

**RESOLUTION NO. 12-R51**

COUNCIL ITEM 11F  
DATE 5/29/12

**A RESOLUTION GRANTING A SPECIAL EXCEPTION USE PROVIDED FOR IN SECTION 158.126 (D) (6) TO ALLOW A RECREATIONAL AMUSEMENT FACILITY IN THE CS (SERVICE COMMERCIAL) ZONING DISTRICT FOR CUPCAKE FITNESS, LLC, PORT ST. LUCIE SECTION 27, BLOCK 72, LOTS 6 THROUGH 9, P12-043; PROVIDING AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Port St. Lucie, Florida, has been requested by Cupcake Fitness, LLC, to grant a special exception use of a recreational amusement facility on property presently zoned CS (Service Commercial); and legally described as Port St. Lucie Section 27, Block 72, Lots 6 through 9; and

**WHEREAS**, the City Council determines that the granting of this special exception use is authorized by Section 158.255, et seq., and Section 158.126 (D) (6), Code of Ordinances, City of Port St. Lucie, and further that the granting of this special exception use will not adversely affect the public interest; and

**WHEREAS**, the subject application has been reviewed in accordance with Section 158.260, and meets the special exception use requirements as stipulated; and

**WHEREAS**, the Planning and Zoning Board on May 1, 2012 made a recommendation on P12-043.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Port St. Lucie as follows:

Section 1. That the City of Port St. Lucie hereby grants a special exception use to Cupcake Fitness, LLC, P12-043, to allow a recreational amusement facility, pursuant to Section 158.255, et seq., and Section 158.126 (D) (6), Code of Ordinances, City of Port St. Lucie, said special exception use is

**RESOLUTION NO. 12-R51**

depicted on the conceptual plan which is hereby formally adopted and attached as Exhibit 'A', to be located at 581 & 585 SW Biltmore St. and legally described as Port St. Lucie Section 27, Block 72, Lots 6 through 9.

Section 2. This resolution shall take effect immediately upon its adoption.

**PASSED AND APPROVED** by the City Council of the City of Port St. Lucie, Florida, this 29<sup>TH</sup> day of MAY, 2012.

CITY COUNCIL  
CITY OF PORT ST. LUCIE

BY: \_\_\_\_\_  
JoAnn M. Faiella, Mayor

ATTEST:

\_\_\_\_\_  
Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Roger G. Orr, City Attorney

CITY OF PORT ST. LUCIE, FL - CITY COUNCIL

AGENDA ITEM REQUEST

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MEETING:                   REGULAR   X                     SPECIAL     

DATE:                      MAY 29, 2012

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ORDINANCE      RESOLUTION   X   MOTION      PUBLIC HEARING   X  

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ITEM:           P12-043 CUPCAKES FITNESS  
                  SPECIAL EXCEPTION USE APPLCIATION

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**RECOMMENDED ACTION:**

On May 1, 2012, the Planning and Zoning Board unanimously voted to recommend approval of this special exception use application.

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**EXHIBITS:**

- A. Resolution
- B. Staff Report
- C. Support Materials

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**SUMMARY EXPLANATION/BACKGROUND INFORMATION:**

The request is to allow a recreational amusement facility (fitness center) in the CS (Service Commercial) Zoning District, as permitted per §158.126 (D) (6).

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**IF PRESENTATION IS TO BE MADE, HOW MUCH TIME WILL BE REQUIRED?**

None.

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**SUBMITTING DEPARTMENT: PLANNING and ZONING**

**DATE: 5/4/12**



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

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**TO:** PLANNING AND ZONING BOARD - MEETING OF MAY 1, 2012  
**FROM:** JOHN FINIZIO, PLANNER *J.F.*  
**RE:** SPECIAL EXCEPTION APPLICATION (PROJECT NO. P12-043)  
CUPCAKE FITNESS  
**DATE:** APRIL 19, 2012

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**APPLICANT:** Natalie Mcelrath. The authorization letter is attached to the staff report.

**OWNER:** Biltmore Commons, LLC.

**LOCATION:** 581 and 585 SW Biltmore Street. East side of Biltmore Street, between Swan Avenue and South Macedo Boulevard.

**LEGAL DESCRIPTION:** Port St. Lucie Section 27, Block 72, Lots 6 through 9.

**SIZE:** 0.92 acres, or 40,000 square feet.

**EXISTING ZONING:** CS (Service Commercial)

**EXISTING USE:** The site consists of two (2) 5,310 square foot warehouse buildings, with a total of eight (8) units.

**PROPOSED USE:** To operate a recreational amusement facility (fitness center) in two bays (581 & 585).

**REQUESTED SPECIAL EXCEPTION:** The request is to allow a recreational amusement facility (fitness center) in the CS (Service Commercial) Zoning District, as permitted per §158.126 (D) (6).

**SURROUNDING USES:** North = CS (Service Commercial) zoning, currently vacant land. South = IN (Industrial) zoning, with an existing industrial/warehouse building. East = CG (General Commercial) zoning, currently vacant land. West = WI and I (Warehouse Industrial and Institutional) zoning, currently with appropriate buildings.

**IMPACTS AND FINDINGS:****Evaluation of Special Exception Criteria (Section 158.260)**

(A) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.

Applicant: "There are currently two entrances and exits. First one located at front of building and the second located on the side opening into parking lot. The second door has a pathway between two parking spaces."

Staff: Agreed. 581 and 585 SW Biltmore St. are two adjoining eight bays identified on the Biltmore Commons site plan (P02-153). These two one-story 5,310 square foot warehouse buildings are located on the east side of Biltmore St., between Swan Ave. and South Macedo Blvd. As noted on Exhibit A, the site contains two (2) access points off of Biltmore St.; one access point is on the north end of the property, the other is on the south end. These access points provide adequate ingress and egress onto the site, and also allow for good vehicular circulation throughout the site.

