

**TOWN OF JUPITER STAFF REPORT FOR  
CERTIFICATE TO DIG #1-22  
PLANNING AND ZONING DEPARTMENT**



**DATE:** November 22, 2022  
**TO:** Historic Resources Board Members  
**FROM:** Stephanie A. Thoburn, Asst. Director of Planning and Zoning **SAT**  
**SUBJECT:** Sperry Property (aka Suni-Sands) – Application for an archaeological Certificate to Dig on a 10.4+/- acre site located at 961 and 997 North A1A.

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Certificate to Dig #1-22  
PZ 21-4724  
S. Thoburn

Historic Resources Board 9/08/2022 Continued  
Historic Resources Board 10/17/2022 Continued  
Historic Resources Board 11/29-30/2022 quasi-judicial

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**REQUEST:**

The subject property contains two significant archaeological sites eligible for the National Register of Historic Places, the Suni Sands Shell Midden (Florida Master Site File #8PB7718) and the Jupiter and Lake Worth Railway also known as the Celestial Railway (FMSF #8PB233), which requires approval of a Certificate to Dig application prior to receiving a development order approval. The property owner is requesting to impact approximately 2.5 acres (61.4%) of the 4.07-acre archaeological site boundary by excavating 1.99 acres and constructing a road and tennis/pickle ball courts on 0.51 acres.

**HISTORIC RESOURCES BOARD ACTION:**

Pursuant to Section 27-2443 entitled "Archaeological resources protection", the Historic Resources Board (HRB) has the final determination on the issuance of a Certificate to Dig. Appeals to the decision of the Historic Resources Board determination must be submitted within 30 days of the rendition of the decision by following a notice of appeal through Department of Planning and Zoning to be reviewed by the Town Council.

On September 8, 2022, the Historic Resources Board continued the Certificate to Dig application to the October 17, 2022 meeting. The application was recommended for continuation by staff due to the Town's consultant archaeologist, Advanced Archaeology, Inc., resigning on August 29, 2022. Since the HRB meeting, the Town has contracted with Commonwealth Heritage Group, Inc.

On October 17, 2022, the Historic Resources Board continued the Certificate to Dig application to the November 21, 2022 meeting and also expanded the presentation for staff and the applicant from 15-minutes to an hour with three-minute public comments.

**STAFF UPDATE:**

Since the October 17, 2022 Historic Resources Board meeting, staff polled the HRB Board, the applicant, and witnesses and rescheduled a special HRB meeting for Tuesday, November 29 and

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Wednesday, November 30. Staff advertised the new dates for the special HRB meeting and posted on the Town's website.

The applicant submitted additional information to the Town on November 16, 2022 from the applicant's Archaeologist, AHC Archaeological and Historical Conservancy, Inc. and SEARCH Inc. In addition, The PBC Archaeologist provided an email response to the AHC, Inc. letter (see Attachment O).

**BACKGROUND:**

<i>Property owner &amp; Applicant:</i>	961 A1A, LLC and 997 A1A, LLC with Ben Brown of General Store Development
<i>Agent:</i>	Gentile Holloway O'Mahoney and Associates, Inc.
<i>Acreage:</i>	10.4+/- acres
<i>PCNs:</i>	30-43-40-31-03-003-0011 and 30-43-40-31-04-000-0121
<i>Property location:</i>	961 and 997 North A1A
<i>Existing Use of Property:</i>	Vacant, Residential Apartment, Clubhouse, Garage and Commercial buildings
<i>Proposed Use of Property:</i>	125 room hotel, 72 dwelling units, 6,439 square feet of retail and 5,650 square feet of restaurant
<i>Current FLUM Designation:</i>	Residential High Density (8.6 acres) and Riverwalk Flex (1.8 acres along the west portion fronting the inlet) in the Inlet Village Sector
<i>Current Zoning District Designation:</i>	R-3, Multi-Family Residential (9.7 acres) and C-2, Commercial General (0.7 acres for the existing commercial area along A1A)

Reason for the Request: The applicant's Certificate to Dig Narrative is provided in Attachment A and describes the concurrent development applications but is not the subject of the Certificate to Dig application. The Certificate to Dig request is to excavate 1.99 acres plus impact 0.51 acres with a road and tennis/pickle ball courts for a total of impact of 2.5 acres of the 4.07 acre archeological site (named the Suni Sands Shell Midden); and to create subsurface disturbances on the historic Jupiter and Lake Worth Railway alignment (aka Celestial Railway), based on Attachment B- Preliminary Site Plan with Archaeological Detail. The 4.07 acre Suni Sands Shell Midden includes a raised mound that encompasses approximately half of the archeological site. The Celestial Railway alignment generally follows Anchor Way as it exists today, but veers slightly west as the alignment heads towards the Inlet, based on the 1891 plat verified by the Town.

The subject property contains the following two known archaeological sites:

- Suni Sands Shell Midden, Florida Master Site File (FMSF) 8PB7718
- Jupiter and Lake Worth Railway (aka Celestial Railway) FMSF 8PB233

In addition to the archaeological sites, the following historic sites have also been documented in the Phase II Cultural Resource Assessment (Attachment E) on the subject property:

- Sperry period stairway (FMSF 8PB7719)
- Suni Sands restaurant building (FMSF 8PB19508) aka Blueline buiding
- Sperry boathouse (FMSF 8PB7720), which was modified to show that it was destroyed
- Suni Sands Office (PB11396)
- Suni Sands Clubhouse (PB11401)
- Suni Sands Ancillary Structures (PB11402)

The final proposed FMSF for the site is the Suni Sands Cultural resource group (PB11372), which recognizes the significance of this property as a "Mixed District" with a cluster of historic and archaeological resources. According to the Commonwealth Heritage Group Inc., the Suni Sands office, clubhouse, ancillary structures and the Suni Sands Cultural resource group have not been recorded. Only the Florida Master Site File form has been completed.

The preliminary site plan and Phase III management plan (Attachment B and G) indicates that the Suni Sands archaeological site will be excavated to allow for the construction of a mixed-use project with a 125 room hotel, 72 dwelling units, 6,439 square feet of retail and 5,650 square feet of restaurant. Based on the preliminary site plan, the following impacts to the archeological site include:

- Residential buildings on the west side of the archaeological site along Clemons Street;
- The main portion of the hotel and restaurant on the south side of the archaeological site;
- A road proposed along the eastern boundary of the archaeological site;
- Tennis courts and a pickle ball court are proposed on the east side of the elevated mound; and,
- Private amenity building and bungalows are proposed on the north side of the elevated mound.

