



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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G.5.

4/4/2024

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### Subject:

West Malabar Properties, LLC requests a change of zoning classification from RP and AU to all BU-2 with a BDP. (24Z00004) (Tax Account 2806110, 2806111, 2806115, 2806112) (District 5)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from RP (Residential Professional) and AU (Agricultural Residential) to all BU-2 (Retail, Warehousing and Wholesale Commercial) with a BDP (Binding Development Plan).

### Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RP (Residential Professional) and AU (Agricultural Residential) to BU-2 (Retail, Warehousing and Wholesale Commercial).

Properties within the County's jurisdiction along the westside of Minton Road can be characterized as residential and intermitted commercial with RP, BU-1, and RU-1-13 zoning within the County's jurisdiction. The closest BU-2 zoning classification is located approximately 1,830 feet northwest of the subject property, along the north side of Norfolk Pkwy. The subject property could be considered as transitional use with BU-1 zoning abutting to the south. Additional commercial uses are located south along Minton Road. The east side of Minton Road is in the jurisdiction of the City of West Melbourne with commercial and multi-family uses, and further south along Minton Road is in the jurisdiction of the City of Palm Bay with commercial uses.

There is a Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, 24SS00001, to change the Future Land Use Map designation from NC (Neighborhood Commercial) and RES 2 (Residential 2) to all CC (Community Commercial).

The applicant has provided a Binding Development Plan which stipulates limiting the use of the property to climate-controlled mini-storage use as allowed in BU-2 zoning classification and other uses as allowed in the BU-1 zoning district. BU-1 allows for fast-food restaurants (with a drive-thru), day care facilities, and banks.

In addition, the applicant has provided a concept plan. This plan has not been reviewed for compliance with county code. It should be considered informative only and is not included in the Board approval.

The Board may wish to consider whether the proposed zoning request is consistent and compatible with the surrounding area and if the Binding Development Plan mitigates any off-site impacts.

On March 18, 2024, the Planning and Zoning Board heard the request and voted 7:2 to recommend approval. Public comments included existing traffic congestion at the intersection of Hield Rd. and Minton Rd.

**Clerk to the Board Instructions:**

Upon receipt of resolution, please execute and return a copy to Planning and Development.

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

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

### **Administrative Policy 1**

The Brevard County zoning official, planners and the Director of the Planning and Development, 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 zoning 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 amendments, 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 development applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

### **Administrative Policy 3**

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

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:
  - 1. historical land use patterns;
  - 2. actual development over the immediately preceding three years; and
  - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

##### **Criteria:**

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
  - 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
  - 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
  - 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

#### **Administrative Policy 5**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the



use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

**Criteria:**

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;
- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

**Administrative Policy 6**

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

**Administrative Policy 7**

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

**Administrative Policy 8**

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

#### **CONDITIONAL USE PERMITS (CUPs)**

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in

support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
  - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
  - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
  - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

## DEFINITIONS OF CONCURRENCY TERMS

**Maximum Acceptable Volume (MAV):** Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

**Current Volume:** Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

**Volume with Development (VOL W/DEV):** Equals Current Volume plus trip generation projected for the proposed development.

**Volume/Maximum Acceptable Volume (VOL/MAV):** Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

**Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV):** Ratio of volume with development to the Maximum Acceptable Volume.

**Acceptable Level of Service (CURRENT LOS):** The Level of Service at which a roadway is currently operating.

**Level of Service with Development (LOS W/DEV):** The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**24Z00004**

**West Malabar Properties, LLC**

**AU (Agricultural Residential) and RP (Residential-Professional) to all BU-2 (Retail, Warehousing and Wholesale Commercial) with BDP (Binding Development Plan)**

Tax Account Number: 2806110, 2806111, 2806112 & 2806115  
Parcel I.D.: 28-36-24-FA-2-1, 28-36-24-FA-2-1.01, 28-36-24-FA-2-1.02 & 28-36-24-FA-2-2  
Location: Southwest corner of Minton Road and Hield Road (District 5)  
Acreage: 4.58 acres

Planning & Zoning Board: 3/18/2024  
Board of County Commissioners: 4/04/2024

**Consistency with Land Use Regulations**

- Current RP zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RP and AU	All BU-2 **
<b>Potential*</b>	4 Residential Units	FAR of 1.0
<b>Can be Considered under the Future Land Use Map</b>	No, RP requires RES 4 & NC AU yes RES 2	Yes CC

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

\*\* Commercial Zoning permits 30 units per the State of Florida Statute 125.01055 Live Local Act.

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from AU (Agricultural Residential) on one acre portion and RP (Residential Professional) on the remaining 3.58 acres to all BU-2 (Retail, Warehousing and Wholesale Commercial).

In addition, the proposed Binding Development Plan contains a concept plan depicting a self-storage facility with future access to Minton Road and Hield Road, which are county-maintained roads. This plan has not been reviewed for compliance with county code. It should be considered informative only and is not included in the Board approval.

There is also a Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, 24SS00001 to change the Future Land Use Element from Residential 2 (RES 2) and Neighborhood Commercial (NC) to all Community Commercial (CC).

The proposed BDP states:

- The developer/Owner shall limit the use of the property to climate-controlled mini-storage as allowed in BU-2 zoning classification and other uses as allowed in the BU-1 zoning district. The attached Exhibit A demonstrates the proposed development conceptual site plan.

The applicant has provided a BDP which limits the use of the property to a climate controlled mini-storage as allowed in BU-2 zoning classification and other uses as allowed in BU-1 zoning. The BU-1 classification allows retail commercial land uses, such as coffee shops, restaurants, fast food with drive thru, banks and convenience stores, with or without gasoline sales, on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The applicant states that he is requesting BU-2 zoning as the BU-1 zoning restricts the height of a self-storage mini-warehouse and does not permit them to be climate controlled.

Self-storage mini-warehouse is a permitted use with conditions in BU-1 zoning.

The conditions for a self-storage mini-warehouses in BU-1 include:

- (1) No unit within a self-storage mini warehouse shall be utilized as a place of business. No business tax receipt, other than that of the self-storage mini-warehouse operator, shall be approved for a business operation on the property.
- (2) No utilities, namely, electricity, water, telephone, cable TV, or gas, will be provided to the individual units. Lighting and air conditioning may be located in the hallways only.
- (3) In addition to height restrictions as described in the BU-1 zoning classification, structural heights shall be further limited by the heights of adjacent off-site buildings to the side or rear of the property. Where only one structure is contemplated on site, height is limited to the height of the lowest principal structure on any adjacent parcel. Where more than one structure is proposed on site, the height of each structure is limited to the height of the lowest principal structure on the closest parcel. Where the adjacent parcel is vacant, the height of the proposed structure shall be limited to one story.
- (4) No outside storage of commercial vehicles or heavy equipment as defined in and regulated by section 62-2117 shall be permitted. Recreational vehicles and recreational equipment so defined shall be permitted to be stored on site if screened from view from the



street and from adjacent parcels by a minimum eight-foot opaque visual barrier, except that such vehicles and equipment shall not be permitted to be stored outside where said property is adjacent to a parcel zoned residential or used for residential purposes.

(5) The use of generators of any kind is prohibited.

(6) The use or storage of hazardous materials is prohibited.

(7) Signage shall be placed on each building indicating that no hazardous materials use, or storage or generator use is permitted and that units cannot be occupied for business or industrial use.

(8) The entrance gate shall be so designed and located to allow for a 33-foot-long vehicle to queue without extending into the public right-of-way.

(9) Minimum lot size. An area not less than 20,000 square feet, having a minimum width of 100 feet, and a minimum depth of 200 feet.

(10) Landscaping and screening. A landscape buffer and screening strip shall be provided within each side and rear setback. Said buffer and screening strip shall consist of any combination of berming, fencing and vegetation which will provide a six-foot high visual barrier. Where said property is contiguous to a parcel zoned residential, or used for residential purposes, the landscape buffer and screening strip shall be completely opaque to a height of six feet pursuant to chapter 62, articles VIII and XIII. A four-foot-high irrigated and landscaped berm shall be provided along the front property line (excepting the entranceway) and the side property lines for a minimum depth of the required front setback. Additional vegetation shall be added to the berm to achieve a total height of at least six feet. Chain link fence is prohibited.

(11) Architectural requirements. The site shall be designed so that no mini-warehouse overhead doors are visible from the street or from any adjacent parcel zoned residential or used for residential purposes. Perimeter structures shall have trussed roofs. Perimeter walls shall be designed with physical breaks, windows (real or not), façade material changes or other architectural details and features (not just paint) intended to mimic the style of a retail structure as opposed to a continuous, visually monotonous warehouse wall. Metal buildings are prohibited.

(12) Maximum structural coverage. Forty percent of total lot area.

The existing AU zoning classification does not permit commercial uses. The existing RP zoning permits single-family residences, multiple-family dwellings and professional offices. The RP zoning permits does not permit other commercial uses. BU-2 zoning classification requires a building of at least 300 sq. ft. as their principal structure.

The subject parcels have access to both Minton Road and Hield Road, which are county-maintained roadways.

Tax account: 2806112 has its original zoning of AU (Agricultural Residential).

The original zoning of the RP zoned parcels was AU.

Tax account: 2806115 was rezoned on August 24, 1987, per zoning action **Z-7867** from AU to RP (Residential-Professional).

Tax account: 2806111 was rezoned on June 22, 1992, per zoning action **Z-8979** from AU to RP (Residential-Professional).

Tax account: 2806110 was rezoned on August 29, 1996, per zoning action **Z-9766** from AU to RP (Residential-Professional).

The applicant is requesting to change the zoning from AU and RP to all BU-2 to build a multi-story climate controlled mini-warehouse with a Binding Development Plan (BDP).

The subject parcels are located on the southwest corner of Minton Road and Hield Road, County maintained roadways.

### **Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Commercial & Single-Family Residence, across Hield Road	BU-1 and RU-1-13	CC & RES 2
<b>South</b>	Commercial	BU-1	CC
<b>East</b>	Across Minton Road	City of West Melbourne	City of West Melbourne
<b>West</b>	Single-Family Residences	AU and EU-1	RES 2

The developed character of the surrounding corridor on the west side of Minton Road and south of Hield Road is commercial and residential. The abutting parcel to the south is BU-1 (General Retail Commercial) zoning. To the west is Residential with AU and EU-1 zoning.

The current AU zoning classification permits single family residential development on lots of not less than two and one-half acres having a minimum width of 150 feet and a minimum depth of 150 feet. The minimum house size is 750 square feet.

The current RP is the Residential-Professional zoning classification, intended to promote low to medium density residential development along with low intensity commercial usage. Minimum lot area requirements in the RP classification are 7,500 square feet, with 75 feet of width and depth.

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

The requested BDP restricts BU-2 use to ministorage. While the BU-1 classification allows retail commercial land uses such as coffee shops, restaurants, fast food with drive thru, banks and convenience stores, with or without gasoline sales on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The EU-1 zoning classification is an estate single family residential zoning classification. The minimum lot size is 12,000 square feet with minimum lot width and lot depth of 100'. The minimum living area is 1,800 square feet.

**There has been one zoning action within a half-mile of the subject property within the last three years: 22Z00006 located 1,830 feet northwest of the subjected parcels, along the north side of Norfolk Pkwy, was rezoned from GU with a CUP (Conditional Use Permit) for a tower to BU-2 with a BDP and removal of the CUP.**

#### **Future Land Use**

The subject property is currently designated as Residencial 2 (RES 2) and Neighborhood Commercial (NC) FLUM designation. The existing AU and RP as well as the proposed BU-2 zoning classifications can be considered consistent with the proposed CC FLUM designation. The proposed BU-2 zoning is not consistent with the existing RES 2 and NC designations.

**FLUE Policy 2.2** - The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

#### **Criteria:**

##### **A. Permitted/prohibited uses;**

**BU-2 Retail, Warehousing and Wholesale Commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. Retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Storage yards must be enclosed with a six-foot wall, louvered fence or chain-link fence.**

##### **B. Existing commercial zoning trends in the area;**

**The west side of Minton Road is an existing commercial corridor with residential to the west of the subject parcels. The east side of Minton Road is in the city of**

**West Melbourne with commercial uses and multi-family uses. Across to the north side of Hield Road is Commercial and residential.**

- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

**The surrounding area along the west side of Minton Road is characterized a mixture of commercial, single-family residential with agricultural residential west of the subject parcels. The applicant's request can be considered compatible with the existing commercial uses along Minton Road.**

- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

**The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service. Future development has not been evaluated.**

**The parcels are not serviced by public sewer or within the Brevard County service area for potable water. The lots will be serviced by a well and septic.**

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and

The following land use issues were identified:

**The entire subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal. The wetland delineation shall be verified at time of site plan submittal.**

- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

**This property will need to comply with Brevard County Standards noted within Section 62-1483 and 62-1845 of Brevard County Code. The proposed use is not anticipated to require performance standards beyond the zoning criteria. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning change be approved.**

### **Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.**

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;

**The CC FLU allows for an array of light manufacturing, warehouse, retail, personal and professional uses which may increase these standards. This property will need to comply with Brevard County Standards noted within Section 62-1483 and 62-1845 of Brevard County Code.**

- 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.

**Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.**

- 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;

**The developed character of the surrounding area along the west side of Minton Road is a mix of residential and commercial. To the west of the subject parcel is residential. To the south of the subject property is commercial. To the north across Hield Road is commercial and residential. The east side of Minton Road is in the city of West Melbourne with commercial uses and multi-family uses.**

2. actual development over the immediately preceding three years; and

**There has been no new development within 0.5 miles of the subject property within the last three years.**

3. development approved within the past three years but not yet constructed.

**There has not been any development approved within this area in the preceding three (3) years that has yet to be constructed.**

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

**Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.**

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

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, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**Staff analysis indicates the request is not located within an existing neighborhood. However, there is a pattern of existing single-family residential surrounding the property to the west. The subject property could be considered as transitional use with BU-1 zoning abutting to the south.**

**The BU-2 zoning classification is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted (i.e., major auto-repair facilities, paint and body shops, contractor storage yards, restaurants, fast food restaurants and coffee shops). Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered.**

**A preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service; however, the maximum development potential from the proposed rezoning increases the percentage of Maximum Acceptable Volume (MAV) by 0.75%. The proposed access improvements will be reviewed for code compliance during subsequent site plan application. The applicant will need to provide a traffic impact analysis with the site plan.**

- 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.

**The area has development of roads, open spaces, and similar existing features. It is not located in a neighborhood or subdivision but is along a commercial corridor on the west side of Minton Road and south of Hield Road.**

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.

**Staff analysis indicates that the surround area along Minton Road to the south and to the north across Hield Road is a commercial corridor.**

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.

**The subject parcel is located in a commercial corridor along the west side of Minton Road and to the north across Hield Road. The subject parcel is proposed to be rezoned from RP and AU to all BU-2. As the immediate area along the west side of Minton Road is commercial the proposed uses maintain the commercial integrity of the area.**

**The closest BU-2 zoning classification is located approximately 1,830 feet northwest of the subject property, along the north side of Norfolk Pkwy.**

### **Analysis of 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 unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

### **Per Natural Resource Management Department:**

**The entire subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal. The wetland delineation shall be verified at time of site plan submittal.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Minton Road, between Eber Blvd. and Palm Bay Road, which has a Maximum Acceptable Volume (MAV) of 36,800 trips per day, a Level of Service (LOS) of D north of Hield Road and a Level of Service (LOS) of E south of Hield Road, and currently operates at 76.49% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.75%. The corridor is anticipated to operate at 77.24% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

**The concurrency analysis was only for a 110,000 sq ft. mini self-storage facility as proposed. Any other future commercial development was not part of this analysis and will be reviewed under a separate site plan application.**

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The subject parcels are not serviced by public sewer or within the Brevard County service area for potable water. The lots will be serviced by well and septic.

## **Environmental Constraints**

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

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

The entire subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.** The wetland delineation shall be verified at time of site plan submittal.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Minton Road is an MQR at this location; however, one of the four subject parcels does not have direct frontage on the road. For a project that encompasses multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.**

## **For Board Consideration**

The Board may wish to consider whether the proposed zoning request is consistent and compatible with the surrounding area and if the Binding Development Plan mitigates any off-site impacts.



**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary  
Item No. 24Z00004**

**Applicant:** Cole Oliver (Owner: West Malabar Properties, LLC)

**Zoning Request:** RP and AU to all BU-2 with BDP (NC and RES 2 to all CC)

**Note:** to develop a multi-story climate controlled mini-storage facility (only BU-2 use)

**Zoning Hearing:** 03/18/2024; **BCC Hearing:** 04/04/2024

**Tax ID Nos.:** 2806110, 2806111, 2806115, 2806112

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

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

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

The entire subject parcel contains mapped hydric soils; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.** The wetland delineation shall be verified at time of site plan submittal.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Minton Road is an MQR at this location; however, one of the four subject parcels does not have direct frontage on the road. For a project that encompasses multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with

Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

**Land Use Comments:**

**Wetlands and Hydric Soils**

The entire subject parcel contains mapped hydric soils (EauGallie sand and Malabar sand, high), as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal. The wetland assessment shall be verified at time of site plan submittal.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Minton Road is an MQR at this location; however, one of the four subject parcels does not have direct frontage on the road. For a project that encompasses multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

If wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

**Indian River Lagoon Nitrogen Reduction Septic Overlay**

The northern and eastern portions of this property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

**Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees likely exist on the parcel. The applicant shall perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for

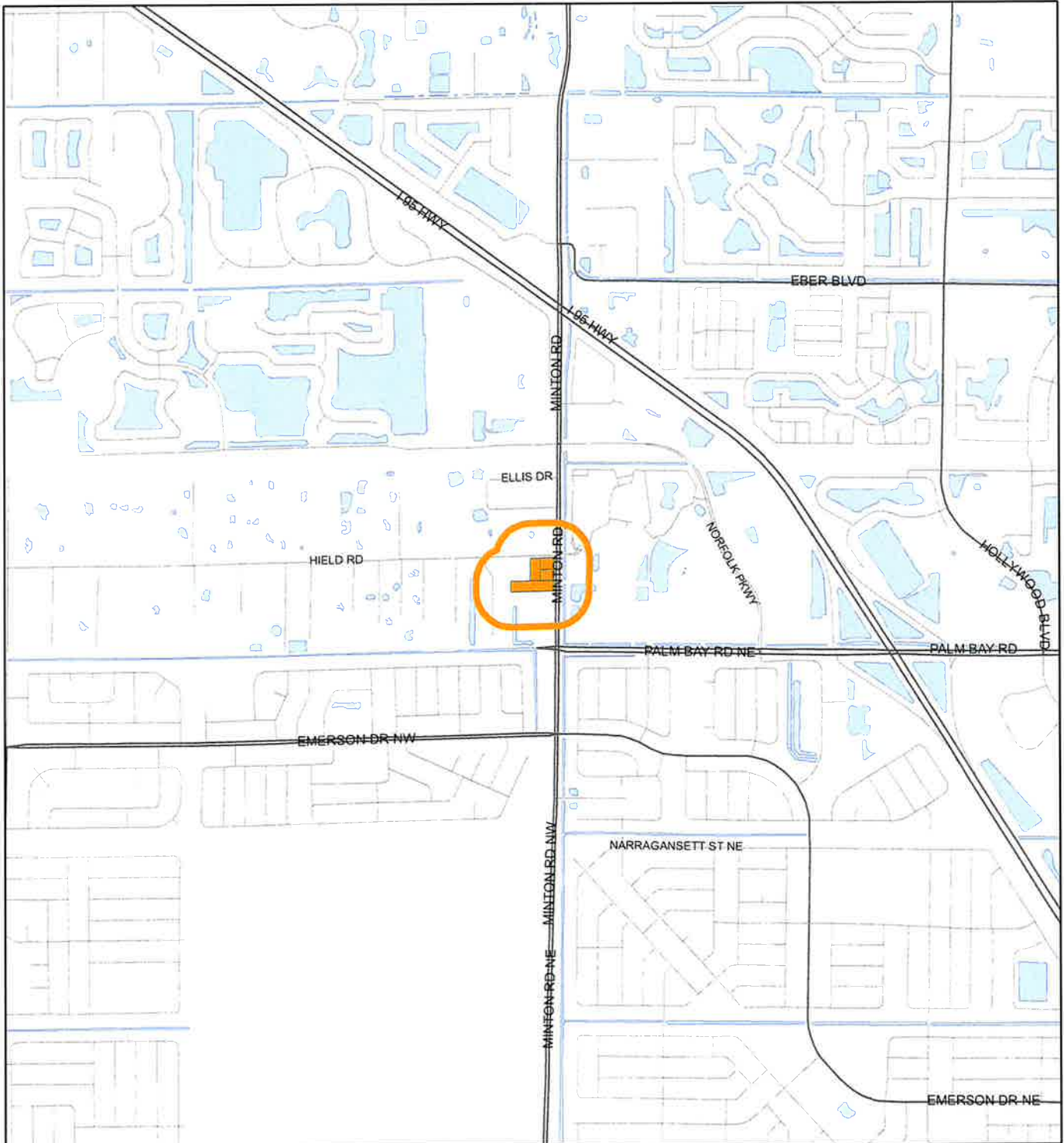
preservation and canopy coverage requirements as well as buffer requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

### **Protected Species**

Federally and/or state protected species may be present on properties with wetlands. If applicable, 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 prior to any plan, permit submittal, or development activity, including land clearing, as applicable.

# LOCATION MAP

WEST MALABAR PROPERTIES LLC  
24Z00004 '





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.

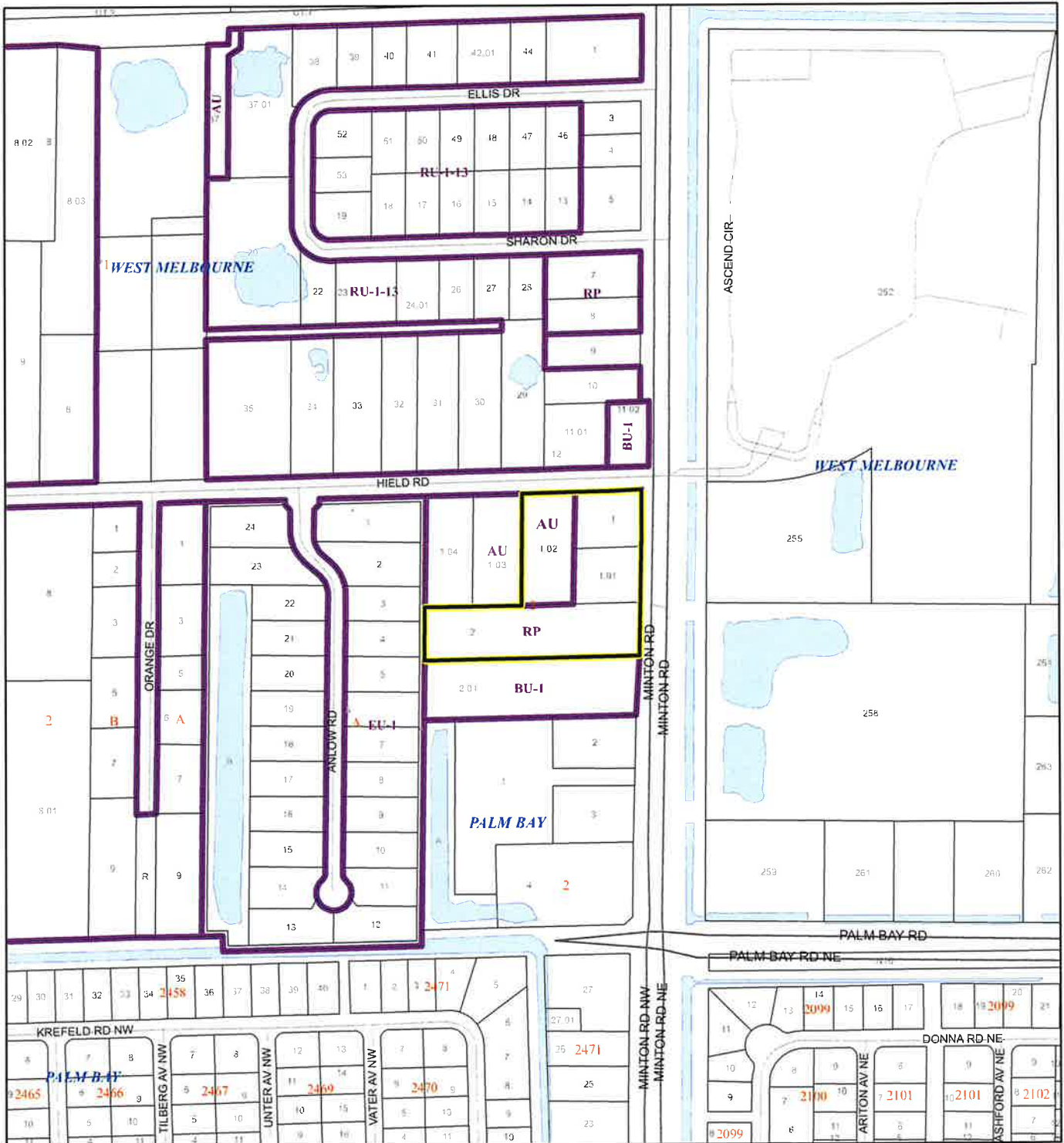
Produced by BoCC - GIS Date: 2/8/2024

-  Buffer
-  Subject Property

# ZONING MAP

## WEST MALABAR PROPERTIES LLC

### 24Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/8/2024

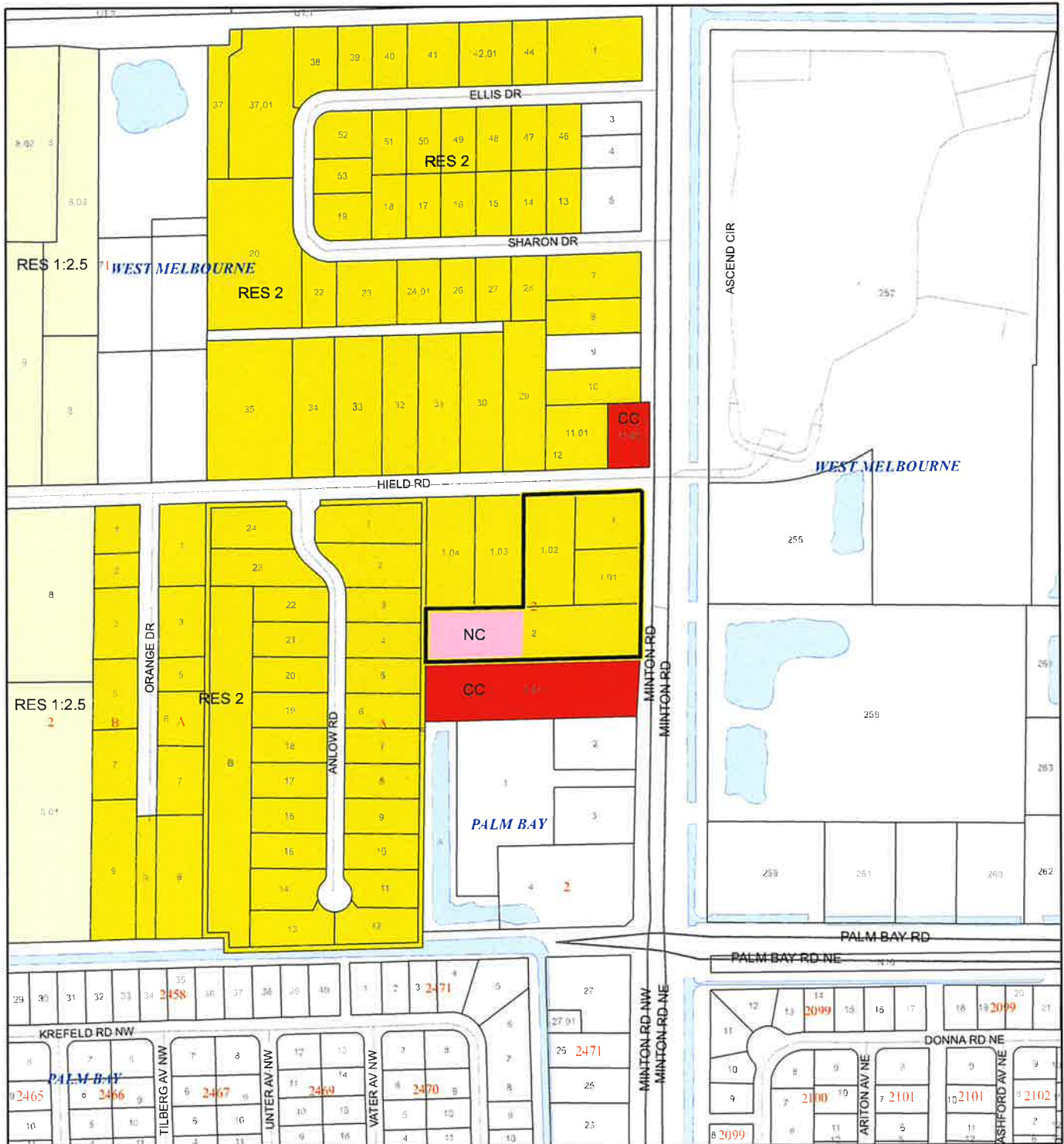
- Subject Property
- Parcels
- Zoning



# FUTURE LAND USE MAP

WEST MALABAR PROPERTIES LLC

24Z00004



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

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AERIAL MAP  
WEST MALABAR PROPERTIES LLC  
24Z00004



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

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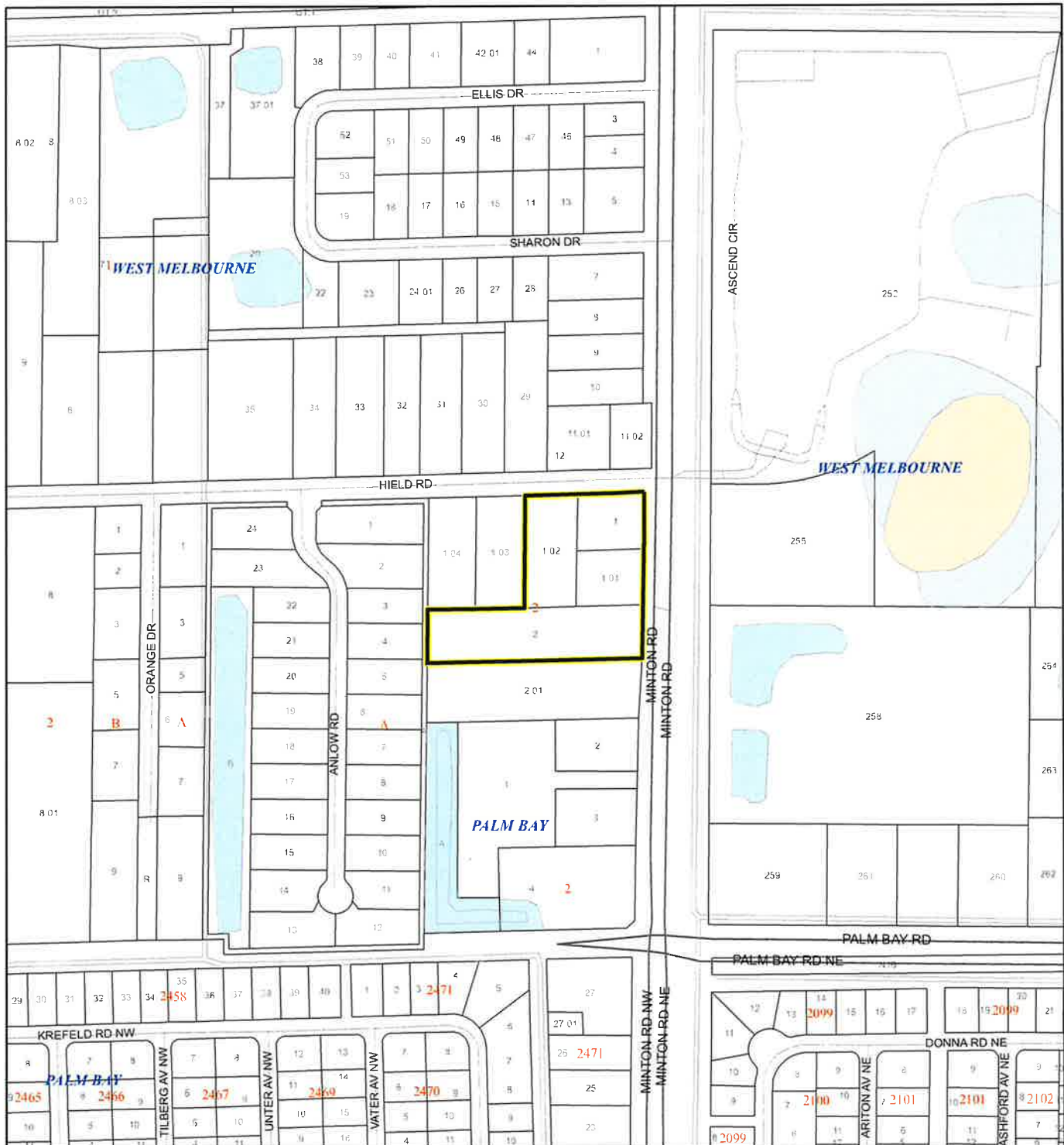
Produced by BoCC - GIS Date: 2/8/2024

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

WEST MALABAR PROPERTIES LLC

24Z00004



1:4,800 or 1 inch = 400 feet

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## National Wetlands Inventory (NWI)

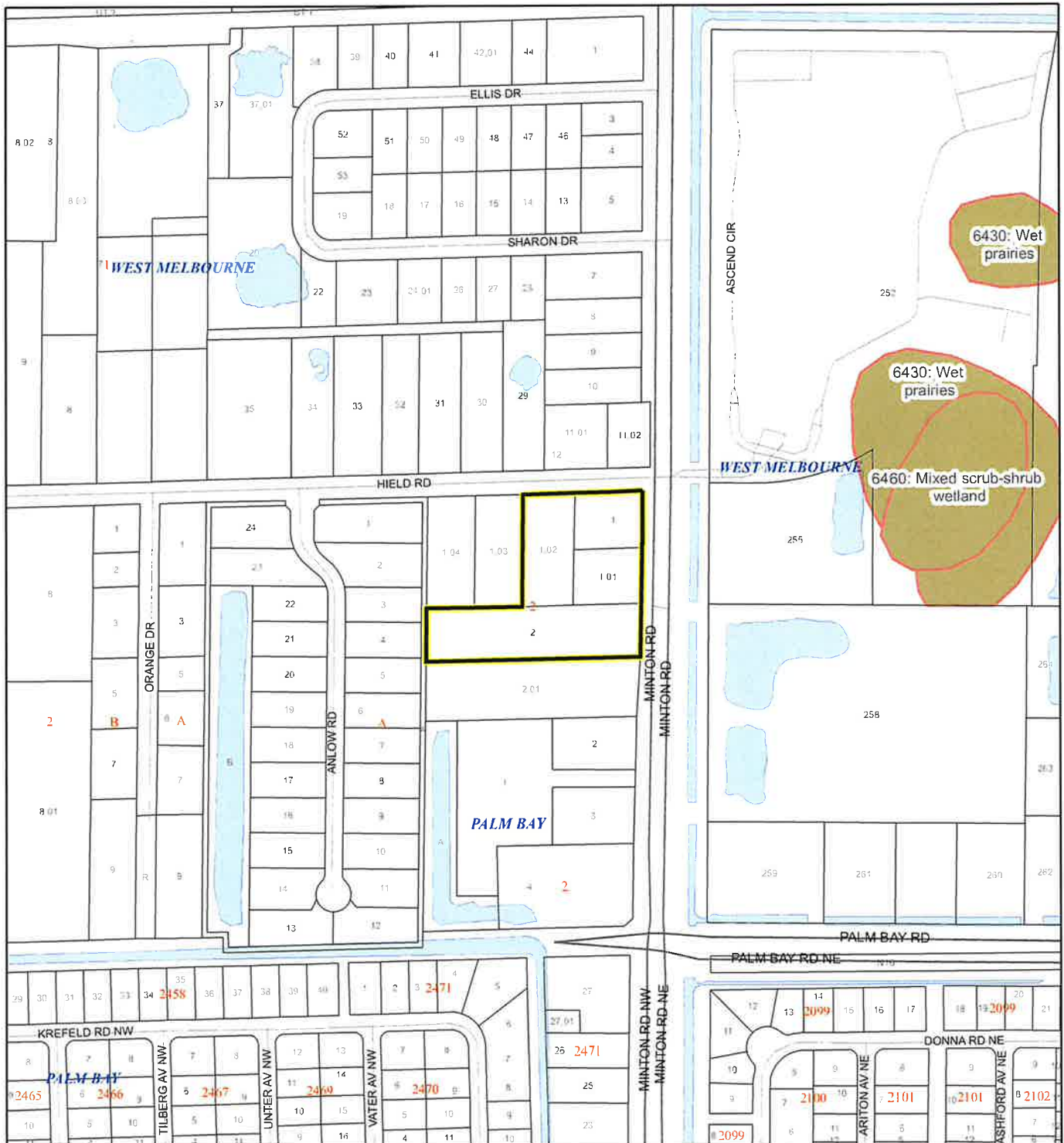
- |                                   |                  |
|-----------------------------------|------------------|
| Estuarine and Marine Deepwater    | Freshwater Pond  |
| Estuarine and Marine Wetland      | Lake             |
| Freshwater Emergent Wetland       | Other            |
| Freshwater Forested/Shrub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



