



AGENDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF PORT ORANGE

Meeting Date: Wednesday, April 12, 2017

Time: 9:00 AM

Type of Meeting: Regular

Location: Council Chambers
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Attorney Overview of Special Magistrate Code Enforcement Process
2. Consideration of Minutes of 11/21/16 and 3/22/17

B. FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

3. CEB Case No.: 16-2010

Respondent: Irena Miller Crouch

Address of Violation: 232 N. Brighton Drive, Port Orange, FL 32127

Code Officer: Amanda Bonin

First Notified: 03/09/2017

Compliance: No

Cited for violation(s) - Chapter 42 Nuisances Section 42-26 (d) Maintenance of improved residential lots.

Chapter 3, Section 309 Pest Elimination of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances 309.1 Infestation.

4. CEB Case No.: 16-1870

Respondent: Sharon D. Chaney and Donna J. Stanley

Address of Violation: 748 Herbert Street, Port Orange, FL 32129

Code Officer: Dena Joseph

First Notified: 03/02/2017

Compliance: No

Cited for violation(s) - Chapter 58 (Streets, Sidewalks, and Other Public Places), Article II (Construction in Rights of Way), Section 58-32 (Exemptions), (1) of the City of Port Orange Code of Ordinances:

The following activities shall be exempt from the requirement to obtain a permit under this article:

(1) Installation of mailboxes, except mailboxes constructed of masonry or similar material or by methods more elaborate than a single post.

5. CEB Case No.: 17-0242

Respondent: John H. Clark & Barbara J. Clark

Address of Violation: 301 Lafayette Street, Port Orange, FL 32129

Code Officer: Dena Joseph

First Notified: 02/24/2017

Compliance: Yes

Cited for violation(s) - 1. Chapter 70 (Traffic), Article II (Stopping, Standing and Parking), Section 70-47 (Parking of Commercial vehicles on residential premises), (a), (b) (1), (2) & (3) and (c) (1) of the City of Port Orange Code of Ordinances:

(a) For the purpose of this section, "commercial vehicle" means any vehicle designed, intended, or used for transportation of people or goods as part of a business, except for rental vehicles designed for temporary personal use.

(b) No commercial vehicle shall be parked on residential premises except for the following:

(1) A vehicle making deliveries to or servicing a dwelling unit.

(2) One vehicle, one-ton capacity or less, per dwelling unit which is used by a resident of the dwelling unit as part of a full-time job and which leaves the premises on weekdays.

(3) Any vehicle stored within a completely enclosed garage. When a vehicle is stored pursuant to this paragraph the vehicle engine or associated equipment engine shall not be operated between the hours 9:00 p.m. and 7:00 a.m.

(c) No commercial vehicles shall be parked on the right-of-way adjoining residential premises.

(1) A vehicle servicing or making deliveries to a dwelling unit may stop on the roadway temporarily for the purpose of servicing a dwelling unit or while actually engaged in loading and unloading of merchandise or passengers.

2. Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses & Structures), (e) Outside Storage (1) Residential Uses (a) and (b) of the City of Port Orange Land Development Code:

(a) Outside storage of materials and equipment shall be restricted to the rear yard area and screened by an opaque fence or hedge so that such materials are not visible from any public right-of-way or adjoining lot and

(b) Materials and equipment such as appliances, unlicensed or inoperable motor vehicles, motor vehicle parts, and equipment and materials used as part of a business conducted off-site shall not be stored outside.

6. **CEB Case No.:** 17-0219

Respondent: Nath Florida Franchise Group

Burger King 3926

Address of Violation: 3811 Nova Road, Port Orange, FL 32127

Code Officer: Dena Joseph

First Notified: 02/27/2017

Compliance: Yes

Cited for violation(s) - Chapter 15 (Signs), Section 3 (General Provisions), (d) Construction and Maintenance Standards, (1) Code Compliance, (2) Copy, (3) Structure, (4) Damage and (5) Safety of the City of Port Orange Land Development Code:

(1) All signs shall be constructed and maintained in accordance with the provisions and requirements of the building code, electrical code, and all other applicable codes, ordinances or requirements.

(2) Damaged faces or structural members shall be replaced in a timely manner.

(3) Electrical systems, fasteners, and the sign and structure as a whole shall be maintained at all times in a safe condition.

C. ORDER IMPOSING FINE/LIEN

7. **CEB Case No.:** 16-1483

Respondent: Circle K Stores, Inc.

Address of Violation: 4040 Nova Road

Port Orange, FL 32127

Code Officer: Deborah Faircloth

First Notified: 02/15/2017

Compliance: Yes

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 14, Article VII Commercial Property Maintenance Standards, Section 14-313 Inspections, enforcement, appeals (b), Section 14-314 Landscaping and buffers - Maintenance

criteria, Section 14.315 Replacement criteria, Section 14-317 Parking, sidewalk and driveway areas (2), Section 14-318 Other property improvements; maintenance criteria (b) Signs (d) Trash, litter and debris.

8. CEB Case No.: 17-139

Respondent: Eva Ivie

Address of Violation: 27 Golden Gate Circle
Port Orange, FL 32129

Code Officer: Amanda Bonin

First Notified: 02/02/2017

Compliance: No

Cited for violation(s) - City of Port Orange Code of Ordinances Chapter 42, Article 2, Section 42-26. Cleanliness of property generally - Duty of owner. (f)

City of Port Orange Code of Ordinances Chapter 42, Article 2, Section 42-32. Storage of vehicles, furniture, etc.

D. PUBLIC COMMENTS

E. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE **CODE ENFORCEMENT SPECIAL MAGISTRATE** WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
MARCH 22, 2017

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Fuller at 9:00 a.m.

PRESENT: David Fuller, Jr., Special Magistrate

ALSO PRESENT: Deborah Faircloth, Interim Code Enforce. Mgr
Fran Gosnell, Sr. Administrative Assistant

Attorney Overview of Special Magistrate Code Enforcement Process

Special Magistrate Fuller stated that since there were no members of the public at this time, he would dispense with the overview of the Code Enforcement Process.

Consideration of Minutes

Special Magistrate Fuller approved the February 22, 2017 meeting minutes as signed and approved by Special Magistrate Branch.

Special Magistrate Fuller approved the Regular Meeting Minutes of March 8, 2017 as presented.

Oaths

Interim Code Enforcement Manager Deborah Faircloth was sworn in by Special Magistrate Fuller.

ORDER IMPOSING FINE/LIEN

3. CEB Case No.: 16-1638

Respondent: George Morgan & Ethel M. Morgan

Address of Violation: 709 Sheldon Circle, Port Orange, FL 32127

Code Officer: Deborah Faircloth

First Notified: 12/21/2016

Compliance: Yes

Cited for violation(s) - City of Port Orange Code of Ordinances, Chapter 32, Article II, Section 32-26(d)(f);

Chapter 3, Section 304.1.1 (7 & 8) (Unsafe Conditions) of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Land Development Code;

Chapter 3, 304.2 Protective Treatment, Section 304.5 Foundation Walls, 304.6 Exterior walls, 304.7 Roofs and drainage, 304.10 Stairways, decks, porches, and balconies, 304.15 Doors, 304.18 Building Security; and

Chapter 42, Article V, Division 3, Abatement of Unsafe Structures of the City of Port Orange Code of Ordinances.

Deborah Faircloth, Code Compliance Inspector, was sworn in by Special Magistrate Fuller. Ms. Faircloth requested an Order Setting Fine/Lien in the amount of \$4,600.00 to Ameritech Homes, Inc. for abatement provided by the vendor, and the cost sheet in the amount of \$169.24. Ms. Faircloth provided the Affidavit of Non-Compliance and Affidavit of Compliance.

The cost sheet in the amount of \$169.24 and Ameritech Homes, Inc. invoice in the amount of \$4,600.00 was tendered and admitted into evidence by Special Magistrate Fuller for the combined total of \$4,769.24.

Special Magistrate Fuller awarded costs of \$169.24 and vendor invoice in the amount of \$4,600.00 for abatement as recommended.

PUBLIC COMMENTS – There were no public comments.

ADJOURNMENT – 9:15 a.m.

Special Magistrate David D. Fuller, Jr.

PORT ORANGE CODE ENFORCEMENT
SPECIAL MAGISTRATE MINUTES
COUNCIL CHAMBERS
1000 CITY CENTER CIRCLE
NOVEMBER 21, 2016

THE SPECIAL MAGISTRATE HEARING of the City of Port Orange was called to order by Special Magistrate Fuller at 9:11 a.m.

PRESENT: David Fuller, Special Magistrate

ALSO PRESENT: Dena Joseph, Code Compliance Inspector
Chris Hutchison, Code Enforcement Manager
Robin Fenwick, City Clerk

Oaths

Code Compliance Inspector Dena Joseph was sworn in by City Clerk, Robin Fenwick.

FORMAL HEARING (COMPLIANCE OR NON-COMPLIANCE)

2. **CEB Case No.:** 16-1677

Respondent: Karen Baker Antico TR Eva Baker Revoc Trust

Address of Violation: 831 McDonald Road, Port Orange, FL 32129

Code Officer: Dena Joseph

First Notified: 11/08/2016

Compliance: No

Cited for violation(s) - Chapter 42 (Nuisances), Article II (Sanitary Conditions), Section 42-54 (Sanitary Nuisance Prohibited) of the City of Port Orange Code of Ordinances;

Chapter 42 (Nuisances), Article V (Unsafe Conditions), Division 3 (Abatement of Unsafe Structures), Section 42-108 (Unsafe Conditions, Nuisance, (a), (4) of the City of Port Orange Code of Ordinances;

Chapter 42 (Nuisances), Article II (Garbage, waste, trash, etc. prohibited), Section 42-26 (Cleanliness of Property Generally-Duty of Owner), (d) Maintenance of Improved Residential Lots of the City of Port Orange Code of Ordinances;

Chapter 42 (Nuisances), Article II (Garbage, waste, trash, etc. prohibited), Section 42-26 (Cleanliness of Property Generally-Duty of Owner), (f) Garbage, waste, trash, etc. prohibited of the City of Port Orange Code of Ordinances;

Chapter 3 (General Requirements), Section 309 (Pest Elimination), 309.1 (Infestation)

of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances;

Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 504 (Plumbing Systems and Fixtures), 504.3 (Plumbing System Hazards) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances; and

Chapter 5 (Plumbing Facilities and Fixture Requirements), Section 505 (Water System), 505.1 (General) of the International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances.

 *Dena Joseph, Code Compliance Inspector, was sworn in by City Clerk, Robin Fenwick, and testified as to the condition of the property and the notices provided to the property owner. The violation was to be corrected on or before November 18, 2016 by removing all garbage, junk, trash, debris, fecal and urine matter, food, waste, etc. inside the home, garage, and exterior of the home; fumigating for rodents and insects and sanitizing the entire dwelling; cutting of yard to include removal of all fallen trees and limbs; repairing of or shutting off of refrigerator line inside home that caused leak and sanitizing the carpet and floors inside the residence, and re-connecting to city water source. Ms. Joseph presented photographs she took of the residence and tendered them into evidence. She requested the violations be considered a health, safety, and welfare issue. Arlene Munch is the daughter of the homeowner. She has recreated all of the issues within the home.*

 *Beverly Williams, Department of Children and Families Case Manager for Arlene Munch, was sworn in by Special Magistrate Fuller, and testified as to their efforts made to clean the home for Ms. Munch in September 2016. Ms. Munch brings everything back into the home after it is cleaned.*

Special Magistrate Fuller asked what authority Ms. Munch has to live in the home. Michael Ciochetti, Code Enforcement Attorney, advised that the mother should have a guardian appointed in the near future. Currently, no one is sure if Ms. Munch has permission to live in the home. Once the guardian is appointed, permission can be determined.

