

**PALM BEACH COUNTY  
PLANNING, ZONING AND BUILDING DEPARTMENT  
ZONING DIVISION**



**ZONING COMMISSION VARIANCE  
STAFF REPORT  
December 06, 2012**

APPLICATION NO.	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
ZV-2012- 02802	5.B.1.A.2.c.2 c) Fences, Walls, and Hedges - Dangerous Material - Barbered Wire	No electrified fencing	Electrified fencing	to allow fence to be electrified
	5.B.1.A.2.f Fences Walls and Hedges Non Residential Districts	Front setback maximum height 6 feet	Front setback maximum height 10 feet	increase of 4 feet in height
	5.B.1.A.2.f Fences Walls and Hedges Non Residential Districts	Side and rear setback maximum height 8 feet	Side and rear setback maximum height 10 feet	increase of 2 feet in height
SITUS ADDRESS:	2807 S Military Trl West Palm Beach 33415			
AGENT NAME & ADDRESS:	Chris Barry Jon E Schmidt & Associates 2247 Palm Beach Lakes Blvd West Palm Beach FL 33409			
OWNER NAME & ADDRESS:	Mark Lassila 10834 Tamis Trl Lake Worth FL 33449			
PCN:	00-4-44-13-07-000-0010			
ZONING DISTRICT:	CG			
BCC DISTRICT:	02			
PROJECT MANAGER:	Autumn Sorrow, Senior Site Planner			
LEGAL AD:	<b>ZV-2012-02802 Title:</b> Resolution approving a Type II Zoning Variance application of Nathan Leaphart by Jon E Schmidt & Associates, agent. <b>Request:</b> to allow the electrification of fencing and to allow an increase in height for fencing in the front, side and rear setbacks <b>General Location:</b> Northwest corner of Military Trail and Kelly Drive <b>(Marine Connection) (1983-00035)</b>			
LAND USE:	CH/8	S/T/R: 13-44-42		
CONTROL #:	1983-00035			
LOT AREA:	3.35 acres +/-			
LOT DIMENSIONS:	468.86' X 311.13'			
CONFORMITY OF LOT:	Yes	CONFORMITY OF ELEMENT:	Non-conforming	
TYPE OF ELEMENT:	Fencing- electrified	ELEMENT SIZE:	Proposed 10' height	
BUILDING PERMIT #:	None	NOTICE OF VIOLATION:	None	
CONSTRUCTION STATUS:	Site is Built			

APPLICANT REQUEST:	to allow the electrification of fencing and to allow an increase in height for fencing in the front, side and rear setbacks
--------------------	---

**STAFF SUMMARY**

**Type II Zoning Variance Request**

Proposed are 3 Type II Zoning Variances for the 3.35-acre Marine Connection development. The site was last approved by the Board of County Commissioners (BCC) for a rezoning to the General Commercial (CG) Zoning District and a Special Exception (SE) to allow Vehicle Sales and Rental with repairs and Self-Service Storage on January 3, 1994. The applicant is requesting the first variance to allow an electrified fence around the perimeter of the property. The second and third variance requests are to allow the electrified fence to exceed the maximum height in the front, side and rear setbacks for a total fence height of ten feet. Access to the site will remain from Military Trail and Kelly Drive.

**General Location, Previous Approvals and Existing Conditions**

The subject site is located at the northwest intersection of Military Trail and Kelly Drive. The site was approved in 1994 and has been in operation since the mid to late 1990s as a boat sales and rental facility.

Application No.	Resolution and Request	Approval Date
Petition No. 83-35	Rezoning from the General Commercial District (CG), in part, and Residential Multiple Family District (Medium Density), in part, to the CG District, in whole, approved by the PBC Board of County Commissioners (BCC) through Resolution No. R-83-0985.	05/26/1983
Petition No. 83-35	Special Exception approval to allow an office warehouse combination approved by the PBC BCC through Resolution No. R-83-0986.	05/26/1983
CA-1983-35(A)	Class A Conditional Use to allowing vehicle sales and rental with repairs and self-service storage approved by the PBC BCC through Resolution No. R-94-0009.	01/03/1994
Z-1983-35(A)	Official Zoning Map Amendment (Rezoning) from the Multi-Family Residential (Medium Density) (RM) and General Commercial (CG) Zoning Districts to the General Commercial (CG) Zoning District approved by the PBC BCC through Resolution No. R-94-0010.	01/03/1994
BA-1994-10	Type II Variance to allow outdoor repair of boats, reduction of required building setback to a residentially zoned property, shell rock parking in lieu of paved parking for outdoor boat storage, bay doors to be oriented toward a public street (Kelly Dr.), and outdoor storage within the required setbacks.	02/07/1994

During the last approval of the Rezoning and Class A Conditional Use, the BCC imposed Conditions of Approval to address compatibility with the surrounding uses with upgraded landscaping. The site is in compliance with all previous landscape conditions of approval as listed below:

*LANDSCAPING ALONG EAST PROPERTY LINE (ABUTTING MILITARY TRAIL) AND SOUTH PROPERTY LINE EAST OF THE ENTRANCE FROM KELLY DRIVE (ABUTTING COMMERCIAL USES)*

- 1 . To minimize impact to adjoining uses, landscaping within the required buffer along the east property line shall be upgraded to include:
  - a . One (1) native canopy tree planted every twenty (20) feet on center;
  - b. One (1) native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,
  - c. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation.

**LANDSCAPING ALONG SOUTH PROPERTY LINE WEST OF THE ENTRANCE FROM KELLY DRIVE (ABUTTING RESIDENTIAL USES)**

1. To minimize impact to adjoining uses, including residential, landscaping within the required buffer along the south property line west of the entrance to the subject site from Kelly Drive shall be upgraded to include:

- a. A six (6) foot high masonry wall along the property line where the subject site abuts residential uses;
- b. A double row of alternating trees with one (1) native canopy tree planted every twenty (20) feet on center for each row;
- c. One (1) native palm tree for each thirty (30) linear feet of frontage. A group of three or more palm trees may supersede the requirement for a native canopy tree in that location; and,
- d. Thirty (30) inch high shrub or hedge material spaced twenty-four (24) inches on center at installation.

