



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.7.

4/6/2023

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### Subject:

Wendy Kleefisch requests a change of zoning classification from RU-1-11 to RU-2-12. (22Z00067) (Tax Account 2731680) (District 5)

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-11 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential)

### Summary Explanation and Background:

The applicant is requesting to rezone from RU-1-11 to RU-2-12 for the purpose of constructing up to four multi-family residential units as two duplexes. The RU-1-11 classification permits one single-family residential dwelling; RU-2-12 allows single-family dwellings, duplexes, and resort dwellings, also on a 7,500 square-foot lots.

The developed character of the surrounding area to the northeast is a commercial retail building adjacent Highway A1A. To the north across Franklyn Avenue, is a duplex zoned RU-2-10. West is a single-family attached residence with a zoning classification of RA-2-6. The vacant parcel to the east was recently rezoned in November 2022 from BU-1-A to RU-2-12. To the south across Grosse Pointe are multi-family residences zoned multi-family within the City of Indialantic.

While BU-1 zoning exists along Highway A1A, there is a history of commercial parcels being rezoned to multi-family residential. This rezoning could be considered consistent with the character of the area, and could be considered as a buffer between the commercial and single-family residential zoning further west, away from Highway A1A.

The Board may wish to consider if the proposed request is consistent and compatible with the surrounding area.

On March 13, 2023, the Planning & Zoning Board heard the request and voted 9:1 to recommend approval.

### Clerk to the Board Instructions:

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H.7.

4/6/2023

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Once resolution is received please return a copy to Planning & Development.

**Resolution 22Z00067**

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

**WHEREAS, Wendy Kleefisch** has requested a change of zoning classification from RU-1-11 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential), on property described as the east 103.5 ft. of Lot 4, Block F, of Map of Replat of North Indialantic By-The-Sea, according to the Plat thereof, as recorded in Plat Book 9, Page(s) 70, of the Public Records of Brevard County, Florida. **Section 31, Township 27, Range 38.** (0.36 acres) Located between Franklyn Ave. and Grosse Pointe, approx. 0.07 mile west of Highway A1A. (107 Franklyn Ave., Indialantic); 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 the Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, finds that the application should be denied; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-1-11 to RU-2-12 be denied.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of April 6, 2023.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

Rita Pritchett, Chair  
Brevard County Commission

As approved by the Board on April 6, 2023.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – March 13, 2023

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.**

## **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, 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 zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other 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 development 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:
  - 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:**

- 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.



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way

Building A, Room 114

Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

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

**STAFF COMMENTS**

**22Z00067**

**Wendy Kleefisch**

**RU-1-11 (Single-family residential) to RU-2-12 (Medium-density multi-family residential)**

Tax Account Number: 2731680

Parcel I.D.: 27-38-31-EW-F-4

Location: On the south side of Franklyn Ave., approximately 275-feet west of Highway A1A (District 5)

Acreage: 0.36 acres

Planning and Zoning Board: 03/13/2023

Board of County Commissioners: 04/06/2023

**Consistency with Land Use Regulations**

- Current zoning can 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.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-11	RU-2-12
<b>Potential*</b>	1 SF Unit	4 MF units
<b>Can be Considered under the Future Land Use Map</b>	YES RES 15	YES RES 15

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

**Background and Purpose of Request**

The applicant is requesting to rezone from RU-1-11 (Single-family residential) to RU-2-12 (Medium-density multi-family residential) for the purpose of constructing up to (4) four multi-family residential units as two (2) duplexes. The RU-1-11 classification permits one single-family residential dwelling, on a 7,500 sq. ft. lot. RU-2-12 allows single-family dwellings, duplexes, and resort dwellings, also on a 7,500 sq. ft. lot.

The RU-2-12 setbacks are more restrictive than RU-1-11. The RU-1-11 classification requires a front setback of 20 feet from the front lot line, side setbacks of 7.5 feet and a rear setback of 20 feet. The property has double frontage. Principal buildings or structures shall be spaced a minimum of 15-feet from other principal buildings or structures on the same site. RU-2-12 would allow up to 4 dwelling units on 0.36-acres.

On June 1, 1972, the subject property was rezoned from RU-1 to RU-1-11 (Z-2980).

## **Land Use**

The subject property is currently designated as Residential 15 (RES 15) FLU. RES 15 is the second highest density designation, permitting a maximum density of up to fifteen (15) units per acre. Both the RU-1-11 and the RU-2-12 zoning classifications can be considered consistent with the RES 15 FLU designation.

## **Applicable Land Use Policies**

**FLUE Policy 1.4** –The Residential 15 Future land use designation. The Residential 15 affords the second highest density allowance, permitting a maximum density of up to 15 units per acre.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

## **Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.**

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;

**The applicant proposes the development of four (4) multi-family units as two (2) duplexes. It is not anticipated to have hours of operation, lighting, odor noise levels, additional traffic or site activity that would diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.**

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

**Only a certified MAI (Master Appraisers Institute) appraisal can determine if material reduction has or will occur due to the proposed request.**

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
  - 1. historical land use patterns;

**The historic land use pattern is a mixture of commercial and residential along Highway A1A with single-family residences to the west and multi-family residences mainly east of Highway A1A. Commercial retail lines the west corridor of Highway A1A.**

2. actual development over the immediately preceding three years; and

**There have been two (2) zoning actions within a half-mile radius. The first zoning action is 315-feet west of the subject property on Franklyn Ave.. 21Z00033 was an approved application to rezone from RU-1-11 to RU-2-12 with a BDP limiting uses for the property to not be used as a resort dwelling. The density is limited to two (2) units, constructed as a duplex. Access of ingress and egress is limited to one (1) unit to Franklyn Avenue and one (1) unit to Gross Pointe Avenue.**

**The second zoning action, 22Z00046, was a rezoning from BU-1-A to RU-2-12 with a resolution date of November 3, 2022. This rezoned parcel is directly to the east of the subject property.**

3. development approved within the past three years but not yet constructed.

