

# ATTACHMENT 6 - TRASKA FLUEDRA REQUEST

February 26, 2024

## SENT VIA FEDERAL EXPRESS AND ELECTRONIC MAIL:

Jason Steele, Chair  
Brevard County Board of County Commissioners  
490 Centre Lake Drive Suite 175  
Palm Bay, FL 32907

Frank Abbate  
Brevard County Manager  
2725 Judge Fran Jamieson Way, Bldg. C  
Viera, FL 32940

## SENT VIA ELECTRONIC MAIL:

Morris Richardson  
Brevard County Attorney  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

**Re: Request for Relief under the Florida Land Use and Environmental Dispute Resolution Act, Section 70.51, Florida Statutes**

Dear Commissioner Steele, Mr. Abbate, and Mr. Richardson:

This correspondence is transmitted to you on behalf of Joseph Traska (“Owner”), the owner of real property located at 134 Diane Circle Indialantic, FL 32903 (the “Property”) and is intended to serve as a formal request for relief pursuant to Section 70.51, Fla. Stat. (the Florida Land Use and Environmental Dispute Resolution Act” or “FLUEDRA”).

### I. OVERVIEW

This FLUEDRA Request is the result of Brevard County’s public opposition and subsequent enforcement actions that severely, unreasonably, and unfairly burden Owner’s Property because they seek to prevent Owner from constructing a structure on the Property in accordance with construction plans approved by Brevard County.

As fee simple owner of the Property and the Respondent in the code enforcement action, Traska is the “owner” under Section 70.51(2)(d), *Florida Statutes*. Brevard County, is a “governmental entity” as defined by Section 70.51(2)(f), *Florida Statutes*. Pursuant to Section 70.51(3), Florida Statutes, if an owner believes an “.....enforcement action of a governmental entity is unreasonable or unfairly burdens the use of the owner’s real property..... the owner may

file a claim for relief under the Act. As more-fully stated herein, Owner believes Brevard County's actions are unreasonable and unfairly burden the Property.

On October 28, 2022, Owner submitted to Brevard County a building permit application to construct an accessory building on the Property. A copy of pages 1-3 of the building permit application are attached hereto as Exhibit A.

On March 24, 2023, Brevard County issued a building permit to Owner to construct the accessory building on the Property utilizing shipping containers as detailed in select pages from the Brevard County approved plans attached hereto as Exhibit B.

After permit issuance, Owner began construction of the structure on the Property in compliance with the approved plans. In October 2023, Owner was advised by his structural engineer that the second floor of the structure should be oriented parallel to the first floor instead of perpendicular to the first floor as reflected on the approved plans. Owner's structural engineer made the determination that parallel orientation would be "safer and more stable than the original design". A copy of the structural engineer's assessment report is attached hereto as Exhibit C.

On October 17, 2023, Brevard County issued a Stop Work Order to Owner. The Stop Work Order directed Owner to discontinue construction on the Property and directed Owner to submit revised drawings reflecting the parallel alignment of the second floor. A copy of the Stop Work Order is attached hereto as Exhibit D.

On October 26, 2023, Owner met with Brevard County to discuss the Stop Work Order. During the meeting, Brevard County relayed to Owner that the second floor of the structure must be removed. Despite Owner's attempts to negotiate with Brevard County aesthetic changes to the structure, Brevard County relayed to Owner that they would not approve any revised plans submitted by Owner that reflected a second floor of the structure (neither parallel nor perpendicular orientation to the first floor) constructed from shipping container materials. Removal of the second floor was the sole option Brevard County offered to Owner.

On October 27, 2023, Brevard County Code Enforcement issued a Violation Notice, alleging that Owner's construction of an accessory structure on the Property substantially deviated from the approved plans and that the accessory structure is being constructed from stacked shipping containers and further demanding that Owner unstack the shipping containers. A copy of relevant pages of the Violation Notice attached hereto as Exhibit E.

On November 7, 2023, the County initiated an enforcement proceeding before the County's Code Enforcement Special Magistrate. A copy of select pages of the Notice of Hearing attached hereto as Exhibit F. The Hearing was held on December 19, 2023. At the conclusion of the Hearing, the Special Magistrate directed the County and Owner to submit memorandums for his review and consideration. A copy of the County's memorandum is attached hereto as Exhibit G and a copy of Owner's memorandum is attached hereto as Exhibit H.

At the December 19, 2023 Code Enforcement Special Magistrate hearing Owner provided to Brevard County a copy of his revised plans reflecting the second floor orientation parallel to the first floor. A copy of Owner's revised plans are attached hereto as Exhibit I. At the hearing, Brevard County indicated that it would not approve Owner's revised plans reflecting a two story structure constructed from shipping container materials.

On February 16, 2023, the County's Code Enforcement Special Magistrate issued Findings of Fact, Conclusions of Law and Order & Lien for Costs, further unfairly and unreasonably burdening Owner's Property by imposing a \$550.00 Enforcement Cost, ordering Owner to "unstack" the shipping containers, and providing for additional fines should Owner fail to "unstack" the shipping containers. A copy of the Findings of Fact, Conclusions of Law and Order & Lien for Costs is attached hereto as Exhibit J.

## II. REQUEST FOR RELIEF

### A. Owner's Proposed Use of the Property.

The Property is currently zoned RU-1-11. The Future Land Use designation for the Property is RES 15. The Property consists of .45 acres containing a single family residence. Owner submitted a building permit application to construct a two story accessory structure on the Property. Accessory buildings and uses customary to residential uses are permitted under the Property's current zoning. As detailed in the Brevard County approved plans (Exhibit B), the second floor of the two story accessory structure was constructed utilizing metal shipping containers.

### B. Summary of the "Development Order" or "Enforcement Action" at Issue.

Pursuant to Section 70.51(3), a property owner who believes that either a "development order" or an "enforcement action" is unreasonable and unfairly burdens the use of the owner's property may apply for relief under FLUEDRA. A "development order" is defined by FLUEDRA as:

[A]ny order or notice of proposed state or regional governmental agency action, which is or will have the effect of granting, denying, or granting with conditions an application for a development permit, and includes the rezoning of a specific parcel.

§70.51(2)(a), Fla. Stat.

A "development permit" is defined as:

[A]ny building permit, zoning permit, subdivision approval, certification, special exception, variance, or any other similar action of local government, as well as any permit authorized to be issued under state law by state, regional, or local government which has the effect of authorizing the development of real property including, but not limited to, programs implementing chapters 125, 161, 163, 166, 187, 258, 372, 373, 378, 380, and 403.

§70.51(2)(b), Fla. Stat.

Brevard County's issuance of the building permit for the Property constitutes a "development permit" under FLUEDRA. Relatedly, Brevard County's Stop Work Order, code violation(s) and Findings of Fact, Conclusions of Law and Order & Lien for Costs constitute both "development orders" and "enforcement actions" under FLUEDRA.

C. Brief Statement of Impact.

Owner's proposed use of the Property consists of the construction of a two story accessory structure from shipping container materials. Brevard County's development orders and enforcement actions are unreasonable and unfairly burden the Property because they are erroneously based on an interpretation that the construction of the accessory structure constitutes "stacking" of containers.

Brevard County's public opposition and subsequent enforcement actions severely and adversely impact Owner's property rights because they leave Owner with no option other than to remove the second floor of the accessory structure in direct contravention of the Brevard County approved plans for the Property and the permit issued by Brevard County. In reasonable reliance upon the Brevard County approved plans and related permit, Owner has incurred substantial expense in the construction of the accessory structure. As such, Owner has been and will continue to be unreasonably and unfairly burdened by Brevard County's actions.


D. Certificate of Service Showing the Parties, Including the Governmental Entity, Served.

The Certificate of Service is attached.

E. Relief Requested.

Brevard County's Findings of Fact, Conclusions of Law and Order & Lien for Costs is the conclusion of the County's enforcement process. As a result, Owner has exhausted all available non-judicial County administrative remedies prior to pursuing this action. Owner requests all relief available under FLUEDRA, including, but not limited to, mediation, and hearing before a Special Magistrate, in order to develop the Property consistent with the approved building plans. Owner reserves the right amend this request and to present the Special Magistrate with a formal memorandum further outlining its position and the legal authorities which support its claim that Brevard County's actions unreasonably and unfairly burden Owner's use of his Property. Owner notes that the filing of this FLUEDRA request for relief tolls the time for seeking judicial review of the development order and enforcement actions. Owner reserves the right to pursue all available alternative legal remedies as may be appropriate.

Cordially,

  
Alicia N. Kelly, Esq.  
Attorney for Owner/Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that on February 26, 2024, a true and correct copy of this document was sent via electronic mail and overnight FedEx delivery to Jason Steele at 490 Centre Lake Drive Suite 175 Palm Bay, FL 32907 (d5.commissioner@brevardfl.gov), and sent via electronic mail and overnight FedEx delivery to Frank Abbate at 2725 Judge Fran Jamieson Way Viera, FL 32940 (frank.abbate@brevardfl.gov) and via electronic mail to Morris Richardson (morris.richardson@brevardfl.gov).

/s/ Alicia N. Kelly

Florida Bar #115374

101 Park Place Blvd. Suite 3

Kissimmee FL 34741

(407) 414 2566 (telephone)

(407) 847 2850 (facsimile)

Email designation pursuant to Fla R.

Jud. Admin 2.516

Primary: [alicia@schoolfieldproperties.com](mailto:alicia@schoolfieldproperties.com)

Secondary: [efiling@schoolfieldproperties.com](mailto:efiling@schoolfieldproperties.com)

Attorney for Owner/Petitioner

## **EXHIBIT LIST**

- Exhibit A- Building Permit Application
- Exhibit B- Approved Building Plans
- Exhibit C- Structural Engineer Assessment Report
- Exhibit D- Stop Work Order
- Exhibit E- Violation Notice
- Exhibit F- Notice of Hearing
- Exhibit G- County's Memorandum
- Exhibit H- Owner's Memorandum
- Exhibit I- Owner's Revised Building Plans
- Exhibit J- Findings of Fact, Conclusions of Law and Order & Lien for Costs



**BREVARD COUNTY BUILDING CODE**  
 2725 Judge Fran Jamieson Way, A114  
 Viera, FL 32940  
 Phone: (321) 633-2187 Email: [InspectMail@brevardfl.gov](mailto:InspectMail@brevardfl.gov)

*R*

**BUILDING PERMIT APPLICATION**  
 Florida Building Code in effect: 7th Edition

**Project Information**

Select the option which best describes the job site:

- Residential: Any one- or two-family building or accessory  
 Commercial: Any building other than a one-or two-family dwelling

**Briefly describe the work to be done:**

Accessory Bldg for game room/office/man cave

Description of work

**Site Address:**

134 Diane Circle	Indialantic	FL	32903
Street	City	State	Zip Code

**Owner's Information**

Complete the Property Owner Email Opt-Out Form if the Owner does not wish to receive emails.

Joseph	Traska	321 361 8848	
First Name	Last Name	Phone Number	
134 Diane Circle	Indialantic	FL	32903
Street	City	State	Zip Code

[jptraska@yahoo.com](mailto:jptraska@yahoo.com)

Email Address

**Applicant's Information**

Indicate "Owner/Builder" in the License Number field if applicable.

Owner/Builder	Joseph	Traska
License Number	First Name	Last Name

Business Name	Phone Number		
Street	City	State	Zip Code

Email Address

**Subcontractor Information**

Write N / A if not applicable or T. B. D. if not yet determined. Include the Subcontractor's full name, not their company name. Do not list state registration numbers.

Plumbing Contractor First and Last Name <u>Blandino, Joseph</u>	License Number <u>ER13014470</u>	Phone Number <u>321 693 0333</u>
Electrical Contractor First and Last Name	License Number	Phone Number
HVAC Contractor First and Last Name	License Number	Phone Number
Roofing Contractor First and Last Name	License Number	Phone Number
Specialty Contractor First and Last Name	License Number	Phone Number

**Cost of Project**

Cost of Project Dollar Amount: 28000

**Project-Specific Information**

For fences, provide the following information:

Material	Height	Total Linear Feet
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For reroofs, provide the following information:

Roof Covering Material	Underlayment	Pitch	Roof Area (squares)
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For new construction, additions, and accessory structures, provide the following information:

<u>0</u>	<u>0</u>	<u>0</u>	<u>Base 640</u>
New Housing Units	New Bedrooms	New Conditioned Sq. Ft.	Total New Sq. Ft.

Sanitary Service, select one:  Sewer  Septic

Potable Water Service, select one:  Private  Public  Well

Site plan number if applicable \_\_\_\_\_ Master plan number if applicable \_\_\_\_\_

**Additional Notices**

Warning to owner: Your failure to record a Notice of Commencement may result in your paying twice for improvements to your property. A Notice of Commencement must be recorded and posted on the job site before the first inspection. If you intend to obtain financing, consult with your lender or an attorney before recording your Notice of Commencement.



\*NOTICE: In addition to the requirements of this permit, there may be additional restrictions applicable to this property that may be found in the public records of this county or that may be required from other governmental entities such as water management district, state agencies or federal agencies.

I hereby acknowledge my responsibility as owner or operator of the structure described herein, to comply with the provisions of Florida Statute 469.003, Asbestos Abatement, and to notify the Florida Department of Environmental Protection of my intentions to remove asbestos, when applicable with State and Federal law.

**Applicant's Affidavit**

Application is hereby made to obtain a permit to do the work and installations as indicated. I acknowledge and accept responsibility for compliance with all applicable codes, regulations and ordinances as well as the payment of all legally constituted fees regarding this development application, including but not limited to ALL REVIEW FEES, PERMIT FEES, IMPACT FEES AND RESERVATION FEES.

Signature: Contractor  
State of Florida, Brevard County

Date:

Subscribed and sworn to before me, by means of \_\_\_\_\_ physical presence or \_\_\_\_\_ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, personally appeared \_\_\_\_\_, who is personally known to me or produced \_\_\_\_\_ as identification, and who did/did not take an oath.

Notary Public Signature

Seal

OWNER'S AFFIDAVIT: I certify that all the foregoing information is accurate and that all work will be done in compliance with all applicable laws regulating construction and zoning.

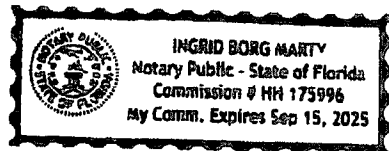
Signature: Owner  
State of Florida, Brevard County

Date: OCT 4 2022

Subscribed and sworn to before me, by means of  physical presence or \_\_\_\_\_ online notarization, this 04 day of OCTOBER, 2022, personally appeared JOSEPH TRASKA, who is personally known to me or produced FL. DRIVER LICENSE as identification, and who did/did not take an oath.

Ingrid Borg Marty  
Notary Public Signature

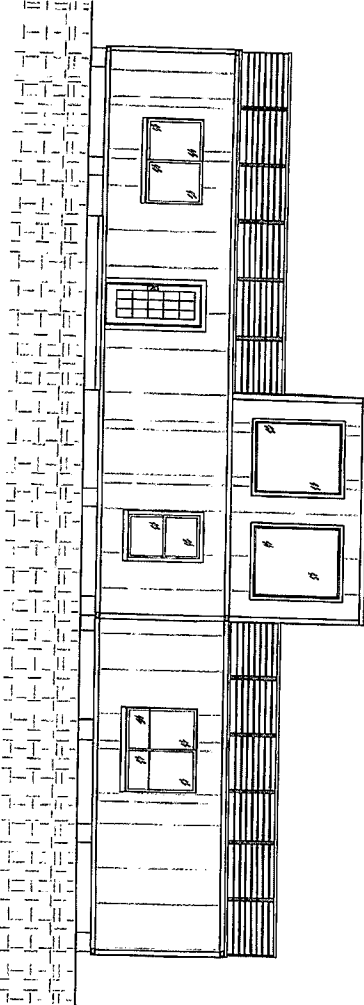
Seal



**FINAL INSPECTION IS REQUIRED** Failure to obtain a final inspection may result in a penalty.

\* Building Code Compliance  
**REVIEWED**  
 By John Connelly

REGISTERED PROFESSIONAL ENGINEER  
 JOHN CONNELLY  
 10000 SW 15th St, Suite 100  
 Miami, FL 33156  
 (305) 551-1111



**TRASKA "MAN CAVE"**

**REFERENCED BUILDING CODES:**

- 2020 FLORIDA BUILDING CODE 7th EDITION, RESIDENTIAL
- 2020 FLORIDA BUILDING CODE 7th EDITION, BUILDING
- 2020 FLORIDA BUILDING CODE 7th EDITION, PLUMBING
- 2020 FLORIDA BUILDING CODE 7th EDITION, MECHANICAL
- 2020 FLORIDA BUILDING CODE 7th EDITION, ENERGY CONSERVATION
- NATIONAL ELECTRICAL CODE 2017

**DESIGN LOAD REQUIREMENTS:**

- a) Uninhabitable attic without storage: 10psf
- b) Uninhabitable attic with limited storage: 20psf
- c) Habitable attic and attic stored with roof value: 30psf
- d) Garages and carports: 20psf
- e) Decks and balconies: 40psf
- f) Guards and handrails: 200psf
- g) Roofs on sleeping porches: 40psf
- h) Sleeping rooms: 30psf
- i) Stair: 60psf

**CONSTRUCTION TYPE V-B**

NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET CODE REQUIREMENTS FOR CATEGORY II, TYPE V-B CONSTRUCTION.

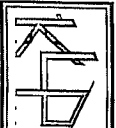
- 1. DESIGN WIND SPEED - V = 140 mph
- 2. RISK FACTOR - CATEGORY II
- 3. EXPOSURE - EXPOSURE B
- 4. INTERVAL PRESSURE COEFFICIENT - (ASCE 7.18) ENCLOSED BUILDINGS - 0.18
- 5. EXPOSURE COEFFICIENT - (ASCE 7.18) ENCLOSED BUILDINGS - 0.18
- 6. SEE WINDOW AND DOOR REQUIREMENTS

Professional Engineer  
 Pedro L. Medina, P.E.  
 License No. 123579  
 State of Florida  
 6/15/2018  
 PE 7536

**NOTE:**  
 EXISTING STORAGE CONTAINER ON PROPERTY IS TO BE RELOCATED AND BE RE PURPOSED IN THIS PROJECT.

**INDEX OF DRAWINGS:**

- CS COVER SHEET
- SP SITE PLAN
- A0 FOUNDATION PLAN
- A1 FLOOR PLAN
- A2 ELEVATIONS
- A3 ELEVATIONS
- E1 STRUCTURAL PLAN
- S1 STRUCTURAL DETAILS
- L1 EXISTING LANDSCAPE PLAN



**KLP DESIGN SERVICES**  
 235 S. WILSON AVE. SUITE 210  
 MAITLAND, FL 32751  
 Phone (407) 947-7549  
 Email: KLP@KLPDESIGN.COM  
 Pedro L. Medina, P.E.  
 Professional Engineer  
 FL P.E. # 123579  
 Pedro@klpdesign.com

DATE: 06/15/22  
 SCALE: AS SHOWN  
 N.T.S.

