

LAND USE HEARING OFFICER VARIANCE REPORT

APPLICATION NUMBER: VAR 23-0754	
LUHO HEARING DATE: August 28, 2023	CASE REVIEWER: Carla Shelton Knight

REQUEST: The applicant is requesting a variance from the 50-foot Wetland Preservation Area setback requirement, Section 4.01.07B of the Land Development Code (LDC). The applicant's specific request, as shown on the site plan submitted on July 7, 2023, is to allow for the after-the-fact construction of a lazy river within the 50-foot Wetland Preservation Area setback.

SUMMARY OF VARIANCE(S):

Wetland Setback

1) Per LDC Sec. 4.01.07.B.4, no filling, excavating or placement of permanent structures or other impervious surfaces shall be allowed within a required 50-foot wetland preservation area setback. The applicant requests after-the-fact construction of a lazy river within the 50-foot wetland preservation area setback. The applicant requests a 37-foot encroachment into the setback to allow for a remaining setback of 13 feet.

Findings

1) A wetland setback compensation planting plan has been provided on the site plan dated August 9, 2023, that provides equivalent square footage of compensation planting to the amount of encroachment.

DISCLAIMER:

The variance listed above is based on the information provided in the application by the applicant. Additional variances may be needed after the site has applied for development permits. The granting of these variances does not obviate the applicant or property owner from attaining all additional required approvals including but not limited to: subdivision or site development approvals and building permit approvals.

Approval of this variance petition by Hillsborough County does not constitute a guarantee that the Environmental Protection Commission of Hillsborough County (EPC) approvals/permits necessary for the development as proposed will be issued, does not itself serve to justify any impact to wetlands, and does not grant any implied or vested environmental approvals.

Attachments: Site Plan

ADMINISTRATOR'S SIGN-OFF				
as Soft				



Additional / Revised Information Sheet

Date Stamp Here

Application Number: VAR 23-0754 Applicant's Name: Isabe	elle Albert
Reviewing Planner's Name: Carla Shelton	Date: 08/08/2023
Application Type:	
Planned Development (PD) Minor Modification/Personal Appearance (Pl	RS) 🔲 Standard Rezoning (RZ)
✓ Variance (VAR) □ Development of Regional Impact (DRI)	☐ Major Modification (MM)
☐ Special Use (SU) ☐ Conditional Use (CU)	Other
Current Hearing Date (if applicable): 08/28/2023	
Will this revision add land to the project?	•
Will this revision remove land from the project?	
The following must be attached to th	is Sheet.
 Cover Letter with summary of the changes and/or additional information proposed submitted, all changes on the site plan must be listed in detail in the Cover I An updated Project Narrative consistent with the changes or additional info Updated Cross Section plan and a Replanting plan 	Letter. rmation provided, if applicable.
Submittal Via: Email - Note that no follow up paper file is necessary. Files must be in pdf form Maximum attachment(s) size is 15 MB. Email this sheet along with all the additional/revised submittal items in part of the submittal duestions, please call (813) 277-1633 or expressions.	odf to: ZoningIntake-DSD@hcflgov.net
I certify that changes described above are the only changes that have been mechanges will require an additional submission and certification.	ade to the submission. Any further
Albert, Isabelle Digitally signed by Albert, Isabelle DN: cn=Albert, Isabelle, ou=Tampa, email=ialbert @Halff.com Date: 2023.08.08 17:49:38 -04'00'	
Signature	Date
FOR OFFICE USE ONLY	
■ Notification E-Mail Sent■ Scanned into OPTIX■ Transmittal CompletedIn-Take	Completed by:



