



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.6.

12/3/2020

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### Subject:

Lazy River Investments (Laura Young) requests a change of zoning classification from RU-1-13 to AU(L). (20Z00030) (Tax Account 3008729) (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 change of zoning classification from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential, Low-Intensity).

### Summary Explanation and Background:

The applicant is requesting to rezone the property from RU-1-13 to AU(L) to be consistent with the RES 1:2.5 FLU (Future Land Use) designation.

The property is located on the southwest corner of Fleming Grant Road and a private driveway, Seabird Lane, with dual frontage on Fleming Grant Road and the Sebastian River. The property is currently vacant and platted as two residential lots: Lot 10, a 10.75-acre lot and Lot 11, a 9.88-acre lot, which totals 20.39 acres.

On May 30, 2019, the Board of County Commissioners conducted a public hearing to consider a request for a Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 to RES 1, and a companion Zoning action request for a BDP (Binding Development Plan) (18PZ00167). The result of that hearing was that the Large Scale Comprehensive Plan Amendment was denied, and the applicant withdrew the companion BDP request. On December 5, 2019, the Board conducted a public hearing to consider a request for a BDP limiting the development of the property to 8 lots, with other stipulations offered to help mitigate the proposed development. The Board also denied this request. (19PZ00093)

All of the properties between Fleming Grant Road and the Sebastian River have the RES 1:2.5 Future Land Use designation. This segment of Fleming Grant Road is considered to be low density residential. The area contains a mixture of lot sizes and zoning classifications. Lots within ½ mile of the property range in size from 0.17 acres up to 4.5 acres with the majority being an acre or larger, and are zoned AG (Agricultural), GU (General Use), RR -1 (Rural Residential) and RU-1-13 (Single-Family Residential).

The Board may consider whether the proposed rezoning to AU(L) is consistent and compatible with the surrounding area. The Board may also wish to consider whether the potential of agritourism activities

adversely affect the surrounding area.

On November 9, 2020, the Planning and Zoning Board heard the request and unanimously recommended approval.

**Clerk to the Board Instructions:**

When resolutions are received, please execute and return to Planning and Development.



BOARD OF COUNTY COMMISSIONERS

**Planning and Development**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

**Application for Zoning Action, Comprehensive Plan Amendment, or  
Variance**

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 20700030

Existing FLU: Res 1:2.5 Existing Zoning: RU-1-13

Proposed FLU: No change Proposed Zoning: AU(L)

**PROPERTY OWNER INFORMATION**

If the owner is an LLC, include a copy of the operating agreement.

David Bistarkey, Manager Lazy River Investments, LLC

Name(s) Company

1698 W. Hibiscus Blvd., Ste A Melbourne FL 32901

Street City State Zip Code

art.fmdc@gmail.com n/a n/a

Email Phone Cell

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☒ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

Laura Young, Esq. Dean Mead Law Firm

Name(s) Company

7380 Murrell Road, Ste. 200 Viera FL 32940

Street City State Zip Code

LYoung@deanmead.com 321-259-8900 321-751-6106

Email Phone Cell

## APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element \_\_\_\_\_
- ☐ Other Amendment (CP): \_\_\_\_\_
- ☒ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 20.39

Reason for Request:

The purpose of the request is to acquire a zoning designation that is compatible with the existing future land use for the following property: Tax Account No.: 3008729/BCPAO Parcel ID No.: 30G-38-19-HP-\*-10.

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☐ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☒ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☒ An approval of this application does not entitle the owner to a development permit.
- ☒ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

Signature of Property Owner or  
Authorized Representative

Laura Minton Young

Date

9/3/2020

State of FLORIDA

County of BERNARD

Subscribed and sworn to me before me this 3<sup>rd</sup> day of, September, 20 20,  
personally appeared LAURA YOUNG, ESQ, who is personally known to me or  
produced \_\_\_\_\_ as identification, and who did / did not take an oath.

Notary Public Signature

Brian M. Stephens

Seal



Office Use Only:

Accela No. 20200030 Fee: \$1,509.00 Date Filed: 9/3/20 District No. 3

Tax Account No. (list all that apply) 3008729

Parcel I.D. No.

30G 38 19 #P \* 10  
Twp Rng Sec Sub Block Lot/Parcel

Planner: Peter J. Martin Sign Issued by: [Signature] Notification Radius: 500ft

MEETINGS

☒ P&Z

☐ PSJ Board

☐ NMI Board

☐ LPA

☐ BOA

☒ BCC

DATE

11/9/2020

TIME

3:00pm

Wetland survey required by Natural Resources ☐ Yes ☐ No Initials N/A

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☐ Yes

☒ No

If yes, list

N/A

Location of subject property:

On the South side of Fleming Grant Road approximate 2,820 feet South-West of the intersection of Fleming Grant Road and Primrose Drive.

Description of Request:

Rezoning from Single-Family Residential (RU-1-B) to Agricultural Residential-Light (AUL).

ACCELA #

20700030

## DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application Authorization to Act Form <sup>1</sup>	Recorded Property Deeds	Legal Description of Request <sup>2</sup>	Certified Survey <sup>8</sup>	Property Appraisers Map	Concurrency	School Concurrency <sup>3</sup>	Wetland Survey <sup>4</sup>	CUP Worksheet & Sketch <sup>5</sup>	Comp Plan Information <sup>6</sup>	Notice to Applicants	Neighbors Affidavit <sup>7</sup>	Letter to Zoning Official	Variance Hardship Worksheet <sup>9</sup>	*Additional Documentation	Fees
NUMBER OF COPIES REQUIRED																
Staff to check indicating receipt	✓		NA	NA	✓			NA			✓					
Comprehensive Plan Amendment <sup>6</sup>	1	1	1	2	2	1	1	1		1					*	Y
Zoning request	1	1	1	1	1 <sup>8</sup>	1	1	1			1				*	Y
Conditional Use Permit (CUP)	1	1	1	1	1 <sup>8</sup>	1			1		1					Y
AA – Waiver	1	1			1	1						1	1			Y
AA – Easement or Flag lot	1	1	1	1	1	1										Y
Variance	1	1	1	1	1	1								1	*	Y

<sup>1</sup> Authorization to Act form is required, if other than the owner of record is making the application. If the property is not owned in entirety, by the applicant, either a Form "A", or a notarized letter must accompany the application giving written consent by all property owners of the subject property.

<sup>2</sup> Legal Description must be typed on a separate sheet, if not easily described on the deed.

<sup>3</sup> School Board Concurrency application is required if the request represents an increase of more than one residential unit.

<sup>4</sup> Wetland Survey required on Commercial or Industrial property.

<sup>5</sup> CUP applications require a completed worksheet and a sketch plan with the application signed by a planner.

<sup>6</sup> Must include Comprehensive Plan Amendment supplemental form reviewed by a planner prior to submitting formal application. The supplement must include a written statement explaining the rational and the appropriate data and analysis necessary to support the proposed change.

<sup>7</sup> Administrative waivers requiring a signed affidavit from all abutting property owners indicating no objection to the requested waiver of lot size, width or depth requirement. The affidavit must state the specific request.

<sup>8</sup> Survey must be submitted if requested by staff.

<sup>9</sup> Variance Hardship Worksheet must be filled out completely, addressing the six criteria for a hardship.

**\*Additional information may be requested by staff dependent upon the requested action. These include but are not limited to impact analysis studies:**

**Traffic Impact Analysis (TIA):** TIA must be submitted if required by the County Traffic Engineer. Analysis methodology must be coordinated with the Traffic Engineering Office.

**Environmental Impact Analysis:** The analysis must be conducted by a qualified environmental professional and dated less than one year old. The analysis must document the types of habitat found on site; identify vegetation types, soils types, wetlands, floodplain; and any other environmental concerns.

**Water and Sewer Demand:** Identify the potable water and sanitary sewer demand for the amendment based on the current and proposed future land use designations using the per capita water and wastewater standards of the applicable service provider.

207 00030

## CALCULATION OF PUBLIC HEARING APPLICATION FEES -ZONING OFFICE

PUBLIC HEARING APPLICATION FEES	BASE FEE	ACREAGE FEE	UNIT FEE	SUB-TOTAL
<b>REZONING</b>				
Environmental Area	511.00			
Residential Professional	960.00			
General Use and Agricultural Use	849.00*	( -5) x 24**		
Single-Family Residential	849.00*	( -5) x 24**		
Single-Family Mobile Home	849.00*	( -5) x 24** = 15 x 24 = 360		\$ 12,09.00
Commercial/Planned Commercial	1,184.00	( ) x 24		
Tourist Commercial	1,855.00	( ) x 45		
Industrial/Planned Industrial	1,855.00	( ) x 45		
Planned Unit Development	5,661.00	( ) x 45		
Single-Family Attached Residential	960.00	( ) x 24		
Multiple-Family Residential	960.00	( ) x 24		
Recreational Vehicle Park	1,408.00	( ) x 24		
Mobile Home Park/Mobile Home Co-op	1,408.00	( ) x 24		
<b>CUP'S OR ROU APPLICATIONS</b>				
Fee per request (with rezoning)	447.00			
Fee per request (without rezoning)	849.00			
<b>OTHER APPLICATION FEES</b>				
Consultant fee Retainer per Tower Application	6,934.00			
Transfer of Development Rights	1,520.00			
Comprehensive Plan Appeals (Vested Rights)				
One (5.0 acres or less) Single-family residential	433.00			
All other Appeals	1,733.00			
Variance/Appeals of Administrative Interpretation				
Base Fee	598.00			
Fee for each additional request	182.00			
Special Hearing Fee for P & Z / LPA	3,692.00			
Special Hearing Fee for BOA	1,872.00			
All Other Unlisted Zoning Applications	849.00			
Miscellaneous				
<b>COMPREHENSIVE PLAN AMENDMENTS</b>				
Small Scale Amendment	919.00			
Large Scale Amendment	1,785.00	\$43 per acre		
Maximum Fee on a Single Application	17,334.00			
<b>FEES COLLECTED FOR ADMINISTRATIVE ACTIONS</b>				
Office of Natural Resources zoning review (if applicable)	300.00			
flag lot &/or easement review	360.00			
Land Development PUD review	100.00			
flag lot &/or easement review	150.00			
Address Assignment review of flag lot &/or easement	100.00			
Zoning fee	277.00			
<b>BASE FEE ADJUSTMENTS</b>				
* If area for these requests have the potential for only one more lot, the fee is	288.00			
** Maximum acreage fees for these requests shall be	2,240.00			
*** Maximum Planned Unit Development Fee shall be	13,432.00			
**** Maximum fee for all other zoning requests shall be	8,955.00			
SUB-TOTAL *** / ****				\$ 1,209.00
				\$ 300.00
TOTAL				\$ 1,509.00





Planning & Development  
Central Cashier  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Melbourne, FL 32940

## RECEIPT OF PAYMENT

Payment Date: 9/4/2020  
Receipt #: 578986  
Transaction Id# 80738765

Payment Method	Payment Reference #	Amount Paid	Comments
e-Check	80738765	\$1,509.00	
		\$1,509.00	Total

FL

Zoning Rezoning \$1,509.00

**20Z00030**

Fee	Invoice #	Amount
Rezoning General Use and Agriculture Use	680893	\$1,209.00
Rezoning Natural Resources Review	680893	\$300.00

**Grand Total** \$1,509.00

Additional Fees may apply to obtain a Certificate of Completion, a Certificate of Occupancy, Pre-Power, or Final Inspection.  
To verify fees please visit the Brevard County Planning & Development Search.

[www.brevardcounty.us/PlanningDev](http://www.brevardcounty.us/PlanningDev)

P (321) 633-2068 F (321) 633-2052

**Zoning Information Worksheet**

Owner(s): Lazy River Investments, LLC  
(Does this match the warranty deed?)  
Applicant(s): Laura Young, Esq. (w/Dean Mead Law Firm)  
(Does this person have authorization from everyone listed on the warranty deed?)  
Parcel ID#: 30G-38-19-HP-\* -10  
(If more than one parcel, they must share a property line to be on the same application.)  
Present Zoning: Single-Family Residential (RU-1-13)  
Is there a BDP or a CUP on the property? Yes/No: No (If yes, attach BDP) N/A  
Existing BDP states: N/A

Requested Zoning/CUP: Agricultural Residential Light (AUL)  
BDP Requested? Yes/No: No

If CUP Request, do you have a CUP worksheet filled out by the applicant? Yes/No

Previously Approved Zoning Actions on lot:

Z-2980 Blanket rezoning from RU-1 to RU-1-13  
DNZ-denied rezoning 19PZ00093

Is this a non-conforming lot of record? Yes/No: No Why?

Non-Conforming to: No, however, zoning is not consistent with Future Land Use Map (FLUM) designation of the Comprehensive Plan.

Is this a substandard lot? Yes/No: No Why?

