



Planning and Zoning Board / Local Planning Agency  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida  
Agenda  
Monday, April 5, 2021

**Call To Order**

**Approval of Minutes - March 8, 2021**

**H. Public Hearings**

- H.1.** John & Terri Kroboth, and John Bradley Kroboth request a CUP for a Private Boat Dock Adjacent to a Single-Family Residence in an RU-1-13 zoning classification. (21PZ00004) (Tax Account 2953088) (District 3)
- H.2.** Michael J. and Annette Costello request a change of zoning classification from RR-1 to AU. (21Z00005) (Tax Account 2700924) (District 5)
- H.3.** The Suntree Business Center, LLC, requests a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a dog park, in a BU-2 zoning classification. (21PZ00012) (Tax Account 2602736) (District 4)

**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 Planning and Zoning Board is in session. Thank You.

This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Spectrum Cable Channel 499, Comcast (North Brevard) Cable Channel 51, and Comcast (South Brevard) Cable Channel 13 and AT&T U-verse Channel 99. SCGTV will also replay this meeting during the coming month on its 24-hour video server nights, weekends, and holidays. Check the SCGTV website for daily program updates at <http://www.brevardfl.gov>. The Agenda may be viewed at: <http://www.brevardfl.gov/Board Meetings>



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

---

H.1.

4/5/2021

---

### **Subject:**

John & Terri Kroboth, and John Bradley Kroboth request a CUP for a Private Boat Dock Adjacent to a Single-Family Residence in an RU-1-13 zoning classification. (21PZ00004) (Tax Account 2953088) (District 3)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Planning and Zoning Board conduct a public hearing to consider a request for a CUP (Conditional Use Permit) for a Private Boat Dock Adjacent to a Single-Family Residence in an RU-1-13 (Single-Family Residential zoning classification).

### **Summary Explanation and Background:**

The applicants are requesting approval of a Conditional Use Permit (CUP) for a private residential boat dock in the RU-1-13 zoning classification for the purpose of legitimizing an existing boat dock on the parcel as an accessory use.

A CUP for the existing dock was never applied for by the previous owners. The applicants also own Lot 1, Block D, located in the same Crystal Lakes subdivision approximately 1,495 feet northeast of the subject waterfront lot and both parcels retain the RU-1-13 zoning classification.

The character of the area is a mix of existing single-family homes and parcels with existing docks. Of the 13 similar parcels on the south side of Ross Avenue, all but two have existing docks. There have been nine approved CUP actions for private boat docks accessory to adjacent single-family residential lots in the immediate area of the Crystal Lakes subdivision.

The Board may wish to consider the compatibility of the proposed CUP with surrounding development. The Board may also wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the abutting properties.

### **Clerk to the Board Instructions:**

None

# **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 staff, 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 Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all 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 re-zoning 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:

##### **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

21PZ00004

John Kroboth, Terri Kroboth and John Bradley Kroboth

**CUP for a Private Boat Dock Adjacent to a Single-Family Residence in RU-1-13**

Tax Account Number: 2953088 (dock) / 2953228 (single-family residence)  
Parcel I.D.: 29-38-03-HW-\*-2.01 / 29-38-03-50-D-1  
Location: South side of Ross Avenue, approx. 475 feet west of Lakeview Drive  
(dock)  
Southwest corner of Riggs Avenue and Malabar Boulevard (District 3)  
Acreage: 0.10 acres  
Planning & Zoning Board: 04/05/2021  
Board of County Commissioners: 05/06/2021

### Consistency with Land Use Regulations

- Current zoning can 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
<b>Zoning</b>	RU-1-13	RU-1-13 with CUP
<b>Potential*</b>	1 Single-Family Home	Private Boat Dock
<b>Can be Considered under the Future Land Use Map</b>	No** RES 2	YES** RES 2

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\* The RU-1-13 zoning classification is not consistent with the Future Land Use designation of Residential 2; the parent lot is considered nonconforming to the Comprehensive Plan, therefore the CUP request can be heard.

### Background and Purpose of Request

The applicant is requesting approval of a Conditional Use Permit (CUP) for a private residential boat dock in the RU-1-13 zoning classification for the purpose of legitimizing an existing boat dock on the parcel as an accessory use. The subject parcel was subdivided into this configuration in May, 1970 and was previously owned by the lot owners directly across Ross Avenue and was combined with that lot as one parcel until the parcel was sold to the applicant. The subject parcel was purchased by the applicant on May 01, 2017. A CUP for the existing dock was never applied for. The applicant also owns Lot 1, Block D, located in the same Crystal Lakes subdivision approximately 1,495 feet northeast of the subject waterfront lot and both parcels retain the RU-1-13 zoning classification. Of the 13 similar parcels on the south side of Ross Avenue, all but two have existing docks. There have

been nine approved CUP actions for private boat docks accessory to adjacent single-family residential lots in the immediate area of the Crystal Lakes subdivision.

## **Land Use**

The subject property retains the RES 2 (Residential 2) Future Land Use designation. Per section 62-1255 Exhibit "A" the RU-1-13 zoning classification is not consistent with the Residential 2 Future Land Use.

## **Applicable Land Use Policies**

**FLUE Policy 1.8** –The Residential 2 Future land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within the Future Land Use Element.

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.** This site is located within a large Residential 2 node. To the east, west and the parcels to the north across Ross Avenue are under the FLU designation of Residential 2. To the south of the subject parcel lies a canal waterway for the subdivision.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The character of the area is a mix of existing single-family homes and parcels with existing docks. Of the 13 similar parcels on the south side of Ross Avenue, all but two have existing docks. There have been nine approved CUP actions for Private boat docks accessory to adjacent single-family residential lots in the immediate area of the Crystal Lakes subdivision.

## **Surrounding Area**

There have been two zoning actions within a half-mile radius around this site within the last 3 years.

On May 24, 2018, application **18PZ00016** approved a CUP for a Private Boat Dock Accessory to a Single-Family Residential Lot. This site is located on the south side of Ross Avenue approximately 185 feet east of the subject parcel.

On October 03, 2019, application **19PZ00046** approved a CUP for a Private Boat Dock Accessory to a Single-Family Residential Lot. This site is located on the south side of Ross Avenue approximately 32 feet west of the subject parcel.

## **Environmental Constraints**

### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain

- Surface Waters of the State
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- 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.

### **Preliminary Transportation Concurrency**

The subject property is closest to the concurrency management segment of Highway A1A, between Heron Dr. and Mar-Len Dr., which has a Maximum Acceptable Volume (MAV) of 24,200 trips per day, a Level of Service (LOS) of D, and currently operates at 39.71% of capacity daily. The maximum development potential from the proposed CUP does not increase the proposed trip generation on the corridor and will not create a deficiency in LOS which operates at 39.71% of capacity daily.

### **Applicable Land Use Policies**

The applicant is requesting approval of a Conditional Use Permit (CUP) for a private residential boat dock in the RU-1-13 zoning classification for the purpose of legitimizing an existing boat dock on the parcel. The subject parcel was subdivided into this configuration in May, 1970. The parcel was previously owned by the lot owners directly across Ross Avenue and it was combined with this lot as one parcel until the parcel was sold to the applicant on May 01, 2017. A CUP for the existing dock was never applied for. The applicant also owns Lot 1, Block D, located in the same Crystal Lakes subdivision approximately 1,495 feet northeast of the waterfront lot and both parcels retain the RU-1-13 Zoning classification. The abutting parcels, north, south, east and west for both parcels are zoned RU-1-13. RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. The last similar CUP action occurred on October 3, 2019 under application **19PZ00046**, for a lot approximately 32 feet west of the subject parcel on the south side of Ross Ave.

### **Special Considerations for CUP (Conditional Use Permit)**

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that 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.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate



consistency with the standards set forth in Section 62-1901 and Section 62-1943.3, Private Boat Dock Accessory to a Single-Family Residential Lot.

This request should be evaluated in the context of Section **62-1943.3**, governing private boat docks accessory to adjacent single family residential lots, as follows:

A private boat dock, for the purposes of this section, is a boat dock that is used in connection with a waterfront lot or parcel which may be undersized for the residential zoning classification in which it is located, and is therefore associated with and considered part of an adjacent residential lot. The term “adjacent”, for the purposes of this section, means any lot within the same neighborhood as described below in paragraph (1).

A conditional use for a private boat dock on a waterfront lot or parcel may be considered as an accessory use to an adjacent developed or undeveloped buildable residential lot in any residential zoning classification under the following conditions. Owners of docks established prior to November 17, 2008, as evidenced by a certified survey or other irrefutable evidence, may request a waiver of any of the below conditions as part of the conditional use permit review process.

*The applicant purchased this lot on April 27, 2017. Currently, there is an existing dock on the parcel. The subject parcel was subdivided into this configuration in May, 1970. The parcel was previously owned by the lot owners directly across Ross Avenue and it was combined with this lot as one parcel until the parcel was sold to the applicant. A CUP for the existing dock was never applied for.*

- (1) The lot or parcel upon which the dock is to be constructed must be owned and used by the owner of a residential lot or parcel (or residential tenant of said lot or parcel) located within either the same platted subdivision or within 1000' of the dock parcel. The owner of the dock lot or parcel and the residential lot shall maintain fee simple ownership to both properties at all times. ***The applicants' residential lot is in the same subdivision, Crystal Lakes, as the dock lot.***
- (2) The lot or parcel shall have at least 30 feet of water frontage, except where located on the Indian or Banana River Lagoons, where it shall have river frontage equal to or exceeding the minimum lot width requirement of the parcel's zoning classification. ***The parcel meets the minimum 30 feet of water frontage as shown on the boundary survey of subject parcel include with CUP application.***
- (3) The boat dock may contain slips for no more than two boats and shall not be used for commercial purposes. ***The existing boat dock would only permit two boats as shown on the boundary survey of subject parcel include with CUP application.***
- (4) No other accessory structures are permitted on the dock lot or parcel. ***There are no accessory structures other than the existing dock on the parcel.***
- (5) The dock lot or parcel shall not be used to store a boat trailer, nor shall it be used to launch a boat.

- (6) The dock shall meet all applicable development standards described in Section 62-2118. ***The existing dock appears to meet the requirements of Section 62-2118(d) Residential Boat Docks and Piers.***

***The existing parcel and existing appears to meet conditions (1) to (6) above.***

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901. Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901. The applicant's responses are indicated in bold and staff observations are provided in italics.

Section 62-1901(c)(1)(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.

**The dock lot will be used in similar fashion as the surrounding lots. Family and friends will use the lot with no activities that will generate adverse conditions to the surrounding area.**

Section 62-1901(c)(1)(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.

**The use of the dock lot will be the same as the adjacent dock lots with regard to function, operation, traffic and other parameters.**

Section 62-1901(c)(1)(c) The proposed use will not cause a substantial diminution in value of abutting residential property.

Note: 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 value of the lot will remain the same or increase with upgrades to the existing dock.**

## **Specific Standards**

Section 62-1901(c)(2)(a) Ingress and egress to the property and proposed structures (including vehicular and pedestrian safety and convenience, traffic flow and control, and emergency response

access) shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any.

Note: Burdening adjacent and nearby uses is defined as 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 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.

**The ingress and egress to the property will not be affected. The use of the lot is for personal use and will not raise the level of traffic for the area.**

Section 62-1901(c)(2)(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.

**The use of the lot will not involve activities that will produce noise, glare, order, particulates, smoke, fumes or emissions that will interfere with the nearby properties.**

Section 62-1901(c)(2)(c) Noise levels for a conditional use shall comply with Section 62-2271 of the Code, which includes the following:

**The noise levels from the use of the lot will be well below the permissible levels stated above.**

Section 62-1901(c)(2)(d) The proposed conditional use shall not cause the adopted level of service for solid waste disposal for the property or area covered by such level of service, to be exceeded.

**There will not be a need for solid waste services at the lot.**

Section 62-1901(c)(2)(e) The proposed conditional use shall not cause the adopted level of service for potable water or wastewater for the property or the area covered by such level of service, to be exceeded by the proposed use.

**There will be no potable water or wastewater requirements on the lot.**

Section 62-1901(c)(2)(f) The proposed conditional use must have existing or proposed screening or buffering, in terms of type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

**There will not be a need for screening or buffering on the lot due to no actions that would generate a nuisance.**

Section 62-1901(c)(2)(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.

**There are no proposed signs or unreasonable lighting.**

Section 62-1901(c)(2)(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.

**The lot will be used in the same fashion as the surrounding lots. There will be no commercial use of this lot.**

Section 62-1901(c)(2)(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 thirty-five (35) feet higher than the highest residence within 1000 feet of the property line.

Note: A survey of building heights within 1000 feet of the property lines should be furnished for applications requesting a CUP for additional building height.

**There is no proposed structure at this time.**

*There is an exist dock located at the subject parcel.*

Section 62-1901(c)(2)(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.

Note: 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.

**There are no requirements for parking or loading areas at this lot.**

## **For Board Consideration**

The Board may wish to consider the compatibility of the proposed CUP with surrounding development.

The Board may also wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the abutting properties.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Conditional Use Permit (CUP) Review & Summary**  
**Item # 21PZ00004**

**Applicant:** John, Terri & John Bradley Kroboth

**CUP Request:** Applicant wants a private boat dock accessory to their SFR parcel.

**P&Z Hearing Date:** 04/05/21; **BCC Hearing Date:** 05/06/21

**Tax ID Nos:** 2953088 & 2953228

- 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:**

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain
- Surface Waters of the State
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- 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:**

**Hydric Soils/Wetlands**

The subject parcel contains mapped hydric soils (Canaveral-Anclote complex) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 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**

Canaveral-Anclote complex may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

### **Coastal High Hazard Area**

The parcel is within the CHHA as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

### **Floodplain**

The parcel is located within the floodplain as identified by the Federal Emergency Management Agency as shown on the FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

### **Surface Waters of the State**

The parcel is located on Class III surface waters of the State. A 25-foot Surface Water Protection Buffer (Buffer) is required. Except as allowable under Section 62-3668 (7), primary structures shall be located outside the Buffer. Alteration or construction of accessory structures is allowable within the Buffer provided that stormwater management is provided, and the alteration occurs in accordance with all other applicable federal, state, and local regulations. All alterations shall demonstrate avoidance and minimization of Buffer impacts, including the location of the alteration within the most landward portion of the Buffer, as practicable. The remainder of the Buffer shall be maintained in unaltered vegetation, except for non-native invasive plants.

### **Indian River Lagoon Nitrogen Reduction Overlay**

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If applicable, the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required if sewer is not available. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts. Per Section 62-3666 (14), all onsite sewage treatment and disposal systems (OSTDS) shall be set back at least 100 feet from the buffer establishment line, the safe upland line, mean high water line or ordinary high-water line.

### **Land Clearing and Landscape Requirements**

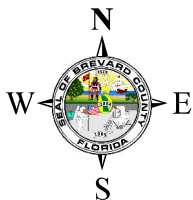
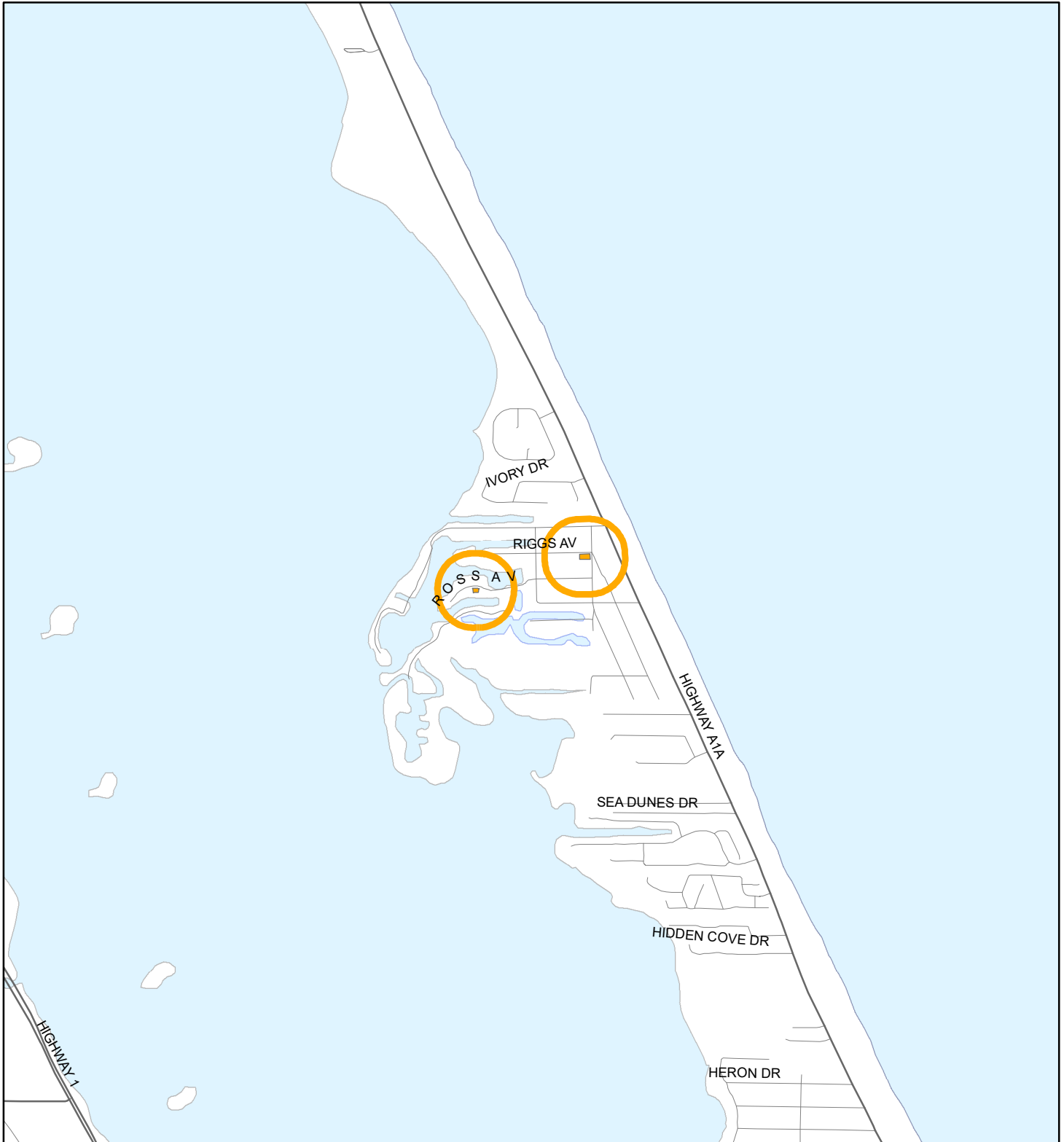
The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing or tree removal in the Buffer is not permitted without prior authorization by NRM.

### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. 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

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY  
21PZ00004



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.

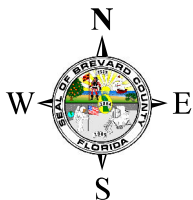
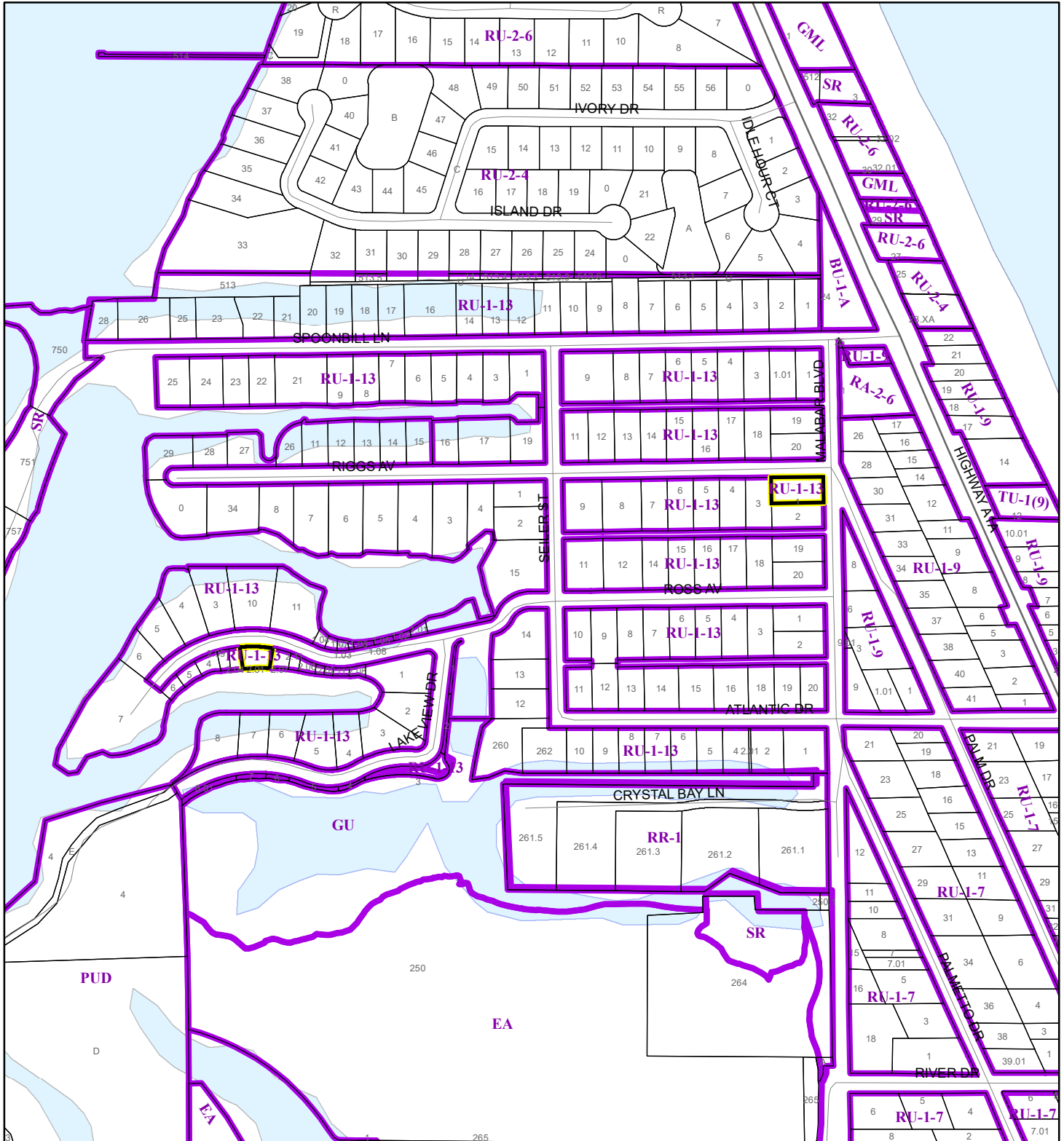
Produced by BoCC - GIS Date: 1/27/2021

— Buffer  
— Subject Property

# ZONING MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY


21PZ00004



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: 1/27/2021

 Subject Property

 Parcels

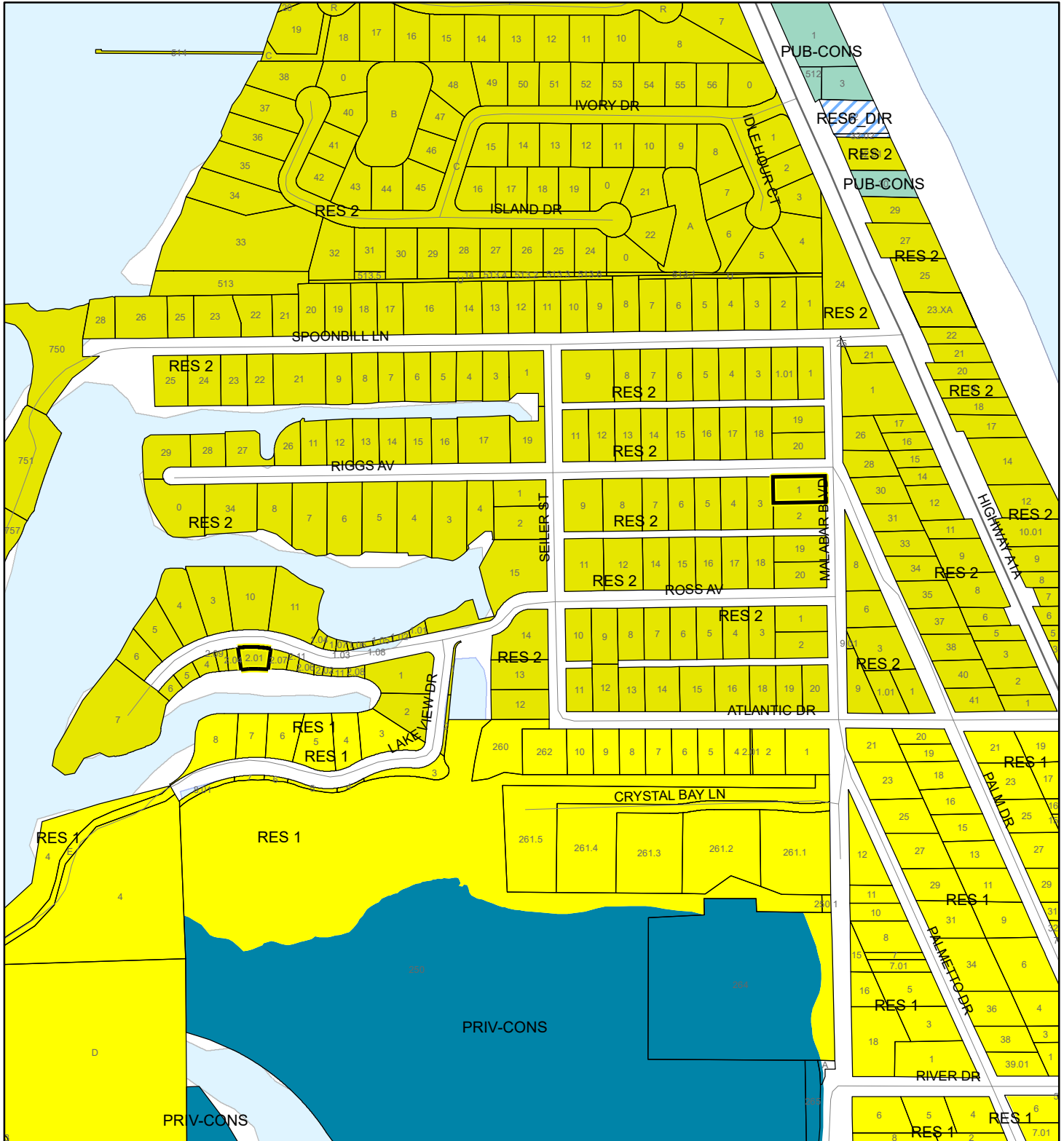
 Zoning





# FUTURE LAND USE MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



1:4,800 or 1 inch = 400 feet

 Subject Property  
 Parcels

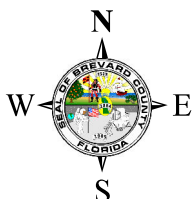
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/27/2021



# AERIAL MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY  
21PZ00004





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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: 1/27/2021

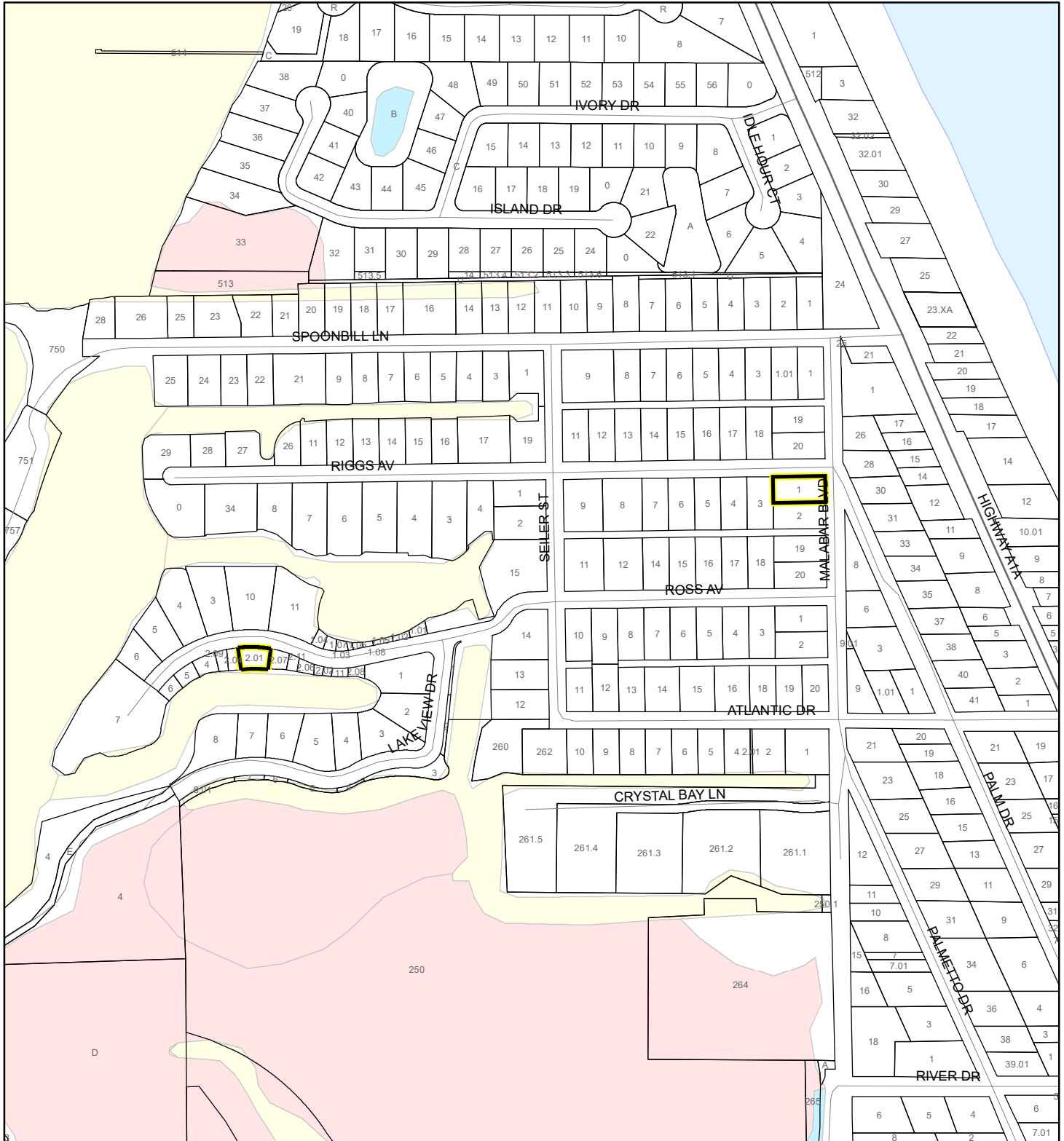
 Subject Property  
 Parcels



# NWI WETLANDS MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



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: 1/27/2021

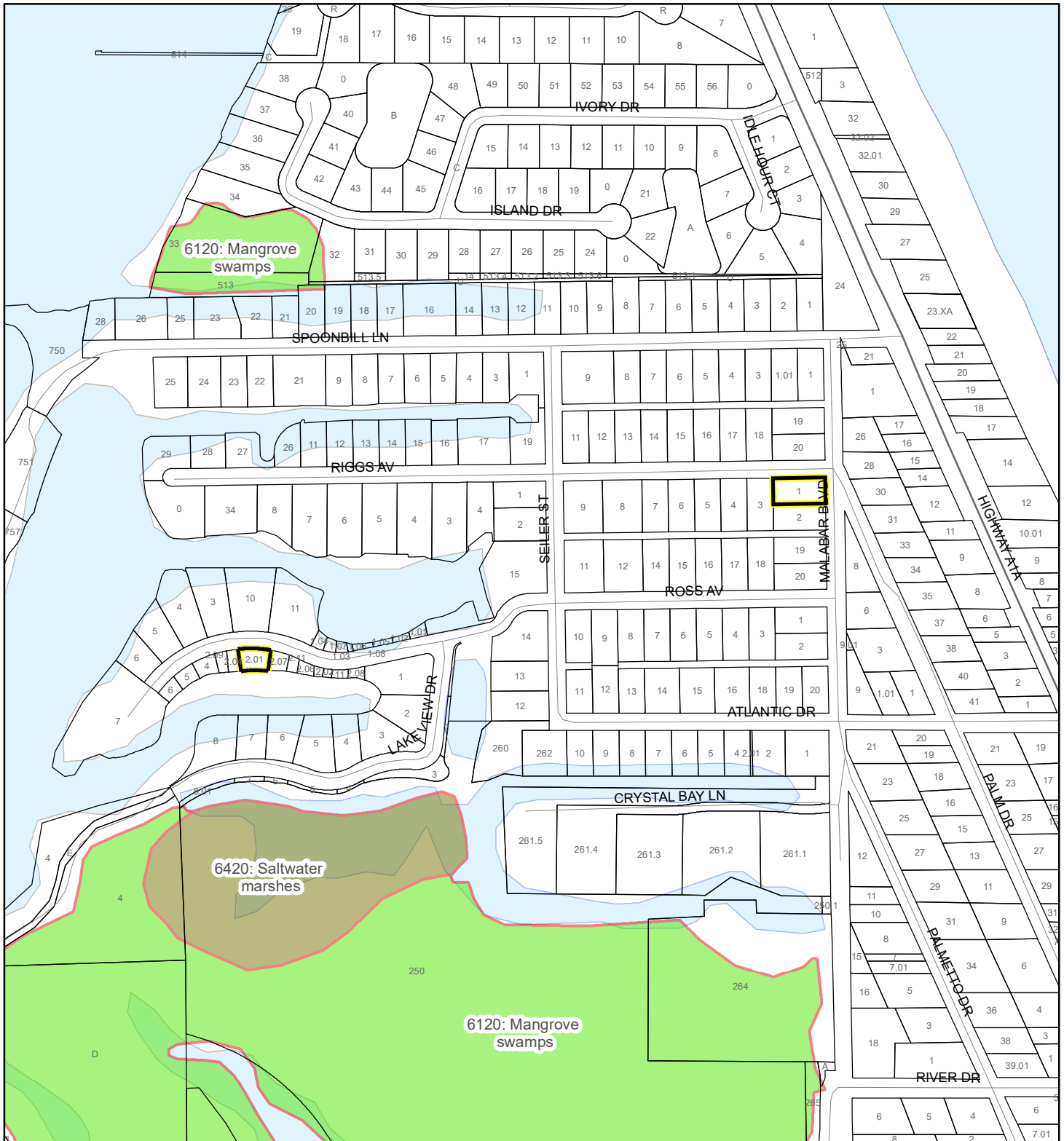
## National Wetlands Inventory (NWI)

