

**From:** [Alain Carpentier](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** Opposition in Rezoning ID# 21Z00042  
**Date:** Monday, January 10, 2022 1:02:04 PM

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January 10, 2022

To: Planning and Development Department  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Vierra, FL  
From: Alain & Casandra Carpentier  
4550 Deanna Court  
Merritt Island, FL., 32953

Reference: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042

Panel/Board Members and Commissioner,

We want to express our strong opposition to the rezoning of Parcel IDs: 23-36-34-00-761 and 23-36-34-00-762 2019-0317 from the current AU to proposed RU-2-4 which are owed by Carter and Jessica Hayes. We own the property on parcel 41 in the subdivision Citrus River Groves, Merritt Island, located within 500 feet of the proposed rezoning area of parcel 761 owned by the Hayes, as identified on the zoning map.

The proposed rezoning will add several impacts to an already developed/established community, specifically: National Wetlands, FEMA Flood Zones and local wildlife. While the local community may be unable to prevent development, that in itself will be detrimental to the area, nearly all residents in the Citrus River Groves neighborhood are completely opposed to the addition of multi-family housing that will cause additional traffic and safety problems and potentially lower the property values of the existing community.

Potential Flooding. Stormwater runoff and an overstressed drainage canal on Citrus River Groves parcels:39-46; are within 500 feet of the proposed rezone area and is a major concern. The rezoning may impact our current FEMA flood-zone category from AE to AO, greatly affecting the cost of current homeowner's flood insurance. The drainage canal remains full, even in the dry-season, and further pressure will certainly foster land erosion at an increased rate.

Conservation & Wildlife. The removal of the trees and vegetation on the identified wetlands will ultimately drive more pressure into the drainage canal. Additionally, wildlife (alligators, turtles, spoonbills) have been observed in the area, and any land clearing development will destroy their habitat. Any planned development of the property should consider the continuing impact to local wildlife habitat.

Property Value. Current home values have the potential to decrease in the area if multi-family units are built. Multi-family dwellings are inconsistent with the neighborhoods already developed and established in the area. I urge you to disapprove the proposed rezoning, and from recent meetings and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails. Thank you for your service and support of our

communities.

Best regards,

Alain & Sandy Carpentier  
904-631-1752

**From:** [D. Barker](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)  
**Subject:** Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting  
**Date:** Wednesday, January 26, 2022 12:30:47 PM

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**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good Day Brevard County Board of County Commissioners,

My correspondence to you today is in reference to:

Board of County Commission Meeting 02/03/22

Agenda Item H.10, Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

I am requesting you deny this request as the Developer's property to the West partially adjoins our property to the East, **meaning any development will be in my back yard**. Currently our rear view is a drainage canal full of wildlife coupled with many indigenous trees & protected plant life, and if this zoning change passes, I will view a backyard encompassing a 9 to 11 unit apartment rental complex, or duplexes or townhomes.

I am a 45 year Merritt Island resident. My Husband & I own the property at 4540 Deanna Court, North Merritt Island, Florida, Citrus River Groves Subdivision. We purchased the lot in 1994 and built our home in accordance with Brevard County approval in 1997/98. We clearly have demonstrated our investment in North Merritt Island and vested rights thereto for 24 years.

I am physically disabled. My home is my physical & emotional sanctuary, as I'm sure your home is to you. Due to my physical limitations, I have very limited quality of life outside the boundaries of my home. If this zoning change is approved, we are concerned there will be only minimal standards set and adhered to during the building & permitting process, past this rezoning change request. It is my fear that the renters of a 9-unit apartment complex will become my co-located neighbors creating distractions of daily life to what I enjoy within my current home boundaries. The needs of existing homeowner's with vested rights should take precedence over new re-zoning requests and new construction.

In reviewing Brevard County's Mission Statement, Vision Statement, and Core Values, I see the County Commissioners as Stewards of our County, are tasked with the same issues I am writing to you about today, such as:

- Brevard's Quality of Life
- Health & Safety Needs of Our County
- Protecting Our Environment
- Conserving Our Natural Resources
- Leadership
- Quality
- Accountability

For the County Commissioners, your vote on this rezoning change is not simply a business/financial decision for the Developer. It is personal welfare, standard of living, humanitarian and quality control

decision for the homeowners that have lived in the existing abutting homes, paying property taxes and supporting Brevard North Merritt Island economy for the past 24 or more years.

**If you are a County Commissioner that votes in favor of this zoning change, you will be eliminating my quality of life as a disabled long-term resident of Brevard County.** Your vote for the zoning change will adversely affect my physical and mental well-being, by creating plummeting standard of living issues for my property and myself. The existing trees that buffer the noise & protect the view will be cut down and will provide a front-row seat for a rental community. **I can't imagine you would want to be a County Commissioner voting against a physically disabled multi-decade resident of Brevard County.** I also can't imagine you voting for this re-zoning if this change would be made in your own back yard.

There are abundant Environmental & Safety issues that are involved in this zoning change request, all related to new construction in this particular area, substantiating why the property in question should remain AU:

- Inadequate drainage
- Flooding
- Construction on Wetlands
- Impact on Lagoon due to septic/sewer
- Safety of additional residents leaving Merritt Island during Hurricanes
- Outdated FEMA Flood Map
- Density Issues
- Violates County Administrative Policies
- Existing canal on East side of Deanna Ct. Properties/West Side of rezoning request is at capacity during the dry season and cannot accommodate any further run-off.

This rezoning change will ruin the aesthetics of North Merritt Islands' rural character. Such rezoning will deplete the numerous protected resources of the area, such as Indigenous Trees & Plants, in addition to protected wildlife such as alligators, bald eagles and various types of turtles.

Other pertinent items relating to this zoning request:

#1. The property requested for rezoning has been grandfathered in under AU.

#2. As part of the property included in the rezoning request is located in a flood plain, this item should not be considered under the auspices of an outdated FEMA Flood plain map.

#3. At what point should new construction be stopped in North Merritt Island, for any and all of the Environmental and Safety issues listed above?

The Mission and Vision of Brevard County identifies the reason Government exists at the local level, its Vision illustrates the desired future of the County, and the Core Values are those characteristics it's Leaders should possess to carry the Mission and Vision forward to their Constituents.

As a +4 decade Brevard County resident, a voter, a tax-payer, and a health-challenged member of your local community, I am trusting the BOCC to assume the roles as Administrators to support the numerous reasons listed herein this email to deny this zoning request.

Please deny the Carter & Jessica Hayes Rezoning Request from AU to RU-2-4, so as not to disrupt the Environmental & Safety Issues, coupled with diminished Quality of Life issues highlighted herein.

Thank you in advance to your attention in this integral matter.

I can be reached at 321-454-3327 (home) or 321-614-1392 (cell) with any questions or appreciated feedback.

