request to remove the requirement that the Church build a sidewalk along Deacon Road. A copy of the May 12, 2010 comments are enclosed for your reference. Also enclosed is Check #3421 from the Church in the amount of \$1,635.00, two Warranty Deeds exhibiting vested title in the Church and a recent survey.

This letter is intended to fulfill the statement requirement delineated in the Application. Each request for response outlined in the Application is hereto responded accordingly.

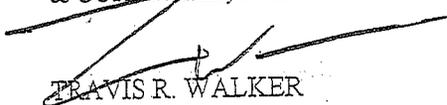
1. Construction of the sidewalk along Deacon Road would be cost prohibitive and a hardship on the Church as construction of the sidewalk would cost much more than a standard sidewalk. A copy of the estimate for the construction of the sidewalks is enclosed for your reference. The sidewalk would require extensive construction due to the slope, trees, pipe, swale and driveways on the south side of the property. The Church is a non-profit religious institution that does not have the economic resources to complete said construction.
2. The conditions of the property are not by the result of actions by the applicant.

3. The property and property owner are unique as the property is zoned institutional, the property has frontage on three roads, the property has a significant slope in conjunction with driveways and a swale, the project would cost approximately ten times the cost of building a typical sidewalk and the property owner is a non-profit church.
4. Present interpretation of the Code by Staff would deprive the Church of the ability to complete the site plan adjustment, and to build the proposed new Church.
5. The original plan did not include construction of sidewalks along Thanksgiving and Deacon. In the spirit of cooperation the Church agreed to construct the sidewalk along Thanksgiving. The Church therefore mitigated the requested variance.
6. The general intent and purpose of the chapter will not be injurious or detrimental to the area as granting the variance will not cause any injury or detriment to the area.
7. The Applicant will comply with all conditions and safeguards required by City of Port St. Lucie Code.

We look forward to finding a mutually beneficial resolution to this issue. Please schedule consideration of this Application for the next available Planning and Zoning Board Meeting.

Very truly yours,

WEISS, HANDLER, ANGELOS
& CORNWELL, P.A.


TRAVIS R. WALKER
For the Firm

Enclosures

cc: Client

Jerry Bentrott, City Manager

Pam Booker, Esq.

Joseph Friscia, P.E.

VARIANCE APPLICATION

FOR OFFICE USE ONLY

CITY OF PORT ST. LUCIE
Planning & Zoning Department
121 SW Port ST. Lucie Blvd.
Port St. Lucie, Florida 34984
(772)871-5212 FAX: (772)871-5124

Planning Dept P10-082
Fee (Nonrefundable) \$ 1,635.00
Receipt # 10574

Refer to "Fee Schedule" for application fee. Make check payable to the "City of Port St. Lucie. Fee is nonrefundable unless application is withdrawn prior to advertising for the Planning and Zoning Board meeting. Attach two copies of proof of ownership (e.g., warranty deed, affidavit), a copy of recent survey and a statement addressing each of the attached criteria.

PROPERTY OWNER:

Name: St. James Orthodox Church, A Parish of the Diocese of the South of the Orthodox Church in America, Inc.
Address: 1712 SW Garnet Street, Port St. Lucie, FL 34953
Telephone No. 772-871-7112 Fax No. 772-871-2440

APPLICANT (IF OTHER THAN OWNER, ATTACH AUTHORIZATION TO ACT AS AGENT):

Name: Friscia Engineering
Address: 459 NW Prima Vista Blvd., Port St. Lucie, FL 34983
Telephone No. ~~772-340-4990~~
772-345-5297 Fax No. ~~772-340-7996~~
772-345-5296

SUBJECT PROPERTY:

Legal Description: Tract H, Block 690, Port St. Lucie Section 18, PB 13, Pages 17, 17A-17K

Parcel I.D. Number: 3420-585-0007-000-6

Address: 2201 SE Airoso Blvd.

Current Zoning Classification 1

RECEIVED

JUL 27 2010

PLANNING DEPARTMENT
CITY OF PORT ST. LUCIE, FL

Description of requested variance and applicable conditions/circumstances justifying request (continue on separate sheet, if necessary): Provide documentation that the attached variance criteria have been met.