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

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



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: 1/27/2021

## 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

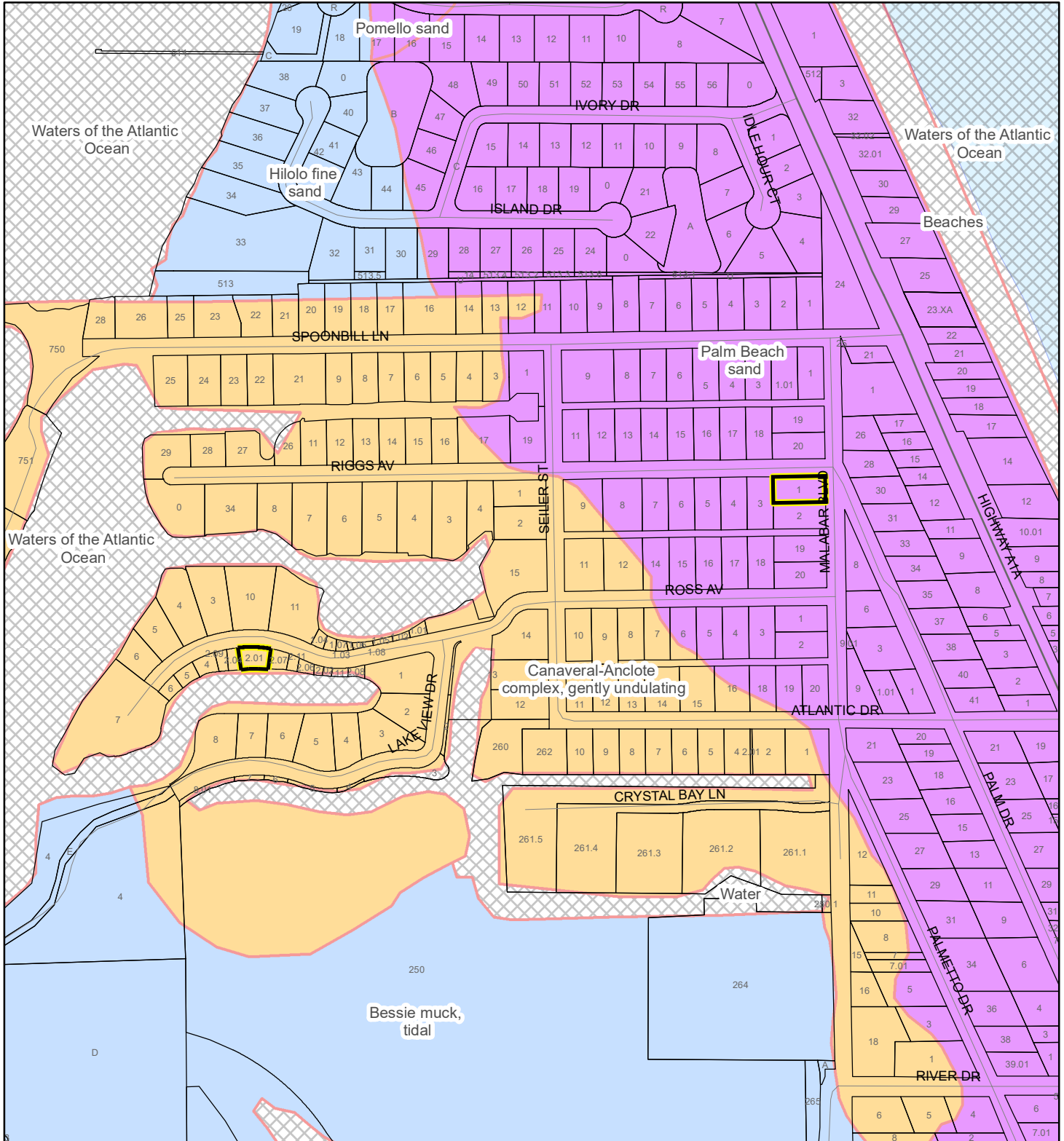
Subject Property

Parcels

# USDA SCSSS SOILS MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



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: 1/27/2021

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

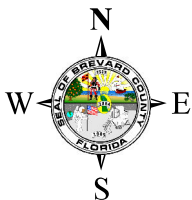
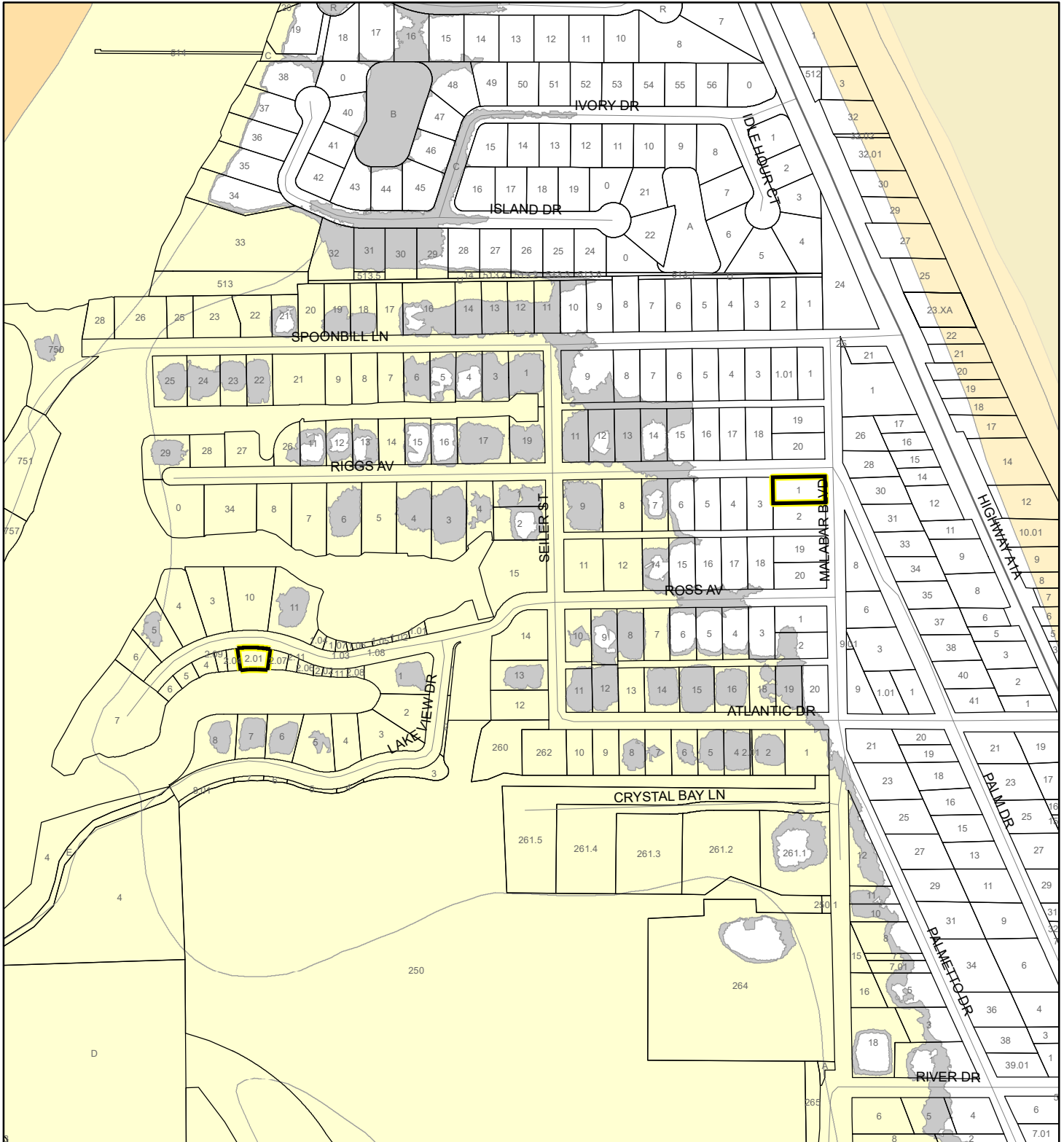
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



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: 1/27/2021

## FEMA Flood Zones

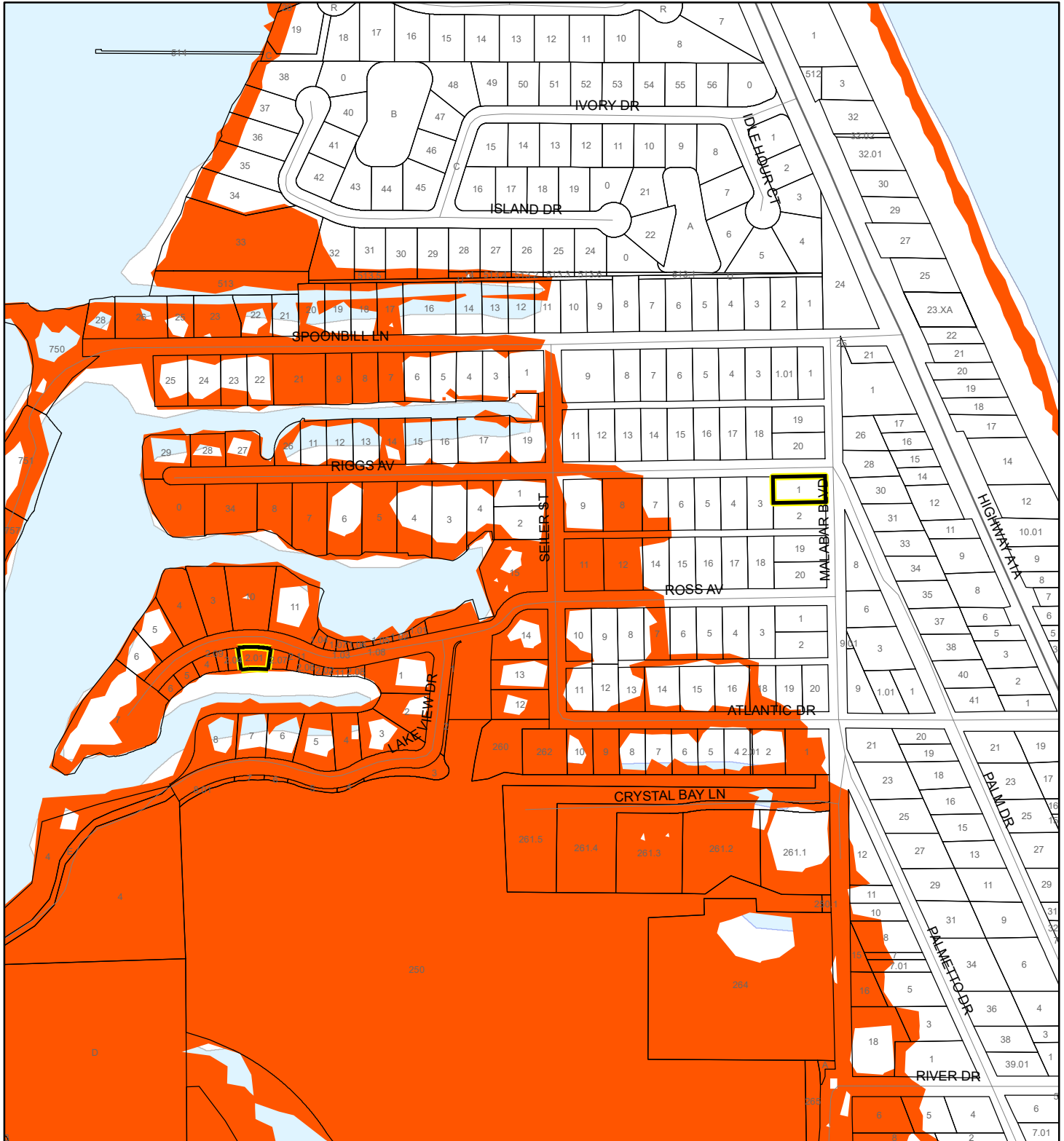
- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  |            | Parcels              |



# COASTAL HIGH HAZARD AREA MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



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: 1/27/2021

 Subject Property

 Parcels

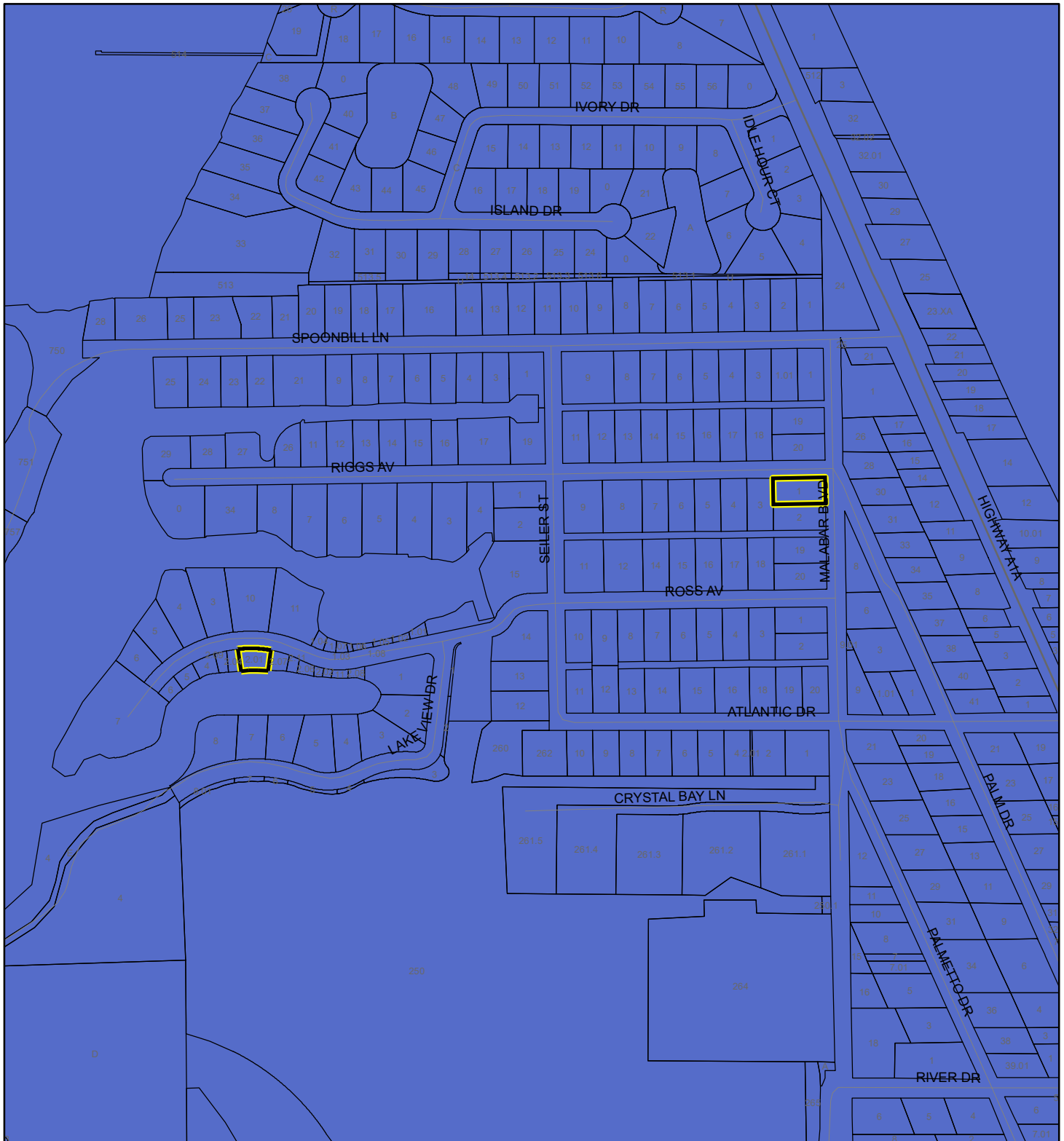
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