**From:** [D. Barker](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com); [Dbarker472@icloud.com](mailto:Dbarker472@icloud.com)  
**Subject:** Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042  
**Date:** Wednesday, January 26, 2022 8:18:53 PM

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**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Donald Barker  
4540 Deanna Court (District2)  
Merritt Island, FL 32953  
January 26, 2022

RE: Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042

Brevard County Board of County Commissioners,

Honorable Rita Pritchett, District 1

Honorable Bryan Lober, District 2

Honorable John Tobia, District 3

Honorable Curt Smith, District 4 (Vice Chair)

Honorable Kristine Zonka, District 5 (Chair)

Thank you for your service and consideration. I am asking you to deny the Carter and Jessica Hayes zoning request as written. I support the North Merritt Island Dependent Districts recommendation of Suburban Residential (SR) zoning for the Hayes property with at least a 200 foot buffer zone protecting the wetlands area on the Hayes property incorporated in a binding development plan including the required use of County Sewer. The facts and circumstance supporting this request are detailed below:

I am a native Floridian and have made Brevard County my home since 1974. My wife and I bought property at 4540 Deanna Court, Merritt Island in 1994. We were taken by the rural nature of North Merritt Island, the family oriented nature of North Merritt Island as well as the beauty and serenity of the wetlands adjoining our property to the East. We worked hard, saved and built our home there in 1997/1998, along a beautiful nature canal behind the East side of Deanna Court. The last home on Deanna Court was built in 1999, completing Phase 3 of the Citrus River Groves Subdivision.

In December Of 2017, I retired after 30 years of service with the Brevard County Sheriff's Office. Our home has been our sanctuary and place of serenity. Out our back door is a wetlands and wildlife sanctuary. Except for some traffic noise from State Road 3 during rush hour, our neighborhood is very quiet. On Christmas Eve 2021, we received a notice from the County informing us of the Hayes Rezoning Request to build 10 rental units adjacent to our Suburban zoned home on a half-acre lot. Doesn't sound very appealing as a quality of life issue, does it? Ten (10) rental units, later increased to eleven (11) rental units is not compatible with our neighborhood, the surrounding communities on the West side of State Road 3, or many of the Boards Administrative Development Policies, #3, #4, #6, #7, and #8. This is a quality of life issue for me, my family and my neighbors as well as

drainage and a serious flooding concern.

Our neighborhood, the Citrus River Groves subdivision, started construction in the 1980's. Citrus River Groves is an approved, permitted and completed subdivision immediately West of the Hayes Property and consists of ninety seven (97) homes. Our drainage system was permitted, inspected, approved, adopted and is maintained by Brevard County. As with most subdivisions in North Merritt Island our drainage flows to a man-made lake, ours is located on the West side of our subdivision. Citrus River Groves is zoned Suburban (SR) requiring homes to be built on half acre lots. The subdivisions and homes surrounding and adjacent to Citrus River Groves are zoned for single family homes; compatible zoning of the surrounding area on the West side of State Road 3 is zoned Suburban Residential (SR), Estate Use Residential (EU and EU2), Rural Residential (RR1) and Agricultural residential (AU). The rezoning requested by the Hayes RU-2-4, euphemistically entitled "Low Density Multi-Family Residential", 10-11 multi-family rental units, abutting single family homes built on half-acre lots, some having been in existence for over 30+ years, is not properly compatible, nor should it be considered a proper transition to Suburban (SR)zoned homes on half-acre lots.

The Hayes Property consists of two (2) un-conforming lots located on the West side of State Road 3, grandfathered into an Agricultural residential (AU) zoning classification. The Hayes property is part of seven (7) lots located between the Orsinio Baptist Church to the South and the Victory Church to the North. These 7 lots, with the sole exception of a condemned house on one of the Hayes lots, have been undeveloped since they appeared on the Property Appraisers records/maps in the early 1960's. People have speculated on the value and future use of these lots for close to sixty (60) years and most of these lots have changed ownership several times. Once you approve rezoning for one of these lots you start down a slippery slope for zoning and cascade for development on the surrounding lots.

According to the County CIS maps supplied in the rezoning request review by County Staff, a large portion of these properties, including the Hayes' properties are located in an identified wetland and on a well-defined mapped FEMA Flood Plain. Storm water runoff in our part of North Merritt Island flows West and South, ask our neighbors in the Horseshoe Bend subdivision, immediately to our South that floods regularly. When we have brought drainage and wetland concerns up at the last two zoning meetings, County Staff has dismissed our concerns, saying it will be handled in the permitting process, irrespective of Board of County Commissions Administrative Development Policy 7 and Brevard County Code, Section 62-1151(c).

2021 was an unusually dry year for Brevard County in General and North Merritt Island in particular. In 2021 we had no hurricanes or tropical storms, yet the canal behind my house is approximately 1 foot below flood stage. Any significant rain fall causes the canal to reach or exceed flood stage. Photographs and a CD of photographs documenting this were provided to county staff at the North Merritt Island Dependent Special District Board. These photographs documenting the Deanna Court Canal were taken by me on January 5, 2022, in the dry season. It should be noted that our Deanna Court Canal up to several years ago, used to rise and fall with the seasons. With the drainage changes implemented by the County over the last several years, our canal stays full year round. We are concerned that any further development of property to the East will flood our property and that of our neighbors.

In reviewing the Hayes Rezoning Request with my neighbors and the North Merritt Island Home Owners Association, we found several conflicts with the County's Administrative Development Policies and County Code Section 62-1151(c), as listed below:

Admin Policy 3: The rezoning request increase in residential density is incompatible with existing

land use because of:

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety, and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The purposed use is inconsistent with existing/emerging patterns of surrounding development considering:
  - 1. Historic land use patterns;
  - 2. Actual development over the preceding three years

Admin Policy 4: The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. It will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

Admin Policy 6: The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

Admin Policy 7: A huge concern is that the proposed use will substantially aggravate existing and substantial drainage problems on surrounding properties and will negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Admin Policy 8:

Considering the:

- 1) Character of the land use of the property surrounding the proposed rezoning,
- 2) The change in conditions of the adjoining land use of property surrounding the proposed rezoning,
- 3) The impact of it on traffic patterns and the established character of the surrounding property,
- 4) How inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors (Quality of Life)

Under other Factors to consider is under Brevard County Code Section 62-1151(c), for the same reasons, considering:

- 1) The character of the land use of the surrounding properties,
- 2) The change in conditions of the land use of the property being considered verses the surrounding properties,
- 3) The impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- 4) The proposed zoning classification's incompatibility with existing land use, and
- 5) The inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors (Quality of Life).

Our home is adjacent to the West side of the Hayes' property, and I have specific concerns with the proposed rezoning including quality of life, flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of surrounding properties. For many of us, our homes are our largest single investment. Would you buy a house on a half-acre lot zoned Suburban Residential (SR) next to a ten or eleven unit apartment complex?