To ensure adequate traffic flow and access to the entire site, all parking needs to be in designated parking spaces; no one is permitted to park in front of any bay door, in front of the dumpster enclosure, or along any landscape strip which isn't striped for parking.

(B) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor, or other detrimental effects upon adjoining properties.

Applicant: "NA. No changes to existing services required."

Staff: As stated on the application, the applicant is proposing to set up a dance/fitness studio in this building with an approximate assembly area of 2,000 square feet (two bays). Typically the required parking for a studio with 2,000 square foot assembly area is 10 spaces (§158.221 (C) (20)). The current site plan for this building was approved using the parking requirements for service establishments, repair facilities, and wholesale trade (§158.221 (C) (21), which is a parking ratio of one parking space for every 300 square feet of gross floor area. The site has 35 parking spaces. The building has eight (8) bays, which allots approximately 5 parking spaces for each bay.

Since the CS (Service Commercial) Zoning District has unique parking requirements, this use will not require additional parking.

According to the application submitted by the applicant, the facility will operate primarily evenings and weekends, but not until after 5 p.m. Due to the fact that these neighboring businesses will not be using the facility at these times, shared parking can be implemented with the condition that no classes will be offered during normal working hours (Monday thru Friday, between the hours of 9 a.m. to 5 p.m.). Under these conditions, adequate parking is available for this use.

(C) Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.

Applicant: "NA. No changes to existing services required."

Staff: Property is connected to City water and sewer and no additional capacity will be required for the proposed special exception use.

(D) Adequate screening or buffering. Additional buffering beyond that which is required by the code may be required in order to protect and provide compatibility with adjoining properties.

Applicant: "NA. No changes to existing services required."

Staff: 871 and 875 SW Biltmore St. are two (2) bays in a warehouse building that is divided into four (4) individual bays (please see the site plan, Exhibit A attached to the staff report). The Biltmore Commons site (Biltmore Commons, P02-153) contains two 5,310 square foot buildings, both of which are warehouses with each building containing four (4) bays.

The site has an approved landscape plan and on a recent visit to the site shows that most, if not all, of the landscaping is still currently in place. Due to the nature of surrounding businesses, and the presence of the required landscaping, it is determined that this site has adequate buffering and screening, and therefore no additional screening would be required.

(E) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties. Light shields or other screening devices may be required.

Applicant: "NA. No changes to existing services required."

Staff: The site is developed and no additional lighting or signage is being proposed at this time. If additional lighting or signage is proposed in the future, the request will need to be processed according to the City's Land Development Regulations.

(F) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

Applicant: "NA. No changes to existing services required."

Staff: Agreed, the proposed use will not need or use any yard or open spaces. The site is already developed and all yard and open space requirements were addressed at the initial site plan review.

(G) The use as proposed will be in conformance with all stated provisions and requirements of this chapter.

Applicant: "Use is in conformance with stated special exception uses listed in the city ordinances."

Staff: *The proposed Special Exception Use (recreational amusement facility) is permitted as defined by §158.126 (D) (4) Service Commercial Zoning District, and should conform to all provisions of the City's Land Development Regulations.*

(H) Establishment and operation of the proposed use upon the particular property involved will not impair the health, safety, welfare, or convenience of residents and workers in the City.

Applicant: *"Purpose of the business operations will be to encourage and guide citizens in healthy lifestyle choices and regular physical activity. All services are conducted within the facility without any interference to our neighbors or surrounding residents."*

Staff: *The special exception is for a recreational amusement facility (dance/fitness studio) that will be named Cupcake Fitness. The proposed classes will be geared toward an adult clientele, and this will be reflected in the studio's hours of operation. The applicant has indicated that the hours for the studio will be from weekday evenings, not starting until after 5:00 p.m., and not running beyond 9:00 p.m. There will be some weekend hours as well, but considering the nature of the surrounding businesses, these will not need to be restricted. Since these hours do not run past normal business hours, the use should not impair the health, safety, welfare, or convenience of residents and workers in the City.*

(I) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of the hours of operation, or because of vehicular movement, noise, fume generation, or type of physical activity.

Applicant: *"Business operates after normal business hours and the operating hours of our neighbors. The number of persons attending the facility at one time does not exceed capacity for parking lot and leaves adequate parking spaces for other business. Furthermore participants will be in our facility so not to interfere with other businesses."*

Staff: *Since the surrounding area is primarily commercial/warehouse zoning, the proposed fitness center will not constitute a nuisance or hazard considering it will be operating at a time when many of these adjacent uses will be closed.*

(J) The use as proposed for development will be compatible with the existing or permitted uses of adjacent property. The proximity or separation and potential impact of the proposed use (including size and height of buildings, access location, light and noise) on nearby property will be considered in the submittal and analysis of the request. The City may request project design changes or changes to the proposed use to mitigate the impacts upon adjacent properties and the neighborhood.

Applicant: *"Our facility use is compatible with the current surrounding properties as it does not interfere with other businesses or operations. Lighting, access and location is the same as the neighboring properties. Noise will have no impact as we operate inside behind close(d) doors."*

Staff: This site is already developed, and the proposal will only be changing the interior of two of the bays (871 and 875) in an already existing warehouse building on the site to create a dance/fitness studio. This site is located in a significant industrial area within the City, is surrounded by other warehouses and institutionally zoned property, and should not pose a compatibility issue with the site itself, or with the adjacent properties.

(K) As an alternative to reducing the scale and/or magnitude of the project as stipulated in criteria (J) above, the City may deny the request for the proposed use if the use is considered incompatible, too intensive or intrusive upon the nearby area and would result in excessive disturbance or nuisance from the use altering the character of neighborhood.

Staff: Acknowledged.

(L) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including but not limited to reasonable time limit within which the action for which special approval is requested shall be begun or completed or both.