**It appears there has been no development approved but not yet constructed in the area within the last three years.**

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

**No material violation of relevant policies has been identified.**

#### **Analysis of Administrative Policy #4 - Character of a neighborhood or area.**

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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**The developed character of the surrounding area to the north is a commercial retail building adjacent Highway A1A. To the northwest across Franklyn Ave., is a multi-family residence zoned RU-2-10. West is a single-family attached residence with a zoning classification of RA-2-6. The vacant parcel to the east was recently rezoned in November 2022 from BU-1-A to RU-2-12. To the south across Grosse Pointe are multi-family residences zoned multi-family (R-P and SC) within the City of Indian Shores.**

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.

**While BU-1 zoning exists along Highway A1A, there is a history of commercial parcels being rezoned to multi-family residential classifications. This rezoning could be considered consistent with the character of the area. The request could be considered as a buffer between the commercial and single-family residential zoning further away from Highway A1A.**

**There are 3 FLU designations in the immediate area: Community Commercial (CC), Neighborhood Commercial (NC) and Residential 15 (RES 15). The subject property is located in the RES 15 designation.**

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.

**The request is not for commercial 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.

**The closest RU-2-12 zoning classification to the subject property is directly to the east. The subject parcel is not requesting to be rezoned for commercial, industrial or other non-residential uses.**

#### Surrounding Area

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Road ROW/Multi-Family Residence	RU-2-10	RES 15
<b>South</b>	City of Indialantic	R-P & SC (multi-family)	N/A
<b>East</b>	Undeveloped	RU-2-12	NC
<b>West</b>	Single-family	RA-2-6	RES 15

The current RU-1-11 zoning classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

The RU-2-10 classification permits multi-family dwellings, duplexes, resort dwellings and single-family dwellings with a minimum lot size of 7,500 square feet having a minimum lot width and depth of 75 feet. The maximum density is ten (10) units per acre.

The proposed RU-2-12 zoning classification would allow up to 12 units per acre of multi-family residential zoning classification. It permits multi-family residential development or single-family residences at a density of up to 12 units per acre on 7,500 square foot lots.

The RA-2-6 zoning classification is a single family attached residential classification providing a transition between single family residential detached zoning and multi-family residential zoning. The maximum density is six (6) dwelling units per acre having a minimum lot of 7,500 square feet with a minimum width of 75 feet and depth of 100 feet.

There have been two (2) zoning actions within a half-mile radius. The first is 315-feet of the subject property. **21Z00033** was an approved application to rezone from RU-1-11 to RU-2-12 with a BDP limiting uses for the property to not be used as a resort dwelling. The density is limited to two (2) units, constructed as a duplex. Access of ingress and egress is limited to one (1) unit to Franklyn Avenue and one (1) unit to Gross Pointe Avenue.

The second zoning action, **22Z00046**, was a rezoning from BU-1-A to RU-2-12 with a resolution date of November 3, 2022. This rezoned parcel is directly to the east of the subject property.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Highway A1A between US 192 and Paradise Blvd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 52.29% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.07%. The corridor is anticipated to operate at 52.35% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

Central sewer is directly north of the parcel on Franklyn. Potable water is directly north of the parcel on Franklyn. According to the City of Melbourne they have the capacity to service this parcel.

### **Environmental Constraints**

- Aquifer Recharge
- Indian River Lagoon Nitrogen Reduction Septic Overlay



NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

**For Board Consideration**

The Board may wish to consider if the proposed request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT  
Zoning Review & Summary**

**Item #22Z00067**

**Applicant:** Wendy Kleefisch

**Zoning Request:** RU-1-11 to RU-2-12

**Note:** Applicant wants to build six (6) multi-family residential units as three duplexes.

**P&Z Hearing Date:** 03/13/23; **BCC Hearing Date:** 04/06/2023

**Tax ID No:** 2731680

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) 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.**

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge
- Indian River Lagoon Nitrogen Reduction Septic Overlay

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

**Land Use Comments:**

**Aquifer Recharge Soils**

The site has mapped aquifer recharge soils (Canaveral-Palm Beach- Urban Land Complex) on the entire parcel 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.

