

**Replacement**

AGENDA	
Section	CONSENT
Item No.	<b>II A 13</b>

Meeting Date
<b>July 12, 2016</b>



**AGENDA REPORT**

*BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS*

SUBJECT:	Binding Development Plan, Re: Braveheart Properties of Brevard, Inc. (District 2) FISCAL IMPACT: NONE
DEPT/OFFICE:	Planning & Development Department

Requested Action:

It is requested that the Board approve, and the Chairman sign, the subject Binding Development Plan.

Summary Explanation & Background:

A Binding Development Plan (BDP) is a voluntary agreement by a property owner to self-impose limits upon development of a property in support of a change of zoning or conditional use permit. Pursuant to Section 62-1157, a BDP shall be recorded in the public records within 120 days of approval of the zoning application by the Board. Following staff and legal review, a BDP is routinely presented to the Board in recordable form as a Consent agenda item in order to finalize the zoning action.

On May 5, 2016, the Board of County Commissioners approved a change of classification from ~~RU-2-15~~ to ~~IN(L)~~ TR-3 to AU, on property located on the west side of Sandpiper Dr., approx. 0.11 mile south of Tucker Ln. (222 Flamingo Dr., Cocoa), subject to a Binding Development Plan as follows:

- Developer/Owner shall not keep more than four (4) horses on the subject property. This number may be further restricted in the future by changes to the Comprehensive Plan or the Land Development Regulations.

Staff Contact: Jennifer Jones

Clerk to the Board instruction: After recordation, forward two certified copies to the Planning and Development Department

Exhibits Attached: Binding Development Plan, with exhibits, and check for recording

Contract /Agreement (If attached): Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR <input type="checkbox"/>
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County Manager

Stockton Whitten

Department Director / Extension  
Robin M. DiFabio, AICP, Director  
Planning & Development Dept. Ext. 56363



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

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

July 13, 2016

MEMORANDUM

TO: Jennifer Jones, Zoning

RE: Item II.A.13, Binding Development Plan with Braveheart Properties of Brevard, Inc.

The Board of County Commissioners, in regular session on July 12, 2016, executed Binding Development Plan with Braveheart Properties of Brevard, Inc. for property located on the West side of Sandpiper Dr., at 222 Flamingo Dr., Cocoa. Said Plan was recorded in OR BK/PG 7662/2353. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

Prepared by:  
Donald W. Lock  
Attorney at Law  
2112 S. Grant Place  
Melbourne, FL 32901

CFN 2016136672, OR BK 7662 PAGE 2353,  
Recorded 07/14/2016 at 01:29 PM, Scott Ellis, Clerk of Courts,  
Brevard County  
# Pgs:5

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this 6 day of May, 2016, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and BRAVEHEART PROPERTIES OF BREVARD, INC., a Florida not for profit corporation, (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" which is attached hereto and incorporated by this reference; and

WHEREAS, Developer/Owner has requested the AU zoning classification and desires to develop the property for agricultural use, and the County has requested submission of a Binding Development Plan pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

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

2. The Developer/Owner shall not keep more than 4 horses on the subject property. This

number may be further restricted in the future by changes to the Comprehensive Plan or the Land Development Regulations.

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

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

5. This Agreement shall be binding and inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding on any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on May 5, 2016. In the event that the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

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

7. Conditions Precedent: All mandatory conditions set forth in this Agreement mitigate the potential incompatibility and must be satisfied before Developer/Owner may implement the approved use, unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification, and is subject to enforcement action as described in Paragraph 6 above.

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

ATTEST:

Scott Ellis, Clerk  
(SEAL)

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

Jim Barfield, Chairman

As approved by the Board on July 12, 2016

WITNESSES:

5/31/16

Name:

DEVELOPER/OWNER:

Jinkie Echols, President *vice*

Braveheart Properties of Brevard, Inc.

