

### Land Use Application Summary Report

Application Number:	SU-AB 21-0462	Adjacent Zoning and Land Uses:	
	Distance Separation	North:	AS-1/Church
Request:	Waiver for a 2-COP R Permit	South:	PD/Linebaugh Avenue ROW & Shopping Center
Comp Plan Designation:	RES-9	East:	PD/Wetlands and Residential
Service Area:	Urban Service Area	West:	PD/Sheldon Rd. ROW & Retail

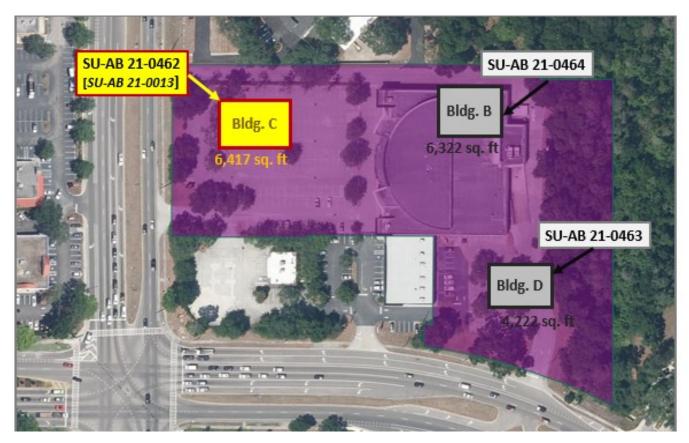


#### **Request Details and Background:**

Pursuant to Land Development Code (LDC) Section 6.11.11, the request is for a distance separation waiver for a 2-COP-R Alcoholic Beverage Development Permit (AB) for the sale and consumption of beer and wine on and off the permitted premises (package sales) in connection with a restaurant. At least 51 percent of the restaurant's total biannual sales shall be derived from the sale of food and non-alcoholic beverages.

The subject wet zoning is requested for a parcel on the northeast corner of Sheldon Road and Linebaugh Avenue that is under redevelopment. On February 15, 2021 the Land Use Hearing Officer approved three 2-COP-R AB Permits on the subject property under SU-AB 21-0013, SU-AB 21-0141 and SU-AB 21-0150 for three proposed restaurants in the project. However, after construction of the restaurants, the as-built plat revealed slight discrepancies between each restaurant's building footprint and the corresponding wet zoning footprint. The LDC does not provide for modifications to approved wet zonings, therefore, new wet zonings are required for each restaurant and three applications have been filed: SU-AB 21-0462, SU-AB 21-0463 and SU-AB 21-0464. For illustrative purposes only, the approximate locations of the proposed wet zone envelopes are shown below.

SU-AB 21-0013 was approved for a 429.4-foot distance separation waiver from the 500-foot separation required from certain community uses, specifically, a church on the adjacent property to the north, to allow a separation of 70.6 feet. However, the as-built survey for the host restaurant for that wet zoning shows the building is 4 feet closer to the church property line than planned. Additionally, the building envelope which includes the sidewalk and patio area has increased from 6,415 square feet to 6,417 square feet. The subject wet zoning, SU-AB 21-0462, will replace SU-AB 21-0013.



#### **Distance Separation Requirements for a 2-COP-R AB Permit:**

Per LDC Section 6.11.11.D.2, the following distance separation requirements apply to the proposed wet zoning:

- 1. The distance from the proposed structure to certain community uses shall be 500 feet.
  - According to the survey submitted by the applicant, the request **does not** comply with this requirement.
- 2. The distance from the proposed structure to residentially zoned property shall be 150 feet.
  - According to the survey submitted by the applicant, the request **does** comply with this requirement.

Per LDC Section 6.11.11.E., waivers to the required separation distances may be requested by applicants at a noticed public hearing. The hearing officer may consider such requests on the basis of whether special or unique circumstances exist such that the proposed alcoholic beverage use does not pose significant impacts on the surrounding uses, and whether certain circumstance exist such that the necessity for the separation requirement(s) is negated.

#### **Required Separation from Certain Community Uses**

Bay Hope Church is located on the adjacent parcel to the north within 500 feet of the proposed AB location. The proposed wet-zoning is located 66.6 feet from the church property line. The applicant requests a 433.4-foot distance separation waiver from the 500-foot separation requirement from certain community uses.

