



# Marion County Planning & Zoning Commission

**Date: 5/13/2021**

**P&Z: 5/24/2021 BCC: 6/15/2021**

**Item Number**  
**210602SU**

**Type of Application**  
Special Use Permit

**Request**  
Operating an existing restaurant with a 4-COP license within 1,000' of two churches on B-2, Community Business.

**Owner**  
AKBNB, LLC c/o Ronald Benjamin

**Agent**  
Juan Jamie

**Parcel #/Acreage**  
30856-006-01/1.28 acres

**Future Land Use**  
Commercial

**Existing Zoning**  
B-2 Community Business

**Recommendation**  
Approval With Conditions

**P&Z Recommendation:**  
TBD

**Project Planner**  
Ken Weyrauch, Sr.  
Planner

**AR 26404**



## Summary

Staff is recommending **Approval with Conditions** for a special use permit to allow beer, wine, and liquor sales for on-site consumption at an existing restaurant within 1,000' of two churches. This request is not for package sales. The applicant is Los Magueyes restaurant at Peppertree Point on Baseline Road. Staff is recommending approval because the use is consistent with the zoning and will not adversely affect the public interest.

## Public Notice

Notice of public hearing was mailed to 20 property owners within 300 feet of the subject property.

## Background

### Location

The subject property is located on SE 5<sup>th</sup> Street in Ocala. The property is zoned B-2 Community Business and has a Commercial use designation.

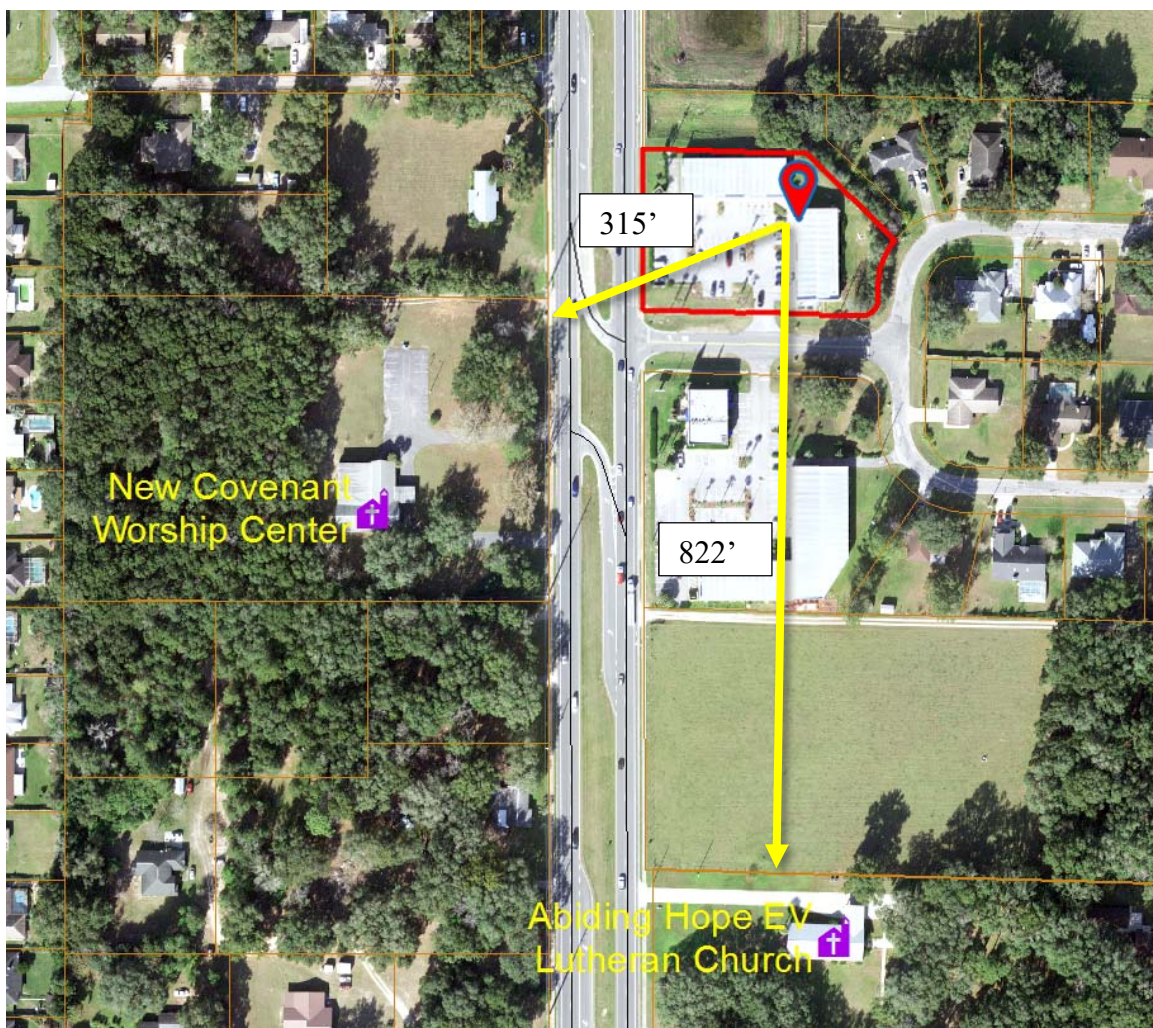


## Request

The applicant is requesting a Special Use Permit (SUP) to allow for onsite beer, wine, and liquor sales for on-site consumption within 1,000' feet of two existing churches as provided for by LDC Section 4.3.4. A and K. The existing restaurant is a family-friendly Mexican restaurant. The request does not include package sales.