The applicant has submitted concurrent applications for a Comprehensive Plan Future Land Use Map amendment, Rezoning, a Zoning Text Amendment, Planned Unit Development, Site Plan and Special Exception applications for the subject property. The current Future Land Use for the subject property is Residential High Density (8.6 acres) and Riverwalk Flex (1.8 acres along the west portion fronting the inlet) in the Inlet Village Sector; and zoning of R-3, Multi-Family Residential (9.7 acres) and C-2, Commercial General (0.7 acres for the existing commercial area along A1A). These applications are not part of the analysis for the Certificate to Dig and will be processed and evaluated separately. *The above proposed concurrent applications for the PUD and Site plan are to request an increase in the allowable intensities and densities and is not supported by the current land use and zoning.* Thus, the reason for the proposed future land use amendment and rezoning applications.

## **SUMMARY OF ASSESSMENT REPORTS AND ARCHAEOLOGICAL MANAGEMENT PLAN:**

### **I. PHASE I CULTURAL RESOURCE ASSESSMENT OF PROPERTY-**

The applicant's archaeological consultant, Archaeological and Historical Conservancy, Inc. (AHC), prepared a Phase I Cultural Resource Assessment of the subject property in 2015 which was updated in 2017 (see Attachment C).

The Phase I Cultural Resource Assessment was conducted from October 2014 to January 2015. AHC, Inc. and excavated 164 shovel tests (Shovel tests holes are dug 50 cm in diameter and dug to a depth of at least one meter up to 200cm) across the subject property of which 124 were positive for cultural material. Forty of the 124 were from intact cultural deposits with 18 of the shovel tests located in the highest part of the mound. Four shovel test areas of intact midden were encountered that included the elevated mound and three areas adjacent to the mound. Human remains were found in a disturbed context that included two human teeth. Prehistoric cultural deposits (meaning before written records) found include shell refuse,

faunal bone and artifacts. The most common artifact discovered was pottery, including sand tempered plain, St. John's Plain, chalkyware and a single sherd of fiber-tempered pottery. As noted in the Phase I Cultural Resource Assessment, these types of pottery can relate to different time periods and/or different types of indigenous People. Other prehistoric cultural deposits include an articulated shark vertebrae, a crocodilian scute and tooth, bone pins and Strombus celt.

An addendum to the Phase I Cultural Resource Assessment was then provided after monitoring was conducted on the subject property from January 8, 2015 through April 4, 2017, as a requirement of the Town, when the trailers were being removed from the mobile home park. A total of 76 additional shovel tests were dug during the addendum assessment. Of the 76 shovel tests, 24 tested positive for intact archaeological deposits. However, a human patella was found at the interface between intact and redistributed cultural deposits. A historic refuse pit was also discovered as part of the Phase I addendum assessment that included glass bottles, metal refuse and ceramics dated from circa 1900-1920.

The result of the Phase I addendum assessment determined that intact cultural deposits of the midden (FMSF #8PB7718) extend to the north and west of the principal mound, farther than previously determined in the initial Phase I assessment. A separate intact midden identified in the Phase I assessment was found to be connected to the principal mound by deeper intact midden horizons, thus representing one larger intact site area. The findings indicate the shell mound extends north and west beyond its previously documented location (see Attachment D- AHC Technical report #1178 Sperry/ Suni Sands Phase I Addendum: Figure 4, page 6).

## **II. PHASE II CULTURAL RESOURCE ASSESSMENT OF PROPERTY-**

- a. Phase II Cultural Resource Assessment, dated July 2021 and revised October 2021- The applicant's archaeological consultant (AHC) prepared a Phase II Cultural Resource Assessment of the subject property, which is included as Attachment E. This assessment also included an initial Phase III archaeological management plan, which has been updated.

The Phase II assessment excavated 23 test units (1.5 meter by 2 meter, 1.8 meter deep) across the subject property within the archaeological site; however, excluded the principal or highest part of the mound, since the Town's original Consulting Archaeologist (Advanced Archaeology, Inc.) reviews and approves the management plan for subsurface disturbances, it was requested that impacts not occur on the highest part of the mound given the high number of intact cultural deposits found in the Phase I assessment as noted above. In addition to the 23 test units dug, 19 shovel tests were dug. It is important to note that of the 23 test units dug, 14 included intact cultural deposits (see Attachment E- Figure 37 on page 54 of assessment). The prehistoric deposits included eight subsurface features, including one pit. Human remains included five teeth from a disturbed context. According to the owner's archaeological consultant, the evidence suggests the likelihood that human burials occurred somewhere on the parcel. Based on radiocarbon dating and ceramic typology, Indigenous People occupied the site from 500 BC to 1200 AD, with an occurrence of fiber-tempered pottery indicating human occupation during the Late Archaic Period time (3,000 to 500 BC). This time period pre-dates the East Okeechobee Period I-III (500 BC to AD 1750) that is the predominant era of human

habitation found on the site. Other artifacts discovered included a utilitarian basaltic celt, limestone hammer, shell beads, monk seal teeth, Busycon shell ladle and adze. Ceramic artifacts found in addition to fiber-tempered, include Dunn's Creek Red, St. John's Plain, St. John's Red, St. John's checked, sand tempered and non-local micaceous wares in the central and eastern parts of the archaeological site.

The Phase II Cultural Resource assessment, prepared by Archaeological and Historical Conservancy, Inc. includes the following summaries of the two known archaeological sites and the resource group on the subject property (see pages 23-27 of the assessment):

- Suni Sands Shell Midden (FMSF #8PB7718):
  - *Site type* – Black earth shell midden, prehistoric graves, historic homestead
  - *Site function* – subsistence, habitation and mortuary
  - *Description* – Prehistoric site is characterized as an elevated mound peaking at eight feet above the surrounding property presenting a sharp northern and western declivity. The intact site extends approximately 560 feet by 260 feet forming an ovoid area which is approximately 3.3 acres. Much of the rest of the parcel is characterized by redeposited midden. The likely source of this redeposited midden is from prior clearing of what was once part of the intact midden mound, indicating the mound was larger prior to development. Redeposited midden occurs across the parcel and was found to a depth of 60 cm. Some intact deposits occur from 15 cm to as deep as 120cm.
  - *Chronology* – Prehistoric: East Okeechobee I-III (500 BC to AD 1750);  
Historic: circa 1888 to mid-twentieth century
  - *Significance* – The site is potentially eligible for listing on the National Register of Historic Places under Criterion D<sup>1</sup>.
  
