



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.11.

2/3/2022

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### **Subject:**

Carter and Jessica Hayes request a change of zoning classification from AU to RU-2-4. (21Z00042) (Tax Accounts 2318403 and 2318404).

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning & Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to RU-2-4 (Medium Density Multi-Family Residential).

### **Summary Explanation and Background:**

The applicants are seeking a change of zoning classification from AU to RU-2-4 for the purpose of constructing eleven rental units on the combined parcels containing 2.79 acres. The RU-2-4 zoning permits multi-family residential development or single family residences at a density of up to four units per acre on 7,500 square-foot lots. RU-2-4 allows apartments or it can be developed as townhomes (single-family attached) in accordance with the RA-2-4 zoning standards, which require site planning and platting pursuant to article VII of this chapter, pertaining to subdivisions.

The developed character of the surrounding area west of N. Courtenay Parkway is low-density residential along with commercial development abutting N. Courtenay Parkway. The residentially developed parcels in the area are developed with single-family homes and exceed one half-acre lot size. To the north is an undeveloped 1.38 acre parcel zoned AU. To the south is a 2.86 acre undeveloped parcel zoned AU. To the west is the Citrus River Groves subdivision developed with single-family homes on half-acre lots or larger, and zoned SR (Suburban Residential). A RA-2-4 zoning classification exists less than a half-mile north of the subject property which allows for a single family attached product. RU-2-4 zoning classification could be considered an introduction to the surrounding area. A multi-family use may be considered transitional from N. Courtenay to the single-family residential to the west. On the eastside of N. Courtney, less than a half-mile away, a property has a zoning classification of RU-2-30.

The Board may wish to consider whether the introduction of RU-2-4 is consistent and compatible with the surrounding area.

On January 6, 2022, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended approval as SR (Suburban Residential), with a BDP limited to two units per acre.



On January 10, 2022, the Planning and Zoning Board heard the request and voted 7:2 to approve as RU-2-4, with a BDP limited to three units per acre.

**Clerk to the Board Instructions:**

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



## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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



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**

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Building A, Room 114  
Viera, Florida 32940  
(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**21Z00042**

**Carter Hayes and Jessica Hayes**

**AU (Agricultural Residential) to RU-2-4 (Multi-Family Residential)**

Tax Account Number: 2318403 and 2318404  
Parcel I.D.: 23-36-34-00-761 and 23-36-34-00-762  
Location: West side of N. Courtenay, 2,006 feet north of Hall Road (District 2)  
Acreage: 2.79 acres

North Merritt Island Board: 1/06/2022  
Planning & Zoning Board: 1/10/2022  
Board of County Commissioners: 2/03/2022

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposed zoning 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>	AU	RU-2-4
<b>Potential*</b>	1 single-family unit**	10 multi-family units
<b>Can be Considered under the Future Land Use Map</b>	YES, RES 4	YES, RES 4

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

\*\* The two parcels combined have the potential for one single family resident.

**Background and Purpose of Request**

The applicants are seeking a change of zoning classification from AU (Agricultural Residential) to RU-2-4 (Low-Density Multiple-Family Residential) for the purpose to be able to construct ten units on the combined parcels for the purpose of renting out the individual units. The applicants did not provide a site plan with the application.

The subject parcels were recorded into the current configuration per Official Records Book 523, Page 523, on September 01, 1962. There is an existing single-family residence on the south parcel built in 1966. The north parcel is vacant. In 1962 AU zoning required a minimum lot size of one acre and



having a minimum width of 125 feet and a minimum depth of 125 feet. The AU zoning today requires a minimum lot size of 2.5 acres, a minimum width of 150 feet, and a minimum depth of 150 feet. The

AU is the original zoning of the parcels.

### **Land Use**

The subject properties retain a FLU designation of Residential 4 (RES 4). Both the AU and the proposed RU-2-4 zoning classification maybe considered with RES 4 FLU.

### **Applicable Policies**

**FLUE Policy 1.7** – The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within the Future Land Use Element. Connection to water and sewer is required.

**Conservation Policy 5.2 E(1)(a)** – Residential land uses within wetlands, that are a part of a formal subdivision or site plan, on properties containing wetlands shall be limited to the following: a. 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. 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 Policy 5.2.E (7), for subdivisions and multi-family parcels greater than five acres in area, New Town Overlays, PUDs, and if applicable, mixeduse land development activities as specified in Policy 5.2.E (6).

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 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.**

The subject parcels lie within the Residential 4 FLU designation. The lot to the north of the parcels is designated Residential 4. The lot to the south of the property is designated Residential 4. The lots to the west of the parcels are designated Residential 4. To the east is N. Courtenay Parkway. The mobile home park located across N. Courtenay Parkway on the eastside is designated Residential 2. The Residential 4 FLU is consistent with both the existing AU zoning and proposed RU-2-4 zoning.

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

The developed character of the surrounding area west of N. Courtenay Parkway is low-density residential along with commercial development abutting N. Courtenay Parkway. The residentially developed parcels in the area are developed with single-family homes and exceed one half-acre lot size.

To the north is an undeveloped 1.38 acre parcel that is zoned AU. To the south is a 2.86 acre parcel undeveloped that is zoned AU. To the west is a subdivision, Citrus River Groves, that is developed



with single-family homes on half acre parcels or larger which is zoned SR (Suburban Residential). There is no RU-2-4 zoning in the surrounding area. A multi-family use may be considered a transitional from N. Courtenay to the single-family residential to the west.

**Analysis of 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. Development of this site is limited to 1.8% wetland impacts. Based on the mapped area of the wetlands, it encompasses a significant area of the property.

### **Surrounding Area**

The abutting parcels to the north and south have the County zoning classification AU. The abutting parcels to the west are zoned SR (Suburban Residential). To the east is N. Courtenay Parkway (State Road 3).

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

The proposed RU-2-4 classification is a four unit per acre multiple-family residential zoning classification. It permits multi-family residential development or single family residences at a density of up to four units per acre on 7,500 square foot lots. RU-2-4 allows apartments or it can be developed as townhomes (single-family attached) in accordance with RA-2-4 zoning standards, which requires site planning and platting pursuant to article VII of this chapter, pertaining to subdivisions.

There have been two rezoning applications in the surrounding area in the past 5 years.

On July 26, 2018, application **18PZ00018** changed the zoning classification from AU to EU (Estate Use) with a Binding Development Plan (BDP) limiting density to 34 units. This parcel is located on the north side of E. Hall Road, 2,675 feet east of the subject property.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet.

On October 12, 2017, application **17PZ00072** changed the zoning classification from AU and BU-1 to RA-2-4 with a Binding Development Plan (BDP) limiting density to 48 units. This parcel is located on the southwest corner of N. Courtenay Parkway and Porcher Road, 1,754 feet north of the subject property.

The current trend along the west corridor of N. Courtenay Parkway has been a mix of commercial development along with residential development.

### **Environmental Constraints**

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



- Wetlands/Hydric Soils
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcels contain mapped wetlands and hydric soils. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Information available to NRM indicates that unpermitted impacts to wetland may have occurred. The discovery of unpermitted wetland impacts may result in enforcement action. 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 multi-family parcels 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 Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

The subject parcels are located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE. Per Section 62-3724(4) of the Floodplain Protection ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development.

The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is N. Courtenay Parkway (State Road 3), between Hall Road and N. tropical Trail, which has a Maximum Acceptable Volume of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 37.35% of capacity daily. The maximum development potential from the proposed rezoning does increase the level of MAV utilization by 0.14%. The corridor is anticipated to operate at 37.49% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

At this time, Lewis Carroll Elementary School, Jefferson Middle School and Merritt Island High School are projected to have enough capacity for the total of the projected and potential students from the proposed request.

The parcels can be serviced by Brevard County sewer. The Brevard County sewer line runs along the west side of N. Courtenay Parkway directly in front of the parcels. The parcels are serviced by City of Cocoa water.



**For Board Consideration**

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



**Item # 21Z00042**

**Applicant:** Hayes

**Zoning Request:** AU to RU-2-4

**Note:** Applicant wants to develop 10 townhouses.

**Tax ID Nos:** 2318403 & 2318404

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

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

- Wetlands/Hydric Soils
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcels contain mapped wetlands and hydric soils. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Information available to NRM indicates that unpermitted impacts to wetland may have occurred. The discovery of unpermitted wetland impacts may result in enforcement action. 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 multi-family parcels 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 Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

The subject parcels are located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE. Per Section 62-3724(4) of the Floodplain Protection ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development.



The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

### **Land Use Comments:**

#### **Wetlands/Hydric Soils**

The subject parcel contains mapped National Wetland Inventory (NWI) and SJRWMD wetlands, and hydric soils (Samsula Muck) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Information available to NRM indicates that unpermitted impacts to wetland may have occurred. The discovery of unpermitted wetland impacts may result in enforcement action. 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 multi-family parcels 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 Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

#### **Floodplain**

The subject parcels are located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE. Per Section 62-3724(4) of the Floodplain Protection ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development.

Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. The NMI Flood Study may be applicable depending on submittal date. Engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM prior to any grading, filling or land alteration activities.

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

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

#### **Protected and Specimen Trees**



The property contains 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 likely found on the project area. Per Section 62-4341(18), Protected and 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. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

**Protected Species**

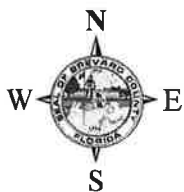
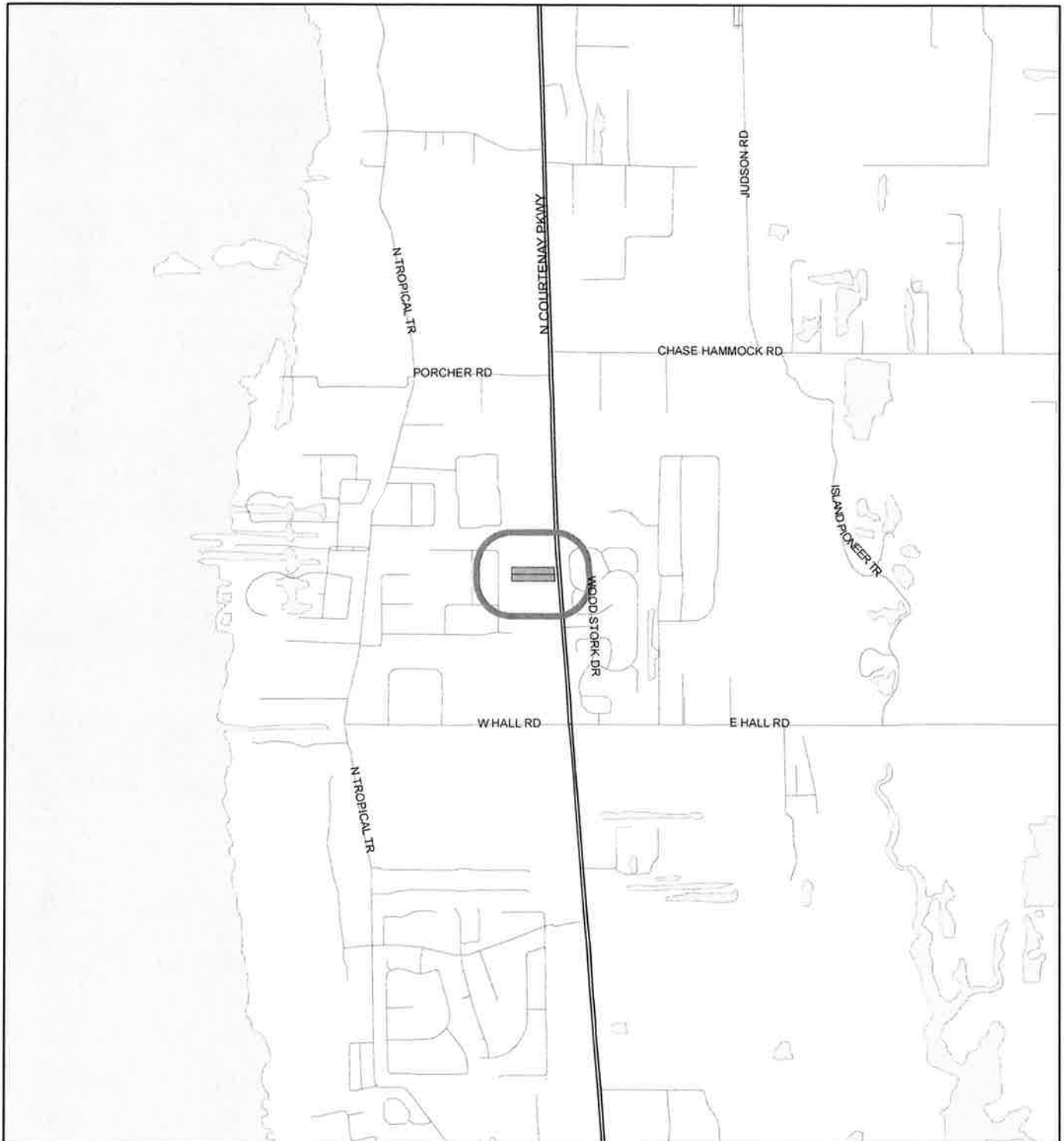
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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



# LOCATION MAP

HAYES, CARTER AND JESSICA

21Z00042



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: 11/8/2021

— Buffer

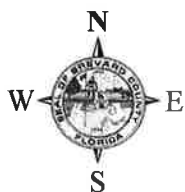
■ Subject Property



# ZONING MAP

HAYES, CARTER AND JESSICA

21Z00042



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: 11/8/2021

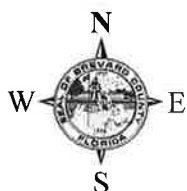
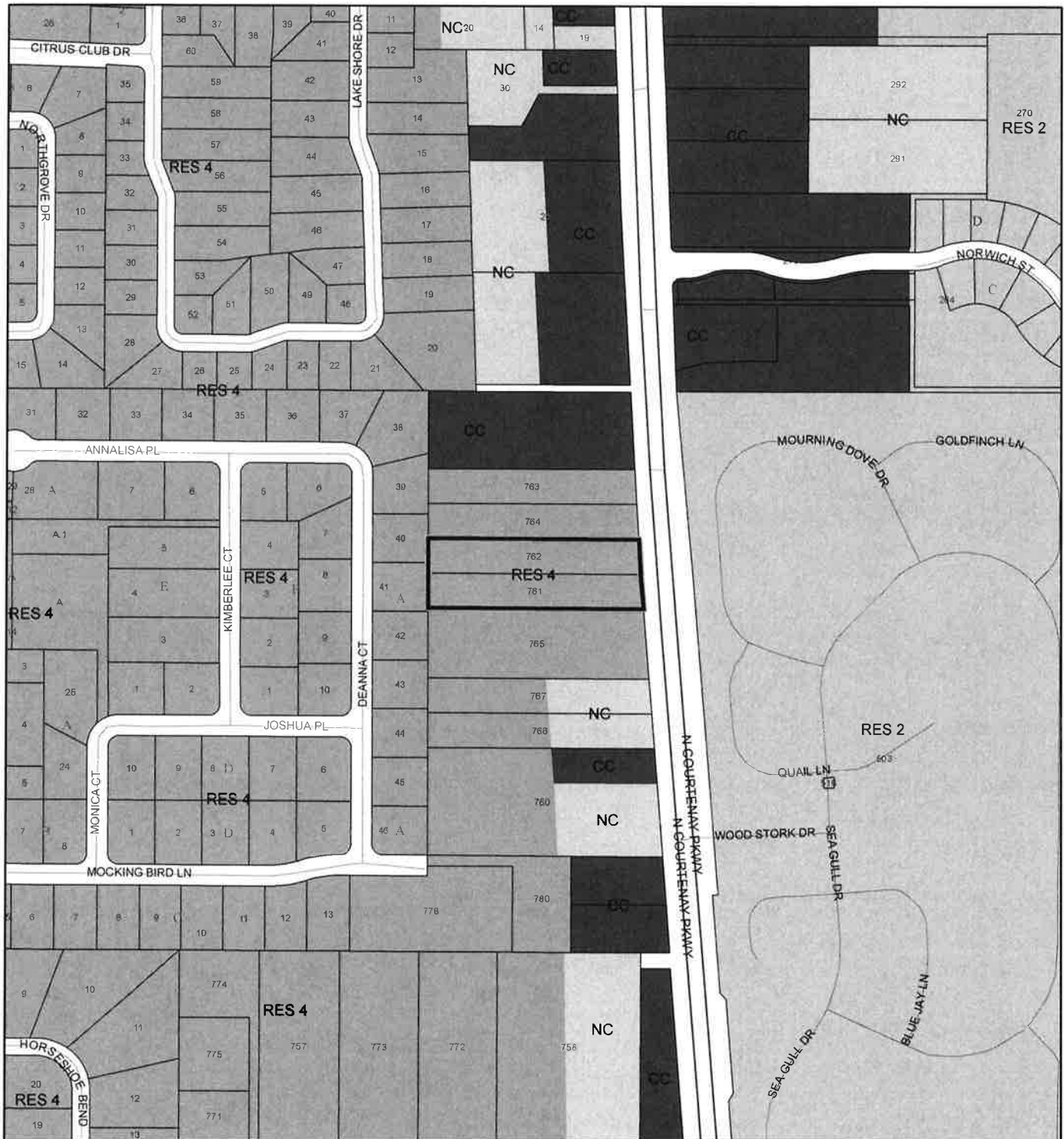
- Subject Property
- Parcels
- Zoning



# FUTURE LAND USE MAP

HAYES, CARTER AND JESSICA

21Z00042



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: 11/8/2021

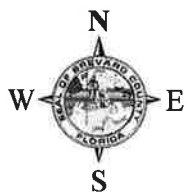
**Subject Property**  
**Parcels**



# AERIAL MAP

HAYES, CARTER AND JESSICA

21Z00042



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 11/8/2021

 Subject Property

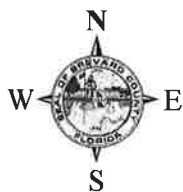
 Parcels



# NWI WETLANDS MAP

HAYES, CARTER AND JESSICA

21Z00042



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/8/2021

## National Wetlands Inventory (NWI)

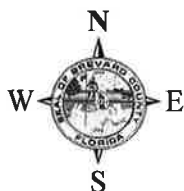
	Estuarine and Marine Deepwater		Freshwater Pond
	Estuarine and Marine Wetland		Lake
	Freshwater Emergent Wetland		Other
	Freshwater Forested/Shrub Wetland		Riverine
	Subject Property		Parcels



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

HAYES, CARTER AND JESSICA

21Z00042



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: 11/8/2021

## 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

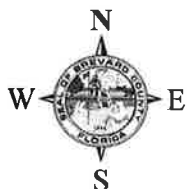
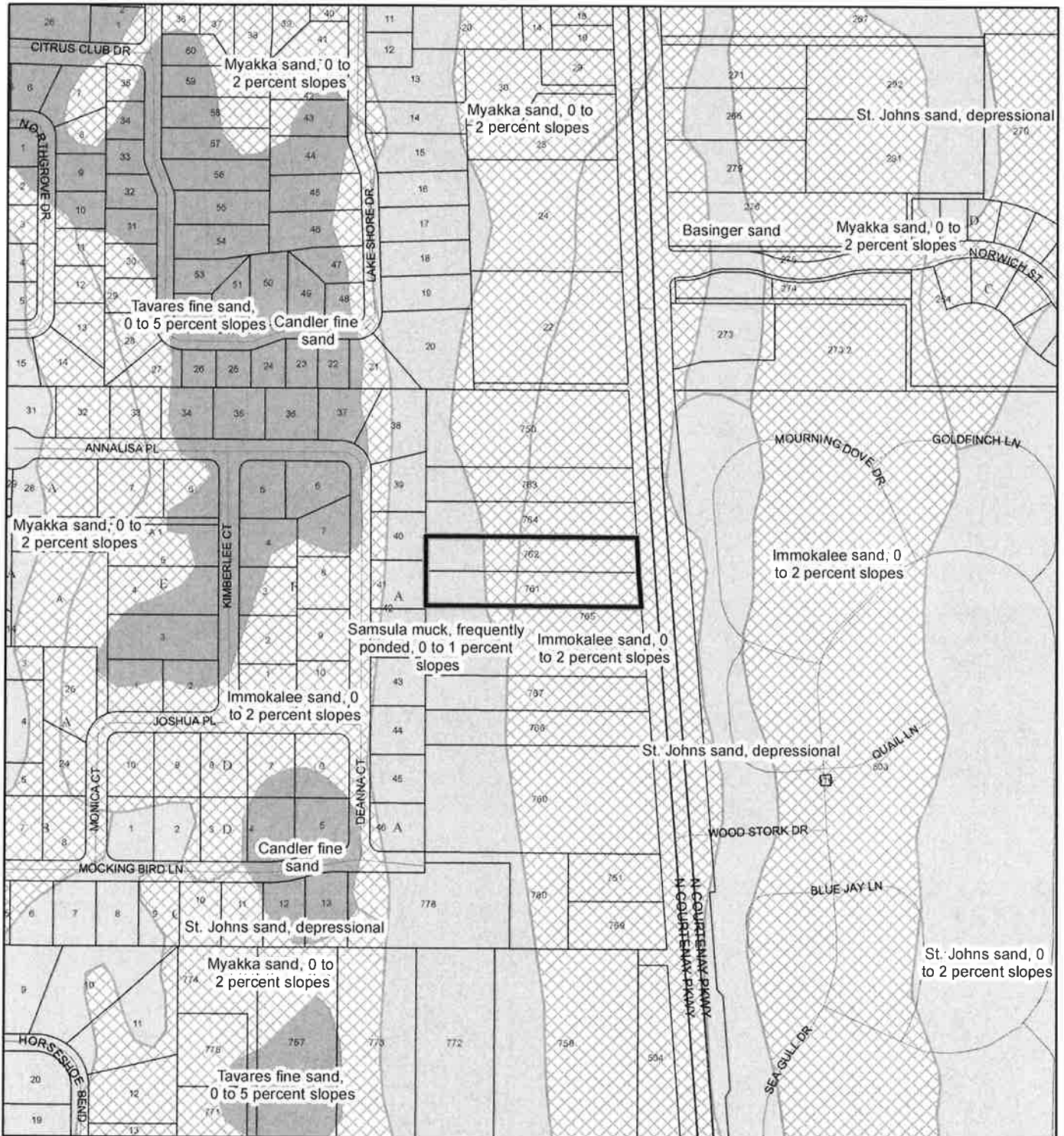
Parcels



# USDA SCSSS SOILS MAP

HAYES, CARTER AND JESSICA

21Z00042



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: 11/8/2021

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

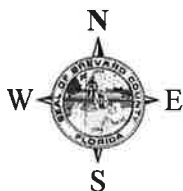
- Subject Property
- Parcels



# FEMA FLOOD ZONES MAP

HAYES, CARTER AND JESSICA

21Z00042



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: 11/8/2021

## FEMA Flood Zones

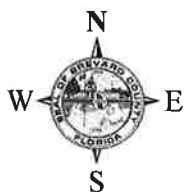
- |                  |            |   |
|------------------|------------|---|
| A                | AO         | X |
| AE               | Open Water |   |
| AH               | VE         |   |
| Subject Property | Parcels    |   |



# COASTAL HIGH HAZARD AREA MAP

HAYES, CARTER AND JESSICA

21Z00042



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/8/2021

— Subject Property

□ Parcels

**Coastal High Hazard Area**

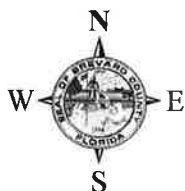
■ SurgeZoneCat1



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

HAYES, CARTER AND JESSICA

21Z00042



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: 11/8/2021

— Subject Property

□ Parcels

**Septic Overlay**

■ 40 Meters

■ 60 Meters

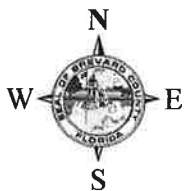
■ All Distances



# EAGLE NESTS MAP

HAYES, CARTER AND JESSICA

21Z00042



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/8/2021

 Subject Property

 Parcels



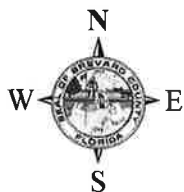
Eagle Nests  
FWS 2010



# SCRUB JAY OCCUPANCY MAP

HAYES, CARTER AND JESSICA

21Z00042



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/8/2021

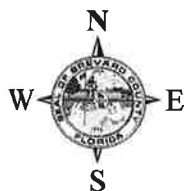
- Subject Property
- Parcels
- Scrub Jay Occupancy



# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

HAYES, CARTER AND JESSICA

21Z00042



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: 11/8/2021

## SJRWMD FLUCCS Upland Forests

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

Subject Property  Parcels





## School Board of Brevard County

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

October 28, 2021

Mr. Paul Body  
Planner II  
Planning & Development Department  
Brevard County Board of County Commissioners  
2726 Judge Fran Jamieson Way  
Viera, Florida 32940

**RE: Proposed 4645 N. Courtenay Parkway Development,  
School Impact Analysis – Capacity Determination CD-2021-26**

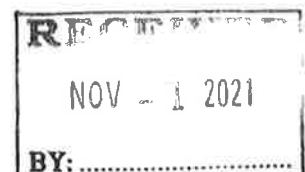
Dear Mr. Body,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Accounts 2318403 and 2318404 (Parcel ID: 23-36-34-00-761 and 23-36-34-00-762), containing approximately 2.79 acres in unincorporated District 2, Brevard County, Florida. The proposed development includes 10 single-family homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2020-21 to 2025-26 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2020-2021 to 2025-26* which is attached for reference.

Single-Family Homes		10	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students Generated
Elementary	0.28	2.8	3
Middle	0.08	0.8	1
High	0.16	1.6	2
<b>Total</b>	<b>0.52</b>		<b>6</b>

Planning & Project Management  
Facilities Services  
Phone: (321) 633-1000 x11418 • FAX: (321) 633-4646





**FISH Capacity (including relocatables) from the  
Financially Feasible Plan (FFP) Data and Analysis for School Years 2020-21 to  
2025-26**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Carroll	751	751	751	751	751
Jefferson	854	854	854	854	854
Merritt Island	1,891	1,891	1,891	1,891	1,891

**Projected Student Membership**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Carroll	593	530	553	559	540
Jefferson	640	632	609	601	593
Merritt Island	1,587	1,494	1,517	1,491	1,428

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Carroll	-	-	11	23	28
Jefferson	-	-	3	7	8
Merritt Island	-	4	6	14	17

**Cumulative Students Generated by  
Proposed Development**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Carroll	-	1	3	3	3
Jefferson	-	0	1	1	1
Merritt Island	-	1	2	2	2

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

School	2021-22	2022-23	2023-24	2024-25	2025-26
Carroll	593	531	567	585	571
Jefferson	640	632	613	609	602
Merritt Island	1,587	1,499	1,525	1,507	1,447

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

School	2021-22	2022-23	2023-24	2024-25	2025-26
Carroll	158	220	184	166	180
Jefferson	214	222	241	245	252
Merritt Island	304	392	366	384	444

At this time, Lewis Carroll Elementary School, Jefferson Middle School, and Merritt Island High School are projected to have enough capacity for the total of projected and potential students from the 4645 N. Courtenay Parkway development.



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

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

Sincerely,



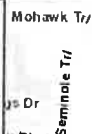
Karen M. Black, AICP  
Manager – Facilities Planning & Intergovernmental Coordination  
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years 2020-2021 to 2025-26*

Copy: Susan Hann, AICP, Assistant Superintendent of Facility Services  
File CD-2021-26

David G. Lindemann, AICP, Director of Planning & Project Management,  
Facilities Services  
File CD-2021-26



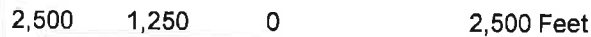


4645 N. Courtenay Pkwy  
10 SFD Units

## Merritt Island

**Schools Affected by Development:**  
**Lewis Carroll Elementary School**  
**Jefferson Middle School**  
**Merritt Island High School**

Drawn By:  
Planning & Project Management  
Karen Black  
10/28/2021





# Brevard County Public Schools

## Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service

### Data and Analysis for School Years 2020-21 to 2025-26



Summary		2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Highest Utilization Elementary Schools:		87%	90%	90%	100%	100%	100%
Highest Utilization Middle Schools:		81%	81%	80%	93%	98%	98%
Highest Utilization Jr / Sr High Schools:		93%	98%	98%	99%	99%	99%
Highest Utilization High Schools:		93%	98%	98%	99%	99%	100%

School	Type	Grades	Utilization Factor	School Year 2020-21			School Year 2021-22			School Year 2022-23			School Year 2023-24			School Year 2024-25			School Year 2025-26		
				FISH Capacity	100% Member-ship	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization
Elementary School Concurrency Service Areas																					
Allen	Elementary	PK-6	100%	781	536	69%	751	679	87%	751	652	87%	751	681	91%	773	768	90%	755	791	95%
Andersen	Elementary	PK-6	100%	884	619	70%	884	617	69%	884	687	78%	884	686	78%	884	702	79%	884	713	81%
Apelo	Elementary	PK-6	100%	902	785	87%	902	801	89%	902	777	86%	902	755	84%	902	757	84%	902	744	83%
Atlanta	Elementary	PK-6	100%	739	633	86%	739	660	89%	739	625	84%	739	624	84%	739	616	83%	739	610	82%
Audubon	Elementary	PK-6	100%	761	489	64%	761	475	62%	761	471	62%	761	476	63%	761	475	63%	761	484	64%
Cape View	Elementary	PK-6	100%	765	619	81%	765	526	69%	765	503	66%	765	494	65%	765	469	61%	765	458	60%
Challenger 7	Elementary	PK-6	100%	570	302	53%	570	283	50%	570	277	49%	570	269	47%	570	253	44%	570	254	45%
Columbia	Elementary	PK-6	100%	751	503	67%	751	593	79%	751	590	78%	751	553	74%	751	559	74%	751	540	72%
Coquina	Elementary	PK-6	100%	573	477	83%	573	483	84%	573	443	77%	573	423	74%	573	406	71%	573	398	69%
Croft	Elementary	PK-6	100%	711	489	69%	711	532	75%	711	455	64%	711	436	61%	711	396	56%	711	376	53%
Croton	Elementary	PK-6	100%	1,154	703	61%	1,154	746	65%	1,154	743	64%	1,154	737	64%	1,154	740	64%	1,154	741	64%
Discovery	Elementary	PK-6	100%	735	480	65%	735	530	72%	735	615	84%	735	622	85%	735	627	86%	735	635	87%
Endeavour	Elementary	PK-6	100%	900	560	62%	900	550	61%	900	494	55%	900	500	56%	900	507	57%	900	503	56%
Enterprise	Elementary	PK-6	100%	990	608	61%	990	646	65%	990	589	59%	990	581	59%	990	628	63%	990	627	63%
Fairglenn	Elementary	PK-6	100%	729	536	73%	729	525	72%	729	525	72%	729	520	71%	729	512	70%	729	482	67%
Garlini	Elementary	PK-6	100%	789	577	73%	789	590	75%	789	538	68%	789	530	67%	789	478	60%	789	383	49%
GotView	Elementary	PK-6	100%	711	426	60%	711	467	66%	711	401	56%	711	384	54%	711	379	54%	711	383	54%
Harbor City	Elementary	PK-6	100%	777	439	57%	777	450	58%	777	522	67%	777	527	68%	777	537	69%	777	543	70%
Holland	Elementary	PK-6	100%	629	345	55%	629	378	60%	629	379	60%	629	416	66%	629	412	66%	629	402	64%
Imperial Estates	Elementary	PK-6	100%	905	410	45%	905	485	54%	905	429	47%	905	430	48%	905	418	46%	905	417	46%
Indiantown	Elementary	PK-6	100%	729	606	83%	729	608	83%	729	615	84%	729	627	86%	729	648	89%	729	648	89%
Jupiter	Elementary	PK-6	100%	798	662	83%	798	694	87%	798	683	86%	798	678	85%	798	668	84%	798	649	81%
Leclair	Elementary	PK-6	100%	930	679	73%	930	666	71%	930	705	76%	930	690	74%	930	682	74%	930	618	66%
Longleaf	Elementary	PK-6	100%	882	632	71%	882	609	69%	882	592	68%	882	555	63%	882	520	59%	882	518	59%
MacArthur	Elementary	PK-6	100%	790	588	74%	790	577	73%	790	585	74%	790	585	74%	790	580	73%	790	574	72%
MacArthur Intermediate	Elementary	PK-6	100%	918	668	73%	918	657	72%	918	591	64%	918	594	65%	918	561	61%	918	570	63%
MacArthur Primary	Elementary	PK-6	100%	1,114	712	64%	1,114	728	65%	1,114	633	57%	1,114	594	53%	1,114	563	50%	1,114	548	49%
Mills	Elementary	PK-6	100%	624	351	56%	624	325	52%	624	324	52%	624	324	52%	624	317	51%	624	308	50%
Mills Park	Elementary	PK-6	100%	707	428	60%	707	442	63%	707	432	61%	707	428	61%	707	418	59%	707	408	58%
Mims	Elementary	PK-6	100%	725	389	54%	725	422	58%	725	398	54%	725	499	69%	725	514	71%	725	515	71%
Oak Park	Elementary	PK-6	100%	963	583	61%	963	580	60%	963	542	56%	963	514	53%	963	494	51%	963	482	50%
Ocean Breeze	Elementary	PK-6	100%	654	509	78%	654	545	83%	654	465	71%	654	462	71%	654	455	70%	654	429	66%
Palm Bay Elem	Elementary	PK-6	100%	983	573	58%	983	596	61%	983	633	65%	983	683	70%	983	770	78%	983	773	79%
Pinewood	Elementary	PK-6	100%	569	470	83%	569	486	85%	569	565	99%	569	504	88%	569	510	90%	569	516	91%
Punt Malabar	Elementary	PK-6	100%	852	648	76%	852	631	74%	852	652	77%	852	612	72%	852	617	72%	852	626	73%
Quail	Elementary	PK-6	100%	1,152	755	65%	1,152	782	68%	1,152	676	59%	1,152	651	57%	1,152	647	56%	1,152	675	59%
Riviera	Elementary	PK-6	100%	777	531	68%	777	578	74%	777	599	77%	777	605	78%	777	605	78%	777	617	80%
Rosevelt	Elementary	PK-6	100%	569	263	46%	569	247	43%	569	242	40%	569	230	39%	569	199	35%	569	193	32%
Sea Park	Elementary	PK-6	100%	785	540	70%	785	564	72%	785	584	74%	785	580	74%	785	580	74%	785	581	74%
Stadium	Elementary	PK-6	100%	976	774	81%	976	841	86%	976	825	85%	976	803	83%	976	810	84%	976	840	87%
St. Lawrence	Elementary	PK-6	100%	461	272	59%	461	238	51%	461	237	52%	461	238	52%	461	224	49%	461	228	49%
Shorewood	Elementary	PK-6	100%	609	393	65%	609	393	65%	609	375	62%	609	381	63%	609	386	63%	609	375	62%
South Lake	Elementary	PK-6	100%	481	367	76%	481	367	76%	481	367	76%	481	367	76%	481	367	76%	481	367	76%
Surfside	Elementary	PK-6	100%	913	700	77%	913	693	76%	913	791	87%	913	957	97%	913	1,023	100%	913	1,096	100%
Surfside	Elementary	PK-6	100%	755	594	79%	755	616	82%	755	571	75%	755	541	72%	755	546	72%	755	535	71%
Turner	Elementary	PK-6	100%	541	438	81%	541	457	85%	541	430	79%	541	412	76%	541	398	74%	541	407	75%
Tropical	Elementary	PK-6	100%	910	692	76%	910	725	80%	910	823	90%	910	803	88%	910	965	100%	910	1,047	100%
Trinity	Elementary	PK-6	100%	874	529	60%	874	525	60%	874	525	60%	874	475	55%	874	474	55%	874	473	55%
University Park	Elementary	PK-6	100%	811	432	53%	811	471	58%	811	471	58%	811	438	54%	811	438	54%	811	438	54%
Vera Elem	Elementary	PK-6	100%	1,012	584	58%	1,012	645	64%	1,012	612	61%	1,012	597	59%	1,012	597	59%	1,012	597	59%
Westside	Elementary	PK-6	100%	857	571	67%	857	571	67%	857	571	67%	857	571	67%	857	571	67%	857	571	67%
Williams	Elementary	PK-6	100%	715	462	65%	715	462	65%	715	462	65%	715	444	63%	715	425	59%	715	395	55%
Elementary Totals				78,534	48,577	61%	78,534	48,577	61%	78,534	48,577	61%	78,534	48,577	61%	78,534	48,577	61%	78,534	48,577	61%
Middle School Totals				4,140	2,447	59%	4,140	2,447	59%	4,140	2,447	59%	4,140	2,447	59%	4,140	2,447	59%	4,140	2,447	59%
High School Totals				31,437	19,437	62%	31,437	19,437	62%	31,437	19,437	62%	31,437	19,437	62%	31,437	19,437	62%	31,437	19,437	62%







**From:** [Alain Carpentier](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** ID#21Z00042 / Change of Zoning /Public hearing  
**Date:** Monday, January 3, 2022 12:33:50 PM

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

Planning and Zoning Board and Panel,

In regards to the subject line; our property is directly in back (4550 Deanna Court) of the rezone request. Unfortunately, we are out of town and are unable to attend the hearing, in person. However, we do have some concerns:

1. Storm Water runoff. Will there be retention ponds added? There is a drainage ditch on my property and flows through several neighbors properties, however, it shall not be used for this construction. There is already enough pressure in the ditch and it is eroding my property.
2. Request the panel make the rezoning binding, to prohibit further construction.
3. Request large trees be planted on dividing property line to eliminate/lessen the view of the townhomes. Keeping some of the nature preserve that currently exists. We do have wildlife (alligators, turtles, cranes, egrets, and spoonbills) that live in the preserve, there is concern if that area is eliminated.

Thank you for taking this under consideration. We are available for questions, if needed. We will be attending the next hearings, in person.

Regards,  
Alain & Sandy Carpentier  
(904)631-1752

Sent from my iPhone



Dear Board Members -

I am Phil Bennardo, presenting the voted opinion of the North Merritt Island Homeowners Association, P.O. Box 542372, Merritt Island, FL 32954-2372.

Regarding the request of the Hayes' to change their lots of N. Courtenay Pkwy from agricultural residential zoning to multiple-family zoning that would instead allow 10 rental units,

considering Brevard County's development policies, namely as sited in Admin Policy 3 -

This requested increase in residential density is incompatible with existing land use because

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The proposed use is inconsistent with existing/emerging patterns of surrounding development considering
  - 1. historic land use patterns;
  - 2. actual development over preceding three years.

and as in Admin Policy 4:

The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. it will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

As in Admin Policy 6:

The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

and in Admin Policy 7:

A huge concern is that the proposed use will substantially aggravate existing substantial drainage problems on surrounding properties and will also negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Thus as in Admin Policy 8:

Considering the

- (1) character of the land use of the property surrounding the proposed rezoning,
- (2) the change in the conditions of the adjoining land use of property surrounding the proposed rezoning,
- (3) the impact of it on traffic patterns and the established character of the surrounding property,



(4) the incompatibility of the proposed zoning classification with existing land use,  
(5) therefore how inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors,  
this request should be denied as written.

and under Factors to Consider, Section 62-1151(c), for the same reasons, considering

(1) the character of the land use of the surrounding properties,  
(2) the change in conditions of the land use of the property being considered verses the surrounding properties,  
(3) the impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.  
(4) the proposed zoning classification's incompatibility with existing land use, and  
(5) the inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors,  
this proposal should be denied as written.

An alternative use would be to develop these lots to a density of an average of 1 unit per acre, in keeping with the history, flood-prone tendencies and character of this and the surrounding properties.

We respect your consideration. Thank you.