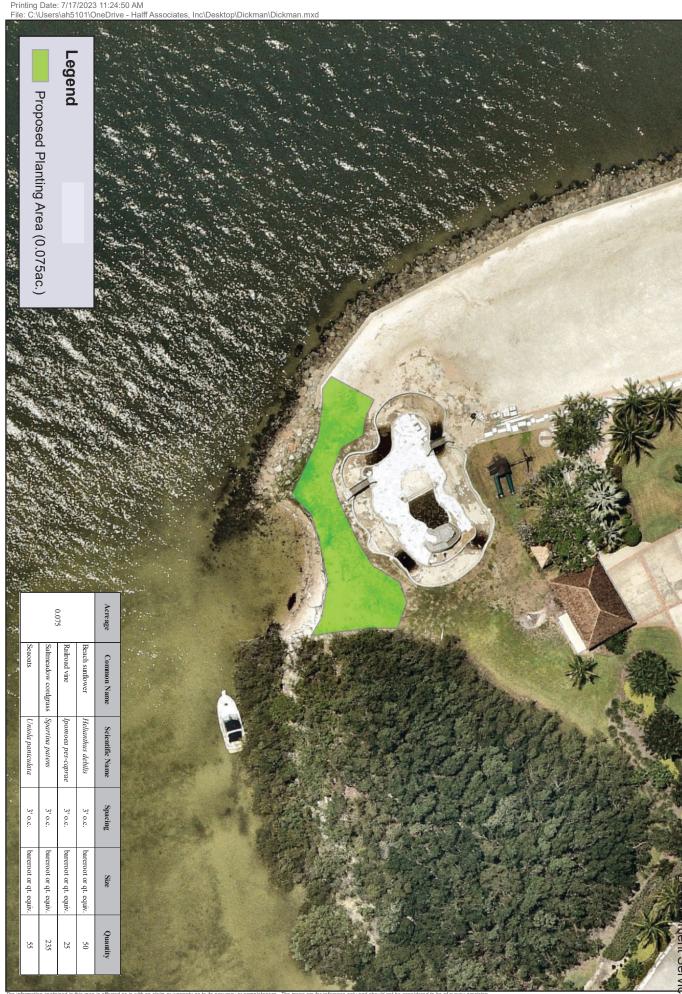
1000 N. Ashley Drive Suite 900 Tampa, Florida 33602 813-620-4500