## Analysis

The subject property is an existing commercial plaza at the intersection of SE 58<sup>th</sup> Avenue and SE 5<sup>th</sup> Street. The business requesting the Special Use Permit is an existing restaurant with dine-in and outside seating. There are two churches within 1,000' of the subject property, New Covenant Worship Center and Abiding Hope EV Lutheran Church. The two churches are 315' and 822' away from the proposed use, measurement for this purpose is from the building line of the proposed use to the property line of the churches. Alcohol sales for on-site consumption in restaurants is normally a permitted activity within this zoning classification.



In reaching its decision, the Planning & Zoning Commission shall find that the following exist:

- a. **Granting the proposed Special Use Permit will not adversely affect the public interest.** The requested Special Use Permit is for liquor, beer, and wine on-premises and package sales associated with an existing restaurant establishment. The principal use is food sales as a restaurant, the alcohol will be an accessory use.
- b. **The proposed Special Use Permit request is consistent with the current Comprehensive Plan.** The FLU Map 1: Marion County 2035 Future Land Use Map of the Comprehensive Plan designates this property as Commercial within the Urban Growth Boundary. Future Land Use (FLU) Element Policies 1.1.5, 1.1.6, and 2.1.5, encourage increased densities/intensities of use in urban areas, while simultaneously protecting the character of neighborhoods. The SUP amendment request is consistent with the Comprehensive Plan as recommended.
- c. **The proposed Special Use Permit request is compatible with land uses in the surrounding area.** The requested SUP is compatible with the existing restaurant use. The alcohol sale is a permitted use in the B-2 zoning, except in instances such as this, where churches are in close proximity. Liquor, beer and wine sales, in conjunction with existing restaurant establishments, are not likely to negatively affect land uses in the surrounding area.

The following table summarizes adjacent future land use designation, zoning districts, and existing uses:

ADJACENT PROPERTY CHARACTERISTICS			
Direction of Adjacency	Future Land Use Designation	Zoning	Existing Use/MCPA Property Class
North	Preservation	B-2 Community Business	(86) County Property
South	Commercial	B-2 Community Business	(16) Community Shopping Center
East	Medium Density Residential	R-4 Residential Mixed Use	(01) Improved Residential
West	Medium Density Residential	R-1 Single-Family Dwelling	(71) Church



## Infrastructure

**Access** to the property is from SE 5<sup>th</sup> Street

Road	Classification	Maintenance	Existing Conditions			
			Surface	No. Lanes	R/W Min. Width	R/W Deficiency
SE 58 <sup>th</sup> Ave	Collector, Arterial (urban)	State	Paved	4	120'	
SE 5 <sup>th</sup> Street	Major Local	County	Paved	2	80'	20'

**Water/Sewer** services are to be provided by Marion County Utilities.

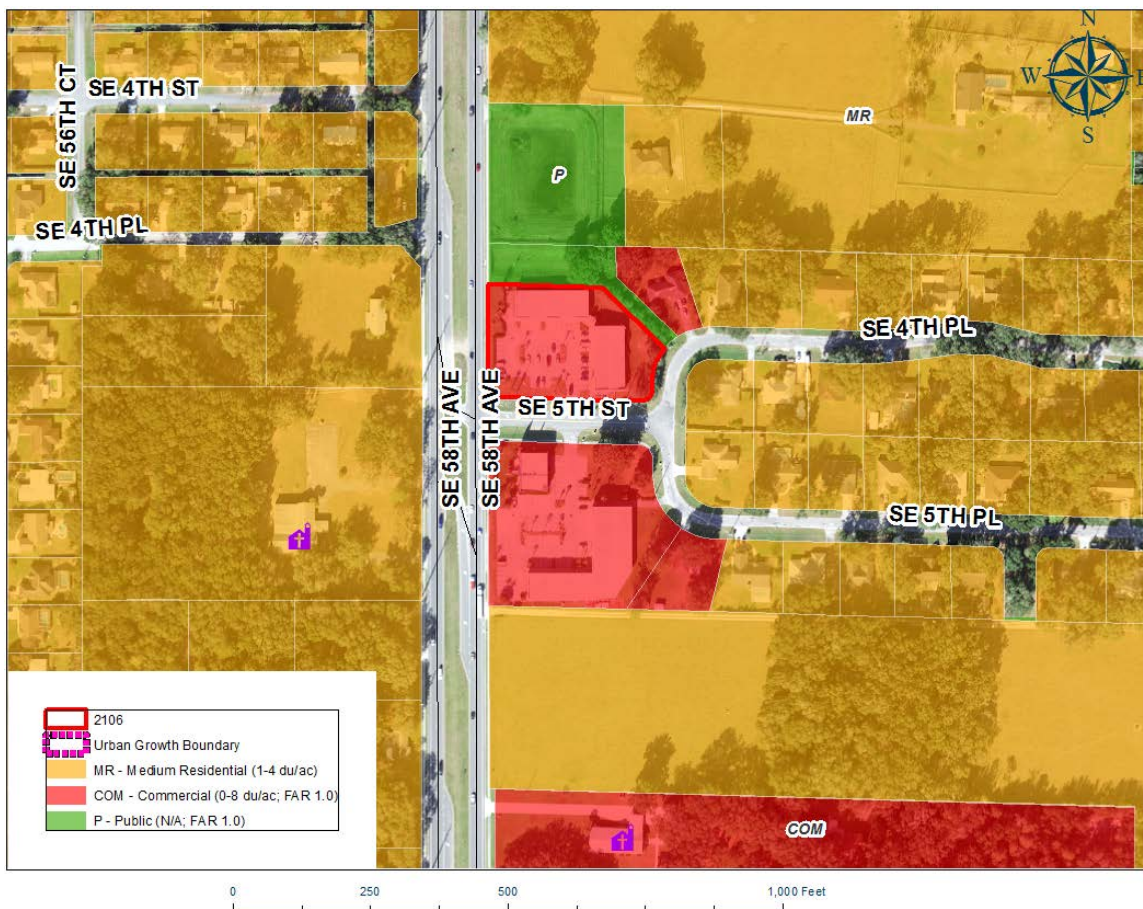
Utility	Service Area
Water	Marion County Utilities
Sewer	Marion County Utilities

