The Planning and Zoning Commission will meet at 7:00 p.m. on THURSDAY, March 27, 2014, in the County Commission Chambers of the County Administration Building, 1801 27th Street, Vero Beach.

THE PLANNING AND ZONING COMMISSION SHALL ADJOURN NO LATER THAN 11:00 P.M. UNLESS THE MEETING IS EXTENDED OR CONTINUED TO A TIME CERTAIN BY A COMMISSION VOTE.

AGENDA

ITEM #1  CALL TO ORDER AND PLEDGE OF ALLEGIANCE

ITEM #2  APPROVAL OF MINUTES

A. February 27, 2014

ITEM #3  ITEM NOT ON CONSENT

A. Diamond Court West: Request for major site plan and preliminary plat approval for a 53 unit single-family residential development project to be known as Diamond Court West. Jaimeann, Inc., Owner. Masteller & Moler, Inc., Agent. Located at the northwest corner of Indian River Boulevard and 41st Street. Zoning: RM-6, Residential Multi-Family (up to 6 units/acre). Land Use: M-1, Medium Density 1-Residential (up to 8 units/acre). Density: 3.27 units/acre. [Quasi-Judicial]
ITEM #4  PUBLIC HEARING

A. Consideration of Amendment of Land Development Regulations (LDRs) Section 973.04, Section 973.06, and County Code Section 403.08 for Nuisance Abatement Special Assessment [Legislative]

ITEM #5  COMMISSIONERS MATTERS

ITEM #6  PLANNING MATTERS

A. Planning Information Package

ITEM #7  ATTORNEY'S MATTERS

ITEM #8  ADJOURNMENT

Except for those matters specifically exempted under the State Statute and Local Ordinance, The Commission shall provide an opportunity for public comment prior to the undertaking by the Commission of any action on the agenda, including those matters on Consent Agenda or matters added to the agenda at the meeting.

ANYONE WHO MAY WISH TO APPEAL ANY DECISION, WHICH MAY BE MADE AT THIS MEETING, WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH INCLUDES THE TESTIMONY AND EVIDENCE ON WHICH THE APPEAL IS BASED.

ANYONE WHO NEEDS A SPECIAL ACCOMMODATION FOR THIS MEETING MUST CONTACT THE COUNTY’S AMERICANS WITH DISABILITIES ACT (ADA) COORDINATOR AT 772-226-1223, AT LEAST 48 HOURS IN ADVANCE OF THE MEETING.

Meeting may be broadcast live on Comcast Cable Channel 27 – may be rebroadcast continuously Saturday 7:00 p.m. until Sunday morning 7:00 a.m. Meeting broadcast same as above on Comcast Broadband, Channel 27 in Sebastian.
PLANNING AND ZONING COMMISSION

There was a meeting of the Indian River County (IRC) Planning and Zoning Commission (PZC) on Thursday, February 27, 2014 at 7:00 p.m. in the Commission Chambers of the County Administration Building, 1801 27th Street, Vero Beach, Florida. You may hear an audio of the meeting; review the meeting agenda, backup material and the minutes on the Indian River County website www.ircgov.com/Boards/PZC/2014.

Present were members: Chairman Sam Zimmerman, District 2 Appointee; Charles Rednour, District 1 Appointee; Dr. Jonathan Day, District 4 Appointee; Jordan Stewart and Todd Brognano, Members-at-Large and Carol Johnson, non-voting School Board Liaison.

Absent were Marie Caldarone, District 3 Appointee and Brad Emmons, District 5 Appointee (both excused).

Also present was IRC staff: Bill DeBraal, Deputy County Attorney; Stan Boling, Community Development Director; John McCoy, Chief, Current Development; and Reta Smith, Recording Secretary.

Call to Order and Pledge of Allegiance

The meeting was called to order at 7:00 p.m. and all stood for the Pledge of Allegiance.

Approval of Minutes

ON MOTION BY Mr. Stewart, SECONDED BY Mr. Brognano, the members voted unanimously (5-0) to approve the minutes of the meeting of February 13, 2014 as presented.

Public Hearing:

Chairman Zimmerman read the following into the record:

A. Audrey's Feed Store: Request for special exception use approval for an agricultural business to be known as Audrey's Feed Store. Three Dogs and a Horse, LLC, Owner. Carter Associates, Inc., Agent. Located at the northeast corner of Oslo Road (9th Street SW) and 66th Avenue. Zoning: A-1, Agricultural 1 (up to 1 unit per 5
Chairman Zimmerman asked the Commissioners to reveal any ex-parte communication with the applicant or any contact that would not allow them to make an unbiased decision. All Commissioners replied they had not had any ex-parte communication.

The secretary administered the testimonial oath to those present who wished to speak at tonight's meeting on this matter.

Mr. John McCoy, IRC Chief of Current Development, reviewed the information contained in his memorandum dated February 17, 2014 and gave a PowerPoint presentation, copies of which are on file in the Commission Office.

Chairman Zimmerman wondered why staff would ask for only ten of the 70 feet right-of-way on Oslo Road. Mr. McCoy advised the applicant had been notified what the ultimate right-of-way would be and the applicant's design accommodated the acquisition of that right-of-way in the future; however the IRC Engineering Department had a budget and priorities as to which right-of-way they wanted to pursue at what time and did not want to acquire right-of-way out of sequence for their capital projects.

Chairman Zimmerman opened the public hearing at 7:09 p.m. and since no one wished to speak, the public hearing was closed.

ON MOTION BY Mr. Brognano, SECONDED BY Dr. Day, the members voted unanimously (5-0) to recommend that the Board of County Commissioners grant special exception use approval for the applicant with the conditions stated in staff's report.

**Commissioner's Matters**

There were none.

**Planning Matters**

Mr. Stan Boling, IRC Community Development Director, commented that staff liked the layout and architectural theme of the previous application because if the agricultural use went away there were a number of uses that could eventually work with that type of proposed building design. He observed it made
a lot of sense to allow agricultural businesses and industries in agricultural areas, but often it results in a warehouse-type of building that is difficult to convert to another use that would fit in with the surrounding area later on.

Mr. Boling related it did not appear there would be a PZC meeting on March 13, 2014; however there could be a meeting on March 27, 2014. He informed the members about discussions held by the BCC on the West Gifford Initiative, and advised the PZC would be seeing a Land Development Regulation amendment for a portion of West Gifford in the near future.

**Attorney’s Matters**

There were none.

**Adjournment**

There being no further business, the meeting adjourned at 7:12 p.m.

Chairman Sam Zimmerman  
Reta Smith, Recording Secretary

Date

Date
INDIAN RIVER COUNTY, FLORIDA
MEMORANDUM

TO: The Members of the Planning and Zoning Commission

DEPARTMENT HEAD CONCURRENCE:

Stan Boling, AICR, Community Development Director

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

FROM: Ryan Sweeney; Senior Planner, Current Development

DATE: March 17, 2014

SUBJECT: Jaimeann, Inc.'s Request for Major Site Plan and Preliminary Plat Approval for Diamond Court West [SP-MA-14-05-11 / 2006030269-72052]

It is requested that the data herein presented be given formal consideration by the Planning and Zoning Commission at its regular meeting of March 27, 2014.

DESCRIPTION & CONDITIONS

Masteller & Moler, Inc., on behalf of Jaimeann, Inc., is requesting major site plan and preliminary plat approval for a 53-unit single-family residential development to be known as Diamond Court West. The site is located at the northwest corner of Indian River Boulevard and 41st Street. The subject site is zoned RM-6, Residential Multiple-Family (up to 6 units/acre), and has an M-1, Medium Density Residential (up to 8 units/acre), future land use designation.

The subject site is the same location of a former 70-unit multi-family project of the same name. The site plan and preliminary plat approvals for that project were granted by the Planning and Zoning Commission on June 28, 2007, but have since expired. No construction of that project ever commenced and the subject site is currently vacant.

The currently proposed Diamond Court West project consists of 53 detached single-family residential units spaced approximately 10 to 12 feet apart. This project is a “plat over” site plan project, whereby individual lot lines will be established over each single-family unit. Thus, each unit will be conveyed to a future owner on a fee-simple lot.

