



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.7.

12/5/2019

Subject:

Lazy River Investments, LLC (Bruce Moia) requests a BDP limited to a maximum of 8 lots, in an RU-1-13 zoning classification. This item was tabled from the October 3, 2019, meeting. (19PZ00093) (District 3).

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a BDP (Binding Development Plan) limited to a maximum of 8 lots in an RU-1-13 (Single-Family Residential) zoning classification.

Summary Explanation and Background:

The applicants are seeking to retain the existing RU-1-13 zoning classification by incorporating a BDP on 20.39 acres, located on the southwest corner of Fleming Grant Road and Seabird Lane, to limit the development to the density allowance of 1 unit per 2.5 acres for compliance with the Residential 1:2.5 Future Land Use designation, per Section 62-1255. On May 30, 2019, the Board heard two requests from previous owners, a Large Scale Comprehensive Plan Amendment to change the FLU from Residential 1:2.5 to Residential 1 (18PZ00166) and a companion BDP request for consistency with FLU of Residential 1, capping the maximum number of 16 units (18PZ00167). The Large Scale Amendment was unanimously denied and the BDP request was withdrawn by the applicant.

The RU-1-13 zoning classification permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet, and a minimum house size of 1,300 square feet.

The subject property is not served by potable water or sewer and the provision of such would need to be provided by well and septic or a private sewer system.

Within a half-mile of the subject property there are 189 lots on the Property Appraiser's Office map, at least four are smaller than the smallest zoning classifications' minimum lot size would allow. Fifty-four of the lots are 2.5 acres or larger, 51 are between 1.0 acre and 2.49 acres, and 53 are between 0.50 acres and .99 acres. Less than 30 lots within a half-mile of the subject property are less than 0.50 acres in size and no lot is as small as 7,500 square feet, the minimum lot size for RU-1-13, except for the four noted above.

A portion of the property is in the Coastal High Hazard Area (CHHA). Objective 7.0 of the Brevard County

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Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard zone and direct development outside of this area."

On September 9, 2019, the Planning and Zoning Board heard the request and voted 6:1 to recommend approval.

On October 3, 2019, the Board tabled the request to the December 5, 2019, Zoning Commission meeting to allow the applicant to address environmental concerns. On November 15, 2019, the applicant submitted a revised BDP, see attached staff analysis.

The Board may wish to consider whether the density cap of 8 units and the other provisions within the BDP are consistent and compatible with the surrounding development pattern and the adjacent RR-1, AU, GU, and RU-1-13 zoning, and Residential 1:2.5 Future Land Use designation. In addition, the Board may wish to consider whether the provisions of the BDP satisfy Objective 7.0 of the Brevard County Comprehensive Plan, Coastal Management Element, with limiting densities within the coastal high hazard zone and direct development outside of this area.

Clerk to the Board Instructions:

Once resolution is received, please execute and return to Planning and Development.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of: 411

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application.”

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

“The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.

Resolution 19PZ00093

On motion by Commissioner Isnardi, seconded by Commissioner Pritchett, the requested rezoning action failed to obtain approval; the motion failed by a 2:3 vote:

WHEREAS, Lazy River Investments, LLC, has requested a BDP (Binding Development Plan) limited to a maximum of 8 lots, in an RU-1-13 (Single-Family Residential) zoning classification; on property described as Lots 10 & 11, Frank H. Allen Subdivision of 136-acre tract of Fleming Grant, according to the map or plat thereof, as recorded in Plat Book 1, Page 77, of the Public Records of Brevard County. **Section 19, Township 30G, Range 38.** (20.39 acres) Located on the southwest corner of Fleming Grant Road and Seabird Lane. (No assigned address. In the Micco area.); and

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be denied; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested BDP limited to a maximum of 8 lots in an RU-1-13 zoning classification be denied. The Planning and Development 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 December 5, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Bryan Andrew Lober

Bryan Lober, Chair

Brevard County Commission

As approved by the Board on December 5, 2019.

ATTEST:

Scott Ellis

SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – September 9, 2019

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development 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.**



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

19PZ00093

Lazy River Investments, LLC

BDP (Binding Development Plan) limited to 8 lots

Tax Account Number: 3008729
 Parcel I.D.: 30G-38-19-HP-*-10
 Location: Southwest corner of Fleming Grant Road and Seabird Lane (District 3)
 Acreage: 20.39 acres

Planning and Zoning Board: 09/09/19
 Board of County Commissioners: 10/03/19

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255, if accompanied by a Binding Development Plan (BDP) limiting potential development to 1 unit per 2.5 acres (RES 1:2.5).
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-1-13	RU-1-13 with BDP limiting residential development to 8 units (1 unit per 2.5 acres)
Potential*	2 lots	8 lots
Can be Considered under the Future Land Use Map	No** Residential 1:2.5	YES*** Residential 1:2.5

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **The existing zoning is not consistent with Section 62-1255. ***The proposal being limited by a BDP with 1 unit per 2.5 acres would allow the request to be heard.

Background and Purpose of Request

The applicants are seeking to retain the existing Single-Family Residential (RU-1-13) zoning classification by incorporating a BDP to limit the site's development to the density allowance of 1 unit per 2.5 acres, to be consistent with the density allowances of the Residential 1:2.5 Future Land Use designation. The subject property is currently undeveloped but platted into two (2) residential lots: Lot 10, a 10.75-acre platted lot and Lot 11, a 9.88-acre platted lot, which total 20.39 acres. The property is located in between Fleming Grant Road and the San Sebastian River, with road frontage on the north and river frontage on the south. This proposal would allow for the development of a potential eight (8) single-family residential lots.

The current RU-1-13 (Single-Family Residential) permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet, and a minimum house size of 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

On May 30, 2019, the BOCC (Board of County Commissioners) heard two requests from previous owners regarding this property, a Large Scale Comprehensive Plan Amendment to change the Future Land Use (FLU) from Residential 1:2.5 to Residential 1 (18PZ00166), and a companion BDP (Binding Development Plan) for consistency with FLU of Residential 1 (18PZ00167). The Large Scale Comprehensive Plan Amendment was unanimously denied and the BDP was withdrawn by the applicant.

The subject properties are in their natural state and possess natural resources which are more comprehensively described in the Natural Resources Management (NRM) Department's addendum to these staff comments and will be further evaluated at future stages of development.

Land Use Compatibility

The subject property currently retains the RES 1:2.5 FLU designation.

The current RU-1-13 zoning is not consistent with the Residential 1:2.5 Future Land Use designation. The applicant is requesting this BDP that proposes to limit the gross density of the subject property to eight (8) units in order to achieve consistency with the RES 1:2.5 FLU designation as implied by Section 62-1255 of the zoning regulations. If the property were rezoned to either the AU, AU(L), or REU residential zoning classification, requiring a minimum lot size of 2.5 acres or larger, no BDP would be required to ensure consistency with the existing FLU density.

FLUE Policy 1.10 addresses the Residential 1:2.5 Future land use designation. The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined in the Administrative Policies.

Environmental Constraints

A portion of the property is in the Coastal High Hazard Area. Objective 7.0 of the Brevard County Comprehensive Plan, Coastal Management Element seeks to, "Limit densities within the coastal high hazard zone and direct development outside of this area."

If the owner/applicant has any questions regarding any potential limitations, they are encouraged to contact NRM at (321) 633-2016 prior to any land clearing activities, plan, or permit submittal. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Preliminary Concurrency Analysis

A preliminary school concurrency analysis identified under the recent **18PZ00167** review (withdrawn May 30, 2019) for a proposed 20-unit development indicates that Sunrise Elementary is not projected to have enough capacity for the total projected and potential students from the Seabird Subdivision. Because there is a shortfall of available capacity in the concurrency service area of the Seabird Subdivision, the capacity of adjacent concurrency service areas must be considered.

The adjacent elementary school concurrency service areas are Westside Elementary School, Columbia Elementary and Port Malabar Elementary School. Considering the adjacent elementary school concurrency service areas, there is sufficient capacity for the total projected student membership to accommodate the Sunrise Subdivision. This accommodation for predicting development and potential redistricting of students is done in coordination between Brevard County Government and Brevard County Schools, through intergovernmental coordination.

The subject property is not served by potable water or sewer and the provision of such would need to be provided by well and septic or a private sewer system.

A preliminary transportation concurrency analysis indicates that the eight proposed single-family residences are projected to generate 76 trips per day on a roadway. Both Fleming Grant Road and the nearby U.S. Highway 1 have sufficient capacity for the newly generated trips.

The closest concurrency management segment to the subject property is U.S. Highway 1, between the Indian River Countyline and Micco Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 53.90% of capacity daily. The parcel is undeveloped. The maximum development potential from the proposed rezoning increases the proposed trip generation 0.18%. The corridor is anticipated to continue to operate at 54.08% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

Applicable Land Use Policies

The original zoning classification of the subject property was a split zoning of GU (General Use) and AU (Agricultural Residential). The property was rezoned from GU and AU to RU-1 (Single-Family Residential) (**Z-2762**) on 03/01/71. An administrative rezoning changed the zoning classification on this lot, and several other lots zoned RU-1, to the current classification of RU-1-13 (Single-Family Residential) when RU-1 was split into four (4) different classifications based on minimum living area (**Z-2980**) on 05/30/72. This RU-1-13 classification requires a minimum of 1,300 square feet of living area.

The surrounding properties are zoned RR-1 (Rural Residential) to the east, RU-1-13 to the west, AU across Fleming Grant Road to the north and GU on the islands in the San Sebastian River to the south.

The RR-1 classification permits single-family residential land uses on minimum one acre lots, with a minimum lot width and depth of 125 feet, and a minimum house size of 1,200 square feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The keeping of horses and agricultural pursuits are accessory to a principal residence within the RR-1 zoning classification.

The current RU-1-13 (Single-Family Residential) permits single-family residences on minimum 7,500 square-foot lots, with minimum widths and depths of 75 feet, and a minimum house size of 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

The AU (Agricultural Residential) zoning classification permits single-family residences and agricultural pursuits on 2.5 acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. The AU classification also permits the raising/grazing of animals, fowl, and beekeeping.

The GU (General Use) classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet, and a minimum house size of 750 square feet.

There have been no zoning actions approved in the last three years within a half-mile of the subject property. On May 30, 2019, the BOCC (Board of County Commissioners) heard two requests from previous owners regarding this property, a Large Scale Comprehensive Plan Amendment to change the Future Land Use from Residential 1:2.5 to Residential 1 (18PZ00166) and a companion BDP (Binding Development Plan) for consistency with Future Land Use of Residential 1 (18PZ00167). The Large Scale Comprehensive Plan Amendment was unanimously denied and the BDP request was withdrawn by the applicant.

On March 1, 2001, the BOCC approved Z-10529, a change from AU to RR-1 (Rural Residential) with a Binding Development Plan limiting density to 1:2.5 on 11.5 acres. The resulting four lots are just east of the subject property (Tax accounts 3010531, 3009117, 3010523, and 3008728). On January 25, 1988, approximately 0.25 mile east of the subject property, the BOCC approved zoning action Z-7996, changing the zoning classification on approximately 2.26 acres from RR-1 and RU-1 to RU-1-13 with a Binding Stipulation of four units maximum. The resulting lots are tax accounts 3009081, 3009295, 3009092 and 3009093.

Within a half-mile of the subject property there are 189 lots on the Property Appraiser's Office map, at least four are smaller than the smallest zoning classifications' minimum lot size would allow. Fifty-four of the lots are 2.5 acres or larger, 51 are between 1.0 acre and 2.49 acres, and 53 are between 0.50 acres and .99 acres. Less than 30 lots within a half-mile of the subject property are less than 0.50 acres in size and no lot is as small as 7,500 square feet or 0.17 acres, the minimum lot size for RU-1-13, except for the four noted above.

To the west of the subject property lies an 18.5-acre subdivision platted as *Arens Wild Acres* on March 19, 1965. The parcels within the subdivision are between just under 0.5 acre to 1.87 acres in size. The subdivision was developed with the RU-1-13 zoning classification, prior to the parcels along the river having the Residential 1:2.5 Future Land Use designation applied to them. Some parcels within the subdivision are vacant and some have been developed with single-family residences. Parcels abutting the subject property range in size from .46 acres and 3.11 acres, with smaller parcels towards Fleming Grant Road and increasing in size to the south, closer to the river.

Directly to the east of the subject property lies a 30-foot unimproved right of way and to the east of that lies the private drive Seabird Lane, which provides access to two larger three-acre riverfront parcels with the RR-1 zoning classification and a Future Land Use designation of Residential 1:2.5, which are developed with single-family residences. One more single-family residence with its own access from Fleming Grant Road on almost 4.5 acres of land lies east of that. A second subdivision

of almost 7 acres in size lies to the east of the three larger riverfront parcels, with River Drive providing access to 14 parcels ranging in size from 0.2 acres to 0.92 acres, with all but two vacant parcels developed with single-family residences.

The abutting properties to the north, separated from the subject property by Fleming Grant Road, are developed as single-family residences. While most parcels north of Fleming Grant Road in the area retain the RR-1 (Rural Residential) zoning classification, two parcels retain the AU (Agricultural Residential) zoning classification and a Residential 1 Future Land Use designation. Almost all of the parcels abutting Fleming Grant Road on its north side are approximately one acre in size.

Surrounding Uses	Current Use	Zoning	Future Land Use
North Across Fleming Grant Road	Single-Family Residences	RR-1, AU	RES 1
East Across Seabird Lane	Single-Family Residence	RR-1	RES 1:2.5
South Across the Saint Sebastian River	Vacant Island	GU	RES 1:2.5
West	Single-Family Subdivision	RU-1-13	RES 1:2.5

For Board Consideration

The applicants are seeking to retain the existing RU-1-13 (Single-Family Residential) zoning classification by incorporating a BDP (Binding Development Plan) to limit the site’s development to the density allowance of 1 unit per 2.5 acres for compliance with the Residential 1:2.5 (RES 1:2.5) Future Land Use (FLU) designation. The subject property is currently divided into two residential lots and this proposal would allow for the development of up to potential 8 single-family residential lots. On May 30, 2019, the BOCC heard two requests from previous owners regarding this property, a Large Scale Comprehensive Plan Amendment to change the FLU from Residential 1:2.5 to Residential 1 (18PZ00166) and a companion BDP for consistency with FLU of Residential 1 (18PZ00167). The Large Scale Comprehensive Plan Amendment was unanimously denied and the BDP request was withdrawn by the applicant.

The current RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet, and a minimum house size of 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

The subject property is not served by potable water or sewer and the provision of such would need to be provided by well and septic or a private sewer system.

Within a half-mile of the subject property there are 189 lots on the Property Appraiser's Office map, at least four are smaller than the smallest zoning classifications' minimum lot size would allow. Fifty-four of the lots are 2.5 acres or larger, 51 are between 1.0 acre and 2.49 acres, and 53 are between 0.50 acres and .99 acres. Less than 30 lots within a half-mile of the subject property are less than 0.50 acres in size and no lot is as small as 7,500 square feet or 0.17 acres, the minimum lot size for RU-1-13, except for the four noted above.

~~A portion of the subject parcel is located within the riverine floodplain as identified by Federal Emergency Management Agency (FEMA). Per Section 62-3724(1), Floodplain Protection, compensatory storage shall be required for fill in excess of one-third acre within the riverine floodplain, and residential density limitations shall apply based on site topography. The applicant will be required to provide topographic maps and flood elevations to designate and delineate 100-year, 25-year, 10-year, and mean annual riverine floodplains prior to plan design. Residential density is limited based on riverine floodplain designation (i.e. 100-year, 25-year, 10-year or annual mean riverine floodplain).~~

~~About 20% of the property closest to the river is within the CCHA (Coastal High Hazard Area), which is depicted on a map in the Board's package. Objective 7.0 of the Comprehensive Plan's Coastal Management Element seeks to limit densities within the coastal high hazard zone and direct development outside of this area. Policy 7.6 states that existence of sewer, water, roadways or other public infrastructure shall not be considered adequate rationale for an increase in zoning density or intensity within the coastal high hazard area. The Board should consider ways to direct development outside of the CCHA.~~

A portion of the property is in the Coastal High Hazard Area (CHHA). Objective 7.0 of the Brevard County Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard zone and direct development outside of this area."

The Board may wish to consider whether the minimum lot size of 7,500 square feet is consistent and compatible with the surrounding development pattern and the adjacent RR-1, AU, GU, and RU-1-13 parcels.

The Board should also be aware that there are several other zoning classifications that have a minimum lot size that may be considered more consistent with surrounding development patterns. The following zoning classifications have a minimum lot size greater than the existing zoning classification but equal to or less than one acre in size, which could still allow for the developer to obtain an 8-unit gross lot yield while allowing for the preservation of environmentally sensitive portions of the property, including RR-1, SEU, SR, EU, EU-1, and EU-2. If the property were rezoned to either the AU, AU(L), or REU residential zoning classification requiring a minimum lot size of 2.5 acres or larger, a BDP would not be required to ensure consistency with the existing FLU density.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Binding Development Plan (BDP) Review & Summary
Item # 19PZ00093

Applicant: Bruce Moia c/o Arthur Evans

BDP Request: Limit development to 8 units

Note: Applicant desires to develop parcel into 8 single-family units

P&Z Hearing Date: 09/09/19

BCC Hearing date: 10/03/19

Tax ID No: 3008729

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Substantial Natural Resources Land Use Issues:

A portion of the property is in the Coastal High Hazard Area (CHHA). Objective 7.0 of the Brevard County Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard zone and direct development outside of this area."

If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

Summary of Mapped Natural Resources Present on the Subject Property:

- Wetlands
- Aquifer Recharge Soils
- Floodplain
- CHHA
- Surface Water Classification as Aquatic Preserve
- Septic Overlay
- Heritage Specimen Trees

Land Use Comments:

Wetlands

The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site as shown on the NWI Wetlands Map; an indicator that wetlands may be present on the property. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied

as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and Orsino fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance

Floodplain

A portion of the property is mapped as being within a Federal Emergency Management Agency (FEMA) flood zone as shown on the FEMA Flood Zone Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723(2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Coastal High Hazard Area

A portion of the property is in the Coastal High Hazard Area (CHHA). Objective 7.0 of the Brevard County Comprehensive Plan, Coastal Management Element is to, "Limit densities within the coastal high hazard zone and direct development outside of this area."

Surface Water Classification

The property is located on surface waters designated by the State as an Aquatic Preserve. A 50-foot surface water protection buffer (Buffer) is required. Except as allowable under Section 62-3668(7), primary structures shall be located outside of the Buffer. Accessory structures within the Buffer are permissible provided that stormwater management is provided, impervious areas do not exceed 30% of Buffer area, and avoidance/minimization of Buffer impacts is followed so that surface water quality and natural habitat is not adversely affected.

Septic Overlay

Portions of the site are mapped within the Indian River Lagoon septic overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

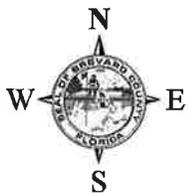
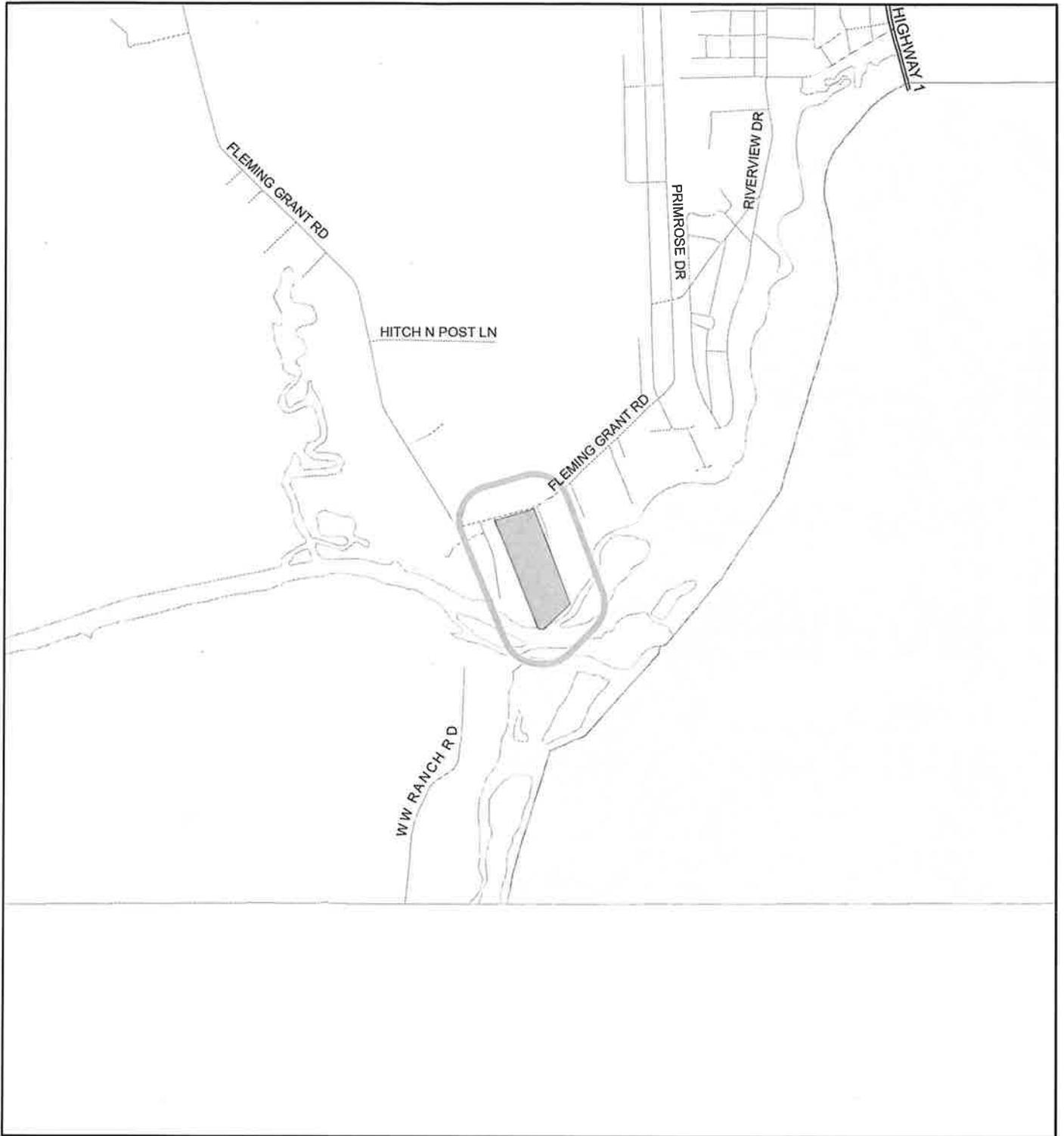
Heritage Specimen Trees

The subject property contains mapped polygons of SJRWMD FLUCCS code 4340 – Upland Mixed Coniferous/Hardwood trees. Heritage Specimen trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and reside in the project area as indicated on the survey and aeriels. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas.

Protected Species Potential

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP
LAZY RIVER INVESTMENTS, LLC
19PZ00093



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

Buffer Distance: 500 feet

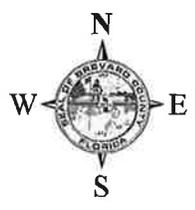
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/18/2019

-  Buffer
-  Subject Property

ZONING MAP

LAZY RIVER INVESTMENTS, LLC
19PZ00093



1:4,800 or 1 inch = 400 feet

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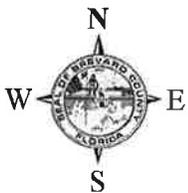
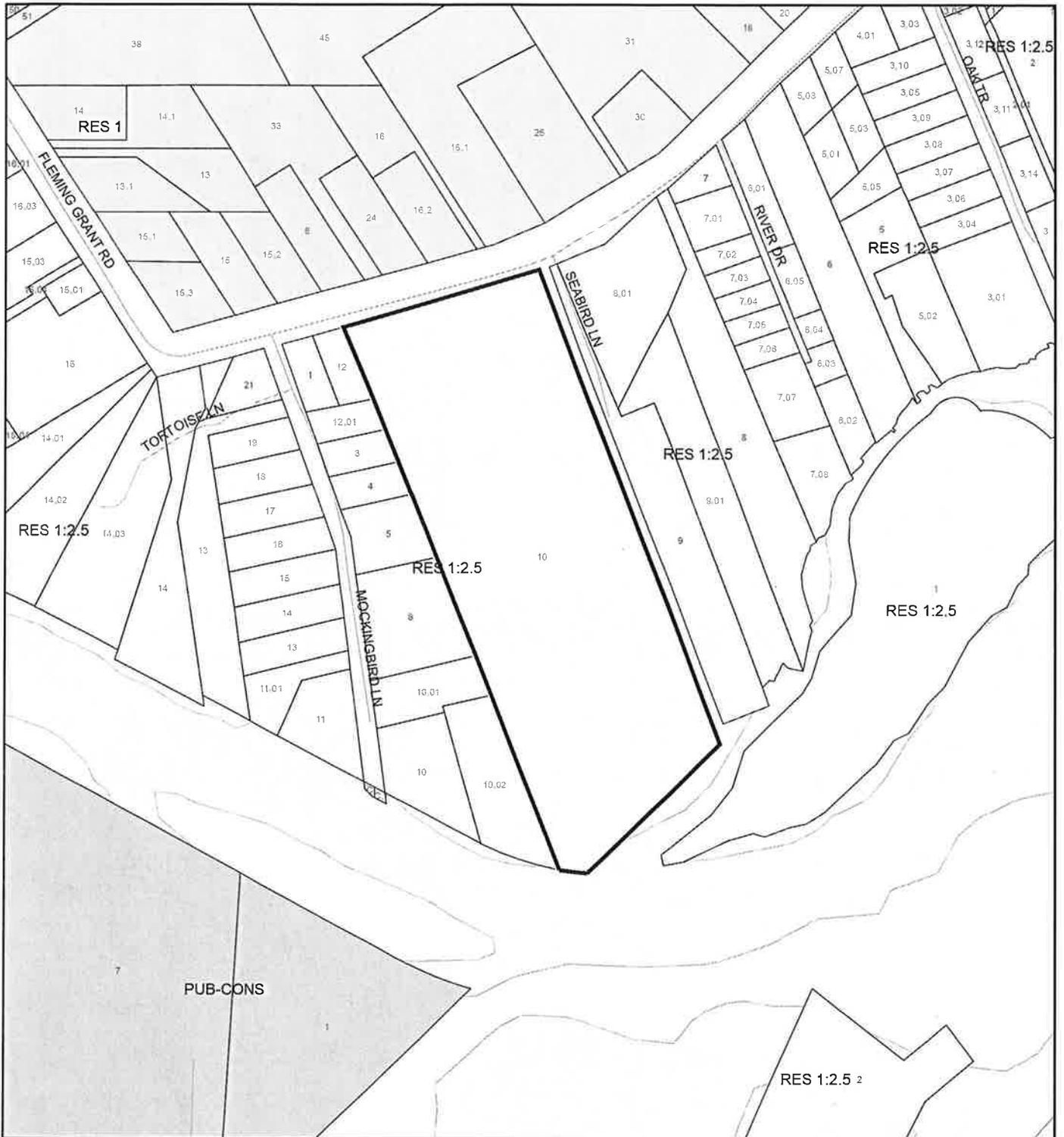
Produced by BoCC - GIS Date: 7/18/2019

-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

- Subject Property
- Parcels

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 BoCC - GIS Date: 7/17/2019

AERIAL MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2019

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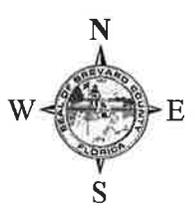
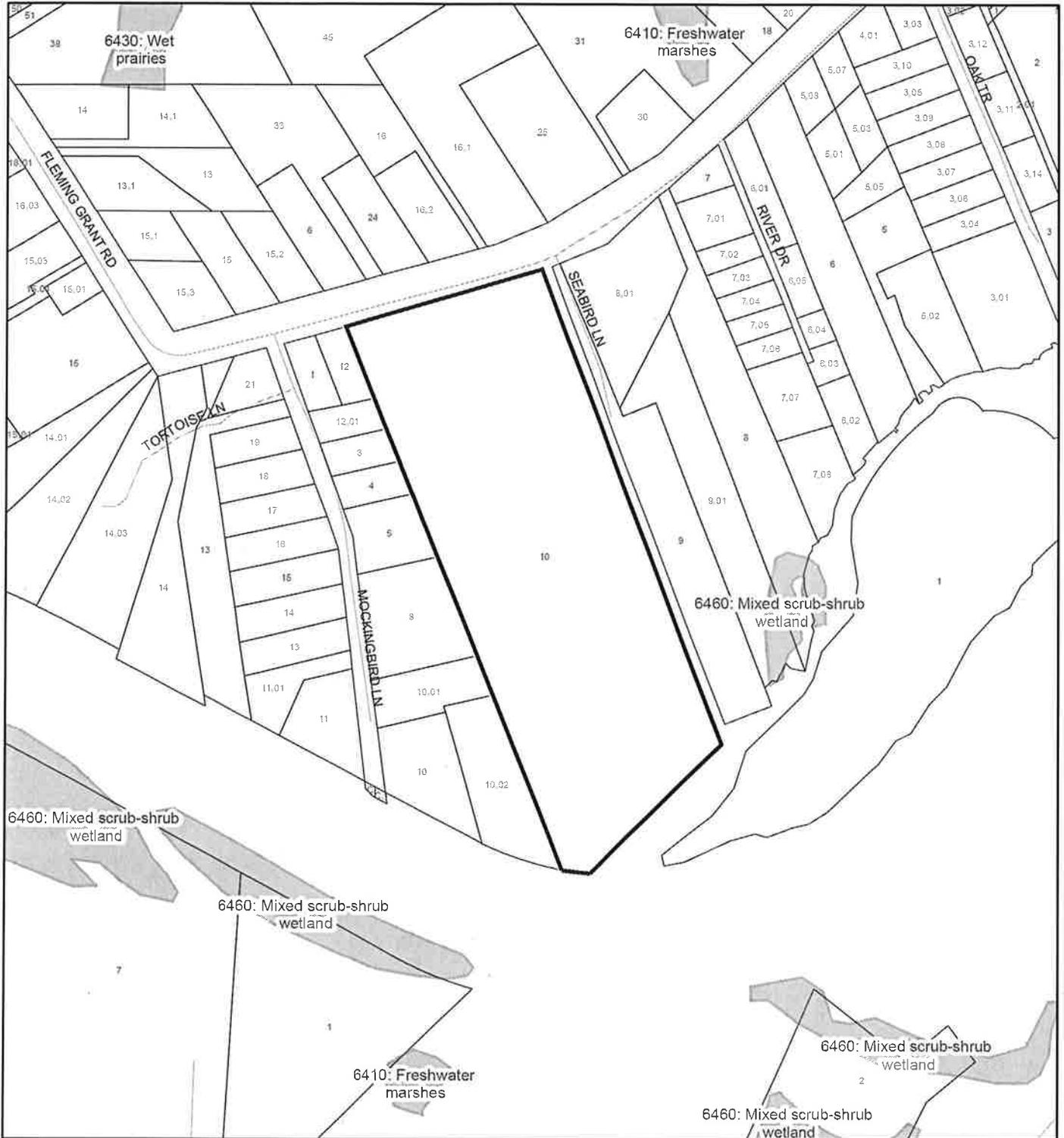
Produced by BoCC - GIS Date: 7/17/2019