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

WEST MALABAR PROPERTIES LLC

24Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/8/2024

## 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

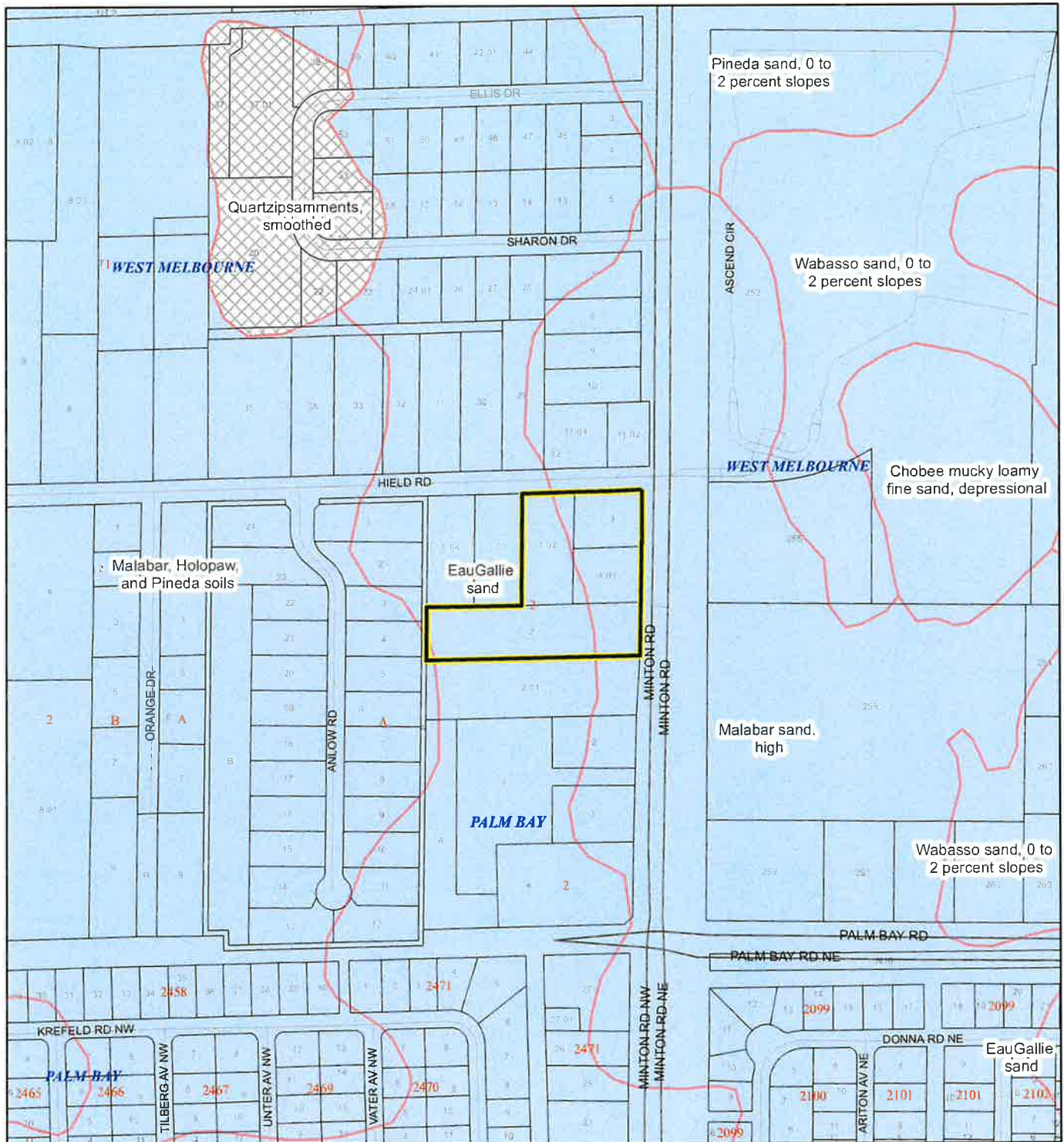
Subject Property

Parcels

# USDA SCSSS SOILS MAP

WEST MALABAR PROPERTIES LLC

24Z00004



1:4,800 or 1 inch = 400 feet

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## USDA SCSSS Soils

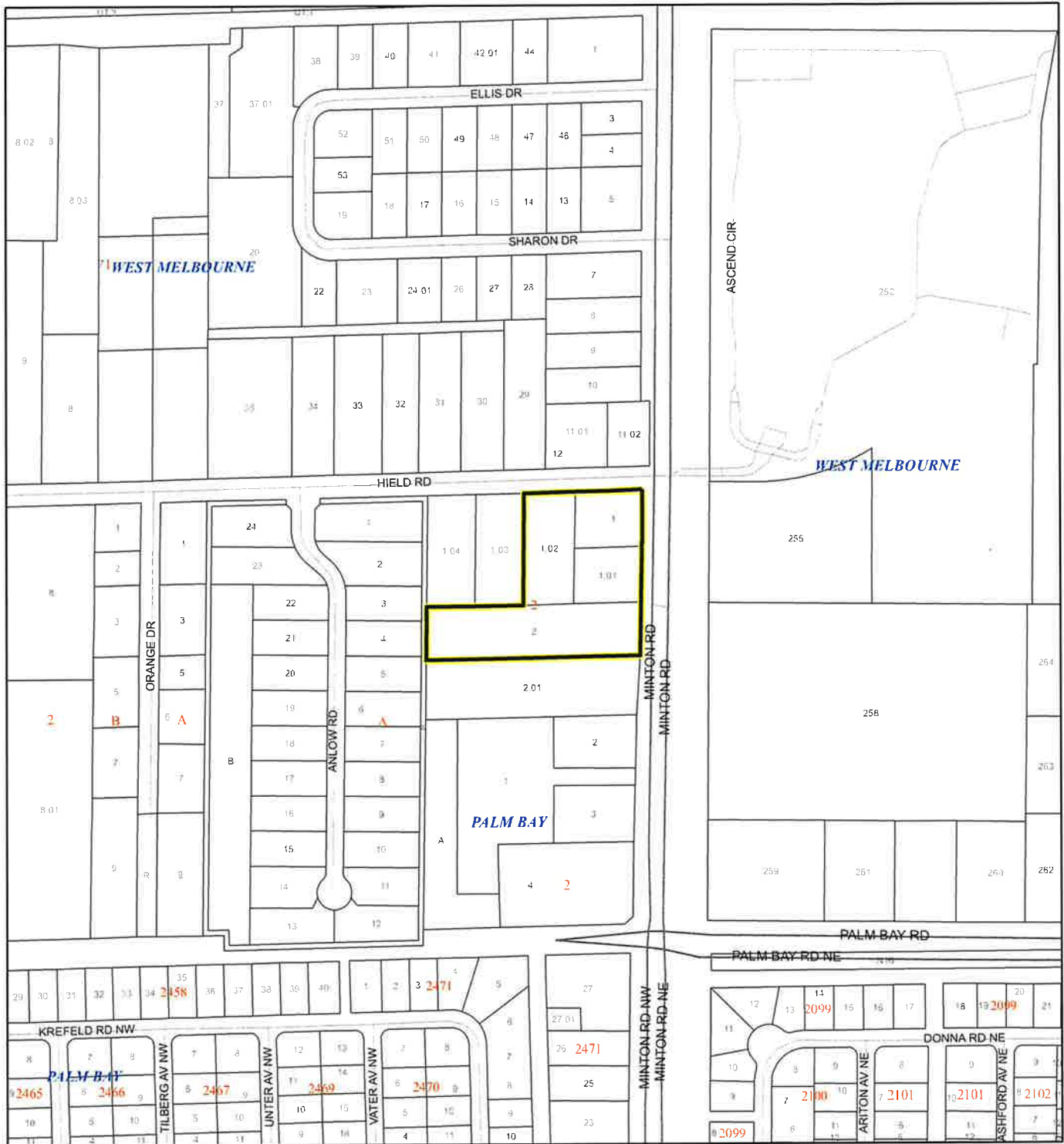
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

WEST MALABAR PROPERTIES LLC

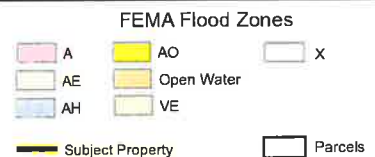
24Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/8/2024

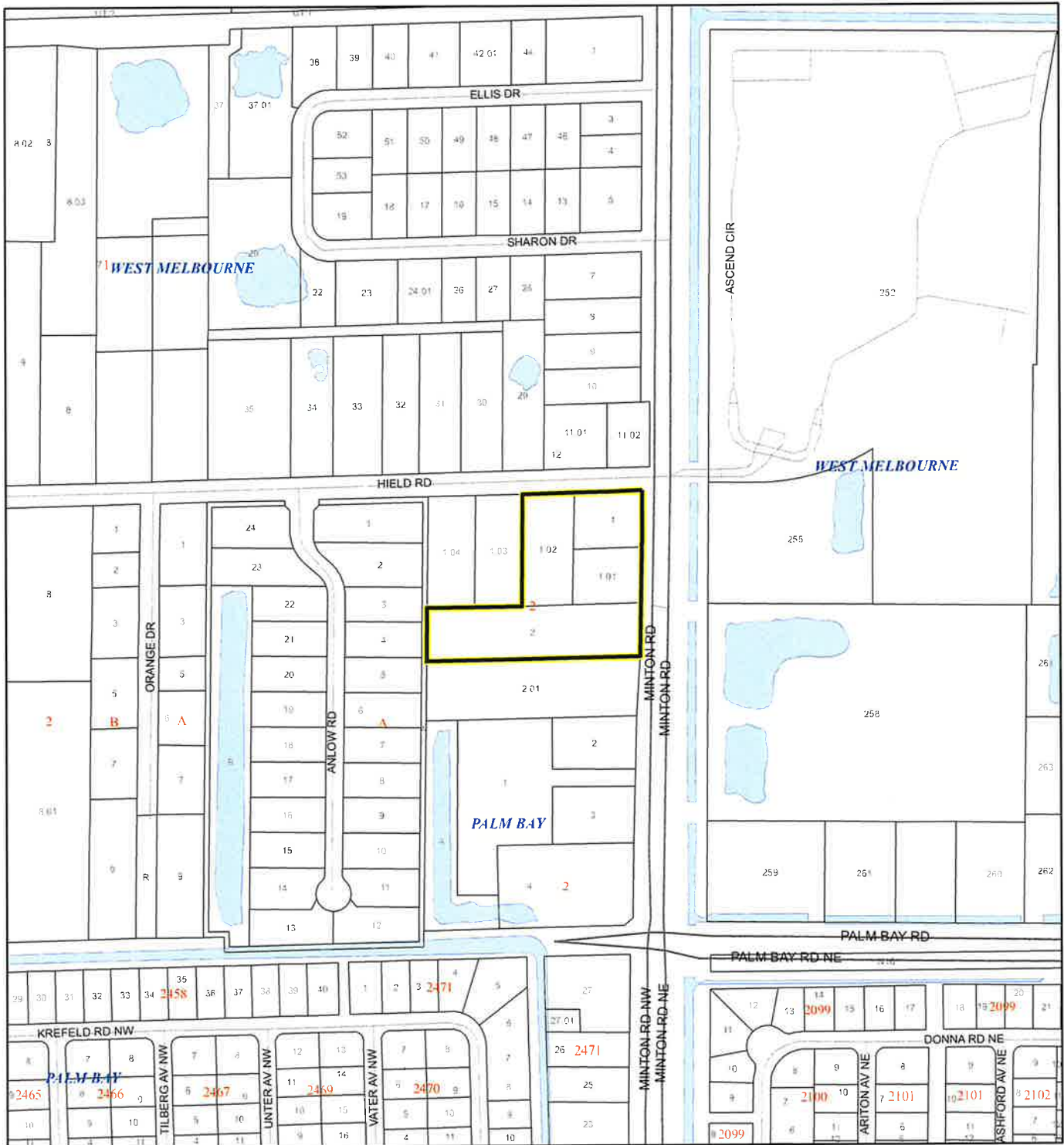




# COASTAL HIGH HAZARD AREA MAP

WEST MALABAR PROPERTIES LLC

24Z00004



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: 2/8/2024

— Subject Property

□ Parcels

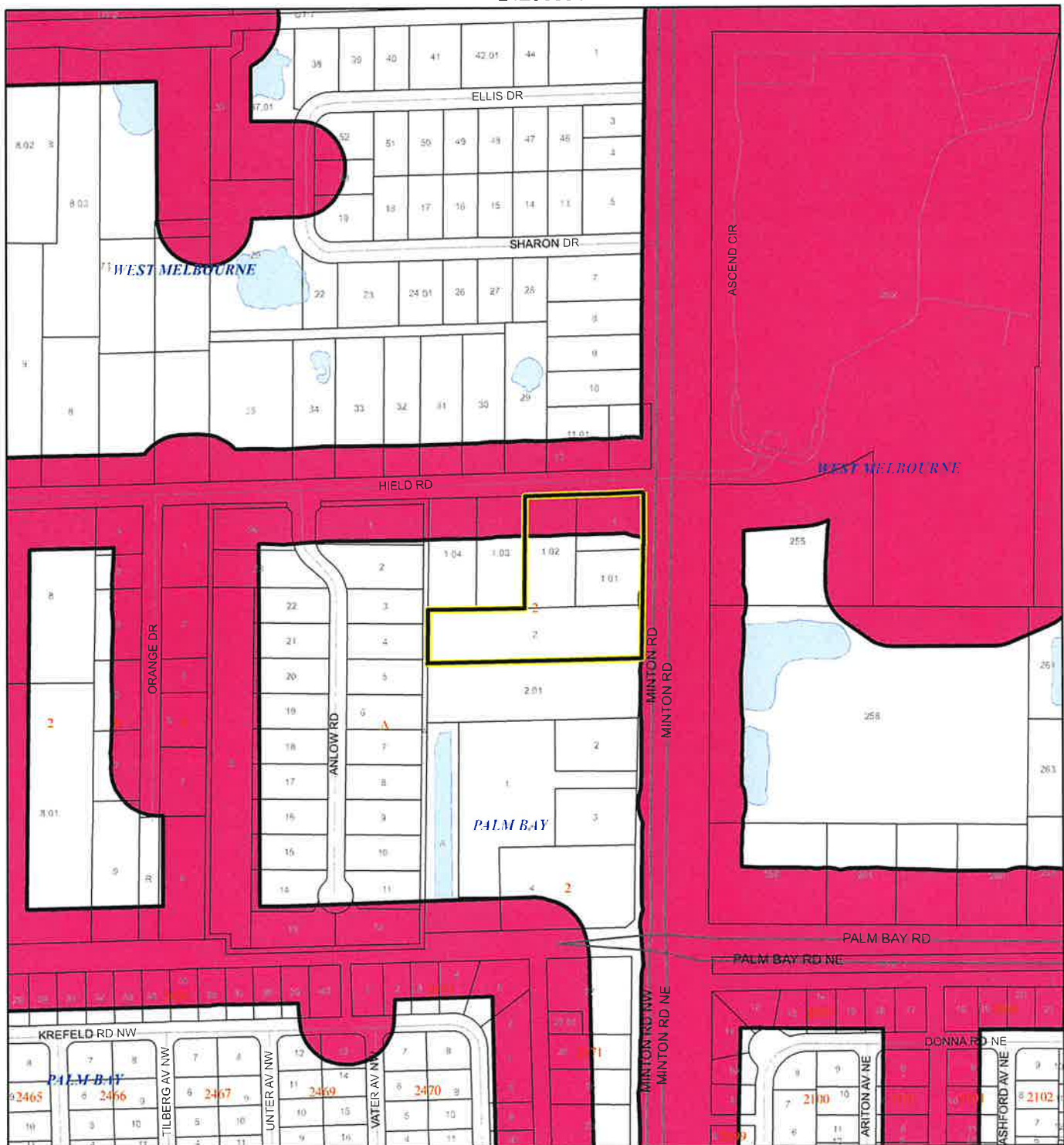
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

WEST MALABAR PROPERTIES LLC

24Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/8/2024

Subject Property

Parcels

## Septic Overlay

40 Meters

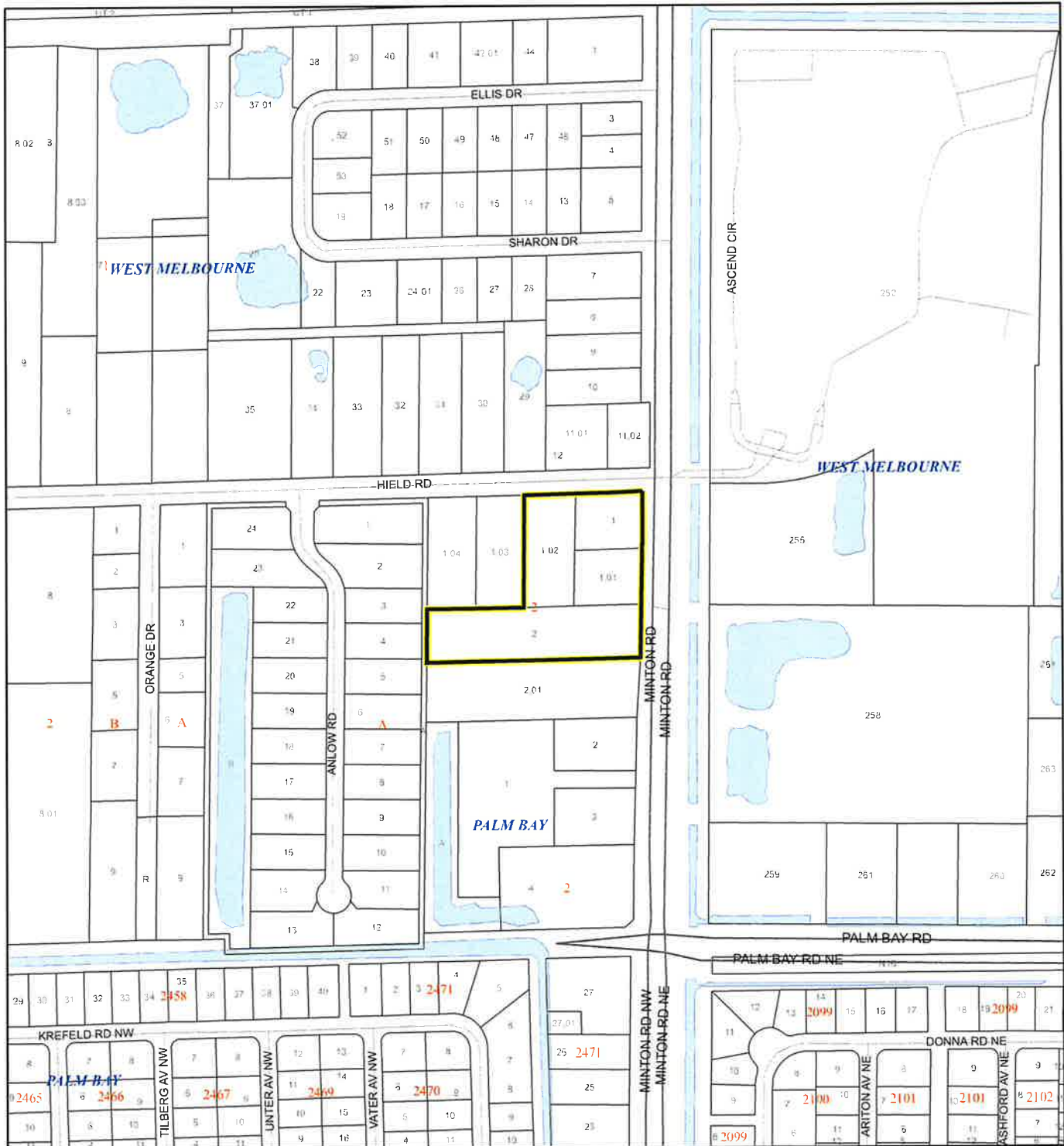
60 Meters

All Distances

# EAGLE NESTS MAP

WEST MALABAR PROPERTIES LLC

24Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/8/2024

 Subject Property

 Parcels

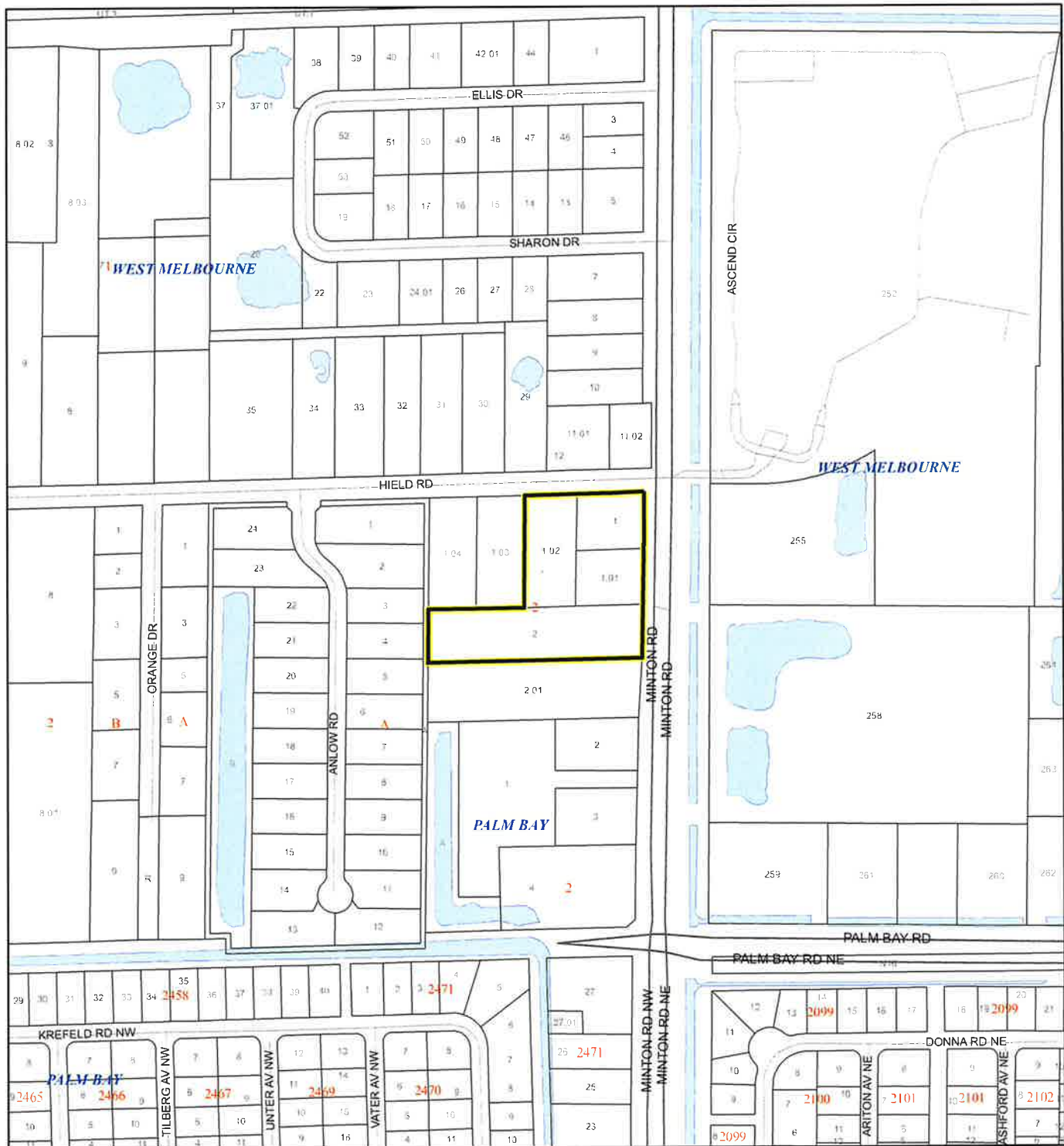
 Eagle Nests  
FWS



# SCRUB JAY OCCUPANCY MAP

WEST MALABAR PROPERTIES LLC

24Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/8/2024

- Subject Property
- Parcels
- Scrub Jay Occupancy

24Z00004



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: 2/8/2024

**SJRWMD FLUCCS Upland Forests**

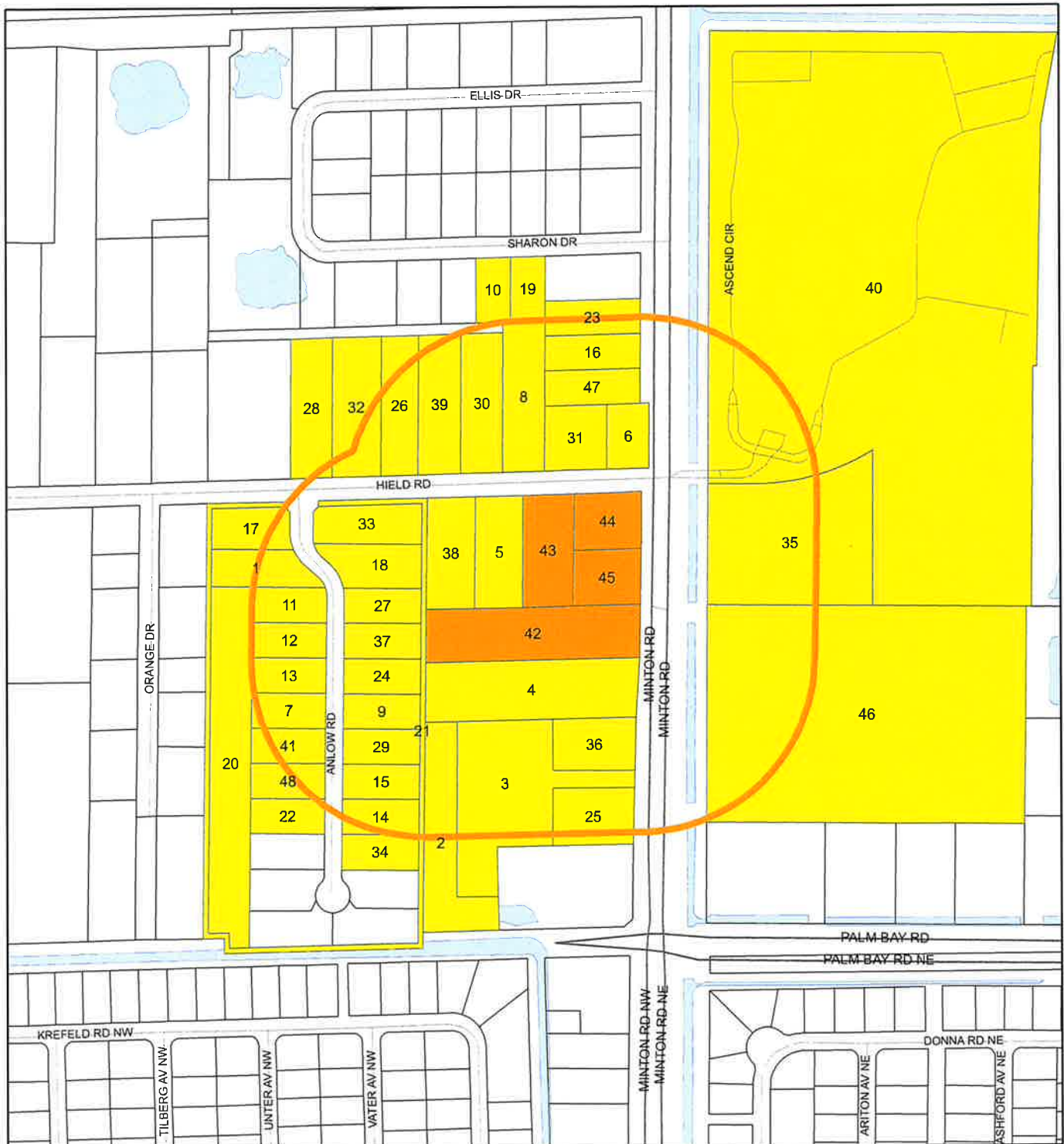
-  Upland Coniferous Forest - 4100 Series
-  Upland Hardwood Forest - 4200 Series
-  Upland Mixed Forest - 4300 Series
-  Tree Plantations - 4400 Series

 Subject Property  Parcels



# RADIUS MAP

WEST MALABAR PROPERTIES LLC  
24Z00004



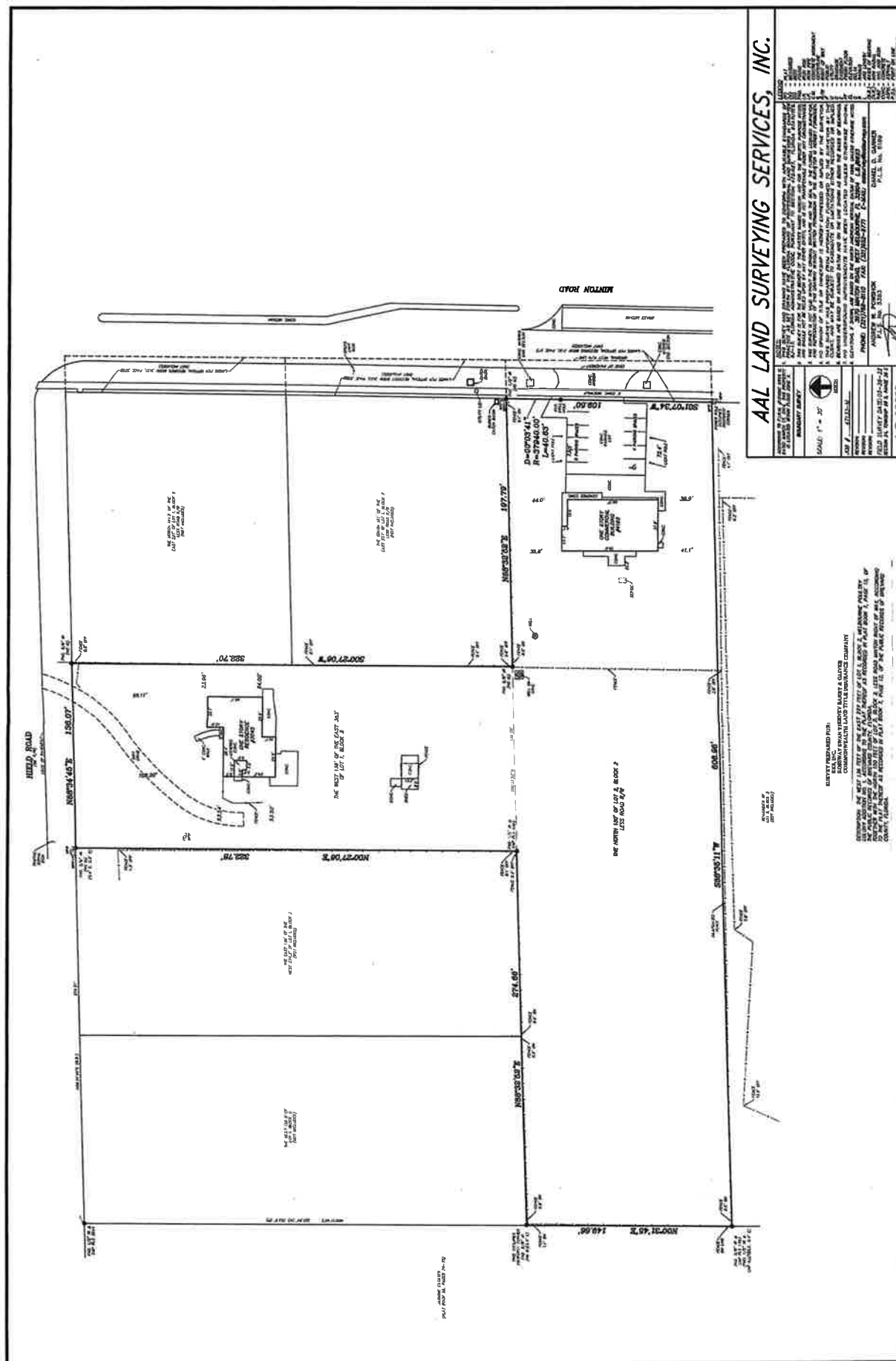
1:4,800 or 1 inch = 400 feet

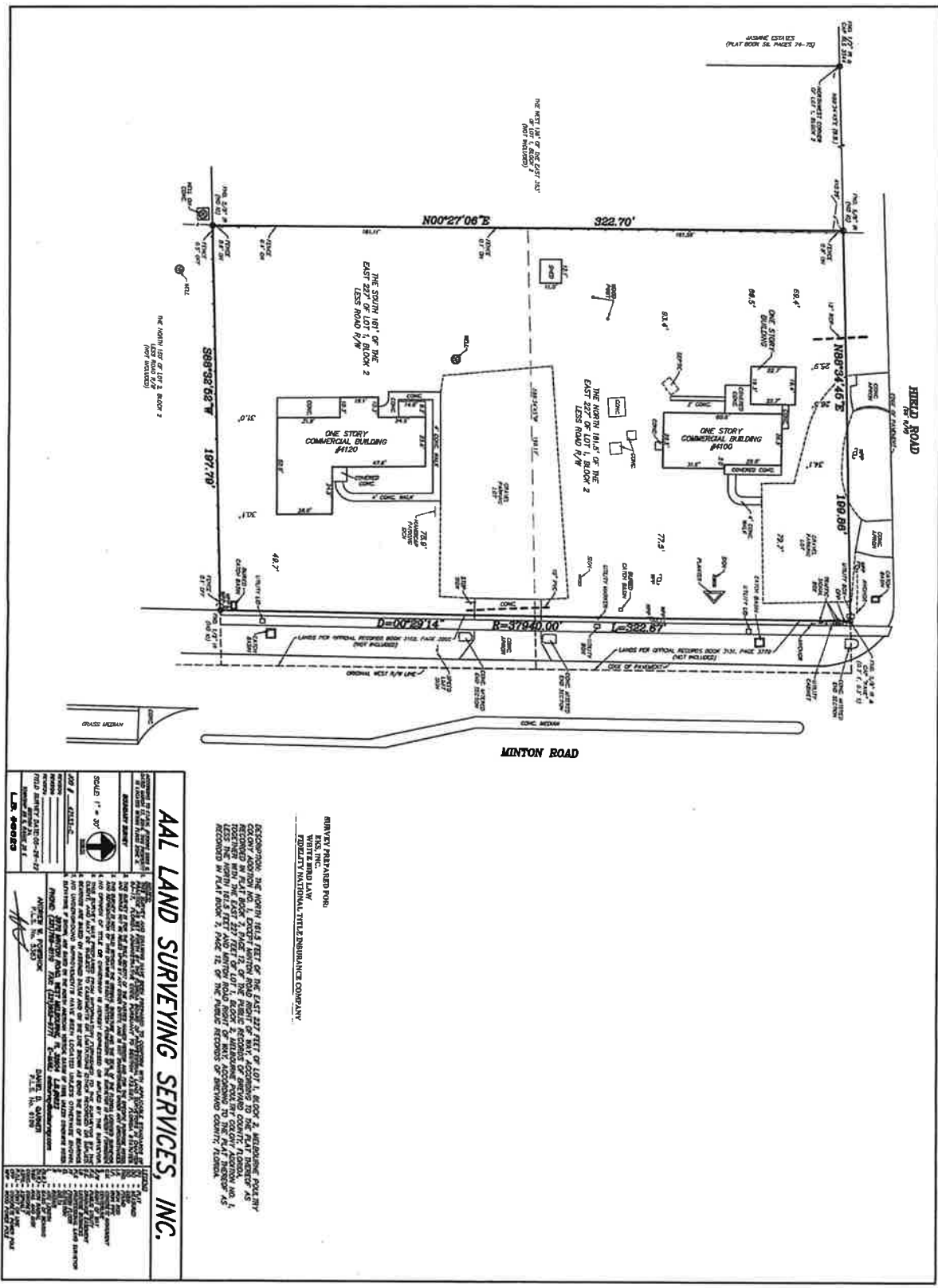
Buffer Distance: 500 feet

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: 2/8/2024

- Buffer
- Subject Property
- Notify Property
- Parcels





Prepared by: \_\_\_\_\_

Address: \_\_\_\_\_

### **BINDING DEVELOPMENT PLAN**

**THIS AGREEMENT**, entered into this \_\_ day of \_\_\_\_\_, 2023 between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as "County") and **West Malabar Properties, LLC**, a Florida limited liability company (hereinafter referred to as "Developer/Owner").

### **RECITALS**

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

**WHEREAS**, Developer/Owner has requested, pursuant to the Brevard County Code, Section 62-1157, a rezoning of the property to a BU-2 zoning classifications with a binding development agreement, desiring to develop a portion of the Property as multi-story climate controlled mini-storage as more particularly described herein, and;

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

**NOW, THEREFORE**, the Parties agree as follows:

1. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct, maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest, or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
3. The Developer/Owner shall limit uses to climate-controlled mini-storage as allowed in BU-2 zoning district and other uses as allowed in the BU-1 zoning district. The attached Exhibit A demonstrates the

proposed development conceptual site plan.

