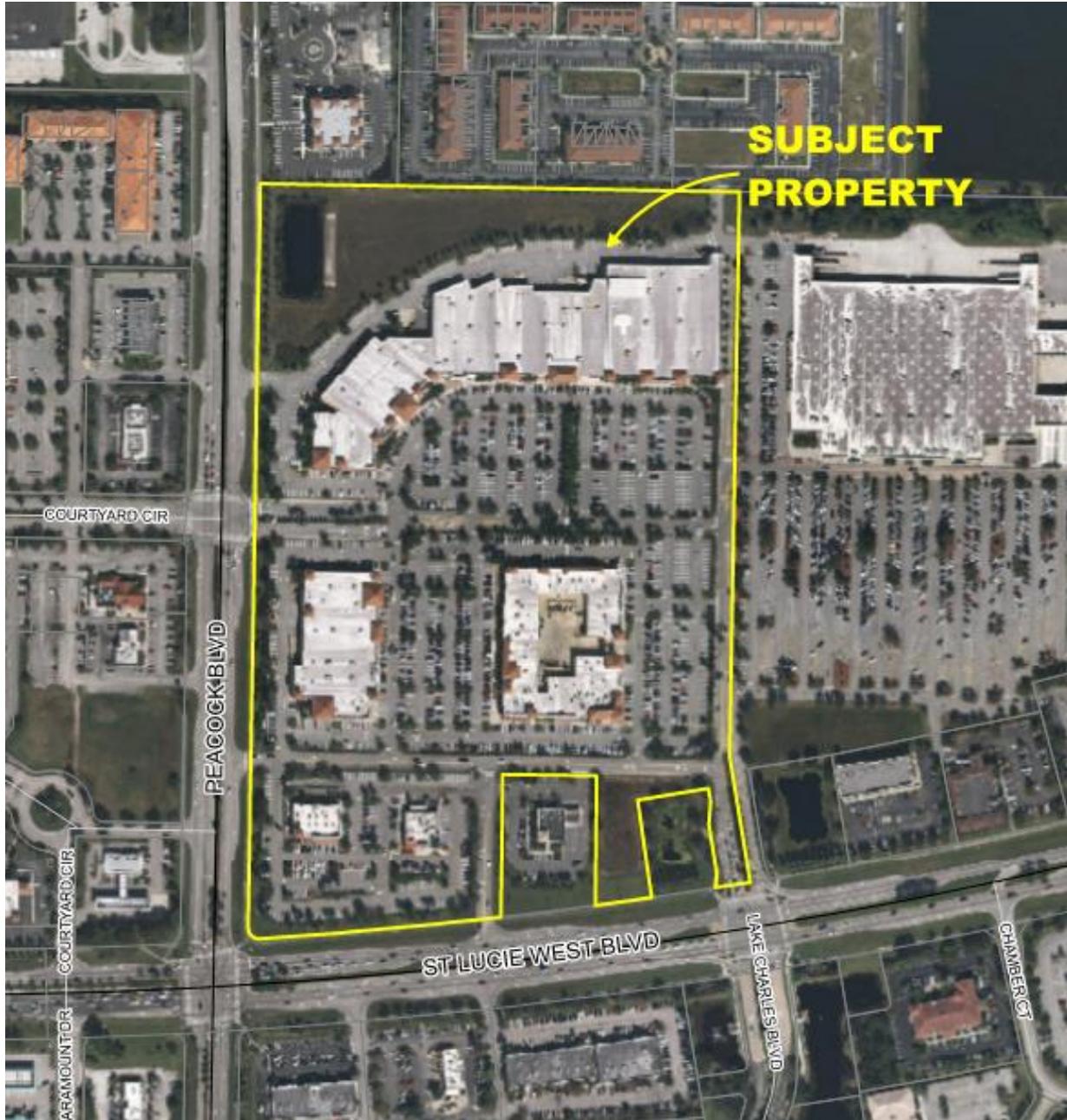




**SLW – Total Wine and More (Town Center)
Variance
P23-081**



Aerial Map

SUMMARY

Applicant's Request:	A request to grant a variance to Section 110.02 – Alcoholic Beverage Code that states no license shall be granted to a vendor of alcoholic beverages whose place of business is or shall be within one thousand five hundred (1,500) feet of a school or religious institution. This application is for a variance of four hundred and fifty-eight point thirteen (458.13) feet to allow a separation distance of one thousand forty-one point eighty-seven (1,041.87) feet from a school or religious institution. This variance will allow a Total Wine and More retail store acquire the proper state license for the sale of packaged liquor.
Application Type:	Variance, Quasi-Judicial
Applicant:	Cynthia Angelos of Bartlett, Loeb, Hinds, Thompson, & Angelos PLLC
Property Owner:	Benderson Development Co Inc.
Address:	1781 NW St, Lucie West Boulevard
Location:	Northeast corner of St. Lucie West and Peacock Boulevards
Project Planner:	Daniel Robinson, Planner III/Code Compliance Liaison

Project Description

The request is for a proposed business located in the development know as Town Center in St. Lucie West to be granted a variance of 458.13 feet to Section 110.02 of the City Code Of Ordinances. This will allow the business to sell packaged retail liquor. Section 110.02 requires