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: 1/27/2021

Subject Property

Parcels

**Septic Overlay**

40 Meters

60 Meters

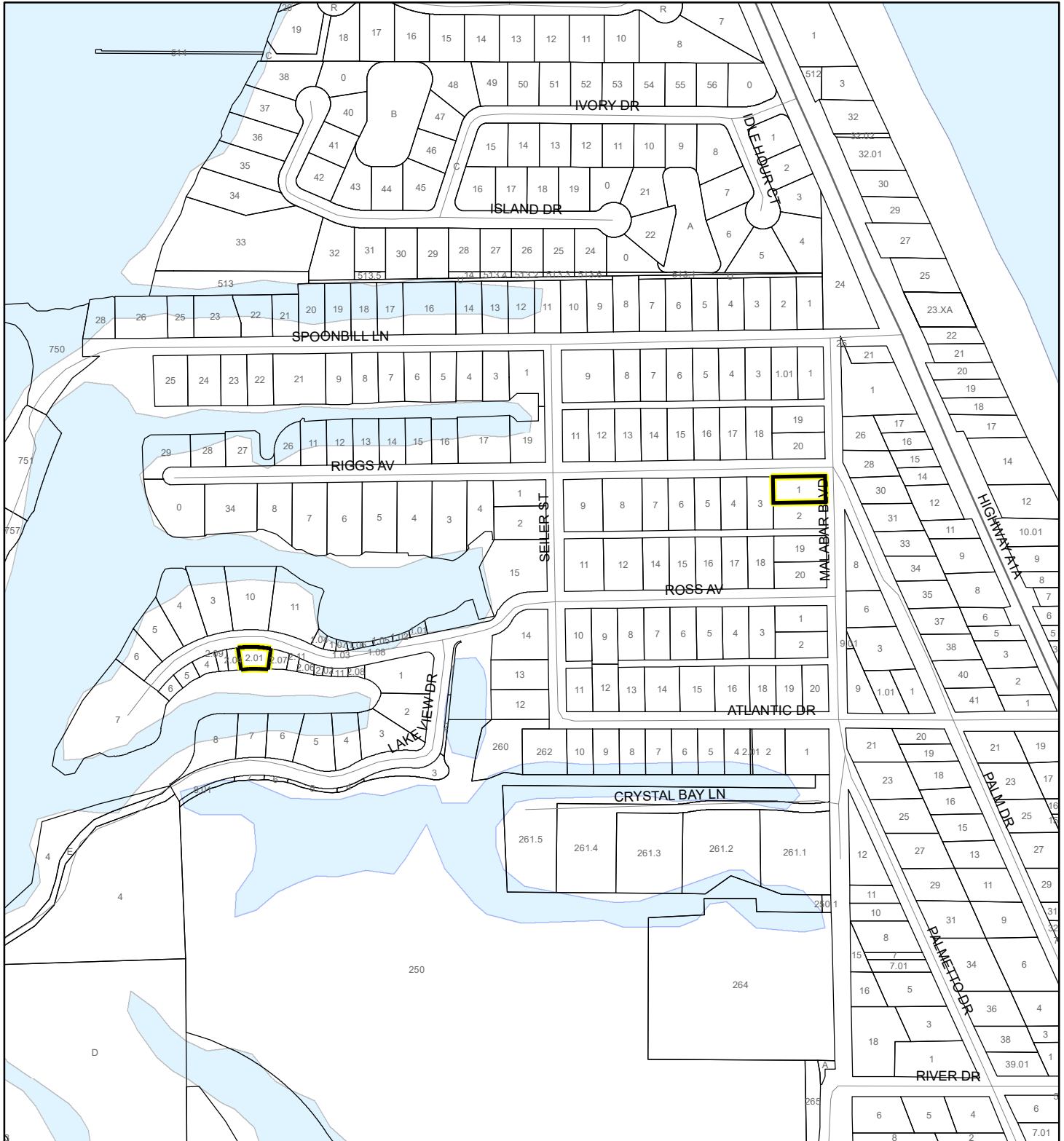
All Distances



# EAGLE NESTS MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004




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: 1/27/2021

 Subject Property

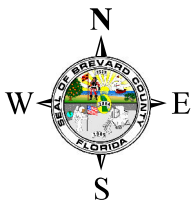
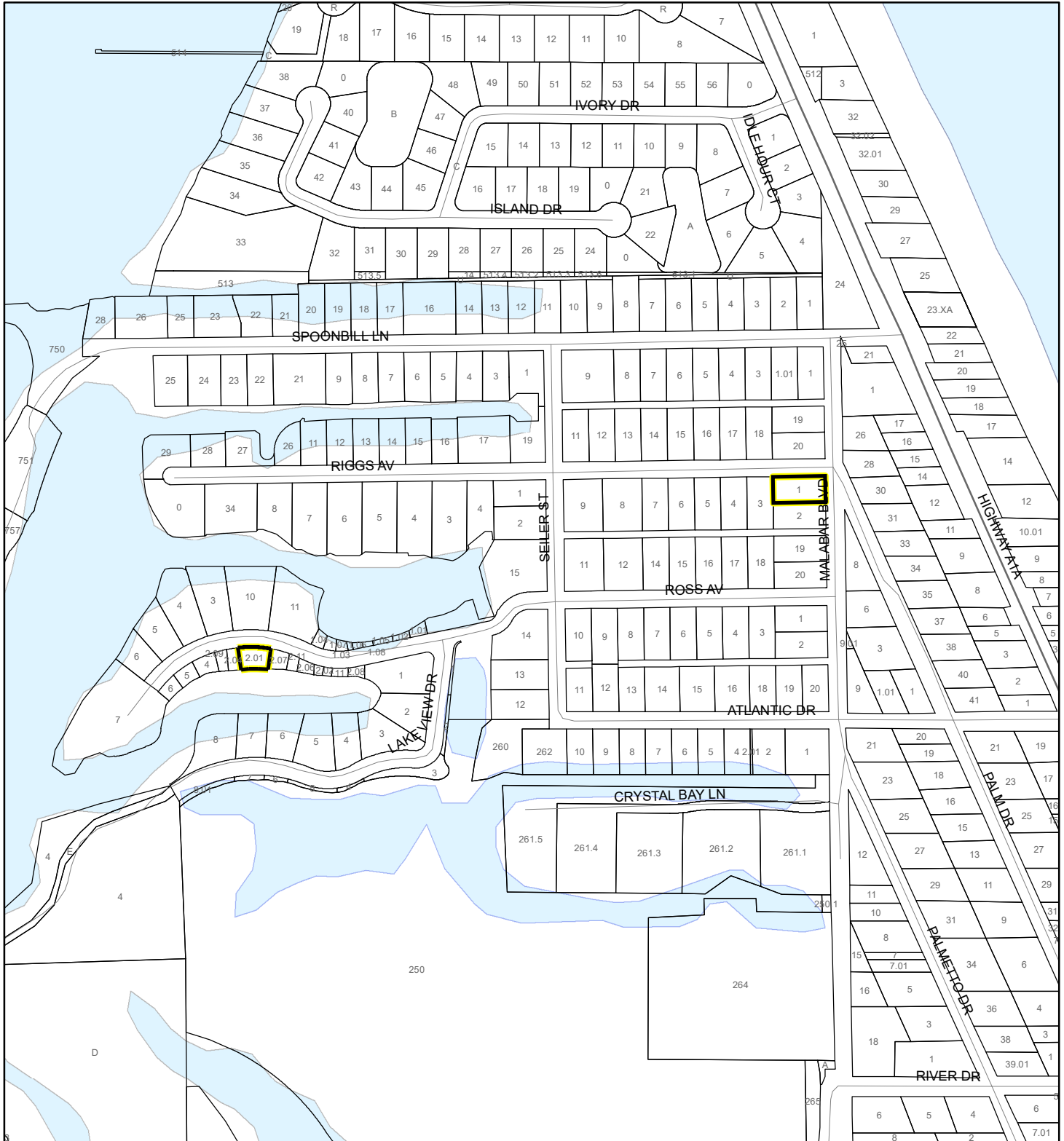
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



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.

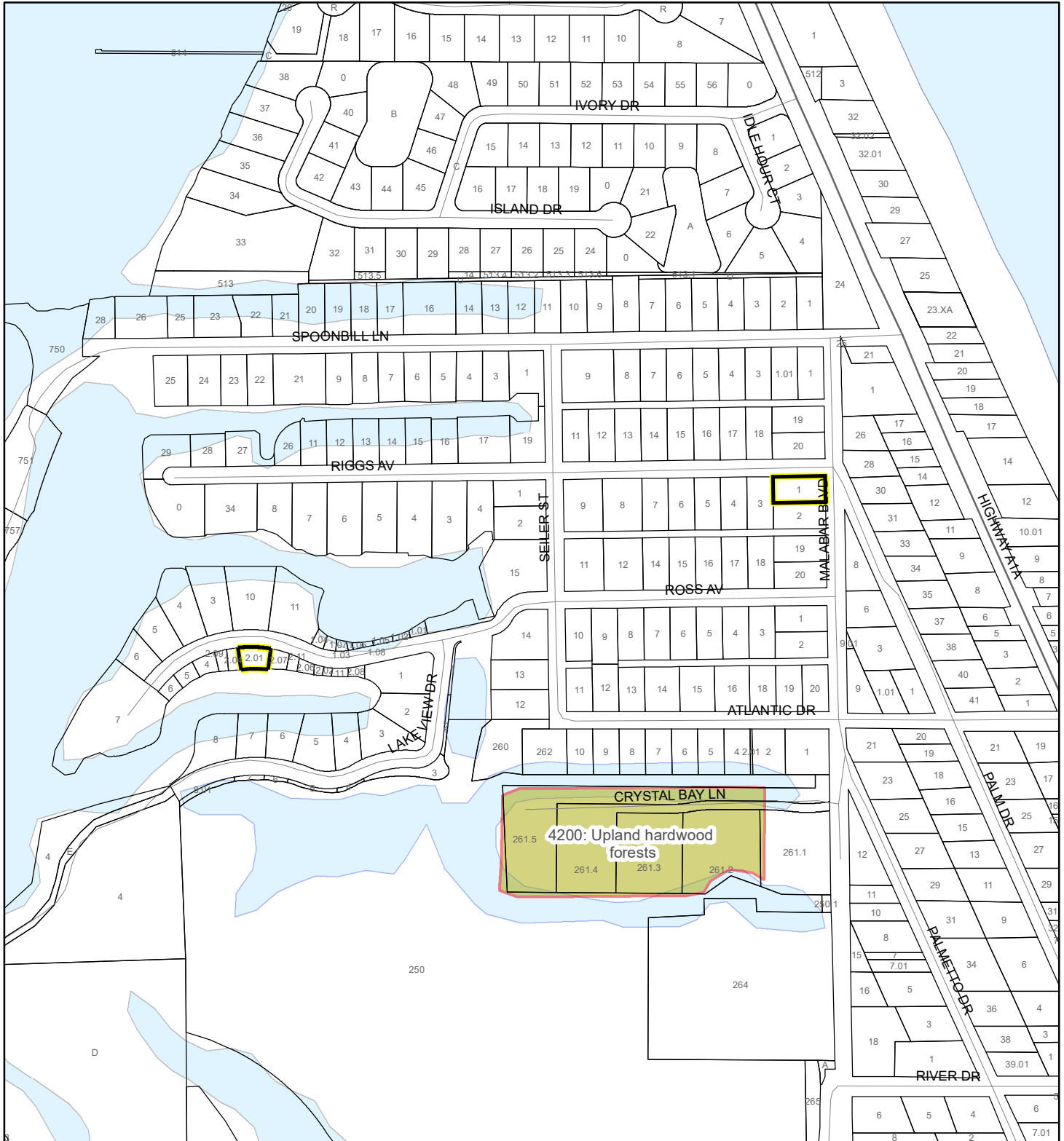
Produced by BoCC - GIS Date: 1/27/2021

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



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: 1/27/2021

## 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  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

## Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21PZ00004

Existing FLU: RES2 Existing Zoning: RU-1-13

Proposed FLU: NA Proposed Zoning: NA

### PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

John, Terri, John Bradley Kroboth

Name(s)	Company		
<u>225 Riggs Ave.</u>	<u>Melbourne Beach</u>	<u>FL</u>	<u>32951</u>
Street	City	State	Zip Code
<u>kroboth321@gmail.com</u>	<u>321-266-1332</u>	<u>321-266-1625</u>	
Email	Phone	Cell	

### APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

Name(s)	Company		
Street	City	State	Zip Code
Email	Phone	Cell	

**APPLICATION NAME**

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element \_\_\_\_\_
- ☐ Other Amendment (CP): \_\_\_\_\_
- ☐ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☒ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 0.1

Reason for Request: CUP for  
Private Dock Accessories to Adjacent Residential Lot

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☒ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☒ An approval of this application does not entitle the owner to a development permit.
- ☒ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☒ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

Terri Kraboth  
John Kraboth  
Signature of Property Owner or  
Authorized Representative

1-26-21  
Date

State of Florida

County of Brevard

Subscribed and sworn before me, by ✓ physical presence or \_\_\_\_\_ online notarization,  
this 26<sup>th</sup> day of January, 20 21, personally appeared

Terri Kraboth & John Kraboth, who is personally known to me or produced  
FLDL as identification, and who did / did not take an oath.

Kristen Champion  
Notary Public Signature

Seal





Office Use Only:

Accela No. 21PZ00004 Fee: 1,149.00 Date Filed: 1-26-21 District No. 3

Tax Account No. (list all that apply) 2953088, 2953228

Parcel I.D. No.

Twp	Rng	Sec	Sub	Block	Lot/Parcel
<u>29</u>	<u>38</u>	<u>03</u>	<u>HW</u>	<u>*</u>	<u>2.01</u>
<u>29</u>	<u>38</u>	<u>03</u>	<u>50</u>	<u>D</u>	<u>1</u>

Planner: PB Sign Issued by: CodeEnt. Notification Radius: 500

MEETINGS

DATE

TIME



P&Z

April 5, 2021

3:00 pm



PSJ Board

\_\_\_\_\_

\_\_\_\_\_



NMI Board

\_\_\_\_\_

\_\_\_\_\_



LPA

\_\_\_\_\_

\_\_\_\_\_



BOA

\_\_\_\_\_

\_\_\_\_\_



BCC

MAY 6, 2021

5:00 pm

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials PB

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?



Yes



No

If yes, list \_\_\_\_\_

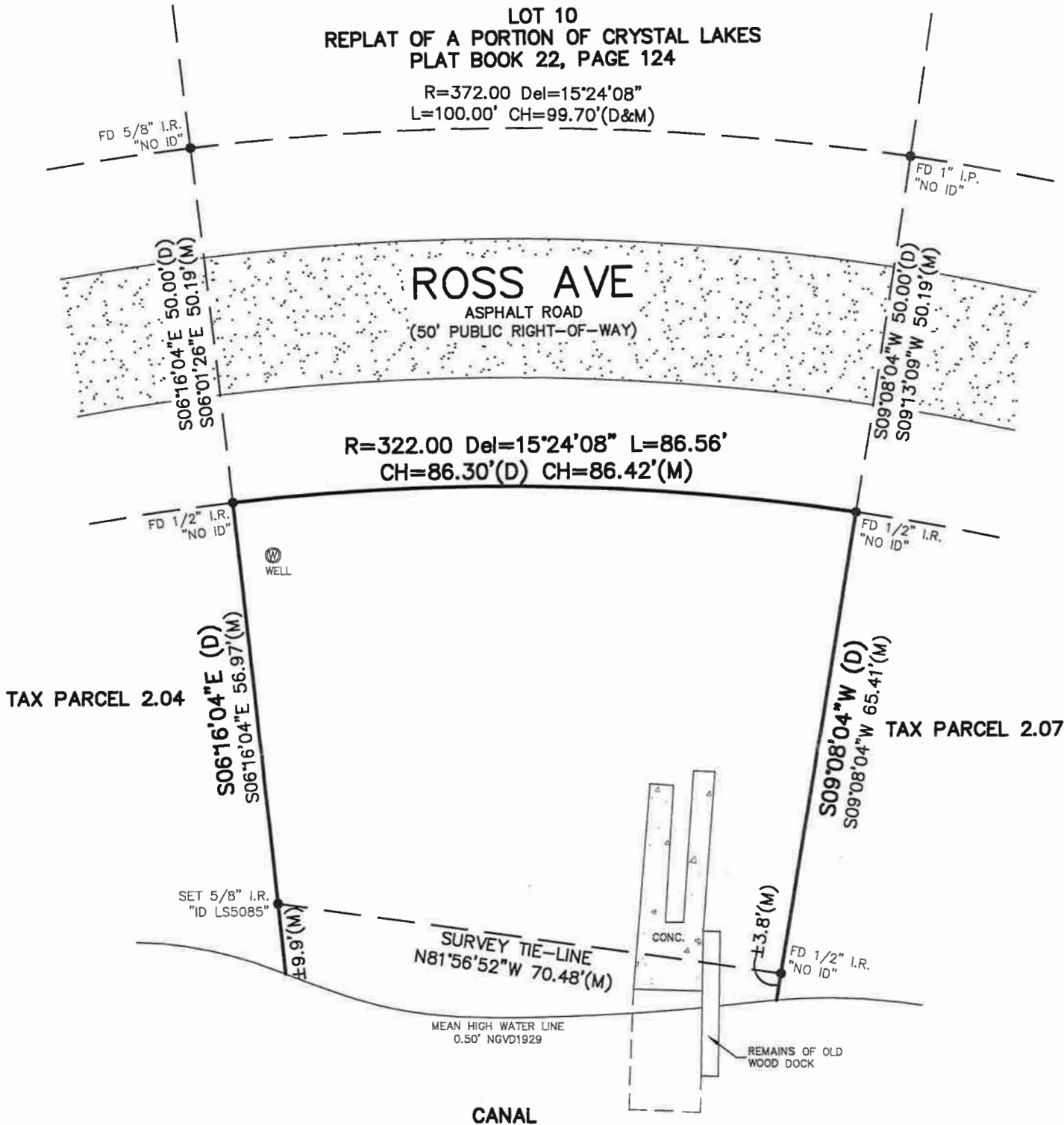
Location of subject property: South side of Ross Ave., 475 ft west of Lakeview Dr.

Description of Request: CUP: Private boat dock accessory to adjacent single-family residential lots

BOUNDARY SURVEY

LEGAL:

PARCEL E —A PART OF TRACT NO. 2, BLOCK J, CRYSTAL LAKES, SECOND ADDITION, AS RECORDED IN PLAT BOOK 17, PAGE 57, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND BEING THAT PORTION OF SAID TRACT NO. 2 LYING SOUTHERLY OF ROSS AVENUE AND EXTENDING TO THE ORDINARY HIGH WATER LINE OF THE EXISTING CANAL AND BOUNDED BY SOUTHERLY PROLONGATIONS OF THE SIDE BOUNDARY LINES OF LOT 10, REPLAT OF A PORTION OF CRYSTAL LAKES, AS RECORDED IN PLAT BOOK 22, PAGE 124, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



*Myron E. Barker*  
PROFESSIONAL SURVEYOR & MAPPER IN RESPONSIBLE CHARGE  
MYRON E. BARKER — FLORIDA CERTIFICATE NO. 5085  
CERTIFICATE OF AUTHORIZATION LB. 6586

LEGEND	
(AKA)	= ALSO KNOWN AS
CL	= CENTERLINE
CBS	= CONCRETE BLOCK STRUCTURE
CLF	= CHAIN LINK FENCE
CLR	= CLEAR
CH	= CHORD
CM	= CONCRETE MONUMENT
CONC.	= CONCRETE
COR.	= CORNER
(D)	= DEEDED
DEL	= DELTA
FD	= FOUND
ID	= IDENTIFICATION
I.P.	= IRON PIPE
I.R.	= IRON ROD
L	= LENGTH
LB	= LICENSE BUSINESS
LS	= LICENSE SURVEYOR
(M)	= MEASURED
N&D	= NAIL & DISK
(P)	= PLATTED
PC	= POINT OF CURVATURE
PT	= POINT OF TANGENCY
PL	= PROPERTY LINE
P.S.M.	= PROFESSIONAL SURVEYOR & MAPPER
PRC	= POINT OF REVERSE CURVE
P.U.&D.	= PUBLIC UTILITY & DRAINAGE
R	= RADIUS
R/W	= RIGHT-OF-WAY
(TYP.)	= TYPICAL
WF	= WOOD FENCE

SURVEYOR'S NOTES:

- 1) THE BEARING SYSTEM SHOWN HEREON IS BASED ON A ASSUMED BEARING OF S.06°16'04"E., ALONG THE EAST RIGHT-OF-WAY LINE OF PARCEL 2.01.
- 2) AS PER FLOOD INSURANCE RATE MAP NO.12009C 682 G, INDEX DATED 03-17-2014, THE ABOVE DESCRIBED PROPERTY LIES IN ZONE AE.
- 3) THIS SURVEY WAS PREPARED FROM TITLE INFORMATION PROVIDED TO THE SURVEYOR. THERE MAY BE ADDITIONAL RESTRICTIONS OR EASEMENTS THAT AFFECT THE PROPERTY.
- 4) UNDERGROUND UTILITIES AND FOUNDATIONS HAVE NOT BEEN SHOWN.
- 5) LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY, RESERVATION, AGREEMENT AND/OR EASEMENTS OF RECORD, SUCH INFORMATION IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHER THROUGH APPROPRIATE TITLE VERIFICATION.
- 6) NOT VALID WITHOUT SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

TYPE OF SURVEY:

BOUNDARY SURVEY

PROJECT:

20-1192

SCALE: 1" = 20'

DATE: 02/27/2020

CAD FILE: 20-1192.DWG

F.B. NUMBER:

REVISION:

**PRECISION**  
**LAND SURVEYING, INC.**

2900 LAKE WASHINGTON ROAD, SUITE 1  
MELBOURNE, FLORIDA 32935  
PHONE: 321-259-4600  
EMAIL: PRECISIONSURVEYING1993@GMAIL.COM

CERTIFIED TO:

JOHN AND TERRI KROBOTH



Owner's Name:

Hearing Date:

John, Terri and  
John Bradley Kroboth  
April 5, 2021

21PZ 00004

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

**AFFIDAVIT**

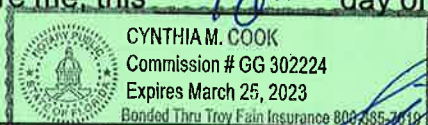
STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Stephen Novak, to me well known and known to me to be the person described in and who executed the foregoing affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

Stephen Novak  
Signature

Sworn and Subscribed before me, this 16<sup>th</sup> day of March, 2021.