It meets minimum lot area and dimension requirements of current RU-1-13 zoning classification

What is the FLU Designation of the property?: Residential 1:2.5 (RES 1:2.5)

- Is the requested zoning consistent with the FLU? Yes/No: No (See compatibility table)
- If no, what is the requested small scale plan amendment? (Must be 10 acres or less)

N/A

Character of the Area - List the recent zoning changes in same section? (Last 3 years)

Action #, Date of action and State what changed?

Z# on subject lot 19PZ00093 Rezoning w/BDP limiting to 8 lots denied on 12/5/2019.  
19PZ00008 AA for a flag lot 1,220 ft to north

If this is a CUP request, list all CUP's on adjacent properties:

N/A

Abutting property zoning:

N Road

S River

E <sup>Sans Sebastia</sup> RR-1 on <sup>unimproved ROW</sup> W <sup>otherside</sup>

RU-1-B

JPA/Special Board/Special Section? Yes/No (Circle one and make a note on the application) PSJ, NMI, MIRA  
ROCKLEDGE, MELBOURNE, PALM SHORES, TITUSVILLE, PALM BAY or within 500' of PALM BAY EXTENSION

Reason for Rezoning Request:

to acquire a zoning designation that is compatible with the ~~existing~~ current future land ~~and~~ use for the subject property.

- If proposing single-family or multi-family how many units? 8
- If proposing a CUP for alcohol, how many seats? N/A Bar or Restaurant? N/A
  - Do you have a certified survey indicating there are no churches or schools within 400'? Yes/No
  - Do you have a site plan showing the layout and parking configuration? Yes/No
  - Do you have a CUP worksheet filled out by the applicant? Yes/No
- If the request is for commercial zoning, do you have a wetland survey that includes a legal description of the wetland? Yes/No (If no, NR must have checked no on the front of the application)

Existing structures/uses on the property?

Vacant - no structures & No uses

Describe the character of the area based upon Administration Policy 3 of FLUE (attached):

Low density Single Family Residential

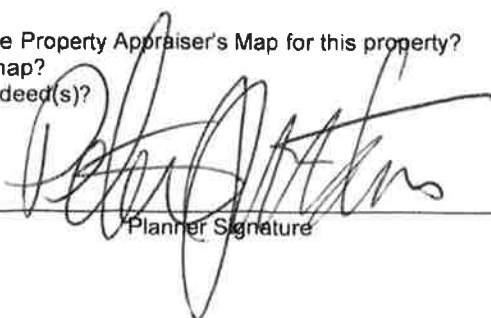
Concerns raised as part of request:

Issues

Other options discussed with applicant:

Agricultural Residential (AR)  
AU(L) and RRMH-S. Applicant chose AU  
for business reasons.

Did you print out the Property Appraiser's Map for this property?  
Did you mark the map?  
Did you stamp the deed(s)?

  
Planner Signature

9/3/20  
Date

### **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 foresee ably 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 an 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.

## Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

### NOTES:

- ☒ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ☒ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

LYOUNG@DEANMEAD.COM or ( ) \_\_\_\_\_ or U.S. Mail \_\_\_\_\_  
e-mail address fax number

☒ Yes ☐ No

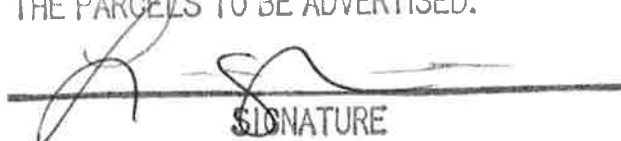
I have received a copy of this notice:

(APPLICANT SIGNATURE)

Laura Minton Young

Prepared by and Return to:  
PRECISE TITLE, INC  
Karen S. Solomon  
201 Sixth Avenue  
Indialantic, Florida 32903  
Our File Number: 24230  
Incidental to the issuance of a title insurance  
commitment/policy

THIS INSTRUMENT CONTAINS THE OFFICIAL  
RECORD BOOK AND PAGE NUMBERS DESCRIBING  
THE PARCELS TO BE ADVERTISED.

  
SIGNATURE

For official use by Clerk's office only

STATE OF Florida )

SPECIAL WARRANTY DEED

COUNTY OF Brevard )

THIS INDENTURE, made this May <sup>9th</sup> 2019, between Douglas Robertson and Cindy Robertson, husband and wife, whose mailing address is: 4085 Lake Washington Road, Melbourne, Florida 32934, party of the first part, and Lazy River Investments, LLC, a Florida limited liability company, whose mailing address is: 1698 W Hibiscus Blvd., Suite A, Melbourne, Florida 32901, party/parties of the second part,

WITNESSETH:

First party, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, aliens, remises, releases, conveys and confirms unto second party/parties, his/her/their heirs and assigns, the following described property, to wit:

Lot (s) 10 and 11, Frank H. Allen Subdivision of 136 Acre Tract of the Fleming Grant, according to the map or plat thereof, as recorded in Plat Book 1, Page(s) 77, of the Public Records of Brevard County, Florida.

Parcel Identification Number: 30G-38-19-HP-\*-10

Subject, however, to all covenants, conditions, restrictions, reservations, limitations, easements and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.


TO HAVE AND TO HOLD the same in fee simple forever.

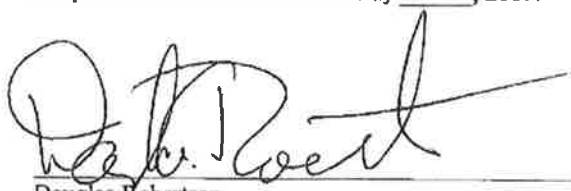
AND the party of the first part hereby covenants with said party of the second part, that it is lawfully seized of said land in fee simple: that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the party of the first part.

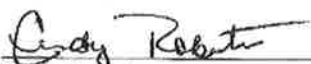
IN WITNESS WHEREOF, first party has signed and sealed these present the date set forth on May 9th, 2019.

Signed, sealed and delivered  
in the presence of:

  
Witness signature  
**Karen S. Solomon**  
Print witness name

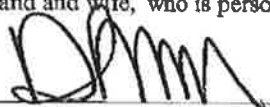
  
Witness signature  
**Deborah Benoit**  
Print witness name

  
Douglas Robertson  
4085 Lake Washington Road  
Melbourne, Florida 32934

  
Cindy Robertson  
4085 Lake Washington Road  
Melbourne, Florida 32934

State of Florida  
County of Brevard

THE FOREGOING INSTRUMENT was acknowledged before me this May 9th, 2019 by Douglas Robertson and Cindy Robertson, husband and wife, who is personally known to me or who has produced a drivers license as identification.

  
Notary Public  
**Karen S. Solomon**  
Print Notary Name

My Commission Expires: \_\_\_\_\_

Notary Seal





BOARD OF COUNTY COMMISSIONERS

Planning and Development  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940

## AUTHORIZATION TO ACT ON BEHALF OF OWNER

I, Arthur F. Evans, III, as manager of Lazy River Investments, LLC,

authorize Laura Minton Young, Dean Mead Law Firm

to act on my behalf, which may include representing me in public hearings pertaining to the submittal of the attached application.

Choose the applicable application type. More than one may apply.

- |  |   |
|--|---|
| <input type="checkbox"/> Administrative Action | <input type="checkbox"/> Comprehensive Plan Amendment |
| <input type="checkbox"/> Development Plan      | <input checked="" type="checkbox"/> Rezoning          |
| <input type="checkbox"/> Variance              |   |

[Signature]  
Signature Arthur F. Evans, III

Sept 8, 2020  
Date

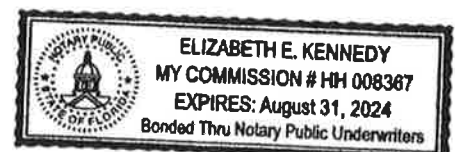
State of Florida

County of Brevard

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of Sept, 2020  
by Arthur F. Evans, III, who is personally known to me or has produced  
[Signature] as identification, and who did or did not take an oath.

[Signature]  
Signature of Notary

Seal:







**Electronic Articles of Organization  
For  
Florida Limited Liability Company**

L19000101633  
FILED 8:00 AM  
April 12, 2019  
Sec. Of State  
jafason

**Article I**

The name of the Limited Liability Company is:

LAZY RIVER INVESTMENTS, LLC

**Article II**

The street address of the principal office of the Limited Liability Company is:

1698 W HIBISCUS BLVD  
SUITE A  
MELBOURNE, FL. 32901

The mailing address of the Limited Liability Company is:

1698 W HIBISCUS BLVD  
SUITE A  
MELBOURNE, FL. 32901

**Article III**

The name and Florida street address of the registered agent is:

ARTHUR F EVANS  
1698 W HIBISCUS BLVD  
SUITE A  
MELBOURNE, FL. 32901

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: ARTHUR F EVANS, III

#### **Article IV**

The name and address of person(s) authorized to manage LLC:

Title: MGR  
LAZE-E-J, LLC  
1698 W HIBISCUS BLVD STE A  
MELBOURNE, FL. 32901

Title: MGR  
DAVID BISTARKEY  
1698 W HIBISCUS BLVD STE A  
MELBOURNE, FL. 32901

L19000101633  
FILED 8:00 AM  
April 12, 2019  
Sec. Of State  
jafason

#### **Article V**

The effective date for this Limited Liability Company shall be:

04/08/2019

Signature of member or an authorized representative

Electronic Signature: ARTHUR F EVANS III

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

**OPERATING AGREEMENT**

**OF**

**LAZY RIVER INVESTMENTS, LLC**

**OPERATING AGREEMENT**  
**OF**  
**LAZY RIVER INVESTMENTS, LLC**

THIS OPERATING AGREEMENT OF LAZY RIVER INVESTMENTS, LLC, a Florida limited liability company, is made and entered into effective the   1   day of May, 2019, by and among LAZY-E-J, LLC a Florida limited liability Company and David Bistarkey, (each referred to individually as a “**Member**” and, collectively, as the “**Members**”).

**RECITALS**

A. The Members formed LAZY RIVER INVESTMENTS, LLC, a Florida limited liability company (the “**Company**”), effective April 12, 2019 by filing Articles of Organization with the Secretary of State of Florida.

B. The Members now desire to adopt this Agreement to evidence their agreement and understanding concerning the Company, the Company’s business assets and operations, the Company’s governance, the rights of the Members upon the dissolution or liquidation of the Company and the Members’ interest in the Profits, Losses, capital and liabilities of the Company in accordance with the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed that the statements of fact contained in Paragraphs A and B of the Recitals above are true and correct and are incorporated herein and made a part hereof; and the parties further agree to the terms and conditions set forth in this Agreement.

**ARTICLE 1 - DEFINITIONS**

Section 1.1 **Definitions.** Capitalized terms that are used in this Agreement have the meanings provided in this Article 1 unless defined elsewhere herein.

“**Act**” means the Florida Revised Limited Liability Company Act, Chapter 605 of the Florida Statutes, as such Chapter may be amended or revised from time to time.

“**Affiliate**” of a Member or the Company means a Person that controls, is controlled by or is under common control with such Member or with the Company. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise. Ownership of more than fifty percent (50%) of the beneficial interests of a Person shall be conclusive evidence that control exists.

injunctive relief shall be in addition to any other rights or remedies available to the Company. The parties agree that the Company shall not be required to post any bond in connection with seeking such injunctive relief.

Section 8.4 Non-Competition/Non-Solicitation. Notwithstanding § 605.04091(2) of the Act, any Member or Manager may engage in or possess an interest in other business ventures of every nature and description, independently or with others, whether or not similar to or in competition with the business of the Company, and neither the Company nor the Members will have any right by virtue of this Agreement in or to such other business ventures or to the income or profits derived therefrom. Unless otherwise agreed to, no Manager will be required to devote all of that Manager's time or business efforts to the affairs of the Company, but is to devote so much of that Manager's time and attention to the Company as is reasonably necessary and advisable to manage the affairs of the Company to the best advantage of the Company.

## **ARTICLE 9 - MANAGEMENT OF THE COMPANY**

Section 9.1 Manager-Managed Company; Appointment and Tenure of Managers. The Company shall be a manager-managed limited liability company as described in § 605.0407 of the Act. The initial Managers of the Company shall be Arthur F. Evans, III and David Bistarkey. Any Manager may be replaced or removed as a Manager with or without cause by the Majority Members.

Section 9.2 Authority and Power of Managers. Except as otherwise provided by the Act or this Agreement, the Managers shall have and enjoy all the rights and powers to do all things necessary to carry out the business of the Company and shall have the sole and exclusive right to manage the business of the Company on behalf of the Company.

Section 9.3 Limitations Upon Authority of Managers. Notwithstanding anything in Section 9.2 above to the contrary, the Managers shall not do (or enter into any contracts to do) any of the following on behalf of the Company without first obtaining the consent of the Majority Members to:





- A. cause the dissolution of the Company; or
- B. sell, lease, exchange, transfer, assign, convey, manage or otherwise dispose of the Company's assets other than in the ordinary course of the Company's business.

