



Port St. John Dependent Special District Board

Port St. John Library
6500 Carole Avenue
Port St. John, FL 32927
Agenda
Wednesday, January 3, 2024

Call To Order - 6:00 P.M.

Approval of Minutes - June 7, 2023

G. Public Hearings

- G.1.** 3955 Kings Hwy, LLC (Bryan Potts) requests a Small Scale Comprehensive Plan Amendment (23S.11), to change the Future Land Use designation from RES 8 and CC to all CC. (23SS00011) (Tax Account 2423666) (District 1)
- G.2.** 3955 Kings Hwy, LLC (Bryan Potts) requests a change of zoning classification from AU and BU-2 to all BU-2. (23Z00049) (Tax Account 2423666) (District 1)
- G.3.** Anabeth Nazario requests a change of zoning classification from RU-1-9 to RU-1-11. (23Z00079) (Tax Account 2320163) (District 1)

Public Comment

Adjournment

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the Planning and Development Department no later than 48 hours prior to the meeting at (321) 633-2069.

Assisted listening system receivers are available for the hearing impaired and can be obtained from SCGTV staff at the meeting. We respectfully request that ALL ELECTRONIC ITEMS and CELL PHONE REMAIN OFF while the board is in session. Thank You.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.1.

1/3/2024

Subject:

3955 Kings Hwy, LLC (Bryan Potts) requests a Small Scale Comprehensive Plan Amendment (23S.11), to change the Future Land Use designation from RES 8 and CC to all CC. (23SS00011) (Tax Account 2423666) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Port St. John Dependent Special District Board conduct a public hearing to consider a Small Scale Comprehensive Amendment (23S.11) to change the Future Land Use designation from RES 8 (Residential 8) and CC (Community Commercial) to all CC.

Summary Explanation and Background:

The applicant is requesting a Small-Scale Comprehensive Plan Amendment (SSCPA) to change the Future Land Use Map from Residential 8 Directive (RES 8 DIR) on 0.47 acres which allows 8 units per acre and Community Commercial (CC) on 2.99 acres to all CC for the proposed BU-2 zoning to be consistent with the Future Land Use Element. This request will permit the entire parcel to be rezoned to BU-2 to build a mini warehouse. The subject parcel is located on the south side of Kings Highway, a County maintained roadway.

The applicant has a companion rezoning application, 23Z00049, requesting a change from AU (Agricultural Residential) and BU-2 (Retail, Warehousing and Wholesale Commercial) to all BU-2 (Retail, Warehousing and Wholesale Commercial).

This area can be characterized as a commercial corridor with several CC FLU designations. Existing commercial development includes an automotive shop, dumpster roll off location and a dog groomer on the northeastern parcels. Additional commercial uses are located east along Kings Highway.

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

The Local Planning Agency will consider the request on Monday, January 8, 2024. Beginning at 3:00 p.m. The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

The Board of County Commissioners will consider the request on Thursday, February 1, 2024. Beginning at 5:00 p.m. The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County planning and zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For development applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:
 - 1. historical land use patterns;
 - 2. actual development over the immediately preceding three years; and
 - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 - 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 - 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 - 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the

use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;
- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in

support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

“The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 23S.11 (23SS00011)
Township 23, Range 35, Section 13*

Property Information

Owner / Applicant: **3955 Kings Hwy, LLC.**

Adopted Future Land Use Map Designation: Residential 8 Directive (RES 8 DIR) and Community Commercial (CC)

Requested Future Land Use Map Designation: All Community Commercial (CC)

Acreage: 3.46

Tax Account #: 2301890

Site Location: Southeast corner of Kings Highway and Florida East Coast Railway

Commission District: 1

Current Zoning: Agricultural Residential (AU) and Retail, Warehousing and Wholesale Commercial (BU-2)

Requested Zoning: Retail, Warehousing and Wholesale Commercial (BU-2) (23Z00049)

Background & Purpose

The applicant is requesting a Small-Scale Comprehensive Plan Amendment (SSCPA) to change the Future Land Use Map from Residential 8 Directive (RES 8 DIR) on 0.47 acres which allows 8 units per acre and Community Commercial (CC) on 2.99 acres to all CC for the proposed BU-2 zoning to be consistent with the Future Land Use Element. This request will permit the entire parcel to be rezoned to BU-2 to build a mini warehouse. The subject parcel is located on the south side of Kings Highway, a County maintained roadway.

On August 6, 1992, the Port St. John Directives were an adopted designating a portion this area as Residential 8 Directive (RES 8 DIR).

The applicant has a companion rezoning application, **23Z00049**, requesting a change from AU (Agricultural Residential) and BU-2 (Retail, Warehousing and Wholesale Commercial) to all BU-2 (Retail, Warehousing and Wholesale Commercial).

The western portion of parcel retains a zoning classification of BU-2. On September 24, 1998, The Board approved rezoning action **Z-10150**, changing the zoning from BU-1 to BU-2.

The original zoning of the AU zoned portion of the parcel was GU (General Use). On August 7, 2003, zoning action **Z-10827** rezoned the GU portion to AU (Agricultural Residential).

On October 12, 2023, the parcel was combined with the west parcel as one parcel per Quit Claim Deed recorded in Official Records Book 9907, Pages 2243 thru 2245 in order to support the proposed development.

Comprehensive Plan Policies/Comprehensive Plan Analysis

The BU-2 zoning classification may not be considered consistent with the existing RES 8 Directive Future Land Use designation; however, the proposed BU-2 zoning classification may be considered consistent with the requested Community Commercial (CC) Future Land Use Map designation.

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

The subject parcel is located on the south side of Kings Highway, a County maintained roadway. The applicant has not provided a proposed site plan. This is not a requirement for rezoning nor Future Land Use Map change and the site plan has not been reviewed for compliance with the land development codes and other County departments.

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

With the adjacent residential to the east, there is no interconnectivity as the is a separate development along with the Florida East Coast Railway to the west.

- C. Existing commercial development trend in the area;

This area can be characterized as a commercial corridor with several CC FLU designations. Existing commercial development includes an automotive shop, dumpster roll off location and a dog groomer on the northeastern parcels. Additional commercial uses are located east along Kings Highway.

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

- E. Availability of required infrastructure at/above adopted levels of service;

The preliminary concurrency analysis did not indicate that the maximum development potential from the proposed Future Land Use Map change would cause a deficiency in the transportation adopted level of service. The subject property has access to City of Cocoa potable water and septic. Concurrency will be reviewed during the site plan process.

- F. Spacing from other commercial activities:

The closest Community Commercial activities are located on the west portion of subject parcel with frontage on Kings Highway. Additional commercial activities can be found 660 feet east along the south of Kings Highway. Community Commercial clusters up to 10 acres in size should be spaced at least 2 miles apart.

- G. Size of proposed commercial designation compared with current need for commercial lands;

A market study was not provided nor required.

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems:

The applicants will work with Natural Resources to ensure conformance with the Conservation Element. No noteworthy land use issues were identified.

- I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan stage.

- J. Impacts upon strip commercial development.

The applicant is proposing to develop a mini warehouse facility. Kings Highway is an existing commercial corridor, the proposal would not extend strip commercial development, which is discouraged within the Future Land Use element of the Comprehensive Plan. This request could be considered infill development.

Activities Permitted in the Community Commercial (CC) Future Land Use Designations FLUE Policy 2.7

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant's proposed use can be considered consistent with these uses.

Locational and Development Criteria for Community Commercial Uses FLUE Policy 2.8

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for

clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

The subject site is not located within an existing commercial cluster but, rather along an existing commercial corridor along Kings Highway, which functions as an Urban Major Collector Road. The use of infill development maybe considered the best use of resources, and it provides an alternative to new development by reducing loss of critical and resource lands to new development by focusing on strengthening older areas.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The subject site is not located at an intersection and will not exceed 40 acres.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

Kings Highway, is a major arterial roadway, is an existing commercial corridor serving the community and the surrounding region.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

The gross floor area is regulated through the land development regulations and reviewed at the time of site plan review.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

The Floor Area Ratio (FAR) is evaluated at the time of site plan review and regulated through the land development regulations. The applicant has not requested PUD zoning.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

The request is not for a recreational vehicle park.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The applicant proposes to utilize subject parcel for parking and a stormwater retention pond accessory to a mini warehouse. The hours of operation, lighting and traffic is not anticipated to affect the quality of life in the existing neighborhood. There is no anticipation of odor, noise level or site activity more so than already exists. However, CC FLU allows for an array of light manufacturing, warehouse, retail, personal and professional uses which may. This property will need to comply with Brevard County Performance Standards noted within Section 62-1483 and 62-1833.5 of Brevard County Code.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

- 1. historical land use patterns;

There are undeveloped and developed single-family residential and commercial parcels along the Kings Highway corridor from the Railroad tracks to S. Highway 1. The developed character of the surrounding area on the south side of Kings Highway is single-family residential abutting the east. To the west is the Florida East Coast Railway. West of the East Coast Railway is a parcel with Planned Industrial uses. To the south of the subject property is a single-family mobile home. To the north across Kings Highway is Electric Utility.

- 2. actual development over the immediately preceding three years; and

There has been one recent zoning action within 0.5 miles of the subject property within the last three years.

- 3. development approved within the past three years but not yet constructed.

There has not been any approved development within this area in the preceding three (3) years that has not been constructed.

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

Staff analysis indicates the request is not located within an existing neighborhood. However, there is a pattern of existing single-family residential surrounding the property to the east and south. The subject property is also abutting the Florida East Coast Railway property along the west.

The BU-2 zoning classification is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted (i.e., major auto-repair facilities, paint and body shops, and contractor storage yards). Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered.

A preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service; however, the maximum development potential from the proposed rezoning increases the percentage of MAV by 0.12%.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:
1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The area has development of roads, open spaces, and similar existing features. It is not located in a neighborhood or subdivision but is along a commercial corridor.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

Staff analysis indicates that the surrounding area to the east is residential in character.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

The subject parcel is located along corridor of commercial and residential uses further east. The subject parcel is proposed to be rezoned from BU-2 and AU to all BU-2. As the immediate area is commercially and single-family zoned, the proposed uses maintain the commercial integrity of the area.

The closest BU-2 zoning classification is located approximately 815-feet east of the subject property, along the south side of Kings Highway.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Electric Utility, across Kings Highway	IU	PUB
South	Single-family mobile home	RRMH-1	RES 8 DIR
East	Single-family residence	GU, AU & RU-1-7	RES 8 DIR
West	Planned Industrial uses west of the Florida East Coast Railway	PIP	PI

The developed character of the surrounding area on the south side of Kings Highway is single-family residential abutting the east with GU, AU, and RU-1-7 (single-family residential) zoning. To the west is the Florida East Coast Railway. To the south of the subject property is a single-family mobile home with RRMH-1 zoning.

The current AU zoning classification permits single family residential development on lots of not less than two and one-half acres having a minimum width of 150 feet and a minimum depth of 150 feet. The minimum house size is 750 square feet.

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The RU-1-7 zoning classification allows one single-family residence on minimum 5,000 square foot lots. The minimum floor area is 700 sq. ft.

The RRMH-1 zoning classification permits one single-family mobile home or detached dwelling unit of spacious character. It requires a minimum lot size of one (1) acre with a width and depth of no less than 125-feet. It requires a minimum living area of 600 sq. ft.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Kings Highway, between Grissom Pkwy. and Highway 1, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of D, and currently operates at 34.29% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.12%. The corridor is anticipated to operate at 34.41% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The subject property has access to the City of Cocoa potable water and on sewer.

Environmental Constraints

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Historic Resources

There are no recorded historical or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item # 23SS00011

Applicant: Tannath Design (Owner: Zinser Properties LLC)

Land Use Request: RES 8 to CC

Note: Consistent zoning with surrounding property and allowance of parking

PSJ Board: 8/9/2023; **BCC Hearing Date:** 9/7/2023

Tax ID No: 2323666

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

This entire parcel contains mapped aquifer recharge soils (Pomello Sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~22 to 26 feet NAVD) indicate the soils may consist of Type 2 or Type 3 Aquifer Recharge soils, which have impervious area restrictions. A topographic survey should be completed prior to development to confirm elevations. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

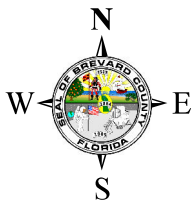
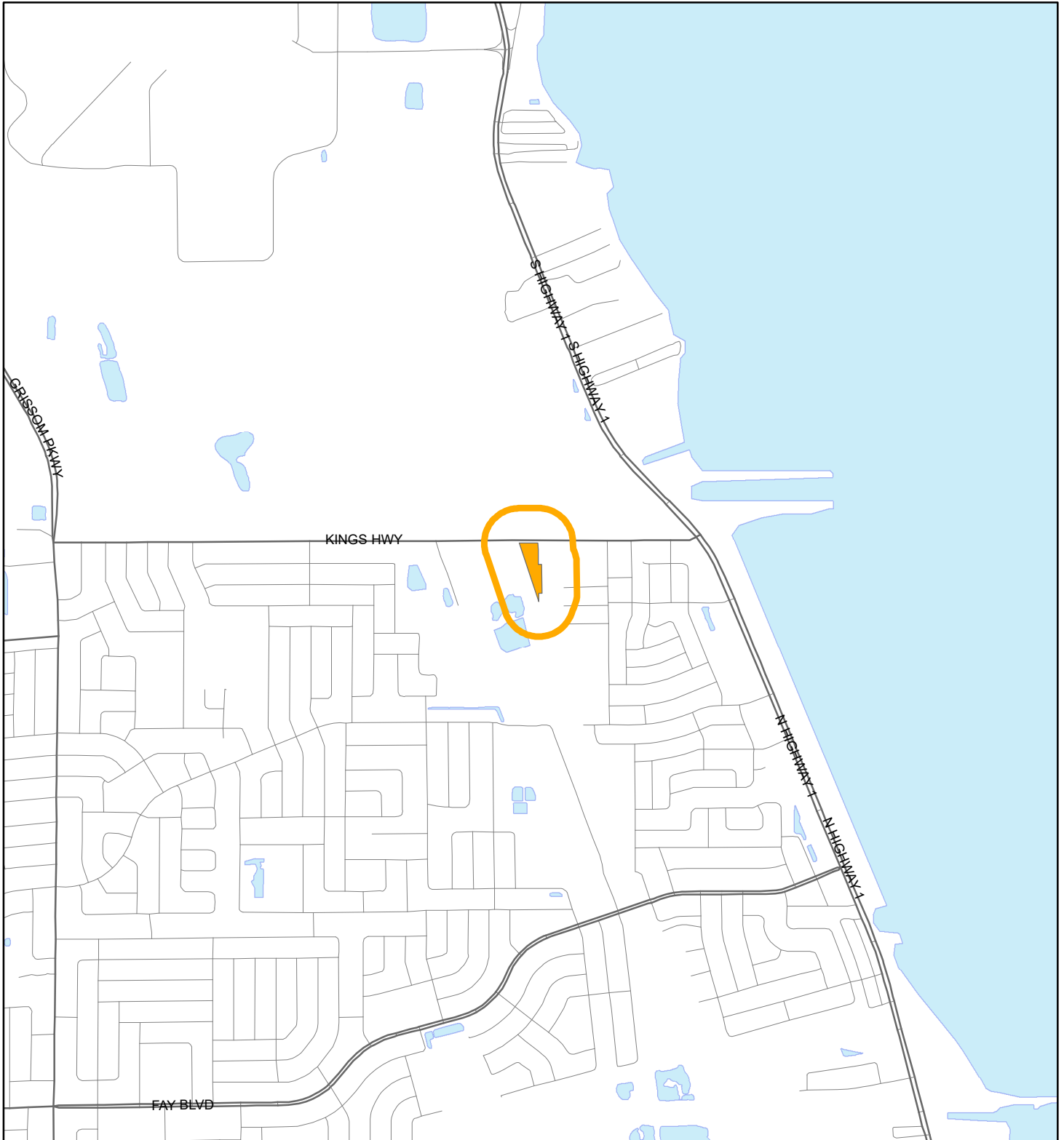
Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. Per Section 62-4341(18) of the Brevard County Landscaping, Land Clearing, and Tree Protection ordinance, Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay habitat west of the property, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

3955 KINGS HWY LLC
23SS00011





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

Buffer Distance: 500 feet

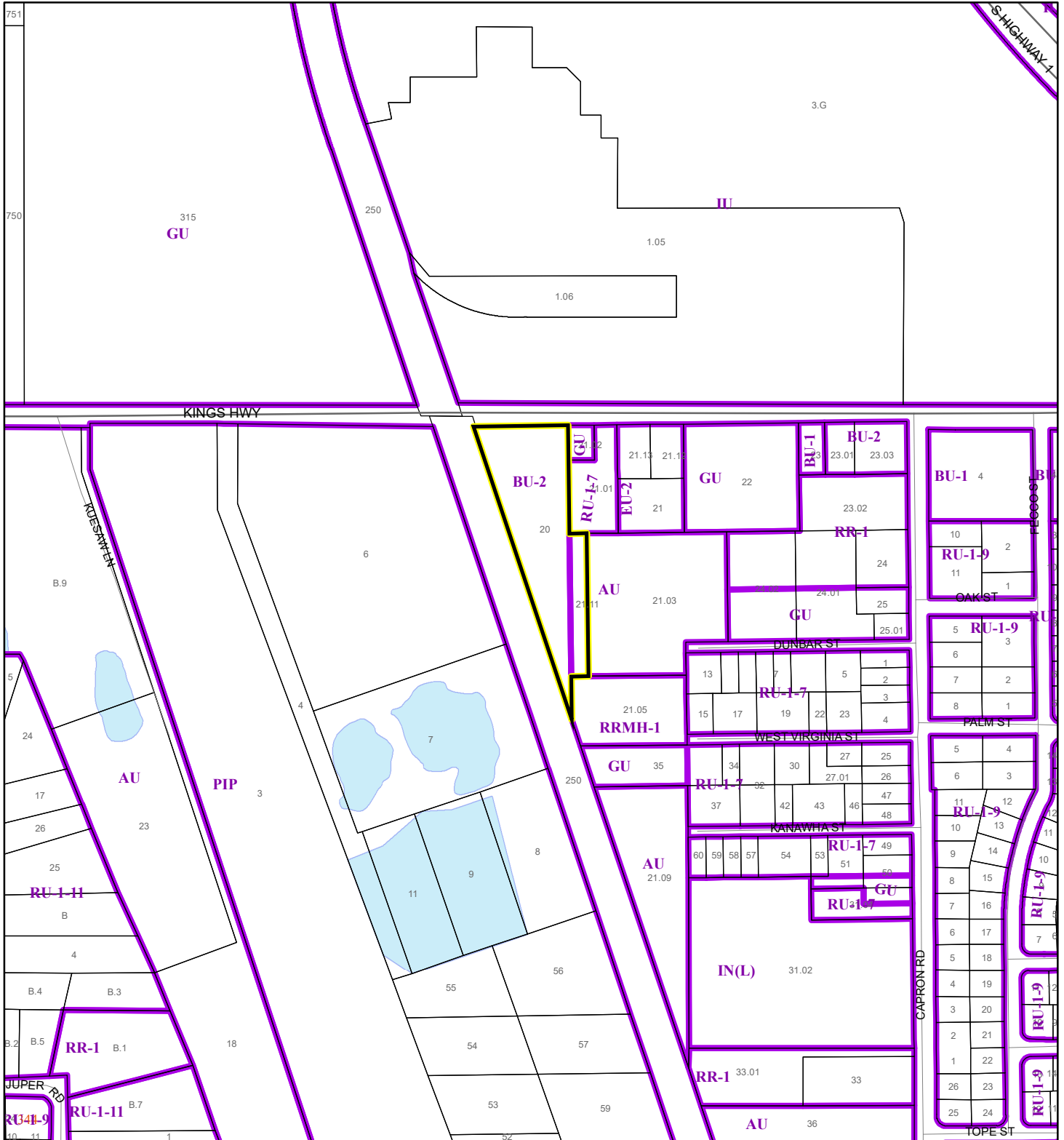
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/24/2023

-  Buffer
-  Subject Property

ZONING MAP

3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

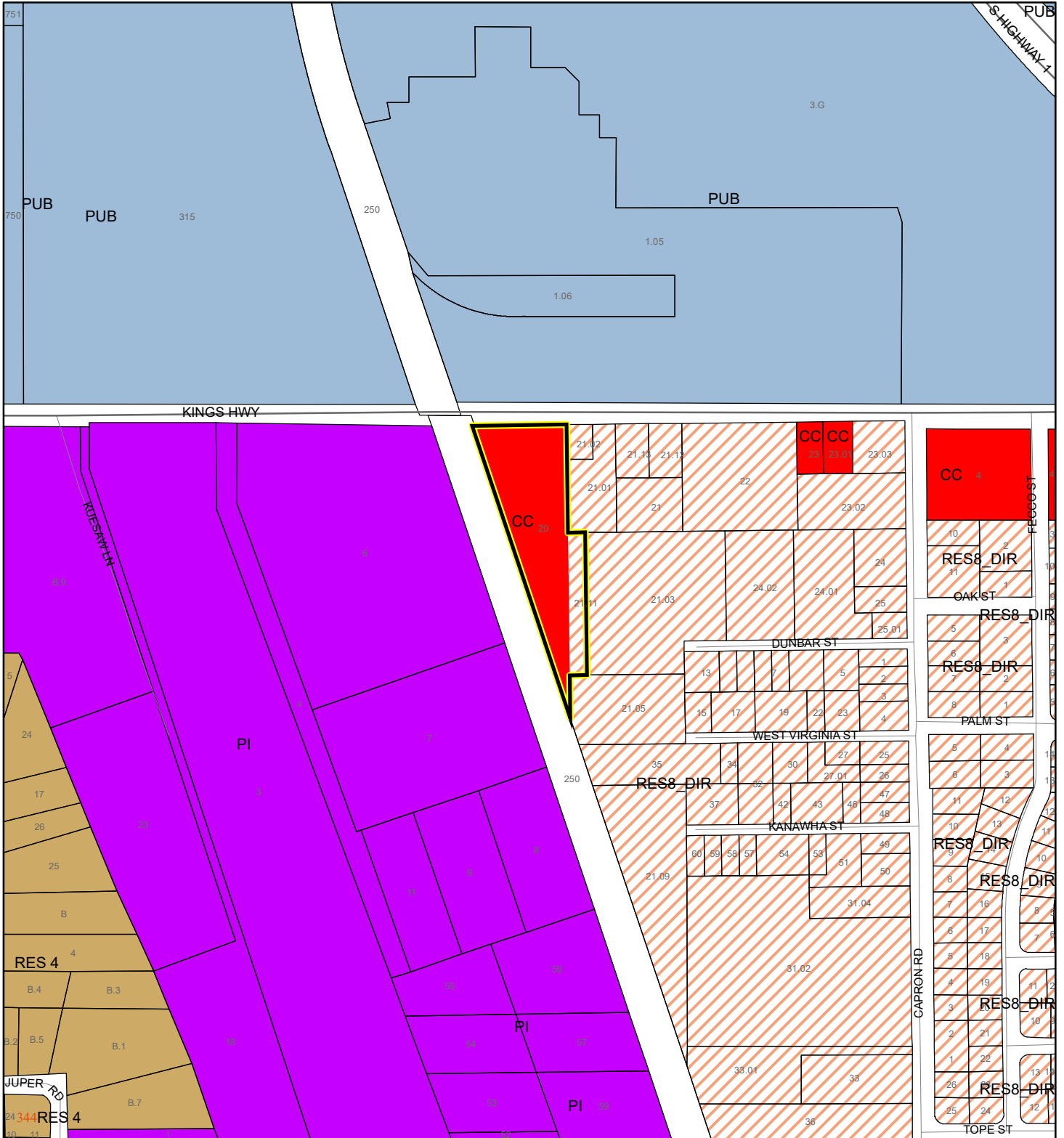
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/24/2023



- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

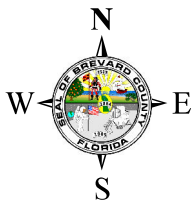
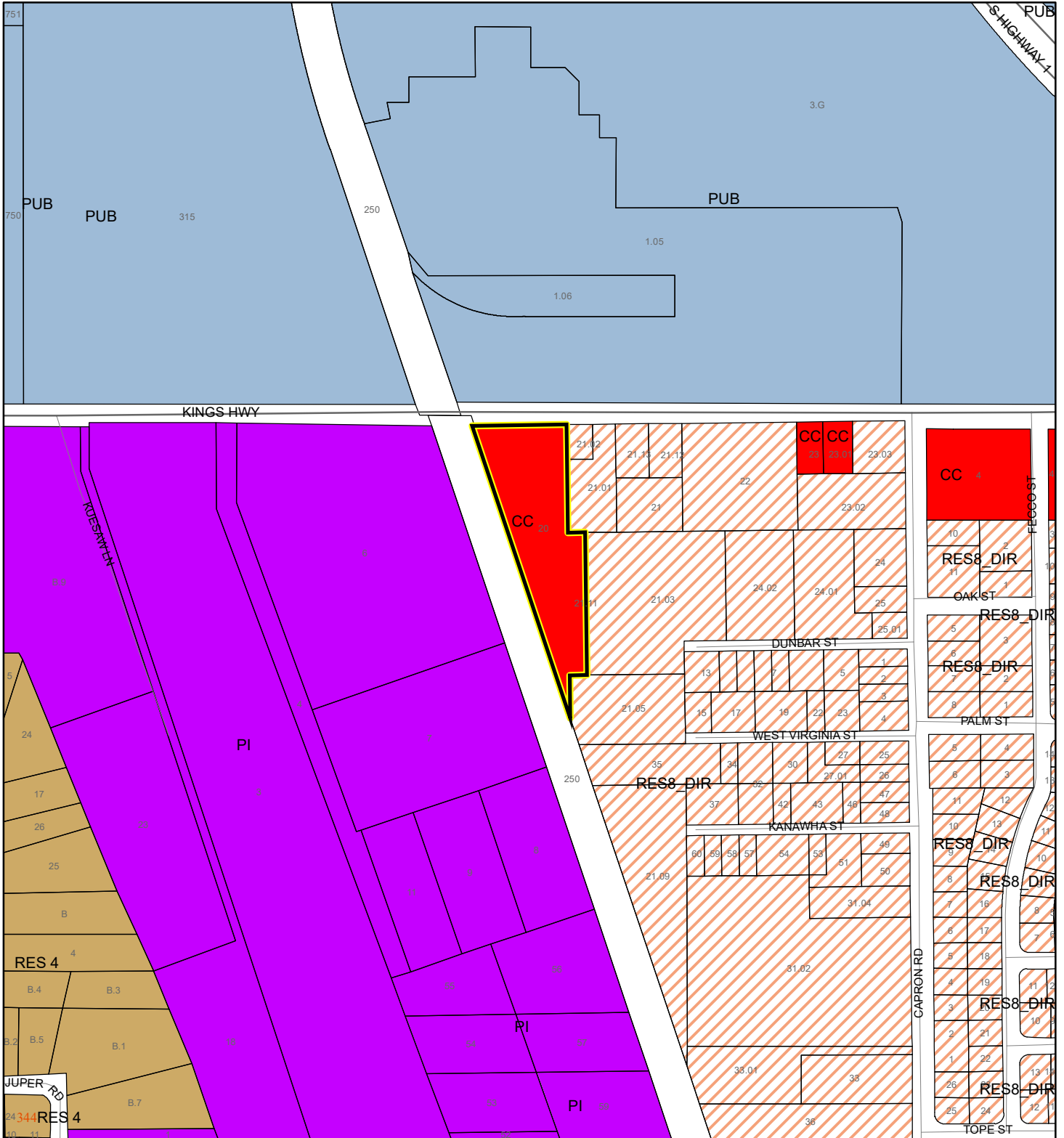
 Subject Property
 Parcels

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



Produced by BoCC - GIS Date: 10/24/2023

PROPOSED FUTURE LAND USE MAP

3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

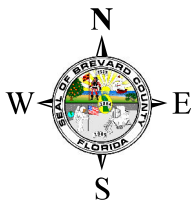
 Subject Property
 Parcels

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AERIAL MAP

3955 KINGS HWY LLC
23SS00011





1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

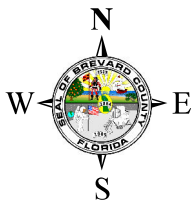
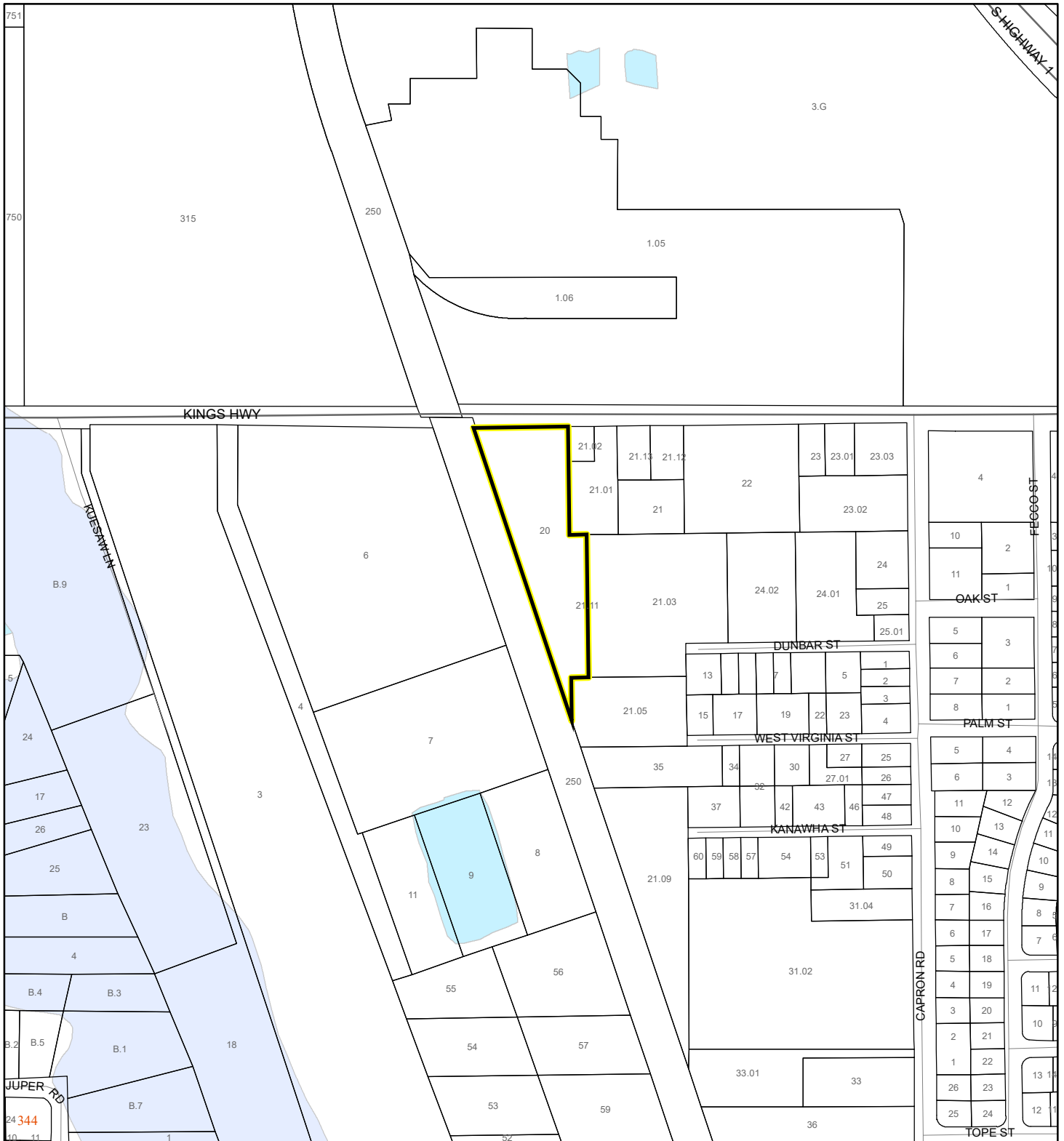
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/24/2023

 Subject Property
 Parcels

NWI WETLANDS MAP

3955 KINGS HWY LLC
23SS00011













1:4,800 or 1 inch = 400 feet

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

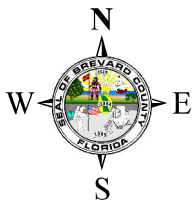
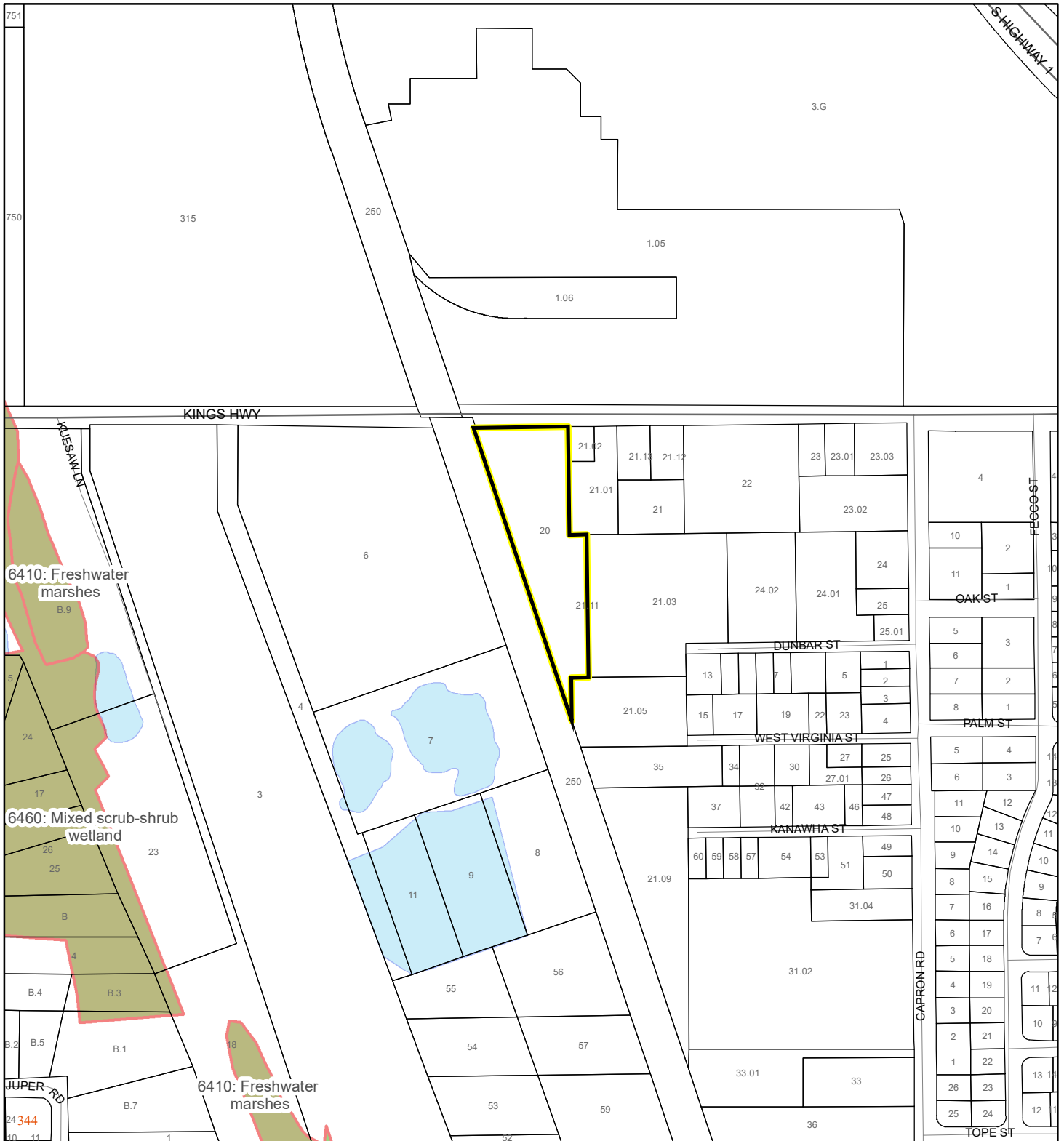
Produced by BoCC - GIS Date: 10/24/2023

National Wetlands Inventory (NWI)

- | | |
|--|--|
|  Estuarine and Marine Deepwater |  Freshwater Pond |
|  Estuarine and Marine Wetland |  Lake |
|  Freshwater Emergent Wetland |  Other |
|  Freshwater Forested/Shrub Wetland |  Riverine |
| |  Subject Property |
| |  Parcels |

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 10/24/2023

SJRWMD FLUCCS WETLANDS

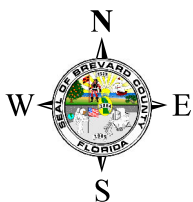
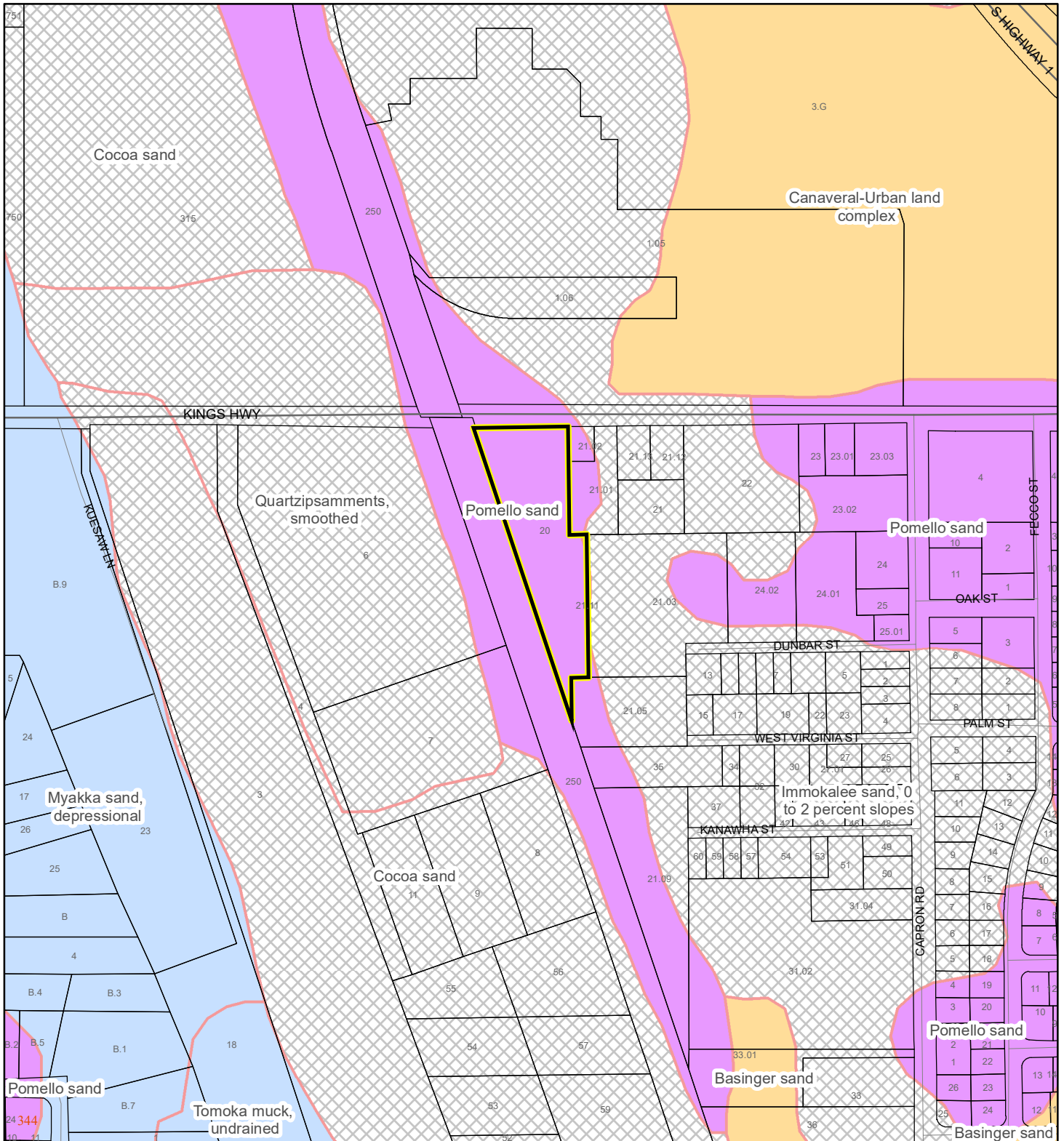
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

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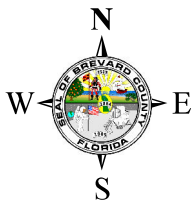
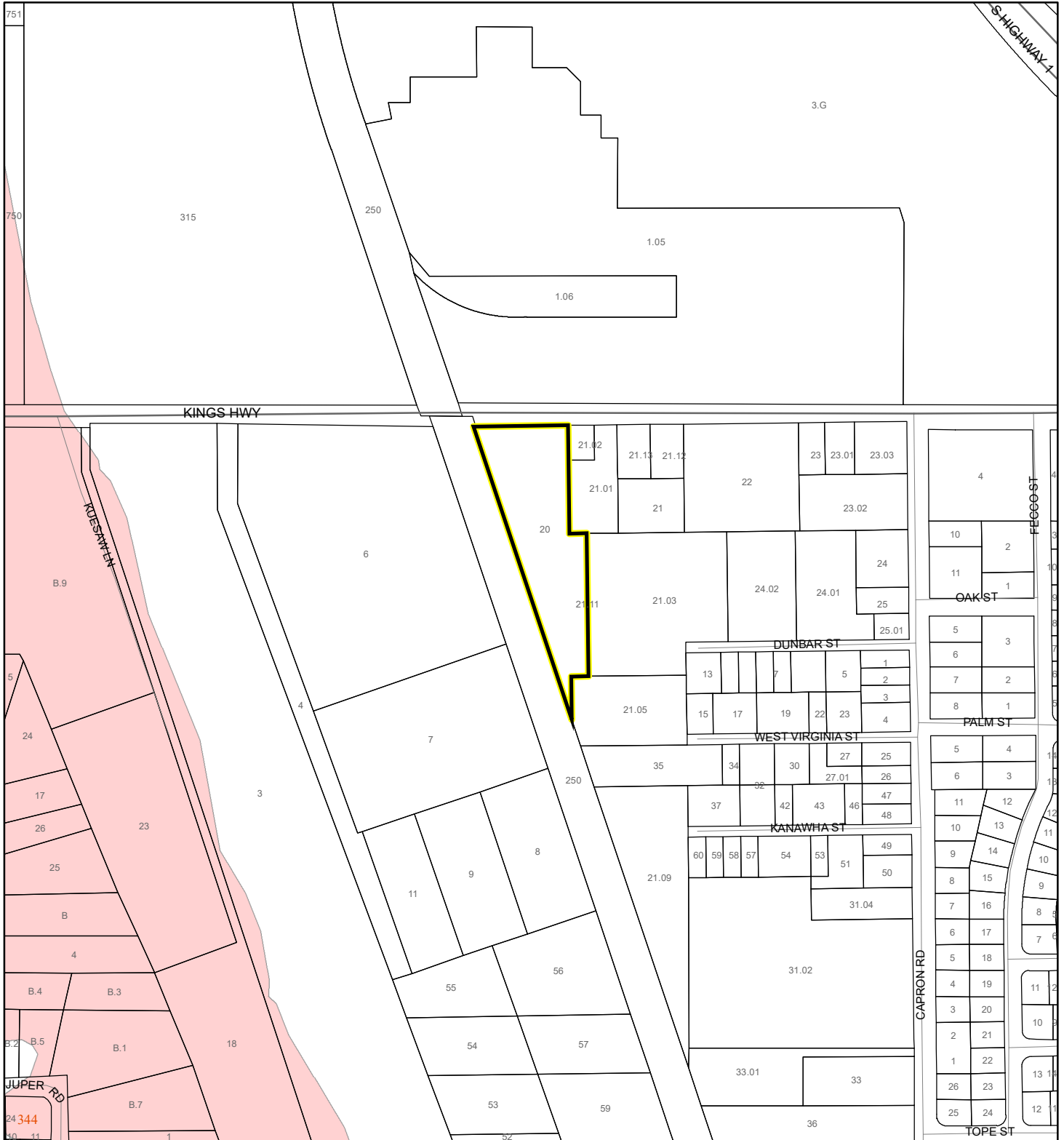
Produced by BoCC - GIS Date: 10/24/2023

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

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

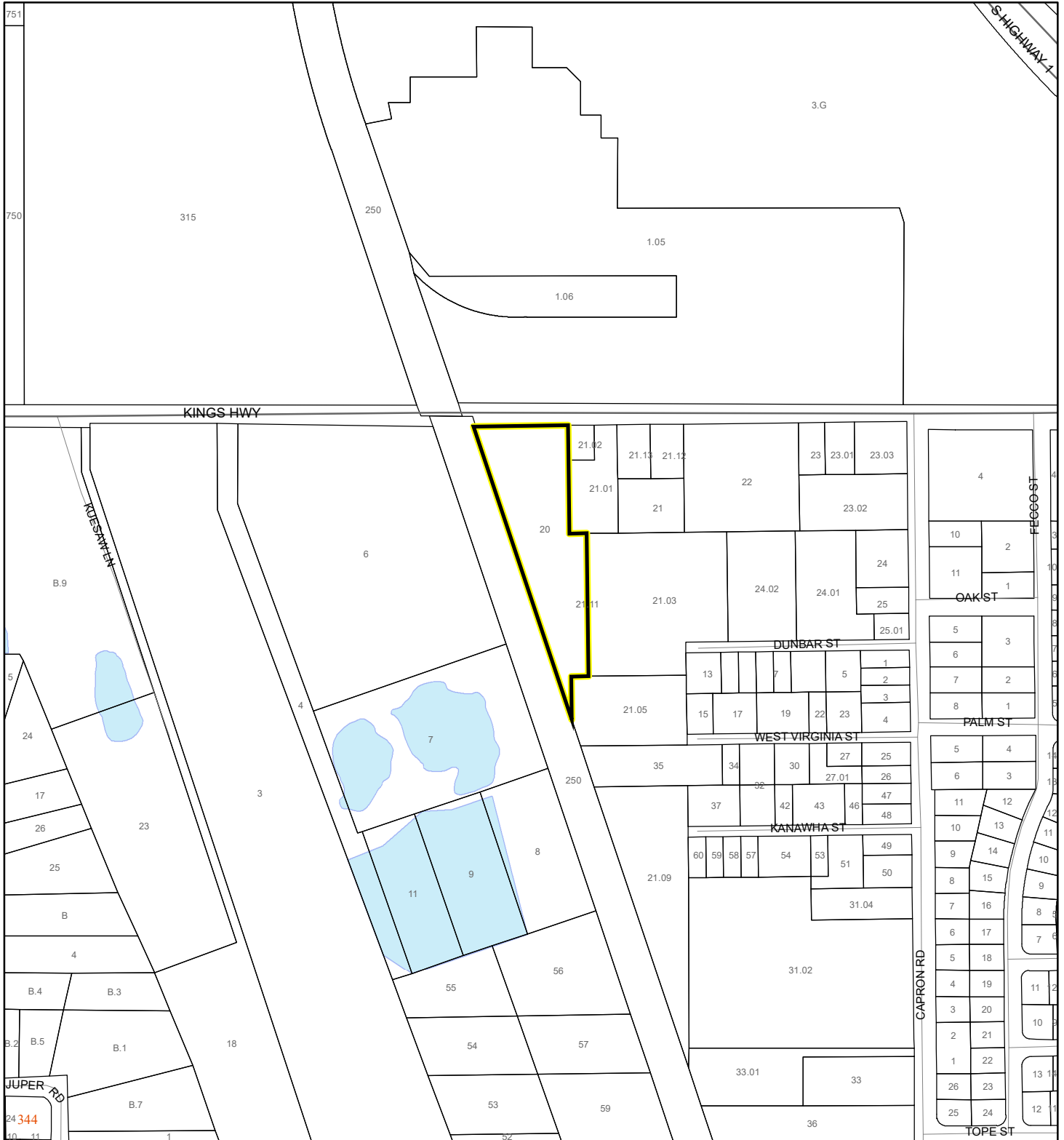
Produced by BoCC - GIS Date: 10/24/2023

FEMA Flood Zones

- | | | |
|------------------|------------|---|
| A | AO | X |
| AE | Open Water | |
| AH | VE | |
| Subject Property | Parcels | |

