

Prepared by: Daren Dempsey  
Address: 1385 Bishop Rd., Merritt Island, FL 32953

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_\_ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and The Daren T. Dempsey Revocable Trust (hereinafter referred to as "Developer/Owner").

### **RECITALS**

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

WHEREAS, Developer/Owner has requested to change the zoning classification of the Property from RR-1 to AU in order to develop the Property as a small scale private plant nursery for the Developer/Owner's construction company and not as a plant nursery open to the public pursuant to Brevard County Code Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

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

2. The business/commercial use of the Property shall be limited to a small scale plant nursery for the Developer/Owner's construction company.
3. The Developer/Owner waives any and all claims to use the Property for agritourism, as provided for in Chapter 570, Florida Statutes. As such, Developer/Owner, its grantees, successors or assigns shall not use the Property for agritourism or agritourism activity as defined in Section 570.86, Florida Statutes.
4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on August 6, 2020. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
7. Violation of this Agreement shall constitute a violation of the Zoning Classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 7 above.

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

ATTEST:

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

\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

\_\_\_\_\_  
Bryan Andrew Lober, Chair  
As approved by the Board on \_\_\_\_\_

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

WITNESSES:

(Daren T. Dempsey Revocable Trust)  
as DEVELOPER/OWNER

Annett Barnett-Latham  
Annett Barnett-Latham  
(Witness Name typed or printed)

1385 Bishop Rd. Merritt Island, FL 32953  
(Address)

Byron Jones  
BYRON JONES  
(Witness Name typed or printed)

Daren T. Dempsey  
(President)  
Daren T. Dempsey  
(Name typed, printed or stamped)

STATE OF Florida §

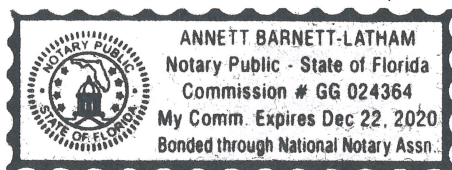
COUNTY OF Orange §

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or \_\_\_\_\_ online notarization, this 14<sup>th</sup> day of September, 2020, by

Daren T. Dempsey, President of Daren T. Dempsey Revocable Trust, who is  
personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires  
SEAL  
Commission No.:

Annett Barnett-Latham  
Notary Public  
(Name typed, printed or stamped)



## Exhibit "A"

A Parcel of land lying in the Southeast 1/4 of Section 25, Township 23 South, Range 36 East, Brevard County, Florida, being more fully described as follows: Commence at the Northwest corner of the Northeast 1/4 of the Southeast 1/4 of Section 25 and run South 00 degrees 32 minutes 50 seconds West along the West line of said Northeast 1/4 of the Southeast 1/4 of Section 25, a distance of 25 feet; thence South 89 degrees 51 minutes 39 seconds East, a distance of 25 feet to the Point of Beginning of this description; thence continue South 89 degrees 51 minutes 39 seconds East, a distance of 25 feet; thence South 00 degrees 32 minutes 50 seconds West, parallel with and 50 feet East, by right angles measurement of the aforesaid West line of the Northeast 1/4 of the Southeast 1/4 of Section 25, a distance of 728 feet to the Southwest corner of property sold to Fowler as recorded in Official Records Book 1788, Page 507, of the Public Records of Brevard County Florida; thence South 89 degrees 51 minutes 39 seconds East, a distance of 300 feet; thence South 00 degrees 32 minutes 50 seconds West, parallel with said West line of the Northeast 1/4 of the Southeast 1/4 of Section 25, a distance of 277.64 feet; thence North 89 degrees 49 minutes 40 seconds West parallel with the South line of said Northeast 1/4 of the Southeast 1/4 of Section 25, a distance of 719.96 feet; thence North 00 degrees 39 minutes 43 seconds East parallel with the West line of the Southeast 1/4 of said Section 25, a distance of 340 feet; thence South 89 degrees 49 minutes 44 seconds East a distance of 394.96 feet; thence North 00 degrees 32 minutes 50 seconds East parallel with and 25 feet East, by right angle measurement, of said West line of the Northeast 1/4 of the Southeast 1/4 of Section 25, a distance of 665.45 feet to the Point of Beginning.