The Planning and Zoning Commission is now to consider granting major site plan and preliminary plat approval for this project.
ANALYSIS

1. **Size of Development:** 16.2 acres
2. **Zoning Classification:** RM-6, Residential Multiple-Family (up to 6 units/acre)
3. **Land Use Designation:** M-1, Medium Density Residential (up to 8 units/acre)
4. **Density:**
   - Maximum Allowed: 6.00 units/acre
   - Proposed: 3.27 units/acre
5. **Building Area:** 176,418 square feet
6. **Impervious Area:** 320,602 square feet
7. **Open Space:**
   - Required: 40.0%
   - Proposed: 47.5%
   Note: The open space figure provided does not include any portion of the proposed stormwater management lake.
8. **Traffic Circulation:** Access to the proposed project will be provided via a gated two-way driveway connection to 41st Street. The proposed internal streets will be privately maintained by and dedicated to a property owners association. The proposed driveway connection, traffic circulation plan and roadway design have been approved by the County's Traffic Engineering Division. Additionally, the Traffic Engineering Division reviewed and approved the traffic impact study submitted by the applicant and concluded that no off-site traffic improvements are required. No off-site traffic improvements are proposed.
9. **Off-Street Parking:** As required by County parking standards, each residential unit is to be provided at least two parking spaces. As proposed, each unit will be provided with at least two parking spaces (each unit includes either a two-car or three-car garage).
10. **Required Improvements:**
    a. **Perimeter Sidewalks:** Five foot wide sidewalks are required and proposed along the site’s Indian River Boulevard and 41st Street frontages. The 41st Street sidewalk will complete the connection from the existing sidewalk segment located in front of the Casa Bella development to Indian River Boulevard. The applicant will be required to construct the sidewalk improvements prior to the issuance of the first certificate of occupancy for the project.
    b. **Internal Sidewalks:** Five foot wide sidewalks are proposed on both sides of the project’s internal loop street. In addition, a sidewalk connection from the internal loop sidewalk to the external sidewalk is provided on the east side of the project’s entrance road. Prior to...
issuance of a certificate of occupancy for each unit, the applicant will be required to construct the internal sidewalk segment along that unit’s frontage and connect that sidewalk segment to any adjacent segment of the overall sidewalk system, as depicted on the site plan. The applicant will be required to provide the common area internal sidewalk segments (adjacent to the entrance road and adjacent to the stormwater pond/Indian River Boulevard landscape buffer) prior to the issuance of the first certificate of occupancy for the project.

c. **Street Trees Between Internal Streets and Internal Sidewalks:** For multi-family projects such as this, canopy trees are required to be provided between the internal streets and internal sidewalks (both sides) at a rate of one tree every 50 feet. Prior to issuance of a certificate of occupancy for each unit, the applicant shall provide each respective street tree, as depicted on the landscape plan.

d. **Indian River Blvd. Buffer:** A 25 foot wide Type “B” buffer with a 6 foot opaque feature is required and proposed along the project’s Indian River Boulevard frontage. The opaque feature will consist of a wall and landscape material that will be located within a separate tract and will not be part of any lot. The applicant will be required to install the buffer improvement prior to the issuance of the first certificate of occupancy for the project.

e. **41st Street Buffer:** A 25 foot wide Type “B” buffer with a 6 foot opaque feature is required and proposed along the project’s 41st Street frontage. The opaque feature will consist of a wall and landscape material that will be located within a separate tract and will not be part of any lot. The applicant will be required to install the buffer improvement prior to the issuance of the first certificate of occupancy for the project.

f. **Streetlights:** Streetlights are required and will be maintained by a property owners’ association. The applicant is currently developing a street lighting plan that must be approved by Planning Staff prior to site plan release.

g. **Green Space and/or Recreation Area Set-Aside:** A minimum of 7.5% of the total project site area must be set-aside as dedicated common recreation area and/or green space. For this project, the applicant proposes to provide 1.63 acres, which is 10.1% of the site. The common green space area will be provided in the form of a passive upland area around the project’s stormwater management tract with littoral zone planting. Said area is located east of the internal loop road and will be accessible to all residents via the proposed internal sidewalk system and a pedestrian gate access.

11. **Stormwater Management:** The site plan proposes a modified Miami curb street design and one stormwater management lake with a littoral zone to manage runoff generated from the project. Through the final plat process, the stormwater tract will be dedicated to a property owners’ association. Public Works has approved the conceptual drainage design. Design details will be provided by the applicant and reviewed by Staff through the County stormwater permitting process. Prior to site plan release, the applicant must obtain a Type “A” Stormwater Permit from Public Works.
12. **Utilities:** The proposed development will be served by the County Utility Services Department for potable water and sewer services. Connection to public water and sewer services has been approved by the Utility Services Department and the Department of Health.

13. **Environmental Issues:**

   a. **Wetlands:** County Environmental Planning Staff has determined that no jurisdictional wetlands exist on the subject site. Therefore, no wetlands criteria apply to the proposed development.

   b. **Uplands:** Since the site is over five acres, the County’s native upland set-aside requirement potentially applies. Because the site is a former grove, however, there are no existing native uplands, and no set-aside requirement applies.

   c. **Tree Preservation:** The site is a former citrus grove and contains no protected or specimen trees. Therefore, there are no tree preservation or mitigation issues associated with this site.

14. **Plat Over Site Plan:** The applicant is proposing to plat over the proposed residential site plan to create a lot for each unit, with the remainder of the site to be common area. The County land development regulations (LDRs) require that residential lots created through the plat over site plan process be only large enough to contain the unit and the area immediately around the unit (e.g. patio, pool, small private yard area). The submitted plat complies with that regulation and all requirements applicable to plat over site plan projects. All driveways, landscaping, open space, stormwater, roadway, and non-lot areas will be platted as common area to be owned and maintained by a property owners association. The plat will establish utility, access and stormwater rights and responsibilities within the common areas consistent with the project site plan.

15. **Concurrency:** As required under the County’s concurrency regulations, the applicant has applied for and obtained a conditional concurrency certificate for the project. The concurrency certificate was issued based upon a concurrency analysis and a determination that adequate capacity was available to serve this project at the time of the determination. The developer will be required to obtain final concurrency certificates prior to issuance of building permits, in accordance with County concurrency regulations.

16. **Surrounding Land Use and Zoning:**

<table>
<thead>
<tr>
<th>Direction</th>
<th>Land Use</th>
<th>Zoning</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Laguna of Vero Beach</td>
<td>RM-8(PD)</td>
</tr>
<tr>
<td>East</td>
<td>Indian River Boulevard; Harbor Chase (assisted living facility and duplexes)</td>
<td>RM-8</td>
</tr>
<tr>
<td>South</td>
<td>41st Street; Abandoned citrus grove</td>
<td>MED</td>
</tr>
<tr>
<td>West</td>
<td>Casa Bella</td>
<td>RM-8(PD)</td>
</tr>
</tbody>
</table>
All conditions recommended by Staff have been accepted by the applicant.

**RECOMMENDATION**

Based on the analysis performed, Staff recommends that the Planning and Zoning Commission grant major site plan and preliminary plat approval with the following conditions:

1. Prior to site plan release, the applicant shall obtain Planning Staff approval of a street lighting plan.

2. Prior to the issuance of the first certificate of occupancy for the project, the applicant shall:
   a. Construct the external Indian River Boulevard and 41st Street sidewalks and the common area internal sidewalks, as depicted on the project site plan.
   b. Install all perimeter buffers and opaque features, as depicted on the project site plan.

3. Prior to issuance of a certificate of occupancy for each unit, the applicant shall provide the internal sidewalk improvement and required street tree(s) for each respective unit, as depicted on the project site plan.

**Attachments:**
1. Application
2. Location Map
3. Site Plan/Aerial/Landscape Plan

[Signature]

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY

WILLIAM K. DEBRAAL

DEPUTY COUNTY ATTORNEY
MAJOR SITE PLAN (SPMJ) APPLICATION

PROJECT NAME (Please Print): Diamond Court West

PROPOSED PROJECT USE: Planned 53 Single-Family Residential Units Site Plan with Plat Over Site Plan

CORRESPONDING PRE-APPLICATION CONFERENCE PROJECT NAME AND CDPLUS ASSIGNED FILE NUMBER (IF ANY): Diamond Court West Project # 2006030269 - SP-MA- 14 -05-11

PROJECT #: 2006030269

OWNER: (PLEASE PRINT)
GR DIAMOND COURT WEST LLC
NAME
25A HANOVER RD STE 310
ADDRESS
FLORHAM PARK, NJ 07932
CITY, STATE, ZIP
(973-593-0003
PHONE NUMBER
jgrebow@ridgewoodrep.com
EMAIL ADDRESS
Jonathan Grebow, Manager
CONTACT PERSON

AGENT (PLEASE PRINT) APPLICANT
Jaimeann, Inc.
NAME
PO Box 8368
ADDRESS
Virginia Beach, VA 23450
CITY, STATE, ZIP
(757) 288-9098
PHONE NUMBER
aresh@arlanddev.com
EMAIL ADDRESS
Alan Resh, President
CONTACT PERSON

PROJECT ENGINEER: (PLEASE PRINT)
Masteller & Moler, Inc.
NAME
1655 27th Street, Suite 2
ADDRESS
Vero Beach, FL 32960
CITY, STATE, ZIP
772-567-5300
PHONE NUMBER(s)
mastmolr@bellsouth.net
EMAIL ADDRESS
Stephen E. Moler, PE
CONTACT PERSON

