



1507 FABER CT,
FORT PIERCE, FL, 34949

CONDITIONAL USE – DWELLING RENTAL

TOPICS OF DISCUSSION

1. The Controlling Law and Standards
2. The Application and the Neighbors' Issues
 1. Ingress and egress issues
 - a. 1506 blocked by landscaping vehicles
 2. Parking on the street
 3. Kids playing in the cul-de-sac
 4. Not knowing the tenants
 5. Limitation of people in the house
 6. Past experience with renters (party/drug house)
 7. Property Management
3. Zoning/Ordinance
4. Rights Under Law

LEGAL STANDARD – PREEMPTION

- F.S. § 509.032
 - (7) PREEMPTION AUTHORITY.—
 - (a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206.
 - (b) A local law, ordinance, or regulation may not prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals. This paragraph does not apply to any local law, ordinance, or regulation adopted on or before June 1, 2011.

THE LEGAL STANDARD

- If the Applicant shows that the application meets the statutory and ordinance criteria for granting a conditional use, the City must grant the application;
- Otherwise, “the burden is upon the City to demonstrate, by competent substantial evidence presented at the hearing and made part of the record, that the conditional use requested by the [applicant] did not meet such statutory standards and was, in fact, adverse to the public interest.”

- *Irvine v. Duval County Planning Commission*, 495 So.2d 167 (Fla. 1986)

THE ORDINANCE STANDARD (CONDITIONAL USE)

- **Fort Pierce Code of Ordinances Art. IV Sec. 125-187 Allowed Uses**
 - (c) *Conditional uses.* Uses identified with a "C" in the use table are permitted in the subject zoning district, if the city commission, after a public hearing, determines that the location and development plans comply with applicable standards and will not violate basic use standards specified in each zoning district, other applicable use standards, additional zoning ordinance provisions and other city laws
 - (2) In permitting a conditional use or the modification of an existing conditional use, the city commission may impose, in addition to those standards and requirements expressly specified in this chapter, any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

CONDITIONAL USE DWELLING RENTAL - ZONING DISTRICT

City of Fort Pierce – Article IV Sec.125-187-Allowed Uses

ZONING DISTRICT	E1	E2	E3	R1	R2	R3	R4	R4A	R5	C1	C2	C3	C4	C5	C6
-Dwelling Rental	-	C	C	C	C	C	C	C	C	-	-	-	P	P	-

Permitted uses – C4 and C5 zones

- Commercial (Central and Tourist)

Conditional uses – E2 through R5 zones

- Residential single-family to High density residential

Prohibited uses – E1, C1-C3, and C6

- Single family estate, Commercial (Office, Neighborhood, General, Marine)

DWELLING RENTAL DEFINED

City of Fort Pierce – Chapter 125, Article I, Sec. 125-3 Definitions; generally

- Dwelling rental (*dwelling unit*) means one or more rooms connected together in a building, constituting a separate, independent housekeeping establishment, other than a motel/hotel, for purposes of rental on a daily, weekly or longer basis, though less than what is otherwise provided for a dwelling, physically separated from any other rooms or dwelling units which may be in the building, and containing sleeping and sanitary facilities and one kitchen.
- *Hotel* means a facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting spaces, entertainment, and recreational facilities.
- *Motel* means a facility offering transient lodging accommodations to the general public with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

THE STATUTORY AND ORDINANCE CRITERIA

- The location and development plans comply with applicable standards.
- The location and development plans will not violate basic use standards in the zoning district, and other applicable use standards.
- The location and development plans will not violate additional zoning ordinance provisions and other city laws.

- Fort Pierce Code of Ordinance Art. IV Sec. 125-187 (c)

THE ORDINANCE STANDARDS (THE APPLICATION)

- **Sec. 125-236. - Application for conditional use.**
 - Application for a conditional use shall be made by filing an application on a form prescribed by the city and by filing an application for site plan review in accordance with the requirements set forth in section 125-313. Conditional use applications where there is no new construction associated with the use or where such construction is limited to changes in the interior of an existing building shall be exempt from site plan review except that the procedures and standards of section 125-313 shall apply to the review and approval of the conditional use except as otherwise provided in section 125-237.
- **Sec. 125-313** Not a Major Site Plan or a Minor Site Plan. Therefore, no requirements for an application for site plan review in accordance with section 125-313.