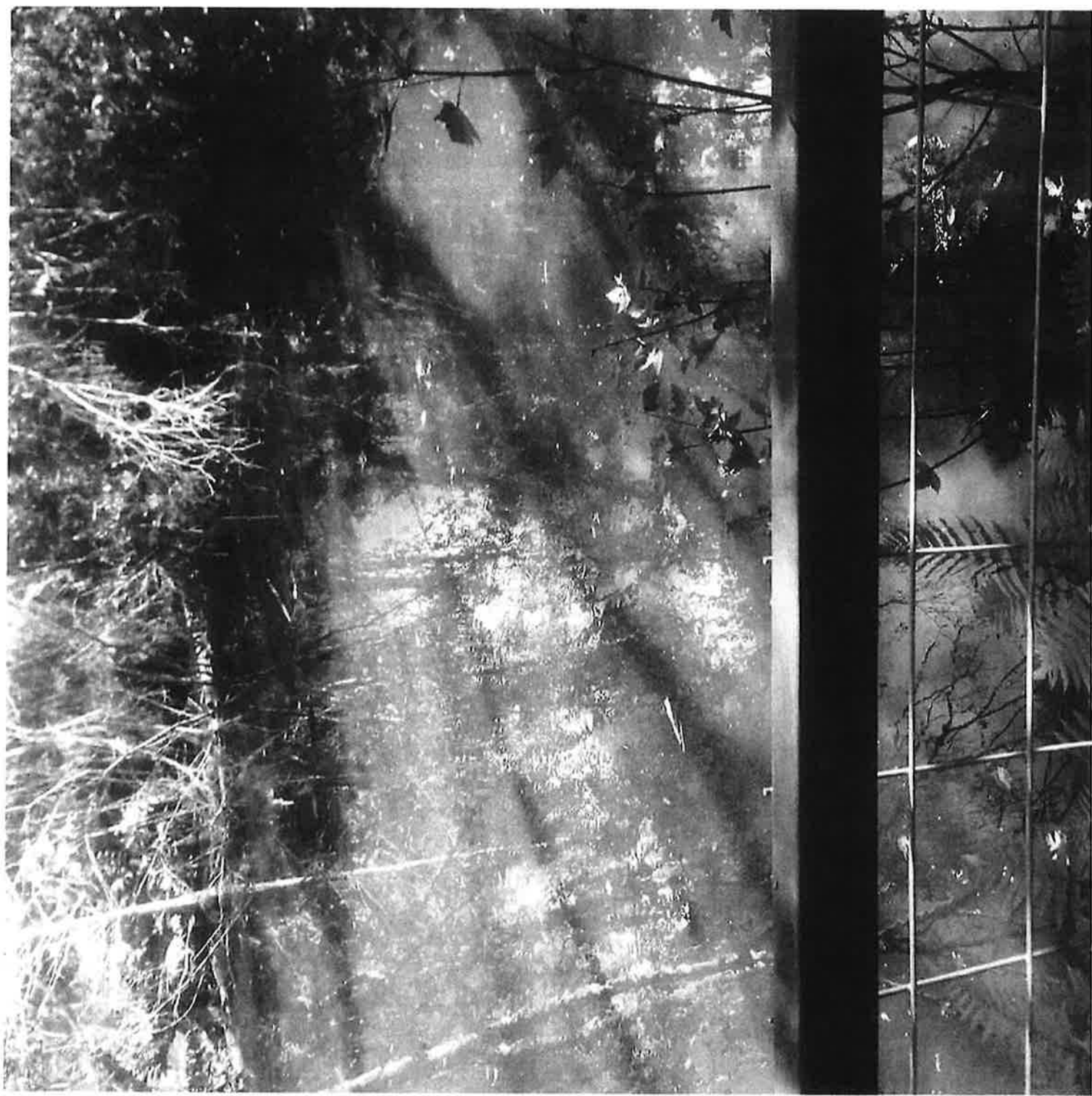


















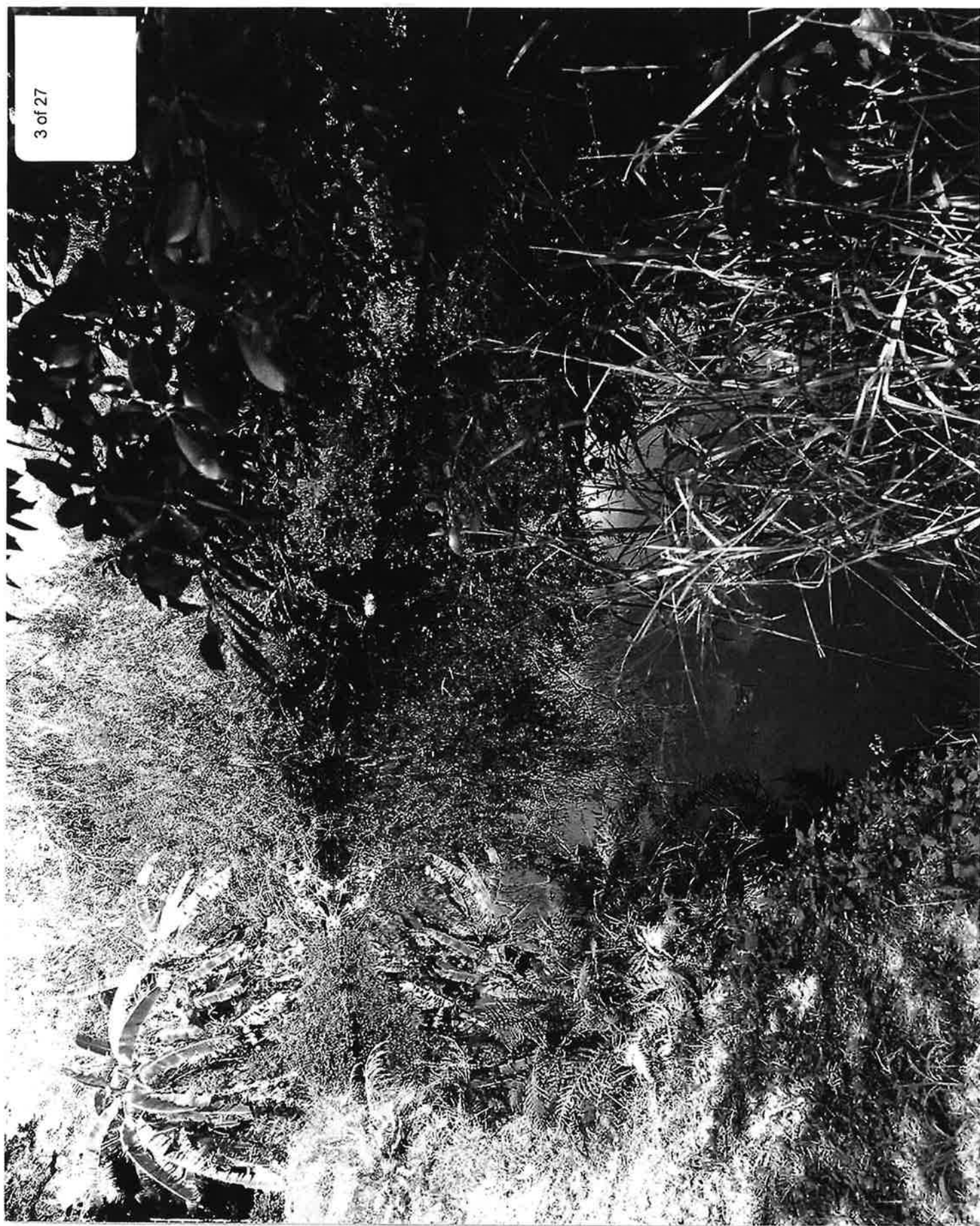
Objection  
21Z00042  
Hayes  
(submitted by Don Barker 01-06-22)  
1 of 27



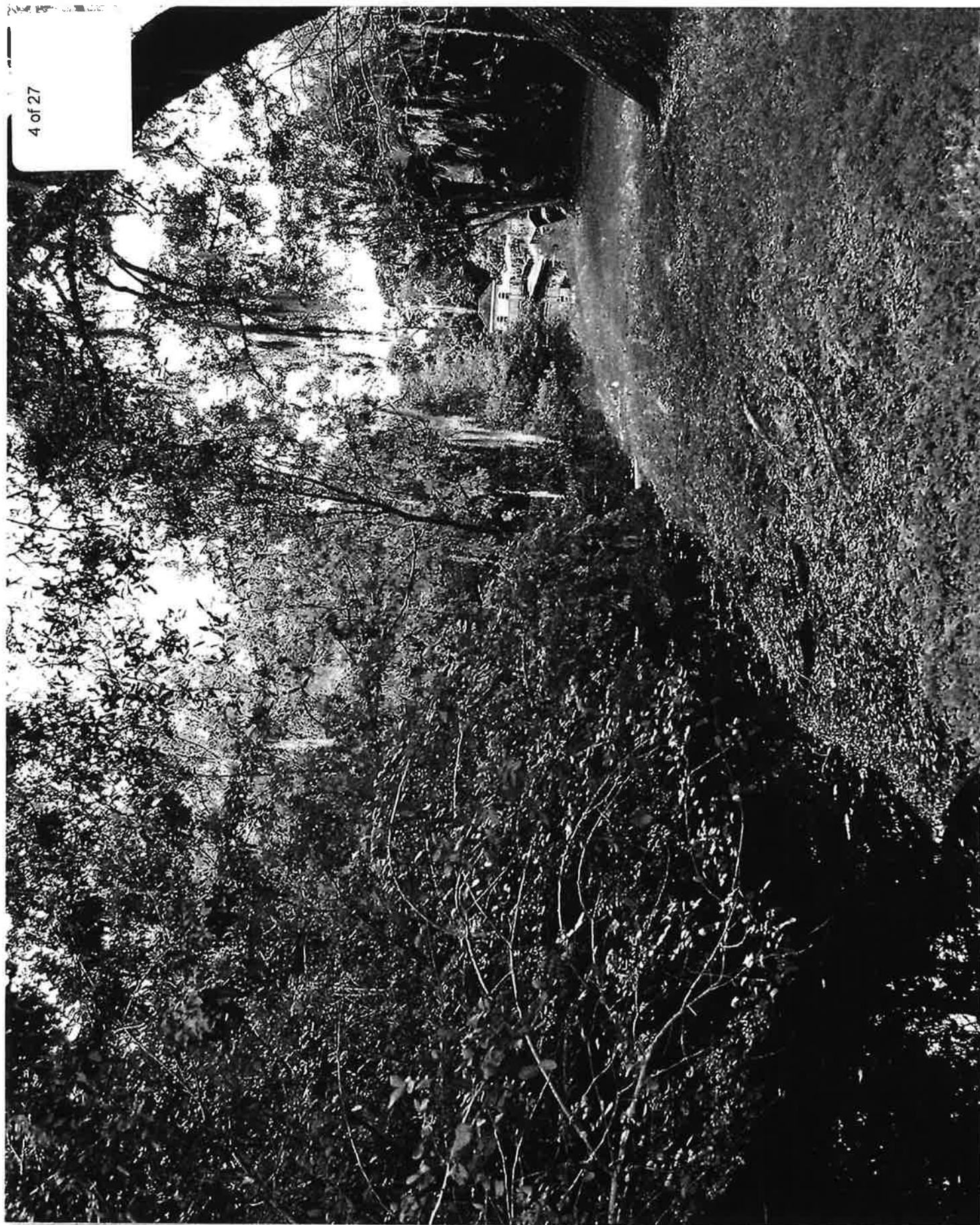












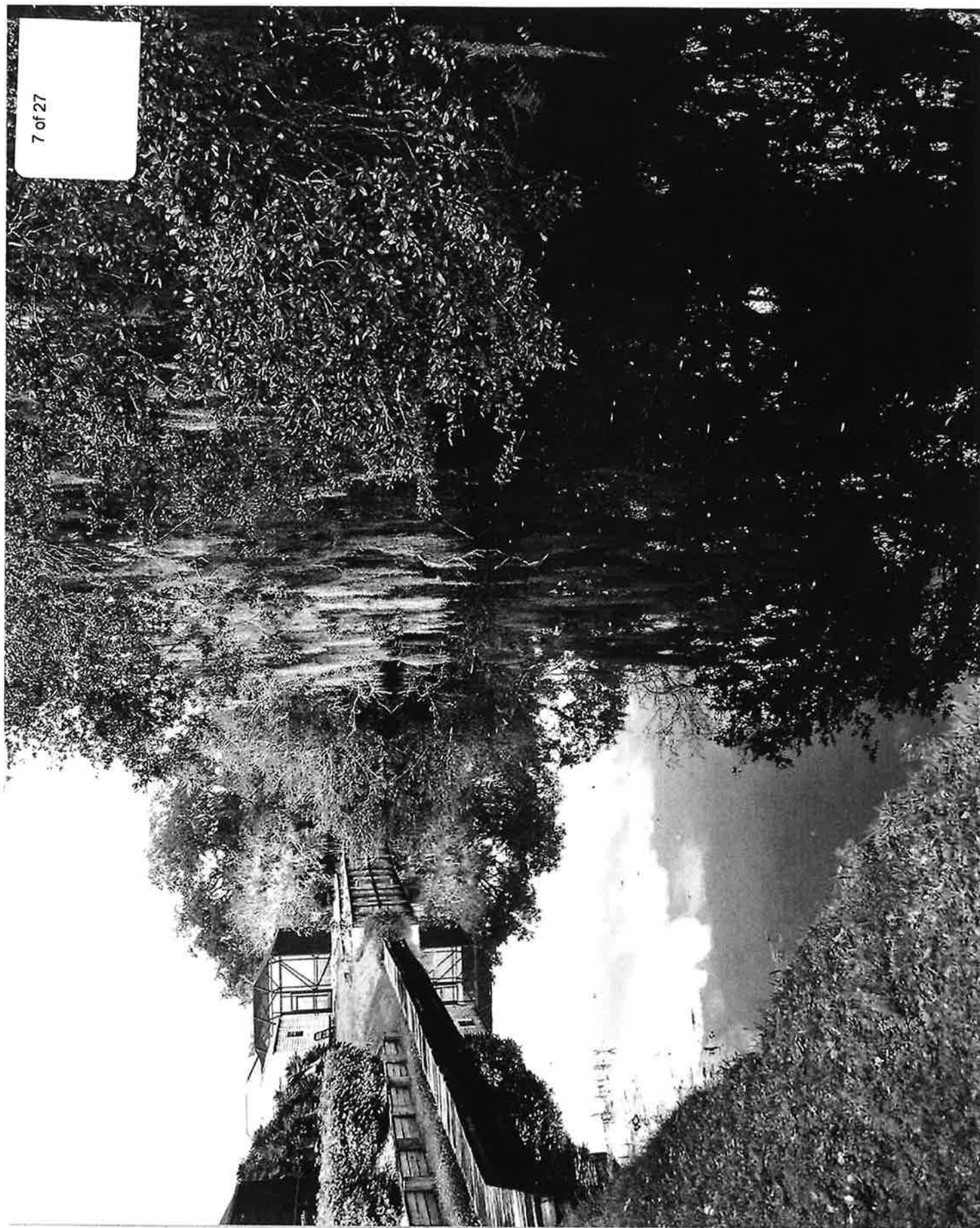








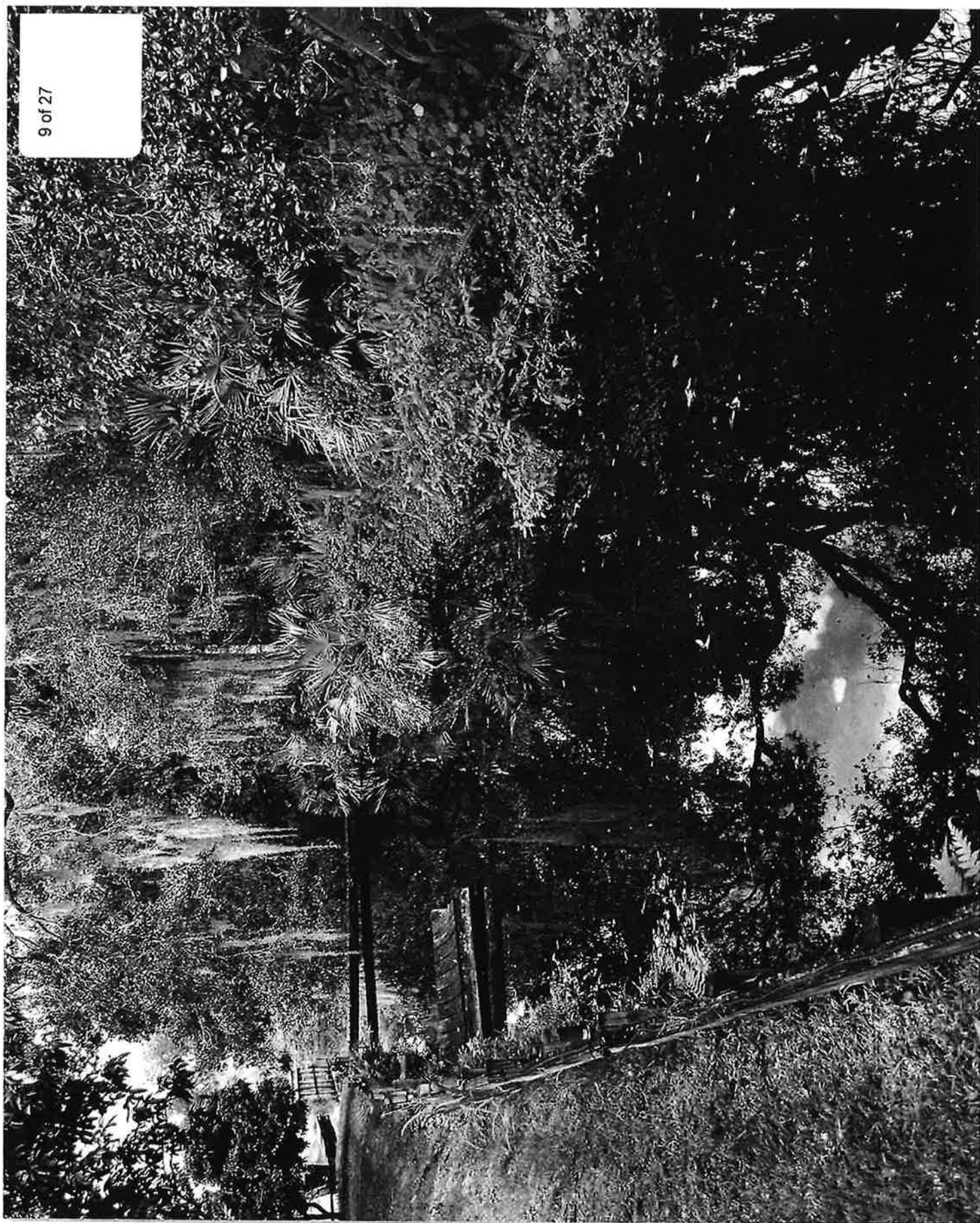






















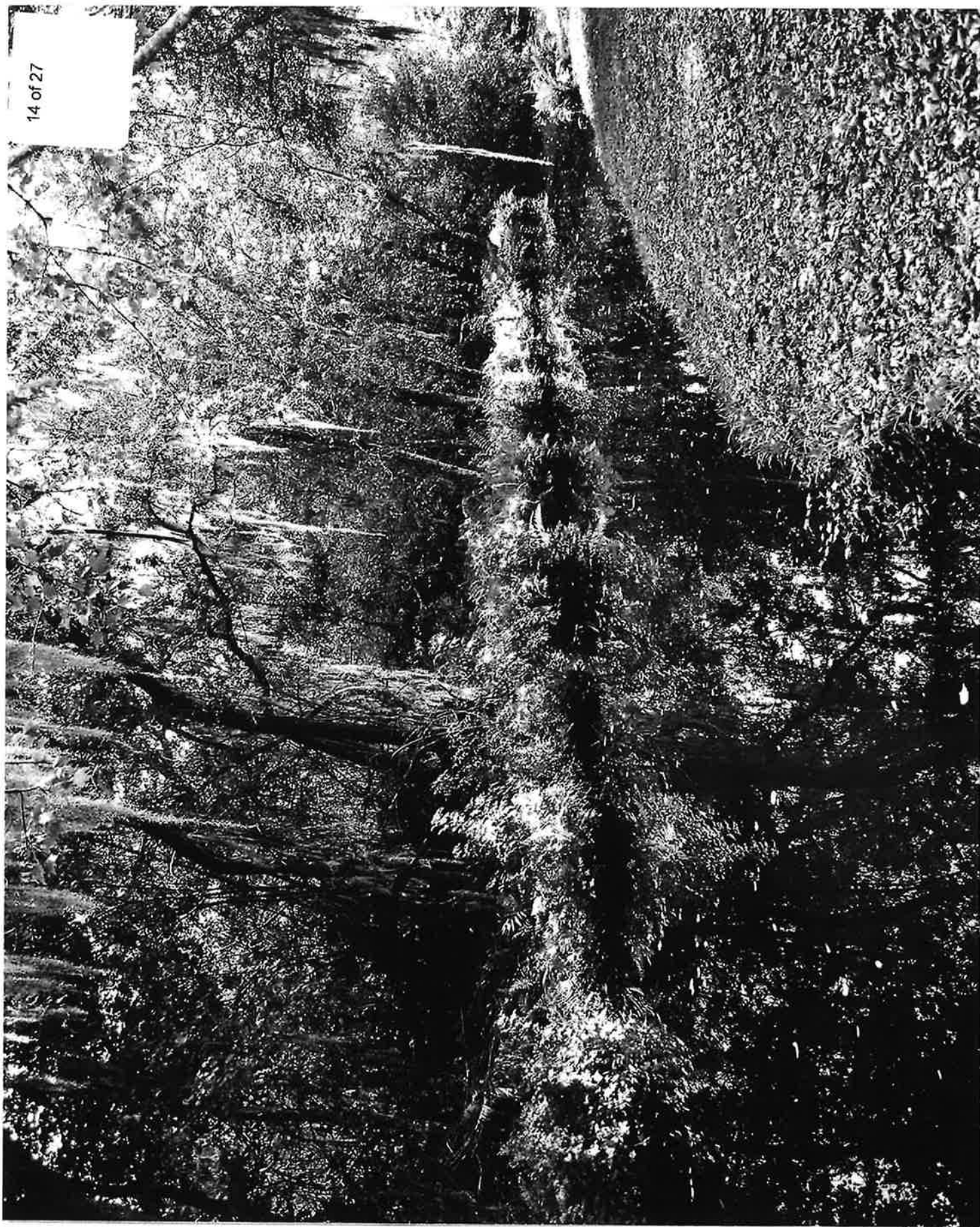




13 of 27





























































**From:** [Deborah Barker](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Deborah Barker](#)  
**Subject:** Request for P&Z Item No. H.10  
**Date:** Monday, January 10, 2022 1:14:18 PM

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

Good Day Ms. Jones,

I would like to submit comments on a particular item on a Planning & Zoning Board Agenda Item. Could you please read my following comments into the Official Record of the 01/11/22 Planning & Zoning Meeting?

"Due to Medical reasons, and a recent Cervical Fusion Neck Surgery, I am unable to attend the Planning & Zoning Meeting of 01/11/22.

Regarding Agenda Item No. H.10., I respectfully request that the Planning & Zoning Board Members deny the rezoning classification change from AU to RU-2-4 by as requested by Carter & Jessica Hayes.

This rezoning change will ruin the aesthetics of North Merritt Islands rural character and of our property by depleting the numerous protected resources of the area.

In advance, I appreciate your consideration of my request."

Ms. Jones,

Thank you so much for your help in this matter.

Deborah Barker (Property Owner)  
4540 Deanna Court  
Merritt Island, FL 32953  
Citrus River Groves Subdivision

Sent from [Mail](#) for Windows



**From:** [Deborah Barker](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Deborah Barker](#)  
**Subject:** Request for P&Z Item No. H.10  
**Date:** Monday, January 10, 2022 1:14:18 PM

---

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

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Ms. Jones,

Thank you so much for your help in this matter.

Deborah Barker (Property Owner)  
4540 Deanna Court  
Merritt Island, FL 32953  
Citrus River Groves Subdivision

Sent from [Mail](#) for Windows



## Commissioner, D1

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**From:** D. Barker <threeoaks@cfl.rr.com>  
**Sent:** Wednesday, January 26, 2022 12:31 PM  
**To:** Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Cc:** threeoaks@cfl.rr.com  
**Subject:** Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting  
**Categories:** CAROL

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

Good Day Brevard County Board of County Commissioners,

My correspondence to you today is in reference to:

Board of County Commission Meeting 02/03/22

Agenda Item H.10, Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

I am requesting you deny this request as the Developer's property to the West partially adjoins our property to the East, **meaning any development will be in my back yard.** Currently our rear view is a drainage canal full of wildlife coupled with many indigenous trees & protected plant life, and if this zoning change passes, I will view a backyard encompassing a 9 to 11 unit apartment rental complex, or duplexes or townhomes.

I am a 45 year Merritt Island resident. My Husband & I own the property at 4540 Deanna Court, North Merritt Island, Florida, Citrus River Groves Subdivision. We purchased the lot in 1994 and built our home in accordance with Brevard County approval in 1997/98. We clearly have demonstrated our investment in North Merritt Island and vested rights thereto for 24 years.

I am physically disabled. My home is my physical & emotional sanctuary, as I'm sure your home is to you. Due to my physical limitations, I have very limited quality of life outside the boundaries of my home. If this zoning change is approved, we are concerned there will be only minimal standards set and adhered to during the building & permitting process, past this rezoning change request. It is my fear that the renters of a 9-unit apartment complex will become my co-located neighbors creating distractions of daily life to what I enjoy within my current home boundaries. The needs of existing homeowner's with vested rights should take precedence over new re-zoning requests and new construction.

In reviewing Brevard County's Mission Statement, Vision Statement, and Core Values, I see the County Commissioners as Stewards of our County, are tasked with the same issues I am writing to you about today, such as:

- Brevard's Quality of Life
- Health & Safety Needs of Our County
- Protecting Our Environment
- Conserving Our Natural Resources
- Leadership
- Quality



- Accountability

For the County Commissioners, your vote on this rezoning change is not simply a business/financial decision for the Developer. It is personal welfare, standard of living, humanitarian and quality control decision for the homeowners that have lived in the existing abutting homes, paying property taxes and supporting Brevard North Merritt Island economy for the past 24 or more years.

**If you are a County Commissioner that votes in favor of this zoning change, you will be eliminating my quality of life as a disabled long-term resident of Brevard County.** Your vote for the zoning change will adversely affect my physical and mental well-being, by creating plummeting standard of living issues for my property and myself. The existing trees that buffer the noise & protect the view will be cut down and will provide a front-row seat for a rental community. **I can't imagine you would want to be a County Commissioner voting against a physically disabled multi-decade resident of Brevard County.** I also can't imagine you voting for this re-zoning if this change would be made in your own back yard.

There are abundant Environmental & Safety issues that are involved in this zoning change request, all related to new construction in this particular area, substantiating why the property in question should remain AU:

- Inadequate drainage
- Flooding
- Construction on Wetlands
- Impact on Lagoon due to septic/sewer
- Safety of additional residents leaving Merritt Island during Hurricanes
- Outdated FEMA Flood Map
- Density Issues
- Violates County Administrative Policies
- Existing canal on East side of Deanna Ct. Properties/West Side of rezoning request is at capacity during the dry season and cannot accommodate any further run-off.

This rezoning change will ruin the aesthetics of North Merritt Islands' rural character. Such rezoning will deplete the numerous protected resources of the area, such as Indigenous Trees & Plants, in addition to protected wildlife such as alligators, bald eagles and various types of turtles.

Other pertinent items relating to this zoning request:

#1. The property requested for rezoning has been grandfathered in under AU.

#2. As part of the property included in the rezoning request is located in a flood plain, this item should not be considered under the auspices of an outdated FEMA Flood plain map.

#3. At what point should new construction be stopped in North Merritt Island, for any and all of the Environmental and Safety issues listed above?

The Mission and Vision of Brevard County identifies the reason Government exists at the local level, its Vision illustrates the desired future of the County, and the Core Values are those characteristics it's Leaders should possess to carry the Mission and Vision forward to their Constituents.

As a +4 decade Brevard County resident, a voter, a tax-payer, and a health-challenged member of your local community, I am trusting the BOCC to assume the roles as Administrators to support the numerous reasons listed herein this email to deny this zoning request.

Please deny the Carter & Jessica Hayes Rezoning Request from AU to RU-2-4, so as not to disrupt the Environmental & Safety Issues, coupled with diminished Quality of Life issues highlighted herein.

Thank you in advance to your attention in this integral matter.



I can be reached at 321-454-3327 (home) or 321-614-1392 (cell) with any questions or appreciated feedback.



**Commissioner, D1**

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**From:** board slhoa.info <board@slhoa.info>  
**Sent:** Wednesday, January 26, 2022 12:17 PM  
**To:** Commissioner, D1  
**Subject:** BOCC Meeting on February 3, 2022, Agenda Item 10  
**Attachments:** County Commissioner Letter January 26, 2022.pdf  
  
**Categories:** CAROL

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

Commissioner Pritchett,

The attached letter regarding the subject agenda item for the BOCC meeting on February 3, 2022 is forwarded for your consideration.

Thank you,

Ron Davis  
President  
Sunset Lakes Homeowners Association, Inc.



## **Sunset Lakes Homeowners Association, Inc**

C/o Leland Management  
1221 Admiralty Blvd  
Rockledge, FL 32955

January 26, 2022

Subject: Board of County Commissioners Meeting, February 3, 2022, Agenda Item 10,  
Rezoning Request 21Z00042

Dear Commissioners Zonka, Smith, Lober, Pritchett, Tobia, and Smith,

The Sunset Lakes Homeowners Association, Inc, representing 469 homeowners in North Merritt Island, is opposed to the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential (AU) to a multiple family zoning that would allow 10 rental units (reference 21Z00042).

The subject property is currently zoned AU that allows no more than one unit/home per parcel. The owners want to change the zoning to allow much higher density and then build an apartment building with ten 645 square foot rental units. Not only is this inconsistent with the surrounding neighborhoods, it will exacerbate the drainage and flooding problems experienced in the area during the rainy season.

Allowing rezoning of this property will set a precedence to do the same for the adjacent properties by increasing density adding to current traffic backups across the barge canal at peak times during the week. In addition, storm water management will potentially negatively impact surrounding neighborhoods, some of which are already dealing with flooding during heavy rains.

Thank you for your consideration in this matter.

Respectfully,



Ron Davis  
President  
Sunset Lakes Homeowners Association, Inc.  
Merritt Island, FL



Cc: Board of Directors, SLHOA  
Brittany Robberecht, Leland Management  
Mr. Phil Bernardo, President, NMIHOA



Objection  
21Z00042  
Hayes

**From:** [Commissioner, D1](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#)  
**Subject:** FW: Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z0  
**Date:** Thursday, January 27, 2022 8:12:19 AM  
**Attachments:** [image001.png](#)

---

Good morning Jennifer,

On behalf of Commissioner Pritchett, please see the public comment below concerning 21Z00042.

Thank you.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 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:** D. Barker <threeoaks@cfl.rr.com>  
**Sent:** Wednesday, January 26, 2022 8:19 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>  
**Cc:** threeoaks@cfl.rr.com; Dbarker472@icloud.com  
**Subject:** Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax



Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042

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

Donald Barker  
4540 Deanna Court (District2)  
Merritt Island, FL 32953

January 26, 2022

RE: Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042

Brevard County Board of County Commissioners,

Honorable Rita Pritchett, District 1  
Honorable Bryan Lober, District 2  
Honorable John Tobia, District 3  
Honorable Curt Smith, District 4 (Vice Chair)  
Honorable Kristine Zonka, District 5 (Chair)

Thank you for your service and consideration. I am asking you to deny the Carter and Jessica Hayes zoning request as written. I support the North Merritt Island Dependent Districts recommendation of Suburban Residential (SR) zoning for the Hayes property with at least a 200 foot buffer zone protecting the wetlands area on the Hayes property incorporated in a binding development plan including the required use of County Sewer. The facts and circumstance supporting this request are detailed below:

I am a native Floridian and have made Brevard County my home since 1974. My wife and I bought property at 4540 Deanna Court, Merritt Island in 1994. We were taken by the rural nature of North Merritt Island, the family oriented nature of North Merritt Island as well as the beauty and serenity of the wetlands adjoining our property to the East. We worked hard, saved and built our home there in 1997/1998, along a beautiful nature canal behind the East side of Deanna Court. The last home on Deanna Court was built in 1999, completing Phase 3 of the Citrus River Groves Subdivision.

In December Of 2017, I retired after 30 years of service with the Brevard County Sheriff's Office. Our home has been our sanctuary and place of serenity. Out our back door is a wetlands and wildlife sanctuary. Except for some traffic noise from State Road 3 during rush hour, our neighborhood is very quiet. On Christmas Eve 2021, we received a notice from the County informing us of the Hayes Rezoning Request to build 10 rental units adjacent to our Suburban zoned home on a half-acre lot. Doesn't sound very appealing as a quality of life issue, does it? Ten (10) rental units, later increased



to eleven (11) rental units is not compatible with our neighborhood, the surrounding communities on the West side of State Road 3, or many of the Boards Administrative Development Policies, #3, #4, #6, #7, and #8. This is a quality of life issue for me, my family and my neighbors as well as drainage and a serious flooding concern.

Our neighborhood, the Citrus River Groves subdivision, started construction in the 1980's. Citrus River Groves is an approved, permitted and completed subdivision immediately West of the Hayes Property and consists of ninety seven (97) homes. Our drainage system was permitted, inspected, approved, adopted and is maintained by Brevard County. As with most subdivisions in North Merritt Island our drainage flows to a man-made lake, ours is located on the West side of our subdivision. Citrus River Groves is zoned Suburban (SR) requiring homes to be built on half acre lots. The subdivisions and homes surrounding and adjacent to Citrus River Groves are zoned for single family homes; compatible zoning of the surrounding area on the West side of State Road 3 is zoned Suburban Residential (SR), Estate Use Residential (EU and EU2), Rural Residential (RR1) and Agricultural residential (AU). The rezoning requested by the Hayes RU-2-4, euphemistically entitled "Low Density Multi-Family Residential", 10-11 multi-family rental units, abutting single family homes built on half-acre lots, some having been in existence for over 30+ years, is not properly compatible, nor should it be considered a proper transition to Suburban (SR)zoned homes on half-acre lots.

The Hayes Property consists of two (2) un-conforming lots located on the West side of State Road 3, grandfathered into an Agricultural residential (AU) zoning classification. The Hayes property is part of seven (7) lots located between the Orsinio Baptist Church to the South and the Victory Church to the North. These 7 lots, with the sole exception of a condemned house on one of the Hayes lots, have been undeveloped since they appeared on the Property Appraisers records/maps in the early 1960's. People have speculated on the value and future use of these lots for close to sixty (60) years and most of these lots have changed ownership several times. Once you approve rezoning for one of these lots you start down a slippery slope for zoning and cascade for development on the surrounding lots.

According to the County CIS maps supplied in the rezoning request review by County Staff, a large portion of these properties, including the Hayes' properties are located in an identified wetland and on a well-defined mapped FEMA Flood Plain. Storm water runoff in our part of North Merritt Island flows West and South, ask our neighbors in the Horseshoe Bend subdivision, immediately to our South that floods regularly. When we have brought drainage and wetland concerns up at the last two zoning meetings, County Staff has dismissed our concerns, saying it will be handled in the permitting process, irrespective of Board of County Commissions Administrative Development Policy 7 and Brevard County Code, Section 62-1151(c).

2021 was an unusually dry year for Brevard County in General and North Merritt Island in particular. In 2021 we had no hurricanes or tropical storms, yet the canal behind my house is approximately 1 foot below flood stage. Any significant rain fall causes the canal to reach or exceed flood stage. Photographs and a CD of photographs documenting this were provided to county staff at the North Merritt Island Dependent Special District Board. These photographs documenting the Deanna Court Canal were taken by me on January 5, 2022, in the dry season. It should be noted that our Deanna Court Canal up to several years ago, used to rise and fall with the seasons. With the drainage



changes implemented by the County over the last several years, our canal stays full year round. We are concerned that any further development of property to the East will flood our property and that of our neighbors.

In reviewing the Hayes Rezoning Request with my neighbors and the North Merritt Island Home Owners Association, we found several conflicts with the County's Administrative Development Policies and County Code Section 62-1151(c), as listed below:

Admin Policy 3: The rezoning request increase in residential density is incompatible with existing land use because of:

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety, and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The purposed use is inconsistent with existing/emerging patterns of surrounding development considering:
  1. Historic land use patterns;
  2. Actual development over the preceding three years

Admin Policy 4: The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. It will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

Admin Policy 6: The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

Admin Policy 7: A huge concern is that the proposed use will substantially aggravate existing and substantial drainage problems on surrounding properties and will negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Admin Policy 8:

Considering the:

1. Character of the land use of the property surrounding the proposed rezoning,
2. The change in conditions of the adjoining land use of property surrounding the proposed rezoning,
3. The impact of it on traffic patterns and the established character of the surrounding property,
4. How inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors (Quality of Life)

Under other Factors to consider is under Brevard County Code Section 62-1151(c), for the same reasons, considering:

1. The character of the land use of the surrounding properties,
2. The change in conditions of the land use of the property being considered verses the surrounding properties,



3. The impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
4. The proposed zoning classification's incompatibility with existing land use, and
5. The inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors (Quality of Life).

Our home is adjacent to the West side of the Hayes' property, and I have specific concerns with the proposed rezoning including quality of life, flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of surrounding properties. For many of us, our homes are our largest single investment. Would you buy a house on a half-acre lot zoned Suburban Residential (SR) next to a ten or eleven unit apartment complex?

Admin Policy 4 states: the purposed use must not materially and adversely impact an established residential neighborhood, and Admin Policy 8 addresses traffic concerns. The Hayes property is bordered on the West side by several single-family homes on half-acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to our homes is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is also no guarantee the owner of the apartment building will maintain the property as the neighboring single family owners will. Allowing higher density also contributes to existing traffic problems, as the only way off North Merritt Island for most trips, other than through Kennedy Space Center, is by a drawbridge across the Barge Canal. The only other means off North Merritt Island is by driving through Kennedy Space Center property and then crossing the State Road 405 drawbridge. There are times when the SR 405 Bridge is closed to traffic, due to Kennedy Space Center Operations and/or security concerns for the KSC Federal Reservation. Additionally, construction has begun on a new a new bridge that will replace the aging SR 405 drawbridge. The SR405 Bridge Project will not be completed for several years, making the SR405 Hurricane evacuation route more problematic as the density of North Merritt Island increases.

Admin Policy 7 states: The purposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetlands, part is in a mapped FEMA Flood Plain and the remaining buildable land is low. Before any construction begins, the owners will have to raise the elevation. Raising the elevation combined with the impervious surfaces from the proposed apartments and parking area, will inevitably create an increase in storm water runoff that has to go somewhere. It would be difficult to conceive how the storm water runoff would be fully contained on the Hayes' property on the scope of the Hayes' proposed density. Additionally, the ongoing State Road 3 Courtenay Parkway repaving project, located to the East of the Hayes' property, includes the removal of the drainage ditches between the North and South bound lanes, along with the installation of concrete barriers and curbing in place of the drainage ditches. This will inevitably prevent water from flowing across the road in many locations, but will also result in an additional drainage burden onto the Hayes' property, and will likely compel them to increase the drainage ditch or swale across the front of their property, further limiting their buildable area. During a significant rain event, if storm water from the Hayes' property isn't fully contained or doesn't drain east onto or across SR3 / Courtenay Parkway, there's a high likelihood of the storm water running towards the homes bordering the West side of the Hayes' property. I live in one of these homes and regularly experience drainage issues.

My immediate neighbors and I are separated by the Hayes' property by a permanent body of water, a canal, that's 35 to 50 feet wide and 5-10 feet deep in some areas, and this is the dry season after



an unusually dry year. My neighbors and I own land on both sides of the canal. One of my neighbors has no dry land between his pool and patio structure and the canal behind his home. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely, if not inevitable to worsen the existing drainage problems experienced by those of us that live on the West side of the Hayes property.

Admin Policy 8 addresses public health, safety and welfare. Most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment and to the Indian River Lagoon. All too often we are seeing episodes of Red Tide and Fish Kills, in the Indian River and adjacent waterways. Although the Hayes' have stated they plan to connect to a sewer system, there is no guarantee that they will actually do so. Most developers install septic systems on North Merritt Island because it is significantly cheaper and because they can. If they Hayes are successful in getting their property rezoned to allow a substantially higher density, there is nothing to prevent the Hayes from selling the property at a profit, the new owners could then be motivated to install a septic system to decrease their expenses and increase their profits.

At the two zoning meetings I've attended, the Hayes have increased their requested number of residential units to eleven (11) and have said they intended to build townhouses, then duplexes, and then apartments on the property. County staff has noted, based on the buildable land it would be very difficult to build that number of units on the Hayes property, but that would be addressed in permitting. Mr. Hayes identified himself as a licensed contractor to the two prior boards and said he was going to develop the property himself. Mr. Hayes admitted to the board that his primary contracting business is remodeling and that he has never built a development of this type. Mr. Hayes has offered a 200 foot buffer zone between their property and the property to their West at both zoning meetings. Mrs. Hayes has identified herself as a licensed real estate agent. Both the North Merritt Island Dependent Special District and Planning and Zoning Board denied the Hayes' requested density/units. The North Merritt Island Dependent Special District then conferred with the Hayes offering, then recommending Suburban Residential (SR) zoning of two (2) units per acre. The Planning and Zoning board recommended RU-2-4 limited to three (3) units per acre.

While my neighbors and I would rather see the land undeveloped as a wetlands, drainage and conservation area, I support the North Merritt Island Dependent Special District's recommendation of Suburban Residential (SR) of two residential units per acre, with a binding development plan with at least a 200 foot buffer zone and a required connection to the available and nearby County Sewer System.

In a perfect world, the County would buy the seven mentioned lots and use them as a watershed and retention area to reduce flooding to communities on the West side of Courtenay Parkway, particularly the Horseshoe Bend Community. Opportunities like this seldom arise involving undeveloped land and are fleeting.

Thank you again for your service and your consideration of my concerns.

Respectfully,

Donald Barker  
4540 Deanna Court  
Merritt Island, FL 32953  
Cell# 321-403-5694



**From:** [Commissioner, D1](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#)  
**Subject:** FW: Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting  
**Date:** Thursday, January 27, 2022 8:13:04 AM  
**Attachments:** [image001.png](#)

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Good morning Jennifer,  
On behalf of Commissioner Pritchett, please see the public comment below concerning 21Z00042.

Thank you.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



***District 1 Commission Office***

**7101 S. Highway 1**

**Titusville, FL 32780**

**Telephone: 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:** D. Barker <threeoaks@cfl.rr.com>

**Sent:** Wednesday, January 26, 2022 4:12 PM

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

**Cc:** threeoaks@cfl.rr.com

**Subject:** RE: Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting

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



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Commissioners,

Please forgive the pertinent info I left out of my first email, sent to your office at 12:31 on 01/26/22.

Personal Info:

Deborah Barker

4540 Deanna Court

Merritt Island, FL. 32953

Citrus River Groves Subdivision, North Merritt Island

District 2

Contact Info:

Email: [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)

Home Phone: 321-454-3327

Cell Phone: 321-614-1392

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**From:** D. Barker [<mailto:threeoaks@cfl.rr.com>]

**Sent:** Wednesday, January 26, 2022 12:31 PM

**To:** [D1.Commissioner@BrevardFL.gov](mailto:D1.Commissioner@BrevardFL.gov); [D2.Commissioner@BrevardFL.gov](mailto:D2.Commissioner@BrevardFL.gov);

[D3.Commissioner@BrevardFL.gov](mailto:D3.Commissioner@BrevardFL.gov); [D4.Commissioner@BrevardFL.gov](mailto:D4.Commissioner@BrevardFL.gov); [D5.Commissioner@BrevardFL.gov](mailto:D5.Commissioner@BrevardFL.gov)

**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)

**Subject:** Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting

Good Day Brevard County Board of County Commissioners,

My correspondence to you today is in reference to:

Board of County Commission Meeting 02/03/22

Agenda Item H.10, Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

I am requesting you deny this request as the Developer's property to the West partially adjoins our property to the East, **meaning any development will be in my back yard.** Currently our rear view is a drainage canal full of wildlife coupled with many indigenous trees & protected plant life, and if this zoning change passes, I will view a backyard encompassing a 9 to 11 unit apartment rental complex, or duplexes or townhomes.

I am a 45 year Merritt Island resident. My Husband & I own the property at 4540 Deanna Court, North Merritt Island, Florida, Citrus River Groves Subdivision. We purchased the lot in 1994 and built our home in accordance with Brevard County approval in 1997/98. We clearly have demonstrated our investment in North Merritt Island and vested rights thereto for 24 years.

I am physically disabled. My home is my physical & emotional sanctuary, as I'm sure your home is to you. Due to my physical limitations, I have very limited quality of life outside the boundaries of my



home. If this zoning change is approved, we are concerned there will be only minimal standards set and adhered to during the building & permitting process, past this rezoning change request. It is my fear that the renters of a 9-unit apartment complex will become my co-located neighbors creating distractions of daily life to what I enjoy within my current home boundaries. The needs of existing homeowner's with vested rights should take precedence over new re-zoning requests and new construction.

In reviewing Brevard County's Mission Statement, Vision Statement, and Core Values, I see the County Commissioners as Stewards of our County, are tasked with the same issues I am writing to you about today, such as:

- Brevard's Quality of Life
- Health & Safety Needs of Our County
- Protecting Our Environment
- Conserving Our Natural Resources
- Leadership
- Quality
- Accountability

For the County Commissioners, your vote on this rezoning change is not simply a business/financial decision for the Developer. It is personal welfare, standard of living, humanitarian and quality control decision for the homeowners that have lived in the existing abutting homes, paying property taxes and supporting Brevard North Merritt Island economy for the past 24 or more years.

**If you are a County Commissioner that votes in favor of this zoning change, you will be eliminating my quality of life as a disabled long-term resident of Brevard County.** Your vote for the zoning change will adversely affect my physical and mental well-being, by creating plummeting standard of living issues for my property and myself. The existing trees that buffer the noise & protect the view will be cut down and will provide a front-row seat for a rental community. **I can't imagine you would want to be a County Commissioner voting against a physically disabled multi-decade resident of Brevard County.** I also can't imagine you voting for this re-zoning if this change would be made in your own back yard.

There are abundant Environmental & Safety issues that are involved in this zoning change request, all related to new construction in this particular area, substantiating why the property in question should remain AU:

- Inadequate drainage
- Flooding
- Construction on Wetlands
- Impact on Lagoon due to septic/sewer
- Safety of additional residents leaving Merritt Island during Hurricanes
- Outdated FEMA Flood Map
- Density Issues
- Violates County Administrative Policies



- Existing canal on East side of Deanna Ct. Properties/West Side of rezoning request is at capacity during the dry season and cannot accommodate any further run-off.