**TRASKA ACCESSORY BUILDING**  
 "MAN CAVE" 134 DIANE CIRCLE  
 INDIANTLANTIC, FL. 32903

JOB NO. PR031  
 DRAWN BY: [Signature]  
 DATE: 06/15/22  
 SCALE: AS SHOWN  
 N.T.S.

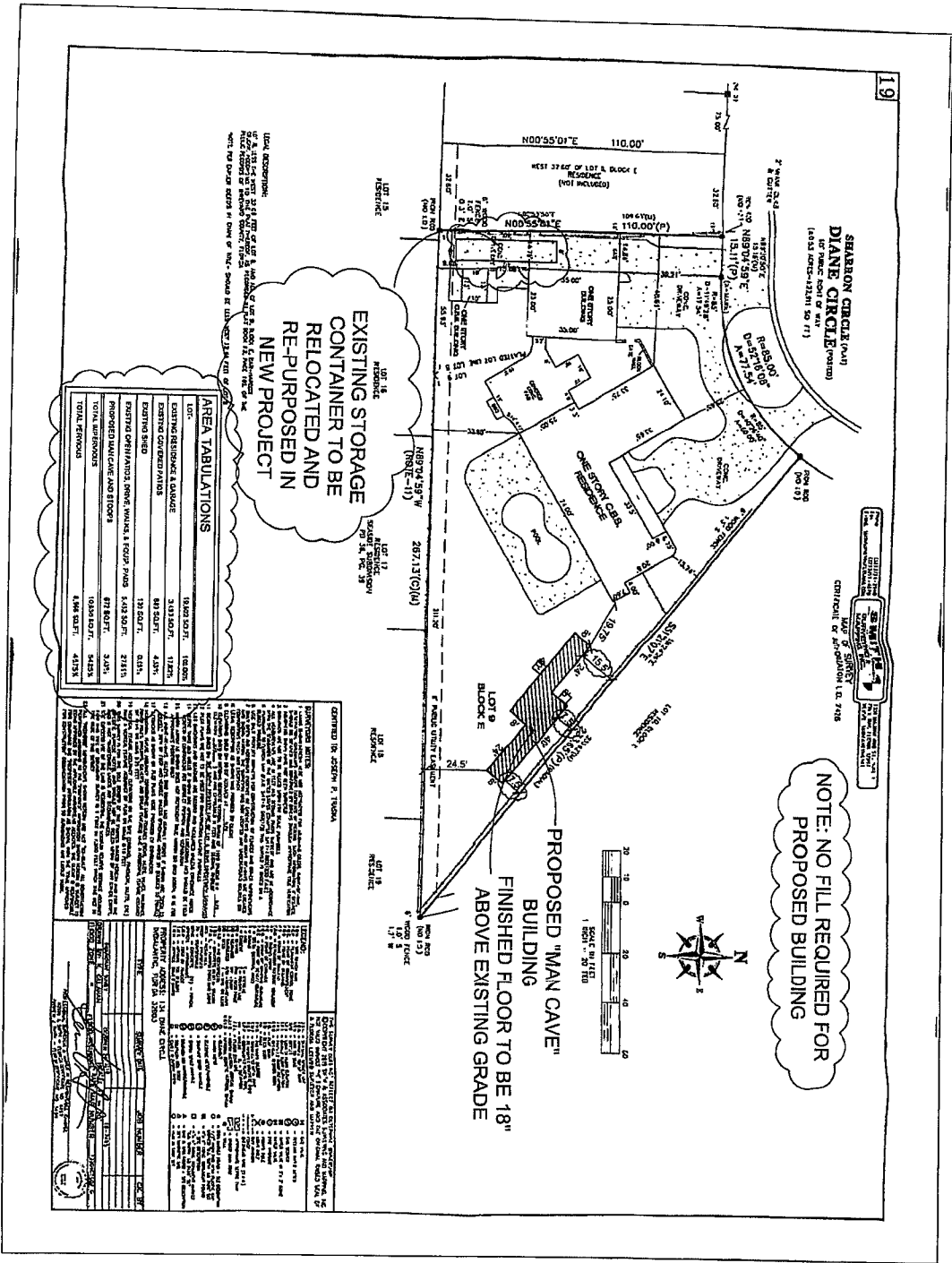
**COVER SHEET**

**CS**

**ENGINEER:**  
 Pedro L. Medina, P.E.  
 Professional Engineer  
 FL P.E. # 123579  
 pedro@klpdesign.com  
 Phone: 407-947-7549

**DESIGNER**  
 KLP SDS DESIGN SERVICES  
 Tim Perry  
 235 S. Maitland Avenue, Suite 210  
 Maitland, Florida 32751  
 Phone: 407-947-7549

# SITE PLAN



EXISTING STORAGE CONTAINER TO BE RELOCATED AND RE-PURPOSED IN NEW PROJECT

NOTE: NO FILL REQUIRED FOR PROPOSED BUILDING

PROPOSED "MAN CAVE" BUILDING  
FINISHED FLOOR TO BE 18" ABOVE EXISTING GRADE

**AREA TABULATIONS**

ITEM	AMOUNT	REMARKS
EXISTING STORAGE CONTAINER	1	TO BE RELOCATED AND RE-PURPOSED
PROPOSED "MAN CAVE" BUILDING	1	FINISHED FLOOR TO BE 18" ABOVE EXISTING GRADE
TOTAL AREAS	2	

**NOTES:**

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FLORIDA BUILDING CODE AND ALL APPLICABLE LOCAL ORDINANCES.
2. THE PROPOSED "MAN CAVE" BUILDING SHALL BE CONSTRUCTED ON A 10' x 10' FOOT FOOTING.
3. THE FINISHED FLOOR OF THE "MAN CAVE" SHALL BE 18" ABOVE THE EXISTING GRADE.
4. THE EXISTING STORAGE CONTAINER SHALL BE RELOCATED TO THE NEW LOCATION SHOWN ON THIS PLAN.
5. ALL UTILITIES SHALL BE DEPTH MARKED AND PROTECTED AS REQUIRED BY THE FLORIDA BUILDING CODE.
6. THE PROPOSED DRIVEWAY SHALL BE CONSTRUCTED TO THE EXISTING DRIVEWAY.
7. THE PROPOSED DRIVEWAY SHALL BE 10' WIDE AND 12" THICK.
8. THE PROPOSED DRIVEWAY SHALL BE FINISHED WITH ASPHALT.
9. THE PROPOSED DRIVEWAY SHALL BE 10' WIDE AND 12" THICK.
10. THE PROPOSED DRIVEWAY SHALL BE FINISHED WITH ASPHALT.

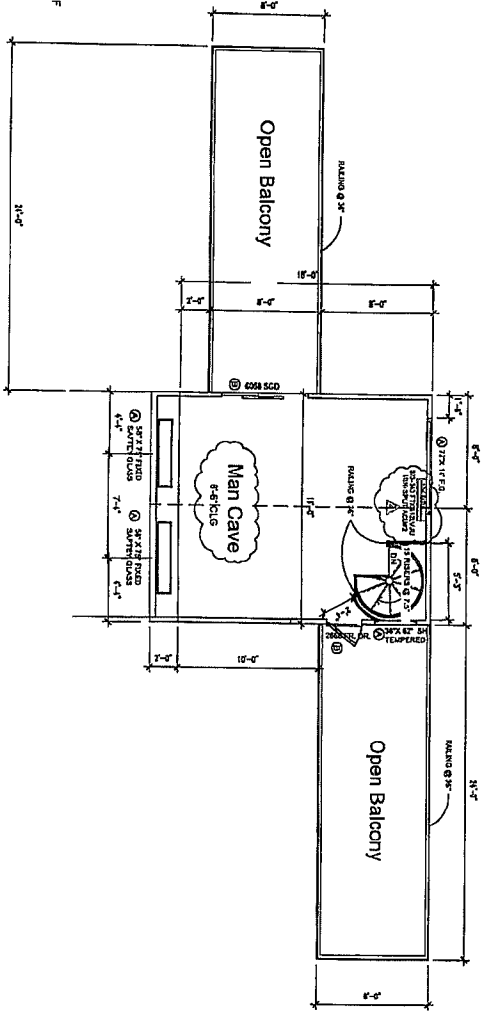
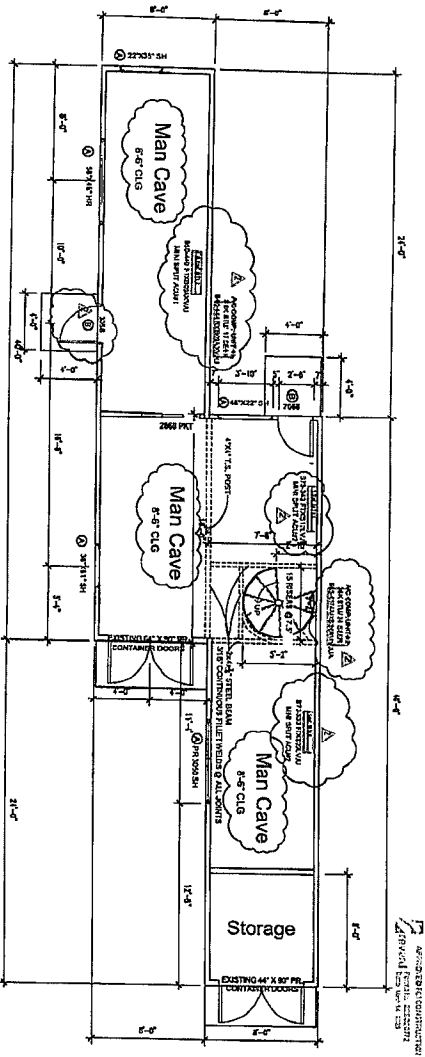


**KIT DESIGN SERVICES**  
285 MIDLAND BLVD. STE. 205  
MAYTLAND, FL 32751  
Phone: (407) 947-7948  
Fax: (407) 947-7949  
Pedro L. Medina, P.E.  
Professional Engineer  
No. 12345

**TRASKA ACCESSORY BUILDING**  
"MAN CAVE" 134 DIANE CIRCLE  
INDIANTLANTIC, FL. 32903

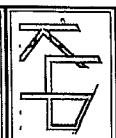
APPROVED FOR CONSTRUCTION  
DATE: 06/12/22  
SCALE: 1"=20'

**SP**  
SITE PLAN



**AREA CALCS.**

NET FLOOR AREA	3,114
NET CEILING AREA	3,114
NET WALL AREA	1,181
NET PERIMETER	381.1



**KIP DESIGN SERVICES**  
26 S WILSON AVE. SUITE 211  
NANTUCKET, FL 32921  
Phone (407) 941-7348  
Fax (888) 232-0000  
Pedro L. Medina, P.E.  
Florida Engineer No. 12579  
pedro@kipdesign.com

TRASKA ACCESSORY BUILDING  
134 DIANE CIRCLE  
INDIANTLANTIC, FL. 32903

**TRASKA ACCESSORY BUILDING**  
"MAN CAVE" 134 DIANE CIRCLE  
INDIANTLANTIC, FL. 32903

JOB NO. REVISIONS  
P8831 1/15-2022  
DRAWN BY: A-27-2023  
DATE: 08/19/21  
SCALE: 1/4"=1'-0"

PROPOSED FLOOR PLAN

**A1**

- A** WINDS OF CLASS DOORS - ANS/MAN/WINDA 101812.207 AND THE CODE REQUIREMENTS MUST MEET OR EXCEED THE MIN. REQUIREMENTS OF +54.6 PSF/ 341 PSF.
- B** EXTERIOR DOORS MUST MEET OR EXCEED MIN. REQ. OF +30.67 PSF/ 33.54 PSF.

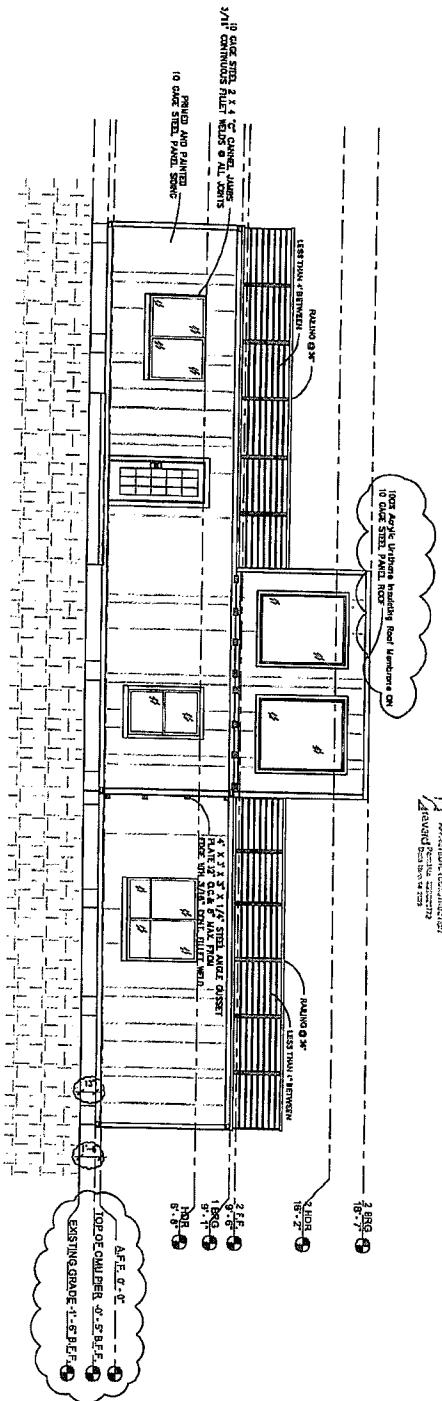
**2020160 MPH EXTERIOR DOOR REQUIREMENTS**

EXTERIOR DOORS SHALL BE CAPABLE OF WITHSTANDING POSITIVE AND NEGATIVE WIND PRESSURES AS DETERMINED BY FBCR201-210

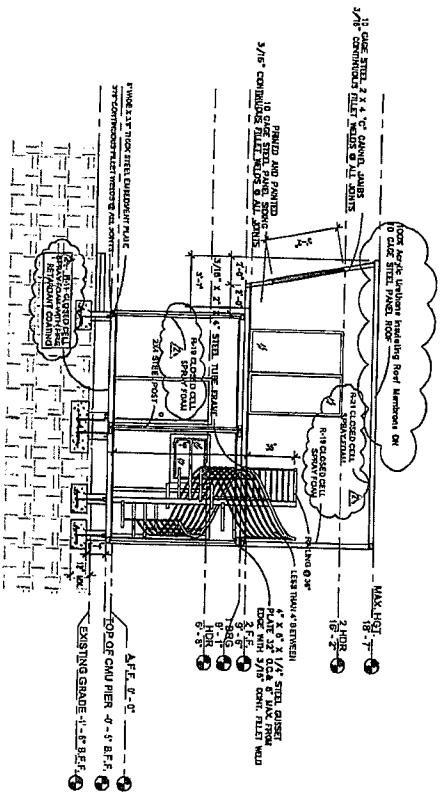
**200160 MPH EXTERIOR WINDOW REQUIREMENTS**

EXTERIOR WINDOWS AND GLASS DOORS MUST MEET THE REQUIREMENTS OF FBCR 210 OF THE FLORIDA BUILDING CODE (AS AMENDED BY THE 7TH EDITION) TO INCLUDE TESTING AND SEVERAL OTHER REQUIREMENTS TO INCLUDE WINDS AND GLASS DOORS SHALL BE TESTED BY AN APPROVED INDEPENDENT TESTING LABORATORY AND BEAR AN AIAA/CWMA CHARACTERIZATION LABELING AND BEAR AN AIAA/CWMA LABEL INDICATING COMPLIANCE WITH THE REQUIREMENTS OF THE FOLLOWING SPECIFICATION:

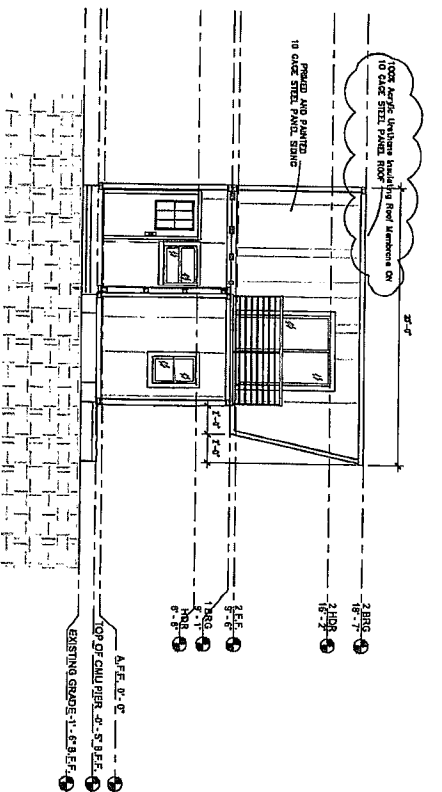
APPROVED FOR CONSTRUCTION  
 J. GAVIN  
 LICENSE NO. 12000



FRONT ELEVATION  
 1/8" = 1'-0"



CROSS SECTION  
 1/8" = 1'-0"



LEFT ELEVATION  
 1/8" = 1'-0"

**CONSTRUCTION TYPE V-8**  
 NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET  
 THE REQUIREMENTS OF THE 2010 FLORIDA BUILDING  
 CODE RESIDENTIAL DESIGNATION ASCE 7-16  
 1. DESIGN WIND SPEED - V = 131 MPH V<sub>01</sub> - 150 MPH  
 2. RISK FACTOR I  
 3. INTERMEDIATE CATEGORY  
 4. HEIGHT AND EXPOSURE ADJUSTMENT COEFFICIENT = 1.0  
 5. SEE WINDLOAD AND OVERPRESSURE DESIGN CRITERIA

**A-2**

**ELEVATIONS**

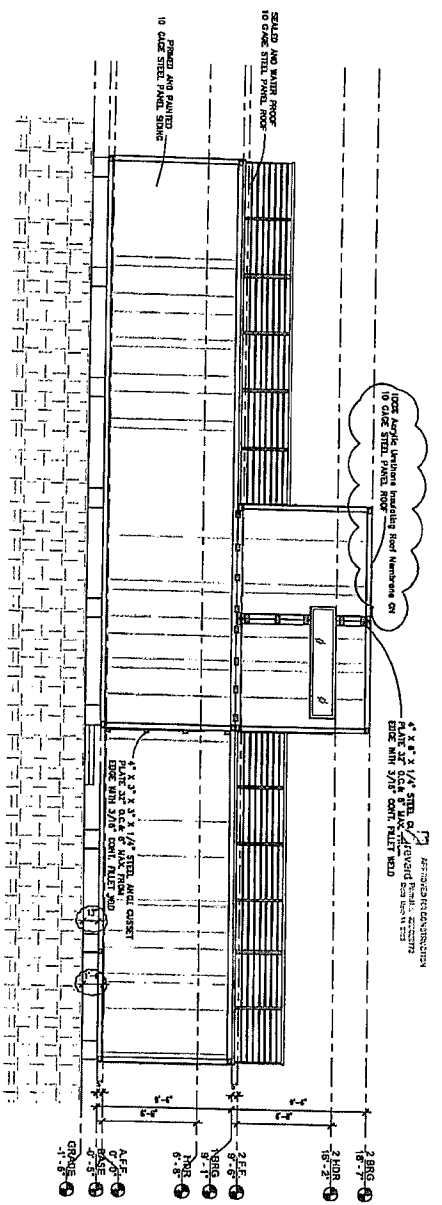
CDR NO.	PROVISIONS
98011	V13-2022
DRAWN BY:	2/23/2023
DATE:	06/15/22
SCALE:	1/8" = 1'-0"

