

MINUTES OF THE SPECIAL MAGISTRATE HEARING TOWN OF LADY LAKE, FLORIDA

February 27, 2024

The regular meeting of the Special Magistrate was held in the Town Hall Commission Chambers at 409 Fennell Blvd., Lady Lake, Florida.

TOWN STAFF PRESENT

Lori Crain, Senior Code Enforcement Officer; Denise Williams, Code Enforcement Officer; Sgt. Gehrsitz, Lady Lake Police Department; and Carol Osborne, Deputy Town Clerk

CALL TO ORDER

Joshua Bills, Special Magistrate, called the meeting to order at 10:30 a.m.

PLEDGE OF ALLEGIANCE

All who were present stood and recited the Pledge of Allegiance.

EXPLANATION OF PROCEDURE

Special Magistrate Joshua Bills explained to the public that this is a quasi-judicial hearing, which means that he has not seen or heard any evidence or testimony from staff or outside parties, other than cases that have been continued from a public meeting, as this would be in violation of ex-parte rules. He explained that staff will present their case and testimony, and he will ask any questions he deems necessary. At that time, the owner or interested party will be able to present their testimony or evidence and staff will have an opportunity to rebut. The Respondent(s) have the right to represent and question their own witnesses and any witnesses testifying against them and introduce exhibits. The Special Magistrate is also permitted to ask questions of either party and/or witnesses, if desired.

Evidence submitted as an exhibit to any case, such as pictures and written statements, will become a permanent part of the case and made part of the record. Once part of the record, it is possible that these items will not be returned to the Respondent(s).

Please be aware that electronic submittals, such as pictures on your phone, cannot be made a part of the record. All items included in the record must be in a hardcopy or printed format.

All testifying witnesses shall be sworn in by the Clerk.

The Special Magistrate advised that all testimony is to be directed to him only. Please keep comments courteous.

The Special Magistrate has the discretion to continue a hearing at any time and may request additional information from either party. If a hearing is continued, a date certain for the continued hearing shall be announced at the public hearing.

Upon completion of all the evidence the cases will be closed for public comment, and he will render his decision on each of the cases. The Special Magistrate will then immediately deliberate in open session before the public and will render his decision on the case.

Persons demonstrating disruptive or disorderly behavior at meetings or violating established rules of order will be called to order. If such conduct continues, a recess may be called and a request for the removal of such person(s) from the chambers upon a finding of “disorder”, adjourn the meeting if determined to be the appropriate action, or take such other appropriate action as permitted by law will be undertaken to restore order.

Although the public is welcome at the meetings of the Special Magistrate, they shall not be allowed to participate in or address the Special Magistrate during deliberation.

Violators shall contact Code Enforcement to confirm compliance. Upon notification by the code inspector that the Order of Enforcement has not been complied with by the time stated in the ruling, the Special Magistrate may execute an Order of Imposing Fine in the amount set forth. A copy of the Order Imposing Fine shall be mailed to the Violator. A certified copy of the Order Imposing Fine may be recorded as a lien against the property and or business. A hearing is not statutorily required for the issuance of the Order Imposing Fine. The violator has a right to request a hearing on the fine imposition by written request to the Town of Lady Lake within twenty days of the commencement of the fine. The Order Imposing Fine shall advise the Violator of that right. When requested, such a hearing will be heard by the Special Magistrate. In some cases, fines will be recorded as a lien if not paid. The Respondent or business owner will receive a copy of the order regarding their case.

SWEARING IN

The Special Magistrate requested that anyone present who planned to speak at today’s hearing stand and be sworn in.

All individuals who planned to present information during the proceedings were sworn in. Those cases were heard first regardless of their order on the agenda.

A. APPROVAL OF MINUTES

Minutes of the January 23, 2024, Special Magistrate Hearing

The Special Magistrate accepted and signed the minutes of January 23, 2024, into the record as presented.

Senior Code Enforcement Officer, Lori Crain, advised the following amendments to the agenda: Case 23-001524 will be presented last at their attorney's request; Case 23-000501 is postponed until the Special Magistrate hearing on March 28, 2024; Case 23-001758, Cynthia M. Davis, was omitted as additional property owner.

B. OLD BUSINESS

1. Case 23-001505 — 225 Skyline Dr., Harold P. Donle — Building Permit Section LDR 16-52(a), Permit Required; Nuisances Section 7-46, Storage of Junk, etc., Prohibited; Order of Fine (Lori Crain)

Ms. Crain presented the background summary for this case stating that at the December 14, 2023, Special Magistrate hearing, per her request the Special Magistrate amended the Order of Enforcement dated October 24, 2023, allowing the Respondent until January 30, 2024, to bring the property into compliance, including payment of the administrative fee, or a daily fine of \$25 would begin to accrue effective January 31, 2024. She stated that the administrative fee for the December 14, 2023, hearing was waived. Mr. Donle was not present at the October hearing or at the December hearing. She advised that the amended order was mailed to Mr. Donle via certified mail, received and signed by Harold Donle on December 22, 2023.

Ms. Crain advised that on January 17, 2024, Mr. Donle contacted Code Enforcement Officer, Denise Williams, stating that he had copies of a plaque and stickers for the small shed on the property. He told Ms. Williams that the shed has been on the property for a very long time and is not visible in the property appraiser's aerial photos due to a large tree obstructing the view. Ms. Williams advised Mr. Donle that the larger shed needs to be permitted and gave him the application form for the after-the-fact shed permit. Ms. Crain advised that Mr. Donle left her a voicemail message requesting she contact him, to which Ms. Crain stated that when she called him, the outgoing message was that his voicemail box was full.

Ms. Crain advised that subsequent site inspections showed that property remains noncompliant, and Mr. Donle's voicemail box remains full.

Staff recommendation: Enter an Order of Fine due to non-compliance of the Respondent in violation of the Amended Order of Enforcement dated 12/14/23; assess administrative fee of \$150 for today's hearing in addition to the unpaid \$150 administrative fee from Order of Enforcement hearing on 10/24/23; and impose a fine in the amount of \$675 which is the total amount accrued to date of the \$25 daily fine, that will continue to accrue until compliance is obtained. All of which can be recorded as a lien against the property.

The Special Magistrate stated that there is no one in attendance to speak regarding this case.

The Special Magistrate executed the Order of Fine based on the evidence and testimony presented. The Respondent shall pay a fine in the amount of \$25.00 per day commencing on January 31, 2024, for each day the property is not in compliance and shall continue to accrue at the daily rate until such time as the property is brought into compliance. The current total fine at the date of this Order is \$675.00. Respondent shall pay all costs associated with this case in the amount of \$150.00, in addition to the outstanding \$150.00 administrative fee due from the October 24, 2023, Order of Enforcement hearing. Respondent shall have until 5:00 PM Wednesday, March 27, 2024, to bring the property into compliance to cure the cited violation(s), including payment of all costs. The Respondent will receive a copy of the full Order.

2. Case 23-001524 — 1199 Kenton St., ROIB SFR Lake Ella, LLC — NDPEs Stormwater Regulations Section LDR 13-54, Required Use of BMPs; NDPEs Stormwater Regulations Section LDR 13-7(f), Property Owner/Agent Responsible; Reduce Fine/Lien (Lori Crain)

Ms. Crain presented the detailed background for this case:

August 22, 2023 – the Order of Fine was executed for the 4th repeat violation; \$150 administrative fee was assessed plus the unpaid \$150 administrative fee for the July 7, 2023, Special Magistrate hearing. The Respondent was given until September 12, 2023, to comply or the fine could be recorded as a lien. The \$1,500.00 daily fine continued to accrue, totaling \$96,000.00 as of this date. Other conditions ordered were to submit the modified plans for the retaining wall along lots 1-6; gravel to be added to the rear property line; maintain overgrowth; all trash to be placed in construction waste containers; washing and cleaning of equipment only at designated wash area; the Respondent is to submit a signed agreement between the affected property owners; a maintenance schedule is to be provided; access to SWPPP book; SWPPP book to be kept current; temporary measures be assessed, modified or increased if required; sediment to be removed from traps and ponds whenever the design capacity has been reduced to 50%; discharges shall not exceed design criteria; Town reserves the option to additional recourse as stated and ordered in the Order of Enforcement dated July 11, 2023. No one was present to speak on behalf of the Respondent.

August 28, 2023 – Ms. Crain stated that she was copied on an email from Wendy Then, former Senior Town Planner, to Don Hughey, the engineer of record for this project and to Brian Clapp, the Respondent's representative that she has been in communication with since the beginning of the project. Ms. Then advised Mr. Hughey to "...proceed with making the changes to the Lake Ella Estates Subdivision Plat Plans and submit them to the Town for review and approval. There is a \$250.00 Special Review fee..." and "...touch base with Code Enforcement regarding an Action Plan for the removal of socks during major rain events as a Tropical Storm is currently predicted to approach Florida"; "It was determined by our Town

Engineer that the deficiencies found at the site are primarily due to: (a). The site is not completely stabilized for an active construction site, and (b.) The contractor's negligence or lack of maintenance due to not following best management practices has led and escalated to the current soil erosion, drainage issues, sediment control issues, silt fencing deficiencies and related ongoing violations. Town Staff expects the contractor to collaborate on an Action Plan to get to a resolution on the outstanding issues." Mr. Hughey replied that they will coordinate with Lake Ella Estates and get the revised plan sheet(s) submitted.

