



STAFF REPORT

Kamsler Acres – Replat of Tract F, Second Addition to the North Port Charlotte Estates

(Petition No. PLF-23-185)

From: Sherry Willette-Grondin, Planner III

Thru: Hank Flores, AICP, CFM, Planning & Zoning Manager

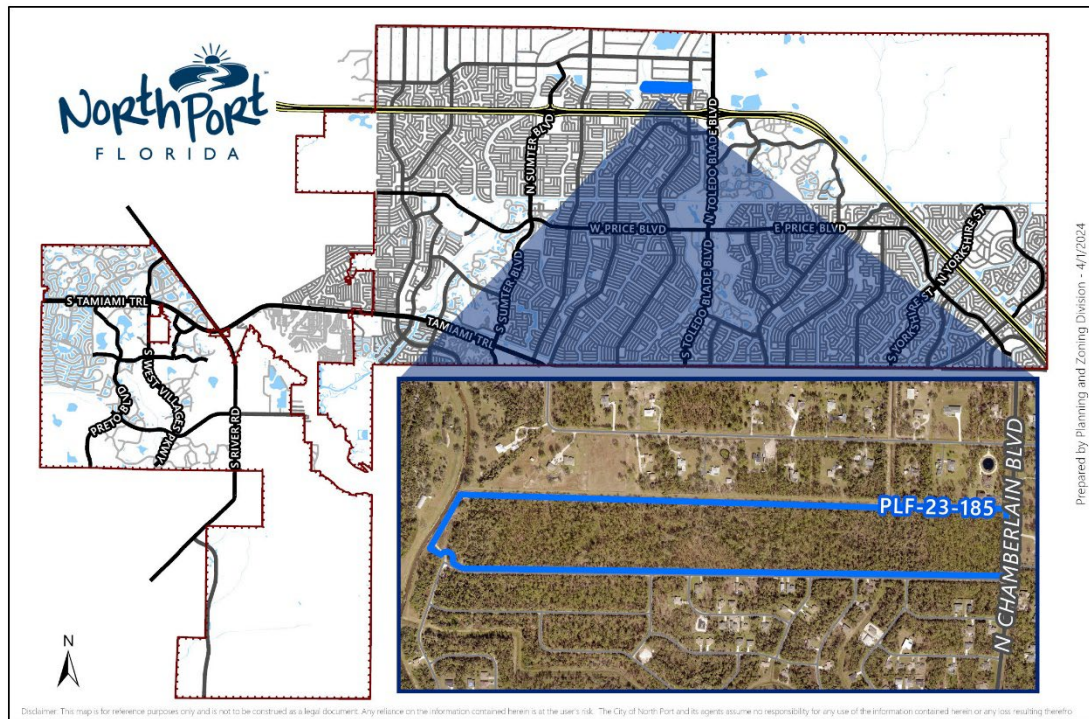
Thru: Lori Barnes, AICP, CPM, Development Services Assistant Director

Thru: Alaina Ray, AICP, Development Services Director

Thru: Jason Yarborough, ICMA-CM, Deputy City Manager

Thru: A. Jerome Fletcher II, ICMA-CM, MPA, City Manager

Date: May 16, 2024



Prepared by Planning and Zoning Division - 4/1/2024

Disclaimer: This map is for reference purposes only and is not to be construed as a legal document. Any reliance on the information contained herein is at the user's risk. The City of North Port and its agents assume no responsibility for any use of the information contained herein or any loss resulting therefrom.

- PROJECT:** Kamsler Acres - Replat of Tract F, Second Addition to the North Port Charlotte Estates (QUASI-JUDICIAL)
- REQUEST:** Consideration of Tract F, Second Addition to North Port Charlotte Estates, replat.
- APPLICANT:** Jackson R. Boone, Esq. – Boone, Boone & Boone, P.A. (**Exhibit B, Affidavit**)
- OWNERS:** Renova Homes, LLC (**Exhibit C, Warranty Deed**)
- LOCATION:** North of and adjacent to Kamsler Avenue and West of and adjacent to N. Chamberlain Boulevard
- PARCEL ID#:** 0940-01-3122
- PROPERTY SIZE:** ± 54.98 acres
- ZONING:** Agricultural District (AG)

I. BACKGROUND

Jackson R. Boone, Esq. of Boone, Boone & Boone, P.A., on behalf of Renova Homes, LLC (Owner), submitted a Final Plat/Replat application to the Planning & Zoning Division requesting a replat of Tract F, Second Addition to the North Port Charlotte Estates. The purpose of the replat is to subdivide a ± 54.98 -acre Tract into eighteen (18) separate lots containing a minimum of ± 3.007 acres and up to a maximum of ± 3.359 acres.

The subject property is zoned Agricultural District (AG) with a Future Land Use of Agricultural, Estates.