PROJECT SURVEYOR: (PLEASE PRINT)
Masteller, Moler, Reed & Taylor, Inc.
NAME
1655 27th Street, Suite 2
ADDRESS
Vero Beach, FL 32960
CITY, STATE, ZIP
772-564-8050
PHONE NUMBER(s)
dt5243@bellsouth.net
EMAIL ADDRESS
David Taylor, PSM
CONTACT PERSON
*Proposed project use for zoning district is (circle one)  **PERMITTED** ADMINISTRATIVE PERMIT

*AMOUNT OF NEW IMPERVIOUS SURFACE: 7.36 acres

*SITE ADDRESS: 1450 41st Street

*SITE TAX PARCEL ID(s): 323926000000000080, 32392500000300000040, 323925000000300000050

*IS ALL OR A PORTION OF PROJECT IN ENVIRONMENTALLY SENSITIVE AREA AS DESIGNATED ON THE COMPREHENSIVE PLAN OR ADDRESSED IN A PRE-APP CONFERENCE? ___ YES ___ NO

*ZONING: RM-6 FLUE: M-1

*TOTAL (GROSS) ACREAGE OF PARCEL: 16.20

*AREA OF DEVELOPMENT (NET) ACREAGE: 16.20

*PROPOSED CHANGES TO EXISTING DEVELOPMENT (IF APPLICABLE):

A. NUMBER OF UNITS: FROM 0 TO 53

B. DENSITY: FROM 0 UNITS PER ACRE TO 3.27 UNITS PER ACRE

*USES BY SQUARE FEET GROSS BUILDING AREA RESULTING FROM MODIFICATION (E.G. RETAIL; 5,000)


**Please Complete Major Site Plan Submission Checklist**

A PRE-APP CONFERENCE IS REQUIRED IF PROJECT IS OVER 20 UNITS OR 40,000 SQ. FT. NEW IMPERVIOUS SURFACE. (IF THIS DESCRIBES YOUR PROJECT, STOP HERE AND COMPLETE AND SUBMIT A PRE-APP CONFERENCE APPLICATION)

MATERIAL (note N/A where applicable)

1. Written response to pre-application staff comments

2. Fees:
   < or = 5 acres: $ 1000.00
   > 5 but < 10 acres: $ 1200.00
   = or > 10 acres: $ 1400.00

3. Completed Site Plan Application Form

4. Ten (10) Plan Sets (24" x 36")

5. Two (2) Sealed Site Surveys

1801 27th Street, Vero Beach FL 32960

F:\COMMUNITY DEVELOPMENT\APPLICATIONS\CURDEV APPLICATIONS\MAJOR SP APP PACKET.DOC Revised January 2013 Page 14 of 15

ATTACHMENT 1
DIAMOND COURT WEST
LANDSCAPE EXHIBITS
INDIAN RIVER COUNTY, FLORIDA

SARTAIN AND ASSOCIATES LLC
2046 TREASURE COAST PLAZA,
SUITE A 299
VERO BEACH, FL 32960
772-321-3870
REGISTRATION # LC26000475
TO: The Members of the Planning and Zoning Commission

DEPARTMENT HEAD CONCURRENCE:

Stan Boling, AICP; Community Development Director

FROM: Dylan Reingold, County Attorney

DATE: March 19, 2014

SUBJECT: Consideration of Amendment of Land Development Regulations (LDRs) Section 973.04, Section 973.06, and County Code Section 403.08 for Nuisance Abatement Special Assessment

It is requested that the data herein presented be given formal consideration by the Planning and Zoning Commission at its regular meeting of March 27, 2014.

BACKGROUND

On October 22, 2013, the Board of County Commissioners (the “Board”) requested the County Attorney’s Office to research the feasibility of a nuisance abatement special assessment. After a presentation from the County Attorney’s Office on December 3, 2013, the Board directed the County Attorney’s Office to draft a nuisance abatement special assessment ordinance utilizing the uniform method for the levy, collection, and enforcement of non-ad valorem assessments as set forth in Section 197.3632, Florida Statutes. This memorandum 1) points out how the nuisance abatement special assessment is used in other jurisdictions, 2) explains the tax deed sale process, and 3) describes the attached nuisance abatement special assessment ordinance (the “Ordinance”).

The proposed ordinance will amend Chapter 403 of the County Code (not a part of the land development regulations), and Chapter 973 of the land development regulations (LDRs). Because the ordinance amends a portion of the LDRs, Planning & Zoning Commission (PZC) consideration is required. The PZC is now to consider the proposed ordinance and is to make a recommendation to the Board to approve, approve with changes, or deny the proposed ordinance.

ANALYSIS

• Nuisance Abatement Special Assessments In Other Jurisdictions

The County Attorney’s Office found that Palm Beach County, St. Lucie County and Polk County have adopted nuisance abatement special assessment ordinances.
In 2008, Polk County adopted its Property Maintenance Ordinance which established the process of abating nuisances with Polk County being reimbursed through the uniform method for the levy, collection, and enforcement of non-ad valorem assessments as set forth in Section 197.3632, Florida Statutes. The types of nuisances abated under Polk’s program include the open storage of junk or debris, organic debris in excess of six cubic yards, overgrown grass and/or weeds, storage of distressed or abandoned vehicles and unsecured pools. In 2010, the population in the unincorporated portions of Polk County was approximately 370,000 people compared to Indian River County’s 2010 unincorporated area population of 91,366. Polk’s nuisance abatement roll for 2014-2015 will include roughly 440 properties.

The process in Polk County begins with an investigation of a violation. If it is determined that there is a violation, the property owner is notified by mail and posting on the property and given ten days to correct the violation. The property owner has an opportunity to file an appeal of the violation determination at this stage. Upon expiration of the correction period, the property is then re-inspected. If it is found that the violation has not been corrected, then the nuisance is abated by Polk County (usually by a vendor/contractor hired by Polk), with the cost of abating the nuisance, including all administrative and operating fees assessed against the property as an assessment under Section 197.3632, Florida Statutes.

Randy Mink of the Polk County Attorney’s Office explained that the assessment includes the costs for the code enforcement officer site visits and the bill from the vendor (contractor) who performed the abatement. The property owner is then notified that the nuisance was abated and given ninety days to pay the assessment or appeal to the Polk County Code Enforcement Special Magistrate. If the property owner does not pay in time or appeal the amount of the assessment, the cost is recorded as an assessment and established as a first lien, equal to a lien for nonpayment of property taxes. If an appeal is requested, the only issue on appeal is the total actual costs incurred by Polk County. If the assessment is not paid within thirty days after Polk County mails the notice of the assessment, the County records a claim of lien for assessment. The lien accrues from date of abatement at an interest rate equal to the amount of interest payable on a judgment lien pursuant to Section 55.03, Florida Statutes, until the costs of abatement are placed on the non-ad valorem assessment roll.

In 2012, both Palm Beach County and St. Lucie County adopted similar processes of using the uniform method for the levy, collection, and enforcement of non-ad valorem assessments for abating nuisances. However, Palm Beach County and St. Lucie County do not utilize the process for abandoned vehicles.

**The Tax Deed Sale Process**

At the October 22, 2013 meeting, the Board raised the concern that if the abatement costs were recovered through the non-ad valorem assessment process and the taxes and assessments are not paid then years could pass before the County is reimbursed while the property goes through the tax deed sale process. If a property owner does not pay his or her taxes and assessments by March 31st the taxes and assessments are considered delinquent and a 3% penalty is added on April 1st. If the taxes and assessments remain unpaid on May 1st, the parcel must be advertised in the newspaper and an advertising fee is added. If the taxes and assessments remain unpaid, the Indian River County Tax Collector’s Office will sell a tax certificate by the end of May.
remain unpaid. Unless the tax certificate is for homestead property and the value of the certificate, plus interest, does not exceed $250, then the tax certificate will be available to be purchased by potential buyers. If the tax certificate is purchased, the County will be paid the County taxes and assessments.

If the tax certificate is not redeemed by the property owner, then two years from the date of delinquency, the property will be eligible for a tax deed application. The tax deed sale process can take up to a year. If no party buys the tax deed and it is held by an individual then the individual will obtain the property for his or her base bid. The base bid includes the payment of the County taxes and assessments. If the sale is a County tax deed, and no party buys the tax deed, the property will be placed on the list of lands available. The property will remain on the list of lands available for three years from the date of the tax deed sale. If the property is purchased from the list of lands available, then the County will be paid the County taxes and assessments. If the property is not purchased, then the property will escheat to the County and all of the County taxes and assessments will be eliminated. This entire process from when the tax certificate is issued until the property escheats to the County can take up to ten to eleven years.

Randy Mink from the Polk County Attorney's Office stated that almost all of the nuisance abatement liens in Polk County are paid either through the payment of the assessment before the assessment is added as a tax roll assessment under Section 197.3632, Florida Statutes or through the payment of the taxes and assessment on the property before the taxes and assessments become delinquent on April 1st.

- The Proposed Indian River County Ordinance

As noted above, the Board directed the County Attorney’s Office to draft a nuisance abatement special assessment ordinance utilizing the uniform method for the levy, collection, and enforcement of non-ad valorem assessments as set forth in Section 197.3632, Florida Statutes. The Board requested that any such assessment require the approval of a supermajority of the Board. Finally, the Board requested that the nuisance abatement special assessment ordinance be drafted in such a way as to minimize any necessary changes to the Indian River County Code of Ordinances.

