

**SPECIAL PERMIT NO. SP-21-05
NDL, LLC – NDL, LLC Palmetto Shop
(PLN2105-0115)**

FINAL ORDER OF MANATEE COUNTY HEARING OFFICER KELLY FERNANDEZ ON BEHALF OF MANATEE COUNTY GRANTING SPECIAL PERMIT NO. SP-21-05 TO ALLOW EQUIPMENT SALES, LEASING, STORAGE AND REPAIR – HEAVY USE, AS DEFINED BY THE MANATEE COUNTY LAND DEVELOPMENT CODE, PERMITTING INCIDENTAL USE OF OUTDOOR STORAGE OF LANDSCAPE MATERIAL AND EQUIPMENT FOR A PROPOSED LANDSCAPING AND IRRIGATION BUSINESS THAT PROPOSES A PRELIMINARY SITE PLAN DETAILING FACILITIES CONSISTING OF TWO (2) BUILDINGS HAVING 25,800 SQUARE FEET OF INDOOR STORAGE WITH AN OFFICE AND MAINTENANCE FACILITY, LOCATED ON APPROXIMATELY 7.72 ACRES LOCATED AT THE SOUTHEAST CORNER OF U.S. HIGHWAY 41 AND 85TH STREET EAST, KNOWN AS 2519 85TH STREET EAST, PALMETTO (MANATEE COUNTY), ZONED A-1 (AGRICULTURAL SUBURBAN) AND LYING WITHIN THE MU (MIXED USE) FUTURE LAND USE CATEGORY (FLUC); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Manatee County adopted the Manatee County Land Development Code (LDC), Manatee County Ordinance 15-17, as amended; and

WHEREAS, pursuant to the LDC, Manatee County Ordinance 15-17, as amended, the Hearing Officer has the authority to grant Special Permits; and

WHEREAS, NDL, LLC requested a Special Permit for a landscaping and irrigation business for the storage of company trucks, movers and equipment with an incidental use of outdoor storage of material and equipment with the facility including two (2) buildings having 25,800 square feet of indoor storage with an office and a maintenance facility; and

WHEREAS, on April 20, 2022 the aforementioned Hearing Officer held a public hearing to receive the staff report, applicant, and public comment, and argument regarding the proposed Special Permit.

NOW, THEREFORE, after consideration of the application for Special Permit 21-05 requested by NDL, LLC, the Hearing Officer makes the following Findings of Fact and Conclusions of Law and issues the Final Order as follows:

Section 1. Findings of Fact. The aforementioned Hearing Officer, after considering comment, argument, evidence, documentation and staff report presented, as well as all other matters presented at the Public Hearing above referenced, hereby makes the following Findings of Fact:

- A. The site is in the A-1 (Agriculture Suburban) zoning district.
- B. The site is in the MU (Mixed Use) Future Land Use Category.
- C. The request is to approve a Special Permit to allow Equipment Sales, Leasing, Storage and Repair – Heavy, as defined by the Manatee County LDC, permitting incidental use of outdoor storage of landscape material and equipment for a proposed landscaping and irrigation business that proposes a Preliminary Site Plan (PSP) detailing facilities consisting of two (2) buildings having 25,800 square feet of indoor storage with an office and maintenance facility, located on approximately 7.72 acres of land.
- D. The overall site lies within Zones X, A, AE per FIRM Panel 12081C0158F

Section 2. Conclusions of Law. Based upon the prior Findings of Fact and considering the testimony, evidence, documentation and the staff report presented, and a review of the applicable provisions of the Manatee County Comprehensive Plan and Manatee County LDC, the above referenced Hearing Officer hereby makes the following Conclusions of Law:

- A. This Hearing Officer has jurisdiction over the parties and subject matter in this proceeding pursuant to the LDC.
- B. The applicant has the burden of proving entitlement to the Special Permit it seeks. Irvine v. Duval Cty Planning Commission, 495 So.2d 167 (Fla. 1986); Florida Department of Transportation v. J.W.C. Company, Inc., 396 So.2d 778 (Fla. 1st DCA 1981).
- C. The proposed use is consistent with the Manatee County Comprehensive Plan.
- D. The proposed use is in compliance with the Manatee County LDC, including Sections 316.6 (Special Permit Review Criteria) and 531.18 (Equipment Sales, Rental, Leasing, Storing and Repair - Heavy).
- E. The proposed use will not be detrimental to or endanger the public health, safety or general welfare.
- F. The proposed use will not impede the normal and orderly development and improvement of surrounding properties for uses permitted in the zoning district.
- G. Adequate measures will be taken to provide ingress and egress to the

proposed use in a manner that minimizes traffic congestion in the public streets.