3701 Meadowlark Street

Cocoa, FL 32926

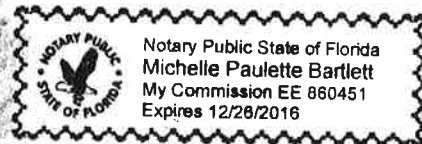
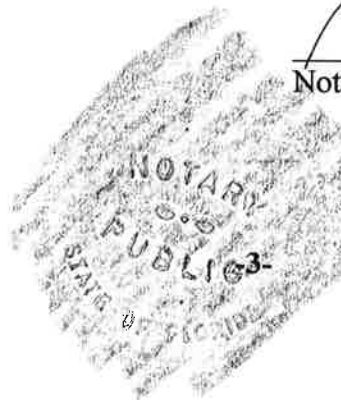
5/31/16

Name:

**STATE OF FLORIDA  
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this 31 day of May, 2016 by Jinkie Echols, President of Braveheart Properties of Brevard, Inc. who is personally known to me or who produced a driver's license as identification.

Notary Public - State of Florida



JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated 13, NOV. 2015, given by Third World Mission, inc as mortgagor, in favor of the undersigned, Braveheart Properties of Brevard as mortgagee, recorded in Official Records Book 7493, page 1391 Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME/ADDRESS

Paula Yost

Paula Yost  
(Witness name typed or printed)

Shawna Myers

Shawna Myers  
(Witness name typed or printed)

Braveheart Properties of Brevard, inc.

3701 M eackwauk st. Cocoa, FL 32926  
(Address)

Robert M. Bland  
Feb 13 '8

Authorized Agent Signature

Robert M. Bland / President  
(Name/title typed, printed or stamped)

STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 26 day of May, 2016 by who is personally known to me or who has produced as identification.

My commission expires

Elizabeth A. Kostner  
Notary Public

SEAL

Commission No.:



ELIZABETH A. KOSTNER typed, printed or stamped)  
MY COMMISSION # FF 965752  
EXPIRES: April 9, 2020  
Banded Thru Budget Notary Services

**EXHIBIT "A"**

THAT PART OF THE WEST ½ OF THE NE ¼ OF SECTION 35, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, LYING SOUTHERLY OF THE ACCESS ROAD FROM STATE ROAD 520, SAID 80 FT. ACCESS ROAD LIES SOUTHWESTERLY OF I-95.

LESS AND EXCEPT:

A PARCEL OF LAND LYING IN SECTION 35, TOWNSHIP 24 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 35, AND RUN N. 00 DEGREES 04'31" E., ALONG THE WEST LINE OF SAID NORTHEAST ¼, A DISTANCE OF 879.21 FEET TO THE POINT OF BEGINNING; THENCE S. 89 DEGREES 55'29" E., PERPENDICULAR TO SAID LINE, A DISTANCE OF 678.13 FEET; THENCE RUN N. 00 DEGREES 04'31" W. PARALLEL TO SAID WEST LINE A DISTANCE OF 512.65 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF TUCKER LANE (AN 80 FOOT WIDE RIGHT OF WAY); THENCE N. 69 DEGREES 09'05" W., ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 578.96 FEET TO THE POINT OF CURVATURE OF A 756.20' RADIUS CURVE TO THE RIGHT; THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE AND ALONG SAID RIGHT OF WAY LINE THROUGH A CENTRAL ANGLE OF 11 DEGREES 36'37" A DISTANCE OF 153.23 FEET TO A POINT OF THE AFORESAID WEST LINE OF THE NORTHEAST ¼; THENCE S. 00 DEGREES 04'31" W., ALONG SAID WEST LINE A DISTANCE OF 786.43 FEET, TO THE POINT OF BEGINNING.

**BrevardClerk.US**  
 Scott Ellis, Clerk of Court

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

DBLIVE Transaction  
 #: 1736902  
 Receipt #: 61703680  
 Cashier Date: 7/14/2016  
 1:29:42 PM



Print Date:  
 7/14/2016 1:29:44 PM

Customer Information	Transaction Information	Payment Summary
( ) BRAVEHEART PROPERTIES OF BREVARD INC 3701 MEADOWLARK ST COCOA, FL 32926	DateReceived: 07/14/2016 Source Code: Titusville - Six Story Q Code: Titusville - Six Story Return Code: Hand Carried Trans Type: Recording Agent Ref Num:	Total Fees \$44.00 Total Payments \$44.00

1 Payments	
CHECK 132	\$44.00

1 Recorded Items		
(AG) AGREEMENT	BK/PG: 7662/2353 CFN:2016136672 Date: 7/14/2016 1:29:41 PM From: To:	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	5	\$44.00
Indexing @ 1st 4 Names Free, Addt'l=\$1 ea.	2	\$0.00

