

F. Consent Agenda - Planning and Development
ITEM 2.



AGENDA REPORT
December 18, 2018

**Acceptance, Re: Binding Development Plan - MB Inter-Coastal Estates, LLC
(18PZ00097) (District 3)**

SUBJECT:

Acceptance, Re: Binding Development Plan - MB Inter-Coastal Estates, LLC (18PZ00097)
(District 3)

FISCAL IMPACT:

None.

DEPT/OFFICE:

Planning and Development

REQUESTED ACTION:

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept, and authorize the Chair to sign, the Binding Development Plan.

SUMMARY EXPLANATION and BACKGROUND:

On November 1, 2018, the Board approved a rezoning request from SR (Suburban Residential) to RU-1-13 (Single-Family Residential), with a BDP (Binding Development Plan). The BDP is a voluntary agreement presented by the 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 rezoning request by the Board. Following staff and legal review, a BDP is presented to the Board in recordable form as a Consent Agenda Item in order to finalize the zoning action.

The limitations in the attached BDP include, but are not limited to, the following:

- The Developer/Owner shall be limited to 2 single-family lots on the 1.5-acre subject property and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
- The Developer/Owner shall limit to one ingress and egress driveway to serve both lots.

The property is located on the west side of Highway A1A, approximately 6.3 miles south of the Melbourne Causeway (4200 & 4204 Highway A1A, Melbourne Beach)

Staff Contact: Jennifer Jones Ext. 52653

CLERK TO THE BOARD INSTRUCTIONS:

After recordation, please forward two certified copies to the Planning and Development Department.

ATTACHMENTS:

- | | Description |
|---|--------------------|
| □ | BDP Package |

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- The Developer/Owner shall limit to one ingress and egress driveway to serve both lots.

The property is located on the west side of Highway A1A, approximately 6.3 miles south of the Melbourne Causeway (4200 & 4204 Highway A1A, Melbourne Beach)



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

December 19, 2018

M E M O R A N D U M

TO: Jennifer Jones, Zoning

RE: Item F.2., Binding Development Plan Agreement with MB Inter-Coastal Estates, LLC

The Board of County Commissioners, in regular session on December 18, 2018, executed Binding Development Plan with MB Inter-Coastal Estates, LLC, for property located on the west side of Highway A1A, approximately 6.3 miles south of the Melbourne Causeway, Melbourne Beach. Said Plan was recorded in OR/BK 8345/517. 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

Tammy Rowe, Deputy Clerk

/dt

Encls. (2)

cc: Contracts Administration

RESOLUTION NO. 18PZ00097

On motion by Commissioner Lober, seconded by Commissioner Pritchett, the following resolution was adopted by a unanimous vote: (Commissioner Tobia absent)

WHEREAS, MB INTER-COASTAL ESTATES, LLC has requested a change of zoning classification from SR (Suburban Residential) to RU-1-13 (Single-Family Residential), with a BDP (Binding Development Plan) limited to two (2) lots, on property described as Tax Parcels 14 and 16, recorded in ORB 8228, Pages 932 – 933, of the Public Records of Brevard County, Florida. (1.5 acres) Located on the west side of Highway A1A, approximately 6.3 miles south of the Melbourne Causeway. (4200 & 4204 Highway A1A, Melbourne Beach.)

Section 33, Township 28 S, Range 38 E, and,

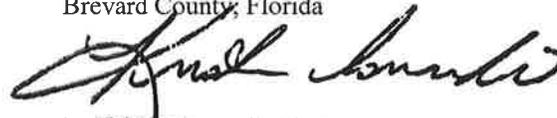
WHEREAS, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved with a BDP as submitted, limited to two (2) lots; and

WHEREAS, the Board, after considering said application and the Brevard County Planning & 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, with a BDP limited to two (2) lots; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from SR to RU-1-13, with a BDP limited to two lots be APPROVED with a BDP, recorded in ORB 8345, Pages 517 - 520, dated January 09, 2019, limited to two (2) lots. The Planning & 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 January 09, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Kristine Isnardi, Chair
Brevard County Commission

As approved by Brevard County Commission on December 18, 2018.

ATTEST:



Scott Ellis
SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – October 8, 2018)
(BCC Zoning Hearing – November 1, 2018)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD 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.

Prepared by: Mel Scott
Address: 7175 Murrell Rd, Viera, FL 32940

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 28 day of November, 2018 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and MB Inter-Coastal Estates, a LLC 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" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the RU-1-13 zoning classification(s) and desires to develop the Property as 2 single-family residences, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, 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. The Developer/Owner shall be limited to 2 single-family lots on the 1.5-acre subject property and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
3. The Developer/Owner shall limit to one ingress and egress driveway to serve both lots.
4. 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.
5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court the cost of recording this Agreement in the Public Records of Brevard County, Florida.
6. 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 11-1-18. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
7. 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.
8. 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 7 above.