(Print, Type, or Stamp Commissioned Name of Notary Public)

Cynthia M. Cook  
Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: None

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING



# REZONING NOTICE

**ZIPZ00004**

The Brevard County Planning and Zoning Board will hold a public hearing at 3:00 P.M. on April 5, 2021, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL, to consider the proposed zoning action on this property as indicated below:

Owner: John Terri and John Bradley Kraboth

Present Zoning: RU-1-13 Acreage: 0.1

Requested Action(s): CUP: Private boat Dock accessory to adjacent single Family Residential lots

The recommendations from the aforementioned public hearing will be presented to the County Commission at 5:00 P.M. on May 6, 2021, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera. All interested parties are invited to appear and be heard. Written comments filed with the Brevard County Zoning Official, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL 32940 will be considered.

Removal of this sign prior to May 6, 2021, is illegal and subject to prosecution.

Revised 5/23/2018





# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

---

H.2.

4/5/2021

---

### **Subject:**

Michael J. and Annette Costello request a change of zoning classification from RR-1 to AU. (21Z00005) (Tax Account 2700924) (District 5)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Planning and Zoning Board conduct a public hearing to consider a request for a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential)

### **Summary Explanation and Background:**

The applicants are requesting a change of zoning classification from RR-1 to AU on a five-acre lot in order to board horses and offer horses for hire. The parcel is currently developed with a single-family home, a pole barn, and a riding arena. In addition to the boarding of horses and horses for hire, AU zoning would allow for other agricultural pursuits including the raising and grazing of animals, plant nurseries, and the packing, processing, and sales of commodities raised on the premises. Boarding of horses and horses for hire is a conditional use in AU where the number of horses does not exceed four per acre. The applicant does not plan to exceed this number.

The properties along the Appaloosa Boulevard are primarily zoned RR-1. The RR-1 classification is considered to be lands devoted to single-family residential development of spacious character, together with such accessory uses to a single-family residence such as horses, barns and horticulture. However, it does not allow these accessory uses to be commercial activities on the property. The closest AU zoning is approximately 658 feet to the east along Ranchland Road. All lots along Richland Road are zoned AU, and the uses include single-family residences and two plant nurseries.

The Board may wish to consider whether this request to introduce AU is consistent and compatible with the surrounding area. In addition, the Board may wish to consider whether the potential Agritourism activities associated AU zoning classification are compatible with the surrounding area.

Please note, granting the request to rezone the property to AU will resolve a portion of existing code enforcement complaint for operating a business of boarding horses and riding lessons. However, it will not help to resolve the Section 62-2257 of the lighting code complaint, relating the illuminates from the lighting fixture exceeding the 0.2 tenths foot-candle limit.

The Board of County Commissioners will consider the request on **Thursday, May 6, 2021**, at **5:00 p.m.** at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

**Clerk to the Board Instructions:**

None

# **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 staff, 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 Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all 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 re-zoning 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:

##### **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

21Z00005

Annette and Michael Costello

### RR-1 (Rural Residential) to AU (Agricultural Residential)

Tax Account Number: 2700924  
Parcel I.D.: 27-36-10-25-\*-21  
Location: West side of Appaloosa Blvd., approximately 975 feet south of Smithfield (District 4)  
Acreage: 5.0 acres

Planning and Zoning Board: 04/05/2021  
Board of County Commissioners: 05/06/2021

### Consistency with Land Use Regulations

- Current zoning can 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
<b>Zoning</b>	RR-1	AU
<b>Potential*</b>	Five single-family units	Two single-family units
<b>Can be Considered under the Future Land Use Map</b>	RES 2	RES 2

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

### Background and Purpose of Request

The applicants are requesting a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) on a five-acre lot in order to board horses and offer horses for hire. The applicants are attempting to resolve code enforcement action **20CE-01435** for running a business boarding horses and offering riding lessons. The parcel is currently developed with a single-family home, a pole barn, and a riding arena. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence but does not permit commercial activities. In addition to the boarding of horses and horses for hire, AU zoning would allow for other agricultural pursuits including the raising and grazing of animals, plant nurseries, and the packing, processing, and sales of commodities raised on the premises.

Zoning action **Z-2658** changed the zoning from the original zoning of GU to RR-1 on July 27, 1970. The administrative action **AA-1487** granted two flag lots on May 25, 2000. This action was filed under the previous owner. The current owners have no plans to split the lot into the configuration with two flag lots and instead chose to develop the full 5-acre lot.

Boarding of horses and horses for hire is a conditional use in AU where the number of horses does not exceed four per acre. The applicant does not plan to exceed this number. The conditions of Sec. 62-1913 must be met, which states: "A minimum lot area of five acres shall be required for boarding of horses and horses for hire, and all structures for the permanent or temporary housing of horses shall meet the setback requirements for such structures in the AU and AGR zoning classifications."

Barns in AU must meet the following setbacks: 125 feet from the front property line; 50 feet from the side property lines; and 50 feet from the rear property lines. The applicant submitted a survey with the application showing the existing pole barn meets these setback requirements.

Per code enforcement action **20CE-01435**, the applicant also violates Sec. 62-2257 of the lighting code, as the light fixtures in the riding arena illuminate 0.4 and 0.3 tenths foot-candle along a residential property line which should not exceed 0.2 tenths foot-candle. If this rezoning is approved, the applicant will need to address this part of the violation.

## **Land Use**

The subject property retains the RES 2 (Residential 2) FLU designation. The current zoning of RR-1 on the subject property is consistent with the RES 2 FLU per Sec. 62-1255 (2). The proposed zoning of AU is consistent with the RES 2 FLU per Sec. 62-1255 (2).

## **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

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

The abutting parcels to the north and south have a FLU designation of RES 2 (Residential 2). The lot abuts a drainage right-of-way to the west and Appaloosa Boulevard to the east. The parcels across the road and the drainage easement also have a FLU designation of RES 2. AU is consistent with the RES 2 FLU designation per the consistency table in Sec. 62-1255.

The current RR-1 zoning classification permits a single-family residence and horses, barns and horticulture as accessory uses to a single-family residence on 1.0 acre lots with a minimum lot and depth of 125 feet. The proposed AU zoning classification permits single-family residences in addition to "all agricultural uses" including the packing, processing, and sales of commodities raised on the premises, the raising and grazing of animals, and agritourism uses.

Certain agritourism uses have the potential to significantly impact traffic, noise levels, and lighting in the neighborhood, which presently is entirely residential. The code enforcement complaint indicates the level of tolerance within the neighborhood for commercial activity on the subject property.

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

The subject parcel is zoned RR-1 and developed with a single-family home, a pole barn, and a riding arena.

The abutting parcels to the south and north are both zoned RR-1. The parcels across the road to the east and the drainage easement to the west are also zoned RR-1. These parcels are all developed with single-family homes.

If rezoned, the subject property would be the only lot with AU zoning on Appaloosa Boulevard and could potentially introduce a new commercial activity that is not already present, as the other lots are all zoned RR-1. The closest AU zoning is approximately 658 feet to the east along Ranchland Road. Every home along Richland Road is zoned AU. The uses on these lots are single-family homes and two plant nurseries.

## **Surrounding Properties**

There has been one zoning action within a half-mile of the subject property within the last three years.

On July 8, 2019, application **19PZ00055** changed the zoning classification from SEU to RR-1 on a 3.29 acre property located approximately 1,780 feet southwest of the subject property.

## **Environmental Constraints**

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

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Lake Washington Road, west of Harlock Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 29.59% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.66%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 30.15% of capacity daily (LOS D). 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 parcels are not serviced by Brevard County sewer or the City of Melbourne sewer.

The parcel is serviced by City of Melbourne water.

## **For Board Consideration**

The Board may wish to consider whether this request for AU is consistent and compatible with the surrounding area, given the surrounding lots are zoned RR-1 and whether the use of boarding of horses and horses for hire is consistent with the single-family residential uses in the area. The Board

may also wish to consider limiting the uses on the property to exclude the more intensive uses allowed in AU zoning. Finally, the Board should be aware that if the rezoning is approved the applicant still must address the code enforcement violation over lighting in the riding arena.

## NATURAL RESOURCES MANAGEMENT DEPARTMENT

### Zoning Request Review & Summary

Item # 21Z00005

**Applicant:** Michael and Annette Costello

**Zoning Request:** RR-1 to AU

**Note:** Applicant wants to board horses.

**P&Z Hearing Date:** 04/05/21; **BCC Hearing Date:** 05/06/21

**Tax ID No:** 2700924

- 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:**

- Hydric Soils/Wetlands
- 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:**

### **Hydric Soils/Wetlands**

The subject parcel contains mapped hydric soils (Myakka sand depressional) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification and should be contacted at 321-264-5393 for requirements to meet this classification.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

### **Protected and Specimen Trees**

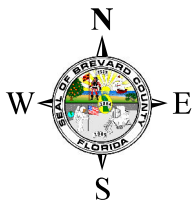
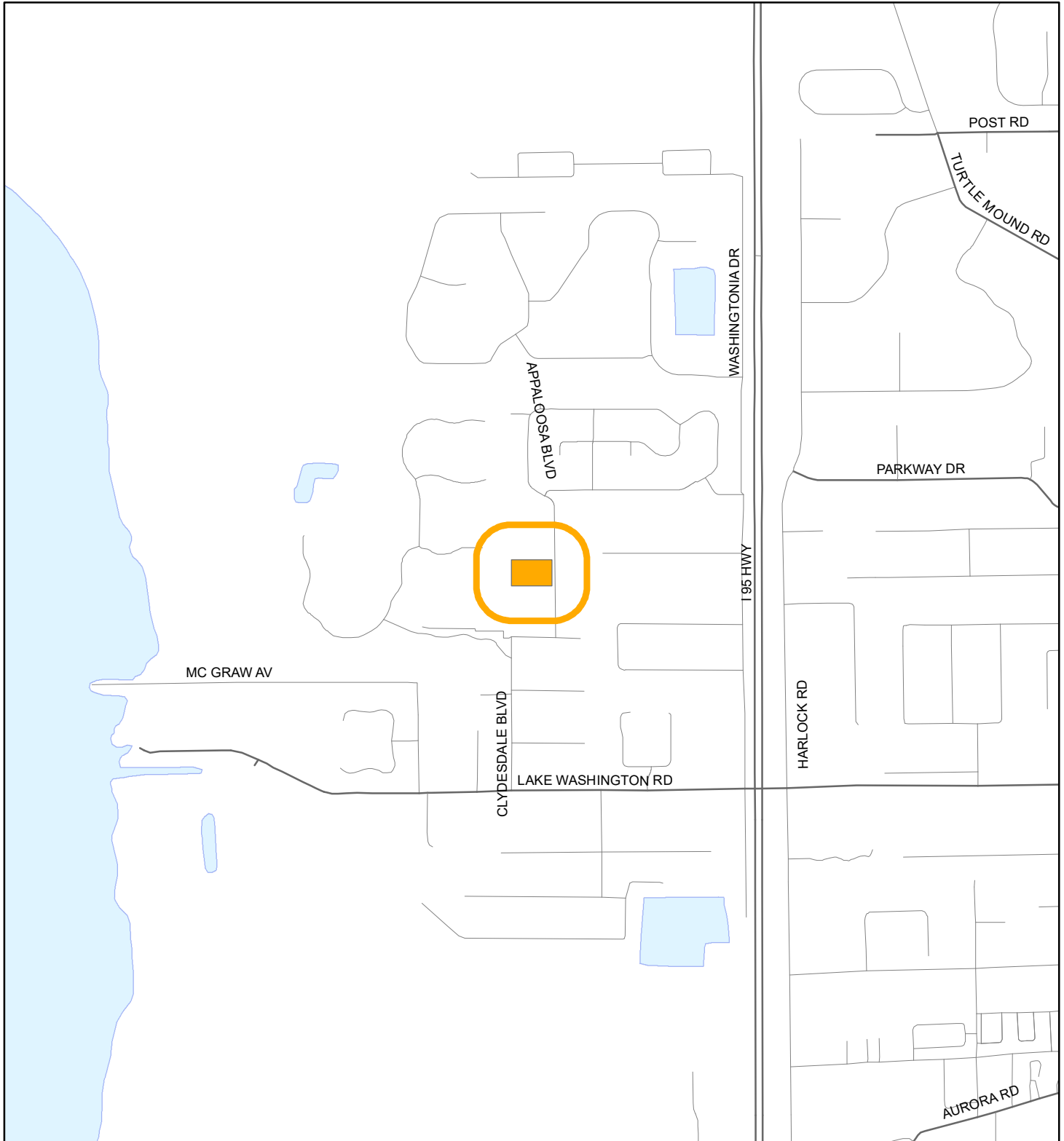
The subject property is within a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and may be found on the property. Per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, 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. Per Section 62-4339, parcels greater than 2.5 acres in size shall meet canopy preservation requirements. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. 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

COSTELLO, MICHAEL J. AND ANNETTE  
21Z00005



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.

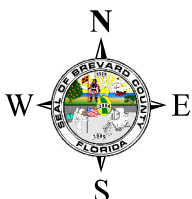
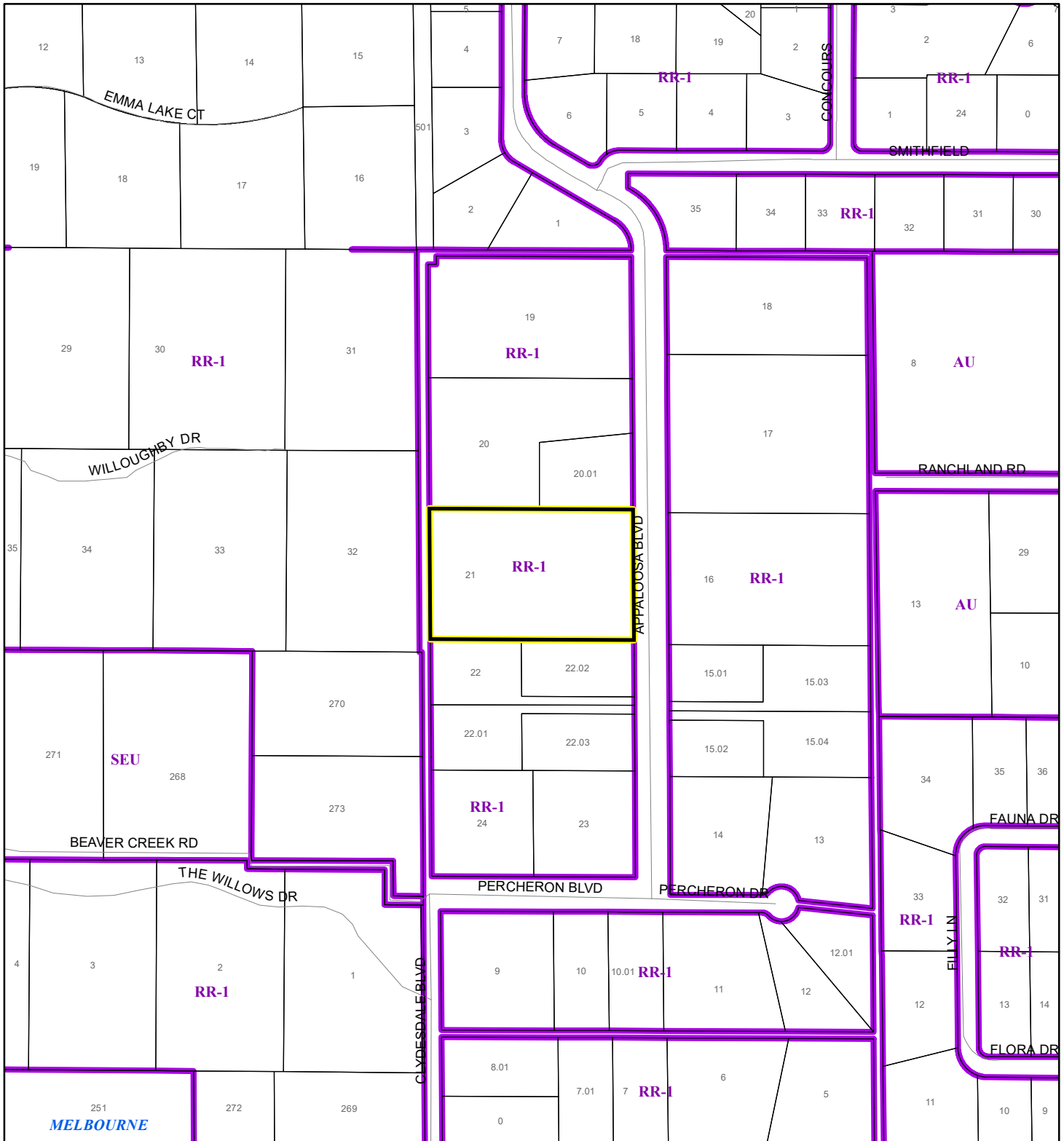
Produced by BoCC - GIS Date: 1/29/2021

Buffer  
Subject Property

# ZONING MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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: 1/29/2021

