



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.2.

12/5/2023

Subject:

Waiver of Subdivision Perimeter Buffer, Re: Outback Preserve (19SD00011) (22WV00013)
Developer: DRMP, Inc. District 2

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

The applicant requests a waiver to Section 62-2883(d), of the subdivision requirements to allow improvements to be made to stormwater system that will encroach into the required fifteen-foot perimeter buffer.

Summary Explanation and Background:

Section 62-2883(d) requires that for the development of proposed residential subdivisions, a minimum 15-foot perimeter buffer shall be required. Such buffer shall remain undisturbed along all property boundaries and shall be platted as a common tract, separate from individual lots. Landscape improvements may be constructed within said buffer tract subject to review and approval by the county. The buffer tract is intended to provide screening between the boundaries of residential developments and adjacent properties. The developer of Outback Preserve is requesting a waiver to allow rerouting and improving the stormwater outfall ditch that runs through the subject property as directed in the recorded Binding Development Plan 18PZ00054. Some of the improvements to the existing outfall ditch are proposed within the required buffer.

Outback Preserve is a residential subdivision proposed on the north side of North Tropical Trail in North Merritt Island, containing 161 single-family lots on 166.79 acres. The project is bounded by North Tropical Trail to the south, by vacant land zoned GML (government-managed lands), single-family development zoned AU (agriculture residential) and RR-1 (rural residential) to the west, and by single-family mobile home development zoned TR-1 to the north and east.

Staff from Public Works Engineering and from the Natural Resources Management Department have worked with the applicant through the subdivision plan review process to reach agreement regarding the details of the waiver request, and approval is conditional upon the design depicted in the subdivision plan. Pursuant to Section 62-3207 of the Code, Staff requests that it be evaluated by the Board of County Commissioners. Board approval of this waiver does not relieve the developer from obtaining all other necessary jurisdictional permits.

Reference: 22WV00013, 19SD00011

Contact: Tim Craven, Planner II, 321-350-8266

Clerk to the Board Instructions:



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us

December 6, 2023

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director Attn: Tim Craven

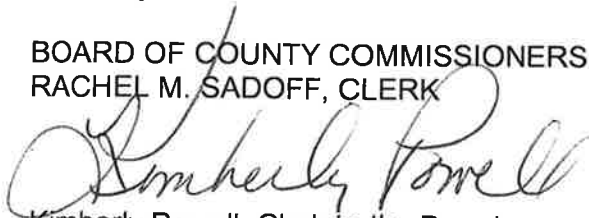
RE: Item F.2., Waiver or Subdivision Perimeter Buffer for Outback Preserve (19SD00011)
(22WV00013) Developer: DRMP, Inc.

The Board of County Commissioners, in regular session on December 5, 2023, approved the Waiver of Subdivision Perimeter Buffer for Outback Preserve – Developer: DRMP, Inc. to Section 62-2883(d), of the subdivision requirements to allow improvements to be made to stormwater system that will encroach into the required fifteen-foot perimeter buffer.

Your continued cooperation is greatly appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK



Kimberly Powell, Clerk to the Board

/dm



BOARD OF COUNTY COMMISSIONERS

Planning and Development
Planning and Zoning
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321) 633-2070 Phone

LAND DEVELOPMENT WAIVER APPLICATION

This form should be used for all waiver requests or appeals associated with the Code of Ordinances, Section 62, as it relates to Subdivisions, Minor Subdivisions, and Site Plans. Fees for Waivers are \$775.00.

Application Type:

☒ Subdivision Waiver ☐ Site Plan Waiver ☐ Other

If other, please indicate

Tax Account Numbers:

See attached Exhibit "A"

Tax Account 1

Tax Account 2

Project Information and Site Address:

Outback Reserve Subdivision Ronald E. Dimenna

Project Name

Property Owner

3850 S. Banana Dr. Cocoa Beach FL 32931

Street

City

State

Zip Code

Applicant Information:

Malcolm Kirschenbaum, Esq.

Applicant Name

Company

516 Delannoy Ave. Cocoa FL 32922

Street

City

State

Zip Code

321-631-2022

Mkirschenbaum@mc.com

Primary Phone

Secondary Phone

Email Address

Engineer/Contractor (if different from applicant):

Scott Nickle, VP

DRMP, Inc.