LESS AND EXCEPT property as described in Official Records Book 3184, Page 821, Public Records of Brevard County, Florida, which is more particularly described as follows:

A certain Parcel of land in the Southeast 1/4 of Section 25, Township 23 South, Range 36 East, Brevard County, Florida being more particularly described as follows: Begin at the Southwest corner of the land described in Official Records Book 1788, Page 507 of the Public Records of Brevard County, Florida, thence run South 89 degrees 27 minutes 19 seconds East along the South line of said described land for 300.09 feet to a line that is parallel with and 25 feet West line of Lot 3, the North Forty, according to the Plat thereof recorded in Plat Book 28, Page 75, of said Records; thence run South 00 degrees 32 minutes 41 seconds West along said line parallel; thence run South 00 degrees 32 minutes 41 seconds West along said parallel line for 276.63 feet to the North line of land described in Official Records Book 1935 Page 678 of said Public Records; thence run North 89 degrees 49 minutes 40 seconds West along said North line for 391.90 feet; thence run North 00 degrees 32 minutes 41 seconds East parallel to the West line of said Lot 3, for 279.19 feet to the Westerly projection of the South line of land described in Official Records Book 1788, Page 507, of said Public Records; thence run South 89 degrees 27 minutes 19 seconds East along said line for 91.80 feet to the Point of Beginning.



## JOINDER IN BINDING DEVELOPMENT PLAN BY MORTGAGEE CORPORATION

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory  
for the owner and holder of that certain Mortgage dated July 15, 2019, given by

Citizens Bank, N.A., A National Banking Association, as mortgagee, in favor of the undersigned,

Daren T. Dempsey and Regina M. Dempsey, AKA Regina M. Schwantz, Husband and Wife, As Co-Trustees of The Daren T. Dempsey Revocable Trust Dated September 21, 2017, as mortgagor,

Recorded in Official Records Book 8492, Page 1590, of the Public Records of Brevard County, Florida, and encumbering lands described in said

Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

## MORTGAGEE CORPORATION NAME AND ADDRESS

Citizens Bank, N.A., A National Banking Association  
Mortgagee Corporation Name

6100 Tower Circle	Franklin	TN	37067
Street	City	State	Zip Code

Street Melanie L. Reid City MELANIE L. REID, SVP State            Zip Code             
\*Authorized Agent Signature Authorized Agent Printed Name and Title


\*Note: All others besides CEO or President require attachment of original corporate resolution of authorization to sign documents of this type.

**AFFIX CORPORATE SEAL**

**WITNESSES**

Sham Ballucq  
Signature

Shari Ballweg  
Print Name

  
Signature

Bradley Power  
Print Name

COMMONWEALTH OF Virginia

COUNTY OF Henrico

The foregoing instrument was acknowledged before me this 3rd day of Sept., 20 20,  
by Melanie L. Reid, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.