August 29, 2023 – Ms. Crain stated that she performed the reinspection as requested by Mr. Clapp. She stated that the silt fence along the dirt portion of Lake Ella Road had been replaced; the tall weeds mowed down; the culvert was cleaned out near the paved area of Lake Ella Road. She stated that she located a few areas where only one stake was holding two sections of silt fence together and observed openings in the fencing. The dirt was not removed along the gravel road silt fence, especially near the post to Avelar's property. The corner by the retaining wall and Avelar's fence had not been touched. Sediment not removed on sidewalks on corners of property north of current phase. Some sediment on the streets. All the drain socks had been removed. Ms. Crain stated that she had previously told Mr. Clapp and Jorge that the two drain socks on the entrance into the subdivision and most of the uphill socks could be removed. They could also remove the drain socks along the first N/S street where newly constructed homes are located IF these lots were sodded. Jorge, the project supervisor, met her on site and she showed him again all the places in need of compliance. Photos were taken and emailed to Jorge.

September 10, 2023 – Ms. Crain stated that Brian Clapp emailed her requesting a new inspection. He explained that Jorge had worked on the areas that were discussed at the last inspection and believes they were ready for inspection, as the comply by date stated in the Order of Fine is September 12, 2023.

September 13, 2023 – Ms. Crain stated that she conducted the inspection and the area adjacent to Mr. Avelar's vacant property was in compliance, along with the two sections of conjoined silt fence. She stated that she reviewed the SWPPP book that was on site and accessible. She stated that the gravel had not been replaced to date at the adjacent neighbors' properties, and she had not received a signed agreement between Respondent and the affected adjacent properties' owners. The gravel was not added to the rear areas of the property. She stated that there was a long section on Kroll Lane where liquid was running down the street into the inlet. The liquid was washing sediment into the drain as the sock was not flush against it nor were there any sandbags holding it in place. The source of the liquid was traced to equipment that was in use at 179 Kroll Lane, believed to be a stucco sprayer, which is not permitted. She stated that an inlet sock on Holston Lane was

not adequately blocking the drain as a discarded water bottle was observed between the curb and the sock, and several sandbags were not in proper position. A section of Kenton Dr. had a large amount of sediment on the road with evidence of it being deposited into the inlet; there was a pile of trash in the back by the supply mounds of fill. She stated that per the NPDES inspection reports by onsite inspector, the streets had not been swept of sediment on the last three reports as well as other areas that had not been corrected. She stated that the inspection reports had not been signed by a supervisor, secondary containments for fuel had not been utilized, and the first page of the August 30, 2023, report is mostly illegible. She stated that the \$150.00 administrative fee had not been paid as of this inspection. Ms. Crain stated that she emailed Mr. Clapp with the result of the inspections and the previously mentioned information.

September 14, 2023 – Ms. Crain advised that due to noncompliance with the Order of Fine, she recorded the lien against the property.

October 10, 2023 – Ms. Crain stated that Jorge came to the counter requesting Certificates of Occupancy for new house construction. He was advised by Growth Management staff that the Town would not issue them due to noncompliance with the Fire Inspector's regulations that were indicated in a failed Fire Inspection Report. Jorge was also advised that Code Enforcement still has open violations and cases that could prevent the Certificates of Occupancy to be issued or stop work orders by the building department. Shortly after Jorge left town hall, Ms. Crain stated that she received an email from Mr. Clapp, replying to an email from September 13, 2023, where she provided an itemized list of what had been corrected and what was still in need of correction. He stated the drain socks are scheduled to be replaced that week.

October 11, 2023 – Ms. Crain stated that she and Growth Management Director Thad Carroll met with Mr. Clapp at town hall and discussed the open violations, accruing fines, options for storm water control, etc. Ms. Crain stated that no one representing the Respondent had attended the Special Magistrate hearings. Mr. Clapp replied that he does not have time to attend any more meetings. Mr. Carroll stated that there has been a lack of communication from the Respondent to Code Enforcement. Mr. Clapp stated that he had already spoken to surrounding affected property owners and had an agreement in place to repair damages. He will forward the emails between them, submit plans for the retaining wall, add gravel to Tavaren Lane entrance and dirt supply piles, place inlet socks at 45-degree angle with sandbags in middle for storm activity. He sent a follow up email of the meeting and attached photos of the areas that were discussed that required attention and additional erosion control.

October 16, 2023 – Ms. Crain stated that after speaking with Mr. Clapp, she agreed to cease the daily fine from accruing effective September 14, 2023, for the damage done to Mr. Avelar's property on Hidden Oaks Dr. She stated that there are two properties accruing a daily fine of \$500.00.

Ms. Crain stated she received an email from Mr. Clapp with the photos of the additional silt fence that the general contractor installed along the front of the lots without sod. Mr. Velazques, the general contractor with Bull Horn, came to the counter and left a message with staff requesting an inspection with the new measures in place.

October 17, 2023 – Ms. Crain stated that upon the reinspection requested by Mr. Velazquez, she found the property had greatly improved. She stated, however, that the gravel had not been added. She stated that she took a photo of the areas between the back yards of the properties to show the slope of the lots for future reference as this could be another potential area of concern for erosion.

October 23, 2023 – Ms. Crain stated that she received an email from Mr. Clapp with the minutes of the Hidden Oaks HOA ARC meeting regarding the agreement between Lake Ella Estates and Hidden Oaks on future fence and landscaping. Also attached were photos of the active street sweeping. Mr. Clapp asked for clarification where to place the gravel. He stated that the email confirmation with Ms. Hatak, another property owner, will be forthcoming, as well as the plans for the retaining wall. Ms. Crain stated that she reiterated to Mr. Clapp that gravel is to be added at the entrance to the dirt stockpiles. She reminded Mr. Clapp that she needs the agreement with Ms. Hatak and the plans for the retaining wall.

October 31, 2023 – Ms. Crain stated that she received an email from Mr. Clapp that included the emails between him and Ms. Hatak agreeing to future repairs to the driveway and a photo of active street sweeping. Mr. Clapp stated in the email that they are still working on getting the gravel added to the dirt supply piles along Tavaren Lane. Later this same day, Mr. Clapp sent another email with photos of the street being swept again at the north entrance and gravel being added to the stockpile entrance. Ms. Crain stated that she replied to Mr. Clapp indicating that the one remaining item is the plans for the retaining wall.

November 2, 2023 – Ms. Crain stated that she was copied in an email reply sent by Senior Town Planner Becky Higgins to Mr. Hughey asking for status on the closeout and acceptance of all phases, the as-built plans, and plats for the Lake Ella project. Ms. Higgins also stated that the Town is waiting for the retaining wall issue to be resolved and asked Mr. Hughey for an update. Ms. Crain stated that the only update received by Mr. Hughey's reply was that the developer has engaged the contractor for the work. Ms. Crain stated that she interjected an email stating that the Code Enforcement case is still open, and the daily fine will continue to accrue until the retaining wall plans are submitted as this is part of complying with the

Order of Fine. Mr. Hughey stated that the retaining wall was an after-thought of the Town, and the daily fine is excessive. Ms. Crain stated that her reply included a timeline from when the retaining wall was first mentioned in emails, and it being stated in the Order of Fine.

November 9, 2023 – Ms. Crain stated that she received an email from Mr. Clapp advising that they are having difficulty locating a structural engineer to submit the retaining wall plans as this is a minor job. She stated that she replied that she will cease the fine from accruing retroactively from Oct. 31, 2023, the date all other conditions of the Order of Fine had been met. She stressed to Mr. Clapp that she is not implying that the plans did not need to be submitted at the earliest availability.

November 29, 2023 – Ms. Crain stated that she received an email from Mr. Clapp confirming that when the engineered plans for the retaining wall have been submitted, she will place the case on the next Special Magistrate hearing agenda. Ms. Crain replied affirmatively to Mr. Clapp and explained the process to request a reduction in fines.

December 4, 2023 – Ms. Crain stated that she received an email reply from Mr. Clapp requesting the total amount of the fine. He stated that the site contractor should be submitting the retaining wall permit application soon. The Notice of Commencement was given to them to record; the total amount of the fine to this date is \$176,300.00.

January 3, 2024 – Ms. Crain stated that retaining wall plans were submitted.

January 22, 2024 – Ms. Crain stated that she emailed Mr. Clapp informing him that this code enforcement case is scheduled for the February 27, 2024, Special Magistrate hearing as a request for reduction of fine.

January 25, 2024 – Ms. Crain advised that she received a letter from Attorney Bret Jones, representing ROIB SFR LLC, stating that the fine and lien is not in line with the violations and the compliance of the developer, and that they are requesting a reduction or waiver of the fines. She stated that the letter was also sent to Town Attorney Derek Schroth. Ms. Crain stated that she advised Attorney Schroth that she had been in communication with Mr. Clapp, and it was her understanding that the case had been scheduled for the February Special Magistrate hearing for reduction of fine and that she had previously explained the fine reduction request process.