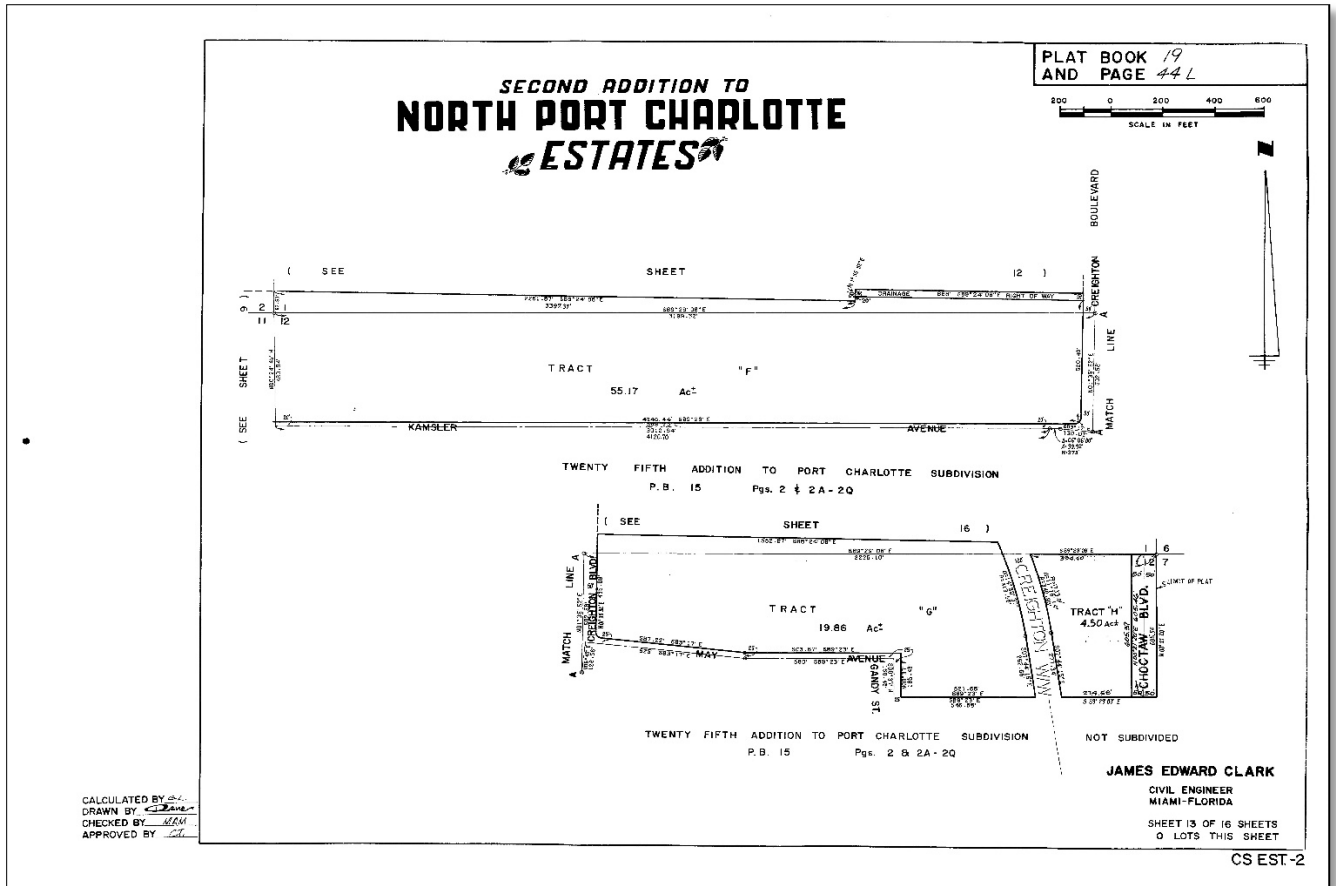


Figure 1- North Port Charlotte Estates, Second Addition Tract F - Current

II. STAFF ANALYSIS AND FINDINGS

2023 Florida Statutes

Title XII MUNICIPALITIES, Chapter 177 LAND BOUNDARIES, Part I: PLATTING, Section 177.081 Dedication and approval.

(1) Prior to approval by the appropriate governing body, the plat shall be reviewed for conformity to this chapter by a professional surveyor and mapper either employed by or under contract to the local governing body, the costs of which shall be borne by the legal entity offering the plat for recordation, and evidence of such review must be placed on such plat.

Findings: The contracted city surveyor reviewed and approved the final Plat for conformance with Florida Statutes Chapter 177 Part I.

Conclusion: PLF-23-185 meets the State's requirements for City review and approval of plats.

Compliance with ULDC

Chapter 37 - Subdivision Regulations, Article II - Procedures for Securing Approvals, Section 37-5 General Requirements:

When the subdivision of any land is proposed within the City of North Port, the owner of the land or his authorized agent shall apply for and secure approval of subdivision plans, infrastructure plans, and plat of such division in accordance with Sec. 37-6, Sec. 37-7 and Sec. 37-8. Until such approvals are granted, no land which is a part of the proposed subdivision shall be sold, nor shall any building permit be approved for any development of any kind on that land.

Section 37-5 A states, "A subdivision is the division of a parcel of land into three (3) or more contiguous lots or parcels for the purpose of transfer of ownership or building, development or, if a new street is involved, any division of a parcel of land which shall be platted in accordance to these regulations..."

In addition, Section 37-5 A. (1) provides, "A division of land for agricultural purposes into lots or parcels of three (3) acres (1.214 hectares) or more and not involving a new street shall not be deemed a subdivision."

Findings: The Kamsler Acres replat proposes to subdivide Tract F, which contains an area of approximately 54.98 acres, into 18 lots, each of a minimum of three (3) acres.

On January 26, 2023, the Planning & Zoning Division of the Department of Development Services issued a determination letter, which is provided in Exhibit D. The purpose of the letter was to provide clarity regarding the development approvals required for the property situated on Kamsler Avenue (PID 0940-01-3122).

The determination letter explains that the division of land for agricultural purposes is not determined by the zoning district but rather by the agricultural use of the land. This distinction is important to note because it affects the property's development.