Subject Property

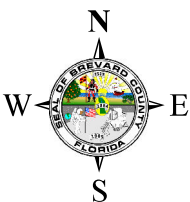
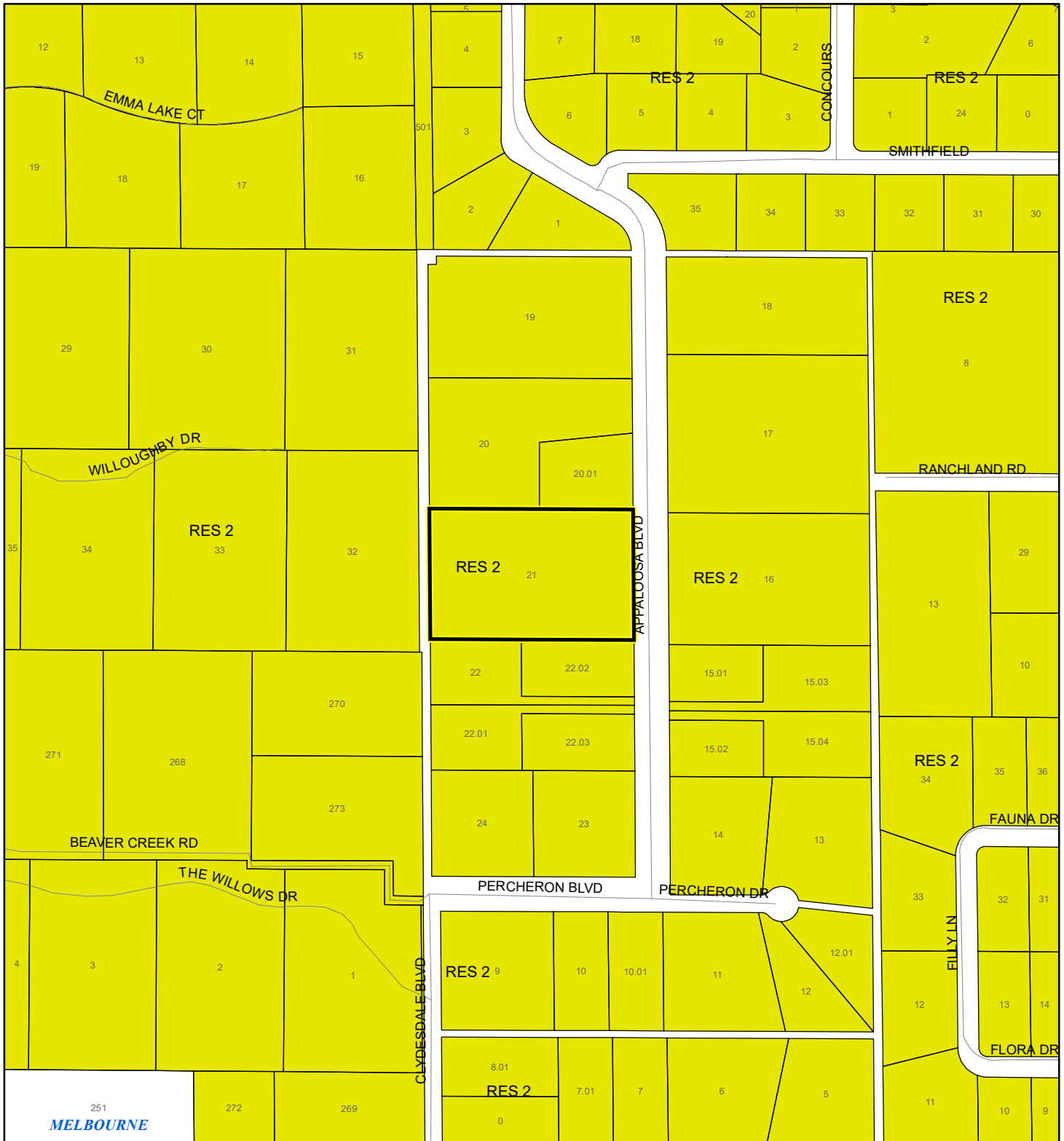
Parcels

Zoning

# FUTURE LAND USE MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



1:4,800 or 1 inch = 400 feet

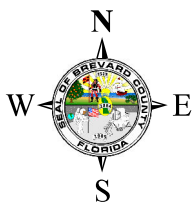
Subject Property  
Parcels

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: 1/29/2021



AERIAL MAP  
COSTELLO, MICHAEL J. AND ANNETTE  
21Z00005





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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: 1/29/2021

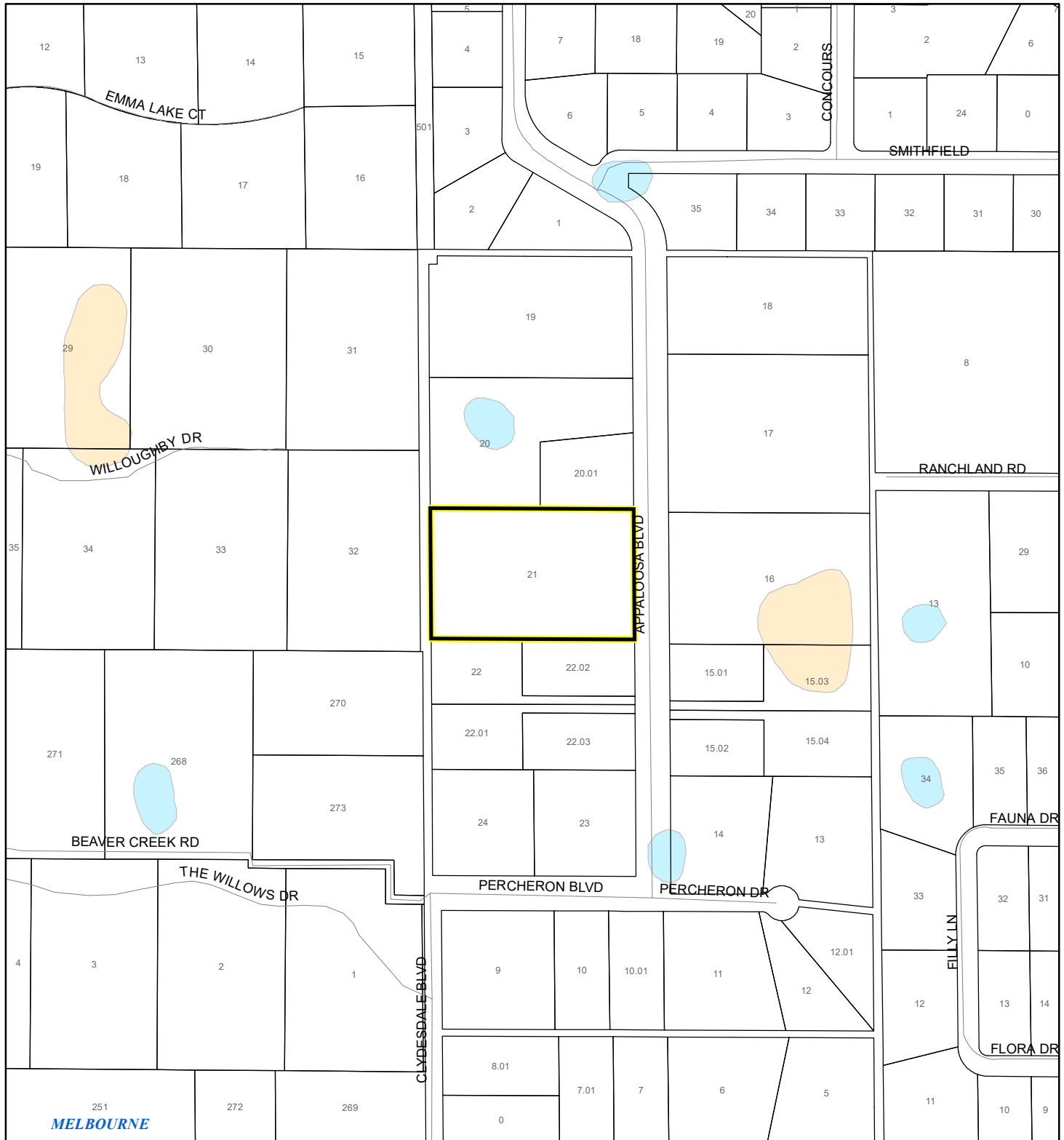
 Subject Property  
 Parcels



# NWI WETLANDS MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005













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: 1/29/2021

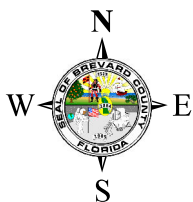
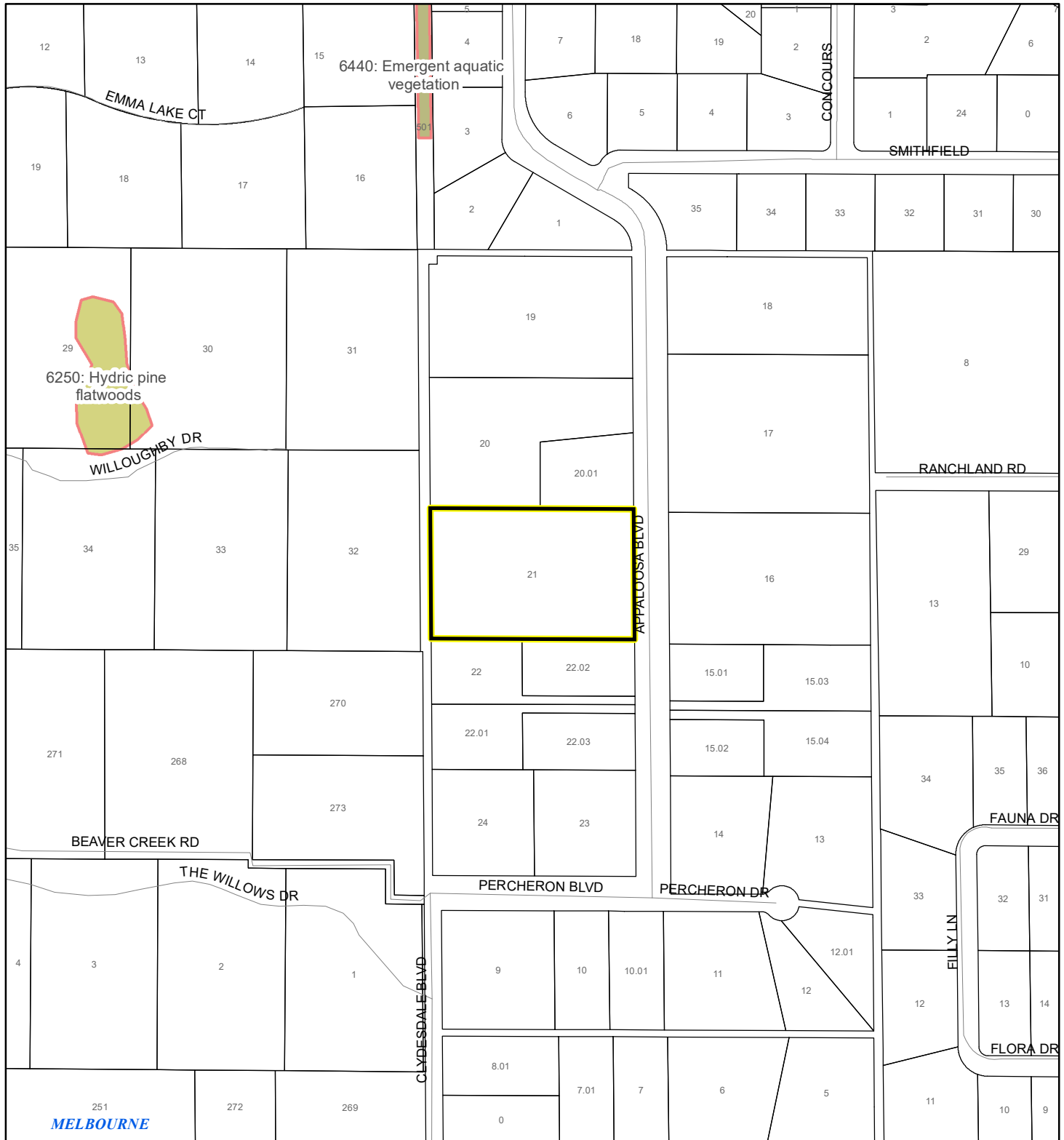
## National Wetlands Inventory (NWI)

 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

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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: 1/29/2021

## 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

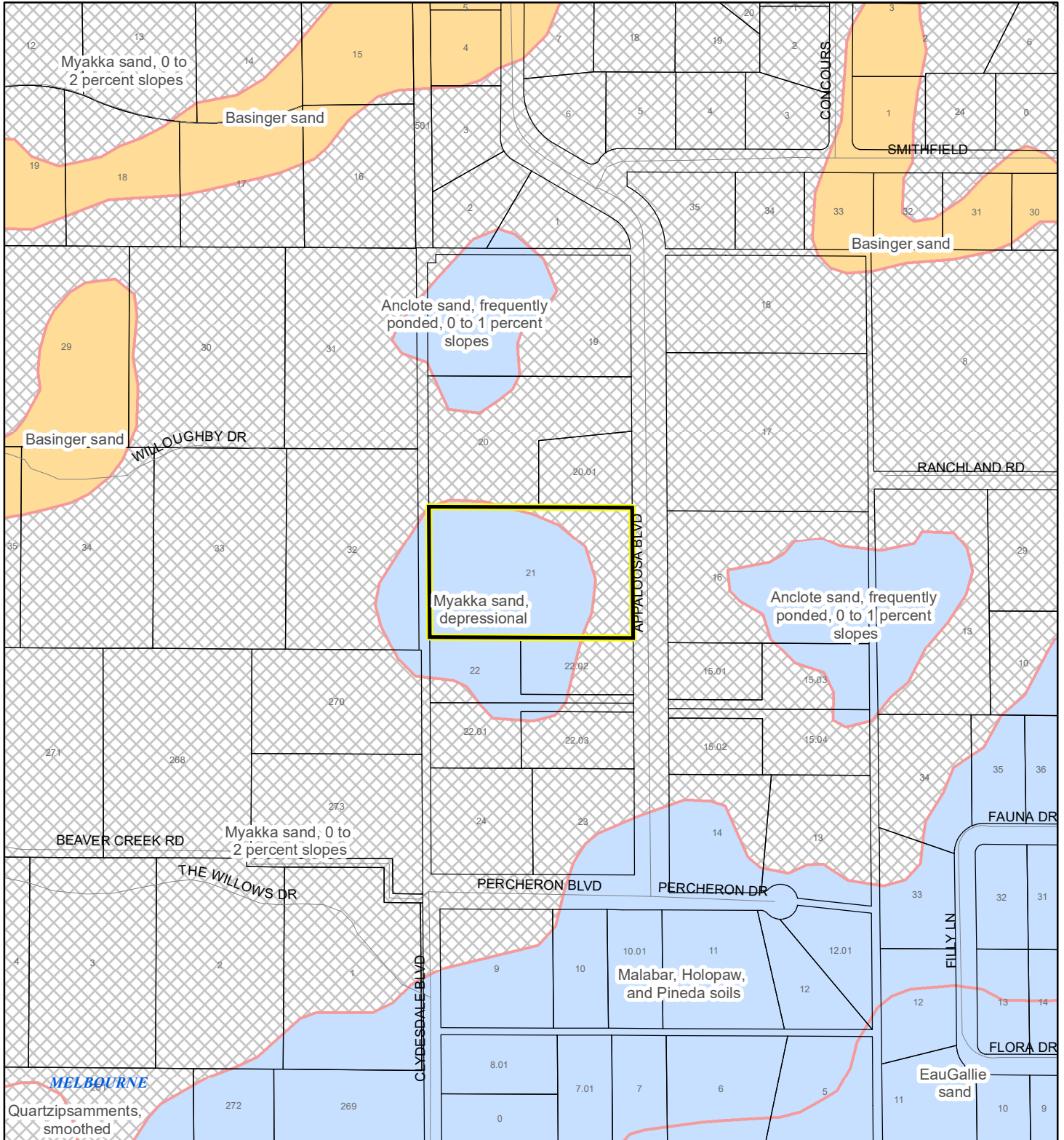
Parcels



# USDA SCSSS SOILS MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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: 1/29/2021

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

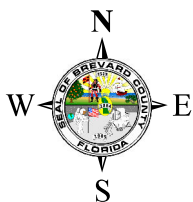
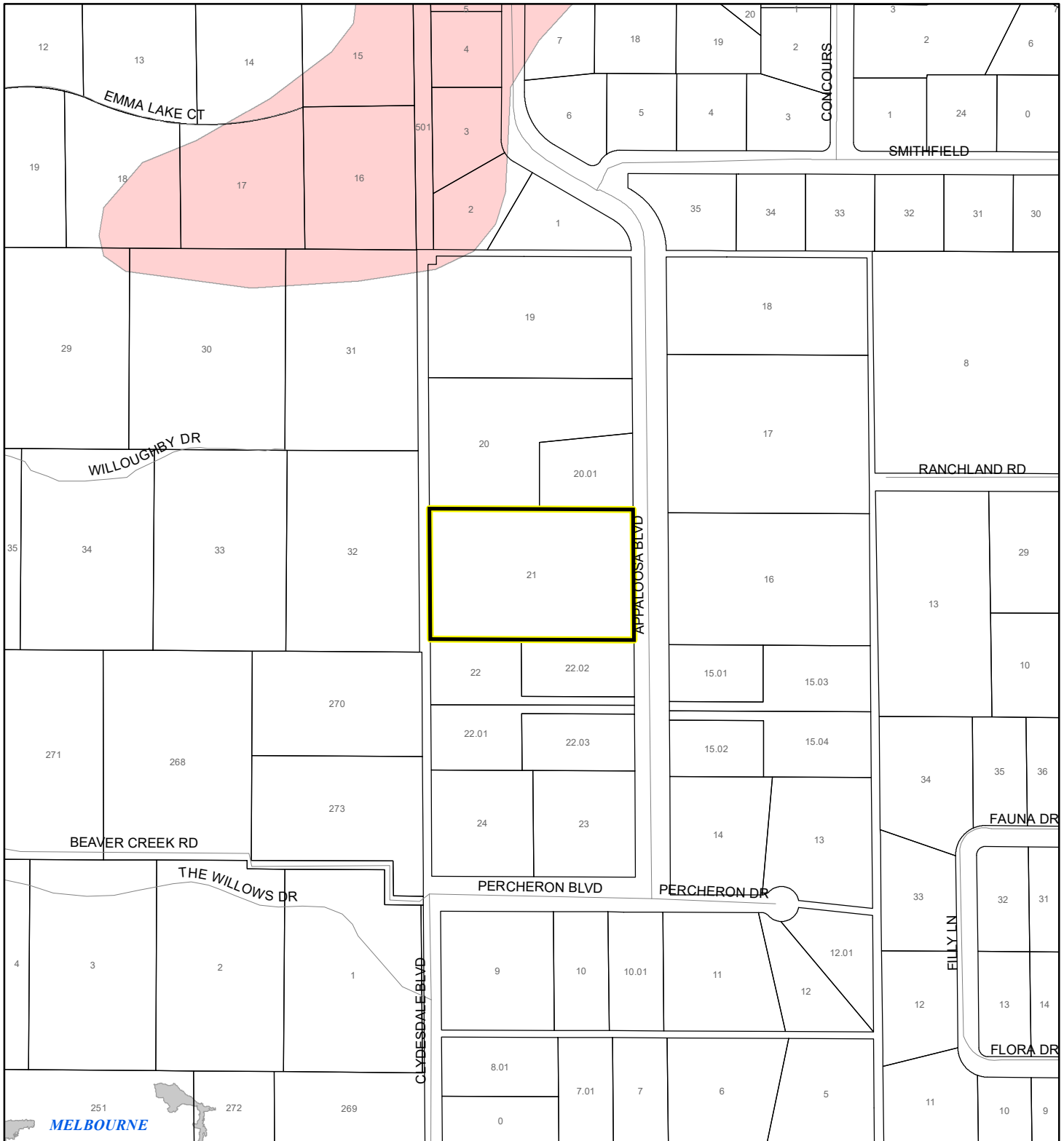
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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: 1/29/2021