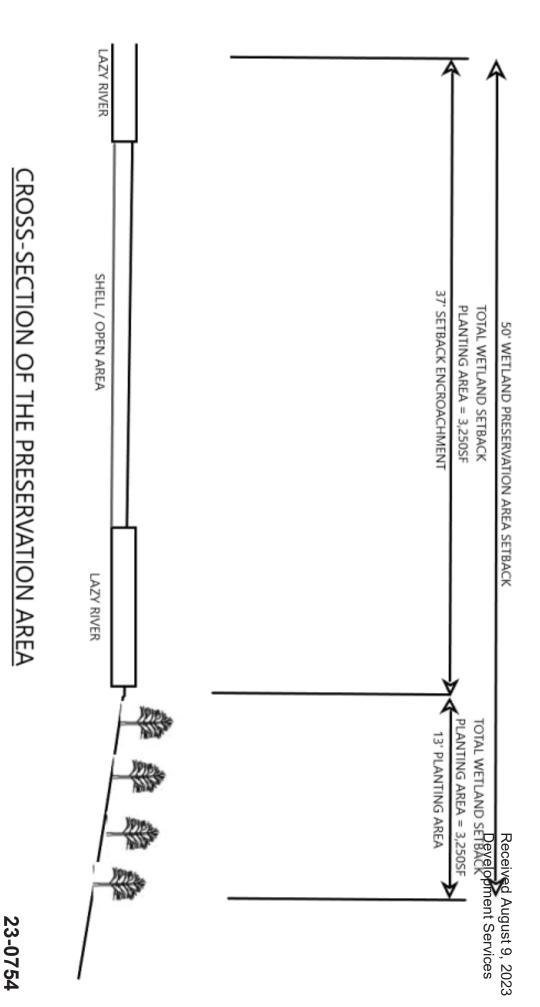


Replanting Area Buffer

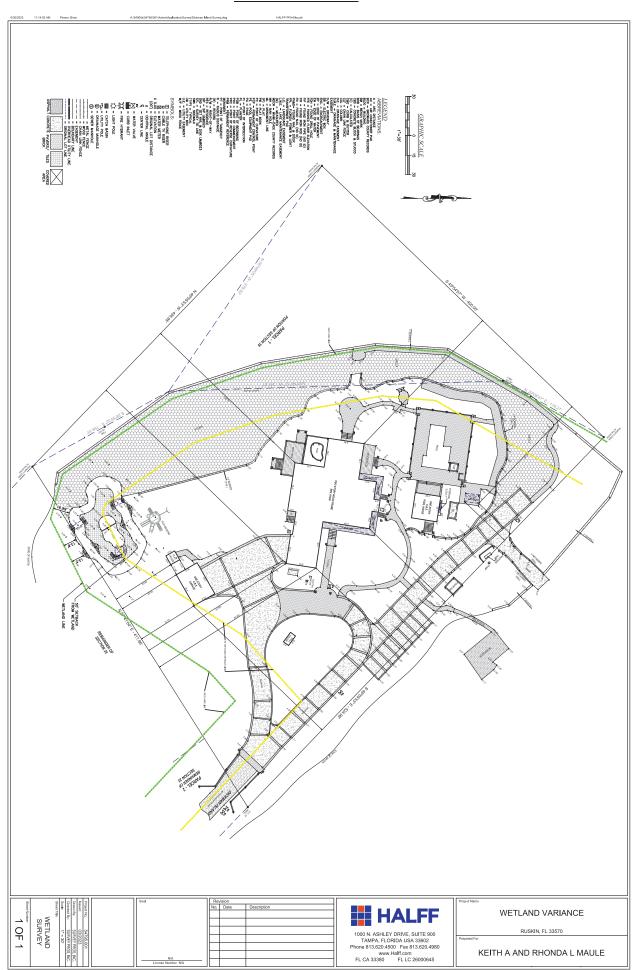


Dickman Island 054795.001





ATTACHMENT 6





Application No:

Project Description (Variance Request)

1.	In the space below describe the variance including any history and/or related facts that may be helpful in understanding the request. This explanation shall also specifically identify what is being requested (e.g. Variance of 10 feet from the required rear yard setback of 25 feet resulting in a rear yard of 15 feet). If additional space is needed, please attach		
	extra pages to this application.		
	Please see attached written statement.		
2.	A Variance is requested from the following Section(s) of the Hillsborough County Land Development Code: Section 4.01.07.B.4		
	Additional Information		
1.	Have you been cited by Hillsborough County Code Enforcement? No Yes		
	If yes, you must submit a copy of the Citation with this Application.		
2.	Do you have any other applications filed with Hillsborough County that are related to the subject property?		
	No X Yes If yes, please indicate the nature of the application and the case numbers assigned to the application (s): HC-BLD-22-0039676		
3.	Is this a request for a wetland setback variance? No Yes		
	If yes, you must complete the Wetland Setback Memorandum and all required information must be included with this Application Packet.		
4.	Please indicate the existing or proposed utilities for the subject property:		
	Public Water ` Public Wastewater		
5.	Is the variance to allow a third lot on well or non-residential development with an intensity of three ERC's?		
	No Yes If yes, you must submit a final determination of the "Water, Wastewater, and/or Reclaimed Water – Service Application Conditional Approval – Reservation of Capacity" prior to your public hearing		

VARIANCE TO WETLAND SETBACK REQUEST

1 DICKMAN ISLAND, RUSKIN, FLORIDA, JUNE 30, 2023

PROJECT DESCRIPTION AND VARIANCE CRITERIA RESPONSE

The site is located at 1 Dickman Island in Ruskin with tax folio 31548.0300. The applicant is requesting an "after the fact" wetland setback reduction from 50-feet to 13-feet due the installation of a lazy river on the property.

It is important to understand the history and how they are where they are today. Back in mid-2020, during COVID, the owners wanted a safe place for their grandkids to hang out and play. They contacted a pool company who upon inquiring with the County's Building Department, was informed that a lazy river did not require a permit.

Construction began towards the end of 2020 starting with the removal of the trees along the shoreline, which were Australian Pines (attachment 1). The applicant only removed those as they are invasive and result in erosion because they shade out all the grasses and other natives which normally would stabilize the sand in coastal environments.

Once of the last steps for the lazy river construction is to obtain TECO sign off for providing electricity. It was in mid-2022 that the applicant and pool contractor learned that a permit was required. All construction halted at that point. A permit was filed in October 2022 and during the review in December, the applicant was asked to provide a wetland limits survey stamped and signed as approved by the Environmental Protection Commission (EPC) (attachment 2). A survey company was hired and in April 2023, the applicant received a stamped and signed as approved by EPC letter and survey (attachment 3).

At that time, the applicant then understood that a variance to wetland setback reduction would be required. There were no ill intentions from the applicant when they started this process. Furthermore, just recently, the applicant teamed up with Living Shoreline Solutions to install WAD's (Wave Attenuation Devices) which results in a natural and efficient shoreline restoration as well as erosion mitigation. This company, with the help of the Government, have been installing WAD's all along the shorelines of Florida and Louisiana (attachment 4).

Overall, the request is to reduce the preservation area setback from 50-feet to 13.5-feet. Included in the application is a scaled tree survey showing threes 5" DBH located within 30 feet of the encroachment, which shows there are no trees (attachment 5), a site plan with setbacks (attachment 6) and a cross section of the preservation area setback (attachment 7).

VARIANCE CRITERIA RESPONSE

Explain how the alleged hardships or practical difficulties are unique and singular to the subject property and are not those suffered in common with other property similarly located?