 *Robyn Adair, 833 McDonald Road, is the direct neighbor. She was sworn in by the City Clerk and testified as to the condition of the property and Ms. Munch's actions.*

 *Ms. Joseph recommended the property owner be found in violation of the above referenced codes with the violations to be corrected on or before December 1, 2016 as discussed above. If the property owner does not comply with this Order, Ms. Joseph recommends a one-time fine of \$500.00 be imposed against the property owner. She recommends abatement by the City if the property owner does not comply with the Order. She also requested costs in the amount of \$49.02 be awarded against the*

property owner. The Cost Sheet was submitted for evidence and accepted by Special Magistrate Fuller, who also admitted the photographs into evidence.

 *Special Magistrate Fuller granted the recommendations of the Code Enforcement Inspector as presented with the necessary corrections. The property owner is ordered to contact Ms. Joseph for re-inspection of the property to verify compliance with the Order. The City is authorized to hire a vendor to abate the violations with the costs to be awarded to the City.*

ADJOURNMENT – 9:52 a.m.

Special Magistrate David Fuller

Case Cost Sheet Log

Case No. 16-2010

Name	Activity	Activity_Date	Status	Cost
Irena Miller Crouch	Costs to mail- regular/certified - Notice of Violation and Notice of Hearing to PO Box 290565, Port Orange, FL 32127	03/24/2017	Certified mail returned with signature of Irena Crouch	\$7.02
Clerk of Court	Fee to record Finding of Fact, Conclusion of Law, & Order	04/12/2017		\$27.00

Total: \$7.02



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-2010

To: Irena Miller Crouch
PO BOX 290565
Port Orange, FL 32127

Re: 232 N Brighton Drive
Port Orange, FL 32127
Parcel ID: 6321-01-05-0050

LEGAL DESCRIPTION: LOT 5 CAMBRIDGE SUB UNIT V MB 33 PG 140 PER OR 2360 PG 1043
Volusia County Public Records
Volusia County, FL

An inspection of the premises on December 20, 2016, indicates that certain violation(s) of the City of Port Orange Code exists.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by April 1, 2017.

Briefly stated, the property is in violation of the following:

City of Port Orange Code of Ordinances Chapter 42 Nuisances Section 42-26 (d) Maintenance of improved residential lots. The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas.

The entire property needs to be mowed and all high weeds and grass trimmed. The back yard is extremely overgrown and in need of routine maintenance. This is visible from other neighboring properties.

Chapter 3, Section 309 Pest Elimination of the 2015 International Property Maintenance Code as adopted per Chapter 14, Article II of the City of Port Orange Code of Ordinances

309.1 Infestation. Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent re-infestation.

There is a large bee hive on the outside of the home will need to be removed. The bees can either be safely removed or exterminated. The hive is hanging off of the back of the home which is also visible from neighboring properties.

Attachments: ☒ Copy of code

☒ Copy of Deed

☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to

\$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate April 12, 2017, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 7.02 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **April 12, 2017**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **May 24, 2017, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506-5616.

DATED this 9th day of March, 2017.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: Amanda Bonin
Amanda Bonin

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Irena Miller Crouch 232 N Brighton Drive Port Orange, FL 32127, RE: 232 N Brighton Drive Port Orange, FL 32127, was

☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 9th day of March, 2017.

Time: approx. 1:20pm

Amanda Bonin
Amanda Bonin

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Irena Miller Crouch PO BOX 290565 Port Orange, FL 32127, RE: 232 N Brighton Drive Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 10 day of March, 2017.

Frances Gornell
Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1870

To: Sharon D. Chaney &
Donna J. Stanley
Property Owners
748 Herbert Street
Port Orange, FL 32129

Re: 748 Herbert Street
Port Orange, FL 32129
Parcel ID: 6337-01-22-0013

LEGAL DESCRIPTION: N 195 FT ON E/L OF N 187 FT ON W/L OF E 100 FT OF W 1685 FT OF SUGAR HOUSE RESERVATION S OF
NEW RD DUNLAWTON PER OR 3217 PG 0052 PER OR 7184 PG 4205
Volusia County Public Records
Volusia County, FL

An inspection of the premises on **November 18, 2016**, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 10 days to correct. A re-inspection was done on **January 10, 2017**,
and again on **March 1, 2017** resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by March 17, 2017.

Briefly stated, the property is in violation of the following:

1. Chapter 58 (Streets, Sidewalks, and Other Public Places), Article II (Construction in Rights of Way), Section 58-32 (Exemptions),
(1) of the City of Port Orange Code of Ordinances:

The following activities shall be exempt from the requirement to obtain a permit under this article:

- (1) Installation of mailboxes, except mailboxes constructed of masonry or similar material or by methods more elaborate than a single post.
- An inspection was conducted at this location after receiving a complaint concerning a masonry structure built around the mailbox at this address. Mailbox was more than the "single post" type so I left a 10 day door hanger informing resident that they must obtain a permit for the structure. On November 29, 2016, Donna Stanley (owner) came in and stated that she would apply for a permit. As of this date, no further action has occurred on this case. Property owner will need to come in and apply for the proper permits.

Attachments: ☒ Copy of code ☒ Copy of Deed ☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the Special Magistrate April 12, 2017, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 2 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on April 12, 2017, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Special Magistrate on May 24, 2017, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506- 5645.

DATED this 2nd day of March, 2017.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: Dena Joseph
Dena Joseph, Code Compliance Inspector

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Sharon D. Chaney & Donna J. Stanley, Property Owners, 748 Herbert Street, Port Orange, FL 32129, RE: 748 Herbert Street, Port Orange, FL 32129, was

☒ Hand-delivered
☐ Posted at the property

Recipient of hand delivered documents: Amanda Stanley

Time: approx. 1:20

this 2nd day of March, 2017.

Dena Joseph
Dena Joseph, Code Compliance Inspector

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Sharon D. Chaney & Donna J. Stanley, Property Owners, 748 Herbert Street, Port Orange, FL 32129, RE: 748 Herbert Street, Port Orange, FL 32129, was

☒ Posted at City Hall
☒ Sent via certified and regular

this 6th day of March, 2017.

Frances Gasnell
Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.

Sec. 58-32. - Exemptions.

The following activities shall be exempt from the requirement to obtain a permit under this article:

- (1) Installation of mailboxes, except mailboxes constructed of masonry or similar material or by methods more elaborate than a single post.
- (2) Installation of sod or grass seed, or top dressing of lawns.
- (3) Initial installation of utilities located in new subdivisions pursuant to a development order.
- (4) Initial installation of utilities associated with a commercial site development plan specifically shown on design drawings pursuant to a development order.
- (5) Installation of driveways pursuant to a building permit.
- (6) Installation of landscaping material in compliance with section 58-41 of this article and city policy.
- (7) Installation of utilities, signs, or other improvements by the city or its employees, agents or contractors.
- (8) Minor work performed by employees of a franchised utility or cable operator, provided that such minor work does not exceed a level of activity as follows:
 - a. No paved surface is disturbed.
 - b. No city utilities are disturbed.
 - c. Sodded or grassed area to be disturbed does not exceed 20 square feet.
 - d. No work extends under a paved surface, including boring or pushing utilities or sleeves under a paved surface.
 - e. No specimen tree, as defined in chapter 9 of the land development code, is cut, removed, or otherwise disturbed.
 - f. No excavation remains open longer than 72 hours, and all excavations are properly barricaded.

(Ord. No. 1992-27, § 3, 8-25-92; Ord. No. 1995-47, § 2, 1-16-96)



NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 17-0242

To: John H. Clark & Barbara J. Clark
Property Owners
313 Magnolia Street
Port Orange, FL 32129

Re: 301 Lafayette Street
Port Orange, FL 32127
Parcel ID: 6303-14-05-0010

LEGAL DESCRIPTION: E 125 FT OF LOT 1 BLK E VIRGINIA HEIGHTS PORT ORANGE MB 9 PG 92 PER OR 4039 PGS 4801-4802
PER D/C 6465 PG 0282 PER OR 6465 PGS 0284-0285

Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 22, 2017, indicates that certain violation(s) of the City of Port Orange Code exists.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by March 6, 2017.

Briefly stated, the property is in violation of the following:

1. Chapter 70 (Traffic), Article II (Stopping, Standing and Parking), Section 70-47 (Parking of commercial vehicles on residential premises), (a), (b) (1), (2) & (3) and (c) (1) of the City of Port Orange Code of Ordinances:
 - (a) For the purpose of this section, "commercial vehicle" means any vehicle designed, intended, or used for transportation of people or goods as part of a business, except for rental vehicles designed for temporary personal use.
 - (b) No commercial vehicle shall be parked on residential premises except for the following:
 - (1) A vehicle making deliveries to or servicing a dwelling unit.
 - (2) One vehicle, one-ton capacity or less, per dwelling unit which is used by a resident of the dwelling unit as part of a full-time job and which leaves the premises on weekdays.
 - (3) Any vehicle stored within a completely enclosed garage. When a vehicle is stored pursuant to this paragraph the vehicle engine or associated equipment engine shall not be operated between the hours 9:00 p.m. and 7:00 a.m.
 - (c) No commercial vehicles shall be parked on the right-of-way adjoining residential premises.
 - (1) A vehicle servicing or making deliveries to a dwelling unit may stop on the roadway temporarily for the purpose of servicing a dwelling unit or while actually engaged in loading and unloading of merchandise or passengers.
- Property inspected after receiving a complaint concerning storage of (3) large commercial bucket trucks on the residence. Inspection revealed a F450 Super Duty commercial vehicle with (SLR Communications, Inc.-Contractor for Bright House Networks) written on the door. I have also viewed a much larger commercial truck at this location. The resident was told during an inspection on 12/21/16 that commercial vehicles, 1 ton or less capacity, are the only ones that can be stored on site and that his exceed the allowable weight and could not be parked at the residence. He continues to store these vehicles on this property.
2. Chapter 16 (Miscellaneous Regulations), Section 1 (Accessory Uses & Structures), (e) Outside Storage (1) Residential Uses (a) and (b) of the City of Port Orange Land Development Code:
 - (a) Outside storage of materials and equipment shall be restricted to the rear yard area and screened by an opaque fence or hedge so that such materials are not visible from any public right-of-way or adjoining lot and
 - (b) (b) Materials and equipment such as appliances, unlicensed or inoperable motor vehicles, motor vehicle parts, and equipment and materials used as part of a business conducted off-site shall not be stored outside
- Inspection revealed large spools of electrical wire on site. Once again, the resident was informed during inspection on 12/21/16 that storage of these materials are not allowed on the property unless they are behind the fence. Resident continues to store commercial materials on the outside of the property.

Attachments: ☒ Copy of code ☒ Copy of Deed ☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate April 12, 2017, at 9:00 a.m.** or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 1,444 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on April 12, 2017, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate on May 24, 2017, at 9:00 a.m.** or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506- 5645.

DATED this 24th day of February, 2017.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: Dena Joseph
Dena Joseph, Code Compliance Inspector

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to John H. Clark & Barbara J. Clark, 313 Magnolia Street, Port Orange, FL 32129, RE: 301 Lafayette Street, Port Orange, FL 32127, was

☒ Hand-delivered

Recipient of hand delivered documents:

Todd Gation

☐ Posted at the property

Time: approx. 1:00 PM

this 24th day of February, 2017.

Dena Joseph
Dena Joseph, Code Compliance Inspector

1:47 pm m 2/27/17 - hand delivered to Mr. John Clark (owner)

☐ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to John H. Clark & Barbara J. Clark, 313 Magnolia Street, Port Orange, FL 32129, RE: 301 Lafayette Street, Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 28th day of February, 2017.

Frances Gosnell
Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



Volusia County Property Appraiser

Larry Bartlett, J.D.

