



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

8/7/2025

Subject:

River Fly-in Condominiums, Inc. (Bruce Moia) requests a change of zoning classification from IU and PUD with BDPs to all PUD and retention of BDPs. (24PUD00001) (Tax Accounts 2501000 & 3034474) (District 2)

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 IU (Light Industrial) and PUD (Planned Unit Development) with BDPs to all PUD and Retention of BDPs.

Summary Explanation and Background:

The applicant is seeking to merge an existing 112-unit PUD, River Fly-In PUD, which is under construction together with a 15.47-acre riverfront tract to provide an 18 wet-slip residential/recreational marina (17-power boat slips and 1-sailboat slip) as an additional recreational amenity for that community. Residents will access the marina via existing 5-foot and proposed 6-foot-wide elevated boardwalks. The current PUD was approved with a Binding Development Plan (BDP) for short-term rentals that clarifies the uses in the PUD, consistent with Section 62-1841.5.5 of Brevard County Code, concerning Resort Dwellings use. That BDP was approved by the Board under 20PZ00019 on May 20, 2020, and was recorded in ORB 8746, Pages 182-187. This site includes two previous BDPs recorded under ORB 7182, Page 1198 on August 6, 2014, and ORB 5648, Page 7252 on May 22, 2006. The PUD's existing residential tower was developed at 8.6 units per acre upon the original 13+ acres. No new residential units are proposed within the expanded PUD. The Code states a residential/recreational marina can provide community dockage serving subdivisions, condominiums or private organizations having three to 30 slips, inclusive. No fueling, wastewater pump out or repair facilities are associated with these marinas.

To the north, across Cone Road, is a developed county park, Veterans Memorial Park (approximately 34.75 acres) and immediately abutting the property are three single-family lots; two zoned General Use (GU) and one zoned Single-family Residential (RU-1-11) (3-residential lots of total approximately 0.9 acres). To the south is a 12.89.76-acre parcel with IU zoning developed as office/industrial use and a 106.95-acre airport. To the east is the Banana River.

To the west, across Kemp Street, is an 8.4-acre Brevard County facility with GML zoning; site uses include park maintenance and Brevard County Sign Shop.

The Board may wish to consider whether the request is consistent and compatible with the surrounding area. Additionally, the Board may consider whether the existing BDP stipulations mitigate any potential impacts due to the expansion of the PUD zoning and the Preliminary Development Plan.

On July 14, 2025, the Planning and Zoning Board considered the request and voted unanimously to recommend approval.

Clerk to the Board Instructions:

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

Resolution 24PUD00001

On motion by Commissioner Goodson seconded by Commissioner Altman, the following resolution was adopted by a unanimous vote:

WHEREAS, River Fly-In Condominium, Inc. requests a zoning classification change from IU (Light Industrial) and PUD (Planned Unit Development) with BDPs to all PUD (Planned Unit Development) and retention of BDPs, on property described as Tax Parcel 1, as recorded in OR Book 9598, Page(s) 2492 and Tax Parcel 254, as recorded in OR Book 9846, Page(s) 1935 of the Public Records of Brevard County, Florida. **Section 01, Township 25, Range 36.** (28.09 acres) Located on the South side of Cone Road, approximately 150 feet east of Kemp Street; also located on the east side of Kemp Street, approximately 145 feet south of Cone Road. (Multiple Addresses, Merritt Island); and

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

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

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from IU and PUD with BDPs to all PUD and retention of BDPs, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of August 07, 2025.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Rob Feltner, Chairman

Brevard County Commission

As approved by the Board on August 07, 2025.

ATTEST


RACHEL M. SADOFF, CLERK

(SEAL)

P&Z Board Hearing – July 14, 2025

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said**

development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

24PUD00001

River Fly-In Condominium, Inc.

IU and PUD (Planned Unit Development) with BDPs to all PUD and Retention of BDPs

Tax Account Number: 2501000 & 2501008
Parcel I.D.: 25-36-01-00-1 & 25-36-01-00-254
Location: South side of Cone Road, approximately 150 feet east of Kemp Street;
also located on the east side of Kemp Street, approximately 145 feet
south of Cone Road. (District 2)
Acreage: 28.5 acres
MIRA: 05/30/2024
Planning and Zoning Board: 7/14/2025
Board of County Commissioners: 8/07/2025

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	IU and PUD with BDP	All PUD with Retained BDPs
Potential*	112 short-term rental units (resort dwelling use)	112 short-term rental units with 18-slip marina
Can be Considered under the Future Land Use Map	YES Residential 15	YES Residential 15

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

Background and Purpose of Request

The applicant is seeking to merge an existing 112-unit PUD, River Fly-In PUD, which is under construction together with a 15.47-acre riverfront tract in order to provide an 18 wet-slip residential/recreational marina (17-power boat slips and 1-sailboat slip) as an additional recreational amenity for that community. Residents will access the marina via existing 5-foot and proposed 6-foot wide elevated boardwalks. The current PUD was approved with a Binding Development Plan (BDP) for short-term rentals that clarifies the uses in the PUD, consistent with Section 62-1841.5.5 of Brevard County Code, concerning Resort Dwellings use. That BDP was approved by the Board under **20PZ00019** on May 20, 2020, and was recorded in ORB 8746, Pages 182-187. This site includes two previous BDPs recorded under ORB 7182, Page 1198 on August 6, 2014, and ORB

5648, Page 7252 on May 22, 2006. The PUD's existing residential tower was developed at 8.6 units per acre upon the original 13+ acres. No new residential units are proposed within the expanded PUD. The Code states a residential/recreational marina can provide community dockage serving subdivisions, condominiums or private organizations having three to 30 slips, inclusive. No fueling, wastewater pump out or repair facilities are associated with these marinas.

This property is located at the SE corner of the Merritt Island Redevelopment District (MIRA), lying south of Cone Road and east of Kemp St. This item is scheduled to be heard by MIRA at their June 26, 2025, meeting.

The original zoning approval of the PUD's Preliminary Development Plan (PDP) occurred on May 22, 2006, under Zoning Resolution # **Z-11244**. This zoning action changed the property's zoning from Light Industrial (IU) to PUD with a BDP recorded in ORB 5648, Pages 7252 through 7265. That action included a recorded copy of Declaration of Covenants and Waiver of Claims to meet additional standards or restrictions in developing the property.

The first amendment (second BDP) was approved by Zoning Resolution **14PZ-00030** adopted on August 6, 2014. This amendment recorded a revised BDP document under ORB 7182, Pages 1198 through 1213. One of the conditions amended concerned pilot ownership of unit(s). This condition was replaced with a condition that states the condominium/homeowner's association shall approve each and every conveyance of a unit and resale of a unit. The BDP further documents that any conveyance made without the condominium/homeowners' associations' approval shall be voidable by the condominium/homeowners' association and removed the requirement to be a pilot. This version does not identify occupancy - whether the units are to be owner occupied or if they can be rented/leased.

The third, current, BDP clarified that the condominium functions as a multi-family designation and allows short-term rentals of their units under the permitted with conditions use – Resort Dwellings.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	County Park and Single-family residential use	GML(P) GU & RU-1-11	Public Facility RES 15
South	Industrial Use and M.I. Airport	IU GML with CUP	H/L Industry Public Facility
East	Banana River	N/A	N/A
West	Commercial/Light Industry	GML	Public Facility

To the north, across Cone Road, is a developed county park, Veterans Memorial Park (approximately 34.75 acres) and immediately abutting the property are three single-family lots; two zoned General Use (GU) and one zoned Single-family Residential (RU-1-11) (3-residential lots total approximately 0.9 acres).

To the south is a 12.89.76-acre parcel with IU zoning developed as office/industrial use and a 106.95-acre airport.

To the east is the Banana River.

To the west, across Kemp Street, is an 8.4-acre Brevard County facility with GML zoning; site uses include park maintenance and Brevard County Sign Shop.

Future Land Use

The subject property is currently designated as Residential 15 (RES 15) FLUM designation. The current PUD zoning is consistent with the RES 15 FLUM designation. The current IU zoning is not consistent with the RES 15 FLUM designation. The proposed zoning request to "All" PUD with retention of the existing BDPs is consistent with the existing RES 15 FLUM designation.

FLUM Policy 1.4 – The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development.

The applicant's request can be considered consistent with the existing Future Land Use. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

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

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;

The applicant proposes to expand an existing PUD project from 13+ acres to 28.5-acres. The added area lies along the eastern property line and abuts the Banana River. A residential/recreational marina is proposed to be developed along the southern canal frontage furthest from the existing residential lot abutting Cone Road. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and will be reviewed at the site plan review stage.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.

C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

The surrounding area is generally Public Facility to the north (Veterans Memorial Park) and south (M.I. Airport). To the west across Kemp Street are county maintenance facilities (Brevard Sign Shop and park maintenance). The PDP identifies a recreational/residential marina use with no residential expansion.

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

No external development noted; internal development noted: the initial construction of the River Fly-In PUD's residential tower (western portion of site/property).

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

Two zoning actions has been approved within one-half mile:

- **23PUD00003, approved by the Board on November 14, 2023, was a request to rezone from PUD to PUD on 9.25 acres located approximately 1,370 feet north of the subject property on the south side of Fortenberry Road. PUD approved 370 multi-family units.**
- **21Z00004, approved by the Board on July 8, 2021, was a request to rezone from RU-1-9 to BU-2 with BDP on 0.53 acres located approximately 2,200 feet west of the subject property on the south side of Cone Road. Action limited the types of uses allowed. Owners agreed to the BU-2 zoning designation with the following uses prohibited on the property: Aquariums, Auditoriums, Billiard Rooms and Electronic arcades, Bottling Beverages, Bowling Alleys, Cafeterias, Dancing halls and Academies, Fraternities and Sororities, Hospitals, Commercial Parking, Pet Kennels, Seafood Processing Plants, and Theaters.**

There are no pending zoning actions within one-half mile of the subject property.

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

No material violation of relevant policies of the Comprehensive Plan has been identified.

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

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

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not

limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The character of the area is a mixture of developed single-family residential lots with warehouse and industrial uses with a public airport and county park in the immediate vicinity.

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The property is located in an unplatted tract; however, there are clearly established roads and residential lot boundaries to the north as well as the Banana River to the east. When this phase is site planned the entire project should also be platted.

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.

The request is not for commercial use. The marina will support the 112-unit condominium as a recreational amenity.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

The area abuts existing residential and industrial developed lots predating 5 years.

Analysis of Administration Policy 7

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

Based on the summary of mapped resources and noteworthy land use issues, development of the property may be limited. These issues include wetlands and hydric soils, Brevard County Manatee Protection Plan, Surface Waters of the State, Coastal High Hazard Area, floodplain, and the Indian River Lagoon Nitrogen Reduction Overlay.

Proposed development includes over 1,000 linear feet of elevated boardwalks and a proposed marina dock structure as well as some additional recreational facilities within the existing condominium tract. The width of the elevated boardwalk existing is 5-feet and the proposed

elevated boardwalk is depicted at 6-feet in width. Due to limited access (elevated boardwalk over wetlands), Public Safety (Fire) may have concerns regarding emergency access to the marina site and this may also become an issue with the Natural Resources Management Department for allowing access across the environmental sensitive area.

Preliminary Development Plan

In addition of Administrative Policies #3 and #4, the Preliminary Development Plan should be evaluated in the context of **Section 62-1448 (b) (5)** of the Zoning code:

Review criteria. The decision of the planning and zoning board on the preliminary development plan application shall include the findings of fact that serve as a basis for its recommendation. In making its recommendation, the planning and zoning board shall consider the following facts:

- a. Degree of departure of the proposed planned unit development from surrounding residential areas in terms of character and density.

Applicant response: ***The River Fly-In PUD will result in an overall decrease of residential building square footage density due to the increase in overall property area.***

Staff comment: ***This PUD retains 112 multi-family units with resort dwelling use.***

- b. Compatibility within the planned unit development and relationship with surrounding neighborhoods.

Applicant response: ***The River Fly-In PUD is planned to fit well into the surrounding neighborhoods.***

Staff comment: ***The PDP replaces some recreational amenities and adds an 18-slip marina. The residential use has not been modified since the last Board approval.***

- c. Prevention of erosion and degrading of surrounding area.

Applicant response: ***The River Fly-In PUD has been constructed with a modern surface water management system and FDEP NPDES Erosion Controls.***

Staff comment: ***The PDP is slightly modified from the prior approval and no drainage plan has been submitted to identify the impacts due to changes.***

- d. Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the preliminary development plan.

Applicant response: ***The River Fly-In PUD will provide all infrastructure, utilities, and common area improvements as required by code.***

Staff comment: ***The proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. The parcel is within the City***

of Cocoa utilities service area for public water and within the Brevard County utilities service area for sanitary sewer.

- e. The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.

Applicant response: No response.

Staff comment: Ownership and maintenance of open space has not changed; however, some of the recreational amenities are proposed to be modified and additional boardwalk and a new recreational/residential marina is proposed.

- f. The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.

Applicant response: No response.

Staff comment: The subject property is not staged; however, construction on the residential tower is almost complete. Some of the recreational amenities still need to be developed.

- g. The availability and adequacy of water and sewer service to support the proposed planned unit development.

Applicant response: The River Fly In PUD will not require any utility services.

Staff comment: Connection to potable water and sanitary sewer facilities has already been established.

- h. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development.

Applicant response: The River Fly-In PUD will not generate any additional traffic.

Staff comment: The proposal is not anticipated to create a deficiency in LOS.

- i. The benefits within the proposed development and to the general public to justify the requested departure from the standard land use requirements inherent in a planned unit development classification.

Applicant response: The benefit to the development and the public by the PUD vs. standard land use requirements lies in the space utilization of common infrastructure, and the symbiotic relationship of the PUD with surrounding and nearby services.

Staff comment: The applicant is not requesting waivers.

- j. The conformity and compatibility of the planned unit development with any adopted development plan of the county.

Applicant response: *The PUD will be consistent with future land use objectives. There are no special area plans in this location.*

Staff comment: *This location is within the Merritt Island Redevelopment Area (MIRA) area plan. Staff will seek their input as part of the zoning review.*

- k. The conformity and compatibility of the proposed common open space, primary residential and secondary nonresidential uses with the proposed planned unit development.

Applicant response: *We believe the features of the River Fly-In PUD to be a perfect fit with the proposed residential component uses, which is a residential condominium with a private marina facility linked by an elevated walking path. On the provided survey and comment letter received on May 6, 2025, the proposed elevated boardwalk is shown at 6-feet in width.*

Staff comment: *Although there are no new residential uses proposed; the additional recreational amenities proposed should benefit the residents of this project.*

To the north of this site abutting Cone Road are three developed residential lots. The northwestern two lots have the General Use, GU. The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet. Those lots are considered as nonconforming lots of record and predate 1958. The northeastern lot is zoned Single-family residential, RU-1-11. The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture. To the north of Cone Road lies the Brevard Veteran's Memorial Center Park and a county storm water facility. Both uses are zoned Government Managed Lands with the Park designation, GML(P). The GML(P) classification allows parks or recreational land uses for governmental purposes.

To the south of this site is a developed industrial site zoned for Light Industrial, IU uses. The IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

To the west of this site across Kemp Street are two properties with GML zoning. The northern half is zoned GML. This portion is owned by the county and used for county support services (Road & Bridge). The southern part is zoned GML and has a conditional use permit (**CUP-8587**) for the Merritt Island Airport. This zoning action was adopted April 23, 1990.

Waivers Requested with Preliminary Development Plan

Pursuant to 62-1442, states, "The applicant shall specifically include the alternative development standard(s) in the preliminary development plan and shall present its justification to the planning and zoning board of county commissioners in public hearing."

This applicant is not requesting any waivers.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Cone Road, between S. Courtenay Parkway and Plumosa, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 45.66% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to continue to operate at 45.66% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site was initially reviewed back in 2006.

The subject property is served by potable water provided by the City of Cocoa. The subject property is under agreement to be served by sewer by Brevard County.

Environmental Constraints

- Site impacted under previous development orders.

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

For Board Consideration

The applicant seeks to merge an existing 112-unit PUD, River Fly-In PUD, which is under construction together with a 15.47-acre riverfront tract in order to provide an 18 wet-slip residential/recreational marina (17-power boat slips and 1-sailboat slip) as an additional recreational amenity for that community. Access to that amenity will be via an 6-foot wide elevated boardwalk over the wetland and environmentally sensitive areas of the property. The current PUD was approved with a Binding Development Plan (BDP) for short-term rentals and clarifies the uses in the PUD consistent with Section 62-1841.5.5 of Brevard County Code concerning Resort Dwellings use.

The Board should determine whether the retained BDPs with additional and modified recreational elements is appropriate for the area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary**

Item No. 24PUD00001

Applicant: Bruce Moia, P.E. (Owner: River Fly In Condominium, Inc.)