Admin Policy 4 states: the purposed use must not materially and adversely impact an established residential neighborhood, and Admin Policy 8 addresses traffic concerns. The Hayes property is bordered on the West side by several single-family homes on half-acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to our homes is inconsistent

with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is also no guarantee the owner of the apartment building will maintain the property as the neighboring single family owners will. Allowing higher density also contributes to existing traffic problems, as the only way off North Merritt Island for most trips, other than through Kennedy Space Center, is by a drawbridge across the Barge Canal. The only other means off North Merritt Island is by driving through Kennedy Space Center property and then crossing the State Road 405 drawbridge. There are times when the SR 405 Bridge is closed to traffic, due to Kennedy Space Center Operations and/or security concerns for the KSC Federal Reservation. Additionally, construction has begun on a new a new bridge that will replace the aging SR 405 drawbridge. The SR405 Bridge Project will not be completed for several years, making the SR405 Hurricane evacuation route more problematic as the density of North Merritt Island increases.

Admin Policy 7 states: The purposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetlands, part is in a mapped FEMA Flood Plain and the remaining buildable land is low. Before any construction begins, the owners will have to raise the elevation. Raising the elevation combined with the impervious surfaces from the proposed apartments and parking area, will inevitably create an increase in storm water runoff that has to go somewhere. It would be difficult to conceive how the storm water runoff would be fully contained on the Hayes' property on the scope of the Hayes' proposed density. Additionally, the ongoing State Road 3 Courtenay Parkway repaving project, located to the East of the Hayes' property, includes the removal of the drainage ditches between the North and South bound lanes, along with the installation of concrete barriers and curbing in place of the drainage ditches. This will inevitably prevent water from flowing across the road in many locations, but will also result in an additional drainage burden onto the Hayes' property, and will likely compel them to increase the drainage ditch or swale across the front of their property, further limiting their buildable area. During a significant rain event, if storm water from the Hayes' property isn't fully contained or doesn't drain east onto or across SR3 / Courtenay Parkway, there's a high likelihood of the storm water running towards the homes bordering the West side of the Hayes' property. I live in one of these homes and regularly experience drainage issues.

My immediate neighbors and I are separated by the Hayes' property by a permanent body of water, a canal, that's 35 to 50 feet wide and 5-10 feet deep in some areas, and this is the dry season after an unusually dry year. My neighbors and I own land on both sides of the canal. One of my neighbors has no dry land between his pool and patio structure and the canal behind his home. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely, if not inevitable to worsen the existing drainage problems experienced by those of us that live on the West side of the Hayes property.

Admin Policy 8 addresses public health, safety and welfare. Most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment and to the Indian River Lagoon. All too often we are seeing episodes of Red Tide and Fish Kills, in the Indian River and adjacent waterways. Although the Hayes' have stated they plan to connect to a sewer system, there is no guarantee that they will actually do so. Most developers install septic systems on North Merritt Island because it is significantly cheaper and because they can. If they Hayes are successful in getting their property rezoned to allow a substantially higher density, there is nothing to prevent the Hayes from selling the property at a profit, the new owners could then be motivated to install a septic system to decrease their expenses and increase their profits.

At the two zoning meetings I've attended, the Hayes have increased their requested number of residential units to eleven (11) and have said they intended to build townhouses, then duplexes, and then apartments on the property. County staff has noted, based on the buildable land it would be very difficult to build that number of units on the Hayes property, but that would be addressed in



permitting. Mr. Hayes identified himself as a licensed contractor to the two prior boards and said he was going to develop the property himself. Mr. Hayes admitted to the board that his primary contracting business is remodeling and that he has never built a development of this type. Mr. Hayes has offered a 200 foot buffer zone between their property and the property to their West at both zoning meetings. Mrs. Hayes has identified herself as a licensed real estate agent. Both the North Merritt Island Dependent Special District and Planning and Zoning Board denied the Hayes' requested density/units. The North Merritt Island Dependent Special District then conferred with the Hayes offering, then recommending Suburban Residential (SR) zoning of two (2) units per acre. The Planning and Zoning board recommended RU-2-4 limited to three (3) units per acre.

While my neighbors and I would rather see the land undeveloped as a wetlands, drainage and conservation area, I support the North Merritt Island Dependent Special District's recommendation of Suburban Residential (SR) of two residential units per acre, with a binding development plan with at least a 200 foot buffer zone and a required connection to the available and nearby County Sewer System.

In a perfect world, the County would buy the seven mentioned lots and use them as a watershed and retention area to reduce flooding to communities on the West side of Courtenay Parkway, particularly the Horseshoe Bend Community. Opportunities like this seldom arise involving undeveloped land and are fleeting.

Thank you again for your service and your consideration of my concerns.

Respectfully,

Donald Barker  
4540 Deanna Court  
Merritt Island, FL 32953  
Cell# 321-403-5694

**From:** [Richard Schneider](#)  
**To:** [Alain Carpentier](#)  
**Cc:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** Re: Opposition in Rezoning ID# 21Z00042  
**Date:** Monday, January 10, 2022 6:19:29 PM

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**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Great letter. Good luck

Sent from my iPhone

On Jan 10, 2022, at 1:02 PM, Alain Carpentier  
<[alainsandycarpentier@gmail.com](mailto:alainsandycarpentier@gmail.com)> wrote:

January 10, 2022

To: Planning and Development Department  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Vierra, FL  
From: Alain & Casandra Carpentier  
4550 Deanna Court  
Merritt Island, FL., 32953

Reference: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042  
Panel/Board Members and Commissioner,

We want to express our strong opposition to the rezoning of Parcel IDs: 23-36-34-00-761 and 23-36-34-00-762 2019-0317 from the current AU to proposed RU-2-4 which are owed by Carter and Jessica Hayes. We own the property on parcel 41 in the subdivision Citrus River Groves, Merritt Island, located within 500 feet of the proposed rezoning area of parcel 761 owned by the Hayes, as identified on the zoning map. The proposed rezoning will add several impacts to an already developed/established community, specifically: National Wetlands, FEMA Flood Zones and local wildlife. While the local community may be unable to prevent development, that in itself will be detrimental to the area, nearly all residents in the Citrus River Groves neighborhood are completely opposed to the addition of multi-family housing that will cause additional traffic and safety problems and potentially lower the property values of the existing community.

Potential Flooding. Stormwater runoff and an overstressed drainage canal on Citrus River Groves parcels:39-46; are within 500 feet of the proposed rezone area and is a major concern. The rezoning may impact our current FEMA flood-zone category from AE to AO, greatly affecting the cost of current homeowner's flood insurance. The drainage canal remains full, even in the dry-season, and further pressure will certainly

foster land erosion at an increased rate.

Conservation & Wildlife. The removal of the trees and vegetation on the identified wetlands will ultimately drive more pressure into the drainage canal. Additionally, wildlife (alligators, turtles, spoonbills) have been observed in the area, and any land clearing development will destroy their habitat. Any planned development of the property should consider the continuing impact to local wildlife habitat.

Property Value. Current home values have the potential to decrease in the area if multi-family units are built. Multi-family dwellings are inconsistent with the neighborhoods already developed and established in the area. I urge you to disapprove the proposed rezoning, and from recent meetings and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails. Thank you for your service and support of our communities.