Based upon the Board direction the County Attorney’s Office drafted the attached Ordinance. As structured, the Ordinance requires a supermajority vote of the Board to approve the nuisance abatement action and a separate supermajority vote to allow for the levy, collection, and enforcement of a non-ad valorem assessment as set forth in Section 197.3632, Florida Statutes. Additionally, the Ordinance allows for the use of Section 197.3632, Florida Statutes for building demolitions as well as nuisance abatement. Finally, with respect to an assessment that is over $500, the Ordinance allows the Board to divide the assessment over multiple years so that the property owner will not be required to pay a large assessment in one lump payment.

If adopted, the Ordinance will expand the ability of the County to recoup its costs for the County’s abatement efforts of nuisances and demolitions. Currently, the County solely uses the method of recording a lien on the subject property. However, the County has been limited in its ability to collect on such liens. Pursuant to Section 162.09, Florida Statutes, no code enforcement lien may be foreclosed on real property that is a homestead. Second, the County’s liens are often wiped out in foreclosure suits.
be foreclosed on real property that is a homestead. Second, the County’s liens are often wiped out in foreclosure suits.

However, the Ordinance, if adopted, will allow the County to collect the assessment through the annual real estate tax bill. Thus, this Ordinance will establish an effective means of recouping the County’s costs for demolitions and nuisance abatement. There may be concerns that such a mechanism will lead to the County being too active in nuisance abatement and demolitions, however, Section 973.04 of the Indian River County Code of Ordinances still states that fines imposed by the code enforcement board will remain “the primary method for bringing code violators into compliance.” As indicated in the attached memo from staff, since 2009 the total number of building demolitions was 34 and there were only 2 nuisance abatement cases. Therefore, unless the Board changes its current practice, the annual number of building demolitions and nuisance abatement cases will be relatively small, perhaps 10 - 20. This Ordinance merely provides another means for the County to recoup its costs in the event the County wishes to abate a nuisance or undertake demolition.

RECOMMENDATION

Staff recommends that the Planning and Zoning Commission recommend that the Board of County Commissioners adopt the proposed ordinance.

ATTACHMENTS

1. Minutes from the 10-22-2013 and 12-3-2013 BCC Meetings
2. Memo from Staff on Nuisance Abatement and Building Demolition History.
3. Proposed LDR and County Code Amendment Ordinance
ON MOTION by Commissioner Solari, SECONDED by Chairman Flescher, the Board unanimously approved to intervene in the three pending administrative cases (2009-2010, 2010-2011, 2011-2012), thereby preserving our County’s right to have their actual costs recalculated, as recommended in the memorandum of October 15, 2013.

14. COMMISSIONER ITEMS

14.A. Commissioner Joseph E. Flescher, Chairman - None

14.B. Commissioner Wesley S. Davis, Vice Chairman - None

14.C. Commissioner Peter D. O’Bryan


MOTION WAS MADE by Commissioner O’Bryan, SECONDED by Commissioner Solari, to direct the County Attorney to research and bring back to the Board a report on the feasibility of using a non-ad valorem special assessment for code enforcement abatement actions.

Following the motion, there was a lengthy discussion regarding the processing of liens, tax deed sales, and non-ad valorem assessments.

Vice Chairman Davis cautioned the Board about making policy based on extreme conditions that would be permanent going forward.
Commissioner O'Bryan was concerned about how the County can clean up a neighborhood, and ensure that County taxpayers get reimbursed.

Commissioner Solari wanted time to review this and obtain input from the County Attorney.

The Chairman CALLED THE QUESTION and the Motion carried unanimously.

14.C.2. Update on Commissioner Solari’s Request for Placement on the Treasure Coast Regional Planning Council’s Agenda

Clerk’s note: This Item was heard following Item 15.C.3., and is placed here for continuity.

Commissioner O’Bryan reported that as Chair of the Treasure Coast Regional Planning Council (TCRPC) he was directed to ask that Commissioner Solari be added to the next meeting agenda of the TCRPC; he confirmed that Commissioner Solari’s item will be the first item following all voting matters; and backup material needs to be submitted to the Council by November 3rd.

The Chairman called for a recess at 10:25 a.m. and reconvened the meeting at 10:30 a.m. with all members present, starting with Item 11.A.

14.D. Commissioner Bob Solari – None

14.E. Commissioner Tim Zorc
ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved Resolution 2013-128, providing for the recovery of demolition costs.

The Chairman called for a break at 12:03 p.m., and reconvened the meeting at 12:14 p.m., with Vice Chairman Davis not returning.

13.C. **Nuisance Abatement Special Assessment Process**

County Attorney Reingold recalled that on October 22, 2013 the Board requested his office to research the feasibility of a nuisance abatement special assessment. He recapped his research and provided background on the Counties (Palm Beach County, St. Lucie County, and Polk) that have adopted the nuisance abatement ordinances. He questioned whether the Board wanted to move away from the code enforcement process or move towards a nuisance abatement process.

Chairman O’Brien wished to see Indian River County utilize the current code enforcement process until Code Enforcement has a hearing, start issuing a $100 day fine, and after 30 days bring it before the Board to take action under the non advalorem assessment methodology.

MOTION WAS MADE by Commissioner Solari, SECONDED by Commissioner Flescher, to direct the County Attorney to draft an ordinance and hold a public hearing on the proposed ordinance. A supermajority vote will be required for adoption.
The Chairman CALLED THE QUESTION, and by a 4-0 vote (Vice Chairman Davis absent), the Motion carried.

14. COMMISSIONER ITEMS

14.A. COMMISSIONER PETER D. O'BRYAN, CHAIRMAN

14.A.1. SUPPORTING VACATION RENTAL LEGISLATION

Chairman O'Bryan asked fellow Commissioners to consider a Resolution supporting vacation rental legislation, which would overturn the recent bill that was passed, limiting the authority of local governments to regulate vacation rentals. If this is approved, he said he would present it at the next session of the Legislative Delegation.

MOTION WAS MADE by Commissioner Flescher, SECONDED by Chairman O'Bryan, to approve Resolution 2013-129, urging the Florida Legislature to adopt and Governor Rick Scott to support legislative changes providing the ability for local governments to regulate vacation rentals; directing certified copies of this Resolution to be provided to various officials, organizations and cities.

Daniel Lamson, Executive Director, 737-B Timber Ridge Trail, read a statement on behalf of the Indian River Neighborhood Association, urging the Florida Legislature to repeal the provisions of the Florida Statute, which prevents local regulations of vacation rentals.

Commissioner Solari suggested substituting the second statement in paragraph four with: "deleting the restriction preventing local laws, ordinances, or regulations from regulating the use of vacation rentals based solely on their classification, use, or occupancy."

December 3, 2013
Regarding the proposed nuisance abatement special assessment ordinance to be considered for adoption by the Board of County Commissioners, please note the following information relating to County condemnation demolitions and public nuisance abatement cases since 2009.

This information is provided to give a perspective on the amount of demolitions/nuisance abatements that have occurred over the past five years, including a comparison of total costs and recovered costs. Also provided are some statistics with respect to overgrown weed public nuisance complaints and related enforcement actions that have occurred since 2009.

Condemnation demolitions (unincorporated county 2009-present)

- All funds from the MSTU
- Number of structures demolished due to condemnation: 34
- Total Fees paid to contractors: $173,490.15
- Recovered Fees: $28,294.55 (approximately 16%)

County abatement of public nuisances other than demolitions (unincorporated county 2009-present)

Aside from demolition of condemned structures, there are two instances where the County proceeded with abatement of public nuisances and assessment of costs over the past five years:
• 2009: Susan Kay McGowan, Case No. 2008100075 (1234 13th Ave), removal of junk, trash and debris.
  o 83 days of noncompliance x $100 per day: $8,300 fine
  o Cost of County labor and clean-up: $729.55
  o Administrative fee per County Code Section 973.06: $250
  o Total assessed cost plus fine: $9,279.55
  o $9,279.55 assessment/fine has not been paid/reimbursed (0%)

• 2009-2011: Vista Golf LLC, Case No. 2009060086 (48 Vista Gardens Trail), mowing of overgrown weeds on unused/unmaintained golf course.
  o 57 days of noncompliance x $100 per day = $5,700 fine
  o Cost of contractor mowing on seven separate occasions: $6,170
  o Administrative fees for mowing on seven separate occasions (7 x $250): $1,750
  o Total assessed cost plus fine: $13,620
  o $13,620 assessment/fine paid/reimbursed (100%) per April 2011 agreement

Overgrown weed public nuisance complaints/enforcement actions (2009-present)

• Over the past five years, there have been ±3,700 code enforcement cases pertaining to overgrown weeds.
• Of those overgrown weeds cases, ±3,540 cases (±96%) were resolved, ±160 cases (±4%) were not resolved and resulted in recorded liens.