1. Special or unique circumstances that make the specified distance requirements unnecessary.

**Applicant Response:** The 2-COP-R permit for this site was approved on February 15, 2021, however a correction has been made to the survey and legal description for the site and we are reapplying for a 2-COP-R permit for this reason. The distance reduction request for the 2-COP-R permit is for a 66.6-foot distance separation from certain community uses (Bay Hope Church), currently approved at 70.6-feet in the existing 2-COP-R permit. This is a difference of 4-feet due to the building shifting to the north. The building square footage for Building C has also been slightly increased from 6,415 SF to 6,417 SF and includes sidewalks for potential outdoor seating.

The subject site is a part of a larger mixed-use development (PD 98-1529) consisting of Parcel A, a commercial component approved for 65,000 square feet of commercial general uses; Parcel B, a residential component approved for single family dwelling units; and Parcel C, approved for office use. The subject site is located within Parcel A which was recently redeveloped with a Sprouts Farmers Market grocery store. In 2019, the subject site was approved for a 2-APS (SU 19-0677) over the entire area for beer and wine to be sold in sealed containers only for consumption off the licensed premises (package sales). The goal is to redevelop the remainder of the site and revitalize the area. Redevelopment of the site includes the addition of new structures for restaurant and retail uses. As part of the revitalization effort, the property owner wishes to apply for a 2-COP-R permit to accommodate beer and wine for sale and consumption on and off the permitted premises (package sales) in connection with a restaurant. The wet zone area includes the sidewalk shown on the survey for potential outdoor seating without blocking the sidewalk.

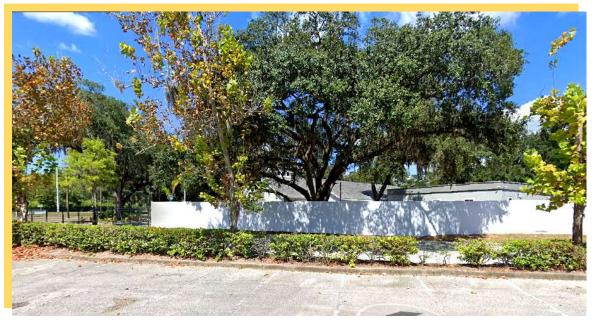
The circumstances that negate the need for the specified distance requirement are:

The distance reduction request for the 2-COP-R permit is for a 433.4-foot distance separation from certain community uses (Bay Hope Church), currently approved at 429.4-feet in the existing 2-COP-R permit. Discussions with the church's pastor regarding the request for the 2-APS distance waiver in 2019 were favorable.

#### **Staff Findings:**

LDC Section 6.11.11.E.3 provides for approval of separation waivers where there are "special or unique circumstances where the alcoholic beverage use applied for does not have significant impacts on surrounding land uses and certain circumstances negate the necessity for the specified distance requirements."

- Bay Hope Church is located on the adjacent parcel to the north of the proposed wet zone area. SU-AB 21-0013 was approved for a 2-COP-R alcoholic beverage permit on the subject property on January 25, 2021. The permit was approved with a distance separation waiver to the existing church. The location of the Sprouts grocery store has now been approved and specifically located on the site. Additionally, three additional buildings are being constructed on the site for proposed restaurants and retail area. The proposed wet zone area is for a proposed restaurant in one of the new buildings being constructed on site, located 66.6 feet from the church property line, which is only 4 feet closer to the property line than the existing approved 2-COP-R alcoholic beverage permit.
- Furthermore, the PD conditions require a 30-foot building setback from the north property line and installation of wrought iron fence in combination with the existing wall and a row of evergreen shade trees along that property line. Staff finds these development requirements should provide an adequate buffer between the existing church and proposed wet zone area.



View of wall and screening along northern property boundary; Google Maps 3/19/2020

Due to the buffering/screening and design of the parking lot, straight-line access between the proposed wet zoning and the church is not possible. Staff estimates the shortest route of pedestrian travel to the front to the church buildings is approximately 500 feet, while the shortest route of vehicular travel is more than 600 feet.