**LANDSCAPING ALONG WEST AND NORTH PROPERTY LINES (ABUTTING RESIDENTIAL)**

1. To ensure adequate buffering to adjoining residential uses, landscaping and buffering along the west and north property line shall be upgraded to include:

- a. A minimum ten (10) foot wide landscape buffer strip; with,
  - b. trees twenty (20) feet on O.C.
  - c. A six (6) foot high barrier consisting of a wall, fence, berm or combination thereof. The exterior side of the barrier shall be given a finished architectural treatment which is compatible and harmonious with abutting development.
  - d. Along the northern and west property lines, a thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center at installation, to be maintained at a minimum height of forty-eight (48) inches on the exterior side of the barrier.
2. To ensure adequate buffering to abutting residential along the inside side of the required barrier, adjacent to public vehicular use areas only, the property owner shall install twenty-four (24) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches.
3. The petitioner may apply for an alternative landscape betterment plan pursuant to Section 7.3.E.6 of the ULDC for the buffer requirements along the north property line contained in these conditions. At a minimum, the required buffer shall include a six (6) foot high opaque barrier and equivalent amount of landscape material to be placed on site.

The intent of the upgraded landscaping was to provide an effective screening for the property, to mitigate any visual and noise pollution created by the approved uses and the variances. Based upon the required buffering and on-site analysis of the proposed site lay-out, staff previously determined that the granting of the prior approvals (Rezoning, Class A Conditional Use, and Type II Variances), to allow the property to be developed as a Vehicle Sales and Rental with Repairs and Self-service Storage, would not harm the surrounding area.

○ Barbed wire

It is important to mention that the March 9, 2005 Final Site Plan approval for this site vested existing barbed wire on site. [At time of publication, the original building permits for the barbed wire have not be located] Although not allowed by the ULDC for this site, barbed wire is existing and has been incorporated into the existing fencing and walls surrounding the perimeter of the property. A Condition of Approval has been added to ensure that Prior to Final DRO approval the barbed wire shall be removed from site (see Exhibit C).

○ Code Enforcement

During the review and site visit of this application, staff identified that the northeast corner of the site contains razor wire within the landscape buffer. Razor wire is considered a dangerous material for fencing and is not allowed in any zoning district. Code Enforcement was notified, and Case Number: C201211140023 was assigned to this violation. A Condition of Approval has been added to ensure that Prior to Final DRO approval the razor wire shall be removed from the site (see Exhibit C).

**Compatibility with Surrounding Land Uses**

NORTH:

FLU Designation: : Commercial with an Underlying HR-8 (CH/8)

Zoning District: General Commercial (CG)

Supporting: Mobile Home Park

SOUTH:

ZC  
Application No. ZV-2012- 02802  
Control No. 1983-00035

December 06, 2012  
BCC District 02

FLU Designation: Commercial with an Underlying HR-8 (C/HR8)  
Zoning District: General Commercial (CG)  
Supporting: Commercial

EAST:  
FLU Designation: Commercial with an Underlying HR-8 (C/HR8)  
Zoning District: General Commercial (CG)  
Supporting: Commercial

WEST:  
FLU Designation: Residential High 8 (HR8) and Residential Medium 5 (RM)  
Zoning District: Residential Medium  
Supporting: Multifamily Residential (Georgia Pines, Control No 2005-369)