The applicant's contractor was informed by the County that no permits were required and was not aware of the setback requirement. The location was chosen randomly and was constructed within the setback.



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Describe how the literal requirements of the Land Development Code (LDC) would deprive you of rights commonly enjoyed by other properties in the same district and area under the terms of the LDC.

This situation is unique since the applicant was not aware of the setback requirements and constructed the lazy river.

Explain how the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.

The granting of the variance will not affect anyone property.

Explain how the variance is in harmony with and serves the general intent and purpose of the LDC and the Comprehensive Plan (refer to Section 1.02.02 and 1.02.03 of the LDC for description of intent/purpose).

Although there was removal of vegetation, it was Australian Pines that were removed, which are an invasive species and would be required to be removed anyways for the protection of the shoreline.

Explain how the situation sought to be relieved by the variance does not result from an illegal act or result from the actions of the applicant, resulting in a self-imposed hardship.

The applicant's team did request information from the County prior to construction and were told that no permits were required for a lazy river. If they would have known, then they would have applied for a permit and would then have known about the 50-foot setback and would have then relocated the lazy river outside the setback. But that is not the case and are now requesting a variance to setbacks.

Explain how allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by the LDC and the individual hardships that will be suffered by a failure to grant a variance.

What remains of the setback will be upgraded with compensation planting which would most likely require the removal of invasive planting, which has been done. Furthermore, the applicant and has WAD's installed along the shoreline to help with shoreline preservation.



Instrument #: 2020463757, Pg 1 of 4, 11/7/2020 10:30:41 AM DOC TAX PD(F.S. 201.02) \$0.70, INT. TAX PD (F.S. 199) \$0.00, DOC TAX PD (F.S. 201.08) \$0.00, Deputy Clerk: WMARTIN Pat Frank, Clerk of the Circuit Court Hillsborough County

CONSIDERATION \$/000 DOC TAX \$ 170 RECORD \$ 35.50

PARCEL ID NO. 0315480300

Prepared by without benefit of examination of title and return to:

WILLIAMS PARKER HARRISON DIETZ & GETZEN

200 South Orange Avenue Sarasota, Florida 34236 (941) 366-4800

Attention: Patrick W. Ryskamp, Esq.

This deed is not subject to the payment of documentary stamp taxes under the holdings in the cases of Kuro, Inc. v. State Department of Revenue and Crescent Miami Center, LLC v. Florida Dept. of Revenue because: 1) this deed does not effect a change in the beneficial ownership of the property; 2) there is no mortgage encumbering the property; and 3) this conveyance is not being made in exchange for any interest or for any other consideration.

WARRANTY DEED

This Indenture, made this 24 day of October 2020, by and between MAULE ENTERPRISES, LLC, a Nebraska limited liability company, hereinafter referred to as Grantor, whose post office address is 8135 S. 15th Street, Suite C, Lincoln, NE 68512, and KEITH A. MAULE and RHONDA L. MAULE, husband and wife, hereinafter referred to as Grantee, whose post office address is 1 Dickman Island, Ruskin, FL 33570.

Witnesseth: Grantor, in consideration of the sum of ten dollars and other valuable considerations to it in hand paid by Grantee, receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to Grantee, his heirs and assigns forever, the following described property situate in Hillsborough County, Florida:

See Exhibit "A" attached hereto and made a part heretof

together with all appurtenances, privileges, rights, interests, dower, reversions, remainders and easements thereunto appertaining. Grantor hereby covenants with Grantee that Grantor is lawfully seized of said property in fee simple; that it is free of encumbrances except as above stated; that Grantor has good right and lawful authority to convey same; and that Grantee shall have quiet enjoyment thereof. Grantor does hereby fully warrant the title to said property and will defend the same against the lawful claims of all persons whomsoever. As used herein, the terms "Grantor" and "Grantee" shall include their respective heirs, devisees, personal representatives, successors and assigns; any gender shall include all genders, the plural number the singular and the singular, the plural.

In Witness Whereof, Grantor has caused this deed to be executed in its name by its undersigned duly authorized officer the date above written.