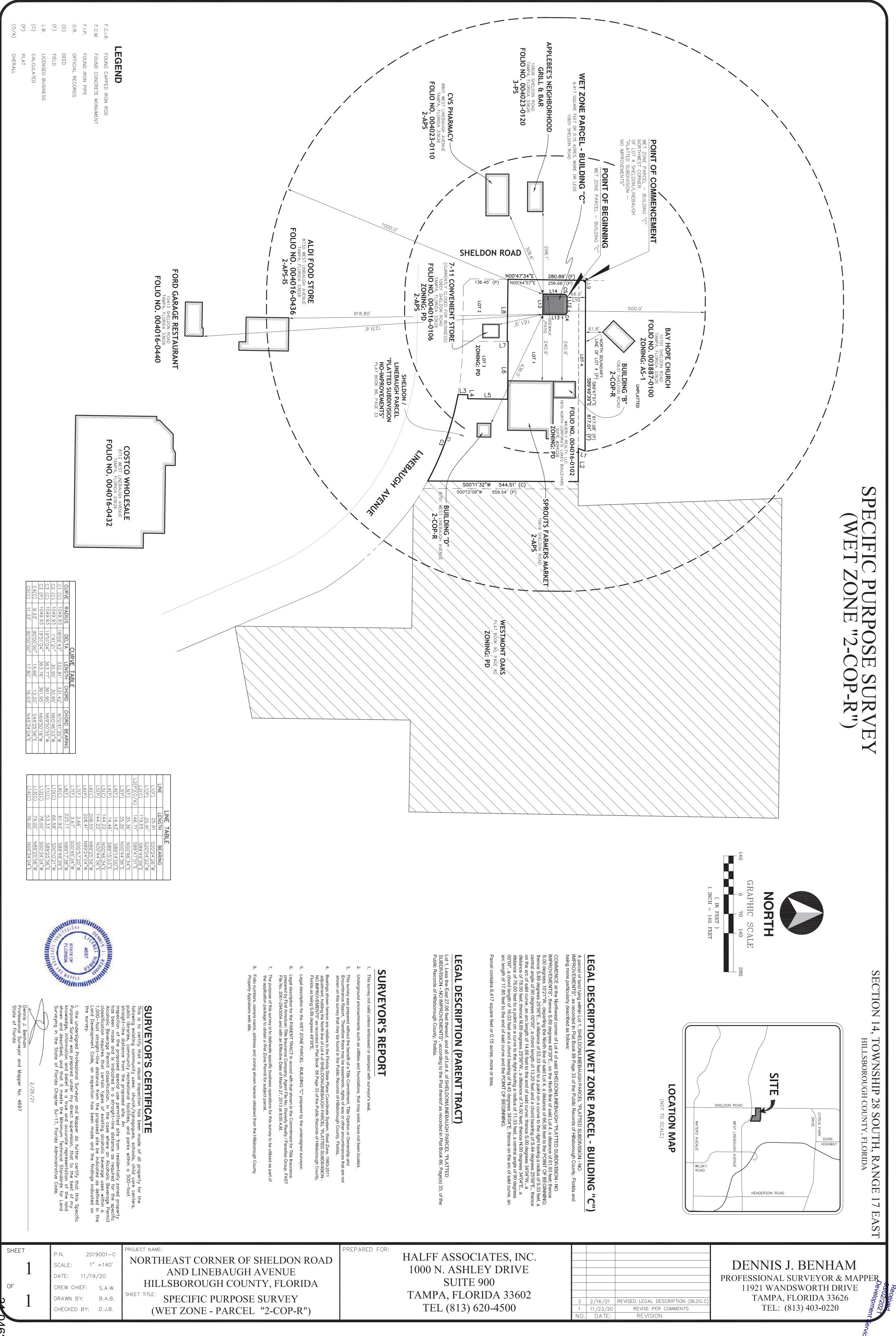
Staff received no objections from the church regarding the proposed separation waiver.

#### 2.0 Recommendation:

For these reasons discussed above, staff finds the proposed wet zoning does not pose significant impacts on surrounding land uses and the necessity for the specified distance separation requirements is negated by the circumstances identified above. Therefore, staff finds the request to be **approvable**, **subject to the condition below**. Approval is based upon the wet-zone survey indicating a total of 6,417 square feet of floor space for the proposed use that was received March 2, 2021.

