



AGENDA REPORT
May 24, 2018

SUBJECT:

Public Hearing, Re: Indian River Behavioral Health (Scott Glaubitz) requests a Binding Development Plan to allow for a wall 12 ft. in height in a BU-1 Zoning classification. The property is 10.11 acres, located at 2355 Truman Scarborough Way, Titusville. (18PZ00025) (District 1)

FISCAL IMPACT:

None.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

It is requested that the Board of County Commissioners conduct a public hearing to consider the request for a Binding Development Plan to allow for a wall 12 ft. in height in a BU-1 Zoning classification.

SUMMARY EXPLANATION and BACKGROUND:

The applicant is proposing a BDP (Binding Development Plan) in a BU-1 Zoning classification for the purpose of constructing a 12 foot high patient activity yard barrier fence along the south side of the behavioral health building in four (4) designated locations on the property. Typically, a request for a fence height increase would need to be heard within the variance process; but, within the BU-1 Zoning classification, per Brevard County Code Section 62-2109 (a), a fence height increase up to 12 foot high could be permissible by recording a BDP instead. If approved, the applicants will submit an Engineering Revision to the approved Site Plan in order to incorporate the 12 foot high fence into the current construction project.

This site's development was recently approved in late 2017 under site plan # 17SP00008 and is currently under construction under building permit number 17BC14523. Previous zonings on this site occurred back in 2004/2005. In April, 2004, a portion of the site was rezoned from AU to BU-1 under Z-10809. In October, 2005 the remainder of the site was zoned from AU to BU-1 under Z-11129.

The BU-1 Zoning classification is consistent with the CC FLU designation and allows a hospital use.

The Board may wish to consider whether the BDP allowance for a 12-foot high fence should be approved in this scenario. If approved, the applicants will submit an

Engineering Revision to the approved Site Plan in order to incorporate the 12-foot high fence into the current construction project.

Staff contact: Erin Sterk, Interim Planning & Zoning Manager, erin.sterk@brevardfl.us

ATTACHMENTS:

Description

- ▢ **Staff Report 18PZ00025**
- ▢ **Maps**
- ▢ **FYI**

Proposed BDP

Prepared by: _____

Address: _____

BINDING DEVELOPMENT PLAN

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

RECITALS

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

WHEREAS, Developer/Owner is developing the Property as a behavioral health facility; and desires to construct an internal security fence or wall, internal to the site, 12 feet in height, extending from the building around the patient activity yards; and the site is in a commercial (BU-1) zoning classification located adjacent to a residential (TR-3) zoning classification; and pursuant to the Brevard County Code, Section 62-2109 and Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

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

2. The Developer/Owner shall construct all portions of the 12-foot fence or wall at least 40 feet from the property line.

3. The Developer/Owner shall construct a six-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, along the property line abutting the residential zoning classification as required by Brevard County Code, Section 62-3202(h)(10).

4. The Developer/Owner shall provide a continuous landscape buffer, consisting of trees with a mature height of at least 20 feet, along the property line abutting the residential zoning classification.

5. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

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

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

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

9. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 8 above.

REZONING REVIEW WORKSHEET

18PZ00025

Commission District # 1

Hearing Dates:

P&Z 05/07/18

BCC 05/24/18

Owner Name: INDIAN RIVER BEHAVIORAL HEALTH

Request: BDP to allow for a wall 12 ft. in height in BU-1

Subject Property:

Parcel ID# 21-35-28-00-258

Tax Acct.# 2105375

Location: Southeast corner of Truman Scarborough Way and U.S. Hwy 1

Address: 2355 Truman Scarborough Way, Titusville

Acreage: 10.11 acres

Consistency with Land Use Regulations

YES

Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255

YES

Proposal can be considered under the Future Land Use Designation. Sec. 62-1255

YES

Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1	BU-1 with BDP for 12' fence height
Potential*	55,515 sq. ft. 80 bed facility	55,515 sq. ft. 80 bed facility
Can be Considered under FLU MAP	YES Community Commercial	YES Community Commercial

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

	ADT	PM PEAK		
Trips from Existing Zoning	734	52	Segment Number	360U
Trips from Proposed Zoning	734	52	Segment Name	US Hwy 1 Garden St. - Dairy
Maximum Acceptable Volume (MAV)	41,790	3,761	Acceptable LOS	D
Current Volume	22,488	2,024	Directional Split	0.5
Volume With Proposed Development	23,222	2,090	ITE CODE	
Current Volume / MAV	53.81%	53.81%	610	
Volume / MAV with Proposal	55.57%	55.57%		
Current LOS	C	C		
OS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