Zoning Request: IU and PUD with BDP to all PUD with retention of existing BDPs. Residential recreational marina

Note: In MIRA; Proposing to construct a residential marina (17 motorized boat slips and one non-motorized sail slip) and associated elevated walkway to connect marina to condominium pedestrian path on the west parcel.

Zoning Hearing: 07/14/2025; **BCC Hearing:** 08/07/2025

Tax ID Nos.: 2501000 and 2501008

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Brevard County Manatee Protection Plan
- Surface Waters of the State
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

Land Use Comments:

Wetlands and Hydric Soils

A majority of the subject parcel contains mapped National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands and hydric soils (Turnbull and Riomar soils, tidal; Copeland-Bradenton-Wabasso complex, limestone substratum); indicators that wetlands are likely present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For residential

parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 62-3694(c)(6).

Per Section 62-3694(a)(2), recreational uses within wetlands shall be permitted provided they do not adversely affect the functions of wetlands within the county. If any portion of the connection from the west to the marina traverses wetlands, that portion shall be constructed as an elevated walkway to prevent adverse impacts to the wetlands. **A current survey depicting the property boundary, elevated walkway, and wetlands shall be required.**

Any permitted wetland impacts must meet the requirements of Section 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Brevard County Manatee Protection Plan (MPP)

A Residential Marina is defined as community docks exclusively serving subdivisions, condominiums, duplexes, or other multi-family developments with between and including three and 30 slips. No fueling, or repair facilities shall be associated with these marinas.

Per Section 62-3661(13)a, all marinas shall affirmatively demonstrate compliance with Policy 9.9 of the conservation element and Objective 5 and subsequent policies of the coastal management element of the Brevard County Comprehensive Plan, as amended. The affirmation shall include, but not be limited to, siting, habitat, manatee education, and water quality criteria. **An affirmation that the applicant will meet these criteria is included on the PUD Plan.**

An environmental report prepared by Atlantic Environmental, January 2023, addresses the marina facility siting criteria contained within the Brevard County MPP. The report concludes that a maximum of 17 motorized boat slips could be authorized in this location. This slip calculation is based on the linear length of the shoreline, property location, and manatee data. The proposed marina design depicts 17 motorized slips and 1 non-motorized sail slip.

The site-specific data and analysis for the facility siting was not provided. Additionally, there has been no review or approval by the Florida Department of Environmental Protection (FDEP) or the Florida Fish and Wildlife Conservation Commission (FLFWC). Per Comprehensive Plan Conservation Element Policy 9.14, Brevard County will coordinate with FWC and FDEP to ensure compliance with the MPP.

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class II Water, OFW, and Aquatic Preserve in this location. A 50-foot Surface Water Protection Buffer (Buffer) is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., stormwater management is provided, avoidance/minimization of impacts, and maximum 30% impervious). Any alterations in the Buffer (including trails or elevated walkways) need to be assessed for compliance with the Surface Water Protection ordinance and Stormwater Management. Please note that the proposed connection from the Wall Street Right-of-Way to the proposed marina is mapped within Class II waters (i.e., sovereign submerged state lands) and is

subject to state approval. **A survey depicting the property boundary, the safe upland line (SUL) or buffer establishment line (BEL), the elevated walkway, and Buffer delineation shall be required.**

The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order. Temporary impacts to native vegetation require in-kind restoration. The FDEP regulates mangrove trimming and can be reached at 407-897-4101. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

Coastal High Hazard Area

A majority of the subject parcel is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

Floodplain Protection

A majority of the subject parcel is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, 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. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Indian River Lagoon Nitrogen Reduction Septic Overlay

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

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and/or Specimen Trees (≥ 24 inches in diameter) may exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

Federally and/or state protected species may be present on properties with wetlands. If applicable, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service prior to any plan, permit submittal, or development activity, including land clearing.



MERRITT ISLAND REDEVELOPMENT AGENCY

MERRITT ISLAND REDEVELOPMENT AGENCY

INTER-OFFICE MEMORANDUM

DATE: May 31, 2024

TO: Jeffrey Ball, Planning & Zoning Manager
Tim Craven, Site Plan Coordinator - Land Development/Platting Jennifer Jones, Special Projects Coordinator
Desiree Jackson, Associate Planner

FROM: Larry Lallo, Executive Director, on behalf of the
Merritt Island Redevelopment Agency Board of Directors

RE: **Application: Merritt Island Redevelopment Agency
Site Plan Review – River Fly-In Condominiums
Preliminary PUD/Zoning Development Plan Section 01 Township 25S Range 36E**

Under Sec. 62-3202. - General. (f) “Site development plans located within the Merritt Island Redevelopment Area (MIRA), as described in the Merritt Island Redevelopment Plan, shall be coordinated with the Merritt Island Redevelopment Agency for a determination of consistency with the Merritt Island Redevelopment Plan.”; and

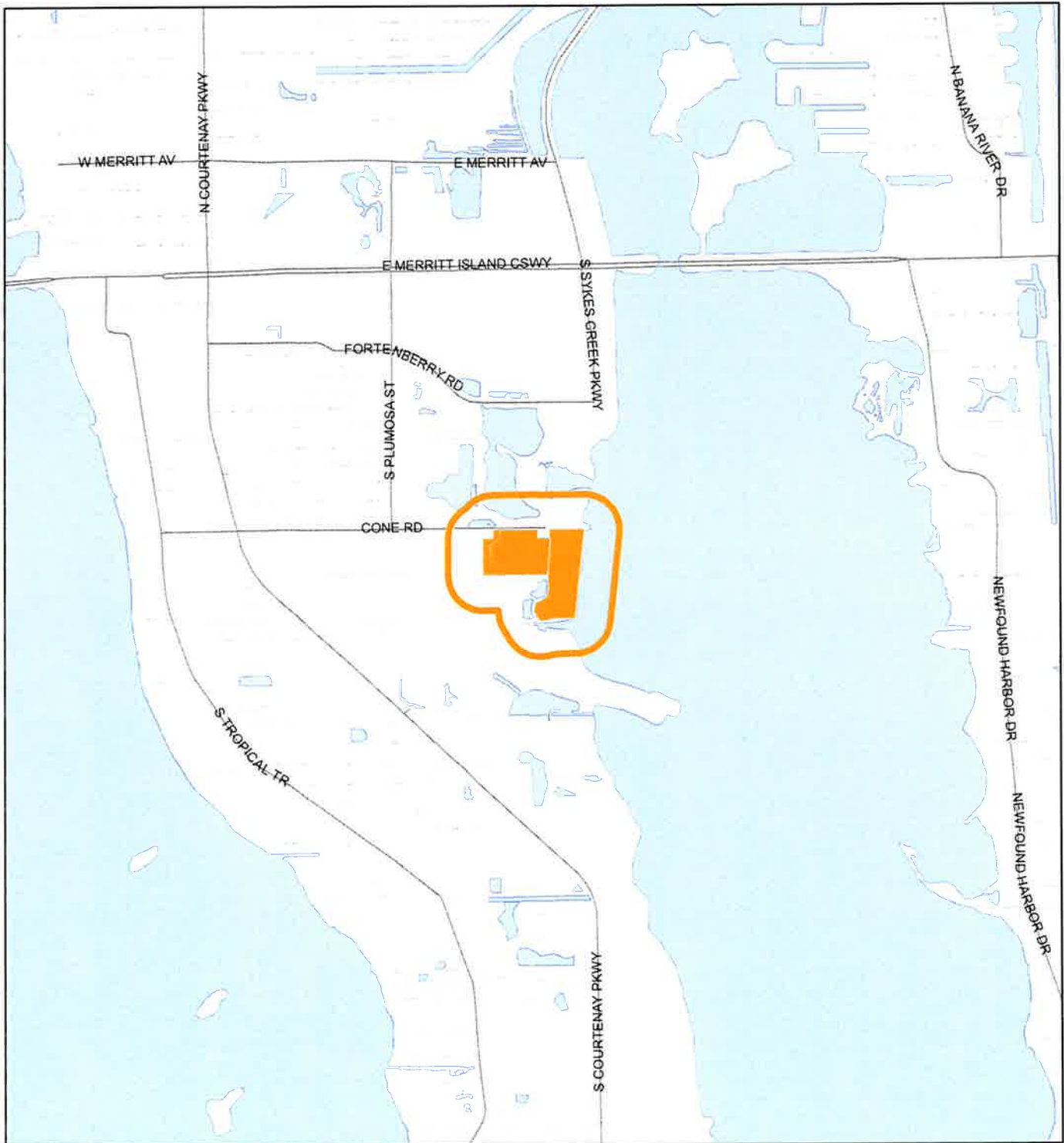
Under Section 62-2114 of Brevard County Code, “When an application is made to the planning and zoning board for a change in zoning or approval of a conditional use permit, or to the board of adjustment for a variance, for property located in the Merritt Island redevelopment area, the application shall be forwarded to the Merritt Island Redevelopment Agency prior to the applicable public hearing before the planning and zoning board or the board of adjustment.”

On May 30, 2024, the Merritt Island Redevelopment Agency Board of Directors reviewed the above-referenced Preliminary PUD/Zoning Site Development Plan request at their regular meeting. The MIRA Board and staff have the following recommendations and comments:

The MIRA Board recommended approval of the project plans, as presented, and found the preliminary plan to be consistent with the Merritt Island Redevelopment Plan, subject to a final review of the Brevard County Staff comments and subsequent to a final review of changes to the preliminary Plan.

LOCATION MAP

RIVER FLY-IN CONDOMINIUM INC
24PUD00001



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.

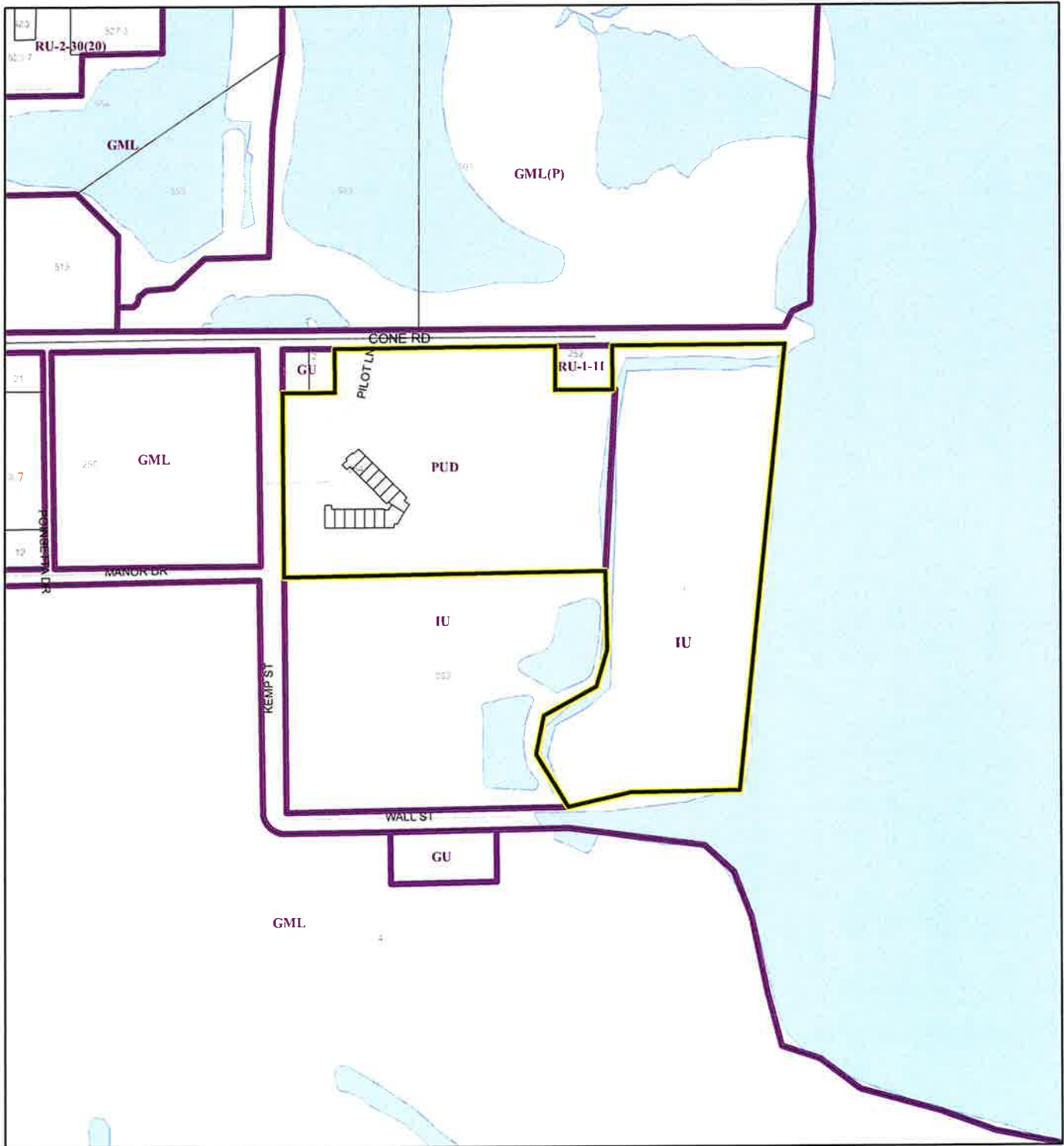
Produced by BoCC - GIS Date: 4/30/2024

— Buffer
■ Subject Property

ZONING MAP

RIVER FLY-IN CONDOMINIUM INC

24PUD00001



1:4,800 or 1 inch = 400 feet

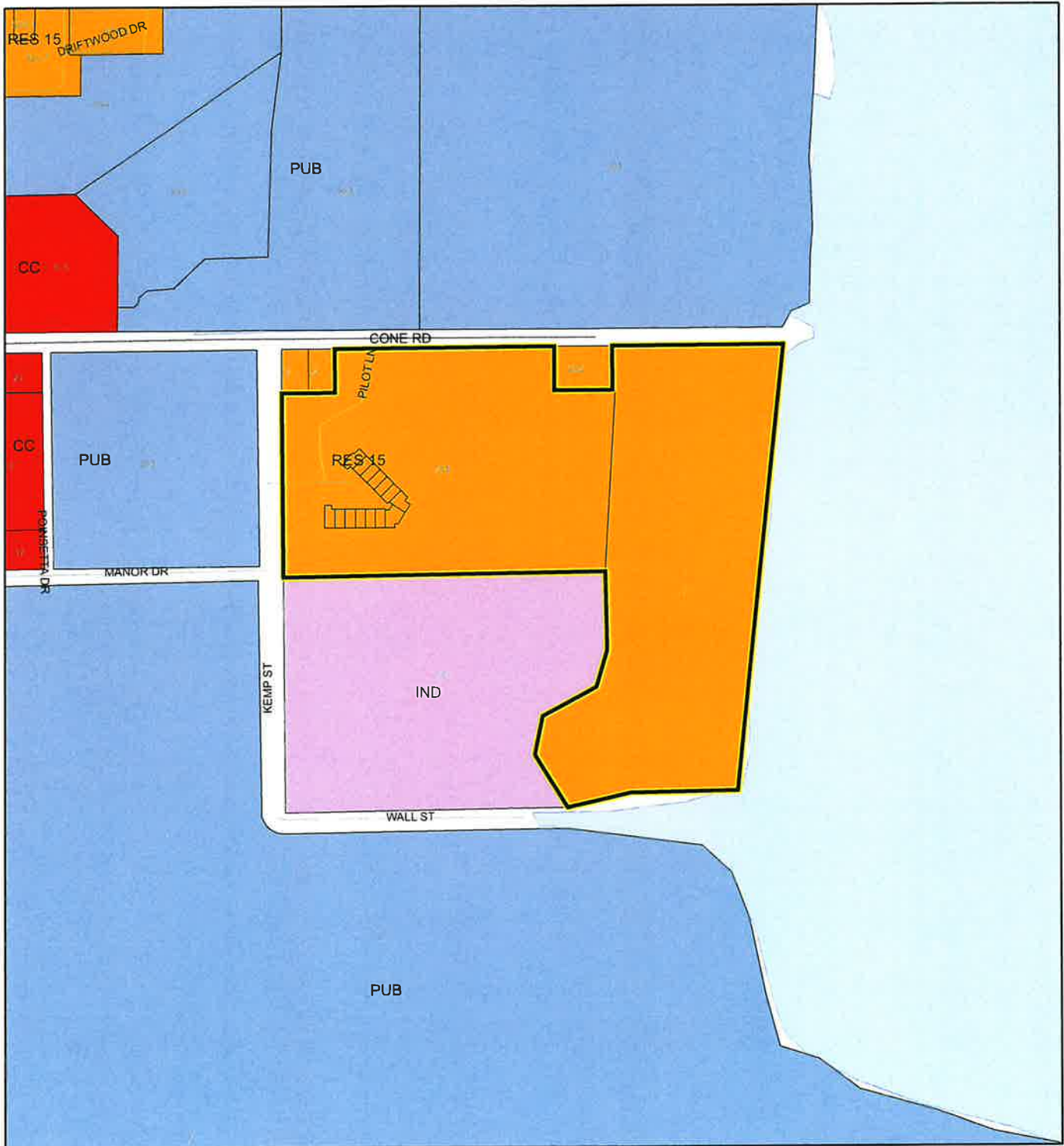
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