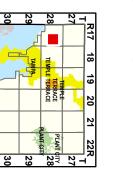
1. Upon approval of Alcoholic Beverage Permit SU-AB 21-0462, the existing 2-COP-R Alcoholic Beverage Permit on the parcel, SU-AB 21-0013, shall be rescinded.

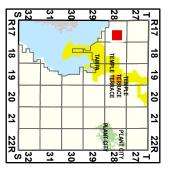
Staff's Recommendation:	Approvable
Zoning Administrator Sign-off:	Tom Hiznay Thu Apr 8 2021 16:05:08



-0462







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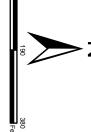
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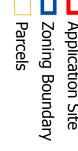
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Immediate Aerial Zoning Map

Date: 03/09/2021 Path: G:\ZONING\GIS\Data\Zoning- Site.aprx rs of this map are hereby notified that the aforementioned public primary informatio rces should be consulted for verification of the information contained on this map.

## ALCOHOLIC BEVERAGE SPECIAL USE DISTANCE WAIVER REQUEST

The Land Use Hearing Officer shall consider a waiver of the distance requirements from certain existing community uses and residentially zoned property, and/or from the maximum number of alcoholic beverage establishments within 1000 feet of the proposed Alcoholic Beverage Special Use. The Land Use Hearing Officer shall consider in connection with each waiver whether special or unique circumstances exist such that the proposed use does not have significant negative impacts on surrounding land uses and whether certain circumstances exist such that the necessity for the specified distance requirement is negated.

This request does not meet the following locational requirements: Please see attached distance waiver request.

The special or unique circumstances that cause the proposed use to not have a significant negative impact on surrounding land uses are:

Please see attached distance waiver request.

The circumstances that negate the need for the specified distance requirement are: Please see attached distance waiver request.

If more than one waiver is required the applicant shall provide a separate Attachment B for each waiver

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### ALCOHOLIC BEVERAGE SPECIAL USE DISTANCE WAIVER REQUEST

The 2-COP-R permit for this site was approved on February 15, 2021, however a correction has been made to the **survey and legal description for the site and we are re-applying for a 2-COP-R permit for this reason**. The distance reduction request for the 2-COP-R permit is for a 66.6-foot distance separation from certain community uses (Bay Hope Church), currently approved at 70.6-feet in the existing 2-COP-R permit. This is a difference of 4-feet due to the building shifting to the north. The building square footage for Building C has also been slightly increased from 6,415 SF to 6,417 SF and includes sidewalks for potential outdoor seating.

<b>Building C - Distance Separation</b>		
Approved	Revised	
70.6-foot distance	66.6-foot distance	
separation	separation	

Building C – Building Square Feet		
Approved	Revised	
6,415 SF	6,417 SF	

#### This request does not meet the following locational requirements:

The request is for a 2-COP-R alcoholic beverage special use permit on the property with tax folio 4016.0102, labeled as Building C on the site plan.

1) The request does not meet distance requirement of 500 feet to a community residential use located to the north (Bay Hope Church).

# The special or unique circumstances that cause the proposed use to not have a significant negative impact on surrounding land uses are:

The subject area is part of a larger mixed-use development (PD 98-1539) consisting of Parcel A, a commercial component approved for 65,000 SF of Commercial General uses, Parcel B, a residential component approved for single family dwelling units, and Parcel C, approved for office use.

The subject site is located within Parcel A which was recently redeveloped with a Sprouts Farmers Market grocery store. In 2019, the subject site was approved for a 2-APS (SU 19-0677) over the entire area for beer and wine to be sold in sealed containers only for consumption off the licensed premises (package sales).

The goal is to redevelop the remainder of the site and revitalize the area. Redevelopment of the site includes the addition of new structure(s) for restaurant and retail uses. As part of this revitalization effort, the property owner wishes to apply for a 2-COP-R permit for **Building C**, which is specifically for beer and wine for sale and consumption on and off the permitted premises (package sales) in connection with a restaurant. The wetzone area includes the sidewalk shown on the survey for potential outdoor seating without blocking the sidewalk.

#### The circumstances that negate the need for the specified distance requirement are:

The distance reduction request for the 2-COP-R permit is for a 66.6-foot distance separation from certain community uses (Bay Hope Church), currently approved at 70.6-feet in the existing 2-COP-R permit. Discussions with the church's pastor regarding the request for the 2-APS distance waiver in 2019 were favorable.