that no license shall be granted to a vendor of alcoholic beverages whose place of business is or shall be within 1,500 feet of a school or religious institution. This distance is to be measured from property line to property line. There is a religious institution within 1,041.87 feet of the subject property.

The business is proposed in a building on the north side of the subject property. Where the business is in the building is approximately 1,563 feet from the religious institution's property line.

The Planning and Zoning Board approved a variance to this section of the code for the property located just east of Town Center. (Walmart) The Walmart is located 444 feet from the same religious institution's property line to the northeast. The variance was grated at the regular meeting of April 5, 2016.

Review Criteria

An application for a variance is reviewed for consistency with Article XV of the Zoning Code, Sections 158.295 through 158.299. Final action on the application (approval or denial) is in the form of an Order of the Planning and Zoning Board following a quasi-judicial public hearing. A vote of approval by five (5) members of the Planning and Zoning Board is required to grant a variance.

Public Notice Requirements

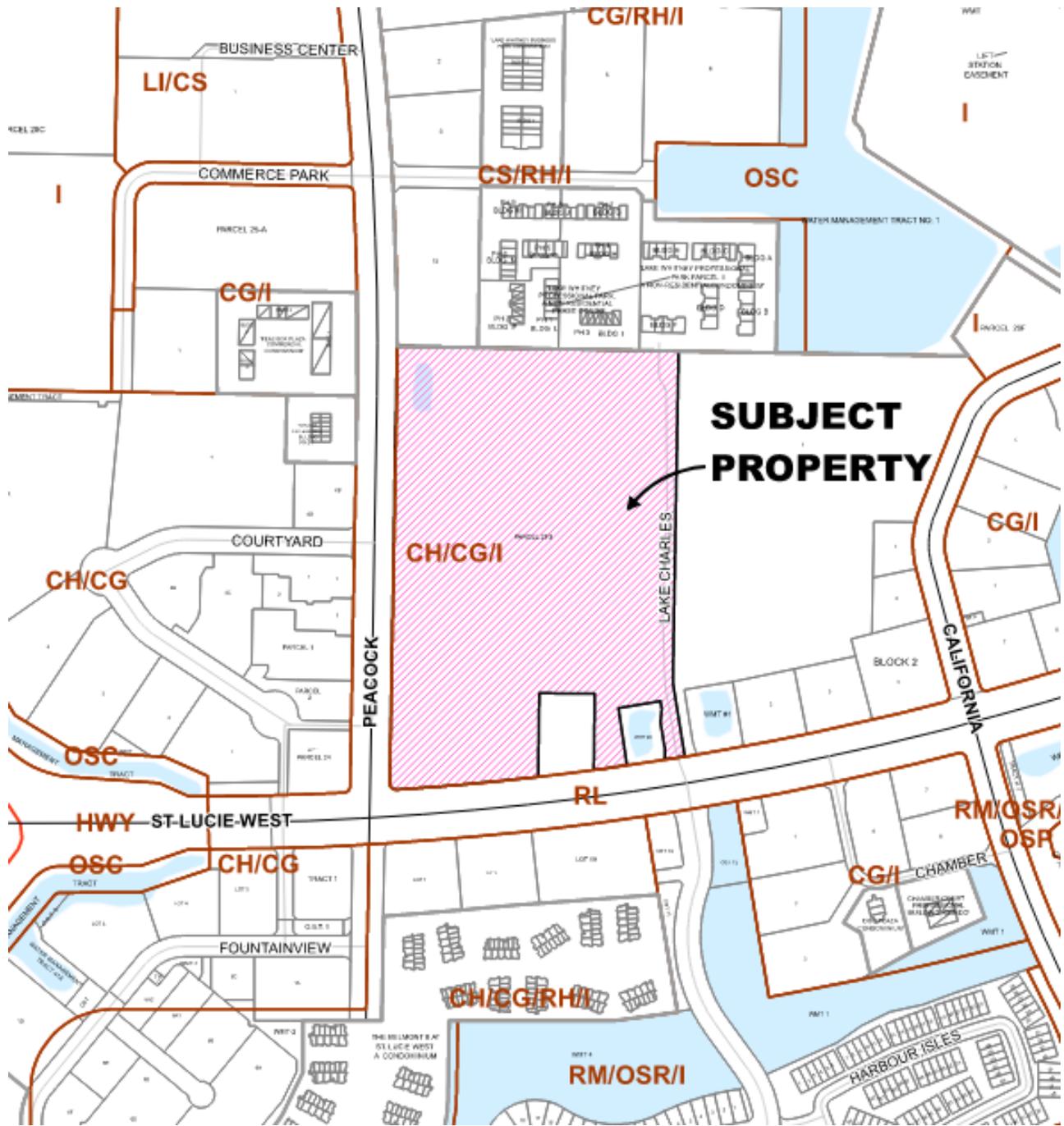
Public notice was mailed to owners within 750 feet and the file was included in the ad for the Planning & Zoning Board's agenda.