If an applicant provides documentation that proves the division of land complies with both Sec. 37-5(A)(1) and the definition of bona fide agricultural purposes, and the Director of Development Services determines that the land use is for bona fide agricultural purposes, then the division of land will not be considered a subdivision. In such a case, approvals for DMP, SCP, and INF will not be required. However, if the land division does not meet these criteria, all applicable approvals as per the ULDC will be required.

The applicant has submitted documentation that confirms the land division for the subject property conforms to the requirements outlined in Section 37-5(A)(1) and meets the ULDC definition of "bona fide agricultural purposes." Following a thorough review of the documents, the Director of Development Services has determined that it complies with the legal requirements for bona fide agricultural purposes and is not considered a subdivision.

The City's staff has analyzed the proposed lots' configuration and found they comply with the minimum lot size requirement of three (3) gross acres, as stipulated in ULDC Section 53-29, Agricultural District regulations.

Conclusion: PLF-23-185 conforms with ULDC Sections 37-5 A. and 53-29.

Conformity with ULDC Chapter 37, Sections 37-6, 37-7, and 37-8 Submission Requirements for Subdivision Plan, Infrastructure Plan, and Plat.

Findings: It has been determined that ULDC Sections 37-6 and 37-7 do not apply to this replat, as it falls under the provisions of 37-5 A(1), as previously stated. The plat has been thoroughly reviewed for compliance with ULDC Section 37-8, and it has been determined that Sections 37-8(A) and 37-8(B) do not apply.

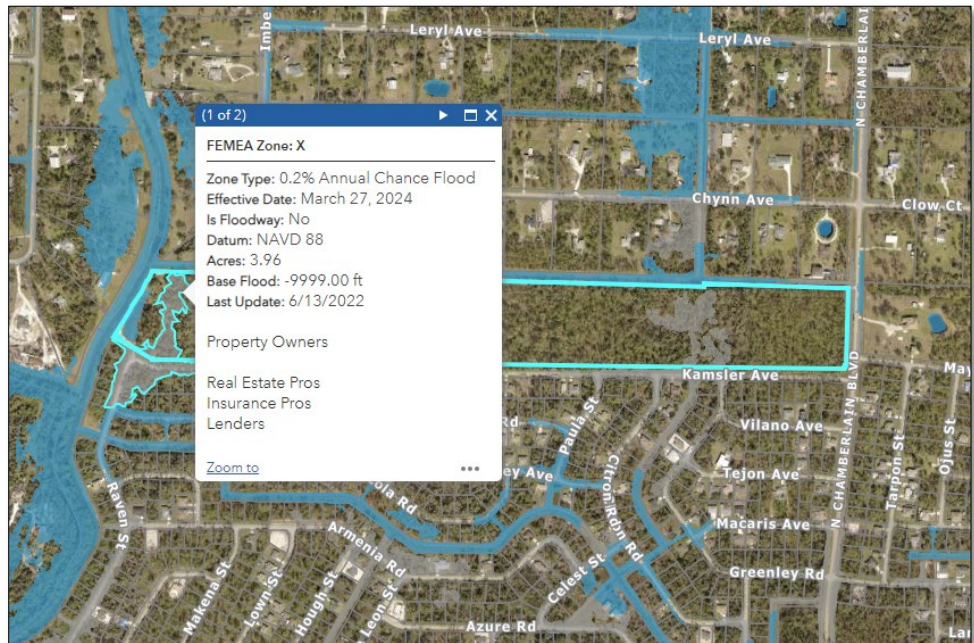
Conclusion: PLF-23-185 conforms with the ULDC.

Environmental

A formal environmental survey will be conducted on each lot prior to development. All permits will be issued according to state and federal standards.

Flood Zone

The site is within Flood Zone X, according to Flood Insurance Rate Map No. 12115C0370F for Sarasota County, Community No. 120279, City of North Port, Florida, effective March 27, 2024.



III. STAFF RECOMMENDATION

Staff Recommendation: Staff recommends approval of Petition No. PLF-23-185 - Kamsler Acres - Replat of Tract F, Second Addition to the North Port Charlotte Estates.

IV. RECOMMENDED MOTION

PLANNING & ZONING ADVISORY BOARD

MOTION TO APPROVE: I move to recommend approval of the Kamsler Acres - Replat of Tract F, Second Addition to the North Port Charlotte Estates, Petition No. PLF-23-185, and that the City Commission find that, based on the competent and substantial evidence, the plat is consistent with Florida Statutes Section 177.081, the Unified Land Development Code, and the North Port Comprehensive Plan.

CITY COMMISSION

MOTION TO APPROVE: I move to approve the Kamsler Acres - Replat of Tract F, Second Addition to the North Port Charlotte Estates, Petition No. PLF-23-185, and find that, based on the competent and substantial evidence, the plat is consistent with Florida Statutes Section 177.081, the Unified Land Development Code, and the North Port Comprehensive Plan.

V. ALTERNATIVE MOTION

PLANNING & ZONING ADVISORY BOARD

MOTION TO DENY: I move to recommend denial of the Kamsler Acres - Replat of Tract F, Second Addition to the North Port Charlotte Estates, Petition No. PLF-23-185, and that the City Commission find that, based on the competent and substantial evidence, the Plat:

[include all applicable factors below]

1. Is NOT consistent with Florida Statutes Section 177.081 because _____
[include explanation of how the plat fails to meet each specific regulation];
2. Is NOT consistent with the Unified Land Development Code because _____
[include explanation of how the plat fails to meet each specific regulation];
3. Is NOT consistent with the North Port Comprehensive Plan because _____
[include explanation of how the plat fails to meet each specific regulation].

