

Buchanan

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December 30, 2021

**VIA EMAIL hprice@cityofpsl.com
and REGULAR U.S. MAIL**

Holly Price, AICP
Senior Planner
City of Port St. Lucie
Planning & Zoning Department
121 S.W. Port St. Lucie Boulevard
Port St. Lucie, FL 34984-5099

**VIA EMAIL annec@cityofpsl.com
and REGULAR U.S. MAIL**

Anne Cox, AICP
Assistant Director of Planning and Zoning
City of Port St. Lucie
Planning & Zoning Department
121 S.W. Port St. Lucie Boulevard
Port St. Lucie, FL 34984-5099

Re: Opposition to Verano Application for PUD Rezoning and
Master Plan Amendment for Pod H
City of Port St. Lucie Project #P-21-070

Dear Ms. Price and Ms. Cox:

This firm represents Allied New Technologies, Inc. and its affiliates (“Allied”) in connection with its heavy industrial zoned property chemical plant located at 9501 Range Line Road, St. Lucie County, Florida. The Verano Pod H Rezoning Application proposes multiple incompatible and inconsistent uses within close proximity to the Allied chemical plant on the west side of Range Line Road. We understand the City of Port St. Lucie Planning and Zoning Board will consider this Application at its regularly scheduled meeting on January 4, 2022.

The purpose of this correspondence is to express and document in writing Allied’s concerns regarding the Verano Pod H development plan located directly across from Allied’s chemical plant on Range Line Road. The Allied chemical plant uses substantial quantities of hazardous substances and other chemicals on a daily basis for the production of water and wastewater treatment chemicals and products that are used by local governments and pool supply companies throughout the State of Florida. The Allied plant in Port St. Lucie has been identified by the United States Department of Homeland Security as an essential services provider.

Verano’s Pod H as currently proposed includes single-family residential uses, a city park, commercial uses and a school directly across Range Line Road and in close proximity to Allied’s existing chemical plant. The Verano Pod H proposed uses are wholly inconsistent and incompatible with the heavy industrial use chemical plant owned and operated by Allied. Basic zoning and land use principles dictate that it is not only inappropriate, but also unsafe, to locate

these proposed uses in close proximity to a chemical plant. This is a perfect example of why we have zoning in Florida.

Last year Allied raised these same concerns in connection with Verano PUD Amendment and Rezoning P-20-080. Allied's concerns and objections were adequately addressed at that time when the developer agreed to remove Pod H from the Rezoning and PUD Amendment Application. The same concerns that were raised by Allied last year are even more evident and urgent now that the applicant proposes to develop the final 500 acres designated as Pod H directly across Range Line Road from the Allied chemical plant. Attached please find correspondence from St. Lucie County dated November 24, 2020, which also expressed incompatibility concerns with these heavy industrial uses.

Allied located and designed this chemical plant along Range Line Road many years ago prior to any residential development in this area. This heavy industrial location was an appropriate and prudent location for a chemical plant that utilizes large quantities of hazardous materials and chemicals, operates an active rail line, and generates dozens of daily tractor trailer heavy truck traffic trips for the transportation and delivery of hazardous materials and chemicals. Although Allied understands that residential and other development will occur in this area of Port St. Lucie, any such future development must be compatible and adequately separated and buffered from the heavy industrial chemical plant. Therefore, Allied believes the following buffering, screening and setback requirements should be applicable to any City of Port St. Lucie approvals for Verano Pod H.

A 1,500-foot setback from Allied's property line for any residential uses or park land that would be accessed by the public; and

A 10-foot earthen berm on the Verano side of Range Line Road that is planted with trees and vegetation to provide adequate buffering and screening.

We appreciate the City of Port St. Lucie's consideration of Allied's concerns and objections to ensure the public health and safety of the residents of the City of Port St. Lucie. Please deliver a copy of this correspondence to all members of the Planning & Zoning Board prior to the January 4 Public Hearing on this matter. In the interim, please do not hesitate to contact me should you have any questions regarding the above matters or if the City of Port St. Lucie requires any additional information.

Sincerely yours,

BUCHANAN INGERSOLL & ROONEY PC



Ron H. Noble

Enclosure

**Board of County
Commissioners**

Chris Dzadovsky
DISTRICT 1
Chair

Sean Mitchell
DISTRICT 2
Vice-Chair

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DISTRICT 3

Frannie Hutchinson
DISTRICT 4

Cathy Townsend
DISTRICT 5

Administration

Howard Tipton
COUNTY
ADMINISTRATOR

Dan McIntyre
COUNTY ATTORNEY

November 24, 2020

Anne Cox, AICP
Assistant Director of Planning and Zoning
121 S.W. Port St. Lucie Blvd
Port St. Lucie, FL 32399

Re: P20-080 Rezoning and Planned Unit Development (PUD) Amendment
Application – Verano South Pod G


Dear Ms. Cox,

The subject application consists of a petition location adjacent to unincorporated land within the jurisdiction of St. Lucie County. The western boundary abuts 240 acres of property zoned Industrial, Heavy (IH). The purpose of this zoning district is to provide an environment suitable for heavy manufacturing and other uses that create potentially significant light, dust, vibration, noise and odor. For a list of permitted and conditional uses, please see the attached Industrial Heavy zoning district use list. Heavy industrial operations currently adjacent to the petition site consist of Liberty Tire Recycling, Allied New Technology and CAT Recycling Yard. The remaining 180 acres are currently vacant awaiting similar heavy industrial development.

As such, the proposed PUD modification may not be consistent with the existing and future industrial uses that may be approved within the County's nearby IH zoning district. On March 16, 2016, I sent your office a letter outlining similar concerns for an earlier proposed modification to this PUD, to reduce the approved buffer adjacent to Range Line Road from 500 feet to 50 feet.

The current application proposes a 51.8 acre "city park" immediately east of the IH zoning district, which may be in conflict with the entitled Heavy Industrial uses, adjacent.

