



AGENDA REPORT  
April 4, 2019

**Joseph Brandon and Nikki Thomas request a change of zoning  
classification from AU to RR-1. (18PZ00154) (District 1)**

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**SUBJECT:**

Joseph Brandon and Nikki Thomas request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 19.75 acres, located on the southeast corner of County Line Road and Dixie Way. (18PZ00154) (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 a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential).

**SUMMARY EXPLANATION and BACKGROUND:**

The applicant is seeking a change of zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one (1) acre in order to subdivide a 19.75 acre tract into one-acre, single-family, residential lots. The tract currently retains split Future Land Use (FLU) designation with 16.6 acres designated Residential 1 (RES 1) and 3.15 acres designated Residential 1:2.5 (RES 1:2.5).

An application for a Small Scale Comprehensive Plan Amendment (SSCPA), **18PZ00153**, to amend the approximately 16% eastern portion of the property that retains a FLU of RES 1:2.5 to RES 1, was filed concurrently with this rezoning request, in order for that portion of the property to also be consistent with the proposed rezoning. While most of the property retains a RES 1 FLU, there only two (2) small properties zoned more densely than one (1) dwelling unit per 2.5 acres within 1.25 miles; an RRMH-1 zoned property located 3,520 feet south and an RR-1 zoned property located 6,250 feet southwest of the subject property.

The current AU 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 proposed RR-1 classification permits single-family residential land uses on minimum one acre lots, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. The keeping of horses and agricultural pursuits are accessory to a principle residence within the RR-1, rural residential zoning classification.

The subject parcel is located within Unincorporated Brevard County in Scottsmoor, on the southeast corner of County Line Ditch Road and Dixie Way and the north side of the property borders Volusia County. Based on lot yield estimates, the proposed rezoning is expected to result in an increase of nine (9) single-family dwelling units or a 50% increase.

This is the northeastern-most, mainland area of Brevard County which has historically been and continues to be primarily utilized as small, individually owned citrus groves, agricultural operations, large-lot single-family residences or even maintained as protected conservation lands.

The property fronts an unimproved County-maintained dirt road, Dixie Way, but is within 100 feet of the paved portion of County Line Ditch Road in Volusia County. The Public Works Department has advised the applicants that, if subdivided, a paved connection to both the subdivision & paved internal roadways and would need to be provided. The applicants will need to coordinate with Volusia County during site development on providing appropriate access along Volusia roadways.

The Board should be aware that Brevard County School Board noted that the closest school, Pinewood Elementary would not have sufficient capacity to handle the increased student capacity from the proposed rezoning, but that the request could be accommodated within the adjacent school concurrency area of Mims Elementary School.

The Board may wish to consider whether the proposed development is consistent and compatible with surrounding development and the Comprehensive Plan for the area. The Mims Small Area Study previously examined lands between US Highway 1 and the Indian River to the south of the subject property and the Board of County Commissioners maintained a significant portion of RES 1 land as far east of US 1 as the subject property lies, indicating an intent to retain residential development potential at one (1) acre lots in an area south of the subject parcel requesting this rezoning.

On February 11, 2019, the Planning and Zoning Board heard the request and tabled it to the March 11, 2019, Planning and Zoning meeting to allow the applicant time to meet with the community.

On March 7, 2019, the Board of County Commissioners tabled the request to the April 4, 2019, Commission meeting.

On March 11, 2019, the Planning and Zoning Board approved the request 5:4, with a Binding Development Plan limited to no more than 14 lots, and with the requirement that

all units be developed with the enhanced septic tank systems.

**ATTACHMENTS:**

**Description**

- ▢ **Administrative Policies**
- ▢ **Staff Comments**
- ▢ **GIS Maps**
- ▢ **School Concurrency**
- ▢ **FYI Submitted by Applicant**
- ▢ **Letter from Volusia County**
- ▢ **Planning and Zoning Minutes 02/11/19**
- ▢ **Public Comment Submitted 03/11/19**
- ▢ **Email from SJRWMD**
- ▢ **P&Z Minutes 03/11/19**
- ▢ **Public Comment**

## **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 and 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 zoning, conditional uses, comprehensive plan appeals, vested rights or other 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 per cent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:
  - 1. historical land use patterns;
  - 2. actual development over the immediately preceding three years; and
  - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County 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 MPO 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 (ALOS):** Acceptable Level of Service currently adopted by the County.

**Current 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 LOS that a proposed development may generate on a roadway.

# **REZONING REVIEW WORKSHEET**

**18PZ00154**

**Commission District # 1**

**Hearing Dates:**

**P&Z 02/11/19 03/11/19**

**BCC 03/07/19 04/04/19**

**Owner Name: Joseph Brandon and Nikki Thomas**

**Request: AU to RR-1**

**Subject Property:**

Parcel ID# 20G-35-39-01-00-A

Tax Acct.# 2004879

Location: Southeast corner of County Line Ditch Road and Dixie Way

Address: 6705 Dixie Way

Acreage: 19.75

**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)

STATUS	CURRENT	PROPOSED
Zoning	AU	RR-1
Potential*	6 SF units	15 SF units
Can be Considered under FLU MAP	YES Residential 1 / Residential 1:2.5	YES** Residential 1 / Residential 1:2.5

\*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.\*\*The proposed zoning classification is not consistent with Section 62-1255, Exhibit A; however, if the Small Scale Amendment under **18PZ00153** is approved, or if not approved and the applicant submits a Binding Development Plan which limits the density to be consistent with the FLUM, the request can be heard pursuant to Section 62-1255 (b) (2).

	ADT	PM PEAK		
Trips from Existing Zoning	57	6	Segment Number	360W
Trips from Proposed Zoning	143	15	Segment Name	US 1 Burkholm to Volusia
Maximum Acceptable Volume (MAV)	40,300	3,627	Acceptable LOS	C
Current Volume	3,846	346	Directional Split	0.5
Volume With Proposed Development	3,989	361	ITE CODE	
Current Volume / MAV	9.54%	9.54%	210	
Volume / MAV with Proposal	9.90%	9.96%		
Current LOS	C	C		
LOS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

### **Background & Purpose of Request**

The applicant is seeking a change of Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one (1) acre in order to subdivide a 19.75 acre tract into one-acre single-family residential lots. The tract currently retains split Future Land Use (FLU) designation with 16.6 acres designated Residential 1 (RES 1) and 3.15 acres designated Residential 1:2.5 (RES 1:2.5).

An application for a Small Scale Comprehensive Plan Amendment (SSCPA), **18PZ00153**, to amend the approximately 16% balance of the property that retains a FLU designation of RES 1:2.5 to RES 1, was filed concurrently with this rezoning request, in order for the proposed rezoning to be consistent with the Future Land Use designation on the entire parcel.

The subject parcel is located within Unincorporated Brevard County in Scottsmoor, on the southeast corner of County Line Ditch Road and Dixie Way and the north side of the property borders Volusia County. Although the subject property currently abuts a dirt road (Dixie Way), the applicants intend to connect to existing pavement on County Line Ditch Road and to pave all internal roadways as part of their subdivision development.

Based on lot yield estimates, the proposed rezoning is expected to result in an increase of nine (9) single-family dwelling units or a 50% increase. The RES 1:2.5 portion is on the eastern part of the subject property.

The site was originally zoned AU in 1958. No other zoning actions have occurred on the subject property.

### **Land Use Compatibility**

The subject property is located in the Scottsmoor area of unincorporated Brevard County and is north of but NOT within the Mims Small Area Study. More than 84% of the subject tract currently retains FLU that is consistent with the rezoning. If the Small Scale Comprehensive Plan Amendment proposing to change the FLU designation on the balance of the subject property from RES 1:2.5 to RES 1 is not approved, the applicants could still submit a Binding Development Plan to limit the residential density to be consistent with the RES 1:2.5 FLUM; the request can continue to be heard pursuant to Section 62-1255 (b) (2) of the Brevard County Zoning Regulations.

This parcel is located in Section 39x and lies east side of US Highway 1 abutting the Brevard County / Volusia County line. This area is designated RES 1 to the west and RES 1:2.5 to the east, with this parcel's property lines crossing the north-south delineation where the FLU designation indicates that development is planned to transition to lower density.

The subject property does not have connectivity to potable water delivery lines nor to sanitary sewer collection lines. The Brevard County Comprehensive Plan does not require water or sewer for residential development on properties with FLU designations of RES 1 and RES 1:2.5. FLU designations of RES 4 or denser require connectivity to central water and sewer.

**FLUE 1.1** outlines the role of the Comprehensive Plan in the designation of residential land.

**FLUE 1.9** outlines the criteria for designating land RES 1: The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

**Criteria:**

- A. Areas located east of Interstate-95, except in instances where they are adjacent to existing or designated residential densities of an equal or higher density allowance; and

- B. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 15 area;
- C. Areas adjacent to an existing Residential 15 land use designation; and
- D. Areas which have access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.
- E. Up to a 25% density bonus to permit up to 18.75 dwelling units per acre may be considered where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the Coastal High Hazard Area (CHHA).

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 is requesting a change of Zoning classification from AU to RR-1 in order to plat a residential subdivision that is consistent with the density allowed by the proposed RES 1 FLU designation. 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 RR-1 classification permits single-family residential land uses on minimum one acre lots, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. The keeping of horses and agricultural pursuits are accessory to a principle residence within the RR-1, rural residential zoning classification.

The closest non-AU residentially zoned property is approximately 3,520 feet to the south and zoned Rural Residential Mobile Home (RRMH-1). The next closest is approximately 6,250 to the southwest, closer to US-1, and zoned Rural Residential (RR-1). The 27.58 acre tract abutting the subject property to the east is approximately 2/3 undeveloped and 1/3 developed as a citrus grove and retains a RES 1:2.5 FLU designation and AU Zoning classification. The 10.3 acre abutting tract to the south is fully utilized as a citrus grove and retains similar split RES 1/RES 1:2.5 FLU designations as the subject property and is also zoned AU. Across Dixie Way and to the west of the subject property are two parcels. One is vacant and the other developed as agricultural residential. Both of these parcels retain a RES 1 FLU and AU zoning.

North of the County Line Ditch Road right-of-way are three parcels in Volusia County that align with the north border of the subject property. The eastern-most of these three (3) parcels retains a Volusia County zoning classification of Resource Corridor (0.10 FAR) with a "W" overlay (RCW) that per Section 72-1096 Volusia County Code stands for Volusia County designated for special protection by Florida legislation pursuant to the Surface Water Improvement and Management Act (SWIM). The other two parcels are zoned Prime Agriculture (0.10 FAR and density of 1 unit per 10 acres) with the same "W" overlay (A-1W). The middle of these three parcels is approximately nine (9) acres and is developed as a residential farm and retains a Volusia County FLU designation of Agricultural Resource (AR) with FAR of 0.10 and density of 1 unit per 10 acres and the other two retain a FLU of Conservation (C) with FAR of 0.10 and improvements limited to functions that are related to "protection, management, public access, security and conservation of the land."

The subject property abuts a Volusia County roadway along the parcel's north property line called County Line Ditch Road, which is a paved, undivided, 2-lane road which connects to US Highway 1. East of Dixie Way, where right-of-way abuts the subject parcel's northern boundary, the road is unimproved. According to Volusia



County Traffic Engineering, this class of roadway in Volusia County has an adopted LOS of C and a capacity of 6,300 Annual Average Daily Trips (ADT). No traffic counts have been taken on this road segment. The closest north-south road to the subject property is US-1. The traffic impact of this requested rezoning on US-1 is analyzed in the concurrency table on page one of these staff comments. The request in and of itself would not create traffic concurrency problems. The subject property's western property line abuts Dixie Way, a dirt road running north and south. The applicants have indicated that they plan to extend the pavement along Dixie Way to provide access to the future subdivision, per County code.

There have been no Zoning actions within ½ mile of the subject property within the last three (3) years.

According to the attached Brevard County School Impact Analysis – Capacity Determination CD-2018-20, dated 12/07/18, Pinewood Elementary School is the closest elementary school to the subject site and has a shortfall of capacity to handle this request for change of zoning classification. The increase in demand on school capacity projected by the subject request can, however, be accommodated by adjacent school concurrency area of Mims Elementary School.

#### **For Board Consideration**

The applicant is seeking a change of Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one (1) acre in order to subdivide a 19.75 acre tract into one-acre, single-family, residential lots. The tract currently retains split Future Land Use (FLU) designation with 16.6 acres designated Residential 1 (RES 1) and 3.15 acres designated Residential 1:2.5 (RES 1:2.5). An application for a Small Scale Comprehensive Plan Amendment (SSCPA), **18PZ00153**, to amend the approximately 16% balance of the property that retains a FLU of RES 1:2.5 to RES 1, was filed concurrently with this rezoning request, in order for that portion of the property to also be consistent with the proposed rezoning. The RES 1:2.5 portion is on the eastern part of the subject property..

The subject parcel is located within Unincorporated Brevard County in Scottsmoor, on the southeast corner of County Line Ditch Road and Dixie Way and the north side of the property borders Volusia County. Based on lot yield estimates, the proposed rezoning is expected to result in an increase of nine (9) single-family dwelling units or a 50% increase.

The subject property is in the northeastern-most, mainland area of Brevard County that has historically been and continues to be primarily utilized as small, individually owned citrus groves or large-lot single-family residences. While most of the property retains a RES 1 FLU, there only two (2) small properties zoned more densely than one (1) dwelling unit per 2.5 acres within 1.25 miles; an RRMH-1 zoned property located 3,520 feet south and an RR-1 zoned property located 6,250 feet southwest of the subject property.

The property fronts an unimproved county owned and maintained dirt road, but is within 100 feet of the paved portion of County Line Ditch Road in Volusia County. The Public Works Department has advised the applicants that, if subdivided, a paved connection to both the subdivision & paved internal roadways and would need to be provided.

The Board should be aware that Brevard County School Board noted that the closest school, Pinewood Elementary would not have sufficient capacity to handle the increased student capacity from the proposed rezoning, but that the request could be accommodated within the adjacent school concurrency area of Mims Elementary School.

The Board may wish to consider whether the proposed development is consistent and compatible with surrounding development and the Comprehensive Plan for the area. The Mims Small Area Study previously examined lands between US Highway 1 and the Indian River to the south of the subject property and the Board of County Commissioners maintained a significant portion of RES 1 land as far east of US 1 as the subject property lies, indicating an intent to retain residential development potential at one (1) acre lots in an area south of the subject parcel requesting this rezoning.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

**Item #: 18PZ00154**

**Applicant: Joseph & Nikki Thomas**

**Zoning Request: AU to RR-1**

**P&Z Hearing Date: 02/11/19**

**BCC Hearing Date: 03/07/19**

This is a preliminary review based on environmental maps available to the Natural Resources Management (NRM) Department 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, or County 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.

<b>Natural Resource</b>	<b>Preliminary Assessment</b>	<b>Natural Resource</b>	<b>Preliminary Assessment</b>
Hydric Soils/Wetlands	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Mapped	Surface Waters	N/A
Floodplains	Mapped	Wildlife	Potential

**Comments:**

**This review relates to the following property: Twp. 20G, Rng. 35, Sec. 39;  
Tax ID No. 2004879**

The subject parcel contains mapped NWI and SJRWMD wetlands and hydric soils (Pompano sand - 0 to 2% slopes and Wabasso sand - 0 to 2% slopes) 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. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing activities, plan or permit submittal.

Pompano sand - 0 to 2% slopes may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Portions of the property are mapped as being within the estuarine floodplain as identified by the Federal Emergency Management Agency (FEMA), and as shown on the attached FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon

adjoining properties."

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.

Portions of the site are mapped within the 60-meter septic overlay. Use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required where applicable.

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. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

LOCATION MAP  
THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00154

VOLUSIA COUNTY



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

Buffer Distance: 500 feet

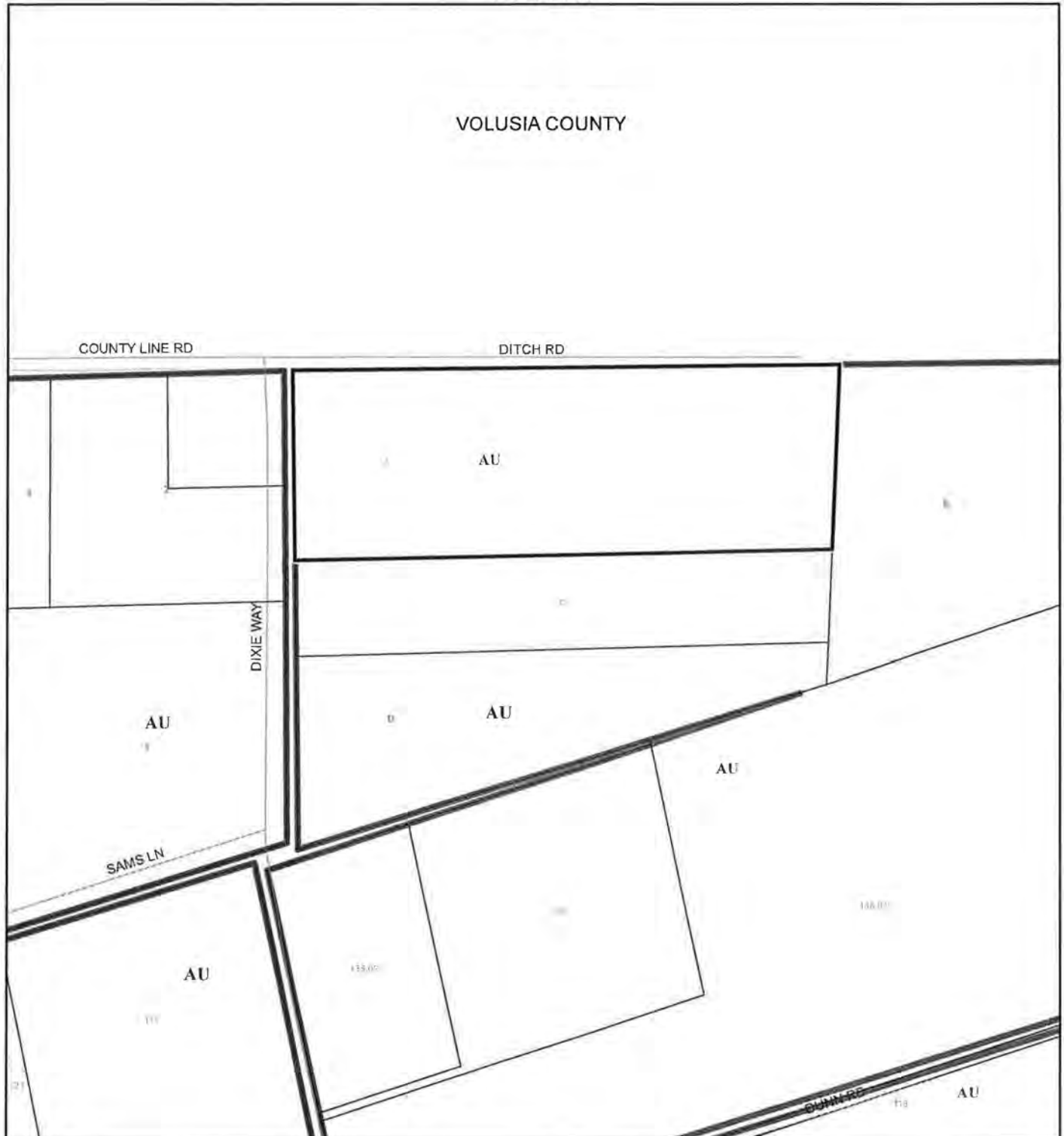
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/18/2018

— Buffer  
■ Subject Property

**ZONING MAP**  
**THOMAS, JOSEPH BRANDON AND NIKKI**  
**18PZ00154**




VOLUSIA COUNTY



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: 12/18/2018

-  Subject Property
-  Parcels
-  Zoning



# FUTURE LAND USE MAP

THOMAS, JOSEPH BRANDON AND NIKKI

18PZ00154

VOLUSIA COUNTY



1:4,800 or 1 inch = 400 feet

— Subject Property  
□ Parcels

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

Produced by BoCC - GIS Date: 12/18/2018

# AERIAL MAP

THOMAS, JOSEPH BRANDON AND NIKKI

18PZ00154

VOLUSIA COUNTY



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2018

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: 12/18/2018

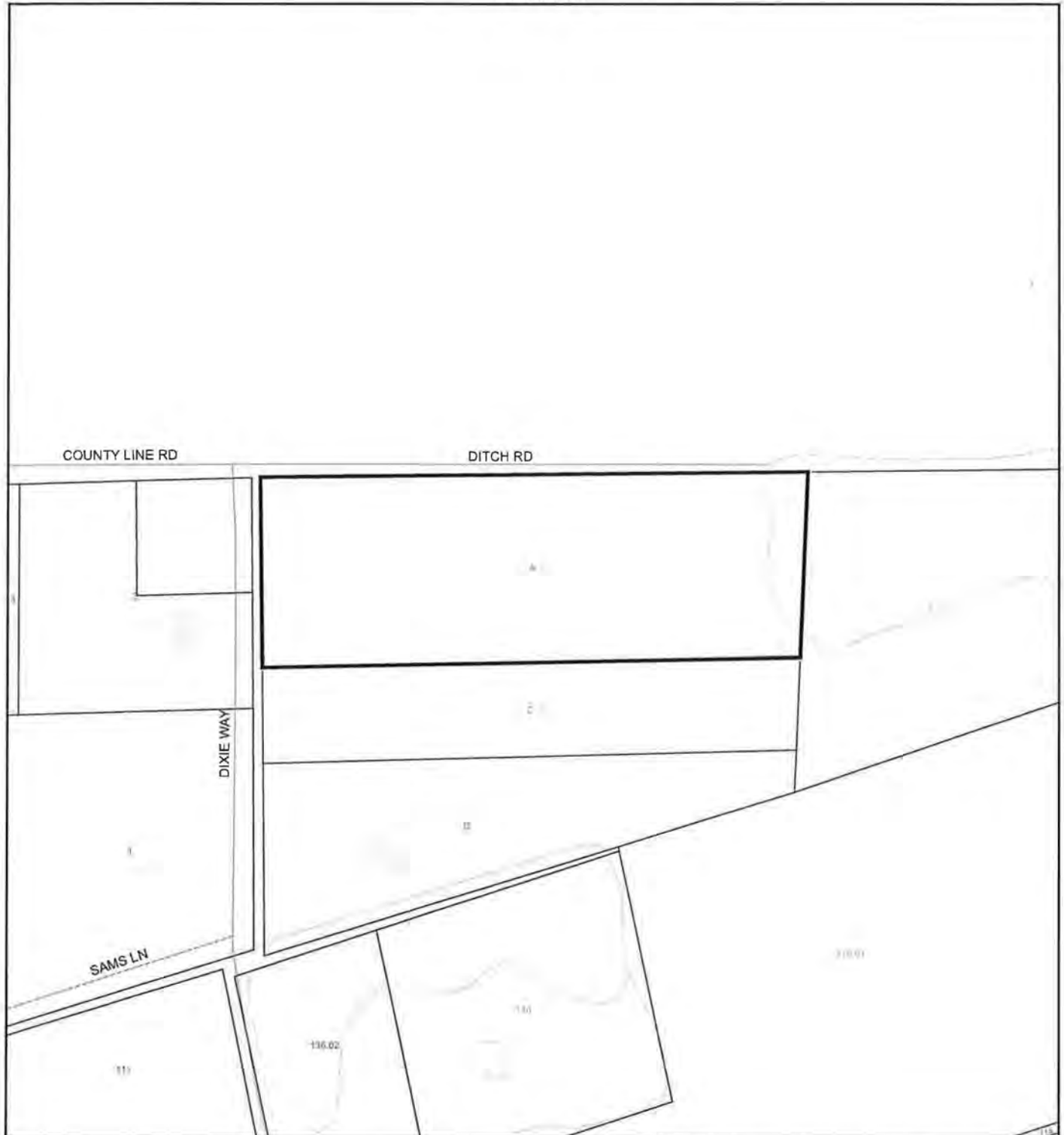
— Subject Property

□ Parcels

# NWI WETLANDS MAP

THOMAS, JOSEPH BRANDON AND NIKKI

18PZ00154



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: 12/18/2018

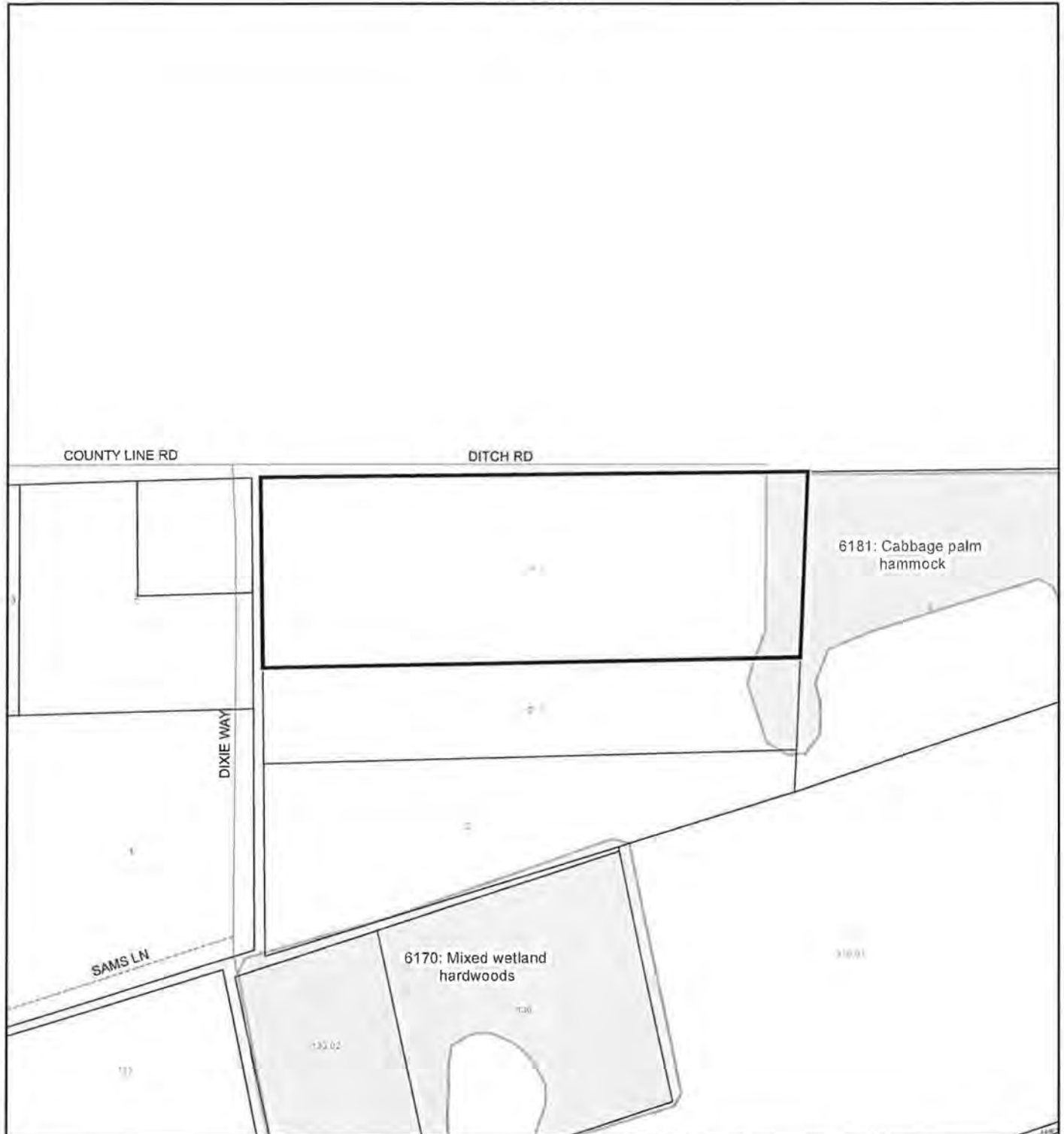
## National Wetlands Inventory (NWI)

	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

THOMAS, JOSEPH BRANDON AND NIKKI

18PZ00154



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/18/2018

## 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

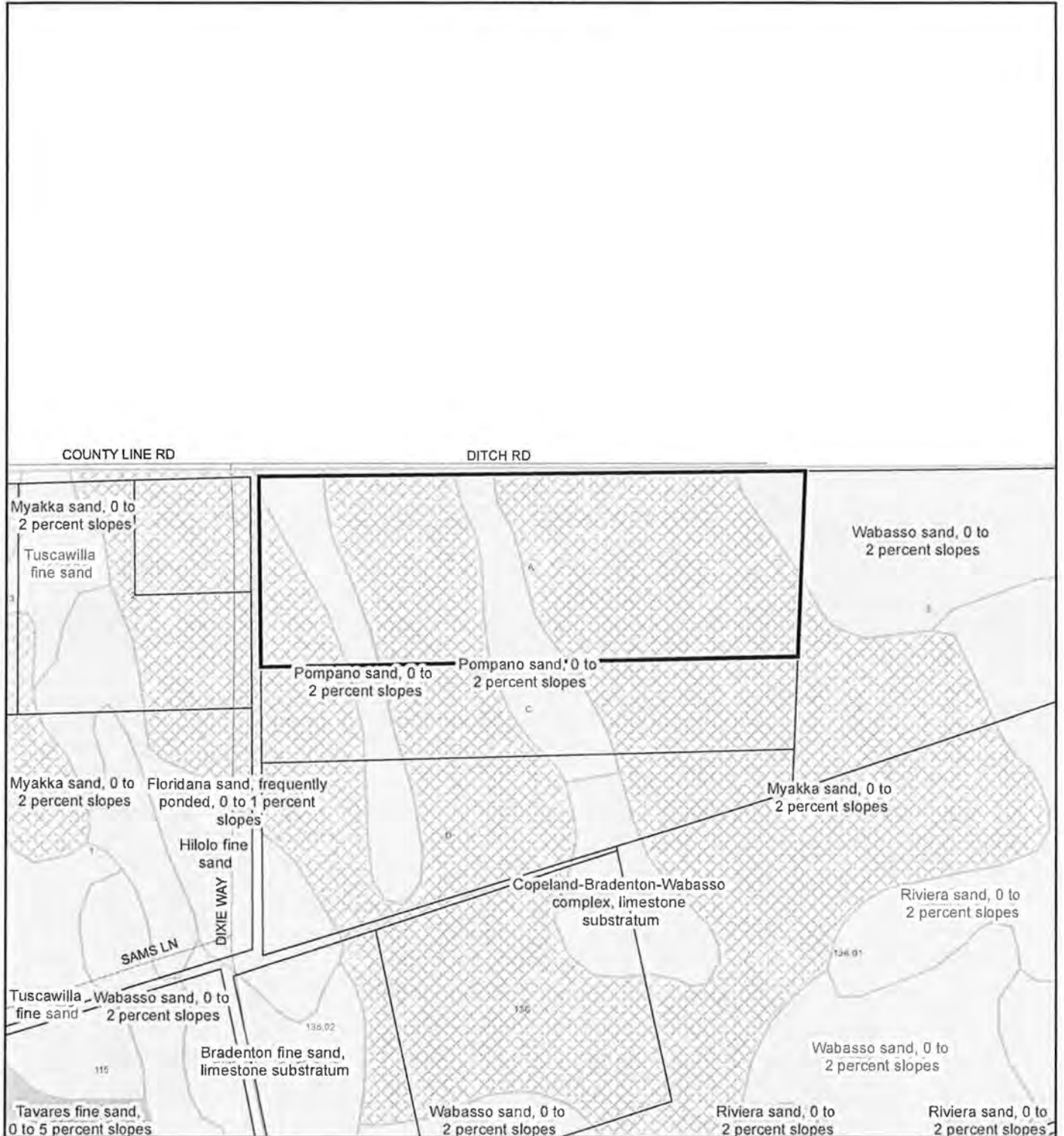
 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

THOMAS, JOSEPH BRANDON AND NIKKI

18PZ00154



1:4,800 or 1 inch = 400 feet

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## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

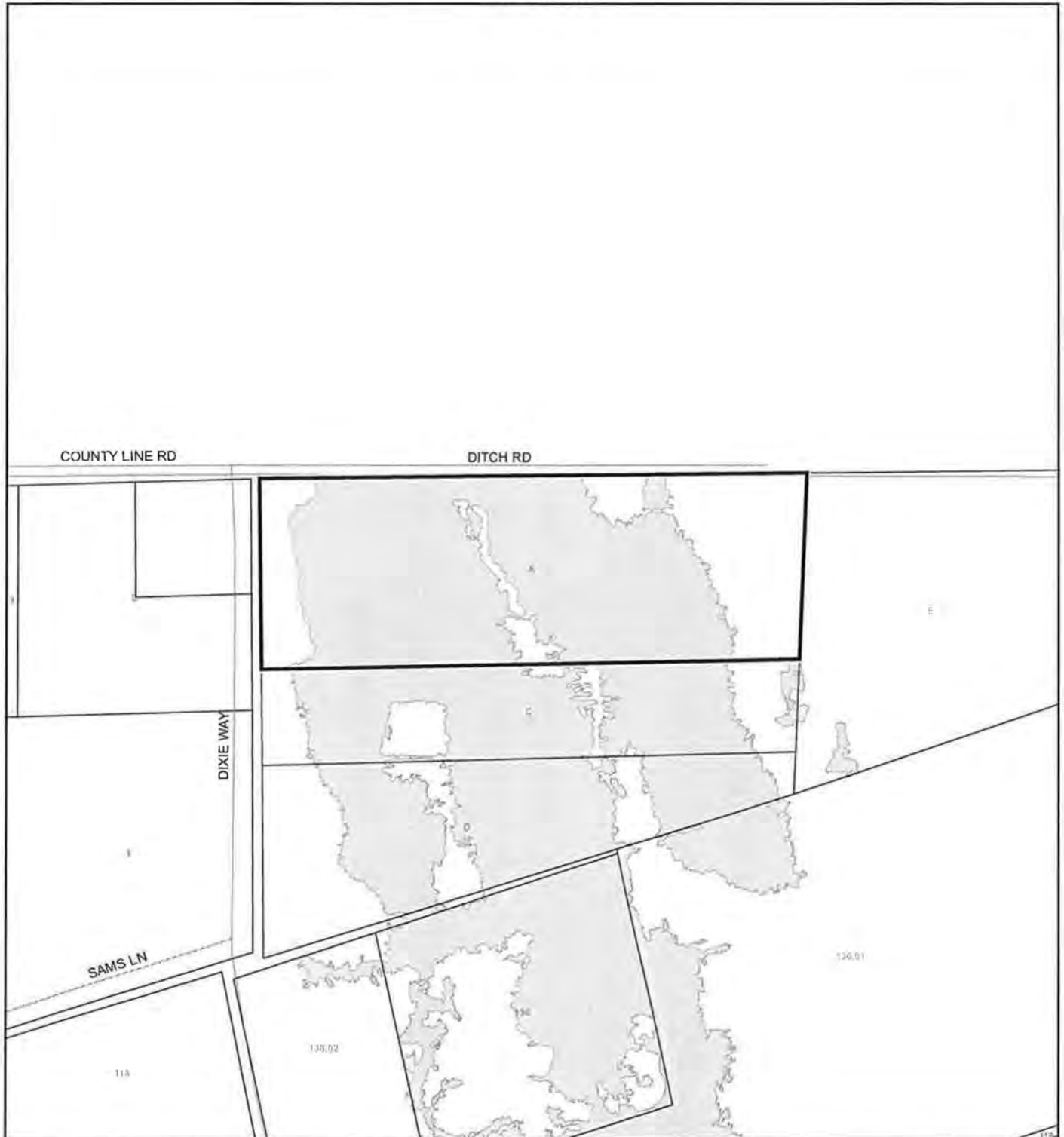
- Subject Property
- Parcels



# FEMA FLOOD ZONES MAP

THOMAS, JOSEPH BRANDON AND NIKKI

18PZ00154



1:4,800 or 1 inch = 400 feet

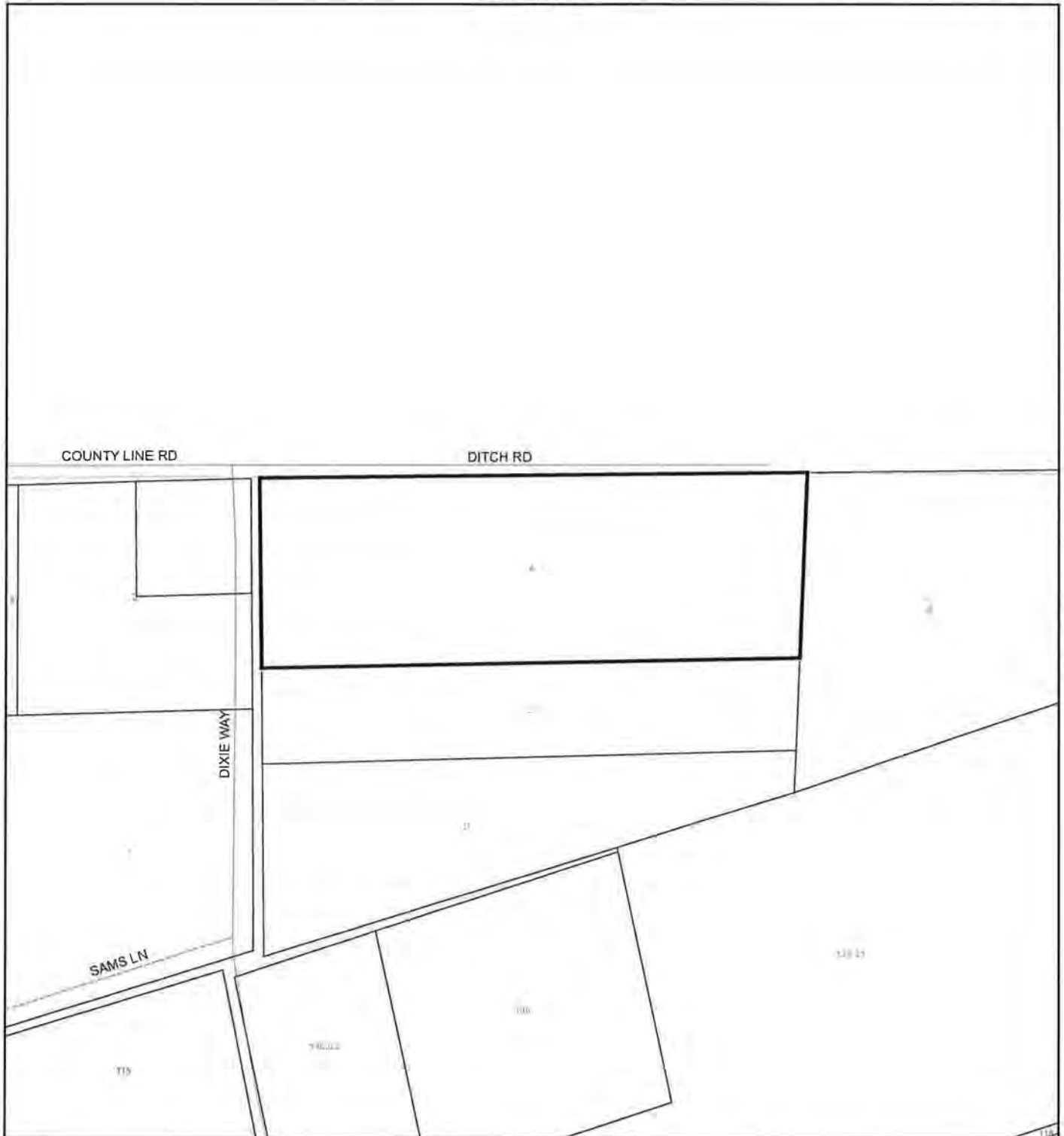
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/18/2018

## FEMA Flood Zones

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

EAGLE NESTS MAP  
THOMAS, JOSEPH BRANDON AND NIKKI  
18PZ00154



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/18/2018

— Subject Property

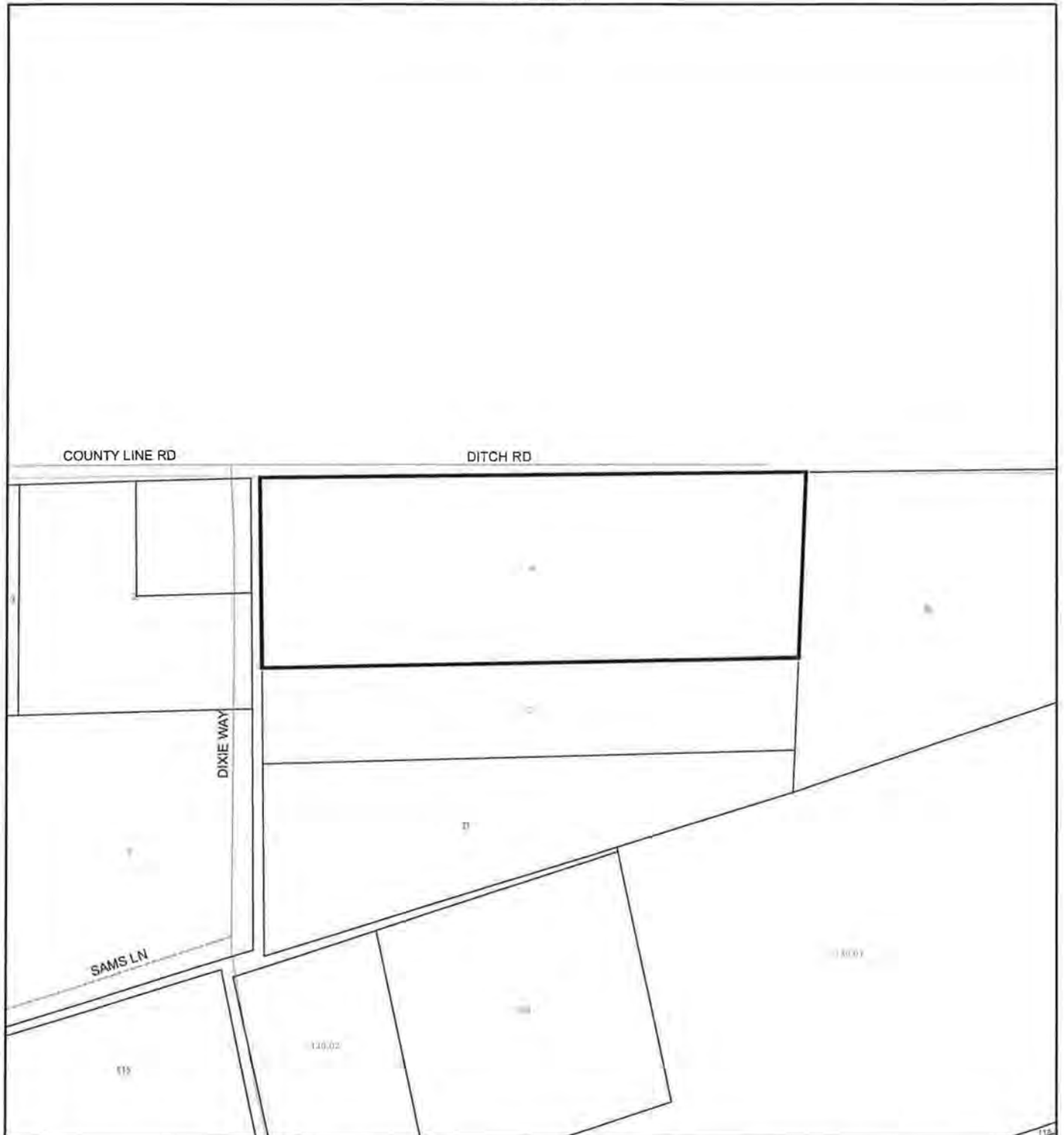
□ Parcels

🦅 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

THOMAS, JOSEPH BRANDON AND NIKKI




18PZ00154



1:4,800 or 1 inch = 400 feet

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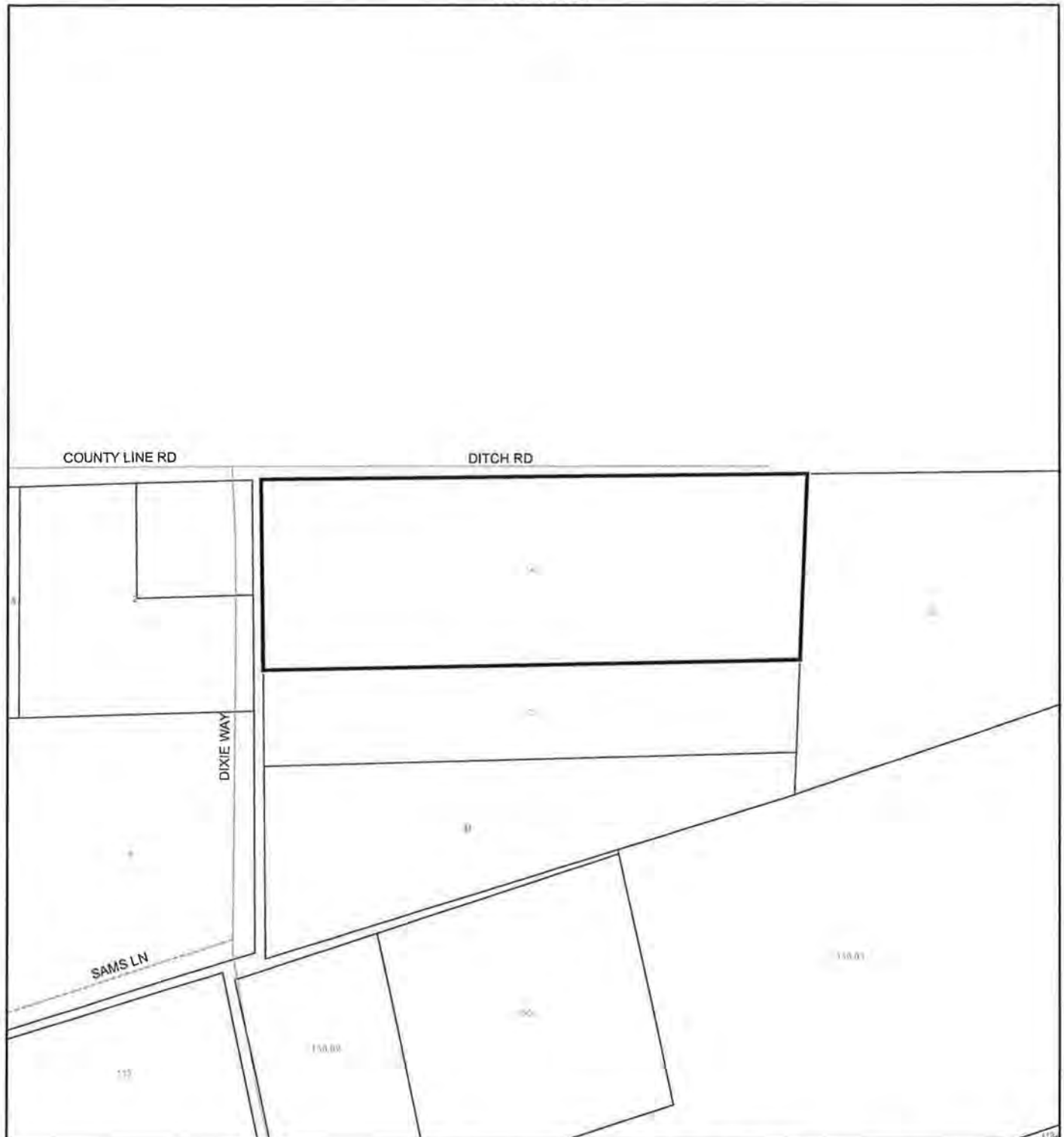
Produced by BoCC - GIS Date: 12/18/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

THOMAS, JOSEPH BRANDON AND NIKKI

18PZ00154




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: 12/18/2018

## 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  
Desmond K. Blackburn, Ph.D., Superintendent

December 7, 2018

Mr. George Ritchie  
Planning & Development Department  
Brevard County Board of County Commissioners  
2726 Judge Fran Jamieson Way  
Viera, Florida 32940

**RE: Proposed Thomas Property Development  
School Impact Analysis – Capacity Determination CD-2018-20**

Dear Mr. Ritchie,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account 2004879 (Parcel ID: 20G-35-39-01-\*A) containing approximately 19.75 acres in Brevard County, Florida. The proposed single family development includes 16 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 2017-18 to 2022-23 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2017-2018 to 2022-23* which is attached for reference.

Single Family Homes		16	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.28	4.48	4
Middle	0.08	1.28	1
High	0.16	2.56	3
Total	0.52		8

Planning & Project Management  
Facilities Services  
Phone: (321) 633-1000 x450 • FAX: (321) 633-4646



**FISH Capacity (including relocatables) from the  
Financially Feasible Plan Data and Analysis for School Years 2017-18 to 2021-22**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	573	573	595	639	683
Madison	743	743	743	743	743
Astronaut	1,446	1,446	1,446	1,446	1,446

**Projected Student Membership**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	496	532	588	631	664
Madison	472	518	531	496	509
Astronaut	1,056	1,073	1,121	1,191	1,235

**Students Generated by Previously Issued SCADL Reservations**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	33	70	95	114	114
Madison	18	21	24	24	24
Astronaut	126	132	137	137	137

**Cumulative Students Generated by  
Proposed Development**

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	-	1	3	4	4
Madison	-	0	1	1	1
Astronaut	-	1	2	3	3

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

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	529	603	686	749	782
Madison	490	539	556	521	534
Astronaut	1,182	1,206	1,260	1,331	1,375

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

School	2018-19	2019-20	2020-21	2021-22	2022-23
Pinewood	44	(30)	(91)	(110)	(99)
Madison	253	204	187	222	209
Astronaut	264	240	186	115	71

At this time, Pinewood Elementary is not projected to have enough capacity for the total of projected and potential students from the Thomas Property Development. Because there is a shortfall of available capacity in the concurrency service area of the Thomas Property Development, the capacity of adjacent concurrency service areas must be considered.

The adjacent elementary school concurrency service area is Mims Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Areas* that could accommodate the impacts of the Thomas Property Development is shown:

<b>FISH Capacity (including relocatables) from the Financially Feasible Plan Data and Analysis for School Years 2017-18 to 2021-22</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		725	725	725	725	725
<b>Projected Student Membership</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		399	387	405	422	438
<b>Students Generated by Previously Issued SCADL Reservations</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		6	6	6	6	6
<b>Cumulative Students Generated by Proposed Development</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		-	1	3	4	4
<b>Total Projected Student Membership (includes Cumulative Impact of Proposed Development)</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		405	394	414	432	448
<b>Projected Available Capacity = FISH Capacity - Total Projected Student Membership</b>						
School		2018-19	2019-20	2020-21	2021-22	2022-23
Mims		320	331	311	293	277

Considering the adjacent elementary school concurrency service areas, there is sufficient capacity for the total projected student membership to accommodate the Thomas Property Development.

This is a non-binding review; a *Concurrency Determination* must to 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,

A handwritten signature in black ink, appearing to read "David G. Lindemann", written over a horizontal line.