Other information

• Over the past five years, the Code Enforcement Board has recorded ±600 liens against properties for code violations (including but not limited to: junk, trash and debris; junk vehicles; unsecured vacant structures; building construction/alterations without permits; landscape maintenance deficiencies; overgrown weeds).
• Over the past five years, 219 Code Enforcement Board liens have been released due to payment of fines/satisfaction of liens (approximately 36% of recorded liens).
ORDINANCE NO. 2014-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA, AMENDING SECTIONS 973.04 “ABATEMENT OF NUISANCE” AND 973.06 “ASSESSMENT FOR ABATEMENT OF NUISANCE” OF CHAPTER 973 “PUBLIC NUISANCE” OF TITLE IX “LAND DEVELOPMENT REGULATIONS,” AND SECTION 403.08 “DEMOLITION” OF CHAPTER 403 “PROPERTY MAINTENANCE CODE” OF TITLE IV “CONTRACTOR AND BUILDING REGULATIONS” OF THE INDIAN RIVER COUNTY CODE TO PROVIDE FOR THE ABILITY TO PLACE AN ASSESSMENT FOR BOTH ABATEMENT OF NUISANCES AND DEMOLITIONS ON THE TAX ROLL AS A NON-AD VALOREM ASSESSMENT AND USE OF THE UNIFORM METHOD OF LEVY, COLLECTION AND ENFORCEMENT OF NON-AD VALOREM ASSESSMENTS AS PROVIDED FOR BY FLORIDA STATUTES; AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF INDIAN RIVER COUNTY, FLORIDA that:

SECTION 1. Chapter 973 “Public Nuisance” of Title IX “Land Development Regulations,” is hereby amended and restated as follows:

Section 973.04. Abatement of nuisance.

(1) Whenever a county code inspector determines that a public nuisance as described in section 973.03 of this chapter exists, the inspector shall have the authority to serve the violator with notice to appear before the Indian River County Code Enforcement Board and shall hold hearings in the manner provided in F.S. Ch. 162. Any notice provided to the violator must state that a failure to abate the nuisance may result in Indian River County abating it, with the cost of any abatement action to be assessed against the property.

(2) If the code enforcement board determines through a compliance hearing that the violator is still not in compliance with section 973.03 and that the violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, then the code enforcement
ORDINANCE NO. 2014-___

board shall direct staff to notify the Indian River County Commission, who no sooner than thirty (30) days after the compliance hearing, who by approval of at least four members of the Indian River County Commission, may issue an order to direct the county administrator or a designee for the county administrator, to abate the nuisance, authorizing the county's employees, servants, agents or contractors to enter upon the property at all reasonable times and take whatever action is necessary to abate the nuisance.

(3) Once the county has abated a specific nuisance under this section, no further code enforcement board determination is needed for the county to take future abatement action relating to the reoccurrence of the nuisance violation.

(4) The primary method for bringing code violators into compliance shall continue to be the fines imposed by the code enforcement board and nothing in this section shall preclude the code enforcement board from issuing a fine relating to any nuisance violation. A nuisance violation need not rise to the level of a serious threat to the public health, safety, welfare or be in the nature of a violation that is irreparable or irreversible for the code enforcement board to issue an order of non-compliance with section 973.03.

Section 973.06. Assessment for abatement of nuisance.

(1) If the county abates a nuisance as defined in section 973.03, the cost thereof to the county as to each lot, parcel or tract of land shall be calculated and reported to the code enforcement board. Thereupon, the code enforcement board, shall issue an order to assess such costs against such lot, parcel tract of land, common space, open space, recreation tract, or landscape buffer. Such order shall describe the land and state the cost of abatement, which shall include all administrative and operating fees, an administrative cost of two hundred fifty dollars ($250.00) per abatement. Such assessment shall be a legal, valid and binding obligation upon the property against which made until paid. The assessment shall be due and payable forty-five (45) days after the mailing of notice of assessment after which interest shall accrue at the rate prescribed on any unpaid portion thereof.

(2) The clerk shall mail a notice to the record owner or owners of each of said parcels of land described in the resolution, at the last available address for such owner or owners, which notice may be in substantially the following form:

Coding: Words/letters underscored are additions to text; words/letters in strikethrough format are deletions to text.

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ORDINANCE NO. 2014-____

NOTICE

Date:
To:
Address:
Property:

As the record owner of the property above described you are hereby advised that Indian River County, Florida did on the _______ day of ________ 20 ________, order the abatement of a certain nuisance existing on the above property, sending you notice thereof, such nuisance being:

[Describe Nuisance Briefly]

A copy of such notice has been heretofore sent you. You failed to abate such nuisance; whereupon, it was abated by Indian River County at a cost of $__________. Such cost, by order of the Code Enforcement Board of Indian River County, Florida has been assessed against the above property on _________, 20 ____________, and shall become a lien on the property forty-five (45) days after such assessment. You may request a hearing before the Code Enforcement Board to show cause, if any, why the expenses and charges incurred by the County under this ordinance are excessive or unwarranted or why such expenses should not be charged against the property. Said request for hearing shall be made to the Clerk of the Code Enforcement Board in writing within thirty (30) days from the date of the assessment. The assessment may be placed on the tax roll as a non-ad valorem assessment and collected as set forth in Section 197.3632, Florida Statutes, failure to pay the assessment may lead to the property to be sold and conveyed by tax deed as proved by Florida law.

(3) If the owner fails to pay assessed costs within forty-five (45) days, a certified copy of the assessment shall be recorded in the official record books of the county. The assessment shall constitute a lien against the property. No assessment lien will be recorded if a hearing on whether the assessment is fair, reasonable and warranted is timely requested.

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ATTACHMENT 3
ORDINANCE NO. 2014-____

(4) If the code enforcement board determines after hearing that the assessment is fair, reasonable, and warranted, a certified copy of the assessment order shall be recorded. If the board determines that the charges are excessive or unwarranted, it shall direct the county administrator to recompute the charges and the board shall hold a further hearing after notice to the owner upon the recomputed charges.

(5) In an action to foreclose liens, it shall be lawful to join one (1) or more lots, parcels, or tracts of land, by whomever owned, if assessed under the provisions of this chapter. The property subject to lien may be redeemed at any time prior to sale by the owner by paying a total amount due including interest, court costs and other costs incident to the action. If the assessment is not paid within ninety (90) days of the mailing of the assessment notice then the code enforcement board shall direct staff to notify the Indian River County Commission, who by approval of at least four members of the Indian River County Commission, may place the assessment on the tax roll as a non-ad valorem assessment and use of the uniform method of the levy, collection, and enforcement of non-ad valorem assessments set forth in Section 197.3632, Florida Statutes.

(6) Upon payment of lien, the county attorney or his designee shall, by appropriate means, evidence satisfaction and cancellation of such lien. Any cost of abatement that exceeds five hundred dollars ($500.00) may be collected by the county in two or more annual cycles.

(7) In an action to foreclose liens, it shall be lawful to join one (1) or more lots, parcels, or tracts of land, by whomever owned, if assessed under the provisions of this chapter. The property subject to lien may be redeemed at any time prior to sale by the owner by paying a total amount due including interest, court costs and other costs incident to the action.

(8) Upon payment of lien, the county attorney or his designee shall, by appropriate means, evidence satisfaction and cancellation of such lien.

SECTION 2. Section 403.08 "Demolition" of Chapter 403 "Property Maintenance Code" of Title IV "Contractor and Building Regulations," is hereby amended as follows:

Coding: Words/letters **underscored** are additions to text; words/letters in **strike-through** format are deletions to text.

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ATTACHMENT 3
ORDINANCE NO. 2014-____

Section 403.08. Demolition.

(1) General. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two (2) years, to demolish and remove such structure.

(2) Notices and orders. All notices and orders shall comply with section 403.085.

(3) Failure to comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate. If the assessment is not paid within ninety (90) days of the mailing of the assessment notice then the building official shall notify the Indian River County Commission, who by approval of at least four members of the Indian River County Commission, may place the assessment on the tax roll as a non-ad valorem assessment and use of the uniform method of the levy, collection, and enforcement of non-ad valorem assessments set forth in Section 197.3632, Florida Statutes.

SECTION 3. Codification.

It is the intention of the Board of County Commissioners that the provision of this ordinance shall become and be made part of the Indian River County Code, and that the sections of this ordinance may be renumbered or re-lettered and the word ordinance may be changed to section, article or such other appropriate word or phrase in order to accomplish such intention.

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ORDINANCE NO. 2014-____

SECTION 4. Severability.

If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. Effective Date.

This ordinance shall take effect upon filing with the Florida Department of State.

This ordinance was advertised in the Vero Beach Press-Journal on the ____ day of ____________, 2014, for a public hearing to be held on the ____ day of ____________, 2014, at which time it was moved for adoption by Commissioner ____________, seconded by Commissioner ____________, and adopted by the following vote:

Chairman Peter D. O'Bryan
Vice Chairman Wesley S. Davis
Commissioner Joseph E. Flescher
Commissioner Tim Zorc
Commissioner Bob Solari

The Chairman thereupon declared the ordinance duly passed and adopted this ____ day of ____________, 2014.