**TRASKA ACCESSORY BUILDING**  
 "MAN CAVE" 134 DIANE CIRCLE  
 INDIANTLANTIC, FL. 32903

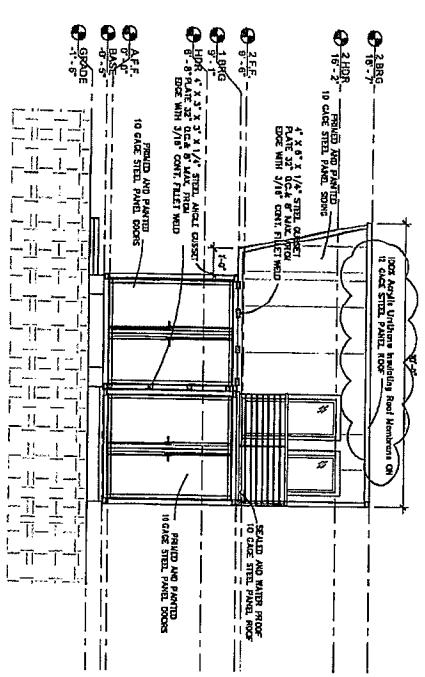
ISSUED BY: [Signature]  
 PROJECT NO. 22-001  
 DATE: 06/15/22

**KIP DESIGN SERVICES**  
 335 S. LINDEN AVE. SUITE 20  
 MAITLAND, FL 32751  
 Phone (407) 947-7548  
 FAX (407) 947-7548  
 WWW.KIPDESIGN.COM  
 Pedro L. Madro, P.E.  
 Professional Engineer  
 FL P.E. # 73579  
 pedro@kipdesign.com

**CONSTRUCTION TYPE V-B**  
 THIS STRUCTURE HAS BEEN DESIGNED TO MEET OR EXCEED RESIDENTIAL 7TH EDITION ASCE 7-16  
 1. DESIGN WIND SPEED - V=140 MPH V-B-15 MPH  
 2. WIND CATEGORY - CATEGORY I  
 3. INTERVAL PRESSURE COEFFICIENT - ASCE 7-16 BNC OSD BUILDINGS - 0.18  
 4. COMPONENT 5 AND DOOR REQUIREMENTS  
 5. COMPONENT 5 AND DOOR REQUIREMENTS  
 6. COMPONENT 5 AND DOOR REQUIREMENTS  
 7. COMPONENT 5 AND DOOR REQUIREMENTS  
 8. COMPONENT 5 AND DOOR REQUIREMENTS  
 9. COMPONENT 5 AND DOOR REQUIREMENTS  
 10. COMPONENT 5 AND DOOR REQUIREMENTS



**REAR ELEVATION**  
 1/8"=1'-0"



**RIGHT ELEVATION**  
 1/8"=1'-0"

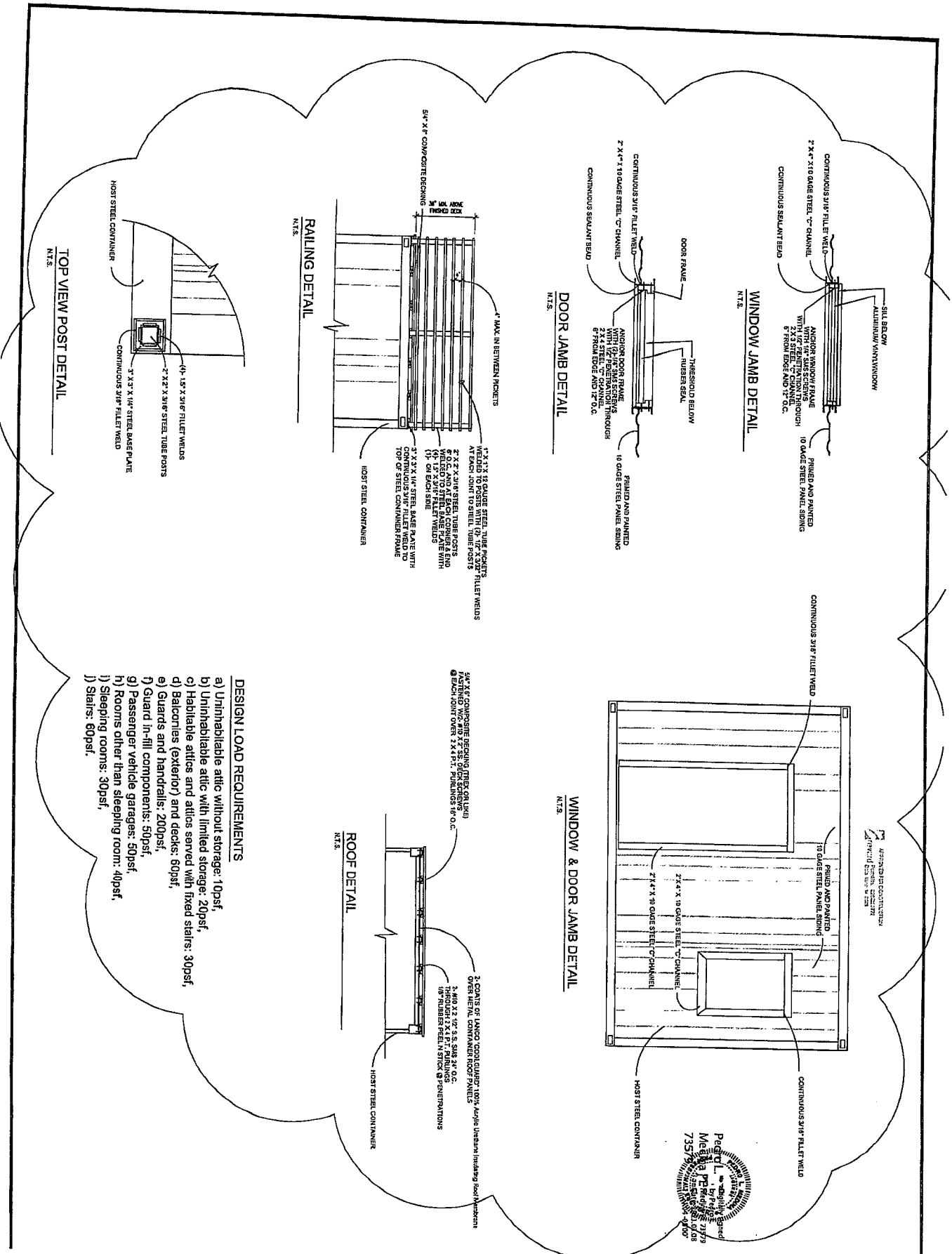


**TRASKA ACCESSORY BUILDING**  
 "MAN CAVE" 134 DIANE CIRCLE  
 INDIAN LANTIC, FL. 32903

**TRASKA DESIGN SERVICES**  
 2613 AVENUE B  
 MIAMI, FL 33135  
 Phone: (305) 541-7519  
 Email: TRASKA@TRASKA.COM  
 Paul L. Madison, P.E.  
 Professional Engineer  
 FL P.E. # 23299  
 paul@traskadesign.com

**JOB NO.** TRASKA-23-002  
**DESIGN BY:** TRASKA  
**DATE:** 08/15/23  
**SCALE:** 1/8"=1'-0"

**ELEVATIONS**  
**A-3**



Approved: \_\_\_\_\_  
 Date: \_\_\_\_\_

Professional Engineer  
 No. 12345  
 State of Florida  
 Pedro L. Medina, P.E.  
 P.L. Medina & Associates, Inc.  
 7357 SW 11th Street  
 Miami, FL 33155  
 (305) 555-1234

**DESIGN LOAD REQUIREMENTS**

- a) Uninhabitable attic without storage: 10psf.
- b) Uninhabitable attic with limited storage: 20psf.
- c) Habitable attics and attics served with fixed stairs: 30psf.
- d) Balconies (exterior) and decks: 60psf.
- e) Guards and handrails: 200psf.
- f) Guard in-fill components: 50psf.
- g) Passenger vehicle garages: 50psf.
- h) Rooms other than sleeping room: 40psf.
- i) Sleeping rooms: 30psf.
- j) Stairs: 60psf.

TRASKA ACCESSORY BUILDING  
 "MAN CAVE" 134 DIANE CIRCLE  
 INDIANTLANTIC, FL. 32903

**KEY DESIGN SERVICES**  
 28 S WINDY HOLE SUE DR  
 MAITLAND, FL 32751  
 Phone (407) 947-7519  
 Email: INFO@KEYSD.COM  
 Pedro L. Medina, P.E.  
 P.L. Medina & Associates, Inc.  
 7357 SW 11th Street  
 Miami, FL 33155  
 (305) 555-1234

Contract No. 17-0000000000  
 Project No. 17-0000000000  
 Date of Issue: 08/15/22  
 Date of Approval: 08/15/22  
 Date of Revision: 08/15/22  
 Date of Final Approval: 08/15/22

JOB NO. 17-0000000000  
 DRAWN BY: [Name]  
 DATE: 08/15/22  
 SCALE: N.T.S.

**DETAILS**

**S1**



**STRUCTURAL  
ENGINEERING**

November 10, 2023

ATTN: Joe Traska

RE: Residential Structural Assessment Report  
Subject: 134 Diane Circle, Indialantic, FL - Accessory Building

Dear Mr. Traska,

**GT Structural Engineering, LLC** was hired to analyze the existing structural condition of a steel accessory building at the above address. On November 6, 2023, Jonathan Grant accomplished a site visit to the property to assess the existing structural condition. The focus of the assessment was to compare the current design concept to the original configuration in the design documents.

The current configuration of the steel building utilizes the inherent strengths of the original material. The current configuration is safer and more stable than the original design. This assessment occurred prior to completion of construction during a "work stop" period. The steel structure will meet the Florida Building Code when construction is complete.

The accessory building construction is incomplete due to a notice of violation and stop work issued by Brevard County on October 27, 2023, for Case No. 23CE-01219. Although the status of the structure is incomplete, it is still safe for construction loads and environmental loads. Some of the original structure has been left in place to help with installation. The full height doors and the top tube steel provide additional stability for the construction phase. The corners of the second floor structures are welded to the corners of the first-floor structures. These welds provide over 5 times the required strength to resist design winds. Additional steel plates have been welded

*GT Structural Engineering, LLC  
1680 Highway A1A Suite 5, Satellite Beach, FL 32937  
[john@gtstructural.com](mailto:john@gtstructural.com)*



from the second floor to the first-floor structures at each foundation around the structure. These plates provide additional hold down strength significantly higher than the required forces. Likewise, the first floor has been welded to the embed plates on the piers of the foundations. Even though incomplete, the structure is well capable of resisting hurricane force winds. Finally, the foundations are of adequate size to keep the structure upright using the FBC presumptive load-bearing values of the soil.

The current drawings provide adequate guidance to help provide additional work on the accessory structure in its current state. However, the owner informed me that updated design documents are in progress. Timelines from the design professionals are outside of his control. He pointed out several modifications that further increase safety and stability.

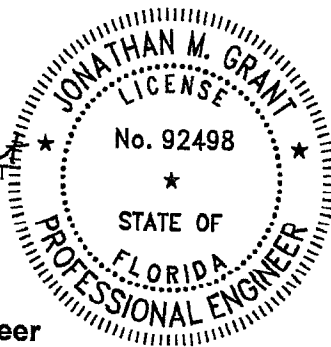
If there are any further questions or if I can assist you further, please feel free to contact me with the information provided below.

Respectfully,

*Jonathan M. Grant*

Digitally signed by JONATHAN M GRANT

Date: 2023.11.10 01:36:09-05'00'



**Jonathan Grant, PE**

**FL PE # 92498**

**President | Structural Engineer**

**Mobile: 1.321.271.1471**

10/17/23

**YOU ARE HEREBY DIRECTED TO  
STOP**

Address: 134 Piane Circle, Judialawhe

All work on this site until the provisions of the Florida Building Code and the requirements of the Brevard County Code of Ordinances have been met. Specific code violations include but are not limited to the following:

Construction of shipping containers  
in a manner that does not have County  
approval. Deviation from the approved  
engineered drawings.

Submit new revised drawing to the  
County for approval or denial.

Work may not resume until the code related issues have been, resolved with the Brevard County Building Official.

Failure to comply with this order is a violation of law including, but not limited to, 125.69, Florida Statutes and 22-51, Brevard County Code of Ordinances. A violation is punishable by up to \$500 per day, or 60 days in jail. Section 22-51 (108.4.1), Brevard County Code of Ordinances provides an appeal process to appeal the decisions of the Building Official. The request for appeal must be submitted in writing and filed with Brevard County Planning and Development within thirty (30) days. Do Not Remove Placard.

For additional information call 321-633-2072

Building  
Official: Deey W. Delet 10/17/23



BOARD OF COUNTY COMMISSIONERS

g and Development Department  
Code Enforcement Division  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940

**NOTICE OF VIOLATION**

October 27, 2023

CASE NO. 23CE-01219  
Certified Mail/Hand Delivery  
Posting & 1st Class Mail

JOSEPH P TRASKA  
134 DIANE CIR  
INDIALANTIC FL 32903-2556

Subject property legal description and/or street address:  
Township: 27 Range: 37 Section: 24 Subd: 86 Block: E Lot: 8  
Tax Account: 2726849

a/k/a: 134 DIANE CIR INDIALANTIC FL 32903  
Unit Info:

Dear Sir/Madam,

You are hereby notified as the owner/person responsible for the subject property, that an inspection of the premises on 10/27/2023 indicates that a violation of the Brevard County Code exists. The violation(s) could be an initial violation, recurring violation or a repeat violation. The property is in violation of:

**Section 22-47(Ch. 110), Brevard County Code of Ordinances, "Violations and Penalties."**

Specifically, the partially built structure that currently exists on the property is substantially deviated from the approved construction plans contained in Permit ID 22BC20772 including, but not limited to, the top container being modified from its permitted configuration. The magnitude and scope of the alteration led to the Chief Building Official issuing a "Stop Work Order" on construction. To comply, obtain an approved revision to the permit (in full compliance with Brevard County Code) for the accessory structure under Permit ID 22BC20772, or return the property to its original configuration.

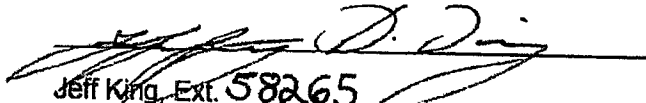
**Section 62-1102, Brevard County Code of Ordinances, "Definitions and Rules of Construction."**

Specifically, an accessory structure has been built on the property that is constructed from stacked shipping containers. Under Brevard County Code, "no stacking of containers shall be allowed." To comply, unstack the shipping containers. If the unstacked containers remain on the property, they must be placed in a manner that complies with Brevard County Code of Ordinances.

October 27, 2023

This correspondence will serve as official notification that the above stated violation(s) must be corrected within 24 hrs / 5 10 / 30 / 60 days of this notice or date of posting of this notice for initial violation(s) only. FAILURE TO COMPLY BEFORE THIS DATE WILL RESULT IN THE COMMENCEMENT OF APPROPRIATE ENFORCEMENT ACTION AND/OR POSSIBLE FINE AND ENFORCEMENT COSTS SHOULD THIS MATTER BE REFERRED TO THE SPECIAL MAGISTRATE FOR RESOLUTION. If the cited violation(s) are of a recurring or repeat nature, or a Natural Resource violation that is irreversible/irreparable, your appearance will be required at this specified hearing. (There will be no time to cure for violations that are irreversible/irreparable or repeat.)

For further information regarding this matter, you may contact the undersigned Code Enforcement Officer or Inspector.



Jeff King, Ext. 58265  
Code Enforcement Officer

Brevard County Code Enforcement: (321) 633-2086

Florida Department of Environmental Health: (321) 633-2100

Brevard County Natural Resources Management Office: (321) 633-2016

Brevard County Fire Safety: (321) 633-2056

Enclosures

CC:

JASON STEELE - D5 COMMISSIONER 2725 JUDGE FRAN JAMIESON WAY VIERA FL 32940

**CODE ENFORCEMENT SPECIAL MAGISTRATE  
BREVARD COUNTY, FLORIDA**

Case 23CE-01219  
Tax Account 2726849

**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**, a political  
subdivision of the State of Florida,  
Petitioner,  
vs.

**JOSEPH P TRASKA,**  
Respondent(s).

---

**NOTICE OF HEARING**

Pursuant to section 2-173, Code of Ordinances of Brevard County, Florida, you are hereby notified that a Public Hearing will be conducted in the above - style cause on:

**Date:** Tuesday, December 19, 2023  
**Time:** 9:00 a.m.  
**Location:** Government Center, 2725 Judge Fran Jamieson Way, Building "C",  
Space Coast Room (2nd Floor), Viera, Florida 32940

If the violation(s) described on the Statement of Violation attached is/are corrected prior to the hearing, please contact the Code Enforcement Office at (321) 633-2086 to request an inspection to confirm compliance. The case may be heard even if the violation(s) has been corrected prior to hearing. A hearing is required for recurring, repeat and irreparable violations.

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you may be entitled to certain assistance. Please contact the Code Enforcement Hearing Staff at (321) 409-9453 at least 48 hours prior to the Hearing.

**Certificate of Service:**

I HEREBY CERTIFY and attest that a true and correct copy of the above and foregoing Notice of Hearing has been furnished by posting the property and by Certified Mail to the following address:

JOSEPH P TRASKA  
134 DIANE CIR  
INDIALANTIC, FL 32903-2556

On 12-01-2023

BREVARD COUNTY CODE ENFORCEMENT

  
Jeff King  
Code Enforcement Officer

cc: ALICIA KELLY, ATTORNEY SCHOOLFIELD PROPERTIES 101 PARK PLACE BLVD. SUITE 3 KISSIMMEE, FL 34741

**CODE ENFORCEMENT SPECIAL MAGISTRATE  
BREVARD COUNTY, FLORIDA**

**BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA,  
a political subdivision  
of the State of Florida,  
Petitioner,**

**CASE NO. 23CE-01219**

vs.

