

**SPECIAL MAGISTRATE
CITY OF PLANTATION, FLORIDA**

CITY OF PLANTATION, FLORIDA

Case No: CE20-02545

Petitioner,

Vs.

KOLOZS,VERA

Respondent.

To: KOLOZS,VERA
2705 NW 104 AVE #102
SUNRISE, FL 33322

FINAL ORDER

STREET ADDRESS: 1021 NW 116 AVE, Plantation

LEGAL DESCRIPTION FOR PROPERTY ID #494036150020

THE TREE BEARERS PLANTATION 89-41 B A POR OF LOT 4 DESC AS BEG AT SW COR LOT 4,N 299.29,E ALG N/L OF LOT 4 305.06,SWLY ALG ARC 77.07,SW 86.26,W 47.55,SW 245.94 TO POB

On March 3, 2021, the Special Magistrate of the City of Plantation heard testimony and reviewed the evidence presented, and based on such evidence, hereby makes the following FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDERS:

FINDINGS OF FACT

The Respondent is the owner of the above reference property.

The Respondent was notified of these proceedings through certified mail and the notice was posted on the property and at City Hall. The Respondent did not appear at the Special Magistrate Hearing on March 3, 2021.

In compliance the Section 27-15.7 notice of these proceedings was issued via First Class Mail to the property owners within 300 feet of the above reference property.

The application for reasonable accommodation lists the Applicant as Yuta Varma. Mr. Varma was in attendance at the hearing and testified that he is the Director of Operations for United Recovery Project, the current occupant of the above referenced property. There was no evidence or testimony presented during the hearing that the Owner of the property had joined in the application for reasonable accommodation. Therefore, for purposes of this application, United Recovery Project is the Applicant seeking a reasonable accommodation under Section 27-15.

I have carefully considered the testimony of the witnesses who testified at the Special Magistrate Hearing on March 3, 2021 as well as the other evidence submitted, to include the application for reasonable accommodation, the Staff Report to the Special Magistrate prepared by the City of Plantation Zoning and Economic Development Department (PZED) and all the Exhibits thereto, in order to reach the following Conclusions of Law:

CONCLUSIONS OF LAW

Under Section 27-15.7 of the City of Plantation Code of Ordinances, a Special Magistrate has the authority to consider and act on all applications for a reasonable accommodation for a Community Residence in which more than six (6) persons will reside.

Section 27-15.2(1) requires that an application for reasonable accommodation shall be made by completing a reasonable accommodation request form.

Section 27-15.2(5) specifies the information required as part of any application for reasonable accommodation form. The application as submitted fails to comply with the following provisions of Section 27-15.2(5):

- ✓1. Section 27-15.2(5)(a)(2) - Signature of the applicant;
- ✓2. Section 27-15.2(5)(a)(4) - Owners consent to the application; and
3. Section 27-15.2(5)(a)(14) - An irrevocable confirmation by the applicant and the owner that the City may inspect the Lot's improvements for compliance with the applicable Florida Building Code and Fire Prevention Code and that the City, after a determination is issued, may periodically inspect such improvements for compliance with the terms and conditions of the Determination.

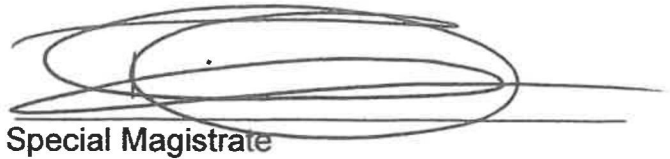
Further, Section 27-15.2(3) requires that when the owner is not the applicant, the property owner shall join in and consent to the application. The owner of the property did not attend the hearing and the Applicant did not submit any evidence that the owner of the property consented and joined in the application. Therefore, the application as presented does not comply with Section 27-15.2(3).

That based on the above, the application for a request for reasonable accommodation in this matter does not comply with the Section 27-15 of the City of Plantation Code of Ordinances.

ORDER

IT IS THE ORDER OF THE SPECIAL MAGISTRATE that has the authority to consider and act on all applications for a reasonable accommodation for a Community Residence in which more than six (6) persons that the application for reasonable accommodation in this matter is Denied.

DONE AND ORDERED on this 5th day of March, 2021.


Special Magistrate

RECORD ENTRY AND CERTIFICATE OF SERVICE:

I HEREBY CERTIFY that the Original of the foregoing signed Order was received by the Principal Office Assistant and entered into the Case Docket (Public Record) this 8th day of March, 2021 and that a copy of this Special Magistrate Hearing was mailed/delivered to the above named alleged violator at the address stated above.


