

Meeting Date
August 8, 2017



AGENDA	
Section	CONSENT
Item No.	II.A.3

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	BINDING DEVELOPMENT PLAN APPROVAL, RE: STEPHEN & JULIE HUNTER (F.K.A. BRIAN & TAMMY BOSSARD) (D1) FISCAL IMPACT: NONE					
DEPT/OFFICE:	Planning & Development Department					
Requested Action:						
In accordance with Section 62-1157, it is requested that the Board of County Commissioners approve and authorize the Chairman to sign the Binding Development Plan.						
Summary Explanation & Background:						
<p>On May 25, 2017, the Board of County Commissioners approved a change of Zoning Classification from RU-1-13 to RU-2-4, contingent upon a Binding Development Plan (BDP). The BDP is a voluntary agreement presented by a property owner to self-impose limits upon development of a property in support of a change of zoning or conditional use permit. Pursuant to Section 62-1157, a BDP shall be recorded in the public records within 120 days of approval of the zoning application by the Board. Following staff and legal review, a BDP is routinely presented to the Board in recordable form as a Consent agenda item in order to finalize the zoning action. The attached BDP contains the following stipulation:</p> <ul style="list-style-type: none"> Developer/Owner shall limit density to 2 units, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations. <p>The property is 0.85 acres and is located on the west side of Indian River Drive, approx. 0.20 mile north of Brookhill Dr. (3745 N. Indian River Dr., Cocoa),</p> <p>Reference: 17PZ00043</p> <p>Staff Contact: Jennifer Jones, Ext 5-2653</p> <p>Clerk to the Board instruction: After recordation, forward two certified copies to the Planning and Development Department</p> <p>Exhibits Attached: Binding Development Plan, with exhibits, and check for recording</p>						
Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR <input type="checkbox"/>
County Manager	Assistant County Manager	Department Director / Extension Tad Calkins Planning & Development Dept. Ext. 56363				
Frank Abbate	Assistant County Manager John Denninghoff					



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

August 9, 2017

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.3, Binding Development Plan with Stephen and Julie Hunter (aka Brian and Tammy Bossard)

The Board of County Commissioners, in regular session on August 8, 2017, executed Binding Development Plan with Braveheart Properties of Brevard, Inc. for property located on the west side of Indian River Drive, approximately .20 mile north of Brookhill Drive in Cocoa. Said Plan was recorded in OR BK/PG 7957/2939. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

On motion by Commissioner Pritchett, seconded by Commissioner Barfield, the following resolution was adopted by a unanimous vote:

WHEREAS, BRIAN D. & TAMMY BOSSARD (STEPHEN & JULIE HUNTER) have requested a change of zoning classification from RU-1-13 (Single-Family Residential) to RU-2-4 (Low Density Multi-Family Residential), and an amendment to an existing BDP (Binding Development Plan), limited to two (2) units, on property described as the portion of property west of Indian River Drive of Tax Parcel 251, as recorded in ORB 7425, Pages 2417 – 2419, of the Public Records of Brevard County, Florida. (0.85 acres) **Section 08, Township 24, Range 36.** (0.85 acres) Located on the west side of Indian River Drive, approx. 0.20 mile north of Brookhill Dr. (3745 N. Indian River Dr., Cocoa)

Section 08, Township 24 S, Range 36 E, and,

WHEREAS, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved with a BDP (Binding Development Plan), limited to two (2) units; and

WHEREAS, the Board, after considering said application and the Brevard County Planning & Zoning Board’s recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from from RU-1-13 to RU-2-4, be **APPROVED** with a BDP, recorded in ORB 7957, Pages 2939 – 2943, dated August 10, 2017, limited to two (2) units. The zoning classification relating to the above described property shall be changed to RU-2-4, and the Planning & Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of August 10, 2017.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


by Curt Smith, Chairman

Brevard County Commission

As approved by Brevard County Commission on August 8, 2017.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – May 8, 2017)
(BCC Zoning Hearing – May 25, 2017)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years.

THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES.

