



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

10/22/2019

Subject:

JSFS Land Trust, Jacob and Faye Shapiro, Trustees (Kim Rezanka) request a change of zoning classification from RRMH-1 to RA-2-6. (19PZ00063) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to RA-2-6 (Single-Family Attached Residential).

Summary Explanation and Background:

The applicants are seeking a change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to RA-2-6 (Single-Family Attached Residential) on 9.79 acres located on the north side of Ranch Road, approximately 0.25 mile west of Grissom Parkway, for the purpose of developing a single-family townhouse subdivision.

The subject property currently retains the RES 4 (Residential 4) FLU (Future Land Use) designation, but the applicants are requesting RES 6 (Residential 6) through application 19PZ00062 for a companion Small Scale Comprehensive Plan Amendment.

The current RRMH-1 zoning classification permits singlefamily mobile homes and detached singlefamily residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet, and a 600 square-foot minimum house size. This classification permits horses, barns and horticulture as accessory uses.

The proposed RA-2-6 (Single-Family Attached Residential) classification permits singlefamily attached development at a density of up to 6 units per acre. RA-2-6 is intended to provide a transition between singlefamily detached zoning classifications and multifamily zoning classifications, permitting fee simple ownership of individual attached units.

The character of the area is primarily single-family residential, with a few acres of commercial zoning along Grissom Parkway, approximately 700 feet east of the subject property. Adjacent subdivisions retain the RU-1-13 (Single-Family Residential) and RU-1-7 (Single-Family Residential) zoning classifications and RES 4 (Residential 4) Future Land Use designation. There is no multi-family zoning in the area and the use does not

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act as a transition from commercial zoning.

Future Land Use Element Policy 1.2(C) requires that centralized potable water and sewer be available concurrent with the impact of the development in the Residential 6 Future Land Use designation. The subject parcel has access to City of Cocoa water. The applicant states that the site will be connected to the City of Titusville sewer, but has not yet memorialized that commitment within a BDP (Binding Development Plan). The City of Titusville provides sewer to the Cypress Woods subdivision which abuts the subject parcel to the north, east and west.

The parcel is located on the north side of Ranch Road, which is an unpaved road. Developing the site will require paved access and the closest paved road to the subject property is Falk Avenue. Paving Falk Avenue will bring the proposed development's traffic through the existing subdivision to the south to access Grissom Parkway. The maximum development potential from the proposed rezoning is anticipated to increase the proposed trip generation and could result in 552 trips per day and 44 trips during the PM peak hour. These additional trips are projected to increase trip generation on the Grissom Parkway corridor and operate at 65.59% of capacity daily. The requested action is not anticipated to create a deficiency in LOS on Grissom Parkway, but a significant number of trips are anticipated to go through the adjacent existing subdivision, if Ranch Road is not improved.

The Board should consider whether the requested single family attached residential zoning classification is consistent and compatible with surrounding developed single-family residential RU-1-13 and RU-1-7 subdivisions, nearby commercially zoned BU-1 parcels along Grissom Parkway, and within an area with a consistent Residential 4 (RES 4) Future Land Use designation.

The Board may also wish to consider whether a Traffic Impact Analyses indicating trip distribution from the site and the impact on surrounding local roadways would help to demonstrate whether the use is consistent and compatible with surrounding development.

On July 8, 2019, the Planning and Zoning Board tabled the request to the August 5, 2019, Planning and Zoning Board meeting at the request of the applicant.

On August 5, 2019, the Planning and Zoning Board voted 6:2 to approve the request with a BDP (Binding Development Plan) limited to a maximum of 49 units, the area marked as 425 on the conceptual plan submitted on 08/05/19 shall not be developed and shall be left in its natural state, and access shall be on Falk Road.

On October 3, 2019, the Board tabled the request to the October 22, 2019, meeting to allow refinement of a Binding Development Plan for the application. Staff will update the Board on the BDP prior to the meeting.

Clerk to the Board Instructions:

Once resolution is received, please have executed and return to the Planning and Development Department.



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

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

October 23, 2019

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item H.3., JSFS Land Trust, Jacob and Fay Shapiro, Trustees Request a Change of Zoning Classification from RRMH-1 to RA-2-6 (19PZ00063)

The Board of County Commissioners, in regular session on October 22, 2019, continued consideration of a request for a change of Zoning Classification from RRMH-1 (Rural Residential Mobile Home) to RA-2-6 (Single-Family Attached Residential), to the November 12, 2019, Board meeting.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

Cont
to 11-12-19

4th Draft

Prepared by: Kimberly Bonder Rezanaka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

H.3
Clerk's
copy

BINDING DEVELOPMENT PLAN (rev. 10/21/19)

THIS AGREEMENT, entered into this _____ day of _____, 2019, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Soho Development One, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the RA-2-6 zoning classification(s) and desires to develop the Property as townhomes, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successor or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit density to five (5) units per acre and height to

two (2) stories, inclusive of parking, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

3. The Developer/Owner shall have one ingress and egress from the Property to Ranch Road (a/k/a Kings Highway).

4. The Developer/Owner shall design, permit and construct improvements to Ranch Road to County standards to provide paved access from the Property project entrance to Grissom Parkway or any portion of Ranch Road paved to County standards that connects with Grissom Parkway. The Ranch Road improvements shall receive a certificate of completion prior to the issuance of a certificate of occupancy for any structure. ~~Notwithstanding the above, these improvements shall not include curb and gutter, piping of the north ditch, or sidewalks, and the pavement width required shall be no greater than twenty-two feet (22').~~ The proposed Ranch Road improvements shall be a twenty-two foot (22 ft.) flush shoulder roadway with an *minimum improvements to the existing open swale/ditch conveyance system, to the extent necessary for stormwater conveyance.* The Developer/Owner may be entitled to transportation impact fee credits or reimbursement for the costs of engineering, permitting and construction.

5. Developer/Owner shall not utilize the area marked as "425" on the attached concept plan, Exhibit "B", for any development and will leave it in its natural state unless required by any governmental agencies to remove invasive species or if Developer/Owner installs a buffer wall or fence. The concept plan does not vest or obligate the Developer/Owner to the improvements therein.

6. Developer/Owner shall provide and maintain a landscape buffer on the east and west portions of its Property where the townhomes abut the single-family detached dwellings to the east and west. The landscape buffer will be designed to screen **be opaque to the line-of-sight of** the single-family detached homes to the east and west of the Property from the **ground to the** view of the upper floor windows of the townhomes that face east and west. The landscape buffer shall ~~be designed to be opaque at the line-of-site from the townhome~~

foundation to the upper floor windows to the windows of adjacent single-family detached homes, within two (2) years of before certificate of occupancies of the townhome units are issued. ~~It is anticipated that~~ The landscape buffer will **may** include Silver or Black Bamboo, Silver Buttonwood, Fakatchee Grass and Muhly Grass. The landscape buffer may be placed in the 15' subdivision buffer, but this will not be known until the tree survey and topographical survey is completed. The landscape plan must be approved by the County.

7. The landscape buffer shall be installed by Developer/Owner before issuance of the any temporary or permanent certificate of completion. Developer/Owner shall be responsible for the continuing maintenance of the landscape buffer, until transfer to the Association that will maintain the common tracts, and will be required to post a maintenance bond or performance pursuant to County Code requirements as agreed with County Staff.

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

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

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

11. Violation of this Agreement will also constitute a violation of the Zoning

Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

12. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 11, above.

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

ATTEST

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi, Chair
As approved by the Board on: _____

WITNESSES:

Soho One Development, LLC

BY: _____

ITS: _____

(Witness Name typed or printed)

(Address)

STATE OF FLORIDA)
 > ss:
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 2019, personally appeared _____, as _____ of Soho One Development, LLC, who is personally known to me or who has produced _____ as identification, and who did/did not take an oath.

My Commission expires:
SEAL
Commission No.:

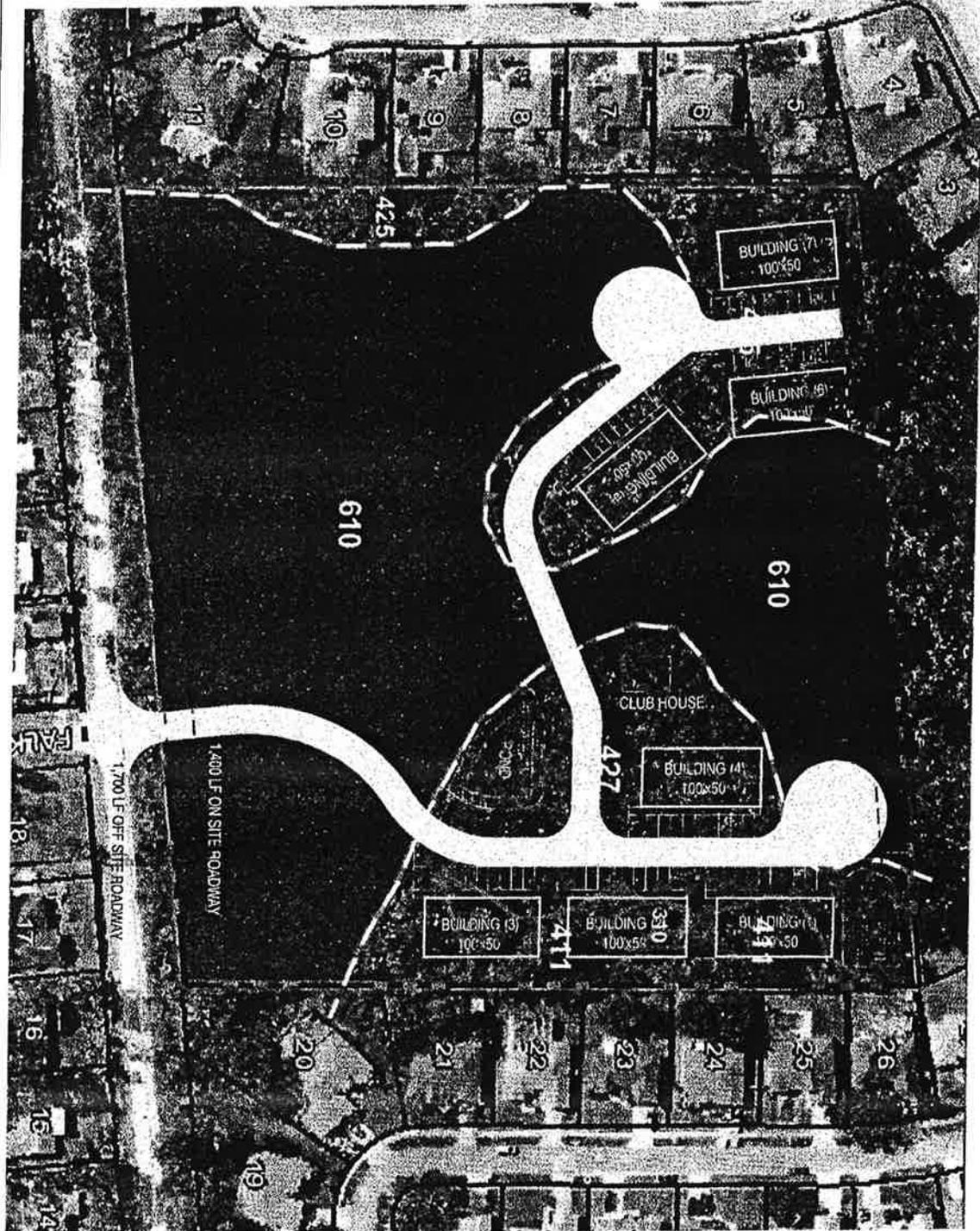
Notary Public

(Name typed, printed or stamped)

Legal Description

Parcel Id: 23-35-15-BB-*-147.01

**The East ½ of Tracts 147 and 150, Cocoa Indian River Properties,
according to the Plat thereof, as recorded in Plat Book 5, Page 7 of the
Public Records of Brevard County, Florida.**



CONCEPTUAL PLAN WITHOUT BENEFIT OF TOPOGRAPHIC OR BOUNDARY SURVEY.
SEE ENVIRONMENTAL REPORT FOR WETLAND IMPACTS.



PROJECT NO. CP-1	CONCEPTUAL SITE PLAN SOHO VILLAS PORT ST. JOHN, FL		REVISION TABLE <table border="1"> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </table>										CONCEPTUAL DESIGN WITHOUT THE BENEFIT OF A RECORDED SURVEY	ENGINEER'S LICENSE NO. 12104 PORT ST. JOHN, FL LICENSE NO. 12104 PORT ST. JOHN, FL LICENSE NO. 12104 PORT ST. JOHN, FL	
DATE: 11/11/11 DRAWN BY: JLM															

Exhibit "B"

Prepared by: Kimberly Bonder Rezanka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

Item H.3.
19PZ00063
JSFS/Shaprio
Submitted 10/21/19

BINDING DEVELOPMENT PLAN (rev. 10/21/19)

THIS AGREEMENT, entered into this _____ day of _____, 2019, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Soho Development One, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the RA-2-6 zoning classification(s) and desires to develop the Property as townhomes, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

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

2. The Developer/Owner shall limit density to five (5) units per acre and height to

two (2) stories, inclusive of parking, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

3. The Developer/Owner shall have one ingress and egress from the Property to Ranch Road (a/k/a Kings Highway).

4. The Developer/Owner shall design, permit and construct improvements to Ranch Road to County standards to provide paved access from the Property project entrance to Grissom Parkway or any portion of Ranch Road paved to County standards that connects with Grissom Parkway. The Ranch Road improvements shall receive a certificate of completion prior to the issuance of a certificate of occupancy for any structure. ~~Notwithstanding the above, these improvements shall not include curb and gutter, piping of the north ditch, or sidewalks, and the pavement width required shall be no greater than twenty-two feet (22').~~ The proposed Ranch Road improvements shall be a twenty-two foot (22 ft.) flush shoulder roadway with an *minimum improvements to the existing open swale/ditch conveyance system, to the extent necessary for stormwater conveyance.* The Developer/Owner may be entitled to transportation impact fee credits or reimbursement for the costs of engineering, permitting and construction.

5. Developer/Owner shall not utilize the area marked as "425" on the attached concept plan, Exhibit "B", for any development and will leave it in its natural state unless required by any governmental agencies to remove invasive species or if Developer/Owner installs a buffer wall or fence. The concept plan does not vest or obligate the Developer/Owner to the improvements therein.

6. Developer/Owner shall provide and maintain a landscape buffer on the east and west portions of its Property where the townhomes abut the single-family detached dwellings to the east and west. The landscape buffer will be designed to screen **be opaque to the line-of-sight of** the single-family detached homes to the east and west of the Property from the **ground to the view** of the upper floor windows of the townhomes that face east and west. The landscape buffer shall ~~be designed to be opaque~~ at the line-of-site from the townhome

foundation to the upper floor windows to the windows of adjacent single-family detached homes, within two (2) years of before certificate of occupancies of the townhome units are issued. It is anticipated that The landscape buffer will may include Silver or Black Bamboo, Silver Buttonwood, Fakatchee Grass and Muhly Grass. The landscape buffer may be placed in the 15' subdivision buffer, but this will not be known until the tree survey and topographical survey is completed. The landscape plan must be approved by the County.

7. The landscape buffer shall be installed by Developer/Owner before issuance of the any temporary or permanent certificate of completion. Developer/Owner shall be responsible for the continuing maintenance of the landscape buffer, until transfer to the Association that will maintain the common tracts, and will be required to post a maintenance bond or performance pursuant to County Code requirements as agreed with County Staff.

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

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

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

11. Violation of this Agreement will also constitute a violation of the Zoning

Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

12. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 11, above.

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

ATTEST

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi, Chair
As approved by the Board on: _____

WITNESSES:

Soho One Development, LLC

BY: _____

ITS: _____

(Witness Name typed or printed)

(Address)

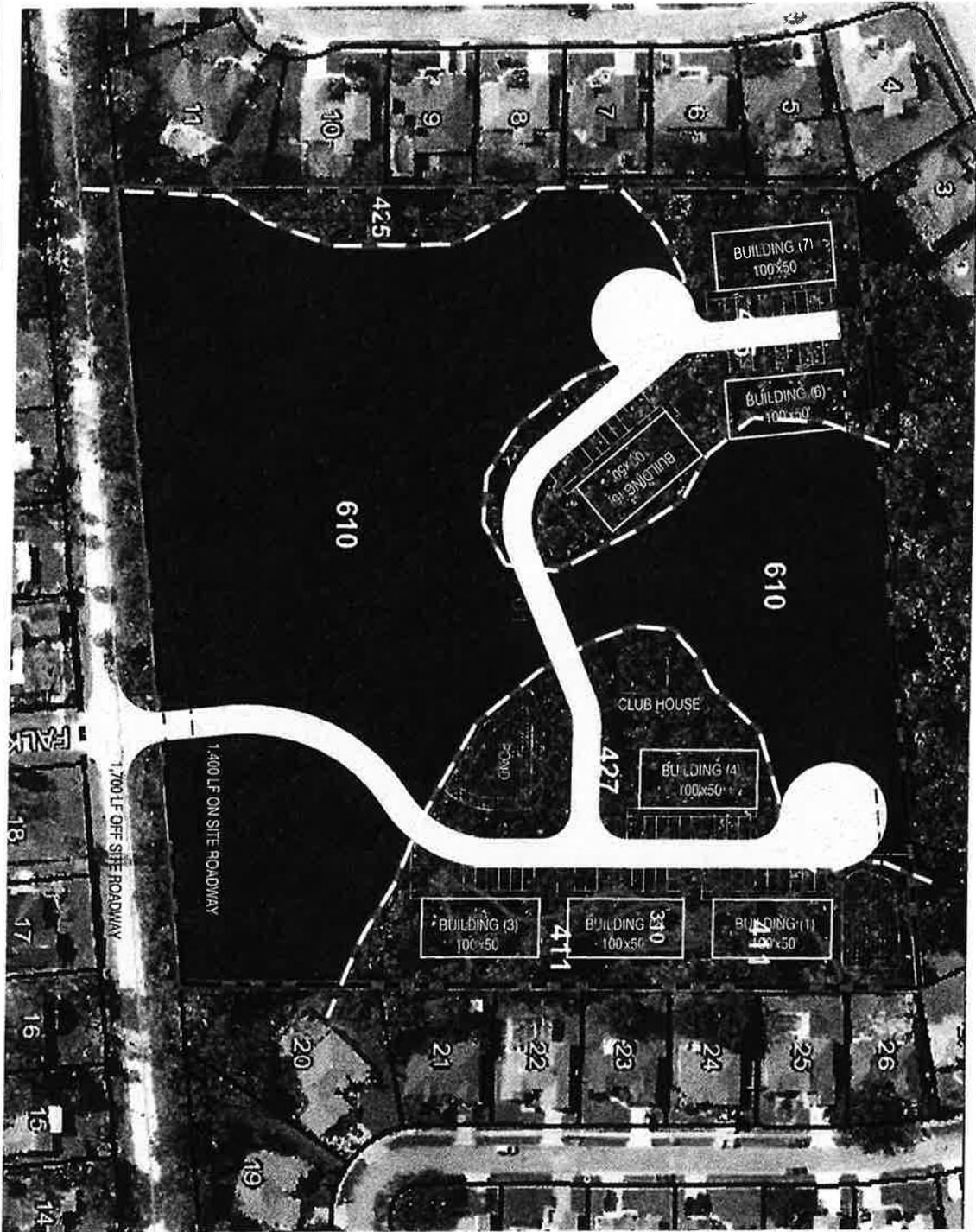
STATE OF FLORIDA)
 > ss:
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 2019,
personally appeared _____, as _____ of Soho
One Development, LLC, who is personally known to me or who has produced
_____ as identification, and who did/did not take an oath.

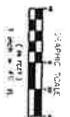
Notary Public

My Commission expires:
SEAL
Commission No.:

(Name typed, printed or stamped)



CONCEPTUAL PLAN WITHOUT BENEFIT OF TOPOGRAPHIC OR BOUNDARY SURVEY.
SEE ENVIRONMENTAL REPORT FOR WETLAND IMPACTS.



CP-1

CONCEPTUAL SITE PLAN
SOHO VILLAS
PORT ST. JOHN, FL

PROPOSED LABEL

CONCEPTUAL
DESIGN WITHOUT
THE BENEFIT OF
A RECORDED
SURVEY

STATE'S CHARTER STATE OF FLORIDA,
PROFESSIONAL ENGINEER LICENSE NO. 28377



Exhibit "B"

Prepared by: **Philip F. Nohr**
Address: **Gray|Robinson, P.A.**
1795 W. Nasa Blvd.
Melbourne, FL 32901

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 17th day of March, 2015, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and SPACE COAST CREDIT UNION, a State chartered credit union duly organized and existing under the laws of Florida (hereinafter referred to as "Developer/Owner"), and BAYTREE COMMUNITY DEVELOPMENT DISTRICT, a local unit of special purpose government established pursuant to Chapter 190, Florida Statutes (hereinafter referred to as "CDD").

RECITALS

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

WHEREAS, Developer/Owner has requested the PUD zoning classification(s) and desires to develop the Property as office buildings, pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements set forth in paragraphs 2 and 3 below. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest shall be responsible for the installation and maintenance of the landscape buffer described in paragraph 2, and that the Baytree Community Development District (CDD) shall be responsible for the maintenance of any landscape buffering planted per paragraph 3 below.

