### REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

### **APPLICATION FOR WAIVER OF MINIMUM REQUIRED ROAD FRONTAGE**

### **ORDINANCE 2022-487 (WRF-22-18)**

### **AUGUST 18, 2022**

Location: 0 Clear CV between Carmichael Avenue and Clear

Circle South

Real Estate Number: 136250-0000

Waiver Sought: Reduce minimum required road frontage from 35

feet to 0 feet.

Present Zoning District: Residential Medium Density-D (RMD-D)

Current Land Use Category: Medium Density Residential (MDR)

Planning District: Southeast, District 3

Owner: Pivot REI Homes JV, LLC

1561 Harrington Park Drive Jacksonville Florida 32225

Agent: Cyndy Trimmer, Esq.

Driver McAfee Hawthorne & Diebenow, One Independent Drive, Suite 1200

Jacksonville, Florida 32202

Staff Recommendation: APPROVE

### **GENERAL INFORMATION**

Application for Waiver of Minimum Required Road Frontage Ordinance-2022-487 (WRF 22-01) seeks to reduce the minimum required road frontage from 35 feet to 0 feet to permit a multifamily development. The parcel is land locked and intends to use an easement over the existing parking lot (Clear Circle South) of the Clearview Townhomes to Carmichael Avenue. The proposed project will meet all other minimum requirements for the RMD-D Zoning District.

### **DEFINITION**

According to Section 656.1601 of the Zoning Code, the term *waiver* means a relaxation of the Zoning Code minimum distance requirements for liquor license locations, pursuant to Section 656.805 of the Zoning Code, and for minimum street frontage, pursuant to Section 656.407 of the Zoning Code. Waivers of Road Frontage are authorized to be granted by the City Council pursuant to the criteria set forth in Section 656.133(b) of the Zoning Code.

### STANDARDS, CRITERIA AND FINDINGS

Pursuant to the provisions of Section 656.133 of the Zoning Code, a waiver for minimum required street frontage may be granted if the City Council makes a positive finding based on substantial, competent evidence that the application meets all of the following criteria:

- (i) Are there practical or economic difficulties in carrying out the strict letter of the regulation?
  - Yes. The site is land locked and is only accessible to Carmichael Avenue via an easement through the parking lot of the Clearview Townhomes. Acquiring property for access to a public right of way is both impractical and economically difficult.
- (ii) Is the request based exclusively upon the desire to reduce the cost of developing the site or to circumvent the requirements of Chapter 654 (Code of Subdivision Regulations)?
  - Yes. The land locked site contains approximately 4.0± acres. The owner has purchased a single family parcel on Nicholas Circle East. However, this parcel is in the RLD-60 Zoning District. Section 656.408 of the Zoning Code does not allow land in RLD District to be used as access to a RMD District. To use this parcel for access will entail a land use amendment and a rezoning resulting a fee of approximately \$6000. The request is not an attempt to circumvent the requirements of the subdivision regulations, and instead, is based on the parcel having no access.
- (iii) Will the proposed waiver substantially diminish property values in, or alter the essential character of the area surrounding the site and will the waiver substantially interfere with or injure the rights of others?
  - No. The applicant seeks to construct a multi-family development. To the east is an existing multi-family development; the south is a cemetery and to the west, single family dwellings. The proposed development will be required to install an uncomplementary buffer where it is adjacent to single family dwellings. Therefore, the proposed development will not diminish property values in, nor alter the essential character of the area.

(iv) Is there a valid and effective easement for adequate vehicular access connected to a public street maintained by the City or an approved private street?

Yes. There is a 30 foot wide easement over the existing parking lot of the Clearview Townhomes for the proposed development which will provide frontage on Carmichael Avenue.

(v) Will the proposed waiver be detrimental to the public health, safety or welfare, and result in additional expense, the creation of nuisances or conflict with any other applicable law?

No. The existing parcel, is 4.01 acres in size, will not create a public health, safety, or welfare concern in that fire, rescue, and public services will have sufficient ability to access the property.