— Subject Property
□ Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 7/17/2019

SJRWMD FLUCCS WETLANDS

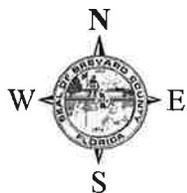
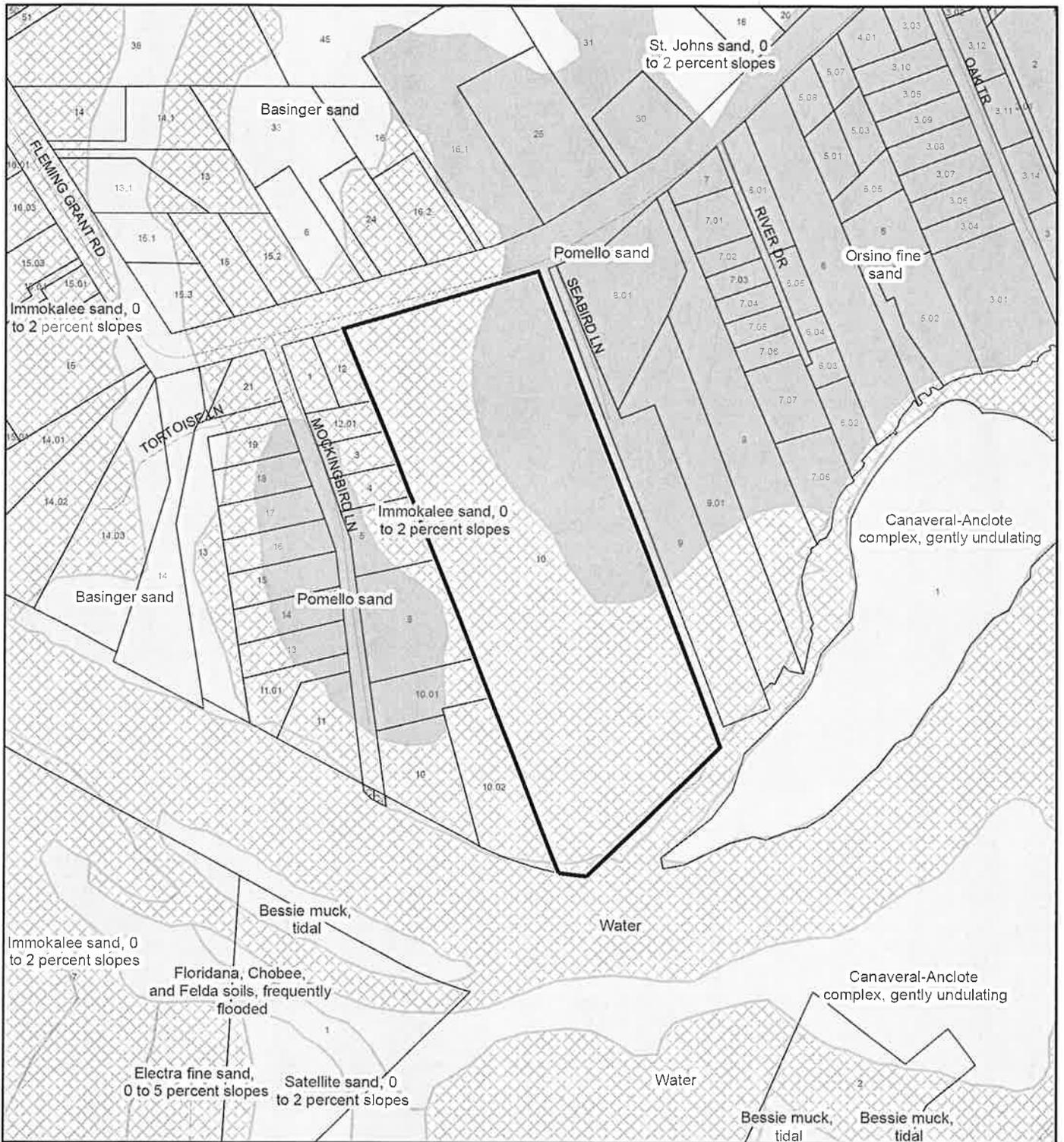
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property  Parcels

USDA SCSSS SOILS MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/17/2019

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

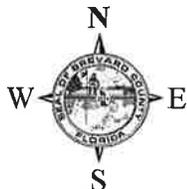
Subject Property 433

Parcels

FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 7/17/2019

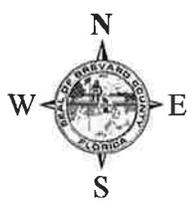
FEMA Flood Zones

- | | | |
|---|------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | Parcels | |

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 7/17/2019

-  Subject Property
-  Parcels
- Septic Overlay**
-  40 Meters
-  60 Meters
-  All Distances

EAGLE NESTS MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 7/17/2019

 Subject Property

 Parcels

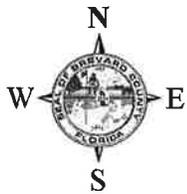


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

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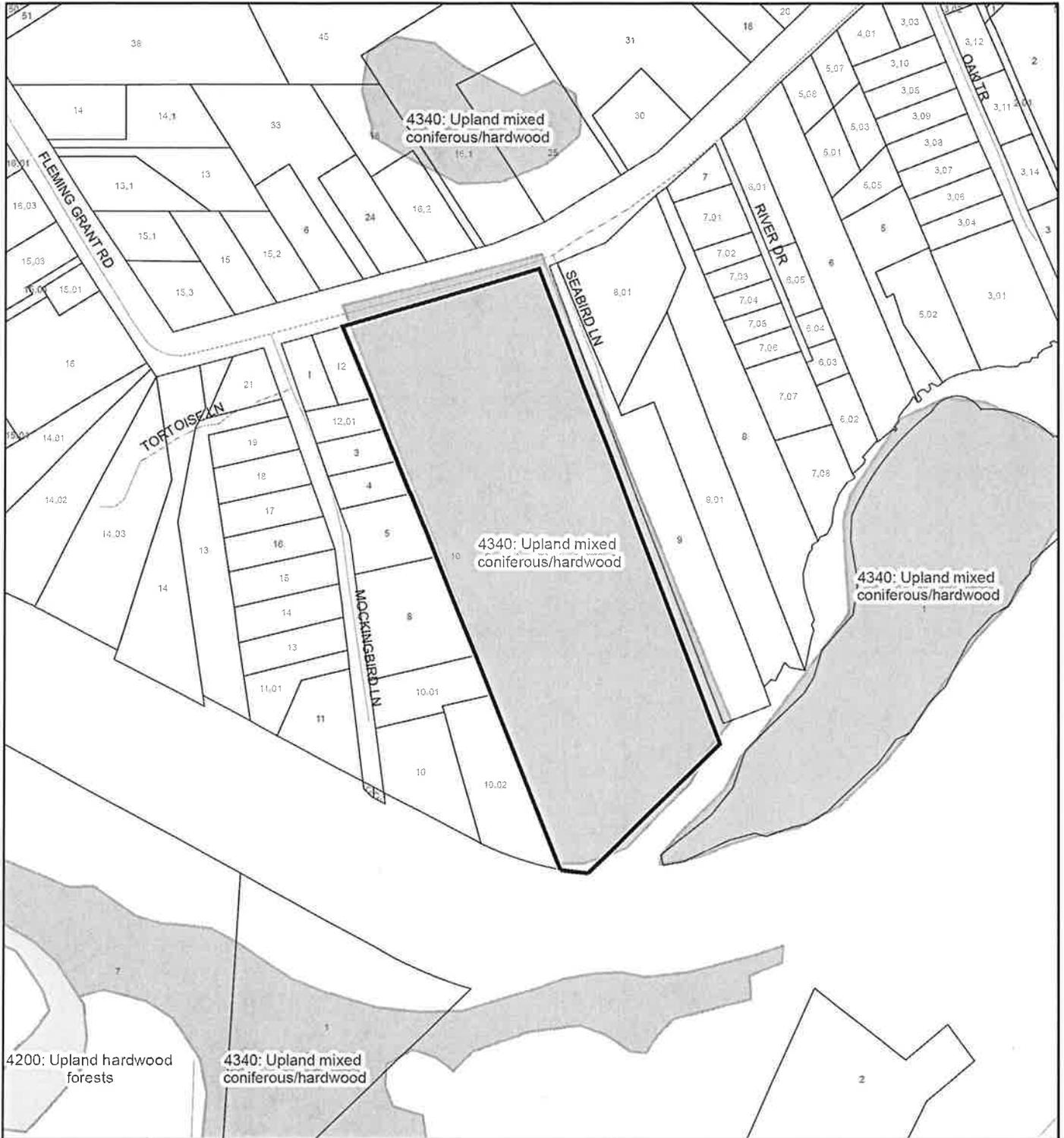
Produced by BoCC - GIS Date: 7/17/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

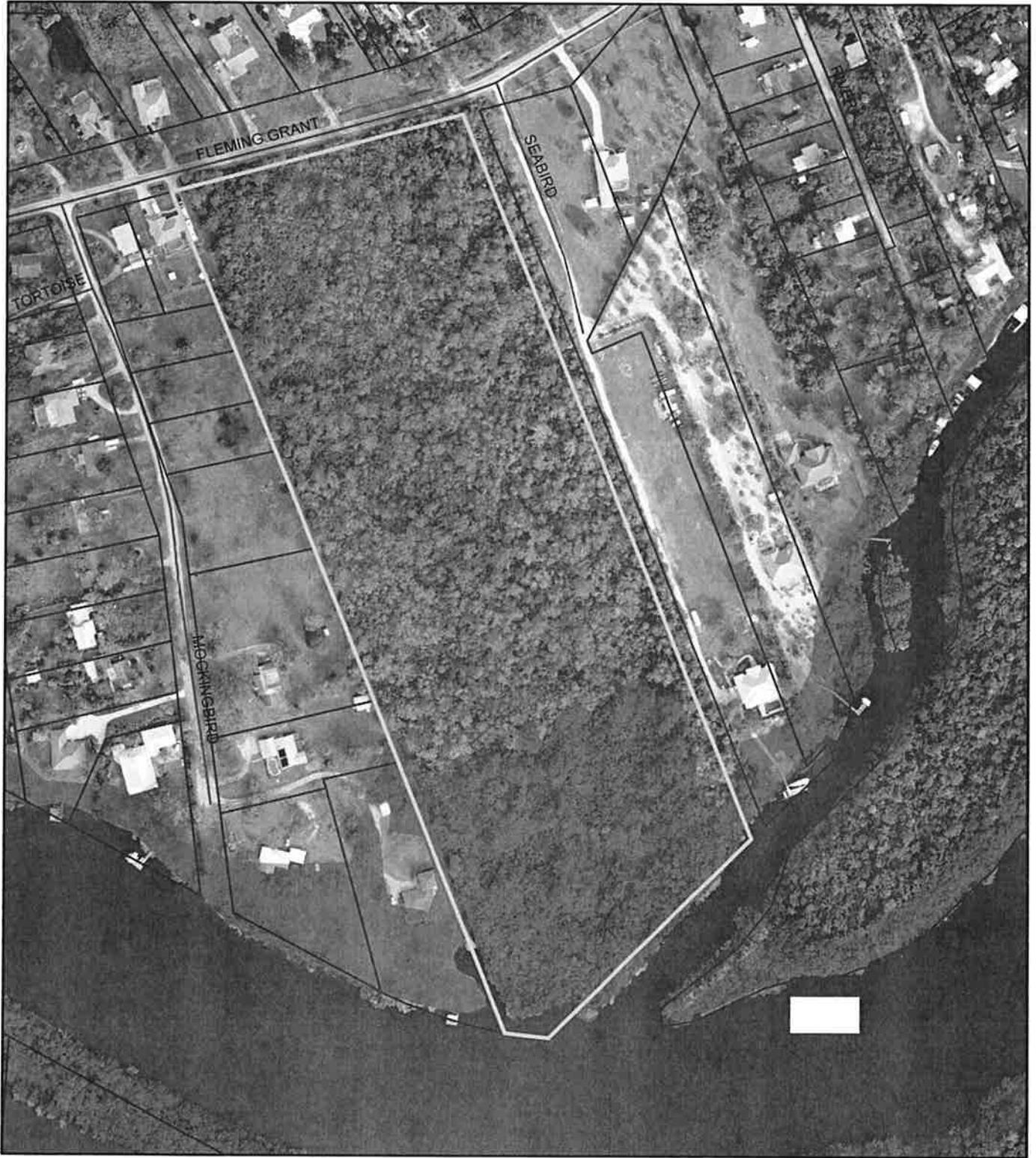
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/17/2019

SJRWMD FLUCCS Upland Forests

-  Upland Coniferous Forest - 4100 Series
-  Upland Hardwood Forest - 4200 Series
-  Upland Mixed Forest - 4300 Series
-  Tree Plantations - 4400 Series

 Subject Property  Parcels



Legend

Brevard_SuperBasin17_Surge

CAT

- 1
- 2
- 3
- 4
- 5

Coastal High Hazard Area

19PZ00093



School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699
Mark W. Mullins, Ed.D., Superintendent

School Concurrency
19PZ00093
Lazy River Investments



December 20, 2018

Mr. George Ritchie
Planning & Development Department
Brevard County Board of County Commissioners
2726 Judge Fran Jamieson Way
Viera, Florida 32940

**RE: Proposed Seabird Subdivision Development
School Impact Analysis – Capacity Determination CD-2018-22**

Dear Mr. Ritchie,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account 3008729 (Parcel ID: 30G-38-19-HS-*10), containing approximately 20.39 acres in Unincorporated District 3, Brevard County, Florida. The proposed single-family development includes 20 homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2017-18 to 2022-23 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2017-2018 to 2022-23* which is attached for reference.

Single Family Homes	20		
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.28	5.6	6
Middle	0.08	1.6	2
High	0.16	3.2	3
Total	0.52		11

Planning & Project Management
Facilities Services
Phone: (321) 633-1000 x450 • FAX: (321) 633-4646

440

An Equal Opportunity Employer

**FISH Capacity
(including
relocatables)**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Sunrise	917	917	917	939	1,005
Southwest	1,177	1,177	1,177	1,177	1,177
Bayside	2,235	2,235	2,235	2,235	2,235

Projected Student Membership

School	2018-19	2019-20	2020-21	2021-22	2022-23
Sunrise	813	847	891	937	987
Southwest	824	881	984	980	893
Bayside	1,686	1,607	1,563	1,589	1,661

Students Generated by Previously Issued SCADL Reservations

School	2018-19	2019-20	2020-21	2021-22	2022-23
Sunrise	28	46	46	46	46
Southwest	34	91	120	143	144
Bayside	74	104	135	164	168

**Cumulative Students Generated by
Proposed Development**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Sunrise	-	1	3	4	6
Southwest	-	0	1	1	2
Bayside	-	1	2	2	3

**Total Projected Student Membership (includes
Cumulative Impact of Proposed Development)**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Sunrise	841	894	940	987	1,039
Southwest	858	972	1,105	1,124	1,039
Bayside	1,760	1,712	1,700	1,755	1,832

**Projected Available Capacity =
FISH Capacity - Total Projected Student Membership**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Sunrise	76	23	(23)	(48)	(34)
Southwest	319	205	72	53	138
Bayside	475	523	535	480	403



At this time, Sunrise Elementary School is not projected to have enough capacity for the total of projected and potential students from the Seabird Subdivision Development. Because there is a shortfall of available capacity in the concurrency service area of the Seabird Subdivision Development, the capacity of adjacent concurrency service areas must be considered.

The adjacent elementary school concurrency service areas are Westside Elementary, Columbia Elementary School and Port Malabar Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Areas* that could accommodate the impacts of the Seabird Subdivision Development is shown:

FISH Capacity (including relocatables) from the Financially Feasible Plan Data and Analysis for School Years 2017-18 to 2021-22					
School	2018-19	2019-20	2020-21	2021-22	2022-23
Westside	857	857	857	857	857
Projected Student Membership					
School	2018-19	2019-20	2020-21	2021-22	2022-23
Westside	625	586	572	559	561
Students Generated by Previously Issued SCADL Reservations					
School	2018-19	2019-20	2020-21	2021-22	2022-23
Westside	40	116	203	278	284
Cumulative Students Generated by Proposed Development					
School	2018-19	2019-20	2020-21	2021-22	2022-23
Westside	-	1	3	4	6
Total Projected Student Membership (includes Cumulative Impact of Proposed Development)					
School	2018-19	2019-20	2020-21	2021-22	2022-23
Westside	665	703	778	841	851
Projected Available Capacity = FISH Capacity - Total Projected Student Membership					
School	2018-19	2019-20	2020-21	2021-22	2022-23
Westside	192	154	79	16	6



Considering the adjacent elementary school concurrency service areas, there is sufficient capacity for the total projected student membership to accommodate the Seabird Subdivision Development.

This is a non-binding review; a *Concurrency Determination* must be performed by the School District prior to a Final Development Order and the issuance of a Concurrency Evaluation Finding of Nondeficiency by the Local Government.

We appreciate the opportunity to review this proposed project. Please let us know if you require additional information.

Sincerely,



David G. Lindemann, AICP
Manager – Facilities Planning & Intergovernmental Coordination
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years
2017-2018 to 2022-23*
Copy: Susan Hann, Assistant Superintendent of Facility Services
File CD-2018-22



Brevard County Public Schools Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service Data and Analysis for School Years 2017-18 to 2022-23

School	Type	Grades	Utilization Factor	School Year 2017-18			School Year 2018-19			School Year 2019-20			School Year 2020-21			School Year 2021-22			School Year 2022-23		
				FISH Capacity	10/13/17 Membership	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization
Summary																					
Highest Utilization Elementary Schools																					
Highest Utilization Middle Schools																					
Highest Utilization Jr / Sr High Schools																					
Highest Utilization High Schools																					
Elementary School Concurrency Service Areas																					
New Central Elementary	Elementary	K-6	100%	751	669	0%	751	685	0%	652	651	78%	670	651	78%	681	681	78%	670	681	78%
Allen	Elementary	PK-5	100%	884	796	89%	884	763	85%	884	751	84%	884	751	84%	884	751	84%	884	751	84%
Andersen	Elementary	K-6	100%	902	877	97%	902	841	93%	902	841	93%	902	841	93%	902	841	93%	902	841	93%
Apollo	Elementary	PK-5	100%	747	675	90%	747	718	96%	747	682	91%	747	682	91%	747	682	91%	747	682	91%
Atlanta	Elementary	PK-5	100%	751	566	74%	751	654	87%	751	545	72%	751	545	72%	751	545	72%	751	545	72%
Audubon	Elementary	PK-5	100%	765	680	89%	765	670	88%	765	667	87%	765	667	87%	765	667	87%	765	667	87%
Cambridge	Elementary	PK-5	100%	548	380	69%	548	381	70%	548	368	67%	548	368	67%	548	368	67%	548	368	67%
Caps View	Elementary	PK-5	100%	751	652	87%	751	662	88%	751	651	86%	751	651	86%	751	651	86%	751	651	86%
Challenger 7	Elementary	PK-5	100%	573	551	96%	573	578	101%	573	551	96%	573	551	96%	573	551	96%	573	551	96%
Columbia	Elementary	PK-5	100%	751	514	68%	751	467	62%	751	439	58%	751	439	58%	751	439	58%	751	439	58%
Coquina	Elementary	PK-5	100%	693	590	85%	693	543	78%	693	515	74%	693	515	74%	693	515	74%	693	515	74%
Clifton	Elementary	PK-5	100%	795	572	72%	795	553	70%	795	518	65%	795	518	65%	795	518	65%	795	518	65%
Discovery	Elementary	PK-5	100%	990	572	58%	990	684	71%	990	668	68%	990	668	68%	990	668	68%	990	668	68%
Endicott	Elementary	PK-5	100%	990	817	83%	990	759	77%	990	773	78%	990	773	78%	990	773	78%	990	773	78%
Enterprise	Elementary	PK-5	100%	729	580	79%	729	585	80%	729	541	74%	729	541	74%	729	541	74%	729	541	74%
Fairport	Elementary	PK-5	100%	797	685	86%	797	716	90%	797	787	99%	797	787	99%	797	787	99%	797	787	99%
Green	Elementary	PK-5	100%	711	430	60%	711	419	59%	711	414	58%	711	414	58%	711	414	58%	711	414	58%
Golfview	Elementary	PK-5	100%	777	588	76%	777	570	73%	777	577	74%	777	577	74%	777	577	74%	777	577	74%
Hatfield	Elementary	PK-5	100%	629	391	62%	629	389	61%	629	386	61%	629	386	61%	629	386	61%	629	386	61%
Hawthorn	Elementary	PK-5	100%	603	465	77%	603	465	77%	603	439	73%	603	439	73%	603	439	73%	603	439	73%
Highway 1	Elementary	PK-5	100%	728	622	85%	728	528	72%	728	528	72%	728	528	72%	728	528	72%	728	528	72%
Imperial Estates	Elementary	PK-5	100%	788	708	90%	788	708	90%	788	708	90%	788	708	90%	788	708	90%	788	708	90%
Indianton	Elementary	PK-5	100%	890	755	85%	890	694	78%	890	750	84%	890	750	84%	890	750	84%	890	750	84%
Jupiter	Elementary	PK-5	100%	892	743	83%	892	689	77%	892	670	75%	892	670	75%	892	670	75%	892	670	75%
Lockport	Elementary	PK-5	100%	790	613	78%	790	599	76%	790	599	76%	790	599	76%	790	599	76%	790	599	76%
London	Elementary	PK-5	100%	864	914	106%	864	923	107%	864	896	104%	864	896	104%	864	896	104%	864	896	104%
Manatee	Elementary	PK-5	100%	918	754	82%	918	741	81%	918	715	78%	918	715	78%	918	715	78%	918	715	78%
McCallie	Elementary	PK-5	100%	1,114	1,032	92%	1,114	853	76%	1,114	824	74%	1,114	824	74%	1,114	824	74%	1,114	824	74%
Meadowlane Intermediate	Elementary	3-8	100%	824	749	91%	824	658	80%	824	658	80%	824	658	80%	824	658	80%	824	658	80%
Meadowlane Primary	Elementary	K-5	100%	707	464	66%	707	489	69%	707	474	67%	707	474	67%	707	474	67%	707	474	67%
Mia	Elementary	PK-5	100%	725	510	70%	725	399	55%	725	405	56%	725	405	56%	725	405	56%	725	405	56%
Oak Park	Elementary	PK-5	100%	972	892	92%	972	775	80%	972	766	79%	972	766	79%	972	766	79%	972	766	79%
Ocean Breeze	Elementary	PK-5	100%	654	527	81%	654	513	78%	654	512	78%	654	512	78%	654	512	78%	654	512	78%
Palm Bay	Elementary	PK-5	100%	1,005	632	63%	1,005	604	60%	1,005	558	56%	1,005	558	56%	1,005	558	56%	1,005	558	56%
Pinewood	Elementary	PK-5	100%	573	503	88%	573	496	87%	573	485	85%	573	485	85%	573	485	85%	573	485	85%
Port Malabar	Elementary	PK-5	100%	852	729	86%	852	680	80%	852	652	77%	852	652	77%	852	652	77%	852	652	77%
Quest	Elementary	PK-5	100%	1,038	1,000	97%	1,038	1,075	104%	1,038	1,064	102%	1,038	1,019	98%	1,038	1,019	98%	1,038	1,019	98%
Rivers	Elementary	PK-5	100%	777	681	89%	777	648	83%	777	618	79%	777	618	79%	777	618	79%	777	618	79%
Rosewell	Elementary	PK-5	100%	589	350	59%	589	359	61%	589	378	64%	589	378	64%	589	378	64%	589	378	64%
Sabal	Elementary	PK-5	100%	785	544	69%	785	535	68%	785	527	67%	785	527	67%	785	527	67%	785	527	67%
Saturn	Elementary	PK-5	100%	976	757	78%	976	689	71%	976	678	70%	976	678	70%	976	678	70%	976	678	70%
Sea Park	Elementary	PK-5	100%	461	317	69%	461	318	69%	461	307	67%	461	307	67%	461	307	67%	461	307	67%
Shenwood	Elementary	PK-5	100%	609	460	76%	609	442	73%	609	433	71%	609	433	71%	609	433	71%	609	433	71%
South Lake	Elementary	PK-5	100%	529	315	60%	529	300	57%	529	289	55%	529	289	55%	529	289	55%	529	289	55%
Surprise	Elementary	PK-5	100%	917	813	89%	917	691	75%	917	681	74%	917	681	74%	917	681	74%	917	681	74%
Swiree	Elementary	PK-5	100%	755	688	91%	755	688	91%	755	659	87%	755	659	87%	755	659	87%	755	659	87%
Sunrise	Elementary	PK-5	100%	549	465	85%	549	465	85%	549	474	86%	549	474	86%	549	474	86%	549	474	86%
Topical	Elementary	PK-5	100%	810	697	86%	810	659	81%	810	628	78%	810	628	78%	810	628	78%	810	628	78%
Trinidad	Elementary	PK-5	100%	874	689	79%	874	645	74%	874	618	71%	874	618	71%	874	618	71%	874	618	71%
University Park	Elementary	PK-5	100%	811	514	63%	811	451	56%	811	436	54%	811	436	54%	811	436	54%	811	436	54%
Walden	Elementary	PK-5	100%	857	715	83%	857	685	80%	857	672	78%	857	672	78%	857	672	78%	857	672	78%
Williams	Elementary	PK-5	100%	554	554	100%	554	548	99%	554	548	99%	554	548	99%	554	548	99%	554	548	99%
Elementary Totals				41,892	33,522		41,936	33,021		41,934	33,469		43,070	33,925		43,254	34,232		43,444	34,665	



Middle School Concurrency Service Areas																			
	7-8	90%	1,121	14%	1,525	941	801	85%	1,185	1,264	1,055	1,329	87%	1,525	1,256	80%	1,525	1,170	77%
Central	7-8	90%	1,121	14%	1,525	941	801	85%	1,185	1,264	1,055	1,329	87%	1,525	1,256	80%	1,525	1,170	77%
Delaura	7-8	90%	941	85%	1,185	870	770	77%	1,055	940	1,055	940	89%	1,000	964	96%	1,000	982	98%
Hoover	7-8	90%	533	81%	659	479	57%	554	457	659	481	57%	659	481	73%	659	482	73%	659
Jackson	7-8	90%	548	84%	654	540	57%	654	582	654	654	654	654	713	705	72%	713	684	76%
Jefferson	7-8	90%	854	74%	1,000	854	854	85%	854	854	854	854	854	854	854	854	854	854	854
Johnson	7-8	90%	803	80%	1,000	770	77%	1,000	770	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Kennedy	7-8	90%	682	84%	813	722	72%	813	722	813	813	813	813	813	813	813	813	813	813
McNair	7-8	90%	460	57%	743	531	53%	743	531	743	743	743	743	743	743	743	743	743	743
Southwest	7-8	90%	842	74%	1,177	881	88%	1,177	881	1,177	1,177	1,177	1,177	1,177	1,177	1,177	1,177	1,177	1,177
Stoner	7-8	90%	822	81%	1,013	827	82%	1,013	827	1,013	1,013	1,013	1,013	1,013	1,013	1,013	1,013	1,013	1,013
Middle Totals			9,990	7,627	9,990	7,700	6,888	6,888	10,127	8,559	10,127	8,559	10,167	8,559	10,167	8,559	10,167	8,559	8,559
Junior / Senior High School Concurrency Service Areas																			
Cocoa	Jr / Sr High	90%	1,782	1,659	1,659	1,659	1,659	1,659	1,659	1,659	1,659	1,659	1,659	1,659	1,659	1,659	1,659	1,659	1,659
Space Coast	Jr / Sr High	90%	1,466	1,004	1,466	982	67%	1,466	982	1,466	947	64%	1,466	946	64%	1,466	941	64%	1,466
Jr / Sr High Totals			5,060	4,200	5,060	4,218	4,365	5,330	4,365										
Senior High School Concurrency Service Areas																			
Astronaut	9-12	95%	1,446	1,070	1,446	1,056	73%	1,446	1,070	1,446	1,121	78%	1,446	1,191	82%	1,446	1,235	85%	1,446
Bayville	9-12	95%	2,235	1,915	2,235	1,866	83%	2,235	1,915	2,235	1,915	86%	2,235	1,866	83%	2,235	1,661	74%	2,235
Eau Gallie	9-12	95%	2,209	1,657	2,209	1,678	76%	2,209	1,657	2,209	1,605	72%	2,209	1,605	72%	2,209	1,661	74%	2,209
Heritage	9-12	95%	2,314	1,774	2,314	1,721	74%	2,314	1,774	2,314	1,709	74%	2,314	1,757	76%	2,314	1,854	80%	2,314
Malabar	9-12	95%	2,558	2,117	2,558	2,189	86%	2,558	2,117	2,558	2,206	86%	2,558	2,206	86%	2,558	2,283	89%	2,558
Merritt Island	9-12	95%	1,915	1,559	1,915	1,552	81%	1,915	1,559	1,915	1,527	80%	1,915	1,544	81%	1,915	1,560	81%	1,915
Palm Bay	9-12	95%	2,613	2,183	2,613	2,185	83%	2,613	2,183	2,613	2,185	83%	2,613	2,185	83%	2,613	2,185	83%	2,613
Rockledge	9-12	95%	1,659	1,337	1,659	1,322	80%	1,659	1,337	1,659	1,347	81%	1,659	1,347	81%	1,659	1,347	81%	1,659
Sandlake	9-12	95%	1,516	1,192	1,516	1,192	79%	1,516	1,192	1,516	1,192	79%	1,516	1,192	79%	1,516	1,192	79%	1,516
Titusville	9-12	95%	1,872	1,412	1,872	1,412	75%	1,872	1,412	1,872	1,412	75%	1,872	1,412	75%	1,872	1,412	75%	1,872
Viera	9-12	95%	2,277	2,105	2,277	2,181	95%	2,277	2,105	2,277	2,237	98%	2,277	2,237	98%	2,277	2,267	98%	2,277
High Totals			22,442	17,990	22,442	18,003	13,135	22,442	18,003	22,442	18,456								
Schools of Choice (Not Concurrency Service Areas)																			
Freedom 7	Elementary	100%	475	408	475	414	87%	475	408	475	414	87%	475	414	87%	475	414	87%	475
Shawson	Elementary	100%	569	508	569	508	89%	569	508	569	508	89%	569	508	89%	569	508	89%	569
West Melbourne	Elementary	100%	618	550	618	550	89%	618	550	618	550	89%	618	550	89%	618	550	89%	618
Edgewood	Jr / Sr High	90%	1,072	943	1,072	950	88%	1,072	943	1,072	950	88%	1,072	950	88%	1,072	950	88%	1,072
West Shore	Jr / Sr High	90%	1,264	955	1,264	955	75%	1,264	955	1,264	955	75%	1,264	955	75%	1,264	955	75%	1,264
Schools of Choice			3,958	3,351	3,958	3,380	3,380	3,380	3,958										
Brevard Totals			83,382	66,650	83,382	66,322	50,624	66,322	84,909	68,317	84,909	68,317	85,168	68,317	85,168	68,317	85,168	68,317	85,168

Notes

- FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2017-18 are reported from the FISH database as of October 13, 2018.
- Student Membership is reported from the Fall Final Membership Count (10/13/18).
- DAVIS Demographics School Site Enrollment Forecasting Extension for ACGIS estimates future student populations by analyzing the following data:
 - Development Projections from Brevard County Local Government Jurisdictions
 - Brevard County School Concurrency Student Generation Multipliers (SGM)
 - Fall Membership student addresses and corresponding concurrency service areas
 - Student Mobility Rates / Cohort Survival Rates
 - Brevard County Birth rates by zip code
- DAVIS Demographics estimates are then adjusted using the following factors:
 - PK (Pre-Kindergarten) and AH (daycare for students with infants) enrollment number are assumed to be constant
 - Current From/To attendance patterns are assumed to remain constant.
 - Nonrecorded student addresses are assumed to continue in their attendance schools.
 - Charter School Growth.
- In order to maintain utilization rates lower than the 100% Level of Service, Permanent Capacity and Relocatable Classrooms are assumed to add future student stations as necessary.
- Relocatable Classrooms are assumed to add future student stations as listed below:
 - Primary relocatable classrooms (Grades K-3) = 18 student stations, Intermediate (Grades 4-8) relocatable classrooms = 22 student stations, and High School (Grades 9-12) relocatable classrooms = 25 student stations
 - Intermediate relocatable classrooms are proposed to be added at Apollo Elementary, Challenger 7 Elementary, Coquina Elementary, Imperial Estates Elementary, Inverwood Elementary, Quest Elementary, Salum Elementary, Sunrise Elementary, Delaura Middle School, Jackson Middle School and Kennedy Middle (Total of 42 Classrooms).
 - Primary relocatable classrooms are proposed to be added at Viera High (Total of 8 Classrooms)
- Redistricting was approved for the 2018-19 school year and the projected enrollment for 2018-19 is adjusted for those areas. Future redistricting is planned for a new central area elementary school in 2020-21.
- The following proposals for additional permanent capacity are included in this analysis:
 - A 12 classroom addition at Cocoa Jr/Sr High School is assumed to add 300 student stations starting in 2019-20
 - A new central area elementary is assumed to add 870 student stations starting in 2020-21. Student enrollment projections were adjusted for the 2020-21 school year.



