

Gregory D. Cottin, (TR)
Variance (Isolation of a parcel)
P23-239



Aerial Map

SUMMARY

Applicant's Request:	To grant a variance to allow an isolation of a parcel. Appendix B, Land Use Conversion Manual of the City's Zoning Code requires that rezoning petitions for the conversion of residentially zoned lots avoid the isolation of lots that are insufficient in size to meet the performance standards established for a particular conversion area.
Application Type:	Variance, Quasi-Judicial
Applicant / Property Owner:	Gregory D. Cottin (TR) and Patricia H Cottin (TR)
Address:	2722 southwest Fondura road and 2732 southwest Fondura road
Location:	The property is generally located south of SW Gatlin Boulevard and west of SW Fondura Road.
Project Planner:	Cody Sisk, Planner II

Project Description

The applicant owns Lots 18 and 19 of Port St. Lucie Section 31, Block 1708, which are a total 20,000 square feet in size. The variance request is to allow the isolation of Lot 20, where the Land Use Conversion Manual prohibits this action. (Per the Land Use Conversion Manual, Conversion Area Number 24 requires a minimum 160 feet of road frontage and 20,000 square feet of area) and the CS zoning district requires a minimum of 20,000 square feet of area. Lots 20 is 10,000 square feet in size and does not have sufficient size or frontage to be rezoned by itself. The end goal for the applicant is to be able to rezone their property and build a warehouse with office use on Lots 18 and 19.

Background

The existing vacant site is zoned RS-2 (Single-Family Residential) and is owned Gregory D. Cottin (TR) and Patricia H Cottin (TR), Inc. Lots 18 and 19, which are on south side of the lot 20, is also zoned Residential. The intent of this vacant parcel is to create a Warehouse with office use on lots 18 and 19.

Review Criteria

An application for a variance is reviewed for consistency with Article XV of the Zoning Code, Sections 158.295 through 158.299 and the Land Use Conversion Manual. Per Section VI of the Land Use Conversion Manual the recommendation of the Planning and Zoning Board is forwarded to the City Council for final action. Final action on the application (approval or denial) is in the form of a Resolution by the City Council following a quasi-judicial public hearing.

Public Notice Requirements

Public notice was mailed to owners within 750 feet on February 22, 2024, and the file was included in the ad for the Planning & Zoning Board's agenda.

Location and Site Information

Parcel Number:	3420-650-1096-000-2, 3420-650-1097-000-9
Property Size:	0.24-acres
Legal Description:	Port St Lucie, Section 31, Block 1708, Lot 18
Future Land Use:	CS
Existing Zoning:	RS-2
Existing Use:	Vacant