BOARD OF COUNTY COMMISSION
INDIAN RIVER COUNTY, FLORIDA

By: __________________________________
   Peter D. O'Bryan, Chairman

ATTEST: Jeffrey R. Smith, Clerk of
         Circuit Court and Comptroller

By: __________________________________
   Deputy Clerk

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ORDINANCE NO. 2014-_____

Approved as to form and legal sufficiency:

By: _____________________________
   Dylan Reingold, County Attorney

Effective Date: This ordinance was filed with the Department of State on ____ day of _____________, 2014, and becomes effective _________________________.

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TO: The Members of the Planning and Zoning Commission
FROM: Stan Boling, AICP; Community Development Director
DATE: March 20, 2014
SUBJECT: Planning Information Package for the March 27, 2014 Planning and Zoning Commission Meeting

For this meeting’s packet, the following articles are provided:


(2) “‘Boomerang’ buyers getting another chance at homeownership”, Sun-Sentinel, February 23, 2014, Paul Owers.


cc: Board of County Commissioners
    Joe Baird (inter-office mail)
    Michael Zito (inter-office mail)
    Jason Brown (via e-mail)
    Phil Matson (via e-mail)
Zillow: 'Underwater' mortgages continue to fall across South Florida
Sun-Sentinel, 2/28

A steady increase in home values has helped rebuild lost equity and reduce the number of “underwater” mortgages across South Florida.

As of the fourth quarter of 2013, 24.2 percent of Palm Beach County homeowners with a mortgage owed more than the properties were worth -- down from 37.1 percent a year earlier, according to Zillow.com, a real estate website.

In Broward County, the so-called negative equity rate dropped to 25.3 percent from 39.1 percent. The national rate is 19.4 percent.

Roughly half of Palm Beach County’s 60,400 underwater mortgage holders are relatively close to breaking even, though 20.6 percent still owe more than double what the properties are worth, Zillow said.

The trends are similar in Broward, which has 84,314 homes worth less than the mortgages.

“I think negative equity will still be with us for at least the next five years,” said Svenja Gudell, the firm’s director of economic research.

Most underwater borrowers bought or refinanced their properties from 2004 to 2006, before values plummeted in the housing crash.

These owners were stuck in their homes, unable to sell without bringing money to the closing table. But that’s changing as home prices rise.

“You heard a lot of people say, ‘I want to be able to sell, but I can’t move yet,’” said Joy Carter, a real estate agent for Keller Williams in South Florida. “But now they’re more energized and rejuvenated.

“They know they have a shot, and it’s worth it to go out and start looking.”

Gudell expects negative equity to continue declining this year, but she said the rate of improvement will slow as foreclosure activity subsides.

Buyers who scoop up foreclosed homes help clear the market of underwater mortgages, Gudell said.
'Boomerang' buyers getting another chance at homeownership - Sun Sentinel

By Paul Overt, Sun Sentinel

7:17 AM EST, February 23, 2014

Just 10 days before Christmas 2009, Ganel Appolon found an envelope taped to his front door.

He and his family were being evicted from their Tamarac home. Appolon had fallen behind on his mortgage payments, and the lender repossessed the property under terms of his bankruptcy filing.

Despite the financial setback, Appolon vowed to own again.

He spent the next four years saving money and rebuilding his credit. Last fall, he qualified for another mortgage and in December bought a three-bedroom home in Fort Lauderdale for $177,500.

"I feel free," said Appolon, a 46-year-old electrician. "My kids are really, really happy. They kept saying, 'Thank you, Daddy. Thank you, Daddy.'"

Appolon's experience may give hope to tens of thousands of people snared in a housing collapse that hit South Florida particularly hard. Many of those people thought they'd never own again - or at least have to wait a decade or longer to even think about it. Instead, South Florida lenders and real estate agents say many former homeowners are recapturing the American Dream, as "boomerang buyers."

"Time will heal everything, and that's what's happening here," said Jim Flood, regional manager for Supreme Lending in Plantation. "I think it's great that people are getting a second chance. Don't we all want that in life?"

How many are getting that chance? No one knows. The government and housing industry don't track it. But lending titans such as Bank of America and community banks and credit unions typically follow the guidelines from government-run mortgage companies Fannie Mae and Freddie Mac, which together insure about half of the nation's home loans.

Fannie and Freddie require someone with a previous foreclosure to wait seven years before qualifying for a new mortgage. But if the foreclosure was included in the bankruptcy - as it was for Appolon - the borrower has to wait only four years.

A person who unloaded a home before the bank foreclosed - such as through a short sale - must wait two years to get another Fannie or Freddie loan.

A consumer seeking a Federal Housing Administration-backed loan can qualify three years after a foreclosure or short sale.
Former owners who lost a home because of at least a 20 percent cut in pay may be able to qualify for another mortgage after only a year through FHA's Back to Work program.

Catherine Perez used that program to buy a four-bedroom home in Pembroke Pines in November. Three years ago, she lost a Davie townhome in foreclosure after her adjustable-rate mortgage payment jumped $400 a month to $2,200.

Perez, 32, lived with her mother for a year to save money and then rented. She signed up for a credit restoration program through the nonprofit agency United Financial Counselors, raising her credit score by more than 100 points to 672 – enough to get a mortgage. A perfect score is 850.

Perez and her fiance ended up qualifying for a 30-year, fixed-rate mortgage at 4.375 percent. They put down about $18,000 on the $335,000 purchase.

"I'm so relieved," she said. "I wanted to have a home for my future kids."

The nation's housing meltdown slammed many in South Florida. Palm Beach, Broward and Miami-Dade counties finished 2013 with the country's highest foreclosure rate, at one in 25 homes, according to the RealtyTrac listing firm.

More than 167,000 homeowners in Palm Beach and Broward counties have lost their properties to short sales or foreclosures since January 2007, RealtyTrac data show. That pool of potential buyers could help bolster demand just as last year's frenzy cools, analysts say.

"We're about three years past the peak of the foreclosures, and that's about the time when most people would qualify for another loan," said Daren Blomquist, spokesman for RealtyTrac in Irvine, Calif. "The market really needs boomerang buyers to maintain the current recovery."

Some boomerang buyers are required to make down payments of at least 20 percent, while others can put down as little as 3.5 percent or 5 percent — much the same as people without credit problems.

In Appolon's case, he ended up qualifying for favorable loan terms: a 5 percent down payment (about $13,000, with closing costs) and a 30-year, fixed-rate mortgage with a 4.5 percent interest rate, according to his lender, Stephen B. McWilliam, head of Florida State Mortgage Group in Fort Lauderdale.

When Appolon applied for a mortgage last fall, his credit score was 700. He is not sure what his score was at the time of the bankruptcy, but a person in similar circumstances probably would have had a score of 550 or less, McWilliam said.

Kevin Maher, community outreach coordinator with DebTHelper.com, a West Palm Beach-based counseling agency, said the best way to rebuild credit is to pay credit cards and other bills on time and not add new debt. People who take those steps can see their scores rise significantly within a year, he said.

"It's very easy to rebuild your score up to what you need to get back into homeownership," he said. "You just have to stop the bleeding and start something positive."

Ryan Paton, head of Capitol Lending Group in Fort Lauderdale, said he frequently hears criticism about giving mortgages to people who have short sales or foreclosures in the recent past.
But lenders are willing because they realize a large group of otherwise responsible borrowers were trapped in an extraordinary housing debacle not likely to be seen again, he said.

"As long as they've saved money and re-established their credit, they're fantastic buyers," he said.

Doug Leevers, mortgage sales manager for Tropical Financial Credit Union, said the Miramar-based lender is willing to work with boomerang buyers who don't qualify for government-backed loans. He said Tropical considers each case individually, evaluating a person's debt, income and expenses.

"We do not want to get back into the same situation we had several years ago," with people buying homes they could not afford, Leevers said. "But we have an open mind for the right scenario."

Palm Beach County resident Jeff Bell said he always had an excellent credit score - once as high as 809. But his credit rating dropped by about 100 points after a 2011 short sale following a divorce and the collapse of the housing market.

The 43-year-old father of two said he knew the short sale meant he'd have to wait two years before he could qualify for another mortgage. As the two-year anniversary approached last year, he contacted Paton.

Bell ended up qualifying for a 30-year, fixed-rate mortgage with an interest rate of about 4.6 percent. He put down 20 percent on a $200,000 house near Loxahatchee.

Despite his previous housing struggles, Bell said he always planned to own again.

"When you rent, you're just giving your money to someone else," he said. "Homeownership is about having a solid foundation for your family. It builds a sense of pride."

Paulowers@tribune.com, 561-243-6529 or Twitter @paulowers

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Is housing market starting to cool?