## Zoning

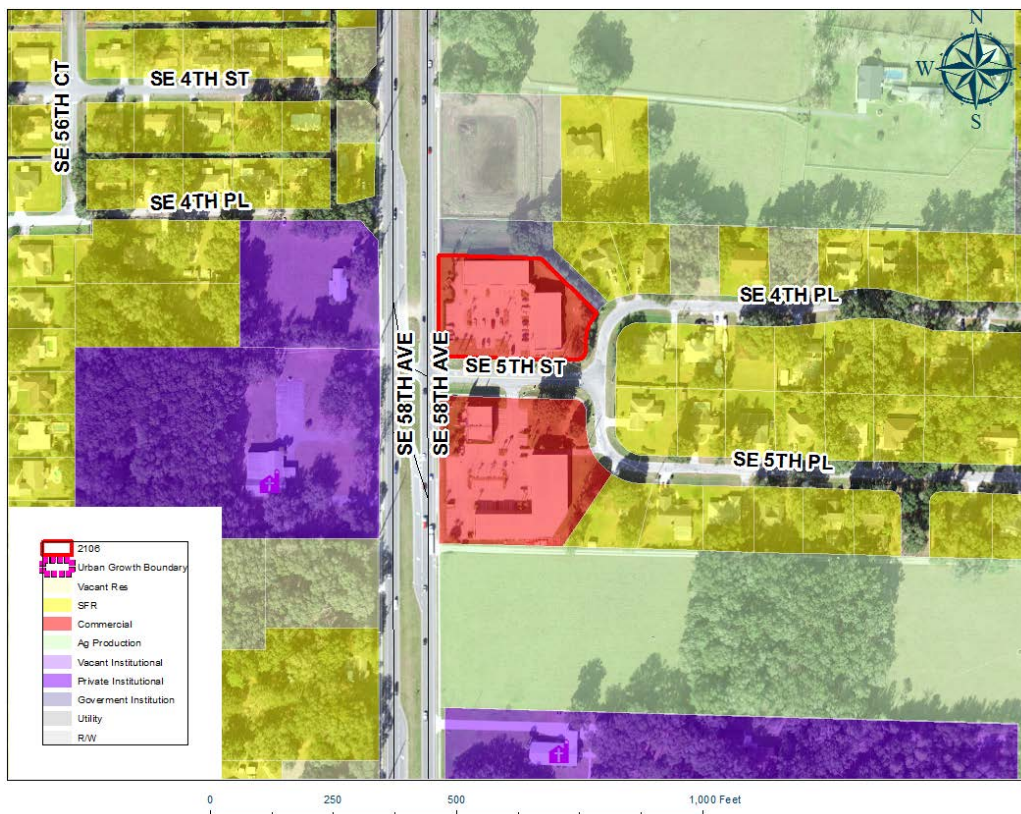


**FLUM**





## MCPA



# **Staff Recommendation:**

## **Approval with Conditions**

1. The site shall be operated consistent with the application, the submitted conceptual plan, and conditions as provided with this approval.
2. The applicant shall maintain the proper licenses for the sale of beer, wine, and liquor from the State of Florida.
3. The sale/service of beer/wine/liquor shall be conducted in conjunction with normal business hours of Los Magueyes, 11 am to 10 pm.
4. This SUP does not include package sales.
5. The Special Use Permit shall run with the Applicant (Juan C Jaime with Los Magueyes) and not the property.
6. The Special Use shall terminate upon closure or sale of the business. Sale of the business shall constitute a requirement to re-apply for a Special Permit to continue operations.
7. The Special Use Permit shall expire June 15, 2026; however, it may be renewed administratively by a written instrument signed and issued by the Growth Services Director (or position equivalent to the Growth Services Director at that time), unless:
  - a. There have been unresolved violations of the County Land Development Code, the County Code of Ordinances, and/or the conditions of the Permit,
  - b. Neighboring property owners within 300' of the subject property have complained to the County Code Enforcement, Zoning, or equivalent/similar Departments/Divisions about the uses of the subject property by this Permit, or
  - c. The Growth Services Director determines that renewal should be considered directly by the Board of County Commissioners through the Special Use Permit review process (or review process equivalent at that time).



## Photos



1: The facade of the restaurant.



2: Outdoor seating.



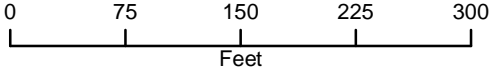
3: SE 5th Street looking west toward 58th Ave (Baseline Road). Ingress/Egress is on the right.

## **DRC Staff Comments**

1.               DEPARTMENT: ENGDRN - STORMWATER REVIEW  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: INFO. Stormwater is not opposed to the SUP. The site has an existing permitted stormwater system. If the impervious footprint of the site is expanding, a Major Site Plan or waiver will be required.
  
2.               DEPARTMENT: ENGTRF - TRAFFIC REVIEW  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: It is understood that this restaurant is planned to operate out of an existing commercial building which allows for restaurant uses and that the purpose of the SUP is to allow for liquor service near a church. There are no traffic impacts associated with this request.
  
3.               DEPARTMENT: ENRAA - ACQ AGENT ENG ROW  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: right turn out only. turn lanes already established for shopping center.