RIVER FLY-IN CONDOMINIUM INC
24PUD00001



1:4,800 or 1 inch = 400 feet

— Subject Property

□ Parcels

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AERIAL MAP

RIVER FLY-IN CONDOMINIUM INC
24PUD00001



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2023

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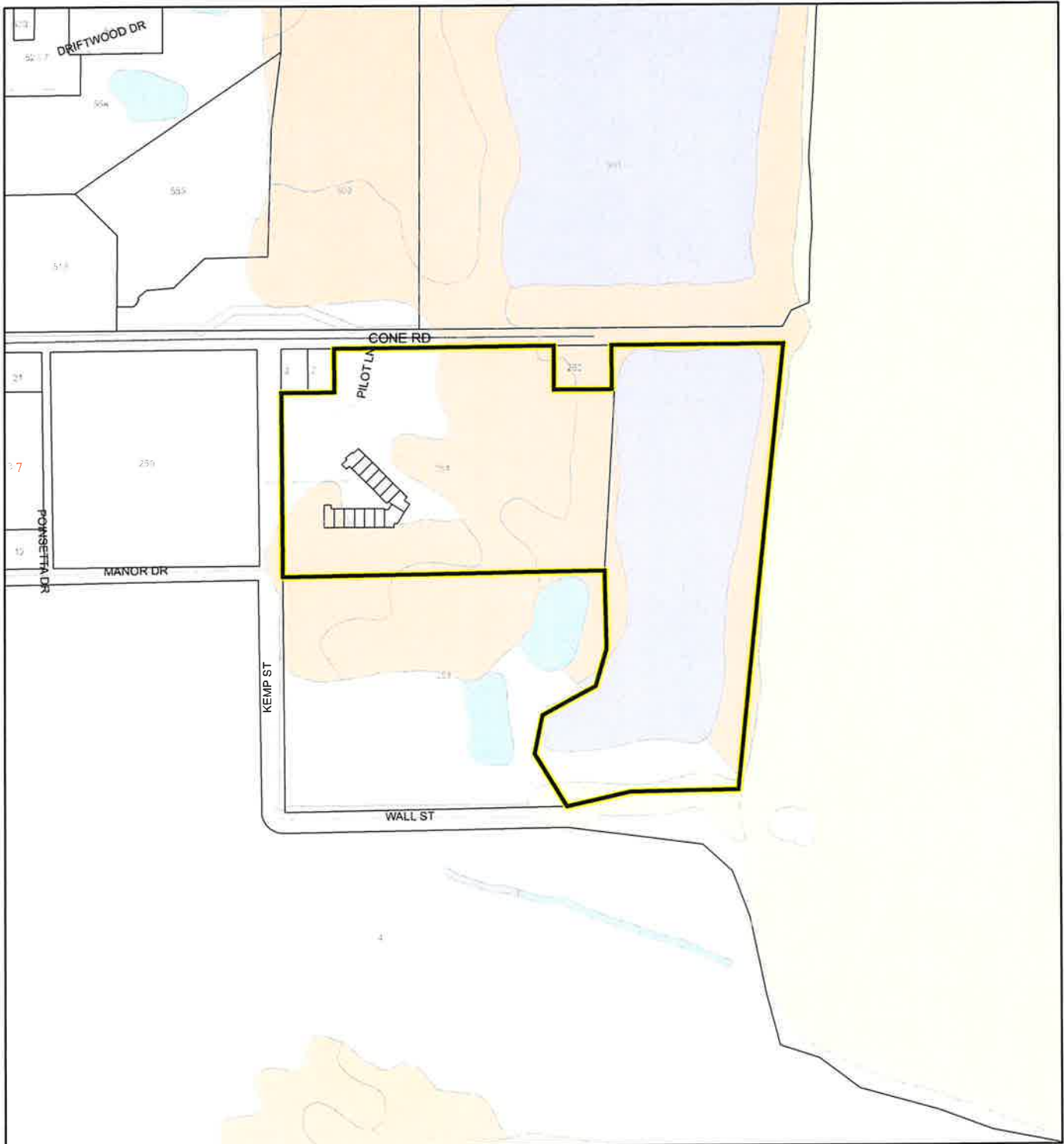
 Subject Property

 Parcels

NWI WETLANDS MAP

RIVER FLY-IN CONDOMINIUM INC

24PUD00001



1:4,800 or 1 inch = 400 feet

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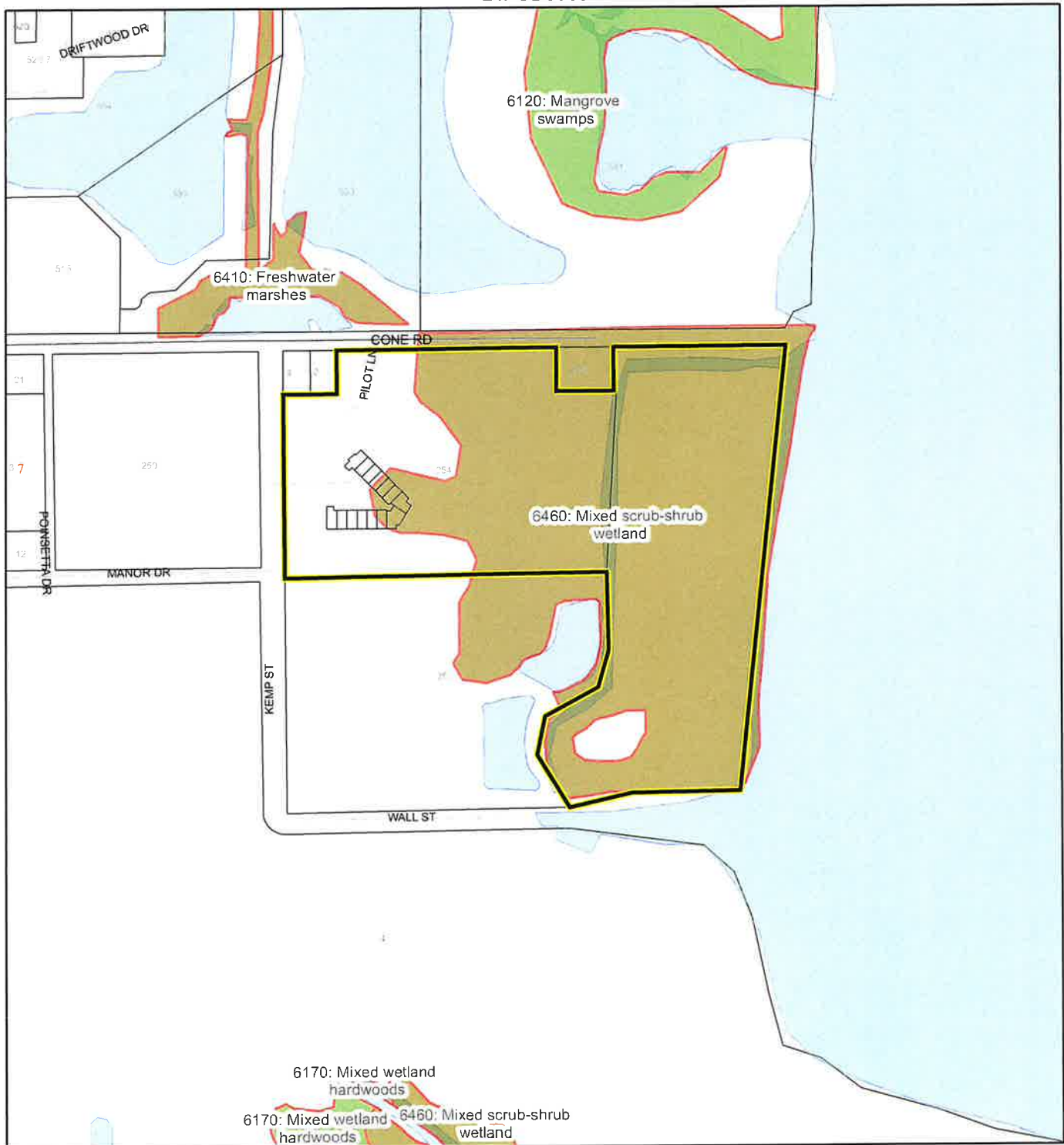
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National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

RIVER FLY-IN CONDOMINIUM INC
24PUD00001



1:4,800 or 1 inch = 400 feet

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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

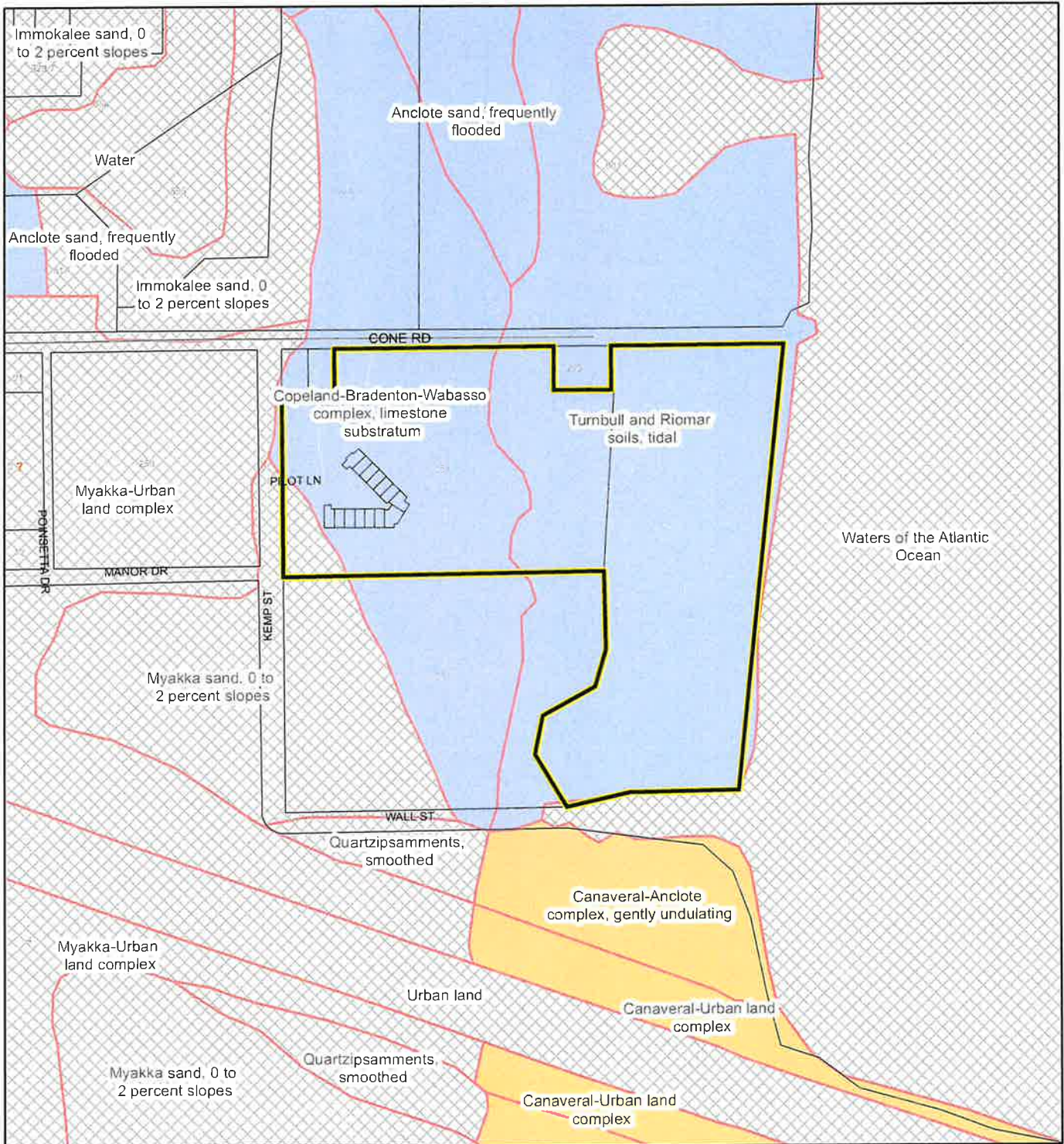
Subject Property

Parcels

USDA SCSSS SOILS MAP

RIVER FLY-IN CONDOMINIUM INC

24PUD00001



1:4,800 or 1 inch = 400 feet

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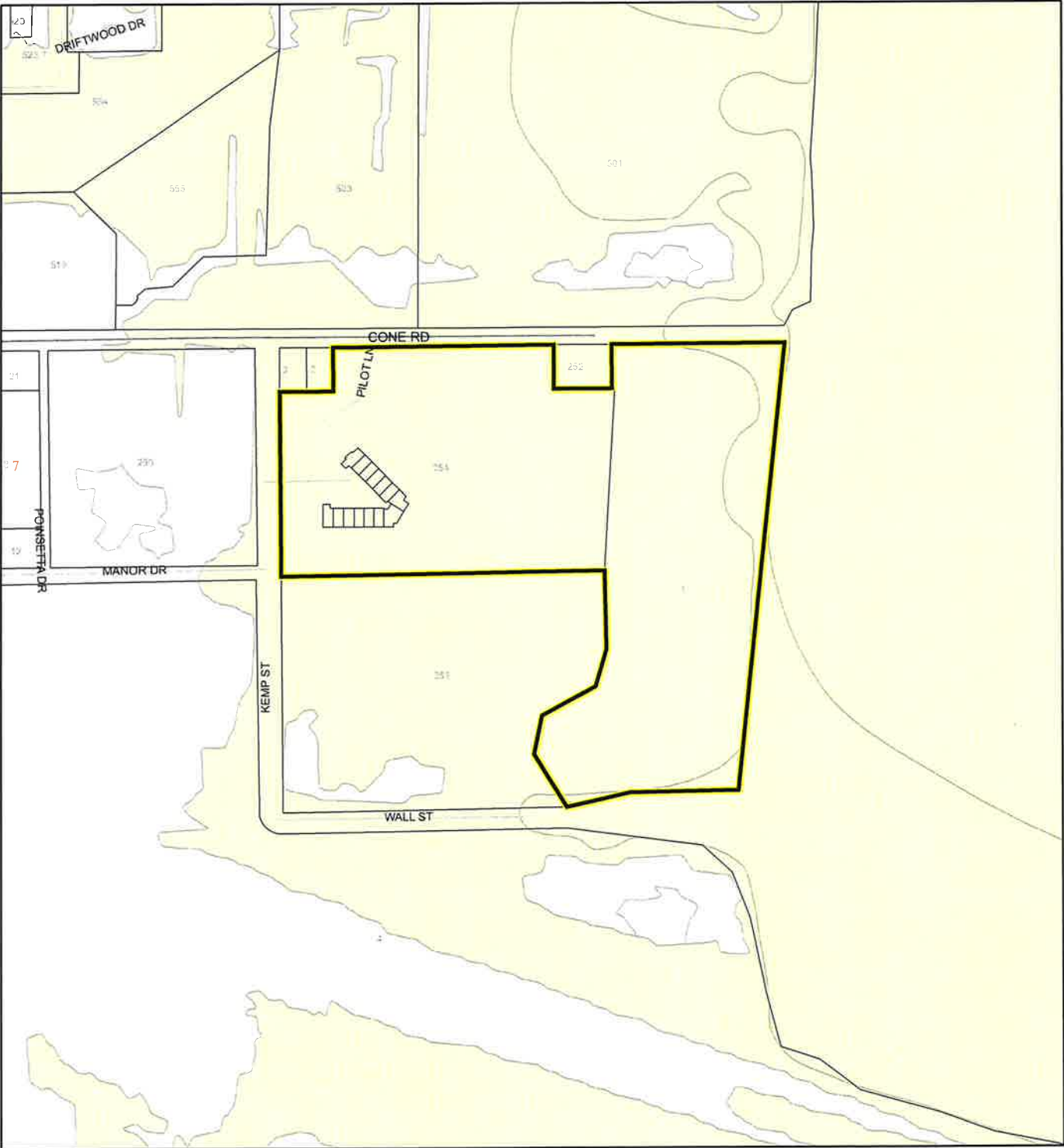
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USDA SCSSS Soils



FEMA FLOOD ZONES MAP

RIVER FLY-IN CONDOMINIUM INC
24PUD00001



1:4,800 or 1 inch = 400 feet

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FEMA Flood Zones		
A	AO	x
AE	Open Water	
AH	VE	
Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