Engineer or Project Manager

Company

100 Parnell St.

Merritt Island

FL

32922

Street

City

State

Zip Code

321-453-0010

snickle@drmp.com

Primary Phone

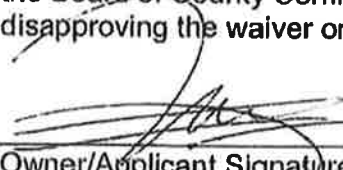
Secondary Phone

Email Address

Description of Waiver Request and Code Section:

Applicant is requesting a waiver of Section 62-2883(d) requiring a 15 foot wide perimeter buffer to remain undisturbed. A 15 foot wide perimeter buffer tract is proposed and preservation of any existing vegetation is proposed wherever possible.

If you wish to appeal any decision made by County staff on the wavier, you may request that the Board of County Commissioners make a determination. The Board's decision approving or disapproving the waiver or interpretation is final.


Owner/Applicant Signature

Malcolm Kirschenbaum, Esq.

Print Name

Land Development Application Document Submittal Requirements

Waivers for Site Plans or Subdivisions require an application, waiver criteria (listed below), an 8 ½-Inch x 11 Inch vicinity map, and a fee of \$775.00.

Waiver Criteria for Subdivisions and Site Plans

For a waiver to be considered and approved by staff, your request must comply with all of the following criteria. Please explain, in detail, how your request meets the following conditions.

1. The particular physical conditions, shape, or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out.

Due to the unique nature complexity of the subject property and proposed development design constraints associated with existing and proposed drainage systems, ability to avoid grading within portions of the buffer tract is not possible.

See attached exhibit identifying affected locations

2. The granting of the waiver will not be injurious to the other adjacent property.

This waiver request does not impact or negatively effect adjacent properties. In fact, since a portion of the proposed project involves rerouting and improving the stormwater outfall ditch that runs through the property, and this improvement is an important component of Brevard County's Master Stormwater Improvement Plan for this area, it is likely that granting of the waiver would facilitate improvement of drainage for adjacent properties.

3. The conditions, upon which a request for waivers are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant.

As stated in the response above, the subject property has unique characteristics associated with an outfall ditch that bisects the property and serves other surrounding properties. The applicant is proposing to relocate and better define the outfall ditch within his property to improve stormwater conveyance.

4. The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan, and the requirements of this article.

The requested waiver is consistent with intent and purpose of the zoning regulations and land use plan. A 15 foot wide buffer will still be provided and for any areas requiring removal of vegetation, replacement plantings will be provided, consistent with County requirements.

5. Delays attributed to state or federal permits.

Significant delay was encountered while pursuing state permitting, however a St. Johns Water Management District permit and an FDEP permit have been obtained.

6. Natural disasters.

Unavoidable delays occurred as a result of the COVID-19 pandemic.