THE ORDINANCE STANDARDS (THE APPLICATION)

- Pre-application conference.
- Submittal requirements.
 - A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized.
 - A vicinity map, and any other information required by the city planning department. The vicinity map and site plan shall be submitted in compliance with subsection (a)(3) of this section. (The vicinity map shall indicate the general location of the site, abutting streets, existing utilities, complete legal description of the property in question, and all adjacent land uses.)
- Technical review committee.
- Planning board.
- City commission public hearing.
 - (1)The city commission shall hold a public hearing in accordance with the provisions of section 125-37 prior to acting on the application for conditional use.
 - (2)In permitting a conditional use or the modification of an existing conditional use, the city commission may impose, in addition to those standards and requirements expressly specified in this chapter, any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

A DWELLING RENTAL IS A RESIDENTIAL USE - IT IS NOT A BUSINESS -

- The rental of a dwelling by individuals to dwell there, i.e., to sleep, cook, eat, bathe, clean, rest, and recreate, and even to engage in work and employment, is a residential use, not a commercial use.
- The receipt of money by the owner of a dwelling for the rental of a dwelling by individuals to dwell there does not convert or transform the use as a dwelling to a commercial use.

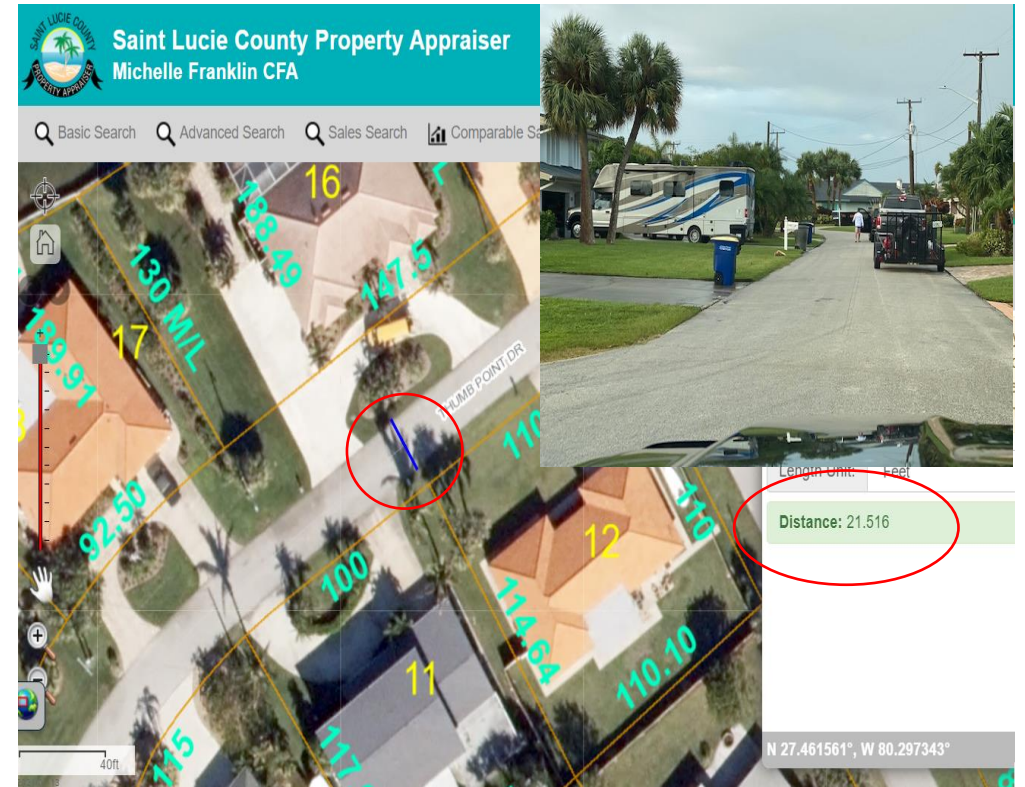
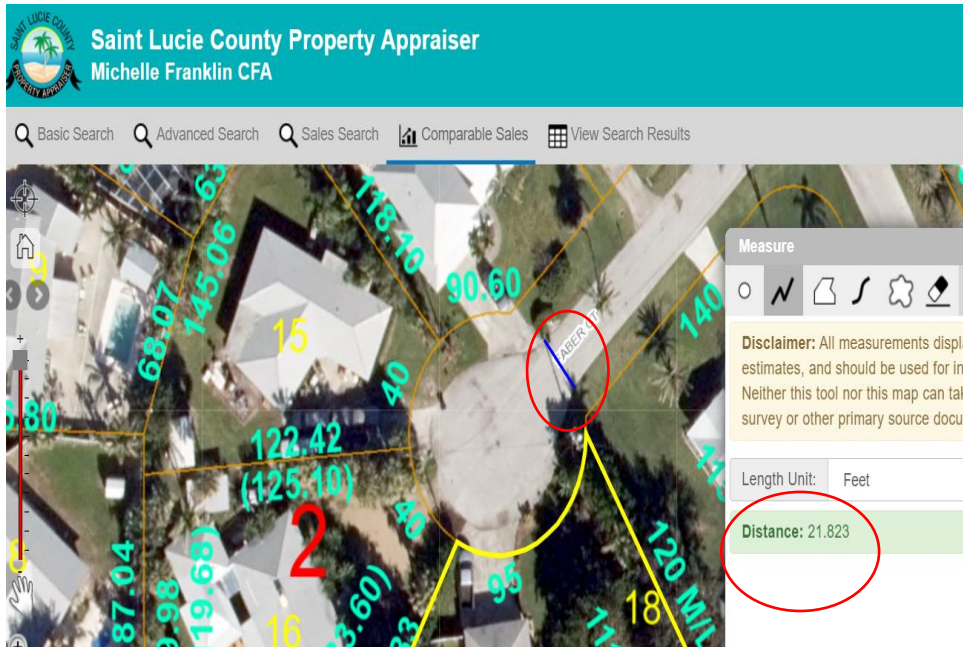
- *Santa Monica Beach Property Owners Association, Inc. v. Acord*, 219 So.3d 311 (Fla. Dist. Ct. App. 2017).