Photo 1 Marine Connection north property line looking west



Photo 2 Marine Connection south property line





**Photo 3 Marine Connection south property line looking west**

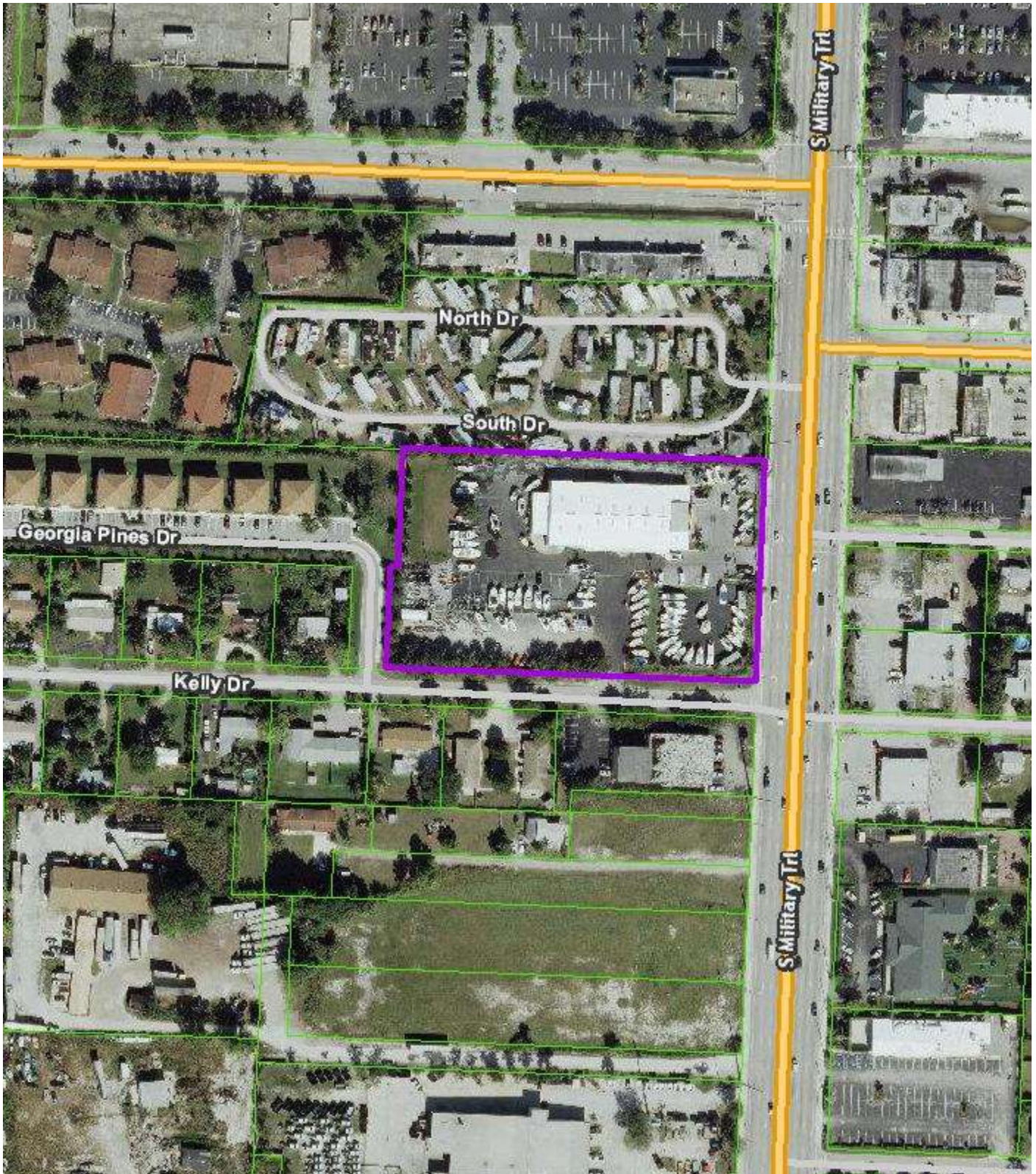


**Photo 4 Marine Connection east property line looking south**



**Summary of Article 5.B.1.A.2.c, Fences, Walls and Hedges - Dangerous Material and Articles 5.B.1.A.2.f.1) and 2), Maximum Fence Height - Nonresidential District within Front, Side/Side street/Rear Setbacks**

The intent of Articles 5.B.1.A.2.c, and 5.B.1.A.2.f.1) & 2), are to establish the preferred material of fencing within the county and the location of fencing on site. The purpose of such regulations are to ensure that fencing within the County is provided to accomplish a method for securing sites, buffering different land uses, for providing a transition between adjacent properties, and for screening the view of any parking or storage area, refuse collection, utility enclosures or other service area visible from a public street, alley, or pedestrian area.



**Figure 1 Aerial**







**JEA Associates, Inc.**  
 3333 North US Highway 1  
 Suite 100  
 Palm Beach, Florida 33480  
 Tel: (561) 844-0484 • Fax: (561) 844-0485  
 www.jea.com  
 License No.: 1220000025

Palm Beach County, Florida

# Marine Connection

Project: 10/27/12  
 Scope: N.Y.L.  
 Designer: JEA  
 Designer: JEA  
 Designer: JEA  
 Checked By: JEA  
 File No: 695-00  
 Job No: 12-34

**REVISIONS / SUBMISSIONS**  
 1. (04/12) PRELIMINARY

**Preliminary  
 Regulating  
 Plan**

PRP-1 of 1

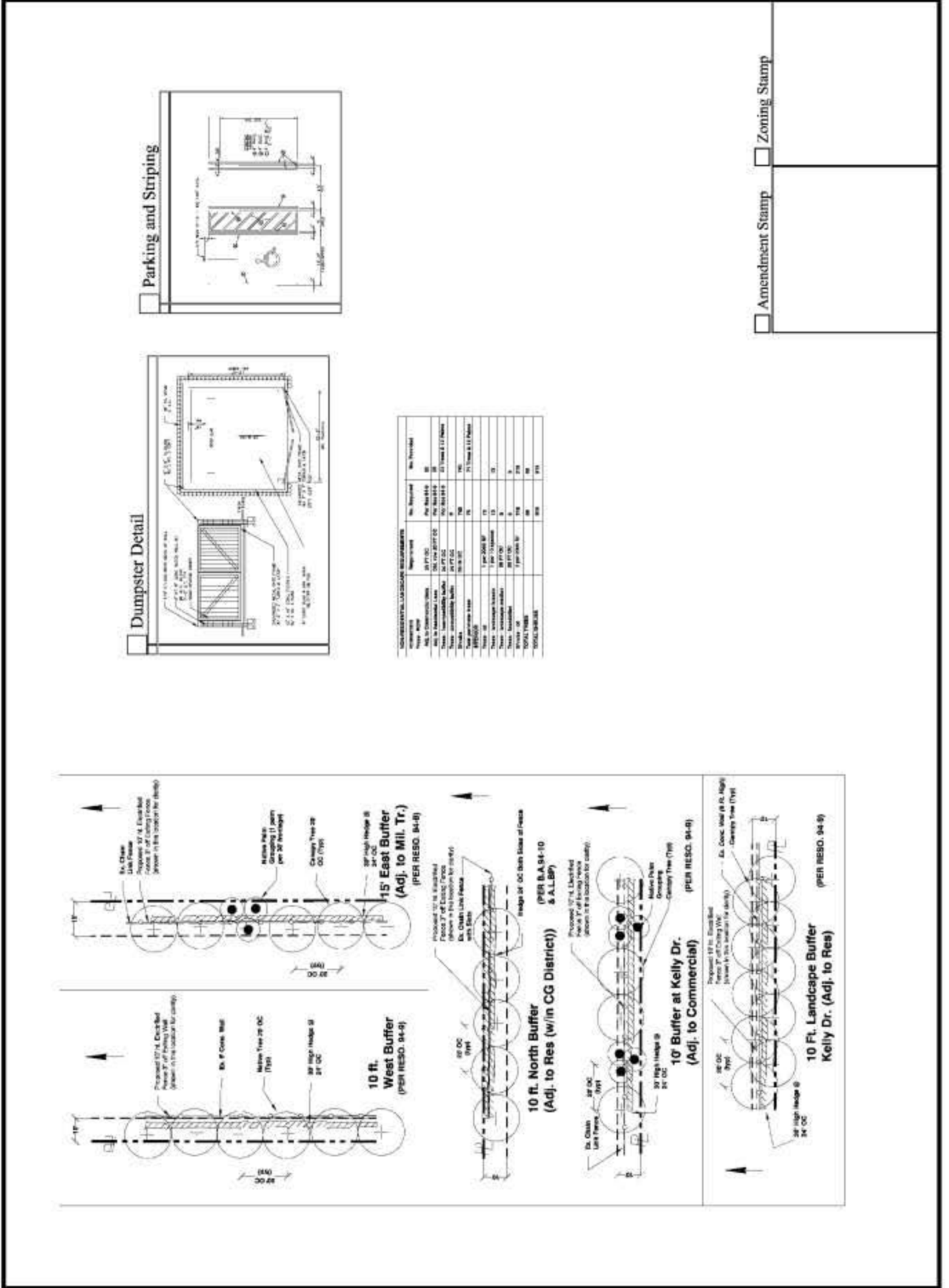


Figure 3 Preliminary Regulating Plan dated November 6, 2012



## STAFF RECOMMENDATIONS

Staff recommends **Approval** of the request, subject to 10 conditions, based upon the following application of the standards enumerated in Article 2, Section 2.B.3.E of the Palm Beach County Unified Land Development Code (ULDC), which an applicant must meet before the Zoning Commission who may authorize a variance.