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Parcel Information: 6303-14-05-0010 **2017 Working Tax Roll** Last Updated: 02-19-2017

Owner Name and Address

Alternate Key	3579721	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6303-14-05-0010	Mill Group	402 Port Orange
Full Parcel ID	03-16-33-14-05-0010	2016 Final Mill Rate	20.05190
Created Date	30 DEC 1981		
Property Class	01 Single Family		
Ownership Type		Ownership Percent	100
Owner Name	CLARK JOHN H & BARBARA J		
Owner Name/Address 1			
Owner Address 2	313 MAGNOLIA ST		
Owner Address 3	PORT ORANGE FL		
Owner Zip/Postal Code	32129		
Situs Address	301 LAFAYETTE ST PORT ORANGE 32127		

Legal Description

E 125 FT OF LOT 1 BLK E VIRGINIA HEIGHTS PORT ORANGE MB 9 PG 92 PER OR 4039 PGS 4801-4802 PER D/C 6465 PG 0282 PER OR 6465 PGS 0284-0285

Sales History

Book Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
6465 0284	04/2010	Warranty Deed	Qualified Sale	Yes	82,000
4039 4801	09/1995	Warranty Deed	Qualified Sale	Yes	54,000
3979 1646	01/1995	Quit Claim Deed	Affiliated Parties	Yes	100
3872 2546	09/1993	Quit Claim Deed	Affiliated Parties	Yes	1,000
2290 1643	08/1981	Warranty Deed	Qualified Sale	Yes	51,000
1492 0566	10/1972	Warranty Deed	Qualified Sale	Yes	14,400

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2016	16,380	67,108	9,755	93,243	93,243	89,320	0	93,243	0	89,320
2015	15,750	57,126	9,610	82,486	82,486	81,200	0	82,486	0	81,200

[Display Value History](#)

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
0101 IMP PVD THRU .49 AC		63.0	125.0	63.00	FRONT FEET	260.00	100	100	100	100	16,380
Neighborhood	5753 DAGWOOD ACRES (6341-01)--KERR										
	Total Land Classified										0
	Total Land Just										16,380

Building Characteristics

Building Number: 111038 (Building 1 of 1)

Bldg. No.	Improvement Type	Base Perimeter	Year Built	Quality Grade	Architecture	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
111038	Single Family	144	1963	300		35%	0%	0%	2999
Roof Type	GABLE	Floors	Terrazzo Monol		Bedrooms	2	4 Fixture Bath		0
Roof Cover	ASPHALT SHINGL	Wall Type	Plaster		X Fixture Bath	0	5 Fixture Bath		0
Heat Type1	Forced Ducted	Heat Source1	Electricity		2 Fixture Bath	1	6 Fixture Bath		0
Heat Type2		Heat Source2			3 Fixture Bath	1	7 Fixture Bath		0
Foundation		Year Remodeled			Fireplaces	0	A/C		Yes
Section Number	Area Type	Exterior Wall Type	Number Stories	Year Built	Attic Finish	Bsmt Area	Bsmt Finish	Floor Area	
001 Res BASE Area (BAS)		COMMON BRICK	1.0	1963	N	0%	0%	1023 Sq. Feet	
002 Finished Enclosed Porch (FEP)		Non-Applicable	1.0	1963	N	0%	0%	128 Sq. Feet	
003 Finished Garage (FGR)		Non-Applicable	1.0	1963	N	0%	0%	298 Sq. Feet	
004 Porch, Open Finished (FOP)		Non-Applicable	1.0	1997	N	0%	0%	84 Sq. Feet	
005 Porch, Open Unfinished (UOP)		Non-Applicable	1.0	1997	N	0%	0%	128 Sq. Feet	

Prepared By and Returned To:
Courtney R. Perry
Watson Title Services, Inc.
1435 West S.R. 434, Suite 109
Longwood, FL 32750
(407) 645-1310
File Number: 3100743
Incident to the issuance of a title insurance contract.

04/13/2010 03:12 PM
Doc stamps 574.00
(Transfer Amt \$ 82000)
Instrument# 2010-065589 # 1
Book : 6465
Page : 284

THIS WARRANTY DEED

Made this **2nd day of April, 2010** by
BETTY J. NESS, A SINGLE WOMAN

hereinafter called the grantor, to
JOHN H. CLARK AND BARBARA J. CLARK,
HUSBAND AND WIFE

whose post office address is:
830 LAKELAND DRIVE
PORT ORANGE, FL 32127

hereinafter called the grantee:
(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the grantor, for and in consideration of the sum of **\$10.00** and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in **VOLUSIA** County, Florida, viz:

THE EASTERLY 125 FEET OF LOT 1, BLOCK E, AMENDED PLAN OF VIRGINIA HEIGHTS, A SUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED AT MAP BOOK 9, PAGE 92, IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

Subject to covenants, restrictions, easements of record and taxes for the current year.

Parcel Identification Number: 6303-14-05-0010

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to **December 31, 2009**.

IN WITNESS WHEREOF, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

[Signature]
Witness #1: (Signature)

Print Name: Carey Ness

[Signature]
Witness #2: (Signature)

Print Name: Cari L. Crook

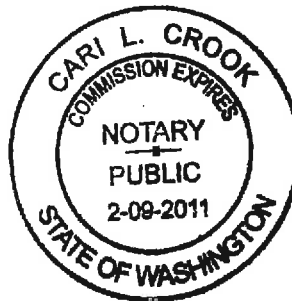
[Signature]
BETTY J. NESS
1293 STATE AVENUE
MARYSVILLE, WA 98270-3601

Instrument# 2010-065589 # 2
Book: 6465
Page: 285
Diane M. Matousek
Volusia County, Clerk of Court

State of Washington
County of Snohomish

The foregoing instrument was acknowledged before me this 24 day of MARCH, 2010, by
BETTY J. NESS, A SINGLE WOMAN,
who is personally known to me or who has produced Washington Driver Lic as identification.
NESS # BJ 603JA

[Signature]
NOTARY PUBLIC (Signature)
Print Name: Cari L. Crook
My Commission Expires: 02-09-2011
Stamp/Seal:



Sec. 70-47. - Parking of commercial vehicles on residential premises.

- (a) For the purpose of this section, "commercial vehicle" means any vehicle designed, intended, or used for transportation of people or goods as part of a business, except for rental vehicles designed for temporary personal use.
- (b) No commercial vehicle shall be parked on residential premises except for the following:
 - (1) A vehicle making deliveries to or servicing a dwelling unit.
 - (2) One vehicle, one-ton capacity or less, per dwelling unit which is used by a resident of the dwelling unit as part of a full-time job and which leaves the premises on weekdays.
 - (3) Any vehicle stored within a completely enclosed garage. When a vehicle is stored pursuant to this paragraph the vehicle engine or associated equipment engine shall not be operated between the hours 9:00 p.m. and 7:00 a.m.
- (c) No commercial vehicles shall be parked on the right-of-way adjoining residential premises.
 - (1) A vehicle servicing or making deliveries to a dwelling unit may stop on the roadway temporarily for the purpose of servicing a dwelling unit or while actually engaged in loading and unloading of merchandise or passengers.

(Ord. No. 1993-40, § 1, 9-28-93; Ord. No. 2001-48, § 1, 7-24-01)

Section 1: - Accessory uses and structures.

- (a) *In general.* Specific accessory uses and structures shall comply with the following regulations.
- (b) *Principal use and/or principal structure required.* Accessory uses and structures shall:

- (1) Be customarily incidental to the principal use established on the same lot;
- (2) Be subordinate to and serve such principal use;
- (3) Be subordinate in area, extent and purpose to such principal use; and
- (4) Contribute to the comfort, convenience or necessity of users of such principal use.

No accessory structure or use shall be permitted on any lot which does not have an established principal use conforming to the requirements of this code. No accessory structure shall be permitted on any lot which does not have a permitted principal structure.

- (c) *General provisions.*

- (1) Outdoor storage shall be prohibited, except as specifically permitted herein.
- (2) Signs, fences, walls, parking and loading areas, and other such features which are typically located within required yard areas shall comply with the applicable provisions of this code for such uses and structures.
- (3) Any specific accessory use or structure which is not addressed within this chapter shall not be located on any lot.

- (d) *Size limitations.* Any residential accessory structure in a residential zoning district shall be required to comply with the following conditions:

- (1) The size of the accessory residential structure shall not cause the building coverage on the lot to exceed the maximum building coverage established for the zoning district;
- (2) In the event that this code does not establish a maximum building coverage for a zoning district, the maximum building coverage shall be based on the most similar zoning district, as determined by the administrative official;
- (3) The accessory residential structure shall not be located within any required yard, unless otherwise permitted by this chapter. Additionally, no accessory residential structure shall be permitted in the front yard, unless specifically permitted by this code;
- (4) No accessory residential structure shall be used as a guest house, apartment, or other residential quarters, unless otherwise permitted by this code; and
- (5) No accessory residential structure shall be used in any manner for a home occupation, except for the storage of customary homeowner tools and equipment.

- (e) *Outside storage.* Outside storage of new and used equipment and materials shall be

regulated as follows.

(1) *Residential uses.*

- (a) Outside storage of materials and equipment shall be restricted to the rear yard area and screened by an opaque fence or hedge so that such materials are not visible from any public right-of-way or adjoining lot.
- (b) Materials and equipment such as appliances, unlicensed or inoperable motor vehicles, motor vehicle parts, and equipment and materials used as part of a business conducted off-site shall not be stored outside. This prohibition shall not apply to licensed and operable motor vehicles, boats, recreational vehicles and other such vehicles which are merely being parked on-site. However, such vehicles shall be subject to other provisions of this code, such as those relating to driveways, which may regulate or restrict their location on site.

(2) *Office uses.* Outside storage of equipment or materials shall not be permitted for office uses.

(3) *Commercial uses.* Outside storage of equipment and materials shall be permitted only when associated with a commercial use. Additional restrictions are specified below.

- (a) Display of landscape or garden supplies, outdoor recreational equipment, and lawn equipment shall be located in designated areas approved for such display as part of a development plan.
- (b) Display of new and used motor vehicles, boats, recreational vehicles, mobile homes and other such vehicles shall be located in designated areas approved for such display as part of a development plan.
- (c) Storage of licensed and operable motor vehicles, boats, recreational vehicles, tractor trailers, storage trailers and other such vehicles shall be located in designated areas approved for such storage as part of a development plan and out of view from any abutting rights-of-way, private streets, waterways and residential uses. For sites without an approved development plan otherwise operating in compliance with this code, storage of such vehicles shall be located on a part of the site out of view from any abutting rights-of-way, private streets, waterways and residential uses.
- (d) Display setups of products customarily used out of doors such as pools, spas, lawn furniture, concrete fixtures and other similar items shall be limited to one of any one product or model.
- (e)



NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 17-0219

To: Nath Florida Franchise Group
Burger King 3926
P.O. Box 020783 Property Tax
Miami, FL 33102-0783

Re: 3811 Nova Road
Port Orange, FL 32127

Parcel ID: 6309-00-06-0013

LEGAL DESCRIPTION: 9 16 33 PARCEL IN GOVT LOT 6 S OF ST RD 415 & E OF NOVA RD BEING N 146.50 MEAS ON NOVA RD OF
W 174.02 FT MEAS ON S LINE PER OR 2449 PG 1435

Volusia County Public Records
Volusia County, FL

An inspection of the premises on February 16, 2017, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 5 days to correct. A re-inspection was done on February 22, 2017 resulting in non-compliance.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by March 9, 2017.

Briefly stated, the property is in violation of the following:

1. Chapter 15 (Signs), Section 3 (General Provisions), (d) Construction and Maintenance Standards, (1) Code Compliance, (2) Copy, (3) Structure, (4) Damage and (5) Safety of the City of Port Orange Land Development Code:
 - (1) All signs shall be constructed and maintained in accordance with the provisions and requirements of the building code, electrical code, and all other applicable codes, ordinances or requirements.
 - (2) Damaged faces or structural members shall be replaced in a timely manner.
 - (3) Electrical systems, fasteners, and the sign and structure as a whole shall be maintained at all times in a safe condition.
 - After receiving numerous complaints concerning a missing panel on the monument sign, I made contact with restaurant managers, district managers, corporate office, etc. to find out about the status of the replacement of the panel. I was told that the panel had to be special ordered. After many months of nothing occurring, I contacted the district office and was told that they would contact the sign company and get back with me. I was never contacted back after this phone call and the panel is still missing from the sign.