Linda Jennings

Notary Public Signature

Linda Jennings

Name Printed

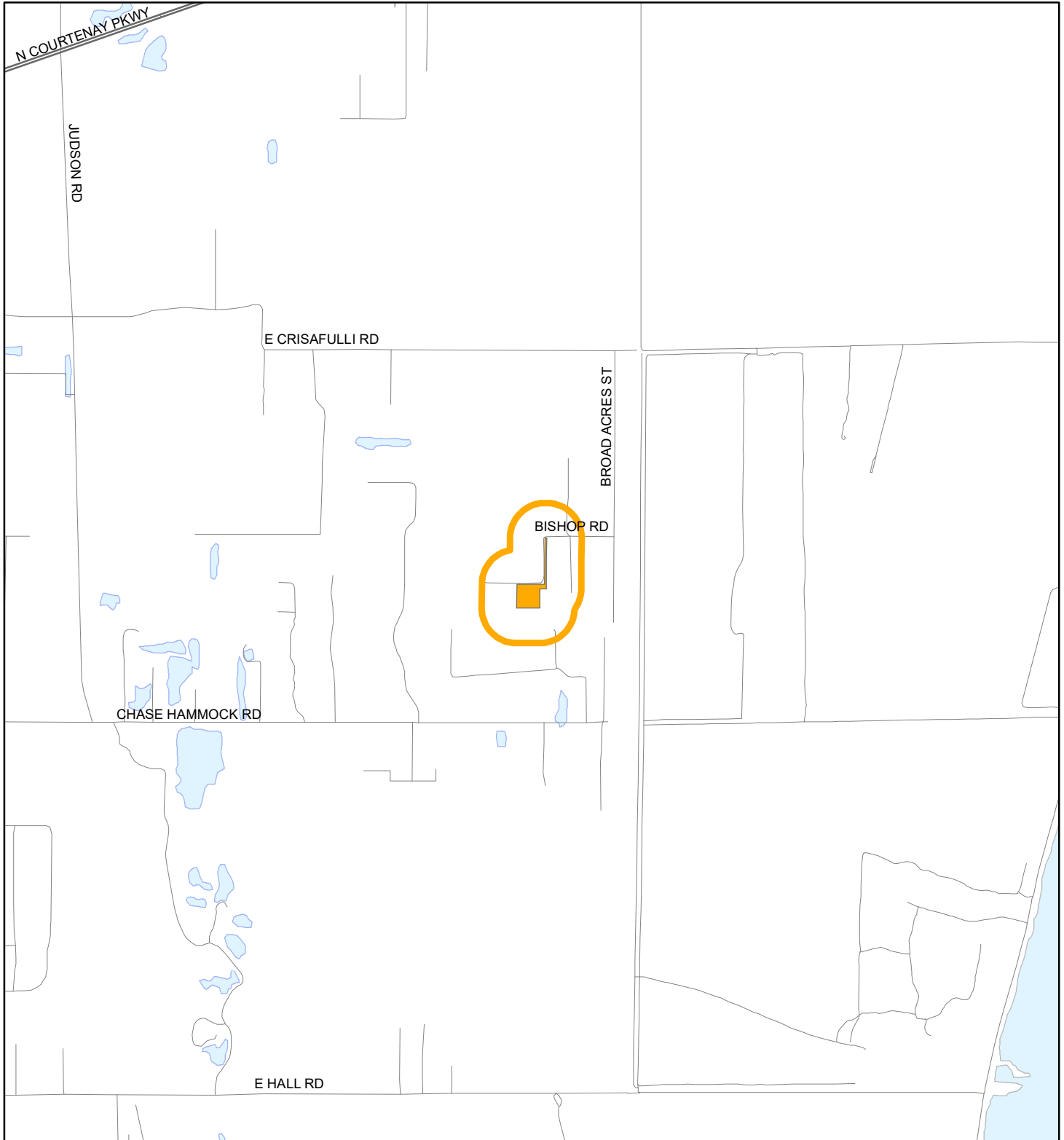
SEAL

LINDA JENNINGS, NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
REGISTRATION #7109334  
MY COMMISSION EXPIRES 5/31/2023