HOME/FAMILY SIZE

- Unmarried and unrelated people may occupy a dwelling house.
 - Co-ownership
 - Lessees
- There is no legal limit to the size of a family occupying a dwelling house.
 - Moore v. City of East Cleveland, 431 U.S. 494 (1977)
- There is also a constitutional right to live together as a family, and this right is not limited to a nuclear family. The concept of “family” extends to both nuclear and extended family and extends beyond the biological relationship to the situation of foster families.

NEIGHBOR ISSUE: SAFETY

- Ingress and egress into Faber Ct
- Parking on the street



Lawn/Pool Maintenance



NEIGHBOR ISSUE: SAFETY

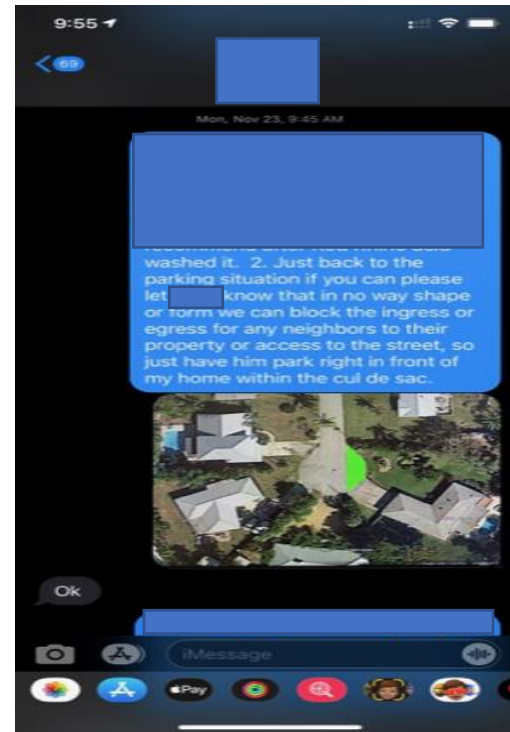
- Ingress and egress into Faber Ct
- Parking on the street

Action in place

- Contractors will park in front of the property, regardless of what house they are servicing.
- No street parking as part of house rules for tenants.
- Additional condition placed by city conditional use, of limiting to 2 tenant vehicles.