Principal Office Assistant

YOU ARE HEREBY ADVISED THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE SPECIAL MAGISTRATE TO THE CIRCUIT COURT WITHIN 30 DAYS OF ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, THAT PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.



Plantation
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STAFF REPORT TO THE SPECIAL MAGISTRATE

DATE: February 19, 2021

SUBJECT: Request for Reasonable Accommodation

APPLICANT: Yuta Varma for United Recovery Project, applicant / Vera Kolozs & Deborah Kessler, property owners

ADDRESS: 1021 NW 116th Avenue

LOCATION: Located on the west side of NW 116th Avenue approximately 750 feet south of NW 12 Street

LAND USE / ZONING: Residential (1 du/ac) / RS-1EP (Estate District)

SUMMARY OF ISSUE: Yuta Varma, representing United Recovery Project, requests approval of a reasonable accommodation to occupy a single family home zoned RS-1EP as a community residence having up to 15 disabled clients and 3 caretakers (application, attached as Exhibit “A”).

SUMMARY OF REQUEST:

Ordinance 2570, attached as Exhibit “B”, was adopted by the City Council on July 25, 2018. This ordinance defines a “Family” as “One person or a group of two or more persons living together and interrelated by bonds of consanguinity, marriage, or legal adoption, or a group of persons not more than three in number who are not so interrelated, occupying the whole or part of a dwelling unit as a separate housekeeping unit with a single set of culinary facilities. The persons thus constituting a family may also include gratuitous guests and domestic servants. Any person under the age of 18 years whose legal custody has been awarded to the State Department of Children and Family Services (DCF) or to a child-placing agency licensed by DCF, or who is otherwise considered to be a foster child under the laws of the State, and who is placed in foster care with a family, shall be deemed to be related to and a member of the family for the purposes of this Chapter. Nothing herein shall be construed to include any roomer or boarder as a member of a family.”

The applicant has submitted a reasonable accommodation application requesting approval of 15 disabled residents and 3 staff members (per shift) to occupy the single-family home.

ANALYSIS:

Subject site: The subject site is a “pie” shaped lot containing 1.14 acres located on the west side of NW 116th Avenue approximately 750 feet south of NW 12th Street and bound by single family homes to the north, south, and east together with undeveloped property to the west, all zoned RS-1EP. See Figure A below.

On-site conditions: The site is developed with a two-story single-family home encompassing 6,230 square feet in area and having 6 bedrooms, 6.5 bathrooms, two two-car garages and a swimming pool. The on-site surface parking lot contains 10 parking spaces. See Figure B-1 and B-2 below.