### **Indian River Lagoon Nitrogen Reduction Septic Overlay**

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

### **Protected and Specimen Trees**

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

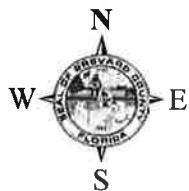
### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is potential for the presence of Gopher Tortoises on site. 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

KLEEFISCH, WENDY

22Z00067



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

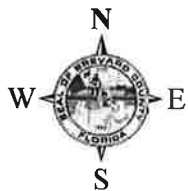
Buffer Distance: 500 feet

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: 1/3/2023

Buffer  
Subject Property

22Z00067



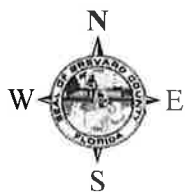
Produced by BoCC - GIS Date: 1/3/2023

## Zoning

# FUTURE LAND USE MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

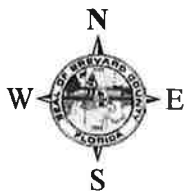
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/3/2023

# AERIAL MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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: 1/3/2023

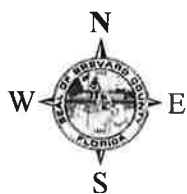
— Subject Property

□ Parcels

# NWI WETLANDS MAP

KLEEFISCH, WENDY

22Z00067



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: 1/3/2023

## National Wetlands Inventory (NWI)

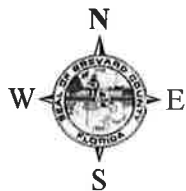
Estuarine and Marine Deepwater	Freshwater Pond
Estuarine and Marine Wetland	Lake
Freshwater Emergent Wetland	Other
Freshwater Forested/Shrub Wetland	Riverine
Subject Property	
Parcels	



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

KLEEFISCH, WENDY

22Z00067



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: 1/3/2023

## 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

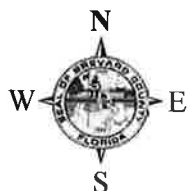
Subject Property

Parcels

# USDA SCSSS SOILS MAP

KLEEFISCH, WENDY

22Z00067



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: 1/3/2023

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

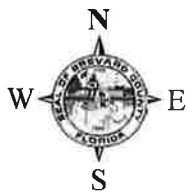
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

KLEEFISCH, WENDY

22Z00067



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: 1/3/2023

## FEMA Flood Zones

- |                  |            |   |
|------------------|------------|---|
| A                | AO         | X |
| AE               | Open Water |   |
| AH               | VE         |   |
| Subject Property | Parcels    |   |

# COASTAL HIGH HAZARD AREA MAP

KLEEFISCH, WENDY

22Z00067



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: 1/3/2023

— Subject Property

□ Parcels

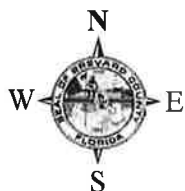
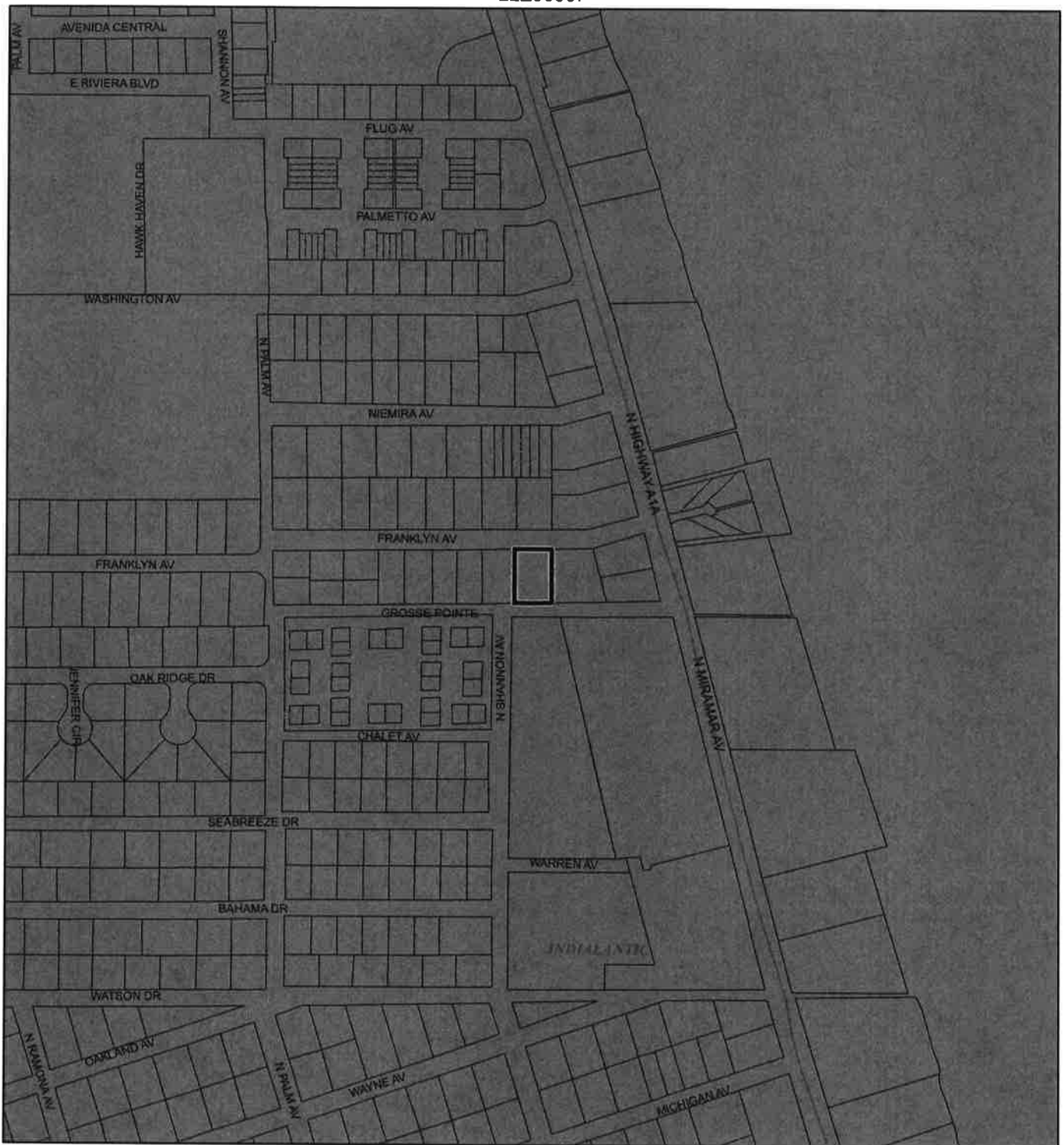
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KLEEFISCH, WENDY