CITY COMMISSION

MOTION TO DENY: I move to deny the Kamsler Acres - Replat of Tract F, Second Addition to the North Port Charlotte Estates, Petition No. PLF-23-185, and find that, based on the competent and substantial evidence, the Plat:

[include all applicable factors below]

4. Is NOT consistent with Florida Statutes Section 177.081 because _____
[include explanation of how the plat fails to meet each specific regulation];
5. Is NOT consistent with the Unified Land Development Code because _____
[include explanation of how the plat fails to meet each specific regulation];
6. Is NOT consistent with the North Port Comprehensive Plan because _____
[include explanation of how the plat fails to meet each specific regulation].

VI. PUBLIC HEARING SCHEDULE

Planning & Zoning Advisory Board Public Hearing	May 16, 2024 9:00 AM or as soon thereafter
City Commission Public Hearing	June 11, 2024 10:00 AM or as soon thereafter

VII. EXHIBITS

A.	Map Gallery
B.	Affidavit
C.	Warranty Deed
D	Agricultural Subdivision Interpretation
E.	City Surveyor's Approval

Aerial Location

PLF-23-185, Kamsler Acres

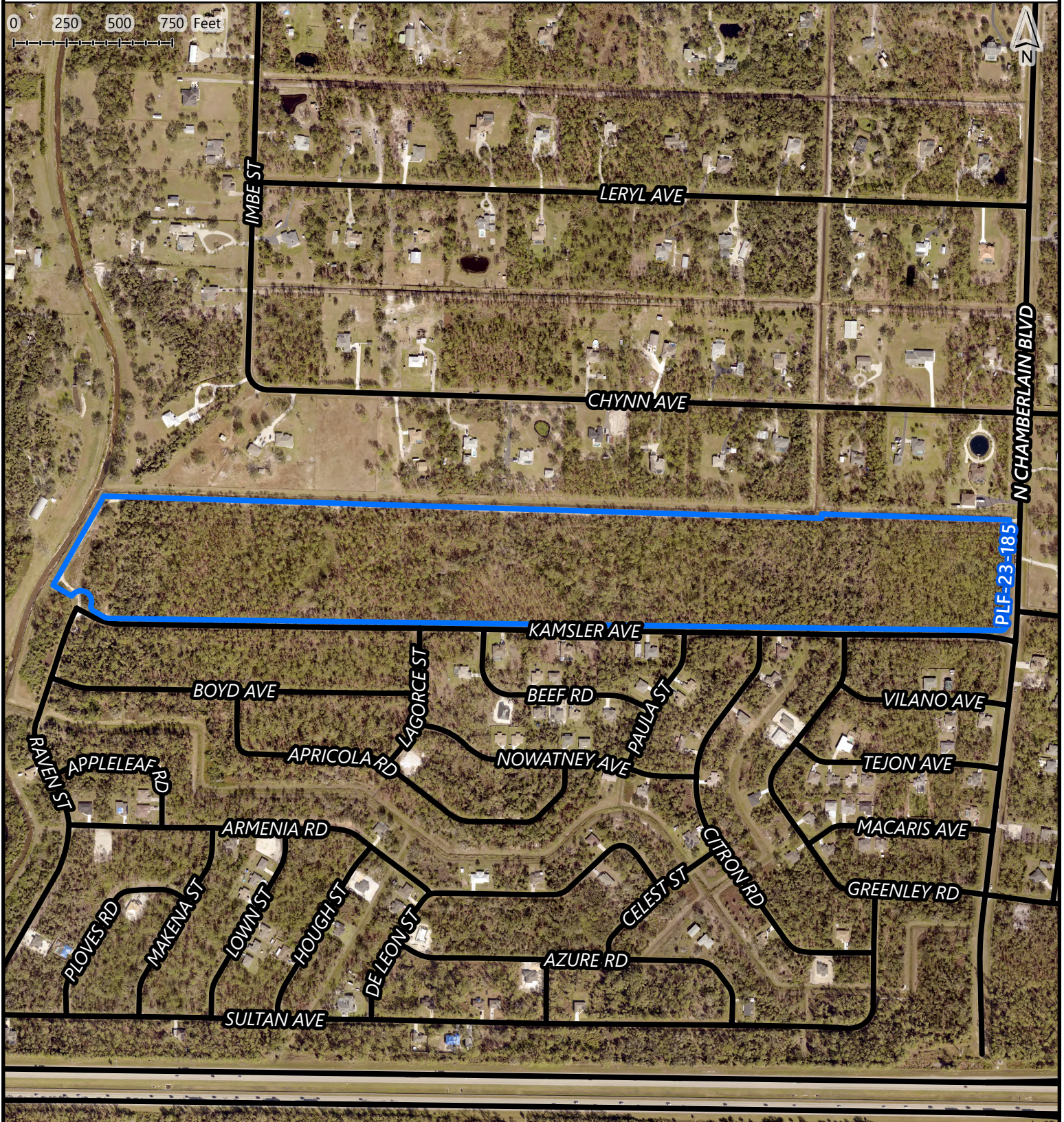


Prepared on 4/1/2024
by Planning & Zoning
Development Services

- Petition Boundary
- Streets

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0 250 500 750 Feet



Current Zoning

PLF-23-185, Kamsler Acres

(AG) Agriculture

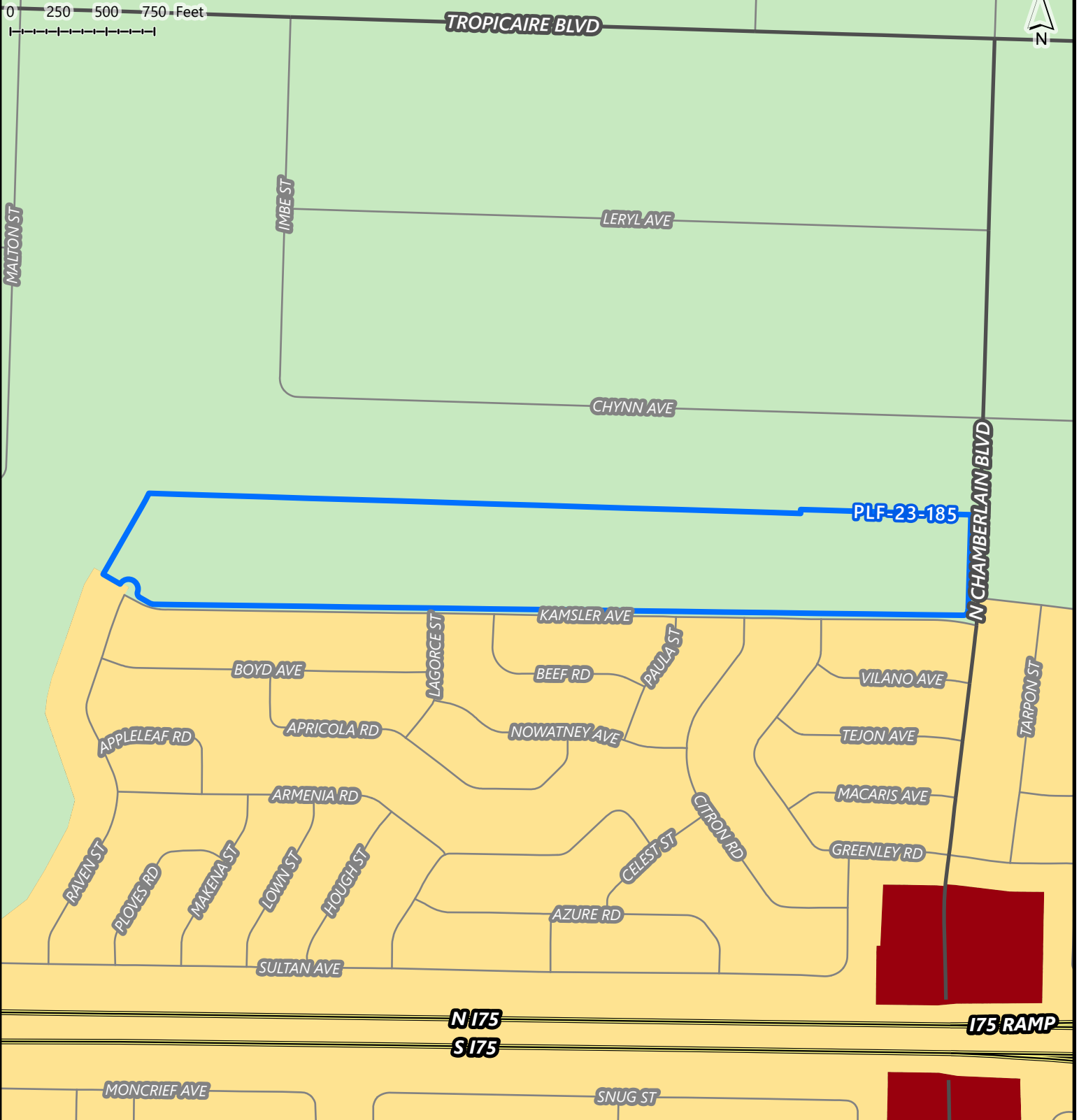


Prepared on 4/1/2024
by Planning & Zoning
Development Services

- Petition Boundary
- (AG) Agriculture
- (CG) Commercial General
- (RSF-2) Residential Single Family 2

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NOTE: THIS MAP CANNOT BE CORRECTLY INTERPRETED INDEPENDENTLY OF NORTH PORT COMPREHESIVE PLAN AS ADOPTED BY ORDINANCE NO. 97-27, AS SAME AS MAY BE AMENDED FROM TIME TO TIME.