4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on \_\_\_\_\_. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
6. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 8 above.
8. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

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

**ATTEST:**

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

---

Rachel M. Sadoff, Clerk of Court

---

Jason Steel, Chair

(SEAL)

As approved by the Board on \_\_\_\_\_

\_\_\_\_\_  
Witness 1 Signature

\_\_\_\_\_  
Witness 1 Printed Name

\_\_\_\_\_  
Witness 2 Signature

\_\_\_\_\_  
Witness 2 Printed Name

West Malabar Properties, LLC

By: \_\_\_\_\_  
J. Cole Oliver, manager

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me, by means of \_\_\_\_\_ physical presence or \_\_\_\_\_ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by J. Cole Oliver, as Manager of West Malabar Properties, LLC, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires

\_\_\_\_\_  
Notary

Public SEAL

Commission No.:

(Name typed, printed or stamped)

88

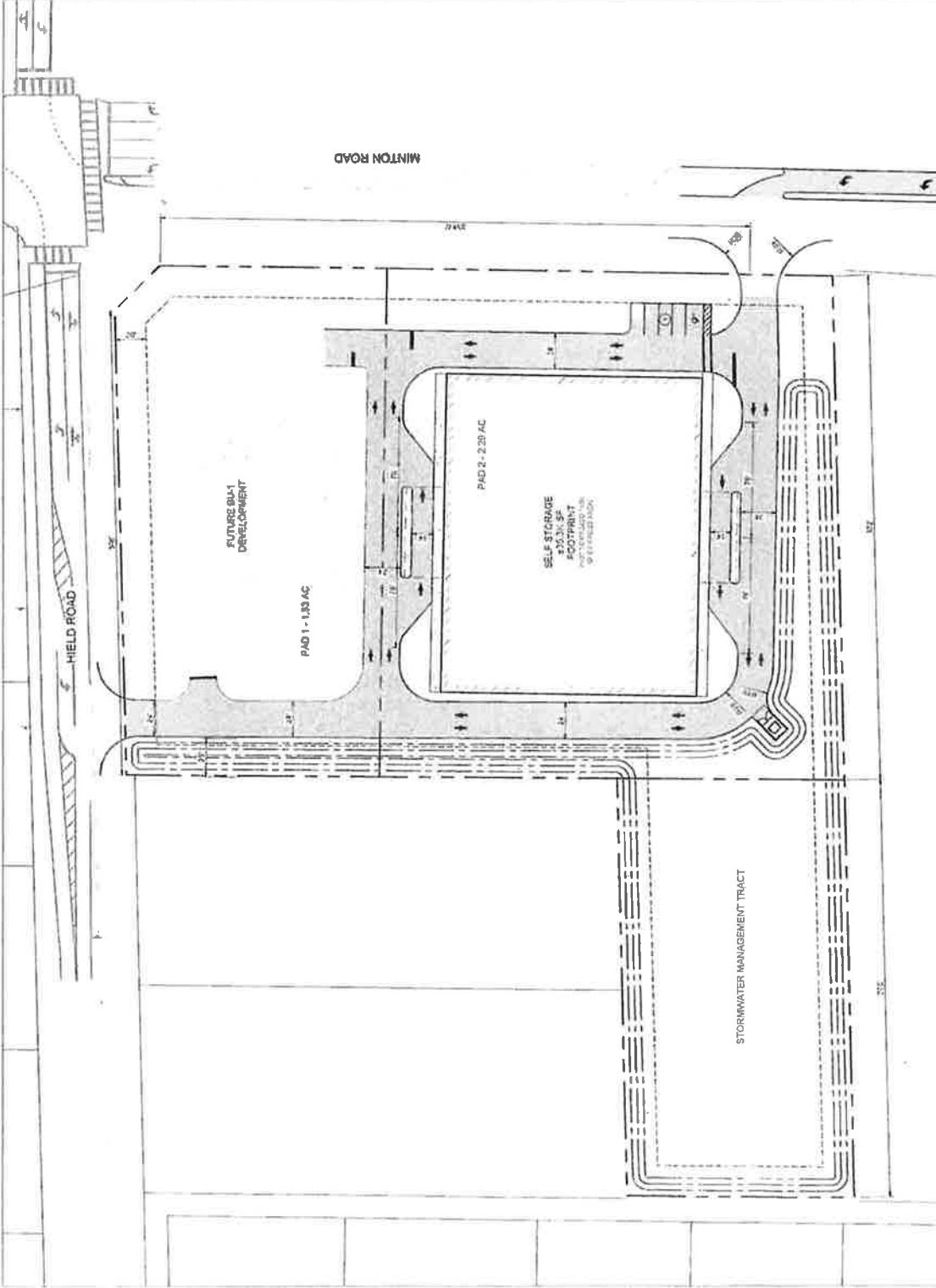
- EXISTING DATA**
- MANUAL LOT COVERAGE 30%
  - PAVING ULTIMATE
  - FRONT YARD SETBACK 10 FT
  - REAR YARD SETBACK 10 FT
  - FRONT YARD SETBACK 10 FT
  - REAR YARD SETBACK 10 FT
  - LANDSCAPE BUFFERS
  - FRONT YARD SETBACK 10 FT
  - REAR YARD SETBACK 10 FT
  - FRONT YARD SETBACK 10 FT
  - REAR YARD SETBACK 10 FT

**PAVING**

STANDARD PARKING DIMENSION - 8 FT X 20 FT

**NOTES**

DRIVE ALLEYS, BUILDING LOCATIONS, STORMWATER ARE CONCEPTUAL LOCATIONS



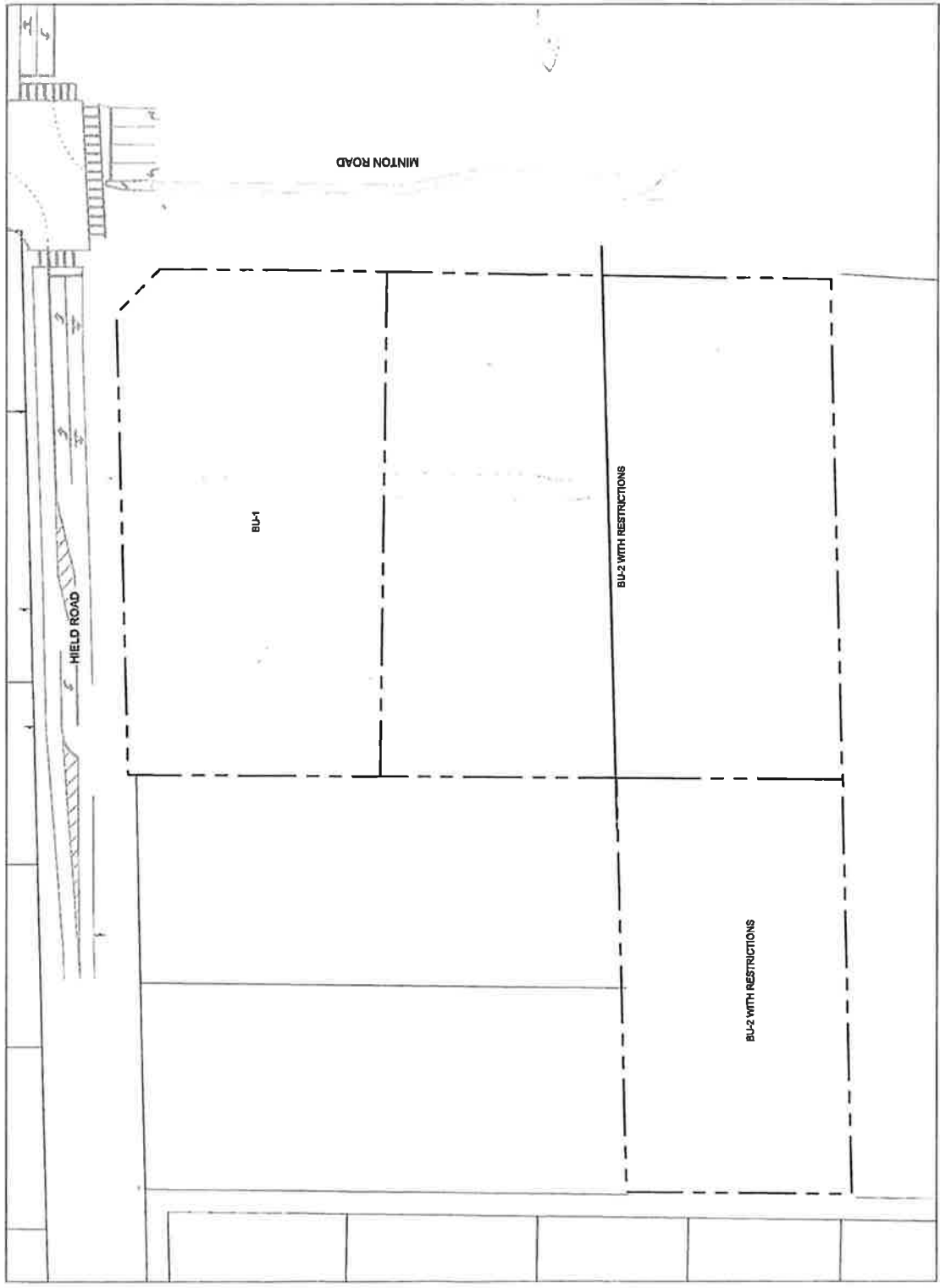
Kimley»Horn

CONCEPTUAL SKETCH

SELF STORAGE

BREVARD COUNTY, FL





- NOTES:**
- MAXIMUM LOT COVERAGE: 30%
  - MINIMUM SETBACKS:
    - FRONT: 25 FT
    - REAR: 10 FT
    - SIDE: 5 FT
    - REAR: 10 FT
  - LANDSCAPE BUFFER:
    - FRONT: 10 FT
    - REAR: 10 FT
    - SIDE: 5 FT
    - REAR: 10 FT
  - STANDARD PARKING DIMENSION: 8 FT X 20 FT
- NOTES:**
- DRIVE ADJACENT BUILDING LOCATIONS, STORMWATER CONCEPTUAL LOCATIONS



Kimley»Horn

CONCEPTUAL ZONING MAP

SELF STORAGE & QSR

BREVARD COUNTY, FL

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

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 18, 2024**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Mark Wadsworth, Chair (D4); Debbie Thomas (D4); Logan Luse (D4 Alt); Bruce Moia (D5); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Edward Fontanin, Utilities Services Director; Paul Body, Senior Planner; and Kristen Champion, Special Projects Coordinator.

### **Excerpt of Complete Agenda**

**West Malabar Properties, LLC** (Cole Oliver) requests a Small-Scale Comprehensive Plan Amendment (24S.01), to change the Future Land Use Designation from NC/RES 2 (Neighborhood Commercial and Residential 2) to CC (Community Commercial). The property is 4.58 acres, located on the southwest corner of Minton Rd. and Hield Rd. (24SS00001) (4100, 4120, & 4160 Minton Rd. and 3045 Hield Rd., Melbourne) (Tax Accounts 2806110, 2806111, 2806112 & 2806115) (District 5)

**West Malabar Properties, LLC** (Cole Oliver) requests a change of zoning classification from RP/AU (Residential Professional and Agricultural Residential) to BU-2 (Retail, Warehousing and Wholesale Commercial) with a BDP (Binding Development Plan). The property is 4.58 acres, located on the southwest corner of Minton Rd. and Hield Rd. (24V00004) (4100, 4120, & 4160 Minton Rd. and 3045 Hield Rd., Melbourne) (Tax Accounts 2806110, 2806111, 2806112 & 2806115) (District 5)

Paul Body read the items into the record and due to the number of attendees, Mark Wadsworth asked the public audience if they were all here to comment in support of or opposition of these companion applications.

Mr. Wadsworth asked if they would like to nominate one person to speak for all the attendees, to which they declined.

Mark Wadsworth stated that each person will be given an opportunity come up and speak after they've been sworn in for the record.

Cole Oliver stated that the applicants originally bought the property in 2022 with the intention of developing a Starbucks, which would've needed city sewer and water. At that point in time, they applied to annex into the city of Palm Bay and met three different times to try and address concerns of the citizens regarding increased traffic. The potential for a self-storage facility, which has the lowest traffic impact per FDOT standards of commercial usage, came from this planning process. The Palm Bay Planning and Zoning Board made recommendation for approval of the annexation with the condition that no connections to Hield Road would be allowed, which did not work for the applicants' development plan.

The Palm Bay City Council denied the annexation of the neighboring property, which made Mr. Oliver's property ineligible to be annexed because it no longer directly abutted a Palm Bay parcel.

Mr. Oliver and the applicants have now come to the County asking for a BU-2 zoning with a Binding Development Plan for the limited use of climate controlled self-storage and other BU-1 allowed uses. The reason for BU-2 specifically is due to height limitations that BU-1 would restrict the proposed development to.

Mr. Oliver also stated that the newly developed apartment complex through the City is responsible for the road/traffic improvement within that intersection because of two bonds to the County.

Mr. Oliver stated that he believes the public comment will mostly be related to traffic comments. The applicants had a traffic study done, which included the proposed Starbucks at the time, and it did appear to show the proposed light changes would work for that intersection.

Bruce Moia asked for further clarification on what all the improvements would be at the intersection of Hield Rd. and Minton Rd. He noted in the concept plan it appears to increase Hield rd. from two to three lanes.

Cole Oliver stated that they're proposing a northbound turn lane which would align with the south bound turn lane. Which would bring in traffic into the development before you get to the intersection. It would not be signalized traffic, but it would be similar to the existing cut that leads into the Publix Plaza.

Jeffrey Ball noted to the Board that Mr. Oliver has provided a concept plan, but this plan has not been reviewed for County Code. This should just be used for informational purposes only and not to be used for Board approval. If the Board would like to include a BDP, that can be discussed.

Bruce Moia stated that he was just clarifying that these improvements were based upon the traffic study.

Mark Wadsworth addressed the audience to state that they're just a Planning and Zoning Board, an advisory board. They are not traffic or engineering. They're only hearing the zoning application.

#### Public Comment

John Connelly, 3620 Hield Rd. Melbourne, stated that they're proposing an intersection a bit further south on Minton which will help alleviate bringing traffic in there. However, if it doesn't get approved and they just use Hield Rd. to enter, they've already got three lanes of construction due to water being brought into the west. What we're fighting is the traffic on Hield Rd. What we're coming to you for is to not just agree to their plan because they show traffic coming in and coming out. We put in a comprehensive plan 25 years ago for residential 2.5 acres for our farming and now it's being encroached upon. We've included Orange Ave. into Minton for commercial and now they're encroaching more and more onto Hield Rd.

You can't stop development, but you do need to look at the traffic patterns and water.

Mark Wadsworth asked for clarification from Staff and the County's legal representation about what all goes into an application such as this.

Jeffrey Ball stated that we're looking for consistency and compatibility. If the request is compatible, then it would go through a staff level administrative review of the site planning process, where the

applicants would have to meet concurrency, storm water requirements, water/sewer requirements, etc. This is just the first step of many that are required to develop a piece of property.

Dennis Foster, 4366 Hield Rd. Melbourne, stated that he is part of the group that is vehemently opposed to this project from the beginning, mainly because of the Starbucks coffee and the implication to traffic at that intersection. The entrance and exit onto Hield Rd. is our biggest issue. Mr. Cole mentioned that he would like to entice Starbucks back to that intersection and I think if that happens, that intersection is going to be a nightmare. Mr. Cole said that entrance and exit on Hield Rd. is going to improve safety but we do not believe that. The entrance and exit onto Hield Rd. is going to cause major blockage. Starbucks generates 60-70 cars per hour and now they'll be blocking the one entrance and exit to Hield Rd., including school busses. And any emergency traffic is also going to be blocked. This was all reviewed by Palm Bay Planning and Zoning and they recommended approval for the whole project with exception to that entrance and exit on Hield Rd. and that's been ignored by Mr. Cole.

Judith Kuhman, 1680 Willard Rd. NW, Palm Bay, stated that she has lived out there for 25 years now and specifically bought out there due to the more rural nature of the area. That they do not want to live in another Viera. She is concerned about her lifestyle and investment. She does not want the addition of a storage unit or Starbucks. She is opposed to the apartments that were recently constructed. She stated that her concern is the property values, and that Starbucks is not going to bring her a return on her biggest investment.

Susan Shepherd, 4212 Hield Rd. NW, Palm Bay, stated that the residents know there will be future businesses on that stretch of property, however the residents greatly oppose the ingress/egress from Hield Rd. There are already established driveways along Minton Rd. for most of the property. We have never required another way out of Hield Rd. Hield Rd. is approximately 2 and quarter miles, approximately 275 homes. The whole area is approximately 750 acres. The already congested traffic leads to compromising the lives of residents and property. Minutes and seconds count. Emergency vehicles will not be able to timely get in. There are no fire hydrants on Hield Rd. Authorities need to truck in when they've had fires in the past.

The proposed ingress/egress access to Hield Rd. is a wish list item, not a need. The draft conceptual site plan of the BU-1 zoning borders residential areas. The BU-1 includes drive/thru as well as other undesirables. By allowing the rezoning change on that property, it will change everything we have.

Michael Bramlett, 3075 Hield Rd., Melbourne, stated that his property is right next door to the applicant's site. For reference, his proposed retention pond backs up to my rear property line. When his parents built that home in 1961, he could count the number of homes on one hand, now there's 270+. He understands development but there is a bigger difference for residential than commercial. Mr. Oliver was proposing the Starbucks in almost my bedroom window. Can you imagine the noise just from drive.thru ordering. The mayor of Palm Bay had the foresight to take a drive through the area during rush hour traffic and acknowledged that this wasn't going to work and the city denied the application.

Mr. Bramlett said Mr. Oliver could build a 6-story structure and that wouldn't bother him so much, he just does not want the access on Hield Rd.

Andreas Lekas, 1691 Will Rd., Palm Bay, stated he is opposed to any commercial zoning at that property. A multi-story storage unit welcomes a lot of unwanted people through all hours of the day. Him and his wife moved here 2.5 years for the same reasons as the other residents. They enjoy the quiet and it being out of the way. He feels the current zoning is appropriate for Mr. Oliver's use to bring in some income. He does not feel it is necessary to go to a higher density of BU-1 or BU-2, that the existing RP is appropriate.

Jack Zimak, 1590 Studley Dr. NW, Palm Bay, is concerned with the zoning. One of these parcels is currently residential. It's not taking an existing office building and rezoning it, it's taking an existing house and eventually tearing it down, which encroaches further into the neighborhood. He appreciated that Mr. Oliver listened to some of the traffic concerns. What he's proposing is a good concession, but the intersection has been planned to extend a dual exit lane long before this project was proposed. What Mr. Oliver is essentially doing is taking half of a safety lane that was designed for the neighborhood, for that private business. We can't look at this and go "everything has been looked at." So, this is commercial property that is being put on Hield Rd. which is historically residential.

Debbie Boutin, 3966 Hield Rd. NW, Palm Bay, has been a resident there for 45 years. Mr. Oliver has an invested interest in this property because they bought it with Starbucks in mind. He's an investor and when we had a meeting in the past, someone asked him what he would do if he was in their position. He stated that he would be doing the same thing as them, fighting against having a Starbucks at the end of his street. So we're doing exactly what he would be doing. If this passes, he's not going to stop short at getting that Starbucks on the end of that street and we've already had a death there. Traffic already goes a mile and a half down the road in both directions and with a Starbucks, it's just going to get worse. I've also got reports of Starbucks around the country, a \$9M lawsuit in Jacksonville, because of traffic accidents and deaths. I can mail or email all of the reports and photos of the information because for me, this isn't going to stop if the zoning passes today. It's not going to stop short of him pushing to have the Starbucks. That's why that property was bought, with Starbucks in mind because that's the highest income they would get off of that property.

Kip Patchen, 1500 Pinetree Ln. NW, Palm Bay, stated she has lived there since 1981. She bought out there because it was a wonderful area where you could feel safe. I'm part of a family business of self-storages, one was opened in New York in 1992 and then New Haven, Connecticut in 2002. They were 5 and 6 stories high. A lot of traffic comes through, rather than what was said, depending on the hours. I don't think it will blend in the neighborhood that we live in. Especially the entrance. The in-and-out depends on the hours of the facilities. She has worked in self-storage business, and she does believe that you don't know who's going to use the storage and it affects everyone still living there, including children. I don't believe this is suitable for Hield Rd.

Cindy Kennard, 1511 Pinetree Ln. NW, Palm Bay, stated that her concern is the proposal of a 3-story building. If you go up and down the street (Minton), everything is single story, besides the apartments across the street. Besides the Publix and Walgreens, everything else is mom and pop businesses, a trailer rental, a bridal shop, everything is low. This development would stand out and set a precedence that wouldn't be a good thing. The traffic is already horrendous. Not even just Hield Rd., just on Minton all the way to Jupiter. And for safety reasons that would be more horrendous for us on Hield Rd.

John Day, 1641 Willard Rd. NW, Palm Bay, stated that him and his wife have lived there for 25 years and that they agree with everything their neighbors have said. However, he'd like to make another point that coffee shops add another complexity to make it less desirable, it's known as the Starbucks Effect. It's when people are thirsty for coffee, they'll stop anywhere and form a line. They don't care if there are no spots open. They're going to form a queue and hold up traffic. This has been documented and he'd like to state that this would be the worst business idea for that location.

Kathy Dalrymple, 1555 Henley Rd. NW, Palm Bay, stated that she would like to thank all of the Board members for their time today and for listening to their concerns. That they just want their comments to be considered and they just want the neighborly thing to be done. That they'd like for everyone to consider if this was being done in their neighborhood.

Barbara Reuter, 4215 Hield Rd. NW, Palm Bay, stated that she didn't hear any of her neighbors mention this but they have farm animals. That it's a country environment, and she has almost two acres with go-karts and golf carts, and four wheelers. All of that in their dead-end community. To have a commercial development go in would be dangerous to the existing preschool and young families moving in, who want their children to be able to play out by the street. This would open up to people coming down their road not knowing it's a dead end and could potentially hit animals and children.

Jason Gerhardt, Palm Bay, stated he doesn't currently have an address on Hield Rd. but just bought property there and is in the process of finalizing the application. He was born and raised in Malabar and ended up buying a home in the city of Palm Bay because that's what he could afford at the time, but he's at the point that he just bought property on Hield Rd. to be able to move back to the country lifestyle and to add a Starbucks there would just add to the congestion that is already there. It would take away from the country living style that is the reason everyone lives out there.

Mark Wadsworth closed public comment and asked Mr. Oliver to return to the podium for further questions.

Mark Wadsworth stated that he's very familiar with the area and everyone is correct in that there's a lot of business whether you're heading north or south. He asked Henry Minneboo to speak on this because of his experience in this item.

Henry Minneboo recounted that this Board reviewed a coffee shop that was proposed at Pioneer and North Courtenay on Merritt Island. The residents were concerned as well and that he also had some reluctance. He stated that it was amazing how Dunkin Donuts handled that very delicate and high-volume intersection.

Henry Minneboo stated that he believes if this project is to get approved, it will need a driveway somewhere on Hield Rd. He'd consider proposing a BDP to ensure staff realizes the importance of the impact, but Mr. Oliver isn't here to talk about a Starbucks.

Jeffrey Ball stated that he would caution the Board on making that a part of a BDP because it is part of a staff review based upon what the code allows for and what it doesn't. His concern is that we have an advisory board that wouldn't be relying on staff and their technical expertise to review what an appropriate access would be.

John Hopengarten stated that his agenda packet didn't include information based upon a Starbucks, it was only for the proposed storage unit. He's been questioning the amount of storage units that have

been built in the county and asked if that was the best use for this land. He stated that he wants to know what this project would do for the neighborhood. This application is being reviewed under an LPA item and the LPA had residential, not commercial and that we should keep it residential. He would object to the application just looking at that.

Bruce Moia stated that if you don't put commercial on an arterial road, where do you put it? Everywhere there's an arterial or collector road in this county, you have commercial because the only other option is to put it in the residential areas.

Bruce Moia also acknowledged that there's storage in Viera and according to the traffic engineering manual, it generates the lowest traffic on the list. That's from a nationwide study.

He stated that looking at this from a pure planning lens, a connection to Hield Rd. would be the most desired connection because you go to the lower classification roadway first in a planning lens. He stated that the First Union on Eau Gallie and South Patrick is a nightmare because people come in and are not able to access the commercial property from the road they're coming onto and going on a higher classification roadway is a safety concern.

He acknowledges what the residents are saying about the traffic and zoning but getting another turn lane on Hield Rd. would help tremendously. Bruce Moia also stated that we don't have Starbucks in our code, we have classifications of uses, whether it's a coffee shop or restaurant and the Board couldn't legally deny the application just based upon who might be in that location. The Board just looks at the uses in that zoning and determines if they're appropriate. This application is not unique in any way, whenever you back up to a major roadway, you have the frontage as commercial and the residential behind it.

Robert Sullivan stated that he agrees with Bruce when looking at the facts. Hield Rd. is the collector road in this case because it's one way in and one way out. But he wants to look at the administrative policy that says the character of a neighborhood of an area shall be a factor for consideration whenever a rezoning application involving a specific proposed use is reviewed. It goes on to say that it shall not material or adversely affect the impact of an existing neighborhood by introducing types of intensity and traffic. A one way in, one way out is different from an interconnected roadway system, so he does agree with the traffic impacts, just looking at turning movements.

Robert Sullivan stated that he and Bruce Moia are engineers, and they typically think differently in that aspect, but a southbound on Minton turning onto Hield and then doing a lefthand turn into a coffee shop will impact eastbound traffic undoubtedly. But the turning movement out of that location to turn right to go eastbound on Hield to get back out to the controlled light at Minton is a traffic related issue. In the uniqueness one way in and one way out is a safety concern, it's a fire rescue concern and the traffic on that road is critical. But he does have to agree with Bruce that a corner lot on a major arterial road screams commercial. So, from a zoning standpoint, he would have to say yes. However we are listening to the community and you've stated that you don't want more encroachment off that main arterial road which is very much listened to and noted.

Mark Wadsworth thanked Robert for his commentary and reiterated that the Board is here for Zoning but we're going to need a motion for items G.3. and G.4.

Motion to approve small-scale comprehensive plan amendment from NC/RES 2 to CC by Bruce Moia, seconded by Henry Minneboo. The vote was 7:2 with John Hopengarten and Logan Luse voting nay.

Motion to approve rezoning from RP/AU to BU-2 with a binding development plan by Bruce Moia, seconded by Henry Minneboo. The vote was 7:2 with John Hopengarten and Logan Luse voting nay.

Mark Wadsworth reminded the residents of the April 4<sup>th</sup> commission meeting.

Upon consensus, the meeting adjourned at 4:23 PM.



**From:** [Kevin and Natalie Ward](#)  
**To:** [Champion, Kristen](#)  
**Subject:** Hield and Minton Road Re-zoning March 18, 2024 Item G3 and G4  
**Date:** Wednesday, March 13, 2024 8:58:49 PM

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

This letter is intended to express our sincere concern and displeasure with the proposal coming before your board on March 18th regarding the rezoning of the land at the southwest corner of Minton and Hield Roads in West Melbourne. As 15 year residents of Hield Road, we have accumulated many frustrating hours of our lives devoted to waiting to turn in or out of our single access neighborhood. To put it frankly, there is simply no way adding a drive thru restaurant, particularly one as popular as Starbucks, to the end of our road will work.

If you have ever seen that intersection you would understand that people are already pushing the limits of safety and, many times, are not following the traffic laws. The intersection is frequently blocked by traffic, particularly heading south on Minton Road. Even if they add a turn lane, there is nothing to prevent people from continuing to block the road and/or making illegal u-turns on Minton when heading north to come back south. It's frustrating and time consuming, but we deal with it. This is a beautiful neighborhood and we deal with the inconvenience that comes with it.

That being said, there is NO room to expand this road. There are deep ditches on either side, and even with a proposed additional lane, there's no room left for emergency vehicles to travel down to reach residents in need. Using Hield road as an entry or exit for Starbucks would take this traffic light from difficult to impossible. I have seen the effects Starbucks has had on Palm Bay Road (into the Aldi parking lot) and more recently on 192, causing back ups on a major roadway with lots of emergency braking. PLEASE DO NOT ALLOW THIS TO HAPPEN TO OUR RESIDENTIAL NEIGHBORHOOD. The City of Palm Bay just recently looked into annexing this property for this same project and, thankfully, decided it was not a wise decision.

We are small business owners ourselves and are very pro-business and development. It would certainly be naive of us to expect this lot and the adjacent ones to the south to remain vacant. But as a zoning and planning committee, we are urging you to consider keeping the zoning to something more appropriate for the level of traffic we already experience. Something without a drive thru!

We very much appreciate your time and consideration and would like to invite you to come to visit Hield Road any given weekday between the hours of 4-6pm to experience for yourselves the potential disaster that would happen to this residential road if you were to approve this zoning change.

Thank you,  
Kevin and Natalie Ward  
4132 Anlow Road  
West Melbourne

**From:** [Dennis Foster](#)  
**To:** [Jones, Jennifer](#); [Champion, Kristen](#)  
**Subject:** Rezoning Notice #24Z00004 West Malabar Properties LLC  
**Date:** Tuesday, March 12, 2024 10:18:39 AM

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

Hello Jennifer and Kristen, Can you please make sure the P&Z members get a copy of this letter?

As you are aware at the next P&Z meeting next week the council plans to address the above case to rezone the parcels on the SW corner of Minton Rd and Hield Rd adding a mini storage on that corner. Mr Oliver Cole is planning to ask you to rezone 3.58 acres to BU-2 for the mini storage but makes no mention of what happens to the corner 1 acre lot except Future BU-1 business. These future businesses plan to have an entrance/exit onto Hield Rd and this is what the residents of Hield Road object to most.

I want to let the Brevard County Zoning Board know the City of Palm Bay Zoning originally voted against the use of Hield Road for entrance/egress and Palm Bay City Council ultimately rejected the plan. Mr Olivers plans originally included a Starbucks Coffee drive through on the one acre corner. Ultimately, the City of Palm Bay voted against the development of a high-traffic business for that area due to the horrific vehicle bottlenecks that occur at that intersection South to Palm Bay Road especially since there have been no improvements to that intersection. The County is aware of the traffic bottlenecks. **Please ask Mr Olivers plans for the BU-1 corner lot during the meeting. Is Mr Oliver still planning a Starbucks Coffee?**

**We want to go on record as being completely against the proposal to allow an entrance/exit onto Hield Road for the following reasons:**

1. That intersection is a traffic nightmare already. The backups at peak rush hour have been studied earlier and the intersection is already operating outside its level of service. The new recently completed apartment complex on the NE corner made the issue worse. Adding a high volume drive thru business on that corner with an entrance and exit onto Hield road is a very bad idea traffic and safety wise. Drive thru Starbucks generates hundreds of cars per day.
2. Safety of all Hield Road residents in the county, West Melbourne and Palm Bay is our greatest concern. A traffic backup at that intersection can prevent emergency vehicle access to all the residents (there is only one entrance to Hield Road). Morning school buses will be delayed. Pedestrian and bicycle traffic would be extremely dangerous.
3. Palm Bay Planning and Zoning voted to recommend NO ENTRANCE OR EXIT to or from Hield Road for the proposed Starbucks project. **The land developers have ignored this completely.** When questioned, Mr. Oliver, the Developer, stated if there is no entrance or exit from Hield Road, then Starbucks is not interested.
4. There are already 2 Starbucks coffee shops within 1/2 mile of that location - one inside the Target Store and one on Palm Bay Rd east of the I95 overpass. How many Starbucks do we need?

5. All the residents that live on Hield, both country and Palm Bay residents, bought property there because of the rural residential nature. We soundly reject the encroachment of commercial businesses into our neighborhood.

We support the county seeking more businesses, however, at this intersection, a high traffic business is dangerous and unsafe. We are not opposed to the mini storage units. **Please do not allow a driveway entrance onto a primarily residential street from this commercial property.** An entrance or exit onto Hield road from any high volume business would bring traffic to a complete stop.

Folks, We beg of you to make the tough but right choice rather than the easy but wrong one for the citizens of our county. A high volume business on this corner makes no sense.

Best Regards,  
Dennis Foster and Terri Rines  
4366 Hield Road NW, Palm Bay, FL 32907  
321-431-3706

**From:** [ronald thompson](#)  
**To:** [Champion, Kristen](#)  
**Subject:** z24-00004  
**Date:** Friday, March 15, 2024 10:46:08 AM

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

## Brevard County Zone Change Request 24-00004

ONE OBJECTIVE OF THIS COMMITTEE IS TO PROVIDE A SAFE, BALANCED, EFFICIENT SYSTEM THAT ADEQUATELY SERVES THE NEEDS OF ALL RESIDENTS OF OUR COUNTY, **WITHOUT UNDUE HARDSHIPS TO THE CITIZENS.**

NO DOUBT, THE COUNTY HAS BEEN AND STILL GROWING VERY FAST, AND AS A RESULT, TRAFFIC IS AN **UNDUE HARDSHIP** TO ALL OF US.

THE REQUESTED ZONE CHANGES **IS ONLY A WANT AND DESIRE, NOT A NEED.**

AS YOU CAN SEE ON THE COUNTY MAP, THERE ARE NO **B2 ZONES** ALONG MINTON RD, UNTIL YOU GET TO NORTH OF THE I-95 OVERPASS.

The applicant bought the properties **knowing** of the existing ZONING, AND **KNOWING** ABOUT THE CONGESTED TRAFFIC CONDITION, especially at Hield and Minton Roads. THEY BOUGHT THE PROPERTIES DESIRING TO HAVE THE ZONING CHANGED TO A HIGHER USE OF THE PROPERTY, AND THEY KNEW THAT AN INCREASE IN TRAFFIC WOULD BE DETRIMENTAL. ALSO THEY **KNEW** THAT THERE ARE NO PLANS BY ANY GOVERNMENT BODY TO IMPROVE THE TRAFFIC CONGESTION ANY TIME SOON.

**B-1 & B 2 ZONE IS NOT COMPATIBLE BY ANY MEANS WITHIN THIS AREA.**

**B-1 Allows Auto sales, gas stations, alcoholic sales, drug stores, restaurants and many more undesirables.**

**SO WHY, SHOULD THE COMMUNITY BE PUT INTO MORE UNDUE HARDSHIPS?**

TRAFFIC IS A **MAJOR PROBLEM** ON HIELD, MINTON AND PALM BAY RD. INTERSECTIONS.

THIS IS NOT JUST ME SAYING SO, A LETTER **FROM CORRINA GUMN PE, TRAFFIC OPERATIONS MANAGER, BREVARD COUNTY, STATES “TRAFFIC FLOW ON MINTON WOULD CAUSE A SIGNIFICANT DECLINE OF SERVICE ON PALM BAY ROAD” LETTER ATTACHED.**

THE 300 UNIT APARTMENT BUILDINGS AT MINTON AND HIELD ROADS WAS APPROVED ON DECEMBER 3, 2021, WITH A **CONDITION THAT ROAD IMPROVEMENTS BE MADE AT WINGATE, EBER, MINTON, HIELD, AND PALM BAY ROADS.**

AS OF TODAY, **THESE IMPROVEMENTS HAVE NOT BEEN COMPLETED.**

Very soon an **additional 400 +/-rental** will open: **MORE TRAFFIC**

THE INTERSECTION OF HIELD AND MINTON **ROADS IS NOT SAFE and ARE VERY CONGESTED AND DANGEROUS.**

I BEG YOU **NOT TO APPROVE THE REQUESTED CHANGES.** ESPECIALLY THE REQUEST TO CHANGE THE ZONING FROM (AU) **AGRICULTURAL RESIDENTIAL TO B1.** THIS COULD BE THE START OF A **CONTINUOUS INVASION INTO OUR RESIDENTIAL AREA. WHO WILL BE NEXT TO REQUEST MORE B1 or B2 CHANGES INTO our RESIDENTIAL PROPERTY? PRECEDENT SETTING**

**IF YOU APPROVE THIS REQUESTED CHANGE, YOU ARE NOW SETTING A NEW STANDARD OF INVASION INTO ESTABLISHED RESIDENTIAL PROPERTY.**

**An alternative could be to APPROVE the B2, MINI-STORAGE AREA AND NOT CHANGE THE PROPERTY ALONG HIELD RD. If a ZONE change is desired, IN THE FUTURE IT MAY BY be more compatible and less OFFENSIVE to the residents.**

Thank You,

Ronald & Marilnette Thompson, 4095 Hield Rd. NW, Palm Bay Fl. 32907

321-723-1530, email: [rwt444@gmail.com](mailto:rwt444@gmail.com)

**From:** [btuffturf@aol.com](mailto:btuffturf@aol.com)  
**To:** [Champion, Kristen](#)  
**Subject:** Rezoning on Hield Road  
**Date:** Sunday, March 17, 2024 11:36:44 PM

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

Tim Buckingham sr. at 3949 Hield road Palm Bay Florida 32907 opposes the rezoning on Hield Road

**From:** [Jones, Jennifer](#)  
**To:** [Champion, Kristen](#)  
**Subject:** FW: New Starbucks  
**Date:** Monday, March 18, 2024 8:10:52 AM

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-----Original Message-----

From: Dean Lancaster <deanolanc1960@yahoo.com>  
Sent: Sunday, March 17, 2024 7:32 PM  
To: Jones, Jennifer <jennifer.jones@brevardfl.gov>  
Subject: New Starbucks

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

Hi Jennifer. This is dean nd Karen Lancaster on Willard rd. I was ask to email you by Becky buckingham to voice our opposition to the proposed plan to rezone land on hield nd Minton. I will not be able to attend meeting but want our voices heard. The meeting is early afternoon nd I can't get off work. I'm sure they planned it that way. Thank you. My number is 321-759-5714 it you need to contact me. Thank you

Sent from my iPhone



17 March 2024

Dear Ms. Jones -

Re: **West Malabar Properties, LLC (24SS00001) and (24Z00004) (Tax Account 2806110, 2806111, 2806115, 28081120) (District 5)**

Property requested small-scale comprehensive plan amendment from NC/RES 2 to CC and change of zoning classification from RP and AU to all BU-2 with a BDP.