Staff: To minimize any parking concerns, the applicant has agreed to restrict the hours of service. Classes for this dance/fitness studio will be held weekday evenings starting after 5 p.m. Due to the nature of the surrounding businesses, weekend hours are not restricted.

Compatibility with special exception criteria: §158.126 (D) (4): "Special Exception Uses" allows recreational amusement facilities in the CS (Service Commercial) zoning district. The applicant will be converting two (2) warehouse bays into a dance/fitness studio with an approximate 2,000 square foot studio space.

Notice to Property Owners: On April 13, 2012, notice was sent to all property owners within a 300 foot radius.

**Related Projects:**

P02-153 Biltmore Commons Site Plan Application. This site plan established two one story multi-bay warehouse buildings on this parcel; each building has 4 bays and contains a total of 5,310 square feet.

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**STAFF RECOMMENDATION:**

The Planning and Zoning Department staff finds the request to be consistent with special exception criteria as stipulated in Section 158.260 of the Zoning Code and recommends approval.

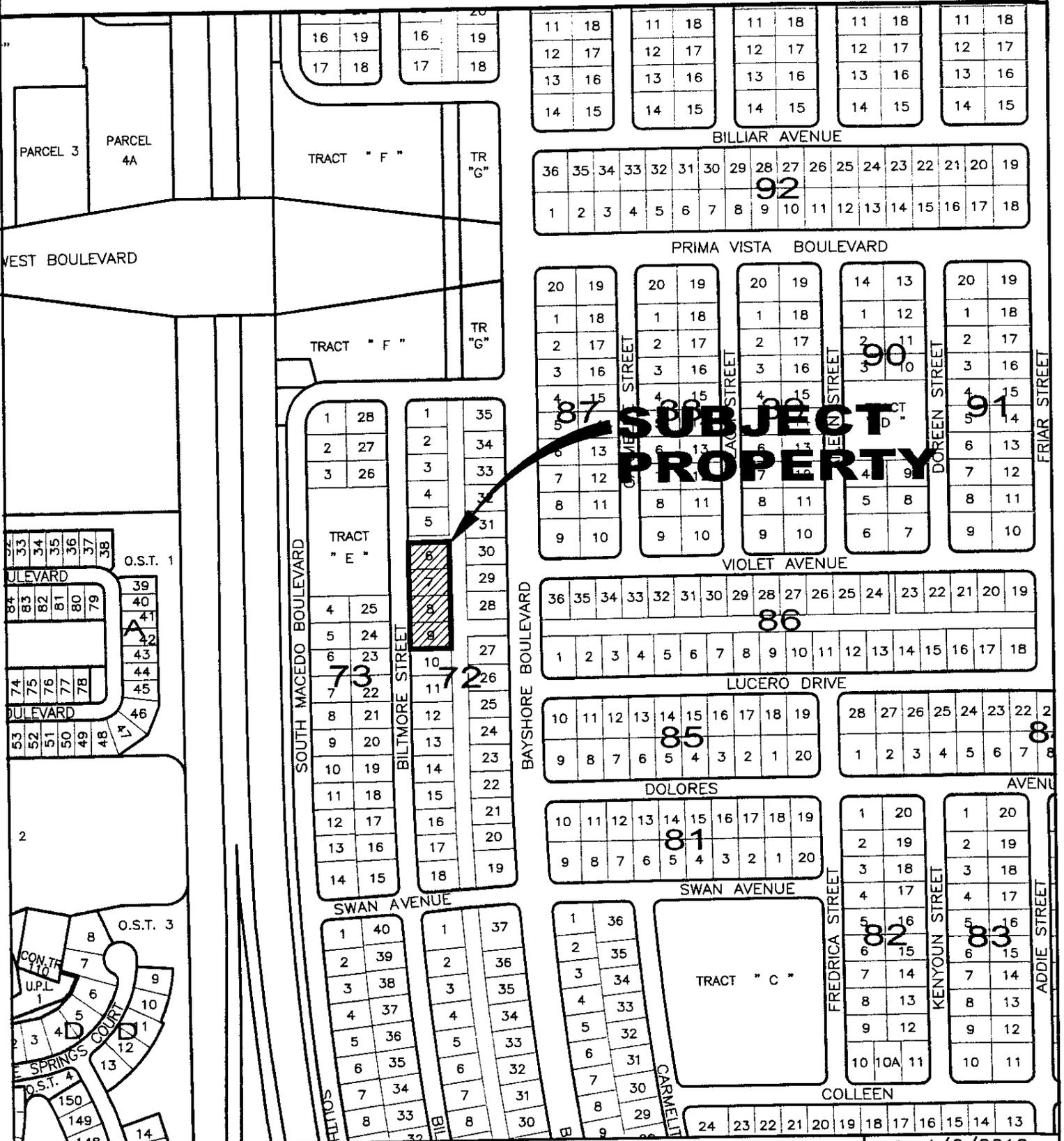
Since there are no changes being proposed to the existing site plan, this application was not reviewed by the Site Plan Review Committee.

**Planning and Zoning Board Action Options:**

- Motion to recommend approval to the City Council
- Motion to recommend approval to the City Council with conditions
- Motion to recommend denial to the City Council

Please note: Should the Board need further clarification or information from either the applicant and/or staff, it may exercise the right to *table* or *continue* the hearing or review to a future meeting.

# SITE LOCATION



**SUBJECT PROPERTY**



CITY OF PORT ST. LUCIE  
PLANNING & ZONING DEPT.

Prepared by:  
M.I.S. DEPARTMENT

PZ 2012.DWG

SPECIAL EXCEPTION USE  
LOTS 6-9 BLOCK 72  
PORT ST LUCIE SECTION 27

DATE: 4/6/2012

APPLICATION NUMBER:  
P12-043

CADD FILE NAME:  
P12-043M

SCALE: 1" = 400'

# SITE LOCATION



FLORIDA'S TURNPIKE

**SUBJECT  
PROPERTY**

PRIMA VISTA BLVD

CROSSTOWN PKWY



CITY OF PORT ST. LUCIE  
PLANNING & ZONING DEPT.