Prepared by:
Address: 3745 Indian River Drive, Cocoa, FL 32926

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 8 day of August 2017 between the
BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of
The State of Florida (hereinafter referred to as "County") and Stephen and Julie Hunter
(hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the RU4 zoning classification(s)
And desires to develop the Property as such limited to two residences, and pursuant to the
Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

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

2. The Developer/Owner shall limit density to 2 units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
3. 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.
4. 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.
5. 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 May 25, 2017. In the event the subject property is annexed into a municipality and rezoned, this agreement shall be null and void.
6. 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.
7. 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 6 above.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

Scott Ellis
Scott Ellis, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940
Curt Smith
Curt Smith, Chairman
As approved by the Board on Aug. 8, 2017

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

Myra Harris
Thomas S Harris
(Witness Name typed or printed)

DEVELOPER/OWNER

Stephen K. Hunter
3745 Indian River Dr Cocoa, FL 32926
(Address)

Donna L Carver
Donna L Carver
(Witness Name typed or printed)

Julie Hunter - owner
(President)
Julie Hunter
(Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 24 day of June, 2017, by Stephen Hunter, ^{Owner/} President of 3745 Indian River, Dr Cocoa, FL 32926 who is personally known to me or who has produced _____ as identification.

My commission expires 03/06/20
SEAL
Commission No.:

Donna L Carver
Notary Public
Donna L Carver
(Name typed, printed or stamped)

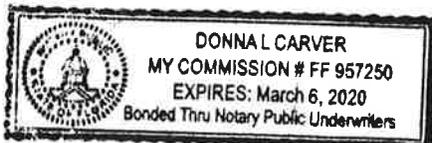


EXHIBIT "A"

The subject property is described as the portion of property west of Indian River Drive, of Tax Parcel 251, as recorded in ORB 7873, Pages 78 – 79, of the Public Records of Brevard County, Florida.

JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for

the owner and holder of that certain Mortgage dated 04-20-17^{not}, given by Mortgage Electronic Systems as nominee for Branch Banking and Trust Company
its successors and assigns as mortgagor, in favor of the undersigned,
Stephen Hunter, as mortgagee, recorded in Official Records Book _____, page _____

_____, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME/ADDRESS

Mortgage Electronic Registration Systems as
nominee for Branch Banking and Trust Company
its successors and assigns
391 College St, Greenville SC 29601
(Address)

[Signature]

[Signature]

Authorized Agent Signature

Danielle B Sims
(Witness name typed or printed)

Chilton E. Morris, VP
(Name/title typed, printed or stamped)

[Signature]

LaBarbara Lott
(Witness name typed or printed)



STATE OF South Carolina §

COUNTY OF Spartanburg §

The foregoing instrument was acknowledged before me this 21st day of June, 2017, by
, who is personally known to me or who has produced know to me as identification.

My commission expires 12-22-25

SEAL

Commission No.:

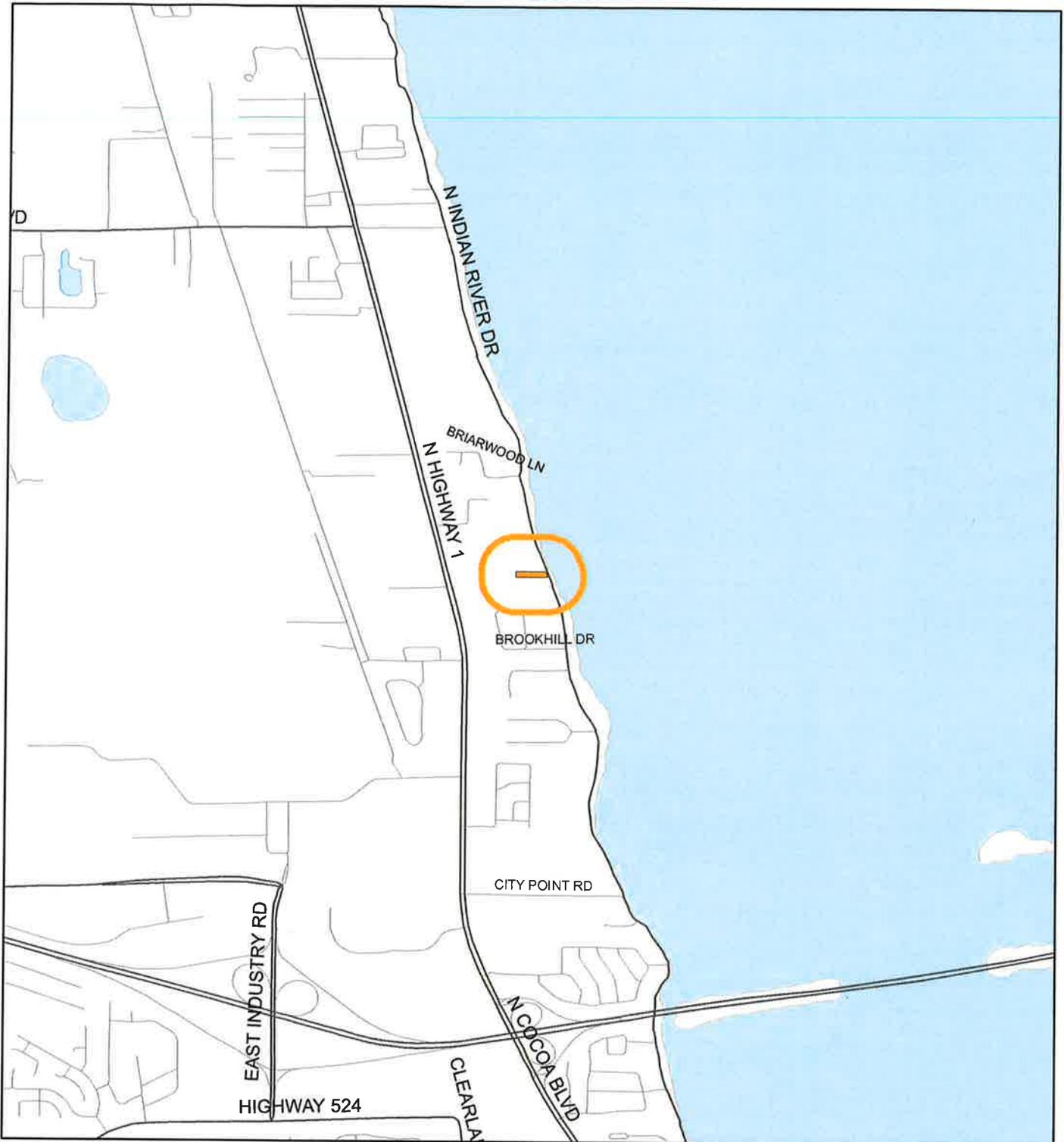
Notary Public

[Signature]
(Name typed, printed or stamped)

GAIL JOHNSON
Notary Public - State of South Carolina
My Commission Expires December 22, 2025

LOCATION MAP

BOSSARD, BRIAN D. AND TAMMY M.
17PZ00043



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: 3/15/2017

IV. PUBLIC HEARINGS

B. PLANNING & ZONING BOARD AGENDA

MONDAY, May 8, 2017 – 3:00 P.M.

&

BOARD OF COUNTY COMMISSIONERS

THURSDAY, May 25, 2017 – 5:00 P.M.

Both at the

BREVARD COUNTY GOVERNMENT CENTER

2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida

The Board of County Commissioners may approve or deny the requested classification, or may approve a classification of lesser intensity than that requested.

DISTRICT 1

IV.B.1. (17PZ00038) – SUSIE L. MOMENT – (Douglas Engle) – requests a Small Scale Plan Amendment (17S.02), to change the Future Land Use Designation from PLNIP to Residential 4; and a change of classification from PIP to RU-1-7 with a BDP limited to four (4) units per acre, on 1.02 acres, located on the east side of Railroad Ave., approx. 0.5 mile south of Canaveral Groves Blvd. (3865 E. Railroad Ave., Cocoa)

LPA Recommendation: Cannon/McLellan – Approved. Vote was unanimous.