2. Developer/Owner shall provide and maintain a landscape buffer on the South portion of its Property starting fifty (50') feet west of its Southern Property corner with Baytree Drive and continuing West until approximately fifty (50') feet past the stormwater treatment pond where the Property turns North. This landscape buffer shall be installed by Developer on or before six (6) months from the date of issuance of the initial building permit for the Project. The buffer shall be a solid Landscape Buffer, and shall screen Buildings B through D shown on Exhibit "B" from the property to the South. Developer shall be responsible for the continuing maintenance of the Landscape Buffer. Developer shall provide the CDD with a copy of its landscape plans for the Landscape Buffer fifteen business (15) days prior to Developer formally submitting it to the appropriate governmental entity for approval.

3. Developer agrees to pay up to the sum of thirty (\$30,000.00) thousand dollars to the CDD for any buffering including, but not limited to landscape material, irrigation improvements, and design costs that the CDD plants on its land bordering the

land described in paragraph 2 above or for landscaping improvements to the Baytree Drive right-of-way north of the CDD security gate facilities.. Developer/Owner shall have no obligation to maintain any buffering or landscaping installed by CDD on CDD's property. The CDD, shall on or before one (1) year from the date the solid Landscape Buffer referenced in Paragraph 2 is completed, submit invoices or other reasonable documentation for the landscape buffering or other improvements installed as set forth in this paragraph 3 in support of any request for reimbursement up to thirty (\$30,000.00) thousand dollars, and Developer shall reimburse the CDD within thirty (30) days of receipt of the payment documentation.

4. A. Exhibit "C" depicts, among other things, the Traffic Improvements (TI) that the Developer shall make on Baytree Drive, including upgrades to the signalization at the intersection of Baytree Drive and Wickham Road and the addition of turn lanes to the Northbound portion of Baytree Drive just South of Wickham Road. Exhibit "C" also depicts the monument sign on Baytree Drive remaining, and Developer agrees not to remove the monument sign. County, pursuant to the terms of its Right-of-way Maintenance Bond Agreement to be entered into in connection with the TI permitting, shall take over, and be responsible for the maintenance of the Baytree Drive road and paving. At its cost and expense, Developer shall repair or replace with items or systems of equal or better quality where practical any landscape or hardscape materials, or irrigation, electrical or lighting fixtures damaged or adversely impacted as the result of the TI. With respect to any landscape material designated for removal as a result of the TI, Developer shall provide CDD with at least ten (10) days advance written notice prior

AFN

to removal to give CDD the opportunity to remove such landscape material, and use the same elsewhere within the CDD.

(B) Developer shall provide the CDD with a copy of TI plans for Baytree Drive only prior to Developer formally submitting it to the County for approval.

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

6. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in the Public Records of Brevard County, Florida, and a copy of said recorded instrument shall be sent by Developer to CDD upon recording.

7. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on December 4, 2014 as modified herein.

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

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

10. Any notices or communications to the CDD as required by this Agreement shall be sent to District Manager, c/o Government Management Services, 135 W. Central Boulevard, Suite 320, Orlando, Florida 32801.

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

[SIGNATURES TO APPEAR ON FOLLOWING PAGE]



ATTEST
Scott Ellis
 Scott Ellis, Clerk
 (SEAL)

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

[Signature]
 Print Name: Robin Fisher
 Print Title: Chairman
 As approved by the Board on 3-17-15

WITNESSES:

DEVELOPER/OWNER
SPACE COAST CREDIT UNION

[Signature]
GARY PRAGER
 (Witness Name typed or printed)

[Signature]
 Print Name: TIMOTHY U. ANTONIUCION
 Print Title: COO
 Address: 8045 N WICKHAM RD
WABORNE, FL 32940

[Signature]
Jan Boulay
 (Witness Name typed or printed)

STATE OF FLORIDA §
 COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 19 day of
 February, 2015 by Tim Antonucion,
COO of SPACE COAST CREDIT UNION, who is personally
 known to me or who has produced
 _____ as identification.

My commission expires
 SEAL

Commission No. 11111
 # 1295688
 2/17/15

 JILLIAN FRECKLETON-MCINTOSH
 Commission # FF 036468
 Expires September 21, 2017
 Bonded thru Troy Fair Insurance 800-365-7018

[Signature]
 Notary Public
Jillian Freckleton-McIntosh
 (Name, typed, printed or stamped)

WITNESSES:

Jeanne Moeller
Jeanne Moeller
(Witness Name typed or printed)

Philip F. Mohr
Philip F. Mohr
(Witness Name typed or printed)

BAYTREE COMMUNITY DEVELOPMENT DISTRICT

Maria Hernandez
Print Name: Maria Hernandez
Print Title: Chairperson of Board of Supervisors
Address: _____

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 19 day of February, 2015 by Maria Hernandez, Chairperson of Board of Supervisors of BAYTREE COMMUNITY DEVELOPMENT DISTRICT, who is personally known to me or who has produced her driver's license as identification.

My commission expires
SEAL
Commission No.

Jeanne M. Moeller
Notary Public
JEANNE M. MOELLER
(Name, typed, printed or stamped)

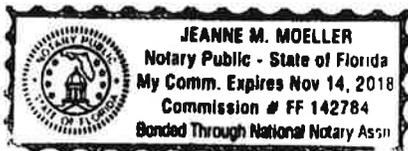


EXHIBIT "A"

PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 15, TOWNSHIP 26 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS; FROM THE NORTHEAST CORNER OF SAID SEC. 15, T. 26 S., R. 36 E., BREVARD COUNTY, FLORIDA, RUN S 1°01'30" E ALONG THE EAST LINE OF SAID SEC. 15 A DIST. OF 50.04 FT.; THENCE S 86° 42'00" W A DIST. OF 50.04- FT. TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF WICKHAM ROAD, SAID POINT BEING THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE RUN S 1°01'30" E PARALLEL WITH SAID EAST LINE OF SEC. 15 A DIST. OF 792.63 FT.; THENCE S 86° 42'00" W PARALLEL WITH THE NORTH LINE OF SEC. 15 A DIST. OF 930.00 FT.; THENCE N 1°01'30" W. A DIST. OF 792.63 FT. TO THE SOUTH R/W LINE OF WICKHAM ROAD. AS ESTABLISHED BY DEED RECORDED ON O.R.B. 407, PG.15, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE N 86°42'00" E. ALONG SAID SOUTH R/W LINE A DIST. OF 930.00 FT. TO THE P.O.B.

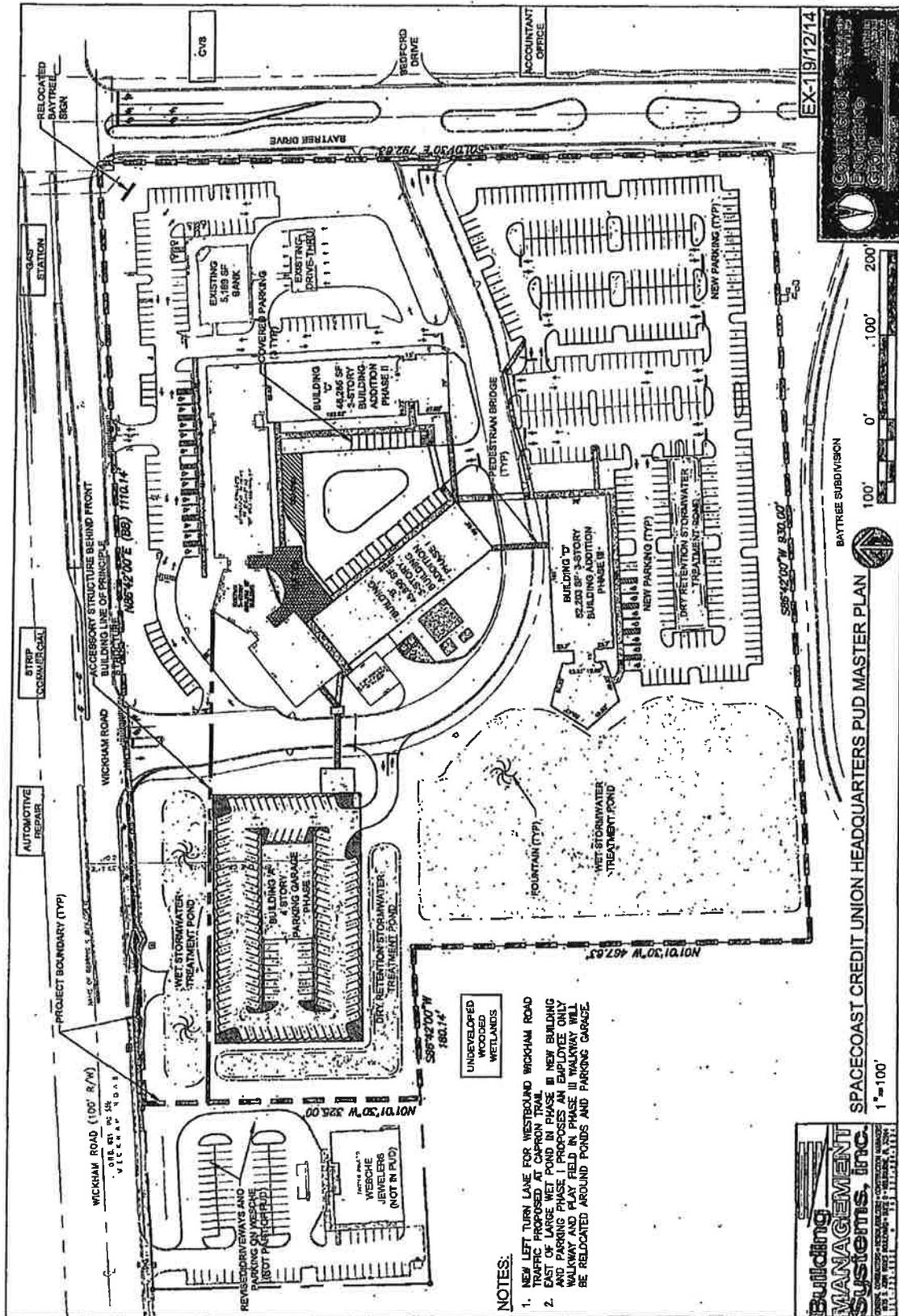


EXHIBIT "B"

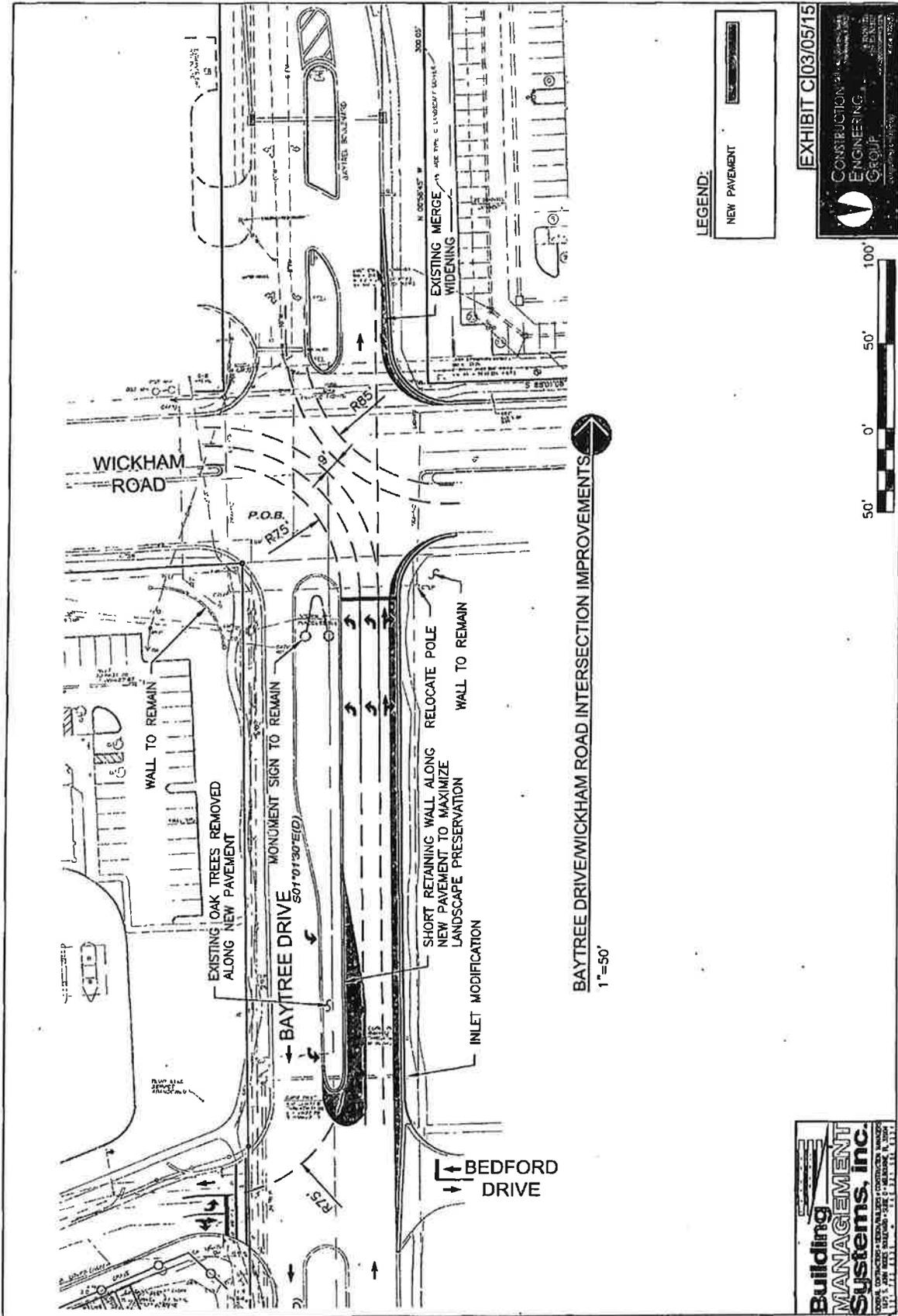


EXHIBIT "C"

Building Management Systems, inc.
 CONSULTING ENGINEERS & ARCHITECTS
 1111 W. 11th Street, Suite 100, Portland, OR 97201
 TEL: 503.228.1111 FAX: 503.228.1111

CONSTRUCTION ENGINEERING GROUP
 1111 W. 11th Street, Suite 100, Portland, OR 97201
 TEL: 503.228.1111 FAX: 503.228.1111

EXHIBIT C/03/05/15

RFN

Brevard County Board of County Commissioners Meeting

October 22, 2019

- PRESENTED ON BEHALF OF -

JSFS LAND TRUST, JACOB & FAYE SHAPIRO, TRUSTEES

Item H2 – Request for a Small-Scale Comprehensive Plan Amendment
to change the Future Land Use designation from
Residential 4 to Residential 6. (19PZ00062) (District 1)

AND

Item H3 – Requests a Change of zoning classification
from RRMH-1 to RA-2-6 (19PZ00063) (District 1)

KIMBERLY BONDER REZANKA, ESQ.
Cantwell & Goldman, P.A.
96 Willard Street, Suite 302
Cocoa, FL 32922

Account (1234567)



- 4 American Homes 4 Rent Properties - 63 ft to prop. line
- 5 Philman, Leschitz - 36' 18" pool to prop. line
- 6 Swindal - 42' to prop. line
- 7 Stuart - 31' to prop. line

- 27 Riggins - 32' to prop. line
- 26 Hoffman - 43' 17" pool to prop. line
- 25 Tabb - 44' 21" pool to prop. line
- 24 Miller - 36' to prop. line
- 23 Hudson - 41' to prop. line
- 22 Todd - 46' 24" pool to prop. line
- 21 Jones - 34' to prop. line

Search
 Layers
 Settings
 Account

Kimberly Rezanka

From: Mcgee, Darcie A <Darcie.Mcgee@brevardfl.gov>
Sent: Friday, October 11, 2019 11:52 AM
To: Calkins, Tad; Elmore, Amanda T; Ragain, Rebecca; Allen, Jeanne; Ball, Jeffrey; Kimberly Rezanka
Subject: Shapiro BDP Points
Importance: High

All,

Kim & I just spoke and came up with some ideas agreeable to both of us. So in the BDP...

- First floor has garage and living space, second floor living space. So max is two floors from grade (we did not speak to feet, so if they plan 12' vaulted ceilings, that could affect line of sight (LOS)).
- Minimum 15' tract with landscaping sufficient to provide opacity at a height to be determined at permitting, and within two years. This will be based on what the actual LOS will be, and will be included into the back windows of the adjacent homes. We didn't discuss if it should be 50%, 75%, or 100% at two years. We don't want to get in a position again where we are giving false expectations to the neighbors.
- If it is determined that additional width or height is required for this opacity buffering, it will be provided at site planning. Any extra width will be included in the tract so that the HOA can maintain and we can enforce.
- Existing native vegetation preservation is be the priority, unless it does not adequately buffers and need to be augmented.
- The buffer tracts shall be maintained by HOA, and meet the opacity and planting requirements of Sec. 62-4342 and Appendix B of the Brevard County Landscaping, Land Clearing and Tree Protection Code, as may be amended.
- Eight foot high fence for ground level opacity required where applicable.
- A performance bond shall be provided pursuant to Section 62-4341 (17) of the Brevard County Landscaping, Land Clearing and Tree Protection Code, as may be amended; and after the two year period, the buffer tract shall be reassessed by the County for opacity. Deficiencies shall be resolved, or the performance bond shall be forfeited. Maintenance in perpetuity of all landscaping, whether preserved or newly planted is required pursuant to Sec. 62-4343 of the Brevard County Landscaping, Land Clearing and Tree Protection Code, as may be amended.

I reiterate that I only spoke for NRM, not P&D, and I am rushing out to another meeting. So please raise your hand if I forgot something important or you think alternate requirements should be included. Kim is writing this up for our review.

Thanks!

DM

Darcie McGee
Assistant Director, Environmental Protection

Sec. 62-1255. - Establishment of zoning classifications and consistency with comprehensive plan.

(a) *Zoning classifications established.* Within the unincorporated areas of the county, the following zoning classifications are hereby established, such zoning classifications being created under this article or being zoning classifications incorporated by reference under this article:

(1) Unimproved, agricultural and residential zoning classifications:

- a. General use zoning classification, GU.
- b. Productive agricultural zoning classification, PA.
- c. Agricultural zoning classification, AGR.
- d. Agricultural residential zoning classification, AU.
- e. Rural estate use residential zoning classification, REU.
- f. Rural residential zoning classification, RR-1.
- g. Suburban estate residential use zoning classification, SEU.
- h. Suburban residential zoning classification, SR.
- i. Estate use residential zoning classifications, EU, EU-1 and EU-2.
- j. Single-family residential zoning classifications, RU-1-13 and RU-1-11.
- k. Single-family residential zoning classification, RU-1-9.
- l. Single-family residential zoning classification, RU-1-7.
- m. Single-family attached residential zoning classifications, RA-2-4, RA-2-6, RA-2-8 and RA-2-10.
- n. Residential-professional zoning classification, RP.

(2) Multiple-family residential zoning classifications:

- a. Low-density multiple-family residential zoning classifications, RU-2-4, RU-2-6 and RU-2-8.
- b. Medium-density multiple-family residential zoning classifications, RU-2-10, RU-2-12 and RU-2-15.
- c. High-density multiple-family residential zoning classification, RU-2-30.

(3) Mobile home residential and recreational vehicle park zoning classifications:

- a. Rural residential mobile home zoning classifications, RRMH-1, RRMH-2.5 and RRMH-5.
- b. Single-family mobile home zoning classifications, TR-1 and TR-1-A.
- c. Single-family mobile home zoning classification, TR-2.
- d. Mobile home park zoning classification, TR-3.
- e. Single-family mobile home cooperative zoning classification, TRC-1.
- f. Recreational vehicle park zoning classification, RVP.

(4) Planned unit development zoning classifications:

- a. Planned unit development zoning classification, PUD.
- b. Residential planned unit development zoning classification, RPUD.

(5) Commercial zoning classifications:

- a. Restricted neighborhood retail commercial zoning classification, BU-1-A.
- b. General retail commercial zoning classification, BU-1.

- c. Retail, warehousing and wholesale commercial zoning classification, BU-2.
- (6) Tourist commercial and transient commercial zoning classifications:
 - a. General tourist commercial zoning classification, TU-1.
 - b. Transient tourist commercial zoning classification, TU-2.
- (7) Industrial zoning classifications:
 - a. Planned business park zoning classification, PBP.
 - b. Planned industrial park zoning classification, PIP.
 - c. Light industrial zoning classification, IU.
 - d. Heavy industrial zoning classification, IU-1.
- (8) Special zoning classifications:
 - a. Environmental area zoning classification, EA.
 - b. Government managed land zoning classification, GML.
 - c. Institutional zoning classification, IN.
- (b) *Consistency of zoning classifications with comprehensive plan.* The 1988 county comprehensive plan establishes specific future land use designations, which are depicted on the future land use map within the future land use element. The future land use element also has policies and criteria which delineate how the various designations shall be applied. The zoning classifications depicted on the official zoning map of the county shall be consistent with the future land use map and the policies and criteria relating to the application of future land use designations on the future land use map.
 - (1) *Future land use designations.*
 - a. *Residential.* Residential uses include single-family detached, single-family attached, multiple-family, recreational vehicle park and mobile home developments.
 - 1. Residential 30:
 - A. Maximum, unless otherwise provide herein: 30 units per acre.
 - B. Merritt Island redevelopment area: Development containing a mixture of uses: 50 units per acre per policy 1.3(B)(2) of the Future Land Use Element.
 - C. Redevelopment district: 37.5 units per acre per policies 1.3(B)(1) and 11.2(F) of the Future Land Use Element.
 - D. Planned unit development: 37.5 units per acre per policy 1.3(C) of the Future Land Use Element.
 - 2. Residential 15:
 - A. Maximum, unless otherwise provide herein: 15 units per acre.
 - B. Redevelopment district: 18.75 units per acre per policy 11.2(F) of the Future Land Use Element.
 - C. Planned unit development: 18.75 units per acre per policy 1.4(E) of the Future Land Use Element.
 - 3. Residential 10:
 - A. Maximum, unless otherwise provide herein: 10 units per acre.
 - B. Redevelopment district: 12.5 units per acre per policy 11.2(F) of the Future Land Use Element.