- Jupiter and Lake Worth Railway (aka Celestial Railway) (FMSF #8PB233):
  - *Site type* – Linear resource;
  - *Site Function* – Railway, Transportation;
  - *Description* – The railway was a 7.5-mile narrow gauge line built in 1889 and operated until 1895 and dismantled in 1896. Its northern terminal was within the project parcel. The original site encompassed the tracks and bed, train station, telegraph office, and a wooden wharf (steamboat landing). No structural features are known to have survived, but the footprint of the railroad right-of-way survives in the alignment of Juno Street and Anchor Way, though the northernmost segment was obscured by trailer lots and fill.
  - *Chronology* – Historic, 19<sup>th</sup> Century (circa 1889-1896);
  - *Significance* – Although the railroad bed is obscured, the site is potentially eligible for listing in the Nation Register under criterion D<sup>1</sup>.
  
- Suni Sands (FMSF #8PB11372)
  - *Site type* – Resource group
  - *Site function* – subsistence, habitation and mortuary, transportation, residence
  - *Description* – Suni Sands is a multiple component resource group centered around shell midden PB7718 (dating from 500 BC- AD 1750). Contributing resources are the Celestial Railroad PB0233 (1889), the Suni Sands Stairway PB7719 (1907) and the

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<sup>1</sup> Criterion A requirements: Are associated with events that have made a significant contribution to the broad patterns of our history.

Criterion B requirements: Are associated with the lives of significant persons in or past.

Criterion D requirements: Have yielded or may likely to yield, information important in history of prehistory.

Suni Sands Boathouse PB7720 (1907-recently demolished). Non-contributing resources are the Suni Sands Office PB11396; the Suni Sand Clubhouse PB11401; and the Suni Sands Tenant Facility PB11402, including laundry, shuffleboard court and swimming pool; and the Suni Sands Restaurant building PB19508 (1945 to present).

- *Chronology* – Prehistoric: East Okeechobee I-III;  
Historic: circa 1888 to mid-twentieth century
- *Significance* –The site is potentially eligible for listing on the National Register of Historic Places under Criterion A, B and D<sup>1</sup> for the East Okeechobee Period to the early twentieth century. The site contains locally significant resources for the period 1945 to present.

- b. Phase II Archaeological Assessment of the Sperry Parcel Addendum report, dated June 2022-

The applicant's archaeological consultant (AHC) prepared an addendum to the Phase II Cultural Resource Assessment, since additional testing was conducted on the subject property from April 8, 2022 to April 28, 2022 (see Attachment F). This addendum also includes the revised Phase III archaeological management plan which is provided as Attachment G. The addendum assessment of the Sperry Phase II report was reviewed by Advanced Archaeology, Inc. and Commonwealth Heritage Group, Inc. (see Attachment K- letters dated 8-22-2022 and 9-21-2022). Four additional unit tests were excavated south of the elevated mound within the archeological site. These unit tests were excavated where the existing clubhouse, garage, swimming pool and deck, and shuffleboard court are located. One unit test was excavated in each of the two buildings (clubhouse and garage), one unit test was on the shuffleboard court and one south of the pool.

According to the addendum report, intact midden deposits occur within all of the four units, which included shell refuse, faunal bone, artifacts and cultural features. The Town's original consulting archaeologist Advanced Archaeology, Inc. noted that the prehistoric cultural deposits indicate a concentration of significant cultural features such as postholes, fire pits, cooking pit, and articulated shark vertebra section. Rare artifacts were also recovered, including fiber-tempered pottery and basaltic greenstone tools. These items are uniquely different from the previously documented cultural deposits west of Anchor Road. This is because the basaltic greenstone tools found are not local artifacts and may indicate a connection with the northern prehistoric Mississippian Culture. This stone source occurs naturally within the Appalachian Piedmont formation located from Alabama to New York. According to the Palm Beach County Archaeologist, recovering the large, intact fiber-tempered pottery sherd shows that this landform (mound) has existed for at least 5,000 years. In essence, the cultural features show subsistence and habitation and the non-local basaltic greenstone shows trade among the south Florida Indigenous peoples.

### **III. PHASE III ARCHAEOLOGICAL MANAGEMENT PLAN- REVISED**

The property owner's latest request was updated in the Phase III Archaeological Management Plan that was included in the Phase II Archaeological Assessment of the Sperry Parcel Addendum report, dated June 2022, is the basis for the subject Certificate to Dig (see Attachment G). The owner proposes through the archaeological management plan to excavate and document an important prehistoric Jeaga settlement on Jupiter Inlet, including

recovering possible human remains. It is noted that seven (7) human teeth and human patella were found by the property owner's archaeologist. The Phase III archaeological management plan states that the owner intends on preserving a little of half of the intact site by creating a 2.08 acre preservation area facing the inlet, preservation of the north and west escarpment (where the elevation changes significantly) and preservation of Sperry Stairway (FMSF#7719). In addition, the Celestial Railway FMSF #8PB233 (as estimated in the Phase II Cultural Resources Assessment Addendum Report) will also be preserved so that "no buildings will be placed over any portion of estimated location of the Celestial Railway", which is an additional .20 acres. Staff notes that the estimated location of the Celestial Railway has been questioned by the Town, since the estimated location does not align with the location documented by the Town's consulting surveyor who has researched the location based on the 1891 Plat of Jupiter.

The Preliminary site plan with archaeological details of the Phase III Management Plan (Attachment H) shows the proposed impacts to the archaeological and historic sites. In general, the plan shows the proposed expanded preservation area, as indicated by a dark yellow line. The dashed blue line is the archaeological boundary for Suni Sands Shell Midden (FMSF#7718) which is 4.07 acres. The plan does not show specific areas proposed for archaeological excavations, but based on the figure attached at the end of the Phase III Management Plan excavation will occur around the dark yellow area for preservation but inside the perimeter of the dashed blue line. The solid red rectangle is the area proposed for reburial of human remains. Attachment H also shows three recreational courts on top of the preservation area. At least six inches of soil is proposed on top of the preservation area. Based on staff's calculations, the proposal will impact 2.43 acres of the 4.07 acre archaeological site. Specifically, the request is to excavate approximately 1.99 acres and impact 0.51 acres with a road, recreational courts for a total of 2.5 acres of the 4.07 acre Suni Sands Shell Midden (FMSF#7718) archaeological site.

The owner's archaeologist in the Phase III Management Plan provides specifics on research design for excavated material, field methodology, site sampling/documentation, analysis, how they will address human remains, curation and site preservation. While the previous Phase III management plan stated that 432 units will be excavated, the revised plan does not specify the number of units to be dug, but that the number will be based on the area of intact midden. Most units will be two square meters. Only area with intact deposits will be excavated and any proposed changes in sampling will be reviewed by the Town's consulting archaeologist. Any human remains uncovered will be documented and reinterred, to be abutting State Road A1A, as noted on Attachment H in red. The Seminole Tribe of Florida will be consulted on timing, location and method of reburial. All recovered non-mortuary and cultural artifacts will be analyzed and documented by the owner's Archaeologist and then will be voluntarily donated to the Loxahatchee River Historical Society.

