



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

25Z00049

Lazy River Investments, LLC

RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential (Low Intensity))

Tax Account Number: 3008729
Parcel I.D.: 30G-38-19-HP-*-10
Location: Southwest corner of Fleming Grant Road and Seabird Lane (District 3)
Acreage: 20.39 acres

Planning and Zoning Board: 1/12/2025

Board of County Commissioners: 2/05/2025

Consistency with Land Use Regulations

- Current 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	RU-1-13	AU (L)
Potential*	Two (2) single-family residential units	Eight (8) single-family residential units
Can be Considered under the Future Land Use Map	NO Residential 1:2.5	YES Residential 1:2.5

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

Background and Purpose of Request

The applicant, Lazy River Investments, LLC, purchased the subject 20.13 acre property on May 9, 2019. In 2019, the Brevard County Comprehensive Plan Future Land Use Map (FLUM) designation for the property was Residential 1 unit per 2.5 acres (RES 1:205) and has not been changed. Under the density restriction of the FLUM the maximum allowable density of the subject property is 8 dwelling units. The subject property's existing zoning of RU-1-13 allows a density of greater than 1 unit per 2.5 acres and, therefore, it is inconsistent with the FLUM. The applicant is requesting to rezone the property from Single-Family Residential (RU-1-13) to Agricultural Residential - Low Intensity (AU(L)) which allows 1 unit per 2.5 acres to be consistent with the Residential 1:2.5 (RES 1:2.5) Future Land Use (FLU) designation. The applicant has included a proposed plan for seven (7) single-family residential parcels (units).

The property is located on the southwest corner of Fleming Grant Road and a private driveway, Seabird Lane. This property has dual frontage on Grant Fleming Road and the Sebastian River. The subject consists of Lot 10 and Lot 11 of Allen Et Al Subdivision, Plat Book 1 Page 77 which was recorded on May 23, 1894. According to the Plat, Lot 10 contains 10.25 acres and Lot 11 has 9.88 acres totaling 20.13 acres. The survey provided by the applicant notes Lot 10 as 9.91 acres and Lot 11 as 10.75 acres (including the Road Right of Way) totaling 20.66 acres. Since the recording of the plat creating these lots predates the County's Zoning Regulation (adopted in 1958) and effective date of the County's Comprehensive Plan (adopted in 1988), Lots 10 and 11 are Nonconforming Lots of Record. The property is currently vacant.

Administrative Policy 2 of the Comprehensive Plan effectively authorizes staff to analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.

Staff provides the following analysis:

Objective 15 of the Future Land Use Element of the Comprehensive Plan states, "Brevard County shall eliminate inconsistencies between the Comprehensive Plan and the zoning regulations of the Land Development Regulations, and thereafter, shall reduce the number of existing land uses which are non-conforming to the Comprehensive Plan". There are several Policies and Criteria relating to the need for rezoning properties that are not inconsistent with the Comprehensive Plan. However, **Policy 15.5** specifically allows the development of non-conforming lots without the necessity of rezoning to be consistent with the Comprehensive Plan. (See attached Objective 15 and Policies.) This policy contains the following criteria:

- A. Non-conforming lots of record are those properties which meet the non-conforming provisions of the Brevard County Zoning Code but which are non-conforming to this Comprehensive Plan and/or Zoning regulations.
- B. Non-conforming lots of record may be developed to a use permitted by Chapter 62, Article VI, Division 2, Subdivision II, "Non-Conforming Uses" of the Brevard County Land Development Regulations, provided that it is also a use permitted by the Future Land Use Map of this Comprehensive Plan.
- C. The Land Development Regulations should continue to include provisions for minimum lot dimensions and setbacks for non-conforming lots of record to ensure that these uses will be compatible with surrounding land uses.
- D. If an existing non-conforming lot does not meet the minimum lot size established by this element, relief may be obtained in accordance with the Zoning Code of Brevard County.