Location and Site Information

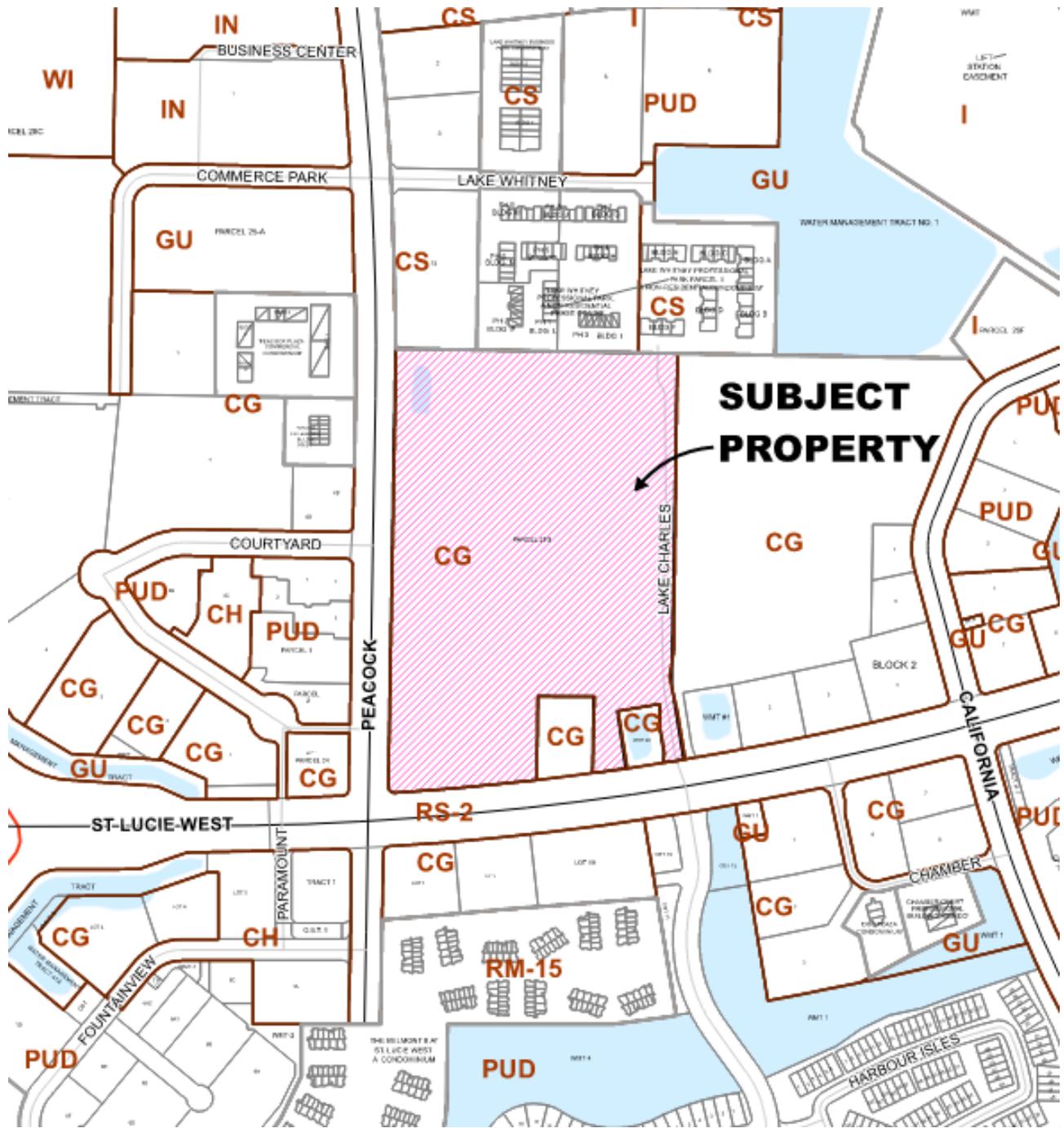
Parcel Number:	332650100010005
Property Size:	3.12-acres
Legal Description:	Lot 1-3, Block 3, Parcel 28, St. Lucie West Plat Number 1, Prima Vista Boulevard, Plat Book 26, Page 8.
Future Land Use:	Highway Commercial, General Commercial, Institutional (CH/CG/I)
Existing Zoning:	General Commercial (CG)
Existing Use:	Shopping Center (SLW Town Center)