Proposed

Draft BDP
19PZ00093
Lazy River Investments

Prepared by: MRI Investments Inc.
Address: 1250 W. E. A. GALLES BLVD.

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 8 day of July, 2019 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and LAZY RIVER INVESTMENTS LLC, a Florida corporation (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the RU-1-13 zoning classification(s) and desires to develop the Property as SINGLE FAMILY RESIDENTIAL SUBDIVISION, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

Rev. 7/10/2018



- 25
2. Developer/Owner shall provide a N/A foot buffer on the N/A portion of the Property.
 3. The Developer/Owner shall limit density to 1 units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations, FOR NO MORE THAN 8 TOTAL UNITS.
 4. The Developer/Owner shall limit ingress and egress to FLEMING GRANT CO.
 5. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. 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.
 6. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court the cost of recording this Agreement in the Public Records of Brevard County, Florida.
 7. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
 8. 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 may be amended.
 9. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 8 above.



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

ATTEST:

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi, Chair
As approved by the Board on _____

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

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)
(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of
, 20__, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public
(Name typed, printed or stamped)



PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, September 9, 2019, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Ron Bartcher; Ian Golden; Rochelle Lawandales; Brian Hodgers; Ben Glover; Mark Wadsworth, Chair; and Peter Filiberto, Vice Chair.

Staff members present were: Amanda Elmore, Interim Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; Darcie McGee, Natural Resources Management Assistant Director; Virginia Barker, Natural Resources Director; and Jennifer Jones, Special Projects Coordinator II.

Excerpt from Complete Agenda

5. Lazy River Investments, LLC (Bruce Moia):

A BDP (Binding Development Plan) limited to a maximum of 8 lots, in an RU-1-13 (Single-Family Residential) zoning classification. The property is 20.39 acres, located on the southwest corner of Fleming Grant Road and Seabird Lane. (No assigned address. In the Micco area.) (19PZ00093) (District 3)

Bruce Moia, 1250 West Eau Gallie Boulevard, Melbourne, stated the board may remember the request from a few months ago when it was for 20 units on 20 acres; that request was rejected by the Board of County Commissioners. He said they listened to the neighbors and they are back before the board asking for approval of a BDP (Binding Development Plan) so that the zoning on the property becomes compatible with the land use, so it can be developed. He said the BDP would limit development to eight units, which is what he heard from the neighbors that they would like to see, to maintain the 1 unit per two and a-half acres. He said the existing zoning is RU-1-13 (Single-Family Residential), which is the same zoning as the adjacent property to the west.

Peter Filiberto asked if there will be an access road. Mr. Moia replied it will be built like a traditional subdivision, there will be an access road to access all of the lots, all of the lots will access internally, and there will be one single access onto Fleming Grant Road.

Ron Bartcher stated the zoning is remaining as-is, which is 7,500 square-foot lots, which only uses one and a-half acres. Mr. Moia stated the Code will be the least restrictive because the most restrictive will be the fact that there is no water or sewer, so it will be subject to State standards, which is a half-acre minimum, and that is 100 feet wide by 200 feet deep. He said that is the minimum, but that is not the desire, because the lots on the river will be larger. He said they want flexibility because the property has wetlands, aquifer recharge soils, floodplain, coastal high hazard areas, surface water classifications, septic overlay, and heritage specimen trees. Knowing there are all of those issues on the site, they want to retain the flexibility that the current zoning has, knowing that the State is going to have a requirement of no less than a half-acre lot.

Public comment.

Ann Briggs, 9735 Fleming Grant Road, Micco, stated according to Code, zoning classifications depicted on official zoning maps of the County shall be consistent with the Future Land Use Map and policies and criteria relating to the application of Future Land Use designations on the Future Land Use Map. She said the subject property is designated as Residential 1:2.5 on the Future Land Use

Map, and that designation was recently reaffirmed by the Board of County Commissioners' unanimous decision to deny the request to change the Future Land Use to Residential 1. The current zoning designation, dating from 1972, is RU-1-13, which allows a minimum lot size of 7,500 square feet, or .172 acres. She said the request is incompatible with the 1988 Comprehensive Plan and the Future Land Use Map. She stated the zoning should be changed to AU (Agricultural Residential) to be consistent with the Comprehensive Plan. She asked why the developer is proposing a zoning designation of RU-1-13. She said the subject property will house eight lots at two and a-half acres each; however, no concept plan has been provided by the developer, so there is no way to determine how much acreage will be available after environmental constraints and normal development issues have been accounted for. She said her concern is that the RU-1-13 zoning will allow the developer to put in eight units on lots smaller than two and a-half acres.

Michelle Woods, 9912 Riverview Drive, Micco, stated she likes the eight units, but she wants to know what kind of septic will be installed, how the stormwater management will happen, and how many lots will be placed on the river. The property is in the AE flood zone, there is the coastal high hazard situation, and she would like to see a buffer between all of that and the new houses. She said the St. Sebastian River is very sensitive and whatever happens to the area happens to the Indian River Lagoon. She said the neighbors are confused because they thought the minimum lot size would be 2.5 acres.

Mary Sphar, 825 Clifton's Cove Court, Cocoa, stated she hopes staff will answer the questions from the previous speakers regarding the discrepancy between the 2.5-acre lots required by the Comprehensive Plan and the RU-1-13 (Single-Family Residential) zoning, as it is very confusing. She said she sees a couple of ways for development of the property to proceed; one is to request a zoning classification that requires 2.5 acres as the minimum lot size; and there also may be the possibility of clustering the eight homes and preserving the most environmentally sensitive portions of the property. She said the proposed BDP states the project will be limited to eight residences, and asked if the applicant plans to cluster the homes, but offer nothing in return in the way of environmental protection over and above County ordinances. She noted the board is being asked to approve the request without any concept plan showing the layout of the homesites. She said the State agencies have already pointed out how sensitive the property is and how valuable it is. She stated the board should require the applicant to install the advanced septic systems throughout the property, and ask that no residences or stormwater treatment systems be built in the coastal high hazard area. She also asked that the board request a concept plan with a lot layout to ensure that an environmentally sound development is planned for this very important property bordering the St. Sebastian River just before it enters the Indian River Lagoon.

Bruce Moia stated maintaining the RU-1-13 zoning gives them the opportunity to provide the kind of development the speakers said they want, such as clustering, preserving open space, and not impacting the areas of concern. He said he is surprised Ms. Sphar doesn't understand that the zoning and land use is not identical. Just because a land use is 1:2.5 acres doesn't mean that each lot has to be 2.5 acres, it just establishes density on the overall property, and there is plenty of Residential 2.5 where there are one-acre lots or less. To require 2.5-acre lots, the entire development would be lots and there would be no preservation at all. He said density does not establish lot size, it just establishes density, which is what it's meant to do. He said they are going to provide the only stormwater system on that side of Fleming Grant Road along the river; there are currently septic tanks right along the shoreline; the whole area has had no planning and no regulation since it's inception; and this will be the only development that meets some kind of standard.

Rochelle Lawandales asked if Mr. Moia will use the advanced septic systems. Mr. Moia replied they will use them where they are required. Mr. Hodgers stated without a site plan, they do not know how many lots are going to be on the river. Mr. Moia stated that's correct, and it's typical at this point because they don't want to spend thousands of dollars to design something that they don't know will be approved or not. He noted they will comply with all of the regulations, and if approved, they will start the design process.

Mr. Hodgers asked about buffers on both sides of the property. Mr. Moia replied the Code requires a 15-foot buffer along the east, west, and north sides of the development, and a Natural Resources buffer along the river.

Darcie McGee, Natural Resources Management Assistant Director, stated the blue area on the Indian River Lagoon Septic Overlay Map is in the septic overlay, so the advanced septic systems would be required be on the southern portion.

Ms. Lawandales stated with eight lots being the limit, she thinks there is an opportunity to stay out of the sensitive areas, which would make everybody happy, and it is a good answer for the owners' ability to use the land that is done sustainably that brings in stormwater where there is none. She said she would prefer the advanced septic, even though he is out of the area. She said what is being proposed is consistent with the plan and is a good solution.

Motion by Peter Filiberto, seconded by Rochelle Lawandales, to approve the request for a BDP (Binding Development Plan) limited to a maximum of 8 lots, in an RU-1-13 (Single-Family Residential) zoning classification. The motion passed 6:1, with Ron Bartcher voting nay.

From: [Commissioner, D1](#)
To: [Jones, Jennifer](#)
Cc: [Mascellino, Carol](#); [Pritchett, Rita](#); [Craddock, Amy](#)
Subject: FW: 19PZ00093
Date: Friday, September 27, 2019 9:18:43 AM
Attachments: [image001.png](#)

Jennifer,

On behalf of Commissioner Pritchett our office received the below email regarding the above item for October 3 agenda.

Regards,

Marcia Newell

Chief Legislative Aide to Commissioner Rita Pritchett
Marcia.newell@brevardfl.gov



District 1 Commission Office

2000 S. Washington Avenue, Suite 2
Titusville, Florida 32780
321-607-6901

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

From: mangobw1@aol.com <mangobw1@aol.com>
Sent: Wednesday, September 25, 2019 4:47 PM
To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Subject: 19PZ00093

Attn:

Rita Pritchett, Bryan Lober, John Tobia, Curt Smith and Kristine Isnardi.

My husband and I are opposed to the 19PZ00093 Petition and any request to decrease lot size in order to increase the density in our area. The new Development Plan (BDP), with all owners on small lots, will have negative consequences to the Sebastian River. The developer is being disingenuous and is not abiding by the intent of the County Commissioners' unanimous vote of May 30 for 1 unit on 2.5 acres.

Some of our concerns are:

- We all want to **protect the health** of our river and the Lagoon. The same environmental issues, especially State comments and concerns, still need to be addressed and fixes committed to by the developer.
- "OSTD Septic" (removes 65% of harmful nitrogen) should be **REQUIRED** on any homes near the river.
- There should be **NO FILL** and **NO HOMES** within the Coastal High Hazard zone bordering the river. Why? Because the Coastal High Hazard area absorbs the storm surge in a Cat. 1 storm. Too much encroachment will result in increased flooding risks.
- A **buffer** needs to be established between the property and neighbours on the east and west sides.
- **Stormwater** needs to be captured within this property, not spilling over into the neighbours' homes.
- There is **no concept plan** for this development. What is this development going to look like?
- This development will set a **precedent** for any future development on the riverside of FG Road.
- **Zoning** along the riverside of FG Road needs to be changed to be compliant with the Comp Plan's designation of 1 unit on 2.5 acres.

Richard & Susan Currier
9485 Fleming Grant Rd.
Micco, FL 32976

Commissioner, D4

From: mangobw1@aol.com
Sent: Wednesday, September 25, 2019 4:47 PM
To: Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4;
Commissioner, D5
Subject: 19PZ00093

Attn:

Rita Pritchett, Bryan Lober, John Tobia, Curt Smith and Kristine Isnardi.

My husband and I are opposed to the 19PZ00093 Petition and any request to decrease lot size in order to increase the density in our area. The new Development Plan (BDP), with all owners on small lots, will have negative consequences to the Sebastian River. The developer is being disingenuous and is not abiding by the intent of the County Commissioners' unanimous vote of May 30 for 1 unit on 2.5 acres.

Some of our concerns are:

- . We all want to **protect the health** of our river and the Lagoon. The same environmental issues, especially State comments and concerns, still need to be addressed and fixes committed to by the developer.
- "OSTD Septic" (removes 65% of harmful nitrogen) should be **REQUIRED** on any homes near the river.
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- A **buffer** needs to be established between the property and neighbours on the east and west sides.
- **Stormwater** needs to be captured within this property, not spilling over into the neighbours' homes.
- There is **no concept plan** for this development. What is this development going to look like?
- This development will set a **precedent** for any future development on the riverside of FG Road.
- **Zoning** along the riverside of FG Road needs to be changed to be compliant with the Comp Plan's designation of 1 unit on 2.5 acres.

Richard & Susan Currier
9485 Fleming Grant Rd.
Micco, FL 32976

Commissioner, D4

From: Anne Briggs <annebriggs@yahoo.com>
Sent: Sunday, September 15, 2019 10:36 AM
To: Commissioner, D4
Subject: 20+ Acre Parcel on Fleming Grant Road, Micco, 19PZ00093

Ref: 19PZ00093/20+ Acre Parcel on Fleming Grant Road, Micco

Dear Commissioner Smith,

Last May 30, you voted unanimously to keep the Comp Plan/Future Land Use Map designation of 1 house per 2.5 acres on a 20-acre property on Fleming Grant Road. This effectively stymied the developer's plan to put 16 homes on this land. You will be voting on the fate of this land again on October 3rd.

As you may remember, this property abuts the Saint Sebastian River which flows into the Indian River Lagoon. There were a host of environmental, neighborhood and precedence issues which led you all to keep the 1:2.5 designation. Those concerns are all still valid.

The developer presented his new request, a Binding Development Plan, to the Planning and Development Board on September 9, 2019. This BDP, which was approved by the P&D with only one dissenting vote, essentially allows the developer to avoid the 1 house per 2.5 acres designation, and only restricts the developer to a maximum density of eight homes on the property. The current zoning (RU 1-13) on this land, which is inconsistent with the FLUM, was not changed as a BDP circumvents zoning and FLUM consistency requirements. The RU 1-13 zoning allows a minimum lot size of 7,500 square feet (0.172 acres, less than 1/5 of an acre) but the developer states that current septic regulations would require a minimum of half-acre lots. The developer presented no concept plan or site plan drawings.

The P&D decision to approve this BDP did not require any minimum lot size, nor impose any high-end nitrogen-reducing septic system requirements. There was no written commitment from the developer that environmental concerns would be properly addressed.

We find this work-around disingenuous and totally incompatible with the intent of your May 30 decision. This BDP would legally give the developer the right to a maximum of 8-unit density on this property, with no restrictions on lot sizes as small as 7,500 square feet.

Ideally, we would like to see the Comp Plan/FLUM and zoning discrepancy be reconciled by making the zoning designation AU and all lots 2.5 acres.

However, if you feel you must approve the BDP, please, at the very least, require the developer to 1) have 1-acre minimum lot size, 2) install nitrogen-reducing septic systems, and 3) provide adequate written assurances that environmental constraints will be met.

We hope that, once again, you will do the right thing for our neighborhood.

Thank you for your consideration.

Anne Briggs and Henry Beck

9735 Fleming Grant Road

Micco, Florida 32976

From: [Ragain, Rebecca](#)
To: [Jones, Jennifer](#)
Subject: FW: 19PZ00093 Fleming Grant Rd, Micco
Date: Monday, September 30, 2019 7:34:24 AM
Attachments: [FGR Summery State Comments2019.pdf](#)
[MHQA-FGR BDPS & MAPS 2019.pdf](#)

FYI

From: miccohomeowners@aol.com <miccohomeowners@aol.com>
Sent: Sunday, September 29, 2019 5:32 PM
To: Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Ritchie, George C <George.Ritchie@brevardfl.gov>; Calkins, Tad <tad.calkins@brevardfl.gov>; Ragain, Rebecca <Rebecca.Ragain@brevardfl.gov>
Subject: 19PZ00093 Fleming Grant Rd, Micco

TO: Brevard County Planning and Development
RE: 20 acres of land bordering the St. Sebastian River and Fleming Grant Rd in Micco asking to develop 8 homes.
FROM: Chelle Woods, Micco Homeowners Association President
ATTACHMENTS: April 2019 State Comments, May 2019 BDP, Current BDP, CHHA map, Flood Zone map.

NOTE: We are sending this email to you all as background information because you may not have worked on this issue from March thru May 2019. It is important to know that our main goal is to reduce or eliminate impacts from development to the Indian River Lagoon. We taxpayers voted to allocate millions of dollars to undo the damage development has done to the lagoon. This 20 acres is on the St Sebastian River which feeds directly into the IRL---everything that happens here happens to the lagoon.

REQUEST: The current BDP only states they intend to build 8 homes (which is great)---but it says nothing else. Please read the state comments and the May 30, 2019 BDP with special notice on page 2 of items 4, 5, 6, 7. We hope those same provisions will be required of this 8 home development.

THANK YOU for your diligent efforts with this coastal development issue.
Chelle Woods

SUMMARY OF STATE AGENCY COMMENTS ON LSCPA 2019-1.1				
State Reviewing Agency	Formal Comment - per F.S. 163.3168(3) would require an amendment to minimize impacts on adversely impacted important state resources or facilities	Technical Assistance Comment - per F.S. 163.3168(3) will not form the basis of a challenge	County Response	East Central Florida Strategic Regional Policy Plan - not yet adopted by Brevard County
Department of Economic Opportunity	<p>The Department of Economic Opportunity ("Department") has reviewed the Brevard County proposed comprehensive plan amendment (Amendment No. 19-01ESK), received on March 18, 2019, pursuant to the expedited state review process in Section 163.3184(2)(3), Florida Statutes (F.S.). We have identified no comment related to adverse impacts to important state resources and facilities within the Department's authorized scope of review.</p>	<p>The proposed 20-acre site is located near the confluence of the north and south prongs of the St. Sebastian River, just prior to discharge into the Indian River Lagoon (IRL). The Indian River Lagoon is an important state resource that has been identified as seriously impaired due to high nutrient loading from septic systems and other discharges from surrounding land uses. These bodies of water are designated as aquatic preserves and Outstanding Florida Waterways (OFWs). In addition, the soils on the amendment property are of a type that has severe limitations for septic systems. The County is spending approximately \$68 million to remove or upgrade 3,734 septic systems over the 10-year life of the Save Our Indian River Lagoon Half-Cent Surax while continuing to approve development that will add septic systems to the impaired area. By increasing density and thus the number of septic systems to serve the proposed units on site, cumulatively with other septic system impacts to the St. Sebastian River and the IRL, the amendment will impact these resources. The current adopted land use density should be maintained until central sewerage is available, as the site has notable suitability limitations to increased septic systems use.</p> <p>A portion of the proposed amendment site is in the designated Coastal High Hazard Area (CHHA). Storm surge and flooding impacts to the site may be expected from a category one storm as well as impacts further inland from storms in the categories 2-5 range. Increased impacts to the site can be predicted over time due to rising sea levels.</p> <p>Additionally, part of the 20 acres is within the flood zone A and X. The proposed amendment would more than double the allowable land use density, increasing allowable land use density in an at-risk coastal area increases flood risk resulting from high-tide events, storm surge, flash floods, stormwater runoff, and over time, the related impacts of sea-level rise. The 2015 Pearl of Flood legislation in section 163.3178(2)(f), Florida Statutes, directs local governments to seek opportunities to include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas when opportunities arise. Maintaining existing lower density land uses in at-risk coastal areas is one such strategy for addressing inappropriate and unsafe development in coastal areas. The current adopted land use density should be maintained, as the amendment site has portions vulnerable to storm surge and future impacts from sea level rise.</p>	<p>The County recently adopted the "Nitrogen Reduction Overlay" to address septic tank proximity to the Lagoon. The applicant has offered to upgrade systems on the entire parcel, not just those within the overlay area. No Comprehensive Plan policy requires that sewer be provided for either the current RES 1.2.5 or proposed RES 1.1 Future Land Use designation.</p>	
Department of Economic Opportunity		<p>A portion of the proposed amendment site is in the designated Coastal High Hazard Area (CHHA). Storm surge and flooding impacts to the site may be expected from a category one storm as well as impacts further inland from storms in the categories 2-5 range. Increased impacts to the site can be predicted over time due to rising sea levels.</p> <p>Additionally, part of the 20 acres is within the flood zone A and X. The proposed amendment would more than double the allowable land use density, increasing allowable land use density in an at-risk coastal area increases flood risk resulting from high-tide events, storm surge, flash floods, stormwater runoff, and over time, the related impacts of sea-level rise. The 2015 Pearl of Flood legislation in section 163.3178(2)(f), Florida Statutes, directs local governments to seek opportunities to include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas when opportunities arise. Maintaining existing lower density land uses in at-risk coastal areas is one such strategy for addressing inappropriate and unsafe development in coastal areas. The current adopted land use density should be maintained, as the amendment site has portions vulnerable to storm surge and future impacts from sea level rise.</p>	<p>Noted: approximately 19% of the subject property is within the Coastal High Hazard Area (Category 1 storm surge zone).</p>	
East Central Florida Regional Planning Council	<p>We have been working with Brevard County staff on the Regional Resiliency Action Plan and we are pleased to report that the county adopted this plan on March 26, 2019. In light of the ECRPC Strategic Regional Policy Plan and the adoption of the Regional Resiliency Action Plan by Brevard County, we would urge the Brevard County Board of County Commissioners to reconsider the prospect of rezoning these 20 acres to allow for increased densities in an area without sanitary sewer services, an area that will experience additional flooding issues with the advent of sea level rise, and in an area that is vulnerable to surge from hurricanes.</p>	<p>The area does not have sanitary sewer so the units would be on septic tanks. This change would more than double the impacts from septic tanks on the river and lagoon. As you are well aware, the lagoon has experienced algae blooms related to high nutrient content and the presence of septic tanks is a primary source of nutrients. This will set a precedent that may exacerbate this issue.</p> <p>The areas adjacent to the site on the east and west sides have similar densities as currently allowed on the subject property.</p>	<p>The subdivision area to the west has densities significantly higher than RES 1.2.5, as they were developed prior to the Comprehensive Plan, with parcels between .46 and 3.11 acres in size. Several parcels are smaller than one acre in size. The lots to the east were developed after the Comprehensive Plan, with parcels between .248 and 4.11 acres in size.</p>	<p>The East Central Florida Strategic Regional Policy Plan - Under the Energy and Climate Change chapter, the goal is to "Reduce the consumption of energy and prepare the region for the impacts of climate change." Policy 8.1 states, "Support research that determines if, when, and where selected coastal communities should be either relocated or protected."</p> <p>The East Central Florida Strategic Regional Policy Plan - Under Adaptation and Planning of this chapter, Policy 8.5: "Encourage communities to identify coastal land uses and critical facilities that may be impacted by sea level rise."</p>
East Central Florida Regional Planning Council		<p>Much of the property is within the FEMA flood zone. Additionally, sea level rise in the area has not been addressed in this application. Projections from the National Oceanic and Atmospheric Administration currently predict nearly a two foot rise by 2040, about four feet by 2060 and eight feet by 2100. It is not advisable to subject double the number of residents to future flooding as is currently allowed.</p> <p>Approximately one quarter of the site is currently within the Category 1 storm surge zone.</p>	<p>Approx. .5 acres of the 20-acre is in Flood Zone AE. Approx. 0.75 acres is within Flood Zone X. Total, approximately 29% of the property is within a Flood Zone. Sea level rise is not yet addressed in the Brevard County Comprehensive Plan; therefore, it was not evaluated as a part of the staff comments. While Brevard County is looking at ways to address new Sea Level Rise legislation within future Comprehensive Plan updates, the policies to evaluate this have not yet been memorialized. The FEMA determined Base Flood Elevation (BFE) will be revised in late 2019/early 2020. The BFE will increase from 4.5 feet MVD to 5.3 feet MVD. Brevard County recommends this anticipated BFE revision be used for future planning and development purposes.</p>	<p>The East Central Florida Strategic Regional Policy Plan - Under Adaptation and Planning of this chapter, Policy 8.5: "Encourage communities to identify coastal land uses and critical facilities that may be impacted by sea level rise."</p> <p>The East Central Florida Strategic Regional Policy Plan - The Natural Resources chapter contains Policy 3.6: "Development and redevelopment for higher densities should be discouraged in Coastal High Hazard Areas, defined as the Category 1 storm surge area." (Keep in mind that the areas currently impacted by storm surge will increase with sea level rise.</p>
East Central Florida Regional Planning Council		<p>Approximately one quarter of the site is currently within the Category 1 storm surge zone.</p>	<p>Noted: approximately 19% of the subject property is within the Coastal High Hazard Area (Category 1 storm surge zone).</p>	<p>The East Central Florida Strategic Regional Policy Plan - Under Adaptation and Planning of this chapter, Policy 8.5: "Encourage communities to identify coastal land uses and critical facilities that may be impacted by sea level rise."</p> <p>The East Central Florida Strategic Regional Policy Plan - The Natural Resources chapter contains Policy 3.6: "Development and redevelopment for higher densities should be discouraged in Coastal High Hazard Areas, defined as the Category 1 storm surge area." (Keep in mind that the areas currently impacted by storm surge will increase with sea level rise.</p>