#### **IV. CERTIFICATE TO DIG ANALYSIS FOR PROPOSED CONDITIONS**

The recommendation for approval for the Certificate to Dig is subject to conditions (see - Certificate to Dig #1-22 including Exhibit A and B). The recommendation is based on the applicant's Phase I and II Cultural Resources Assessment, Phase III Archaeological Management Plan and the Town's Archaeological Consultant's recommendations to provide consistency with the Town's Comprehensive Plan, the Future Land Use Map and the Town Code, summarized as follows:

1. The Owner's archaeological consultant, Archaeological and Historical Conservancy, Inc. and the Town's qualified archaeologists, Advanced Archaeology, Inc. and Commonwealth Heritage Group, Inc. have all concluded that the Suni Sands Shell Midden (FMSF #8PB7718) is eligible for the National Register of Historic Places; and,
2. The Owner's archaeological consultant, Archaeological and Historical Conservancy, Inc. and the Town's qualified archaeologists, Advanced Archaeology, Inc. and Commonwealth Heritage Group, Inc. have all concluded that the Jupiter and Lake Worth Railway (aka Celestial Railway) FMSF #PB0233 is eligible for the National Register of Historic Places; and,
3. The official Future Land Use Map of the Town's Comprehensive Plan lists the Sperry Property as a historically significant site meriting protection; and,
4. Pursuant to Policy 1.9.10 of the Coastal Management Element of the Town's Comprehensive Plan, it is the Town Council's policy to pursue local historic designations or other protective measures for the Sperry property; and,
5. Pursuant to Policy 1.9.7 of the Coastal Management Element of the Town's Comprehensive Plan, and its Land Development Regulations, it is the Town Council's policy to safeguard the Town's unique history and heritage, foster civic pride and respect for the accomplishments of the past, and protect and enhance the Town's attraction to visitors; and,
6. Pursuant to Section 27-2443 of the Town Code, the Historic Resources Board may issue a Certificate to Dig with such conditions as may be necessary to protect archaeological resources or to permit the excavation of all, or a portion of a site which has been determined to be of significant archeological value, including conditions regarding site design.

**Condition 1:** The Certificate to Dig condition recommended by staff and the Town's two Archaeological Consultants is to allow 1.29 acres of the 4.07-acre archaeological site boundary, known as Suni Sands Shell Midden (FMSF #8PB7718), to be excavated and harvested. The remaining 2.78 acre area of the Suni Sands Shell Midden is recommended as a Preservation area to maintain the significant cultural resources and the landform where they have existed for several thousand years. Additional conditions are recommended for the 2.78 acre preservation area in order to ensure the cultural resources within that area are not disturbed during construction or in the future, which include:

- a) Redesign the concurrent site plan to exclude development from the Preserved and buffer areas, including removal of the recreational courts;
- b) Provide a 10' wide construction buffer around the Preserved Area;
- c) Provide a conservation easement with public access;
- d) Install fencing to prevent access during construction;
- e) Allow annual inspections by the Town;
- f) Install a cap to include one-foot of clean fill and geotextile;
- g) Install a permanent three-foot fence around the perimeter of the Preserved Area and in the 10' construction buffer; and
- h) Ensure that any exempt accessory structures proposed on top of the Preserved Area are reviewed to prevent impacts.

**Staff Analysis 1:**

The recommended condition of approval to preserve the majority of the existing archaeological site is supported by the Town's Future Land Use Map, the Comprehensive Plan and the Zoning Code. The official Future Land Use Map of the Town's Comprehensive Plan lists the Sperry Property as a historically significant site meriting protection. Policy 1.9.10

of the Coastal Management Element of the Town's Comprehensive Plan, specifically names the property and states that it is the Town's policy to pursue local historic designations or other protective measures for the Sperry property. The Comprehensive Plan, Policy 1.9.7 of the same element also states through the historic and archaeological preservation ordinance the Town will safeguard the unique history and heritage, foster civic pride and respect for the accomplishments of the past, and protect and enhance the Town's attraction to visitors. Finally, Section 27-2443(c) of the Historic and archaeological preservation ordinance, provides that if a property is deemed to have significant archaeological value, the Historic Resources Board may issue a certificate to dig with such conditions as may be necessary to protect archaeological resources or to permit the excavation of all, or a portion of a site which has been determined to be of significance, including conditions regarding site design.

The significance of the Suni Sands property has been known for over a hundred years through oral history of the Town, but was first scientifically documented in 1992 with the recording of the Florida Master Site File (FMSF) number with the state. That investigation, by Elizabeth Kehoe, resulted in labeling the archaeological site with a FMSF #8PB7718 along with the historic structures of the Sperry Boathouse, and Staircase. In 2004, Panamerican Consultants, Inc. also investigated and prepared an archaeological and historical survey of the Suni Sands property that stated the site dated back from 1000 B.C. to 1200 A.D.

To understand the significance of the Sperry site, one must also look to context. The Florida Anthropologist, published by the Florida Anthropological Society, a Special Issue: The Archaeology of Jupiter Inlet and Coastal Palm Beach County, a September – December 2002 issue. This publication notes the "Jupiter Inlet Complex" is one of nine major site complexes documented within coastal Palm Beach County. Palm Beach County had a number of larger villages or towns that have been identified as aboriginal settlement. The villages are defined as complexes with one or more large midden sites, with one or more sand mounds or burial mounds. The site complexes are defined as a tool for organizing and understanding aboriginal settlement in the area. Site complexes usually include one or more large shell mound or midden features, as well as one or more burial mounds and smaller midden sites, all located in close proximity to one another. These sites are usually located at inlets, rivers or other major aquatic features. The "Jupiter Inlet Complex" is part of a group of five archaeological sites that made up a community of indigenous People that lasted several thousands of years, which may have been what was referred to by Jonathan Dickenson in 1696 as the Town of Jobe. The other archaeological sites listed that make up the "Jupiter Inlet Complex" include: Jupiter Inlet 1 (Dubois mound FMSF #8PB34), Jupiter Inlet 2/ Lighthouse sites (FMSF #8PB35), the Scheurich Midden (aka Kempe) (FMSF #8PB9261) and another site recorded at the current Sawfish Bay Park that was mined and destroyed by Fred Cabot for road base, circa 1896. Jupiter Inlet 1 (Dubois mound) is located within 1000 feet of the Suni Sands mound and is culturally connected. More recently the Palm Beach County Archaeologist, Christian Davenport, provided his opinion that the cultural resources at Suni Sands were extremely rare in Palm Beach County. He also interpreted the site as a dual platform mound that may indicate ceremonial and architectural value of a community coming together to live. His comments also reference a relationship to the Jupiter Inlet 1 (Dubois mound). See Attachment I- Palm Beach County Archaeologist- Christian Davenport Opinion.