COASTAL HIGH HAZARD AREA MAP


3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet


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

Produced by BoCC - GIS Date: 10/24/2023

 Subject Property

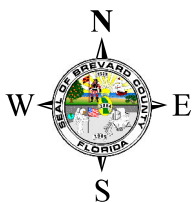
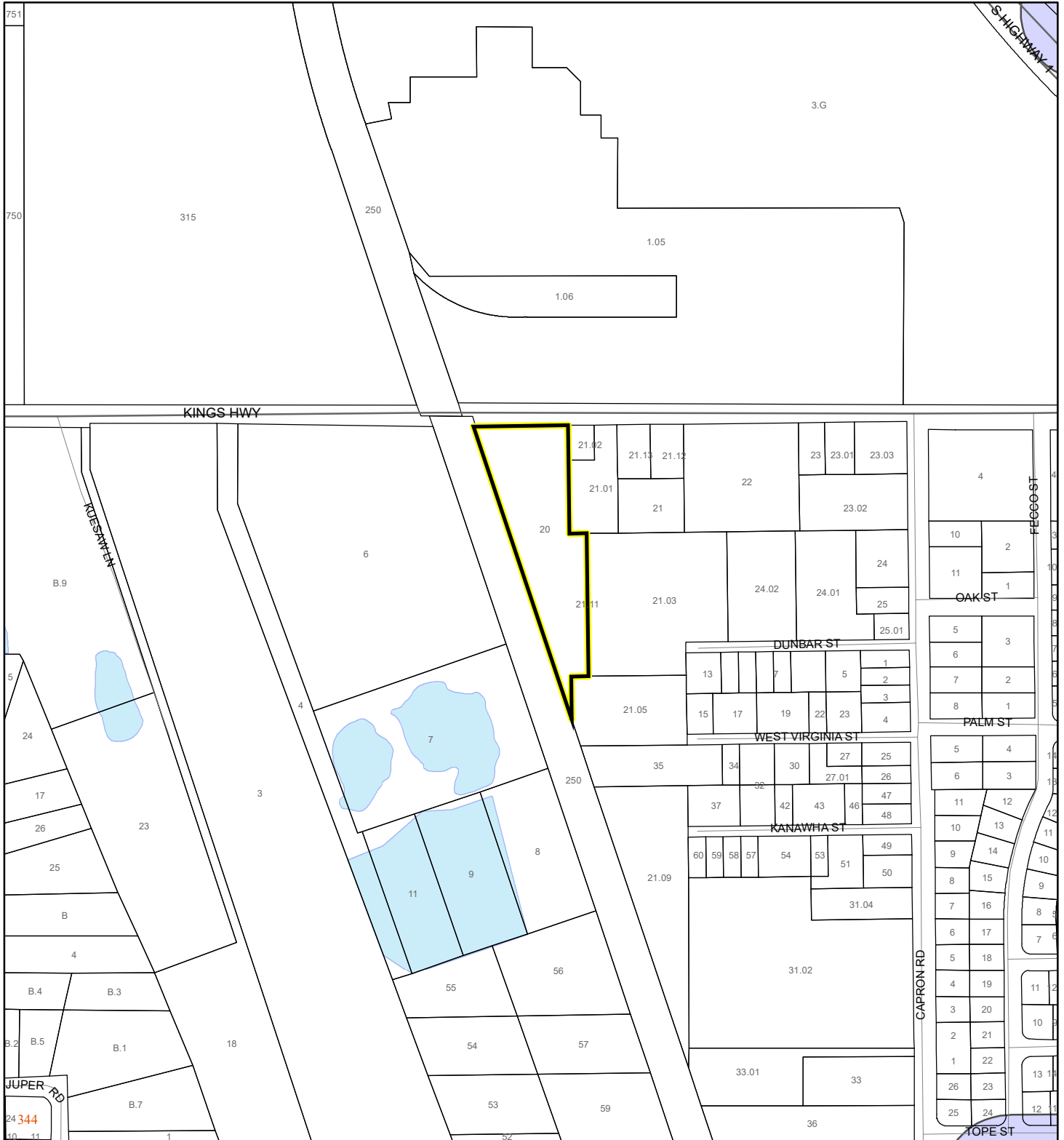
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 10/24/2023

Subject Property

Parcels

Septic Overlay

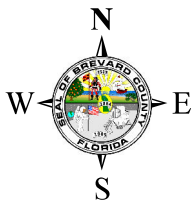
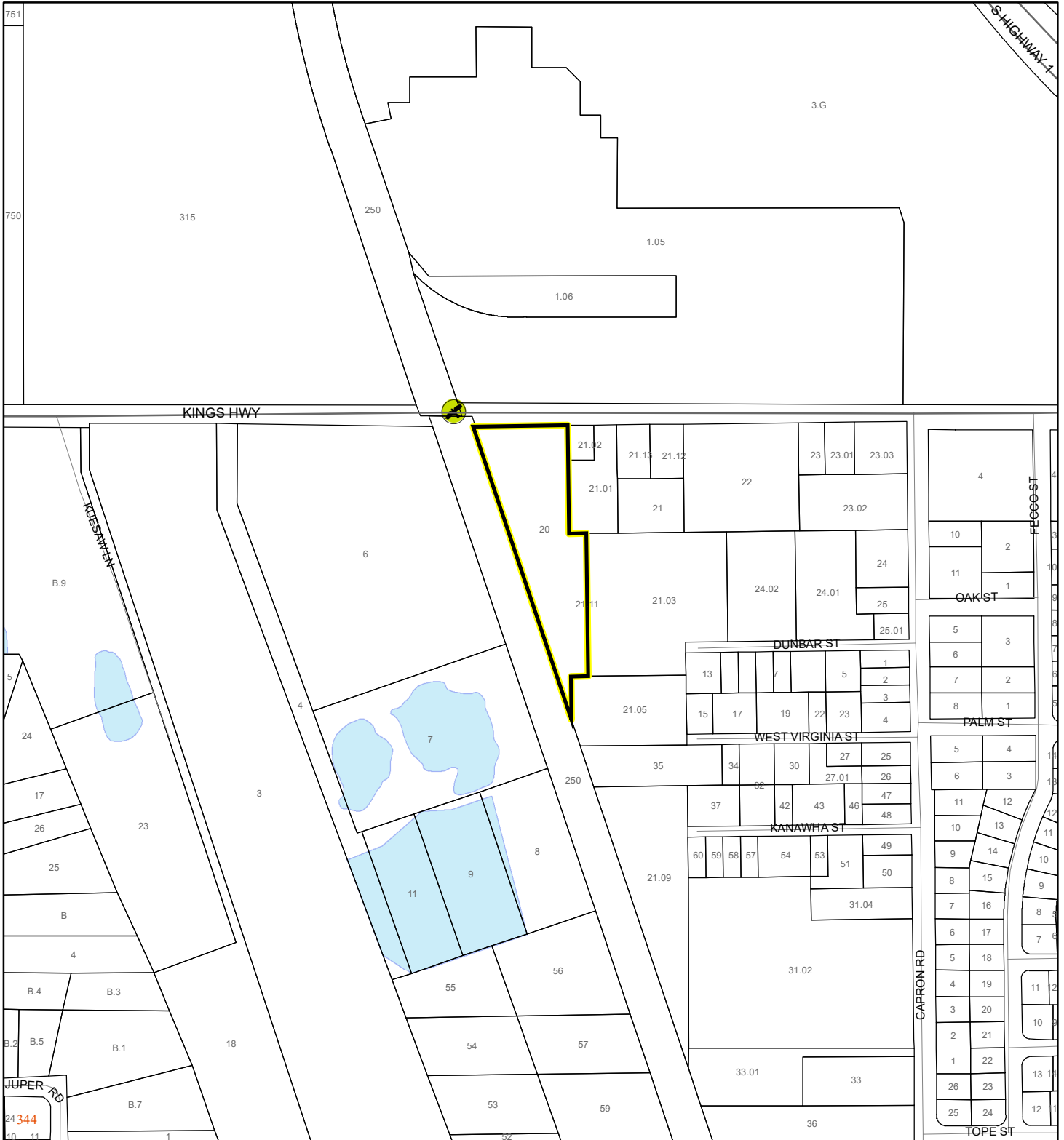
40 Meters

60 Meters

All Distances

EAGLE NESTS MAP

3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/24/2023

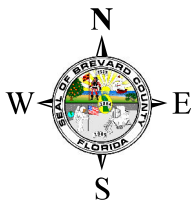
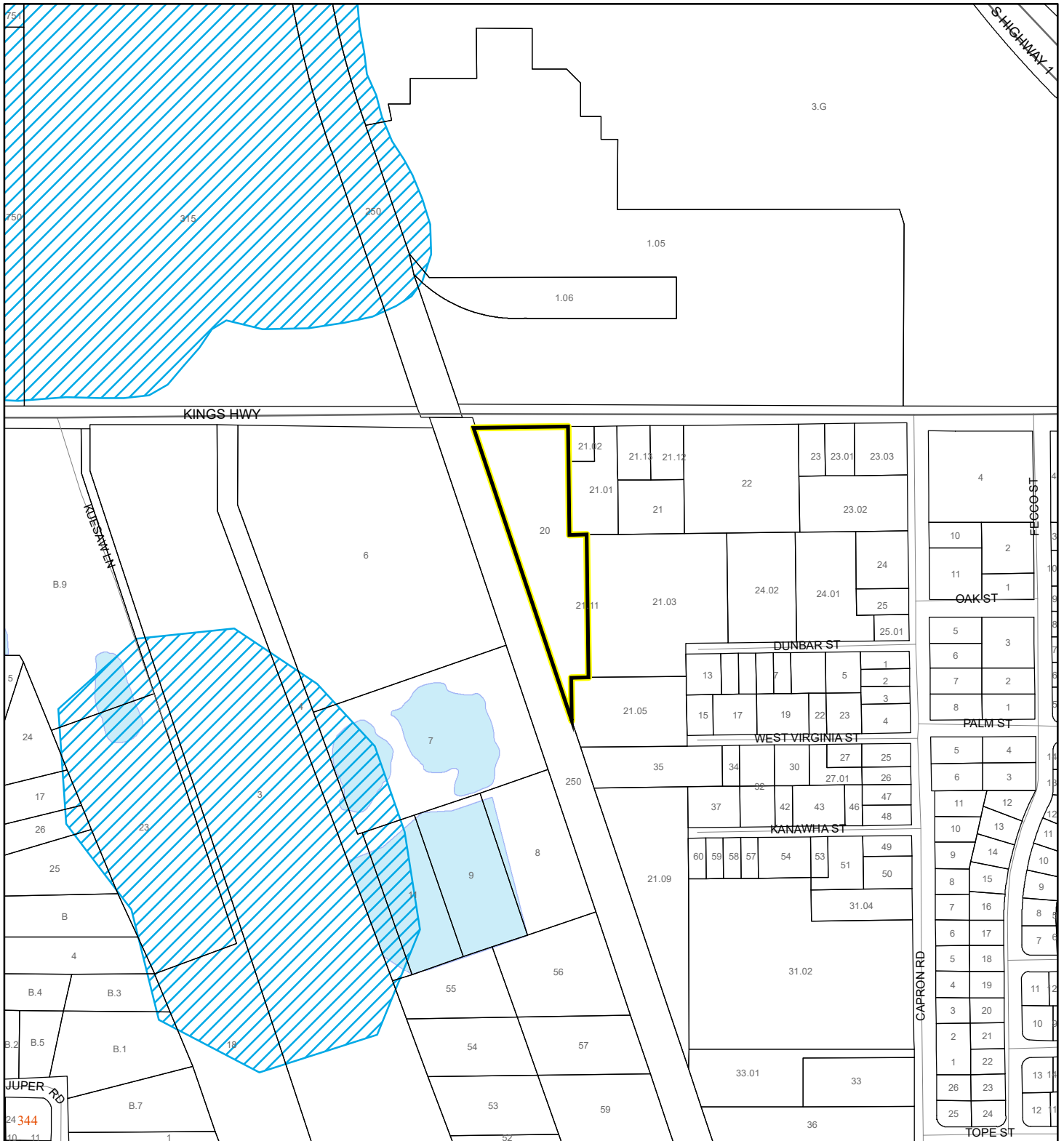
 Subject Property

 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP




3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

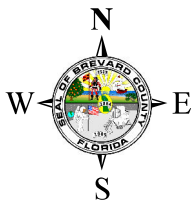
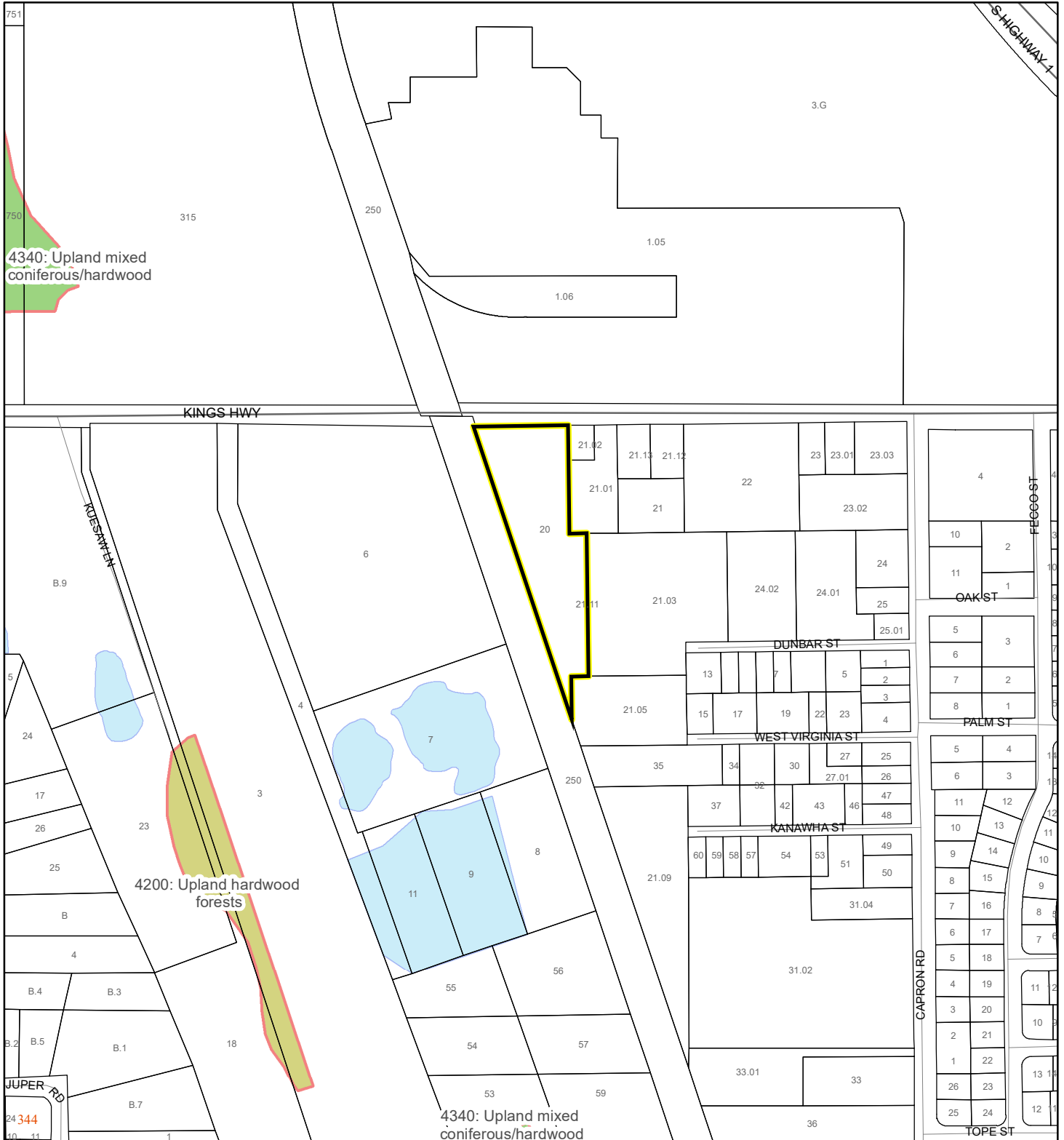
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Produced by BoCC - GIS Date: 10/24/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

3955 KINGS HWY LLC
23SS00011



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 10/24/2023

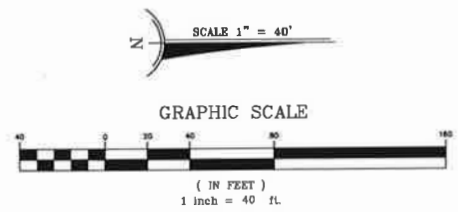
SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property

Parcels

BOUNDARY & TOPOGRAPHIC SURVEY



DESCRIPTION:

Parcel A:
Plantation 20, as lies East of the Florida East Coast Railroad Right-of-way, Plate A, Section 13, Township 23 South, Range 35 East, Map of Delespine on Indian River, as recorded in Plat Book 2, Page 2, Public Records of Brevard County, being more particularly described as follows:

Begin at the intersection of the Easterly Right-of-way line of the Florida East Coast Railroad (a 100 foot r/w) and the South Right of way line of Kings Highway (a 60 ft r/w) thence N 89 degrees 48 minutes 30 seconds East (assumed bearing) along said South Right of way line of 295.05 feet to the Northeast corner of said Plantation 20; thence S 0 degrees 11 minutes 30 seconds E. along the East line of said Plantation 20, 883.94 ft. to said Easterly right-of-way of Florida East Coast Railroad; thence N 18 degrees 39 minutes 00 seconds W., along said Easterly Right of way line 931.87 feet to the Point of Beginning.

Parcel B:
A parcel of land lying in Section 13, Township 23 South, Range 35 East and also being a part of Lot 21, Plate "A", MAP OF DELESPINE ON INDIAN RIVER as recorded in Plat Book 2, Page 2, of the Public Records of Brevard County, Florida, more particularly described as follows:

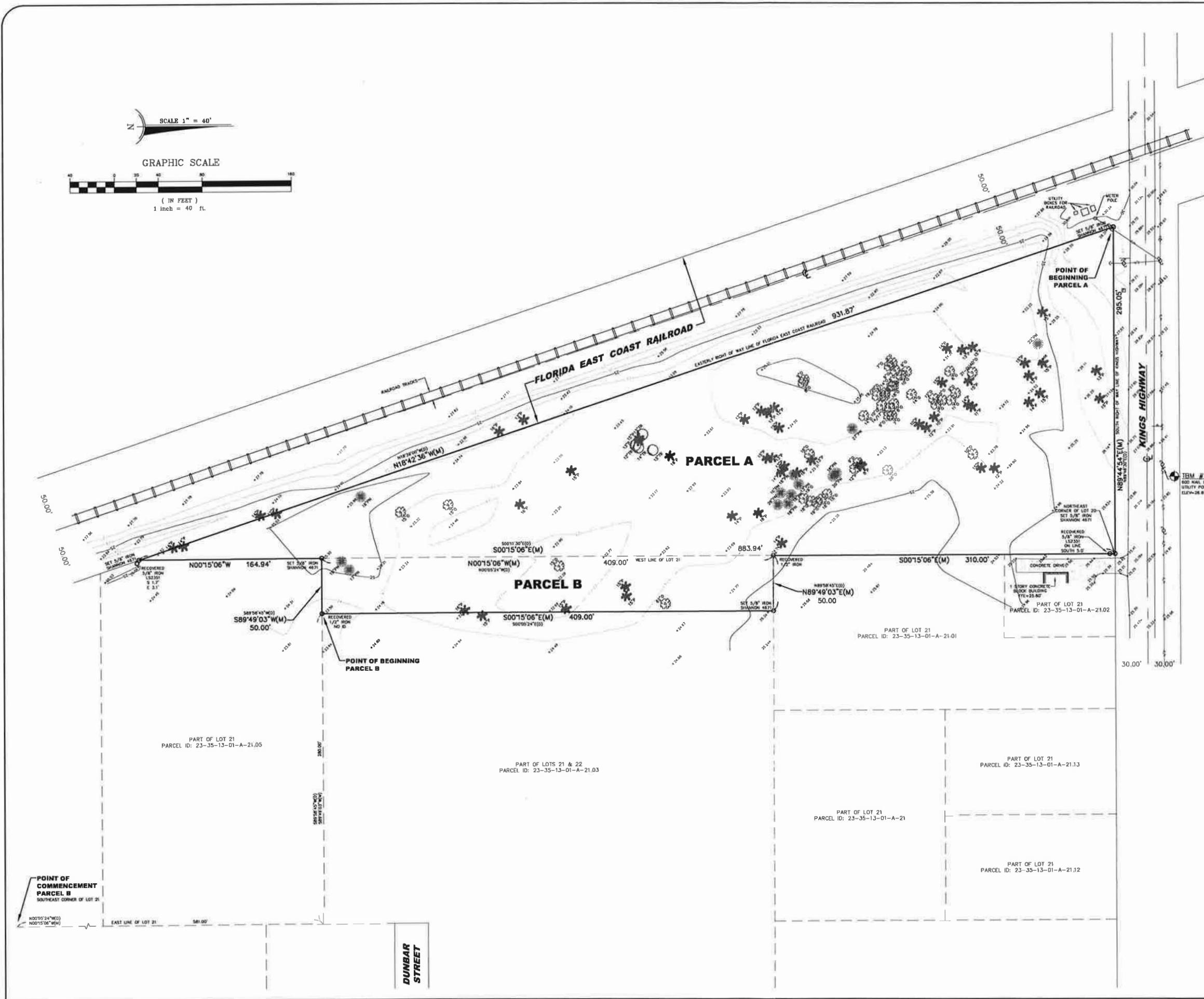
Commence at the Southeast corner of said Lot 21, thence run N 00 degrees 05' 24" W along the East line of said Lot 21 a distance of 581.00 feet; thence run S 89 degrees 58' 45" W a distance of 280.00 feet to the POINT OF BEGINNING; thence continue S, 89 degrees 58' 45" W a distance of 50.00 feet; thence run N 00 degrees 05' 24" W along the West line of said Lot 21 a distance of 409.00 feet; thence run N 89 degrees 58' 45" E a distance of 50.00 feet; thence run S 00 degrees 05' 24" E a distance of 409.00 feet to the POINT OF BEGINNING.

NOTES:

- BEARINGS BASED ON THE WEST LINE OF LOT 21 AS BEING S00°15'06"E.
- NO UNDERGROUND UTILITIES, UNDERGROUND FOUNDATIONS, OR UNDERGROUND SIGN BASES WERE LOCATED.
- ELEVATIONS BASED ON NGS BENCHMARK NUMBER 386-04. A BRASS DISK IN 14" ROUND CONCRETE MASS. ELEVATION=19.051', NAVD 1988 DATUM.
- SURVEY PREPARED WITHOUT THE BENEFIT OF TITLE COMMITMENT.