My name is Judith Kuhman, and I am writing to you on behalf of myself and my husband, James. We are residents of Palm Bay residing at 1680 Willard RD NW just off Hield Rd. We are writing to express our **OBJECTIONS** to the Zoning Changes being requested by Mr. Cole Oliver on behalf of West Malabar Properties FROM NC/RES 2 and RP/AU to all BU2 with a BDP referenced above in **Brevard County (24SS00001) and (24Z00004) and on the 18 March agenda as G3 and G4.**

We are asking the county to act for the benefit of the citizens who live on and off Hield Rd. Envision yourselves to be stewards of these citizens. We are asking you to be examples on this small stage and look beyond the financial gain and recognize the impact on the community. Local government officials should invoke citizen activism and involvement where neighbors have a seat at the table. Allow a conversation to take place with the community, government, and developer throughout the entire process. Residents who vote and pay taxes are never involved with decisions about design and impact on their communities and neighborhood. Engaging all involved while listening allows all to broker the benefits and risks to Heild residents before reaching county meetings possibly eliminating constant continuances and delays to all involved.

For the record, residents of Hield Rd to include West Melbourne and Palm Bay residents have been engaged with Mr. Oliver about his plans for the corner of Hield Rd and Minton Rd since May of 2023. Mr. Oliver approached the City of Palm Bay for rezoning proposing a high traffic **'STACKER'** Starbucks at the corner. This stacker concept would be the first model in Brevard and would allow Starbucks to increase their drive through capacity **3x** than any current Starbucks drive through. On 15 October 2023 the City of Palm Bay denied Mr. Oliver the zoning changes. Now here we are again with Mr. Oliver reaching out to the county to rezone this corner.

In our meeting with Mr. Oliver on 14 September 2023 he also informed us that he is an investor and has a financial benefit from winning and moving this development forward.

I ask you to also look at the attached site plan provided by Mr. Oliver to the residents at our 14 September 2023 meeting. I believe it represents the same proposed site plan presented to Brevard County, with the only difference being Starbucks is now identified as a future BU1 development. I am wondering about the approach of Mr. Oliver, could this be a ruse to eventually coercing the City of Palm Bay for the water if the county approves his request for rezoning? As I imagine Starbucks or any other restaurant would prefer city water and sewage.

I recognize that Mr. Oliver has not proposed Starbucks or a restaurant in this site plan. However, I am confused why that corner is identified as BU1 in the site plan when Mr. Oliver is requesting all BU2. I realize Mr. Oliver is proposing a self-storage facility on one of the sites but note he has not marked any zoning type in the proposed site plan. I also admit that Mr. Oliver mentioned the possibility of self-storage for the remaining parcel in the 14 September 2023 meeting with residents.

I understand that Minton Road is a heavily traveled throughfare and that there are plenty of commercial properties currently on the roadway. I also recognize the possible tax revenue for all municipalities. We ask Brevard County is this business tax worth the safety and security of the residents who live on and off Hield Road?

We remind you that some of you are elected officials, elected specifically by us. We invite you to come to the corner of Minton and Hield Road and observe the traffic on weekdays from 0630 – 0900 but specifically from 1600-1800. We ask you to ask yourselves elected to be protectors of your citizens, do you believe specifically rezoning of these properties and allowing the entrance and exit of any business but specifically a high traffic commercial business, provides a safe

living environment for the residents? Ironically, Mr. Oliver agreed with the residents on 14 September that he would be fighting City Hall if this proposed change was happening in his neighborhood.

I have read the Brevard County Staff comments and if I correctly understand the rezoning to BU2 would allow the self-storage facility to be built as possibly a two or more-story stackable type self-storage. Since BU1 has height restrictions. The rezoning to BU2 would provide utilities to units to allow the use of businesses in the storage facility such as auto repair. And here is our ruse again utilities such as water/sewer to be made available to the highest interest which is the southern corner of Hield and Minton. The residents in our serene country setting could be inflicted with the potential for storage of heavy equipment, hazardous materials, and the use of running generators all day and night.

I recognize that Mr. Oliver and his partners have invested a substantial amount in these parcels. And I realize they see the potential of monies that could come in due to the number of residential structures being developed further north on Minton Rd. However, I have issues comprehending how the city and county leaders have not fully understood the influx and poor quality of the road and traffic flow on Minton Rd.

I'd like to remind the county representatives that I have also invested in my property off Hield Road, and I am concerned about the loss of revenue from the sale of my property in the future with unsightly structures and traffic congestion that is not safe.

When are representatives of all municipalities going to stop and slow down and look at the impact of this constant shoving of multi residential units and businesses on every available parcel of land and realize that our infrastructure cannot handle and keep up without major changes to the services of current residents?

#### Concerns:

##### 1. Safety and Traffic:

- a. Hield Road is a narrow two-lane **residential road** that is **2 ¼ miles long from** Minton Road West to the Canal. Hield Road is unincorporated Melbourne (Brevard County) from Minton Road to Powell Road. From Powell Road West to the end (Canal) is in the City of Palm Bay.
- b. Emergency Vehicles. Given that Hield Road is a dead-end road with only one way to access Hield and the residents living on and off (~500 residents), how quickly could emergency vehicles; ambulance and fire access residents in need of possibly life or death situation?
- c. Hield Road (County side) does not have soft swales for vehicles to move over to allow for emergency vehicles passage or any other types of vehicles that need to pass. There are only ditches.
- d. We all know the volume of traffic Starbucks or other high traffic businesses create especially during peak times. This **ADDED** volume of traffic to this S.W. Corner of Hield and Minton will **only exacerbate** an already **EXISTING** traffic nightmare which is also causing this intersection to be becoming a very dangerous intersection especially during peak times. Southbound traffic repeatedly blocks the intersection preventing proper and safe usage. Drivers **IGNORE** the **"NO U TURN" SIGN** by the left turn lane from Minton. Many times, this illegal action causes intersection back-up. Drivers are becoming more aggressive! Hield residents in photo 1, had the green light, the traffic blocked the intersection causing the white truck to maneuver around vehicles in the intersection to go northbound. Photo 2 the northbound traffic and residents wishing to turn left onto Hield have the green light but are now blocked by the silver vehicle who pulled out of the Publix/Avasa apartments. This is a regular occurrence at this intersection.



Photo 1 – Hield Residents needing to go North on Minton Rd.



Photo 2 – Vehicle heading southbound from Publix Avasa Apartments.

- e. There are a lot of people living on Hield Road. Additionally, FPL has a substation West on Hield. They have their fleet of vehicles using Hield Road. There is a very large nursery West on Hield Road. Again, there are many trucks and vehicles using Hield Road often during peak times as well.
- f. **WE MUST NOT ALLOW** these properties to be accessed from Hield Road. Hield Road is residential. Many of the larger properties have two or 3 homes. We bought our property for the serenity the area provides with abundant wildlife and having an area where neighbors did not have to live on top of one and other. Over the years, due to progress wildlife has been continually pushed out of their own habitat by more apartments, zero lot line residential housing, and retail businesses.
- g. The Avasa Apartments, added 300 apartments, estimating 600 more cars to the roadway, also trying to maneuver this intersection, since there is one entrance out of this complex and that is the intersection of Minton Rd and Hield Rd.
- h. Brevard County has yet to make the improvements to the Hield Rd that meets Minton as agreed upon with the development of the Avasa apartments. Hield Rd was to be modified to include a left-hand turn. I am assuming those changes are starting back up with the pressure from Mr. Oliver it appears trucks and other equipment like new utility poles are staged once again.
- i. West Melbourne currently is developing a 55 single family residential community (~160 more vehicles) and another apartment complex 280 units (~560 vehicles) that will add traffic to Minton Rd.
- j. I leave my home at various hours in the morning. From 0530 to 0630 the amount of traffic traveling northbound on Minton road is ~2-3x more than traffic traveling southbound. The light at Hield road does not immediately change for northbound travelers, it is triggered more so by southbound travelers exiting Avasa apartments. Since the flow of traffic is ultimately controlled by the Palm Bay Rd and Minton Rd intersection and adding a high traffic drive through with customers entering Hield to exit onto Minton will add additional cars and wait times.

Photos 3 and 4 are of traffic southbound on Minton Road at 1700 on a Tuesday evening.



Photo 3 Southbound over I95



Photo 4 approaching Hield Road

**2. Infrastructure:**

- a. The heavy equipment required for construction will continue to erode the roadway at Hield Road and Minton Road, causing possible damage to infrastructure and resident's personal property, who will bear responsibility for these improvements?
- b. Additional garbage trucks and purveyor's semis and box trucks making deliveries will also erode the roadway.

**3. Pollution:**

- a. Noise Pollution will impact neighbors closest to these businesses with the uptick of garbage pickups and possible delivery trucks. Definite noise will be the backup beeping of these vehicles, the release of air pressure, large diesel trucks, and the movement of dumpsters. Noise from any potential drive through conducting business in the early morning hours. If the storage facility is allowed to conduct businesses this will increase noise pollution, possible generators and or machinery if businesses are allowed to operate within.
- b. Air and land pollution will be an impact to residents to include the smell of garbage, the smell of fuel from delivery trucks and increased traffic. The lack of respect of the residents in this area with customers littering the roadways and surrounding areas.
- c. The increase of rodents to the area to include rats and raccoons.
- d. Possible storage of hazardous materials, the leakage of gas from stored items and vehicles

#### 4. Possible Increased Traffic and Crime

- a. Due to increased growth in our surrounding community, Hield Road invites curious drivers to explore. There are times residents have had to call the police on suspicious individuals and vehicles lurking around.
- b. Having high traffic commercial businesses increased on that corner will only beg for more suspicious and at times, unlawful incidents.

Hield Road, as it is, is a well-traveled two-lane road. Hield Road residents are taxed heavily for the privilege of living on Hield Road in a rural –like environment with horses using the road, runners, and bicyclists as well. There are no sidewalks.

We are respectfully asking you to please consider our concerns and objections for the reasons stated. What is being proposed will **ADVERSELY / NEGATIVELY** impact Hield Road residents and their safety.

I also respectfully ask to make this letter a part of your records.

Very Respectfully –

*James and Judith Kuhman*

**From:** [Jessica LaFosse](#)  
**To:** [Jones, Jennifer](#); [Champion, Kristen](#)  
**Subject:** Heild resident Starbucks opposition  
**Date:** Monday, March 18, 2024 8:24:05 AM

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

Hello!

My name is Jessica LaFosse and I live at 1602 Willard Rd NW, Palm Bay, FL 32907. I would like to note that my husband Peter and I would NOT like to have a Starbucks on the upper corner of Heild rd. I hope this sentiment is helpful to stop the progress on this matter.

Sincerely,  
Jessica LaFosse  
813-486-5964

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*Jessica LaFosse, Pharm.D. CPh*  
Learner, Input, Positivity, Developer, Includer

**From:** [Jones, Jennifer](#)  
**To:** [Champion, Kristen](#)  
**Subject:** FW: Agenda items 24Z0004, 24S0001  
**Date:** Monday, March 18, 2024 10:18:23 AM

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**From:** Richard Carter <rsc9@msn.com>  
**Sent:** Monday, March 18, 2024 10:15 AM  
**To:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Subject:** Agenda items 24Z0004, 24S0001

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

Greetings,

As a resident of Hield Rd, I would like to comment on the above agenda items. I am not opposed to the development of the land but strongly oppose the use of Hield Rd as an ingress/egress route.

Hield Rd. is a large rural residential neighborhood platted in 1927 as the Melbourne Poultry Colony. It consists of 800 ac. surrounded by drainage canals, with one entrance and exit onto Minton Rd for the hundreds of homes that have been built over the years. The residents depend on the free access to Minton Rd for their daily commute to work, school and shopping.

The current traffic situation at the intersection of Minton Rd and Hield Rd is terrible. The morning northbound traffic on Minton Rd is backed up to the point that it blocks the intersection during traffic signal change. This causes vehicles that are trying to get out of Hield Rd to wait as many as two or three cycles of the light to exit Hield Rd, taking as much as 5-10 minutes. The afternoon southbound traffic is worse, with a wait of sometimes 4-5 cycles of the light, and a wait of 10-15 is not uncommon.

As you can see, any additional traffic from a commercial establishment onto Hield Rd would only exacerbate the problem.

There are several solutions.

**\*\*Deny any development of the property- An unreasonable solution.**



**\*\*Ingress/egress to the commercial property on Minton Rd only- A better solution, but only further increases the heavy traffic on Minton Rd near Hield Rd.**

**\*\*Utilize an access road through the existing commercial establishments to the south, putting the increased traffic onto the Palm Bay Rd extension on the west side of Minton Rd- The best solution available without major improvements to Minton Rd (six lanes, enlarged/upgraded intersections at Norfolk Pkwy, Palm Bay Rd and Emerson Dr.), and allows easier traffic flow into and out of the commercial establishments via the traffic signal at Minton Rd and Palm Bay Rd. Entrance only access from Minton Rd would be a viable option for the commercial property, but may increase illegal U-turns at the northbound Minton at Hield intersection, which are already a traffic hazard causing several crashes.**

Please forward this email/information on to the appropriate recipients for their review.

Thank you for your time.

Richard Carter  
4065 Hield Rd. NW  
Palm Bay, FL 32907

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March 18, 2024

Jennifer Jones  
Brevard County Planning Commission

RE: Application Numbers 24Z00004 and 24S00001

Dear Ms. Jones,

My name is Warren Newman and I live at 1603 Seabury Point Road, off Hield Road. I have lived there for over 26 years. I built a home there when my children were little because it was on a low traffic road with lots that were zoned residential/agricultural, and they could safely walk or ride their bikes. I still live there, long after they are grown and have moved away, because of those same reasons.

However, one of the amenities that those of us who live on Hield Road have had to do without, besides sewer and water, are fire hydrants. Fortunately, house fires have been pretty rare, but we have had some brush fires that required tanker trucks to come out. And luckily, they were there promptly, but can you imagine the delays that could be caused between 7 and 8 AM, and 5 and 6 PM on weekdays, from increased traffic due to a Starbucks with an entrance/exit onto Hield Road? Even now traffic blocks the Hield Road/Minton intersection during those times - sometimes through two or more light cycles. Traffic that has already been exacerbated by a day care and a poorly conceived large apartment complex that only has 1 entrance/exit on the east side of Minton. The same issue holds true for school busses in the morning.

I am not opposed to progress – I just want to see it planned intelligently so that it doesn't negatively impact the lives of the residents of Hield Road. To that end, I am not opposed to a Starbucks being build on the property along Minton Road, south of Hield (although I do question the need for another one). I simply do not think it is safe to allow an entrance/exit to any commercial buildings from Hield Road and I am also opposed to any lots facing Hield Road being rezoned to commercial.

In addition, the fact that Palm Bay refused to acquiesce to the same request by this developer due to these safety concerns and overwhelming opposition by Hield Road residents, should be enough to vote no on this item.

Regards,

*Warren Newman*

**From:** [Jones, Jennifer](#)  
**To:** [Champion, Kristen](#)  
**Subject:** FW: Application - 24Z00004 - Milton / Hield Rd - Melbourne - Live within 100 Ft  
**Date:** Monday, March 18, 2024 12:01:33 PM

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**From:** Heather Norman <koolpetsvt@yahoo.com>  
**Sent:** Monday, March 18, 2024 11:56 AM  
**To:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Subject:** Application - 24Z00004 - Milton / Hield Rd - Melbourne - Live within 100 Ft

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

Hi Jennifer,

I own 3030 Hield Rd, just across from the proposed land to be rezoned, Application - 24Z00004 - Milton / Hield Rd - Melbourne. I never received any notification in the mail from the county regarding the details of the rezoning. My property is within 100 Ft, and will have direct impacts which no one has contacted me about. Please respond to this email with any info I should have or mail to my address any info required, thanks.

I'm sure you are aware of the current issues/concern I wanted to add my own if I can, thank you.

**Concerns:**

Is it possible the commercial owners make/have 2 lanes onto their property, making Hield a 4 lane rd. these new 2 lanes can be solely on their property. 2 lanes on their property with a right and left turn off Hield onto Minton.

The existing current 2 Hield lanes will be a left turn into their property and the other lane continues to go straight further down Hield.

These 2 new lanes will make sure the extra traffic leaves Hield. and will help lessen the already backup that happens during peak traffic hours on Minton and Hield.

The current plans as of march 18 shows 1 entrance lane on Hield will have slightly widen to add a middle entrance left turn into the commercial property. This slight widen center left turn will back up traffic on and off Hield.

An example might be the exiting Hield traffic is backed up at the light, maybe 10 cars backup. say no one wants to let a person turn into the commercial property, this will be affecting the entering Hield people and causing a backup to Minton. there is no limit or way to enforce traffic rules. i believe with 2 lanes in and 2 lanes out this is a way to have the space needed for the now added commercial traffic.

I would propose the county lawyers enter some agreement with the commercial owners to solve this major traffic issue.

My personal direct impact issues and concerns that will affect my property immediately are unlike the neighbors concerns. I have a few questions.

What is happening on my side with my property? Am I losing land as a result of the county accommodating the commercial owners?

What happens to my driveway? If Hield rd will be widened, will I now need possible new entrance or exit? Since it will be clear I will have trouble getting out of the driveway and resulting in a shorter driveway, less frontage.

Is the culvert going to be replaced?

Will my front yard now flood if they remove the culvert for sidewalks or widening? During the rain season, water in the culvert gets very high and has come close to flooding my front yard. if proposed this water will now come closer to my house if not correctly mitigated.

What is the plan to divert water from the road and not affect my property?

Thanks,  
Heather Norman  
3030 Hield Rd  
Melbourne, FL, 32904  
email: [koolpetsvt@yahoo.com](mailto:koolpetsvt@yahoo.com)  
mobile #: 802-578-2025

Good morning Brevard County Commissioners & Planning & Zoning Board,

I am writing with my concerns of the rezoning of the property at the corner of Minton & Hield Rd (24Z00004). Along with the other 2 or 3 properties owned by this applicant along Minton Rd. Last August I believe the City of Palm Bay denied this applicant to annex into the City of Palm Bay with a commercial zoning change as well. This intersection is way over crowded with traffic backups from Palm Bay rd past the Norfolk parkway intersection on Minton Rd. Traffic sits at this intersection along with the Norfolk parkway intersection during peak hours and makes it very difficult to get I about of Hield Rd. They even have a hard time getting out of the day care, apartments and Publix when using the Minton Rd cross over to Hield or heading south on Minton. Mr. Oliver still wants an access to Hield Rd. Which traffic is already difficult to get in and out of now. If you add access to this property as he is proposing it will make it much more difficult for people to get in and out. Along with safety vehicles being delayed to any possible emergency that may happen down Hield Rd. They will be delayed as the traffic blocks the intersection during peak times. Palm Bay's city council DENIED this proposal last year. The applicant is just trying to get his wishes approved even thou it was denied for Hield Rd. access. He stated that the developer wanted Hield Rd Access if it was denied the plan was off the table. This sounds like one person will benefit for this change, the property owners. Definitely not all the people that travel Minton Rd along with the Hield Rd. Residence. The people of Brevard County don't usually get involved with county operations until it effects their life style. This change will greatly effect your County residents. I agree the property needs some kind of change but it also needs to be well kept which is being done (I believe to prove a point for the owner) This is the time we ask for your assistance to stop issues like this. This is an example of why we voted you into office to protect our rights when we need it. Not to do what you want to do, but do for the

people who ELECTED you into office. I believe this needs to be put on hold until the intersections improvements have been made and some kind of community involvement for a plan for development that won't bring a large amount of traffic to the area during peak times and cause serious backs. Thank you for your consideration and I am in hopes you do what the PEOPLE who ELECTED you want done.

Concerned Brevard County Resident of Hield Rd.  
Juanita Barden

**From:** [Jones, Jennifer](#)  
**To:** [Champion, Kristen](#)  
**Subject:** FW: ALLBU - 2 with ABDP - Hield Road/Starbucks  
**Date:** Monday, March 18, 2024 12:54:55 PM

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**From:** Allison Wilson <amaywilson@gmail.com>  
**Sent:** Monday, March 18, 2024 12:36 PM  
**To:** Jones, Jennifer <jennifer.jones@brevardfl.gov>  
**Subject:** ALLBU - 2 with ABDP - Hield Road/Starbucks

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

To Whom It May Concern,

I am a resident of Hield Road. I live on Willard, which is 1.5 miles from Minton. When I first heard that a Starbucks was planned for the corner of Minton and Hield, I laughed. It was an absurd location, considering all of the morning traffic is on the east side of Minton going north. The Starbucks would be on the south side, making it difficult for anyone to get in and out easily.

Then I started to think about the safety issues we're already having at that intersection. Cars block the intersection during rush hour, in both southbound lanes. I've sat through FOUR cycles of the light trying to make a left turn onto Minton from Hield, and have had to try to swerve around cars to do so. People do not obey the "No U-turn" and that makes it dangerous, too. Add to it the number of new residents, and you are just waiting for accidents to happen. Emergency vehicles won't be able to get to said accidents, either, due to the traffic problems. Put a Starbucks on that corner and you assure fender benders or worse.

Pedestrians are going to be unsafe while trying to maneuver around this area, too. We have many who run/walk/bicycle Hield Road for exercise, as it's a fairly quiet road. Moms with strollers are going to have a hard time being safe with extra traffic at the end of Hield. Bicyclists will be in danger from people not watching for them, trying to turn into the coffee house.

There is not a turn lane coming southbound. The rush hour traffic backs up past Eber on most days, and it's for that right most lane. The turn lane to get onto Hield will not be able to handle the traffic trying to come into Starbucks in the morning. How do they safely exit to go north? There's no room for that many vehicles to get back onto Hield for the light, certainly not safely. Those who DO obey the "No U-turn" routinely pull into a close driveway, back up into oncoming traffic on Hield, and then block the west lane on Hield with their cars, because there isn't room before the light. Having watched what happens at the Starbucks across from Walmart on Palm Bay Road, people will just line up in the way of traffic, with no concern for anyone else trying to use the correct lanes of the road.



This proposed site is a bad decision, and I hope the commission, and other powers-that-be, will see it. I'm not opposed to business at that corner. I just want it to be sensible for all involved.

I'm also disturbed that this is being done as an end run around the cities, along with having a meeting when the majority of people opposed to it, myself included, would be unable to attend. Well played by whomever. That is not said with any respect for the way it's being handled.

In Christ,

Allison M. Wilson

[www.hearthitting.blogspot.com](http://www.hearthitting.blogspot.com)

"Cease striving and know that I AM God..." Psalm 46:10

"If a matter is not serious enough to pray about it, then it is not serious enough to worry about - and if it is serious enough to pray about, and we have prayed about it, then there is no need to worry about it."

James E. Bibbons

**From:** [Kendra Somberg](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** BU-1  
**Date:** Thursday, March 21, 2024 4:49:42 PM

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

To whom it may concern;

I am a concerned resident who lives off of Hield road and I desperately want to protect the privacy it currently has! Unfortunately due to my work schedule I am unable to attend the meetings that are so vital for my voice to be heard. I hope you will accept this email as my attestation to the proposed plans titled "BU-1" to rezone Hield road.

When my husband and I purchased our home to raise our family one of the major appeals was the privacy and "seclusion" Hield road allowed because it was a dead end. To us this meant less people who lived off the road would be using it which had to equal a safer environment. Safer for our children, safer for our pets and safer to our property and home. We put a lot of thought (and money) into our decision on where to build our future and now that vision is being compromised by Mr Oliver's proposed rezoning.

Since the building of the apartment complex across the road from Hield road the traffic at that intersection has increased ten fold. It is not uncommon to sit at the street light, in stopped traffic at Hield road for multiple cycles before being able to turn onto it. If a drive thru business of any kind is built on either corner of Hield road and Minton road it will only make the already bad situation much worse; especially if the entrance is directly on Hield!! I cannot even begin to imagine what type of business Mr Oliver is proposing for the site but I cannot think of a single one that would benefit anyone. There are multiple car washes, coffee shops, fast food places and dollar stores within less than five miles of Hield road. Please stop overtaking every bit of land with frivolous things! If this rezoning were to be approved it would not only increase the already awful traffic but it would invite many more people to joy ride down my private, safe road that I call home. I do not feel comfortable knowing many more people would be more likely to ride down Hield after getting a snack or coffee at the corner. This town has seen a drastic increase in crime lately and I want to keep my family and home as safe as possible. I strongly believe approving the rezoning of Hield road will only open the door to all things negative. In addition to the rezoning it is rumored there is a possible proposal to add a third lane on Hield road and/or make Hield road a cut through from Jupiter blvd. I am genuinely confused as to how a third lane is possible. The two lanes are currently very skinny and can barely accommodate two vehicles (especially large trucks which are common) passing in opposite lanes at the same time. There is no shoulder on either side and especially not enough to build a third lane! As far as a cut through from Jupiter road... we might as well put up a for sale sign now! The increase in traffic and crime (I suspect) would be astronomical!! There is no good reason to allow anyone except Hield road residents to travel down that road daily. Many children get on and off the school bus stops five days a week which are located DIRECTLY ON Hield road. I have seen how people drive around our town and would not feel safe allowing my children to walk with those same individuals driving like a maniac on the same exact road!! Hield road is known for it's quieter, country-like feel and

approving any of the proposed plans would destroy every but of that. Please help protect this sliver of paradise that is left.

This entire proposal is ludicrous and as a Hield road resident I am hopeful you hear me and all the others who are opposed.

I urge you to not think about the financial gain because overall it's not worth it. I implore you to consider how this will affect the safety and security that is currently had on Hield road. I beg you to consider if this was happening to you and affecting your home; how would you feel? I hope you would fight for what is right and not just go with it. Please help me protect my home and my family's safety. We love our home and would hate to see these harmful changes approved.

Sincerely,  
A very concerned Hield road resident, Kendra Somberg.

**From:** [Kevin and Natalie Ward](#)  
**To:** [Commissioner, D1](#)  
**Subject:** April 4 Meeting  
**Date:** Tuesday, March 26, 2024 8:02:52 AM

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

This letter is intended to express our sincere concern and displeasure with the proposal coming before your board on April 4th regarding the rezoning of the land at the southwest corner of Minton and Hield Roads in West Melbourne. As 15 year residents of Hield Road, we have accumulated many frustrating hours of our lives devoted to waiting to turn in or out of our single access neighborhood. To put it frankly, there is simply no way adding a drive thru restaurant, particularly one as popular as Starbucks, to the end of our road will work.

If you have ever seen that intersection you would understand that people are already pushing the limits of safety and, many times, are not following the traffic laws. The intersection is frequently blocked by traffic, particularly heading south on Minton Road. Even if they add a turn lane, there is nothing to prevent people from continuing to block the road and/or making illegal u-turns on Minton when heading north to come back south. It's frustrating and time consuming, but we deal with it. This is a beautiful neighborhood and we deal with the inconvenience that comes with it.

That being said, there is NO room to expand this road. There are deep ditches on either side, and even with a proposed additional lane, there's no room left for emergency vehicles to travel down to reach residents in need. Using Hield road as an entry or exit for Starbucks would take this traffic light from difficult to impossible. I have seen the effects Starbucks has had on Palm Bay Road (into the Aldi parking lot) and more recently on 192, causing back ups on a major roadway with lots of emergency braking. PLEASE DO NOT ALLOW THIS TO HAPPEN TO OUR RESIDENTIAL NEIGHBORHOOD. The City of Palm Bay just recently looked into annexing this property for this same project and, thankfully, decided it was not a wise decision.

We are small business owners ourselves and are very pro-business and development. It would certainly be naive of us to expect this lot and the adjacent ones to the south to remain vacant. But as a zoning issue, we are urging you to consider keeping the zoning to something more appropriate for the level of traffic we already experience. Something without a drive thru!

We very much appreciate your time and consideration and would like to invite you to come to visit Hield Road any given weekday between the hours of 4-6pm to experience for yourselves the potential disaster that would happen to this residential road if you were to approve this zoning change.

Thank you,  
Kevin and Natalie Ward  
4132 Anlow Road  
West Melbourne

## Mascellino, Carol

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**From:** Kendra Somberg <mrssomberg@gmail.com>  
**Sent:** Thursday, March 21, 2024 4:49 PM  
**To:** Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Subject:** BU-1  
**Categories:** Carol

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

To whom it may concern;

I am a concerned resident who lives off of Hield road and I desperately want to protect the privacy it currently has! Unfortunately due to my work schedule I am unable to attend the meetings that are so vital for my voice to be heard. I hope you will accept this email as my attestation to the proposed plans titled "BU-1" to rezone Hield road.

When my husband and I purchased our home to raise our family one of the major appeals was the privacy and "seclusion" Hield road allowed because it was a dead end. To us this meant less people who lived off the road would be using it which had to equal a safer environment. Safer for our children, safer for our pets and safer to our property and home. We put a lot of thought (and money) into our decision on where to build our future and now that vision is being compromised by Mr Oliver's proposed rezoning.

Since the building of the apartment complex across the road from Hield road the traffic at that intersection has increased ten fold. It is not uncommon to sit at the street light, in stopped traffic at Hield road for multiple cycles before being able to turn onto it. If a drive thru business of any kind is built on either corner of Hield road and Minton road it will only make the already bad situation much worse; especially if the entrance is directly on Hield!! I cannot even begin to imagine what type of business Mr Oliver is proposing for the site but I cannot think of a single one that would benefit anyone. There are multiple car washes, coffee shops, fast food places and dollar stores within less than five miles of Hield road. Please stop overtaking every bit of land with frivolous things! If this rezoning were to be approved it would not only increase the already awful traffic but it would invite many more people to joy ride down my private, safe road that I call home. I do not feel comfortable knowing many more people would be more likely to ride down Hield after getting a snack or coffee at the corner. This town has seen a drastic increase in crime lately and I want to keep my family and home as safe as possible. I strongly believe approving the rezoning of Hield road will only open the door to all things negative. In addition to the rezoning it is rumored there is a possible proposal to add a third lane on Hield road and/or make Hield road a cut through from Jupiter blvd. I am genuinely confused as to how a third lane is possible. The two lanes are currently very skinny and can barely accommodate two vehicles (especially large trucks which are common) passing in opposite lanes at the same time. There is no shoulder on either side and especially not enough to build a third lane! As far as a cut through from Jupiter road... we might as well put up a for sale sign now! The increase in traffic and crime (I suspect) would be astronomical!! There is no good reason to allow anyone except Hield road residents to travel down that road daily. Many children get on and off the school bus stops five days a week which are located DIRECTLY ON Hield road. I have seen how people drive around our town and would not feel safe allowing my children to walk with those same individuals driving like a maniac on the same exact road!! Hield road is known for it's quieter, country-like feel and approving any of the proposed plans would destroy every bit of that. Please help protect this sliver of paradise that is left.

This entire proposal is ludicrous and as a Hield road resident I am hopeful you hear me and all the others who are opposed.

I urge you to not think about the financial gain because overall it's not worth it. I implore you to consider how this will affect the safety and security that is currently had on Hield road. I beg you to consider if this was happening to you and affecting your home; how would you feel? I hope you would fight for what is right and not just go with it. Please help me protect my home and my family's safety. We love our home and would hate to see these harmful changes approved.

Sincerely,

A very concerned Hield road resident, Kendra Somberg.

## Mascellino, Carol

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**From:** Kevin and Natalie Ward <nkward1@mac.com>  
**Sent:** Tuesday, March 26, 2024 8:02 AM  
**To:** Commissioner, D4  
**Subject:** April 4 Meeting  
  
**Categories:** Carol

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

This letter is intended to express our sincere concern and displeasure with the proposal coming before your board on April 4th regarding the rezoning of the land at the southwest corner of Minton and Hield Roads in West Melbourne. As 15 year residents of Hield Road, we have accumulated many frustrating hours of our lives devoted to waiting to turn in or out of our single access neighborhood. To put it frankly, there is simply no way adding a drive thru restaurant, particularly one as popular as Starbucks, to the end of our road will work.

If you have ever seen that intersection you would understand that people are already pushing the limits of safety and, many times, are not following the traffic laws. The intersection is frequently blocked by traffic, particularly heading south on Minton Road. Even if they add a turn lane, there is nothing to prevent people from continuing to block the road and/or making illegal u-turns on Minton when heading north to come back south. It's frustrating and time consuming, but we deal with it. This is a beautiful neighborhood and we deal with the inconvenience that comes with it.

That being said, there is NO room to expand this road. There are deep ditches on either side, and even with a proposed additional lane, there's no room left for emergency vehicles to travel down to reach residents in need. Using Hield road as an entry or exit for Starbucks would take this traffic light from difficult to impossible. I have seen the effects Starbucks has had on Palm Bay Road (into the Aldi parking lot) and more recently on 192, causing back ups on a major roadway with lots of emergency braking. PLEASE DO NOT ALLOW THIS TO HAPPEN TO OUR RESIDENTIAL NEIGHBORHOOD. The City of Palm Bay just recently looked into annexing this property for this same project and, thankfully, decided it was not a wise decision.

We are small business owners ourselves and are very pro-business and development. It would certainly be naive of us to expect this lot and the adjacent ones to the south to remain vacant. But as a zoning issue, we are urging you to consider keeping the zoning to something more appropriate for the level of traffic we already experience. Something without a drive thru!

We very much appreciate your time and consideration and would like to invite you to come to visit Hield Road any given weekday between the hours of 4-6pm to experience for yourselves the potential disaster that would happen to this residential road if you were to approve this zoning change.

Thank you,  
Kevin and Natalie Ward  
4132 Anlow Road  
West Melbourne



**From:** [Commissioner, D3](#)  
**To:** [Champion, Kristen](#)  
**Subject:** FW: April 4 Meeting  
**Date:** Tuesday, March 26, 2024 10:22:59 AM

---

Hi Kristen:

Please see the below email to be included in the disclosures for the 4/4/24 Zoning meeting.

Thanks

Carol Richardson, Administrative Aide  
County Commissioner John Tobia, District 3

-----Original Message-----

From: Kevin and Natalie Ward <nkward1@mac.com>  
Sent: Tuesday, March 26, 2024 8:02 AM  
To: Commissioner, D3 <d3.commissioner@brevardfl.gov>  
Subject: April 4 Meeting

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Thank you,  
Kevin and Natalie Ward  
4132 Anlow Road  
West Melbourne

81

**From:** [Commissioner, D3](#)  
**To:** [Champion, Kristen](#)  
**Subject:** FW: BU-1  
**Date:** Tuesday, March 26, 2024 10:24:04 AM  
**Attachments:** [image001.png](#)

---

Hi Kristen:

Please see the below email to be included in the disclosures for the 4/4/24 Zoning meeting.

Thanks



**Carol Richardson**  
**Administrative Aide**  
**County Commissioner John Tobia, District 3**  
**2539 Palm Bay Road NE, Suite 4**  
**Palm Bay FL 32905**  
**321-633-2075**

**From:** Kendra Somberg <mrssomberg@gmail.com>  
**Sent:** Thursday, March 21, 2024 4:49 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>  
**Subject:** BU-1

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Sincerely,

A very concerned Hield road resident, Kendra Somberg.

**From:** [suzanne.hickman](#)  
**To:** [Commissioner, D4](#)  
**Subject:** Rezoning Change Notice 24Z00004  
**Date:** Wednesday, March 27, 2024 8:13:16 PM

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

Commissioner Rob Feltner  
RE: Rezoning Change Notice 24Z00004

Change and progress are inevitable! Having lived on one of the side streets off of Hield Road for 31 years, many changes have occurred. Stoplights installed at the intersection of Minton and Hield, Palm Crossings shopping area, and numerous businesses have opened on Hield to name a few.

Hield Road and the side streets comprise 275 homes in both West Melbourne and Palm Bay. There is one way in and one way out of this dual community. So, whatever effects home owners in one area ultimately effects all of the homeowners in this community.

With the increase in homes and apartments along Minton Road, the traffic volume has increased exponentially at this time. The current traffic is causing gridlock.

Since new apartments are still under construction and there are new home additions to be added to the gated communities that use Minton Road as an entrance, this gridlock will only increase. Many people will opt to pick up something from the store on their way home.

Mr. Oliver approached the city of Palm Bay first and was turned down after the mayor, Rob Medina, drove on Minton Road to assess first hand the current situation.

Now Mr. Oliver has gone to the county. In my estimation, he has no intention of putting a storage unit on that property. He wants a Starbucks in that location. If you were a business man, which would you choose to maximize your investment? The answer is pretty clear.

There are currently two Starbucks within 2 miles from the Hield property up for rezoning – Norfolk Parkway and Palm Bay Road.

The potential for a fatal accident at the Minton and Hield intersection is almost inevitable if ingress and egress is granted for Hield Road for a high traffic business. There is no guarantee that Mr. Oliver will not build a Starbucks if approval is given for the zoning.