Section 9.4 Acts of the Manager. Except as otherwise provided in this Agreement, all management decisions shall be made by the Manager. In accordance therewith, the signature of the Manager shall be required to evidence such consent, and no contract shall be effective unless signed the Manager. If there is more than one Manager, and if the Managers are unable to come to a decision with respect to any matter, then such matter will be submitted for a vote of the Members and shall be decided by the Majority Members.

Section 9.5 Statement of Authority. As provided in § 605.0302 of the Act, the Company may file a statement of authority with the office of the Secretary of State of Florida with respect

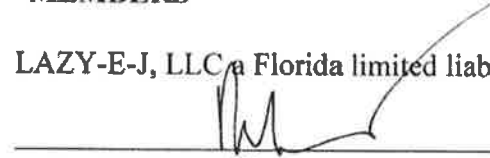
IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first above written.


WITNESSES:

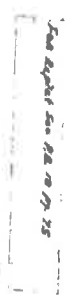
  
  
  


**"MEMBERS"**

LAZY-E-J, LLC a Florida limited liability Co.

  
Arthur F. Evans, III, as Manager

  
David Bistarkey



County Survey  
June 20 1880

Transmit them - also material  
Borden's & pp. 100 by  
J. O. Howe  
Cordery -





# Brevard County Property Appraiser

Titusville • Viera • Melbourne • Palm Bay

## PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 3008729  
Owners Lazy River Investments LLC  
Mailing Address 1698 W Hibiscus Blvd, Ste A Melbourne FL 32901  
Site Address Not Assigned  
Parcel ID 30G-38-19-HP-\*-10  
Property Use 0010 - Vacant Residential Land (Single Family, Platted)  
Exemptions None  
Taxing District 3400 - Unincorp District 3  
Total Acres 20.39  
Subdivision Allen Et AL Subd Of S 136 Acre Tract Grant Secs  
Site Code 0130 - Canal Front  
Plat Book/Page 0001/0077  
Land Description Allen Et AL Subd Of S 136 Acre Tract Grant Secs Lots 10,11

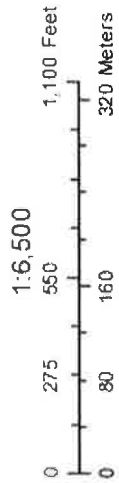
## VALUE SUMMARY

Category	2020	2019	2018
Market Value	\$633,000	\$591,890	\$732,960
Agricultural Land Value	\$0	\$0	\$0
Assessed Value Non-School	\$633,000	\$591,890	\$732,960
Assessed Value School	\$633,000	\$591,890	\$732,960
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$633,000	\$591,890	\$732,960
Taxable Value School	\$633,000	\$591,890	\$732,960

## SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
05/09/2019	\$700,000	WD	Vacant	8435/0416
08/30/2018	\$650,000	WD	Vacant	8258/1532
10/09/2003	--	WD	Vacant	5089/0284
08/30/1993	--	WD	Vacant	3319/0854
07/01/1982	\$210,000	WD	--	2377/0703
05/01/1981	--	PT	--	2297/1925
07/12/1979	--	QC	--	2095/2980

No Data Found



- Zoning
- Section

City (Large Scale)

CAPE CANAVERAL

## **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:

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.



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**

**20Z00030**

**Lazy River Investments, LLC**

**RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential (Low Intensity))**

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: 11/09/2020

Board of County Commissioners: 12/03/2020

**Consistency with Land Use Regulations**

- Current zoning can not 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-1-13	AU (L)
<b>Potential*</b>	Two (2) single-family residential units	Eight (8) single-family residential units
<b>Can be Considered under the Future Land Use Map</b>	NO Residential 1:2.5	YES Residential 1:2.5

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

**Background and Purpose of Request**

The applicant is requesting to rezone the property from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential - Low Intensity) to be consistent with the RES 1:2.5 (Residential 1:2.5) FLU (Future Land Use) designation.

The property is located on the southwest corner of Fleming Grant Road and a private driveway, Seabird Lane. This property has dual frontage on Fleming Grant Road and the Sebastian River. The property is currently platted as two residential lots: Lot 10, a 10.75-acre lot and Lot 11, a 9.88-acre lot, which total 20.39 acres. The property is currently vacant.

On May 30, 2019, the Board of County Commissioners conducted a public hearing to consider a request for a Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 to RES 1, and a companion Zoning action request for a BDP (Binding

Development Plan) for consistency with the Residential 1 FLU designation (**18PZ00167**). The result of that hearing was that the Large Scale Comprehensive Plan Amendment was denied, and the applicant withdrew the companion BDP request. On December 5, 2019, the Board conducted a public hearing to consider a request for a BDP limiting the development of the property to 8 lots, with other stipulations offered to help mitigate the proposed development. The Board also denied this request. (**19PZ00093**)

## **Land Use**

The property is currently designated RES 1:2.5 by the Future Land Use Map (FLUM). The existing zoning of RU-1-13 is inconsistent to the FLUM. The proposed zoning of AU(L) would allow consistency with the FLUM.

**FLUE Policy 1.10** 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.

## **Environmental Constraints**

All references to mapped areas can be found in the GIS Maps section of this package.

The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

The southern portion of the subject parcel is located within the Special Flood Hazard Area (SFHA) as identified by Federal Emergency Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality. Development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year base flood elevation (BFE) as described below.

Portions of the site are mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. The project is not located within the Brevard County's sanitary sewer service area. Therefore, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

The entire subject property is mapped within Upland Mixed Coniferous/Hardwood trees FLUCCS code. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are found in the project area. While developing in the SFHA and CHHA to a higher elevation would provide more protection from flooding, the additional fill is detrimental to the preservation of Specimen Trees, natural function and biodiversity.

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.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, between the Indian River county line 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 52.02% of capacity daily. The parcel is undeveloped. The maximum development potential from the proposed rezoning increases the proposed trip generation 0.13%. The corridor is anticipated to operate at 52.15% of capacity daily. The proposal is not anticipated to create a deficiency in LOS C.

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.

The subject property is not served by potable water. The subject property would be served by well and septic. 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 and septic systems within this Overlay are subject to said regulations.

### **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 8 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.**

All of the properties between Fleming Grant Road and the Sebastian River have the RES 1:2.5 Future Land Use designation. This segment of Fleming Grant Road is considered to be low density residential and rural in character. The area contains a mixture of lot sizes and zoning classifications. Lots within ½ mile of the property range in size from 0.17 acres up to 4.5 acres with the majority being an acre or larger, and are zoned AG (Agricultural), GU (General Use), RR-1 (Rural Residential) and RU-1-13 (Single-Family Residential). The AG and GU classifications may be considered consistent with RES 1:2.5; however, the RR-1 and RU-1-13 classifications are not considered to be consistent with the RES 1:2.5. The majority of these parcels were created prior to the adoption of the Comprehensive Plan in 1988.

The proposed AU(L) zoning may be considered to be consistent with RES 1:2.5 as it has a minimum required lot size of 2.5 acres. The AU (Agricultural Residential) zoning classification is generally intended to encompass lands devoted to agricultural pursuits and single-family residential

development of spacious character. The classification is divided into two types, AU and AU(L). AU is the standard agricultural residential classification, while AU(L) is a low intensity sub-classification more suited to smaller lots where the neighborhood has a more residential than agricultural character. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities. The AU(L) zoning classification requires a minimum lot size of 2 ½ acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. There are parcels in the area that have the AU zoning classification; however, the Board's approval of the request would introduce AU(L) to the area.

The properties along the eastern boundary of the subject property and most of the north side of Fleming Grant Road from the subject property are zoned RR-1. The RR-1 zoning classification is generally intended to encompass lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permits uses which are conducted in such a way as to minimize possible incompatibility with residential development. The RR-1 classification permits horses, barns, and horticulture as accessory uses to a single-family residence subject to the standards in Section 62- 2100.5(2). The minimum lot size for RR-1 is one acre, with a minimum lot width and depth of 125 feet, and a minimum house size of 1,200 square feet.

The subject property and the properties along the western property line are zoned RU-1-13. The RU-1-13 classification is generally intended to encompass lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-1-13 does not permit horses, barns, or horticulture. The minimum lot size is 7,500 square feet, with a minimum width and depth of 75 feet, and a minimum house size of 1,300 square feet.

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

The area is characterized primarily by low-density single-family zoning and rural development. As mentioned above, the area contains a mixture of lot sizes and zoning classifications (i.e., AG, GU, RR-1 and RU-1-13). The majority of the AU-zoned land is approximately 360 feet west of the subject property and has a mixture of residential and residential/agricultural. The more intense uses allowed within the AU zoning classification do not appear to be occurring in the area. The parcels to the east and north of the subject property are zoned RR-1 and are primarily developed as single family residences.

Should the Board be concerned with agriculture activity between the RU-1-13 and RR-1 zoning classifications, an alternative residential zoning classification, REU (Rural Estate Use), could be considered in lieu of the applicant's AU(L) request. The REU zoning classification is similar to AU(L) and requires a minimum lot size of 2.5 acres and may be considered consistent with the RES 1:2.5 Future Land Use, but limits agricultural uses as a conditional use. The keeping of horses or other farm animals would require a separate zoning action in order to identify and limit their usage upon the property. Additionally, REU, with minimum lot width and depth of 200 feet, would limit the number of new lots fronting Fleming Grant Road or the river, plus a small left-over area for possible flag stems accessing Fleming Grant Road, or providing access to the water. The minimum living area is 1,200 square feet, which is 450 square feet larger than the 750 square feet required in AU(L). Although REU zoning is not currently located in the surrounding area, this zoning classification could offer additional protections that the AU(L) zoning classification does not.

## **Analysis of Administrative Policy #7 – Significant Adverse Environmental Impacts**

The Environmental Constraints sect of the reports identify several environment limitations effecting the development potential of the property. The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

### **Surrounding Properties**

The surrounding area is characterized as low density with some residential lots developed at less than 1 acre prior to the adoption of the Comprehensive Plan in 1988.

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

There have been no approved zoning actions approved in the last three (3) years within half-mile of the subject property.

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 per AA-1581 and AA-1583, provides access to two three-acre riverfront parcels.

### **For Board Consideration**

The Board may consider whether the proposed rezoning to AU(L) is consistent and compatible with the surrounding area. The Board may also wish to consider whether the potential of agritourism activities adversely affect the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Rezoning Review & Summary**

**Item # 20Z00030**

**Applicant:** Young for Bistarcky

**Zoning Request:** RU-1-13 to AU(L) for 8 units

**P&Z Hearing Date:** 11/09/20; **BCC Hearing Date:** 12/03/20

**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.**

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

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain
- Surface Water Classification
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

All references to mapped areas can be found in the GIS Maps section of this package.

The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

The southern portion of the subject parcel is located within the Special Flood Hazard Area (SFHA) as identified by Federal Emergency Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively

impact adjacent properties or receiving water body quality. Development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year base flood elevation (BFE) as described below.

Portions of the site are mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. The project is not located within the Brevard County's sanitary sewer service area. Therefore, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

The entire subject property is mapped within Upland Mixed Coniferous/Hardwood trees FLUCCS code. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are found in the project area. While developing in the SFHA and CHHA to a higher elevation would provide more protection from flooding, the additional fill is detrimental to the preservation of Specimen Trees, natural function and biodiversity.

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.

#### **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. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. 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) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

##### **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.

##### **Coastal High Hazard Area**

The southern portion of the property is in the CHHA. The Coastal Management Element of the Comprehensive Plan, Objective 7.0, 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 CHHA. Policy 6.1 designates CHHAs to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

### **Floodplain**

The southern portion of the subject parcel is located within the SFHA as identified by FEMA in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality, and development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year BFE as described below.

The FEMA determined BFE within the SFHA for the parcel is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD, becoming effective January 29, 2021. Both the Florida Building Code and County Code require that for any structure proposed within the SFHA, the lowest floor elevation (FFE) of structures must be a minimum of 1 foot above the BFE, or 6.3 feet NAVD upon effective date. The LiDAR map provided in this package shows the 6.3 feet NAVD contour line. Elevations below 6.3 feet NAVD will either require fill, or an alternative option to slab-on-grade construction (i.e. stem wall construction), to bring the FFE up to 6.3 feet NAVD.

Construction in the SFHA of onsite septic tank and drain field with buffers, access to the primary and accessory structures, and all accessory structures such as pools, decks, detached garages, sheds, require a constructed elevation at or above the BFE (5.3 feet as of January 2021); which may likely result in fill used in conjunction with a stem wall/retaining wall.

### **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 such as pools, decks, sheds, cabanas, etc., are permissible within the Buffer provided that stormwater management is provided. Impervious areas shall not exceed 30% of Buffer area. Avoidance/minimization of Buffer impacts is required so that surface water quality and natural habitat is not adversely affected.