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

ATTEST:

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



Scott Ellis, Clerk
(SEAL)



Kristine Isnardi, Chair
As approved by the Board on Dec. 18, 2018

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

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER





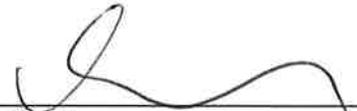
(Witness Name typed or printed)

MB- Intercoastal Estates LLC.
119 Signature Dr. Melbourne FL 32951
(Address)





(Witness Name typed or printed)



(President)
Don Winkler - managing member
(Name typed, printed or stamped)

STATE OF FL §
COUNTY OF Brevard. §

The foregoing instrument was acknowledged before me this 28 day of Nov, 2018, by Don Winkler, President of MB- Intercoastal Estates, who is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:



Notary Public
(Name typed, printed or stamped)



EXHIBIT "A"
LEGAL DESCRIPTION

DESCRIPTION (PARCEL 14)

That portion lying Westerly of the right of way of State Road Highway A-1-A of the North 100 feet of the South 200 feet as measured on the North and South line dividing Sections 33 and 34, Township 28 South, Range 38 East, of U.S. Government Lot 2 of Section 33, Township 28 South Range 38 East of the Tallahassee meridian, according to actual survey made by R.B. Burchfield, County Surveyor, December 17, 1890.

There is also conveyed by this deed all uplands, submerged lands, littoral rights and riparian rights lying between the prolongation Westerly of the Northerly and Southerly lines of the above described property and lying to the West of the above described property to the center of the stream of the Indian River.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:

Part of the South 75.00 feet of the East 203.50 feet as measured along the South line of the North 100.00 feet of the South 200.00 feet of Government Lot 2 in Section 33, Township 28 South, Range 38 East, Brevard County, Florida, lying West of the Westerly right of way line of State Road A-1-A, more particularly described as follows:

Begin at the intersection of the South line of the North 100.00 feet of the South 200.00 feet of said Government Lot 2 and the Westerly right of way line of State Road A-1-A, as shown on the Department of Transportation Maintenance Map of A-1-A; thence N 89° 15'34" W along the South line of said North 100.00 feet a distance of 203.50 feet; thence N 00° 44'26" E, 48.96 feet; thence N 64° 07'45" E, 58.14 feet; thence S 89° 15'34" E, 119.57 feet to the Westerly right of way line of State Road A-1-A; thence S 22° 20'00" E along said Westerly right of way line 81.52 feet to the Point of Beginning.

DESCRIPTION (PARCEL 16)

Part of the South 75.00 feet of the East 203.50 feet as measured along the South line of the North 100.00 feet of the South 200.00 feet of Government Lot 2 in Section 33, Township 28 South, Range 38 East, Brevard County, Florida, lying West of the Westerly right of way line of State Road A-1-A, more particularly described as follows:

Begin at the intersection of the South line of the North 100.00 feet of the South 200.00 feet of said Government Lot 2 and the Westerly right of way line of State Road A-1-A, as shown on the Department of Transportation Maintenance Map of A-1-A; thence N 89° 15'34" W along the South line of said North 100.00 feet a distance of 203.50 feet; thence N 00° 44'26" E, 48.96 feet; thence N 64° 07'45" E, 58.14 feet; thence S 89° 15'34" E, 119.57 feet to the Westerly right of way line of State Road A-1-A; thence S 22° 20'00" E, along said Westerly right of way line 81.52 feet to the Point of Beginning.

Combined Statement

Alliance Title Insurance Agency, Inc., Alliance Title Insurance Agency, Inc.
 10 S. Harbor City Boulevard, Melbourne, FL 32901, (321) 724-9600

Seller(s) A1A South, LLC, 5901 Atkinson Rd, New Hope, PA 18938
Buyer(s) MB INTER-COASTAL ESTATES, LLC., 119 Signature Drive, Melbourne Beach, FL 32951
Lender(s)
Property Property Address
 4200/4204 Highway A1A Melbourne Beach, Florida 32951

