



**LACEY LYONS
REZANKA**

ATTORNEYS AT LAW

Stephen J. Lacey
Attorney, Managing Member

Aaron D. Lyons
Attorney, Managing Member

Kimberly B. Rezanka
Partner

Robyn W. Hattaway
Partner

Ethan B. Babb
Associate Attorney

September 10, 2020

Mr. Tad Calkins
Brevard County Planning & Development Director
2725 Judge Fran Jamieson Way, Building A
Viera, FL 32940

RE: Notice of Appeal of Planning & Development Director's Interpretation

Dear Mr. Calkins:

Please accept this letter as the Notice of Appeal under Sec. 110-332 (c), Brevard County Code, on behalf of IFP Merritt Island, LLC ("IFP"), and a check payable to Brevard County Commissioners in the amount of \$598.00. Pursuant to Sec. 62-301, Brevard County Code, we are also submitting a copy of this to County Manager Frank Abbate, as representative of the Board of County Commissioners and to Edward Fountanin, Utility Services Director. IFP owns approximately 111 acres on the eastern end of East Crisafulli Road, Merritt Island (Property data and map are enclosed).

The Appeal arises from the denial of IFP's request for a hardship waiver to the County's requirement that it install a reclaimed water "trunk main" under East Crisafulli Road to its Property. IFP, through Chad Genoni, requested the waiver due to undue hardship and unreasonable practical difficulty, as set forth in the letter to Mr. Fountanin, dated June 26, 2020, enclosed. In the email dated August 27, 2020, from Tammy Hurley, the waiver request was denied because the "request did not establish an undue hardship or unreasonable practical difficulty", email enclosed.

We believe the denial did not consider the factors stated in the June 26, 2020 letter, or the actual condition of the right-of-way (or lack thereof) along East Crisafulli Road. The location of the Property far from Courtenay Parkway, the condition of the roadway and ROW (size, irregular path and topography), the fact that no other property along East Crisafulli Road will be required to hook into this reuse system, the extreme cost of the direct bore for the trunk line for two (2) miles and the alternative proposed by IFP all clearly support the waiver.



LACEY · LYONS
REZANKA

ATTORNEYS AT LAW

Mr. Tad Calkins
October 10, 2020
Page 2

Because of all the reasons set forth above, IFP requests that the County Commission reverse the denial of the hardship waiver. We ask that this be scheduled on the County Commission Agenda of October 6, 2020.

If you have any questions, please contact me.

Sincerely,

Kimberly B. Rezanka

KBR:bms
enclosures

cc: Frank Abbate, County Manager (via email)
Edward Foutanin, Utility Services Director (via email)
Chad Genoni, IFP Merritt Island, LLC



Brevard County Property Appraiser

Titusville • Viera • Melbourne • Palm Bay

PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 2316619
Owners Ifp Merritt Island LLC
Mailing Address 4760 N US Highway 1, Ste 201 Melbourne FL 32935
Site Address Not Assigned
Parcel ID 23-36-24-00-750
Property Use 6100 - Grazing Land - Soil Capability Class II - Vacant
Exemptions None
Taxing District 2200 - Unincorp District 2
Total Acres 105.05
Subdivision --
Site Code 0001 - No Other Code Appl.
Plat Book/Page 0000/0000
Land Description W 3/4 Of SE 1/4 & W 3/4 Of S 1/2 Of NE 1/4 As Desc IN
Orb 1204 Pg 358, Exc S 2000 Ft Of W 1300 Ft Orb
2838 Pg 2885

VALUE SUMMARY

Category	2020	2019	2018
Market Value	\$525,250	\$661,820	\$661,820
Agricultural Land Value	\$26,380	\$16,760	\$16,760
Assessed Value Non-School	\$26,380	\$16,760	\$16,760
Assessed Value School	\$26,380	\$16,760	\$16,760
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$26,380	\$16,760	\$16,760
Taxable Value School	\$26,380	\$16,760	\$16,760

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
01/30/2019	\$650,000	WD	Vacant	8362/0421
05/02/1985	\$800,000	WD	--	2600/0682
05/02/1985	--	WD	--	2600/0680
01/31/1984	--	QC	--	2485/2706