- i. *Public conservation.* Conservation land uses include lands under the ownership of the county, the St. Johns River Water Management District or other such agencies for the purpose of environmental protection and lands within the environmental area (EA) zoning classification. Residential densities shall not exceed one unit per 50 acres.
 - j. *Private conservation.* Conservation land uses include lands under private ownership and are zoned (EA) zoning classification. Residential densities shall not exceed one unit per ten acres.
 - k. *Developments of Regional Impact (DRI).* DRI land uses include lands that have an adopted Development Order pursuant to the requirements of Chapter 380, Florida Statutes, Chapters 9J-12 and 28-24 Florida Administrative Code and applicable local ordinances.
- (2) *Consistency with future land use map.* The following table depicts where the various zoning classifications can be considered based upon the geographic delineation of future land uses on the future land use map and locational criteria defined in the policies of the future land use element of the 1988 county comprehensive plan. Where an application for a change of residential zoning classification is not consistent with the residential future land use map designation as depicted on the following table, the rezoning may be considered if the applicant limits the project to a density equal to or less than the maximum density threshold for the subject property.

EXHIBIT A. CONSISTENCY OF ZONING CLASSIFICATIONS WITH FUTURE LAND USE MAP SERIES

Zoning Classifications	Land Use Designations																				
	Agric	Res 1:2.5	Res 1	Res 2	Res 4	Res 6	Res 10	Res 15	Res 30	NC	CC	PI	H/L	PUB	REC	PR CON	PUB CON				
GU, PA, AGR, RRMH-5, PUD, RPUD, RVP	Y									Y*		PI	H/L	PUB	REC	PR CON	PUB CON				
AU, REU, RRMH-2.5	N	Y									Y*		PI	H/L	PUB	REC	PR CON	PUB CON			
ARR, RR-1, SEU, RRMH-1	N		Y									Y*		PI	H/L	PUB	REC	PR CON	PUB CON		
SR, TR-2	N			Y									Y*		PI	H/L	PUB	REC	PR CON	PUB CON	
EU, EU-1, EU-2, RU-1-13, RU-1-11, TR-1, RA-2-4, RU-2-4	N				Y									Y*		PI	H/L	PUB	REC	PR CON	PUB CON

Sec. 62-4342. - Landscape buffers.

The purpose of the vegetative buffering requirements set out in this section is to provide visual and physical screening and buffering between potentially incompatible uses and to reduce the effects of glare, noise and incompatible activities, to include commercial, institutional, public, and industrial uses when they abut existing residential uses.

- (1) *Type A, compatibility buffer.* Where a fence or wall is required by article VI of this chapter, the Type A buffer, as defined in this subsection, may be utilized in lieu of the required fence or wall. This buffer classification shall be used to separate commercial, institutional, public or industrial uses from residential uses. The Type A buffer shall be completely opaque from the ground up to a height of at least six feet, except where located within 25 feet of a road, where it shall be four feet in height. In conjunction with this buffer, a minimum 20-foot vegetated area shall be provided. There shall be no parking or structures other than permitted signage located within this vegetated area.
 - a. The opaque buffer may utilize a masonry wall, wood fence, landscaped earth berm, planted or existing vegetation or any combination thereof that maintains a completely opaque buffer.
 - b. Location of fences and walls. Where a fence or wall is used to fulfill the screening requirements within a vegetative buffer, it shall be located one foot inside of the property line that abuts the residential zoning. When an impediment such as a drainage easement, ditch or water body runs along a property line, an administrative waiver may be granted by the director to allow the masonry wall or fence to be placed along the edge of the ditch or water body instead of on the property line. Where there are existing trees within the buffer area, the fence or wall shall be located so as to preserve the trees.
- (2) *Type B, roadway buffer.* This buffer classification shall be required for all development excluding individual single-family homes not within platted subdivisions. This buffer shall be landscaped, be located adjacent to any public road and have a minimum width of 15 feet. There shall be no parking or structures other than permitted signage located within this vegetated area.
- (3) *Planting requirements.* The planting requirements for the vegetative buffer areas shall be consistent with Appendix B as amended, and shall be credited toward the overall landscaping requirements. Minimum buffering and landscaping of vehicular use areas shall be met regardless of other requirements.

(Ord. No. 06-55, § 13, 10-24-06; Ord. No. 08-01, § 11, 1-8-08; Ord. No. 09-24, § 9, 9-15-09)

MARKER 24 SUBDIVISION / WAIVER OF BUFFER

Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940



New Business - Development and Environmental Services Group

J.1.

10/22/2019

Subject:

Waiver of Subdivision Perimeter Buffer, Re: Marker 24 Subdivision (19WV00009) (District 2)
Developer: Marker 24 Development, LLC

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

The applicant is seeking a waiver to Section 62-2883(d) which requires a 15-foot perimeter buffer, platted as a common tract separate from individual lots. Instead, they wish to provide a 15-foot landscaped tree preservation easement within the proposed lots along the subdivision perimeter adjacent to the neighboring lots, and a 10-foot landscape and hardscape easement along the northern boundary abutting Wendy Drive. Where the development abuts the existing marina, new lots will be buffered by stormwater management areas.

Summary Explanation and Background:

Section 62-2883(d) requires that subdivisions provide a minimum 15-foot buffer tract along all property boundaries, platted as a common tract, separate from individual lots. The buffer tract is intended to provide separation and screening between the boundaries of residential developments in a natural and undisturbed state, or landscaped with county approval.

Marker 24 subdivision is a new subdivision proposed east of Newfound Harbor Drive, off of Jaren Avenue, containing 15 single family lots on 6.17 acres. The proposed subdivision is a private, gated infill development, located on property that was formerly included in a marina. The lots are required a 20-foot rear yard setback to be measured from the buffer tract. The applicant is requesting to provide a 15-foot landscaped tree preservation easement and rear lot drainage instead of the required 15-foot perimeter buffer tract where the development abuts existing lots, thereby reducing the separation between the proposed houses and the existing development by 15 feet.

By granting this waiver the Board understands that the landscaped 15-foot tree preservation easement will be within the 20-foot rear yard setback, and not in addition to it. As a result, new homes can be built within 20 feet of the existing properties' lot lines without the benefit of a 15-foot buffer tract on the new development. In addition, the easement will encumber 15 feet of the lots, not leaving room for accessories such as pools, sheds, etc. Other observations for this request include:

- Existing homes in this area were built prior to the requirements of Section 62-2883(d), and do not

976

BREVARD COUNTY LAND DEVELOPMENT WAIVER APPLICATION

This form should be used for all waiver requests or appeals associated with the Code of Ordinances, Section 62 as it relates specifically to Unpaved Roads, Subdivisions, Minor Subdivisions, and Site Plans.

APPLICATION TYPE

- SUBDIVISION WAIVER
 UNPAVED ROAD WAIVER
 SITE PLAN WAIVER
 OTHER

Land Development Use Only

Request Date: 6/14/2019 Fees \$ 775.00 Board Date: _____
Original Project # 18SD00008 Waiver # 19WV00009
Coordinator Initials: R Reference Files: _____
County Manager/Designee approval _____

Tax Parcel Identification: Twp. 25S Rng. 37E Sec. 06 S/D _____ Blk/Par _____ Lot(s) _____ (List all parcels)

Tax Account # ('s): 2514605, _____, _____ (List all account numbers)

Project Name: Marker 24 Residential Property Owner: Marker 24 Development, LLC

Site Address: S. Banana River Dr. Merritt Island, FL

ALL CORRESPONDENCE TO BE PROVIDED TO APPLICANT AT THIS ADDRESS:

Name: Yane Zana Company: Marker 24 Development, LLC

Address: 2061 Indian River Boulevard E-Mail yzana@coastmark.com

City: Vero Beach State FL Zip 32960

Phone (772) 532-3418 Fax _____ Cell _____

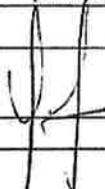
ENGINEER/CONTRACTOR (if different from applicant):

Company Name: B.S.E. Consultants, Inc Eng. or Proj. Mgr.: Scott M. Glaubitz, P.E., P.L.S.

Address: 312 S. Harbor City Blvd. #4 Melbourne, 32901 Ph # (321) 725-3674 Fax (321) 723-1159

DESCRIPTION OF WAIVER REQUEST AND CODE SECTION:

Section 62-2883(d) - Waiver of 15-foot perimeter buffer tract to an easement along portions of the property.

Owner/Applicant Signature:  Print Name: Yane Zana

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

Fees for Waivers are \$775.

APPLICATION FEES: A schedule of fees and charges for review is established and adopted by the Board of County Commissioners of Brevard County, Florida, and may, from time to time, be amended.

PLEASE MAKE CHECKS PAYABLE TO: THE BOARD OF COUNTY COMMISSIONERS

LAND DEVELOPMENT APPLICATIONS – DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application	Waiver Criteria below	Alternative Plan Design				8 1/2 x 11 vicinity map		Fees
Waiver - Site Plan	1	Y	-		-	-	1	-	Y
Waiver - Subdivision	1	Y	-				1		Y

WAIVER CRITERIA (SUBDIVISION, UNPAVED ROADS & SITE PLANS)

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

- The particular physical conditions, shape or topography of the specific property involved causes an undue hardship to the applicant if the strict letter of the code is carried out.
A strict application of the code will provide no additional benefit to the County, surrounding properties or the Applicant. The project is an in-fill project, with development and water surrounding it. A landscape buffer is not needed on the waterfront areas and a tract, adjacent to existing residential homes would not allow enough depth for lots and road right-of-way.
- The granting of the waiver will not be injurious to the other adjacent property.
The proposed single-family residential project is adjacent to existing single-family homes (like kind development) and in these areas, a 15-foot buffer easement is being provided (same width as the standard tract).
- The conditions, upon which a request for waiver are based, are particular to the property for which the waiver is sought and are not generally applicable to other property and do not result from actions of the applicant.
The project is an in-fill project, with development and water surrounding it. Providing a tract reduces the overall width of the property such that, lot depths would not meet the County's minimum requirement. The intent of the 15-foot buffer tract is met with the 15-foot buffer easement.
- The waiver is consistent with the intent and purpose of the county zoning regulations, the county land use plan of the county and the requirements of this article.
Yes, the 15-foot buffer easement provides the same width as the tract hence, the intent is met.
- Delays attributed to state or federal permits.
N/A
- Natural disasters.
N/A
- County development engineer and affected agencies concur that an undue hardship was placed on the applicant. (To be filled out by County staff)



Prepared by: Kimberly Bonder Rezanka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

Item H.3.
19PZ00063
JSFS/Shaprio
Submitted 10/21/19

BINDING DEVELOPMENT PLAN (rev. 10/21/19)

THIS AGREEMENT, entered into this ____ day of _____, 2019, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Soho Development One, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the RA-2-6 zoning classification(s) and desires to develop the Property as townhomes, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successor or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit density to five (5) units per acre and height to

foundation to the upper floor windows to the windows of adjacent single-family detached homes, within two (2) years of before certificate of occupancies of the townhome units are issued. It is anticipated that The landscape buffer will may include Silver or Black Bamboo, Silver Buttonwood, Fakatchee Grass and Muhly Grass. The landscape buffer may be placed in the 15' subdivision buffer, but this will not be known until the tree survey and topographical survey is completed. The landscape plan must be approved by the County.

7. The landscape buffer shall be installed by Developer/Owner before issuance of the any temporary or permanent certificate of completion. Developer/Owner shall be responsible for the continuing maintenance of the landscape buffer, until transfer to the Association that will maintain the common tracts, and will be required to post a maintenance bond or performance pursuant to County Code requirements as agreed with County Staff.

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

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

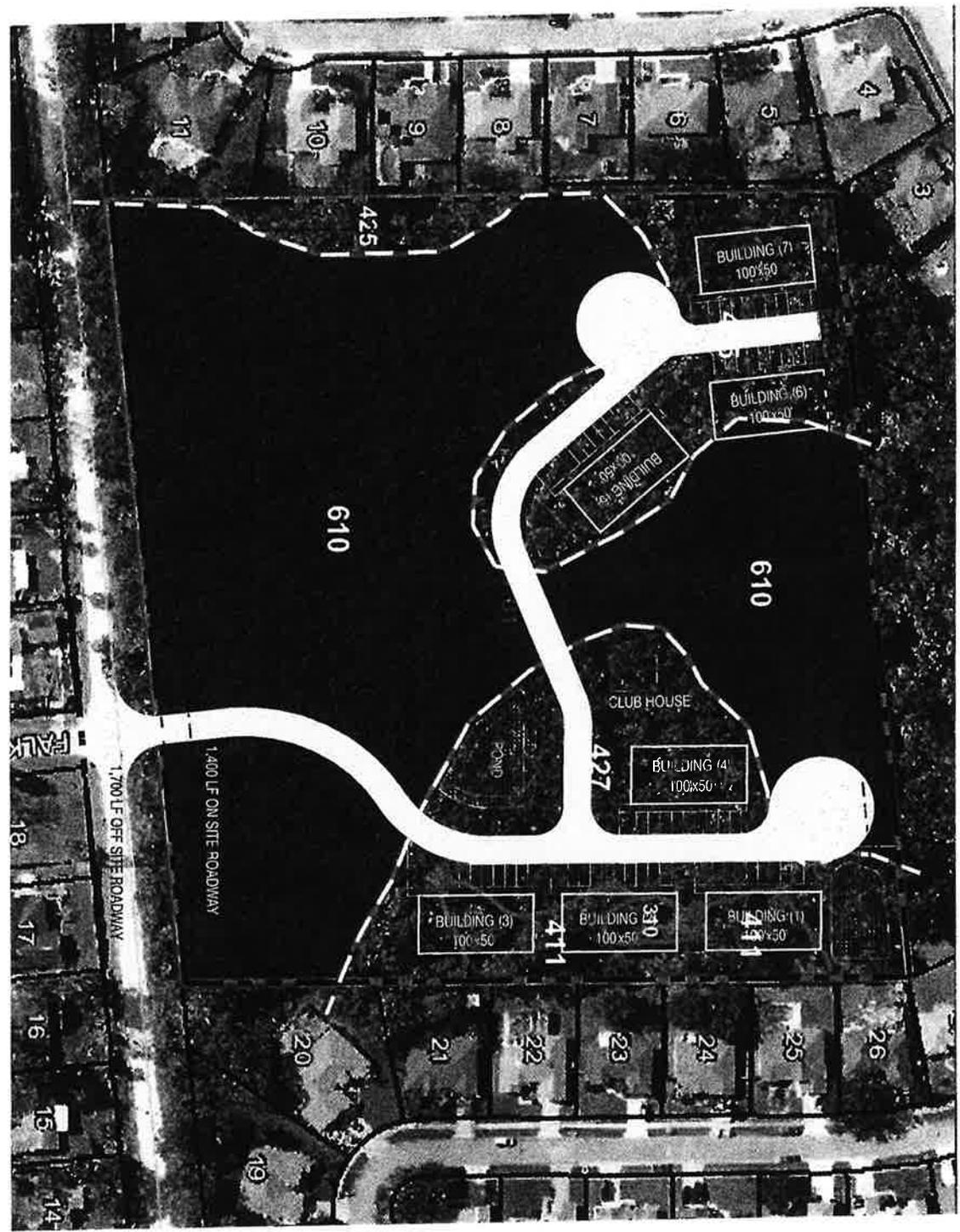
10. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject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

11. Violation of this Agreement will also constitute a violation of the Zoning

My Commission expires:
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)



CONCEPTUAL PLAN WITHOUT BENEFIT OF TOPOGRAPHIC OR BOUNDARY SURVEY.
SEE ENVIRONMENTAL REPORT FOR WETLAND IMPACTS.



CP-1	SHEET NO.	CONCEPTUAL SITE PLAN		HATCH TABLE 	CONCEPTUAL DESIGN WITHOUT THE BENEFIT OF A RECORDED SURVEY	ENGINEER'S CERTIFICATE OF RECORDING PROFESSIONAL ENGINEER LICENSE NO. 28777	
	SOHO VILLAS PORT ST. JOHN, FL						

Exhibit "B"

H.2. v H.3
Tom Wells



H.2. & H.3.
Tom Wells
JSES Land Trust
10/22/19



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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five 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: 660

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:

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

**STAFF COMMENTS
 19PZ00063**

**JSFS Land Trust; Jacob and Faye Shapiro, Trustees
 RRMH-1 (Rural Residential Mobile Home) to RA-2-6 (Single-Family Attached Residential)**

Tax Account Number: 2304560
 Parcel I.D.: 23-35-15-BB-*-147.01
 Location: North side of Ranch Road, approximately 0.25 mile west of Grissom Parkway (No assigned address) (District 1)
 Acreage: 9.79 acres

Planning and Zoning Board: 07/08/19
 Board of County Commissioners: 08/01/19

Consistency with Land Use Regulations

- Current zoning can 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)

	CURRENT	PROPOSED
Zoning	RRMH-1	RA-2-6
Potential*	9 Single-Family Units	58 Single-Family Units
Can be Considered under the Future Land Use Map	Yes, Residential 4	**No, requires Residential 6

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **The applicant has submitted a Small Scale Comprehensive Plan Amendment application from RES 4 (Residential 4) to RES 6 (Residential 6).

Background and Purpose of Request

The applicants are seeking a change of zoning classification from RRMH-1 to RA-2-6 for the purpose of developing a single-family townhouse subdivision.

The current RRMH-1 zoning classification permits single-family mobile homes and detached single-family residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet, and a 600 square-foot minimum house size. This classification permits horses, barns, and horticulture as accessory uses.

The proposed RA-2-6 classification permits single-family attached development at a density of up to 6 units per acre. RA-2-6 is intended to provide a transition between single-family

detached zoning classifications and multi-family zoning classifications, permitting fee simple ownership of individual attached units.

On December 4, 1975, the subject parcel was rezoned per application Z-3991 from GU (General Use) to RRMC-1 (Rural Residential Modular Coach), which is now known as RRMH-1 (Rural Residential Mobile Home).

Land Use Compatibility

The subject property currently retains the RES 4 (Residential 4) Future Land Use (FLU) designation, but the applicants are requesting RES (Residential 6) through application 19PZ00062 for a companion Small Scale Comprehensive Plan Amendment.

Future Land Use Element Policy 1.6 addresses the RES 6 FLU designation which affords a transition in density between the higher urbanized areas and lower intensity land uses. This land use designation permits a maximum density of up to 6 units per acre, except as otherwise may be provided for within the Future Land Use Element.

Future Land Use Element Policy 1.2(C), Public Facilities and Services Requirements: In the Residential 30, Residential 15, Residential 10, Residential 6, and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.

The subject parcel has access to City of Cocoa water. The applicant states the site will be connected to the City of Titusville sewer. The City of Titusville provides sewer to the Cypress Woods subdivision which abuts the subject parcel to the north, east and west.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, outlined in the Administrative Policies.

Environmental Constraints

A majority of the property is located within mapped Saint Johns River Water Management District (SJRWMD) wetlands, designated as Florida Land Use, Cover and Forms Classification System (FLUCCS) code 6170 – Mixed Wetland Hardwoods; and has mapped hydric soils classified as Samsula muck. Residential land uses within wetlands are limited to not more than one dwelling unit per 5 acres. This may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the project area for subdivisions and multi-family parcels greater than 5 acres. A wetland determination/delineation was not provided by the applicant. Without a wetlands determination/delineation, it is unknown how wetlands will affect development on the 9.79-acre subject parcel. A SJRWMD-approved wetlands determination/delineation will be required for development.

Nearly the entirety of the property is located within a Special Flood Hazard Area as identified by Federal Emergency Management Agency (FEMA). The floodplain was determined to be isolated. Per Section 62-3724(3), Floodplain Protection, compensatory storage shall be required for fill in excess of one-third acre within the isolated floodplain, and development shall be elevated to or above the 100-year Base Flood Elevation. There is insufficient information (e.g. topographic survey, drainage calculation) to determine how much of the property may require

compensatory storage, and how that may affect development. The applicant will be required to provide topographic maps for development.

The applicant is strongly encouraged to contact the Natural Resources Management Department at 321-633-2016 prior to site plan design.

Please refer to comments provided by the Natural Resources Management Department for additional information.

Preliminary Transportation Concurrency

The subject property is closest to the concurrency management segment of Grissom Parkway, between Fay Boulevard and Kings Highway, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a current Level of Service (LOS) of C, and currently operates at 62.05% of capacity daily. The maximum development potential from the proposed rezoning is anticipated to increase the proposed trip generation and could result in 552 trips per day and 44 trips during the PM Peak hour. These additional trips are projected to increase trip generation on the corridor and operate at 65.59% of capacity daily. The requested action is not anticipated to create a deficiency in LOS on Grissom Parkway.