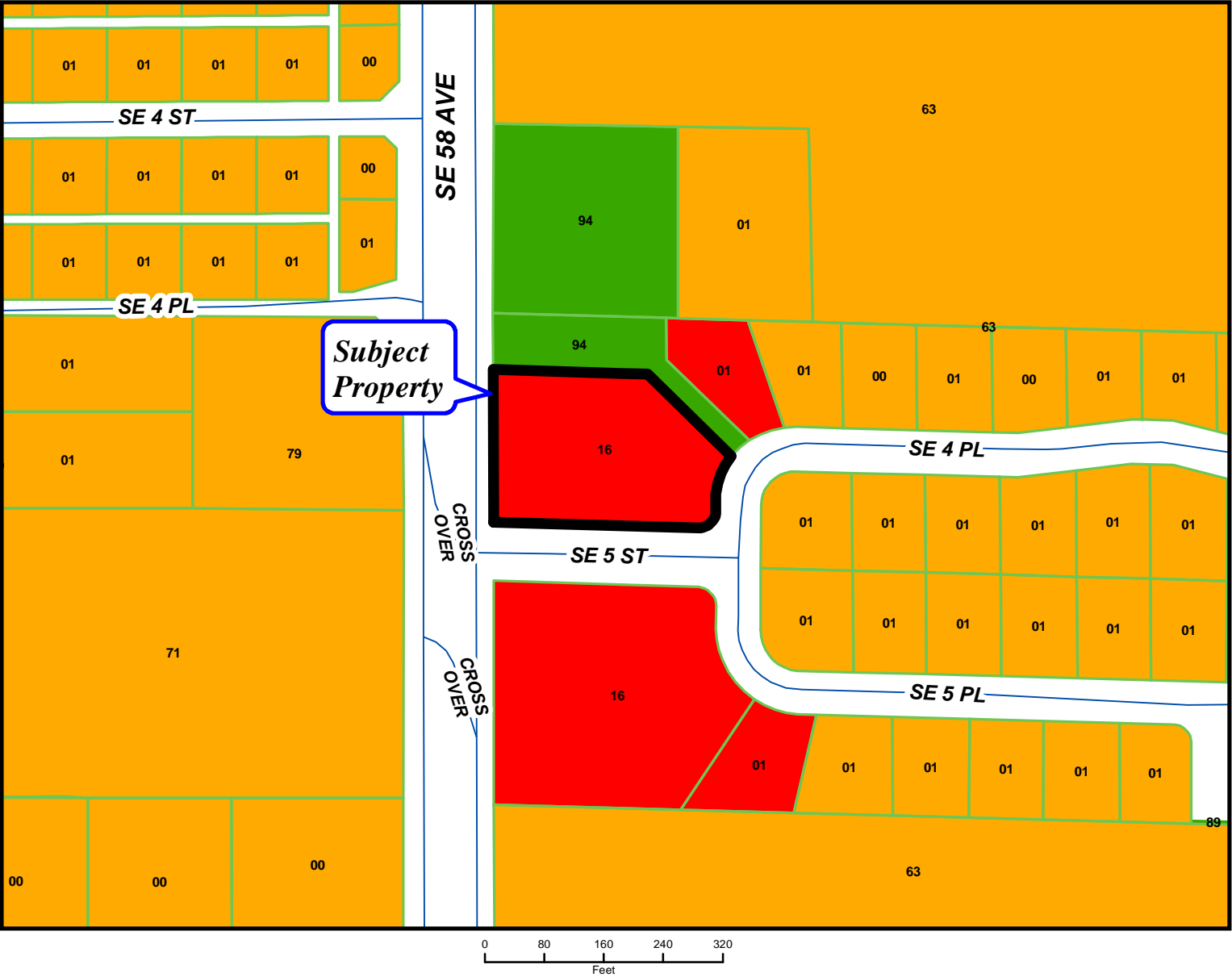



4. DEPARTMENT: 911 - 911 MANAGEMENT  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: APPROVED
5. DEPARTMENT: DOH - ENVIRONMENTAL HEALTH  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: n/a
6. DEPARTMENT: FRMSH - FIRE MARSHAL REVIEW  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: N/A
7. DEPARTMENT: LSCAPE - LANDSCAPE DESIGN AND IRRIGATION  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: no comments
8. DEPARTMENT: UTIL - MARION COUNTY UTILITIES  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: APPROVED - Required to connect to water and sewer provided by Marion County Utilities. Parcel inside Silver Springs PFA.
9. DEPARTMENT: ZONE - ZONING DEPARTMENT  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: Existing bldg is in B-2 district, with restaurant as allowable use. SU required due to distance from existing church across SE 58th Ave.
10. DEPARTMENT: LUCURR - LAND USE CURRENT REVIEW  
REVIEW ITEM: Special Use Permit  
STATUS OF REVIEW: INFO  
REMARKS: Application request is currently being reviewed by Planning staff in preparation for P&Z hearing on 5/24/21.