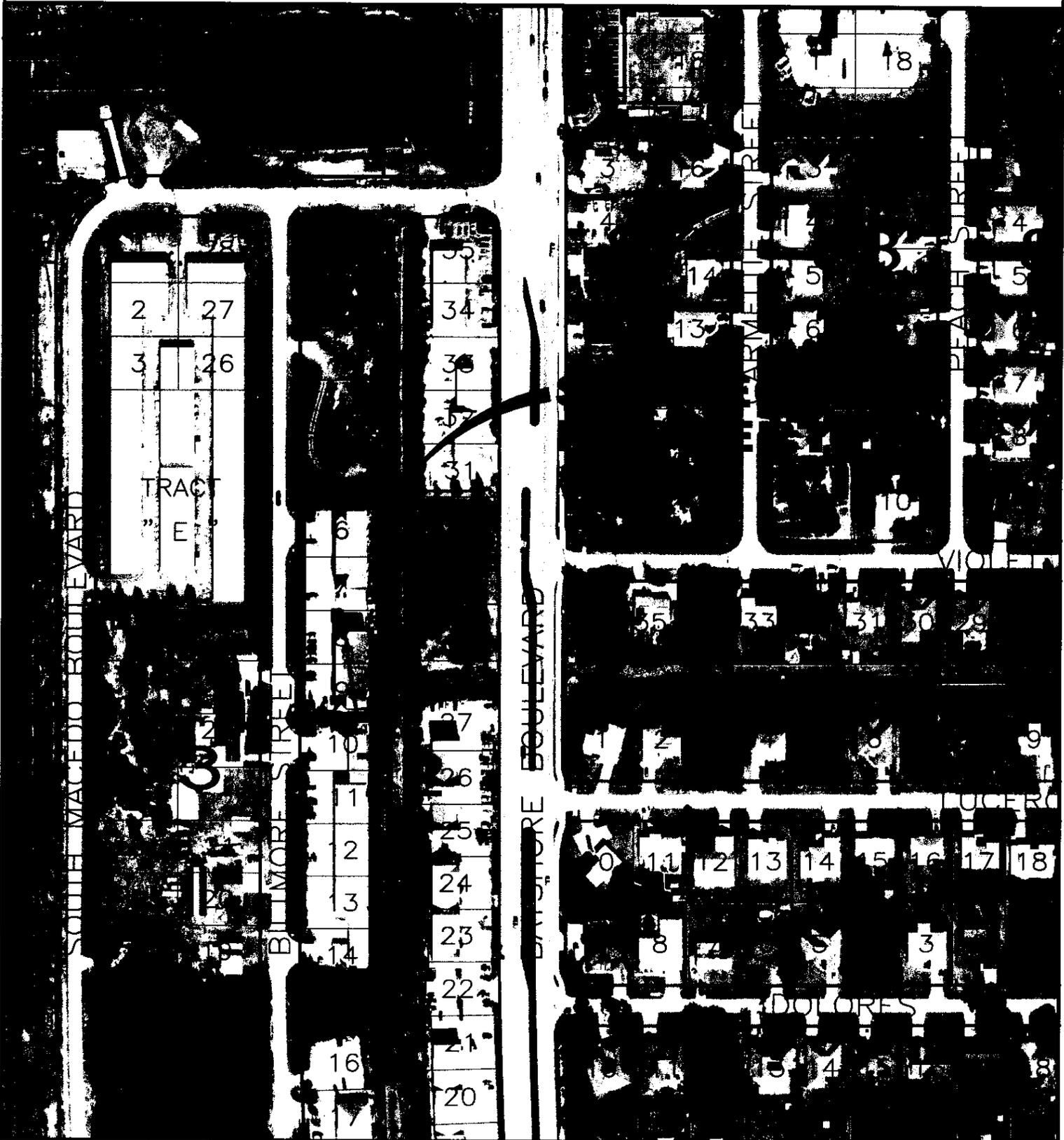
Prepared by:  
M.I.S. DEPARTMENT

PZ 2012.DWG

SPECIAL EXCEPTION USE  
LOTS 6-9 BLOCK 72  
PORT ST LUCIE SECTION 27

DATE: 4/6/2012  
APPLICATION NUMBER:  
P12-043  
CADD FILE NAME:  
P12-043L  
SCALE: 1" = .5 MI

# SITE LOCATION



CITY OF PORT ST. LUCIE  
PLANNING & ZONING DEPT.

Prepared by:  
M.I.S. DEPARTMENT

PZ 2012.DWG

SPECIAL EXCEPTION USE  
LOTS 6-9 BLOCK 72  
PORT ST LUCIE SECTION 27  
AERIAL DEC 2012

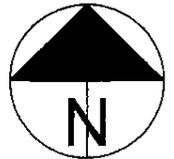
DATE: 4/6/2012

APPLICATION NUMBER:  
P12-043

CADD FILE NAME:  
P12-043A

SCALE: 1"=200'

# FUTURE LAND USE



**SUBJECT PROPERTY**



CITY OF PORT ST. LUCIE  
PLANNING & ZONING DEPT.