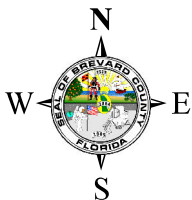
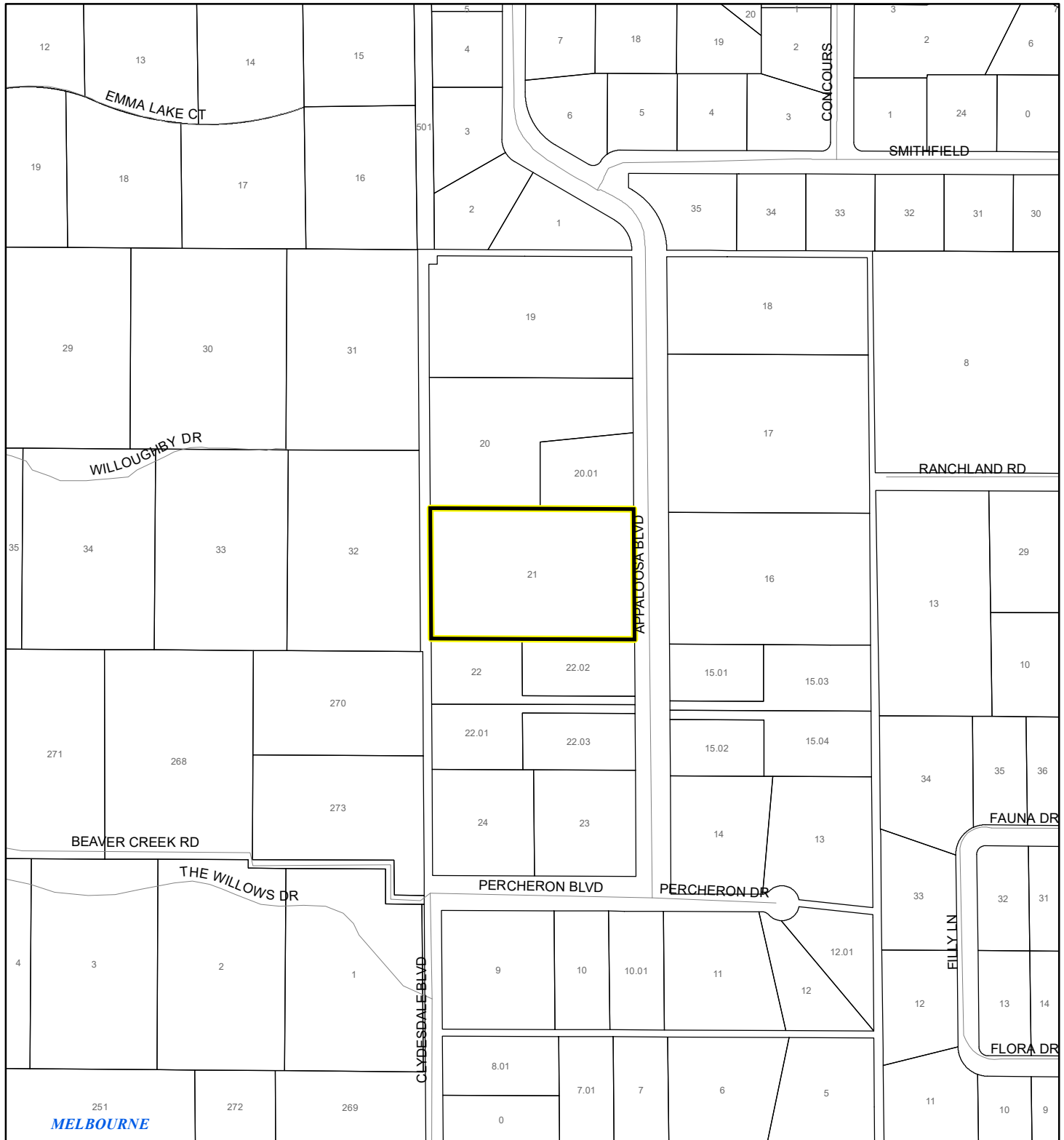
## FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  | Parcels    |                      |

# COASTAL HIGH HAZARD AREA MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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: 1/29/2021

 Subject Property

 Parcels

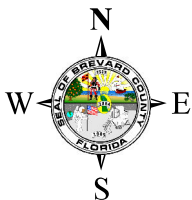
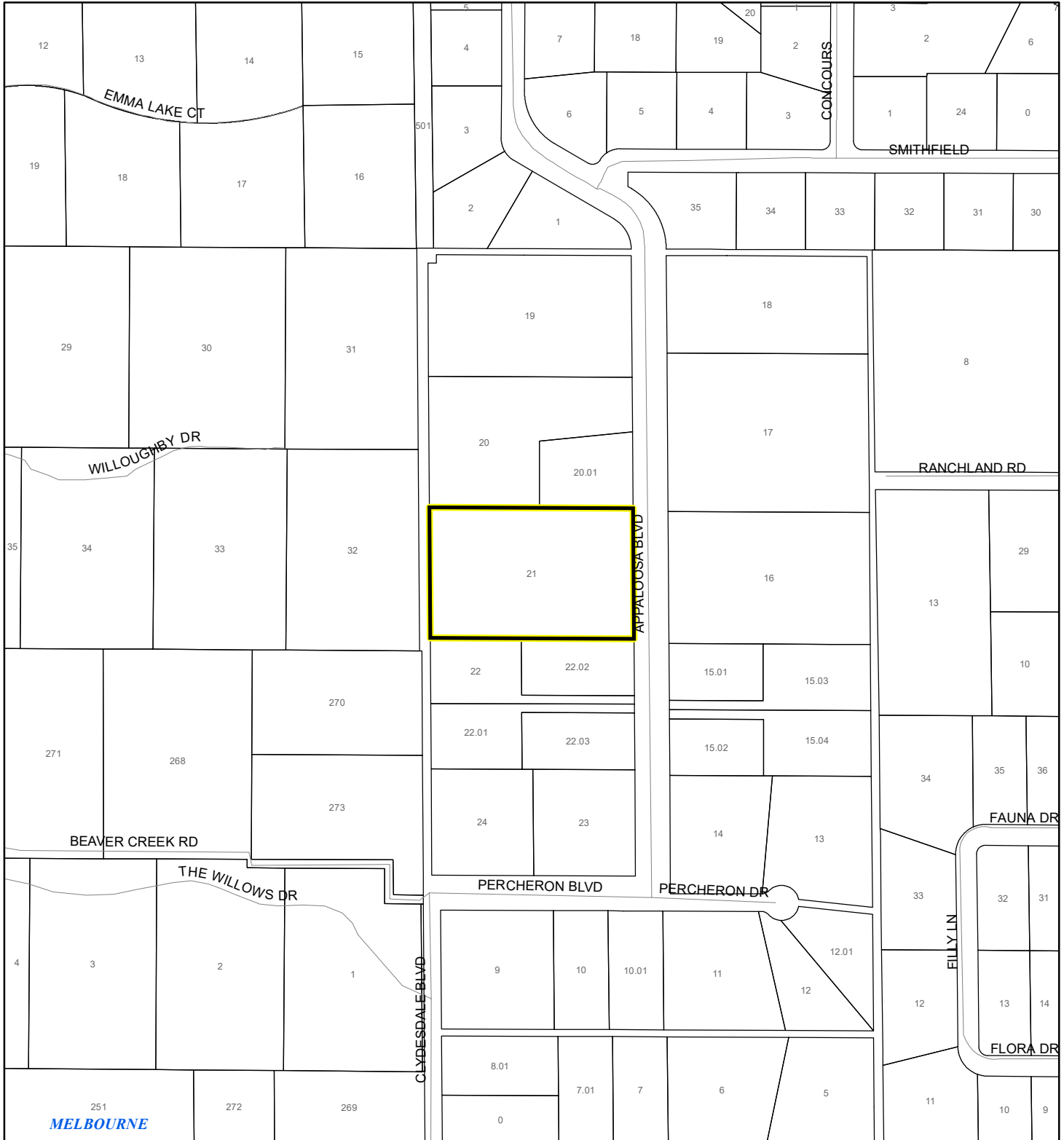
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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: 1/29/2021

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

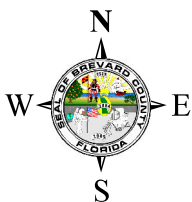
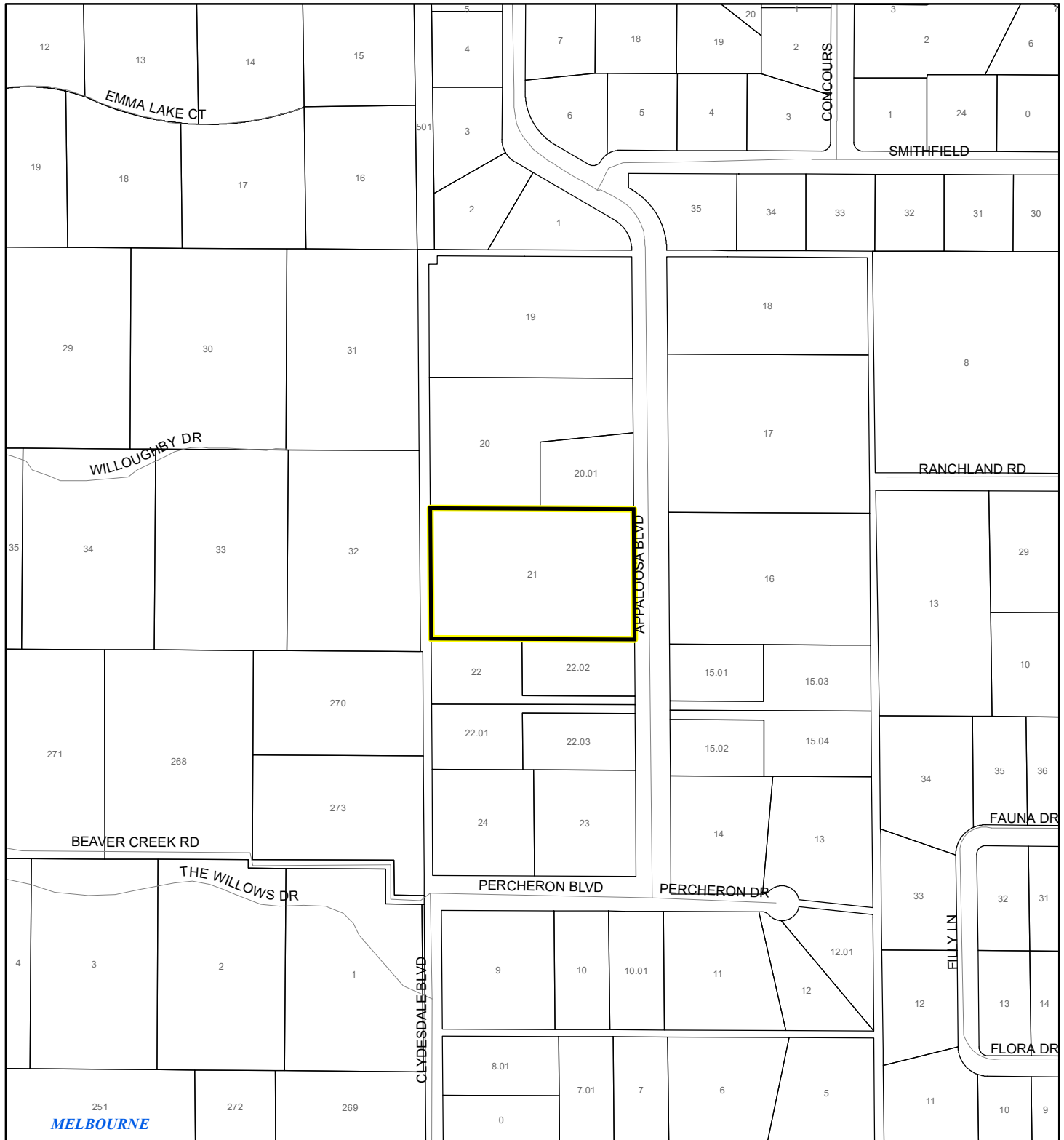
 60 Meters

 All Distances

# EAGLE NESTS MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005




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: 1/29/2021

 Subject Property

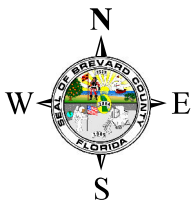
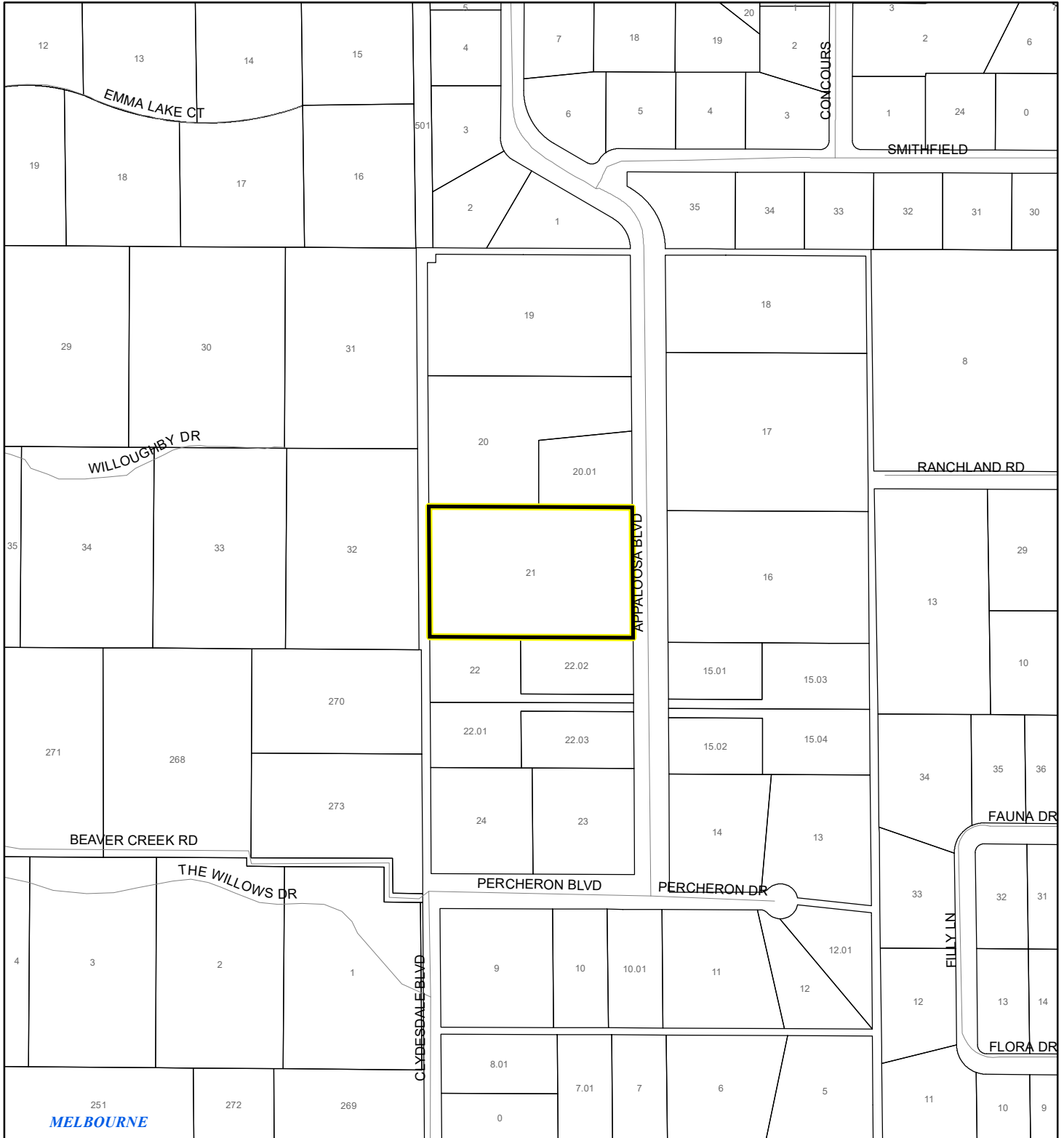
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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.