Figure "A" – The subject site

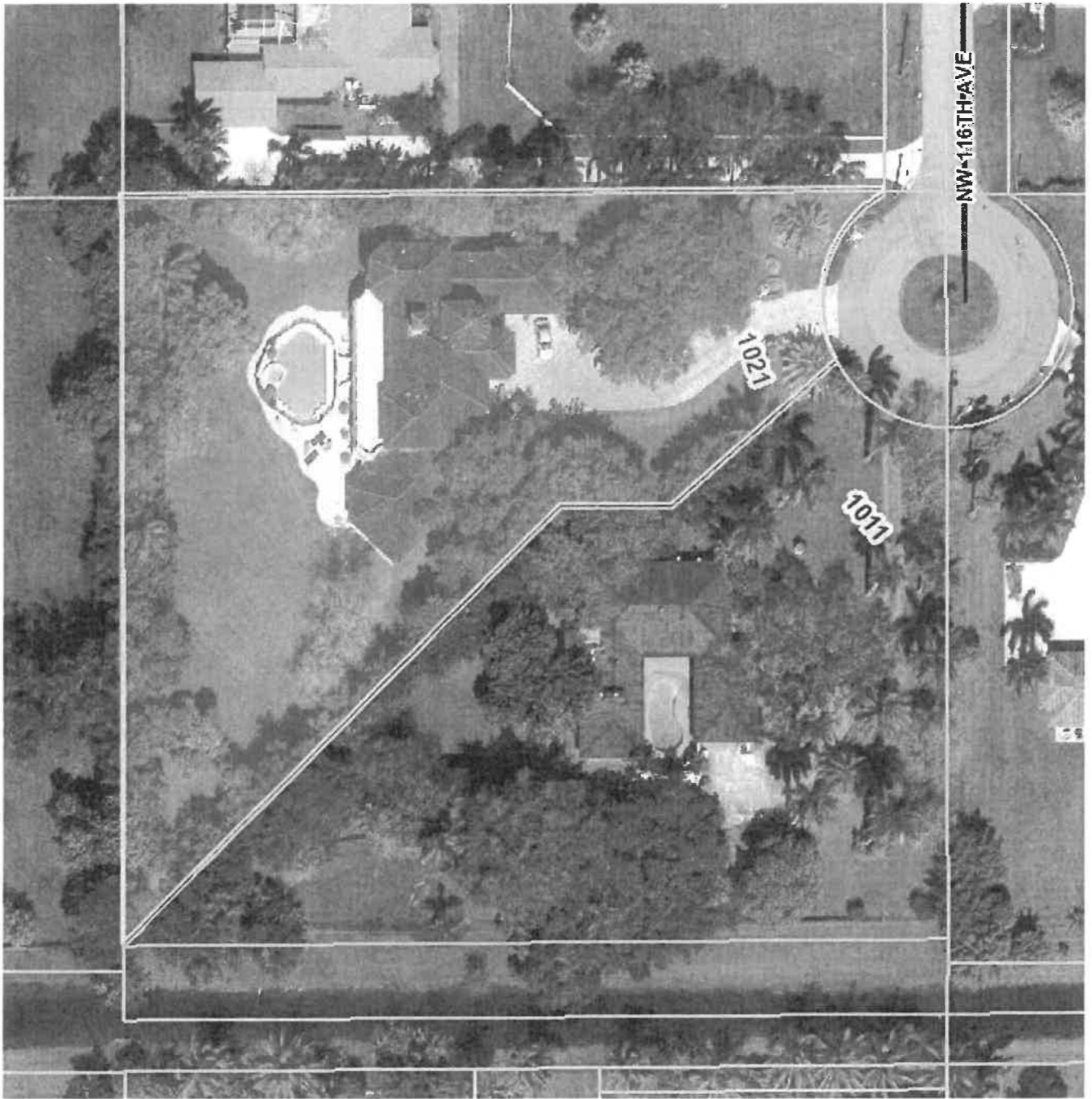


Figure B-1 – On-site conditions

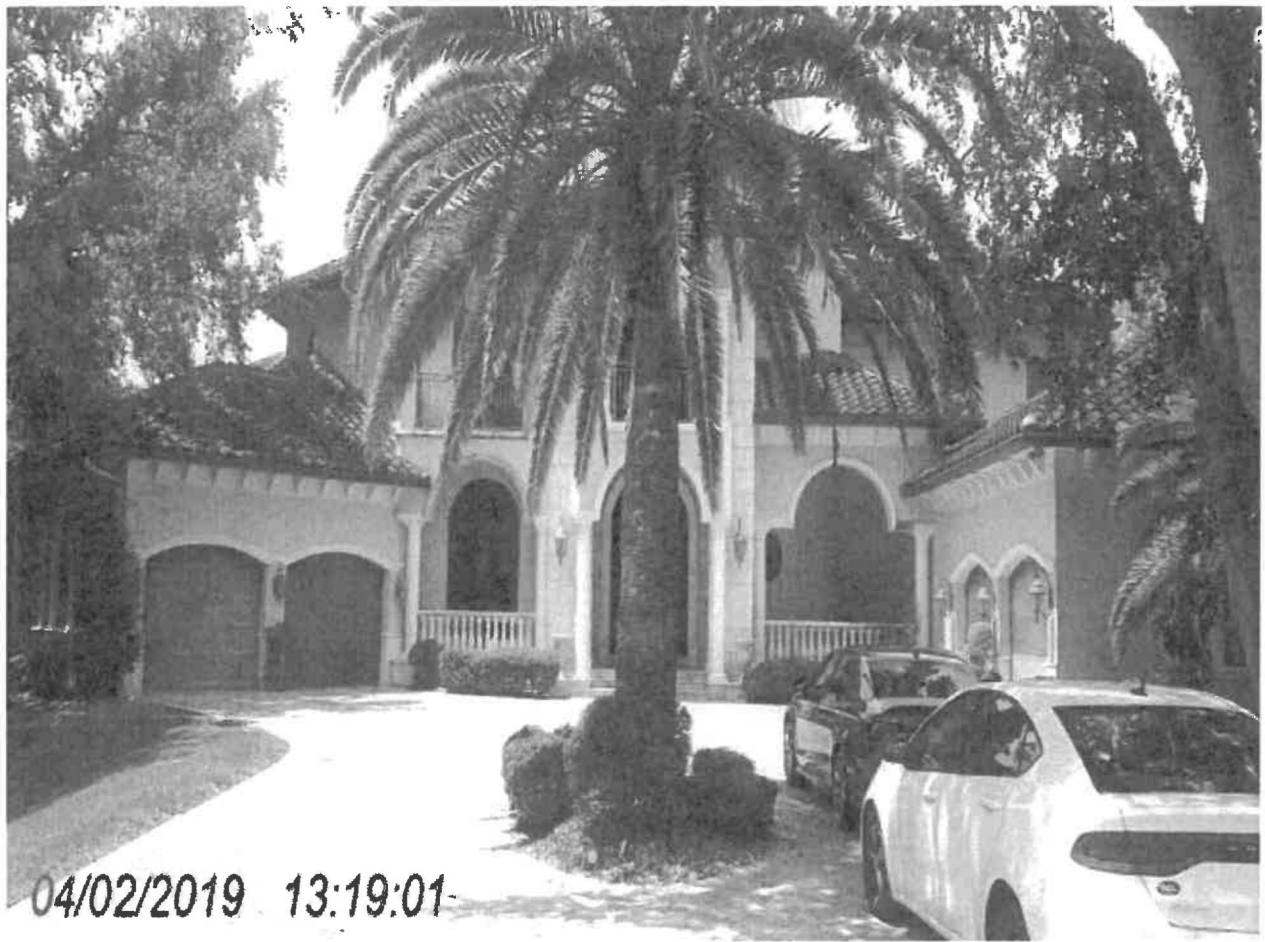


Figure B-2 – On-site conditions

Application Form:

- A complete application was received by the Planning, Zoning and Economic Development Department on February 4, 2021. The Special Magistrate must render a decision on the request within 60 days (no later than Monday, April 5, 2021). The request may be granted, a portion of the request granted and a portion of the request denied and/or conditions applied, or denied in accordance with federal law.

- The applicant has provided the correct site location information:
1021 NW 116th Avenue
Plantation, FL. 33317
Folio # 49403615002

- The applicant has indicated his contact information is:
Yuta Varma
United Recovery Project Inc.
5900 Johnson Street
Hollywood, Fl. 33021

- The facility website is <https://unitedrecoveryproject.com>

- The Florida Division of Corporations website indicates the following organization contact information:
 URP Holdings LLC.
 5900 Johnson Street
 Hollywood, Fl. 33021
- The applicant has indicated the correct property owner information is:
 Vera Kolozs & Deborah Kessler
 2705 NW 104th Avenue, #102
 Sunrise, FL 33322
- There is no Homeowners Association applicable to this site.
- The applicant has indicated the primary treatment facility is located at 5900 Johnson Street, Hollywood, Fl. Staff has verified that this facility (5900) is certified by the State of Florida Department of Children and Families (DCF) for Day or Night Treatment with Community Housing (Lic. #1045972), The subject site is acknowledged as a community housing location by DCF. The applicant has also provided proof of certification from The Florida Association of Recovery Residences (FARR).
- The applicant has requested approval to allow 15 residents (plus 3 staff members per shift) to occupy the six-bedroom home.
- A virtual tour available on the applicant's website indicates there are currently 17 beds within the 6 bedrooms (3 rooms with 2 beds, 1 room with 3 beds, and 2 rooms with 4 beds).
