

Tab 3

TONY KATSAMAKIS
CONDITIONAL USE CU-2010-03

**Staff Report
Katsamakis
314 8th Avenue West, Palmetto
Conditional Use
COP NO. 2010-03**

OWNER/GENERAL LOCATION/PARCEL SIZE:

Owner: **Tony Katsamakis**
Location: **314 8th Avenue West, Palmetto**
Parcel Size: **23,300 Square Feet**
PID #: **3110200007 and 3110100009**

EXISTING LAND USE/ZONING CATEGORY:

Future Land Use: **COMC**
Zoning: **CC**

SURROUNDING PROPERTY ZONING DISTRICT(S)/USES:

FUTURE LAND USE

North: **COMC**
South: **COMC**
East: **RES-14**
West: **COMC**

ZONING

North: **CC/GO**
South: **CC**
East: **RM-6**
West: **CC**

BACKGROUND

The City is in receipt of a letter from Mr. Tony Katsamakis, who is owner of the property at 314 8th Avenue West, Palmetto. The letter requests the City to reconsider the conditions of Condition Use Permit CU-03-01, which relates to Mr. Katsamakis' property. The letter is attached for review. At City staff's request, Mr. Katsamakis has applied for a Condition Use Permit and paid the application fee.

The applicant has owned the property since 1993. For all or most of that time, the parcel has been used for automobile or boat sales. A Conditional Use Permit was granted by the City in February 2004.

The applicant is specifically requesting that the City delete Conditions 3, 5, and 7 below.

STIPULATIONS

Currently, the permit conditions are as follows

1. The number of conditional uses shall be limited to one conditional use per property. If the property for this Conditional Use Application is currently subject to a Conditional Use Permit, the existing Conditional Use Permit shall cease upon approval of this conditional use. If approval of this conditional use is not granted, the existing Conditional Use Permit shall remain in full force and effect.
2. The hours of operation shall be limited to no earlier than 8:00 a.m. and no later than 10:00 p.m. The term, "operation" shall include preparing the site for the business day (i.e., blowing off the parking area).
3. Test-driving of vehicles is prohibited on local streets. Test drives are permitted on City of Palmetto roads that are predominately in commercially zoned district (i.e., 8th Avenue West, 7th Street West, and 10th Street West, etc.)
4. All outside lighting shall be directed away from all residential areas at all times.
5. No repair of vehicles shall be permitted during or after hours of operation. Detailing vehicles for sale or rental is permitted within an enclosed structure. Detailing shall be done only during normal business hours.
6. It shall be the responsibility of the owner to make any sublease aware of the conditions of the Conditional Use Permit.
7. If, for any reason, the conditions of the Conditional Use Permit are violated, the Conditional Use Permit shall be null and void. At such time, the City of Palmetto shall give the owner notice and the use shall be deemed to be in zoning non-compliance and considered illegal. The owner shall have 30 days to remove the illegal activity from the premises. During this time, the owner may apply for another Conditional Use Permit.
8. If the conditions of the Conditional Use Permit are violated three times, the applicant shall not be allowed to apply for a fourth Conditional Use Permit and the illegal use shall be removed from the premises within 30 days.

9. All applicable provisions of the Land Development Code, including, but not limited to, landscaping, signage, parking, etc. shall be met.

STAFF RECOMMENDATION

Approve the Conditional Use Permit for an indefinite period of time with the following conditions:

1. The number of conditional uses shall be limited to one conditional use per property. If the property for this Conditional Use Application is currently subject to a Conditional Use Permit, the existing Conditional Use Permit shall cease upon approval of this conditional use. If approval of this conditional use is not granted, the existing Conditional Use Permit shall remain in full force and effect.
2. The hours of operation shall be limited to no earlier than 8:00 a.m. and no later than 10:00 p.m. The term, "operation" shall include preparing the site for the business day (i.e., blowing off the parking area).
3. All outside lighting shall be directed away from all residential areas at all times.
4. Repair of vehicles shall be permitted during hours of operation.
5. It shall be the responsibility of the owner to make any sublease aware of the conditions of the Conditional Use Permit.
6. All applicable provisions of the City Code of Ordinances, including, but not limited to, landscaping, signage, parking, etc. shall be met.