- H. The use, as proposed, is compatible with the surrounding uses and the general desired character of the area (height, bulk, scale, intensity, traffic, noise, drainage, lighting, and appearance).
- I. Development of the proposed use will not have a substantial adverse effect on a known archaeological, historical or cultural resource located on or off the parcel proposed for development as there are no known resources located on or near the subject site.
- J. Adequate provisions have been made for screening and buffers to improve compatibility and harmony of the proposed uses and structures with the uses and structures of adjacent and nearby properties.
- K. The proposed use will not have a significant adverse effect on the natural environment, including land, air, water, wetlands, minerals, flora, fauna, and ambient noise.

Section 3. Order. Based upon the foregoing, a Special Permit is hereby approved and issued to NDL, LLC, to allow Equipment Sales, Leasing, Storage and Repair – Heavy, as defined by the Manatee County LDC, permitting incidental use of outdoor storage of landscape material and equipment for a proposed landscaping and irrigation business that proposes a PSP detailing facilities consisting of two (2) buildings having 25,800 square feet of indoor storage with an office and maintenance facility, located on approximately 7.72 acres of land located at the southeast corner of U.S. Highway 41 and 85th Street East, known as 2519 85th Street East, Palmetto, as more particularly described in Exhibit “A” attached hereto and incorporated herein, subject to the following stipulations:

1. The Special Permit will not be effective until it has been recorded in the Public Records of Manatee County, Florida by the applicant and a copy of the recorded Order is received by the Planning Division of the Building and Development Services Department.
2. All other applicable state or federal permits shall be obtained prior to commencement of development.
3. The applicant is required to submit a Final Site Plan consistent with the PSP for review and approval subsequent to the approval of the Special Permit.
4. The proposed uses are subject to the definitions Lawn Care and Landscaping Establishment and permitted under the classification and requirements of Equipment sales, rental, leasing, storage, and repair – heavy.
5. The project is not approved for any recycling activities including but not limited to burning, wood chipping, etc.

6. The subject property shall be evaluated for the review of adverse impacts at the time of FSP approval and may be subject to the requirements of LDC Sections 540-542.
7. A lighting plan shall be required at the time of Final Site Plan (FSP) approval.
8. A revised FSP shall be required should the Special Permit receive any future revisions.
9. There are no impacts to jurisdictional wetlands or wetland buffers being approved by the adoption of this Ordinance.
10. A Construction Water Quality Monitoring Program and proposed sampling locations are required to be included in the ESCP information on the Final Site Plan in accordance with Section 353.3 of the LDC.
11. A Well Management Plan for the proper protection and abandonment of existing wells shall be submitted to the EPS for review and approval prior to recommencing construction activities. The Well Management Plan shall include the following information:
 - Digital photographs of the well along with nearby reference structures (if existing);
 - GPS coordinates (latitude/longitude) of the well;
 - The methodology used to secure the well during construction (e.g. fence, tape); &
 - The final disposition of the well - used, capped, or plugged.
12. Irrigation for landscaping shall use the lowest water quality source available, which shall be identified on the Final Site Plan. Use of Manatee County public potable water supply shall be prohibited.
13. Pursuant to Section 801 of the LDC, Manatee County Floodplain Ordinance (Ordinance #20-22, or as amended), and Code of Federal Regulations (CFR), Title 44, Section 60.3, the Construction Plan and associated Drainage Modeling shall demonstrate that no adverse impacts will be created to neighboring properties surrounding the site with respect to proposed impacts to the 100-year floodplain as derived from the adopted Buffalo Canal Watershed Management Plan (WMP), the latest effective FEMA Flood Insurance Rate Maps (FIRM), and post-development discharge of runoff. The following storm frequency events, corresponding cumulative rainfall, and rainfall distribution shall be provided as a comparison of the existing pre-development condition versus the proposed post-development condition:
Storm Frequency: Cumulative Rainfall: Rainfall Distribution:
10-year/24-hour 7 inches FLMOD
25-year/24-hour 8 inches FLMOD
100-year/24-hour 10 inches FLMOD

100-year/72-hour 18 inches FDOT-72

14. The comparison of existing pre-development condition versus the proposed post-development development condition shall include results in terms of runoff and staging. Drainage Modeling (utilizing best available information from the adopted Buffalo Canal Watershed Management Plan) shall be submitted to demonstrate compliance prior to commencement of construction.
15. Any fill within the 100-year floodplain with respect to the rainfall component of flooding shall be compensated by the creation of an equal or greater storage volume above seasonal high-water table. 100-year floodplain compensation shall be compensated in sole use compensation areas, not dual use facilities (i.e., stormwater attenuation and floodplain compensation). Alternatively, the applicant can utilize drainage modeling (submitted for review to the Public Works Department with subsequent Final Site Plan and/or Construction Plan submittal) to demonstrate no adverse drainage impacts are created for design storm frequency events to a no-rise condition.