Best regards,

Alain & Sandy Carpentier  
904-631-1752

**From:** [Phil Bennardo](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Subject:** Board of County Commissioners Meeting of 02/03/22, Agenda Item H.10  
**Date:** Wednesday, January 26, 2022 5:13:59 PM  
**Attachments:** [Rezoning\\_01\\_26\\_HOA\\_Ltr.doc](#)

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**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

The attached letter contains the North Merritt Island Homeowners position on the request by Carter & Jessica Hayes to change zoning from AU to RU-2-4 on tax accounts 2318403 & 2318404 (ref. Brevard County Planning & Development ID# 21Z00042) to be discussed at the Board of County Commissioners meeting on 02/03/22

Phil Bennardo  
President, North Merritt Island Homeowners Association



*North Merritt Island Homeowners Association, Inc.*

*P.O. Box 542372*

*Merritt Island, Florida 32954-2372*

January 26, 2022

Subject: Board of County Commissioners Meeting of 02/03/22, Agenda Item H.10., Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4, Brevard County Planning & Development ID# 21Z00042, Tax Accounts 2318403 & 2318404

Dear Commissioners,

Regarding the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential to a multiple family zoning that instead allows 10 rental units (reference 21Z00042), the voted opinion and recommendation of the North Merritt Island Homeowners Association (P.O. Box 542372, Merritt Island, FL 32954) is as follows:

Considering Brevard County's development policies, namely as sited in Admin Policy 3:

This requested increase in residential density is incompatible with existing land use because

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The proposed use is inconsistent with existing/emerging patterns of surrounding development considering

- 1. historic land use patterns;
- 2. actual development over preceding three years.

and as in Admin Policy 4:

The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. it will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

As in Admin Policy 6:

The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

and in Admin Policy 7:

A huge concern is that the proposed use will substantially aggravate existing substantial drainage problems on surrounding properties and will also negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Thus, as in Admin Policy 8:

Considering the

- (1) character of the land use of the property surrounding the proposed rezoning,
- (2) the change in the conditions of the adjoining land use of property surrounding the proposed rezoning,
- (3) the impact of it on traffic patterns and the established character of the surrounding property,

(4) the incompatibility of the proposed zoning classification with existing land use,  
(5) and how inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors,  
**this request should be denied as written.**

and under Factors to Consider, Section 62-1151(c), for the same reasons, considering

(1) the character of the land use of the surrounding properties,  
(2) the change in conditions of the land use of the property being considered verses the surrounding properties,  
(3) the impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.  
(4) the proposed zoning classification's incompatibility with existing land use, and  
(5) the inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors; once again, **this proposal should be denied as written.**

Neighboring residents that border the west side of the Hayes' property have expressed specific concerns with the proposed rezoning that include flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of the surrounding properties, and our Homeowners Association agrees.

Admin policy 4 states: the proposed use must not materially and adversely impact an established residential neighborhood, and Admin policy 8 addresses traffic concerns. The Hayes' property is bordered on the west side by several single-family homes on ½ acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to them is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is no guarantee that the owner of the apartments will maintain their property as well as the neighboring single family property owners will. Allowing higher density also contributes to existing traffic problems, as the only way on or off North Merritt Island for most trips, other than to the space center, is by a single drawbridge across the Barge Canal. The only other means of egress from North Merritt Island is by driving through Kennedy Space Center property and then crossing the SR 405 drawbridge. There are times when this bridge is closed to traffic (during transfer of space hardware, for example). In addition, construction has begun on a new bridge that will replace this aging structure. However, the project will not be complete for several years. All of this (allowing increased density in particular) will cause concerns during a hurricane evacuation.

Admin policy 7 states: the proposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetland and the remaining buildable area is still low. So before any construction begins, the owners will need to raise the elevation. This, combined with impervious surfaces from the proposed apartments and parking areas, will create an increase in stormwater runoff that has to go somewhere. In addition, the ongoing Courtenay Parkway repaving project (on the east side of the Hayes' property) includes the removal of drainage ditches between the north and south bound lanes, along with the installation of concrete barriers or curbing (in place of the ditches). This will prevent water from flowing across the road, but will also result in additional drainage onto the Hayes' property, and will most likely compel them to add a drainage ditch or swale in front of their property (further reducing their buildable area). During a significant rain event, if stormwater from the Hayes' property doesn't drain east onto or across Courtenay Parkway, there's a higher possibility of it running towards the homes bordering the west side of the

property. I recently visited these homes and noted that they are already experiencing drainage issues. I also observed that these homes are separated by the Hayes' property by a permanent body of water that's 35 to 50 feet wide and 5 to 10 feet deep in some areas, and this is during the dry season. At least one homeowner has no dry land between his pool and patio structure and the permanent water source behind it. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely to worsen the existing drainage problems experienced by their neighbors to the west.

Admin Policy 8 addresses public health, safety and welfare. Because most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment, and possibly to the Indian River Lagoon. Unfortunately, we are seeing episodes of Red Tide and fish kills all too often, and increased density is not helping solve this problem. Although the current property owners (Carter and Jessica Hayes) have stated that they plan to connect to a sewer system, there is no guarantee that they will actually do this. Most developers install septic systems on North Merritt Island because it is cheaper and because they can. If they are successful in getting their property rezoned to allow higher density, there is nothing preventing the Carters from selling it at a profit, and the new owners could then be motivated to install a septic system to increase their profits.

An alternative use would be to develop these lots to a density of 1, or even 2, unit(s) per acre, in keeping with the history, flood-prone tendencies and character of this and the surrounding properties.

We respect your consideration. Thank you.

Phil Bennardo  
President, North Merritt Island Homeowners Association

**From:** [D. Barker](#)  
**To:** [Commissioner, D1](#); [Commissioner, D2](#); [Commissioner, D3](#); [Commissioner, D4](#); [Commissioner, D5](#)  
**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)  
**Subject:** RE: Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting  
**Date:** Wednesday, January 26, 2022 4:11:41 PM

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**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioners,

Please forgive the pertinent info I left out of my first email, sent to your office at 12:31 on 01/26/22.

Personal Info:

Deborah Barker

4540 Deanna Court

Merritt Island, FL. 32953

Citrus River Groves Subdivision, North Merritt Island

District 2

Contact Info:

Email: [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)

Home Phone: 321-454-3327

Cell Phone: 321-614-1392

---

**From:** D. Barker [<mailto:threeoaks@cfl.rr.com>]

**Sent:** Wednesday, January 26, 2022 12:31 PM

**To:** [D1.Commissioner@BrevardFL.gov](mailto:D1.Commissioner@BrevardFL.gov); [D2.Commissioner@BrevardFL.gov](mailto:D2.Commissioner@BrevardFL.gov);

[D3.Commissioner@BrevardFL.gov](mailto:D3.Commissioner@BrevardFL.gov); [D4.Commissioner@BrevardFL.gov](mailto:D4.Commissioner@BrevardFL.gov); [D5.Commissioner@BrevardFL.gov](mailto:D5.Commissioner@BrevardFL.gov)

**Cc:** [threeoaks@cfl.rr.com](mailto:threeoaks@cfl.rr.com)

**Subject:** Rezoning Change Request Agenda Item for 02/03/22 BOCC Meeting

Good Day Brevard County Board of County Commissioners,

My correspondence to you today is in reference to:

Board of County Commission Meeting 02/03/22

Agenda Item H.10, Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

I am requesting you deny this request as the Developer's property to the West partially adjoins our property to the East, **meaning any development will be in my back yard**. Currently our rear view is a drainage canal full of wildlife coupled with many indigenous trees & protected plant life, and if this zoning change passes, I will view a backyard encompassing a 9 to 11 unit apartment rental complex, or duplexes or townhomes.