David G. Lindemann, AICP  
Manager - Facilities Planning & Intergovernmental Coordination  
Planning & Project Management, Facilities Services

Enclosure:      *Brevard County Public Schools Financially Feasible Plan for School Years  
2017-2018 to 2022-23*  
Copy:            Susan Hann, Assistant Superintendent Facilities Services  
File CD-2018-20

**Brevard County Public Schools**  
**Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service**  
**Data and Analysis for School Years 2017-18 to 2022-23**



Summary				2017-18			2018-19			2019-20			2020-21			2021-22			2022-23		
Highest Utilization Elementary Schools:				97%			97%			98%			99%			100%			100%		
Highest Utilization Middle Schools:				85%			92%			100%			99%			99%			99%		
Highest Utilization Jr / Sr High Schools:				90%			92%			88%			89%			92%			96%		
Highest Utilization High Schools:				94%			96%			97%			98%			99%			99%		

School	Type	Grades	Utilization Factor	School Year 2017-18			School Year 2018-19			School Year 2019-20			School Year 2020-21			School Year 2021-22			School Year 2022-23		
				FISH Capacity	10/13/17 Membership	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

New Central Elementary	Elementary	K-6	100%	-	-	0%	-	-	0%	-	-	0%	870	681	78%	870	681	78%	870	681	78%
Allen	Elementary	PK-6	100%	751	650	86%	751	685	91%	751	692	92%	751	692	92%	751	696	93%	751	710	93%
Andersen	Elementary	K-6	100%	884	735	83%	884	753	85%	884	759	86%	884	775	87%	884	759	86%	884	765	87%
Apollo	Elementary	K-6	100%	902	877	97%	902	841	93%	902	825	92%	902	955	99%	1,012	1,008	100%	1,078	1,060	98%
Atlantis	Elementary	PK-6	100%	747	675	90%	747	718	96%	747	689	93%	747	682	91%	747	707	95%	747	710	95%
Audubon	Elementary	PK-6	100%	761	568	74%	761	554	73%	761	563	74%	761	545	72%	761	548	72%	761	550	72%
Cambridge	Elementary	PK-6	100%	765	680	89%	765	670	88%	765	679	89%	765	687	90%	765	691	90%	765	694	91%
Cape View	Elementary	PK-6	100%	548	380	69%	548	381	70%	548	368	67%	548	374	68%	548	359	66%	548	368	67%
Carroll	Elementary	K-6	100%	751	652	87%	751	662	88%	751	633	84%	751	622	83%	751	572	76%	751	546	73%
Challenger 7	Elementary	PK-6	100%	573	551	96%	573	578	101%	573	551	96%	573	536	93%	573	523	91%	573	502	88%
Columbia	Elementary	PK-6	100%	751	514	68%	751	467	62%	751	438	58%	751	439	58%	751	456	61%	751	477	64%
Coquina	Elementary	K-6	100%	693	590	85%	693	543	78%	693	538	78%	693	615	89%	693	653	94%	715	707	97%
Creel	Elementary	PK-6	100%	1,154	888	77%	1,154	909	79%	1,154	919	80%	1,154	944	82%	1,154	972	84%	1,154	990	86%
Croton	Elementary	PK-6	100%	795	578	73%	795	553	70%	795	582	73%	795	618	78%	795	648	82%	795	655	83%
Discovery	Elementary	PK-6	100%	980	572	58%	980	634	65%	980	672	69%	980	605	62%	980	673	69%	980	692	71%
Endeavour	Elementary	PK-6	100%	990	817	83%	990	739	75%	990	773	78%	990	789	80%	990	781	79%	990	789	80%
Enterprise	Elementary	K-6	100%	729	560	77%	729	585	80%	729	563	77%	729	541	74%	729	549	75%	729	552	76%
Fairglens	Elementary	PK-6	100%	797	885	111%	797	716	89%	797	783	98%	797	780	98%	797	796	100%	797	797	100%
Gemini	Elementary	K-6	100%	711	430	60%	711	438	62%	711	419	59%	711	414	58%	711	388	55%	711	380	53%
Goldview	Elementary	PK-6	100%	777	588	76%	777	570	73%	777	570	73%	777	586	76%	777	598	77%	777	605	78%
Harbor City	Elementary	PK-6	100%	629	391	62%	629	386	61%	629	392	62%	629	385	61%	629	392	62%	629	405	64%
Holland	Elementary	PK-6	100%	605	485	80%	605	485	80%	605	502	83%	605	488	80%	605	480	79%	605	484	80%
Imperial Estates	Elementary	K-6	100%	729	682	94%	729	638	88%	729	638	88%	729	734	101%	729	770	106%	729	789	108%
Indalantic	Elementary	K-6	100%	798	745	93%	798	764	96%	798	758	95%	798	767	96%	798	757	96%	798	770	96%
Jupiter	Elementary	PK-6	100%	930	755	81%	930	681	73%	930	719	77%	930	790	85%	930	859	92%	930	924	99%
Lockmar	Elementary	PK-6	100%	892	743	83%	892	699	78%	892	686	77%	892	670	75%	892	671	75%	892	689	77%
Longleaf	Elementary	PK-6	100%	790	613	78%	790	657	83%	790	668	85%	790	425	54%	790	421	53%	790	418	53%
Monalee	Elementary	K-6	100%	954	814	85%	954	823	86%	954	886	94%	954	907	95%	954	907	95%	954	891	93%
McAuliffe	Elementary	PK-6	100%	918	794	86%	918	753	82%	918	741	81%	918	715	78%	918	743	81%	918	750	82%
Meadowland Intermediate	Elementary	3-6	100%	1,114	1,002	90%	1,114	853	77%	1,114	822	74%	1,114	795	71%	1,114	794	71%	1,114	806	72%
Meadowland Primary	Elementary	K-6	100%	824	749	91%	824	638	77%	824	658	80%	824	664	81%	824	661	80%	824	655	79%
Mila	Elementary	PK-6	100%	707	494	70%	707	489	69%	707	482	68%	707	474	67%	707	470	66%	707	469	66%
Mims	Elementary	PK-6	100%	725	510	70%	725	399	55%	725	387	53%	725	405	56%	725	422	58%	725	438	60%
Oak Park	Elementary	PK-6	100%	972	892	92%	972	775	80%	972	778	80%	972	786	81%	972	813	84%	972	817	84%
Ocean Breeze	Elementary	PK-6	100%	654	527	81%	654	513	78%	654	503	77%	654	512	78%	654	503	77%	654	504	77%
Palm Bay	Elementary	PK-6	100%	1,005	632	63%	1,005	604	60%	1,005	574	57%	1,005	558	56%	1,005	547	54%	1,005	553	55%
Pinewood	Elementary	PK-6	100%	573	503	88%	573	496	87%	573	532	93%	573	588	103%	639	631	99%	683	664	97%
Port Malabar	Elementary	PK-6	100%	852	729	86%	852	680	80%	852	657	77%	852	621	73%	852	619	73%	852	624	73%
Quest	Elementary	PK-6	100%	1,038	1,000	96%	1,104	1,075	97%	1,236	1,217	98%	1,236	1,204	97%	1,236	1,019	82%	1,236	994	80%
Riviera	Elementary	PK-6	100%	777	681	88%	777	646	83%	777	678	87%	777	682	88%	777	687	89%	777	694	89%
Roosevelt	Elementary	K-6	100%	599	390	65%	599	393	66%	599	389	65%	599	378	63%	599	378	63%	599	367	61%
Sabal	Elementary	PK-6	100%	785	544	69%	785	535	68%	785	548	70%	785	557	71%	785	565	72%	785	573	73%
Saturn	Elementary	PK-6	100%	976	784	79%	976	689	70%	976	696	71%	976	948	97%	998	987	99%	1,020	1,005	98%
Sea Park	Elementary	PK-6	100%	461	317	69%	461	318	69%	461	340	74%	461	347	75%	461	358	78%	461	376	82%
Sherwood	Elementary	PK-6	100%	609	430	71%	609	442	73%	609	453	74%	609	393	65%	609	388	64%	609	392	64%
South Lake	Elementary	K-6	100%	529	-	0%	485	300	62%	485	300	62%	485	300	62%	485	300	62%	485	300	62%
Sunrise	Elementary	PK-6	100%	917	838	91%	917	813	89%	917	847	92%	917	891	97%	939	937	100%	1,005	987	98%
Suntree	Elementary	K-6	100%	755	686	91%	755	696	92%	755	713	94%	755	699	93%	755	631	84%	755	604	80%
Surfside	Elementary	K-6	100%	549	455	83%	549	465	85%	549	467	85%	549	474	86%	549	472	86%	549	486	89%
Tropical	Elementary	K-6	100%	910	797	88%	910	798	88%	910	799	88%	910	828	91%	910	854	94%	910	879	97%
Turner	Elementary	PK-6	100%	874	609	70%	874	563	64%	874	538	62%	874	518	59%	874	507	58%	874	502	57%
University Park	Elementary	PK-6	100%	811	514	63%	811	451	56%	811	493	61%	811	496	61%	811	489	60%	811	491	61%
Westside	Elementary	K-6	100%	857	733	86%	857	625	73%	857	596	69%	857	572	67%	857	559	65%	857	561	65%
Williams	Elementary	PK-6	100%	715	564	79%	715	546	76%	715	542	76%	715	541	76%	715	573	80%	715	577	81%
Elementary Totals				41,892	33,522		41,936	33,021		42,134	33,402		43,070	33,825		43,224	34,222		43,444	34,668	

### Middle School Concurrency Service Areas

Central	Middle	7-8	90%	1,525	1,121	74%	1,525	1,188	78%	1,525	1,264	83%	1,525	1,329	87%	1,525	1,256	82%	1,525	1,170	77%
DeLaura	Middle	7-8	90%	941	801	85%	941	870	92%	941	940	100%	1,000	991	99%	1,000	984	98%	1,000	952	95%
Hoover	Middle	7-8	90%	659	533	81%	659	479	73%	659	487	74%	659	485	74%	659	495	75%	659	482	73%
Jackson	Middle	7-8	90%	654	548	84%	654	540	83%	654	582	89%	674	661	98%	713	706	99%	713	684	96%
Jefferson	Middle	7-8	90%	854	629	74%	854	644	75%	854	652	76%	854	639	75%	854	617	72%	854	589	69%
Johnson	Middle	7-8	90%	1,000	803	80%	1,000	788	79%	1,000	770	77%	1,000	808	81%	1,000	789	79%	1,000	762	76%
Kennedy	Middle	7-8	90%	813	682	84%	813	651	80%	813	722	89%	813	797	98%	832	816	98%	872	866	99%
Madison	Middle	7-8	90%	743	460	62%	743	472	64%	743	518	70%	743	531	71%	743	496	67%	743	509	69%
McLaur	Middle	7-8	90%	611	385	63%	611	419	69%	611	438	72%	611	435	71%	611	441	72%	611	468	77%
Southwest	Middle	7-8	90%	1,177	842	72%	1,177	824	70%	1,177	881	75%	1,177	984	84%	1,177	980	83%	1,177	863	78%
Stone	Middle	7-8	90%	1,013	822	81%	1,013	827	82%	1,013	830	82%	1,013	959	95%	1,013	979	97%	1,013	858	85%
<b>Middle Totals</b>				<b>9,990</b>	<b>7,627</b>		<b>9,990</b>	<b>7,700</b>		<b>9,990</b>	<b>8,084</b>		<b>10,069</b>	<b>8,622</b>		<b>10,127</b>	<b>8,559</b>		<b>10,167</b>	<b>8,233</b>	

### Junior / Senior High School Concurrency Service Areas

Cocoa	Jr / Sr High	PK, 7-12	90%	1,782	1,599	90%	1,782	1,639	92%	2,052	1,734	84%	2,052	1,813	88%	2,052	1,891	92%	2,052	1,967	96%
Cocoa Beach	Jr / Sr High	7-12	90%	1,466	1,004	68%	1,466	982	67%	1,466	962	66%	1,466	947	65%	1,466	945	65%	1,466	941	64%
Space Coast	Jr / Sr High	7-12	90%	1,812	1,597	88%	1,812	1,597	88%	1,812	1,596	88%	1,812	1,805	89%	1,812	1,536	85%	1,812	1,501	83%
<b>Jr / Sr High Totals</b>				<b>5,060</b>	<b>4,200</b>		<b>5,060</b>	<b>4,218</b>		<b>5,330</b>	<b>4,292</b>		<b>5,330</b>	<b>4,365</b>		<b>5,330</b>	<b>4,376</b>		<b>5,330</b>	<b>4,409</b>	

### Senior High School Concurrency Service Areas

Astronaut	High	9-12	95%	1,446	1,070	74%	1,446	1,058	73%	1,446	1,073	74%	1,446	1,121	78%	1,446	1,191	82%	1,446	1,235	85%
Bayside	High	9-12	95%	2,235	1,718	77%	2,235	1,666	75%	2,235	1,607	72%	2,235	1,563	70%	2,235	1,589	71%	2,235	1,661	74%
Eau Gallie	High	PK, 9-12	95%	2,209	1,657	75%	2,209	1,678	76%	2,209	1,776	80%	2,209	1,805	82%	2,209	1,855	84%	2,209	1,861	84%
Heritage	High	9-12	95%	2,314	1,778	77%	2,314	1,721	74%	2,314	1,673	72%	2,314	1,708	74%	2,314	1,757	76%	2,314	1,854	80%
Melbourne	High	9-12	95%	2,356	2,217	94%	2,356	2,199	93%	2,356	2,258	96%	2,356	2,206	94%	2,356	2,267	96%	2,356	2,263	97%
Memmi Island	High	PK, 9-12	95%	1,915	1,569	82%	1,915	1,532	80%	1,915	1,537	80%	1,915	1,527	80%	1,915	1,544	81%	1,915	1,550	81%
Palm Bay	High	PK, 9-12	95%	2,613	1,587	61%	2,613	1,629	62%	2,613	1,685	64%	2,613	1,645	63%	2,613	1,621	62%	2,613	1,756	67%
Rockledge	High	9-12	95%	1,689	1,537	91%	1,689	1,532	91%	1,689	1,577	93%	1,689	1,547	92%	1,689	1,543	91%	1,689	1,552	92%
Satellite	High	PK, 9-12	95%	1,516	1,336	88%	1,516	1,329	88%	1,516	1,330	88%	1,516	1,339	89%	1,516	1,375	91%	1,516	1,386	91%
Titusville	High	9-12	95%	1,872	1,412	75%	1,872	1,470	78%	1,872	1,440	77%	1,872	1,427	76%	1,872	1,412	75%	1,872	1,525	81%
Viera	High	PK, 9-12	95%	2,277	2,109	93%	2,277	2,181	96%	2,277	2,294	101%	2,277	2,237	98%	2,277	2,302	99%	2,277	2,453	108%
<b>High Totals</b>				<b>22,442</b>	<b>17,999</b>		<b>22,442</b>	<b>18,003</b>		<b>22,442</b>	<b>18,160</b>		<b>22,442</b>	<b>18,125</b>		<b>22,449</b>	<b>18,456</b>		<b>22,632</b>	<b>19,116</b>	

### Schools of Choice (Not Concurrency Service Areas)

Freedom 7	Elementary	K-6	100%	475	408	86%	475	414	87%	475	414	87%	475	414	87%	475	414	87%	475	414	87%
Stevenson	Elementary	K-6	100%	569	495	87%	569	508	89%	569	508	89%	569	508	89%	569	508	89%	569	508	89%
West Melbourne	Elementary	K-6	100%	618	550	89%	618	552	89%	618	552	89%	618	552	89%	618	552	89%	618	552	89%
Edgewood	Jr / Sr High	7-12	90%	1,072	943	88%	1,072	950	89%	1,072	950	89%	1,072	950	89%	1,072	950	89%	1,072	950	89%
West Shore	Jr / Sr High	7-12	90%	1,264	955	76%	1,264	956	76%	1,264	956	76%	1,264	956	76%	1,264	956	76%	1,264	956	76%
<b>Schools of Choice</b>				<b>3,998</b>	<b>3,351</b>		<b>3,998</b>	<b>3,380</b>		<b>3,998</b>	<b>3,380</b>		<b>3,998</b>	<b>3,380</b>		<b>3,998</b>	<b>3,380</b>		<b>3,998</b>	<b>3,380</b>	
<b>Brevard Totals</b>				<b>83,382</b>	<b>66,690</b>		<b>83,426</b>	<b>66,322</b>		<b>83,894</b>	<b>67,318</b>		<b>84,509</b>	<b>68,317</b>		<b>85,168</b>	<b>68,993</b>		<b>85,571</b>	<b>69,806</b>	


#### Notes

- FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2017-18 are reported from the FISH database as of October 13, 2018.
- Student Membership is reported from the Fall Final Membership Count (10/13/18).
- Davis Demographics SchoolSite Enrollment Forecasting Extension for ArcGIS estimates future student populations by analyzing the following data:
  - Development Projections from Brevard County Local Government Jurisdictions
  - Brevard County School Concurrency Student Generation Multipliers (SGM)
  - Fall Membership student addresses and corresponding concurrency service areas
  - Student Mobility Rates / Cohort Survival Rates
  - Brevard County Birth rates by zip code
- Davis Demographics estimates are then adjusted using the following factors:
  - PK (Pre-Kindergarten) and AH (daycare for students with infants) enrollment number are assumed to be constant
  - Current From/To attendance patterns are assumed to remain constant.
  - Nonresidential student addresses are assumed to continue in their attendance schools.
  - Charter School Growth
- In order to maintain utilization rates lower than the 100% Level of Service, Permanent Capacity and Relocatable Classrooms are assumed to add future student stations as necessary.
- Relocatable Classrooms are assumed to add future student stations as listed below:
  - Primary relocatable classrooms (Grades K-3) = 18 student stations, Intermediate (Grades 4-8) relocatable classrooms = 22 student stations, and High School (Grades 9-12) relocatable classrooms = 25 student stations
  - Intermediate relocatable classrooms are proposed to be added at Apollo Elementary, Challenger 7 Elementary, Coquina Elementary, Imperial Estates Elementary, Pinewood Elementary, Quest Elementary, Saturn Elementary, Sunrise Elementary, DeLaura Middle School, Jackson Middle School and Kennedy Middle (Total of 42 Classrooms).
  - High school relocatable classrooms are proposed to be added at Viera High (Total of 8 Classrooms)
- Redistricting was approved for the 2018-19 school year and the projected enrollment for 2018-19 is adjusted for those areas. Future redistricting is planned for a new central area elementary school in 2020-21.
- The following proposals for additional permanent capacity are included in this analysis:
  - A 12 classroom addition at Cocoa Jr/Sr High School is assumed to add 300 student stations starting in 2019-20
  - A new central area elementary is assumed to add 870 student stations starting in 2020-21. Student enrollment projections were adjusted for the 2020-21 school year.



18PZ00154

FYI Submitted by Applicant  
02/25/19

 Zoning and Future Land Use and Rezoning Request Location Brevard County



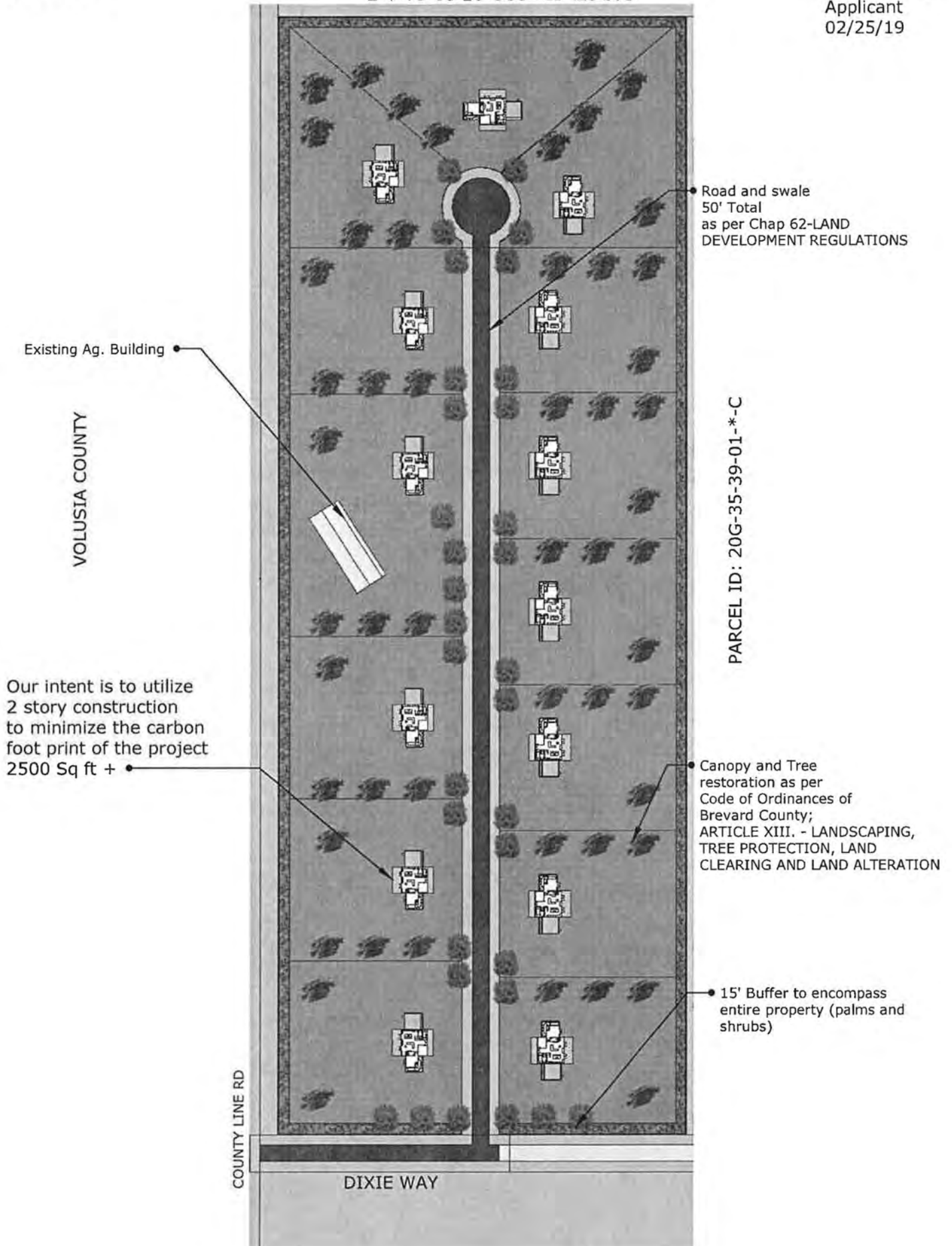
600ft

18PZ00154

THOMAS CONCEPTUAL PLAT FOR 6705 DIXIE WAY, MIMS

PARCEL ID: 20G-35-39-01-\*E

FYI  
Submitted by  
Applicant  
02/25/19





Nikki Thomas <thomasnikki321@gmail.com>

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## Domestic self supply for single family lots in North Brevard County

2 messages

---

Kristian Holmberg <KHolmberg@sjrwmd.com>

Wed, Feb 20, 2019 at 11:08 AM

To: "thomasnikki321@gmail.com" <thomasnikki321@gmail.com>

Mr. and Mrs. Thomas,

Thank you for speaking with me this morning in regards to proposed residential water use in the Scottsmeer area of north Brevard County. As we discussed, the use of groundwater for domestic self supply on single family residential lots generally falls below the District permitting thresholds found in Section 40C-2.041, Florida Administrative Code, and would not require a Consumptive Use Permit (CUP) from the District. Please note, water well construction permits would be required for the installation of individual wells on the subject parcels, but not for their use. The District does not have any broad restrictions or limitations on residential water use in the area other than those associated with the general restrictions on landscape irrigation found in the rule. Please let me know if you need any additional information or have any additional questions.

Thanks again,

Kris

Kristian Holmberg, PWS

Hydrologist IV

Division of Regulatory, Engineering, and Environmental Services  
St. Johns River Water Management District  
Palm Bay Service Center

525 Community College Parkway, SE • Palm Bay, FL 32909

Office: (321) 409-2121 • Cell: (407) 947-2032  
Email: kholmber@sjrwmd.com

Website: [www.sjrwmd.com](http://www.sjrwmd.com)

Connect with us: Newsletter, Facebook, Twitter, Instagram, YouTube, Pinterest



[www.sjrwmd.com/epermitting](http://www.sjrwmd.com/epermitting)

We value your opinion. Please take a few minutes to share your comments on the service you received from the District by clicking this link

Notices

- Emails to and from the St. Johns River Water Management District are archived and, unless exempt or confidential by law, are subject to being made available to the public upon request. Users should not have an expectation of confidentiality or privacy.
- Individuals lobbying the District must be registered as lobbyists (§112.3261, Florida Statutes). Details, applicability and the registration form are available at <http://www.sjrwmd.com/lobbyist/>

---

**thomasnikki321** <thomasnikki321@gmail.com>  
To: Kristian Holmberg <KHolmberg@sjrwmd.com>

Wed, Feb 20, 2019 at 11:20 AM

Kristian,

Thank you very much for the help!

Sincerely,  
Nikki Thomas  
(Quoted text hidden)

**Ed Kelly**  
COUNTY CHAIR  
At Large

**Fred Lowry, Jr.**  
Vice Chair  
DISTRICT 5

**Ben Johnson**  
At Large

**Barbara Girtman**  
DISTRICT 1

**Billie Wheeler**  
DISTRICT 2

**Deborah Denys**  
DISTRICT 3

**Heather Post**  
DISTRICT 4

**George Recktenwald**  
Interim COUNTY  
MANAGER



Public Works Department  
Road & Bridge  
2560 W SR 44 DeLand, FL 32720  
(386)822-6422 Fax: (386) 822-6496  
[www.volusia.org/publicworks/road.htm](http://www.volusia.org/publicworks/road.htm)

FYI Submitted by  
Applicant  
02/25/19

February 22, 2019

Joseph B Thomas  
JBT Originals  
6705 Dixie Way  
Mims, FL 32754

Emailed to: [Brandon@jbtoriginals.com](mailto:Brandon@jbtoriginals.com)

RE: County Line Ditch Road, Oak Hill FL 32759

Dear Mr. Thomas,

This letter is to confirm that County Line Ditch Road from US1 to County Line Road is a public road maintained by the County of Volusia.

If you are in need of any additional information please do not hesitate to contact me at (386) 822-6422 or by email [dfarr@volusia.org](mailto:dfarr@volusia.org).

Sincerely,

David J Farr  
Engineering Assistant

c: Judy Grim, Road and Bridge Director

G:\Ongoing\RoadBridge\Maint Letters\County\_Line\_Ditch\_Rd\_Public.docx



**Ed Kelly**  
COUNTY CHAIR  
At Large

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Sincerely,

A handwritten signature in cursive script that reads "David J Farr".

David J Farr  
Engineering Assistant

c: Judy Grim, Road and Bridge Director

G:\Ongoing\RoadBridge\Maint Letters\County\_Line\_Ditch\_Rd\_Public.docx

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 11, 2019, at 3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Peter Filiberto; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Paul Body, Planner II; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, March 7, 2019, at 5:00 p.m.

### **Excerpt from complete agenda**

#### **Joseph Brandon and Nikki Thomas:**

A Small Scale Comprehensive Plan Amendment from Residential 1 and Residential 1:2.5, to all Residential 1. The property is 3.15 acres, located on the southeast corner of County Line Road and Dixie Way. (6705 Dixie Way, Mims.) (18PZ00153) (District 1)

#### **Joseph Brandon and Nikki Thomas:**

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 19.75 acres, located on the southeast corner of County Line Road and Dixie Way. (6705 Dixie Way, Mims) (18PZ00154) (District 1)

Joseph Thomas – Joseph Thomas, 6705 Dixie Way, Mims. The first one is the Future Land Use amendment. We have 19.75 acres, and of that, approximately 3.15 acres on the Future Land Use map is zoned Residential 1:2.5, and we're asking to change that boundary to match the property line, which would make the entire property Residential 1.

### **Public comment**

William Goff – My name is William Goff, I live on Huntington Avenue in Scotsmoor. I think everybody knows that end of Scotsmoor they're talking about is an extremely rural area. Anybody doing anything on Dixie Way is also perilously close to the Indian River, and anything that might be done to impact density in that area because of groundwater issues, well issues, which we all have to have up there, I don't think anybody that's come here today in our group wants to see anything tighter than the existing 2.5 acre restriction. In fact, many of us don't think 2.5 acres is large enough. If this proposal would allow a higher density level than that, then I think everybody in our group who came here is wholly against it.

Daryl Burke – My name is Daryl Burke, I live at 3445 Sunset Avenue, Scotsmoor. I have to agree that some of my concerns are the same as Bill's. The water quality is already marginal at best, depending on how frequently the fields are irrigated. People keep moving up there, and we don't seem to have the infrastructure to support a huge population of people. My concern is if it's 19 acres, RR-1, that's 19 homes, 19 wells, 19 septic tanks. If there's an additional 100 acres beside it, what's going to keep that 100 acres from being done the same way? I think the current zoning up there is 2.5 acres, the

surrounding properties have 150 feet of road frontage that's County maintained. I just don't think that's the right thing to do for the residents that live up there.

Henry Minneboo – Ron, can you help me a little bit? You certainly have some knowledge.

Ron Bartcher – Yes, I looked at that and I don't have a concern with it, and the reason I don't is that what we're doing is dealing with a 3-acre piece out of the 19 acres. If we leave it alone the way it is, they have 16-plus acres to develop.

Henry Minneboo – That has to come back.

Ron Bartcher – When I look at it I see they're asking for 19 houses instead of 16 houses. It's insignificant. I have done some research on the septic tank issue; they're roughly 3,700 feet west of the river, and one of the things the septic tank study showed was that houses that are close to the river within 50 yards, or actually within just over 200 yards, were significant contributors to the pollution in the river; 200 yards is 600 feet, and these people are 3,700 feet. There may be a problem with water; that, I won't dispute, but I don't see it as a septic tank issue.

Henry Minneboo – They're just taking 3.15 acres off of the 19.

Ron Bartcher – Right, that's really what we're addressing, the 3.15 acres.

Cheryl Barnes – I thought we were addressing the 19 acres, so I'm confused.

Erin Sterk – The Comprehensive Plan Amendment, most of the property retains the Residential 1 Future Land Use designation, and the 3.15 acres has the Residential 1:2.5. They are seeking to rezone the entire 19.75 acres, but the Future Land Use Amendment is just on 3.15 acres.

Cheryl Barnes – So, it's not zoned AU (Agricultural Residential) now?

Erin Sterk – It is zoned AU, so we're talking about two different things they have to decide today.

Cheryl Barnes – My name is Cheryl Barnes and I reside at 3800 Sam's Lane, Scotsmoor. Our property is approximately 130 feet from this rezoning request. We purchased this property, approximately 50 acres, in January 2001. It was, and is, surrounded by citrus groves, pasture land, and homes on a minimum of 2.5 acres. Our goal was to purchase some land that we could eventually place into a conservation easement, and in December 2005, we were able to place 40 acres into an easement with Brevard County Environmentally Endangered Lands. I mention our easement because I'd like read you a small section from our easement documentation report, which was prepared for EELs (Environmentally Endangered Lands) by The Nature Conservancy. I'm hoping that along with the map that I'll give you that it will give you a better feel for this northeastern corner of Brevard County. "Laney-Barnes land is located approximately one-tenth of a mile south of a portion of the Merritt Island National Refuge, and three-tenths of a mile north of another portion of the refuge. The property is also within four-tenths of a mile from land that is included within the boundaries of the Indian River Lagoon Blueway Florida Forever Project, which was placed on the State of Florida's land acquisition list in 1998. The Blueway project was designed to protect lands along the Indian River Mosquito Lagoon from Volusia County to Martin County, Florida. The project boundaries were also designed to include gaps in ownership within the existing boundaries of the refuge. Preservation of the buffer land surrounding the Blueway Project is vitally important to the preservation and

improvement of this ecosystem. Map 1 depicts the location of the Blueway Project, Merritt Island National Wildlife Refuge, and the subject easement tract within a network of conservation lands protected and managed by a combination of State and Federal agencies." Members of the committee, the first sentence of Administrative Policy 3 from the Brevard Comprehensive Plan reads, "Compatibility with the 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." I am asking you to consider the impact this subdivision would have on the residents of the area; a significant number of them move to Scotsmoor seeking a rural quality of life and the negative impact to the continuity of the conservation properties and initiatives in northeast Brevard and southeast Volusia County. (Ms. Barnes showed a map to the board. A copy of the map can be found in file 18PZ00154, located in the Planning and Development Department.) This is our easement, and this is the National Wildlife Refuge property, we are here and the proposed rezoning is right here, up against the refuge property. That's the Volusia County line.

Henry Minneboo – You're almost exactly at what we call the north end of the Indian River.

Cheryl Barnes – Yes.

Nancy Stephens – My name is Nancy Stephens and I live at 6600 Possum Lane, North Brevard County. Everyone was notified within 500 feet of this property. Our property is 1,500 feet, but I am closer to this property in my home than I am my mailbox. It is a very rural area. The smallest tract is 2.5 acres and that 2.5-acre piece was made that way two years ago; it was a 10-acre tract and a mother and child who divided a 10-acre lot to make that 2.5-acre tract. The main thoroughfare for this project would be Volusia County roads. They would go north and then the road coming back west of U.S. Highway 1 is a Volusia County road, and they're narrow. We use them every day and if you've got two cars passing each other, one has to yield off the road a little to let the other one pass. On the Volusia side, their requirements are 10 acres for anything; it's very rural on that side as well. Our concerns, again, we talk about the density and water retention, the natural flow of flooding, the natural runoff going towards the river, being able to support it with emergency, fire rescue, or anything. Who is supporting the additional resources? The Small Area Study included Mims and North Brevard, which was 2.5 acres. Our area is even more rural, so we don't understand how we would go less dense than we would allow in a more populated area. Not to intrude on peoples' property rights, but for the future of our land and our use, and the future of what's going to happen to our environment, it's important to us.

Henry Minneboo – Who is grading County Line Road now?

Nancy Stephens – Brevard grades it to a point.

Henry Minneboo – Then Volusia picks it up?

Nancy Stephens – Yes, sir.

Erin Sterk – It's paved, Mr. Minneboo.

Nancy Stephens – County Line Ditch Road is paved, the rest of it is all dirt. County Line Ditch Road travels east and west.

Henry Minneboo – Brevard does one part and Volusia does another part.



Nancy Stephens – Volusia decided to start paving their roads and they started from the south, which was great.

Henry Minneboo – Of the length of that road, how much is dirt now?

Nancy Stephens – County Line Ditch Road is paved from U.S. Highway 1 to Dixie Way, and that's it. Everything else is dirt.

Henry Minneboo – Thank you.

David Laney – My name is David Laney, I live at 3800 Sam's Lane, my wife and I have the conservation area that she described. Regarding the small change to the Comprehensive Plan, Florida Statute states a comprehensive plan also has to take into account the impact on the adjacent municipalities, the County as a whole, and the adjacent counties. This property is exactly on the property line of Volusia County, and no one on the Volusia County side received notice. County Line Ditch Road is not paved to a paved road standard. It was graded and they brought in used asphalt shavings and spread it out and rolled it, so it's not what you would typically perceive as far as construction, supportability, and durability. A massive rezoning request in 2005 resulted in the Small Area Study, which was submitted to the Board in 2007. Let's look at what the precedent is for previously approved zoning and redevelopment in five years. (Mr. Laney displayed a large map to the board that was not given to staff.) There is some zoning of one per 10 acres, and others as large as 25 acres. Volusia County has made efforts to establish the continuity of the conservation corridor up the Indian River Lagoon and north. If you look at the actual development that has occurred over the last 19 years since we've purchased our property and began developing it as a conservation area for the County, there has been no land in development in this area in that 19 years, nor any greater density than one house per 2.5 acres. Those houses on Dixie Way are all on 2.5 acres or greater, there is no existing active development within the last three to five years at the density that's being requested. If this rezoning were approved, that would establish precedent. Florida Statute states that the legislature finds that non-agricultural land which neighbors agricultural land may adversely affect agricultural production and farm operations on the agricultural land, and may lead to the land's conversion to other urban non-agricultural uses. If this 19.75 acres is allowed 19 homes, that constitutes as a subdivision in the Florida Statutes. That's where development is not appropriate. The Small Area Plan submitted in 2007 regarding Mims and North Brevard, the community valued agricultural heritage and preserved actual working farmland and the agricultural landscape. Aside from Mims and several smaller settlements, such as Scotsmoor, most of Brevard County north and west of Titusville has been and is still rural. It is important to recall and acknowledge that the area as farming, and is a significant aspect of community character today.

Rochelle Lawandales – Do you live on Sam's Hammock?

David Laney – Absolutely.

Rochelle Lawandales – For that to become a conservation area, did you just apply?

David Laney – No, the Brevard County EELs (Environmentally Endangered Lands) program at that time did not address or allow for contributing a donated easement. Everything associated with EELs back then, we had to buy the easement; that's what they expected and that's what they intended. We didn't ask the County to buy it, we donated it. We went to The Nature Conservancy, we had project studies and evaluations, and we developed a 30-page project of what we would do to that property.



Because of the water and lack of drainage, the eastern portion of the property was wet. We rearranged all the drainage on the property; we had three ponds dug to keep water off; then we removed over 3,600 palm trees and planted oak, pine, and other indigenous plants.

Rochelle Lawandales – How many acres is it?

David Laney – It's 50 acres.

Ron McLellan – You mentioned County Ditch Line Road being millings and not proper asphalt.

David Laney – That's correct. It's similar to what Brevard County is doing on Highway 46, west of I-95. It's another problem from the standpoint of the ingress and egress to this property. Dixie Way, running from County Line Ditch Road north, that two miles is all dirt road. It's reasonable to assume that the increased traffic would be on a substandard dirt road.

Ron McLellan – Is County Line Ditch Road a Brevard County road?

David Laney – No, it's Volusia.

Ron McLellan – The residents on the south side of County Ditch Line Road have no pull at all.

David Laney – The residents on the south side of County line Ditch Road are Brevard County.

Ron McLellan – So, you have nothing to do with that road?

David Laney – Correct. And Volusia County doesn't have any input as to what their view would be of the increased traffic on County Line Ditch Road, or on Dixie Way going north from County Line Ditch Road.

Ron McLellan – Volusia County doesn't care what goes on on the south side.

David Laney – I can't say they don't care. An increase in density on land adjacent to their conservation reserves, and the wildlife corridors on their conservation properties, they might have some input on that.

Ron McLellan – My point is if you put more homes in there and you expect Volusia County to fix that road, they're not going to mess with it.

David Laney – I agree. I can't specifically state that they would not fix it, but they have no obligation.

Rose McGinnis – My name is Rose McGinnis, I'm President of the Scotsmoor Community Association. I'm here to let you know that mid-last week is when we were told that the zoning was going to be changed. I live in Scotsmoor, obviously, so I have an axe to grind with that, but I would like you to know that I let the neighborhood know. The property is located at the outskirts of our community, so you wouldn't see those signs easily, so I didn't have a lot of time to let the community know that this may be an issue. I'm sure if more people would have known you would have had probably as many people here as you had for the previous item. That area, if you drive down there, is farms and horses, and there's quite a few trucks already going up and down there from Brevard Lumber. I don't know what their intent is, I guess it's to go to an acre at some point for some of their property, but that's a precedent, and there's a lot of land out there that would no longer be rural. I

have been getting phone calls, and this has been a week of knowing that this was going to change. They seem like fine people, they emailed me and I had a conversation with them through email, but Scotsmoor is rural, and we don't have traffic issues. I think that many of the people living there are concerned that that is not a direction they would like us to take on. That's my personal issue, but if they would like to come to the Association at our next meeting and let the community know what their intentions are, maybe that's an avenue to at least let the community know their intention. Obviously, we don't have a say-so, that's your say-so, but the offer is open to them to let the community know what their intention is. My personal side is I would like to see it stay at 2.5 acres. Drive out there, there's dirt roads everywhere, and imagine an influx of homes from 2.5 acres down to an acre, the amount of population that would put on that infrastructure, I can't see it.

Henry Minneboo – We didn't have any confusion on the advertising, did we? I mean, standard advertising?

Erin Sterk – We did the normal 500-foot radius notice. Also, I'd like to address some of the concerns of the public. Our staff coordinated with the Planning and Zoning staff (from Volusia County) on what their Future Land Use designations and zoning classifications would allow for, and we did elaborate on what those density allowances are within the staff report, so we didn't just report on the surrounding properties that are in Brevard alone. We also spoke with the Transportation Department (Volusia County) on the condition of that road. We looked at it from a preliminary concurrency analysis standpoint, which we traditionally don't talk about pavement quality at this level, so we talked with their transportation engineers about what their trip counts were, because we wouldn't have count data for Volusia County roads. They confirmed a range for a local road of that size, but they had not conducted counts on that particular road. They did say that they did not feel that the number of trips generated by this proposed subdivision would have an impact that would trip the level of service standard for that roadway, so we didn't report that in your comments. We did not specifically ask whether or not the pavement condition would support the trips on it. I've not had to ask that question before at this level, so I'm just not sure if that's something this board chooses to have us go back and re-evaluate, we certainly can do that, but it wasn't something that they brought up as one of their concerns from their staff.

Henry Minneboo – This is a rather unique situation. I can tell another place that has the exact same issue, which is Keenansville, the County owns roads down there that they haven't seen in a long time, either. Sir, do you want to come up and address everything?

Joseph Thomas – First of all, when I was first up here I was just addressing the request for the land use, so I can't say much beyond that, but the understanding is that's just a Future Land Use so it's consecutive with the property boundaries. Basically, that's all that request is for. The second one, which is the rezoning, yes, we live at the property and we plan on living at the property. Right now, we actually have a mobile home on the property, but we're looking at building ourselves a new home on the property and staying there, so it's going to be our personal development, too. It's in a unique location because of where it's located with County Line Ditch Road and it being labeled as a County maintained asphalt road, which by coordinates allows us to attach it and it meets that criteria. We are planning on paving Dixie Way to County Line Ditch Road, it will be required of us to develop our property. Yes, the property is 19.75 acres, but as far as storm drainage retention and roads, it states in the comments that it's only an addition of nine single-family homes over what the existing zoning is now, which is a 50% increase. Also, on the traffic numbers, it was very minimal the actual impact it would have on the existing numbers on U.S. Highway 1; I think it was less than one-tenth of a

percent. Our property is unique because most of the properties in the area do have issues as far as wetlands, lowlands that are in the floodplain; ours happens to be high enough that we're out of them; we do have a tiny bit of wetlands on the back half, but other than that the property is very clean to develop. Addressing one of the biggest concerns in the area, speaking with Rose through emails, is our neighbor has a 100-acre orange grove and he surrounds us on two of the four sides of our property, and I have a letter from him that says he doesn't have an issue with our development, and supports it. If you look at the existing zoning, less than 20% of that is zoned Residential 1, and the other is Residential 1:2.5, and the back portions are five acres, following the analysis they did in Mims, which breaks off from the Lagoon the 5-acre to 2.5 acre, to 1 acre barrier as you approach U.S. Highway 1. When we researched this we looked at all the different prospects of what we could do with the property and we chose to follow this route because it seemed to be clean and pretty much falls in line with what the zoning is and the requirements. I think beyond that, that's about it.

Henry Minneboo – How many people there are living on one acre?

Joseph Thomas – I think the closest one-acre property is 3,600 feet. It addresses it in the comments. Most of the one acre and even smaller parcels are actually in the little hub area of Scotsmoor, which is a couple of miles away, and then it goes out from that. This is unique because we are at the end of the road and we could start paving Dixie Way, which some people want and some people don't, but it kind of starts with a clean place to start; we're not out in the middle of nowhere and we can make a clean development. And it's not 19 homes, I think we're asking for a maximum of 16, and it just depends on the storm drainage. We did a preliminary map with 16 lots, and that's the maximum we could do. I have a copy of that map if you'd like it.

Rochelle Lawandales – No, thank you. They can do a PUD (Planned Unit Development), can't they?

Erin Sterk – They can do a PUD (Planned Unit Development), but they would still have to be consistent with whatever Future Land Use designation the property has.

Rochelle Lawandales – On the 3.5 acres, if it remained Residential 1:2.5, it would have to meet that criteria, whereas the rest can meet the Residential 1 criteria.

Erin Sterk – They can do that with PUD or not.

Rochelle Lawandales – Do you still have the Open Space Subdivision?

Erin Sterk – Yes.

Rochelle Lawandales – Have you evaluated that at all?

Joseph Thomas – Yes, the reason why we're looking at it, and by the way, RR-1 (Rural Residential) is considered a rural residential, meaning that's why we went for the rural residential and the one acre, because a lot of people we know moving to the area, you can't have commercial use, but you can have private horses, animals, barns, and by going with a PUD you're opening up area space, but you're going to smaller individual lots, so they kind of lose that ability to have their own little ranches. That's how we're trying to push this, and that's how we're looking at it for our property, is we have our own little ranch there that we can utilize and keep that rural theme going.

Rochelle Lawandales – Are you amenable to meeting with your neighbors?



Joseph Thomas – I'm fine with that. I did speak to the Laney's, and I was trying to get back with them and I kept missing them, but I know what peoples' opinions are. We did speak to the gentleman who owns the grove, and talked to the neighbor next to him, Andy, and he feels the same as him, and also the people across from us. The people around us, except for the Laney's, don't have an issue with it moving forward, it's mainly people outside of that area, so everybody but the Laney's in the 500-foot radius are okay with it.

Brian Hodggers – Is it 15 or 16 units? On this, it says 15 units. I just wanted to get that confirmed.

Joseph Thomas – We're considering one unit our existing, so it will be an additional 15 to what we have. The 16<sup>th</sup> is us.

Brian Hodggers – That puts you at roughly a little over 1.2 acres.

Joseph Thomas – I've got to divide it, and what would happen is some of them would be over, and the ones in the back we are going to do a little larger, at 1.5 to 2 acres.

Brian Hodggers – For staff, if it's over an acre, say 1.2 acres, is that going to be acceptable?

Erin Sterk – Right now, they have AU (Agricultural Residential) zoning, so if you're talking about just coming in and doing something administratively and just going to subdivide, then they cannot do that today, they need the zoning regardless whether or not you approve the Future Land Use designation. They could stagger their development pattern. If the Future Land Use were not to be approved and the zoning were to be approved, they could stagger it where there is larger lots in the back on the Residential 1:2.5 portion, so there's a lot of options available to them. And of course, the Open Space Subdivision as well, and that could get them down to a one-acre lot size at the current zoning.

Brian Hodggers – Regarding the comments about the septic tanks, being 3,700 feet from the Lagoon, would they be required to use the new advanced, more expensive, septic tanks?

Erin Sterk – No, they're well outside that boundary.

Henry Minneboo – Ron, are you comfortable?

Ron Bartcher – I gave Rose a call because I felt pretty certain that she would not know about it, and most of the people in Scotsmoor would not know about what was going on with this.

Henry Minneboo – You raised the flag.

Ron Bartcher – I raised the flag, and that's the reason we have all these people here. I didn't see a significant problem with it, but I wanted them to have their input, because they live there. We cited the Mims Small Area Study, which actually stopped just south of Scotsmoor, and at the time we did that study there were several of us that were encouraging the people in Scotsmoor to do the same thing for the north end of the County. Unfortunately, that wasn't done. I would still encourage them to try that approach, because this is the only place that development is going to happen in Brevard County; everything else is spoken for. What we're seeing now is just the tip of the iceberg.

Erin Sterk – If I could add to that, not that the Mims Small Area Study particularly governs this property, but those folks who participated in that recommended a density reduction everywhere east

of U.S. Highway 1, so the recommendation that came out of that study was that everything go to Residential 1:2.5 east of U.S. Highway 1, and the County Commission upheld the one unit per acre density allowance pretty much to the boundary that it is here, and it pretty much goes north-south, it's a very arbitrary boundary, but that is the one unit density that the Commission upheld at that time.

Henry Minneboo – What year was that?

Erin Sterk – 2007. I would assume they probably did density reductions in 2008 just after that, but they did not take the recommendation to reduce density all the way over to U.S. Highway 1.

Henry Minneboo – Have you looked at 2.5?

Joseph Thomas – Yes, initially we looked at 2.5, but just because of criteria to develop the property, what you have to do with feasibility and cost-wise, that's why we moved to the direction of the one acres. We also want to create something as nice as the rural area is; sometimes there's a lot of weird lots and we have a hodge-podge mix of properties up there, and the strange this is that with the current zoning we can go along those lines and create some weird scenarios with the property, but we feel this is a nicer and cleaner way. All the homes would be set off of Dixie Way, so as far as an impact going up and down the road, it's not going to be a huge visual impact from what it is today. It's a field, but no matter what, two homes will go there in the front and that's what it would look like at the 2.5 acres or one acre. To make it feasible and utilize our property and our investment, that's the reason we're looking at the one acre.

Henry Minneboo – You don't have a uniqueness with having a hodge-podge up there, there's other places in the County.

Joseph Thomas – I know.

Henry Minneboo – What's the pleasure of the board?

Ben Glover – I'll make a motion to approve the request to change the Future Land Use to Residential 1.

Rochelle Lawandales – I'll second that. I think there's some value in having the property being under a consistent land use designation.

Dane Theodore – As you know, I'm the School Board representative and I'm going to address my comments to the school issue here, and then give my personal opinions. I think that the land use change is entirely appropriate, making that property consistent. I think that the rezoning, going from an allowed six to a proposed 16 is relatively insignificant, relative to some of the other rezonings that we're seeing throughout the County, as we're seeing on North Merritt Island. As they come one right after the other, I do want to address the issue of the schools. Pinewood is a very small school; it is projected to be 100 students over capacity within the next five years, so while the four new students projected based on this increase in development for this particular application isn't significant per se, the fact that Pinewood is so small, the way the School Board solves that is with either portables or rezoning. I'm going to vote yes for this item only because legislation requires a School Board to consider adjacent schools, contiguous schools, which means that Pinewood is going to send students from that area to Mims; Mims can handle the capacity, and therefore I'm obligated to vote yes, and I'm obligated not to vote no for it because theoretically it has enough capacity in the adjacent school. I

just want to have the board aware of that, much like Merritt Island, as we continue to improve more and more developments in areas where the schools are going to be stressed, the problem is only going to continue, but again, because there is capacity in the adjacent school district, I am going to vote for this, both applications for comp plan and rezoning.

Henry Minneboo called for a vote on the motion as stated, and it passed 6:2, with Minneboo and McLellan voting nay.

Rochelle Lawandales – Mr. Chairman, the zoning to me is a much different situation. I am concerned about several things. One, I think there may be something in between AU (Agricultural Residential) and RR-1 (Rural Residential), whether it's Agricultural Residential, or the SR (Suburban Residential), or one of the estate categories. Have you explored any of that?

Joseph Thomas – Yes, we actually had several meetings with staff trying to figure it out. Yes, there are other zonings, but it comes down to the same density. We were initially looking at the estate zonings, but the animal rights aren't as liberal as the RR-1 zoning, but they all fall under the Residential 1 land use designation.

Henry Minneboo – What's the pleasure of the board?

Ben Glover – I'll make a motion to approve the request to rezone to RR-1.

Brian Hodggers – I'll second.

Henry Minneboo called for a vote on the motion as stated, and the vote failed 4:4. Glover, Hodggers, Bartcher, and Theodore voted in favor. Minneboo, Lawandales, McLellan, and Filiberto voted nay.

Rochelle Lawandales – Maybe the best thing to do is table this and allow you to do a little more planning and consideration, and meet with the neighbors to see if there's something in between the 2.5-acre lot and a one acre lot on average, especially if you look at open space and buffering, and show everybody how you're going to handle the infrastructure, show how you're going to deal with stormwater. I think those are some unresolved things that would probably help some of us on the board, as well as some of the neighbors. Are you comfortable with that?

Joseph Thomas – Yes. Would we be tabled to the next meeting?

Henry Minneboo – That's an option, or you have the right to bring it to the Board of County Commissioners.

Joseph Thomas – I would feel more comfortable meeting with the community. I don't want to go forward with them feeling like I didn't approach them.

Rochelle Lawandales – I'm going to make that in the form of a motion.

Henry Minneboo – You're acceptable to that?

Joseph Thomas – Yes, it would just be tabled to the next meeting?

Erin Sterk – It would be March 11<sup>th</sup>. That would move you to the April 4<sup>th</sup> Commission meeting.



Joseph Thomas – It would just set us back one month?

Rochelle Lawandales – Would the March 25<sup>th</sup> date give you more time? You'd still make the April County Commission date.

Joseph Thomas – We could do the 25<sup>th</sup> but still meet the April Commission date?

Erin Sterk – That's right.

Joseph Thomas – Is there a plus or minus?

Erin Sterk – It just depends, we send out materials two weeks in advance. From this moment we have two weeks, so if that's not enough time to allow you to do.....some people are working on plans as a result of the meeting. If you are just trying to get that meeting held within that two weeks, you could meet the March 11<sup>th</sup> date. It's certainly up to you. We just need you to tell us what happened in your meeting with the neighbors more than two weeks in advance, that way we're not walking items onto the board.

Joseph Thomas – We'll try to have the meeting as early as possible.

Rochelle Lawandales – Move to table to March 11<sup>th</sup>.

Brian Hodgers – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

**Subject:** Fwd: FW: Domestic self supply for single family lots in North Brevard County  
**From:** David Laney <David.Laney@ucf.edu>  
**Date:** 3/10/2019, 3:34 PM  
**To:** "borogove@att.net" <borogove@att.net>

----- Forwarded message -----

**From:** Kristian Holmberg <KHolmberg@sjrwmd.com>  
**Date:** Mar 4, 2019 1:22 PM  
**Subject:** FW: Domestic self supply for single family lots in North Brevard County  
**To:** David Laney <David.Laney@ucf.edu>  
**Cc:**

Mr. Laney,

Please see the follow up summary email I sent to Mr. and Mrs. Thomas following our conversation last month.

Thanks,  
Kris

**From:** Kristian Holmberg  
**Sent:** Wednesday, February 20, 2019 11:09 AM  
**To:** 'thomasnikki321@gmail.com' <thomasnikki321@gmail.com>  
**Subject:** Domestic self supply for single family lots in North Brevard County

Mr. and Mrs. Thomas,

Thank you for speaking with me this morning in regards to proposed residential water use in the Scottsmeer area of north Brevard County. As we discussed, the use of groundwater for domestic self supply on single family residential lots generally falls below the District permitting thresholds found in Section 40C-2.041, Florida Administrative Code, and would not require a Consumptive Use Permit (CUP) from the District. Please note, water well construction permits would be required for the installation of individual wells on the subject parcels, but not for their use. The District does not have any broad restrictions or limitations on residential water use in the area other than those associated with the general restrictions on landscape irrigation found in the rule. Please let me know if you need any additional information or have any additional questions.

Thanks again,  
Kris

Kristian Holmberg, PWS  
Hydrologist IV  
Division of Regulatory, Engineering, and Environmental Services  
St. Johns River Water Management District  
Palm Bay Service Center  
525 Community College Parkway, SE • Palm Bay, FL 32909  
Office: (321) 409-2121 • Cell: (407) 947-2032  
Email: [kholmber@sjrwmd.com](mailto:kholmber@sjrwmd.com)  
Website: [www.sjrwmd.com](http://www.sjrwmd.com)  
Connect with us: [Newsletter](#), [Facebook](#), [Twitter](#), [Instagram](#), [YouTube](#), [Pinterest](#)



[www.sjrwmd.com/epermitting](http://www.sjrwmd.com/epermitting)

We value your opinion. Please take a few minutes to share your comments on the service you received from the District by clicking this [link](#)

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- Emails to and from the St. Johns River Water Management District are archived and, unless exempt or confidential by law, are subject to being made available to the public upon request. Users should not have an expectation of confidentiality or privacy.
- Individuals lobbying the District must be registered as lobbyists (§112.3261, Florida Statutes). Details, applicability and the registration form are available at <http://www.sjrwmd.com/lobbyist/>



Public Comment  
18PZ00153 & 154  
Thomas  
(Submitted by David  
Laney)

Herbert Wertheim College of Engineering  
Engineering School of Sustainable Infrastructure and Environment  
Department of Civil and Coastal Engineering  
Arnoldo Valle-Levinson, Professor  
[arnoldo@ufl.edu](mailto:arnoldo@ufl.edu)

365 Weil Hall  
PO Box 116580  
Gainesville, FL 32611-6580  
352-392-9537 Department Phone  
352-392-3394 Department Fax  
[www.essie.ufl.edu](http://www.essie.ufl.edu)

March 10th, 2019

David Laney  
Subject: Salt Water Intrusion Potential, North Brevard County, Florida

Dear David,

Upon visiting the Scottsmeer area on March 6<sup>th</sup>, I became familiarized with the rezoning request in the area. I am able to place such request in the context of natural and human-related pressures in the region of the Indian River Lagoon.

I think that any new infrastructure development in coastal areas, around the Indian River Lagoon in particular, needs to be examined carefully and sensibly. This is because sea levels around Florida have risen at rates that are more than 6 times the mean global rates. Between 2011 and 2016, sea level rose at a rate of  $\frac{3}{4}$  inch per year. Evidence of these rapid sea-level increments are the increase in sunny-day flooding events in the state. Compound to this problem is the ever-increasing human use of freshwater from the aquifer. Moreover, an inconclusive trend in Florida rain values since 1895 indicates that the aquifer recharge is not changing over decadal scales. This means that sea-level rise produces encroachment of salty ocean water toward land, which is exacerbated by increased human consumption of aquifer water for domestic and agricultural purposes. The 1) sea-level rise – 2) human consumption of water represents a 1-2 punch that chokes the lagoon and affects the water and soil quality for communities within, at least, the first few miles of the coast. Clear consequences of such 1-2 choking punch, or as they say, the canary in the coal mine, are a) the alarming incidence of toxic algae blooms in the Indian River Lagoon, b) the widespread salinization of well water in the communities around the lagoon, and c) threatening coastal erosion around Cape Canaveral. Incidence of algae blooms, in particular, is accompanied by decreased air quality.