Background & Purpose of Request

The applicant is proposing a Binding Development Plan (BDP) in a BU-1 Zoning classification for the purpose of constructing a 12 foot high patient activity yard barrier fence along the south side of the behavioral health building in four (4) designated locations on the property. Typically, seeking a fence height increase, a request would need to be heard within the variance process, per Brevard County Code Section 62-2109 (a) Within the BU-1 Zoning classification, a fence height increase, up to 12 foot high could be pursued by recording a BDP, instead. If approved, the applicants will submit an Engineering Revision to the approved Site Plan in order to incorporate the 12 foot high fence into the current construction project.

This site's development was recently approved in late 2017 under site plan # **17SP00008** and is currently under construction under building permit number **17BC14523**. Previous zonings on this site occurred back in 2004/2005. In April, 2004, a portion of the site was rezoned from AU to BU-1 under **Z-10809**. In October, 2005 the remainder of the site was zoned from AU to BU-1 under **Z-11129**.

Land Use Compatibility

The subject property retains the Community Commercial (CC) Future Land Use Designation. **FLUE Policy 2.7** describes the activities permitted within the CC Future Land Use designation. The BU-1 Zoning classification is consistent with the CC FLU designation and allows a hospital use.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Environmental Constraints

Please refer to comments provided by the Natural Resource Management Department.

Applicable Land Use Policies

The applicant has submitted a Binding Development Plan (BDP) request to allow for a higher fence/wall height than the standard code allows. The site retains the BU-1 Zoning classification and development of a behavioral health center is under construction at this time. This zoning action (BDP) will allow the applicant to maintain security of the patients while allowing the outside activity area to remain open to the sky. Staff offered the option to enclose the activity area; however, the applicant wishes to maintain this area as an open area.

The adjacent Zoning classification to the north and east is Agricultural residential (AU). The AU Zoning classification permits single-family residences and agricultural pursuits on 2 ½ 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 zoning to the south is a mixture of General Retail Commercial (BU-1) and Mobile Home Park (TR-3). The BU-1 Zoning classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. TR-3 zoning is a mobile home park Zoning classification with a minimum lot size of 10 acres for the park. Mobile home sites must be at least 4,000 square feet, with a minimum width of 40 feet. Property to the west of US Highway 1 is within the City limits of Titusville and is zoned CC Community Commercial and M-2 Heavy Industrial.

Previous zonings actions on this site occurred back in 2004/2005. In April, 2004, a portion of the site was rezoned from AU to BU-1 under **Z-10809**. In October, 2005 the remainder of the site was zoned from AU to BU-1 under **Z-11129**. The latest zoning action within the section occurred on April 3, 2015 for a site rezoned under

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(18PZ00025)
05/07/18 PZ // 05/24/18 BCC

14PZ-00111. The request was to change AU to the RU-2-4 Zoning classification and to limit development to four (4) under by BDP recorded in ORB 7336 Page 1142.

For Board Consideration

The Board may wish to consider whether the BDP allowance for a 12 foot high fence should be approved in this scenario. If approved, the applicants will submit an Engineering Revision to the approved Site Plan in order to incorporate the 12 foot high fence into the current construction project.

The BU-1 Zoning classification is consistent with the CC FLU designation and allows a hospital use.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review

SUMMARY

Item #: 18PZ00025	Applicant: James Brown
Request: BDP	
P&Z Hearing: 05/07/18	BCC Hearing: 05/24/18