SUMMARY OF STATE AGENCY COMMENTS ON LSCPA 2019-1.1

State Reviewing Agency	Formal Comment - per F.S. 163.3168(3) would require an amendment to minimize impacts on adversely impacted important state resources or facilities	Technical Assistance Comment - per F.S. 163.3168(3) will not form the basis of a challenge	County Response	East Central Florida Strategic Regional Policy Plan - not yet adopted by Brevard County
<p>Department of Environmental Protection</p>	<p>The Department is providing technical assistance comments consistent with Section 163.3168(3), F.S. The Department strongly suggests the County address these issues and recommendations prior to adopting the proposed amendment. They are offered as suggestions which can strengthen the County's comprehensive plan and provide assurance that the future potential increase in density will not adversely impact important state resources.</p>	<p>If adopted, the County and applicant will need to ensure that water quality within the Aquatic Preserve is not adversely impacted by the proposed development. Heightened standards for stormwater treatment will be required due to the proximity to the Aquatic Preserve, which will be addressed during the permitting process with the St. Johns River Water Management District. The County should consider whether the potential increased density in development will result in adverse impacts to the IRL and to explore ways to offset these potential impacts.</p> <p>Excess nitrogen and phosphorus feed undesirable algae growth (sometimes toxic) which can dominate an ecosystem like the IRL and eventually lead to fish kills. Conventional septic systems near coastal estuaries remain a significant contributor of nitrogen and phosphorus to these waterbodies. In order to avoid the exorbitant cost of restoring nitrogen and phosphorus pollution problems in the future, any new nearby septic systems, especially those clustered on small lots (1 acre or less), should be built to remove nitrogen before discharge. In Central and North Florida, the Department is implementing through 6M4's state law, which prohibits new conventional septic systems on small lots in sensitive areas that contribute to Outstanding Florida Springs. Where the science indicates, we look to replicate these protections in coastal areas that have similar geology and connection to sensitive waterbodies. We advise local governments do the same. The Department recognizes that the County has established a "Nitrogen Reduction Overlay" per Chapter 46, Article II, Division IV of the Brevard County Code of Ordinances. The Department supports the use of the "Nitrogen Reduction Overlay" and strongly encourages the County to require these types of enhanced-treatment OSTDS on the entire site due to the proximity to the IRL.</p>	<p>Noted.</p> <p>The County recently adopted the "Nitrogen Reduction Overlay" to address septic tank proximity to the Lagoon. The applicant has offered to upgrade systems on the entire parcel, not just those within the overlay area. No Comprehensive Plan policy requires that sewer be provided for either the current RES 1.2.5 or proposed RES 3 Future Land Use designation.</p>	
<p>Florida Fish & Wildlife Conservation Commission</p>	<p>Florida Fish and Wildlife Conservation Commission (FWC) staff has reviewed the above-referenced comprehensive plan amendment and provides the following comments and recommendations for your consideration in accordance with Chapter 163.3184, Florida Statutes. We have no objection to the amendment and offer the following information as technical assistance to assist in future planning or site development.</p>	<p>To better identify the potential for impacts, FWC staff recommends that listed species-specific surveys be completed prior to any clearing or development. Species-specific wildlife surveys are time sensitive and staff recommends that all wildlife surveys follow established survey protocols approved by the USFWS and the FWC. Surveys should be conducted by qualified biologists with recent documented experience for each potential species. Basic guidance for conducting wildlife surveys can be found within the Impaired Species Management Plan's species-specific Species Conservation Measures and Permitting Guidelines found at http://myfwc.com/wildlife/habitats/impacted/land/ or in the Florida Wildlife Conservation Guide found at https://myfwc.com/conservation/values/fwec/.</p> <p>Gopher Tortoise – The well-drained sandy soils and open areas found around the edge of the property appear to provide suitable gopher tortoise habitat. FWC staff recommends that the applicant refer to the FWC's Gopher Tortoise Permitting Guidelines (revised January 2017) found at http://www.myfwc.com/license/wildlife/gopher-tortoise-permitting for survey methodology and permitting guidance prior to any development activity. Specifically, the permitting guidelines include methods for avoiding impacts as well as options and state requirements for minimizing, mitigating, and permitting potential impacts of the proposed activities. For additional information, please contact Momoka Maeda at (561) 862-5714 or Momoka.Maeda@myfwc.com.</p>	<p>Noted. Development-related.</p>	
<p>Florida Fish & Wildlife Conservation Commission</p>	<p>Smoke Shed – This location is within a potential smoke shed corridor originating from St. Sebastian River Preserve State Park where prescribed fires are used as a management tool. Prescribed fire is required to maintain many of the natural communities that exist on this conservation area. Prescribed fire is also important in reducing fuel loads that may otherwise lead to catastrophic wildfires that not only affect wildlife but threaten human life and property. Developers of lands within two miles of native habitat managed by fire may wish to consider Florida Forest Service recommendations at http://www.firefromflorida.com/Divisions-Offices/Florida-Forest-Service/For-Communities/FireWise-Communities to create Fire Wise communities.</p>	<p>If adopted, the County and applicant will need to ensure that water quality within the Aquatic Preserve is not adversely impacted by the proposed development. Heightened standards for stormwater treatment will be required due to the proximity to the Aquatic Preserve, which will be addressed during the permitting process with the St. Johns River Water Management District. The County should consider whether the potential increased density in development will result in adverse impacts to the IRL and to explore ways to offset these potential impacts.</p>	<p>Noted. Development-related.</p>	
<p>Florida Fish & Wildlife Conservation Commission</p>	<p>Federal Species – This site may also contain habitat suitable for federally listed species. FWC staff recommends the applicant coordinate with the USFWS North Florida Ecological Services Office (ESO) as necessary for information regarding potential impacts to any federally listed species. The USFWS North Florida ESO can be contacted at (904) 731-3336.</p>	<p>If adopted, the County and applicant will need to ensure that water quality within the Aquatic Preserve is not adversely impacted by the proposed development. Heightened standards for stormwater treatment will be required due to the proximity to the Aquatic Preserve, which will be addressed during the permitting process with the St. Johns River Water Management District. The County should consider whether the potential increased density in development will result in adverse impacts to the IRL and to explore ways to offset these potential impacts.</p>	<p>Noted. Development-related.</p>	

SUMMARY OF STATE AGENCY COMMENTS ON LSCPA 2019-1.1

State Reviewing Agency	Formal Comment - per F.S. 163.3168(3) would result in an amendment to minimize impacts on adversely impacted important state resources or facilities	Technical Assistance Comment - per F.S. 163.3168(3) will not form the basis of a challenge	County Response	East Central Florida Strategic Regional Policy Plan - not yet adopted by Brevard County
<p>Florida Department of Transportation</p>	<p>We appreciate the opportunity to participate in this review process. The proposed amendment is not anticipated to result in significant adverse impacts to the State Highway System or the Strategic Intermodal System. The Department has no technical assistance comments regarding the proposed amendment.</p>	<p>The Indian River Lagoon (IRL), which is designated as an estuary of national significance, provides important environmental and economic benefits to the region and state. The subject parcel is approximately 1 mile upstream of the IRL and adjacent to the Indian River-Melbor to Vero Beach Aquatic Preserve. The Florida Department of Environmental Protection has identified the IRL as biologically impaired due to nutrients (particularly nitrogen and phosphorus) and adopted Total Maximum Daily Loads. A Basin Management Action Plan (BMAP) was developed by stakeholders, including the County, to prepare a blueprint for water quality restoration in the IRL. The goal of the BMAP is to decrease the nutrient loads to these waters and restore seagrass populations in the IRL. As part of the analysis of the proposed amendment, the County should consider whether the potential increase in allowable density would result in adverse impacts to the IRL and whether there are ways to mitigate those potential impacts. Excess nitrogen and phosphorus feed undesirable algae growth. In addition, conventional septic systems near coastal estuaries remain a significant contributor of nitrogen and phosphorus to these waterbodies. The County's staff report indicates that a portion of the property is located within the County's Nitrogen Reduction Overlay (NRO) and required to use enhanced-treatment OSTDS. During discussions with the County's planning department, the staff noted that the applicant had indicated an intent to utilize enhanced-treatment OSTDS throughout the entire parcel. The District recognizes the County's implementation of the NRO and encourages the County to require enhanced-treatment OSTDS on the entire parcel because of the proximity to the IRL.</p>	<p>N/A</p>	
<p>St. Johns River Water Management District</p>			<p>The County recently adopted the "Nitrogen Reduction Overlay" to address septic tank proximity to the Lagoon. The applicant has offered to upgrade systems on the entire parcel, not just those within the overlay area. No Comprehensive Plan policy requires that sewer be provided for either the current RES 12.5 or proposed RES 1 Future Land Use designation.</p>	
<p>Florida Department of Agriculture and Consumer Services</p>	<p>The Florida Department of Agriculture and Consumer Services (the "Department") received the above referenced proposed comprehensive plan amendment on March 19, 2019, and has reviewed it pursuant to the provisions of Chapter 163, Florida Statutes, to address any potential adverse impacts to important state resources or facilities related to agricultural, aquacultural, or forestry resources in Florida if the proposed amendment(s) are adopted. Based on our review of your county's submission, the Department has no comment on the proposal.</p>		<p>N/A</p>	

Please notice * areas on Page 2

Draft BDP
18PZ00167
Robertson
(Submitted 05/30/19)

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

May 30, 2019

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Mr. Douglas Robertson, an individual (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested a RES1 Land Use Amendment and desires to develop the Property as single family residential, which currently is zoned RU-1-13, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall limit the property to sixteen (16) lots maximum.
3. The minimum floor area shall be 2,000 sq.ft. 

May 30, 2019

4. All lots within the front 1,000 feet of the property, from the road ROW line, shall be one-half (0.5) acre in size minimum. All lots south of the 1,000 foot front offset line shall be one (1.0) acre minimum. ~~★~~ The FEMA determined Base Flood Elevation (BFE) will be revised in late 2019/early 2020. The BFE is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD. The Owner/Developer agrees to have all BFE's within the property comply with the updated FEMA elevation of 5.3 NAVD, or the minimum required by FEMA at the time of development, whichever is more restrictive. ~~★~~

5. ~~★~~ No more than one (1) principle structure shall be constructed in the Coastal High Hazard Area of the property. ~~★~~

6. All specimen oak trees, as shown on survey (See Attachment B) shall be preserved, unless significant fill is required by any permitting agency due to flood zone requirements, coastal high hazard requirements, tidal rise requirements, stormwater requirements, or other similar regulation requirements of the County, State, or Federal regulations.

7. All lots within the Property shall be required to install OSTDS systems for sewer collection and treatment, which must reduce total nitrogen in the effluent by at least 65%, in compliance with County and State regulations.

8. A maximum wetland impact to existing on-site wetlands shall be 0.37 acres. No impact to the existing Mangrove Wetland Shoreline Fringe will be allowed.

9. Only one access connection shall be allowed to Fleming Grant Road, which shall be a private road meeting County requirements.

10. A 15' perimeter buffer tract shall be provided along the road right-of-way and the east and west property lines of the Property.

11. An HOA shall be created, which will also consist of an Architectural Review Committee.

12. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. 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.

May 30, 2019

13. 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.

14. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

5Violation 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.

Now 8 homes
o P+Z Packet Sept 9, 2019

Proposed

Draft BDP
19PZ00093
Lazy River Investments

Prepared by: MVA Engineering Inc.
Address: 1250 W. Euclid Ave. Bldg.

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 8 day of July, 2019 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and LAZY RIVER INVESTMENTS, LLC, a Florida corporation (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the RU-1-13 zoning classification(s) and desires to develop the Property as SINGLE FAMILY RESIDENTIAL SUBDIVISION, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

(41)

2. Developer/Owner shall provide a N/A foot buffer on the N/A portion of the Property.
3. The Developer/Owner shall limit density to 1 units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations, ²⁵ FOR NO MORE THAN 8 TOTAL UNITS.
4. The Developer/Owner shall limit ingress and egress to FLEMING GRANT Co.
5. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. 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.
6. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court the cost of recording this Agreement in the Public Records of Brevard County, Florida.
7. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
8. 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 may be amended.
9. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 8 above.



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

ATTEST:

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi, Chair
As approved by the Board on _____

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

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(President)

(Witness Name typed or printed)

(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of
. 20__, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public
(Name typed, printed or stamped)





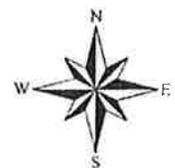
Legend

Brevard_SuperBasin17_Surge

CAT

- 1
- 2
- 3
- 4
- 5

Coastal High Hazard Area 19PZ00093



FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 7/17/2019

FEMA Flood Zones

- | | | |
|---|------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | Parcels | |

From: [Ragain, Rebecca](#)
To: [Jones, Jennifer](#)
Subject: FW: Sierra Club comments -- Inadequate BDP for Micco property
Date: Monday, September 30, 2019 10:27:38 AM
Attachments: [May 30 BDP.pdf](#)
[BDP Options for CHHA.pdf](#)
[CHHA REVISED.pdf](#)

FYI

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Monday, September 30, 2019 10:25 AM
To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>
Cc: Newell, Marcia <marcia.newell@brevardfl.gov>; Craddock, Amy <Amy.Craddock@brevardfl.gov>; Calkins, Tad <tad.calkins@brevardfl.gov>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Ritchie, George C <George.Ritchie@brevardfl.gov>; Ragain, Rebecca <Rebecca.Ragain@brevardfl.gov>
Subject: Sierra Club comments -- Inadequate BDP for Micco property

Dear Commissioner Pritchett,

On October 3rd, you will be considering a proposed Binding Development Plan (BDP) for the same property on Fleming Grant Road in Micco you looked at on May 30. This BDP, limiting development to 8 homes, is very short and sketchy, with important provisions absent. It is awaiting your additions that will offer more protection to the Indian River Lagoon.

In contrast, the previous BDP, submitted on May 30 when the Comprehensive Plan Amendment for increased density was being considered, contains many more key provisions. As you know, that May 30th BDP was withdrawn by the applicant, after the Comprehensive Plan Amendment was rejected by the BOCC against the backdrop of serious reservations by state comment agencies. The May 30 BDP is attached for comparison.

I am writing this email on behalf of Turtle Coast Sierra Club. **Sierra Club has no problem with the number of homes proposed for the property through the current BDP. However, we would like assurances through additional BDP requirements that development of the 8 homes will not adversely affect the Indian River Lagoon and increase potential flooding and storm vulnerability.**

We believe that the County Commission will need to make a decision based not merely on the provision to limit the residences to 8, which seems to be a number agreeable to most everyone. In other words, the limitation to 8 homes does not automatically entitle the applicant to your approval. You also must weigh your responsibilities for ensuring public safety and improving the health of the Indian River Lagoon. A thoughtful evaluation of BDP adequacy by the Commission is especially appropriate considering the millions of dollars spent on public safety and major storm cleanup. In addition, any decision should not undermine our nearly \$500 million effort to implement the Save Our Indian River Lagoon Project Plan over a 10 year period.

I have heard the comment that the provisions in the BDP need to be accepted by the applicant, which is definitely true. Likewise, however, the provisions in the BDP need to be judged

adequate by the County Commission, and the BOCC has the right to condition approval on additional stipulations that protect our residents and our precious natural resources.

The subject property contains approximately 5 acres of Coastal High Hazard Area (CHHA), which is the area of storm surge from a Category 1 hurricane. Please refer to the attached map. The CHHA basically overlaps the FEMA AE flood zone. This area is full of trees and natural vegetation which filter pollutants before they reach the St. Sebastian River and the Indian River Lagoon. Also, the CHHA, in its natural state, provides a buffer against major storms and mitigates flooding.

If the CHHA were to be clear cut and filled, our Indian River Lagoon would suffer unnecessarily. The protective vegetation would be lost, and the fill to raise the house pads to 6.3' NAVD would add to the stormwater runoff problems the IRL is experiencing.

As noted in the attached chart, Sierra Club believes the most important conditions to add to the current BDP are:

1. No residences in the Coastal High Hazard Area
2. Advanced septic systems
3. Preservation of the specimen oak trees

Please consider requiring the applicant to add these conditions to the BDP in order to receive Commission approval.

Thank you,

Mary Sphar, Wetlands Issue Chair
Turtle Coast Sierra Club

636-0701

636-0701

From: [Mcgee, Darcie A](#)
To: [Jones, Jennifer](#)
Subject: FW: Sierra Club comments -- inadequate BDP for Micco Property
Date: Monday, September 30, 2019 3:22:29 PM
Attachments: [May 30 BDP.pdf](#)
[BDP Options for CHHA.pdf](#)
[CHHA REVISED.pdf](#)

From: Douglas and Mary Sphar [mailto:canoe2@digital.net]
Sent: Monday, September 30, 2019 10:38 AM
To: Commissioner, D2
Cc: Barker, Virginia H; Mcgee, Darcie A; Allen, Jeanne
Subject: Sierra Club comments -- inadequate BDP for Micco Property

Dear Commissioner Lober,

On October 3rd, you will be considering a proposed Binding Development Plan (BDP) for the same property on Fleming Grant Road in Micco you looked at on May 30. This BDP, limiting development to 8 homes, is very short and sketchy, with important provisions absent. It is awaiting your additions that will offer more protection to the Indian River Lagoon.

In contrast, the previous BDP, submitted on May 30 when the Comprehensive Plan Amendment for increased density was being considered, contains many more key provisions. As you know, that May 30th BDP was withdrawn by the applicant, after the Comprehensive Plan Amendment was rejected by the BOCC against the backdrop of serious reservations by state comment agencies. The May 30 BDP is attached for comparison.

I am writing this email on behalf of Turtle Coast Sierra Club. Sierra Club has no problem with the number of homes proposed for the property through the current BDP. However, we would like assurances through additional BDP requirements that development of the 8 homes will not adversely affect the Indian River Lagoon and increase potential flooding and storm vulnerability.

We believe that the County Commission will need to make a decision based not merely on the provision to limit the residences to 8, which seems to be a number agreeable to most everyone. In other words, the limitation to 8 homes does not automatically entitle the applicant to your approval. You also must weigh your responsibilities for ensuring public safety and improving the health of the Indian River Lagoon. A thoughtful evaluation of BDP adequacy by the Commission is especially appropriate considering the millions of dollars spent on public safety and major storm cleanup. In addition, any decision should not undermine our nearly \$500 million effort to implement the Save Our Indian River Lagoon Project Plan over a 10 year period.

I have heard the comment that the provisions in the BDP need to be accepted by the applicant, which is definitely true. Likewise, however, the provisions in the BDP need to be judged adequate by the County Commission, and the BOCC has the right to condition approval on additional stipulations that protect our residents and our precious natural resources.

The subject property contains approximately 5 acres of Coastal High Hazard Area (CHHA), which is the area of storm surge from a Category 1 hurricane. Please refer to the attached

map. The CHHA basically overlaps the FEMA AE flood zone. This area is full of trees and natural vegetation which filter pollutants before they reach the St. Sebastian River and the Indian River Lagoon. Also, the CHHA, in its natural state, provides a buffer against major storms and mitigates flooding.

If the CHHA were to be clear cut and filled, our Indian River Lagoon would suffer unnecessarily. The protective vegetation would be lost, and the fill to raise the house pads to 6.3' NAVD would add to the stormwater runoff problems the IRL is experiencing.

As noted in the attached chart, Sierra Club believes the most important conditions to add to the current BDP are:

1. No residences in the Coastal High Hazard Area
2. Advanced septic systems
3. Preservation of the specimen oak trees

Please consider requiring the applicant to add these conditions to the BDP in order to receive Commission approval.

Thank you,

Mary Sphar, Wetlands Issue Chair
Turtle Coast Sierra Club

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Mr. Douglas Robertson, an individual (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested a RES1 Land Use Amendment and desires to develop the Property as single family residential, which currently is zoned RU-1-13, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall limit the property to sixteen (16) lots maximum.
3. The minimum floor area shall be 2,000 sq.ft.

4. All lots within the front 1,000 feet of the property, from the road ROW line, shall be one-half (0.5) acre in size minimum. All lots south of the 1,000 foot front offset line shall be one (1.0) acre minimum. ~~★~~ The FEMA determined Base Flood Elevation (BFE) will be revised in late 2019/early 2020. The BFE is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD. The Owner/Developer agrees to have all BFE's within the property comply with the updated FEMA elevation of 5.3 NAVD, or the minimum required by FEMA at the time of development, whichever is more restrictive. ~~★~~

5. ~~★~~ No more than one (1) principle structure shall be constructed in the Coastal High Hazard Area of the property. ~~★~~

6. All specimen oak trees, as shown on survey (See Attachment B) shall be preserved, unless significant fill is required by any permitting agency due to flood zone requirements, coastal high hazard requirements, tidal rise requirements, stormwater requirements, or other similar regulation requirements of the County, State, or Federal regulations.

7. All lots within the Property shall be required to install OSTDS systems for sewer collection and treatment, which must reduce total nitrogen in the effluent by at least 65%, in compliance with County and State regulations.

8. A maximum wetland impact to existing on-site wetlands shall be 0.37 acres. No impact to the existing Mangrove Wetland Shoreline Fringe will be allowed.

9. Only one access connection shall be allowed to Fleming Grant Road, which shall be a private road meeting County requirements.

10. A 15' perimeter buffer tract shall be provided along the road right-of-way and the east and west property lines of the Property.

11. An HOA shall be created, which will also consist of an Architectural Review Committee.

12. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. 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.

13. 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.

14. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

5Violation 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:

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi
Chair
As approved by the Board on _____

WITNESSES:

DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)

(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this _____ day of
, 20____, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)

JOINER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated _____, given by _____, as mortgagor, in favor of the undersigned, _____, as mortgagee, recorded in Official Records Book _____, page _____, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME/ADDRESS

(Address)

Authorized Agent Signature

(Witness name typed or printed)

(Name/title typed, printed or stamped)

(Witness name typed or printed)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by _____, who is personally known to me or who has produced _____ as identification.

My commission expires

Notary Public

SEAL

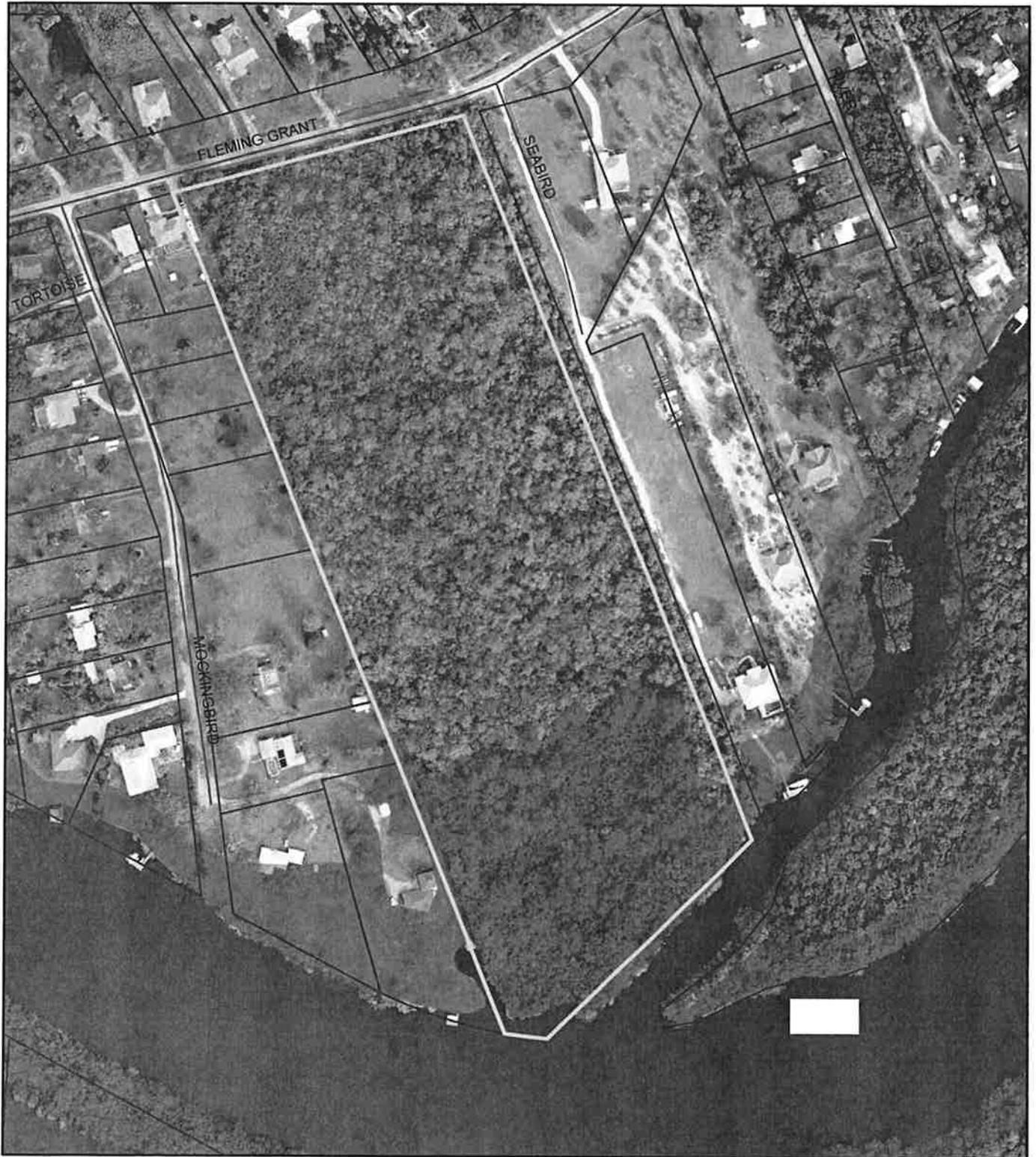
Commission No.:

(Name typed, printed or stamped)



BDP Options for Coastal High Hazard Area (CHHA)

BDP Version	How BDP Deals with CHHA	Resulting Problems from CHHA
<p>Current Proposed BDP for 8 homes</p>	<ol style="list-style-type: none"> No limit on number of residences in CHHA. Can clear cut and bring in fill to 6.3' NAVD at house pads. Conventional septic allowed except in septic overlay No preservation of specimen oaks (24" – 48" diameter breast height) 	<p>GREATEST INCREASE in:</p> <ul style="list-style-type: none"> storm vulnerability Brevard County emergency costs flooding IRL septic pollution from CHHA IRL stormwater runoff IRL cleanup costs
<p>BDP Proposed on May 30 (no longer on the table)</p> <p>NOTE: Applicant agreed to these conditions if granted 16 homes, but they are not in current BDP.</p>	<ol style="list-style-type: none"> Only one primary residence in CHHA Advanced septic Preservation of specimen oaks 	<p>SOME INCREASE in:</p> <ul style="list-style-type: none"> storm vulnerability Brevard County emergency costs flooding IRL stormwater runoff IRL cleanup costs <p>MINIMAL INCREASE in:</p> <ul style="list-style-type: none"> IRL septic pollution from CHHA
<p>Recommendations for Current BDP (Lagoon-Friendly)</p>	<ol style="list-style-type: none"> No residences in CHHA Advanced septic Preservation of specimen oaks 	<p>NO INCREASE in:</p> <ul style="list-style-type: none"> storm vulnerability Brevard County emergency costs flooding IRL septic pollution from CHHA IRL stormwater runoff IRL cleanup costs



Legend

Brevard_SuperBasin17_Surge

CAT

- 1
- 2
- 3
- 4
- 5

Coastal High Hazard Area 19PZ00093



From: Ragain, Rebecca
To: Jones, Jennifer
Subject: FW: 19PZ00093 Fleming Grant Rd, Micco
Date: Monday, September 30, 2019 3:24:20 PM

FYI

From: miccohomeowners@aol.com <miccohomeowners@aol.com>
Sent: Monday, September 30, 2019 3:17 PM
To: Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Ritchie, George C <George.Ritchie@brevardfl.gov>; Calkins, Tad <tad.calkins@brevardfl.gov>; Ragain, Rebecca <Rebecca.Ragain@brevardfl.gov>
Subject: 19PZ00093 Fleming Grant Rd, Micco

Just wanted you all to see the letter we sent to the Commissioners. Hoping some strong provisions will be required here.

Thank you for voting for 1:2.5 density on the 20 acre property bordering the St Sebastian River and Fleming Grant Road on May 30. We are all in favor of maximum 8 homes here.

PROBLEM: The current BDP only states RU1-13 zoning and 8 total units. There are no provisions as there were in the May 30, 2019 BDP particularly on page two numbers 4 through 7 are important. We hope you will require these provisions within this October 3 BDP.

OUR FOCUS: We continue to need to protect the health of the Indian River Lagoon by limiting contaminants flowing into the St Sebastian River. Therefore, we are concerned about building within the Coastal High Hazard Area which handles water from a Category 1 storm. This same section of the property is also an AE Flood Zone.

Thus, we ask for the following provisions be required on this October 3, 2019 BDP:

NO HOMES within this five acre Coastal High Hazard Area (CHHA). Objective 7 of Brevard's Coastal Mgmt. Element states "Limit densities within the CHH zone and direct development outside of that area." The comments from DEO, ECFRPC also support this.

NO FILL DIRT within the AE Flood Zone. The FEMA determined Base Flood Elevation (BFE) will increase to 5.3 feet NAVD. This means a lot of fill dirt is required to elevate or "flood proof" each home. DEO also comments on the flooding here. Where will the flood waters go if 4 homes are built on the river?

ADVANCED SEPTIC should be required for all homes due to the close proximity to the St Sebastian River which flows into the Indian River Lagoon. Advanced septic, as you know, removes 65% of nitrogen. Comments from SJRWMD, DEP, DEO all recognized the importance of removing nitrogen through Advanced treatment OSTDS on this property.

STORM WATER needs to be captured outside of the Coastal High Hazard Area, perhaps within the remaining 15 acres, so that contaminated stormwater will not flow into the river.

OUR SOLUTION: Please designate the CHHA a "conservation easement". We envision a natural Florida park with elevated boardwalks shaded by specimen oaks winding through the CHH acreage. These boardwalks can have resting benches scattered along the walk down to the river. This plan is a WIN / WIN for the health of the Indian River Lagoon plus the residents of the 8 homes have a lovely place to gather.

Micco Homeowners Association thanks you for helping.

Sincerely,
Chelle Woods, President, Micco Homeowners Association
9912 Riverview Drive Micco, FL 32976

Commissioner, D4

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Monday, September 30, 2019 11:08 AM
To: Commissioner, D4; Woodard, Patrick
Subject: Sierra Club comments -- Inadequate BDP for Micco project
Attachments: May 30 BDP.pdf; BDP Options for CHHA.pdf; BDP-Options-for-CHHA.jpg; CHHA REVISED.pdf; CHHA-REVISED.jpg

Dear Commissioner Smith,

On October 3rd, you will be considering a proposed Binding Development Plan (BDP) for the same property on Fleming Grant Road in Micco you looked at on May 30. This BDP, limiting development to 8 homes, is very short and sketchy, with important provisions absent. It is awaiting your additions that will offer more protection to the Indian River Lagoon.

In contrast, the previous BDP, submitted on May 30 when the Comprehensive Plan Amendment for increased density was being considered, contains many more key provisions. As you know, that May 30th BDP was withdrawn by the applicant, after the Comprehensive Plan Amendment was rejected by the BOCC against the backdrop of serious reservations by state comment agencies. The May 30 BDP is attached for comparison.