This rezoning change will ruin the aesthetics of North Merritt Islands' rural character. Such rezoning will deplete the numerous protected resources of the area, such as Indigenous Trees & Plants, in addition to protected wildlife such as alligators, bald eagles and various types of turtles.

Other pertinent items relating to this zoning request:

- #1. The property requested for rezoning has been grandfathered in under AU.
- #2. As part of the property included in the rezoning request is located in a flood plain, this item should not be considered under the auspices of an outdated FEMA Flood plain map.
- #3. At what point should new construction be stopped in North Merritt Island, for any and all of the Environmental and Safety issues listed above?

The Mission and Vision of Brevard County identifies the reason Government exists at the local level, its Vision illustrates the desired future of the County, and the Core Values are those characteristics it's Leaders should possess to carry the Mission and Vision forward to their Constituents.

As a +4 decade Brevard County resident, a voter, a tax-payer, and a health-challenged member of your local community, I am trusting the BOCC to assume the roles as Administrators to support the numerous reasons listed herein this email to deny this zoning request.

Please deny the Carter & Jessica Hayes Rezoning Request from AU to RU-2-4, so as not to disrupt the Environmental & Safety Issues, coupled with diminished Quality of Life issues highlighted herein.

Thank you in advance to your attention in this integral matter.

I can be reached at 321-454-3327 (home) or 321-614-1392 (cell) with any questions or appreciated feedback.





*North Merritt Island Homeowners Association, Inc.*

P.O. Box 542372  
Merritt Island, Florida 32954-2372

Objection  
21Z00042  
Hayes

January 26, 2022

Subject: Board of County Commissioners Meeting of 02/03/22, Agenda Item H.10., Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4, Brevard County Planning & Development ID# 21Z00042, Tax Accounts 2318403 & 2318404

Dear Commissioners,

Regarding the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential to a multiple family zoning that instead allows 10 rental units (reference 21Z00042), the voted opinion and recommendation of the North Merritt Island Homeowners Association (P.O. Box 542372, Merritt Island, FL 32954) is as follows:

Considering Brevard County's development policies, namely as sited in Admin Policy 3:

This requested increase in residential density is incompatible with existing land use because

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The proposed use is inconsistent with existing/emerging patterns of surrounding development considering
  - 1. historic land use patterns;
  - 2. actual development over preceding three years.

and as in Admin Policy 4:

The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. it will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

As in Admin Policy 6:

The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

and in Admin Policy 7:

A huge concern is that the proposed use will substantially aggravate existing substantial drainage problems on surrounding properties and will also negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Thus, as in Admin Policy 8:

Considering the

- (1) character of the land use of the property surrounding the proposed rezoning,
- (2) the change in the conditions of the adjoining land use of property surrounding the proposed rezoning,
- (3) the impact of it on traffic patterns and the established character of the surrounding property,



(4) the incompatibility of the proposed zoning classification with existing land use,  
(5) and how inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors,  
**this request should be denied as written.**

and under Factors to Consider, Section 62-1151(c), for the same reasons, considering

- (1) the character of the land use of the surrounding properties,
- (2) the change in conditions of the land use of the property being considered verses the surrounding properties,
- (3) the impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- (4) the proposed zoning classification's incompatibility with existing land use, and
- (5) the inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors; once again, **this proposal should be denied as written.**

Neighboring residents that border the west side of the Hayes' property have expressed specific concerns with the proposed rezoning that include flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of the surrounding properties, and our Homeowners Association agrees.

Admin policy 4 states: the proposed use must not materially and adversely impact an established residential neighborhood, and Admin policy 8 addresses traffic concerns. The Hayes' property is bordered on the west side by several single-family homes on ½ acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to them is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is no guarantee that the owner of the apartments will maintain their property as well as the neighboring single family property owners will. Allowing higher density also contributes to existing traffic problems, as the only way on or off North Merritt Island for most trips, other than to the space center, is by a single drawbridge across the Barge Canal. The only other means of egress from North Merritt Island is by driving through Kennedy Space Center property and then crossing the SR 405 drawbridge. There are times when this bridge is closed to traffic (during transfer of space hardware, for example). In addition, construction has begun on a new bridge that will replace this aging structure. However, the project will not be complete for several years. All of this (allowing increased density in particular) will cause concerns during a hurricane evacuation.

Admin policy 7 states: the proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetland and the remaining buildable area is still low. So before any construction begins, the owners will need to raise the elevation. This, combined with impervious surfaces from the proposed apartments and parking areas, will create an increase in stormwater runoff that has to go somewhere. In addition, the ongoing Courtenay Parkway repaving project (on the east side of the Hayes' property) includes the removal of drainage ditches between the north and south bound lanes, along with the installation of concrete barriers or curbing (in place of the ditches). This will prevent water from flowing across the road, but will also result in additional drainage onto the Hayes' property, and will most likely compel them to add a drainage ditch or swale in front of their property (further reducing their buildable area). During a significant rain event, if stormwater from the Hayes' property doesn't drain east onto or across Courtenay Parkway, there's a higher possibility of it running towards the homes bordering the west side of the



property. I recently visited these homes and noted that they are already experiencing drainage issues. I also observed that these homes are separated by the Hayes' property by a permanent body of water that's 35 to 50 feet wide and 5 to 10 feet deep in some areas, and this is during the dry season. At least one homeowner has no dry land between his pool and patio structure and the permanent water source behind it. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely to worsen the existing drainage problems experienced by their neighbors to the west.

Admin Policy 8 addresses public health, safety and welfare. Because most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment, and possibly to the Indian River Lagoon. Unfortunately, we are seeing episodes of Red Tide and fish kills all too often, and increased density is not helping solve this problem. Although the current property owners (Carter and Jessica Hayes) have stated that they plan to connect to a sewer system, there is no guarantee that they will actually do this. Most developers install septic systems on North Merritt Island because it is cheaper and because they can. If they are successful in getting their property rezoned to allow higher density, there is nothing preventing the Carters from selling it at a profit, and the new owners could then be motivated to install a septic system to increase their profits.

An alternative use would be to develop these lots to a density of 1, or even 2, unit(s) per acre, in keeping with the history, flood-prone tendencies and character of this and the surrounding properties.

We respect your consideration. Thank you.

Phil Bennardo  
President, North Merritt Island Homeowners Association



## NORTH MERRITT ISLAND

### DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, January 6, 2022**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2<sup>nd</sup> Floor, Merritt Island, Florida.

**Board members present were:** Mary Hillberg, Chair; Gina Lindhorst; Jack Ratterman, Vice Chair; Jim Carbonneau; Chris Cook; and Ted Balke.

**Planning and Development staff present were:** Jeffrey Ball, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator.

#### Excerpt from Complete Minutes

**Carter and Jessica Hayes** – request a change of zoning classification from AU (Agricultural Residential) to RU-2-4 (Low Density Multi-Family Residential), on 2.79 acres, located on the west side of N. Courtenay Pkwy., approx. .38 mile north of Hall Road. (4645 N. Courtenay Pkwy., Merritt Island)

Jeffrey Ball - I'd like to update the board on the request. The staff comments state that the request is for 10 multi-family units. Based on a land use of RES 4 this property has an entitlement of 11 units and the applicants are requesting 11 units based on what the land use allows. RU-2-4 is a multi-family zoning classification.

Mary Hillberg - I read the staff comments and it looked like a half-acre per unit.

Jeffrey Ball - RES 4 is four units per acre. It's just under three acres, so if you multiply 4 by 2.79 you get 11 units. Over the course of when the application was submitted until now, I believe the applicants have requested 11 units, but Mr. Hayes can confirm that. The half-acre zoning is the subdivision to the west.

Carter Hayes - My name is Carter Hayes and I'm here with my wife, Jessica. We're the owners of the property. I've grown up on Merritt Island; I went to Edgewood, graduated Merritt Island High School; and my kids go to Edgewood right now, so we're vested in the community. The reason we're here today is to get the zoning changed from AU to RU-2-4 under RES 4. We're here to ask for the recommendation from this board as we move through this process. This property is zoned agriculture and it's always been zoned agriculture; it's never been anything else. In fact, it's been zoned AU for so long it not longer meets the minimum property size requirements for that classification. It is basically two nonconforming lots under AU. We're looking at going to RU-2-4, which will allow me to build townhouses. What I'm trying to do is consistent with the Comprehensive Plan. The lot to the north is RES 4, the lot to the south is RES 4, the lot to the west is RES 4, and we're RES 4.

Mary Hillberg - That's the Future Land Use map, that's not what we're talking about today, and that's not the way it is right now.

Carter Hayes - I'm talking about going forward in the future and what I am doing is consistent with where we're trying to go. I'm trying to build some duplexes/townhouses. I'm going to build them myself. I'm a general contractor, and I'm going to maintain ownership of them and rent them out. These duplexes will be beautiful, they will be very nice buildings. We have architects who have done a lot with Tradewind Builders. These are going to be very attractive buildings. We're looking at 1,800



to 2,000 square feet, two-bedroom, a nice kitchen, and an easy flow, one-story buildings. Our target demographics are going to be young engineers working at the Space Center; it will be a nice rental for them, very close to work. I'm also thinking about a place for my kids, my sister's kids, our friends' kids. I don't want them to have to leave the area because they can't find a nice, affordable place to stay right here on Merritt Island. I think we're also fulfilling a need for the area. On the third page of the staff comments it states, "A multi-family use may be considered transitional from North Courtenay to the single-family residential areas to the west". We have North Courtenay, commercial, neighborhood commercial, high-density across the street, and we're going to flow right into my townhouses into the single-family residential to the west, it's a nice flow, it's consistent, it's a nice transition. What I'm trying to do is compatible with the surrounding neighborhood, it's a nice transition. If we look at one of these maps, the one I have here is the St. Johns Water Management District with the green running down the middle, this is a good map. I've had the DEP out there, I've had the U.S. Army Corps of Engineers out there, St. Johns Water Management District was involved, they walked the property and de-marked where the wetlands were, and then I had my surveyor go out and hit those spots. This was done in 2013. This map really shows it looks like the back 1/3 of the lot is wetlands, the green area. When I look at this map, the white area of my property is buildable area. I'm looking at the wetlands area as what could be a natural barrier to the residential single-family homes to the west. If you stand on this property in the white area you cannot see these peoples' houses behind there. It's very thick; you can't see them and they can't see me. I intend to do nothing with this wetland area. I'm going to leave it alone. I'm just going to have my space right here by Courtenay to develop. Reading through some of the comments in the emails, a recurring concern is stormwater management. Stormwater management will be addressed during the permit process. This is the same as all projects. I'm not here looking for deviations from stormwater management. I intend fully to comply with all of the stormwater management, just like any regular project. Looking to the future, the Future Land Use and what we're trying to accomplish here today, I believe we are compatible with the comprehensive plan, we are consistent with the future comprehensive plan for the area and we are compatible with the surrounding neighborhoods.

Jim Carbonneau - What is the total acreage of the two parcels?

Carter Hayes - 2.79 acres.

Jim Carbonneau - And you're going to put in 11 units at 1,800 to 2,000 square feet single-story?

Carter Hayes - That's what I'm looking at now. We need to work it all out. If we can go this route, I need a site plan, I need to lay the structures out and see what I can come up with. RU-2-4 allows for four units per acre, that's what I'm trying to go with. It has to make sense, they have to fit.

Chris Cook - The math doesn't work. If you round up, it's 10 units, if you have no streets or anything else, 2.79 divided by 10, it's 9.6. How are you going to get 11?

Jeffrey Ball - From a land use perspective and the density allowed in RES 4, and his acreage, he's allowed to have 11 units. How that gets it designed and how he meets the land development code and regulations is up to him and his engineer.

Mary Hillberg - So, RES 4 is not one unit per quarter-acre, or four units per acre?

Ted Balke - And he hasn't developed a site plan yet?



Carter Hayes - I haven't done a site plan.

Ted Balke - The requirements of Brevard County requires that he has a site plan that is turned over to the Natural Resources Management office, and if Virginia Barker hasn't gotten that, you're premature in even asking for any zoning change.

Carter Hayes - The site plan will take place during the next process, which will be the permitting process. Under RU-2-4, the County said I didn't have to have a site plan for this meeting.

Ted Balke - It emphatically states right in the bylaws here on page 7. "The applicant is encouraged to contact NRM prior to any site plan design or permit submission."

Carter Hayes - I'm not submitting for a permit.

Ted Balke - You can't permit the zoning change.

Jeffrey Ball - That doesn't mean he needs it for the zoning. It means he is encouraged to contact Natural Resources prior to submitting a site plan.

Ted Balke - It doesn't say 'encouraged'.

Jeffrey Ball - The staff comments state, "The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal."

Ted Balke - That's not how I interpret that sentence. How are we supposed to decide on what he's going to put there if he doesn't have a site plan?

Mary Hillberg - We never have site plans required here. We're just reviewing the zoning change.

Jeffrey Ball - For a zoning change, we look for two criteria. Number one is consistency with the comprehensive plan. Number two is compatibility with the surrounding neighborhood. Those are the two things we look for when we're looking at a rezoning request like this, which is not predicated on a site plan or design. In my professional experience, it is going to be a tight fit to get that number of units on the property.

Ted Balke - RU-2-4 gives him four units on an acre. How does he come up with putting 10 there?

Jeffrey Ball - It's 11 units and that's based strictly on what the land use allows for.

Jack Ratterman - What about the back one-third that you said are wetlands?

Carter Hayes - It's included in my property, but I'm not going to build in the wetlands.

Mary Hillberg - In order to do that, don't you have to do an open space subdivision?

Jeffrey Ball - No. That's why Natural Resources encourages applicants to contact them because of the wetlands on site. Mr. Hayes said he had DEP go out and flag the wetlands, and he has now submitted that for review, so part of that site plan is that he will have to submit the wetland delineation and staff will go out and verify that. Based on our code requirements, he is able to impact that area a maximum of 1.8%.



Mary Hillberg - This survey was done in 2013.

Jeffrey Ball - He will have to get it updated. The maps in your package are to give you an idea that there are wetlands on the property. That's why there needs to be a delineated wetland line to know exactly where that line is, because over time wetland lines do change.

Mary Hillberg - What might be a concern is that because of the wetlands and the applicant saying that he's not going to build in the wetlands, that will reduce his 2.79 acres of buildable property.

Jeffrey Ball - He is still able to capture that density.

Mary Hillberg - Are you aware of the FEMA floodplain, or flood zone maps?

Carter Hayes - I looked at that and some of the comments on stormwater management, but that will be engineered when we do the site plan.

Mary Hillberg - More than two-thirds of your property is in floodplains.

Carter Hayes - When they built the neighborhood behind, the footprint of those homes is in the wetlands. They pushed all of that land right up to the setback, built up their property, and where do you think all that water went? These are built up, they are right there; there is a wall on one side of the canal, and the other side just flows. When they pushed their property up, all that water goes this way.

Mary Hillberg - And when you push your property up the water will go that way, too.

Cater Hayes - I'm not going to impact these wetlands. I'm going to have to contain my stormwater. I'm not going to do what they've done.

Mary Hillberg - How can you have single-story duplexes, or townhomes, just on the front one-third? That means your density is extremely tight. If you're trying to put 11 homes and not impact the flood zone or the wetlands, this is really tight. How many stories up are you talking about?

Carter Hayes - I'd like to do one story.

Gina Lindhorst - RU-2-4 allows apartments.

Carter Hayes - Under RU-2-4 I have options.

Jack Ratterman - You talked about the natural barrier behind you, to the west, that that's a wetland area and that you plan to do nothing with it. Is it still county policy that before you get a certificate of occupancy that you have to remove all non-native plants on your property?

Carter Hayes - I'd love to go into the wetlands and pull out all of the pepper trees. Nothing survives in the pepper trees. There are no animals, there's no gators, nothing thrives in that habitat under pepper trees. If we pull those out we can revive that area, and I'd love to do it.

Jack Ratterman - As far as I know you have to, but then what are you going to plant for your natural barrier behind it?



Carter Hayes - There's some oaks, and other stuff.

Ted Balke - There are oaks and pines that exist on those two lots right now and you're talking about taking out those pepper trees, but there's also protected shrubs that are in there which you're not addressing.

Jeffrey Ball - I think we're getting ahead of ourselves. I understand there are buffer issues, stormwater issues, there's invasive species, but those are all items that will be addressed during the site plan process. Mr. Hayes understands that if he gets the zoning approved he will have to go through that process. It's all about consistency and compatibility, those are the two things you guys need to determine.

Mary Hillberg - But we have other concerns as well and I think the board deserves to be able to address those. In addition, it is compatible with the future land use plan, but it is not compatible right now with the surrounding area, and I think the people who live in the surrounding area are looking at that and saying it's AU and this isn't compatible at all and it's along the commercial corridor. So, those are the kinds of things we're looking at too. The members of board can ask any kind of questions.

Jeffrey Ball - Yes, they can.

Jack Ratterman - My concern is Administrative Policy 3, compatibility with the surrounding area. North Merritt Island is rural, that's why people move here and that's the whole outlook of the community. I was told townhomes, which means two story, so is it going to be townhomes or duplexes?

Carter Hayes - Are townhouses defined as two-story?

Jeffrey Ball - They are two different products. A duplex is an attached product where you have two attached units. Townhomes are multiple duplexes together. A townhome is fee simple, where the owner of the townhome owns the property and the walls of the building.

Jack Ratterman - But is it one story or two?

Jeffrey Ball - RU-2-4 allows up to 35 feet, so depending on how the architect designs the building, that could be two or three stories. And it is the same for a single-family zoning classification.

Mary Hillberg - So, it wouldn't be an impossibility of having one story homes there, there would be 11 of them in that small of an area. They would have to be going up.

Jeffrey Ball - In my professional experience, yes, but since I don't have a site plan to review and see how it's laid out, right now it's all conjecture.

Jack Ratterman - So, because of that, and each side is still woods, and the property to the north, that individual is thinking about going from their current zoning back to agricultural, and to me, Policy 3, compatibility, doesn't fit, townhomes don't fit in a rural area like North Merritt Island.

Carter Hayes - We have the rural area, but what about the high density area directly across the street from me? Would you consider a mobile home park rural?



Jeffrey Ball - From a planning perspective, Residential 2, which is the mobile home park to the east, is not high density, it is two units per acre. It is a mobile home park; it is not high density. High density is 15 to 30 units per acre. Medium density residential is around 10 units per acre. Residential 4 is on the cusp of a suburban/urban kind of land uses. Areas change, and what was happening 20 years ago when North Merritt Island looked and felt rural, that might not be what it is today. When I look at the land use map, I see Residential 4 to the west of N. Courtenay with a lot of commercial. To me, that is not a rural look; Residential 4 is suburban with commercial along the corridor of the road. From my perspective, that's how I see the area.

Mary Hillberg - I think everyone can appreciate your perspective, but our perspective is also that the people who were here first who are living in this area who have AU and they've been here for a while and they are perhaps concerned that Residential 4, sounds like 4, but it's not 4, it's 11, and how high will it be and will they be able to see the sun rise again.

Jeffrey Ball - Let's look at the zoning map for a second, because we look at two things. So, you have a lot of properties that are zoned AU along the road, in Residential 4. You also have the subdivision to the west which is SR, which is a half-acre lot. There is TR-3 across the road; there is some commercial BU-1-A and BU-1, but what you don't see is RU-2-4. There is no RU-2-4 in this area. The closest zoning classification that we have is RA-2-4 on Porcher Road to the north. There is RU-2-30, which is a zoning that is 30 units per acre, that's north of the mobile home park, within a half-mile of the area.

Jack Ratterman - What we don't see on North Merritt Island are townhomes, so you would be the first townhome to come in there with a two-story, and if there are none now there might be a reason for that.

Carter Hayes - There are townhomes on Dundee. I don't think what you're saying is accurate.

Jack Ratterman - The community is rural. One of our leading citizens, Steve Crisafulli, he still does citrus and cattle. Gary Hobbs, the first pharmacy on the Island, he still does citrus and fruit. The Hunt's have 20 acres of fruit and goats. There are no townhomes, and to put that in there, I don't think that's best for the community.

Carter Hayes - I think Crisafulli just had some property rezoned just north of me, to RA-2-4, which is even higher density.

Jeffrey Ball - No, it's not. In 2017 there was a rezoning to RA-2-4, which does allow for townhomes, and that's the one the southwest corner of N. Courtenay Parkway and Porcher Road. To my knowledge it has not been built, but the zoning allows for townhomes.

Jessica Hayes - Just because we're asking to rezone to RU-2-4 doesn't mean that we're going to get 11 units in there. This is the first step. Nobody is going to spend a ton of money to get an engineer to do a site plan before getting the zoning. Once we have that, then that's when we start the process and start spending money and making sure it makes sense. There are a lot of rules and regulations and setbacks that will make that number come down. There are some townhouses across the street from Beef O'Brady's that are one story, all owned by the same person, and they are six units on a tiny lot.

Jack Ratterman - Beef O'Brady's is on south Merritt Island.



Jessica Hayes - I'm just using that as a reference of something that you can relate to of the idea behind this. It's not to cram it in there. These look very nice, they are one story, one-car garages. There is a need for rental space for our kids and retirees in the area.

Ted Balke - Everything on North Merritt Island is controlled by the FEMA map, the new map that was just drawn. The FEMA map controls your density. You can't have insurance, you can't have anything else if you live in a FEMA wetland. I don't know why you're contending that it doesn't exist, but you're in violation of wetlands every time you touch anything here. That's the uniqueness of North Merritt Island as compared to south Merritt Island.

Mary Hillberg - Ted, they are only in the flood zone for part of their property.

Ted Balke - There is a new FEMA map and half of the property itself is flood zone.

Mary Hillberg - But not the whole property, and they were talking about leaving the back alone.

Ted Balke - They were talking about the last one-quarter in the green map. The FEMA map is the gospel we're going by now, which only gives him the front portion of half of those two lots.

Mary Hillberg - It will certainly take creative planning.

Jessica Hayes - We're not asking for anything above and beyond than what is in that future planned zone that has been passed and part of the plan.

Chris Cook - I think this board needs to take a step back. What we're supposed to be looking at is the zoning; we're not supposed to be looking at foliage plans and trees and stuff like that. These are very nice people, and I'm sure they've been here a long time, but they could sell this property tomorrow, if they get the rezoning, to an evil subcontractor. We need to be analyzing the zoning, not what kind of building he's going to build, that's not the purview of this board, it's the zoning. The thing I'm looking at is where is the S.R. 3 corridor study that we spent so much time and money on that says this is a commercial corridor. That's my concern. There is not even a mention of it in here and I thought P&Z was supposed to be referencing that corridor study.

Jeffrey Ball - The study was done, but the Board of County Commissioners did not adopt any of the recommendations.

Mary Hillberg - The Board did not deny it, they just didn't accept it. And that is what the Board did with the previous small area studies as well.

Chris Cook - That's what I'm looking at, and the zoning. I'm seeing this is a commercial corridor and you're going to put 9, 10, or 11 units on it, and there is going to be a scrap yard next to them. We want to have consistency.

Mary Hillberg - All the rest of the corridor is commercial on the Future Land Use map, except this little segment here and the residential across the street.

Chris Cook - I've just sat through too many meetings where they show pretty pictures of what is going to be built and it sells the next week.



Mary Hillberg - I live in a development where everybody is supposed to have nearly an acre and there are zero lot lines.

Public Comment.

Debra Barker - I'm Debra Barker and I live at 4540 Deanna Court, Merritt Island. I'm here as a property owner and am asking the board to not support the change in zoning from the AU to RU-2-4 as requested by Carter and Jessica Hayes for 4645 N. Courtenay Parkway. I am asking this lack of your support based on this rezoning issue will ruin the aesthetics of North Merritt Island, the rural character of our property, by depleting the protected resource of the area. I have many grave concerns regarding this proposed project, one of which is that it would change the zoning, but I do not know how much of the future project would be looked at in the future once the zoning gets changed. I have some of the same concerns, that this would be a quick project and it would be changed once the zoning gets changed. And I would respectfully make a comment that I believe the Hayes' are from Cocoa Beach, so we are all from Merritt Island where we appreciate the ruralness of this community, so put this in your backyard, not in mine.

Don Barker - I'm Don Barker, 4540 Deanna Court, Merritt Island. There is a large canal in the back of our property that goes through the back of Deanna Court. [Mr. Barker submitted photos to the board. The photos can be found in file 21Z00042, located in the Planning & Development Department]. The nature in the back of the property is like a second ecosystem, it's beautiful. We did not dig the canal; I bought my property in 1994 to build a house; the house was finished in 1998; and nobody has done anything to the berm in 30 years. I don't want 11 rental units at my back door. I don't want to hear what's going on. I bought my property in 1994 because of the rural atmosphere; I don't want anybody behind me. I was told it was a wetland; it's mapped as a wetland. I don't think the County knows that it is, because if you look at the aerial plats, which are years-old, there is a tree canopy and density that has been removed by several hurricanes, and an aerial photo today would show that. We maintain that canal at \$110 per family quarterly to get it sprayed so there is not algae. We don't want any high density behind us, we don't want any density behind us, at least in the wetland area. What you see of the water was taken in January, which is the dry season. When a good rainstorm comes through it overflows and now is full all the time. A larger impact would be to the horseshoe bend area immediately to our south, which floods. It's our fear that if you change the zoning on one of these lots, the rest of them are going to go and we're going to get all that water into our residences.

Ted Balke - Your picture shows there are some pepper trees, but there are also a lot of Spanish moss.

Don Barker - There are oaks there and cypress.

Ted Balke - That changes the condition you were discussing before, that it's only pepper trees that can be removed. I represented a lot of these lots that sold or bought by out-of-staters a long time ago and that back property there is definitely wetland. If there are three days of rain you can't walk there.

Don Barker - It is a beautiful area, it's a very charming piece of Merritt Island, and it's rural in nature, and if you build 11 townhouses there, I don't know how they can build them because it looks like half of the land is unbuildable. I don't think it's compatible with our neighborhood or North Merritt Island. You're going to put multiple density housing next to half-acre lots with one house on them. That



doesn't seem compatible to me, and I understand that the future land use is a projection to plan on, but it doesn't mean you have to live by it. That's why you're having a zoning meeting.

Ann Duset - I'm Ann Duset, I live at 4560 Deanna Court. This affects me because it's my back yard; it splits my property in half. I don't want to tell anybody what to do with their property, I just think the density is too high and they should go for a different zoning. I think it's too much; it's at the upper end of the scale and he's at the bottom end of the scale. It will affect my property as far as water and I would want him to take that into consideration.

Phil Bernardo - I'm Phil Bernardo, President of the North Merritt Island Homeowners Association. We, the HOA, put it to a vote, and the conclusion was that we disagree with the proposed rezoning. Neighboring residents who live to the west of the subject property expressed concern to us associated with flooding, increased density, traffic, and that the proposed use is not consistent with the current use of the surrounding properties. We also concluded that the proposed rezoning is not compatible with Administrative Policies 3, 4, 6, 7, and 8, and also Section 62-1151(c). [Mr. Bernardo gave the board a handout. The document can be found in file 21Z00042, located in the Planning and Development Department]. Admin Policy 7 says, "The proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties". As you have heard, a substantial part of the subject property is wetland. I went out there yesterday, I went to the properties to the back, and I also went around Courtenay Parkway, and the remaining buildable property is also a little low. It seems likely that before any construction they will probably have to increase the elevation somewhat before construction begins. You've got a large impervious surface that you're adding, so it's going to create some additional runoff that has to go somewhere, and if it's not going to go across Courtenay Parkway, the other direction is toward the property to the west. I also looked at some of the properties that border to the back. They are already having drainage issues and even an aerial view doesn't really show how big the canal is behind the homes. The canal looks to be 45 - 50 feet wide and 5 - 10 feet deep, and this is the dry season. Admin Policy 4 says, "The proposed unit must not materially and adversely impact an established residential neighborhood". Admin Policy 8 talks about traffic concerns. Behind the subject property is several single-family homes on half-acre lots and the people who live there all own their homes, so they are not rental properties. An apartment building seems inconsistent with single-family homes. For most trips, the only way on or off of North Merritt Island is the drawbridge, so there are already traffic problems unless you're going to Kennedy Space Center. Again, the HOA concluded that we didn't agree with it.

Ken Marino - My name is Ken Marino, I live at 4510 Deanna Court, Merritt Island. We recently moved to North Merritt Island, we bought our house about five years ago, and moved here officially two years ago. We have the creek behind our house. When we bought the house, the creek was relatively low and now I notice it comes up during the summer and goes back down during the winter. We have a duck walk that runs alongside our property and the creek, and normally it's about 1.5 to 2 feet clearance from the creek, and after the last rainstorm it is submerged. We have a bridge that is also submerged. I'm concerned about the runoff coming from the property in question. Where I come from on Long Island, New York, we're allowed so many square feet in footprint and if you cover that land with concrete and asphalt you have to provide proper drainage. We have to put something to allow any runoff to properly not to runoff to adjacent properties. He could possibly put drywells in, but where is the water actually going to end up? If you're talking about raising the elevation of the property, now the property has to be higher than the existing wetlands property, which gravity will take back into our creek. Another thing about our creek is that it's clean right now. We have otters in there, I've seen bobcats in the woods, we have turtles, and also gators, and now there will be runoff coming off of the



parking lots that's going to have oil, gasoline, and whatever else. That's going to flow into our creek and it's going to become a sewer. That's my main concern. When we lived on Long Island we lived on the cusp of rural, in my backyard we had woods, and we chose that house because there were woods in the backyard, but ¼ mile to the east were horse ranches and sod farms. We have an RV in the Poconos in Pennsylvania, and it's rural because that's what we like, and that's why we chose North Merritt Island. You're setting a precedence for other buildings to be built. If you allow this guy to do it, someone else is going to want it done. I've seen on Long Island how small communities turn into big cities.

Brittany McCloud - My name is Brittany McCloud and I live 4530 Deanna Court, Merritt Island. I am here not only as a concerned resident, but also as an Environmental Engineer. I'm going to object to the rezoning of parcels 761 and 762 on S.R. 3. Brevard County's own GIS interactive map clearly shows that two-thirds of this property is in a wetland area. Not only in the rear, but also in the front along S.R. 3 there is a minor area that is deemed a wetland. In order to make this land buildable, the topographical level would need to be elevated, making the land higher than its neighboring properties which could easily cause flooding not only to the properties behind, but on the road itself. When land is considered wetlands it means the soil is near or at saturation levels and capacity; therefore, if the soil cannot hold its capacity, no more water at this point will be able to be saturated into the soil. If the land is built up higher than these properties around it, the water will have to be displaced elsewhere. If something were to be built on this property, the parts of land that were not deemed wetlands would now be a concrete footprint, which would prevent even more drainage. On average, a square foot of land absorbs three inches of rainfall per hour. If that water is then diverted into the creek behind these properties as well as the homes behind Deanna Court, it could easily cause the water level and water table to rise causing major concern for the existing homes that are along the creek on Deanna Court. I call the body a creek because by definition it is one. A creek is truly defined by the Environmental Protection Agency as an inlet inner shoreline or a channel or a marsh in another narrow sheltered body way. The aerial view that is on record does not show the actual size of the creek because of the density of the treelined canopy cover. It has been assumed it is a 3-foot by 3-foot drainage ditch and as shown in the development and building plans originally, but it is far from that. In reality it is a minimum 4 feet wide and 6 feet deep with a thriving and sustainable ecosystem. This water flow has an abundance of wildlife. Some of which include, but are not limited to, the American alligator, the North American river otter, yellowbelly sliders, softshell turtles, white ibis, great blue herons, and many others. What some people are not aware of is that the American bald eagle does come into these areas. There are many fish and amphibian species in the creek as well. Several of the birds are protected under the Migratory Bird Act, and the bald eagle is protected under the Florida White and Gold Eagle Rule, which is a Florida law set forth by the DEP. There are many environmental concerns with this, and with the Merritt Island National Wildlife Refuge being our close neighbor, North Merritt Island should continue to set the standard for environmental awareness and appreciation and continue to develop North Merritt Island, but in a way that makes it beautiful.

Jim Carbonneau - Are you a degreed Environmental Engineer?

Brittany McCloud - Yes, I am, Florida Institute of Technology, Class of 2013.

Jessica Hayes - Right now, the current zoning is agricultural and would allow us to build two houses.

Jeffrey Ball - That is not correct, that's assuming it is a nonconforming lot of record.



Jessica Hayes - Right now, we're nonconforming as agricultural.

Jeffrey Ball - To my knowledge, we have not done a formal nonconforming lot of record verification. The AU classification requires a minimum of 2.5 acres.

Jessica Hayes - For one house or two houses?

Jeffrey Ball - For one house.

Jessica Hayes - We were told we could have two residences the way that it currently sits. There is a house on it right now that is condemned. So, we can leave it as a condemned house and let it sit there. We could build two houses, which we would have to build up the land and do all of that to get two houses on it. If we don't go with this zoning, that's part of the future land use that's already approved, and then we try to go commercial and you end up with a Target in your backyard. I think some of this is kind of picking the best solution for what is available. What you're saying is you think the current zoning would allow for one residence?

Jeffrey Ball - It really depends. There are code stipulations in Section 62-1188 that we would have to review to determine if it is a nonconforming lot of record and if one house could be built or two. To my knowledge, only one can be built, but that's just face value.

Jessica Hayes - Single-family doesn't seem to be conforming for that area either, or for that lot.

Mary Hillberg - That's one of the things that we look at because this is supposed to be a commercial corridor. So, it's not for residential, it's a commercial corridor.

Jessica Hayes - Our lot, the one to the north of us, and the one to the south of us are zoned for residential low density, versus commercial.

Jeffrey Ball - I think we're getting confused between land use and zoning. The subject property and the property to the north and south, along with the properties to the west are Residential 4, which is a residential land use category, it does not allow commercial uses whatsoever. Further to the north and further to the south there is commercial land use designations. The subject property and the properties to the north and south of that are zoned AU, which is an agricultural residential zoning classification allowing for single-family and agricultural uses. To the west is suburban residential which is a half-acre single-family zoning classification. Further to the north and further to the south we have BU-1 and BU-1-A. The BU-1-A zoning is the lowest intensity zoning classification that allows for offices and transitional commercial uses. The BU-1 zoning is a mid-level commercial zoning classification that allows for some pretty intense uses. Across Courtenay Parkway is a mobile home park that has a land use of Residential 2, which is a half-acre lot and TR-3, which is a mobile home zoning classification.

Carter Hayes - When we look at compatibility with the surrounding neighborhood, I'm looking at a mobile home park. Everyone says it's rural, but in my neighborhood there is a mobile home park right across the street. The lots around me are specifically designed to not be commercial, to not be a commercial corridor. This is what we have; we're trying to be compatible, we're trying to provide a transition from mobile home park, which is in my neighborhood, to residential, which is also my neighborhood. We're not just living in an idyllic little residential area, there are other things going on,



there's commercial, there's neighborhood commercial, there's an area designed to not be commercial, and there is a mobile home park directly across the street from me.

Chris Cook - In our criteria, what do we use to incorporate what Mr. Bernardo mentioned about being on a barrier island that needs to evacuate for hurricanes and we are served by two drawbridges. They will tell you that S.R. 3 is at a level of service of 35, but that whole intersection there is a complete and total disaster half of the time. Where do we factor that into our criteria?

Jeffrey Ball - I think you need to factor all of that into your recommendation. From a zoning perspective, we look at compatibility and consistency. Obviously, there are extenuating circumstances about flooding, environmental, each property is different and I think you need to take that into consideration.

Chris Cook - He wants to bring in 11 more units, that's 25 - 30 people who are going to be in line in front of me to get out of dodge when the wind is coming. I think that really needs to be a consideration.

Jeffrey Ball - How we analyze all of the policies is very subjective, and that's why staff looks at the face value of things. Obviously, you're going to interpret that differently, P&Z is going to interpret that differently, and the Board is going to interpret that as well. You need to consider the subjectivity as well.

Chris Cook - I think if you're going to put a multi-resident on a commercial corridor, the access should be on an existing side street, so they are not pulling out directly onto S.R. 3., where people drive at a high rate of speed.

Jeffrey Ball - They will have to provide internal access to that development. We don't have many codes that have criteria for multi-family zoning like we do for commercial zoning.

Ted Balke - There is a physical ditch directly off of Courtenay Parkway and whenever we have a day's worth of rain there is water standing in that ditch.

Mary Hillberg - They are kind of stuck between water and water, and that's unfortunate. It is curious to me that the Future Land Use plan was designed this way without it not be continuously compatible.

Jeffrey Ball - We don't know why that happened, and hopefully they recognized something back then, but you don't want to line your corridors with all commercial. That's typically what has happened because nobody wants to live along a major arterial road with 30,000 daily trips going by.

Mary Hillberg - That's what they wanted, they wanted this to be a commercial corridor. The things that were already there, were just there, but they wanted an all-commercial corridor so that the rest could be residential. In looking at Administrative Policy 7, it says specifically, "Proposed uses shall not substantially cause or substantially aggravate any substantial drainage problem or surrounding properties, or significant adverse or unmitigable on significant natural wetlands or bodies". So, it seems that if we were to recommend this, that we would be ignoring Admin Policy 7, which is ignoring the people who were already here. In addition, the character of the land, the properties around it should be considered. I know this is the future land use map, but the people who were already here have a vested interest, and the value of their property is a consideration. If you have 35-foot high



buildings right behind your home, this changes that value of your property, and I understand that's a difficult position to be in.

Chris Cook - In my business I travel all over the County and go to new developments, the thing I find concerning is a lot of places are trying to cram as many people in small spaces to make the most amount of money. There is one handicap parking spot and hardly any room for a fire truck to move around. There is no place to park. I had to park a half-mile away just to get to a client's home, and it's hazardous. Just because you can do something doesn't mean you should, and I think if they went with a lesser density, if they wanted to go to RES 2 I think they stand a better chance of getting it and not as many people would be against it. I don't look at the person, I look at the zoning and that's what I'm seeing.

Gina Lindhorst - My concern is that there are long skinny lots and they are joined together, but the lots behind you are SR and I think that would be more along the lines of what I would recommend the zoning be. It doesn't seem reasonable to expect you to build all this stuff, because the footprint is not going to work out well with any kind of water management, with the wetlands and the runoff, and the people behind are residents who have been here a long time and did not expect to have a change on their property.

Mary Hillberg - I realize it isn't fair to have people who have rural property to have them do less with it, but you have to consider the surrounding areas, and we're supposed to allow no water, everybody has to contain their own water, but if you put that many units on half of the property because the other half is not going to be buildable, so now you have half of 2.79 acres with that much density in it, and hardened, where does the water go? Are you putting it in the wetlands? You can't put it in the wetlands, you can't put it in the street. It saturates the soil and it impacts the people around you. We're not supposed to be building things that negatively impact the areas around you.

Jack Ratterman - I'd like to make the motion of denial, using Admin Policy 3, 4, 6, and 7.

Jim Carbonneau - I'll second that.

Ted Balke - Jack, you and I spent four years developing the small area study that they rejected. By you rejecting this today is only going to drive it to the next stop along the line for approval. Their approval supersedes ours, and you know what happens. We've rejected so many of them, and they just overturn us. So, I think we really need to give them an alternative to select, as opposed to outright rejecting it.

Jack Ratterman - Ok, I'll amend my motion to approve as Res 2.

Jeffrey Ball - You would need to approve it as SR, which is half-acre lots, with a Binding Development Plan.

Ted Balke - You have to see if they are amenable.

Carter Hayes - I'm interested in alternatives.

Ted Balke - And a binding development plan saying you are going to go with an SR.

Jeffrey Ball - The BDP would restrict it to two units per acre.



Ted Balke - That would be more inline with what we spent four years doing.

Mary Hillberg - We are appreciative of the fact that you want to help the rental situation.

Gina Lindhorst - I agree, we need more moderate housing for rental.

Jack Ratterman - I'll amend my motion to approve as SR with a BDP limited to two units per acre.

Jim Carbonneau - I'll second the amended motion.

Mary Hillberg called for a vote on the motion as stated, and it passed unanimously.



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

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 10, 2022**, 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.

At the outset of the meeting, nine Board members were present and voted on all items on the agenda: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Ben Glover (D3); William Capote (D3); Mark Wadsworth, Chair (D4); Liz Alward (D4); Peter Filiberto, Vice Chair (D5); and John Hoppengarten (BPS).

Bruce Moia (D5) was present for Items H.14 & H.15 only.

Lorraine Koss (D2 - Alt) was present, but did not participate from the dais.

Staff members present were: Tad Calkins, Planning & Development Director; Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Kyle Harris, Associate Planner; Virginia Barker, Natural Resources Management Director; Amanda Elmore, Natural Resources Management Deputy Director; Darcie McGee, Natural Resources Management Assistant Director; Alex Essee, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt from Complete Minutes**

#### **Carter & Jessica Hayes**

A change of zoning classification from AU (Agricultural Residential) to RU-2-4 (Low Density Multi-Family Residential). The property is 2.79 acres, located on the west side of N. Courtenay Pkwy., approx. 0.38 mile north of Hall Rd. (4645 N. Courtenay Pkwy., Merritt Island) (Tax Accounts 2318403 & 2318404) (District 2)

Jeffrey Ball informed the board that the North Merritt Island Dependent Special District Board heard the request on January 6<sup>th</sup> and recommended approval as SR (Suburban Residential) with BDP (Binding Development Plan). He noted the BDP is not necessary because the comprehensive plan and zoning regulations already provide consistency.

Carter Hayes, 4645 N. Courtenay Parkway, stated his property has been zoned AU for so long it no longer meets the minimum property size requirements for that classification, and if he were to sell one of the lots he couldn't advertise it as AU because it couldn't be used as agricultural. He said they would like to change the zoning from AU to RU-2-4 under the RES 4 land use designation, in order to build townhouses or duplexes. He pointed out that the lots to the north, south, and west are all RES 4. He stated as a general contractor he will build the units himself, maintain ownership of them, and rent them out. He said the buildings will be very nice, one-store, and in the range of 1,800 to 2,000 square feet, with a target demographic of young adults who need a nice, safe place to live. He referred to the staff comments and noted page 3 states, "A multi-family use may be considered transitional from North Courtenay to the single-family residential areas to the west". He said N. Courtenay has commercial, neighborhood commercial, and high-density across the street, and his project is will be a nice transition. He said in 2013 the DEP, Army Corps of Engineer, and the St. Johns River Water Management District have been to the property and de-marked the wetlands, and then his surveyor marked those spots. He said one-third of the lot is wetlands. The wetlands area could be a natural barrier to the single-family homes to the west. He said he is going to leave the wetlands alone. He stated some of the comments from his neighbors include concerns about stormwater management, but that will be addressed during the permit process. He stated he intends



fully to comply with all of the stormwater management. He concluded by saying he believes his request is consistent with the comprehensive plan and compatible with the surrounding neighborhoods.

Jessica Hayes, 4645 N. Courtenay Parkway, Merritt Island, stated all of N. Courtenay Parkway is commercial and multi-family, and she thinks multi-family fits the area, and also helps with the housing shortage.

Public comment.

Don Barker, 4540 Deanna Court, Merritt Island, stated there is a large canal in the back of his property that goes through the back of Deanna Court, and the nature in the back of the property is like a second ecosystem. The subject property is in the floodplain and two-thirds of the property is affected. He said he bought his house because of the wetlands behind him, and he doesn't want 11 rentals at his back door. He said when there is a rainstorm the canal overflows and now is full all the time. He stated he does not think the proposed project is compatible with his neighborhood or North Merritt Island.