Subdivision
 SEE LEGAL DESCRIPTION, Brevard County, Florida

PIN
 28-38-33-00-14/28-38-33-00-16

Property Address

Closing Date 7/30/2018		Disbursement Date 7/30/2018		Proration Date 7/30/2018	
Buyer		Seller			
Debit	Credit	Debit	Credit	Debit	Credit
		Sales/Price			
\$750,000.00					Contract sales price \$750,000.00
					Deposits
	\$1,000.00				Deposit or earnest money
					Prorations
\$6.04					Non Ad Valorem 7/30/2018 to 10/1/2018 \$6.04
	\$4,079.51			\$4,079.51	County taxes 1/1/2018 to 7/30/2018
					Title Charges
\$100.00					Settlement or closing fee to Alliance Title Insurance Agency, Inc.
\$2,730.00					Owner's title insurance to Alliance Title Insurance Agency, Inc.
	\$1,600.00				Owner's title policy limit \$750,000.00 Title/Buller Credit to Alliance Title Insurance Agency, Inc.
					Recording Fees/Transfer Charges
\$23.00					Deed \$23.00 Mortgage Releases to Clerk of the Circuit Court
				\$5,250.00	State tax/stamps Deed \$5,250.00 to Clerk of the Circuit Court
					Intangible Tax
				\$23.00	LLC Affidavit to Clerk of the Circuit Court
\$752,859.04	\$6,679.51	\$9,352.51	\$750,000.00		Subtotals
	\$746,179.55				Balance due from Buyer
			\$740,859.53		Balance due to Seller
\$752,859.04	\$752,859.04	\$750,006.04	\$750,006.04		Totals

*

MB Inter-Coastal Estates, LLC

By: [Signature]
 Daniel Winkler, Manager

A1A South, LLC, a Delaware LLC

By: [Signature]
 Michael Schulliger, Managing Member

Alliance Title Insurance Agency, Inc.

Date

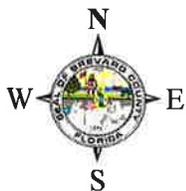
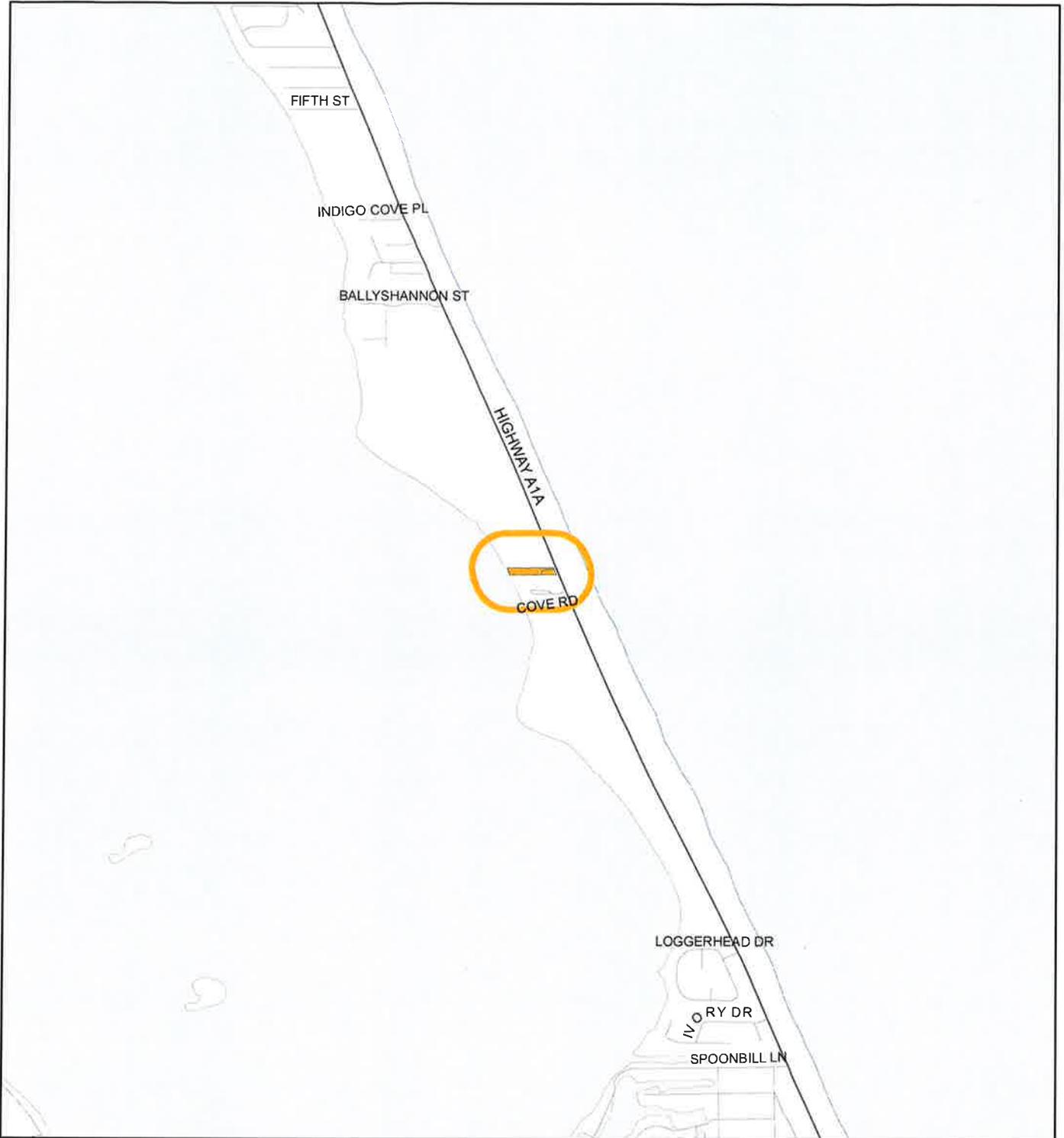
7-30-18