Evidently, any new rezoning that allows increases in settlement density will represent amplified demands for aquifer water. Because sea level is expected to continue to rise, the area will likely be drastically affected by the 1-2 choking punch, in detriment to water, air and soil quality.

Sincerely,

A handwritten signature in black ink that reads "Arnoldo Valle Le Vinson".

Arnoldo Valle-Levinson

7 201 Sixth Ave  
Indianapolis, IN 32903  
Project Name: Sam's Hammock

This instrument prepared by and returned to:

Christine V. Lepore  
Brevard County Attorney's Office  
2725 Judge Fran Jamieson Way  
Building C  
Viera, Florida 32940-6605  
19994

CFN 2006184384 06-19-2006 02:51 pm

OR Book/Page: 5661 / 4025

Public Comment  
18PZ00153 & 154  
Thomas  
(Submitted by Cheryl  
Barnes)

## DEED OF CONSERVATION EASEMENT

**THIS GRANT OF CONSERVATION EASEMENT** is made this 13 day Dec. 2005 by David L. Laney, a married man and Cheryl Ann Barnes, a married woman, whose address is 5990 Barranco Avenue, Cocoa, FL 32927 ("Grantor"), in favor of BREVARD COUNTY, a political subdivision of the State of Florida ("County"), whose address is c/o the EEL Program, Parks and Recreation Department, 5560 N. US Highway, Melbourne, FL 32940, ("Grantee").

*The terms "Grantor" and "Grantee" shall include the singular and the plural, and the heirs, successors and assigns of Grantor and Grantee, and the provisions of this easement shall be binding upon and inure to the benefit of Grantor, Grantee and their heirs, successors and assigns.*

## RECITALS

A. Grantor is the sole owner in fee simple of certain real property in Brevard County, Florida, more particularly described in Exhibit A attached hereto and incorporated by reference (hereinafter, the "Property").

B. The Property qualifies as "a relatively natural habitat of fish, wildlife, or plants, or similar ecosystems," as that phrase is used in Section 170(h)(4)(a)(ii) of the Internal Revenue Code, for the following reasons:

1. The Property is within one-half mile of properties included in the Indian River Lagoon Blueway Florida Forever Project and within a tenth of a mile of lands that have been acquired in Volusia County under the North American Wetlands Conservation Act which are now a part of Merritt Island National Wildlife Refuge. Therefore, the Property is an important part of the formation of a connection between state and federal owned lands in Brevard and Volusia counties, Florida.

BLA-503, Revised 10/4/04

**Scott Ellis**

Clerk Of Courts, Brevard County

#Pgs: 23	#Names: 2
Trust: 12.00	Rec: 185.00
Excise: 0.70	Serv: 0.00
Mig: 0.00	Excise: 0.00
	Int Tax: 0.00

2. The Property contains Hydric Hammock areas, abandoned citrus grove and other natural areas containing cabbage palms, various hardwoods and vines, all of which provide habitat for gopher tortoise, Southeastern American kestrel, American alligator, fox, rabbits, bobcat, numerous songbirds, raptors, reptiles and amphibians.

3. The Property contains four (4) ponds that provide necessary habitat for American alligator, migratory and resident waterfowl/birds, wading birds as well as a water source for other wildlife.

4. The restoration to native habitats being undertaken by the Grantor's on the Property will provide suitable breeding, nesting and foraging habitat for the numerous wildlife species listed above.

C. Grantor and the Grantee mutually recognize that the Property possesses important wildlife, fish, and plant habitat, and significant scenic and open space values, all as described above (collectively, the "conservation values"), which conservation values are of great importance to the Grantors and Grantee.

D. The specific conservation values of the Property are documented in the "Baseline Inventory Report for the Sam's Hammock Conservation Easement Tract in Brevard County, Florida", dated \_\_\_\_\_ ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this grant which Report establishes the condition of the Property at the time of the gift, as provided in Treasury Regulation Section 1.170A-14(g)(5); and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant. The Baseline Documentation is maintained in the offices of the EEL Program and is incorporated by this reference. A copy of the Baseline Documentation as a condition of the grant is provided to the Grantee. Exhibit "B" is a copy of a map of the Property as contained within the Baseline Documentation.

E. The parties intend hereby to comply with Section 704.06 of the Florida Statutes which permits the creation of conservation easements for the purposes of, inter alia, retaining land or water areas predominantly in their natural, scenic, open or wooded condition or as suitable habitat for fish, plants, or wildlife; and

F. The Grantors and the Grantee have the common purpose of conserving certain values and character of the Property by conveyance to the Grantee of a perpetual conservation easement on, under, over, and across the Property, to conserve the character of the Property, continue certain land use patterns that do not significantly impair the character of the Property, and prohibit certain further development activity on the Property



G. Grantee is an agency authorized under the provisions of §704.06, Florida Statutes, to hold conservation easements for the preservation and protection of land in its natural, scenic, historical, forested, or open space condition.

H. Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the conservation values of the Property for the benefit of this generation and the generations to come.

I. The fact that any use of the Property that is expressly prohibited by the terms of this Easement may become greatly more economically valuable than uses allowed by the terms of this Easement, or that neighboring properties may, in the future, be put entirely to uses that are not allowed by this Easement has been considered by Grantor in granting this Easement and by Grantee in accepting it.

To achieve these purposes, and in consideration of \$10.00 and other good and valuable consideration, including but not limited to the above and the mutual covenants, terms, conditions, and restrictions contained herein, the receipt and sufficiency of which is acknowledged, and pursuant to the laws of Florida, and in particular §704.06, Florida Statutes, but without intending the validity of this Easement to be dependent on the continuing existence of such laws, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

#### ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, Grantor's personal representatives, heirs, successors and assigns, lessees, agents, and licensees.

#### ARTICLE II. PURPOSE OF EASEMENT

It is the purpose of this Easement to assure that the Property will be retained forever in its natural, scenic, wooded condition to provide a relatively natural habitat for fish, wildlife, plants or similar ecosystems, and to preserve portions of the Property as productive farmland and forest land that sustains for the long term both the economic and conservation values of the Property and its environs, through management guided by the following principles:

- Protection of scenic and other distinctive rural character of the landscape;
- Maintenance of soil productivity and control of soil erosion;
- Maintenance and enhancement of wildlife and game habitat;

- Maintenance of the value of the resource in avoiding land fragmentation;
- Protection of surface water quality, the Floridan Aquifer, wetlands, and riparian areas.

The above purposes are hereinafter sometimes referred to as "the Conservation Purposes". Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the purpose of this Easement.

### ARTICLE III. RIGHTS GRANTED TO THE GRANTEE

To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

- A. The right to enforce protection of the conservation values of the Property;
- B. All future residential, commercial, industrial and incidental development rights that are now or hereafter allocated to, implied, reserved, or inherent in the Property except as may be specifically reserved to Grantor in this Easement. The parties agree that such rights are hereby terminated and extinguished and may not be used on or transferred to other property. Neither the Property nor any portion thereof may be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage, or open space requirements, under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other lands pursuant to a transferable development rights scheme or cluster development arrangement or otherwise. Nor shall any development rights or density credits be transferred onto the Property from other property.
- C. The right to enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.
- D. The right to prevent any activity on or use of the Property that is inconsistent with the purpose or provisions of this Easement and to require the restoration of or to restore such areas or features of the Property that may be damaged by any inconsistent activity or use, at Grantor's cost.
- E. The right of ingress and egress to the Property.
- F. The right to have the ad valorem taxes, assessments and any other charges on the Property paid by Grantor.

G. A right to notice of intent to sell. The terms of this right are such that if Grantor intends to sell the Property, or any interest therein or portion thereof, ~~Grantor, Grantor's agent or Grantor's authorized party~~ shall deliver to Grantee notice of such intent, and shall, in good faith, afford Grantee an opportunity to negotiate the acquisition of the Property, or such portion thereof or interest therein that Grantor intends to sell. If Grantee desires to negotiate the acquisition of the Property, or such portion thereof or interest therein, Grantee shall so notify Grantor within 30 days after receipt of Grantor's notice of intent. If Grantor and Grantee are unable, in good faith to agree to terms of an acquisition of the Property, or such interest therein or portion thereof as applicable, within 120 days thereafter, Grantor may sell the Property free of the right granted herein. Provided, however, that closing on such sale shall occur within one year of the date of Grantor's notice to Grantee. If the Property, or such portion thereof or interest therein as is applicable, has not sold within one year after Grantee's notice to Grantor that Grantee does not intend to negotiate acquisition of the property or within one year after failure to reach agreement to terms of an acquisition, then any intent to sell the Property thereafter shall require renewed notice to Grantee. This right of notice shall not be triggered by sales or transfers between Grantor and lineal descendants of Grantor or entities in which Grantor owns a majority of the controlling interests. ~~The right of notice granted herein applies to the original Grantor and its successors, Grantor's agents, successors and assigns.~~

H. The right to be indemnified by Grantor for any and all liability, loss, damage, expense, judgment or claim (including a claim for attorney fees) arising out of any negligent or willful action or activity resulting from the Grantor's use and ownership of or activities on the Property or the use of or activities of Grantor's agents, guests, lessees or invitees on the Property.

I. The right to be indemnified by Grantor for any liability for injury or property damage to persons on the Property arising out of any condition of the Property known to the Grantor to the best of Grantor's knowledge.

J. The right to have the Property maintained as reflected on the Baseline Documentation, as the Property may develop through the forces of nature hereafter, subject only to the exercise of Grantor's Reserved Rights, and the Rights Granted to the Grantee, as described in this Easement.

K. If Grantor fails to cut and remove timber damaged by natural disaster, fire, infestation or the like, then the right, but not the duty, of Grantee, in its sole discretion to cut and remove said timber. Any such cutting and removal by Grantee shall be at the expense of Grantee and all proceeds from the sale of any such timber shall inure to the benefit of Grantee.

#### ARTICLE IV. PROHIBITED USES

The Property shall be maintained to preserve the Conservation Purposes of this Easement. Without limiting the generality of the foregoing Grantor agrees that the following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are expressly prohibited or restricted:

A. No soil, trash, liquid or solid waste (including sludge), or unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants, including, but not limited to, those as now or hereafter defined by federal or Florida law defining hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants shall be dumped or placed on the Property. This prohibition shall not be construed to include reasonable amounts of waste generated as a result of allowed activities.

B. The exploration for and extraction of oil, gas, minerals, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances, under and by virtue of the authority of a grant or reservation or other form of ownership of or interest in or control over or right to such substances, except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully allowed for the conduct of allowed activities.

C. Activities that will be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation unless otherwise provided in this Easement. There shall be no dredging of new canals, construction of new dikes, manipulation of natural water courses, or disruption, alteration, pollution, depletion, or extraction on the Property of existing surface or subsurface water flow or natural water sources, fresh water lakes, ponds and pond shores, marshes, creeks or any other water bodies, nor any activities or uses conducted on the Property that would be detrimental to water purity or that could alter natural water level or flow in or over the Property. Provided, however, Grantor may expand and modify existing human-made ponds on the Property in order to enhance the habitat for native birds and fish, provided each pond is no larger than one (1) acre in size and any excavated soil is not piled in any one location, but used on the Property to enhance habitat for native birds and fish, and Grantor may continue to operate, maintain, or replace existing ground water wells incident to allowed uses on the Property, subject to legally required permits and regulations.

D. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of any portions of the Property having historical or archeological significance.

E. The removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of trees, shrubs or other natural vegetation, including but not limited to cypress trees, except as otherwise specifically provided in this Easement. There shall be no planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor. The Grantor shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property. Grantor hereby grants to Grantee the right, in



~~Grantee's sole discretion and at Grantee's expense, to develop and implement an exotic plant removal plan for the eradication of exotics or non-native plants on the Property. Under no circumstances, shall this right conveyed to Grantee be construed to diminish Grantor's responsibilities under this paragraph or as an obligation of the Grantee.~~

F. Commercial or industrial activity, or ingress, egress or other passage across or upon the Property in conjunction with any commercial or industrial activity; except as expressly permitted in paragraphs V.B., V.G., and V.H.

G. New construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the Property except as may be necessary by Grantor for maintenance or normal operations of the Property or during emergency situations or as may otherwise be specifically provided for hereinafter. For purposes of this paragraph the term "emergency" shall mean those situations that will have an immediate and irreparable adverse impact on the Conservation Purposes.

H. ~~The conservation or creation of new roads or off-road vehicle trails.~~

I. There shall be no operation of motorized vehicles except on established trails and roads unless necessary: (i) to protect or enhance the purposes of this Easement, (ii) for emergency purposes, and (iii) to retrieve game that has been hunted legally.

J. ~~There shall be no application of pesticides (including, but not limited to, insecticides, fungicides, rodenticides, and herbicides) on the Property, except that herbicides may be used as part of a program to control or eradicate~~

K. Actions or activities that may reasonably be expected to adversely affect threatened or endangered species.

L. Any subdivision of the land except as may otherwise be provided in this Easement.

M. There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the Property, except that Grantee may erect and maintain signs designating the Property as land under the protection of Grantee.

N. ~~Land for use, commercial, industrial, residential, or agricultural, water, or other~~

## ARTICLE V. GRANTOR'S RESERVED RIGHTS

Grantor reserves to Grantor, and to Grantor's personal representatives, heirs, successors, and assigns, the following specified rights, which are deemed to be consistent with the purpose of the Easement. The exercise of the Reserved Rights shall be in full accordance with all applicable local, state and federal law, as amended from time to time, as well as in accordance with the purposes of this Easement.

A. The right to observe, maintain, photograph, introduce and stock native fish or wildlife on the Property, to use the Property for non-commercial hiking, camping, and horseback riding, so long as the same do not constitute a danger to Grantee's employees, agents, officers, directors and invitees, and so long as such activities do not violate any of the prohibitions applicable to the Property or Grantee's rights, as stated above. Grantor reserves, and shall continue to own, the hunting and fishing rights on, or related to, the Property and Grantor may lease and sell privileges of such rights.

B. The right to plant and selectively harvest native pine trees (except for sand pine) over no more than 25% (9.6 acres) of the upland portion of the Property. Any such timber thinning and harvesting shall accomplish the following goals: maintain the soil productivity of the Property, conserve or enhance the water quality of waterbodies, wetlands and riparian zones on the Property, protect the scenic quality of the Property, protect or enhance the wildlife habitat attributes of the Property, maintain or create a balance of forest age classes and native species composition on the Property, and conserve or enhance the viable populations of native plant and animal species on the Property. Further, any timber harvesting on the Property shall be carried out in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property.

C. The right to engage in the following ecological restoration activities to protect or enhance the wildlife habitat attributes of the Property; or conserve or enhance the viable populations of native plant and animal species on the Property: (i) the right to plant native trees and herbaceous species, (ii) to remove dense herbaceous cover interfering with the planting and growth of desired native vegetation, and to conduct controlled or prescribed burning on the Property; provided, however, that Grantor shall obtain and comply with a prescribed fire authorization from the local and state regulatory agencies having jurisdiction over controlled or prescribed burning.

D. The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than this Easement.

E. The right to contest tax appraisals, assessments, taxes and other charges on the Property.



F. The right to continue to use, maintain, repair, and reconstruct, but not to relocate or enlarge, all existing fences, roads, drainage ditches and culverts on the Property as depicted in the Baseline Documentation.

G. The right to exclusive use of the improvements depicted in the Baseline Documentation.

H. The right to cut and remove palm trees from the Property, provided such activity: (i) protects or enhances the wildlife habitat attributes of the Property; and (ii) conserves or enhances the viable populations of native plant and animal species on the Property; and (iii) any palm tree removal on the Property shall be carried out in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property; and, (iv) remove 100 palm trees per year for the years 2006, 2007 and 2008.

I. The right to maintain an apiary operation on the Property, provided only native species are bred and the operation does not have an adverse impact on the wildlife attributes of the Property or populations of native plant and animal species on the Property.

J. The right to maintain the existing food plots as identified in the Baseline Documentation, and to establish new food plots for wildlife forage, provided the cumulative area of all the food plots does not exceed 6 acres.

#### ARTICLE VI. GRANTEE'S REMEDIES

A. **Remedies.** If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing such violation within the 30-day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Grantee may pursue its

Remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

**B. Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

**C. Waiver of Certain Defenses.** ~~Grantor hereby waives any defense of~~

~~negligence, active or passive, or any defense of~~

**D. Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

**E. Hold Harmless.** Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations specified in paragraph VIII.A. and VIII.B.; and (3) the existence or administration of this Easement.

## ARTICLE VII. NO PUBLIC ACCESS

The grant  
Property for any  
enforcement of the

## ARTICLE VIII. MISCELLANEOUS

10. The said tenant shall pay before delinquency all taxes, assessments, rates and charges hereinafter levied or imposed against the property by competent authority, including any and all imposed upon or charged as a result of the occupancy of said property, in order to be satisfied of absence of payment of any such taxes, assessments, rates or charges, or make or advance any payment before expiration of the time herein before provided for in accordance with any such statement or estimation of taxes, assessments, and charges, within ninety days after expiry of the time for the payment of the same, and the obligation created by such payment shall be a lien in full payment of the same to the maximum rate allowed by law.

BLA-503, Revised 09.10.03

D. **Proceeds.** This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of paragraph VIII.C., the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. The values at the time of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue Code. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

E. **Condemnation.** If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.

F. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is, at the time of the assignment, both (i) a "qualified organization" as that term is defined in Section 170(h) of the Internal Revenue Code and (ii) authorized to acquire and hold conservation easements under Section 704.06 of the Florida Statutes. (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the Conservation Purposes that this grant is intended to advance continue to be carried out.

G. **Subsequent Transfers.** Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which Grantor divests any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity or priority of this Easement or limit its enforceability in any way.

H. **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed to the parties as set forth above, or to such other addresses such party may establish in writing to the other.

I. **Recordation.** Grantee shall record this instrument and any amendments in timely fashion in the official records of Brevard County, Florida, and may re-record it at any time as may be required to preserve its rights in this Easement.

J. **Non-Homestead Certification.** Grantor hereby certifies that if a Grantor who is married signs this Easement without the joinder of his or her spouse, the Property is neither the



Homestead of Grantor nor the primary physical residence of Grantor, nor is the Property contiguous to the homestead or primary physical residence of Grantor.

K. **Amendments.** If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, the Grantors and the Grantee may by mutual written agreement jointly amend this Conservation Easement, provided that no such amendment shall be made that will adversely affect the qualification of this Conservation Easement for the tax benefits available or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Internal Revenue Code. Any such amendment shall be consistent with the purpose of this Conservation Easement, shall not affect its perpetual duration, and shall not result in any diminution of protection of the conservation values. Any such amendment shall be recorded in the official public records of Brevard County, Florida. Nothing herein shall require the Grantee to agree to any amendment.

L. **Controlling Law.** The laws of the State of Florida shall govern the interpretation and performance of this Easement.

M. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of §704.06, Florida Statutes. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

N. **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

O. **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

P. **Joint Obligation.** The obligations imposed by this Easement upon Grantor shall be joint and several.

Q. **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.



**R. Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**S. Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

**TO HAVE AND TO HOLD** unto Grantee, its successors, and assigns forever.

**IN WITNESS WHEREOF** Grantor and Grantee have set their hands on the day and year first above written.

Witnesses:

Signature of first witness

**KATHY LOYD**

Printed name of first witness

Signature of second witness

**Wilma L. Hewett**

Printed name of second witness

Witnesses:

Signature of first witness

**KATHY LOYD**

Printed name of first witness

Signature of second witness

**Wilma L. Hewett**

Printed name of second witness

STATE OF FLORIDA

COUNTY OF Franklin

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared David L. Laney who is personally known to me or who has produced a state driver license as identification, and who did not take an oath and executed the foregoing instrument and he acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 13<sup>th</sup> day of June, 2006.

David L. Laney, Grantor

Cheryl Ann Barnes, Grantor

Ka Loyd  
Signed

Printed KATHLEEN LOYD  
Notary Public, State of Florida  
NOTARY PUBLIC My comm. exp. Nov. 3, 2006  
My Commission Expires: Comm. No. DD 159303

STATE OF FLORIDA  
COUNTY OF Brevard

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared Cheryl Ann Barnes who is personally known to me or who has produced a state driver license as identification, and who did not take an oath and executed the foregoing instrument and she acknowledged before me that she executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 13<sup>th</sup> day of June, 2006

Ka Loyd  
Signed

Printed KATHLEEN LOYD  
Notary Public, State of Florida  
My comm. exp. Nov. 3, 2006  
Comm. No. DD 159303

NOTARY PUBLIC  
My Commission Expires:

ATTEST:

By: Scott Ellis  
Scott Ellis, Clerk

(Seal)

BREVARD COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: Helen Voltz  
Helen Voltz, Chair

As approved by the Board on 12-13-05.

## EXHIBIT "A"

### LEGAL DESCRIPTION

#### LEGAL DESCRIPTION:

LOT 1, BLOCK 1, AND LOT 4, BLOCK 1, TOGETHER WITH A PORTION OF LOT 5, BLOCK 1, L.L. OWENS SUBDIVISION ACCORDING TO THE PLAT HEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 90 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

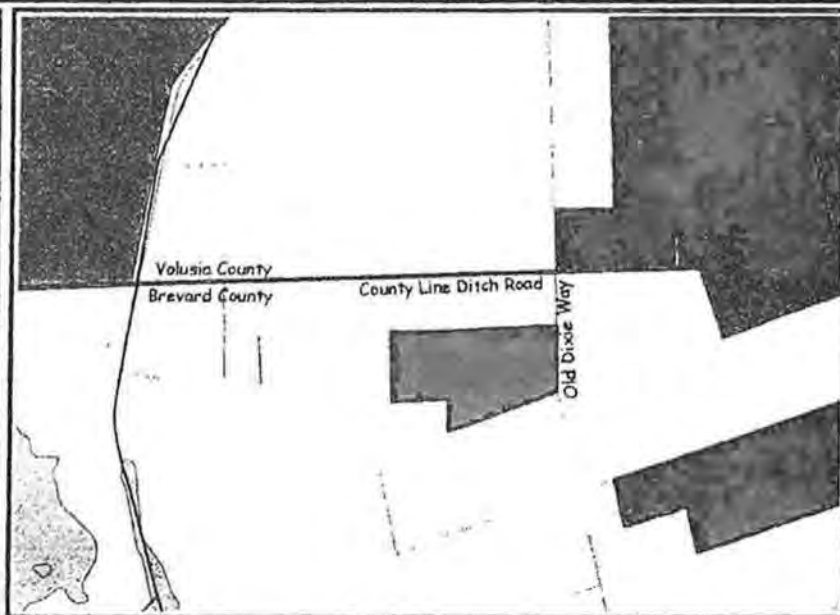
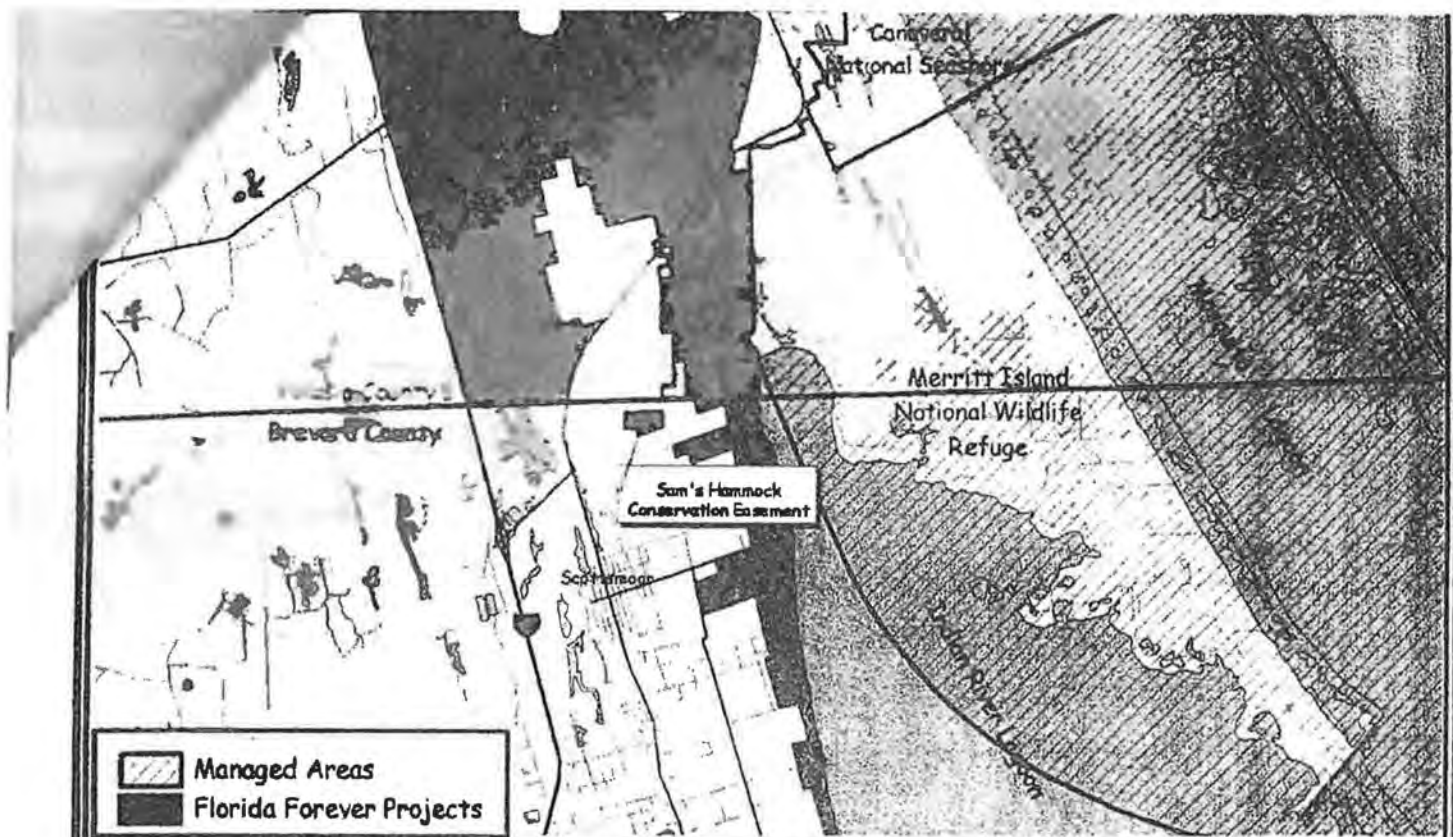
COMMENCE AT THE NORTHEAST CORNER OF LOT 6, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 90 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S. 00°04'19" W., ALONG THE EAST LINE OF SAID LOT 6, BLOCK 1, A DISTANCE OF 660.87 FEET TO THE NORTHWEST CORNER OF THE AFORESAID LOT 4, BLOCK 1, SAID POINT BEING THE POINT OF BEGINNING; THENCE S. 89°46'33" E., ALONG THE NORTH LINE OF LOT 4 AND LOT 1, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION, A DISTANCE OF 1321.24 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 1 OF SAID L.L. OWENS SUBDIVISION; THENCE S. 00°04'19" W., ALONG THE EAST LINE OF SAID LOT 1, BLOCK 1, A DISTANCE OF 766.76 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1, BLOCK 1; THENCE S. 73°30'57" W., ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 4, BLOCK 1 OF SAID L.L. OWENS SUBDIVISION, A DISTANCE OF 1378.38 FEET TO THE SOUTHWEST CORNER OF SAID LOT 4, BLOCK 1; THENCE N. 00°04'19" E., ALONG THE WEST LINE OF SAID LOT 4, BLOCK 1, A DISTANCE OF 561.19 FEET; THENCE N. 89°33'41" W., A DISTANCE OF 660.62 FEET TO A POINT LYING ON THE WEST LINE OF SAID LOT 5, BLOCK 1; THENCE N. 00°04'19" E., ALONG SAID WEST LINE A DISTANCE OF 603.57 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6, BLOCK 1; THENCE S. 89°46'33" E., ALONG THE SOUTH LINE OF SAID LOT 6, BLOCK 1, A DISTANCE OF 660.62 FEET TO THE POINT OF BEGINNING.

SUBJECT TO A 25.00 FEET WIDE INGRESS/EGRESS EASEMENT LYING WEST OF AND ABUTTING THE EAST LINE OF LOT 5, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION.

SUBJECT TO A 25.00 FEET WIDE INGRESS/EGRESS EASEMENT LYING NORTH OF AND ABUTTING THE SOUTH LINE OF LOT 1 AND LOT 4, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION.

SAID PARCEL CONTAINS 38.41 ACRES, MORE OR LESS.

SUBJECT TO ANY EASEMENTS AND OR RIGHT OF WAYS OF RECORD.



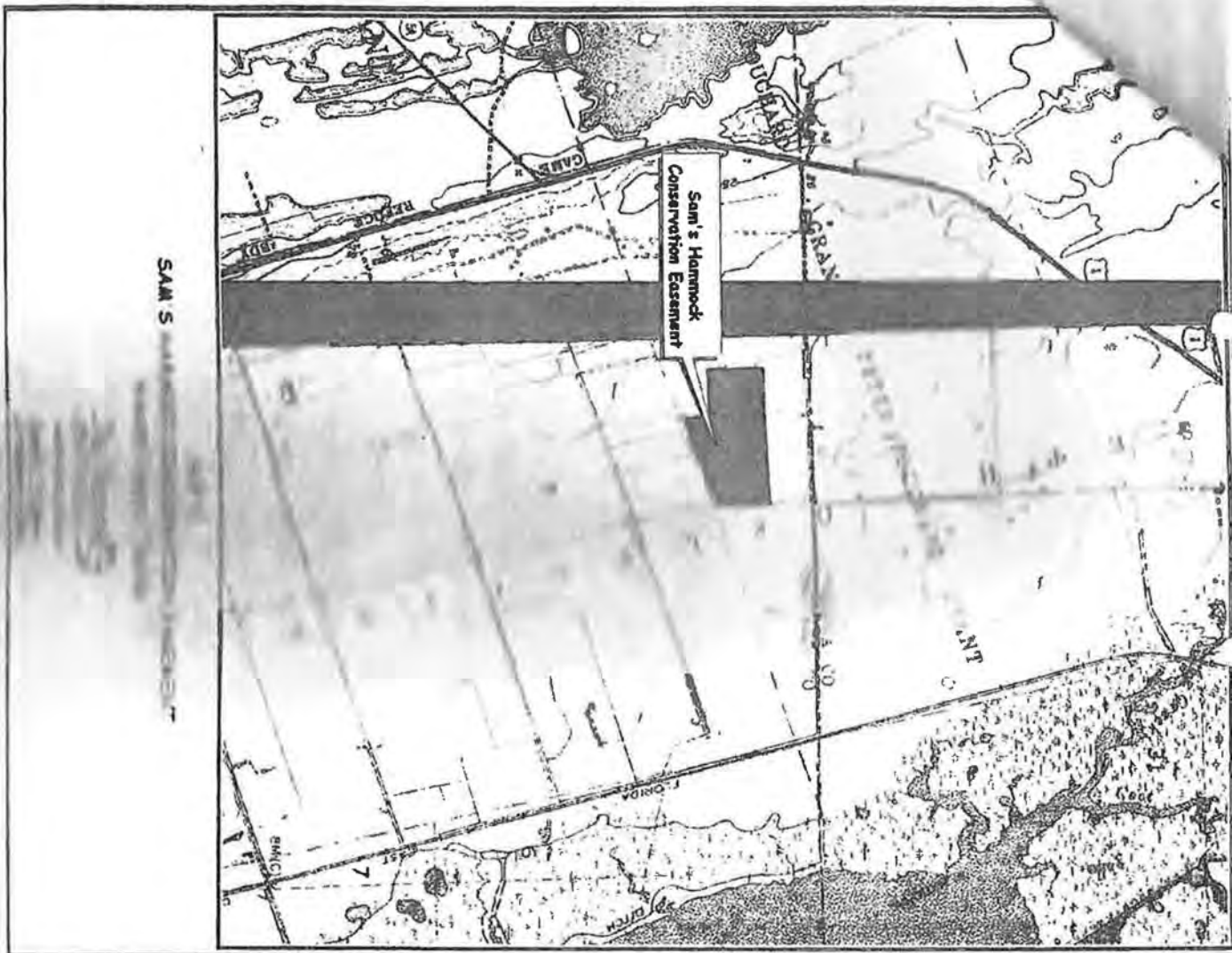
**MAP 1**  
**SAM'S HAMMOCK CONSERVATION EASEMENT**  
 Brevard County, Florida



SAVING THE LAST GREAT PLACES ON EARTH

Wendy J. Caster  
 22 February 2006

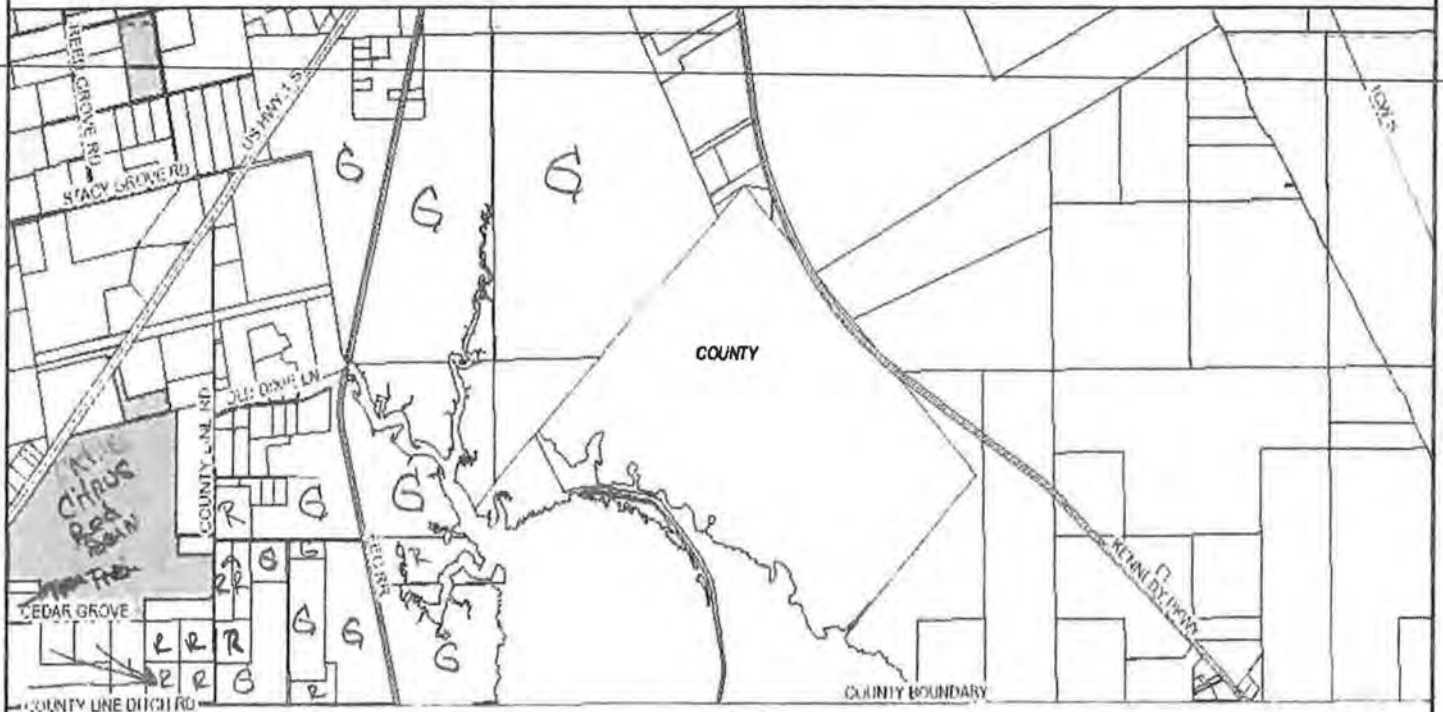




SAM'S HAMMOCK CONSERVATION EASEMENT



# Volusia County Property Appraiser



## thomas map

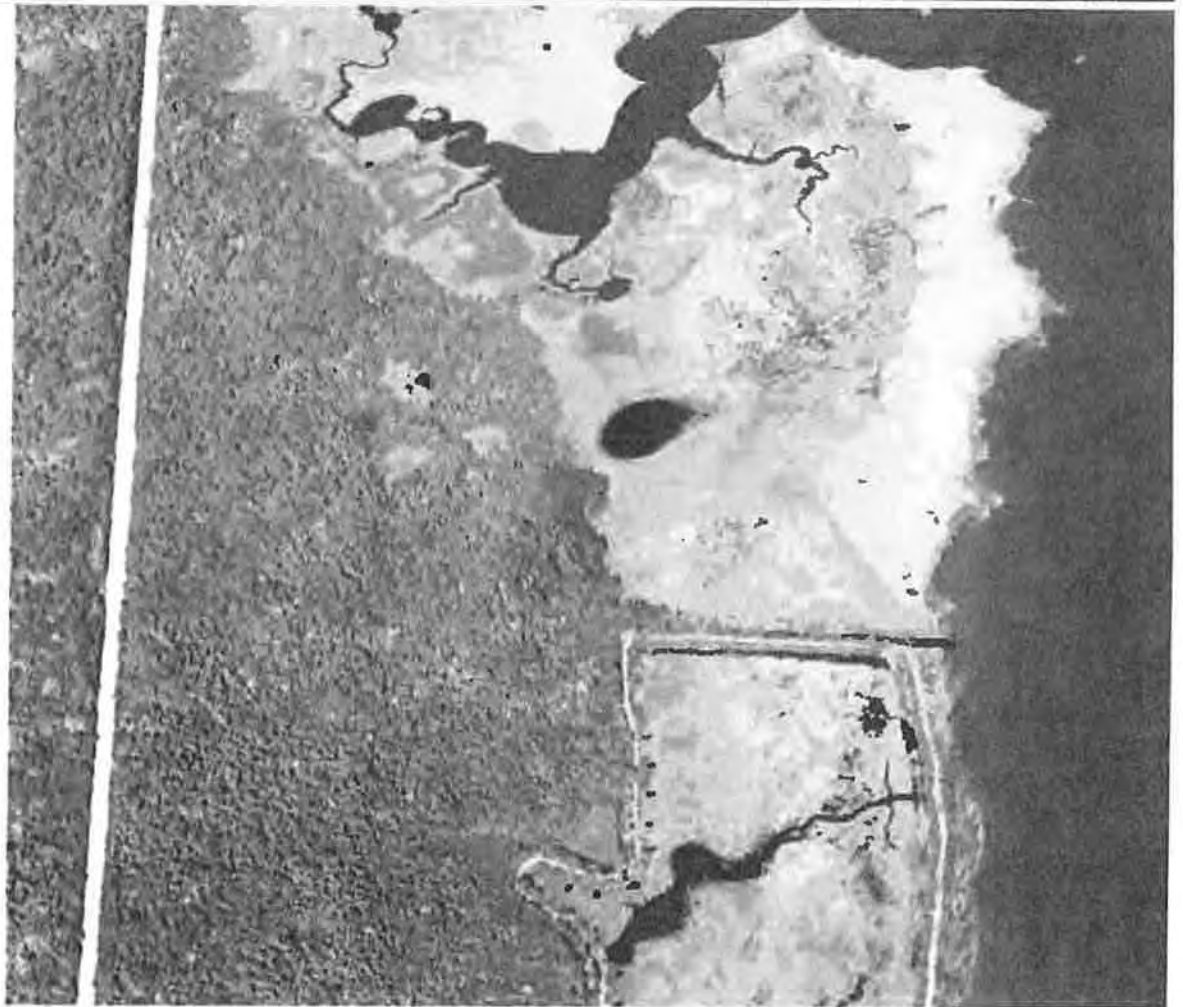


## Thomas Map #3





# Lagoon





Nikki Thomas <thomasnikki321@gmail.com>

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## Domestic self supply for single family lots in North Brevard County

2 messages

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Kristian Holmberg <KHolmberg@sjrwmd.com>

Wed, Feb 20, 2019 at 11:08 AM

To: "thomasnikki321@gmail.com" <thomasnikki321@gmail.com>

Mr. and Mrs. Thomas,

Thank you for speaking with me this morning in regards to proposed residential water use in the Scottsmoor area of north Brevard County. As we discussed, the use of groundwater for domestic self supply on single family residential lots generally falls below the District permitting thresholds found in Section 40C-2.041, Florida Administrative Code, and would not require a Consumptive Use Permit (CUP) from the District. Please note, water well construction permits would be required for the installation of individual wells on the subject parcels, but not for their use. The District does not have any broad restrictions or limitations on residential water use in the area other than those associated with the general restrictions on landscape irrigation found in the rule. Please let me know if you need any additional information or have any additional questions.

Thanks again,

Kris

Kristian Holmberg, PWS

  
Hydrologist IV

Division of Regulatory, Engineering, and Environmental Services  
St. Johns River Water Management District  
Palm Bay Service Center

525 Community College Parkway, SE • Palm Bay, FL 32909

Office: (321) 409-2121 • Cell: (407) 947-2032

Email: [kholmber@sjrwmd.com](mailto:kholmber@sjrwmd.com)

Website: [www.sjrwmd.com](http://www.sjrwmd.com)

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## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 11, 2019**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Scott Langston, Vice Chair; Ron Bartcher, Ben Glover, Brian Rodgers, Peter Filiberto; Bruce Moia, Mark Wadsworth; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Jeanne Allen, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, April 4, 2019, at 5:00 p.m.

### **Excerpt of complete agenda**

#### **Joseph Brandon and Nikki Thomas:**

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 19.75 acres, located on the southeast corner of County Line Road and Dixie Way. (6705 Dixie Way, Mims) (18PZ00154) (District 1)

Stuart Buchanan – My name is Stuart Buchanan, my working address is PO Box 1545 Titusville, Florida, and I'm here today representing the Thomas family. I have some handouts for you that you might have already received in your packages. (Documents submitted by the applicant can be found in file 18PZ00154, located in the Planning and Development Department). The first one is a letter from the Volusia County Public Works Department clarifying that it is in fact a Volusia County public road, and they are responsible as the maintaining agency. The request before you is for a rezoning, and as staff previously stated, you recommended the Small Scale Future Land Use amendment for approval on 3.15 acres. The balance of the property, which is the 16.16 acres, already has a Residential 1 Future Land Use; the applicant is requesting a rezoning which will allow them to build up to 15 single-family residential lots. One of the things that you did when you corrected the future land use was that the parcel had a split future land use, so your recommendation and subsequent approval, hopefully, by the Board of County Commissioners, will fix that problem and make this split future land use go away. One of the things that I'd like to point out to you that is also in the letter from Volusia County is that they've made it very clear that it is a Volusia County road; it is maintained and is the responsibility of Volusia County, and the applicant will be complying with any requests that Volusia County makes. In other words, Volusia County will tell us whether they want it paved, and whatever it is that Volusia County instructs us to do we will be required to do, as it is their road, even though the property is located in Brevard County. Volusia County is responsible for any right-of-way use agreements or permits, which we're going to have to comply with, and we have no problem complying. I'd like you to look at the aerial in your packet, just to make sure everyone understands that the property in question is not in its natural state; it was cleared several decades ago, and it is an existing citrus grove with a single-family house; it was cleared and planted years ago. You'll see a number of letters of support in your package, and I'd like to bring to your attention the one from the abutting property owner. The abutting neighbor has the property to the east and south and is in full support of the project, and another letter in support is from Mr. Simmons, who is one of the only families that has been in the north part of the county longer than mine, they've been there for seven generations. Mr. Simmons supports the project as he states in his letter because it is getting harder

and harder for his family to find homesites to build their homes on. The last thing I'd like to bring to your attention is that I've noticed in a lot of correspondence back and forth with the County about the conservation area, which is in Volusia County to the north, across the Brevard County line. You'll also see mention of different Environmentally Endangered Lands purchases and Saint Johns River Water Management District, and the Department of Environmental Protection. For those board members that are unfamiliar with this, there are a number of County and State agencies that own property in Brevard County; the Environmentally Endangered Lands Program, Saint Johns River Water Management, and the Department of Environmental Protection, and when they purchase these properties they come off the tax rolls, and what a lot of people are unfamiliar with is how much property is actually taken off the tax rolls in Brevard County. I'm familiar with it because I was responsible for tracking it; in 2015, 49% of unincorporated Brevard County was owned by the Environmentally Endangered Lands Program, Saint Johns River Water Management District, and the Department of Environmental Protection. If you'd like to verify those figures you can simply go to the Future Land Use Element of the Comprehensive Plan, there is an exhibit in there called, "Greenhouse Gas", and in that we had to take all the acreage in Brevard County that had been purchased by environmental agencies taken off the tax rolls, or placed under conservation easements; and it's 49% of unincorporated Brevard County. Again, this is a rezoning that will allow the applicant to utilize the future land use they already have; it will let them build up to 15 homes; it is not in its natural state; it is a citrus grove with a single-family home on it; and we have provided information on the access, which will be through a Volusia County roadway. I'd be happy to answer any questions that you have.

Cheryl Barnes – Good afternoon, my name is Cheryl Barnes, I live at 3800 Sam's Lane, Scotsmoor, and our property is approximately 130 feet from this proposed development. The Brevard County Comprehensive Plan Future Land Use Element, Chapter 11, Goals, Objectives, and Policies, states in the first section, Residential Land Uses, Objective 1, "Brevard County shall facilitate the development of residential neighborhoods that offer the highest quality of life to the citizenry through the implementation of policies that accomplish the following." Criteria A states, "In short, the compatibility of new development with its surroundings." I believe there were five properties within the 500-foot radius of this proposed development that were notified by the County of this rezoning request; four of the five properties have homes built on them, and we are all permanent residents of Scotsmoor. The fact that you only had to notify five properties about this rezoning request, by itself reflects just how rural we are in Scotsmoor. We are a small voice, but all four of our families ask that you deny this request. The Planters and the Floyds who live directly across from the applicant have submitted letters to the board. The Grahams who own the organic orange grove directly across from us have signed a petition. And we, the landowners of the conservation easement have stood before you to object. However, precisely because Scotsmoor is such a rural community, we are more than just the homes immediately surrounding this proposed subdivision. I described to you on my last time standing here, our conservation easement and other conservation lands, including the Merritt Island National Wildlife Refuge and the Indian River Lagoon Blueway Project, immediately surround this proposed development. Although Scotsmoor is dotted with conservation lands, which contribute to the rural environment, it is in truth that the majority of the Scotsmoor residents, the homeowners on their agricultural parcels, the citrus growers, the cattlemen, the horse farms, the beekeepers, and even a shrimp farm that is going in right up the road from us, that are the backbone of Scotsmoor. They are the caretakers of some of this last remaining rural land in our County. This placement of a subdivision in the middle of both conservation and rural land, with families devoted to maintaining this lifestyle defies the description, and I paraphrase, 'compatibility of new development with its surroundings to offer the highest quality of life to the citizenry, as required by the Comprehensive



Plan Future Land Use Elements. I ask that you consider the values of the residents of Scotsmoor and our community that we seek to preserve, and deny this request for rezoning.

Tim Root – Tim Root, 3540 Sunset Avenue. We oppose the change from one home per acre because of the harm it will cause to the Lagoon. It has already been documented that the Scotsmoor area is the most contaminated with pollutants, and has experienced a loss of fish, shellfish, and birds. All roads east of Route 1 are lined with deep ditches dumping directly into the Lagoon. With zoning changes to one home per acre, hundreds of more homes would have septic systems leaching into these ditches going directly to the Lagoon, as well as all of these hundreds of yards dumping herbicides, pesticides and fertilizers into the Lagoon as well; damages far worse than we now have will hasten the death of the Lagoon. We need to stop this from occurring, and keeping the two and a half-acre zoning would help a great deal to maintain our rural community. What is the tipping point? When is enough too much? Several years ago we opposed a development that was proposed for the area where the National Cemetery now is, with some of these same issues and it was defeated. When the National Cemetery was proposed we thought it would not adversely affect the community and its resources, but we were wrong. The cemetery has to draw its water from its lake system, and while all the water is being pumped out it cannot recharge the system and the surrounding area, thus 70 homes have already had to have new wells re-drilled, from John's Road to Huntington Lane. No development east of the current portion of the cemetery has been completed; the next section to be completed will be along Dixie Way, north to Huntington Lane. At this point, there will be homes between the cemetery and the Lagoon. The cemetery is approximately one-third complete; thus, when it is completed, three times the amount of potable water for us will be used for irrigation, causing hardship. When Titusville was running out of water they came north and drilled west of Scotsmoor; most of us cannot reach the Floridian aquifer; we rely on groundwater at a shallower depth; our potable water is steadily being depleted, and with hundreds more homes at one home per acre, it would be the death of our rural lifestyle. As our potable water is drawn down, salt water from the Lagoon intrudes; salt water intrusion is a reality. Several families have spent between \$12,000 and \$18,000 for a reverse osmosis system to survive, and hundreds of more homes would conflict with our rural lifestyle and drain our limited supply of potable water. Changing zoning to one home per acre would be opening Pandora's box to development. Thank you.

Nancy Stevenson – Good afternoon, my name is Nancy Stevenson, I live at 6600 Possum Lane, which on County Line Ditch Road in the Scotsmoor area. (Ms. Stevenson provided handouts to the board, which can be found in file 18PZ00154, located in the Planning and Development Department). This project impacts not only the neighbors, but the community, the water quality, the availability of the environment, and the future of the Lagoon. This property in question is approximately 1,500 feet from my personal property, and about 800 feet from other properties that we are involved in. Our whole area up there is considered rural agricultural with the smallest tract being 2.5 acres, but that 2.5 acres just got divided on a family lot that was 10 acres, so it's a mother and child family unit on a 10-acre lot. People relocate to this area because of the large space, acreage, and its quietness. The joke in our house is that you don't want to open the bathroom window and talk to your neighbor. Many folks that have come up there and settled for 2.5-acre tracts wish they had a bigger tract of property, with more freedom and more space. He touched on the roads belonging to Volusia County, and they are. County Line Ditch Road is millings, not paved; Dixie Way is completely dirt; and if you're coming onto vehicles, one has to yield to the side to pass the other, and we make it a joke that you yield, and sometimes you have to get out of the way and wait for wildlife or livestock to finish crossing so you can continue your journey. We talk about the resources and added demands on that project, such as construction, delivery trucks, garbage, and all the services such as fire, electric, the Sheriff's



Department, and emergency vehicles that would be in greater need with that much more density. To the immediate north is the Volusia County sign, and the residential to the far left is one owner, and it's a cow pasture, it's not broken out. The Volusia County side is all conservation. County Line Ditch is the applicant's north property line. At our town meeting Mr. Thomas made a comment that his water retention would flow to the Saint John's River, and we kindly suggested that the water would flow east; the water does go east and flows into that ditch. With my past history working with soil and water, and natural resources, on our personal property, in that area we call it a shelf, because if we dig down about one foot we hit pure rock. When it rains we don't retain that much; it's runoff, and it goes to that ditch and heads east. We have to retain for agricultural reasons, but my point is that there's instant runoff, and even in the dry season that ditch is still flowing east. It starts at U.S. Highway 1 and travels east all the way to the Lagoon. The concern would be that the new homeowners would be fertilizing and using pest control, washing their cars, power washing their homes, so there's runoff, and God forbid a septic tank backs up, because there's immediate runoff right into the ditch going into the Lagoon. There is nothing to stop it. Those are my concerns, future land use, future protection, and if happens here and it can happen other places, you're right on the Lagoon.

Bill Goff – Bill Goff, I live at 3320 Huntington Avenue, Scotsmoor. When I spoke the last time I spent some time since then trying to get some answers from the Saint John's River Water Management District regarding the hydrology in our area. For instance, in some areas what direction does the water flow to our area from, and I found the Water Management District is very difficult people to deal with; they have thousands of employees and you're never talking to the right one. I posed eight questions to them and was quickly told by a guy named Rob Barber that there was no person who had all those answers, and I would have to talk to eight different people, eight different specialists, and I think I finally got the right man's name but he doesn't return his phone calls. One question was, there's a well that Titusville owns across the street from my house, which they sampled poorly, and what depth was the interface between salt and fresh water before Titusville turned their pumps on, and at what depth is that interface today. The guy that's supposed to call me back supposedly has that answer, and when I told this Rob Barber where I lived and the proximity to the Indian River, and my concern about salt water intrusion, his only comment was that I certainly have a reason for my concern. I explained to him we're on the wrong side of the aquifer flow from those pumps taking Titusville's water. I asked him, if my well turns to salt, who do I call; will Titusville turn their pumps off because I complained; he said he didn't think so. I even asked him if there was any limit on the permit to the amount that Titusville could draw, and his comment was that he wasn't sure, but he doubted it. Apparently, there's no limit to the number of wells they can drill; they can drill wells in that field, which is between us and the water supply. I'll leave you with the thought that if there's any question about the long-term sustainability of a good supply of potable water, then it's obviously counterproductive to talk about higher density. Thank you.

Dale Ceballos – Dale Ceballos, 6045 Oak Street, Scotsmoor, and I've been living there for 39 years. My point today is mainly about the orange groves. Many people who live there, quite a few of us, including myself and other members of my family, we all have orange groves; it's an important part of our lives. The biggest problem that we have with the orange groves today, as you all know, is the diseases that we get. This type of density that continues to come in is a problem for us, mainly because of the traffic, and not just cars, but four-wheelers, dirt bikes, and golf carts. The problem with that is oftentimes the recreational vehicles actually come into our groves and bring in contaminants, and that is horrendous for us to deal with. Even the cars when they go up and down the dirt roads, and when the trucks go down those roads, they create huge amounts of dust and dirt in the air, and

those are the things that carry the contaminants that really give us a problem. The other issues are with our water, and a lot of us use watering systems, but most of them are shallow-well types and they pick up a lot of contaminants from runoff. This is important and it's common sense.

Kristi Floyd – Good afternoon, my name is Kristi Floyd, I live at 6720 Dixie Way, and I'm the west neighbor to the Thomas's. They have been great friends; our kids play together; but I don't want to look at that many houses out our front door. I worry about the agriculture; we moved to Scotsmoor for the kids; the community is great and we all look out for one another; we have horses we ride up and down the dirt roads on; and I feel safe with my kids playing in the front yard. To think of what could be moving in, I just don't think it's a good idea for that many houses to be put right there.