RIVER FLY-IN CONDOMINIUM INC
24PUD00001



1:4,800 or 1 inch = 400 feet

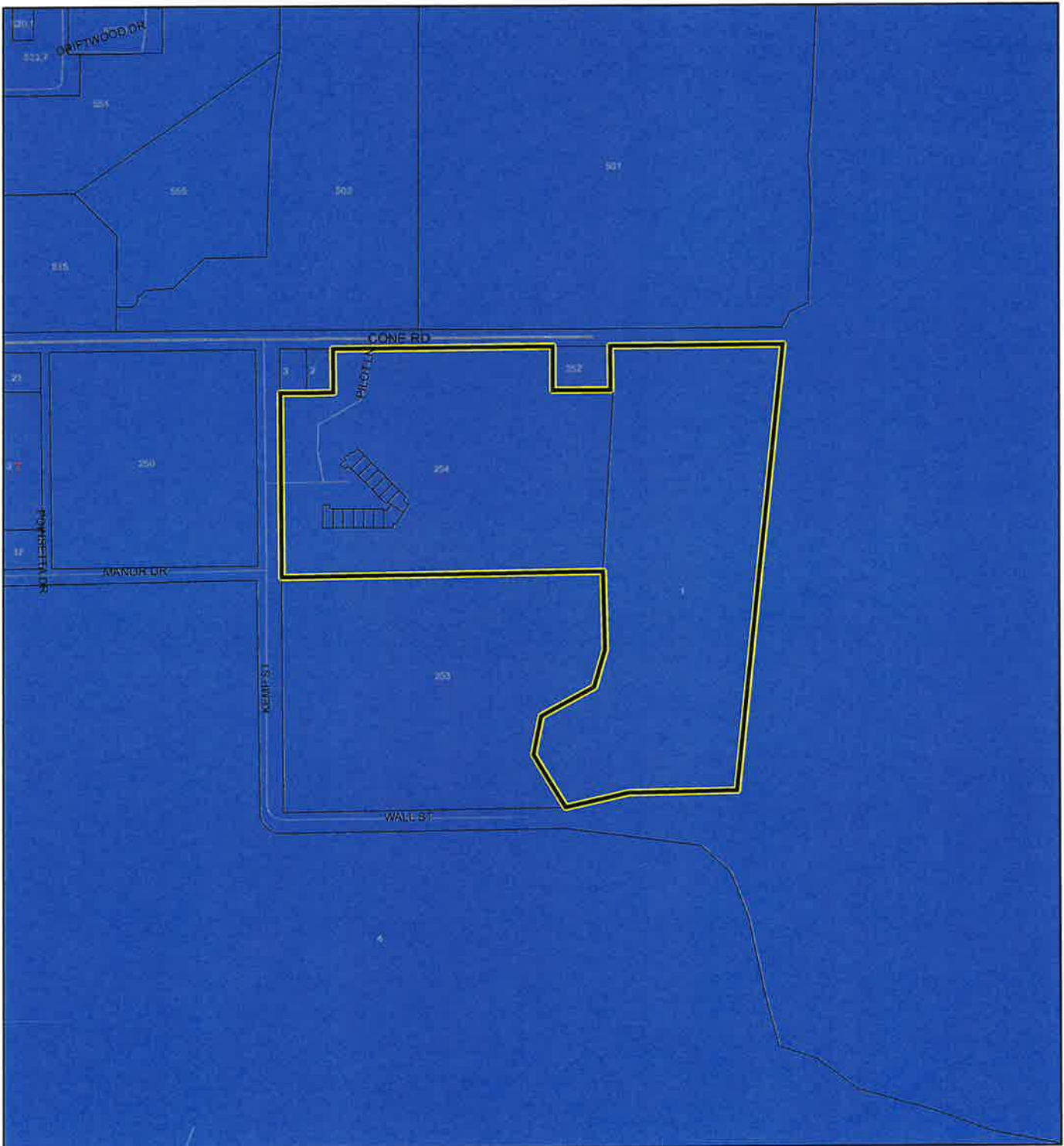
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Produced by BoCC - GIS Date: 4/30/2024

- Subject Property
- Parcels
- Coastal High Hazard Area**
- SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

RIVER FLY-IN CONDOMINIUM INC
24PUD00001



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.

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— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

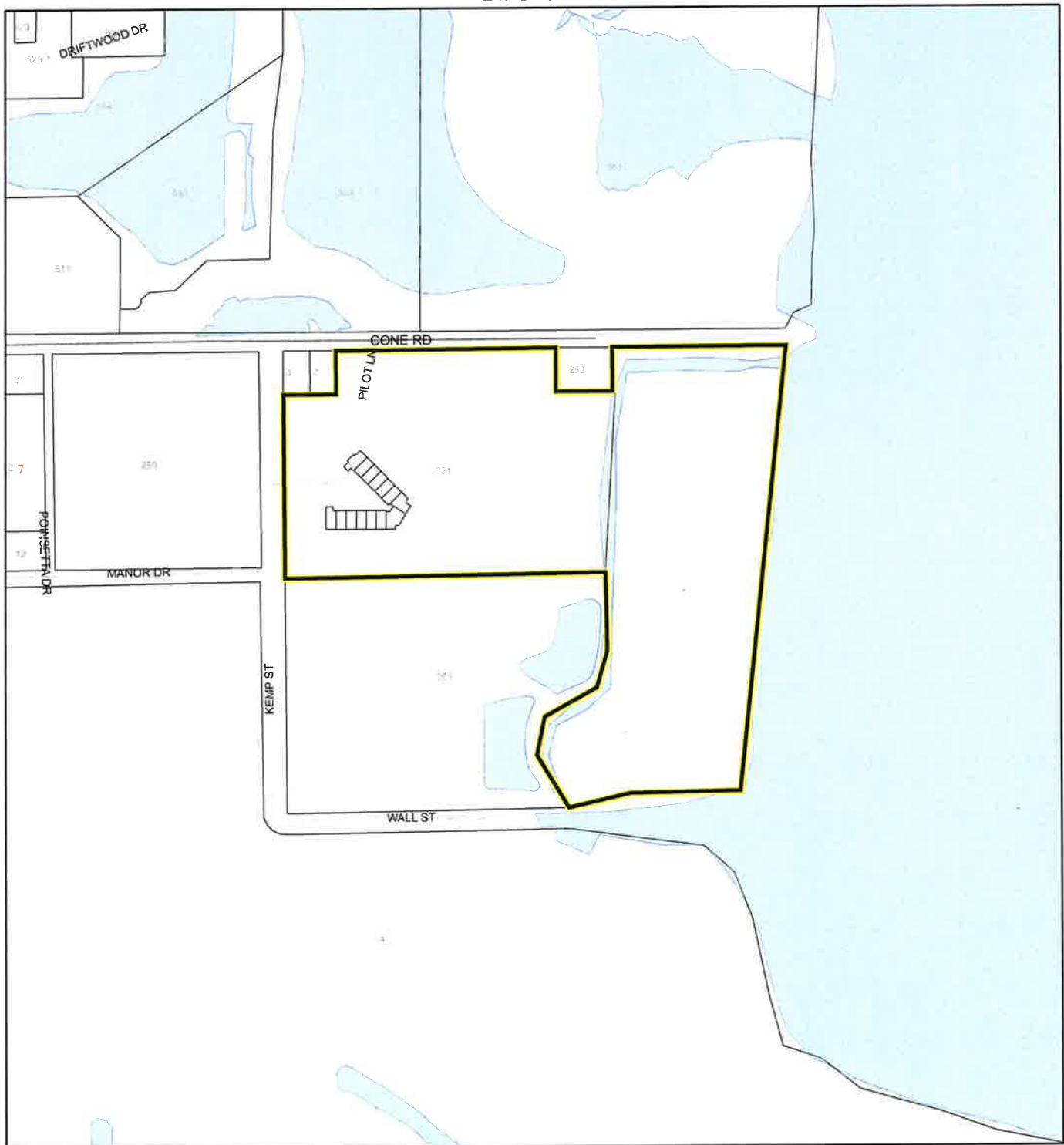
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

RIVER FLY-IN CONDOMINIUM INC

24PUD00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2024

 Subject Property

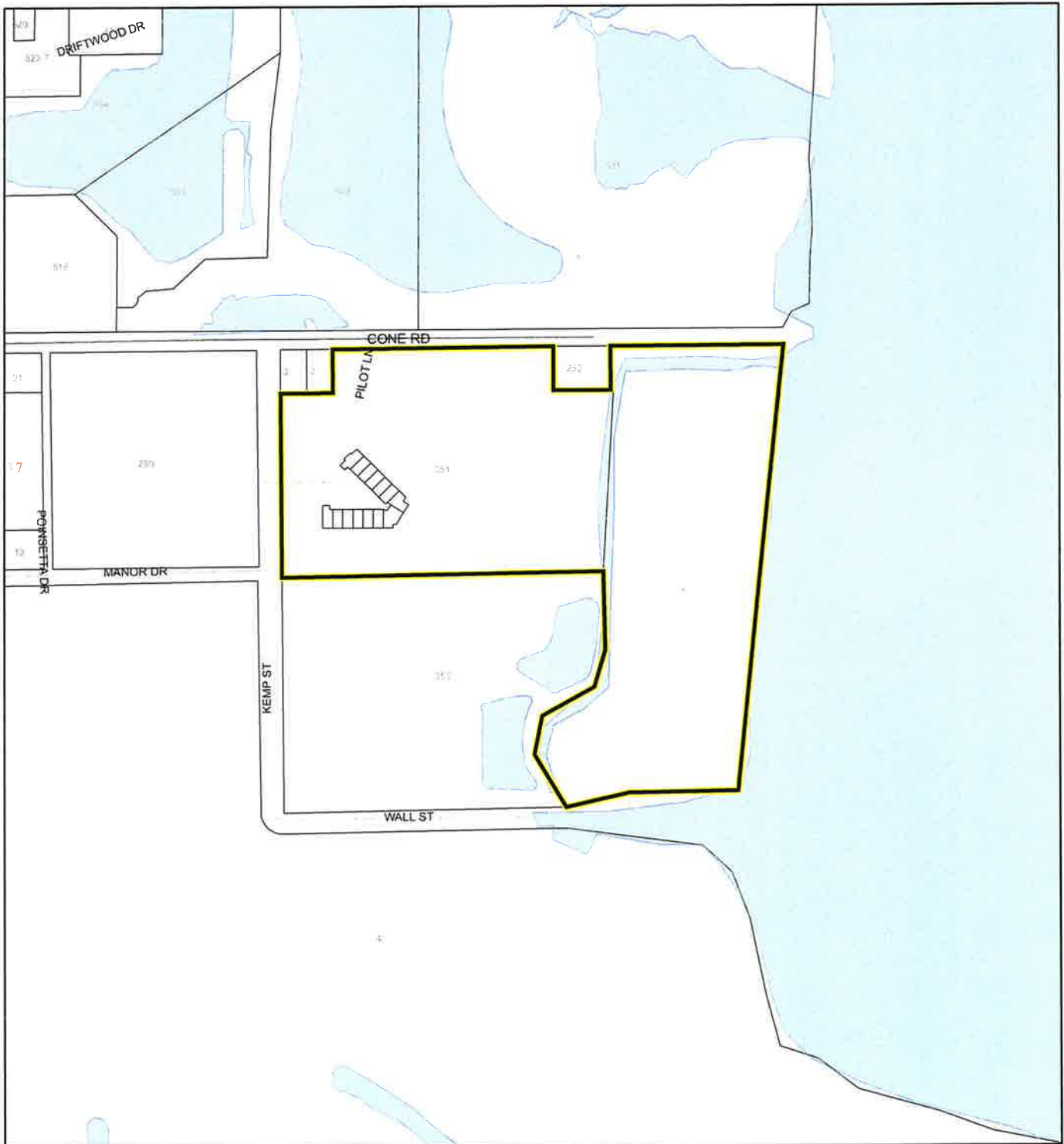
 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

RIVER FLY-IN CONDOMINIUM INC

24PUD00001



1:4,800 or 1 inch = 400 feet

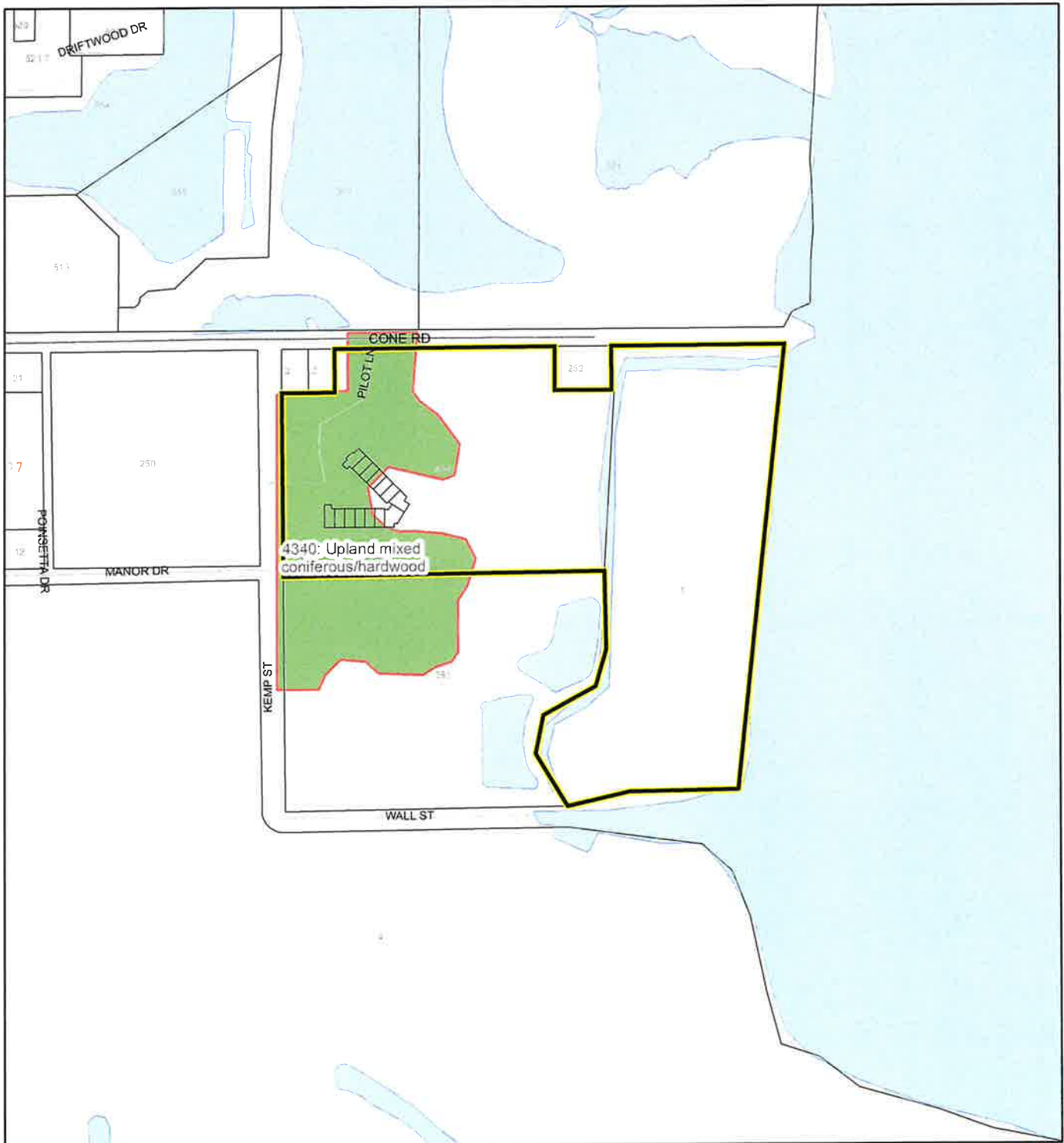
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/30/2024

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

RIVER FLY-IN CONDOMINIUM INC
24PUD00001



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: 4/30/2024

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

Lng Entertainment Productions

Address: 785 Cone Rd, Merritt Island, FL 32952

Phone: +1 321-453-4990

Recording Studio Business was closed due to excessive flooding after land elevation/development and hurricanes.





FEMA



Policy Number: RL10969092
Insurance Provider: NFIP DIRECT SERVICING AGENT
Insured Property Location: 785 CONE RD
MERRITT IS, FL 32952-

Date: July 31, 2023

NFIP PROPERTY CLAIMS HISTORY

Keep this for your records. **THIS IS NOT A BILL.**

The following information reflects the claims paid by the National Flood Insurance Program (NFIP) since 1978 for the property listed above. This claims history applies to a building's property address regardless of ownership or mitigation actions. Claims paid within 180 days of the date of this claims history report may not be included.

In some instances, the total number of claims listed in this claims history may differ from the number of *NFIP Prior Claims* listed on your Declarations Page. Some claims captured below may not be reported there. Refer to the "What happens to my premium if I file a claim?" section on page 2 for a more detailed explanation.

How can I limit flood damage and property loss?

There are several mitigation actions you can take to reduce the impacts of flood damage, such as elevating your structure (for example, on posts, piles, or piers), elevating your machinery and equipment, or installing flood openings. Contact your insurance agent or provider and community official to discuss mitigation options.