22Z00067



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: 1/3/2023

— Subject Property

□ Parcels

**Septic Overlay**

■ 40 Meters

■ 60 Meters

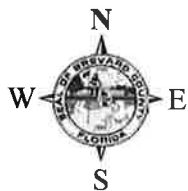
■ All Distances



# EAGLE NESTS MAP

KLEEFISCH, WENDY

22Z00067



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: 1/3/2023

 Subject Property

 Parcels

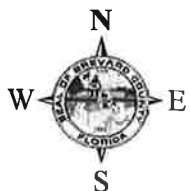


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

KLEEFISCH, WENDY

22Z00067



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: 1/3/2023

— Subject Property

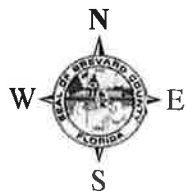
□ Parcels

▨ Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KLEEFISCH, WENDY

22Z00067







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: 1/3/2023

## 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



**Re: Rezoning from single-family (RU-1-11) to multi-family (RU-2-12): 107 Franklyn Ave**

Dear Members of the Planning and Zoning Board,

My husband Denis and I, Alena Knoepfler are the owners of 109 Franklyn Ave, which is next door to 107 Franklyn Ave, which applied for a rezoning.

All 5 single-family homes 107, 109, 111, 113 and 115 Franklyn Ave (incl. the subject property at 107 Franklyn Ave) are double-lots of the county jurisdiction but adjacent to the Town of Indialantic.

For this reason, your decision will influence not only the character and density of the neighborhood but also the consistency and combability in regards to the community of the Town of Indialantic:

- 1) The two rezoned properties at Franklyn Ave (21Z00033 and 22Z00069) were approved but not yet constructed. So, there is no reference property in place which was rezoned and build within a 750ft radius within the last three years. This includes the Town of Indialantic. One rezoned naked land, 117 Franklyn Ave (21T00033), was restricted with a BDP to a duplex.
- 2) For 35+ years, the whole neighborhood consists of 1-story-homes only - 80% are detached single family homes, 20% are duplexes, again one story maximum. (The Commercial zoned spots at the A1A are of course higher density zones)
- 3) With formerly two others approved rezonings at Franklyn, one of them was a spot zoning in the middle of single-family homes, you would transform the street and the neighborhood into a "multi-family transition zone" – where lots would be combined to high-rise buildings.

**However, we understand the wish to upzone and sell to thrive for the highest outcome possible: For this reason, we would support the rezoning on one hand, on the other, we would urge the P&Z Board to consider the following three BDP restrictions:**

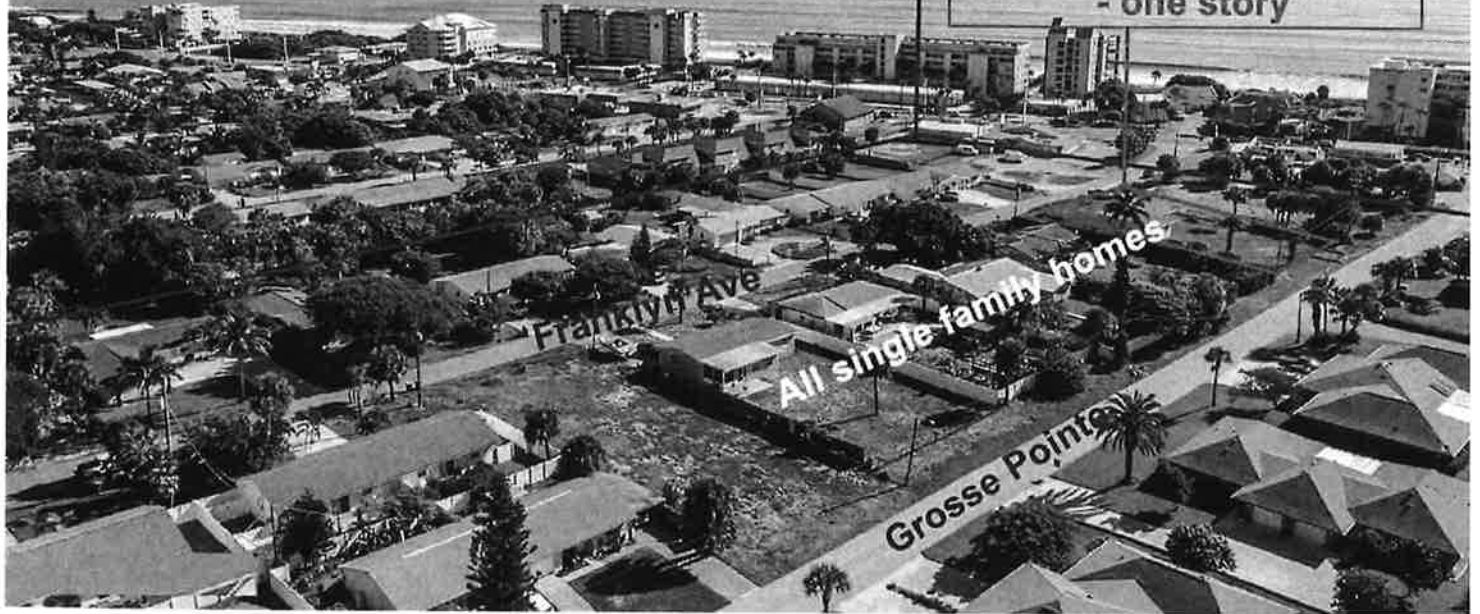
- 1) No resort dwelling should be allowed: To protect the workers and families of Brevard County and the Town of Indialantic.
- 2) One driveway to Franklyn Ave and one to Grosse Pointe - to have equal traffic to both streets.
- 3) With reference to the size of the lot, the required setbacks, and the outcome of the rezoning at 117 Franklyn Ave, we would support one duplex or max. one triplex with one story. This would allow equal density/combability according to the nature of the 0.36 acre lot. Also, this would allow a smooth transition into the one-story homes of the neighborhood.