P&Z Recommendation: McLellan/Cannon – Approved with a BDP limited to four (4) units per acre. Vote was unanimous.

BCC ACTION: Pritchett/Barfield – APPROVED as recommended, and adopted Ordinance No. 17-14, Small Scale Plan Amendment 17S.02. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.

IV.B.2. (17PZ00043) – BRIAN D. & TAMMY M. BOSSARD – request a change of classification from RU-1-13 to RU-2-4, and an amendment to an existing BDP, limited to two (2) units, on 0.85 acres, located on the west side of Indian River Drive, approx. 0.20 mile north of Brookhill Dr. (3745 N. Indian River Dr., Cocoa)

P&Z Recommendation: Moia/LaMarr – Approved with a BDP limited to two (2) units. Vote was unanimous.

BCC ACTION: Tobia/Isnardi – APPROVED as recommended. Vote was 4:1, with Pritchett voting nay. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.

IV.B.3. (17PZ00046) – DANA HIPPLE – (Robert Hipple) – requests a change of classification from GU to AU(L), on 2.46 acres, located on the south side of Rayburn Rd., approx. 480 ft. west of Britt Rd. (4725 Rayburn Rd., Cocoa)

P&Z Recommendation: Lawandales/McLellan – Approved with BDP limited to three (3) horses, and no other AU(L) uses. Vote was unanimous.

BCC ACTION: Pritchett/Isnardi – APPROVED as recommended. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.

IV.B.4. (NMI ITEM)

PLANNING AND ZONING BOARD RECOMMENDATIONS OF MAY 8, 2017; AND NORTH MERRITT ISLAND BOARD RECOMMENDATION OF MAY 11, 2017

- Item IV.B.1. Susie L. Moment. Pritchett/Barfield, approved with a BDP limited to (4) four units per acre, and adopted Ordinance No. 17-14 (17S.02).
- Item IV.B.2. Brian D. and Tammy M. Bossard. Tobia/Isnardi, approved with a BDP limited to two (2) units. Commissioner Pritchett voting nay.
- Item IV.B.3. Dana Hipple. Pritchett/Isnardi, approved with a BDP limited to three (3) horses, and no other AU(L) uses.
- Item IV.B.4. Eric and Amanda Obloy. Automatically tabled to August 3, 2017, Zoning meeting.
- Item IV.B.5. Gerard and Naresa Cancro. Isnardi/Barfield, approved with BDP retaining all BU-1 uses; and limiting the BU-2 use to dog boarding, grooming, training, and retail sales of related products.
- Item IV.B.6. St. George's by the Lake. Isnardi/Barfield, approved with BDP to include no residential overnight stay, limited to a school with 42 students, no new construction, and to stay within its original footprint. Commissioner Tobia voting nay.
- Item IV.B.7. LTM of Florida Holding, LLC. Isnardi/Barfield, tabled to August 3, 2017, Zoning meeting.
- Item IV.B.8. SRK Viera Village Associates, L.P. Isnardi/Barfield, approved as recommended.

2

Documentary Deed Tax \$4,795.00

THIS INSTRUMENT PREPARED BY AND RETURN TO:

Cathy Penner
Island Title & Escrow Agency Inc.
2245 N Courtenay Pkwy
Merritt Island, FL 32953
File No. 17-6321

SPACE ABOVE THIS LINE FOR RECORDING DATA

THIS WARRANTY DEED, made the 20th day of April, 2017 by **Brian D. Bossard and Tammy M. Bossard, husband and wife**, herein called the grantors, to **Stephen K. Hunter and Julie C. Hunter, husband and wife** whose post office address is 3745 N Indian River Dr., Cocoa, FL 32926, hereinafter called the Grantee:

(Wherever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

W I T N E S S E T H: That the grantors, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee all that certain land situate in **BREVARD** County, State of Florida, viz.:

A SIMPLE LEGAL DESCRIPTION FOR A PORTION OF LAND IN SECTION 8, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA. THIS LEGAL DESCRIPTION BEING THE SAME AS THE LEGAL DESCRIPTION DESCRIBED IN OFFICIAL RECORDS BOOK 6370, PAGE 1599. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 3241, PAGE 4729, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE RUN S89°40'19" E ALONG SAID SOUTH LINE A DISTANCE OF 459.80 FEET TO A FOUND NAIL AND DISK IN A 1 FOOT WIDE COQUINA SEAWALL; THENCE S19°34'59" E ALONG SAID SEAWALL A DISTANCE OF 90.99 FEET TO THE NORTH LINE OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 42, PAGE 52 AND ALSO THE NORTH LINE OF PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 817, PAGE 646; THENCE RUN N89°35'02"W ALONG SAID LINES A DISTANCE OF 490.60 FEET TO THE EAST LINE OF PROPERTY DESCRIBED IN OFFICIAL RECORD BOOK 7040, PAGE 1812; THENCE N00°11'57"E ALONG SAID LINE A DISTANCE OF 84.80 FEET TO THE POINT OF BEGINNING. LESS AND EXCEPT RIGHT OF WAY OF NORTH INDIAN RIVER DRIVE.

Subject to easements, restrictions and reservations of record and to taxes for the year 2017 and thereafter.

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

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

AND, the grantors hereby covenant with said grantee that the grantors are lawfully seized of said land in fee simple; that the grantors have good right and lawful authority to sell and convey said land, and hereby warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2016**.

✓

Page Two of Warranty Deed

IN WITNESS WHEREOF, the said grantors have signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Stacy Matlock
Witness #1 Signature

Stacy Matlock
Witness #1 Printed Name

Cathy Penner
Witness #2 Signature

CATHY PENNER
Witness #2 Printed Name

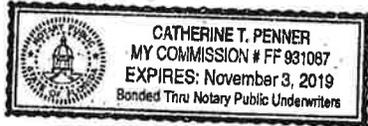
Brian D. Bossard
Brian D. Bossard
455 Gail's Way, Merritt Island, FL 32953

Tammy M Bossard
Tammy M. Bossard
455 Gail's Way, Merritt Island, FL 32953

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 19th day of April, 2017 by Brian D. Bossard and Tammy M. Bossard who are personally known to me or have produced Drivers License as identification.

SEAL



Catherine T. Penner
Notary Public

CATHERINE T. PENNER

Printed Notary Name

My Commission Expires:

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Scott Ellis, Clerk
(SEAL)

Curt Smith, Chairman
As approved by the Board on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

Mya Harris
Thomas Harris
(Witness Name typed or printed)

DEVELOPER/OWNER

Step K Hunter
3745 Indian River Dr Cocoa, FL 32924
(Address)

Donna L Carver
Donna L Carver
(Witness Name typed or printed)

Julie Hunter - owner
(President)
Julie Hunter
(Name typed, printed or stamped)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 24 day of June, 2017, by Stephen Hunter, ^{Owner/} President of 3745 Indian River Dr, Cocoa, FL 32924, who is personally known to me or who has produced _____ as identification.