Ethan Burke – My name is Ethan Burke, I live at 6010 Dixie Way, right down the road from the proposed location of this development. While County Line Ditch Road may be maintained by Volusia County, that road is narrow, and if there are two, full-size trucks on that road, one has to pull off in order for the other one to pass. What that means is more traffic is going to be directed on Old Dixie, which is unpaved, and my issue with that is the dust, which is horrendous. At my house, I can't keep anything clean; all the construction vehicles go down that road, and it's a real mess and a real problem. A side effect of this is during the rainy season; the roads collect water; and just from the sheer amount of traffic, there are massive ruts in them. People drive up in my yard because the roads are so bad that you can't pass unless you're in a truck. More traffic will be directed onto this because County Line Ditch Road is so narrow it's going to exacerbate the problem even more. When you depend on using a road to go out and go to your job and make a living to provide for your family, it's a big deal; you don't want to have to shovel the road to get out.

Darrell Burke – My name is Darrell Burke, I live at 3445 Sunset Avenue, and Ethan's house backs up to mine, with a big field between us. I guess it's the Thomas's and Savvy, LLC, that's proposing to build these houses on one acre. We saw a site plan that showed a cul de sac road, and I'm not sure of the width of the one-acre parcel, but I pose the question of if anyone has done an elevation, or have they done a percolation test to see exactly how many loads of dirt will be required for each home on RR-1 (Rural Residential). I think he mentioned a carbon footprint of 1,500 or 1,600 square feet, and for that you will need 80 loads of dirt if the soil will allow you to put a septic tank at that height. This is from a construction standpoint, so you're going to have one-acre parcels with a four or five-foot mound of dirt, for however much distance there is between those two property lines before there is another four or five-foot high mounds of dirt with another house on it. I know there was mention of a swale cut in on two sides of the property, 20 feet wide, but is it truly a swale, or is it going to be a canal, because the surface water that is retained is going to run right back to the swale and go into the ditch. You can't dig a pond in RR-1 because there is a 75-foot setback all the way around, per code. You're going to haul in all that dirt and wind up with an area that's going to be more runoff, and I don't know if anybody has accounted for that. Has there been any elevations done?

Henry Minneboo – Usually, at this level, a lot of that stuff isn't done, because if you don't get the zoning you don't need to keep moving along. This is step 1 and you have 26 more steps to go.

Darrell Burke – But if you zone the property RR-1 and he sees he can't meet the requirements of putting a home on RR-1, then he's going to be paying taxes on RR-1 for all that acreage.

Henry Minneboo – That's not ours.



Darrell Burke – I know, but that's something to consider, and I don't know if he's thought that far ahead. I'm opposed to it; that's the lifestyle we live; and all these people who have worked their whole lives taking care of the groves, taking care of cattle, and building a ranch, and you hate to see that way of life disappear. That's not what it's for.

Deborah Gray – My name is Deborah Gray, 3355 John's Road, and I am right across the street from the cemetery. They were talking about the roads, well everybody knows our roads aren't sand roads, they're actually crushed concrete. I'm on John's Road and the cemetery has affected me; it's silica dust; they did send notices out when they put this new stuff down on our roads, but if you go down three properties from me – and this is back in the old zoning when you were allowed to have one house per acre – there's a gentleman there who has been fighting cancer for two years, and why is this? You go up there, it's a rural area, and you want to have your windows open in the springtime. We don't have a ton of traffic, but we do have quite a bit; the vehicles go up and down those roads and this man can't keep his windows open because he has cancer now from breathing in the road dust coming through his front main window of his house. I live right there and I've had to re-do my wells because of the cemetery; I also do the horse and caisson for the National Cemetery and I use my Stallion to drive up John's Road with a carriage and go to the cemetery and bury our veterans. It has made a big impact from the traffic from that. The water is becoming salt; our wells are only 29 feet deep, and people try to go deeper. We also have issues from when Chemco had a serious spill; I've known four people who have died of cancer up there, and that's from our water, so everybody up there has special systems on their watering so they can drink it, but people don't always think about it, but you have to have it for bathing, too, because your body is a huge organ. I'm coming at this from a different thing because it really affects me; I've had underprivileged kids come out and we take them on horses in the river; I've been there for 12 years and I've seen a big difference in the water at the landing when I take the horses down there. I've almost drowned because the ditches to go that river, and it's muck – we all know that, too. The problem is we have a lot of elderly up there, and if this zoning gets passed, do know what's going to happen to Scotsmoor? It will no longer be the Scotsmoor we know, it will be annexed in and be part of Mims, which we already have a mailing address of Mims; they've tried to take our post office away. There are a lot of elderly people up there who own a lot of property, and what's going to happen when they pass on? When you're in your 70's and 80's you have to look at the next generation, and if we allow this to happen now, everywhere I would ride will no longer exist. Besides that, I hay up there, I hay all of Huntington Lane. You can see the difference when we do get rain and when we don't; we've been very lucky the past two years and have had some good rains coming in to get more hay, but all these people that own property down in Miami, it's going to become like 5A, and Walmart has already bought the property. It's going to get big, but we would like to keep it rural as much as possible. We do have little properties in there, but when you have those roads, driving up and down those roads, and that silica dust, you can't open your windows, and if you do you're going to take a chance that you're getting cancer. There's nothing else that would have made him do this, but he keeps his stuff closed and he puts big signs out on the road to please slow down. Our roads can't handle it; our roads can't handle the cemetery. It's \$1 million to pave from Dixie to John's Road because of the cemetery, because the dust is affecting the cemetery and that's why they want it paved. Most people come to Scotsmoor to get away from the city; and that's what he said, that he moved from West Miami via Utah to come here and make himself a home. So did I, but I want my 10 acres, I don't want to hand sugar out my door. This will create a lot of problems if we put a lot of housing up there, because everyone will sell their property.

Glenda Ceballos – My name is Glenda Ceballos, I live on a small orange grove on Sunset Avenue, 3175 Sunset Avenue, Scotsmoor. We moved here from the west coast, near Naples, where we had

2.5 acres, and that area around our property was bought by a developer and sold in small parcels like they're thinking about doing here, and that turned that area into an urban sprawl, and that's why we moved to Scotsmoor. Our orange grove, since the cemetery went in, is dying, and a lot of that is caused by the salt intrusion. Besides the orange groves there is a lot of wildlife in our area; we have the birding trail; we have the birding festival; and if we get a lot of small lots the greenspace is going to be gone, and the birds and wildlife aren't going to be there, and it will be another small town, it's not going to be rural. We have three families building on our street, on Scotsmoor Avenue; these people came to the area because they wanted the rural life for their family; they followed the rules and are building on 2.5 acres, and we welcome them because they are good neighbors who will continue the rural lifestyle. That's what we want for Scotsmoor; we want to stay country.

David Laney – My name is David Laney, and my wife, Cheryl Barnes, and I live at 3800 Sam's Lane, and we're the ones that have the habitat easement, and I'd like to provide you with the easement paperwork. (Handouts from Mr. Laney can be found in file 18PZ00154, located in the Planning and Development Department). I'd like to respond to a couple of comments by Mr. Buchanan. The 49% of Brevard County not on the tax rolls, if you have the chance to ask him, does that include the Canaveral National Seashore and the properties not buildable along the Saint John's River, as those drive the percentage of buildable property? As was discussed at the previous Planning and Zoning meeting, Mr. Thomas said he would have a meeting with the community at the Scotsmoor Community Center, and he did say all the water would drain to the Saint Johns River, and I suspect he misspoke, because it doesn't drain to the Saint Johns River, it flows to the Indian River Lagoon. He also stated he had been in communication with the hydrologists at Saint John's River Water Management District and that his response that he provided to us, as far as what he was told by the District, is that the 16 to 18 wells were not a problem. I happen to have been in communication with exactly the same hydrologist at the District, Mr. Kristian Holmberg, and he disputes that that is what he conveyed to Mr. Thomas, and I'd like to provide a copy of what Mr. Holmberg communicated to Mr. Thomas. Regarding the letters of support so far for this project, the developer, of course they are going to be in support of this place because they need the property and they want to continue to develop land in North Brevard and as was noted at the previous Planning and Zoning meeting, this is the last place left in Brevard County because everything else is spoken for. Regarding the water issues, which a number of people have spoken to, I would also like to provide staff with a letter from Dr. Arnoldo Valle-Levinson who is a Professor of Ocean Engineering and Coastal Sciences at the University of Florida, and he did actually take the time to come down here and observe the area where the request for the new development is proposed, and I have a letter to submit to staff from Dr. Levinson. How much has water extraction from the aquifer increased in the past 20 years from Mims, north? No one has the answer to that, or if they do I haven't been able to find them. There is not accurate data on how much additional water is being withdrawn from the official aquifer adjacent to the Indian River Lagoon by development in the last 20 years. When I say development, I don't mean extensive, high-density development, I mean how many additional homes have gone in on 2.5-acre to 5-acre lots. If you look at what is the current development pattern in that area of Brevard County, it is homes on 2.5 acres to 5 acres, and 10-acre lots. It is currently demonstrated that there is no market for high-density subdivisions in the Mims/Scotsmoor area. I know that because if you're familiar with Meadow Lake, it is a completely developed subdivision in Scotsmoor; it is fully developed at 52 lots; 27 lots are completely developed; 24 lots already have roads and drainage; and there is one house. The second person to build there built a spec home in 2014 and there have been no other lots sold and no other homes built and the subdivision is up for sale again for \$1.5 million. Any proposal with greater intensity than what is currently allowed by zoning, there is no market. There is no an unmet community need for this type of development in Brevard County. In fact, just the opposite is true. If



you look at community needs and maintaining the rural environment, right now there is 2.53 acres undeveloped in unincorporated Port Saint John, and if I bought that property and came in here and asked you to rezone to AU (Agricultural Residential) at 2.5 acres so I can build a house and raise pigs, would you even consider that? No, you wouldn't consider that because the impact to the existing community, the impact to the characteristics of the lifestyle, and the lifestyle to the integrity of the environment of the community. This is the exact same thing if you talk about property rights. What does property rights mean? The same thing that any other rights in the United States means, it means that anyone here has a right to swing their fist up to the point where it makes contact with my nose. A person has full property rights up to the point that it infringes upon and impacts other peoples' inherent rights associated with property ownership. This is not something you need to approve because the developers are running out of land. This is the last remaining part of Brevard County with citrus groves, cattle, and horses; it is not an expansive area, it is less than four miles by two miles. If you approve this I fully anticipate the grove owner that has not been able to sell in the past five years will be here asking for a rezoning on 106 acres. Mr. Simmons, who has submitted a letter of support, if he has acreage he will be coming in and asking you to approve it for RR-1 (Rural Residential). It will destroy the small vestage aspect of a historical rural environment in Brevard County. You all have administrative policies, you have the guidelines of community character and consistency with the adjacent development, and this property meets none of those policy statements.

Rose McGinnis – My name is Rose McGinnis, I live at 3734 Huntington Avenue, and I'm also currently the President of the Scotsmoor Community Association. I invited the Thomas's to come to the Association meeting to speak to the community, but not much was accomplished. I was thankful that he came, but after 30 minutes of the community going around the same subjects, I thanked them and they left the meeting, so nothing was accomplished. What we did was a petition, and I decided to take the petition and put it on a Google Map, and the petition was held at Brevard Feed and Seed, but it isn't in Scotsmoor, so if you look at the map you'll see large portions of areas where people don't even know this is happening. In the next week I plan on sitting at the local gas station and collecting more, and I'm sure I will double the amount of signatures we have. I have nothing personally against the Thomas's, I've talked to them a few times, and I understand their need to do what they want with this property, but what they had stated was that they are moving there to get away from the traffic and crowds, but putting a subdivision in your backyard seems counterintuitive to me. Once they have developed the property they can move on and do it again, but we have to live with this, and our families have lived there for generations. They've been here for seven years, so my guess is they bought the property at a time when it was a low cost; I have nothing against capitalism, but I am against it hitting my backyard. Also, he made a comment about the process of zoning and that this is just one step in the many steps, but for us, if the precedent is set and the zoning is changed to RR-1, that opens a Pandora's box that our community will have to deal with forever. If they get to the point where they can't finish their development, that affects them financially, but it affects the community forever. I would like to ask, I know there's never been a small area plan done north of Flounder Creek Road, and I would like to know how our community can go about doing that, and why it was never done, and why it was never asked of our community to have that done, so that the community can have some kind of say-so. I know it's been done up to Founder Creek Road. I would like to know if there's a direction we can take to have that done, and why it wasn't done, and why our little corner is always forgotten in this County. I'd like to have that done and any zoning and any future items like this tabled until that is done, and we have all the information that is pertinent to our community, to the water, the roads, and the future of our community. We're trying to rezone something that we have no future idea how it's going to impact us. I ask, for me and the dozens and dozens of community members that have contacted me, that you don't allow this to go forward. Thank you.



Delbert Link – My name is Delbert Link, I live at 5435 Elm Street, Scotsmoor. I lived on a dairy farm in Wisconsin in my younger years; when I moved to Florida in 1977 I was tired of the cold weather up there, and I said I was heading south until I got warm, and I stopped in Brevard County. I rented on North Merritt Island until it closed in; I moved to Cocoa after that and I got booted out of there because the rural lifestyle was gone. I moved to Port Saint John and had the same issue, and I decided I wasn't going to do it anymore because I love Brevard County, I love the area, and I traveled all over the state before I decided to stay in Brevard County. I moved to Scotsmoor because it's God's country, and he put that place on the planet for people like us that love the rural lifestyle. When a person wants to come in and literally destroy that lifestyle, it goes against everything that all of us up there are living for. I ask you, from the bottom of my heart, and everybody else's heart in this room, to please deny this guy's request.

Jared Adkins – My name is Jared Adkins, 3000 Sunset Avenue, Scotsmoor. I'm one of the folks that has spent the \$12,000 to \$18,000 on having multiple wells tried in different areas of our 20-acre cattle ranch. We moved to Scotsmoor five and a half years ago, my wife and my two boys. It's quiet, it's family friendly, and we don't have any Ms. Kravitz's across the street trying to get up in our business. At the Scotsmoor Community Association meeting, Mr. Thomas said he was trying to market the rural living. We feel that he's exploiting our way of life for profit, because the 2.5-acre split up would not be profitable enough. Our roads suck, our water sucks, our internet sucks; our proximity to Publix is 30 minutes, and we all deal with that because we love this lifestyle that we have, and that's why we're where we are. Now, it's being threatened because once this happens you can't undo it, it's done, and there will be a precedent there. Our infrastructure is not suited for all of the construction vehicles, the lumber delivery trucks that are going to be required to start building houses in this density; the dump trucks full of dirt driving over our roads that, as someone already mentioned, you can't get through without a four-wheel drive sometimes. I don't care about this one parcel of land; it's over a mile from my house; it's not going to bother me if he puts 100 houses on it, but what is going to bother me is what comes next, and what comes next, and what comes next. I hope my children grow up and enjoy the same kind of rural lifestyle that we've tried to provide them with as children, and that they're lucky enough to find a place like this. Hopefully, I'm going to appeal to your sense of good nature that their home can stay their home. Thank you for hearing me out.

Stuart Buchanan – I'm going to try to touch on some of the subjects that were brought up. The first concern was from the citrus growers, and I would point out that the largest citrus grower in the area is the one that wrote the letter of support for this project, which also happens to be the abutting neighbor. For clarification, Mims is not incorporated, it's unincorporated and it cannot annex Scotsmoor; they're both unincorporated Brevard County. The issues that were touched on about runoff, one of the advantages to having this is it will be a subdivision with an environmental resource permit. It's correct that under the 2.5 acres, or 5 acres, or 10-acre parcels, there is no Saint John's River Water Management District involvement with house construction, there is no Department of Environmental Protection permit, there is no retention and treatment required. It's actually by falling under the subdivision statute that you add these benefits to the project. As far as compatibility with the Future Land Use Element, the 16 acres of this property already has Residential 1, and it is already fully compatible, it is already 1 unit per acre. This rezoning changes the zoning to be compatible with the Future Land Use. There is a letter from Saint John's River Water Management District that is from the hydrologist, Kristian Holmberg, I brought copies for everyone that states bluntly what the District's position is on one-acre lots. There were a number of complaints about the cemetery, and obviously that's not the subject property, and they might be legitimate complaints when this meeting is over, and I'd be happy to meet with the residents and point them in the right direction.

on who they could file a complaint with, which would be the Federal Environmental Protection Agency. We've heard a lot of hypotheticals here today and we've heard about cancer and cemeteries, and Port Saint John pig farms, and sea level rise, but the request before you today is a rezoning of one unit per acre to make it compatible with the existing Future Land Use.

Bruce Moia – I'm looking at the tax map, and it looks like the property directly to your west is probably somewhere around one acre; it's not 2.5 acres, is it?

Stuart Buchanan – Yes, it is 2.5 acres.

Henry Minneboo – Ron, you've been up there a long time, would you like to talk?

Ron Bartcher – I appreciate the fact that the audience members brought information about the Indian River Lagoon Blueway Florida Forever Project to our attention; that was something I wasn't aware of, and since our last meeting I did some research about that, trying to find out what that was. Also, this property is on the County line and it seems to me that what's in Volusia County does have an effect on our decision. When I looked at the property immediately north of his property, in Volusia County, is property that has been set aside as a conservation easement, and then Sam's property a very short distance to the southwest, and then when I consider the Blueway Project, there's a lot of property there. When I look at his property he's surrounded by conservation easements. I looked a little further south, following Dixie Way, looking at what the land uses are, and it seems to me that when this land use was put in a mistake was made. If you look at Dixie Way you can find almost all the property east of Dixie Way is one house per 2.5 acres, and it's Residential 1 on the other side, except when you get up to the very end and all of a sudden it cuts off his property. That's a mistake, that shouldn't have been done. On a small piece of property like this, he shouldn't have had his land use split like that. It should have lined up with the rest of Dixie Way; we wouldn't have this problem. In fact, that was the reason why I voted in the previous meeting for the land use change, because it really wasn't right to have his property split, but that was before I actually looked to see what was going on. I have real concern with doing this when this property is basically in a conservation easement area. It's surrounded on three sides by it. I just don't think it's a good idea.

Henry Minneboo – You worked diligently on that Scotsmoor/Mims Study; this area wasn't cut out, was it?

Ron Bartcher – Yes, it was. I would say the reason why is because it was considered to be the Mims Small Area Study, so when it went to the boundaries we said the southern boundary was Titusville, at Jay Jay Road. The northern boundary was arbitrarily chosen as Flounder Creek Road. At the time, there was a question about that and we were hoping the County would follow up with a Scotsmoor Small Area Study, but that was never done. I do believe and understand that when the County Commission took the Small Area Study they made some adjustments in some of the land use north, trying to follow what was happening in Mims. I also will say they did not take our recommendations 100% because we wanted a lot more property being one house per 2.5 acres, and the County Commission at the time decided they wanted to have Residential 1 property.

Henry Minneboo – Bruce, it seems like when we have two pieces of road and other counties, and it's the south side, it's always an issue, like the southwest corner of the county, the piece by Keenansville, you have three counties trying to maintain a piece of road. The issues there are unbelievable because you have Indian River County, Osceola County, and Brevard County all trying

to make a determination on who needs to control the development side of it. I can see, Ron, where the road alone caused some confusion in the past. Erin, that is one unit per acre already?

Erin Sterk – Yes, the rest of the parcel. I did track the history of exactly how that came about, and did see when the Mims Small Area Study ended and it didn't extend this far. If that were to be pursued by the Board of County Commissioners of doing another study to capture the land north of the Mims Small Area Study it would have to be directed by the Board, so if the community members didn't ask the Board to direct staff to do that, this is a big county and these are major planning initiatives, and we have several of them underway at one time. So, if that's something that this community is recommending we need to pursue that by making the recommendation to the Board.

Henry Minneboo – A lot of time those are a one, two, or three-year process.

Erin Sterk – Sometimes four years.

Ron Bartcher – The Mims Small Area Study was done in six months, so it can be done.

Erin Sterk – We probably had nine comprehensive planners and we have one today.

Bruce Moia – From the picture I have, everything around here is AU (Agricultural Residential), where is the closest zoning similar to what they're requesting?

Erin Sterk – I think it's more than a mile away.

Bruce Moia – So, it's pretty much all AU in this area.

Dane Theodore – The AU zoning allows one house per 2.5 acres under the current Future Land Use, so that's not a problem and he can build one house per 2.5 acres without rezoning. Staff wrote in the worksheet six units, and I come up with 8, or 7.9.

Erin Sterk – For the potential on the front page of the worksheet we use a lot yield algorithm, which extracts out roadways and stormwater ponds, so we use a methodology depending on the land use, so if you took a 2.5-acre lot and put in stormwater and roads, you get less units in the end.

Henry Minneboo – Dane, has the School Board ever had Brevard County on one side and Volusia County come in and extract the students?

Dane Theodore – There are bi-lateral agreements between counties that if a student chooses to go to the other county there are agreements in place if the other county will accept those students. If it's easier for them to get to a school up there, they can do that.

Henry Minneboo – I'm not sure the school to the north isn't closer.

Dane Theodore – At the last meeting I said Pinewood is going to be overcrowded by 100 students, and while the number of homes that this represents isn't extraordinarily large, conceptually, I think adding more homes to that situation exacerbates the problems. In the meantime, between that meeting and today, the School Board approved a rezoning for Pinewood to Mims, so because of the anticipated number of students coming in they have done a rezoning to the south to relieve Pinewood, but I don't think they've solved the problem completely.



Henry Minneboo – Is that rezoning or re-districting?

Dane Theodore – It is attendance boundary changes, but they call it rezoning.

Bruce Moia – It is Residential 1 Future Land Use, and the zoning is inconsistent with the land use. On the other hand, this is pretty rural, this is Scotsmoor, it's not Micco, like some people may claim that's rural, but it's really not. This is Scotsmoor, this is very rural. I am concerned that it's AU (Agricultural Residential) everywhere else, so I am concerned that this might be spot-zoning, but I do like the fact that I'd rather it be developed under the current standards than have it be the way it is now, because normally – and there was a lot of misleading comments – agriculture is one of the biggest polluters of the river that there is as far as a land category. Currently, it's in the worst state it could be if you're truly concerned about the river. To be agricultural land there is no treated water at all leaving this property; it's just going straight to the river. The new systems treat the water, so I like that. It could still be developed with single-family homes; they could clear-cut the property and put in 2.5 acres and have no retention still, and that's a concern, too. I'm in the middle on this one, and I'm not sure which way I want to go, because there's good and bad.

Peter Filiberto – On February 11<sup>th</sup>, Mr. Thomas had two items. Didn't we approve one 3.15 acres, and that 3.15 acres is Residential 1 right now?

Erin Sterk – The Commission heard those items last Thursday, and they could have acted on the Future Land Use designation change, given that this board did make a recommendation, but they chose to hold off on doing so, to hear what you all wanted to do about the rezoning, and then to take action on both together. So, both will be heard at the April 4<sup>th</sup> County Commission meeting. So, technically, no, the 3.15 acres does not currently have Residential 1.

Mark Wadsworth – But the remaining does?

Erin Sterk – The remainder still does, yes. Depending on what you recommend today, the Commission could move accordingly.

Brian Hodgers – Is it 16 acres or 15 acres that are already Residential 1?

Erin Sterk – It's 16 acres; I think where you're hearing the 15 acres from is the reduction in units that could probably come after you take out the stormwater and roads.

Brian Hodgers – So, the total acreage is 19.75, and the request is for 15 units total?

Erin Sterk – The request is for one acre lot sizes, the zoning, but the assumption is, depending on pond size and road size, they expect to get 15 units.

Stuart Buchanan – That's correct, and we'd be willing to enter into a BDP (Binding Development Plan) to that effect if you'd like.

Bruce Moia – I was thinking that might be something, if I would even entertain this, I think a BDP would have to be put in place to have some kind of compromise.

Henry Minneboo – The one fact is, like you indicated already, they have to retain all of the runoff, and that's critical on agricultural land. Would it be an 18% reduction for stormwater?

Bruce Moia – How much of this property is in the floodplain? I don't know if the colors are off on this map, but it looks gray. Isn't there restrictions on the density if this is in the riverine floodplain?

Jeanne Allen – The yellow is in this case would be estuarine, and estuarine doesn't have compensatory storage.

Bruce Moia – That's the only area of this property that's in the flood zone?

Jeanne Allen – The gray is not in a flood zone. Something to also note is there are portions of the property that are in the septic overlay that would need enhanced treatment all along County Line Ditch Road, and then along the wetland area to the east of the parcel. There does appear to be a portion running through the middle of the property that also might be wet, so these are all areas that if they're found to be wetlands or floodplain, could affect the development.

Henry Minneboo – What is the distance to the Lagoon?

Erin Sterk – I'll re-measure, but my recollection is 3,700 feet.

Bruce Moia – Was there an environmental impact analysis done by the applicant?

Erin Sterk – None provided thus far.

Bruce Moia – So, the map shows where there might be wetlands?

Erin Sterk – That's very high level, it's not the drill-down data that we'd be looking for at site development.

Bruce Moia – But that would further limit the density if there was more wetlands on the property than the map showed?

Jeanne Allen – Yes, sir.

Dane Theodore – I was intrigued by your struggle with developing these as single-family homes without runoff restrictions, and having a subdivision with retention requirements. In your opinion, would six homes with no restrictions be worse for the environment than 15 homes with the runoff?

Bruce Moia – Just considering stormwater runoff, absolutely it would be worse. Six homes with no retention would be worse than a 15-home subdivision meeting all the standards of the Saint Johns River Water Management District and the County.

Dane Theodore – You would believe under that case that the impact to the Lagoon would be better with a subdivision?

Bruce Moia – Yes.

Erin Sterk – To add to that, if you come in to develop six units, you're going to go through a subdivision plan and you're going to meet the same subdivision code, so there is no developing six homes under the current zoning that isn't going to go through the subdivision process that isn't going to require stormwater treatment. You may have some instances where a parcel is split into two, in some of these cases like families here have split off 2.5 acres of their 10-acre lot, that doesn't go



through a subdivision process, but even though the process is cheaper for three to six units, it's considered a minor subdivision plan and the stormwater codes are the same.

Brian Hodgers – The applicant has a diagram in the package that is conceptual, and I count 14 homes on it. I know our packet says 15 homes, so is the 14 accurate, or the 15?

Stuart Buchanan – The 14 is accurate. One of those lots was a double lot and we'd be happy to enter into a BDP (Binding Development Plan) for any number of units up to 14. We'd like to take the recommendation of this board and move forward, and if you were to recommend to the Commission limiting the lots we'd gladly enter into a BDP to that effect, and hopefully reach a compromise with the neighbors, as well as provide full permitting through Saint John's River Water Management District.

Brian Hodgers – One of the properties is all the way at the east end, and on one of the maps there is a little bit of a possible wetlands.

Stuart Buchanan – That's why we avoided development there.

Brian Hodgers – How far away are you from that portion, or would that one house have to be eliminated?

Stuart Buchanan – The other item that staff said might be wetlands, that is a ditch.

Joseph Thomas – If you look at the property, our property is all cleared, the orange grove and the property behind us is an existing thicket, which is where the wetlands are, ours is at the lower section, but even at that, the homes would be 60 meters away for the septic system, away from the ditch and the wetlands.

Brian Hodgers – So, the closest home to the wetlands would be?

Joseph Thomas – The layout we have now, it would be over 150 feet.

Brian Hodgers – And no retention pond is planned at this time?

Stuart Buchanan – No, it would absolutely require a retention pond, it just isn't shown on the diagram.

Brian Hodgers – Do you have an approximation of where it would be?

Stuart Buchanan – We're working with an engineer so we can't put together the conceptual layout of the lots, but I'm sure he will come back to us after he's reviewed the topographic study and the soils and everything else, and say where we need to put the lots and where we need to put the retention. Once we know what the number of lots is, we can move forward with a civil design.

Bruce Moia – That's a decent compromise and I think we would want to add that regardless of the distance they are from the waterbody. I think if they are fine with the condition that all lots would have the upgraded septic systems, the high-efficiency systems, therefore reducing the potential pollution from possibilities. On your sketch it looks like you're paving a portion of Dixie Way, is that what you're planning?

Stuart Buchanan – We are waiting until we have action from this board to go back to Volusia County and follow their instructions on whether they want to have us pave a section of it, or request us to

post maintenance bond for all of it. Obviously, it falls under Volusia County and we're going to do whatever they tell us to do and as soon as we know the number of houses and the number of trips generated, they're going to give us instructions, whether they want a section of it paved, the aprons paved, or the whole thing, we'll know.

Erin Sterk – I think Stuart was answering the question for County Line Ditch Road, but Dixie Way, the extension from that paved intersection there to the north, they met with Public Works early on about whether or not an unpaved road subdivision could be done, and the answer is no. The codes today require pavement, so they would have to extend it to current County paved road standards.

Bruce Moia – We don't need to put that in the BDP (Binding Development Plan) because that's a requirement?

Henry Minneboo – No, that's going to be mandatory.

Erin Sterk – You could re-memorialize it, I suppose.

Henry Minneboo – No, we don't need to do that. Ron, does that help a little bit?

Ron Bartcher – Thank you for the information, I appreciate it.

Erin Sterk – If we're considering anything, I'd like to hear from the applicant on the high-end septic thing, if you guys are going to consider that as part of your motion, we would need to know that is something they agree to.

Stuart Buchanan - We'll be happy to include that in the BDP. You've heard from the neighbors, you've heard their concerns, and in some places in the County, such as North Merritt Island, they've already made it a requirement, so in a similar situation we'd be happy to do so.

Ben Glover – I believe at the last meeting I voted to pass this request, and after hearing all of the people today have so much opposition, putting a subdivision there doesn't really make sense. I agree that the engineering would probably retain the water, and it would most likely be beneficial, but none of these neighbors moved there to have a development put in right down the street. I think I'll be voting against this item.

Henry Minneboo – Do you want to make a motion?

Ben Glover – I'll make a motion to deny the applicant's request.

Ron Bartcher – Second.

Henry Minneboo called for a vote on the motion as stated, and it failed 4:5, with Minneboo, Rodgers, Langston, Wadsworth, and Moia voting nay. Glover, Bartcher, Filiberto, and Theodore voted in favor of the motion to deny.

Bruce Moia – I'll make a motion to approve the request with a BDP for no more than 16 lots, with a requirement of the upgraded septic tank systems.

Henry Minneboo – Is that 14 lots or 16 lots?

Bruce Moia – I'm sorry, I'll make a motion to approve with a BDP for 14 lots, with a requirement of the upgraded septic tank systems.

Brian Hodggers – I'll second.

Henry Minneboo called for a vote on the motion as stated and it passed 5:4, with Glover, Bartcher, Filiberto, and Theodore voting nay. Minneboo, Moia, Hodggers, Langston, and Wadsworth voted in favor of the motion.

### **Discussion:**

Ron Bartcher – One thing that came up in our discussion, this property that has the conservation easement on it, I was talking to staff about that and the information wasn't readily available to us. If the citizens hadn't brought it forward we wouldn't have known anything about that. The owner of the property may not even have known. I have a question for staff, if they could elaborate on that and what might be done to correct that.

Erin Sterk – I also met with the property owners as well, who gave me some more information than we had as part of our regular analysis. When we look at the land use of the area we look at all of the factors, but private easements are something that is not part of our regular searches. There are all kinds of easements, such as drainage, utilities, et cetera. The conservation component of that property did not come to our attention as part of our regular evaluation, so I recommended to the property owner that they pursue a Future Land Use designation change from Residential 1 to Conservation. I think 40 of their 50 acres is under conservation easement in perpetuity, so when they dedicated that land and gave it over, and even have a resolution from the Board of County Commissioners, the EEL (Environmentally Endangered Lands) Program, as part of the Parks and Recreation Department, they probably didn't get with Planning to get all of the planning layers in place that would allow planners to recognize, and property owners to recognize, that conservation component of the property, so when you look on the Property Appraiser site, the use of that property comes up as a homesteaded single-family residential; when you look at the Future Land Use designation it's Residential. My recommendation is that the Future Land Use be changed on that property on 40 of the 50 acres to Conservation; that way, when a property owner comes in they will be able to see that, and so will the planners. The other conservation lands in the area have already had a Future Land Use change. I'm not certain that was something they were advised at the time, and I'm also not certain that is something they should necessarily bear the cost of. They gave the land to the County for its use. There's certainly going to be a cost to doing that, advertisement in the newspaper, and staff time, which we could capture that and do it administratively, potentially. I'd like to come back with some options on how to bring that forward. I don't know what we'll do regarding the fees. I can come back to the board the next time you meet and let you know what our options are, if that's what you're asking for from us. Or I can just work with the property owner and we move forward that way.

Henry Minneboo – I would like to see it. Ron is 100% right that it is fairly critical information, but to defend staff a little, it seems like when it's the County line there's always some confusion. We've had confusion in Micco and Grant, and Little Hollywood, and we've had issues down there like this before.

Erin Sterk – It was actually easier for us to recognize that the Volusia County lands were in conservation because their Future Land Use map recognized that. If that's something that this board wants to see followed through, you can make a motion to direct us to bring something back on that.

Henry Minneboo – I'd like to see both, work with the applicant and let us know.

Erin Sterk – If you wouldn't mind, it would be easier to move forward with the work if you memorialize that in a recommendation.

Ron Bartcher – I'd like to make a motion to that effect.

Bruce Moia – I'll second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.



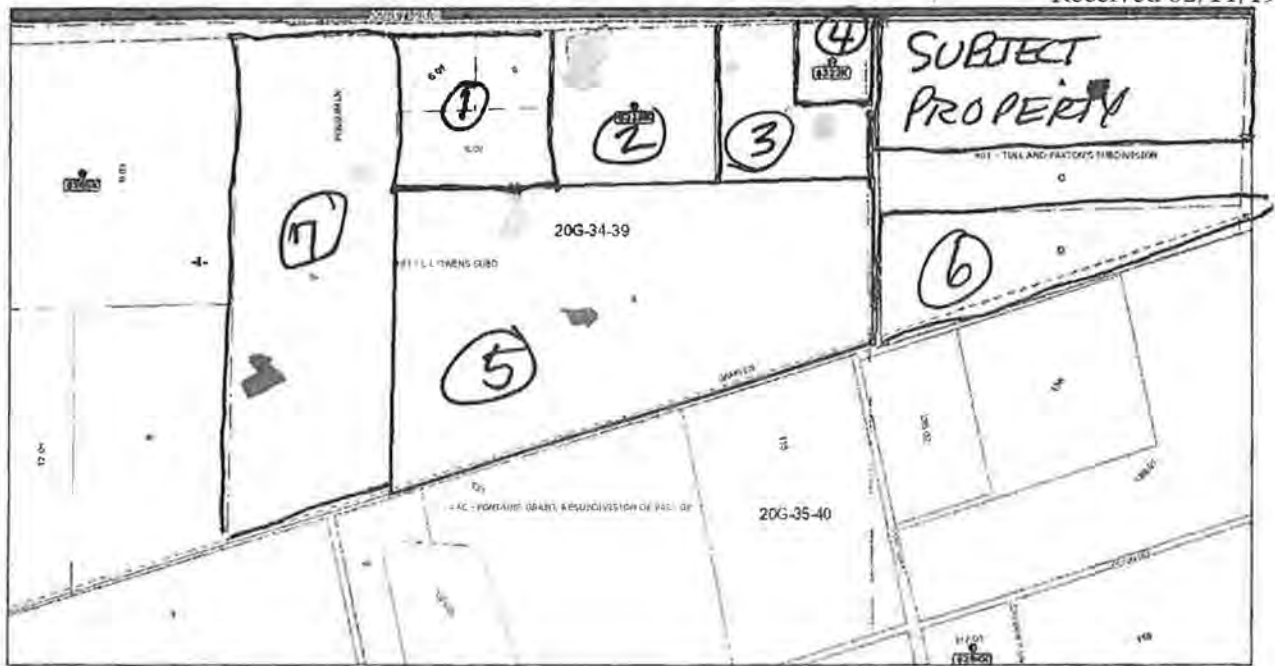
Objections

18PZ00153 & 18PZ00154

Thomas

Received 02/11/19

Brevard County Property Appraiser



February 11, 2019

1:4,000  
0 270 540 1080  
0 80 160 320 m

For the best results, use a survey map to verify the accuracy of the data.  
© BCPAO 2015

- ① Timothy and Susan Barnes (letter)
- ② Roy and Brandie Harrell (letter)
- ③ Ken and Sheri Plante (letter)
- ④ Thomas and Kristi Floyd (letter)
- ⑤ David Laney and Cheryl Barnes (in person)
- ⑥ Andrew Graham
- ⑦ Jim and Nancy Stephenson (in person)



To the members of the Planning and Zoning commission and the Board of Brevard County Commissioners:

I am writing this in reference to the request for zoning change located near the intersection of County Line Ditch Bank Road and Dixie Way in northern Brevard county, also known as Scottsmeer. The request is to change the current zoning of AU with a density of 1 house per 2.5 acre to RR-1, which allows 1 house per 1 acre of land. The owner of the property would (apparently) like to build a small subdivision of approximately 20 homes right in the middle of an area of the county primarily used for agricultural pursuits, such as cattle grazing, citrus groves, horse breeding and bee keeping.

It has been demonstrated time and time again, that these 2 vastly different uses of land never coexist without difficulty, as there are different expectations of quality of life between the two entities. If this change is allowed to go through and the area is developed as planned, it's only a matter of time before the two different lifestyles will clash, with inevitable complaints of noise and smells that are part of productive agriculture being lodged by the new residents of the subdivision. Compounding this is the fact that precedent will have been set, so it will become more and more difficult to refuse any additional requests for zoning change within the same area.

We have been down this road before, approximately 14 years ago when a developer planned a large subdivision in the vicinity of what is now the Veterans Cemetery. It was determined then that due to the development boom of the past few decades, the extreme north and south ends of Brevard County were the last bastions of agriculture left within the county, and should be preserved as such. I can't see any valid reason why we should now deviate from that decision. If anything, it has become more imperative that we continue to preserve what little history of agriculture still exists here.

I ask that you refuse this request for the zoning change, so those that have chose to live and work within an agricultural community may continue to do so peacefully. Thank you for your consideration.

Timothy and Susan Barnes

4720 Sugartown St.

Port St John, FL 32927

Landowners and Leaseholders of 10 acres on County Line Ditch Road, Scottsmeer

February 11<sup>th</sup> 2019

To Whom it may concern,  
We are opposed to the proposed rezoning of  
18PZ00153 and 18PZ00154 up for Commission  
Meeting on March 7<sup>th</sup> 2019.

We respectfully ask for NO zoning change  
on this parcel Not because we are Anti-  
growth but because we are enthusiastic  
Supporters of preserving our Rural environment.

We moved out here for the wide open  
Space and less crowding. Allowing the  
Zoning change will Allow for more traffic  
and crowding. Life out here is Quiet and  
Slower paced We would like to preserve  
that!

Thank you

Brandie Harrell  
Roy Harrell

located at 3781 County Line Ditch Rd  
Mims FL 32754.

Kenneth and Sheri Plante  
6710 Dixie Way  
Mims, FL  
32754

February 11, 2019

To whom it may concern:

It has come to our attention that Mr. & Mrs. Joseph Thomas (6705 Dixie Way) whom have 19+ acres directly east of our property are requesting to rezone their property into residential homesites.

This is a cause of great concern to **all** of us that live in this rural community. It directly affects our property as it is directly in front of ours. Most of us have small farms and or conservation property. We moved here for that purpose. This is the lifestyle we chose to raise our kids and grandkids. We feel that this would drastically change our beautiful country community. Most of the properties in our area are 10+ acres with beautiful horses, cows, organic gardens and abundant wildlife.

So many of us wanted to be there in person but with short notice we have our kids, animals, and distance to consider.

Thank you so much for taking the time to read this letter.

Sincerely,

  
Kenneth and Sheri Plante

Ph. (321)303-0310

February 11<sup>th</sup> 2019

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Thank you so much for taking the time to read this letter.

Sincerely,

  
Kenneth and Sheri Plante

Ph. (321)303-0310



February 11, 2019

To whom it may concern,

My name is Kristi Floyd I have been a residence to Mims/Scotsmoor for 10 years now. We moved here to be in the country and have a good life style for our kids, and to be brought up on our little farm that we have. The Thomas's are very very nice people, and our kids all play together however building this many houses on just 1 acre lots would ruin the whole reason that we moved where we are. I didn't move out here to look at a subdivision off my front porch. There are so many of us that are not wanting this to happen our little town is so quiet and safe and I feel building this many houses and changing the zoning would ruin our agriculture.

Please take in to consideration that most of the houses out here are on a minimum of 2 ½ acre lots. I don't want to see us loose the beautiful country that we live in.

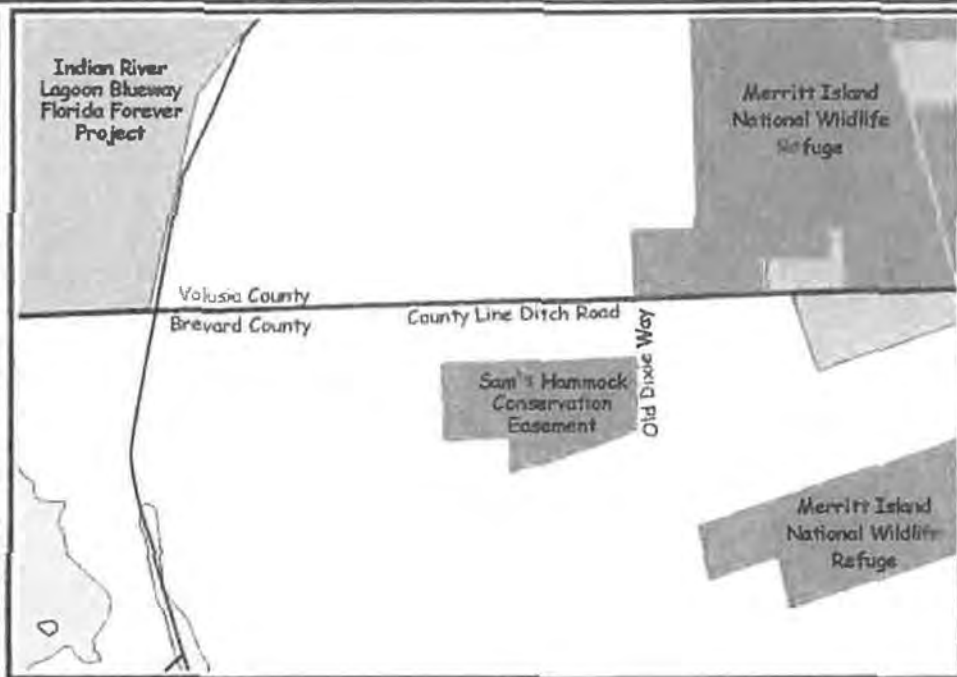
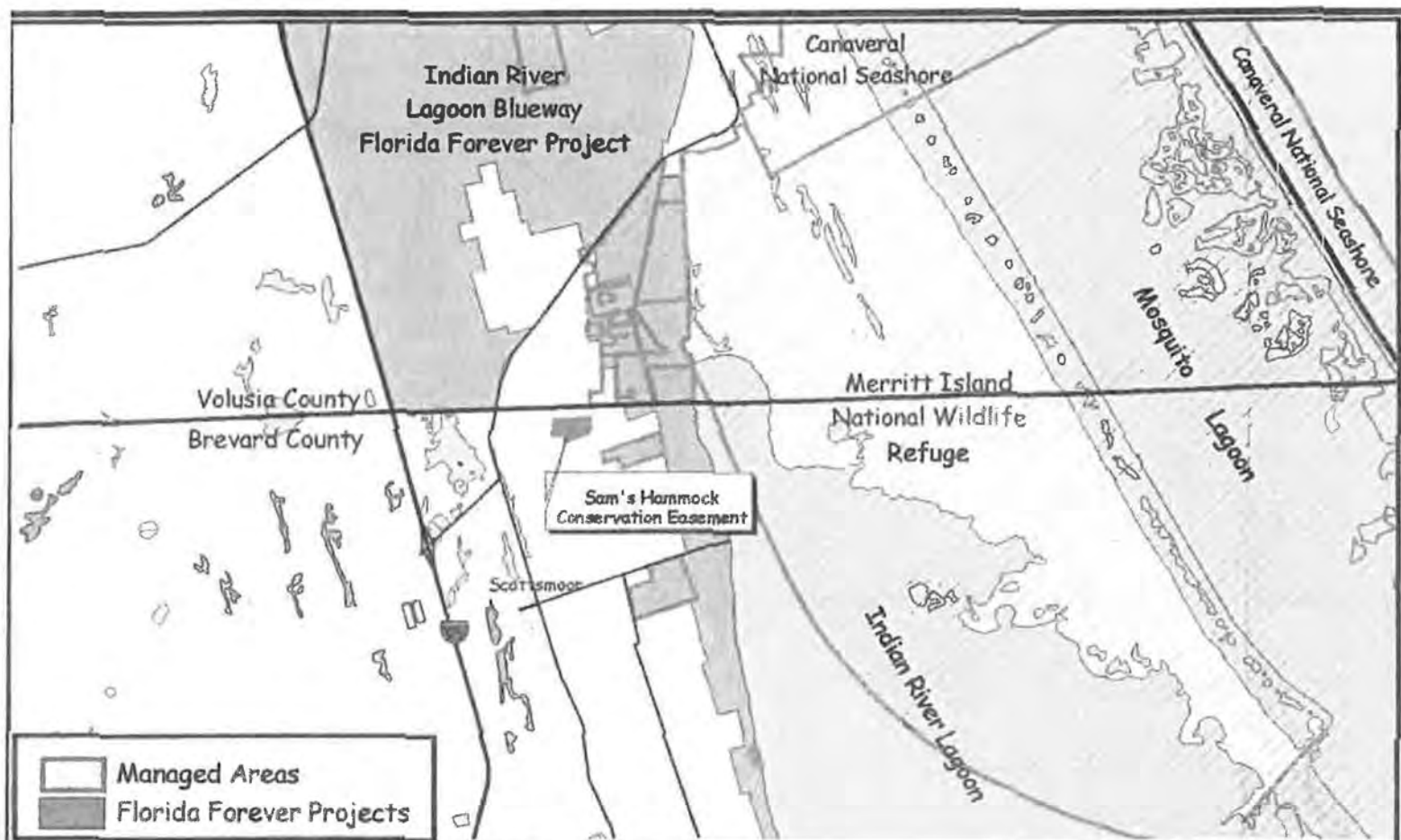
Please hear all of us when we say we want Scotsmoor to stay Agricultural, we don't want a subdivision out here.

Thanks for your time,

Sincerely,

Kristi Floyd

321-795-5480



**MAP 1**  
**SAM'S HAMMOCK CONSERVATION EASEMENT**  
**Brevard County, Florida**

*The Nature Conservancy*

SAVING THE LAST GREAT PLACES ON EARTH

Wendy J. Caster  
22 February 2006

In favor  
18PZ00153  
18PZ00154  
Thomas

## Rezoning Request for 6705 Dixie way, Mims

**18PZ00153**

**18PZ00154**

Neighbor statement:

Owners: Fetzer, Mark E Trustee

Parcel ID: 20G-35-39-01-\* -C, 20G-3539-01-\* -E, 20G-35-40-C-8-136.01

To whom it my concern,

I am aware of the request for the Plan Amendment to the Future Land Use Map and Request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not have any concerns with this request. I believe the zoning change is consistent with the development of the area. The Zone change request has my support.

Mark E Fetzer



In favor  
18PZ00154  
Thomas

**From:** A.W. Simmons  
**To:** titusvillanative@gmail.com; Jones, Jennifer; Tammy.Rowe@brevardclerk.us  
**Subject:** Rezoning Case #18PZ00154  
**Date:** Thursday, March 7, 2019 4:06:55 PM

---

Dear Ms. Jones,

Please include my letter of support for the Small Scale Comprehensive Plan Amendment and Rezoning Case #18PZ00154. I was born and raised in Mims Florida and have enjoyed living here all of my life. The proposed rezoning will allow one acre lots creating new home sites that are sorely needed in the area.

Here in the north County, family members enjoy living near each other. As a family that has been here for 7 Generation it is becoming harder each year to find lots to construct new homes so that local residents can continue to enjoy our lifestyle of family and community.

Sincerely,

Albert & Pattie Simmons



## EXECUTIVE SUMMARY

The 38.41-acre Sam's Hammock conservation easement tract is located near the northern portion of Brevard County, Florida, just south of the Volusia County line. David Laney and his wife, Cheryl Ann Barnes, purchased 50-acres, of which the subject 38.41-acres is a part, near the intersection of County Line Ditch Road and Old Dixie Way in January 2001. The Laney/Barnes land is near properties that are included in the Indian River Lagoon Blueway Florida Forever Project and are thus targeted for acquisition by Brevard County's Environmentally Endangered Lands Program and the State of Florida. Additionally, the Laney/Barnes property is near lands that were acquired in Volusia County under the North American Wetlands Conservation Act and are now part of the Merritt Island National Wildlife Refuge. It is intended that a perpetual conservation easement will be donated to the Brevard County Board of County Commissioners by David Laney and Cheryl Ann Barnes in 2006. The site is mostly comprised of old citrus grove lands that were abandoned in the 1980's after a series of severe freezes hit the region. David and Cheryl Ann have designed and implemented a restoration plan for the tract that will restore the upland habitats to a more natural state and realign the hydrological regime to minimize the amount of surface water that is drained via the agricultural ditches located on the property. Representative site condition photographs with GPS coordinates are also included to provide documentation of the conditions on the property.

## INTRODUCTION

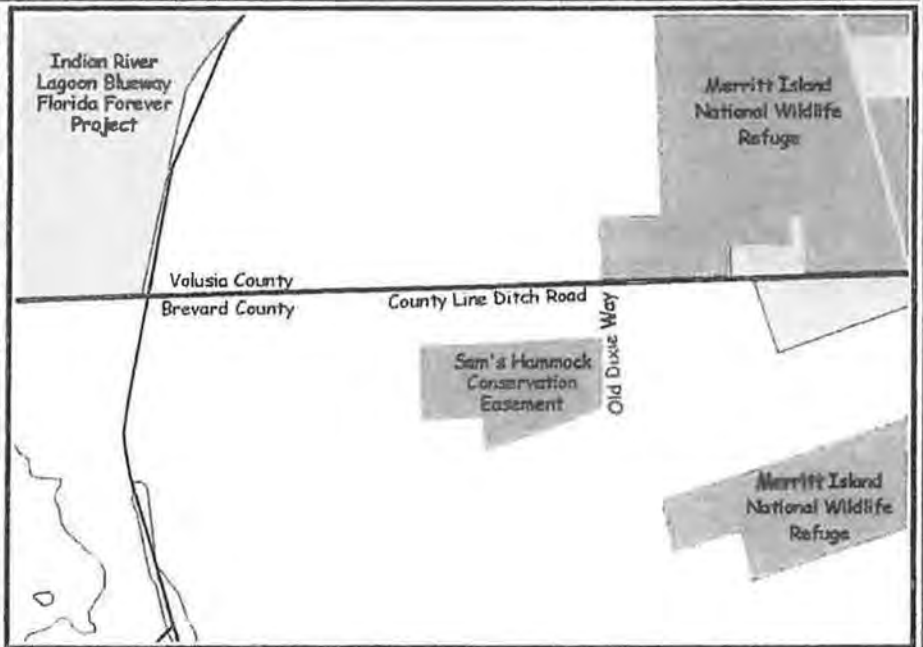
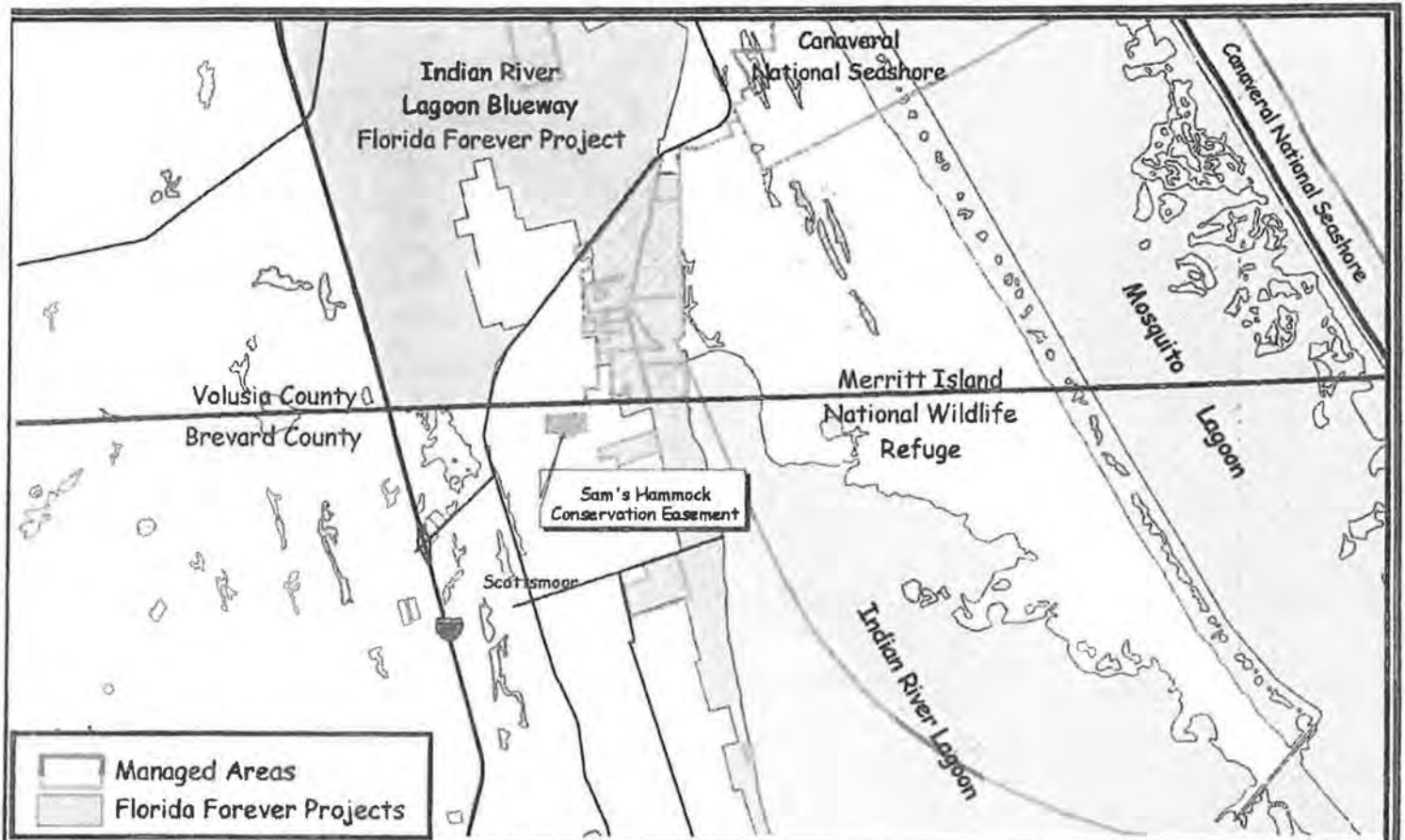
In the spirit of conservation and restoration, David L. Laney and his wife Cheryl Ann Barnes purchased 50-acres near the intersection of County Line Ditch Road and Old Dixie Highway in northern Brevard County, just south of the Volusia County line. The Laney/Barnes land is located approximately one tenth of a mile south of a portion of the Merritt Island National Wildlife Refuge (Refuge) and three tenths of a mile north of another portion of the Refuge. The Laney/Barnes property is also within four tenths of a mile from land that is included within the boundaries of the Indian River Lagoon (IRL) Blueway Florida Forever (FF) Project, which was placed on the State of Florida's land acquisition list in 1998. The IRL Blueway FF Project was designed to protect lands along the Indian River and Mosquito Lagoon from Volusia County to Martin County, Florida. The project boundaries were also designed to include gaps in ownership within the existing boundaries of the Refuge. Preservation of the buffer lands surrounding the IRL Blueway FF Project is vitally important to the preservation and improvement of this ecosystem.