Per Section 62-3666(4), all alterations shall demonstrate avoidance and minimization of surface water protection buffer impacts, including the location of the alteration within the most landward portion of the Buffer, as practicable. The remainder of the surface water protection Buffer shall be maintained in unaltered native vegetation.

### **Indian River Lagoon Nitrogen Reduction 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. The project is not located within the Brevard County's sanitary sewer service area. Thus, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are be subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

**Heritage Specimen Trees**

The entire subject property is overlaid in a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and are found on the project area. 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.

While developing to a higher elevation provides more protection from flooding, the additional fill is detrimental to the preservation of Protected and Specimen Trees, especially those located at the lower elevations within the SFHA floodplain and the CHHA. 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 the FFE.

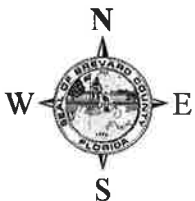
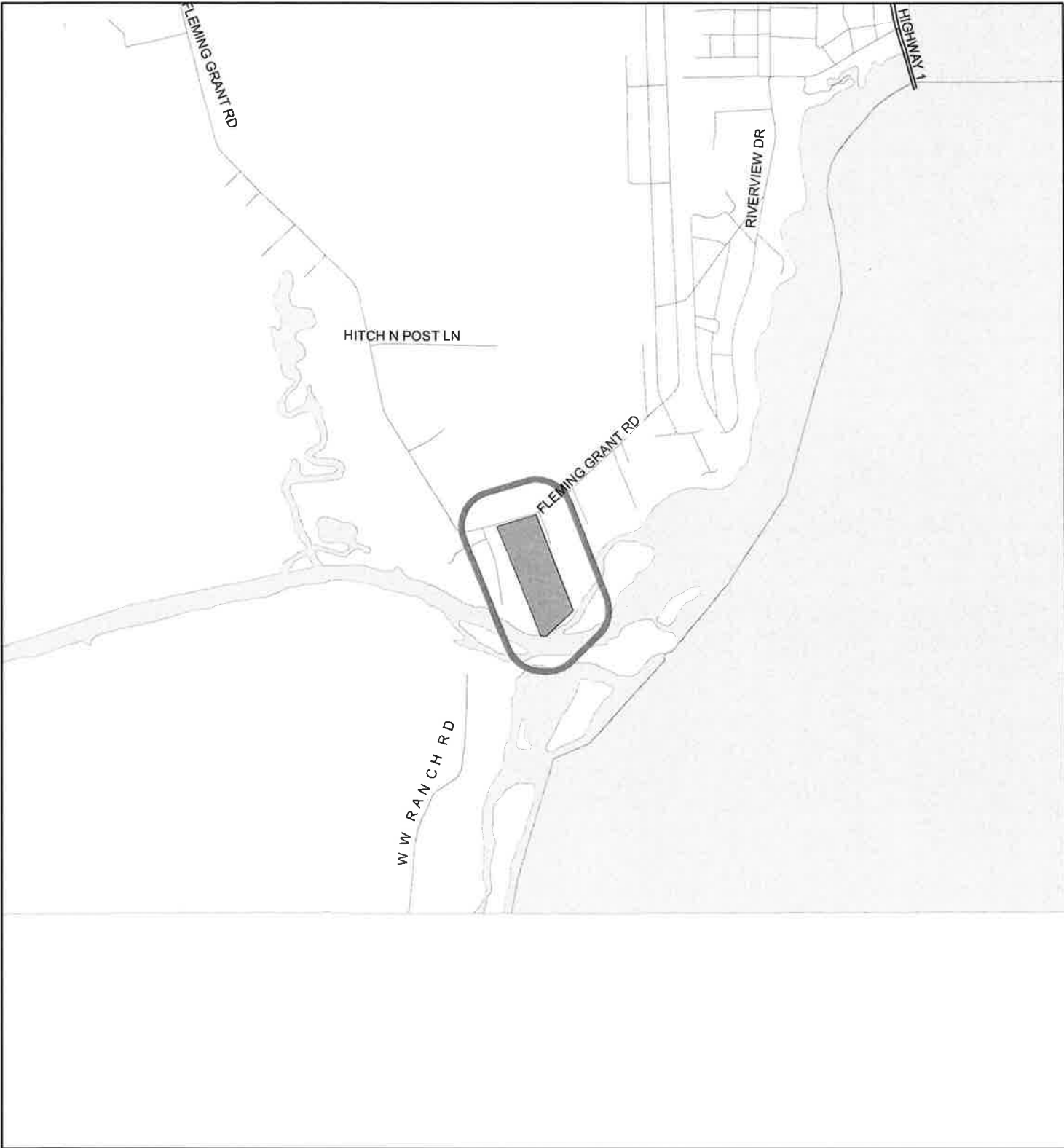
**Protected Species**

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

20Z00030



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

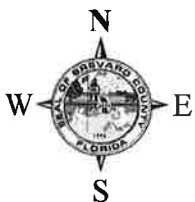
Buffer Distance: 500 feet

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: 9/10/2020

— Buffer  
■ Subject Property



20Z00030



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.

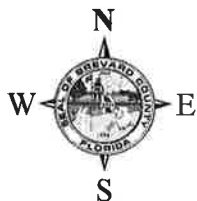
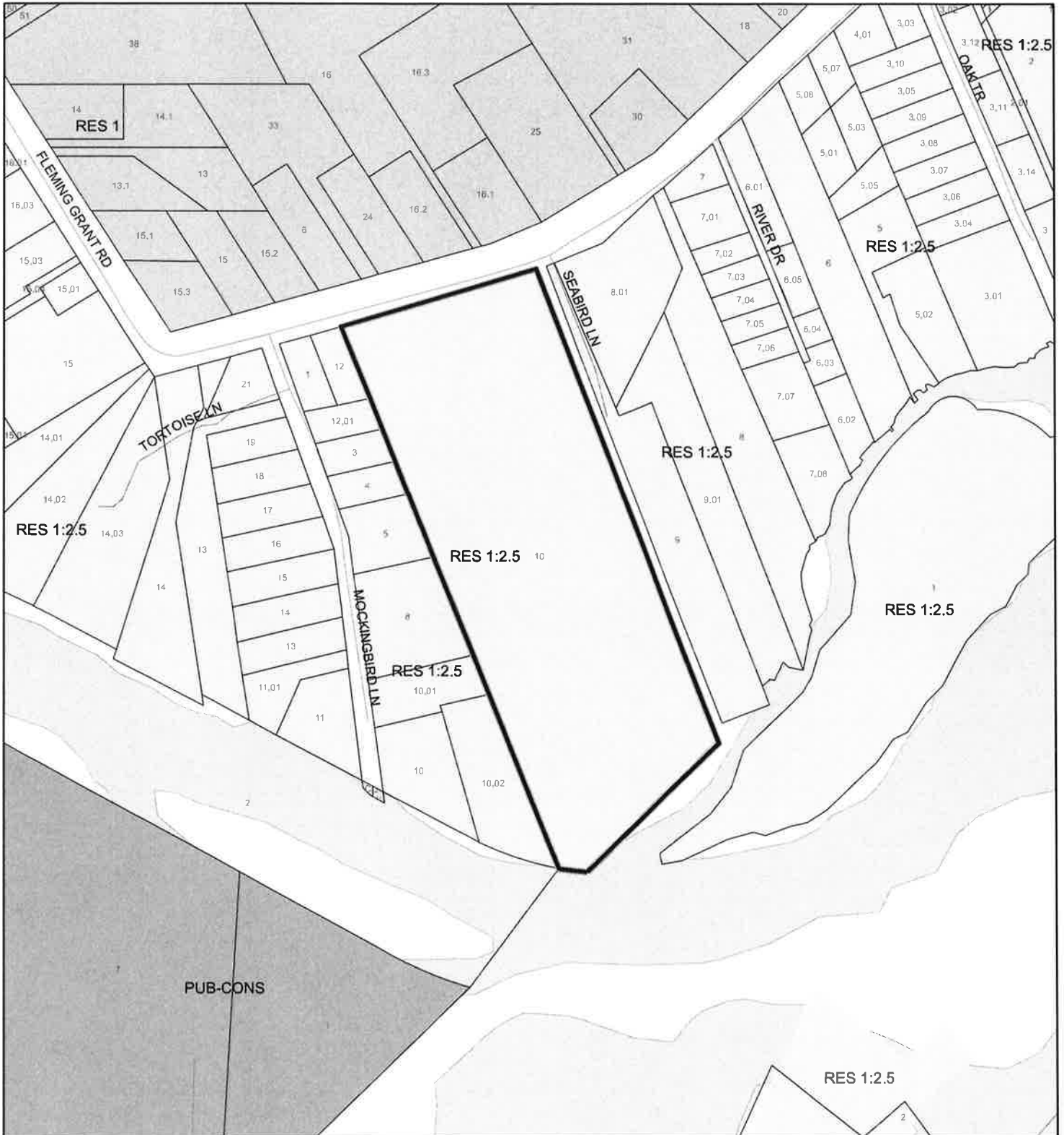
Produced by BoCC - GIS    Date: 9/10/2020

-  Subject Property  
 Parcels  
 Zoning

# FUTURE LAND USE MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

**Subject Property**  
**Parcels**

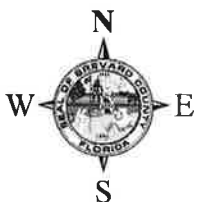
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/10/2020

# AERIAL MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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: 9/10/2020

 Subject Property

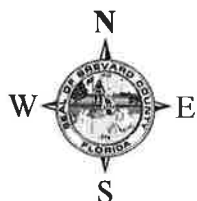
 Parcels



# NWI WETLANDS MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030













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: 9/10/2020

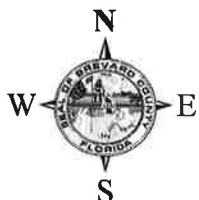
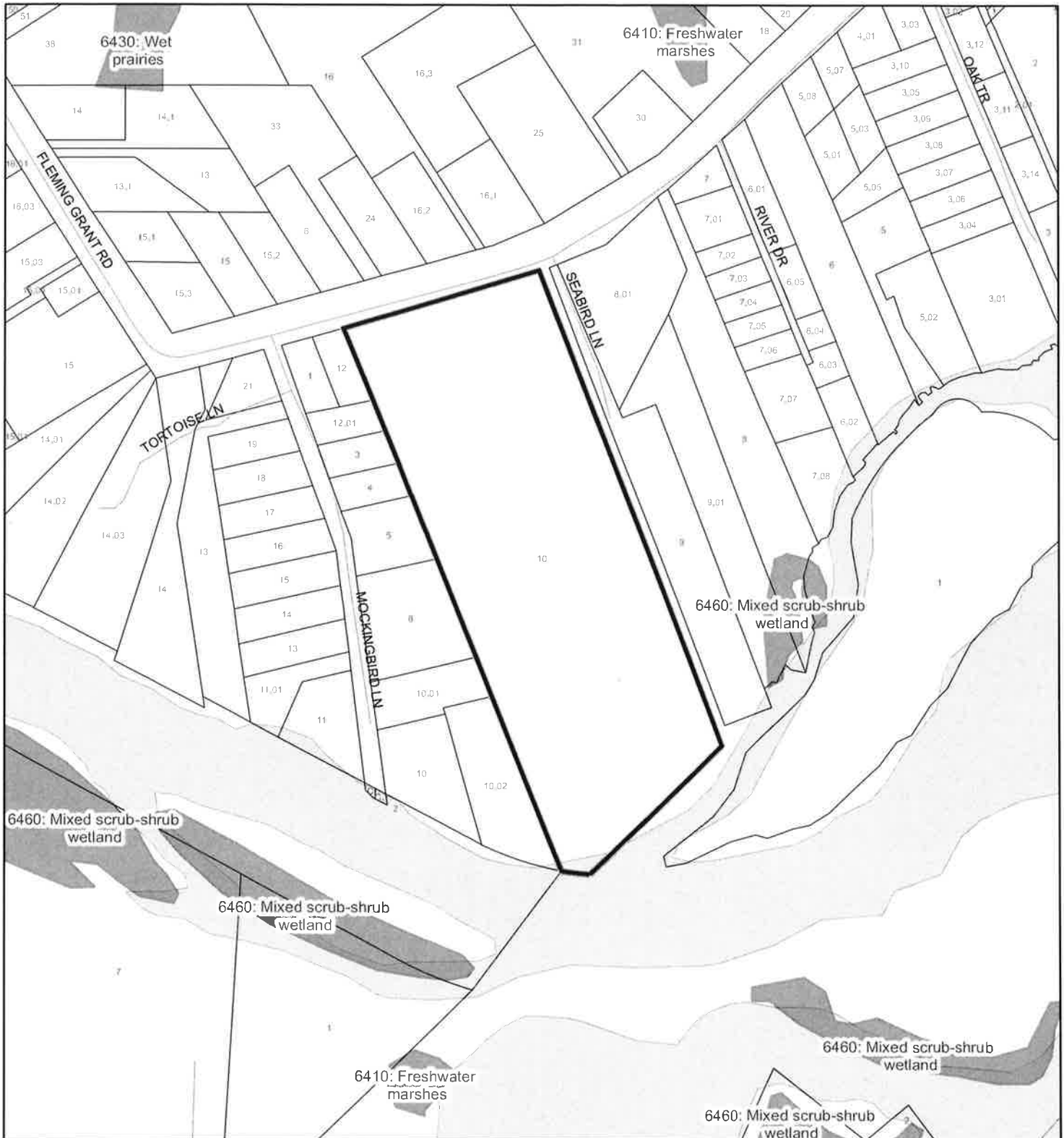
## National Wetlands Inventory (NWI)