The owner states they are proposing a 2.08 acre preservation area but this area also include constructing three recreational courts and a road on top of the highest part of the mound which encompasses 0.51 acres. In order to calculate the proposed preservation area, staff referred to Attachment H- Figure 1. Preliminary site plan with archaeological details since the owner's

calculations include 2.08 acres of land for preservation of FMSL#7718. However, the calculation should include the proposed impacts from the three recreational courts and road, which is approximately 22,300 square feet or on 0.51 acre. The Town is discounting this area in the proposed preservation calculation since construction equipment and vehicles will negatively impact the Suni Sands archaeological site and crush the fragile resources destroying them. Calculating the reduced preserve area proposed (91,000 sf. – 22,300 sf. = 68,700 sf.), the corrected preserve proposed is 1.57 acres. Both of the Town's Archaeologists recommend removing these recreation courts and establishing a larger 2.78-acre preservation area that includes the 2.08-acre preserved area proposed by the property owner and extends south and east as noted on Figure 2 below and in - Certificate to Dig #1-22, Exhibit B. This recommendation is to ensure the preservation of the significant amount of intact cultural deposits that were verified and discovered as part of the Phase II Cultural Resource Assessment report and the addendum and as shown in Figure 1 below.

Capping the highest part of the mound with tennis courts and a pickle ball court is disingenuous to the importance of the architectural landform. The Palm Beach County Archaeologist, noted that given the presence of the fiber tempered ceramics the Suni Sands site could be part of the Scheurich Midden (located southwest of the site), which was found to be from the Late Archaic period, dating back at most 5,000 years. The Suni Sands mound would be some of the earliest architecture in all of South Florida. The County's Archaeologist further states that as with early churches or synagogues in the county, it is important not to damage a Native American religious site.

Capping the mound with a road is also not an acceptable practice to preserve cultural resources per comments from the State Division of Historic Resources because the weight and impacts that can occur on the resources during the construction. In Attachment J- Joshua Goodwin, Archaeologist III with the Bureau of Archaeological Research from the Department of State note that "impacts or effects in the case of Areas of Potential Effect (APE) include not only effects from digging but also effects associated with large machinery or other indirect effects from construction activities." Joshua Goodwin provided his comments based on "Module Three Guidelines for use by Historic Preservation Professionals" prepared by the Florida Division of Historical Resources, which states:

- Section 4.0 entitled "Archaeological mitigation, including mitigative excavation (Phase III)"
- Section 4.1 of the introduction states that "Phase III excavation and date recovery are regarded as an adverse effect" to the archaeological resources
- Section 4.2 entitled Mitigation alternatives states that "Whenever possible, the best alternative is to preserve the site in place and to protect it from damage. Nondestructive avoidance and minimization alternatives should be considered as the first option."
- Section 4.3.5 states that Mortuary/Cemetery sites "should be preserved and protected. Adverse effects, including those resulting from archaeological excavation and data recovery, should be avoided."

The amount and significance of cultural features and rare artifacts found during the Phase I and Phase II Cultural Resource Assessments, including the addendums, validates the existence of intact prehistoric cultural deposits that have existed for thousands of years. The Town's newest archaeologist, Commonwealth Heritage Group Inc., requested that the property owner's archaeologist provide the GPS coordinates for all the test units, shovel tests and soil borings that were investigated in the archaeological site in order to develop one comprehensive map that shows all of the intact cultural deposits. This was requested because

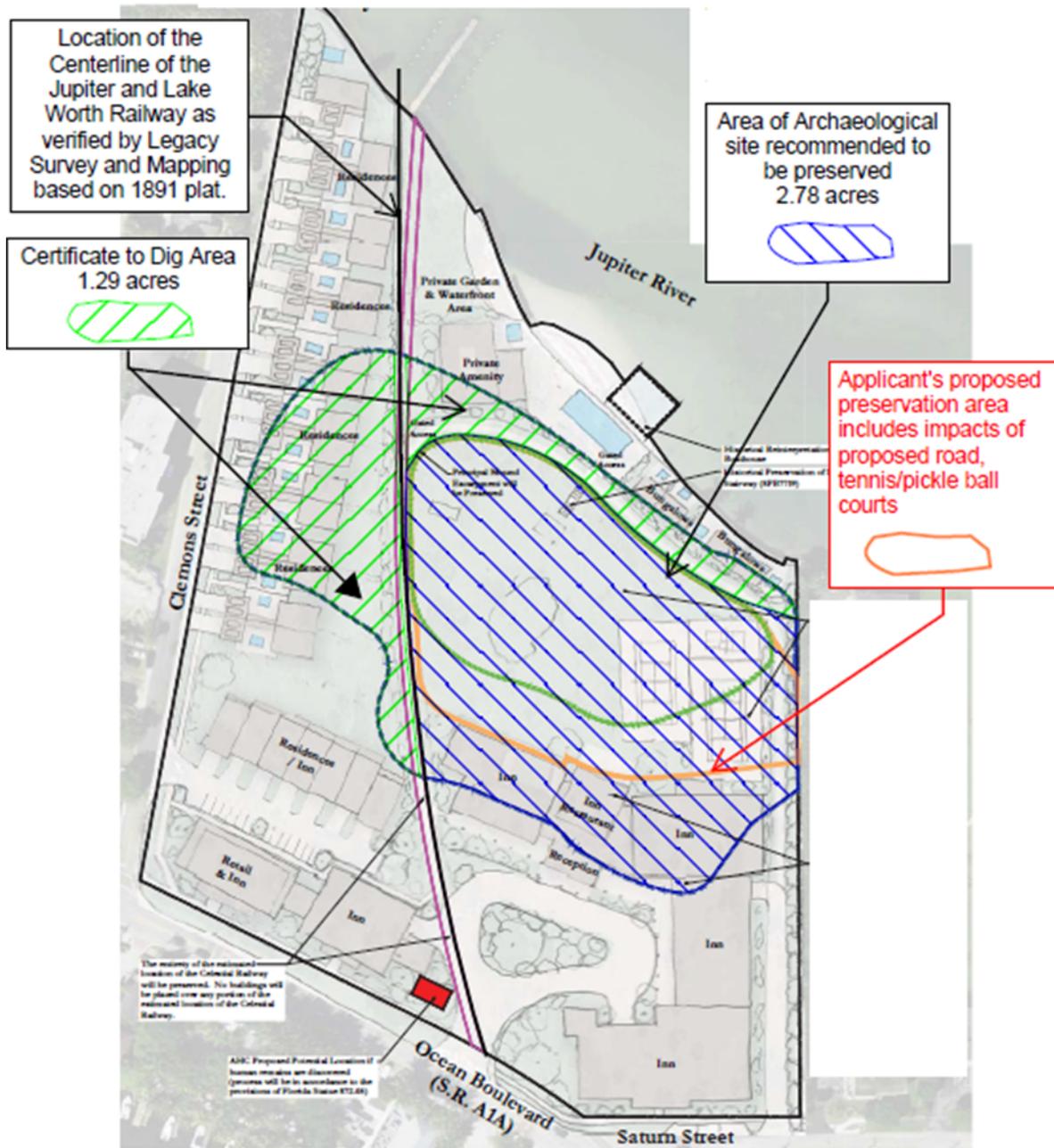
each assessment and addendum had separate figures showing the findings only for the specific report (e.g. Phase 1 report only had a figure showing Phase 1 shovel tests). Because of the lack of GPS coordinates, Town staff prepared (and the Town's Archaeologists reviewed for accuracy) Figure 1 below to show a comprehensive representation of all intact deposits found from archeological unit tests, shovel tests and soil borings from the Phase II Cultural Resource Assessments and addendum, and the soil boring report. Figure 1 below does not include the Phase I shovel tests. In reviewing the figure, a significant amount of intact cultural resources has been documented in the area that corresponds with the recommendation to preserve 2.78 acres as provided in Figure 2 below and in Certificate to Dig #1-22, Exhibit B.