I am a 45 year Merritt Island resident. My Husband & I own the property at 4540 Deanna Court, North Merritt Island, Florida, Citrus River Groves Subdivision. We purchased the lot in 1994 and built our home in accordance with Brevard County approval in 1997/98. We clearly have demonstrated our investment in North Merritt Island and vested rights thereto for 24 years.

I am physically disabled. My home is my physical & emotional sanctuary, as I'm sure your home is to you. Due to my physical limitations, I have very limited quality of life outside the boundaries of my home. If this zoning change is approved, we are concerned there will be only minimal standards set



and adhered to during the building & permitting process, past this rezoning change request. It is my fear that the renters of a 9-unit apartment complex will become my co-located neighbors creating distractions of daily life to what I enjoy within my current home boundaries. The needs of existing homeowner's with vested rights should take precedence over new re-zoning requests and new construction.

In reviewing Brevard County's Mission Statement, Vision Statement, and Core Values, I see the County Commissioners as Stewards of our County, are tasked with the same issues I am writing to you about today, such as:

- Brevard's Quality of Life
- Health & Safety Needs of Our County
- Protecting Our Environment
- Conserving Our Natural Resources
- Leadership
- Quality
- Accountability

For the County Commissioners, your vote on this rezoning change is not simply a business/financial decision for the Developer. It is personal welfare, standard of living, humanitarian and quality control decision for the homeowners that have lived in the existing abutting homes, paying property taxes and supporting Brevard North Merritt Island economy for the past 24 or more years.

**If you are a County Commissioner that votes in favor of this zoning change, you will be eliminating my quality of life as a disabled long-term resident of Brevard County.** Your vote for the zoning change will adversely affect my physical and mental well-being, by creating plummeting standard of living issues for my property and myself. The existing trees that buffer the noise & protect the view will be cut down and will provide a front-row seat for a rental community. **I can't imagine you would want to be a County Commissioner voting against a physically disabled multi-decade resident of Brevard County.** I also can't imagine you voting for this re-zoning if this change would be made in your own back yard.

There are abundant Environmental & Safety issues that are involved in this zoning change request, all related to new construction in this particular area, substantiating why the property in question should remain AU:

- Inadequate drainage
- Flooding
- Construction on Wetlands
- Impact on Lagoon due to septic/sewer
- Safety of additional residents leaving Merritt Island during Hurricanes
- Outdated FEMA Flood Map
- Density Issues
- Violates County Administrative Policies
- Existing canal on East side of Deanna Ct. Properties/West Side of rezoning request is at capacity during the dry season and cannot accommodate any further run-off.

This rezoning change will ruin the aesthetics of North Merritt Islands' rural character. Such rezoning will deplete the numerous protected resources of the area, such as Indigenous Trees & Plants, in addition to protected wildlife such as alligators, bald eagles and various types of turtles.

Other pertinent items relating to this zoning request:

#1. The property requested for rezoning has been grandfathered in under AU.

#2. As part of the property included in the rezoning request is located in a flood plain, this item should not be considered under the auspices of an outdated FEMA Flood plain map.

#3. At what point should new construction be stopped in North Merritt Island, for any and all of the Environmental and Safety issues listed above?

The Mission and Vision of Brevard County identifies the reason Government exists at the local level, its Vision illustrates the desired future of the County, and the Core Values are those characteristics it's Leaders should possess to carry the Mission and Vision forward to their Constituents.

As a +4 decade Brevard County resident, a voter, a tax-payer, and a health-challenged member of your local community, I am trusting the BOCC to assume the roles as Administrators to support the numerous reasons listed herein this email to deny this zoning request.

Please deny the Carter & Jessica Hayes Rezoning Request from AU to RU-2-4, so as not to disrupt the Environmental & Safety Issues, coupled with diminished Quality of Life issues highlighted herein.

Thank you in advance to your attention in this integral matter.

I can be reached at 321-454-3327 (home) or 321-614-1392 (cell) with any questions or appreciated feedback.

# **Sunset Lakes Homeowners Association, Inc**

C/o Leland Management  
1221 Admiralty Blvd  
Rockledge, FL 32955

Objection  
21Z00042  
Hayes

January 26, 2022

Subject: Board of County Commissioners Meeting, February 3, 2022, Agenda Item 10,  
Rezoning Request 21Z00042

Dear Commissioners Zonka, Smith, Lober, Pritchett, Tobia, and Smith,

The Sunset Lakes Homeowners Association, Inc, representing 469 homeowners in North Merritt Island, is opposed to the request from Carter and Jessica Hayes to change the zoning of their 2.79 acre property located at 4645 N. Courtenay Parkway, Merritt Island, FL, from agricultural residential (AU) to a multiple family zoning that would allow 10 rental units (reference 21Z00042).

The subject property is currently zoned AU that allows no more than one unit/home per parcel. The owners want to change the zoning to allow much higher density and then build an apartment building with ten 645 square foot rental units. Not only is this inconsistent with the surrounding neighborhoods, it will exacerbate the drainage and flooding problems experienced in the area during the rainy season.

Allowing rezoning of this property will set a precedence to do the same for the adjacent properties by increasing density adding to current traffic backups across the barge canal at peak times during the week. In addition, storm water management will potentially negatively impact surrounding neighborhoods, some of which are already dealing with flooding during heavy rains.

Thank you for your consideration in this matter.

Respectfully,



Ron Davis  
President  
Sunset Lakes Homeowners Association, Inc.  
Merritt Island, FL



Cc: Board of Directors, SLHOA  
Brittany Robberecht, Leland Management  
Mr. Phil Bernardo, President, NMIHOA

**From:** [Commissioner, D1](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#)  
**Subject:** FW: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042  
**Date:** Monday, January 31, 2022 9:10:40 AM

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Good morning Jennifer,

On behalf of Commissioner Pritchett, our office is forwarding the below public comment concerning Item H.11. Thank you.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett

District 1 Commission Office  
7101 S. Highway 1  
Titusville, FL 32780  
Telephone: 321-607-6901

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

**From:** Mary Brotherton <marybrotherton@gmail.com>

**Sent:** Sunday, January 30, 2022 11:43 PM

**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>

**Subject:** Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Pritchett:

I'm writing you today in reference to the following:

Board of County Commissioners Meeting of 02/03/22  
Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.  
Brevard County Planning & Development ID# 21Z00042  
Tax Accounts 2318403 & 2318404

My name is Mary Brotherton, and I oppose rezoning property west of State Road 3, because I feel that doing so will impair my quality of life on North Merritt Island. I am the founding president of the nonprofit bUneke, which produces, among other things, bUneke Brevard, which promotes other nonprofits, with an emphasis on protecting the environment, making our world better, and preserving

history.

