

Meeting Date
October 4, 2016



AGENDA	
Section	CONSENT
Item No.	II. A. 2

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Binding Development Plan, Re: Harvey's Indian River Groves, Inc. (District 2) FISCAL IMPACT: NONE
DEPT/OFFICE:	Planning & Development Department

Requested Action:
It is requested that the Board approve, and the Chairman sign, the subject Binding Development Plan.

Summary Explanation & Background:

A Binding Development Plan (BDP) is a voluntary agreement by a property owner to self-impose limits upon development of a property in support of a change of zoning or conditional use permit. Pursuant to Section 62-1157, a BDP shall be recorded in the public records within 120 days of approval of the zoning application by the Board. Following staff and legal review, a BDP is routinely presented to the Board in recordable form as a Consent agenda item in order to finalize the zoning action.

On August 4, 2016, the Board of County Commissioners approved a Small Scale Plan Amendment from Residential 2 and PLNIP to all Residential 2, a change of classification from SEU & PIP to EU-2, on property located on the east side of N. Courtenay Pkwy., approx. 0.47 mile north of Smith Rd., (Tax Parcel 265 = 3490 N. Courtenay Pkwy.; Tax Parcel 250 – No assigned address, in the Merritt Island area), subject to a Binding Development Plan as follows:

- Developer/Owner shall limit density to 56 residential units on the Property, which may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
- Developer/Owner shall limit ingress and egress to one (1) access at N. Courtenay Pkwy.
- Primary streets within the development will be curbed and guttered.

Staff Contact: Jennifer Jones

Clerk to the Board instruction: After recordation, forward two certified copies to the Planning and Development Department

Exhibits Attached: Binding Development Plan, with exhibits, and check for recording

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager		Department Director / Extension Robin M. DiFabio, AICP, Director Planning & Development Dept. Ext. 56363					
Stockton Whitten							



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

October 5, 2016

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.2, Binding Development Plan with Harvey's Indian River Groves, Inc. (District 2)

The Board of County Commissioners, in regular session on October 4, 2016, executed Binding Development Plan with Harvey's Indian River Groves, Inc. for property located on the east side of North Courtenay Parkway, approximately 0.47 mile north of Smith Road, at 3490 North Courtenay Parkway, Merritt Island. Said Plan was recorded in OR BK/PG 7725/999. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

On motion by Commissioner Fisher, seconded by Commissioner Anderson, the following resolution was adopted by a unanimous vote:

WHEREAS, HARVEY'S INDIAN RIVER GROVES, INC. has applied for a Small Scale Plan Amendment (16S.04) from Residential 2 and PLNIP (Planned Industrial Park) to all Residential 2 on property described as Tax Parcel 265, as recorded in ORB 2607, Page 0731, of the Public Records of Brevard County, Florida. (1.57 acres); and a change of classification from SEU (Suburban Estate Use) and PIP (Planned Industrial Park) with BDP (Binding Development Plan) to EU-2 (Estate Use Residential) with an amended BDP, on property described as Tax Parcel 250, as recorded in ORB 2435, Page 1909, of the Public Records of Brevard County, Florida. (40 acres) Located on the east side of N. Courtenay Pkwy., approx. 0.47 mile north of Smith Rd.

Sections 11

Township 24 S,

Range 36 E, and,

WHEREAS, a public hearing of the North Merritt Island Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the North Merritt Island Dependent Special District Board recommended that the application be denied; and,

WHEREAS, a public hearing of the Local Planning Agency was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Local Planning Agency recommended the Small Scale Plan Amendment (16S.04) be approved; and

WHEREAS, the Board, after considering said application and the North Merritt Island Dependent Special District Board's and Local Planning Agency's recommendations, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved with a BDP limited to 56 units; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested Small Scale Plan Amendment (16S.04) from Residential 2 and PLNIP to all Residential 2; and a change of classification from SEU and PIP with BDP to EU-2 with an amended BDP be APPROVED, with a BDP, recorded in ORB 7725, Pages 999 through 1002, dated 10/04/16, limited to 56 units, and the Planning & Zoning Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of October 4, 2016.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


by Jim Barfield, Chairman
Brevard County Commission

As approved by Brevard County Commission on October 4, 2016.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(NMI Hearing – May 12, 2016)
(LPA Hearing – May 23, 2016)
(BCC Zoning Hearing – August 4, 2016)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years.

THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES.

3. The Developer/Owner shall limit density to 56 residential units on the Property, which may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

4. The Developer/Owner shall limit ingress and egress to one (1) access at North Courtenay Parkway.

5. Primary streets within the development will be curbed and guttered.

6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida, including the restrictions and minimum code requirements for the EU-2 zoning category. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

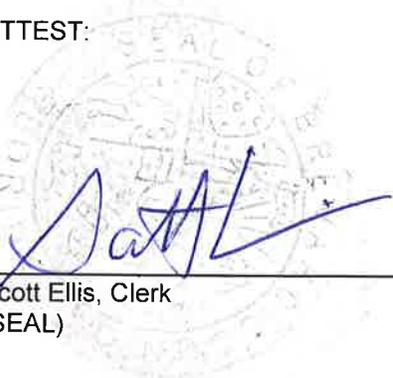
7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in the Public Records of Brevard County, Florida.

8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on 8/4/14. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

9. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:



Scott Ellis, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

[Handwritten Signature]

Jim Barfield
Chairman

As approved by the Board on 10/4/16

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

Cheri McCoy

Cheri McCoy
(Witness Name typed or printed)

Patricia Gallagher Harvey

Patricia Gallagher Harvey
(Witness Name typed or printed)

DEVELOPER/OWNER

Harvey's Indian River Groves, Inc.

3700 US Highway 1, Rockledge, FL 32955

By: James B Harvey
James B. Harvey, Vice President/Director

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 15 day of August, 2016, by James B. Harvey, Vice-President/Director of Harvey's Indian River Groves, Inc., who is personally known to me or who has produced as identification _____.

My commission expires
SEAL
Commission No.:

Donna L. Dolbey
Notary Public
Donna L. Dolbey
(Name typed, printed or stamped)

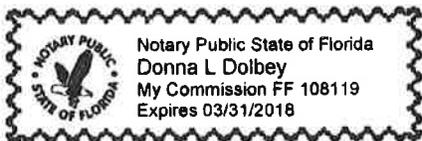


EXHIBIT "A"

Legal Description:

Lands as per O.R.B. 2435, Pg. 1909 of the public records of Brevard County, Florida, more particularly described as follows;

The Northeast one-quarter (NE $\frac{1}{4}$) of the Northwest one-quarter (NW $\frac{1}{4}$) of Section 11, Township 24 South, Range 36 East.

TOGETHER WITH lands as per O.R.B. 2607, Page 0731 of the public records of Brevard County, Florida, more particularly described as follows;

The North 100 feet of that portion of the Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 11, Township 24 South, Range 36 East, Brevard County, Florida, lying East of the East right-of-way line of State Route #3.

Containing a total of 41.95 acres, more or less, and being subject to any easements or right-of-ways of record.

BrevardClerk.US

Scott Ellis, Clerk of Court

700 South Park Avenue, Bldg. B
 P.O. Box 2767
 Titusville, FL 32781-2767
 (321) 637-2006

DBLIVE Transaction
 #: 1780537
 Receipt #: 61746634
 Cashier Date: 10/4/2016
 4:35:41 PM



Print Date:
 10/4/2016 4:35:43 PM

Customer Information	Transaction Information	Payment Summary
() CANTWELL & GOLDMAN PA 96 WILLARD ST STE 302 COCOA, FL 32922	DateReceived: 10/04/2016 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$35.50 Total Payments \$35.50

1 Payments	
CHECK 5977	\$35.50

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 7725/999 CFN:2016195471 Date:10/4/2016 4:35:40 PM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	4	\$35.50
Indexing @ 1st 4 Names Free, Add'l=\$1 ea.	2	\$0.00

0 Search Items

1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL

AFFIDAVIT OF NO MORTGAGE

James B. Harvey, Vice-President/Director of Harvey's Indian River Groves, Inc, after being duly sworn, deposes and says:

1. I am the owner of the real property as more particularly described in **Exhibit "A"** attached hereto
2. There are no mortgages on the Property

Dated August 15th, 2016.

By: James B. Harvey
James B. Harvey, Vice President/Director
Harvey's Indian River Groves, Inc.