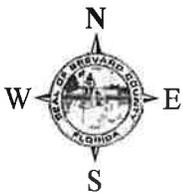
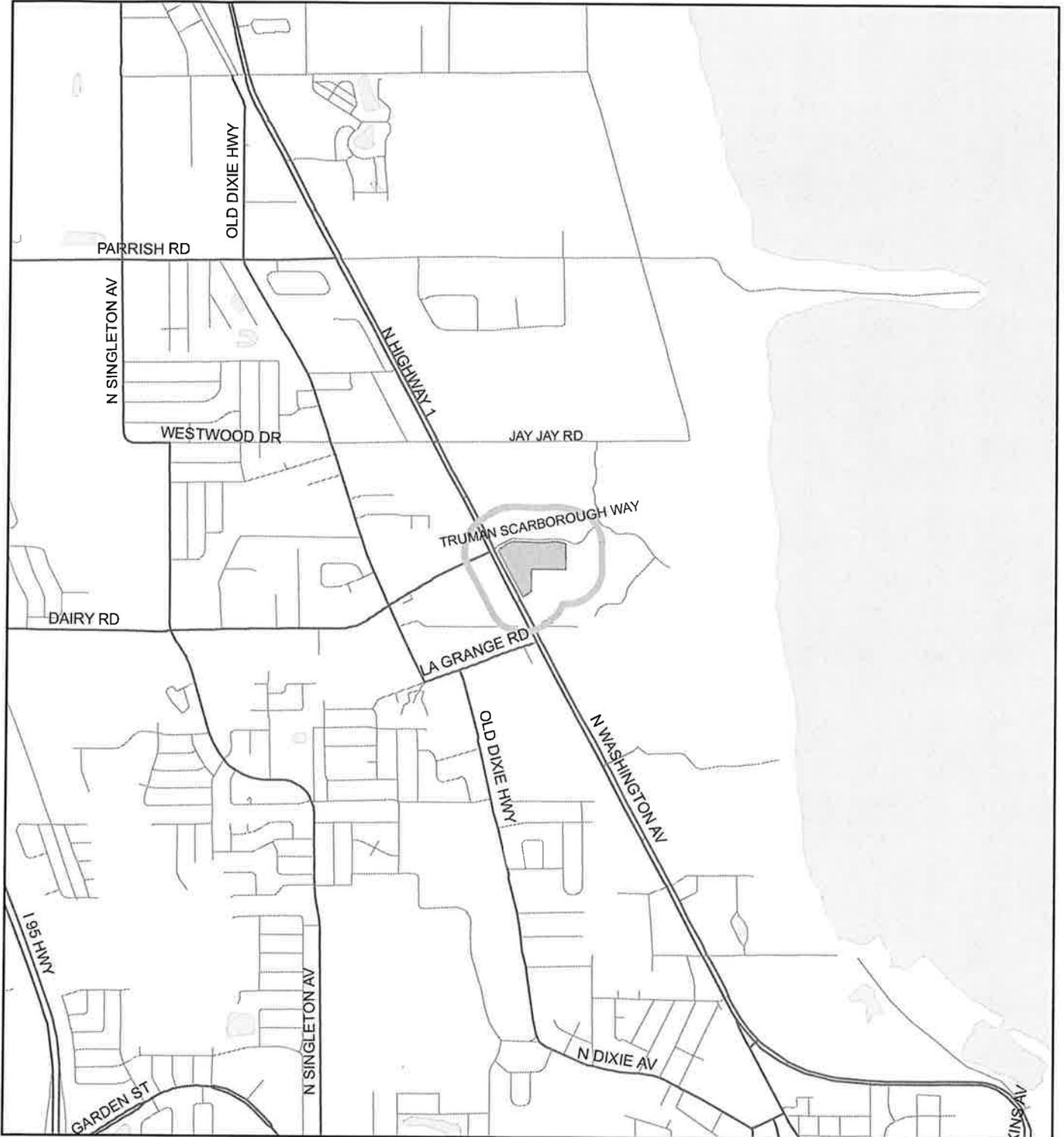
This is a preliminary review based on environmental maps available to the Natural Resources Management Department (NRM) at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, County or Local Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

Comments:

**This review relates to the following property: Twp 21, Rng. 35, Sec. 28;
Tax ID No. 2105375**

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. The proposed Binding Development Plan provides for a continuous landscape buffer, consisting of trees with a mature height of at least 20 feet, along the property line abutting the residential zoning classification.