Should the City support a park in this location, the County requests involvement in the planning process to ensure an adequate buffer is incorporated between the IH uses to the west and any active park uses to the east. We also request participation at the time of any future PUD modifications and site plan development in order to insure compatibility while reducing conflicts.

Sincerely,

Leslie Olson, AICP
Director

BakerHostetler

Baker&Hostetler LLP

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Christian H. Tiblier
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January 3, 2022

**VIA EMAIL (HPRICE@CITYOFPSL.COM,
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Port St. Lucie, FL 34984-5099

Anne Cox, AICP
Assistant Director of Planning and Zoning
City of Port St. Lucie
Planning & Zoning Department
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, FL 34984-5099

*Re: Opposition to Verano Application for PUD Rezoning and Master Plan Amendment for
Pod H City of Port St. Lucie Project #P-21-070*

Dear Ms. Price and Ms. Cox:

We represent Liberty Tire Recycling, LLC (“Liberty”) in connection with its heavy industrial zoned property and tire recycling facility located at 9675 Range Line Road, St. Lucie County, Florida 34987 (“Liberty Property”). We understand that the City of Port St. Lucie Planning and Zoning Board (the “City”) will consider the Verano Pod H Rezoning Application (“Rezoning Application”) at its regularly scheduled meeting on January 4, 2022. The Rezoning Application seeks to rezone approximately 486 acres east of the Liberty Property from St. Lucie County-Agricultural 5 (“SLC-AG-5”) to City Planned Unit Development (“PUD”). As currently proposed, the requested rezoning proposes multiple incompatible and inconsistent uses within close proximity of the Liberty Property.

Liberty recycles more than 190 million tires annually and reclaims more than 3 billion pounds of rubber, transforming what would be unsustainable waste into innovative and useful products ranging from low-emission fuel for industrial kilns, mills, and power plants to rubber mulch for landscaping and playgrounds. Liberty's recycling and conservation efforts are made with the goal of reducing consumption of natural resources and maintaining the long-term health of the environment. The Liberty Property operates its recycling processes on a 24/7 schedule.

The process used to recycle tires at the Liberty Property requires the use of heavy industrial machinery including industrial shredders, conveyors, and heavy wheel-loaders, similar to equipment used by other heavy industrial operators. Such machinery can be considered loud by some and can emit vibration and odor that has the potential to disturb non-industrial businesses, schools, and residential communities that are built without the appropriate buffers and screening in place.

Additionally, Liberty stores and transports both unprocessed tires and final products, including shredded rubber, extracted steel belting, and tire-derived fuel, on the Liberty Property. Transporting these products from one place to another may release dust into the air similar to other industrial product movement activities. Like the noise from the recycling process, this road dust has the potential to disturb surrounding non-industrial properties without proper buffers and screening.

Finally, large quantities of unprocessed tires and final products are transported to and from the Liberty Property through dozens of daily tractor trailer heavy truck trips. Heavy truck transport and tractor trailers, such as those used and required by Liberty's preexisting business are incompatible with school and city-park traffic. Safe and convenient travel both to and from city parks and schools should be encouraged by the City, and limiting interaction between heavy truck transport and residential and school traffic should be appropriately considered before rezoning where heavy industrial activities preexist.

As currently proposed, the Rezoning Application includes single-family residential uses, a city park, commercial uses, and a school directly east of Range Line Road and in close proximity to the Liberty Property. The Rezoning Application's proposed uses are wholly inconsistent with Liberty's preexisting heavy industrial recycling and transportation activities on and around the Liberty Property. Without the proper buffers and screening, the use contemplated in the Rezoning Application will lead to conflict and potential litigation between Liberty and the residential homeowners, students, parents, and park denizens. Moreover, the application proposes ingress and egress to a portion of the planned development via Range Line Road directly opposite of the Liberty Property. It stands to reason that Liberty's heavy industry transportation activities will impact the development as proposed currently. Neither the Rezoning Application nor the Staff Report adequately consider the traffic impact that the proposed rezoning will have.

Liberty raised these same concerns in connection with Verano PUD Amendment and Rezoning P-20-080. At that time, Liberty's concerns and objections were adequately addressed when the developer agreed to remove Pod H from the Rezoning and PUD Amendment Application.

However, these same concerns must be addressed again, now that the developer proposes to develop the final 500 acres designated as Pod H directly across Range Line Road from the Liberty Property. Attached to this letter is correspondence from St. Lucie County dated November 24, 2020, through which the County expressed similar incompatibility concerns as those raised here.

Liberty understands that zoning and development requires a careful weighing of conflict and competing uses. Continued residential and other development is desirable for the City and will continue. But such development must be compatible and adequately separated and buffered from preexisting heavy industrial use. Liberty believes that the following buffering, screening, and setback requirements should be required for any City of Port. St. Lucie approvals for Verano Pod H:

A 1,500-foot setback from Liberty's property line for any residential uses, schools, or park land that would be accessed by the public; and

A 10-foot earthen berm on the Verano side of Range Line Road that is planted with trees and vegetation to provide adequate buffering and screening.

The buffering and screening suggested above is consistent with the City's Comprehensive Plan and the City's Municipal Code, and will protect public health, safety, and welfare.

Section 156.120 of the City of Port St. Lucie Municipal Code states that screening such as buffers and berms "shall be required" as "visual screening between adjacent incompatible land uses or zoning districts" and as "open space distances between adjacent incompatible land uses . . . especially when building heights increase or noise becomes a problem." Additionally, the City's Comprehensive Plan, Policy 1.1.4.3.b. provides that buffering should be used to address concerns arising from heavy industrial use which could be considered hazardous or a nuisance. Thus, such buffering and screening should be required here.