Attachments: ☒ Copy of code ☒ Copy of Deed ☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate April 12, 2017, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 7.23 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **April 12, 2017**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate on May 24, 2017, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506- 5645.

DATED this 27th day of February, 2017.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: Dena Joseph
Dena Joseph, Code Compliance Inspector

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to **Nath Florida Franchise Group, Burger King 3926, P.O. Box 020783 Property Tax, Miami, FL 33102-0783**, RE: 3811 Nova Road, Port Orange, FL 32127, was

☒ Hand-delivered
☐ Posted at the property

Recipient of hand delivered documents:

Jorge Leal-Manager

Time: approx. 4:01 pm

this 27th day of February, 2017.

Dena Joseph
Dena Joseph, Code Compliance Inspector

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to **Nath Florida Franchise Group, Burger King 3926, P.O. Box 020783 Property Tax, Miami, FL 33102-0783**, RE: 3811 Nova Road, Port Orange, FL 32127, was

☒ Posted at City Hall
☒ Sent via certified and regular

this 28th day of February, 2017.

Frances Gosnell
Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.


Volusia County
Property Appraiser
Larry Bartlett, J.D.

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Parcel Information: 6309-00-06-0013 **2017 Working Tax Roll** Last Updated: 02-25-2017

Owner Name and Address

Alternate Key	3606574	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6309-00-06-0013	Mill Group	402 Port Orange
Full Parcel ID	09-16-33-00-06-0013	2016 Final Mill Rate	20.05190
Created Date	31 DEC 1981		
Property Class	22 Drive-In Restaurants		
Ownership Type			Ownership Percent 100
Owner Name	NATH FLORIDA FRANCHISE GROUP		
Owner Name/Address 1	BURGER KING 3926		
Owner Address 2	PO BOX 020783 PROPERTY TAX		
Owner Address 3	MIAMI FL		
Owner Zip/Postal Code	33102-0783		
Situs Address	3811 NOVA RD PORT ORANGE 32127		

Legal Description
 9 16 33 PARCEL IN GOVT LOT 6 S OF ST RD 415 & E OF NOVA RD BEING N 146.50 MEAS ON NOVA RD OF W 174.02 FT MEAS ON S LINE PER OR 2449 PG 1435

Sales History

Book Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
2449 1435	05/1983	Warranty Deed	Qualified Sale	Yes	290,000
2129 0732	12/1979	Warranty Deed	Qualified Sale	No	150,000

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2016	138,155	232,325	13,927	384,407	384,407	384,407	0	384,407	0	384,407
2015	138,155	205,927	14,007	358,089	358,089	358,089	0	358,089	0	358,089

Display Value History

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
2200	DRIVE-IN	0.0	0.0	27631.00	SQUARE_FEET	5.00	100	100	100	100	138,155
Neighborhood C5503 NOVA S OF DUNLAWTON TO US1											
Total Land Classified											0
Total Land Just											138,155

Building Characteristics
 Building Number: 113586 (Building 1 of 1)

Bldg. No.	Property Type	Structure Type	Perimeter	Year Built	Quality Grade	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
113586	Commercial	Concrete or Masonry	778	1983	350	37%	0%	0%	2999

Section Number	Avg. Wall Height	Number Stories	Year Built	Bsmnt%	Ground Floor Area	Interior Finish	Sect%	Sprinkler	A/C
005	10.00	1	1983	0.00	2792	Restaurant, Drive-in, FF (22C)	100.00	No	Yes
006	20.00	1	1996	0.00	960	Restaurant, Drive-in, FF (22C)	100.00	No	Yes
007	10.00	1	1983	0.00	16	Canopy (CAN)	0.00	No	No
008	10.00	1	1983	0.00	52	Canopy (CAN)	0.00	No	No

Exterior Wall Type

41 Concrete Block, Wood Siding	6%
42 Concrete Block, Brick Veneer	94%

Building Refinements

Description	Number of Units	Unit Type
Baths, 3-Fixture		1 UB
Baths, 4-Fixture		1 UB
Extra Fixture		4 UB

- (d) *Construction and maintenance standards.* All permitted signs shall be constructed and maintained in accordance with the following standards:
- (1) *Code compliance.* All signs shall be constructed and maintained in accordance with the provisions and requirements of the building code, electrical code, and all other applicable codes, ordinances or requirements.
 - (2) *Copy.* All copy shall be maintained so as to be legible and complete.
 - (3) *Structure.* Signs shall be maintained in a vertical position unless originally permitted otherwise, and in good and safe condition at all times.
 - (4) *Damage.* Damaged faces or structural members shall be replaced in a timely manner.
 - (5) *Safety.* Electrical systems, fasteners, and the sign and structure as a whole shall be maintained at all times in a safe condition.

Case Cost Sheet Log

Case No. 16-1483

Name	Activity	Activity_Date	Status	Cost
Circle K Stores, Inc, c/o Corporation Service Company, 1201 Hays St, Tallahassee, FL 32301	Cost to mail Notice of Violation and Notice of Hearings (Regular Mail)	02/21/2017		\$1.82
Clerk of Court	Recording Fee - Finding of Fact	03/08/2017		\$27.00
Circle K Stores, Inc.	Cost to mail Finding of Fact (via Regular and Certified Mail)	03/08/2017		\$7.02
Corporation Service Company, 120 Hays St, Tallahassee, FL 32301	Cost to mail Finding of Fact (via Regular and Certified Mail)	03/08/2017	Green card returned w/signature of Von D. Smith 3/13/17	\$7.02

Total: 42.86



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 16-1483

To: Circle K Stores, Inc.
c/o Corporation Service Company
1201 Hays Street
Tallahassee, FL 32301

Re: Circle K Store
4040 Nova Road
Port Orange, FL 32127
Parcel ID: 6315-00-00-0040

LEGAL DESCRIPTION: 15 16 33 W 200 FT MEAS ON N/L & N 220 FT MEAS ON E/L OF W ½ OF NW ¼ S OF STATE RD
5-A EXT TRIANG FOR NEW R/W IN N 24.86 FT OF W 24.86 FT PER OR 3368
Volusia County Public Records
Volusia County, FL

An inspection of the premises on September 7, 2016, indicates that certain violation(s) of the City of Port Orange Code exists.

Property owner was notified of the violations noted below and given 18 days to correct. A re-inspection was done on October 4, 2016, resulting in non-compliance. Many attempts to gain compliance through the Market Manager of the Circle K Store were made with no cooperation after stating he had received authorization to proceed with work.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by February 27, 2017.

Briefly stated, the property is in violation of the following:

1. City of Port Orange Code of Ordinances, Chapter 14, Article VII Commercial Property Maintenance Standards, Section 14-313 Inspections, enforcement, appeals (b), Section 14-314 Landscaping and buffers – Maintenance criteria, Section 14.315 Replacement criteria, Section 14-317 Parking, sidewalk and driveway areas (2), Section 14-318 Other property improvements; maintenance criteria (b) Signs (d) Trash, litter and debris.
 - On September 7, 2017, I received a complaint about the lack of maintenance on the trees, shrubs, landscaped areas, including weeds and remove trash on site. I left an 18-day notice to correct all listed violations. Subsequent inspections show no-compliance. Contact with Market Manager after Hurricane Matthew informed him that a stop sign was blown away from the exit onto Nova Road. To date, there is no-compliance.

Attachments: ☒ Copy of code

☒ Copy of Deed

☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

SCANNED

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate** March 8, 2017, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$_____ as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on March 8, 2017, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on April 12, 2017, at 9:00 a.m., or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506-5644.

DATED this 15th day of February, 2017.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: Deborah Faircloth
DEBORAH FAIRCLOTH

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Circle K Stores, Inc., c/o Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301, RE: Circle K Store, 4040 Nova Road, Port Orange, FL 32127, was

☒ Hand-delivered

Recipient of hand delivered documents:

Heather Nicholas, Mgr

☐ Posted at the property

this 15th day of February, 2017.

Time: approx. 3:15 pm

Deborah Faircloth

DEBORAH FAIRCLOTH

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Circle K Stores, Inc., c/o Corporation Service Company, 1201 Hays Street, Tallahassee, FL 32301, RE: Circle K Store, 4040 Nova Road, Port Orange, FL 32127, was

☒ Posted at City Hall

☒ Sent via ~~certified~~ and regular

this 20 day of February, 2017.

Frances Moore

Secretary, Special Magistrate

RIGHT TO APPEAL

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Florida Department of State

DIVISION OF CORPORATIONS

[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /**Detail by Entity Name**

Foreign Profit Corporation
CIRCLE K STORES INC.

Filing Information

Document Number	F93000005584
FEI/EIN Number	74-1149540
Date Filed	12/08/1993
State	TX
Status	ACTIVE
Last Event	NAME CHANGE AMENDMENT
Event Date Filed	02/15/1995
Event Effective Date	NONE

Principal Address

1130 W WARNER RD
BUILDING B
TEMPE, AZ 85284

Changed: 11/30/2007

Mailing Address

PO BOX 52085
LICENSING DC-36
PHOENIX, AZ 85072

Changed: 07/06/2004

Registered Agent Name & Address

CORPORATION SERVICE COMPANY
1201 HAYS STREET
TALLAHASSEE, FL 32301

Name Changed: 03/22/2002

Address Changed: 04/17/2008

Officer/Director Detail**Name & Address**

Title VP Operations, Gulf

BEDNARZ, BRIAN J.



Volusia County Property Appraiser

Larry Bartlett, J.D.

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Parcel Information: 6315-00-00-0040 2017 Working Tax Roll Last Updated: 02-11-2017

Owner Name and Address

Alternate Key	4690638	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6315-00-00-0040	Mill Group	402 Port Orange
Full Parcel ID	15-16-33-00-0040	2016 Final Mill Rate	20.05190
Created Date	08 NOV 1984		
Property Class	11 Stores, One Story		
Ownership Type	Fee Simple	Ownership Percent	100
Owner Name	CIRCLE K STORES INC		
Owner Name/Address 1	RENT & PROP TAX DEPT		
Owner Address 2	1130 W WARNER RD BUILDING B		
Owner Address 3	TEMPE AZ		
Owner Zip/Postal Code	85284		
Situs Address	4040 NOVA RD PORT ORANGE 32127		

Legal Description

15 16 33 W 200 FT MEAS ON N/L & N 220 FT MEAS ON E/L OF W 1/2 OF NW 1/4 S OF STATE RD 5-A EXT TRIANG FOR NEW R/W IN N 24.86 FT OF W 24.86 FT PER OR 3368 PG 0828 PER OR 5971 PGS 1880-1889 INC

Sales History

Book Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
5971 1880	12/2006	Warranty Deed	Personal property /business	Yes	1,075,000
4381 4071	10/1998	Warranty Deed	Qualified Sale	Yes	412,383
3368 0828	12/1988	Warranty Deed	Unqualified Sale	Yes	288,500
3170 1187	12/1984	Warranty Deed	Unqualified Sale	No	100
2590 1268	07/1984	Warranty Deed	Qualified Sale	No	278,000
2590 1269	07/1984	Warranty Deed	Qualified Sale	No	278,000

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2016	218,510	319,156	134,574	672,240	672,240	672,240	0	672,240	0	672,240
2015	218,510	0	0	218,510	218,510	218,510	0	218,510	0	218,510

Display Value History

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
1111	CONV STORE WITH GAS	200.0	220.0	43702.00	SQUARE_FEET	5.00	100	100	100	100	218,510
Neighborhood C5503 NOVA S OF DUNLAWTON TO US1											
Total Land Classified											0
Total Land Just											218,510

Building Characteristics

Building Number: 267144 (Building 1 of 1)

Bldg. No.	Property Type	Structure Type	Perimeter	Year Built	Quality Grade	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
267144	Commercial	Concrete or Masonry	726	2015	400	0%	0%	0%	2999
Section Number	Avg. Wall Height	Number Stories	Year Built	Bsmnt%	Ground Floor Area	Interior Finish	Sect%	Sprinkler	A/C
000	14.00	1	2015	0.00	4400 Convenience Store (11B)		100.00	Yes	Yes
002	12.00	1	2015	0.00	392 Canopy (CAN)		0.00	No	No
Exterior Wall Type									Area%
44 Concrete Block, Stucco									100%

Building Refinements

Description	Number of Units	Unit Type
Baths, 4-Fixture		2 UB
Extra Fixture		6 UB

①
86.50
7525.00

RETURN TO:
STEWART TITLE GUARANTY CO
3402 WEST CYPRESS, SUITE 100
TAMPA, FL 33607
FILE NO. 06330914 KMK

SPECIAL WARRANTY DEED

Return To:
Circle K Stores Inc.
12911 N. Telecom Parkway
Tampa, FL 33637
Attn: Real Estate Coordinator

This Special Warranty Deed ("Deed"), dated to be effective as of the 1st day of December, 2006 ("Effective Date"), is by and between Motiva Enterprises LLC, a Delaware limited liability company with offices located at 12700 Northborough Drive, Houston, Texas 77067 ("Grantor") and Circle K Stores Inc., a Texas corporation with offices located at 315 Commons Mall, Columbus, Indiana 47201 ("Grantee").