**JOSEPH P TRASKA,  
Respondent(s).**

---

**STATEMENT OF VIOLATION(S)**

Pursuant to Section 2-173, Code of Ordinances of Brevard County, Florida, the undersigned hereby gives notice of violation(s) of the Code of Ordinances of Brevard County, Florida; and hereby refers this matter to a public hearing before the Code Enforcement Special Magistrate of Brevard County Florida.

1. Location/address where violation(s) exists:

Township: 27 Range: 37 Section: 24 Subdivision: 86 Block: E Lot: 8

a/k/a 134 DIANE CIR INDIALANTIC FL 32903  
Unit Info:  
Tax Account: 2726849

2. Name and address of owner/person in charge/or violator at location where violation exists:

JOSEPH P TRASKA  
134 DIANE CIR  
INDIALANTIC FL 32903-2556

**CASE NO. 23CE-01219**

**NOTICE OF VIOLATION (not previously heard by the Special Magistrate):**

a) Description of violation(s) of Codes of Brevard County:

Section 22-47(Ch. 110), Brevard County Code of Ordinances, "Violations and Penalties."

Specifically, the partially built structure that currently exists on the property is substantially deviated from the approved construction plans contained in Permit ID 22BC20772 including, but not limited to, the top container being modified from its permitted configuration. The magnitude and scope of the alteration led to the Chief Building Official issuing a "Stop Work Order" on construction. To comply, obtain an approved revision to the permit (in full compliance with Brevard County Code) for the accessory structure under Permit ID 22BC20772, or return the property to its original configuration.

Section 62-1102, Brevard County Code of Ordinances, "Definitions and Rules of Construction."

Specifically, an accessory structure has been built on the property that is constructed from stacked shipping containers. Under Brevard County Code, "no stacking of containers shall be allowed." To comply, unstack the shipping containers. If the unstacked containers remain on the property, they must be placed in a manner that complies with Brevard County Code of Ordinances.

b) Date violation(s) first observed: 10-02-2023

c) Date owner/person in charge given Notice of Violation: 10-27-2023

d) Date on/by which violation(s) to be corrected: 11-07-2023

e) Date of re-inspection: 11/7/2023

f) Results of re-inspection: Violation(s) remain uncorrected.

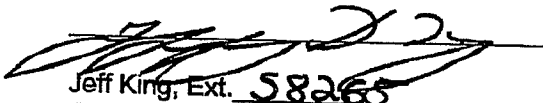


**CASE NO. 23CE-01219**

Based upon the foregoing, the undersigned hereby certifies that the above-described violation(s) has existed, and/or continues to exist, that attempts to secure compliance with the Code of Ordinances of Brevard County, Florida have failed as aforesaid, and that the violations(s) should be referred to the Code Enforcement Special Magistrate of Brevard County, Florida for public hearing.

**IF YOU HAVE ANY QUESTIONS IN REGARD TO THIS NOTICE PLEASE CALL THE OFFICER WHO SIGNED THIS NOTICE AT THE FOLLOWING:**

DATED 12-01-2023



Jeff King, Ext. 58265  
Code Enforcement Officer

Brevard County Code Enforcement: (321) 633-2086

Brevard County Code Enforcement Hearing Office: (321) 409-9453

Florida Department of Environmental Health: (321) 633-2100

Brevard County Natural Resources Management Office: (321) 633-2016

Brevard County Fire Safety: (321) 633-2056

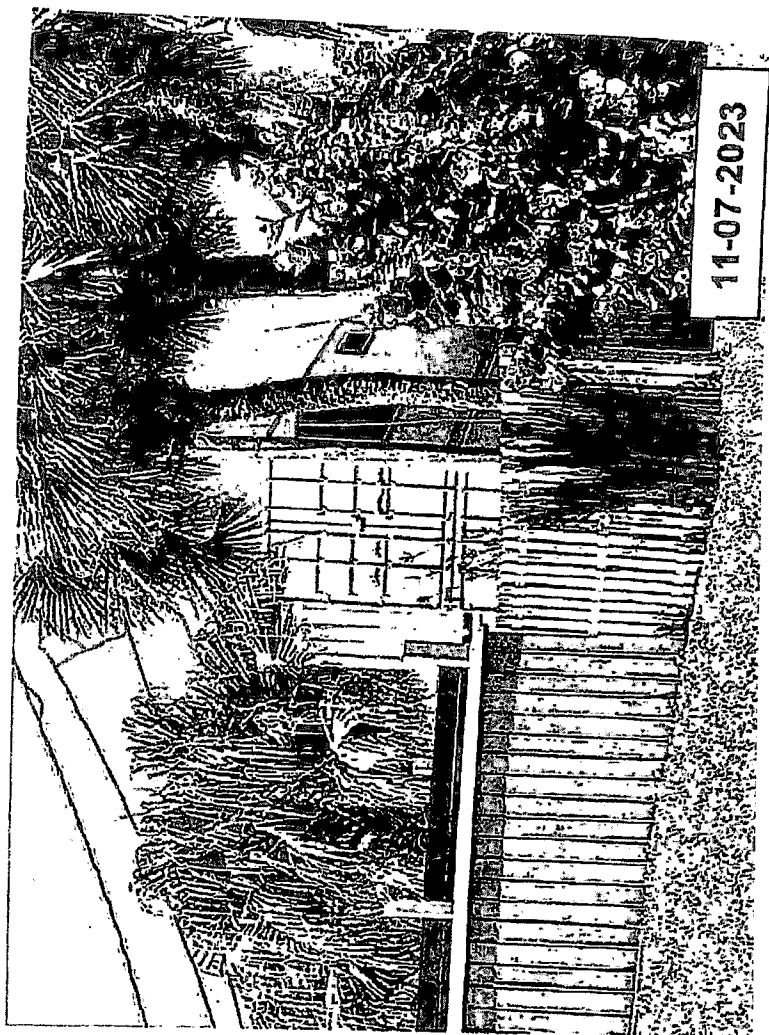
Enclosures

CC: JOSEPH P TRASKA 134 DIANE CIR INDIALANTIC FL 32903-2556

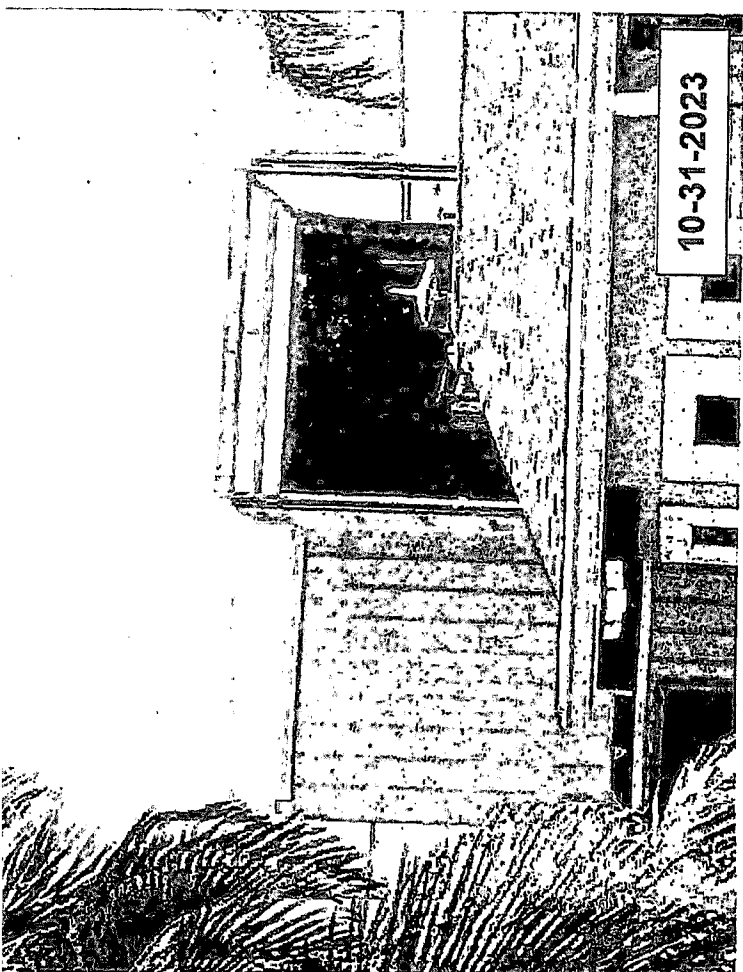
ALICIA KELLY, ATTORNEY SCHOOLFIELD PROPERTIES 101 PARK PLACE BLVD. SUITE 3  
KISSIMMEE FL 34741



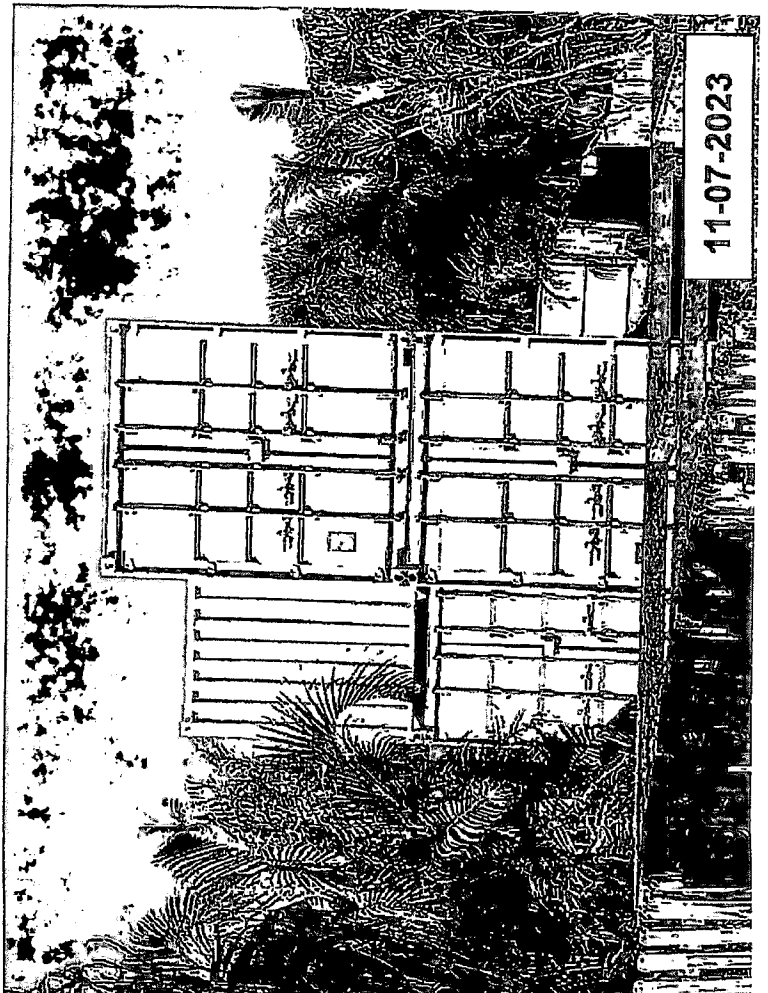
10-31-2023



11-07-2023



10-31-2023



11-07-2023

EXHIBIT G

CODE ENFORCEMENT SPECIAL MAGISTRATE OF  
BREVARD COUNTY, FLORIDA

CASE NO. 23CE-01219

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA, a  
political subdivision of the State of Florida,  
Petitioner,

vs.

JOSEPH P. TRASKA,  
Respondent.

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**COUNTY'S CLOSING ARGUMENT**

At the request of the Special Magistrate, the County provides this written closing argument for the Code Enforcement Hearing held on December 19, 2023 in 23CE-01219. At the Hearing, the County presented evidence in the form of witness testimony and exhibits establishing that Respondent violated two provisions of Brevard County Code: Section 22-47(110) and Section 62-1102, Brevard County Code.

Respondent violated two provisions of Brevard County Code when he partially constructed a "man cave" accessory structure made from stacked shipping containers located at 134 Diane Circle in Indialantic, Florida (hereinafter the "Property"). The evidence supports violations of Section 22-47(110) and Section 62-1102, Brevard County Code.

Section 22-47, Brevard County Code, states:

Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or

drawing submitted and permitted there under, shall be punished as provided in section 22-51 of the Brevard County Code. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued. Upon conviction of any such violation such person shall be punished within the limits as provided by law and local ordinance.

*Section 22-47(110), Brevard County Code.*

Respondent violated this provision of the Brevard County Code by building a structure that deviated from the building plans Respondent had previously submitted and were initially approved by the County. Chief Building Official Terry Talbert testified at the Hearing that he visited the Property and performed a walk-through inspection with Respondent. Chief Building Official Talbert reviewed the building plans submitted for permitting by Respondent and compared them to what he observed at the Property. He testified there were differences between the building plans for which Respondent had been issued a permit and the actual structure that had been built on the Property; specifically, the top level of the structure was rotated 90 degrees and the balcony area surrounded by railings had been changed. Exhibits in evidence at the Hearing support a violation of Section 22-47(110), Brevard County Code. Photos of the structure and Respondent's building plans were entered as exhibits during the Hearing. A comparison of the photos and the plans shows significant differences between the structure Respondent planned to build and the version of the structure that was actually built on the Property.

Second, the evidence presented at the Hearing shows Respondent violated Section 62-1102, Brevard County Code. This provision states:

A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no stacking of containers shall be allowed.

*Section 62-1102, Brevard County Code.*

The accessory structure in question on the Property is comprised of shipping containers. This is plainly evident in the photos of the structure and Respondent's building plans. The shipping containers are stacked in violation of Brevard County Code. This is also visible in the County's exhibits in evidence and is confirmed by

the testimony of Chief Building Official Talbert and Code Enforcement Officer Jeff King.

Respondent argues that the shipping containers are not stacked. Brevard County Code does not define “stacking,” however, the language in Section 62-1102, Brevard County Code, is clear and unambiguous. If statutory language is clear and unambiguous, the statute’s plain and ordinary meaning must control, unless this leads to an unreasonable result or a result clearly contrary to legislative intent. *Daniels v. Florida Dept. of Health*, 898 So.2d 61, 65 (Fla. 2005).

Cambridge Dictionary defines a stack as “a pile of things arranged one on top of another.” Thus, Section 62-1102, Brevard County Code, is reasonably interpreted as a prohibition on arranging shipping containers one on top of another. It is clear from the evidence presented at the hearing that Respondent has placed shipping containers on top of other shipping containers. The photos depict a two-story structure comprised of multiple shipping containers on top of each other. Chief Building Official Talbert testified that he observed the shipping containers arranged on top of each other when he visited the Property. Respondent’s building plans reflect that the structure is comprised of shipping containers arranged on top of each other. Respondent contends that because the shipping containers have been fastened together by welding, they can no longer be considered as stacked. This defies the plain meaning of the word. Welding the shipping containers together does not transform the shipping containers or change the fact that they are arranged one on top of another. As such, Respondent’s structure is in violation of Section 62-1102, Brevard County Code.

To the extent that Respondent makes any argument that the shipping container accessory structure is permissible under Brevard County Code or that the County is precluded from enforcing its code here because Respondent’s building plans were initially approved by the County, this would be contrary to well-established jurisprudence in Florida. A building permit issued in violation of law or under mistake of fact confers no right or privilege on the grantee, and in such cases, the building permit may be properly revoked. See, e.g., *Metropolitan Dade County v. Fontainebleu Gas & Wash, Inc.*, 570 So.2d 1006 (Fla. 3rd DCA 1990); *Abenkay Realty Corp. v. Dade County*, 185 So.2d 777 (Fla. 3rd DCA 1966); *Godson v. Town of Surfside*, 8 So.2d 497 (Fla. 1942). The issuance of a building permit will not estop the government authority from enforcing its ordinances and revoking a permit which

has been obtained in violation of its ordinance. *Town of Lauderdale-by-the-Sea v. Meretsky*, 773 So. 2d 1245 (Fla. 4th DCA 2000).

### **CONCLUSION**

Respondent's "man cave" accessory structure comprised of shipping containers violates Section 22-47(110) and Section 62-1102, Brevard County Code. The structure on the Property differs substantially from the building plans submitted to the County in violation of Section 22-47(110), Brevard County Code. The structure is comprised of multiple shipping containers that are arranged one on top of another; the shipping containers are, in the plain meaning of the word, stacked. Section 62-1102, Brevard County Code, prohibits the Respondent from stacking shipping containers in his construction of an accessory structure. For these reasons the County asks that the Special Magistrate find Respondent in violation of these two provisions of Brevard County Code.

OFFICE OF THE BREVARD COUNTY ATTORNEY

2725 Judge Fran Jamieson Way

Building C - Suite 308

Viera, Florida 32940

321.633.2090

321.633.2096 Fax

By: /s/ Sarah Beazley \_\_\_\_\_

Sarah Beazley

Assistant County Attorney

Florida Bar No. 1004381

EXHIBIT H

CODE ENFORCEMENT SPECIAL MAGISTRATE  
BREVARD COUNTY, FLORIDA

Case 23CE-01219  
Tax Account 2726849

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA, a Political  
Subdivision of the State of Florida,

Petitioner,

v.

JOSEPH P. TRASKA,

Respondent.

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**RESPONDENT'S SUPPLEMENTAL CLOSING ARGUMENT  
AND INCORPORATED MEMORANDUM OF LAW**

I. **INTRODUCTION**

Respondent, Joseph P. Traska ("Mr. Traska"), by and through undersigned counsel, submits this Supplemental Closing Argument and Incorporated Memorandum of Law (Respondent's "Closing Argument"), and states:

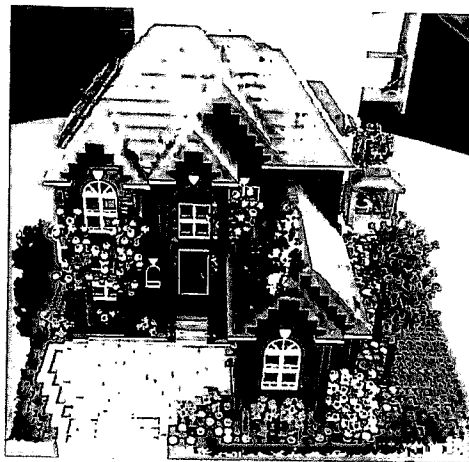
At issue before this tribunal are two, inextricably intertwined alleged code violations – stacked, if you will. Indeed, the linchpin of the subject dispute is a single Brevard County code enforcement officer's arbitrary interpretation and application of one deceptively simple word – "**stacking**." Unfortunately, Mr. Traska – an active member of the United States Armed Forces and Brevard County, Florida – has now for many months, unfairly borne the increasing weight of the Petitioner's stacking refusal to accept responsibility for and correct its systemic failures.

In its written Closing Argument dated January 17, 2024, the Petitioner doubled down on its employee's laughing endorsement of ostensibly the only "common sense" interpretation of "stacking." To wit, "Cambridge Dictionary defines a stack as '**a pile of things arranged one on top of another.**'" (emphases added).