There is no mortgage on the property

Karl Michelle Winkler 11/5/18



LOCATION MAP
MB INTER-COASTAL ESTATES, LLC
18PZ00097



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

Buffer Distance: 500 feet

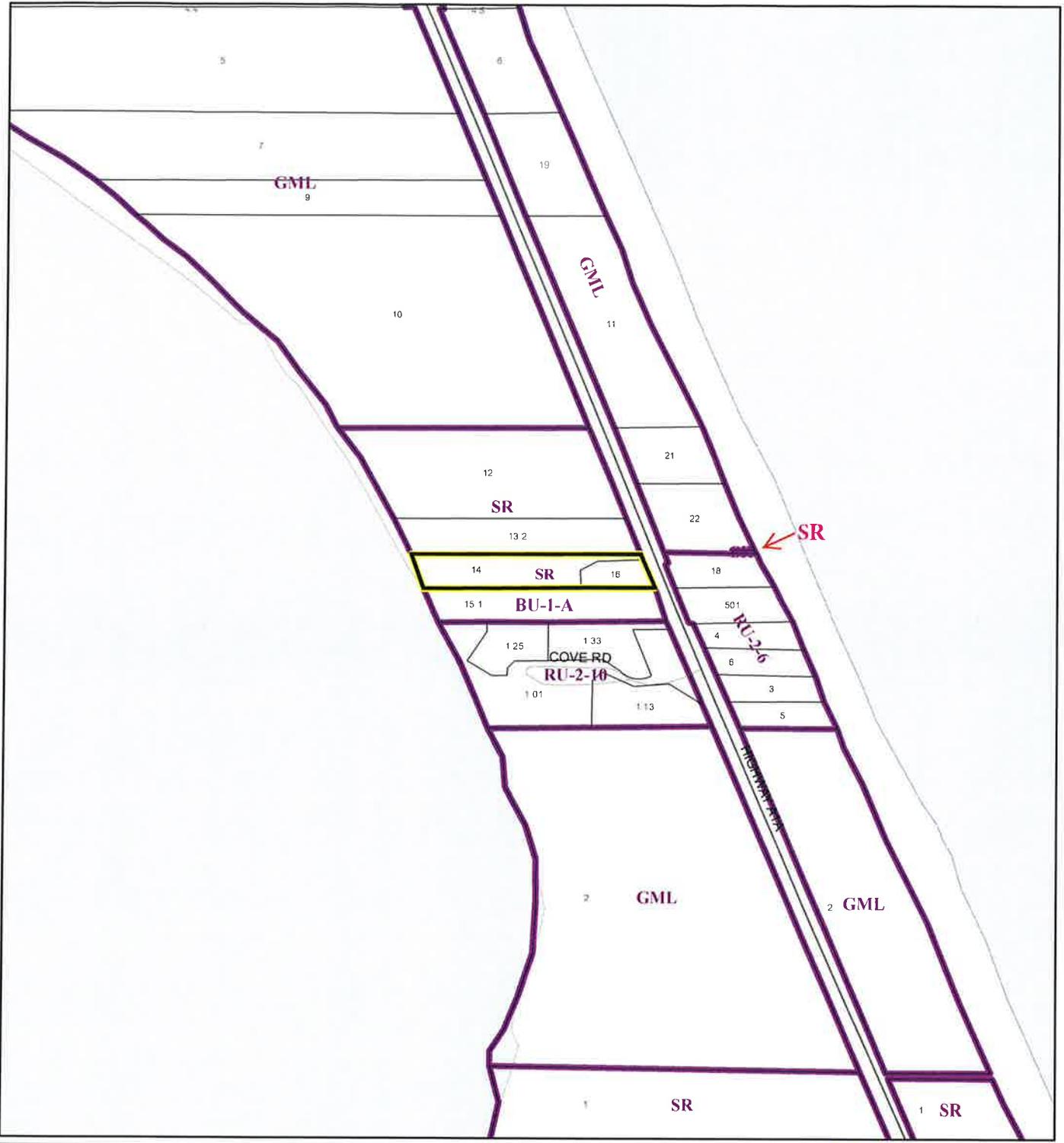
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/10/2018