***Figure 1. Comprehensive Inventory of Archeological unit tests, shovel tests and soil borings map prepared by Town Staff and verified by Archaeological Consultant***

**REMOVED PURSUANT TO  
SECTION 267.135, FLORIDA  
STATUTES**

**267.135 Location of archaeological sites.**--Any information identifying the location of an archaeological site held by the Division of Historical Resources of the Department of State is exempt from s. 119.07(1) and s. 24(a) of Art. I of the State Constitution, if the Division of Historical Resources finds that disclosure of such information will create a substantial risk of harm, theft, or destruction at such site.

Figure 2. Recommendation for Archaeological Preservation



The recommendation of the 2.78 acre preservation area illustrated in Figure 2 above and attached as Exhibit B to the Certificate to Dig was derived by reviewing the owner's archaeologist recommendation and reviewing the locations and amount of significant intact cultural deposits discovered during the Phase II Cultural Resource Assessment, including the addendum and soil boring report. Of note, the property owner's archaeologist states on page 2 of Attachment E – Phase II Cultural Resource Assessment, "the consultant recommends preserving as much as

possible of the principal part of 8PB7718 by avoiding impacting intact archaeological deposits and maintaining a green space there particularly at its northern elevation where its height is most discernable as an escarpment rising from the southern shore of Jupiter Inlet..." The recent soil borings that were conducted in 2021 found positive intact prehistoric material to the east of the principal mound close to the property line. The Town's original and latest Consulting Archaeologists also reviewed the Phase II Archaeological assessment of the Sperry parcel addendum report (see Attachment F) where intact archaeological deposits were found extending south of the principal mound that were discovered in four unit tests in the existing Suni Sands clubhouse, garage, shuffle board courts, and swimming pool. In addition, based on the Town's consulting archeologist's letter, dated August 22, 2022 and referenced as Attachment K, the concentration of significant cultural features (postholes, fire pits, cooking pit, and articulated shark vertebra section) and rare artifacts (fiber-tempered pottery and basaltic greenstone tools) is evidence that uniquely different cultural deposits are located east of Anchor Way (Celestial Way alignment).

In addition, to the recommended 2.78 acre preservation area, a 10 foot wide buffer around the preservation area is also recommended to protect the preservation area during construction and future maintenance activities. Half of the 10 foot wide buffer will overlap the Celestial Railway alignment on the west boundary and the north buffer will overlap the existing north road and escarpment. Because the Town recommended preservation area extends to the east property line, the 10' buffer cannot be accommodated off site. The 10' wide buffer will mainly impact the southern boundary of the archaeological preserve since the property owner is proposing buildings on the Town recommended preservation area. This southern 10' wide buffer is recommended because the proposed four and half story hotel and restaurant will about the proposed preservation area. Maintaining the structural integrity of the preserve area of mound, preventing soil cave-ins at the edge of the mound and ensuring that all construction activity remains off the preserve area will be extremely difficult during building construction and the installation of footers if a buffer does not exist. It is typical for heavy equipment, excavators or a backloader to be used to remove fill in order to prepare the area for footers as shown in Attachment L- Structural Detail. In addition, scaffolding and access is typically needed to weatherize the outside of a structure with stucco, siding, paint, etc. and these types of activities will end up impacting the preserve area if not protected during construction and/or maintenance. Per the Structural Detail, the property owner is proposing a construction buffer of 2.5'. However, this construction buffer includes a structural footer with approximately 10" to the edge of the preserve area. The concern is that without a 10' wide buffer, during construction and excavation for footers that serve what is proposed as a four and half story building, that the edges of the archaeological preserve will become unstable and shift, unnecessarily impacting or even destroying intact cultural deposits. The Florida Department of Historic Preservation provided a comment that the property owner's preserve area of 2.08 acres should include a 25 meter or 82 foot buffer, which would equate to 4.37 acres of land (see Attachment M). The Town's consulting archaeologists recommended a more reasonable buffer of 10 feet.

The documented prehistoric cultural deposits are vital for understanding subsistence, habitation and trade among the south Florida Indigenous people and is the basis for the Town recommended 2.78 acre preservation area. The 4.07 acre archaeological site is also eligible for listing in the National Register of Historic Places per the Town's Archaeologists and the owner's archaeologist. Based on the documented significant archaeological value of the Suni Sands mound, the site is important to the history of the Town, Palm Beach County, the State of Florida and the United States of America. Therefore, it is recommended that 2.78 acres of the 4.07 acre archaeological

site be preserved along with conditions of approval detailed below, based on the unique and significant cultural resources.