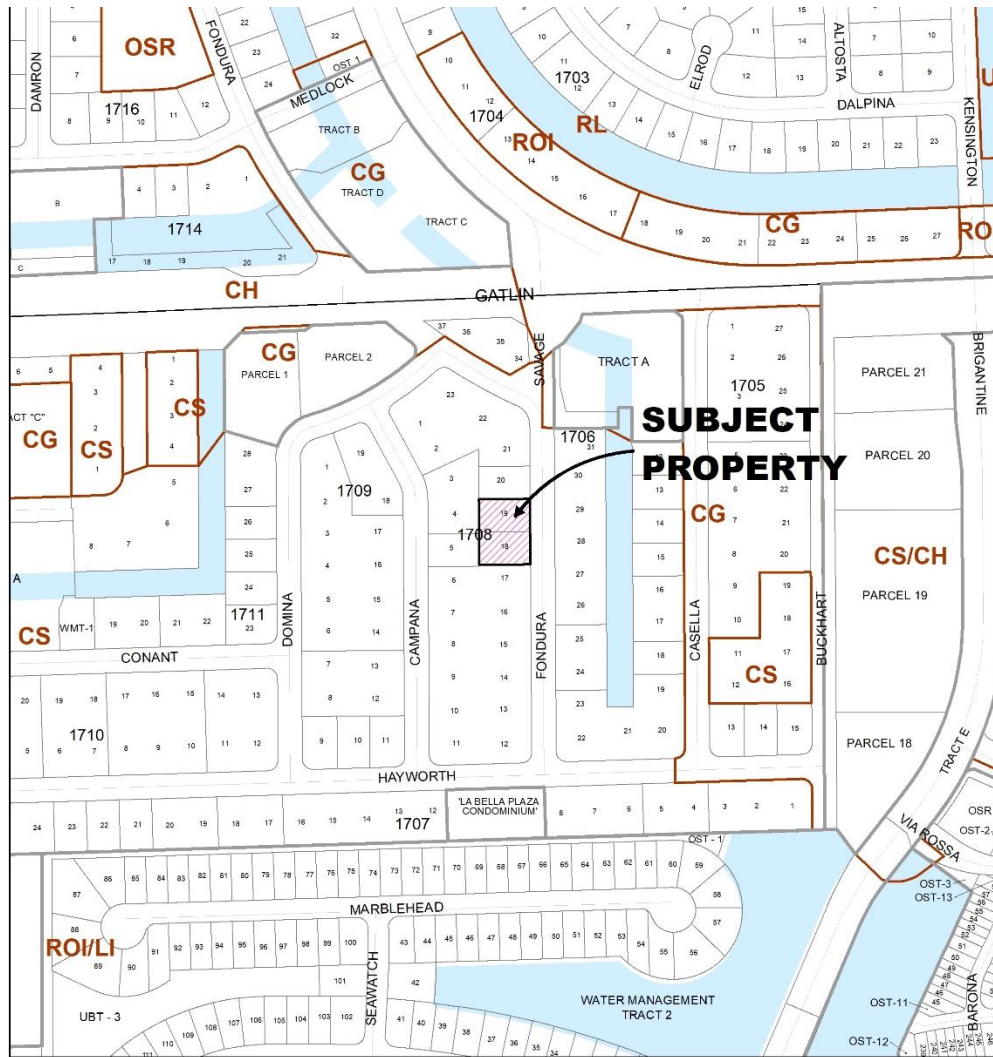
Surrounding Uses

Direction	Future Land Use	Zoning	Existing Use
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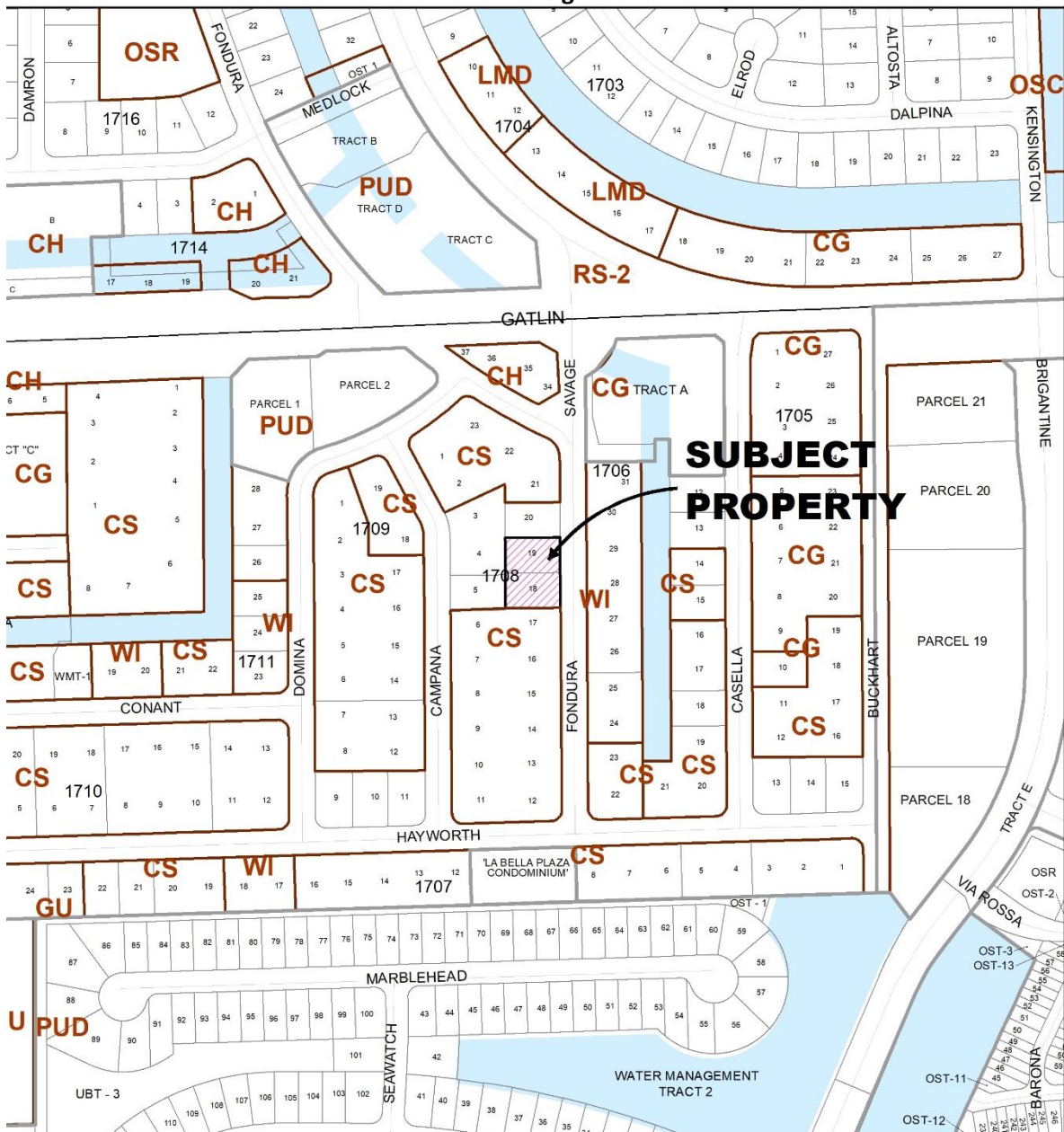
North	CS	RS-2	Vacant
South	CS	CS	Self-Storage
East	CS	WI	Self-Storage
West	CS	RS-2	Vacant