- The applicant indicates 2 vans will be used for transporting residents and three passenger vehicles will be utilized by staff members. There are a minimum of 10 on-site parking spaces available.
- The applicant has indicated the number of residents requested is necessary for the dwelling to be financially viable given the size and operating expenses associated with the home.
- The applicant has indicated the number of residents requested is necessary for the dwelling to be therapeutically beneficial to the residents and has provided information from the Substance Abuse Mental Health Services Administration (SAMHSA) to substantiate same.
- A verification of Disability Status form has been submitted by Yuta Varma. as the Director of Operations for United Recovery Project.
- United Recovery Project occupied the residence on or about July, 2017. The home currently has all female residents. The applicant has indicated they intend to utilize this location for female clients only.
- The home is well maintained and has not had any code enforcement violations since its construction in 2006/2007.

- The Police Department has received 2 calls for service within the past two years. One call was for assistance with a mentally ill resident and the second call was to report an alleged sexual assault. See Exhibit “C”.
- The Zoning Department has not received any calls or e-mails regarding the use of the property.
- City staff is not aware of any other recovery residences in the City of Plantation within 660 feet of the subject site.
- According to the most recent data available from the United States Census Bureau released in the American Community Survey in December of 2020, an average of 3.0 people typically occupy a single-family home in Broward County and an average of 3.4 people typically occupy a single-family home in the City of Plantation.
- Within 30 days after the special Magistrate’s determination on a reasonable accommodation request is mailed to the requesting party, such applicant may seek judicial review by filing a Petition for Writ of Certiorari in the Circuit Court of the 17th Judicial Circuit in and for Broward County.