January 29, 2024 – Ms. Crain stated that there was an exchange of emails with Attorney Schroth regarding a date and time for the Special Magistrate hearing. Attorney Schroth forwarded an email from Lake Ella Estates Attorney Bret Jones' office. Mr. Jones advised that he would be attending the February hearing if it is the last case to be presented. Ms. Crain stated that she was amenable to this request.

January 31, 2024 – Ms. Crain stated that the Town of Lady Lake was being audited for compliance with the Towns' NPDES permit. As part of Code Enforcement's involvement and responsibility, and as a condition of the permit requirements, she was accompanied by NPDES State Auditors on a routine inspection of this site. Michelle Bull, from the NPDES Stormwater program noted concerns about the flow and drainage of stormwater in at least two locations on the site.

Ms. Crain advised that Ms. Bull stated currently, the design does not direct the run-off into the street, inlets or ultimately into the retention ponds. Ms. Bull recommended that Ms. Crain report these concerns to the St. John's Water Management District who issued the permit to the Developer. Ms. Crain advised that she did submit a concern but has not received any updates. Ms. Crain stated that also accompanying her on this inspection was MaryAnn Krisovitch, of Surface Water Pros. (who is also present today) Ms. Krisovitch and Ms. Bull both spoke to KCI staff that were also on site at this date and time.

Ms. Crain stated that deficiencies were pointed out to KCI that they had not yet observed. During the inspection, the following violations were observed: missing and/or dilapidated drain socks and sandbags, or socks or they were not correctly placed, gullies evident of erosion of sediment into inlets off un-stabilized lots, erosion of sediment uphill from undeveloped lots onto nearly completed lots; junk, trash, construction debris piles on ground and SWPPP book was not current in several areas.

Ms. Crain advised that at her discretion she did not state these as repeat violations. She stated that she opened a new case for 2024 and the monitoring of the construction site and stormwater BMP maintenance. She stated that she submitted the report to Mr. Clapp and Attorney Bret Jones for their review.

Staff recommendation: Code Enforcement does not recommend a reduction of the accrued fine and lien in this matter. This decision is based on the following: the amount of repeat violations that have occurred on the property in a short period of time; the lack of prompt response to compliance; the amount of damage to adjacent properties; the fact that this project has more phases to be completed with the upcoming rainy and hurricane seasons; and the amount of the fine will motivate and ensure the Respondent maintains compliance throughout the entire course; Code Enforcement has previously reduced the fine in this case in an attempt to work with the Respondent. Per an email with Mr. Clapp on November 9, 2023, she stated that she would cease the fine from accruing after October 31, 2023. Ms. Crain testified that she agreed to accept the conceptual plans for the retaining wall. The actual engineered plans were not submitted until January 3, 2024. This was two months after the date she ceased the fine and 3.5 months after the stated comply date in the Order

of Fine. Staff would also note that this new housing is being developed as rental properties. Therefore, the property owner is ultimately responsible for future code enforcement violations and actions.

The Special Magistrate requested Ms. Crain read the letter from Attorney Bret Jones and her response:

Mr. Clapp was notified of the violations with a courtesy email on June 15, 2023. The SAME day we received the initial complaint. I stated that the earliest I would perform an inspection would be on or after June 19, 2023. This gave the Respondent 3-plus days to resolve the violations. Per FSS 162.06(3), "If a repeat violation is found, the code inspector shall notify the violator but is not required to give the violator a reasonable amount of time to correct the violation."

On June 18, 2023, Mr. Clapp replied to my email, acknowledged, and confirmed he received it. On June 19, 2023, I received another complaint from the 2nd property owner. CEO Denise Williams received the complaint from the third property owner on this same day. Over the weekend, from the time I notified Mr. Clapp to the time Code Enforcement received the second and third complaints, the area had a rainfall event. Again, I notified Mr. Clapp with a courtesy email and stated that a \$500/day fine would begin to accrue if this was determined to actually be another breach of the BMPs during the inspection. He replied, "I completely understand..." the inspection results found that this was another breach of the BMPs, causing erosion and rainfall to flow onto other adjacent properties.

The Order of Enforcement-Repeat Offender was entered on 7/11/23 as a result of the Town's case that presented sufficient and adequate evidence for the special Magistrate to make his ruling. No one was present to represent or speak on behalf of the Respondent. The Hearing/Violation notices were all sent, delivered, and received in accordance with FSS 162. Therefore, ROIB SFR Lake Ella, LLC was indeed notified and aware of the hearing.

The Order of Enforcement-Repeat Offender (4th repeat violation) was reactive to complaints received from citizens and property owners. The Town did not seek to cite the property owner deliberately or purposely. The fact that this case represents the fourth repeat violation allows Code Enforcement to assess a fine in the amount of \$500 per day, according to FSS 162. This case involves three separate properties that were affected by the violations of the Property Owner. Therefore, I assessed the \$500/day fine for each of the 3 separate properties. This increased fine was also in anticipation of motivating the Respondent to comply promptly. The Order of Enforcement allowed the Respondent 30 days to comply, which is a generous amount of time. Attorney Jones pointed and stated, "the fines were levied on an active neighborhood development." This fact is not relevant. The Florida

statutes do not differentiate between what types of properties or activity taking place on properties that are in violation.

The” ...neighborly remedies the developer voluntarily has built...” would not have had to occur if the BMP regulations were followed and adhered to by the property owner. The Respondent has repeatedly stated they have done “above and beyond what is required by the Town Code.” The Town’s codes and LDRs are in alignment and mirror those of the State of Florida Department of Environmental Protection and the National Pollutant Discharge Elimination System. As a jurisdiction, the Town is required to enforce and uphold these to maintain its own local DEP and NPDES permits. Should the Town of Lady Lake lose these permits by suspension or revocation, no additional growth would be allowed by the State and Federal governments.

Best Management practices require continual inspections, evaluation and maintenance during development and construction. When/if a BMP fails, it must be replaced, repaired, and enhanced so as not to occur again. The objective of BMP is to avoid contributing to water quality violation or offsite sedimentation. This is stated in several locations within the NPDES Generic Permit, but specifically in Part 5.

The Respondent has failed to maintain BMPs or correct them, which has resulted in repeat offsite sedimentation violations. This Code Enforcement Officer has advised several times to several involved parties of the need to monitor the BMPs to check for failures or potential areas of concern since mid-2021.

RE: “actual permit language”: The Town does not have evidence of the Respondent taking reasonable steps required to address the condition in the timely manner stated after the failures and deficiencies of the development’s BMPs. Nor have we received any copy of a summary submitted to the EPD.

This part “6” refers to the **permittee** finding that a BMP has failed or is deficient. Code Enforcement staff or adjacent property owners are the persons who have found that a BMP failed. Not the Respondent.

RE: storm event that caused erosion and breach of silt fence behind lots 1-6; the installation of double silt fencing and hay bales were at the suggestion and recommendation of Code Enforcement. Mr. Jones stated that within three weeks of the event, the contractor had completed sodding and stabilization. As stated earlier, shouldn’t this have been completed in the required seven days?

RE: Third party stormwater inspection firm hired June 1, 2023, to conduct weekly inspections and rain event inspections: these inspection reports, along with the required

SWPPP book, were not posted onsite until September 13, 2023. Another violation of the BMPs and NPDES.

RE: “developer spent months attempting to pass final inspection from Lady Lake Code Enforcement...Only to fail for ‘routine maintenance’ type issue.” The Town does not agree with this statement as compliance of stated violations was often not corrected upon next inspection that was requested by the Respondent. For example, the piles of accumulated sediment were not removed after several inspections. Inspection that the Respondent requested.

RE: issues “...internal to the project site...these violations were not discharging into the MS4.” The Town does not agree with this statement. If the Respondent’s definition of internal issues includes inlet protections; sediment accumulation in gutters, garbage, and trash, concrete wash-out. These are ALL causes of erosion and discharge into the storm sewer system.

RE: construction of retaining wall-not in approved plans. In correspondence with Don Hughey, Engineer of Record, his email of August 10, 2023, he stated, “in discussing with the Client, **we would like to propose a retaining wall behind lots 1-6.** The retaining wall would allow for the existing lot grading scheme, although would also allow for the rear grades to be raised, thus reducing the slope in the rear yards. Attached is a conceptual detail that may assist in our explanation.

The retaining wall is considered another BMP. In an email on 8/28/23, Ms. Then, Sr. Town Planner, advised Mr. Hughey of the Town Engineer’s comments:

“It was determined by our Town Engineer that the deficiencies found at the site are primarily due to:

- a. The site is not completely stabilized (active construction site)
- b. The contractor’s negligence or lack of maintenance due to not following best management practices has led and escalated to the current soil erosion, drainage issues, sediment control issues, silt fencing deficiencies and related on-going violations.”

The Town, upon the review and recommendation of the Town Engineer firm, required this wall in addition to the approved plans. The Town has a valid concern for the sod alone in this location to prevent future erosion, run-off, and failure. As it relates to BMPs, if what is in place is not sufficient, it must be evaluated and modified to prevent offsite sedimentation. The Town of Lady Lake could be liable for any damage if it did not require implementation of improved BMPs.

RE: “exceeding the permitted plans was the gravel added to the rear of the property...to prevent tracking of additional sediment into the Lake Ella Estates project.” This BMP is common to most construction and development sites. Heavy equipment and vehicles entering and exiting the property from this area track in excessive amounts of sediment from the dirt road. This egress is also located uphill from the rest of the property, therefore, has the highest likelihood of washing into the inlets downhill.