By John Hilderbrand
Published: Tuesday, February 25, 2014 at 3:46 p.m.

Home prices last year increased at their best rate since 2005, but two prominent, national housing experts say that momentum has stalled into 2014.

The strongest part of the recovery in U.S. home values appears over, as higher prices and mortgage rates cool the market, according to the analysts who deliver the widely watched S&P/Case Shiller Home Price Indices.

Home prices may increase around 5.3 percent this year, less than half the 11.3 percent gain posted in 2013, Yale University economist Robert Shiller said Tuesday.

"We're losing our gentle sense of optimism about housing," Shiller said. "It's not a time of great enthusiasm for a home purchase."

His colleague, David Blitzer, chairman of the Index Committee at S&P Dow Jones Indices, said U.S. home prices fell for the second straight month in December as brutally cold weather, tight supplies and higher costs slowed sales.

"Recent economic reports suggest a bleaker picture for housing," Blitzer said. "Existing home sales fell 5.1 percent in January from December to the slowest pace in over a year. Permits for new residential construction and housing starts were both down and below expectations."

While some of that reflects the cold weather throughout much of the country, he said higher home prices and mortgage rates also are taking a toll on affordability.

The local picture

Single-family home prices surged 21 percent in the Sarasota-Manatee region and 16 percent in Charlotte County in 2013, the Florida Realtors trade group reported.

But a separate CoreLogic Case-Shiller report released last year predicted home prices will rise just 3.6 percent in Sarasota-Manatee and 4.3 percent in Charlotte through mid-2014.

Median home prices declined 7 percent from December to January in Sarasota-Manatee and by 10 percent in Charlotte. Sales were down as well during the typically slower first month of the year.

John Bockin of Re/Max Harbor Realty said single-family home prices are 15 percent to 25 percent higher in Charlotte than last year, but most believe that will ease in 2014.

"The general consensus is that we are expecting moderate growth in average sale prices in homes, condos and vacant land," said Bockin, president of the Punta Gorda-Port Charlotte-North Port Association of Realtors.

Worries about falling prices

On Tuesday, Shiller raised the prospect that home prices might decrease by the end of the year.

He declined to call that a prediction, but said falling prices "really is a worry."
The S&P/Case-Shiller Indices measure home price increases in three areas: all nine U.S. census divisions, 10 major metro areas and 20 large metro areas.

All three posted solid gains last year — 11.3 for the national, 13.6 percent for the 10-city and 13.4 percent for the 20-city.

The 20-city index includes two Florida cities. The price index rose 15.8 percent in Tampa and 16.5 percent in Miami last year, both topping the national averages.

Tampa and Miami were among just six of the major cities that posted gains for the month of December.

The national Case-Shiller index covers roughly half of U.S. homes. The index measures prices compared with those in January 2000 and creates a three-month moving average.

Some say the slowdown in sales prices could make homes more affordable for buyers.

"The market should continue its slow march back to normal, as annual appreciation rates fall to more sustainable levels around 3 percent," said Stan Humphries, chief economist at real estate data provider Zillow.

Mortgage rates are a one percentage point higher than last spring, although they remain low by historical standards. The average rate on the 30-year loan was 4.33 percent last week, mortgage buyer Freddie Mac reported.

Those rising rates have dampened the buyer enthusiasm seen in 2012, when the housing market began its recovery, Shiller said.

"Homebuyers are not thinking it's an exciting investment," he said.

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Sun Sentinel

Active adult communities keeping Baby Boomers busy

By Paul Owens, Sun Sentinel

9:50 PM EDT, March 9, 2014

Bob Kaplan moved into his home nearly four years ago at Valencia Reserve, a 55-and-over community west of Boynton Beach.

Kaplan rarely has to leave the gated development on Lyons Road to make a dent in his to-do list, which includes couples canasta, men's club meetings and the occasional tennis match.

"The first thing you have to do when you move here is buy a calendar," the 73-year-old Massachusetts native said. "There are so many activities to keep people happy.

Valencia Reserve, built by GL Homes, and similar projects across southern Palm Beach County cater to Baby Boomers looking for a sense of community and an "active adult" lifestyle.

In the 1960s and '70s, retirees from the Northeast were drawn to low-cost condominiums at such South Florida communities as Kings Point and Century Village. But Boomers today want more room offered in a single-family home, analysts say.

The homes range in price from $400,000 to $700,000. The developments feature expansive clubhouses equipped with such amenities as card and game rooms, a fitness center and cafés serving breakfast and lunch.

Residents can play tennis, pickleball, handball and bocce, and a full-time lifestyle director organizes trips, shows and the schedules of more than 100 clubs.

"Not everyone wants to live in a community where everybody else is 55 or older, but there is a market for it," said Jack McCabe, a housing analyst in Deerfield Beach. "The Baby Boomer generation, besides being more affluent than generations past, is much more focused on outdoor activities."

By 2040, Palm Beach County's 55-and-over population is projected to top 658,000, up 43 percent from 2012 estimates, state data show. Broward County will have more than 692,000 people in that age group, a 44 percent increase.

Despite the expected growth in Broward, there is no active adult market there, largely because builders struggle to find available land. Most of Broward's new home construction is in Parkland, but those communities don't have age restrictions.

Ansca Homes is selling single-family homes for active adults at Villagio Reserve in Delray Beach, and K. Hovnanian recently sold out of a 55-and-over community in Delray.
But Sunrise-based GL Homes has dominated the Palm Beach County market, building more than 7,000 active adult homes since 1996. All are clustered in or near Lyons Road in suburban Boynton Beach and Delray Beach.

The company is moving forward with its eighth age-restricted project, Valencia Cove, on Lyons south of Boynton Beach Boulevard. Nearly 300 of the 823 homes have sold so far, and the first residents are moving in this month.

Marcie DePlaza, division president of GL, said the builder has found strong demand for the communities because the lifestyle is attractive and the homes are upscale yet affordable.

"And certainly the sunshine helps," she said.

While most of the buyers are retirees from the Northeast, some are South Florida residents who have tired of pricey golf course communities, DePlaza said.

Privately held GL banks land like few public builders can, said David Cobb, regional director for the Metrostudy research firm. GL also is willing to spend millions of dollars up front to build clubhouses and other amenities needed to prove to potential buyers that it's committed to building the developments.

"Some builders don't have the financial muscle to do that," Cobb said.

Gail Miller flew in from Pittsburgh late Thursday and managed to grab the second spot in line at a lottery held at Valencia Cove on Friday. She picked out a lakefront lot - her first choice - and plans to move into the three-bedroom dwelling when it's ready next spring.

Miller, 59, who's retiring in June after teaching kindergarten for 38 years, can't wait to hit the fitness center and take a cooking class or two.

"It's not an old-age home here," she said.

Staff writer John Manini contributed to this story.

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Florida flight schools push to meet international demand for pilots

Staff Tampa Bay Business Journal

As the worldwide demand for pilots increases, Florida flight schools will play a major role in training the next generation to take to the skies.

Florida has dozens of flight schools that cannot churn out pilots fast enough to meet the demand from the growing industry, Florida Today reported. For example, The Boeing Co. projects that Asian airlines will triple the size of their fleets in the next 20 years and will need to hire 192,300 new pilots during that time.

In the U.S., the average age of airline pilots is older than 50 and pilots must retire at the age of 65, Florida Today said. Boeing forecasts that the North American airline industry will add 85,700 pilot jobs in the next 20 years.

"The number of pilots being trained now is a small fraction of the number of pilots being trained in the 1990s, and we need more people now than we did then," said Zach Grant, a flight officer at United Airlines. "We at United, just to keep abreast of attrition, will have to start hiring 500-to-600 pilots per year for the foreseeable future."

Pilots continue to complain over low pay. Pilots just graduating aviation school are typically paid below $30,000 per year if they choose to work for an American regional airline, Florida Today said.

Due to its weather, Florida is the national leader in training pilots. Florida Tech in Melbourne has increased in size by 8 percent to 10 percent per year. "We have the airspace to fly almost every day of the year," Greg Beverlage, the university’s director of business operations for aviation programs, told Florida Today.
DEP ends effort to sell $50 million worth of parks and preserved land

Craig Pittman, Times Staff Writer

Monday, March 3, 2014 11:48am

Nine months after the Florida Department of Environmental Protection launched a review of its conservation lands looking for $50 million worth that it could sell as surplus, the agency is ending the program without having sold a single acre.

"The department will not continue with this large-scale conservation land sale effort," DEP press secretary Patrick Gillespie said Monday.

The effort stirred up statewide controversy and apparently cost the department two top officials without raising a penny of the $50 million the Legislature had promised.

By ending the surplus land review without a single sale, the DEP has exposed "the myth that there are thousands and thousands of acres of unneeded land" in the state park system, Charles Lee of Audubon Florida said. That belief among legislators "is just hokum," he said.

The DEP revealed the end of the program in an obliquely worded news release sent out after 6 p.m. Friday, although Gillespie said that was not done to hide the news.