Applicable Land Use Policies

The applicants are seeking a change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to RA-2-6 (Single-Family Attached Residential) for the purpose of developing a single-family townhouse subdivision.

The character of the area is primarily developed single-family residential, with a few acres of commercial zoning along Grissom Parkway, just east of the subject property. There is no multi-family zoning in the area and the use does not act as a transition from commercial zoning.

The subject property is surrounded on the west, north, and east sides by developed parcels with RU-1-13 (Single-Family Residential) zoning. Across the unpaved Ranch Road right-of-way to the south, lies another developed RU-1-7 (Single-Family Residential) subdivision.

RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet, and a 1,300 square-foot minimum house size. RU-1-13 does not permit horses, barns or horticulture.

The half-mile radius around this site has not had any zoning changes within the last 10 years.

A rezoning application, 18PZ00156, is pending to change the zoning classification from General Retail Commercial (BU-1) to Retail, Warehousing and Wholesale Commercial (BU-2). This parcel is approximately 685 feet east located on the northwest corner of Grissom Parkway and Ranch Road

For Board Consideration

The applicants are seeking a change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to RA-2-6 (Single-Family Attached Residential) for the purpose of developing a single-family townhouse subdivision.

The subject property currently retains the RES 4 (Residential 4) FLU (Future Land Use) designation, but the applicants are requesting RES 6 (Residential 6) through application 19PZ00062 for a companion Small Scale Comprehensive Plan Amendment.

The current RRMH-1 zoning classification permits single-family mobile homes and detached single-family residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet, and a 600 square-foot minimum house size. This classification permits horses, barns and horticulture as accessory uses.

The proposed RA-2-6 (Single-Family Attached Residential) classification permits single-family attached development at a density of up to 6 units per acre. RA-2-6 is intended to provide a transition between single-family detached zoning classifications and multi-family zoning classifications, permitting fee simple ownership of individual attached units

The character of the area is primarily developed as single-family residential, with a few acres of commercial zoning along Grissom Parkway, just east of the subject property. Adjacent subdivisions retain the RU-1-13 (Single-Family Residential) and RU-1-7 (Single-Family Residential) zoning classifications and RES 4 (Residential 4) Future Land Use designation. There is no multi-family zoning in the area and the use does not act as a transition from commercial zoning.

Future Land Use Element Policy 1.2(C) requires that centralized potable water and sewer be available concurrent with the impact of the development in the Residential 6 Future Land Use designation. The subject parcel has access to City of Cocoa water. The applicant states that the site will be connected to the City of Titusville sewer, but has not yet memorialized that commitment within a Binding Development Plan (BDP). The City of Titusville provides sewer to the Cypress Woods subdivision which abuts the subject parcel to the north, east and west.

The parcel is located on the north side of Ranch Road, which is an unpaved road. The site plan will require paved access. The closest paved road to the subject property is Everett Street. The maximum development potential from the proposed rezoning is anticipated to increase the proposed trip generation and could result in 552 trips per day and 44 trips during the PM peak hour. These additional trips are projected to increase trip generation on the Grissom Parkway corridor and operate at 65.59% of capacity daily. The requested action is not anticipated to create a deficiency in LOS on Grissom Parkway, but a significant number of trips are anticipated to go through the adjacent existing subdivision, if Ranch Road were not improved.

The Board should consider whether the requested multi-family zoning classification is consistent and compatible with surrounding developed single-family residential RU-1-13 and RU-1-7 subdivisions, nearby commercially zoned BU-1 parcels along Grissom Parkway, and within an area with a consistent Residential 4 (RES 4) Future Land Use designation.

The Board may also wish to consider whether a Traffic Impact Analyses to assess access to the site, trip distribution from the site and the impact on surrounding local roadways would help to demonstrate whether the use is consistent and compatible with surrounding development.

Natural Resources Management Department Zoning Review and Summary

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 zoning 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.

Substantial Natural Resources Land Use Issues

A majority of the property is located within mapped Saint Johns River Water Management District (SJRWMD) wetlands, designated as Florida Land Use, Cover and Forms Classification System (FLUCCS) code 6170 – Mixed Wetland Hardwoods; and has mapped hydric soils classified as Samsula muck. Residential land uses within wetlands are limited to not more than one dwelling unit per 5 acres. This may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the project area for subdivisions and multi-family parcels greater than 5 acres. A wetland determination/delineation was not provided by the applicant. Without a wetlands determination/delineation, it is unknown how wetlands will affect development on the 9.79-acre subject parcel. A SJRWMD-approved wetlands determination/delineation will be required for development.

Nearly the entirety of the property is located within a Special Flood Hazard Area as identified by Federal Emergency Management Agency (FEMA). The floodplain was determined to be isolated. Per Section 62-3724(3), Floodplain Protection, compensatory storage shall be required for fill in excess of one third (1/3) acre within the isolated floodplain, and development shall be elevated to or above the 100-year Base Flood Elevation. There is insufficient information (e.g. topographic survey, drainage calculation) to determine how much of the property may require compensatory storage, and how that may affect development. Applicant will be required to provide topographic maps for development.

The applicant is strongly encouraged to contact Natural Resource Management (NRM) at 321-633-2016 prior to site plan design.

Summary of Mapped Natural Resources Present on the Subject Property

NWI Wetlands

SRJWMD Wetlands – Mixed Wetland Hardwoods

Hydric Soils

Floodplain

Land Use Comments

Wetlands

The subject parcel contains large mapped areas of National Wetlands Inventory (NWI) and SJRWMD wetlands and hydric soils (Samsula muck – frequently ponded 0 to 1% slopes) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes and USDA Soil Conservation Service Soils Survey maps, respectively. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 62-3694(c)(6), for subdivisions and multi-family parcels greater than 5 acres in area, New Town Overlays, PUDs and if applicable, mixed-use land development activities as specified in Section 65-3694(c)(5). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696.

Floodplain

A majority of the property is mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3724(5), development in isolated floodplain areas shall ensure that off-site post development stormwater discharge rates shall not exceed off-site predevelopment discharge rates. Per Section 62-3724(3)(a) & (d), development within an isolated floodplain shall not negatively impact adjacent properties or receiving water body quality, and compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. Section 62-3724(3)(b) requires that development of a lot or parcel within an isolated floodplain provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, access to the primary and accessory structure. These areas shall be elevated to or above the 100-year base flood elevation.

Impervious areas increase stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties." National Flood Insurance Program (NFIP) regulations [44 CFR § 60.3(b)(3)] require submittal of drainage calculations report for proposed development in the Special Flood Hazard Area (greater than 50 lots or 5 acres, whichever is the lesser). Report may result in a revised Base Flood Elevation based upon "best available data", as directed by FEMA. The north property line of subject parcel abuts two platted storm water retention tracts and a platted conservation tract for the Cypress Woods subdivision. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern."

Heritage Specimen Trees

The parcel contains a mapped polygon of SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 6170 - Mixed Wetland Hardwoods. Heritage Specimen Trees (greater than or equal to 24 inches in diameter) may reside in the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62 4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

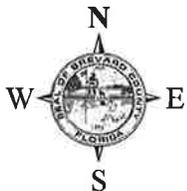
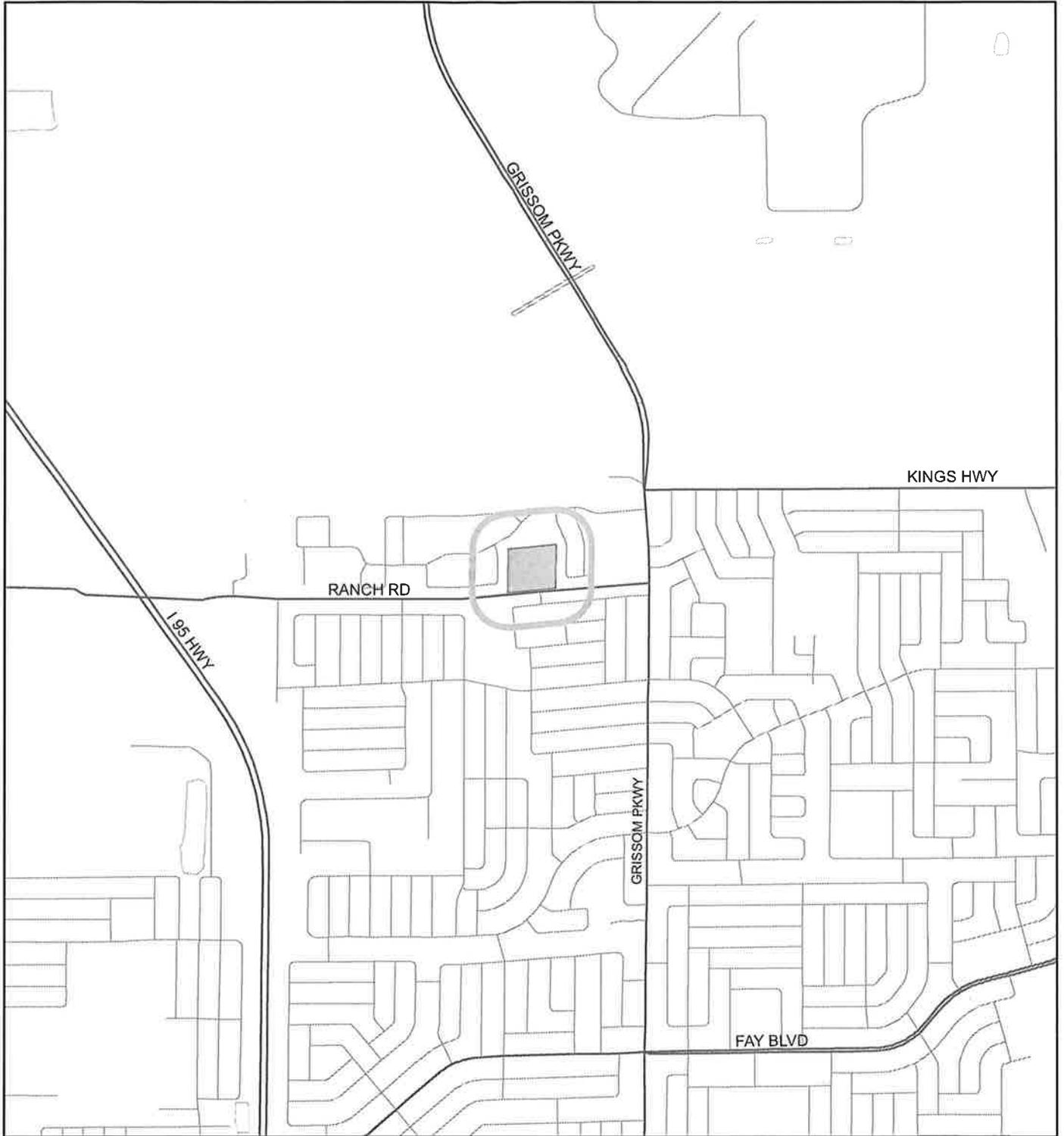
Protected Species

Federally and/or state protected species may be present on properties with aquifer recharge soils. However, this site has been developed since 1964. Should any protected species be present, 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

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE

19PZ00063



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

Buffer Distance: 500 feet

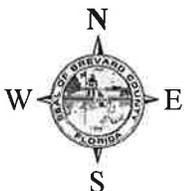
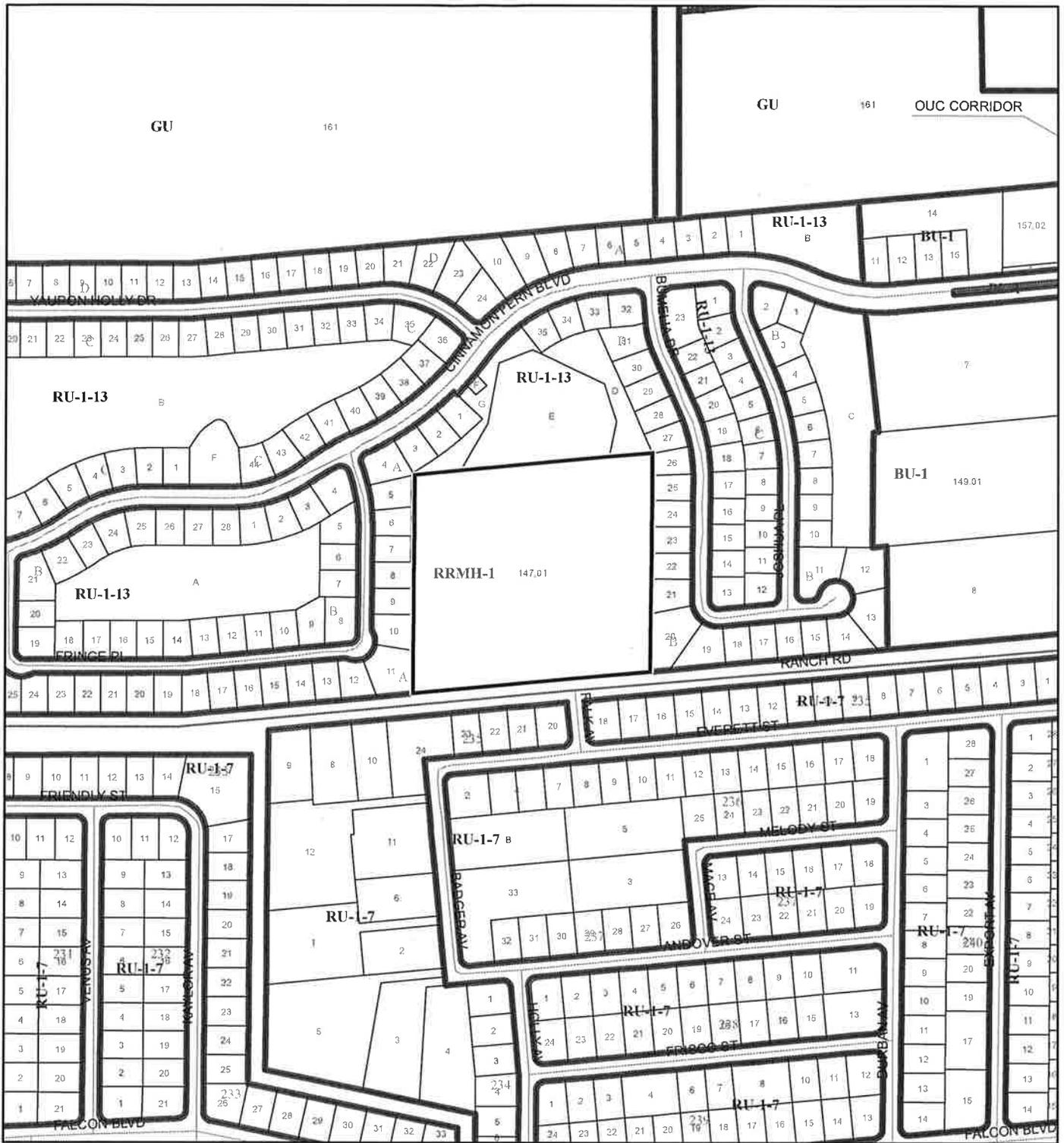
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/7/2019

-  Buffer
-  Subject Property

ZONING MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE
19PZ00063



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.

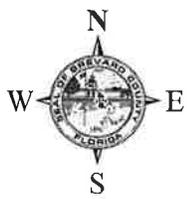
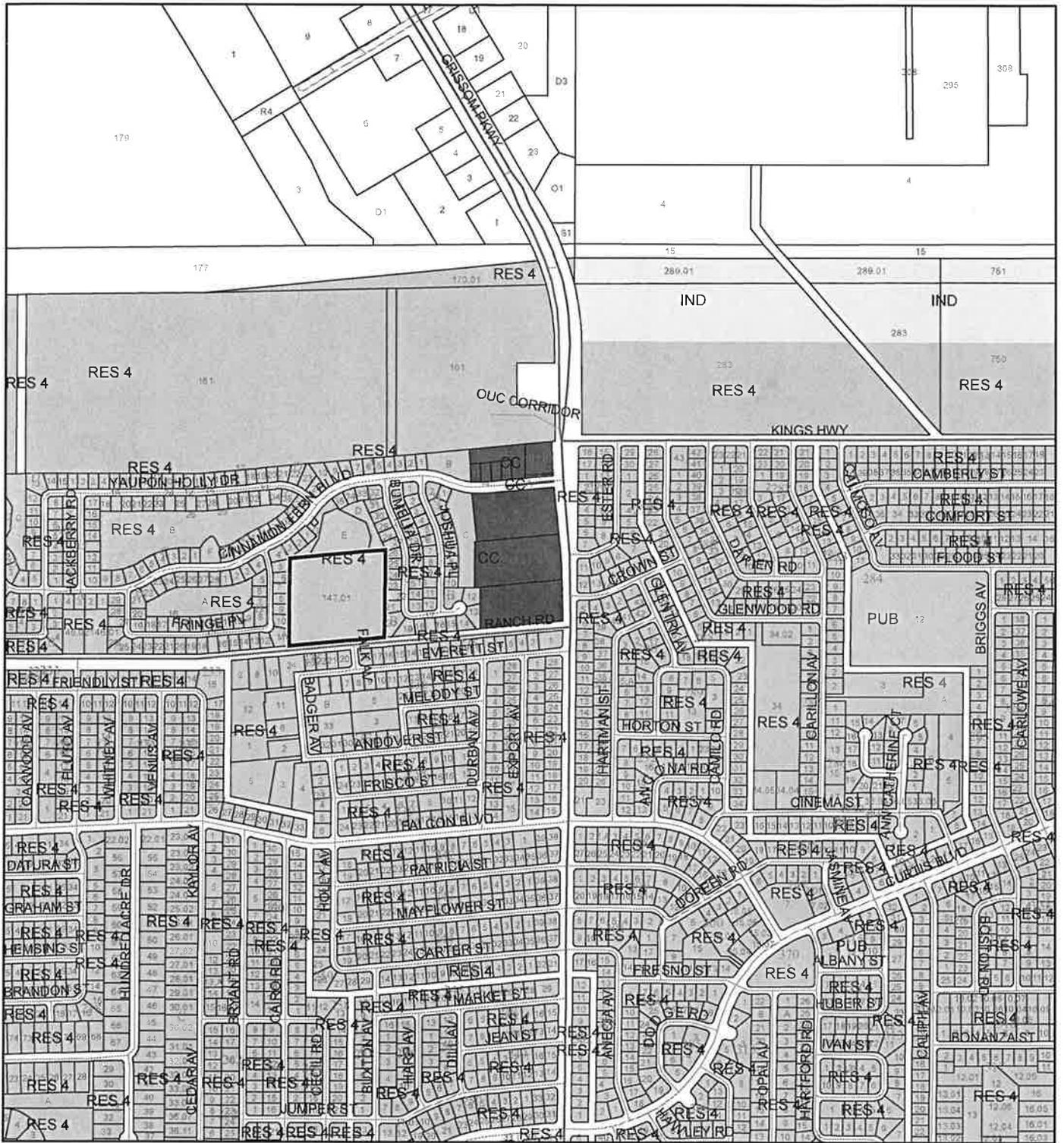
Produced by BoCC - GIS Date: 5/7/2019

-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE

19PZ00063



1:12,000 or 1 inch = 1,000 feet

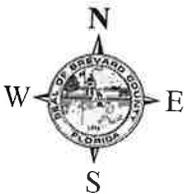
- Subject Property
- Parcels

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

Produced by BoCC - GIS Date: 6/21/2019

AERIAL MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE
19PZ00063



1:12,000 or 1 inch = 1,000 feet

PHOTO YEAR: 2018

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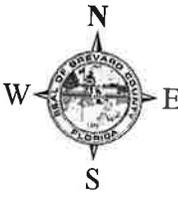
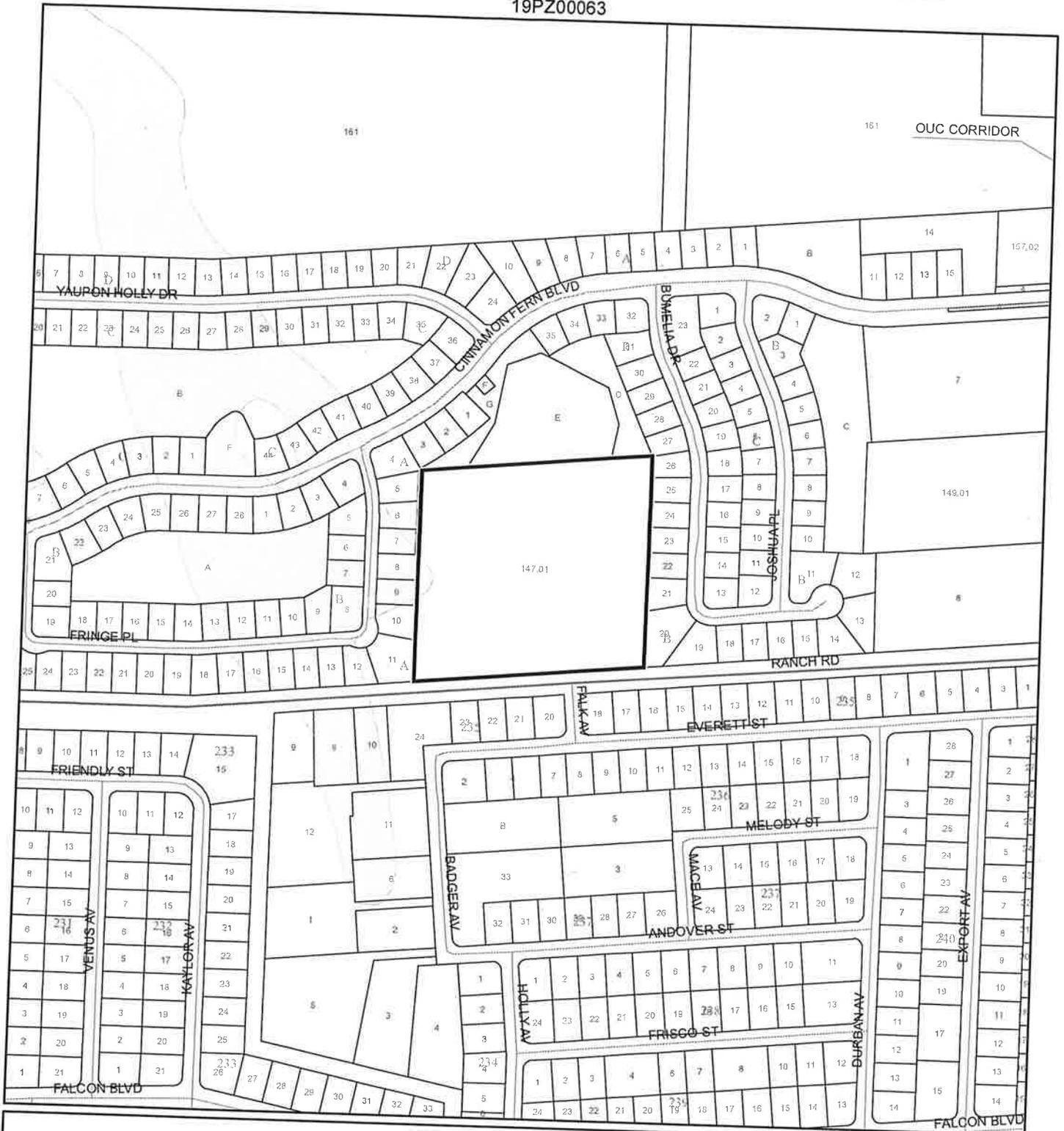
Produced by BoCC - GIS Date: 6/21/2019