Since the variance requests all relate to relief from the requirements Fences, Walls, and Hedges, all 3 variance requests have been analyzed together addressing the seven (7) criteria:

### ANALYSIS OF ARTICLE 2, SECTION 2.B.3.E VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

**V1-V3: Yes.** There are special conditions and circumstances that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same zoning district. Based on the existing approval(s), and the conditions contained therein, the site currently has a combination of either a chain link fences or a concrete wall with barbed wire surrounding the perimeter. Although the owner has tried to secure this site and corresponding inventory with the existing perimeter fencing; it has not deterred crime as intended. According to the applicant's justification statement (attached) this site has a history of active burglary and destruction of inventory. Also contained in the applicant's justification statement is a letter of support from the Sheriff's Department indicating that the use of electrified fencing is not dangerous.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

**V1-V3: Yes.** Special circumstances and conditions are not a result of the action of the applicant. Although the site currently has a combination of either a chain link fences or a concrete wall with barbed wire surrounding the perimeter, it has not deterred crime as intended. The applicant's justification statement says that there have been 5 boats which have been vandalized and because of these actions created outside of their control, there is a need for an electrified fence.

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

**V1-V3: Yes.** Granting of the variance will not confer upon the applicant special privilege denied by the Comprehensive Plan and this Code to other parcels of land, buildings or structures in the same Zoning District. Electrified fencing/walls are not allowed in any Zoning District, regardless of use or adjacent properties. The ULDC does allow for the provision of barbed wire as the County recognizes that barbed wire may be necessary to secure certain uses such as public utilities, prisons, bona-fide agriculture, public-owned natural areas, commercial or industrial uses that have outdoor storage area. As mention before, this site has already been approved for and implemented the installation of barbed wire. Although the owner has tried to secure this site and corresponding inventory with the existing perimeter fencing; it has not deterred crime as intended.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

**V1-V3: Yes.** Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship. The site is currently developed, operating and utilizing perimeter security measures through the use of fencing with barbed wire and/or a concrete wall with barbed wire; however the occurrences of theft have not ceased.

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

**V1-V3: Yes.** Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship. The site is currently developed, operating and utilizing perimeter security measures through the use of fencing with barbed wire and/or a concrete wall with barbed barbed wire; however the occurrences of theft have not ceased.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

**V1-V3: Yes.** The granting of the variance will be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code. The site has already been developed consistent with the comprehensive plan and the ULDC.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

**V1-V3: Yes.** The granting of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. According to Article 5.B.1.A.2.c, electrified fencing and barbed are considered dangerous materials; however the site already contains barbed wire within the perimeter fencing. As a Condition of Approval, the owner is required to remove the barbed wire prior to the Certificate of Completion for the electrified fencing. Through their justification statement, the applicant has submitted studies from the University of Wisconsin stating that the proposed electrified fencing is not detrimental to the public. Also contained in the applicant's justification statement is a letter of support from the Sheriff's Department indicating that the use of electrified fencing is not dangerous.



## ZONING COMMISSION CONDITIONS

### EXHIBIT C

#### Type II Variance - Standalone

#### VARIANCE

1. The Development Order for this non-concurrent Variance shall be valid till December 6, 2013, a period of one year from the date of the Zoning Hearing. The Property Owner must secure a Building Permit or Commencement of Development to vest this Variance. (DATE: MONITORING - Zoning)

2. This approval is granted based on the Preliminary Site and Regulating Plan(s) dated November 06, 2012. (ONGOING: ZONING - Zoning)

3. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Final Site Plan to the Building Division. (BLDG PERMIT: ZONING - Zoning)

4. Prior to the issuance of the Building Permit for the electrified fence, the property owner shall remove the guard dogs and associated kennels on the site. (BLDG PERMIT: BLDG-Zoning)

5. Prior to the issuance of the Certificate of Completion for the electrified fence, the property owner shall remove all the existing barbed wire on the existing chain linked fence and on the existing concrete wall. (BLDG PERMIT: BLDG-Zoning)

6. In Granting this Approval, the Zoning Commission relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

7. This Variance is approved for the Vehicle Sales and Rental with repairs and Self-Service Storage . Any change to the use(s) shall require reconsideration of the Variance by the Zoning Commission. (ONGOING: CODE ENF - Zoning)

8. Prior to the issuance of the Building Permit for the electrified fence, the property owner shall remove the existing illegal razor wire from the property. (BLDG PERMIT: BLDG-Zoning)

9. Prior to the issuance of Certificate of Completion for the electrified fencing, the Property Owner shall install mesh fabric on the existing chainlike perimeter fencing to mitigate the potential impacts as a result of the Variance approvals. (CC: BLDG - Landscape)

10. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other Permit, License or Approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or,

b. The Revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other Zoning Approval; and/or,

c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of Conditions reasonably related to the failure to comply with existing Conditions; and/or

d. Referral to Code Enforcement; and/or

e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval. (ONGOING: MONITORING - Zoning)

**DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY**

*[TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER]*

**TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Johanna Lassila, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [ ] \_\_\_\_\_ [position - e.g., president, partner, trustee] of \_\_\_\_\_ [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
  
2. Affiant's address is: 10834 Tamis Trail, Lake Worth, FL 33449-5496  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
  
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
  
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
  
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.



7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

  
\_\_\_\_\_  
Johanna Lassila, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of October, 2012, by Johanna Lassila,  who is personally known to me or [ ] who has produced \_\_\_\_\_ as identification and who did take an oath.