### SUPPLEMENTAL INFORMATION

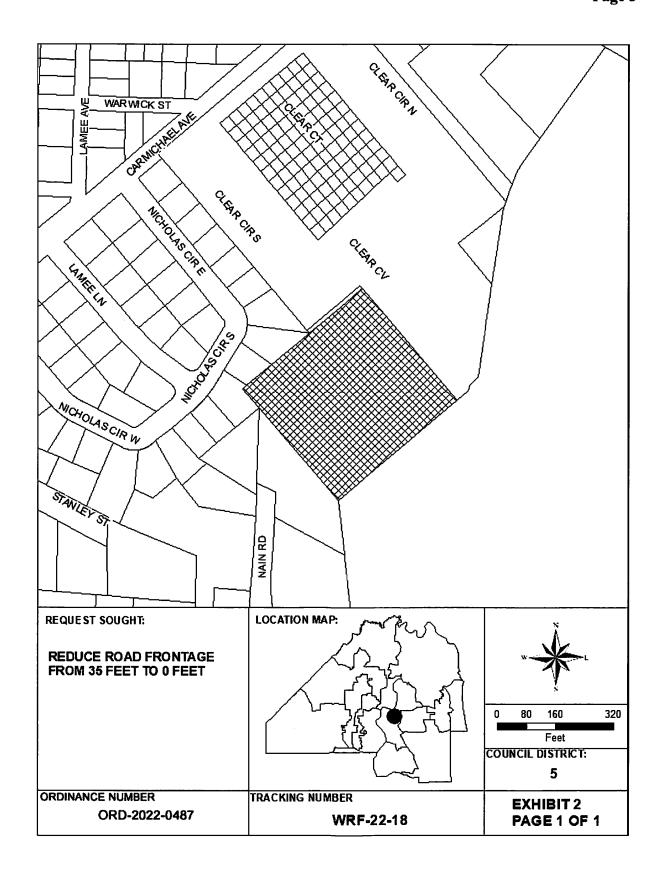
Upon visual inspection of the subject property on August 5, 2022, the required Notice of Public Hearing sign was posted.



### RECOMMENDATION

Based on the foregoing, it is the recommendation of the Planning and Development Department that Application for Waiver of Minimum Required Road Frontage Ordinance 2022-487 (WRF 22-01) be APPROVED.





Date Submitted: 4/1/2Z		
Date Filed:	05/11/22	
	7'	

Application Number: WRF - ZZ-12	\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\
Public Hearing:	

### **Application for Waiver of Minimum Required Road Frontage**

### City of Jacksonville, Florida **Planning and Development Department**

Please type or print in ink. Instructions regarding the completion and submittal of this application are located at the end of this form. For additional information, please contact the Planning and Development Department at (904) 255-7865.

**For Official Use Only** 

Current Zoning District: R m d - d	Current Land Use Category: M () R	
Council District:	Planning District: 3	
Previous Zoning Applications Filed (provide application numbers):		
Applicable Section of Ordinance Code:		
Notice of Violation(s):		
Neighborhood Associations: SPring Park No Huguenot Pa	ry Neighborhood Associ, Southeast	
Overlay: None		
LUZ Public Hearing Date:	City Council Public Hearing Date:	
Number of Signs to Post: Amount of Fee	Post:   Amount of Fee: 1, 6 4 4 Zoning Asst. Initials:	
7.8		
PROPERTY INFORMATION		
1. Complete Property Address:	2. Real Estate Number:	
0 Clear CV, Jacksonville, FL 32207	136250 0000	
3. Land Area (Acres):	4. Date Lot was Recorded:	
4.29		
5. Property Located Between Streets: 6. Utility Services Provider:		
South Nicholas Circle and Nain Road City Water / City Sewer		
Well / Septic		
7. Waiver Sought:		
Reduce Required Minimum Road Frontage from 35 feet to feet.		
8. In whose name will the Waiver be granted? Pivot REI Homes JV, LLC		
Page 1 of 5		

last update: 1/10/2017

OWNER'S INFORMATION (please attach separate sheet if more than one owner)		
9. Name: Pivot REI Homes JV, LLC	10. E-mail:	
11. Address (including city, state, zip): 1561 Harrington Park Drive, Jacksonville, FL 32225	12. Preferred Telephone:	

APPLICANT'S INFORMATION (if different from owner)	
13. Name: Cyndy Trimmer, Esq.	14. E-mail: ctrimmer@drivermcafee.com
15. Address (including city, state, zip): One Independent Drive, Suite 1200, Jacksonville, Florida 32202	16. Preferred Telephone: (904) 807-0185

### **CRITERIA**

Section 656.101(I), Ordinance Code, defines a waiver as "a relaxation of the Zoning Code minimum street frontage, pursuant to Section 656.407, Ordinance Code."