 Subject Property

 Parcels

NWI WETLANDS MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE
19PZ00063



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: 5/7/2019

- National Wetlands Inventory (NWI)**
- Estuarine and Marine Deepwater
 - Estuarine and Marine Wetland
 - Freshwater Emergent Wetland
 - Freshwater Forested/Shrub Wetland
 - Freshwater Pond
 - Lake
 - Other
 - Riverrine
 - Subject Property
 - Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE

19PZ00063



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/7/2019

SJRWMD FLUCCS WETLANDS

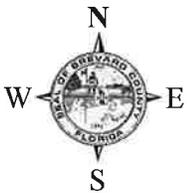
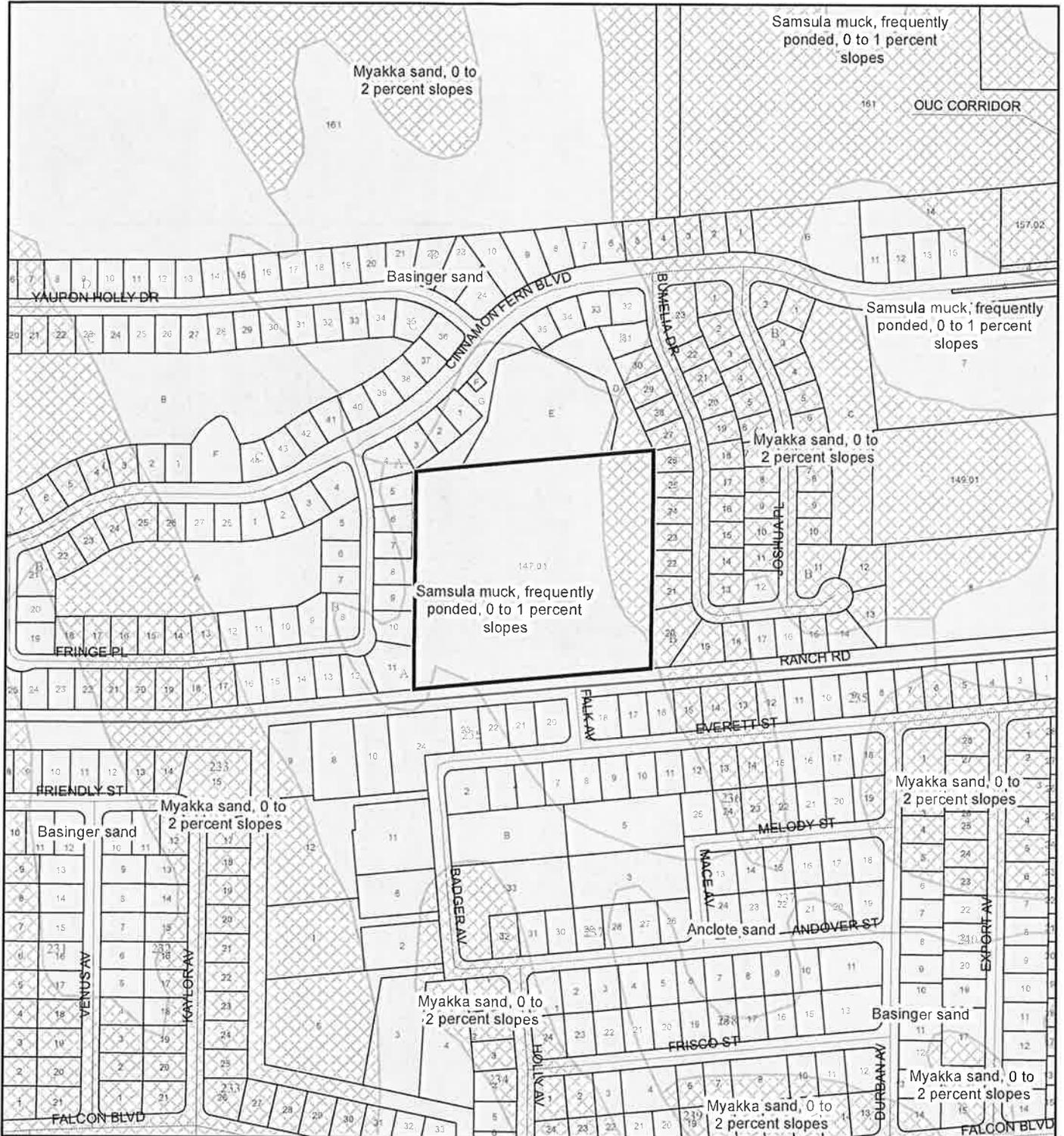
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property

 Parcels

USDA SCSSS SOILS MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE
19PZ00063



1:4,800 or 1 inch = 400 feet

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property 680
- Parcels

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

Produced by BoCC - GIS Date: 5/7/2019

FEMA FLOOD ZONES MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE
19PZ00063



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/7/2019

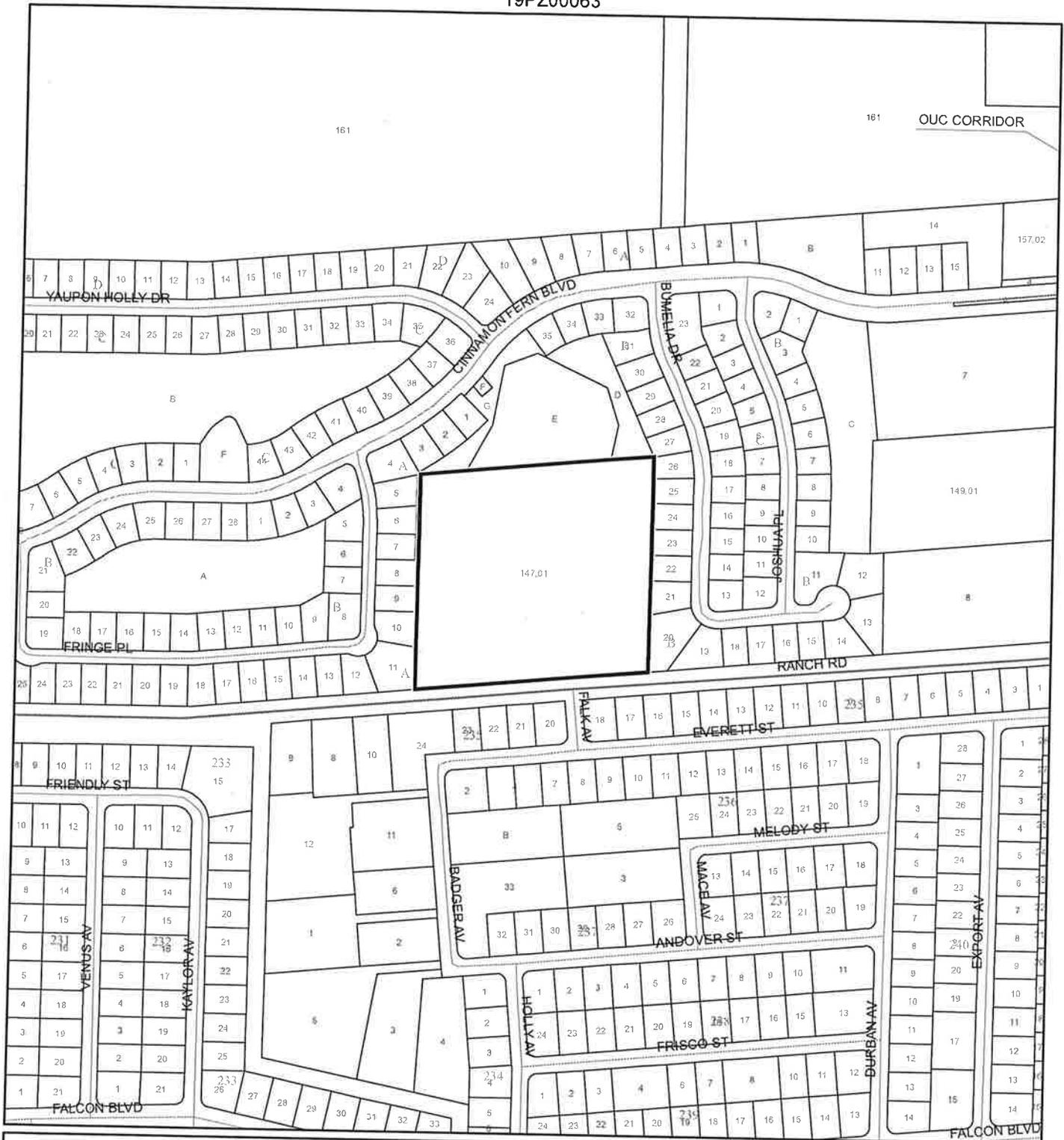
FEMA Flood Zones

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

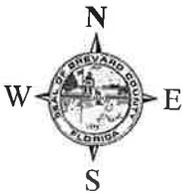
INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE

19PZ00063



1:4,800 or 1 inch = 400 feet



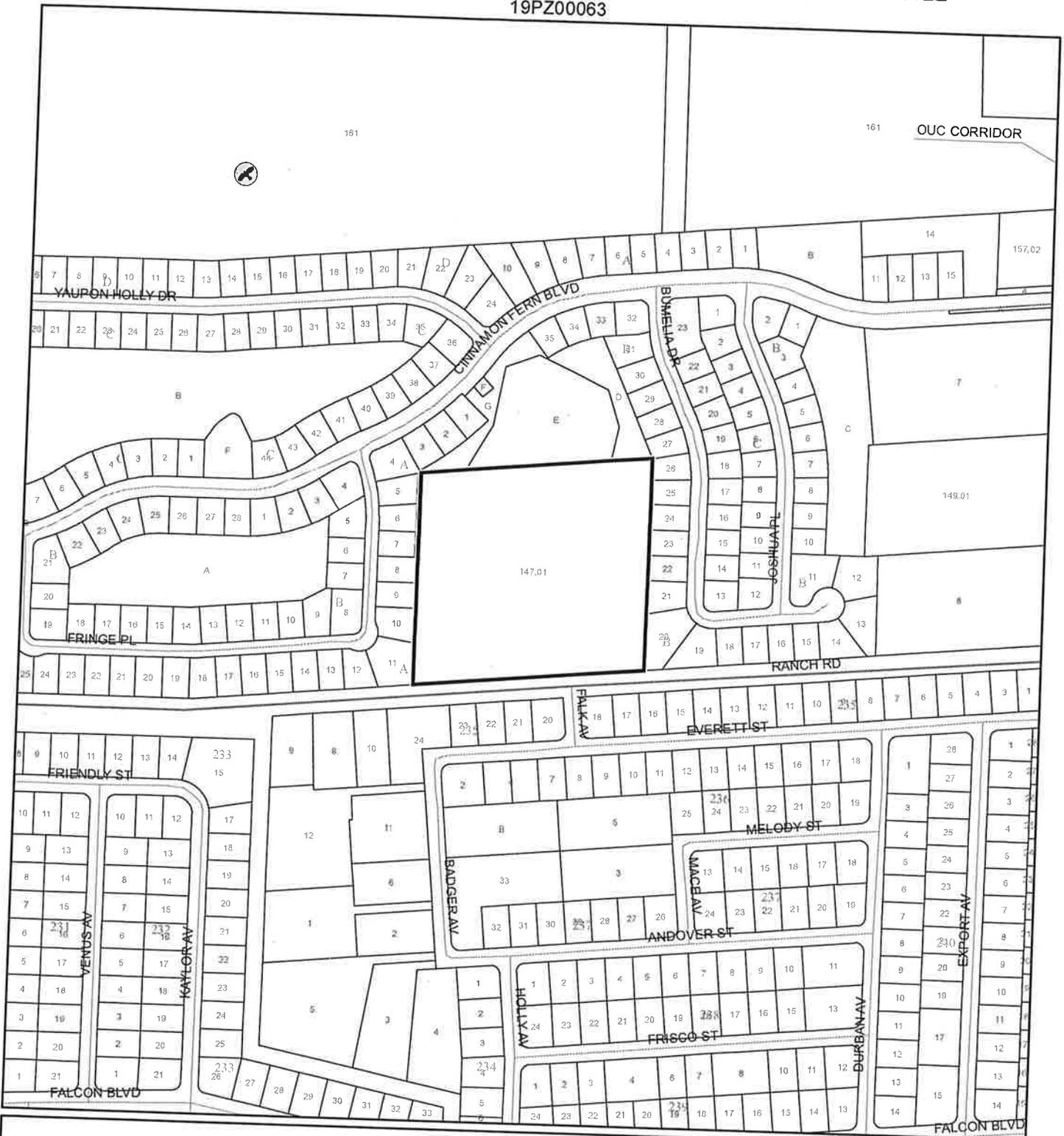
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions herein.

Produced by BoCC - GIS Date: 5/7/2019

-  Subject Property
-  Parcels
- Septic Overlay**
-  40 Meters
-  60 Meters
-  All Distances

EAGLE NESTS MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE
19PZ00063



1:4,800 or 1 inch = 400 feet



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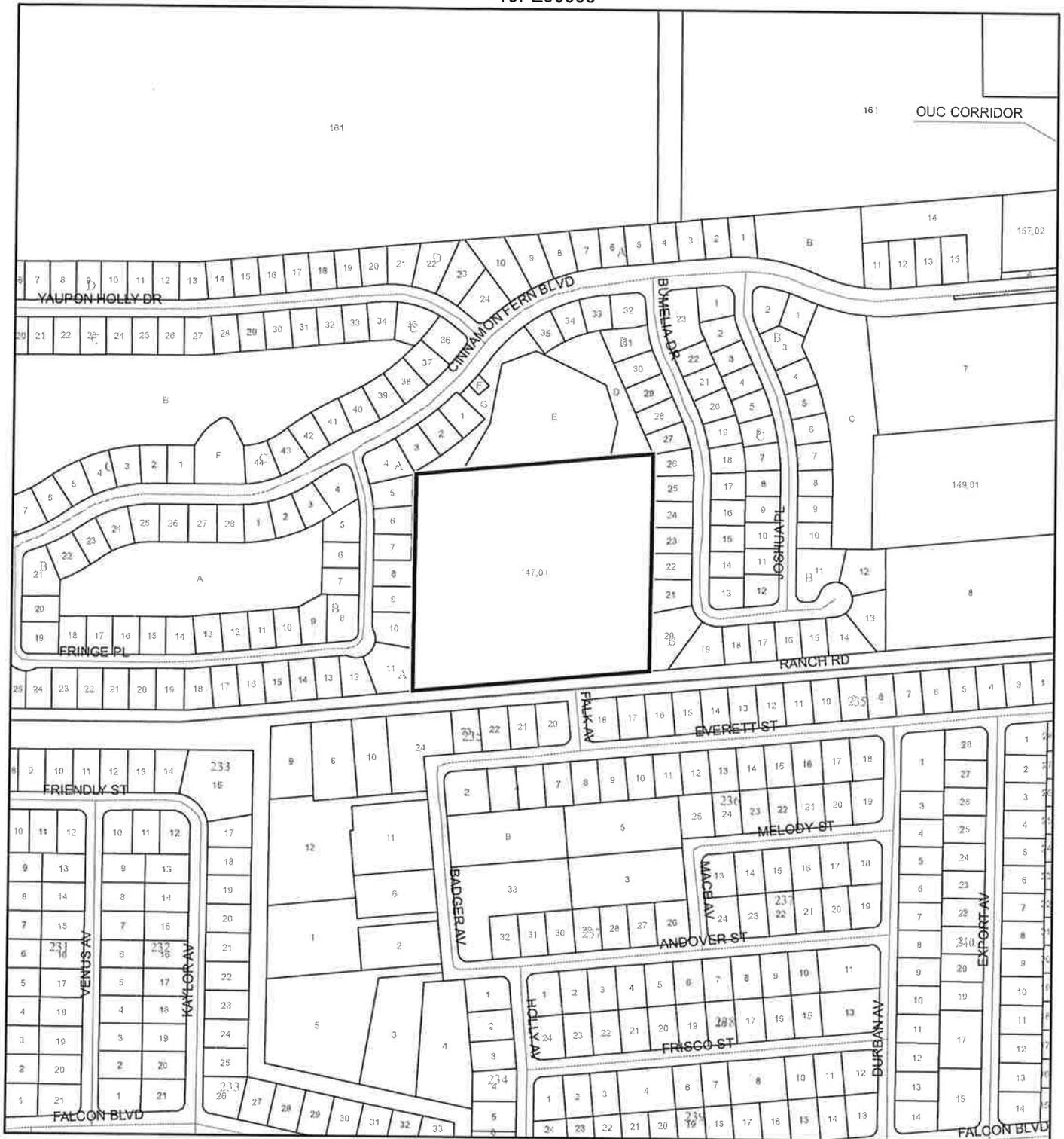
 Subject Property

 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE
19PZ00063



1:4,800 or 1 inch = 400 feet

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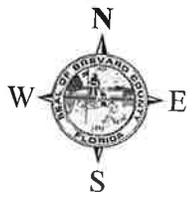
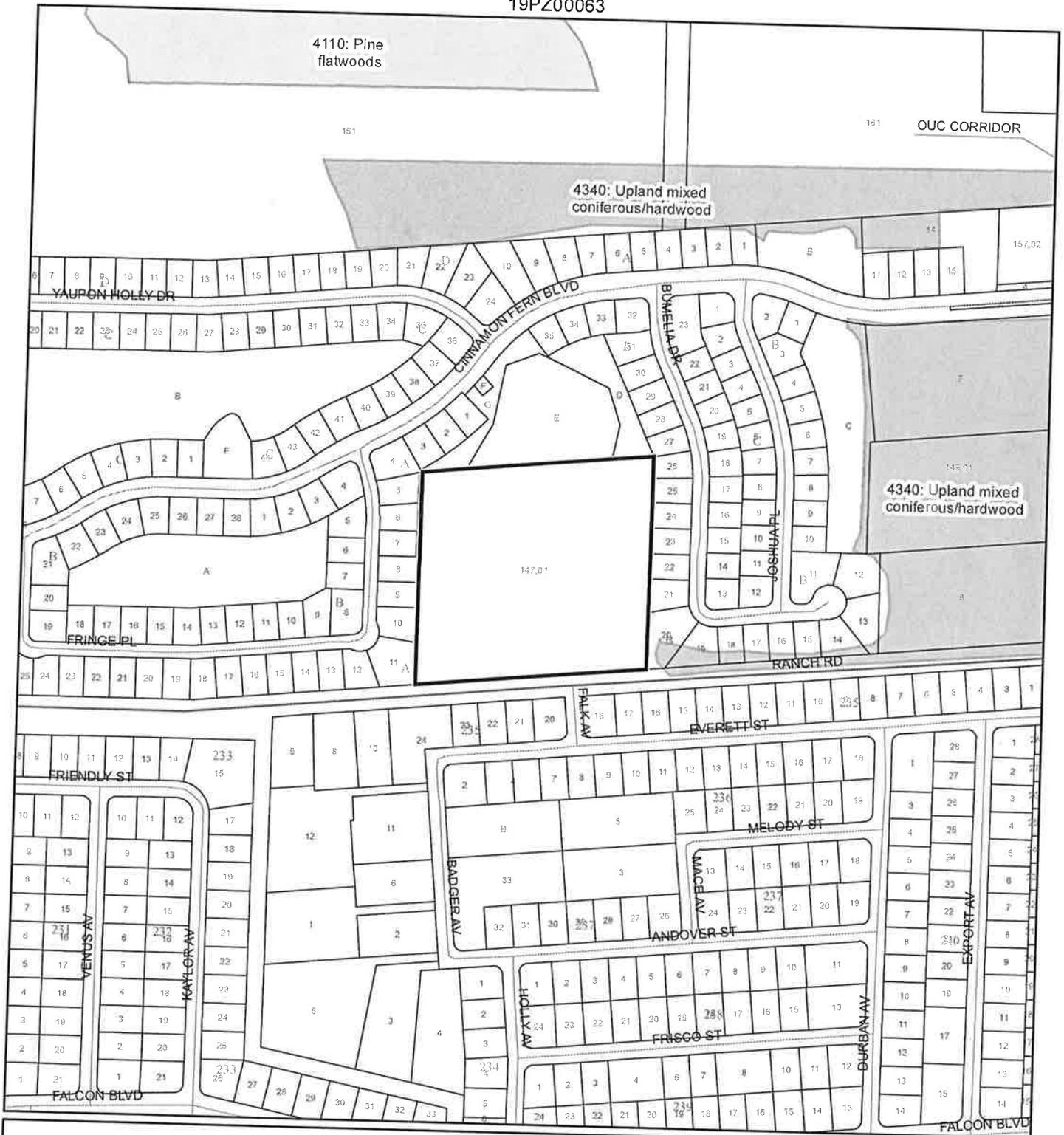
Produced by BoCC - GIS Date: 5/7/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

JSFS LAND TRUST; JACOB SHAPIRO, AS TRUSTEE, AND FAYE SHAPIRO, AS TRUSTEE

19PZ00063



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/7/2019

- SJRWMD FLUCCS Upland Forests**
- Upland Coniferous Forest - 4100 Series
 - Upland Hardwood Forest - 4200 Series
 - Upland Mixed Forest - 4300 Series
 - Tree Plantations - 4400 Series
- Subject Property □ Parcels



School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699
 Mark W. Mullins, Ed.D., Superintendent

May 23, 2019

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

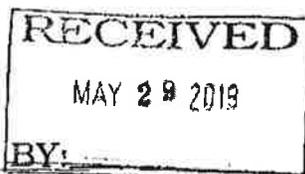
**RE: Proposed Ranch Road Subdivision
 School Capacity Availability Determination Letter CD-2019-07**

Dear Mr. Body,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property includes Tax Account 2304560 (Parcel ID: 23-35-15-BB-*-147.01) containing approximately 9.79 acres in Brevard County, Florida. The proposed single-family development includes 58 residential units. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2019-20 to 2023-24 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2018-19 to 2023-24* which is attached for reference.