Moreover, Policy 1.2.5.2 of the City's Comprehensive Plan requires a buffer zone "as a transition area between urban uses within the NCD District and those agricultural uses west of Range Line Road and Glades Cut-Off Road." The required buffer zone ranges between 250 feet and 1,000 feet, with an average of 500 feet. Certainly, if this policy exists with respect to agricultural uses west of Range Line Road, a more comprehensive policy with a larger buffer should be required with respect to heavy industrial uses west of Range Line Road.¹ The buffering and screening requested by Liberty above is consistent with the City's Code and Comprehensive Plan.

We appreciate the City's consideration of Liberty's concerns and objections. Liberty raises these concerns in a manner consistent with the purpose of the City's zoning rules which is to ensure the public health and safety of City residents. Liberty respectfully requests that the Rezoning

¹ The property sought to be rezoned in the Rezoning Application is identified as RGC, thus policy 1.2.5.2 may not be directly applicable to the Rezoning Application. But the underlying policy of reducing conflicting uses through buffers and screening is applicable here.

Holly Price, AICP
Anne Cox, AICP
January 3, 2022
Page 4

Application be denied unless the screening and buffering requested above is required and until Liberty's other concerns have been addressed.

Please deliver a copy of this correspondence to all members of the Planning & Zoning Board before the January 4 Public Hearing on this matter. In the interim, please do not hesitate to contact me should you have any questions regarding the above matters or if the City requires any additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christian Tiblier", with a stylized flourish extending to the right.

Christian H. Tiblier

Enclosure

**Board of County
Commissioners**

Chris Dzadovsky
DISTRICT 1
Chair

Sean Mitchell
DISTRICT 2
Vice-Chair

Linda Bartz
DISTRICT 3

Frannie Hutchinson
DISTRICT 4

Cathy Townsend
DISTRICT 5

Administration

Howard Tipton
COUNTY
ADMINISTRATOR

Dan McIntyre
COUNTY ATTORNEY

November 24, 2020

Anne Cox, AICP
Assistant Director of Planning and Zoning
121 S.W. Port St. Lucie Blvd
Port St. Lucie, FL 32399

Re: P20-080 Rezoning and Planned Unit Development (PUD) Amendment
Application – Verano South Pod G


Dear Ms. Cox,

The subject application consists of a petition location adjacent to unincorporated land within the jurisdiction of St. Lucie County. The western boundary abuts 240 acres of property zoned Industrial, Heavy (IH). The purpose of this zoning district is to provide an environment suitable for heavy manufacturing and other uses that create potentially significant light, dust, vibration, noise and odor. For a list of permitted and conditional uses, please see the attached Industrial Heavy zoning district use list. Heavy industrial operations currently adjacent to the petition site consist of Liberty Tire Recycling, Allied New Technology and CAT Recycling Yard. The remaining 180 acres are currently vacant awaiting similar heavy industrial development.

As such, the proposed PUD modification may not be consistent with the existing and future industrial uses that may be approved within the County's nearby IH zoning district. On March 16, 2016, I sent your office a letter outlining similar concerns for an earlier proposed modification to this PUD, to reduce the approved buffer adjacent to Range Line Road from 500 feet to 50 feet.

The current application proposes a 51.8 acre "city park" immediately east of the IH zoning district, which may be in conflict with the entitled Heavy Industrial uses, adjacent.

Should the City support a park in this location, the County requests involvement in the planning process to ensure an adequate buffer is incorporated between the IH uses to the west and any active park uses to the east. We also request participation at the time of any future PUD modifications and site plan development in order to insure compatibility while reducing conflicts.

Sincerely,

Leslie Olson, AICP
Director

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March 2, 2022

**VIA EMAIL (HPRICE@CITYOFPSL.COM,
ANNEC@CITYOFPSL.COM,
PLANNING@CITYOFPSL.COM)**

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Assistant Director of Planning and Zoning
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121 S.W. Port St. Lucie Blvd.
Port St. Lucie, FL 34984-5099

Re: Status of Ongoing Negotiations for Pod H City of Port St. Lucie Project #P-21-070

Dear Ms. Price and Ms. Cox:

We represent Liberty Tire Recycling, LLC (“Liberty”) in connection with its heavy industrial zoned property and tire recycling facility located at 9675 Range Line Road, St. Lucie County, Florida 34987 (“Liberty Property”). On January 4, 2022, the City of Port St. Lucie Planning and Zoning Board considered the Verano Pod H Rezoning Application (“Rezoning Application”), which seeks to rezone the designation of approximately 486 acres of land east of the Liberty Property from St. Lucie County-Agricultural 5 (“SLC-AG-5”) to City Planned Unit Development (“PUD”).

I appeared at the January 4, 2022 hearing on behalf of Liberty Tire and objected to the Rezoning Application given the application’s failure to consider the proposed inconsistent uses within close

Holly Price, AICP
Anne Cox, AICP
March 2, 2022
Page 2

proximity of the Liberty Property. Ultimately, the Planning and Zoning Board passed a motion approving the Rezoning Application, but conditioned said approval on the applicant, Liberty Tire, and Allied Chemical Corporation (“Allied”) meeting in a good-faith effort to resolve the objections raised by Liberty Tire and Allied. This letter is to inform you of the status of the parties’ ongoing negotiations with respect to the objections raised by Liberty Tire.

Recently, the applicant has proposed a landscaped buffer and berm along Range Line Road and limiting access to the proposed school, city park, and commercial site to a shared access point from the proposed Crosstown Parkway extension, with secondary access from Range Line Road only in the event it is required by the City. Liberty Tire is carefully considering the revisions proposed by the applicant and has hired a consulting landscape architect and planner to assist in analyzing the applicant’s proposed revisions. We anticipate that we will be able to provide a reasoned response to the applicant’s proposal no later than March 11, 2022—very likely sooner. This time allows our consultants to properly analyze the rezoning at issue and make the appropriate recommendation.