  
\_\_\_\_\_  
Notary Public

Jess Somero  
\_\_\_\_\_  
(Print Notary Name)

NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: July 7 2015

**EXHIBIT "A"**  
**PROPERTY**

**LEGAL DESCRIPTION:**  
**Parcel 1**  
 A parcel of land lying in Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida; said parcel being more particularly described as follows:  
 Lots 1, 2, 3, 4, 5, and 6 of VELDOR SUBDIVISION, as recorded in Plat Book 23, Page 50, of the Public Records of Palm Beach County, Florida, less and except the West 50 feet of Lot 6 and the East 13 feet of Lots 1 and 2 for additional road right-of-way. Containing 1.54 acres more or less.

**Parcel 2**  
 A parcel of land lying in Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida; said parcel being more particularly described as follows:  
 BEGINNING at a point 13.0 feet West of the Northeast corner of Lot 1 of VELDOR SUBDIVISION, as recorded in Plat Book 23, Page 50, of the Public Records of Palm Beach County, Florida; said point being located 53 feet West of the centerline of Military Trail along the existing Westerly right-of-way line; thence North 88° 04' 42" West along the North line of said VELDOR SUBDIVISION, a distance of 468.29 feet; thence North 01° 55' 18" East, a distance of 167.97 feet; thence South 88° 06' 15" East a distance 467.63 feet to a point along the existing Westerly right-of-way line of Military Trail; thence South 01° 41' 42" West along said right-of-way line a distance of 168.19 feet to the aforementioned POINT OF BEGINNING.

Together with an easement for ingress and egress over and across the East 50 feet of a parcel of land lying in Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida; said parcel being more particularly described as follows:  
 BEGINNING at the Southwest corner of Lot 6 of VELDOR SUBDIVISION, as recorded in Plat Book 23, Page 50, of the Public Records of Palm Beach County, Florida; said point also being located along the Northerly right-of-way line of Kelly Drive; thence North 01° 55' 18" East along the West line of Lot 6, a distance of 143.26 feet; thence North 88° 04' 42" West along the North line of said VELDOR SUBDIVISION, a distance of 764.19 feet; thence North 01° 32' 55" West, a distance of 167.61 feet; thence South 88° 06' 15" East, a distance of 815.28 feet; thence South 01° 55' 18" West, a distance of 311.25 feet to a point along the Northerly right-of-way line of Kelly Drive; thence North 88° 03' 48" West along said right-of-way line, a distance of 50.00 feet to the aforementioned POINT OF BEGINNING.

Containing 1.81 acres more or less.





**DISCLOSURE OF OWNERSHIP INTERESTS – PROPERTY**

*(TO BE COMPLETED AND EXECUTED BY THE PROPERTY OWNER(S) FOR EACH APPLICATION FOR COMPREHENSIVE PLAN AMENDMENT OR DEVELOPMENT ORDER)*

**TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE**

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Mark Lassila, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant is the [ ] individual or [ ] \_\_\_\_\_ [position - e.g., president, partner, trustee] of \_\_\_\_\_ [name and type of entity - e.g., ABC Corporation, XYZ Limited Partnership] that holds an ownership interest in real property legally described on the attached Exhibit "A" (the "Property"). The Property is the subject of an application for Comprehensive Plan amendment or Development Order approval with Palm Beach County.
  
2. Affiant's address is: 10834 Tamis Trail, Lake Worth, FL 33449-5496  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Property. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
  
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of application for Comprehensive Plan amendment or Development Order approval affecting the Property. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of any and all individuals or entities holding a five percent or greater interest in the Property.
  
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Property that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
  
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.

FURTHER AFFIANT SAYETH NAUGHT.

Mark Lassila  
Mark Lassila, Affiant  
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of October, 2012, by Mark Lassila, [X] who is personally known to me or [ ] who has produced \_\_\_\_\_ as identification and who did take an oath.



Jess Somero  
Notary Public

Jess Somero  
(Print Notary Name)

NOTARY PUBLIC  
State of Florida at Large  
My Commission Expires: July 7 2015



EXHIBIT "A"

PROPERTY

LEGAL DESCRIPTION:

Parcel 1

A parcel of land lying in Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida; said parcel being more particularly described as follows:

Lots 1, 2, 3, 4, 5, and 6 of VELDOR SUBDIVISION, as recorded in Plat Book 23, Page 50, of the Public Records of Palm Beach County, Florida, less and except the West 50 feet of Lot 6 and the East 13 feet of Lots 1 and 2 for additional road right-of-way. Containing 1.54 acres more or less.

Parcel 2

A parcel of land lying in Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida; said parcel being more particularly described as follows:

BEGINNING at a point 13.0 feet West of the Northeast corner of Lot 1 of VELDOR SUBDIVISION, as recorded in Plat Book 23, Page 50, of the Public Records of Palm Beach County, Florida; said point being located 53 feet West of the centerline of Military Trail along the existing Westerly right-of-way line; thence North 88° 04' 42" West along the North line of said VELDOR SUBDIVISION, a distance of 468.29 feet; thence North 01° 55' 18" East, a distance of 167.97 feet; thence South 88° 06' 15" East a distance 467.63 feet to a point along the existing Westerly right-of-way line of Military Trail; thence South 01° 41' 42" West along said right-of-way line a distance of 168.19 feet to the aforementioned POINT OF BEGINNING.

Together with an easement for ingress and egress over and across the East 50 feet of a parcel of land lying in Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida; said parcel being more particularly described as follows:

BEGINNING at the Southwest corner of Lot 6 of VELDOR SUBDIVISION, as recorded in Plat Book 23, Page 50, of the Public Records of Palm Beach County, Florida; said point also being located along the Northerly right-of-way line of Kelly Drive; thence North 01° 55' 18" East along the West line of Lot 6, a distance of 143.26 feet; thence North 88° 04' 42" West along the North line of said VELDOR SUBDIVISION, a distance of 764.19 feet; thence North 01° 32' 55" West, a distance of 167.61 feet; thence South 88° 06' 15" East, a distance of 815.28 feet; thence South 01° 55' 18" West, a distance of 311.25 feet to a point along the Northerly right-of-way line of Kelly Drive; thence North 88° 03' 48" West along said right-of-way line, a distance of 50.00 feet to the aforementioned POINT OF BEGINNING.

Containing 1.81 acres more or less.



