

**INDIAN RIVER COUNTY, FLORIDA
M E M O R A N D U M**

TO: Jason E. Brown; County Administrator

THROUGH: Stan Boling, AICP; Community Development Director

THROUGH: John W. McCoy, AICP; Chief, Current Development

FROM: Ryan Sweeney; Senior Planner, Current Development

DATE: June 9, 2017

SUBJECT: Indian River County's Request for Special Exception Use Approval for the Osprey Acres Floway and Nature Preserve (Public Limited Utility) [SP-SE-17-06-09 / 2005060500-78909]

It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of June 20, 2017.

DESCRIPTION & CONDITIONS

The Indian River County Public Works Department has submitted an application for major site plan and special exception use approval to construct a stormwater floway system and nature preserve. The subject site is 83.7 acres in size and is located on the south side of 5th Street SW, immediately east of the County's Osprey Marsh Nutrient Removal Facility (aka Algal Turf Scrubber). Please see attachment 3.

The proposed facility will accept pre-treated stormwater from the Osprey Marsh facility, as well as untreated water from the Indian River Farms Water Control District (IRFWCD) canal system, treat that water through shallow marshes/settling ponds and the floway system, and discharge the treated water back into the IRFWCD canal system. Approximately 95% of the site is zoned RS-6, Residential Single-Family (up to 6 units/acre), while two smaller ±2.3 acre portions are zoned RM-6, Residential Multiple-Family (up to 6 units/acre) and CL, Limited Commercial, respectively (see attachment 3). All of the floway improvements are located north of 7th Street SW in the RS-6 zoned portion of the site, while two nature trails extend south of 7th Street SW (see attachment 5). Under the County's land development regulations (LDRs), the proposed facility constitutes a "public limited utility" use. As a public limited utility, the proposed stormwater floway system requires special exception use approval on the RS-6 zoned portion of the subject property. Therefore, special exception approval is required for the proposed facility.

In this case, the applicant has applied for concurrent major site plan and special exception use approval. Consistent with the County LDRs, staff has approved the major site plan application subject to the Board of County Commissioner's (BCC) approval of the special exception use request.

The BCC now needs to consider the special exception use request for the proposed public limited utility (stormwater floway system), conduct a public hearing, and approve, approve with conditions, or deny the request. Pursuant to Section 971.05 of the County LDRs, the BCC is to consider the appropriateness

of the requested use for the subject site and compatibility of the use with the surrounding area. The BCC may impose reasonable conditions and safeguards necessary to mitigate impacts and to ensure compatibility of the use with the surrounding area.

Planning and Zoning Commission (PZC) Recommendation:

At its meeting of June 8, 2017, the PZC voted 7-0 to recommend that the BCC grant special exception use approval with the conditions recommended by staff (see attachment 2). During the public hearing several members of the public spoke with a common theme of support for increased public access to the facility, especially the proposed trails. The PZC supported the public comment by providing an additional recommendation (not tied to the development application) that the BCC consider increased/enhanced public access to the site for passive recreation purposes. County Stormwater Division staff has indicated that they will accommodate any public access schedule the BCC deems appropriate.

ANALYSIS

1. **Size of Site:** 83.70 acres

Note: The “developed” area, which includes the floway system, shallow marshes/settling ponds, access roads and parking area, structures, trails, and other impervious areas will be a total of 18.03 acres. The remainder of the site (65.67 acres) will remain as an undeveloped nature preserve, with limited removal of nuisance exotic vegetation.

2. **Zoning Classification:** RS-6, Residential Single-Family (up to 6 units/acre) / RM-6, Residential Multiple-Family (up to 6 units/acre) / CL, Limited Commercial

3. **Land Use Designation:** L-2, Low-Density Residential-2 (up to 6 units/acre) / C/I, Commercial/Industrial

4. **Building Area:** 1,200 square feet (operations building)
186 square feet (restroom building)
1,056 square feet (meeting pavilion/picnic shelter)
2,442 square feet (total)

Note: The restroom building and meeting pavilion/picnic shelter will be provided in Phase 2.

5. **Impervious Area:** 54,014 square feet or 1.24 acres

Note: The impervious area consists of the access roads and parking area, concrete work slabs, and structures.

6. **Open Space:** Required: 40%
Proposed: 98.5%

Note: The entire site, except for the above-referenced impervious area calculation, is considered open space.