Once Liberty Tire has had the opportunity to provide a reasoned response to the applicant’s proposal, there should be no reason—from Liberty Tire’s perspective—that the good-faith meeting contemplated by the conditional motion passed by the Planning and Zoning Board cannot take place. Liberty Tire, therefore, respectfully requests that the Rezoning Application not be included on City Council’s meeting agenda until such time as the good-faith meeting takes place. In the meantime, Liberty Tire will work diligently to identify a mutually beneficial solution to this matter.

Sincerely,



Christian H. Tiblier

BakerHostetler

Baker&Hostetler LLP

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May 4, 2022

VIA E-MAIL (HPERRY@GUNSTER.COM)

H. William Perry
Gunster
777 South Flagler Drive
Suite 500 East
West Palm Beach, FL 33401

Re: Liberty Tire – Verano South Pod H Planned Unit Development (P21-070)

Dear Mr. Perry:

As you know this firm represents Liberty Tire Recycling, LLC, (“Liberty Tire”) regarding the rezoning application for Verano South Pod H Planned Unit Development (P21-070). To summarize, the application anticipates rezoning of 486.228 acres east of Range Line Road in the City of Port St. Lucie from St. Lucie County-Agricultural 5 to City Planned Unit Development and proposes approximately 900 dwelling units, a 10-acre commercial site, a 50-acre city park site, and a school site.

Liberty Tire operates a tire recycling facility just west of Range Line Road on property that is zoned for heavy industrial use and has been operating in such capacity for many years. Given the close proximity of the planned residential dwelling units, the commercial site, the city park site, and the school site to Liberty Tire’s heavy industrial facilities, Liberty Tire appeared at the January 4, 2022 City Planning & Zoning meeting and objected to the rezoning proposed in the application. In the interest of brevity, the basis of Liberty Tire’s objections can be summarized as the inconsistent uses anticipated by the proposed development and the lack of proper buffering and screening to account for such inconsistent uses. The January 4, 2022 meeting resulted in the Planning & Zoning Board’s acceptance of the rezoning application conditioned on a good-faith conference and negotiation between the applicant, Liberty Tire, and Allied Chemical Company to resolve the issues raised by Liberty Tire and Allied Chemical at that meeting.

H. William Perry

May 4, 2022

Page 2

As you know, since that meeting, Liberty Tire has been working with several consultants to develop a solution to mitigate the risk of conflict arising from the inconsistent uses between Liberty Tire and the anticipated development. Liberty Tire's proposed solution to help alleviate those conflicts is as follows:

1. A 320' buffer between Liberty Tire's eastern property line and the proposed development. That buffer consists of Range Line Road and the associated right-of-way (180'), the existing FPL easement east of Range Line Road (60'), and a 10' high 80' wide berm landscaped with dense vegetation that reaches a height of 15 additional feet. The width of the berm was selected to allow for adequate side slopes. For your convenience, the proposed buffer can be identified on the Proposed Development Plan, which is attached to this letter as Exhibit A, and the Proposed Buffer Section, which is attached to this letter as Exhibit B.
2. Liberty Tire requests that the commercial site, which is currently planned directly east from the Liberty Tire Facility, be eliminated from the planned development.
3. Liberty Tire requests that no access points be allowed from Range Line Road to any portion of the proposed development.

Liberty Tire believes that implementing the proposal listed above is the best way to mitigate future conflicts between uses while balancing the interests of Liberty Tire and the uses anticipated by the applicant's development plan. Moreover, Liberty Tire's proposal is consistent with the intent of DRI Map H, which anticipated a 50-acre city park along the entirety of Range Line Road running approximately 900' east into the development.

As mentioned above, Liberty Tire engaged several consultants when developing this proposal to ensure that the proposal meets concerns related to the existing 24/7 heavy industrial operations—taking into consideration elements of noise, road dust, light, and heavy truck traffic—all of which are within close proximity to the anticipated residential units, city park, and school in a reasonable fashion that preserves the core development anticipated by your client.