Mike Yauch, 565 Indian Bay Boulevard, Merritt Island, stated he is the Vice President of the North Merritt Island Homeowners Association, and the HOA disagrees with the proposed rezoning. He said neighboring residents to the west of the subject property expressed concerns associated with flooding, increased density, traffic, and that the proposed use is not consistent with the current use of the surrounding properties. The HOA also concluded that the proposed rezoning is not compatible with Administrative Policies 3, 4, 6, 7, and 8, and also Section 62-1151(c). He stated a substantial part of the property is wetland, and it seems likely that before any construction they will probably have to increase the elevation somewhat before construction begins, so it is so it's going to create some additional runoff that has to go somewhere. He said behind the subject property is several single-family homes on half-acre lots and they are not rental properties. An apartment building seems inconsistent with single-family homes. He concluded by saying Deanna Court is a nice quiet place that backs up to wetlands, and the HOA supports the North Merritt Island Board's recommendation.

Brittany McCloud, 4530 Deanna Court, Merritt Island, stated she is not only a concerned resident, but also an Environmental Engineer. She said Brevard County's GIS map shows that two-thirds of this property is in a wetland area. In order to make this land buildable, the topographical level would need to be elevated, making the land higher than its neighboring properties which could easily cause flooding not only to the properties behind, but on the road itself. If the land is built up higher than these properties around it, the water will have to be displaced elsewhere. If something were to be built on this property, the parts of land that were not deemed wetlands would now be a concrete footprint, which would prevent more drainage. If that water is then diverted into the creek behind these properties as well as the homes behind Deanna Court, it could easily cause the water level and water table to rise causing major concern for the existing homes that are along the creek. The creek consists of a thriving and sustainable ecosystem, and has an abundance of wildlife, including the American Eagle, and there are many fish and amphibian species in the creek as well. There are many environmental concerns with this, and with the Merritt Island National Wildlife Refuge being a close neighbor, North Merritt Island should continue to set the standard for environmental awareness and appreciation and continue to develop North Merritt Island, but in a way that makes it beautiful.



Ann Duset, 4560 Deanna Court, stated this change affects her because it's her back yard. She said she doesn't want to tell anybody what to do with their property, but she feels the density is too high and they should go for a different zoning. She said the canal floods often and is a major factor in the drainage. The current water level has been affected by the recent drainage updates to the north of her subdivision; it now stays high, and during the rainy season it does encroach properties. A change to RU-2-4 is too much density for the canal to handle. She stated she wants them to be able to use the land, but the density is too great.

Alan Carpentier, 4550 Deanna Court, Merritt Island, stated his parcel is directly behind the subject property. He said the stormwater runoff is a major concern in his neighborhood, and his property is currently eroding because of the canal. The clearing of wetlands for multiple unit houses is going to add pressure to the canal. He said he bought his property because it wasn't around multi-family units, and many studies show that when multi-family units get built around single-family homes, property values decrease.

Ken Marino, 4510 Deanna Court, Merritt Island, stated he moved to North Merritt Island two years ago. He said he is concerned about the runoff coming from the property in question. He stated the applicant could possibly put drywells in, but no one knows where the water will actually go. He said there is an abundance of wildlife in the wetlands and in the creek, including bobcats, turtles, and alligators, and now there will be runoff coming off of the parking lots that will have oil, gasoline, and whatever else. He said he chose North Merritt Island because it is rural, and if the zoning is approved, the board is setting a precedent for other multi-family.

Ben Glover asked who owns the canal, and if it is the HOA. Jeffrey Ball replied, from the Property Appraiser maps, it looks like it could be shared. Mr. Glover asked how much of the wetlands can be built upon. Mr. Ball replied there can be a maximum of a 1.8% impact to wetlands.

Mr. Glover asked Mr. Hayes if he plans to have 11 units. Mr. Hayes replied the number is a function of the designation and the math. Based on the wetland map he doesn't know how much buildable space he has because the survey he had done is only good for five years. He said he will have to demark the wetlands again.

Mr. Glover asked staff the cap of the number of units. Mr. Ball replied the cap in density is governed by the Future Land Use, which is 4 units per acre, and by rights of the land use, it is 11 units. He said whether Mr. Hayes can develop that is up to him and his engineer. Mr. Glover stated that is unlikely as there is wetlands present, and asked if water retention would be part of site planning. Mr. Ball replied it is not really a zoning issue, but his understanding is that they would have to retain all of their stormwater on site and retain it.

Darcie McGee, Natural Resources Management, Assistant Director, stated the proposed development is in the North Merritt Island overlay for additional stormwater treatment. She said Mr. Hayes is going to have to compensate for any fill in the flood plain, he has to compensate for the rate and the volume, because he's north of Hall Road. She noted the North Merritt Island overlay and the wetlands will be a guiding force to his design, because there are enhanced stormwater requirements on North Merritt Island.

Mr. Glover asked if there were any negative reports from schools for increasing the housing. Mr. Ball replied the school district has said there is capacity to serve the potential students.



Peter Filiberto asked Mr. Hayes if he plans to hook up to sewer and water. Mr. Hayes replied yes.

Mr. Filiberto asked staff the difference between RU-2-4 with 11 units and SR (Suburban Residential). Mr. Ball replied SR is a half-acre lot, and RU-2-4 is a low-density multi-family zoning classification that allows for apartments and townhomes on a 7,500 square-foot lot. Mr. Filiberto asked if there could be 6 or 7 single-family homes on the property instead of multi-family. Mr. Ball replied that is correct. He stated it is a very tight site with the wetlands that are on the property. It will be up to Mr. Hayes and his engineer to determine how many units he is able to develop.

Mr. Filiberto stated based on the Eagle nest map there are no nests on the property, nor are there any scrub jays. He said he feels that duplexes or townhomes is high-density for the area, and he doesn't see any RU-2-4 in the surrounding area; however, there are no negative concurrency impacts for schools, utilities, transportation. He said as of right now, he would like to see the applicant compromise and agree to SR.

Mr. Ball stated if the board has concerns about the apartment-type use, there is another zoning classification the board can consider, which is RA-2-4 and only allows for townhomes. The RA-2-4 zoning exists just outside of the purview of the maps provided, and it was rezoned in 2017. He said RA-2-4 would allow the same type of density, but it does not allow for apartment-type units.

Mark Wadsworth asked Mr. Hayes if he would be opposed to RA-2-4. Mr. Hayes replied he has not studied RA-2-4 nor SR, but he wants to build units to own and rent.

Henry Minneboo stated not too long ago, the board approved 48 units at the southwest quadrant of Porcher Road and N. Courtenay. He said the board has always been concerned about having multi-family units on North Merritt Island. The area is not conducive having multi-family units. He said the stormwater system cannot tolerate more intrusion. He said the board approved the 48 units and hoped not to see another similar request. He stated he is vehemently against anymore multi-family on North Merritt Island, and approving this request will set a precedent. He noted the 48 units that were approved four or five years ago still aren't built, and to him, that is an indication that it's not conducive.

Mr. Hayes stated there are at least four other locations with townhouses or duplexes on North Merritt Island, and some of them are entire neighborhoods of duplexes. He said he can't be under AU anymore because it doesn't meet the requirements.

Ms. Hayes stated their property fronts Courtenay Parkway which is commercial and multi-family. There are no single-family homes on N. Courtenay Parkway and to make them build single-family homes is not conducive. She said she knows they won't get 11 units, but they are asking for the zoning and they might end up with eight.

John Hopengarten asked Mr. Hayes if he has done any developments before. Mr. Hayes replied no, but he built his own house. Mr. Hopengarten asked Mr. Hayes what type of construction he does. Mr. Hayes replied mostly remodeling, but he is also a marine contractor for seawalls and boat lifts.

Mr. Hopengarten stated he is an advocate for development, and the board would want a successful development, but he wouldn't want Mr. Hayes to start the development and then lose money and make it an eyesore in the neighborhood. He said Mr. Hayes has not presented his plan in a way that he feels comfortable with. He asked Mr. Hayes if it would have been better if he had done some preliminary engineering and invested a little bit of money to see if this is going to work or not. Mr.



Hayes replied no, when he started the process the County said he didn't need a site plan for a zoning change. He said once he gets past this phase, the next phase is when he determines how much land he has to work with, because he's not asking to go into the wetlands.

Liz Alward stated she doesn't agree that there is plenty of multi-family in the vicinity. Everything to the west is SR, and along Courtenay Parkway is AU, a couple of BU-1-A's, and some commercial. She said she is concerned there is not one RU-2-4 on the entire zoning map. She said she doesn't think an apartment complex or townhomes are compatible. She agrees with a lot of the neighbors that they built there with the understanding that it was 1 - 1.5 units per acre and they had some expectation that even with the AU, he would only have been able to put one unit on it with the existing zoning, so bringing it to 11 units is pretty high density. She stated she would support the North Merritt Island Board's recommendation to consider the SR zoning, which with 2.79 acres would get five units.

Mr. Hayes noted there is a mobile home park across the street. Ms. Alward replied he isn't abutting the mobile home park, he is abutting a subdivision with half-acre lots or larger.

Ron Bartcher asked Mr. Hayes what he plans to do with the wetlands. Mr. Hayes replied he does not want to build anything on the wetlands. Mr. Bartcher asked if he is going to be cleaning up the pepper trees. Mr. Hayes replied he would like to take out the pepper trees.

Mr. Bartcher stated as far as coming to the board with a plan, there have been a lot of developers who have come to the board without a plan. It has never been a requirement. It's nice to have, but for a lot of developments it's a big investment and he doesn't consider that to be something to hold against them. He said one-third of Mr. Hayes' property is not going to be developed, and it may be even more. That one-third of his property faces those houses in Citrus River Groves. If he doesn't clean out the pepper trees those people will never see what is happening on that property, nor hear it. He said he doesn't see a problem with the development.

Mr. Glover stated on today's discussion, he believes the density of the mobile home park across the street is far higher than 11 units. He said Mr. Hayes is not going to get 11 units; he might get 6 or 7, but that is speculation.

Motion by Ben Glover, seconded by Ron Bartcher, to approve the change of zoning classification from AU to RU-2-4. The motion failed 4:5, with Henry Minneboo, Liz Alward, Peter Filiberto, John Hopengarten, and Robert Sullivan voting nay.

Mr. Glover asked Mr. Hayes if he would be willing to limit the development to six units.

Mr. Hayes asked if he could stay with RU-2-4, but limit the density, as opposed to a different zoning classification.

Mr. Ball stated he could keep the request as RU-2-4 and agree to a BDP to cap the density at two or three units per acre.

Mr. Glover asked staff how many houses he can build with the SR zoning. Mr. Ball replied five houses, which would be two units per acre.

Ms. Alward stated that would be compatible with the neighborhood to the west.



Mr. Glover stated five houses would cause more water issues than if he builds townhouses. Ms. Alward pointed out he would have to follow the same stormwater procedures.

Mr. Glover stated he is going to build up the foundation of the house, and there's going to be a swale and it will run wherever it runs. Mr. Bartcher stated water has to be retained on the property. Mr. Glover stated that is typically 25% of the parcel.

Mr. Filiberto stated staff mentioned RA-2-4, and he's willing to go with that, or SR. Mr. Bartcher stated RA-2-4 means he can't rent them out, and keeping them as rentals gives him an ongoing source of income.

Mr. Filiberto asked staff if SR can be rented. Mr. Ball replied SR is a single-family zoning classification and cannot be rentals.

Mr. Glover stated the map shows a neighborhood the board approved that looks like zero lot lines. It's not multi-family, but it's high density.

Mr. Wadsworth stated the main concern is the stormwater and the wetland impacts, but those are things that will be regulated throughout the permitting process.

Motion by Ben Glover, seconded by William Capote, to recommend approval the change of zoning classification from AU to RU-2-4 with a BDP limiting density to three units per acre. The motion passed 7:2, with Liz Alward and John Hopengarten voting nay.



**From:** Alain Carpentier  
**To:** Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Subject:** Opposition in Rezoning ID# 21Z00042  
**Date:** Monday, January 10, 2022 1:02:04 PM

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

January 10, 2022

To: Planning and Development Department

Brevard County Government Center

2725 Judge Fran Jamieson Way, Vierra, FL

From: Alain & Casandra Carpentier

4550 Deanna Court

Merritt Island, FL, 32953

Reference: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042

Panel/Board Members and Commissioner,

We want to express our strong opposition to the rezoning of Parcel IDs: 23-36-34-00-761 and 23-36-34-00-762 2019-0317 from the current AU to proposed RU-2-4 which are owed by Carter and Jessica Hayes. We own the property on parcel 41 in the subdivision Citrus River Groves, Merritt Island, located within 500 feet of the proposed rezoning area of parcel 761 owned by the Hayes, as identified on the zoning map.

The proposed rezoning will add several impacts to an already developed/established community, specifically: National Wetlands, FEMA Flood Zones and local wildlife. While the local community may be unable to prevent development, that in itself will be detrimental to the area, nearly all residents in the Citrus River Groves neighborhood are completely opposed to the addition of multi-family housing that will cause additional traffic and safety problems and potentially lower the property values of the existing community.

**Potential Flooding.** Stormwater runoff and an overstressed drainage canal on Citrus River Groves parcels:39-46; are within 500 feet of the proposed rezone area and is a major concern. The rezoning may impact our current FEMA flood-zone category from AE to AO, greatly affecting the cost of current homeowner's flood insurance. The drainage canal remains full, even in the dry-season, and further pressure will certainly foster land erosion at an increased rate.

**Conservation & Wildlife.** The removal of the trees and vegetation on the identified wetlands will ultimately drive more pressure into the drainage canal. Additionally, wildlife (alligators, turtles, spoonbills) have been observed in the area, and any land clearing development will destroy their habitat. Any planned development of the property should consider the continuing impact to local wildlife habitat.

**Property Value.** Current home values have the potential to decrease in the area if multi-family units are built. Multi-family dwellings are inconsistent with the neighborhoods already developed and established in the area. I urge you to disapprove the proposed rezoning, and from recent meetings and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails. Thank you for your service and support of our



communities.

Best regards,

Alain & Sandy Carpentier  
904-631-1752



**From:** [D. Barker](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)  
**Subject:** Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting  
**Date:** Wednesday, January 26, 2022 12:30:47 PM

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

Good Day Brevard County Board of County Commissioners,

My correspondence to you today is in reference to:

Board of County Commission Meeting 02/03/22

Agenda Item H.10, Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

I am requesting you deny this request as the Developer's property to the West partially adjoins our property to the East, **meaning any development will be in my back yard**. Currently our rear view is a drainage canal full of wildlife coupled with many indigenous trees & protected plant life, and if this zoning change passes, I will view a backyard encompassing a 9 to 11 unit apartment rental complex, or duplexes or townhomes.

I am a 45 year Merritt Island resident. My Husband & I own the property at 4540 Deanna Court, North Merritt Island, Florida, Citrus River Groves Subdivision. We purchased the lot in 1994 and built our home in accordance with Brevard County approval in 1997/98. We clearly have demonstrated our investment in North Merritt Island and vested rights thereto for 24 years.

I am physically disabled. My home is my physical & emotional sanctuary, as I'm sure your home is to you. Due to my physical limitations, I have very limited quality of life outside the boundaries of my home. If this zoning change is approved, we are concerned there will be only minimal standards set and adhered to during the building & permitting process, past this rezoning change request. It is my fear that the renters of a 9-unit apartment complex will become my co-located neighbors creating distractions of daily life to what I enjoy within my current home boundaries. The needs of existing homeowner's with vested rights should take precedence over new re-zoning requests and new construction.

In reviewing Brevard County's Mission Statement, Vision Statement, and Core Values, I see the County Commissioners as Stewards of our County, are tasked with the same issues I am writing to you about today, such as:

- Brevard's Quality of Life
- Health & Safety Needs of Our County
- Protecting Our Environment
- Conserving Our Natural Resources
- Leadership
- Quality
- Accountability

For the County Commissioners, your vote on this rezoning change is not simply a business/financial decision for the Developer. It is personal welfare, standard of living, humanitarian and quality control



decision for the homeowners that have lived in the existing abutting homes, paying property taxes and supporting Brevard North Merritt Island economy for the past 24 or more years.

**If you are a County Commissioner that votes in favor of this zoning change, you will be eliminating my quality of life as a disabled long-term resident of Brevard County.** Your vote for the zoning change will adversely affect my physical and mental well-being, by creating plummeting standard of living issues for my property and myself. The existing trees that buffer the noise & protect the view will be cut down and will provide a front-row seat for a rental community. **I can't imagine you would want to be a County Commissioner voting against a physically disabled multi-decade resident of Brevard County.** I also can't imagine you voting for this re-zoning if this change would be made in your own back yard.

There are abundant Environmental & Safety issues that are involved in this zoning change request, all related to new construction in this particular area, substantiating why the property in question should remain AU:

- Inadequate drainage
- Flooding
- Construction on Wetlands
- Impact on Lagoon due to septic/sewer
- Safety of additional residents leaving Merritt Island during Hurricanes
- Outdated FEMA Flood Map
- Density Issues
- Violates County Administrative Policies
- Existing canal on East side of Deanna Ct. Properties/West Side of rezoning request is at capacity during the dry season and cannot accommodate any further run-off.

This rezoning change will ruin the aesthetics of North Merritt Islands' rural character. Such rezoning will deplete the numerous protected resources of the area, such as Indigenous Trees & Plants, in addition to protected wildlife such as alligators, bald eagles and various types of turtles.

Other pertinent items relating to this zoning request:

- #1. The property requested for rezoning has been grandfathered in under AU.
- #2. As part of the property included in the rezoning request is located in a flood plain, this item should not be considered under the auspices of an outdated FEMA Flood plain map.
- #3. At what point should new construction be stopped in North Merritt Island, for any and all of the Environmental and Safety issues listed above?

The Mission and Vision of Brevard County identifies the reason Government exists at the local level, its Vision illustrates the desired future of the County, and the Core Values are those characteristics it's Leaders should possess to carry the Mission and Vision forward to their Constituents.

As a +4 decade Brevard County resident, a voter, a tax-payer, and a health-challenged member of your local community, I am trusting the BOCC to assume the roles as Administrators to support the numerous reasons listed herein this email to deny this zoning request.

Please deny the Carter & Jessica Hayes Rezoning Request from AU to RU-2-4, so as not to disrupt the Environmental & Safety Issues, coupled with diminished Quality of Life issues highlighted herein.

Thank you in advance to your attention in this integral matter.

I can be reached at 321-454-3327 (home) or 321-614-1392 (cell) with any questions or appreciated feedback.



Objection  
21Z00042  
Hayes

**From:** D. Barker  
**To:** Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Cc:** threeoaks@cfl.rr.com; Dbarker472@icloud.com  
**Subject:** Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042  
**Date:** Wednesday, January 26, 2022 8:18:53 PM

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

Donald Barker  
4540 Deanna Court (District2)  
Merritt Island, FL 32953  
January 26, 2022

RE: Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042

Brevard County Board of County Commissioners,

Honorable Rita Pritchett, District 1

Honorable Bryan Lober, District 2

Honorable John Tobia, District 3

Honorable Curt Smith, District 4 (Vice Chair)

Honorable Kristine Zonka, District 5 (Chair)

Thank you for your service and consideration. I am asking you to deny the Carter and Jessica Hayes zoning request as written. I support the North Merritt Island Dependent Districts recommendation of Suburban Residential (SR) zoning for the Hayes property with at least a 200 foot buffer zone protecting the wetlands area on the Hayes property incorporated in a binding development plan including the required use of County Sewer. The facts and circumstance supporting this request are detailed below:

I am a native Floridian and have made Brevard County my home since 1974. My wife and I bought property at 4540 Deanna Court, Merritt Island in 1994. We were taken by the rural nature of North Merritt Island, the family oriented nature of North Merritt Island as well as the beauty and serenity of the wetlands adjoining our property to the East. We worked hard, saved and built our home there in 1997/1998, along a beautiful nature canal behind the East side of Deanna Court. The last home on Deanna Court was built in 1999, completing Phase 3 of the Citrus River Groves Subdivision.

In December Of 2017, I retired after 30 years of service with the Brevard County Sheriff's Office. Our home has been our sanctuary and place of serenity. Out our back door is a wetlands and wildlife sanctuary. Except for some traffic noise from State Road 3 during rush hour, our neighborhood is very quiet. On Christmas Eve 2021, we received a notice from the County informing us of the Hayes Rezoning Request to build 10 rental units adjacent to our Suburban zoned home on a half-acre lot. Doesn't sound very appealing as a quality of life issue, does it? Ten (10) rental units, later increased to eleven (11) rental units is not compatible with our neighborhood, the surrounding communities on the West side of State Road 3, or many of the Boards Administrative Development Policies, #3, #4, #6, #7, and #8. This is a quality of life issue for me, my family and my neighbors as well as



drainage and a serious flooding concern.

Our neighborhood, the Citrus River Groves subdivision, started construction in the 1980's. Citrus River Groves is an approved, permitted and completed subdivision immediately West of the Hayes Property and consists of ninety seven (97) homes. Our drainage system was permitted, inspected, approved, adopted and is maintained by Brevard County. As with most subdivisions in North Merritt Island our drainage flows to a man-made lake, ours is located on the West side of our subdivision. Citrus River Groves is zoned Suburban (SR) requiring homes to be built on half acre lots. The subdivisions and homes surrounding and adjacent to Citrus River Groves are zoned for single family homes; compatible zoning of the surrounding area on the West side of State Road 3 is zoned Suburban Residential (SR), Estate Use Residential (EU and EU2), Rural Residential (RR1) and Agricultural residential (AU). The rezoning requested by the Hayes RU-2-4, euphemistically entitled "Low Density Multi-Family Residential", 10-11 multi-family rental units, abutting single family homes built on half-acre lots, some having been in existence for over 30+ years, is not properly compatible, nor should it be considered a proper transition to Suburban (SR)zoned homes on half-acre lots. The Hayes Property consists of two (2) un-conforming lots located on the West side of State Road 3, grandfathered into an Agricultural residential (AU) zoning classification. The Hayes property is part of seven (7) lots located between the Orsinio Baptist Church to the South and the Victory Church to the North. These 7 lots, with the sole exception of a condemned house on one of the Hayes lots, have been undeveloped since they appeared on the Property Appraisers records/maps in the early 1960's. People have speculated on the value and future use of these lots for close to sixty (60) years and most of these lots have changed ownership several times. Once you approve rezoning for one of these lots you start down a slippery slope for zoning and cascade for development on the surrounding lots.

According to the County CIS maps supplied in the rezoning request review by County Staff, a large portion of these properties, including the Hayes' properties are located in an identified wetland and on a well-defined mapped FEMA Flood Plain. Storm water runoff in our part of North Merritt Island flows West and South, ask our neighbors in the Horseshoe Bend subdivision, immediately to our South that floods regularly. When we have brought drainage and wetland concerns up at the last two zoning meetings, County Staff has dismissed our concerns, saying it will be handled in the permitting process, irrespective of Board of County Commissions Administrative Development Policy 7 and Brevard County Code, Section 62-1151(c).

2021 was an unusually dry year for Brevard County in General and North Merritt Island in particular. In 2021 we had no hurricanes or tropical storms, yet the canal behind my house is approximately 1 foot below flood stage. Any significant rain fall causes the canal to reach or exceed flood stage. Photographs and a CD of photographs documenting this were provided to county staff at the North Merritt Island Dependent Special District Board. These photographs documenting the Deanna Court Canal were taken by me on January 5, 2022, in the dry season. It should be noted that our Deanna Court Canal up to several years ago, used to rise and fall with the seasons. With the drainage changes implemented by the County over the last several years, our canal stays full year round. We are concerned that any further development of property to the East will flood our property and that of our neighbors.

In reviewing the Hayes Rezoning Request with my neighbors and the North Merritt Island Home Owners Association, we found several conflicts with the County's Administrative Development Policies and County Code Section 62-1151(c), as listed below:

Admin Policy 3: The rezoning request increase in residential density is incompatible with existing



land use because of:

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety, and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The purposed use is inconsistent with existing/emerging patterns of surrounding development considering:
  - 1. Historic land use patterns;
  - 2. Actual development over the preceding three years

Admin Policy 4: The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. It will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

Admin Policy 6: The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

Admin Policy 7: A huge concern is that the proposed use will substantially aggravate existing and substantial drainage problems on surrounding properties and will negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Admin Policy 8:

Considering the:

- 1) Character of the land use of the property surrounding the proposed rezoning,
- 2) The change in conditions of the adjoining land use of property surrounding the proposed rezoning,
- 3) The impact of it on traffic patterns and the established character of the surrounding property,
- 4) How inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors (Quality of Life)

Under other Factors to consider is under Brevard County Code Section 62-1151(c), for the same reasons, considering:

- 1) The character of the land use of the surrounding properties,
- 2) The change in conditions of the land use of the property being considered verses the surrounding properties,
- 3) The impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- 4) The proposed zoning classification's incompatibility with existing land use, and
- 5) The inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors (Quality of Life).

Our home is adjacent to the West side of the Hayes' property, and I have specific concerns with the proposed rezoning including quality of life, flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of surrounding properties. For many of us, our homes are our largest single investment. Would you buy a house on a half-acre lot zoned Suburban Residential (SR) next to a ten or eleven unit apartment complex?

Admin Policy 4 states: the purposed use must not materially and adversely impact an established residential neighborhood, and Admin Policy 8 addresses traffic concerns. The Hayes property is bordered on the West side by several single-family homes on half-acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to our homes is inconsistent



with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is also no guarantee the owner of the apartment building will maintain the property as the neighboring single family owners will. Allowing higher density also contributes to existing traffic problems, as the only way off North Merritt Island for most trips, other than through Kennedy Space Center, is by a drawbridge across the Barge Canal. The only other means off North Merritt Island is by driving through Kennedy Space Center property and then crossing the State Road 405 drawbridge. There are times when the SR 405 Bridge is closed to traffic, due to Kennedy Space Center Operations and/or security concerns for the KSC Federal Reservation. Additionally, construction has begun on a new a new bridge that will replace the aging SR 405 drawbridge. The SR405 Bridge Project will not be completed for several years, making the SR405 Hurricane evacuation route more problematic as the density of North Merritt Island increases.

Admin Policy 7 states: The purposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetlands, part is in a mapped FEMA Flood Plain and the remaining buildable land is low. Before any construction begins, the owners will have to raise the elevation. Raising the elevation combined with the impervious surfaces from the proposed apartments and parking area, will inevitably create an increase in storm water runoff that has to go somewhere. It would be difficult to conceive how the storm water runoff would be fully contained on the Hayes' property on the scope of the Hayes' proposed density. Additionally, the ongoing State Road 3 Courtenay Parkway repaving project, located to the East of the Hayes' property, includes the removal of the drainage ditches between the North and South bound lanes, along with the installation of concrete barriers and curbing in place of the drainage ditches. This will inevitably prevent water from flowing across the road in many locations, but will also result in an additional drainage burden onto the Hayes' property, and will likely compel them to increase the drainage ditch or swale across the front of their property, further limiting their buildable area. During a significant rain event, if storm water from the Hayes' property isn't fully contained or doesn't drain east onto or across SR3 / Courtenay Parkway, there's a high likelihood of the storm water running towards the homes bordering the West side of the Hayes' property. I live in one of these homes and regularly experience drainage issues.

My immediate neighbors and I are separated by the Hayes' property by a permanent body of water, a canal, that's 35 to 50 feet wide and 5-10 feet deep in some areas, and this is the dry season after an unusually dry year. My neighbors and I own land on both sides of the canal. One of my neighbors has no dry land between his pool and patio structure and the canal behind his home. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely, if not inevitable to worsen the existing drainage problems experienced by those of us that live on the West side of the Hayes property.

Admin Policy 8 addresses public health, safety and welfare. Most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment and to the Indian River Lagoon. All too often we are seeing episodes of Red Tide and Fish Kills, in the Indian River and adjacent waterways. Although the Hayes' have stated they plan to connect to a sewer system, there is no guarantee that they will actually do so. Most developers install septic systems on North Merritt Island because it is significantly cheaper and because they can. If they Hayes are successful in getting their property rezoned to allow a substantially higher density, there is nothing to prevent the Hayes from selling the property at a profit, the new owners could then be motivated to install a septic system to decrease their expenses and increase their profits.

At the two zoning meetings I've attended, the Hayes have increased their requested number of residential units to eleven (11) and have said they intended to build townhouses, then duplexes, and then apartments on the property. County staff has noted, based on the buildable land it would be very difficult to build that number of units on the Hayes property, but that would be addressed in



permitting. Mr. Hayes identified himself as a licensed contractor to the two prior boards and said he was going to develop the property himself. Mr. Hayes admitted to the board that his primary contracting business is remodeling and that he has never built a development of this type. Mr. Hayes has offered a 200 foot buffer zone between their property and the property to their West at both zoning meetings. Mrs. Hayes has identified herself as a licensed real estate agent. Both the North Merritt Island Dependent Special District and Planning and Zoning Board denied the Hayes' requested density/units. The North Merritt Island Dependent Special District then conferred with the Hayes offering, then recommending Suburban Residential (SR) zoning of two (2) units per acre. The Planning and Zoning board recommended RU-2-4 limited to three (3) units per acre.

While my neighbors and I would rather see the land undeveloped as a wetlands, drainage and conservation area, I support the North Merritt Island Dependent Special District's recommendation of Suburban Residential (SR) of two residential units per acre, with a binding development plan with at least a 200 foot buffer zone and a required connection to the available and nearby County Sewer System.

In a perfect world, the County would buy the seven mentioned lots and use them as a watershed and retention area to reduce flooding to communities on the West side of Courtenay Parkway, particularly the Horseshoe Bend Community. Opportunities like this seldom arise involving undeveloped land and are fleeting.

Thank you again for your service and your consideration of my concerns.

Respectfully,

Donald Barker  
4540 Deanna Court  
Merritt Island, FL 32953  
Cell# 321-403-5694



Objection  
21Z00042  
Hayes

**From:** [Richard Schneider](#)  
**To:** [Alain Carpentier](#)  
**Cc:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** Re: Opposition in Rezoning ID# 21Z00042  
**Date:** Monday, January 10, 2022 6:19:29 PM

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

Great letter. Good luck

Sent from my iPhone

On Jan 10, 2022, at 1:02 PM, Alain Carpentier  
<[alainsandycarpentier@gmail.com](mailto:alainsandycarpentier@gmail.com)> wrote:

January 10, 2022

To: Planning and Development Department  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Vierra, FL  
From: Alain & Casandra Carpentier  
4550 Deanna Court  
Merritt Island, FL., 32953

Reference: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042  
Panel/Board Members and Commissioner,

We want to express our strong opposition to the rezoning of Parcel IDs: 23-36-34-00-761 and 23-36-34-00-762 2019-0317 from the current AU to proposed RU-2-4 which are owed by Carter and Jessica Hayes. We own the property on parcel 41 in the subdivision Citrus River Groves, Merritt Island, located within 500 feet of the proposed rezoning area of parcel 761 owned by the Hayes, as identified on the zoning map. The proposed rezoning will add several impacts to an already developed/established community, specifically: National Wetlands, FEMA Flood Zones and local wildlife. While the local community may be unable to prevent development, that in itself will be detrimental to the area, nearly all residents in the Citrus River Groves neighborhood are completely opposed to the addition of multi-family housing that will cause additional traffic and safety problems and potentially lower the property values of the existing community.

Potential Flooding. Stormwater runoff and an overstressed drainage canal on Citrus River Groves parcels:39-46; are within 500 feet of the proposed rezone area and is a major concern. The rezoning may impact our current FEMA flood-zone category from AE to AO, greatly affecting the cost of current homeowner's flood insurance. The drainage canal remains full, even in the dry-season, and further pressure will certainly



foster land erosion at an increased rate.

Conservation & Wildlife. The removal of the trees and vegetation on the identified wetlands will ultimately drive more pressure into the drainage canal. Additionally, wildlife (alligators, turtles, spoonbills) have been observed in the area, and any land clearing development will destroy their habitat. Any planned development of the property should consider the continuing impact to local wildlife habitat.

Property Value. Current home values have the potential to decrease in the area if multi-family units are built. Multi-family dwellings are inconsistent with the neighborhoods already developed and established in the area. I urge you to disapprove the proposed rezoning, and from recent meetings and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails. Thank you for your service and support of our communities.

Best regards,

Alain & Sandy Carpentier  
904-631-1752



Objection  
21Z00042  
Hayes

**From:** [Phil Bennardo](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** Board of County Commissioners Meeting of 02/03/22, Agenda Item H.10  
**Date:** Wednesday, January 26, 2022 5:13:59 PM  
**Attachments:** [Rezoning\\_01\\_26\\_HOA\\_Ltr.doc](#)

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

The attached letter contains the North Merritt Island Homeowners position on the request by Carter & Jessica Hayes to change zoning from AU to RU-2-4 on tax accounts 2318403 & 2318404 (ref. Brevard County Planning & Development ID# 21Z00042) to be discussed at the Board of County Commissioners meeting on 02/03/22

Phil Bennardo  
President, North Merritt Island Homeowners Association





*North Merritt Island Homeowners Association, Inc.*

*P.O. Box 542372  
Merritt Island, Florida 32954-2372*

January 26, 2022

Subject: Board of County Commissioners Meeting of 02/03/22, Agenda Item H.10., Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4, Brevard County Planning & Development ID# 21Z00042, Tax Accounts 2318403 & 2318404

Dear Commissioners,

Regarding the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential to a multiple family zoning that instead allows 10 rental units (reference 21Z00042), the voted opinion and recommendation of the North Merritt Island Homeowners Association (P.O. Box 542372, Merritt Island, FL 32954) is as follows:

Considering Brevard County's development policies, namely as sited in Admin Policy 3:

This requested increase in residential density is incompatible with existing land use because

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The proposed use is inconsistent with existing/emerging patterns of surrounding development considering
  - 1. historic land use patterns;
  - 2. actual development over preceding three years.

and as in Admin Policy 4:

The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. it will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

As in Admin Policy 6:

The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

and in Admin Policy 7:

A huge concern is that the proposed use will substantially aggravate existing substantial drainage problems on surrounding properties and will also negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Thus, as in Admin Policy 8:

Considering the

- (1) character of the land use of the property surrounding the proposed rezoning,
- (2) the change in the conditions of the adjoining land use of property surrounding the proposed rezoning,
- (3) the impact of it on traffic patterns and the established character of the surrounding property,



(4) the incompatibility of the proposed zoning classification with existing land use,  
(5) and how inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors,

**this request should be denied as written.**

and under Factors to Consider, Section 62-1151(c), for the same reasons, considering

(1) the character of the land use of the surrounding properties,  
(2) the change in conditions of the land use of the property being considered verses the surrounding properties,  
(3) the impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.  
(4) the proposed zoning classification's incompatibility with existing land use, and  
(5) the inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors; once again, **this proposal should be denied as written.**

Neighboring residents that border the west side of the Hayes' property have expressed specific concerns with the proposed rezoning that include flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of the surrounding properties, and our Homeowners Association agrees.

Admin policy 4 states: the proposed use must not materially and adversely impact an established residential neighborhood, and Admin policy 8 addresses traffic concerns. The Hayes' property is bordered on the west side by several single-family homes on ½ acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to them is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is no guarantee that the owner of the apartments will maintain their property as well as the neighboring single family property owners will. Allowing higher density also contributes to existing traffic problems, as the only way on or off North Merritt Island for most trips, other than to the space center, is by a single drawbridge across the Barge Canal. The only other means of egress from North Merritt Island is by driving through Kennedy Space Center property and then crossing the SR 405 drawbridge. There are times when this bridge is closed to traffic (during transfer of space hardware, for example). In addition, construction has begun on a new bridge that will replace this aging structure. However, the project will not be complete for several years. All of this (allowing increased density in particular) will cause concerns during a hurricane evacuation.

Admin policy 7 states: the proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetland and the remaining buildable area is still low. So before any construction begins, the owners will need to raise the elevation. This, combined with impervious surfaces from the proposed apartments and parking areas, will create an increase in stormwater runoff that has to go somewhere. In addition, the ongoing Courtenay Parkway repaving project (on the east side of the Hayes' property) includes the removal of drainage ditches between the north and south bound lanes, along with the installation of concrete barriers or curbing (in place of the ditches). This will prevent water from flowing across the road, but will also result in additional drainage onto the Hayes' property, and will most likely compel them to add a drainage ditch or swale in front of their property (further reducing their buildable area). During a significant rain event, if stormwater from the Hayes' property doesn't drain east onto or across Courtenay Parkway, there's a higher possibility of it running towards the homes bordering the west side of the



property. I recently visited these homes and noted that they are already experiencing drainage issues. I also observed that these homes are separated by the Hayes' property by a permanent body of water that's 35 to 50 feet wide and 5 to 10 feet deep in some areas, and this is during the dry season. At least one homeowner has no dry land between his pool and patio structure and the permanent water source behind it. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely to worsen the existing drainage problems experienced by their neighbors to the west.

Admin Policy 8 addresses public health, safety and welfare. Because most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment, and possibly to the Indian River Lagoon. Unfortunately, we are seeing episodes of Red Tide and fish kills all too often, and increased density is not helping solve this problem. Although the current property owners (Carter and Jessica Hayes) have stated that they plan to connect to a sewer system, there is no guarantee that they will actually do this. Most developers install septic systems on North Merritt Island because it is cheaper and because they can. If they are successful in getting their property rezoned to allow higher density, there is nothing preventing the Carters from selling it at a profit, and the new owners could then be motivated to install a septic system to increase their profits.

An alternative use would be to develop these lots to a density of 1, or even 2, unit(s) per acre, in keeping with the history, flood-prone tendencies and character of this and the surrounding properties.

We respect your consideration. Thank you.

Phil Bennardo  
President, North Merritt Island Homeowners Association



**From:** [D. Barker](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)  
**Subject:** RE: Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting  
**Date:** Wednesday, January 26, 2022 4:11:41 PM

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

Commissioners,  
Please forgive the pertinent info I left out of my first email, sent to your office at 12:31 on 01/26/22.  
Personal Info:  
Deborah Barker  
4540 Deanna Court  
Merritt Island, FL. 32953  
Citrus River Groves Subdivision, North Merritt Island  
District 2  
Contact Info:  
Email: [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)  
Home Phone: 321-454-3327  
Cell Phone: 321-614-1392

---

**From:** D. Barker [<mailto:threeoaks@cfl.rr.com>]  
**Sent:** Wednesday, January 26, 2022 12:31 PM  
**To:** [D1.Commissioner@BrevardFL.gov](mailto:D1.Commissioner@BrevardFL.gov); [D2.Commissioner@BrevardFL.gov](mailto:D2.Commissioner@BrevardFL.gov);  
[D3.Commissioner@BrevardFL.gov](mailto:D3.Commissioner@BrevardFL.gov); [D4.Commissioner@BrevardFL.gov](mailto:D4.Commissioner@BrevardFL.gov); [D5.Commissioner@BrevardFL.gov](mailto:D5.Commissioner@BrevardFL.gov)  
**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)

**Subject:** Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting

Good Day Brevard County Board of County Commissioners,

My correspondence to you today is in reference to:

Board of County Commission Meeting 02/03/22

Agenda Item H.10, Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

I am requesting you deny this request as the Developer's property to the West partially adjoins our property to the East, **meaning any development will be in my back yard**. Currently our rear view is a drainage canal full of wildlife coupled with many indigenous trees & protected plant life, and if this zoning change passes, I will view a backyard encompassing a 9 to 11 unit apartment rental complex, or duplexes or townhomes.

I am a 45 year Merritt Island resident. My Husband & I own the property at 4540 Deanna Court, North Merritt Island, Florida, Citrus River Groves Subdivision. We purchased the lot in 1994 and built our home in accordance with Brevard County approval in 1997/98. We clearly have demonstrated our investment in North Merritt Island and vested rights thereto for 24 years.

I am physically disabled. My home is my physical & emotional sanctuary, as I'm sure your home is to you. Due to my physical limitations, I have very limited quality of life outside the boundaries of my home. If this zoning change is approved, we are concerned there will be only minimal standards set



and adhered to during the building & permitting process, past this rezoning change request. It is my fear that the renters of a 9-unit apartment complex will become my co-located neighbors creating distractions of daily life to what I enjoy within my current home boundaries. The needs of existing homeowner's with vested rights should take precedence over new re-zoning requests and new construction.

In reviewing Brevard County's Mission Statement, Vision Statement, and Core Values, I see the County Commissioners as Stewards of our County, are tasked with the same issues I am writing to you about today, such as:

- Brevard's Quality of Life
- Health & Safety Needs of Our County
- Protecting Our Environment
- Conserving Our Natural Resources
- Leadership
- Quality
- Accountability

For the County Commissioners, your vote on this rezoning change is not simply a business/financial decision for the Developer. It is personal welfare, standard of living, humanitarian and quality control decision for the homeowners that have lived in the existing abutting homes, paying property taxes and supporting Brevard North Merritt Island economy for the past 24 or more years.

**If you are a County Commissioner that votes in favor of this zoning change, you will be eliminating my quality of life as a disabled long-term resident of Brevard County.** Your vote for the zoning change will adversely affect my physical and mental well-being, by creating plummeting standard of living issues for my property and myself. The existing trees that buffer the noise & protect the view will be cut down and will provide a front-row seat for a rental community. **I can't imagine you would want to be a County Commissioner voting against a physically disabled multi-decade resident of Brevard County.** I also can't imagine you voting for this re-zoning if this change would be made in your own back yard.

There are abundant Environmental & Safety issues that are involved in this zoning change request, all related to new construction in this particular area, substantiating why the property in question should remain AU:

- Inadequate drainage
- Flooding
- Construction on Wetlands
- Impact on Lagoon due to septic/sewer
- Safety of additional residents leaving Merritt Island during Hurricanes
- Outdated FEMA Flood Map
- Density Issues
- Violates County Administrative Policies
- Existing canal on East side of Deanna Ct. Properties/West Side of rezoning request is at capacity during the dry season and cannot accommodate any further run-off.

This rezoning change will ruin the aesthetics of North Merritt Islands' rural character. Such rezoning will deplete the numerous protected resources of the area, such as Indigenous Trees & Plants, in addition to protected wildlife such as alligators, bald eagles and various types of turtles.

Other pertinent items relating to this zoning request:

#1. The property requested for rezoning has been grandfathered in under AU.



#2. As part of the property included in the rezoning request is located in a flood plain, this item should not be considered under the auspices of an outdated FEMA Flood plain map.

#3. At what point should new construction be stopped in North Merritt Island, for any and all of the Environmental and Safety issues listed above?

The Mission and Vision of Brevard County identifies the reason Government exists at the local level, its Vision illustrates the desired future of the County, and the Core Values are those characteristics it's Leaders should possess to carry the Mission and Vision forward to their Constituents.

As a +4 decade Brevard County resident, a voter, a tax-payer, and a health-challenged member of your local community, I am trusting the BOCC to assume the roles as Administrators to support the numerous reasons listed herein this email to deny this zoning request.

Please deny the Carter & Jessica Hayes Rezoning Request from AU to RU-2-4, so as not to disrupt the Environmental & Safety Issues, coupled with diminished Quality of Life issues highlighted herein.

Thank you in advance to your attention in this integral matter.

I can be reached at 321-454-3327 (home) or 321-614-1392 (cell) with any questions or appreciated feedback.