	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

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

## 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

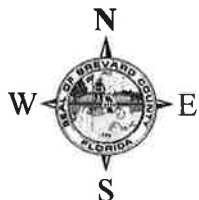
 Subject Property  Parcels



# USDA SCSSS SOILS MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030

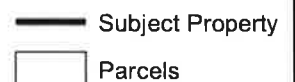
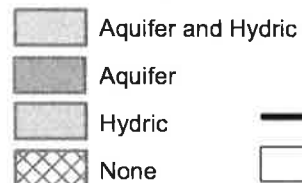


1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

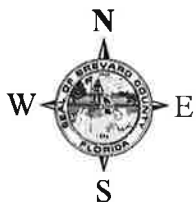
## USDA SCSSS Soils



# FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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: 9/10/2020

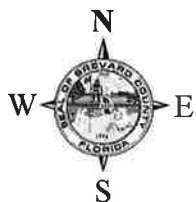
## FEMA Flood Zones

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	

# COASTAL HIGH HAZARD AREA MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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: 9/10/2020

— Subject Property

□ Parcels

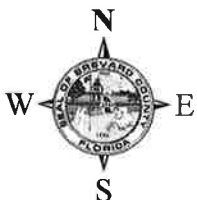
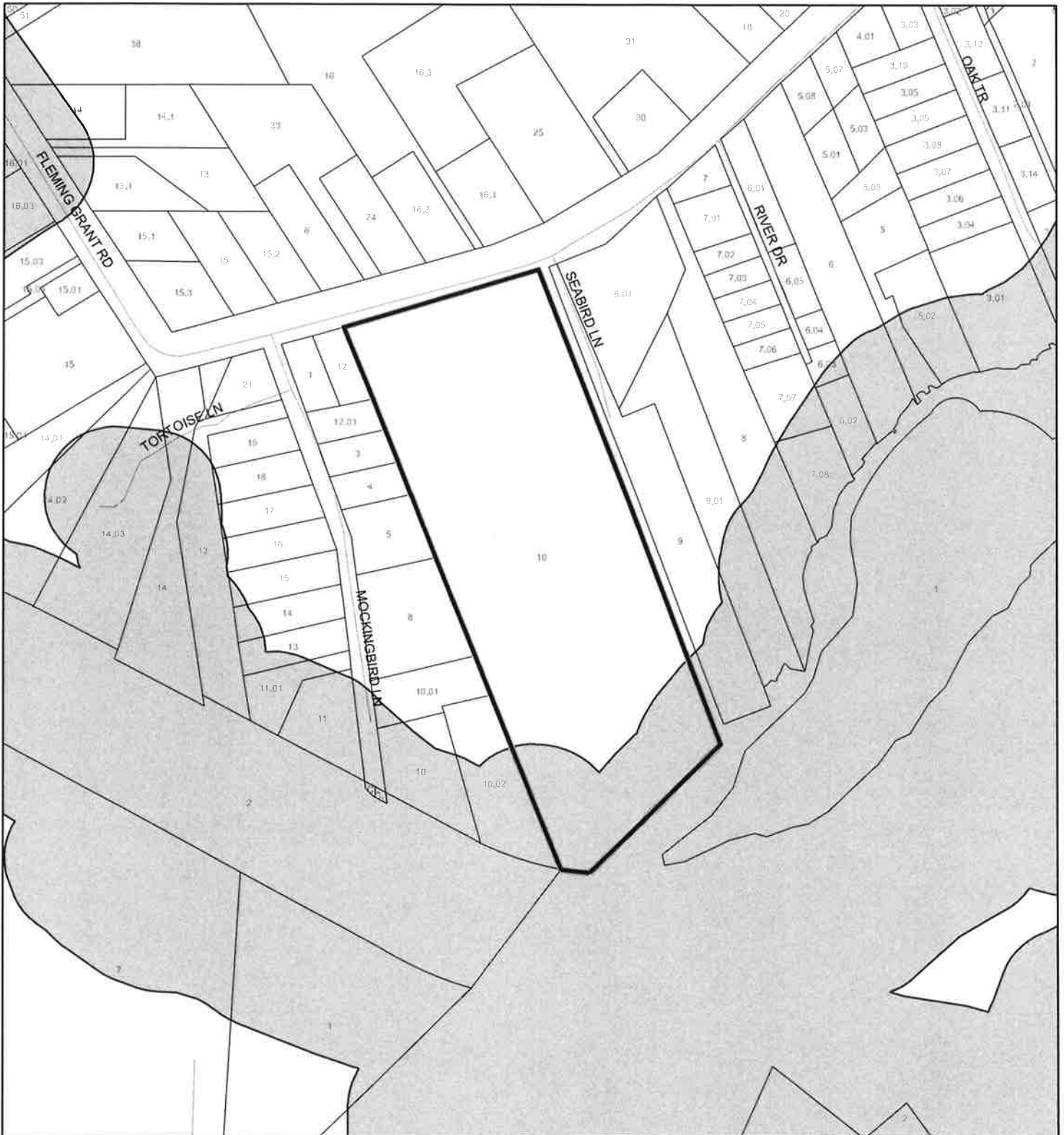
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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: 9/10/2020

 Subject Property

 Parcels

## Septic Overlay

 40 Meters

 60 Meters

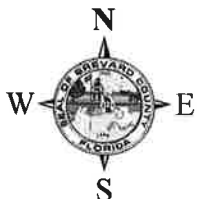
 All Distances



# EAGLE NESTS MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030




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: 9/10/2020

 Subject Property

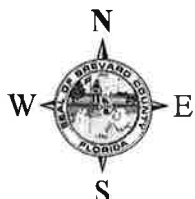
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

LAZY RIVER INVESTMENTS, LLC




20Z00030



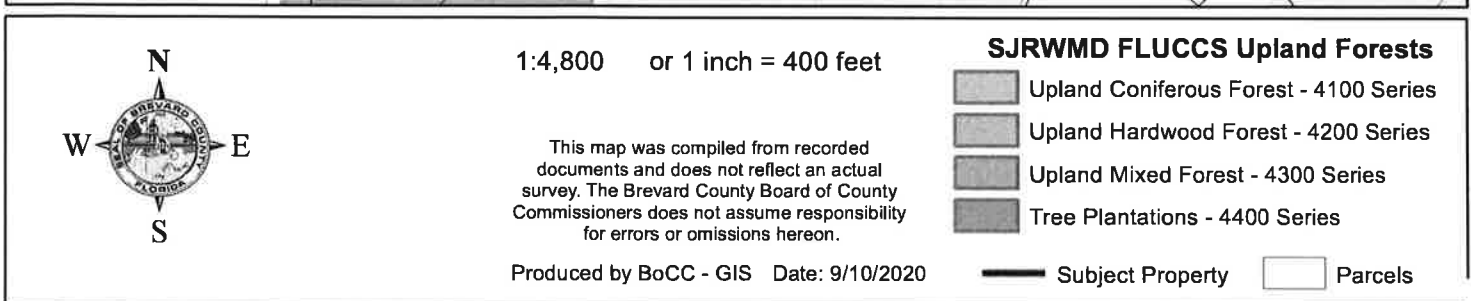
1:4,800 or 1 inch = 400 feet

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: 9/10/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

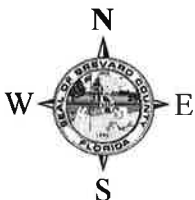
20Z00030



# LIDAR and FLOOD MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:3,600 or 1 inch = 300 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: 10/20/2020

— Subject Property

□ Parcels

— Contour - 1 Ft

Flood @ 6.3  
NAVD '88  
-27.61497116 - 6.3



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 minimim.

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.



Owner's Name: Lazy River Investments

Hearing Date: November 9, 2020

202 00030

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

STATE OF FLORIDA  
COUNTY OF BREVARD

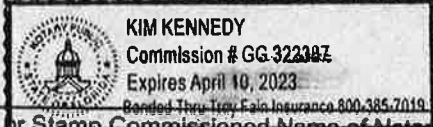
Before me, this undersigned authority, personally appeared, Brian Lock,  
to me well known and known to me to be the person described in and who executed the foregoing  
affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

[Signature]

Signature

Sworn and Subscribed before me, this 19 day of OCTOBER 2020



(Print, Type, or Stamp Commissioned Name of Notary Public)

[Signature]

Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: \_\_\_\_\_

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**



## The seal of Brevard County, Florida, is a circular emblem. It features a central illustration of a landscape with a body of water, a bridge, and a sun. The words "SEAL OF BREVARD COUNTY" are inscribed around the top inner edge, and "FLORIDA" is at the bottom.



<b>Mo./Day/Year</b>	<b>Address</b>	<b>Zng App.#</b>
<b>10/16/2020</b>	<b>Tax acct # 3008729A</b>	<b>20Z00030</b>



**Brian Lock**

## Composite A – Photos

**Dated:** \_\_\_\_\_ **to** \_\_\_\_\_

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 9, 2020, 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: Ron Bartcher; Harry Carswell; Ben Glover; Mark Wadsworth, Chair; Ron McLellan; Joe Buchanan; and Peter Filiberto.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Lazy River Investments (Laura Young)**

A change of zoning classification from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential, Low-Intensity). 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.) (20Z00030) (Tax Account 3008729) (District 3)

Laura Young, with the law firm of Dean Mead, 7380 Murrell Rd., Melbourne, stated she knows the board is familiar with the property, as this is the third time the applicant has been before the board in the last 18 months seeking to zone the property properly to be consistent with the current Future Land Use. Currently, the property is zoned RU-1-13, along with most of the properties in the area that were zoned prior to the 1988 Comprehensive Plan adoption, and is now inconsistent with the current Future Land Use, which is one unit per 2.5 acres. The requested AU(L) would make the property consistent with the Future Land Use, and it would be a down-zoning of the property from RU-1-13. She said in an effort to develop the property consistent with the surrounding residential properties, the applicant came before the board on two other prior occasions with zoning applications, both of which the Planning and Zoning Board approved. The first request was for a large scale comprehensive plan amendment to amend the Future Land Use from RES 1:2.5 to RES 1, with a BDP to preserve the development to be consistent with RES 1. She said the request was denied by the Board of County Commissioners, but if it had been approved it would have yielded approximately 20 lots on the property. She stated the second application was for a BDP to limit the property to eight units, and that was in an effort to address some of the concerns from the neighbors of the number of units on the property. That request for a BDP was also denied by the Board of County Commissioners. She said in working with staff, her clients are now seeking a zoning designation compatible with the current Future Land Use that would limit the site to eight lots, or 1 per 2.5 acres. The request is the first step in the process for development. Staff recommended either AU or AU(L), as they are compatible with the Future Land Use and consistent with the surrounding residential area. She said her clients chose the AU(L) zoning classification because it limits the type of agricultural uses by permitting only those that are of a personal, non-commercial, nature, which is more consistent with the residential uses in the area. The AU(L) zoning requires a minimum of 2.5 acres per lot, which is larger than many of the lot sizes that have been developed in that area because they were developed consistent with the RU-1-13 zoning classification. The site faces other development challenges and it may be difficult to engineer the site to be able to yield eight lots, and AU(L) affords some flexibility for lot configurations.

Public comment.

Bruce Moia, MBV Engineering, 1250 W. Eau Gallie Blvd., stated he represented the property owners the last two times in front of the board. He said there are three ways to make the property buildable:

one is to change the zoning; one is to change the Future Land Use; and one is a BDP. He said they tried all three and they did not get approved. He said this request is similar to the Item H.1. on the agenda. In 1988, the County adopted a Comprehensive Plan, and whatever the existing zoning was on property, whether it was consistent or not, the Comp Plan got adopted and the County said it was going to make everybody who owns property that is not consistent come in and ask for it to be consistent. The request to AU(L) will make the zoning consistent with the Comp Plan. He said this is the last way the property can be brought into conformance and it's the simplest.

Ben Glover clarified that this request is the least-dense option for the property that the board has heard.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of zoning classification from RU-1-13 to AU(L). The motion passed unanimously.

# MHOA

MICCO HOME OWNERS ASSOCIATION, INC.