Prepared by:  
M.I.S. DEPARTMENT

PZ 2012.DWG

SPECIAL EXCEPTION USE  
LOTS 6-9 BLOCK 72  
PORT ST LUCIE SECTION 27

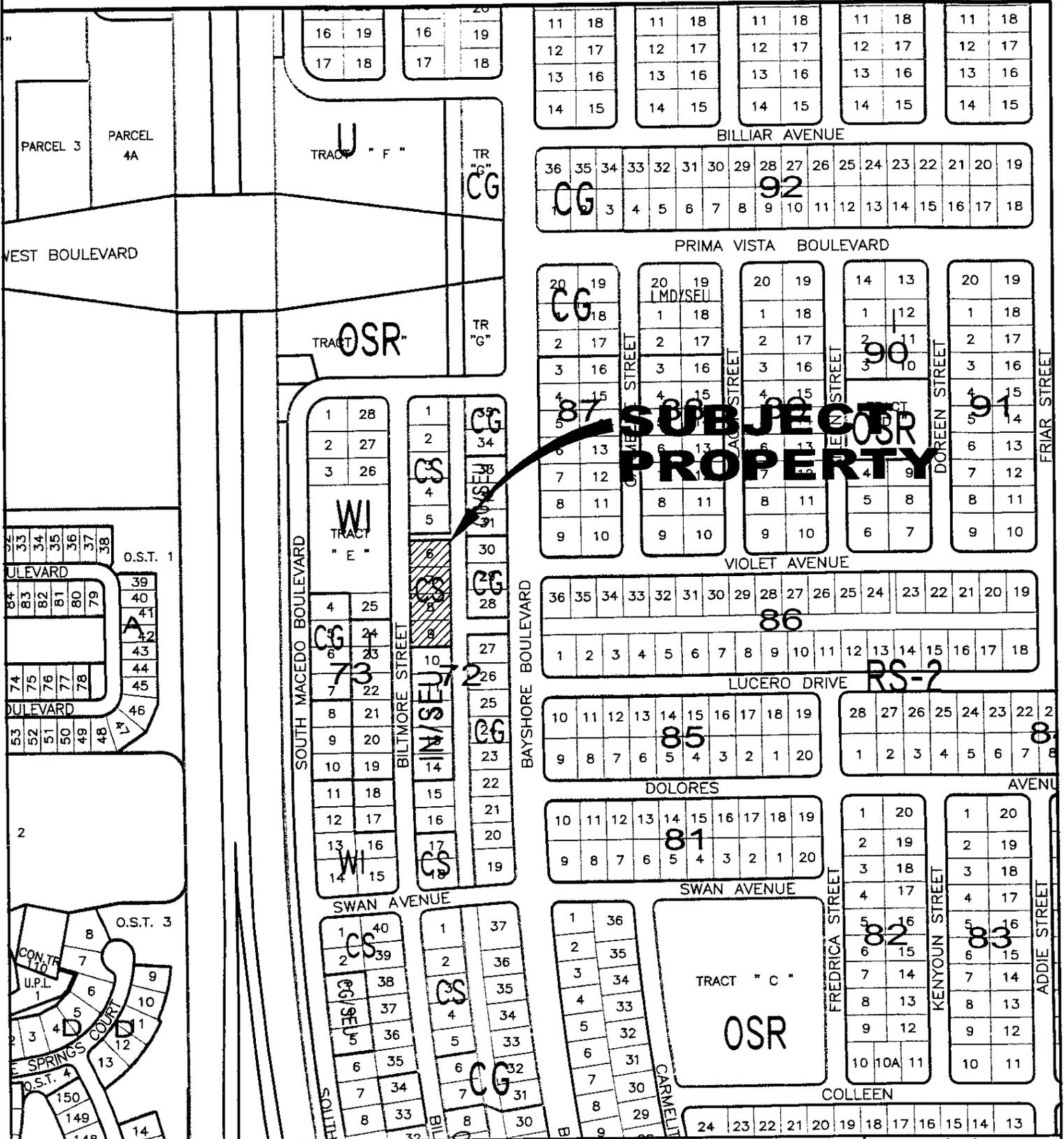
DATE: 4/6/2012

APPLICATION NUMBER:  
P12-043

CADD FILE NAME:  
P12-043M

SCALE: 1"=400'

# EXISTING ZONING



CITY OF PORT ST. LUCIE  
PLANNING & ZONING DEPT.

Prepared by:  
M.I.S. DEPARTMENT

PZ 2012.DWG

SPECIAL EXCEPTION USE  
LOTS 6-9 BLOCK 72  
PORT ST LUCIE SECTION 27

DATE: 4/6/2012

APPLICATION NUMBER:  
P12-043

CADD FILE NAME:  
P12-043M

SCALE: 1"=400'

**APPLICATION FOR SPECIAL EXCEPTION USE**

**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

**FOR OFFICE USE ONLY**

Planning Dept. P12-043  
Fee (Nonrefundable)\$ 350.00  
Receipt # 11675

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 being scheduled for the Site Plan Review Committee meeting or advertising for the Planning and Zoning Board meeting. **Attach two copies of proof of ownership (e.g., warranty deed, affidavit), lease agreement (where applicable), approved Concept Plan or Approved Site Plan, and a statement addressing each of the attached criteria.**

**PRIMARY CONTACT EMAIL ADDRESS:** nmcelrath@gmail.com

**PROPERTY OWNER:**

Name: Robert L. Frank ; Biltmore Commons, LLC.  
Address: 58 Marina Gardens Dr. Palm Beach Gardens, 33410-3511  
Telephone No.: email: trepchurch@bellsouth Fax No.: \_\_\_\_\_

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

Name: Natalie Mcelrath  
Address: 581 SW Biltmore St. Port Saint Lucie, FL. 34983  
Telephone No.: 772-475-1557 Fax No.: \_\_\_\_\_

RECEIVED

MAR 30 2012

PLANNING DEPARTMENT  
CITY OF PORT ST. LUCIE, FL

**SUBJECT PROPERTY:**

Legal Description: PSL Section 27, Block 72, Lot # 9  
Parcel I.D Number: 3425-630-0076-500/7  
Address: 581 SW Biltmore St. Port Saint Lucie, 34983 Bays: 581 + 585  
Development Name: Biltmore Commons (Attach Sketch and/or Survey)

Gross Leasable Area (sq. ft.): 1350 Assembly Area (sq. ft.): \_\_\_\_\_  
Current Zoning Classification: Service Commercial SEU Requested: Section 158.126 C+16

Please state, as detailed as possible, reasons for requesting proposed SEU (continue on separate sheet, if necessary):

Please see attached document

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Signature of Applicant

Natalie Mcelrath  
Hand Print Name

3/25/2012  
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.