W I T N E S S E T H :

For and in consideration of the sum of \$10.00 and the mutual covenants and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby GRANT, BARGAIN, SELL, CONVEY, CONFIRM and RELEASE unto Grantee, its successors and assigns forever, the Premises more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Premises"), together with any buildings, fixtures and improvements owned by Grantor and located thereon.

Together with all right, title and interest, if any, of Grantor in and to any streets and roads abutting the Premises to the center lines thereof, plus all the estate and rights of Grantor in and to any easements, rights, privileges, appurtenances and other hereditaments appurtenant to the Premises;

This conveyance is made by Grantor and accepted by Grantee SUBJECT TO all reservations, exceptions, restrictions, easements, encumbrances, rights of way and other matters of record affecting the same and set forth on "Exhibit B", to the extent that the same are currently valid and enforceable against the Premises and applicable zoning regulations.

TO HAVE AND TO HOLD the Premises unto Grantee, its successors and assigns in fee simple forever; but:

IN ADDITION TO THE FOREGOING, Grantor grants the Premises to Grantee subject to the following covenants and restrictions:

1. From and after the Effective Date until November 30, 2021 ("**Termination Date**"), if gasoline or branded diesel is stored, advertised or sold at or from the Premises, the gasoline or branded diesel stored, advertised or sold shall be sold under the "Shell" trademark or other "Shell" brands under which motor fuel products are sold ("**Brand Covenant**"), all as more fully set forth in that certain Branding and Product Purchase Commitment Agreement dated as of the Effective Date, by and between Grantor and Grantee ("**Branding Agreement**"). The Brand Covenant shall expire automatically on the Termination Date without need for filing a release, or other action of either Grantor or Grantee. The Premises and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered and conveyed subject to the Brand Covenant. The Brand Covenant and the remedies for breach thereof, as provided in the Branding Agreement, shall run with the land, and pass with each and every portion of the Premises, and shall apply to and bind the respective successors, assigns and transferees and subsequent owners in interest thereof. The Brand Covenant is imposed upon the entire Premises.

Grantee agrees to include the Brand Covenant in any conveyance or assignment of the Premises prior to the Termination Date to a successor grantee and, as a condition of any conveyance of the Premises, to require successor grantees to enter into an agreement assuming all obligations of Grantee under the Branding Agreement.

2. Until the Termination Date, Grantor retains a right of first refusal to purchase the Premises, pursuant to the terms of the Branding Agreement ("**Right of First Refusal**"). The Right of First Refusal shall expire automatically on the Termination Date, without need for filing a release, or other action of either Grantor or Grantee. The terms of the Right of First Refusal are set forth on "**Exhibit C**".

3. Grantee has granted a right of access to Grantor pursuant to the terms of an Access Agreement dated as of the Effective Date, which is being recorded on the same day as this instrument.

4. Grantee covenants and agrees that it shall not install any well or other tank, pump or related equipment for the storage of potable water at the Premises. Grantee further covenants and agrees that it shall not improve or use the Premises for residential purposes. Each of these covenants shall run with the Premises, and pass with each and every portion of the Premises, and shall apply to and bind the respective successors in interest thereof. Grantee agrees to include these restrictions in any conveyance or assignment of the Premises to a successor grantee.

5. Notice is hereby given to Grantee by Grantor pursuant to § 404.056, Fla. Stats. (1999): Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who were exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from the county public health unit.

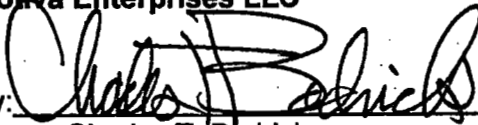
SUBJECT to the foregoing, Grantor covenants with Grantee that Grantor will warrant and defend title to the Premises against the lawful claims of all persons claiming by, through, or under Grantor, but not otherwise.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, Grantor has caused this Special Warranty Deed to be duly executed on the day and year first above written.

Motiva Enterprises LLC

[LLC SEAL]

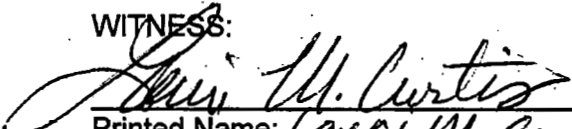
By: 
Name: Charles T. Badrick
Title: Attorney-in-Fact

Signed, Sealed and Delivered in Our Presence:

WITNESS:


Printed Name: Janine Yee

WITNESS:


Printed Name: Carol M. Curtis

This instrument prepared by:

Beverly J. Klug
as Agent for **MOTIVA ENTERPRISES LLC**
12700 Northborough, Suite 130
Houston, TX 77067

CC# 100714

Parcel Identification No.: **631500000040**
(Recording Legend)

Tax statements should be sent to:

Circle K Stores Inc.
Rent and Property Tax Department
1130 W. Warner Road, Building B
Tempe, AZ 85284
Attn: Rents and Property Tax Supervisor

-4-

EXHIBIT A

Legal Description of Premises

Exhibit "A"

A PIECE, PARCEL OR TRACT OF LAND, WITH THE BUILDINGS AND IMPROVEMENTS THEREON, SITUATED IN THE CITY OF PORT ORANGE, COUNTY OF VOLUSIA, STATE OF FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PART OF THE WEST ½ OF NORTHWEST ¼ OF SECTION 15, TOWNSHIP 16 SOUTH, RANGE 33 EAST, SOUTH OF STATE ROAD 5A, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST ¼ OF SECTION 15, TOWNSHIP 16 SOUTH, RANGE 33 EAST; THENCE NORTH 89°20' EAST A DISTANCE OF 50.00 FEET; THENCE NORTH 00°45' WEST A DISTANCE OF 797.71 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°45' WEST A DISTANCE OF 220.00 FEET; THENCE SOUTH 75°02'00" EAST A DISTANCE OF 200.00 FEET; THENCE SOUTH 00°45' EAST A DISTANCE OF 220.00 FEET; THENCE NORTH 75°02'00" WEST, A DISTANCE OF 200.00 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THAT PORTION TAKEN FOR ADDITIONAL RIGHT-OF-WAY BY THE STIPULATED FINAL JUDGMENT RECORDED IN OFFICIAL RECORDS BOOK 4765, PAGE 959 AND OFFICIAL RECORDS BOOK 4766, PAGE 3719, DESCRIBED AS FOLLOWS:

COMMENCE AT THE INTERSECTION OF THE BASE LINE OF SURVEY OF NOVA ROAD WITH THE WEST LINE OF SECTION 15, TOWNSHIP 16 SOUTH, RANGE 33 EAST AT A POINT BEING 1559.34 FEET SOUTH 00°08'00" EAST OF THE NORTHWEST CORNER OF SAID SECTION 15; THENCE ALONG SAID BASE LINE RUN SOUTH 74°25'27" EAST 52.96 FEET TO ITS INTERSECTION WITH AN EXTENSION OF THE EXISTING EASTERLY RIGHT-OF-WAY LINE OF SPRUCE CREEK ROAD; THENCE ALONG SAID EXTENSION RUN SOUTH 00°01'36" WEST 52.04 FEET TO AN IRON PIPE MARKING THE INTERSECTION OF SAID EASTERLY RIGHT-OF-WAY LINE OF SPRUCE CREEK ROAD WITH THE EXISTING SOUTHERLY RIGHT-OF-WAY LINE OF NOVA ROAD FOR THE POINT OF BEGINNING; THENCE ALONG SAID EXISTING SOUTHERLY RIGHT-OF-WAY LINE OF NOVA ROAD SOUTH 74°25'48" EAST 24.86 FEET; THENCE SOUTH 52°48'04" WEST 30.08 FEET; THENCE NORTH 00°01'36" EAST 24.86 FEET TO THE POINT OF BEGINNING.

EXHIBIT B

Permitted Encumbrances

SCHEDULE 4.3
PERMITTED ENCUMBRANCES

CC#100714
4040 Nova Road
Port Orange, FL

1. The lien for real property taxes for the year 2007, and any liens for special assessments which as of the date hereof, are not due and payable. Ad Valorem Taxes for calendar year 2006, have been paid and prorated as of the date hereof.
2. Reservations pertaining to all oil, gas and minerals rights contained in the Special Warranty Deed recorded in Official Records Book 4381, Page 4071, of the Public Records of Volusia County, Florida.
3. Easement recorded in Official Records Book 4127, Page 803, of the Public Records of Volusia County, Florida.
4. Drainage Easement taken by the State of Florida Department of Transportation as shown in the Stipulated Final Judgment recorded in Official Records Book 4765, Page 959 and Official Records Book 4766, Page 3719, of the Public Records of Volusia County, Florida.
5. The following matters as shown on survey by International Land Services, Inc. dated May 25, 2006 under Job Number 06-02-015:002, last revised on November 21, 2006:
 - a. Apparent easement for overhead utility lines across North property line.
 - b. Car wash encroaches over 15' building setback line.

EXHIBIT C**Right of First Refusal**

Until November 30, 2021, if at any time Grantee (i) receives an acceptable bona fide offer to purchase or lease from a ready, willing, and able purchaser or lessee which Grantee desires to accept, or (ii) makes a bona fide offer to sell, lease or otherwise transfer to such a purchaser or lessee, all of Grantee's right, title and interest in and to the Premises ("**Offer**"), Grantee shall provide written notice to Grantor, specifying the name and address of the proposed grantee or lessee and the price and complete terms of the Offer, accompanied by Grantee's affidavit that the proposed sale or lease transaction described in the Offer is in good faith. Grantor will then have the prior option to purchase or lease the Premises at the price and on the terms of the Offer, but subject to the terms provided below ("**Right of First Refusal**").

Grantor shall provide written notice to Grantee of Grantor's election to exercise its Right of First Refusal within 30 days after Grantor receives Grantee's written notice of the Offer. If Grantor does not timely exercise its Right of First Refusal with respect to the Premises, Grantee shall be free to sell, lease or otherwise transfer the Premises in accordance with the transaction described in Grantee's notice. If such transaction is not consummated as described in the Grantee's notice, the Right of First Refusal shall thereafter apply to the Premises.