RULES & REGULATIONS of 1507 Faber Court, Fort Pierce, FL, 34949:

1. Remove all trash and dispose of it in the provided trash can.
2. Peaceful enjoyment of pool and outside area at reasonable hours without excessive noise or music. Respect your neighbors.
3. Pets need to remain in compliance with local leash and pet fecal disposal laws.
4. Smoking is prohibited.
5. Park in the garage and driveway. No street parking allowed.
6. Do not litter.



NEIGHBOR ISSUE: SAFETY

- Children playing in the street
- Don't know the people that are staying there
- Limitation of people in the house

Action in place

- Do not let the children play in the street. Already covered by the law.
 - **Fort Pierce Code Chapter 32, Article 1, Sec. 32-6. - Playing in streets.** It shall be unlawful for any person to play ball or any other game upon the public streets or parks, except at places provided for such games, or to authorize, permit or encourage children under one's care or custody to play upon the public streets or other prohibited areas.
- There is a prescreening with interview, background check, with full signed lease that includes all rules, for all tenants.
- We are limiting the occupation of our home to 8 adults, 2 infants. This meets the city ordinance regarding occupancy.

The screenshot shows a background check report from USA Background Screening, LLC. The report includes the following information:

Search Information Provided

Name: ANDRES GUANIZZO
SSN: [REDACTED]
DOB: [REDACTED]
Street: 12 Country Lake Trail
City: Sebring Beach
State: FL
Zip: 33416

The following are included in this report:

Search Type	Status
SSN Trace Past Address History	Complete
Nationwide Criminal Database Searches	BCS Nationwide Criminal Database - Complete - No Record
Bankruptcies, Tax Liens and Judgments Search	No Record
Statewide Eviction Search	Complete

SSN Trace Past Address History

To view SSN Trace, Name, Address & Address History, please go to "Detailed View" page for your applicant. Under Search Types, click "Instant SSN Trace Past Address History", a green "Complete" link will show on right-side, click to view. View [SSN Trace](#) image.

Social Security Number [REDACTED]
Name ANDRES GUANIZZO
DOB [REDACTED]
Search ID 02292001
Date Ordered 02/11/2021
Date Completed 02/11/2021
Results This search was performed for location purposes.