The Flood Mitigation Assistance (FMA) program provides funds on an annual basis to states, local communities, tribes, and territories to spend on mitigation projects that can help reduce the risk of flood damage to your property and, ultimately, your flood insurance premium. While individual policyholders cannot apply directly, please contact your local Floodplain Manager or State Hazard Mitigation Officer (SHMO) or visit [fema.gov/grants/mitigation/floods](https://www.fema.gov/grants/mitigation/floods) for more information.

#	Date of Loss	Building Payments	Contents Payments	Total Payments
1	9/29/2022	\$39,779.29	\$0.00	\$39,779.29
2	9/11/2017	\$71,108.96	\$0.00	\$71,108.96
3	9/4/2004	\$11,078.96	\$0.00	\$11,078.96
4	10/15/1999	\$7,595.29	\$0.00	\$7,595.29
Amount of Total Claims Paid:				\$129,562.50



785 Cone Road

Legend

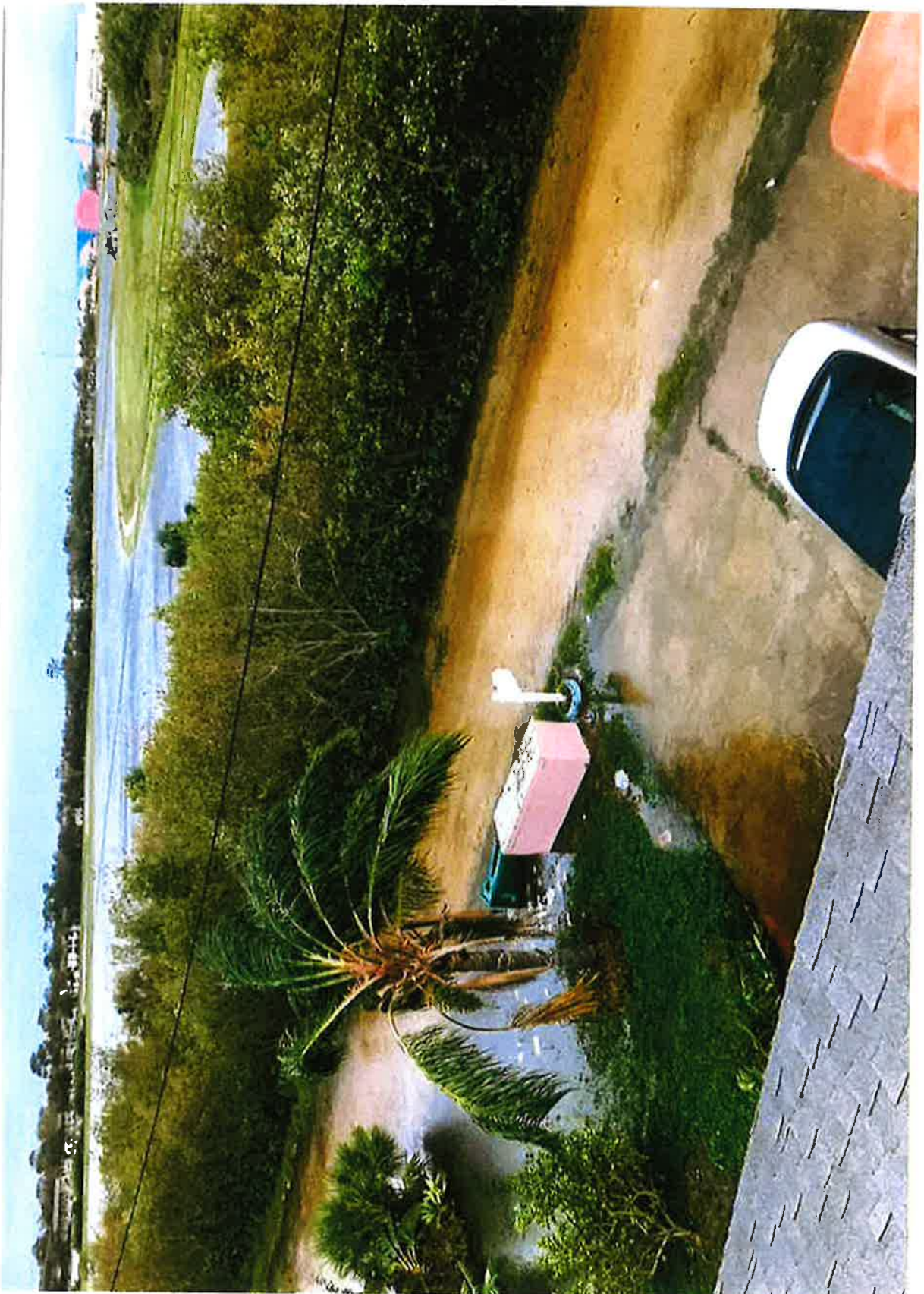
- 785 Cone Rd
- Brevard County Parks & Recreation
- Feature 1
- River Fly-In Condominiums