No Data Found



Brevard County Property Appraiser

Titusville • Viera • Melbourne • Palm Bay

PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 2316622
Owners Ifp Merritt Island LLC
Mailing Address 4760 N US Highway 1, Ste 201 Melbourne FL 32935
Site Address Not Assigned
Parcel ID 23-36-24-00-754
Property Use 6100 - Grazing Land - Soil Capability Class II - Vacant
Exemptions None
Taxing District 2200 - Unincorp District 2
Total Acres 4.92
Subdivision --
Site Code 0001 - No Other Code Appl.
Plat Book/Page 0000/0000
Land Description S 2000 Ft Of W 1300 Ft Of SE 1/4 Exc Orb 2838 Pg 2885

VALUE SUMMARY

Category	2020	2019	2018
Market Value	\$24,600	\$31,000	\$31,000
Agricultural Land Value	\$1,230	\$850	\$850
Assessed Value Non-School	\$1,230	\$850	\$850
Assessed Value School	\$1,230	\$850	\$850
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$1,230	\$850	\$850
Taxable Value School	\$1,230	\$850	\$850

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
01/30/2019	\$650,000	WD	Vacant	8362/0421
05/02/1985	\$800,000	WD	--	2600/0682
05/02/1985	--	WD	--	2600/0681
12/31/1983	\$60,000	WD	--	2569/0676

No Data Found



Brevard County Property Appraiser

Titusville • Viera • Melbourne • Palm Bay

PROPERTY DETAILS

Phone: (321) 264-6700
<https://www.bcpao.us>

Account 2316620
Owners Ifp Merritt Island LLC
Mailing Address 4760 N US Highway 1, Ste 201 Melbourne FL 32935
Site Address Not Assigned
Parcel ID 23-36-24-00-752
Property Use 6100 - Grazing Land - Soil Capability Class II - Vacant
Exemptions None
Taxing District 2200 - Unincorp District 2
Total Acres 1.00
Subdivision --
Site Code 0001 - No Other Code Appl.
Plat Book/Page 0000/0000
Land Description E 210 Ft Of W 1938.48 Ft Of N 210 Ft Of S 255 Ft Of SE 1/4