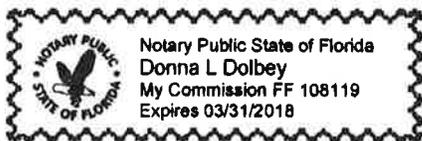
STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 15 day of August, 2016, by James B. Harvey, Vice-President/Director of Harvey's Indian River Groves, Inc., who is personally known to me or who has produced as identification _____.

My commission expires
SEAL
Commission No.:

Donna L. Dolbey
Notary Public
Donna L. Dolbey
(Name typed, printed or stamped)



IV. PUBLIC HEARINGS
B. NORTH MERRITT ISLAND DEPENDENT SPECIAL DISTRICT BOARD

Thursday, May 12, 2016 – 6:00 P.M.
Merritt Island Service Complex
2575 N. Courtenay Pkwy., 2nd Floor, Merritt Island, Florida

&
LOCAL PLANNING AGENCY
MONDAY, May 23, 2016 – 3:00 P.M.

&
BOARD OF COUNTY COMMISSIONERS
THURSDAY, May 26, 2016 – 5:00 P.M.
both at the
Brevard County Government Center
2725 Judge Fran Jamieson Way, Bldg. C, Viera, FL

The Board of County Commissioners may approve or deny the requested classification, or may approve a classification of lesser intensity than that requested.

DISTRICT 2

IV.B.4. (16PZ00032) – HARVEY'S INDIAN RIVER GROVES, INC. – (Ken Fulmer/Titan Properties) – requests a Small Scale Plan Amendment (16S.04) to change the Future Land Use from Residential 2 and PLNIP to all Residential 2 on 1.57 acres; and a change of classification from SEU and PIP with BDP to EU-2 with amended BDP, on 40 acres, located on the east side of N. Courtenay Pkwy., approx. 0.47 mile north of Smith Rd. (Tax Parcel 265 = 3490 N. Courtenay Pkwy; Tax Parcel 250 = No assigned address. In the Merritt Island area.)

NMI Recommendation: Hillberg/Testa - Denied

LPA Recommendation: *Moia/Barber – Approved. Vote was 6:4, with Minneboo, Aydelotte, Thodey, McLellan voting nay.*

P&Z Recommendation: Lawandales/McLellan – Approved with a BDP limited to 56 units. Vote was unanimous.

BCC ACTION OF 08/04/16: Fisher/Anderson – APPROVED with a Binding Development Plan limited to 56 units, and adopted Ordinance No. 16-12, Small Scale Plan Amendment 16S.04. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.