I am writing this email on behalf of Turtle Coast Sierra Club. **Sierra Club has no problem with the number of homes proposed for the property through the current BDP. However, we would like assurances through additional BDP requirements that development of the 8 homes will not adversely affect the Indian River Lagoon and increase potential flooding and storm vulnerability.**

We believe that the County Commission will need to make a decision based not merely on the provision to limit the residences to 8, which seems to be a number agreeable to most everyone. In other words, the limitation to 8 homes does not automatically entitle the applicant to your approval. You also must weigh your responsibilities for ensuring public safety and improving the health of the Indian River Lagoon. A thoughtful evaluation of BDP adequacy by the Commission is especially appropriate considering the millions of dollars spent on public safety and major storm cleanup. In addition, any decision should not undermine our nearly \$500 million effort to implement the Save Our Indian River Lagoon Project Plan over a 10 year period.

I have heard the comment that the provisions in the BDP need to be accepted by the applicant, which is definitely true. Likewise, however, the provisions in the BDP need to be judged adequate by the County Commission, and the BOCC has the right to condition approval on additional stipulations that protect our residents and our precious natural resources.

The subject property contains approximately 5 acres of Coastal High Hazard Area (CHHA), which is the area of storm surge from a Category 1 hurricane. Please refer to the attached map. The CHHA basically overlaps the FEMA AE flood zone. This area is full of trees and natural vegetation which filter pollutants before they reach the St. Sebastian River and the Indian River Lagoon. Also, the CHHA, in its natural state, provides a buffer against major storms and mitigates flooding.

If the CHHA were to be clear cut and filled, our Indian River Lagoon would suffer unnecessarily. The protective vegetation would be lost, and the fill to raise the house pads to 6.3' NAVD would add to the stormwater runoff problems the IRL is experiencing.

As noted in the attached chart, Sierra Club believes the most important conditions to add to the current BDP are:

1. No residences in the Coastal High Hazard Area
2. Advanced septic systems
3. Preservation of the specimen oak trees

Please consider requiring the applicant to add these conditions to the BDP in order to receive Commission approval.

Thank you,

Mary Sphar, Wetlands Issue Chair

Turtle Coast Sierra Club

636-0701

Furru, Christine

From: B D <rel_eng@yahoo.com>
Sent: Saturday, September 21, 2019 11:38 AM
To: Commissioner, D3
Subject: October 3rd Vote to rezone property on IRL

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Dear Commissioner Tobia,

I am writing to encourage you to reject an increase of development density along the Indian River Lagoon. Your vote is an important part in reviving the health of our Indian River Lagoon.

On May 30th you voted against a change to the Comprehensive Plan Amendment 2019-1.1. The Board of Commissioners voted to maintain the development density along the Indian River Lagoon at 1 home per 2.5 acres. Your vote was important as it prevented an avalanche of high-density development in the southern portion of your district.

On October 3rd you will be asked to allow a density of 1 home per 1/5 acre on the exact same property. The developer is being disingenuous and is not abiding by the intent of the County Commissioners' unanimous vote of May 30 for 1 unit on 2.5 acres.

Please vote again to maintain a density of no more than 1 home per 2.5 acres on this parcel. This property borders the St. Sebastian River at the Indian River County line, near the point at which the river flows into the Indian River Lagoon.

The property has many characteristics that make development detrimental to the health of the Indian River Lagoon. Below is a list of characteristics of this property that are of significant concern:

1. In Coastal High Hazard Area 
2. In FEMA flood zone AE 
3. Wetlands 
4. Aquifer soils (sandy so that septic effluent drains right down to water table) 
5. Next to St. Sebastian River where it enters the IRL, on an Aquatic Preserve 
6. Specimen trees (large trunk diameter) 
7. Limited to development with septic systems and water from wells 

I am a concerned citizen in your district. I am also the president of the Space Coast Paddlers club and an executive member of the Turtle Coast Sierra Club. I am asking for your support in denying this change to the Comprehensive Plan Amendment 2019-1.1. Please help us all protect Brevard County's most precious natural resource – the IRL.

Thank you,
Bill DeBusk
2674 Tuscarora Ct, West Melbourne FL, 32904

Furru, Christine

From: Anne Briggs <annebriggs@yahoo.com>
Sent: Sunday, September 15, 2019 10:34 AM
To: Commissioner, D3
Subject: 20+ Acre Parcel on Fleming Grant Road, Micco, #19PZ00093

Follow Up Flag: Follow up
Flag Status: Flagged

Ref: 19PZ00093/20+ Acre Parcel on Fleming Grant Road, Micco

Dear Commissioner Tobia,

Last May 30, you voted unanimously to keep the Comp Plan/Future Land Use Map designation of 1 house per 2.5 acres on a 20-acre property on Fleming Grant Road. This effectively stymied the developer's plan to put 16 homes on this land. You will be voting on the fate of this land again on October 3rd.

As you may remember, this property abuts the Saint Sebastian River which flows into the Indian River Lagoon. There were a host of environmental, neighborhood and precedence issues which led you all to keep the 1:2.5 designation. Those concerns are all still valid.

The developer presented his new request, a Binding Development Plan, to the Planning and Development Board on September 9, 2019. This BDP, which was approved by the P&D with only one dissenting vote, essentially allows the developer to avoid the 1 house per 2.5 acres designation, and only restricts the developer to a maximum density of eight homes on the property. The current zoning (RU 1-13) on this land, which is inconsistent with the FLUM, was not changed as a BDP circumvents zoning and FLUM consistency requirements. The RU 1-13 zoning allows a minimum lot size of 7,500 square feet (0.172 acres, less than 1/5 of an acre) but the developer states that current septic regulations would require a minimum of half-acre lots. The developer presented no concept plan or site plan drawings.

The P&D decision to approve this BDP did not require any minimum lot size, nor impose any high-end nitrogen-reducing septic system requirements. There was no written commitment from the developer that environmental concerns would be properly addressed.

We find this work-around disingenuous and totally incompatible with the intent of your May 30 decision. This BDP would legally give the developer the right to a maximum of 8-unit density on this property, with no restrictions on lot sizes as small as 7,500 square feet.

Ideally, we would like to see the Comp Plan/FLUM and zoning discrepancy be reconciled by making the zoning designation AU and all lots 2.5 acres.

However, if you feel you must approve the BDP, please, at the very least, require the developer to 1) have 1-acre minimum lot size, 2) install nitrogen-reducing septic systems, and 3) provide adequate written assurances that environmental constraints will be met.

We hope that, once again, you will do the right thing for our neighborhood.

Thank you for your consideration.

Anne Briggs and Henry Beck

9735 Fleming Grant Road

Micco, Florida 32976

Furru, Christine

From: mangobw1@aol.com
Sent: Wednesday, September 25, 2019 4:47 PM
To: Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5
Subject: 19PZ00093

Attn:

Rita Pritchett, Bryan Lober, John Tobia, Curt Smith and Kristine Isnardi,

My husband and I are opposed to the 19PZ00093 Petition and any request to decrease lot size in order to increase the density in our area. The new Development Plan (BDP), with all owners on small lots, will have negative consequences to the Sebastian River. The developer is being disingenuous and is not abiding by the intent of the County Commissioners' unanimous vote of May 30 for 1 unit on 2.5 acres.

Some of our concerns are:

We all want to **protect the health** of our river and the Lagoon. The same environmental issues, especially State comments and concerns, still need to be addressed and fixes committed to by the developer.

- "OSTD Septic" (removes 65% of harmful nitrogen) should be **REQUIRED** on any homes near the river.
- There should be **NO FILL** and **NO HOMES** within the Coastal High Hazard zone bordering the river. Why? Because the Coastal High Hazard area absorbs the storm surge in a Cat. 1 storm. Too much encroachment will result in increased flooding risks.
- A **buffer** needs to be established between the property and neighbours on the east and west sides.
- **Stormwater** needs to be captured within this property, not spilling over into the neighbours' homes.
- There is **no concept plan** for this development. What is this development going to look like?
- This development will set a **precedent** for any future development on the riverside of FG Road.
- **Zoning** along the riverside of FG Road needs to be changed to be compliant with the Comp Plan's designation of 1 unit on 2.5 acres.

Richard & Susan Currier
9485 Fleming Grant Rd.
Micco, FL 32976

Furru, Christine

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Monday, September 30, 2019 10:55 AM
To: Commissioner, D3
Cc: Furru, Christine
Subject: Sierra Club comments -- inadequate BDP for Micco property
Attachments: May 30 BDP.pdf; BDP Options for CHHA.pdf; BDP-Options-for-CHHA.jpg; CHHA REVISED.pdf; CHHA-REVISED.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Commissioner Tobia,

Thank you for the crucial role you played on May 30 to protect the Indian River Lagoon and the citizens of Micco from an inappropriate density increase for a property on Fleming Grant Rd.

On October 3rd, you will be considering a proposed Binding Development Plan (BDP) for the same property on Fleming Grant Road you looked at on May 30. This BDP, limiting development to 8 homes, is very short and sketchy, with important provisions absent. It is awaiting your additions that will offer more protection to the Indian River Lagoon.

In contrast, the previous BDP, submitted on May 30 when the Comprehensive Plan Amendment for increased density was being considered, contains many more key provisions. As you know, that May 30th BDP was withdrawn by the applicant, after the Comprehensive Plan Amendment was rejected by the BOCC against the backdrop of serious reservations by state comment agencies. The May 30 BDP is attached for comparison.

I am writing this email on behalf of Turtle Coast Sierra Club. **Sierra Club has no problem with the number of homes proposed for the property through the current BDP. However, we would like assurances through additional BDP requirements that development of the 8 homes will not adversely affect the Indian River Lagoon and increase potential flooding and storm vulnerability.**

We believe that the County Commission will need to make a decision based not merely on the provision to limit the residences to 8, which seems to be a number agreeable to most everyone. In other words, the limitation to 8 homes does not automatically entitle the applicant to your approval. You also must weigh your responsibilities for ensuring public safety and improving the health of the Indian River Lagoon. A thoughtful evaluation of BDP adequacy by the Commission is especially appropriate considering the millions of dollars spent on public safety and major storm cleanup. In addition, any decision should not undermine our nearly \$500 million effort to implement the Save Our Indian River Lagoon Project Plan over a 10 year period.

I have heard the comment that the provisions in the BDP need to be accepted by the applicant, which is definitely true. Likewise, however, the provisions in the BDP need to be judged adequate by the County Commission, and the BOCC has the right to condition approval on additional stipulations that protect our residents and our precious natural resources.

The subject property contains approximately 5 acres of Coastal High Hazard Area (CHHA), which is the area of storm surge from a Category 1 hurricane. Please refer to the attached map. The CHHA basically overlaps the FEMA AE flood zone. This area is full of trees and natural vegetation which filter pollutants before they reach the St. Sebastian River and the Indian River Lagoon. Also, the CHHA, in its natural state, provides a buffer against major storms and mitigates flooding. 487

If the CHHA were to be clear cut and filled, our Indian River Lagoon would suffer unnecessarily. The protective vegetation would be lost, and the fill to raise the house pads to 6.3' NAVD would add to the stormwater runoff problems the IRL is experiencing.

As noted in the attached chart, Sierra Club believes the most important conditions to add to the current BDP are:

1. No residences in the Coastal High Hazard Area
2. Advanced septic systems
3. Preservation of the specimen oak trees

Please consider requiring the applicant to add these conditions to the BDP in order to receive Commission approval.

Thank you,

Mary Sphar, Wetlands Issue Chair

Turtle Coast Sierra Club

636-0701

Furru, Christine

From: miccohomeowners@aol.com
Sent: Thursday, September 26, 2019 1:32 PM
To: Commissioner, D3
Subject: MHOA concerns re:19PZ00093
Attachments: MHOA-FGR BDPS & MAPS 2019.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Dear Commissioner Tobia,

So glad you can meet with me on Oct 3 at 10am. We are so grateful for your lead in limiting the Fleming Grant Rd property development to 8 homes (1:2.5) on 5/30/19---a big win for the river and Lagoon! Our concerns now relate to the Flood zone AE and the Coastal High Hazzard Area both bordering the river. Our goal now is to keep all home development behind the CHHA and require advanced septic---again for the health of the Lagoon and minimize flooding onto neighboring properties. The May 30 BDP speaks to that but the current BDP for 8 homes does not include any such provisions---both BDPs are attached with the maps. I look forward to our meeting at 10am.

Thank you,

Chelle Woods, Micco Homeowners Association President

Furru, Christine

From: miccohomeowners@aol.com
Sent: Monday, September 30, 2019 3:01 PM
To: Commissioner, D3
Subject: 19PZ00093 Fleming Grant Rd, Micco
Attachments: MHOA-FGR BDPS & MAPS 2019.pdf

Follow Up Flag: Follow up
Flag Status: Completed

TO: COMMISSIONER TOBIA

Thank you for voting for 1:2.5 density on the 20 acre property bordering the St Sebastian River and Fleming Grant Road on May 30. We are all in favor of maximum 8 homes here.

PROBLEM: The current BDP only states RU1-13 zoning and 8 total units. There are no provisions as there were in the May 30, 2019 BDP particularly on page two numbers 4 through 7 are important. We hope you will require these provisions within this October 3 BDP.

OUR FOCUS: We continue to need to protect the health of the Indian River Lagoon by limiting contaminants flowing into the St Sebastian River. Therefore, we are concerned about building within the Coastal High Hazard Area which handles water from a Category 1 storm. This same section of the property is also an AE Flood Zone.

Thus, we ask for the following provisions be required on this October 3, 2019 BDP:

NO HOMES within this five acre Coastal High Hazard Area (CHHA). Objective 7 of Brevard's Coastal Mgmt. Element states "Limit densities within the CHH zone and direct development outside of that area." The comments from DEO, ECFRPC also support this.

NO FILL DIRT within the AE Flood Zone. The FEMA determined Base Flood Elevation (BFE) will increase to 5.3 feet NAVD. This means a lot of fill dirt is required to elevate or "flood proof" each home. DEO also comments on the flooding here. Where will the flood waters go if 4 homes are built on the river?

ADVANCED SEPTIC should be required for all homes due to the close proximity to the St Sebastian River which flows into the Indian River Lagoon. Advanced septic, as you know, removes 65% of nitrogen. Comments from SJRWMD, DEP, DEO all recognized the importance of removing nitrogen through Advanced treatment OSTDS on this property.

STORM WATER needs to be captured outside of the Coastal High Hazard Area, perhaps within the remaining 15 acres, so that contaminated stormwater will not flow into the river.

OUR SOLUTION: Please designate the CHHA a "conservation easement". We envision a natural Florida park with elevated boardwalks shaded by specimen oaks winding through the CHH acreage. These boardwalks can have resting benches scattered along the walk down to the river.

This plan is a WIN / WIN for the health of the Indian River Lagoon plus the residents of the 8 homes have a lovely place to gather.

Micco Homeowners Association thanks you for helping.

Sincerely,
Chelle Woods, President, Micco Homeowners Association
9912 Riverview Drive Micco, FL 32976

Attachments: Both BDPs, CHHA map, AE Flood map

Furru, Christine

From: Ronald Bartcher <bartcher@cfl.rr.com>
Sent: Monday, September 30, 2019 7:56 PM
To: Ronald Bartcher
Subject: Oct 3 Zoning Item H-5

Dear Commissioner,

In reference to October 3 Zoning agenda item H-5 – I am opposed to this item as it is submitted.

Using a BDP to make RU-1-13 zoning consistent with FLU of RES-1-2.5 only addresses density but not lot size, set backs, or septic pollution.

RU-1-13 zoning allows lots of 7500 sqft. Lots this small belong in a city, not a rural area such as this.

RU-1-13 allows very small set backs, such as you find in a city, not in a rural area.

The developer said at the P&Z Advisory Board that he will be using conventional septic tanks rather than high-performance septic tanks. Without this BDP, his developments rights only permit two septic tanks. He wants to increase the septic pollution by a factor of four. This increase should not be allowed this close to the river.

Within a half-mile of the subject property there are 189 lots. 105 of these lots are 1 acre or larger. This property should be developed similarly to the majority of the development in this rural area.

I would encourage you to insist on a rezoning to RR-1 (with a BDP limit of 8 units) or AU to maintain consistency with the existing development in this rural area and to require high-performance septic tanks.

Regards,
Ron Bartcher
3431 Grantline Rd, Mims, FL

Please notice * areas on Page 2

Draft BDP
18PZ00167
Robertson
(Submitted 05/30/19)

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

May 30, 2019

THIS AGREEMENT, entered into this ____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Mr. Douglas Robertson, an individual (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested a RES1 Land Use Amendment and desires to develop the Property as single family residential, which currently is zoned RU-1-13, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. Developer/Owner shall limit the property to sixteen (16) lots maximum.

3. The minimum floor area shall be 2,000 sq.ft.

May 30, 2019

4. All lots within the front 1,000 feet of the property, from the road ROW line, shall be one-half (0.5) acre in size minimum. All lots south of the 1,000 foot front offset line shall be one (1.0) acre minimum. ~~★~~ The FEMA determined Base Flood Elevation (BFE) will be revised in late 2019/early 2020. The BFE is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD. The Owner/Developer agrees to have all BFE's within the property comply with the updated FEMA elevation of 5.3 NAVD, or the minimum required by FEMA at the time of development, whichever is more restrictive. ~~★~~
5. ~~★~~ No more than one (1) principle structure shall be constructed in the Coastal High Hazard Area of the property. ~~★~~
6. All specimen oak trees, as shown on survey (See Attachment B) shall be preserved, unless significant fill is required by any permitting agency due to flood zone requirements, coastal high hazard requirements, tidal rise requirements, stormwater requirements, or other similar regulation requirements of the County, State, or Federal regulations.
7. All lots within the Property shall be required to install OSTDS systems for sewer collection and treatment, which must reduce total nitrogen in the effluent by at least 65%, in compliance with County and State regulations.
8. A maximum wetland impact to existing on-site wetlands shall be 0.37 acres. No impact to the existing Mangrove Wetland Shoreline Fringe will be allowed.
9. Only one access connection shall be allowed to Fleming Grant Road, which shall be a private road meeting County requirements.
10. A 15' perimeter buffer tract shall be provided along the road right-of-way and the east and west property lines of the Property.
11. An HOA shall be created, which will also consist of an Architectural Review Committee.
12. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. 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.

②

May 30, 2019

13. 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.

14. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

5Violation 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.

Now 8 homes
P+Z Packet Sept 9, 2019

Proposed

Draft BDP
19PZ00093
Lazy River Investments

Prepared by: MRI Properties, LLC
Address: 1250 W. Esplanade Blvd.

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 8 day of July, 2019 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and LAZY RIVER INVESTMENTS, LLC, a Florida corporation (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the RW-1-13 zoning classification(s) and desires to develop the Property as SEBLES FAMILY RECREATION SUBDIVISION, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

Rev. 7/10/2018



- 25
2. Developer/Owner shall provide a N/A foot buffer on the N/A portion of the Property.
 3. The Developer/Owner shall limit density to 1 units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations, FOR NO MORE THAN 8 TOTAL UNITS.
 4. The Developer/Owner shall limit ingress and egress to FLEMING GOLF CO.
 5. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. 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.
 6. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court the cost of recording this Agreement in the Public Records of Brevard County, Florida.
 7. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
 8. 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 may be amended.
 9. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 8 above.



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

ATTEST:

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi, Chair
As approved by the Board on _____

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

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)
(Name typed, printed or stamped)

STATE OF _____ §

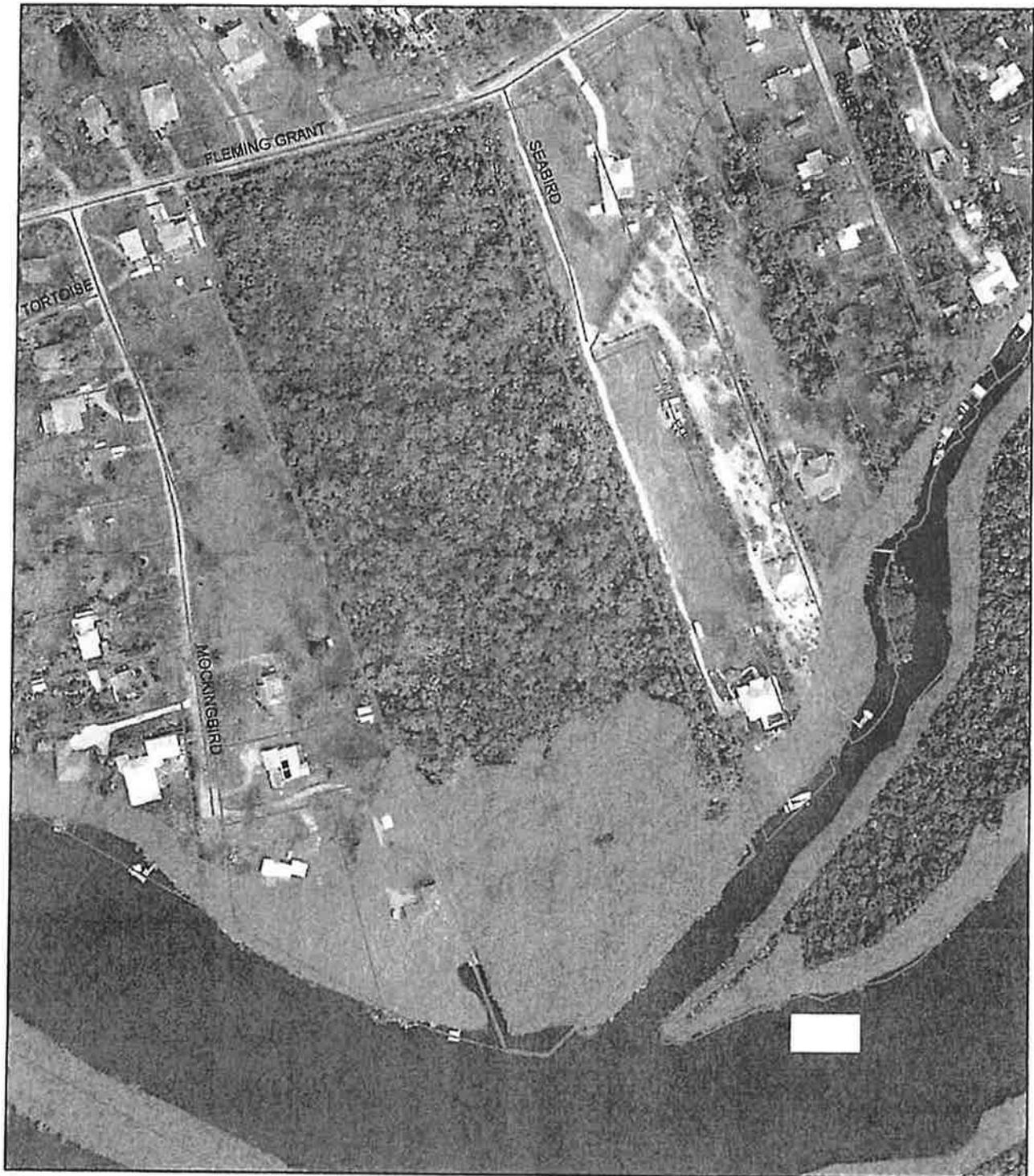
COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of
, 20__, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public
(Name typed, printed or stamped)





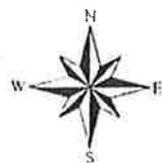
Legend

Brevard_SuperBasin17_Surge

CAT

- 1
- 2
- 3
- 4
- 5

Coastal High Hazard Area 19PZ00093



FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 7/17/2019

FEMA Flood Zones

- | | | |
|---|------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | Parcels | |

From: [Commissioner_D1](#)
To: [Jones, Jennifer](#)
Cc: [Mascellino, Carol](#); [Pritchett, Rita](#); [Craddock, Amy](#)
Subject: FW: Sierra Club comments -- Inadequate BDP for Micco property
Date: Tuesday, October 1, 2019 1:19:38 PM
Attachments: [May 30 BDP.pdf](#)
[BDP Options for CHHA.pdf](#)
[CHHA REVISED.pdf](#)
[image001.png](#)

Jennifer,

On behalf of Commissioner Pritchett, our office received the below email for Item H5 for October 3rd zoning meeting.

Best regards,

Marcia Newell

Chief Legislative Aide to Commissioner Rita Pritchett
Marcia.newell@brevardfl.gov



District 1 Commission Office
2000 S. Washington Avenue, Suite 2
Titusville, Florida 32780
321-607-6901

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Monday, September 30, 2019 10:25 AM
To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>
Cc: Newell, Marcia <marcia.newell@brevardfl.gov>; Craddock, Amy <Amy.Craddock@brevardfl.gov>; Calkins, Tad <tad.calkins@brevardfl.gov>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Ritchie, George C <George.Ritchie@brevardfl.gov>; Ragain, Rebecca

<Rebecca.Ragain@brevardfl.gov>

Subject: Sierra Club comments -- Inadequate BDP for Micco property

Dear Commissioner Pritchett,

On October 3rd, you will be considering a proposed Binding Development Plan (BDP) for the same property on Fleming Grant Road in Micco you looked at on May 30. This BDP, limiting development to 8 homes, is very short and sketchy, with important provisions absent. It is awaiting your additions that will offer more protection to the Indian River Lagoon.

In contrast, the previous BDP, submitted on May 30 when the Comprehensive Plan Amendment for increased density was being considered, contains many more key provisions. As you know, that May 30th BDP was withdrawn by the applicant, after the Comprehensive Plan Amendment was rejected by the BOCC against the backdrop of serious reservations by state comment agencies. The May 30 BDP is attached for comparison.

I am writing this email on behalf of Turtle Coast Sierra Club. **Sierra Club has no problem with the number of homes proposed for the property through the current BDP. However, we would like assurances through additional BDP requirements that development of the 8 homes will not adversely affect the Indian River Lagoon and increase potential flooding and storm vulnerability.**

We believe that the County Commission will need to make a decision based not merely on the provision to limit the residences to 8, which seems to be a number agreeable to most everyone. In other words, the limitation to 8 homes does not automatically entitle the applicant to your approval. You also must weigh your responsibilities for ensuring public safety and improving the health of the Indian River Lagoon. A thoughtful evaluation of BDP adequacy by the Commission is especially appropriate considering the millions of dollars spent on public safety and major storm cleanup. In addition, any decision should not undermine our nearly \$500 million effort to implement the Save Our Indian River Lagoon Project Plan over a 10 year period.

I have heard the comment that the provisions in the BDP need to be accepted by the applicant, which is definitely true. Likewise, however, the provisions in the BDP need to be judged adequate by the County Commission, and the BOCC has the right to condition approval on additional stipulations that protect our residents and our precious natural resources.

The subject property contains approximately 5 acres of Coastal High Hazard Area (CHHA), which is the area of storm surge from a Category 1 hurricane. Please refer to the attached map. The CHHA basically overlaps the FEMA AE flood zone. This area is full of trees and natural vegetation which filter pollutants before they reach the St. Sebastian River and the Indian River Lagoon. Also, the CHHA, in its natural state, provides a buffer against major storms and mitigates flooding.

If the CHHA were to be clear cut and filled, our Indian River Lagoon would suffer unnecessarily. The protective vegetation would be lost, and the fill to raise the house pads to 6.3' NAVD would add to the stormwater runoff problems the IRL is experiencing.

As noted in the attached chart, Sierra Club believes the most important conditions to add to the current BDP are:

1. No residences in the Coastal High Hazard Area
2. Advanced septic systems
3. Preservation of the specimen oak trees

Please consider requiring the applicant to add these conditions to the BDP in order to receive Commission approval.

Thank you,

Mary Sphar, Wetlands Issue Chair
Turtle Coast Sierra Club

636-0701

636-0701

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this ____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Mr. Douglas Robertson, an individual (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested a RES1 Land Use Amendment and desires to develop the Property as single family residential, which currently is zoned RU-1-13, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall limit the property to sixteen (16) lots maximum.
3. The minimum floor area shall be 2,000 sq.ft.

4. All lots within the front 1,000 feet of the property, from the road ROW line, shall be one-half (0.5) acre in size minimum. All lots south of the 1,000 foot front offset line shall be one (1.0) acre minimum. ~~The~~ FEMA determined Base Flood Elevation (BFE) will be revised in late 2019/early 2020. The BFE is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD. The Owner/Developer agrees to have all BFE's within the property comply with the updated FEMA elevation of 5.3 NAVD, or the minimum required by FEMA at the time of development, whichever is more restrictive. ~~The~~

5. ~~No~~ No more than one (1) principle structure shall be constructed in the Coastal High Hazard Area of the property. ~~The~~

6. All specimen oak trees, as shown on survey (See Attachment B) shall be preserved, unless significant fill is required by any permitting agency due to flood zone requirements, coastal high hazard requirements, tidal rise requirements, stormwater requirements, or other similar regulation requirements of the County, State, or Federal regulations.

7. All lots within the Property shall be required to install OSTDS systems for sewer collection and treatment, which must reduce total nitrogen in the effluent by at least 65%, in compliance with County and State regulations.

8. A maximum wetland impact to existing on-site wetlands shall be 0.37 acres. No impact to the existing Mangrove Wetland Shoreline Fringe will be allowed.

9. Only one access connection shall be allowed to Fleming Grant Road, which shall be a private road meeting County requirements.

10. A 15' perimeter buffer tract shall be provided along the road right-of-way and the east and west property lines of the Property.

11. An HOA shall be created, which will also consist of an Architectural Review Committee.

12. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. 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.

13. 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.

14. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

5Violation 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:

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi
Chair

As approved by the Board on _____

WITNESSES:

DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)

(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of
, 20____, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires

SEAL

Commission No.:

Notary Public

(Name typed, printed or stamped)

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated _____, given by _____, as mortgagor, in favor of the undersigned, _____, as mortgagee, recorded in Official Records Book _____, page _____, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME/ADDRESS

(Address)

Authorized Agent Signature

(Witness name typed or printed)

(Name/title typed, printed or stamped)

(Witness name typed or printed)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification.