Section 4. Severability. In the event that any portion or section of this Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decisions shall in no manner affect the remaining portions or sections of the Special Permit which shall remain in full force and effect.

Section 5. Effective Date. The effective date of this Special Permit shall be upon execution of this Order and its recordation in the Official Records by the applicant with the Office of the Clerk of the Circuit Court and receipt of a copy of the recorded Order by the Development Services Department.

ORDERED ON BEHALF OF MANATEE COUNTY this 15th day of May, 2022.

MANATEE COUNTY, FLORIDA



BY: [Signature], as
Hearing Officer for Manatee County

ATTEST: ANGELINA COLONNESO,
Clerk of the Circuit Court

BY: [Signature]
Deputy Clerk

EXHIBIT "A"
Legal Description

A PARCEL OF LAND BEING A PORTION OF SECTION 19, TOWNSHIP 33 SOUTH, RANGE 18 EAST, MANATEE COUNTY, FLORIDA, BEING FURTHER DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 19 FOR A POINT OF BEGINNING; THENCE RUN ALONG THE NORTHERLY EXTENSION OF THE WEST LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 19, N01°25'07"E, FOR A DISTANCE OF 67.61 FEET TO THE NORTH LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 1538, PAGE 6612 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA, SAME ALSO BEING THE SOUTHERLY RIGHT OF WAY OF ROCK PAYNE ROAD PER SAID OFFICIAL RECORDS BOOK 1538, PAGE 6612; THENCE RUN ALONG SAID NORTH LINE AND SAID SOUTHERLY RIGHT OF WAY, N89°31'12"E, A DISTANCE OF 335.14 FEET; THENCE CONTINUE ALONG SAID NORTH LINE AND SAID SOUTHERLY RIGHT OF WAY, S89°05'35"E, A DISTANCE OF 103.54 FEET TO AN INTERSECTION WITH THE NORTHERLY EXTENSION OF THE EAST LINE OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1257, PAGE 3794 OF THE PUBLIC RECORDS OF MANATEE COUNTY, FLORIDA; THENCE RUN ALONG SAID EAST LINE S01°02'59"W, A DISTANCE OF 67.56 FEET TO THE NORTHEAST CORNER OF SAID CERTAIN PARCEL OF LAND AS DESCRIBED IN OFFICIAL RECORDS BOOK 1257, PAGE 3794; THENCE RUN ALONG SAID EAST LINE S01°02'59"W, A DISTANCE OF 692.46 FEET TO AN INTERSECTION WITH A LINE 15 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 19 AND ITS EASTERLY EXTENSION; THENCE RUN ALONG THE SAID LINE 15 FEET SOUTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 19 AND ITS EASTERLY EXTENSION S89°51'41"W, A DISTANCE OF 443.55 FEET TO AN INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WEST LINE OF SAID EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 19; THENCE RUN ALONG SAID WEST LINE AND ITS SOUTHERLY EXTENSION N01°25'07"E, A DISTANCE OF 15.01' FEET TO THE SOUTHWEST CORNER OF SAID EAST 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 19; THENCE CONTINUE ALONG SAID WEST LINE N01°25'07"E, A DISTANCE OF 677.41 FEET TO THE POINT OF BEGINNING.

Angelina "Angel" Colonnese
Clerk of the Circuit Court of Manatee County Florida
1115 Manatee Avenue West, Bradenton, Florida 34205
P.O. Box 25400, Bradenton, Florida 34206
Phone (941) 749-1800 - Fax (941) 741-4082
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Recorded By: hhooy
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Receipt#: 900492208 Payee Name: COUNTER CUSTOMER
Receipt Date: 05/26/2022

Instrument(s): 202241070232-ORDER

Receipt Total:	\$52.50
Amount Tendered:	\$52.50
Overage:	\$0.00
Service Fee	\$0.00
Total PAID	\$52.50

Check	\$52.50	CHECK #	31203
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Amount Paid	\$52.50
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Instrument: 202241070232 ORDER		
001000000341100	RECORDING FEE \$5/\$4	\$25.00
199000000341150	PRMTF \$1/\$.50	\$3.50
001000000208911	PRMTF FACC \$.10	\$0.60
199000000341160	PRMTF CLERK \$1.90	\$11.40
001000000208912	PRMTF BCC \$2	\$12.00
Instrument Total:		\$52.50

Receipt

5/26/2022 9:52:56AM

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Fines, fees, services charges, court costs and other costs are determined by law enacted by the Florida Legislature. If requested, a receipt is available indicating specific fund account distribution.