Without mentioning that none of the park land was ever cleared for sale, the release talked of shifting the focus to trying to sell off property that's not part of a state park or preserve, such as old hospitals and unneeded prisons. One parcel on the new must-sell list: the Hillsborough Correctional Institution in Riverview, which closed in 2012.

In Friday's release, DEP secretary Herschel Vinyard Jr. praised his staff for the effort they put in, making no mention of the hard feelings stirred up. Gillespie said he did not know if Vinyard consulted Gov. Rick Scott about pulling the plug or how much the review had cost taxpayers.

The release said the land hunt was worthwhile for DEP because it "has significantly increased its understanding of the land owned by the state."

For decades, through state programs such as Florida Forever, the Legislature invested $300 million a year in buying environmentally sensitive land. During the recent economic meltdown, the Legislature cut off the funding. Some lawmakers called for getting rid of some of the land.

Last spring, the DEP proposed, and the Legislature approved, including in the state budget $20 million in cash for buying land, plus up to $50 million more raised by selling off unneeded park land. To do that requires declaring the property to be no longer needed for conservation, despite the "Forever" part of the program name.

DEP and other state agencies scrambled for land that could be declared surplus and sold. In July, a group called the Surplus Lands Initiative's Technical Advisory Group met to go over the first draft and fretted that the DEP was rushing the job.
In early September, DEP officials posted an initial list of 169 properties covering about 5,000 acres. Within weeks they had cut it to 4,000 acres, acknowledging that some land was underwater or had title problems. They also acknowledged they would never come up with $50 million worth.

"It was flawed from the beginning," Lee said. "If they'd have gotten $15 million from the first list, I'd have been real surprised."

The largest parcel, at 2,600 acres, was part of the Hilochee Wildlife Management Area in the Green Swamp. Records obtained by the Times showed that its owner, the Florida Fish and Wildlife Conservation Commission, had proposed it after what its staff called a "fairly quick and coarse review." The agency subsequently asked DEP to remove it.

The surplus park sale proposal stirred up strong opposition among not just environmental activists but also local residents and government officials in the areas. Both the Polk County Commission and the Lee County Commission voted to oppose the sale of preserved land in their areas.

The review was being led by the director of the DEP's Division of State Lands, Susan Grandin, who had held that post for 15 months. She handed in her resignation Feb. 11, saying she needed to care for her ailing mother. She did not respond to requests for comment.

Grandin's resignation followed the Jan. 31 resignation of her second-in-command, Stephanie Leeds. A nine-year DEP veteran, Leeds wrote in her resignation that she believed "you would be better served by another more willing to fulfill the current vision for the Division of State Lands." She did not explain and could not be reached for comment.

When the Times reported on those resignations two weeks ago, Gillespie said their departure would not hinder the continuing land review.

During a January legislative committee hearing, state Sen. Jack Latvala, R-Clearwater, called the whole process "a disaster" and "a charade." But last week House Speaker Will Weatherford, R-Wesley Chapel, defended the Legislature's command to DEP to sell surplus park land: "In concept, we all love it. I mean, how much land is enough? How much land do you need?"

During the nine months the DEP spent fruitlessly looking for land to sell, it also spent $10 million acquiring more land.

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How America fell out of love with orange juice

Sales dropped almost every year for the last decade. Last year, orange juice sales hit their lowest level in at least 15 years, according to Nielsen. Over the same period, per-capita consumption fell roughly 40%. And this year is looking to be another rough one for big orange.

Orange juice's precipitous decline is a big deal. For nearly five decades, the sweet beverage made its way onto more and more American breakfast tables nearly every year. At its height, almost three-quarters of American households bought and kept orange juice in their refrigerators, according to Aliisa Hamilton 2009's book *Squeezed: What You Don't Know About Orange Juice*. But shifting American eating habits--which stimulate sugar and leave little time for breakfast--and surging juice prices have done significant damage to American demand.

Concentrate, Concentrate

America has lived without orange juice before. Until the late 1940s, orange juice wasn't even a widely available commercial drink. The little orange juice Americans indulged was
either fresh squeezed, or boiled and then canned—a process which helped preserve the juice, but also made it taste terrible.

After World War II, a group of scientists changed the American orange juice landscape forever. Determined to find a more palatable intersection between preservation and flavor, these scientists developed a new process roughly based on the one they saw used to dehydrate food during the war effort. Instead of boiling the juice, they heated it slightly until water evaporated. Then, they'd add a touch of fresh orange, which gave the concoction a "fresh" taste. Orange juice "from concentrate" was born. As was the industry's marketing push.

The product was a hit. Per capita orange juice consumption jumped from under eight pounds per person in 1950, to over 20 pounds per person in 1960. Florida's production of concentrated juice shot from 276,000 gallons in 1946 to more than 116 million in 1962, according to a report by agricultural economist Robert A. Morris. By 1970, 80% of Florida's oranges were being used to make orange juice and the vast majority of that was from concentrate.

The increased popularity of flash-pasteurized, ready-to-drink juice advertised as "not-from-concentrate" helped drive consumption still higher in the 1960s and 1970s.

But as you can see, things started to roll over in the late 1990s. Since 1998, US orange production and orange juice sales have fallen virtually every year. That decline comes despite strong population growth in the US, which means the average American consumes far fewer oranges today than she did in 2000.

Why?

Orange juice is getting more expensive
An insect-born disease known as "citrus greening" has been hampering production, reducing supply, and raising prices. The disease hit south Florida in 2002. Scientists now believe just about every orange grove in the state of Florida is infected. Given that Florida still produces the vast majority of the US's orange juice (over 80%, according to Florida Citrus) that's a pretty big problem.

"It's the most devastating issue the industry currently faces and has ever faced," Matt Biddle, chief economist at the Florida Department of Citrus, told Quartz. "We lose more trees in a given year than are actually being planted." The US orange tree population has fallen by nearly 75% since 2005, according to the USDA.

Bearing Acres of Oranges – United States

<table>
<thead>
<tr>
<th>Year</th>
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<tbody>
<tr>
<td>2003</td>
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<td>2004</td>
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<td>2013</td>
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Nearly dying off, they're becoming far less productive, too. The infection is increasing the rate of fruit drop (the rate at which unripe oranges fall off trees) and decreasing the size of oranges, sometimes so much that they aren't even juiceable. This is the sort of sad orange the disease has given birth to.

With few trees, less productive trees, the price of growing oranges is rising. The cost of growing orange trees has doubled from roughly $1,500 an acre in 2000 to as much as $3,000 today, according to Florida Citrus estimates. And when something gets more expensive to make, it tends to get more expensive to buy, too. Wholesale orange juice prices today are about twice what they were in 2000.

Orange imports to the US have risen slightly in recent years, but not nearly fast enough to offset the fall in domestic production. Brazil, which produces almost all of the oranges consumed by the rest of the world, has suffered through its own orange problems.

Americans aren't eating breakfast

Orange juice's traditional ties to breakfast aren't doing it any favors either.

That's because Americans aren't eating breakfast like they used to. Breakfast has been on the decline for over 70 years now, according to a recent study (PDF). Some 45% of American adults ate breakfast back in 1974, according to data from the National Health and

Nutrition examination Surveys. As of 2002, that number has fallen to 82%, and is likely lower now.

“We’ve seen the evolution away from breakfast as a meal, which orange juice has long been associated with,” Solis said. “Younger consumers especially have been increasingly willing to replace OJ at breakfast time, and it’s been a big problem for the industry.”

And they’re trying to eat less sugar

Americans are also getting a lot more finicky about what they put in their bodies. A growing awareness around the harms of sugar, of which orange juice has plenty, is hurting sales.

The industry has responded, in part, by suggesting consumers continue to drink orange juice, but just less of it. It’s also becoming abundantly clear that Americans no longer need to drink stuff to get their vitamin C—thanks to a proliferation of pills, chewable tablets, and powders.

And then there’s the growing worry that the “fresh” juice the industry has been touting for years may not be all that fresh, after all. Pepsi, which owns Tropicana, has come under fire for its use of the term "all-natural." And Coca-Cola, for its Simply Orange brand of juice, which critics say may not be all that simple.

So where does orange juice go next?

It might become a luxury drink.

After all, as US orange supplies continues to shrink—annual production could dip below 100 million boxes by 2070, the lowest level since 1946—prices will likely continue to rise.

<table>
<thead>
<tr>
<th>The rising price of orange juice</th>
<th>Forecasted price per box of oranges</th>
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<tbody>
<tr>
<td>2012</td>
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<td>2014</td>
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<td>2022</td>
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Whether Americans will continue to buy orange juice at higher and higher prices remains to be seen.

Increasingly, consumers seem to be adopting the challenge posed by the 1990s Minute Maid tagline: “For juice that tastes fresher, you’ll have to squeeze it yourself.” The orange industry probably didn’t expect that two decades later, Americans might be happy to try.

“People are increasingly making it at home,” said Solis, the Florida Citrus Department economist. “It’s something we’re aware of.”