7. **Traffic Circulation:** Primary access to the project site will be provided via a gated, full-movement driveway connection to 5th Street SW. A secondary gated, stabilized driveway connection to 7th Street SW will also be provided. The proposed traffic circulation plan consists of a paved two-way main driveway off 5th Street SW with 90-degree parking spaces located at the south end of the driveway. In addition, an asphalt millings service driveway will connect the proposed maintenance building to the main driveway (see attachment 5). The proposed site layout provides a modified type “T” turnaround area as required by Fire Prevention.

Due to the low trip generation associated with the proposed project, a traffic impact study was not required. No off-site traffic-related improvements are required or proposed, and Traffic Engineering has approved the proposed plans.

8. **Off-Street Parking:** The proposed project is a unique use that does not have a specific parking requirement identified in the County LDRs. The proposed site layout provides a total of 10 parking spaces that will be available to the public during specified times and events (e.g. school field trips) and also provides a concrete parking area for County maintenance vehicles to maneuver and park near the proposed operations building. The Community Development Director has determined that the project site plan provides sufficient on-site parking for the proposed use.

9. **Landscape Requirements:** The landscape plan is in conformance with Chapter 926 requirements, including perimeter buffering. A Type “B” buffer with a 6’ opaque feature is required along the north, east, and south property lines, and the portion of the west property line that is not adjacent to the Osprey Marsh facility. The proposed project design provides a 100’ wide buffer of preserved native plant material that will satisfy the Type “B” buffer and the 6’ opaque feature requirement (see attachment 5). Perimeter buffering is not required or proposed between the proposed project site and the Osprey Marsh facility. In addition, the proposed project site will be secured by a 6’ tall black vinyl-clad chain-link fence provided along the north, east, and south property lines.

10. **Phasing:** The project is proposed to be constructed in two phases. Phase 1 will consist of the floway system and shallow marshes/settling ponds, the operations building, and the 5th Street SW main driveway and parking area. Phase 2 will add an open air meeting pavilion/picnic shelter and a public restroom building.

11. **Environmental Issues:**

- a. *Wetlands:* There is a .28 acre area of isolated, low-quality wetlands located in the southwest corner of the project site (see attachment 5). Those wetlands will not be impacted, and the proposed site layout provides a significant wetland buffer/setback from the proposed project improvements to the wetland. Therefore, a County wetlands resource permit will not be required.
- b. *Uplands:* Since the subject site exceeds 5 acres, the County’s native upland set aside criteria apply to the project. Approximately 80 acres of intact native upland plant communities exist on the project site, and the project’s set aside requirement is 12 acres (15% of 80 acres). The project site plan identifies a specific 12.5 acre upland preserve area located along the eastern edge of the project site. However, the overall project will preserve a total of approximately 65 acres of native uplands, and the proposed floway and shallow marshes will compliment and/or enhance the overall environmental quality of the site.

- c. *Tree Preservation:* The site is heavily wooded with mostly non-hardwood tree species (e.g. pine trees). However, there are several existing hardwood trees that will be preserved in place, and the final design of the floway path will be adjusted as needed to avoid most of those existing hardwood trees. Very few existing hardwood trees, if any, will be removed from the site. The applicant must obtain Environmental Planning staff approval of the project’s final tree protection plan, and tree mitigation plan (if applicable), prior to issuance of land clearing and tree removal permits for the project.
 - d. *Listed Species:* The applicant provided an environmental assessment that indicated a total of nine gopher tortoise burrows on the project site. The project will be designed to avoid the existing gopher tortoise burrows to the maximum extent possible. However, if an existing burrow cannot be reasonably avoided, then the subject gopher tortoise will be relocated to a different area on site. If a gopher tortoise needs to be relocated, the applicant must obtain a gopher tortoise permit from the Florida Fish & Wildlife Commission (FWC) prior to issuance of land clearing and tree removal permits. No other listed species were observed on the project site.
12. **Stormwater Management:** The Public Works Department has reviewed and approved the proposed project plans. A County stormwater permit will not be required.
 13. **Utilities:** The project will be served by public water and sewer service provided by County Utility Services. The County Department of Utility Services and the Department of Health have approved these project utility provisions.
 14. **Abandonment of 12th Avenue SW Right-of-Way:** The Public Works Department has submitted a separate right-of-way abandonment application requesting abandonment of the 30-foot wide unimproved 12th Avenue SW “paper street” right-of-way that runs from 5th Street SW to a point approximately 165 feet north of 7th Street SW (i.e. along the subject site’s western perimeter). That application has been reviewed and conceptually approved by the Technical Review Committee (TRC), and the right-of-way abandonment public hearing will be held immediately following the public hearing for the subject special exception application.