Maryann Krisovitch, Surface Water Professionals, 6701 Lake Kirkland Dr. Clermont, FL.

Ms. Krisovitch stated that as she has reported on this case previously. She stated that the purposes of the Best Management Practices that are required in the permit is to prevent erosion sedimentation, pollutants, and trash from entering retention ponds, waterways, and the multiple separate storm sewer system. She stressed that it is not intended to be a stop gap for repeated failings. She stated that when they entered the property with the Department of Environmental Protection on January 31, 2024, the auditors noted several areas that were still of great concern, such as the storm drain sock being misaligned from the storm drain, which allows sediment to directly enter the storm drain system. She stated that when the storm drain systems fill up, it no longer has the capacity to move any rainwater during heavy volume events. She stated that this is supposed to be prevented and that there is no way to know if that will be cleaned out.

Ms. Krisovitch stated the rule is if BMPs are not working, they are non-existent. She stressed that best management practices must be working in order to be considered best management practices.

Ms. Krisovitch stated that when they arrived with the auditors, coincidentally, the third-party inspectors were on site. She stated that they expressed surprise when she indicated the amount of sediment and trash in the lowest retention pond. She stated that these had entered through the unprotected storm drains uphill, because KCI inspectors neglected to look there previously. She stated that this accumulation of sediment had been occurring for some time.

Ms. Krisovitch advised that many times developers hire third-party inspectors, which is a great help with complying with their state permit. However, the third-party inspector is not responsible for making the adjustments or doing the maintenance. She stated that the third-party inspector can only pass that report to the responsible party who is accountable for making the corrections, adjustments, and regular maintenance. She stated that the BMPs require regular, weekly maintenance, especially where there are elevation changes as with Lake Ella Estates.

Ms. Krisovitch advised that the gravel required at the entrance is to prevent tracking out of and into a community under construction. She added that this is an erosion and sedimentation issue as well as a safety issue.

Attorney Bret Jones, 700 Almond St., Clermont, FL 34711

Attorney Jones stated that he is representing the Respondent/property owner. He stated that he appreciates Code Enforcement's efforts because the property owner wants to present a nice development and a nice area in general. He stated that he understands the concept of BMPs, as features need to be done well and done correctly to prevent pollution, etc., and he does not argue that issue.

Attorney Jones stated that the site development plan was approved and permitted with the Town and with St. John's Water Management District and it was designed and built to that plan. He stated that to the extent that the State came in afterwards and saw two issues that may cause problems in the future is something that will need to be addressed.

Attorney Jones advised that his client retained a third-party best management company last summer when these issues began, and they have been on site on a regular basis as reported by Ms. Crain. He stated that the Respondent has installed over 8,000 linear feet of silt fence, has continued to make appropriate adjustments to move the project forward such as regular street sweeping.

Attorney Jones expressed his desire to work with Code Enforcement to resolve the issues so the Special Magistrate could make a final ruling today.

Attorney Jones stated that the retaining wall specifically was suggested by the Town as an agreement between the neighbors and the Respondent. He stated that the retaining wall was not on the plans that were submitted to St. John's Water Management District, and it was not on the plans the approved by Town's engineer. He stated that this component may be beyond the Special Magistrate's ability to require that be included on the site development plan, yet the Respondent agreed to it.

Attorney Jones asked the Special Magistrate to consider the cost of the addition of the retaining wall to counter-weigh the fine for the ongoing failings. He stated that the Respondent will supplement the record by providing a permit and invoices proving that they did "pay the price" voluntarily by installing that retaining wall.

Attorney Jones stated that the Respondent desires to comply with the Town, finish the project and show to the extent possible, that in consideration of the irregular rain event, they took the right steps to bring this property into compliance and be a good neighbor.

The Special Magistrate confirmed with Attorney Jones that the retaining wall has not been constructed.

Attorney Jones replied affirmatively adding that the permit for the retaining wall has been issued.

The Special Magistrate stated that the evidence of the January 31, 2024, inspection is concerning. He stated that Attorney Jones' request to offset the fines with the cost of constructing a retaining wall is premature. The Special Magistrate stated that when the final costs for the wall project are submitted, he may be able to take that into consideration.

Attorney Jones stated that he was reconsidering his request as he listened to Ms. Crain's testimony. He stated that he wrote the letter to Ms. Crain requesting the reduction in the fine because he believed the retaining wall would be further along in its construction at this point. Attorney Jones requested this case be continued to supplement the record showing the retaining wall construction process and to allow Mr. Crain to take photos of the completed project. He stated that many of the issues presented today would be remedied and he present invoices for the Special Magistrate to take into consideration.

The Special Magistrate stated this is a more difficult decision than simply waiving fines due to the ongoing conditions and that the retaining wall has not been constructed. The Special Magistrate stated that he does not want the Respondent to assume that if the fine is waived that these violations can be ignored. The Special Magistrate acknowledged that the site is currently under construction and these types of issues occur regularly.

The Special Magistrate stressed that this case needs to be taken seriously.

The Special Magistrate stated that he is willing to take the issues into consideration in determining the proper fine reduction. The Special Magistrate reiterated that it is premature to grant a reduction in the fine at this time.

Attorney Jones requested to have this case continued provided Ms. Crain agrees.

Ms. Crain advised this case was presented today at the request of Attorney Jones. She stated she will take the Special Magistrate's ruling to the Town Commission for their consideration.

The Special Magistrate reiterated that it is not an appropriate time to make a recommendation regarding a reduction of the fine. The Special Magistrate acknowledged that the Respondent is incurring ongoing costs to remedy the damages.

The Special Magistrate stated that the issues from January 31 are impactful. The Special Magistrate stated that an appropriate time to render a decision to reduce the fine is when most of the construction is complete, and these issues have been rectified successfully.

The Special Magistrate stressed that the Florida statute is very clear regarding these regulations.

Ms. Crain clarified with the Special Magistrate that he would consider a reduction in fines when the entire site is complete.

The Special Magistrate replied that he is unclear when the appropriate time is because these issues are regularly occurring during construction.

Attorney Jones spoke from his seat in the audience and was inaudible.

The Special Magistrate advised Attorney Jones that the Town's recommendation may not change when this case is presented in the future. The Special Magistrate stressed that he needs evidence that the property is closer to compliance with most of these issues.

Ms. Crain verified with the Special Magistrate that the Respondent must understand that all the violations need to be corrected, including the most current violations.

The Special Magistrate concurred that is his concern as well. The Special Magistrate acknowledged that the developer is making efforts to correct these issues. The Special Magistrate stated that he understands that there are ongoing issues that have not been corrected satisfactorily.

Ms. Crain clarified with Attorney Jones that he was referring to the Certificate of Completion of the retaining wall.

Attorney Jones spoke from his seat in the audience and was inaudible.

Ms. Crain advised that the fine and the lien are recorded.

The Special Magistrate clarified with Ms. Crain that the fine has ceased to accrue.

Ms. Crain replied affirmatively adding that the lien ceased from accruing on October 31, 2023.

The Special Magistrate stated that all parties agree to continue this case to the May 23, 2024, Special Magistrate hearing.

The Special Magistrate called for recess at 12:20 p.m.

The Special Magistrate hearing reconvened at 12:27 p.m.

3. Case 23-002509 — 812 Hibiscus St., David R. Morelli — Minimum Standards Maintenance/appearance Section 20-20(c), Yards, Vegetation, Hazards; Nuisances Section 7-67, Trash Weeds, Vegetation; Right-of-Way General Regulations Section LDR 15-113 (i), Restored to original Condition; Order of Fine (Lori Crain)

Ms. Crain presented the background summary for this case stating the Order of Enforcement case was presented at the January 23, 2024, hearing. At that time, the Special Magistrate found the Respondent in violation of the cited codes and entered the Order of Enforcement with a compliance date of February 5, 2024, or a daily fine of \$50.00 will begin to accrue on February 6, 2024. No one was present at the hearing to speak regarding the case. An administrative fee of \$150 was assessed for the Order of Enforcement hearing.

Ms. Crain stated that subsequent site visits have shown some effort toward compliance. She advised that the Order of Enforcement Hearing Notice was returned unclaimed on February 21, 2024. All other notifications sent via certified mail and regular USPS mail have not been delivered per USPS tracking. She advised that she entered the \$50.00 daily fine to begin accruing February 6, 2024, and that the \$150.00 administrative fee for the January hearing has not been paid to date.

Staff recommendation: Find Respondent in violation of the Order of Enforcement dated January 23, 2024; assess \$150.00 administrative fee for this hearing in addition to the unpaid administrative fee from the Order of Enforcement hearing; Impose fine in the amount of \$1,050.00, which is the total amount accrued to date of the \$50.00 daily fine. The daily fine will continue to accrue until complete compliance is obtained. All fees and fines may be recorded as a lien against the property and property owner.