I implore you to conceptualize the future traffic on Minton south to Palm Bay Road since there have been no improvements to that intersection.

Other concerns are emergency vehicles might have a difficult time entering or exiting Hield. There are no fire hydrants in this area.

Thank you for your time and consideration in this matter.

Regards,

Suzanne Hickman  
1553 Pinetree Lane NW  
Palm Bay, FL 32907

**From:** [Commissioner, D3](#)  
**To:** [Champion, Kristen](#)  
**Subject:** FW: Rezoning Change Notice 24Z00004  
**Date:** Thursday, March 28, 2024 9:43:47 AM  
**Attachments:** [image002.png](#)

---

Hi Kristen:

Please see the below email to be included in the disclosures for the 4/4/24 Zoning meeting.

Thanks!



**Carol Richardson**  
Administrative Aide  
County Commissioner John Tobia, District 3  
2539 Palm Bay Road NE, Suite 4  
Palm Bay FL 32905  
321-633-2075

**From:** suzanne hickman <r\_s\_hickman@msn.com>  
**Sent:** Wednesday, March 27, 2024 8:11 PM  
**To:** Commissioner, D3 <d3.commissioner@brevardfl.gov>  
**Subject:** Rezoning Change Notice 24Z00004

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

Commissioner John Tobia

RE: Rezoning Change Notice 24Z00004

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Regards,

Suzanne Hickman

1553 Pinetree Lane NW

Palm Bay, FL 32907

Subject: Opposition to Brevard County Commission Items 24SS00001 & 24Z00004

Date: 4/1/2024

Brevard County Board of County Commissioners,

My family has lived in the Hield Road community for over 30 years and I would like to express my strong opposition to the following items to be discussed at the 4/4/2024 County Commission meeting.

I strongly oppose the proposed commercial rezoning of the residential home at 3045 Hield Road (Parcel ID 28-36-24-FA-2-1.02). This property is the second home to the left when entering Hield Road and can only be accessed from Hield Road. Hield Road is a narrow, two-lane road that is not designed to safely handle commercial traffic. There are no sidewalks, and no place for pedestrians or bicyclists to move off the road as it has steep ditches on both sides extending all the way to Powell Road. There is already an issue on this part of the road with garbage/recycling containers and yard waste encroaching on the narrow lanes since the ditches are so steep on either side.

I would also like to express strong opposition for proposed commercial rezoning and annexation of properties at the SW corner of Minton and Hield Road. This area already has significant traffic congestion as noted in Diagram 1 below. Rezoning these properties to allow for high-traffic commercial business development, particularly with ingress/egress from Hield Road, will significantly and adversely affect the safety of the entire Hield Road community.

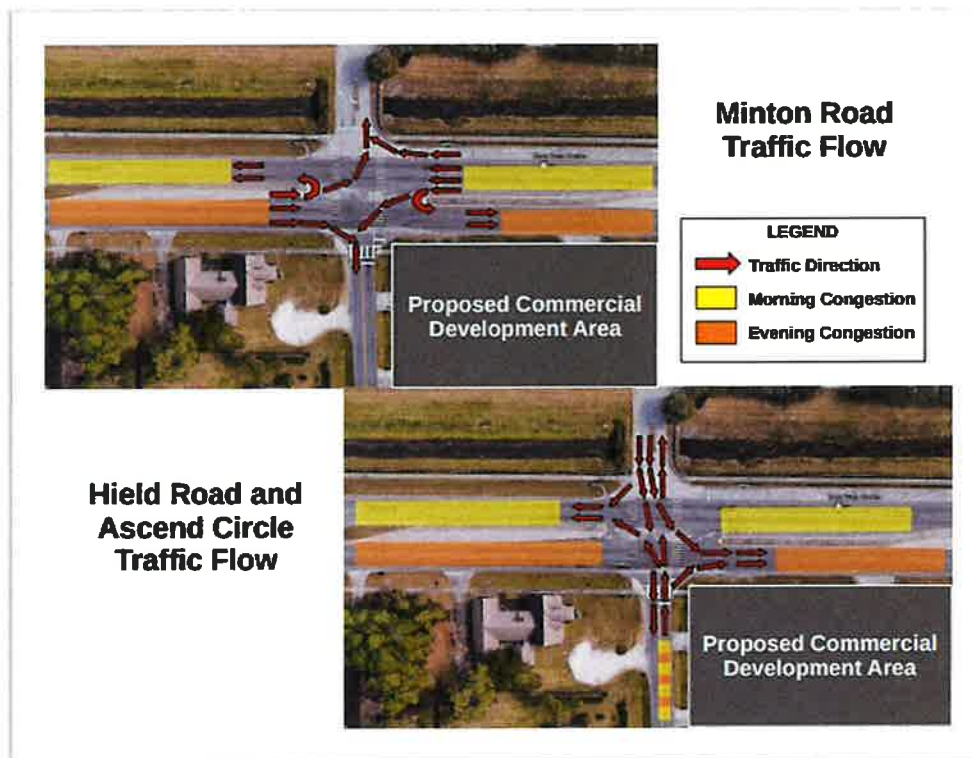


Diagram 1: Existing Traffic Flow Issues at Intersection of Minton and Hield Roads

As vehicles are heading east to exit Hield Road, they will prevent traffic from entering or exiting any businesses on the SW corner of Minton and Hield Road. As vehicles enter Hield Road headed west, vehicles that want to enter any businesses on that corner will have to stop and that will quickly back up traffic at the entrance to Hield Road and out onto the right southbound lane of Minton Road. Thus the proposed ingress/egress from Hield Road does not support a viable traffic flow and creates significant safety concerns.

As Hield Road all the way to Powell Road has steep ditches on both sides, there is no way for vehicles, including EMS and fire trucks, to get around any traffic congestion created at the entrance to Hield Road. Hield Road is an ~2.5-mile-long narrow two-lane road that can only be accessed via the Minton Road intersection. If that intersection becomes congested with traffic from commercial businesses, EMS and fire vehicles will not be able to gain critical access to a community of over 250 homes and roughly 750 acres. Preventing timely access to emergency services like ambulance and fire is a major safety concern. Even if a dedicated left turn lane is added on Hield Road for incoming west-bound traffic to access the proposed commercial property, this will not prevent traffic from backing up on Hield Road and blocking critical emergency service vehicles.

If someone is having a medical emergency, seconds matter in terms of an ambulance being able to reach and transport them. In addition, there are no fire hydrants in this community so the Fire Department must bring tanker trucks filled with water in order to fight fires. Over the years, there have been multiple fires in this area that have spread very quickly. Within minutes, flames can be shooting 15 to 20 feet over mature treetops. If a fire breaks out in this area, seconds matter. If tanker trucks are delayed getting into the area or leaving to refill, that could very well be the difference between a catastrophic loss of property and potentially life, and containment of the fire.

At the 9/14/2023 Hield Road community meeting, Attorney Cole Oliver could not answer as to why the developer he represents would not move forward without ingress/egress from Hield Road despite putting the safety of an entire community at risk. I suspect that the developer views additional access points as potential for increased revenue. If a developer is willing to put the safety of an entire community at risk for increased revenue, I would hope that the county would not support such a developer. Certainly other developers could be identified with an acceptable level of social conscience.

I greatly appreciate your time in review and consideration of these points, as well as your continued service to this community.

Thank you and regards,

Michele Smith  
4296 Hield Road NW  
Palm Bay, FL 32907

**From:** [Commissioner, D3](#)  
**To:** [Champion, Kristen](#)  
**Subject:** FW: Opposition to Brevard County Commission Items 24SS00001 & 24Z00004  
**Date:** Monday, April 1, 2024 9:07:57 AM  
**Attachments:** [Opposition Letter to County Commission Apr 2024.pdf](#)  
[image002.png](#)

---

Hi Kristen:

Please see the attached letter to be included in the disclosures for the 4/4/24 Zoning meeting.

Thanks!



**Carol Richardson**  
**Administrative Aide**  
**County Commissioner John Tobia, District 3**  
**2539 Palm Bay Road NE, Suite 4**  
**Palm Bay FL 32905**  
**321-633-2075**

**From:** Derek Smith <[smittyta@netzero.net](mailto:smittyta@netzero.net)>  
**Sent:** Sunday, March 31, 2024 10:24 PM  
**To:** Commissioner, D1 <[D1.Commissioner@brevardfl.gov](mailto:D1.Commissioner@brevardfl.gov)>; Commissioner, D2 <[D2.Commissioner@brevardfl.gov](mailto:D2.Commissioner@brevardfl.gov)>; Commissioner, D3 <[d3.commissioner@brevardfl.gov](mailto:d3.commissioner@brevardfl.gov)>; Commissioner, D4 <[D4.Commissioner@brevardfl.gov](mailto:D4.Commissioner@brevardfl.gov)>; Commissioner, D5 <[D5.Commissioner@brevardfl.gov](mailto:D5.Commissioner@brevardfl.gov)>  
**Subject:** Opposition to Brevard County Commission Items 24SS00001 & 24Z00004

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

Brevard County Commissioners,

Attached is a letter expressing my opposition to Brevard County Commission Items 24SS00001 and 24Z00004, which will be on the agenda for the April 4th, 2024 meeting.

Regards,  
Michele Smith

Subject: Opposition to Brevard County Commission Items 24SS00001 & 24Z00004

Date: 4/1/2024

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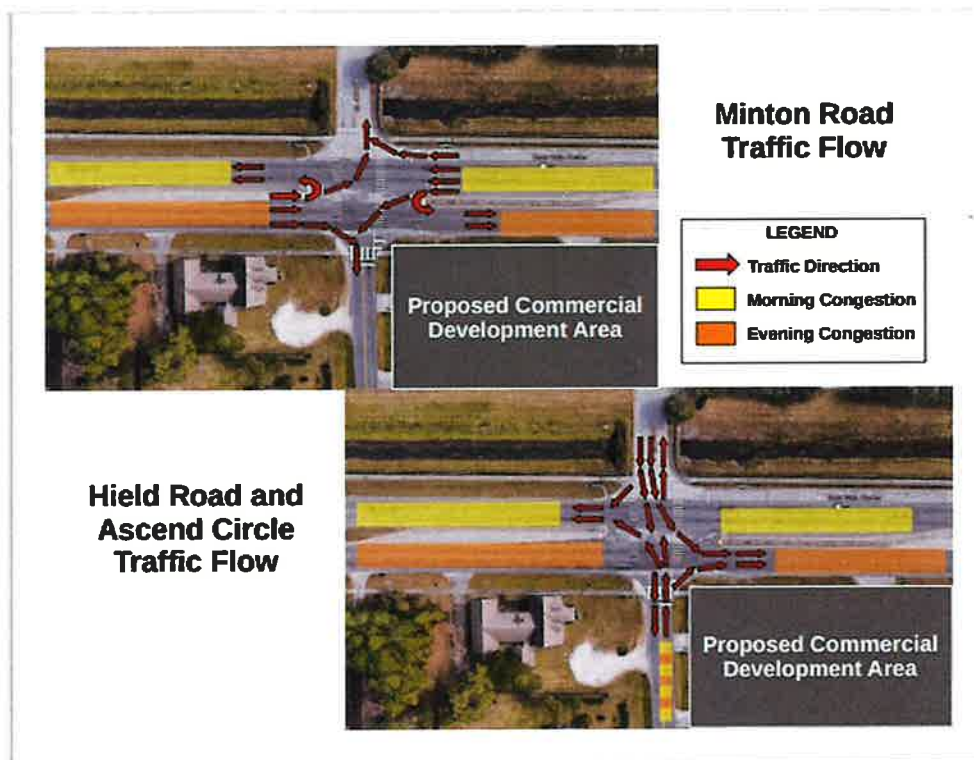


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Thank you and regards,

Michele Smith  
4296 Hield Road NW  
Palm Bay, FL 32907



**From:** [Mascellino, Carol](#)  
**To:** [Champion, Kristen](#)  
**Cc:** [Commissioner, D4](#); [Bellak, Christine](#); [Wines, Katie](#)  
**Subject:** Public Comment - 24SS00001 & 24Z00004  
**Date:** Monday, April 1, 2024 10:06:40 AM  
**Attachments:** [Public Comment 24SS00001 & 24Z00004 Smith.pdf](#)  
[image001.png](#)  
[image002.png](#)

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Good morning Kristen,

On behalf of Commissioner Feltner, please see attached.

Thank you.

Carol Mascellino, Chief of Staff  
County Commissioner Rob Feltner, District 4  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Building C, Suite 214  
Viera, FL 32940  
PH: 321-633-2044  
[www.brevardfl.gov](http://www.brevardfl.gov)

*Please note: Florida has a very broad public records law. Most written communications to and 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.*

**Mascellino, Carol**

---

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**Sent:** Sunday, March 31, 2024 10:24 PM  
**To:** Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Subject:** Opposition to Brevard County Commission Items 24SS00001 & 24Z00004  
**Attachments:** Opposition Letter to County Commission\_Apr 2024.pdf  
**Categories:** Agenda

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

Brevard County Commissioners,

Attached is a letter expressing my opposition to Brevard County Commission Items 24SS00001 and 24Z00004, which will be on the agenda for the April 4th, 2024 meeting.

Regards,  
Michele Smith

Subject: Opposition to Brevard County Commission Items 24SS00001 & 24Z00004

Date: 4/1/2024

Brevard County Board of County Commissioners,

My family has lived in the Hield Road community for over 30 years and I would like to express my strong opposition to the following items to be discussed at the 4/4/2024 County Commission meeting.

I strongly oppose the proposed commercial rezoning of the residential home at 3045 Hield Road (Parcel ID 28-36-24-FA-2-1.02). This property is the second home to the left when entering Hield Road and can only be accessed from Hield Road. Hield Road is a narrow, two-lane road that is not designed to safely handle commercial traffic. There are no sidewalks, and no place for pedestrians or bicyclists to move off the road as it has steep ditches on both sides extending all the way to Powell Road. There is already an issue on this part of the road with garbage/recycling containers and yard waste encroaching on the narrow lanes since the ditches are so steep on either side.

I would also like to express strong opposition for proposed commercial rezoning and annexation of properties at the SW corner of Minton and Hield Road. This area already has significant traffic congestion as noted in Diagram 1 below. Rezoning these properties to allow for high-traffic commercial business development, particularly with ingress/egress from Hield Road, will significantly and adversely affect the safety of the entire Hield Road community.

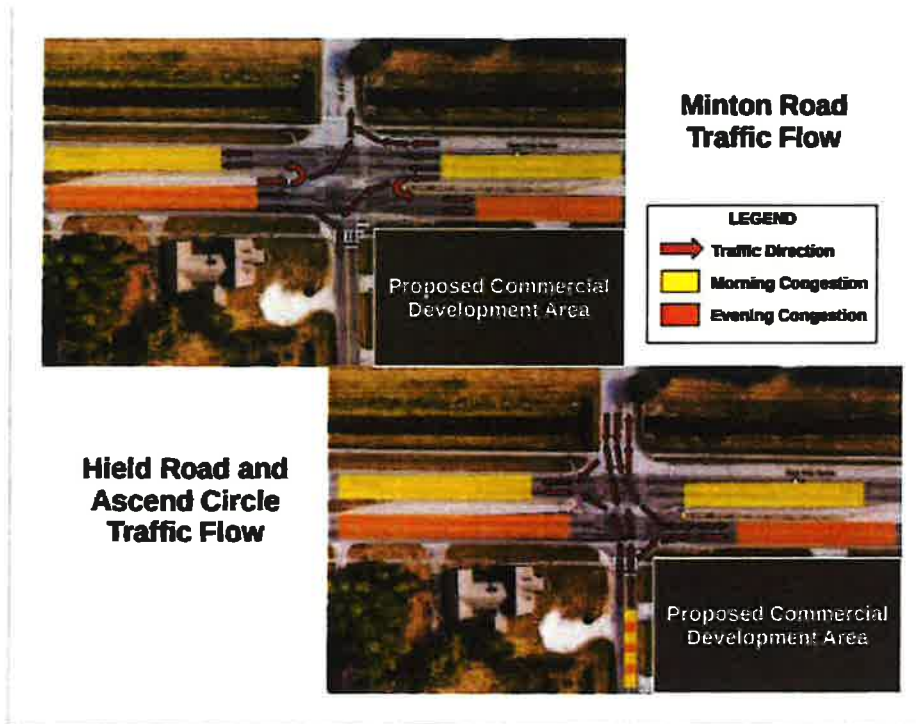


Diagram 1: Existing Traffic Flow Issues at Intersection of Minton and Hield Roads

As vehicles are heading east to exit Hield Road, they will prevent traffic from entering or exiting any businesses on the SW corner of Minton and Hield Road. As vehicles enter Hield Road headed west, vehicles that want to enter any businesses on that corner will have to stop and that will quickly back up traffic at the entrance to Hield Road and out onto the right southbound lane of Minton Road. Thus the proposed ingress/egress from Hield Road does not support a viable traffic flow and creates significant safety concerns.

As Hield Road all the way to Powell Road has steep ditches on both sides, there is no way for vehicles, including EMS and fire trucks, to get around any traffic congestion created at the entrance to Hield Road. Hield Road is an ~2.5-mile-long narrow two-lane road that can only be accessed via the Minton Road intersection. If that intersection becomes congested with traffic from commercial businesses, EMS and fire vehicles will not be able to gain critical access to a community of over 250 homes and roughly 750 acres. Preventing timely access to emergency services like ambulance and fire is a major safety concern. Even if a dedicated left turn lane is added on Hield Road for incoming west-bound traffic to access the proposed commercial property, this will not prevent traffic from backing up on Hield Road and blocking critical emergency service vehicles.

If someone is having a medical emergency, seconds matter in terms of an ambulance being able to reach and transport them. In addition, there are no fire hydrants in this community so the Fire Department must bring tanker trucks filled with water in order to fight fires. Over the years, there have been multiple fires in this area that have spread very quickly. Within minutes, flames can be shooting 15 to 20 feet over mature treetops. If a fire breaks out in this area, seconds matter. If tanker trucks are delayed getting into the area or leaving to refill, that could very well be the difference between a catastrophic loss of property and potentially life, and containment of the fire.

At the 9/14/2023 Hield Road community meeting, Attorney Cole Oliver could not answer as to why the developer he represents would not move forward without ingress/egress from Hield Road despite putting the safety of an entire community at risk. I suspect that the developer views additional access points as potential for increased revenue. If a developer is willing to put the safety of an entire community at risk for increased revenue, I would hope that the county would not support such a developer. Certainly other developers could be identified with an acceptable level of social conscience.

I greatly appreciate your time in review and consideration of these points, as well as your continued service to this community.

Thank you and regards,

Michele Smith  
4296 Hield Road NW  
Palm Bay, FL 32907

**From:** [Tobia, John](#)  
**To:** [Oliver-External, Cole](#)  
**Subject:** FW: April 4 Meeting  
**Date:** Tuesday, March 26, 2024 10:02:00 AM

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FYI.

Sincerely,

John Tobia  
County Commissioner, District 3

-----Original Message-----

From: Kevin and Natalie Ward <nkward1@mac.com>  
Sent: Tuesday, March 26, 2024 8:02 AM  
To: Commissioner, D3 <d3.commissioner@brevardfl.gov>  
Subject: April 4 Meeting

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

This letter is intended to express our sincere concern and displeasure with the proposal coming before your board on April 4th regarding the rezoning of the land at the southwest corner of Minton and Hield Roads in West Melbourne. As 15 year residents of Hield Road, we have accumulated many frustrating hours of our lives devoted to waiting to turn in or out of our single access neighborhood. To put it frankly, there is simply no way adding a drive thru restaurant, particularly one as popular as Starbucks, to the end of our road will work.

If you have ever seen that intersection you would understand that people are already pushing the limits of safety and, many times, are not following the traffic laws. The intersection is frequently blocked by traffic, particularly heading south on Minton Road. Even if they add a turn lane, there is nothing to prevent people from continuing to block the road and/or making illegal u-turns on Minton when heading north to come back south. It's frustrating and time consuming, but we deal with it. This is a beautiful neighborhood and we deal with the inconvenience that comes with it.

That being said, there is NO room to expand this road. There are deep ditches on either side, and even with a proposed additional lane, there's no room left for emergency vehicles to travel down to reach residents in need. Using Hield road as an entry or exit for Starbucks would take this traffic light from difficult to impossible. I have seen the effects Starbucks has had on Palm Bay Road (into the Aldi parking lot) and more recently on 192, causing back ups on a major roadway with lots of emergency braking. PLEASE DO NOT ALLOW THIS TO HAPPEN TO OUR RESIDENTIAL NEIGHBORHOOD. The City of Palm Bay just recently looked into annexing this property for this same project and, thankfully, decided it was not a wise decision.

We are small business owners ourselves and are very pro-business and development. It would certainly be naive of us to expect this lot and the adjacent ones to the south to remain vacant. But as a zoning issue, we are urging you to consider keeping the zoning to something more appropriate for the level of traffic we already experience. Something without a drive thru!

We very much appreciate your time and consideration and would like to invite you to come to visit Hield Road any given weekday between the hours of 4-6pm to experience for yourselves the potential disaster that would happen to this residential road if you were to approve this zoning change.

Thank you,

Kevin and Natalie Ward  
4132 Anlow Road  
West Melbourne

**From:** [Tobia, John](#)  
**To:** [Oliver-External, Cole](#)  
**Subject:** FW: BU-1  
**Date:** Monday, March 25, 2024 9:07:00 AM

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FYI.

Sincerely,



John Tobia  
County Commissioner, District 3



**From:** Kendra Somberg <[mrssomberg@gmail.com](mailto:mrssomberg@gmail.com)>  
**Sent:** Thursday, March 21, 2024 4:49 PM  
**To:** Commissioner, D1 <[D1.Commissioner@brevardfl.gov](mailto:D1.Commissioner@brevardfl.gov)>; Commissioner, D2 <[D2.Commissioner@brevardfl.gov](mailto:D2.Commissioner@brevardfl.gov)>; Commissioner, D3 <[d3.commissioner@brevardfl.gov](mailto:d3.commissioner@brevardfl.gov)>; Commissioner, D4 <[D4.Commissioner@brevardfl.gov](mailto:D4.Commissioner@brevardfl.gov)>; Commissioner, D5 <[D5.Commissioner@brevardfl.gov](mailto:D5.Commissioner@brevardfl.gov)>  
**Subject:** BU-1

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

To whom it may concern;

I am a concerned resident who lives off of Hield road and I desperately want to protect the privacy it currently has! Unfortunately due to my work schedule I am unable to attend the meetings that are so vital for my voice to be heard. I hope you will accept this email as my attestation to the proposed plans titled "BU-1" to rezone Hield road.

When my husband and I purchased our home to raise our family one of the major appeals was the



privacy and "seclusion" Hield road allowed because it was a dead end. To us this meant less people who lived off the road would be using it which had to equal a safer environment. Safer for our children, safer for our pets and safer to our property and home. We put a lot of thought (and money) into our decision on where to build our future and now that vision is being compromised by Mr Oliver's proposed rezoning.

Since the building of the apartment complex across the road from Hield road the traffic at that intersection has increased ten fold. It is not uncommon to sit at the street light, in stopped traffic at Hield road for multiple cycles before being able to turn onto it. If a drive thru business of any kind is built on either corner of Hield road and Minton road it will only make the already bad situation much worse; especially if the entrance is directly on Hield!! I cannot even begin to imagine what type of business Mr Oliver is proposing for the site but I cannot think of a single one that would benefit anyone. There are multiple car washes, coffee shops, fast food places and dollar stores within less than five miles of Hield road. Please stop overtaking every bit of land with frivolous things! If this rezoning were to be approved it would not only increase the already awful traffic but it would invite many more people to joy ride down my private, safe road that I call home. I do not feel comfortable knowing many more people would be more likely to ride down Hield after getting a snack or coffee at the corner. This town has seen a drastic increase in crime lately and I want to keep my family and home as safe as possible. I strongly believe approving the rezoning of Hield road will only open the door to all things negative. In addition to the rezoning it is rumored there is a possible proposal to add a third lane on Hield road and/or make Hield road a cut through from Jupiter blvd. I am genuinely confused as to how a third lane is possible. The two lanes are currently very skinny and can barely accommodate two vehicles (especially large trucks which are common) passing in opposite lanes at the same time. There is no shoulder on either side and especially not enough to build a third lane! As far as a cut through from Jupiter road... we might as well put up a for sale sign now! The increase in traffic and crime (I suspect) would be astronomical!! There is no good reason to allow anyone except Hield road residents to travel down that road daily. Many children get on and off the school bus stops five days a week which are located DIRECTLY ON Hield road. I have seen how people drive around our town and would not feel safe allowing my children to walk with those same individuals driving like a maniac on the same exact road!! Hield road is known for it's quieter, country-like feel and approving any of the proposed plans would destroy every bit of that. Please help protect this sliver of paradise that is left.

This entire proposal is ludicrous and as a Hield road resident I am hopeful you hear me and all the others who are opposed.

I urge you to not think about the financial gain because overall it's not worth it. I implore you to consider how this will affect the safety and security that is currently had on Hield road. I beg you to consider if this was happening to you and affecting your home; how would you feel? I hope you would fight for what is right and not just go with it. Please help me protect my home and my family's safety. We love our home and would hate to see these harmful changes approved.

Sincerely,

A very concerned Hield road resident, Kendra Somberg.

**From:** [Sue Shep](#)  
**To:** [Susan Shepherd](#)  
**Cc:** [Commissioner, D5](#); [Commissioner, D3](#); [Champion, Kristen](#); [Commissioner, D1](#); [Commissioner, D4](#); [Commissioner, D2](#)  
**Subject:** Opposition to Rezoning Request 24Z00004 Commissioners' Meeting 4-4-2024 - Hield and Minton Roads  
**Date:** Monday, April 1, 2024 5:03:36 PM  
**Attachments:** [Brev Cty & City of WM Signed Traffic Impact Fee Agmt 2021.pdf](#)  
[Corrina Gumm Brev Cty Response to my Em on Traffic - 6-30-2023.pdf](#)

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

To: Brevard County Commissioners  
From: Sarah and Rick Shepherd, 4212 Hield Road, NW, Palm Bay, FL  
(Mailing: P.O.Box 120177, W. Melb., FL 32912-0177)

I come before you to state the Residents of Hield Road understand and know there will be future businesses on the stretch from Hield and Minton Road South to the Affordable Trailer business on Minton just North of Palm Bay Road. However, their negative impact to the surrounding residential area must be minimal.

A few of the items to be discussed at the Brevard County Commissioners' Meeting April 4, 2024:

- 1.** I come before you to state the Residents strongly oppose the proposed request per the conceptual site plan for Ingress/Egress from Hield Road with a west-bound left turn lane on Hield into Mr. Oliver's property.
- 2.** I come before you to state the Residents of Hield Road strongly oppose the proposed rezoning of the corner property of Hield and Minton to "BU-1". It should remain to be rezoned to (preferably) Community Commercial or at least to "BU-2".
- 3.** I come before you to state the Residents of Hield Road strongly oppose the proposed rezoning to "BU-1" of the residential home at 3045 Hield Road, (Parcel ID 28-36-24-FA-2-1.02). This property is the second home to the left when entering Hield Road and can **ONLY** be accessed from Hield Road. **This property is surrounded by all residential properties.**

#### **Comments to Items below:**

##### **ITEM #1:**

\* Daily, particularly during peak hours, which is now starting at approximately 3 p.m. to 3:30 p.m.; the traffic becomes stacked up from the Minton Road Overpass South to Palm Bay Road.

\* Most vehicles do not observe the south-bound signage stating "DO NOT BLOCK INTERSECTION".

\* Most vehicles do not observe the north-bound left turn lane signage stating "NO U-TURN".

\* Many vehicles from Pineapple Cove Daycare and Ascend Apartments making a left to go south-bound on Minton.

This knot of traffic is the 'Perfect Storm' waiting to happen. There have already been deaths and accidents at this intersection.

**\* Please vote AGAINST the Ingress/Egress and left turn lane from Hield Road. This will only seriously compound the traffic stacking up and then stacking up back out to Minton. Dangerous, dangerous, dangerous!!!**

\* The above identifies just a few of the major traffic issues, that has created very dangerous and congested situations for **all** of **Brevard County** residents, vehicles and their occupants. This terrible situation will only lend itself to Emergency vehicles and Fire Trucks not being able to get in or out of Hield Road timely and put lives and property in serious danger. There are no fire hydrants. Water needs to be trucked in. Seconds count!

## **ITEM #2:**

\* **This Corner property can not be allowed to have a potentially High-Traffic business.** Mr. Oliver's proposed "BU-1" rezoning change for Future Land Use can potentially allow for a "high-traffic" business". Mr. Oliver proposed putting in a Starbucks when he was applying for an Annexation and rezoning change with the City of Palm Bay. The City of Palm Bay, after diligently reviewing all the evidence submitted and the Mayor himself driving through this intersection (the agreed upon improvements not started) denied Mr. Oliver's request for Annexation and rezoning. *(I invite you to please see and drive South through this intersection yourselves during the peak hours with the goal to get to Palm Bay Road.)*

The City of Palm Bay ultimately denied Mr. Oliver on the basis of SAFETY and that a high traffic-traffic business for that corner can not be sustained with any realm of safety and no hardship for all. The City of Palm Bay clearly understood the hardship for all of Palm Bay and Brevard County residents would **endure** by having the ingress/egress from Hield Road with a high-traffic business. City of Palm Bay showed "**All**" they care about the residents and vehicle traffic that affects not only The City of Palm Bay but that of Brevard County as well! They put us first above "development".

\* I am sure everyone knows by now the Agreement made for improvements between the Developer, D. R. Horton (Ascend Apartments {their name recently changed}), The City of West Melbourne and Brevard County in 2021, are **not** completed and as of this date, just barely, barely started. These improvements were to be made and completed (in 2021) was to take place long before Mr. Oliver purchased his property. Attached is the Traffic Impact Fee Agreement.

Even if these particular improvements were completed, it really is just a band-aid on an already terrible, existing problem with traffic. Palm Bay Road would need to be addressed as well.

\*\* Why would any reasonable person believe any improvements would be completed prior to Mr. Oliver's proposed changes? The improvements were not completed prior to the apartments being built on the East side of that corner. My understanding was the Apartments would get their "C O" once the improvements were completed. They received their "C O". Improvements were not done! I highly doubt Mr. Oliver's proposed left turn lane from the West bound lane or any improvements would be completed prior to his project commencing and/or it's completion.

\*\* At the risk of sounding disrespectful, the residents of Brevard County do not trust the information given. How can we believe anything, when we see the proof before our very eyes?

\*\* How can any reasonable person just stand by, accept and watch the "Developers" destroy and infuse unnecessary further hardship? There must come a time where Brevard County should put their residents' safety and undue hardships first!

\* Please keep in mind, adding to the influx of additional traffic on Minton, there is a large apartment complex being built on the East side of the Minton Road overpass. To the West of the overpass, there is another residential community being developed.

\* Two different sources told me D. R. Horton is planning for another 900 homes in the Sawgrass area.

\* Corrina Gumm PE, Traffic Operations Manager, Brevard County Public Works, stated in a letter (6/28/2023) of which a copy is attached, states, "... However, during the PM peak hour, traffic backs up significantly westbound on Palm Bay Road and southbound on Minton Road..." "... Improving traffic flow on Minton would cause a significant decline on Palm Bay Road, and vice versa..."

\* During the recent (March 18, 2024) Planning and Zoning Meeting, one of the Board members asked Mr. Oliver about Starbucks. Mr. Oliver's response (*I am only paraphrasing and not quoting*) was ... Starbucks has probably found another location but he would be open to entertain the possibility of pursuing them again.

\* Let's be honest here. Mr. Oliver's plans for this corner is to have another High-Traffic type business like a drive-thru which **cannot** be sustained in this area even with the "planned" future intersection improvements.

\* Looking at Mr. Oliver's conceptual site plan, he is proposing to build a mini storage/warehouse a little more south on Minton facing Minton, with full access to and from Minton.

\* Why does Mr. Oliver need Ingress/Egress from Hield to the mini storage? **He does NOT need it for any reason.** His reasoning as to why when asked; was unfounded and lame!

\* What are Mr. Oliver's plans for "Future Land Use"? What kind of business is he planning?

\* Why is Mr. Oliver keeping that corner property for "Future Land Use"? Why is he not planning a business for it now?

### **ITEM #3:**

\* This property is surrounded by residential properties.

\* The property sits on a narrow two lane road, with no sidewalks and deep ditches. Even with the proposed road improvements, the road is not designed to accommodate commercial traffic safely. There are pedestrians and bicyclists that share this road.

\* The proposed Rezoning change is **seriously encroaching upon the existing residential area. It will devalue their property values.**

\* By rezoning this property from ("AU") Agricultural Residential to "BU-1"; this will only be the start of a continuous invasion into our residential area.

\*\* Please **do not approve** this rezoning change for this property, otherwise, a **PRECEDENT** will be set. "Do for one, you must do for all."

\* When Mr. Oliver was proposing his plans to the City of Palm Bay, we had a private meeting with him at the Melbourne Airport Hotel. There were approximately 60 to 70 residents that attended; one of the residents asked Mr. Oliver who lives in Merritt Island, what he would do if this very

same scenario was happening on his corner? His response was, "I would do the same thing you are doing, Object." Mr. Oliver did admit saying that to the Palm Bay City Counsel meeting.

We all were under the impression he was to have his 'engineers' present during this meeting. They were not! When residents began asking Mr. Oliver various questions, he often responded he was unable to answer, due to not being an engineer. I noticed Mr. Oliver made similar comments at the P & Z Meeting. Depending on the question, he played "dumb".

I am respectfully asking of you for the following:

1. Please consider impacts upon the residents such as noise, lights, traffic and other potential nuisance factors associated with "BU-2" and "BU-1" activities. Please consider how the above 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.
2. Regarding the corner property facing Hield and Minton: Please keep the current RP is the Residential-Professional Zoning classification, intended to promote low to medium density residential development along with low intensity commercial usage. Please **vote NO** to the proposed rezoning change to "BU-1".
3. Please **do not approve** the rezoning change for this residential property referenced in Item 3. Otherwise, a **PRECEDENT** is set. "Do for one, you must do for all."
4. Please consider the proposed use **must not** materially and adversely impact an **established residential neighborhood by introducing types of intensity of traffic, parking, trip generation, commercial activity or industrial activity that is not all ready present within the identified boundaries of the neighborhood.**
5. Please have any proposed changes to be examined for by code compliance during subsequent site plan applications.
6. Please have Mr. Oliver provide a **very current** traffic impact analysis with the site plan.
7. Please have Mr. Oliver provide a "Wetland Delineation". Should be required since there is an indicator that wetlands may be present on the property. The residential property referenced above **does not have direct frontage** to Minton Road, therefore, I do not believe it is part of the Mitigation Qualified Roadway. Regardless, Wetlands may be there and Mr. Oliver should be required to have this delineation completed.

**8.** Please consider whether the proposed zoning request is consistent and compatible with the surrounding residential properties and if the Binding Development Plan mitigates any off-site impacts especially to the residential property and properties referenced above.

**9.** Please have Mr. Oliver obtain a right-of-way permit from the County.

**10.** Please have Mr. Oliver provide a thorough traffic analysis as well as demonstrate that this driveway would not cause major traffic impacts to Hield Road when he submits his "right-of-way permit application to the County.

Respectfully Submitted,

Sarah and Rick Shepherd

Attachments: June 28, 23 Letter from Corrina Gumm, City of W Melb.,  
Signed Traffic Impact Fee Agmt

**We have this hope as an anchor for the soul, firm and secure. ---Hebrews 6:19**





December 3, 2021

**MEMORANDUM**

**TO:** Tad Calkins, Planning and Development Director      Attn: Jeffrey Ball

**RE:** Item H.11., Approval of Traffic Impact Fee Credit/Reimbursement Agreement between Brevard County, the City of West Melbourne, and DHIC-Hammock Landing, LLC

The Board of County Commissioners, in regular session on December 2, 2021, approved the Traffic Impact Fee Credit/Reimbursement Agreement with the City of West Melbourne and DHIC-Hammock Landing. Enclosed is a fully-executed Agreement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell".

Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Finance  
Budget

This Agreement prepared by:

Scott A. Glass, Esq.  
300 S. Orange Ave., Ste. 1000  
Orlando, FL 32801

After recording return to:  
Department Director  
Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way, Suite A-114  
Viera, FL 32940

#### **TRAFFIC IMPACT FEE CREDIT/REIMBURSEMENT AGREEMENT**

**THIS AGREEMENT**, entered into this 2nd day of December, 2021 by and between the **Board of County Commissioners of Brevard County, Florida**, a political subdivision of the State of Florida, whose address is 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, (hereinafter referred to as "County"), **City of West Melbourne, Florida**, a Florida municipal corporation, whose address is 2240 Minton Road, West Melbourne, Florida 32904 (hereinafter referred to as "City"), and **DHIC – Hammock Landing, LLC**, a Delaware limited liability company registered to do business in the State of Florida, whose address is c/o D.R. Horton, Inc., 1341 Horton Circle, Arlington, TX 76011 (hereinafter referred to as "Developer"), is based on the following premises.