LEGEND

- FIBER OPTIC CABLE BOX
- ⌋ GUY ANCHOR
- SIGN
- ⊕ WOOD UTILITY POLE
- O/- OVERHEAD UTILITY LINE
- (XX)O (SIZE) OAK TREE
- (XX)P (SIZE) PALM TREE
- (XX)PN (SIZE) PINE TREE
- (XX)TR (SIZE) TREE OF UNKNOWN TYPE



James R Shannon
Digitally signed by James R Shannon
Date: 2023.04.28 13:55:56 -04'00'

SHANNON SURVEYING, INC.
499 NORTH S.R. 434 - SUITE 2045
ALTA MONTE SPRINGS, FLORIDA, 32714
(407) 774-8372 LB # 6858

DATE OF SURVEY: 04/21/2023
SCALE: 1" = 40'
FILE NUMBER: 23-35



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.2.

1/3/2024

Subject:

3955 Kings Hwy, LLC (Bryan Potts) requests a change of zoning classification from AU and BU-2 to all BU-2. (23Z00049) (Tax Account 2423666) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Port St. John Dependent Special District Board conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) and BU-2 (Retail, Warehousing, and Wholesale Commercial) to all BU-2.

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from AU (Agricultural Residential) on 0.47 acres and BU-2 (Retail, Warehousing and Wholesale Commercial) on 2.99 acres to all BU-2 to build a mini warehouse. The AU zoning classification does not permit commercial uses. BU-2 zoning classification requires a building of at least 300 sq. ft. as their principal structure. The subject parcel has access to Kings Highway, a County maintained roadway.

There is also a Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, **23SS00011** to change the Future Land Use Element from Residential 8 Directive (RES 8 DIR) and Community Commercial (CC) to all CC.

The area is a mixture of commercial, single-family residential, agricultural residential and general use zoning classifications. The applicant's request can be considered compatible with the proposed uses in the area.

The Board may wish to consider whether the proposed zoning request is consistent and compatible with the surrounding area.

The Board of County Commissioners will consider the request on Thursday, February 1, 2024. Beginning at 5:00 p.m. The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County planning and zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For development applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:
 - 1. historical land use patterns;
 - 2. actual development over the immediately preceding three years; and
 - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 - 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 - 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 - 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the

use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;
- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in

support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

“The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
 Building A, Room 114
 Viera, Florida 32940
 (321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS
 23Z00049**

3955 Kings Hwy, LLC

AU (Agricultural Residential) and BU-2 (Retail, Warehousing and Wholesale Commercial) to all BU-2

Tax Account Number: 2301890
 Parcel I.D.: 23-35-13-01-A-20
 Location: Southeast corner of Kings Highway and Florida East Coast Railway (District 1)
 Acreage: 3.46 acres

Port St. John Board: 1/03/2024
 Board of County Commissioners: 2/01/2024

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-2 and AU	All BU-2
Potential*	FAR of 1.0 on BU-2 portion	FAR of 1.0
Can be Considered under the Future Land Use Map	No RES 8 DIR	Yes CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from AU (Agricultural Residential) on 0.47 acres and BU-2 (Retail, Warehousing and Wholesale Commercial) on 2.99 acres to all BU-2 to build a mini warehouse. The AU zoning classification does not permit commercial uses. BU-2 zoning classification requires a building of at least 300 sq. ft. as their principal structure. The subject parcel has access to Kings Highway, a County maintained roadway.

There is also a Small-Scale Comprehensive Plan Amendment (SSCPA) companion application, **23SS00011** to change the Future Land Use Element from Residential 8 Directive (RES 8 DIR) and Community Commercial (CC) to all CC.

The original zoning of the BU-2 portion of the parcel was GU (General Use). On February 26, 1998, zoning action **Z-10027** rezoned this portion of the parcel from GU to BU-1 (General Retail Commercial).

On September 24, 1998, zoning action **Z-10150** rezoned the BU-1 portion to BU-2 (Retail, Warehousing and Wholesale Commercial).

The original zoning of the AU zoned portion of the parcel was GU (General Use). On August 7, 2003, zoning action **Z-10827** rezoned the GU portion to AU (Agricultural Residential).

Prior to On October 12, 2023, the parcel was two parcels, one zoned BU-2 and one zoned AU. These two parcels were combined together as one parcel per Quit Claim Deed recorded in Official Records Book 9907, Pages 2243 thru 2245.

The applicant’s request is to change the AU zoned portion to BU-2 to have a uniform zoning classification on the parcel which will permit the entire parcel to have commercial development.

The subject parcel is located on the south side of Kings Highway, a County maintained roadway.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Electric Utility, across Kings Highway	IU	PUB
South	Single-Family mobile home	RRMH-1	RES 8 DIR
East	Single-family residence	GU, AU & RU-1-7	RES 8 DIR
West	Junkyard-across railroad	PIP-across railroad	PI-across railroad

The developed character of the surrounding area on the south side of Kings Highway is single-family residential abutting the east with GU, AU, and RU-1-7 (single-family residential) zoning. To the west is the Florida East Coast Railway. To the south of the subject property is a single-family mobile home with RRMH-1 zoning.

The current AU zoning classification permits single family residential development on lots of not less than two and one-half acres having a minimum width of 150 feet and a minimum depth of 150 feet. The minimum house size is 750 square feet.

The proposed BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The RU-1-7 zoning classification allows one single-family residence on minimum 5,000 square foot lots. The minimum floor area is 700 sq. ft.

The RRMH-1 zoning classification permits one single-family mobile home or detached dwelling unit of spacious character. It requires a minimum lot size of one (1) acre with a width and depth of no less than 125-feet. It requires a minimum living area of 600 sq. ft.

There have been no zoning actions within a half-mile of the subject property within the last three years.

Future Land Use

The subject property is currently designated as Residencial 8 Directive (RES 8 DIR) FLUM designation on the AU zoned portion and Community Commercial (CC) on the BU-2 zoned portion. The existing AU as well as the proposed BU-2 zoning classifications can be considered consistent with the CC FLUM designation. The proposed BU-2 zoning in not consistent with the existing RES 8 DIR FLUM designation.

FLUE Policy 2.2 - The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

- A. Permitted/prohibited uses;

BU-2 Retail, Warehousing and Wholesale Commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. Retail items of substantial size or which of necessity must remain outside of a building may be permitted to be displayed outside the building. Storage yards must be enclosed with a six-foot wall, louvered fence or chain-link fence.

- B. Existing commercial zoning trends in the area;

Kings Highway is an existing commercial corridor located east of Florida East Coast Railway to S. Highway 1 along with residential parcels

- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

The area is a mixture of commercial, single-family residential, agricultural residential and general use zoning classifications. The applicant's request can be considered compatible with the proposed uses in the area.

- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

The preliminary concurrency analysis did not indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service.

The subject property has access to the City of Cocoa for potable water and on septic.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and

The following land use issues were identified:

No noteworthy land use issues were identified.

- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

This property will need to comply with Brevard County Performance Standards noted within Section 62-1482 of Brevard County Code. The proposed use is not anticipated to require performance standards beyond the zoning criteria.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The applicant is requesting a change of zoning classification of AU (Agricultural Residential) and of BU-2 (Retail, Warehousing and Wholesale Commercial) to all BU-2 to build a mini warehouse. The hours of operation, lighting and traffic is not anticipated to affect the quality of life in the existing neighborhood. There is no anticipation of odor, noise level or site activity more so than already exists. However, CC FLU allows for an array of light manufacturing, warehouse, retail, personal and professional uses which may.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

There are undeveloped and developed single-family residential and commercial parcels in the surrounding area along the Kings Highway corridor from the Railroad tracks to S. Highway 1. The developed character of the surrounding area on the south side of Kings Highway is single-family residential abutting the east. To the west is the Florida East Coast Railway. To the south of the subject property is a single-family mobile home. To the north across Kings Highway is Electric Utility.

2. actual development over the immediately preceding three years; and

There has been one new development within 0.5 miles of the subject property within the last three years.

3. development approved within the past three years but not yet constructed.

There has not been any development approved within this area in the preceding three (3) years that has yet to be constructed.

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Only a certified MAI (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must

not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

Staff analysis indicates the request is not located within an existing neighborhood. However, there is a pattern of existing single-family residential surrounding the property to the east and south. The subject property could be considered as transitional use with buffering from the Florida East Coast Railway property along the west.

The BU-2 zoning classification is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted (i.e., major auto-repair facilities, paint and body shops, and contractor storage yards). Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered.

A preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service; however, the maximum development potential from the proposed rezoning increases the percentage of MAV by 0.12%.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:

- 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The area has development of roads, open spaces, and similar existing features. It is not located in a neighborhood or subdivision but is along a commercial corridor.

- 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

Staff analysis indicates that the surrounding area to the east is residential in character.

- 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

The subject parcel is located in a commercial corridor along with residential uses. The subject parcel is proposed to be rezoned from BU-2 and AU to all BU-2. As the immediate area is commercial the proposed uses maintain the commercial integrity of the area.

The closest BU-2 zoning classification is located approximately 815-feet east of the subject property, along the south side of Kings Highway.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Kings Highway, between Grissom Pkwy. and Highway 1, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of D, and currently operates at 34.29% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.12%. The corridor is anticipated to operate at 34.41% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

The subject property has access to the City of Cocoa potable water and on septic.

Environmental Constraints

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

The Board may wish to consider whether the proposed zoning request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary**

Item # 23Z00049

Applicant: Tannath Design (Owner: Zinser Properties LLC)

Zoning Request: AU to BU-2

Note: Consistent zoning with surrounding property and allowance of parking.

PSJ Board: 8/9/2023; **BCC Hearing Date:** 9/7/2023

Tax ID No: 2323666

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

This parcel contains mapped aquifer recharge soils (Pomello Sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations (~22 to 26 feet

NAVD) indicate the soils may consist of Type 2 or Type 3 Aquifer Recharge soils, which have impervious area restrictions. A topographic survey should be completed prior to development to confirm elevations. The development and impervious area restrictions can be found in Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

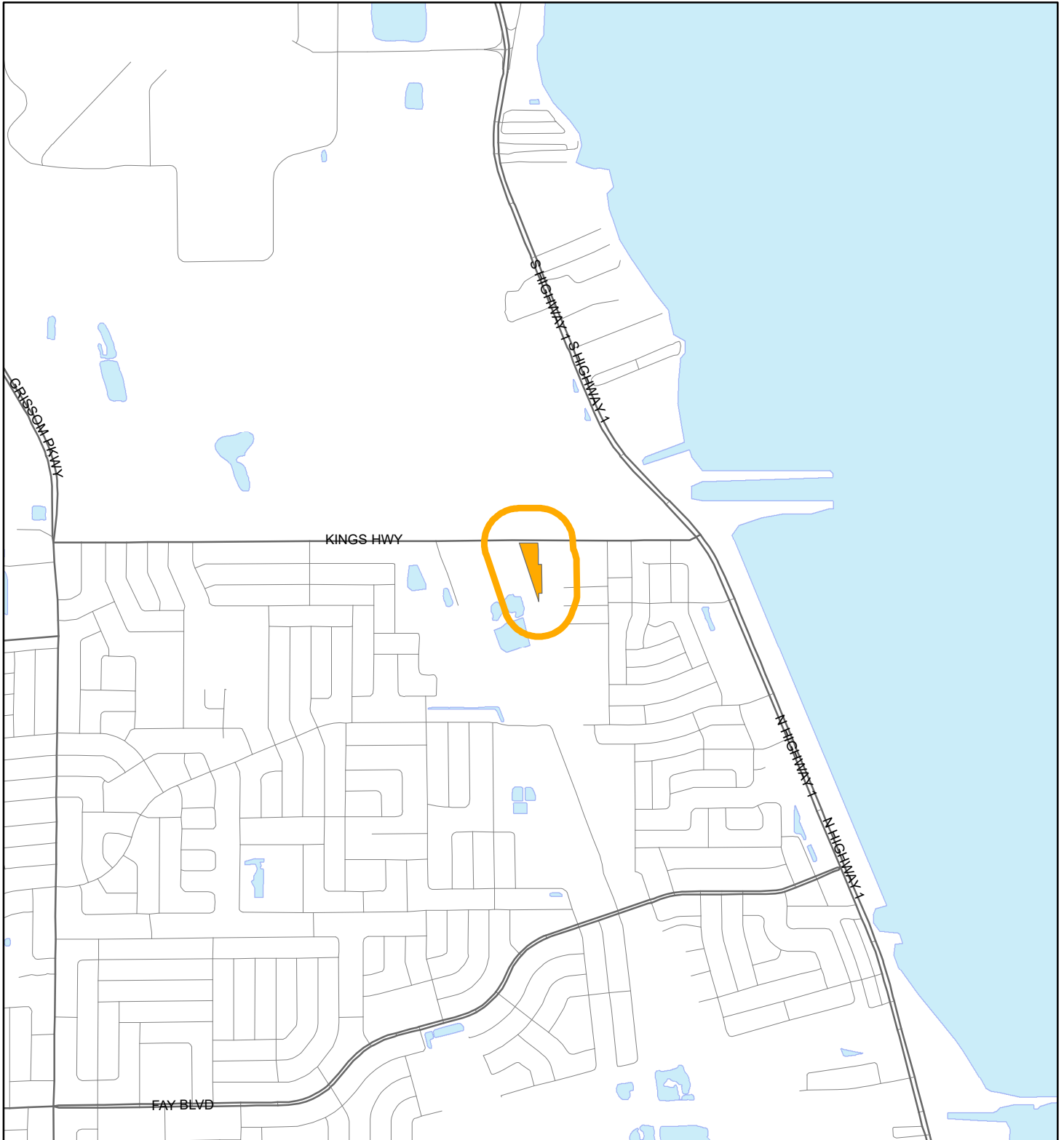
Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees likely exist on the parcel. Per Section 62-4341(18) of the Brevard County Landscaping, Land Clearing, and Tree Protection ordinance, Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay habitat west of the property, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

3955 KINGS HWY LLC
23Z00049





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

Buffer Distance: 500 feet

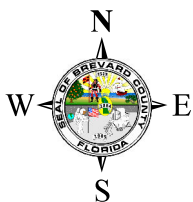
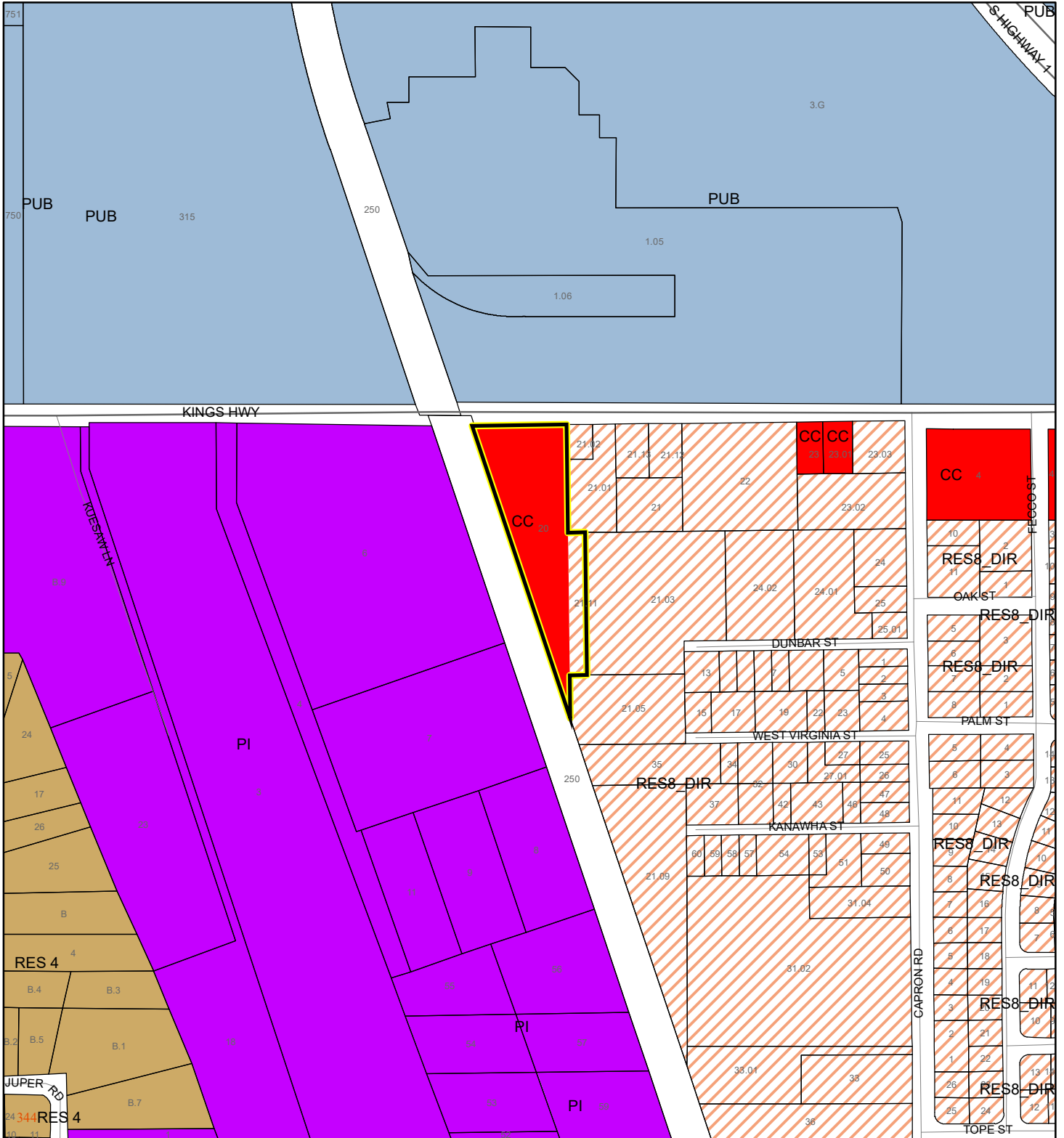
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/24/2023



-  Buffer
-  Subject Property

FUTURE LAND USE MAP

3955 KINGS HWY LLC
23Z00049



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

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

Produced by BoCC - GIS Date: 10/24/2023

AERIAL MAP

3955 KINGS HWY LLC

23Z00049




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

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

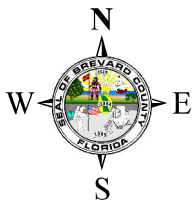
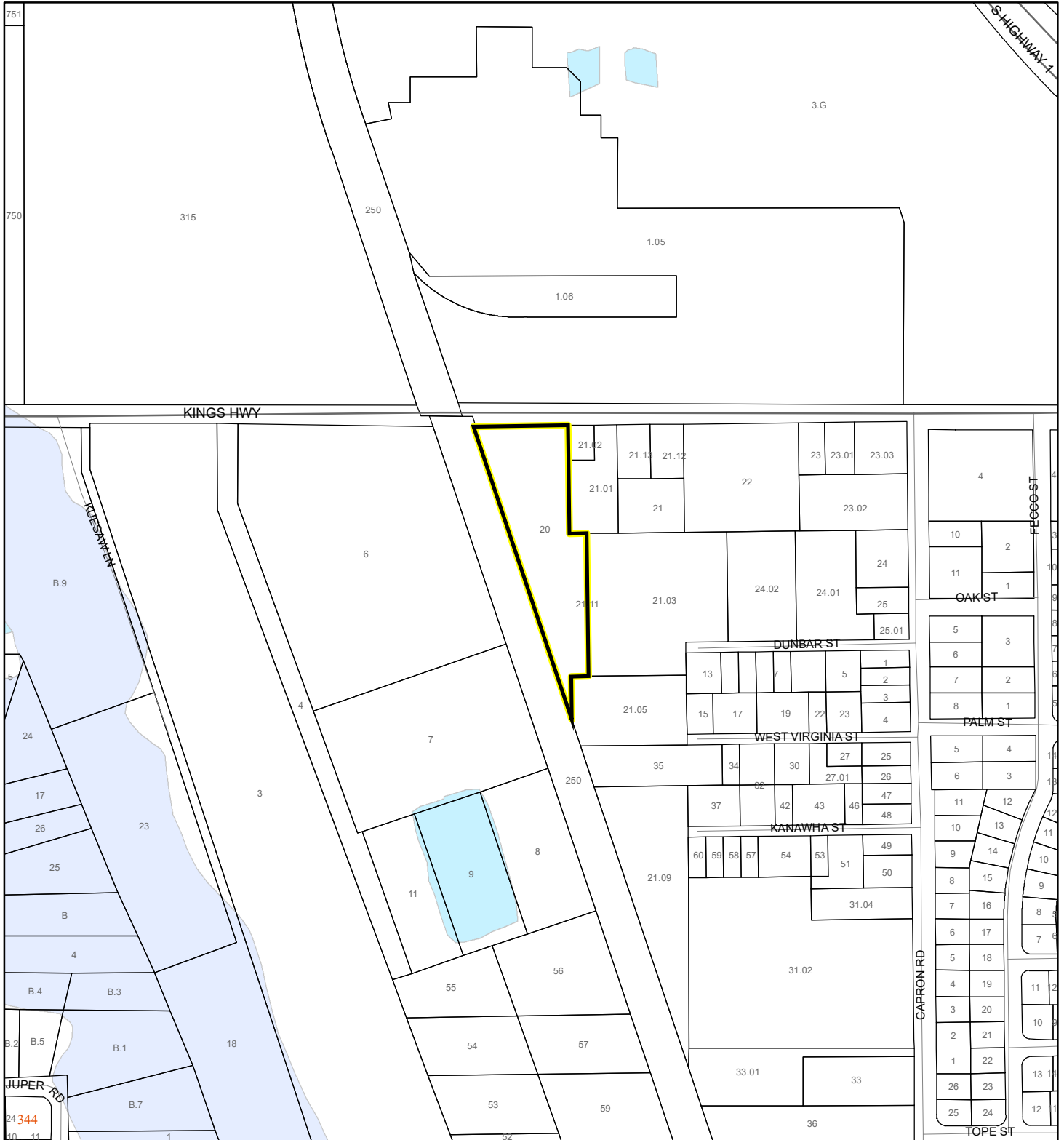
Produced by BoCC - GIS Date: 10/24/2023