-  Buffer
-  Subject Property

ZONING MAP

MB INTER-COASTAL ESTATES, LLC
18PZ00097



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: 8/10/2018

-  Subject Property
-  Parcels
-  Zoning

H. PUBLIC HEARINGS

Planning and Zoning Board
Monday, October 8, 2018, at 3:00 p.m.
and
Brevard County Board of County Commissioners
Thursday, November 1, 2018, at 5:00 p.m.
Both at the
Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, First Floor, 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.

1. Robert Allen and Ruth Novelena Baker request a change of zoning classification from RR-1 (Rural Residential) and GU (General Use) to AU (Agricultural Residential). The property is 3.37 acres, located on the north side of Camp Road, approximately 0.21 mile east of Grissom Parkway. (940 Amazing Grace Lane, Cocoa) (18PZ00096) (District 1)

Planning and Zoning Board Recommendation: Barber/McLellan – Approved. The vote was unanimous.

Board of County Commissioners Action: Barfield/Isnardi – Approved as recommended. The vote was unanimous.

2. MB Inter-Coastal Estates, LLC (Mel Scott) request a change of zoning classification from SR (Suburban Residential) to RU-1-13 (Single-Family Residential), with a BDP (Binding Development Plan). The property is 1.5 acres, located on the west side of Highway A1A, approximately 6.3 miles south of the Melbourne Causeway (4200 & 4204 Highway A1A, Melbourne Beach) (18PZ00097) (District 3)

Planning and Zoning Board Recommendation: McLellan/Barber – Approved with a Binding Development Plan. The vote was unanimous.

Board of County Commissioners Action: Tobia/Barfield – Approved with a BDP (Binding Development Plan) as recommended. The vote was unanimous. The BDP will be scheduled as a Consent item on a subsequent County Commission agenda, per Policy BCC-52. Resolution will be completed upon receipt of recorded BDP.

3. Happy Landings Homes, Inc. (Kevin Lee) requests an amendment to an existing BDP (Binding Development Plan), in an IN(H) (Institutional Use, High-Intensity) zoning classification. The property is 5.33 acres, located on the southwest corner of U.S. Highway 1 and Otter Creek Lane, on the east side of Old Dixie Highway. (5925 Old Dixie Highway) (18PZ00088) (District 4) This item was tabled by the Planning and Zoning Board on September 17, 2018.

Planning and Zoning Board Recommendation: McLellan/Wadsworth – Tabled to the November 5, 2018, Planning and Zoning meeting. The vote was unanimous.

Board of County Commissioners Action: Isnardi/Barfield – Tabled to the December 6, 2018, Commission meeting. The vote was unanimous.

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Robert Allen Baker and Ruth Novelena Baker. Barfield/Isnardi. Approved the change of Zoning classification from RR-1 and GU to AU as recommended.
- Item H.2. MB Inter-Coastal Estates. Tobia/Barfield. Approved the change of Zoning classification from SR to RU-1-13 with a BDP limiting the 1.5 acre property to two lots and limiting the access to one ingress and egress driveway.
- Item H.3. Happy Landings Homes, Inc. Isnardi/Barfield. Tabled to December 6, 2018, Zoning Meeting to allow the applicant to properly notice the property.
- Item H.4. W.K. & R. Groves, Inc. Barfield/Tobia. Tabled to December 6, 2018, Zoning Meeting to allow the applicant to properly notice the property.
- Item H.5. LTM of Florida Holding, LLC. Barfield/Isnardi. Tabled to the January 7, 2019, P&Z meeting, and to the February 7, 2019, Board of County Commissioner meeting, at the request of the applicant.
- Item H.6. Vinings Palm Bay Investment, LLC. Isnardi/Smith. Adopted Ordinance No. 18-25, Small Scale Comprehensive Plan Amendment (18S.04) changing the Future Land Use designation from Residential 15 (Res 15) to Community Commercial (CC).
- Item H.7. Vinings Palm Bay Investment, LLC. Isnardi/Barfield. Approved the change of Zoning classification from RU-2-15 to BU-1, and replacement of an existing BDP.