#### **RECITALS:**

**WHEREAS**, on January 17, 1989 the County adopted Ordinance 89-04 which amended the Code of Laws and ordinances of Brevard County, Florida to include Article XI known as the "Brevard County Transportation Impact Fee Ordinance" (hereinafter referred to as the "Ordinance"); and

**WHEREAS**, the County and City entered into an interlocal agreement (the "Interlocal Agreement") executed on April 11, 1989 by the City and May 16, 1989 by the County, providing for the participation by the City in the program created by the Ordinance; and

**WHEREAS**, the provisions of the Ordinance are applicable within the incorporated limits of the City including the real property owned by the Developers; and

**WHEREAS**, City and County transportation impact fee ordinances provide a mechanism for credits against Impact Fees for qualifying contributions towards off-site transportation improvements, and further provide that no credit shall exceed the assessed transportation impact fee for the land development activity awarded the credit; and

**WHEREAS**, the Ordinance includes a provision for awarding impact fee reimbursements in lieu of impact fee credits for qualifying contributions towards off-site improvements and further provides that such reimbursements shall not exceed the assessed transportation impact fee for the

land development activity awarded the reimbursement, the estimated total cost of the qualifying contribution, or the actual cost of the qualifying contribution, whichever is lowest; and

**WHEREAS**, the Ordinance includes a schedule of Impact Fees assessable against the users of property for the public purpose of requiring new developments to pay their fair share of the impacts attributable to said development on the Brevard County transportation network; and

**WHEREAS**, Developer is the owner of approximately 30 acres of property generally located east of Minton Road, south of Norfolk Parkway, as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference (the "**Property**"); and

**WHEREAS**, the Developer has received approval from the City to construct a 12 building, 300 dwelling unit residential apartment project with attendant amenities known as Ascend at Hammock Landing (the "**Project**"); and

**WHEREAS**, pursuant to the adopted Transportation schedule of Impact Fees, the calculated impact fee for the Project is \$714,300.00; and

**WHEREAS**, the City of West Melbourne's duly adopted Comprehensive Plan contains a transportation concurrency requirement to ensure that the City's road network operates at adopted levels of service; and

**WHEREAS**, provisions of the Interlocal Agreement stipulate that the City shall require, as a condition precedent to the issuance of a certificate of occupancy, the presentation of an impact fee voucher that affirmatively states that the applicant has paid the applicable impact fee for the particular structure or development; and

**WHEREAS**, the Ascend Hammock Landing Proportionate Share Memorandum prepared by Lassiter Transportation Group, Inc., dated July 19, 2021, a copy of which is attached hereto as Exhibit "B" (the "**LTG Memo**") has been approved by the County and City and states that the Project will generate 1,633 ADT including 108 AM Peak-Hour trips and 132 PM Peak Hour trips; and

**WHEREAS**, Developer shall make certain improvements to the intersection of Minton Road and Hield Road (at the Project driveway) as set forth in the LTG Memo (the "**Intersection Improvements**"); and

**WHEREAS**, the Intersection Improvements to be constructed by Developer are expected to further improve traffic safety on Minton Road and Hield Road, and the additional capacity created by the Intersection Improvements will accommodate traffic that is not generated by the Project; and

**WHEREAS**, the Intersection Improvements shall be constructed according to the design specifications of Brevard County, which shall be incorporated in the plans being submitted for review and approval; and

**WHEREAS**, the estimated cost of the Intersection Improvement, including a 20% contingency allowance, is Nine Hundred Forty-Seven Thousand Seven Hundred Sixty-Three Dollars and Sixty-Nine Cents (\$947,763.69); and

**WHEREAS**, pursuant to Table 7 of the LTG Memo, completion of the Intersection Improvements will increase capacity by 288 ADT, of which 127 ADT shall be consumed by the Project, and thus, pursuant to the City of West Melbourne's duly adopted Comprehensive Plan transportation concurrency requirement and enabling ordinances, and the agreement of the parties, the Developer's share of the cost of the Intersection Improvements shall be 44.10% of the actual cost of the Intersection Improvements (the "Developer's Share"); and

**WHEREAS**, Brevard County has previously enacted moratoria on the collection of impact fees; and

**WHEREAS**, Brevard County, as a governing body, has the right to rescind impact fees, reduce impact fees, or stay the collection of impact fees; and

**WHEREAS**, Brevard County cannot commit to make payments of fees that are not collected, and, therefore the parties recognize that if impact fees are eliminated, stayed or reduced Brevard County's obligations to make payments hereunder shall likewise be eliminated, stayed or reduced; and

**WHEREAS**, the City is responsible for issuance of building permits on the Property based upon the County verifying the trip availability or capacity; and

**WHEREAS**, Developer shall be responsible for and pay for the Intersection Improvements described herein, in return for which the City and County agree that all Traffic Impact Fees collected by the City and/or County on the Property shall be pipelined into and paid to Developer up to the maximum amount of Impact Fee Credits eligible for the Intersection Improvements as calculated in this Agreement, provided that in no event shall the amount paid to Developer exceed the amount authorized in this Agreement or paid by Developer for non-site improvements, whichever is less; and

**WHEREAS**, the City and County do not offset any Transportation Impact Fee Credits against the Traffic Impact Fee charged, but rather the fees are collected by the County and, thereafter, payment of the Credits authorized pursuant to the terms and conditions of this Agreement shall be paid directly to Developer; and

**WHEREAS**, Chapter 62, Land Development Regulations, Article V, Division 4, of the Code of Ordinances of Brevard County, Florida, commonly known as the "Brevard County Transportation Impact Fee Ordinance," is also applicable within the incorporated limits of the City pursuant to Interlocal Agreements between the City and County and sets forth a schedule of impact fees assessable against the development of property; and

**WHEREAS**, the City and County desire to utilize the provisions of the Florida Local Government Development Agreement Act in order to promote the stated goals and objectives of such Act in Brevard County by entering into this Agreement; and

**WHEREAS**, the design and construction of the Intersection Improvements is consistent with and serves to implement the City's Comprehensive Plan; and

**WHEREAS**, Developer wishes to document its authorization to implement the Project subject to the conditions set forth herein and that the Project is vested for development and transportation concurrency for a period not to exceed ten (10) years; and

**WHEREAS**, on April 20, 2021, the City and Developer entered into a Hold Harmless Agreement with Requirement to Post Bond, which agreement allowed the Developer to commence horizontal site work and obtain building slab permits pursuant to an approved final site plan, and required the Developer to timely enter into this Agreement and construct the Intersection Improvements.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties, the parties hereto agree as follows:

1. **Recitals.** The foregoing recitals are hereby ratified and approved and made a part of this Agreement.
2. **Intersection Improvements.** Developer shall be responsible to pay for and construct the Intersection Improvements pursuant to the design and engineering plans prepared, or to be prepared, by Lassiter Transportation Group, Inc., as such plans are ultimately reviewed and approved by Developer and County. The Intersection Improvements shall be constructed in compliance with a duly issued Brevard County Right of Way Permit. Work on the Intersection Improvements shall commence within twenty-four (24) months of adoption of this Agreement by all parties, subject only to Developer obtaining all of the necessary government permits for the Intersection Improvements, and finish within twelve (12) months thereafter. In the event that any party shall be delayed or prevented from performing any act required by this Agreement by reasons of acts of God, strikes, lockouts, labor troubles, inability to procure materials, failure of power, riots, insurrection, wars, pandemic or other reason of a like nature not the fault of the hindered party, then performance of such acts shall be excused for the period of delay and the period for the performance of such acts shall be extended for a period equivalent to the period of delay provided, however, that any such extension shall not extend the ten (10) year duration of this Agreement as hereinafter set forth. Prior to the commencement of any work on the Project, Developer shall notify the County and City that is ready to proceed.
3. **Engineer's Opinion of Costs.** The Engineer's Opinion of Costs (hereinafter the "Estimated Cost") for completing the Intersection Improvements in accordance with the requirements of this Agreement and the Plans are itemized in **Exhibit "C"** attached hereto and by this reference made a part hereof. For the purpose of calculating the amount of

transportation impact fee credit due Developer, the Engineer's Opinion of Costs shall have the same meaning as estimated costs in the Ordinance. The estimated cost of the Intersection Improvements, including a 20% contingency allowance, is Nine Hundred Forty-Seven Thousand Seven Hundred Sixty-Three Dollars and Sixty-Nine Cents (\$947,763.69). Notwithstanding the above, Developer shall be responsible for payment of all costs of the Intersection Improvements under this Agreement.

4. **Developer's Share of Cost of Intersection Improvements and Permits.** The Developer's Share of the cost of the Intersection Improvements shall be 44.10% of the actual cost of the Intersection Improvements. Prior to issuance of the first building permit for vertical construction of a residential apartment building on the Property, Developer shall pay no less than 44.10% of the estimated cost of the Intersection Improvements, to wit, Four Hundred Seventeen Thousand Nine Hundred Sixty-Three Dollars and Seventy-Nine Cents (\$417,963.79), in Transportation Impact Fees for the Project. Developer shall also post a performance bond ensuring completion of the Intersection Improvements in a timely manner as set forth herein. The Developer's Share shall not be eligible for Transportation Impact Fee reimbursement. To the extent Developer pays Transportation Impact Fees for the Project over and above the Developer's Share, the County shall hold such amount(s) in order to use the same to reimburse Developer as provided in Section 7, below. Once Developer has received all reimbursement to which it is entitled, the County shall be free to use any remaining Transportation Impact Fees collected from the Project in the same manner as it could use any other Transportation Impact Fee.
5. **Delivery by Developer's Certificate of Completion.** Upon the delivery by Developer and/or its agents of its Certificate of Completion by County and request for final inspection of the Intersection Improvements, and the issuance of final "As Built" plans, the County within five (5) days thereafter shall conduct remaining inspections, if any, and issue its Certificate of Completion or, in the event of any deficiencies, state in writing the specifics of the deficiency, and Developer shall within thirty (30) days thereafter commence to satisfy any deficiencies, and diligently pursue the correction of the deficiency. After correction of the deficiencies the County shall issue its Certificate of Completion within five (5) days of the additional submittal. Road construction shall be inspected by the County's Development Inspection Group, and Developer shall pay all fees associated with such review.
6. **Statement of Actual Costs.** Within thirty (30) days from the date that the County and City issue their respective certificates of completion for the Intersection Improvements, Developer shall provide to the City and County a statement of the actual cost of the Intersection Improvements, which statement shall be certified by an engineer of record. The County and City shall have thirty (30) days to review the costs for eligibility and reasonableness and approve the engineer's certification. In the event the City or County does not approve the engineer's certification of cost, the parties shall, within fifteen (15) days of rejection of such certification, choose a mutually acceptable engineer familiar with road design and construction to arbitrate the dispute. The parties shall be bound by said engineer's determination of the actual total cost of eligible improvements. The party or parties disputing the engineer's certification of cost and the Developer shall split the cost

of the outside engineer evenly, i.e., if only one government agency disputes the certification of cost that entity and the Developer will split the cost of having an outside engineer resolve the dispute, but if both government entities dispute the certification the cost shall be split one-third, one-third and one-third.

7. **Impact Fee Credit/Reimbursement.** In consideration of the financial expenses associated with the construction of the Intersection Improvements described in Paragraph 2 above, Developer seeks Impact Fee Reimbursement. To qualify for Impact Fee Reimbursement, Developer must first qualify for Impact Fee Credit. The City and County agree that Developer and its successors in interest shall enjoy the benefit of qualifying for a credit against any Transportation Impact Fees that may be assessed (hereinafter referred to as the "Impact Fee Credit") on new construction on the Property. The Impact Fee Credit shall be determined and awarded in accordance with Brevard County Transportation Impact Fee Ordinance. The amount of the Impact Fee Credit shall not exceed the actual cost of constructing the Intersection Improvements or the Estimated Cost, whichever is less, plus the actual cost of any change orders for non-site-specific improvements to the extent such change orders are approved in writing by each and every party hereto, and less the Developer's Share; nor shall it exceed the actual cumulative amount of Transportation Impact Fees assessed for the Project. The qualifications for an Impact Fee Credit, including those under the Ordinance shall be used as the basis for Impact Fee Reimbursement. No actual credits against impact fees are to be awarded, rather, in lieu of impact fee credit, reimbursement of impact fees shall be made from impact fees collected up to the amount qualified to be an Impact Fee Credit. The reimbursement process will be referred to as the "Credit/Reimbursement".
8. **Transferability of Impact Fee Credit/Reimbursement.** The Impact Fee Credit/Reimbursement shall be applicable to Transportation Impact Fees that may be assessed on new construction on the Property. The Impact Fee Credits/Reimbursement are assignable and transferable at any time after establishment from one development or parcel to any other that is within the same impact fee zone or impact fee district or that is within an adjoining impact fee zone or impact fee district within the same local government jurisdiction and receives benefits from the improvement or contribution that generated the credits. In no event shall Developer or its successor in interest enjoy the benefit of the Impact Fee Credit/Reimbursement more than ten (10) years from the effective date of this Agreement. Any unused credit/reimbursement qualification shall be forfeited at the expiration of such ten (10) year period, and in no event shall it be reimbursed or redeemable for cash or other valuable consideration other than the Impact Fee Credit/Reimbursement described herein. The County agrees that any and all Transportation Impact Fees it receives from the Property, regardless of who the current owner of the Property, or any portion thereof, may be, shall be forwarded to and/or reimbursed directly to Developer up to the total amount of the Impact Fee Credit, if said fees are received within ten (10) years from the effective date of this Agreement. In the event no Impact Fees are imposed or Impact Fees are eliminated, County shall not owe Developer or be liable to Developer for any money compensation or other consideration as a result of this Agreement.

9. **Vesting.** The parties hereto recognize that the Property is within the jurisdiction of the City and that the City has jurisdiction over the Property for permitting purposes other than County road connection permits and other state, federal or regional permitting requirements. The Parties hereby acknowledge that the County has performed a concurrency evaluation (Review #DR-21-08-03D), a copy of which is attached hereto as **Exhibit "D"** and that development of the Project shall be subject to the terms of such evaluation. The Parties further acknowledge and agree that, so long as Developer obtains a building permit within one year of the effective date of this Agreement, the Project shall be fully vested against transportation concurrency for a period of ten (10) years from the effective date of this Agreement as provided in paragraph 11 below. The City acknowledges that it shall treat the Project as already existing and shall not issue building permits for other projects which would utilize or consume any of the trips vested for the Project. The City shall not be prohibited from issuing building permits for other projects to the extent that there is capacity available to serve such projects taking into account the trips generated by the Project, existing trips and otherwise committed trips, or to the extent that such other projects have entered into their own proportionate share agreements. To assist in addressing the capacity issue, the County shall include the trips to be vested herein as existing trips when conducting any future traffic concurrency analysis for the term of this Agreement.

10. **Applicability of Ordinances and Resolutions of City to Agreement.** The applicability of Ordinances and Resolutions of the City to the Agreement are as set forth below:

A. As provided in Section 163.3233(1), F.S., the ordinances and regulations of the City governing Development of the Property on the Effective Date of this Agreement shall continue to govern the Project, except as otherwise provided herein. At the termination of this Agreement, all then existing codes shall become applicable to the development of the Property. Except as otherwise specifically set forth herein, no fee (including the existence or lack thereof), fee structure, amount computation method or fee amount, including any Impact Fees then in existence or hereafter imposed, shall be vested by virtue of this Agreement.

B. As provided in Section 163.3233(2), F.S., the City may apply changes to vested ordinances and policies, or new requirements, adopted subsequently to the execution of this Agreement to the Property only if the City has held a public hearing and determined that: (a) such new ordinances or policies are not in conflict with the laws and policies governing this Agreement and do not prevent development of the land uses, intensities or densities allowed under this Agreement; (b) such new ordinances or policies are essential to the public health, safety, or welfare and the new ordinances or policies expressly state that they shall apply to a development that is subject to a Development Agreement; (c) such new ordinances or policies are specifically anticipated and provided for in this Agreement; (d) the City has demonstrated that substantial changes have occurred in pertinent conditions existing at the time of the approval of this Agreement; or (e) this Agreement is based on substantially inaccurate information supplied by the Developer.



C. As provided in Section 163.3241, F.S., in the event that state or federal laws are enacted after the execution of this Agreement which are applicable to and preclude the parties' compliance with the terms of this Agreement, this Agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws, such modification or revocation to take place only after the notice provisions provided for the adoption of a Development Agreement have been complied with. The City shall cooperate with the Developer in the securing of any permits which may be required as a result of such modifications.

D. As provided in Section 163.3235, F.S., the City and County shall review this Agreement not less than once every twelve (12) months to determine if good faith compliance with this Agreement has been shown. If the City or County determines there is a lack of compliance by Developer with this Agreement, it shall notify the Developer of same and give Developer a reasonable time, not to exceed thirty (30) days, to correct such noncompliance. If the Developer fails to comply with the requirements of the notice, and the City or County finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of this Agreement, this Agreement may be revoked or modified by the City or County. Such revocation or modification may be accomplished only after public hearing and notice otherwise required for the adoption of this Agreement.

11. **Effective Date and Duration.** Within fourteen (14) days after this Agreement has been executed by all parties hereto, the City, or at the City's request the Developer, shall record this Agreement with the clerk of the circuit court of Brevard County. Said recording, whether done by the City or Developer, shall be at the Developer's sole cost and expense. This Agreement shall become effective when it has been so recorded in the Public Records of Brevard County, Florida (the "Effective Date"). Unless terminated earlier by either party as provided herein, this Agreement shall remain in effect for a period of ten (10) years. The duration of this Agreement may be extended by mutual agreement of the parties in writing.
12. **Notices.** All notices, demands and correspondence required or provided for under this Agreement shall be in writing and delivered in person or dispatched by certified mail, postage prepaid, return receipt requested. Notice required to be given shall be addressed as follows:

If to Developer: Michael Mulhall  
DHIC – Hammock Landing, LLC  
c/o D.R. Horton, Inc.  
1341 Horton Circle  
Arlington, TX 76011  
[mmulhall@drhorton.com](mailto:mmulhall@drhorton.com)  
(407) 725-1046

And a copy to: Shutts & Bowen LLP  
Attn: Scott A. Glass, Esq.

300 S. Orange Ave., Ste. 1000  
Orlando, FL 32801  
Telephone: 407-423-3200  
Email: [sglass@shutts.com](mailto:sglass@shutts.com)

If to City: City of West Melbourne  
Attn: Scott Morgan, City Manager  
2240 Minton Road  
West Melbourne, FL 32904-4928  
Telephone: 321-727-7700  
Facsimile: 321-768-2390  
Email: [smorgan@westmelbourne.gov](mailto:smorgan@westmelbourne.gov)

With a copy to: Morris Richardson, City Attorney  
City of West Melbourne  
2240 Minton Road  
West Melbourne, FL 32904-4928  
Telephone: 321-727-7700  
Email: [mrichardson@westmelbourne.gov](mailto:mrichardson@westmelbourne.gov)

If to County: Brevard County  
Attn: Frank Abbate, County Manager  
2725 Judge Fran Jamieson Way  
Viera, FL 32940  
Telephone: 321-633-2000  
Email: [Frank.Abbate@brevardfl.gov](mailto:Frank.Abbate@brevardfl.gov)

With a copy to: Brevard County Public Works Department  
Attn: Marc Bernath  
2725 Judge Fran Jamieson Way  
Viera, FL 32940  
Telephone: 321 617-7202  
Email: [Marc.bernath@brevardfl.gov](mailto:Marc.bernath@brevardfl.gov)

And a copy to: Brevard County Attorney's Office  
Attn: Eden Bentley  
2725 Judge Fran Jamieson Way  
Viera, FL 32940  
Telephone: 321 617-7202  
Email: [Eden.Bentley@brevardfl.gov](mailto:Eden.Bentley@brevardfl.gov)

And a copy to: Brevard County Planning and Development Department  
Attn: Tad Calkins  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

Telephone: 321 617-7202

Email: [Tad.Calkins@brevardfl.gov](mailto:Tad.Calkins@brevardfl.gov)

13. **Miscellaneous.** The execution of this Agreement has been duly authorized by the appropriate body of each of the parties hereto. Each party has complied with all the applicable requirements of law and has full power and authority, to comply with the terms and conditions of this Agreement. The venue of any litigation arising out of this Agreement shall be Brevard County, Florida. The exhibit attached hereto and incorporated by reference herein is by such attachment and incorporation made a part of this Agreement for all purposes. The fact that one of the parties to this Agreement may be deemed to have drafted or structured the provisions of this Agreement, whether in whole or in part, shall not be considered in construing or interpreting any particular provision hereof, whether in favor of or against such party. The terms and conditions of this Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement is solely for the benefit of the parties hereto and their respective successors and assigns, and no right or cause of action shall accrue upon or result by reason hereof or for the benefit of any third party not a formal party hereto. Nothing in this Agreement whether express or implied, is intended or shall be construed to confer upon any person other than the parties hereto any right, remedy, or claim under or by reason of this Agreement or any of the provisions hereof. This Agreement may not be changed, amended, or modified in any respect whatsoever, nor may any covenant, condition, agreement, requirement, provision, or obligation contained herein be waived, except in writing signed by all of the parties hereto. Failure to enforce any provision of this Agreement by any party shall not be considered a waiver of the right to later enforce that or any provision of this Agreement.
14. **Attorneys' Fees / Hold Harmless / Indemnification.** Should any litigation arise between the parties each party shall bear its own attorneys' fees and costs. In the event of litigation or claims against the County and/or City from third parties arising from this Agreement or from the construction described herein, Developer shall indemnify, hold harmless and defend the County and City from and against any such claims; however, nothing contained herein shall be deemed to be a waiver by the County or City of their respective sovereign immunity or any limitation of liability pursuant to Section 768.28, F.S., or other applicable statute. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim which would otherwise be barred by sovereign immunity or operation of law. Developer acknowledges that specific consideration has been paid and other good and sufficient consideration has been received for this indemnification provision.
15. **Captions.** Headings of a particular paragraph of this Agreement are inserted only for convenience and are in no way to be construed as part of the agreement or as a limitation of the scope of the paragraphs to which they refer.
16. **Severability.** If any part of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way. If any party's execution of this

Agreement is deemed invalid for any particular purpose, the sections for which the execution is valid shall remain in full force and effect.

**THE BALANCE OF THIS PAGE  
INTENTIONALLY LEFT BLANK  
WITH SIGNATURE PAGES TO FOLLOW**

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed and their corporate seals affixed as of the day and year first above written.

Signed, sealed and delivered  
in the presence of:

DHIC – HAMMOCK LANDING, LLC  
By: DHI Communities II, LLC, its sole  
member



Witness 1

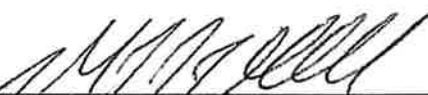
Matthew Mitchell

Print Name of Witness 1

By:

Name:

Title:

  
Michael Mitchell  
VP



Witness 2

Sarah Renteria

Print Name of Witness 2

STATE OF Florida §  
COUNTY OF Orange §

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29<sup>th</sup> day of September, 2021 by Michael Mitchell, as Vice President for DHIC Communities II, LLC, the sole member of DHIC – Hammock Landing, LLC, a Delaware limited liability company, who is personally known to me or produced \_\_\_\_\_ as identification.



ALYSSA DEQUATTRO  
Commission # HH 086537  
Expires January 31, 2025  
Bonded Thru Budget Notary Services



Signature of Notary Public

Printed Name: Alyssa DeQuattro

Commission No.: HH086537

Commission Expires: January 31, 2025



ATTEST:

Cynthia Hanscom  
Cynthia Hanscom, City Clerk

CITY OF WEST MELBOURNE, a chartered  
municipal corporation

Hal Rose  
Hal J. Rose, Mayor

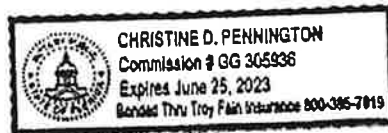
As approved by Council on: October 5, 2021

Reviewed for legal form and sufficiency:

Morris Richardson  
Morris Richardson, City Attorney

STATE OF FLORIDA §  
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me by means of ☒ physical presence  
or ☐ online notarization, this 5<sup>th</sup> day of October, 2021 by Hal J. Rose and Cynthia  
Hanscom, as Mayor and City Clerk, respectively, of the City of West Melbourne, Florida, who are  
personally known to me.

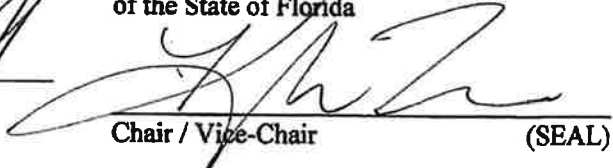


Christine D. Pennington  
Signature of Notary Public  
Printed Name: Christine D. Pennington  
Commission No.: GG 305936  
Commission Expires: 6/25/2023

ATTEST:

  
Clerk / Assistant Clerk


BOARD OF COUNTY  
COMMISSIONERS OF BREVARD  
COUNTY, FLORIDA, a political subdivision  
of the State of Florida

  
Chair / Vice-Chair (SEAL)

As approved by the Board on 12/2/21

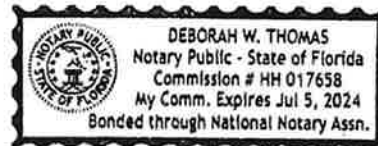
STATE OF FLORIDA §  
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me by means of ☒ physical presence  
or ☐ online notarization, this 2 day of December, 2021 by  
Kristine Zonka and \_\_\_\_\_, as Chair / Vice  
Chair of the Board of County Commissioners of Brevard County, Florida and County Clerk /  
Assistant County Clerk, respectively, who are personally known to me.

  
Signature of Notary Public  
Printed Name: Deborah W. Thomas  
Commission No.: HH 017658

Commission Expires: July 5, 2024

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA  
I HEREBY CERTIFY that the foregoing is a  
true copy of the original filed in this office and  
may contain redactions as required by law.  
RACHEL M. SADOFF, Clerk to the Board  
Date 12/14/21 By Deborah Thomas  
Deputy Clerk



ORLDOCS 18492221 10

**EXHIBIT "A"**

(Legal description)

A PORTION OF LOTS 23, 24, 25 AND 26 OF THE FLORIDA INDIAN RIVER LAND COMPANY SUBDIVISION OF SECTION 19, TOWNSHIP 28 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 19, THENCE SOUTH 89°22'11" EAST ALONG THE NORTH LINE OF SAID SECTION 19, A DISTANCE OF 50.00 FEET, TO THE EAST LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL NO. 69, THENCE SOUTH 00°25'16" WEST, ALONG THE EAST LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL NO.69, A DISTANCE OF 45.00 FEET, TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL NO.72, SAID INTERSECTION POINT ALSO BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE CONTINUE SOUTH 00°25'16" WEST ALONG THE EAST LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL NO.69, FOR A DISTANCE OF 1296.46 FEET, THENCE SOUTH 89°34'44" EAST, A DISTANCE OF 134.59 FEET, TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE NORTHWEST, WHOSE CHORD IS NORTH 74°10'45" EAST HAVING A DISTANCE OF 349.61 FEET, THE RADIUS POINT OF WHICH BEARS NORTH 00°25'16" EAST FOR A DISTANCE OF 625.00 FEET, THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 32°29'01" A DISTANCE OF 354.34 FEET TO A POINT; THENCE SOUTH 00°25'16" WEST, A DISTANCE OF 446.70 FEET TO THE NORTH LINE OF THAT PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 3931, PAGE 3235, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE SOUTH 89°21'54" EAST ALONG SAID NORTH LINE, A DISTANCE OF 457.45 FEET; THENCE NORTH 00°38'06" EAST, A DISTANCE OF 688.39 FEET; THENCE SOUTH 89°21'54" EAST, A DISTANCE OF 9.59 FEET; THENCE NORTH 01°15'06" EAST, A DISTANCE OF 692.42 FEET; THENCE NORTH 10°00'54" EAST, A DISTANCE OF 266.49 FEET TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL NO.72; THENCE NORTH 89°22'11" WEST ALONG THE SOUTH LINE OF THE MELBOURNE TILLMAN DRAINAGE DISTRICT CANAL NO.72, A DISTANCE OF 994.32 FEET TO THE POINT OF BEGINNING. CONTAINING 31.57 ACRES MORE OR LESS.



Via Email: cfischer@westmelbourne.org

Via Email: corrina.gumm@brevardfl.gov

Ref: 4581.05

## TECHNICAL MEMORANDUM

**To:** Christy Fischer, Director  
Planning & Economic Development – City of West Melbourne

**To:** Corrina Gumm, PE  
Traffic Operations Manager – Brevard County

**From:** George A. Galan, PE

**Date:** July 19, 2021

**Subject:** Ascend Hammock Landing – Proportionate Share  
West Melbourne, Florida

### INTRODUCTION

LTG, Inc. (LTG) has been retained by DHIC-Hammock Landing, LLC to determine the proportionate share (PS) responsibility of the Ascend Hammock Landing development. The development is located east of Minton Road and directly across from Hield Road in the City of West Melbourne.

LTG developed a traffic impact study (TIS) for the Ascend Hammock Landing development, dated January 2020, to determine the potential impacts the project would have on the surrounding roadway network. The PS analysis presented in this memorandum determines the developer's PS responsibility related to the improvements recommended due exclusively to the addition of project traffic to the roadways and intersections in the study area.

### TRIP GENERATION

Project trips are a key input variable in the equation used to calculate PS. As such, project trip generation was calculated using the procedures adopted by the agencies to evaluate transportation concurrency. The anticipated build-out for the proposed development is 2021. The trip generation for the development was determined using the Institute of Transportation Engineers (ITE) 10<sup>th</sup> Edition of the *Trip Generation Manual* and is presented in Table 1.

**Table 1**  
**Trip Generation**  
**Ascend Hammock Landing**

Time Period	Land Use	Land Use Code	Trip Rate Equation	Size	Units	Percent Entering	Percent Exiting	Trips Entering	Trips Exiting	Total Trips
Daily	Multi-family Mid-Rise	221	$T=5.45(X)-1.75$	300	Dus	50%	50%	817	816	1,633
AM Peak-Hour	Multi-family Mid-Rise	221	$T=0.36(X)$	300	Dus	26%	74%	28	80	108
PM Peak-Hour	Multi-family Mid-Rise	221	$T=0.44(X)$	300	Dus	61%	39%	81	51	132

**TECHNICAL MEMORANDUM**

Christy Fischer  
 Corrina Gumm, P.E.  
 July 19, 2021  
 Page 2

**BUILD-OUT CONDITIONS ANALYSIS**

Based on the January 2020 TIS, the signalized intersections shown in Table 2 were analyzed under 2021 build-out conditions to determine the operational level of service.

**Table 2**  
**2021 Build-Out PM Peak-Hour LOS – Signalized Intersections**  
**Ascend Hammock Landing**

Intersection	Adopted LOS	Build-Out Conditions					
		AM Peak-Hour			PM Peak-Hour		
		Delay (sec.)	LOS	V/C > 1.0	Delay (sec.)	LOS	V/C > 1.0
Minton Rd at Wingate Blvd	E	34.5	C	No	41.2	D	Yes
Minton Rd at Flanagan Ave	E	15.4	B	No	14.4	B	No
Minton Rd at Eber Blvd	E	20.1	C	No	33.0	C	Yes
Minton Rd at Norfolk Pkwy	E	27.4	C	No	43.2	D	No
Minton Rd at Hield Rd/Project Driveway	E	22.1	C	No	18.4	B	Yes
Minton Rd at Palm Bay Rd	E	109.7	F	Yes	145.2	F	Yes
Minton Rd at Emerson Dr	E	54.5	D	No	39.6	D	No
Palm Bay Rd at Athens Dr	E	34.9	C	No	22.5	C	No
Palm Bay Rd at Norfolk Pkwy	E	32.6	C	No	57.6	E	Yes
Palm Bay Rd at SB I-95	E	23.9	C	No	36.7	D	No
Palm Bay Rd at NB I-95	E	24.1	C	No	18.0	B	No
Palm Bay Rd at Hollywood Blvd	E	39.5	D	No	46.0	D	No
Minton Rd at Frontage Rd*	E	-	A	No	-	A	-

As indicated in the table above, the signalized intersections of Minton Road at Wingate Boulevard, Eber Boulevard, Hield Road, and Palm Bay Road and Palm Bay Road at Norfolk Parkway are anticipated to operate outside the adopted level of service and/or with a v/c ratio greater than 1.0. Based on the TIS submitted Revised July 2020, the following improvements were recommended:

**Minton Road at Wingate Boulevard:**

- Optimize signal timings

**Minton Road at Eber Boulevard:**

- Optimize signal timings

**Minton Road at Hield Road:**

- Convert eastbound multi-directional lane into a left-turn lane
- Add eastbound through-right lane
- Add "DO NOT BLOCK" box pavement marking and signs at the Frontage Road/Project Driveway
- Optimize signal timings

**Minton Road at Palm Bay Road:**

- Restripe the westbound shared through/left-turn lane to a dedicated left-turn lane (triple dedicated lefts)
- Restripe the westbound right-turn lane to a shared through/right-turn lane
- Add an eastbound right-turn lane
- Remove split phasing
- Add a southbound left-turn lane (dual lefts)
- Optimize signal timings

# TECHNICAL MEMORANDUM

Christy Fischer

Corrina Gumm, P.E.

July 19, 2021

Page 3

## Norfolk Parkway at Palm Bay Road:

- Add a westbound right-turn overlap phase
- Optimize signal timings

The analyses of the Intersection with the proposed improvements are provided in Table 3.

**Table 3**  
**2021 Build-Out AM and PM Peak-Hour LOS – Intersections Improved**  
**Ascend Hammock Landing**

Intersection	Adopted LOS	Build-Out Conditions with Improvements					
		AM Peak-Hour			PM Peak-Hour		
		Delay (sec.)	LOS	V/C > 1.0	Delay (sec.)	LOS	V/C > 1.0
Minton Rd at Wingate Blvd	E	-	-	-	41.2	D	No
Minton Rd at Eber Blvd	E	-	-	-	22.9	C	No
Minton Rd at Hield Rd/Project Driveway	E	16.3	B	No	14.1	B	No
Minton Rd at Palm Bay Rd	E	43.5	D	No	37.9	D	No
Palm Bay Rd at Norfolk Pkwy	E	-	-	-	47.8	D	No

As indicated, all intersections are anticipated to operate within their adopted level of service and with v/c ratios less than 1.0 with the recommended improvements.

The study area roadway segments were analyzed under 2021 build-out conditions to determine the anticipated LOS and the results are presented in Table 4.

# TECHNICAL MEMORANDUM

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Table 4  
2021 Build-Out PM Peak-Hour LOS - Roadway Segments  
Ascend Hammock Landing

Station ID #	Roadway	Segment		Lanes	Adopted LOS	MAV	Peak-Hour Two-Way Capacity at Adopted LOS	Existing Peak-Hour Two-Way Volume	Growth Rate	Background Traffic	Project Trip Distribution	Build-Out	
		From	To									Project Trips	Traffic
488	Minton Rd	American Blvd	Emerson Dr	4	E	38,800	3,882	2,249	2.74%	2,434	13.3%	18	2,451
488	Minton Rd	Emerson Dr	Palm Bay Rd	4	E	38,800	3,842	3,511	2.03%	3,725	30.8%	41	3,766
487	Minton Rd	Palm Bay Rd	Hield Rd	4	E	38,800	3,042	1,852	2.00%	2,088	62.0%	82	2,151
488	Minton Rd	Hield Rd	Eber Blvd	4	E	38,800	3,582	2,638	2.00%	3,008	31.9%	42	3,050
372	Minton Rd	Eber Blvd	Wingate Blvd	4	E	38,800	3,582	2,744	2.00%	2,908	24.3%	32	2,940
478	Palm Bay Rd	Minton Rd	Athens Dr	6	E	58,800	5,391	2,576	2.61%	2,792	31.2%	41	2,833
479	Palm Bay Rd	Athens Dr	Culver Dr/Norfolk Pkwy	6	E	58,800	5,391	2,498	2.00%	2,646	31.1%	41	2,687
485	Palm Bay Rd	Culver Dr/Norfolk Pkwy	I-95 EB Ramp	6	E	58,800	5,391	3,825	2.00%	4,055	28.2%	35	4,088
488	Palm Bay Rd	I-95 EB Ramp	Hollywood Blvd	6	E	58,800	5,391	4,804	3.92%	5,388	13.3%	18	5,388
600	Norfolk Pkwy	Minton Rd	Palm Bay Rd	4	E	38,800	3,042	1,608	4.68%	1,833	0.0%	0	1,833
484	Eber Blvd	Minton Rd	Hollywood Blvd	2	E	15,800	1,404	1,066	3.27%	1,170	5.5%	7	1,177
2021 Build-Out Segment - Improved													
488	Minton Rd	Emerson Dr	Palm Bay Rd	6	E	58,078	5,047**	3,511	2.03%	3,725	30.8%	41	3,765

\*Per City of West Melbourne, only the growth rates were applied to the roadway segments to avoid over-projection/double counting.

\*\*The 2012 version of the FDOT ARTPLAN software was used to determine the improved capacity.

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### BACKGROUND CONDITIONS ANALYSIS

The Florida Statute 163.3180 on Concurrency states that "If any road is determined to be transportation deficient without the project traffic under review, the costs of correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary transportation improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation."