The rezoning request by Carter and Jessica Hayes is literally in my back yard, as the boundaries of their property adjoin my next-door neighbors, therefore impacting where I live. I believe rezoning will be detrimental to my quality of life, the excellence of Merritt Island, and lifestyles throughout Brevard County, due to the waterways we all share.

My husband and I bought a home at 4520 Deanna Court, in Merritt Island, after researching many options in and out of Brevard County. We chose a home in Citrus River Groves, because we felt it offered a particular quality of life, a quality of life we wanted.

Without a homeowners' association to require it, the properties are respectfully well-maintained and the neighborhood is quiet. Yet, as all of the property owners on Deanna Court can attest, there is a certain untamed, natural quality that comes from the wetlands abutting our properties. I'm not an expert in this field, but I believe that rezoning the Hayes' property will jeopardize more than just my quality of life.

Many species will be uprooted from their ancestral homes in the wetlands and go – where?

I have never frowned on progress and I take full advantage of the modern advances our society has made, but I am afraid that if the zoning committee allows this one change; wildlife such as raccoons, rabbits, coyotes, and bobcats; migratory birds, native alligators, fish, turtles, and even gopher tortoises will be invading yards and swimming pools, because they will have nowhere else to go. When wildlife loses its quality of life, taxpayers suffer the consequences.

After I inherited my mother's rural South Carolina property, I had options. After years of maintaining my mother's home and acreage remotely, I considered how selling the property to a developer would enhance my quality of life by providing additional income for me, as I looked toward retirement. I also thought about how improving my property could impact my closest neighbors and I chose to sell it to my brother, who is restoring it properly. This meant the neighbors could maintain their quality of life, while I remained here on my beloved island.

I understand that Mr. and Mrs. Hayes have given verbal assurances and have promised to do their best to maintain the wetlands between their property and my direct neighbors. I'm old enough to realize the futility of relying on assurances and promises. Solemn vows and written contracts are broken every day, and when they are, someone's quality of life is forever changed – often, negatively.

I am deeply concerned by assurances and promises that might be no more than wind, in the future. Who will suffer the consequences if, once rezoned, the property is then sold to an actual developer who didn't make any assurances or promises? What's to stop adjoining landowners from having their properties rezoned so they can each sell to an entity that will forever change the landscape and quality of life in North Merritt Island, all in the name of progress? What will happen when that property is allowed to set an island-wide precedent, allowing for the destruction of our precious tree canopy and we have a larger asphalt and concrete footprint where natural erosion and flood-protection currently exist? In the name of progress, every piece of litter, every oil spill, every drop of rain that used to soak into the ground, will run across adjoining properties, potentially flooding them, on their way to the already over-taxed Indian River Lagoon. What assurances will be given to prevent this pollution in five years, ten years, fifty years? I am not assured.

Progress is not improving anything if it compromises the wetlands and adjoining properties. We have seen the extinction of far too many lifeforms in the 21<sup>st</sup> century. Please, don't agree to rezone this property and make the North Merritt Island lifestyle become a thing of the past.

I strongly oppose rezoning property owned by Carter and Jessica Hayes, west of State Road 3 in North Merritt Island, because I feel that doing so will dramatically impair my quality of life, as well as the quality of life of many of my nearby taxpayers.

When you vote, I urge you to contemplate the health of our environment as well as the impact rezoning will make on many homeowners throughout Brevard County.

Thank you for your time and considerate attention to this,  
Mary Brotherton

**From:** [Mary Brotherton](#)  
**To:** [Commissioner, D4](#)  
**Subject:** Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042  
**Date:** Sunday, January 30, 2022 11:44:48 PM

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**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Commissioner Smith:

I'm writing you today in reference to the following:

Board of County Commissioners Meeting of 02/03/22

Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.

Brevard County Planning & Development ID# 21Z00042

Tax Accounts 2318403 & 2318404

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Thank you for your time and considerate attention to this,  
Mary Brotherton



**From:** [Commissioner, D1](#)  
**To:** [Mary Brotherton](#)  
**Cc:** [Pritchett, Rita](#); [Mascellino, Carol](#); [Smith, Nathan](#); [Price, Jessica](#); [Jones, Jennifer](#)  
**Subject:** RE: Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042  
**Date:** Monday, January 31, 2022 11:47:45 AM  
**Attachments:** [image001.png](#)

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Ms. Brotherton,

On behalf of Commissioner Pritchett, thank you for your email. The Commissioner has reviewed your email and wants you to know that she will take your comments into consideration.

Thank you for contacting our office and sharing your concerns.

Best regards,

Carol Mascellino  
Legislative Aide to Commissioner Rita Pritchett



**District 1 Commission Office**  
**7101 S. Highway 1**  
**Titusville, FL 32780**  
**Telephone: 321-607-6901**

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**From:** Mary Brotherton <marybrotherton@gmail.com>  
**Sent:** Sunday, January 30, 2022 11:43 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>  
**Subject:** Rezoning for Carter and Jessica Hayes / Courtesy Notice ID#21Z00042

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Commissioner Pritchett:

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Agenda Item H.10. Carter & Jessica Hayes Request to Change Zoning from AU to RU-2-4.  
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When you vote, I urge you to contemplate the health of our environment as well as the impact rezoning will make on many homeowners throughout Brevard County.

Thank you for your time and considerate attention to this,  
Mary Brotherton

Subject: Agenda Item H.10 to be discussed at the February 3,  
2022 Brevard County Board of County Commissioners meeting.

RECEIVED

JAN 31 2022

Dear Commissioner Pritchett,

D-1 COUNTY COMMISSION

My name is Ann Doucette. I live at 4560 Deanna Court, Merritt Island with my husband Dana. We are lifelong MI residents.

I am writing to discuss the rezoning issue ID# 21Z00042.

My husband and I have lived on Deanna Court since 1994. Our subdivision was developed from a citrus grove over 40 years ago.

We are zoned suburban residential 1 house per ½ acre.

The property of discussion is to the east of my residence. It splits my backyard and my neighbor to the south. There is a body of water running the backside of our subdivision and we own land on the other side of this "canal". This land which is connected to the property of discussion is considered wetlands.

This waterway is a major factor in our drainage. The current water level has been affected by the recent drainage updates to the north of our subdivision. In years past, it has gone to a trickle during the dry season allowing room for the rainy season. It now stays high and during the rainy season does encroach the property. Our subdivision does not want to be like Horseshoe Bend to the south that always floods.

I believe a zoning change to RU 2-4 is to much density for the canal to handle.

Another consideration is the properties adjacent to this property. Neither property is developed to the north or south. They are currently zoned AU. Then you have churches bordering these.