Within 20 days after the date of the notice provided to Grantee of Grantor's election to exercise its Right of First Refusal, Grantor shall designate a title company and provide written notice to Grantee of the same. Grantee shall deposit with the title company a recordable special warranty deed comparable to the special warranty deed to which this Exhibit relates or a lease containing terms consistent with the Offer described in Grantee's notice and acceptable to Grantor. Grantor shall deposit with the title company any earnest money required by the Offer. Promptly thereafter, Grantee shall (or Grantor may), at Grantor's expense, order from the title company a report on title to (or leasehold interest in) the Premises and a commitment for an owner's or lessee's (as applicable) policy of title insurance. Upon written notice from Grantor to Grantee and the title company that title is acceptable, the title company shall deliver to Grantor the deed or lease executed by Grantee, together with the owner's or lessee's (as applicable) policy of title insurance, against payment by Grantor of the purchase price (which shall include payment of any costs, fees, expenses, documentary, transfer and like taxes required to be paid by Grantor), as such allocation of costs, fees and expenses may be set forth in the Offer, less any earnest money. Thereafter, the title company shall deliver to Grantee the purchase price required by the Offer less the amount of any liens accepted by Grantor and less the amount of any and all costs, fees, expenses, documentary, transfer and like taxes required to be paid by Grantee as set forth in the Offer. Taxes and rent will be prorated as of the date of delivery of the deed (or the assignment of lease, as applicable) from the title company to the Grantor. Upon receipt from Grantor of written notice that the title is not acceptable, Grantee shall use commercially reasonable efforts to cure such title objections by the closing, including, without limitation, insuring against or providing a bond or suitable escrow for, any lien or other encumbrance that represents a liquidated amount or sum of money. No objection shall be made to any encumbrance that was set forth as a permitted encumbrance for the Premises in the deed from Grantor to Grantee. In no case shall Grantee be required to convey any interest in the Premises greater than the interest it is vested in. If Grantee is unable to cure the title to Grantor's satisfaction, Grantor may elect not to purchase the Premises, in which case the title company shall return the deed (or assignment of lease) to Grantee, and the earnest money to Grantor. If Grantor elects to not exercise its Right of First Refusal for any reason, Grantee may

sell the Premises under the terms described in the notice of the Offer provided to Grantor. Any proposed sale of the Premises under different terms than those described in such notice of the Offer is subject to the Right of First Refusal provisions described herein.

This Right of First Refusal shall not apply to (i) Grantee's sale of a Premises to an affiliate of Grantee or to a Third-Party, provided, as part of such transaction Grantee concurrently leases back and operates such Premises from the affiliate or Third-Party or (ii) any sale or lease of a Premises to an affiliate of Grantee.

[REDACTED]

Sec. 14-311. - Intent.

The intent of this article is to provide for the regular and systematic inspection of commercial, industrial, office and multifamily institutional properties within the city to ensure compliance with city codes pertaining to those sites, and specifically to assure that the improvements required on the final development (site) plan are properly maintained. The program contains specific criteria on which to evaluate maintenance, and guidelines for the correction of code and maintenance deficiencies.

(Code 1981, § 6-320)

Sec. 14-313. - Inspections, enforcement, appeals.

(a) *Inspections.* The standards of this article shall be maintained at all times. The city shall inspect all commercial properties on a regular basis to determine compliance with this section.

(b) *Enforcement.* Upon determination of violation, a written report explaining the violation and necessary remedies shall be sent to the property owner, outlining an appropriate time frame for compliance. This compliance plan should take into account:

- (1) The amount of improvements required.
- (2) The size of the business involved.
- (3) The overall upkeep of the property outside of the area of violation.
- (4) The importance of deficiencies based on safety and buffering concerns.

If the violator does not voluntarily comply with the terms of the compliance plan within such reasonable period of time as established by the code inspector, the matter shall be referred to the first available agenda of the code enforcement board by the code inspector. The code enforcement board shall have jurisdiction to enforce the provisions of this article.

(c) *Appeals.* Any appeal from the terms of the compliance plan shall be filed with the administrative official within 15 days of the issuance of the violation report. Appeals shall be heard by the planning commission, which may alter the terms of the plan based on the criteria of subsection (b) above or the following additional criteria:

- (1) The sufficiency of existing landscape material to meet the intent of the code.
- (2) The extent that site improvement conditions reflect acceptable wear and tear as opposed to functional deficiency.
- (3) Other extenuating circumstances, outside of the cost of compliance itself, suggesting

different terms of compliance.

(Code 1981, § 6-321(a)—(c))

Sec. 14-314. - Landscaping and buffers—Maintenance criteria.

- (a) *Approved landscape plans.* All properties which developed under specifically approved landscape plans shall be required to maintain the materials shown on such plans according to subsection (d) below, within the following parameters:
- (1) *Trees.* All trees shall be maintained as shown on the plans. Replacement trees, if necessary, must meet the size criteria of section 14-315, and must be from the same general category, i.e., shade trees, understory trees, palms, etc. In buffering applications, evergreen trees may be replaced only with evergreen species.
 - (2) *Shrubs.* All shrubs shall be maintained as shown on the plans. Required buffer shrubs shall be grown to and maintained at a minimum height of five feet, with regular trimming and pruning to foster dense growth. Shrubs required along parking areas shall be maintained at a minimum height of three feet. Other shrubs shall be maintained at a reasonable mature height for the species.
 - (3) *Lawns.* Lawns shall be maintained as shown on the plans. Alternative living ground covers may be utilized as desired. Approved mulch materials may be used in designated lawn areas:
 - a. To accommodate new or expanded planting areas and their natural growth.
 - b. In natural areas or areas of heavy shade where lawn maintenance has been unsuccessful.
 - c. In limited areas subject to foot traffic where maintenance has been unsuccessful.
 - (4) *Natural areas.* Natural areas shall be left generally undisturbed, with no removal of natural material except for weeds and dead material. Natural areas may be underbrushed and sodded or mulched with city approval.
 - (5) *Other planting areas.* Other planting areas shown on the plans shall be maintained with similar materials to those originally specified. Annual flower beds may be converted to permanent material with at least a two-month flowering period, or material with berries, colorful flower bracts, or variegated foliage to simulate the original design intent.
- (b) *Properties without landscape plans developed after June 16, 1976.* Where properties have developed without specifically approved landscape plans or such plans cannot be located, the property shall be required to meet the minimum standards in effect at the time of

development. In addition, such properties shall be required to maintain any additional plantings above code minimums in place as of June 21, 1989. Criteria for maintenance and replacement shall parallel those of subsection (a) above and subsection (d) below.

- (c) *Properties developed prior to the adoption of minimum landscape standards on June 16, 1976.* Where properties developed prior to the above date without a specific landscape plan, the property will only be required to maintain those plantings existing on June 21, 1989. However, these properties will be subject to the provisions of section 14-316.
- (d) *Required maintenance and anticipated growth and coverage.* The following criteria shall be used to evaluate the maintenance and growth of all landscape plantings:
- (1) Existing trees preserved during development shall be maintained so as to provide the greatest opportunity for survival. Such maintenance shall include, as necessary, the following activities:
 - a. Trimming and pruning to reduce stress.
 - b. Soil aeration.
 - c. Deep root fertilization.
 - (2) Landscape plantings shall be maintained based on accepted professional practices to include regular irrigation, fertilization, pest control, weed control, and trimming and pruning.
 - (3) Reasonable growth shall be based on accepted industry standards.
 - (4) All trees and shrubs shall be trimmed so as not to interfere with pedestrian and vehicle movements.
 - (5) Mulched areas shall be maintained so as to provide solid coverage and reasonable weed control.
 - (6) Natural areas shall be kept free of garbage, trash and other foreign materials. Dead material shall be removed and replaced as required by this article. Natural area edges and other disturbed areas shall be mulched or sodded with weed growth controlled.
 - (7) Irrigation systems must be maintained in proper working order to provide 100 percent coverage of planted landscaped areas.

(Code 1981, § 6-322)

Sec. 14-315: - Same—Replacement criteria.

(a)

Landscape plantings. When the material required to be maintained under this article dies or fails to meet standards for reasonable growth, it shall be replaced with the same or similar material meeting the minimum specification of the zoning code.

- (b) *Buffer plantings.* When material required to be maintained as part of a specific buffer shown on an approved plan or mandated by code at the time of development dies or fails to meet standards for reasonable growth, it shall be replaced with material as close in size and fullness as similar adjacent materials planted at the same time. However, the following upper limits shall apply to replacement material:
- (1) Replacement shade trees will be no larger than four-inch caliper, 20 feet in height (except palms).
 - (2) Replacement understory trees will be no larger than two-inch caliper, 12 feet in height (except palms).
 - (3) Replacement shrubs will be no larger than four feet in height.
- (c) *Natural areas.* When material in natural areas required to be maintained by this article dies or is removed, it shall be replaced with the same or similar materials from the city's approved list of native plants and meeting minimum zoning code specifications. However, where natural areas are specifically designed to act as a required buffer, the requirements of subsection (b) above shall apply.

(Code 1981, § 6-323)

Sec. 14-317 - Parking, sidewalk and driveway areas.

(a) *Maintenance criteria.*

- (1) *Parking lot striping, fire lane and traffic control markings.* All striping and markings required by the original site plan, the Manual of Uniform Traffic Control Devices (MUTCD), or other city codes must meet minimum visibility standards and shall conform to the design standards of the MUTCD.
- (2) *Traffic and parking control signage.* All signage required by the site plan, the MUTCD, and other city codes shall be maintained according to accepted standards.
- (3) *Pavement surfaces.* All sidewalk and road pavement surfaces shall be maintained to be free of cracks, potholes and other defects posing a hazard to pedestrian and vehicle safety, and shall be patched, seal coated, or resurfaced as required to maintain the structural integrity of the pavement base and surface. Vegetation shall be trimmed to provide sign visibility per the MUTCD.

- (4) *Storage of products or materials.* Designated parking, sidewalk and driveway areas shall not be used for the storage or sale of products or materials of any type. Products or materials unloaded in designated service areas and loading zones shall be moved indoors or into approved outside storage areas within 24 hours.

(b) *Construction standards:*

- (1) All maintenance activities shall utilize materials and specifications equal to or exceeding those required for new construction of similar facilities.
- (2) All traffic sign installations shall conform to the standards of the MUTCD.

(Code 1981, § 6-325)

Sec. 14-318. - Other property improvements; maintenance criteria.

- (a) *Drainage and utility improvements.* All privately owned drainage and utility improvements shall be maintained to provide service as originally designed. This includes facilities in public easements which are not owned by the city. Specifically included in required maintenance are the following activities:

- (1) Replacement of broken pipes, inlets, curbs and other structures.
- (2) Cleaning of blocked and clogged drainage structures.
- (3) Excavation and resodding of silted-in retention areas per St. Johns River Water Management District standards.

- (b) *Signs.* All signs shall be maintained based on chapter 15 of the land development code of the city as follows:

- (1) All signs shall be constructed and maintained in accordance with the provisions and requirements of the city building code, electrical codes, all other applicable codes, ordinances or requirements.
- (2) All copy shall be maintained so as to be legible and complete.
- (3) Signs shall be maintained in vertical position unless originally permitted otherwise, and in good and safe condition at all times.
- (4) Damaged faces or structural members shall be replaced.
- (5) Electrical systems, fasteners, and the sign and structure as a whole shall be maintained at all times in a safe condition.

- (c) *Walls and fences.* All walls and fences shall be maintained in accordance with the zoning chapter of the land development code and the following standards:

- (1) Fences and walls shall be painted, stained or otherwise maintained as originally

designed.

- (2) Fences and walls shall be kept free of unpermitted signs, posters and graffiti.
- (3) Fences and walls shall be maintained in their original upright position, with all gates in good operating condition.

(d) *Trash, litter and debris* All sites shall be maintained so as to be free of trash and litter of any type, except in an approved dumpster or can. Paved areas shall be kept free of built-up silt and dirt.

(Code 1981, § 6-326)

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 16-1483**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

CIRCLE K STORES, INC.
C/O CORPORATION SERVICE COMPANY
1201 HAYS STREET
TALLAHASSEE, FL 32301

RE: CIRCLE K STORE
4040 NOVA ROAD
PORT ORANGE, FL 32127
PARCEL ID: 6315-00-00-0040

Recorded in the Public Records:
Instrument # 2017 046815
3/8/2017 @ 12:43 p.m.
Book: 7370 Page: 867

Respondent.