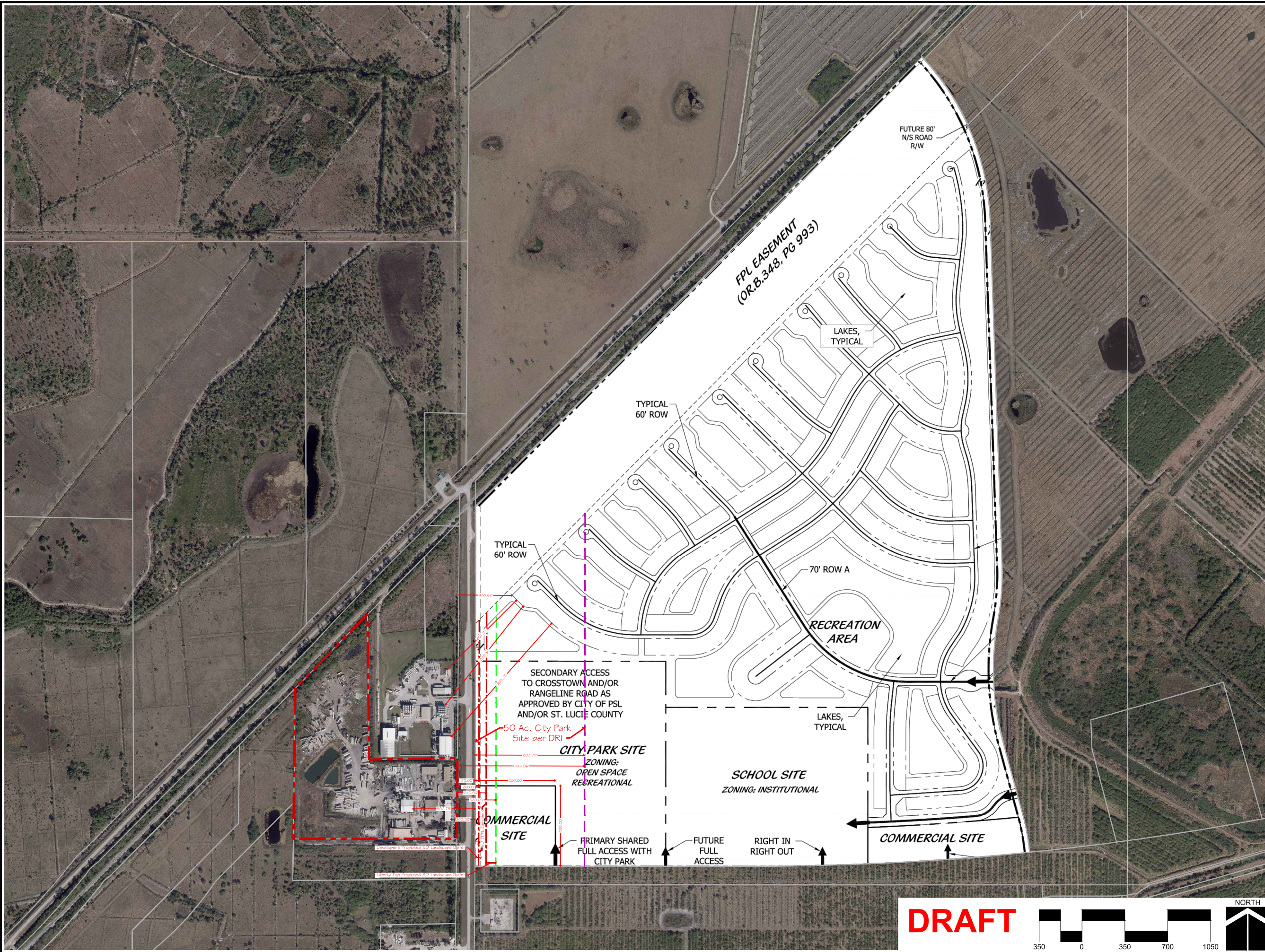
Liberty Tire looks forward to meeting with your client in good faith to discuss its proposal and to address any concerns your client might have with respect to same. Please reach out to me for further conference as we try to reach an agreed upon solution. I am available at my direct line 407-649-4021.