Prepared By/Return To Robert G Cochran, Esq Macfariane Ferguson & McMullen P O Box 1531 Tampa, FL 33601-1531

### INSTR # 2000319174 OR BK 10453 FG 1027

RECORDED 11/03/2000 04:52 PM RICHARD AKE CLERK OF COURT HILLSBORDUGH COUNTY DOC TAX PD (F. S. 201.02) 43,400.00 DEPUTY CLERK B King

**Reserved for Clerk** 

### WARRANTY DEED

THIS INDENTURE, made this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_, 2000, between **TAMPA-SHELDON**, LLC, a Maryland limited liability corporation, whose Tax I D. Number 1s 52-2173332, and whose mailing address 1s 147 Old Solomons Island Road, Suite 210, Annapolis, MD 21401, herein "Grantor", and WAVERLY REALTY, LLC, a limited liability company, whose Tax I D Number 1s 58-2572274, and whose mailing address 1s 2055 Caminito San Nicholas, La Jolla, CA 92037, herein "Grantee",

#### WITNESSETH:

Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10 00), to it in hand paid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and transferred, and by these presents does, bargain, sell and transfer unto Grantee and its designees, successors and assigns forever, all that certain real property bearing Parcel I D. Number <u>3887.0100</u> and <u>3887.000</u>, lying and being in the County of Hillsborough and State of Florida, including all appurtenances thereto (the "Property"), more particularly described as follows:

#### Lot 1, <u>LESS</u> the East 27.06 feet thereof, and all of Lot 4, of SHELDON/ LINEBAUGH PARCEL PLATTED SUBDIVISION-NO IMPROVEMENTS, according to map or plat thereof as same is recorded in Plat Book 86, Page 33, of the Public Records of Hillsborough County, Florida.

TOGETHER WITH all the tenements, hereditaments and appurtenances, with every privilege, right, title, interest and estate, dower and right of dower, reversion, remainder and easement thereto belonging or in anywise appertaining, including without limitation, right in and to various easements for the use of various utilities, and facilities, as set forth in Official Record Book 9840, Page 451, Official Record Book 10152, Page 489, Official Record Book 10164, Page 1757, and Official Record Book 10139, Page 7689, all of the Public Records of Hillsborough County, Florida TO HAVE AND TO HOLD the same in fee simple forever

And Grantor covenants with Grantee that Grantor is lawfully seized of the Property, that the Property is free from all encumbrances except the following. (i) the lien of all taxes for the year 2000, and subsequent years, (ii) Easement in Official Record Book 7178, Page 1989, (iii) Easement

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in favor of Tampa Electric Company recorded in Official Record Book 9423, Page 1651, (iv) Approval and Mitigation Agreement recorded in Official Record Book 9796, Page 1295, (v) Easement and Site Development Agreement recorded in Official Record Book 9840, Page 451, as amended in Official Record Book 10152, Page 489, and Joinder and Consent recorded in Official Record Book 10164, Page 1757, (vi) Declaration of Easements, Covenants and Maintenance Agreement recorded in Official Record Book 10146, Page 912, (vii) Declaration of Easements, Covenants and Covenants recorded in Official Record Book 10146, Page 912, (viii) Wetland conservation area, setback line, and other matters shown on the Plat of Sheldon/Linebaugh Parcel Platted Subdivision, recorded in Plat Book 86, Page 33, (ix) Terms and conditions of unrecorded lease in favor of Kash N' Karry Food Stores, Inc as evidenced by Declaration of Protective Covenants recorded in Official Record Book 10146, Page 912, all of the Public Records of Hillsborough County, Florida, that Grantor has good right and lawful authority to sell the Property, and that Grantor does hereby fully warrant the title to the Property, and will defend the same, against the lawful claims of all persons whomsoever

WITNESS the execution hereof as of the date first written above

Witnesses

(print name beneath signature)

(print name beneath signature)

TAMPA-SHELDON, LLC a Maryland limited liability corporation By: OSPECY Property Grap UC