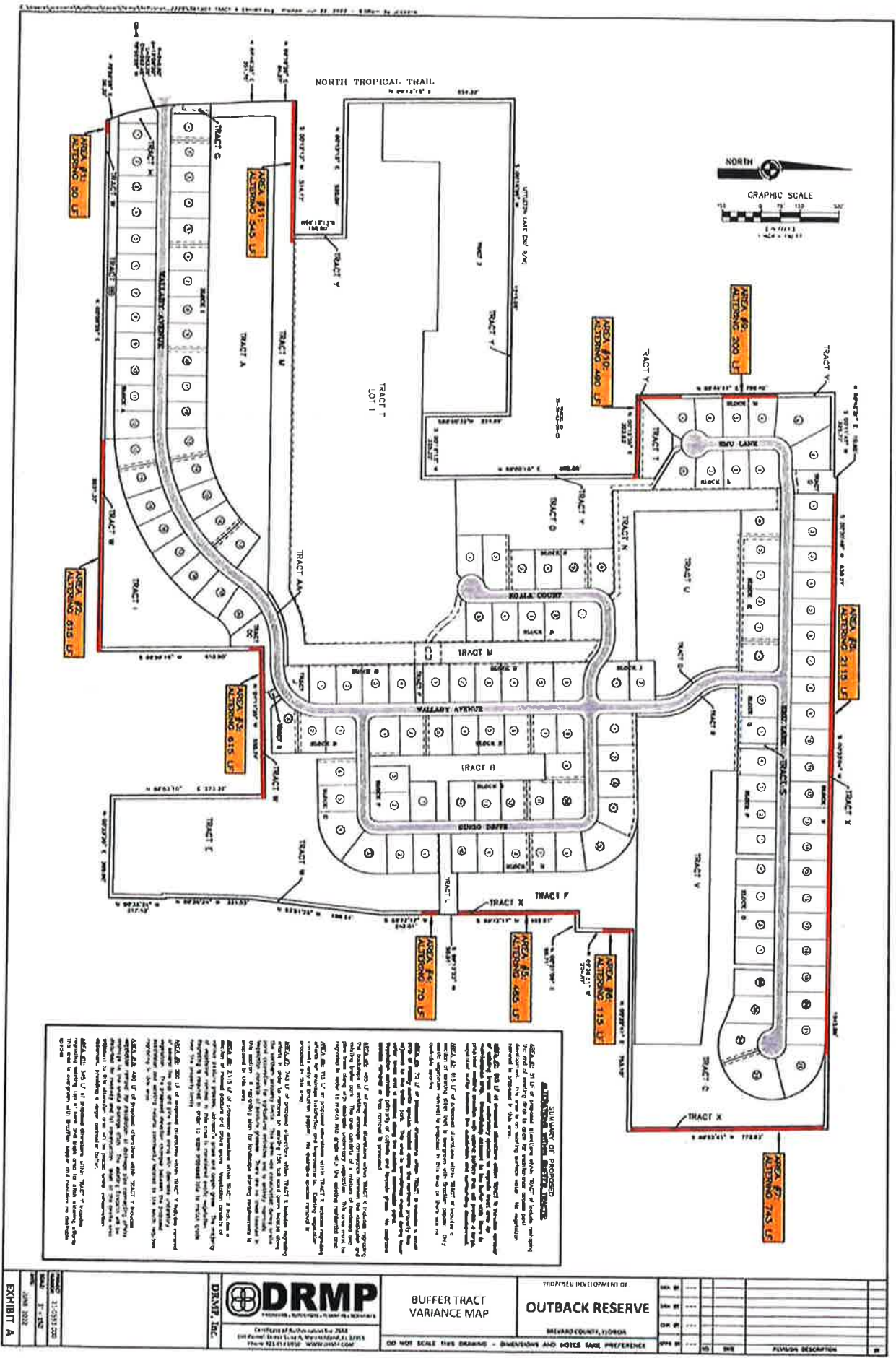
7. County development engineer and affected agencies concur that an undue hardship was placed on the applicant. (To be filled out by County staff)

Office Use Only	
Request Date <u>7-14-22</u>	For <u>\$ 775 8/16</u>
Original Project Number <u>195800011</u>	Waiver Number <u>22WV00013</u>
Coordinator Initials <u>TC</u>	Reference Files _____
County Manager/Designee Approval _____	

Exhibit "A"

T-R-S	Tax Parcel	Tax Account #	Acreage (AC)
23-36-22	2	2316236	1.95
23-36-22	28	2316263	31.2
23-36-22	3	2316237	17.92
23-36-22	251	2316269	5.7
23-36-15	752.1	2315513	8.15
23-36-15	752	2315512	30.0
23-36-15/22	501	2315503	44.71
23-36-22	18*	2316253	23.7
Total			163.33

**The portion of Tax Parcel 18 lying north of the
right-of-way of North Tropical Trail only.*



SUMMARY OF PROPOSED ACTIONS

AREA #1: 31.17 of proposed development within Tract V includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.

AREA #2: 21.15 of proposed development within Tract X includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.

AREA #3: 21.15 of proposed development within Tract X includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.

AREA #4: 21.15 of proposed development within Tract X includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.

AREA #5: 21.15 of proposed development within Tract X includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.

AREA #6: 21.15 of proposed development within Tract X includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.

AREA #7: 21.15 of proposed development within Tract X includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.

AREA #8: 21.15 of proposed development within Tract X includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.

AREA #9: 21.15 of proposed development within Tract X includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.

AREA #10: 21.15 of proposed development within Tract X includes parking lot and building area to be used for outdoor storage and parking lot. The area is currently zoned R-1 and is being rezoned to R-1A. The rezoning is necessary to allow for the proposed development.



DRMP
DRAINAGE RESOURCES MANAGEMENT PRACTICES

OUTBACK RESERVE

PROPERTY DEVELOPMENT OF
BREWER COUNTY, FLORIDA

EXHIBIT A

DRMP, INC.