Notably, Mr. Traska wholly agrees with this definition. And yet, “one of these things is not like the others.” *Sesame Street* (National Educational Television network broadcast November 10,



1969, et al.)



“It is a basic tenet of statutory construction that statutes will not be interpreted so as to yield an absurd result.” *Wollard v. Lloyd's & Cos. of Lloyd's*, 439 So. 2d 217, 218-19 (Fla. 1983) (internal citations omitted). Here, acceptance of the Petitioner’s acontextual interpretation and application of “stacking” would yield a dually absurd result. On one hand, the Petitioner would effectively be allowed to unstack several months of internal failures and finger-pointing. Conversely, Mr. Traska would be unjustly and irreparably harmed, as the mental, emotional, and financial costs of the Petitioner’s windfall are further stacked on his shoulders.

While the motive for the Petitioner’s actions remains unclear, the arbitrariness of its interpretation and application of the law<sup>1</sup> to Mr. Traska, is glaring. Simply stated, Brevard County

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<sup>1</sup> Specifically, the Petitioner misinterprets and applies Brevard County Code of Ordinances §§ 62-1102 (“Definition and Rules of Construction”) and 22-24 (Ch. 110) (“Violations and Penalties”).



fails to provide a person of ordinary intelligence fair notice that his or her contemplated conduct is forbidden by the Brevard County Code of Ordinances (“BCCO”). Specifically, section 62-1102 is vague and ambiguous, casting doubt on its validity. Here, scrutiny of the legislative history and intent of the Brevard County Board of County Commissioners (“BOCC”) is clearly appropriate. Moreover, equitable estoppel bars the Petitioner from enforcing section 62-1102 against Mr. Traska.

## II. SUMMARY

On October 4, 2022, Mr. Traska submitted to the Petitioner a building application for construction of an accessory building on his property. After several months, and several revisions by Mr. Traska to satisfy the Petitioner’s exacting review process, the Petitioner approved Mr. Traska’s plans and issued a construction permit.<sup>2</sup> Nearly every page of the construction plans approved the Petitioner indicate that shipping containers were to be utilized in the *construction* (not stacking) of Mr. Traska’s building. In good faith, patently justifiable reliance upon the Petitioner’s approval and permit issuance, Mr. Traska incurred substantial expenses to construct his accessory building.

On October 27, 2023, following several successful inspections throughout the construction process, the Petitioner suddenly and unexpectedly issued a Stop Work Order (“SWO”) and subsequent Notice of Violation (“NOV”).

Alas, the NOV is nigh more than apparent “buyer’s remorse” by the Petitioner, the byproduct of an employee’s woeful overreaction to media coverage of – literally – the aesthetic preferences of a handful of Mr. Traska’s outspoken neighbors. In response, the Petitioner bastardized the BCCO to pacify public discontent. To ensure its snare on Mr. Traska tightly fixed, the Petitioner necessarily conditioned compliance with the NOV on Mr. Traska’s removal of the second floor of his accessory building. While the SWO seemingly innocuously invited Mr. Traska to “submit new revised drawing to [Petitioner] for approval or denial,” the only option offered by the Petitioner to Mr. Traska, was not an option at all. Rather, it was an ultimatum – abandon the Petitioner’s previously approved construction, or else. Ironically, the Petitioner’s only “option” for compliance directly contravenes construction plans approved by the Petitioner.

---

<sup>2</sup> Notably, the Petitioner’s review process included the scrutiny of – and ultimately, approval from – no less than five (5) of its own departments.

As detailed herein, the BCCO cannot be justly construed against Mr. Traska because, (1) the BCCO is vague and ambiguous; (2) the Petitioner's interpretation of the BCCO contravenes the intent of its drafters; and (3) equitable estoppel bars the Petitioner's conduct. Any ruling by this tribunal other than dismissal of the Petitioner's NOV would deviate from clearly established law, resulting in a miscarriage of justice.

III. THE LANGUAGE OF THE ORDINANCE IS VAGUE AND AMBIGUOUS, AND THEREFORE SHOULD BE INTERPRETED IN FAVOR OF THE RESPONDENT

Here, adherence to the essential requirements of the law requires this tribunal to evaluate the ambiguity and vagueness of the BCCO, prior to considering any alleged code violation.

Florida law requires that terms used in a zoning ordinance reference clear, determinable criteria, and if such criteria do not exist, the zoning ordinance is a nullity. The County Commission cannot delegate to an administrator arbitrary discretion to determine the meaning of a zoning code, *Henry v. Bd. of County Comm'rs of Putnam County*, 509 So. 2d 1221, 1222 (Fla. 5th DCA 1987). When a person of common intelligence reviewing the ordinance cannot determine what must be done in order to meet the required criteria, the ordinance is "void for vagueness" because it is vulnerable to subjective discretion on the part of the quasi-judicial board, and can be applied in an arbitrary and discriminatory fashion, *See, eg., Park of Commerce Associates v. City of Delray Beach*, 606 So.2d 633, 635 (Fla. 5th DCA 1992); *aff'd*, 636 So.2d 12 (Fla. 1994).

The ordinance at issue, Sec. 62-1102.(a.), provides as follows:

"A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no **stacking** of containers shall be allowed."

The BCCO incorporates the term "stacking"; however, it fails to reference or provide clear criteria as to what "stacking" constitutes, **in the context of the BCCO**. As demonstrated at the December 19, 2023 Special Magistrate hearing on the cause at issue, none of the Petitioner's witnesses could consistently articulate what constituted "stacking." Notably, Sec. 62-1002.(a.) was not applied at any stage of the Petitioner's permit application process. Rather, it was only applied by the Petitioner following a complaint by one of Mr. Traska's disgruntled neighbors.

The Petitioner initially relayed to the complainants that Mr. Traska had complied with the BCCO and there was no violation. Dissatisfied with this response, Mr. Traska's neighbors

took to local media outlets, who began reporting on the issue. In response to one-sided media coverage, the Petitioner arbitrarily determined that Sec. 62-1002.(a.) could be considered applicable to Mr. Traska's actions and subsequently issued the code violations at issue.

The Petitioner has misapplied its ordinances in an attempt to pacify complaints voiced by Mr. Traska's neighbors. Cases that have been decided in favor of a landowner often arise from a departure from the essential requirements of law frequently stemming from situations in which the local governing body misconstrues local ordinances in order to satisfy the political demands of its constituents, *See, e.g., City of Tampa v. City National Bank of Florida*, 974 So.2d, 408, 410-415 (Fla. 2d CDA 2007); *Colonial Apartments, LP v. City of Deland*, 577 So.2d 593, 596-598 (Fla. 5th DCA 1991). It would be a miscarriage of justice for this tribunal to make a finding that Mr. Traska violated the code, because its vagueness renders it impossible for Mr. Traska to have had fair notice that his actions may have been forbidden by the ordinance and the ordinance has been applied arbitrarily by the Petitioner.

"Municipal ordinances are subject to the same rules of construction as are state statutes" *Rinker Materials Corp. v. City of North Miami*, 286 So.2d 552, 553-54 (Fla. 1973) (*citing Rose v. Town of Hillsboro Beach*, 216 So.2d 258 (Fla. 4th DCA 1968)). "The starting point for any statutory construction issue is the language of the statute itself-and a determination of whether that language plainly and unambiguously answers the question presented." *State v. Peraza*, 259 So.3d 728, 730 (Fla. 2018). "[T]he plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Conage v. United States*, 346 So.3d 594, 598 (Fla. 2022) (*quoting Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997)).

"[S]ince zoning regulations are in derogation of private rights of ownership, **words used in a zoning ordinance should be given their broadest meaning when there is no clear definition or clear intent to the contrary and the ordinance should be interpreted in favor of the property owner.**" (emphasis added) *Rinker Materials Corp.*, 286 So.2d at 553. Here, the language of the ordinance at issue is ambiguous. Specifically, the BCCO fails to provide a definition of "stacking", thus leaving the term vulnerable to multiple interpretations. The ordinance at issue, Sec. 62-1102.(a.), provides as follows:

"A new or decommissioned cargo shipping container may be used as a residential storage building/shed only, subject to all the requirements for use as a residential storage building/shed, and no **stacking** of containers shall be allowed."

Both the BCCO and Florida Building Code fail to define “stacking” in relation to the utilization of shipping container materials for construction of accessory or primary structures. Yet, Sec. 62-2117.5(1)(7)(B.) regulating the use of portable temporary storage units in residential areas provides some clarity as to the intent behind “stacking”,

“Portable **temporary** storage units ***shall not be stacked vertically***” (emphasis added).

Clearly, the language prohibiting the stacking of containers in Section 62-1102(1) relates to Section 62-2117.5(1)(7)(B.), in that the vertical stacking of **portable temporary storage units** is not permissible. However, no section of the BCCO prohibits the utilization of shipping container materials in the **construction** of either primary or accessory structures. In fact, Sec. 62-2115 (Metal buildings) of the BCCO specifically allows for metal buildings to be used as accessory structures in residential land use categories.

“Stacking” is ordinarily defined as “*an orderly pile or heap.*”<sup>3</sup> Based on a plain interpretation of this definition, the utilization of shipping container materials in the **construction** of a structure does not constitute “stacking”. “Stacking” is not some academic concept of defective structural engineering. Nothing in the materials of a metallic container makes stacking a poor construction practice, and a good argument could be made to the contrary. A citizen could very well cut a steel container into its component parts, i.e., sheets, and beams and posts and then use those components to soundly construct a second floor. Alas, if the assembly of those component parts ended up looking too much like a container then presumably the Petitioner would call it stacking and condemn it for its appearance. Effectively, the Petitioner is using its building code to legislate some vague aesthetic about “containers,” rather than to ensure sound engineering and construction practices.

IV. AS WRITTEN, THE ORDINANCE FAILS TO ACKNOWLEDGE THE INTENT OF THE BOARD OF COUNTY COMMISSIONERS, AND THEREFORE, SHOULD BE INTERPRETED IN FAVOR OF THE RESPONDENT.

Sec. 62-2. of the BCCO provides:

“In the construction of this chapter, the rules and definitions set out in this section shall be observed, ***unless such construction would be inconsistent with the***

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<sup>3</sup> See *Stacking*, Merriam-Webster.com, <https://www.merriam-webster.com/dictionary/stacking#dictionary-entry-1> (last visited December 27, 2023).

*manifest intent of the board of county commissioners.* The rules of constructions and definitions set out in this section shall not be applied to any section of this chapter which shall contain any express provisions excluding such construction, or where the subject matter or context of such section may be repugnant thereto.

*Generally. All general provisions, terms, phrases and expressions contained in this chapter shall be liberally construed in order that the true intent and meaning of the board of county commissioners may be fully carried out.* Terms used in this chapter, unless otherwise specifically provided, shall have the meanings prescribed by the statutes of the state for such terms.....  
(emphasis added)”

The code clearly intends that rules and definitions be interpreted in a manner that reflects the intent and meaning of the board of county commissioners. Here, Sec. 62-1102 (1) was modified in 2019 to include the addition of Sec. 62-1102 (1)(a). Prior to 2019, Sec. 62-1102(1) did not include subsection (a). Before modification to include subsection (a), the code provided as follows:

“Accessory buildings or structures include but are not limited to private garages, storage sheds, carports, greenhouses, gazebos, cabanas, utility buildings/rooms, verandas, glass rooms, porches, screened porches or awnings, swimming pools and screened enclosures, and private residential boat docks with up to two slips for use of the occupants of the principal residential structure. Buildings or structures secondary and incidental to agricultural uses include, but are not limited to stables, barns, paddock areas and storage areas. Accessory buildings or structures may have a full or half bath; but may not have living quarters or a kitchen, unless such structure is a guesthouse consistent with section 62-1932”.

At the April 9, 2019 Brevard County Board of County Commissioners meeting, the commission discussed the multiple code violations involving the use of shipping containers for **storage** on residential property and had prior to this meeting directed staff to analyze and provide proposed options for the commission’s consideration as to how to incorporate shipping containers for **storage** on residential property within the code. To wit,

“Tad Calkins, Planning and Development Director, stated staff is seeking legislative intent and permission to advertise an amendment to the zoning regulations to allow or prohibit shipping containers as residential accessory structures, *Currently the Code does not specifically mention shipping containers; they have a Zoning interpretation that considers shipping containers as*

*commercial equipment; and it does not allow them to be utilized on residential property.”<sup>4</sup>*

Staff proposed to the commission three possible options: 1. Codify the current interpretation which would prohibit them in residential and agricultural Zoning Classifications; 2. Allow the shipping containers for the use of residential accessory storage buildings in all residential Zoning Classifications and residential agricultural Zoning Classifications as the County currently regulates accessory structures; 3. Allow the shipping containers for use as a residential accessory **storage** building in the zoning Classifications, but develop a set of criteria and conditions that would allow them to be permitted.<sup>5</sup>

*“Commissioner Pritchett..... 95 percent of them are located in her District; there are a lot of these containers that people have been using for **storage** .....she would like to go with Option 3.... But she thinks there has to be some type of criteria as far as setbacks and how they are placed; and she wants to make sure they are regulated to keep from having **junk yards**.....”<sup>6</sup>*

*“Commissioner Tobia inquired if the Board went with Option 2 and he decided to build a three level container shed out back, **would there be any inspection process** or could he just get a crane and stack three of them up”.<sup>7</sup>*

*“Mr. Calkins explained when they looked at this from the Florida Building Code Standpoint, they looked at the container in an unaltered state; when it is unaltered [sic], they feel it meets the Building Code; the requirement and the concern would be wind load and tying them down just like any **shed or storage** building; **and once people start stacking them, he thinks that would be altering it and they would have to look at getting an engineer to certify that it meets the requirement of the Florida Building Code, similar to what they will do with tiny homes.**”<sup>8</sup>*

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<sup>4</sup> Brevard County Board of County Commissioners meeting minutes of April 9, 2019, (Item I.i.) LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: SHIPPING CONTAINERS AS RESIDENTIAL ACCESSORY STORAGE STRUCTURES, page 40.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Brevard County Board of County Commissioners meeting minutes of April 9, 2019, (Item I.i.) LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE, RE: SHIPPING CONTAINERS AS RESIDENTIAL ACCESSORY STORAGE STRUCTURES, page 41.

At the October 8, 2019 Board of County Commissioners meeting and in response to commission directive at April 9, 2019 meeting, staff prepared a proposed code revision to allow for shipping containers for use as residential storage buildings with proposed restrictions/conditions.<sup>9</sup>

“A new or decommissioned cargo shipping container may be used as a residential **storage** building subject to the same requirements as accessory structures in residential zoning classifications, subject to the following:

- a. The use of only one single-unit cargo container per residential lot of more than one acre.
- b. A building permit shall be required.
- c. No other use is allowed within the container other than storage.
- d. No exterior labels or wording on the exterior of the container.
- e. Limited to a maximum of 320 square feet.
- f. No stacking of containers.
- g. To be located behind the principal building.
- h. Container to be shielded from view by six foot fencing, screening, or landscaping on lots less than five acres.
- i. A cargo shipping container approved under this section will not be deemed to be a temporary use allowed under Section 62-211.5.”<sup>10</sup>

“Commissioner Pritchett stated... *it should be more like a shed and not so many criteria put on it*; and she really come to the conclusion that she thought that was a good idea.....C might be a good idea but the Board can come back to it, because some people are starting to build houses with these and they are getting quite creative; *but that might need to be under another category other than storage sheds.....she is real comfortable using the same parameters as a shed, but throwing in no stacking, and it may be appropriate that if they have railroad stuff on it, maybe they paint it so that it looks more like a neighborhood shed....*”<sup>11</sup>

“Commissioner Pritchett replied (in response to request for clarification from Commissioner Tobia regarding item B) she thinks the Board needs to permit it just like sheds are permitted”.<sup>12</sup>

“Commissioner Tobia inquired if the county does or does not require a building permit for a shed right now”.<sup>10</sup>

“Mr. Calkins replied building permits are required”<sup>10</sup>

“Commissioner Tobia asked if the County allows stacking of [storage] *sheds*”<sup>10</sup>

“Mr. Calkins responded no, *sheds are not necessarily stacked*”.<sup>13</sup>

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<sup>9</sup> Brevard County Board of County Commissioners meeting minutes of October 8, 2019, (Item H.1.) PUBLIC HEARING, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI, DIVISION 1, PROVIDING FOR CARGO SHIPPING CONTAINERS AS RESIDENTIAL STORAGE SHEDS (FIRST READING), page 18.

<sup>10</sup> Brevard County Board of County Commissioners Agenda Package for October 8, 2019 meeting, page 288.

<sup>11</sup> Brevard County Board of County Commissioners meeting minutes of October 8, 2019, (Item H.1.) PUBLIC HEARING, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI, DIVISION 1, PROVIDING FOR CARGO SHIPPING CONTAINERS AS RESIDENTIAL STORAGE SHEDS (FIRST READING), pages 18-19.

<sup>12</sup> *Id.* at 19.

<sup>13</sup> *Id.* at 20.

“Commissioner Tobia questioned if sheds [sic] are not allowed to be stacked”.<sup>11</sup>  
“Mr. Calkins replied no, *sheds [sic] are not allowed to be stacked; but staff does not necessarily regulate that.*”<sup>11</sup>

Mr. Calkins “what staff looked at in creating this is they mimicked the sheds but there was a little more emphasis on trying to screen these Conex boxes because of the aesthetics of them, and the concerns with the aesthetics.”<sup>11</sup>

Commissioner Tobia questioned “*if the Board were to go with B, F, and G, if it would be fair to say it is treating them no different than sheds*”.<sup>11</sup>

“Mr. Calkins replied he believes the answer is yes, *they would be considered a shed at that point*”.<sup>11</sup>

Motion was made by Commissioner Pritchett, seconded by Commissioner Tobia to move forward with the *same criteria as a shed with requirements and B, F, and G.* Motion approved 4-1.<sup>14</sup>

After the motion was approved, “Mr. Calkins stated.....*perhaps staff can redo what the proposed and align it better with sheds.....they would look at them as a shed.....* He stated the motion is okay, but clarification what comes back, **what he is hearing the Board say, is it wants to look at storage containers the same as sheds...staff already has criteria for sheds,** it may just be modifying the definition of a shed to include the storage containers, and that may be the only Code revision needed”<sup>15</sup>

At the October 22, 2019, Brevard County Board of County Commissioners meeting,

“Tad Calkins stated.....at the first reading the Board wanted to move forward *to allow these containers to be utilized for storage sheds with the same requirement of the existing shed locations, permit requirements, and provisions of no shed [sic] stacking; and in the ordinance being presented today, it contains those provisions.*”<sup>16</sup>

Clearly, the Brevard County Commission’s intent was not to prohibit the use of shipping container materials in the **construction** of structures. Sec. 62-1102 (1)(a) was added to Sec. 62-1102(1) simply because sheds fall within the definition of accessory structures. Notably, Sec. 62-1102(1) includes (but is not limited to) garages, gazebos, cabanas, glass rooms and sheds as accessory buildings or structures. Moreover, Sec. 62-1102(1) allows for construction of a full or half bath in accessory buildings or structures, presumably, to utilize accessory buildings or structures for non-storage purposes.