Section 656.133(d)1 through 5, Ordinance Code, provides that, with respect to action upon Applications for Waivers, the City Council shall grant a waiver for reduction of the minimum requirements for road frontage, if the Council makes a positive finding based upon substantial, competent evidence that the application meets all of the following five (5) criteria:

- i. There are practical or economic difficulties in carrying out the strict letter of the regulation;
- ii. The request is not based exclusively upon the desire to reduce the cost of developing the site or to circumvent the requirements of Chapter 654 (Code of Subdivision Regulations);
- iii. The proposed waiver will not substantially diminish property values in, nor alter the essential character of the area surrounding the site and will not substantially interfere with or injure the rights of others whose property would be affected by the waiver;
- There is a valid and effective easement for adequate vehicular access connected to a public iv. street which is maintained by the City or approved private street;
- ν. The proposed waiver will not be detrimental to the public health, safety or welfare, result in additional expense, the creation of nuisances or conflict with any other applicable law.

17. Given the above definition of a "waiver" and the aforementioned criteria by which the request will
be reviewed against, please describe the reason that the waiver is being sought. Provide as much
information as you can; you may attach a separate sheet if necessary. Please note that failure by the
applicant to adequately substantiate the need for the request and to meet the criteria set forth may
result in a denial.
See attached.

ATTACHMENTS		
The following attachments must accompany each copy of the application.		
<b>✓</b> Survey		
Site Plan – two (2) copies on 8 ½ x 11 and two (2) copies on 11 x 17 or larger		
Property Ownership Affidavit (Exhibit A)		
Agent Authorization if application is made by any person other than the property owner (Exhibit B)		
Legal Description – may be written as either lot and block, or metes and bounds (Exhibit 1)		
Proof of property ownership – may be print-out of property appraiser record card if individual		
owner, <a href="http://apps.coj.net/pao_propertySearch/Basic/Search.aspx">http://apps.coj.net/pao_propertySearch/Basic/Search.aspx</a> , or print-out of entry from the		
Florida Department of State Division of Corporations if a corporate owner,		
http://search.sunbiz.org/Inquiry/CorporationSearch/ByName.		
Proof of valid and effective easement for access to the property.		

*Applications filed to correct existing z	oning violations are subject	t to a double fee.
Base Fee	Public Notices	<u>Advertisement</u>
Residential Districts: \$1,161.00	\$7.00 per Addressee	Billed directly to owner/agent
Non-residential Districts: \$1,173.00		

last update: 1/10/2017

### **AUTHORIZATION**

Please review your application. No application will be accepted until all of the requested information has been supplied and the required fee has been paid. The acceptance of an application as being complete does not guarantee its approval by the City Council. The owner and/or authorized agent must be present at the public hearing.

The required public notice signs must be posted on the property within five (5) working days after the filing of this application. Sign(s) must remain posted and maintained until a final determination has been made on the application.

<u>I hereby certify that I have read and understand</u> the information contained in this application, that I am the owner or authorized agent for the owner with authority to make this application, and that all of the information contained in this application, including the attachments, is true and correct to the best of my knowledge.

Owner(s)	Applicant or Agent (if different than owner)
Print name:	Print name: Cyndy Trimmer
Signature:	Signature: # 1
Owner(s)  Print name:	*An agent authorization letter is required if the application is made by any person other than the property owner.

### **SUBMITTAL**

This application must be typed or printed in ink and submitted along with three (3) copies for a total of four (4) applications. Each application must include all required attachments.