WI – Warehouse Industrial, CS – Service Commercial, RS-2 – Single Family Residential

Future Land Use



Zoning



IMPACTS AND FINDINGS

Section 158.295 (B) of the Zoning Code establishes the duties of the Planning and Zoning Board in authorizing a variance. The Planning and Zoning Board may authorize the variance from the provisions of the Zoning Code as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. Pursuant to Section 158.296, a variance is authorized only for height, area, and size of the structure, yard size, building setback, lot size requirements, and other applicable development regulations, excluding use. To authorize a variance, the Planning and Zoning Board should consider the criteria listed under Section 158.295 (B) (1) through (7). The applicant's response to this criterion is attached to the application. Staff's review is provided below.

See the applicant's responses that are included in the Variance application.

Compatibility with variance criteria Section 158.295 (B).

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

- *Applicant's Response:* Applicant's properties, herein lots 18 and 19 fall within Conversion Area 24. Despite surrounding parcels largely consisting of Service Commercial (CS), General Commercial (GC), and Warehouse Industrial (WI) Zoning Designations, conversion from Residential to Commercial zoning is restricted for Lots 18 and 19 as it would result in the isolation of the northern adjoining residential lot herein Lot 20 which is of insufficient size to meet the performance standards established for Conversion Area 24.
- *Staff Findings:* *There are no special conditions or circumstances existing which are peculiar to the land that would not be applicable to other lands in the same zoning district. The applicant is the owner of Lots 18 and 19 and would like to rezone it. The variance will isolate Lot 20, not allowing that property to meet Section III, Land Assembly Requirements of the City Land Use Conversion Manual. Conversion Area 24 has a CS (Service Commercial) future land use designation. For properties to be rezoned in Conversion Area 24 to a zoning district that is compatible with the future land use designation, a minimum frontage of 160 feet and a minimum area of 20,000 square feet is required. Lot 20 is individually insufficient to meet the standards to rezone to a zoning designation that is consistent with the property's CS future land use.*

Under the rezoning procedures outlined in the City of Port St. Lucie Land Use Conversion Manual, rezoning petitions for the conversion of residentially zoned lots should avoid the isolation of lots that are insufficient in size to meet the performance standards established for a particular conversion area.

2. That the special conditions and circumstances do not result from any action of the applicant.
 - *Applicant's Response:* At present, the surrounding zoning district, Land Use Conversion Area 24, facilitates the change from residential to commercial which has resulted in Fondura Rd largely consisting of commercially or industrial zoned properties. The owner did not cause these lots to be zoned for nonresidential uses but is being restricted in their ability to rezone Lots 18 and 19 as commercial in an effort to better align with the existing character of Conversion Area 24.
 - *Staff Findings:* *There are no special conditions or circumstances that pertain to this*

property. See No. 1 above.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district.
 - Applicant's Response: There is no special privilege for Lots 18 and 19 when surrounding lots are zoned commercial. While the rezoning of these lots would isolate lot 20 from surrounding residential properties, it is unreasonable to expect this lot to ever be developed for a single-family dwelling unit. Owners of Lot 20 will also likely need to seek variance approval as they do not meet the minimum size requirements for commercial designation. This should not inhibit Variance approval for Lots 18 and 19 as Lot 24 also does not meet the minimum size requirements for commercial zoning but was granted Variance Approval on July 10th, 2023, under resolution 23-r74.
 - Staff Findings: *Granting of this variance will allow the development of the applicant's land and could also restrict the owner of Lot 20 from rezoning their lot per Section 158.126 (F) of the Zoning Code.*
4. That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant.
 - Applicant's Response: The literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties within Conversion Area 24 and would work unnecessary and undue hardship on the applicant due to the isolation of Lot 20. However, the owner of Lot 20 must also seek a variance in order to rezone their land to a practical use. It is unreasonable to subject the applicant to unnecessary and undue hardships until the inevitable variance request by owners of adjoining Lot 20.
 - Staff Findings: *The provisions of the chapter may deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter since Lots 18 and 19 meet the minimum size required for the CS zoning district. However, a private business decision between two property owners that do not want to sell their property is not a hardship. The property is currently zoned RS-2 (Single Family Residential) and can accommodate one single-family residence by right.*
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - Applicant's Response: The variance requested would allow the applicant to rezone to a zoning district designation that would permit the development of a commercial use for son's neighboring business. It is reasonable to allow these properties to be rezoned as commercial as it would conform with the overall character of Conversion area 24.
 - Staff Findings: *The granting of this variance will allow the applicant to rezone two lots, Lots 18 and 19, and continue with their development for future commercial development while isolating Lot 20. Per the existing zoning designation a single-family house can be constructed on the property.*
6. That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