Existing Land Use Designation 210602SU



Use per MC Property Appraiser		OWNER: AKBNB, LLC	
01	Single Family Res	AGENT: Juan C. Jaime	
50-69/99	Agricultural		
00/10/40/70	Vacant	PARCEL(S): 31856-006-01	
71	Church		
02	Mobile Home	<div><p>All provided GIS data is to be considered a generalized spatial representation, which is subject to revisions. The feature boundaries are not to be used to establish legal boundaries. For specific visual information, contact the appropriate county department or agency. The information is provided visual representation only and is not intended to be used as legal or official representation of legal boundaries.</p></div>	
06-07/11-39	Commercial		
41-49	Industrial		
83-98	Public		
82	Recreation		
03-05/08	Multi-Family		
77	Club/Lodge/Union Hall		

Legend

- All Amendments

☆ Policy 1.20

Rural Land (1 du/10 ac)

Low Residential (0 - 1 du/ac)

Medium Residential (1 - 4 du/ac)

High Residential (4 - 8 du/ac)

Farmland Preservation Area

Urban Residential (8 - 16 du/ac)

Rural Activity Center (0 - 2 du/ac; FAR 0.35)

Rural Community (0 - 3 du/ac; FAR 0.70)

Commercial (0 - 6 du/ac; FAR 1.0)

Environmentally Sensitive Overlay Zone (ESOZ)

Employment Center (0 - 12 du/ac; FAR 2.0)

Commerce District (N/A; FAR 2.0)

Public (N/A; FAR 1.0)

Preservation (N/A; N/A)

Municipality



Marion County  
Board of County Commissioners

Growth Services  
2710 E. Silver Springs  
Blvd. Ocala, FL 34470  
Phone: 352-438-2600 Fax:  
352-438-2601

# 2106025 U  
AR#: 26404  
PA#: 31856-006-01

Re: LOS MAGUEYES REST.  
(Los Vatos Group, Inc.)

**SPECIAL USE PERMIT APPLICATION - REGULAR - \$1,000.00**

The undersigned hereby requests a Special Use Permit in accordance with Marion County Land Development Code, Articles 2 and 4, for the purpose of: Fuel Services

Restaurant  
near church  
400 (SFS) - LIQUOR  
500 feet away

Legal Description: (Please attach a copy of the deed and location map.) Parcel Zoning: B-2

Parcel account number(s): 31856-006-01 Suite 1 and 2

Property dimensions: 3350 s/feet Total acreage: 1.57 1.28

Directions: Between RA south of Ft. King Rd ? "Portion of"  
EAST SIDE OF ROAD, s/feet: 5851 SE 5th St - Unit 1+2 Ocala FL.

Each property owner(s) MUST sign this application or provide written authorization naming an applicant or agent to act on his behalf. Please print all information, except for the Owner and Applicant/Agent signature.

AKBNB, LLC c/o Ronald F. ✓ Juan C. Jaime

Property Owner name (please print) Benjamin Applicant or agent name (please print)

314 Buttrick Ln ✓ 5092 CR 125 B-1

Mailing Address Wildwood, FL 34785

City, State, Zip code

352-624-3500

Phone number (include area code)

ALKRISRV@GMAIL.COM

E-mail address

Signature

PLEASE NOTE: A representative is strongly encouraged to attend the public hearings when this application will be discussed. If no representative is present, the request may be postponed or denied. Hearing notices will be mailed to the address(es) listed above. All information submitted must be correct and legible to process the Application. Contact Growth Services Planning & Zoning at (352) 438-2675 for more information.

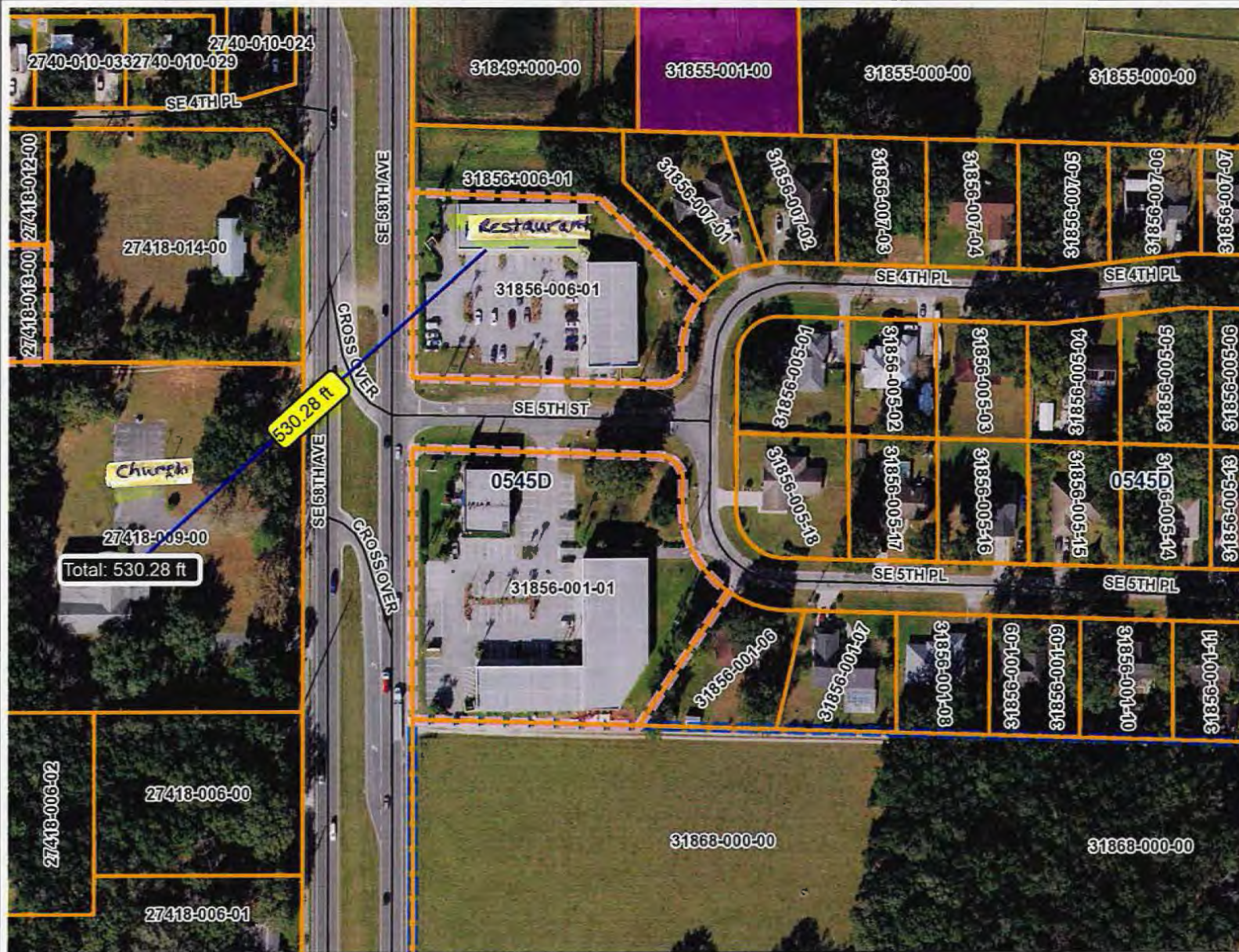
STAFF/OFFICE USE ONLY				
Project No.: <u>2020 04 0007</u>	Code Case No.: <u>NO</u>	Application No.: <u>26404</u>		
Rev'd by: <u>EM</u>	Rev'd Date: <u>3/9/21</u>	FLUM: <u>comm.</u>	Zoning Map No. <u>232</u>	Rev: 07/1/2019