Future Land Use

PLF-23-185, Kamsler Acres

AGRICULTURAL ESTATES



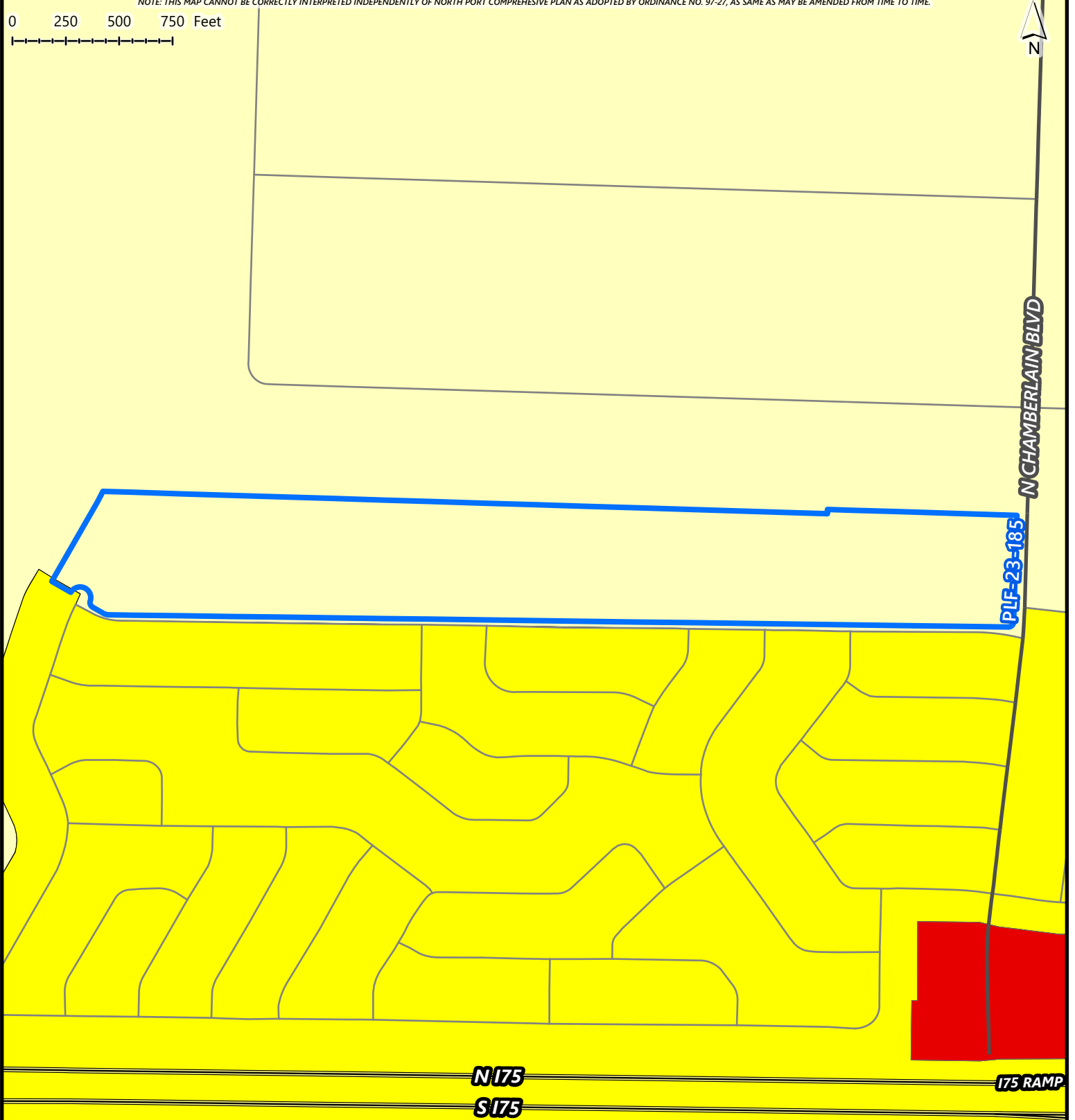
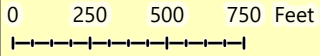
Prepared on 4/1/2024
by Planning & Zoning
Development Services

- Petition Boundary
- AGRICULTURAL, ESTATES

- LOW DENSITY RESIDENTIAL
- COMMERCIAL

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NOTE: THIS MAP CANNOT BE CORRECTLY INTERPRETED INDEPENDENTLY OF NORTH PORT COMPREHENSIVE PLAN AS ADOPTED BY ORDINANCE NO. 97-27, AS SAME AS MAY BE AMENDED FROM TIME TO TIME.



AFFIDAVIT

I (the undersigned), Jackson R. Boone, Esq., being first duly sworn, depose and say that I am the owner, attorney, attorney-in-fact, agent, lessee or representative of the owner of the property described and which is the subject matter of the proposed application; that all answers to the questions in this application, and all sketches, data and other supplementary matter attached to and made a part of the application are honest and accurate to the best of my knowledge and belief. I understand this application must be complete and accurate before the application can be processed or hearing can be advertised, and that I am authorized to sign the application by the owner or owners. I authorize City of North Port staff and agents to visit the site as necessary for proper review of this application. *If there are any special conditions such as locked gates, restricted hours, guard dogs, etc., please provide the name and telephone number of the individual who can allow access.*

Sworn and subscribed before me this 11th day of MAY, 20 23

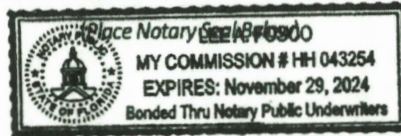
[Signature]
Signature of Applicant or Authorized Agent

Jackson Boone
Print Name and Title

STATE OF FLORIDA COUNTY OF SARASOTA

The foregoing instrument was acknowledged by me this 11th day of MAY, 20 23, by JACKSON BOONE who is personally known to me or has produced NA as identification.

[Signature]
Signature - Notary Public



AFFIDAVIT

AUTHORIZATION FOR AGENT/APPLICANT

I, Yuriy Brych, as President of Renova Homes, LLC, property owner, hereby authorize Jackson R. Boone, Esq., to act as Agent on our behalf to apply

for this application on the property described as (legal description) Tract F, SECOND ADDITION TO NORTH PORT CHARLOTTE ESTAES according to plat thereof as recorded in Plat Book 19, Pages 44 and 44A through 44O, of the Public Records of Sarasota County, FL.

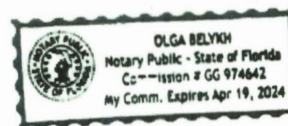
Owner [Signature] Date 5/10/2023

STATE OF Florida COUNTY OF Sarasota

The foregoing instrument was acknowledged by me this 10 day of May, 20 23, by Yuriy Brych who is personally known to me or has produced _____ as identification.