The Special Magistrate executed the Order of Fine based on the evidence and testimony presented. Respondent shall pay a fine of \$50.00 per day commencing February 6, 2024, for each day the property is not in compliance and shall continue to accrue until such time as the property is brought into compliance. The current total fine to date is \$1,050.00. The Respondent shall pay all costs associated with this matter in the amount of \$150.00, in addition to the outstanding \$150.00 administrative fee from the hearing on January 23, 2024. All fines and costs shall be paid by 5:00 PM Thursday, March 28, 2024, to bring the property into compliance to cure the cited violation(s), including payment of all costs. The Respondent will receive a copy of the full Order.

4. Case 23-002601 — 924 April Hills Blvd., Marisela Mendez — Right-of-Way General Regulations Section LDR 15-113(i), Restored to Original Condition; Right-of-Way General Regulations Section LDR 15-113(i)(10), Grass and Mulch Replaced; Vehicles, Parking & Obstructions Section 17-26(b), Commercial Vehicles Prohibited in Residential; Order of Enforcement (Lori Crain)

Ms. Crain presented the background summary for this case stating the Order of Enforcement case was presented at the January 23, 2024, hearing. At that time, the Special Magistrate found the Respondent in violation of the cited codes and entered the Order of Enforcement with a compliance date of February 8, 2024, or a daily fine of \$100.00 will begin to accrue on

February 9, 2024. An administrative fee of \$150.00 was assessed for the Order of Enforcement hearing. She stated that the Order of Enforcement was sent via USPS First Class mail and certified mail.

Ms. Crain advised that the administrative fee has not been paid to date and subsequent site visits show that the property remains noncompliant. She advised that she entered the daily fine of \$100.00 to begin accruing retroactively from February 9, 2024. She advised that that she observed a second area showing evidence of driving over the right-of-way, evidence of dirt and sediment being tracked onto the street, and an old boxspring leaning against the chain link fence.

Staff recommendation: Find Respondent in violation of the Order of Enforcement dated January 23, 2024; assess \$150.00 administrative fee for today's hearing in addition to the outstanding \$150.00 administrative fee from the January 23, 2024, Order of Enforcement hearing; enter an Order of Fine in the amount of \$1,800.00, which is the total accrued to date of the \$100.00 daily fine and will continue to accrue until complete compliance is obtained. Fees and fines may be recorded as a lien against the property and the property owner.

The Special Magistrate stated that no one from the public was in attendance.

The Special Magistrate executed the Order of Fine based on the evidence and testimony presented. Respondent shall pay a fine of \$100.00 per day commencing February 9, 2024, for each day the property is not in compliance and shall continue to accrue until such time as the property is brought into compliance. The current total fine to date is \$1,800.00. The Respondent shall pay all costs associated with this matter in the amount of \$150.00, in addition to the outstanding \$150.00 administrative fee from the hearing on January 23, 2024. Respondent has until 5:00 PM Thursday, March 28, 2024, to bring the property into compliance to cure the cited violation(s), including payment of all costs. The Respondent will receive a copy of the full Order.

5. Case 23-002707 — 207 Brevard Ave., William K. Maddox — Minimum Standards Maintenance/Appearance Section 20-20(a)(5), Vacant Property Secured; Minimum Standards Maintenance/Appearance Section 20-20(b), Deficient Property & Blight; Nuisances Section 20-24(b), Property Adjacent to Dwellings; Section 7-46, Storage of Junk, etc., Prohibited; Nuisances Section 7-67, Trash, Weeds, Vegetation; Unsafe Dwellings Section 20-21(a), Abandoned & Open; Order of Fine (Lori Crain)

Ms. Crain presented the background summary for this case stating the Order of Enforcement case was presented at the January 23, 2024, hearing. At that time, the Special Magistrate found the Respondent in violation of the cited codes and entered the Order of Enforcement with a compliance date of February 5, 2024, or a daily fine of \$100.00 will begin to accrue on

February 6, 2024. Respondent was established as a Repeat Offender. No one was present for the Respondent. Michael Caramanico, 203 Brevard Ave and Joanne Langill, 205 Brevard Ave spoke on their own behalf as citizens who reside near the subject property.

Ms. Crain advised that subsequent site inspections show the property remains noncompliant.

Staff recommendation: Find Respondent in violation of the Order of Enforcement dated January 23, 2024; assess \$150.00 administrative fee for today's hearing in addition to the outstanding \$150.00 administrative fee from the January 23, 2024, Order of Enforcement hearing; impose a fine of \$2,000.00, which is the total accrued to date of the \$100.00 daily fine and will continue to accrue until complete compliance is obtained. All fees and fines may be recorded as a lien against the property and the property owner.

The Special Magistrate stated that no one from the public was in attendance.

The Special Magistrate executed the Order of Fine based on the evidence and testimony presented. The Respondent shall pay a fine in the amount of \$100.00 per day commencing on February 6, 2024, for each day that property is not in compliance and shall continue to accrue at the daily rate until such time as the property is brought into compliance. The current total fine to date is \$2,000.00. Respondent shall pay all costs associated with this matter in the amount of \$150.00, in addition to the outstanding \$150.00 administrative fee from the January 23, 2024, hearing. The Respondent shall have until 5:00 PM March 28, 2024, to bring the property into compliance to cure the cited violation(s), including payment of all costs. The Respondent will receive a copy of the full Order.

6. Case 23-002724 — 103 North Clay Ave., Hien D. Nguyen — Nuisances Section 7-67, Trash, Weeds, Vegetation; Order of Fine (Lori Crain)

Ms. Crain presented the background summary for this case stating the Order of Enforcement was entered on January 23, 2024. No one was present for the Respondent. The Order of Enforcement was mailed via First Class mail and Certified mail. To date, the notices have not been delivered.

Ms. Crain stated that Mr. Nguyen and Ms. Barabara Kleinschrodt came into town hall on January 23, 2024. Ms. Kleinschrodt stated it was her understanding that the hearing was that day at 2PM, and they do not collect their mail at the address listed by the property appraiser. Ms. Crain stated that that she is required per state law to send notices to the address listed with the property appraiser's information and does not have an alternative address.

Ms. Crain stated that Mr. Nguyen informed her that much of the junk is covered by the overgrowth and will need to be removed prior to mowing, that trespassers enter the property when it is mowed, and there is a risk of dead branches and limbs falling. Ms. Crain advised Mr. Nguyen that those areas must also be remedied as part of property maintenance. She stated that she recommended that he have someone assist him to remove the junk and debris from the ground and trim the tree branches prior to mowing the property. She stated that she explained to Mr. Nguyen that if he obtains a contractor that has a certified arborist on staff, their report identifying which trees are dying or dead would be accepted, and a tree removal permit would not be required. However, a tree removal permit is required if he intends to remove the trees himself.

Ms. Crain stated that Ms. Kleinschrodt repeated the information and stated that she understood both processes. She stated that Mr. Nguyen indicated a large, dangerous tree in the Town right-of-way. Ms. Crain stated that she informed the Town's Public Works staff, and the tree was trimmed within a week.

Ms. Crain advised that when Mr. Nguyen and Ms. Kleinschrodt left town hall, they all agreed that Mr. Nguyen would determine whether to obtain an arborist report or obtain a tree removal permit.

Ms. Crain advised that a site inspection on February 12, 2024, showed the property remained noncompliant, and the \$150.00 administrative fee remained unpaid. She advised that she entered the \$50.00 daily fine to commence retroactively from February 6, 2024. Notices were sent via First Class and Certified mail to the property owner.

Ms. Crain testified that she received an email from Ms. Kleinschrodt on February 20, 2024, questioning the notice she received. Ms. Crain stated that she explained to Ms. Kleinschrodt the violations were for overgrowth of weeds and grass and, because she had not received any communicate from them and that the property remained in violation, that Affidavit of Noncompliance was mailed, and the case was scheduled for the Order of Fine hearing.

Ms. Crain stated that Ms. Kleinschrodt explained that an arborist conducted a site visit and advised that he needed a site plan because this is commercial property. Ms. Crain explained the process for Ms. Kleinschrodt to obtain a permit application.

Ms. Crain advised that the property remains noncompliant as of February 21, 2024.

Staff recommendation: Find the Respondent in violation of the Order of Enforcement dated January 23, 2024; assess \$150.00 administrative fee for today's hearing in addition to the outstanding \$150.00 administrative fee from January 23, 2024. Enter an Order of Fine in the amount of \$1,050.00, the total accrued to date of the \$50.00 daily fine which will continue to

accrue until complete compliance is obtained. Fees and fines may be recorded as a lien against the property and the property owner.

The Special Magistrate asked if there was anyone present who wished to speak regarding this case.

Barbara Kleinschrodt, 1715 CR 433, Lake Panasoffke, FL, 33538

Ms. Kleinschrodt acknowledged that she understands now that the \$150.00 is an administrative fee for today's hearing and January's hearing. She requested that the \$950 fine be dismissed. She stated that when she discussed the violations initially with Ms. Crain on January 23, if Ms. Crain would have simply told them to cut the grass it would have been solved that day and is unclear how the tree issue came to be other than she and her husband were discussing that issue. She stated that her husband addressed the tree issue recently and removed metal stakes from a mobile home that was on site years ago. She stated that the area is difficult to mow due to uneven ground and debris left by the previous owner.

Ms. Kleinschrodt again requested to dismiss the \$950.00 fine and cease the \$50.00 daily fine from accruing further. She stated that she is agreeable to pay the administrative fees.

Ms. Crain stated that she concurs with Ms. Kleinschrodt's request.