Sec. 18-15-23  
"Peppertree Village"



- ① Access To Business will be of S.E. 5th street  
There will be a blacktop entrance which leads to parking spaces including handicap for customers to park. and also blacktop drive along one side of building for unloading.
- ② The parking area will be blacktop. equipped with handicap area.
- ③ waste removal will be through waste management  
There is a dumpster out back with a privacy fence around the back part of the property.
- ④ power company is OACA electric.  
marion county utilities provide water & sewer.
- ⑤ property in front of building is landscaped with grass  
bushes will be around front entrance.
- ⑥ Business sign will be out front as per code.  
It will be lighted for night display
- ⑦ As well as set backs will be in compliance with local codes & ordinances.
- ⑧ Business next door to south is Salon creative with  
business to the west is Rogers produce
- ⑨ yes we would be willing to meet any special conditions necessary to get the special use permit.





### Legend

- Urban Growth Boundary
- Address Search Results
- Streets
- Special Flood Hazard Areas - Chance Flood
  - A - No Base Flood Elevation Determined
  - AE - Base Flood Elevation Determined
  - AH - Area of Ponding 1-3 ft
- Other Areas
  - X - 0.2% Annual Chance Flood
  - X - 1% Annual Chance Flood Less
  - X - Areas Outside 0.2% Annual Chance Flood
- 2008 FIRM Panel
- Transitional Flood Prone Areas
- Parcels
- Communication Towers
- Environmentally Sensitive Overlays
- Family Divisions

1: 1,997

1 in = 0.03 Miles



### Notes

0.1 0 0.03 0.1 Miles

Projected Coordinate System: NAD\_1983\_StatePlane\_Florida\_West\_FIPS\_0902\_Feet

Created By:

This map was produced by a Marion County employee using an online internal mapping viewer. All GIS features provided through the Marion County online internal mapping viewer are to be considered a generalized spatial representation which is subject to revisions. The GIS features shown hereon are not to be used as legal descriptions. For confirmation of details related to the GIS features, please contact the appropriate department or constitutional office.

Creation Date: 3/9/2021



#210602SV

LOS VATOS GROUP, INC

LOS MAGUEYES MEXICAN RESTAURANT

5855 S. 5th ST UNIT 1 & 2

OCALA, FL 34472

PATIO AREA

EXIT

Hood Syst.