[Signature]
Signature - Notary Public

(Place Notary Seal Below)



RECORDED IN OFFICIAL RECORDS
INSTRUMENT # 2021081227 2 PG(S)

5/3/2021 12:54 PM

KAREN E. RUSHING

CLERK OF THE CIRCUIT COURT

SARASOTA COUNTY, FLORIDA

SIMPLIFILE

Receipt # 2671398

Prepared by and return to:

Donald W. Scarlett, Jr., Esquire
Ulrich Scarlett Wickman & Dean, P.A.
713 S Orange Avenue, Suite 201
Sarasota, FL 34236
(941) 955-5100
File Number: 72114.001

Doc Stamp-Deed: \$6,797.70

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 30th day of April, 2021 between Kemsler Estates, LLC, a Florida limited liability company, whose post office address is 2320 NE 211 Street, Miami, FL 33180, grantor, and Renova Homes LLC, a Florida limited liability company, whose post office address is 3827 Tonkin Drive, North Port, FL 34287, grantee:

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

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Sarasota County, Florida to-wit:

Tract F, SECOND ADDITION TO NORTH PORT CHARLOTTE ESTATES, according to the plat thereof recorded in Plat Book 19, Pages 44 and 44A through 44O, of the Public Records of Sarasota County, Florida.

Parcel Identification Number: 0940013122

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

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

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to 12/30/2020.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness
Printed Name: Brayleen

Witness
Printed Name: José T. Schmitt

Kemsler Estates, LLC,
a Florida limited liability company

By: [Signature]
Joshua R. Schrage, Manager

State of Florida
County of Miami Dade

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 30th day of April, 2021 by Joshua P. Schrage, Manager of Kemsler Estates, LLC, a Florida limited liability company, who is personally known or has produced a driver's license as identification.

[Seal]

[Signature]
Notary Public
Print Name: Nicolas Martinez
My Commission Expires: 8/13/2023



NICOLAS MARTINEZ
Commission # GG 365185
Expires August 13, 2023
Virtual Notary Public/Notary Services

CITY OF NORTH PORT
DEPARTMENT OF NEIGHBORHOOD DEVELOPMENT SERVICES
PLANNING AND ZONING DIVISION
ADMINISTRATIVE CODE INTERPRETATION

Date Issued: January 26, 2023

Subject: Required Development Approvals for Subdivision of Property on
Kamsler Avenue PID 0940-01-3122

Code References:

Chapter 53 – Zoning Regulations

Sec. 53-25. - Permitted principal uses and structures.

Permitted principal uses and structures shall be as follows:

- A. Single-family dwellings (one (1) per three (3) gross acres).
- B. Agricultural uses, such as farming, dairying, pasturage, agriculture, the keeping of domestic pets, horticulture, floriculture, aquaculture, silviculture, animal and poultry husbandry and necessary accessory structures and uses incidental to agricultural activity.

Sec. 53-6. - Property requiring Development Master Plan review.

A. Any and all properties located in any Activity Center (AC) (see Fig. 55-2), or Planned Community Development (PCD) (see Fig. 55-1), **or any filing of a subdivision plan (SCP)** not included as a part of a current DMP, shall be required to file a Development Master Plan (DMP).

Chapter 37 – Subdivision Regulations

Article I. – General Provisions

Sec. 37-5. - General requirements.

When the subdivision of any land is proposed within the City of North Port, the owner of the land or his authorized agent shall apply for and secure approval of subdivision plans, infrastructure plans, and plat of such division in accordance with Sec. 37-6, Sec. 37-7 and Sec. 37-8. Until such approvals are granted, no land which is a part of the proposed subdivision shall be sold, nor shall any building permit be approved for any development of any kind on that land.

- A. A subdivision is the division of a parcel of land into three (3) or more contiguous lots or parcels for the purpose of transfer of ownership or building, development or, if a new street is involved, any division of a parcel of land which shall be platted in accordance to these regulations. The term subdivision includes re-subdivision and, when appropriate to the context, shall relate to the process of subdivision or to the land subdivided. The

division of a parcel of land caused by purchase or condemnation by a government entity of a portion of that parcel shall be disregarded for purposes of determining when that parcel has been divided into three (3) or more contiguous lots or parcels. Any division of land made prior to 1971 shall not fall under these regulations.

- (1) A division of land for agricultural purposes into lots or parcels of three (3) acres (1.214 hectares) or more and not involving a new street shall not be deemed a subdivision.

Article III. – Subdivision Design Standards

Sec. 37-9. - General provisions.

A. A subdivision is the division of a parcel of land into three (3) or more contiguous lots or parcels for the purpose of transfer of ownership or building, development or, if a new street is involved, any division of a parcel of land. The term subdivision includes resubdivision and, when appropriate to the context, shall relate to the process of subdivision or to the land subdivided. Any division of land made prior to 1971 shall not fall under these regulations.

- (1) A division of land for agricultural purposes into lots or parcels of three (3) acres (1.214 hectares) or more and not involving a new street shall not be deemed a subdivision.

Chapter 18 – Stormwater Regulations

Sec. 18-5 Applicability

A. *General provisions.* A complete stormwater management system shall be provided for the adequate water quality treatment and control of stormwater runoff that originates within the development. The design of the stormwater conveyance system shall also divert or bypass off-site run-off from adjacent lands that flows onto or across the development, so as not to adversely affect these adjacent lands.

...

D. *Exemptions.* The following development activities are exempt from these stormwater management requirements, except that steps to control erosion and sedimentation must be taken for all development.

...(3) Bona fide agricultural activities, including forestry, provided that farming activities are conducted in accordance with the requirements set forth in an approved soil conservation service plan and forestry activities are conducted in accordance with the Silviculture Best Management Practices (BMP) Manual (1979 or latest edition), published by the Florida Division of Forestry. If the conservation plan and forestry BMPs are not implemented accordingly, this exemption shall become void.