**Condition 2:** The Certificate to Dig for the Jupiter and Lake Worth Railway (AKA Celestial Railway) recommended by the Town is to preserve the 950 linear feet by 10 feet wide of archeological historic area, as verified by Legacy Survey and Mapping based on the 1891 plat, with the following conditions:

- a) Ensure that any proposed buildings, accessory structures, parking, and parking structures with only roadway, sidewalk, open space or plaza permitted in the linear alignment remain clear of the Jupiter and Lake Worth Railway alignment (950' by 10');
- b) Install at least one foot of clean fill over the area and geotextile;
- c) Provide a conservation easement with public access.

**Staff Analysis 2:** As part of the Certificate to Dig request, the owner proposes no buildings over the *estimated location* of the terminus of the historic railway. The terminus of the 7.5 mile railroad on the subject property distinguishes it from other locations where the railway alignment exists in Town. The terminus on the subject property included a wooden wharf, freight and station house, run around track and storage track. It was the location where the core activity of the railroad occurred. Before the advent of the highway and mass use of the automobile, this portion of the Celestial Railway was the transition on a journey or the beginning of one if you lived in Jupiter. This property is where passengers would board, goods were delivered or shipped, people and their belongings were loaded and unloaded from steamboats that traveled north to the Indian River Lagoon or south on a little narrow-gauge train that would stop for anyone who flagged it down. The train would also pause while passengers went hunting in the bush and boys were allowed to fish off the end of the wharf. During elections, locals went to the polls at the wharf and businesses were constructed around the railroad. It was the first known commercial area during pioneer times beginning what is currently the Town as we know today. The terminus of the Celestial Railway was the original center of Town during pioneer times.

The development site plan should ensure that buildings remain clear of the terminal end of the railway and not block the view shed of the transportation based archaeological site. The Jupiter and Lake Worth Railway (FMSF #8PB0233) alignment must be respected and denoted in its historically correct location. The Phase III management plan, states that they will preserve the estimated location of the Jupiter and Lake Worth Railway. The owner's development plan has proposed a 15' shift west for a pathway and residential buildings are proposed within feet of the alignment, and the estimated location as it terminates the waterfront was not defined. During the review process of the Certificate to Dig application, the Town's original archaeologist repeatedly asked for the location to be defined and that more archival research be done to determine the exact location. The latest submitted information varied on different documents and ultimately was provided as shown on Figure 2 above and in Exhibit B of Certificate to Dig #1-22. Figure 1 from the owner shows that the Celestial Railway is not being impacted by buildings given the owner's estimated location. Since there were discrepancies with the owner's resubmittal, staff contracted with Legacy Survey and Mapping for a professional surveyor to research the exact location. Based on the 1891 Town Plat of Jupiter, the Town's consulting surveyor, was able to overlay the railroad location on the Suni-Sands plat on the Lidberg survey, the owner's survey for the subject property (see Attachment N). The corrected location of the Jupiter and Lake Worth Railway is also shown as the black line on Figure 1 above approximately 15' to the west.

The historic alignment of the Celestial Railway should be respected and maintained. Preservation of this historic site is noted on the Town's Future Land Use Map and in the Comprehensive Plan

and supported by the Town Zoning Code. The official Future Land Use Map of the Town's Comprehensive Plan lists the Sperry Property as a historically significant site meriting protection. Policy 1.9.10 of the Coastal Management Element of the Town's Comprehensive Plan, specifically names the property and states that it is the Town's policy to pursue local historic designations or other protective measures for the Sperry property. The Comprehensive Plan, Policy 1.9.7 of the same element also states through the historic and archaeological preservation ordinance the Town will safeguard the unique history and heritage, foster civic pride and respect for the accomplishments of the past, and protect and enhance the Town's attraction to visitors. Finally, per Section 27-2443(c) of the Historic and archaeological preservation ordinance, provides that if a property is deemed to have significant archaeological value, the Historic Resources Board may issue a certificate to dig with such conditions as may be necessary to protect archaeological resources or to permit the excavation of all, or a portion of a site which has been determined to be of significance, including conditions regarding site design. The property is also eligible for listing in the National Register of Historic Places per both the Town's Archaeologists and the owner's archaeologist.

The Celestial Railway should be preserved in its historically accurate location, through a view shed that corresponds with a road and/or sidewalk as this was a historic transportation structure that marks a seminal time period of the Town as we know it today. The historic archaeological site should remain clear of buildings with the opportunity for interpretation in an open space or plaza along the waterfront so that visitors and residents learn about its importance and can pay homage to the little railroad that contributed to the beginning of the Town of Jupiter.

**Condition 3:** The property owner will need to redesign of the proposed development plan, and update the proposed Phase III Archaeological Management Plan based on the conditions of approval for review by the Town's Consulting Archaeologists.

**Staff Analysis 3:** As the Phase III Archaeological Management Plan is the plan for excavations, the plan should be updated to coincide with the conditions of approval in the Certificate to Dig #1-22 to preserve the Suni-Sands mound and the Celestial Railway archaeological sites.

**Condition 4:** Any proposed reburial of the human remains found on the subject property shall be subject to the approval of the Seminole Tribe of Florida and the State of Florida's Division of Historical Resources. The Owner shall investigate if the proposed human remains can be relocated and reinterred at the area where the existing pool is located within the intact mound.

**Staff Analysis 4:** As noted in the Phase I and Phase II Cultural Resource Assessment, human teeth were found in a disturbed context on the subject property. Five human teeth and a patella were recovered. The human patella was found at the interface between intact and redistributed cultural deposits. Per Florida Statutes, Section 872.05 entitled "Unmarked human burials" any human remains must receive equal treatment and respect. Subsection (5) is regarding "Discovery of an unmarked human burial during an archaeological excavation" and after review and examination may require input from one of two Native American tribes, in this case the Seminole Tribe is the specific reviewer of ancient human remains.

The recommendation to investigate reinternment of any human remains at the location of the existing swimming pool is because this area has intact archaeological deposits. The swimming pool has already been excavated and placing the human remains found and any potential human remains in the excavated hole is as close to the intact site as possible without additional destruction.

**Condition 5:** The owner shall demolish the clubhouse which is now located over the intact mound leaving only the foundation and footers to remain, unless state or federal agencies should require the removal.

**Staff Analysis 5:** There is concern that complete demolition of the clubhouse could disturb the intact mound. Foundations and existing pavement on the shuffleboard court can help cap the site without further impacts.

**Condition 6:** The Phase III Archaeological Management Plan excavations shall be implemented in the non-Preserved Area of the Suni Sands Shell Midden site (8PB7718) prior to any further demolition or construction. The Town or the Town's archaeological consultant shall be permitted to inspect the archaeological excavations at any time during excavations.