**Sunset Lakes Homeowners Association, Inc**

C/o Leland Management  
1221 Admiralty Blvd  
Rockledge, FL 32955

Objection  
21Z00042  
Hayes

January 26, 2022

Subject: Board of County Commissioners Meeting, February 3, 2022, Agenda Item 10,  
Rezoning Request 21Z00042

Dear Commissioners Zonka, Smith, Lober, Pritchett, Tobia, and Smith,

The Sunset Lakes Homeowners Association, Inc, representing 469 homeowners in North Merritt Island, is opposed to the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential (AU) to a multiple family zoning that would allow 10 rental units (reference 21Z00042).

The subject property is currently zoned AU that allows no more than one unit/home per parcel. The owners want to change the zoning to allow much higher density and then build an apartment building with ten 645 square foot rental units. Not only is this inconsistent with the surrounding neighborhoods, it will exacerbate the drainage and flooding problems experienced in the area during the rainy season.

Allowing rezoning of this property will set a precedence to do the same for the adjacent properties by increasing density adding to current traffic backups across the barge canal at peak times during the week. In addition, storm water management will potentially negatively impact surrounding neighborhoods, some of which are already dealing with flooding during heavy rains.

Thank you for your consideration in this matter.

Respectfully,



Ron Davis  
President  
Sunset Lakes Homeowners Association, Inc.  
Merritt Island, FL



Cc: Board of Directors, SLHOA  
Brittany Robberecht, Leland Management  
Mr. Phil Bernardo, President, NMIHOA



Objection  
21Z00042  
Hayes

**From:** Commissioner, D1  
**To:** Jones, Jennifer  
**Cc:** Pritchett, Rita; Mascellino, Carol; Smith, Nathan; Price, Jessica  
**Subject:** FW: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042  
**Date:** Monday, January 31, 2022 9:10:40 AM

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Good morning Jennifer,

On behalf of Commissioner Pritchett, our office is forwarding the below public comment concerning Item H.11. Thank you.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett

District 1 Commission Office  
7101 S. Highway 1  
Titusville, FL 32780  
Telephone: 321-607-6901

Please note:

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

**From:** Mary Brotherton <marybrotherton@gmail.com>

**Sent:** Sunday, January 30, 2022 11:43 PM

**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>

**Subject:** Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042

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

Commissioner Pritchett:

I'm writing you today in reference to the following:

Board of County Commissioners Meeting of 02/03/22  
Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.  
Brevard County Planning & Development ID# 21Z00042  
Tax Accounts 2318403 & 2318404

My name is Mary Brotherton, and I oppose rezoning property west of State Road 3, because I feel that doing so will impair my quality of life on North Merritt Island. I am the founding president of the nonprofit bUneke, which produces, among other things, bUneke Brevard, which promotes other nonprofits, with an emphasis on protecting the environment, making our world better, and preserving



history.

The rezoning request by Carter and Jessica Hayes is literally in my back yard, as the boundaries of their property adjoin my next-door neighbors, therefore impacting where I live. I believe rezoning will be detrimental to my quality of life, the excellence of Merritt Island, and lifestyles throughout Brevard County, due to the waterways we all share.

My husband and I bought a home at 4520 Deanna Court, in Merritt Island, after researching many options in and out of Brevard County. We chose a home in Citrus River Groves, because we felt it offered a particular quality of life, a quality of life we wanted.

Without a homeowners' association to require it, the properties are respectfully well-maintained and the neighborhood is quiet. Yet, as all of the property owners on Deanna Court can attest, there is a certain untamed, natural quality that comes from the wetlands abutting our properties. I'm not an expert in this field, but I believe that rezoning the Hayes' property will jeopardize more than just my quality of life.

Many species will be uprooted from their ancestral homes in the wetlands and go – where?

I have never frowned on progress and I take full advantage of the modern advances our society has made, but I am afraid that if the zoning committee allows this one change; wildlife such as raccoons, rabbits, coyotes, and bobcats; migratory birds, native alligators, fish, turtles, and even gopher tortoises will be invading yards and swimming pools, because they will have nowhere else to go. When wildlife loses its quality of life, taxpayers suffer the consequences.

After I inherited my mother's rural South Carolina property, I had options. After years of maintaining my mother's home and acreage remotely, I considered how selling the property to a developer would enhance my quality of life by providing additional income for me, as I looked toward retirement. I also thought about how improving my property could impact my closest neighbors and I chose to sell it to my brother, who is restoring it properly. This meant the neighbors could maintain their quality of life, while I remained here on my beloved island.

I understand that Mr. and Mrs. Hayes have given verbal assurances and have promised to do their best to maintain the wetlands between their property and my direct neighbors. I'm old enough to realize the futility of relying on assurances and promises. Solemn vows and written contracts are broken every day, and when they are, someone's quality of life is forever changed – often, negatively.

I am deeply concerned by assurances and promises that might be no more than wind, in the future. Who will suffer the consequences if, once rezoned, the property is then sold to an actual developer who didn't make any assurances or promises? What's to stop adjoining landowners from having their properties rezoned so they can each sell to an entity that will forever change the landscape and quality of life in North Merritt Island, all in the name of progress? What will happen when that property is allowed to set an island-wide precedent, allowing for the destruction of our precious tree canopy and we have a larger asphalt and concrete footprint where natural erosion and flood-protection currently exist? In the name of progress, every piece of litter, every oil spill, every drop of rain that used to soak into the ground, will run across adjoining properties, potentially flooding them, on their way to the already over-taxed Indian River Lagoon. What assurances will be given to prevent this pollution in five years, ten years, fifty years? I am not assured.

Progress is not improving anything if it compromises the wetlands and adjoining properties. We have seen the extinction of far too many lifeforms in the 21<sup>st</sup> century. Please, don't agree to rezone this property and make the North Merritt Island lifestyle become a thing of the past.

I strongly oppose rezoning property owned by Carter and Jessica Hayes, west of State Road 3 in North Merritt Island, because I feel that doing so will dramatically impair my quality of life, as well as the quality of life of many of my nearby taxpayers.



When you vote, I urge you to contemplate the health of our environment as well as the impact rezoning will make on many homeowners throughout Brevard County.

Thank you for your time and considerate attention to this,  
Mary Brotherton



Objection  
21Z00042  
Hayes

**From:** [Mary Brotherton](#)  
**To:** [Commissioner, D4](#)  
**Subject:** Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042  
**Date:** Sunday, January 30, 2022 11:44:48 PM

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

Commissioner Smith:

I'm writing you today in reference to the following:

Board of County Commissioners Meeting of 02/03/22

Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

My name is Mary Brotherton, and I oppose rezoning property west of State Road 3, because I feel that doing so will impair my quality of life on North Merritt Island. I am the founding president of the nonprofit bUneke, which produces, among other things, bUneke Brevard, which promotes other nonprofits, with an emphasis on protecting the environment, making our world better, and preserving history.

The rezoning request by Carter and Jessica Hayes is literally in my back yard, as the boundaries of their property adjoin my next-door neighbors, therefore impacting where I live. I believe rezoning will be detrimental to my quality of life, the excellence of Merritt Island, and lifestyles throughout Brevard County, due to the waterways we all share.

My husband and I bought a home at 4520 Deanna Court, in Merritt Island, after researching many options in and out of Brevard County. We chose a home in Citrus River Groves, because we felt it offered a particular quality of life, a quality of life we wanted.

Without a homeowners' association to require it, the properties are respectfully well-maintained and the neighborhood is quiet. Yet, as all of the property owners on Deanna Court can attest, there is a certain untamed, natural quality that comes from the wetlands abutting our properties. I'm not an expert in this field, but I believe that rezoning the Hayes' property will jeopardize more than just my quality of life.

Many species will be uprooted from their ancestral homes in the wetlands and go – where?

I have never frowned on progress and I take full advantage of the modern advances our society has made, but I am afraid that if the zoning committee allows this one change; wildlife such as raccoons, rabbits, coyotes, and bobcats; migratory birds, native alligators, fish, turtles, and even gopher tortoises will be invading yards and swimming pools, because they will have nowhere else to go. When wildlife loses its quality of life, taxpayers suffer the consequences.



After I inherited my mother's rural South Carolina property, I had options. After years of maintaining my mother's home and acreage remotely, I considered how selling the property to a developer would enhance my quality of life by providing additional income for me, as I looked toward retirement. I also thought about how improving my property could impact my closest neighbors and I chose to sell it to my brother, who is restoring it properly. This meant the neighbors could maintain their quality of life, while I remained here on my beloved island.

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Thank you for your time and considerate attention to this,  
Mary Brotherton



Objection  
21Z00042  
Hayes

**From:** [Commissioner, D1](#)  
**To:** [Mary Brotherton](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#); [Jones, Jennifer](#)  
**Subject:** RE: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042  
**Date:** Monday, January 31, 2022 11:47:45 AM  
**Attachments:** [image001.png](#)

---

Ms. Brotherton,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

***Please note:***

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

**From:** Mary Brotherton <marybrotherton@gmail.com>  
**Sent:** Sunday, January 30, 2022 11:43 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>  
**Subject:** Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042

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

Commissioner Pritchett:

I'm writing you today in reference to the following:



Board of County Commissioners Meeting of 02/03/22  
Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.  
Brevard County Planning & Development ID# 21Z00042  
Tax Accounts 2318403 & 2318404

My name is Mary Brotherton, and I oppose rezoning property west of State Road 3, because I feel that doing so will impair my quality of life on North Merritt Island. I am the founding president of the nonprofit bUneke, which produces, among other things, bUneke Brevard, which promotes other nonprofits, with an emphasis on protecting the environment, making our world better, and preserving history.

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Many species will be uprooted from their ancestral homes in the wetlands and go – where?

I have never frowned on progress and I take full advantage of the modern advances our society has made, but I am afraid that if the zoning committee allows this one change; wildlife such as raccoons, rabbits, coyotes, and bobcats; migratory birds, native alligators, fish, turtles, and even gopher tortoises will be invading yards and swimming pools, because they will have nowhere else to go. When wildlife loses its quality of life, taxpayers suffer the consequences.

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not assured.

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I strongly oppose rezoning property owned by Carter and Jessica Hayes, west of State Road 3 in North Merritt Island, because I feel that doing so will dramatically impair my quality of life, as well as the quality of life of many of my nearby taxpayers.

When you vote, I urge you to contemplate the health of our environment as well as the impact rezoning will make on many homeowners throughout Brevard County.

Thank you for your time and considerate attention to this,  
Mary Brotherton



Subject: Agenda Item H.10 to be discussed at the February 3,  
2022 Brevard County Board of County Commissioners meeting.

RECEIVED

JAN 31 2022

Dear Commissioner Pritchett,

D-1 COUNTY COMMISSION

My name is Ann Doucette. I live at 4560 Deanna Court, Merritt Island with my husband Dana. We are lifelong MI residents.

I am writing to discuss the rezoning issue ID# 21Z00042.

My husband and I have lived on Deanna Court since 1994. Our subdivision was developed from a citrus grove over 40 years ago.

We are zoned suburban residential 1 house per ½ acre.

The property of discussion is to the east of my residence. It splits my backyard and my neighbor to the south. There is a body of water running the backside of our subdivision and we own land on the other side of this "canal". This land which is connected to the property of discussion is considered wetlands.

This waterway is a major factor in our drainage. The current water level has been affected by the recent drainage updates to the north of our subdivision. In years past, it has gone to a trickle during the dry season allowing room for the rainy season. It now stays high and during the rainy season does encroach the property. Our subdivision does not want to be like Horseshoe Bend to the south that always floods.

I believe a zoning change to RU 2-4 is to much density for the canal to handle.

Another consideration is the properties adjacent to this property. Neither property is developed to the north or south. They are currently zoned AU. Then you have churches bordering these.



Across the street you have a mobile home park. They have multiple ways to access Courtenay. The large subdivision behind this also has multiple points of entry/exit. If the current zoning is changed to the requested zoning, you could have up to 25 cars having only one entry/exit point onto Courtenay.

There is one fire station on north Merritt Island. They do not have an ambulance. Our ambulance comes from a station located to the south of the drawbridge. There is one active restaurant, a bar, the Moose Lodge and 3 active gas stations. We are a rural community.

I am not against change. My family has lived in the area since the 1800's. We were removed from the current Air Force/Port Canaveral property in the 50's. When my dad was a child, the only road was Tropical Trail because there was no Barge Canal. My husband and I have spent our childhood traveling the two-lane Courtenay up to Pine Island Road. I have seen much change to the Island.

I just want a **reduction** in the zoning. I want the Hayes family to be able to use their land. I just believe the density is too great.

Thank you for your time and consideration.

A handwritten signature in cursive script, appearing to read "Ann Doucette".

Ann Doucette

Dana Doucette



Donald Barker  
4540 Deanna Court (District2)  
Merritt Island, FL 32953

RECEIVED

JAN 31 2022

January 26, 2022

D-1 COUNTY COMMISSION

RE: Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042

Brevard County Board of County Commissioners,

Honorable Rita Pritchett, District 1 ✓  
Honorable Bryan Lober, District 2  
Honorable John Tobia, District 3  
Honorable Curt Smith, District 4 (Vice Chair)  
Honorable Kristine Zonka, District 5 (Chair)

Thank you for your service and consideration. I am asking you to deny the Carter and Jessica Hayes zoning request as written. I support the North Merritt Island Dependent Districts recommendation of Suburban Residential (SR) zoning for the Hayes property with at least a 200 foot buffer zone protecting the wetlands area on the Hayes property incorporated in a binding development plan including the required use of County Sewer. The facts and circumstance supporting this request are detailed below:

I am a native Floridian and have made Brevard County my home since 1974. My wife and I bought property at 4540 Deanna Court, Merritt Island in 1994. We were taken by the rural nature of North Merritt Island, the family oriented nature of North Merritt Island as well as the beauty and serenity of the wetlands adjoining our property to the East. We worked hard, saved and built our home there in 1997/1998, along a beautiful nature canal behind the East side of Deanna Court. The last home on Deanna Court was built in 1999, completing Phase 3 of the Citrus River Groves Subdivision.

In December Of 2017, I retired after 30 years of service with the Brevard County Sheriff's Office. Our home has been our sanctuary and place of serenity. Out our back door is a wetlands and wildlife sanctuary. Except for some traffic noise from State Road 3 during rush hour, our neighborhood is very quiet. On Christmas Eve 2021, we received a notice from the County informing us of the Hayes Rezoning Request to build 10 rental units adjacent to our Suburban zoned home on a half-acre lot. Doesn't sound very appealing as a quality of life issue, does it? Ten (10) rental units, later increased to eleven (11) rental units is not compatible with our neighborhood, the surrounding communities on the West side of State Road 3, or many of the Boards Administrative Development Policies, #3, #4, #6, #7, and #8. This is a quality of life issue for me, my family and my neighbors as well as drainage and a serious flooding concern.

Our neighborhood, the Citrus River Groves subdivision, started construction in the 1980's. Citrus River Groves is an approved, permitted and completed subdivision immediately West of the Hayes Property and consists of ninety seven (97) homes. Our drainage system was permitted, inspected, approved, adopted and is maintained by Brevard County. As with most subdivisions in North Merritt Island our drainage flows to a man-made lake, ours is located on the West side of our subdivision. Citrus River Groves is zoned Suburban (SR) requiring homes to be built on half acre lots. The subdivisions and homes



surrounding and adjacent to Citrus River Groves are zoned for single family homes; compatible zoning of the surrounding area on the West side of State Road 3 is zoned Suburban Residential (SR), Estate Use Residential (EU and EU2), Rural Residential (RR1) and Agricultural residential (AU). The rezoning requested by the Hayes RU-2-4, euphemistically entitled "Low Density Multi-Family Residential", 10-11 multi-family rental units, abutting single family homes built on half-acre lots, some having been in existence for over 30+ years, is not properly compatible, nor should it be considered a proper transition to Suburban (SR)zoned homes on half-acre lots.

The Hayes Property consists of two (2) un-conforming lots located on the West side of State Road 3, grandfathered into an Agricultural residential (AU) zoning classification. The Hayes property is part of seven (7) lots located between the Orsinio Baptist Church to the South and the Victory Church to the North. These 7 lots, with the sole exception of a condemned house on one of the Hayes lots, have been undeveloped since they appeared on the Property Appraisers records/maps in the early 1960's. People have speculated on the value and future use of these lots for close to sixty (60) years and most of these lots have changed ownership several times. Once you approve rezoning for one of these lots you start down a slippery slope for zoning and cascade for development on the surrounding lots.

According to the County CIS maps supplied in the rezoning request review by County Staff, a large portion of these properties, including the Hayes' properties are located in an identified wetland and on a well-defined mapped FEMA Flood Plain. Storm water runoff in our part of North Merritt Island flows West and South, ask our neighbors in the Horseshoe Bend subdivision, immediately to our South that floods regularly. When we have brought drainage and wetland concerns up at the last two zoning meetings, County Staff has dismissed our concerns, saying it will be handled in the permitting process, irrespective of Board of County Commissions Administrative Development Policy 7 and Brevard County Code, Section 62-1151(c).

2021 was an unusually dry year for Brevard County in General and North Merritt Island in particular. In 2021 we had no hurricanes or tropical storms, yet the canal behind my house is approximately 1 foot below flood stage. Any significant rain fall causes the canal to reach or exceed flood stage. Photographs and a CD of photographs documenting this were provided to county staff at the North Merritt Island Dependent Special District Board. These photographs documenting the Deanna Court Canal were taken by me on January 5, 2022, in the dry season. It should be noted that our Deanna Court Canal up to several years ago, used to rise and fall with the seasons. With the drainage changes implemented by the County over the last several years, our canal stays full year round. We are concerned that any further development of property to the East will flood our property and that of our neighbors.

In reviewing the Hayes Rezoning Request with my neighbors and the North Merritt Island Home Owners Association, we found several conflicts with the County's Administrative Development Policies and County Code Section 62-1151(c), as listed below:

Admin Policy 3: The rezoning request increase in residential density is incompatible with existing land use because of:

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety, and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The purposed use is inconsistent with existing/emerging patterns of surrounding development considering:
  1. Historic land use patterns;



2. Actual development over the preceding three years

Admin Policy 4: The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. It will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

Admin Policy 6: The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

Admin Policy 7: A huge concern is that the proposed use will substantially aggravate existing and substantial drainage problems on surrounding properties and will negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Admin Policy 8:  
Considering the:

- 1) Character of the land use of the property surrounding the proposed rezoning,
- 2) The change in conditions of the adjoining land use of property surrounding the proposed rezoning,
- 3) The impact of it on traffic patterns and the established character of the surrounding property,
- 4) How inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors (Quality of Life)

Under other Factors to consider is under Brevard County Code Section 62-1151(c), for the same reasons, considering:

- 1) The character of the land use of the surrounding properties,
- 2) The change in conditions of the land use of the property being considered verses the surrounding properties,
- 3) The impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- 4) The proposed zoning classification's incompatibility with existing land use, and
- 5) The inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors (Quality of Life).

Our home is adjacent to the West side of the Hayes' property, and I have specific concerns with the proposed rezoning including quality of life, flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of surrounding properties. For many of us, our homes are our largest single investment. Would you buy a house on a half-acre lot zoned Suburban Residential (SR) next to a ten or eleven unit apartment complex?

Admin Policy 4 states: the purposed use must not materially and adversely impact an established residential neighborhood, and Admin Policy 8 addresses traffic concerns. The Hayes property is



bordered on the West side by several single-family homes on half-acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to our homes is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is also no guarantee the owner of the apartment building will maintain the property as the neighboring single family owners will. Allowing higher density also contributes to existing traffic problems, as the only way off North Merritt Island for most trips, other than through Kennedy Space Center, is by a drawbridge across the Barge Canal. The only other means off North Merritt Island is by driving through Kennedy Space Center property and then crossing the State Road 405 drawbridge. There are times when the SR 405 Bridge is closed to traffic, due to Kennedy Space Center Operations and/or security concerns for the KSC Federal Reservation. Additionally, construction has begun on a new a new bridge that will replace the aging SR 405 drawbridge. The SR405 Bridge Project will not be completed for several years, making the SR405 Hurricane evacuation route more problematic as the density of North Merritt Island increases.

Admin Policy 7 states: The purposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetlands, part is in a mapped FEMA Flood Plain and the remaining buildable land is low. Before any construction begins, the owners will have to raise the elevation. Raising the elevation combined with the impervious surfaces from the proposed apartments and parking area, will inevitably create an increase in storm water runoff that has to go somewhere. It would be difficult to conceive how the storm water runoff would be fully contained on the Hayes' property on the scope of the Hayes' proposed density. Additionally, the ongoing State Road 3 Courtenay Parkway repaving project, located to the East of the Hayes' property, includes the removal of the drainage ditches between the North and South bound lanes, along with the installation of concrete barriers and curbing in place of the drainage ditches. This will inevitably prevent water from flowing across the road in many locations, but will also result in an additional drainage burden onto the Hayes' property, and will likely compel them to increase the drainage ditch or swale across the front of their property, further limiting their buildable area. During a significant rain event, if storm water from the Hayes' property isn't fully contained or doesn't drain east onto or across SR3 / Courtenay Parkway, there's a high likelihood of the storm water running towards the homes bordering the West side of the Hayes' property. I live in one of these homes and regularly experience drainage issues.

My immediate neighbors and I are separated by the Hayes' property by a permanent body of water, a canal, that's 35 to 50 feet wide and 5-10 feet deep in some areas, and this is the dry season after an unusually dry year. My neighbors and I own land on both sides of the canal. One of my neighbors has no dry land between his pool and patio structure and the canal behind his home. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely, if not inevitable to worsen the existing drainage problems experienced by those of us that live on the West side of the Hayes property.

Admin Policy 8 addresses public health, safety and welfare. Most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment and to the Indian River Lagoon. All too often we are



seeing episodes of Red Tide and Fish Kills, in the Indian River and adjacent waterways. Although the Hayes' have stated they plan to connect to a sewer system, there is no guarantee that they will actually do so. Most developers install septic systems on North Merritt Island because it is significantly cheaper and because they can. If they Hayes are successful in getting their property rezoned to allow a substantially higher density, there is nothing to prevent the Hayes from selling the property at a profit, the new owners could then be motivated to install a septic system to decrease their expenses and increase their profits.

At the two zoning meetings I've attended, the Hayes have increased their requested number of residential units to eleven (11) and have said they intended to build townhouses, then duplexes, and then apartments on the property. County staff has noted, based on the buildable land it would be very difficult to build that number of units on the Hayes property, but that would be addressed in permitting. Mr. Hayes identified himself as a licensed contractor to the two prior boards and said he was going to develop the property himself. Mr. Hayes admitted to the board that his primary contracting business is remodeling and that he has never built a development of this type. Mr. Hayes has offered a 200 foot buffer zone between their property and the property to their West at both zoning meetings. Mrs. Hayes has identified herself as a licensed real estate agent. Both the North Merritt Island Dependent Special District and Planning and Zoning Board denied the Hayes' requested density/units. The North Merritt Island Dependent Special District then conferred with the Hayes offering, then recommending Suburban Residential (SR) zoning of two (2) units per acre. The Planning and Zoning board recommended RU-2-4 limited to three (3) units per acre.

While my neighbors and I would rather see the land undeveloped as a wetlands, drainage and conservation area, I support the North Merritt Island Dependent Special District's recommendation of Suburban Residential (SR) of two residential units per acre, with a binding development plan with at least a 200 foot buffer zone and a required connection to the available and nearby County Sewer System.

In a perfect world, the County would buy the seven mentioned lots and use them as a watershed and retention area to reduce flooding to communities on the West side of Courtenay Parkway, particularly the Horseshoe Bend Community. Opportunities like this seldom arise involving undeveloped land and are fleeting.

Thank you again for your service and your consideration of my concerns.

Respectfully,



Donald Barker

4540 Deanna Court

Merritt Island, FL 32953

Cell# 321-403-5694

Email: threeoaks@cfl.rr.com



**From:** [Commissioner, D1](#)  
**To:** [alainsandycarpentier@gmail.com](mailto:alainsandycarpentier@gmail.com)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#); [Jones, Jennifer](#)  
**Subject:** FW: Opposition Letter / Agenda Item H. 11, Carter and Jessica Hayes Rezoning  
**Date:** Wednesday, February 2, 2022 9:41:59 AM  
**Attachments:** [Opposition to H.11 Carter and Jessica Hayes.pdf](#)  
[image001.png](#)

---

Good morning,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

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**From:** Alain Carpentier <>  
**Sent:** Tuesday, February 1, 2022 6:18 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:** Opposition Letter / Agenda Item H. 11, Carter and Jessica Hayes Rezoning

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

Commissioners,

Subject line is attached for your consideration for the meeting scheduled for 2/3/2022.

Regards,  
Alain & Casandra Carpentier

Sent from my iPhone



January 29, 2022

Objection  
21Z00042  
Hayes

To: Brevard County, Board of County Commissioners  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Vierra, FL

From: Alain & Casandra Carpentier  
4550 Deanna Court  
Merritt Island, FL., 32953

Reference: (1) North Merritt Island Homeowners Association, Opposition Letter  
(2) Sunset Lakes Homeowners Association, Opposition Letter  
(3) Aerial Photos of surrounding parcels taken 23JAN2022  
(4) Citrus River Groves, Horseshoe Bend, and surrounding area Opposition Petition

Subject: Agenda Item H.12. Carter & Jessica Hayes Request zoning Change from AU to RU-2-4. Brevard County Planning & Development ID# 21Z00042.

Commissioners Zonka, Smith, Lober, Pritchett, Tobia, and Smith

We express our strong opposition to the rezoning of Parcel IDs: 23-36-34-00-761 and 23-36-34-00-762 from the current AU to proposed RU-2-4, owed by Carter and Jessica Hayes, allowing for 10 rental units. We own the property on parcel 41 in the subdivision Citrus River Groves, Merritt Island, located within 500 feet of the proposed rezoning area of both parcels owned by the Hayes, as identified on the zoning map. The RU-2-4 zoning is inconsistent, will impact drainage/flood areas, and set the precedence for others to do the same along the West of State Rd 3; greatly impacting already established communities.

Per, references 1, 2, & 4; the surrounding Homeowners Associations, Citrus River Groves, and Horseshoe Bend Rd., have a strong opposition to this type of inconsistent development which will affect our quality of life and the uniformities of already established neighborhoods. Citrus River Groves and Horseshoe Bend do not have an independent HOA; a petition and grass-roots campaign was started knocking on doors gaining the opposition signatures for those residents unable to attend the hearing. More than half of the community (67%) opposed; those statistics would increase; however, some residents were unreachable. The total oppositions represent hundreds of residents—and should speak volumes.

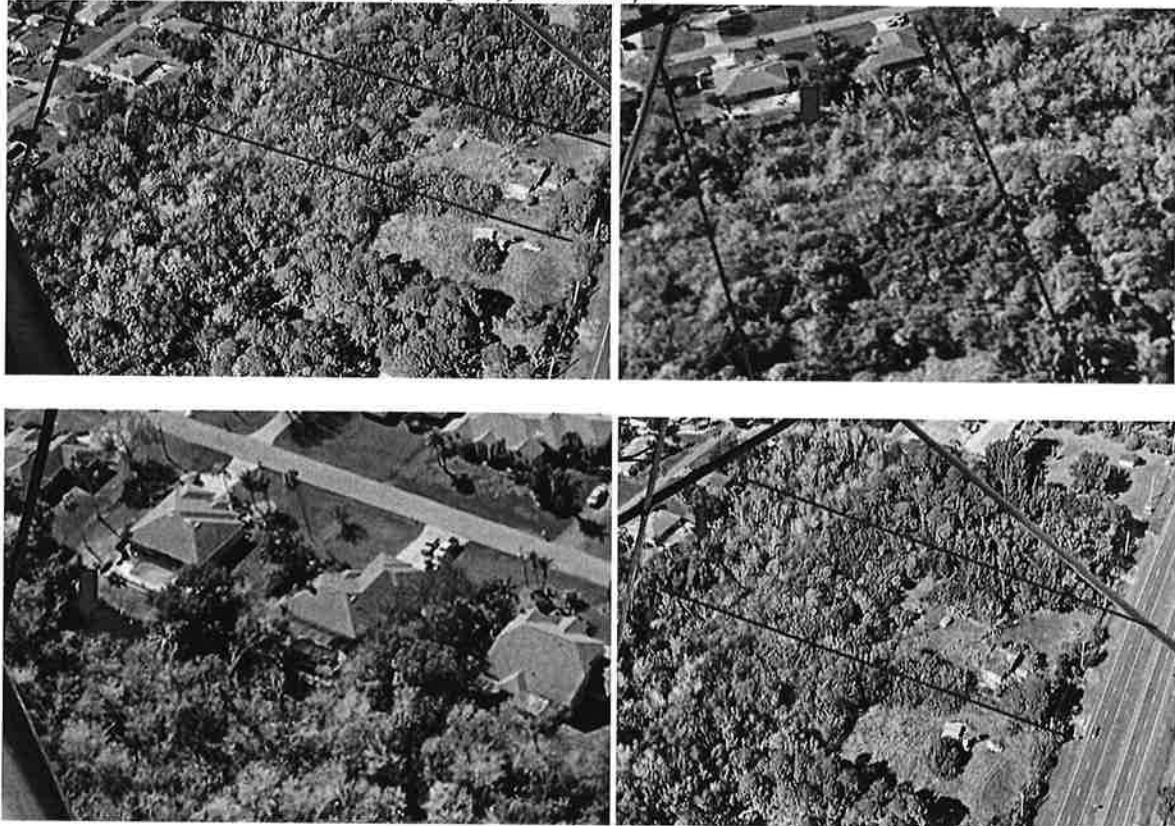
While the local community may be unable to prevent development, that in itself will be detrimental to the area, there is no denying new development, especially one which increases density and will cause a ripple-effect on our over-stressed drainage, cause additional traffic and safety problems, and potentially lower property values/raise flood insurance costs of the existing community. This is not good for us! We are asking our elected leaders to support their communities opposed position, by reducing the zoning, with interest to the following:

Flooding. An issue on the Island and in our community. Stormwater runoff and an overstressed drainage canal on Citrus River Groves is a major concern—our cup is full and is already spilling over. The canal, even in the dry season, is at capacity. Even if water is retained on the Hayes property, the volume of soil percolation will be diminished and land build-up will allow escaping water towards the lowest spot, which is in our drainage canal as I'm sure it won't be crowned to drain towards Courtenay. Making an already un-easy situation more stressful during ordinary summer rainfall. The rezoning may impact our current FEMA flood-zone category from X to AE, affecting the cost of current homeowner's flood insurance by \$800 yearly. This type of situation doesn't affect you, until it does...once you live in a home



that has a potential to flood, a homeowner will do everything to protect it from happening and/or recurring. Recent aerial photos (reference 3) were taken 23JAN22 showing the size of the drainage canal and wetlands sprawl. Please note – the drainage canal was originally a couple feet wide and 18 inches deep. It is now 30 foot wide in areas and 10 feet in sections. Any more capacity or surface saturation will erode our land/property faster.

*The redline indicates Hayes' parcels, the blue swimming pool on left is my property 4550 Deanna Court. There will be a lot of land clearing needed to support 11 units. The red arrow indicates the drainage canal which is resident owned and on our property parcels. Bottom right picture (although hard to see) shows the land pitching away from Courtenay.*



**Conservation & Wildlife.** Identified wetlands will be affected, wildlife (alligators, turtles, spoonbills, egrets and yes, even bald eagles) have been observed in the area, and any land clearing development will destroy their habitat. Development should consider the negative impacts to local wildlife habitat.

**Property value and associated costs.** Current home values in FL., have been shown to decrease in the areas of multi-family units; especially when dwellings are inconsistent with the neighborhoods already developed. Additionally, during a recent discussion with my HO insurance agency, it was eluded that a change in FEMA flood maps, usually from development, may change our zone (which is currently X) and increase our flood insurance by \$800 a year. Once again, not good for us and our neighbors.

**Infrastructure.** If rezoned as requested, there will only be one way on and off the parcel and that will be one-way, going South on Courtenay at 45MPH, presenting a hazard. This most likely, will increase congestion for both outgoing and returning traffic which will be making U-turns when returning to the dwellings. Additionally, the owner has said in the previous meetings he intends to use county water/sewer systems—while that is claimed, it is not enforced. He could change his mind in the development process and use septic to lessen the building costs, this will add increased effluent to



already over-saturated soils. Where is all this water usage supposed to go? It will bleed into the surrounding parcels which are at the tipping point.

We ask that you disapprove the proposed rezoning as requested and rezone for something smaller. The surrounding community risk far outweighs the potential reward, as every action has an equal or opposite reaction. Eleven (11) units is too much and is not consistent with the surrounding area zoning. We know our opinions are shared by many who have not managed to attend meeting or write letters and emails.

Thank you for your consideration, service, and support of our great communities.

Best regards,

/s/

Alain & Cassandra Carpentier

4550 Deanna Court



**From:** [Commissioner, D1](#)  
**To:** [Brittany Zilnicki](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Jones, Jennifer](#); [Price, Jessica](#)  
**Subject:** RE: Agenda Item H. 10 to be discussed at the February 3, 2022 Brevard County Board of County Commissioners Meeting  
**Date:** Wednesday, February 2, 2022 9:44:30 AM  
**Attachments:** [image001.png](#)

---

Good morning,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



***District 1 Commission Office***

**7101 S. Highway 1  
Titusville, FL 32780  
Telephone: 321-607-6901**

***Please note:***

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

---

**From:** Brittany Zilnicki <bzilnick2006@my.fit.edu>  
**Sent:** Tuesday, February 1, 2022 9:34 PM  
**To:** Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>  
**Subject:** Agenda Item H. 10 to be discussed at the February 3, 2022 Brevard County Board of County Commissioners Meeting



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

Brittany McLeod  
4530 Deanna Ct. (District 2)  
Merritt Island, FL 32953

February 1, 2022

Re: Agenda Item H.10 to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, regarding the Carter and Jessica Hayes Rezoning Request, Tax Account # 2318403 and 2318404, Brevard County Planning and Development ID # 21Z00042

Dear Honorable County Commissioners,

I am writing to you today to ask you to please consider denial of rezoning of Mr. and Mrs. Hayes property on the westbound side of State Road 3, Courtenay Parkway from Agricultural to High Density Residential. I live within 500 feet of this zoning request change at 4530 Deanna Court, in the Citrus River Groves neighborhood and I am opposed to this zoning request change.

My family and I moved to North Merritt Island from Northwest Palm Bay in 2018 after both my husband and I became employed at Kennedy Space Center. At the time of our move our daughter was just about to start kindergarten. After months of looking all over the county for a place to set down our roots and grow our family we fell in love with the rustic charm that North Merritt Island had to offer. The larger lot sizes were a huge advantage as we were now able to have the land we wish to have for our daughter to grow up on, playing outside but at the same time being able to be close to our careers, something that Palm Bay unfortunately could not offer us. We bought our home with the notion of growing old in North Merritt Island and staying in our forever home until we both retired in about 35 years.

We as a community have great concerns with what this will set the precedence for in the future. But I ask you at what and who's cost. Currently, there is a creek that runs through the back of the properties on Deanna Court. This creek when we moved here would rise and fall with the rainy and dry seasons. This creek no longer does this rise and fall; the ground is at maximum saturation all the way up to 5 feet from the waterline. I personally ran a soil saturation test on my property and my neighbors (4530 and 4540 Deanna Ct.) to see how much more water our properties could hold, and we are maxed out (I am Environmental Engineer graduate from Florida Institute of Technology class of 2013). This year was a rather dry year with no hurricanes or tropical storms. Just picture for a moment where all that water will go if the Hayes' are permitted to build 11 units on their property which at least one third of is deemed wetland by the current maps. All the properties that have this creek running through them on Deanna Court will flood. This will potentially change our flood zone and effect not only our property to the extent of erosion but also our insurance as we will be required to carry a certain level of flood insurance. This all comes at a cost to who? Not the Hayes', but the residents of Deanna Court.

I understand that growth is essential for progress and I am not opposed to growth. I am asking that the growth match that of the surrounding communities. All the land on the west side of State Road 3 has at least half acre lot sizes. Since I have heard Mr. Hayes speak already several times at different advisory board hearings, I know he will bring up the trailer park on the east side of State Road 3. However, those trailers are not permanent structures. They can be taken down and moved at a moment's notice, that is not something you can do with a townhouse,



duplex or apartment.

In closing I would like to say thank you for your time and leave you with this, we chose to live on North Merritt Island because it was an ideal location that offered things we were looking for in our forever home. We didn't move here to change North Merritt Island, we embraced its natural beauty and made North Merritt Island our home.

Respectfully,

Brittany McLeod



**From:** [Commissioner, D1](#)  
**To:** [Michael McLeod](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#); [Jones, Jennifer](#)  
**Subject:** RE: Board of County Commissioners Meeting of 02/03/22 Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4. Brevard County Planning & Development ID# 21Z00042 Tax Accounts 2318403 & 2318404  
**Date:** Wednesday, February 2, 2022 9:43:19 AM  
**Attachments:** [image001.png](#)

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**Sent:** Tuesday, February 1, 2022 8:44 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>  
**Subject:** Board of County Commissioners Meeting of 02/03/22 Agenda Item H.10. Carter & Jessica



Hayes Request to Change Zoning from AU to RU-2-4. Brevard County Planning & Development ID# 21Z00042 Tax Accounts 2318403 & 2318404

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

To whom it may concern,

Please see attached in regards to the

**Board of County Commissioners Meeting of 02/03/22**

**Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.**

**Brevard County Planning & Development ID# 21Z00042**

**Tax Accounts 2318403 & 2318404**

Thank you,  
Michael McLeod



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**To:** [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D5](#); [Commissioner, D1](#); [Commissioner, D4](#)  
**Subject:** Agenda Item H. 10 to be discussed at the February 3, 2022 Brevard County Board of County Commissioners Meeting  
**Date:** Tuesday, February 1, 2022 9:34:39 PM

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Objection  
21Z00042  
Hayes

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**Date:** Tuesday, February 1, 2022 8:44:05 PM  
**Attachments:** [Rezoning\\_01\\_22\\_McLeod Michael.docx](#)

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**Board of County Commissioners Meeting of 02/03/22**

**Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.**

**Brevard County Planning & Development ID# 21Z00042**

**Tax Accounts 2318403 & 2318404**

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Michael McLeod



**January 29, 2022**

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Brevard County Government Center  
2725 Judge Fran Jamieson Way, Vierra, FL

From: Alain & Casandra Carpentier  
4550 Deanna Court  
Merritt Island, FL., 32953

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already over-saturated soils. Where is all this water usage supposed to go? It will bleed into the surrounding parcels which are at the tipping point.

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Thank you for your consideration, service, and support of our great communities.

Best regards,

/s/

Alain & Cassandra Carpentier  
4550 Deanna Court



Subject: Agenda Item H.10 to be discussed at the February 3,  
2022 Brevard County Board of County Commissioners meeting.

RECEIVED

Dear Commissioner Smith,

JAN 11 2022

DISTRICT 4  
COMMISSION OFFICE

My name is Ann Doucette. I live at 4560 Deanna Court, Merritt  
Island with my husband Dana. We are lifelong MI residents.

I am writing to discuss the rezoning issue ID# 21Z00042.

My husband and I have lived on Deanna Court since 1994. Our  
subdivision was developed from a citrus grove over 40 years ago.

We are zoned suburban residential 1 house per ½ acre.

The property of discussion is to the east of my residence. It splits  
my backyard and my neighbor to the south. There is a body of  
water running the backside of our subdivision and we own land on  
the other side of this "canal". This land which is connected to the  
property of discussion is considered wetlands.

This waterway is a major factor in our drainage. The current  
water level has been affected by the recent drainage updates to  
the north of our subdivision. In years past, it has gone to a trickle  
during the dry season allowing room for the rainy season. It now  
stays high and during the rainy season does encroach the  
property. Our subdivision does not want to be like Horseshoe  
Bend to the south that always floods.

I believe a zoning change to RU 2-4 is to much density for the  
canal to handle.

Another consideration is the properties adjacent to this property.  
Neither property is developed to the north or south. They are  
currently zoned AU. Then you have churches bordering these.



Across the street you have a mobile home park. They have multiple ways to access Courtenay. The large subdivision behind this also has multiple points of entry/exit. If the current zoning is changed to the requested zoning, you could have up to 25 cars having only one entry/exit point onto Courtenay.

There is one fire station on north Merritt Island. They do not have an ambulance. Our ambulance comes from a station located to the south of the drawbridge. There is one active restaurant, a bar, the Moose Lodge and 3 active gas stations. We are a rural community.

I am not against change. My family has lived in the area since the 1800's. We were removed from the current Air Force/Port Canaveral property in the 50's. When my dad was a child, the only road was Tropical Trail because there was no Barge Canal. My husband and I have spent our childhood traveling the two-lane Courtenay up to Pine Island Road. I have seen much change to the Island.

I just want a **reduction** in the zoning. I want the Hayes family to be able to use their land. I just believe the density is too great.

Thank you for your time and consideration.

  
Ann Doucette

Dana Doucette



Donald Barker  
4540 Deanna Court (District2)  
Merritt Island, FL 32953

RECEIVED

JAN 31 2022

January 26, 2022

DISTRICT 4

COMMISSION OFFICE

RE: Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042

Brevard County Board of County Commissioners,

Honorable Rita Pritchett, District 1  
Honorable Bryan Lober, District 2  
Honorable John Tobia, District 3  
Honorable Curt Smith, District 4 (Vice Chair) ✓  
Honorable Kristine Zonka, District 5 (Chair)

Thank you for your service and consideration. I am asking you to deny the Carter and Jessica Hayes zoning request as written. I support the North Merritt Island Dependent Districts recommendation of Suburban Residential (SR) zoning for the Hayes property with at least a 200 foot buffer zone protecting the wetlands area on the Hayes property incorporated in a binding development plan including the required use of County Sewer. The facts and circumstance supporting this request are detailed below:

I am a native Floridian and have made Brevard County my home since 1974. My wife and I bought property at 4540 Deanna Court, Merritt Island in 1994. We were taken by the rural nature of North Merritt Island, the family oriented nature of North Merritt Island as well as the beauty and serenity of the wetlands adjoining our property to the East. We worked hard, saved and built our home there in 1997/1998, along a beautiful nature canal behind the East side of Deanna Court. The last home on Deanna Court was built in 1999, completing Phase 3 of the Citrus River Groves Subdivision.

In December Of 2017, I retired after 30 years of service with the Brevard County Sheriff's Office. Our home has been our sanctuary and place of serenity. Out our back door is a wetlands and wildlife sanctuary. Except for some traffic noise from State Road 3 during rush hour, our neighborhood is very quiet. On Christmas Eve 2021, we received a notice from the County informing us of the Hayes Rezoning Request to build 10 rental units adjacent to our Suburban zoned home on a half-acre lot. Doesn't sound very appealing as a quality of life issue, does it? Ten (10) rental units, later increased to eleven (11) rental units is not compatible with our neighborhood, the surrounding communities on the West side of State Road 3, or many of the Boards Administrative Development Policies, #3, #4, #6, #7, and #8. This is a quality of life issue for me, my family and my neighbors as well as drainage and a serious flooding concern.