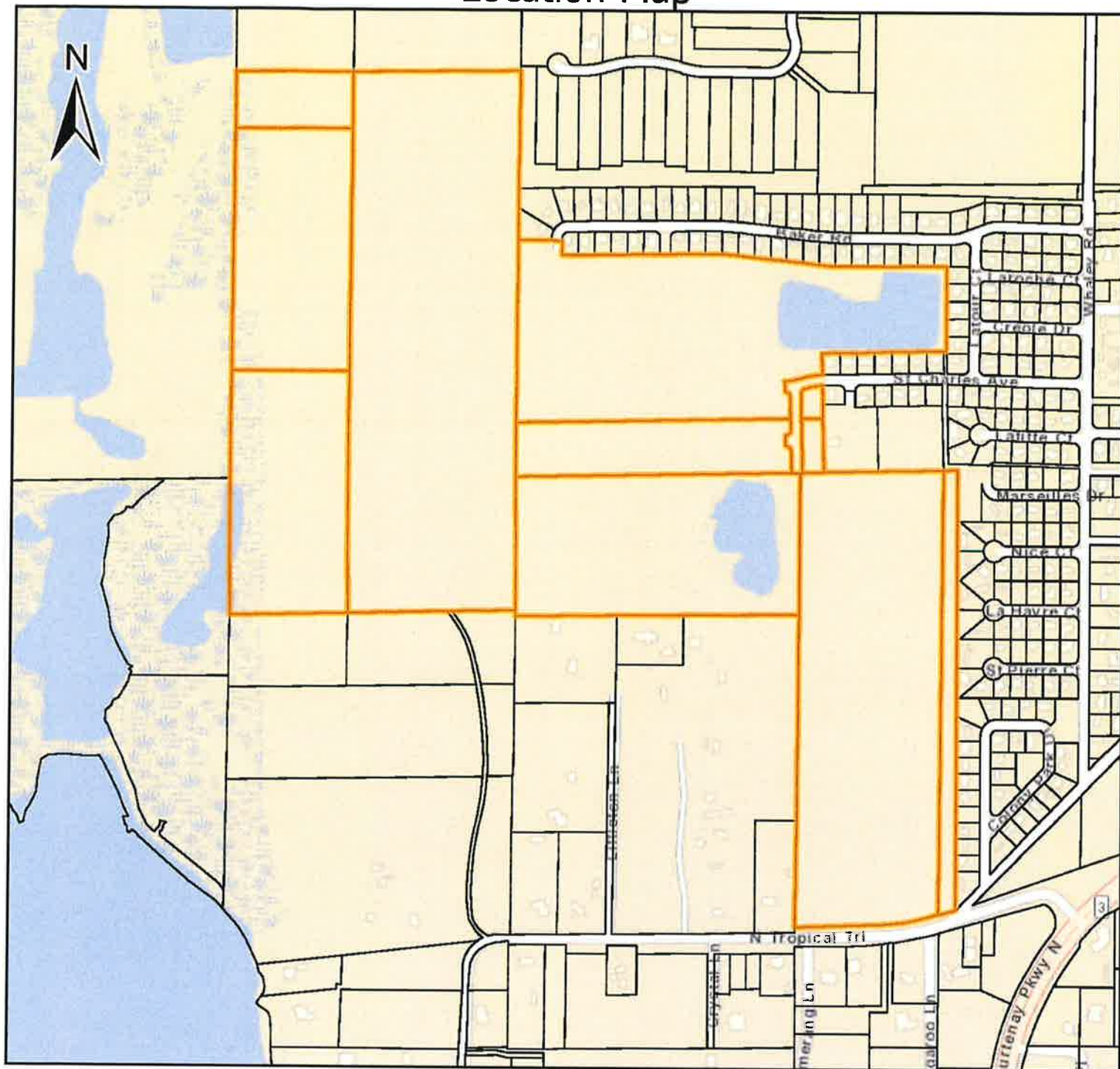
11000 N. W. 11th Ave., Suite 100
Miami, FL 33150
Tel: 772.233.1100
Fax: 772.233.1101
Email: info@drmp.com

OUTBACK RESERVE

PROPERTY DEVELOPMENT OF
BREWER COUNTY, FLORIDA

EXHIBIT A

Location Map



Subject Property in Orange

General County Information Layers

 County Boundary

Print Time: 11/13/2023 3:13 PM

Disclaimer: 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.

Scale: 1:9,000
1 inch equals 750 feet