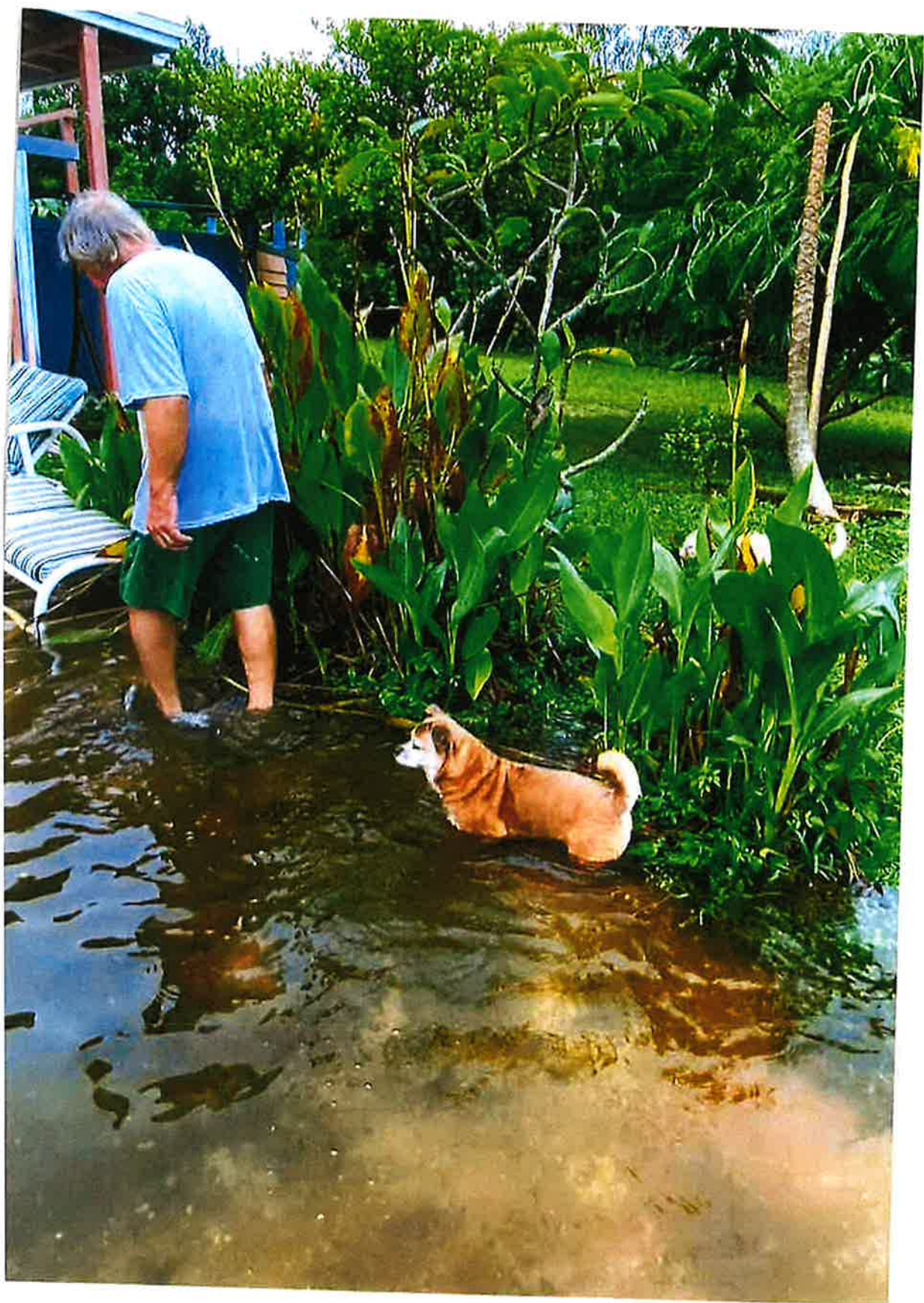
< 785 Cone Rd

Map Street view



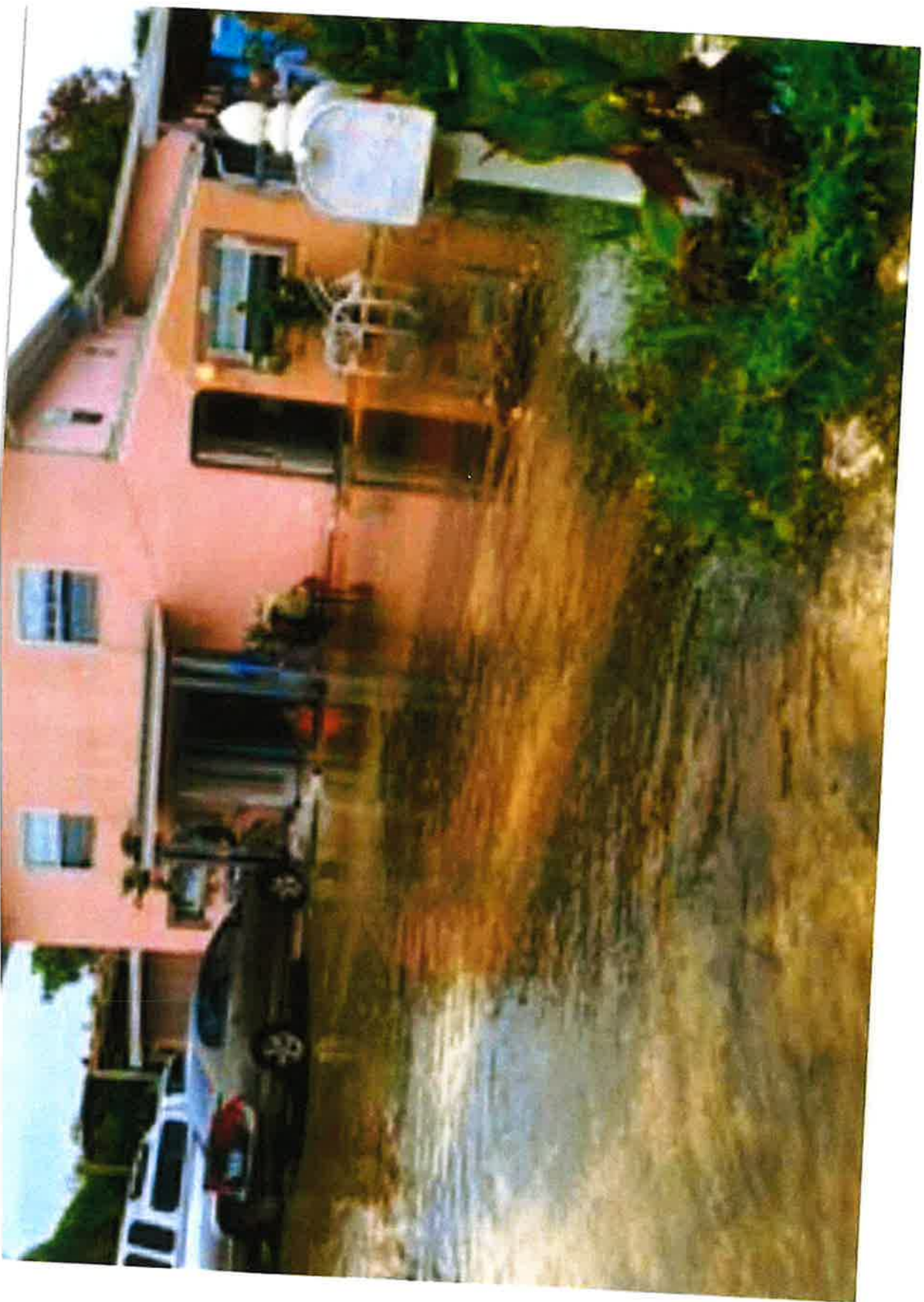


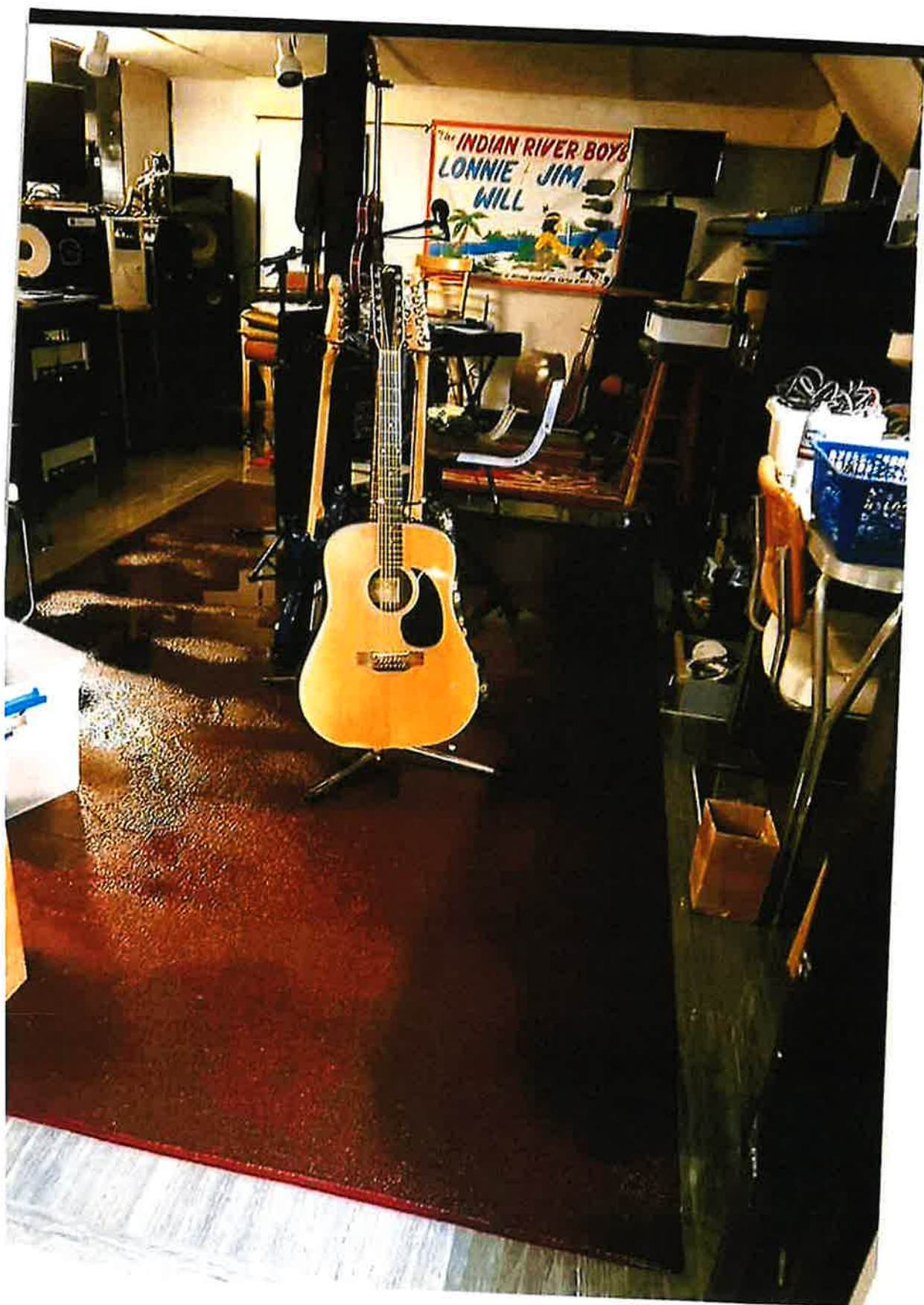


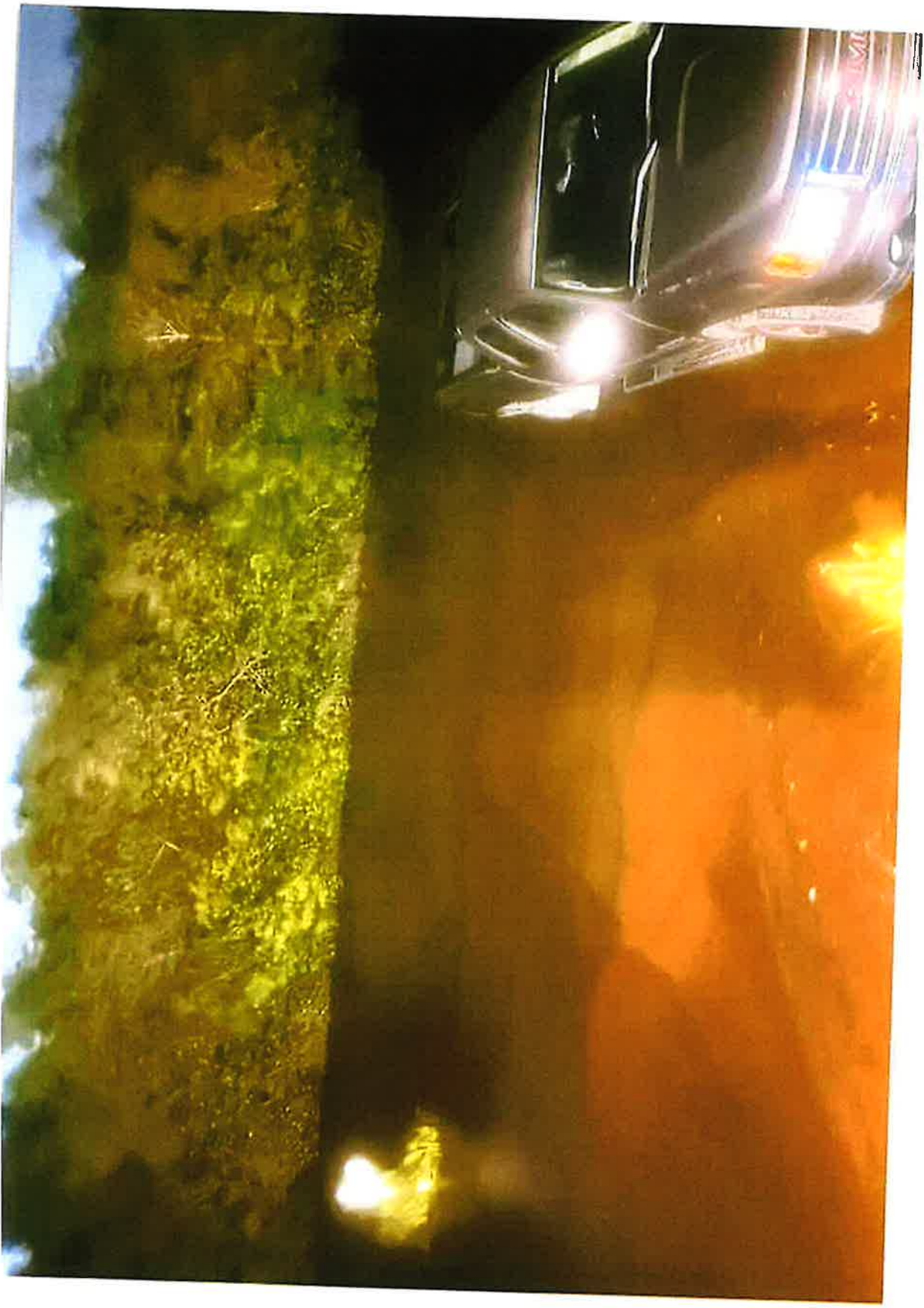


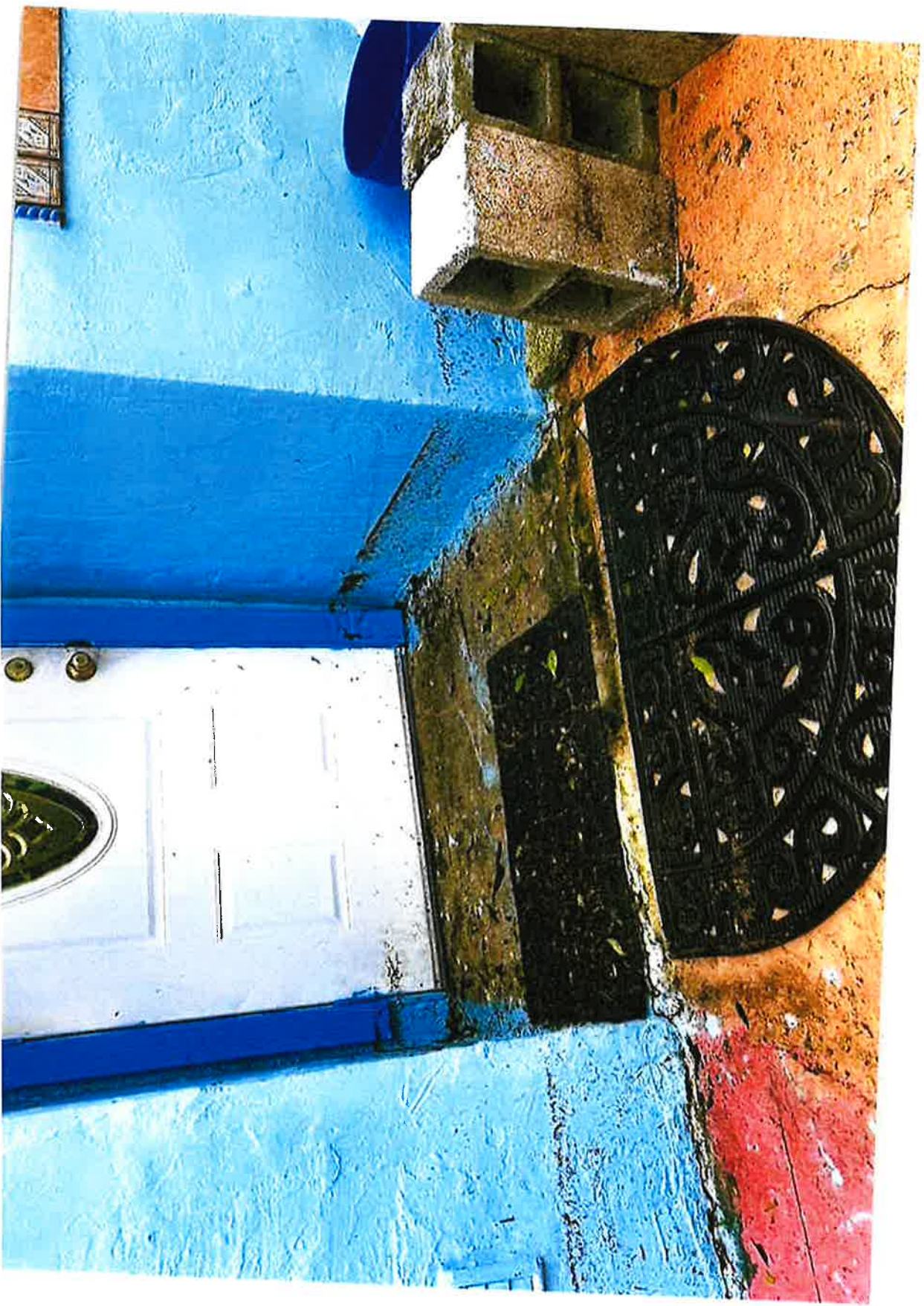














PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 14, 2025**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were Henry Minneboo, Vice-Chair (D1); Ana Saunders (D5); Erika Orriss (D3); Debbie Thomas (D4); Greg Nicklas (D3); Ron Bartcher (D2); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); Melissa Jackson (D5) and Robert Wise (D2).

Staff members present were Trina Gilliam, Zoning Manager; Justin Caron, Assistant County Attorney; Billy Prasad, Planning and Development Director; Jane Hart, Natural Resources; and Alice Randall, Operations Support Specialist.

Excerpt of complete agenda

H.2. River Fly-In Condominium, Inc. requests a zoning classification change from IU and PUD with BDPs to all PUD and retention of BDPs (24PUD00001) (Tax Account 2051000 & 2501008) (District 2)

Trina Gilliam read Item H.2. into the record.

Kim Rezanka spoke to the application stating she had handed out the PDP earlier to the board. This is a PUD from 2006, to build condominiums. It's by the Merritt Island Airport and adjacent to the Indian River Lagoon. This is taking a 15 acre mostly wetland parcel that's zoned high intensity industrial and moving it to the PUD to add a recreational facility to the River Fly-In Condos. It's seeking 18 slips, 17 powerboat and 1 sailboat only for residential use as an amenity. It's use of a property that really has no use. It will have a wooden walkway elevated from the condominium to the marina to support fire safety issues. They're going to have to extend that road to the south, Wall Street. That's an engineering issue. This is just a preliminary development plan. The site plan will address those details. This is just approving the PUD with the preliminary development plan for engineering to go forward for the final development plan. The condominiums are built. They received the CO in September of (2025?) and they are being sold and used. It's simply an addition of 15 acres to the 13-acre PUD. The staff report didn't identify any problems and thought it was a good use for the amenity as it gets rid of a high industrial use, and making the PUD better for all the residents.

Robert Wise asked when you extend the road are you extending it into the wetland area?

Ms. Rezanka indicated she wasn't sure of the details.

Bruce Moia stated that one of the requirements when they did the review with staff was to provide a fire road, because that road dead ends into a kayak launching facility. There's no way for a fire truck to come in and turn around. We're going to put a code compliant turnaround in the uplands and get an easement on the property to the south and then extend to dock so that the marina will have fire protection. The wetland there will not be impacted by the road construction, and there will be very minimal wetland disturbance for the pathway from the condos to the marina.

Mr. Wise asked if the easement to the south is going across the canal.

Mr. Moia stated the canal ends there. There was some discussion about what would need to be done to make sure the turnaround can be constructed. We'll have to extend the environmental assessment

to that area, and the survey as well, to see what we have there and then work from that.

Mr. Wise inquired if it was Wall Street that would be extended beyond the turnaround, parallel to the docks and to the north of them.

Mr. Moia responded where it stops now, we'll construct a cul-de-sac and then have a dock extend from the cul-de-sac to the marina for fire access.

Ms. Orriss commented it says under environmental constraints that there was some site impacted under previous development orders and inquired if that was the conservation easement.

Mr. Moia stated that as far as he knows there is no conservation easement over it now because there's never been any development on it. There might be some under the existing BDP and PUD, but that was done a while ago.

Ms. Orriss stated she pulled this from St. John's and it's from April 2009.

Ana Saunders stated it's the northern piece.

Mr. Moia confirmed it's the northern piece. He didn't think the owner had any ownership of the parcel at that time. He's acquired this and then we're building the marina.

Ms. Orriss inquired if the conservation easement is being used.

Mr. Moia stated that a lot of this is already constructed within the conservation easement which was permitted prior by the previous PUD. All we're doing is extending it, on the east parcel.

Ms. Saunders inquired if there was a kayak launch and if it was going to stay.

Mr. Moia answered yes and they're not going to eliminate it.

Ms. Saunders then asked if they're pulling boats in and out of the water and if there's a boat ramp at the end of the cul-de-sac, because it says motorboat and sail boats.

Mr. Moia responded it's not a full boat launch ramp. The marina is going to have the motorboat slips and a sailboat slip. They're not going to be launching from there.

Public Comment

Dalinda Griffis stated her husband moved out there in 1983 and I moved there in 1992 when we got married. We missed the last few meetings like this, and they've built around us, and we're having major issues every time there's a horrible rain or hurricane. We've been flooding and we wanted to make that known because now today with construction elevation requirements it's a lot. Our house was built in 1964. It wasn't the elevation requirements that are used today. So now our house that was built in 1964 is lower than anything built around us and the water goes somewhere. I have pictures I would like to show you of the last four hurricanes. We didn't file for the one last year because we've filed four times. My husband ran a business there up until Hurricane Irene and every single time we have flooding that goes through there. We're trying our best to mitigate that. We don't want to leave. We love our house. We've been there for a long time. We have a lot of memories

there. We have pictures that show a lot of flooding. We don't want to stop development, but if there's a way that they can mitigate water from entering our house and flooding us.

Lonnie Griffis stated it's the canal on the north side of Cone Road, it overflows now. Once they filled in the flood zone there between us and the mall it's been a problem. It's mostly in hurricanes and the backside of it comes in. That's when it's bad.

Ms. Griffis stated they've caught fish in their yard. Each of the pictures are from a different hurricane, but the last one that we had....

Mr. Griffis presented pictures of the previous floods showing the doorway to the home, after Irma. He showed his recording studio he had run for 20 years before the flooding started. He showed cone road and stated that the whole east end floods and takes a day or two until the water recedes. The whole east end floods and it's all from the canal and elevation of the land around us. If it could in some way be mitigated to stop it, berms, pumps or whatever. There's already a system there that I'm not sure what it is capable of, but there's a water treatment system there. I've been there 43 years, and I'd like to stay there a little longer, but it's really tough to deal with the flood.

Mr. Minneboo stated the county did a lot of work on the piping on Cone Road. Have you seen any occurrences after that? They made major modifications through there.

Ms. Griffis stated the picture was from October of last year and shows their driveway and mailbox.

Mr. Griffis continued that they've had a loss of good flood insurance because they've had several claims.

Ms. Griffis stated they no longer run a business there because it's a lot of equipment to do that.

Mr. Griffis stated he doesn't want to stop anybody's projects; they just don't want to flood anymore.

Mr. Minneboo stated what these people are doing is all going to be on pilings and piers.

Mr. Griffis asked if there was going to be anymore elevation of the land. They're not going to bring in dirt. That was one of my concerns. We're pretty much over the limit already.

Mr. Minneboo stated that if anything it will help them.

Mr. Griffis stated they just want to protect themselves to some degree. For almost 20 years it never overflowed like that.

End Public Comment

Ms. Orriss asked if since they're noticing increased flooding due to the construction, after construction is over and we have just the marinas in place, can we expect that to go down? I'd feel better if I heard that we could expect that to dissipate.

Mr. Moia responded they haven't finished the engineering yet, but the intent is not to put any fill on the property. I can't promise we're going to make it better, but we're not going to make it worse. Anything that's going to be constructed will be built as a boardwalk, elevated boardwalk, so the water

will pass through. It won't block the water. We're not proposing to bring any fill to make it worse. There's been a lot of construction on Cone Road in the last few years. All the condos are already in, built and approved, and occupied.

Ms. Orriss asked if he thinks it's due to this construction.

Mr. Moia stated Cone Road runs from river to river and if it's coming up for the river, that's hard to fix with a pipe.

Ms. Rezanka stated the irony is everything to the north is the stormwater system put in by the County. So why that hasn't accommodated this is confusing to me. All that up there was put in by the County at the Veteran's Park. That should have been helping them. There might be a blockage somewhere along the way. I'm not an engineer, but that was supposed to stop the flooding. It was supposed to take everyone's water for miles, as Mr. Minneboo knows.

Motion to recommend approval of Item H.2. by Ana Saunders, seconded by Erika Orriss. Motion passed unanimously.

Meeting adjourned at 5:08 p.m.

DRAFT

PREPARED BY AND RETURN TO:
Kimberly B. Rezanka
Cantwell & Goldman, P.A.
96 Willard Street, Suite 302
Cocoa, FL 32922

**SECOND AMENDMENT TO
BINDING DEVELOPMENT PLAN**

THIS SECOND AMENDMENT TO BINDING DEVELOPMENT PLAN, entered into this
19 day of May, 2020, between the **BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter
referred to as "County" and **RIVER FLY-IN CONDOMINIUM, INC.**, a Florida corporation (successor
to RIVER FLY-IN, LLC, a Florida limited liability company) (hereinafter referred to as
"Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner desires to develop the Property in a residential, multi-family
condominium configuration (the Project); and

WHEREAS, the Property is located within 1,500 feet of the Merritt Island Airport; and
WHEREAS, as part of its plan for development of the Property, the Titusville-Cocoa Airport Authority has
requested that the Developer/Owner mitigate negative impacts of the abutting Merritt Island Airport upon
the residential units planned to be constructed by the Developer/Owner; and

WHEREAS, the County approved PUD zoning for the Property on or about May 16, 2006,
including a Preliminary Development Plan (Zoning Action Z-11244), and is authorized to regulate
development of the Property; and

WHEREAS, the County and the Owner entered into a Binding Development Plan on May 16, 2006, said Binding Development Plan being recorded in Official Records Book 5648, Page 7252, Public Records of Brevard County, Florida; and

WHEREAS, the County and the Owner entered into a First Amendment to the Binding Development Plan on August 5, 2014, said Amendment being recorded in Official Records Book 7182, Page 1198, Public Records of Brevard County, Florida ("First Amendment"); and

WHEREAS, the Owner desires to add a new subsection to paragraph 2.D. and a new paragraph 6. to the First Amendment to provide for additional restrictions to comply with Brevard County Code Sec. 62-1841.5.5. - Resort dwellings; and

WHEREAS, Resort Dwellings are a permitted use with conditions in Brevard County Code Sec. 62-1443 (PUD zoning classification); and

NOW, THEREFORE, the parties agree and the Binding Development Plan is amended as follows:

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

2. To meet the desires of the Titusville-Cocoa Airport Authority and the Brevard County Commission the Developer/Owner agrees to the following:

A. Upon the approval of the original Binding Development Plan, the Developer/Owner recorded the Declaration of Covenants and Waiver of Claims in the Public Records of Brevard County, Florida at Official Records Book 5648, Page 7258.