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<sup>14</sup> *Id.* at 21.

<sup>15</sup> *Id.*

<sup>16</sup> Brevard County Board of County Commissioners meeting minutes of October 22, 2019, (Item H.1.) PUBLIC HEARING, RE: CODE REVISION TO CHAPTER 62, ARTICLE VI, DIVISION 1, PROVIDING FOR CARGO SHIPPING CONTAINERS AS RESIDENTIAL STORAGE SHEDS. (SECOND READING), page 14.



Prior to adoption of subsection (a), Sec. 62-1102(1) encompassed a broad range of definitions of accessory structures or buildings. A shed fell within one of these definitions, instead of delineating a separation of sheds from the same classification as a cabana or utility room when the code was modified, subsection (a) was added to apply specifically (and only) to shipping containers when they are utilized as sheds.

The commission intended to include provisions to allow for shipping containers to be utilized as sheds; however, there was a concern that shipping containers utilized as sheds would be “stacked” vertically in a manner similar to their vertical placement on cargo ships during transport, or in construction or storage yards when shipping containers are placed vertically on top of each other on a temporary basis. As questioned by Commissioner Tobia and answered in the negative by Tad Calkins, sheds are not permitted to be stacked.

The legislative history of Sec. 62-1102 (1)(a) clearly establishes the commission’s intent to allow for the use of shipping containers as sheds in residential districts. Importantly, however, the commission’s intent was ONLY to prohibit “stacking” of shipping containers used as sheds. The commission did not intend that Sec. 62-1102 (1)(a) would be utilized to prohibit the use of shipping container materials in the construction of accessory structures. The “stacking” prohibition applies to a shipping container utilized solely for storage.

Mr. Traska’s shipping container materials used in the construction of an accessory structure is clearly outside the Brevard County Board of Commissioner’s contemplation of shipping containers to be utilized as sheds.

V. THE PETITIONER IS EQUITABLY ESTOPPED FROM ENFORCING SECTION 62-1102 (1)(a) AGAINST RESPONDENT.

The doctrine of equitable estoppel may be invoked against a governmental body as if it were an individual. *Hollywood Beach Hotel Co. v. City of Hollywood*, 329 So.2d 10 (Fla.1976). A municipality shall not prohibit development where a property owner (1) in good faith (2) upon some act or omission of the government (3) has made such a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the right he acquired. *Hollywood Beach*, 329 So.2d at 15-16.

Equitable estoppel is invoked where the proposed plans have been approved by the governmental body and the owner acts in reliance upon that approval. *Fla. Cos. V. Orange Cnty.*, 411 So. 2d 1008, 1009-12 (Fla. 5<sup>th</sup> DCA 1982). “Stripped of the legal jargon which lawyers and

judges have obfuscated it with, the theory of estoppel amounts to nothing more than an application of the rules of fair play. One party will not be permitted to invite another onto a welcome mat and then be permitted to snatch the mat away to the detriment of the party induced or permitted to stand thereon. A citizen is entitled to rely on the assurances and commitments of a zoning authority and if he does, the zoning authority is bound by its representations, whether they be in the form of words or deeds..." *Town of Largo v. Imperial Homes*, 309 So.2d 571 (Fla. 2<sup>nd</sup> DCA 1975).

Here, Mr. Traska submitted a building permit application for an accessory building on October 28, 2022 (See Mr. Traska's Exhibit D). Mr. Traska's application was reviewed by several of the Petitioner's departments, including the Zoning Department. Mr. Traska submitted revised plans four times from October 2022 through March 2023 when the Petitioner issued a building permit to Mr. Traska to construct his proposed accessory building. No less than five departments reviewed Mr. Traska's application and subsequent resubmittals each time Mr. Traska submitted revisions. Mr. Traska's originally submitted plans, revised plans, and the plans ultimately approved by The Petitioner clearly delineate the use of the containers in his construction. Nearly every page of the approved plans (See Mr. Traska's Exhibit A) contains details referencing the use of the containers in the construction of Mr. Traska's intended building. The Petitioner was well aware, at every point during the review process, that Mr. Traska intended to utilize shipping container materials in the construction of his accessory building. The plans and drawings Mr. Traska provided to the Petitioner were reasonably read, construed, understood, and interpreted by Petitioner.

After Petitioner issued the building permit, Mr. Traska began construction on the accessory building. As described during his testimony at the December 19, 2023, Special Magistrate hearing, Mr. Traska has incurred in excess of \$100,000.00 in construction costs thus far. Mr. Traska acted in good faith reliance upon the Petitioner's extensive review of Mr. Traska's permit application and subsequent issuance of the building permit. After public objection to Mr. Traska's construction, the Petitioner erroneously interpreted Sec. 62-1102 (1)(a) as applicable and issued the code violation(s) at issue here. Mr. Traska materially changed his position and has undeniably incurred substantial expense in reliance upon the permission granted and permit issued by Petitioner. Similar to the cause at issue, in *Sakolsky v. City of Coral Gables*, 151 So.2d 433, 436 (Fla. 1963), it was determined that a permit "intentionally and lawfully

issued by the proper municipal officers can have no other purpose than to authorize action by the permittee in reliance on its terms. Notice or knowledge of mere equivocation independent of actual infirmities or pending official action cannot in this situation operate to negate or prevent reliance on the official act”.

Petitioner has demanded that Mr. Traska remove the second floor of his structure, contrary to the approved plans Mr. Traska received a permit for. In *Florida Companies v. Orange County*, 411 So.2d at 1010-12, the Fifth District held that the county was equitably estopped from denying subdivision plat approval based on a failure to include individual septic tanks because the county had induced Florida Companies to build a sewage treatment plant on its initial approval. Similar to the issue at hand, Mr. Traska applied for and received a permit to construct an accessory building with a second floor. After beginning construction and passing several inspections for the foundation of the structure, Petitioner has demanded that the second floor of Mr. Traska’s structure be removed. **The Petitioner allowed Mr. Traska to proceed with his construction and must now be estopped from applying the ordinance at issue to the injury of Mr. Traska who recognized the Petitioner’s authority and proceeded with the construction of his accessory building only after getting its sanction to do so.** The Petitioner must now be estopped from requiring Mr. Traska to remove the second floor of his structure because the Petitioner induced Mr. Traska to build the structure reflected in the approved plans (which clearly detailed the second floor of the structure) and building permit.

Petitioner has implied that it mistakenly issued Mr. Traska’s building permit. However, there was no mistake made by Petitioner in issuing Mr. Traska’s building permit. The Petitioner acted fully and properly within its ministerial obligation to issue Mr. Traska a permit to construct his accessory building. A permit which Mr. Traska had a clear legal right to after complying with all of Petitioner’s procedures for permit issuance. The mistake made by the Petitioner was the issuance of the NOV to Mr. Traska based on a wrongful application/interpretation of Sec. 62-1102 (1)(a) to the facts at hand.

## VI. CONCLUSION

For the reasons cited herein, Mr. Traska respectfully requests that the Special Magistrate dismiss the code violations cited in the NOV. Although not the primary focus of the code violations at issue, Mr. Traska has provided a copy of his revised building plans (Mr. Traska’s

Exhibit E). Mr. Traska has not submitted his revised plans because at the December 19, 2023 Special Magistrate hearing, Petitioner staff indicated that there was no possibility his revised plans would be approved unless he removed the second floor of his structure in contravention of his approved plans. Until the “stacking” issue is resolved in Mr. Traska’s favor, submission of his revised plans would be moot.

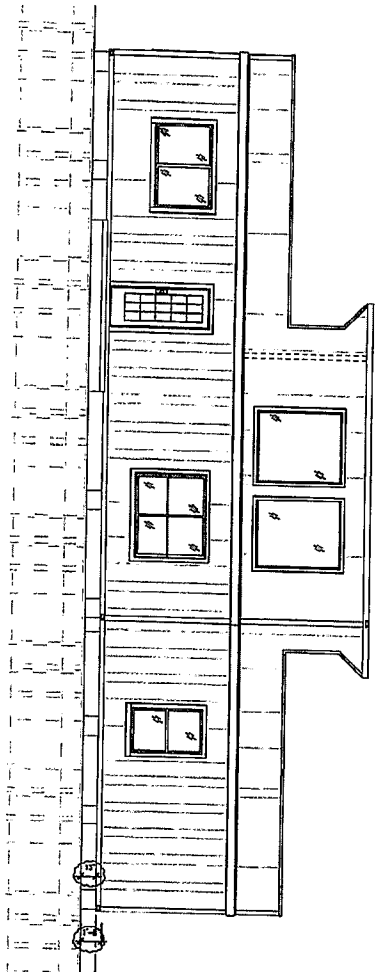
Further, the NOV cites to Section 22-47(Ch. 110), “Violations and Penalties” of the BCCO, which forbids construction without a “detailed statement or drawing submitted and permitted there under”; however, this provision is inapplicable to Mr. Traska’s situation as he has fully complied by submitting detailed drawings of his structure and received a permit from the Petitioner for his construction. Mr. Traska incorporates the audio recording and transcript of the December 19, 2023 Special Magistrate hearing into the record.

**WHEREFORE**, the Respondent, Mr. Traska, by and through the undersigned counsel, requests the Special Magistrate dismiss this action in its entirety, and award such other and further relief in favor of the Respondent as the Special Magistrate deems just and proper.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically mailed to the Petitioners on this 18<sup>th</sup> day of January, 2024.

/s/ Alicia N. Kelly  
Florida Bar #115374  
101 Park Place Blvd. Suite 3  
Kissimmee FL 34741  
(407) 414 2566 (telephone)  
(407) 847 2850 (facsimile)  
Primary: [alicia@schoolfieldproperties.com](mailto:alicia@schoolfieldproperties.com)  
Secondary: [efiling@schoolfieldproperties.com](mailto:efiling@schoolfieldproperties.com)  
Attorney for Respondent



FRONT ELEVATION  
1/8"=1'-0"

Pedro L. Medina, P.E.  
Medina PE 73579  
Date: 2023.12.11  
163803-0500



# TRASKA "MAN CAVE"

**NOTES:**

- EXISTING STORAGE CONTAINER ON PROPERTY IS TO BE RELOCATED AND BE RE-PURPOSED IN THIS PROJECT.
- "MAN CAVE" TO BE INSULATED AND AIR CONDITIONED SPACE

**DESIGNER**  
KLP SDS DESIGN SERVICES  
Tim Perry  
235 S. Mallard Avenue, Suite 216  
Maitland, Florida 32751  
Phone: 407-947-7549

**ENGINEER:**  
Pedro L. Medina, P.E.  
Professional Engineer  
FL P. E. # 73579  
pedro@prodf.com  
Phone: 407-947-7549

**REFERENCED BUILDING CODES:**

- 2020 FLORIDA BUILDING CODE 7th EDITION, RESIDENTIAL
- 2020 FLORIDA BUILDING CODE 7th EDITION, BUILDING
- 2020 FLORIDA BUILDING CODE 7th EDITION, PLUMBING
- 2020 FLORIDA BUILDING CODE 7th EDITION, MECHANICAL
- 2020 FLORIDA BUILDING CODE 7th EDITION, ENERGY CONSERVATION
- AMERICAN ELECTRICAL CODE 2017

**DESIGN LOAD REQUIREMENTS:**

- a) Uninhabitable, open-air, storage: 10psf
- b) Uninhabitable, open-air, deck: 20psf
- c) Habitable areas and decks served with fixed stairs: 30psf
- d) Balconies (exterior) and decks: 30psf
- e) Stairs: 40psf
- f) Guard rails and handrails: 20psf
- g) Guards and handrails: 20psf
- h) Platform other than sleeping room: 40psf
- i) Sleeping room: 30psf
- j) Stairs: 40psf

**CONSTRUCTION TYPE V-B**

NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET CODE REVISIONS OF THE 2020 FLORIDA BUILDING CODE. SEE REVISIONS FOR THE 2020 FLORIDA BUILDING CODE. SEE WINDOW AND COORING REVISIONS.

**INDEX OF DRAWINGS:**

- CS COVER SHEET
- SP SITE PLAN
- A0 FOUNDATION PLAN
- A1 FLOOR PLAN
- A2 ELEVATIONS
- A.3 ELEVATIONS
- E1 ELECTRICAL PLAN
- S1 STRUCTURAL DETAILS
- L1 EXISTING LANDSCAPE PLAN
- SP1 DRAINAGE PLAN

TRASKA ACCESSORY BUILDING  
"MAN CAVE" 134 DIANE CIRCLE  
INDIANTLANTIC, FL. 32903

**KLP DESIGN SERVICES**  
KLP DESIGN SERVICES  
134 DIANE CIRCLE  
INDIANTLANTIC, FL. 32903  
Phone: (407) 947-7549  
E-MAIL: info@kpsds.com

Pedro L. Medina, P.E.  
Professional Engineer  
FL P. E. # 73579  
pedro@prodf.com

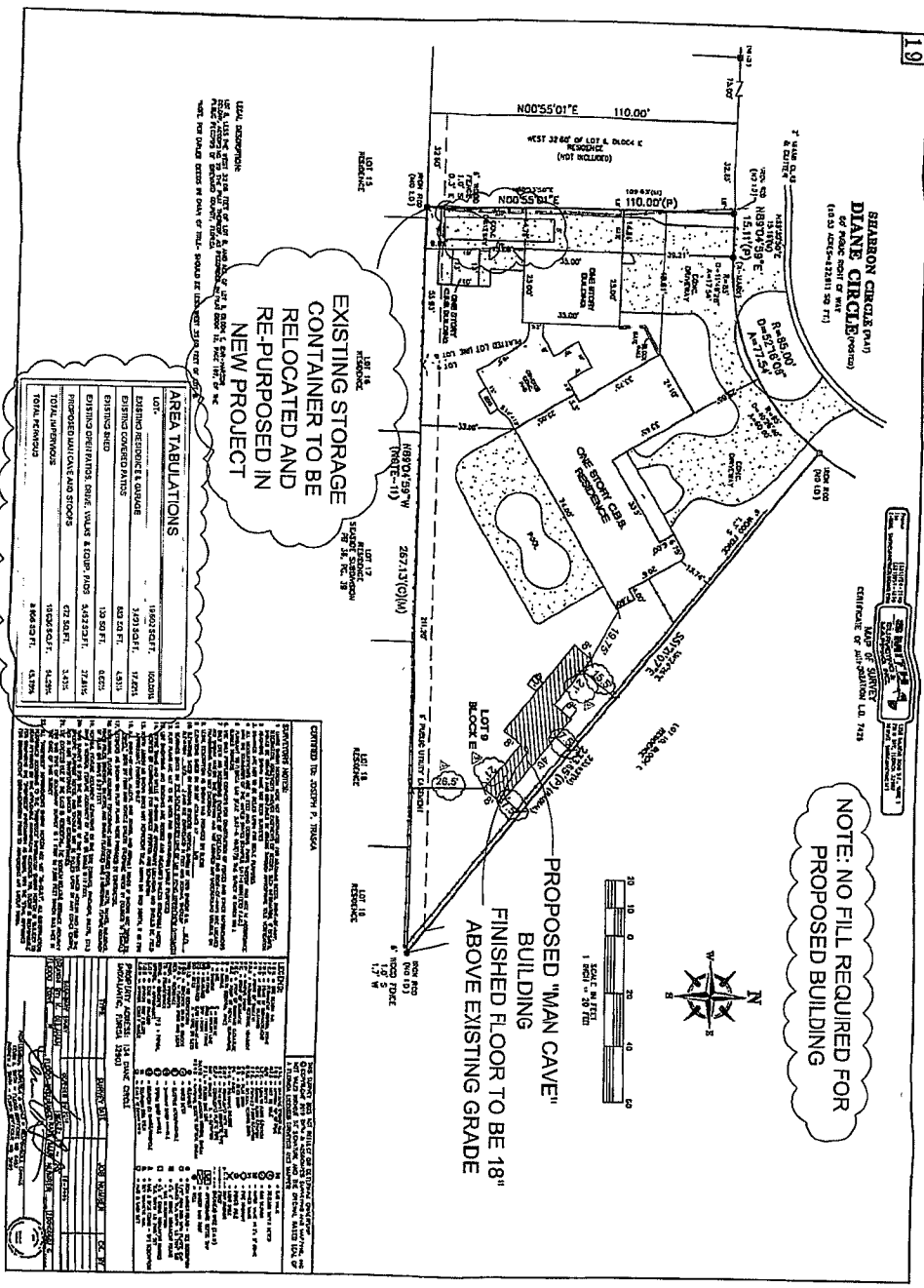
**PROFESSIONAL ENGINEER**  
Pedro L. Medina, P.E.  
Date: 2023.12.11  
163803-0500

CSA NO. 163803-0500  
DRAWN BY: A.V. 12/2023  
DATE: 12/11/23  
SCALE: N.T.S.

**COVER SHEET**

**CS**

# SITE PLAN



EXISTING STORAGE CONTAINER TO BE RELOCATED AND RE-PURPOSED IN NEW PROJECT

NOTE: NO FILL REQUIRED FOR PROPOSED BUILDING

**AREA TABULATIONS**

LOT	18402 SQUA.	500.000
EXISTING RESIDENTIAL GARAGE	11013 SQUA.	17.851
EXISTING CONCRETE PATIO	403.20 SQUA.	4.831
EXISTING ROAD	130.50 SQUA.	2.281
EXISTING OPERATING SHED, VEHICLES & EQUIP. PADS	54822.20 SQUA.	548.22
PROPOSED BUILDING AND STAIRS	473.50 SQUA.	4.73
TOTAL IMPROVEMENTS	11503.20 SQUA.	115.03
TOTAL PERMITS	18402.20 SQUA.	184.02

**CONTRACT TO CONVEY TO RECORD**

THIS PLAN IS TO BE FILED FOR RECORD IN THE PUBLIC RECORDS OF THE COUNTY OF INDIAN LANTIC, FLORIDA, AND TO BE RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF INDIAN LANTIC, FLORIDA, IN ACCORDANCE WITH THE REQUIREMENTS OF THE FLORIDA DEPARTMENT OF REVENUE, DIVISION OF RECORDS AND DOCUMENTS, AND THE FLORIDA DEPARTMENT OF REVENUE, DIVISION OF RECORDS AND DOCUMENTS, AND THE FLORIDA DEPARTMENT OF REVENUE, DIVISION OF RECORDS AND DOCUMENTS.