Please see attached the aerials of the subject property in the area.  
We appreciate your consideration, thank you.

Alena & Denis Knoepfler  
109 Franklyn Ave  
Indialantic, FL 32903

**Capacity / Combability: single family homes  
or duplexes with 1 (!) story only**

**Subject property is a  
single family home  
- one story**



**Within 500-foot radius and within the past 3 years - 2 rezoning approved  
RU-2-12 - but not yet constructed or developed**



**Jones, Jennifer**

---

**From:** Dave Mack <dmack@pathfindergroupllc.com>  
**Sent:** Sunday, April 2, 2023 11:38 PM  
**To:** Jones, Jennifer  
**Subject:** Reference: 22Z00067 - rezoning of 107 Franklyn Ave

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Ms Jones,

I live at 219 Grosse Pointe Avenue just a couple of houses west of 107 Franklyn Ave. Rezoning 107 Franklyn Ave property to be multi-family buildings would create added congestion to Franklyn and Grosse Pointe streets and neighborhoods. The neighborhood on Franklyn are single family houses. Grosse Pointe Ave is quite busy and is already dense with through traffic, building multi-family buildings will only increase our side street traffic. The density and traffic will be troublesome for our community. Thank you for your consideration. You can contact me through the email or by telephone at (847)274-7604.

**David E. Mack**  
**Pathfinder Group**  
dmack@pathfindergroupllc.com  
(847)274-7604



**From:** Carol Fisher  
**To:** Jones, Jennifer  
**Subject:** Rezoning for 107 Franklyn Avenue  
**Date:** Monday, April 3, 2023 3:57:22 PM

---

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Ms. Jones,

I'm writing to express my hope that you will oppose (or limit) the rezoning of 107 Franklyn Ave in Indialantic. We are a neighborhood of ONE STORY HOMES and would prefer to keep it that way. As it is, Grosse Pointe gets a lot of traffic because it is the street with the stop light. Adding multiple homes to a space originally designed for one, would unnecessarily increase the traffic on an already busy street where many people walk and many kids ride their bikes.

Please remember to take the desires of your constituents into consideration when making your decision. That is supposed to be part of the job and would be much appreciated..

Thank you,  
Carol Fisher  
224 Grosse Pointe Ave

**From:** [Mark Vorwaller](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Reference: 22Z00067  
**Date:** Monday, April 3, 2023 8:14:51 PM

---

Objection  
22Z00067  
Kleefisch

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I have been a resident of Franklyn Avenue for 33 years. I oppose rezoning 107 Franklyn Ave to multi-family buildings. The barrier island is already overpopulated -- we should not be engaged in actions that make it worse.

Best regards,

Mark Vorwaller

**From:** [John Reynolds](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** 22Z00067  
**Date:** Tuesday, April 4, 2023 2:31:46 PM  
**Attachments:** [image001.png](#)

---

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Jones,

I would like you to know that I do not support rezoning 107 Franklyn Ave. Indialantic Fl. 32903, (unincorporated Brevard County) to multi-family / multi-storied buildings.

1. All surrounding residential properties are one story.
2. Franklyn Ave. and Grosse Pointe experience traffic congestion already, this zoning changing would increase the problem.

Thank you,

John Reynolds

## **John Reynolds**

### **Head Coach Women's Basketball**

Florida Tech Athletics

**O:** 321-674-7512 **C:** 321-537-7854 **E:** [reynolds@fit.edu](mailto:reynolds@fit.edu)

[FloridaTechSports.com](http://FloridaTechSports.com)

**FB:** [/Florida Tech Athletics](#) **T:** [@FloridaTechWBB](#) **IG:** [@FloridaTechWBB](#)



**From:** [Allan Guarino](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Rezoning of 107 Franklyn Ave  
**Date:** Tuesday, April 4, 2023 4:11:22 PM

---

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Ms Jones,

I am against the rezoning of 107 Franklyn Ave in Indialantic from single family to multi-family. We live in one-story homes and enjoy a friendly and quiet neighborhood. Please vote NO to the rezoning plan.