The Indian River Lagoon is one of the country's most productive, diverse and commercially and recreationally important estuaries. One third of the country's manatee (*Trichechus manatus*) population lives in the Indian River, and the area is important for many species of migratory birds and oceanic and estuarine fishes. The Indian River Lagoon is a state buffer and aquatic preserve managed by the Florida Department of Environmental Protection's Office of Coastal and Aquatic Managed Areas. To date, just under 4,000-acres of the 26,000 plus acres within the IRL Blueway FF Project have been purchased. This portion of Brevard County is experiencing much the same real estate growth as the rest of the state - larger acreage tracts are being subdivided and sold, thus promoting increased residential and commercial growth. The United States Census Bureau estimates a 9.1% population increase in Brevard County from April 1, 2000 to July 1, 2004. The estimated population increase for the entire state of Florida is 8.8% between the same period of time.

The current owners purchased this property for multiple reasons including protection from development, restoration to original upland habitat characteristics, realignment of hydrology (i.e., removal of old citrus grove drainage canals) and increased/enhanced wildlife habitat. The owners embarked upon an ambitious restoration plan almost immediately upon taking title to the land. They presented their restoration/enhancement plan to the Natural Resources Conservation Service (NRCS) and applied for a Wildlife Habitat Incentives Program (WHIP) designation. They were selected to participate in this program in August 2001. Their formal WHIP plan targeted restoration of the original upland habitats for purposes of enhancing the land for quail, migratory birds, turkey and deer. They engaged in five available habitat management options - 1) Brush Management, which included removal of cabbage palms and planting native trees and shrubs that serve as a beneficial wildlife food source; 2) Tree/Shrub Planting, which included the planting of 50 shrubby lespedeza (*Lespedeza*

*bicolor*), 50 American holly (*Ilex americana*), 36 hackberry and 20 common persimmon; 3) Nest Boxes, which included one small nest box and three large (kestrel) nest boxes; 4) Prescribed Grazing, which was intended for 20 acres, but has since been completely eliminated from the property due to the deleterious effects to the land; and 5) Ponds, one for cattle watering and wildlife use. Currently, the owners are enrolled in the NRCS Environmental Quality Improvement Program (EQIP) program under which they are actively pursuing the eradication of Brazilian pepper (*Schinus terebinthifolius*) from the property.

Since enrolling in the above mentioned NRCS programs, the owners have completed all of the proposed modifications, as well as engaged in additional management actions beyond the scope of the NRCS programs including, 1) removal of over 3,200 cabbage palms to open up suitable habitat for other native vegetation that is more appropriate for wildlife; 2) establishment of open, grassy areas for wildlife; 3) clearing of vine overgrowth to enhance nesting for birds; 4) planting over 300 deciduous trees, pine trees and bushes for wildlife; 5) removal of cattle from the property, as the owners found that they were not beneficial to the return of ground nesting birds such as killdeer and quail and they appeared to have a negative effect on the return of reptile and amphibian populations; 6) the skillful placement and construction of two additional ponds at the intersections of old grove drainage ditches, which will help keep rainfall on the property to benefit wildlife.



MAP 1  
SAM'S HAMMOCK CONSERVATION EASEMENT  
Brevard County, Florida

*The Nature Conservancy*

SAVING THE LAST GREAT PLACES ON EARTH

Wendy J. Caster  
22 February 2006

# SKETCH OF SURVEY

## LEGAL DESCRIPTION:

LOT 1, BLOCK 1, AND LOT 4, BLOCK 1, TOGETHER WITH A PORTION OF LOT 5, BLOCK 1, L.L. OWENS SUBDIVISION ACCORDING TO THE PLAT HEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 90 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 6, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 90 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S. 00°04'19" W., ALONG THE EAST LINE OF SAID LOT 6, BLOCK 1, A DISTANCE OF 660.87 FEET TO THE NORTHWEST CORNER OF THE AFORESAID LOT 4, BLOCK 1, SAID POINT BEING THE POINT OF BEGINNING; THENCE S. 89°46'33" E., ALONG THE NORTH LINE OF LOT 4 AND LOT 1, BLOCK 1, OF SAID L. L. OWENS SUBDIVISION, A DISTANCE OF 1321.24 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 1 OF SAID L. L. OWENS SUBDIVISION; THENCE S. 00°04'19" W., ALONG THE EAST LINE OF SAID LOT 1, BLOCK 1, A DISTANCE OF 766.76 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1, BLOCK 1; THENCE S. 73°30'57" W., ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 4, BLOCK 1 OF SAID L. L. OWENS SUBDIVISION, A DISTANCE OF 1378.38 FEET TO THE TO THE SOUTHWEST CORNER OF SAID LOT 4, BLOCK 1; THENCE N. 00°04'19" E., ALONG THE WEST LINE OF SAID LOT 4, BLOCK 1, A DISTANCE OF 561.19 FEET; THENCE N. 89°55'41" W., A DISTANCE OF 660.62 FEET TO A POINT LYING ON THE WEST LINE OF SAID LOT 5, BLOCK 1; THENCE N. 00°04'19" E., ALONG SAID WEST LINE A DISTANCE OF 603.57 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6, BLOCK 1; THENCE S. 89°46'33" E., ALONG THE SOUTH LINE OF SAID LOT 6, BLOCK 1, A DISTANCE OF 660.62 FEET TO THE POINT OF BEGINNING.

SUBJECT TO A 25.00 FEET WIDE INGRESS/EGRESS EASEMENT LYING WEST OF AND ABUTTING THE EAST LINE OF LOT 5, BLOCK 1, OF SAID L. L. OWENS SUBDIVISION.

SUBJECT TO A 25.00 FEET WIDE INGRESS/EGRESS EASEMENT LYING NORTH OF AND ABUTTING THE SOUTH LINE OF LOT 1 AND LOT 4, BLOCK 1, OF SAID L. L. OWENS SUBDIVISION.

SAID PARCEL CONTAINS 38.41 ACRES, MORE OR LESS.

SUBJECT TO ANY EASEMENTS AND OR RIGHT OF WAYS OF RECORD.

SHEET 1 OF 2 SHEETS  
DRAWING ON SHEET 2

## LEGEND:

A/C = AIR CONDITIONER  
A.K.A. = ALSO KNOWN AS  
ALUM = ALUMINUM  
AVE = AVENUE  
BLK = BLOCK  
BLVD = BOULEVARD  
BM = BENCHMARK  
(CALC) = CALCULATED  
CB = CHORD BEARING  
C.B.S. = CONCRETE BLOCK STRUCTURE  
CD = CHORD DISTANCE

DB = DEED BOOK  
D/W = DRIVEWAY  
ESMT = EASEMENT  
ELEV = ELEVATION  
FF = FINISH FLOOR  
FD = FOUND  
FH = FIRE HYDRANT  
I.P. = IRON PIPE  
I.R. = IRON ROD  
LB = LICENSED BUSINESS  
(M) = MEASURED

U.E. = UTILITY EASEMENT  
D.E. = DRAINAGE EASEMENT  
P.U.E. = PUBLIC UTILITY EASEMENT  
P.U. & D.E. = PUBLIC UTILITY AND DRAINAGE EASEMENT  
P.C. = POINT OF CURVATURE  
P.T. = POINT OF TANGENCY  
P.I. = POINT OF INTERSECTION  
PCP = PERMANENT CONTROL POINT  
PLS = PROFESSIONAL LAND SURVEYOR  
PG = PAGE

## SURVEY SYMBOLS

± = MORE OR LESS  
O = POWER POLE  
→ = GUY WIRE  
L = ARC LENGTH  
R = RADIUS  
Δ = DELTA

CONVEYED  
CO  
PLOT





→ 201 Sixth Ave  
Indianapolis, IN 32903  
Project Name: Sam's Hammock

CFN 2006184384 06-19-2006 02:51 pm

OR Book/Page: 5661 / 4025

This instrument prepared by and returned to:

Christine V. Lepore

Brevard County Attorney's Office

2725 Judge Fran Jamieson Way

Building C

Viera, Florida 32940-6605

19994

## DEED OF CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT is made this 13 day Dec. 2005 by David L. Laney, a married man and Cheryl Ann Barnes, a married woman, whose address is 5990 Barranco Avenue, Cocoa, FL 32927 ("Grantor"), in favor of BREVARD COUNTY, a political subdivision of the State of Florida ("County"), whose address is c/o the EEL Program, Parks and Recreation Department, 5560 N. US Highway, Melbourne, FL 32940. ("Grantee").

*The terms "Grantor" and "Grantee" shall include the singular and the plural, and the heirs, successors and assigns of Grantor and Grantee, and the provisions of this easement shall be binding upon and inure to the benefit of Grantor, Grantee and their heirs, successors and assigns.*

## RECITALS

A. Grantor is the sole owner in fee simple of certain real property in Brevard County, Florida, more particularly described in Exhibit A attached hereto and incorporated by reference (hereinafter, the "Property").

B. The Property qualifies as "a relatively natural habitat of fish, wildlife, or plants, or similar ecosystems," as that phrase is used in Section 170(h)(4)(a)(ii) of the Internal Revenue Code, for the following reasons:

1. The Property is within one-half mile of properties included in the Indian River Lagoon Blueway Florida Forever Project and within a tenth of a mile of lands that have been acquired in Volusia County under the North American Wetlands Conservation Act which are now a part of Merritt Island National Wildlife Refuge. Therefore, the Property is an important part of the formation of a connection between state and federal owned lands in Brevard and Volusia counties, Florida.

**Scott Ellis**

Clerk Of Courts, Brevard County

#Pgs: 23

#Names: 2

Trust: 12.00

Rec: 185.00

Serv: 0.00

Deed: 0.70

Excise: 0.00

Mtg: 0.00

nt Tax: 0.00

BLA-503, Revised 10/4/04

2. The Property contains Hydric Hammock areas, abandoned citrus grove and other natural areas containing cabbage palms, various hardwoods and vines, all of which provide habitat for gopher tortoise, Southeastern American kestrel, American alligator, fox, rabbits, bobcat, numerous songbirds, raptors, reptiles and amphibians.

3. The Property contains four (4) ponds that provide necessary habitat for American alligator, migratory and resident waterfowl/birds, wading birds as well as a water source for other wildlife.

4. The restoration to native habitats being undertaken by the Grantor's on the Property will provide suitable breeding, nesting and foraging habitat for the numerous wildlife species listed above.

C. Grantor and the Grantee mutually recognize that the Property possesses important wildlife, fish, and plant habitat, and significant scenic and open space values, all as described above (collectively, the "conservation values"), which conservation values are of great importance to the Grantors and Grantee.

D. The specific conservation values of the Property are documented in the "Baseline Inventory Report for the Sam's Hammock Conservation Easement Tract in Brevard County, Florida", dated \_\_\_\_\_ ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this grant which Report establishes the condition of the Property at the time of the gift, as provided in Treasury Regulation Section 1.170A-14(g)(5);, and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant. The Baseline Documentation is maintained in the offices of the EEL Program and is incorporated by this reference. A copy of the Baseline Documentation is available from the EEL Program on request. Exhibit "B" is a copy of a map of the Property as contained within the Baseline Documentation.

E. The parties intend hereby to comply with Section 704.06 of the Florida Statutes which permits the creation of conservation easements for the purposes of, inter alia, retaining land or water areas predominantly in their natural, scenic, open or wooded condition or as suitable habitat for fish, plants, or wildlife; and

F. The Grantors and the Grantee have the common purpose of conserving certain values and character of the Property by conveyance to the Grantee of a perpetual conservation easement on, under, over, and across the Property, to conserve the character of the Property, continue certain land use patterns that do not significantly impair the character of the Property, and prohibit certain further development activity on the Property

G. Grantee is an agency authorized under the provisions of §704.06, Florida Statutes, to hold conservation easements for the preservation and protection of land in its natural, scenic, historical, forested, or open space condition.

H. Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the conservation values of the Property for the benefit of this generation and the generations to come.

I. The fact that any use of the Property that is expressly prohibited by the terms of this Easement may become greatly more economically valuable than uses allowed by the terms of this Easement, or that neighboring properties may, in the future, be put entirely to uses that are not allowed by this Easement has been considered by Grantor in granting this Easement and by Grantee in accepting it.

To achieve these purposes, and in consideration of \$10.00 and other good and valuable consideration, including but not limited to the above and the mutual covenants, terms, conditions, and restrictions contained herein, the receipt and sufficiency of which is acknowledged, and pursuant to the laws of Florida, and in particular §704.06, Florida Statutes, but without intending the validity of this Easement to be dependent on the continuing existence of such laws, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

#### ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, Grantor's personal representatives, heirs, successors and assigns, lessees, agents, and licensees.

#### ARTICLE II. PURPOSE OF EASEMENT

It is the purpose of this Easement to assure that the Property will be retained forever in its natural, scenic, wooded condition to provide a relatively natural habitat for fish, wildlife, plants or similar ecosystems, and to preserve portions of the Property as productive farmland and forest land that sustains for the long term both the economic and conservation values of the Property and its environs, through management guided by the following principles:

- Protection of scenic and other distinctive rural character of the landscape;
- Maintenance of soil productivity and control of soil erosion;
- Maintenance and enhancement of wildlife and game habitat;

- Maintenance of the value of the resource in avoiding land fragmentation;
- Protection of surface water quality, the Floridan Aquifer, wetlands, and riparian areas.

The above purposes are hereinafter sometimes referred to as "the Conservation Purposes". Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the purpose of this Easement.

### ARTICLE III. RIGHTS GRANTED TO THE GRANTEE

To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

- A. The right to enforce protection of the conservation values of the Property;
- B. All future residential, commercial, industrial and incidental development rights that are now or hereafter allocated to, implied, reserved, or inherent in the Property except as may be specifically reserved to Grantor in this Easement. The parties agree that such rights are hereby terminated and extinguished and may not be used on or transferred to other property. Neither the Property nor any portion thereof may be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage, or open space requirements, under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other lands pursuant to a transferable development rights scheme or cluster development arrangement or otherwise. Nor shall any development rights or density credits be transferred onto the Property from other property.
- C. The right to enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.
- D. The right to prevent any activity on or use of the Property that is inconsistent with the purpose or provisions of this Easement and to require the restoration of or to restore such areas or features of the Property that may be damaged by any inconsistent activity or use, at Grantor's cost.
- E. The right of ingress and egress to the Property.
- F. The right to have the ad valorem taxes, assessments and any other charges on the Property paid by Grantor.



G. A right to notice of intent to sell. The terms of this right are such that if Grantor intends to sell the Property, or any interest therein or portion thereof, ~~Grantor, prior to~~ ~~Grantor, prior to~~ shall deliver to Grantee notice of such intent, and shall, in good faith, afford Grantee an opportunity to negotiate the acquisition of the Property, or such portion thereof or interest therein that Grantor intends to sell. If Grantee desires to negotiate the acquisition of the Property, or such portion thereof or interest therein, Grantee shall so notify Grantor within 30 days after receipt of Grantor's notice of intent. If Grantor and Grantee are unable, in good faith to agree to terms of an acquisition of the Property, or such interest therein or portion thereof as applicable, within 120 days thereafter, Grantor may sell the Property free of the right granted herein. Provided, however, that closing on such sale shall occur within one year of the date of Grantor's notice to Grantee. If the Property, or such portion thereof or interest therein as is applicable, has not sold within one year after Grantee's notice to Grantor that Grantee does not intend to negotiate acquisition of the property or within one year after failure to reach agreement to terms of an acquisition, then any intent to sell the Property thereafter shall require renewed notice to Grantee. This right of notice shall not be triggered by sales or transfers between Grantor and lineal descendants of Grantor or entities in which Grantor owns a majority of the controlling interests. ~~The notice of notice granted herein applies to the original Grantor and to such original Grantor's heirs, successors and assigns.~~

H. The right to be indemnified by Grantor for any and all liability, loss, damage, expense, judgment or claim (including a claim for attorney fees) arising out of any negligent or willful action or activity resulting from the Grantor's use and ownership of or activities on the Property or the use of or activities of Grantor's agents, guests, lessees or invitees on the Property.

I. The right to be indemnified by Grantor for any liability for injury or property damage to persons on the Property arising out of any condition of the Property known to the Grantor to the best of Grantor's knowledge.

J. The right to have the Property maintained as reflected on the Baseline Documentation, as the Property may develop through the forces of nature hereafter, subject only to the exercise of Grantor's Reserved Rights, and the Rights Granted to the Grantee, as described in this Easement.

K. If Grantor fails to cut and remove timber damaged by natural disaster, fire, infestation or the like, then the right, but not the duty, of Grantee, in its sole discretion to cut and remove said timber. Any such cutting and removal by Grantee shall be at the expense of Grantee and all proceeds from the sale of any such timber shall inure to the benefit of Grantee.

#### ARTICLE IV. PROHIBITED USES

The Property shall be maintained to preserve the Conservation Purposes of this Easement. Without limiting the generality of the foregoing Grantor agrees that the following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are expressly prohibited or restricted:

A. No soil, trash, liquid or solid waste (including sludge), or unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants, including, but not limited to, those as now or hereafter defined by federal or Florida law defining hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants shall be dumped or placed on the Property. This prohibition shall not be construed to include reasonable amounts of waste generated as a result of allowed activities.

B. The exploration for and extraction of oil, gas, minerals, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances, under and by virtue of the authority of a grant or reservation or other form of ownership of or interest in or control over or right to such substances, except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully allowed for the conduct of allowed activities.

C. Activities that will be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation unless otherwise provided in this Easement. There shall be no dredging of new canals, construction of new dikes, manipulation of natural water courses, or disruption, alteration, pollution, depletion, or extraction on the Property of existing surface or subsurface water flow or natural water sources, fresh water lakes, ponds and pond shores, marshes, creeks or any other water bodies, nor any activities or uses conducted on the Property that would be detrimental to water purity or that could alter natural water level or flow in or over the Property. Provided, however, Grantor may expand and modify existing human-made ponds on the Property in order to enhance the habitat for native birds and fish, provided each pond is no larger than one (1) acre in size and any excavated soil is not piled in any one location, but used on the Property to enhance habitat for native birds and fish, and Grantor may continue to operate, maintain, or replace existing ground water wells incident to allowed uses on the Property, subject to legally required permits and regulations.

D. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of any portions of the Property having historical or archeological significance.

E. The removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of trees, shrubs or other natural vegetation, including but not limited to cypress trees, except as otherwise specifically provided in this Easement. There shall be no planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor. The Grantor shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property. Grantor hereby grants to Grantee the right, in

Grantee's sole discretion and at Grantee's expense, to develop and implement an exotic plant removal plan for the eradication of exotics or non-native plants on the Property. Under no circumstances, shall this right conveyed to Grantee be construed to diminish Grantor's responsibilities under this paragraph or as an obligation of the Grantee.

F. Commercial or industrial activity, or ingress, egress or other passage across or upon the Property in conjunction with any commercial or industrial activity; except as expressly permitted in paragraphs V.B., V.G., and V.H.

G. New construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the Property except as may be necessary by Grantor for maintenance or normal operations of the Property or during emergency situations or as may otherwise be specifically provided for hereinafter. For purposes of this paragraph the term "emergency" shall mean those situations that will have an immediate and irreparable adverse impact on the Conservation Purposes.

H. ~~Large construction or creation of new roads or off-road vehicle use on trails.~~

I. There shall be no operation of motorized vehicles except on established trails and roads unless necessary: (i) to protect or enhance the purposes of this Easement, (ii) for emergency purposes, and (iii) to retrieve game that has been hunted legally.

J. There shall be no application of pesticides (including, but not limited to, insecticides, fungicides, rodenticides, and herbicides) on the Property, except that herbicides may be used as part of a program to control or eradicate nuisance invasive exotic plant species.

K. Actions or activities that may reasonably be expected to adversely affect threatened or endangered species.

L. Any subdivision of the land except as may otherwise be provided in this Easement.

M. There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the Property, except that Grantee may erect and maintain signs designating the Property as land under the protection of Grantee.

N. ~~There shall be no commercial, industrial, or recreational use of the Property.~~

## ARTICLE V. GRANTOR'S RESERVED RIGHTS

Grantor reserves to Grantor, and to Grantor's personal representatives, heirs, successors, and assigns, the following specified rights, which are deemed to be consistent with the purpose of the Easement. The exercise of the Reserved Rights shall be in full accordance with all applicable local, state and federal law, as amended from time to time, as well as in accordance with the purposes of this Easement.

A. The right to observe, maintain, photograph, introduce and stock native fish or wildlife on the Property, to use the Property for non-commercial hiking, camping, and horseback riding, so long as the same do not constitute a danger to Grantee's employees, agents, officers, directors and invitees, and so long as such activities do not violate any of the prohibitions applicable to the Property or Grantee's rights, as stated above. Grantor reserves, and shall continue to own, the hunting and fishing rights on, or related to, the Property and Grantor may lease and sell privileges of such rights.

B. The right to plant and selectively harvest native pine trees (except for sand pine) over no more than 25% (9.6 acres) of the upland portion of the Property. Any such timber thinning and harvesting shall accomplish the following goals: maintain the soil productivity of the Property, conserve or enhance the water quality of waterbodies, wetlands and riparian zones on the Property, protect the scenic quality of the Property, protect or enhance the wildlife habitat attributes of the Property, maintain or create a balance of forest age classes and native species composition on the Property, and conserve or enhance the viable populations of native plant and animal species on the Property. Further, any timber harvesting on the Property shall be carried out in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property.

C. The right to engage in the following ecological restoration activities to protect or enhance the wildlife habitat attributes of the Property; or conserve or enhance the viable populations of native plant and animal species on the Property: (i) the right to plant native trees and herbaceous species, (ii) to remove dense herbaceous cover interfering with the planting and growth of desired native vegetation, and to conduct controlled or prescribed burning on the Property; provided, however, that Grantor shall obtain and comply with a prescribed fire authorization from the local and state regulatory agencies having jurisdiction over controlled or prescribed burning.

D. The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than this Easement.

E. The right to contest tax appraisals, assessments, taxes and other charges on the Property.

F. The right to continue to use, maintain, repair, and reconstruct, but not to relocate ~~Enlarge~~, all existing fences, roads, drainage ditches and culverts on the Property as depicted in the Baseline Documentation.

G. The right to exclusive use of the improvements depicted in the Baseline Documentation.

H. The right to cut and remove palm trees from the Property, provided such activity: (i) protects or enhances the wildlife habitat attributes of the Property; and (ii) conserves or enhances the viable populations of native plant and animal species on the Property; and (iii) any palm tree removal on the Property shall be carried out in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property; and, (iv) remove 100 palm trees per year for the years 2006, 2007 and 2008.

I. The right to maintain an apiary operation on the Property, provided only native species are bred and the operation does not have an adverse impact on the wildlife attributes of the Property or populations of native plant and animal species on the Property.

J. The right to maintain the existing food plots as identified in the Baseline Documentation, and to establish new food plots for wildlife forage, provided the cumulative area of all the food plots does not exceed 6 acres.

#### ARTICLE VI. GRANTEE'S REMEDIES

A. Remedies. If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing such violation within the 30-day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Grantee may pursue its



Remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

B. **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

C. **Waiver of Certain Defenses.**

D. **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

E. **Hold Harmless.** Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations specified in paragraph VIII.A. and VIII.B.; and (3) the existence or administration of this Easement.

## ARTICLE VII. NO PUBLIC ACCESS

The granting of this Easement does not convey to the public the right to enter the Property for any purpose whatsoever, and Grantee will cooperate with Grantor in the enforcement of this prohibition.

#### ARTICLE VIII. MISCELLANEOUS

A. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

B. **Taxes.** Grantor shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request. Grantee is authorized but in no event obligated to make or advance any payment of taxes, upon three (3) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate, and the obligation created by such payment shall bear interest until paid by Grantor at the maximum rate allowed by law.

C. **Extinguishment.** If circumstances arise in the future such as render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Florida law at the time, in accordance with paragraph VIII.D. Grantee shall use all such proceeds in a manner consistent with the Conservation Purposes of this grant or the purposes of the bond or statutory program under which Grantee obtained the purchase money for this Easement. Grantor believes that any changes in the use of neighboring properties will increase the benefit to the public of the continuation of this Easement, and Grantor and Grantee intend that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement. In addition, the inability of Grantor to conduct or implement any or all of the uses allowed under the terms of this Easement, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment.

D. **Proceeds.** This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of paragraph VIII.C., the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. The values at the time of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue Code. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

E. **Condemnation.** If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.

F. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is, at the time of the assignment, both (i) a "qualified organization" as that term is defined in Section 170(h) of the Internal Revenue Code and (ii) authorized to acquire and hold conservation easements under Section 704.06 of the Florida Statutes. (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the Conservation Purposes that this grant is intended to advance continue to be carried out.

G. **Subsequent Transfers.** Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which Grantor divests any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity or priority of this Easement or limit its enforceability in any way.

H. **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed to the parties as set forth above, or to such other addresses such party may establish in writing to the other.

I. **Recordation.** Grantee shall record this instrument and any amendments in timely fashion in the official records of Brevard County, Florida, and may re-record it at any time as may be required to preserve its rights in this Easement.

J. **Non-Homestead Certification.** Grantor hereby certifies that if a Grantor who is married signs this Easement without the joinder of his or her spouse, the Property is neither the

Homestead of Grantor nor the primary physical residence of Grantor, nor is the Property contiguous to the homestead or primary physical residence of Grantor.

K. **Amendments.** If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, the Grantors and the Grantee may by mutual written agreement jointly amend this Conservation Easement, provided that no such amendment shall be made that will adversely affect the qualification of this Conservation Easement for the tax benefits available or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Internal Revenue Code. Any such amendment shall be consistent with the purpose of this Conservation Easement, shall not affect its perpetual duration, and shall not result in any diminution of protection of the conservation values. Any such amendment shall be recorded in the official public records of Brevard County, Florida. Nothing herein shall require the Grantee to agree to any amendment.

L. **Controlling Law.** The laws of the State of Florida shall govern the interpretation and performance of this Easement.

M. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of §704.06, Florida Statutes. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

N. **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

O. **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

P. **Joint Obligation.** The obligations imposed by this Easement upon Grantor shall be joint and several.

Q. **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

**R. Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**S. Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

**TO HAVE AND TO HOLD** unto Grantee, its successors, and assigns forever.

**IN WITNESS WHEREOF** Grantor and Grantee have set their hands on the day and year first above written.



Witnesses:

Signature of first witness

**KATHY LOYD**

Printed name of first witness

Signature of second witness

**Vilma L. Hewett**

Printed name of second witness

Witnesses:

Signature of first witness

**KATHY LOYD**

Printed name of first witness

Signature of second witness

**Vilma L. Hewett**

Printed name of second witness

STATE OF FLORIDA

COUNTY OF Franklin

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared David L. Laney who is personally known to me or who has produced a state driver license as identification, and who did not take an oath and executed the foregoing instrument and he acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 13<sup>th</sup> day of June, 2006.

David L. Laney, Grantor

Cheryl Ann Barnes, Grantor

Kathleen Loyd  
Signed

Printed KATHLEEN LOYD  
Notary Public, State of Florida  
NOTARY PUBLIC My comm. exp. Nov. 3, 2006  
My Commission Expires: Comm. No. 00 159200

STATE OF FLORIDA  
COUNTY OF Brevard

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared Cheryl Ann Barnes who is personally known to me or who has produced a state driver license as identification, and who did not take an oath and executed the foregoing instrument and she acknowledged before me that she executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 15<sup>th</sup> day of June, 2006

Kathleen Loyd  
Signed

Printed KATHLEEN LOYD  
Notary Public, State of Florida  
My comm exp. Nov. 3, 2006  
Comm. No. 00 159200  
NOTARY PUBLIC  
My Commission Expires:

ATTEST:

By: Scott Ellis  
Scott Ellis, Clerk

(Seal)

BREVARD COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: Helen Voltz  
Helen Voltz, Chair

As approved by the Board on 12-13-05.

## EXHIBIT "A"

### LEGAL DESCRIPTION

#### LEGAL DESCRIPTION:

LOT 1, BLOCK 1, AND LOT 4, BLOCK 1, TOGETHER WITH A PORTION OF LOT 3, BLOCK 1, L.L. OWENS SUBDIVISION ACCORDING TO THE PLAT HEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 96 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF LOT 6, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 96 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S. 00°04'19" W., ALONG THE EAST LINE OF SAID LOT 6, BLOCK 1, A DISTANCE OF 660.87 FEET TO THE NORTHWEST CORNER OF THE AFORESAID LOT 4, BLOCK 1, SAID POINT BEING THE POINT OF BEGINNING; THENCE S. 89°46'33" E., ALONG THE NORTH LINE OF LOT 4 AND LOT 1, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION, A DISTANCE OF 1321.24 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 1 OF SAID L.L. OWENS SUBDIVISION; THENCE S. 00°04'19" W., ALONG THE EAST LINE OF SAID LOT 1, BLOCK 1, A DISTANCE OF 766.76 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1, BLOCK 1; THENCE S. 73°20'57" W., ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 4, BLOCK 1 OF SAID L.L. OWENS SUBDIVISION, A DISTANCE OF 1378.38 FEET TO THE SOUTHWEST CORNER OF SAID LOT 4, BLOCK 1; THENCE N. 00°04'19" E., ALONG THE WEST LINE OF SAID LOT 4, BLOCK 1, A DISTANCE OF 161.19 FEET; THENCE N. 89°55'41" W., A DISTANCE OF 660.62 FEET TO A POINT LYING ON THE WEST LINE OF SAID LOT 3, BLOCK 1; THENCE N. 00°04'19" E., ALONG SAID WEST LINE A DISTANCE OF 603.57 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6, BLOCK 1; THENCE S. 89°46'33" E., ALONG THE SOUTH LINE OF SAID LOT 6, BLOCK 1, A DISTANCE OF 660.67 FEET TO THE POINT OF BEGINNING.

SUBJECT TO A 25.00 FEET WIDE INGRESS/EGRESS BASEMENT LYING WEST OF AND ABUTTING THE EAST LINE OF LOT 3, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION.

SUBJECT TO A 25.00 FEET WIDE INGRESS/EGRESS BASEMENT LYING NORTH OF AND ABUTTING THE SOUTH LINE OF LOT 1 AND LOT 4, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION.

SAID PARCEL CONTAINS 38.41 ACRES, MORE OR LESS.

SUBJECT TO ANY EASEMENTS AND OR RIGHT OF WAYS OF RECORD.

Fwd: FW: Domestic self supply for single family lots in North Brev...

Public Comment  
18PZ00153 & 154  
Thomas  
(Submitted by  
David Laney)

**Subject:** Fwd: FW: Domestic self supply for single family lots in North Brevard County  
**From:** David Laney <David.Laney@ucf.edu>  
**Date:** 3/10/2019, 3:34 PM  
**To:** "borogove@att.net" <borogove@att.net>

----- Forwarded message -----

**From:** Kristian Holmberg <KHolmberg@sjrwmd.com>  
**Date:** Mar 4, 2019 1:22 PM  
**Subject:** FW: Domestic self supply for single family lots in North Brevard County  
**To:** David Laney <David.Laney@ucf.edu>  
**Cc:**

Mr. Laney,

Please see the follow up summary email I sent to Mr. and Mrs. Thomas following our conversation last month.

Thanks,  
Kris

**From:** Kristian Holmberg  
**Sent:** Wednesday, February 20, 2019 11:09 AM  
**To:** 'thomasnikki321@gmail.com' <thomasnikki321@gmail.com>  
**Subject:** Domestic self supply for single family lots in North Brevard County

Mr. and Mrs. Thomas,

Thank you for speaking with me this morning in regards to proposed residential water use in the Scottsmeer area of north Brevard County. As we discussed, the use of groundwater for domestic self supply on single family residential lots generally falls below the District permitting thresholds found in Section 40C-2.041, Florida Administrative Code, and would not require a Consumptive Use Permit (CUP) from the District. Please note, water well construction permits would be required for the installation of individual wells on the subject parcels, but not for their use. The District does not have any broad restrictions or limitations on residential water use in the area other than those associated with the general restrictions on landscape irrigation found in the rule. Please let me know if you need any additional information or have any additional questions.

Thanks again,  
Kris

Kristian Holmberg, PWS  
Hydrologist IV  
Division of Regulatory, Engineering, and Environmental Services  
St. Johns River Water Management District  
Palm Bay Service Center  
525 Community College Parkway, SE • Palm Bay, FL 32909  
Office: (321) 409-2121 • Cell: (407) 947-2032  
Email: [kholmber@sjrwmd.com](mailto:kholmber@sjrwmd.com)  
Website: [www.sjrwmd.com](http://www.sjrwmd.com)  
Connect with us: [Newsletter](#), [Facebook](#), [Twitter](#), [Instagram](#), [YouTube](#), [Pinterest](#)



[www.sjrwmd.com/epermitting](http://www.sjrwmd.com/epermitting)

We value your opinion. Please take a few minutes to share your comments on the service you received from the District by clicking this [link](#)

#### Notices

- Emails to and from the St. Johns River Water Management District are archived and, unless exempt or confidential by law, are subject to being made available to the public upon request. Users should not have an expectation of confidentiality or privacy.
- Individuals lobbying the District must be registered as lobbyists (§112.3261, Florida Statutes). Details, applicability and the registration form are available at <http://www.sjrwmd.com/lobbyist/>





Herbert Wertheim College of Engineering  
Engineering School of Sustainable Infrastructure and Environment  
Department of Civil and Coastal Engineering  
Arnoldo Valle-Levinson, Professor  
arnoldo@ufl.edu

Public Comment  
18PZ00153 & 154  
Thomas  
(Submitted by David  
Laney)

365 Weil Hall  
PO Box 116580  
Gainesville, FL 32611-6580  
352-392-9537 Department Phone  
352-392-3394 Department Fax  
www.essie.ufl.edu

March 10th, 2019

David Laney

Subject: Salt Water Intrusion Potential, North Brevard County, Florida

Dear David,

Upon visiting the Scottsmeer area on March 6<sup>th</sup>, I became familiarized with the rezoning request in the area. I am able to place such request in the context of natural and human-related pressures in the region of the Indian River Lagoon.

I think that any new infrastructure development in coastal areas, around the Indian River Lagoon in particular, needs to be examined carefully and sensibly. This is because sea levels around Florida have risen at rates that are more than 6 times the mean global rates. Between 2011 and 2016, sea level rose at a rate of  $\frac{3}{4}$  inch per year. Evidence of these rapid sea-level increments are the increase in sunny-day flooding events in the state. Compound to this problem is the ever-increasing human use of freshwater from the aquifer. Moreover, an inconclusive trend in Florida rain values since 1895 indicates that the aquifer recharge is not changing over decadal scales. This means that sea-level rise produces encroachment of salty ocean water toward land, which is exacerbated by increased human consumption of aquifer water for domestic and agricultural purposes. The 1) sea-level rise – 2) human consumption of water represents a 1-2 punch that chokes the lagoon and affects the water and soil quality for communities within, at least, the first few miles of the coast. Clear consequences of such 1-2 choking punch, or as they say, the canary in the coal mine, are a) the alarming incidence of toxic algae blooms in the Indian River Lagoon, b) the widespread salinization of well water in the communities around the lagoon, and c) threatening coastal erosion around Cape Canaveral. Incidence of algae blooms, in particular, is accompanied by decreased air quality.

Evidently, any new rezoning that allows increases in settlement density will represent amplified demands for aquifer water. Because sea level is expected to continue to rise, the area will likely be drastically affected by the 1-2 choking punch, in detriment to water, air and soil quality.

Sincerely,

A handwritten signature in cursive script that reads "Arnoldo Valle Le Vinson".

Arnoldo Valle-Levinson

201 Sixth Ave  
Indianapolis, IN 31903  
Project Name: Sam's Hammock

CFN 2006184384 06-19-2006 02:51 pm

OR Book/Page: 5661 / 4025

This instrument prepared by and returned to:

Christine V. Lepore  
Brevard County Attorney's Office  
2725 Judge Fran Jamieson Way  
Building C  
Viera, Florida 32940-6605  
19994

Public Comment  
18PZ00153 & 154  
Thomas  
(Submitted by Cheryl  
Barnes)

## DEED OF CONSERVATION EASEMENT

THIS GRANT OF CONSERVATION EASEMENT is made this 13 day Dec. 2005 by David L. Laney, a married man and Cheryl Ann Barnes, a married woman, whose address is 5990 Barranco Avenue, Cocoa, FL 32927 ("Grantor"), in favor of BREVARD COUNTY, a political subdivision of the State of Florida ("County"), whose address is c/o the EEL Program, Parks and Recreation Department, 5560 N. US Highway, Melbourne, FL 32940, ("Grantee").

*The terms "Grantor" and "Grantee" shall include the singular and the plural, and the heirs, successors and assigns of Grantor and Grantee, and the provisions of this easement shall be binding upon and inure to the benefit of Grantor, Grantee and their heirs, successors and assigns.*

## RECITALS

A. Grantor is the sole owner in fee simple of certain real property in Brevard County, Florida, more particularly described in Exhibit A attached hereto and incorporated by reference (hereinafter, the "Property").

B. The Property qualifies as "a relatively natural habitat of fish, wildlife, or plants, or similar ecosystems," as that phrase is used in Section 170(h)(4)(a)(ii) of the Internal Revenue Code, for the following reasons:

1. The Property is within one-half mile of properties included in the Indian River Lagoon Blueway Florida Forever Project and within a tenth of a mile of lands that have been acquired in Volusia County under the North American Wetlands Conservation Act which are now a part of Merritt Island National Wildlife Refuge. Therefore, the Property is an important part of the formation of a connection between state and federal owned lands in Brevard and Volusia counties, Florida.

BLA-503, Revised 10/4/04

**Scott Ellis**

Clerk Of Courts, Brevard County

#Pgs: 23	#Names: 2
Trust: 12.00	Rec: 185.00
Send: 0.70	Serv: 0.00
Mtg: 0.00	Excise: 0.00
	Int Tax: 0.00

2. The Property contains Hydric Hammock areas, abandoned citrus grove and other natural areas containing cabbage palms, various hardwoods and vines, all of which provide habitat for gopher tortoise, Southeastern American kestrel, American alligator, fox, rabbits, bobcat, numerous songbirds, raptors, reptiles and amphibians.

3. The Property contains four (4) ponds that provide necessary habitat for American alligator, migratory and resident waterfowl/birds, wading birds as well as a water source for other wildlife.

4. The restoration to native habitats being undertaken by the Grantor's on the Property will provide suitable breeding, nesting and foraging habitat for the numerous wildlife species listed above.

C. Grantor and the Grantee mutually recognize that the Property possesses important wildlife, fish, and plant habitat, and significant scenic and open space values, all as described above (collectively, the "conservation values"), which conservation values are of great importance to the Grantors and Grantee.

D. The specific conservation values of the Property are documented in the "Baseline Inventory Report for the Sam's Hammock Conservation Easement Tract in Brevard County, Florida", dated \_\_\_\_\_ ("Baseline Documentation"), which consists of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this grant which Report establishes the condition of the Property at the time of the gift, as provided in Treasury Regulation Section 1.170A-14(g)(5); and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant. The Baseline Documentation is maintained in the offices of the EEL Program and is incorporated by this reference. A copy of the Baseline Documentation is attached to the EEL Program request. Exhibit "B" is a copy of a map of the Property as contained within the Baseline Documentation.

E. The parties intend hereby to comply with Section 704.06 of the Florida Statutes which permits the creation of conservation easements for the purposes of, inter alia, retaining land or water areas predominantly in their natural, scenic, open or wooded condition or as suitable habitat for fish, plants, or wildlife; and

F. The Grantors and the Grantee have the common purpose of conserving certain values and character of the Property by conveyance to the Grantee of a perpetual conservation easement on, under, over, and across the Property, to conserve the character of the Property, continue certain land use patterns that do not significantly impair the character of the Property, and prohibit certain further development activity on the Property

G. Grantee is an agency authorized under the provisions of §704.06, Florida Statutes, hold conservation easements for the preservation and protection of land in its natural, scenic, historical, forested, or open space condition.

H. Grantee agrees by accepting this grant to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the conservation values of the Property for the benefit of this generation and the generations to come.

I. The fact that any use of the Property that is expressly prohibited by the terms of this Easement may become greatly more economically valuable than uses allowed by the terms of this Easement, or that neighboring properties may, in the future, be put entirely to uses that are not allowed by this Easement has been considered by Grantor in granting this Easement and by Grantee in accepting it.

To achieve these purposes, and in consideration of \$10.00 and other good and valuable consideration, including but not limited to the above and the mutual covenants, terms, conditions, and restrictions contained herein, the receipt and sufficiency of which is acknowledged, and pursuant to the laws of Florida, and in particular §704.06, Florida Statutes, but without intending the validity of this Easement to be dependent on the continuing existence of such laws, Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

#### ARTICLE I. DURATION OF EASEMENT

This Conservation Easement shall be perpetual. It is an easement in gross, runs with the land, and is enforceable by Grantee against Grantor, Grantor's personal representatives, heirs, successors and assigns, lessees, agents, and licensees.

#### ARTICLE II. PURPOSE OF EASEMENT

It is the purpose of this Easement to assure that the Property will be retained forever in its natural, scenic, wooded condition to provide a relatively natural habitat for fish, wildlife, plants or similar ecosystems, and to preserve portions of the Property as productive farmland and forest land that sustains for the long term both the economic and conservation values of the Property and its environs, through management guided by the following principles:

- Protection of scenic and other distinctive rural character of the landscape;
- Maintenance of soil productivity and control of soil erosion;
- Maintenance and enhancement of wildlife and game habitat;

- Maintenance of the value of the resource in avoiding land fragmentation;
- Protection of surface water quality, the Floridan Aquifer, wetlands, and riparian areas.

The above purposes are hereinafter sometimes referred to as "the Conservation Purposes". Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the purpose of this Easement.

### ARTICLE III. RIGHTS GRANTED TO THE GRANTEE

To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

- A. The right to enforce protection of the conservation values of the Property;
- B. All future residential, commercial, industrial and incidental development rights that are now or hereafter allocated to, implied, reserved, or inherent in the Property except as may be specifically reserved to Grantor in this Easement. The parties agree that such rights are hereby terminated and extinguished and may not be used on or transferred to other property. Neither the Property nor any portion thereof may be included as part of the gross area of other property not subject to this Easement for the purposes of determining density, lot coverage, or open space requirements, under otherwise applicable laws, regulations or ordinances controlling land use and building density. No development rights that have been encumbered or extinguished by this Easement shall be transferred to any other lands pursuant to a transferable development rights scheme or cluster development arrangement or otherwise. Nor shall any development rights or density credits be transferred onto the Property from other property.
- C. The right to enter upon the Property at reasonable times in order to monitor compliance with and otherwise enforce the terms of this Easement; provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.
- D. The right to prevent any activity on or use of the Property that is inconsistent with the purpose or provisions of this Easement and to require the restoration of or to restore such areas or features of the Property that may be damaged by any inconsistent activity or use, at Grantor's cost.
- E. The right of ingress and egress to the Property.
- F. The right to have the ad valorem taxes, assessments and any other charges on the Property paid by Grantor.



G. A right to notice of intent to sell. The terms of this right are such that if Grantor intends to sell the Property, or any interest therein or portion thereof, ~~Grantor, prior to~~ ~~any sale or transfer of the Property, shall~~ shall deliver to Grantee notice of such intent, and shall, in good faith, afford Grantee an opportunity to negotiate the acquisition of the Property, or such portion thereof or interest therein that Grantor intends to sell. If Grantee desires to negotiate the acquisition of the Property, or such portion thereof or interest therein, Grantee shall so notify Grantor within 30 days after receipt of Grantor's notice of intent. If Grantor and Grantee are unable, in good faith to agree to terms of an acquisition of the Property, or such interest therein or portion thereof as applicable, within 120 days thereafter, Grantor may sell the Property free of the right granted herein. Provided, however, that closing on such sale shall occur within one year of the date of Grantor's notice to Grantee. If the Property, or such portion thereof or interest therein as is applicable, has not sold within one year after Grantee's notice to Grantor that Grantee does not intend to negotiate acquisition of the property or within one year after failure to reach agreement to terms of an acquisition, then any intent to sell the Property thereafter shall require renewed notice to Grantee. This right of notice shall not be triggered by sales or transfers between Grantor and lineal descendants of Grantor or entities in which Grantor owns a majority of the controlling interests. ~~The right of notice granted herein applies to the original Grantor and~~ ~~to Grantor's heirs, successors and assigns.~~

H. The right to be indemnified by Grantor for any and all liability, loss, damage, expense, judgment or claim (including a claim for attorney fees) arising out of any negligent or willful action or activity resulting from the Grantor's use and ownership of or activities on the Property or the use of or activities of Grantor's agents, guests, lessees or invitees on the Property.

I. The right to be indemnified by Grantor for any liability for injury or property damage to persons on the Property arising out of any condition of the Property known to the Grantor to the best of Grantor's knowledge.

J. The right to have the Property maintained as reflected on the Baseline Documentation, as the Property may develop through the forces of nature hereafter, subject only to the exercise of Grantor's Reserved Rights, and the Rights Granted to the Grantee, as described in this Easement.

K. If Grantor fails to cut and remove timber damaged by natural disaster, fire, infestation or the like, then the right, but not the duty, of Grantee, in its sole discretion to cut and remove said timber. Any such cutting and removal by Grantee shall be at the expense of Grantee and all proceeds from the sale of any such timber shall inure to the benefit of Grantee.

#### ARTICLE IV. PROHIBITED USES

The Property shall be maintained to preserve the Conservation Purposes of this Easement. Without limiting the generality of the foregoing Grantor agrees that the following uses and practices, though not an exhaustive recital of inconsistent uses and practices, are expressly prohibited or restricted:

A. No soil, trash, liquid or solid waste (including sludge), or unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants, including, but not limited to, those as now or hereafter defined by federal or Florida law defining hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants shall be dumped or placed on the Property. This prohibition shall not be construed to include reasonable amounts of waste generated as a result of allowed activities.

B. The exploration for and extraction of oil, gas, minerals, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances, under and by virtue of the authority of a grant or reservation or other form of ownership of or interest in or control over or right to such substances, except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully allowed for the conduct of allowed activities.

C. Activities that will be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation unless otherwise provided in this Easement. There shall be no dredging of new canals, construction of new dikes, manipulation of natural water courses, or disruption, alteration, pollution, depletion, or extraction on the Property of existing surface or subsurface water flow or natural water sources, fresh water lakes, ponds and pond shores, marshes, creeks or any other water bodies, nor any activities or uses conducted on the Property that would be detrimental to water purity or that could alter natural water level or flow in or over the Property. Provided, however, Grantor may expand and modify existing human-made ponds on the Property in order to enhance the habitat for native birds and fish, provided each pond is no larger than one (1) acre in size and any excavated soil is not piled in any one location, but used on the Property to enhance habitat for native birds and fish, and Grantor may continue to operate, maintain, or replace existing ground water wells incident to allowed uses on the Property, subject to legally required permits and regulations.

D. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of any portions of the Property having historical or archeological significance.

E. The removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of trees, shrubs or other natural vegetation, including but not limited to cypress trees, except as otherwise specifically provided in this Easement. There shall be no planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor. The Grantor shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property. Grantor hereby grants to Grantee the right, in

~~Grantee's sole discretion and at Grantee's expense, to develop and implement an exotic plant removal plan for the eradication of exotics or non-native plants on the Property. Under no circumstances, shall this right conveyed to Grantee be construed to diminish Grantor's responsibilities under this paragraph or as an obligation of the Grantee.~~

F. Commercial or industrial activity, or ingress, egress or other passage across or upon the Property in conjunction with any commercial or industrial activity; except as expressly permitted in paragraphs V.B., V.G., and V.H.

G. New construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the Property except as may be necessary by Grantor for maintenance or normal operations of the Property or during emergency situations or as may otherwise be specifically provided for hereinafter. For purposes of this paragraph the term "emergency" shall mean those situations that will have an immediate and irreparable adverse impact on the Conservation Purposes.

H. ~~Construction or creation of new roads or off-road vehicle trails.~~

I. There shall be no operation of motorized vehicles except on established trails and roads unless necessary: (i) to protect or enhance the purposes of this Easement, (ii) for emergency purposes, and (iii) to retrieve game that has been hunted legally.

J. There shall be no application of pesticides (including, but not limited to, insecticides, fungicides, rodenticides, and herbicides) on the Property, except that herbicides may be used as part of a program to control or eradicate ~~any noxious weeds, shrubs, or trees.~~

K. Actions or activities that may reasonably be expected to adversely affect threatened or endangered species.

L. Any subdivision of the land except as may otherwise be provided in this Easement.

M. There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the Property, except that Grantee may erect and maintain signs designating the Property as land under the protection of Grantee.

N. ~~There shall be no commercial, industrial, residential or institutional use of the Property.~~

## ARTICLE V. GRANTOR'S RESERVED RIGHTS

Grantor reserves to Grantor, and to Grantor's personal representatives, heirs, successors, and assigns, the following specified rights, which are deemed to be consistent with the purpose of the Easement. The exercise of the Reserved Rights shall be in full accordance with all applicable local, state and federal law, as amended from time to time, as well as in accordance with the purposes of this Easement.

A. The right to observe, maintain, photograph, introduce and stock native fish or wildlife on the Property, to use the Property for non-commercial hiking, camping, and horseback riding, so long as the same do not constitute a danger to Grantee's employees, agents, officers, directors and invitees, and so long as such activities do not violate any of the prohibitions applicable to the Property or Grantee's rights, as stated above. Grantor reserves, and shall continue to own, the hunting and fishing rights on, or related to, the Property and Grantor may lease and sell privileges of such rights.

B. The right to plant and selectively harvest native pine trees (except for sand pine) over no more than 25% (9.6 acres) of the upland portion of the Property. Any such timber thinning and harvesting shall accomplish the following goals: maintain the soil productivity of the Property, conserve or enhance the water quality of waterbodies, wetlands and riparian zones on the Property, protect the scenic quality of the Property, protect or enhance the wildlife habitat attributes of the Property, maintain or create a balance of forest age classes and native species composition on the Property, and conserve or enhance the viable populations of native plant and animal species on the Property. Further, any timber harvesting on the Property shall be carried out in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property.

C. The right to engage in the following ecological restoration activities to protect or enhance the wildlife habitat attributes of the Property; or conserve or enhance the viable populations of native plant and animal species on the Property: (i) the right to plant native trees and herbaceous species, (ii) to remove dense herbaceous cover interfering with the planting and growth of desired native vegetation, and to conduct controlled or prescribed burning on the Property; provided, however, that Grantor shall obtain and comply with a prescribed fire authorization from the local and state regulatory agencies having jurisdiction over controlled or prescribed burning.

D. The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than this Easement.

E. The right to contest tax appraisals, assessments, taxes and other charges on the Property.



F. The right to continue to use, maintain, repair, and reconstruct, but not to relocate or enlarge, all existing fences, roads, drainage ditches and culverts on the Property as depicted in the Baseline Documentation.

G. The right to exclusive use of the improvements depicted in the Baseline Documentation.

H. The right to cut and remove palm trees from the Property, provided such activity: (i) protects or enhances the wildlife habitat attributes of the Property; and (ii) conserves or enhances the viable populations of native plant and animal species on the Property; and (iii) any palm tree removal on the Property shall be carried out in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property; and, (iv) remove 100 palm trees per year for the years 2006, 2007 and 2008.

I. The right to maintain an apiary operation on the Property, provided only native species are bred and the operation does not have an adverse impact on the wildlife attributes of the Property or populations of native plant and animal species on the Property.

J. The right to maintain the existing food plots as identified in the Baseline Documentation, and to establish new food plots for wildlife forage, provided the cumulative area of all the food plots does not exceed 6 acres.

#### ARTICLE VI. GRANTEE'S REMEDIES

A. **Remedies.** If Grantee determines that Grantor is in violation of the terms of this Easement or that a violation is threatened, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purpose of this Easement, to restore the portion of the Property so injured. If Grantor fails to cure the violation within thirty (30) days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 30-day period, fails to begin curing such violation within the 30-day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation, *ex parte* as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement or injury to any conservation values protected by this Easement, including damages for the loss of scenic, aesthetic, or environmental values, and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, Grantee may pursue its



Remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement, and Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

**B. Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

**C. Waiver of Certain Defenses.** ~~Grantee hereby waives and agrees to hold~~

**D. Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

**E. Hold Harmless.** Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations specified in paragraph VIII.A. and VIII.B.; and (3) the existence or administration of this Easement.

## ARTICLE VII. NO PUBLIC ACCESS

The granting of this Easement does not convey to the public the right to enter the Property for any purpose whatsoever, and Grantee will cooperate with Grantor in the enforcement of this prohibition.