Single-Family Homes		58	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.28	16.24	16
Middle	0.08	4.64	5
High	0.16	9.28	9
Total	0.52		30



Planning & Project Management
 Facilities Services
 Phone: (321) 633-1000 x450 • FAX: (321) 633-1546



**FISH Capacity (including relocatables) from the
Financially Feasible Plan Data and Analysis for School Years 2018-19 to 2023-24**

School	2019-20	2020-21	2021-22	2022-23	2023-24
Atlantis	739	739	739	739	739
Space Coast	1,857	1,857	1,857	1,857	1,857

Projected Student Membership

School	2019-20	2020-21	2021-22	2022-23	2023-24
Atlantis	693	668	669	658	641
Space Coast	1,590	1,588	1,556	1,513	1,507

Students Generated by Previously Issued SCADL Reservations

School	2019-20	2020-21	2021-22	2022-23	2023-24
Atlantis	-	-	-	-	-
Space Coast	-	-	-	-	-

**Cumulative Students Generated by
Proposed Development**

School	2019-20	2020-21	2021-22	2022-23	2023-24
Atlantis	-	8	16	16	16
Space Coast	-	7	14	14	14

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

School	2019-20	2020-21	2021-22	2022-23	2023-24
Atlantis	693	676	685	674	657
Space Coast	1,590	1,595	1,570	1,527	1,521

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

School	2019-20	2020-21	2021-22	2022-23	2023-24
Atlantis	46	63	54	65	82
Space Coast	267	262	287	330	336

At this time, Atlantis Elementary School and Space Coast Jr./Sr. High School are projected to have enough capacity for the total of projected and potential students from the Ranch Road Subdivision development.

This is a **non-binding** review; a *Concurrency Determination* must to be performed by the School District prior to a Final Development Order and the issuance of a Concurrency Evaluation Finding of Nondeficiency by the Local Government.

We appreciate the opportunity to review this proposed project. Please let us know if you require additional information.

Sincerely,



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

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years
2018-19 to 2022-24*

Copy: Susan Hann, Assistant Superintendent of Facility Services
File CD-2019-07

Ranch Road Subdivision Location Map



Ranch Road Subdivision
58 Units

Atlantis
Elementary

Brevard
Public
Schools

Schools Affected by Development
Atlantis Elementary
Space Coast Jr/Sr High School

Drawn By
Blake Stinson
05/23/2019
Facility Services



PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 8, 2019**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

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

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; Rebecca Ragain, Assistant Director, Planning and Development; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, May 30, 2019, at 5:00 p.m.

Excerpt of Complete Agenda

Motion by Rochelle Lawandales, seconded by Brian Hodgers, to approve the minutes of May 6, 2019.

JSFS Land Trust, Jacob Shapiro, as Trustee, and Faye Shapiro, as Trustee (Kim Rezanka)

A Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 4 to Residential 6. The property is 9.79 acres, located on the north side of Ranch Road, approximately 0.25 mile west of Grissom Parkway. (No assigned address. In the Cocoa area.) (19PZ00062) (District 1)

JSFS Land Trust, Jacob Shapiro, as Trustee, and Faye Shapiro, as Trustee (Kim Rezanka)

A change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to RA-2-6 (Single-Family Attached Residential). The property is 9.79 acres, located on the north side of Ranch Road, approximately 0.25 mile west of Grissom Parkway. (No assigned address. In the Cocoa area.) (19PZ00063) (District 1)

Kim Rezanka thanked Mr. Minneboo for his service to Brevard County and the Planning and Zoning Board for the last 15 years. She began her presentation by stating she and her clients held a meeting with the neighbors, who raised several issues, such as buffering, retention, access issues, and privacy issues. She stated her clients would like to do more research, and they'd like to get a topographical survey. She noted they have learned that six of the 10 acres of the subject property are wetlands, which has changed the request from duplexes to townhomes, and they need to know how many units they really need in order to know if they even need a change of land use. She stated in addition to those reasons, her client is ill and is not able to be present. She asked for a continuance of the requests until the August 5th Planning and Zoning meeting so they can get more information for the neighbors.

Motion by Rochelle Lawandales, seconded by Dane Theodore, to table both items to the August, 2019 Planning and Zoning meeting. The vote was unanimous.

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, August 5, 2019**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher, Rochelle Lawandales; Ben Glover; Ron McLellan; Mark Wadsworth; Bruce Moia; Peter Filiberto; and Dane Theodore.

Staff members present were: Amanda Elmore, Interim Planning and Zoning Manager; Tad Calkins, Planning and Development Director; Jad Brewer, Assistant County Attorney; Paul Body, Planner II, and Jennifer Jones, Special Projects Coordinator II.

Excerpt from Complete Minutes

5. JSFS Land Trust, Jacob Shapiro and Faye Shapiro, as Trustees (Kim Rezanka):

A Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 4 to Residential 6. The property is 9.79 acres, located on the north side of Ranch Road, approximately 0.25 mile west of Grissom Parkway. (No assigned address. In the Cocoa area.) (19PZ00062) (District 1) This item was tabled from the July 8, 2019, Planning and Zoning meeting at the request of the applicant.

6. JSFS Land Trust, Jacob Shapiro and Faye Shapiro, as Trustees (Kim Rezanka):

A change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to RA-2-6 (Single-Family Attached Residential). The property is 9.79 acres, located on the north side of Ranch Road, approximately 0.25 mile west of Grissom Parkway. (No assigned address. In the Cocoa area.) (19PZ00063) (District 1) This item was tabled from the July 8, 2019, Planning and Zoning meeting at the request of the applicant.

The board heard both the small scale comprehensive plan amendment and the rezoning request simultaneously. Any documents submitted by the applicant or the public can be found in file 19PZ00063, located in the Planning and Development Department.

Kim Rezanka, Cantwell and Goldman, P.A., 96 Willard Street, Cocoa, stated the subject property is unique and previous owners have never attempted to develop; there is sewer that will be brought to the project, and it does have access to city water. She stated the reason they do not have a topographical survey yet is because of the weather, but an environmental engineer has looked at portions of the site and have found that of 9.79 acres, 6.1 of them are wetlands, so it is a very difficult site to develop. She said the initial plan was for duplexes, but because of the immense amount of wetlands it's not possible to do that. She said the lot is heavily wooded and is the last residential area to be developed; the lot is on a county road, which is Ranch Road, and it is a stabilized road, but not a paved road; it's a bumpy dirt and rock road. She stated the proposal is for townhomes. (Ms. Rezanka submitted a proposed concept plan to the board and staff). She continued by stating the concept plan was provided to citizens at a community meeting on June 25th. She stated the access will be split around the wetlands; there will be three buildings on the east side and three buildings on the west side, and it will be transgressed through the wetlands to make the project possible. She said the most they believe that can be built is 49 units, which is why they are requesting a change to the Comprehensive Plan to Residential 6 to make it a feasible development with townhomes. She stated it will take 1,400 feet of roadway on site, and it will be built up with retaining walls. She said the project will be single-family, and each townhome will be under its own ownership, and the prices are anticipated to be between \$250,000 and \$300,000. She said the current RRMH-1 zoning is

inconsistent with the current Residential 4 Future Land Use, and as the staff report states, this was rezoned in the '70's, and nothing has been attempted to be built on the property. She stated one-acre lots cannot be built on the property because of the wetlands. She said the owners are willing to enter into a binding development plan to limit development to 49 units, and even that will be tough, but that is what the developer is asking. She said there were approximately 40 neighbors present at the community meeting who were interested and concerned about how the property would be developed; they are concerned about traffic, buffering and privacy, property values, and access. There are approximately 9 homes that will be able to see the two-story townhomes; and the traffic will not go through the Cypress Wood subdivision. She stated she is still working on the access issue with the County; on July 9th she sent a request to the County for information, and she has not yet received a response. She stated the trips would be reduced with a maximum of 49 from the 58 that would be potential, and it is 460 trips as opposed to the 552 projected trips. She stated the project will provide housing options, and the housing comprehensive plan states that Brevard County shall ensure there is housing available other than single-family homes. She said the shape and physical characteristics of the property make it unique and should be considered in determining the reasonableness of the zoning classification, and changes of conditions can justify a rezoning. She said non-development because of wetlands can be a change of condition, or a condition that is unexpected, to justify a rezoning. She said the project is an in-fill project and has extenuating circumstances, and because it hasn't been developed, that is the reason for the request.

Ron Bartcher asked the proposed size of the townhomes. Ms. Rezanka replied 1,500 square feet to 2,200 square feet; they will be as big, if not bigger, than the homes next to them.

Bruce Moia stated the current zoning of RRMH-1 (Rural Residential Mobile Home) could be mobile homes, and the requested RA-2-6 is good because it is ownership as opposed to renter multi-family, and that is more desirable than mobile homes. He said he is very familiar with the property because he was originally involved in Cypress Woods when it was developed, and the property is completely in an isolated flood plain, so the developer has his work cut out for him to try to get compensated storage because of the wetlands. He assumes Ranch Road will be required to be paved in order to get access to the development. Ms. Rezanka stated that is the issue they are having, and all the County Code requires is that it has access onto a paved road, which it does off of Falk Avenue directly to the south; there is nothing in the Code that says you cannot access off of a local road, and that's what she is waiting on clarification from the County. Mr. Moia asked if the developer wants to go directly south for access, and asked where that road goes. Ms. Rezanka replied it meets Everett Street, which goes to Grissom Parkway. Mr. Moia stated Ranch Road doesn't have any houses that have access, for the most part. Ms. Rezanka replied no, not legal access.

Public comment:

Linda Donoghue, Cypress Woods, stated the neighborhood is not against the project, nor are they in favor of it, they are just concerned with drainage, barriers, and townhomes looking over their homes into their backyards. She stated the developer of the nearby storage unit project is proposing an 18-foot barrier, and she hopes that is the case with the townhome developer. She stated people need to know that the access will not be from Ranch Road, but will be off of the side street. She said Cypress Woods has had a lot of flooding, so having barriers between Cypress Woods is important. She said she is not concerned with townhomes because unless they are affecting the homes in Cypress Woods, it could be a good thing. She asked the height of the proposed townhomes.

Peter Filiberto replied the height will be 35 feet maximum.

Ms. Donoghue asked if there is a specific barrier requirement. Mr. Filiberto replied there seems to be a vegetative barrier. Mr. Moia stated single-family to single-family does not require a buffer. Ms. Elmore responded the Natural Resources Management Office would not require a vegetative buffer between the residential uses, but there is a subdivision buffer in the Land Development Code. She said regarding height, the townhomes could be 45 feet with additional breezeway requirements, so it would be between 35 feet and potentially 45 feet if they can meet additional breezeway requirements, but the applicant stated 35 feet was the intent. Mr. Moia stated there will be a 15-foot buffer tract requirement around the property. Ms. Donoghue stated the homeowners in Cypress Wood are against the project if there is not a buffer.

Ms. Elmore clarified that the townhomes would be limited to 35 feet because it will be single-family abutting single-family. Ms. Lawandales asked the size requirement for a buffer. Mr. Body replied a 15-foot buffer.

Christine Barber, 7565 Fringe Place, Cypress Woods, stated her property backs up to the proposed development. She said Port Saint John is a single-family residential community; the only multi-family development is east of the Indian River. She said the neighbors she has spoken to do not want the development because they will lose their privacy. She said single-family homes cannot be compared to townhomes. She said there is a lot of flooding in Cypress Woods because of the wetlands on the subject property; when there is a hurricane the retention ponds drain into the ditch along Ranch Road when they overflow; and that ditch has never been able to keep up with the drainage. If the proposed project is brought into a wetlands area, it will impact the area. She said the neighbors were told at an informational meeting that if the project was approved they would give the neighbors a 35-foot barrier of trees. She noted there are no two-story homes in Cypress Woods, so there will be a privacy issue. She said the biggest issue is the flooding, and stated she would prefer to see mobile homes because they are not two-story and it would be less of an impact on the wetlands.

Tom Wells, 7586 Fringe Place, stated he is opposed to the project as it is out of character for the surrounding neighborhood. He asked where the nearest development is that is close to what the developer is proposing, because he is not aware of any. (Mr. Wells provided a handout to the board and staff). He said the neighbors were told the developer would pave Ranch Road as the access to the project, and he is proposing the access be on the easterly boundary. He noted the developer's proposal also makes use of their ability to buy into use of wetlands, which is something he objects to, because it's an inadequate approach. He said the drainage on Ranch Road is not adequate and the proposed development would add to the problem. He stated the developer shouldn't be able to use the wetlands to create the numbers to allow them to build whatever they want on the uplands; the developer is going into the wetlands, but the buyout is not going to help the drainage situation, it will exacerbate it. He said it is improper to allow them to not make use of what's there and not get into an arithmetic game of using a buyout to increase their number of units.

Ms. Lawandales stated under RA-2-6, it looks like there is a perimeter setback of 25 feet. Mr. Body replied the perimeter setback is 25 feet. Mr. Moia stated that would be a building setback and not landscaping. Mr. Filiberto asked if it was 15 feet plus 25 feet, or 25 feet total. Ms. Lawandales replied it would be 25 feet total. Tad Calkins clarified it would be a 25-foot total perimeter setback; the 15-foot buffer tract that was mentioned earlier would be inside the 25 feet. Ms. Lawandales stated the 15 feet would go away and it would essentially be 25 feet. Mr. Calkins stated the 15 feet would be a tract that

has to be in its natural state, so the remaining 10 feet would be able to be impacted in some way. Mr. Moia asked the rear setback for the lots. Mr. Body replied its 25 feet for the perimeter setback, and the setback for interior lots is 20 feet, except for screen enclosures which have a setback of not less than 10 feet. Mr. Calkins stated it would be a 35-foot setback from the property line, except for screen enclosures.

Ms. Rezanka stated Ms. Barber is Lot 10 and that area of the subject property will not be developed, and it also cannot be used for retention, so that can be part of the binding development plan as well. She said regarding the flooding and drainage, both of those will have to be addressed at site planning. She said the flooding will not increase and the drainage will not change towards Cypress Woods. The developer does not want to impact wetlands, but they do not know where the roads are going to be at this point. As to the wetlands, there is a nominal amount that can be impacted by the Code and Comprehensive Plan at 1.8%, and that would have to be mitigated, but the developer cannot buy six acres of wetland credits. She said she would ask that the board approve the density change to Residential 6 and the rezoning to RA-2-6 (Single-Family Attached Residential), with a binding development plan limiting density to 49 units and prohibiting development of the area on the western portion of the property marked 425 on the proposed concept plan. She noted the concept plan is not final, but it does depict the area marked 425 as to what they would stipulate that there will be no development in that area because of the wetlands.

Mr. Moia stated the request is for 49 attached residential units as opposed to what could be developed today, which could be 39 mobile home units. Ms. Rezanka stated they would have to request a rezoning because right now the zoning is inconsistent with the Future Land Use, so it could be nine mobile homes because of the one-acre lot requirement in that zoning classification.

Ms. Lawandales stated in the Comprehensive Plan there are certain criteria that have to be met in order to consider a change of land use classification from Residential 4 to Residential 6, and noted she has not heard any testimony that addresses that criteria. Ms. Elmore stated the Residential 6 designation is a transition in density between higher urbanized areas and more intensity land uses. Residential 6 permits a maximum density of up to six units per acre except as otherwise may be provided in the Future Land Use Element.

Ms. Rezanka stated she believes the Comprehensive Plan has specific provisions for in-fill development. Mr. Calkins stated staff would not consider the development as in-fill because it talks about transition and the siting requirement talks specifically about it being a transition between more intense land uses to less intense, and in the area the land use is Residential 4, and there is no other intensity or a different transition between the two.

Dane Theodore stated the concept plan shows the road coming off of Ranch Road, and asked if there is any intention to not do that. Ms. Rezanka stated at this point the County will not allow the subdivision to be off of a non-paved road; Ranch Road is a stabilized road which residents use now; however, County Code merely states it has to be off of a paved road. At this point, she does not have clarification from the County as to whether Ranch Road has to be paved, so at this point it is connected to Falk Avenue until she gets additional information.

Mr. Theodore addressed Mr. Moia and stated Ms. Rezanka said they were obligated to receive historical runoff onto the site from neighbors, and asked if that was correct. Mr. Moia replied yes, and 697 they cannot have any drainage that comes off of their property. Mr. Theodore stated they would not

block flow from adjacent homes. Mr. Moia stated that is correct. Mr. Theodore stated the request is for Residential 6 which is kind of a spot zoning, and Residential 4 will get the developer 39 or so units, and the developer deems that not sufficient. Ms. Rezanka stated originally the developer though they could get 58 units, but after getting the preliminary wetlands, they went to 49 units. She stated she does not think it is spot zoning.

Ms. Lawandales asked if there will be seven units in each building. Ms. Rezanka replied yes, that is correct.

Ms. Rezanka stated regarding Residential 6, the Comprehensive Plan is a policy decision, and it even states in Policy 6, "May be considered for lands within the following generalized locations", and she believes that based upon the condition of the subject property, and the fact that it hasn't been developed because of the wetlands, that it can be changed to Residential 6. She said she does believe it is infill development, and she would cite the Housing Comprehensive Plan which states Objective 4 is to have adequate lands for residential land uses in a wide variety of housing types. She said there are probably no townhomes in Port Saint John, but a half-mile north in Titusville there are townhomes along U.S. 1, so there are other developments in the area that are townhomes.

Ms. Lawandales stated the easiest thing to have happen is that the applicant live with the Residential 4 and they develop as RA-2-4, or RU-2-4; either of those zoning classifications allow the ability to build an attached unit, but it's at a much more reasonable number. She asked if there is an opportunity for Ms. Rezanka's client to consider that in moving forward. Ms. Rezanka replied her client has asked for Residential 6 and RA-2-6, and the board can deny that and recommend RA-2-4, but she believes the evidence for the request of RA-2-6 is adequate and necessary because of the unique criteria of the property.

Ms. Lawandales stated she doesn't have a problem with the property being developed, and she doesn't have a problem with townhomes; the land can be made suitable for development without impacting the surrounding areas, but she cannot support Residential 6. She said the entire area is Residential 4 and there is ample opportunity using an existing zoning classification of RA-2-4 or RU-2-4 that would give them the ability to have 39 units and that's probably the carrying capacity of the property.

Motion by Rochelle Lawandales, seconded by Dane Theodore, to deny the Small Scale Comprehensive Plan Amendment from Residential 4 to Residential 6 based on inconsistency with the criteria to change to Residential 6.

Mr. Moia stated the current zoning of RRMH-1 is a spot zoning; the project will be difficult to develop; they will be limited by Code for the wetlands impact, which means they will probably have to build bridges to cross the wetlands, and the expense of that would basically kill the project. The tradeoff for having an increased density and ensuring a single-family product would be better than the possibility of a multi-family rental property. Between the flood plain conservation, the wetlands, and the sheer expense of what they will have to do to ensure they there are no drainage impacts, if they don't get some density to make this project a reality, it's never going to happen. The offset of single-family as opposed to multi-family rental is worth the extra 10 units.