TABLED ITEM

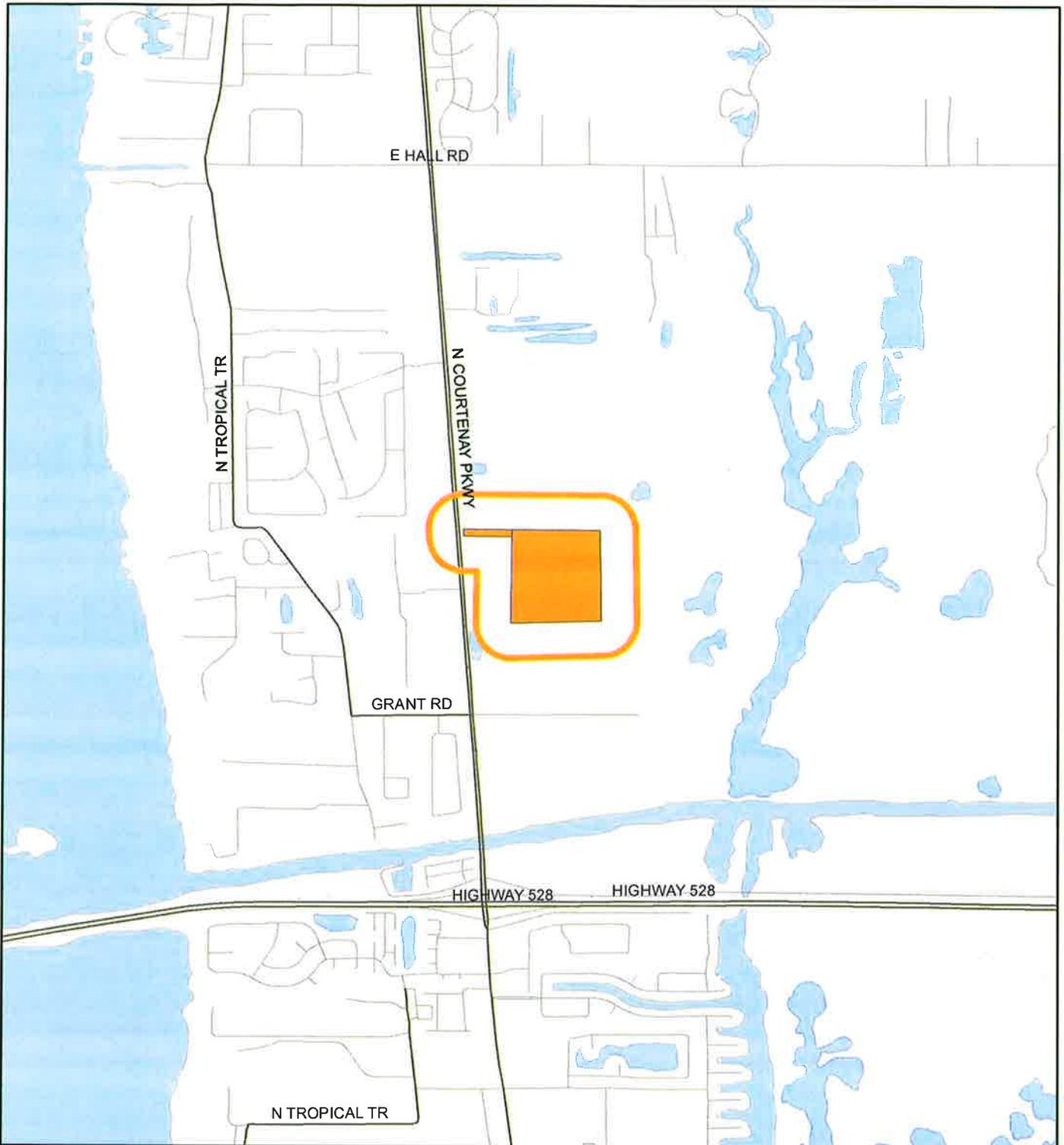
- Item IV.A.1. Harvey's Indian River Groves, Inc. Fisher/Anderson, approved with a Binding Development Plan; and adopted Ordinance No. 16-12, Small Scale Plan Amendment (16S.04)

PLANNING AND ZONING BOARD RECOMMENDATIONS OF JULY 11, 2016; PSJ RECOMMENDATION OF JULY 13, 2016; AND NMI RECOMMENDATIONS OF JULY 14, 2016

- Item IV.B.1. Edward A. (III) and Jennifer J. Ostopovich. Anderson/Fisher, tabled to September 1, 2016, Zoning meeting.
- Item IV.B.2. RJM Merco, LLC. Smith/Fisher, tabled to September 1, 2016, Zoning meeting.
- Item IV.B.3. Carmine Ferraro, Trustee. Withdrawn by applicant.
- Item IV.B.4. Glenn C. Butts and Martha Belinski. Anderson/Fisher, approved as recommended.
- Item IV.B.5. Apollo and Felice Corapi. Anderson/ Fisher, approved as recommended.
- Item IV.B.6. Michael J. and Elizabeth H. Witkowski. Infantini/Smith, approved as recommended.
- Item IV.B.7. Russell N. Brown and Nancy W. Brown. Infantini/Anderson, approved as recommended
- Item IV.B.8. Ralph S. (Sr.) and Cynthia L. Perrone, Co-Trustees. Anderson/Infantini, approved as recommended.
- Item IV.B.9. Banana Riverfront, LLC. Anderson/Infantini, tabled to September 1, 2016, Zoning meeting.
- Item IV.B.10. Cocoa Expo Sports Center, LLC. Fisher/Smith, tabled to August 23, 2016, Regular meeting.
- Item IV.B.11. Cocoa Expo Sports Center, LLC, and Upland Investments, LLC. Fisher/Smith, tabled to August 23, 2016 Regular meeting.
- Item IV.B.12. Riverside Commons, LLC. Anderson/Infantini, tabled to September 1, 2016, Zoning meeting. Fisher absent.
- Item IV.B.13. Palm Casual Furniture Products of Cocoa, Inc. Infantini/Anderson, approved as recommended.