## MHOA OFFICERS

Chelle Woods,  
President

Ted Beck,  
Vice President

Anne Briggs,  
Secretary

Henriette Daulton,  
Treasurer

## DIRECTORS

Jan Black  
Jim Dunn  
Sue Olson  
Joan Legue  
Wilma Weglein

Contact Us:  
Miccohomeowners  
@aol.com

TO: Commissioner Tobia  
RE: 20Z00030 – Lazy River Investments – Fleming Grant Road, Micco.  
DATE: 11/20/2020

**Micco Homeowners Association is in favor of the proposed AU(L) zoning change to 1:2.5 with a maximum 8 homes on this 20 acre property.**

We do, however, have the same strong issues we had in 2019 due to the fact there is **no current BDP for this development** located directly on the St Sebastian River which flows directly into the Indian River Lagoon. **Our focus is the continued need to protect the health of the Indian River Lagoon by limiting contaminants flowing into the St Sebastian River.**

**Therefore we request that you consider:**

- **NO HOMES within the Coastal High Hazard Area.** Development within this 5-acre area is a direct threat to the River and the Indian River Lagoon due to homeowner contaminants, pesticides, drain field/septic leaks and excess storm water runoff flowing directly into the river. Comments in 2019 from DEO and ECFRPC also support this need. **Please require all 8 homes be located outside this Coastal High Hazard Area.**
- **STORM WATER needs to be captured outside of the Coastal High Hazard Area which is also an AE Flood Zone.** The new BDP needs to designate where and how Stormwater will be captured within this development.
- **ADVANCED SEPTIC must be required** for all new homes near the Coastal High Hazard Area which is also an AE flood zone and drain fields need to be kept out of this area. In 2019, SJRWMD, DEP, DEO recognized the importance of removing 65% nitrogen with Advanced Septic on this property.
- **NO FILL DIRT within AE Flood Zone.** FEMA's Base Flood Elevation is 5.3 feet NAVD for this flood zone. This means a lot of fill dirt is required to elevate or "flood proof" each home within this area. What happens to the flood waters? How do the existing specimen trees survive the fill dirt?

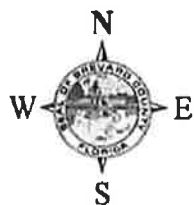
**To preserve the health of the IRL, please require a current BDP for this development with a maximum of 8 homes located outside the Coastal High Hazard Area.**

Sincerely,  
Chelle Woods, MHOA President, 9912 Riverview Drive Micco

# COASTAL HIGH HAZARD AREA MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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: 9/10/2020

— Subject Property

□ Parcels

**Coastal High Hazard Area**

■ SurgeZoneCat1

# FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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Produced by BoCC - GIS Date: 9/10/2020

## FEMA Flood Zones

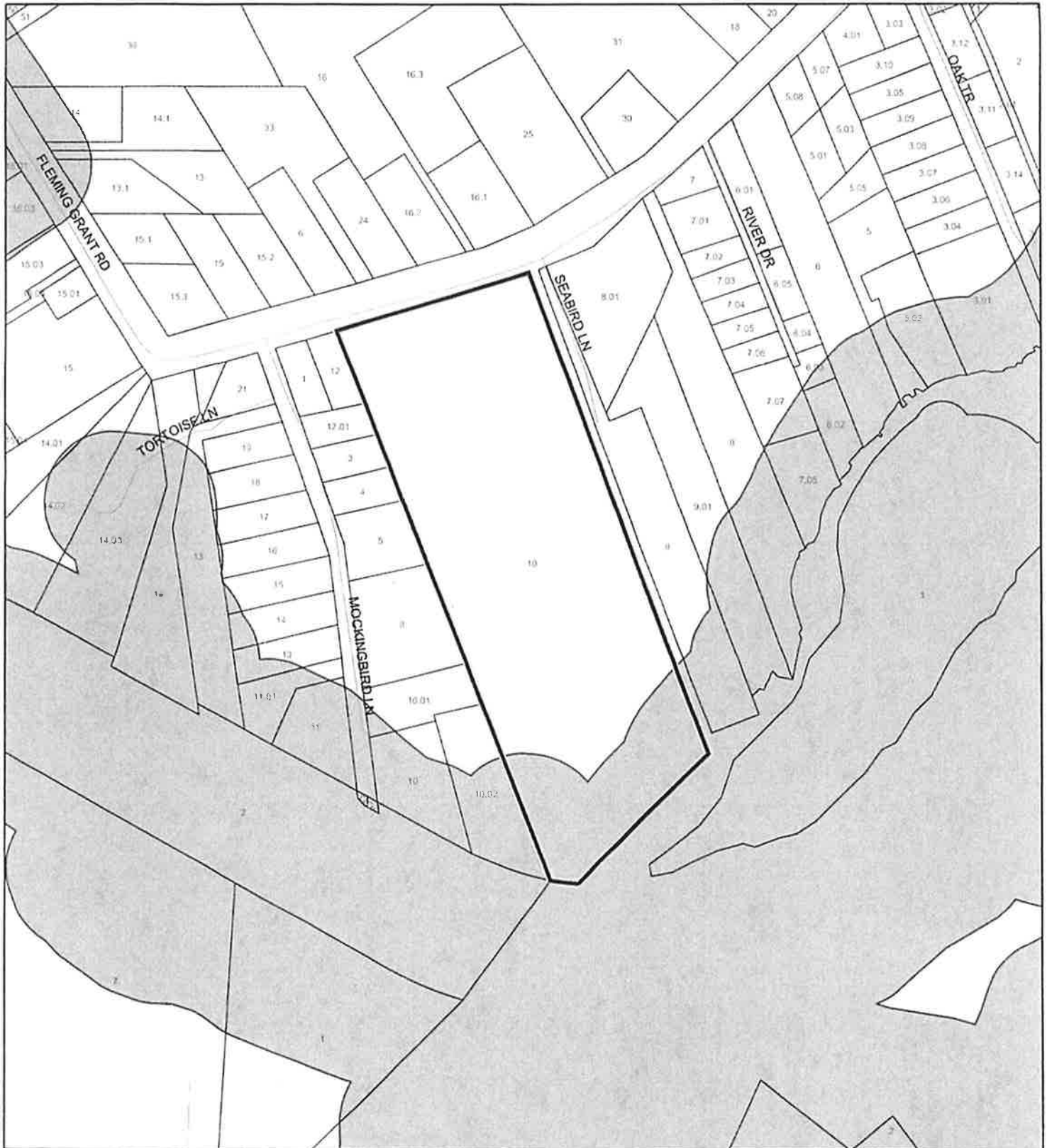
A	AO	X
AE	Open Water	X Protected By Levee
AH	VE	
0.2 Percent Annual Chance Flood Hazard		
0.2 Percent Annual Chance Flood Hazard Contained in Channel		
Subject Property	Parcels	



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

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Produced by BnCC - GIS Date: 9/10/2020

— Subject Property

□ Parcels

## Septic Overlay

■ 40 Meters

■ 60 Meters

■ All Distances

**From:** Commissioner, D3  
**To:** Jones, Jennifer  
**Subject:** Meeting Disclosure  
**Date:** Monday, November 30, 2020 11:01:22 AM

---

Ms. Jones,

In regards to the upcoming agenda item H.6 for the Planning & Zoning meeting on December 3rd, 2020, please be advised in advance that Commissioner Tobia spoke with the following parties via telephone, separately, on November 25th, 2020 at 9am.

Laura M. Young

The phone call lasted approximately 15 minutes, during which the above individuals provided information regarding the above-referenced item.

Sincerely,



John Tobia  
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS



# MHOA

MICCO HOME OWNERS ASSOCIATION, INC.

## MHOA OFFICERS

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Anne Briggs,  
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Jan Black  
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Wilma Weglein

Contact Us:  
Miccohomeowners  
@aol.com

TO: Commissioner Tobia  
RE: 20Z00030 – Lazy River Investments – Fleming Grant Road, Micco.  
DATE: 11/20/2020

**Micco Homeowners Association is in favor of the proposed AU(L) zoning change to 1:2.5 with a maximum 8 homes on this 20 acre property.** We do, however, have the same strong issues we had in 2019 due to the fact there is **no current BDP for this development** located directly on the St Sebastian River which flows directly into the Indian River Lagoon. **Our focus is the continued need to protect the health of the Indian River Lagoon by limiting contaminants flowing into the St Sebastian River.** Therefore we request that you consider:

- **NO HOMES within the Coastal High Hazard Area.** Development within this 5-acre area is a direct threat to the River and the Indian River Lagoon due to homeowner contaminants, pesticides, drain field/septic leaks and excess storm water runoff flowing directly into the river. Comments in 2019 from DEO and ECFRPC also support this need. **Please require all 8 homes be located outside this Coastal High Hazard Area.**
- **STORM WATER needs to be captured outside of the Coastal High Hazard Area which is also an AE Flood Zone.** The new BDP needs to designate where and how Stormwater will be captured within this development.
- **ADVANCED SEPTIC must be required** for all new homes near the Coastal High Hazard Area which is also an AE flood zone and drain fields need to be kept out of this area. In 2019, SJRWMD, DEP, DEO recognized the importance of removing 65% nitrogen with Advanced Septic on this property.
- **NO FILL DIRT within AE Flood Zone.** FEMA's Base Flood Elevation is 5.3 feet NAVD for this flood zone. This means a lot of fill dirt is required to elevate or "flood proof" each home within this area. What happens to the flood waters? How do the existing specimen trees survive the fill dirt?

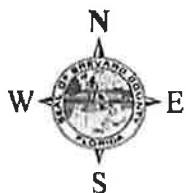
**To preserve the health of the IRL, please require a current BDP for this development with a maximum of 8 homes located outside the Coastal High Hazard Area.**

Sincerely,  
Chelle Woods, MHOA President, 9912 Riverview Drive Micco

# COASTAL HIGH HAZARD AREA MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

— Subject Property

□ Parcels

**Coastal High Hazard Area**

■ SurgeZoneCat1

# FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

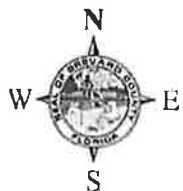
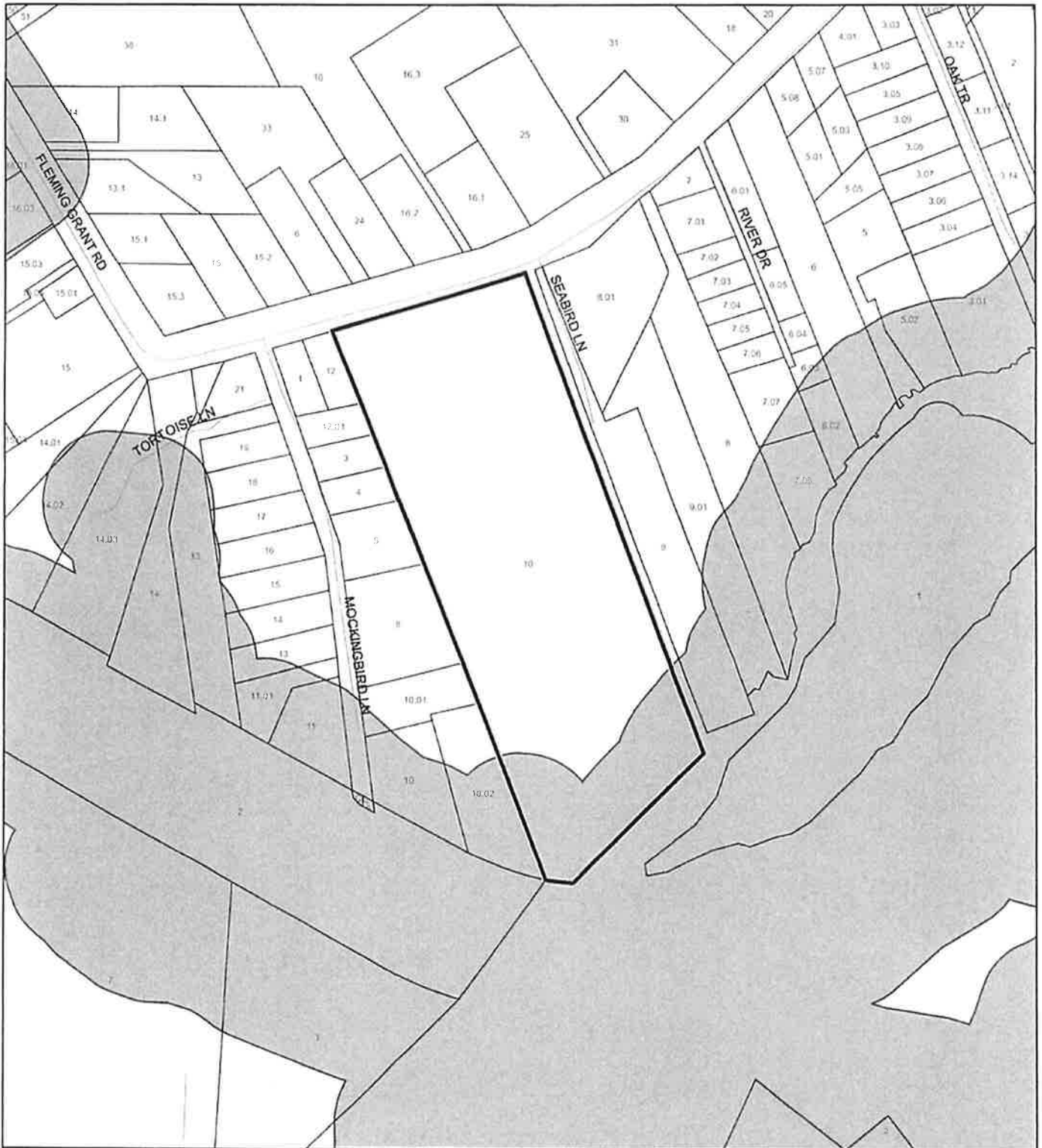
## FEMA Flood Zones

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

20Z00030



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: 9/10/2020

— Subject Property

□ Parcels

## Septic Overlay

■ 40 Meters

■ 60 Meters

■ All Distances

**From:** [lindyb@cfl.rr.com](mailto:lindyb@cfl.rr.com)  
**To:** [Commissioner, D3](#); [Commissioner, D3](#)  
**Subject:** Item H6 of Thursday's Zoning Meeting  
**Date:** Monday, November 30, 2020 4:02:16 PM

---

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

Dear Commissioner Tobia:

I understand that there will be a Zoning Meeting this coming Thursday, December 3, 2020, at which item H6 is a request by Lazy River Investments to change zoning for a piece of property from Fleming Grant Rd to the shoreline of the St Sebastian River, which could result in 8 homes being built in this area.