Attachment: Letter from Property Owner dated December 31, 2009
Future Land Use Exhibit (8.5x11)
Zoning Exhibit (8.5x11)

December 31, 2009

Dear Mayor Bryant and City Commissioners:

I am unable to attend the Commission Meeting on January 4, 2010, and am requesting the following information be presented at the meeting and recorded in the minutes.

My name is Tony Katsamakidis. I own the commercial property located at 314 8th Avenue West, Palmetto, Florida, 34221. The topic being discussed is Conditional Use Permit #CU0301 dated Feb. 16, 2004.

The stipulations in this permit are so restrictive; the permit has caused the previous tenant not to renew my lease agreement and a potential tenant to terminate negotiations for leasing my commercial property. This Conditional Use Permit has consequently caused a financial loss to me and my family.

Following is a little background information on the property.

1. The property, located on US Business 41, was built in 1988, approved as a commercial class structure with the intention of being occupied as a small motor vehicle dealership.
 - a. Since 1988, the property has been consistently occupied by the owner or leased as a motor vehicle dealership, except one short term lease for boat sales.
2. In April 2009 the lease on the property expired. The tenant chose not to renew the lease due to Item 5 listed on the Conditional Use Permit.
3. From June to October 2009 the building and property underwent renovations; I invested \$20,000 on improvements to the building and land.
4. In mid December 2009 lease negotiations began with a motor vehicle dealer. On December 17, 2009 the potential lessee was ready to sign the lease, until they read the stipulations stated in the Conditional Use Permit.
5. On December 23, 2009 I received an email from the potential lessee stating:

"Thank you so much for your prompt response regarding the lease. I must say however, that we were surprised at the attached City of Palmetto Conditional Use Permit dated 2/16/2004. This conditional use permit gives us great pause as two portions greatly disrupt what we would consider to be our normal business practices and certainly we would not want to do anything which would threaten the permit.

Number 3 prohibits test driving on local streets. As I am sure you are aware, we have no control once someone leaves the lot with the car. If neighbors wish to cause problems, which apparently they do, this could be a problem for both of us.

Then even more egregious to us is number 5 which states no repair of vehicles shall be permitted on the property. The garage was one of the things which attracted us most to the property as we felt we could significantly reduce our costs by having the work done in house by our own mechanic.

Having such a restrictive use permit gives us pause, and therefore we need to spend some time thinking about these problems. At this time we do not feel we can commit. I do want to thank you again for your time and if we have a change of heart and the property is still available we will recontact you."

There are items listed in Permit #CU0301 that are unreasonable and discriminatory toward businesses occupying the property and toward my rights as a commercial land owner.

Item 5 states: "No repair of vehicles shall be permitted during or after hours of operation."

- a. Auto Repair is permitted in CG zoning *by right*. Item 5 is not in compliance with the Land Development Code Art. IV, Sec. 4.2, or the Code of Ordinances, Art., IV, Sec. 4.2.
- b. In comparison to other businesses in the City that relate to the sale, service and/or repair of vehicles, my property is being discriminated against.

Item 3 states: "Test-driving of vehicles is prohibited on local streets"

- a. In a 16 year time frame, I am aware of only one complaint from one neighbor regarding a traffic complaint. One complaint *does not* constitute a traffic problem, hazard or nuisance.
- b. Any type of business occupying this property does not have the legal capability to control a customer's action once they leave the business premises.
- c. Citizens have the right to drive on public roads, unless that road has regulations designated and posted by the City Traffic Engineer according to the Land Development Codes governing Traffic and Vehicles.
- d. Any business leasing my property is being asked to make 3rd Street a one way street, for their customers only. There has never been an investigation, study or designation done by the Traffic Engineer to warrant this restriction.
- e. Item 3 is not in compliance with the processes and regulations of the Land Development Code, Art. II, Sec. 28-26 through Sec. 28-31.
- f. In comparison to other businesses and commercial entities located in close proximity to my property, my property is being discriminated against.