**Staff Analysis 6:** The condition was recommended to ensure that the same level of research and study occurs throughout the 1.29 acres to be excavated and harvested. The Phase III Management Plan states that only monitoring is proposed for the removal. Instead, more careful sifting and studies should be conducted and include radiocarbon dating, faunal analyses, botanical analyses, soil sediment analyses, and if appropriate physical anthropological analyses. The seven human teeth and human patella were discovered in a disturbed context within the 1.29 acre area. There is concern that if only monitoring occurs as part of the removal, that valuable information as well as human remains may be destroyed and treated disrespectfully.

**Condition 7:** All subsurface ground disturbing activities associated with the development of the subject property shall be monitored, as provided for in the revised Owner's Phase III Archaeological Management Plan, by a qualified archaeologist. Any significant deposits or features encountered during ground disturbing activities shall be documented and provided to the Department.

**Staff Analysis 7:** This condition is a standard related to archaeological sites and provides that documentation of the archaeological deposits discovered will occur.

**Condition 8:** The Owner shall provide notification to the Department and the Town's archaeological consultant (Advanced Archaeology, Inc.) at least five business days prior to the proposed commencement of any ground disturbing activities associated with development of the subject property. The notification shall identify the precise location and depth of any proposed ground disturbing activities.

**Staff Analysis 8:** This condition is recommended to ensure compliance with the conditions of approval and to provide appropriate notice to the Town's archaeologist.

**Condition 9:** The Owner shall require its archaeological consultant, to provide radiocarbon dating data and analyses on 40 samples to be identified per the Owners revised Phase III archaeological management plan. This data and analyses shall be included in the final technical report identified in Condition 11.

**Staff Analysis 9:** This recommendation is to ensure that additional documentation of excavated deposits add to the knowledge of the Jupiter Inlet Complex.

**Condition 10:** The Owner shall reimburse the Town for any professional fees, costs and expenses it incurs associated with the archaeological monitoring, excavations, reviews and reports associated with this Certificate to Dig.

**Staff Analysis 10:** This condition is a standard related to Town costs so that the public does not incur costs based on development.

**Condition 11:** Interim reports prepared by the Owner's archaeological consultant containing the results of the required archaeological monitoring and excavations shall be provided to the Town on a quarterly basis (January 31<sup>st</sup>, April 30<sup>th</sup>, July 31<sup>st</sup>, and October 31<sup>st</sup>). The final archaeological monitoring report shall be submitted to the Department for review within 60 days of completion of the monitoring field work. Based on review of the report by the Department in consultation with the Town's Archaeological Consultant, the Board may require additional documentation or monitoring of the subject property.

**Staff Analysis 11:** This recommendation is to ensure that additional documentation of excavated deposits add to the knowledge of the Jupiter Inlet Complex.

**Condition 12:** The Phase III Cultural Assessment final report shall be submitted within one year from completion of the field work. The report shall be reviewed by the Department in consultation with the Town's Consulting Archaeologist and approved prior to its final approval.

**Staff Analysis 12:** This recommendation is to ensure that the information discovered through the excavation on 1.29 acres of the site adds to the story and knowledge of the Jupiter Inlet Complex.

**Condition 13:** All archaeological artifacts that are recovered from the subject property as a result of any excavation shall be documented by the Owner, and a copy of the documented findings shall be provided to the Department. Any archaeological artifacts recovered from the subject property shall be donated or loaned to the Loxahatchee River Historical Society. If human skeletal remains or grave goods (special items that are placed with the burial) are found on the subject property, the Owner shall immediately comply with Section 872.05 Florida Statutes.

**Staff Analysis 13:** The owner and the owner's archaeologist proposed to donate all findings to the Loxahatchee River Historical Society. Staff would like to ensure that the public has access to the Town cultural history and prehistory.

#### **STAFF AND TOWN ARCHAEOLOGISTS RECOMMENDATION:**

Based on the facts and findings contained herein, Staff and the Town Archaeologists recommend approval of the Certificate to Dig #1-22 with conditions of approval shown in Certificate to Dig #1-22 with Exhibits A and B.

Preservation of 2.78 acres of the archaeological site and a Certificate to Dig for 1.29 acres will still provide developability of the 10.04-acre property given the existing land use designation and zoning. The existing land use and zoning is Residential High Density (8.6 acres) and Riverwalk Flex (1.8 acres along the inlet) in the Inlet Village Sector and zoning of R-3, Multi-Family Residential (9.7 acres) and C-2, Commercial General (0.7 acres for the existing commercial building along A1A). The owner's concurrent application requests include proposals to increase the intensity and residential density beyond what is permitted currently. Based on the existing land use and zoning, a maximum of 52 dwelling units and 131,529 square feet of commercial use would be permitted on the subject property. The owner is proposing 72 dwelling units and a 125 room hotel (square footage not provided), 6,439 square feet of retail, and 5,650 square foot restaurant.

**STRATEGIC PRIORITY:** Small Town Feel

**ATTACHMENTS:**

Certificate to Dig #1-22 with Exhibits A and B

- Attachment A – Certificate to Dig Narrative
- Attachment B – Preliminary Site plan with Archaeological details
- Attachment C – Phase I Cultural Resource Assessment (under separate cover)
- Attachment D – AHC Technical report #1178 Sperry/ Suni Sands Phase I Addendum (under separate cover)
- Attachment E – Phase II Cultural Resource Assessment (under separate cover)
- Attachment F – Phase II Archaeological assessment of the Sperry parcel addendum report
- Attachment G – Sperry Parcel Phase III Management Plan
- Attachment H – Figure 1. Preliminary site plan with archaeological details
- Attachment I – Palm Beach County Archaeologist- Christian Davenport Opinion
- Attachment J – Joshua Goodwin, Archaeologist III with the Bureau of Archaeological Research from the Department of State
- Attachment K – Advanced Archaeology, Inc. letter, dated August 22, 2022 and Commonwealth Heritage Inc. letter, September 21, 2022
- Attachment L – Structural Detail
- Attachment M- Florida Division of Historic Preservation comments
- Attachment N - Legacy Surveying & Mapping's research on Jupiter and Lake Worth Railway Alignment.
- Attachment O- PBC Archaeologist Response 11-17-22

Contact Peter Begovich at 561-741-2473 or email at [peterb@jupiter.fl.us](mailto:peterb@jupiter.fl.us) for a copy of the attachments.

**File Path:** V:\PlanningZoning\Staff\WP51\Signature - HRB\11-29-2022 & 11-30-2022\Staff report for Sperry Certificate to Dig\_NOV.docx