Sincerely,



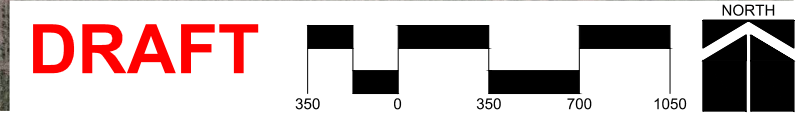
Christian H. Tiblier

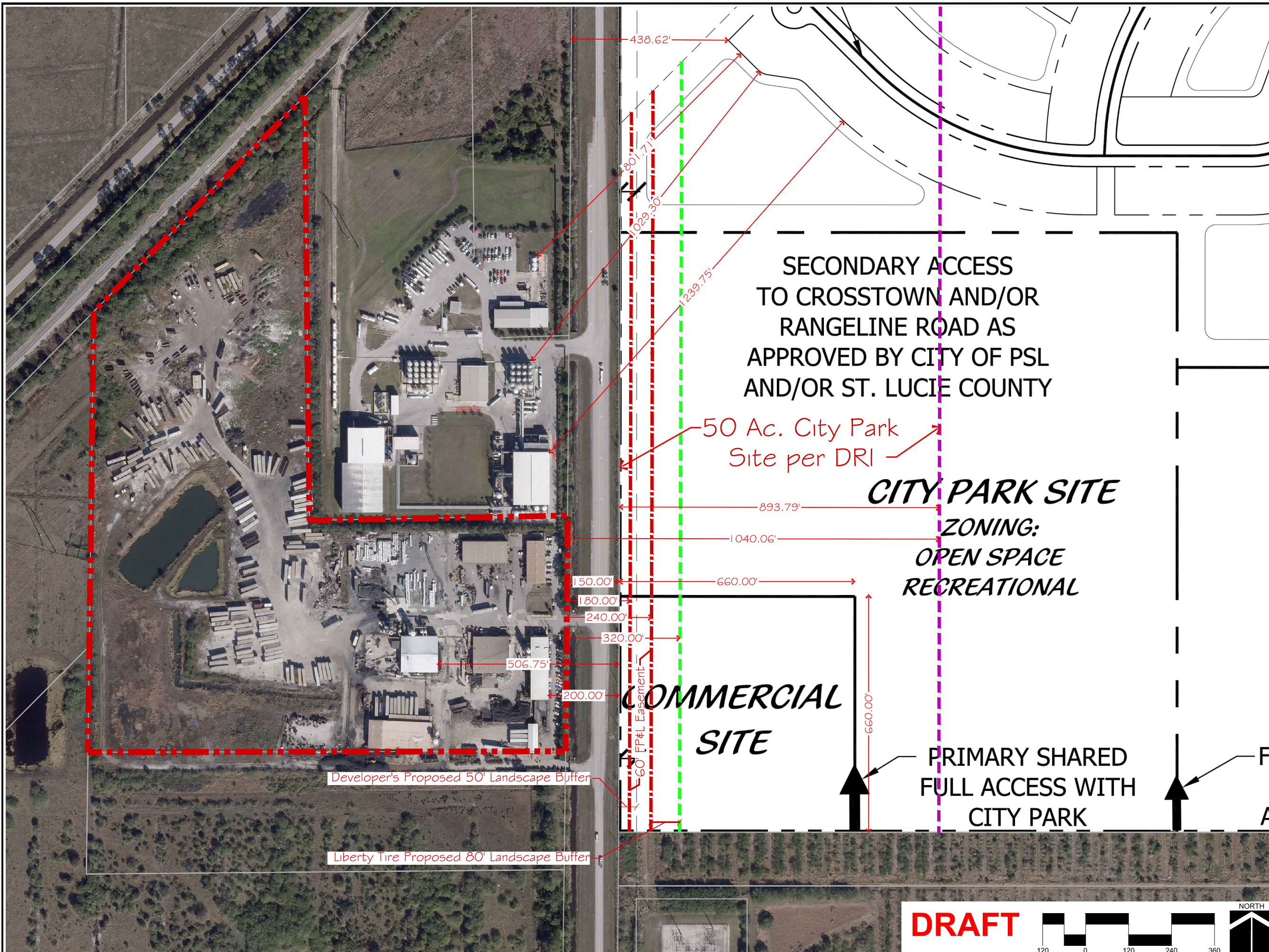
EXHIBIT A



Liberty Tire
 9675 Range Line Road, Saint Lucie County, Florida
 Client: Mr. Christian Tibbler
 Baker Hostetler
 200 South Orange Avenue | Suite 2300
 Orlando, FL 32801-3432
Proposed Development Plan

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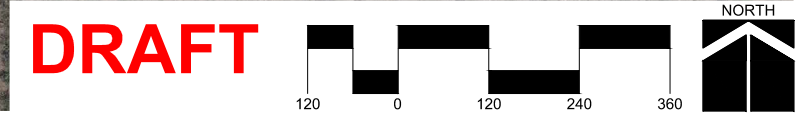


Liberty Tire
 9675 Range Line Road, Saint Lucie County, Florida
 Client: Mr. Christian Tibbler
 Baker Hostetler
 200 South Orange Avenue | Suite 2300
 Orlando, FL 32801-3432

Proposed Development Plan (Enlargement)

Scale: 1" = 120'
 Date: 2 March 22
 Design: EER
 Drawn: LB
 Checked: LB
 Revised: 21 April 22

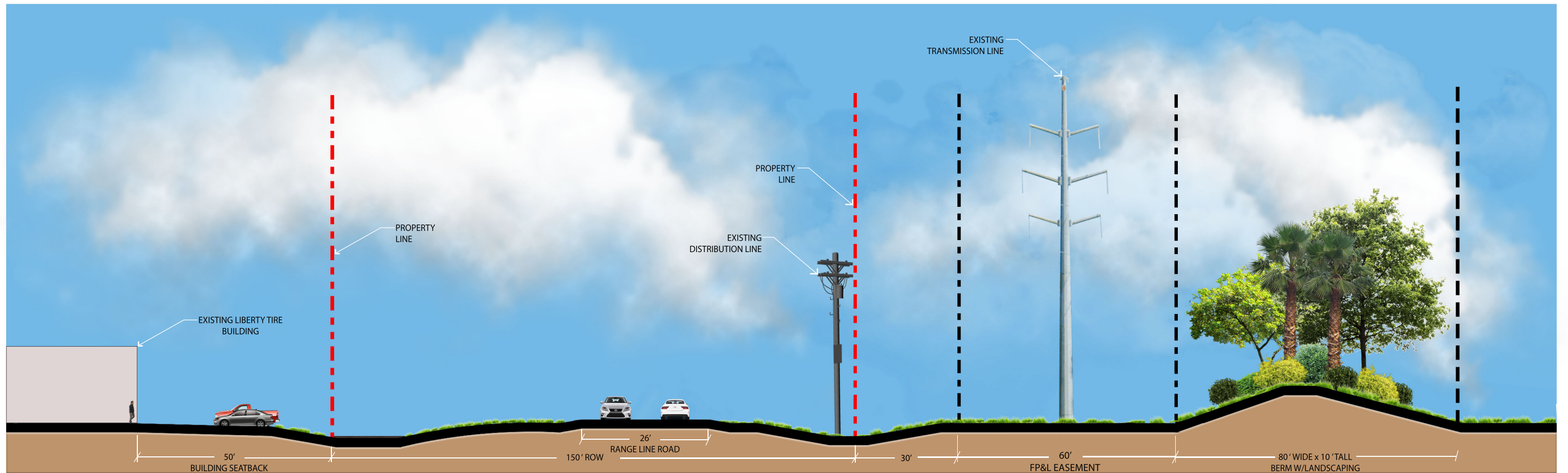
Job No. 22.045
 Sheet PDPE



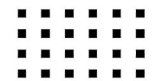
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DRAFT

EXHIBIT B



SECTION: VERANO SOUTH POD H-PROPOSED 80' BERM



RAHENKAMP DESIGN GROUP, INC.

Development Services ■ Golf Course Architecture
Landscape Architecture ■ Land Use Planning

Eminent Domain

2816 S. MacDill Avenue, Tampa, Florida 33629

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WWW.RDGRP.COM

From: [Tiblier, Christian H.](#)
To: [Holly Price](#); [Anne Cox](#)
Cc: [Roberts, Joel E.](#); [Perry, Hugh](#); ronald.noble@bipc.com; [Bustamante, Alberto S.](#)
Subject: RE: Verano - Liberty Tire Recycling - P22- 215 Verano DRI
Date: Monday, August 29, 2022 12:06:34 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Thank you, Holly.

The Planning and Zoning Board amended Map H of the DRI without considering the impact of changing a City Park buffer to residential and commercial units within such close proximity to a chemical plant that manufactures chlorine and a heavy industrial tire recycling plant. If the PUD zoning document can be revised just as easily, then I'm not sure how this exercise is protecting the interests of Liberty Tire Recycling, the future residents of the planned development, the city park, or the commercial site. For instance, who maintains the buffer, berm, and screening? Who does Liberty Tire Recycling turn to for enforcement when the buffer, berm, and screening is not maintained adequately? A buffer installation and maintenance agreement solves these problems without ambiguity.

If the buffer is more explicitly called out, Liberty Tire Recycling would like to be involved in what that looks like.