#### ARTICLE VIII. MISCELLANEOUS

A. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of adequate comprehensive general liability coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

B. **Assessments.** Grantor shall pay before delinquent all taxes, assessments, rates, and charges, including those levied on or assessed against the Property by competent authority, including any taxes imposed upon or assessed against the Property, and shall maintain the Property in accordance with any applicable laws, rules, regulations, and ordinances, and shall make or cause to be made or cause to be made any payment, including any payment of taxes, assessments, rates, and charges, in accordance with any bill, statement, or estimate published by or on behalf of any authority, without regard to the validity of the bill, statement, or estimate, and the obligation of such payment shall bear interest at the maximum rate allowed by law.

C. **Extinguishment.** If circumstances arise in the future such as render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, and the amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Florida law at the time, in accordance with paragraph VIII.D. Grantee shall use all such proceeds in a manner consistent with the Conservation Purposes of this grant or the purposes of the bond or statutory program under which Grantee obtained the purchase money for this Easement. Grantor believes that any changes in the use of neighboring properties will increase the benefit to the public of the continuation of this Easement, and Grantor and Grantee intend that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Easement. In addition, the inability of Grantor to conduct or implement any or all of the uses allowed under the terms of this Easement, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment.

D. **Proceeds.** This Easement constitutes a real property interest immediately vested in Grantee, which, for the purposes of paragraph VIII.C., the parties stipulate to have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this grant attributable to improvements) by the ratio of the value of the Easement at the time of this grant to the value of the Property, without deduction for the value of the Easement, at the time of this grant. The values at the time of this grant shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this grant, pursuant to Section 170(h) of the Internal Revenue Code. For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant.

E. **Condemnation.** If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in accordance with applicable law.

F. **Assignment.** This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that is, at the time of the assignment, both (i) a "qualified organization" as that term is defined in Section 170(h) of the Internal Revenue Code and (ii) authorized to acquire and hold conservation easements under Section 704.06 of the Florida Statutes. (or any successor provision then applicable). As a condition of such transfer, Grantee shall require that the Conservation Purposes that this grant is intended to advance continue to be carried out.

G. **Subsequent Transfers.** Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which Grantor divests any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity or priority of this Easement or limit its enforceability in any way.

H. **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed to the parties as set forth above, or to such other addresses such party may establish in writing to the other.

I. **Recordation.** Grantee shall record this instrument and any amendments in timely fashion in the official records of Brevard County, Florida, and may re-record it at any time as may be required to preserve its rights in this Easement.

J. **Non-Homestead Certification.** Grantor hereby certifies that if a Grantor who is married signs this Easement without the joinder of his or her spouse, the Property is neither the

Homestead of Grantor nor the primary physical residence of Grantor, nor is the Property contiguous to the homestead or primary physical residence of Grantor.

K. **Amendments.** If circumstances arise under which an amendment to or modification of this Conservation Easement would be appropriate, the Grantors and the Grantee may by mutual written agreement jointly amend this Conservation Easement, provided that no such amendment shall be made that will adversely affect the qualification of this Conservation Easement for the tax benefits available or the status of Grantee under any applicable laws, including Sections 170(h) and 501(c)(3) of the Internal Revenue Code. Any such amendment shall be consistent with the purpose of this Conservation Easement, shall not affect its perpetual duration, and shall not result in any diminution of protection of the conservation values. Any such amendment shall be recorded in the official public records of Brevard County, Florida. Nothing herein shall require the Grantee to agree to any amendment.

L. **Controlling Law.** The laws of the State of Florida shall govern the interpretation and performance of this Easement.

M. **Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of §704.06, Florida Statutes. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

N. **Severability.** If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

O. **No Forfeiture.** Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

P. **Joint Obligation.** The obligations imposed by this Easement upon Grantor shall be joint and several.

Q. **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

**R. Termination of Rights and Obligations.** A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

**S. Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

**TO HAVE AND TO HOLD** unto Grantee, its successors, and assigns forever.

**IN WITNESS WHEREOF** Grantor and Grantee have set their hands on the day and year first above written.



Witnesses:

Signature of first witness

**KATHY LOYD**

Printed name of first witness

Signature of second witness

**Vilma L. Hewett**

Printed name of second witness

Witnesses:

Signature of first witness

**KATHY LOYD**

Printed name of first witness

Signature of second witness

**Vilma L. Hewett**

Printed name of second witness

STATE OF FLORIDA

COUNTY OF Greene

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared David L. Laney who is personally known to me or who has produced a state driver license as identification, and who did not take an oath and executed the foregoing instrument and he acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 13<sup>th</sup> day of June, 2006.

David L. Laney, Grantor

Cheryl Ann Barnes, Grantor

Kathleen Loyd  
Signed

Printed KATHLEEN LOYD  
Notary Public, State of Florida  
NOTARY PUBLIC My comm. exp. Nov. 3, 2006  
My Commission Expires: Comm. No. DD 159303

STATE OF FLORIDA  
COUNTY OF Brevard

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, appeared Cheryl Ann Barnes who is personally known to me or who has produced a state driver license as identification, and who did not take an oath and executed the foregoing instrument and she acknowledged before me that she executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the County and State last aforesaid this 15<sup>th</sup> day of June, 2006

Kathleen Loyd  
Signed

Printed KATHLEEN LOYD  
Notary Public, State of Florida  
My comm. exp. Nov. 3, 2006  
Comm. No. DD 159303  
NOTARY PUBLIC  
My Commission Expires:

ATTEST:  
By: Scott Ellis  
Scott Ellis, Clerk

(Seal)

BREVARD COUNTY, FLORIDA  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: Helen Voltz  
Helen Voltz, Chair

As approved by the Board on 12-13-05.

## EXHIBIT "A"

### LEGAL DESCRIPTION

#### LEGAL DESCRIPTION:

LOT 3, BLOCK 1, AND LOT 4, BLOCK 1, TOGETHER WITH A PORTION OF LOT 5, BLOCK 1, L.L. OWENS SUBDIVISION ACCORDING TO THE PLAT HEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 90 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

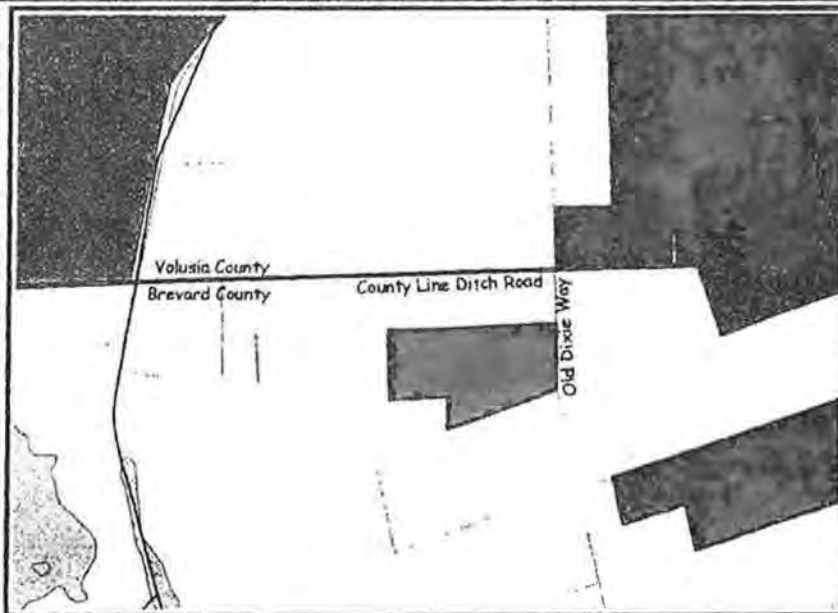
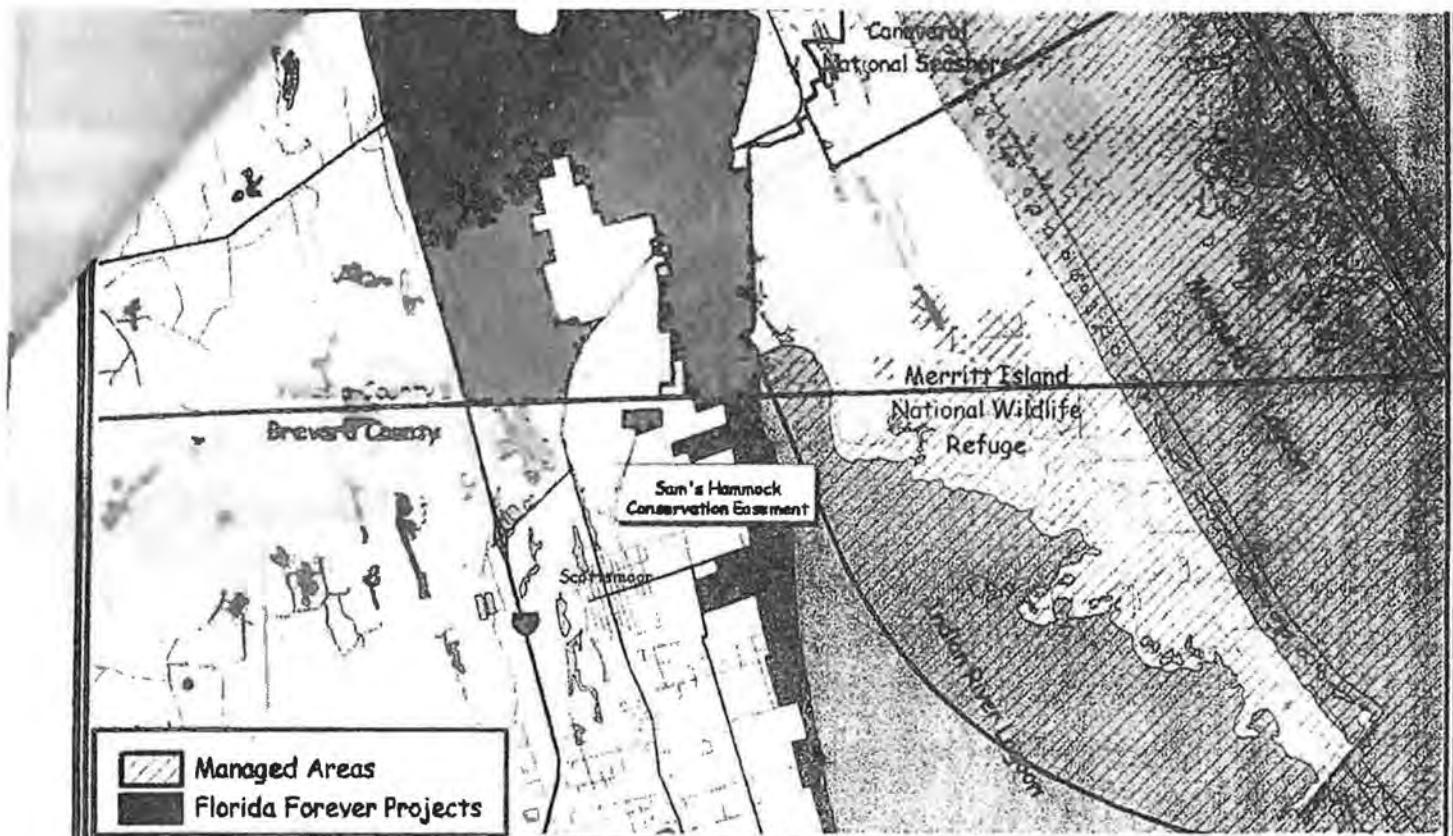
COMMENCE AT THE NORTHEAST CORNER OF LOT 6, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2 AT PAGE 90 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S. 00°04'19" W., ALONG THE EAST LINE OF SAID LOT 6, BLOCK 1, A DISTANCE OF 660.87 FEET TO THE NORTHWEST CORNER OF THE AFORESAID LOT 4, BLOCK 1, SAID POINT BEING THE POINT OF BEGINNING; THENCE S. 89°46'33" E., ALONG THE NORTH LINE OF LOT 4 AND LOT 1, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION, A DISTANCE OF 1321.24 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 1 OF SAID L.L. OWENS SUBDIVISION; THENCE S. 00°04'19" W., ALONG THE EAST LINE OF SAID LOT 1, BLOCK 1, A DISTANCE OF 766.76 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1, BLOCK 1; THENCE S. 73°30'37" W., ALONG THE SOUTH LINE OF SAID LOT 1 AND LOT 4, BLOCK 1 OF SAID L.L. OWENS SUBDIVISION, A DISTANCE OF 1378.38 FEET TO THE SOUTHWEST CORNER OF SAID LOT 4, BLOCK 1; THENCE N. 00°04'19" E., ALONG THE WEST LINE OF SAID LOT 4, BLOCK 1, A DISTANCE OF 561.19 FEET; THENCE N. 89°33'41" W., A DISTANCE OF 660.62 FEET TO A POINT LYING ON THE WEST LINE OF SAID LOT 5, BLOCK 1; THENCE N. 00°04'19" E., ALONG SAID WEST LINE A DISTANCE OF 603.37 FEET TO THE SOUTHWEST CORNER OF SAID LOT 6, BLOCK 1; THENCE S. 89°46'33" E., ALONG THE SOUTH LINE OF SAID LOT 6, BLOCK 1, A DISTANCE OF 660.62 FEET TO THE POINT OF BEGINNING.

SUBJECT TO A 25.00 FEET WIDE INGRESS/EGRESS EASEMENT LYING WEST OF AND ABUTTING THE EAST LINE OF LOT 5, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION.

SUBJECT TO A 25.00 FEET WIDE INGRESS/EGRESS EASEMENT LYING NORTH OF AND ABUTTING THE SOUTH LINE OF LOT 1 AND LOT 4, BLOCK 1, OF SAID L.L. OWENS SUBDIVISION.

SAID PARCEL CONTAINS 38.41 ACRES, MORE OR LESS.

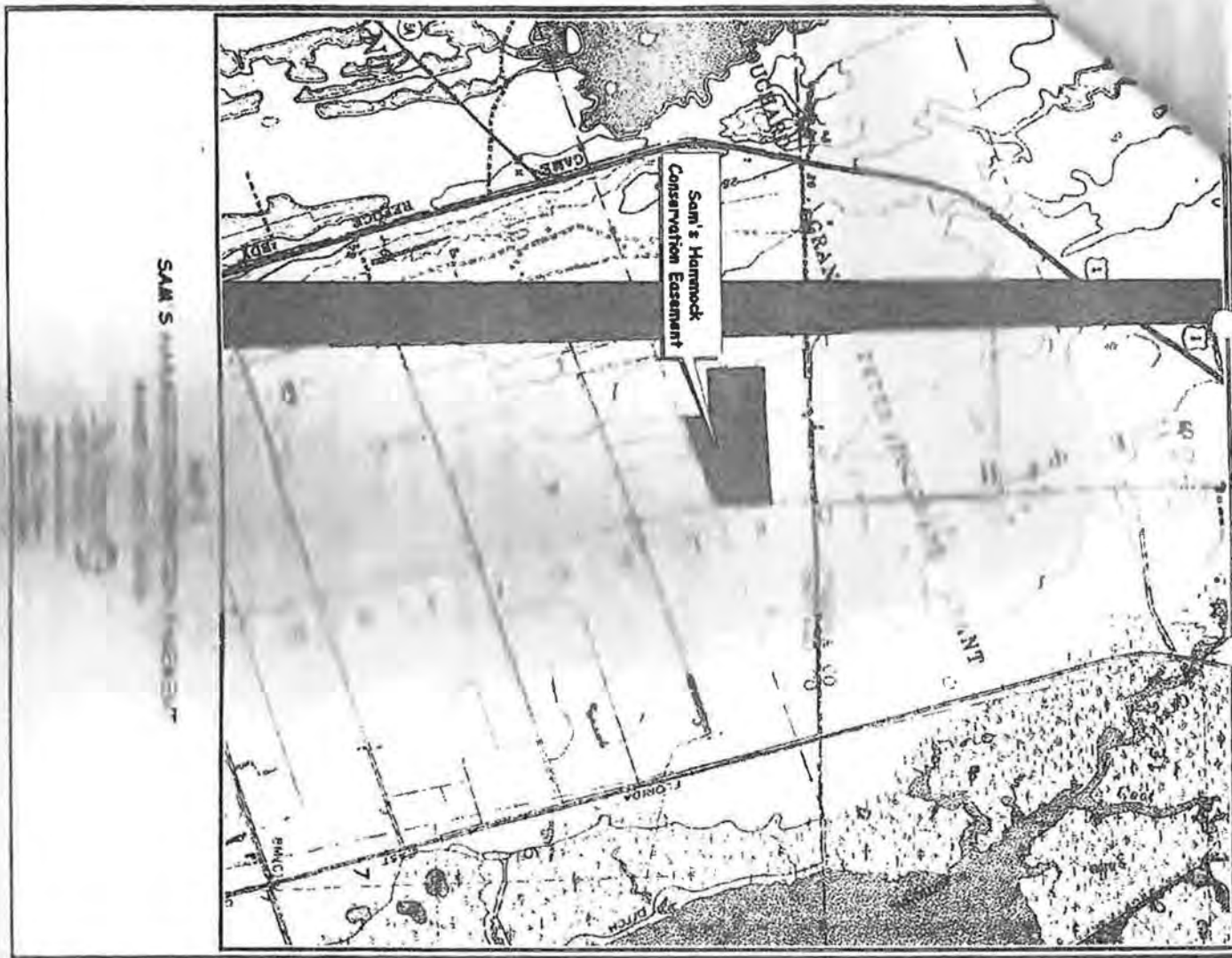
SUBJECT TO ANY EASEMENTS AND OR RIGHT OF WAYS OF RECORD.



**MAP 1**  
**SAM'S HAMMOCK CONSERVATION EASEMENT**  
 Brevard County, Florida

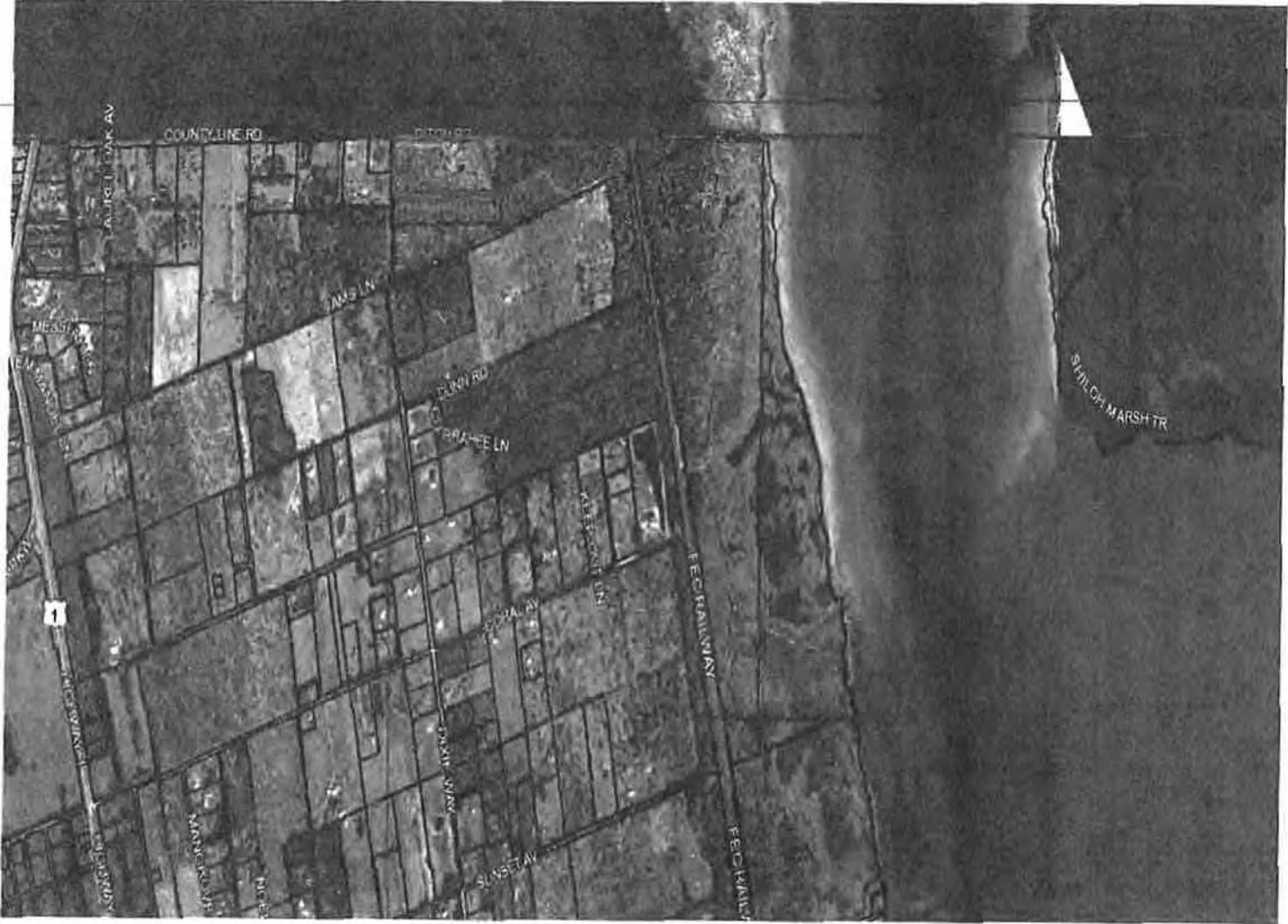
*The Nature Conservancy*   
SAVING THE LAST GREAT PLACES ON EARTH

Wendy J. Caster  
 22 February 2006

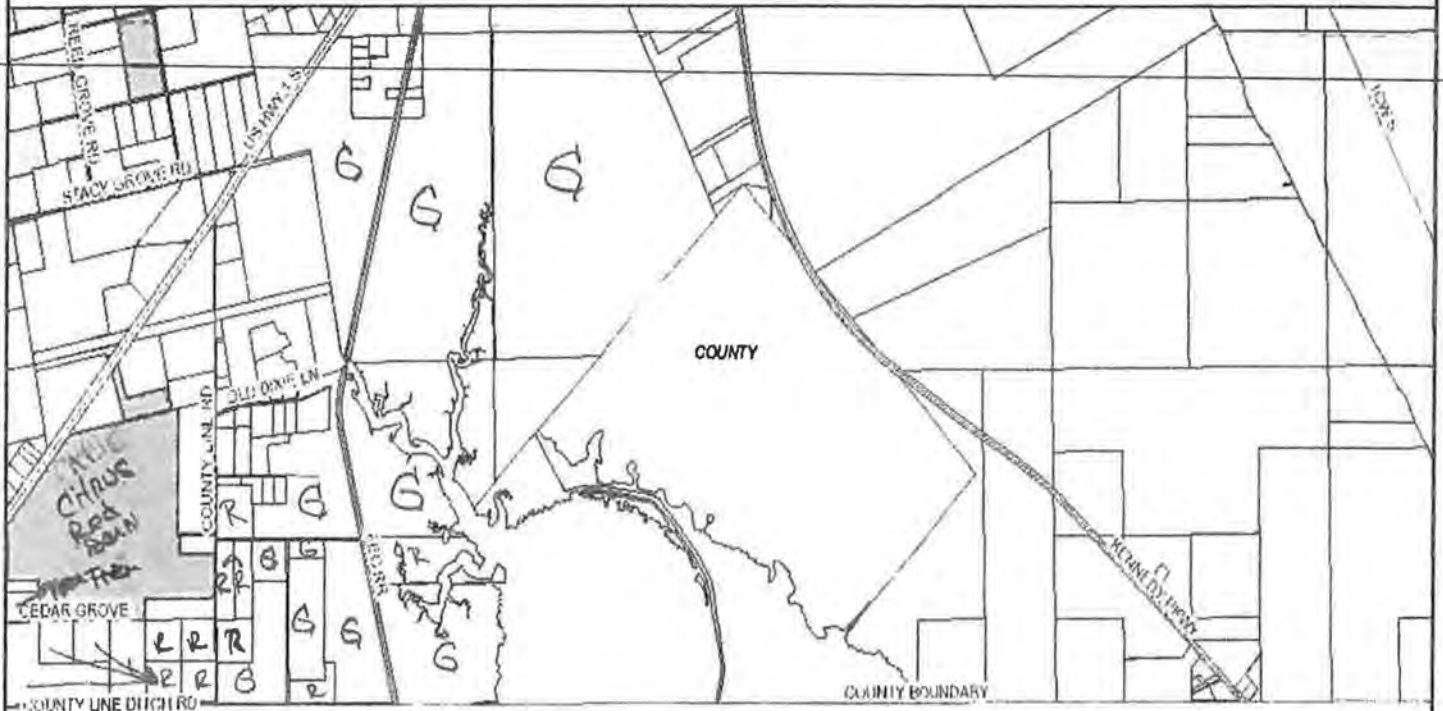


SAM S HAMMOCK





# Volusia County Property Appraiser



R-10AC  
G- Vacant governmental

## thomas map



## Thomas Map #3



# Lagoon





**Newell, Marcia**

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**From:** CHRIS LORENTI <cjl7878@bellsouth.net>  
**Sent:** Thursday, February 28, 2019 7:55 AM  
**To:** Pritchett, Rita  
**Cc:** Melanie Lorenti  
**Subject:** Rezoning Issue AU 2 1/2 to RR1

Good morning Mrs. Pritchett,

My name is Chris Lorenti. My family and I live at 3108 Coral Ave. Mims, FL (North Brevard). We moved out to the country from a very populated city. My wife and I wanted our three girls to grow up experiencing the country life. I know this decision to change the rezoning of our cities property size from 2.5 to 1 acre lots does not seem like a big deal now, but it will have long term effects on our community. I can assure you that this decision will not be a "one and done" occurrence. It will set a precedence. I understand individuals will say that it is their property and they can do what they want. Although that is mostly true, we would not be having this discussion about changing zoning laws if it were totally true. We and others have made this place our home knowing what the lot sizes are. And we are very glad that they are in place. At a time when rural communities are becoming relics, lets stand together and conserve one of America's greatest assets. 2.5 acres at a time...

Thank you for your time,

The Lorenti family

**Newell, Marcia**

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**From:** Max <maxinezieman@bellsouth.net>  
**Sent:** Tuesday, February 26, 2019 2:52 PM  
**To:** Commissioner, D1  
**Subject:** Rezoning in Scottsmeer  
  
**Categories:** EMAIL - MARCIA

Rita Pritchett,

I am contacting you about the rezoning that the Thomas' want to do in Scottsmeer. We moved here to Scottsmeer in 2005. One of the many reasons was because it had pasture land for my horses, plus the ocean breeze is a lifesaver in the summer. We are 100% opposed to changing the zoning to RR1 in this area.

The drinking water issue is one of the biggest reasons. The roads up here would need a major overhaul if zoning changes. More police, fire and emergency service would need to increase. What about the schools? I understand that Pinewood is almost full. But then we have another reason, most people that live here don't want the density or influx of people. We would lose our way of life. Please don't change the zoning to RR1.

I also would like to see a small land use study done that would look into the water issue and other environmental problems. I just think that this really needs to be looked at carefully. Northern Brevard is different than most of the rest of the county.

Thanks,

Maxine Zieman  
John Zieman  
3465 Sunset Ave  
Scottsmeer,

**Newell, Marcia**

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**From:** Alyssa Atkins <nolencarrphotography@yahoo.com>  
**Sent:** Thursday, February 28, 2019 12:23 PM  
**To:** Pritchett, Rita  
**Subject:** Rezoning Scottsmoor from AU 2.5 to RR1

Dear Commissioner Pritchett,

My name is Alyssa Atkins. My husband and I own a home and a cattle ranch in Scottsmoor and have been residents for over 5 years. We purchased our home and land with the intent on living a rural lifestyle. We homeschool our children here and raise our livestock here. We love the close-knit community and the fact that everyone seems to look out for one another.

I have major concerns about the new zoning proposal from AU 2.5 to RR1. Not only am I concerned what the water draw will be from our area to that newly proposed neighborhood (we already have a ridiculously high salt water intrusion here), but also the potential detrimental effects of 14 new septic systems and runoff on our immediate area. Increased traffic is also a concern. While I do understand the land owner wants to make the most out of his investments, I fear that the rezoning will only set a new precedent for others to do the same and we will no longer have the tight-knit, safe, rural community we all know and love. We are farmers, ranchers, and families here longing to live a quiet country life. We are not home builders trying to make a hefty profit placing neighborhoods where they are not wanted. My husband and I intend for this to be our forever homestead. This home and land is our retirement. If this rezoning happens, our entire way of life could be flipped upside down along with our future plans. We are not alone, as I'm sure you already know. You can understand how concerned we are when what we've worked so hard for is in jeopardy.

Thank you so much for your time. I appreciate you hearing my concerns.

Sincerely,  
Alyssa Atkins  
3000 Sunset Ave  
Mims FL 32754  
321.652.9524

**Newell, Marcia**

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**From:** Richard Ceballos <rceballos1937@gmail.com>  
**Sent:** Thursday, February 28, 2019 9:25 AM  
**To:** Pritchett, Rita  
**Subject:** SCOTSMOOR ZONING

Rita,

I am against the rezoning because of water issues and the fact that it will definitely down grade our style of life, that we moved here for.

We will be at the meetings to protest.

Richard I Ceballos

3175 Sunset Ave Scottsmoor, Fl.

**Newell, Marcia**

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**From:** Vanessa McCall <mccall\_vanessa@yahoo.com>  
**Sent:** Thursday, February 28, 2019 9:44 PM  
**To:** Pritchett, Rita  
**Subject:** Rezoning Request for Old Dixie & County Line Road  
**Categories:** EMAIL - MARCIA

Good Evening:  
Short and sweet Ms. Pritchett, I personally believe that zoning should stay at 1 house/2.5 acre.  
Scottsmoor is currently a rural area and I would like to see it kept that way.

Vanessa McCall  
5655 Palm St.



**Newell, Marcia**

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**From:** mellorenti <mellorenti@yahoo.com>  
**Sent:** Tuesday, March 12, 2019 5:06 PM  
**To:** Pritchett, Rita  
**Subject:** Rezoning MISTAKE

Dear Rita,

I truly hope you hear our small community of Scottsmoor's cry for help. We desperately gringe at the thought of a change in zoning. This is my families biggest fear! We chose this small community for the purpose of it being rural. My family and myself needed a slower pace of home life, living here has made my husband and three daughters so happy. Coming from an eggresivly over populated town of Port Orange who's commisioners have aloud the chaos to happen. I no longer feel the stress and burden of coming home. For once I enjoy driving home and up our beautiful road of fields and farm animals.

If this rezoning of 1 acre changes from 2.5 acre we feel is a terrible mistake and sadly will turn into what this community doesn't want as a hole. More people equals more crime! Please keep this community rural the way we chose it to be for a families!

Let's not give into the greed of a single person! This single person will effect thousands of residents in this community in my opinion odds of 1:1,00 do not make proper sense for this town.

Do not let our town become the greedy overpopulated crime ridden end of an era.

Keep Scottsmoor Rule!

Thank you kindly,  
Melanie Lorenti, CPhT  
3108 Coral Ave.Mims, FL 32754  
386-212-9195

Sent via the Samsung Galaxy Note® 4, an AT&T 4G LTE smartphone

## Newell, Marcia

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**From:** Commissioner, D1  
**Sent:** Thursday, March 14, 2019 8:14 AM  
**To:** Newell, Marcia  
**Subject:** Fw: Rezoning in Scottsmeer fl

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**From:** Sheri Plante <kapfarm2@yahoo.com>  
**Sent:** Tuesday, March 12, 2019 11:05 AM  
**To:** Commissioner, D1  
**Subject:** Rezoning in Scottsmeer fl

Dear Mrs. Pritchett,

I Sheri Plante along with my husband Kenneth Plante Jr. humbly ask for your support in NOT passing the rezoning of our community in Scottsmeer. Our community is made up of many hobby farms, large farms, organic groves, organic gardens, humble Christain families and the list goes on.

Our property directly faces the said property entirely. This would greatly affect us and the conservation property to our south. There is also conservation areas to their east! Along with the organic grove to their south. All of us work hard after our regular jobs to maintain this lifestyle.

So many more of us would be at these meetings but we have to work.

My husband and I are very humble people. We have worked hard for what we have. We have tried to pass this on to our children and grandchildren as well.

So many times we have had to compromise our way of life for growth and there are plenty of other areas for that without disrupting so many peoples lives whom do not want this change.

In 37 years we have NEVER used my father in laws name to prosper us in any way, but we lost him a few years back after a 3 year battle with ALS. The point of even mentioning this is he fought so hard for what he felt was best for Florida and mostly the people.

He was so fair and respected by many legislators and politicians that not only did he battle ALS he did it without a voice (not good especially for a politician) but with an incredible smile.

Thank You from the bottom of our hearts for your time and understanding of where we stand on this!

May God truly bless you,  
Kenneth and Sheri Plante

📧 Reply all | 🗑 Delete | 🗑 Junk | ⋮

## Zoning change north of Scottsmoor

Ronald Bartcher <bartcher@cfl.rr.com>

📧 Reply all | ⌵

Today, 9:24 AM

Commissioner, D1 ✖

Inbox

Dear Commissioner Pritchett:

I was greatly disappointed on Monday, March 11, 2019, when the P&Z Advisory Board narrowly voted to recommend approval of a zoning change on 19.75 acres north of Scottsmoor, located at 6705 Dixie Way.





I am writing to you because the concerns of the Scottsmoor residents are my very same concerns. I live halfway between Mims and Scottsmoor and I want to keep this quiet, rural area of North Brevard as is.

I believe that some members of the Advisory Board were swayed to vote for this change because the developer agreed to put in the new high-performance septic tanks. However, this property is about 3700 feet west of the lagoon and any septic tank that far away will not contribute any measurable amount of pollution to the lagoon. The science on this is clear. Thus, the Board created a solution to a problem that doesn't exist. Even worse, the vote was not based on relevant information.

In voting for this change the Board is actually creating a larger pollution problem than exists with the current zoning. We heard testimony from residents that there is runoff from properties in that area and that the ditches have water flowing to the lagoon, even in the dry season. However, because this property is not an active agriculture area, it is essentially vacant land. There is virtually no fertilizer in that runoff. By allowing a higher density of smaller residential lots, there will be runoff containing more yard fertilizer and grass clippings going into the ditches and into the water that flows straight into the lagoon. The developer is only obligated to not increase the runoff; he is under no obligation to decrease existing runoff. Thus, development will not decrease the pollution of the Indian River Lagoon.

It appeared to me that the Board ignored the highly significant issue of compatibility with the surrounding property. This property is directly across the road from property in Volusia county that has been set aside as a Conservation Easement. In addition, just a short distance southwest of this property is a large parcel of Conservation Easement property. Furthermore, immediately to the east is property that is part of the Indian River Lagoon Blueway Florida Forever Project. The subject property is almost surrounded by property that is specifically designated to avoid development. Having a higher density development next to Conservation Easement properties is most certainly not compatible.

In addition to these three objective issues, there are also two subjective issues that, I believe, explain why the P&Z meeting room was filled with residents objecting to this rezoning. First, residents are concerned, and rightly so, that their wells will have problems. More development certainly means more people competing for the limited amount of potable water. The residents testified that some of them have already seen problems with their wells. Second, residents are concerned about a lifestyle change being forced upon them. They deliberately chose to live in this rural area with few houses and large areas of undeveloped land. They do not want neighbors within talking distance. They enjoy the quiet, and they

 Reply all |   Delete Junk |  ...

Stuart Buchanan, who represented the property owners/developers, mentioned that Brevard County has a lot of land that is not on the tax rolls, such as EELs land. This is a red herring and is not relevant to this rezoning case. The residents only want the housing density to remain as is. Thus, keeping the tax rolls intact.

I do hope that you, and the other Commissioners, will consider the real issues around this rezoning request and deny the request.

Regards,  
Ron Bartcher

**Newell, Marcia**

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**From:** rachelburke0325@gmail.com  
**Sent:** Monday, March 18, 2019 7:38 PM  
**To:** Pritchett, Rita  
**Subject:** RR1 Rezoning Scottsmeer

My name is Rachel Burke, my husband and I live at 6010 Dixie Way in Scottsmeer. Right down the road from the proposed RR1 rezoning. We live on a narrow dirt road that is impassable at times due to large trucks, flooding, or the road being in disrepair. On a normal day, two cars can not travel on this road next to one another. Rather, one car must pull up on the side of the road to yield to the oncoming traffic. We have well water that has declined substantially in quality since the cemetery was built. We have had to spend thousands of dollars on having our well re drilled and added reverse osmosis and a chlorinator just to have drinkable water. Salt intrusion is something we worry about with the expansion of the cemetery and each new home that is built. We live on 5 acres; as do all of our neighbors. Our area is currently zoned for agriculture; one home per 2.5 acres. All of our homes are like this. Please do not approve the rezoning for RR1. This would have an immense negative impact on our water and way of life. We all live here because we love the land and rural way of life. The RR1 would NOT match anything around it. Rather, a crowded eye sore. Please take into consideration what the community thinks. We greatly need your help in preventing this from being passed. Please vote no to rezoning.

Sent from my iPhone



## Commissioner, D1

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**From:** Lovelee4x4 <lovelee4x4@aol.com>  
**Sent:** Monday, March 18, 2019 10:20 AM  
**To:** Commissioner, D1  
**Subject:** PLEASE KEEP SCOTTSMOOR RURAL  
  
**Categories:** MARCIA

Dear Commissioner Pritchett,

I am writing in regards to the upcoming hearing for rezoning in Scotts Moor  
Please, Please do not allow this!!

We moved here many years ago BECAUSE of the zoning laws to keep it rural, and we have enjoyed riding the horses and walking the dogs up and down the dirt roads for many years, there was very little traffic and we loved the farms and groves. we came here to enjoy the rural farm lifestyle and felt it was always safe from overbuilding! Allowing someone from outside Brevard to come here and ruin it for us, is a slap in the face!!

While progress HAS come to our area, and the traffic is much worse and we hardly feel safe riding the roads or even walking the dogs from the speeding vehicles.....We have accepted and lived by this law for the many years we've been here and we expect it to remain so!! We will deal with what progress there is as long as they adhere to the current law, allowing so many more houses is unfair to every resident here!!

The precedent it sets is quite frightening!!

as elected officials, its your duty to uphold the will and desires of your people, and i do not know a single person in Scotts Moor that wants the area overbuilt this way!!

PLEASE DO NOT ALLOW THE ZONING TO BE CHANGED!!

Thank you for your time and consideration!

Sincerely,

Tom and Lee Francis

3400 Coral Ave

321-289-2701

## Commissioner, D1

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**From:** Ronald Bartcher <bartcher@cfl.rr.com>  
**Sent:** Sunday, March 17, 2019 7:26 PM  
**To:** Commissioner, D1  
**Subject:** Future Land Use change in Scottsmoor

Dear Commissioner Pritchett:

I object to the Future Land Use change that is being considered for Joseph Brandon and Nikki Thomas' property on County Line Ditch Road, north of Scottsmoor.

In 2008, following the Brevard County Commission's acceptance of the Mims Small Area Study, the County arbitrarily extended the dividing line between RES 1 and Res 1-2.5 Future Land Use from Flounder Creek Road north to the county line. Apparently, they used an arbitrary distance (of approximately 6500 feet) from US1 and just drew a line north to the county line. This arbitrary extension caused many properties to end up with two separate Future Land Uses. A more logical approach would have been to select a natural division line, such as the road Dixie Way, as the dividing line to avoid creating a problem for property owners.

An even more logical approach would have been to designate all property north of Scottsmoor, except for that facing US1, to have a Future Land Use of RES 1-2.5, since all that property is 2.5 acres or more. By using RES 1-2.5 Future Land Use, the County would have avoided creating a large area of Zoning/ Future Land Use inconsistencies, since virtually all this property is Zoned AU (which allows same density as RES 1-2.5).

One more thing to consider is that density, like beauty, is in the eye of the beholder. If a resident lives in a city, then one house per acre appears to be low density. To residents that live in this rural area of North Brevard, one house per acre is viewed as high density; one house per 2 ½ acres is medium density; and we would view one house per 20 acres as low density. This difference in perspective is important when considering Future Land Use changes. Future Land Use changes should not affect the residents in a negative manner. The residents of this area live here specifically because of what they perceive as low density. They have invested their money and located their families in this rural area of Brevard, and they rightly expect the Land Uses will continue to be compatible with their community values.

Please deny the Future Land Use change that is being considered for Joseph Brandon and Nikki Thomas' property on County Line Ditch Road, north of Scottsmoor.

Regards,  
Ron Bartcher

## **Commissioner, D1**

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**From:** dbotto1 <dbotto1@cfl.rr.com>  
**Sent:** Saturday, March 16, 2019 1:52 PM  
**To:** Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Subject:** Scottsmoor Re-zoning Proposal

Please refer to my E Mail dated March 10.  
The subject zoning change, if approved, would be a glaring example of irresponsible land use management.  
I respectfully urge you to reject this request.

David C. Botto  
Indian Harbour beach  
321 773 2327



## Representative Rene "Coach P" Plasencia

Florida House of Representatives  
District 50

400 South St #1C  
Titusville, FL 32780  
(321) 383-5151

Orange County Legislative Delegation  
Brevard County Legislative Delegation  
Rene.Plasencia@MyFloridaHouse.Gov

317 House Office Building  
402 S. Monroe St. Tallahassee, FL 32399  
(850) 717-5050

March 15, 2019

Commissioner Rita Pritchett  
Brevard County District 1  
2000 S. Washington Ave., Suite 2  
Titusville, FL 32780

RE: North Brevard Re-Zoning Request

Commissioner Pritchett,

It has come to my attention that there is currently a re-zoning request going before the Brevard County Commission on 4 April, 2019 to have 19.75 acres in North Brevard rezoned to RR 1, one home per acre, which is current zoned as AU 1:2.5. I was made aware that at the March 11<sup>th</sup> Planning & Zoning meeting there were only two letters submitted supporting the re-zoning request while there were 157 property owners who signed the petition opposing it.

These properties at risk of being rezoned are the agricultural properties currently serving as Florida Forever and Blueways buffers, and a number of them are targeted as Florida Forever acquisitions. Currently these agricultural properties provide essential contiguous habitat for wildlife and forage for migrating birds. To compound the negative aspects of this proposed re-zoning, all of these properties are directly inter-connected via open storm water drainage directly to the lagoon. I ask that you please take the time to consider the ramifications of this re-zoning if it were to be approved. It is my belief that decades of effort to protect the Eastern side of the Indian River Lagoon in North Brevard County, while establishing effective contiguous Florida Forever wildlife habitat and corridors will have been for naught if this passes.

Feel free to reach out to me if you have any questions.

Respectfully Yours,

A handwritten signature in black ink that reads "Rene Plasencia".

Representative Rene "Coach P" Plasencia

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*Proudly Serving East Orange County & Brevard County*  
**Workforce Development & Tourism Subcommittee - Chair ; Health Quality Subcommittee - Vice Chair ;  
Appropriations Committee ; Commerce Committee ; Health Care Appropriations Subcommittee ; Oversight,  
Transparency & Public Management Subcommittee**

## Newell, Marcia

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**From:** Scottsmoor Community Association <scottsmoorcommunityassociation@gmail.com>  
**Sent:** Wednesday, February 27, 2019 8:35 PM  
**To:** Newell, Marcia; Pritchett, Rita  
**Subject:** Scottsmoor Meeting Monday Feb 25th

c/o: Commissioner Pritchett:

Monday night we held our monthly meeting and invited the Thomas' to speak to the community in regards to their want of zoning changes to their land on the end of Dixie Hwy and County Ditch Line Rd. In my tenure as President I have never seen this many people attend. We quite often reach 40 but we exceeded 100 residents on Monday night.

It was also the first time we had 5 past Presidents of SCA in the hall at one time. The issue of rezoning is a bigger deal than I could have even anticipated. I will let you know that there is currently 7 pages of signed petition. And there will be many who attend the next P&Z meeting.

I am not sure if you started to receive input on this matter but I am sure you will get plenty of comments. I will tell you that other than the Thomas' there was not one person at the meeting that agreed with the Thomas' position.

It was my understanding that they were to come to speak with the community to come to a possible compromise. He has no intention of compromise. He answered questions and those he could not answer he just by passed over. He was pretty adamant that he has a right to change the zoning. It is his land to do with as he sees fit. And the neighbors have little say. So I'm sure you can appreciate how that was received.

Although the residents showed signs of frustration and did at times get a bit loud they showed restraint and let their voice be heard. I do not know how much was video taped but his son did tape some of the presentation.

I wanted to touch base with you as a courtesy and let you know what is happening to date.

Like I said, many will attend the planning and zoning meeting on March 11th. But everyone is aware that the request will come before the Board of County Commissioners in April (no matter what way the zoning board should vote). Again, a heads up, there are residents who have pledged payment for bus transportation. And it looks like collections are taking place for at least another bus for the April Commissioner meeting should the need arise.

Again, I wanted to show you a courtesy and let you know what is going on. But understand that I personally do not want this zoning to change and I will be attending the meetings and writing emails in 2 capacities, both as a resident and a member of Scottsmoor Community Association.

Lastly, it is our request as a community that scientific professionals are paid for by anyone wanting to change zoning that would address the concerns of water management, ecology and Indian River impact. And we request that a true Future Land Use Study be done with our area as focus, not Mims. Extrapolating out a Land Use Study done by Mims with Mims residents and future in mind is not Scottsmoor. And it does not accurately represent the area. We are 8 miles from Mims.

Thanks,



I am sure I will speak with you soon.  
Rose McGinnis

## Newell, Marcia

---

**From:** Scottsmoor Community Association <scottsmoorcommunityassociation@gmail.com>  
**Sent:** Tuesday, February 19, 2019 3:31 PM  
**To:** Newell, Marcia  
**Subject:** Scottsmoor

Hi Marcia,

I found this email returned to me so I am sending a copy of the original to you.

Commissioner Pritchett:

I am writing to give some perspective on the new building in Scottsmoor. A week ago I received a call letting the community know that there would be a request for zoning and land use change in Scottsmoor at a property on the corner of Dixie Way and County Ditch Rd.

The zoning request is the area of concern. I am receiving calls daily and some emails with people apposed to this change in any way. The building in our area is exploding. We expect that and welcome it in the current perimeters of 1 home per 2 1/2 acres.

The zoning change is asking for RR1 rating. This would allow building on 1 acre. A rate of 2 1/2 time the current rate could be a strain on our resources and roads. Dixie Hwy is dirt and has small farms and horse ranches. It is home to gofer turtles, Osprey, and numerous birds. Not to mention the strain on our fresh water reserves. Many houses in that area are already having problems with salt water intrusion. And lastly all the future statistics for our schools growth is based on projections that include a 2 1/2 acre lot. Allowing RR1 will increase theses projections by up to 2 1/2 times. Pinewood is already expected to exceed capacity in the next few years. Setting a precedent to build at a RR1 would cause major problems for all of this.

This has not passed Planning and Zoning at this point. But they will address the zoning again next month. If passed it will then be presented to the Board of Commissioners. This may take place as soon as the April Commissioner meeting.

As I understand the situation there was a Land Use Study done by Mims that only reached up to Flounder Creek Rd. There is not a land use study done north of that area that I am aware of. I would like to request a future land use study for Scottsmoor. And a possible review of the Future Land Use study by Mims that includes voting district 106.

Thomas' (the land owner asking for a change) will be addressing the community on Monday Feb 25th at 6:45 pm. But, I am guessing that there will be trouble agreeing to any compromise. There is concern that any allowance will set a precedence to allow all AU properties in this area the right to change their zoning.

I am sure that there are some land owners that would love the idea of selling their property under RR1. Their property value would surely increase. SCA is neutral here. I am only trying to relay the concerns of those who have contacted me. But I have only heard negative reaction to this zoning issue(not including the Thomas'). Should I receive other opinions on the subject I would provide them.

Please let us know how to proceed to have a vote for Future Land Use in our area by Brevard County Commisioners.

Thank you

Rose McGinnis: President; Scottsmeer Community Association

## Commissioner, D1

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**From:** Maureen Rupe <rupe32927@earthlink.net>  
**Sent:** Monday, March 18, 2019 9:57 AM  
**To:** Commissioner, D4; Commissioner, D2; Commissioner, D1; Commissioner, D5; Commissioner, D3  
**Subject:** re-zoning request 4 April, 2019 to have 19.75 acres rezoned to RR 1, one home per acre  
**Categories:** MARCIA

There is a re-zoning request going before the Brevard County Commission on 4 April, 2019 to have 19.75 acres rezoned to RR 1, one home per acre near the Volusia-Brevard County Line (see attached jpg).

The Brevard County Commission must at some time realize that increasing density along our Indian River Lagoon is detrimental to the work our residents are doing to try to fix the lagoon. The area in question must require septic systems due to not having sewer service anywhere close to the property. Septic Systems in this area is detrimental even at one per 10 acres. It would not even be the number of septic tanks you would be adding so close to our precious Indian River Lagoon, but any residential properties seems to be addicted to having grass on their lawns and public areas. Increasing density allows more nitrogen and phosphorus into the lagoon, as this area allows any contamination immediately into the lagoon's water shed.



Has the County Commission thought about the damage it is doing by repeatedly increasing density around the lagoon and St John's River? Do the residents of Brevard County realize this increase in density is basically removing any positive effects our tax dollars are doing to restore the Indian River Lagoon? Shouldn't the county conduct a study on the effects the increased density is having on the Indian River Lagoon's water quality? .

Please do not allow this increase in density on our northern county borders. In addition, please conduct a study to find what harm is being done with continually increasing density. It is the minimum we should be doing whilst the rezones on Merritt Island continue, and septic tank Permits still being approved by the State. Thank you.

Sincerely,  
Maureen Rupe  
7185 Bright Ave  
Port St John, 32927  
321-639-6839

"One of the penalties for refusing to participate in government is that you end up being governed by your inferiors." - Plato



## Newell, Marcia

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**From:** County Commissioner District 1 <BEACH.ADMIN@Brevardcounty.us>  
**Sent:** Thursday, March 21, 2019 8:06 AM  
**To:** Newell, Marcia  
**Subject:** Phone Log - Roger Schliessman

County Commissioner District 1

### ***Roger Schliessman*** has been added

[Modify my alert settings](#) | [View Roger Schliessman](#) | [View Phone Log](#) | [Mobile View](#)

**Name/Company:** Roger Schliessman  
**Phone Number:**  
**Date/Time Call Received:** 3/21/2019 4:00 PM  
**Purpose of Call:** Please vote no on the Scottsmeer re-zoning. Will be sending an email.  
**Follow Up Needed:** Marcia Newell  
**Date Received:** 3/21/2019

Last Modified 3/21/2019 8:04 AM by Craddock, Amy

## Newell, Marcia

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**From:** County Commissioner District 1 <BEACH.ADMIN@Brevardcounty.us>  
**Sent:** Wednesday, March 13, 2019 2:51 PM  
**To:** Newell, Marcia  
**Subject:** Phone Log - Henry Blair/5651 Travis Street M...

[County Commissioner District 1](#)

### **Henry Blair/5651 Travis Street M...** has been added

[Modify my alert settings](#) | [View Henry Blair/5651 Travis Street M...](#) | [View Phone Log](#) | [Mobile View](#)

**Name/Company:** Henry Blair/5651 Travis Street Mims FL 32754  
**Phone Number:** 321-223-2472  
**Date/Time Call Received:** 3/13/2019 2:45 PM  
**Purpose of Call:** Mr. Blair called to say that he does not want the subdivision in Scottsmoor. He does not want a call back just wanted the Commissioner to know that he is against it.  
**Follow Up Needed:** Marcia Newell  
**Date Received:** 3/13/2019

Last Modified 3/13/2019 2:46 PM by Mascellino, Carol

## Newell, Marcia

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**From:** County Commissioner District 1 <BEACH.ADMIN@Brevardcounty.us>  
**Sent:** Thursday, March 14, 2019 10:16 AM  
**To:** Newell, Marcia  
**Subject:** Phone Log - Jeanette Paynter/5923 Vermont St...

County Commissioner District 1

### ***Jeanette Paynter/5923 Vermont St...*** has been added

[Modify my alert settings](#) , [View Jeanette Paynter/5923 Vermont St...](#) | [View Phone Log](#) | [Mobile View](#)

**Name/Company:** Jeanette Paynter/5923 Vermont St Mims FL 32754

**Phone Number:** 321-543-0988

**Date/Time Call Received:** 3/14/2019 9:00 AM

**Purpose of Call:** Ms. Paynter called to let our office know that she is against the rezoning in Scottsmoor. She is concerned about the water in Mims/Scottsmoor. She said that her well has caved in as well as 3 of her neighbors and feels that it is because of a water shortage. She has heard that the City of Titusville has tapped into fields for water across I-95 in Mims. She asked if there is a future plan for city water to come to her area because she would gladly pay for it.

**Follow Up Needed:** Marcia Newell

**Date Received:** 3/14/2019

Last Modified 3/14/2019 10:16 AM by [Marcia Newell](#), Carol

**From:** Commissioner, D1  
**To:** Jones, Jennifer  
**Subject:** FW: Please oppose density increase in Scottsmeer  
**Date:** Wednesday, March 27, 2019 10:52:35 AM

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Another email just received for Scottsmeer item.

**From:** Douglas and Mary Sphar <canoe2@digital.net>  
**Sent:** Wednesday, March 27, 2019 10:47 AM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>  
**Subject:** Please oppose density increase in Scottsmeer

Dear Commissioner Pritchett,

I am very concerned about the proposed zoning change from AU to RR-1 on 19.75 acres in Scottsmeer and the associated Comprehensive Plan change for 3.15 of those acres from RES 1:2.5 to RES 1. This agenda item will be heard by the Commission on April 4.

Scottsmeer is a very special rural area and increasing the density on the subject property would conflict with the community character. I attended the March 11th P&Z meeting for this item, where it was stated that the nearest property with a similar zoning for 1-acre lots was a mile away. From the P&Z minutes on the Brevard County website, page 13:

Bruce Moia – From the picture I have, everything around here is AU (Agricultural Residential), where is the closest zoning similar to what they're requesting?

Erin Sterk – I think it's more than a mile away.

Having attended all the local community workshops for the "How Shall We Grow?" visioning initiative several years ago, I believe that increasing density in this Scottsmeer area is exactly how we shouldn't grow! In fact, one of the 4 conclusions of that visioning exercise was captured under the Regional Growth Priority "Countryside", meaning "Maintaining Central Florida's heritage of agriculture and small villages." Additional information can be found on the East Central Florida Regional Planning Council website.

A much more appropriate place for North Brevard to grow is Titusville.