Signature of Applicant


Hand Print Name

Agent for: St. James Orthodox Church

July 1, 2010
Date

NOTE: Signature on this application acknowledges that a certificate of concurrency for adequate public facilities as needed to service this project has not yet been determined. Adequacy of public facility services is not guaranteed at this stage in the development review process. Adequacy for public facilities is determined through certification of concurrency and the issuance of final local development orders as may be necessary for this project to be determined based on the application material submitted.
H:\PZ\SHARED\APPLCTN\VAR\APPL (07/29/04)

St. James Orthodox Church
A Parish of the Diocese of the South of the Orthodox Church in America, Inc.
1712 SW Garnet Street
Port St. Lucie, FL 34953

Letter of Authorization

To Whom It May Concern:

This letter authorizes Friscia Engineering, to act as agent for the purposes of obtaining permits and approvals from state and local government agencies for the property described below:

TRACT "H", BLOCK 690, PORT ST. LUCIE SECTION EIGHTEEN, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 13, PAGE 17, 17A THROUGH 17K, PUBLIC RECORDS OF ST. LUCIE COUNTY, FLORIDA.

If you have any questions, please call me at _____.

Sincerely,

Very Rev Friscia
Signature

4/21/2010
Date

VERY REV ERNESTO S. RIOS
Printed Name

Pres/CEO
Title

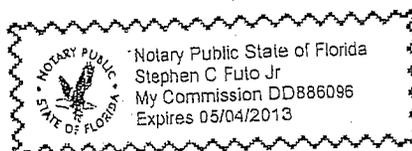
State of: Florida
County of: St Lucie

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this 20th day of April, 2010 by Ernesto Rios who is personally known to me, or () has produced _____ as identification.

NOTARY PUBLIC

Name Printed: Stephen Futo
State of: Florida at-large
My Commission expires: 5-4-2013

cc: file 10-1205aut.doc



Letter of Permission

Date: 7/29/10

St. James Orthodox Church

2201 SE Aircox Blvd, Port St. Lucie, FL 34987
Address

I, Very Rev. Ernesto S. Riis, as owner/agent of the above listed property, do give permission to attorneys for Weiss, Hender, Ancker & Cornell, PA the authority to represent the aforementioned property in all matters arising out of ~~the~~ site plan, land use zoning all other matters arising out of the construction of our new church

Very Rev. Ernesto S. Riis
Owner signature or Agent signature

Owner/Agent Information:

VERY REV. ERNESTO S. RIIS
Name

ST-JAMES THE APOSTLE ORTHODOX CHURCH
Company

1712 SW GARNET ST. PSC FC 34953
Mailing address

772-971-5106 (CE11) 772-878-0338(A)
Phone

This Quit-Claim Deed, Executed this 12th day of September, A.D. 1985, by ST. JAMES ORTHODOX CHURCH, INC., A PARISH OF THE DIOCESE OF THE SOUTH OF THE ORTHODOX CHURCH IN AMERICA, INC., FLORIDA, and having its principal place of business at 2201 Airoso Blvd., Port St. Lucie, FL 33450 first party, to ST. JAMES ORTHODOX CHURCH, A PARISH OF THE DIOCESE OF THE SOUTH OF THE ORTHODOX CHURCH IN AMERICA, INC.

whose postoffice address is 2201 Airoso Blvd., Port St. Lucie, FL 33452 and mailing address is 1712 S.W. Garnet Street, Port St. Lucie, FL 33453 second party:

(Wherever used herein the term "first party" and "second party" shall include singular and plural, heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Witnesseth, That the said first party, for and in consideration of the sum of \$10.00 And OVC in hand paid by the said second party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said second party forever, all the right, title, interest, claim and demand which the said first party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of St. Lucie State of Florida to wit:

All of Tract "E", Block 690, according to plat of "PORT ST. LUCIE SECTION EIGHTEEN:" as recorded in plat Book 13 at Page 17 a through k, of the Official Records of St. Lucie County, Florida. Containing 1.89 Acres, more or less.

All of the above described land situated in Section 9, Township 37 South, Range 40 East, City of Port St. Lucie, St. Lucie County, Florida.

Subject to:

- 1) A drainage and utility easement being the East ten (10) feet of the above described property.
- 2) Taxes for the year 1984 and subsequent thereto.
- 3) Easements, limitations, covenants and restrictions of record.
- 4) Zoning and other regulatory ordinances.
- 5) The premises conveyed, together with any improvements and facilities hereafter constructed thereon, shall be used only for religious activities and functions as well as activities and functions related to and sponsored by the Church, and that in the event of a violation or breach of the foregoing restrictions, the Grantor, its successors or assigns shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach of any of them.

To Have and to Hold the same together with all and singular the appurtenances thereunto belonging, unto the said second party, either in law or equity, to the only proper use, benefit and behoof of the said second party forever.