Item 7 states: "If, for any reason, the conditions of the conditional use permit are violated, the conditional use permit shall be null and void. At such time, the City of The owner shall have 30 days to remove the illegal activity from the premises."

- a. The wording of this stipulation is harsh and unwarranted, causing any potential lessee *NOT* to make an investment on this property in fear of the Conditional Use stipulations.
- b. This permit puts the investment of *any* business leasing the property at risk of being closed down and removed in 30 days - for permit stipulations that are not in compliance with Codes, for a stipulation that is out of the business's control, and for stipulations that are discriminatory and unjust.
- c. Item 7 is not in compliance with Article XV, Sec. 15.7.3 and Sec. 15.7.4 of the Land Development Code.

I am requesting that the City take immediate action to declare Conditional Use Permit #CU0301 null and void due to the fact the permit is not in compliance of the CG zoning regulations allowed *by right* according to the Land Development Codes.

TIME IS OF THE ESSENCE. Prior to the potential lessee terminating lease negotiations, the lessee requested a move in date of Jan. 10 or 15th. In hopes of salvaging lease negotiations, *time is of the essence* for the City to deal with this permit.

In conclusion, this Permit is not in compliance with City Codes, does not encourage economic development, is causing a financial loss to me, and undue distress to my family.

If you have any questions you can call me at (970)420-9224, or email me at katsamak@yaho.com.

Sincerely,

Tony Katsamak
Property Owner

Enclosure

Cc: Tom McCullum, Interim City Planner
Frank Woodard, Deputy Director of Engineer
Diane Ponder, Deputy City Clerk

Date Issued: February 16, 2004
Permit No.: CU0301

CITY OF PALMETTO CONDITIONAL USE PERMIT

APPLICANT NAME: Tony Katsamakis

APPLICANT ADDRESS: 601 E. Lincoln Way, Cheyenne WY 82001

CONDITIONAL USE ADDRESS/LOCATION: 314 8th Ave West, Palmetto FL 34221

CONDITIONAL USE APPROVAL DATE: February 16, 2004

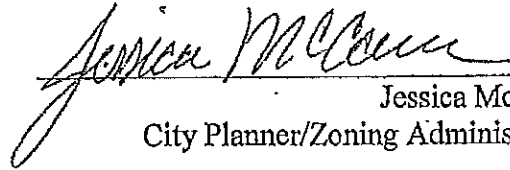
EXPIRATION DATE OF CONDITIONAL USE: NA

PERMIT CONDITIONS:

1. The number of conditional uses shall be limited to one conditional use per property. If the property for this conditional use application is currently subject to a conditional use permit, the existing conditional use permit shall cease upon approval of this conditional use. If approval of this conditional use is not granted, the existing conditional use permit shall remain in full force and effect.
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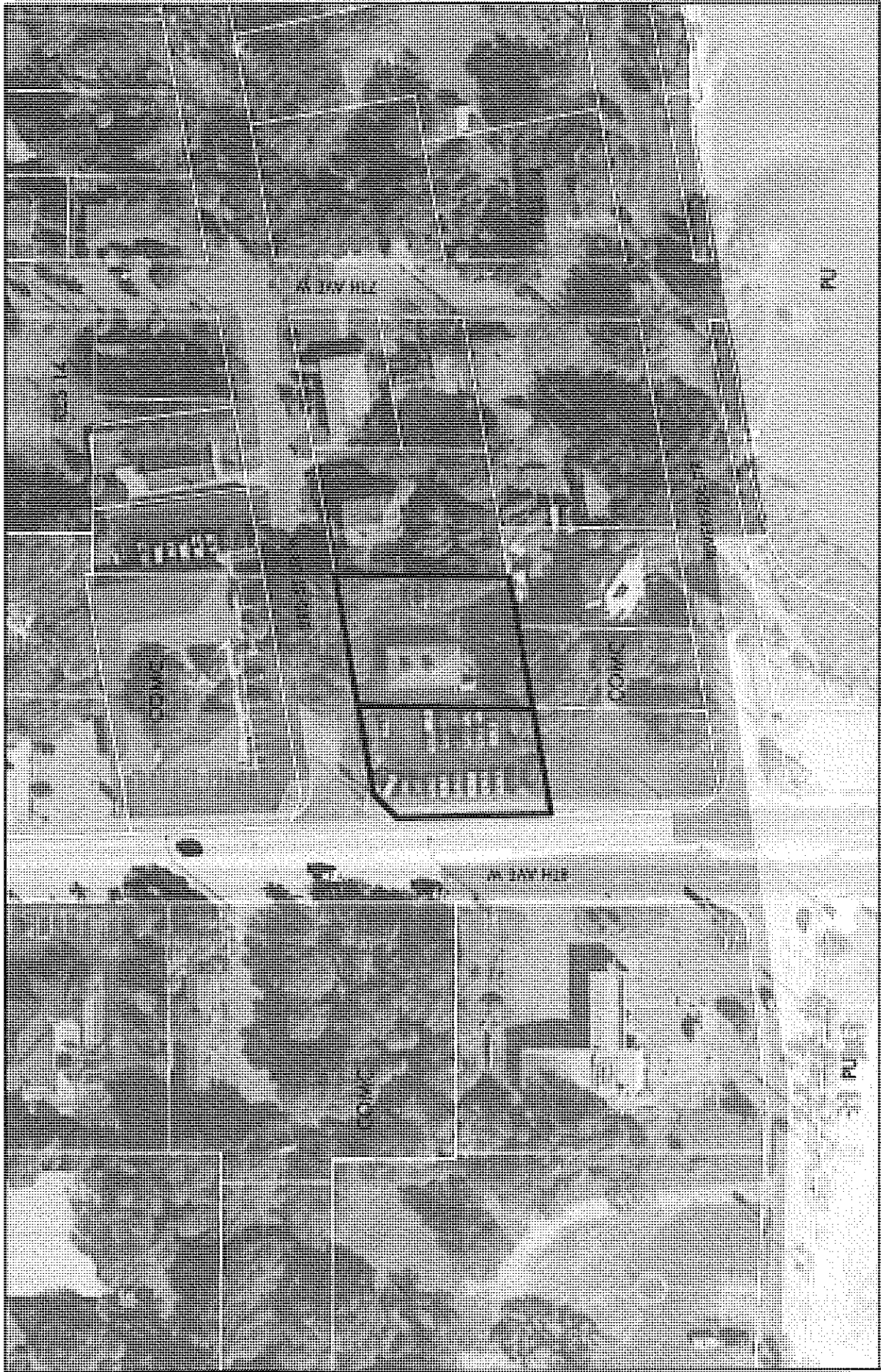
Date Issued: February 16, 2004
Permit No.: CU0301

8. If the conditions of the conditional use permit are violated three times, the applicant shall not be allowed to apply for a fourth conditional use permit and the illegal use shall be removed from the premises within 30 days.
9. All applicable provisions of the Land Development Code, including, but not limited to, landscaping, signage, parking, etc. shall be met.



Jessica McCann
City Planner/Zoning Administrator


FUTURE LAND USE



THIS MAP IS PROVIDED FOR GRAPHICAL REPRESENTATION AND GENERAL REFERENCE ONLY. THE DATA CONTAINED HEREIN IS SUBJECT TO CHANGE AND IS NOT WARRANTED.