DISCLOSURE OF OWNERSHIP INTERESTS – APPLICANT

[TO BE COMPLETED AND EXECUTED ONLY WHEN THE APPLICANT IS NOT THE OWNER OF THE SUBJECT PROPERTY]

TO: PALM BEACH COUNTY PLANNING, ZONING AND BUILDING EXECUTIVE DIRECTOR, OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF FLORIDA  
COUNTY OF PALM BEACH

BEFORE ME, the undersigned authority, this day personally appeared Nathan Leaphart, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:


1. Affiant is the  individual or  Manager of Sentry Security Systems LLC, hereinafter referred to as "Applicant". Applicant seeks Comprehensive Plan amendment or Development Order approval for real property legally described on the attached Exhibit "A" (the "Property").
2. Affiant's address is: 7608 Fairfield Road, Columbia SC 29203
3. Attached hereto as Exhibit "B" is a complete listing of the names and addresses of every person or entity having a five percent or greater interest in the Applicant. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.
4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County in its review of Applicant's application for Comprehensive Plan amendment or Development Order approval. Affiant further acknowledges that he or she is authorized to execute this Disclosure of Ownership Interests on behalf of the Applicant.
5. Affiant further acknowledges that he or she shall by affidavit amend this disclosure to reflect any changes to ownership interests in the Applicant that may occur before the date of final public hearing on the application for Comprehensive Plan amendment or Development Order approval.
6. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.
7. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct, and complete.



FURTHER AFFIANT SAYETH NAUGHT,

  
 \_\_\_\_\_  
 Nathan Leaphart, Manager, Affiant  
 (Print Affiant Name)

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of November,  
 2012, by Nathan Leaphart,  who is personally  
 known to me or [ ] who has produced \_\_\_\_\_  
 as identification and who did take an oath.

  
 \_\_\_\_\_  
 Notary Public

Sonia J Fowler  
 \_\_\_\_\_  
 (Print Notary Name)

NOTARY PUBLIC

State of Florida at Large

My Commission Expires: March 10, 2019

EXHIBIT "A"

PROPERTY

LEGAL DESCRIPTION:  
Parcel 1  
A parcel of land lying in Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida; said parcel being more particularly described as follows:  
  
Lots 1, 2, 3, 4, 5, and 6 of VELDOR SUBDIVISION, as recorded in Plat Book 23, Page 50, of the Public Records of Palm Beach County, Florida, less and except the West 50 feet of Lot 6 and the East 13 feet of Lots 1 and 2 for additional road right-of-way. Containing 1.54 acres more or less.

Parcel 2  
A parcel of land lying in Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida; said parcel being more particularly described as follows:  
  
BEGINNING at a point 13.0 feet West of the Northeast corner of Lot 1 of VELDOR SUBDIVISION, as recorded in Plat Book 23, Page 50, of the Public Records of Palm Beach County, Florida; said point being located 53 feet West of the centerline of Military Trail along the existing Westerly right-of-way line; thence North 88° 04' 42" West along the North line of said VELDOR SUBDIVISION, a distance of 468.29 feet; thence North 01° 55' 18" East, a distance of 167.97 feet; thence South 88° 06' 15" East a distance 467.63 feet to a point along the existing Westerly right-of-way line of Military Trail; thence South 01° 41' 42" West along said right-of-way line a distance of 168.19 feet to the aforementioned POINT OF BEGINNING.

Together with an easement for ingress and egress over and across the East 50 feet of a parcel of land lying in Section 13, Township 44 South, Range 42 East, Palm Beach County, Florida; said parcel being more particularly described as follows:  
  
BEGINNING at the Southwest corner of Lot 6 of VELDOR SUBDIVISION, as recorded in Plat Book 23, Page 50, of the Public Records of Palm Beach County, Florida; said point also being located along the Northerly right-of-way line of Kelly Drive;  
thence North 01° 55' 18" East along the West line of Lot 6, a distance of 143.26 feet;  
thence North 88° 04' 42" West along the North line of said VELDOR SUBDIVISION, a distance of 764.19 feet; thence North 01° 32' 55" West, a distance of 167.61 feet;  
thence South 88° 06' 15" East, a distance of 815.28 feet;  
thence South 01° 55' 18" West, a distance of 311.25 feet to a point along the Northerly right-of-way line of Kelly Drive;  
thence North 88° 03' 48" West along said right-of-way line, a distance of 50.00 feet to the aforementioned POINT OF BEGINNING.

Containing 1.81 acres more or less.

**EXHIBIT "B"**

**DISCLOSURE OF OWNERSHIP INTERESTS IN APPLICANT**

Affiant must identify all entities and individuals owning five percent or more ownership interest in Applicant's corporation, partnership or other principal, if any. Affiant must identify individual owners. For example, if Affiant is the officer of a corporation or partnership that is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

**Name**

**Address**

Sentry Security Systems Holdings, LLC ("Holdings") is the sole owner of Sentry Security Systems, LLC ("Sentry").

Holdings is majority owned by several funds managed by Ulysses Management, LLC, a private investment firm

based in New York. Sentry does not have knowledge of individual equity holders above the Holdings level, and

they are not disclosed.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





## Jon E. Schmidt and Associates

Land Planning and Landscape Architecture

**Justification Statement – Type II Zoning Variance Request  
The Marine Connection  
Palm Beach County (PBC) Development Review Officer (DRO) Submittal  
Re-Submittal 1: November 6, 2012**

### **Request**

The subject property (Property Control Number [PCN] 00-42-44-13-07-000-0010) is a 3.35-acre site located at the northwest corner of Military Trail and Kelly Drive approximately 2,150 lineal feet north of 10<sup>th</sup> Avenue North.

The subject property currently supports a Future Land Use Atlas (FLUA) designation of Commercial High with an underlying High Residential 8 (CH/8) and is within the Commercial General (CG) Zoning District. See project history section below for more details on prior approvals.

This application is a request for a Type II Zoning Variance to allow the electrification of fencing and to allow for an increase in the allowable height of fencing in the front, side and rear setbacks.