Christian H. Tiblier
Associate
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From: Holly Price <HPrice@cityofpsl.com>
Sent: Monday, August 29, 2022 11:52 AM
To: Tiblier, Christian H. <ctiblier@bakerlaw.com>; Anne Cox <AnneC@cityofpsl.com>
Cc: Roberts, Joel E. <jeroberts@bakerlaw.com>; Perry, Hugh <HPerry@gunster.com>; ronald.noble@bipc.com; Bustamante, Alberto S. <abustamante@bakerlaw.com>
Subject: RE: Verano - Liberty Tire Recycling - P22- 215 Verano DRI

[External Email: Use caution when clicking on links or opening attachments.]

Chris,

The date for the Council meeting has changed to September 26.

The buffer is planned to be more explicitly called out in the PUD zoning document.

Regards,

| Holly Price, AICP



"A City for All Ages"

Senior Planner

**City of Port St. Lucie
PLANNING & ZONING DEPT.**

121 S.W. Port St. Lucie Blvd.

Port St. Lucie, Florida 34984-

5099

772.871.5019 *direct* | 772.871.5124 *fax*

hprice@cityofpsl.com

From: Tiblier, Christian H. <ctiblier@bakerlaw.com>

Sent: Monday, August 29, 2022 11:39 AM

To: Holly Price <HPrice@cityofpsl.com>; Anne Cox <AnneC@cityofpsl.com>

Cc: Roberts, Joel E. <jeroberts@bakerlaw.com>; Perry, Hugh <HPerry@gunster.com>;
ronald.noble@bipc.com; Bustamante, Alberto S. <abustamante@bakerlaw.com>

Subject: Verano - Liberty Tire Recycling - P22- 215 Verano DRI

Holly and Anne,

I just wanted to give you a quick update on the negotiations between Verano and Liberty Tire Recycling. We are very close to an agreement, but have not reached a consensus insofar as memorializing the agreement in an enforceable way. Liberty Tire Recycling seeks to memorialize the agreement in a recorded buffer installation and maintenance agreement, which I believe is the way these types of buffers are usually enforced. Verano's position, to date, has been that including the berm, buffer, and screening as a condition of approval by the City Council is enough. Unfortunately, that is not sufficient because (1) it can be easily amended with little to no notice to Liberty Tire Recycling and (2) because it would require enactment of a City ordinance with an official amendment of the DRI.

I am working to resolve this issue as quickly as possible, but am not certain it can be completed before September 12. I would ask that including this item on the City Council's agenda be postponed until Verano and Liberty Tire Recycling resolve this last remaining issue.

Christian Tiblier

Associate

BakerHostetler

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From: [Tiblier, Christian H.](#)
To: [Holly Price](#); [Noble, Ron](#); [Teresa Lamar-Sarno](#); [Mary Savage-Dunham](#)
Cc: [Perry, Hugh](#)
Subject: RE: Verano DRI Amendment; P22-215; Chlorine Institute - Guidance on Estimating the Area Affected by a Chlorine Release - Pamphlet 74 - Edition 7 - October 2019 4864-6851-5849 v.1.pdf
Date: Tuesday, August 2, 2022 3:29:08 PM
Attachments: [image001.png](#)

Holly,

Thank you for providing advance notice. I would like to point out that while the staff report and presentation anticipate the berm and buffer, the proposed Map H does not reflect that berm and buffer.

Additionally the proposed berm should be 8 feet high and landscaped to a total height of at least 25' of full coverage opacity.

Please let me know if this makes sense or if you need any further information.

Thank you,

Christian H. Tiblier
Associate
+1.407.649.4021
ctiblier@bakerlaw.com

From: Holly Price <HPrice@cityofpsl.com>
Sent: Tuesday, August 2, 2022 2:11 PM
To: Noble, Ron <Ronald.Noble@bipc.com>; Teresa Lamar-Sarno <tsarno@cityofpsl.com>; Mary Savage-Dunham <mdunham@cityofpsl.com>
Cc: Tiblier, Christian H. <ctiblier@bakerlaw.com>
Subject: RE: Verano DRI Amendment; P22-215; Chlorine Institute - Guidance on Estimating the Area Affected by a Chlorine Release - Pamphlet 74 - Edition 7 - October 2019 4864-6851-5849 v.1.pdf

[External Email: Use caution when clicking on links or opening attachments.]

Ron, Is there a particular page/s that supports your concern?



"A City for All Ages"

Holly Price, AICP
Senior Planner
City of Port St. Lucie
PLANNING & ZONING DEPT.
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, Florida 34984-5099

772.871.5019 direct | 772.871.5124 fax
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From: Noble, Ron <Ronald.Noble@bipc.com>
Sent: Tuesday, August 2, 2022 1:23 PM
To: Holly Price <HPrice@cityofpsl.com>; Teresa Lamar-Sarno <tsarno@cityofpsl.com>
Cc: Tiblier, Christian H. <ctiblier@bakerlaw.com>
Subject: Verano DRI Amendment; P22-215; Chlorine Institute - Guidance on Estimating the Area Affected by a Chlorine Release - Pamphlet 74 - Edition 7 - October 2019 4864-6851-5849 v.1.pdf

Holly and Teresa:

At our last Planning and Zoning Board Public Hearing on the Verano Petition, the Board and staff requested the technical documentation and justification for a 1,500 foot setback and buffer from the Allied industrial plant utilizing chlorine to residential dwelling units. Attached please find the requested documentation from The Chlorine Institute with respect to an uncontrolled release of chlorine. This documentation was provided to the Kolter representatives last month.

Thanks,
Ron

Ron Noble
Shareholder

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ronald.noble@bipc.com

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Buchanan Ingersoll & Rooney PC

From: Reinhard, Molly <molly.reinhard@bipc.com>
Sent: Tuesday, August 02, 2022 11:28 AM
To: Noble, Ron <Ronald.Noble@bipc.com>
Subject: Chlorine Institute - Guidance on Estimating the Area Affected by a Chlorine Release - Pamphlet 74 - Edition 7 - October 2019 4864-6851-5849 v.1.pdf

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August 10, 2022

VIA FEDERAL EXPRESS

Mr. Scott Morton
Kolter Homes, LLC
105 NE 1st Street
Delray Beach, FL 33444

Re: Verano Development Agreement

Dear Scott:

This letter will recount the call, e-mails and meetings we have had with Liberty Tire and Allied Chemical representatives since January.