 Subject Property

 Parcels

NWI WETLANDS MAP

3955 KINGS HWY LLC
23Z00049













1:4,800 or 1 inch = 400 feet

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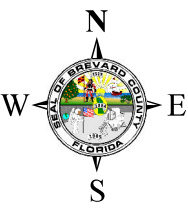
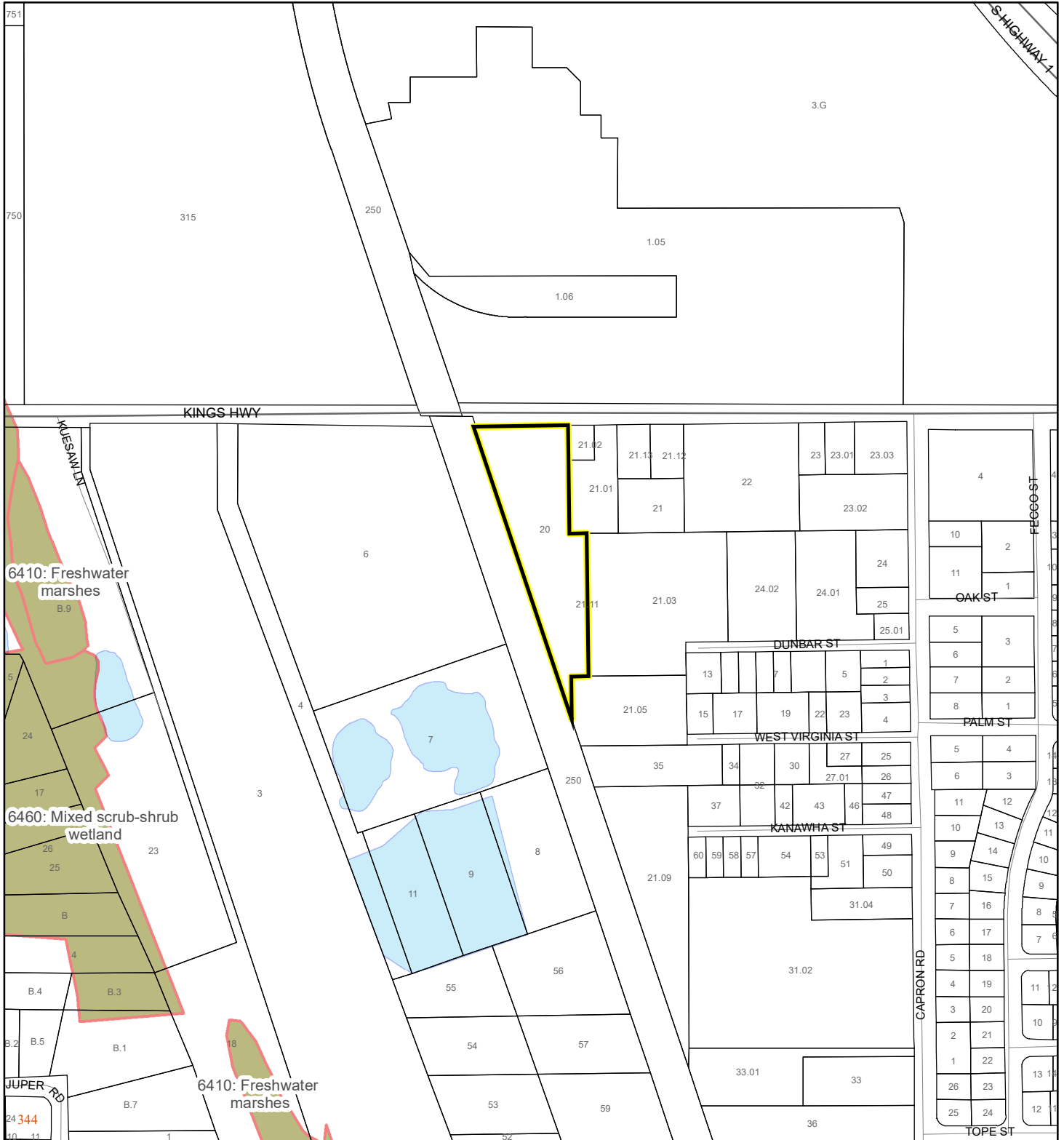
Produced by BoCC - GIS Date: 10/24/2023

National Wetlands Inventory (NWI)

- | | |
|--|--|
|  Estuarine and Marine Deepwater |  Freshwater Pond |
|  Estuarine and Marine Wetland |  Lake |
|  Freshwater Emergent Wetland |  Other |
|  Freshwater Forested/Shrub Wetland |  Riverine |
| |  Subject Property |
| |  Parcels |

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

3955 KINGS HWY LLC
23Z00049



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Produced by BoCC - GIS Date: 10/24/2023

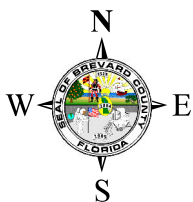
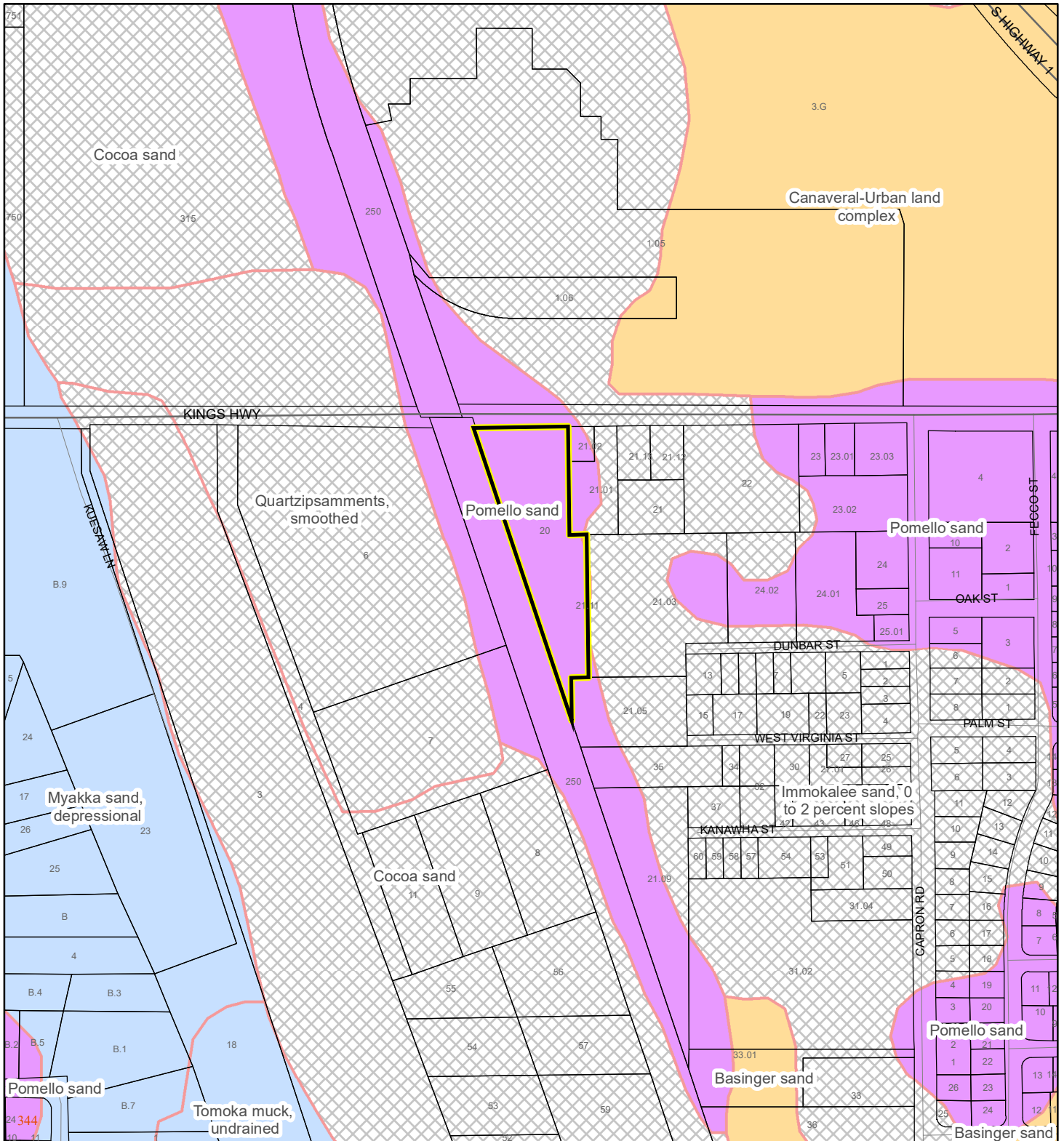
- SJRWMD FLUCCS WETLANDS**
- Wetland Hardwood Forests - Series 6100
 - Wetland Coniferous Forest - Series 6200
 - Wetland Forested Mixed - Series 6300
 - Vegetated Non-Forested Wetlands - Series 6400
 - Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

3955 KINGS HWY LLC
23Z00049



1:4,800 or 1 inch = 400 feet

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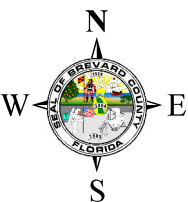
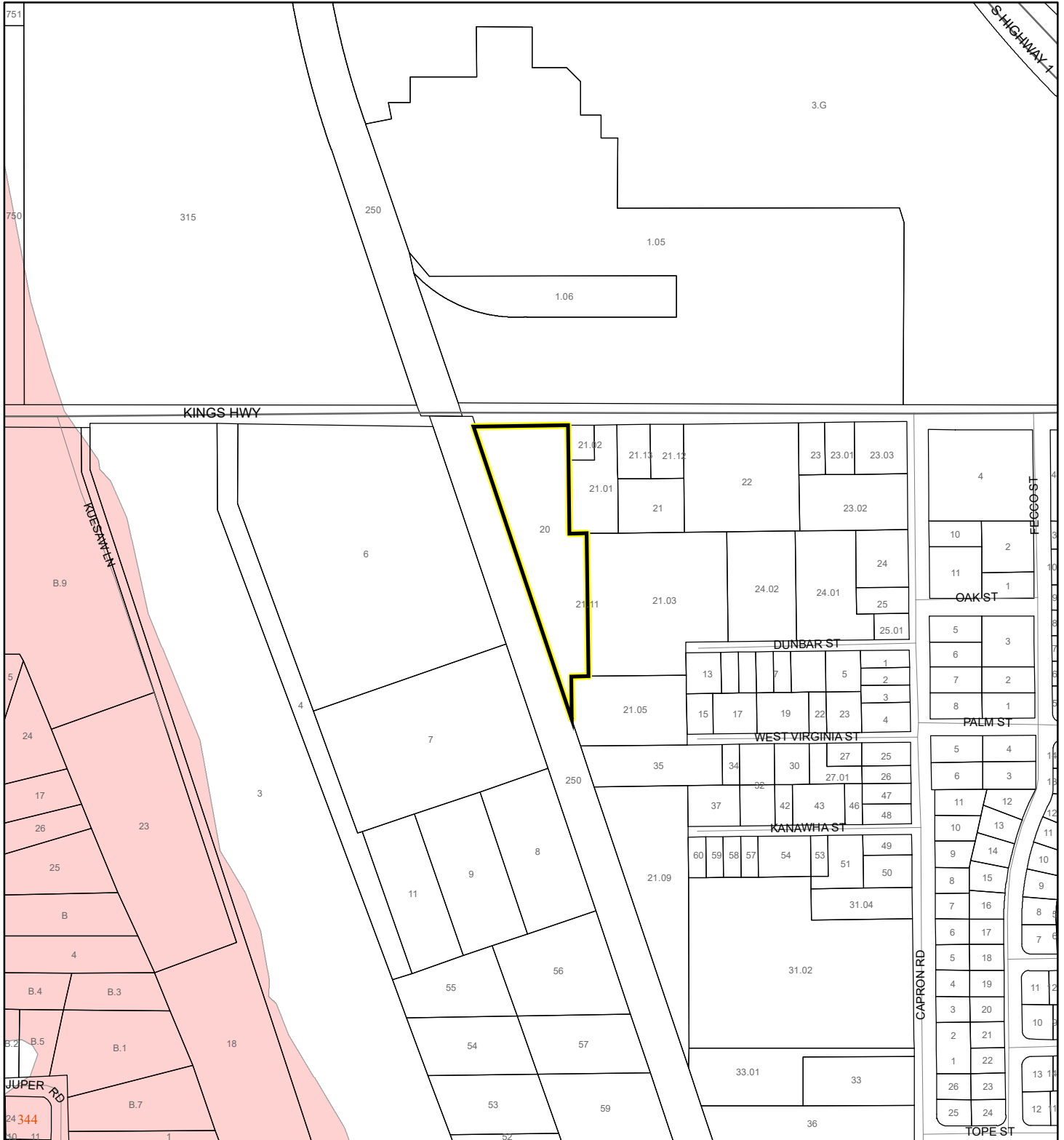
Produced by BoCC - GIS Date: 10/24/2023

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

3955 KINGS HWY LLC
23Z00049



1:4,800 or 1 inch = 400 feet

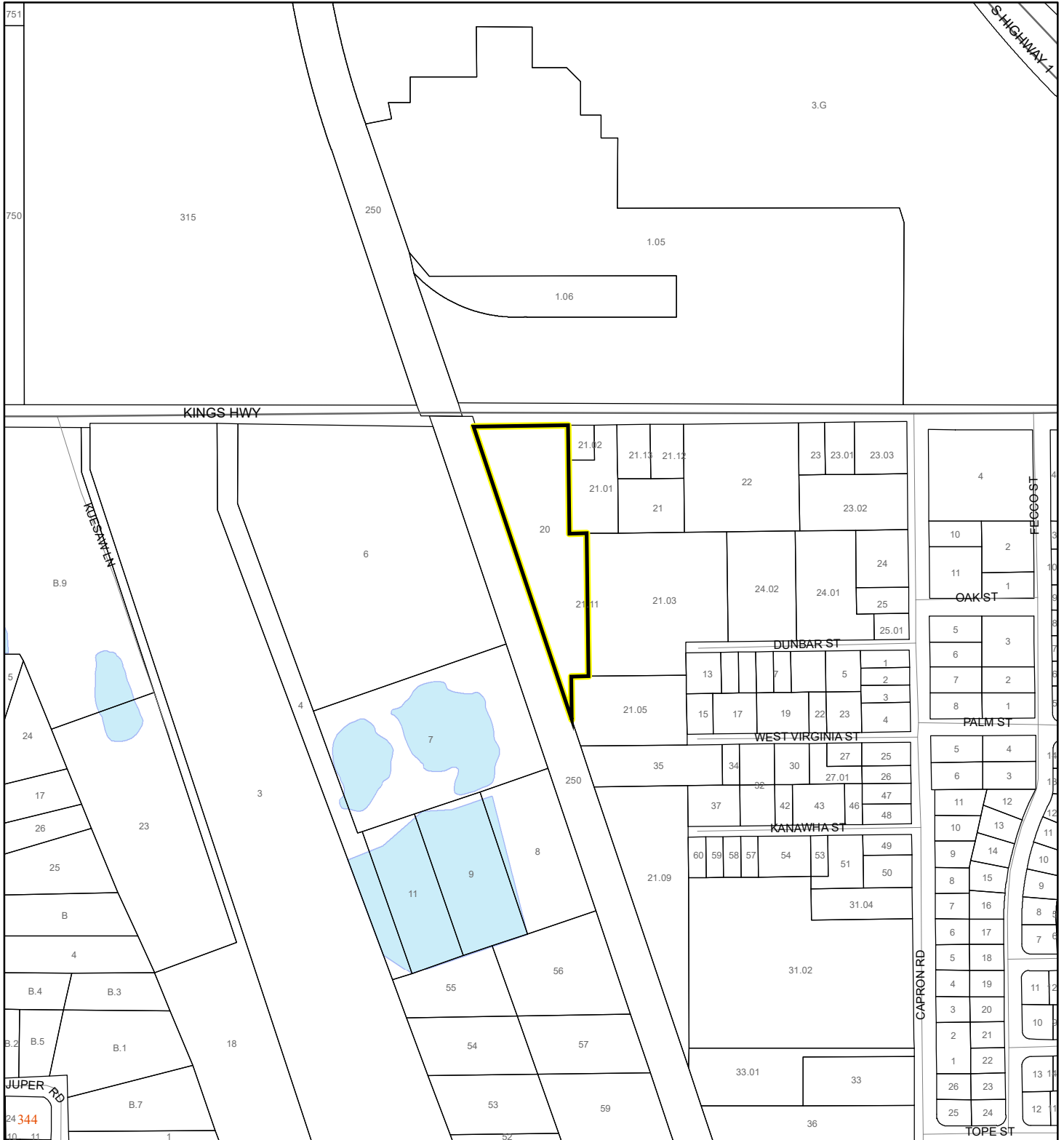
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Produced by BoCC - GIS Date: 10/24/2023

FEMA Flood Zones			
	A		X
	AE		Open Water
	AH		VE
	Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

3955 KINGS HWY LLC
23Z00049



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 10/24/2023

 Subject Property

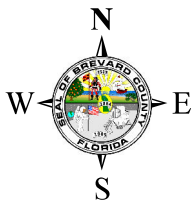
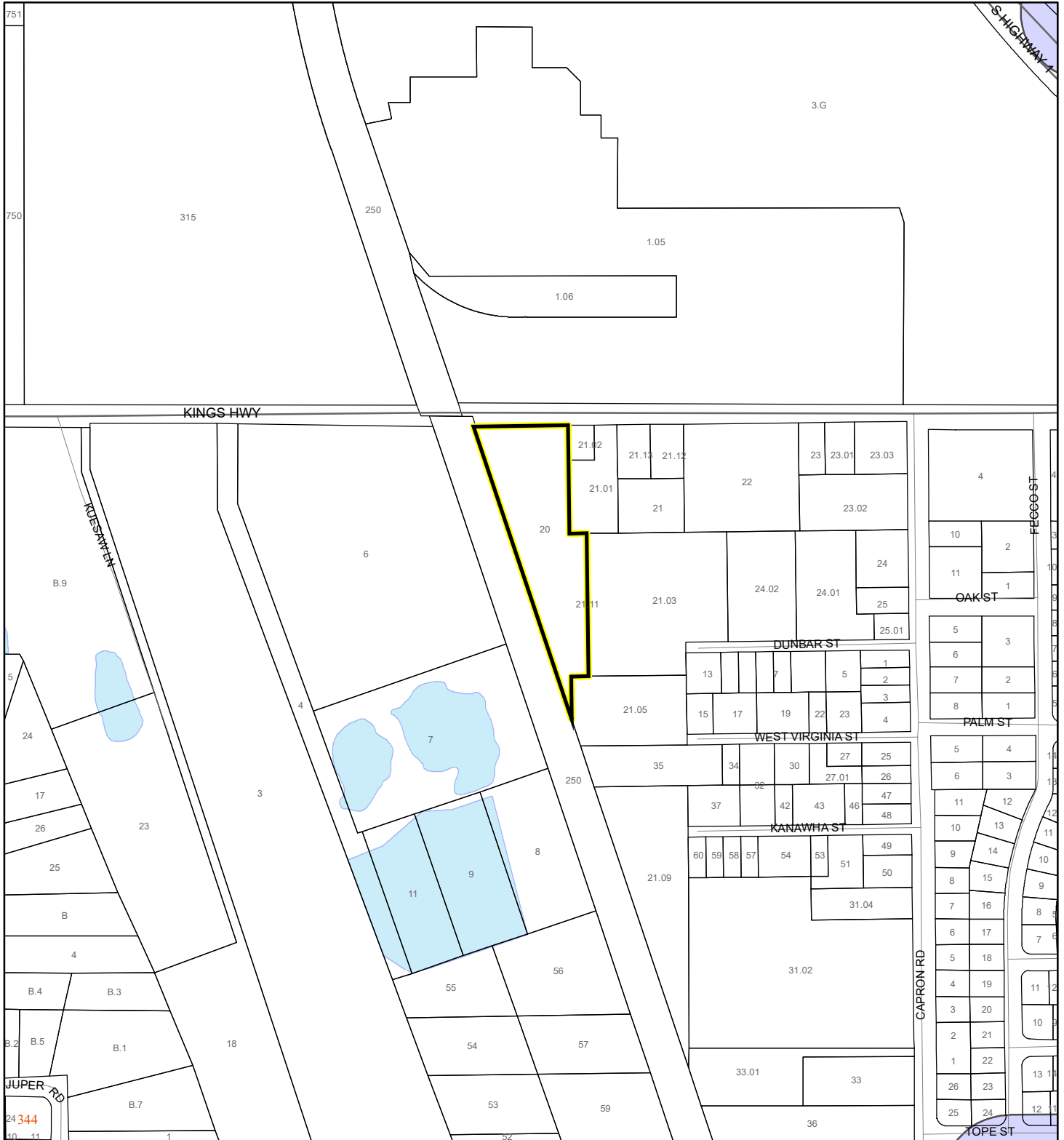
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

3955 KINGS HWY LLC
23Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/24/2023

 Subject Property

 Parcels

Septic Overlay

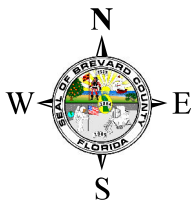
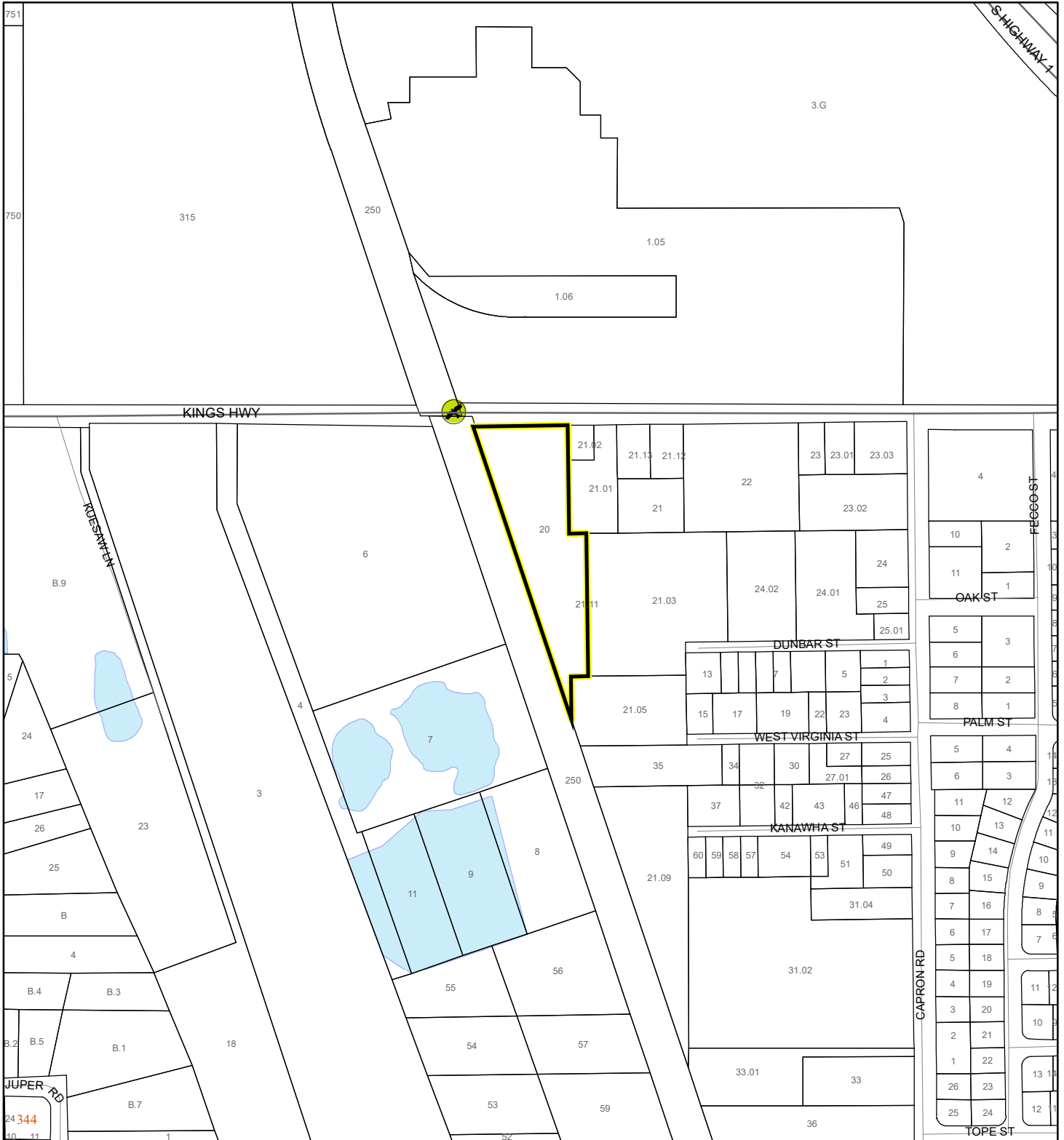
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