0 Search Items
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1 Miscellaneous Items
(AGTR) AGENT TRANSMITTAL

#### IV. PUBLIC HEARINGS

##### B. PLANNING & ZONING BOARD and LPA AGENDA MONDAY, April 11, 2016 – 3:00 P.M.

##### & BOARD OF COUNTY COMMISSIONERS THURSDAY, May 5, 2016 – 5:00 P.M.

Both at the  
BREVARD COUNTY GOVERNMENT CENTER  
2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida

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

#### DISTRICT 1

**IV.B.2. (16PZ00008) – BRAVEHEART PROPERTIES OF BREVARD, INC.** – requests a change of classification from TR-3 to AU, on 5 +/- acres, located on the west side of Sandpiper Dr., approx. 0.11 mile south of Tucker Ln. (222 Flamingo Dr., Cocoa)

P&Z Recommendation: McLellan/Thodey – Approved with a Binding Development Plan limited to four (4) horses. Vote was unanimous.

**BCC ACTION: Fisher/Infantini – APPROVED with a Binding Development Plan limited to four (4) horses. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.**

**IV.B.3. (16PZ00017) – RONALD W. & WANDA F. MASEK, TRUSTEES** – request a change of classification from RU-1-7 to RR-1, on 1 acre, located on the north side of Ricard St., between Railroad Ave. and Kentucky Ave. (3180 Ricard St., Mims)

P&Z Recommendation: McLellan/LaMarr – Approved. Vote was unanimous.

**BCC ACTION: Fisher/Anderson – APPROVED. Vote was unanimous. 16PZ00017.**

#### DISTRICT 2

**IV.B.4. (16PZ00018) – ROBERT G. MILLIKEN, TRUSTEE** – (Anthony Rumbaugh) – requests a change of classification from AU to RR-1 on 1.4 acres, located on the south side of N. Tropical Trail, approx. 0.17 mile east of Tanglewood Lane. (No assigned address. In the Merritt Island area.)

P&Z Recommendation: Thodey/McLellan – Approved. Vote was unanimous.

**BCC ACTION: Fisher/Anderson – APPROVED. Vote was unanimous. 16PZ00017.**

**IV.B.5. (16PZ00019) – ELINOR R. GARRISON** – (Father Edward Sorin Real Estate Trust) – requests a change of classification from RU-2-15 to IN(L), on 0.17 acres, located on the southwest corner of Winslow Circle and Azure Lane (No assigned address. In the Cape Canaveral area)