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Pedro Medina  
 Registered Professional Engineer  
 No. 73579  
 State of Florida  
 License No. 73579  
 Date: 02/25/11  
 Location: 32903

**RKD DESIGN SERVICES**  
 THE WATLAND ARBE SITE #1  
 INDIAN LANTIC, FL 32751  
 Phone (407) 941-7548  
 DDL: 1059205800.LCS  
 Pedro L. Medina, P.E.  
 Professional Engineer  
 No. 73579  
 State of Florida

**TRASKA ACCESSORY BUILDING**  
 "MAN CAVE" 134 DIANE CIRCLE  
 INDIAN LANTIC, FL 32903

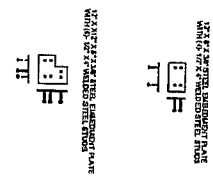
SCALE: 1" = 20'

DESIGNED BY	BRUNSON
DRAWN BY	AKL/SOZ
CHECKED BY	AKL/SOZ
DATE	04/11/22
PROJECT NO.	AKL/210001

**SP**  
 SITE PLAN

**FOUNDATION REVISIONS**

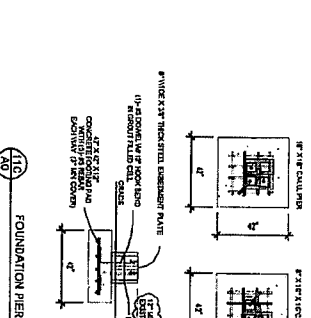
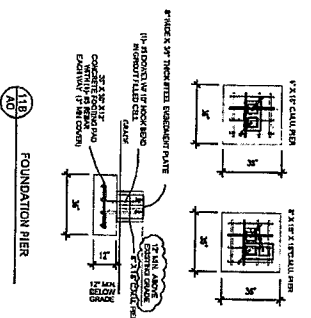
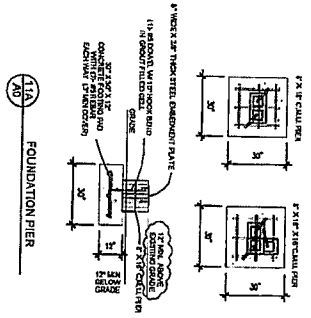
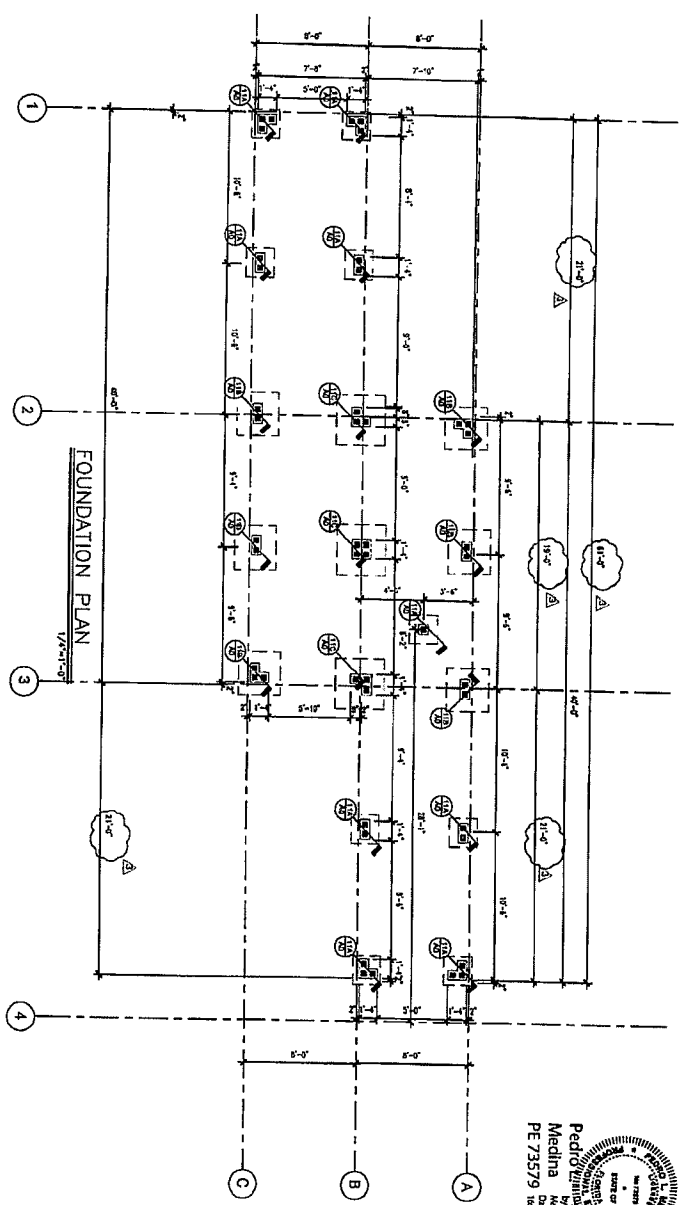
1. FOUNDATION REVISIONS SHALL BE MADE TO ALL FOUNDATIONS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOUNDATION REVISIONS TO THE FOUNDATION PLAN.
2. FOUNDATION REVISIONS SHALL BE MADE TO ALL FOUNDATIONS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOUNDATION REVISIONS TO THE FOUNDATION PLAN.
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6. FOUNDATION REVISIONS SHALL BE MADE TO ALL FOUNDATIONS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOUNDATION REVISIONS TO THE FOUNDATION PLAN.
7. FOUNDATION REVISIONS SHALL BE MADE TO ALL FOUNDATIONS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOUNDATION REVISIONS TO THE FOUNDATION PLAN.
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9. FOUNDATION REVISIONS SHALL BE MADE TO ALL FOUNDATIONS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOUNDATION REVISIONS TO THE FOUNDATION PLAN.
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11. FOUNDATION REVISIONS SHALL BE MADE TO ALL FOUNDATIONS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOUNDATION REVISIONS TO THE FOUNDATION PLAN.
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13. FOUNDATION REVISIONS SHALL BE MADE TO ALL FOUNDATIONS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOUNDATION REVISIONS TO THE FOUNDATION PLAN.
14. FOUNDATION REVISIONS SHALL BE MADE TO ALL FOUNDATIONS TO BE CONSTRUCTED IN ACCORDANCE WITH THE FOUNDATION REVISIONS TO THE FOUNDATION PLAN.



**CONSTRUCTION TYPE V-B**

NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET THE MINIMUM REQUIREMENTS OF THE 2000 FLORIDA BUILDING CODE REVISIONS, WITH SECTION R502.1.8.

1. DESIGN WIND SPEED - V=140 MPH (V=140 MPH)
2. DESIGN WIND DIRECTION - 0°
3. DESIGN WIND PRESSURE - 15.0 PSF
4. REPORT AND EXPOSURE ADJUSTMENT COEFFICIENT - 1.0
5. REPORT AND EXPOSURE ADJUSTMENT COEFFICIENT - 1.0
6. REPORT AND EXPOSURE ADJUSTMENT COEFFICIENT - 1.0



**Pedro Espinoza**  
 PE 73579  
 Professional Engineer  
 License No. 163801-0300



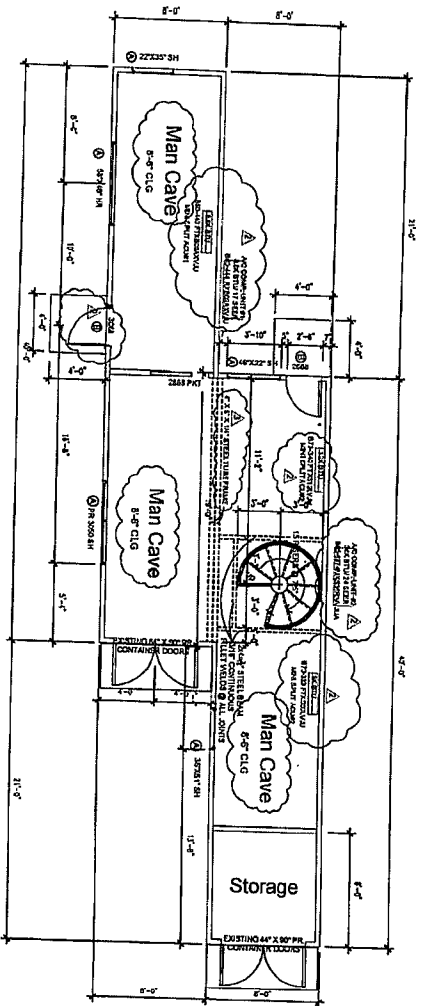
**TRASKA ACCESSORY BUILDING**

"MAN CAVE" 134 DIANE CIRCLE  
 INDIAN LANTIC, FL. 32903

DATE: 06/15/23  
 SCALE: 1/4" = 1'-0"

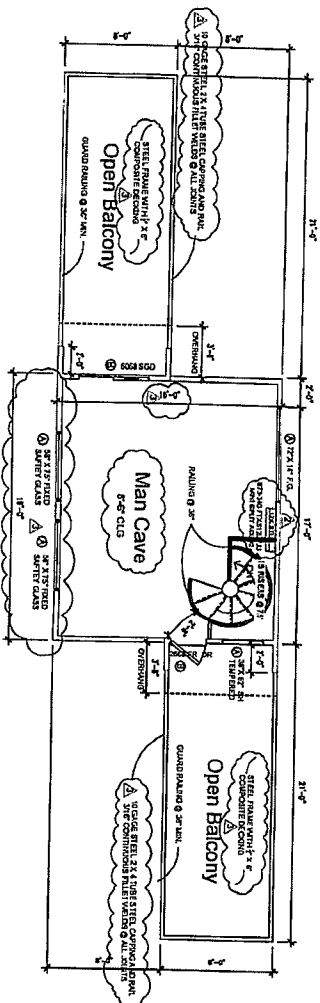
FOUNDATION

**A0**



**PROPOSED 1ST FLOOR PLAN**  
1/4"=1'-0"

- 2021/180 MPH EXTERIOR WINDOW REQUIREMENTS**
- EXTERIOR WINDOWS AND GLASS DOORS MUST MEET THE CODE 2020 IBC 1903.2(2) OF THE FLORIDA BUILDING CODE AND LABELING TO INCLUDE:
- (A) WINDOWS AND GLASS DOORS SHALL BE TESTED BY AN APPROVED TESTING LABORATORY, AND BEARS AN AIAA OR WMA CHARACTERISTICS AND APPROVED PERFORMANCE INDICATE COMPLIANCE WITH THE REQUIREMENTS OF THE FOLLOWING SPECIFICATION:
    - WINDOWS & GLASS DOORS: ANSI/AMA/AMA WMA 101/92.257
    - AND THE COMPONENTS AND GLAZING: WMA 101/92.257
    - AND THE MIN. REQUIREMENTS OF: 132.6 PSF/ 38.7 PSF
  - (B) EXTERIOR DOORS MUST BE MEET OR EXCEED MIN. REQ. OF 43.0/57 PSF/ 13.5/4 PSF
- 2021/180 MPH EXTERIOR DOOR REQUIREMENTS**
- EXTERIOR DOORS SHALL BE CAPABLE OF WITHSTANDING POSITIVE AND NEGATIVE WIND PRESSURES AS DETERMINED BY FBCR301.2(2)



**PROPOSED 2ND FLOOR PLAN**  
1/4"=1'-0"

AREA CALCS.	
NO. OF ROOMS	1
TOTAL AREA	1,234.56
TOTAL PERIMETER	123.45
TOTAL VOLUME	1234.56
TOTAL WEIGHT	1234.56

**Pedro L. Medina**  
 PE 73579 (625319-4500)  
 MEDINA  
 DATE: 2023.12.17  
 BY: Medina PE 73579

# A1

**TRASKA ACCESSORY BUILDING**

"MAN CAVE" 134 DIANE CIRCLE  
INDIANTLANTIC, FL. 32903

**DETAILED BY:** J. GRIFFIN  
**DATE:** 12/15/23  
**PROJECT:** TRASKA ACCESSORY BUILDING  
**SCALE:** 1/4"=1'-0"

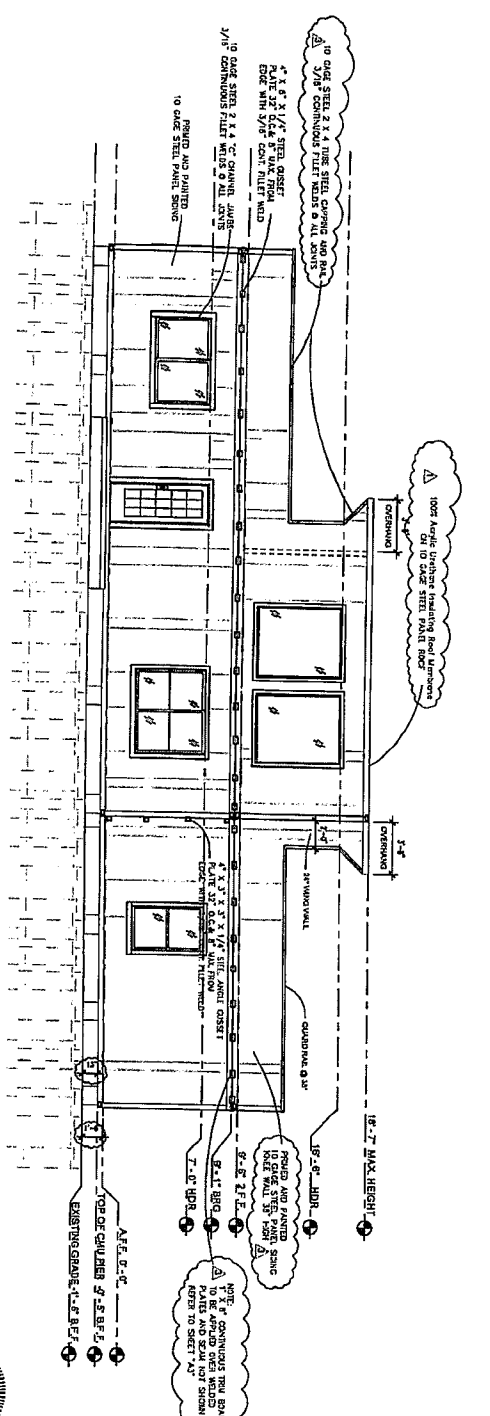
**JOB NO.:** P2001  
**DATE:** 09/18/22  
**SCALE:** 1/4"=1'-0"

**REVISIONS:**  
**NO. DATE BY**  
 1 12/15/23 JG

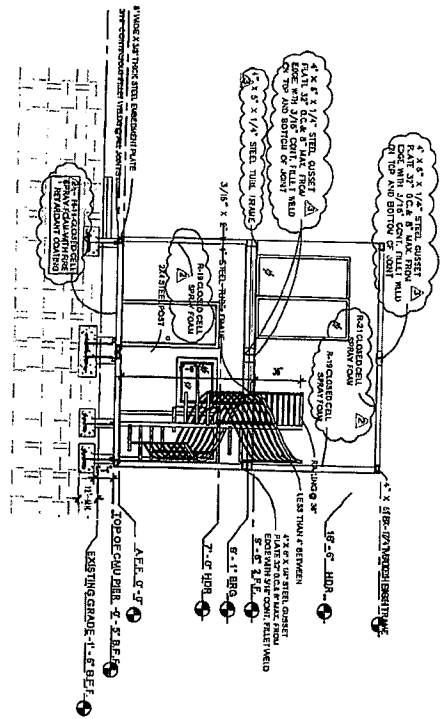
**KIP DESIGN SERVICES**  
 28 S. WINDY HAVEN, SUITE 28  
 MAITLAND, FL 32751  
 PHONE (407) 947-7249  
 FAX (407) 947-7249  
 WWW.KIPDESIGN.COM

**Pedro L. Medina, P.E.**  
 Professional Engineer  
 PE 73579  
 pmed@kipcd.com

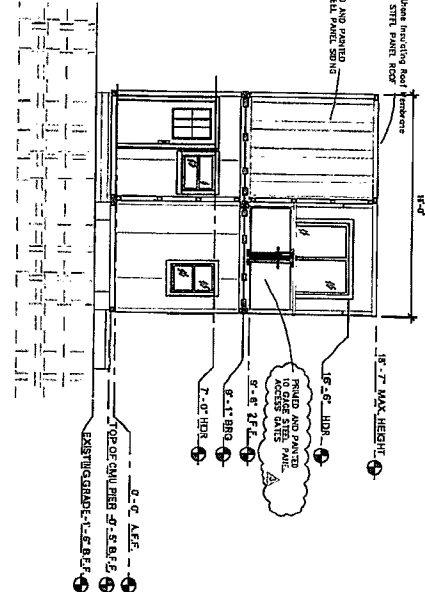




FRONT ELEVATION  
1/4"=1'-0"



CROSS SECTION  
1/4"=1'-0"



LEFT ELEVATION  
1/4"=1'-0"

**CONSTRUCTION TYPE V-B**

NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET OR EXCEED THE MINIMUM REQUIREMENTS OF THE 2006 INTERNATIONAL RESIDENTIAL CODE WITH EDITION REVISIONS AND 2006 FLORIDA BUILDING CODE.