I do not object to the change per se, but there are some environmental issues that need to be addressed when this change is granted. Two of the most important among them are:

1. No homes should be built in the Coastal High Hazard Area, as this could be a further threat to the health of the Indian River Lagoon, into which the St Sebastian River flows.
1. If septic tanks are to be built for these homes, Advanced Septic must be used near the Coastal High Hazard Area. Last year SJRWMD, DEP and DEO all recognized the importance of removing 65% nitrogen with Advanced Septic on this property.

It is therefore important that this change not be granted without a Binding Development Plan that will take these, and other environmental issues into consideration!

Thank you for your time and attention to these important concerns.

Yours truly,

Linda Behret  
5960 Herons Landing Dr  
Viera, FL. 32955

**From:** Julie Mallisturner  
**To:** Commissioner, D2; Commissioner, D3; d4commissioner@brevardfl.gov; Commissioner, D1; d5commissioner@brevardfl.gov  
**Subject:** Development of Property on Sebastian River  
**Date:** Tuesday, December 1, 2020 8:33:25 AM

---

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

Dear Commissioners:

I am very concerned about yet another attempt at developing property on the Coastal High Area of the St. Sebastian River in Micco. What a beautiful-pristine area...reminiscent of Old Florida, a rarity these days... a tourist attraction that is sadly becoming obsolete. What Is needed before approving further development is a reasonable Binding Development Plan.

I understand that zoning for this property could go through without any Binding Development Plan. There should not be **approval of the zoning request without the BPD.**

There should be no homes built within the Coastal High Hazard Area. The Indian River Lagoon does not need more contaminants, pesticides, septic tanks leaks flowing into it as a result of building in this area.

This developer has been relentless. I urge you to take the high road and consider the environmental and economical impacts of approving development in this area. Please keep natural Florida and it's preservation in mind when voting!

Sincerely,

Julie Turner  
(321) 266-2786

Sent from Yahoo Mail for iPhone

**From:** Leslie Maloney  
**Subject:** Micco Property-St Sebastian River  
**Date:** Tuesday, December 1, 2020 11:40:56 AM

---

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

Greetings Commissioner,

The Micco property that came before you several times last year is back for your consideration. It still has many problems that will affect the Indian River Lagoon. **The biggest concern is that if there is a zoning change there must be a binding development plan.**

Within that plan I hope you will consider the following:

- 1) No homes should be built in the Coastal High Hazard Area. This will protect the IRL from homeowner contaminants like fertilizers, pesticides, septic leaks etc.
- 2) The homes must be required to capture stormwater outside the CHH area. There should be a specific plan of how this will be done.
- 3) Advanced Septic must be required.
- 4) No Fill Dirt should be used due to the fact that this is a flood zone and that fill dirt will eventually end up in the IRL--more nutrients. Also, fill dirt is known to kill specimen trees.

Brevard taxpayers are paying to restore the IRL, do your part as a commissioner and protect it against irresponsible development.

In summary , vote for a BDP which requires no more than 8 homes all built outside the Coastal High Hazard Area on this Micco property.

Thanks for your consideration,  
Leslie Maloney  
Melbourne Beach

**From:** [Commissioner, D3](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** FW: Lazy River Investments - Micco zoning  
**Date:** Tuesday, December 1, 2020 1:06:13 PM

---

Ms. Jones,

Please see below, our office has received another email disclosure.

Thank you,

**Katelynne Prasad**

*Constituent Affairs Director*

*County Commissioner John Tobia*, District 3

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

2539 Palm Bay Road NE, Suite 4

Palm Bay, FL 32905

---

**From:** B D <rel\_eng@yahoo.com>  
**Sent:** Tuesday, December 1, 2020 1:02 PM  
**To:** Commissioner, D3 <d3.commissioner@brevardfl.gov>  
**Subject:** Lazy River Investments - Micco zoning

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

Dear Commissioner Tobia,

Reference 20Z00030 Lazy River Investments – Fleming Grant Road, Micco FL

I am asking that you vote against any development in the Coastal High Hazard Area of the referenced proposed development. Any building in a flood zone near a river is simply irresponsible. The citizens of Brevard County need you to protect them from any increased damage to our water quality. Continued damage to our water quality directly adds a financial burden through lost tourist based employment, and reduced home values.

Allowing further destruction of our waterways will lead to increased taxes. These taxes will be needed to mitigate fish kills and restore algae tainted waters. Every time we allow building in an environmentally sensitive area, we are destroying the very reason most people moved to this county. Please ensure this development does not endanger



our environment and add to our citizen's financial burden.

Thank you,  
Bill DeBusk

2674 Tuscarora Ct.  
West Melbourne FL 32904

**From:** [Commissioner, D3](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** FW: Fleming Grant Rd property -- Lazy River Investments  
**Date:** Tuesday, December 1, 2020 2:08:28 PM

---

Ms. Jones,

Below is another email disclosure our office has received.

Thank you,

**Katelynne Prasad**

*Constituent Affairs Director*

*County Commissioner John Tobia, District 3*

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

2539 Palm Bay Road NE, Suite 4

Palm Bay, FL 32905

---

**From:** Douglas and Mary Sphar <canoe2@digital.net>  
**Sent:** Tuesday, December 1, 2020 1:40 PM  
**To:** Commissioner, D3 <d3.commissioner@brevardfl.gov>  
**Subject:** Fleming Grant Rd property -- Lazy River Investments

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

Dear Commissioner Tobia,

The 20-acre property on Fleming Grant Rd in Micco is on the BCC agenda again on Thursday, but I am seeing no current BDP in the agenda packet. The draft BDP in the supporting documentation is from November 2019.

As I understand the situation from the Planning and Development Department, the applicant needs to have a BDP voted on at a meeting where that document is advertised.

What worries me is that the applicant could get approval for the rezoning without the BDP, and any leverage from withholding the rezoning approval would be gone when the BDP subsequently comes up for BCC approval.

A BDP could state that any homes need to be sited outside the approximately 5 acres comprising the Coastal High Hazard Area (CHHA), which basically overlaps FEMA flood zone AE. The BDP could also specify that there should be no fill and no stormwater ponds in the CHHA. In addition, the BDP could address advanced septic and preservation of the

specimen oak trees.

Any development on this property needs to be very carefully planned. This property appears to be the most vulnerable, or at least one of the most vulnerable, to storm surge with associated flooding in the area between Fleming Grant Road and the river. Any runoff from the property has implications for the health of the Indian River Lagoon.

I have no objections to the choice of zoning category, but I don't want to see the rezoning request granted without an adequate BDP.

Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926

**From:** B.D  
**To:** Commissioner, D4  
**Subject:** Lazy River Investments - Micco zoning  
**Date:** Tuesday, December 1, 2020 1:10:59 PM

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

Dear Commissioner Smith,

Reference 20Z00030 Lazy River Investments – Fleming Grant Road, Micco FL

I am asking that you vote against any development in the Coastal High Hazard Area of the referenced proposed development. Any building in a flood zone near a river is simply irresponsible. The citizens of Brevard County need you to protect them from any increased damage to our water quality. Continued damage to our water quality directly adds a financial burden through lost tourist based employment, and reduced home values.

Allowing further destruction of our waterways will lead to increased taxes. These taxes will be needed to mitigate fish kills and restore algae tainted waters. Every time we allow building in an environmentally sensitive area, we are destroying the very reason most people moved to this county. Please ensure this development does not endanger our environment and add to our citizen's financial burden.

Thank you,  
Bill DeBusk

2674 Tuscarora Ct.  
West Melbourne FL 32904

**From:** [Leslie Maloney](#)  
**Subject:** Micco Property-St Sebastian River  
**Date:** Tuesday, December 1, 2020 11:40:56 AM

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

Greetings Commissioner,

The Micco property that came before you several times last year is back for your consideration. It still has many problems that will affect the Indian River Lagoon. **The biggest concern is that if there is a zoning change there must be a binding development plan.**

Within that plan I hope you will consider the following:

- 1) No homes should be built in the Coastal High Hazard Area. This will protect the IRL from homeowner contaminants like fertilizers, pesticides, septic leaks etc.
- 2) The homes must be required to capture stormwater outside the CHH area. There should be a specific plan of how this will be done.
- 3) Advanced Septic must be required.
- 4) No Fill Dirt should be used due to the fact that this is a flood zone and that fill dirt will eventually end up in the IRL--more nutrients. Also, fill dirt is known to kill specimen trees.

Brevard taxpayers are paying to restore the IRL, do your part as a commissioner and protect it against irresponsible development.

In summary , vote for a BDP which requires no more than 8 homes all built outside the Coastal High Hazard Area on this Micco property.

Thanks for your consideration,  
Leslie Maloney  
Melbourne Beach

**From:** [Anne Briggs](#)  
**To:** [Commissioner, D4](#)  
**Subject:** 20 Acres on Fleming Grant Road, Micco (20Z00030)  
**Date:** Friday, November 20, 2020 2:54:51 PM

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

Ref: 20Z00030, 19PZ00093

Dear Commissioner Smith,

As you may recall, on 5 December 2019, you and your fellow Commissioners voted unanimously to deny the request of Lazy River Investments, LLC on the matter of development and re-zoning of 20 acres on Fleming Grant Road bordering the Saint Sebastian River. (19PZ00093) Many residents of Micco and environmental groups strongly expressed their concern to you about this planned development, and State Comments pointed out several environmental considerations that needed attention.

The developer, Lazy River Investments, LLC has now requested a zoning change on this same parcel from RU1-13 to AU (L). According to Planning and Development, AU(L) restricts building to 1 house to 2.5 acres. This is in compliance with the Comprehensive Plan and Future Land Use designation for land adjacent to the St Sebastian River.

A zoning change hearing was held on 9 November 2020 with Brevard County Planning and Development, and the AU(L) classification was granted by the Board. After reviewing the documents on file for this hearing, we note that the BDP is the same one from November 2019 and has dated information which is incorrect for this current request. Because of this, again, we do not have any idea of what the Developer is actually planning to do on this property. In addition, upon review of the minutes of this meeting, it already looks like there may be some intention on the part of the developer to circumvent the 1:2.5 designation in order to fit 8 homes on the property. Ms Young, who represents the developer, stated, "The site faces other development challenges and it may be difficult to engineer the site to be able to yield 8 lots, and AU(L) affords some flexibility for lot configurations."

This matter comes before you for a vote on 3 December. My husband and I are writing you to ask that you and the other Commissioners once again ensure that the Developer is held to findings from previous hearings and current Staff Comments, particularly those that affect the health of the St Sebastian River and the Indian River Lagoon:

- No construction within the Coastal High Hazard area.
- Nitrogen reducing advanced OSTDS/anaerobic septic systems.
- Protection for mangroves and wetlands, as well as for protected and specimen trees and species.

- Adequate stormwater treatment as flooding is still an issue in this area.
- All lots have 1 house to 2.5 acres.
- Retain the rural, residential character of the neighborhood (no commercial activities on this property.)
- Provide a detailed, current, and acceptable BDP.