_____ /

FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on March 8, 2017, after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondent(s), CIRCLE K STORES, INC., (hereinafter referred to as "Respondent(s)", whose mailing address is C/O CORPORATION SERVICE COMPANY, 1201 HAYS STREET, TALLAHASSEE, FL 32301, is/are the owner(s) of the property located at 4040 NOVA ROAD PORT ORANGE, FL 32127, and more particularly described as:

15 16 33 W 200 FT MEAS ON N/L & N 220 FT MEAS ON E/L OF W 1/2 OF NW 1/4 S OF
STATE RD 5-A EXT TRIANG FOR NEW R/W IN N 24.86 FT OF W 24.86 FT PER OR 3368

B. Lack of maintenance on trees, shrubs, landscaped areas. Signs, trash, litter and debris. This condition was first observed at the real property described above on September 7, 2016; re-inspection was made on October 4, 2016, and confirmed the condition as being the same. Respondent(s) received notice via hand delivery on February 15, 2017, regular mail on February 21, 2017, and posted at City Hall on February 20, 2017, that the aforesaid conditions constituted a violation of Chapter 14, Article VII Commercial Property Maintenance Standards, Section 14-313 Inspections, enforcement, appeals (b), Section 14-314 Landscaping and buffers – Maintenance criteria, Section 14.315 Replacement Criteria,

Section 14-317 Parking, sidewalk and Driveway areas (2), Section 14-318 Other property improvements; maintenance criteria (b) Signs (d) Trash, litter and debris, and was to be corrected by February 27, 2017.

C. At the time of this hearing, the violations cited above: ☒ continue to exist, or ☐ remained noncompliant until _____ [Date].

D. ☐ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondent(s), by reason of the foregoing, has/have violated the above referenced code, in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions as stated is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

ORDER:

A. Respondent(s) shall correct the aforesaid violation by completely weeding all landscaped areas, installing new landscape material to fill beds, mulching all landscaped areas, straightening all trees, and replacing one recently run over and broken off tree at the entrance into the store from Nova Road. These corrections shall be made on or before March 27, 2017. ("Compliance Date"). In the event the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance, a daily fine of \$100.00 per day will be assessed for each day the property is in violation beyond the Compliance Date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$42.86 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 8th day of March, 2017.

Attest: Frances Gosnell
Secretary, Code Enforcement Special Magistrate

By: [Signature]
Code Enforcement Special Magistrate

I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.

Deborah Faircloth
Code Compliance Inspector

I HEREBY CERTIFY that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), CIRCLE K STORES, INC., C/O CORPORATION SERVICE COMPANY, 1201 HAYS STREET, TALLAHASSEE, FL 32301 by Certified and Regular Mail this 8th day of March, 2017.

Frances Gosnell
Secretary, Code Enforcement Special Magistrate

Case Cost Sheet Log

Case No. 17-139

Name	Activity	Activity_Date	Status	Cost
Eva Ivie	Costs to mail Notice of Violation and Notice of Hearings to 27 Golden Gate Circle, Port Orange, FL 32129 (Regular and Certified Mail)	02/07/2017	Green card returned with signature (illegible) dated 2/9/17.	\$7.44
Clerk of Court	Costs to record Finding of Fact, Conclusion of Law, and Order	03/08/2017		\$27.00
Eva Ivie	Costs to mail Finding of Fact, Conclusion of Law & Order to 27 Golden Gate Circle, Port Orange, FL 32127 (Regular and Certified Mail)	03/08/2017	Green card returned with signature (illegible) dated 3/11/17.	\$7.44
Clerk of Court	Costs to record Order Setting Fine/Lien	04/12/2017		\$44.00
Eva Ivie	Costs to mail Order Setting Fine/Lien to 27 Golden Gate Circle, Port Orange, FL 32127 (Regular and Certified Mail)	04/12/2017		\$7.44

Total: 93.32



**NOTICE OF VIOLATION
AND
NOTICE OF HEARINGS**

CITY OF PORT ORANGE, FLORIDA

SPECIAL MAGISTRATE

CITY OF PORT ORANGE,

Petitioner

CASE NO. 17-139

To: Eva Ivie
Re: 27 Golden Gate Circle
Port Orange, FL 32129

Parcel ID: 6308-02-00-0270

LEGAL DESCRIPTION: LOT 27 TWINGATES MOBILE ESTS MB 33 PG 48 PER OR 4080 PG 3057

Volusia County Public Records

Volusia County, FL

An inspection of the premises on January 27, 2017, indicates that certain violation(s) of the City of Port Orange Code exists.

This correspondence will serve as official notification that the below stated violation(s) must be corrected by February 15, 2017.

Briefly stated, the property is in violation of the following:

- **City of Port Orange Code of Ordinances Chapter 42, Article 2, Section 42-26. - Cleanliness of property generally—Duty of owner. (f)**
- All trash and debris must be cleaned up and disposed.
- **City of Port Orange Code of Ordinances Chapter 42, Article 2, Section 42-32. - Storage of vehicles, furniture, etc.**
- All outside storage must be properly stored in an enclosed building.

Attachments: ☒ Copy of code

☒ Copy of Deed

☒ Copy of Tax Roll

Failure to comply after this date may result in the commencement of appropriate code enforcement action and/or possible fine of up to \$1,000.00 per day for a first violation, \$5,000.00 per day per violation for a repeat violation, and up to \$15,000.00 per violation if the code enforcement board or special magistrate finds the violation to be irreparable or irreversible in nature.

If the violation is corrected and then recurs, or if the violation is not corrected by the specified time for correction by the Code Compliance Inspector, the case shall be presented to the **Special Magistrate** on the date set forth below, even if the violation has been corrected prior to this scheduled hearing.

The burden shall rest upon the Respondent to request a re-inspection by the Code Compliance Inspector to determine whether the property is in compliance.

NOTICE OF HEARING AS TO VIOLATION(S) ALLEGED

**NOTICE: A FINE AND COSTS MAY BE IMPOSED AT THIS HEARING.
PLEASE GOVERN YOURSELF ACCORDINGLY.**

Pursuant to Chapter 2, Article V, Code of Ordinances and Section 162.06, Florida Statutes, you are hereby called upon to take notice that a PUBLIC HEARING will be conducted in the above-styled cause by the **Special Magistrate March 8, 2017, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The **Special Magistrate** will receive testimony and evidence at said PUBLIC HEARING and shall make such findings of facts and conclusions of law as supported by the testimony and evidence pertaining to the matter alleged below, and shall issue a Final Order affording the proper relief. A certified copy of the Final Order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, upon any subsequent purchasers, successors in interest, or assigns. If you fail to appear at the Hearing, the **Special Magistrate** may base any findings solely on the testimony and evidence presented by the Code Enforcement Inspector. Please govern yourself accordingly.

If the violation is not corrected within the time specified for correction ordered by the **Special Magistrate**, then a certified copy of an order imposing a fine may be recorded in the public records of the county and once recorded, it SHALL CONSTITUTE A LIEN against the property upon which the violation was found to exist and upon any other real or personal property owned by the violator. If said lien remains unpaid for more than ninety days, the City may seek to foreclose on said lien.

As per Chapter 2, Section 2-214, Code of Ordinances and Section 162.09(2)(d), Florida Statutes: "In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs." The costs incurred to date are \$ 6,607 as indicated on the cost sheet submitted into evidence. The respondent will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion.

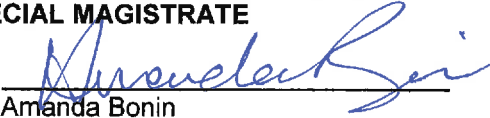
NOTICE OF HEARING SETTING FINE AND LIEN

In the event the **Special Magistrate**, during the hearing on **March 8, 2017**, enters a Final Order finding a violation as alleged, pursuant to Chapter 7, Code of Ordinances, City of Port Orange, Florida, you are hereby called upon to take notice that a 2nd PUBLIC HEARING will be conducted in the above-styled cause by the Code Enforcement Special Magistrate on **April 12, 2017, at 9:00 a.m.**, or as soon after as may be heard, in Council Chambers, City Hall, 1000 City Center Circle, Port Orange, Florida. The Code Enforcement Special Magistrate will consider setting fine lien on the above referenced case at said PUBLIC HEARING. Please govern yourself accordingly.

For further information regarding this matter, you may contact the undersigned Code Compliance Inspector at (386) 506-5616.

DATED this 2nd day of February, 2017.

CITY OF PORT ORANGE, FLORIDA
SPECIAL MAGISTRATE

By: 
Amanda Bonin

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Eva Ivie 27 Golden Gate Circle Port Orange, FL 32129, RE: 27 Golden Gate Circle Port Orange, FL 32129, was

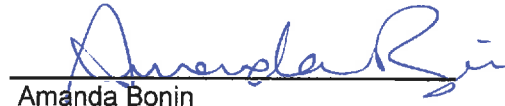
☐ Hand-delivered

Recipient of hand delivered documents: _____

☒ Posted at the property

this 2nd day of February, 2017.

Time: approx. 3:50 pm


Amanda Bonin

☒ I HEREBY CERTIFY that a true and correct copy of the above and foregoing Notice of Violation and Notice of Hearing to Eva Ivie 27 Golden Gate Circle Port Orange, FL 32129, RE: 27 Golden Gate Circle Port Orange, FL 32129, was

☒ Posted at City Hall

☒ Sent via certified and regular

this 7th day of Feb., 2017.


Secretary, Special Magistrate

RIGHT TO APPEAL

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE **SPECIAL MAGISTRATE** WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND, FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

ACCOMMODATIONS

IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS ANY ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE; IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 1-800-955-8771.



Volusia County Property Appraiser

Larry Bartlett, J.D.

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Parcel Information: 6308-02-00-0270 2017 Working Tax Roll Last Updated: 01-28-2017

Owner Name and Address

Alternate Key	3599110	Parcel Status	Active Parcel (Real Estate)
Short Parcel ID	6308-02-00-0270	Mill Group	402 Port Orange
Full Parcel ID	08-16-33-02-00-0270	2016 Final Mill Rate	20.05190
Created Date	30 DEC 1981		
Property Class	02 Mobile Homes		
Ownership Type	Estate	Ownership Percent	100
Owner Name	IVIE EVA K		
Owner Name/Address 1			
Owner Address 2	27 GOLDEN GATE CIR		
Owner Address 3	PORT ORANGE FL		
Owner Zip/Postal Code	32129		
Situs Address	27 GOLDEN GATE CIR PORT ORANGE 32129		

Legal Description
 LOT 27 TWINGATES MOBILE ESTS MB 33 PG 48 PER OR 4080 PG 3057

Sales History

Book Page	Sale Date	Sale Instrument	Qualified Unqualified	Improved	Sale Price
4080 3057	02/1996	Warranty Deed	Qualified Sale	Yes	36,500
3795 1194	12/1992	Warranty Deed	Qualified Sale	Yes	30,000
2507 1507	11/1983	Quit Claim Deed	Multi parcel sale	Yes	100
2213 1864	11/1980	Warranty Deed	Qualified Sale	Yes	8,250
1861 1196	10/1976	Warranty Deed	Unqualified Sale	No	352,000

History of Values

Year	Land	Bldg(s)	Misc. Impr.	Just Value	School Assessed	Non-School Assessed	School Exemption	School Taxable	Non-School Exemption	Non-School Taxable
2016	4,820	21,174	697	26,691	20,244	20,244	20,244	0	0	0
2015	4,820	18,167	738	23,725	20,103	20,103	20,103	0	0	0

[Display Value History](#)

Land Data

Code	Land Use Type	Frontage	Depth	No. Units	Unit Type	Rate	Depth	Loc	Shp	Phy	Just Value
0202	MH ON MH SITE PVD	0.0	0.0	1.00	LOT	4820.00	100	100	100	100	4,820
Neighborhood 5990 TWINGATES M-H ESTATES MB33-48											
Total Land Classified											0
Total Land Just											4,820

Building Characteristics
Building Number: 112855 (Building 1 of 1)