By Print Name Print Title

STATE OF COUNTY OF

The foregoing instrument was acknowledged before me this  $\frac{3/a^{1}}{a^{1}}$  day of  $\underbrace{October}_{a}$ , 2000, by  $\underbrace{B_{nell}}_{A}$  as  $\underbrace{E_{V,P}}_{a}$  of TAMPA-SHELDON, LLC, a Maryland limited liability corporation,  $\underline{V}$  who is personally known to me, or  $\Box$  who produced the following identification:



NOTARY PUBLIC ORCHID ALICE CONZALEZ

Notary Print/Type Name

Hillsboroug	Received 03/02/2021 Development Service				
SPECIAL USE (ALCOHOLIC BEVERAGE PERMIT)					
(WAIVER REQUIRED)					
<i>IMPORTANT INSTRUCTIO</i> You must schedule an appointment to submit this application All requirements listed on the submittal checklist must	NS TO ALL APPLICANTS: on. To request an appointment please call 813-272-5600. be met. Incomplete applications will not be accepted.				
Property Information     Address:   10651 Sheldon Road   City/State/Zip:   Tampa, FL 33626   TWN-RN-SEC:   14-28-17					
Folio(s): 4016.0102 Zoning: PD	_Future Land Use: <u>R-4</u> Property Size: <u>6.17 ac</u>				
Property Owner Information     Name: Waverly Realty LLC   Daytime Phone:					
Address: 1309 Saxony Road	City/State/Zip:Encinitas, CA 92024				
Email:	FAX Number:				
Applicant Ir					
Name: Same as owner	Daytime Phone:				
Address:	_City/State/Zip:				
Email:	FAX Number:				
Applicant's Representat Name: Isabelle Albert, AICP, Halff Associates, Inc.					
Address: 1000 N Ashley Drive, Suite 900	City / State/Zip: Tampa, FL 33602				
Email: ialbert@halff.com	FAX Number:				
I HEREBY SWEAR OR AFFIRM THAT ALL THE INFORMATION PROVIDED IN THIS APPLICATION PACKET IS TRUE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE, AND AUTHORIZE THE REPRESENTATIVE LISTED ABOVE TO ACT ON MY BEHALF FOR THIS APPLICATION.	I HEREBY AUTHORIZE THE PROCESSING OF THIS APPLICATION AND RECOGNIZE THAT THE FINAL ACTION ON THIS PETITION SHALL BE BINDING TO THE PROPERTY AS WELL AS TO CURRENT AND ANY FUTURE OWNERS.				
Signature of Applicant	Signature of Property Owner				
Isabelle Albert Type or Print Name	Type or Print Name				
Intake Staff Signature: Ana Lizardo Office Us   Case Number: 21-0462 Public Hearing Date: 04/	<i>se Only</i> Intake Date: 03/02/2021 26/2021 Receipt Number: 21-0462				
Type of Application:SU-AB	2072021 Receipt Number. $21-0462$				
Development Services, 601 E Kennedy Blvd. 19 <sup>th</sup> Floor					
Revised 07/02/2014	21-0462				



## PARCEL INFORMATION HILLSBOROUGH COUNTY FLORIDA

Jurisdiction	Unincorporated County	
Zoning Category	Planned Development	
Zoning	PD	
Description	Planned Development	
RZ	98-1539	
Flood Zone:X	AREA OF MINIMAL FLOOD HAZARD	
FIRM Panel	0187H	
FIRM Panel	12057C0187H	
Suffix	Н	
Effective Date	Thu Aug 28 2008	
Pre 2008 Flood Zone	X500	
Pre 2008 Flood Zone	Х	
Pre 2008 Firm Panel	1201120190D	
County Wide Planning Area	Northwest Hillsborough	
Community Base Planning Area	Northwest Hillsborough	
Planned Development	PD	
Re-zoning	null	
Note		
Personal Appearances	07-1994,03-0929,00-1045, 99-1288, 16-1271, 19-0646	
Census Data	Tract: 011412 Block: 2008	
Future Landuse	R-4	
Urban Service Area	USA	
Mobility Assessment District	Urban	
Mobility Benefit District	1	
Fire Impact Fee	Northwest	
Parks/Schools Impact Fee	NORTHWEST	
ROW/Transportation Impact Fee	ZONE 1	
Wind Borne Debris Area	140 MPH Area	
Competitive Sites	NO	
Redevelopment Area	NO	



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