Our neighborhood, the Citrus River Groves subdivision, started construction in the 1980's. Citrus River Groves is an approved, permitted and completed subdivision immediately West of the Hayes Property and consists of ninety seven (97) homes. Our drainage system was permitted, inspected, approved, adopted and is maintained by Brevard County. As with most subdivisions in North Merritt Island our drainage flows to a man-made lake, ours is located on the West side of our subdivision. Citrus River Groves is zoned Suburban (SR) requiring homes to be built on half acre lots. The subdivisions and homes



surrounding and adjacent to Citrus River Groves are zoned for single family homes; compatible zoning of the surrounding area on the West side of State Road 3 is zoned Suburban Residential (SR), Estate Use Residential (EU and EU2), Rural Residential (RR1) and Agricultural residential (AU). The rezoning requested by the Hayes RU-2-4, euphemistically entitled "Low Density Multi-Family Residential", 10-11 multi-family rental units, abutting single family homes built on half-acre lots, some having been in existence for over 30+ years, is not properly compatible, nor should it be considered a proper transition to Suburban (SR)zoned homes on half-acre lots.

The Hayes Property consists of two (2) un-conforming lots located on the West side of State Road 3, grandfathered into an Agricultural residential (AU) zoning classification. The Hayes property is part of seven (7) lots located between the Orsinio Baptist Church to the South and the Victory Church to the North. These 7 lots, with the sole exception of a condemned house on one of the Hayes lots, have been undeveloped since they appeared on the Property Appraisers records/maps in the early 1960's. People have speculated on the value and future use of these lots for close to sixty (60) years and most of these lots have changed ownership several times. Once you approve rezoning for one of these lots you start down a slippery slope for zoning and cascade for development on the surrounding lots.

According to the County CIS maps supplied in the rezoning request review by County Staff, a large portion of these properties, including the Hayes' properties are located in an identified wetland and on a well-defined mapped FEMA Flood Plain. Storm water runoff in our part of North Merritt Island flows West and South, ask our neighbors in the Horseshoe Bend subdivision, immediately to our South that floods regularly. When we have brought drainage and wetland concerns up at the last two zoning meetings, County Staff has dismissed our concerns, saying it will be handled in the permitting process, irrespective of Board of County Commissions Administrative Development Policy 7 and Brevard County Code, Section 62-1151(c).

2021 was an unusually dry year for Brevard County in General and North Merritt Island in particular. In 2021 we had no hurricanes or tropical storms, yet the canal behind my house is approximately 1 foot below flood stage. Any significant rain fall causes the canal to reach or exceed flood stage. Photographs and a CD of photographs documenting this were provided to county staff at the North Merritt Island Dependent Special District Board. These photographs documenting the Deanna Court Canal were taken by me on January 5, 2022, in the dry season. It should be noted that our Deanna Court Canal up to several years ago, used to rise and fall with the seasons. With the drainage changes implemented by the County over the last several years, our canal stays full year round. We are concerned that any further development of property to the East will flood our property and that of our neighbors.

In reviewing the Hayes Rezoning Request with my neighbors and the North Merritt Island Home Owners Association, we found several conflicts with the County's Administrative Development Policies and County Code Section 62-1151(c), as listed below:

Admin Policy 3: The rezoning request increase in residential density is incompatible with existing land use because of:

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety, and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The purposed use is inconsistent with existing/emerging patterns of surrounding development considering:
  1. Historic land use patterns;



2. Actual development over the preceding three years

Admin Policy 4: The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. It will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

Admin Policy 6: The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

Admin Policy 7: A huge concern is that the proposed use will substantially aggravate existing and substantial drainage problems on surrounding properties and will negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Admin Policy 8:  
Considering the:

- 1) Character of the land use of the property surrounding the proposed rezoning,
- 2) The change in conditions of the adjoining land use of property surrounding the proposed rezoning,
- 3) The impact of it on traffic patterns and the established character of the surrounding property,
- 4) How inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors (Quality of Life)

Under other Factors to consider is under Brevard County Code Section 62-1151(c), for the same reasons, considering:

- 1) The character of the land use of the surrounding properties,
- 2) The change in conditions of the land use of the property being considered verses the surrounding properties,
- 3) The impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- 4) The proposed zoning classification's incompatibility with existing land use, and
- 5) The inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors (Quality of Life).

Our home is adjacent to the West side of the Hayes' property, and I have specific concerns with the proposed rezoning including quality of life, flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of surrounding properties. For many of us, our homes are our largest single investment. Would you buy a house on a half-acre lot zoned Suburban Residential (SR) next to a ten or eleven unit apartment complex?

Admin Policy 4 states: the purposed use must not materially and adversely impact an established residential neighborhood, and Admin Policy 8 addresses traffic concerns. The Hayes property is



bordered on the West side by several single-family homes on half-acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to our homes is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is also no guarantee the owner of the apartment building will maintain the property as the neighboring single family owners will. Allowing higher density also contributes to existing traffic problems, as the only way off North Merritt Island for most trips, other than through Kennedy Space Center, is by a drawbridge across the Barge Canal. The only other means off North Merritt Island is by driving through Kennedy Space Center property and then crossing the State Road 405 drawbridge. There are times when the SR 405 Bridge is closed to traffic, due to Kennedy Space Center Operations and/or security concerns for the KSC Federal Reservation. Additionally, construction has begun on a new a new bridge that will replace the aging SR 405 drawbridge. The SR405 Bridge Project will not be completed for several years, making the SR405 Hurricane evacuation route more problematic as the density of North Merritt Island increases.

Admin Policy 7 states: The proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetlands, part is in a mapped FEMA Flood Plain and the remaining buildable land is low. Before any construction begins, the owners will have to raise the elevation. Raising the elevation combined with the impervious surfaces from the proposed apartments and parking area, will inevitably create an increase in storm water runoff that has to go somewhere. It would be difficult to conceive how the storm water runoff would be fully contained on the Hayes' property on the scope of the Hayes' proposed density. Additionally, the ongoing State Road 3 Courtenay Parkway repaving project, located to the East of the Hayes' property, includes the removal of the drainage ditches between the North and South bound lanes, along with the installation of concrete barriers and curbing in place of the drainage ditches. This will inevitably prevent water from flowing across the road in many locations, but will also result in an additional drainage burden onto the Hayes' property, and will likely compel them to increase the drainage ditch or swale across the front of their property, further limiting their buildable area. During a significant rain event, if storm water from the Hayes' property isn't fully contained or doesn't drain east onto or across SR3 / Courtenay Parkway, there's a high likelihood of the storm water running towards the homes bordering the West side of the Hayes' property. I live in one of these homes and regularly experience drainage issues.

My immediate neighbors and I are separated by the Hayes' property by a permanent body of water, a canal, that's 35 to 50 feet wide and 5-10 feet deep in some areas, and this is the dry season after an unusually dry year. My neighbors and I own land on both sides of the canal. One of my neighbors has no dry land between his pool and patio structure and the canal behind his home. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely, if not inevitable to worsen the existing drainage problems experienced by those of us that live on the West side of the Hayes property.

Admin Policy 8 addresses public health, safety and welfare. Most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment and to the Indian River Lagoon. All too often we are



seeing episodes of Red Tide and Fish Kills, in the Indian River and adjacent waterways. Although the Hayes' have stated they plan to connect to a sewer system, there is no guarantee that they will actually do so. Most developers install septic systems on North Merritt Island because it is significantly cheaper and because they can. If they Hayes are successful in getting their property rezoned to allow a substantially higher density, there is nothing to prevent the Hayes from selling the property at a profit, the new owners could then be motivated to install a septic system to decrease their expenses and increase their profits.

At the two zoning meetings I've attended, the Hayes have increased their requested number of residential units to eleven (11) and have said they intended to build townhouses, then duplexes, and then apartments on the property. County staff has noted, based on the buildable land it would be very difficult to build that number of units on the Hayes property, but that would be addressed in permitting. Mr. Hayes identified himself as a licensed contractor to the two prior boards and said he was going to develop the property himself. Mr. Hayes admitted to the board that his primary contracting business is remodeling and that he has never built a development of this type. Mr. Hayes has offered a 200 foot buffer zone between their property and the property to their West at both zoning meetings. Mrs. Hayes has identified herself as a licensed real estate agent. Both the North Merritt Island Dependent Special District and Planning and Zoning Board denied the Hayes' requested density/units. The North Merritt Island Dependent Special District then conferred with the Hayes offering, then recommending Suburban Residential (SR) zoning of two (2) units per acre. The Planning and Zoning board recommended RU-2-4 limited to three (3) units per acre.

While my neighbors and I would rather see the land undeveloped as a wetlands, drainage and conservation area, I support the North Merritt Island Dependent Special District's recommendation of Suburban Residential (SR) of two residential units per acre, with a binding development plan with at least a 200 foot buffer zone and a required connection to the available and nearby County Sewer System.

In a perfect world, the County would buy the seven mentioned lots and use them as a watershed and retention area to reduce flooding to communities on the West side of Courtenay Parkway, particularly the Horseshoe Bend Community. Opportunities like this seldom arise involving undeveloped land and are fleeting.

Thank you again for your service and your consideration of my concerns.

Respectfully,



Donald Barker  
4540 Deanna Court  
Merritt Island, FL 32953  
Cell# 321-403-5694  
Email: threeoaks@cfl.rr.com



Michael Christopher McLeod  
4530 Deanna Ct Merritt Island FL 32953

Objection  
21Z00042  
Hayes

February 01, 2022

Subject: Agenda Item 10 Rezoning Request 21Z00042, to be Discussed at the Feb. 3, 2022,  
Brevard County Board of County Commissioners Meeting (re: Rezoning Request 21Z00042)

Dear Commissioners,

As a life long resident of the state of Florida I have been witness to the growth and expansion of the many cities in our great state. However, I also have personal experience with the impacts that this type of expansion and growth can have on existing homes. My childhood home was built in ~1975 in what we came to find out was the middle of a lake bed. An abandoned railroad bed boarders the rear of the property. In ~2004 and again in ~2006 my child hood home flooded; in my opinion, due to the missteps of people in the same position that you are in. I hope that the decision you make today does not have the same unintended consiquence that allowed land that in my opinion, should have been agruculture land be rezoned to residential land and ultimatly lead to my childhood home being built in a lake bed and prone to flooding.

Regarding the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential to a multiple family zoning that instead allows 10 rental units (reference 21Z00042), I respectfully submit the following recommendation:

Considering Brevard County's development policies, namely as sited in  
Admin Policy 3:

This requested increase in residential density is incompatible with existing land use because

A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety and quality of life in existing neighborhoods in the area.

B. The proposed use would cause a material reduction in the value of existing abutting lands.

C. The proposed use is inconsistent with existing/emerging patterns of surrounding development considering

1. historic land use patterns;
2. actual development over preceding three years.

and as in Admin Policy 4:

The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

A. it will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

As in Admin Policy 6:

The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

and in Admin Policy 7:

A huge concern is that the proposed use will substantially aggravate existing substantial drainage problems on surrounding properties and will also negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.



Thus, as in Admin Policy 8:

Considering the

- (1) character of the land use of the property surrounding the proposed rezoning,
- (2) the change in the conditions of the adjoining land use of property surrounding the proposed rezoning,
- (3) the impact of it on traffic patterns and the established character of the surrounding property,
- (4) the incompatibility of the proposed zoning classification with existing land use,
- (5) and how inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors,

**this request should be denied as written.**

and under Factors to Consider, Section 62-1151(c), for the same reasons, considering

- (1) the character of the land use of the surrounding properties,
- (2) the change in conditions of the land use of the property being considered verses the surrounding properties,
- (3) the impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- (4) the proposed zoning classification's incompatibility with existing land use, and
- (5) the inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors; once again, **this proposal should be denied as written.**

My home borders the west side of the Hayes' property, and I have specific concerns with the proposed rezoning which include flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of the surrounding properties.

Admin policy 4 states: the proposed use must not materially and adversely impact an established residential neighborhood, and Admin policy 8 addresses traffic concerns. The Hayes' property is bordered on the west side by several single-family homes on ½ acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to them is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is no guarantee that the owner of the apartments will maintain their property as well as the neighboring single family property owners will. Allowing higher density also contributes to existing traffic problems, as the only way on or off North Merritt Island for most trips, other than to the space center, is by a single drawbridge across the Barge Canal. The only other means of egress from North Merritt Island is by driving through Kennedy Space Center property and then crossing the SR 405 drawbridge. There are times when this bridge is closed to traffic (during transfer of space hardware, for example). In addition, construction has begun on a new bridge that will replace this aging structure. However, the project will not be complete for several years. All of this (allowing increased density in particular) will cause concerns during a hurricane evacuation.

Admin policy 7 states: the proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetland and the remaining buildable area is still low. So before any construction begins, the owners will need to raise the elevation. This, combined with impervious surfaces from the proposed apartments and parking areas, will create an increase in stormwater runoff that has to go somewhere. In addition, the ongoing Courtenay Parkway repaving project (on the east side of the Hayes' property) includes the removal of drainage ditches between the north and south bound lanes, along with the installation of concrete barriers or curbing (in place of the ditches). This will



prevent water from flowing across the road, but will also result in additional drainage onto the Hayes' property, and will most likely compel them to add a drainage ditch or swale in front of their property (further reducing their buildable area). During a significant rain event, if stormwater from the Hayes' property doesn't drain east onto or across Courtenay Parkway, there's a higher possibility of it running towards the homes bordering the west side of the property. I live in one of these homes and regularly experience drainage issues. My immediate neighbors and I are separated by the Hayes' property by a permanent body of water that's 35 to 50 feet wide and 5 to 10 feet deep in some areas, and this is during the dry season. One of these neighbors has no dry land between his pool and patio structure and the permanent water source behind it. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely to worsen the existing drainage problems experienced by those of us that live on the west side of their property.

Admin Policy 8 addresses public health, safety and welfare. Because most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment, and possibly to the Indian River Lagoon. Unfortunately, we are seeing episodes of Red Tide and fish kills all too often, and increased density is not helping solve this problem. Although the current property owners (Carter and Jessica Hayes) have stated that they plan to connect to a sewer system, there is no guarantee that they will actually do this. Most developers install septic systems on North Merritt Island because it is cheaper and because they can. If they are successful in getting their property rezoned to allow higher density, there is nothing preventing the Carters from selling it at a profit, and the new owners could then be motivated to install a septic system to increase their profits.

An alternative use would be to develop these lots to a density of 1, or even 2, unit(s) per acre, in keeping with the history, flood-prone tendencies and character of this and the surrounding properties.

I respect your consideration. Thank you.

Michael Christopher McLeod



**From:** [Commissioner, D1](#)  
**To:** [malcolm.cater](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#); [Jones, Jennifer](#)  
**Subject:** RE: H11 File 3717 Planning Application  
**Date:** Wednesday, February 2, 2022 9:50:12 AM  
**Attachments:** [image001.png](#)

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Good morning,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 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:** malcolm.cater <m.cater5310@att.net>  
**Sent:** Wednesday, February 2, 2022 9:47 AM  
**To:** Commissioner, D2 <D2.Commissioner@brevardfl.gov>  
**Cc:** Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>  
**Subject:** H11 File 3717 Planning Application



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

Lady and Gentlemen

With respect to the above application, I would like to make the following observations.

1. The application does not endorse the spirit of the guidelines recommended by the North Merritt Island Development Board as to housing density. It has been the desire that any development North of Hall Road be limited to one unit per acre, this clearly does not meet these guidelines.
2. Increased development in the last decade has resulted in drainage issues and residents are now experiencing much higher water levels in retention ponds and drainage canals and several location are having issues with standing water even after moderate rainfall.
3. Part of the area of proposed development, is to my understanding, an area of natural wetlands. Any filling in or alterations will result in loss of natural wildlife habitat and in all likelihood interrupt the flow of water for natural drainage, in this area the flow is from the South to the North to Pine Island.
4. Will result in another point of access to SR 3 which is already becoming busy with traffic levels returning to levels not seen since the completion of the Shuttle program.

In conclusion I would earnestly ask you to consider rejecting this application on the above grounds

Respectfully yours

Malcolm Cater

5310 Lovett Drive

MI



**From:** Jan Salmon  
**To:** Jones, Jennifer  
**Subject:** Rezoning Merritt Island  
**Date:** Wednesday, February 2, 2022 12:55:35 PM

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Dest Jennifer,

We are unable to attend the meeting on February 3, so this letter is to state our strong objections to the proposed rezoning. I understand that progress marches on, but at what price? When every square inch of dirt is paved over and flooding becomes even more rampant?

Please let common sense prevail and do not make a decision based on the greed of developers. Do the right thing by the people of Merritt Island.

Thank you for your consideration.

Jan and Gary Salmon

5350 Lovett Dr, Merritt Island, FL 32953



**From:** [Commissioner, D1](#)  
**To:** [Mary Hillberg](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#); [Jones, Jennifer](#)  
**Subject:** RE: Item 21Z00042, Hayes  
**Date:** Wednesday, February 2, 2022 2:06:46 PM  
**Attachments:** [image001.png](#)

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Good afternoon,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

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**From:** Mary Hillberg <hillberg@earthlink.net>  
**Sent:** Wednesday, February 2, 2022 2:04 PM  
**To:** Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>  
**Subject:** Item 21Z00042, Hayes  
**Importance:** High



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

Dear Commissioners,

The Hayes application to change 2.79 acres on SR 3, North Merritt Island from AU to RU-2-4 (Low Density Multi-family Residential), to 11 units ((High Density Multi-Family Residential), was heard by the North Merritt Island Dependent Special Advisory Board on January 6<sup>th</sup>. Several community members including a Licensed Environmental Engineer, spoke in opposition for a variety of reasons including the physical constraints of the land, potential for wetland disruption, lack of space for stormwater containment, flooding, and lack of compatibility and character with the surrounding properties.

The Board voted to recommend denial of the high density zoning considering the reasons above, including multiple violations of listed Administrative Policies. Instead, the board voted to recommend SR zoning with a BDP, providing reasonable use of the 2.79 acres for the owners, compatibility with the surrounding residential area and safety with the floodplain/wetland impacted character of the lot. The Applicants and community members agreed with this option and all seemed settled.

At the P&Z meeting the applicants again requested 11 units and were initially approved for 3 units. After further urging by a member of the board, a second vote was taken to allow the Applicants 4 units on this lot, with two members abstaining from a second vote.

It is our understanding that the Applicants may again request 11 units (the maximum High Density Multi-family Residential allowed on the 2.79 acres of this wetland/floodplain constrained piece). We are very concerned this high density of residential construction will be out of character with the area, incompatible with the surrounding developed properties, and create flooding and traffic issues detrimental to the safety and values of the abutting properties and community.

We urge your consideration of SR with a BDP which will provide safe and appropriate use of the land and compatibility with the surrounding area.

Thank you,  
Mr.& Mrs. William Hillberg  
North Merritt Island



**From:** Mary Hillberg  
**To:** Commissioner, D2; Commissioner, D4; Commissioner, D3; Commissioner, D5; Commissioner, D1  
**Subject:** Item 21Z00042, Hayes  
**Date:** Wednesday, February 2, 2022 2:04:36 PM  
**Importance:** High

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

Dear Commissioners,

The Hayes application to change 2.79 acres on SR 3, North Merritt Island from AU to RU-2-4 (Low Density Multi-family Residential), to 11 units ((High Density Multi-Family Residential), was heard by the North Merritt Island Dependent Special Advisory Board on January 6<sup>th</sup>. Several community members including a Licensed Environmental Engineer, spoke in opposition for a variety of reasons including the physical constraints of the land, potential for wetland disruption, lack of space for stormwater containment, flooding, and lack of compatibility and character with the surrounding properties.

The Board voted to recommend denial of the high density zoning considering the reasons above, including multiple violations of listed Administrative Policies. Instead, the board voted to recommend SR zoning with a BDP, providing reasonable use of the 2.79 acres for the owners, compatibility with the surrounding residential area and safety with the floodplain/wetland impacted character of the lot. The Applicants and community members agreed with this option and all seemed settled.

At the P&Z meeting the applicants again requested 11 units and were initially approved for 3 units. After further urging by a member of the board, a second vote was taken to allow the Applicants 4 units on this lot, with two members abstaining from a second vote.

It is our understanding that the Applicants may again request 11 units (the maximum High Density Multi-family Residential allowed on the 2.79 acres of this wetland/floodplain constrained piece). We are very concerned this high density of residential construction will be out of character with the area, incompatible with the surrounding developed properties, and create flooding and traffic issues detrimental to the safety and values of the abutting properties and community.

We urge your consideration of SR with a BDP which will provide safe and appropriate use of the land and compatibility with the surrounding area.

Thank you,  
Mr.& Mrs. William Hillberg  
North Merritt Island



# Petition to OPPOSE Rezoning

<p>Petition summary and background</p>	<p>Background: Reference ID# 21Z00042 (attached) Notice from the Brevard County Planning and Development Department. Informing Citrus River Groves Residents of a re-zoning request for, Carter and Jessica Hayes from AU (Agricultural) to RU-2-4 (Multi-Family Residential), supporting the construction of 10 Townhomes and/or Multi-Family Units on the West side of Courtenay Parkway. County Commissioners Meeting (2/3/22)</p> <p>Summary: This rezoning will impact ALL residents of Citrus River Groves and surrounding neighborhoods.</p> <ul style="list-style-type: none"> <li>• Inconsistent with current established neighborhood plans/sub-divisions West of Courtenay Blvd</li> <li>• Rental properties normally have less pride in ownership</li> <li>• Flooding, the rezoning will force water into an already stressed irrigation canal for the immediate residents on Deanna Court impacting Horseshoe Bend Rd where drainage merges</li> <li>• FEMA flood zone identifications (Currently X, possibly update AE) direct impact to Homeowners insurance making flood protection mandatory at an estimated cost of \$800/yr</li> <li>• Wetland/wildlife preservation impact</li> <li>• Material reduction in value of abutting/surrounding lands</li> <li>• Safety &amp; Quality of life</li> <li>• Rezoning will drive change to an already established/planned neighborhood forcing residents to incur costs while the property owner profits. Landowner has admitted (during two initial hearings) he has no solid development plans as they are not required, has no experience in land development and is hesitant to enter a binding agreement. Once rezoned the owners do not have to fulfill their proposed promises</li> <li>• North Merritt Island Homeowners Association OPPOSES the proposed rezoning and recommends alternative density single family homes limiting 1, or even 2 per acre, equaling 4 or 5 homes, as permitted land use</li> <li>• Brevard Planning &amp; Zoning Board meeting held on January 10, 2022, initially OPPOSED, then retracted, the decision for a proposed reduction/compromise in the number of units citing this was to be their recommendation to County Commissioners final approval</li> <li>• The Zoning Board Hearing was conducted in the middle of the workday, most residents were unable to attend, in-person, to oppose and share/voice their concerns</li> </ul>
<p>Action petitioned for</p>	<p>We, the undersigned, are concerned citizens, electors, and surrounding residents, who <b>STRONGLY OPPOSE</b> the Hayes' request for RU-2-4 rezoning, as referenced and described. By signing this petition, I/WE, give permission to Alain and/or Casandra Carpenter and to others, as appointed, to act as proxy for opposing on MY/OUR behalf during the final Board of County Commissioners Meeting, for the Agenda item H.10. Carter &amp; Jessica Hayes, Request to Change Zoning.</p>

Printed Name	Signature/Date	Address
Joy S. Wagner	Joy Wagner 1/29/2022	5795 Eagle Way MI 32953



②

Printed Name	Signature / Date	Address
Barbara Marino	Barbara Marino	4510 Deanna Ct W.I
Kenneth Marino	Kenneth Marino 1/29/22	4510 Deanna Ct W.I
Teri Kuscsik	Teri Kuscsik 1/29/22	4570 Deanna Ct FL MI
DIANE GATES	Diane Gates 1/29/22	4580 Deanna Ct. FL, MI
DON GATES	DON GATES 1/29/22	4580 Deanna Ct FL MI
Steve Shidlo	Steve Shidlo 1/29/22	210 Annalisa pl MI FL
Lisa Radlen	Lisa Radlen 1/29/22	226 Annalisa pl MI FL
Leitani Zidan	Leitani Zidan 1/29/22	234 Annalisa pl MI, FL
Enad Zidan	Enad Zidan 1/29/22	234 Annalisa pl MI, FL
Elisbeth Rygle	Elisbeth Rygle 1/29/22	242 Annalisa pl MI FL
Mark Ryan	Mark Ryan 1/29/22	242 Annalisa pl MI FL
DANA DOWCESTE	DANA DOWCESTE 1/29/22	4560 Deanna Ct. MI FL
Kenneth Marino	Kenneth Marino 1/29/22	4510 Deanna Ct MI
Michael McLeod	Michael McLeod 1/30/2022	4530 Deanna Ct. MI
Brittany McLeod	Brittany McLeod 1/30/2022	4530 Deanna Ct. MI FL
Donald Barker	Donald Barker 1/30/2022	4540 Deanna Ct. MI FL





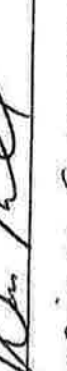













3

Printed Name	Signature/Date	Address
Cassandra Carpentier	Cassandra Carpentier 1/27/22	4550 Deanna Ct ME FL 32953
Henry Brown	Henry H Brown 1/28/22	4540 Kimberlee Ct 32953
Jim Tootle	James M. Tootle 1/28/22	4580 Horseshoe Bend 32953
Shannon Boyd	Shannon Boyd 1/28/22	4545 Horse Shoe Bend 32953
Gwen McCullough	Gwen McCullough 1/28/22	4540 Horse Shoe Bend 32953
Mike McCullough	Mike McCullough 1/28/22	4540 Horse Shoe Bend 32953
Scott Lancaster	Scott Lancaster 1/28/2022	4590 Annette Ct 32953
Dyce Romero	Dyce Romero 1/29/2022	4550 Horseshoe Bend 32953
Tran Velez	Tran F Velez 1/29	4520 Horseshoe Bend 32953
Curtis Fink	Curtis Fink 1/29	4420 Horseshoe Bend 32953
Robert Cassamassa	Robert Cassamassa 1/29	4400 Horseshoe Bend
Lisa Cassamassa	Lisa Cassamassa 1/29/22	4400 Horseshoe Bend ME
Liz Frasco	Liz Frasco 01/29/22	4360 Horseshoe Bend ME
James S. Thorpe	James S Thorpe 1/29/22	" " " "
Jane M. Thorpe	Jane M Thorpe 1/29/22	" " " "
CHACK CANTIER	CHACK CANTIER 1/29/22	4300 Horseshoe Bend ME













④

Printed Name	Signature/Date	Address
Amy Logsdon	 1/30/22	5825 Eagle Way
Rick Logsdon		5825 Eagle Way
Don Peresani		5830 Eagle Way
Wesley Persac	 1/30/22	5830 Eagle Way
Allison Gatchell	 1/30/22	5820 Eagle Way
Chris Gatchell	 1/30/22	5820 Eagle Way
Roger Race	 1/30/22	5800 Eagle Way
Charles Race	 1/30/22	5800 Eagle Way
Jenny Wicks		5775 Eagle Way
Marcia Halland		5755 Eagle Way
Jason Cox		5700 Eagle Way
Jenny Cox	 1/30/22	5700 Eagle Way
Delori Dulaney		5725 Eagle Way
Mike Dulaney	 1/30/22	5705 Eagle Way
Christian Luker	 1/30/22	5625 Eagle Way
Jason Jnr	 1/30/22	5625 Eagle Way



(B)

Printed Name	Signature/Date	Address
Tosh Hicks	 1-31-22	5775 Eskwad MI.
RACHEL DOUGETTE	 1/31/22	4500 DEANNA CT M.I.
KASEY WHITLEY	 1/31/22	4555 DEANNA CT M.I.
<del>WELBOO</del>	<del></del> 1/31/22	<del>4555 DEANNA CT M.I.</del>
Gary P. Laman	 1/31/22	4545 DEANNA CT NYI
Noraida FARRAR	Noraida FARRAR 1/31/22	4535 DEANNA CT MI
Mary Brotherton		4520 DEANNA CT MI
ADAM NATONIO	 1/31/22	285 Mockingbird Ln. MI
Amber Dover	 1/31/22	285 Mockingbird Ln. MI
Spencer Farrar	 1/31/22	4535 DEANNA CT MI
Alvin Carpenter	 1/31/22	4550 DEANNA COURT, MI., FL



February 1<sup>st</sup>, 2022

To Brevard County Commissioner's

Reference: February 2022 Zoning Meeting – Item 21Z00042

Items for consideration from the owner's of the property to rezone to RU-2-4 , RES 4 (4 units per acre):

Compatible with surrounding areas –

Directly across N. Courtenay Pkwy – Island Lakes Mobile Home Park – 4 units per acre (71.35 Acres / 304 mobile homes)

To the north 0.3 miles - North Island Villas is zoned RA-2-4 – 4 units per acre (12.22 acres/48 townhomes)

To the south 1.9 miles is zoned RU-2-10 Medium-Density Multiple Family

Along N. Courtenay Pkwy between north of the barge canal and south of the Porcher Road intersection the properties fronting Courtenay Pkwy are zoned RU-2-4, BU-1-A, BU-1, BU-2, AU, TR-3, PIP and IU. Each of these lots share a property line to the east or west depending which side of Courtenay Pkwy you are looking at with a residential single family home property with very minimal exceptions like Mitchell Ellington Park for example.

The majority of the homes that share a property line with those properties fronting Courtenay has a 6' privacy fence on the property line. We have no plan to touch the wetlands on the west part of our property and runs to the west property line. This will provide a natural buffer of approximately a 150' between our property fronting Courtenay and the residential property to the west. The wetlands were demarked in 2013 by the DEP, US Army Corp of Engineers in conjunction with St John's Water Management District and Brevard County Natural Resources. We will be having the wetlands markings updated prior to our site plan development.

Storm water management for our property will be addressed and submitted for approval during the process of site plan approval.

There are two existing entrances off of Courtenay to the property.

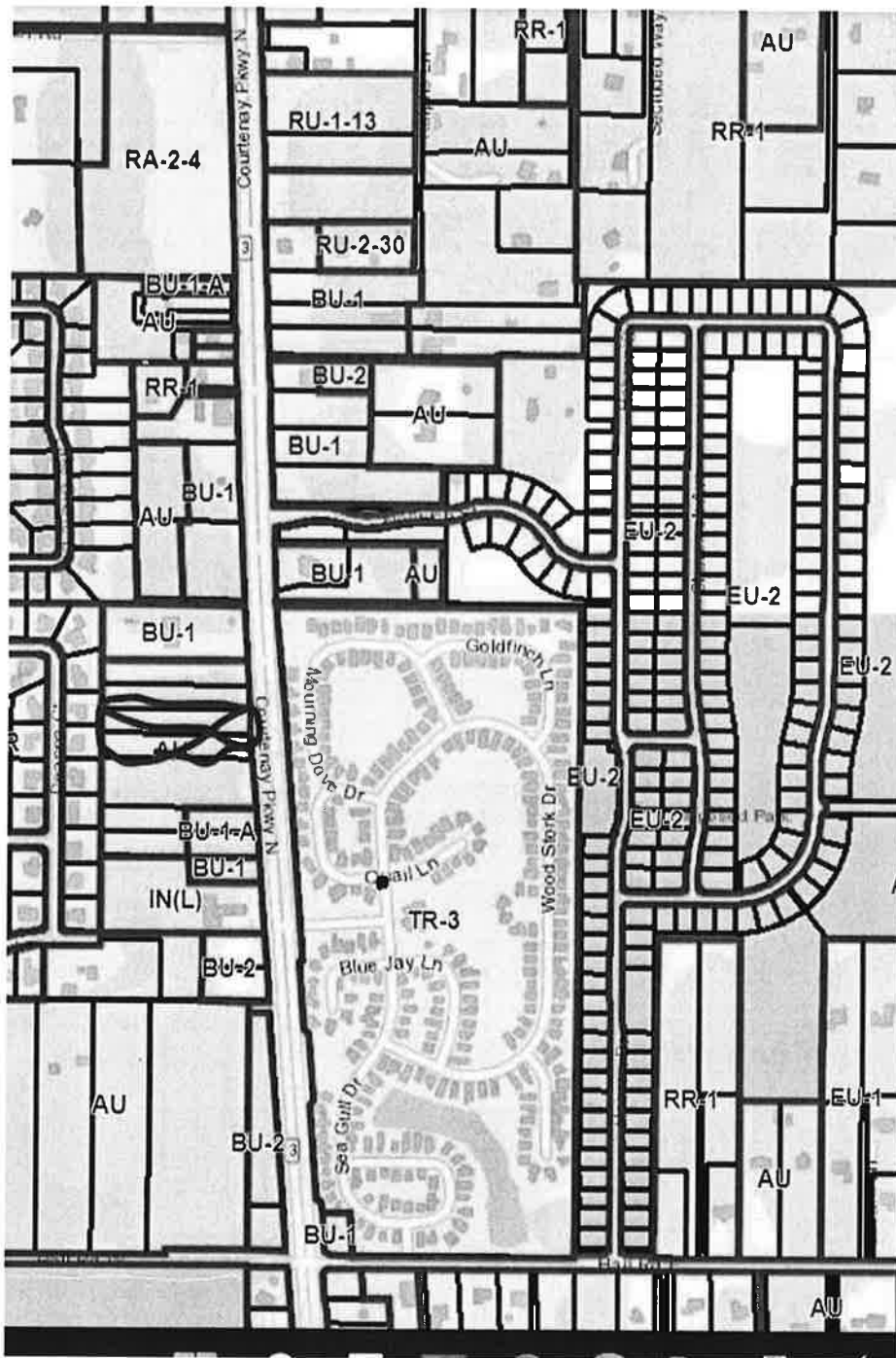
This property no longer meets the minimum lot size to be zoned AU.

Consistent with the comprehensive plan –

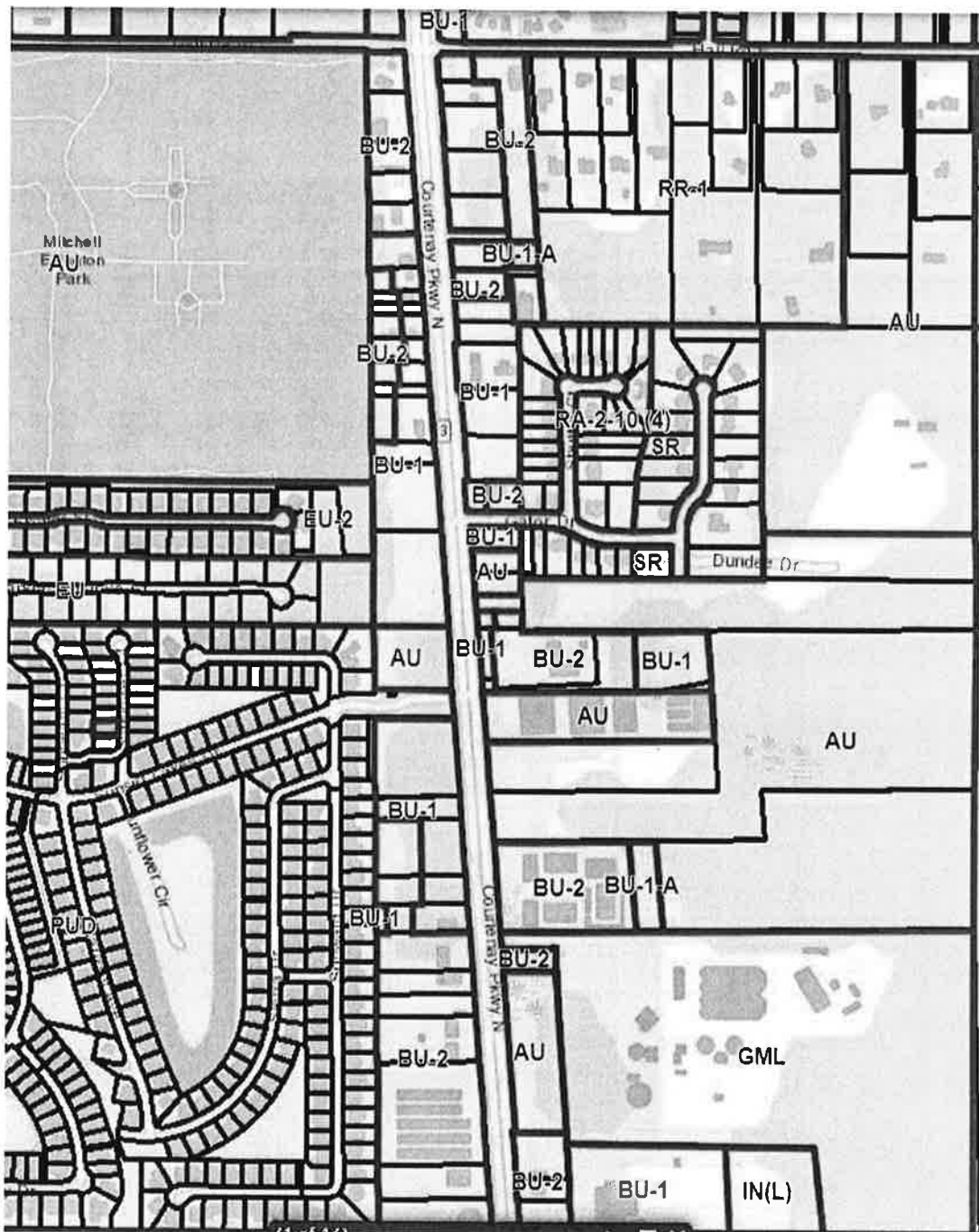
Attractive housing for Space Center workers, our folks that are not ready to purchase and our residents that wish to downsize is very needed in the community. This type of product fits well with the comprehensive plan.

As noted in the North Merritt Island Small Area Study conducted in 2018 by Brevard Planning Development Department, multi-family housing exists in the community and there is more room for growth in this housing area.











## **District 2 Disclosures 02/03/22 BOCC Zoning Meeting**

**H.11. File #3717. Carter and Jessica Hayes request a change of zoning classification from AU to RU-2-4. (21Z00042) (Tax Accounts 2318403 and 2318404).**

### January 7, 2022

- Merritt Island residents Deborah and Don Barker emailed the District 2 office, requesting a meeting and expressing concerns about the proposal.

### January 10, 2022

- Merritt Island residents Alain and Sandy Carpentier emailed their objections to the proposal.
- Merritt Island resident Richard Schneider emailed the District 2 office, expressing his agreement with Alain and Sandy Carpentier (above).
- Merritt Island resident Don Barker copied the District 2 office on an email to Natural Resources referencing the existence of a canal near the subject property.

### January 14, 2022

- Merritt Island resident Don Barker met with District 2 staff to express concerns about the proposal.

### January 26, 2022

- Ron Davis emailed the District 2 office on behalf of the Sunset Lakes HOA, expressing the HOA's concerns about the proposal.
- Merritt Island residents Deborah and Don Barker emailed their objections to the proposal.
- Phil Bennardo emailed the District 2 office on behalf of the North Merritt Island HOA, expressing the HOA's concerns about the proposal.

### January 30, 2022

- Merritt Island resident Mary Brotherton emailed her objections to the proposal.

### January 31, 2022

- Merritt Island resident Don Barker met with District 2 staff to express his concerns about the proposal, and provided photos of a canal near the subject property
- Michael Yauch, Vice-President of the North Merritt Island HOA, emailed a letter to the District 2 office which expressed concerns about the proposal.

### February 1, 2022

- Merritt Island resident Sandy Carpentier met with District 2 staff to express concerns about the proposal, and provided a petition signed by local residents in opposition to the proposed rezoning.
- Alain and Casandra "Sandy" Carpentier emailed their objections to the proposal.
- The District 2 office received a letter from Merritt Island resident Ann Doucette, who expressed her and her husband's concerns about the proposal.
- Commissioner Lober inquired through the Planning & Zoning division whether the applicant would be amenable to certain restrictions.
- Merritt Island resident Brittany McLeod and Michael McLeod emailed their concerns about the proposal.

### February 2, 2022

- Merritt Island resident Malcolm Cater emailed his objections to the proposal.



**From:** Commissioner, D1  
**To:** miccohomeowners@aol.com  
**Cc:** Pritchett, Rita; Mascellino, Carol; Smith, Nathan; Price, Jessica; Jones, Jennifer  
**Subject:** RE: EAR Adoption Hearing, Feb 3  
**Date:** Tuesday, February 1, 2022 8:33:21 AM  
**Attachments:** image001.png

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Ms. Woods,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

***Please note:***

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**From:** miccohomeowners@aol.com <miccohomeowners@aol.com>  
**Sent:** Monday, January 31, 2022 7:19 PM  
**To:** Commissioner, D3 <d3.commissioner@brevardfl.gov>  
**Cc:** Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>  
**Subject:** EAR Adoption Hearing, Feb 3



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

Dear Commissioner Tobia,

Micco Homeowners Association considers the Indian River Lagoon to be "the centerpiece" of coastal Brevard County. As you know, the health of our lagoon is in danger. Currently, tourists flock to Brevard to enjoy the IRL. Traditionally, a wide variety of wildlife depends upon the IRL to live. Many residences have been built on the shores of the IRL. Over time, people have unknowingly, slowly destroyed the health of our Indian River Lagoon with storm water runoff, pesticides, poor septic, etc. Something must be done now to help "our centerpiece" survive for our grandchildren to enjoy. Low Impact Development may just be the help we need.

Low Impact Development is an excellent way to have it all: We can implement Low Impact Development and protect the Indian River Lagoon and its natural wildlife. We then keep our tourism active, the developers will continue to thrive we can maintain our economic growth in Brevard.

**Please vote for the more decisive language of the word SHALL (instead of the word should) in Brevard's Coastal Management Elements 14.6 and 14.9.**

Thank you, as always, for helping our county thrive responsibly.

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



**From:** Commissioner, D1  
**To:** Mark Loyacano  
**Cc:** Pritchett, Rita; Mascellino, Carol; Smith, Nathan; Price, Jessica; Jones, Jennifer  
**Subject:** RE: EAR Adoption Hearing  
**Date:** Tuesday, February 1, 2022 1:43:29 PM  
**Attachments:** image001.png

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Mr. Loyacano,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contracting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

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**From:** Mark Loyacano <mark\_loyacano@hotmail.com>  
**Sent:** Tuesday, February 1, 2022 12:25 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>  
**Subject:** EAR Adoption Hearing

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



February 1, 2022

Dear Commissioner Pritchett,

Please support stronger wording in Brevard County's Comprehensive Plan Coastal Management Element: policies 14.6 and 14.9

Suggested changes were recently made to read: ...the County *shall* develop mechanisms to evaluate and recommend new design standards..., and *shall* amend Land Development Regulations..., the County will *encourage (or require)* nature-based design standards.

Significant gains have been made towards improving the IRL's water quality. We can appreciate Brevard County's Commissioners for being proactive about many of them. Questions remain, though: Is pollution being carried in our area's storm water runoff still winning the battle? And is there a way to incentivize developers (and property buyers) to follow our County's leadership, also, by adopting LID design standards?

Human survival depends on good stewardship - all that we can muster. Five connected, interdependent basic human needs for health and quality of life require our diligence: a sustainable Earth, breathable Atmosphere, useable clean Water, nourishing Food, and sturdy Shelters. We all have a "vote" in these matters. Either by making personal choices; for ourselves and our families - or additionally, by also being able to help vote through legislation. Either way, it seems like it's the Natural World around us that will be casting any deciding votes.