**SPECIAL EXCEPTION USES**

The Planning and Zoning Board, and Zoning Administrator, may authorize the special exception use from the provisions of § 158.260. In order to authorize any special exception use from the terms of this chapter, the Planning and Zoning Board, or Zoning Administrator, will consider the special exception criteria in § 158.260 and consider your responses to the following when making a determination.

(A) Please explain how adequate ingress and egress will be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow, and control, and access in case of fire or other emergency.

Their are currently two entrances and exits. First one located at front of building and the second located on the side opening into parking lot. The second door has a pathway between two parking spaces.

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(B) Please explain how adequate off-street parking and loading areas will be provided, without creating undue noise, glare, odor or other detrimental effects upon adjoining properties.

NA. No changes to existing services required

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(C) Please explain how adequate and properly located utilities will be available or will be reasonably provided to serve the proposed development.

NA. No changes to existing services required

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(D) Please explain how additional buffering and screening, beyond that which is required by the code, will be required in order to protect and provide compatibility with adjoining properties.

NA. No changes to existing services required

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(E) Please explain how signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties. Light shields or other screening devices may be required.

NA. No changes to existing services required

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(F) Please explain how yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.

NA. No changes to existing services required

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(G) Please explain how the use, as proposed, will be in conformance with all stated provisions and requirements of the City's Land Development Regulation.

Use is in conformance with stated special Exemption uses listed in the city ordinances

(H) Please explain how establishment and operation of the proposed use upon the particular property involved will not impair the health, safety, welfare, or convenience of residents and workers in the city.

Purpose of the business operations will be to encourage and guide citizens in healthy lifestyle choices and regular physical activity. All services are conducted within the facility without any interference to our neighbors or

or surrounding residents.

(I) Please explain how the proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of the hours of operation, or because of vehicular movement, noise, fume generation, or type of physical activity.

Business operates after normal business hours and the operating hours of our neighbors. The number of persons attending the facility at one time does not exceed capacity for parking lot and leaves adequate parking

spaces for other business. Furthermore participants will be in our facility so not to interfere with other businesses

(J) Please explain how the use, as proposed for development, will be compatible with the existing or permitted uses of adjacent property. The proximity or separation and potential impact of the proposed use (including size and height of buildings, access, location, light and noise) on nearby property will be considered in the submittal and analysis of the request. The City may request project design changes or changes to the proposed use to mitigate the impacts upon adjacent properties and the neighborhood.

Our facility use is compatible with current surrounding properties as it does not interfere with other businesses or operations. Lighting, access and location is the same as the neighboring properties. Noise will have no impact

as we operate inside behind closed doors.



Signature of Applicant

Natalie McBrath

Hand Print Name

3/30/2012

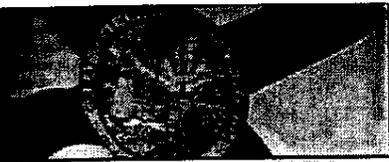
Date

PLEASE NOTE:

(K) As an alternative to reducing the scale and/or magnitude of the project as stipulated in criteria (J) above, the City may deny the request for the proposed use if the use is considered incompatible, too intensive or intrusive upon the nearby area and would result in excessive disturbance or nuisance from the use altering the character of neighborhood.

(L) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including but not limited to reasonable time limit within which the action for which special approval is requested shall be begun or completed or both.

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## Detail by Entity Name

### Florida Limited Liability Company

BILTMORE COMMONS, LLC

### Filing Information

Document Number L07000123950  
FEI/EIN Number 573341661  
Date Filed 12/13/2007  
State FL  
Status ACTIVE  
Effective Date 12/13/2007

### Principal Address

301 MAIN STREET  
SUITE 29B  
SAN FRANCISCO CA 94105

Changed 07/22/2009

### Mailing Address

301 MAIN STREET  
SUITE 29B  
SAN FRANCISCO CA 94105

Changed 07/22/2009

### Registered Agent Name & Address

HAMBY, LOUIS L III  
340 ROYAL POINCIANA WAY  
SUITE 321  
PALM BEACH FL 33480 US

### Manager/Member Detail

#### Name & Address

Title MGRM

FRANK, ROBERT L  
301 MAIN STREET, SUITE 29B  
SAN FRANCISCO CA 94105

Title MGRM

SMITH, THOMAS R  
301 MAIN STREET, SUITE 29B  
SAN FRANCISCO CA 94105

### Annual Reports

**Report Year Filed Date**

2010	01/05/2010
2011	02/16/2011
2012	01/05/2012

**Document Images**

- |   |  |
|---|--|
| <a href="#">01/05/2012 -- ANNUAL REPORT</a>             | <a href="#">View image in PDF format</a> |
| <a href="#">02/16/2011 -- ANNUAL REPORT</a>             | <a href="#">View image in PDF format</a> |
| <a href="#">01/05/2010 -- ANNUAL REPORT</a>             | <a href="#">View image in PDF format</a> |
| <a href="#">07/22/2009 -- ANNUAL REPORT</a>             | <a href="#">View image in PDF format</a> |
| <a href="#">06/02/2008 -- ANNUAL REPORT</a>             | <a href="#">View image in PDF format</a> |
| <a href="#">12/13/2007 -- Florida Limited Liability</a> | <a href="#">View image in PDF format</a> |

**Note:** This is not official record. See documents if question or conflict.

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State of Florida, Department of State

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MAY 11 2012

PLANNING DEPARTMENT  
CITY OF PORT ST. LUCIE

April 23, 2012

To: City of Port St. Lucie

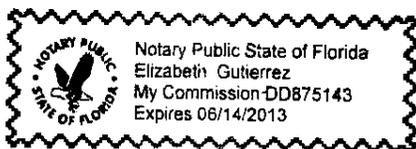
This is to confirm that I, Robert L. Frank, am the President and owner of Biltmore Commons, LLC. I authorized the leasing of space 581 to Cupoakes Fitness, LLC. I authorize Mary Ann Churchill my property manager to sign all leases for me. My address is 58 Marina Gardens Drive, Palm Beach Gardens, Florida, 33410. My phone Number is 561-309-0170. If you have further questions please call me.