My commission expires

Notary Public

SEAL

Commission No.:

(Name typed, printed or stamped)



BDP Options for Coastal High Hazard Area (CHHA)

BDP Version	How BDP Deals with CHHA	Resulting Problems from CHHA
<p>Current Proposed BDP for 8 homes</p>	<ol style="list-style-type: none"> 1. No limit on number of residences in CHHA. Can clear cut and bring in fill to 6.3' NAVD at house pads. 2. Conventional septic allowed except in septic overlay 3. No preservation of specimen oaks (24" – 48" diameter breast height) 	<p>GREATEST INCREASE in:</p> <ul style="list-style-type: none"> • storm vulnerability • Brevard County emergency costs • flooding • IRL septic pollution from CHHA • IRL stormwater runoff • IRL cleanup costs
<p>BDP Proposed on May 30 (no longer on the table)</p> <p>NOTE: Applicant agreed to these conditions if granted 16 homes, but they are not in current BDP.</p>	<ol style="list-style-type: none"> 1. Only one primary residence in CHHA 2. Advanced septic 3. Preservation of specimen oaks 	<p>SOME INCREASE in:</p> <ul style="list-style-type: none"> • storm vulnerability • Brevard County emergency costs • flooding • IRL stormwater runoff • IRL cleanup costs <p>MINIMAL INCREASE in:</p> <ul style="list-style-type: none"> • IRL septic pollution from CHHA
<p>Recommendations for Current BDP (Lagoon-Friendly)</p>	<ol style="list-style-type: none"> 1. No residences in CHHA 2. Advanced septic 3. Preservation of specimen oaks 	<p>NO INCREASE in:</p> <ul style="list-style-type: none"> • storm vulnerability • Brevard County emergency costs • flooding • IRL septic pollution from CHHA • IRL stormwater runoff • IRL cleanup costs



Legend

Brevard_SuperBasin17_Surge

CAT

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Coastal High Hazard Area 19PZ00093



From: [Commissioner, D1](#)
To: [Jones, Jennifer](#)
Cc: [Mascellino, Carol](#); [Pritchett, Rita](#); [Craddock, Amy](#)
Subject: FW: Oct 3 Zoning Item H-5
Date: Tuesday, October 1, 2019 1:20:42 PM
Attachments: [image001.png](#)

Jennifer,

On behalf of Commissioner Pritchett we received the below email regarding the above agenda item.

Best regards,

Marcia Newell

Chief Legislative Aide to Commissioner Rita Pritchett
Marcia.newell@brevardfl.gov



District 1 Commission Office
2000 S. Washington Avenue, Suite 2
Titusville, Florida 32780
321-607-6901

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

From: Ronald Bartcher <bartcher@cfl.rr.com>
Sent: Monday, September 30, 2019 7:52 PM
To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>
Subject: Oct 3 Zoning Item H-5

Dear Commissioner Pritchett,

In reference to October 3 Zoning agenda item H-5 – I am opposed to this item as it is

submitted.

Using a BDP to make RU-1-13 zoning consistent with FLU of RES-1-2.5 only addresses density but not lot size, set backs, or septic pollution.

RU-1-13 zoning allows lots of 7500 sqft. Lots this small belong in a city, not a rural area such as this.

RU-1-13 allows very small set backs, such as you find in a city, not in a rural area.

The developer said at the P&Z Advisory Board that he will be using conventional septic tanks rather than high-performance septic tanks. Without this BDP, his developments rights only permit two septic tanks. He wants to increase the septic pollution by a factor of four. This increase should not be allowed this close to the river.

Within a half-mile of the subject property there are 189 lots. 105 of these lots are 1 acre or larger. This property should be developed similarly to the majority of the development in this rural area.

I would encourage you to insist on a rezoning to RR-1 (with a BDP limit of 8 units) or AU to maintain consistency with the existing development in this rural area and to require high-performance septic tanks.

Regards,

Ron Bartcher

3431 Grantline Rd, Mims, FL

From: [Schmadeke, Adrienne](#)
To: [Jones, Jennifer](#)
Cc: [Woodard, Patrick](#); [Bellak, Christine](#)
Subject: Oct 3 Zoning meeting Public Comment disclosures
Date: Wednesday, October 2, 2019 8:10:54 AM
Attachments: [Email 3 re 19PZ00093.pdf](#)
[BDP Options for CHHA.pdf](#)
[BDP-Options-for-CHHA.jpg](#)
[CHHA-REVISED.pdf](#)
[CHHA-REVISED.jpg](#)
[May 30 BDP.pdf](#)

Jennifer,

Please see attached email and the accompanying articles sent to us regarding Zone meeting item H.5. 19PZ00093 and enter as public comments.

Regards,

Adrienne Schmadeke



Adrienne Schmadeke
Executive Assistant to Commissioner Smith
Brevard County, District 4
[321.633.2044](tel:321.633.2044) | Adrienne.Schmadeke@brevardfl.gov

2725 Judge Fran Jamieson Way, Bldg. C - Suite 214,
Viera, FL 32940

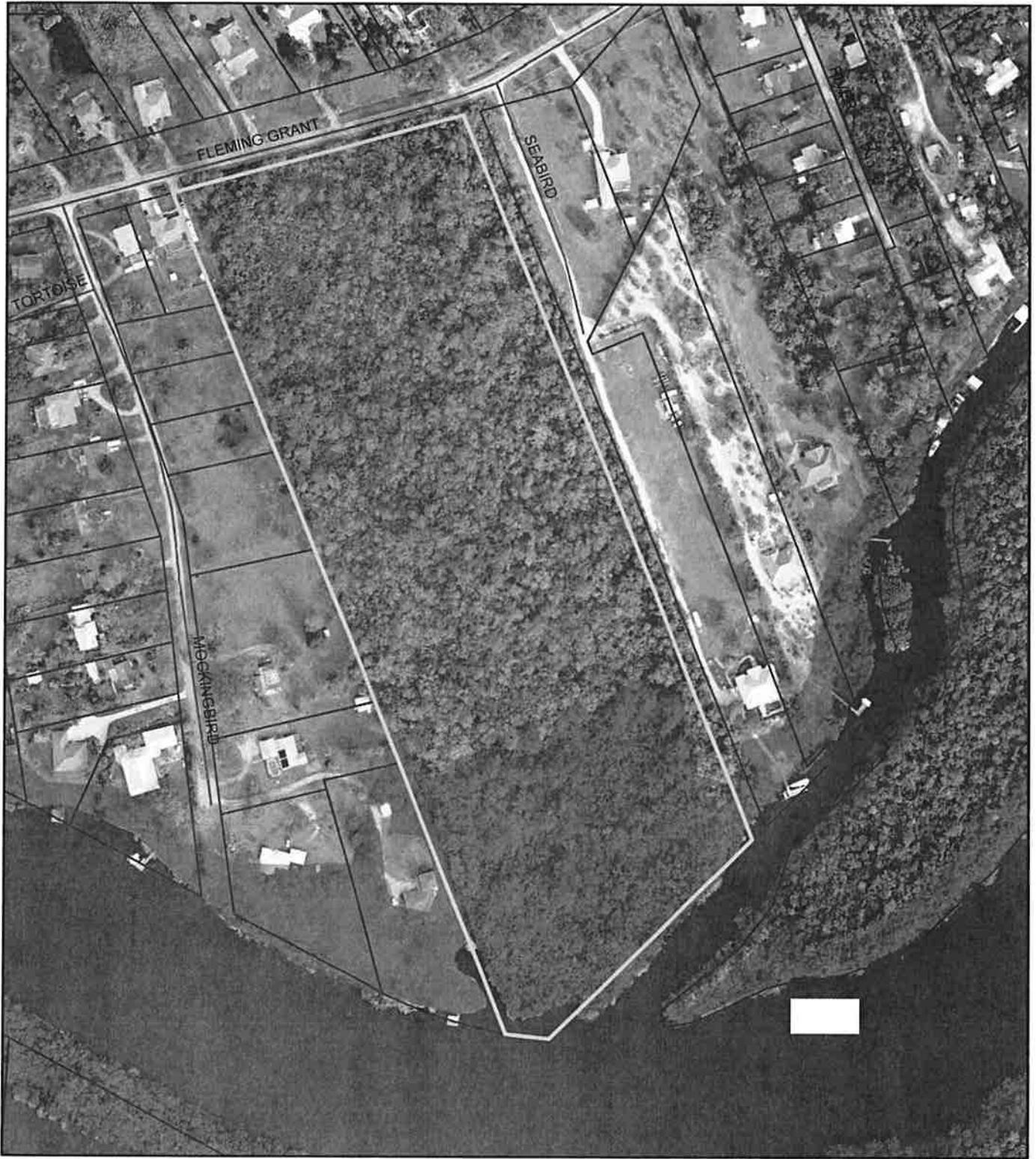
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<p>BDP Proposed on May 30 (no longer on the table)</p> <p>NOTE: Applicant agreed to these conditions if granted 16 homes, but they are not in current BDP.</p>	<ol style="list-style-type: none"> Only one primary residence in CHHA Advanced septic Preservation of specimen oaks 	<p>SOME INCREASE in:</p> <ul style="list-style-type: none"> storm vulnerability Brevard County emergency costs flooding IRL stormwater runoff IRL cleanup costs <p>MINIMAL INCREASE in:</p> <ul style="list-style-type: none"> IRL septic pollution from CHHA
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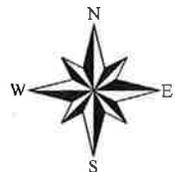
Legend

Brevard_SuperBasin17_Surge

CAT

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Coastal High Hazard Area 19PZ00093



Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Mr. Douglas Robertson, an individual (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested a RES1 Land Use Amendment and desires to develop the Property as single family residential, which currently is zoned RU-1-13, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall limit the property to sixteen (16) lots maximum.
3. The minimum floor area shall be 2,000 sq.ft.

4. All lots within the front 1,000 feet of the property, from the road ROW line, shall be one-half (0.5) acre in size minimum. All lots south of the 1,000 foot front offset line shall be one (1.0) acre minimum. The FEMA determined Base Flood Elevation (BFE) will be revised in late 2019/early 2020. The BFE is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD. The Owner/Developer agrees to have all BFE's within the property comply with the updated FEMA elevation of 5.3 NAVD, or the minimum required by FEMA at the time of development, whichever is more restrictive.
5. No more than one (1) principle structure shall be constructed in the Coastal High Hazard Area of the property.
6. All specimen oak trees, as shown on survey (See Attachment B) shall be preserved, unless significant fill is required by any permitting agency due to flood zone requirements, coastal high hazard requirements, tidal rise requirements, stormwater requirements, or other similar regulation requirements of the County, State, or Federal regulations.
7. All lots within the Property shall be required to install OSTDS systems for sewer collection and treatment, which must reduce total nitrogen in the effluent by at least 65%, in compliance with County and State regulations.
8. A maximum wetland impact to existing on-site wetlands shall be 0.37 acres. No impact to the existing Mangrove Wetland Shoreline Fringe will be allowed.
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11. An HOA shall be created, which will also consist of an Architectural Review Committee.
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IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi
Chair
As approved by the Board on _____

WITNESSES:

DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)

(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of
, 20____, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated _____, given by _____, as mortgagor, in favor of the undersigned, _____, as mortgagee, recorded in Official Records Book _____, page _____, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME/ADDRESS

(Address)

(Witness name typed or printed)

Authorized Agent Signature
(Name/title typed, printed or stamped)

(Witness name typed or printed)

STATE OF _____ §
COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, who is personally known to me or who has produced _____ as identification.

My commission expires

Notary Public

SEAL

Commission No.:

(Name typed, printed or stamped)

From: [Schmadeke, Adrienne](#)
To: [Jones, Jennifer](#)
Cc: [Woodard, Patrick](#); [Bellak, Christine](#)
Subject: Oct 3 Zoning meeting Public Comments Disclosure
Date: Wednesday, October 2, 2019 8:12:34 AM
Attachments: [Email 4 re 19PZ00093.pdf](#)
[MHOA-FGR BDPS & MAPS 2019.pdf](#)

Jennifer,

Please see attached email and the accompanying articles sent to us regarding Zone meeting item H.5. 19PZ00093 and enter as public comments.

Regards,

Adrienne Schmadeke



Adrienne Schmadeke
Executive Assistant to Commissioner Smith
Brevard County, District 4
[321.633.2044](tel:321.633.2044) | Adrienne.Schmadeke@brevardfl.gov
2725 Judge Fran Jamieson Way, Bldg. C - Suite 214,
Viera, FL 32940

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Commissioner, D4

From: miccohomeowners@aol.com
Sent: Monday, September 30, 2019 3:03 PM
To: Commissioner, D4
Subject: 19PZ00093 Fleming Grant Rd, Micco
Attachments: MHOA-FGR BDPS & MAPS 2019.pdf

TO: COMMISSIONER SMITH

Thank you for voting for 1:2.5 density on the 20 acre property bordering the St Sebastian River and Fleming Grant Road on May 30. We are all in favor of maximum 8 homes here.

PROBLEM: The current BDP only states RU1-13 zoning and 8 total units. There are no provisions as there were in the May 30, 2019 BDP particularly on page two numbers 4 through 7 are important. We hope you will require these provisions within this October 3 BDP.

OUR FOCUS: We continue to need to protect the health of the Indian River Lagoon by limiting contaminants flowing into the St Sebastian River. Therefore, we are concerned about building within the Coastal High Hazard Area which handles water from a Category 1 storm. This same section of the property is also an AE Flood Zone.

Thus, we ask for the following provisions be required on this October 3, 2019 BDP:

NO HOMES within this five acre Coastal High Hazard Area (CHHA). Objective 7 of Brevard's Coastal Mgmt. Element states "Limit densities within the CHH zone and direct development outside of that area." The comments from DEO, ECFRPC also support this.

NO FILL DIRT within the AE Flood Zone. The FEMA determined Base Flood Elevation (BFE) will increase to 5.3 feet NAVD. This means a lot of fill dirt is required to elevate or "flood proof" each home. DEO also comments on the flooding here. Where will the flood waters go if 4 homes are built on the river?

ADVANCED SEPTIC should be required for all homes due to the close proximity to the St Sebastian River which flows into the Indian River Lagoon. Advanced septic, as you know, removes 65% of nitrogen. Comments from SJRWMD, DEP, DEO all recognized the importance of removing nitrogen through Advanced treatment OSTDS on this property.

STORM WATER needs to be captured outside of the Coastal High Hazard Area, perhaps within the remaining 15 acres, so that contaminated stormwater will not flow into the river.

OUR SOLUTION: Please designate the CHHA a "conservation easement". We envision a natural Florida park with elevated boardwalks shaded by specimen oaks winding through the CHH acreage. These boardwalks can have resting benches scattered along the walk down to the river. This plan is a WIN / WIN for the health of the Indian River Lagoon plus the residents of the 8 homes have a lovely place to gather.

Micco Homeowners Association thanks you for helping.

Sincerely,
Chelle Woods, President, Micco Homeowners Association
9912 Riverview Drive Micco, FL 32976

Attachments: Both BDPs, CHHA map, AE Flood map

Please notice * areas on Page 2

Draft BDP
18PZ00167
Robertson
(Submitted 05/30/19)

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

May 30, 2019

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2. Developer/Owner shall limit the property to sixteen (16) lots maximum.

3. The minimum floor area shall be 2,000 sq.ft. 

May 30, 2019

4. All lots within the front 1,000 feet of the property, from the road ROW line, shall be one-half (0.5) acre in size minimum. All lots south of the 1,000 foot front offset line shall be one (1.0) acre minimum. ~~The~~ FEMA determined Base Flood Elevation (BFE) will be revised in late 2019/early 2020. The BFE is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD. The Owner/Developer agrees to have all BFE's within the property comply with the updated FEMA elevation of 5.3 NAVD, or the minimum required by FEMA at the time of development, whichever is more restrictive. ~~*~~
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May 30, 2019

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14. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

5Violation 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.

Now 8 homes
o P+2 Packet Sept 9, 2019

Proposed

Draft BDP
19PZ00093
Lazy River Investments

Prepared by: MRI Investments LLC
Address: 1250 W. Eau Gallie Blvd.

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 8 day of July, 2019 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and LAZY RIVER INVESTMENTS LLC, a FLORIDA corporation (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the RU-1-13 zoning classification(s) and desires to develop the Property as SINGLE FAMILY RESIDENTIAL SUBDIVISION, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

Rev. 7/10/2018



- 25
2. Developer/Owner shall provide a N/A foot buffer on the N/A portion of the Property.
 3. The Developer/Owner shall limit density to 1 units per acre, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations, FOR NO MORE THAN 8 TOTAL UNITS.
 4. The Developer/Owner shall limit ingress and egress to FLEMING BANK Co.
 5. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. 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.
 6. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court the cost of recording this Agreement in the Public Records of Brevard County, Florida.
 7. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
 8. 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 may be amended.
 9. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 8 above.



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

ATTEST:

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi, Chair
As approved by the Board on _____

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

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)
(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of
, 20__, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public
(Name typed, printed or stamped)





Legend

Brevard_SuperBasin17_Surge

CAT

- 1
- 2
- 3
- 4
- 5

Coastal High Hazard Area 19PZ00093



FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

19PZ00093



1:4,800 or 1 inch = 400 feet

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 BoCC - GIS Date: 7/17/2019

FEMA Flood Zones

- | | | |
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From: [Schmadeke, Adrienne](#)
To: [Jones, Jennifer](#)
Cc: [Woodard, Patrick](#); [Bellak, Christine](#)
Subject: Oct 3 Zoning meeting Public Comments disclosure
Date: Wednesday, October 2, 2019 8:13:42 AM
Attachments: [Email 5 re 19PZ00093.pdf](#)

Jennifer,

Please see attached email and the accompanying articles sent to us regarding Zone meeting item H.5. 19PZ00093 and enter as public comments.

Regards,

Adrienne Schmadeke



Adrienne Schmadeke
Executive Assistant to Commissioner Smith
Brevard County, District 4
[321.633.2044](tel:321.633.2044) | Adrienne.Schmadeke@brevardfl.gov

2725 Judge Fran Jamieson Way, Bldg. C - Suite 214,
Viera, FL 32940

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may, therefore, be subject to public disclosure.

Commissioner, D4

From: Ronald Bartcher <bartcher@cfl.rr.com>
Sent: Monday, September 30, 2019 7:56 PM
To: Ronald Bartcher
Subject: Oct 3 Zoning Item H-5

Dear Commissioner,

In reference to October 3 Zoning agenda item H-5 – I am opposed to this item as it is submitted.

Using a BDP to make RU-1-13 zoning consistent with FLU of RES-1-2.5 only addresses density but not lot size, set backs, or septic pollution.

RU-1-13 zoning allows lots of 7500 sqft. Lots this small belong in a city, not a rural area such as this.

RU-1-13 allows very small set backs, such as you find in a city, not in a rural area.

The developer said at the P&Z Advisory Board that he will be using conventional septic tanks rather than high-performance septic tanks. Without this BDP, his developments rights only permit two septic tanks. He wants to increase the septic pollution by a factor of four. This increase should not be allowed this close to the river.

Within a half-mile of the subject property there are 189 lots. 105 of these lots are 1 acre or larger. This property should be developed similarly to the majority of the development in this rural area.

I would encourage you to insist on a rezoning to RR-1 (with a BDP limit of 8 units) or AU to maintain consistency with the existing development in this rural area and to require high-performance septic tanks.

Regards,
Ron Bartcher
3431 Grantline Rd, Mims, FL

From: [Schmadeke, Adrienne](#)
To: [Jones, Jennifer](#)
Cc: [Woodard, Patrick](#); [Bellak, Christine](#)
Subject: Oct 3 Zoning meeting Public Comment disclosure
Date: Wednesday, October 2, 2019 8:15:01 AM
Attachments: [Email 6 re 19PZ00093.pdf](#)
[mocoltr3.docx](#)

Jennifer,

Please see attached email and the accompanying articles sent to us regarding Zone meeting item H.5. 19PZ00093 and enter as public comments. This is the final entry for this morning. When is the deadline for submitting them before tomorrow's meeting?

Regards,

Adrienne Schmadeke



Adrienne Schmadeke
Executive Assistant to Commissioner Smith
Brevard County, District 4
[321.633.2044](tel:321.633.2044) | Adrienne.Schmadeke@brevardfl.gov

2725 Judge Fran Jamieson Way, Bldg. C - Suite 214,
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Commissioner, D4

From: dbotto1 <dbotto1@cfl.rr.com>
Sent: Tuesday, October 1, 2019 10:25 AM
To: Commissioner, D4
Cc: Joanie Regan; Steve Chalmers; Terry Casto; Jim Moir; Lady Shirley Bieme; Leesa Souto; mmulleavey@gmail.com
Subject: Micco Development 19PZ00093
Attachments: mocoltr3.docx

Categories: Adrienne, EMAIL-PAT

Dear Commissioner Smith,

You and your distinguished colleagues recently denied a request for re-zoning to higher density for the subject property. Its development under current zoning remains critical to the long term health of the Indian River Lagoon Aquatic Preserve. The attached position of the Marine Resources Council recommends that a Low Impact Development (LID) approach be negotiated with the developer. LID Best Management Practices, such as compact lot grouping at a site location off Fleming Grant Road, minimizing ground disruption and impervious surfaces and using on-site treatment-train stormwater management, will be effective in ensuring no harm to the IRL and compliance with mandated daily pollution loading requirements.

I realize this recommendation is not business as usual and that is why we make it. We must change for the future of our lagoon and its fishery. We understand that the developer is not required to follow this plan but it will reduce his cost and possibly enable an additional unit for a strong commitment to LID. We also understand that some LDRs at local and state levels are somewhat obstacles to LID but they can be dealt with in a climate of change.

You have shown by word and action your strong support of endeavors to achieve a thriving Lagoon habitat now and in the future. I urge you to consider this recommendation and support negotiated Low Impact Development for this sensitive property.

Respectfully,

David Botto
Indian Harbour Beach
Chair, Intergovernmental Committee
Marine Resources Council



Marine Resources Council

Turning Science into Action

3275 Dixie Hwy NE, Palm Bay, FL 32905 (321) 725-7775 www.SaveTheIRL.org

September 26, 2019

Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940

SUBJ: Micco Land Development 19PZ00093

Dear Chairwoman Isnardi and Distinguished Members;

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of our federally impaired Indian River Lagoon (IRL) and we are pro-actively supporting the Save Our Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We are concerned that much of the accelerated development now occurring in Brevard County poses danger to the future health of the Indian River Lagoon. Such development, even though meeting current requirements, will add to the pollution entering the lagoon in violation of federal and state mandates. In the long term, it will nullify many of the objectives of the Save Our Lagoon Project Plan.

To counter this, we strongly encourage the adoption of Low Impact Development (LID) designs that can effectively minimize the impact to the IRL. The objective of LID is to control stormwater at its source through simple actions that reduce run-off and increase aquifer recharge. The concept is founded on the critical need to increase the amount of pervious, water storing land and thereby reduce the volume and velocity of stormwater coming off the impervious surfaces like roofs, streets, and sidewalks. LID is a well-proven technique implemented with demonstrated success in Pinellas, Orange, and Sarasota Counties and locally in Cocoa Beach. It is supported by the US EPA and Florida DEP. Brevard needs to consider how to continue development, without making the mistakes we have made in the past. LID is the answer.

We believe that the pending development of the Micco property, known as 19PZ00093, is an opportunity to showcase the many advantages of LID. The subject property is adjacent to and drains directly into the St. Sebastian River as it enters a lagoon Aquatic Preserve and Estuary of National Significance. At least five State agencies have emphasized the importance of this land to the water quality of the lagoon. Brevard County recently denied a density zoning change for this land. The developer now intends to develop under current zoning density of eight units. Careful site planning and execution must be applied to this sensitive land to ensure that this development does no harm. We recommend that Brevard insist on an agreement with the developer that LID Best Management Practices be applied, to the extent reasonable, for site location, design, preparation and construction. These practices are widely used and effective in minimizing stormwater run-off pollution. They also reduce the need for costly stormwater infrastructure and, in some cases, have enabled increased density by eliminating the need for large water storage areas. We offer our assistance in this endeavor.

We must look to the future.

Respectfully,

Leesa Souto, Ph.D.
Executive Director

From: [Commissioner, D1](#)
To: [Jones, Jennifer](#)
Cc: [Mascellino, Carol](#); [Pritchett, Rita](#); [Craddock, Amy](#)
Subject: FW: Micco Property LID Request
Date: Wednesday, October 2, 2019 9:50:46 AM
Attachments: [BrevardBOCCmiccolid_10.1.pdf](#)
[image001.png](#)

Jennifer,

On behalf of Commissioner Pritchett we received the below email regarding Item H5 on the October 3 zoning agenda.

Thanks,

Marcia Newell

Chief Legislative Aide to Commissioner Rita Pritchett

Marcia.newell@brevardfl.gov



District 1 Commission Office

2000 S. Washington Avenue, Suite 2
Titusville, Florida 32780
321-607-6901

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

From: Leesa Souto <Leesa@mrcirl.org>

Sent: Tuesday, October 1, 2019 2:16 PM

To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>

Cc: Dave Botto <dbotto1@cfl.rr.com>; Terry Casto <tcasto@cfl.rr.com>

Subject: Micco Property LID Request

September 26, 2019

Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940

SUBJ: Micco Land Development 19PZ00093

Dear Chairwoman Isnardi and Distinguished Members;

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon (IRL) and we are pro-actively supporting the Save Our Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We are concerned that much of the accelerated development now occurring in Brevard County poses danger to the future health of the Indian River Lagoon. Such development, even though meeting current requirements, will add to the pollution entering the lagoon in violation of federal and state mandates. In the long term, it will nullify many of the objectives of the Save Our Lagoon Project Plan.

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We must look to the future.

Respectfully,

Leesa Souto, Ph.D.
Executive Director
Marine Resources Council
3275 Dixie Hwy, NE
Palm Bay, FL 32905
321-725-7775

www.mrcirl.org

Together we can bring the Indian River Lagoon back to health.



Marine Resources Council

Turning Science into Action

3275 Dixie Hwy NE, Palm Bay, FL 32905 (321) 725-7775 www.SaveTheIRL.org

September 26, 2019

Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940

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We must look to the future.

Respectfully,

Leesa Souto, Ph.D.
Executive Director

Objection
19PZ00093
Lazy River
(Submitted at 10/03/19 meeting by
Jacob Zender)



Source:
FWC 2007 - Establishing the baselines for monitoring the response of oysters in southeast Florida to changes in freshwater input.

File Code: F2512-05-F

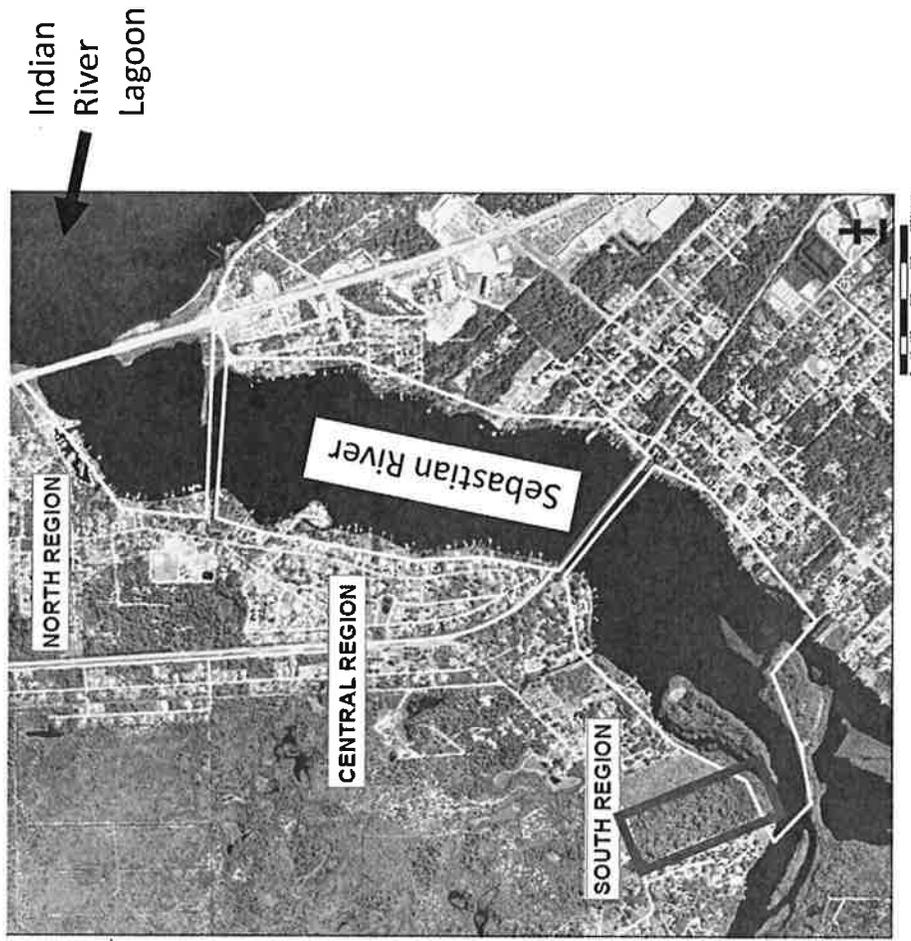


Figure 6. Location of the north, central and south regions mapped within the Sebastian River.