The Special Magistrate stated that the Respondent shall pay all costs associated with this matter in the amount of \$150.00, in addition to the outstanding \$150.00 administrative fee from the January 23, 2024, hearing. The Respondent shall have until 5:00 PM March 28, 2024, to bring the case into compliance to cure the cited violation(s). The Respondent will receive a copy of the full Order.

C. NEW BUSINESS

7. Case 23-000501 — 214 Skyline Dr., Robin Guy Van Sant — Minimum Standards Maintenance/Appearance Section 20-19(a)(1), Weatherproof & Watertight; Section 20-20(a)(1), Maintenance/Appearance Section 20-20(a)(1), Exterior Surfaces Maintained Adequately; Section 7-46, Storage of Junk, etc., Prohibited; Outside Storage Section LDR 2(h)(1), Residential Uses; Section 7-67, Trash, Weeds, Vegetation; Establish Repeat Offender (Denise Williams)

This case will not be presented.

8. Case 23-001758 — 1220 Zapata Pl., Shanitia D Brown and Cynthia M. Davis — Minimum Standards General Structure Specifications Section 20-15, Compliance Required; Minimum Standards General Structure Specifications Section 20-19(a)(1), Weatherproof & Watertight; Minimum Standards General Structure Specifications Section 20-19(f),

Structures Free from Infestations; Fences, Walls in Good Condition; Minimum Standards Maintenance/Appearance Section 20-20(a)(1), Exterior Surfaces Maintained Adequately; Minimum Standards Maintenance/Appearance Section 20-20(a)(6), Windows & Doors; Minimum Standards Maintenance/Appearance Section 20-20(b), Deficient Property & Blight; Unsafe Dwellings Section 20-21, Unsafe; Unsafe Dwellings Section 20-21(d), Falling Hanging, Loose Material; Minimum Standards Repairs, Section 20-22, Repair and Installations; Responsibilities of Owners Section 20-23(a)(2), Stagnant Water; Responsibilities of Owners Section 20-23(a)(3), Extermination; Order of Enforcement (Lori Crain)

Ms. Crain presented the background summary for this case stating that on July 11, 2023, she received an email regarding the condition of this property. She stated that the complainant described the structure on the property as deteriorated and unsafe. The complainant speculated that it is a rental property, and that the owner is not taking care of the property. The complainant stated that they had to replace wiring in a vehicle that was destroyed by rodents coming from that dwelling. The email included a photo showing the siding falling off the house, exposing rotted wood and molded insulation.

Ms. Crain stated that she conducted a site inspection on July 13, 2023, where she observed that the siding was peeling away from the structure and was completely missing in two areas, exposing the frame and insulation which was rotted and loose. She stated that window screens were missing from most of the windows and the window screens that she observed were in bad condition. She stated that the siding and frames around the windows were rotten and moldy, and pieces of wet wood were on the ground by the house.

Ms. Crain advised that a neighbor told her that a lady lives in the house with her toddler granddaughter. Ms. Crain stated that this information has her concerned about the condition of the interior of the house and the potential harm to the tenants. She stated that due to case load the Violation Notice was sent August 8, 2023, via Certified Mail with the comply date of August 31, 2023. This was returned as unclaimed. The Violation Notice that was sent to the current resident was not delivered.

Ms. Crain advised that upon reinspection of the property on August 31, 2023, she observed that the property remained noncompliant, more siding had fallen exposing more insulation, and a brown stain and discoloration on an area of the siding, possibly from moisture and rain flowing down over the wet, rotted wood.

Ms. Crain advised that on October 10, 2023, she received a call from the property owner, Cynthia Davis, informing her that a contractor will begin working on the house this week. Ms. Crain informed Ms. Davis that more than one permit may be required, to which Ms. Davis stated that she has already done this and will keep Ms. Crain updated. As of October 17,

2023, Ms. Crain stated that no work had been done on the house nor had a permit application been submitted.

Ms. Crain stated that she emailed the Town's building inspector, Mark Bower, inquiring if a permit is required for the repair of the wall and replacement of the siding. She advised that he replied affirmatively due to verifying the building's thermal barrier and moisture barrier had been restored. Ms. Crain advised that on November 8, 2023, a roof permit had been obtained and a contractor sign was in the front yard. The roof was replaced and passed final inspection. She stated that no repair work had been initiated on the exterior of the house from the damage caused by the leaking roof.

Ms. Crain stated that subsequent site inspections show the property remains noncompliant. The Hearing Notice was mailed to the new address of the property owners. She advised that she has not received any communicate from the property owners and is unsure if the structure is occupied.

Staff recommendation: Find Respondent in violation of all cited sections; assess administrative fee of \$150.00; allow Respondents until March 30, 2024, to bring the property into compliance, or a \$100.00 daily fine will begin to accrue until such time as the property is brought into complete compliance. The Town also recommends the Order of Enforcement state that the Respondents must allow Code Enforcement and the Town Building Official access to inspect the interior of the structure to determine if safe for occupancy.

The Special Magistrate stated that no one from the public was in attendance.

The Special Magistrate stated that based on the evidence and testimony in this case and Order of Enforcement is warranted. The Respondents shall pay all costs associated with this matter in the amount of \$150.00; Respondent shall have until 5:00 PM March 30, 2024, to bring the property into compliance to cure the cited violation(s), including payment of all costs. Failure to bring the property into compliance with the cited codes shall result in a daily fine of \$100.00 to commence March 31, 2024, and will continue to accrue at the daily rate until such time that the property comes into compliance. The Town of Lady Lake Building Official and Code Enforcement Officer shall be allowed to conduct an inspection of the interior of the structure to conclude if fit and safe to occupy. The Respondent shall receive a copy of the full Order.

9. Case 23-002556 — 540 St. Andrews Blvd., Stephen P. McNeil — Minimum Standards Light/Ventilation Section 20-17(g), Windows Weathertight, Good Repair; Nuisances Section 7-46, Storage of Junk, etc., Prohibited; Nuisances Section 7-67, Trash, Weeds, Vegetation; Outside Storage LDR 9-2(h)(1), Residential Uses; Order of Enforcement (Lori Crain)

Ms. Crain presented the background summary for this case stating she conducted a site inspection due to the Building Official report of a missing electrical panel. She stated that she observed the electrical door panel was in place, then observed junk items, debris, inoperable vehicles, and one missing windowpane. She stated that she took additional photos on October 17, 2023, and confirmed that the vehicle is inoperable. The Violation Notice was sent via Certified Mail to the property owner on November 29, 2023. She advised that it was not delivered.

Ms. Crain stated that the subsequent site inspections of the property showed the property remained noncompliant and observed several more violations. She stated that she also investigated a complaint from Duke Energy near this property regarding a streetlight being blacked out with paint. She stated that Duke Energy advised that this is the second occurrence in two years, and it is a criminal action. The streetlight should be replaced at the homeowner's expense, as Duke Energy replaced it after the first occurrence. Ms. Crain stated that a neighbor confirmed that the resident at 540 St. Andrews painted the streetlight because it shines into the house.

Ms. Crain stated that no one came to the door when she knocked on two separate occasions. She stated that on previous visits, the gentleman that resides at this location is disabled.

Ms. Crain advised that inspections on February 5, 2024, and February 21, 2024, showed some items had been removed, others added, glass or screen still missing from the carport door, and the inoperable vehicles remained with expired plates.

Staff recommendation: Find Respondent in violation of cited sections, assess \$150.00 administrative fee and allow Respondent until March 25, 2024, to bring the property into compliance or a daily fine of \$25.00 will begin to accrue until such time as the property is in full compliance.

The Special Magistrate stated that no one was present to speak regarding this case.

The Special Magistrate stated that based on the evidence and testimony in this case and Order of Enforcement is warranted. The Respondent shall pay all costs associated with this matter in the amount of \$150.00. The Respondent shall have until 5:00 PM March 30, 2024, to bring the property into compliance to cure the violation(s), including payment of all costs. Failure to bring the property into compliance with the cited codes shall result in a daily fine of \$25.00 commencing March 31, 2024, and will continue to accrue at the daily rate until such time that the property comes into compliance. The Respondent shall receive a copy of the full Order.

10. 24-000073 — 900 Edwards Rd., Richard M. Rotondo — Vehicles, Parking & Obstructions Section 17-26(b), Commercial Vehicles prohibited in Residential; Nuisances Section 20-24(a), Owner/Occupant Responsibility; Nuisances Section 20-24(b), property Adjacent to Dwellings; Nuisances Section 7-46, Storage of Junk, etc., Prohibited; Nuisances Section 7-67, Trash Weeds, Vegetation; Vehicles, parking & Obstructions Section 9-1, Unlawful Occupancy of Trailer, Automobiles, Recreation Vehicles; Zoning Districts/Regulations Section LDRs 5-4(a), AG-1; Outside Storage Section LDR 9-2(h)(1), Residential Uses; Home Occupations Section LDR 9-3(c), Prohibited Home Occupations; Home Occupations Section LDR 9-3(c)(1), Vehicle Repair; Establish Repeat Offender (Lori Crain)

Ms. Crain presented the background summary of this case stating that Case 23-1423 was opened in June for property violations of storing junk vehicles, miscellaneous junk and debris, and overgrowth of weeds and grass. Additional complaints were of someone residing in a camper parked inside the large pole barn, and that the property owner is operating a vehicle-mechanic business at this location.