The proposed project design integrates the Osprey Marsh facility with the floway system, providing a stormwater (force main) pipe connection that crosses 12th Avenue SW from the Osprey Marsh facility to the proposed project site. Therefore, if the subject segment of 12th Avenue SW right-of-way is not abandoned, then the applicant will be required to obtain a County right-of-way permit for that stormwater pipe connection. If the subject segment of 12th Avenue SW is abandoned as proposed, then a right-of-way permit for the stormwater pipe connection will not be required for the force main.

15. **Specific Land Use Criteria:** Pursuant to LDR section 971.44(3), the following criteria for public limited utilities apply to this project:
 1. *Per Chapter 901, the definition of utilities, public and private – limited includes “electrical substations, package treatment plants, water purification, storage and pumping facilities, sewage pumping facilities, and similar utility uses;”*

Note: The proposed use (stormwater floway system) meets the definition of a public limited utility.

2. *Between all above-ground facilities (except distribution and collection facilities) and adjacent property having a residential land use designation a Type "B" buffer (reduce to Type "C" where abutting a local or thoroughfare plan roadway) with six-foot opaque screening as specified in Chapter 926, Landscaping, shall be provided;*

Note: As noted in section 9 of this report, the proposed project design provides a 100' wide buffer of preserved native plant material that will satisfy the Type "B" buffer and the 6' opaque feature requirement along the north, east, and south property lines, and the portion of the west property line that is not adjacent to the Osprey Marsh facility. Perimeter buffering is not required or proposed between the proposed project site and the Osprey Marsh facility since that facility is under the same ownership and is being integrated into the floway system.

3. *All below-ground high voltage cables within a utility right-of-way shall be made known to the public through the use of signs posted therein;*

Note: There are no proposed below-ground high voltage cables within a utility right-of-way. Therefore, the above-referenced signage criterion does not apply to the subject project.

4. *In all zoning districts except the industrial districts, all equipment, machinery and facilities which cannot by their size or nature be located within an enclosed building shall be separated from adjacent properties having a residential land use designation by a Type "C" buffer (with six-foot opaque screening) as specified in [Chapter 926, Landscaping](#);*

Note: As noted in section 9 of this report, the proposed project design provides a 100' wide buffer of preserved native plant material that will satisfy the Type "B" buffer and the 6' opaque feature requirement along the north, east, and south property lines, and the portion of the west property line that is not adjacent to the Osprey Marsh facility. That perimeter buffer is provided between all project facilities and adjacent residential property.

5. *Driveways located in close proximity to adjacent properties having a residential land use designation shall provide a six-foot opaque screening between the driveway and adjacent property. An eight-foot opaque screen may be required if deemed necessary to mitigate noise and visual impacts.*

Note: There are no driveways located in close proximity to any adjacent properties. Therefore, the above-referenced driveway criterion does not apply to the subject project.

16. Surrounding Land Use and Zoning:

North: IRFWCD Ditch, 5th Street SW, Serenoa Subdivision / RS-6

East: IRFWCD Lateral “J” Canal, Fox Ridge Subdivision (aka Timber Ridge Phase V) / RS-6

South: 7th Street SW, Oslo Park Subdivision / RS-6

West: 12th Avenue SW (to be abandoned), Osprey Marsh Nutrient Removal Facility / RS-6

All conditions recommended by staff have been accepted by the applicant.

RECOMMENDATION

Based on the analysis above, staff recommends that the BCC grant special exception use approval for a public limited utility facility to be known as the Osprey Acres Flowway and Nature Preserve with the following conditions:

1. Prior to issuance of land clearing and tree removal permits, the applicant shall:
 - a. Obtain Environmental Planning staff approval of the project’s final tree protection plan, and tree mitigation plan (if applicable).
 - b. Provide a copy of the project’s gopher tortoise permit from the Florida Fish & Wildlife Commission (if applicable).

2. Prior to site plan release, the applicant shall obtain approval of the requested right-of-way abandonment of 12th Avenue SW or obtain a County right-of-way permit for the proposed stormwater (force main) pipe connection between the Osprey Marsh Nutrient Removal Facility and the subject project site.

ATTACHMENTS

1. Application
2. Excerpt from Draft June 8, 2017 PZC Minutes
3. Location and Zoning Map
4. Aerial
5. Site Plan