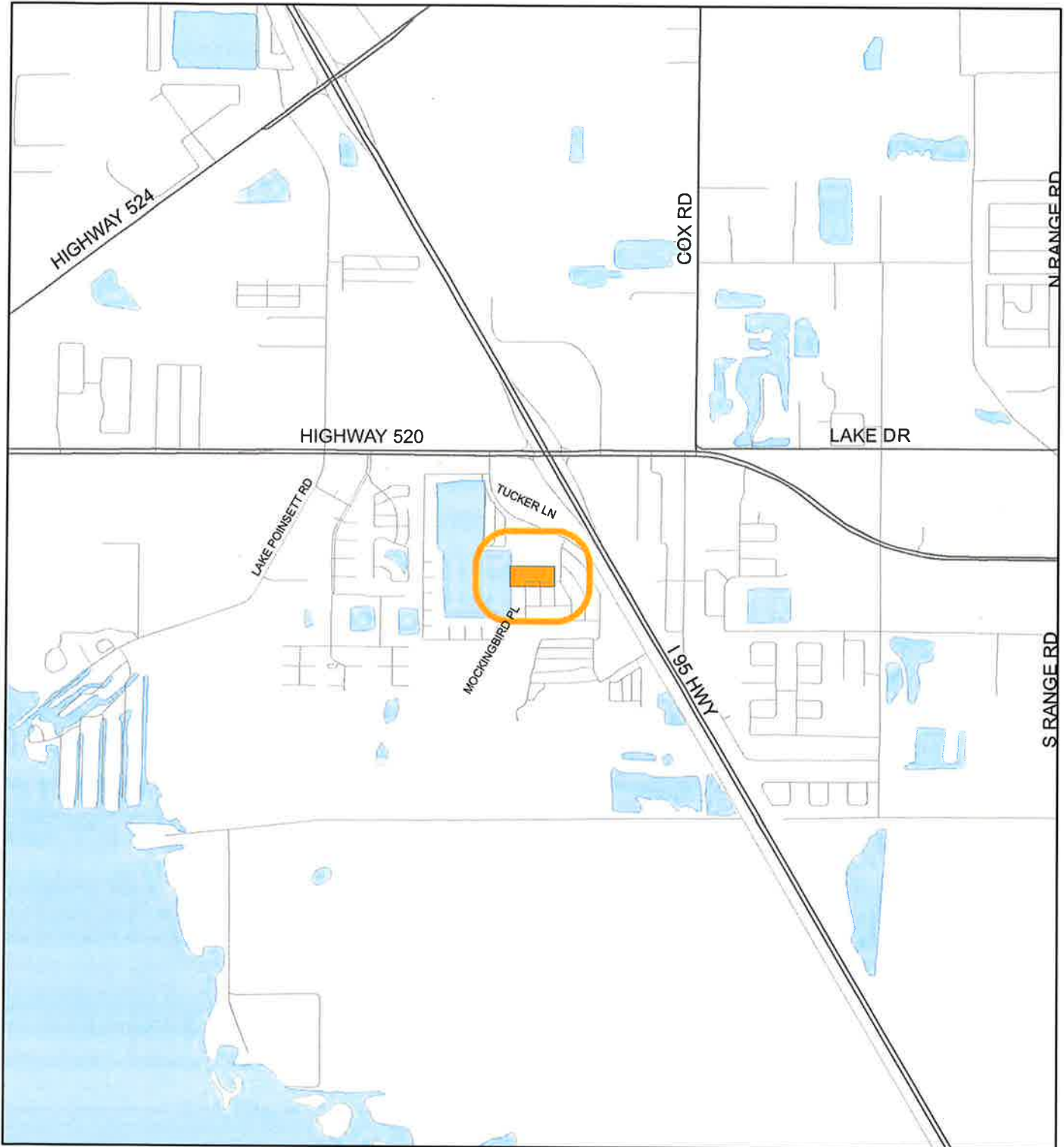
P&Z Recommendation: McLellan/Lawandales – Approved with a Binding Development Plan limited to a monastery for retired and/or semi-retired priests and brothers. Vote was unanimous.

**BCC ACTION: Fisher/Anderson – APPROVED with a Binding Development Plan limited to a monastery for retired and/or semi-retired priests and brothers. Vote was unanimous. BDP TO BE SCHEDULED AS A CONSENT ITEM ON A SUBSEQUENT BCC AGENDA, PER POLICY BCC-52. RESOLUTION NUMBER TO BE ASSIGNED UPON RECEIPT OF RECORDED BDP.**

**PLANNING AND ZONING BOARD AND PORT ST. JOHN DEPENDENT SPECIAL DISTRICT BOARD RECOMMENDATIONS OF APRIL 11 & 13, 2016, AND LPA RECOMMENDATIONS OF APRIL 25, 2016**



- Item IV.B.1. Scott O. Green. Fisher/Anderson, approved as recommended. The Board adopted Ordinance No. 16-05, Small Scale Plan Amendment 16S.01. Smith/Infantini.
- Item IV.B.2. Braveheart Properties of Brevard, Inc. Fisher/Infantini, approved as recommended, with a Binding Development Plan limited to four horses.
- Item IV.B.3. Ronald W. & Wanda F. Masek, Trustees. Fisher/Anderson, approved as recommended.
- Item IV.B.4. Robert G. Milliken, Trustee. Fisher/Anderson, approved as recommended.
- Item IV.B.5. Elinor R. Garrison. Fisher/Anderson, approved as recommended, with a Binding Development Plan limited to a monastery for retired and/or semi-retired priests and brothers.
- Item IV.B.6. Mark & Kathleen Nathan. Barfield/Fisher, denied. The Board approved Findings of Fact to come back to the Board for its consideration at the July 12, 2016, Board meeting.