Furthermore, **Section 62-1188**, stipulates that dwellings, structures or buildings may be constructed on a Nonconforming Lot of Record in any zoning classification which allows such dwellings, structures, and buildings. This section further requires that the lot have a width of not less than 50 feet, a depth of not less than 75 feet, and an area of not less than 5,000 square feet for the construction of a single-family dwelling. Both Lots 10 and 11 exceed these requirements and would be eligible to have a single-family dwelling on each of them.

Administrative Policy 7 states, "Proposed use(s) shall not cause or substantially aggravate any (a) Substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species."

The Coastal Management Element, **Objective 7.0**, directs development away from the Coastal High Hazard Area (CHHA) and seeks to limit densities within it. The Comprehensive Plan's Coastal Element indicates the CHHA is an area which is subject to storm surges and flooding in a Category 1 hurricane. As noted in the Environmental Constraints section, several natural features constrain the development potential of the property, including the presence of CHHA on the southern portion where three single-family units are proposed. In order to meet this mandate, staff has suggested to the applicant agreeing to limit units constructed within the Coastal High Hazard Area. To date, the applicant has not agreed to such a limitation. As such, the Board may wish to consider whether this request meets the direction of this Objective, given that it would represent an increase in the potential amount of units that could be constructed within the Coastal High Hazard Area. Should the applicant agree to limit development within the Coastal High Hazard Area, staff suggests that this could be made binding by memorializing it in a Binding Development Plan (BDP) to ensure it can be clearly tracked and enforced throughout the development review process.

This same area also lies within the Special Flood Hazard Area (SFHA) as identified by FEMA, with the CHHA and SFHA largely overlapping. Pursuant to **Section 62-3723(2)(a)–(b)**, development within an estuarine floodplain must avoid adverse impacts to adjacent properties and receiving waters and must provide a contiguous, elevated area for all principal and accessory structures, onsite sewage disposal systems, and buffers, meeting or exceeding the 100-year base flood elevation. In other words, the property would have to be filled to 6.3 feet to be above the 100-year floodplain in order to accommodate development.

The property is mapped as Upland Mixed Coniferous/Hardwood (FLUCCS), containing Protected Trees (≥ 10 inches DBH) and Specimen Trees (≥ 24 inches DBH). Elevating development within the SFHA and CHHA would require substantial fill, which may negatively affect these trees and diminish natural ecological functions.

Additionally, National Wetland Inventory (NWI) wetlands are mapped along the shoreline, indicating potential jurisdictional wetlands. A wetland delineation will be required prior to site plan design, land clearing, or building permit submittal. **Per Section 62-3694(c)(1)**, residential uses within wetlands are limited.

On May 30, 2019, the Board of County Commissioners conducted a public hearing for a Large-Scale Comprehensive Plan Amendment and a companion Zoning action for the acceptance of Binding Development Plan (BDP) for consistency with FLU of Residential 1 (**18PZ00167**). The result of that hearing was that the Large-Scale Amendment was denied, and the applicant withdrew the BDP request.

On December 5, 2019, the Board conducted a public hearing to consider the approval of Zoning action **19PZ00093**. At this hearing the applicant presented a BDP limiting the development of property to 8 lots with other stipulations offered to help mitigate the proposed development. The Board also, denied this request.

On February 04, 2021, the Board of County Commissioners conducted a public hearing to consider the approval of Zoning action **20Z00030** to rezone the subject parcel from RU-1-13 to AU(L). The

applicant proposed 8 single-family units. **The request, which is identical to the request at hand, was denied after a public hearing.**

On March 23, 2021, the Board of County Commissioners adopted Resolution **No. 21-032**, approving setting forth the Findings of Facts and conclusion of the denial of the request for rezoning from Residential, RU-1-13 to Agricultural Low Intensity AU(L). In Conclusion the Board of County Commissioners hereby finds the proposed rezoning to AU(L) fails to meet the requirements of the Future Land Use Element, the Conservation Element and the Coastal Element of the Brevard County Comprehensive Plan. Accordingly, the rezoning request to AU(L) is denied. See attached Resolution **No. 21-032**.

There are no active code enforcement actions on the subject property.