Thank you for your consideration and your continued interest in the wellbeing of our community and of our waterways.

Sincerely,

Anne Briggs and Henry Beck

9735 Fleming Grant Road, Micco, FL 32976

**From:** [Woodard, Patrick](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Schmadeke, Adrienne](#); [Bellak, Christine](#)  
**Subject:** FW: Lazy River Investments -- Micco property  
**Date:** Wednesday, December 2, 2020 8:04:39 AM

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Jennifer,

Here is another email concerning Agenda Item H 6 at tomorrow's meeting.

Regards,

*Pat Woodard*



**Pat Woodard**  
**Chief Legislative Aide to Commissioner Smith**  
Brevard County, District 4  
[321.633.2044](tel:321.633.2044) | [Patrick.Woodard@brevardfl.gov](mailto:Patrick.Woodard@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.*

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**From:** Douglas and Mary Sphar <canoe2@digital.net>  
**Sent:** Tuesday, December 01, 2020 5:09 PM  
**To:** Commissioner, D4 <D4.Commissioner@brevardfl.gov>  
**Cc:** Woodard, Patrick <patrick.woodard@brevardfl.gov>  
**Subject:** Lazy River Investments -- Micco property

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

Dear Commissioner Smith,

The 20-acre property on Fleming Grant Rd in Micco is on the BCC agenda again on Thursday, but I am seeing no current BDP in the agenda packet. The draft BDP in the supporting documentation is from November 2019.



As I understand the situation from the Planning and Development Department, the applicant needs to have a BDP voted on at a meeting where that document is advertised.

What worries me is that the applicant could get approval for the rezoning without the BDP, and any leverage from withholding the rezoning approval would be gone when the BDP subsequently comes up for BCC approval.

A BDP could state that any homes need to be sited outside the approximately 5 acres comprising the Coastal High Hazard Area (CHHA), which basically overlaps FEMA flood zone AE. The BDP could also specify that there should be no fill and no stormwater ponds in the CHHA. In addition, the BDP could address advanced septic and preservation of the specimen oak trees.

Any development on this property needs to be very carefully planned. This property appears to be the most vulnerable, or at least one of the most vulnerable, to storm surge with associated flooding in the area between Fleming Grant Road and the river. Any runoff from the property has implications for the health of the Indian River Lagoon.

I have no objections to the choice of zoning category, but I don't want to see the rezoning request granted without an adequate BDP.

Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926

**From:** Commissioner, D3  
**To:** Jones, Jennifer  
**Subject:** Meeting Disclosure  
**Date:** Monday, November 30, 2020 11:01:22 AM

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Ms. Jones,

In regards to the upcoming agenda item H.6 for the Planning & Zoning meeting on December 3rd, 2020, please be advised in advance that Commissioner Tobia spoke with the following parties via telephone, separately, on November 25th, 2020 at 9am.

Laura M. Young

The phone call lasted approximately 15 minutes, during which the above individuals provided information regarding the above-referenced item.

Sincerely,



John Tobia  
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

**From:** Commissioner, D3  
**To:** Jones, Jennifer  
**Subject:** Meeting Disclosure  
**Date:** Monday, November 30, 2020 3:45:48 PM

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Ms. Jones,

In regards to the upcoming agenda item H.6 for the Planning & Zoning meeting on December 3rd, 2020, please be advised in advance that Commissioner Tobia spoke with the following parties via telephone, separately, on November 30th, 2020.

Michelle H. Woods

The phone call lasted approximately ten minutes, during which the above individuals provided information regarding the above-referenced item.

Sincerely,



John Tobia  
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

H-6

**Commissioner, D1**

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**From:** Douglas and Mary Sphar <canoe2@digital.net>  
**Sent:** Tuesday, December 1, 2020 5:06 PM  
**To:** Commissioner, D1  
**Cc:** Newell, Marcia  
**Subject:** Lazy River Investments -- Micco property  
  
**Categories:** NATE

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

Dear Commissioner Pritchett,

The 20-acre property on Fleming Grant Rd in Micco is on the BCC agenda again on Thursday, but I am seeing no current BDP in the agenda packet. The draft BDP in the supporting documentation is from November 2019.

As I understand the situation from the Planning and Development Department, the applicant needs to have a BDP voted on at a meeting where that document is advertised.

What worries me is that the applicant could get approval for the rezoning without the BDP, and any leverage from withholding the rezoning approval would be gone when the BDP subsequently comes up for BCC approval.

A BDP could state that any homes need to be sited outside the approximately 5 acres comprising the Coastal High Hazard Area (CHHA), which basically overlaps FEMA flood zone AE. The BDP could also specify that there should be no fill and no stormwater ponds in the CHHA. In addition, the BDP could address advanced septic and preservation of the specimen oak trees.

Any development on this property needs to be very carefully planned. This property appears to be the most vulnerable, or at least one of the most vulnerable, to storm surge with associated flooding in the area between Fleming Grant Road and the river. Any runoff from the property has implications for the health of the Indian River Lagoon.

I have no objections to the choice of zoning category, but I don't want to see the rezoning request granted without an adequate BDP.

Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926

**Commissioner, D1**

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**From:** B D <rel\_eng@yahoo.com>  
**Sent:** Tuesday, December 1, 2020 1:08 PM  
**To:** Commissioner, D1  
**Subject:** Lazy River Investments - Micco zoning  
  
**Categories:** NATE

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

Dear Commissioner Pritchett,

Reference 20Z00030 Lazy River Investments – Fleming Grant Road, Micco FL

I am asking that you vote against any development in the Coastal High Hazard Area of the referenced proposed development. Any building in a flood zone near a river is simply irresponsible. The citizens of Brevard County need you to protect them from any increased damage to our water quality. Continued damage to our water quality directly adds a financial burden through lost tourist based employment, and reduced home values.

Allowing further destruction of our waterways will lead to increased taxes. These taxes will be needed to mitigate fish kills and restore algae tainted waters. Every time we allow building in an environmentally sensitive area, we are destroying the very reason most people moved to this county. Please ensure this development does not endanger our environment and add to our citizen's financial burden.

Thank you,  
Bill DeBusk

2674 Tuscarora Ct.  
West Melbourne FL 32904

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**Commissioner, D1**

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**From:** Leslie Maloney <maloneyl731@gmail.com>  
**Sent:** Tuesday, December 1, 2020 11:41 AM  
**Subject:** Micco Property-St Sebastian River  
  
**Categories:** NATE

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

Greetings Commissioner,

The Micco property that came before you several times last year is back for your consideration. It still has many problems that will affect the Indian River Lagoon. **The biggest concern is that if there is a zoning change there must be a binding development plan.**

Within that plan I hope you will consider the following:

- 1) No homes should be built in the Coastal High Hazard Area. This will protect the IRL from homeowner contaminants like fertilizers, pesticides, septic leaks etc.
- 2) The homes must be required to capture stormwater outside the CHH area. There should be a specific plan of how this will be done.
- 3) Advanced Septic must be required.
- 4) No Fill Dirt should be used due to the fact that this is a flood zone and that fill dirt will eventually end up in the IRL--more nutrients. Also, fill dirt is known to kill specimen trees.

Brevard taxpayers are paying to restore the IRL, do your part as a commissioner and protect it against irresponsible development.

In summary , vote for a BDP which requires no more than 8 homes all built outside the Coastal High Hazard Area on this Micco property.

Thanks for your consideration,  
Leslie Maloney  
Melbourne Beach

**Commissioner, D1**

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**From:** lindyb@cfl.rr.com  
**Sent:** Monday, November 30, 2020 3:56 PM  
**To:** Commissioner, D1  
**Subject:** Item H6 of Thursday's Zoning Meeting  
  
**Categories:** NATE

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

Dear Commissioner Pritchett:

I understand that there will be a Zoning Meeting this coming Thursday, December 3, 2020, at which item H6 is a request by Lazy River Investments to change zoning for a piece of property from Fleming Grant Rd to the shoreline of the St Sebastian River, which could result in 8 homes being built in this area.

I do not object to the change per se, but there are some environmental issues that need to be addressed when this change is granted. Two of the most important among them are:

1. No homes should be built in the Coastal High Hazard Area, as this could be a further threat to the health of the Indian River Lagoon, into which the St Sebastian River flows.
1. If septic tanks are to be built for these homes, Advanced Septic must be used near the Coastal High Hazard Area. Last year SJRWMD, DEP and DEO all recognized the importance of removing 65% nitrogen with Advanced Septic on this property.

It is therefore important that this change not be granted without a Binding Development Plan that will take these, and other environmental issues into consideration!

Thank you for your time and attention to these important concerns.

Yours truly,

Linda Behret  
5960 Herons Landing Dr  
Viera, FL. 32955

**Commissioner, D1**

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**From:** Linda McLain <lmclain45@yahoo.com>  
**Sent:** Friday, November 27, 2020 5:02 PM  
**To:** Commissioner, D2; Commissioner, D1; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Subject:** 20Z00030 Zoning Request- Lazy River Investments, LLC-Dec 3 meeting  
**Categories:** NATE

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

My name is Linda Brannan and I live at 9675 Fleming Grant Rd in Micco, across the street from the subject property. I was very active with my neighbors and the Micco Homeowners in opposing the original application from the owner of this property asking to develop it into small homesites under the existing RU1 13 zoning. Our goal was to see this land developed with minimum 1 home per 2.5 acres as the existing comp plan for our area requires. The zoning this owner is requesting now would provide for that goal.

I have talked to many of my neighbors now, who originally opposed his plan and they are in favor of this request for the zoning change to AU L. We understand that AU L may allow him to make his lots narrower than a higher AU zoning, but that does not bother us. We just want him to keep the density at 1 home per 2.5 acres. That limits the amount of homes that can be built there to possibly 8.

I am writing this letter to let you know that we support this request. It is not our goal to punish this new owner, but to keep the density in compliance with the comprehensive land use plan. Thank you.

Sincerely,

Linda Brannan  
9675 Fleming Grant Rd  
Micco, FL 32976  
772-664-2274



**From:** [Commissioner, D1](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Agenda item H6, December 3, 2020  
**Date:** Wednesday, December 2, 2020 1:53:06 PM  
**Attachments:** [miccolidr2.docx](#)  
[image001.png](#)

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Good Afternoon,

Attached and Below are public comments in regards to Item H.6 for tomorrow's meeting.

Best Regards,

***Nate Smith***

Legislative Aide to Commissioner Rita Pritchett



***District 1 Commission Office***

**2000 South Washington Avenue, Suite 2**

**Titusville, FL 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.*

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**From:** David Botto <[dbotto1@cfl.rr.com](mailto:dbotto1@cfl.rr.com)>  
**Sent:** Wednesday, December 2, 2020 12:39 PM  
**To:** Commissioner, D1 <[D1.Commissioner@brevardfl.gov](mailto:D1.Commissioner@brevardfl.gov)>; Commissioner, D2 <[D2.Commissioner@brevardfl.gov](mailto:D2.Commissioner@brevardfl.gov)>; Commissioner, D3 <[d3.commissioner@brevardfl.gov](mailto:d3.commissioner@brevardfl.gov)>; Commissioner, D4 <[D4.Commissioner@brevardfl.gov](mailto:D4.Commissioner@brevardfl.gov)>; Commissioner, D5 <[D5.Commissioner@brevardfl.gov](mailto:D5.Commissioner@brevardfl.gov)>  
**Subject:** Agenda item H6, Fleming Grant Road, Micco, December 3, 2020

know the content is safe.

Dear Chairwoman Pritchett and Distinguished Members,

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon and we are pro-actively supporting the Save Our Lagoon Project Plan which seeks, at great cost, to correct and repair the results of past mistakes that caused great harm to the Lagoon. In addition, MRC is a property owner in this area and joins residents in expressing our concern. Please refer to our previous letter on this subject, attached.

MRC fully supports the position regarding built location and low impact development of this property as expressed by the residents in a recent E Mail to you.

We are concerned that no newly prepared Binding Development Plan (BDP) is indicated in this latest proposal. This property is literally on the bank of the Sebastian River as it empties into the Indian River Lagoon Preserve. It includes extensive wet land and high hazard flood zone within its borders. It is a classic example of land that requires intense management of development, or no development at all. A detailed BDP must be required in order for Brevard County to apply responsible management that will ensure no harm to the Lagoon.

We must look to the future.

Respectfully,

David C. Botto, Chair  
Intergovernmental Committee  
Marine Resources Council

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.

To counter this, we have strongly encouraged the adoption of Low Impact Development (LID) that will cost effectively minimize the impact on the IRL of much needed development. Its objective is to control storm water at its source through simple actions that result in post development run-off that mimics the original. The concept is founded on the critical need to increase pervious, water storing land and to reduce the destructive run-off loss of water, an increasingly valuable resource.

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. 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 storm water 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  
Marine Resources Council  
3275 Dixie Hwy, NE  
Palm Bay, FL 32905

321-725-7775