

INDIAN RIVER COUNTY  
M E M O R A N D U M

**TO:** Jason E. Brown  
County Administrator

**THROUGH:** Stan Boling, AICP  
Community Development Director

**FROM:** Roland M. DeBlois, AICP  
Chief, Environmental Planning

**DATE:** September 4, 2018

**RE:** Consideration to Approve an Addendum to an Agreement with RedevGroup, Inc., for Release of a Conservation Easement on Indian River Mall Lot 5 in Exchange for Conveyance of Title and Easement Interest to the County of Alternate Conservation Land and Establishing Certain Special Development Restrictions

It is requested that the Board of County Commissioners formally consider the following information at the Board's regular meeting of September 11, 2018.

**DESCRIPTION AND CONDITIONS**

At its meeting on June 12, 2018, the Board of County Commissioners approved an agreement with RedevGroup, Inc., to allow for release of a conservation easement on Indian River Mall Lot 5 in exchange for alternative conservation land and special development restrictions. The subject 4.7 acre Lot 5 property is located on State Road 60 near the Mall's main entrance, west of and adjacent to the existing Wendy's Restaurant (see aerial, Attachment 1).

As explained at the June 12 Board meeting, the Lot 5 conservation easement was originally established in 1994 as a condition of County Resolution 94-93, which serves as the Development Order (D.O.) for the Indian River Mall. The Lot 5 conservation easement contains a clause allowing release of the easement provided alternative conservation land of equal or greater environmental value is protected to fulfill the intent of the D.O. In the June 12 exchange agreement, two alternative conservation properties are identified:

- Alternative Property 1: "The Alice Siew Property," approximately 9.17 acres (4 contiguous tax parcels) of riverfront coastal wetlands north of and adjacent to the County-owned Oyster Bar Marsh Conservation Area; or
- Alternative Property 2: "The Kinner Property," approximately 10.3 acres of riverfront coastal wetlands south of Quay Dock Road, north of Spoonbill Marsh, adjacent to conservation land owned by the Indian River Land Trust (IRLT). [Note: this alternative includes payment of \$291,819.00 to the County to be used for public access improvements to county-owned conservation lands.]

### **Proposed Third Alternative**

After the June 12 agreement was approved, Mr. Joe Cataldo of RedevGroup approached staff with a third alternative proposal that is a combination of portions of both Alternative 1 (the Siew Property) and Alternative 2 (the Kinner Property). This third proposed alternative (“Option 3”) is described as follows:

- RedevGroup conveyance of the  $\pm 10.3$  acre Kinner Property to the IRLT (Indian River Land Trust) with a conservation easement over  $\pm 8.8$  acres in favor of Indian River County covering all but the east 150 feet of the Kinner Property, together with conveyance of  $\pm 7.87$  acres of the Siew Property to the County (all but the eastern  $\pm 1.3$  acres of the originally proposed Siew Property).

This matter is now being presented for the Board to consider approving an addendum to the June 12 RedevGroup agreement to allow for the described third alternative (“Option 3”).

### **ANALYSIS**

The purpose of the Lot 5 conservation easement, as described in Condition 17 of the Indian River Mall D.O., was to provide for wildlife and upland habitat protection and to maintain “quality entrance and gateway character” at the mall along SR 60. The June 12 RedevGroup agreement addresses that “quality entrance and gateway character” aspect through certain special development restrictions contained in the agreement. For the Board to accept the proposed third alternative to address wildlife and habitat protection, the Board must conclude that the third alternative offsets the loss of the Lot 5 conservation easement by providing equal or greater environmental protection value, similar to the Board’s findings for Alternatives 1 and 2 currently in the agreement.

In staff’s opinion, the proposed third alternative exchange option, which combines and protects the majority of both the Siew and Kinner properties (i.e.,  $\pm 16.67$  protected acres combined), will provide greater ecological value than the current 4.7 acre Mall Lot 5 easement, and therefore can be accepted as a third alternative. Consistent with Kimley-Horn habitat assessment report findings presented to the Board on June 12, this third “combination” alternative contains higher ecological value when compared to the Mall Lot 5 site. It should be noted that the “third alternative”  $\pm 7.87$  acre Siew Property component, when added to the existing Oyster Bar Marsh Conservation Area, will add approximately 1,320 linear feet of dike/trail public access. Overall, the conditions of the agreement – if amended as proposed or otherwise as it currently exists - will satisfy the purpose and intent of D.O. Condition 17, will provide greater ecological value to the public compared to the existing unmanaged Lot 5 site, and will increase public access to conservation lands compared to the existing Mall Lot 5 site which provides no public access to conservation area. Therefore, staff supports adding the “third alternative” to the conservation area swap agreement.

### **RECOMMENDATION**

Staff recommends that the Board of County Commissioners approve the proposed Addendum to Amend Agreement with RedevGroup, Inc. to release the conservation easement of Indian River Mall Lot 5, allowing a third alternative exchange option (Option 3) as described herein in addition to certain special Lot 5 development restrictions and other conditions more particularly described in the proposed amended Agreement.

## **ATTACHMENTS**

1. Aerial Map of Indian River Mall Lot 5.
2. June 12, 2018 BCC Meeting Minutes.
3. June 12, 2018 County/ RedevGroup, Inc. Agreement.
4. Aerial Maps of Proposed Third Alternative (Option 3) Conservation Sites.
5. Proposed First Addendum to Amend Agreement.