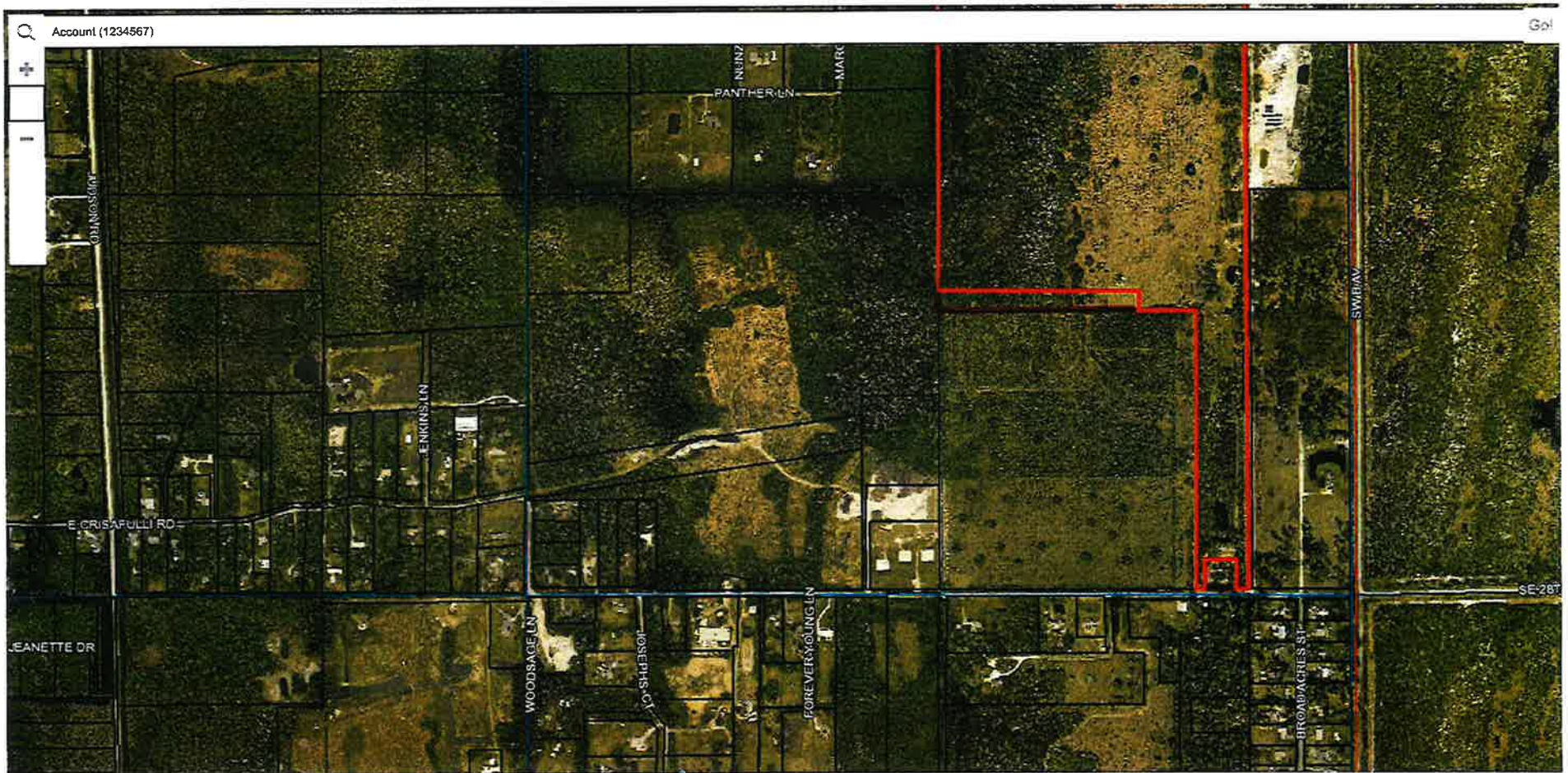
VALUE SUMMARY

Category	2020	2019	2018
Market Value	\$5,000	\$6,300	\$6,300
Agricultural Land Value	\$250	\$150	\$150
Assessed Value Non-School	\$250	\$150	\$150
Assessed Value School	\$250	\$150	\$150
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$250	\$150	\$150
Taxable Value School	\$250	\$150	\$150

SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
01/30/2019	\$650,000	WD	Improved	8362/0421
05/02/1985	\$800,000	WD	--	2600/0682
05/02/1985	--	WD	--	2600/0680
01/02/1967	--	--	--	0924/0935

No Data Found



Account: 2316619 Parcel ID: 23-36-24-00-1-50
 Sale: 1/30/2019 \$850,000 - Vacant
 BCPAO Market Value: \$835,250
 Owners: Ito Mami Island LLC
 Address: Not assigned

[Zoom](#) | [Clear](#) | [Details](#) | [EagleView](#) | [Hide Info](#)

BCPAO Dana Blickley, CFA, Brevard County Property Appraiser | [Instructions](#) | [Disclaimer](#)

6/26/2020

Mr. Edward Fontanin, Utility Service Director
Brevard County
VIA EMAIL Hurley, Tammy L. Tammy.Hurley@brevardfl.gov

Re: Island Forest Preserve reuse water

Dear Mr. Fontanin

I am writing this letter to request a waiver as outlined in SECTION 4. Section 110-312 of the Code of Ordinances of Brevard County. The project is in the "designated reuse district", however, the nearest reuse lines are approximately 2 miles away. We are bringing sewer lines to our property from approximately 2 miles away as a condition of our development approval. There has been some discussion that the code and ordinances may require us to bring reuse lines.

We believe that bringing the reuse line approximately two miles down E. Crisafulli Rd. would create an undue hardship on the Island Forest Preserve project. We are therefore requesting a waiver as outlined in SECTION 4. Section 110-312 of the Code of Ordinances of Brevard County.

In evaluating this request please consider the following:

- The Row on E. Crisafulli Rd is limited and requires directional boring to bring the line.
- The demand requirements because of the distance (2 miles) would require a larger line to service the entire project. This would not be the case if the reuse were closely available.
- It does not appear any other projects have been required to bring the reuse lines this far to service the project.
- We believe that an alternative source of irrigation water could be beneficial to the surrounding area. We can accomplish this by using a mainline irrigation system that uses the stormwater ponds for harvesting irrigation water. No shallow wells will be needed.

Our research has shown some of the benefits of a stormwater harvesting for irrigation are:

1. "Water quality: Increased stormwater harvesting improves water quality by collecting, storing, and therefore reducing direct stormwater discharges from ponds. Once harvested, many projects significantly decrease the pollutant loading discharged by their ponds into nearby waterways."
2. "Aquifer recharge: Stormwater harvesting in strategic locations promotes aquifer recharge, improving groundwater sources that feed the lakes, wetlands, and other natural systems in the area."

3. "Alternative water supply: The concept of stormwater harvesting benefits water supply when it is successfully used to supplement irrigation and other nonpotable uses, by reducing pumping stress on the aquifer through a decreased need for groundwater withdrawals."