### Submit applications to:

Planning and Development Department, Zoning Section 214 North Hogan Street, 2<sup>nd</sup> Floor Jacksonville, Florida 32202 (904) 255-8300

### APPLICATION FOR WAIVER OF MINIMUM ROAD FRONTAGE

### WAIVER OF MINIMUM ROAD FRONTAGE FOR

### PROPERTY LOCATED AT 0 CLEAR CV

### SUMMARY DESCRIPTION OF THE PROJECT

Applicant, Pivot REI Homes JV, LLC owns the property located at 0 Clear CV (RE# 136250 0000) (the "Property") as more particularly described in the legal description filed herewith. The Property is located within the Urban Development Character Area, has a land use designation of Medium Density Residential ("MDR") and is zoned Residential Medium Density-D ("RMD-D").

The Property is land locked and maintains access to Carmichael Avenue by easement. In an attempt to obtain road frontage and facilitate vehicular access, Applicant acquired 3676 South Nicholas Circle (RE 141046 0000) (the "South Nicholas Parcel"). However, the South Nicholas Parcel may not provide vehicular access to the Property because it is located within the LDR land use category while the Property is located within the MDR land use category. Accordingly, Applicant is using the South Nicholas Parcel to serve as pedestrian access to the contemplated seventy-two (72) multifamily-unit development slated for the Property. Because the Property relies entirely on the easement for vehicular access, Applicant requests this waiver to reduce the minimum road frontage from thirty-five (35) feet [80% of minimum lot width] to zero (0).

The Property is located near the Spring Park neighborhood and is surrounded by the following uses:

Direction	Use	Zoning	Description
North	MDR	RMD-D	Multifamily
East	PBF	PBF-2	Hardage-Giddens Greenlawn Cemetery
South	MDR	RMD-D	Single-family
West	LDR	RLD-60	Single-family

### STANDARDS AND CRITERIA

### 1. There are practical or economic difficulties in carrying out the strict letter of the regulation;

Yes. There are practical or economic difficulties in carrying out the strict letter of the regulation. The Property is completely land locked with no boundary abutting a public or private road and therefore cannot physically meet the minimum lot frontage requirements of the Zoning Code. Applicant acquired the Property with its current boundaries, such that the need for this waiver was not self-imposed. Applicant attempted to remedy the need for this waiver by acquiring the South Nicholas Parcel, which maintains approximately eighty (80) feet of frontage to South Nicholas Circle, but was advised by the Planning and Development Department that the proposed access was not feasible. Accordingly, Applicant has no alternative but to utilize the easement for access.

# 2. The request is not based exclusively upon the desire to reduce the cost of developing the site or to circumvent the requirements of Chapter 654 (Code of Subdivision Regulations);

Yes. The request is not based exclusively upon the desire to reduce the cost of developing the site or to circumvent the requirements of Chapter 654 (Code of Subdivision Regulations). This request for waiver is based exclusively on the fact that the Property is completely land locked. In an attempt to obtain road frontage, Applicant acquired the South Nicholas Parcel, but later discovered that vehicular access would not be allowed due to the Property's location in the MDR land use category while the South Nicholas Parcel is located in the LDR land use category. That parcel is now used for pedestrian access only as shown on the Site Plan filed herewith, and vehicular access is only possible by the easement access.

# 3. The proposed waiver will not substantially diminish property values in, nor alter the essential character of the area surrounding the site and will not substantially interfere with or injure the rights of others whose property would be affected by the waiver;

Yes. The proposed waiver will not substantially diminish property values in, nor alter the essential character of the area surrounding the site and will not substantially interfere with or injure the rights of others whose property would be affected by the waiver. The Property is zoned RMD-D and has been so designated since 2008. The development will be consistent and compatible with the multifamily development to the north and with the overall Urban Development Character Area.

# 4. There is a valid and effective easement for adequate vehicular access connected to a public street which is maintained by the City or approved private street;

Yes. There is a valid and effective easement for adequate vehicle access connecting the Property to Carmichael Avenue dated July 31, 1970 and recorded at OR Book 3169 Page 1085 of the Public Records of Duval County, Florida. A copy of the easement is filed herewith.

# 5. The proposed waiver will not be detrimental to the public health, safety or welfare, result in additional expense, the creation of nuisances or conflict with any other applicable law.