Factors for consideration of approval or denial (Section 27-15.5 of the Code):

In evaluating an application for a reasonable accommodation, the PZED Department, and either the Chief Administrative Officer or Special Magistrate, as applicable shall consider:

- whether the requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under federal or state law;
- whether an accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy housing;
- the extent to which the relief requested would serve the special needs of the disability at issue;
- the physical attributes and conditions of the subject Lot and structures and improvements thereon, and whether they are compliant with applicable provisions of the Florida Building Code and Florida Fire Prevention Code;
- whether the type of accommodation requested or the objective the accommodation seeks will foreseeably impose an undue financial or administrative burden on the City (to determine these burdens, the City may consider: 1. prior experience with the applicant or operator, or property owner, or some or all of the foregoing, 2. prior experience at the Lot, 3. prior experience at other properties for which similar types of requests have been approved, 4. the City's financial resources, and 5. the City's personnel time and effort expended in the processes and procedures outlined in this Division, in ensuring the conditions and limitations of Determinations are followed, in providing services to the Lot and to other property where like Determinations have been issued, and in enforcing violations of law which relate to the Lot and to other property where like Determinations have been issued);
- any evidence that the accommodation would result in a threat to the health or safety of individuals, or damage;

- the extent to which the accommodation may impair the policy interests served by the ordinance, rule, policy, or procedure affected by the application;
- the extent to which a more tailored exception, modification, or alternative accommodation to the applicable ordinance, rule, policy, or procedure would affect the purposes served by the requested reasonable accommodation without the same degree of 1. foreseeable, accompanying burdens, or 2. impact to the policy considerations underlying the ordinance, rule, policy, or procedure in question, or 3. both 1. and 2.;
- the extent to which the application, if granted, may foreseeably result in violations of other law relating to the premises (e.g., parking);
- any specific request or directive from any federal or state agency which has been made or received concerning the application; and,
- information provided by the applicant on the reasonable accommodation request form and information provided by the PZED Department and any other Department concerning the completed application. Information provided by City Departments may include information concerning a portion of the City to which certain uniform regulations and requirements or various combinations thereof apply under the provisions of the comprehensive zoning ordinance, as such portion of the City surrounding the Lot is demarcated in the professional opinion of the PZED Director (the "Surrounding District"). Information provided by City Departments may include, but not be limited to, zoning and land use information, police incident data, fire rescue data, code enforcement data, false burglar or medical alarm data, census data, on-site and off-site physical conditions, photographs and aerials of subject Lot and of the Surrounding District, Surrounding District information and data (i.e. traffic routes that show the boundaries of the Surrounding District, interior street patterns, significant physical features, both natural and man-made [such as a canals and lakes], population data, school locations, park and recreation amenities, and municipal activity and projects), and any other relevant information concerning the application or issues relevant to the Determination of the application for a reasonable accommodation.
- When the application for a reasonable accommodation concerns or involves a Community Residence, in addition to the factors set forth above, the PZED Department shall evaluate the following additional criteria, and the Chief Administrative Officer and Special Magistrate shall not grant the application or an alternative application unless he or she reasonably concludes that the criteria in (a), (b), and (c) below are met:

the Community Residence:

- is one whose owner or operator is certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended (or that the Community Residence is certified by the credentialing entity designated under Section 397.487 of the Florida Statutes, as amended), or,
- is operated in accordance with the Oxford House Manual ©, or
- where neither 1. nor 2. is applicable:
 - will be operated in a manner effectively similar to the Community Residences described 1. or 2.,

- Staff, if any, will be adequately trained,
- will emulate a biological family,
- will be operated to achieve normalization and community integration, and
- rules and practices governing how the home is operated will protect residents from abuse, exploitation, fraud, theft, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications.

RECOMMENDATION: **APPROVAL** to allow a maximum of 15 persons (12 residents and 3 staff) to occupy the dwelling at any one time subject to staff comments and conditions noted below.

STAFF COMMENTS:

PLANNING AND ZONING:

1. The use of the structure must be maintained as a single-family dwelling unit.
2. A virtual tour available on the applicant's website indicates there are currently 17 beds within the 6 bedrooms (3 rooms with 2 beds, 1 room with 3 beds, and 2 rooms with 4 beds). Reduce the number of beds to the number of residents approved for occupancy.
3. Any building additions, interior or exterior modifications to the structure or site must meet all applicable land development code requirements and building permits obtained, if required. Garage conversion to living area is not permitted.
4. All vehicles must be parked in the garage or driveway. Vehicles may not be parked on the yard, swale, or street.