

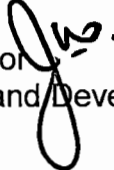



Interoffice Memorandum

AGENDA ITEM

DATE: October 14, 2019

TO: Mayor Jerry L. Demings
-AND-
Board of County Commissioners

FROM: Jon V. Weiss, P.E., Director 
Planning, Environmental and Development Services
Department

CONTACT PERSON: Jennifer Moreau, AICP, Manager 
Zoning Division
(407) 836-5856

SUBJECT: November 12, 2019 - Consent Item
Hold Harmless and Indemnification Agreement for
Jeffrey R. Burt and Kathleen L. Burt
9124 Mid Pines Court - Case #SE-18-11-134 - District #1

On October 30, 2018, the Board confirmed the recommendation of the October 4, 2018 Board of Zoning Adjustment (BZA) hearing to approve a Special Exception and Variance request for Jeffrey R. Burt and Kathleen L. Burt allowing the construction of a swimming pool, wood deck, guest house/pool cabana, and covered porch, 20 feet, 12 feet, 23 feet, and 39 feet, respectively, from the Normal High Water Elevation of Lake Tibet Butler.

The BZA's approval was conditioned on the recording of a Hold Harmless and Indemnification Agreement, which protects Orange County from any claims filed against it resulting from the County's granting of the variance on October 30, 2018.

ACTION REQUESTED: Approval and execution of Hold Harmless and Indemnification Agreement Parcel ID: 21-23-28-0560-05-030 by and between Jeffrey R. Burt and Kathleen L. Burt and Orange County to construct a swimming pool, wood deck, guest house/pool cabana, and covered porch at 9124 Mid Pines Ct., Orlando, Florida, 32819. District 1.

JVW/JM/stt
Attachment

BCC Mtg. Date: November 12, 2019

Instrument prepared by:
Jeffrey R. and Kathleen L. Burt
9124 Mid Pines Ct.
Orlando, Florida 32819

Return to:
Orange County Attorney's Office
P.O. Box 1393
Orlando, Florida 32802

**HOLD HARMLESS AND
INDEMNIFICATION AGREEMENT**
Parcel ID: 21-23-28-0560-05-030

This Hold Harmless and Indemnification Agreement (the "Agreement") is made by and between Jeffrey R. Burt and Kathleen L. Burt, as husband and wife, whose mailing address is 9124 Mid Pines Ct., Orlando, Florida 32819, (the "Homeowners") and Orange County, a charter county and political subdivision of the State of Florida, whose mailing address is c/o Orange County Administrator, P.O. Box 1393, Orlando, Florida 32802-1393 (the "County").

WITNESSETH:

WHEREAS, the Homeowners hold fee simple title to property located at 9124 Mid Pines Ct., Orlando, Florida 32819, which is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference (the "Property"); and

WHEREAS, the Homeowners desire to construct a guest house/pool cabana and covered porch along with a swimming pool and wood deck (collectively the "Improvements"); and

WHEREAS, the Homeowners desire to construct the guest house/pool cabana and covered porch no closer than twenty-three (23) feet and thirty-nine (39) feet, respectively, from the normal high water elevation ("NHWE") of Lake Tibet Butler in lieu of the fifty (50) foot setback; and

WHEREAS, the Homeowners desire to construct the swimming pool and wood deck no

closer than twenty (20) feet and twelve (12) feet, respectively, from the NHWE of Lake Tibet Butler in lieu of the thirty-five (35) foot setback; and

WHEREAS, the Homeowners sought a special exception and variances from the County to address construction of the Improvements; and

WHEREAS, on October 4, 2018, the County's Board of Zoning Adjustment ("BZA") approved the requested special exception and variances and required the Homeowners to record a Hold Harmless Agreement prior to the issuance of a building permit for the Improvements; and

WHEREAS, on October 30, 2018, the Board of County Commissioners (the "Board") approved the BZA's decision and granted approval of the Homeowners' requested special exception and variances subject to the conditions ratified or established by the Board; and

WHEREAS, the Homeowners understand and agree that placing the Improvements within the thirty-five (35) and fifty (50) foot setback areas, as respectively referenced above, may significantly increase the likelihood of damage to structures, shoreline, and associated assets, and in spite of these risks the Homeowners desire to place the Improvements within these setback areas; and

WHEREAS, because this Agreement will be executed and recorded in the Official Records of Orange County, this Agreement serves as notice that the Improvements may be constructed or may have been constructed within the thirty-five and fifty (50) foot setbacks from the normal high water elevation of Lake Tibet Butler, as authorized by the special exception and variances approved with conditions ratified or established by the Board on October 30, 2018.