Across the street you have a mobile home park. They have multiple ways to access Courtenay. The large subdivision behind this also has multiple points of entry/exit. If the current zoning is changed to the requested zoning, you could have up to 25 cars having only one entry/exit point onto Courtenay.

There is one fire station on north Merritt Island. They do not have an ambulance. Our ambulance comes from a station located to the south of the drawbridge. There is one active restaurant, a bar, the Moose Lodge and 3 active gas stations. We are a rural community.

I am not against change. My family has lived in the area since the 1800's. We were removed from the current Air Force/Port Canaveral property in the 50's. When my dad was a child, the only road was Tropical Trail because there was no Barge Canal. My husband and I have spent our childhood traveling the two-lane Courtenay up to Pine Island Road. I have seen much change to the Island.

I just want a **reduction** in the zoning. I want the Hayes family to be able to use their land. I just believe the density is too great.

Thank you for your time and consideration.

A handwritten signature in cursive script, appearing to read "Ann Doucette".

Ann Doucette

Dana Doucette

Donald Barker  
4540 Deanna Court (District2)  
Merritt Island, FL 32953

RECEIVED

JAN 31 2022

January 26, 2022

D-1 COUNTY COMMISSION

RE: Agenda Item H. 10, to be discussed at the February 3, 2022, Brevard County Board of County Commissioners Meeting, Regarding the Carter and Jessica Hayes Rezoning Request, Tax Account# 2318403 and 2318404, Brevard County Planning & Development ID# 21Z00042

Brevard County Board of County Commissioners,

Honorable Rita Pritchett, District 1 ✓

Honorable Bryan Lober, District 2

Honorable John Tobia, District 3

Honorable Curt Smith, District 4 (Vice Chair)

Honorable Kristine Zonka, District 5 (Chair)

Thank you for your service and consideration. I am asking you to deny the Carter and Jessica Hayes zoning request as written. I support the North Merritt Island Dependent Districts recommendation of Suburban Residential (SR) zoning for the Hayes property with at least a 200 foot buffer zone protecting the wetlands area on the Hayes property incorporated in a binding development plan including the required use of County Sewer. The facts and circumstance supporting this request are detailed below:

I am a native Floridian and have made Brevard County my home since 1974. My wife and I bought property at 4540 Deanna Court, Merritt Island in 1994. We were taken by the rural nature of North Merritt Island, the family oriented nature of North Merritt Island as well as the beauty and serenity of the wetlands adjoining our property to the East. We worked hard, saved and built our home there in 1997/1998, along a beautiful nature canal behind the East side of Deanna Court. The last home on Deanna Court was built in 1999, completing Phase 3 of the Citrus River Groves Subdivision.

In December Of 2017, I retired after 30 years of service with the Brevard County Sheriff's Office. Our home has been our sanctuary and place of serenity. Out our back door is a wetlands and wildlife sanctuary. Except for some traffic noise from State Road 3 during rush hour, our neighborhood is very quiet. On Christmas Eve 2021, we received a notice from the County informing us of the Hayes Rezoning Request to build 10 rental units adjacent to our Suburban zoned home on a half-acre lot. Doesn't sound very appealing as a quality of life issue, does it? Ten (10) rental units, later increased to eleven (11) rental units is not compatible with our neighborhood, the surrounding communities on the West side of State Road 3, or many of the Boards Administrative Development Policies, #3, #4, #6, #7, and #8. This is a quality of life issue for me, my family and my neighbors as well as drainage and a serious flooding concern.

Our neighborhood, the Citrus River Groves subdivision, started construction in the 1980's. Citrus River Groves is an approved, permitted and completed subdivision immediately West of the Hayes Property and consists of ninety seven (97) homes. Our drainage system was permitted, inspected, approved, adopted and is maintained by Brevard County. As with most subdivisions in North Merritt Island our drainage flows to a man-made lake, ours is located on the West side of our subdivision. Citrus River Groves is zoned Suburban (SR) requiring homes to be built on half acre lots. The subdivisions and homes

surrounding and adjacent to Citrus River Groves are zoned for single family homes; compatible zoning of the surrounding area on the West side of State Road 3 is zoned Suburban Residential (SR), Estate Use Residential (EU and EU2), Rural Residential (RR1) and Agricultural residential (AU). The rezoning requested by the Hayes RU-2-4, euphemistically entitled "Low Density Multi-Family Residential", 10-11 multi-family rental units, abutting single family homes built on half-acre lots, some having been in existence for over 30+ years, is not properly compatible, nor should it be considered a proper transition to Suburban (SR)zoned homes on half-acre lots.

The Hayes Property consists of two (2) un-conforming lots located on the West side of State Road 3, grandfathered into an Agricultural residential (AU) zoning classification. The Hayes property is part of seven (7) lots located between the Orsinio Baptist Church to the South and the Victory Church to the North. These 7 lots, with the sole exception of a condemned house on one of the Hayes lots, have been undeveloped since they appeared on the Property Appraisers records/maps in the early 1960's. People have speculated on the value and future use of these lots for close to sixty (60) years and most of these lots have changed ownership several times. Once you approve rezoning for one of these lots you start down a slippery slope for zoning and cascade for development on the surrounding lots.

According to the County CIS maps supplied in the rezoning request review by County Staff, a large portion of these properties, including the Hayes' properties are located in an identified wetland and on a well-defined mapped FEMA Flood Plain. Storm water runoff in our part of North Merritt Island flows West and South, ask our neighbors in the Horseshoe Bend subdivision, immediately to our South that floods regularly. When we have brought drainage and wetland concerns up at the last two zoning meetings, County Staff has dismissed our concerns, saying it will be handled in the permitting process, irrespective of Board of County Commissions Administrative Development Policy 7 and Brevard County Code, Section 62-1151(c).

2021 was an unusually dry year for Brevard County in General and North Merritt Island in particular. In 2021 we had no hurricanes or tropical storms, yet the canal behind my house is approximately 1 foot below flood stage. Any significant rain fall causes the canal to reach or exceed flood stage. Photographs and a CD of photographs documenting this were provided to county staff at the North Merritt Island Dependent Special District Board. These photographs documenting the Deanna Court Canal were taken by me on January 5, 2022, in the dry season. It should be noted that our Deanna Court Canal up to several years ago, used to rise and fall with the seasons. With the drainage changes implemented by the County over the last several years, our canal stays full year round. We are concerned that any further development of property to the East will flood our property and that of our neighbors.

In reviewing the Hayes Rezoning Request with my neighbors and the North Merritt Island Home Owners Association, we found several conflicts with the County's Administrative Development Policies and County Code Section 62-1151(c), as listed below:

Admin Policy 3: The rezoning request increase in residential density is incompatible with existing land use because of:

- A. The increased lighting, noise levels, traffic and site activity would significantly diminish the enjoyment of, safety, and quality of life in existing neighborhoods in the area.
- B. The proposed use would cause a material reduction in the value of existing abutting lands.
- C. The purposed use is inconsistent with existing/emerging patterns of surrounding development considering:
  1. Historic land use patterns;

## 2. Actual development over the preceding three years

Admin Policy 4: The character of the neighborhoods will be materially/adversely affected by this proposed rezoning, considering:

- A. It will materially and adversely impact the surrounding established residences and abutting neighborhoods by substantially increasing the intensity of traffic not already present.