B. Upon the approval of the original Binding Development Plan the Developer/Owner recorded the Aviation Easement in the Public Records of Brevard County, Florida at Official Records Book 5648, Page 7262.

C. In addition, a recorded copy of the Declaration of Covenants and Waiver of Claims shall be included as an exhibit within the condominium/homeowners' association documents for any Project built upon the Property.

D. The condominium/homeowners' association documents for any Project on the subject Property shall further provide:

i. A copy of the Declaration of Covenants and Waiver of Claims and Avigation Easement will be attached to the Declaration of Condominium/Declaration of Covenants as Exhibits.

ii. The condominium/homeowners' association documents shall provide that the condominium/homeowners' association documents shall approve each and every conveyance of a unit and resale of a unit. The condominium/homeowners' association shall obtain from any person or entity of any conveyance of any interest in a unit a signed acknowledgement for receipt of a copy of the Declaration of Covenants and Waiver of Claims and the Brevard County Avigation Easement. Copies of same signed by any person or entity of any conveyance of any interest in a unit shall then be sent to the Titusville-Cocoa Airport Authority. Any conveyance made without the condominium/homeowners' association's approval shall be voidable by the condominium/homeowners' association.

iii. The condominium/homeowners' association shall provide annually, on or before July 1st of each year, to the Titusville-Cocoa Airport Authority and to the County Manager's Office of Brevard County, a sworn report setting forth the names and addresses of any person or entity of any conveyance of any interest in a unit within the Property for the previous calendar years and a copy of the documentation required by paragraph 2.D.(ii) above to insure that a purchaser has received copies of the Declaration of Covenants and Waiver of Claims and Avigation Easement.

iv. The condominium/homeowners' association documents shall provide that the Titusville-Cocoa Airport Authority shall have the standing to enforce the provisions of

paragraphs 2D.(i-iii) above. If the Titusville-Cocoa Airport Authority files suit to enforce the provisions of paragraph 2D.(i-iii) above, the prevailing party shall be entitled to attorney's fees. The condominium/homeowners' association documents shall specifically provide that the doctrine of waiver shall not apply to any new owner of a residential unit, even though the condominium/homeowners' association has allowed, knowingly or unknowingly, the conveyance of a unit without receipt of the above referenced documents. In addition, the condominium/homeowners' association documents shall provide that the provisions set forth in 2D. (i-iii) above may not be amended without the written consent of the Titusville-Cocoa Airport authority.

v. The condominium/homeowners' association documents shall provide that all units are restricted to no more than six (6) occupants without the association's consent and that no individual room in a unit may be rented.

3. Developer/Owner agrees to install sound attenuation materials within all units to achieve an outdoor to indoor noise level reduction (NRL) of at least 25 decibels and protective lighting shall be installed to limit the Project's glare upon the Merritt Island Airport.

4. No direct access from the Project to the Merritt Island Airport shall be allowed unless expressly approved in writing by the Titusville-Cocoa Airport Authority.

5. Developer/Owner agrees that no structure on the subject property shall exceed 94 feet.

6. Developer/Owner/association shall ensure that the number of persons occupying any dwelling unit shall not exceed the number of rooms in the dwelling unit, require that there shall be a designated local manager for each resort dwelling unit, and demand compliance with Brevard County Code Sec. 62-1841.5.5 (2).

7. 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.

8. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of

recording this Agreement in Brevard County, Florida.

9. This Second Amended Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on May 29, 2014. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

10. 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 it may be amended

11. 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 9 above.

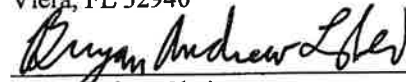
IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed all as of the date and year first above written.

ATTEST:



Scott Ellis, Clerk
(SEAL)

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



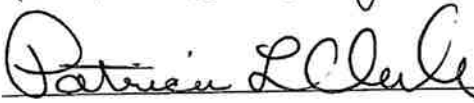
Bryan Lober, Chair

As approved by the Board on May 19, 2020

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

WITNESSES:


Samantha Ghanayem
 (Witness Name typed or printed)


Patricia L. Clark
 (Witness Name typed or printed)

DEVELOPER/OWNER
 RIVER FLY-IN CONDOMINIUM, INC., a
 Florida corporation


WASIM NIAZI, as President
 1910 Rockledge Blvd
 Rockledge, FL 32955

STATE OF FLORIDA

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 29th day of January, 2020 by WASIM NIAZI, as President of RIVER FLY-IN CONDOMINIUM, INC., A Florida corporation, on behalf of the corporation. He is ☒ personally known to me or ☐ has produced _____ as identification.

My commission expires

SEAL
 Commission No.:



Patricia L. Clark
 Comm. #GG363212
 Expires: October 1, 2023
 Bonded Thru Aaron Notary


 Notary Public

Patricia L. Clark

(Name typed, printed or stamped)

Schedule "A"

A PARCEL OF LAND IN GOVERNMENT LOT 1, SECTION 1, TOWNSHIP 25 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1, SAID POINT BEING ON THE CENTERLINE OF CONE ROAD; THENCE SOUTH $0^{\circ} 58' 27''$ EAST ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 144.74 FEET TO THE POINT OF BEGINNING; THENCE NORTH $88^{\circ} 54' 19''$ EAST ALONG THE SOUTH LINE OF LANDS DESCRIBED IN DEED BOOK 418, PAGE 510 AND DEED BOOK 435, PAGE 3 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 150.22 FEET; THENCE NORTH $1^{\circ} 19' 12''$ WEST PARALLEL WITH THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 114.74 FEET; THENCE NORTH $88^{\circ} 49' 40''$ EAST ALONG A LINE 30 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 629.69 FEET; THENCE SOUTH $0^{\circ} 27' 26''$ EAST ALONG THE WEST LINE OF LANDS CONVEYED IN OFFICIAL RECORDS BOOK 692, PAGE 522 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 115.12 FEET; THENCE NORTH $88^{\circ} 46' 52''$ EAST ALONG THE SOUTH LINE OF SAID LANDS CONVEYED IN OFFICIAL RECORDS BOOK 692, PAGE 522, A DISTANCE OF 171.85 FEET TO THE CENTER OF AN APPROXIMATE 15 FEET WIDE LEVEE; THENCE SOUTH $2^{\circ} 12' 58''$ WEST ALONG THE CENTER OF SAID LEVEE A DISTANCE OF 533.03 FEET; THENCE SOUTH $89^{\circ} 02' 12''$ WEST PARALLEL WITH THE SOUTH LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 918.62 FEET TO THE WEST LINE OF SAID GOVERNMENT LOT 1; THENCE NORTH $1^{\circ} 09' 48''$ WEST ALONG THE WEST LINE OF GOVERNMENT LOT 1 A DISTANCE OF 529.19 FEET TO THE POINT OF BEGINNING.

ALSO DESCRIBED AS:

A PARCEL OF LAND IN GOVERNMENT LOT 1, SECTION 1, TOWNSHIP 25 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1, SAID POINT BEING ON THE CENTERLINE OF CONE ROAD; THENCE SOUTH $1^{\circ} 10' 22''$ EAST ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 145 FEET TO THE POINT OF BEGINNING; THENCE NORTH $88^{\circ} 50' 36''$ EAST ALONG THE SOUTH LINE OF LANDS DESCRIBED IN DEED BOOK 418, PAGE 510 AND DEED BOOK 435, PAGE 3 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 150 FEET; THENCE NORTH $1^{\circ} 10' 22''$ WEST PARALLEL WITH THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 115 FEET; THENCE N $88^{\circ} 50' 36''$ EAST ALONG A LINE 30 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 629.60 FEET; THENCE SOUTH $0^{\circ} 24' 24''$ EAST ALONG THE WEST LINE OF LANDS CONVEYED IN OFFICIAL RECORDS BOOK 692, PAGE 522 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 115 FEET; THENCE NORTH $88^{\circ} 50' 36''$ EAST ALONG THE SOUTH LINE OF SAID LANDS CONVEYED IN OFFICIAL RECORDS BOOK 692, PAGE 522, A DISTANCE OF 171.84 FEET TO THE CENTER OF AN APPROXIMATE 15 FEET WIDE LEVEE; THENCE SOUTH $2^{\circ} 13' 56''$ WEST ALONG THE CENTER OF SAID LEVEE A DISTANCE OF 632.54 FEET; THENCE SOUTH $89^{\circ} 02' 56''$ WEST PARALLEL WITH THE SOUTH LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 918.28 FEET TO THE WEST LINE OF SAID GOVERNMENT LOT 1; THENCE NORTH $1^{\circ} 10' 22''$ WEST ALONG THE WEST LINE OF GOVERNMENT LOT 1 A DISTANCE OF 528.30 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT ANY ROAD RIGHT OF WAY

Scott Ellis
 Clerk Of Courts, Brevard County

#Pgs: 14	#Names: 2	
Trust: 7.50	Rec: 113.00	Serv: 0.00
Doc: 0.00		Excise: 0.00
Mtg: 0.00		Int Tax: 0.00

PREPARED BY AND RETURN TO:

John H. Evans, Esquire
 John H. Evans, P.A.
 1702 S. Washington Ave
 Titusville, FL 32780

CFN 2006153936 05-22-2006 11:18 am
 OR Book/Page: **5648 / 7252**

RETURN: Clerk to the Board #27

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 16 day of May, 2006, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and DR. WASIM NIAZI (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 desires to develop the Property in a residential configuration (the Project); and

WHEREAS, the Property is located within 1,500 feet of the Merritt Island Airport; and

WHEREAS, as part of its plan for development of the Property, the Titusville-Cocoa Airport Authority has requested that the Developer/Owner mitigate negative impacts of the abutting Merritt Island Airport upon the residential units planned to be constructed by the Developer/Owner; 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

RETURN: Clerk to the Board #27

or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. To meet the desires of the Titusville-Cocoa Airport Authority and the Brevard County Commission the Developer/Owner agrees to the following:

A. Upon the approval of this Binding Development Plan, the Developer/Owner agrees to record upon the Public Records of Brevard County Florida the Declaration of Covenants and Waiver of Claims attached as Exhibit "B".

B. Upon the approval of this Binding Development Plan the Developer/Owner agrees to record upon the Public Records of Brevard County the Avigation Easement attached as Exhibit "C".

C. In addition, a recorded copy of the Declaration of Covenants and Waiver of Claims shall be included as an exhibit within the condominium/homeowners documents for any residential project built upon the Property.

D. The condominium/homeowner documents for any residential build on the subject property shall further provide:

(i) A copy of the Declaration of Covenants and Waiver of Claims and Avigation Easement will be attached the Declaration of Condominium as an exhibit.

(ii) The condominium/homeowner documents shall provide that ownership within the Project shall be limited to persons who hold non-revoked pilot certifications issued by the FAA, their spouses or their surviving relatives. The condominium/homeowners documents shall provide that the condominium association shall approve

each and every purchaser to insure that every purchaser of a unit within the Condominium shall be within this class of persons.

(iii) The condominium association shall provide annually, on or before July 1st of each year, to the Titusville-Cocoa Airport Authority and to the City Manager's office of Brevard County, a sworn report setting forth the names and addresses of all purchasers of units within the Condominium for the previous calendar year and a copy of the documentation received by the condominium association to insure that a purchaser held a non-revoked pilot certificate issue by the FAA.

(iv) The condominium/association documents shall provide that the Titusville-Cocoa Airport Authority shall have the standing to enforce the provisions of paragraphs 2 D (i-iii) above. If the Association has to file suit to enforce the provisions of paragraph 2 D (i-iii) above the prevailing party shall be entitled to attorneys fees. The condominium/association documents shall specifically provide that the doctrine of waiver shall not apply to any new purchaser of a residential unit, even though the Authority has allowed, knowingly or unknowingly, a non-licensed person to purchase a unit within the Project. In addition, the condominium/association documents shall provide that the provisions set forth in 2 D (i-iii) above may not be amended without the written consent of the Titusville-Cocoa Airport authority.

3. Developer/Owner agrees to install sound attenuation materials within all units to achieve and outdoor to indoor noise level reduction (NRL) of at least 25 decibels and protective lighting shall be installed to limit the Project's glare upon the Merritt Island Airport.

4. No direct access from the Project to the Merritt Island Airport shall be allowed unless expressly approved in writing by the Titusville-Cocoa Airport Authority.

RETURN: Clerk to the Board #27

5. Developer agrees that no structure on the subject property shall exceed 94 feet.
6. 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.
7. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.
8. 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 April 6, 2006. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
9. 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 or Ordinances of Brevard County, Florida, as it may be amended.

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

ATTEST:


 Scott Ellis, Clerk
 (SEAL)

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


 Helen Voltz, Chair
 As approved by the Board on May 16, 2006

RETURN: Clerk to the Board #27

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 16th day of MAY, 2006 by Helen Votz, Chairman of the Board of County Commissioners of Brevard County, Florida who is personally known to me or who has produced as identification.

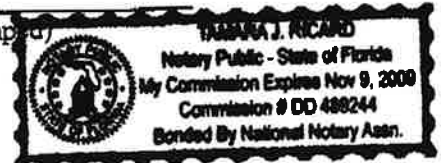
My commission expires

SEAL

Commission No.:

Samuel J. Ricard
Notary Public

(Name typed, printed or stamped)



WITNESSES:

Donna Wilson

DONNA WILSON
Witness Name typed or printed

Stephanie Clayton

STEPHANIE CLAYTON
Witness Name typed or printed

DEVELOPER/OWNER

111 LONGWOOD AVE
ROCKLEDGE, FL 32955
(Address)

WASIM NIAZI
(President)

WASIM NIAZI
(Name typed, printed or stamped)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 19th day of APRIL, 2006 by WASIM NIAZI, President of NIA who is personally known to me or who has produced as identification.

My commission expires:

SEAL

Commission No.:



Naomi Marshall
My Commission DD280308
Expires September 16, 2007

Naomi Marshall
Notary Public

NAOMI MARSHALL
(Name typed, printed or stamped)

This Warranty Deed

Made this 1st day of October, 2004 by
**STEPHEN M. MCLEOD, INDIVIDUALLY AND AS
 TRUSTEE and CHARLENE R. MCLEOD, INDIVIDUALLY
 AND AS TRUSTEE of THE CHARLENE R. MCLEOD
 LIVING TRUST, DATED JULY 13, 2000, *HUSBAND &**

hereinafter called the grantor, to
WASIM NIAZI, A MARRIED MAN
 whose post office address is:
**111 LONGWOOD AVENUE
 ROCKLEDGE, FL 32955**

CFN 2004324825 10-14-2004 10:35 am
 OR Book/Page: 5371 / 7708

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 1 #Names: 6
 Trust: 1.00 Rec: 11.00 Serv: 0.00
 4,375.00 Excise: 0.00
 Mtg: 0.00 nt Tax: 0.00

hereinafter called the grantee:

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

Witnesseth, that the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in BREVARD County, Florida, viz:

A PARCEL OF LAND IN GOVERNMENT LOT 1, SECTION 1, TOWNSHIP 25 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1, SAID POINT BEING ON THE CENTERLINE OF CONE ROAD; THENCE SOUTH 1°10'22" EAST ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 145 FEET TO THE POINT OF BEGINNING; THENCE NORTH 88°50'38" EAST ALONG THE SOUTH LINE OF LANDS DESCRIBED IN DEED BOOK 418, PAGE 510 AND DEED BOOK 435, PAGE 3 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 150 FEET; THENCE NORTH 1°10'22" WEST PARALLEL WITH THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 115 FEET; THENCE N 88°50'36" EAST ALONG A LINE 30 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 629.80 FEET; THENCE SOUTH 0°24'24" EAST ALONG THE WEST LINE OF LANDS CONVEYED IN OR BOOK 692, PAGE 522 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 115 FEET; THENCE NORTH 88°50'38" EAST ALONG THE SOUTH LINE OF SAID LANDS CONVEYED IN OR BOOK 692, PAGE 522, A DISTANCE OF 171.84 FEET TO THE CENTER OF AN APPROXIMATE 15 FEET WIDE LEVEE; THENCE SOUTH 2°13'56" WEST ALONG THE CENTER OF SAID LEVEE A DISTANCE OF 632.54 FEET; THENCE SOUTH 89°02'56" WEST PARALLEL WITH THE SOUTH LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 918.28 FEET TO THE WEST LINE OF SAID GOVERNMENT LOT 1; THENCE NORTH 1°10'22" WEST ALONG THE WEST LINE OF GOVERNMENT LOT 1 A DISTANCE OF 528.30 FEET TO THE POINT OF BEGINNING.