3955 KINGS HWY LLC
23Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/24/2023

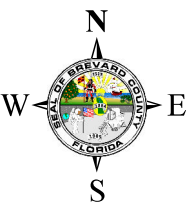
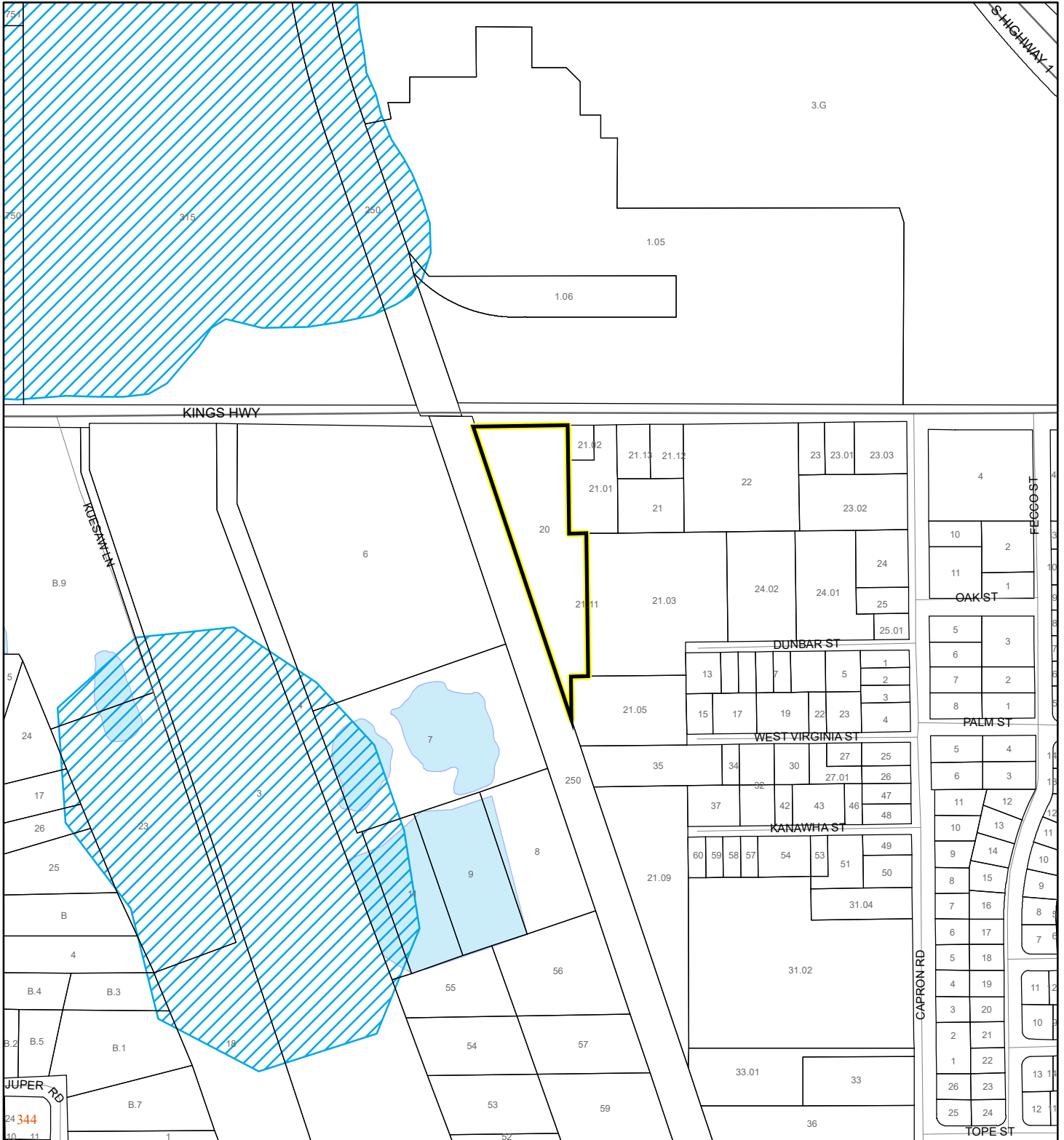
 Subject Property

 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP




3955 KINGS HWY LLC
23Z00049



1:4,800 or 1 inch = 400 feet

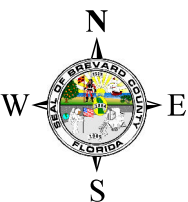
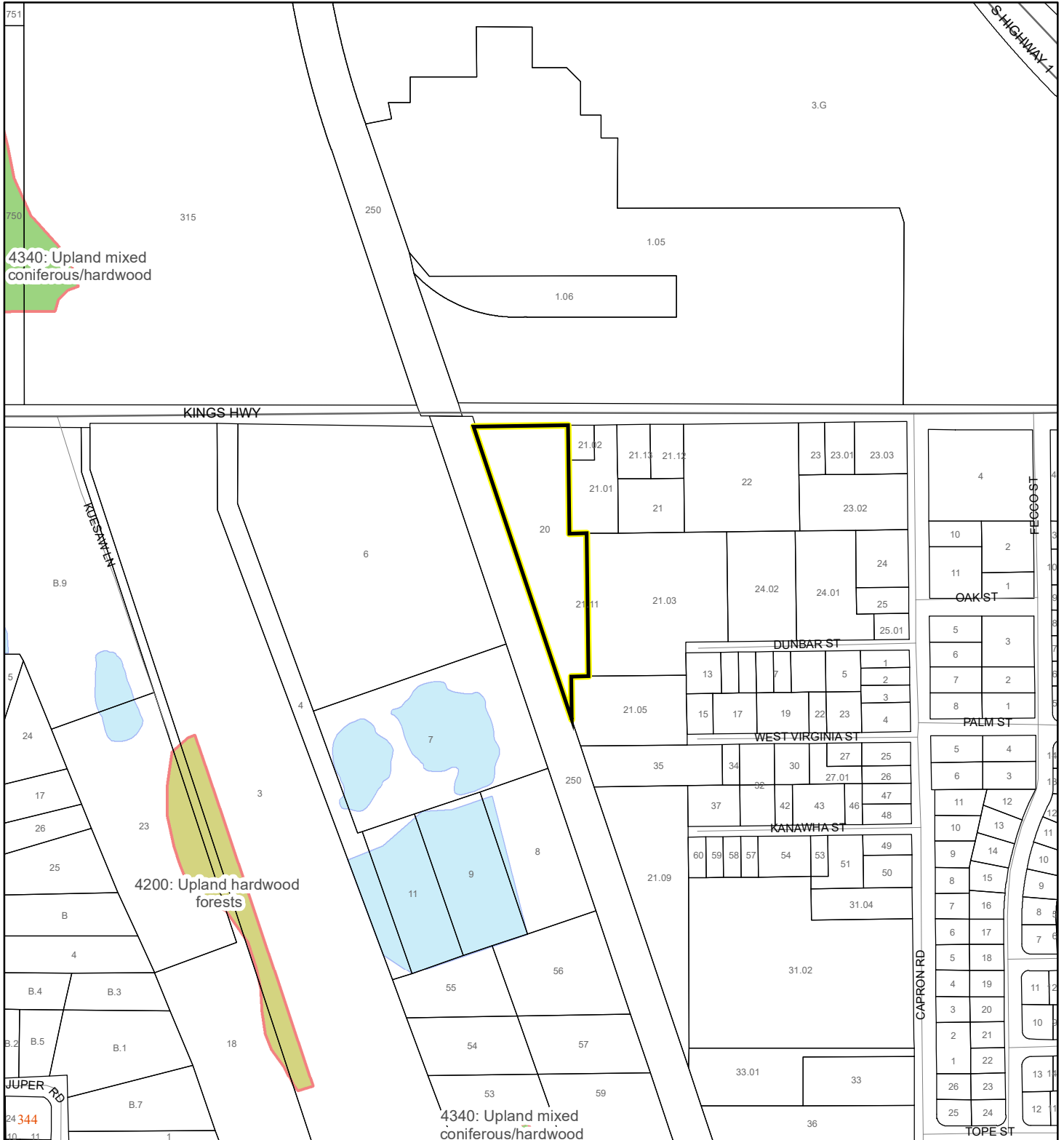
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Produced by BoCC - GIS Date: 10/24/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

3955 KINGS HWY LLC
23Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/24/2023

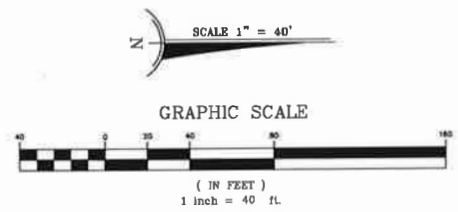
SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property

Parcels

BOUNDARY & TOPOGRAPHIC SURVEY



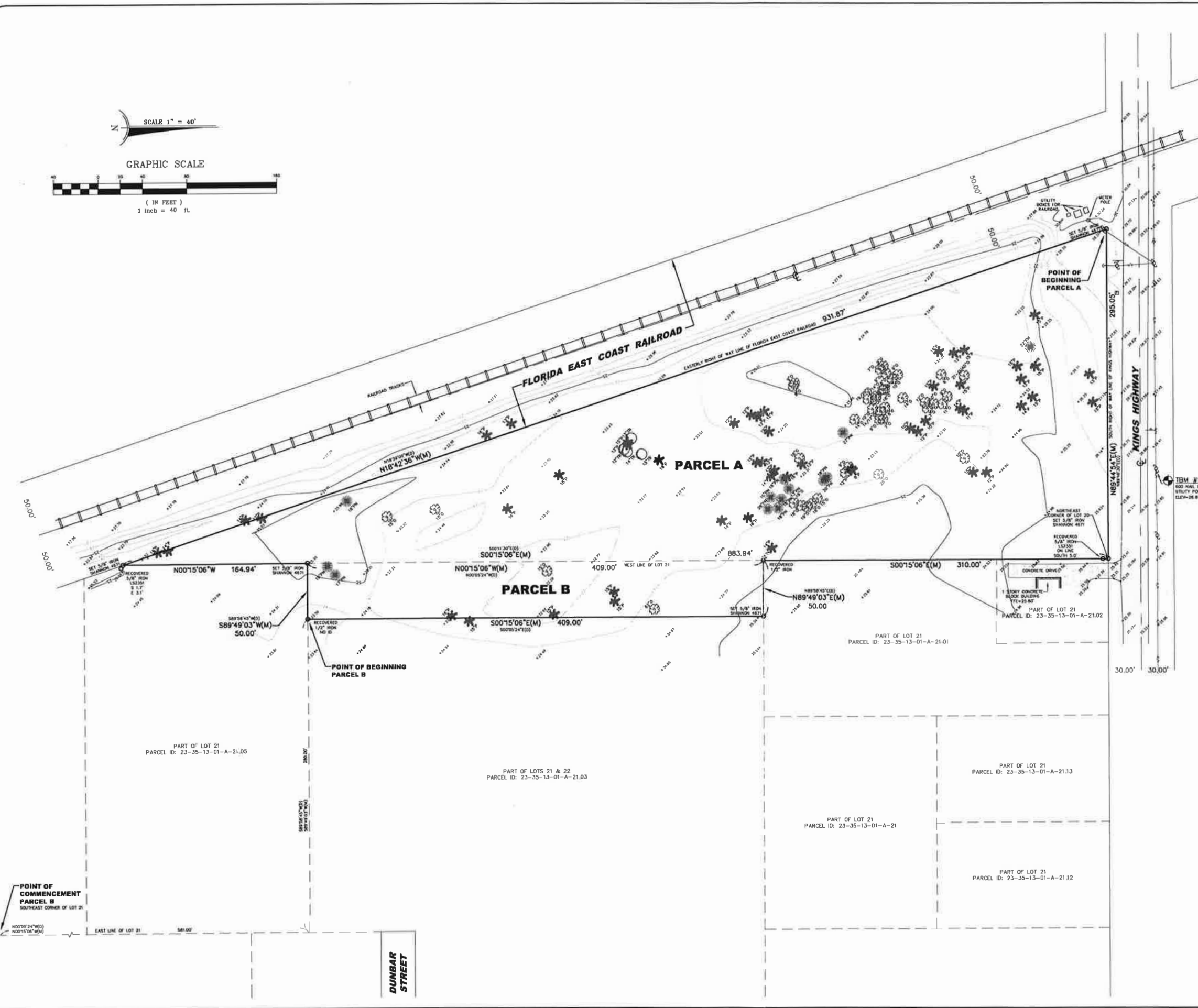
DESCRIPTION:

Parcel A:
Plantation 20, as lies East of the Florida East Coast Railroad Right-of-way, Plate A, Section 13, Township 23 South, Range 35 East, Map of Delespine on Indian River, as recorded in Plat Book 2, Page 2, Public Records of Brevard County, being more particularly described as follows:

Begin at the intersection of the Easterly Right-of-way line of the Florida East Coast Railroad (a 100 foot r/w) and the South Right of way line of Kings Highway (a 60 ft r/w) thence N 89 degrees 48 minutes 30 seconds East (assumed bearing) along said South Right of way line of 295.05 feet to the Northeast corner of said Plantation 20; thence S 0 degrees 11 minutes 30 seconds E. along the East line of said Plantation 20, 883.94 ft. to said Easterly right-of-way of Florida East Coast Railroad; thence N 18 degrees 39 minutes 00 seconds W., along said Easterly Right of way line 931.87 feet to the Point of Beginning.

Parcel B:
A parcel of land lying in Section 13, Township 23 South, Range 35 East and also being a part of Lot 21, Plate "A", MAP OF DELESPINE ON INDIAN RIVER as recorded in Plat Book 2, Page 2, of the Public Records of Brevard County, Florida, more particularly described as follows:

Commence at the Southeast corner of said Lot 21, thence run N 00 degrees 05' 24" W along the East line of said Lot 21 a distance of 581.00 feet; thence run S 89 degrees 58' 45" W a distance of 280.00 feet to the POINT OF BEGINNING; thence continue S, 89 degrees 58' 45" W a distance of 50.00 feet; thence run N 00 degrees 05' 24" W along the West line of said Lot 21 a distance of 409.00 feet; thence run N 89 degrees 58' 45" E a distance of 50.00 feet; thence run S 00 degrees 05' 24" E a distance of 409.00 feet to the POINT OF BEGINNING.



NOTES:

- BEARINGS BASED ON THE WEST LINE OF LOT 21 AS BEING S00°15'06"E.
- NO UNDERGROUND UTILITIES, UNDERGROUND FOUNDATIONS, OR UNDERGROUND SIGN BASES WERE LOCATED.
- ELEVATIONS BASED ON NGS BENCHMARK NUMBER 386-04. A BRASS DISK IN 14" ROUND CONCRETE MASS. ELEVATION=19.051', NAVD 1988 DATUM.
- SURVEY PREPARED WITHOUT THE BENEFIT OF TITLE COMMITMENT.

- LEGEND**
- FIBER OPTIC CABLE BOX
 - ⌋ GUY ANCHOR
 - SIGN
 - ⊕ WOOD UTILITY POLE
 - O/H- OVERHEAD UTILITY LINE
 - (XX)O (SIZE)" OAK TREE
 - (XX)P (SIZE)" PALM TREE
 - (XX)PN (SIZE)" PINE TREE
 - (XX)TR (SIZE)" TREE OF UNKNOWN TYPE

James R Shannon
Digitally signed by James R Shannon
Date: 2023.04.28 13:55:56 -04'00'

JAMES R. SHANNON, P.L.S. #4671
NOT VALID WITHOUT THE SIGNATURE AND SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

SHANNON SURVEYING, INC.
499 NORTH S.R. 434 - SUITE 2045
ALTA MONTE SPRINGS, FLORIDA, 32714
(407) 774-8372 LB # 6858

DATE OF SURVEY: 04/21/2023
FIELD BY: JRS SCALE: 1" = 40'
FILE NUMBER: 23-352



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.3.

1/3/2024

Subject:

Anabeth Nazario requests a change of zoning classification from RU-1-9 to RU-1-11. (23Z00079) (Tax Account 2320163) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Port St. John Dependent Special District Board conduct a public hearing to consider a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential).

Summary Explanation and Background:

The applicant is requesting to rezone the property from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential) to have the zoning classification consistent and compatible with the Residential 4 (RES 4) Future Land Use Map (FLUM) designation.

The historical land use patterns of the surrounding development can be characterized as single-family residences on properties 0.23 acres to 0.92 acres in size.

The Board may wish to consider if the request is consistent and compatible with the surrounding area and to recognize existing development trends. The Board may also wish to consider any impacts on any significant natural wetlands, water bodies or habitat for listed species.

The Board of County Commissioners will consider the request on Thursday, February 1, 2024. Beginning at 5:00 p.m. The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County planning and zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For development applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:
 - 1. historical land use patterns;
 - 2. actual development over the immediately preceding three years; and
 - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 - 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 - 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 - 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the

use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;
- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in

support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

“The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

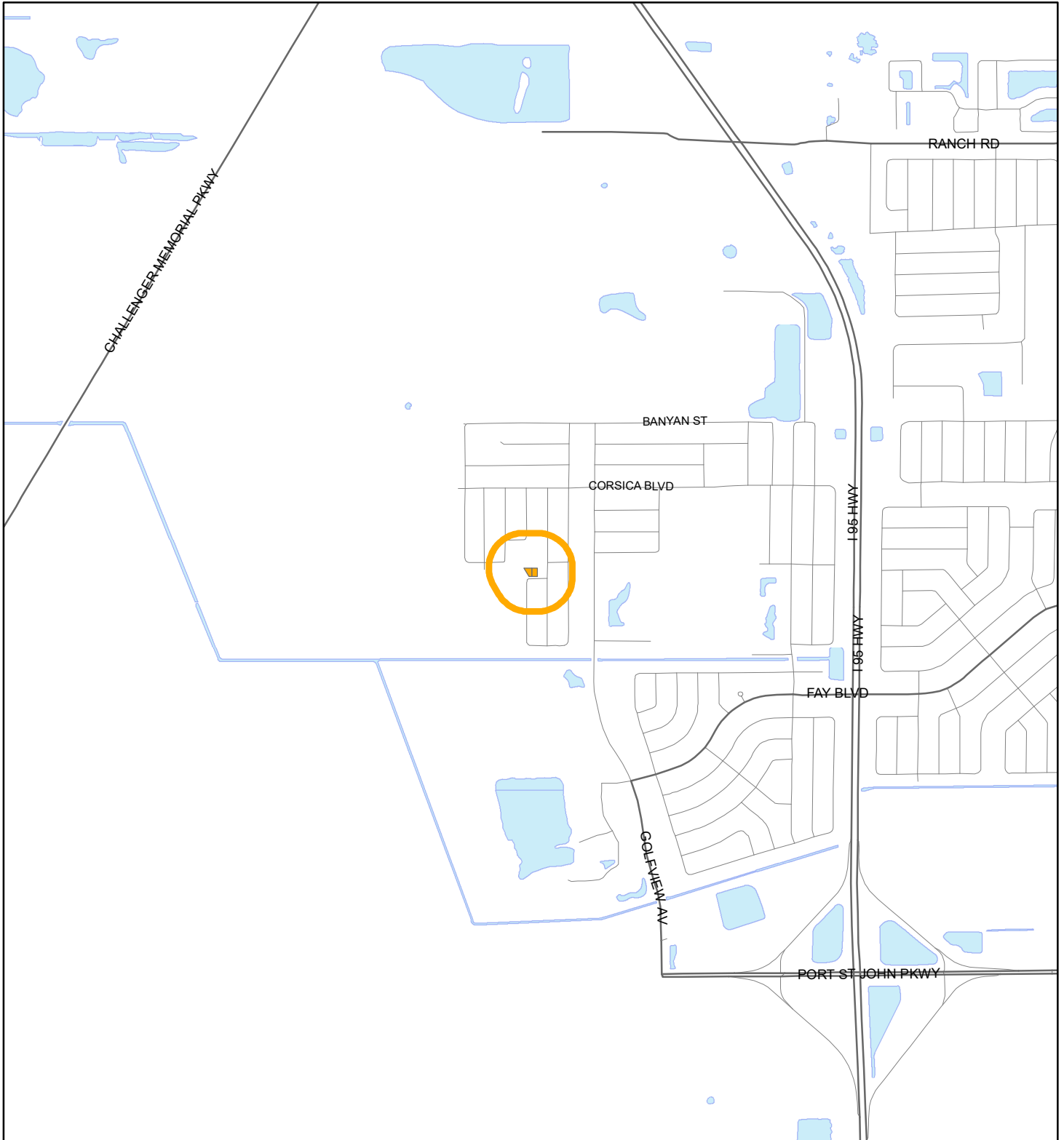
Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.