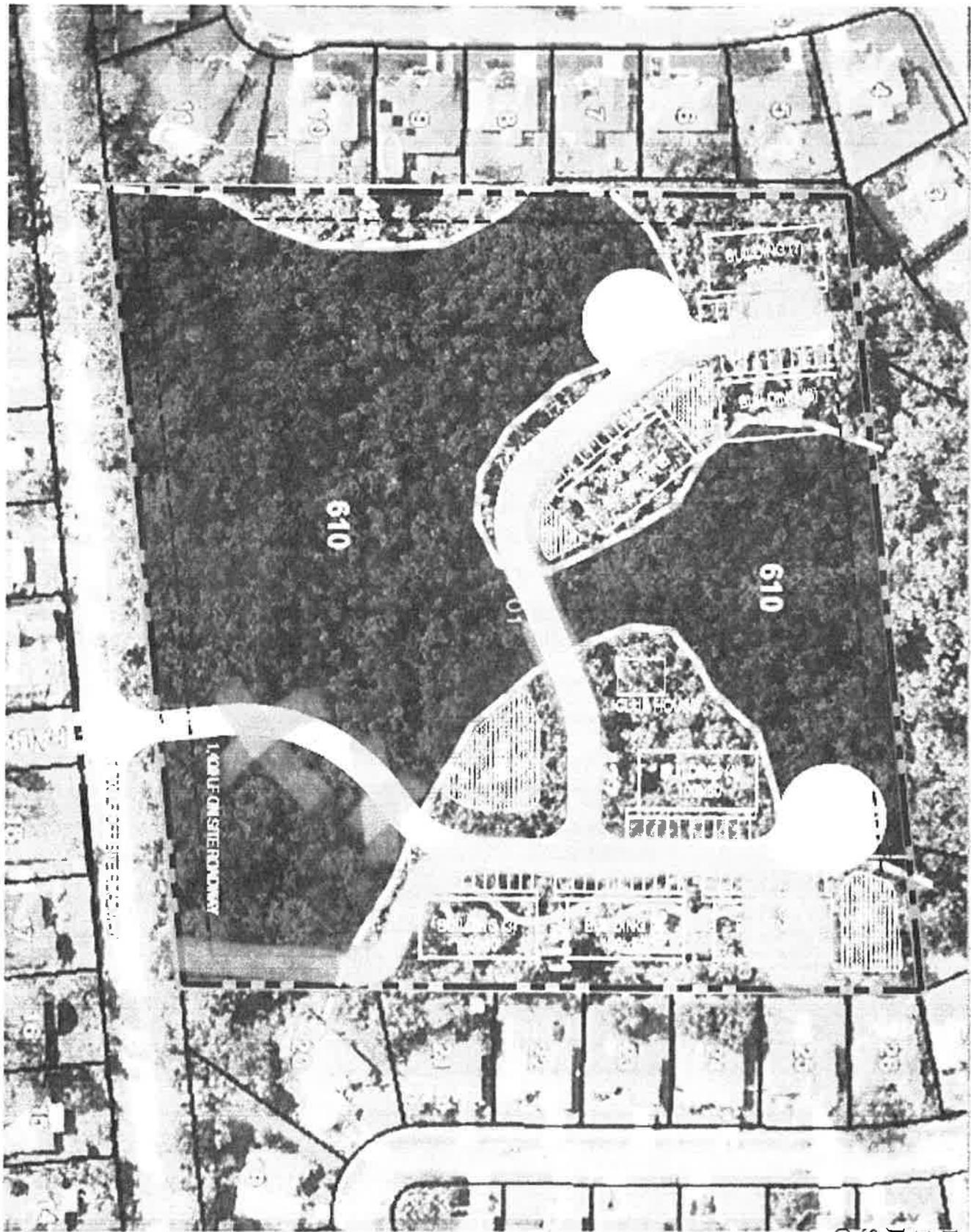
Ms. Lawandales stated she is in favor of the attached single-family versus multi-family, but she thinks 698 49 is a big number and its inconsistent with the Comprehensive Plan. Mr. Moia stated having mobile homes on the property would de-value the surrounding properties.

Mr. Filiberto called for a vote on the motion as stated, and it failed 3:5, with McLellan, Wadsworth, Moia, Glover, and Filiberto voting nay.

Motion by Bruce Moia, seconded by Ben Glover, to approve the Small Scale Comprehensive Plan Amendment from Residential 4 to Residential 6. The motion passed 5:3, with Rochelle Lawandales, Dane Theodore, and Ron Bartcher, voting nay.

Motion by Bruce Moia, seconded by Ron McLellan, to approve the requested change of zoning classification from RRMH-1 (Rural Residential Mobile Home) to RA-2-6 (Single-Family Attached Residential) with a BDP (Binding Development Plan) limited to a maximum 49 units, the area marked as 425 on the conceptual plan submitted 08/05/19 shall not be developed and shall be left in its natural state, and that access be on Falk Road. The motion passed 6:2, with Rochelle Lawandales and Ron Bartcher voting nay.

CONCEPTUAL PLAN WITH OUT-BENEFIT OF TOPOGRAPHY AND SECONDARY SURVEY
SEE ENVIRONMENTAL REPORT FOR NETLAND REPORTS



Public Comment
19PZ00063
JSFS/Shapiro
Submitted
08/05/19



BOARD OF COUNTY COMMISSIONERS

Rita Pritchett, District 1 Commissioner

2000 South Washington Avenue, Ste. 2

Titusville, FL 32780

(321) 607-6901

D1.commissioner@brevardfl.gov

Planning and Development

Zoning Meeting October 3, 2019

JSFS Land Trust, Jacob and Faye Shapiro, Trustees (19PZ00062 & 19PZ00063)

Commissioner Pritchett spoke to Kim Rezanka by phone regarding the above item on August 29, 2019.

Kim Rezanka stated they are asking to amend the FLU from Res 4 to Res 6 on 9.79 acres multiple family on the north side of Ranch Road. There is water service to the property and applicant intends to provide sewer service. It is required to access property from a paved road and Ranch Road is a dirt road. Applicant plans to use Everett Street to Falk and pave a section across Ranch Road for access to property. Commissioner Pritchett expressed her concerns about adding traffic to a residential street.

Prepared by: Kimberly Bonder Rezanka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this ____ day of _____, 2019, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Soho Development One, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the RA-2-6 zoning classification(s) and desires to develop the Property as townhomes, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successor or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit density to five (5) units per acre and may be

further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

3. The Developer/Owner shall have one ingress and egress from the Property to Ranch Road (a/k/a King's Highway).

4. The Developer/Owner shall pay for the engineering and for the construction of improvements to Ranch Road to allow paved access from the Property to Grissom Parkway or any portion of Ranch Road paved or due to be paved by a third party or by the County. These improvements shall not include curb and gutter or piping of the north ditch or sidewalks, and the pavement width required shall be no greater than twenty-two feet (22'). The Developer/Owner may be entitled to transportation impact fees for the costs of engineering and construction.

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

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

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

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

Ordinances of Brevard County, Florida, as may be amended.

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

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

ATTEST

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

Scott Ellis, Clerk
(SEAL)

Katherine Isnardi, Chair
As approved by the Board on: _____

WITNESSES:

Soho One Development, LLC

BY: _____

ITS: _____

(Witness Name typed or printed)

(Address)

STATE OF FLORIDA)

➤ ss:

COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 2019,
personally appeared _____, as _____ of Soho
One Development, LLC, who is personally known to me or who has produced
_____ as identification, and who did/did not take an oath.

Notary Public

My Commission expires:

SEAL

Commission No.:

(Name typed, printed or stamped)

Legal Description

Parcel Id: 23-35-15-BB-*-147.01

The East ½ of Tracts 147 and 150, Cocoa Indian River Properties, according to the Plat thereof, as recorded in Plat Book 5, Page 7 of the Public Records of Brevard County, Florida.

Prepared by: Kimberly Bonder Rezanka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

BINDING DEVELOPMENT PLAN (rev. 10/3/19)

THIS AGREEMENT, entered into this ____ day of _____, 2019, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Soho Development One, LLC (hereinafter referred to as "Developer/Owner").

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5. Developer/Owner shall not utilize the area marked as "425" on the attached conceptual site plan, Exhibit "B", for any development and will leave it in its natural state unless required by any governmental agencies to remove invasive species or if Developer/Owner installs a buffer wall or fence.

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

ATTEST

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

Scott Ellis, Clerk
(SEAL.)

Kristine Isnardi, Chair
As approved by the Board on: _____

WITNESSES:

Soho One Development, LLC

BY: _____

ITS: _____

(Witness Name typed or printed)

(Address)

STATE OF FLORIDA)

➤ ss:

COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, 2019,
personally appeared _____, as _____ of Soho
One Development, LLC, who is personally known to me or who has produced
_____ as identification, and who did/did not take an oath.

Notary Public

My Commission expires:

SEAL

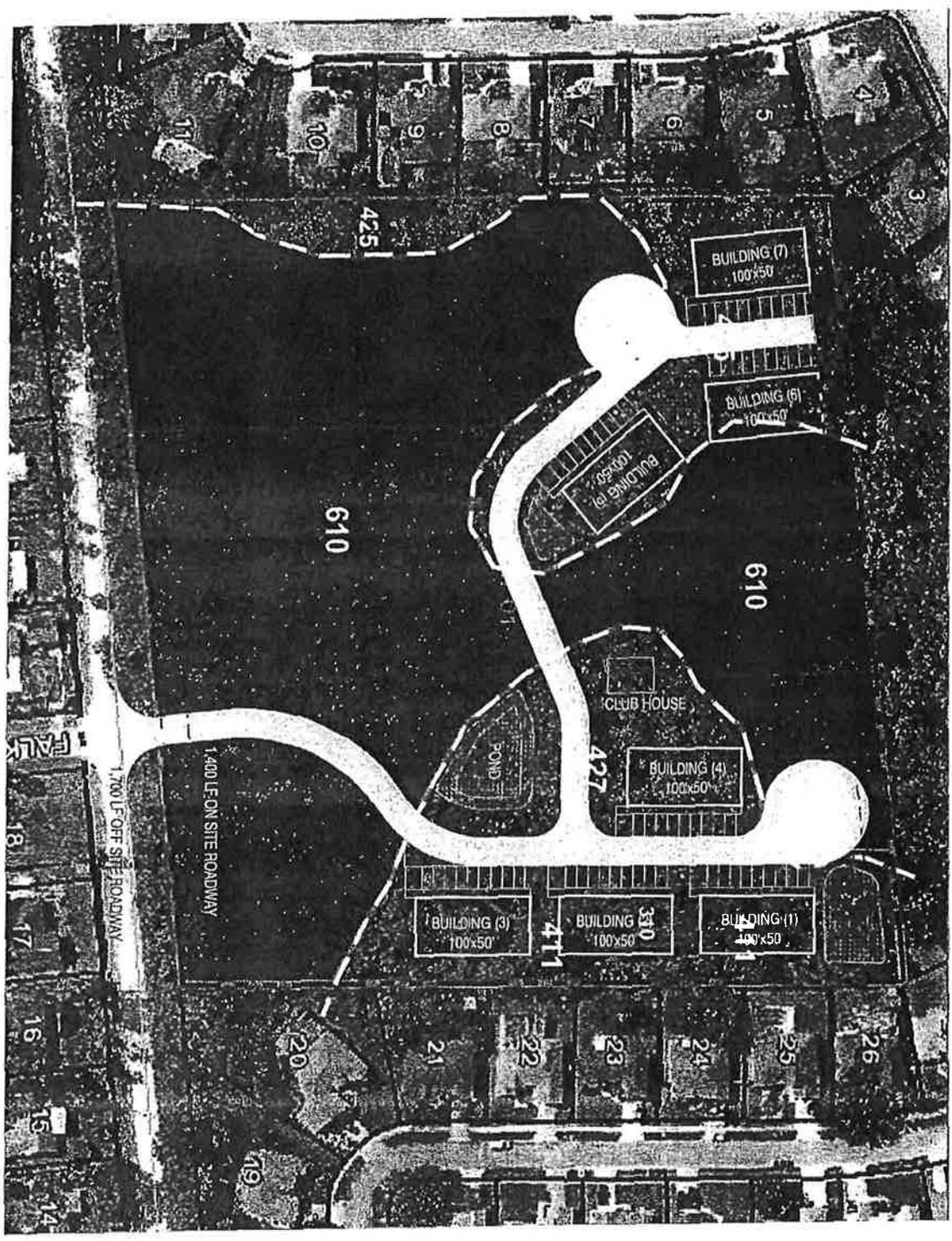
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CONCEPTUAL PLAN WITHOUT BENEFIT OF TOPOGRAPHIC OR BOUNDARY SURVEY.
SEE ENVIRONMENTAL REPORT FOR WETLAND IMPACTS.



CP-1 10/11/10	CONCEPTUAL SITE PLAN SOHO VILLAS PORT ST. JOHN, FL		REVISION TABLE	CONCEPTUAL DESIGN WITHOUT THE BENEFIT OF A RECORDED SURVEY	JONAS L. ORLANDO, STATE OF FLORIDA PROFESSIONAL ENGINEER LICENSE NO. 10227	

Exhibit "B"

H8

Applicant Exhibit
19PZ00063
JSFS/Shapiro
(Submitted at the
10/03/19 meeting)

Brevard County Board of County Commissioners Meeting

October 3, 2019

- PRESENTED ON BEHALF OF -

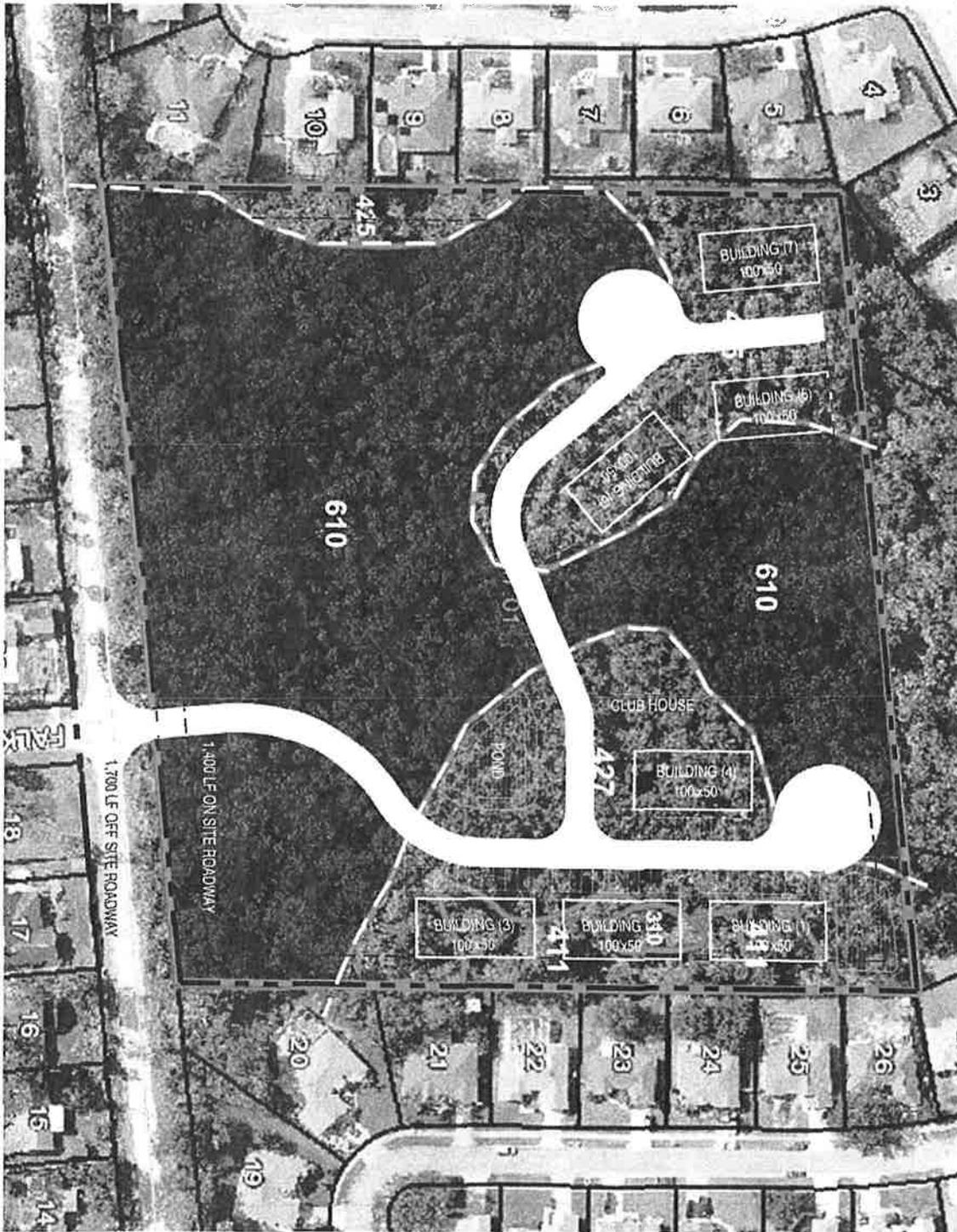
JSFS LAND TRUST, JACOB & FAYE SHAPIRO, TRUSTEES

Item H8 – Request for a Small-Scale Comprehensive Plan Amendment
to change the Future Land Use designation from
Residential 4 to Residential 6. (19PZ00062) (District 1)

AND

Item H9 – Requests a Change of zoning classification
from RRMH-1 to RA-2-6 (19PZ00063) (District 1)

KIMBERLY BONDER REZANKA, ESQ.
Cantwell & Goldman, P.A.
96 Willard Street, Suite 302
Cocoa, FL 32922



CONCEPTUAL PLAN WITHOUT BENEFIT OF TOPOGRAPHIC OR BOUNDARY SURVEY.
SEE ENVIRONMENTAL REPORT FOR WETLAND IMPACTS.

NOT TO BE CONSIDERED AS A PROFESSIONAL ENGINEERING DESIGN OR AS A PROFESSIONAL ENGINEERING SURVEY. THE DESIGN OF THIS PROJECT IS THE PROPERTY OF THE ENGINEER OF RECORD AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER OF RECORD.

SHEET NO. CP-1	CONCEPTUAL SITE PLAN SOHO VILLAS PORT ST. JOHN, FL	REVISION TABLE <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td> </td><td> </td></tr> </table>											CONCEPTUAL DESIGN WITHOUT THE BENEFIT OF A RECORDED SURVEY	ENGINEER'S STATE OF FLORIDA PROFESSIONAL ENGINEER LICENSE NO. 58871 CFEET CIVIL ENGINEERS, INC. 1100 N. W. 11th St., Suite 100 Ft. Lauderdale, FL 33304 TEL: (954) 561-1111 FAX: (954) 561-1112

Prepared by: Kimberly Bonder Rezanka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

BINDING DEVELOPMENT PLAN (rev. 10/3/19)

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

ATTEST

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi, Chair
As approved by the Board on: _____

WITNESSES:

Soho One Development, LLC

BY: _____

ITS: _____

(Witness Name typed or printed)

(Address)

STATE OF FLORIDA

)

ss:

COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 2019,
personally appeared _____, as _____ of Soho
One Development, LLC, who is personally known to me or who has produced
_____ as identification, and who did/did not take an oath.