As you know, on January 4, 2022, Dan Sorrow, you and I attended the City of Port St. Lucie Planning and Zoning Board meeting for POD H at Verano. POD H is the last development parcel in the twenty year old DRI for Verano. POD H includes the DRI-required sites for dedication of a school site and City park as part of the final development approval.

Representatives of Liberty Tire and Allied Chemical attended the January 4th meeting to lodge objections to the development plan for POD H. The fundamental basis for these objections was that Liberty Tire and Allied Chemical are operating industrial uses on Range Line Road across the street from the southern boundary of Verano. Liberty Tire operates a tire recycling facility. Allied Chemical operates a chlorine processing facility. These industrial uses have existed for some time; however, the Allied Chemical Plant was expanded in 2007 when the Verano DRI was already approved and acknowledged that its activities would not interfere with the adjacent residential development (i.e., Verano).

The end result of the January 4th Planning and Zoning Board was a unanimous approval to advance the POD H approval to the City Council. However, as part of this approval, the Planning and Zoning Board required that Kolter meet with representatives of Liberty Tire and Allied Chemical to attempt to resolve some or all of their objections. This letter will recount the number of times we have met or spoken with each party since January 4th.

Chronology

- January 4th - P&Z Meeting. Follow-up discussions after meeting.
- January 11th – 1st Christian Tiblier (i.e. Liberty’s counsel hereinafter referred to as “CT”) e-mail to Hugh W. Perry (i.e. Kolter’s counsel hereinafter referred to as “HWP”) requesting information.
- January 14th – Rob Noble (i.e. Allied’s counsel hereinafter referred to as “RN”) e-mail to HWP requesting a settlement conference.
- January 18th - 2nd CT e-mail requesting information.
- January 27th - HWP e-mail to CT in follow-up to telephone call providing requested distance, buffer and landscaping information.
- January 28th - CT e-mail to HWP requesting clarification on a couple of points on information provided the day before.
- February 14th - HWP e-mail to CT providing revised Master Plan with no access points from Commercial Site onto Range Line road and showing 50’ buffer.
- February 28th - CT e-mail to HWP coordinating discussions and requesting measurement information.
- March 11th - CT e-mail to HWP containing 60’ FPL Easement along Range Line Road. After verification, all buffers were moved east of this easement providing additional setback from Range Line Road.
- March 23rd - HWP e-mail to CT providing buffer and master plan information. This e-mail was in follow-up to a series of telephone calls.
- April 21st - E-Mail from CT providing status update on Liberty Tire’s consideration of the berm, screening and distance proposals made by Kolter and promising a final position by May 4th.
- May 4th - Letter from CT providing Liberty’s counter proposal to on berm, screening and separation proposal. Note: Liberty’s proposal in this letter requests a total 320’ in separation including Range Line Road. Kolter’s current proposal is 348’ (including 200’ buffer recently proposed by Kolter adjacent to Liberty site).
- May 9th - RN e-mail to HWP.

- May 11th – Two (2) HWP Letters to (1) CT responding to his May 4th Letter and containing Kolter’s updated settlement proposal on buffer, setback and berm, and (2) RN containing same settlement proposals.
- May 13th - RN letter to HWP responding to HWP May 11th letter and requesting a settlement conference with representatives of Allied, Liberty and Kolter.
- May 18th – CT letter to HWP responding to HWP’s May 11th settlement proposal letter. In this response, Liberty agrees to a total of 278’ in separation and an 8’ berm (subject only to landscaping). CT also reaffirmed no direct access to Range Line Road from Commercial Parcel. Kolter had agreed to each of these points.
- June 9th - HWP joint letter to CT and RN responding, point by point, to CT’s May 18th letter.
- June 16th - Multiple e-mails between the lawyers scheduling a settlement conference. Final correspondence is letter from HWP to CT and RN setting settlement conference for June 24th @ 1:30 pm on MS Teams.
- June 24th - MS Teams settlement conference with lawyers and principals from Liberty Tire, Allied Chemical and Kolter. Settlement discussions centered on various proposals made in HWP May 11th letter with follow-up correspondence. An open question remained regarding the specifics of landscaping which were addressed in July 7th meeting with landscape architects. Liberty hired their own landscape architect to peer review Dan Sorrow’s work. Liberty’s landscape architect agree that, at grow in, landscaping as proposed would provide the opacity that Liberty was requesting.
- July 7th – MS Teams meeting with lawyers and landscape architects from Liberty Tire, Allied Chemical and Kolter. Note: RN also delivered an e-mail containing a 200 page document from the Chlorine Institute on this same day.

After July 7th there were multiple additional telephone conferences with RN and CT to attempt to resolve issue prior to August 2nd P&Z meeting. All of the issues have not been resolved although Liberty and Kolter have agreed to most points. Allied is still requesting further setback and a higher berm than is being proposed by Kolter.

Finally, at the August 2nd P&Z meeting for the school site rezoning shown on Map H, RN provided City and Kolter with a Chlorine Industry guideline for downwind atmospheric chlorine concentration in case of accident. However the guidance was inconclusive as to how it related to Allied’s local operations nor could it be explained by their representative. Furthermore the industry guidance that was provided was neither the State or Federal

Mr. Scott Morton
August 10, 2022
Page 4

regulatory standard that was previously requested by the P&Z Board seven months ago on January 4, 2022.

Sincerely,

A handwritten signature in blue ink, appearing to read "H. W. Perry", with a long horizontal flourish extending to the right.

Hugh William Perry
For the Firm

HWP/op