Biltmore Commons, LLC is a limited Liability Company organized under the laws of the state of Florida, filed on December 13, 2007. The document number of this LLC is L07000123950.

Respectfully,



Robert L. Frank  
58 Marina Gardens Drive  
Palm Beach Gardens, FL, 33410



Elizabeth Gutierrez  
5/10/12

Roberts Properties  
form smith management co  
Apr 23 12 03:45p

561 626-5727  
707-762-6858  
p.1  
p.1

BILTMORE COMMONS LLC  
3515 S.W. MACON ROAD  
PORT ST. LUCIE, FL 34953  
561-271-8173  
772-344-1016 Fax

**RECEIVED**

**MAY 11 2012**

PLANNING DEPARTMENT  
CITY OF PORT ST. LUCIE, FL

March 16, 2012

City of Port St. Lucie  
Port St. Lucie, FL

Re: Special Exception Application on Unit #581 S.W. Biltmore Street

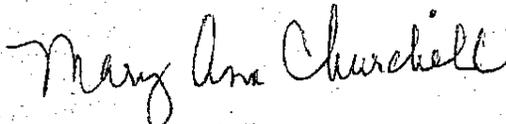
To Whom It May Concern:

Biltmore Commons have a lease for Natalie McElrath of CupCakes Fitness LLC since September 1, 2011. Per Natalie she had gone to City of Port St Lucie prior to leasing unit #581 and was given the okay. We were aware the business was a fitness center and the city had given their authorization last year.

As of March, 2010 I have been authorized by the owner Robert. L. Frank to be the Property Manager/Agent for Biltmore Commons LLC?

I have been informed there is no problem to put thru the special exception application for the fitness center at their cost. You have the okay to proceed with approving their application. Please call me if any questions come up. Also my email address is [trechurch@bellsouth.net](mailto:trechurch@bellsouth.net).

Sincerely,



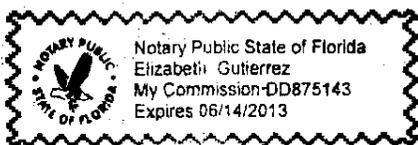
Mary Ann Churchill  
Property Manager/Agent

cc Robert L. Frank

**RECEIVED**

**MAR 30 2012**

PLANNING DEPARTMENT  
CITY OF PORT ST. LUCIE, FL



*Elizabeth Gutierrez*  
5/10/12

Prepared By and Return To:  
JOSEPH R. CASACCI, P.A.  
14 Rose Drive  
Fort Lauderdale, Florida 33316

Property Appraisers Parcel Identification  
(Folio) Number(s) 3420-630-0076-000/7

**COPY**

(SPACE ABOVE THIS LINE FOR RECORDING DATA)

**SPECIAL WARRANTY DEED**

KNOW ALL MEN BY THESE PRESENTS:

THAT Waldo Development, Inc., a Florida corporation ("Grantor"), whose mailing address is 585 SW Biltmore Street, Port St. Lucie, Florida 34983, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid in cash to Grantor by the Grantee herein named, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these: presents does GRANT, BARGAIN, SELL and CONVEY unto Biltmore Commons, LLC, a Florida limited liability company ("Grantee"), whose mailing address is 58 Marina Gardens Drive, Palm Beach Gardens, Florida 33410, that certain real property situated in the County of St. Lucie County, Florida, viz:

**COPY**

Lots 6, 7, 8 and 9, Block 72, Port St. Lucie Section Twenty-Seven, according to the map or plat thereof as recorded in Plat Book 14, Page(s), 5, Public Records of St. Lucie County, Florida.

TO HAVE AND TO HOLD the Property and all improvements located thereon, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens of whatsoever nature, together with all and singular the rights and appurtenances thereto and in any wise belonging unto the said Grantee, its legal representatives, successors and assigns, forever; and Grantor does hereby bind itself, its legal representatives and successors, to warrant and Forever Defend all and singular the Property unto the said Grantee, its legal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but no others.

For the same consideration, Grantor hereby GRANTS, BARGAINS, SELLS and CONVEYS, to Grantee, (i) any and all rights, titles, powers, privileges, easements, licenses, rights-of-way and interests appurtenant to the Property, (ii) all rights, titles, powers, privileges, licenses, easements, rights-of-way and interests, if any, of Grantor, either at law or in equity, in possession or in expectancy, in and to any real estate lying in the streets, highways, roads, alleys, rights-of-way or sidewalks, open or proposed, in front

**COPY**

of, above, over, under, through or adjoining the Property and in and to any strips or gores of real estate adjoining the Property, and (iii) all rights, titles, power, privileges, interest, licenses, easements and rights-of-way appurtenant or incident to any of the foregoing.

This conveyance is made and delivered subject only to those matters of title referred to as post 2007 taxes; zoning and governmental regulations; and restrictions, conditions and easements of record.

IN WITNESS WHEREOF, Grantor has executed this Deed on the 28th day of December, 2007.

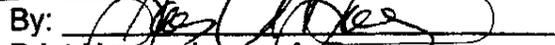
Witnesses:

  
Signature  
Eric Santiago

Printed Name

  
Signature  
Joseph M. Casacci  
Printed Name

Waldo Development, Inc., a Florida corporation

By:   
Print Name: James A. Dovas  
Its: President

THE STATE OF FLORIDA §  
COUNTY OF BROWARD §

The foregoing instrument was acknowledged before me this 28th day of December 2007, by James A. Dovas, as President of Waldo Development, Inc., a Florida corporation, on behalf of such company. He is  personally known to me or  produced as identification.