PRINT MAP

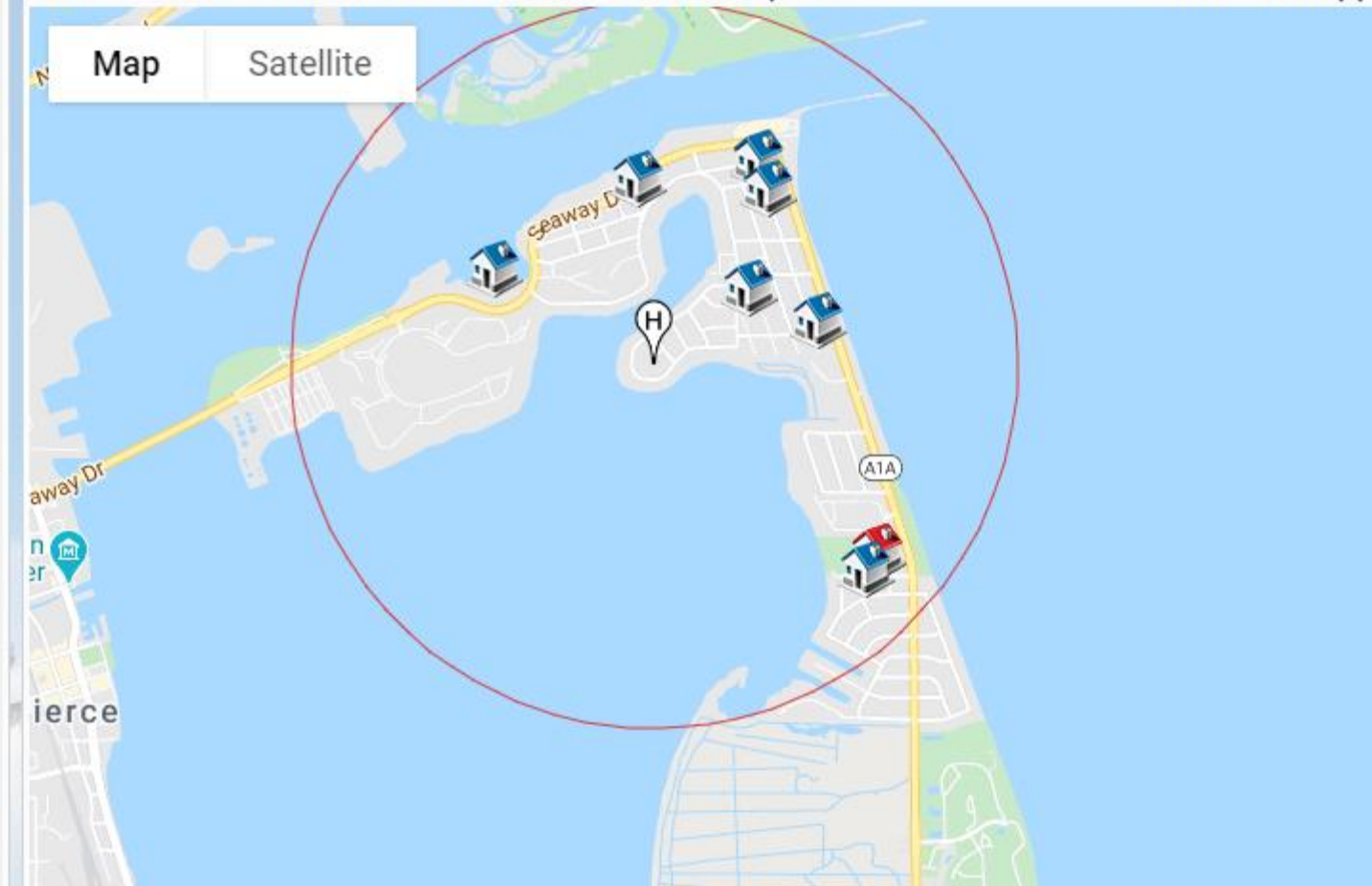
-  Your Search Location
-  Transient Offender
-  Transient Predator
-  Sexual Offender
-  Sexual Predator
-  Multiple Offenders
-  Your Search

This map displays the location of sexual offenders and predators that live within the specified

Your Search Location: 1507 FABER COURT FORT PIERCE, FL 34949

Radius: 1 Mile(s)

Map Satellite



Above and Beyond

Issue

- Safety of children
- Parking
- Limiting the number of occupants

Action in place

- Background check requirement; no visitor who must report or register.
 - No such requirement of any other resident.
- Limit of two vehicles
 - No such limit on any other homeowners in the neighborhood.
- Yard/Pool Service Vehicles in specific area.
 - No such limit on any other homeowners in the neighborhood.
- 8 adults; 2 children (10 total)
 - No such limit on any other resident.

SAFETY

- The house went under an independent health and safety inspection and was deemed safe.



April 12, 2021

Mr. Andres Guarnizo, Owner of Residence
1507 Faber Court
Fort Pierce FL, 34949

Re: Florida Building Code and Florida Fire Prevention Code Inspection

Dear Mr. Guarnizo:

On April 8, 2021 I conducted a life safety and fire protection inspection in at the above referenced property to ascertain compliance with the Florida Building Code, Residential, 7th edition (FBCR) and the Florida Fire Prevention Code, 7th edition (FFPC,) as applicable. I am a licensed professional engineer with my expertise in fire protection and life safety. I have been practicing in my private sector business for three years as a fire code and building code consultant. Prior to that, I served as the Fire Chief and Fire Marshal for Palm Beach County Fire Rescue. I have been accepted as an expert witness in various civil and quasi-judicial hearings as both a citizen and as a public servant relating to fire and building code testimony.

My findings after conducting the inspection of your residence as a single family dwelling is that it is my professional engineering opinion that your home is in compliance with both the FBCR and the FFPC as it relates to fire protection and life safety for existing single family dwellings. Additionally, I believe it is important to note that your home exceeds the minimum requirements found in the FFPC specifically relating to the exemption of carbon monoxide devices. However, you have chosen to install one in the living area thereby exceeding the fire code.

Please let me know if you have any questions regarding my findings.

Sincerely,

Jeffrey P. Collins, MS, PE

PROPERTY MANAGEMENT

- There is a local property manager assigned that lives within St Lucie County.
- Security camera system being installed that monitors for both audio and video signals, along the perimeter of the property.