Ms. Crain was contacted by Lark Capra on January 9 & 10, 2024, who provided names of other complainants and advised that Mr. Rotondo is still operating a vehicle-mechanic business and residing in the camper inside the pole barn. Ms. Capra stated Mr. Rotondo had loaded a trailer with trash and pushed it into the trees on the property across the road from his property. Ms. Capra also stated that Mr. Rotondo was making a point to tell everyone that he put one over on Code Enforcement.

Ms. Crain stated that when the case was opened in 2023, she explained to the complainants that Code Enforcement must observe violations first-hand and cannot cite someone based on a complaint. She further explained that the complainant must provide proof of business operations, and that someone is using a camper as a residence.

Ms. Crain stated that on January 16, 2024, she received an email from Nicholas Capra regarding similar violations and alleged activity. She stated that Mr. Capra provided the names and addresses of other complainants, and they were added to the case notes. Also on this day, Ms. Crain stated that she received a phone call from Michel Priemer who conveyed similar complaints about Mr. Rotondo fixing vehicles and equipment in exchange for money. She stated that Mr. Priemer also advised her of junk, broken equipment, inoperable vehicles, and high grass on the property, all of which can be viewed from Harris Lake Road, a dirt road on the east side of Mr. Rotondo's property. He stated that Mr. Rotondo had loaded junk onto a trailer and pushed it into the trees on property across the road. She stated that she explained to Mr. Priemer that Mr. Rotondo may have items stored on his property provided they are out of the public view.

Ms. Crain stated that she stressed to Mr. Priemer, Mr. Capra, and Ms. Capra that she must have evidence of these complaints to include with this case. She also explained the procedure of the Special Magistrate hearing and presenting evidence.

Ms. Crain testified that upon her initial inspection on January 17, 2024, she observed junk, equipment and possible inoperable vehicles behind the pole barn that could be seen from the east side of the property. She stated that she observed several vehicles parked behind the pole barn, and a few flatbed tailers and enclosed trailers. She stated that she did not locate the trailer Mr. Priemer stated was in the brush across the road.

Ms. Crain stated that on January 18, 2024, she received an email from Mr. Capra stating that complainants are willing to testify regarding Mr. Rotondo residing in the RV in the pole building on the property and the vehicle mechanical repair business. Several undated photos were included in the email.

Ms. Crain stated that on January 18, 2024, she received a sealed envelope containing a sworn affidavit statement from Lark C. Capra regarding this case and her personal involvement and observations, and a sketch of the interior of the pole barn.

Ms. Crain reported that the Violation Notices and the Hearing Notices that were mailed on January 22, 2024, had not been delivered as of February 5, 2024, and the Hearing Notice was posted on the property. She stated that the property remained noncompliant.

Ms. Crain stated that per Code Enforcement Officer, Denise Williams, the property owner came into Town Hall on February 6, 2024, with the Hearing Notice that was posted on his property. Ms. Williams informed Mr. Rotondo that Ms. Crain was out of the office for several days. Ms. Williams added to the case notes that Mr. Rotondo requested the complainants' information for this case, which Ms. Williams provided. Mr. Rotondo requested that Ms. Crain contact him when she returns to the office to arrange a site inspection to indicate the violations.

Ms. Crain stated that Ms. Williams relayed information regarding possible threats made by Mr. Rotondo to the complainants. She stated that Ms. Capra called and was "extremely upset and scared" and requested that her information be removed from the case notes along with her statement. Information regarding Florida's Public Records statute was explained to Ms. Capra. Ms. Capra's information was submitted to the Lady Lake Police Department, the Growth Management Director, Thad Carroll, and the Town Attorney, Derek Schroth.

Ms. Crain testified that while she was out of the office, complainants were harassed and threatened by the Respondent. The Lady Lake Police Department was advised as well as Town Attorney Schroth. She stated that Attorney Schroth advised that the public record

cannot be removed but note it in the case file that the complainant requested, Withdrawal of Complaint.

Ms. Crain stated that upon returning to the office, she received voicemails from Mr. Rotondo, Ms. Capra, and Ms. Denham. She stated that she explained to Ms. Capra that all the information in this case is public record and cannot be removed.

Ms. Crain stated that when she spoke to Mr. Rotondo, he stated that this is a conspiracy between the neighbors and requested a meeting with Ms. Crain. She stated that after she spoke to Growth Management Director Carroll and Code Enforcement Officer Williams a meeting was scheduled for February 14, 2024. She stated that she was informed by Ms. Denham that she and Mr. Denham do not want to be listed as complainants and were unclear as to the issues regarding this case.

Ms. Crain testified that on February 14, 2024, she conducted a property inspection with Mr. Rotondo and Mr. Stan West. She indicated various violations around the pole barn. She reviewed the complaints and the procedure for the Special Magistrate hearing with them. She advised Mr. Rotondo that if he brings the property into compliance the case prior to the hearing, it would still be presented regardless, due to the complainants advising that they have evidence and proof of him operating a mechanical repair business and residing in a camper inside the pole barn.

Ms. Crain stated that when she asked Mr. Rotondo about operating a vehicle repair business, his response was that he had been helping people with their vehicles and that it would stop. She stated that both men were polite and cooperative and stated that they would begin removing and resolving the violations.

Ms. Crain advised that this property is zoned AG-1, and some of the agricultural equipment is permitted on the property.

After the site visit, Ms. Crain stated that she received an email from Mr. Rotondo requesting a copy of the affidavit by Lark Capra, which she satisfied along with the sketch Ms. Capra included with her statement. She reminded him of the permissible equipment and the trailers that must be removed, that he could burn only wood debris and that he needed to contact the fire department and the building department prior to igniting the fire. She conveyed to him that he must extinguish the fire if any complaints of smoke are received. She also reminded him that it is not permitted in Lady Lake to reside in the camper inside the pole barn and it would be in his best interest to allow her access to inspect the interior when she returns for the pre-hearing inspection. She advised that she did not receive a reply email or phone call from Mr. Rotondo regarding this issue.

Ms. Crain advised that on February 20, 2024, she received an email from Mr. Capra indicating that Mr. Rotondo contacted all the complainants except for Mr. Priemer and himself, and that they were surprised to hear they were listed. The email also indicated that the Denhams, the DiScalas, and Ms. Capra do not plan on attending the hearing, but Ms. DiScala would affirmatively state that Mr. Rotondo performed automotive repair for payment at and inside his building, and Ms. Capra stands by her statement regarding occupancy of a motorhome inside the building. Mr. Capra further stated that Mr. Rotondo is moving all the vehicles, trailers, and other debris inside his building to cover up. He stated that, in his opinion, this creates a fire hazard, that the building is uninsured and could possibly create a problem for neighbors and the Town. Ms. Crain replied to the email requesting Ms. DiScala submit an affidavit or for him to present her with an affidavit from Ms. DiScala at the hearing.

Ms. Crain stated that on February 21, 2024, upon arrival at the property for the pre-hearing inspection, she observed a few inoperable vehicles that were lined up on the east side of the pole barn, a blue homemade truck bed trailer full of junk, and the semi-trailer was still located in the rear of the building. She stated that Mr. West was on site, and she inquired if Mr. Rotondo would allow her to inspect the interior of the building. He replied that Mr. Rotondo has retained an attorney who should have contacted her. Ms. Crain stated that no one had contacted her and that she would leave the property. As she was leaving, Mr. Rotondo approached her stating that he had retained an attorney and for her to speak to him.

Ms. Crain advised that to date, no attorney has contacted her regarding this case.

Staff recommendation: Find Respondent in violation of all sections stated for which evidence has been provided. If the Magistrate does not find Respondent in violation of Code of Ordinance Section 9-1, Unlawful Occupancy of Trailer or in violation of LDR 9-3(c)(1), Vehicle Repair as a Home Occupation, these will be removed from the Order of Enforcement. For violations Respondent IS found to be in violation, Ms. Crain recommends assessing the \$150.00 administrative fee, and allowing the Respondent until 5:00 PM, Wednesday, March 20, 2024, to bring the property into compliance or a daily fine of \$50.00 will begin to accrue until such time as full compliance is obtained. Further order that Respondent is established as a Repeat Offender.

The Special Magistrate asked if there was anyone present who wished to speak regarding this case.

Attorney Anthony Sabatini, 411 N. Donnelly St., Mt. Dora, FL

Attorney Sabatini, representing the Respondent, stated that his client has been working diligently to remedy each violation since this case began a few weeks ago. He stated that in the past five days Mr. Rotondo has removed all debris, junk, vehicles, and other materials that were alleged in the complaint. He requested a continuance without any fines or fees being assessed so his client could bring the property into compliance and have that on the record before an Order of Enforcement is recorded.

Attorney Sabatini stated that all the commercial vehicles have been removed except for a semi-trailer whose wheels will be removed to then be used as a storage unit for agricultural products. He stated that it is not the intent of his client for this to appear as a commercial vehicle.