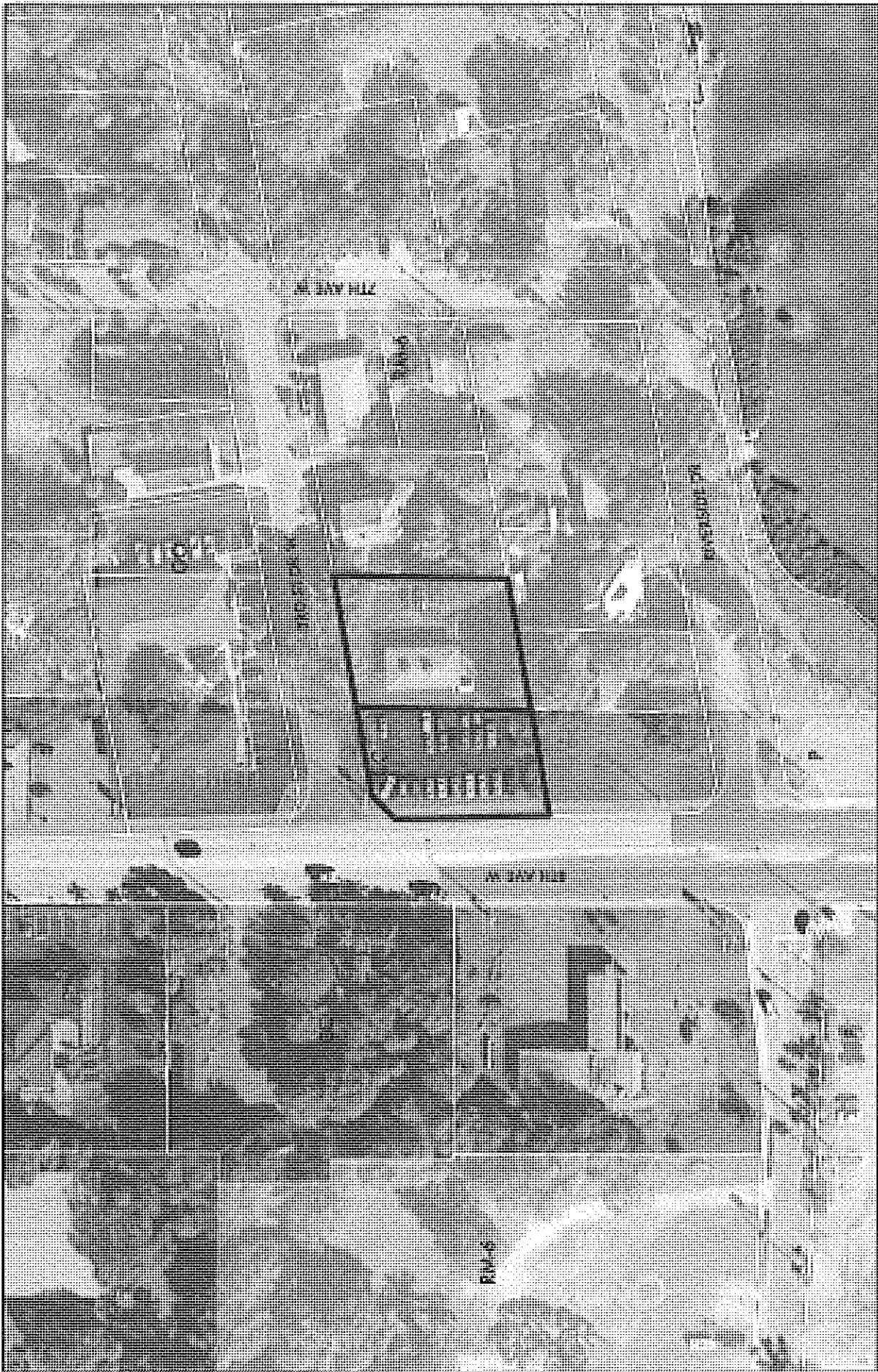
TONY KATSAMAKIS

SCALE: 1"=100'
SOURCE: MANATEE COUNTY

 **ZNS ENGINEERING**

20 JACKSON DR. SUITE 100
TALLAHASSEE, FL 32308
TEL: 904.746.8000 FAX: 904.746.3316

ZONING



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TONY KATSAMAKIS

SCALE 1"=100'
SOURCE: MANATEE COUNTY

ZNS ENGINEERING

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