### **Project History**

Below is a public hearing history of the project:

- **05/26/1983:** Rezoning from the General Commercial District (CG), in part, and Residential Multiple Family District (Medium Density), in part, to the CG District, in whole, approved by the PBC Board of County Commissioners (BCC) through Resolution No. R-83-0985.
- **05/26/1983:** Special Exception approval to allow an office warehouse combination approved by the PBC BCC through Resolution No. R-83-0986.
- **05/07/1991:** Legal description correction for Resolutions No. R-83-0985 and R-83-0986 approved by the PBC BCC through Resolution No. R-84-0860.
- **01/03/1994:** Class A Conditional Use to allowing vehicle sales and rental with repairs and self-service storage approved by the PBC BCC through Resolution No. R-94-0009.
- **01/03/1994:** Official Zoning Map Amendment (Rezoning) from the Multi-Family Residential (Medium Density) (RM) and General Commercial (CG) Zoning Districts to the General Commercial (CG) Zoning District approved by the PBC BCC through Resolution No. R-94-0010.

**Type II Zoning Variance Request**

PROPOSED TYPE II ZONING VARIANCE REQUESTS				
	ULDC SECTION	REQUIRED	PROVIDED	WAIVER REQUEST
1	ULDC Art.5.B.1.A.2.c Fences, Walls and Hedges – Dangerous Materials	Fences in any zoning district shall not be electrified	A 10-foot electrified fence	To allow a fence to be electrified
2	ULDC Art. 5.B.1.A.2.f.1) Maximum Fence Height – Nonresidential District – Within Front Setback	Maximum height of fencing within required front setback for a nonresidential district is six feet	10 foot high fence	To allow for a four foot increase in the allowable fence height within the front setback in a nonresidential district
3	ULDC Art. 5.B.1.A.2.f.2) Maximum Fence Height – Nonresidential District – Within Side/Side Street/Rear Setbacks	Maximum height of fencing within required side/side street/rear setbacks for a nonresidential district is eight feet	10 foot high fence	To allow for a two foot increase in the allowable fence height within the side/side street/rear setbacks in a nonresidential district

Per Unified Land Development Code (ULDC) Art.2.B.3.E, Standards, applications for Type II Variances must take the following standards into consideration:

VIII. VARIANCE INFORMATION:
-----------------------------

Per ULDC Article 2.B.3, requires a statement of special reason or the basis for the variance required. Article 2.A.3.E states that in order to authorize a variance, the Zoning Commission shall and must find that the conditions enumerated have been met. The Seven Standards below are one of factors Staff uses in formulating their recommendations and opinions. Address each standard completely and attach additional information or documentation as necessary.

General Statement of Variance.

**V1, V2 and V3:** Proposed are three Type II Zoning Variances to allow for a 10-foot high electrified fence on the subject property to act as a crime deterrent. The 10-foot high electric fence security system, Electric Guard Dog (EGD), will be approximately 3" inside the existing perimeter chain link fence and approximately 8" to 12" inside the existing wall on the subject property. The EGD Security system is a 10' high, electrically charged fence powered by 12 volt marine battery which is charged by a solar panel. An energizer retains the voltage for 1.3 seconds and thus when released it is boosted to 7,000 volts of a totally safe, pulsed electrical charge. Signage posted a minimum of every 60' warns of the electric fence. However, the safety of the 'shock' is not advertised and therefore, due to our inherent fear of electricity, most criminals will not take a chance in breaching the perimeter. With this, the EGD proactively deters crime unlike cameras, beams and alarms that react to a crime in commission.

The subject property has been a high crime target in recent years. Below is a breakdown of the losses incurred during one recent theft and attached are pictures of the aftermath.

- NEW BOATS: (all being delivered to customers)
  - 2012 Sea Fox 256cc (blue) – Hull # LYGKB1281112
    - Yamaha F300UCA – Serial # 6CE-U-1004350
    - 1 X Yamaha Lower Unit – Part # 6CE-45300-10-8D - \$4133.00

- 1 X Yamaha Stainless Prop – Part # 6CE-45970-00-00 - \$661.80
    - Labor – 0.75 hour @ \$100/hr = \$75.00
  - 2012 Sea Fox 256cc (white) – Hull # LYGKB155A212
    - Yamaha F300UCA – Serial # 6CE-U-1004768
    - 1 X Yamaha Lower Unit – Part # 6CE-45300-10-8D - \$4133.00
    - 1 X Yamaha Stainless Prop – Part # 6CE-45970-00-00 - \$661.80
    - 1 X Yamaha Extension – Part # 6CE-45211-00-8D - \$1492.25
    - 1 X Yamaha Nipple – Part # 63P-45379-00-00 - \$4.45
    - 1 X Yamaha Bolt – Part # 901-1906M-18-00 - \$3.65
    - Labor – 0.75 hour @ \$100/hr = \$75.00
  - 2012 Sea Fox 286cc (blue) – Hull # LYG YB1031112
    - Yamaha LF250TXR – Serial # 6P3-X-1014524
    - Yamaha F250TXR – Serial # 6P2X1036050
    - 1 x Yamaha Lower Unit SR – Part # 6CE-45300-00-8D - \$4135.00
    - 1 X Yamaha Lower Unit CR – Part # 6CF-45300-00-8D - \$4135.00
    - 1 X Yamaha Stainless RH Prop – Part # 6CE-45970-00-00 - \$661.80
    - 1 X Yamaha Stainless LH Prop – Part # 6CF-45970-00-00 - \$661.80
    - 2 X Yamaha Engine Control Unit – Part # 6CG-8591A-01-00 - \$4429.88
    - 1 X Yamaha Power Cord – Part # 6Y8-83553-01-00 - \$60.00
    - 1 Yamaha Main Switch Panel – Part # 704-82570-08-00 - \$178.55
    - 1 X Garmin 740S GPS – Part # 322-0100083503 - \$1652.99
    - Labor – 4.0 hours @ \$100/hr = \$400.00
- USED BOATS IN INVENTORY:
  - 2008 Mako 264cc (white) Hull # MRKK0114G708
    - Mercury 225CXL Verado – Serial # 1B530629
    - Mercury 225XL Verado – Serial # 1B530158
    - X Mercury Lower Unit SR – Part # 880686T14 - \$4642.86
    - 1 X Mercury Lower Unit CR – Part # 880686T15 - \$5216.43
    - 1 X Mirage Plus Stainless Prop LH – Part # 48-13705 - \$650.00
    - 1 X Mirage Plus Stainless Prop RH – Part # 48-13704 - \$650.00
    - Labor – 1.5 hours @ \$100/hr = \$150.00
  - 2004 Glasstream 273ccx (white) – Hull # GDJ00140A404
    - Mercury 200CXL Saltwater – Serial # 0T973436
    - Mercury 200XL Saltwater – Serial # 0T973572
    - 1 X Mercury Lower Unit CR – Part # 859399T16 - \$2421.43
    - 1 X Mercury Lower Unit SR – Part # 859399T14 - \$2050.00
    - X Install Kit – Part # 90-216-03K - \$20.00
    - x Anode Kit – Part # 90-206-05K – \$46.00
    - 2 X Coupling – Part # 90-242-06k - \$ 29.10
    - 1 X Thunderbolt Stainless Prop LH – Part # 5007 - \$535.00
    - 1 X Thunderbolt Stainless Prop RH – Part # 5006 - \$535.00
    - Labor – 2.0 hours @ \$100/hr = \$200.00