MAULE ENTERPRISES, LLC, a Nebraska

WITNESSES:

1	limited Hability company
Halhy Moro -	By:
Signature of Witness	Print Name: Keith A. Maule
Print Name of Witness	As its Manager (Corporate Seal)
Signature of Witness	
LINDA BADGEROW	
Print Name of Witness	
by KEITH IN HULE, as M Nebraska limited liability company, on b person is personally known to me or has	day of October 2020 Ianager of MAULE ENTERPRISES, LLC, a behalf of the company. The above-named produced as a is indicated, the above-named person is
personally known to me.	Signature of Notary Public
(Notary Seal)	LINDA DADGEROU
LINDA BADGEROW	Print Name of Notary Public
MY COMMISSION # GG 973842 EXPIRES: July 27, 2024	I am a Notary Public of the State of
Bonded Thru Notary Public Underwriters	Florida, and my commission expires on
5844268.v1	

Before me by means of:
☑ physical presence or
☐ online notarization

EXHIBIT "A" LEGAL DESCRIPTION

PARCEL 1:

THAT PART OF SECTION 35, TOWNSHIP 31 SOUTH, RANGE 18 EAST, HILLSBOROUGH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTHEAST CORNER OF SAID SECTION 35, RUN NORTH 89°34'25" WEST, ALONG THE SOUTH BOUNDARY OF SAID SECTION 35 A DISTANCE OF 2848.30 FEET; RUN THENCE NORTH 16°45'10" WEST A DISTANCE OF 433.60 FEET; RUN THENCE NORTH 21°22'37" WEST A DISTANCE OF 1588.78 FEET; RUN THENCE NORTH 46°18'15" WEST A DISTANCE OF 790.37 FEET FOR A POINT OF BEGINNING: FROM SAID POINT OF BEGINNING CONTINUE NORTH 46°18'15" WEST A DISTANCE OF 426.85 FEET; RUN THENCE NORTH 43°41'45" EAST A DISTANCE OF 400.00 FEET; RUN THENCE SOUTH 46°18'15" EAST A DISTANCE OF 524.98 FEET; RUN THENCE SOUTH 57°28'42° WEST A DISTANCE OF 411.85 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE FOLLOWING EASEMENTS:

EASEMENT PARCEL NO. 1A FOR THE BENEFIT OF PARCEL 1 AND PARCEL 2 ABOVE, FOR INGRESS AND EGRESS PURPOSES, OVER AND ACROSS THE FOLLOWING DESCRIBED STRIP OF LAND AS SET FORTH IN PRIVATE EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 4452, PAGE 283, PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA:

THE WEST 1241.41 FEET OF THE NORTH 40 FEET OF THE NORTHWEST 1/4 OF SECTION 1, TOWNSHIP 32 SOUTH, RANGE 18 EAST, AND THE WEST 1241.41 FEET OF THE SOUTH 40 FEET OF THE SOUTHWEST 1/4 OF SECTION 36, TOWNSHIP 31 SOUTH, RANGE 18 EAST, ALL LYING AND BEING IN HILLSBOROUGH COUNTY, FLORIDA.

EASEMENT PARCEL NO. 3 GATE ACCESS EASEMENT FOR THE BENEFIT OF PARCEL 2 ABOVE. OVER AND ACROSS THE FOLLOWING DESCRIBED LANDS, AS ESTABLISHED BY EASEMENT AGREEMENT RECORDED IN OFFICIAL RECORDS BOOK 22754, PAGE 1726, OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY FLORIDA:

FROM THE SOUTHEAST CORNER OF SAID SECTION 35, RUN NORTH 89°34'25" WEST, ALONG THE SOUTH BOUNDARY OF SAID SECTION 35 A DISTANCE OF 2848.30 FEET; RUN THENCE NORTH 16°45'10' WEST A DISTANCE OF 433.60 FEET; RUN THENCE NORTH 21°22'37" WEST A DISTANCE OF 1588.78 FEET; RUN THENCE NORTH 46°18'15" WEST A DISTANCE OF 790.37 FEET; THENCE NORTH 57°28'42" EAST A DISTANCE OF 328.85 FEET; RUN THENCE SOUTH 37°16'23" EAST, A DISTANCE OF 837.39 FEET; RUN THENCE SOUTH 43°41'45" EAST, A DISTANCE OF 120.52 FEET FOR A POINT OF BEGINNING; FROM SAID POINT OF BEGINNING CONTINUE SOUTH 43°41'45" EAST, A DISTANCE OF 15.00 FEET; RUN THENCE NORTH 46°18'15" WEST, A DISTANCE OF 20.00 FEET; RUN THENCE OF 15.00 FEET; RUN THENCE SOUTH 46°18'15 EAST, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

EASEMENT PARCEL NO. 4: INGRESS AND EGRESS EASEMENT(S) AS ESTABLISHED BY AMENDED AND RESTATED DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS OF DICKMAN ISLAND RECORDED IN OFFICIAL RECORDS BOOK 22692, PAGE 818, OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA.