Chapter 21 – Landscaping Regulations

Sec. 21-5. - Applicability.

...

B. *Exemptions.*

- ...
- (2) Agricultural. Any bona fide agricultural use found in [Sec. 53-25\(B\)](#) shall be exempt from this chapter.

Chapter 61 – Definitions

AGRICULTURAL USE — The use of land for purposes including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, aquaculture, and animal and poultry husbandry, and the necessary accessory uses for storing the products. The term shall include incidental retail sales by the producer of products raised on the farm.

BONA FIDE AGRICULTURAL PURPOSES — Good faith commercial or domestic agricultural use of the land. In determining whether the proposed agricultural use of land is bona fide, the following factors, though nonexclusive, shall be taken into consideration:

- A. The length of time the land will be so utilized.
- B. The size of the land, as it relates to specific agricultural use.
- C. Whether such land is under lease, and, if so, the effective length, terms and conditions of the lease.
- D. The intent of the landowner to sell or convert the land for or to nonagricultural purposes.
- E. The proximity of the property to existing urban or metropolitan development.
- F. The productivity of land in its present use.
- G. The relationship of the property to the Comprehensive Plan of the City of North Port.

Background:

In March of 2022, Planning & Zoning staff met with the property owners' representatives Boone, Boone & Boone, P.A., and DMK Associates, Inc. to discuss the subject property which has a future land use designation of Agricultural, Estates in an Agricultural zoning district. The exemption for agricultural subdivision provided in Sec. 37-5.A.(1) was discussed, and staff opined that despite that provision the proposal met the definition of a subdivision and would be required to (1) proceed under the current process, with modifications to the subdivision design standards (i.e. central water/sewer, open space, landscaping, stormwater, etc.), or (2) await proposed ULDC amendments intended to large lot subdivisions (limited number of lots with access to existing public right-of-way) via an abbreviated process. (Minor subdivision plat regulations would provide an exemption from expansive submittal requirements and needless infrastructure improvements. These new regulations would be presented to the City Commission, not as a stand-alone proposal but as part of a broader amendment).

On January 5, 2023, representatives from Boone, Boone & Boone, P.A. met with the City Manager, Assistant City Manager, and Neighborhood Development Services Director regarding the process to effectuate a subdivision of the subject property and the requirement for a development master plan application to proceed with the subdivision of the property, despite no structural improvements being proposed at this time. At the meeting, a formal written interpretation regarding the exemption in Sec. 37-5.A.(1) was requested from the Neighborhood Development Services Director.

Findings of Fact:

1. Any filing of a subdivision plan (SCP) not included as a part of a current DMP shall be required to file a Development Master Plan (DMP) (Sec. 53-6).
2. When the subdivision of any land is proposed within the City of North Port, the owner of the land or his authorized agent shall apply for and secure approval of subdivision plans, infrastructure plans, and plat of such division in accordance with Sec. 37-6, Sec. 37-7, and Sec. 37-8. Until such approvals are granted, no land which is a part of the proposed subdivision shall be sold, nor shall any building permit be approved for any development of any kind on that land (Sec. 37-5).
3. A division of land for agricultural purposes into lots or parcels of three (3) acres (1.214 hectares) or more and not involving a new street shall not be deemed a subdivision (Sec. 37-5.A.(1)).

Analysis:

The ULDC is clear that a division of land, as described in Sec. 37-5.A.(1), is not to be considered a subdivision, which is supported by other sections of the ULDC exempting “bona fide agricultural uses” from landscaping and stormwater regulations, compliance with which regulations would be verified via DMP, SCP, and INF.

Conclusion:

1. When interpreting land development codes and resolving conflicts or discrepancies within the regulations, the most restrictive or imposing the higher standards shall apply.
2. The criteria for exemption in Sec. 37-5.A.(1), for division of land for agricultural purposes (agricultural purposes), is less restrictive than that for exemption from landscaping and stormwater requirements (bona fide agricultural use), compliance with which regulations are reviewed via DMP, SCP, and INF.
3. A formal pre-application meeting for the property has not been held; no documentation regarding the use of the property for agricultural purposes nor bona fide agricultural use has been provided.

Decision:

A division of land for agricultural purposes is not determined by zoning district but by agricultural use of the land. If an applicant provides documentation assuring that the division of land is consistent with both Sec. 37-5.(A)(1) and the definition of bona fide agricultural purposes, and the Neighborhood Development Services Director finds that the land use is for bona fide agricultural purposes, the division of land will not be deemed a subdivision (DMP, SCP, and INF approvals will not be required). Alternatively, all applicable approvals per the ULDC will be required.

Lori Barnes Digitally signed by Lori Barnes
Date: 2023.01.26 16:03:27 -05'00'

Signature:

Lori Barnes, AICP, CPM, Planning & Zoning Manager on behalf of Alaina Ray,
AICP, Neighborhood Development Services Director



**CITY OF NORTH PORT
PLAT REVIEW COMMENTS**

Discipline: Surveying
Reviewed by: Steven M. Watts, PSM
Review Date: 3/21/2024
Phone: (954)266-6482
Email: swatts@cgasolutions.com


Plat Name: **PLF-23-185 KAMSLER ACRES**
CGA Project Number: 23-7758

Comments Based on Plan Submittal Date: 03/20/2024

No comments
 Approved w Comment

Plat Review Comments:

Approved



Steven M. Watts, PSM 4588
City of North Port – Review Surveyor