Surrounding Properties

	Existing Land Use	Zoning	Future Land Use
North (across Flemming Grant Rd.)	Single-family residence	RR-1	RES 1
South	Sabastian River	None	None
East	Single-family residence	RR-1	RES 1:2.5
West	Single-family residences	RU-1-13	RES 1:2.5

The surrounding area is characterized as low density with some residential lots developed at less than 1 acre prior to the adoption of the Comprehensive Plan in 1988.

The surrounding properties are zoned RR-1 to the east, RU-1-13 to the west, RR-1 across Fleming Grant Road to the north and General Use (GU) on the islands in the San Sebastian River to the south.

There have been no approved zoning actions approved in the last three (3) years within half mile of the subject property.

Directly to the east of the subject property lies a thirty foot (30') unimproved right of way and to the east of that lies the private drive Seabird Lane, which per AA-1581 and AA-1583, provides access to two three-acre riverfront parcels.

The current RU-1-13 permits encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

The proposed AU(L) zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character on 2 ½ acre lots for personal use, with a

minimum lot width and depth of 150 feet. The minimum house size in AU(L) is 750 square feet. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities.

RR-1 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on a minimum one acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principal residence within the RR-1 zoning district.

FLUE Policy 1.10 The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

Future Land Use

The property is currently designated RES 1:2.5 by the Future Land Use Map (FLUM). The existing zoning of RU-1-13 is inconsistent to the FLUM. The proposed zoning of AU(L) would allow consistency with the FLUM.

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 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 parcel is vacant undeveloped land. The proposed rezoning will need to comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272.

- 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 (Master Appraiser Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

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

1. historical land use patterns;

The historical land use patterns of the surrounding development can be characterized as single-family residences on properties 0.3 acre to 21 acres in size.

There are two (2) FLU designations (RES 1:2.5 and RES 1) within a 0.5-mile radius of the subject property. RES 1:2.5 is the prominent FLU in this area.

There are six (6) zoning classifications (GU, AU, RR-1, RU-1-13, RU-1-7 and GML(P) within a 0.5-mile radius of the subject property. AU and RR-1 are the prominent zoning classifications in this area.

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

There has been no development within 0.5 miles approved within the past three years.

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

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

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

No material violation of relevant policies 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 area is characterized primarily by low-density single-family zoning and rural development. As mentioned above, the area contains a mixture of lot sizes and zoning classifications (i.e., GU, AU, RR-1, RU-1-13 and RU-1-7). The majority of the AU zoned

land is approximately 360 feet west of the subject property and has a mixture of the residential and residential/agricultural. The more intense uses allowed within the AU zoning classification do not appear to be occurring in the area. The parcels to the east and north of the subject property are primarily developed as single family residential within RR-1 zoning classification. The RR-1 zoning classification allows horses as accessory to a residential use.

The proposed AU(L) is considered to be a lower intensity sub-classification of AU and to be suited for smaller lots where the neighborhood has a more residential than agricultural character. The AU(L) classification allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense “commercial” agricultural activities.

Based on staff analysis, the proposed rezoning from RU-1-13 to AU(L) zoning classification request is not anticipated to have a measurable impact on the area in terms of trip generation, or parking. No commercial or industrial activity is proposed.

- 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.

Staff analysis has determined the property is located in an existing residential area.

The area, known as Fleming Grant, can be characterized as a single-family residential area with spacious lot sizes and roadways.

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. It is located in an existing single-family residential neighborhood. There are no neighborhood commercial land uses established in this area.

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 is single-family residential use. There has not been commercial, industrial, or other non-residential uses approved in this area during the previous five (5) years. This area is not transitional.