Also attached is a letter from Palm Beach County Sheriff Ric L. Bradshaw in which he states that EGD is “an effective deterrent to crime especially for outdoor storage facilities when placed behind a chain link fence or other fence or wall.” Placing the EGD behind an existing fence and wall is what the applicant is proposing on the subject property to prevent thefts like the one detailed above from happening.

Below are the essential safety facts regarding the EGD:

- Totally independent of electrical grid as the system does not plug in;
- Powered by 12 volt marine battery and solar panel;
- Totally enclosed inside perimeter chain link fence and wall;
- Only installed to secure outdoor storage lots;
- Pulsed current, shock delivered every 1.3 seconds for one-ten thousandth of a second;



- Shortness of duration makes it very safe; and
- Fully tested and approved by:
  - MET LABS, a Nationally Recognized Testing Lab with equal authority as UL
  - Dr. Webster, University of Wisconsin, the leading expert in pulsed electricity (see attached testing results from Dr. Webster)
  - Adheres to International Standard IEC 60336.2.76 of which the United States is a supporting member (see attached IEC standards)

TYPE II VARIANCE SEVEN (7) STANDARDS
<p>1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:</p> <p>RESPONSE: Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure that are not applicable to other parcels of land, structures or buildings in the same district.</p> <p><b>V1, V2 and V3:</b> As detailed above the subject property has been subject to thefts resulting in significant financial loss for the property owner. This is despite current fencing/walls around the subject property that were originally designed to secure the facility and prevent thefts. Furthermore, the layout of the residential property to the west, with a 50' ingress/egress easement directly abutting the subject property, allows for an easy access into the subject property. This is due to the fact that this 50-foot area is not necessarily "private" in the sense that it is a residential yard where a homeowner may be watching for suspicious behavior. This is a 50-foot area used to access a residential community to the west which, may at times, not have any type of surveillance which would make it a great place for criminals to access the subject property.</p>
<p>2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:</p> <p>RESPONSE: There are special circumstances and conditions that apply that are not a result of actions by the applicant.</p> <p><b>V1, V2 and V3:</b> The special circumstances that have led the applicant to apply for variances to allow a 10-foot electrified fence on the subject property are not a result of their actions. The property owner has attempted to implement other crime deterrents (i.e., barbed wire) to no avail and, as such, is now hoping that the EGD will provide enough of a deterrent to prevent, or at a minimum, reduce future thefts.</p>
<p>3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:</p> <p>RESPONSE: Granting the variance will not confer and special privilege upon the applicant denied by the Comprehensive Plan and this Code to other parcels of land, buildings or structures in the same zoning district.</p> <p><b>V1, V2 and V3:</b> It is the applicant's contention that the EGD should not be classified as a dangerous material due to the safety features described above. As such, the applicant is also</p>

pursuing an amendment to the Unified Land Development Code (ULDC) to allow fencing like the EGD. Furthermore, in order for the EGD to be effective it has to be higher than the height of the perimeter fencing. As such, on properties where fencing/walls have been installed to the maximum heights allowed under the ULDC it will be necessary for the EGD to exceed the maximum height allowances.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

RESPONSE: Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district and would work an unnecessary and undue hardship.

**V1, V2 and V3:** To the best of the applicant's knowledge this type of electrified fencing has not been installed on any properties within the same zoning district. This is because the ULDC currently prohibits any type of electrified fencing and does not allow fencing to exceed 6 feet within the front setback or 8 feet within the side and rear setbacks. However, as described above, the applicant is simultaneously pursuing an amendment to the ULDC to allow this type of safe electrified fencing so that other properties within the same district could utilize it as an effective crime deterrent.

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

RESPONSE: Granting of the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure.

**V1, V2 and V3:** The subject property has been in operation as a Vehicle (Boat) Sales and Rental facility with repairs and self-storage for over two decades. Fortunately the business has been successful; however, the downturn in the economy over the last 5 years has led to an increase in the number of thefts on the subject property. Those thefts are preventing the property owner from being able to reasonably use the property. As such, allowing a crime deterrent that will hopefully prevent these thefts is the minimum variance that will make possible the reasonable use of the property.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

RESPONSE: Granting of the requested variances will be consistent with the purposes, goals, objectives and policies of the comprehensive plan and the ULDC.

**V1, V2 and V3:** It is the applicant's contention that the EGD should not be classified as a dangerous material due to the safety features described above. As described previously the applicant is also pursuing an amendment to the ULDC to allow fencing like the EGD. Furthermore, in order for the EGD to be effective it has to be higher than the height of the perimeter fencing. As such, on properties where fencing/walls have been installed to the maximum heights allowed under the ULDC it will be necessary for the EGD to exceed the maximum height allowances. It is the applicant's contention that allowing a safe electrified fence behind existing perimeter fencing/walls will not be inconsistent with the purposes, goals, objectives and policies of the Comprehensive Plan and the ULDC.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

RESPONSE: Granting of the requested variances will clearly not be injurious to the area involved or otherwise detrimental to the public welfare.

**V1, V2 and V3:** As described above the proposed electrified fencing is designed with safety features that act as a deterrent rather than a way to harm a potential criminal. The electrified fencing will be behind the existing perimeter fencing so there will be a physical barrier preventing any unsuspecting passerby from inadvertently touching the electrified fencing. Furthermore, an opaque screen will be placed on the existing perimeter fencing to prevent any passerby from sticking their extremities through to test the electrification. Lastly, there will be signs posted every 60 feet warning of the electrified fencing.