Thank you.

Al Guarino,  
Homeowner  
309 Franklyn Ave



Zoning Change ID# 22Z00067

I am the owner of 117 Franklyn Avenue. I fully support Wendy Kleefisch's request to change the property located at 107 Franklyn Avenue to RU-2-12 zoning without any use restrictions. I have attached the relevant zoning map and multi-family comparison.

107 Franklyn Ave. is adjacent to multi-family on all sides including a 48-unit plus a 28-unit, multi-family complex adjacent to the south boundary. While the west boundary property 109 Franklyn Ave. is zoned RA-2-6 which allows for fee simple ownership of individual attached units (multi-family).

In addition, the 107 Franklyn Avenue property boundaries are within a 500-foot radius of 97, 50, 30, 7, 6, unit Condominiums. The 97 unit has a height of 10 floors, the 7 unit has height of 8 floors, the 30 units has a height of 6 floors. Of the 22 parcels located on the 100 block of Franklyn Avenue only three would remain RU-1-11 and all three are adjacent to multifamily on two or more sides.

115 Franklyn Ave. is adjacent to multi-family including RU-2-12 & RU-2-10, plus a 28-unit complex on its south side.

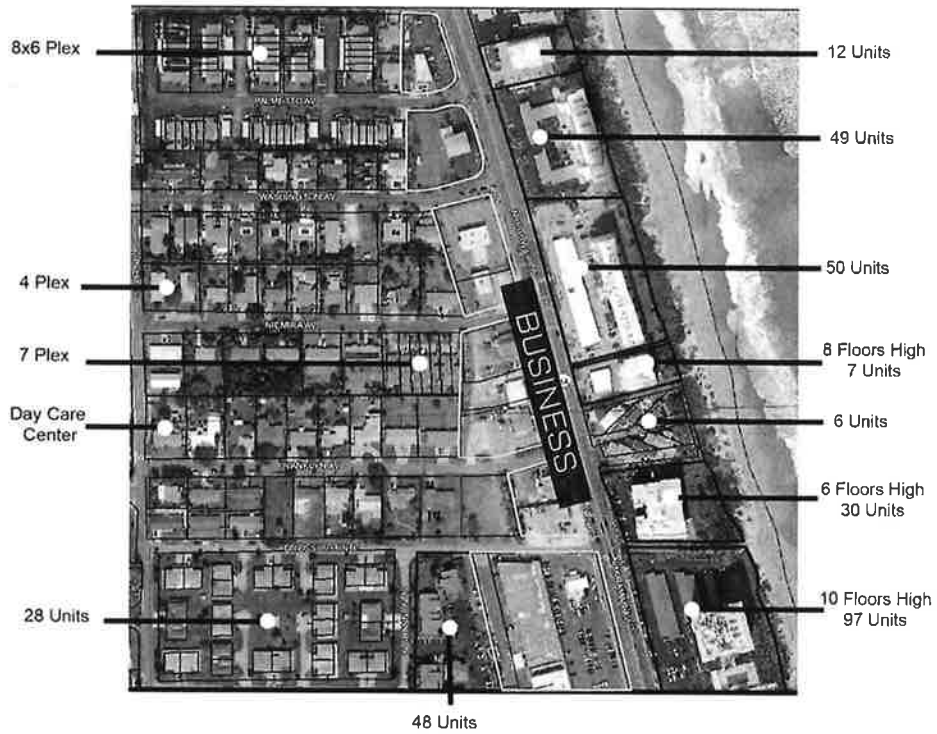
113 Franklyn Ave. is adjacent to multi-family RU-2-10, plus a 28-unit complex on its south side.

111 Franklyn Ave. is adjacent to multi-family RU-2-10 & RA-2-6, plus a 28-unit complex on its south side.

Short term rentals are now being done directly across from 107 Franklyn Ave at 104 & 106. In addition, two more are in process at 119 & 121. Therefore, it would not be reasonable to restrict 107 Franklyn Ave. from this use allowed in RU-2-10 and RU-2-12 zoning.

During the planning and zoning board someone got up and made a comment about traffic being increased by the zoning change. In my opinion this zoning change increases the traffic count by 4 vehicles per day it would be less than 1% increase in traffic.

James Eric Preece  
117 Franklyn Ave. Owner



In Favor  
22Z00067  
Kleefisch

**From:** [Sharon Gehl](#)  
**To:** [Jones, Jennifer](#); [Sharon Gehl](#)  
**Subject:** Rezoning of 107 Franklyn  
**Date:** Wednesday, April 5, 2023 2:39:24 PM

---

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Attn: Jennifer

22Z00067 Wendy Kleefisch

I am an owner on Franklyn Avenue for 22 years and know applicant. She has always kept her property clean and I'm sure will do great with her approval. I fully support Wendy Kleefisch's request to change the property located at 107 Franklyn Avenue to RU-2-12 zoning. Whatever she does will increase my property value as we know it will be beautiful. Thank you  
Sharon Gehl

Sent from Yahoo Mail for iPhone

**From:** Sallie Trecek  
**To:** Jones, Jennifer  
**Subject:** Franklyn Ave Zoning (22Z00067)  
**Date:** Wednesday, April 5, 2023 7:12:24 PM

---

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Dear Commissioners,

My name is Sallie Trecek and I moved to Grosse Pointe a year ago this week. I love living in this town and where I live and yet am alarmed about the new zoning proposal. I am a retired teacher and as I sit in my home at my computer, I see the amount of traffic, especially school traffic which utilizes Grosse Pointe. And I am a daily pedestrian as I walk my dog. I must say, many do not follow the speed limit and don't pay attention to the pedestrians who have to walk in the streets due to the lack of sidewalks for most of the streets.