  
Notary Public - State of Florida  
My Commission Expires: 12-15-08

COPY

Prepared By and Return To:  
JOSEPH R. CASACCI, P.A.  
14 Rose Drive  
Fort Lauderdale, Florida 33316

Property Appraisers Parcel Identification  
(Folio Number(s)) 3420-630-0076-0007

**COPY**  
(SPACE ABOVE THIS LINE FOR RECORDING DATA)  
**SPECIAL WARRANTY DEED**  
KNOW ALL MEN BY THESE PRESENTS:

THAT Waldo Development, Inc., a Florida corporation ("Grantor"), whose mailing address is 585 SW Biltmore Street, Port St. Lucie, Florida 34983, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration paid in cash to Grantor by the Grantee herein named, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these: presents does GRANT, BARGAIN, SELL and CONVEY unto Biltmore Commons, LLC, a Florida limited liability company ("Grantee"), whose mailing address is 58 Marina Gardens Drive, Palm Beach Gardens, Florida 33410, that certain real property situated in the County of St. Lucie County, Florida, viz:

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TO HAVE AND TO HOLD the Property and all improvements located thereon, free, clear and discharged of and from all former grants, charges, taxes, judgments, mortgages and other liens of whatsoever nature, together with all and singular the rights and appurtenances thereto and in any wise belonging unto the said (Grantee, its) legal representatives, successors and assigns, forever; and Grantor does hereby bind itself, its legal representatives and successors, to warrant and Forever Defend all and singular the Property unto the said Grantee, its legal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor, but no others.

For the same consideration, Grantor hereby GRANTS, BARGAINS, SELLS and CONVEYS, to Grantee, (i) any and all rights, titles, powers, privileges, easements, licenses, rights-of-way and interests appurtenant to the Property, (ii) all rights, titles, powers, privileges, licenses, easements, rights-of-way and interests, if any, of Grantor, either at law or in equity, in possession or in expectancy, in and to any real estate lying in the streets, highways, roads, alleys, rights-of-way or sidewalks, open or proposed, in front

**COPY**

of, above, over, under, through or adjoining the Property and in and to any strips or gores of real estate adjoining the Property, and (iii) all rights, titles, power, privileges, interest, licenses, easements and rights-of-way appurtenant or incident to any of the foregoing.

This conveyance is made and delivered subject only to those matters of title referred to as post 2007 taxes; zoning and governmental regulations; and restrictions, conditions and easements of record.

IN WITNESS WHEREOF, Grantor has executed this Deed on the 28th day of December, 2007.

Witnesses:

*[Signature]*  
\_\_\_\_\_  
Signature

Eric Santiago  
Printed Name

Waldo Development, Inc., a Florida corporation

By: *[Signature]*  
\_\_\_\_\_  
Print Name: James A. Dovas  
Its: President

*[Signature]*  
\_\_\_\_\_  
Signature

Joseph N. Casacci  
Printed Name

THE STATE OF FLORIDA §  
COUNTY OF BROWARD §

The foregoing instrument was acknowledged before me this 28th day of December 2007, by James A. Dovas, as President of Waldo Development, Inc., a Florida corporation, on behalf of such company. He is  personally known to me or  produced \_\_\_\_\_ as identification.



*[Signature]*  
\_\_\_\_\_  
Notary Public - State of Florida  
My Commission Expires: 12-15-08

COPY

To whom it may concern -

As a long time resident for both me and my extended family, I began looking to establish a new business venture to provide fitness programs for the residents of St. Lucie county. I was fortunate enough to find a fitting location at 581 SW Biltmore Street. This location was ideal for several reasons:

- There are currently no other facilities in a 7 mile radius offering fitness/dance classes specifically for women.
- It is within less than a mile to 7 of our St. Lucie schools, where teachers (often who are female and the predominant group exercise participants) are located.
- Biltmore already has numerous locations of dance, cheerleading, martial arts studios and other fitness offerings are also co-located. Quickly becoming known as "fitness row".

Before signing the lease for this location, I contacted the City Planning and Zoning office (as is part of the recommended protocol for new small businesses) to ensure the space was an acceptable Location for Business Occupancy. I received confirmation from John at that time that it was listed in the code as fit for our "recreation" purposes. I signed the lease, executed our state filings as an LLC and began a facility Launch plan to begin marketing our fitness concept to the local community. In final preparation for our grand opening launch, I submitted all the necessary forms and fees to be established with the City of Port Saint Lucie.

Our Occupancy license has since been DENIED. I have been informed that since receiving confirmation for our location, the "codes were changed" on November 11, 2011 and that now our space is only eligible for Business Occupancy as a Special Exemption Use (SEU). I was not notified of this change until the denial was processed. In reviewing the Application for Business Occupancy, while there is BOLD RED font stating you must get clearance for a location prior to signing a lease, there is NO language stipulating a warranty period for that authorization. Had I known that our confirmation was only good for XX number of days, I certainly would have made haste to get our forms submitted as a priority.

While I am doing, everything required to file the necessary documentation and be in compliance with the city as an SEU, I am asking that the fee be waived due to unique circumstances and timing of this scenario. I trust that the city will do everything in its power to encourage and support small businesses in the community. Especially those with targeted and discounted programs available to service ALL St. Lucie School Board employees, seniors and families, towards health and wellness. I am fully and financially supporting this business out of my personal income and the fee associated with this SEU filing would bring extreme additional financial hardship on my ability to do so.

I appreciate your time and consideration in this matter.

Sincerely,

Natalie McElrath

Owner

Pure Training, LLC

**RECEIVED**

**MAR 30 2012**

**PLANNING DEPARTMENT  
CITY OF PORT ST. LUCIE, FL**

DBA Cupcakes Fitness

772-475-1557 Main contact