Respectfully,

Mark Loyacano  
1061 Sebastian Rd.  
Micco, Florida 32976



**From:** Commissioner, D1  
**To:** Jodi Lemaster  
**Cc:** Pritchett, Rita; Mascellino, Carol; Smith, Nathan; Price, Jessica; Jones, Jennifer  
**Subject:** RE: Feb 3 EAR Update/EAR Adoption Hearing  
**Date:** Tuesday, February 1, 2022 3:24:59 PM  
**Attachments:** image001.png

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Good afternoon,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

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**From:** Jodi Lemaster <jodilemaster@att.net>  
**Sent:** Tuesday, February 1, 2022 2:48 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>  
**Subject:** Feb 3 EAR Update/EAR Adoption Hearing



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

Commissioners,

I am writing to ask for your help in strengthening proposed Coastal Element Policies 14.6 and 14.9. I believe Low Impact Development standards can help.

The Indian River Lagoon is a crucial part of my life! It is right in my backyard (literally) and I utilize the water as much as possible. I love the scenic views and the wildlife means everything to me. As a resident of the southernmost area of Brevard, I am begging for your help! Please take time to drive down and see what construction and High Impact Developments are doing to our area. It is disgraceful to think the people of Brevard do not care about this incredible resource the entire county has to protect!

I am asking for your support and help on the Feb. 3rd EAR Update/Adoption Hearing, but please do not stop there! I truly believe that large scale housing developments in south Brevard are directly impacting the sea and plant life of the lagoon. There is a 300 acre plot on my street (Fleming Grant Road) for sale to develop for 150 houses or 300 townhomes!!! I cannot imagine the impact this would have on the land animals (bobcats, eagles, caracara, alligators, fox, gopher tortoise, I've even heard there are panthers sightings occasionally, scrub plants, wetlands-the list goes on). Brevard has many nice protected areas, but they need to do more! Take over more of the land to protect the little that is left of natural Florida. Please, I ask for you to consider saving our lands! The life of many species from manatees, to snook, to bald eagles, to the bobcat, these precious creatures need your protection.

The problem not only affects wildlife, people are affected too. There is so much flooding when storms come and the drainage in the south cannot support much more concrete/asphalt runoff. I could go on forever about this too, but the natural areas mean so much to me.

Thank you for your time and consideration of this very important issue.

Jodi Lemaster  
9580 Fleming Grant Road  
Micco, FL 32976  
[jodilemaster@att.net](mailto:jodilemaster@att.net)



**From:** [Commissioner, D1](#)  
**To:** [Sharon Earl Burridge](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#); [Jones, Jennifer](#)  
**Subject:** RE: Saving our IRL  
**Date:** Tuesday, February 1, 2022 4:51:36 PM  
**Attachments:** [image001.png](#)

---

Ms. Burridge,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

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**From:** Sharon Earl Burridge <searl1@cfl.rr.com>  
**Sent:** Tuesday, February 1, 2022 4:40 PM  
**To:** Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D1 <D1.Commissioner@brevardfl.gov>  
**Subject:** Saving our IRL

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



Dear Commissioners,

Keeping our beautiful area means protecting nature. Please strengthen the proposed Coastal Element Policies 14.6 and 14.9

Please amend the wording as suggested below.

Thank you,

Sharon Earl Burridge

County resident for 54 years.

**Policy 14.6**

The County ~~should~~ **shall** develop mechanisms to evaluate and recommend new design and development standards for public and private infrastructure projects that consider future climate conditions, and **the County shall** amend Land Development Regulations to reduce obstacles that hinder nature-based design standards and/or Low Impact Development.

**Policy 14.9**

Based on the 2021 Resilient Brevard Community Survey, completed by the ECFRPC, the County ~~should~~ **shall** encourage **or require** nature-based design standards and/or Low Impact Development design for development and redevelopment within areas vulnerable to current and future flooding impacts. Such adaptation strategies may include:

- a. Multi-use stormwater parks,
- b. Bioswales as stormwater management techniques,
- c. Green streets,
- d. Reduced impervious areas,
- e. Florida-friendly landscaping/xeriscaping, and
- f. Ecological asset preservation (e.g., tree canopy, natural areas, mangroves, wetlands, dunes, aquifer recharge areas).

Sharon Earl Burridge



**From:** [Commissioner, D1](#)  
**To:** [CAROL HAMILTON](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#); [Jones, Jennifer](#)  
**Subject:** RE: EMAILS NEEDED County Proposed Comp Plan Change too weak to Protect IRL  
**Date:** Tuesday, February 1, 2022 4:56:14 PM  
**Attachments:** [image001.png](#)

---

Ms. Hamilton,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

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---

**From:** CAROL HAMILTON <carolhamilton@bellsouth.net>  
**Sent:** Tuesday, February 1, 2022 4:53 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; D5.Commissioner@BrevardFL.com; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>  
**Subject:** Fw: EMAILS NEEDED County Proposed Comp Plan Change too weak to Protect IRL

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and



know the content is safe.

RE:EAR Adoption Hearing

Policy 14.6 and Policy 14.9. Please remove word should and put in word Shall. Also, LOW IMPACT DEVELOPMENT STANDARDS would HELP the LAGOON. IT HAS BEEN IMPLEMENTED, AND IS CREDITED WITH TAMPA BAY'S RECOVERY. PINELLAS,, ALACHUA, AND ESCAMBIA COUNTIES HAVE IMPLEMENTED LOW IMPACT DEVELOPMENT BY MODIFYING THEIR STORMWATER RULES,,LAND DEVELOPMENT REGULATIONS, AND LANDSCAPING ORDINANCES. PLEASE ADD IT TO BREVARD COUNTY ALSO.

THANK YOU,  
CAROL HAMILTON  
321 751 1581

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

**From:** Maureen Rupe <[rupe32927@earthlink.net](mailto:rupe32927@earthlink.net)>

**To:** Maureen Rupe <[rupe32927@earthlink.net](mailto:rupe32927@earthlink.net)>

**Sent:** Thursday, January 27, 2022, 03:29:40 PM EST

**Subject:** Fw: EMAILS NEEDED County Proposed Comp Plan Change too weak to Protect IRL

**From:** Maureen Rupe

**Sent:** Thursday, January 27, 2022 3:20 PM

**To:** Maureen Rupe

**Subject:** Fw: EMAILS NEEDED County Proposed Comp Plan Change too weak to Protect IRL

Please Help to Save the IRL. Emails imperative..

For the Partners,

County Staff finally has the Comp Plan Coastal Management Element language ready for the County Commission to review on Thursday, Feb. 3 at 5pm.

After being forced by the State and much delay, they wrote 13 Coastal Development and Redevelopment policies that tell what the County SHOULD do. Not what they SHALL do. SHOULD allows the County to delay doing anything if they don't have the money. I've seen WAY TOO MUCH stalling by Brevard County on various issues over the years. Things get on the back burner and have a tendency to stay there.

MRC and Sierra Club would like at least 2 of the 13 policies changed to substitute SHALL for SHOULD. These 2 policies are about Low Impact Development, which MRC is emphasizing as extremely important for the IRL. We want the current ordinances looked at to find obstacles to LID, and we also want the County to encourage or require LID. These things need to start happening NOW.

We are asking you to write to the Commissioners and ask them to strengthen proposed Coastal Element Policies 14.6 and 14.9. We hope to get a lot of people to write emails because right now Staff is inclined to play it safe and just say SHOULD.



Title of the email should include "Feb 3 EAR Update" or "EAR Adoption Hearing" or something like that. (EAR is a state-mandated update.)

If you do write an email, what you might want to emphasize is your personal connection with the IRL -- why it's so important to improve the health of the IRL. You could also say why you think Low Impact Development standards can help. If you want, you can let Mary know that you sent an email since she has a target number in mind ([canoe2@digital.net](mailto:canoe2@digital.net)). With COVID, we need to emphasize email for this issue.

Commissioner emails are: [D1.Commissioner@BrevardFL.gov](mailto:D1.Commissioner@BrevardFL.gov)  
[D2.Commissioner@BrevardFL.gov](mailto:D2.Commissioner@BrevardFL.gov) [D3.Commissioner@BrevardFL.gov](mailto:D3.Commissioner@BrevardFL.gov)  
[D4.Commissioner@BrevardFL.gov](mailto:D4.Commissioner@BrevardFL.gov) [D5.Commissioner@BrevardFL.gov](mailto:D5.Commissioner@BrevardFL.gov)

The exact language we want is below.

Thank you,

Mary Sphar

Here are the two Coastal Management Element Policies with underline and strike-through showing the MRC and Sierra Club recommended wording.

#### **Policy 14.6**

The County ~~should~~ **shall** develop mechanisms to evaluate and recommend new design and development standards for public and private infrastructure projects that consider future climate conditions, and **the County shall** amend Land Development Regulations to reduce obstacles that hinder nature-based design standards and/or Low Impact Development.

#### **Policy 14.9**

Based on the 2021 Resilient Brevard Community Survey, completed by the ECFRPC, the County ~~should~~ **shall** encourage **or require** nature-based design standards and/or Low Impact Development design for development and redevelopment within areas vulnerable to current and future flooding impacts. Such adaptation strategies may include:

- a. Multi-use stormwater parks,
- b. Bioswales as stormwater management techniques,
- c. Green streets,
- d. Reduced impervious areas,
- e. Florida-friendly landscaping/xeriscaping, and
- f. Ecological asset preservation (e.g., tree canopy, natural areas, mangroves,



wetlands, dunes, aquifer recharge areas).



**From:** [Commissioner, D1](#)  
**To:** [Darleen Hunt](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#); [Jones, Jennifer](#)  
**Subject:** RE: Proposed Comp Plan changes for Coastal Mgt. Element  
**Date:** Wednesday, February 2, 2022 9:46:59 AM  
**Attachments:** [image001.png](#)

---

Good morning,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
7101 S. Highway 1  
Titusville, FL 32780  
Telephone: 321-607-6901

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**From:** Darleen Hunt <dhunt125@aol.com>  
**Sent:** Wednesday, February 2, 2022 8:41 AM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>  
**Subject:** Proposed Comp Plan changes for Coastal Mgt. Element

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



[REDACTED]

Dear Commissioner Pritchett,

We understand that the Comp Plan Changes for the Coastal Management Element will come before the Brevard County Commission on Feb. 3.

We agree with the Marine Resource Council and the Sierra Club's proposal to strengthen the proposed comp plan changes regarding the Low Impact Development for the Indian River Lagoon.

As residents of North Merritt Island we are extremely aware of the negative effects of increased rise in residential density development that rely heavily on outfalls and drainage that drastically impacts the Indian River Lagoon. We have had numerous multi-year small area studies and the County has spent hundreds of thousands of dollars (millions?) on stormwater studies to determine the impact of development on this very low elevation but highly desired rural/agricultural/residential area.

At a minimum we urgently request that you strengthen the proposed coastal element policies 14.6 and 14.9 as follows:

**Policy 14.6** - The County should **shall** develop mechanisms to evaluate and recommend new design and development standards for public and private infrastructure projects that consider future climate conditions, and **the County shall** amend Land Development Regulations to reduce obstacles that hinder nature-based design standards and/or Low Impact Development.

**Policy 14.9**

Based on the 2021 Resilient Brevard Community Survey, completed by the ECFRPC, the County should **shall** encourage **or require** nature-based design standards and/or Low Impact Development design for development and redevelopment within areas vulnerable to current and future flooding impacts. Such adaptation strategies may include:

- a. Multi-use stormwater parks,
- b. Bioswales as stormwater management techniques,
- c. Green streets,
- d. Reduced impervious areas,
- e. Florida-friendly landscaping/xeriscaping, and
- f. Ecological asset preservation (e.g., tree canopy, natural areas, mangroves, wetlands, dunes, aquifer recharge areas).

Sincerely,  
Darleen and Jerry Hunt  
125 W. Crisafulli Rd.  
Merritt Island, FL 32953  
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*North Merritt Island Homeowners Association, Inc.*

*P.O. Box 542372  
Merritt Island, Florida 32954-2372*

Objection  
21Z00042  
Hayes

January 31, 2022

Subject: Board of County Commissioners Meeting of 02/03/22, Agenda Item H.10., Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4, Brevard County Planning & Development ID# 21Z00042, Tax Accounts 2318403 & 2318404

Dear Commissioners,

Regarding the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential to a multiple family zoning that instead allows 10 rental units (reference 21Z00042), the voted opinion and recommendation of the North Merritt Island Homeowners Association (P.O. Box 542372, Merritt Island, FL 32954) is as follows:

Considering Brevard County's development policies, namely as sited in Admin Policy 3:

This requested increase in residential density is incompatible with existing land use because

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The proposed use is inconsistent with existing/emerging patterns of surrounding development considering
  - 1. historic land use patterns;
  - 2. actual development over preceding three years.

and as in Admin Policy 4:

The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. it will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

As in Admin Policy 6:

The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

and in Admin Policy 7:

A huge concern is that the proposed use will substantially aggravate existing substantial drainage problems on surrounding properties and will also negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Thus, as in Admin Policy 8:

Considering the

- (1) character of the land use of the property surrounding the proposed rezoning,
- (2) the change in the conditions of the adjoining land use of property surrounding the proposed rezoning,
- (3) the impact of it on traffic patterns and the established character of the surrounding property,



(4) the incompatibility of the proposed zoning classification with existing land use,  
(5) and how inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors,  
**this request should be denied as written.**

and under Factors to Consider, Section 62-1151(c), for the same reasons, considering  
(1) the character of the land use of the surrounding properties,  
(2) the change in conditions of the land use of the property being considered verses the surrounding properties,  
(3) the impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.  
(4) the proposed zoning classification's incompatibility with existing land use, and  
(5) the inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors; once again, **this proposal should be denied as written.**

Neighboring residents that border the west side of the Hayes' property have expressed specific concerns with the proposed rezoning that include flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of the surrounding properties, and our Homeowners Association agrees.

Admin policy 4 states: the proposed use must not materially and adversely impact an established residential neighborhood, and Admin policy 8 addresses traffic concerns. The Hayes' property is bordered on the west side by several single-family homes on ½ acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to them is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is no guarantee that the owner of the apartments will maintain their property as well as the neighboring single family property owners will. Allowing higher density also contributes to existing traffic problems, as the only way on or off North Merritt Island for most trips, other than to the space center, is by a single drawbridge across the Barge Canal. The only other means of egress from North Merritt Island is by driving through Kennedy Space Center property and then crossing the SR 405 drawbridge. There are times when this bridge is closed to traffic (during transfer of space hardware, for example). In addition, construction has begun on a new bridge that will replace this aging structure. However, the project will not be complete for several years. All of this (allowing increased density in particular) will cause concerns during a hurricane evacuation.

Admin policy 7 states: the proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetland and the remaining buildable area is still low. So before any construction begins, the owners will need to raise the elevation. This, combined with impervious surfaces from the proposed apartments and parking areas, will create an increase in stormwater runoff that has to go somewhere. In addition, the ongoing Courtenay Parkway repaving project (on the east side of the Hayes' property) includes the removal of drainage ditches between the north and south bound lanes, along with the installation of concrete barriers or curbing (in place of the ditches). This will prevent water from flowing across the road, but will also result in additional drainage onto the Hayes' property, and will most likely compel them to add a drainage ditch or swale in front of their property (further reducing their buildable area). During a significant rain event, if stormwater from the Hayes' property doesn't drain east onto or across Courtenay Parkway, there's a higher possibility of it running towards the homes bordering the west side of the



property. I recently visited these homes and noted that they are already experiencing drainage issues. I also observed that these homes are separated by the Hayes' property by a permanent body of water that's 35 to 50 feet wide and 5 to 10 feet deep in some areas, and this is during the dry season. At least one homeowner has no dry land between his pool and patio structure and the permanent water source behind it. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely to worsen the existing drainage problems experienced by their neighbors to the west.

Admin Policy 8 addresses public health, safety and welfare. Because most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment, and possibly to the Indian River Lagoon. Unfortunately, we are seeing episodes of Red Tide and fish kills all too often, and increased density is not helping solve this problem. Although the current property owners (Carter and Jessica Hayes) have stated that they plan to connect to a sewer system, there is no guarantee that they will actually do this. Most developers install septic systems on North Merritt Island because it is cheaper and because they can. If they are successful in getting their property rezoned to allow higher density, there is nothing preventing the Carters from selling it at a profit, and the new owners could then be motivated to install a septic system to increase their profits.

An alternative use would be to develop these lots to a density of 1, or even 2, unit(s) per acre, in keeping with the history, flood-prone tendencies and character of this and the surrounding properties.

We respect your consideration. Thank you.

Michael Yauch  
Vice-President, North Merritt Island Homeowners Association



Michael Christopher McLeod  
4530 Deanna Ct Merritt Island FL 32953

February 01, 2022

Subject: Agenda Item 10 Rezoning Request 21Z00042, to be Discussed at the Feb. 3, 2022,  
Brevard County Board of County Commissioners Meeting (re: Rezoning Request 21Z00042)

Dear Commissioners,

As a life long resident of the state of Florida I have been witness to the growth and expansion of the many cities in our great state. However, I also have personal experience with the impacts that this type of expansion and growth can have on existing homes. My childhood home was built in ~1975 in what we came to find out was the middle of a lake bed. An abandoned railroad bed boarders the rear of the property. In ~2004 and again in ~2006 my child hood home flooded; in my opinion, due to the missteps of people in the same position that you are in. I hope that the decision you make today does not have the same unintended consiquence that allowed land that in my opinion, should have been agruculture land be rezoned to residential land and ultimatly lead to my childhood home being built in a lake bed and prone to flooding.

Regarding the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential to a multiple family zoning that instead allows 10 rental units (reference 21Z00042), I respectfully submit the following recommendation:

Considering Brevard County's development policies, namely as sited in Admin Policy 3:

This requested increase in residential density is incompatible with existing land use because

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The proposed use is inconsistent with existing/emerging patterns of surrounding development considering

- 1. historic land use patterns;
- 2. actual development over preceding three years.

and as in Admin Policy 4:

The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. it will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

As in Admin Policy 6:

The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

and in Admin Policy 7:

A huge concern is that the proposed use will substantially aggravate existing substantial drainage problems on surrounding properties and will also negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.



Thus, as in Admin Policy 8:

Considering the

- (1) character of the land use of the property surrounding the proposed rezoning,
- (2) the change in the conditions of the adjoining land use of property surrounding the proposed rezoning,
- (3) the impact of it on traffic patterns and the established character of the surrounding property,
- (4) the incompatibility of the proposed zoning classification with existing land use,
- (5) and how inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors,

**this request should be denied as written.**

and under Factors to Consider, Section 62-1151(c), for the same reasons, considering

- (1) the character of the land use of the surrounding properties,
- (2) the change in conditions of the land use of the property being considered verses the surrounding properties,
- (3) the impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- (4) the proposed zoning classification's incompatibility with existing land use, and
- (5) the inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors; once again, **this proposal should be denied as written.**

My home borders the west side of the Hayes' property, and I have specific concerns with the proposed rezoning which include flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of the surrounding properties.

Admin policy 4 states: the proposed use must not materially and adversely impact an established residential neighborhood, and Admin policy 8 addresses traffic concerns. The Hayes' property is bordered on the west side by several single-family homes on ½ acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to them is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is no guarantee that the owner of the apartments will maintain their property as well as the neighboring single family property owners will. Allowing higher density also contributes to existing traffic problems, as the only way on or off North Merritt Island for most trips, other than to the space center, is by a single drawbridge across the Barge Canal. The only other means of egress from North Merritt Island is by driving through Kennedy Space Center property and then crossing the SR 405 drawbridge. There are times when this bridge is closed to traffic (during transfer of space hardware, for example). In addition, construction has begun on a new bridge that will replace this aging structure. However, the project will not be complete for several years. All of this (allowing increased density in particular) will cause concerns during a hurricane evacuation.

Admin policy 7 states: the proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetland and the remaining buildable area is still low. So before any construction begins, the owners will need to raise the elevation. This, combined with impervious surfaces from the proposed apartments and parking areas, will create an increase in stormwater runoff that has to go somewhere. In addition, the ongoing Courtenay Parkway repaving project (on the east side of the Hayes' property) includes the removal of drainage ditches between the north and south bound lanes, along with the installation of concrete barriers or curbing (in place of the ditches). This will



prevent water from flowing across the road, but will also result in additional drainage onto the Hayes' property, and will most likely compel them to add a drainage ditch or swale in front of their property (further reducing their buildable area). During a significant rain event, if stormwater from the Hayes' property doesn't drain east onto or across Courtenay Parkway, there's a higher possibility of it running towards the homes bordering the west side of the property. I live in one of these homes and regularly experience drainage issues. My immediate neighbors and I are separated by the Hayes' property by a permanent body of water that's 35 to 50 feet wide and 5 to 10 feet deep in some areas, and this is during the dry season. One of these neighbors has no dry land between his pool and patio structure and the permanent water source behind it. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely to worsen the existing drainage problems experienced by those of us that live on the west side of their property.

Admin Policy 8 addresses public health, safety and welfare. Because most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment, and possibly to the Indian River Lagoon. Unfortunately, we are seeing episodes of Red Tide and fish kills all too often, and increased density is not helping solve this problem. Although the current property owners (Carter and Jessica Hayes) have stated that they plan to connect to a sewer system, there is no guarantee that they will actually do this. Most developers install septic systems on North Merritt Island because it is cheaper and because they can. If they are successful in getting their property rezoned to allow higher density, there is nothing preventing the Carters from selling it at a profit, and the new owners could then be motivated to install a septic system to increase their profits.

An alternative use would be to develop these lots to a density of 1, or even 2, unit(s) per acre, in keeping with the history, flood-prone tendencies and character of this and the surrounding properties.

I respect your consideration. Thank you.

Michael Christopher McLeod



Objection  
21Z00042  
Hayes

**From:** D. Barker  
**To:** Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com); [Dbarker472@icloud.com](mailto:Dbarker472@icloud.com)  
**Subject:** Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042  
**Date:** Wednesday, January 26, 2022 8:18:53 PM

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

Donald Barker  
4540 Deanna Court (District2)  
Merritt Island, FL 32953

January 26, 2022

RE: Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042

Brevard County Board of County Commissioners,

Honorable Rita Pritchett, District 1  
Honorable Bryan Lober, District 2  
Honorable John Tobia, District 3  
Honorable Curt Smith, District 4 (Vice Chair)  
Honorable Kristine Zonka, District 5 (Chair)

Thank you for your service and consideration. I am asking you to deny the Carter and Jessica Hayes zoning request as written. I support the North Merritt Island Dependent Districts recommendation of Suburban Residential (SR) zoning for the Hayes property with at least a 200 foot buffer zone protecting the wetlands area on the Hayes property incorporated in a binding development plan including the required use of County Sewer. The facts and circumstance supporting this request are detailed below:

I am a native Floridian and have made Brevard County my home since 1974. My wife and I bought property at 4540 Deanna Court, Merritt Island in 1994. We were taken by the rural nature of North Merritt Island, the family oriented nature of North Merritt Island as well as the beauty and serenity of the wetlands adjoining our property to the East. We worked hard, saved and built our home there in 1997/1998, along a beautiful nature canal behind the East side of Deanna Court. The last home on Deanna Court was built in 1999, completing Phase 3 of the Citrus River Groves Subdivision.

In December Of 2017, I retired after 30 years of service with the Brevard County Sheriff's Office. Our home has been our sanctuary and place of serenity. Out our back door is a wetlands and wildlife



sanctuary. Except for some traffic noise from State Road 3 during rush hour, our neighborhood is very quiet. On Christmas Eve 2021, we received a notice from the County informing us of the Hayes Rezoning Request to build 10 rental units adjacent to our Suburban zoned home on a half-acre lot. Doesn't sound very appealing as a quality of life issue, does it? Ten (10) rental units, later increased to eleven (11) rental units is not compatible with our neighborhood, the surrounding communities on the West side of State Road 3, or many of the Boards Administrative Development Policies, #3, #4, #6, #7, and #8. This is a quality of life issue for me, my family and my neighbors as well as drainage and a serious flooding concern.

Our neighborhood, the Citrus River Groves subdivision, started construction in the 1980's. Citrus River Groves is an approved, permitted and completed subdivision immediately West of the Hayes Property and consists of ninety seven (97) homes. Our drainage system was permitted, inspected, approved, adopted and is maintained by Brevard County. As with most subdivisions in North Merritt Island our drainage flows to a man-made lake, ours is located on the West side of our subdivision. Citrus River Groves is zoned Suburban (SR) requiring homes to be built on half acre lots. The subdivisions and homes surrounding and adjacent to Citrus River Groves are zoned for single family homes; compatible zoning of the surrounding area on the West side of State Road 3 is zoned Suburban Residential (SR), Estate Use Residential (EU and EU2), Rural Residential (RR1) and Agricultural residential (AU). The rezoning requested by the Hayes RU-2-4, euphemistically entitled "Low Density Multi-Family Residential", 10-11 multi-family rental units, abutting single family homes built on half-acre lots, some having been in existence for over 30+ years, is not properly compatible, nor should it be considered a proper transition to Suburban (SR)zoned homes on half-acre lots.

The Hayes Property consists of two (2) un-conforming lots located on the West side of State Road 3, grandfathered into an Agricultural residential (AU) zoning classification. The Hayes property is part of seven (7) lots located between the Orsinio Baptist Church to the South and the Victory Church to the North. These 7 lots, with the sole exception of a condemned house on one of the Hayes lots, have been undeveloped since they appeared on the Property Appraisers records/maps in the early 1960's. People have speculated on the value and future use of these lots for close to sixty (60) years and most of these lots have changed ownership several times. Once you approve rezoning for one of these lots you start down a slippery slope for zoning and cascade for development on the surrounding lots.

According to the County CIS maps supplied in the rezoning request review by County Staff, a large portion of these properties, including the Hayes' properties are located in an identified wetland and on a well-defined mapped FEMA Flood Plain. Storm water runoff in our part of North Merritt Island flows West and South, ask our neighbors in the Horseshoe Bend subdivision, immediately to our South that floods regularly. When we have brought drainage and wetland concerns up at the last two zoning meetings, County Staff has dismissed our concerns, saying it will be handled in the permitting process, irrespective of Board of County Commissions Administrative Development Policy 7 and Brevard County Code, Section 62-1151(c).

2021 was an unusually dry year for Brevard County in General and North Merritt Island in particular. In 2021 we had no hurricanes or tropical storms, yet the canal behind my house is approximately 1 foot below flood stage. Any significant rain fall causes the canal to reach or exceed flood stage.



Photographs and a CD of photographs documenting this were provided to county staff at the North Merritt Island Dependent Special District Board. These photographs documenting the Deanna Court Canal were taken by me on January 5, 2022, in the dry season. It should be noted that our Deanna Court Canal up to several years ago, used to rise and fall with the seasons. With the drainage changes implemented by the County over the last several years, our canal stays full year round. We are concerned that any further development of property to the East will flood our property and that of our neighbors.

In reviewing the Hayes Rezoning Request with my neighbors and the North Merritt Island Home Owners Association, we found several conflicts with the County's Administrative Development Policies and County Code Section 62-1151(c), as listed below:

Admin Policy 3: The rezoning request increase in residential density is incompatible with existing land use because of:

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety, and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The purposed use is inconsistent with existing/emerging patterns of surrounding development considering:
  - 1. Historic land use patterns;
  - 2. Actual development over the preceding three years

Admin Policy 4: The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. It will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

Admin Policy 6: The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

Admin Policy 7: A huge concern is that the proposed use will substantially aggravate existing and substantial drainage problems on surrounding properties and will negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Admin Policy 8:

Considering the:

- 1) Character of the land use of the property surrounding the proposed rezoning,
- 2) The change in conditions of the adjoining land use of property surrounding the proposed rezoning,
- 3) The impact of it on traffic patterns and the established character of the surrounding property,
- 4) How inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors (Quality of Life)



Under other Factors to consider is under Brevard County Code Section 62-1151(c), for the same reasons, considering:

- 1) The character of the land use of the surrounding properties,
- 2) The change in conditions of the land use of the property being considered verses the surrounding properties,
- 3) The impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- 4) The proposed zoning classification's incompatibility with existing land use, and
- 5) The inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors (Quality of Life).

Our home is adjacent to the West side of the Hayes' property, and I have specific concerns with the proposed rezoning including quality of life, flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of surrounding properties. For many of us, our homes are our largest single investment. Would you buy a house on a half-acre lot zoned Suburban Residential (SR) next to a ten or eleven unit apartment complex?

Admin Policy 4 states: the purposed use must not materially and adversely impact an established residential neighborhood, and Admin Policy 8 addresses traffic concerns. The Hayes property is bordered on the West side by several single-family homes on half-acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to our homes is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is also no guarantee the owner of the apartment building will maintain the property as the neighboring single family owners will. Allowing higher density also contributes to existing traffic problems, as the only way off North Merritt Island for most trips, other than through Kennedy Space Center, is by a drawbridge across the Barge Canal. The only other means off North Merritt Island is by driving through Kennedy Space Center property and then crossing the State Road 405 drawbridge. There are times when the SR 405 Bridge is closed to traffic, due to Kennedy Space Center Operations and/or security concerns for the KSC Federal Reservation. Additionally, construction has begun on a new a new bridge that will replace the aging SR 405 drawbridge. The SR405 Bridge Project will not be completed for several years, making the SR405 Hurricane evacuation route more problematic as the density of North Merritt Island increases.

Admin Policy 7 states: The purposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetlands, part is in a mapped FEMA Flood Plain and the remaining buildable land is low. Before any construction begins, the owners will have to raise the elevation. Raising the elevation combined with the impervious surfaces from the proposed apartments and parking area, will inevitably create an increase in storm water runoff that has to go somewhere. It would be difficult to conceive how the storm water runoff would be fully contained on the Hayes' property on the scope of the Hayes' proposed density. Additionally, the ongoing State Road 3 Courtenay Parkway repaving project, located to the East of the Hayes' property, includes the removal of the drainage ditches between the North and South bound lanes, along with the installation of concrete barriers and curbing in place of the drainage ditches. This will inevitably prevent water from flowing across the road in many locations, but will also result in an additional drainage burden onto the Hayes' property, and will likely compel them to increase the drainage ditch or swale across the front of their property, further limiting their buildable area. During a significant rain event, if storm water from the Hayes' property isn't fully



contained or doesn't drain east onto or across SR3 / Courtenay Parkway, there's a high likelihood of the storm water running towards the homes bordering the West side of the Hayes' property. I live in one of these homes and regularly experience drainage issues.

My immediate neighbors and I are separated by the Hayes' property by a permanent body of water, a canal, that's 35 to 50 feet wide and 5-10 feet deep in some areas, and this is the dry season after an unusually dry year. My neighbors and I own land on both sides of the canal. One of my neighbors has no dry land between his pool and patio structure and the canal behind his home. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely, if not inevitable to worsen the existing drainage problems experienced by those of us that live on the West side of the Hayes property.

Admin Policy 8 addresses public health, safety and welfare. Most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment and to the Indian River Lagoon. All too often we are seeing episodes of Red Tide and Fish Kills, in the Indian River and adjacent waterways. Although the Hayes' have stated they plan to connect to a sewer system, there is no guarantee that they will actually do so. Most developers install septic systems on North Merritt Island because it is significantly cheaper and because they can. If they Hayes are successful in getting their property rezoned to allow a substantially higher density, there is nothing to prevent the Hayes from selling the property at a profit, the new owners could then be motivated to install a septic system to decrease their expenses and increase their profits.

At the two zoning meetings I've attended, the Hayes have increased their requested number of residential units to eleven (11) and have said they intended to build townhouses, then duplexes, and then apartments on the property. County staff has noted, based on the buildable land it would be very difficult to build that number of units on the Hayes property, but that would be addressed in permitting. Mr. Hayes identified himself as a licensed contractor to the two prior boards and said he was going to develop the property himself. Mr. Hayes admitted to the board that his primary contracting business is remodeling and that he has never built a development of this type. Mr. Hayes has offered a 200 foot buffer zone between their property and the property to their West at both zoning meetings. Mrs. Hayes has identified herself as a licensed real estate agent. Both the North Merritt Island Dependent Special District and Planning and Zoning Board denied the Hayes' requested density/units. The North Merritt Island Dependent Special District then conferred with the Hayes offering, then recommending Suburban Residential (SR) zoning of two (2) units per acre. The Planning and Zoning board recommended RU-2-4 limited to three (3) units per acre.

While my neighbors and I would rather see the land undeveloped as a wetlands, drainage and conservation area, I support the North Merritt Island Dependent Special District's recommendation of Suburban Residential (SR) of two residential units per acre, with a binding development plan with at least a 200 foot buffer zone and a required connection to the available and nearby County Sewer System.

In a perfect world, the County would buy the seven mentioned lots and use them as a watershed and retention area to reduce flooding to communities on the West side of Courtenay Parkway, particularly the Horseshoe Bend Community. Opportunities like this seldom arise involving undeveloped land and are fleeting.

Thank you again for your service and your consideration of my concerns.

Respectfully,

Donald Barker  
4540 Deanna Court



Merritt Island, FL 32953  
Cell# 321-403-5694



Objection  
21Z00042  
Hayes

**From:** [Phil Bennardo](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** Board of County Commissioners Meeting of 02/03/22, Agenda Item H.10  
**Date:** Wednesday, January 26, 2022 5:13:58 PM  
**Attachments:** [Rezoning 01 26 HOA Ltr.doc](#)

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

The attached letter contains the North Merritt Island Homeowners position on the request by Carter & Jessica Hayes to change zoning from AU to RU-2-4 on tax accounts 2318403 & 2318404 (ref. Brevard County Planning & Development ID# 21Z00042) to be discussed at the Board of County Commissioners meeting on 02/03/22

Phil Bennardo  
President, North Merritt Island Homeowners Association





*North Merritt Island Homeowners Association, Inc.*

*P.O. Box 542372  
Merritt Island, Florida 32954-2372*

January 26, 2022

Subject: Board of County Commissioners Meeting of 02/03/22, Agenda Item H.10., Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4, Brevard County Planning & Development ID# 21Z00042, Tax Accounts 2318403 & 2318404

Dear Commissioners,

Regarding the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential to a multiple family zoning that instead allows 10 rental units (reference 21Z00042), the voted opinion and recommendation of the North Merritt Island Homeowners Association (P.O. Box 542372, Merritt Island, FL 32954) is as follows:

Considering Brevard County's development policies, namely as sited in Admin Policy 3:

This requested increase in residential density is incompatible with existing land use because

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The proposed use is inconsistent with existing/emerging patterns of surrounding development considering
  - 1. historic land use patterns;
  - 2. actual development over preceding three years.

and as in Admin Policy 4:

The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. it will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

As in Admin Policy 6:

The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

and in Admin Policy 7:

A huge concern is that the proposed use will substantially aggravate existing substantial drainage problems on surrounding properties and will also negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Thus, as in Admin Policy 8:

Considering the

- (1) character of the land use of the property surrounding the proposed rezoning,
- (2) the change in the conditions of the adjoining land use of property surrounding the proposed rezoning,
- (3) the impact of it on traffic patterns and the established character of the surrounding property,



(4) the incompatibility of the proposed zoning classification with existing land use,  
(5) and how inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors,

**this request should be denied as written.**

and under Factors to Consider, Section 62-1151(c), for the same reasons, considering

(1) the character of the land use of the surrounding properties,  
(2) the change in conditions of the land use of the property being considered verses the surrounding properties,  
(3) the impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.  
(4) the proposed zoning classification's incompatibility with existing land use, and  
(5) the inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors; once again, **this proposal should be denied as written.**

Neighboring residents that border the west side of the Hayes' property have expressed specific concerns with the proposed rezoning that include flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of the surrounding properties, and our Homeowners Association agrees.

Admin policy 4 states: the proposed use must not materially and adversely impact an established residential neighborhood, and Admin policy 8 addresses traffic concerns. The Hayes' property is bordered on the west side by several single-family homes on ½ acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to them is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is no guarantee that the owner of the apartments will maintain their property as well as the neighboring single family property owners will. Allowing higher density also contributes to existing traffic problems, as the only way on or off North Merritt Island for most trips, other than to the space center, is by a single drawbridge across the Barge Canal. The only other means of egress from North Merritt Island is by driving through Kennedy Space Center property and then crossing the SR 405 drawbridge. There are times when this bridge is closed to traffic (during transfer of space hardware, for example). In addition, construction has begun on a new bridge that will replace this aging structure. However, the project will not be complete for several years. All of this (allowing increased density in particular) will cause concerns during a hurricane evacuation.

Admin policy 7 states: the proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetland and the remaining buildable area is still low. So before any construction begins, the owners will need to raise the elevation. This, combined with impervious surfaces from the proposed apartments and parking areas, will create an increase in stormwater runoff that has to go somewhere. In addition, the ongoing Courtenay Parkway repaving project (on the east side of the Hayes' property) includes the removal of drainage ditches between the north and south bound lanes, along with the installation of concrete barriers or curbing (in place of the ditches). This will prevent water from flowing across the road, but will also result in additional drainage onto the Hayes' property, and will most likely compel them to add a drainage ditch or swale in front of their property (further reducing their buildable area). During a significant rain event, if stormwater from the Hayes' property doesn't drain east onto or across Courtenay Parkway, there's a higher possibility of it running towards the homes bordering the west side of the



property. I recently visited these homes and noted that they are already experiencing drainage issues. I also observed that these homes are separated by the Hayes' property by a permanent body of water that's 35 to 50 feet wide and 5 to 10 feet deep in some areas, and this is during the dry season. At least one homeowner has no dry land between his pool and patio structure and the permanent water source behind it. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely to worsen the existing drainage problems experienced by their neighbors to the west.

Admin Policy 8 addresses public health, safety and welfare. Because most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment, and possibly to the Indian River Lagoon. Unfortunately, we are seeing episodes of Red Tide and fish kills all too often, and increased density is not helping solve this problem. Although the current property owners (Carter and Jessica Hayes) have stated that they plan to connect to a sewer system, there is no guarantee that they will actually do this. Most developers install septic systems on North Merritt Island because it is cheaper and because they can. If they are successful in getting their property rezoned to allow higher density, there is nothing preventing the Carters from selling it at a profit, and the new owners could then be motivated to install a septic system to increase their profits.

An alternative use would be to develop these lots to a density of 1, or even 2, unit(s) per acre, in keeping with the history, flood-prone tendencies and character of this and the surrounding properties.

We respect your consideration. Thank you.

Phil Bennardo  
President, North Merritt Island Homeowners Association



Objection  
21Z00042  
Hayes

**From:** [board@slhoa.info](mailto:board@slhoa.info)  
**To:** [Commissioner, D3](#)  
**Subject:** BOCC Meeting on February 3, 2022, Agenda Item 10  
**Date:** Wednesday, January 26, 2022 12:21:46 PM  
**Attachments:** [County Commissioner Letter January 26, 2022.pdf](#)

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

Commissioner Tobia,

The attached letter regarding the subject agenda item for the BOCC meeting on February 3, 2022 is forwarded for your consideration.

Thank you,

Ron Davis  
President  
Sunset Lakes Homeowners Association, Inc.



**Sunset Lakes Homeowners Association, Inc**

C/o Leland Management  
1221 Admiralty Blvd  
Rockledge, FL 32955

January 26, 2022

Subject: Board of County Commissioners Meeting, February 3, 2022, Agenda Item 10,  
Rezoning Request 21Z00042

Dear Commissioners Zonka, Smith, Lober, Pritchett, Tobia, and Smith,

The Sunset Lakes Homeowners Association, Inc, representing 469 homeowners in North Merritt Island, is opposed to the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential (AU) to a multiple family zoning that would allow 10 rental units (reference 21Z00042).

The subject property is currently zoned AU that allows no more than one unit/home per parcel. The owners want to change the zoning to allow much higher density and then build an apartment building with ten 645 square foot rental units. Not only is this inconsistent with the surrounding neighborhoods, it will exacerbate the drainage and flooding problems experienced in the area during the rainy season.

Allowing rezoning of this property will set a precedence to do the same for the adjacent properties by increasing density adding to current traffic backups across the barge canal at peak times during the week. In addition, storm water management will potentially negatively impact surrounding neighborhoods, some of which are already dealing with flooding during heavy rains.

Thank you for your consideration in this matter.

Respectfully,



Ron Davis  
President  
Sunset Lakes Homeowners Association, Inc.  
Merritt Island, FL



Cc: Board of Directors, SLHOA  
Brittany Robberecht, Leland Management  
Mr. Phil Bernardo, President, NMIHOA



**From:** [malcolm.cater](#)  
**To:** [Commissioner, D2](#)  
**Cc:** [Commissioner, D3](#); [Commissioner, D1](#); [Commissioner, D4](#)  
**Subject:** H11 File 3717 Planning Application  
**Date:** Wednesday, February 2, 2022 9:46:50 AM

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

Lady and Gentlemen

With respect to the above application, I would like to make the following observations.

1. The application does not endorse the spirit of the guidelines recommended by the North Merritt Island Development Board as to housing density. It has been the desire that any development North of Hall Road be limited to one unit per acre, this clearly does not meet these guidelines.
2. Increased development in the last decade has resulted in drainage issues and residents are now experiencing much higher water levels in retention ponds and drainage canals and several location are having issues with standing water even after moderate rainfall.
3. Part of the area of proposed development, is to my understanding, an area of natural wetlands. Any filling in or alterations will result in loss of natural wildlife habitat and in all likelihood interrupt the flow of water for natural drainage, in this area the flow is from the South to the North to Pine Island.
4. Will result in another point of access to SR 3 which is already becoming busy with traffic levels returning to levels not seen since the completion of the Shuttle program.

In conclusion I would earnestly ask you to consider rejecting this application on the above grounds

Respectfully yours

Malcolm Cater



5310 Lovett Drive

MI



**From:** Mary Hillberg  
**To:** Commissioner, D2; Commissioner, D4; Commissioner, D3; Commissioner, D5; Commissioner, D1  
**Subject:** Item 21Z00042, Hayes  
**Date:** Wednesday, February 2, 2022 2:04:36 PM  
**Importance:** High

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

Dear Commissioners,

The Hayes application to change 2.79 acres on SR 3, North Merritt Island from AU to RU-2-4 (Low Density Multi-family Residential), to 11 units ((High Density Multi-Family Residential), was heard by the North Merritt Island Dependent Special Advisory Board on January 6<sup>th</sup>. Several community members including a Licensed Environmental Engineer, spoke in opposition for a variety of reasons including the physical constraints of the land, potential for wetland disruption, lack of space for stormwater containment, flooding, and lack of compatibility and character with the surrounding properties.

The Board voted to recommend denial of the high density zoning considering the reasons above, including multiple violations of listed Administrative Policies. Instead, the board voted to recommend SR zoning with a BDP, providing reasonable use of the 2.79 acres for the owners, compatibility with the surrounding residential area and safety with the floodplain/wetland impacted character of the lot. The Applicants and community members agreed with this option and all seemed settled.

At the P&Z meeting the applicants again requested 11 units and were initially approved for 3 units. After further urging by a member of the board, a second vote was taken to allow the Applicants 4 units on this lot, with two members abstaining from a second vote.

It is our understanding that the Applicants may again request 11 units (the maximum High Density Multi-family Residential allowed on the 2.79 acres of this wetland/floodplain constrained piece). We are very concerned this high density of residential construction will be out of character with the area, incompatible with the surrounding developed properties, and create flooding and traffic issues detrimental to the safety and values of the abutting properties and community.

We urge your consideration of SR with a BDP which will provide safe and appropriate use of the land and compatibility with the surrounding area.