I see a great deal of pedestrian and vehicular traffic in front of my house, and especially around school hours. I would strongly urge you to deny the zoning request for the multi-family buildings at 107 Franklin. The traffic would be increased exponentially and we already have speeders. And, thinking about people trying to turn left onto A1A would create a nightmare!

As I stated, there is a great deal of pedestrian traffic already due to the schools and the general beach traffic --- and no sidewalks! And adding to that, a great deal of motor vehicle traffic already! It is a wonder there have not been injuries to the pedestrians already ... and adding how many new residences? each one having at least one car, probably two? I'm not a mathematician, but statistics would indicate that there definitely would be over saturation for the neighborhood streets!

Thank you for the consideration for the neighborhood and especially for the safety of our elementary and middle school students! They deserve to be safe on the streets!

Regards,  
Sallie Trecek  
220 Grosse Point Ave  
Indianapolis, FL 32903

## **PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida 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: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Agenda**

#### **Wendy Kleefisch**

A change of zoning classification from RU-1-11 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential), on 0.36 acres, located between Franklyn Ave. and Grosse Pointe, approx. 0.07 mile west of Highway A1A. (107 Franklyn Ave., Indialantic) (22Z00067) (Tax Account 2731680) (District 5)

Wendy Kleefisch, 107 Franklyn Avenue, Indialantic, stated she would like to rezone to multi-family, similar to the property to the east that was recently rezoned.

Public comment.

Kim Atkinson, 1145 Shannon Avenue, Indialantic, stated Franklyn Avenue is on the north side of the subject property, and Grosse Pointe is on the south side of the property, which is residential. She said if a fourplex is built and the access is from Franklyn Avenue it would not be a big deal, but if the entrance was on Grosse Pointe, that is all residential, and more traffic in the area it would ruin the feel. She said while properties to the east and north have some multi-family, the properties to the west do not.

Alena Knoepfler, 109 Franklyn Avenue, Indialantic, stated the applicant did not fully disclose what she would like to do with her property, which is surrounded by one-story single-family homes. She said she would like to know the next step, and she is not completely against it, but she is curious if there can be a win/win, because the request will affect the entire area.

Bruce Moia stated the property directly across Grosse Point is multi-family.

Ms. Kleefisch stated there is multi-family zoning throughout the area, and she is excited about the growth.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the change of zoning classification from RU-1-11 to RU-2-12.

Robert Sullivan stated the concerns from the speakers are that the area is all single-family all single-story, and asked if Ms. Kleefisch would continue with a single-story structure. Ms. Kleefisch replied she is not sure, because the property to the east was allowed three stories.

P&Z Minutes  
March 13, 2023  
Page 2

Mark Wadsworth called for a vote on the motion as stated, and it passed 9:1, with Mr. Sullivan voting nay.



**Commissioner Rob Feltner, District 4**

2725 Judge Fran Jamieson Way

Suite: C-214

Viera, FL 32940

Phone: (321) 633-2044

[D4.Commissioner@Brevardfl.gov](mailto:D4.Commissioner@Brevardfl.gov)

March 20, 2023

To: Jennifer Jones

From: Rob Feltner, Brevard County Commissioner, District 4

Re: Meeting Disclosure – 22Z00067

Concerning **22Z00067** on the April 4, 2023 Brevard County Zoning meeting agenda; on March 9, 2023, Commissioner Feltner met with Ms. Alena Knoepfler in the District 4 Commission Office. The meeting lasted approximately 30 minutes. Ms. Knoepfler stated that she is for development and improvements; however, she does not want anything more than one story buildings in her neighborhood.



**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**  
**COMMISSIONER JOHN TOBIA, DISTRICT 3**

---

2539 Palm Bay Rd NE, Suite 4  
Palm Bay, FL 32905  
[www.Brevardfl.gov](http://www.Brevardfl.gov)

Phone: (321) 633-2075  
Fax: (321) 633-2196  
[John.Tobia@Brevardfl.gov](mailto:John.Tobia@Brevardfl.gov)

April 4, 2023

To: Jennifer Jones  
From: John Tobia, Brevard County Commissioner, District 3  
Re: Meeting Disclosure

Ms. Jones,

Regarding the upcoming agenda item H.7 on the Brevard County Zoning meeting on April 6, 2023, please be advised in advance that I met with the following party in my district office on March 20, 2023.

Alena Knoepfler

The meeting lasted approximately thirty minutes, during which the above individual provided comments and concerns regarding the item.