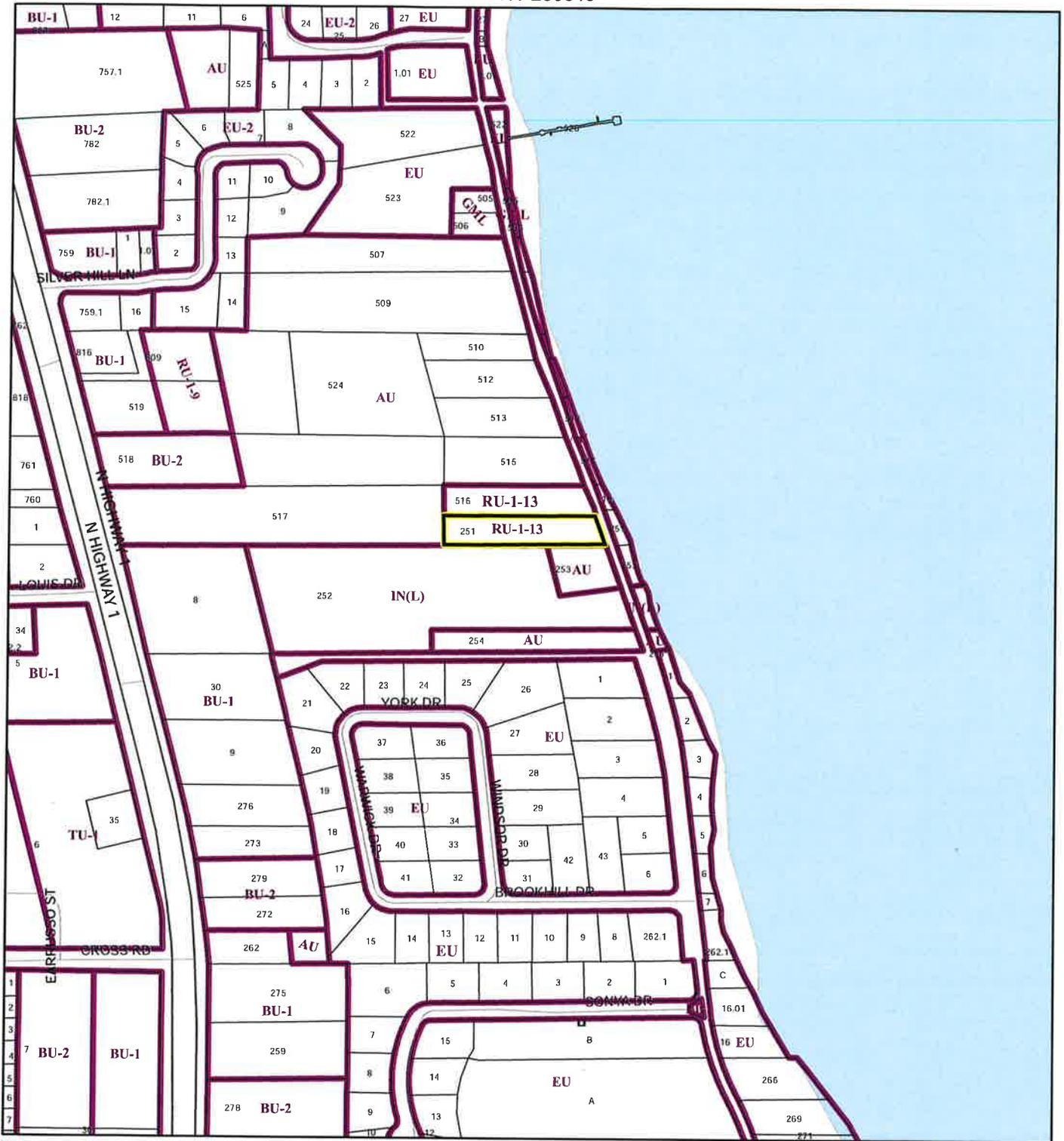
My commission expires 03/06/20
SEAL
Commission No.:

Donna L Carver
Notary Public
Donna L Carver
(Name typed, printed or stamped)



ZONING MAP

BOSSARD, BRIAN D. AND TAMMY M.
17PZ00043



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels
-  Zoning

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.

BrevardClerk.US

Scott Ellis, Clerk of Court

700 South Park Avenue, Bldg. B
P.O. Box 2767
Titusville, FL 32781-2767
(321) 637-2006

DBLIVE Transaction

#: 1952759

Receipt #: 61915600

Cashier Date: 8/10/2017

11:47:30 AM



Print Date:
8/10/2017 11:47:39 AM

Customer Information	Transaction Information	Payment Summary
() STEPHEN K HUNTER 379 DARLINGTON WAY COLORADO SPRINGS, CO 80906	DateReceived: 08/10/2017 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$52.50 Total Payments \$52.50

1 Payments

CHECK 9862	\$52.50
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1 Recorded Items

(AG) AGREEMENT	BK/PG: 7957/2939 CFN:2017167649 Date:8/10/2017 11:47:29 AM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	6	\$52.50
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea.	4	\$0.00

0 Search Items**1 Miscellaneous Items**

(MISC) MISCELLANEOUS COVER LETTER