In order to comply with Florida Statutes, the study area roadway segments and intersections identified in the traffic study as requiring improvements to meet adopted level of service (LOS) standards were analyzed under background conditions (without the addition of project trips) for the associated build-out years.

All study area intersections were analyzed to determine any deficiencies under background conditions. Table 5 shows the results of the analysis.

Table 5  
2021 Background AM and PM Peak-Hour LOS – Signalized Intersections  
Ascend Hammock Landing

Intersection	Adopted LOS	Background Conditions					
		AM Peak-Hour			PM Peak-Hour		
		Delay (sec.)	LOS	V/C > 1.0	Delay (sec.)	LOS	V/C > 1.0
1.Minton Rd at Wingate Blvd	E	34.0	C	No	40.9	D	Yes
2.Minton Rd at Flanagan Ave	E	15.3	B	No	14.3	B	No
3.Minton Rd at Eber Blvd	E	19.7	C	No	32.0	C	Yes
4.Minton Rd at Norfolk Pkwy	E	26.8	C	No	43.0	D	No
5.Minton Rd at Hield Rd/Project Driveway	E	18.9	B	No	14.4	B	No
6.Minton Rd at Palm Bay Rd	E	105.8	F	Yes	143.4	F	Yes
7.Minton Rd at Emerson Dr	E	53.7	D	No	38.9	D	No
8.Palm Bay Rd at Athens Dr	E	34.3	C	No	22.4	C	No
Palm Bay Rd at Norfolk Pkwy	E	32.6	C	No	57.2	E	Yes
Palm Bay Rd at SB I-95	E	23.8	C	No	37.0	D	No
Palm Bay Rd at NB I-95	E	22.8	C	No	17.5	B	No
Palm Bay Rd at Hollywood Blvd	E	40.6	D	No	45.2	D	No

As indicated in the table, the intersections of Minton Road at Wingate Boulevard, Eber Boulevard, Norfolk Parkway, and Palm Bay Road at Norfolk Parkway are anticipated to operate outside the adopted level of service and/or with a v/c ratio greater than 1.0.

The study area roadway segments were analyzed under background conditions to determine the anticipated LOS and the results are presented in Table 6.

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**Table 6**  
**2021 Background PM Peak-Hour LOS – Roadway Segments**  
**Ascend Hammock Landing**

Station ID #	Roadway	Segment		Lanes	Adopted LOS	MAV	Peak-Hour Two-Way Capacity at Adopted LOS	Existing Peak-Hour Two-Way Volume	Growth Rate	Background Traffic (including vested)	V/C
		From	To								
489	Minton Rd	American Blvd	Emerson Dr	4	E	39,800	3,582	2,249	2.74%	2,434	0.88
488	Minton Rd	Emerson Dr	Palm Bay Rd	4	E	33,800	3,042	3,511	2.03%	3,725	1.22
487	Minton Rd	Palm Bay Rd	Hield Rd	4	E	33,800	3,042	1,852	2.00%	2,088	0.88
486	Minton Rd	Hield Rd	Eber Blvd	4	E	39,800	3,582	2,838	2.00%	3,006	0.84
372	Minton Rd	Eber Blvd	Wingate Blvd	4	E	39,800	3,582	2,744	2.00%	2,908	0.81
478	Palm Bay Rd	Minton Rd	Athens Dr	6	E	59,900	5,391	2,575	2.81%	2,782	0.52
479	Palm Bay Rd	Athens Dr	Culver Dr/Norfolk Pkwy	6	E	59,900	5,391	2,496	2.00%	2,648	0.49
465	Palm Bay Rd	Culver Dr/Norfolk Pkwy	I-95 EB Ramp	6	E	59,900	5,391	3,825	2.00%	4,056	0.75
466	Palm Bay Rd	I-95 EB Ramp	Hollywood Blvd	6	E	59,900	5,391	4,804	3.92%	5,388	0.99
600	Norfolk Pkwy	Minton Rd	Palm Bay Rd	4	E	33,800	3,042	1,808	4.68%	1,833	0.60
484	Eber Blvd	Minton Rd	Hollywood Blvd	2	E	15,600	1,404	1,086	3.27%	1,170	0.83

As indicated in the table, the roadway segments of Minton Road from Emerson Drive to Palm Bay Road is anticipated to operate outside the adopted level of service and with v/c ratios greater than 1.0.

## **PROPORTIONATE SHARE**

According to Florida Statue, the only improvement eligible for proportionate share is the adding of a westbound left-turn phase at the intersection of Minton Road at Hield Road/Project Driveway. Due to the recommended improvement, the signal would need to be redesigned from span wire to mast arms. The cost for these improvements has been estimated at \$947,763.39, which is included as Appendix A. Table 7 shows the proportionate share calculation.

**Table 7**  
**Proportionate Share**  
**Ascend Hammock Landing**

Intersections	Improvement	Improvement Costs*	Additional Costs**	Project Volume (a)	Lane Group Capacity (b)	Improved Capacity (c)	Project Share (d)=a/(c-b)	Proportionate Share
Minton Road at Hield Road/Project Driveway	Signal Modification - redesign signal, remove span wire and replace with mast arms to accommodate eastbound left-turn lane and future east-west left-turn phase.	\$719,356.23	\$228,407.46	127	7,131	7,419	44.10%	\$417,963.79
Intersection PS Total:								\$417,963.79

\*Improvement Costs are an estimate for signal modification. Quantities may vary based on actual signal design.

\*\* Additional costs include engineering design and survey fees and 20% contingency.

\*\*\*The HCS files for the existing and improved capacities have been included as Appendix B.

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The total cost for construction for the off-site improvements is \$947,763.69 and the proportionate share costs that are not eligible for impact fee credits are \$417,963.79, therefore the development would be eligible for up to \$529,799.90 in transportation impact fee credit.

## IMPACT FEES

The transportation impact fees assessed by the City of West Melbourne for multi-family residential homes are at a rate of \$2,381.00 per dwelling unit. The proposed development consists of 300 dwelling units. Therefore, the total City impact fees are calculated as \$714,300.00.

## CONCLUSION

The analysis of the Traffic Impact Study dated July 2020 shows that the development does not cause the study area intersections or roadway segment to fall at build-out except for the intersection of Minton Road at Hield Road/Project Driveway. The following improvements are recommended in order to achieve an acceptable level of service and v/c ratios less than 1.0:

- Convert eastbound multi-directional lane into a left-turn lane
- Add eastbound through-right lane
- Add "DO NOT BLOCK" box pavement marking and signs at the Frontage Road/Project Driveway
- Optimize signal timings

The applicant proposed to construct the signal and receive impact fee credits in the amount up to the roadway impact fees \$529,799.90.

Appendix A – Signal Cost Estimate  
Appendix B – HCS Summary Sheets

I affirm, by affixing my signature and seal below, that the findings contained herein are, to my knowledge, accurate and truthful and were developed using current procedures standard to the practice of professional engineering.



THIS ITEM HAS BEEN DIGITALLY  
SIGNED AND SEALED BY:

George A Galan

Digitally signed by George A Galan  
DN: CN=George A Galan,  
OU=AR 11000000150075AGT180000530C,  
O=LABSTER TRANSPORTATION GROUP INC.,  
C=US  
Date: 2021.07.19 10:13:45-0400

ON THE DATE ADJACENT TO THE SEAL

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED  
AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY  
ELECTRONIC COPIES.

1970 DAIRY ROAD  
WEST MELBOURNE, FL 32904  
CERTIFICATE OF AUTHORIZATION 9227  
GEORGE A. GALAN, P.E. NO. 60080

 **LTG** Engineering  
& Planning

## **Appendix A**

### **Signal Cost Estimate**

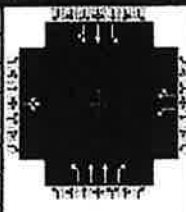





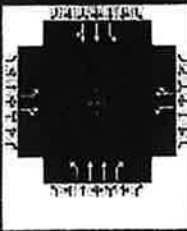
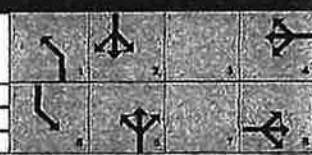
## **Appendix B**

### **HCS Summary Sheets**

## HCS7 Signalized Intersection Results Summary

General Information						Intersection Information													
Agency		LTG				Duration, h		0.25											
Analyst		ARO		Analysis Date		Oct 8, 2019		Area Type		Other									
Jurisdiction		Brevard		Time Period		Exsting PM Peak Hour		PHF		0.95									
Urban Street		Minton Rd		Analysis Year		2019		Analysis Period		1> 7:00									
Intersection		Minton Rd at Hleid Rd		File Name		5. Minton Rd at Hleid Rd (Project Driveway) - PM...													
Project Description		4381.03 Ascend Hammock																	
Demand Information				EB			WB			NB			SB						
Approach Movement				L	T	R	L	T	R	L	T	R	L	T	R				
Demand ( v ), veh/h				43	6	52	35	6	69	110	937	2	106	1406	60				
Signal Information																			
Cycle, s	110.0	Reference Phase	2																
Offset, s	0	Reference Point	End																
Uncoordinated	No	Simult. Gap E/W	On																
Force Mode	Fixed	Simult. Gap N/S	On																
Green	4.8	0.3	73.9	11.8	0.0	0.0													
Yellow	4.3	0.0	4.3	3.2	0.0	0.0													
Red	2.0	0.0	2.3	3.0	0.0	0.0													
Timer Results				EBL	EBT	WBL	WBT	NBL	NBT	SBL	SBT								
Assigned Phase					8		4	1	6	5	2								
Case Number					8.0		6.0	1.1	3.0	1.1	4.0								
Phase Duration, s					18.0		18.0	11.5	80.9	11.1	80.5								
Change Period, ( Y+R <sub>c</sub> ), s					6.2		6.2	6.6	6.6	6.3	6.6								
Max Allow Headway ( MAH ), s					4.5		4.5	4.0	0.0	4.0	0.0								
Queue Clearance Time ( g <sub>s</sub> ), s					12.5		13.8	4.2		4.1									
Green Extension Time ( g <sub>e</sub> ), s					0.0		0.0	0.1	0.0	0.1	0.0								
Phase Call Probability					1.00		1.00	0.97		0.97									
Max Out Probability					1.00		1.00	0.82		1.00									
Movement Group Results				EB			WB			NB			SB						
Approach Movement				L	T	R	L	T	R	L	T	R	L	T	R				
Assigned Movement				3	8	18	7	4	14	1	6	16	5	2	12				
Adjusted Flow Rate ( v ), veh/h					106		37	79		116	986	0	112	775	768				
Adjusted Saturation Flow Rate ( s ), veh/h/ln					1144		1288	1605		1781	1781	1585	1781	1870	1843				
Queue Service Time ( g <sub>s</sub> ), s					5.4		1.3	5.1		2.2	13.7	0.0	2.1	25.5	25.7				
Cycle Queue Clearance Time ( g <sub>c</sub> ), s					10.5		11.8	5.1		2.2	13.7	0.0	2.1	25.5	25.7				
Green Ratio ( g/C )					0.11		0.11	0.11		0.72	0.68	0.68	0.72	0.67	0.67				
Capacity ( c ), veh/h					169		81	172		291	2404	1070	448	1257	1239				
Volume-to-Capacity Ratio ( X )					0.627		0.455	0.459		0.398	0.410	0.000	0.249	0.617	0.620				
Back of Queue ( Q ), ft/ln ( 95 th percentile)					145.8		53.8	99.3		32.2	203.7	0	29.3	364.7	358				
Back of Queue ( Q ), veh/ln ( 95 th percentile)					5.7		2.0	3.9		1.3	8.0	0.0	1.2	14.4	14.3				
Queue Storage Ratio ( RQ ) ( 95 th percentile)					0.00		0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00				
Uniform Delay ( d <sub>1</sub> ), s/veh					48.9		54.7	46.1		9.3	8.0	0.0	6.1	10.1	10.1				
Incremental Delay ( d <sub>2</sub> ), s/veh					7.1		3.9	1.9		0.9	0.5	0.0	0.3	2.3	2.3				
Initial Queue Delay ( d <sub>3</sub> ), s/veh					0.0		0.0	0.0		0.0	0.0	0.0	0.0	0.0	0.0				
Control Delay ( d ), s/veh					56.1		58.7	48.0		10.2	8.5	0.0	6.3	12.4	12.5				
Level of Service (LOS)					E		E	D		B	A		A	B	B				
Approach Delay, s/veh / LOS				56.1	E		51.4	D		8.7	A		12.0		B				
Intersection Delay, s/veh / LOS				13.9						B									
Multimodal Results				EB			WB			NB			SB						
Pedestrian LOS Score / LOS				2.46	B		2.31	B		1.87	B		1.64	B					
Bicycle LOS Score / LOS				0.66	A		0.68	A		1.40	A		1.85	B					

## HCS7 Signalized Intersection Results Summary

General Information						Intersection Information													
Agency		LTG				Duration, h		0.250											
Analyst		ARO		Analysis Date		Oct 8, 2019		Area Type		Other									
Jurisdiction		Brevard		Time Period		Build-Out PM Peak Hour		PHF		0.95									
Urban Street		Minton Rd		Analysis Year		2021		Analysis Period		1> 7:00									
Intersection		Minton Rd at Hield Rd		File Name		5. Minton Rd at Hield Rd (Project Driveway) - PM...													
Project Description		4381.03 Ascend Hammock																	
Demand Information				EB			WB			NB			SB						
Approach Movement				L	T	R	L	T	R	L	T	R	L	T	R				
Demand ( v ), veh/h				44	8	54	68	7	88	115	975	52	136	1483	62				
Signal Information																			
Cycle, s	110.0	Reference Phase	2																
Offset, s	0	Reference Point	End																
Uncoordinated	No	Simult. Gap E/W	On																
Force Mode	Fixed	Simult. Gap N/S	On																
				Green	4.9	0.2	76.9	8.8	0.0	0.0									
				Yellow	4.3	0.0	4.3	3.2	0.0	0.0									
				Red	2.0	0.0	2.3	3.0	0.0	0.0									
Timer Results				EBL	EBT	WBL	WBT	NBL	NBT	SBL	SBT								
Assigned Phase					8		4	1	6	5	2								
Case Number					6.0		6.0	1.1	3.0	1.1	4.0								
Phase Duration, s					15.0		15.0	11.5	83.8	11.2	83.5								
Change Period, ( Y+R ), s					6.2		6.2	6.6	6.6	6.3	6.6								
Max Allow Headway ( MAH ), s					4.5		4.5	4.0	0.0	4.0	0.0								
Queue Clearance Time ( g s ), s					10.8		10.8	4.1		4.5									
Green Extension Time ( g e ), s					0.0		0.0	0.1	0.0	0.0	0.0								
Phase Call Probability					1.00		1.00	0.98		0.99									
Max Out Probability					1.00		1.00	1.00		1.00									
Movement Group Results				EB			WB			NB			SB						
Approach Movement				L	T	R	L	T	R	L	T	R	L	T	R				
Assigned Movement				3	8	18	7	4	14	1	6	16	5	2	12				
Adjusted Flow Rate ( v ), veh/h				46	65		72	100		121	1026	53	143	806	799				
Adjusted Saturation Flow Rate ( s ), veh/h/in				1315	1617		1283	1603		1781	1781	1585	1781	1870	1843				
Queue Service Time ( g s ), s				2.1	4.3		4.5	6.7		2.1	13.3	1.1	2.5	25.0	25.3				
Cycle Queue Clearance Time ( g c ), s				8.8	4.3		8.8	6.7		2.1	13.3	1.1	2.5	25.0	25.3				
Green Ratio ( g/C )				0.08	0.08		0.08	0.08		0.74	0.70	0.70	0.74	0.70	0.70				
Capacity ( c ), veh/h				90	129		118	128		293	2498	1112	454	1308	1289				
Volume-to-Capacity Ratio ( X )				0.514	0.505		0.604	0.780		0.414	0.411	0.047	0.315	0.616	0.620				
Back of Queue ( Q ), ft/in ( 95 th percentile)				62.7	82.9		109.4	168.4		34.7	191.7	15	32.3	345.2	340.1				
Back of Queue ( Q ), veh/in ( 95 th percentile)				2.5	3.3		4.1	6.6		1.4	7.5	0.6	1.3	13.6	13.6				
Queue Storage Ratio ( RQ ) ( 95 th percentile)				0.00	0.00		0.00	0.00		0.00	0.00	0.00	0.00	0.00	0.00				
Uniform Delay ( d 1 ), s/veh				54.4	48.5		53.3	49.6		8.6	6.9	5.1	5.3	8.7	8.8				
Incremental Delay ( d 2 ), s/veh				4.9	3.1		8.4	25.8		0.9	0.5	0.1	0.4	2.2	2.2				
Initial Queue Delay ( d 3 ), s/veh				0.0	0.0		0.0	0.0		0.0	0.0	0.0	0.0	0.0	0.0				
Control Delay ( d ), s/veh				59.3	51.6		61.7	75.4		9.5	7.4	5.1	5.7	10.9	11.0				
Level of Service (LOS)				E	D		E	E		A	A	A	A	B	B				
Approach Delay, s/veh / LOS				54.8		D	69.7		E	7.5		A	10.5		B				
Intersection Delay, s/veh / LOS				14.1						B									
Multimodal Results				EB			WB			NB			SB						
Pedestrian LOS Score / LOS				2.47		B	2.31		B	1.86		B	1.86		B				
Bicycle LOS Score / LOS				0.67		A	0.77		A	1.48		A	1.93		B				



FIN:	Project:	Ascend Hammock Landing	County:	Brevard
Description:	Engineer's Estimate of Probable Cost	Project No.:	4581	
PAV ITEM NO.	ITEM DESCRIPTION	DATE:	9/29/2021	
		QUANTITY	UNIT PRICE	TOTAL COST
101-7	MOBILIZATION	1	15%	\$ 81,618.03
102-1	MAINTENANCE OF TRAFFIC	1	15%	\$ 81,618.03
104-10-3	SEDPMENT BARRIER	640	\$ 0.91	\$ 582.40
104-18	INLET PROTECTION SYSTEM	5	\$ 99.84	\$ 499.20
110-1-1	CLEARING & GRUBBING	0.12	\$ 70,000.00	\$ 8,400.00
110-7-1	MAILBOX, P&I SINGLE	2	\$ 199.62	\$ 399.24
110-4-10	REMOVAL OF EXISTING CONCRETE	29	\$ 100.00	\$ 2,929.00
120-1	REGULAR EXCAVATION	214.0	\$ 9.57	\$ 2,047.98
120-6	EMBANKMENT	130.0	\$ 9.52	\$ 1,237.60
160-4	TYPE B STABILIZATION	371	\$ 45.00	\$ 25,695.00
285-709	OPTIONAL BASE, BASE GROUP 09	571	\$ 26.22	\$ 14,970.57
327-70-6	MILLING EXIST ASPH PAVT, 1 1/2" AVG DEPTH	2,355	\$ 5.00	\$ 11,779.25
334-1-53	SUPERPAVE ASPHALTIC CONCRETE, TRAFFIC C, PG76-22	62.8	\$ 106.44	\$ 6,683.50
337-7-83	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C, FC-12.5, PG 76-22	241.0	\$ 116.79	\$ 28,146.39
425-1-521	INLETS, DT BOT, TYPE C-10'	5	\$ 3,540.16	\$ 17,700.80
430-174-115	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 15" SD	22	\$ 175.30	\$ 2,536.60
430-174-115	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 18" SD	408	\$ 81.00	\$ 33,048.00
811-5-17-10-9	PIPE CULVERT, OPTIONAL MATERIAL, ROUND, 18" S/CD	45	\$ 92.75	\$ 4,173.75
821-5-17-10-9	LIMITED END SECTION, OPTIONAL ROUND, 15" SD	1	\$ 1,244.52	\$ 1,244.52
430-984-122	LIMITED END SECTION, OPTIONAL ROUND, 18" SD	1	\$ 1,790.40	\$ 1,790.40
522-2	CONCRETE SIDEWALK AND DRIVEWAYS, 6" THICK	29	\$ 64.88	\$ 1,881.52
527-2	DETECTABLE WARNINGS	30	\$ 60.00	\$ 1,800.00
630-2-11	PERFORMANCE TURF, SOD	1,700	\$ 2.54	\$ 4,488.00
630-2-11	CONDUIT, FURNISH & INSTALL, OPEN TRENCH	149	\$ 11.07	\$ 1,649.43
630-2-12	CONDUIT, FURNISH & INSTALL, DIRECTIONAL BORE	232	\$ 31.98	\$ 7,419.36
630-2-14	CONDUIT, FURNISH & INSTALL, ABOVEGROUND	20	\$ 22.72	\$ 454.40
632-7-1	SIGNAL CABLE- NEW OR RECONSTRUCTED INTERSECTION, FURNISH & INSTALL	1	\$ 7,515.30	\$ 7,515.30
51-6-639	FIBER OPTIC CONNECTION HARDWARE, F&I, PRETERMINATED PATCH PANEL	1	\$ 1,845.00	\$ 1,845.00
635-2-2-11	PULL & SPLICE BOX, F&I, 13" x 24" COVER SIZE	18	\$ 814.26	\$ 14,656.68

639-1-122	ELECTRICAL POWER SERVICE, F&I, UNDERGROUND, METER PURCHASED BY CONTRACTOR	AS	1	\$ 4,353.89	\$ 4,353.89
639-2-1	ELECTRICAL SERVICE WIRE, FURNISH & INSTALL	LF	5	\$ 6.28	\$ 31.40
639-3-11	ELECTRICAL SERVICE DISCONNECT, F&I, POLE MOUNT	EA	1	\$ 1,412.60	\$ 1,412.60
641-2-12	PRESTRESSED CONCRETE POLE, F&I, TYPE P-11 SERVICE POLE	EA	1	\$ 1,698.39	\$ 1,698.39
646-1-11	ALUMINUM SIGNALS POLE, PEDESTAL	EA	8	\$ 2,373.90	\$ 18,991.20
649-21-1	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 30'	EA	1	\$ 31,000.00	\$ 31,000.00
649-21-18	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, DOUBLE ARM 70'-50'	EA	1	\$ 59,000.00	\$ 59,000.00
649-21-21	STEEL MAST ARM ASSEMBLY, FURNISH AND INSTALL, SINGLE ARM 78'	EA	1	\$ 52,895.99	\$ 52,895.99
650-1-34	VEHICULAR TRAFFIC SIGNAL, FURNISH & INSTALL POLYCARBONATE, 3 SECTION, 1 WAY	AS	8	\$ 1,089.66	\$ 8,717.28
650-1-36	VEHICULAR TRAFFIC SIGNAL, FURNISH & INSTALL LED COUNTDOWN, 1 WAY	AS	4	\$ 1,276.74	\$ 5,106.96
653-1-11	PEDESTRIAN SIGNAL, FURNISH & INSTALL LED COUNTDOWN, 1 WAY	AS	8	\$ 747.4	\$ 5,979.2
660-4-11	VEHICLE DETECTION SYSTEM- VIDEO, FURNISH & INSTALL CABINET EQUIPMENT	EA	1	\$ 21,126.48	\$ 21,126.48
660-4-12	VEHICLE DETECTION SYSTEM- VIDEO, FURNISH & INSTALL ABOVE GROUND EQUIPMENT	EA	4	\$ 7,158.60	\$ 28,634.40
665-1-11	PEDESTRIAN DETECTOR, FURNISH & INSTALL, STANDARD	EA	8	\$ 324.52	\$ 2,596.16
670-5-111	TRAFFIC CONTROLLER ASSEMBLY, F&I, NEMA, 1 PREEMPTION	AS	1	\$ 28,167.79	\$ 28,167.79
684-1-1	MANAGED FIELD ETHERNET SWITCH, FURNISH & INSTALL	EA	1	\$ 4,375.71	\$ 4,375.71
685-1-13	UNINTERRUPTIBLE POWER SUPPLY, FURNISH AND INSTALL, LINE INTERACTIVE WITH CABINET	EA	1	\$ 7,281.60	\$ 7,281.60
700-1-50	SINGLE POST SIGN, RELOCATE	AS	3	\$ 377.21	\$ 1,131.63
700-5-21	INTERNALLY ILLUMINATED SIGN, FURNISH & INSTALL OVERHEAD MOUNT, UP TO 12 SF	EA	4	\$ 3,479.31	\$ 13,917.24
710-90	PAINTED PAVEMENT MARKINGS, FINAL SURFACE	LS	1	\$ 25,224.79	\$ 25,224.79
711-11-122	THERMOPLASTIC, STANDARD, WHITE, SOLID, 12" FOR CROSSWALK AND ROUNDABOUT	LF	420	\$ 6.50	\$ 2,730.00
711-11-125	THERMOPLASTIC, STANDARD, WHITE, SOLID, 24" FOR STOP LINE AND CROSSWALK	LF	218	\$ 6.50	\$ 1,417.00
711-14-125	THERMOPLASTIC, STANDARD, WHITE, SOLID, 24" FOR CROSSWALK	EA	4	\$ 75.00	\$ 300.00
711-16-125	THERMOPLASTIC, STANDARD-OTHER SURFACES, WHITE, SOLID, 6"	LF	48	\$ 14.21	\$ 682.08
711-16-201	THERMOPLASTIC, STANDARD-OTHER SURFACES, YELLOW, SOLID, 6"	GM	0.210	\$ 4,200.43	\$ 882.09
711-16-201	LUMINAIRE & BRACKET ARM- ALUMINUM, FURNISH & INSTALL NEW LUMINAIRE AND ARM ON NEW/EXISTING POLE	GM	0.160	\$ 4,276.83	\$ 684.29
715-5-5	LUMINAIRE & BRACKET ARM- ALUMINUM, FURNISH & INSTALL NEW LUMINAIRE AND ARM ON NEW/EXISTING POLE	EA	4	\$ 3,011.85	\$ 12,047.40
N/A	GEOTECH AND SUBSURFACE UTILITY EXPLORATION	EA	1	\$ 12,000.00	\$ 12,000.00
<b>CONSTRUCTION SUBTOTAL</b>					
<b>ENGINEERING DESIGN &amp; SURVEY FEES</b>					
<b>20% CONTINGENCY</b>					
<b>GRAND TOTAL WITH CONTINGENCY</b>					
				\$ 719,350.23	\$ 719,350.23
				\$ 84,536.21	\$ 84,536.21
				\$ 143,871.25	\$ 143,871.25
				\$ 947,763.69	\$ 947,763.69

**EXHIBIT "D"**  
**(Brevard County Concurrency Review #DR-21-08-03D)**

*Replaces DR-20-04-01-D*



Planning & Development Department  
2725 Judge Fran Jamieson Way, Bldg A, Suite 114  
Viera, FL 32940  
Phone: (321) 633-2070, Fax: (321) 633-2074  
[www.BrevardFL.gov/PlanningDev](http://www.BrevardFL.gov/PlanningDev)

**APPLICATION FOR CONCURRENCY EVALUATION**

**OFFICE USE ONLY**

District # 5 Segment # 210C Review # DR-21-08-03D

*NOTE: This application together with all required attachments shall be completed and submitted to the Planning & Development Department for Evaluation. The Project must have Concurrency Approval prior to making application for Site Plan, Subdivision Plat, Driveway Permit and/or a Right of Way Use Permit Submittal. A finding of Non-Deficiency only entitles the owner/applicant to apply for development permits pursuant to the time parameters established in the Concurrency Evaluation Ordinance (91-36).*

Owner Name DHIC-HAMMOCK LANDING, LLC

Owner Address 1341 Horton Circle, Arlington, TX 76011 and with a local address of 834 Highland Avenue, Orlando, FL 32803

Home Phone # Scott A. Glass, Esq. 407-835-6964 Work Phone # Matthew Mitchell, V.P., 407-725-1048

Email sglass@shutts.com and mmitchell@drhorton.com

Applicant/Company Name DHIC-HAMMOCK LANDING, LLC

Engineer Jake Wise, P.E., Construction Engineering Group, Inc.,

Address (Engineer's) 2651 W. Eau Gallie Blvd., Suite A Melbourne, FL 32935-4444

Phone # (Engineer's) 321-427-7455 Fax # n/a

Email jwise@cegengineering.com

**Property Description**

Township	Range	Section	Subdivision#	Block/Parcel	Lot
<u>28</u>	<u>37</u>	<u>19</u>	<u>00</u>	<u>252</u>	
<u>32.18+/-</u>	<u>West Melbourne R2</u>	<u>28-37-19-00-252</u>			
<u>Acreage</u>	<u>Zoning</u>	<u>Tax Parcel ID, Legal</u>			

**Proposed Development Information/Potential**

☒ Site plan submittal or Amendment Project Name Ascend at Hammock Landing Apartments  
☐ Subdivision plat submittal Nearest major road Minton Road and Norfolk Parkway



**Residential Uses (check all that apply)**

☐ Single-Family Houses Detached \_\_\_\_\_ du  
☐ Single-Family Homes Attached (duplex, triplex, condo, townhome) \_\_\_\_\_ du  
☒ Multi-Family Apartments (4 or more units/buildings) 300 du  
☐ Mobile/Manufactured Homes (lots & or acreage) \_\_\_\_\_ du  
☐ Recreational Homes (lots/sites & or acreage) \_\_\_\_\_ du

**Non-Residential Uses (check all that apply)**

☐ Bank (with or without drive-through) \_\_\_\_\_ sf  
☐ Church (all uses except classroom space) \_\_\_\_\_ sf  
☐ Convenience store (with gas sales, or without gas) \_\_\_\_\_ sf # of fueling positions/hoses \_\_\_\_\_  
☐ Hotel/Motel (# of rooms) \_\_\_\_\_ rm  
☐ Office \_\_\_\_\_ sf  
☐ Retail \_\_\_\_\_ sf  
☐ Restaurant (sit down indoor &/or outdoor seating) \_\_\_\_\_ sf  
☐ Restaurant (fast food with drive-through or without) \_\_\_\_\_ sf  
☐ Warehouse \_\_\_\_\_ sf  
☐ ACLF &/or Nursing Home \_\_\_\_\_ beds or rooms  
☐ Other \_\_\_\_\_ Size \_\_\_\_\_

Note: If project will be phased, or has multiple buildings, please give a breakdown showing the type and number of units in each phase or building. Phase # / Building #

300 multi-family apartment units to be developed in 12 buildings in one phase

**OFFICE USE ONLY**

☒ Fee of \$175 in Cash or Check \$87,500.00 drawn to the order of Brevard County BOCC  
☒ Potable Water Certificate or Reservation Provider West Melbourne Expires Waived  
☒ Sanitary Sewer Certificate or Reservation Provider City of West Melbourne Expires Waived  
☒ Solid Waste Certificate or Reservation Provider Brevard County Expires 8-12-2023  
☒ 1 Copy of Site Plan, Subdivision Plan or Concept Drawing with a General Statement  
 Received by Paul Body Date 8-12-2021 Receipt 622941  
☒ A finding of Non-Deficiency POS 34566  
 Applicant must Apply for and Receive Approval for Site Plan, Subdivision Plat, Driveway Permit and/or a Right of Way Use Permit with the Land Development Office prior to 2-12-2022  
☒ **APPROVED CONDITIONALLY**  
☐ Exempt per \_\_\_\_\_  
☐ A Finding of Deficiency  
☐ **DEFERRED OR DENIED**

Reviewed by Paul Body Date 8-12-2021 Title Planner

White: Office Original

Yellow: Land Development Copy

Pink: Applicant Copy

ORLDOCS 18492221 10



## Re: S.W. Corner of Hield and Minton Roads

From: Sue Shep (keepthefocus2003@yahoo.com)

To: danielle.stern@brevardfl.gov

Date: Friday, June 30, 2023 at 11:12 AM EDT

G.M.!

Thank you. I sincerely appreciate your assistance.

Have a safe weekend!

Susan Shepherd

[Sent from Yahoo Mail on Android](#)

On Fri, Jun 30, 2023 at 10:34 AM, Stern, Danielle  
<danielle.stern@brevardfl.gov> wrote:

Hi Sue and Ron,

See the email below. Sending this information to both you since you had similar questions regarding the prior planned improvements to the intersection. It also answers a few of Sue's questions regarding current signal timing and additional signage.

One thing not mentioned in reference to the Starbucks driveway situation is that the developer will need provide a thorough traffic analysis as well as demonstrate that this driveway would not cause major traffic impacts to Hield Road when submitting their right-of-way permit application to the County.

Let me know if I can be of any additional help.

Danielle Stern

Chief of Staff

District 5 County Commissioner Jason Steele

490 Centre Lake Drive NE

Suite 175

Palm Bay, FL 32907

(321)253-6611

**From:** Gumm, Corrina <corrina.gumm@brevardfl.gov>

**Sent:** Wednesday, June 28, 2023 3:31 PM

**To:** Stern, Danielle <danielle.stern@brevardfl.gov>

**Cc:** Roig, Janette <Janette.Roig@brevardfl.gov>; Brown, Charlene <Charlene.Brown@brevardfl.gov>; Jackson, Susan G <Susan.Jackson@brevardfl.gov>

**Subject:** RE: S.W. Corner of Hield and Minton Roads

Hi Danielle,

Looks like the City is in the process of annexing the subject properties on the SW corner, which means we won't be reviewing their site plan but they will still need to obtain a right-of-way permit from the County. When they submit an application for a permit, we will review all aspects of their proposed driveway.

The attached Impact Fee agreement is for the Hammock Landing development project on the east side of Minton. They are required to provide certain intersection improvements triggered by their development. We requested that they construct additional improvements to further improve traffic safety and provide additional capacity by constructing a left turn lane on Hield, which qualifies for traffic impact fee credits/reimbursement.

They were recently getting ready to start construction on these intersection improvements when they discovered a utility conflict, which requires that they provide an engineering design revision. I'm guessing that this will delay their start by a couple of months.

We will review the request for Do Not Block Intersection signage and schedule a time to observe traffic.

The traffic signal at Hield is coordinated with adjacent signals on Minton and also on Palm Bay Road to maximize the progression of traffic on both roads. Outside of peak hour traffic volume times, the coordination works well. However, during the PM peak hour, traffic backs up significantly westbound on Palm Bay Road and southbound on Minton Road. The bottleneck is at the intersection of Palm Bay and Minton. Improving traffic flow on Minton would cause a significant decline on Palm Bay Road, and vice versa. We do our best to maintain a good balance at this complex intersection.

Hope this helps! Let me know if I can be of further assistance.

Thanks,

Corrina

**Corrina Gumm, P.E.**

Traffic Operations Manager

Brevard County Public Works

Main: 321-455-1440

**From:** Stern, Danielle <[danielle.stern@brevardfl.gov](mailto:danielle.stern@brevardfl.gov)>

**Sent:** Wednesday, June 28, 2023 8:34 AM

**To:** Gumm, Corrina <[corrina.gumm@brevardfl.gov](mailto:corrina.gumm@brevardfl.gov)>

**Cc:** Roig, Janette <[Janette.Roig@brevardfl.gov](mailto:Janette.Roig@brevardfl.gov)>; Brown, Charlene <[Charlene.Brown@brevardfl.gov](mailto:Charlene.Brown@brevardfl.gov)>; Jackson, Susan G <[Susan.Jackson@brevardfl.gov](mailto:Susan.Jackson@brevardfl.gov)>

**Subject:** Fwd: S.W. Corner of Hield and Minton Roads

Hi Corinna,

This is from one of the Hield Road residents we met with yesterday regarding the Starbucks situation. Looks like she has more questions that maybe you can answer. Any help is appreciated!

Danielle

Get [Outlook for iOS](#)

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**From:** Sue Shep <[keepthefocus2003@yahoo.com](mailto:keepthefocus2003@yahoo.com)>

**Sent:** Tuesday, June 27, 2023 4:09:43 PM

**To:** Stern, Danielle <[danielle.stern@brevardfl.gov](mailto:danielle.stern@brevardfl.gov)>

**Cc:** Roig, Janette <[Janette.Roig@brevardfl.gov](mailto:Janette.Roig@brevardfl.gov)>; Susan Shepherd <[keepthefocus2003@yahoo.com](mailto:keepthefocus2003@yahoo.com)>

**Subject:** S.W. Corner of Hield and Minton Roads

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

Danielle and Janette,

Thank you so very much for taking the time to speak with us about the County Roads of Hield and Minton.

I understand from Michael Bramlett, Brevard County has yet to receive a site plan and/or land use documentation. We may need to revisit same with you once we do receive official documents.

Regarding our conversation on the Intersection of Ascend at Hammock Landing, Minton Road and Hield Road, please see the attached Traffic Agreement on the impact fees that were required of the developer and Brevard County in 2021 for road improvements.

**See pages:**

**2** References adopted Transportation schedule of Impact Fees, the calculated impact fee for the Project is **\$714,300.00**.

**5** References "... The estimated cost of the Intersection Improvements, including a 20o/o contingency allowance, is Nine Hundred Forty-Seven Thousand Seven Hundred Sixty-Three Dollars and Sixty-Nine Cents (**\$947,763.69**). Notwithstanding the above, Developer shall be responsible for payment of all costs of the Intersection Improvements under this Agreement."

**5** See Paragraph 4: "Developer's Share of Cost of Intersection Improvements and Permits". **\$417,963.79**

**455** Graph showing Minton Road at Hield Rd/Project

The directives of this Agreement was not started and never completed. Question is why?