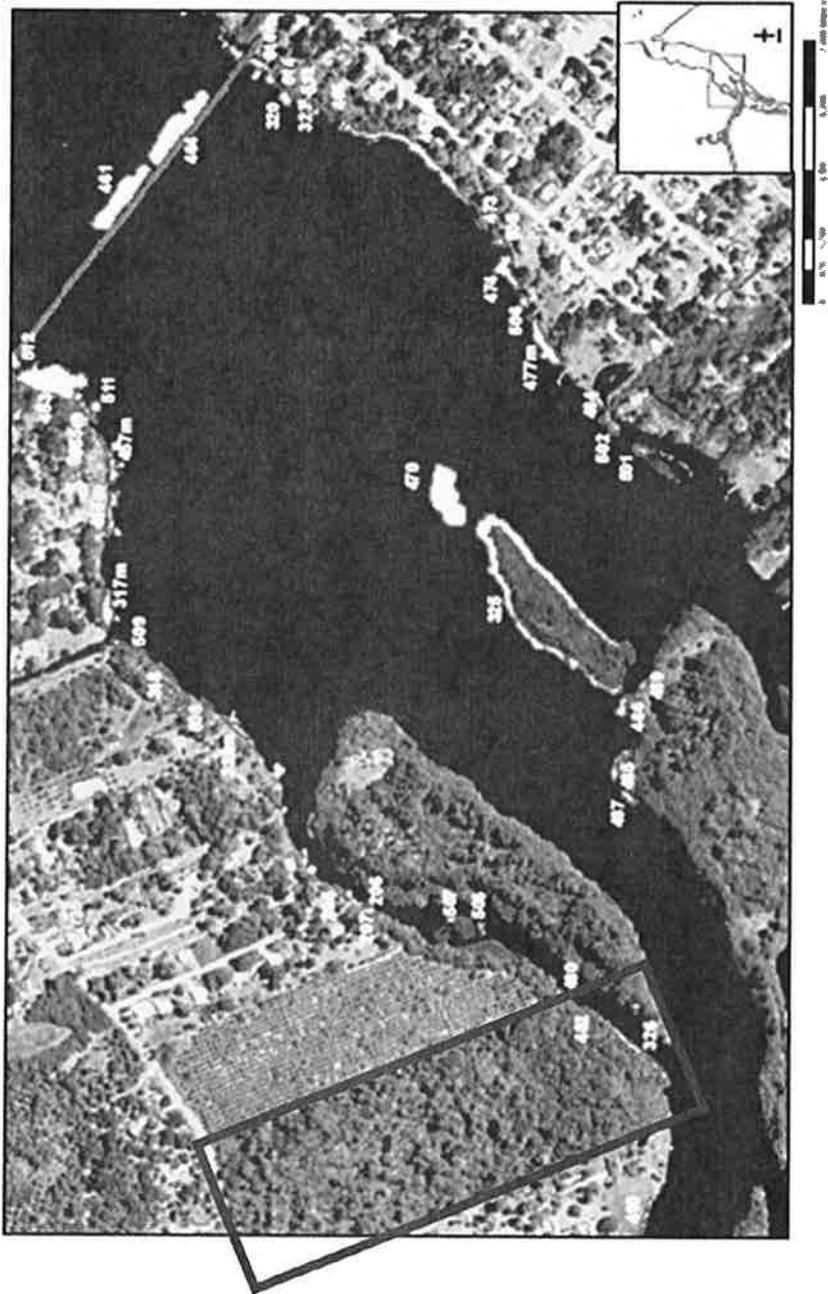
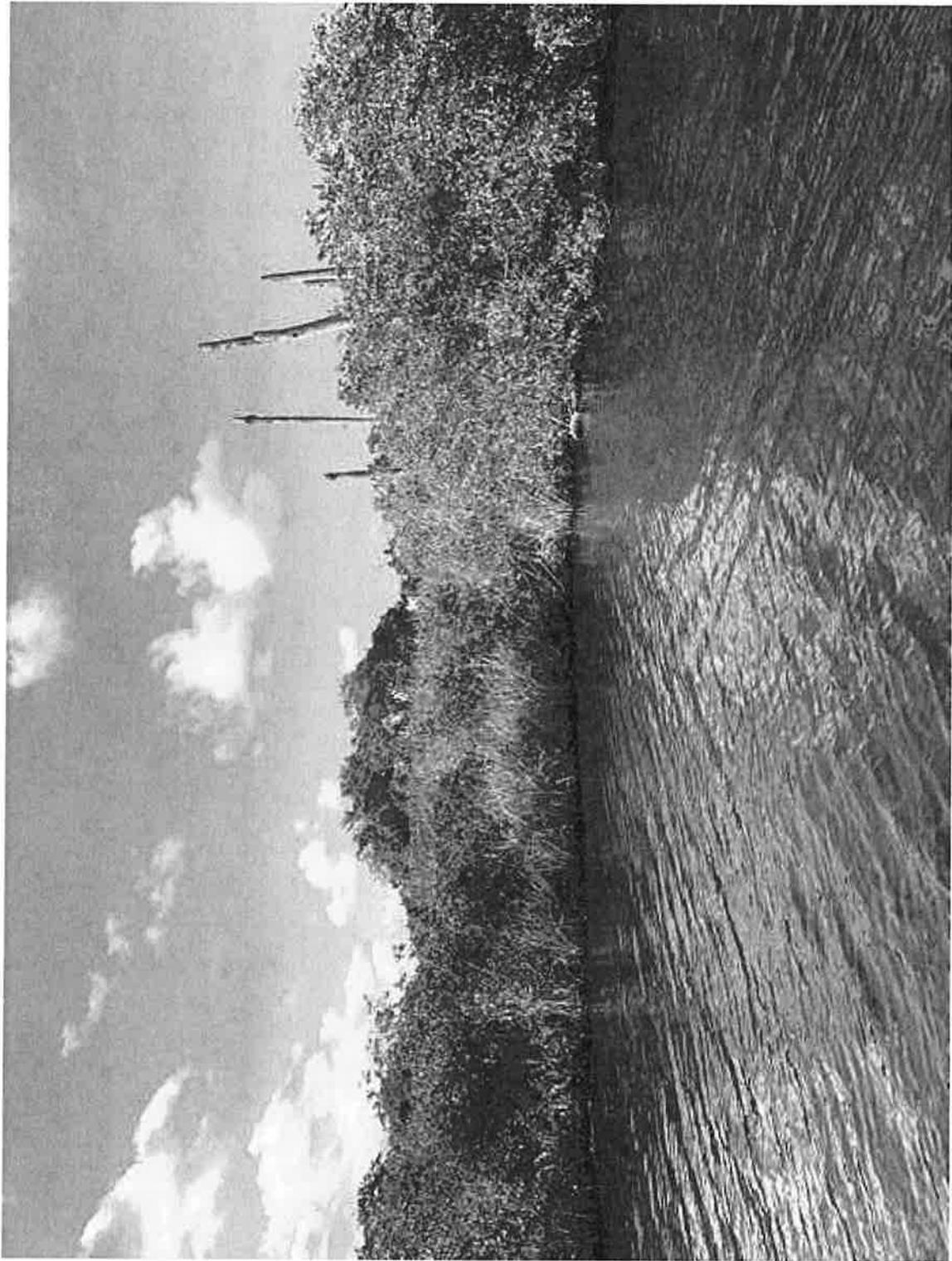


Figure 9. Identification number and location of study oyster reefs within the southern region of the Sebastian River.





From: [Lewis, Sally A](#)
To: [Jones, Jennifer](#)
Subject: FW: Sierra Club comments -- inadequate BDP for Micco Property
Date: Wednesday, October 2, 2019 11:51:22 AM

For Agenda H 5 on 10/3/19

From: Lober, Bryan
Sent: Wednesday, October 02, 2019 11:16 AM
To: donna.scott@brevardclerk.us; Tammy Rowe <Tammy.Rowe@brevardclerk.us>
Cc: Lewis, Sally A <Sally.Lewis@brevardfl.gov>; Van, Fritz <Robert.VanVolkenburgh@brevardfl.gov>
Subject: FW: Sierra Club comments -- inadequate BDP for Micco Property

Disclosure for Item H.5 (10/3/2019 BOCC mtg):

From: Commissioner, D2
Sent: Wednesday, October 2, 2019 11:14 AM
To: Douglas and Mary Sphar <canoe2@digital.net>
Cc: Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Barker, Virginia H <Virginia.Barker@brevardfl.gov>; Mcgee, Darcie A <Darcie.Mcgee@brevardfl.gov>; Allen, Jeanne <Jeanne.Allen@brevardfl.gov>
Subject: RE: Sierra Club comments -- inadequate BDP for Micco Property

Ms. Sphar,

Thank you for reaching out regarding the proposed Micco development.

As is almost universally the case, with respect to items coming to the County Commission at a zoning meeting, my inclination is to defer to the commissioner in whose district the project is situated. While I understand and respect your concerns, Commissioner Tobia will have to live with the appreciation or scorn of his constituents based upon his position on such matters.

As Commissioner Tobia lives and works in District 3 and I live and work perhaps 40 miles away, he is best situated to understand the needs and evaluate the potential merits and detriments of this particular proposal.

By affording individual commissioners autonomy and deferring to their judgment on such issues, it is my hope that they will reciprocate and do likewise, understanding that I am better situated to understand the needs and desires of my constituents regarding projects falling within District 2.

Kind regards,

Bryan

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Wednesday, October 2, 2019 9:51 AM
To: Commissioner, D2 <D2.Commissioner@brevardfl.gov>
Subject: Fwd: Sierra Club comments -- inadequate BDP for Micco Property

resend of previous email

----- Forwarded Message -----

Subject:Sierra Club comments -- inadequate BDP for Micco Property

Date:Mon, 30 Sep 2019 10:37:42 -0400

From:Douglas and Mary Sphar <canoe2@digital.net>

To:Commissioner, D2 <D2.Commissioner@BrevardFL.gov>

CC:Barker, Virginia H <Virginia.Barker@brevardfl.gov>, Mcgee, Darcie A <darcie.mcgee@brevardfl.gov>, Allen, Jeanne <jeanne.allen@brevardfl.gov>

Dear Commissioner Lober,

On October 3rd, you will be considering a proposed Binding Development Plan (BDP) for the same property on Fleming Grant Road in Micco you looked at on May 30. This BDP, limiting development to 8 homes, is very short and sketchy, with important provisions absent. It is awaiting your additions that will offer more protection to the Indian River Lagoon.

In contrast, the previous BDP, submitted on May 30 when the Comprehensive Plan Amendment for increased density was being considered, contains many more key provisions. As you know, that May 30th BDP was withdrawn by the applicant, after the Comprehensive Plan Amendment was rejected by the BOCC against the backdrop of serious reservations by state comment agencies. The May 30 BDP is attached for comparison.

I am writing this email on behalf of Turtle Coast Sierra Club. **Sierra Club has no problem with the number of homes proposed for the property through the current BDP. However, we would like assurances through additional BDP requirements that development of the 8 homes will not adversely affect the Indian River Lagoon and increase potential flooding and storm vulnerability.**

We believe that the County Commission will need to make a decision based not merely on the provision to limit the residences to 8, which seems to be a number agreeable to most everyone. In other words, the limitation to 8 homes does not automatically entitle the applicant to your approval. You also must weigh your responsibilities for ensuring public safety and improving the health of the Indian River Lagoon. A thoughtful evaluation of BDP adequacy by the Commission is especially appropriate considering the millions of dollars spent on public safety and major storm cleanup. In addition, any decision should not undermine our nearly \$500 million effort to implement the Save Our Indian River Lagoon Project Plan over a 10 year period.

I have heard the comment that the provisions in the BDP need to be accepted by the applicant, which is definitely true. Likewise, however, the provisions in the BDP need to be judged adequate by the County Commission, and the BOCC has the right to condition approval on additional stipulations that protect our residents and our precious natural resources.

The subject property contains approximately 5 acres of Coastal High Hazard Area (CHHA), which is the area of storm surge from a Category 1 hurricane. Please refer to the attached map. The CHHA basically overlaps the FEMA AE flood zone. This area is full of trees and

natural vegetation which filter pollutants before they reach the St. Sebastian River and the Indian River Lagoon. Also, the CHHA, in its natural state, provides a buffer against major storms and mitigates flooding.

If the CHHA were to be clear cut and filled, our Indian River Lagoon would suffer unnecessarily. The protective vegetation would be lost, and the fill to raise the house pads to 6.3' NAVD would add to the stormwater runoff problems the IRL is experiencing.

As noted in the attached chart, Sierra Club believes the most important conditions to add to the current BDP are:

1. No residences in the Coastal High Hazard Area
2. Advanced septic systems
3. Preservation of the specimen oak trees

Please consider requiring the applicant to add these conditions to the BDP in order to receive Commission approval.

Thank you,

Mary Sphar, Wetlands Issue Chair
Turtle Coast Sierra Club

Furru, Christine

From: dbotto1 <dbotto1@cfl.rr.com>
Sent: Tuesday, October 1, 2019 9:56 AM
To: Tobia, John
Cc: Joanie Regan; Terry Casto; Steve Chalmers; Jim Moir; Leesa Souto; Lady Shirley Bierne; mmulleavey@gmail.com
Subject: Micco Development19PZ00093
Attachments: mocoltr3.docx; tobialtr.pdf

Dear Commissioner Tobia,

You and your distinguished colleagues recently denied a request for re-zoning to higher density for the subject property. Its development under current zoning remains critical to the long term health of the Indian River Lagoon Aquatic Preserve. The attached position of the Marine Resources Council recommends that a Low Impact Development (LID) approach be negotiated with the developer. LID Best Management Practices, such as compact lot grouping at a site location off Fleming Grant Road, minimizing ground disruption and impervious surfaces and using on-site treatment-train stormwater management, will be effective in ensuring no harm to the IRL and compliance with mandated daily pollution loading requirements.

I realize this recommendation is not business as usual and that is why we make it. We must change for the future of our lagoon and its fishery. We understand that the developer is not required to follow this plan but it will reduce his cost and possibly enable an additional unit for a strong commitment to LID. We also understand that some LDRs at local and state levels are somewhat obstacles to LID but they can be dealt with in a climate of change.

I urge you to consider this and support negotiated Low Impact Development for this sensitive property.

Respectfully,

David Botto
Chair, Intergovernmental Committee
Marine Resources Council



Marine Resources Council

Turning Science into Action

3275 Dixie Hwy NE, Palm Bay, FL 32905 (321) 725-7775 www.SaveTheIRL.org

September 26, 2019

Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940

SUBJ: Micco Land Development 19PZ00093

Dear Chairwoman Isnardi and Distinguished Members;

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of our federally impaired Indian River Lagoon (IRL) and we are pro-actively supporting the Save Our Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We are concerned that much of the accelerated development now occurring in Brevard County poses danger to the future health of the Indian River Lagoon. Such development, even though meeting current requirements, will add to the pollution entering the lagoon in violation of federal and state mandates. In the long term, it will nullify many of the objectives of the Save Our Lagoon Project Plan.

To counter this, we strongly encourage the adoption of Low Impact Development (LID) designs that can effectively minimize the impact to the IRL. The objective of LID is to control stormwater at its source through simple actions that reduce run-off and increase aquifer recharge. The concept is founded on the critical need to increase the amount of pervious, water storing land and thereby reduce the volume and velocity of stormwater coming off the impervious surfaces like roofs, streets, and sidewalks. LID is a well-proven technique implemented with demonstrated success in Pinellas, Orange, and Sarasota Counties and locally in Cocoa Beach. It is supported by the US EPA and Florida DEP. Brevard needs to consider how to continue development, without making the mistakes we have made in the past. LID is the answer.

We believe that the pending development of the Micco property, known as 19PZ00093, is an opportunity to showcase the many advantages of LID. The subject property is adjacent to and drains directly into the St. Sebastian River as it enters a lagoon Aquatic Preserve and Estuary of National Significance. At least five State agencies have emphasized the importance of this land to the water quality of the lagoon. Brevard County recently denied a density zoning change for this land. The developer now intends to develop under current zoning density of eight units. Careful site planning and execution must be applied to this sensitive land to ensure that this development does no harm. We recommend that Brevard insist on an agreement with the developer that LID Best Management Practices be applied, to the extent reasonable, for site location, design, preparation and construction. These practices are widely used and effective in minimizing stormwater run-off pollution. They also reduce the need for costly stormwater infrastructure and, in some cases, have enabled increased density by eliminating the need for large water storage areas. We offer our assistance in this endeavor.

We must look to the future.

Respectfully,

Leesa Souto, Ph.D.
Executive Director



COMMISSIONER JOHN TOBIA, DISTRICT 3

2539 Palm Bay Road NE

Suite 4

Palm Bay Florida 32905

John.Tobia@Brevardfl.gov

BOARD OF COUNTY COMMISSIONERS

06/04/2019

David Botto
275 Poinciana Drive
Indian Harbor Beach, FL 32937

Dear Mr. Botto,

Thank you for attending the Board meeting on May 30th. I realize that it is not always easy to take the time and make arrangements to spend hours at the Government Center, but your participation made a critical difference.

I hope you are as proud as I am that the citizens of Micco fought to preserve their lifestyle and long-term safety. I will continue to do my part to ensure that Micco remains a gem of Brevard County.

If I can assist you with any County issue, please call (321) 633-2075 or email me at John.Tobia@BrevardFL.gov.

Thank you again.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Tobia'.

John Tobia

Commissioner, District 3

JT/cf

Furru, Christine

From: Leesa Souto <Leesa@mrcirl.org>
Sent: Tuesday, October 1, 2019 2:16 PM
To: Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5
Cc: Dave Botto; Terry Casto
Subject: Micco Property LID Request
Attachments: BrevardBOCCmiccolid_10.1.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

September 26, 2019

Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940

SUBJ: Micco Land Development 19PZ00093

Dear Chairwoman Isnardi and Distinguished Members;

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon (IRL) and we are pro-actively supporting the Save Our Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We are concerned that much of the accelerated development now occurring in Brevard County poses danger to the future health of the Indian River Lagoon. Such development, even though meeting current requirements, will add to the pollution entering the lagoon in violation of federal and state mandates. In the long term, it will nullify many of the objectives of the Save Our Lagoon Project Plan.

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550

We must look to the future.

Respectfully,

Leesa Souto, Ph.D.
Executive Director
Marine Resources Council
3275 Dixie Hwy, NE
Palm Bay, FL 32905
321-725-7775

www.mrcirl.org

Together we can bring the Indian River Lagoon back to health.



Marine Resources Council

Turning Science into Action

3275 Dixie Hwy NE, Palm Bay, FL 32905 (321) 725-7775 www.SaveTheIRL.org

September 26, 2019

Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, FL 32940

SUBJ: Micco Land Development 19PZ00093

Dear Chairwoman Isnardi and Distinguished Members;

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We must look to the future.

Respectfully,

Leesa Souto, Ph.D.
Executive Director

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Lazy River Investments, LLC, a Florida Company (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested a RES1 Land Use Amendment and desires to develop the Property as single family residential, which currently is zoned RU-1-13, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall limit the property to eight (8) lots maximum.
3. The minimum floor area shall be 2,000 sq.ft.
4. All lots shall be one (1.0) acre minimum.

5. The FEMA determined Base Flood Elevation (BFE) will be revised in late 2019/early 2020. The BFE is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD. The Owner/Developer agrees to have all BFE's within the property comply with the updated FEMA elevation of 5.3 NAVD, or the minimum required by FEMA at the time of development, whichever is more restrictive.

6. All specimen oak trees, as shown on survey (See Attachment B) shall be preserved, unless it falls within the limits of the house pad, OSTDS system, driveway, roadway, stormwater management system or if significant fill is required by any permitting agency due to flood zone requirements, coastal high hazard requirements, tidal rise requirements, stormwater requirements, or other similar regulation requirements of the County, State, or Federal regulations.

7. All OSTDS systems for sewer collection and treatment installed within 60 meters of the IRL system shoreline shall reduce total nitrogen in the effluent by at least 65%, in compliance with County Code Secs. 46-87 thru 90 and State regulations.

8. No impact to the existing Mangrove Wetland Shoreline Fringe will be allowed.

9. Only one access connection shall be allowed to Fleming Grant Road, which shall be a road meeting County requirements.

10. A 15' perimeter buffer tract shall be provided along the road right-of-way and the east and west property lines of the Property.

11. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. 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.

12. 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.

13. 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 _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

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:

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi
Chair
As approved by the Board on _____

WITNESSES:

DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)

(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of
, 20____, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated _____, given by _____ as mortgagor, in favor of the undersigned, _____ as mortgagee, recorded in Official Records Book _____, page _____, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME/ADDRESS

(Address)

Authorized Agent Signature

(Witness name typed or printed)

(Name/title typed, printed or stamped)

(Witness name typed or printed)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this _____ day of _____, 20____ by _____, who is personally known to me or who has produced _____ as identification.

My commission expires _____

Notary Public

SEAL

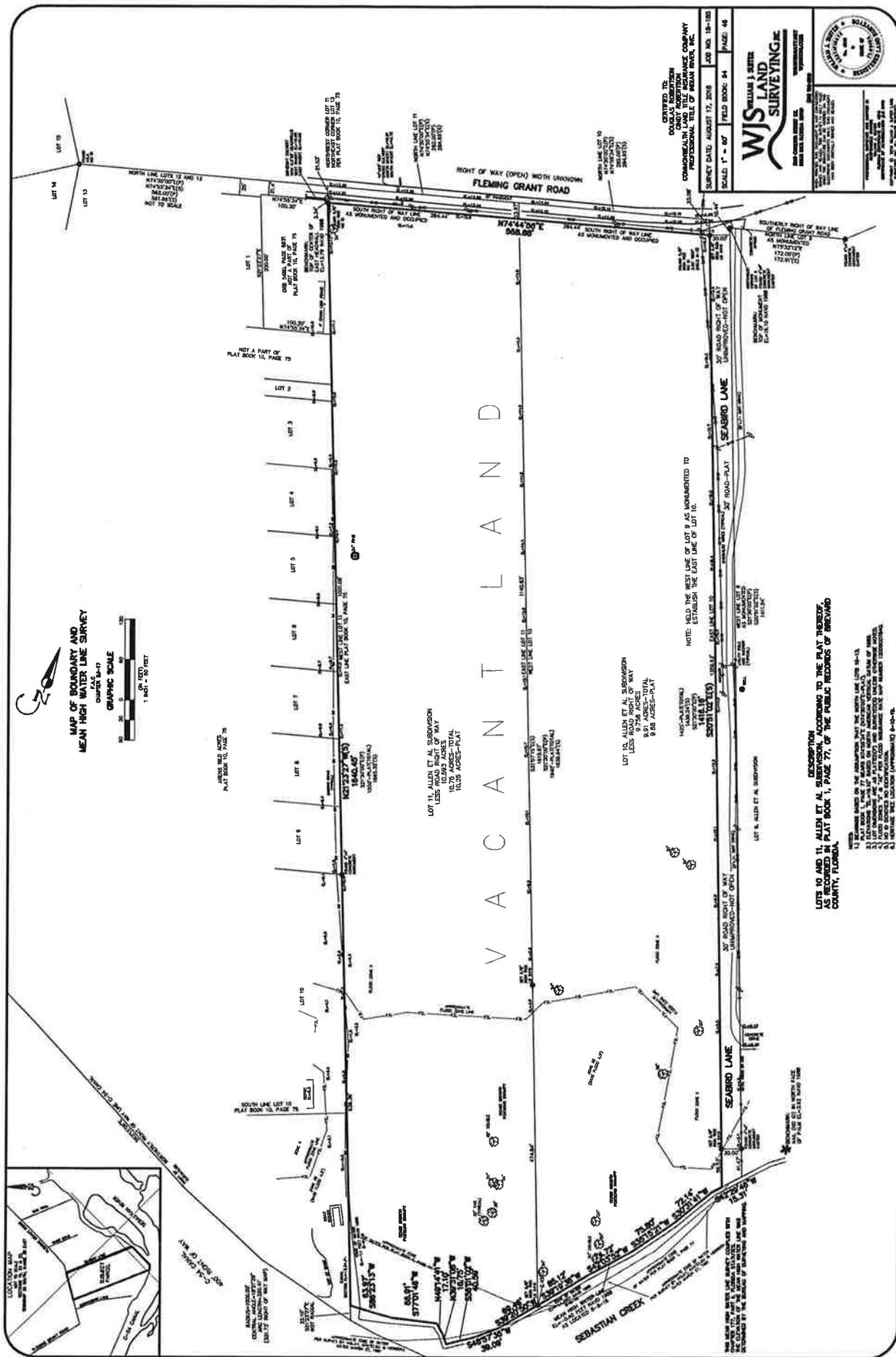
Commission No.:

(Name typed, printed or stamped)

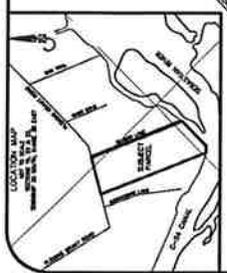
Exhibit A

Legal Description

LOTS 10 AND 11, ALLEN ET AL SUBDIVISION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, PAGE 77, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



MAP OF BOUNDARY AND MEAN HIGH WATER LINE SURVEY
 CHAIN 14-17
 GRAPHIC SCALE
 1 INCH = 50 FEET



SURVEY DATED AUGUST 17, 2018
 SCALE 1" = 60' FIELD BOOK: 84 PAGE: 48
 WJS LAND SURVEYING, INC.
 1000 W. STATE ROAD 100, SEBASTIAN, FL 32958
 (888) 888-8888
 www.wjslandsurveying.com

LOT 11, ALLEN ET AL. SUBDIVISION
 LESS ROAD RIGHT OF WAY
 10.25 ACRES-TOTAL
 10.25 ACRES-PLAT

LOT 10, ALLEN ET AL. SUBDIVISION
 LESS ROAD RIGHT OF WAY
 9.51 ACRES-TOTAL
 9.51 ACRES-PLAT

NOTE: FIELD MEASUREMENTS OF LOT 9 AS REFERENCED TO
 ESTABLISH THE EAST LINE OF LOT 10.

DESCRIPTION
 LOTS 10 AND 11, ALLEN ET AL. SUBDIVISION, ACCORDING TO THE PLAT THEREOF,
 AS RECORDED IN PLAT BOOK 1, PAGE 77, OF THE PUBLIC RECORDS OF SEBASTIAN
 COUNTY, FLORIDA.

1. THIS SURVEY IS BASED ON THE ASSUMPTION THAT THE NORTH LINE LOTS 9-13
2. PLAT BOOK 1, PAGE 77, BEARS NO IMPROVED OR UNIMPROVED ROAD RIGHTS
3. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE SURVEY AREA
4. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE SURVEY AREA
5. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE SURVEY AREA
6. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE SURVEY AREA



BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of County Commissioners

FROM: Tad Calkins, Director – Planning & Development *TC*

CC: Frank Abbate, County Manager
John Denninghoff, P.E., Assistant County Manager

DATE: November 21, 2019

SUBJECT: **Lazy River Investments, LLC Binding Development Plan (BDP) Submittal (19PZ00093)**

During the October 3, 2019 Board of County Commissioners (BOCC) meeting, the BOCC tabled the Public Hearing for the above referenced application to the December 5, 2019 meeting to allow the applicant to revise the BDP to address environmental concerns. Based on the discussions at that Board meeting, the applicant has submitted a revised BDP to address those issues. The draft BDP offers 14 stipulations to mitigate the impacts associated with developing a maximum of eight lots, with the Future Land Use of RES 2.5 and zoning classification of RU-1-13, for the purpose of developing a single-family detached subdivision.

Staff prepared the following analysis of the proposed BDP conditions for the Board's consideration in determining if the 14 stipulations, proffered by the applicant, mitigate the potential impacts of the proposed development to the surrounding area pursuant to Section 62-1151 (c) Brevard County Code. The BOCC should consider whether the proposed stipulations address Objective 7.0 of the Comprehensive Plan's Coastal Element, the provision to direct development outside of the Coastal High Hazard Area (CHHA).

- The first Whereas clause references Residential 1 Future Land Use designation. This needs to be corrected and changed to Residential 2.5 (RES 2.5) Future Land Use designation.
- **Condition #1**, this is standard BDP language.
- **Condition #2**, this provision limits the development to eight (8) single family dwelling units, which is the maximum allowed under the RES 2.5 Future Land Use Classification.
- **Condition #3**, the applicant proposes a minimum floor area of 2,000 sq. ft. The minimum floor area under the current zoning classification is 1,300 sq. ft. There is no maximum floor area. The BDP requirement for larger floor area would likely require additional encroachment and fill in the environmentally sensitive areas of the property. Therefore, this condition could increase environmental impact.

- **Condition #4**, all lots shall be one (1.0) acre (43,560 sq. ft.) minimum. The minimum lot size under the current zoning classification is 7,500 sq. ft. This proposed 1.0 acre minimum is compatible with the surrounding area as about one-third of the lots are above 2.5 acres, one-third are 1.0-2.49 acres and, and one third are 0.5-0.99 acres.
- **Condition #5**, establishes to a higher future Base Flood Elevation (BFE) of 5.3 feet, NAVD, and raises development further out of the floodplain. While developing to a higher elevation would provide more protection from flooding, the additional fill is detrimental to the preservation of the specimen trees, especially those located within the floodplain and the CHHA at lower elevations. Therefore, the BOCC may want to consider directing development outside of the CHHA, consistent with the Comprehensive Plan's Coastal Element, Objective 7.
- **Condition #6**, proposes protection of all specimen trees with several exceptions. The code already requires protection of specimen trees. There is no additional protection provided by this language. Further, if units are developed in the lower elevations of the property, closer to the shoreline, more fill will be required to satisfy Land Development Regulations relating to BFE. As previously stated, fill is detrimental to the preservation of Protected ($\geq 10''$ diameter) and Specimen ($\geq 24''$ diameter) trees.
- **Condition #7**, OSTDS regulations are already established by the Florida Administrative Code (FAC). Additionally, Brevard County Division 46, Article II, Division 4 establishes a nitrogen reduction overlay area (Overlay) that requires advanced OSTDS that reduces total nitrogen by at least 65%. A portion of the property lies within this Overlay. There is no additional mitigation provided by this language.
- **Condition #8**, does not allow any impacts to the existing Mangrove Wetland Shoreline Fringe. This language prevents the construction of docks. With the exception of mangrove impacts for docks, this provision does not provide additional mitigation above state or county code.
- **Condition #9**, limits the development to one access connection to Fleming Grant Road. As two driveways could currently be developed, this condition provides some mitigation to the surrounding area. Section 62-2887 Brevard County Code requires internal access for all lots, given the proposal of eight lots. This application of Section 62-2887 could result in two driveways if consistent with other code provisions. This will be determined at subdivision review.
- **Condition #10**, proposes a 15' buffer tract on three (3) side of the development, omitting the southern waterward side of the property. This provision necessitates a waiver as the Code requires a minimum 15' wide subdivision buffer tract along all property boundaries. The BDP is not a mechanism to obtain a Code waiver. The provision does not provide additional mitigation. Additionally, there is a 50' surface water protection buffer adjacent to the Indian River Lagoon.
- **Conditions #11 through #13**, are standard BDP language.

From: Tobia, John
To: Jones, Jennifer
Subject: Meeting Disclosure
Date: Monday, December 2, 2019 11:14:00 AM

Ms. Jones:

In regards to the upcoming agenda item H 7 (Lazy River Investments, LLC) for the Planning & Zoning meeting on December 5, 2019, please be advised in advance that a meeting that took place on November 26th, at 10:00 AM at Commissioner Tobia's office, located at:

2539 Palm Bay Rd. NE

Ste. 4

Palm Bay, FL 32908

The parties present were Commissioner Tobia, Bruce Moia, and Stuart Buchanan.