Yes. The proposed waiver will not be detrimental to the public health, safety or welfare, result in additional expense, the creation of nuisances or conflict with any other applicable law. The waiver will allow a new residential infill project that is consistent and compatible with the single and multifamily uses in the area and in line with the existing MDR and RMD-D entitlements. The new multifamily complex will enhance the area with new investment and provide another residential option in the area.

2. The request is not based exclusively upon the desire to reduce the cost of developing the site or to circumvent the requirements of Chapter 654 (Code of Subdivision Regulations);

Yes. The request is not based exclusively upon the desire to reduce the cost of developing the site or to circumvent the requirements of Chapter 654 (Code of Subdivision Regulations). This request for waiver is based exclusively on the fact that the Property is completely land locked. In an attempt to obtain road frontage, Applicant acquired the South Nicholas Parcel, but later discovered that vehicular access would not be allowed due to the Property's location in the MDR land use category while the South Nicholas Parcel is located in the LDR land use category. That parcel is now used for pedestrian access only as shown on the Site Plan filed herewith, and vehicular access is only possible by the easement access.

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### EXHIBIT 1

### **LEGAL DESCRIPTION**

### **April 7, 2022**

Lot 10, Nicholas Court, according to plat thereof as recorded in Plat Book 22, page 55, of the current public records of Duval County, Florida, together with a portion of Section 52, Township 2 South, Range 27 East, Duval County, Florida, being more particularly described as follows: Beginning at the most Easterly corner of Lot 8, Nicholas Court, as recorded in Plat Book 22, page 55 of the public records of Duval County, Florida; thence N 50° 30′ 00″ E for a distance of 205.19 feet; thence S 40° 30′ 00″ E for a distance of 393.60 feet; thence S 50° 30′ 00″ W for a distance of 483.50 feet; thence N 40° 30′ 0″ W for a distance of 393.60 feet (the last 54.12 feet of the last described course being common with the boundary of Lot 10 of said Plat Book 22, page 55); thence N 50° 30′ 00″ E for a distance of 278.31 feet to the Point of Beginning (the last described course being common with the boundary of Lot 10, Lot 9 and Lot 8 of said Plat Book 22, page 55), being the same property as described in Deed Book 8, page 520, public records of Duval County, Florida.

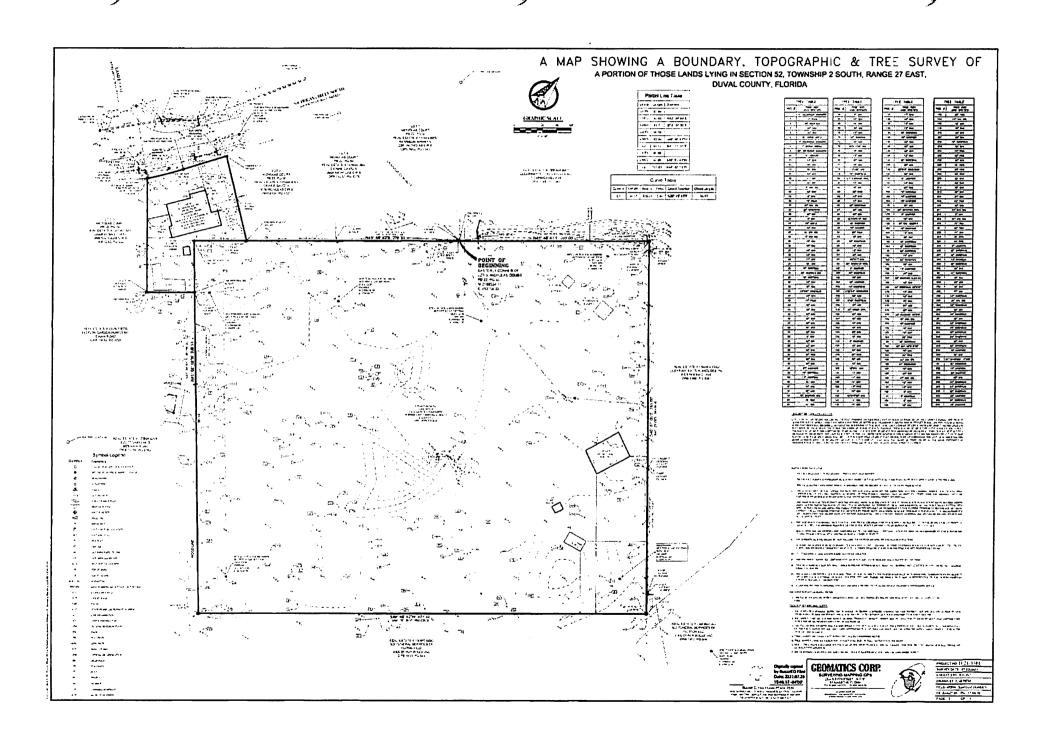
### TOGETHER WITH THE FOLLOWING EASEMENT:

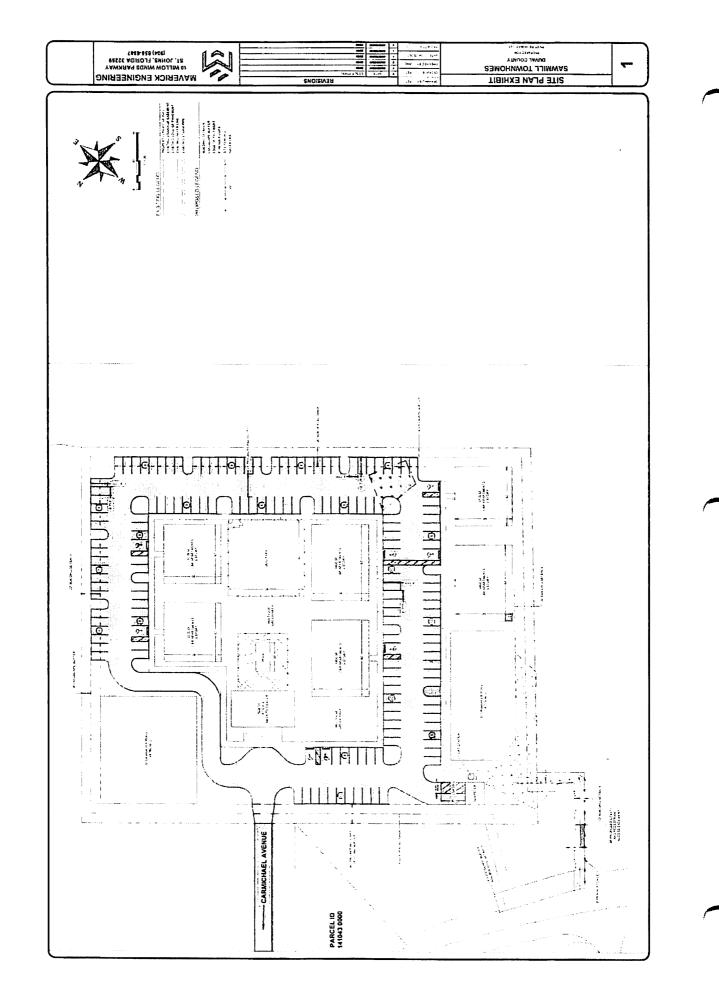
### Parcel 1

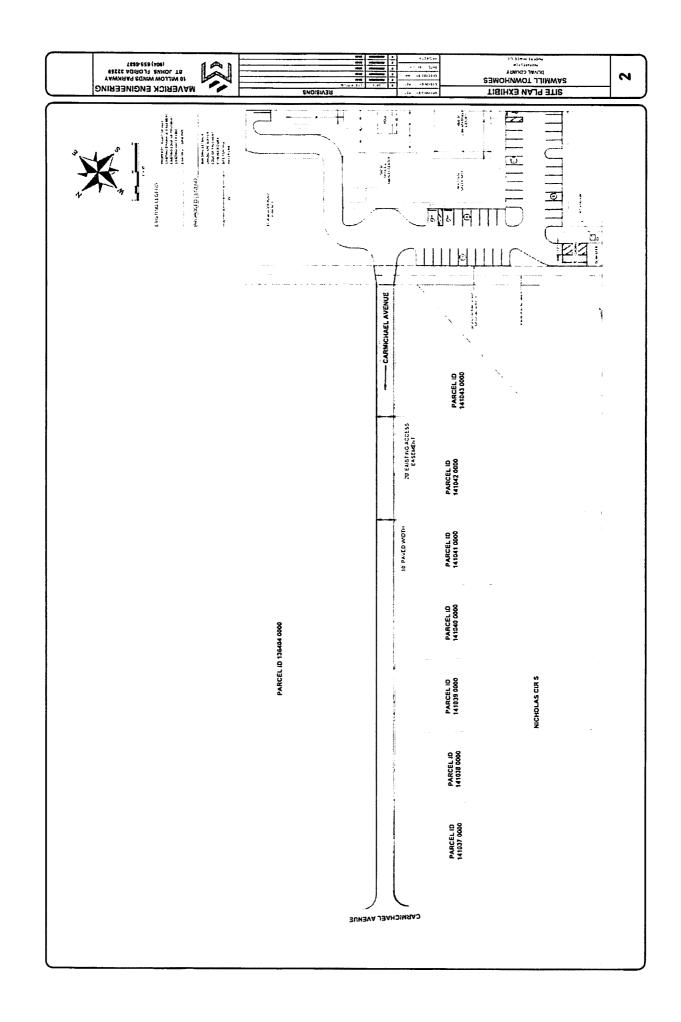
A part of the Richard Mill Grant, Section 52, Township 2 South, Range 27 East, Duval County, Florida, and being more particularly described as follows: Commencing at the most Northerly corner of Nicholas Court as recorded in Plat Book 22, page 55, of the current public records of said County; thence North 39 degs. 35 mins. 40 sec. West, 30.0 feet to the point of beginning, said point being in the present right-of-way line of Carmichael Avenue, thence North 50 degs. 11 mins. 20 sec. East and along said right-of-way line, 20.0 feet; thence South 39 degs. 35 mins. 40 sec. East, 643.37 feet to a point in the Northwesterly line of that certain ten foot easement as shown on said plat of Nicholas Court; thence South 50 degs. 23 mins. 20 sec. West, and a long said easement line, 20.0 feet to a point in the Northeasterly line of said plat of Nicholas Court; thence North 39 degs. 35 mins. 40 sec. West and along said plat line, 643.3 feet to the point of beginning.

### Parcel 2

A part of the Richard mill Grant, Section 52, Township 2 South, Range 27 East, Duval County, Florida, and being more particularly described as follows: Commencing at the most Northerly corner of Nicholas Court as recorded in Plat Book 22, page 55, of the current public records of said County; thence North 39 degs. 35 mins. 40 sec. West, 