LOCATION MAP  
BRAVEHEART PROPERTIES OF BREVARD, INC.  
16PZ00008



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

Buffer Distance: 500 feet

-  Buffer
-  Subject Property

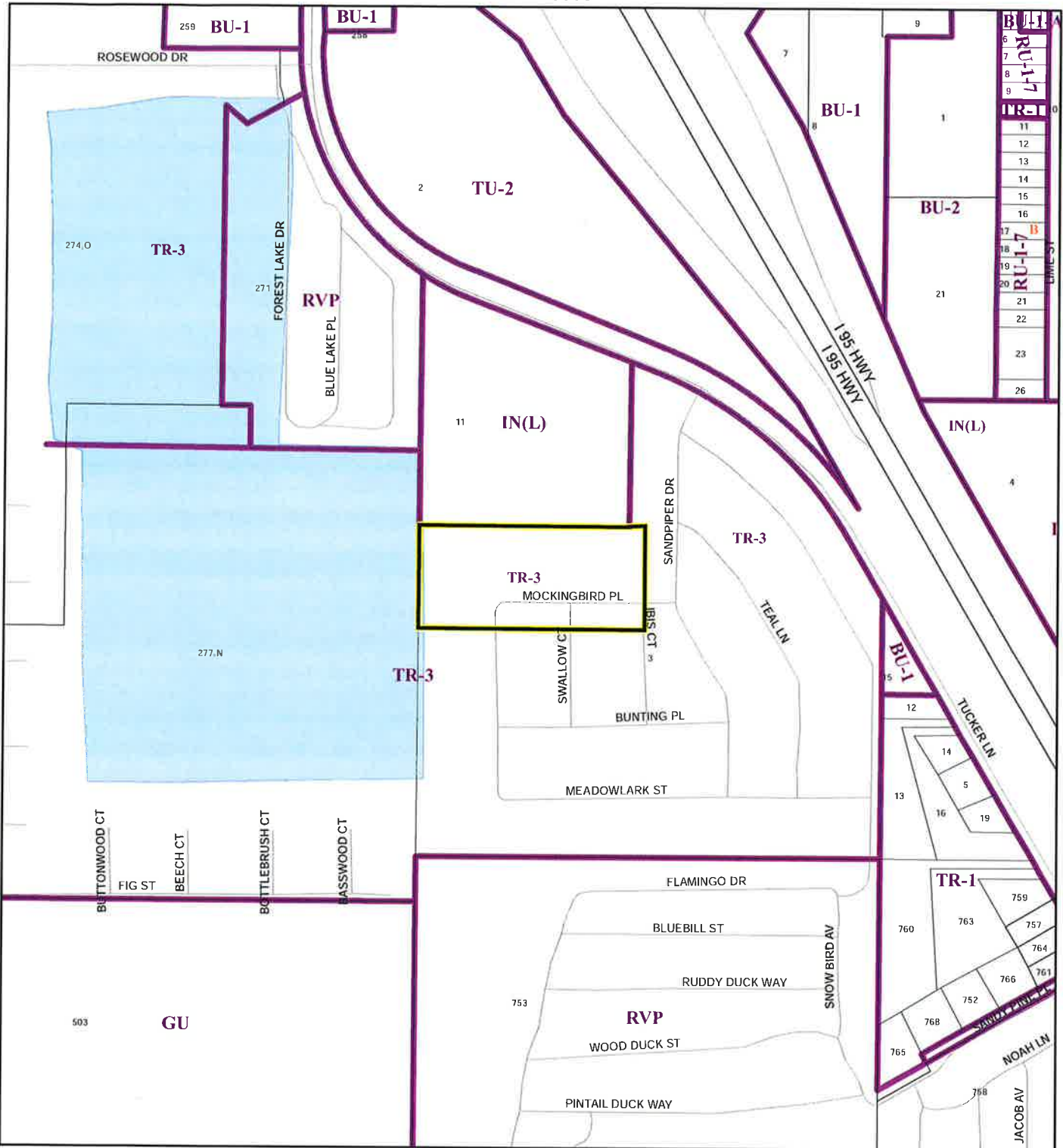
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by the Brevard County Planning and Zoning Office - GIS Section Date: 1/27/2016

# ZONING MAP

BRAVEHEART PROPERTIES OF BREVARD, INC.

16PZ00008



1:4,800 or 1 inch = 400 feet

- Subject Property
- Parcels
- Zoning

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