If this density increase is granted, a precedent will be established, allowing other nearby landowners to ask for the same density to build subdivisions that ignore community character and help destroy it.

In addition, the subject property is in an area with a network of conservation lands including the Indian River Lagoon Blueway Florida Forever Project, some parts of which have been purchased as public land and some that need to be acquired. Our Indian River Lagoon should be top priority!

I have recently been reviewing some sea level rise and resiliency documents from the East Central Florida Regional Planning Council that pertain to Brevard County, and have concluded that the Blueway Project lands will become more and more critical to our County's resilience. The Scottsmeer rural lands combine with the conservation lands to provide a first

line of defense to mitigate the effects of sea level rise.

In conclusion, please vote NO on the requested rezoning and associated Comp Plan change on April 4th.

Thank you,

Mary Sphar  
825 Cliftons Cove Ct.  
Cocoa, FL 32926



## Rezoning Request for 6705 Dixie way, Mims

18PZ00153

18PZ00154

Neighbor statement:

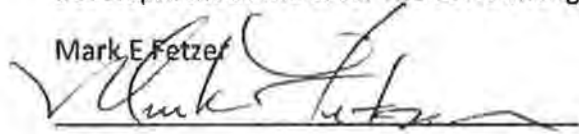
Owners: Fetzer, Mark E Trustee

Parcel ID: 20G-35-39-01-\*-C, 20G-3539-01-\*-E, 20G-35-40-C-8-136.01

To whom it may concern,

I am aware of the request for the Plan Amendment to the Future Land Use Map and Request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not have any concerns with this request. I believe the zoning change is consistent with the development of the area. The Zone change request has my support.

Mark E Fetzer

A handwritten signature in black ink, appearing to read 'Mark E Fetzer', is written over a horizontal line.

Date: 7 March 2019

To: Whom it may Concern  
From: Leslie H. Hallum

I was born and raised in Scottsmeer, Fla.  
I graduated from Georgia Institute of Technology  
as a Civil Engineer. I (We) presently live on  
Dixie Way and have lived here (5875 Dixie Way)  
for the past 58 years. We were the first to  
build on Dixie Way in this area, and we had no  
problem with water. I sold the property to the  
Thomas Family approximately six years ago.  
When we had the property (6705 Dixie Way) we  
had no water problem there.

We have no objections to the re-zoning and I have talked  
to 28 people about the re-zoning and they have  
no problem. The largest property owner in this  
area (adjacent) also has no objection. Water flows  
from West to east. The Community should be  
concerned about the water they are losing going  
to Titusville off of 5A. Also Titusville has a test  
well adjacent to my property, corner of Dixie Way  
and Huntington Ave and no water problems even though  
it is east of Scottsmeer where all the houses are.  
Most houses up in Scottsmeer are mostly built on  
 $\frac{1}{2}$  to 1 acres plots. I lived at the corner of Travis &  
Huntington West of U.S. 1 - 20 yrs. - No water problem

The Thomases we've known for approximately  
6 years+ and they are very responsible.  
The development they want to do would be  
an improvement to the area. Also maybe  
in the future we could have paved streets. Also  
the vehicles/traffic from this area will  
go out Count Line Road, set up for two lane  
traffic.

I would like <sup>to be</sup> at the meeting, but I can't  
because of my health.

Leslie H. Hallum  
5875 Dixie Way  
Mims, FL 32754

Phone No. - (321) 264-9830

## Rezoning Request for 6705 Dixie Way, Mims

18PZ00154

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name :

Jason Kuder

Print

Signature

6753 Keep Out Lane, Mims FL 32754

Address

Residence(s) Name :

Clare Gilbert

Print

Signature

6753 Keep Out Lane, Mims FL 32754

Address

signed  
other first

Residence(s) Name :

Print

Signature

Address

## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Leslie H. Hallum Leslie H. Hallum  
Print Signature  
5875 DIXIE WAY Mims, FL. 32754  
Address

Residence(s) Name : Myrtle M. Hallum Myrtle M. Hallum  
Print Signature  
5875 DIXIE WAY Mims, FL. 32754  
Address

Residence(s) Name : DOROTHY Fleming Dorothy Fleming  
Print Signature  
5805 Dixie Way Mims, FL. 32754  
Address



## Rezoning Request for 6705 Dixie Way, Mims

18PZ00154

### Rezoning Acknowledgement:

To whom it my concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Theresa Carver Theresa D Carver  
Print Signature  
6010 US-1 Mims, FL 32754  
Address

Residence(s) Name : Chance Porter Chance Porter  
Print Signature  
4300 April Lane Mims, FL 32754  
Address

Residence(s) Name : Samantha Parsons Samantha Parsons  
Print Signature  
3795 Summer Ave Mims FL 32754  
Address  
~~store~~ store manager at Dollar General

## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Shirley Bennett Raymond Bennett  
Print Signature  
5706 TRAVIS ST  
Address

Residence(s) Name : Raymond Bennett Shirley Bennett  
Print Signature  
5706 TRAVIS ST  
Address

Residence(s) Name : Dwight Bennett Dwight Bennett  
Print Signature  
2838 SUMMER ST  
Address

## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : John G. Krampert John Krampert  
Print Signature  
6065 Dixie Way, Mims, FL  
Address

Residence(s) Name : Atsuko M. Krampert Atsuko Krampert  
Print Signature  
6065 Dixie Way, Mims, FL  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address

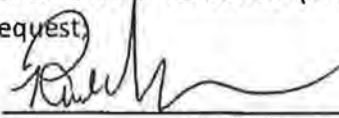
## Rezoning Request for 6705 Dixie Way, Mims


**18PZ00154**

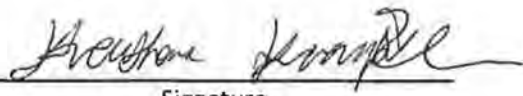
### Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request.

Residence(s) Name : Paul Krampert   
Print Signature  
6075 Dixie Way, Mims, FL 32754  
Address

Residence(s) Name : Monica Krampert   
Print Signature  
6075 Dixie Way, Mims, FL 32754  
Address

Residence(s) Name : Katherine Krampert   
Print Signature  
6075 Dixie Way, Mims FL 32754  
Address

## Rezoning Request for 6705 Dixie Way, Mims

18PZ00154

### Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Regina Krampert Regina Krampert  
Print Signature  
6015 Dixie Way, Mims  
Address

Residence(s) Name : Jennifer Krampert Jennifer Krampert  
Print Signature  
6075 Dixie way, Mims FL 32754  
Address

Residence(s) Name : CARL KRAMPERT Carl Krampert  
Print Signature  
6085 DIXIE WAY, MIMS, FL 32754  
Address



## Rezoning Request for 6705 Dixie Way, Mims

18PZ00154

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : MARK BENNETT Mark Bennett  
Print Signature  
8706 TRAVIS ST Scottsboro  
Address

Residence(s) Name : Gary Gray Gary Gray  
Print Signature  
5905 Dixie Way - Mims, FL 32754  
Address

Residence(s) Name : Carla Gray Carla Gray  
Print Signature  
5905 Dixie Way - Mims, FL 32754  
Address

## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Brandon Wheeler Bel A  
Print Signature  
5845 Magnolia Street  
Address

Residence(s) Name : Larry E Hartman Larry E Hartman  
Print Signature  
5895 Magnolia St Mims 32754  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address

## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name :

James Rutledge

Print

James Rutledge

Signature

3000 Coral Avenue

Address

Residence(s) Name :

Rosie Rutledge

Print

Rosie Rutledge

Signature

3000 Coral Avenue

Address

Residence(s) Name :

Print

Signature

Address

## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Albert W. Simmons Albert W. Simmons  
Print Signature  
Mims, FL 32754  
Address

Residence(s) Name : Patricia Simmons Patricia Simmons  
Print Signature  
Mims, FL 32754  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address

## Rezoning Request for 6705 Dixie Way, Mims

18PZ00154

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Julia K. Hallum Julia K. Hallum  
Print Signature  
5795 Dixie Way, Mims, FL 32754  
Address

Residence(s) Name : BRYAN H. Hallum Bryan H. Hallum  
Print Signature  
5795 DIXIE WAY MIMS FL 32754  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address



## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Brenda Lucas Brenda Lucas  
Print Signature  
5639 Vermont St. Mims FL 32754  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address

## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

### Rezoning Acknowledgement:

To whom it my concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Robert E. Mitchell Robert E. Mitchell  
Print Signature  
5747 Vermont St.  
Address

Residence(s) Name : Barbara J. Mitchell Barbara J. Mitchell  
Print Signature  
5747 Vermont St.  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address

## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

### Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name :

Lisa Raisch

Print

LR

Signature

3235 Aurantia Rd Mims FL 32754

Address

Residence(s) Name :

Chris Raisch

Print

CR

Signature

3235 Aurantia Rd Mims FL 32754

Address

Residence(s) Name :

Patricia Kiser

Print

Patricia L Kiser

Signature

3760 Kinn Ct Mims FL 32754

Address

**18PZ00154**

Address

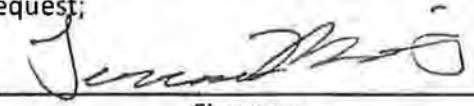
## Rezoning Request for 6705 Dixie Way, Mims


**18PZ00154**

### Rezoning Acknowledgement:

To whom it may concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Terrence Manning   
Print Signature  
3635 Montgomery Rd Mims FL 32754  
Address

Residence(s) Name : Jessica Manning   
Print Signature  
~~3263~~ 3635 Montgomery Rd Mims FL 32754  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address



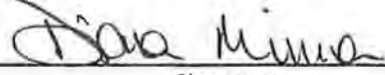
## Rezoning Request for 6705 Dixie Way, Mims

**18PZ00154**

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To whom it my concern,

I am aware of the Rezoning request to change the total property Zoning classification from Agricultural Residential (AU) with a minimum lot size of 2.5 acres to Rural Residential (RR-1) with a minimum lot size of one acre. I do not oppose the rezoning request;

Residence(s) Name : Diana Minerva   
Print Signature  
4138 Sweet Bay Dr. Mims, FL 32754  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address

Residence(s) Name : \_\_\_\_\_  
Print Signature  
\_\_\_\_\_  
Address

## Commissioner, D1

---

**From:** Leesa Souto <Leesa@mrcirl.org>  
**Sent:** Saturday, March 30, 2019 8:51 AM  
**To:** Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Cc:** jimswann@cfl.rr.com; Duane DeFreese IRL Council; Bill Cox; Bo Platt; Bob Day; Dave Botto; Jim Moir; Ken Lindeman; Ken Tworoger; Lady Shirley Belrne; Mary Chapman-Mundt; Maureen Rupe; Paul Laura; Stephen E. Chalmers; Terry Casto  
**Subject:** Please Deny Request to re-zone Brandon and Nikki Thomas property  
**Attachments:** BOCC\_Letter\_Rezoning.pdf  
**Categories:** AMY

March 30, 2019

Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

SUBJ: Please Deny Request to re-zone Brandon and Nikki Thomas property

Dear Chairwoman Isnardi and Distinguished Members:

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon (IRL) and we are pro-actively supporting the Indian River Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We have significant concerns with the subject re-zoning which contradicts the purposes of the Save our Lagoon Project Plan.

The subject property is adjacent to and a buffer for the Florida Forever Blueway Project, of which Brevard is a participating partner. It is part of a larger area of agriculture lands which are prime Florida Forever targets for conservation and preservation from development. Most importantly, the land drains directly into the lagoon. Approval of this request will open it for development and, by precedence, *will open the entire area for the same.* The result will be a disastrous loss of pervious, water storing land essential to the sustainability of our lagoon and add yet more polluting run-off from roofs, lawns and pavement as well as ultimately, more new sewer and septic needs. New development at this scale will amplify more muck and wastewater problems.

Considering the causes and effects of our present lagoon condition, approval of the subject density change request would be a serious mis-management of land use and lagoon use. We recommend that all such requests be shelved until a study of land use impact in the IRL basin be made. These development enabling changes come at a time when regional reports are focused on new challenges to Florida's waterways, water supplies and quality of life from more population growth, especially when magnified by real affects from a changing climate. We recommend that Brevard County and Municipalities adopt, in its entirety, the Low Impact Development (LID) concept endorsed by both US EPA and Florida's DEP and clearly presented in their web sites. The concept is founded on the critical need to increase pervious, water storing land and to reduce the destructive run-off loss of water, an increasingly valuable resource. We also invite you to review the Regional Resiliency Action Plan by the East-central Florida Regional Planning Council. We must look to the future.

The Marine Resources Council requests that you deny the subject re-zoning.

Respectfully,

Leesa Souto, Ph.D.



# Marine Resources Council

Turning Science into Action

3275 Dixie Hwy NE, Palm Bay, FL 32909 (321) 725-7775 [www.SaveTheIRL.org](http://www.SaveTheIRL.org)

March 29, 2019

Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

SUBJ: Request to re-zone Brandon and Nikki Thomas property

Dear Chairwoman Isnardi and Distinguished Members,

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon (IRL) and we are pro-actively supporting the Indian River Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We have significant concerns with the subject re-zoning which contradicts the purposes of the Save our Lagoon Project Plan.

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Considering the causes and effects of our present lagoon condition, approval of the subject density change request would be a serious mis-management of land use and lagoon use. We recommend that all such requests be shelved until a study of land use impact in the IRL basin be made. These development enabling changes come at a time when regional reports are focused on new challenges to Florida's waterways, water supplies and quality of life from more population growth, especially when magnified by real affects from a changing climate. We recommend that Brevard County and Municipalities adopt, in its entirety, the Low Impact Development (LID) concept endorsed by both US EPA and Florida's DEP and clearly presented in their web sites. The concept is founded on the critical need to increase pervious, water storing land and to reduce the destructive run-off loss of water, an increasingly valuable resource. We also invite you to review the Regional Resiliency Action Plan by the East-central Florida Regional Planning Council. We must look to the future.

The Marine Resources Council requests that you deny the subject re-zoning.

Respectfully,

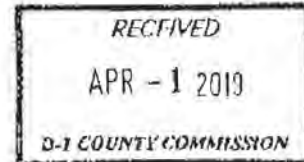
A handwritten signature in dark ink, appearing to read 'Leesa Souto'.

Leesa Souto, Ph.D.  
Executive Director

cc: Jim Swann, Duane DeFreese

Scottsmoor Community Association  
3724 Magoon Ave.  
Mims, FL 32754

Commissioner Rita Pritchett  
2000 South Washington Avenue  
2nd Floor  
Titusville, Florida 32780



Dear Commissioner Pritchett,

The Scottsmoor Community would like to thank you for taking the time to speak with three of our members regarding a proposed Small Area Plan change to the existing Brevard County Future Land Use Map, and the associated request to change the existing zoning on that 19.75 acres from AU 1:2.5, minimum 2.5 acres per home, to R:1, 1 home per acre. The subject property is the North East corner of Brevard County at the intersection of Dixie Way and County Line Ditch Road, Southeast corner. An aerial map of the affected rural residential Scottsmoor area is attached with this letter to better illustrate the rural nature of our Scottsmoor Community. Additionally, there is a map included to this package illustrating the the physical proximity of the parcel subject to the requested rezoning with respect to the designated dedicated conservation properties surrounding it.

As our members Rose McGinnis, Jerrad Adkins, and David Laney conveyed to you, the Scottsmoor Community Association, and over 1,100 other residents of this section of North Brevard County vigorously oppose these requested changes. Our opposition is not based in a total opposition to development. In fact we welcome our new neighbors who come to enjoy our rural community values and contribute to the preservation of our rural environment. Rather, our opposition stems from the negative impacts that would absolutely result from increased population density and the inordinate demand that development would place on our rural environment and the resources and infrastructure which currently sustain it. Additionally, we believe our objections to this requested rezoning are well founded and supported by principles and requirements set forth in Florida State Statutes, the Florida Long Range Comprehensive Plan, and the Brevard County Long Range Comprehensive Plan.

The concerns our Scottsmoor Community Members expressed to you included the direct impact on our already fragile surficial aquifer, directly resulting from an increased pumping demand accruing from an increased residential development density. This surficial aquifer is the source of potable residential well water for all homes in the Scottsmoor area, as well as a source for agricultural irrigation. Our concern for the degradation of our potable water supply over time is shared by Dr. Arnoldo Valle-Levinson, Professor, Engineering School of Sustainable Infrastructure and Environment, University of Florida. Dr. Valle-Levinson is a renowned expert in the field of salt water intrusion and Estuarine studies. His concerns are expressed in his letter, included in the package.

Additionally, we of the Scottsmoor Community expressed our concerns for the larger negative environmental impacts which would result if this increased residential development were to be approved and developed. These concerns are further expressed by our State Representative Rene "Coach P" Plascencia in a letter he sent to Commissioner Pritchett. A copy of this letter is included.

Again, thank you for making time to speak with members of our Scottsmoor Community. And of course if you have any additional questions or need for additional clarification related to any of our positions, please do contact us.

Very Respectfully,

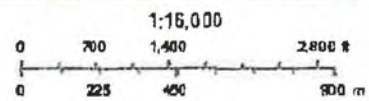
Members of the Scottsmoor Rural Community



## Brevard County Property Appraiser



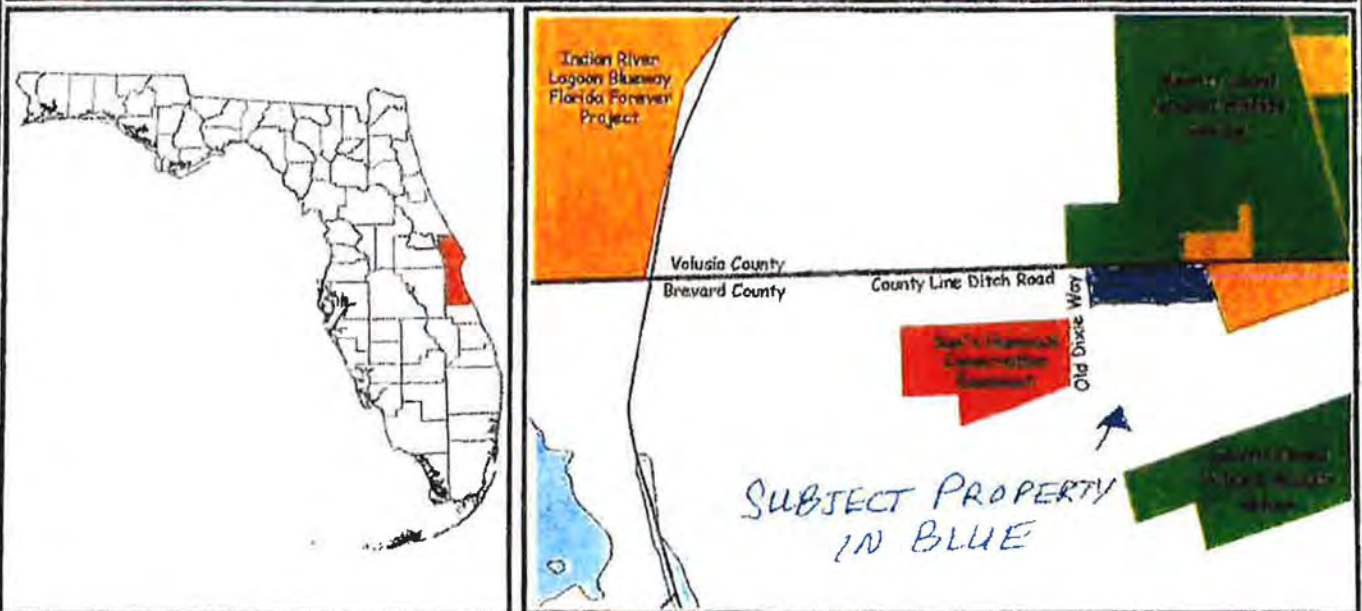
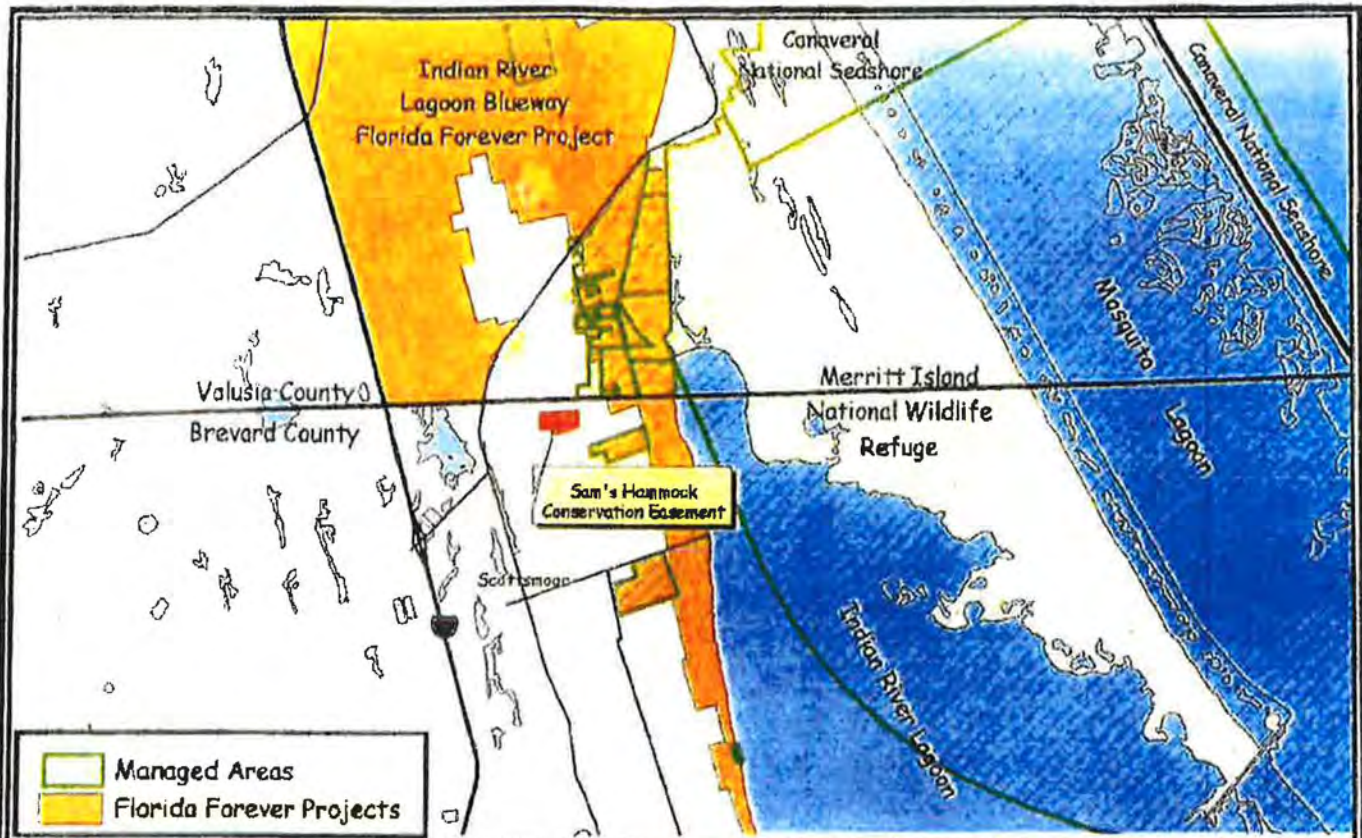
March 26, 2019



2646880

For illustration only. Not a survey. Map layers only not georeferenced.  
© BCPAO 2015





**MAP 1**  
**SAM'S HAMMOCK CONSERVATION EASEMENT**  
 Brevard County, Florida

*The Nature Conservancy*   
 SAVING THE LAST GREAT PLACES ON EARTH

Wendy J. Caster  
 22 February 2006



Herbert Wertheim College of Engineering  
Engineering School of Sustainable Infrastructure and Environment  
Department of Civil and Coastal Engineering  
Arnoldo Valle-Levinson, Professor  
arnoldo@ufl.edu

365 Weil Hall  
PO Box 116580  
Gainesville, FL 32611-6580  
352-392-9537 Department Phone  
352-392-3394 Department Fax  
www.essie.ufl.edu

March 10th, 2019

David Laney

Subject: Salt Water Intrusion Potential, North Brevard County, Florida

Dear David,

Upon visiting the Scottsmeer area on March 6<sup>th</sup>, I became familiarized with the rezoning request in the area. I am able to place such request in the context of natural and human-related pressures in the region of the Indian River Lagoon.

I think that any new infrastructure development in coastal areas, around the Indian River Lagoon in particular, needs to be examined carefully and sensibly. This is because sea levels around Florida have risen at rates that are more than 6 times the mean global rates. Between 2011 and 2016, sea level rose at a rate of  $\frac{3}{4}$  inch per year. Evidence of these rapid sea-level increments are the increase in sunny-day flooding events in the state. Compound to this problem is the ever-increasing human use of freshwater from the aquifer. Moreover, an inconclusive trend in Florida rain values since 1895 indicates that the aquifer recharge is not changing over decadal scales. This means that sea-level rise produces encroachment of salty ocean water toward land, which is exacerbated by increased human consumption of aquifer water for domestic and agricultural purposes. The 1) sea-level rise – 2) human consumption of water represents a 1-2 punch that chokes the lagoon and affects the water and soil quality for communities within, at least, the first few miles of the coast. Clear consequences of such 1-2 choking punch, or as they say, the canary in the coal mine, are a) the alarming incidence of toxic algae blooms in the Indian River Lagoon, b) the widespread salinization of well water in the communities around the lagoon, and c) threatening coastal erosion around Cape Canaveral. Incidence of algae blooms, in particular, is accompanied by decreased air quality.

Evidently, any new rezoning that allows increases in settlement density will represent amplified demands for aquifer water. Because sea level is expected to continue to rise, the area will likely be drastically affected by the 1-2 choking punch, in detriment to water, air and soil quality.

Sincerely,

A handwritten signature in black ink that reads "Arnoldo Valle Le Vinson". The signature is written in a cursive, flowing style.

Arnoldo Valle-Levinson



## Representative Rene "Coach P" Plasencia

Florida House of Representatives

District 30

400 South St. #10  
Tallahassee, FL 32309  
(904) 224-1152

Orange County Legislative Delegation  
Brevard County Legislative Delegation  
Rene Plasencia with Blueways Foundation

2017 House Office Building  
400 South St. Tallahassee, FL 32309  
(904) 224-1152

March 26, 2019

Commissioner Rita Pritchett  
Brevard County District 1  
2000 S. Washington Ave., Suite 2  
Titusville, FL 32780

RE: North Brevard Re-Zoning Request

Commissioner Pritchett,

It has come to my attention that there is currently a re-zoning request going before the Brevard County Commission on 4 April, 2019 to have 19.75 acres in North Brevard rezoned to RR 1, one home per acre, which is current zoned as AU 12.5. I was made aware that at the March 11<sup>th</sup> Planning & Zoning meeting there were only two letters submitted supporting the re-zoning request while there were 157 property owners who signed the petition opposing it.

These properties at risk of being rezoned are the agricultural properties currently serving as Florida Forever and Blueways buffers, and a number of them are targeted as Florida Forever acquisitions. Currently these agricultural properties provide essential contiguous habitat for wildlife and forage for migrating birds. To compound the negative aspects of this proposed re-zoning, all of these properties are directly inter-connected via open storm water drainage directly to the lagoon. I ask that you please take the time to consider the ramifications of this re-zoning if it were to be approved. It is my belief that decades of effort to protect the Eastern side of the Indian River Lagoon in North Brevard County, while establishing effective contiguous Florida Forever wildlife habitat and corridors will have been for naught if this passes.

Feel free to reach out to me if you have any questions.

Respectfully Yours,

Representative Rene "Coach P" Plasencia

*Providing Service to Orange County & Brevard County*

Workforce Development & Tourism Subcommittee - Chair; Health Quality Subcommittee - Vice Chair;  
Appropriations Committee; Commerce Committee; Health Care Appropriations Subcommittee; Oversight,  
Transparency & Public Management Subcommittee



## Commissioner, D1

---

**From:** Kathy Ceballos <kceballos@cfl.rr.com>  
**Sent:** Tuesday, April 02, 2019 7:07 AM  
**To:** Commissioner, D1  
**Subject:** Scottsmeer zoning change

**Categories:** AMY

Dear Commissioner Pritchett,

I live in Scottsmeer at 6045 Oak St. During this Thursday's meeting you will be discussing the zoning change that was requested by the Thomas's for their 19 acre property on Dixie Way. I will not be able to attend the Thursday night meeting, so I would like to take a moment of your time to let you know my feelings on this issue.

My husband and I have lived in the Scottsmeer area since 1989. We moved to this area because of the rural nature. Since we moved here a lot of houses have been built around us, but they have been built as per the zoning - 1 house per 2 ½ acres. I live on a dirt road, surrounded by Oak trees - and I find it one of the most peaceful places to be. My husband retired from NASA and I retired from Parrish Medical, so this is our permanent home.

Please consider the impact a rezoning will have on this area. Our roads are not very good - sometimes you have to pull over so oncoming traffic can go by. Everyone is on well water. Some people have good water - most do not. A lot have had salt water intrusion in their well. Pinewood Elementary School is already overcrowded and the school district is trying to move a lot of students to Mims Elementary. It is a very quiet area and needs to stay this way. That is why most people moved here.

I am respectfully requesting that you deny this zoning change. Please consider the residents that have lived here for a long time. It is impressive to see so many residents band together to fight this issue. It shows that the majority of residents do not want the zoning changed. Don't allow someone to come in and decide that they need to change the area. Our infrastructure is not suited to this change. Keep the property one house per 2 ½ acres.

It should matter that the majority of current residents are against this change. Please demonstrate to us that we, the people, matter - not just money. You are the Commissioner for our area - please support us.

Thank you for your time,  
Kathy Ceballos



## County Commissioner District 1

County Commissioner District 1 - Phone Log: Earl Krupp - 5010 Main St. Mount Pleasant, MI 48854

Name/Company	Earl Krupp - 5010 Main St. Mount Pleasant, MI 48854
Phone Number	313-591-9601
Date/Time Call Received	4/2/2019 11:00 AM
Purpose of Call	Mr. Krupp called our office to voice his objection to the rezoning in Strongsville which will be on the agenda April 4th and 11th, 2019. Mr. Krupp is traveling is unable to send an email.
Follow Up Needed	Amy Craddock
Date Received	4/2/2019

Created at 4/2/2019 10:36 AM by Craddock, Amy  
Last modified at 4/2/2019 10:41 AM by Craddock, Amy

Close

**From:** [Tobia, John](#)  
**To:** [Sterk, Erin](#)  
**Cc:** [Jones, Jennifer](#)  
**Subject:** FW: Scottsmoor zoning change  
**Date:** Tuesday, April 2, 2019 1:20:23 PM

---

Please see the below e-mail received this morning in reference to items H 5&6 on the Thursday, 4/4/2019 Zoning Agenda.

Sincerely,



John Tobia  
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

*Under Florida law, e-mails are public records. If you do not want your e-mail released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.*

---

**From:** Kathy Ceballos [<mailto:kceballos@cfl.rr.com>]  
**Sent:** Tuesday, April 02, 2019 7:10 AM  
**To:** Commissioner, D3  
**Subject:** Scottsmoor zoning change

Dear Commissioner Tobia,

I live in Scottsmoor at 6045 Oak St. During this Thursday's meeting you will be discussing the zoning change that was requested by the Thomas's for their 19 acre property on Dixie Way. I will not be able to attend the Thursday night meeting, so I would like to take a moment of your time to let you know my feelings on this issue.

My husband and I have lived in the Scottsmoor area since 1989. We moved to this area because of the rural nature. Since we moved here a lot of houses have been built around us, but they have been built as per the zoning - 1 house per 2 ½ acres. I live on a dirt road, surrounded by Oak trees - and I find it one of the most peaceful places to be. My husband retired from NASA and I retired from Parrish Medical, so this is our permanent home.

Please consider the impact a rezoning will have on this area. Our roads are not very good - sometimes you have to pull over so oncoming traffic can go by. Everyone is on well water. Some people have good water - most do not. A lot have had salt water intrusion in their well. Pinewood Elementary School is already overcrowded and the school district is trying to move a lot of students to Mims Elementary. It is a very quiet area and needs to stay this way. That is why most people moved here.

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It should matter that the majority of current residents are against this change. Please demonstrate to us that we, the people, matter - not just money. We would appreciate your support.

Thank you for your time,  
Kathy Ceballos

**From:** [Max](#)  
**To:** [Commissioner, DE](#)  
**Subject:** Fw: Rezoning of property in Scottsmeer  
**Date:** Sunday, March 31, 2019 4:55:11 PM

---

**From:** Max  
**Sent:** Sunday, March 31, 2019 4:53 P  
**Subject:** Rezoning of property in Scottsmeer

Commissioner Tobia

I am sending this email in regards to the meeting on April 4th. At the end of February the Thomas' came to the Scottsmeer meeting hall to tell people what they had in mind for their 19.75 acres on Dixie Way and County Line Ditch Road.

Mr Thomas said something to the effect that they had lived in South Florida and found it to be getting to crazy and crowded for them. They came to our area and found that they liked the quiet and peaceful setting. But then in his next statement was he wanted to take his 19.75 acre property and put 14 houses on it. My comment to him was-so you want to bring the craziness that you left in South Florida to us in Scottsmeer. We don't want that kind of density in our area. We bought our property in 2005 because of the rural nature. I have horses and I like the open spaces in Scottsmeer. Please keep the zoning 2.5 AU.

Thanks,  
Maxine Zieman  
3465 Sunset Ave

**From:** [bedexx@aol.com](mailto:bedexx@aol.com)  
**To:** [Commissioner D1](#); [Commissioner D2](#); [Commissioner D3](#); [Commissioner D4](#); [Commissioner D5](#)  
**Subject:** KEEP SCOTTSMOOR RURAL!  
**Date:** Tuesday, March 19, 2019 8:13:04 PM

---

Everything is getting too built up. We need green space! We need rural areas. Keep Scottsmeer as is!  
Enough said!!

Marielle Marne & Steven Moore



**From:** Ronald Bartcher  
**To:** Ronald Bartcher  
**Subject:** Land Use Change For Scottsmoor  
**Date:** Sunday, March 17, 2019 7:34:13 PM

---

Dear Commissioner:

I object to the Future Land Use change that is being considered for Joseph Brandon and Nikki Thomas' property on County Line Ditch Road, north of Scottsmoor.

In 2008, following the Brevard County Commission's acceptance of the Mims Small Area Study, the County arbitrarily extended the dividing line between RES 1 and Res 1-2.5 Future Land Use from Flounder Creek Road north to the county line. Apparently, they used an arbitrary distance (of approximately 6500 feet) from US1 and just drew a line north to the county line. This arbitrary extension caused many properties to end up with two separate Future Land Uses. A more logical approach would have been to select a natural division line, such as the road Dixie Way, as the dividing line to avoid creating a problem for property owners.

An even more logical approach would have been to designate all property north of Scottsmoor, except for that facing US1, to have a Future Land Use of RES 1-2.5, since all that property is 2.5 acres or more. By using RES 1-2.5 Future Land Use, the County would have avoided creating a large area of Zoning/ Future Land Use inconsistencies, since virtually all this property is Zoned AU (which allows same density as RES 1-2.5).

One more thing to consider is that density, like beauty, is in the eye of the beholder. If a resident lives in a city, then one house per acre appears to be low density. To residents that live in this rural area of North Brevard, one house per acre is viewed as high density; one house per 2 ½ acres is medium density; and we would view one house per 20 acres as low density. This difference in perspective is important when considering Future Land Use changes. Future Land Use changes should not affect the residents in a negative manner. The residents of this area live here specifically because of what they perceive as low density. They have invested their money and located their families in this rural area of Brevard, and they rightly expect the Land Uses will continue to be compatible with their community values.

Please deny the Future Land Use change that is being considered for Joseph Brandon and Nikki Thomas' property on County Line Ditch Road, north of Scottsmoor.

Regards,  
Ron Bartcher

Scottsmoor Community Association  
3724 Magoon Ave.  
Mims, FL 32754

**Commissioner John Tobia**  
2539 Palm Bay Rd. N.E.  
Suite 4  
Palm Bay, Florida 32905

Dear Commissioner Tobia,

The Scottsmoor Community would like to thank you for taking the time to speak with three of our members regarding a proposed Small Area Plan change to the existing Brevard County Future Land Use Map, and the associated request to change the existing zoning on that 19.75 acres from AU 1:2.5, minimum 2.5 acres per home, to R:1, 1 home per acre. The subject property is the North East corner of Brevard County at the intersection of Dixie Way and County Line Ditch Road, Southeast corner. An aerial map of the affected rural residential Scottsmoor area is attached with this letter to better illustrate the rural nature of our Scottsmoor Community. Additionally, there is a map included to this package illustrating the physical proximity of the parcel subject to the requested rezoning with respect to the designated dedicated conservation properties surrounding it.

As our members Rose McGinnis, Jerrad Adkins, and David Laney conveyed to you, the Scottsmoor Community Association, and over 1,100 other residents of this section of North Brevard County vigorously oppose these requested changes. Our opposition is not based in a total opposition to development. In fact we welcome our new neighbors who come to enjoy our rural community values and contribute to the preservation of our rural environment. Rather, our opposition stems from the negative impacts that would absolutely result from increased population density and the inordinate demand that development would place on our rural environment and the resources and infrastructure which currently sustain it. Additionally, we believe our objections to this requested rezoning are well founded and supported by principles and requirements set forth in Florida State Statutes, the Florida Long Range Comprehensive Plan, and the Brevard County Long Range Comprehensive Plan.

The concerns our Scottsmoor Community Members expressed to you included the direct impact on our already fragile surficial aquifer, directly resulting from an increased pumping demand accruing from an increased residential development density. This surficial aquifer is the source of potable residential well water for all homes in the Scottsmoor area, as well as a source for agricultural irrigation. Our concern for the degradation of our potable water supply over time is shared by Dr. Arnoldo Valle-Levinson, Professor, Engineering School of Sustainable Infrastructure and Environment, University of Florida. Dr. Valle-Levinson is a renowned expert in the field of salt water intrusion and Estuarine studies. His concerns are expressed in his letter, included in the package.

Additionally, we of the Scottsmoor Community expressed our concerns for the larger negative environmental impacts which would result if this increased residential development were to be approved and developed. These concerns are further expressed by our State Representative Rene "Coach P" Plascencia in a letter he sent to Commissioner Pritchett. A copy of this letter is included.

Again, thank you for making time to speak with members of our Scottsmeer Community. And of course if you have any additional questions or need for additional clarification related to any of our positions, please do contact us.

Very Respectfully,

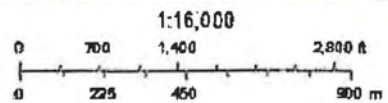
Members of the Scottsmeer Rural Community



## Brevard County Property Appraiser



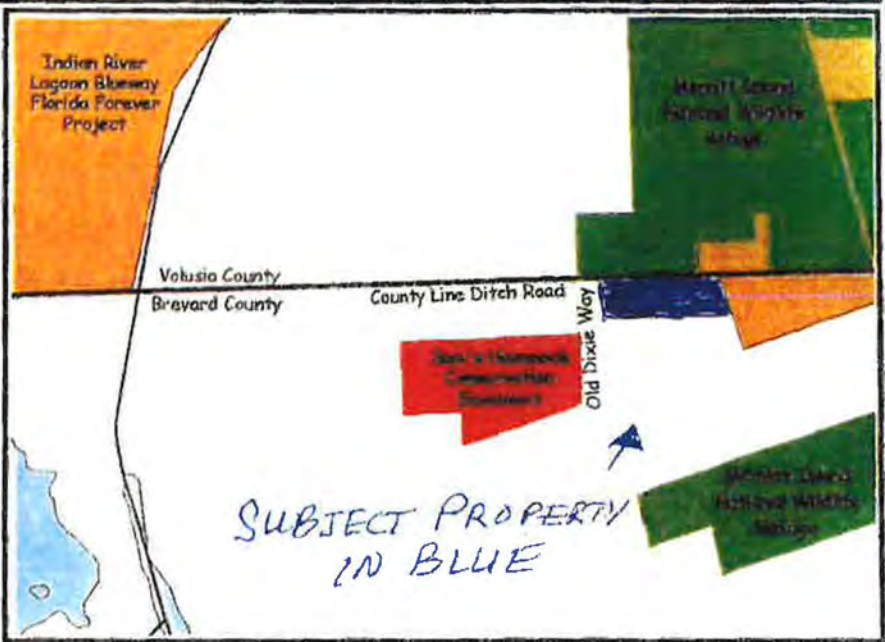
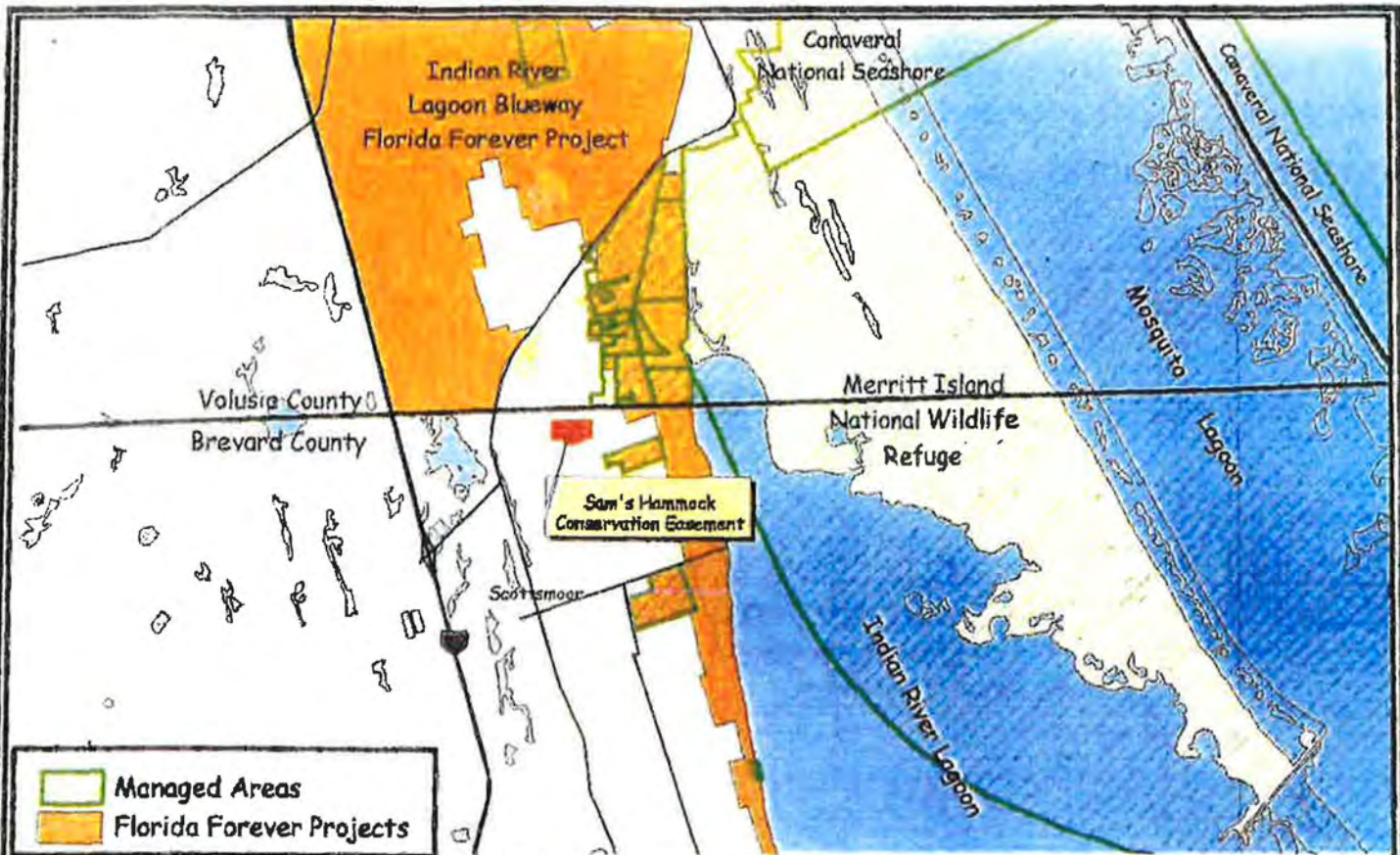
March 26, 2019



2846250

For illustration only. Not a survey. Map layers may not precisely align.  
© BCPAO 2019





**MAP 1**  
**SAM'S HAMMOCK CONSERVATION EASEMENT**  
**Brevard County, Florida**

*The Nature Conservancy* 

SAVING THE LAST GREAT PLACES ON EARTH

Wendy J. Caster  
 22 February 2006





Herbert Wertheim College of Engineering  
Engineering School of Sustainable Infrastructure and Environment  
Department of Civil and Coastal Engineering  
Arnoldo Valle-Levinson, Professor  
arnoldo@ufl.edu

365 Weil Hall  
PO Box 116580  
Gainesville, FL 32611-6580  
352-392-9537 Department Phone  
352-392-3394 Department Fax  
www.essie.ufl.edu

March 10th, 2019

David Laney

Subject: Salt Water Intrusion Potential, North Brevard County, Florida

Dear David,

Upon visiting the Scottsmeer area on March 6<sup>th</sup>, I became familiarized with the rezoning request in the area. I am able to place such request in the context of natural and human-related pressures in the region of the Indian River Lagoon.

I think that any new infrastructure development in coastal areas, around the Indian River Lagoon in particular, needs to be examined carefully and sensibly. This is because sea levels around Florida have risen at rates that are more than 6 times the mean global rates. Between 2011 and 2016, sea level rose at a rate of  $\frac{3}{4}$  inch per year. Evidence of these rapid sea-level increments are the increase in sunny-day flooding events in the state. Compound to this problem is the ever-increasing human use of freshwater from the aquifer. Moreover, an inconclusive trend in Florida rain values since 1895 indicates that the aquifer recharge is not changing over decadal scales. This means that sea-level rise produces encroachment of salty ocean water toward land, which is exacerbated by increased human consumption of aquifer water for domestic and agricultural purposes. The 1) sea-level rise – 2) human consumption of water represents a 1-2 punch that chokes the lagoon and affects the water and soil quality for communities within, at least, the first few miles of the coast. Clear consequences of such 1-2 choking punch, or as they say, the canary in the coal mine, are a) the alarming incidence of toxic algae blooms in the Indian River Lagoon, b) the widespread salinization of well water in the communities around the lagoon, and c) threatening coastal erosion around Cape Canaveral. Incidence of algae blooms, in particular, is accompanied by decreased air quality.

Evidently, any new rezoning that allows increases in settlement density will represent amplified demands for aquifer water. Because sea level is expected to continue to rise, the area will likely be drastically affected by the 1-2 choking punch, in detriment to water, air and soil quality.

Sincerely,

A handwritten signature in black ink that reads "Arnoldo Valle-Levinson". The signature is written in a cursive, flowing style.

Arnoldo Valle-Levinson



## Representative Rene "Coach P" Plasencia

Florida House of Representatives  
District 50

400 South St. 4th  
Tallahassee, FL 32301  
(904) 301-7131

Brevard County Legislative Delegation  
Brevard County Legislative Delegation  
Rene Plasencia 601 Lybrand House 4th

1st Bldg. 6th Fl. Building  
400 S. Monroe St. Tallahassee, FL 32301  
(904) 301-7131

March 26, 2019

Commissioner Rita Prioleau  
Brevard County District 1  
2000 S. Washington Ave., Suite 2  
Titusville, FL 32780

RE: North Brevard Re-Zoning Request

Commissioner Prioleau,

It has come to my attention that there is currently a re-zoning request going before the Brevard County Commission on 4 April, 2019 to have 19.75 acres in North Brevard rezoned to RR 1, one home per acre, which is current zoned as AU 1:2.5. I was made aware that at the March 11<sup>th</sup> Planning & Zoning meeting there were only two letters submitted supporting the re-zoning request while there were 157 property owners who signed the petition opposing it.

These properties at risk of being rezoned are the agricultural properties currently serving as Florida Forever and Blueways buffers, and a number of them are targeted as Florida Forever acquisitions. Currently these agricultural properties provide essential contiguous habitat for wildlife and forage for migrating birds. To compound the negative aspects of this proposed re-zoning, all of these properties are directly tree-connected via open storm water drainage directly to the lagoon. I ask that you please take the time to consider the ramifications of this re-zoning if it were to be approved. It is my belief that decades of effort to protect the Eastern side of the Indian River Lagoon in North Brevard County, while establishing effective contiguous Florida Forever wildlife habitat and corridors will have been for naught if this passes.

Feel free to reach out to me if you have any questions.

Respectfully Yours,

Representative Rene "Coach P" Plasencia

County Commission / Board of Supervisors / Board of Directors / Board of Commissioners  
Workforce Development & Tourism Subcommittee - Chair / Health Quality Subcommittee - Vice Chair  
Appropriations Committee / Commerce Committee / Health Care Appropriations Subcommittee / Oversight  
Transparency & Public Management Subcommittee

**From:** [Loesa Souto](#)  
**To:** [Commissioner\\_D1; Commissioner\\_D2; Commissioner\\_D3; Commissioner\\_D4; Commissioner\\_D5](#)  
**Cc:** [jim.wan@chl.fl.gov](#); Duane DeFosse IRL Council; Bill Cox; Bo Platt; Bob Day; Dave Rotto; Jim Moir; Ken Lindeman; Ken Tworoger; Lady Shirley Berne; Mary Chapman-Mundt; Maureen Rupp; Paul Laura; Stephen E. Chalmers; Terry Cardo  
**Subject:** Please Deny Request to re-zone Brandon and Nikki Thomas property  
**Date:** Saturday, March 30, 2019 8:50:50 AM  
**Attachments:** [BOCC Letter Rezoning.pdf](#)

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March 30, 2019

Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

SUBJ: Please Deny Request to re-zone Brandon and Nikki Thomas property

Dear Chairwoman Isnardi and Distinguished Members;

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon (IRL) and we are pro-actively supporting the Indian River Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We have significant concerns with the subject re-zoning which contradicts the purposes of the Save our Lagoon Project Plan.

The subject property is adjacent to and a buffer for the Florida Forever Blueway Project, of which Brevard is a participating partner. It is part of a larger area of agriculture lands which are prime Florida Forever targets for conservation and preservation from development. Most importantly, the land drains directly into the lagoon. Approval of this request will open it for development and, by precedence, *will open the entire area for the same*. The result will be a disastrous loss of pervious, water storing land essential to the sustainability of our lagoon and add yet more polluting run-off from roofs, lawns and pavement as well as ultimately, more new sewer and septic needs. New development at this scale will amplify more muck and wastewater problems.

Considering the causes and effects of our present lagoon condition, approval of the subject density change request would be a serious mis-management of land use and lagoon use. We recommend that all such requests be shelved until a study of land use impact in the IRL basin be made. These development enabling changes come at a time when regional reports are focused on new challenges to Florida's waterways, water supplies and quality of life from more population growth, especially when magnified by real affects from a changing climate. We recommend that Brevard County and Municipalities adopt, in its entirety, the Low Impact Development (LID) concept endorsed by both US EPA and Florida's DEP and clearly presented in their web sites. The concept is founded on the critical need to increase pervious, water storing land and to reduce the destructive run-off loss of water, an increasingly valuable resource. We also invite you to review the Regional Resiliency Action Plan by the East-central Florida Regional Planning Council. We must look to the future.

The Marine Resources Council requests that you deny the subject re-zoning.

Respectfully,

Leesa Souto, Ph.D.  
Executive Director  
Marine Resources Council  
3275 Dixie Hwy, NE  
Palm Bay, FL 32905  
321-725-7775

[www.mrcirl.org](http://www.mrcirl.org)

**Together we can bring the Indian River Lagoon back to health.**





# Marine Resources Council

Turning Science into Action

3275 Dixie Hwy NE, Palm Bay, FL 32905 (321) 725-7775 [www.SaveTheIRL.org](http://www.SaveTheIRL.org)

March 29, 2019

Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

SUBJ: Request to re-zone Brandon and Nikki Thomas property

Dear Chairwoman Isnardi and Distinguished Members;

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon (IRL) and we are pro-actively supporting the Indian River Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We have significant concerns with the subject re-zoning which contradicts the purposes of the Save our Lagoon Project Plan.

The subject property is adjacent to and a buffer for the Florida Forever Blueway Project, of which Brevard is a participating partner. It is part of a larger area of agriculture lands which are prime Florida Forever targets for conservation and preservation from development. Most importantly, the land drains directly into the lagoon. Approval of this request will open it for development and, by precedence, *will open the entire area for the same.* The result will be a disastrous loss of pervious, water storing land essential to the sustainability of our lagoon and add yet more polluting run-off from roofs, lawns and pavement as well as ultimately, more new sewer and septic needs. New development at this scale will amplify more muck and wastewater problems.

Considering the causes and effects of our present lagoon condition, approval of the subject density change request would be a serious mis-management of land use and lagoon use. We recommend that all such requests be shelved until a study of land use impact in the IRL basin be made. These development enabling changes come at a time when regional reports are focused on new challenges to Florida's waterways, water supplies and quality of life from more population growth, especially when magnified by real affects from a changing climate. We recommend that Brevard County and Municipalities adopt, in its entirety, the Low Impact Development (LID) concept endorsed by both US EPA and Florida's DEP and clearly presented in their web sites. The concept is founded on the critical need to increase pervious, water storing land and to reduce the destructive run-off loss of water, an increasingly valuable resource. We also invite you to review the Regional Resiliency Action Plan by the East-central Florida Regional Planning Council. We must look to the future.

The Marine Resources Council requests that you deny the subject re-zoning.

Respectfully,

A handwritten signature in black ink, appearing to read 'Leesa Souto'.

Leesa Souto, Ph.D.  
Executive Director

cc: Jim Swann, Duane DeFreese



**From:** Turtle Coast Sierra Club  
**To:** Commissioner, D3  
**Subject:** Proposed density Increase in Scottsmoor on April 4th agenda  
**Date:** Wednesday, March 27, 2019 7:29:14 PM

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Dear Commissioner Tobia,

I am very concerned about the proposed zoning change from AU to RR-1 on 19.75 acres in Scottsmoor and the associated Comprehensive Plan change for 3.15 of those acres from RES 1:2.5 to RES 1. This agenda item will be heard by the Commission on April 4.