30.0 feet to the point of beginning, said point being in the present right-of-way line of Carmichael Avenue; thence North 50 degs. 11 mins. 20 sec. East and along said right-of-way line, 20.0 feet; thence South 39 degs. 35 mins. 40 sec. East, 623.37 feet to the point of beginning; thence North 50 degs. 23 mins. 20 sec. East, 200.0 feet; thence South 39 degs. 35 mins. 40 sec. East, 50.0 feet; thence South 50 degs. 23 mins. 20 sec. West, 20.0 feet; thence North 39 degs. 35 mins. 40 sec. West, 30.0 feet to a point in the Northwesterly line of that certain ten foot easement as shown on said plat of Nicholas Court; thence South 50 degs. 23 mins. 20 sec. West and along said easement line, 180.0 feet; thence North 39 degs. 35 mins. 40 sec. West, and along the Northeasterly line of said plat, 20.0 feet to the point of beginning.









### Availability Letter

Michael Sittner

3/8/2022

Driver, McAfee, Hawthorne & Diebenow Driver, McAfee, Hawthorne & Diebenow, PLLC Jacksonville, Florida 32207

Project Name: Nicholas Circle Multifamily

Availability #: 2022-0974

Attn: Michael Sittner

Thank you for your inquiry regarding the availability of Sewer, Water. The above referenced number in this letter will be the number JEA uses to track your project. Please reference this number when making inquiries and submitting related documents. This availability letter will expire two years from the date above.