Surrounding Uses

Direction	Future Land Use	Zoning	Existing Use
North	Service Commercial/High Density Residential/ Institutional (CS/RH/I)	Service Commercial (CS)	Office
South	Highway Commercial/General Commercial/High Density Residential/Institutional (CH/CG/RH/I)	General Commercial (CG)	Commercial Center
East	Highway Commercial/General Commercial/Institutional (CH/CG/I)	General Commercial (CG)	Commercial Center
West	Highway Commercial/General Commercial (CH/CG)	General Commercial (CG)	Commercial Center



Land Use Map



Zoning Map

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.
 - *Staff Findings: There are no special conditions or circumstances existing which are peculiar to the land, structure, or building involved that would not be applicable to other lands, structures, or buildings in the same zoning district*
- 2) That the special conditions and circumstances do not result from any action of the applicant.
 - *Staff Findings: See #1.*
- 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.
 - *Staff Findings: Granting this request will allow Total Wine & More to sell packaged liquor at their proposed store located within Town Center Development. Unless the variance is specified to be only for this store at their proposed location the variance will also allow any other current and future businesses to do the same.*
 - *Other Related Variances: The Planning and Zoning Board approved a variance to this section of the code for the property located just east of Town Center. (Walmart) The Walmart is located 444 feet from the same religious institution's property line to the northeast. The variance was granted at the regular meeting of April 5, 2016.*
- 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.
 - *Staff Findings: The literal interpretation of the provisions of the chapter would **not** deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter. The neighboring property submitted a request for the same leniency of the code section.*
- 5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

- *Staff Findings: If the variance is granted, it will allow the applicant to acquire the proper state license for the packaged sale of liquor.*
- 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.
- *Staff Findings: The packaged sale of liquor in this location will not be detrimental to the public welfare. This property is also further away from the religious institute than the Walmart that was approved previously.*
- 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.
- *Staff Findings: Staff recommends that the variance, if granted, be limited to a 3APS Quota Beverage License allowing the package sales of beer, wine, and liquor only in sealed containers with no sales by drink or consumption on premises. The purpose of this is so that a bar or lounge would have to come back through the process to be approved for the distance of a different use.*

PLANNING AND ZONING BOARD ACTION OPTIONS

The Board may choose to approve, deny or table the proposed variance. 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), then the Board may:

- Motion to approve
- Motion to approve with the condition that the applicant shall maintain the height of the viburnum hedges at the height of the AC units.

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 deny

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

(NOTE TO APPLICANTS: Any request for a variance that is denied by the Planning and Zoning Board may be appealed to the Board of Zoning Appeals. Appeal applications are made through the City Clerk's office and must be submitted within 15 days after the Planning and Zoning Board hearing).