Subject to covenants, restrictions, assessments of record and taxes for the current year.

Parcel Identification Number: 25-36-01-00-00254.0-0000.00

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

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2003

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

Jessie A. Snedden
 Witness: (Signature)
 Print Name: Jessie A. Snedden
Wicki Caraccia
 Witness: (Signature)
 Print Name: Wicki Caraccia

Witness: (Signature)
 Print Name: _____

Witness: (Signature)
 Print Name: _____

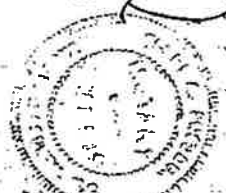
State of FLORIDA
 County of BREVARD

The foregoing instrument was acknowledged before me this 29 day of September, 2004, by **STEPHEN M. MCLEOD AND CHARLENE R. MCLEOD, TRUSTEES OF THE CHARLENE R. MCLEOD LIVING TRUST DATED JULY 13, 2000** who is personally known to me or who has produced NC - Drivers License identification.

Jessie A. Snedden
 NOTARY PUBLIC (signature)
 Print Name: Jessie A. Snedden
 My Commission Expires: May 06, 2009
 Stamp/Seal:

Prepared by and for: Paula M Randall
 Sunbelt Title Agency
 215 East Colonial Drive
 Orlando, FL 32801
 File Number: 771040484

Return To: Sunbelt Title Agency
 2211 Lee Road, Suite 218
 Winter Park, FL 32789



Incident to the issuance of a title insurance contract.
 warrantydeed
 Rev. 12/21/03
 tp



RETURN: Clerk to the Board #27

RETURN: Clerk to the Board #27

THIS INSTRUMENT PREPARED BY
AND RETURN TO:
JOHN H. EVANS, ESQUIRE
1702 SOUTH WASHINGTON AVE
TITUSVILLE, FL. 32780

DECLARATION OF COVENANTS AND WAIVER OF CLAIMS

THE UNDERSIGNED, hereinafter "Declarant", being the owner in fee simple of the real property located in Brevard County, Florida, described in Exhibit "A", attached hereto ("the Property"), declares that:

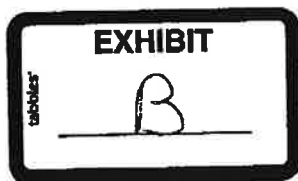
WHEREAS, the Property is located in the proximity of Merritt Island Airport which, as it now exists or may hereafter be enlarged, expanded and/or developed (hereinafter "the Airport"); and which Airport is owned by the Titusville-Cocoa Airport Authority; and

WHEREAS, there is one (1) runway which is in operation at the Airport at the time of the execution of this instrument; and

WHEREAS, aircraft operating on, or approaching or departing from the Airport will generate noise which can be heard on the Property, and will fly over or near the Property (which noise and activity, as now existing and may increase in the future because of increased flight activity at the Airport, will collectively hereinafter be referred to as "Aircraft Activity"); and

WHEREAS, Declarant proposes to build a nine (9) story residential condominium upon the Property. Units will be sold as condominiums catering to pilots and other persons who intend to make use of the Merritt Island Airport; and

WHEREAS, the Declarant desires that all persons hereafter residing on, visiting or otherwise occupying the Property be placed on notice that the Property is in the proximity of the Airport, and of the expected occurrence of Aircraft Activity on the Airport and near the Property.



RETURN: Clerk to the Board #27

NOW, THEREFORE, for good and sufficient consideration, the receipt and adequacy of which are hereby acknowledged, the Declarant hereby covenants and declares that he and his successors, assigns, licensees, invitees, and tenants (hereinafter "the Persons Bound") expressly waive all right to assert against or join in any claim, administrative proceedings, lawsuit, or other cause of action that may for any reason arise in the future against the Titusville-Cocoa Airport Authority, the operators and owners of aircraft and helicopters lawfully using the Airport and in case of the owners of aircraft, their respective officers, directors, employees and agents (collectively "the Benefited Parties") for any inverse condemnation, damages, aircraft noise (including without limitation), noise produced by aircraft and helicopters located on the Airport approaching the Airport for landing or departing from the Airport, nuisance or other action of any nature whatsoever arising out of, or related to, lawful Aircraft Activity in the proximity of the Property. This Declaration shall not be construed to bar any of the Persons Bound from any claims against any person or entity for personal injury or property damage caused by or resulting from negligent operation of any Aircraft or helicopter, or use of airspace in a manner in violation of applicable federal laws and regulations.

THIS DECLARANT, shall record this Declaration of Covenants and Waiver in the Public Records of Brevard County, Florida. When recorded, each provision of this Declaration shall run with the Property, and shall be binding upon all owners, tenants, invitees or occupants thereof, their heirs, successors and assigns, invitees, and tenants. The acceptance by any party of any right or use, deed, lease, mortgage or other interest in or privilege pertaining to the Property whatsoever shall constitute acknowledgment and acceptance of the terms of this Declaration and the binding effects hereof.

RETURN: Clerk to the Board #27

THIS DECLARATION OF COVENANTS AND WAIVER OF CLAIMS shall bind the Declarant, his successors and assigns (individuals, corporations and other entities) and grantees and tenants thereof, and their respective successors and assigns. The acceptance by any persons or entity of any conveyance of any interest in the Property shall constitute acknowledgment of the terms of this Declaration and agreement to be bound by this Declaration.

THIS DECLARATION OF COVENANTS AND WAIVER OF CLAIMS shall be a covenant running with the Property and shall insure to the benefit of the Benefited Parties, their successor and assigns.

DECLARANT

By: 

WASIM NIAZI

STATE OF FLORIDA
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day, before me, the officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared WASIM NIAZI who is personally known to me or produced _____ as identification, that he acknowledged executing the same freely and voluntarily.

Witness my hand and official seal in the State and County last aforesaid this 19th day of April, 2006.


NOTARY PUBLIC

My Commission Expires: 09-16-07

Staciedocs/niazi/d8875/Declaration/4-7-06-ks



Naomi Marshall
My Commission DD250308
Expires September 16, 2007

This Warranty Deed

Made this 1st day of October, 2004 by
**STEPHEN M. MCLEOD, INDIVIDUALLY AND AS
 TRUSTEE and CHARLENE R. MCLEOD, INDIVIDUALLY
 AND AS TRUSTEE of THE CHARLENE R. MCLEOD
 LIVING TRUST, DATED JULY 13, 2000, *HUSBAND &
 WIFE**

hereinafter called the grantor, to
WASIM NIAZI, A MARRIED MAN
 whose post office address is:
**111 LONGWOOD AVENUE
 ROCKLEDGE, FL 32955**

CFN 2004324825 10-14-2004 10:35 am
 OR Book/Page: **5371 / 7708**

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 1 #Names: 6
 Trust: 1.00 Rec: 11.00 Serv: 0.00
 --- 4,375.00 Excise: 0.00
 Mfg: 0.00 nt Tax: 0.00

hereinafter called the grantee:

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

Witnesseth, that the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in BREVARD County, Florida, viz:

A PARCEL OF LAND IN GOVERNMENT LOT 1, SECTION 1, TOWNSHIP 25 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 1, SAID POINT BEING ON THE CENTERLINE OF CONE ROAD; THENCE SOUTH 1°10'22" EAST ALONG THE WEST LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 145 FEET TO THE POINT OF BEGINNING; THENCE NORTH 88°50'36" EAST ALONG THE SOUTH LINE OF LANDS DESCRIBED IN DEED BOOK 418, PAGE 510 AND DEED BOOK 435, PAGE 3 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 150 FEET; THENCE NORTH 1°10'22" WEST PARALLEL WITH THE WEST LINE OF SAID GOVERNMENT LOT 1, A DISTANCE OF 115 FEET; THENCE N 88°50'36" EAST ALONG A LINE 30 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 629.60 FEET; THENCE SOUTH 0°24'24" EAST ALONG THE WEST LINE OF LANDS CONVEYED IN OR BOOK 692, PAGE 522 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, A DISTANCE OF 115 FEET; THENCE NORTH 88°50'36" EAST ALONG THE SOUTH LINE OF SAID LANDS CONVEYED IN OR BOOK 692, PAGE 522, A DISTANCE OF 171.84 FEET TO THE CENTER OF AN APPROXIMATE 15 FEET WIDE LEVEE; THENCE SOUTH 2°13'56" WEST ALONG THE CENTER OF SAID LEVEE A DISTANCE OF 632.54 FEET; THENCE SOUTH 89°02'58" WEST PARALLEL WITH THE SOUTH LINE OF SAID GOVERNMENT LOT 1 A DISTANCE OF 918.28 FEET TO THE WEST LINE OF SAID GOVERNMENT LOT 1; THENCE NORTH 1°10'22" WEST ALONG THE WEST LINE OF GOVERNMENT LOT 1 A DISTANCE OF 528.30 FEET TO THE POINT OF BEGINNING.

Subject to covenants, restrictions, easements of record and taxes for the current year.

Parcel Identification Number: 25-36-01-00-00254.0-0000.00

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

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2003.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

THE CHARLENE R. MCLEOD LIVING TRUST, DATED JULY 13, 2000

Terri A. Snedden
 Witness: (Signature)
 Print Name: **Terri A. Snedden**

Vicki Caraccio
 Witness: (Signature)
 Print Name: **Vicki Caraccio**

Witness: (Signature)
 Print Name: _____

Witness: (Signature)
 Print Name: _____

State of **FLORIDA**
 County of **BREVARD**

The foregoing instrument was acknowledged before me this 29 day of September, 2004, by **STEPHEN M. MCLEOD AND CHARLENE R. MCLEOD, TRUSTEES OF THE CHARLENE R. MCLEOD LIVING TRUST DATED JULY 13, 2000** who is personally known to me or who has produced NC. Driver's License identification.

Terri A. Snedden
 NOTARY PUBLIC (signature)
 Print Name: **Terri A. Snedden**
 My Commission Expires: **MAY 06, 2009**
 Stamp/Seal:

Prepared by **Paula M. Randall**
 Sunbelt Title Agency
 215 East Colonial Drive
 Orlando, FL 32801
 File Number: **771040294**

Return To: Sunbelt Title Agency
 2211 Lee Road, Suite 218
 Winter Park, FL 32789



Incident to the issuance of a title insurance contract.
 warranty deed
 Rev. 12/21/03
 tp



RETURN: Clerk to the Board #27

THIS INSTRUMENT PREPARED BY
AND RETURN TO:
JOHN H. EVANS, ESQUIRE
1702 SOUTH WASHINGTON AVE
TITUSVILLE, FL. 32780

AVIGATION EASEMENT

STATE OF FLORIDA
COUNTY OF BREVARD

THIS INDENTURE, dated this _____ day of April , 2006, by and between WASIM NIAZI, hereinafter called GRANTOR and TITUSVILLE-COCOA AIRPORT AUTHORITY, hereinafter called GRANTEE.

WHEREAS, the GRANTOR is the owner of certain premises situate, lying and being in Merritt Island, Florida, as hereinafter described; and

WHEREAS, the GRANTEE, is the owner and operator of the Merritt Island Airport located in Merritt Island, Florida.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration paid by the GRANTEE to the GRANTOR, the receipt of which is hereby acknowledged, the GRANTOR does hereby grant and convey unto the GRANTEE, its successors and assigns, an easement and right-of-way for the over-flight of aircraft and helicopters in and through the airspace above the following described property located within Merritt Island, to wit:

SEE ATTACHED LEGAL DESCRIPTION DESCRIBED AS EXHIBIT "A"

The GRANTOR hereby gives and grants to the GRANTEE, its successors and assigns, and to all persons lawfully using said airport, the right and easement to use the airspace above



RETURN: Clerk to the Board #27

the GRANTOR'S property and to create noise normally associated with the routine operation of all types of aircraft including helicopters, and for aviation purposes and without liability for any necessary, convenient or operational incident, the effects thereof whether as the same presently or in the future exist, but said right or easement hereby granted is to be executed only in a manner reasonably or substantially consistent with the safe and proper flying procedures promulgated by any agency of the government of the United States or the State of Florida.

The right and easements hereby granted and conveyed, and the covenants hereby entered into, shall not be construed to deprive the GRANTOR of any claims for injury or damages against any person for negligence whereby injury or damage is caused by actual or direct physical contact, without intervening media, but shall operate and constitute a full, complete and total release, quit claim and discharge of the GRANTEE, its successors and assigns, its agents and employees, and all persons lawfully using said airport and the owners and operators of aircraft or helicopters lawfully using the airspace hereby conveyed, from all claims and demands whatever, not solely and proximately resulting from negligent actual or direct physical contact, it being the intent of the GRANTOR herein to waive its right to sue for nuisance and noise incident to the operation of the Merritt Island Airport by the GRANTEE herein.

All rights, easements, releases, benefits and estates granted hereunder shall be covenants running with the land as is hereinabove described.

In the event the GRANTEE abandons the operation of said airport, all rights herein granted shall cease and revert back to the GRANTOR, his successor or assigns.

IN WITNESS WHEREOF, said GRANTOR in pursuance to his due and legal action, has executed these presents, as of the date first above written.

RETURN: Clerk to the Board #27

WITNESSETH:

Donna WilsonDONNA WILSON
Witness Printed or Typed NameStephanie M. CarlsonSTEPHANIE CARLSON
Witness Printed or Typed Name

GRANTOR

By: Wasim Niazi

As its: _____

STATE OF FLORIDA
COUNTY OF BREVARD

THE FOREGOING instrument was acknowledged before me this 19th day of April, 2006, by Wasim Niazi, GRANTOR who is personally known to me or who has produced _____ (type of identification) as identification and who did (or did not) take an oath.



Naomi Marshall
My Commission DD250308
Expires September 10, 2007

Naomi Marshall

Notary Public, State of Florida

Printed Name: NAOMI MARSHALLMy Commission Expires: 09-16-07

Staciedocs/Niazi//8875/Avigation Easement/4-13-06-k

This Warranty Deed

Made this 1st day of October, 2004 by
**STEPHEN M. MCLEOD, INDIVIDUALLY AND AS
 TRUSTEE AND CHARLENE R. MCLEOD, INDIVIDUALLY
 AND AS TRUSTEE OF THE CHARLENE R. MCLEOD
 LIVING TRUST, DATED JULY 13, 2000, *HUSBAND &**

hereinafter called the grantor, to
WASIM NIAZI, A MARRIED MAN
 whose post office address is:
**111 LONGWOOD AVENUE
 ROCKLEDGE, FL 32955**

CFN 2004324825

10-14-2004 10:35 am

OR Book/Page: 5371 / 7708

Scott Ellis

Clerk Of Courts, Brevard County

#Pgs: 1 #Names: 8
 Trust: 1.00 Rec: 11.00 Serv: 0.00
 --- 4,375.00 Excise: 0.00
 Mtg: 0.00 nt Tax: 0.00

hereinafter called the grantee:

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Subject to covenants, restrictions, easements of record and taxes for the current year.

Parcel Identification Number: 25-36-01-00-00254.0-0000.00

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

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2003.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

THE CHARLENE R. MCLEOD LIVING TRUST, DATED JULY 13,
 2000

Jurri A. Snedden
 Witness: (Signature)
 Print Name: Jurri A. Snedden

Vicki Caraccio
 Witness: (Signature)
 Print Name: Vicki Caraccio

Witness: (Signature)
 Print Name: _____

Witness: (Signature)
 Print Name: _____

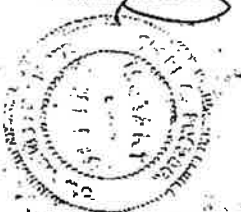
State of FLORIDA
 County of NC.

The foregoing instrument was acknowledged before me this 29 day of September, 2004, by **STEPHEN M. MCLEOD AND CHARLENE R. MCLEOD, TRUSTEES OF THE CHARLENE R. MCLEOD LIVING TRUST DATED JULY 13, 2000** who is personally known to me or who has produced NC. Drivers License identification.

Jurri A. Snedden
 NOTARY PUBLIC (signature)
 Print Name: Jurri A. Snedden
 My Commission Expires: May 06, 2009
 Stamp/Seal:

Prepared by Paula M. Randall
 Paula M. Randall
 Sunbelt Title Agency
 215 East Colonial Drive
 Orlando, FL 32801
 File Number: 771040494

Return To: Sunbelt Title Agency
 2211 Lee Road, Suite 218
 Winter Park, FL 32789



Incident to the issuance of a title insurance contract.
 warranty deed
 Rev. 12/21/03
 tp



RETURN: Clerk to the Board #27

[illegible]

23-1084

4.3

Board Meeting Date

Item Number: H-3

Motion By: TG

Second By: TA

Nay By: _____

Commissioner	DISTRICT	AYE	NAY
Commissioner Delaney	1	☒	☐
Vice Chair Goodson	2	☒	☐
Commissioner Adkinson	3	☒	☐
Commissioner Altman	5	☒	☐
Chairman Feltner	4	☒	☐