Thank you,  
Mr. & Mrs. William Hillberg  
North Merritt Island



Subject: Agenda Item H.10 to be discussed at the February 3, 2022 Brevard County Board of County Commissioners meeting.

Dear Commissioner Tobia,

My name is Ann Doucette. I live at 4560 Deanna Court, Merritt Island with my husband Dana. We are lifelong MI residents.

I am writing to discuss the rezoning issue ID# 21Z00042.

My husband and I have lived on Deanna Court since 1994. Our subdivision was developed from a citrus grove over 40 years ago.

We are zoned suburban residential 1 house per ½ acre.

The property of discussion is to the east of my residence. It splits my backyard and my neighbor to the south. There is a body of water running the backside of our subdivision and we own land on the other side of this "canal". This land which is connected to the property of discussion is considered wetlands.

This waterway is a major factor in our drainage. The current water level has been affected by the recent drainage updates to the north of our subdivision. In years past, it has gone to a trickle during the dry season allowing room for the rainy season. It now stays high and during the rainy season does encroach the property. Our subdivision does not want to be like Horseshoe Bend to the south that always floods.

I believe a zoning change to RU 2-4 is too much density for the canal to handle.

Another consideration is the properties adjacent to this property. Neither property is developed to the north or south. They are currently zoned AU. Then you have churches bordering these.



Across the street you have a mobile home park. They have multiple ways to access Courtenay. The large subdivision behind this also has multiple points of entry/exit. If the current zoning is changed to the requested zoning, you could have up to 25 cars having only one entry/exit point onto Courtenay.

There is one fire station on north Merritt Island. They do not have an ambulance. Our ambulance comes from a station located to the south of the drawbridge. There is one active restaurant, a bar, the Moose Lodge and 3 active gas stations. We are a rural community.

I am not against change. My family has lived in the area since the 1800's. We were removed from the current Air Force/Port Canaveral property in the 50's. When my dad was a child, the only road was Tropical Trail because there was no Barge Canal. My husband and I have spent our childhood traveling the two-lane Courtenay up to Pine Island Road. I have seen much change to the Island.

I just want a **reduction** in the zoning. I want the Hayes family to be able to use their land. I just believe the density is too great.

Thank you for your time and consideration.

  
Ann Doucette

Dana Doucette



Donald Barker  
4540 Deanna Court (District2)  
Merritt Island, FL 32953

January 26, 2022

RE: Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042

Brevard County Board of County Commissioners,

Honorable Rita Pritchett, District 1  
Honorable Bryan Lober, District 2  
Honorable John Tobia, District 3 ✓  
Honorable Curt Smith, District 4 (Vice Chair)  
Honorable Kristine Zonka, District 5 (Chair)

Thank you for your service and consideration. I am asking you to deny the Carter and Jessica Hayes zoning request as written. I support the North Merritt Island Dependent Districts recommendation of Suburban Residential (SR) zoning for the Hayes property with at least a 200 foot buffer zone protecting the wetlands area on the Hayes property incorporated in a binding development plan including the required use of County Sewer. The facts and circumstance supporting this request are detailed below:

I am a native Floridian and have made Brevard County my home since 1974. My wife and I bought property at 4540 Deanna Court, Merritt Island in 1994. We were taken by the rural nature of North Merritt Island, the family oriented nature of North Merritt Island as well as the beauty and serenity of the wetlands adjoining our property to the East. We worked hard, saved and built our home there in 1997/1998, along a beautiful nature canal behind the East side of Deanna Court. The last home on Deanna Court was built in 1999, completing Phase 3 of the Citrus River Groves Subdivision.

In December Of 2017, I retired after 30 years of service with the Brevard County Sheriff's Office. Our home has been our sanctuary and place of serenity. Out our back door is a wetlands and wildlife sanctuary. Except for some traffic noise from State Road 3 during rush hour, our neighborhood is very quiet. On Christmas Eve 2021, we received a notice from the County informing us of the Hayes Rezoning Request to build 10 rental units adjacent to our Suburban zoned home on a half-acre lot. Doesn't sound very appealing as a quality of life issue, does it? Ten (10) rental units, later increased to eleven (11) rental units is not compatible with our neighborhood, the surrounding communities on the West side of State Road 3, or many of the Boards Administrative Development Policies, #3, #4, #6, #7, and #8. This is a quality of life issue for me, my family and my neighbors as well as drainage and a serious flooding concern.

Our neighborhood, the Citrus River Groves subdivision, started construction in the 1980's. Citrus River Groves is an approved, permitted and completed subdivision immediately West of the Hayes Property and consists of ninety seven (97) homes. Our drainage system was permitted, inspected, approved, adopted and is maintained by Brevard County. As with most subdivisions in North Merritt Island our drainage flows to a man-made lake, ours is located on the West side of our subdivision. Citrus River Groves is zoned Suburban (SR) requiring homes to be built on half acre lots. The subdivisions and homes



surrounding and adjacent to Citrus River Groves are zoned for single family homes; compatible zoning of the surrounding area on the West side of State Road 3 is zoned Suburban Residential (SR), Estate Use Residential (EU and EU2), Rural Residential (RR1) and Agricultural residential (AU). The rezoning requested by the Hayes RU-2-4, euphemistically entitled "Low Density Multi-Family Residential", 10-11 multi-family rental units, abutting single family homes built on half-acre lots, some having been in existence for over 30+ years, is not properly compatible, nor should it be considered a proper transition to Suburban (SR)zoned homes on half-acre lots.

The Hayes Property consists of two (2) un-conforming lots located on the West side of State Road 3, grandfathered into an Agricultural residential (AU) zoning classification. The Hayes property is part of seven (7) lots located between the Orsinio Baptist Church to the South and the Victory Church to the North. These 7 lots, with the sole exception of a condemned house on one of the Hayes lots, have been undeveloped since they appeared on the Property Appraisers records/maps in the early 1960's. People have speculated on the value and future use of these lots for close to sixty (60) years and most of these lots have changed ownership several times. Once you approve rezoning for one of these lots you start down a slippery slope for zoning and cascade for development on the surrounding lots.

According to the County CIS maps supplied in the rezoning request review by County Staff, a large portion of these properties, including the Hayes' properties are located in an identified wetland and on a well-defined mapped FEMA Flood Plain. Storm water runoff in our part of North Merritt Island flows West and South, ask our neighbors in the Horseshoe Bend subdivision, immediately to our South that floods regularly. When we have brought drainage and wetland concerns up at the last two zoning meetings, County Staff has dismissed our concerns, saying it will be handled in the permitting process, irrespective of Board of County Commissions Administrative Development Policy 7 and Brevard County Code, Section 62-1151(c).

2021 was an unusually dry year for Brevard County in General and North Merritt Island in particular. In 2021 we had no hurricanes or tropical storms, yet the canal behind my house is approximately 1 foot below flood stage. Any significant rain fall causes the canal to reach or exceed flood stage. Photographs and a CD of photographs documenting this were provided to county staff at the North Merritt Island Dependent Special District Board. These photographs documenting the Deanna Court Canal were taken by me on January 5, 2022, in the dry season. It should be noted that our Deanna Court Canal up to several years ago, used to rise and fall with the seasons. With the drainage changes implemented by the County over the last several years, our canal stays full year round. We are concerned that any further development of property to the East will flood our property and that of our neighbors.

In reviewing the Hayes Rezoning Request with my neighbors and the North Merritt Island Home Owners Association, we found several conflicts with the County's Administrative Development Policies and County Code Section 62-1151(c), as listed below:

Admin Policy 3: The rezoning request increase in residential density is incompatible with existing land use because of:

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety, and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The purposed use is inconsistent with existing/emerging patterns of surrounding development considering:
  1. Historic land use patterns;



2. Actual development over the preceding three years

Admin Policy 4: The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. It will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

Admin Policy 6: The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

Admin Policy 7: A huge concern is that the proposed use will substantially aggravate existing and substantial drainage problems on surrounding properties and will negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Admin Policy 8:

Considering the:

- 1) Character of the land use of the property surrounding the proposed rezoning,
- 2) The change in conditions of the adjoining land use of property surrounding the proposed rezoning,
- 3) The impact of it on traffic patterns and the established character of the surrounding property,
- 4) How inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors (Quality of Life)

Under other Factors to consider is under Brevard County Code Section 62-1151(c), for the same reasons, considering:

- 1) The character of the land use of the surrounding properties,
- 2) The change in conditions of the land use of the property being considered verses the surrounding properties,
- 3) The impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- 4) The proposed zoning classification's incompatibility with existing land use, and
- 5) The inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors (Quality of Life).

Our home is adjacent to the West side of the Hayes' property, and I have specific concerns with the proposed rezoning including quality of life, flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of surrounding properties. For many of us, our homes are our largest single investment. Would you buy a house on a half-acre lot zoned Suburban Residential (SR) next to a ten or eleven unit apartment complex?

Admin Policy 4 states: the purposed use must not materially and adversely impact an established residential neighborhood, and Admin Policy 8 addresses traffic concerns. The Hayes property is



bordered on the West side by several single-family homes on half-acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to our homes is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is also no guarantee the owner of the apartment building will maintain the property as the neighboring single family owners will. Allowing higher density also contributes to existing traffic problems, as the only way off North Merritt Island for most trips, other than through Kennedy Space Center, is by a drawbridge across the Barge Canal. The only other means off North Merritt Island is by driving through Kennedy Space Center property and then crossing the State Road 405 drawbridge. There are times when the SR 405 Bridge is closed to traffic, due to Kennedy Space Center Operations and/or security concerns for the KSC Federal Reservation. Additionally, construction has begun on a new a new bridge that will replace the aging SR 405 drawbridge. The SR405 Bridge Project will not be completed for several years, making the SR405 Hurricane evacuation route more problematic as the density of North Merritt Island increases.

Admin Policy 7 states: The purposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetlands, part is in a mapped FEMA Flood Plain and the remaining buildable land is low. Before any construction begins, the owners will have to raise the elevation. Raising the elevation combined with the impervious surfaces from the proposed apartments and parking area, will inevitably create an increase in storm water runoff that has to go somewhere. It would be difficult to conceive how the storm water runoff would be fully contained on the Hayes' property on the scope of the Hayes' proposed density. Additionally, the ongoing State Road 3 Courtenay Parkway repaving project, located to the East of the Hayes' property, includes the removal of the drainage ditches between the North and South bound lanes, along with the installation of concrete barriers and curbing in place of the drainage ditches. This will inevitably prevent water from flowing across the road in many locations, but will also result in an additional drainage burden onto the Hayes' property, and will likely compel them to increase the drainage ditch or swale across the front of their property, further limiting their buildable area. During a significant rain event, if storm water from the Hayes' property isn't fully contained or doesn't drain east onto or across SR3 / Courtenay Parkway, there's a high likelihood of the storm water running towards the homes bordering the West side of the Hayes' property. I live in one of these homes and regularly experience drainage issues.

My immediate neighbors and I are separated by the Hayes' property by a permanent body of water, a canal, that's 35 to 50 feet wide and 5-10 feet deep in some areas, and this is the dry season after an unusually dry year. My neighbors and I own land on both sides of the canal. One of my neighbors has no dry land between his pool and patio structure and the canal behind his home. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely, if not inevitable to worsen the existing drainage problems experienced by those of us that live on the West side of the Hayes property.

Admin Policy 8 addresses public health, safety and welfare. Most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment and to the Indian River Lagoon. All too often we are



seeing episodes of Red Tide and Fish Kills, in the Indian River and adjacent waterways. Although the Hayes' have stated they plan to connect to a sewer system, there is no guarantee that they will actually do so. Most developers install septic systems on North Merritt Island because it is significantly cheaper and because they can. If they Hayes are successful in getting their property rezoned to allow a substantially higher density, there is nothing to prevent the Hayes from selling the property at a profit, the new owners could then be motivated to install a septic system to decrease their expenses and increase their profits.

At the two zoning meetings I've attended, the Hayes have increased their requested number of residential units to eleven (11) and have said they intended to build townhouses, then duplexes, and then apartments on the property. County staff has noted, based on the buildable land it would be very difficult to build that number of units on the Hayes property, but that would be addressed in permitting. Mr. Hayes identified himself as a licensed contractor to the two prior boards and said he was going to develop the property himself. Mr. Hayes admitted to the board that his primary contracting business is remodeling and that he has never built a development of this type. Mr. Hayes has offered a 200 foot buffer zone between their property and the property to their West at both zoning meetings. Mrs. Hayes has identified herself as a licensed real estate agent. Both the North Merritt Island Dependent Special District and Planning and Zoning Board denied the Hayes' requested density/units. The North Merritt Island Dependent Special District then conferred with the Hayes offering, then recommending Suburban Residential (SR) zoning of two (2) units per acre. The Planning and Zoning board recommended RU-2-4 limited to three (3) units per acre.

While my neighbors and I would rather see the land undeveloped as a wetlands, drainage and conservation area, I support the North Merritt Island Dependent Special District's recommendation of Suburban Residential (SR) of two residential units per acre, with a binding development plan with at least a 200 foot buffer zone and a required connection to the available and nearby County Sewer System.

In a perfect world, the County would buy the seven mentioned lots and use them as a watershed and retention area to reduce flooding to communities on the West side of Courtenay Parkway, particularly the Horseshoe Bend Community. Opportunities like this seldom arise involving undeveloped land and are fleeting.

Thank you again for your service and your consideration of my concerns.

Respectfully,



Donald Barker  
4540 Deanna Court  
Merritt Island, FL 32953  
Cell# 321-403-5694  
Email: threeoaks@cfl.rr.com



**From:** Alain Carpentier  
**To:** Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Subject:** Opposition in Rezoning ID# 21Z00042  
**Date:** Monday, January 10, 2022 1:02:04 PM

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

January 10, 2022

To: Planning and Development Department  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Vierra, FL  
From: Alain & Casandra Carpentier  
4550 Deanna Court  
Merritt Island, FL., 32953

Reference: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042

Panel/Board Members and Commissioner,

We want to express our strong opposition to the rezoning of Parcel IDs: 23-36-34-00-761 and 23-36-34-00-762 2019-0317 from the current AU to proposed RU-2-4 which are owed by Carter and Jessica Hayes. We own the property on parcel 41 in the subdivision Citrus River Groves, Merritt Island, located within 500 feet of the proposed rezoning area of parcel 761 owned by the Hayes, as identified on the zoning map.

The proposed rezoning will add several impacts to an already developed/established community, specifically: National Wetlands, FEMA Flood Zones and local wildlife. While the local community may be unable to prevent development, that in itself will be detrimental to the area, nearly all residents in the Citrus River Groves neighborhood are completely opposed to the addition of multi-family housing that will cause additional traffic and safety problems and potentially lower the property values of the existing community.

Potential Flooding. Stormwater runoff and an overstressed drainage canal on Citrus River Groves parcels:39-46; are within 500 feet of the proposed rezone area and is a major concern. The rezoning may impact our current FEMA flood-zone category from AE to AO, greatly affecting the cost of current homeowner's flood insurance. The drainage canal remains full, even in the dry-season, and further pressure will certainly foster land erosion at an increased rate.

Conservation & Wildlife. The removal of the trees and vegetation on the identified wetlands will ultimately drive more pressure into the drainage canal. Additionally, wildlife (alligators, turtles, spoonbills) have been observed in the area, and any land clearing development will destroy their habitat. Any planned development of the property should consider the continuing impact to local



wildlife habitat.

Property Value. Current home values have the potential to decrease in the area if multi-family units are built. Multi-family dwellings are inconsistent with the neighborhoods already developed and established in the area. I urge you to disapprove the proposed rezoning, and from recent meetings and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails. Thank you for your service and support of our communities.

Best regards,

Alain & Sandy Carpentier  
904-631-1752



January 29, 2022

Objection  
21Z00042  
Hayes

To: Brevard County, Board of County Commissioners  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Vierra, FL

From: Alain & Casandra Carpentier  
4550 Deanna Court  
Merritt Island, FL., 32953

Reference: (1) North Merritt Island Homeowners Association, Opposition Letter  
(2) Sunset Lakes Homeowners Association, Opposition Letter  
(3) Aerial Photos of surrounding parcels taken 23JAN2022  
(4) Citrus River Groves, Horseshoe Bend, and surrounding area Opposition Petition

Subject: Agenda Item H.12. Carter & Jessica Hayes Request zoning Change from AU to RU-2-4. Brevard County Planning & Development ID# 21Z00042.

Commissioners Zonka, Smith, Lober, Pritchett, Tobia, and Smith

We express our strong opposition to the rezoning of Parcel IDs: 23-36-34-00-761 and 23-36-34-00-762 from the current AU to proposed RU-2-4, owed by Carter and Jessica Hayes, allowing for 10 rental units. We own the property on parcel 41 in the subdivision Citrus River Groves, Merritt Island, located within 500 feet of the proposed rezoning area of both parcels owned by the Hayes, as identified on the zoning map. The RU-2-4 zoning is inconsistent, will impact drainage/flood areas, and set the precedence for others to do the same along the West of State Rd 3; greatly impacting already established communities.

Per, references 1, 2, & 4; the surrounding Homeowners Associations, Citrus River Groves, and Horseshoe Bend Rd., have a strong opposition to this type of inconsistent development which will affect our quality of life and the uniformities of already established neighborhoods. Citrus River Groves and Horseshoe Bend do not have an independent HOA; a petition and grass-roots campaign was started knocking on doors gaining the opposition signatures for those residents unable to attend the hearing. More than half of the community (67%) opposed; those statistics would increase; however, some residents were unreachable. The total oppositions represent hundreds of residents—and should speak volumes.

While the local community may be unable to prevent development, that in itself will be detrimental to the area, there is no denying new development, especially one which increases density and will cause a ripple-effect on our over-stressed drainage, cause additional traffic and safety problems, and potentially lower property values/raise flood insurance costs of the existing community. This is not good for us! We are asking our elected leaders to support their communities opposed position, by reducing the zoning, with interest to the following:

Flooding. An issue on the Island and in our community. Stormwater runoff and an overstressed drainage canal on Citrus River Groves is a major concern—our cup is full and is already spilling over. The canal, even in the dry season, is at capacity. Even if water is retained on the Hayes property, the volume of soil percolation will be diminished and land build-up will allow escaping water towards the lowest spot, which is in our drainage canal as I'm sure it won't be crowned to drain towards Courtenay. Making an already un-easy situation more stressful during ordinary summer rainfall. The rezoning may impact our current FEMA flood-zone category from X to AE, affecting the cost of current homeowner's flood insurance by \$800 yearly. This type of situation doesn't affect you, until it does...once you live in a home



that has a potential to flood, a homeowner will do everything to protect it from happening and/or recurring. Recent aerial photos (reference 3) were taken 23JAN22 showing the size of the drainage canal and wetlands sprawl. Please note – the drainage canal was originally a couple feet wide and 18 inches deep. It is now 30 foot wide in areas and 10 feet in sections. Any more capacity or surface saturation will erode our land/property faster.

*The redline indicates Hayes' parcels, the blue swimming pool on left is my property 4550 Deanna Court. There will be a lot of land clearing needed to support 11 units. The red arrow indicates the drainage canal which is resident owned and on our property parcels. Bottom right picture (although hard to see) shows the land pitching away from Courtenay.*



**Conservation & Wildlife.** Identified wetlands will be affected, wildlife (alligators, turtles, spoonbills, egrets and yes, even bald eagles) have been observed in the area, and any land clearing development will destroy their habitat. Development should consider the negative impacts to local wildlife habitat.

**Property value and associated costs.** Current home values in FL., have been shown to decrease in the areas of multi-family units; especially when dwellings are inconsistent with the neighborhoods already developed. Additionally, during a recent discussion with my HO insurance agency, it was eluded that a change in FEMA flood maps, usually from development, may change our zone (which is currently X) and increase our flood insurance by \$800 a year. Once again, not good for us and our neighbors.

**Infrastructure.** If rezoned as requested, there will only be one way on and off the parcel and that will be one-way, going South on Courtenay at 45MPH, presenting a hazard. This most likely, will increase congestion for both outgoing and returning traffic which will be making U-turns when returning to the dwellings. Additionally, the owner has said in the previous meetings he intends to use county water/sewer systems—while that is claimed, it is not enforced. He could change his mind in the development process and use septic to lessen the building costs, this will add increased effluent to



already over-saturated soils. Where is all this water usage supposed to go? It will bleed into the surrounding parcels which are at the tipping point.

We ask that you disapprove the proposed rezoning as requested and rezone for something smaller. The surrounding community risk far outweighs the potential reward, as every action has an equal or opposite reaction. Eleven (11) units is too much and is not consistent with the surrounding area zoning. We know our opinions are shared by many who have not managed to attend meeting or write letters and emails.

Thank you for your consideration, service, and support of our great communities.

Best regards,

/s/

Alain & Cassandra Carpentier  
4550 Deanna Court



**From:** [Richard Schneider](#)  
**To:** [Alain Carpentier](#)  
**Cc:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** Re: Opposition in Rezoning ID# 21Z00042  
**Date:** Monday, January 10, 2022 6:19:29 PM

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

Great letter. Good luck

Sent from my iPhone

On Jan 10, 2022, at 1:02 PM, Alain Carpentier  
<[alainsandycarpentier@gmail.com](mailto:alainsandycarpentier@gmail.com)> wrote:

January 10, 2022

To: Planning and Development Department  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Vierra, FL  
From: Alain & Casandra Carpentier  
4550 Deanna Court  
Merritt Island, FL, 32953

Reference: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042

Panel/Board Members and Commissioner,

We want to express our strong opposition to the rezoning of Parcel IDs: 23-36-34-00-761 and 23-36-34-00-762 2019-0317 from the current AU to proposed RU-2-4 which are owed by Carter and Jessica Hayes. We own the property on parcel 41 in the subdivision Citrus River Groves, Merritt Island, located within 500 feet of the proposed rezoning area of parcel 761 owned by the Hayes, as identified on the zoning map.

The proposed rezoning will add several impacts to an already developed/established community, specifically: National Wetlands, FEMA Flood Zones and local wildlife. While the local community may be unable to prevent development, that in itself will be detrimental to the area, nearly all residents in the Citrus River Groves neighborhood are completely opposed to the addition of multi-family housing that will cause additional traffic and safety problems and potentially lower the property values of the existing community.



Potential Flooding. Stormwater runoff and an overstressed drainage canal on Citrus River Groves parcels:39-46; are within 500 feet of the proposed rezone area and is a major concern. The rezoning may impact our current FEMA flood-zone category from AE to AO, greatly affecting the cost of current homeowner's flood insurance. The drainage canal remains full, even in the dry-season, and further pressure will certainly foster land erosion at an increased rate.

Conservation & Wildlife. The removal of the trees and vegetation on the identified wetlands will ultimately drive more pressure into the drainage canal. Additionally, wildlife (alligators, turtles, spoonbills) have been observed in the area, and any land clearing development will destroy their habitat. Any planned development of the property should consider the continuing impact to local wildlife habitat.

Property Value. Current home values have the potential to decrease in the area if multi-family units are built. Multi-family dwellings are inconsistent with the neighborhoods already developed and established in the area. I urge you to disapprove the proposed rezoning, and from recent meetings and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails. Thank you for your service and support of our communities.

Best regards,

Alain & Sandy Carpentier  
904-631-1752



Objection  
21Z00042  
Hayes

**From:** [D. Barker](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)  
**Subject:** RE: Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting  
**Date:** Wednesday, January 26, 2022 4:11:41 PM

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

Commissioners,  
Please forgive the pertinent info I left out of my first email, sent to your office at 12:31 on 01/26/22.

Personal Info:  
Deborah Barker  
4540 Deanna Court  
Merritt Island, FL. 32953  
Citrus River Groves Subdivision, North Merritt Island  
District 2

Contact Info:  
Email: [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)  
Home Phone: 321-454-3327  
Cell Phone: 321-614-1392

---

**From:** D. Barker [<mailto:threeoaks@cfl.rr.com>]  
**Sent:** Wednesday, January 26, 2022 12:31 PM  
**To:** [D1.Commissioner@BrevardFL.gov](mailto:D1.Commissioner@BrevardFL.gov); [D2.Commissioner@BrevardFL.gov](mailto:D2.Commissioner@BrevardFL.gov);  
[D3.Commissioner@BrevardFL.gov](mailto:D3.Commissioner@BrevardFL.gov); [D4.Commissioner@BrevardFL.gov](mailto:D4.Commissioner@BrevardFL.gov); [D5.Commissioner@BrevardFL.gov](mailto:D5.Commissioner@BrevardFL.gov)  
**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)  
**Subject:** Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting

Good Day Brevard County Board of County Commissioners,

My correspondence to you today is in reference to:  
Board of County Commission Meeting 02/03/22  
Agenda Item H.10, Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.  
Brevard County Planning & Development ID# 21Z00042  
Tax Accounts 2318403 & 2318404

I am requesting you deny this request as the Developer's property to the West partially adjoins our property to the East, **meaning any development will be in my back yard.** Currently our rear view is a drainage canal full of wildlife coupled with many indigenous trees & protected plant life, and if this



zoning change passes, I will view a backyard encompassing a 9 to 11 unit apartment rental complex, or duplexes or townhomes.

I am a 45 year Merritt Island resident. My Husband & I own the property at 4540 Deanna Court, North Merritt Island, Florida, Citrus River Groves Subdivision. We purchased the lot in 1994 and built our home in accordance with Brevard County approval in 1997/98. We clearly have demonstrated our investment in North Merritt Island and vested rights thereto for 24 years.

I am physically disabled. My home is my physical & emotional sanctuary, as I'm sure your home is to you. Due to my physical limitations, I have very limited quality of life outside the boundaries of my home. If this zoning change is approved, we are concerned there will be only minimal standards set and adhered to during the building & permitting process, past this rezoning change request. It is my fear that the renters of a 9-unit apartment complex will become my co-located neighbors creating distractions of daily life to what I enjoy within my current home boundaries. The needs of existing homeowner's with vested rights should take precedence over new re-zoning requests and new construction.

In reviewing Brevard County's Mission Statement, Vision Statement, and Core Values, I see the County Commissioners as Stewards of our County, are tasked with the same issues I am writing to you about today, such as:

- Brevard's Quality of Life
- Health & Safety Needs of Our County
- Protecting Our Environment
- Conserving Our Natural Resources
- Leadership
- Quality
- Accountability

For the County Commissioners, your vote on this rezoning change is not simply a business/financial decision for the Developer. It is personal welfare, standard of living, humanitarian and quality control decision for the homeowners that have lived in the existing abutting homes, paying property taxes and supporting Brevard North Merritt Island economy for the past 24 or more years.

**If you are a County Commissioner that votes in favor of this zoning change, you will be eliminating my quality of life as a disabled long-term resident of Brevard County.** Your vote for the zoning change will adversely affect my physical and mental well-being, by creating plummeting standard of living issues for my property and myself. The existing trees that buffer the noise & protect the view will be cut down and will provide a front-row seat for a rental community. **I can't imagine you would want to be a County Commissioner voting against a physically disabled multi-decade resident of Brevard County.** I also can't imagine you voting for this re-zoning if this change would be made in your own back yard.

There are abundant Environmental & Safety issues that are involved in this zoning change request, all related to new construction in this particular area, substantiating why the property in question



should remain AU:

- Inadequate drainage
- Flooding
- Construction on Wetlands
- Impact on Lagoon due to septic/sewer
- Safety of additional residents leaving Merritt Island during Hurricanes
- Outdated FEMA Flood Map
- Density Issues
- Violates County Administrative Policies
- Existing canal on East side of Deanna Ct. Properties/West Side of rezoning request is at capacity during the dry season and cannot accommodate any further run-off.

This rezoning change will ruin the aesthetics of North Merritt Islands' rural character. Such rezoning will deplete the numerous protected resources of the area, such as Indigenous Trees & Plants, in addition to protected wildlife such as alligators, bald eagles and various types of turtles.

Other pertinent items relating to this zoning request:

- #1. The property requested for rezoning has been grandfathered in under AU.
- #2. As part of the property included in the rezoning request is located in a flood plain, this item should not be considered under the auspices of an outdated FEMA Flood plain map.
- #3. At what point should new construction be stopped in North Merritt Island, for any and all of the Environmental and Safety issues listed above?

The Mission and Vision of Brevard County identifies the reason Government exists at the local level, its Vision illustrates the desired future of the County, and the Core Values are those characteristics it's Leaders should possess to carry the Mission and Vision forward to their Constituents.

As a +4 decade Brevard County resident, a voter, a tax-payer, and a health-challenged member of your local community, I am trusting the BOCC to assume the roles as Administrators to support the numerous reasons listed herein this email to deny this zoning request.

Please deny the Carter & Jessica Hayes Rezoning Request from AU to RU-2-4, so as not to disrupt the Environmental & Safety Issues, coupled with diminished Quality of Life issues highlighted herein.

Thank you in advance to your attention in this integral matter.

I can be reached at 321-454-3327 (home) or 321-614-1392 (cell) with any questions or appreciated feedback.



**From:** [D. Barker](#)  
**To:** [Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5](#)  
**Cc:** [threeoaks@cfi.rr.com](mailto:threeoaks@cfi.rr.com)  
**Subject:** Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting  
**Date:** Wednesday, January 26, 2022 12:30:47 PM

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

Good Day Brevard County Board of County Commissioners,

My correspondence to you today is in reference to:  
Board of County Commission Meeting 02/03/22  
Agenda Item H.10, Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.  
Brevard County Planning & Development ID# 21Z00042  
Tax Accounts 2318403 & 2318404

I am requesting you deny this request as the Developer's property to the West partially adjoins our property to the East, **meaning any development will be in my back yard**. Currently our rear view is a drainage canal full of wildlife coupled with many indigenous trees & protected plant life, and if this zoning change passes, I will view a backyard encompassing a 9 to 11 unit apartment rental complex, or duplexes or townhomes.

I am a 45 year Merritt Island resident. My Husband & I own the property at 4540 Deanna Court, North Merritt Island, Florida, Citrus River Groves Subdivision. We purchased the lot in 1994 and built our home in accordance with Brevard County approval in 1997/98. We clearly have demonstrated our investment in North Merritt Island and vested rights thereto for 24 years.

I am physically disabled. My home is my physical & emotional sanctuary, as I'm sure your home is to you. Due to my physical limitations, I have very limited quality of life outside the boundaries of my home. If this zoning change is approved, we are concerned there will be only minimal standards set and adhered to during the building & permitting process, past this rezoning change request. It is my fear that the renters of a 9-unit apartment complex will become my co-located neighbors creating distractions of daily life to what I enjoy within my current home boundaries. The needs of existing homeowner's with vested rights should take precedence over new re-zoning requests and new construction.

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- Health & Safety Needs of Our County



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- Quality
- Accountability

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**If you are a County Commissioner that votes in favor of this zoning change, you will be eliminating my quality of life as a disabled long-term resident of Brevard County.** Your vote for the zoning change will adversely affect my physical and mental well-being, by creating plummeting standard of living issues for my property and myself. The existing trees that buffer the noise & protect the view will be cut down and will provide a front-row seat for a rental community. **I can't imagine you would want to be a County Commissioner voting against a physically disabled multi-decade resident of Brevard County.** I also can't imagine you voting for this re-zoning if this change would be made in your own back yard.

There are abundant Environmental & Safety issues that are involved in this zoning change request, all related to new construction in this particular area, substantiating why the property in question should remain AU:

- Inadequate drainage
- Flooding
- Construction on Wetlands
- Impact on Lagoon due to septic/sewer
- Safety of additional residents leaving Merritt Island during Hurricanes
- Outdated FEMA Flood Map
- Density Issues
- Violates County Administrative Policies
- Existing canal on East side of Deanna Ct. Properties/West Side of rezoning request is at capacity during the dry season and cannot accommodate any further run-off.

This rezoning change will ruin the aesthetics of North Merritt Islands' rural character. Such rezoning will deplete the numerous protected resources of the area, such as Indigenous Trees & Plants, in addition to protected wildlife such as alligators, bald eagles and various types of turtles.

Other pertinent items relating to this zoning request:

- #1. The property requested for rezoning has been grandfathered in under AU.
- #2. As part of the property included in the rezoning request is located in a flood plain, this item should not be considered under the auspices of an outdated FEMA Flood plain map.
- #3. At what point should new construction be stopped in North Merritt Island, for any and all of the



Environmental and Safety issues listed above?

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As a +4 decade Brevard County resident, a voter, a tax-payer, and a health-challenged member of your local community, I am trusting the BOCC to assume the roles as Administrators to support the numerous reasons listed herein this email to deny this zoning request.

Please deny the Carter & Jessica Hayes Rezoning Request from AU to RU-2-4, so as not to disrupt the Environmental & Safety Issues, coupled with diminished Quality of Life issues highlighted herein.

Thank you in advance to your attention in this integral matter.

I can be reached at 321-454-3327 (home) or 321-614-1392 (cell) with any questions or appreciated feedback.



Objection  
21Z00042  
Hayes

**From:** [Mary Brotherton](#)  
**To:** [Commissioner, D3](#)  
**Subject:** Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042  
**Date:** Sunday, January 30, 2022 11:44:29 PM

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

Commissioner Tobia:

I'm writing you today in reference to the following:

Board of County Commissioners Meeting of 02/03/22

Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

My name is Mary Brotherton, and I oppose rezoning property west of State Road 3, because I feel that doing so will impair my quality of life on North Merritt Island. I am the founding president of the nonprofit bUneke, which produces, among other things, bUneke Brevard, which promotes other nonprofits, with an emphasis on protecting the environment, making our world better, and preserving history.

The rezoning request by Carter and Jessica Hayes is literally in my back yard, as the boundaries of their property adjoin my next-door neighbors, therefore impacting where I live. I believe rezoning will be detrimental to my quality of life, the excellence of Merritt Island, and lifestyles throughout Brevard County, due to the waterways we all share.

My husband and I bought a home at 4520 Deanna Court, in Merritt Island, after researching many options in and out of Brevard County. We chose a home in Citrus River Groves, because we felt it offered a particular quality of life, a quality of life we wanted.

Without a homeowners' association to require it, the properties are respectfully well-maintained and the neighborhood is quiet. Yet, as all of the property owners on Deanna Court can attest, there is a certain untamed, natural quality that comes from the wetlands abutting our properties. I'm not an expert in this field, but I believe that rezoning the Hayes' property will jeopardize more than just my quality of life.

Many species will be uprooted from their ancestral homes in the wetlands and go – where?

I have never frowned on progress and I take full advantage of the modern advances our society has made, but I am afraid that if the zoning committee allows this one change; wildlife such as raccoons, rabbits, coyotes, and bobcats; migratory birds, native alligators, fish, turtles, and even gopher tortoises will be invading yards and swimming pools, because they will have nowhere else to go. When wildlife loses its quality of life, taxpayers suffer the consequences.



After I inherited my mother's rural South Carolina property, I had options. After years of maintaining my mother's home and acreage remotely, I considered how selling the property to a developer would enhance my quality of life by providing additional income for me, as I looked toward retirement. I also thought about how improving my property could impact my closest neighbors and I chose to sell it to my brother, who is restoring it properly. This meant the neighbors could maintain their quality of life, while I remained here on my beloved island.

I understand that Mr. and Mrs. Hayes have given verbal assurances and have promised to do their best to maintain the wetlands between their property and my direct neighbors. I'm old enough to realize the futility of relying on assurances and promises. Solemn vows and written contracts are broken every day, and when they are, someone's quality of life is forever changed – often, negatively.

I am deeply concerned by assurances and promises that might be no more than wind, in the future. Who will suffer the consequences if, once rezoned, the property is then sold to an actual developer who didn't make any assurances or promises? What's to stop adjoining landowners from having their properties rezoned so they can each sell to an entity that will forever change the landscape and quality of life in North Merritt Island, all in the name of progress? What will happen when that property is allowed to set an island-wide precedent, allowing for the destruction of our precious tree canopy and we have a larger asphalt and concrete footprint where natural erosion and flood-protection currently exist? In the name of progress, every piece of litter, every oil spill, every drop of rain that used to soak into the ground, will run across adjoining properties, potentially flooding them, on their way to the already over-taxed Indian River Lagoon. What assurances will be given to prevent this pollution in five years, ten years, fifty years? I am not assured.

Progress is not improving anything if it compromises the wetlands and adjoining properties. We have seen the extinction of far too many lifeforms in the 21<sup>st</sup> century. Please, don't agree to rezone this property and make the North Merritt Island lifestyle become a thing of the past.

I strongly oppose rezoning property owned by Carter and Jessica Hayes, west of State Road 3 in North Merritt Island, because I feel that doing so will dramatically impair my quality of life, as well as the quality of life of many of my nearby taxpayers.

When you vote, I urge you to contemplate the health of our environment as well as the impact rezoning will make on many homeowners throughout Brevard County.

Thank you for your time and considerate attention to this,  
Mary Brotherton



**From:** Curtis B  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** re: ID 21Z00042 2/3/22 Agenda Item H.11. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.  
**Date:** Thursday, February 3, 2022 6:30:26 AM

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

Board of County Commissioners Meeting of 02/03/22  
Agenda Item H.11. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.  
Brevard County Planning & Development ID# 21Z00042  
Tax Accounts 2318403 & 2318404

Dear Honorable Commissioners:

Due to health concerns, I will not be able to attend tonight's meeting in person.

I however did want to express some concerns about this request that I have.  
While I understand there is no explicit provision in Chapter 62 of the Brevard County code to allow for a tabling of this request, the commission does have in my humble opinion the authority to pause or table a request, if it deems it is in the best interest of all parties it represents, which in this case is not only the requestors, but the homeowners of Deanna Court that are adjacent to the properties in this matter.

After consultation with a local attorney, he advised me what to research, and that this should be pretty cut and dry. However the data I discovered left me with more questions than answers.

My concern relates to the reported age of the Brevard County Master Development plan. From all data and research I can find, it doesn't appear it has been updated since September of 1988 (nearly 34 years). Neighboring counties all have updated their master plans within the last few years, which include things like US Census data, FEMA flood zone data, EPA data regarding protected wetlands and suggested densities, and surrounding area and municipality master plans updates for growth projections, road easements and other road concerns, drainage issues, etc. Other counties also provide proof that they have sent these updated plans per Florida Statutes, Chapter 163, to the State of Florida. I was not able to find any such Brevard County reports to the State of Florida regarding updates to our master plans to the State of Florida since they were invoked.



Please note, I am not making any allegations, just stating the fact I could not find recent data online. This fact concerns me, and should concern the leadership and all residents of the county as well.

How can the county rezone property, when it appears that the master plan is badly out of date when compared to neighboring Florida counties? We need to do better.

I would respectfully ask that the Brevard County commission table agenda item H.11, until it can be ascertained, the actual status of the age of the Brevard County master development plan, and to be sure at the very least that more recent data from the last 1-2 years, from Kennedy Space Center, Florida Department of Transportation, as well as FEMA (Flood Zone data), along with the EPA data regarding the protected wetlands that borders our properties can be evaluated to be sure this is actually a feasible, and acceptable use change for these properties for the density being requested. I find it difficult to believe it is in the best interest of Brevard County as whole, to allow for new high density housing, which is directly adjacent to protected wetlands, when other Florida counties are clearly restricting and scaling back the density allowed near protected wetlands.

Also, has Brevard County addressed and updated their formula for calculating density allowed when wetlands are included in the property, as other Florida Counties have done? A lot of counties in the state now, no longer allow the portions of the property that are protected wetlands, to be calculated into the allowed density. I did not find this in the 1988 Master Plan, and should be updated accordingly, prior to ruling on this request.

As I am sure you will hear from many other parties on this matter, flooding is a major issue for concern on North Merritt Island, and I am very concerned about the age of the data being used to make these important decisions, and should be addressed now, prior to ruling on the proposed zoning changes.

Yours truly,

Curtis Brotherton  
4520 Deanna Court  
Merritt Island, FL 32953



**Mascellino, Carol**

---

**From:** Commissioner, D1  
**Sent:** Thursday, February 3, 2022 9:03 AM  
**To:** Curtis B  
**Cc:** Pritchett, Rita; Mascellino, Carol; Smith, Nathan; Price, Jessica  
**Subject:** RE: ID 21Z00042 2/3/22 Agenda Item H.11. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Mr. Brotherton,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

***Please note:***

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

**From:** Curtis B <curtisbrotherton.fl@gmail.com>  
**Sent:** Thursday, February 3, 2022 6:30 AM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>  
**Subject:** re: ID 21Z00042 2/3/22 Agenda Item H.11. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

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



Board of County Commissioners Meeting of 02/03/22

Agenda Item H.11. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

Dear Honorable Commissioners:

Due to health concerns, I will not be able to attend tonight's meeting in person.

I however did want to express some concerns about this request that I have.

While I understand there is no explicit provision in Chapter 62 of the Brevard County code to allow for a tabling of this request, the commission does have in my humble opinion the authority to pause or table a request, if it deems it is in the best interest of all parties it represents, which in this case is not only the requestors, but the homeowners of Deanna Court that are adjacent to the properties in this matter.

After consultation with a local attorney, he advised me what to research, and that this should be pretty cut and dry. However the data I discovered left me with more questions than answers.

My concern relates to the reported age of the Brevard County Master Development plan. From all data and research I can find, it doesn't appear it has been updated since September of 1988 (nearly 34 years). Neighboring counties all have updated their master plans within the last few years, which include things like US Census data, FEMA flood zone data, EPA data regarding protected wetlands and suggested densities, and surrounding area and municipality master plans updates for growth projections, road easements and other road concerns, drainage issues, etc. Other counties also provide proof that they have sent these updated plans per Florida Statutes, Chapter 163, to the State of Florida. I was not able to find any such Brevard County reports to the State of Florida regarding updates to our master plans to the State of Florida since they were invoked.

Please note, I am not making any allegations, just stating the fact I could not find recent data online. This fact concerns me, and should concern the leadership and all residents of the county as well.

How can the county rezone property, when it appears that the master plan is badly out of date when compared to neighboring Florida counties? We need to do better.

I would respectfully ask that the Brevard County commission table agenda item H.11, until it can be ascertained, the actual status of the age of the Brevard County master development plan, and to be sure at the very least that more recent data from the last 1-2 years, from Kennedy Space Center, Florida Department of Transportation, as well as FEMA (Flood Zone data), along with the EPA data regarding the protected wetlands that borders our properties can be evaluated to be sure this is actually a feasible, and acceptable use change for these properties for the density being requested. I find it difficult to believe it is in the best interest of Brevard County as whole, to allow for new high density housing, which is directly adjacent to protected wetlands, when other Florida counties are clearly restricting and scaling back the density allowed near protected wetlands.

Also, has Brevard County addressed and updated their formula for calculating density allowed when wetlands are included in



the property, as other Florida Counties have done? A lot of counties in the state now, no longer allow the portions of the property that are protected wetlands, to be calculated into the allowed density. I did not find this in the 1988 Master Plan, and should be updated accordingly, prior to ruling on this request.

As I am sure you will hear from many other parties on this matter, flooding is a major issue for concern on North Merritt Island, and I am very concerned about the age of the data being used to make these important decisions, and should be addressed now, prior to ruling on the proposed zoning changes.

Yours truly,

Curtis Brotherton  
4520 Deanna Court  
Merritt Island, FL 32953



Additional D2 Disclosures for Item H.11. (Hayes property)

These Merritt Island residents expressed their concerns about the proposal in emails received by the District 2 office on February 2<sup>nd</sup> and 3<sup>rd</sup>:

- Bernd Zoller
- Ivan Velez
- Curtis Botherton