LOCATION MAP

NAZARIO, ANABETH
23Z00079





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

Buffer Distance: 500 feet

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

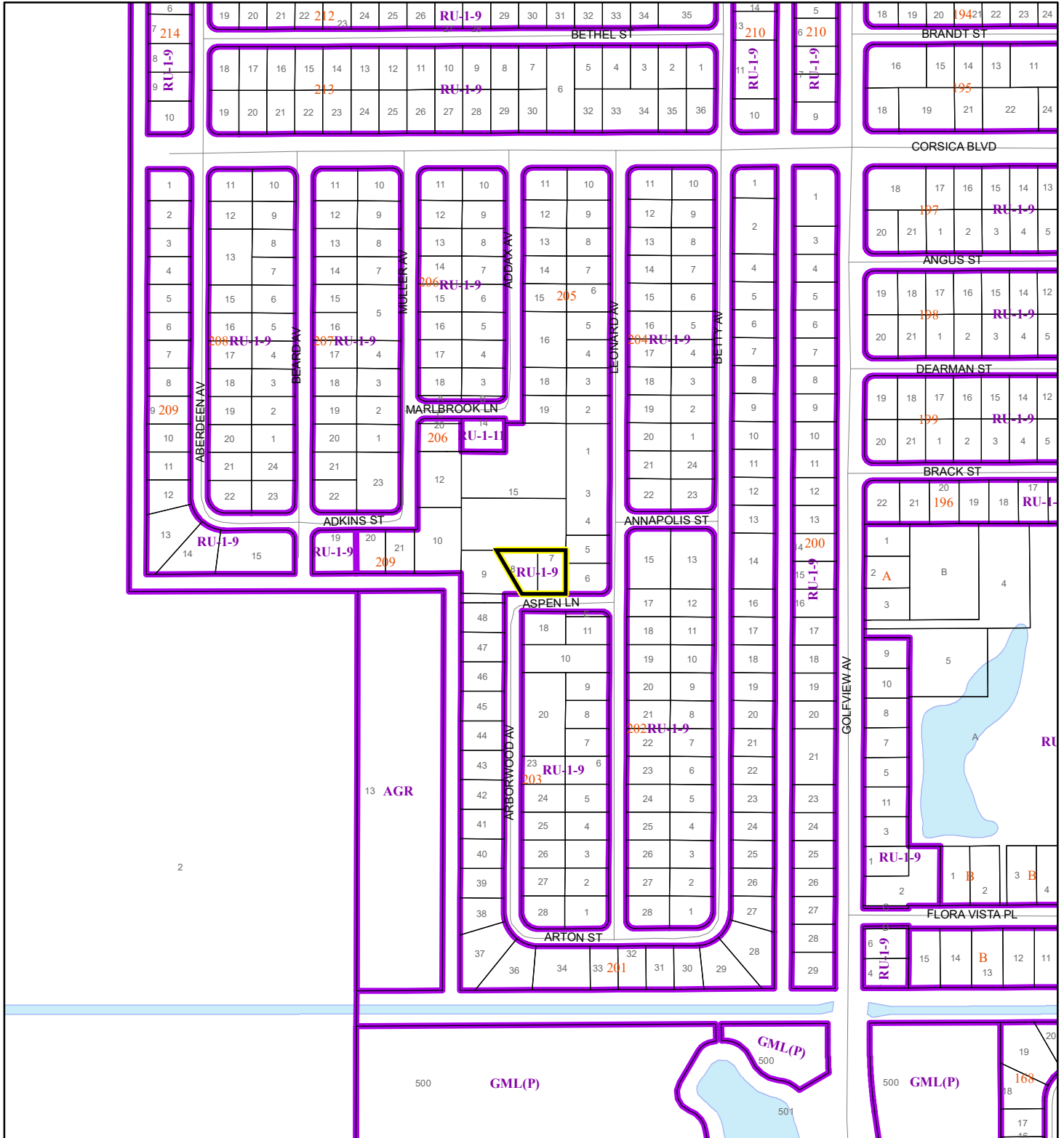
Produced by BoCC - GIS Date: 11/3/2023

-  Buffer
-  Subject Property

ZONING MAP

NAZARIO, ANABETH

23Z00079



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 11/3/2023

- Subject Property
- Parcels
- Zoning



FUTURE LAND USE MAP

NAZARIO, ANABETH

23Z00079



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

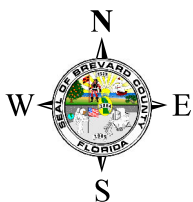
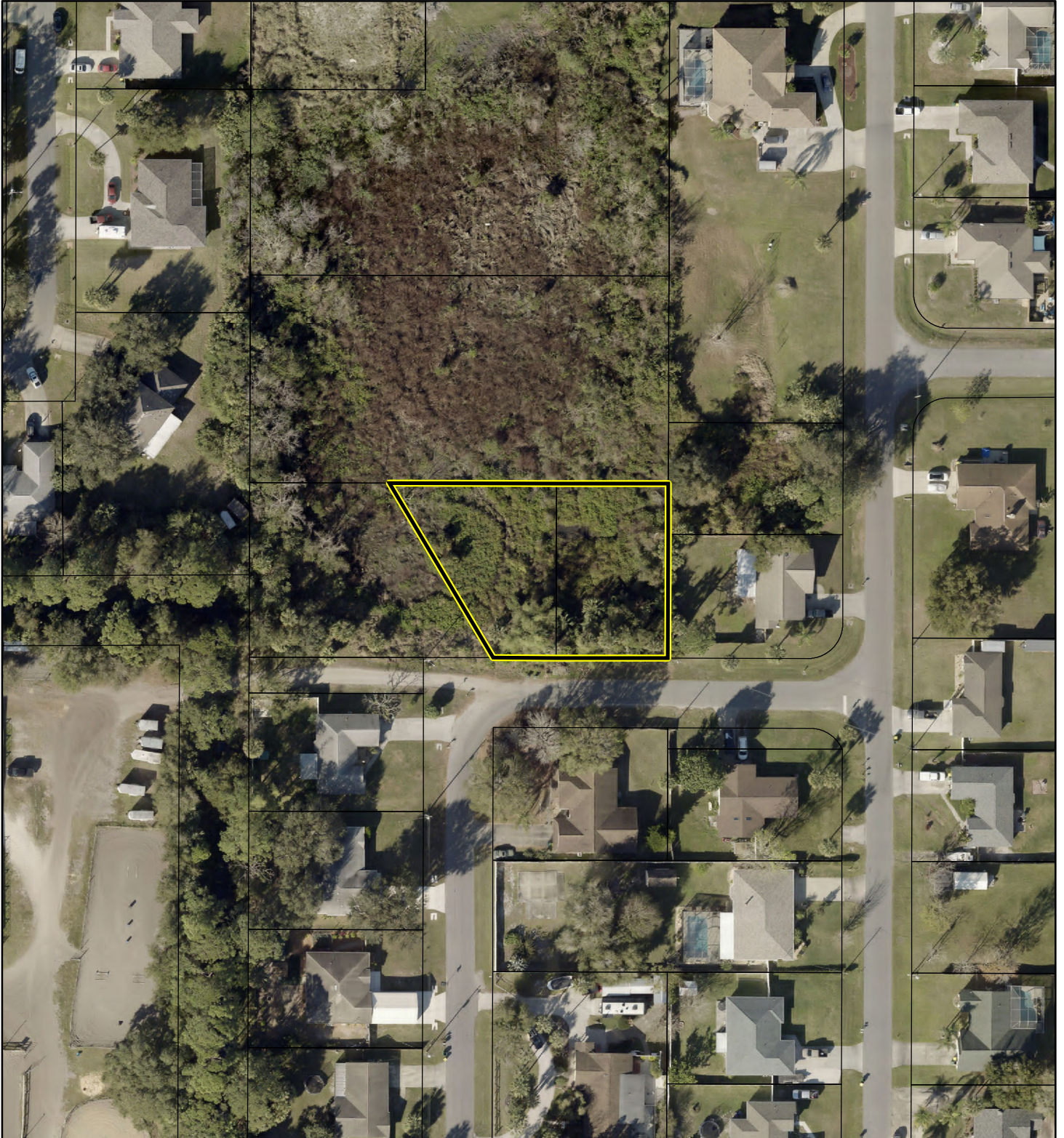
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Produced by BoCC - GIS Date: 11/3/2023

AERIAL MAP

NAZARIO, ANABETH

23Z00079




1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2023

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

Produced by BoCC - GIS Date: 11/3/2023

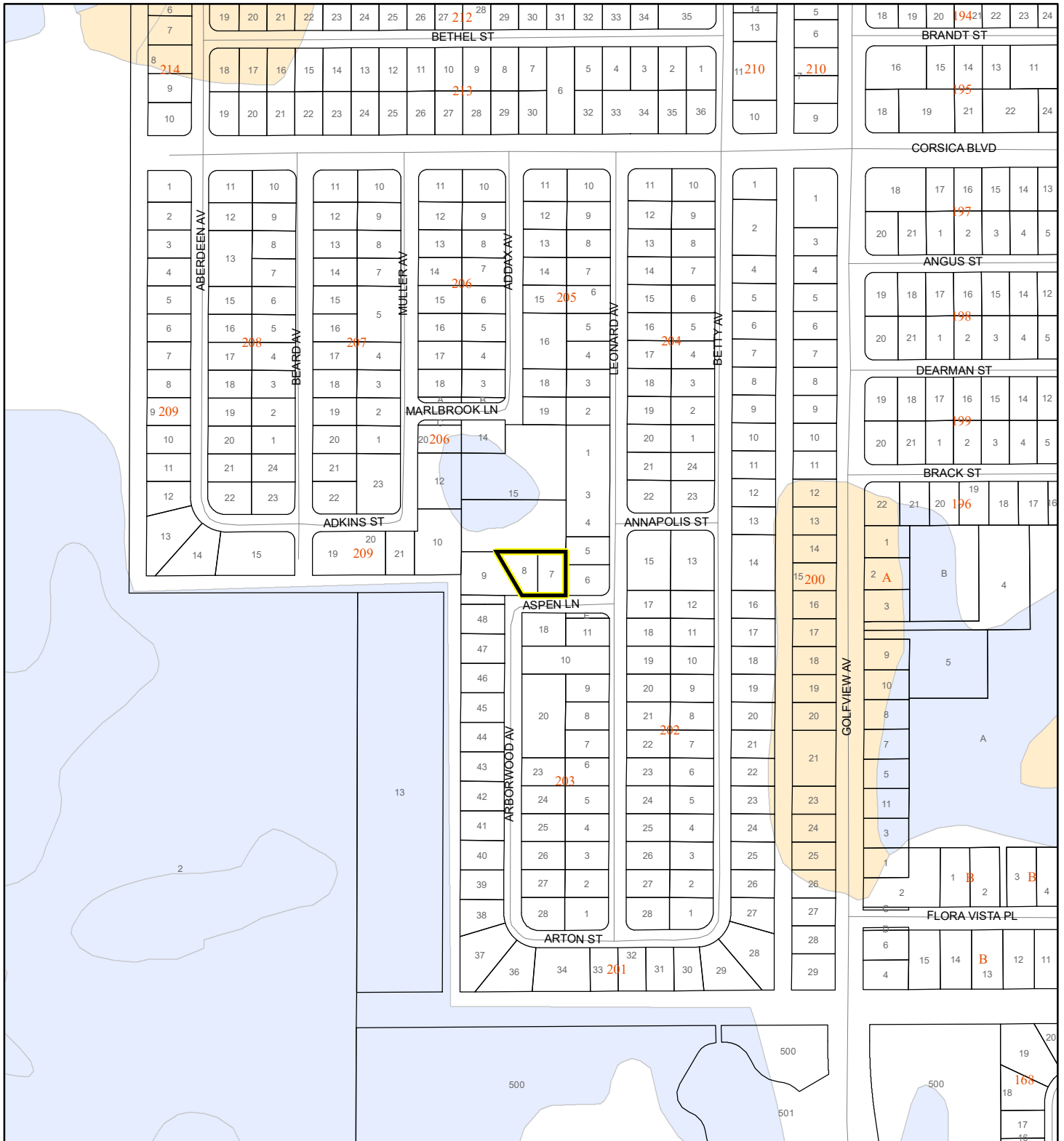
 Subject Property

 Parcels

NWI WETLANDS MAP

NAZARIO, ANABETH

23Z00079



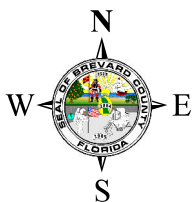
1:4,800 or 1 inch = 400 feet

National Wetlands Inventory (NWI)

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine
- Subject Property
- Parcels

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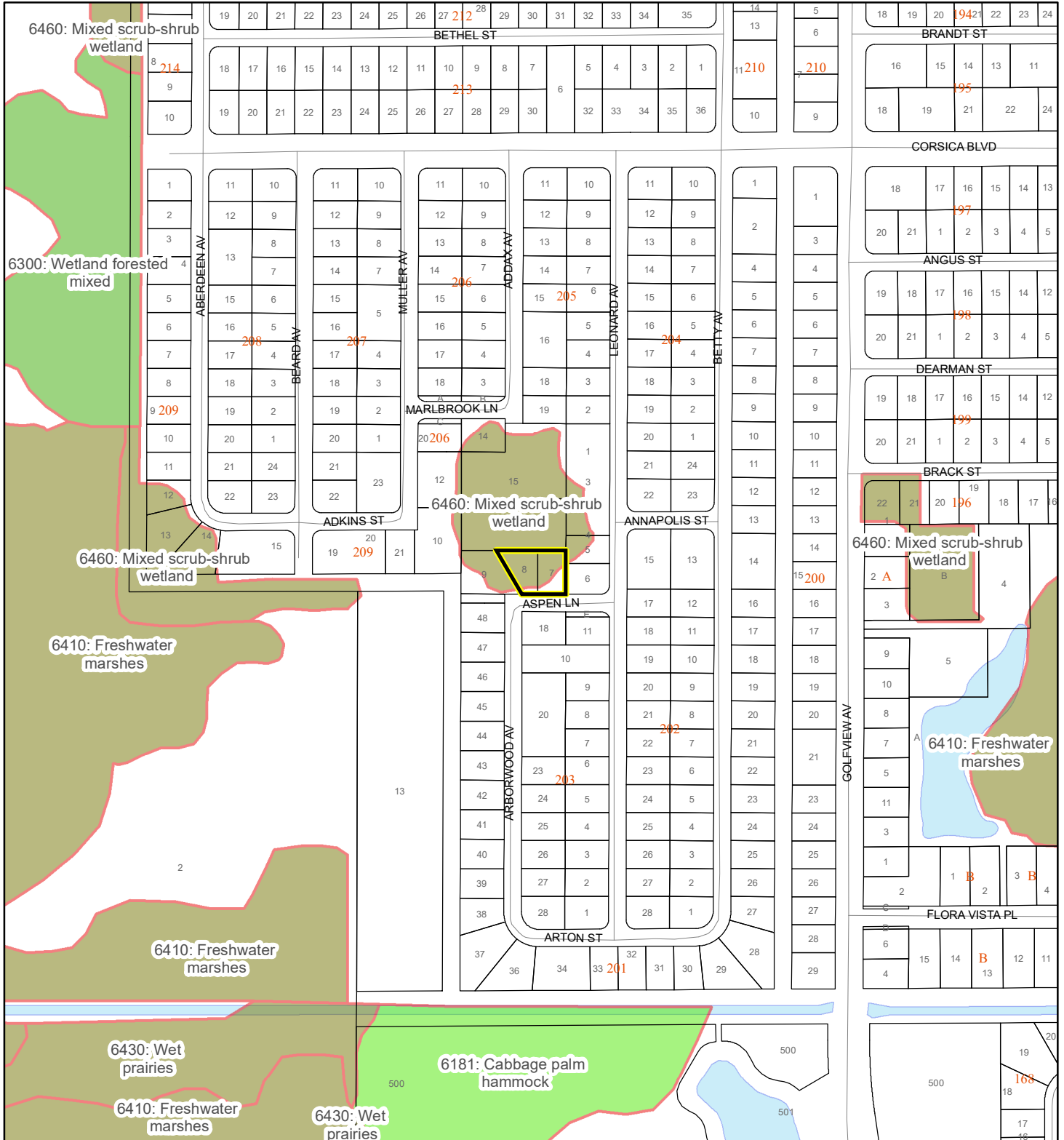
Produced by BoCC - GIS Date: 11/3/2023



SJRWMD FLUCCS WETLANDS - 6000 Series MAP

NAZARIO, ANABETH

23Z00079



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/3/2023

SJRWMD FLUCCS WETLANDS

- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

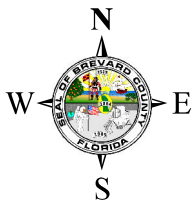
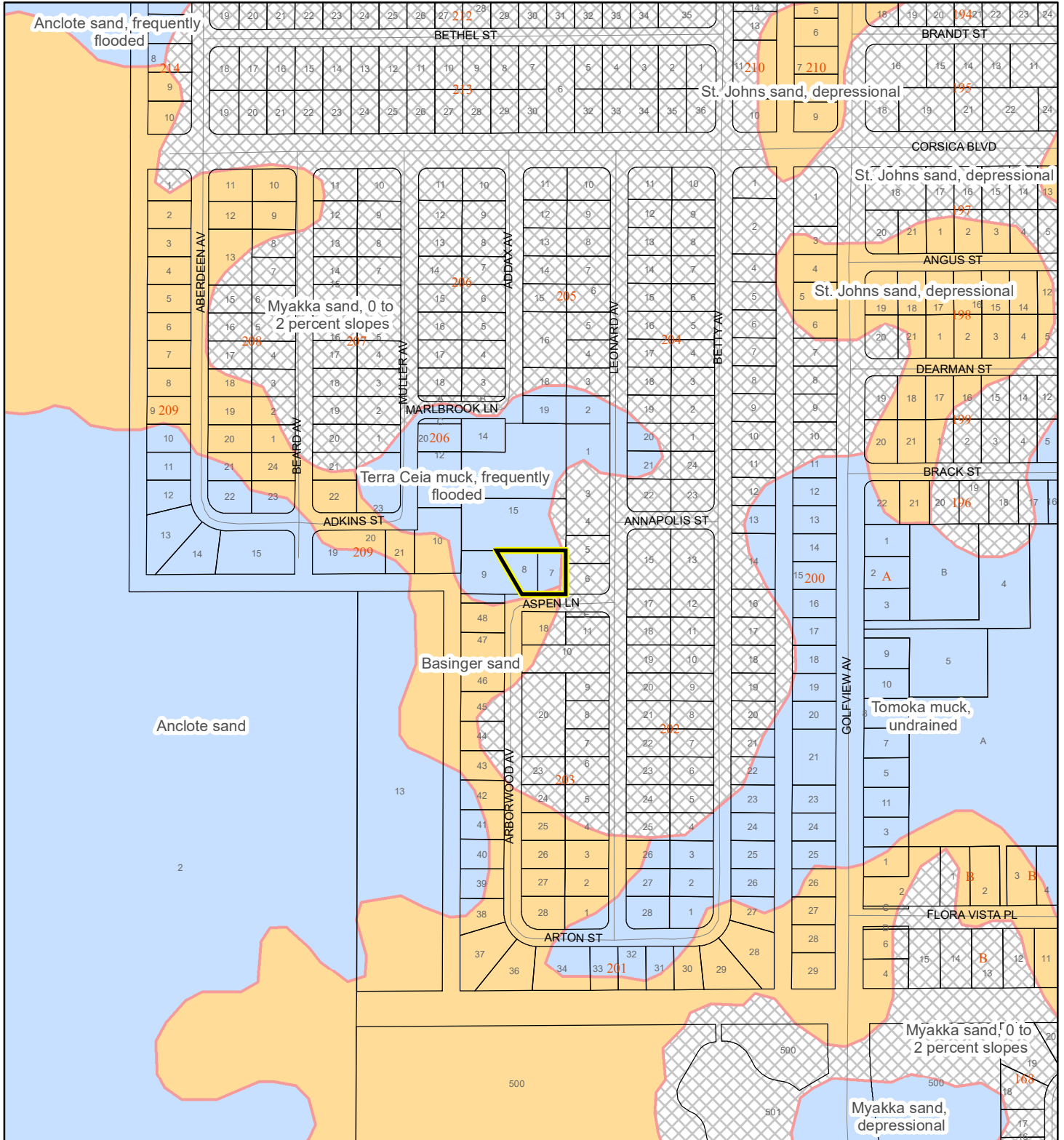
Subject Property

Parcels

USDA SCSSS SOILS MAP

NAZARIO, ANABETH

23Z00079



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 11/3/2023

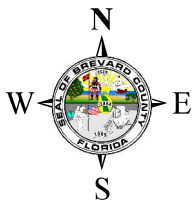
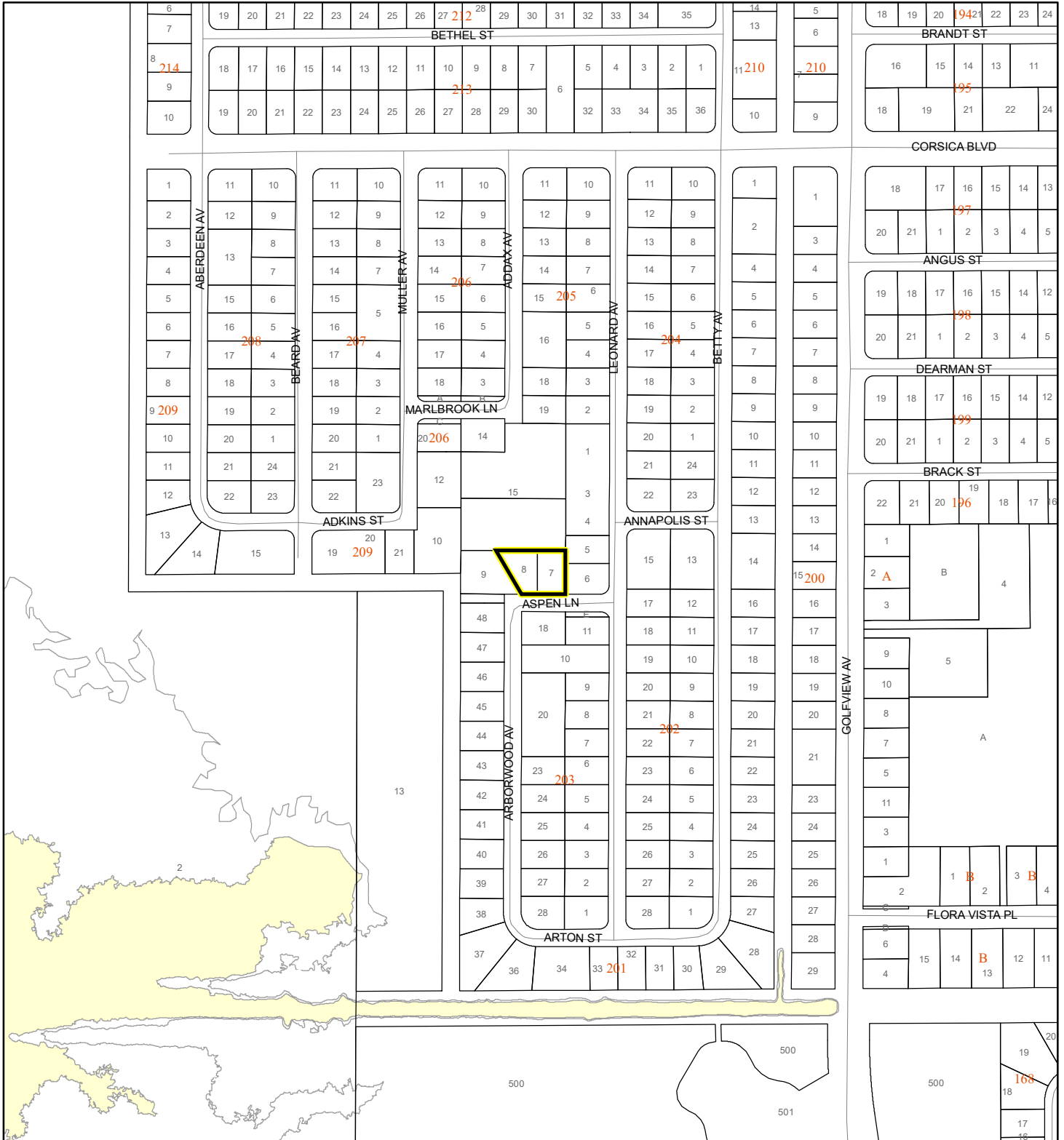
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

NAZARIO, ANABETH

23Z00079



1:4,800 or 1 inch = 400 feet

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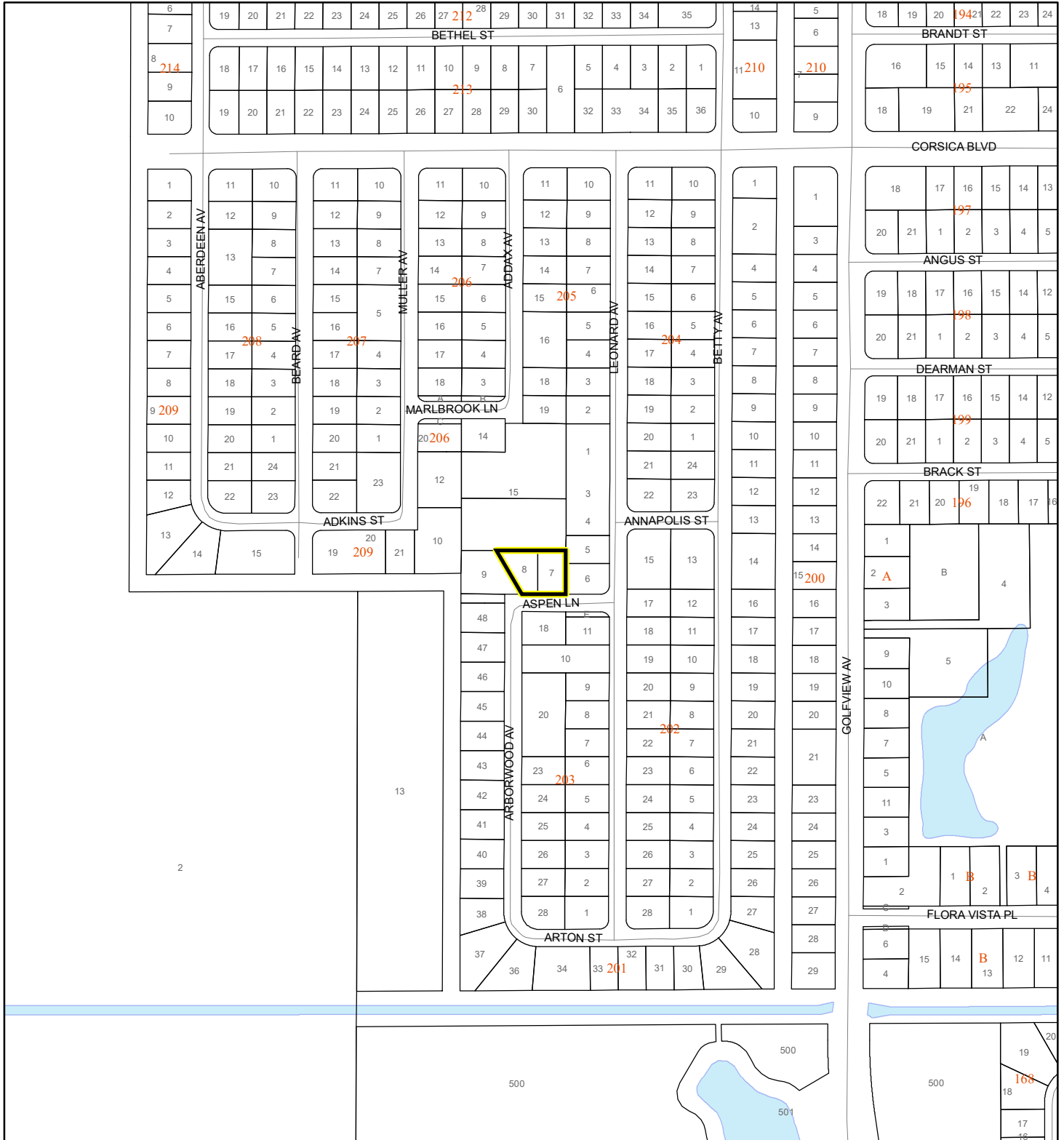
Produced by BoCC - GIS Date: 11/3/2023