Bar

Area

KITCHEN  
Area

EXIT

Guest  
Area

Area

EXIT

EXIT

EXIT

EXIT

EXIT

EXIT

EXIT

EXIT

EXIT

Back  
Area

Dinning  
Area

Plant Area

Common Side walk

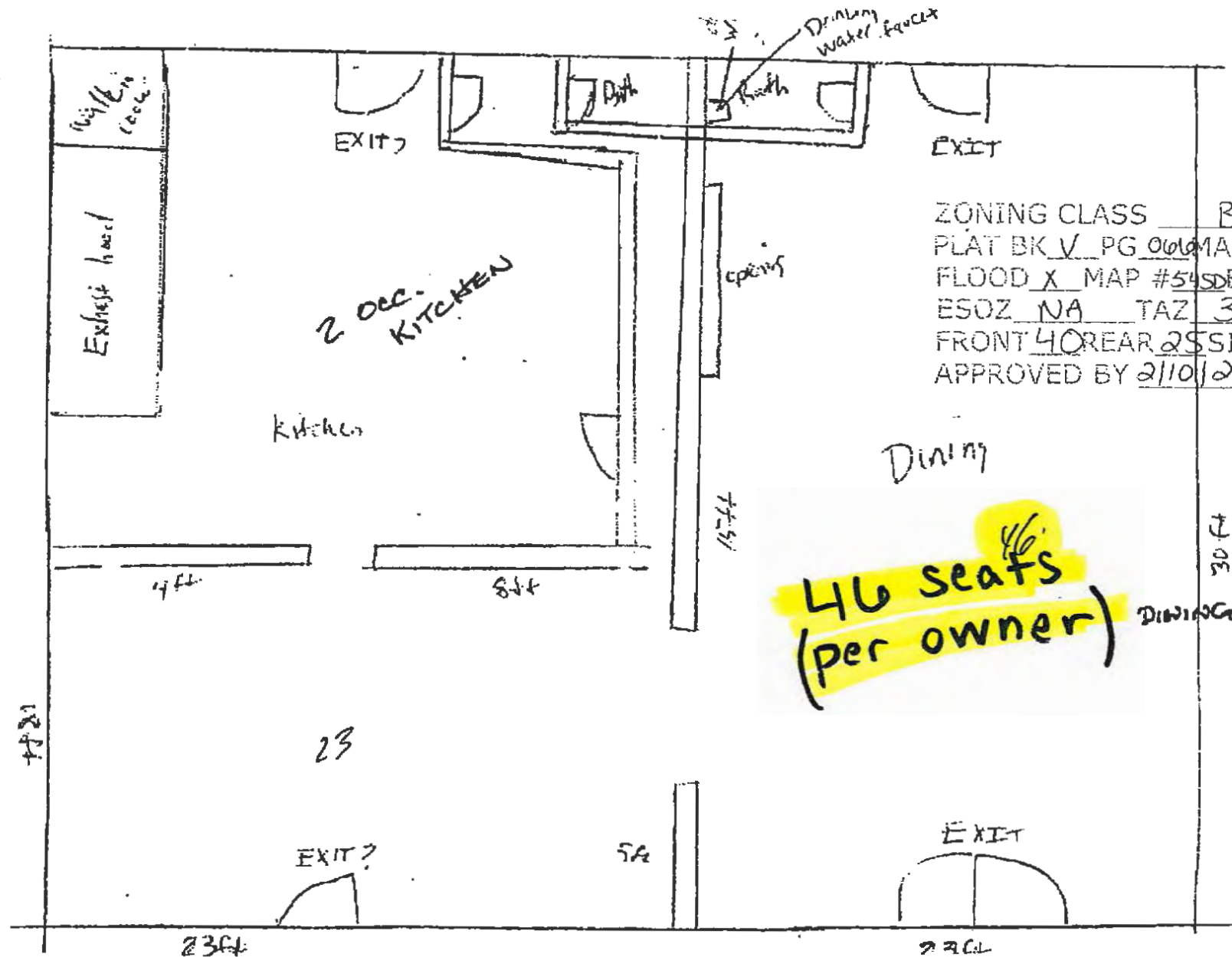
Parking  
Area



2021020770

31856-006-01

SCANNED



Permit  
2021020770



THRIFT THRIFT THRIFT  
2 3

5851

BLIND

Side walk

PA R K I N G

Plat

PA R K I N G

Side walk

5 8 55  
PIZZA PIZZA SALON B-FAST B-FAST  
1 2 3 4 5

Relative to

PA R K I N G

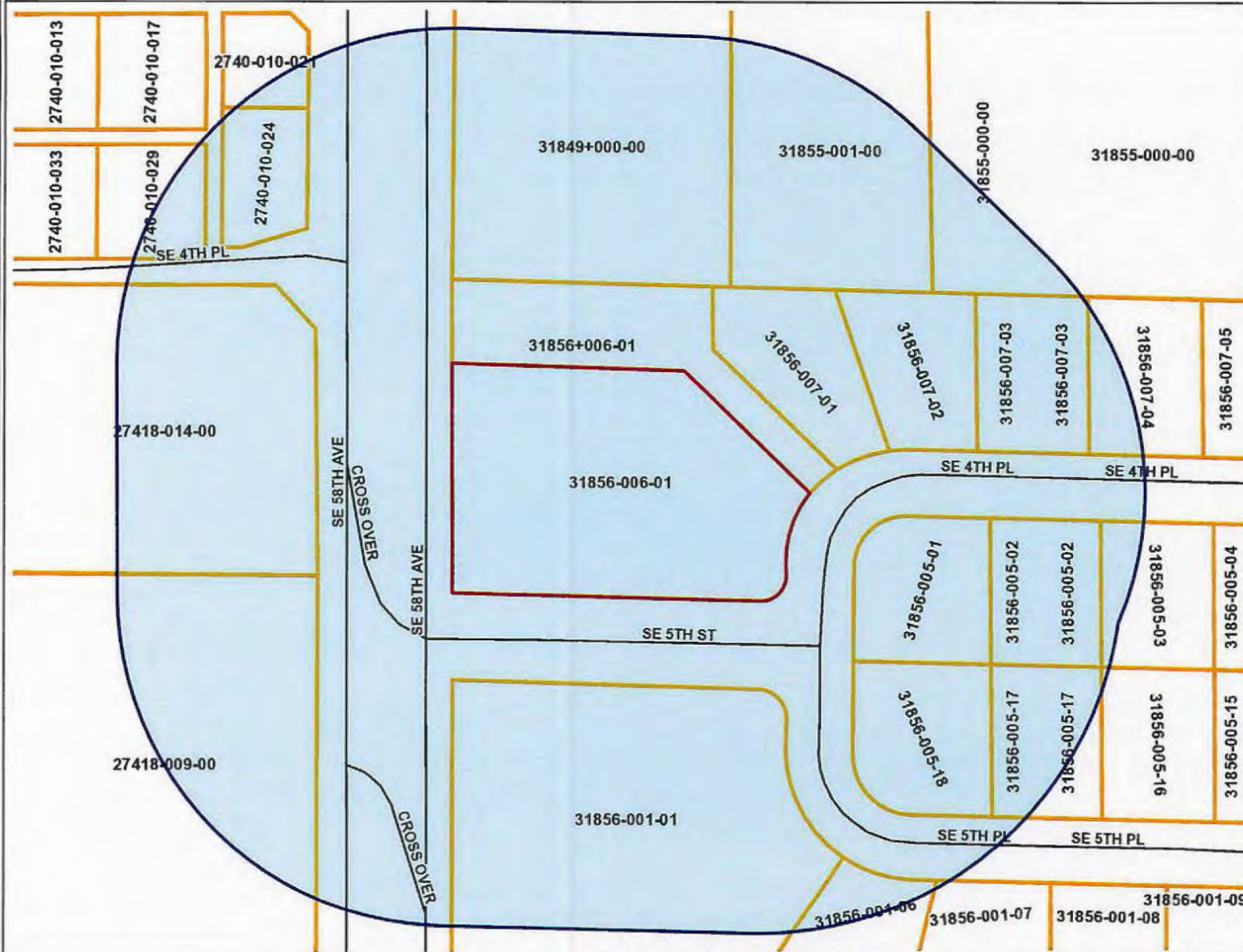
PA R K I N G

2021020770  
10-000-05815  
31856-000-01

SCANNED

450/5 45

permit  
2021020770



### Legend

- Urban Growth Boundary
- Address Search Results
- Streets
- Parcels
- Municipalities
- Marion County

1: 1,607