LOCATION MAP

HARVEY'S INDIAN RIVER GROVES INC
16PZ00032 and Small Scale Amendment 16S.04



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

 Buffer

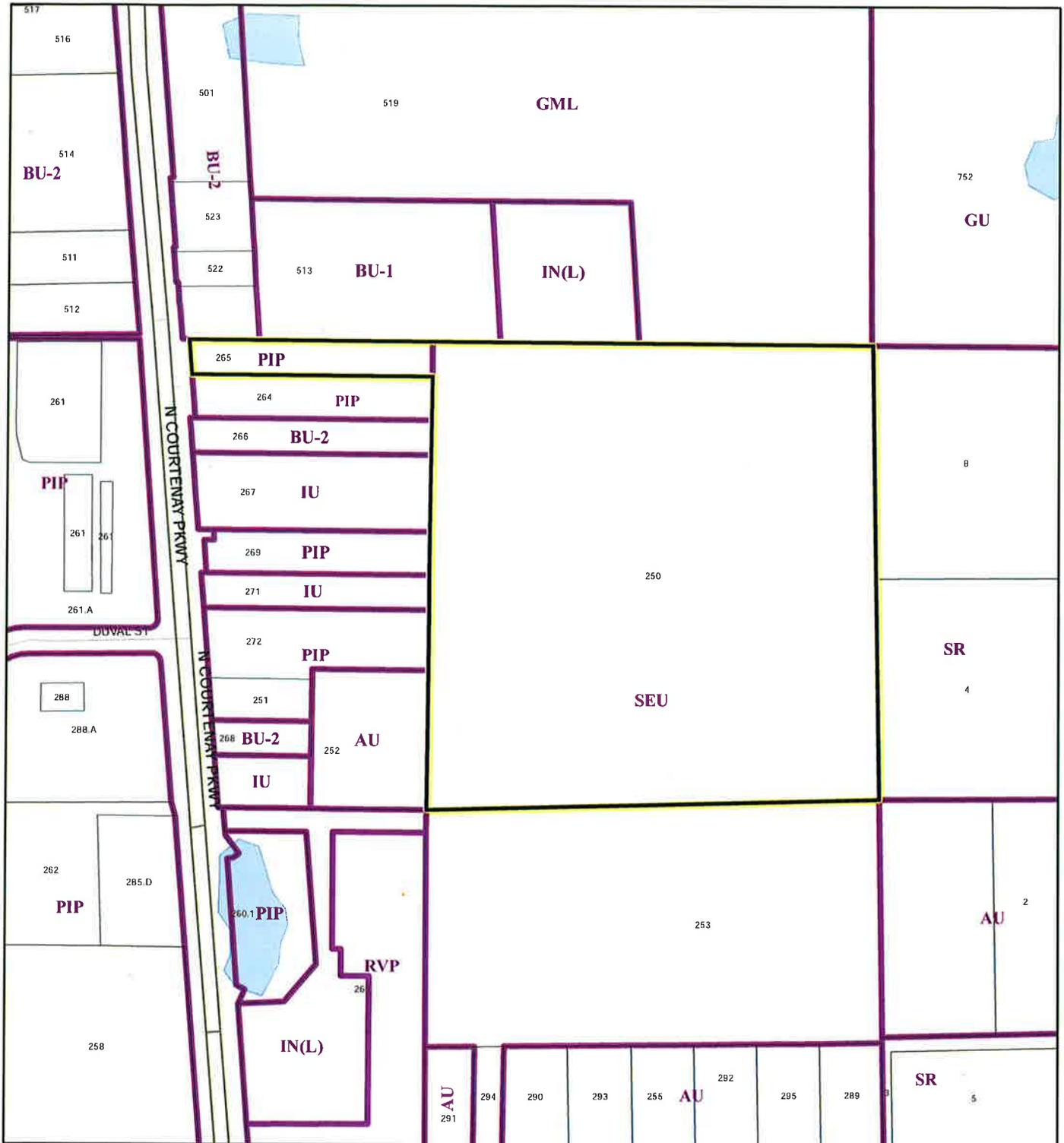
 Subject Property

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 3/18/2016

ZONING MAP

HARVEY'S INDIAN RIVER GROVES INC
16PZ00032 and Small Scale Amendment 16S.04



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels
-  Zoning

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions herein.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 4/13/2016