- *Applicant's Response:* Granting the variance allows the property to be used in a manner that is compatible with the surrounding land uses, is in harmony with uses in the area and will not be detrimental to the public welfare.
 - *Staff Findings:* *The granting of the variance would be in direct conflict with Section III, Land Assembly Requirements (Avoiding Isolated Lots) on the City of Port St. Lucie Land Use Conversion Manual and the Zoning Code and injurious to the area in isolating Lot 20. It would not appear to be detrimental to the public welfare.*
7. That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.
- *Applicant's Response:* The applicant will fully comply with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe. The applicant's request for a variance is the minimum request which would allow him to use his property in a manner which is compatible with the surrounding uses. Currently, the Property is singled out and being treated differently than surrounding parcels which is the definition of impermissible spot zoning. Additionally, the application meets the seven criteria delineated in the Code. Since the variance request would allow the property owner to use his property in a manner consistent with surrounding uses to deny his request would be an arbitrary, capricious and an unreasonable treatment of the property. Therefore, I respectfully request that you grant the requested variance.
 - *Staff Findings:* *The applicant has acknowledged that they will comply with additional conditions or safeguards prescribed by the Planning and Zoning Board. Staff does not agree that the seven variance criteria have been met. The applicant has submitted a conceptual plan (see attached) but the submitted conceptual plan does not meet Section VI of the Conversion Manual which requires the plan to provide for shared access and parking for the adjacent isolated lots. If this variance is approved staff recommends a Condition of Approval to ensure that there will be cross access between Lots 18 and 19 to Lot 20.*

Performance Standards

1. Any application which would result in adjacent lots becoming non-conforming to the conversion standards may be required to submit a conceptual site plan as a part of the variance.
 - *Applicant's Response:* Please see Conceptual Site Plan below.
 - *Staff Findings:* *The conceptual plan is attached.*
2. The plan shall designate adequate buffers surrounding the site and remaining properties.
 - *Applicant's Response:* Please see attached conceptual site plan designating adequate buffers surrounding the site and remaining properties.
 - *Staff Findings:* *The conceptual plan does not designate any shared access between the adjacent sites.*
3. Where appropriate, the plan shall be designed as one project and must provide for shared

access and parking of any remaining, or adjacent lots or parcels which would not conform to the conversion standards as a result of the variance. It shall not result in isolation or landlocked lots without providing access.

- *Applicant's Response:* The attached conceptual site plan is designed to provide access and parking for lots 18 and 19 as proposed. At the time of this application, there is no proposed cross access to lot 20. Lot 20 has the ability to submit a variance to the minimum size requirements of a commercial zoning district and rezone to the service commercial zoning district. Lot 20 has the capability to serve a commercial use as it is the most appropriate use type for this area
- *Staff Findings:* *The plan does not provide for any shared access or parking. The conceptual plan isolates the adjacent lot as it would restrict the owner of Lot 20 from rezoning their lots per Section 158.126 (F) of the Zoning Code. If this variance is approved staff recommends a condition of approval to require cross access to lot 20 from lots 18 and 19.*

4. The plan shall not allow for access onto residential streets or non-conversion area streets.

- *Applicant's Response:* Not Applicable. Fondura Road falls within the conversion area and is not a residential street.
- *Staff Findings:* *The subject site does not have access to residential streets or non-conversion area streets.*

5. The plan shall require the recording of Unity of Title for the project to prohibit further division and sale of separate lots which were a part of the overall approved site plan. Also, recording of access easements for future use of the remaining adjacent lots is required. Verification of this is required prior to the issuance of building permits for the project.

- *Applicant's Response:* Unity of Title will be provided at the time of the submittal of the Rezoning application.
- *Staff Findings:* *Acknowledged.*

PLANNING AND ZONING BOARD ACTION OPTIONS

If the Board finds that the variance application is consistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code (listed above) and the City of Port St. Lucie Land Use Conversion Manual performance standards, then the Board may:

- Motion to recommend approval to the City Council with the following condition: Cross access to Lot 20 from Lots 18 and 19 shall be required.
- Motion to recommend approval to the City Council

If the Board finds that the variance application is inconsistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code, then the Board may:

- Motion to recommend denial to the City Council

Should the Board need further clarification or information from either the applicant and/or staff, the Board may:

- Motion to table or continue the hearing or review to a future meeting.