### Point of Connection:

A summary of connection points for requested services are identified on the following page. JEA recognizes Connection Point #1 as the primary point of connection (POC); however, a secondary, conditional POC will be listed if available. JEA assumes no responsibility for the inaccuracy of any service connection portrayed on a JEA utility system record drawing. JEA requires field verification in the form of a Level A SUE of all POCs prior to any plan approval to ensure connection availability. Please note the Special Conditions stated in each section contain pertinent information and additional requirements as well as further instructions. In the event the point of connection is located within a JEA easement located on private property not owned by applicant, applicant shall be responsible to obtain a temporary construction easement (TCE) from the third party owner providing applicant with the right to construct the utilities. The TCE will need to be provided by JEA prior to setting up a preconstruction meeting.

#### Main Extensions and/or Offsite Improvements:

For all utilities located in the public Right of Way or JEA easement, the new WS&R utilities shall be dedicated to JEA upon completion and final inspection, unless otherwise noted. It shall be the applicant's responsibility to engage the services of a professional engineer, licensed in the State of Florida. All WS&R construction shall conform to current JEA Water, Sewer & Reuse Design Guidelines which may be found at:

https://www.jea.com/engineering\_and\_construction/water\_and\_wastewater\_development/reference\_materials/

#### Reservation of Capacity:

This availability response does not represent JEA's commitment for or reservation of WS&R capacity. In accordance with JEA's policies and procedures, commitment to serve is made only upon JEA's approval of your application for service and receipt of your payment of all applicable fees.

A detailed overview of the process can be found at JEA.com. This document along with other important forms and submittal processes can be found at

https://www.jea.com/water\_and\_wastewater\_development

Sincerely,

Susan West westsr@jea.com (904) 665-7980

Availability Number: 2022-0974

Request Received On: 3/3/2022 Availability Response: 3/8/2022

> Prepared by: Susan West Expiration Date: 03/07/2024

### **Project Information**

Name: Nicholas Circle Multifamily

Address: 0 CLEAR CV, JACKSONVILLE FL 32207

County: Duval County

Type: Sewer, Water

Requested Flow: 18000

Parcel Number: 136250 0000

Location: Southeast of Nicholas Circle South Description: Development of 72 multifamily units

#### **Potable Water Connection**

Water Treatment Grid: South Grid

Connection Point #1 Existing 8 inch water main along Carmichael Ave at Clear Cir S

Connection Point #2:

Connection point not reviewed for site fire protection requirements. Private fire protection analysis is required. The requested parcel is landlocked. For JEA to provide service, property must

Water Special Conditions abut right of way. To discuss options for JEA provided water service to this property, request development meeting through the JEA Sages program by entering your availability number and accessing Step 2 within the project portal.

#### **Sewer Connection**

Sewer Grid: Buckman

Connection Point #1 Existing 8 inch gravity main at the intersection of Nicholas Cir S and Nicholas Cir W Connection Point #2:

> The requested parcel is landlocked. For JEA to provide service, property must abut right of way. Connection to the JEA-owned sewer system for your project will require the design and

Sewer Special Conditions: construction of an onsite pump station, and a JEA dedicated force main (min. 4" dia.). Ownership and maintenance entity of pump station to be determined either at the preapplication meeting or during plan review.

### Reclaimed Water Connection

Reclaim Grid: N/A

Connection Point #1

Connection Point #2:

Reclaim Special Conditions: JEA does not anticipate having reclaim water in this area in the foreseeable future.

Electric Availability:

The subject property lies within the geographic area legally served by JEA. JEA will provide Electric Special Conditions:
electric service as per JEA's most current Rules and Regulations.

Point of connection location(s) to be field verified by developer during project design. If needed, General Conditions: a development meeting may be scheduled prior to submitting a plan set through the SagesGov portal. Copies of reference drawings may also be requested using the SagesGov portal.

Request As-Built drawings and/or GIS maps by going to Step 1 in Sages. Request a
Hydrant Flow Test by going to Step 1 in Sages. Request a Development Meeting with
Subsequent steps you need the water/wastewater team by going to Step 2 in Sages. If you need representative from
to take to get service: the electric or real estate team please indicate that on your application. Don't forget to
upload your utility layout with your application. Submit your plans for water/waste
water review by Step 2 in Sages.