Analysis of Administrative Policy #7

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

Natural Resources has noted The Environmental Constraints section of the reports identify several environment limitations effecting the development potential of the property. The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

Please review all comments from the Natural Resources Management Department found at the end of this report.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Main Street, between Highway US-1 and Central Avenue, which has a Maximum Acceptable Volume (MAV) of 22,400 trips per day, a Level of Service (LOS) of E, and currently operates at 9.82% of capacity daily. The parcel is undeveloped. The maximum development potential from the proposed rezoning increases the proposed trip generation 0.36%. The corridor is anticipated to operate at 10.18% of capacity daily. The proposal is not anticipated to create a deficiency in LOS E.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The subject property is not served by potable water. The subject property would be served by well and septic. Brevard County Division 46, Article II, Division 4 establishes a nitrogen reduction overlay area (Overlay) that requires advanced OSTDS that reduces total nitrogen by at least 65%. A portion of the property lies within this Overlay and septic systems within this Overlay are subject to said regulations.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Protected and Specimen Trees
- Protected Species

For Board Consideration

The Board may consider whether the proposed rezoning to AU(L) is consistent and compatible with the surrounding area. The Board may also consider whether the request is consistent with all Policies and Objective of the Brevard County Comprehensive Plan including, but not limited to, Objective 7 of the Coastal Management Element.

Should the Board be concerned with agriculture activity between RU-1-13 and RR-1 zoning classifications, an alternative residential zoning classification, Rural Estate Use (REU) could be considered in lieu of the applicant's AU(L) zoning request. The Rural Estate Use (REU) zoning classification is similar to AU(L) and requires a minimum lot area of 2.5 acres and may be considered consistent with the RES 1:2.5 FLUM but limits agricultural uses as a conditional use. The keeping of horses or other farm animals would require a separate zoning action in order to identify and limit their usage upon the property. Additionally, REU with minimum lot width and depth of 200' would limit the number of new lots fronting Fleming Grant Road or the river, plus a small left-over area for possible flag stems accessing Fleming Grant Road or providing access to the water. Minimum floor area is 1,200 square feet of living area, which is larger than the 750 square feet required in AU(L). Although REU zoning is not currently located in the surrounding area, this zoning classification could offer additional protections that the AU(L) zoning classification does not.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 25Z00049

Applicant: Lazy River Investments LLC (Owner: Lazy River Investments LLC)

Zoning Request: RU-1-13 to AU(L)

Note: for consistency with FLU

Zoning Hearing: 01/12/2026; **BCC Hearing:** 02/05/2026

Tax ID No.: 3008729

- 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:

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI wetlands on the shoreline of the site. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

The southern portion of the subject parcel is located within the Special Flood Hazard Area (SFHA) as identified by Federal Emergency Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality. Development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year base flood elevation (BFE) as described below.

Portions of the site are mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. The project is not located within the Brevard County's sanitary sewer service area. Therefore, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multistage treatment processes shall be required. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

The entire subject property is mapped within Upland Mixed Coniferous/Hardwood trees FLUCCS code. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are found in the project area. While developing in the SFHA and CHHA to a higher elevation would provide more protection from flooding, the additional fill is detrimental to the preservation of Specimen Trees, natural function and biodiversity.

If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

Land Use Comments:

Wetlands

The subject parcel contains mapped NWI wetlands on the shoreline of the site; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any site plan design, land clearing activities, 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 subdivisions 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 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and Orsino fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Additionally, the mapped topographic elevations show that the property falls within a Type 3 Aquifer Recharge area, which is subject to impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area

The southern property 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.

Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area.

Floodplain Protection

This property 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 southern portion of this 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. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as an Aquatic Preserve in this location. A 50-foot Surface Water Protection Buffer is required. Except as allowable under Section 62-3668 (7), primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). 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. Per Section 62-3666(4), all alterations shall demonstrate avoidance and minimization of surface water protection buffer impacts, including the location of the alteration within the most landward portion of the Buffer, as practicable. The remainder of the surface water protection Buffer shall be maintained in unaltered native vegetation. The Florida Department of Environmental Protection (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.

Protected and Specimen Trees

The entire subject property is overlaid in a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and are likely found on the project area. The applicant shall perform a tree survey prior to any site plan design to incorporate valuable vegetative communities or robust trees into the design. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent

Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas.

While developing to a higher elevation provides more protection from flooding, the additional fill is detrimental to the preservation of Protected and Specimen Trees, especially those located at the lower elevations within the SFHA floodplain and the CHHA. If units are developed in the lower elevations of the property, closer to the shoreline, more fill will be required to satisfy Land Development Regulations relating to the FFE. The Applicant shall 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 the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.