Admin Policy 6: The proposed use is inconsistent with (a) some of the written land development policies set forth in these administrative policies.

Admin Policy 7: A huge concern is that the proposed use will substantially aggravate existing and substantial drainage problems on surrounding properties and will negatively impact the adjoining natural ground water flow and wetlands on this and abutting properties.

Admin Policy 8:

Considering the:

- 1) Character of the land use of the property surrounding the proposed rezoning,
- 2) The change in conditions of the adjoining land use of property surrounding the proposed rezoning,
- 3) The impact of it on traffic patterns and the established character of the surrounding property,
- 4) How inappropriate this use would be based on consideration of public health, safety and welfare of the neighbors (Quality of Life)

Under other Factors to consider is under Brevard County Code Section 62-1151(c), for the same reasons, considering:

- 1) The character of the land use of the surrounding properties,
- 2) The change in conditions of the land use of the property being considered verses the surrounding properties,
- 3) The impact of the proposed zoning substantially aggravating existing substantial drainage problems on surrounding properties and also negatively impacting the adjoining natural ground water flow and wetlands on this and abutting properties.
- 4) The proposed zoning classification's incompatibility with existing land use, and
- 5) The inappropriateness of this use based on consideration of public health, safety and welfare of the neighbors (Quality of Life).

Our home is adjacent to the West side of the Hayes' property, and I have specific concerns with the proposed rezoning including quality of life, flooding, increased density, traffic and the fact that the proposed use is inconsistent with the current use of surrounding properties. For many of us, our homes are our largest single investment. Would you buy a house on a half-acre lot zoned Suburban Residential (SR) next to a ten or eleven unit apartment complex?

Admin Policy 4 states: the purposed use must not materially and adversely impact an established residential neighborhood, and Admin Policy 8 addresses traffic concerns. The Hayes property is



bordered on the West side by several single-family homes on half-acre plus lots, and all of these residents own their homes. Adding a rental apartment building next to our homes is inconsistent with the current use and changes the character of the surrounding properties. Renters do not have pride of ownership and rely on the apartment building owners to maintain the property. There is also no guarantee the owner of the apartment building will maintain the property as the neighboring single family owners will. Allowing higher density also contributes to existing traffic problems, as the only way off North Merritt Island for most trips, other than through Kennedy Space Center, is by a drawbridge across the Barge Canal. The only other means off North Merritt Island is by driving through Kennedy Space Center property and then crossing the State Road 405 drawbridge. There are times when the SR 405 Bridge is closed to traffic, due to Kennedy Space Center Operations and/or security concerns for the KSC Federal Reservation. Additionally, construction has begun on a new a new bridge that will replace the aging SR 405 drawbridge. The SR405 Bridge Project will not be completed for several years, making the SR405 Hurricane evacuation route more problematic as the density of North Merritt Island increases.

Admin Policy 7 states: The purposed use shall not cause or substantially aggravate any drainage problem on surrounding properties. A substantial part of the Hayes' property is wetlands, part is in a mapped FEMA Flood Plain and the remaining buildable land is low. Before any construction begins, the owners will have to raise the elevation. Raising the elevation combined with the impervious surfaces from the proposed apartments and parking area, will inevitably create an increase in storm water runoff that has to go somewhere. It would be difficult to conceive how the storm water runoff would be fully contained on the Hayes' property on the scope of the Hayes' proposed density. Additionally, the ongoing State Road 3 Courtenay Parkway repaving project, located to the East of the Hayes' property, includes the removal of the drainage ditches between the North and South bound lanes, along with the installation of concrete barriers and curbing in place of the drainage ditches. This will inevitably prevent water from flowing across the road in many locations, but will also result in an additional drainage burden onto the Hayes' property, and will likely compel them to increase the drainage ditch or swale across the front of their property, further limiting their buildable area. During a significant rain event, if storm water from the Hayes' property isn't fully contained or doesn't drain east onto or across SR3 / Courtenay Parkway, there's a high likelihood of the storm water running towards the homes bordering the West side of the Hayes' property. I live in one of these homes and regularly experience drainage issues.

My immediate neighbors and I are separated by the Hayes' property by a permanent body of water, a canal, that's 35 to 50 feet wide and 5-10 feet deep in some areas, and this is the dry season after an unusually dry year. My neighbors and I own land on both sides of the canal. One of my neighbors has no dry land between his pool and patio structure and the canal behind his home. If all of the runoff associated with the proposed new construction cannot be contained on the Hayes' property, it is likely, if not inevitable to worsen the existing drainage problems experienced by those of us that live on the West side of the Hayes property.

Admin Policy 8 addresses public health, safety and welfare. Most of North Merritt Island does not have ready access to a sewer system, any increase in housing density typically means more septic systems and ultimately more damage to the environment and to the Indian River Lagoon. All too often we are

seeing episodes of Red Tide and Fish Kills, in the Indian River and adjacent waterways. Although the Hayes' have stated they plan to connect to a sewer system, there is no guarantee that they will actually do so. Most developers install septic systems on North Merritt Island because it is significantly cheaper and because they can. If they Hayes are successful in getting their property rezoned to allow a substantially higher density, there is nothing to prevent the Hayes from selling the property at a profit, the new owners could then be motivated to install a septic system to decrease their expenses and increase their profits.

At the two zoning meetings I've attended, the Hayes have increased their requested number of residential units to eleven (11) and have said they intended to build townhouses, then duplexes, and then apartments on the property. County staff has noted, based on the buildable land it would be very difficult to build that number of units on the Hayes property, but that would be addressed in permitting. Mr. Hayes identified himself as a licensed contractor to the two prior boards and said he was going to develop the property himself. Mr. Hayes admitted to the board that his primary contracting business is remodeling and that he has never built a development of this type. Mr. Hayes has offered a 200 foot buffer zone between their property and the property to their West at both zoning meetings. Mrs. Hayes has identified herself as a licensed real estate agent. Both the North Merritt Island Dependent Special District and Planning and Zoning Board denied the Hayes' requested density/units. The North Merritt Island Dependent Special District then conferred with the Hayes offering, then recommending Suburban Residential (SR) zoning of two (2) units per acre. The Planning and Zoning board recommended RU-2-4 limited to three (3) units per acre.

While my neighbors and I would rather see the land undeveloped as a wetlands, drainage and conservation area, I support the North Merritt Island Dependent Special District's recommendation of Suburban Residential (SR) of two residential units per acre, with a binding development plan with at least a 200 foot buffer zone and a required connection to the available and nearby County Sewer System.

In a perfect world, the County would buy the seven mentioned lots and use them as a watershed and retention area to reduce flooding to communities on the West side of Courtenay Parkway, particularly the Horseshoe Bend Community. Opportunities like this seldom arise involving undeveloped land and are fleeting.

Thank you again for your service and your consideration of my concerns.

Respectfully,



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