Bldg. No.	Improvement Type	Base Perimeter	Year Built	Quality Grade	Architecture	Phys. Depr.	Func. Obs.	Loc. Obs.	Next Review
112855	Mobile Home	120	1982	225	Manufactured Home	61%	0%	0%	2999
Roof Type	GABLE	Floors	Carpet		Bedrooms	2	4 Fixture Bath		0
Roof Cover	METAL	Wall Type	Wd Panel/Custom		X Fixture Bath	0	5 Fixture Bath		0
Heat Type1	Forced Ducted	Heat Source1	Electricity		2 Fixture Bath	0	6 Fixture Bath		0
Heat Type2		Heat Source2			3 Fixture Bath	2	7 Fixture Bath		0
Foundation	Wd Conc Piers	Year Remodeled			Fireplaces	0	A/C		Yes

Section Number	Area Type	Exterior Wall Type	Number Stories	Year Built	Attic Finish	Bsmt Area	Bsmt Finish	Floor Area
001	Res BASE Area (BAS)	ALUMINUM SIDING	1.0	1982	N	0%	0%	864 Sq. Feet
002	Unfinished Utility (UST)	Non-Applicable	1.0	1982	N	0%	0%	77 Sq. Feet
004	Porch, Screen Unfinished (USP)	Non-Applicable	1.0	1982	N	0%	0%	64 Sq. Feet

6.00
255.50

This Warranty Deed

02/26/1996 17:05
Doc stamps 255.50
(Transfer Amt \$ 36500)
Instrument # 96030907
Book: 4080
Page: 3057
Diane M. Matousek
Volusia County, Clerk of Court

Made this 23rd day of February A.D. 19 96
by Michelle L. Paone f/k/a Michelle L. Tainish, a single woman and Alfonso Giammarco and Ida Giammarco, husband and hereinafter called the grantor, to wife Eva K. Ivie, A Single Woman

whose post office address is:
27 Golden Gate Circle
Port Orange, Florida 32119

hereinafter called the grantee:

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in

Volusia County, Florida, viz:
Lot Twenty-Seven (27), Twingates Mobile Estates Subdivision, according to plat thereof as recorded in Map Book 33, Page 48, Public Records of Volusia County, Florida.

SUBJECT TO covenants, restrictions, easements of record and taxes for the current year.

Together with that certain Double-Wide Glen M.H. ID#'s FLFL2A [REDACTED] & FLFL2B [REDACTED]

Subject to a mortgage in favor of Princeton Financial Corp., a Delaware Corporation which the grantee assumes and agrees to pay by their acceptance and recording of these presents.

Parcel Identification Number: 6308-02-00-0270

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 19 95

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

Diane E. Brooker
Name: Diane E. Brooker
Witness: Diane E. Brooker

Charles L. Strickland
Name: Charles L. Strickland
Witness:

Name: _____

Michelle L. Paone LS
Name & Address: Michelle L. Paone f/k/a

Michelle L. Tainish

Alfonso Giammarco LS
Name & Address: Alfonso Giammarco

Ida Giammarco LS
Name & Address: Ida Giammarco

Name & Address: _____

State of Florida
County of Volusia

The foregoing instrument was acknowledged before me this 23rd day of February, 19 96, by

Michelle L. Paone f/k/a Michelle L. Tainish, a single woman and Alfonso Giammarco and Ida Giammarco, husband and wife

who is personally known to me or who has produced driver's license as identification.

Diane E. Brooker

Sec. 42-26. - Cleanliness of property generally—Duty of owner.

- (a) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Improved lot means any lot which improvements have been made, including, but not limited to, change of grade through filling or excavation, installation of water or sewer line, clearing of property to begin construction, or any other physical alteration which has significantly disturbed the natural vegetation on the site.

Undergrowth means herbaceous plants, plants and grasses with stems that wither away annually as distinguished from trees or shrubs with woody stems that live from year to year.

Unimproved lot means any lot which remains undisturbed and in a natural vegetative state.

- (b) Purpose and intent. The city recognizes the need to protect the health, safety and welfare of the citizens of the city through control and elimination of aesthetically displeasing and potentially dangerous accumulations of garbage, waste, trash, debris, junk and undergrowth. It is, therefore, the purpose and intent of this section to reduce or eliminate such conditions within reasonable limits by hereby establishing a duty and responsibility on the part of the owner of designated lots located within the city to keep such lot free and clear of garbage, waste, trash, debris, junk and undergrowth.
- (c) Maintenance of commercial and industrial zoned lots. The owner of every improved lot, piece and parcel of land located within a commercial or industrial zone within the city shall keep each such lot, piece or parcel of land free and clear of all fallen trees and limbs and undergrowth exceeding 12 inches in height. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than 12 inches within such natural areas. Owners of unimproved vacant parcels in such zones shall similarly maintain such portion of their property as lies within ten feet of any improved property, any sidewalk, roadway or bicycle path.
- (d) Maintenance of improved residential lots. The owner of an improved lot in a residential zone with lot sizes of one acre or less shall keep such lot free and clear of all fallen trees and limbs. All weeds, grass and undergrowth shall be cut to a height not exceeding ten inches. However, nothing in this subsection shall be construed to require natural areas located within larger improved lots to be cut to a height less than ten inches within such natural areas.
- (e) Maintenance of unimproved residential lots. The owner of an unimproved lot in a residential zone with lot sizes of one acre or less shall keep that portion of his property abutting and within

ten feet of any improved lot, sidewalk, street or bicycle path free and clear of all fallen trees and limbs, and all weeds, grass and undergrowth therein shall be cut to a height not exceeding 12 inches within such area.

- (f) Garbage, waste, trash, etc., prohibited. The owner of every lot, piece and parcel of land located within the city shall keep each such lot, piece and parcel of land free and clear of garbage, waste, trash, debris and junk.
- (g) No property maintenance permit required; other restrictions and requirements applicable. No permit shall be required for the limited property maintenance required by this section; however, the requirements, restrictions and limitations imposed by other sections of this Code and applicable provisions of the land development code pertaining to environmental preservation, tree removal, change of grade, etc., shall be effective. In the event of any conflict between this section and any other provision of this Code or applicable provision of the land development code, the other sections of this Code or applicable provisions of the land development code shall prevail and govern.
- (h) Abutting property owner maintenance of parkages. It shall be the duty of every owner of real property within the city to at all times cause to be cut and moved the grass and weeds, and to cause to be cut and trimmed the flowers, vines, shrubbery, and trees not exceeding six feet in height, in a manner that protects and promotes the public health, safety and welfare and presents an aesthetically pleasing appearance in those areas of the package most nearly abutting their properties. Packages abutting improved residential or commercial lots shall be maintained as provided in subsection (d) of this section for improved residential lots. Packages abutting unimproved residential lots shall be maintained as provided in subsection (e) of this section for the maintained portion of unimproved residential lots. "Package" is that space between the private property lot or survey line of the property owner and the paved or graded portion of the public street adjacent thereto and includes that area between a sidewalk and street. Every property owner shall also have the duty of removing any refuse or other debris existing within the adjacent package, but the placement of refuse for collection in a manner and in containers specified by other provisions of this Code is not prohibited.

(Code 1981, § 10-1; Ord. No. 1994-5, § 1, 3-15-94)

Sec. 42-32. - Storage of vehicles, furniture, etc.

No owner of property within the city shall permit the storage of vehicles or parts of vehicles, furniture, appliances or other personal property upon the premises, except in an enclosed building.

(Code 1981, § 10-7)

**CITY OF PORT ORANGE, FLORIDA
CODE ENFORCEMENT SPECIAL MAGISTRATE
CASE NO. 17-139**

CITY OF PORT ORANGE,
a Florida municipal corporation,

Petitioner,

EVA IVIE
27 GOLDEN GATE CIRCLE
PORT ORANGE, FL 32129
6308-02-00-0270

Recorded in the Public Records:
Instrument # 2017 046816
3/8/2017 @ 12:43 p.m.
Book: 7370 Page: 870

Respondent.

_____ /

FINDING OF FACT, CONCLUSION OF LAW AND ORDER
(THIS DOES NOT CONSTITUTE A LIEN)

THIS CAUSE came on for public hearing before the Code Enforcement Special Magistrate on March 8, 2017, after due notice to the Respondent(s), and the Special Magistrate having heard testimony under oath, received evidence and heard argument from Staff thereupon issues its Findings of Fact, Conclusions of Law, and Order, as follows:

FINDINGS OF FACT:

A. Respondent(s), Shelly Liga, (hereinafter referred to as "Respondent(s)", whose mailing address is 27 Golden Gate Circle, Port Orange, FL 32129, is/are the owner(s) of the property located at 27 Golden Gate Circle, Port Orange, FL 32129, and more particularly described as:

LOT 27 TWINGATES MOBILE ESTS MB 33 PG 48 PER OR 4080 PG 3057

B. All trash and debris must be cleaned up and disposed, and all outside storage must be properly stored in an enclosed building. This condition was first observed at the real property described above on January 27, 2017; re-inspections were made on February 15, 2017 and March 7, 2017 and confirmed the condition as being the same. Respondent(s) received notice via posting on the property on February 2, 2017, posting at City Hall and via certified and regular mailing on February 7, 2017, that the aforesaid conditions constituted a violation of Chapter 42, Article 2, Section 42-26 (Cleanliness of property-Duty of Owner (f)); Chapter 42, Article 2, Section 42-32 (Storage of vehicles, furniture, etc.) and was to be corrected by February 15, 2017.

C. At the time of this hearing, the violations cited above: ☒ continue to exist, or ☐ remained noncompliant until _____ [Date].

D. ☐ The condition described above presents a serious threat to the public health, safety and welfare or is irreparable or irreversible.

CONCLUSION OF LAW:

Respondent(s), by reason of the foregoing, has/have violated the above referenced code, in that the Respondent(s) failed, on or before the date set in the notice of violation, to remedy the conditions as stated is therefore subject to the provisions of the City of Port Orange Municipal Code 2.207.

ORDER:

A. Respondent(s) shall correct the aforesaid violation by cleaning up and disposing of all trash and debris, and storage of all outside storage in an enclosed building on or before March 20, 2017 ("Compliance Date"). In the event the property is not brought into compliance on or before the Compliance Date, and/or not maintained in a state of compliance, a daily fine of \$100.00 per day will be assessed for each day the property is in violation beyond the Compliance Date. If paragraph D. above is checked and the Respondent(s) has/have not abated the condition by the Compliance Date, then notice of the violation will be given to the City Council. The City Council may repair the condition and charge the Respondent(s) with the reasonable costs of the repairs. Additionally, as per Chapter 2, Section 2-214, Code of Ordinances: "In addition to any fines, the Special Magistrate may impose additional fines to cover all costs incurred by the city in enforcing its codes and all costs or repairs pursuant to sub section (a)." The cost to date is \$41.88 as indicated on the cost sheet submitted into evidence. The Respondent(s) will be responsible for any additional costs incurred with follow-up inspections and other costs associated with this case until its conclusion. Any future violations under this ordinance shall be considered repeat violations.

B. The Findings of Fact and Conclusions of Law set forth in the Order of the Special Magistrate constitute a final administrative order which may be appealed by filing a notice of appeal with the Circuit Court within 30 days of the signing of this order.

C. A certified copy of this Order may be recorded in the public records of Volusia County, Florida, and shall thereafter constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property. The findings in this Order shall be binding upon Respondent(s) and if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns pursuant to the City of Port Orange Municipal Code 2.207. Failure to comply with this Order shall result in the issuance of an Order Imposing Fine and Lien. The Order Imposing Fine and Lien shall not constitute a lien until a certified copy of said Order is recorded pursuant to Section 162.09(3), Florida Statutes.

DONE AND ORDERED this 8th day of March, 2017.

Attest: Frances Gosnell
Secretary, Code Enforcement Special Magistrate

By: [Signature]
Code Enforcement Special Magistrate

I HEREBY ACKNOWLEDGE AND AGREE that the foregoing findings are true and accurate to the best of my knowledge.

[Signature]
Code Compliance Inspector

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Findings of Fact, Conclusion of Law, and Order have been furnished to Respondent(s), Eva Ivie, 27 Golden Gate Circle, Port Orange, FL 32129 by Certified and Regular Mail this 8th day of March, 2017.

Frances Gosnell

Secretary, Code Enforcement Special Magistrate