NOW, THEREFORE, in consideration of these premises, the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged, the Homeowners and the County hereby agree as follows:

1. **RECITALS.** The above recitals are true and correct and are hereby incorporated as a material part of this Agreement by this reference.

2. **HOLD HARMLESS AND INDEMNIFICATION.** The Homeowners, on behalf of themselves and their successors, assigns, heirs, grantees, representatives, invitees, and permittees, hereby assume sole and entire responsibility for any and all damage to property sustained as a result of the County's granting of the special exception and variance request #SE-18-11-134 on October 30, 2018. The Homeowners hereby agree to release, indemnify, defend (with legal counsel acceptable to the County), and hold harmless the County, its Board members, officers, employees, contractors, agents, and elected and appointed officials from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including, but not limited to, attorneys' fees, paralegals' fees, consultants' fees and costs at all administrative, pretrial, trial, and appellate levels) of any kind or nature whatsoever, including without limitation damage to property, arising out of or related in any way to the activities or operations on or use of the Improvements resulting from the County's granting of the variance request #SE-18-11-134 on October 30, 2018.

3. **COVENANTS RUNNING WITH THE LAND.** This Agreement shall run with the Property, and shall be binding on all parties having any right, title or interest in the Property described herein or any portion thereof, their heirs, representatives, successors and assigns.

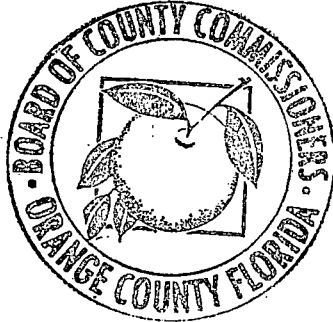
4. **AMENDMENT/TERMINATION.** This Agreement may be amended or terminated only by express written instrument approved by the Board and the Homeowners.

5. **APPLICABLE LAW.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida.

6. **RECORDATION.** An executed original of this Agreement shall be recorded, at the Homeowners' expense, in the Official Records of Orange County, Florida.

7. **EFFECTIVE DATE.** This Agreement shall become effective on the date of execution by the County or the date of execution of the Homeowners, whichever is later.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective duly authorized representatives on the dates set forth below.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
for Jerry L. Demings
Orange County Mayor

Date: 12 Nov 19

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Jennifer Klimetz*
for Deputy Clerk

Date: NOV 12 2019

[REMAINING SIGNATURES ON FOLLOWING PAGES]

Signed, sealed and delivered in our presence as witnesses:

Signature: Karen Poor

Printed Name: Karen Poor

Signature: Edward Attarian

Printed Name: Edward Attarian

HOMEOWNER:

By: Jeffrey R. Burt

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 12th day of November, 2018, by Jeffrey R. Burt, who is personally known to me or who has produced personally known, as identification.

Parker Slater
Notary Public, State of Florida At Large

PARKER SLATER
Notary Printed Name or Stamp

My Commission Expires: May 22, 2021



[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Signed, sealed and delivered in our presence as witnesses:

Signature: Karen Poor

Printed Name: Karen Poor

Signature: Edward Attarian

Printed Name: Edward Attarian

HOMEOWNER:

By: Kathleen L. Burt
Kathleen L. Burt

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 12th day of November, 2018, by Kathleen L. Burt, who is personally known to me or who has produced personally known, as identification.



Parker Slater
Notary Public, State of Florida At Large

PARKER SLATER
Notary Name Printed or Stamp

My Commission Expires: May 22, 2021

EXHIBIT "A"

LEGAL DESCRIPTION

Parcel ID: 21-23-28-0560-05-030

BAY HILL SECTION 13 10/18 LOT 503

S:kcundiff/attorneys admin/tony cotter/ hold harmless agt/Burt hold harmless agt draft 11 5 18