- FEMA Flood Zones**
- A
 - AO
 - X
 - AE
 - AH
 - Open Water
 - VE
 - Subject Property
 - Parcels

COASTAL HIGH HAZARD AREA MAP

NAZARIO, ANABETH

23Z00079



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 11/3/2023

 Subject Property

 Parcels

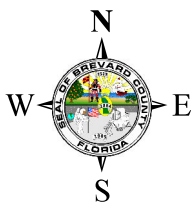
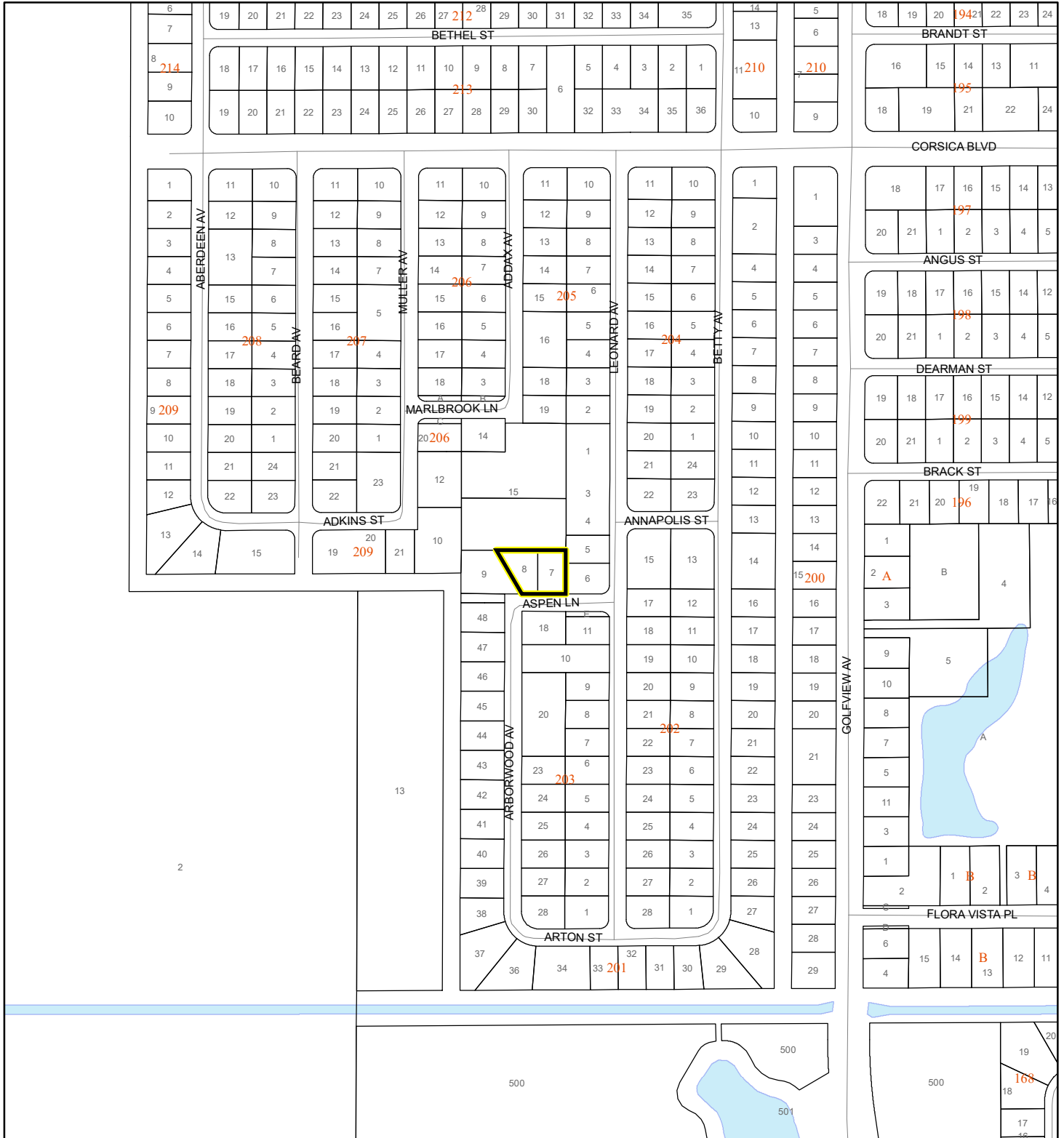
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

NAZARIO, ANABETH

23Z00079



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/3/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

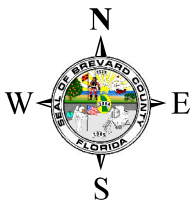
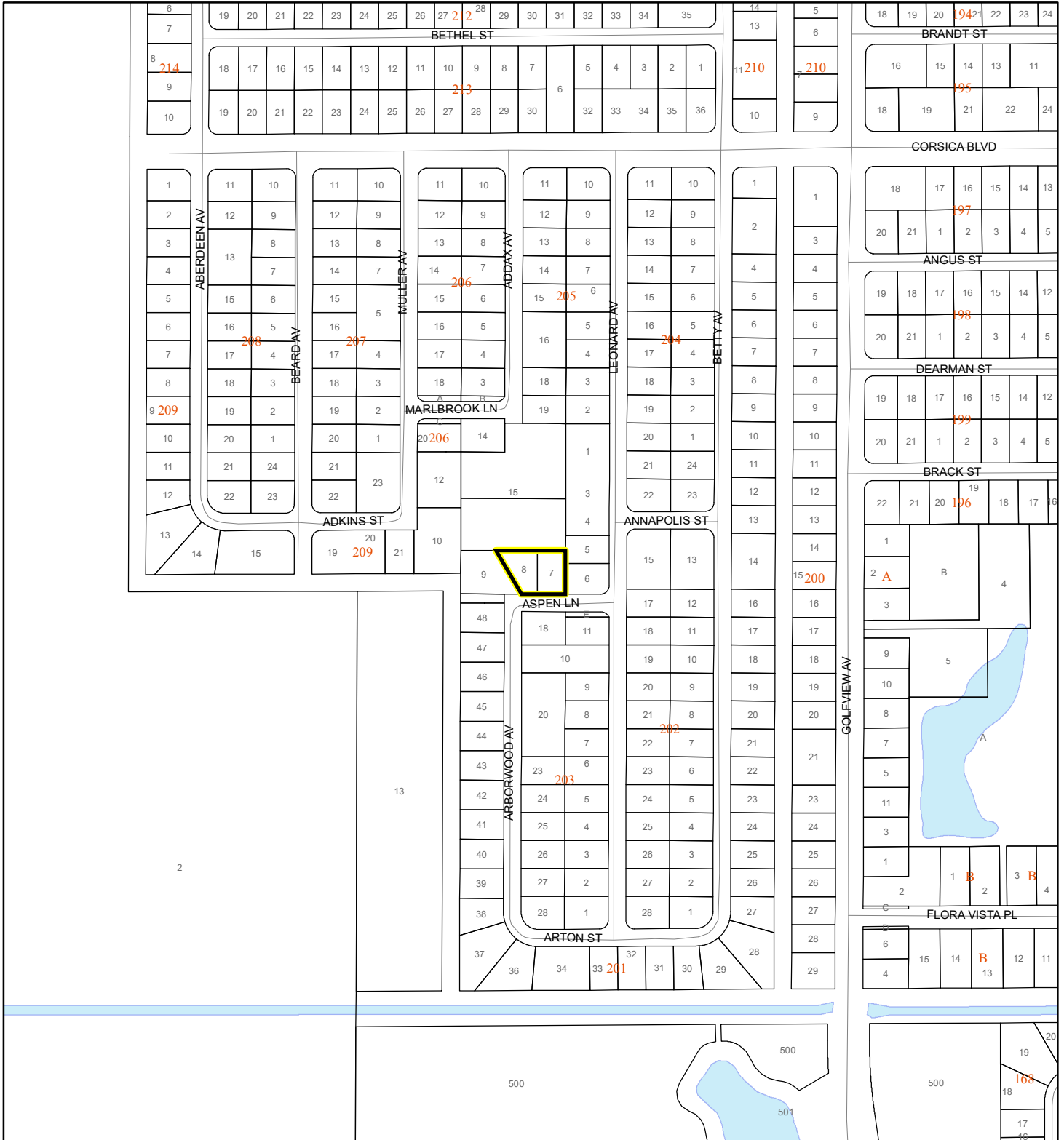
 60 Meters

 All Distances

EAGLE NESTS MAP

NAZARIO, ANABETH

23Z00079



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels

 Eagle Nests
FWS

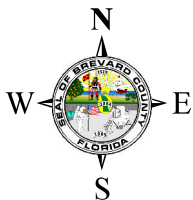
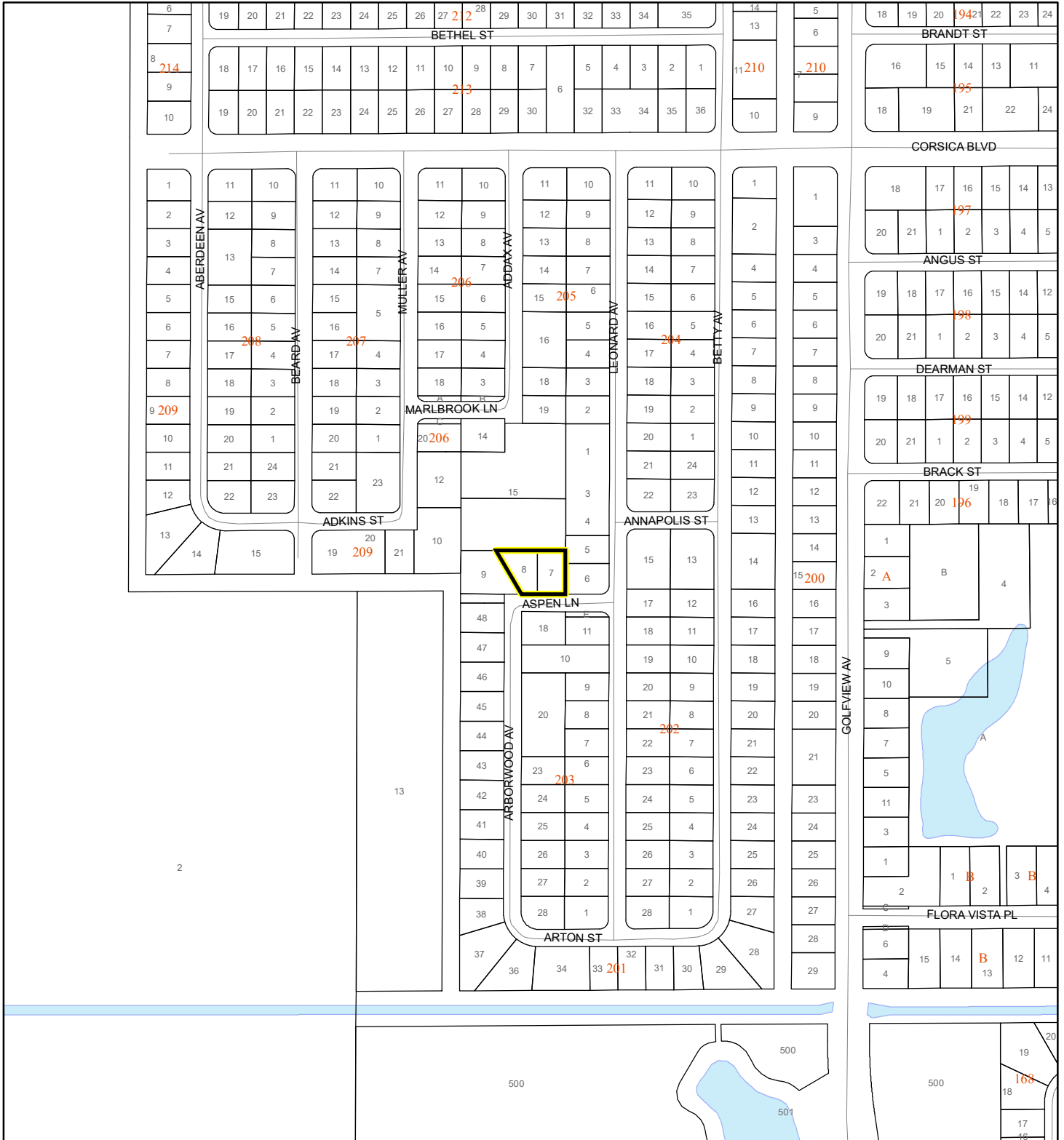
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/3/2023

SCRUB JAY OCCUPANCY MAP

NAZARIO, ANABETH




23Z00079



1:4,800 or 1 inch = 400 feet

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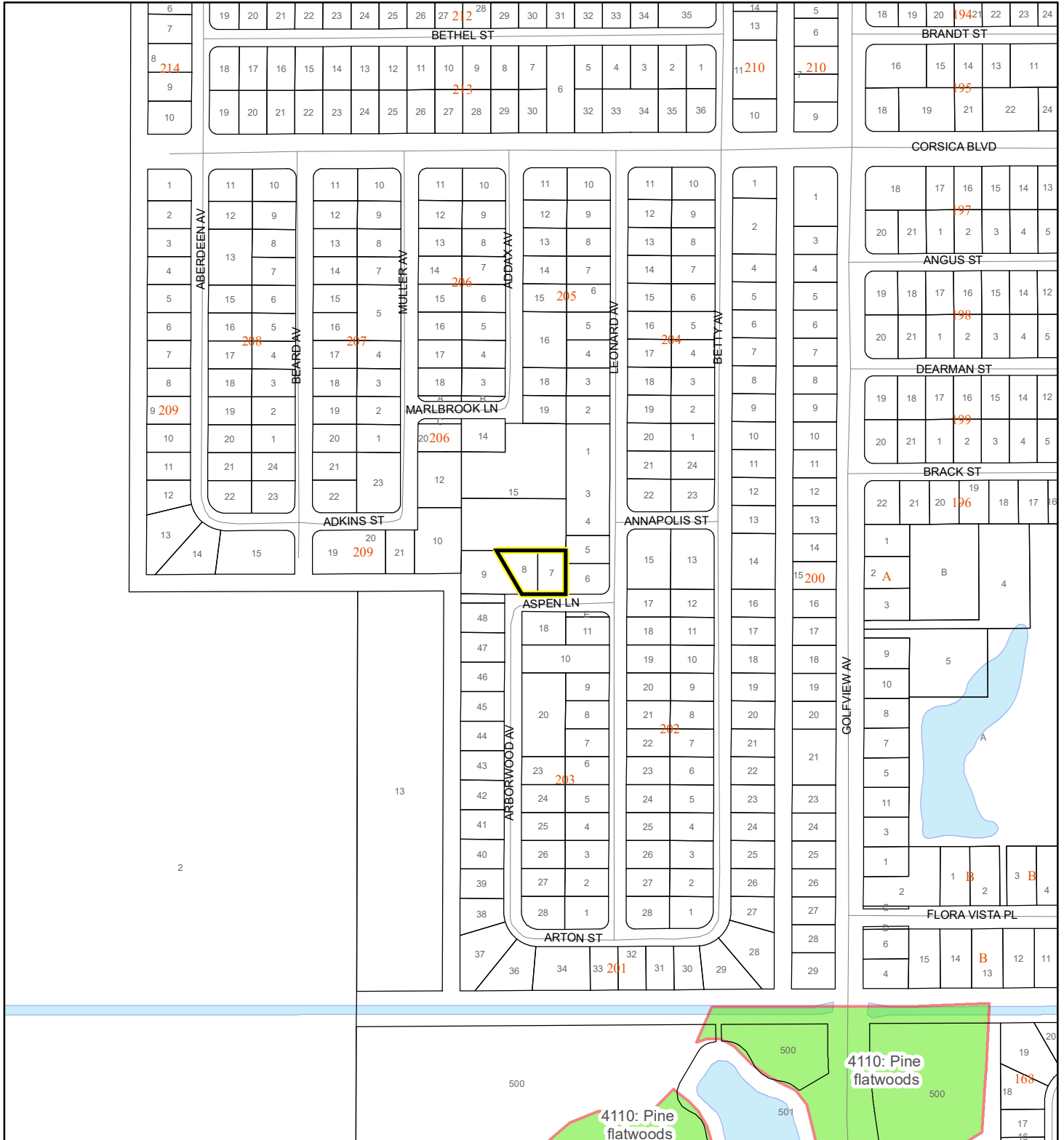
Produced by BoCC - GIS Date: 11/3/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

NAZARIO, ANABETH

23Z00079



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 11/3/2023

SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property Parcels



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
 Building A, Room 114
 Viera, Florida 32940
 (321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS
 23Z00079**

Anabeth Nazario

RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential)

Tax Account Number: 2320163 and 2320164 (Parcels have been combined per Quit Claim Deed recorded on October 31, 2023)
 Parcel I.D.: 23-35-21-LJ-D-7 and 23-35-21-LJ-D-8 (Parcels have been combined per Quit Claim Deed recorded on October 31, 2023)
 Location: North side of Aspen Lane, approximately 125 feet west of Leonard Avenue (District 1)
 Acreage: 0.47 acres
 Port St. John: 01/03/2024
 Board of County Commissioners: 02/01/2024

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-1-9	RU-1-11
Potential*	1 single family	1 single family
Can be Considered under the Future Land Use Map	NO RES 4	YES RES 4

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

Background and Purpose of Request

The applicant is requesting to rezone the property from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential) to have the zoning classification consistent and compatible with the Residential 4 (RES 4) Future Land Use Map (FLUM) designation.

The parcel is currently vacant. The parcel is a portion of Tract “D”, First Replat in Port St. John Unit Six, Plat Book 24, Page 137.

On May 22, 1958, Brevard County adopted the zoning code, and the subject area was established with the zoning classification of GU (General Use).

On October 6, 1960, Zoning action Z-414 rezoned the Port St. John area from GU to the zoning classification RU-1, Single-Family Residential Zone.

On June 1, 1972, the zoning classification RU-1 was replaced with the RU-1-9, Single-Family Residential zoning classification.

On September 8, 1988, Brevard County established the Comprehensive Plan and the Future Land Use Map (FLUM) and Tract "D" was established with the RES 4 Future Land Use. The RES 4 FLU is not consistent/compatible with the RU-1-9 zoning classification. Per section 62-1188(5) Tract "D" was considered nonconforming to the RES 4 FLU as the Tract was of record in the Official Record Books of the County when the Comprehensive Plan was established.

On January 14, 1998, Tract "D" was split per Official Records Book 3768, page 1796 which split off two parcels of Tract "D", called Parcel No. 7, and Parcel No. 8 per ORB 3768, page 1796. This lot split created these two parcels to lose the nonconforming status to the RES 4 Future Land Use. Further, per Section 62-2102: No person shall sever any lot in such a manner that a violation of any of the provisions of this chapter would be created on any new or altered lot, including their uses or structures.

On October 31, 2023, the two parcels were combined together as one parcel per Quit Claim Deed recorded in Official Records Book 9920, Pages 1367 thru 1368. Combining the two parcels was required to meet the 0.25-acre size requirement for RES 4 FLU.

The applicant's request to change the zoning from RU-1-9 to RU-1-11 will provide consistency with the Residential 4 (RES 4) Future Land Use Map (FLUM) designation.

The subject is located on the north side of Aspen Lane, a County maintained roadway.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Undeveloped property	RU-1-9	RES 4
South	Single-family residence across Aspen Lane	RU-1-9	RES 4
East	Single-family residence	RU-1-9	RES 4
West	Undeveloped property	RU-1-9	RES 4

The current RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum) with a minimum width of 66 feet and depth of 100 feet. The minimum house size is 900 square feet.

The proposed RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet.

Future Land Use

The subject property is currently designated as Residential 4 (RES 4) FLUM designation. The current RU-1-9 zoning is not consistent with the existing RES 4 FLUM designation. The proposed RU-1-11 zoning is consistent with the existing RES 4 FLUM designation.

FLUM Policy 1.7 – The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within the Future Land Use Element.

The applicant's request can be considered consistent with the existing Future Land Use. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area:

Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The applicant intends to build single-family residence on the site. The request is not anticipated to diminish the enjoyment of safety or quality of life in existing residential area.

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development.

Only a certified MAI (Master Appraiser Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through an analysis of:

1. historical land use patterns;

The historical land use patterns of the surrounding development can be characterized as single-family residences on properties 0.23 acres to 0.92 acres in size.

There are four (4) FLU designations (RES 4, RES 2, REC, and PUB CONS) within a 0.5-mile radius of the subject property. RES 4 is the prominent FLU in this area.

2. actual development over the immediately preceding three years; and

There is one development within 0.5 miles for a proposed single-family residence, located 280 feet to the north of the subject parcel.

3. development approved within the past three years but not yet constructed.

There has been no development approved within the past three years.

- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

No material violation of relevant policies has been identified.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The closest parcel with RU-1-11 zoning is located 280 feet to the north of the subject parcel. This parcel was rezoned from RU-1-9 to RU-1-11 on 2/02/2023 per zoning action 22Z00061.

This request provides consistency with the FLUM and zoning classification. It will also recognize existing development trends.

Since RU-1-11 has larger lot and dwelling standards and contains the same uses, it is not anticipated to materially or adversely impact the surrounding established RU-1-9 residential neighborhood.

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The property is located in an existing platted residential neighborhood. There are clearly established roads and residential lot boundaries.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

The request is not for commercial use. It is located in an existing single-family residential neighborhood.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial, or other non-residential uses have been applied for and approved during the previous five (5) years.

The area is primarily single-family residential with no commercial zoning nearby.

Analysis of Administrative Policy #7

Proposed use(s) shall not cause or substantially aggravate any (a) Substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Per Natural Resource Management Department: A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal and meet all Natural Resource Management Department codes.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Fay Blvd. located between Golfview Avenue and Homestead Avenue, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of D, and currently operates at 21.86% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 21.92% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The subject property has access to the City of Cocoa potable water and on septic.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

A majority of the subject parcel contains mapped wetlands and hydric soils; indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 65-3694(c)(6).**

Because the lot was subdivided into its current configuration after September 9, 1988, and the property is less than 5 acres, **wetland impacts shall not exceed 1.8% of project area. This equates to a total of approximately 369 square feet of permissible wetland impacts on the properties' combined 20,473 square feet.**

Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.**

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area and to recognize existing development trends. The Board may also wish to consider any impacts on any significant natural wetlands, water bodies or habitat for listed species.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 23Z00079

Applicant: Anabeth Nazario (Owner: Anabeth Nazario)

Zoning Request: RU-1-9 to RU-1-11

Note: Combining parcels - PAO application 10/31/2023

PSJ Hearing: 01/03/2024; **BCC Hearing:** 02/01/2024

Tax ID Nos: 2320163 & 2320164

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

A majority of the subject parcel contains mapped wetlands and hydric soils; indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

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Because the lot was subdivided into its current configuration after September 9, 1988, and the property is less than 5 acres, **wetland impacts shall not exceed 1.8% of project area. This equates to a total of approximately 369 square feet of permissible wetland impacts on the properties' combined 20,473 square feet.**

Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.**

Land Use Comments:

Wetlands and Hydric Soils

A majority of the subject parcel contains mapped wetlands and hydric soils; indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 65-3694(c)(6).** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.**

Aquifer Recharge Soils

Basinger sand can also function as an aquifer recharge soil. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. A topographic survey should be completed prior to development to confirm elevations. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements.

Protected Species

Federally and/or state protected species may be present on properties with aquifer recharge soils and/or wetlands. Specifically, there is potential for existence of Gopher Tortoises on site. Should any protected species be present, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service prior to any plan, permit submittal, or development activity, including land clearing, as applicable.