Although Brevard County may not have any site plans/land use documents at this time, "Starbucks" on the S.W. corner of Minton and Hield was clearly mentioned to the residents that attended their initial Community Meeting.

**Regarding Intersection Vehicle Blockage:**

Is there any way a request can be made to have signs placed street-side North of Hield and Minton, saying "DO NOT BLOCK INTERSECTION"? This intersection is becoming increasingly more dangerous.

In the interim of the above discussions, is it possible to request the signal at this intersection to be re-sequenced to allow for better traffic flow?

Thank you again for your time. We very much appreciate it!

**Sincerely,**

**Susan Shepherd**

Em: [keepthefocus2003@yahoo.com](mailto:keepthefocus2003@yahoo.com)

( C): 321-698-6803

Street Address (NOT MAILING)

4212 Hield Road, NW

Palm Bay, FL 32907

Mailing Address:

P.O. Box 120177

West Melbourne, FL 32912-0177

**Susan** 

**We have this hope as an anchor for the soul, firm and secure. ---Hebrews 6:19**

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

**From:** [Judith Kuhman](#)  
**To:** [Champion, Kristen](#)  
**Subject:** April 4, 2024 Items G4 and G5 24SS00001 and 24Z00004  
**Date:** Monday, April 1, 2024 8:46:38 PM  
**Attachments:** [County 20240404\\_KC.pdf](#)

---

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

Ms. Champion -

Please find attached my letter of objection to the agenda items on the 04 April meeting.

Respectfully -  
Judith Kuhman  
1680 Willard RD NW  
Palm Bay, FL 32907

01 April 2024

Dear Ms. Champion -

Re: **West Malabar Properties, LLC (24SS00001) and (24Z00004) (Tax Account 2806110, 2806111, 2806115, 28081120) (District 5)**

Property requested small-scale comprehensive plan amendment from NC/RES 2 to CC and change of zoning classification from RP and AU to all BU-2 with a BDP.

My name is Judith Kuhman, and I am writing to you on behalf of myself and my husband, James. We are residents of Palm Bay residing at 1680 Willard RD NW just off Hield Rd. We are writing to express our **OBJECTIONS** to the Zoning Changes being requested by Mr. Cole Oliver on behalf of West Malabar Properties FROM NC/RES 2 and RP/AU to all BU2 with a BDP referenced above in **Brevard County (24SS00001) and (24Z00004) and on the 04 April agenda as G4 and G5.**

We are asking the county to act for the benefit of the citizens who live on and off Hield Rd. As our elected officials we ask that you invoke citizen activism and involvement where communities have a seat at the table with government officials and developers throughout the entire process. Please listen to our petitions.

The residents of Hield Rd to include West Melbourne and Palm Bay residents have been engaged with Mr. Oliver about his plans for the corner of Hield Rd and Minton Rd since May of 2023. Mr. Oliver approached the City of Palm Bay for rezoning proposing a high traffic '**STACKER**' Starbucks at the corner. This stacker concept would be the first model in Brevard and would allow Starbucks to increase their drive through capacity **3x** than any current Starbucks drive through. On 15 October 2023 the City of Palm Bay denied Mr. Oliver the zoning changes.

In our meeting with Mr. Oliver on 14 September 2023 he also informed us that he is an investor and has a financial benefit from winning and moving this development forward. In this same meeting, Mr. Oliver proposed the low traffic design of a storage facility to appease the residents for the high traffic development he proposed.

The proposed plans provided to residents illustrates residents traveling east on Hield Rd would be presented with a new northbound turn lane onto Minton and the option of continuing to travel east across Minton into the shopping center, Pineapple Cove or apartment complexes as well as turning south onto Minton from the same lane. The new plan appears to provide a porkchop turn from northbound Minton into the south side of the storage unit allowing traffic to flow behind the storage unit and out to Hield.

I ask the commission how you can assure the residents that once this is approved Mr. Oliver does not continue his proposed development of a high traffic business at the corner lot now currently designated as future BU1 development? As the situation appears that due to the City of Palm Bay denying Mr. Oliver and his client's initial request for rezoning he has now approached the county for rezoning. This is probably the step Mr. Oliver should have taken first. This situation appears as if the City of Palm Bay has passed it on to the higher authorities – the county commissioners to make the decision, and if passed Mr. Oliver can now approach the City of Palm Bay for utility rights. And sooner or later the big high traffic business like Starbucks is now on the corner.

Is Brevard county destined to turn into one big happy car-wash, dollar store, apartments, or coffee shops?

I hope as you read this letter that you may attempt to address and have Mr. Oliver address the residents' concerns. Is there anyone on this board and/or Mr. Oliver who can answer these questions? Residents are only allowed 3 minutes to speak, and we have no opportunity to ask members of this board or Mr. Oliver any additional questions. Does this benefit the residents who are the current taxpayers?

- Could the proposed traffic flow changes be projected and spoken to by Mr. Oliver so the residents could understand clearly his plan as the developer?
- How many cars traveling northbound on Minton will be allowed to back-up in the turn lane(pork chop)? While this turn lane may limit some illegal U-turns at the corner of Hield and Minton, they will still occur.

- Does his design plan for vehicles to exit out onto Hield as well as enter in from Hield? How far back from the corner does the ingress/egress set?
- Why that corner is identified as BU1 in the site plan when Mr. Oliver is requesting all BU2?
- Mr. Oliver is proposing a self-storage facility on one of the sites but note he has not marked any zoning type in the proposed site plan. Why?

It is impossible for this type of plan and a possible high traffic business not have an impact on infrastructure. The continued congestion at this intersection will continue and now congestion will be added by drivers now trying to exit on to Hield.

I invite any of you to come and witness the congestion at this intersection on weekdays between 1600-1800. I also request that the board urges and ensures that the traffic study at this corner is conducted at the hours of 1600-1800 weekdays, preferably when school is in session. The Avasa Apartments; ~300 apartments, estimating 600 more cars to the roadway. West Melbourne currently is developing a 55 single family residential community (~160 more vehicles) and another apartment complex 280 units (~560 vehicles) that will add traffic to Minton Rd. How much more traffic can Minton Rd handle? I have issues comprehending how government leaders have not fully understood the influx and poor quality of the road and traffic flow on Minton Rd. The City of West Melbourne or maybe Brevard County has unsuccessfully repaired the flyover and Minton Road. The roadway bubbles and spews white marl.

When are representatives of all municipalities going to stop and slow down and look at the impact of this constant shoving of multi residential units and businesses on every available parcel of land and realize that our infrastructure cannot handle and keep up without major changes to the services of current residents?

There are a lot of people living on Hield Road. Additionally, FPL has a substation West on Hield. They have their fleet of vehicles using Hield Road. There is a very large nursery West on Hield Road. Again, there are many trucks and vehicles using Hield Road often during peak times as well.

I recognize that Mr. Oliver has not proposed Starbucks or a high-traffic business in this site plan yet and I understand that Minton Road is a heavily traveled throughfare and that there are plenty of commercial properties currently on the roadway. I also recognize the possible tax revenue for all municipalities. We ask Brevard County is this business tax worth the safety, security and well-being of the residents who live on and off Hield Road?

I have read the Brevard County Staff comments and if I correctly understand the rezoning to BU2 would allow the self-storage facility to be built as possibly a three-story self-storage. The rezoning to BU2 would provide utilities to units to allow the use of businesses in the storage facility such as auto repair. The residents in our serene country setting could be inflicted with the potential for storage of heavy equipment, hazardous materials, and the use of running generators all day and night.

Do the commissioners not have concerns for the safety and preserving the privacy and character of our neighborhood? Is there not concerns of the effects of changing infrastructure and construction would have on existing residents? The heavy equipment required for construction will continue to erode the roadway at Hield Road and Minton Road, causing possible damage to infrastructure and resident's personal property, who will bear responsibility for these improvements?

Additional garbage trucks and purveyor's semis and box trucks making deliveries will also erode the roadway for any proposed future development like a coffee outlet.

Increase in noise pollution will impact neighbors closest to these businesses with the uptick of garbage pickups and possible delivery trucks. Noise from backup beeping of these vehicles, the release of air pressure, large diesel trucks, and the movement of dumpsters. Noise from any potential drive through conducting business in the early morning hours. If the storage facility is allowed to conduct businesses this will increase noise pollution, possible generators and or machinery if businesses are allowed to operate within.

Air and land pollution will be an impact to residents to include the smell of garbage, the smell of fuel from delivery trucks and increased traffic. The lack of respect for the residents in this area with customers littering the roadways and surrounding areas.

The increase of rodents to the area to include rats and raccoons.

Possible storage of hazardous materials, the leakage of gas from stored items and vehicles

Due to increased growth in our surrounding community, Hield Road invites curious drivers to explore. There are times residents have had to call the police on suspicious individuals and vehicles lurking around.

Having high traffic commercial businesses increased on that corner will only beg for more suspicious and at times, unlawful incidents.

Hield Road, as it is, is a well-traveled two-lane road. Hield Road residents are taxed heavily for the privilege of living on Hield Road in a rural –like environment with horses using the road, runners, and bicyclists as well. There are no sidewalks.

I'd like to remind the county representatives that I have also invested in my property off Hield Road, and I am concerned about the loss of revenue from the sale of my property in the future with unsightly structures and traffic congestion that is not safe or appealing to future residents.

I ask the Commissioners, why one single owner's petition should outweigh the residents who live here within the current property zones and have done so for many years?

We are respectfully asking you to please consider our concerns and objections for the reasons stated. What is being proposed will **ADVERSELY / NEGATIVELY** impact Hield Road residents, their safety, well-being and property values.

I also respectfully ask to make this letter a part of your records.

Very Respectfully –

• *James and Judith Kuhman*



**From:** [Commissioner, D1](#)  
**To:** [Champion, Kristen](#)  
**Cc:** [Pritchett, Rita](#); [Alward, Keith A](#); [Schmadeke, Adrienne](#)  
**Subject:** FW: April 4, 2024 Items G4 and G5 24SS00001 and 24Z00004  
**Date:** Tuesday, April 2, 2024 7:54:32 AM  
**Attachments:** [County 20240404 RP.pdf](#)

---

Good morning Ms. Champion,

On behalf of Commissioner Pritchett, attached and below is public comment received for 24SS00001 and 24Z00004.

Thank you for your support of her office.

Kind Regards,

*Adrienne Schmadeke*



**Adrienne Schmadeke**  
Legislative Aide  
Brevard County Commission, District 1  
Commissioner Rita Pritchett  
[321.607.6901](tel:321.607.6901) | [Adrienne.Schmadeke@brevardfl.gov](mailto:Adrienne.Schmadeke@brevardfl.gov)  
7101 S. US Hwy 1  
Titusville, FL 32780

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**From:** Judith Kuhman <jmkuhman@yahoo.com>  
**Sent:** Monday, April 1, 2024 8:45 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>  
**Subject:** April 4, 2024 Items G4 and G5 24SS00001 and 24Z00004

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

Commissioner Pritchett -

Please find attached my letter of objection to the agenda items on the 04 April meeting.

Respectfully -  
Judith Kuhman  
1680 Willard RD NW  
Palm Bay, FL 32907

01 April 2024

Dear Commissioner Pritchett -

Re: **West Malabar Properties, LLC (24SS00001) and (24Z00004) (Tax Account 2806110, 2806111, 2806115, 28081120) (District 5)**

Property requested small-scale comprehensive plan amendment from NC/RES 2 to CC and change of zoning classification from RP and AU to all BU-2 with a BDP.

My name is Judith Kuhman, and I am writing to you on behalf of myself and my husband, James. We are residents of Palm Bay residing at 1680 Willard RD NW just off Hield Rd. We are writing to express our **OBJECTIONS** to the Zoning Changes being requested by Mr. Cole Oliver on behalf of West Malabar Properties FROM NC/RES 2 and RP/AU to all BU2 with a BDP referenced above in **Brevard County (24SS00001) and (24Z00004) and on the 04 April agenda as G4 and G5.**

We are asking the county to act for the benefit of the citizens who live on and off Hield Rd. As our elected officials we ask that you invoke citizen activism and involvement where communities have a seat at the table with government officials and developers throughout the entire process. Please listen to our petitions.

The residents of Hield Rd to include West Melbourne and Palm Bay residents have been engaged with Mr. Oliver about his plans for the corner of Hield Rd and Minton Rd since May of 2023. Mr. Oliver approached the City of Palm Bay for rezoning proposing a high traffic '**STACKER**' Starbucks at the corner. This stacker concept would be the first model in Brevard and would allow Starbucks to increase their drive through capacity **3x** than any current Starbucks drive through. On 15 October 2023 the City of Palm Bay denied Mr. Oliver the zoning changes.

In our meeting with Mr. Oliver on 14 September 2023 he also informed us that he is an investor and has a financial benefit from winning and moving this development forward. In this same meeting, Mr. Oliver proposed the low traffic design of a storage facility to appease the residents for the high traffic development he proposed.

The proposed plans provided to residents illustrates residents traveling east on Hield Rd would be presented with a new northbound turn lane onto Minton and the option of continuing to travel east across Minton into the shopping center, Pineapple Cove or apartment complexes as well as turning south onto Minton from the same lane. The new plan appears to provide a porkchop turn from northbound Minton into the south side of the storage unit allowing traffic to flow behind the storage unit and out to Hield.

I ask the commission how you can assure the residents that once this is approved Mr. Oliver does not continue his proposed development of a high traffic business at the corner lot now currently designated as future BU1 development? As the situation appears that due to the City of Palm Bay denying Mr. Oliver and his client's initial request for rezoning he has now approached the county for rezoning. This is probably the step Mr. Oliver should have taken first. This situation appears as if the City of Palm Bay has passed it on to the higher authorities – the county commissioners to make the decision, and if passed Mr. Oliver can now approach the City of Palm Bay for utility rights. And sooner or later the big high traffic business like Starbucks is now on the corner.

Is Brevard county destined to turn into one big happy car-wash, dollar store, apartments, or coffee shops?

I hope as you read this letter that you may attempt to address and have Mr. Oliver address the residents' concerns. Is there anyone on this board and/or Mr. Oliver who can answer these questions? Residents are only allowed 3 minutes to speak, and we have no opportunity to ask members of this board or Mr. Oliver any additional questions. Does this benefit the residents who are the current taxpayers?

- Could the proposed traffic flow changes be projected and spoken to by Mr. Oliver so the residents could understand clearly his plan as the developer?
- How many cars traveling northbound on Minton will be allowed to back-up in the turn lane(pork chop)? While this turn lane may limit some illegal U-turns at the corner of Hield and Minton, they will still occur.

- Does his design plan for vehicles to exit out onto Hield as well as enter in from Hield? How far back from the corner does the ingress/egress set?
- Why that corner is identified as BU1 in the site plan when Mr. Oliver is requesting all BU2?
- Mr. Oliver is proposing a self-storage facility on one of the sites but note he has not marked any zoning type in the proposed site plan. Why?

It is impossible for this type of plan and a possible high traffic business not have an impact on infrastructure. The continued congestion at this intersection will continue and now congestion will be added by drivers now trying to exit on to Hield.

I invite any of you to come and witness the congestion at this intersection on weekdays between 1600-1800. I also request that the board urges and ensures that the traffic study at this corner is conducted at the hours of 1600-1800 weekdays, preferably when school is in session. The Avasa Apartments; ~300 apartments, estimating 600 more cars to the roadway. West Melbourne currently is developing a 55 single family residential community (~160 more vehicles) and another apartment complex 280 units (~560 vehicles) that will add traffic to Minton Rd. How much more traffic can Minton Rd handle? I have issues comprehending how government leaders have not fully understood the influx and poor quality of the road and traffic flow on Minton Rd. The City of West Melbourne or maybe Brevard County has unsuccessfully repaired the flyover and Minton Road. The roadway bubbles and spews white marl.

When are representatives of all municipalities going to stop and slow down and look at the impact of this constant shoving of multi residential units and businesses on every available parcel of land and realize that our infrastructure cannot handle and keep up without major changes to the services of current residents?

There are a lot of people living on Hield Road. Additionally, FPL has a substation West on Hield. They have their fleet of vehicles using Hield Road. There is a very large nursery West on Hield Road. Again, there are many trucks and vehicles using Hield Road often during peak times as well.

I recognize that Mr. Oliver has not proposed Starbucks or a high-traffic business in this site plan yet and I understand that Minton Road is a heavily traveled throughfare and that there are plenty of commercial properties currently on the roadway. I also recognize the possible tax revenue for all municipalities. We ask Brevard County is this business tax worth the safety, security and well-being of the residents who live on and off Hield Road?

I have read the Brevard County Staff comments and if I correctly understand the rezoning to BU2 would allow the self-storage facility to be built as possibly a three-story self-storage. The rezoning to BU2 would provide utilities to units to allow the use of businesses in the storage facility such as auto repair. The residents in our serene country setting could be inflicted with the potential for storage of heavy equipment, hazardous materials, and the use of running generators all day and night.

Do the commissioners not have concerns for the safety and preserving the privacy and character of our neighborhood? Is there not concerns of the effects of changing infrastructure and construction would have on existing residents? The heavy equipment required for construction will continue to erode the roadway at Hield Road and Minton Road, causing possible damage to infrastructure and resident's personal property, who will bear responsibility for these improvements?

Additional garbage trucks and purveyor's semis and box trucks making deliveries will also erode the roadway for any proposed future development like a coffee outlet.

Increase in noise pollution will impact neighbors closest to these businesses with the uptick of garbage pickups and possible delivery trucks. Noise from backup beeping of these vehicles, the release of air pressure, large diesel trucks, and the movement of dumpsters. Noise from any potential drive through conducting business in the early morning hours. If the storage facility is allowed to conduct businesses this will increase noise pollution, possible generators and or machinery if businesses are allowed to operate within.

Air and land pollution will be an impact to residents to include the smell of garbage, the smell of fuel from delivery trucks and increased traffic. The lack of respect for the residents in this area with customers littering the roadways and surrounding areas.

The increase of rodents to the area to include rats and raccoons.

Possible storage of hazardous materials, the leakage of gas from stored items and vehicles

Due to increased growth in our surrounding community, Hield Road invites curious drivers to explore. There are times residents have had to call the police on suspicious individuals and vehicles lurking around.

Having high traffic commercial businesses increased on that corner will only beg for more suspicious and at times, unlawful incidents.

Hield Road, as it is, is a well-traveled two-lane road. Hield Road residents are taxed heavily for the privilege of living on Hield Road in a rural –like environment with horses using the road, runners, and bicyclists as well. There are no sidewalks.

I'd like to remind the county representatives that I have also invested in my property off Hield Road, and I am concerned about the loss of revenue from the sale of my property in the future with unsightly structures and traffic congestion that is not safe or appealing to future residents.

I ask the Commissioners, why one single owner's petition should outweigh the residents who live here within the current property zones and have done so for many years?

We are respectfully asking you to please consider our concerns and objections for the reasons stated. What is being proposed will **ADVERSELY / NEGATIVELY** impact Hield Road residents, their safety, well-being and property values.

I also respectfully ask to make this letter a part of your records.

Very Respectfully –

- *James and Judith Kuhman*

**From:** [Mascellino, Carol](#)  
**To:** [Champion, Kristen](#)  
**Cc:** [Commissioner, D4](#); [Bellak, Christine](#); [Wines, Katie](#)  
**Subject:** Public Comment  
**Date:** Tuesday, April 2, 2024 8:10:34 AM  
**Attachments:** [Public Comment 24SS00001 & 24Z00004 Kuhman.pdf](#)  
[image001.png](#)  
[image002.png](#)

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Good morning Kristen,

On behalf of Commissioner Feltner, please see the attached public comment concerning 24SS00001 and 24Z00004 on the April 4, 2024 agenda.

Thank you.

Carol Mascellino, Chief of Staff  
County Commissioner Rob Feltner, District 4  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Building C, Suite 214  
Viera, FL 32940  
PH: 321-633-2044  
[www.brevardfl.gov](http://www.brevardfl.gov)

*Please note: Florida has a very broad public records law. Most written communications to and 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.*

01 April 2024

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Very Respectfully –

- *James and Judith Kuhman*

District 2 Disclosures  
4/4/2024 BOCC Zoning Meeting

**G.5. West Malabar Properties, LLC requests a change of zoning classification from RP and AU to all BU-2 with a BDP. (24Z00004) (Tax Account 2806110, 2806111, 2806115, 2808112) (District 5)**

- On 3/26/2024, received email from Kevin and Natalie Ward regarding the rezoning of the land at the southwest corner of Minton and Hield Roads in West Melbourne stating “please do not allow this to happen to our residential neighborhood”
- On 3/27/2024, received email from Suzanne Hickman with concerns regarding current traffic is causing a gridlock, future traffic on Minton south to Palm Bay Road will increase the gridlock, the potential for a fatal accident at the Minton and Hield intersection is almost inevitable if ingress and egress is granted for Hield Road for a high traffic business, and other concerns are emergency vehicles might have a difficult time entering or exiting Hield.
- On 3/31/2024, received e-mail from Michele Smith, expressing her opposition to this item.
- On 4/3/2024, received e-mail from Thomas Gillespie, expressing his opposition to this item.

**From:** [Tom Gill](#)  
**To:** [Champion, Kristen](#)  
**Subject:** Rezoning Notice: 24Z00004  
**Date:** Wednesday, April 3, 2024 2:28:00 PM

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

Thomas Gillespie  
3866 Hield Rd NW  
Palm Bay, FL 32907  
[GatorKiter@gmail.com](mailto:GatorKiter@gmail.com)  
321-223-6322

4/2/2024

RE: Opposition to Proposed New Access Road to Hield Rd

I am writing to express my strong opposition to the site plan related to rezoning # 24Z00004 which shows ingress and egress to Hield Road. The intersection of Hield Rd and Minton Rd is already problematic with long waits for Hield residents to enter and leave the neighborhood. There is only ONE access point in and out of the Hield Rd neighborhood and it is through this intersection. If a commercial business on this corner is allowed to create an access point to Hield Rd, the traffic problem will become worse, since the access point will be very close to this large intersection. This will create a deadlock with drivers trying to exit the business because traffic on Hield already backups up past the new access point.

Because of these reasons, the City of Palm Bay already disapproved this developer's zoning request due to his site plan showing access to Hield Rd. After getting disapproved, he is now asking the county for the same approval.

The zoning change does not support an essential capability such as a library, fire station or grocery store whose social benefit could override the needs of the 275 home owners in the Hield neighborhood.

I believe this particular project will have a significant negative impact on our community and would like to urge you to reconsider.

Solution:

The proposed businesses on Minton Rd should utilized Minton Rd for its ingress and egress.

Sincerely,

Thomas Gillespie

**From:** [suzanne hickman](#)  
**To:** [Champion, Kristen](#)  
**Subject:** Rezoning Notice 24Z00004  
**Date:** Wednesday, April 3, 2024 2:56:43 PM

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

Kristen Champion

RE: Rezoning Notice 24Z00004

Change and progress are inevitable! Having lived on one of the side streets off of Hield Road for 31 years, many changes have occurred. Stoplights installed at the intersection of Minton and Hield, Palm Crossings shopping area, and new businesses have opened on Hield to name a few.

Hield Road and the side streets comprise 275 homes in both West Melbourne and Palm Bay. There is one way in and one way out of this dual community. So, whatever effects home owners in one area ultimately effects all of the homeowners in this community.

With the increase in homes and apartments along Minton Road, the traffic volume has increased exponentially at this time. The current traffic is causing gridlock.

Since new apartments are still under construction and there are new home additions to be added to the gated communities that use Minton Road as an entrance, this gridlock will only increase. Many people will opt to pick up something from the store on their way home.

Mr. Oliver approached the city of Palm Bay first and was turned down after the mayor, Rob Medina, drove on Minton Road to assess first hand the current situation.

Now Mr. Oliver has gone to the county. In my estimation, he has no intention of putting a storage unit on that property. He wants a Starbucks in that location. If you were a business man, which would you choose to maximize your investment? The answer is pretty clear.

There are currently two Starbucks within 2 miles from the Hield property up for rezoning – Norfolk Parkway and Palm Bay Road.

The potential for a fatal accident at the Minton and Hield intersection is almost inevitable if ingress and egress is granted for Hield Road for a high traffic business. There is no guarantee that Mr. Oliver will not build a Starbucks if approval is given for the zoning.

I implore you to conceptualize the future traffic on Minton south to Palm Bay Road since there have been no improvements to that intersection.

Other concerns are emergency vehicles might have a difficult time entering or exiting Hield. There are no fire hydrants in this area.

Thank you for your time and consideration in this matter.

Regards,

Suzanne Hickman  
1553 Pinetree Lane NW  
Palm Bay, FL 32907  
321-212-9462  
r\_s\_hickman@msn.com

**From:** [Heather Norman](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#); [Stern, Danielle](#); [Gianella, Janette](#); [Champion, Kristen](#)  
**Subject:** County Resident - Application - 24Z00004 - Milton / Hield Rd - Melbourne - Live within 100 Ft  
**Date:** Thursday, April 4, 2024 8:13:33 AM

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

Good morning Board of County Commissioners,

I own 3030 Hield Rd, just across from the proposed land to be rezoned, Application - 24Z00004 - Milton / Hield Rd - Melbourne. I never received any notification in the mail from the county regarding the details of the rezoning. My property is within 100 Ft, and will have direct impacts which no one has contacted me about. Please respond to this email with any info I should have or mail to my address any info required, thanks.

I'm sure you are aware of the current issues/concern I wanted to add my own if I can, thank you.

My personal direct impact issues and concerns that will affect my property immediately are unlike the neighbors concerns. I have a few questions.

What is happening on my side with my property? Am I losing land as a result of the county accommodating the commercial owners?

What happens to my driveway? If Hield rd will be widened, will I now need possible new entrance or exit? Since it will be clear I will have trouble getting out of the driveway and resulting in a shorter driveway, less frontage.

Is the culvert going to be replaced?

Will my front yard now flood if they remove the culvert for sidewalks or widening?

During the rain season, water in the culvert gets very high and has come close to flooding my front yard. if proposed this water will now come closer to my house if not correctly mitigated.

What is the plan to divert water from the road and not affect my property?

As you already know, traffic is a big concern. Has a traffic study been done during a normal day? Every day, we see the daily traffic, cars backed up at the light, honking, and people screaming at each other. The redesign of this interception needs to be taken seriously. I would propose the county lawyers enter some agreement with the commercial owners to solve the major traffic issue.

Thanks,  
Heather Norman  
3030 Hield Rd  
Melbourne, FL, 32904  
email: koolpetsvt@yahoo.com  
mobile #: 802-578-2025



**From:** [Mascellino, Carol](#)  
**To:** [Champion, Kristen](#)  
**Cc:** [Commissioner, D4](#)  
**Subject:** Public Comment-24Z00004  
**Date:** Thursday, April 4, 2024 8:25:15 AM  
**Attachments:** [Public Comment 24Z00004 Gillespie.pdf](#)  
[image001.png](#)  
[image002.png](#)

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Good morning Kristen,

On behalf of Commissioner Feltner, please see the attached public comment concerning 24Z00004 for the April 4, 2024 agenda.

Thank you.

Carol Mascellino, Chief of Staff  
County Commissioner Rob Feltner, District 4  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Building C, Suite 214  
Viera, FL 32940  
PH: 321-633-2044  
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**From:** [Tom Gill](#)  
**To:** [Commissioner, D4](#)  
**Subject:** Rezoning Notice: 24Z00004  
**Date:** Wednesday, April 3, 2024 2:27:09 PM

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3866 Hield Rd NW

Palm Bay, FL 32907

[GatorKiter@gmail.com](mailto:GatorKiter@gmail.com)

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Solution:

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Sincerely,

Thomas Gillespie

From: [John Lee](#)  
To: [Carmeladoper\\_D3](#)  
Subject: Hield Rd Ingress/Egress Heild Rd  
Date: Thursday, April 4, 2024 12:56:12 PM

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

Please read this if you plan on allowing this to pass. I just pray that you don't have family or friends who live along Hield Rd. Their home will burn to the ground, or worse, someone will die because emergency vehicles won't be able to get to them. It's common knowledge that Minton Rd, is literally bumper to bumper during peak traffic times. I personally have waited thru 4 green lights before someone would make a space for me. If this is passed, it just makes sense that both lanes of Hield will get backed up. Emergency vehicles have no way of getting around this because the "shoulder" consists of ditches, culverts, mailboxes, etc. The mayor of Palm Bay denied this request because of safety concerns. Why would you not follow his lead for the safety of the people who elected you?

John and Sarah Lee  
4260 Orange Dr. (Heild Rd)  
Melbourne, FL 32904

**From:** [John Lee](#)  
**To:** [Commissioner.D4](#)  
**Subject:** Hield Rd. Ingress/Egress Hield Rd.  
**Date:** Thursday, April 4, 2024 12:57:43 PM

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John and Sarah Lee  
4260 Orange Dr. (Heild Rd)  
Melbourne, FL 32904

**From:** [Deb Boutin](#)  
**To:** [Champion, Kristen](#)  
**Subject:** Rezoning Notice: 24Z00004  
**Date:** Thursday, April 4, 2024 2:13:51 PM

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

Dear Kristen Champion,

Thank you for hearing our Hield Rd neighbors regarding an entrance onto Hield from a proposed building site. We appreciate your time.

Mr. Oliver will address the Starbucks again once he gets an inroad with the decision being made on April 4<sup>th</sup>. I have headlines from newspapers across the country regarding the traffic issues, accidents, and deaths that Starbucks drive-thrus have caused.

Currently, Hield Rd doesn't have a traffic issue itself. The issue is how busy Minton Road has become through the years and how awful it will be at the corner of Hield if there is an entrance onto Hield from the business they are wanting to put on our corner.

Please see traffic photos taken from the corner of Hield and Minton Rd.

The photos were taken between 4:00 and 6:45 in the evening. Some of them were taken sitting on Hield looking South towards Emerson and others looking north towards the overpass.

Photos were also taken from the apartment side of Minton looking towards the overpass where the cars are backed up and over the overpass. That photo was taken around 6pm.

Also included is a photo of Josh Cramer, the 24 yr. old motorcyclist that was killed at the corner of Hield in 2018, and that was before the additional traffic of the apartment buildings. He left a young son fatherless, along with the rest of his family members. We arrived shortly after the accident while his body was still lying in the road. His brother was screaming and his parents were wailing. I will never forget that sight. I'm teary as I write this.

I retired in 2020 after working for 30 years at Eastern Florida. Even then, the traffic would be backed up over 95 most of the time when I came home.

Thank so much for your consideration,

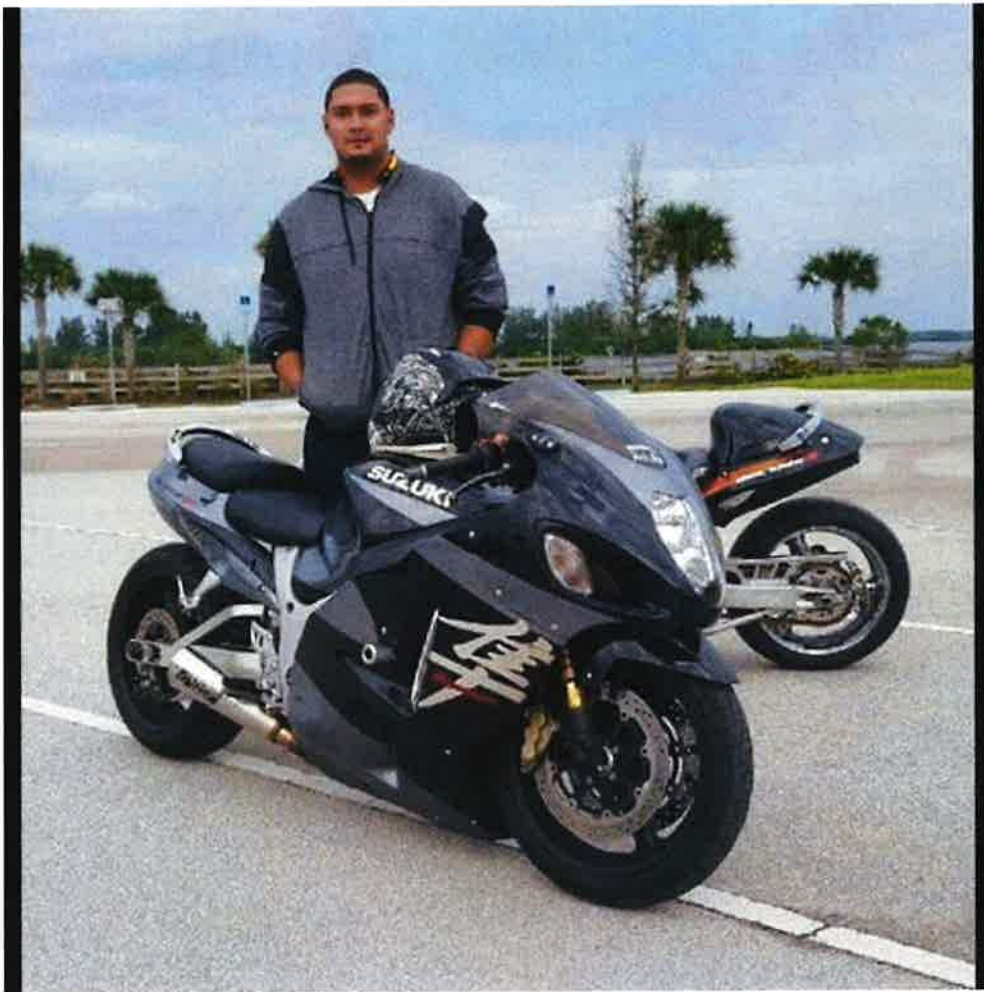
Debbie Boutin  
3966 Hield Rd

321-693-4397

















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**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**  
**COMMISSIONER JOHN TOBIA, DISTRICT 3**

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2539 Palm Bay Rd NE, Suite 4  
Palm Bay, FL 32905  
[www.Brevardfl.gov](http://www.Brevardfl.gov)

Phone: (321) 633-2075  
Fax: (321) 633-2196  
[John.Tobia@Brevardfl.gov](mailto:John.Tobia@Brevardfl.gov)

April 1, 2024

To: Kristen Champion  
From: John Tobia, Brevard County Commissioner, District 3  
Re: Meeting Disclosure

Ms. Champion,

Regarding the upcoming agenda items G.4 and G.5 on the Brevard County Zoning meeting on April 4, 2024, please be advised in advance that I spoke with the following party at the Viera Government Center, 2725 Judge Fran Jamieson Way, Viera, FL 32940, on March 12, 2024.

Cole Oliver

The meeting lasted approximately ten minutes, during which the above individual gave me a briefing regarding the upcoming request.

Sincerely,

John Tobia  
County Commissioner, District 3



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April 1, 2024

To: Kristen Champion  
From: John Tobia, Brevard County Commissioner, District 3  
Re: Meeting Disclosure

Ms. Champion,

Regarding the upcoming agenda items G.4 and G.5 on the Brevard County Zoning meeting on April 4, 2024, please be advised in advance that I met with the following parties at 9:00AM on March 18, 2024 at Starbucks, 6425 N. Wickham Rd, Melbourne, FL 32940.

Cole Oliver  
Malcolm Kirschenbaum

The meeting lasted approximately one hour, during which the above individuals provided me with details and information regarding the applicant's request.

Sincerely,

John Tobia  
County Commissioner, District 3



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**Commissioner Rob Feltner, District 4**

2725 Judge Fran Jamieson Way

Suite: C-214

Viera, FL 32940

Phone: (321) 633-2044

[D4.Commissioner@Brevardfl.gov](mailto:D4.Commissioner@Brevardfl.gov)

April 1, 2024

To: Kristen Champion

From: Rob Feltner, Brevard County Commissioner, District 4

Re: Disclosure – 24SS00001; 24Z00004: Tax Accounts: 2806110, 2806111, 2806115, 2808112

Concerning **24SS00001** and **24Z00004** on the April 4, 2024 Brevard County Zoning meeting agenda; on April 1, 2024, Commissioner Feltner had a telephone conversation with Mr. Cole Oliver, representative for West Malabar Properties, LLC. The conversation lasted approximately five minutes. Mr. Oliver asked if Commissioner Feltner had any questions about the project. The Commissioner had no questions.

Thank you.

Rob Feltner

Brevard County Commissioner

District 4



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April 2, 2024

To: Kristen Champion  
From: John Tobia, Brevard County Commissioner, District 3  
Re: Phone Disclosure

Ms. Champion,

Regarding the upcoming agenda items G.4 and G.5 on the Brevard County Zoning meeting on April 4, 2024, please be advised in advance that I spoke on the phone with the following party on April 2, 2024.

Cole Oliver

The call lasted approximately ten minutes, during which the above individuals provided me with updated information regarding the application.

Sincerely,

John Tobia  
County Commissioner, District 3



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April 3, 2024

To: Kristen Champion  
From: John Tobia, Brevard County Commissioner, District 3  
Re: Phone Disclosure

Ms. Champion,

Regarding the upcoming agenda items G.4 and G.5 on the Brevard County Zoning meeting on April 4, 2024, please be advised in advance that I spoke on the phone with the following party on April 3, 2024.

Cole Oliver

The call lasted approximately five minutes, during which the above individual answered some questions regarding the application.

Sincerely,

John Tobia  
County Commissioner, District 3



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