Tenant safety

- Home alarm system was installed that also has actively monitored smoke detectors, for fire safety.
- Fire extinguishers are also located in every bedroom.
- Carbon monoxide detector also installed within the home that exceeds the standard.

NEIGHBOR ISSUE: PETS

- Pet registration

Action in place

- Applicant will require visitors to provide rabies certificates and the vaccination tag must be worn.
 - No such requirement of any other visitor or resident.

ABOVE AND BEYOND

- Sec. 6-119 Registration.
 - (b) Owners or custodians of dogs and cats requiring registration pursuant to this article shall register and obtain tags as follows:
 - (1) Within 30 days of acquiring the dog or cat; or
 - (2) Within 30 days **after** the owner or custodian takes residence in the incorporated areas of the city, whichever occurs later.
 - (f) The registration provisions of this article **shall not apply to:**
 - (1) **Any owner or custodian who is a nonresident or temporary resident, as defined herein, provided that the owner's animal has been vaccinated for rabies and this vaccination remains valid for the duration of the anticipated stay within the incorporated areas of the city and that a valid rabies tag is worn as required by this chapter.** The term "temporary resident," as used herein, means a person who intends to reside within the city for a total period of less than six months during any 12-month period.

NEIGHBOR ISSUE: BUSINESS USE

- “If a vacation renter uses a home ‘for the purposes of eating, sleeping, and other residential purposes,’ this use is residential, not commercial, no matter how short the rental duration.”
 - Santa Monica Beach Prop. Owners Ass'n, Inc. v. Acord, 219 So. 3d 111, 114 (Fla. Dist. Ct. App. 2017)
- “[T]he nature of the property's use is not transformed from residential to business simply because the owner earns income from the rentals.”
 - Santa Monica Beach Prop. Owners Ass'n, Inc. v. Acord, 219 So. 3d 111, 115 (Fla. Dist. Ct. App. 2017)
- “[N]either [the] financial benefit nor the advertisement of the property or the remittance of a lodging tax transforms the nature of the use of the property from residential to commercial.”
 - Santa Monica Beach Prop. Owners Ass'n, Inc. v. Acord, 219 So. 3d 111, 115 (Fla. Dist. Ct. App. 2017)

QUASI-JUDICIAL PROCEDURES FOR FORT PIERCE

- Standard of Proof. The decision of the City Commission to approve, deny or modify an agenda item shall be based on competent substantial evidence. Competent substantial evidence is evidence which will establish a substantial basis from which the fact at issue can reasonably be inferred. It includes fact or opinion evidence offered by an expert on a matter that requires specialized knowledge and that is relevant to the issues to be decided. It is evidence a reasonable mind could accept as having probative weight and adequate to support a legal conclusion. **Hypothetical, speculative, fear or emotion based generalized statements that do not address the relevant issues and that cannot be reasonably said to support the action advocated, are not competent substantial evidence.**

THE APPLICANT HAS COMPLIED WITH ALL THE ORDINANCE STANDARDS

- The application complies.
- The application has been to the Technical Review Committee.
- The application has been to the Planning Board.
- The location and development plans comply with applicable standards.
- The location and development plans will not violate basic use standards in the zoning district, and other applicable use standards.
- The location and development plans will not violate additional zoning ordinance provisions and other city laws.

THE APPLICANT ACCEPTS ALL THE STAFF CONDITIONS

- 1. There will be a property manager for the vacation rental, which shall be available at all times to resolve complaints or violations of city code. Said manager shall reside in St. Lucie County and shall be registered with the City of Fort Pierce.
- 2. Guide booklets (available from Code Enforcement) shall be provided to renters regarding local rules and public service resources, to minimize conflicts.
- 3. The applicant shall file for and obtain St. Lucie County and City of Fort Pierce Business Tax Licenses within thirty (30) days of issuance of a license from the Florida Department of Business & Professional Regulation.
- 4. There shall be a limitation of no more than two (2) vehicles per unit.
- 5. The City of Fort Pierce Business Tax License number shall be included on all advertising.

THE APPLICANT ADDRESSES THE NEIGHBORS ISSUES

- Ingress and egress.
- Parking on the street.
- Kids playing in the cul-de-sac.
- Not knowing the tenants.
- Limitation of people in the house.
- Property Management.