LOCATION MAP
INDIAN RIVER BEHAVIORAL HEALTH
18PZ00025



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

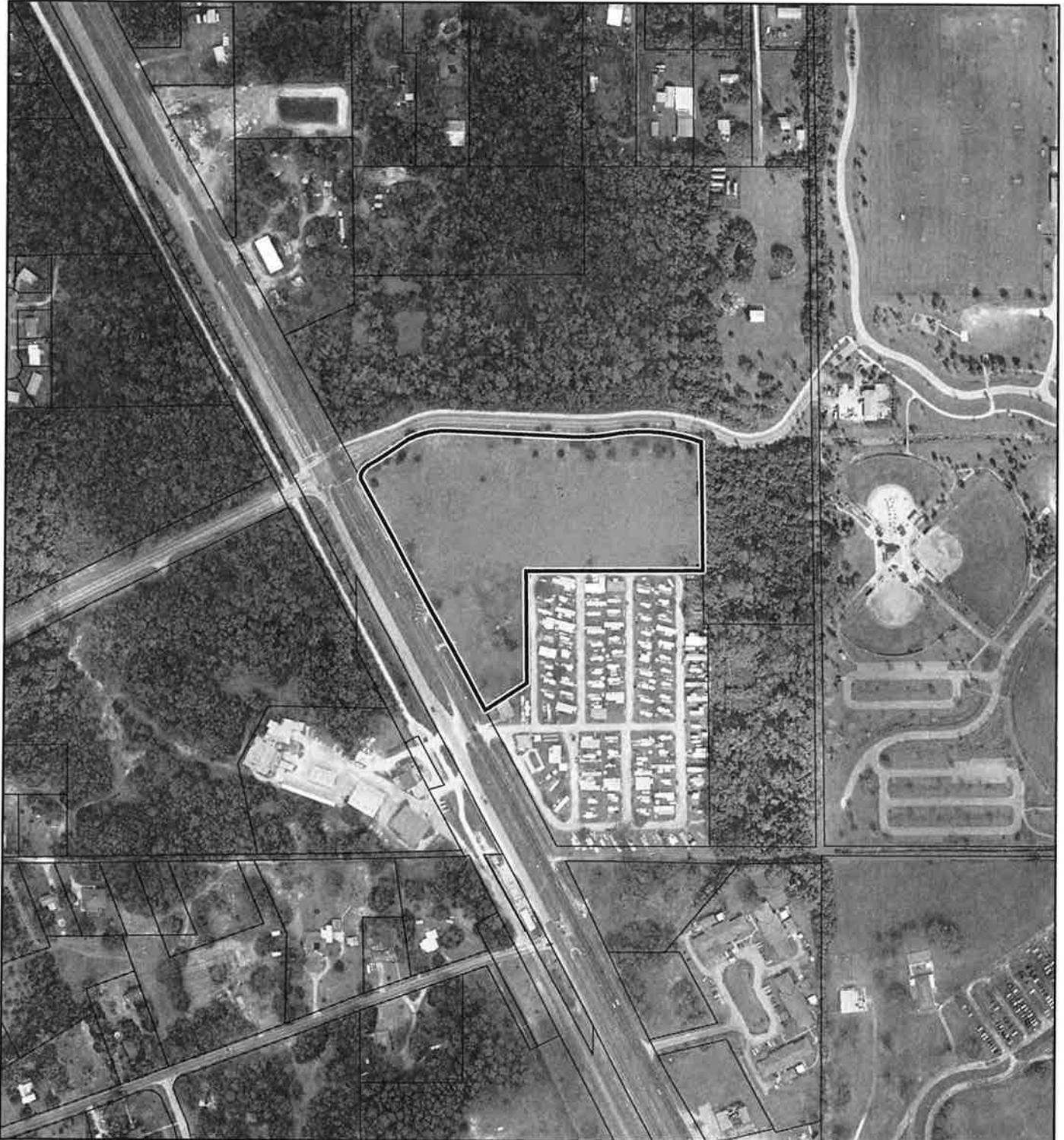
Buffer Distance: 500 feet

-  Buffer
-  Subject Property

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

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 3/9/2018

AERIAL MAP
INDIAN RIVER BEHAVIORAL HEALTH
18PZ00025



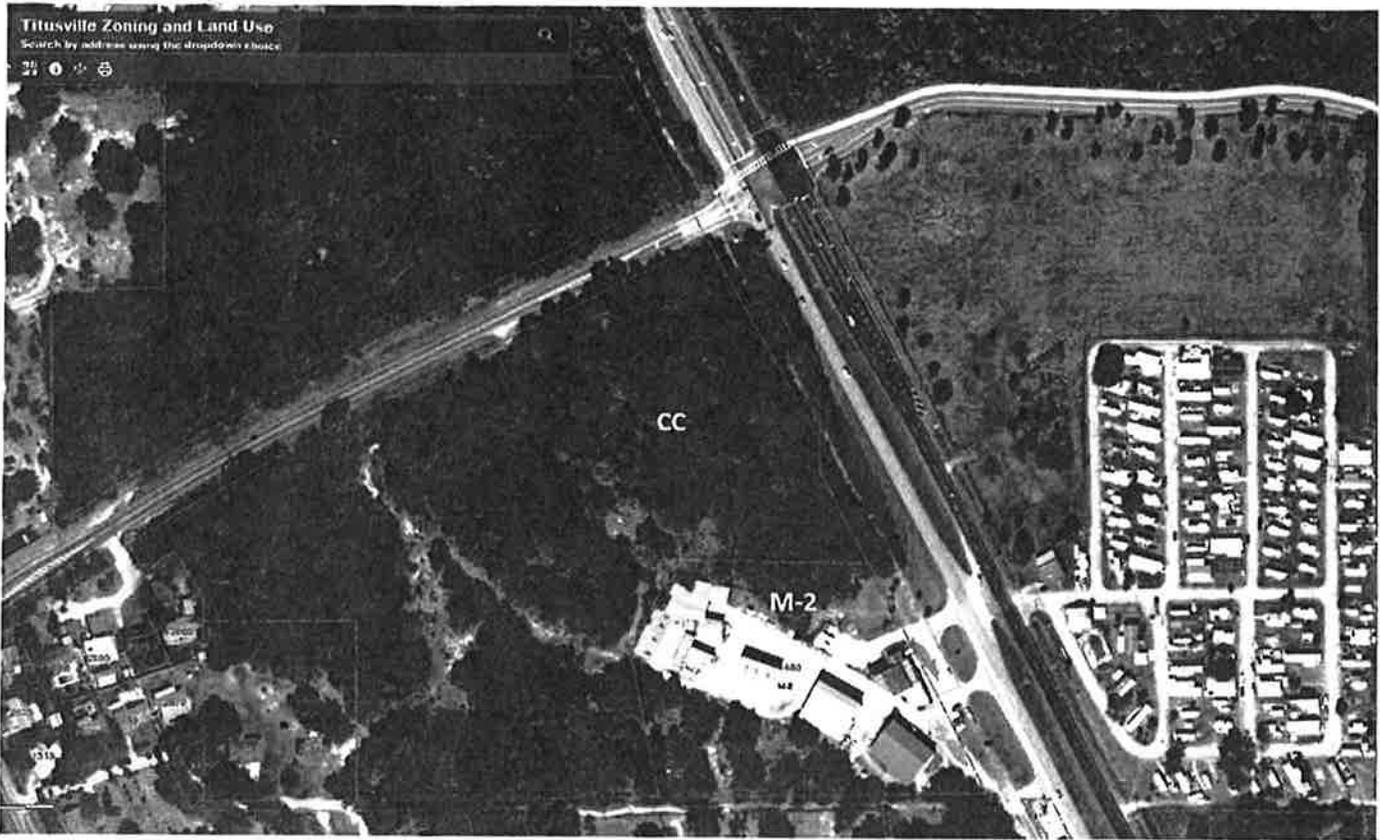
1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2017

 Subject Property
 Parcels

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

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 3/9/2018



Sterk, Erin

Subject: RE: BDP language for 5/24/18 zoning meeting

From: Valliere, Christine V
Sent: Thursday, May 24, 2018 4:18 PM
To: Jones, Jennifer
Cc: Mcgee, Darcie A; Allen, Jeanne
Subject: BDP language for 5/24/18 zoning meeting

IV. G

4. The Developer/Owner shall provide an additional, continuous landscape buffer, including trees with a mature height of at least 20 feet, along the 12' high fenced enclosure, as approved by Natural Resources Management. At planting, trees shall meet large tree specifications of twelve (12) feet tall with a two and one-half (2.5) inch diameter (caliper) minimum. Shrubs shall be a minimum of three (3) feet in height and spaced at a minimum of (4) feet on center. The landscape buffer will not be planted in a way to create a security risk.

IV.K. ...septic systems at a minimum of 65% total nitrogen reduction, or per adoption of a septic system ordinance, whichever is more restrictive.

Thanks,

Christine

Christine Valliere, Esq.
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