1. DESIGN WIND SPEED - V=140 mph (140 - 150 mph)
2. DESIGN WIND DIRECTION - 0°
3. DESIGN WIND EXPOSURE - B
4. DESIGN WIND PRESSURE COEFFICIENTS - ASSET 7-10 UNENCLOSED BUILDINGS - 0.18
5. SEE WINDOW AND DOOR REQUIREMENTS 2006 7th EDITION R301.2(2)

Pedro L. Medina  
 PE 73579  
 Professional Engineer  
 Florida State Board of Professional Engineers  
 License No. 73579  
 State of Florida  
 Date: 02/21/11

**MLD DESIGN SERVICES**  
 28 S. BUNN RD. STE. 105  
 MAITLAND, FL 32751  
 Phone: (407) 917-7519  
 Email: info@mlddesign.com  
 Pedro L. Medina, P.E.  
 Professional Engineer  
 License No. 73579  
 State of Florida  
 Date: 02/21/11

**OSGALY FOUNDRY**  
 1000 S. W. 10th St.  
 Ft. Lauderdale, FL 33304  
 Phone: (954) 561-1111  
 Email: info@osgaly.com

**TRASKA ACCESSORY BUILDING**  
 "MAN CAVE" 134 DIANE CIRCLE  
 INDIAN LANTIC, FL. 32903

JOB NO.	REVISIONS
PK001	1/13/11
DESIGN BY:	AV/2011
DATE:	02/21/11
SCALE:	1/4"=1'-0"

**ELEVATIONS**

**A-2**

**CONSTRUCTION TYPE V.B**

NOTE: THIS STRUCTURE HAS BEEN DESIGNED TO MEET CODE REEED REQUIREMENTS OF THE 2000 FLORIDA BUILDING CODE REEED IN THE 2007 EDITION (SCE 7-18)

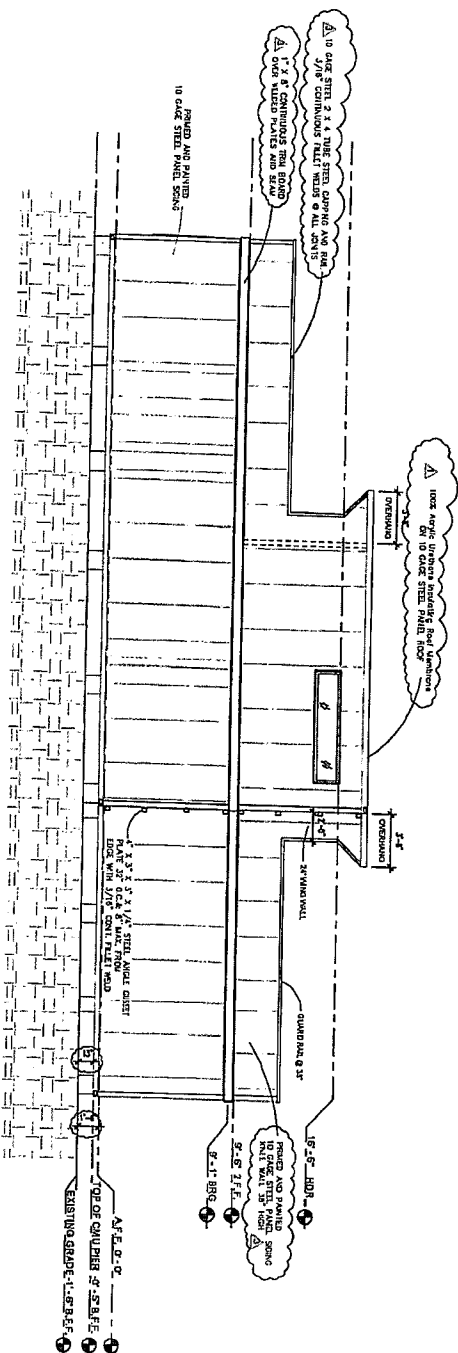
1. DESIGN WIND SPEED - V 144 (134 KPH) V UR - 180 (MPH)

2. RISK FACTOR - CATEGORY II

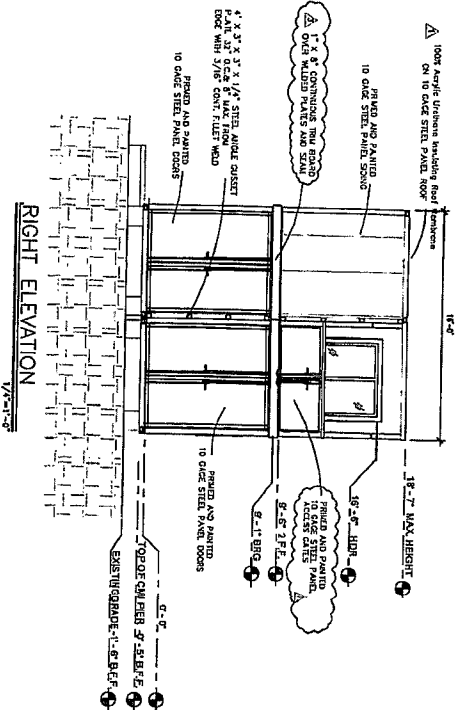
3. WIND EXPOSURE - EXPOSURE B

4. HEIGHT AND EXPOSURE DETERMINING WIND SPEED ZONE - ZONE 2

5. SEE WINDSPEED AND ZONE REQUIREMENTS



**REAR ELEVATION**  
1/8"=1'-0"



**RIGHT ELEVATION**  
1/8"=1'-0"

Professional Engineer Seal for Pedro L. Medina, PE 73579, State of Florida.

**TRASKA ACCESSORY BUILDING**

**"MAN CAVE" 134 DIANE CIRCLE**  
INDIANTLANTIC, FL. 32903

**KEY DESIGN SERVICES**

335 S WINDY PARK, SUITE 706  
MAYLAND, FL 32729  
Phone: 407-298-2200  
Fax: 407-298-2200

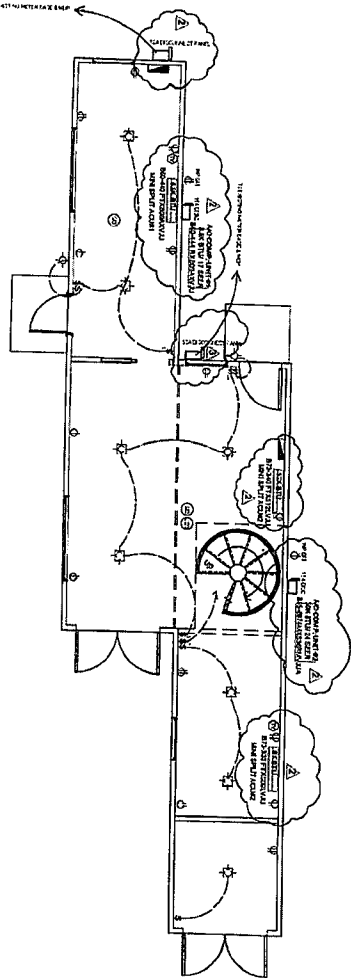
Pedro L. Medina, P.E.  
Florida License # 73579  
pedro@keydesign.com

TRASKA ACCESSORY BUILDING  
134 DIANE CIRCLE  
INDIANTLANTIC, FL 32903  
Phone: 407-298-2200  
Fax: 407-298-2200

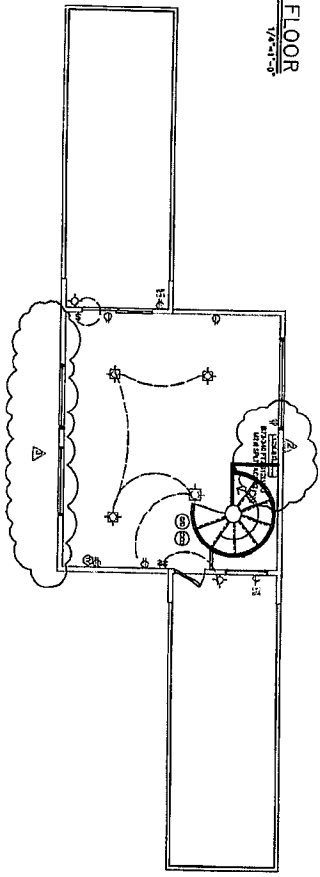
JOB NO.	REVISIONS
10011522	1. 08/15/22
10011522	2. 08/15/22
10011522	3. 08/15/22
10011522	4. 08/15/22
10011522	5. 08/15/22

**ELEVATIONS**

**A-3**



ELECTRICAL PLAN 1ST FLOOR  
1/8"=1'-0"



ELECTRICAL PLAN 2ND FLOOR  
1/8"=1'-0"

**HVAC GENERAL NOTES**

1. ALL WORKING AND DIMENSIONS SHALL BE SUPPLEMENTED BY THE CONTRACTOR'S FIELD MEASUREMENTS.
2. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.
4. ALL WORK SHALL BE COMPLETED AND INSPECTED IN ACCORDANCE WITH THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.
5. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.
6. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.

**GENERAL ELECTRICAL NOTES**

1. ALL WORK SHALL BE COMPLETED IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE (NEC) AND ALL APPLICABLE REGULATIONS.

2. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.

3. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.

4. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.

5. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.

6. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL HEALTH DEPARTMENT AND ALL APPLICABLE REGULATIONS.

ELECTRICAL LEGEND	
	SCHEDULE
	GROUNDING
	PANEL
	SWITCH
	OUTLET
	LIGHT
	TELEPHONE
	FIRE ALARM
	ELEVATOR
	STAIRCASE
	DOOR
	WINDOW
	WALL
	CEILING
	FLOOR
	COLUMN
	BEAM
	SLAB
	FOUNDATION
	FOUNDATION WALL
	FOUNDATION COLUMN
	FOUNDATION BEAM
	FOUNDATION SLAB
	FOUNDATION COLUMN CAP
	FOUNDATION WALL CAP
	FOUNDATION BEAM CAP
	FOUNDATION SLAB CAP
	FOUNDATION COLUMN TIE
	FOUNDATION WALL TIE
	FOUNDATION BEAM TIE
	FOUNDATION SLAB TIE
	FOUNDATION COLUMN HEAD
	FOUNDATION WALL HEAD
	FOUNDATION BEAM HEAD
	FOUNDATION SLAB HEAD
	FOUNDATION COLUMN FOOTING
	FOUNDATION WALL FOOTING
	FOUNDATION BEAM FOOTING
	FOUNDATION SLAB FOOTING
	FOUNDATION COLUMN BASE
	FOUNDATION WALL BASE
	FOUNDATION BEAM BASE
	FOUNDATION SLAB BASE

Pedro L. Medina, P.E.  
 No. 73579  
 State of Florida  
 Medina PE 73579  
 Date: 03/21/11  
 18000-0000

**TRASKA ACCESSORY BUILDING**  
 "MAN CAVE" 134 DIANE CIRCLE  
 INDIAN LANTIC, FL. 32903

73579  
 18000-0000

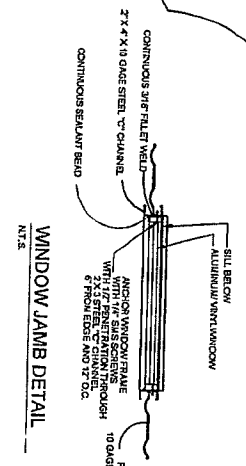
**ADP DESIGN SERVICES**  
 288 S. WINDY HILL BLVD. SUITE 78  
 MANTLAND, FL. 32751  
 PHONE (407) 981-7569  
 FAX (407) 981-7570  
 WWW.ADPDESIGN.COM

Pedro L. Medina, P.E.  
 No. 73579  
 State of Florida  
 pedro@adpsd.com

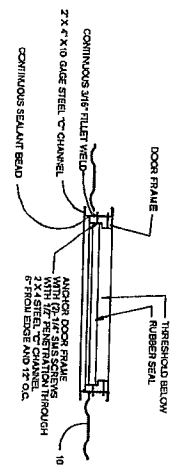
E-1

<b>JOB NO.</b>	134-2011
<b>DATE</b>	03/21/11
<b>SCALE</b>	1/8"=1'-0"

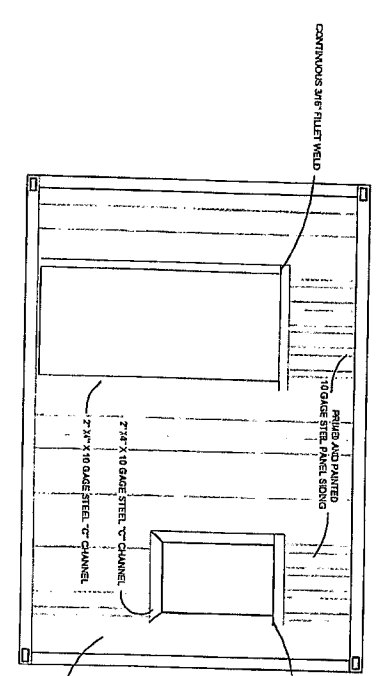
**ELECTRICAL FLOOR PLAN**



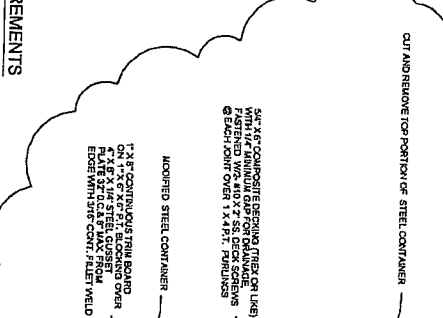
WINDOW JAMB DETAIL  
N.T.S.



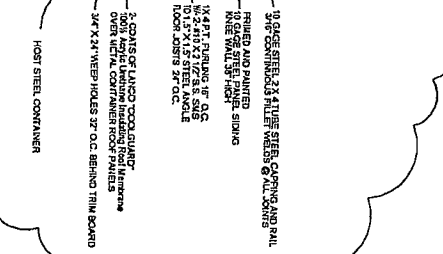
DOOR JAMB DETAIL  
N.T.S.



WINDOW & DOOR JAMB DETAIL  
N.T.S.



BALCONY DECK & RAILING DETAIL  
N.T.S.



BALCONY DECK & RAILING DETAIL  
N.T.S.

- DESIGN LOAD REQUIREMENTS**
- a) Uninhabitable attic without storage: 10psf,
  - b) Uninhabitable attic with limited storage: 20psf,
  - c) Habitable attics and attics served with fixed stairs: 30psf,
  - d) Balconies (exterior) and decks: 80psf,
  - e) Guard in-fill components: 50psf,
  - f) Passenger vehicle garages: 50psf,
  - g) Rooms other than sleeping room: 40psf,
  - h) Sleeping rooms: 30psf,
  - i) Stairs: 60psf.

Professional Engineer  
Pedro L. Medina, P.E.  
No. 12579  
Date: 09/24/21  
73579



TRASKA ACCESSORY BUILDING  
"MAN CAVE" 134 DIANE CIRCLE  
INDIATLANTIC, FL. 32903

**KLP DESIGN SERVICES**  
285 S. WATSON BLVD. SUITE 210  
MAITLAND, FL 32751  
Phone: (407) 541-7549  
Email: info@klpservices.com  
Pedro L. Medina, P.E.  
Professional Engineer  
FL P.E. # 12579  
pedro@klpservices.com

JOB NO.	PK801	REVISIONS	1/13/2022
DRAWN BY	TS/ML	DATE	09/21/22
SCALE	N.T.S.		

**DETAILS**

**S1**

CODE ENFORCEMENT SPECIAL MAGISTRATE  
BREVARD COUNTY, FLORIDA

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA, a political subdivision  
of the State of Florida,  
Petitioner,

CASE NO: 23CE-01219

vs.  
JOSEPH P TRASKA,  
any subsequent purchasers, successors in interest, or assigns,  
Respondent(s).

STATE OF FLORIDA (COUNTY OF BREVARD)  
CERTIFICATION I hereby certify this is a true  
and correct copy of the Finding of Fact/  
Order of Imposition. Witness my hand on this

16 February 2024  
*Rachael M. Sadoff*  
Clerk to the Special Magistrate

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER & LIEN FOR COSTS

THIS CAUSE came on for public hearing before the Special Magistrate on 12/19/2023 after due notice to the Respondents, and the Special Magistrate having heard testimony under oath, received evidence, and issued his Findings of Fact, Conclusions of Law and Order, thereupon issued his oral Order which was reduced to writing and furnished to the Respondents, as follows:

I. FINDINGS OF FACT: There are violations of SPECIFICALLY:

- (a) The Respondents summary of the legislative history of 62-1102 interesting and beneficial but does not change the clear and unambiguous meaning of this section providing "no stacking of container shall be allowed".
- (b) The Respondents further make interesting argument of equitable estoppel which applies when a property owner in good faith took action upon on some act or omission of the government and has made a substantial change in position incurring extensive obligations and expenses. This argument would be more appropriate if the hearing involved "vested rights" and is not a determination for the Special Magistrate in this proceeding.
- (c) Brevard County, Chief Building Official, Terry Talbert, testified that there was differences between the building plan for which the Respondent has been issued a permit and the actual structure that has been built on the property involving the front level of the structure being rotated 90 degrees and the balcony area surrounded by railings being changed.
- (d) The accessory structure in question is comprised of shipping containers. This is plainly evident in the photos of the structure and the Respondent's building plans. The Respondent erected a two-story structure comprised of multiple shipping containers stacked on top of each other.
- (e) The partially built accessory structure constructed from stacked shipping containers is substantially deviated from the approved construction plans contained in Permit ID 22BC20772 including, but not limited to, the top container being modified from its permitted configuration. The magnitude and scope of the alteration led to the Chief Building Official issuing a "Stop Work Order" on construction. Additionally, under Brevard County Code, "no stacking of containers shall be allowed." To comply, unstack the shipping containers and obtain an approved revision to the permit, in full compliance with code, for the accessory structure under Permit ID 22BC20772, or return the property to the original configuration of the property prior to construction. If the unstacked containers remain on the property, they must be placed in a manner that complies with Brevard County Code.

CFN 2024033028, OR BK 9994 PAGE 1693,  
Recorded 02/16/2024 at 01:33 PM, Rachel M. Sadoff,  
Clerk of Courts, Brevard County  
# Pgs:2

On property described as: Tax Account: 2726849  
Township: 27 Range: 37 Section: 24 Subdivision: 86 Block:E Lot: 8  
Also Identified as: 134 DIANE CIR, INDIALANTIC, FL 32903

II. CONCLUSIONS OF LAW: Based upon the testimony heard and the evidence presented, the Special Magistrate concludes there is a violation of the following County Code Sections:

CASE NO: 23CE-01219

Section 22-47(110), Brevard County Code: Violations and Penalties

Section 62-1102, Brevard County Code: Definitions and Rules of Construction

Violations INITIAL

HEIGHTENED THREAT to public health, safety, or welfare: YES \_\_\_\_\_ NO XX

III ORDER

Based upon the foregoing Findings of Fact and Conclusion of Law, it is hereby ORDERED THAT:

Respondents are to bring the property into compliance by March 14, 2024 (30 days).

Fine assessed in the amount of \$25 per day beginning March 15, 2024 until compliance as determined by the Officer/Inspector.

FINES MAY BE IMPOSED AS A LIEN IN COMPLIANCE WITH F.S.162.09 AT THE NEXT AVAILABLE HEARING.

SPECIAL REQUIREMENTS: \_\_\_\_\_  
\_\_\_\_\_

To ensure compliance with this Order, pursuant to the applicable laws and at Respondent(s)' expense, the County may: Tow \_\_\_\_\_ Demolish \_\_\_\_\_ Secure \_\_\_\_\_

ENFORCEMENT COSTS ASSESSED IN THE AMOUNT OF \$550.00 ARE TO BE PAID WITHIN 30 DAYS OF THIS HEARING DATE.

Enforcement costs are hereby imposed as a lien on Respondents real and personal property in compliance with Florida Statute 162.09; including any fines assessed for irreversible or irreparable violations and any extraordinary costs assessed.

IT SHALL BE THE RESPONDENTS' RESPONSIBILITY TO CONTACT THE CODE ENFORCEMENT OFFICER/BUILDING INSPECTOR WITHIN 24 HOURS AFTER THE VIOLATION HAS BEEN CORRECTED TO STOP THE FINE FROM ACCRUING AT (321) 633-2086.

DONE AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

CODE ENFORCEMENT SPECIAL  
MAGISTRATE BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Stewart B. Capps

You have a right to appeal this Order to the Circuit Court within a period of 30 days from the date of this Order, in accordance with Brevard County Code, Section 2-178.

ALL PAYMENTS PAYABLE TO THE BOARD OF COUNTY COMMISSIONERS and mailed to: Code Enforcement ATTN: Central Cashiers, 2725 Judge Fran Jamieson Way, Bldg A, Room 114, Viera, FL 32940.

CC: JOSEPH P TRASKA 134 DIANE CIR, INDIALANTIC, FL 32903-2556  
ALICIA KELLY, ATTORNEY, SCHOOLFIELD PROPERTIES 101 PARK PLACE BLVD. SUITE 3,  
KISSIMMEE, FL 34741