Sincerely,

John Tobia  
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

**District 3 Includes:**

Palm Bay, Melbourne Beach, Melbourne, Malabar, Grant-Valkaria, West Melbourne, Micco



## Kimberly Powell

---

**From:** Tammy Rowe  
**Sent:** Monday, April 10, 2023 4:07 PM  
**To:** Richardson, Morris  
**Cc:** Kimberly Powell  
**Subject:** RE: Item H.7., Wendy Kleefisch's Zoning Request - April 6, 2023

Thank you, Morris.

Tammy Rowe  
Recording Secretary  
Clerk to the Board Office  
400 South Street  
Titusville, FL 32780  
321-637-2001  
tammy.rowe@brevardclerk.us

**From:** Richardson, Morris <Morris.Richardson@brevardfl.gov>  
**Sent:** Monday, April 10, 2023 4:06 PM  
**To:** Tammy Rowe <Tammy.Rowe@brevardclerk.us>  
**Cc:** Kimberly Powell <Kimberly.Powell@brevardclerk.us>  
**Subject:** Re: Item H.7., Wendy Kleefisch's Zoning Request - April 6, 2023

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Ah, that makes sense. They probably requested a verbatim in the cases in which the County Attorney's Office prepared a full-blown findings of fact and conclusions of law. In this case, the abbreviated resolution with findings will suffice, so a verbatim is not necessary.

Thank you!  
Morris

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**From:** Tammy Rowe <[Tammy.Rowe@brevardclerk.us](mailto:Tammy.Rowe@brevardclerk.us)>  
**Sent:** Monday, April 10, 2023, 4:01 PM  
**To:** Richardson, Morris <[Morris.Richardson@brevardfl.gov](mailto:Morris.Richardson@brevardfl.gov)>  
**Cc:** Kimberly Powell <[Kimberly.Powell@brevardclerk.us](mailto:Kimberly.Powell@brevardclerk.us)>  
**Subject:** RE: Item H.7., Wendy Kleefisch's Zoning Request - April 6, 2023

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Morris,

Thank you for your prompt response.

In the past, the County Attorney's Office requested the Clerk to the Board office to type a verbatim for any zoning item that was denied by the Board. I assume it was to go along with the resolution and finding of facts the Planning and Zoning office prepares.

Tammy Rowe  
Recording Secretary  
Clerk to the Board Office  
400 South Street  
Titusville, FL 32780  
321-637-2001  
[tammy.rowe@brevardclerk.us](mailto:tammy.rowe@brevardclerk.us)

**From:** Richardson, Morris <[Morris.Richardson@brevardfl.gov](mailto:Morris.Richardson@brevardfl.gov)>  
**Sent:** Monday, April 10, 2023 3:45 PM  
**To:** Tammy Rowe <[Tammy.Rowe@brevardclerk.us](mailto:Tammy.Rowe@brevardclerk.us)>  
**Cc:** Kimberly Powell <[Kimberly.Powell@brevardclerk.us](mailto:Kimberly.Powell@brevardclerk.us)>  
**Subject:** RE: Item H.7., Wendy Kleefisch's Zoning Request - April 6, 2023

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Hello Tammy,

My understanding based on BCC-51 (and my admittedly spotty memory of working here from 2005-2015) is that in certain controversial or significant zoning cases, the Board of County Commissioners will direct the County Attorney to develop a resolution setting forth proposed findings of fact, conclusions of law, and the action taken. In typical zoning denials, Planning & Development staff prepares a resolution with limited findings.

I am not familiar with the Clerk to the Board preparing findings, or anything other than the Clerk's Memorandum reflecting the action taken (or not taken). In this case, Planning & Development staff has prepared a resolution. If there is something else that the Clerk to the Board would normally do, please let me know so we are on the same page. I've been gone a long time and a lot has changed. Feel free to call me if it is easier to discuss that way.

Thanks!  
Morris

## **Morris Richardson**

### **County Attorney**

Brevard County Attorney's Office  
2725 Judge Fran Jamieson Way, Building C  
Viera, Florida 32940  
phone: 321.633.2090  
e-mail: [morris.richardson@brevardfl.gov](mailto:morris.richardson@brevardfl.gov)

**From:** Tammy Rowe <[Tammy.Rowe@brevardclerk.us](mailto:Tammy.Rowe@brevardclerk.us)>  
**Sent:** Monday, April 10, 2023 10:30 AM  
**To:** Richardson, Morris <[Morris.Richardson@brevardfl.gov](mailto:Morris.Richardson@brevardfl.gov)>  
**Cc:** Kimberly Powell <[Kimberly.Powell@brevardclerk.us](mailto:Kimberly.Powell@brevardclerk.us)>  
**Subject:** Item H.7., Wendy Kleefisch's Zoning Request - April 6, 2023

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Good morning Morris,

The Board discussed Item H.7., Wendy Kleefisch requesting a change of zoning classification from RU-1-11 to RU-2-12 (22Z00067) (Tax Account 2731680), at the April 6, 2023, Zoning meeting. The item failed with a 2:2 vote (Pritchett, Feltner voted aye, and Tobia, Goodson voted nay). Should we type a Findings of Fact for this Item?

Thank you,

Tammy Rowe  
Recording Secretary  
Clerk to the Board Office  
400 South Street  
Titusville, FL 32780  
321-637-2001  
[tammy.rowe@brevardclerk.us](mailto:tammy.rowe@brevardclerk.us)

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