Scottsmoor is a very special rural area and increasing the density on the subject property would conflict with the community character. I attended the March 11th P&Z meeting for this item, where it was stated that the nearest property with a similar zoning for 1-acre lots was a mile away. From the P&Z minutes on the Brevard County website, page 13:

Bruce Moia – From the picture I have, everything around here is AU (Agricultural Residential), where is the closest zoning similar to what they're requesting?

Erin Sterk – I think it's more than a mile away.

Having attended all the local community workshops for the "How Shall We Grow?" visioning initiative several years ago, I believe that increasing density in this Scottsmoor area is exactly how we shouldn't grow! In fact, one of the 4 conclusions of that visioning exercise was captured under the Regional Growth Priority "Countryside", meaning "Maintaining Central Florida's heritage of agriculture and small villages." Additional information can be found on the East Central Florida Regional Planning Council website.

A much more appropriate place for North Brevard to grow is Titusville.

If this density increase is granted, a precedent will be established, allowing other nearby landowners to ask for the same density to build subdivisions that ignore community character and help destroy it.

In addition, the subject property is in an area with a network of conservation lands including the Indian River Lagoon Blueway Florida Forever Project, some parts of which have been purchased as public land and some that need to be acquired. Our Indian River Lagoon should be top priority!

I have recently been reviewing some sea level rise and resiliency documents from the East Central Florida Regional Planning Council that pertain to Brevard County, and have concluded that the Blueway Project lands will become more and more critical to our County's resilience. The Scottsmoor rural lands combine with the conservation lands to provide a first line of defense to mitigate the effects of sea level rise.

In conclusion, please vote NO on the requested rezoning and associated Comp Plan change on April 4th.

Thank you,

Mary Sphar  
825 Cliftons Cove Ct.

Cocoa, Fl. 32926

**From:** [mellorenti](#)  
**To:** [Commissioner D3](#)  
**Subject:** Rezoning MISTAKE  
**Date:** Wednesday, March 13, 2019 12:27:23 PM

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Dear John,

I truly hope you hear our small community of Scottsmeer's cry for help. We desperately gringe at the thought of a change in zoning. This is my families biggest fear! We chose this small community for the purpose of it being rural. My family and myself needed a slower pace of home life, living here has made my husband and three daughters so happy. Coming from an eggresivly over populated town of Port Orange who's commisioners have aloud the chaos to happen. I no longer feel the stress and burden of coming home. For once I enjoy driving home and up our beautiful road of fields and farm animals.

If this rezoning of 1 acre changes from 2.5 acre we feel is a terrible mistake and sadly will turn into what this community doesn't want as a hole. More people equals more crime! Please keep this community rural the way we chose it to be for a families!

Let's not give into the greed of a single person! This single person will effect thousands of residents in this community in my opinion odds of 1:1,00 do not make proper sense for this town.

Do not let our town become the greedy overpopulated crime ridden end of an era.  
Keep Scottsmeer Rule!

Thank you kindly,  
Melanie Lorenti, CPhT  
[3108 Coral Ave. Mims, FL 32754](#)  
[386-212-9195](#)

cc: John D. Lorenti, 3108 Coral Ave. Mims, FL 32754, 386-212-9195

**From:** [rachelburke0325@gmail.com](mailto:rachelburke0325@gmail.com)  
**To:** [Commissioner D3](#)  
**Subject:** RR1 Scottsmoor rezoning  
**Date:** Monday, March 18, 2019 7:40:06 PM

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My name is Rachel Burke, my husband and I live at 6010 Dixie Way in Scottsmoor. Right down the road from the proposed RR1 rezoning. We live on a narrow dirt road that is impassable at times due to large trucks, flooding, or the road being in disrepair. On a normal day, two cars can not travel on this road next to one another. Rather, one car must pull up on the side of the road to yield to the oncoming traffic. We have well water that has declined substantially in quality since the cemetery was built. We have had to spend thousands of dollars on having our well re drilled and added reverse osmosis and a chlornator just to have drinkable water. Salt intrusion is something we worry about with the expansion of the cemetery and each new home that is built. We live on 5 acres; as do all of our neighbors. Our area is currently zoned for agriculture; one home per 2.5 acres. All of our homes are like this. Please do not approve the rezoning for RR1. This would have an immense negative impact on our water and way of life. We all live here because we love the land and rural way of life. The RR1 would NOT match anything around it. Rather, a crowded eye sore. Please take into consideration what the community thinks. We greatly need your help in preventing this from being passed. Please vote no to rezoning.

Sent from my iPhone

**From:** [dbotto1](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** Scottsmeer Re-zoning Proposal  
**Date:** Saturday, March 16, 2019 1:52:30 PM

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Please refer to my E Mail dated March 10.

The subject zoning change, if approved, would be a glaring example of irresponsible land use management.

I respectfully urge you to reject this request.

David C. Botto  
Indian Harbour beach  
321 773 2327



**From:** Rose McGinnis  
**To:** [Commissioner D3](#)  
**Subject:** Zone change in North Brevard  
**Date:** Monday, March 11, 2019 9:11:29 PM

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[Commissioner](#)  
[John Tobia](#)

I am a resident of North Brevard. Specifically, Scottsmoor. We are a rural community. And hope to remain a rural community. On April 4th agenda will be a rezoning request for Joseph Brandon and Nikki Thomas'. A VAST majority of our community is against this zone change. And after having some time to digest and understand the Future Land Use change they are proposing I am against this also. Frankly, I am surprised that an antiquated arbitrary map can give them the ability to change the dynamic of our community. Those who live out here have all complied with the current zoning of AU. Most of our community was not even aware of the Future Land Use from the 1980's that put a future land use of RR1 in that area. We also did not know that our corner of Brevard County was again overlooked when the county requested Small Community Land Use Studies from parts of unincorporated Brevard. Mims was ask to participate in such a study but it was ended at Flounder Creek Rd. Just South of Cape Canaveral National Cemetery in Scottsmoor.

A change in rating from AU to RR will result in a precedence being set and allow surrounding farmland to be sold with RR1 rating.

There is little rural life left along the Eastern Banks of the Indian River. We are it. Allowing the current rate of building to at least double would greatly impact our lifestyle.

We understand that 14 homes will not greatly impact our community, but the homes that will be built due to a new zoning precedence would adversely affect this community.

Please vote NO to allow this change in zoning.

Thank you

Rose McGinnis  
3734 Huntington Ave  
Scottsmoor, FL

**From:** [Ronald Barcher](#)  
**To:** [Ronald Barcher](#)  
**Subject:** Zoning change north of Scottsmoor  
**Date:** Thursday, March 14, 2019 8:50:24 PM

---

Dear Commissioner:

I was greatly disappointed on Monday, March 11, 2019, when the P&Z Advisory Board narrowly voted to recommend approval of a zoning change on 19.75 acres north of Scottsmoor, located at 6705 Dixie Way.

I am writing to you because the concerns of the Scottsmoor residents are my very same concerns. I live halfway between Mims and Scottsmoor and I want to keep this quiet, rural area of North Brevard as is.

I believe that some members of the Advisory Board were swayed to vote for this change because the developer agreed to put in the new high-performance septic tanks. However, this property is about 3700 feet west of the lagoon and any septic tank that far away will not contribute any measurable amount of pollution to the lagoon. The science on this is clear. Thus, the Board created a solution to a problem that doesn't exist. Even worse, the vote was not based on relevant information.

In voting for this change the Board is actually creating a larger pollution problem than exists with the current zoning. We heard testimony from residents that there is runoff from properties in that area and that the ditches have water flowing to the lagoon, even in the dry season. However, because this property is not an active agriculture area, it is essentially vacant land. There is virtually no fertilizer in that runoff. By allowing a higher density of smaller residential lots, there will be runoff containing more yard fertilizer and grass clippings going into the ditches and into the water that flows straight into the lagoon. The developer is only obligated to not increase the runoff; he is under no obligation to decrease existing runoff. Thus, development will not decrease the pollution of the Indian River Lagoon.

It appeared to me that the Board ignored the highly significant issue of compatibility with the surrounding property. This property is directly across the road from property in Volusia county that has been set aside as a Conservation Easement. In addition, just a short distance southwest of this property is a large parcel of Conservation Easement property. Furthermore, immediately to the east is property that is part of the Indian River Lagoon Blueway Florida Forever Project. The subject property is almost surrounded by property that is specifically designated to avoid development. Having a higher density development next to Conservation Easement properties is most certainly not compatible.

In addition to these three objective issues, there are also two subjective issues that, I believe, explain why the P&Z meeting room was filled with residents objecting to this rezoning. First,

residents are concerned, and rightly so, that their wells will have problems. More development certainly means more people competing for the limited amount of potable water. The residents testified that some of them have already seen problems with their wells. Second, residents are concerned about a lifestyle change being forced upon them. They deliberately chose to live in this rural area with few houses and large areas of undeveloped land. They do not want neighbors within talking distance. They enjoy the quiet, and they enjoy having all of the wildlife in this area. The concern about these issues is based on common sense; the threat to their lifestyle is real.

Stuart Buchanan, who represented the property owners/developers, mentioned that Brevard County has a lot of land that is not on the tax rolls, such as EELs land. This is a red herring and is not relevant to this rezoning case. The residents only want the housing density to remain as is. Thus, keeping the tax rolls intact.

I do hope that you, and the other Commissioners, will consider the real issues around this rezoning request and deny the request.

Regards,  
Ron Bartcher  
3431 Grantline Road  
Mims, FL

Commissioner,

My name is Jerrad Atkins and I have been a resident of the Scottsmoor community for 5 ½ years, along with my wife Alyssa and our 2 young sons. We relocated to Scottsmoor from Merritt Island because we wanted to buy more land and start a farm and raise our boys, Chase and Reily, in the country. Not wanting to leave Brevard County, of which we are both long-term residents, we chose Scottsmoor because of the rural nature it provides and because the AU zoning and 2.5 Acre per house minimum requirement, meaning limited and responsible development would maintain that rural nature.

I, like many others in the community, vehemently oppose the change in zoning from AU 2.5 to RR1. I can say this with knowledge because I have personally spoken with over 400 people regarding this issue, and have gone door to door informing the community of the rezoning application. I have acquired the packet of information submitted by Mr. Buchanan at the planning and zoning board meeting, and have shown the information to members of the community. Of the over 400 people I have spoken with, there are a total of 4 who do not oppose this. I had an opportunity to speak at the P&Z meeting. I spoke of my concerns as well as some from the folks I had met with about this application.

Originally, I became involved with this matter because of the love of our rural environment that I share with our neighbors, and since have come across a multitude of reasons that this application requires further scrutiny. With a higher density being allowed in this area, there are several concerns that I share with several other members of this community. There are issues with infrastructure, certainly the lagoon concerns, water runoff, etc... However, I would like to address the issues that were brought up as red herrings by Mr. Buchanan and/or the P&Z board at the P&Z meeting and with which we are not concerned.

**1) Septic system pollution to the lagoon**

If you review the minutes from the P&Z meeting, you will note that septic systems were brought up as an issue but the board was satiated that the problem was solved with a BDP to the effect of high efficiency septic systems that reduce nitrogen deposits. The issue here, is that while the applicant's property is very close to the IRL, there is no measurable impact to a body of water at least 60 meters from the septic system. Couple this with the fact that ANY subdivision of 6 homes or greater requires this upgrade anyhow, and this is a non-issue, just a distraction from the legitimate issues. Furthermore, according to the septic overlay on the Brevard County Natural Resources map, approximately 5 of the proposed homes would have to utilize upgraded tanks even without the BDP to that effect. (see graphic and overlay below)

**2) Cemetery issues**

The recently constructed Veteran's Cemetery in Scottsmoor was referenced throughout the P&Z meeting as well. It was stated that due to this construction several people had to have their wells re-drilled. This is an accurate statement, however, as a community with legitimate concerns about the cemetery's impermeable ground area and sloping that does not allow for surficial regeneration of the groundwater, we are not simply casting our frustrations onto new growth in the area. Our concerns are completely separate from this issue, and it was not portrayed as such by Mr. Buchanan at the P&Z meeting. This was again an opportunity to shift the focus from our legitimate concerns to make us appear to be nothing more than angry and scorned neighbors.

Another point I would like to bring up is in regards to the letters of support that were presented by the Thomas's and Mr. Buchanan at and before the last P&Z meeting. There are two in particular on which I would like to comment. One letter is from the Fetzer family. The Fetzers own 107.88 acres of orange groves immediately adjacent to the Thomas property. They do not live on the property, in Scottsmeer, or even in Brevard County. They are not residents of this community that will see the impact that this denser development will have on our roads, environment etc... I will also note that Fetzers have had this grove for sale for years and likely see neighboring development as a benefit to the value of their own land. Mr. Stuart Buchanan, March 11 P&Z Minutes, page 11 *"the largest citrus grower on the area is the one that wrote the letter of support for this project, which happens to be the abutting neighbor"*. Not only is this, as I stated, not a neighbor in our community, but a land investor, and who is not the largest citrus grower in the area. In fact, he's not even the second or third largest. You will find the signatures of the three largest citrus growers in the area on the petition opposing this rezoning request.

Another letter of support came from Les (L.H.) Hallum. Mr. Hallum undeniably has roots in this community that go back decades. Mr. Hallum is a nice man who I respect a great deal. In fact, he used to own the land the Thomas's are applying to rezone. He also owns land that he has not been able to sell in recent years. He too has a path to personal gain through the approval of this application. His first cousin, JD Hallum has these same roots in this community and owns massive amounts of land in Scottsmeer, which he farms citrus, cattle, watermelons and hay. You will find his name on the petition to oppose this as well.

There is a 2013 DVD called "The Florida Suite", named after an 1888 musical composition by Frederick Delius. The 41-minute film, produced by Brevard County Library Services Director Jeff Thompson, is set to that musical piece and features a retired prominent attorney turned citrus farmer. Based on the retired life of Andrew Graham, prominent Brevard County Attorney who was based in Melbourne, the film shows the rural nature of Scottsmeer better than words can describe, and it is filmed about 500 feet from the property of the Thomas's. Mr. Graham operates a 12-acre citrus grove and is an excellent example of a caretaker of a small piece of our Scottsmeer land. I understand as a commissioner you likely have a packed schedule, but I believe, especially if you have never been back into the dirt roads of our community, the only way to understand is to take 41 minutes and watch the film. I was unable to obtain 5 DVDs and hand-deliver them when we met regarding this rezoning issue, but I have located the film on YouTube and am providing the link below. If phone searching, it is the video with the Osprey in the image. The first 10-12 minutes is a little slow, but by the end of the film, you will not regret watching the entire thing. It illustrates rural Brevard like nothing else can. Heat up a plate of nachos and give it a chance. It really is worth it. You will also find Mr. Graham's signature on our petition.

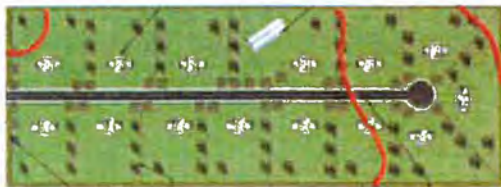
<https://www.youtube.com/watch?v=quaaXooGsQk>

I intend to say my piece at the upcoming April 4 Commissioner meeting this Thursday evening, but with only 3 minutes available to me, I wanted to get these points across beforehand, in the likely event that I am unable to squeeze them in at the meeting. Please forgive me for the long-windedness of my statements, but as with many others in this community, I am very passionate about this matter.

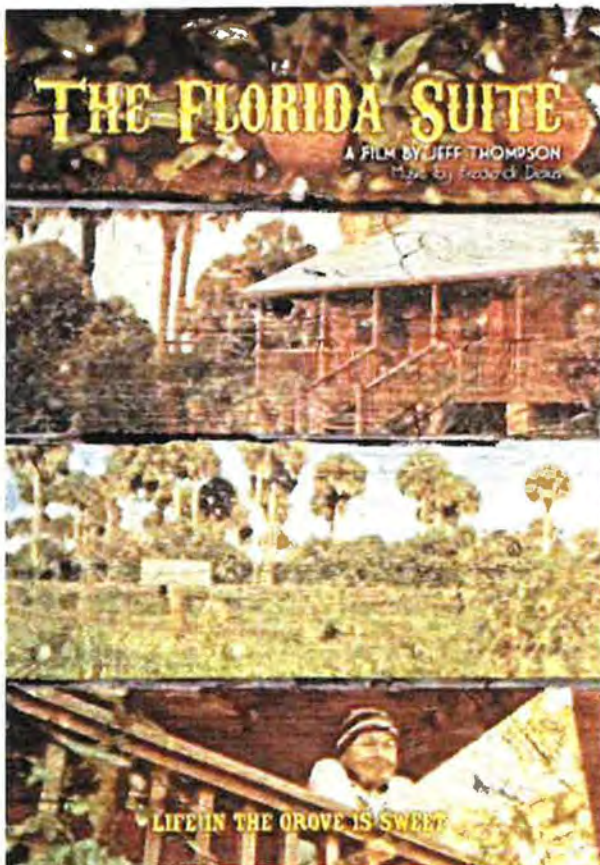
Many thanks,

Jerrad S Atkins





**Net effect to existing site plan proposal = up to (5) homes affected by additional septic restrictions**



**From:** [Woodard, Patrick](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Tice, Molly](#)  
**Subject:** Disclosure of communications concerning the April 4th P&Z Meeting for District 4  
**Date:** Tuesday, April 2, 2019 4:42:49 PM  
**Attachments:** [I oppose the rezoning of Joseph Brandon Nikki Thomas in Scottsmeer.msg](#)  
[Item 18PZ00156.msg](#)  
[KEEP SCOTTSMOOR RURAL!.msg](#)  
[Land Use Change For Scottsmeer.msg](#)  
[mail letter Scottsmeer Community Assoc.msg](#)  
[North Brevard Re-zoning Issue.msg](#)  
[mail-Letter Map.msg](#)  
[Please oppose density increase in Scottsmeer on April 4th.msg](#)  
[RE Research on Future Land Use in Merritt Island.msg](#)  
[Research on Future Land Use in Merritt Island.msg](#)  
[Rezoning MISTAKE.msg](#)  
[Rezoning concerns Simms 18PZ00130 Part 3 of 3.msg](#)  
[Fw Rezoning of property in Scottsmeer.msg](#)  
[Rezoning Request 18PZ00130.msg](#)  
[re-zoning request 4 April 2019 to have 19.75 acres rezoned to RR 1 one home per acre.msg](#)  
[Scottsmeer Re-zoning Proposal.msg](#)  
[Scottsmeer zoning change.msg](#)  
[Zone Change.msg](#)  
[Zoning change north of Scottsmeer.msg](#)  
[RR1 Scottsmeer Rezoning .msg](#)  
[Rezoning concerns Simms 18PZ00130 Part 1 of 3.msg](#)

Jennifer,

Commissioner Smith received the attached emails regarding the April 4<sup>th</sup> P & Z Meeting, and he also talked by phone to David Laney, Jerrad Adkins and Rose McGinnis on March 22<sup>nd</sup> concerning 18PZ00153 & 18PZ00154.

Regards,

*Pat Woodard*



**Pat Woodard**  
**Chief Legislative Aide to Commissioner Smith**  
Brevard County, District 4  
321.633.2044 | 321.633.2121 [Patrick.Woodard@brevardfl.gov](mailto:Patrick.Woodard@brevardfl.gov)

2725 Judge Evan Jamieson Way, Bldg. C Suite 214  
Vero, FL 32940



**Please note:**

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



Commissioner,

My name is Jerrad Atkins and I have been a resident of the Scottsmoor community for 5 ½ years, along with my wife Alyssa and our 2 young sons. We relocated to Scottsmoor from Merritt Island because we wanted to buy more land and start a farm and raise our boys, Chase and Reily, in the country. Not wanting to leave Brevard County, of which we are both long-term residents, we chose Scottsmoor because of the rural nature it provides and because the AU zoning and 2.5 Acre per house minimum requirement, meaning limited and responsible development would maintain that rural nature.

I, like many others in the community, vehemently oppose the change in zoning from AU 2.5 to RR1. I can say this with knowledge because I have personally spoken with over 400 people regarding this issue, and have gone door to door informing the community of the rezoning application. I have acquired the packet of information submitted by Mr. Buchanan at the planning and zoning board meeting, and have shown the information to members of the community. Of the over 400 people I have spoken with, there are a total of 4 who do not oppose this. I had an opportunity to speak at the P&Z meeting. I spoke of my concerns as well as some from the folks I had met with about this application.

Originally, I became involved with this matter because of the love of our rural environment that I share with our neighbors, and since have come across a multitude of reasons that this application requires further scrutiny. With a higher density being allowed in this area, there are several concerns that I share with several other members of this community. There are issues with infrastructure, certainly the lagoon concerns, water runoff, etc... However, I would like to address the issues that were brought up as red herrings by Mr. Buchanan and/or the P&Z board at the P&Z meeting and with which we are not concerned.

**1) Septic system pollution to the lagoon**

If you review the minutes from the P&Z meeting, you will note that septic systems were brought up as an issue but the board was satiated that the problem was solved with a BDP to the effect of high efficiency septic systems that reduce nitrogen deposits. The issue here, is that while the applicant's property is very close to the IRL, there is no measurable impact to a body of water at least 60 meters from the septic system. Couple this with the fact that ANY subdivision of 6 homes or greater requires this upgrade anyhow, and this is a non-issue, just a distraction from the legitimate issues. Furthermore, according to the septic overlay on the Brevard County Natural Resources map, approximately 5 of the proposed homes would have to utilize upgraded tanks even without the BDP to that effect. (see graphic and overlay below)

**2) Cemetery issues**

The recently constructed Veteran's Cemetery in Scottsmoor was referenced throughout the P&Z meeting as well. It was stated that due to this construction several people had to have their wells re-drilled. This is an accurate statement, however, as a community with legitimate concerns about the cemetery's impermeable ground area and sloping that does not allow for surficial regeneration of the groundwater, we are not simply casting our frustrations onto new growth in the area. Our concerns are completely separate from this issue, and it was not portrayed as such by Mr. Buchanan at the P&Z meeting. This was again an opportunity to shift the focus from our legitimate concerns to make us appear to be nothing more than angry and scorned neighbors.

Another point I would like to bring up is in regards to the letters of support that were presented by the Thomas's and Mr. Buchanan at and before the last P&Z meeting. There are two in particular on which I would like to comment. One letter is from the Fetzer family. The Fetzers own 107.88 acres of orange groves immediately adjacent to the Thomas property. They do not live on the property, in Scottsmeer, or even in Brevard County. They are not residents of this community that will see the impact that this denser development will have on our roads, environment etc... I will also note that Fetzers have had this grove for sale for years and likely see neighboring development as a benefit to the value of their own land. Mr. Stuart Buchanan, March 11 P&Z Minutes, page 11 *"the largest citrus grower on the area is the one that wrote the letter of support for this project, which happens to be the abutting neighbor"*. Not only is this, as I stated, not a neighbor in our community, but a land investor, and who is not the largest citrus grower in the area. In fact, he's not even the second or third largest. You will find the signatures of the three largest citrus growers in the area on the petition opposing this rezoning request.

Another letter of support came from Les (L.H.) Hallum. Mr. Hallum undeniably has roots in this community that go back decades. Mr. Hallum is a nice man who I respect a great deal. In fact, he used to own the land the Thomas's are applying to rezone. He also owns land that he has not been able to sell in recent years. He too has a path to personal gain through the approval of this application. His first cousin, JD Hallum has these same roots in this community and owns massive amounts of land in Scottsmeer, which he farms citrus, cattle, watermelons and hay. You will find his name on the petition to oppose this as well.

There is a 2013 DVD called "The Florida Suite", named after an 1888 musical composition by Frederick Delius. The 41-minute film, produced by Brevard County Library Services Director Jeff Thompson, is set to that musical piece and features a retired prominent attorney turned citrus farmer. Based on the retired life of Andrew Graham, prominent Brevard County Attorney who was based in Melbourne, the film shows the rural nature of Scottsmeer better than words can describe, and it is filmed about 500 feet from the property of the Thomas's. Mr. Graham operates a 12-acre citrus grove and is an excellent example of a caretaker of a small piece of our Scottsmeer land. I understand as a commissioner you likely have a packed schedule, but I believe, especially if you have never been back into the dirt roads of our community, the only way to understand is to take 41 minutes and watch the film. I was unable to obtain 5 DVDs and hand-deliver them when we met regarding this rezoning issue, but I have located the film on YouTube and am providing the link below. If phone searching, it is the video with the Osprey in the image. The first 10-12 minutes is a little slow, but by the end of the film, you will not regret watching the entire thing. It illustrates rural Brevard like nothing else can. Heat up a plate of nachos and give it a chance. It really is worth it. You will also find Mr. Graham's signature on our petition.

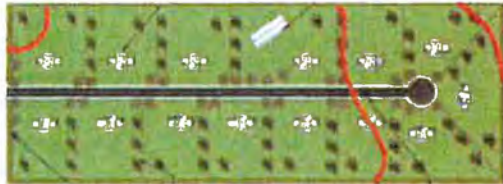
<https://www.youtube.com/watch?v=quaaXooGsQk>

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Many thanks,

Jerrad S Atkins





Net effect to existing site plan proposal = up to (5) homes affected by additional septic restrictions





**From:** [Ronald Bartcher](#)  
**To:** [Ronald Bartcher](#)  
**Subject:** Land Use Change For Scottsmoor  
**Date:** Sunday, March 17, 2019 7:34:14 PM

---

Dear Commissioner:

I object to the Future Land Use change that is being considered for Joseph Brandon and Nikki Thomas' property on County Line Ditch Road, north of Scottsmoor.

In 2008, following the Brevard County Commission's acceptance of the Mims Small Area Study, the County arbitrarily extended the dividing line between RES 1 and Res 1-2.5 Future Land Use from Flounder Creek Road north to the county line. Apparently, they used an arbitrary distance (of approximately 6500 feet) from US1 and just drew a line north to the county line. This arbitrary extension caused many properties to end up with two separate Future Land Uses. A more logical approach would have been to select a natural division line, such as the road Dixie Way, as the dividing line to avoid creating a problem for property owners.

An even more logical approach would have been to designate all property north of Scottsmoor, except for that facing US1, to have a Future Land Use of RES 1-2.5, since all that property is 2.5 acres or more. By using RES 1-2.5 Future Land Use, the County would have avoided creating a large area of Zoning/ Future Land Use inconsistencies, since virtually all this property is Zoned AU (which allows same density as RES 1-2.5).

One more thing to consider is that density, like beauty, is in the eye of the beholder. If a resident lives in a city, then one house per acre appears to be low density. To residents that live in this rural area of North Brevard, one house per acre is viewed as high density; one house per 2 ½ acres is medium density; and we would view one house per 20 acres as low density. This difference in perspective is important when considering Future Land Use changes. Future Land Use changes should not affect the residents in a negative manner. The residents of this area live here specifically because of what they perceive as low density. They have invested their money and located their families in this rural area of Brevard, and they rightly expect the Land Uses will continue to be compatible with their community values. Please deny the Future Land Use change that is being considered for Joseph Brandon and Nikki Thomas' property on County Line Ditch Road, north of Scottsmoor.

Regards,

Ron Bartcher

Scottsmoor Community Association  
3724 Magoon Ave. ....  
Mims, FL 32754

**RECEIVED**

APR 2 REC'D

DISTRICT 4  
COMMISSION OFFICE

**Commissioner Curt Smith**  
2725 Judge Fran Jamieson Way  
Building C Suite 214  
Viera, Florida 32940

Dear Commissioner Smith,

The Scottsmoor Community would like to thank you for taking the time to speak with three of our members regarding a proposed Small Area Plan change to the existing Brevard County Future Land Use Map, and the associated request to change the existing zoning on that 19.75 acres from AU 1:2.5, minimum 2.5 acres per home, to R:1, 1 home per acre. The subject property is the North East corner of Brevard County at the intersection of Dixie Way and County Line Ditch Road, Southeast corner. An aerial map of the affected rural residential Scottsmoor area is attached with this letter to better illustrate the rural nature of our Scottsmoor Community. Additionally, there is a map included to this package illustrating the physical proximity of the parcel subject to the requested rezoning with respect to the designated dedicated conservation properties surrounding it.

As our members Rose McGinnis, Jerrad Adkins, and David Laney conveyed to you, the Scottsmoor Community Association, and over 1,100 other residents of this section of North Brevard County vigorously oppose these requested changes. Our opposition is not based in a total opposition to development. In fact we welcome our new neighbors who come to enjoy our rural community values and contribute to the preservation of our rural environment. Rather, our opposition stems from the negative impacts that would absolutely result from increased population density and the inordinate demand that development would place on our rural environment and the resources and infrastructure which currently sustain it. Additionally, we believe our objections to this requested rezoning are well founded and supported by principles and requirements set forth in Florida State Statutes, the Florida Long Range Comprehensive Plan, and the Brevard County Long Range Comprehensive Plan.

The concerns our Scottsmoor Community Members expressed to you included the direct impact on our already fragile surficial aquifer, directly resulting from an increased pumping demand accruing from an increased residential development density. This surficial aquifer is the source of potable residential well water for all homes in the Scottsmoor area, as well as a source for agricultural irrigation. Our concern for the degradation of our potable water supply over time is shared by Dr. Arnoldo Valle-Levinson, Professor, Engineering School of Sustainable Infrastructure and Environment, University of Florida. Dr Valle-Levinson is a renowned expert in the field of salt water intrusion and Estuarine studies. His concerns are expressed in his letter, included in the package.

Additionally, we of the Scottsmoor Community expressed our concerns for the larger negative environmental impacts which would result if this increased residential development were to be approved and developed. These concerns are further expressed by our State Representative Rene "Coach P" Plascencia in a letter he sent to Commissioner Pritchett. A copy of this letter is included.

Again, thank you for making time to speak with members of our Scottsmoor Community. And of course if you have any additional questions or need for additional clarification related to any of our positions, please do contact us.

Very Respectfully,

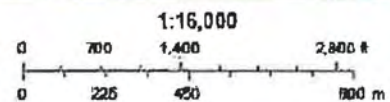
Members of the Scottsmoor Rural Community



## Brevard County Property Appraiser



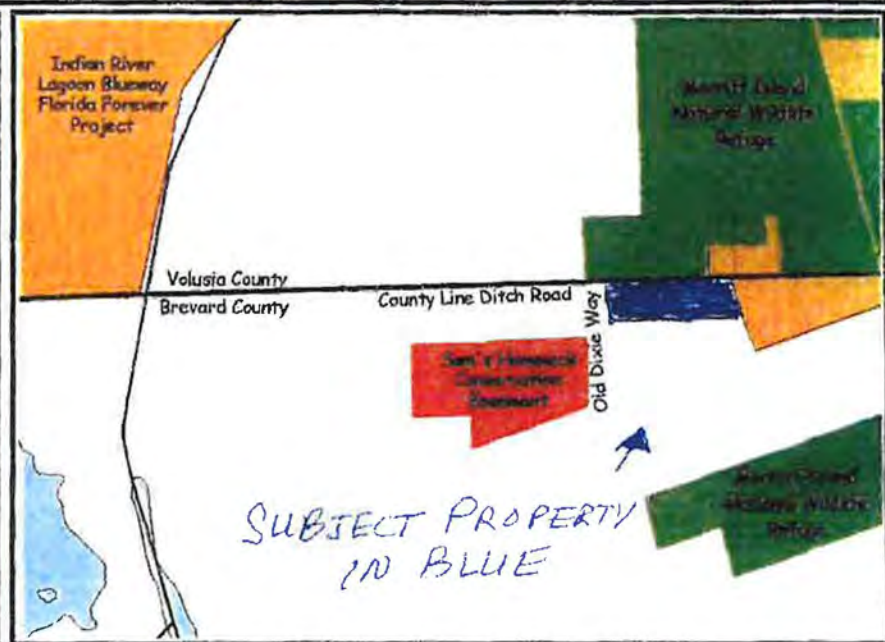
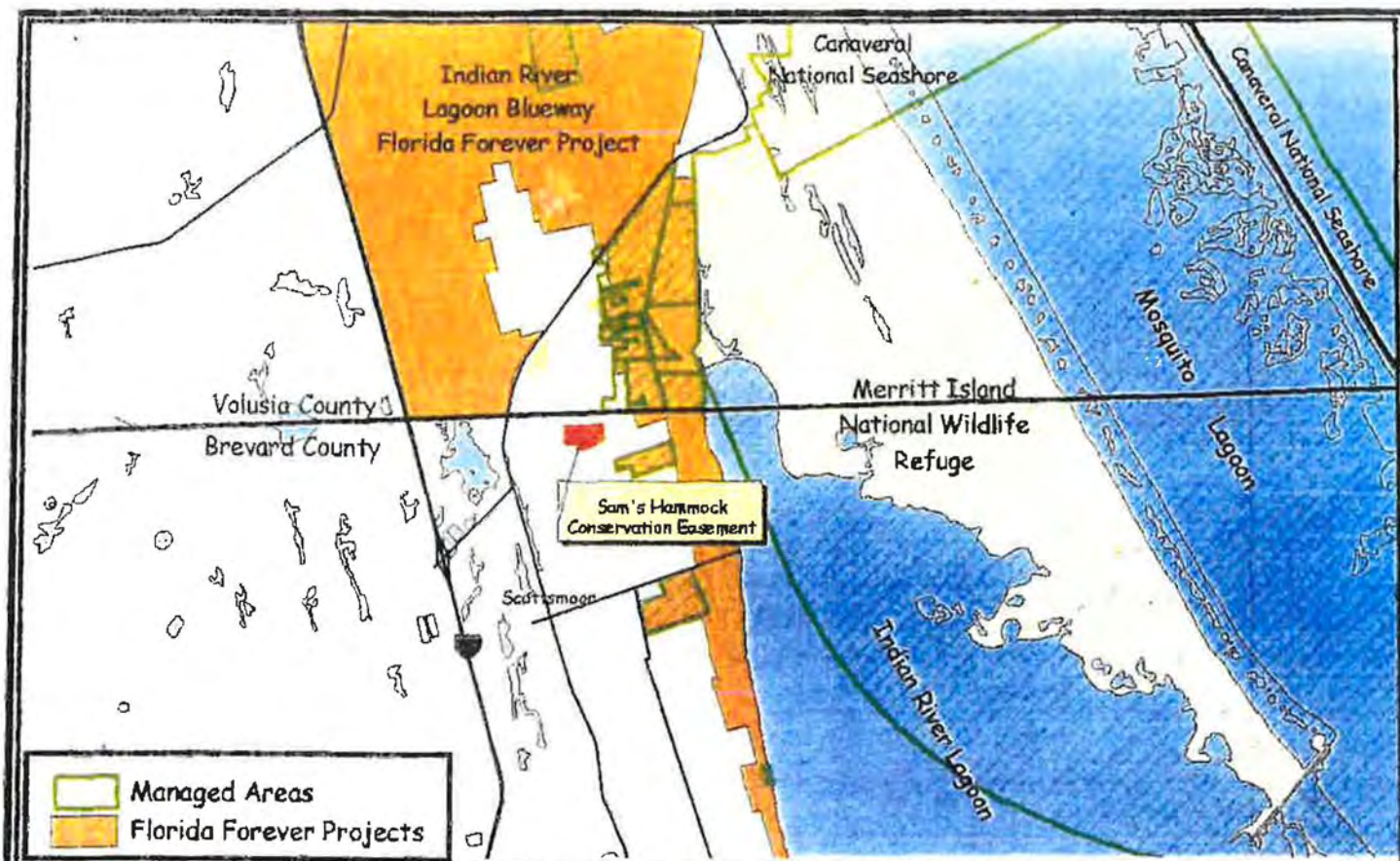
March 26, 2019



2846591

For information only. Not a survey. Map lines may not precisely align.  
CDBR02015





**MAP 1**

**SAM'S HAMMOCK CONSERVATION EASEMENT**  
Brevard County, Florida

*The Nature Conservancy*

SAVING THE LAST GREAT PLACES ON EARTH

Wendy J. Coster  
22 February 2006





Herbert Wertheim College of Engineering  
Engineering School of Sustainable Infrastructure and Environment  
Department of Civil and Coastal Engineering  
Arnoldo Valle-Levinson, Professor  
arnoldo@ufl.edu

365 Weil Hall  
PO Box 116580  
Gainesville, FL 32611-6580  
352-392-9537 Department Phone  
352-392-3394 Department Fax  
www.essie.ufl.edu

March 10th, 2019

David Laney

Subject: Salt Water Intrusion Potential, North Brevard County, Florida

Dear David,

Upon visiting the Scottsmeer area on March 6<sup>th</sup>, I became familiarized with the rezoning request in the area. I am able to place such request in the context of natural and human-related pressures in the region of the Indian River Lagoon.

I think that any new infrastructure development in coastal areas, around the Indian River Lagoon in particular, needs to be examined carefully and sensibly. This is because sea levels around Florida have risen at rates that are more than 6 times the mean global rates. Between 2011 and 2016, sea level rose at a rate of  $\frac{3}{4}$  inch per year. Evidence of these rapid sea-level increments are the increase in sunny-day flooding events in the state. Compound to this problem is the ever-increasing human use of freshwater from the aquifer. Moreover, an inconclusive trend in Florida rain values since 1895 indicates that the aquifer recharge is not changing over decadal scales. This means that sea-level rise produces encroachment of salty ocean water toward land, which is exacerbated by increased human consumption of aquifer water for domestic and agricultural purposes. The 1) sea-level rise – 2) human consumption of water represents a 1-2 punch that chokes the lagoon and affects the water and soil quality for communities within, at least, the first few miles of the coast. Clear consequences of such 1-2 choking punch, or as they say, the canary in the coal mine, are a) the alarming incidence of toxic algae blooms in the Indian River Lagoon, b) the widespread salinization of well water in the communities around the lagoon, and c) threatening coastal erosion around Cape Canaveral. Incidence of algae blooms, in particular, is accompanied by decreased air quality.

Evidently, any new rezoning that allows increases in settlement density will represent amplified demands for aquifer water. Because sea level is expected to continue to rise, the area will likely be drastically affected by the 1-2 choking punch, in detriment to water, air and soil quality.

Sincerely,

A handwritten signature in cursive script that reads "Arnoldo Valle-Levinson".

Arnoldo Valle-Levinson



## Representative Rene "Coach P" Plasencia

Florida House of Representatives  
District 50

400 South St #10  
Tallahassee, FL 32301  
(904) 303-6131

Orange County Legislative Delegation  
Brevard County Legislative Delegation  
Rene Plasencia @ MyFloridaHouse.org

317 House Office Building  
402 S. Monroe St. Tallahassee, FL 32399  
(904) 717-0090

March 26, 2019

Commissioner Rita Pritchett  
Brevard County District 1  
2000 S. Washington Ave., Suite 2  
Titusville, FL 32780

RE: North Brevard Re-Zoning Request

Commissioner Pritchett,

It has come to my attention that there is currently a re-zoning request going before the Brevard County Commission on 4 April, 2019 to have 19.75 acres in North Brevard rezoned to RR 1, one home per acre, which is current zoned as AU 12.5. I was made aware that at the March 11<sup>th</sup> Planning & Zoning meeting there were only two letters submitted supporting the re-zoning request while there were 157 property owners who signed the petition opposing it.

These properties at risk of being rezoned are the agricultural properties currently serving as Florida Forever and Blueways buffers, and a number of them are targeted as Florida Forever acquisitions. Currently these agricultural properties provide essential contiguous habitat for wildlife and forage for migrating birds. To compound the negative aspects of this proposed re-zoning, all of these properties are directly inter-connected via open storm water drainage directly to the lagoon. I ask that you please take the time to consider the ramifications of this re-zoning if it were to be approved. It is my belief that decades of effort to protect the Eastern side of the Indian River Lagoon in North Brevard County, while establishing effective contiguous Florida Forever wildlife habitat and corridors will have been for naught if this passes.

Feel free to reach out to me if you have any questions.

Respectfully Yours,

Representative Rene "Coach P" Plasencia

*Proudly Serves East Orange County & Brevard County*

Workforce Development & Tourism Subcommittee - Chair; Health Quality Subcommittee - Vice Chair;  
Appropriations Committee; Commerce Committee; Health Care Appropriations Subcommittee; Oversight,  
Transparency & Public Management Subcommittee

**From:** [Douglas and Mary Sphar](#)  
**To:** [Commissioner, D4](#)  
**Cc:** [Woodard, Patrick](#)  
**Subject:** Please oppose density increase in Scottsmoor on April 4th  
**Date:** Wednesday, March 27, 2019 10:50:35 AM

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Dear Commissioner Smith,

I am very concerned about the proposed zoning change from AU to RR-1 on 19.75 acres in Scottsmoor and the associated Comprehensive Plan change for 3.15 of those acres from RES 1:2.5 to RES 1. This agenda item will be heard by the Commission on April 4.

Scottsmoor is a very special rural area and increasing the density on the subject property would conflict with the community character. I attended the March 11th P&Z meeting for this item, where it was stated that the nearest property with a similar zoning for 1-acre lots was a mile away. From the P&Z minutes on the Brevard County website, page 13:

Bruce Moia – From the picture I have, everything around here is AU (Agricultural Residential), where is the closest zoning similar to what they're requesting?  
Erin Sterk – I think it's more than a mile away.

Having attended all the local community workshops for the "How Shall We Grow?" visioning initiative several years ago, I believe that increasing density in this Scottsmoor area is exactly how we shouldn't grow! In fact, one of the 4 conclusions of that visioning exercise was captured under the Regional Growth Priority "Countryside", meaning "Maintaining Central Florida's heritage of agriculture and small villages." Additional information can be found on the East Central Florida Regional Planning Council website.

A much more appropriate place for North Brevard to grow is Titusville.

If this density increase is granted, a precedent will be established, allowing other nearby landowners to ask for the same density to build subdivisions that ignore community character and help destroy it.

In addition, the subject property is in an area with a network of conservation lands including the Indian River Lagoon Blueway Florida Forever Project, some parts of which have been purchased as public land and some that need to be acquired. Our Indian River Lagoon should be top priority!

I have recently been reviewing some sea level rise and resiliency documents from the East Central Florida Regional Planning Council that pertain to Brevard County, and have concluded that the Blueway Project lands will become more and more critical to our County's resilience. The Scottsmoor rural lands combine with the conservation lands to provide a first line of defense to mitigate the effects of sea level rise.

In conclusion, please vote NO on the requested rezoning and associated Comp Plan change on April 4th.

Thank you,

Mary Sphar

825 Cliftons Cove Ct.  
Cocoa, FL 32926

**From:** [fedexxi@aol.com](mailto:fedexxi@aol.com)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** KEEP SCOTTSMOOR RURAL  
**Date:** Tuesday, March 19, 2019 8:13:05 PM

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Everything is getting too built up. We need green space! We need rural areas. Keep Scottsmeer as is!  
Enough said!!

Marielle Marne & Steven Moore



**From:** [David Laney](#)  
**To:** [Commissioner D4](#)  
**Subject:** North Brevard Re-zoning Issue  
**Date:** Friday, March 22, 2019 2:39:16 PM

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Commissioner Smith,

We in Scottsmeer appreciate your taking the time to speak with us this morning. As you probably picked up from our conversation, we are passionate about protecting the community and the active rural agricultural lifestyle, while at the same time retaining the conservation aspects of the undeveloped environment.

The proposed residential development of a property in the last remaining section of rural Brevard County East of highway 1, a property that is bounded on all four sides by Conservation lands, is something that should sound alarms at all level.

Not only is our rural community and lifestyle threatened, but years of efforts by various Conservation entities such as The Nature Conservancy, Marine Resource Council IRL, and Environmentally Endangered Lands are at risk of being marginalized.

Thank you again for your time and consideration of our issue,

David Laney  
Jerrad Adkins  
Rose McGinnis

## **Commissioner, D1**

---

**From:** JERRAD ATKINS <jer\_rad@yahoo.com>  
**Sent:** Tuesday, April 02, 2019 1:52 PM  
**To:** Commissioner, D1  
**Cc:** Commissioner, D3; Commissioner, D2; Commissioner, D4; Commissioner, D5  
**Subject:** I oppose the rezoning of Joseph Brandon & Nikki Thomas in Scottsmoor  
**Attachments:** BOCC Letter re Thomas Rezoning.docx

Please see attached letter regarding this agenda item for 4/4

Thanks,

**Jerrad Atkins**

*Project Manager*

**(321) 432-1451** mobile

Commissioner,

My name is Jerrad Atkins and I have been a resident of the Scottsmeer community for 5 ½ years, along with my wife Alyssa and our 2 young sons. We relocated to Scottsmeer from Merritt Island because we wanted to buy more land and start a farm and raise our boys, Chase and Reily, in the country. Not wanting to leave Brevard County, of which we are both long-term residents, we chose Scottsmeer because of the rural nature it provides and because the AU zoning and 2.5 Acre per house minimum requirement, meaning limited and responsible development would maintain that rural nature.

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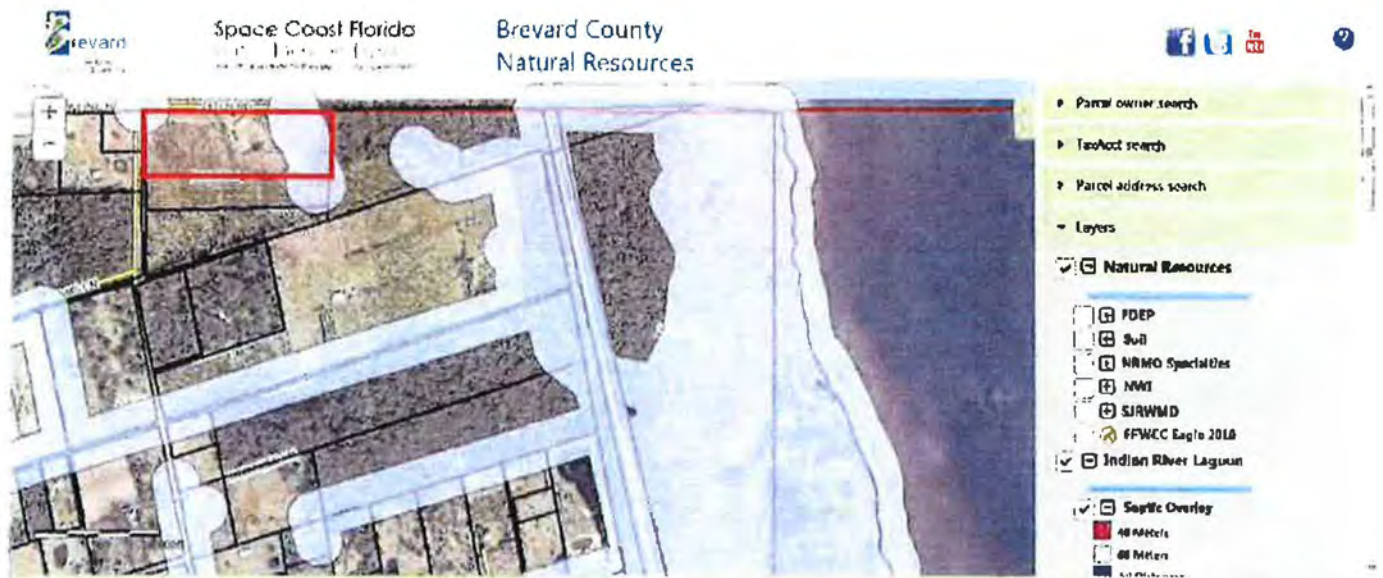
<https://www.youtube.com/watch?v=quaaXooGsQk>

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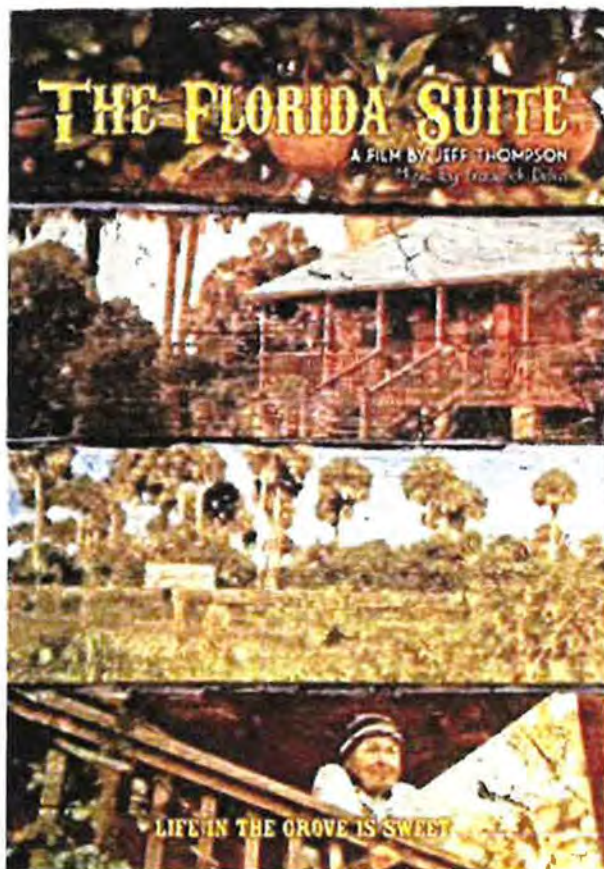
Many thanks,

Jerrad S Atkins





**Net effect to existing site plan proposal = up to (5) homes affected by additional septic restrictions**





April 2, 2019

**Commissioner John Tobia**

Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

Re: Scottsmoor

Dear **Commissioner Tobia**,

Google describes Scottsmoor as "an unincorporated community in the north end of Brevard County, Florida," which "is a farming community." Zillow is reporting zero houses for sale in Scottsmoor today, although land parcels were listed. How many communities do know that have no homes for sale? Things to do, as represented by Trip Advisor, is nil in Scottsmoor.

The purpose of this writing is to support of the families residing in Scottsmoor, Florida, and their way of life. Our son, Jerrad, daughter-in-law, Alyssa, and two young grandsons currently reside in Scottsmoor, along with their beef cows, dairy cows, goats, chickens, turkeys, rabbits, dogs, and cat. Their homestead provides a safe environment to raise their sons and teach them how to use the land responsibly, along with raising farm animals. They chose the Scottsmoor area because of the wide-open spaces, neighborly character, untouched countryside, and innocent nature of the surroundings. The purpose of investing their life savings in the Scottsmoor neighborhood was to live near other family members without residing in a city proper, at the same time providing safety, security, and privacy to their household.

We understand some folks are interested in rezoning part of the area from AU to RR1, which is concerning to those seeking to maintain their family's current lifestyle. A second generation native of Florida, born and raised in the Central Florida area, I am all too familiar with community growth and development. The pasture where my horses grazed is now a supermarket. The necessity for growth is completely understandable; however, this area of Brevard County is rural. Families that purchased property here did so because the zoning limited the density to certain size parcels of land, which is why they invested their hard earned money in Scottsmoor. These individuals appreciate, love, care for the land where they reside. To entertain altering zoning in this area, is a step toward allowing others to increase the density landscape of the area and lose the quaint culture that has grown in the small town. Thank you for taking the time to consider our view. Please do not change the zoning in this area.

Warm regards,

**Phillip G. MacIntyre**

**Lori M. MacIntyre**

DAD AND MOM

321.431.6604

Sirfer59@aol.com

LORI MACINTYRE

## Commissioner, D1

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**From:** MacIntyre, Lori (EOIR) <Lori.MacIntyre@usdoj.gov>  
**Sent:** Tuesday, April 02, 2019 7:41 PM  
**To:** Commissioner, D1  
**Subject:** Letter in support of Scottsmeer Families  
**Attachments:** Pritchett.Scottsmeer Letter.April 2 2019.docx  
  
**Categories:** AMY

Thank you for taking the time to read our letter.

April 2, 2019

**Commissioner Rita Pritchett**

Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

Re: Scottsmoor

Dear Commissioner Pritchett,

Google describes Scottsmoor as "an unincorporated community in the north end of Brevard County, Florida," which "is a farming community." Zillow is reporting zero houses for sale in Scottsmoor today, although land parcels were listed. How many communities do know that have no homes for sale? Things to do, as represented by Trip Advisor, is nil in Scottsmoor.

The purpose of this writing is to support of the families residing in Scottsmoor, Florida, and their way of life. Our son, Jerrad, daughter-in-law, Alyssa, and two young grandsons currently reside in Scottsmoor, along with their beef cows, dairy cows, goats, chickens, turkeys, rabbits, dogs, and cat. Their homestead provides a safe environment to raise their sons and teach them how to use the land responsibly, along with raising farm animals. They chose the Scottsmoor area because of the wide-open spaces, neighborly character, untouched countryside, and innocent nature of the surroundings. The purpose of investing their life savings in the Scottsmoor neighborhood was to live near other family members without residing in a city proper, at the same time providing safety, security, and privacy to their household.

We understand some folks are interested in rezoning part of the area from AU to RR1, which is concerning to those seeking to maintain their family's current lifestyle. A second generation native of Florida, born and raised in the Central Florida area, I am all too familiar with community growth and development. The pasture where my horses grazed is now a supermarket. The necessity for growth is completely understandable, however, this area of Brevard County is rural. Families that purchased property here did so because the zoning limited the density to certain size parcels of land, which is why they invested their hard earned money in Scottsmoor. These individuals appreciate, love, care for the land where they reside. To entertain altering zoning in this area, is a step toward allowing others to increase the density landscape of the area and lose the quaint culture that has grown in the small town. Thank you for taking the time to consider our view. Please do not change the zoning in this area.

Warm regards,

**Phillip G. MacIntyre**

Lori M. MacIntyre  
DAD AND MOM

321.431.6604

Sirfer59@aol.com

LORI MACINTYRE

## Craddock, Amy

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**From:** County Commissioner District 1 <BEACH.ADMIN@Brevardcounty.us>  
**Sent:** Wednesday, April 03, 2019 10:45 AM  
**To:** Craddock, Amy  
**Subject:** Phone Log - Delbert Link/543 Allen Street Mi...

County Commissioner District 1

### ***Delbert Link/543 Allen Street Mi...*** has been added

[Modify my alert settings](#) [View Delbert Link/543 Allen Street Mi...](#) [View Phone Log](#) [Mobile View](#)

**Name/Company:** Delbert Link/543 Allen Street Mims 32754

**Phone Number:** 321-321-363-8871

**Date/Time Call Received:** 4/3/2019 10:40 AM

**Purpose of Call:** Mr. Link called to express is disapproval of the rezoning request in Scottsmoor. He signed a petition that he is against the rezoning and will be attending the meeting on 4/4/19.

**Follow Up Needed:** Amy Craddock

**Date Received:** 4/3/2019

last modified: 4/3/2019 10:41 AM by Stacey@brevard.net