We would like to have the opportunity to coordinate with SJRWMD on the design and implementation of a proper stormwater harvesting program that will allow for the irrigation of the homes and common areas. We ask the waiver be approved so that we may pursue the implementation of a stormwater harvesting plan for the project.

In closing we believe this waiver serves the public interest in that it allows for an environmentally sustainable alternative to reuse in the Island Forest Preserve without putting an undue hardship on the project.

Thank you for your consideration of this request.

Sincerely,



Chad Genohi

IFP Merritt Island, LLC

Kimberly Rezanka

From: Hurley, Tammy L <Tammy.Hurley@brevardfl.gov>
Sent: Thursday, August 27, 2020 12:04 PM
To: Kimberly Rezanka
Cc: Chad Genoni (Chad@gendev.us); Denninghoff, John P; Fontanin, Edward
Subject: RE: Island Forest Preserve reuse waiver
Attachments: Resolution 87-157.pdf

Ms. Rezanka

Section 110-308 of the Code of Ordinances of Brevard County requires that all new subdivisions residential, commercial, industrial and planned unit developments located within a designated reuse district to install reclaimed water lines concurrently with the installation of any sanitary sewer lines. Mr. Genoni's property is located within the Merritt Island Wastewater Reuse District as designated in Resolution 87-157. A copy of which is attached. Per his inquiry and pursuant to Section 110-312, Mr. Genoni was asked to provide a written request for a waiver to the requirements of Section 110-308 and detail the undue hardship or unreasonable practical difficulty resulting from the strict compliance of the code requirements. It was determined by the Director that Mr. Genoni's request did not establish an undue hardship or unreasonable practical difficulty when considered in light of the factors set forth in Section 110-312 (b) (1)-(7) and, thus, the request for a waiver of the requirements of Section 110-308 of the Brevard County Code of Ordinances was denied.

Tammy L. Hurley
Brevard County Utility Services
Utility Permitting Specialist
321-633-2094

From: Kimberly Rezanka <kim@cflawoffice.com>
Sent: Thursday, August 13, 2020 10:07 PM
To: Hurley, Tammy L <Tammy.Hurley@brevardfl.gov>
Cc: Chad Genoni (Chad@gendev.us) <Chad@gendev.us>; Denninghoff, John P <John.Denninghoff@brevardfl.gov>
Subject: FW: Island Forest Preserve reuse waiver

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

Tammy,

I am representing Island Forest Preserve regarding the reuse line issue. Would you please provide a more detailed explanation as to why the waiver was denied? I will be evaluating the denial for possible appeal to the County Commission.

Thank you,

Kimberly Bonder Rezanka, Esq.



96 Willard Street, Suite 302
Cocoa, FL 32922
321-639-1320 ext. 123
Fax 321-639-9950

From: C. Genoni <chad@gendev.us>
Sent: Tuesday, August 11, 2020 7:39 AM
To: Kimberly Rezanka <kim@cflawoffice.com>
Subject: Fwd: Island Forest Preserve reuse waiver

Sent from my iPhone

Begin forwarded message:

From: "Hurley, Tammy L" <Tammy.Hurley@brevardfl.gov>
Date: August 11, 2020 at 7:34:47 AM EDT
To: "C. Genoni" <chad@gendev.us>
Subject: RE: Island Forest Preserve reuse waiver

Chad

Per our conversation, the director has denied your request to waive the mandatory reuse requirement on North Merritt Island. He is however, interested in possibly paying for an increase in pipe size to accommodate future expansion of the reuse system.

Tammy

From: C. Genoni <chad@gendev.us>
Sent: Monday, August 10, 2020 4:50 PM
To: Hurley, Tammy L <Tammy.Hurley@brevardfl.gov>
Subject: FW: Island Forest Preserve reuse waiver

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

Tammy - As a follow up to our phone conversation the two weeks ago can you please follow up with a written response to our waiver request letter.

Thank you,
Chad

From: C. Genoni

Sent: Saturday, June 27, 2020 9:20 AM

To: Hurley, Tammy L <Tammy.Hurley@brevardfl.gov>

Subject: Island Forest Preserve reuse waiver

Hi Tammy - Please see the attached wavier request letter. Please let me know if we need to add anything to the request.

Thank you,
Chad

Chad Genoni

Franchisee



Beachland Homes Corporation

An Independent Franchise of AR Homes

321-508-5052 (cell)

321-473-6225 (office)

chad@gendev.us

<http://www.arthurrutenberghomes.com/builders/beachlandhomes>