This meeting lasted approximately thirty minutes, during which approximately five minutes were spent discussing the above item.

Sincerely,

JOHN TOBIA
County Commissioner, District 3

PH: (321) 633-2075 * Fax: (321) 633-2196

2539 Palm Bay Road NE, Suite 4

Palm Bay, FL 32905

H.7
D3

From: Workman, Ritch
To: Jones, Jennifer
Cc: Prasad, Billy; Iliff, Bethany
Subject: meeting disclosure
Date: Tuesday, December 3, 2019 3:41:57 PM

Ms. Jones:

In regards to the upcoming agenda item H 7 (Lazy River Investments, LLC) for the Planning & Zoning meeting on December 5, 2019, please be advised in advance that a meeting that took place on November 21st, at 10:00 AM at Commissioner Tobia's office, located at:

2539 Palm Bay Rd. NE

Ste. 4

Palm Bay, FL 32908

The parties present were Commissioner Tobia, Billy Prasad and Ms. Chelle Woods. Chelle Wood is the President of the Micco HOA.

This meeting lasted approximately fifteen minutes, during which approximately ten minutes were spent discussing the above item.

In addition Billy Prasad had a phone conversation with Chelle Woods on the same subject matter at 10am today, December 3, 2019.

Thank you,

Ritch Workman

Outreach Director for County Commissioner John Tobia.



BOARD OF COUNTY COMMISSIONERS

H.7,
Rita Pritchett, District 1 Commissioner

2000 South Washington Avenue, Ste. 2

Titusville, FL 32780

(321) 607-6901

D1.commissioner@brevardfl.gov

Planning and Development
Zoning Meeting December 5, 2019
Lazy River Investments (Micco) (19PZ00093)

Commissioner Pritchett met with Bruce Moia regarding the above item on December 2, 2019.

Mr. Moia stated that the tree buffer is in the BDP and few other things that were requested. There are regulations that they will have to comply with in the Coastal High Hazard Area. The property is 400 feet from the water. They have talked to the Micco HOA.

From: [Tobia, John](#)
To: [Jones, Jennifer](#)
Subject: FW: Micco item and CHHA
Date: Wednesday, December 4, 2019 9:54:16 AM

Please include the email below in the packet for H.7 on the 12/5 agenda.

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Wednesday, December 4, 2019 9:50 AM
To: Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Cc: Newell, Marcia <marcia.newell@brevardfl.gov>; Woodard, Patrick <patrick.woodard@brevardfl.gov>; Prasad, Billy <Billy.Prasad@brevardfl.gov>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Calkins, Tad <tad.calkins@brevardfl.gov>; Mcgee, Darcie A <Darcie.Mcgee@brevardfl.gov>; Barker, Virginia H <Virginia.Barker@brevardfl.gov>
Subject: Micco item and CHHA

Dear Commissioners,

Tomorrow night, you will be deciding what to do about the BDP proposed for the property on Fleming Grant Rd in Micco. This is the property on the St. Sebastian River that you have looked at 3 times in the past.

Some of us have been suggesting that residences be kept out of the Coastal High Hazard Area (CHHA). The applicant actually agreed in a May 30th BDP to only place one house in the CHHA. That was the BDP for a 16-home development.

The most recent BDP does not place any restrictions on how many of the 8 residences will be in the approximately 5-acre CHHA.

I believe that a stipulation in the BDP for no houses in the CHHA is reasonable and prudent, considering hurricane and flood vulnerability, in addition to sea level rise.

In fact, the nearest municipality to the subject property, Palm Bay, would allow neither houses nor septic systems in the CHHA. According to Palm Bay's updated Comprehensive Plan:

CZM-1.6C The City shall not permit any new septic tanks to locate within high hazard areas of the coastal zone nor permit habitable structures within any high hazard zone.

I am sending you this information for you to consider as context for your decision tomorrow evening.

Thank you,

Mary Sphar

#7 Lazy River
12/5/19



This map is for representation of LIDAR elevations and should only be used for planning purposes. The data supplied herein does not replace a topographic survey performed by a licensed surveyor.

Proposed Lazy River Subdivision
LIDAR

Legend
 — CONTOUR, 1 FT
 LIDAR Topography
 Value
 15.8375
 12.7148
 11.3214
 9.4207
 7.2824
 5.1438
 -3
 0 25 50 100 Feet

BFE = 5.3 ft NAVD

FFFE = 6.3 minimum
 Slab on grade 6.3

24" water depth that comes up CAT 1 2' HIGH

1.7 ft



Alcohol Consumption
Areas
19PZ00066
Think Green Brevard

From: [Calkins, Tad](#)
To: [Ball, Jeffrey](#); [Jones, Jennifer](#); [Bentley, Eden](#); [Brewer, Jad](#)
Subject: FW: Think Green Brevard CUP- alcohol consumption areas
Date: Thursday, December 5, 2019 10:14:54 AM

FYI

-----Original Message-----

From: jason reichman <jasonr2@yahoo.com>
Sent: Sunday, December 1, 2019 4:32 PM
To: Pritchett, Rita <Rita.Pritchett@brevardfl.gov>
Cc: Stuart Buchanan <titusvillenative@gmail.com>; Calkins, Tad <tad.calkins@brevardfl.gov>
Subject: Think Green Brevard CUP- alcohol consumption areas

Dear Commissioner,

As we previously submitted to staff and is reflected in the current agenda item, the alcohol consumption is limited to the following areas:

Chapel
Reception hall
Patio bar
Tasting bar

Staff calculates that we are 4 parking spaces short based upon the structures listed above, but has agreed to move forward with the public hearings of the CUP, requiring our submittal of the final CUP site plan reflecting an additional 4 spaces prior to staff signing off on our liquor license.

This is reflected in the planning and zoning board minutes and motion for approval.

There is to be no consumption within parking lots or any areas not listed above. We understand that any change or addition of other buildings will require us to apply for an amendment to the CUP and appear before the county commission.

Thank you,

Jason Reichman

Sent from my iPad

99 (3)

Plans for my Vegetable Farm....

You have asked me for a "plan" on what I plan to do with my 9 acres. I love this place and hope I never have to sell.

First, there is one big goal associated with my plan.....agriculture. I have a long-standing goal to build my own agricultural operation. I have always loved working with plants, and am in the process of setting up an organic, hydroponic farm that produces herbs, microgreens, and green-leaf vegetables. This will be a wholesale, hydroponic, organic growing operation that does not involve the use of machinery, pesticides, fungicides or heavy water use. Everything is planted without soil into poly tubes. Water is circulated from a holding tank through the tubes across the plant roots back to the tank. Additional water is added to the tank only as the plants use it. All nutrients and pest control is organic only.

The herbs, microgreens, and gourmet lettuces produced will be delivered to restaurants, stores and Farmers Markets.

1). My first effort was to find a piece of property suited for what I want to accomplish. Friends knew of this place and the exceptional agricultural successes enjoyed here over a 30 year period.

I want to emphasize I do not represent a group or company.....this is just me, and have invested a good bit of my life savings to obtain this beautiful piece of property. Additionally, I have been investing an average of \$1500 per month (over \$10,000 in 2019) on existing horticultural clean-up, repair and plant experimenting since taking over ownership this past April.

This property was previously owned by a local person for 40 years (zoned AU). He built and operated a successful wholesale, interior palm and orchid nursery here for 30 years. He had palm customers all over the country, and shipped all 1800 Flowers orchids, and potted plants from here for 15 years. There are several plant-growing structures still standing that we are sprucing up and repairing to be used in my business. Also has a single family residence that is my home that also serves as my office.

So, that was the first hurdle in my plan, to find and obtain property to build my business.

2). Next was to obtain AU zoning needed to operate a producing farm. This seemed possible since the entire West side of the place (1,677 ft.) interfaces South Lake and AU ranch lands clear to the St Johns River and beyond. The East boundary is 1332 ft. long. (Two hundred feet of that is an Eola Ave residence, and my good neighbor Faith Baptist Church). The rest of the East side of the 1332 ft borders on 27 acres zoned AU, and divided into an average of 3 acres each with single family residences. I felt confident we could obtain the AU zoning, which did pass the Public Zoning Board Hearing held in October.

3). Planning and education. I have attended lectures at the Brevard County Ag Extension office, a national conference on Heirloom plants in California, visited successful Florida hydroponic vegetable farms & Farmers Markets, and met and talked with local chefs to understand their needs. I have met with Mayor Walt Johnson and City Manager Scott Larese and was briefed on their plans to develop a first class Farmers Market in Titusville. They were enthusiastic over my plan to produce locally grown,

organic farm products using hydroponic technology. I told them that I had brought into my employ the previous owner of the property to guide me in my farming pursuits. He not only built and ran the successful agricultural enterprise here for 30 years, he has a lifetime of agricultural experience. He is managing the conversion of existing structures on my place to accommodate hydroponic growing. Also building hydroponic prototypes and running tests with the many different products I plan to grow. He has farming experience, a graduate engineer, success oriented, and is already producing delicious greens for our salads.

4). Also want to emphasize my goal to maintain the historical and environmental beauty of this place. The entire 1677 feet (1/3 mile) on the West side of the property is on the shoreline of South Lake. It is a 10 foot high ridge covered with a hardwood forest of oaks, hickory, and magnolia trees.....a natural Florida Hammock. Several months ago I learned Brevard County owned South Lake, part of the Environmentally Endangered Lands (EEL) of Brevard County. And to enhance this program, they have cut a nature trail through the hammock along my 1677 ft. interface with the lake, and on around the North end of South Lake. The State discovered two Ancient Indian encampments along a neighboring trail on the West side of the lake. Brevard EEL has gotten approval to connect their trail with the neighboring Salt Lake Wildlife Management Area trails. As owner, I am determined to maintain this little gem of Florida as it has been for centuries. If it remains under RR1 zoning, a developer can subdivide into 1 acre lots and build houses. The lots would be right down the middle of this beautiful hammock. It would be very disappointing, and a loss to all that appreciate the unchanged natural beauty of a site like this. Reverting it back to the proper zoning of Agriculture will help insure that it remains a place of historical and natural beauty in which Brevard County can be proud to have.

Unfortunately, if I cannot develop an income from my vegetable farm I will not be the owner very much longer. The thought of not obtaining the AU zoning would devastate my hopes and plans, and thoughts of conserving the hammock.

RR-1 is definitely not the way I want to go. This place and this plan are my future.

One last thing....I have made it a point to talk with neighbors of my plans to zone back to AU and have found a lot of support. I have 20 letters of support for AU zoning from my neighbors. Some enjoy the wildlife that hangs out in the wooded hammock & lake environment. All of the supporters like keeping the natural status and the idea of a vegetable farm rather than dividing into several lots and building houses. Neighbors all along Eola Ave like the lesser traffic rather than adding several houses to the end of their street.

That completes my plan.

99 (1)



BOARD OF COUNTY COMMISSIONERS

Rita Pritchett, District 1 Commissioner
2000 South Washington Avenue, Ste. 2
Titusville, FL 32780
(321) 607-6901
D1.commissioner@brevardfl.gov

Planning and Development
Zoning Meeting November 7, 2019
Kimberly Miller 19PZ00099

Commissioner Pritchett meet with Kimberly Miller regarding the above item on November 7, 2019.

Ms. Miller is requesting to rezone the property from RR1 with a BDP to AU and removal of the BDP for purpose of reinstating agricultural uses. There is a pending code violation case on the property. Ms. Miller stated that she has removed the tent and has applied for a permit. She is waiting for a final inspection by the Code Enforcement. Commissioner Pritchett discussed with Ms. Miller that she was not comfortable allowing camping on the property. Ms. Miller mentioned that she may want to table this item to the December 5, 2019 zoning meeting.

13

From: [Kimi Miller](#)
To: [Commissioner, D4](#)
Subject: Re: Regarding New Statement Rezoning Miller 19PZ00099
Date: Wednesday, December 4, 2019 10:45:23 AM
Attachments: [letters of support 4-20191203113155.pdf](#)

Planning and Development Department
Board of County Commissioners
2825 Judge Fran Jamieson Way
Viera, Fl. 32940

RE; Rezoning Item # 19PZ00099
Laura Kimberley Miller (Kimi Miller)

Dear Commissioner Smith,

I have four more letters of support which I am attaching to this email for my hearing on December 5th.

Thank you kindly,
Kimi Miller
Misty Farms
321 294-9477

On Fri, Nov 29, 2019 at 11:20 AM Kimi Miller <mistyfarmshydroponics@gmail.com> wrote:

Planning and Development Department
Board of County Commissioners
2825 Judge Fran Jamieson Way
Viera, Fl. 32940

RE; Rezoning Item # 19PZ00099
Laura Kimberley Miller (Kimi Miller)

To Whom It Concerns,

It came to my attention that I had made an error in my opening statement upon review. I am submitting a new statement to replace the previous one. In my 4th point, I mention Mike Knight of the Brevard County EEL Program and how supportive he is to my rezoning and I would like to retract this statement. Mr. Knight has not endorsed me or my business and any statement he may or may not have said should not have been included. I did not intend to submit any hearsay, thoughts or ideas from third parties in my plan.

Please use my new statement- attached- as your guide.

Thank You Kindly,
Ms. Kimi Miller
321 294-9477

Roan and Karrie Poulter

The Wayward Traveler's Inn
2398 N Singleton Ave
Mims, FL 32754

September 10, 2019

To whom it may concern,

This letter is in support of Kimi Miller and Misty Farms. We had the pleasure to host Kimi at our Bed and Breakfast when she first came to the Titusville area looking at properties to purchase. Her enthusiasm was contagious and we have followed her adventures closely.

Her desire to produce fresh vegetables and micro greens for the Titusville community will fill a much needed niche in our community. Growing fresh ingredients locally is a hallmark of communities where people want to live. Titusville is an absolute desert of such luxuries.

If you were smart people, you would fall on your knees and beg her to keep working this operation. It is exactly businesses like hers that make a community attractive to younger families, which in turn leads to commercial growth.

I cannot for the life of me imagine who would oppose this, but I assure you it wouldn't be any local businesses and I scarcely believe that any neighbor wouldn't want to be next to an organic vegetable farm.

Do the right thing, because in this instance it also happens to be in everyone's best interest.

Roan and Karrie Poulter

Owners of The Wayward Traveler's Inn

Re: Recommendation for L. Kimi Miller

Case Number: 19PZ00099

To Whom It May Concern:

I strongly recommend my friend and potential colleague, L. Kimi Miller, for her application for Agricultural zoning. I have also had the opportunity to observe Kimi's work skills as well as interpersonal style. She is consistently pleasant, and takes on all endeavors with enthusiasm and dedication. Her attitude, diligence, intellect and commitment to her work are unmatched. She is smart, a high achiever, and eager to learn. She is highly committed to finding a solution to any challenges that come her way. I work in Plant Space Biology at KSC, and look forward to comparing notes and challenges for hydroponic plant growth both on the ground and in space as Kimi's business grows.

Please do not hesitate to contact me if I can shed any more light on Kimi, including her stellar character and prospects for a bright future in Brevard County.

Sincerely,

John A. Carver

Plant Space Biology

Payload Integration Engineer

Kennedy Space Center, FL

321-362-8611

Molecule13@aol.com

Brevard County Commissioners,

I understand Ms Miller's plan is to zone back to Agriculture from Residential on the acreage down below me to grow green produce. Her sale of the greenhouse products would be delivery from her place rather than pickup. It sounds like a good-neighbor plan....no housing development, no noise, and especially like the less traffic past my house. I fully support her plan to maintain the stability of the neighborhood and hope she is able to obtain the rezoning.

Joan Landon

*4120 EOLA AVE
TITUSVILLE, FL 32780*

Dear Commissioner,

I'm writing this letter in support for Kimi Miller in her effort to rezone her residence, 4200 Eola Ave, Titusville, for her farming needs. I have informed myself of the zoning plan and spoke to Kimi of her plan and objective for her property. With that noted I welcome the idea for the rezoning of her property.

Sincerely,

Cesar Sanchez

4130 Eola Ave

Titusville FL 32796

Email: csanchez01234@yahoo.com

Cell: 510-423-8321

A handwritten signature in black ink, appearing to read 'Cesar Sanchez', with a horizontal line underneath.

11-27-2019

David and Joyce Craig
1310 N. Carpenter Rd.
Titusville, FL 32796

November 26, 2019

Brevard County Commissioner, District 4
Commissioner Curt Smith
2725 Judge Fran Jamieson Way
Building C Suite 214
Viera, Florida 32940

RECEIVED

DEC - 2 2019

RE: Planning and Zoning - October 7 Agenda, Item ID # 19PZ00099

DISTRICT 4
COMMISSION OFFICE

We have received notice of Laura Kimberley Miller's request for a change in zoning and for removal of an existing Binding Development Plan (BDP) for property located at 4200 Eola Ave. Titusville, Fl.

It is our understanding that this item will be on the agenda for your December 5th meeting. Unfortunately, we have preexisting plans that would be very costly to change, so our being present at your meeting is not possible.

We own property (our residence) which immediately adjoins a very large sector of Ms. Miller's property.

We were out of state at the time of the October 7th public hearing and, therefore, provided our comments and concerns by letter (copy attached).

On November 25, 2019, Miss Miller came to our home to explain her plans for the use of her property and the reason for the rezoning request.

After hearing her plans and giving them considerable thought, we wish to reiterate our concerns regarding this rezoning. We wish to see the zoning remain as it is (RR-1) and have the existing Binding Development Plan (BDP) left in place.

This Binding Plan was in place when Ms. Miller and her former husband purchased the property.

Following the hurricanes of 2004, the owner of that property requested a rezoning for higher density housing. This request resulted in a series of meetings involving several of the neighboring property owners. The meetings were facilitated by former Commissioner Truman Scarborough (who was then and is still a highly respected lawyer) and culminated in an agreement to allow RR-1 zoning plus also culminated in the development of the existing Binding Development Plan. Considerable discussion, negotiation, and research went into the development of that agreement and binding plan.

Our position remains the same as stated in our letter of October 1, 2019 to the Planning and Zoning Board. We would not wish to see the Binding Development Plan and zoning agreement made during these meetings overturned. We believe that "binding" means just that!

It is our understanding that there were others at the planning meeting in October regarding this request who were not given time to share their concerns. Further, after reviewing the minutes of the October planning board meeting, we observed that our previous letter was not noted in the final minutes of that meeting. Hopefully, though, you did receive this letter. These omissions are a concern and seem inconsistent with the purpose for the meeting and the recording of the meeting contents.

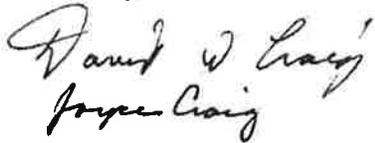
Voting when someone has his hand up to speak but is not recognized also seems out of character to what we feel should be "open" communication at a public hearing, truly open.

We still have our own additional concerns which include those related to the environment, the potential impact to the water aquifers, and now, the potential of water and fertilizer run off from a commercial gardening facility. Other concerns pertain, once again, to the possibility of majorly increased traffic and heavy truck and/or machinery traffic as well – this ongoing traffic would also be going through a residential neighborhood that houses many children.

We are wondering, too, as to how Ms. Miller's request impacts/comes into compliance with the existing and updated land use plans.

We ask you to NOT grant this requested change.

Sincerely,

Handwritten signatures of David W. Craig and Joyce Craig. The signature for David W. Craig is written in a cursive style, and the signature for Joyce Craig is written in a simpler, more legible cursive style.

David and Joyce Craig

Cc: Commissioner Rita Pritchett (Vice Chair)
Commissioner Bryan Lober (Chair)
Commissioner John Tobia
Commissioner Kristine Isnardi

David and Joyce Craig
1310 N. Carpenter Rd.
Titusville, FL 32796

October 1, 2019

Planning & Development Department
Board of County Commissioners
Brevard County
2725 Judge Fran Jamieson Way
Building A
Viera, FL 32940

RE: October 7 Agenda, Item ID # 19PZ00099

We have received notice of Laura Kimberley Miller's request for a change in zoning and for removal of an existing Binding Development Plan (BDP).

We own property (our residence) which immediately adjoins Mrs. Miller's property.

We will be traveling out of state at the time of the October 7th public hearing and, therefore, wish to provide our comments and concerns at this time.

While Mrs. Miller is requesting a rezoning which would decrease the residential density for this parcel of land, her intended use of the land is, at this time, unknown to us or to the other surrounding property owners.

Following the hurricanes of 2004, Mr. Darroll Higginbotham, who owned the property at that time, requested a rezoning which would have greatly increased the density on the property in question. This increased population density would have significantly increased the automobile traffic in this area and, placed a greater demand on the water aquifers beneath this land. Because of this, several of the neighboring property owners met multiple times with Mr. Higginbotham and Commissioner Truman Scarborough to address our concerns and to arrive at a mutually agreeable resolution. That series of meetings resulted in the existing zoning and in the creation of the existing Binding Development Plan.

Since that overall plan and solution was accepted by ourselves and the other property owners, we contend that the existing conditions (zoning and BDP) should remain in effect and not be altered. We are certain that Mrs. Miller was made aware of the BDP at the time of purchase of her property.

Our position on this matter might only change if and when a superseding BDP could be reviewed by ourselves and the neighboring property owners and found to be suitable. At this time, such a plan has not been made available for us to review.

Sincerely,

David and Joyce Craig

From: [David and Joyce](#)
To: [Commissioner, D4](#)
Subject: Response to L. Kimberly Miller Rezoning Request (Dec 5 meeting)
Date: Thursday, November 28, 2019 9:24:48 AM
Attachments: [Rezoning Response Item ID 1PZ00099.docx](#)
[Rezoning Response District-4 Commissioner.docx](#)

Dear Commissioner Smith,

Attached are two letters detailing our response to a rezoning request for 4200 Eola Ave. Titusville. The first is a copy of the letter we sent in October to the Planning and Zoning Board. The second is a follow up which we are sending to each of the Brevard County Commissioners for your consideration.

We will not be able to attend the Commissioners' meeting on December 5th when, as we understand, this request will be presented.

A hard copy of this letter is also being sent to you through the US Postal Service.

Thank you for your consideration of our position on this matter.

David and Joyce Craig
1310 N. Carpenter Rd.
Titusville, FL 32796

David and Joyce Craig
1310 N. Carpenter Rd.
Titusville, FL 32796

October 1, 2019

Planning & Development Department
Board of County Commissioners
Brevard County
2725 Judge Fran Jamieson Way
Building A
Viera, FL 32940

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Sincerely,

David and Joyce Craig

David and Joyce Craig
1310 N. Carpenter Rd.
Titusville, FL 32796

November 26, 2019

Brevard County Commissioner, District 4
Commissioner Curt Smith
2725 Judge Fran Jamieson Way
Building C Suite 214
Viera, Florida 32940

RE: Planning and Zoning - October 7 Agenda, Item ID # 19PZ00099

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We are wondering, too, as to how Ms. Miller's request impacts/comes into compliance with the existing and updated land use plans.

We ask you to NOT grant this requested change.

Sincerely,

David and Joyce Craig

Cc: Commissioner Rita Pritchett (Vice Chair)
Commissioner Bryan Lober (Chair)
Commissioner John Tobia
Commissioner Kristine Isnardi

From: Bruce M
To: Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5
Subject: RE: Micco item and CHHA
Date: Wednesday, December 4, 2019 6:18:50 PM

Thank you for the information.

I find it ironic coming from a self-claimed environmentalist that lives on a 0.27 acre lot, on the SJ river, in a subdivision of 3.2 units/acre, with minimum drainage facilities (1983), that was created by filling in the water limits of the river, where the houses yards drain directly into the river and most lots are still in the flood plain.

Bruce A. Moia, P.E.

President, MBV Engineering, Inc.
1250 W. Eau Gallie Blvd., Unit H, Melbourne, FL 32935
P: 321.253.1510 C: 321.243.0583 F: 321.253.0911
Conference:218.895.1236 Passcode:723343
BruceM@mbveng.com www.mbveng.com

From: Tobia, John
Sent: Wednesday, December 4, 2019 9:54 AM
To: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Subject: FW: Micco item and CHHA

Please include the email below in the packet for H.7 on the 12/5 agenda.

From: Douglas and Mary Sphar <canoe2@digital.net>
Sent: Wednesday, December 4, 2019 9:50 AM
To: Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Cc: Newell, Marcia <marcia.newell@brevardfl.gov>; Woodard, Patrick <patrick.woodard@brevardfl.gov>; Prasad, Billy <Billy.Prasad@brevardfl.gov>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Calkins, Tad <tad.calkins@brevardfl.gov>; Mcgee, Darcie A <Darcie.Mcgee@brevardfl.gov>; Barker, Virginia H <Virginia.Barker@brevardfl.gov>
Subject: Micco item and CHHA

Dear Commissioners,

Tomorrow night, you will be deciding what to do about the BDP proposed for the property on Fleming Grant Rd in Micco. This is the property on the St. Sebastian River that you have looked at 3 times in the past.

Some of us have been suggesting that residences be kept out of the Coastal High Hazard Area (CHHA). The applicant actually agreed in a May 30th BDP to only place one house in the CHHA. That was the BDP for a 16-home development.

The most recent BDP does not place any restrictions on how many of the 8 residences will be in the approximately 5-acre CHHA.

I believe that a stipulation in the BDP for no houses in the CHHA is reasonable and prudent, considering hurricane and flood vulnerability, in addition to sea level rise.

In fact, the nearest municipality to the subject property, Palm Bay, would allow neither houses nor septic systems in the CHHA. According to Palm Bay's updated Comprehensive Plan:

CZM-1.6C The City shall not permit any new septic tanks to locate within high hazard areas of the coastal zone nor permit habitable structures within any high hazard zone.

I am sending you this information for you to consider as context for your decision tomorrow evening.

Thank you,

Mary Sphar

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

From: [Kimi Miller](#)
To: [Commissioner, D4](#)
Subject: Regarding New Statement Rezoning Miller 19PZ00099
Date: Friday, November 29, 2019 11:20:16 AM
Attachments: [Meeting with Rita Pritchett.docx](#)

Planning and Development Department
Board of County Commissioners
2825 Judge Fran Jamieson Way
Viera, Fl. 32940

RE; Rezoning Item # 19PZ00099
Laura Kimberley Miller (Kimi Miller)

To Whom It Concerns,

It came to my attention that I had made an error in my opening statement upon review. I am submitting a new statement to replace the previous one. In my 4th point, I mention Mike Knight of the Brevard County EEL Program and how supportive he is to my rezoning and I would like to retract this statement. Mr. Knight has not endorsed me or my business and any statement he may or may not have said should not have been included. I did not intend to submit any hearsay, thoughts or ideas from third parties in my plan.

Please use my new statement- attached- as your guide.

Thank You Kindly,
Ms. Kimi Miller
321 294-9477

From: [Douglas and Mary Sphar](#)
To: [Commissioner, D3](#); [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D4](#); [Commissioner, D5](#)
Cc: [Newell, Marcia](#); [Woodard, Patrick](#); [Prasad, Billy](#); [Ball, Jeffrey](#); [Calkins, Tad](#); [Mcgee, Darcie A](#); [Barker, Virginia H](#)
Subject: Micco item and CHHA
Date: Wednesday, December 4, 2019 9:50:34 AM

Dear Commissioners,

Tomorrow night, you will be deciding what to do about the BDP proposed for the property on Fleming Grant Rd in Micco. This is the property on the St. Sebastian River that you have looked at 3 times in the past.

Some of us have been suggesting that residences be kept out of the Coastal High Hazard Area (CHHA). The applicant actually agreed in a May 30th BDP to only place one house in the CHHA. That was the BDP for a 16-home development.

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CZM-1.6C The City shall not permit any new septic tanks to locate within high hazard areas of the coastal zone nor permit habitable structures within any high hazard zone.

I am sending you this information for you to consider as context for your decision tomorrow evening.

Thank you,

Mary Sphar

Get LUCAS MAP

Diary

H7 Lazy River

Pls dream lush green lawn,
This is sweetest land and
Will they put gas on

Non commercial from the property
BDP Wildwood Sales, Act
Neting.

also Tree farm huddle to more
Purchase several,

Growing, sell.

→ Non commercial

Plant nurseries to many.
Buying equipment & many.
Tractor & Forklifts

Disclosure:

F2-

H5 Disclosure.

email Beto 12/5/19
Double input

D4 Landi - David Barbo.
→ Pro submitted.

Def. May Sperry

Bank CP
" w/ BDP,

for rebuttal

Septic to sewer on this

Hand Accessory H-7

Applicant -

Alc Beverages CUP

- F2 -

Jason Reich.

H-4

20 letters of support 2 in oppo

Miller grossing is all she discussed,

12 minutes

Office

All-light.

No selling AS

No events w/ special

No carrying ^{or} brought

No commerciality

H-7

Disclosure JT

KIF -> Boto emails

BC -> Doped

Mary Spahn,

Deke

S+

CHH should be addressed,

Mary Spahn for Sierra Club,

subject to storm surge

A

KI

lot No SW + permits
from St John's:

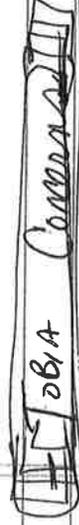
Manage w/ development.

RP # acres HH 4 acres,
stem wall

RP: 50 foot buffer req'd,

Septic tanks

Flooding

Job A 

Update 65% Overlay
Not a Complete Rebuttal.

Not develop is less impact
Delta is quantify
No runoff B/Nitrogen
might now.

Account Au R

Revise RPP to protect

David Botto - Disappears one
stem b/c too sensitive

Jack Zander,
Advanced septic,
End of cards,

Applicant R minutes of
rebuttal

Pollution into River
Development will harm
Stomachwater system

Preserve all tree
in CHH.

CP should not increase density
1/4 2.5 acres per
Comp Plan
8

Lots of other build
outside overlay of
new sept

CHH is flooding

Add to BOP No Sept
in CHH,

Natural A. Noyent Prop.

Pritchett - Sewer leaks too.

Tobia

SMITH

ISNARDI

By Mr. Chen

→ Trees - will be protected

→ Septic - in CHH. anaerobic
\$45,000 in cont.

No Septic in CHH

Additional more than 50 feet.

of homes in CHH

2

→ 150 foot Set back