Notary Public

My Commission expires:

SEAL

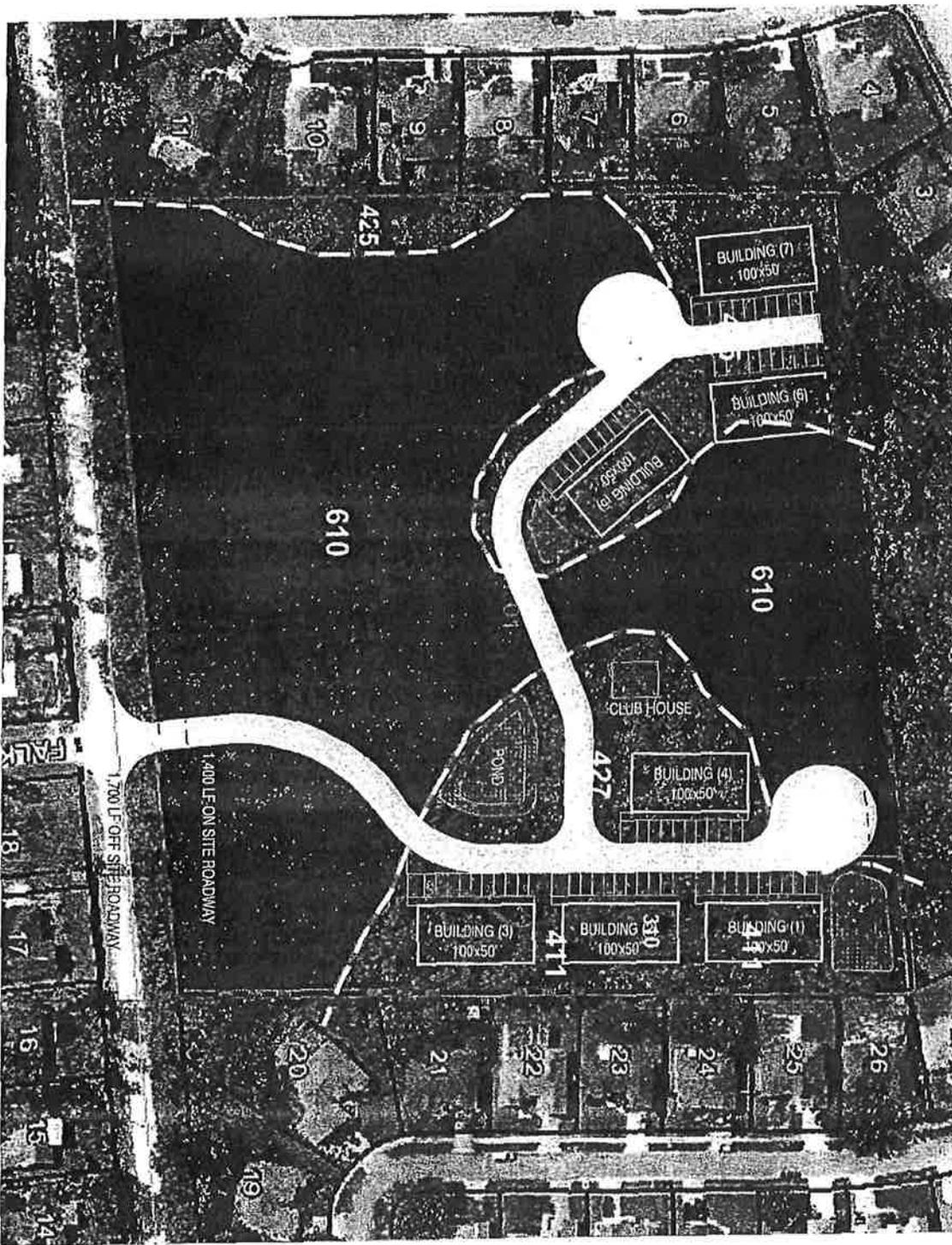
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SEE ENVIRONMENTAL REPORT FOR WETLAND IMPACTS.



<p>CP-1</p>	<p>CONCEPTUAL SITE PLAN SOHO VILLAS PORT ST. JOHN, FL</p>	<p>REVISION TABLE</p> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	DESCRIPTION				<p>CONCEPTUAL DESIGN WITHOUT THE BENEFIT OF A RECORDED SURVEY</p>	<p>2025 L. DESIGNER, STATE OF FLORIDA PROFESSIONAL ENGINEER LICENSE NO. 75317</p>
NO.	DATE	DESCRIPTION								

Exhibit "B"

Sec. 62-805. - Definitions.

As used in this division, the following words shall have the following meanings, unless some other meaning is plainly intended:

Adjusted for family size means adjusted in a manner that results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in the definitions of low, moderate and very-low income persons or households, based upon a formula established by the United States Department of Housing and Urban Development.

.....

Capital improvement includes transportation planning, transportation impact fee consultant studies, preliminary engineering, engineering design studies, land surveys, right-of-way acquisition, engineering, permitting and construction of all the necessary features for any road construction project, including, but not limited to, the following:

- (1) Construction of new lanes;
- (2) Construction of new turn lanes;
- (3) Construction of new bridges;
- (4) Construction of new drainage facilities in conjunction with new roadway construction;
- (5) Purchase and installation of traffic signalization, including both new and upgraded signalization;
- (6) Construction of curbs, medians and shoulders; and
- (7) Relocating utilities to accommodate new roadway construction.

.....

(Code 1979, § 14-205; Ord. No. 95-24, § 1, 5-22-95; Ord. No. 01-68, § 5, 10-30-01; Ord. No. 02-19, § 1, 4-30-02; Ord. No. 06-044, § 2, 8-8-06)

Cross reference— Definitions generally, § 1-2.

Sec. 62-815. - Exemptions, credits, reimbursements, and deferrals.

.....

(b) *Credits.*

- (1) No credit shall be given for site-related improvements.
- (2) **All capital improvements to arterial and collector roads required under a county or city-approved development order for any project, except for those improvements deemed site-related, may be credited to a feepayer, developer, or community development district constructing or contributing capital improvements otherwise required of a developer as a condition of development approval against the transportation impact fee assessed against the project required to provide said capital improvement.** Award of the credit shall be made by separate agreement approved by the board of county commissioners. The board of county commissioners reserves the right to determine the amount to be credited by preparing engineering and construction cost estimates or real estate appraisals for those improvements by using the methodology described in section 62-810 and by preparing traffic engineering data utilizing generally accepted traffic engineering practices. No credit given to a feepayer, developer, or community development district constructing or contributing capital improvements otherwise required of a developer as a condition of development approval shall exceed the assessed transportation impact fee for the project. For the purposes of this section the project shall be considered the largest area approved through a DRI, subdivision or site plan. The value of construction eligible for credit or reimbursement for improvements internal to and on the site of the project which also create excess capacity shall be determined by calculating the percentage of the total costs that corresponds to the ratio of excess capacity to total capacity as determined by generally accepted traffic engineering practices. To ensure that credits do not exceed the assessed transportation impact fee for the project, credits will be limited to the actual impact fee revenues collected within the project following the adoption of the separate credit agreement by the board of county commissioners.
- (3) No credit shall be granted for any costs, contribution, payment, construction or land received by the county or any municipality participating in this program through interlocal agreement if said costs, contribution, payment, construction or land dedication is received or made before a credit agreement is approved by the board of county commissioners and fully executed by all applicable parties. Any claim for credit not so made and approved shall be deemed waived.

(c) *Reimbursements.*

- (1) In lieu of providing impact fee credits pursuant to subsection 62-815(b)(2), when a developer or community development district constructs or donates transportation capital improvements as defined in section 62-805 and said capital improvements qualify for credit under subsection 62-815(b) and are accepted by the county, a city or the state for maintenance or when a certificate of completion has been issued certifying the construction is complete and conforms to county, city or state standards, whichever occurs first, **the board of county commissioners may, upon request, provide reimbursement, as described herein, from the appropriate transportation impact fee trust fund to the developer** or community development district, as the applicable impact fees generated by the land development project for which the donation was made are collected. The amount of reimbursement shall not exceed the amount of credit that would otherwise be awarded under the terms of subsection 62-815(b). The developer shall provide such documentation as requested by the county to ascertain the amount of reimbursement to which the developer is entitled. Such reimbursement agreements between the county and developer shall be assignable by the developer. Nothing in this section shall be construed to relieve any person from the responsibility of paying any required impact fee at the time or upon the occurrence of any event specified in a development order or by applicable ordinance.
- (2) When impact fee credits have been awarded for more than one capital improvement within a land development project, collected revenues will be assigned to each credit award based on the ratio of the remaining balance for each credit award to the remaining balance of all credit awards within the project. When a capital improvement is completed in phases, each phase shall be considered as a separate capital improvement for the purposes of assigning collected revenues for reimbursement.

Sec. 62-3202. - General.

- (a) A site development plan shall be required for the construction or expansion of a building, structure, infrastructure, or complex of buildings or structures, unless exempted by this section. A building permit shall not be issued, unless the construction plans are accompanied by an approved site development plan

.....

- (c) A site development plan submitted for any development defined in this Article shall comply with the requirements of article VII, division 4, engineering design standards for subdivision and site plan review.

- (d) Site development plans, drainage plans, drainage calculations, and all other engineering studies shall be signed and sealed by a professional engineer licensed in the state. The county manager or their designee may waive the engineering requirement for minor site plans or minor alteration plans.

.....

- (h) The site development plan shall include all of the necessary information and engineering for construction, including but not limited to, the following and other specific requirements and standards of this article:

- (1) A site development plan shall provide that the proposed lot sizes, lot coverage, density, setback provisions, and other factors are in conformity with the requirements of this article and other applicable ordinances, articles and statutes.
- (2) The site shall be designed and constructed to ensure use of the property is in harmony with adjacent and surrounding land use; has adequate light and air; and is safe and convenient for those persons utilizing such property.
- (3) The ingress and egress to the property and proposed structures, both pedestrian and vehicular, shall be controlled so as to provide safe traffic control and flow within the property and between adjoining property and existing public roads and rights-of-way.
- (4) The site shall have direct access to a paved road, whether public or private.
- (5) Access drives that function as a minor street, minor arterial, collector street or higher functional classification shall be constructed in accordance with applicable sections of the article VII.
- (6) The drainage of the property shall not alter the established drainage so as to adversely affect the adjoining property. The plan shall depict the stormwater treatment method as required by federal, state, and local governing agencies.**
- (7) The plan shall demonstrate water and sewer service are available. In areas where public sewer service is not available, the site development plan shall depict department of health approved alternative means of treatment.
- (8) Site development plans shall take reasonable measures to preserve all natural, scenic vistas/roadways, archaeological, and historic features.
- (9) Any boundary and/or easement overlaps and gaps must be resolved prior to final approval.
- (10) Site plans within BU-1, BU-2, or industrial zoning classifications shall construct a minimum of a six-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, when the subject property abuts a residential zoning classification.

(Ord. No. 13-40, § 4, 12-3-13)

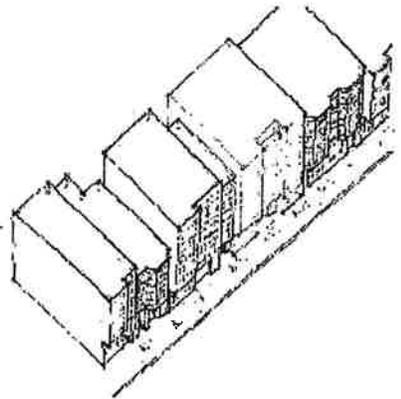
What is Infill and Redevelopment?

There are various definitions of infill and redevelopment. The American Planning Association describes infill development as redevelopment that, “optimize[s] prior infrastructure investments and consumes less land that is otherwise available...” Infill development and redevelopment can result in:

- Efficient utilization of land resources
- More compact patterns of land use and development
- Reinvestment in areas that are targeted for growth and have existing infrastructure
- More efficient delivery of quality public services

The Maryland Sustainable Growth Commission offers three definitions of infill, redevelopment, and revitalization. The following is an adaptation of these definitions.

- **Infill** refers to the development of vacant parcels within previously built areas. These areas are already served by public infrastructure, such as transportation, water, wastewater, and other utilities.
- **Redevelopment** describes converting an existing built property into another use. Ideally, redevelopment aims for better use of the property that provides an economic return to the community. For example, a vacant property may be converted to a mixed-use development that combines residential and commercial uses.
- **Revitalization** means instilling new life and vitality into a community through activities such as infill and redevelopment. Revitalization activities may include reusing or renovating buildings, improving building façades, streetscaping to beautify an area, and/or conducting incentive-based or preservation-based economic development tools to leverage local assets.



The Municipal Research and Services Center (MRSC) is a nonprofit organization that helps local governments across Washington State better serve their citizens by providing legal and policy guidance on any topic.

Infill Development

Communities across the country are increasingly recognizing that the spread out patterns of growth, which have shaped American communities for the past several decades, cannot be sustained. Problems of lengthy commutes, overextended public facilities and increased infrastructure costs, loss of farmlands, open space, and other valued community resources, and even reduced physical activity and community health are typically associated with such patterns. **Instead, an increased emphasis on developing passed-over parcels within developed areas, and on maximizing use of existing public facilities is needed.** . . . The reduced land supply has created new interest in infill development opportunities in central and suburban cities alike.

Infill development is the process of developing vacant or under-used parcels within existing urban areas that are already largely developed. Most communities have significant vacant land within city limits, which, for various reasons, has been passed over in the normal course of urbanization. Ideally, infill development involves more than the piecemeal development of individual lots. Instead, a successful infill development program should focus on the job of crafting complete, well-functioning neighborhoods. Successful infill development is characterized by overall residential densities high enough to support improved transportation choices as well as a wider variety of convenience services and amenities. It can return cultural, social, recreational and entertainment opportunities, gathering places, and vitality to older centers and neighborhoods. Attention to design of infill development is essential to ensure that the new development fits the existing context, and gains neighborhood acceptance. . . In the long view, the public and private costs of continuing to favor sprawl development patterns will far exceed the resources needed now to facilitate infill development.

Special Types of Infill Housing and Supporting Services

Infill development may be very small in scale, such as a single family house on a vacant lot within a developed block. It can also occur on a much larger scale, such as an entire block or even the redevelopment of many acres as in the case of the land area left behind when an airport within a city is relocated. In this case, an entire new neighborhood may be created, in the midst of other existing neighborhoods. Different types of infill development may be appropriate depending on the surrounding context and a community's goals for future growth. **At the same time, new infill development can often add some benefit that may have been missing from a neighborhood such as some increase in density to help support more frequent transit service, or adding a corner convenience store or green space.**

<http://mrsc.org/Home/Explore-Topics/Planning/Development-Types-and-Land-Uses/Infill-Development-Completing-the-Community-Fabric.aspx>

Prepared by: Kimberly Bonder Rezanka
Address: Cantwell & Goldman, P.A.
96 Willard Street, Ste. 302
Cocoa, FL 32922

BINDING DEVELOPMENT PLAN (rev. 10/11/19)

THIS AGREEMENT, entered into this ____ day of _____, 2019, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Soho Development One, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the RA-2-6 zoning classification(s) and desires to develop the Property as townhomes, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

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

2. The Developer/Owner shall limit density to five (5) units per acre and height to

two (2) stories, inclusive of parking, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

3. The Developer/Owner shall have one ingress and egress from the Property to Ranch Road (a/k/a King's Highway).

4. The Developer/Owner shall design, permit and construct improvements to Ranch Road to County standards to provide paved access from the Property project entrance to Grissom Parkway or any portion of Ranch Road paved to County standards that connects with Grissom Parkway. The Ranch Road improvements shall receive a certificate of completion prior to the issuance of a certificate of occupancy for any structure. Notwithstanding the above, these improvements shall not include curb and gutter, piping of the north ditch, or sidewalks, and the pavement width required shall be no greater than twenty-two feet (22'). The Developer/Owner may be entitled to transportation impact fee credits or reimbursement for the costs of engineering, permitting and construction.

5. Developer/Owner shall not utilize the area marked as "425" on the attached conceptual site plan, Exhibit "B", for any development and will leave it in its natural state unless required by any governmental agencies to remove invasive species or if Developer/Owner installs a buffer wall or fence.

6. Developer/Owner shall provide and maintain a landscape buffer on the east and west portions of its Property where the townhomes abut the single-family detached dwellings to the east and west. The landscape buffer will be designed to screen the single-family detached homes to the east and west of the Property from the view of the upper floor windows of the townhomes that face east and west. The landscape buffer shall be designed to be opaque at the line-of-site from the townhome upper floor windows to the windows of adjacent single-family detached homes, within two (2) years of certificate of occupancies of the townhome units. It is anticipated that the landscape buffer will include Silver or Black Bamboo, Silver Buttonwood, Fakatchee Grass and Muhly Grass. The landscape buffer may be placed in the 15' subdivision

buffer, but this will not be known until the tree survey and topographical survey is completed.

The landscape plan must be approved by the County.

7. The landscape buffer shall be installed by Developer/Owner before issuance of the any temporary or permanent certificate of completion. Developer/Owner shall be responsible for the continuing maintenance of the landscape buffer, until transfer to the Association that will maintain the common tracts, and will be required to post a maintenance bond or performance pursuant to County Code requirements as agreed with County Staff.

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

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

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

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

12. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may

implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 11, above.

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

ATTEST

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

Scott Ellis, Clerk
(SEAL)

Kristine Isnardi, Chair
As approved by the Board on: _____

WITNESSES:

Soho One Development, LLC

BY: _____

ITS: _____

(Witness Name typed or printed)

(Address)

STATE OF FLORIDA)
 > ss:
COUNTY OF _____)

Subscribed and sworn to before me this ____ day of _____, 2019,
personally appeared _____, as _____ of Soho
One Development, LLC, who is personally known to me or who has produced
_____ as identification, and who did/did not take an oath.

Notary Public

My Commission expires:
SEAL
Commission No.:

(Name typed, printed or stamped)

Legal Description

Parcel Id: 23-35-15-BB-*-147.01

The East ½ of Tracts 147 and 150, Cocoa Indian River Properties, according to the Plat thereof, as recorded in Plat Book 5, Page 7 of the Public Records of Brevard County, Florida.



H.3

Planning and Development Department
2725 Judge Fran Jamieson Way
Building A
Viera, Florida 32940

BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

TO: Board of County Commissioners

THROUGH: Frank Abbate, County Manager
John Denninghoff, P.E., Assistant County Manager *JDS*

FROM: Tad Calkins, Director *TAC* Planning & Development

DATE: October 17, 2019

SUBJECT: **Binding Development Plan Submittal – 19PZ00063**
Owners: JSFS Land Trust Applicant: Kimberly Rezanka
Tax Account #2304560, Ranch Road west of Grissom Parkway
(District 1), 9.79 acres

The applicant is seeking a change of zoning classification from RRMH-1 to RA-2-6 for the purpose of developing a single-family townhouse subdivision with a Binding Development Plan (BDP), limited to 49 units.

At the October 3, 2019 Board of County Commissioners (BOCC) Zoning meeting, staff was directed to work with the applicant to revise the BDP to address outstanding buffering concerns, clarify improvements to Ranch Road and potential impact fee credits. On October 9, 2019, staff contacted Ms. Rezanka as a modified submittal had not been received. Staff reviewed a modified BDP and exhibit submitted on October 11, 2019. A second conflicting conceptual plan was also received on October 11, 2019 from Blue Projects. Exhibits were clarified by Ms. Rezanka on October 16, 2019. Staff has been in almost daily communication with the applicant since October 9, 2019.

During the meeting discussion, the Board stated that the neighborhood behind should see a natural, complete buffer that completely protects the neighbors to a height of 35 feet. It was further stated that there should be an inability to see from one project to another. Staff's review of the revised BDP has determined that additional information is required such as a topographic survey, baseline engineering to determine finished floor elevation, grading & retention requirements and a tree survey to determine if existing native vegetation may provide an adequate opaque buffer in some areas without additional plantings or fencing. This information, combined with a line-of-sight cross-section provided by a registered landscape architect or professional engineer, would allow staff to appropriately evaluate the Board's buffering concerns.

With that being said, the following comments elaborate on specific concerns relating to the conditions of the proposed BDP and are further based on conversations and information available to staff as of the date of this memorandum.

1. The applicant should provide BDP language indicating that the correct exhibit is for conceptual purposes only and the applicant is neither vested nor obligated to the specific design.
2. Regarding #4, a sidewalk waiver can be applied for through the permit review process and county requirements will have to be met as outlined in the first sentence of item #4. Therefore, strike *"Notwithstanding the above, these improvements shall not include curb and gutter, piping of the north ditch, or sidewalks, and the pavement width required shall be no greater than twenty-two (22)".* Replace the stricken language with, *"The proposed Ranch Road improvements shall be a twenty-two foot (22-ft) flush shoulder roadway with an open swale / ditch conveyance system."*
3. Condition #6 of the proposed BDP states, *"Developer/Owner shall provide and maintain a landscape buffer on the east and west portions of its Property where the townhomes abut the single-family detached dwellings to the east and west. The landscape buffer will be designed to screen the single-family detached homes to the east and west of the Property from the view of the upper floor windows of the townhomes that face east and west. The landscape buffer shall be designed to be opaque at the line-of-site from the townhome upper floor windows to the windows of adjacent single-family detached homes, within two (2) years of certificate of occupancies of the townhome units. It is anticipated that the landscape buffer will include Silver or Black Bamboo, Silver Buttonwood, Fakatchee Grass and Muhly Grass. The landscape buffer may be placed in the 15' subdivision buffer, but this will not be known until the tree survey and topographical survey is completed. The landscape plan must be approved by the County."* The following comments all apply to the language above.
 - a. Staff believes the applicant is referring to the 15-foot undisturbed perimeter buffer tract required by Section 62-2883 (d) of Brevard County Code. As buffer location cannot yet be determined, based on the applicant's proposed BDP language and the lack of the following - topographical survey, tree survey, required fill, proposed vegetation height & depth, and ceiling & window heights – staff is unable to verify that the language above is sufficient to satisfy Board concerns.
 - b. The language does not establish a minimum width for the buffer, only indicating where it *"may be placed"*. The final grading plan and finished floor elevations may necessitate additional buffer height or width to address line-of-sight concerns.
 - c. Buffering is only contemplated for upper floors of the townhomes to the adjacent existing single-family homes. Staff is uncertain that this language addresses complete protection of the neighbors.
 - d. Proposed language indicated that the buffer shall be designed to be opaque *"within two (2) years of certificate of occupancies of the townhome units."* This

provides a future expectation that has no opacity measure at the time of installation.

- e. Regarding species selection, "...*landscape buffer will include Silver or Black Bamboo...*" Staff recommends modifying the BDP language to "...*landscape buffer may include Silver or Black Bamboo...*" to allow for species selection flexibility after tree survey and during the design process.
- f. Language should be added to proposed condition #6, "*There shall be no structures, fill, drainage or retention within the buffer tract.*"

In closing, to address the aforementioned Board concerns, additional information is required such as a topographic survey, baseline engineering to determine finished floor elevation, grading & retention requirements and a tree survey to determine if existing native vegetation may provide an adequate opaque buffer in some areas without additional plantings or fencing. This information, combined with a line-of-sight cross-section provided by a registered landscape architect or professional engineer, would allow staff to appropriately evaluate the Board's buffering concerns.