EASEMENT PARCEL NO. 6: EASEMENT FOR INGRESS AND EGRESS AND ROAD RIGHT OF WAY, FOR THE BENEFIT OF PARCELS 1 AND 2 ABOVE, AS ESTABLISHED BY EASEMENT RECORDED IN OFFICIAL RECORDS BOOK 4205, PAGE 975, OF THE PUBLIC RECORDS OF HILLSBOROUGH COUNTY, FLORIDA.

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Property/Applicant/Owner Information Form

	Official Use Only	07/00/0	
Application No: VAR-WS 23-0754	LUHO	Intake Date: 07/03/2	
Hearing(s) and type: Date:			
Date:	Туре:	Intake Staff Signature:_	Kesma Kwas
	Property Information		
Address: 1 Dickman Island	City/State/Zi	p: Tampa, FL	
TWN-RN-SEC: $35-31-18$ Folio(s): 31548.0	30 Zoning: PD Futur	e Land Use: $\frac{RES-1}{}$ Prop	perty Size: 4.34
1	Property Owner Informati	on	
Name: Keith & Rhonda Maule		Daytime Phone	
Address: 1 Dickman Island	City/State/Zip:_		
Email:		Fax Number	
	Applicant Information		
Name:Same as above	me:Daytime Phone		
Address:	City/State/Zip:_		
Email:		Fax Number	
Applicant's	Representative (if differer	nt than above)	
Name: Isabelle Albert		Daytime Phone	813-331-0976
Address: 1000 N Ashley Dr.	City/State/Zip:_	Tampa, FL 3360	2
Email:ialbert@halff.com		Fax Number	
I hereby swear or affirm that all the information provided in the submitted application pack and accurate, to the best of my knowledge, authorize the representative listed above to act on my behalf on this application. **Transport Company Services** **	et is true and reco	authorize the processing ognize that the final action shall be binding to the pent and any future owne	on taken on this roperty as well as to
Signature of the Applicant	Signature o	f the Owner(s) – (All parties on the	e deed must sign)
Isabelle Albert			
Type or print name	Type or prir	nt name	



PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

	1
Jurisdiction	Unincorporated County
Zoning Category	Planned Development
Zoning	PD
Description	Planned Development
RZ	80-0175
Flood Zone:VE	BFE = 12.0 ft
FIRM Panel	0651H
FIRM Panel	12057C0651H
Suffix	Н
Effective Date	Thu Aug 28 2008
Pre 2008 Flood Zone	VE
Pre 2008 Firm Panel	1201120651D
County Wide Planning Area	Apollo Beach
Community Base Planning Area	SouthShore
Planned Development	PD
Re-zoning	null
Major Modifications	15-0178,15-1026
Census Data	Tract: 014121 Block: 1026
Census Data	Tract: 014121 Block: 1022
Census Data	Tract: 014121 Block: 1012
Future Landuse	R-1
Future Landuse	R-1
Future Landuse	R-1
Urban Service Area	USA
Mobility Assessment District	Urban
Mobility Assessment District	Rural
Mobility Benefit District	4
Fire Impact Fee	South
Parks/Schools Impact Fee	SOUTH
ROW/Transportation Impact Fee	ZONE 9
Wind Borne Debris Area	140 MPH Area
Competitive Sites	NO
Redevelopment Area	NO



RS, Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, © OpenStreetMa contributors, and the GIS User Community

Folio: 31548.0300 PIN: U-35-31-18-ZZZ-000001-06710.0 Keith A And Rhonda L Maule Mailing Address: 1 Dickman Is null Ruskin, Fl 33570-4444 Site Address: 1 Dickman Island

> Ruskin, Fl 33570 SEC-TWN-RNG: 35-31-18 Acreage: 4.34328985

Market Value: \$5,186,189.00 Landuse Code: 0100 Single Family

Hillsborough County makes no warranty, representation or guaranty as to the content, sequence, accuracy, timeliness, or completeness of any of the geodata information provided herein. The reader should not rely on the data provided herein for any reason. Hillsborough County explicitly disclaims any representations and warranties, including, without limitations, the implied warranties of merchantability and fitness for a particular purpose. Hillsborough County shall assume no liability for: 1. Any error, omissions, or inaccuracies in the information provided regardless of how caused.

2. Any decision made or action taken or not taken by any person in reliance upon any information or data furnished hereunder.