COMPARISON

Every Other Single-Family Home in Fort Pierce

- No restriction on residents.
- No restriction on occupants.
- No restriction on number of occupants or residents.
- No restriction on daytime and nighttime activities of residents or occupants.
- No restriction on vehicles, yard and home maintenance, trash.
- No monitoring or restriction on pets.
- No monitoring by any third party with an interest in the property and the quiet occupancy of the home.

1507 Faber Ct.

- Background checks.
- No registered offenders.
- Maximum of 8 adults and 2 children.
- House rules on site and in the rental agreement, breach of which terminates the agreement.
- Restriction on the number of vehicles, parking of maintenance vehicles.
- Proof of rabies vaccination and tags must be worn.
- Local property manager and Management Company to monitor the property and the activities of the residents.

JEFFREY P. COLLINS

361 Mulberry Grove Rd, Royal Palm Beach, FL 33411 (561) 723-3225

Email: jeffcollins@collinsfls.com

OBJECTIVE

To document my work history and credentials.

WORK EXPERIENCE

2018-Current Collins Fire Protection and Life Safety Solutions WPB, FL

Chief Executive Officer

Owner of a small veteran owned engineering company specializing in code interpretation, fire protection system design and installations, and life safety analysis. Projects include designing fire alarm systems, fire pump, and automatic fire sprinkler systems for all occupancies identified in the Florida Building Code and Florida Fire Prevention Code. Expertise in analyzing existing buildings for compliance with the Life Safety Code, NFPA 101. Expert witness project includes MW Horticulture quasi-judicial hearing in Ft. Myers, Florida.

1996-2018 Palm Beach County Fire Rescue Palm Beach County, FL

Fire Rescue Administrator (Ret.)

Oversaw the entire daily operations of a full time career department with an operating budget of approximately four hundred forty million dollars. Planned and budgeted for five year capitol projections along with annual budget submittals. Negotiated and administered a collective bargaining agreement on behalf of the Board of County Commissioners. Negotiated contracts with municipalities for continued fire rescue services. Oversaw the procurement process for the purchase of engines, trucks, rescues, brush trucks, and all associated equipment and uniforms associated with running a professional fire rescue agency. Guided the replacement of capital assets, building replacements, and renovations. Planned new fire station construction projects based on growth and call volumes. Oversaw the operations of a fire prevention bureau that included plans examination, inspections, investigations, community education and drowning prevention.

1993-1996 Raleigh Fire Department

Raleigh, NC

Deputy Fire Marshal

Supervised and trained newly promoted Captains assigned to the Fire Prevention Bureau. Conducted highly technical inspections of all occupancies including manufacturing plants, hospitals, high rise buildings, and warehouses. Acted as the fire department liaison to the Building Official. Worked with Operations to develop a hazardous material operational plan. Attended LEPC meetings on behalf of the department.

1985-1989 United States Army Fort Polk, LA
Sergeant (E-5)

Worked as a Russian Linguist (MOS 98-G) for four years on active duty and was honorably discharged. Attained the rank of Sergeant and was assigned as a squad leader where I trained my soldiers in the event we were deployed to battle. Maintained Russian proficiency while operating as a Russian Intelligence Voice Interceptor.

EDUCACION

2006 ***Masters of Science in Organizational Leadership***
Palm Beach Atlantic University West Palm Beach, FL

1993 ***Bachelors of Science in Fire Protection Engineering***
University of Maryland College Park, MD

CERTIFICATIONS, MEMBERSHIPS, AND COMMUNITY INVOLVEMENT

Liscense and Certifications

Professional Engineer Liscense in the State of Florida
Certified Fire Fighter State of Florida

Memberships

National Fire Protection Association
National Society of Professional Engineers
Florida Engineering Society member
Metro Chief Section of the National Fire Protection Association
Fire Service Section of the National Fire Protection Association

Volunteering and Community Involvement

Past Chair for the Fire Code NFPA 1 1997 - 2018
St. Mary's Medical Center Board of Governors 2012 – 2018
United Way Campaign Coordinator for Palm Beach County employees
Unerwriter's Laboratory Fire Council Past Member
Fire Marshals and Inspectors Association Past President