Attorney Sabatini advised that his client does not reside on the property. He stated that there is no evidence of this other than hearsay from one person. He stated that there is no evidence that his client operates a commercial business or home occupation on the property. He stated that there has been no servicing of vehicles in the past few months and his client has no plans to service vehicles. Also, there is no advertising showing that his client is attempting to make money servicing vehicles.

Richard M. Rotondo, 3240 Edwards Rd., Lady Lake

Mr. Rotondo stated that he has never threatened anyone. He stated that there are no pictures from the past few days presented of his property, which he stated is immaculate.

Mr. Rotondo stated that he has not repaired vehicles. He stated that he has helped his neighbors and will not help them again. He stated that he does not advertise, and he does not do work for the public.

The Special Magistrate asked Mr. Rotondo to address the semi-trailer issue.

Mr. Rotondo stated that the property is ten acres of agriculture property, he cuts and bails hay, and stores it on his property.

The Special Magistrate confirmed with Mr. Rotondo that it is his intention to use the trailer to convert it into a storage unit.

Mr. Rotondo replied affirmatively adding that all the tires will be removed this week, and that he is willing to paint the trailer to make it more presentable.

The Special Magistrate clarified with Mr. Rotondo that he resides on a different property.

Mr. Rotondo replied affirmatively adding that he is currently living with and taking care of a friend. He stated that they allow him to use their vehicles and he takes care of their horses.

Mr. Rotondo stated that he uses his motorhome for storage and is willing to sell it when the time is right.

The Special Magistrate asked Attorney Sabatini to address the Repeat Offender status.

Attorney Sabatini advised that the only evidence he was given is from January. He stressed that his client is making all efforts to avoid this offense. He stated that this property was recently annexed into the Town. He stated that this property was historically agricultural land and is located at the most eastern part of Lady Lake. He stated that his client was not aware of the background of the property and was not the property owner at the time of annexation.

The Special Magistrate confirmed with Attorney Sabatini that his request is to continue this hearing to show that the Respondent has brought the property into compliance.

Attorney Sabatini replied that half of these findings should be dismissed based on the testimony and the lack of evidence. He stated that the other half should be continued to allow his client time to bring the property into compliance. He stated that there has been no evidence presented that his client resides at the property.

Ms. Crain advised that there are complainants present. She stated that she had not met Attorney Sabatini prior to today. She stated whenever she is advised that a Respondent has an attorney, she ceases adding evidence or inspections until she is contacted by the attorney. She reiterated that she left the property when she was told Mr. Rotondo retained an attorney and had not been able to conduct a proper site inspection.

Ms. Crain confirmed that the semi-trailer is permitted to be used as a storage unit once the tires are removed. She clarified that the address, 3240 Edwards Road, was the property address prior to the annexation. She stated that the Property Appraiser recently updated the new address to 900 Edwards Road.

The Special Magistrate stated that not enough evidence has been presented regarding some of the violations.

Ms. Crain stated that the complainants have been waiting to speak and asked the Special Magistrate to hear their testimony. She agreed that she does not have evidence regarding the business or that Mr. Rotondo resides in the motorhome. She stated that she is willing to remove the Repeat Offender status.

Nicholas Capra, 3927 Oak Point Dr., Lady Lake

Mr. Capra testified that he personally witnessed Mr. Rotondo going in and out of the motorhome on many occasions. He stated that he had driven by Mr. Rotondo's location early in the morning and at night and the vehicle he was using was there. He stated he sees

him go in and out of the motorhome on multiple occasions and that Mr. Rotondo had expressed to him that he was living there as there were other neighbors living in motorhomes in violation of the law.

The Special Magistrate asked Mr. Capra to clarify if the motorhome is inside the structure and still visible from the road.

Mr. Capra clarified that the motorhome is entirely in the garage and that he has been in the garage on multiple occasions.

The Special Magistrate stressed to Mr. Capra that his testimony was that he could see the Respondent in the motorhome, and asked if the motorhome is visible from the roadway.

Mr. Capra clarified that the motorhome is in the garage, that he had been in the garage and had witnessed Mr. Rotondo going in and out of the motorhome.

Mr. Capra testified that Mr. Rotondo has done work for him on four different vehicles, and he paid Mr. Rotondo for each instance. He stated that he was a neighbor and was charged for oil changes, brakes, etc. He stated that he repaired the front end of a tractor for another neighbor on October 31, 2022, which he was paid \$1,200.00. He stated that Mr. Rotondo had told him that one person was not paying him the money he owed for the work he did on their car.

The Special Magistrate asked Mr. Capra if Mr. Rotondo solicited him to repair his vehicle.

Mr. Capra stated that Mr. Rotondo did not solicit him to repair his vehicle. He clarified that he was a neighbor and would visit Mr. Rotondo on multiple occasions. He stated that he would buy Mr. Rotondo beer over periods of time for other favors that Mr. Rotondo had done for him. Mr. Capra asked Mr. Rotondo if he would do an oil change on his daughter's vehicle, and Mr. Rotondo agreed. Mr. Capra bought the parts and paid Mr. Rotondo to do the work. He stated that this was the arrangement for other vehicles Mr. Rotondo repaired for him.

Attorney Sabatini asked Mr. Capra when the last time he was in Mr. Rotondo's garage.

Mr. Capra replied that it was approximately October or November 2023.

Attorney Sabatini asked Mr. Capra if he had been inside the garage in the past four months and which beer Mr. Rotondo preferred.

Mr. Capra replied that he has not been in the garage in the past four months. He stated that Mr. Rotondo liked Busch beer, which is hard to buy.

Attorney Sabatini verified that Mr. Capra had not been there in four months and asked if he had seen the RV in the past four months.

Mr. Capra stated that he has not seen the RV in the past four months.

Attorney Sabatini asked Mr. Capra when the last time was that he paid Mr. Rotondo or spoke to him regarding vehicle repair.

Mr. Capra stated it was sometime in 2023.

Attorney Sabatini asked Mr. Capra if he had seen any signage in the neighborhood for vehicle repair or had he seen Mr. Rotondo sleeping inside the RV.

Mr. Capra replied negatively to both questions.

Michael Priemer, 10129 SE 132nd Place, Bellview

Mr. Priemer stated that he met Mr. Rotondo a few years ago and told him that he had an old car that he wanted him to work on. He stated that he paid Mr. Rotondo a \$1,000.00 deposit. Mr. Priemer stated that after a year, Mr. Rotondo had not completed any repairs, and he picked up the vehicle. He stated that Mr. Rotondo did not return his deposit money, and he sued him. He stated that a payment plan was established, and Mr. Rotondo was consistently late repaying him until the debt was satisfied.

Mr. Priemer testified that he paid Mr. Rotondo in cash for repairs on his vehicles and his boat. He stated that he would bring coffee to Mr. Rotondo early in the morning. He stated that he had seen the motorhome inside the shop but had not been inside the motorhome.

Attorney Sabatini asked Mr. Priemer when the last time was that he saw the motorhome and had he observed Mr. Rotondo sleeping inside it.

Mr. Priemer replied that he saw it approximately one year ago. He stated that he did not see him sleeping in the RV. He stated that because he brought coffee early in the morning, there were times that he would wait until 10AM or 11AM when Mr. Rotondo would get up.

Attorney Sabatini asked Mr. Priemer if he knew of anyone else that Mr. Rotondo would have stayed with this past year.

Mr. Priemer stated that he does not know if Mr. Rotondo stayed with anyone in the past year. He stated to his knowledge Mr. Rotondo has always lived in the RV in the barn.

Attorney Sabatini asked Mr. Priemer when the last time was that he received any service on a vehicle.

Mr. Priemer stated it was in January 2023.

The Special Magistrate stated that he is not in favor of a continuance. The Special Magistrate stated that he is willing to grant a specific amount of time to remedy the semi-trailer issue and cure the other violations.

Attorney Sabatini clarified that this order will be dismissed, and a continuance is not required if his client brings the property into compliance prior to the next hearing.

The Special Magistrate explained that an Order of Enforcement is entered because there has not been full compliance with Town codes. The Respondent will be allotted a certain amount of time to come into compliance and, if compliance is met by said date, there are no fines assessed against the property. The Special Magistrate advised there is only the administrative fee that the Respondent is responsible for paying.

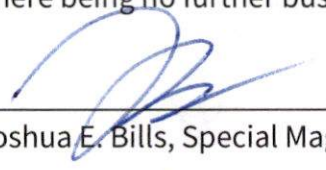
The Special Magistrate stressed that the Respondent must contact Code Enforcement to conduct a site visit prior to the date certain to confirm compliance.

The Special Magistrate stated that based on the evidence and testimony in this case an Order of Enforcement is warranted. The Respondent shall pay all costs associated with this matter in the amount of \$150. The Respondent shall have until 5:00 PM March 20, 2024, to bring the property into compliance to cure the cited violation(s), including payment of all costs. Failure to bring the property into compliance with the cited codes shall result in a daily fine of \$50 per day commencing March 21, 2024, and will continue to accrue at the daily rate until such time that the property comes into compliance. The Respondent shall receive a copy of the full Order.

Ms. Crain reminded the Special Magistrate that the Special Magistrate hearings will be held on the fourth Thursday of each month beginning in March 2024.

ADJOURN

There being no further business, the meeting was adjourned at 1:05 p.m.



Joshua E. Bills, Special Magistrate



Carol Osborne, Deputy Town Clerk