In Witness Whereof the said first party has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

Attest: *Nancy Ann Robinson*
Secretary
Signed and delivered in the presence of:
Harry M. Schriek
Ernesto S. Rios

By: *Ernesto S. Rios*
President

STATE OF Florida
COUNTY OF Martin

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid in said acknowledgment, personally appeared Reverend Ernesto S. Rios

well know to me to be the President and respectively of the corporation named in first party in the foregoing deed, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation. WITNESS my hand and official seal in the County and State last aforesaid this 13th day of September, 1985.

NOV 12 9:38

Nancy Ann Robinson
Notary Public, State of Florida
My Commission Expires July 25, 1988
Notary by Inna Kallouzi Ins. Co.

This instrument prepared by:
Address

FILED
ROGER PONT
ST. LUCIE COUNTY, FL

732521

BOOK 482 PAGE 515

Foreign Account Number : 11515278

Ad # : 2188945

Ad Net Cost : \$87.29

Name (Primary) : CITY OF PORT ST. LUCIE

Company (Primary) : CITY OF PORT ST. LUCIE

Street 1 (Primary) : 121 SW PORT ST. LUCIE BLVD

City (Primary) : PORT ST LUCIE

State (Primary) : FL

ZIP (Primary) : 34984

Phone (Primary) : (772) 344-4390

Class Code : 9424SC - Notice of Meeting

Start Date : 9/13/2010

Stop Date : 9/13/2010

Prepayment Amount : \$0.00

Ad Sales Rep. : 190 - Barbara Wentzel

Width : 1

Depth : 119

 NOTICE OF
 PUBLIC HEARING

The City Council of the City of Port St. Lucie serving as the Board of Zoning Appeals will consider an appeal on September 20, 2010, at 1:30 p.m., or as closely thereafter as business permits, at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida, as follows:

Zoning Appeal#10-5

Legal Description:
 Tract H, Block 690,
 Port St. Lucie Section 18

Location:
 2201 SE Airoso
 Boulevard

Action Sought:
 Appeal the decision of the Planning & Zoning Board of September 7, 2010, to deny granting a variance request to Chapter 153.04(V)(1)(b) Sidewalks and Bikepaths of the Landscaping Land Clearing Code to remove the requirement to build a sidewalk along Deacon Avenue, P10-082

Appellant:
 Owner: St. James
 Orthodox Church,
 Owner
 Agents: Joseph T.
 Friscia, Friscia Engineering; and

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NOTICE OF MEETING

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Appellant:
 Owner: St. James
 Orthodox Church,
 Owner
 Agents: Joseph T.
 Friscia, Friscia Engineering; and
 Weiss, Handler, Angelos, and Cornwell, P.A.

Copies of the above appeal documents are available in the City Clerk's office for public inspection Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m. Interested parties may appear at the meeting and be heard with respect to the appeal.

No stenographic record by a certified court reporter will be made of the foregoing meeting. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at said meeting upon which any appeal is to be based.

Karen A. Phillips,
 CMC
 City Clerk

Publish: September
 13, 2010

Weiss, Handler, Angelos, and Cornwell, P.A.

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Karen A. Phillips,
CMC
City Clerk

Publish: September
13, 2010
2188945

COUPRE01

St. Lucie News Tribune
Legal Advertising
Proof of Publication to:

Karen A. Phillips, City Clerk
City Hall Plaza
121 SW Port St. Lucie Blvd.
Port St. Lucie, FL 34984

NOTICE OF PUBLIC HEARING

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Appellant: Owner: St. James Orthodox Church, Owner
Agents: Joseph T. Friscia, Friscia Engineering; and Weiss, Handler, Angelos, and Cornwell, P.A.

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Karen A. Phillips, CMC
City Clerk

PUBLISH: September 13, 2010

Karen Phillips

From: Wentzel, Barbara [Barbara.Wentzel@scripps.com]
Sent: Wednesday, September 08, 2010 12:15 PM
To: Karen Phillips
Subject: AD #2188945
Attachments: Classified Ad _ 2188945.pdf

Your ad will appear in the ST. LUCIE NEWS TRIBUNE for St. Lucie County on 9/13/10.

Please review this proof prior to publication and fax or e-mail me any changes/corrections immediately.

When referring to this ad, please always use the ad number. Thank you.

**Barbara Wentzel
Classified Legal Advertising St. Lucie County
1939 South Federal Highway
Stuart, FL 34994
E-mail: barbara.wentzel@scripps.com
772-692-8966 (Direct)
772-600-1450 (Fax)**

**PLEASE NOTE: Deadline to place a legal notice is
3:00 PM - 4 BUSINESS DAYS (Monday - Friday) prior to publication.
DEADLINES WILL CHANGE DURING HOLIDAYS. PLEASE CHECK NEWSPAPER FOR
DEADLINES.**