1 in = 0.03 Miles



### Notes

C/O: RONALD F. BENJAMIN  
AGENT: JUAN C. JAIME

3001

Creation Date: 4/1/2021

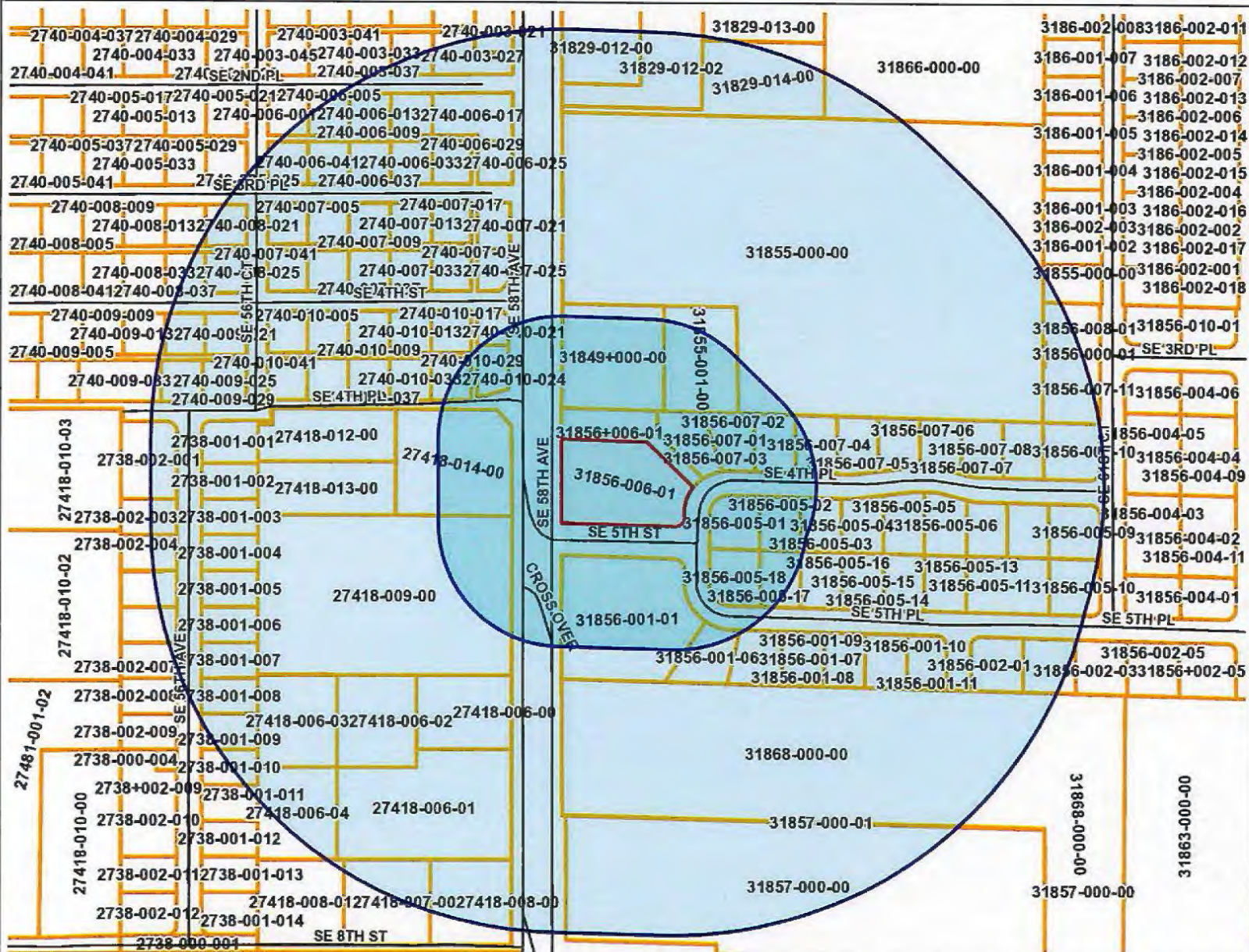
0.1 0 0.03 0.1 Miles

Projected Coordinate System: NAD\_1983\_StatePlane\_Florida\_West\_FIPS\_0902\_Feet

Created By: dp

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### Legend

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- Marion County

1: 4,373

1 in = 0.07 Miles



### Notes

C/O: RONALD F. BENJAMIN  
AGENT: JUAN C. JAIME

1000' NOTIFICATION OF CHURCHES, SCHOOLS  
and PUBLIC PARKS

0.1 0 0.07 0.1 Miles

Projected Coordinate System: NAD\_1983\_StatePlane\_Florida\_West\_FIPS\_0902\_Feet

Created By: dp

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