# LOCATION MAP

THE DAREN T. DEMPSEY REVOCABLE TRUST

20Z00005





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

Buffer Distance: 500 feet

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

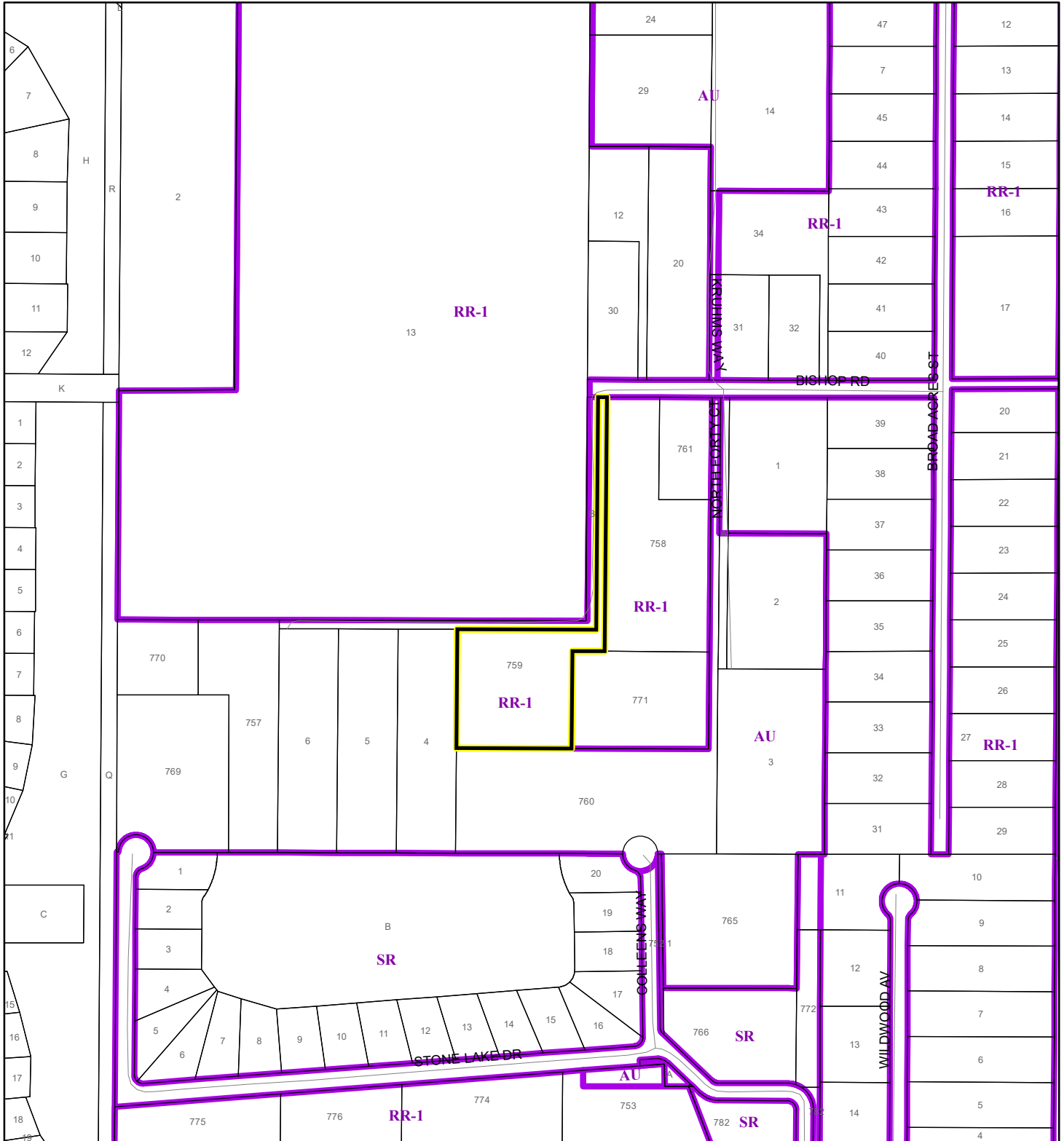
Produced by BoCC - GIS Date: 5/7/2020

 Buffer  
 Subject Property

# ZONING MAP

THE DAREN T. DEMPSEY REVOCABLE TRUST


20Z00005



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 5/7/2020

 Subject Property

 Parcels

 Zoning

## H. PUBLIC HEARINGS

North Merritt Island Dependent Special District Board  
**Thursday, July 16, 2020, at 6:00 p.m.**  
Merritt Island Service Complex  
2575 North Courtenay Parkway, Second Floor, Merritt Island, Florida

Brevard County Board of County Commissioners  
**Thursday, August 6, 2020, at 5:00 p.m.**  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, Florida

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

1. **The Daren T. Dempsey Revocable Trust** requests a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential). The property is 3.07 acres, located on the south side of Bishop Rd., approximately 935 ft. west of Broad Acres St. (1385 Bishop Rd., Merritt Island. (20Z00005) (Tax Account 2316704) (District 2)

**North Merritt Island Board Recommendation:** Carbonneau/Lindhorst – Approved. The vote was 4:2, with Ratterman and Balke voting nay.

**Board of County Commissioners Action:** Pritchett/Lober – Approved with a BDP (Binding Development Plan) limiting the business use of the property to a plant nursery, and that the developer/owner waive all claims of agritourism. The vote was unanimous. The BDP will be scheduled as a Consent Item on a subsequent County Commission agenda, per Policy BCC-52. Resolution to be completed upon receipt of recorded BDP.

PUBLIC COMMENT

## PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. Theodore Goodenow. Pritchett/Lober. Adopted Ordinance No. 20-12, approving the Small Scale Comprehensive Plan Amendment (20S.02) changing Future Land Use from Planned Industrial to Residential 2 as recommended.
- Item H.2. Theodore Goodenow. Pritchett/Lober. Approved the change of Zoning Classification from AU to RU-1-9; and approved the BDP as submitted, with the added stipulation that the applicant provide adequate right-of-way, drainage, and utilities easements to facilitate the existing drainage swales and roadway.
- Item H.3. Richard R. Jr., and Gina M. Wrubel, Trust. Pritchett/Lober. Adopted Ordinance No. 20-11, approving the Small Scale Comprehensive Plan Amendment (20S.04) changing Future Land Use from NC to CC as recommended.
- Item H.4. Richard R. Jr., and Gina M. Wrubel, Trust. Pritchett/Lober. Approved change of Zoning Classification from AU to BU-1 as recommended.
- Item H.5. McD Family Trust, LLC. 4090 U.S. 1., LLC. Pritchett/Lober. Approved amendment to an existing Binding Development Plan in a BU-2 Zoning Classification as recommended.
- Item H.6. Canaveral Landing, LLC. Pritchett/Isnardi. Approved a change of Zoning Classification from TR-1 to TRC-1 as recommended with a BDP limiting to 100 units, and additional conditions on the CUP to expand the 10-foot buffer on the site plan to 20 feet, and provide a conservation easement over the wetlands.
- Item H.7. 3101 Gannett Plaza, LLC. Smith/Isnardi. Approved a CUP for alcoholic beverages (beer and wine only) for on-premises consumption in conjunction with an Indoor Family Entertainment Center, in the BU-1 and BU-2 Zoning Classifications as recommended.
- Item H.8. Daren T. Dempsey Revocable Trust. Pritchett/Lober. Approved change of Zoning Classification from RR-1 to AU as recommended; and include to a Binding Development Plan waiving any and all claims to agritourism and only using it as a plant nursery insofar as business is concerned.
- Item H.9. Marker 24 Marina, LLC. Smith/Lober. Approved a CUP for Commercial/Industrial Marina in the RU-1-11 and BU-2 Zoning classification on 7.08 acres, located on both sides of South Banana River Drive., approximately 160 feet north of West Virginia Avenue; and approved all existing conditions approved under 19PZ00080, with the exception of a revised Condition 19, and the additions of Conditions 22 and 23. Condition