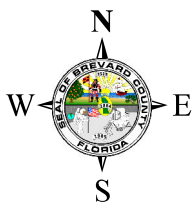
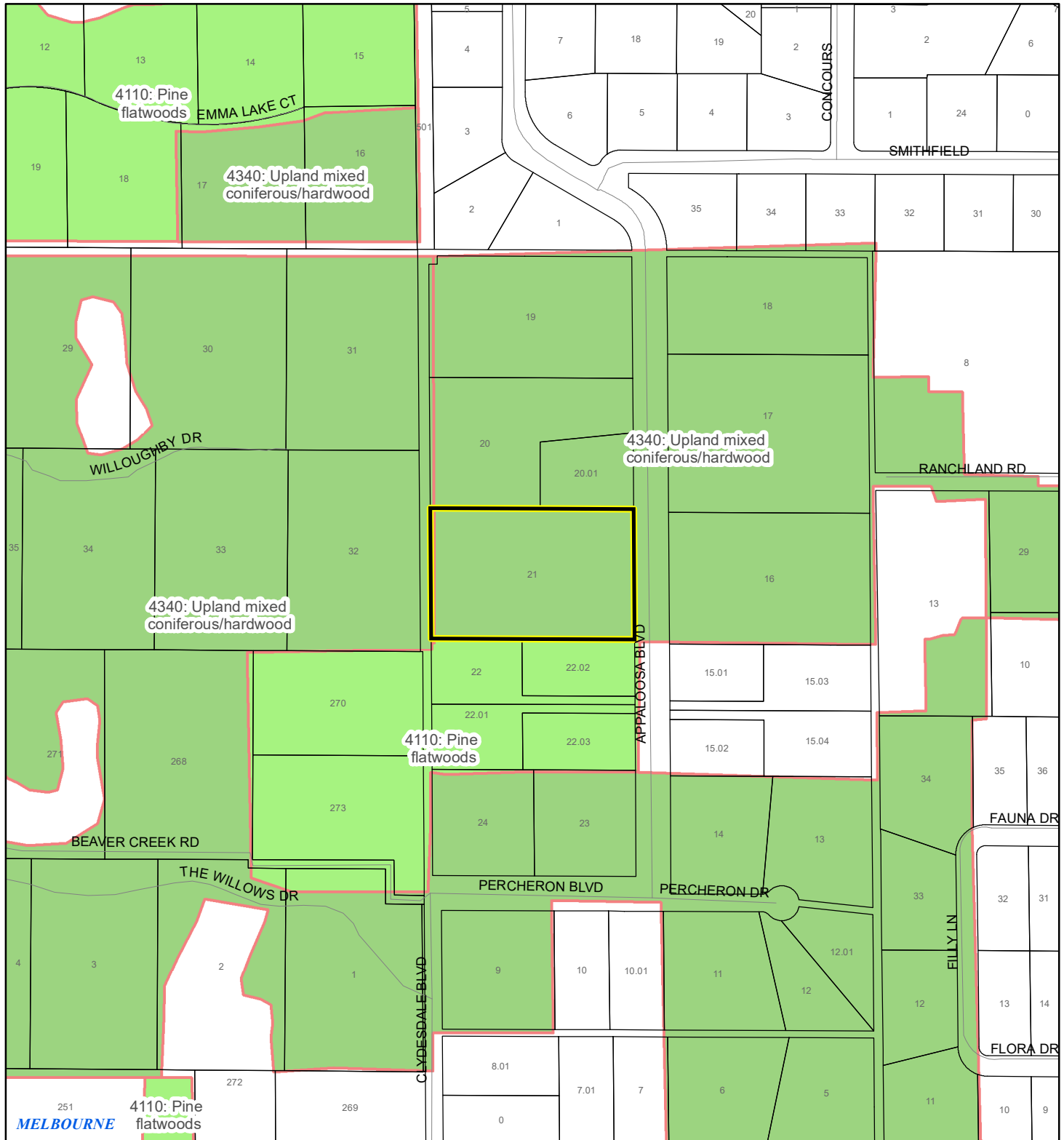
Produced by BoCC - GIS Date: 1/29/2021

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

COSTELLO, MICHAEL J. AND ANNETTE

21Z00005



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: 1/29/2021

## 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





# BREVARD COUNTY PLANNING AND DEVELOPMENT

## APPLICATION FOR ZONING ACTION, COMPREHENSIVE PLAN AMENDMENT OR VARIANCE

**All applications with fees must be submitted in person. Call 321-633-2070 for an appointment at least 24 hours in advance. DO NOT MAIL THE APPLICATION. An approval does not entitle the owner to a development permit.**

Existing FLU Res 2 Existing Zoning RR-1  
Proposed FLU Res 2 Proposed Zoning AV

### APPLICATION NAME

- ☐ COMPREHENSIVE PLAN (CP)  
     Large Scale Amendment Small Scale Amendment  
     Text Amendment - Element  
     Other

☒ REZONING (Without CUP) (RWOC)  
 COMBINATION - ZONING AND CUP (CORC)

☐ CUP (Without zoning) (CUP)

☐ VARIANCE(S) (V)

☐ AA (AA)

AA Type: \_\_\_\_\_

☐ OTHER (O): \_\_\_\_\_

Tax Parcel: T 27 R 36 S 10 S/D 25<sup>A</sup> Blk/Par X Lot 21

Acres of Request: 5

Reason for Request: change to agricultural zoning RR-1 to AV

### COUNTY PLANNER USE ONLY

ACCELA# 21Z00005 Fee \$ 1149.00

Date filed 1/21/2021 Planner K14

District# 4 Tax Account ID# 2700924

(list all parcels)

Notification radius (feet) 500' Sign Issued -

Meeting(s) Date Time

NMI \_\_\_\_\_

PSJ Board \_\_\_\_\_

P&Z / LPA 4/5/21 3:00 p

BCC 5/6/21 5:00 p

BOA \_\_\_\_\_

JPA/MIRA/500' of Palm Bay Extension: Yes or No

If Yes, list which \_\_\_\_\_

Location: West side of Appaloosa Blvd

Detailed Description: Rezone from RR-1 to AV

### PROPERTY OWNER:

Name: Michael J & Annette Costello Company: \_\_\_\_\_

Address: 2940 Appaloosa Blvd E-Mail: acostello@morsecom.com

City: Melbourne State FL Zip 32934

Phone: (321) 298-2256 Fax: (321) 255-0198 Cell: (321) 693-4586

Annette cell

Mike Cell

APPLICANT IF OTHER THAN OWNER (check): Attorney \_\_\_\_\_ Agent \_\_\_\_\_ Contract Purchaser \_\_\_\_\_

Name: \_\_\_\_\_ Company: \_\_\_\_\_

Address: \_\_\_\_\_ E-Mail: \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone: ( ) Fax: ( ) Cell: ( )

The undersigned understands that this application must be complete and accurate prior to advertising a public hearing:

State of Florida County of Brevard I Annette Costello being first duly sworn, depose and say that I hereby certify that the information in this application and all sketches and data attached to and made a part hereof are true and accurate to the best of my knowledge, and:

☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.  
☐ I am the legal representative of the owner of the subject property of this application. (Notarized statement attached)

Annette Costello  
 Signature of Property Owner/Authorized Representative Date 10/16/2018

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of Oct, 2018, by Annette Costello and Michael Costello, who is Personally Known by me ☒ OR Produced Identification \_\_\_\_\_ Type of Identification Produced \_\_\_\_\_

Kathy Hambleton  
 Notary Public Signature



KATHY HAMBLETON  
 Commission # GG 251132  
 Expires October 12, 2022  
 Bonded Thru Budget Notary Services

## Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

### NOTES:

- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ☐ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

acostello@morsecom. or ( ) or U.S. Mail  
e-mail address fax number

Yes/No

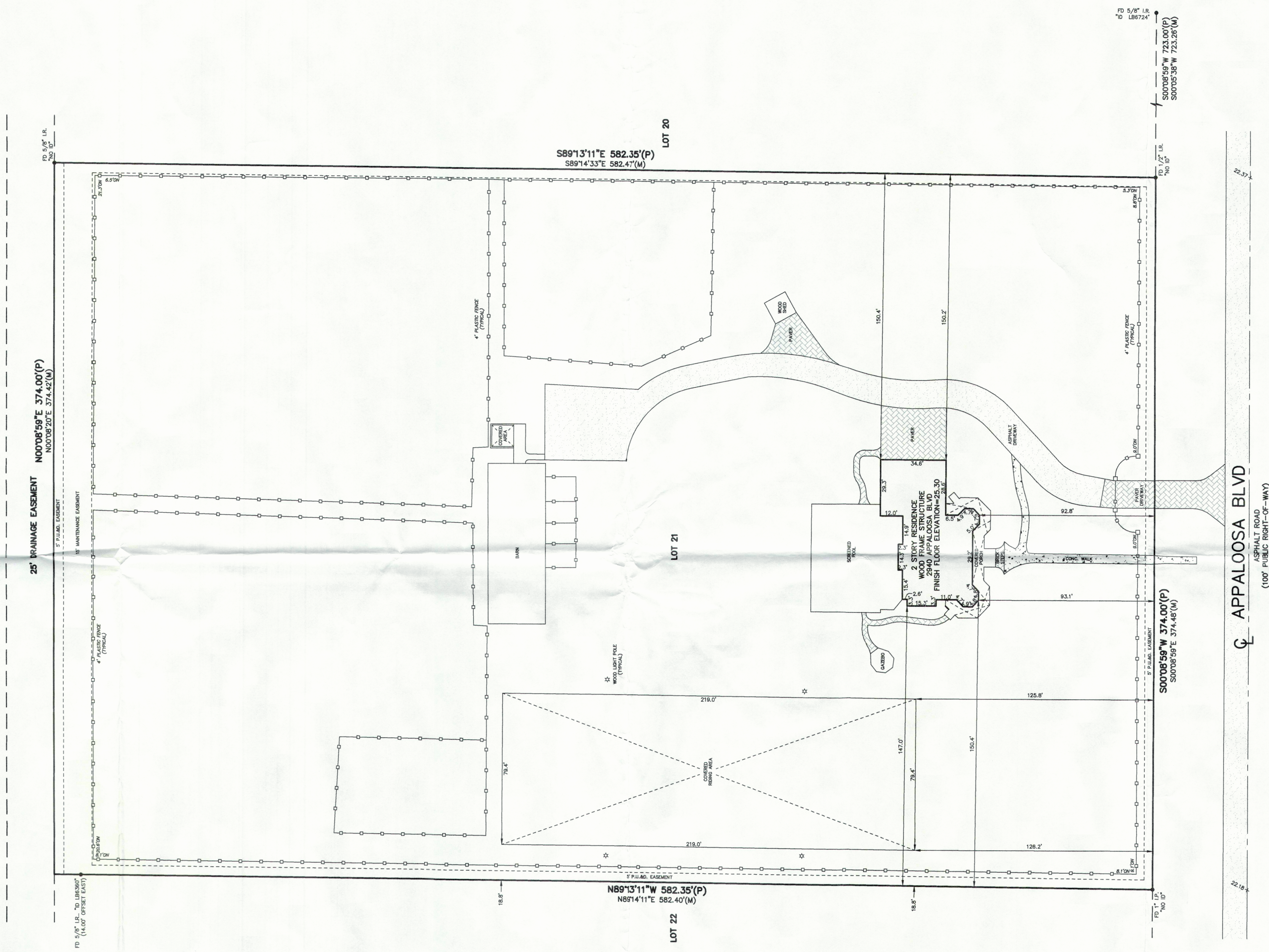
I have received a copy of this notice:

Annette Costello  
(APPLICANT SIGNATURE)



NOTE:  
ELEVATIONS BASED ON NAVD88  
BENCHMARK: 428-34  
ELEVATION: 25.30

LEGEND:  
(AKA) = ALSO KNOWN AS  
C = CENTERLINE  
C.B. = CONCRETE BLOCK  
C.B.S. = CONCRETE BLOCK STRUCTURE  
C.L.F. = CHAIN LINK FENCE  
CLR. = CLEAR  
C.M. = CONCRETE MONUMENT  
CONC. = CONCRETE  
COR. = CORNER  
COVD = COVERED  
D = DELTA  
FD = FOUND  
ID = IDENTIFICATION  
I.P. = IRON PIPE  
I.R. = IRON ROD  
L = LENGTH  
LB = LICENSE BUSINESS  
LS = LICENSE SURVEYOR  
(M) = MEASURED  
N&D = NAIL & DISK  
(P) = PLATTED  
PC = POINT OF CURVATURE  
PT = POINT OF TANGENCY  
PL = PROPERTY LINE  
P.S.M. = PROFESSIONAL SURVEYOR & MAPPER  
PRC = POINT OF REVERSE CURVE  
P.U.&D. = PUBLIC UTILITY & DRAINAGE  
R = RADIUS  
R/W = RIGHT-OF-WAY  
(TYP.) = TYPICAL  
W.F. = WOOD FENCE



SCALE: 1" = 30'  
DATE: 10/18/2018  
PROJECT: 17-1380  
F.B. NUMBER:  
TYPE OF SURVEY: AS-BUILT  
CADD FILE: 17-1380.DWG

BOUNDARY SURVEY OF:  
LOT 21 AS SHOWN ON THE PLAT OF LAKEWOOD ESTATES SECTION ONE A  
AS RECORDED IN PLAT BOOK 23, PAGES 91-92 OF THE PUBLIC  
RECORDS OF BREVARD COUNTY, FLORIDA.

CERTIFIED TO:  
MICHAEL AND ANNETTE COSTELLO

**PRECISION**  
LAND SURVEYING, INC.  
PHONE: (321) 259-4600 2900 LAKE WASHINGTON ROAD  
FAX: (321) 259-4255 SUITE 1  
EMAIL: PLS@FLRR.COM MELBOURNE, FLORIDA 32935

1) THE BEARING SYSTEM SHOWN HEREON IS BASED ON A ASSUMED BEARING OF S.00°08'59"W., ALONG THE WEST  
RIGHT-OF-WAY LINE OF APPALOOSA BLVD.  
2) AS PER FLOOD INSURANCE RATE MAP NO.12009C 0514 G, INDEX DATED 03-17-2014, THE ABOVE DESCRIBED  
PROPERTY LIES IN ZONE X.  
3) THIS SURVEY WAS PREPARED FROM TITLE INFORMATION PROVIDED TO THE SURVEYOR. THERE MAY BE  
ADDITIONAL RESTRICTIONS OR EASEMENTS THAT AFFECT THE PROPERTY.

4) UNDERGROUND UTILITIES AND FOUNDATIONS HAVE NOT BEEN SHOWN.  
5) LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY, RESERVATION, AGREEMENT AND/OR  
EASEMENTS OF RECORD, SUCH INFORMATION IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHER  
THROUGH APPROPRIATE TITLE VERIFICATION.  
6) NOT VALID WITHOUT SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND  
MAPPER.

*Myron E. Barker*  
PROFESSIONAL SURVEYOR & MAPPER IN RESPONSIBLE CHARGE  
MYRON E. BARKER - FLORIDA CERTIFICATE NO. 5085  
CERTIFICATE OF AUTHORIZATION LB. 6586



Owner's Name: Michael + Annette Costello  
Hearing Date: April 5, 2021

21200005

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

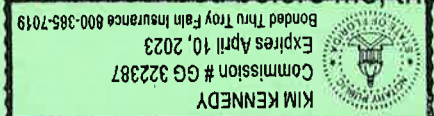
STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Brian Lark,  
to me well known and known to me to be the person described in and who executed the foregoing  
affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

Bjll  
Signature

Sworn and Subscribed before me, this 12th day of March.

  
(Print, Type, or Stamp Commissioned Name of Notary Public)

[Signature]  
Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: \_\_\_\_\_

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

# PHOTOGRAPHS



## BREVARD COUNTY CODE ENFORCEMENT



Mo./Day/Year	Address	Zng App.#
03/12/2021	2940 Appaloosa Melbourne	21Z00005



**Brian Lock**



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

---

H.3.

4/5/2021

---

### Subject:

The Suntree Business Center, LLC, requests a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a dog park, in a BU-2 zoning classification. (21PZ00012) (Tax Account 2602736) (District 4)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a request for a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a dog park, in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification.

### Summary Explanation and Background:

The applicant is seeking a CUP for alcoholic beverages for on-premises consumption accessory to a playground for dogs. The request is for beer and wine with internal office and manufacturing space together with an external area located to the north of the northern building, Unit #102 (east end of building). The internal unit size is approximately 2,800 square feet and the outside fenced dog area is 1,200 square feet for a total area of 4,000 square feet.

The abutting parcel to the north is zoned GML (Government Managed Land), and is utilized as a retention pond. The property to the east beyond the FEC railroad is zoned BU-2 and IU (Light Industrial), developed as an office complex. The properties to the south across Suntree Boulevard are zoned BU-1 (General Retail Commercial) and BU-2, developed with a commercial strip center and office space. To the west is a parcel zoned BU-2, developed with a warehouse/storage facility with abutting retention pond.

The Board may wish to consider parking requirements and the compatibility of the proposed CUP with surrounding development. The Board may consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the abutting properties.

The Board of County Commissioners will consider the request on **Thursday, May 6, 2021, at 5:00 p.m.** at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

### Clerk to the Board Instructions:

None



# **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 staff, 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 Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all 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 re-zoning 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:

##### **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

**21PZ00012**

#### **The Suntree Business Center, LLC**

#### **Conditional Use Permit (CUP) for Alcoholic beverages for on-premises consumption of beer/wine in conjunction with a playground for dogs**

Tax Account Number: 2602736  
Parcel I.D.: 26-36-13-00-7  
Location: NW corner of FEC railroad and Suntree Boulevard (District 4)  
Acreage: 0.09 acres for Suite # 102 and adjacent area to the north

Planning and Zoning Board: 04/05/2021

Board of County Commissioners: 05/06/2021

#### **Consistency with Land Use Regulations**

- Current zoning can 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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-2	BU-2 with CUP for beer/wine
<b>Potential*</b>	2,800 square feet of building area	4,000 square feet of building and fenced outdoor use
<b>Can be Considered under the Future Land Use Map</b>	YES Community Commercial	YES Community Commercial

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

#### **Background and Purpose of Request**

The property owner is seeking a Conditional Use Permit (CUP) for alcoholic beverages for on-premises consumption accessory to a playground for dogs. The request is for beer and wine with internal office and manufacturing space together with an external area located to the north of the northern building, Unit #102 (east end of building). The proposed use for this site is not as a food service/restaurant use. The internal unit size is approximately 2,800 square feet and the outside fenced dog area is 1,200 square feet for a total area of 4,000 square feet.

This site was administratively rezoned from IU to BU-2 under zoning action **Z-9418**. **Z-9418** was adopted on November 29, 1994.

Located at the NW corner of the site is an approved tower consistent with approval of **Z-10182**. **Z-10182** was adopted on December 3, 1998 and approved a 120-foot tall monopole tower. Variance

action, **V-1019**, adopted February 18, 1981 reduced the northern (rear) setback from 50-feet to 20-feet. The new dog play area would utilize this 20-foot deep perimeter area as a fenced yard for dogs.

## **Land Use**

The BU-2 zoning classification is consistent with the Community Commercial (CC) Future Land Use designation. The CUP request can be considered consistent with the CC FLU designation.

## **Applicable Land Use Policies**

### **FLUE Policy 2.2 – Role of Zoning Regulations in the Designation of Commercial Lands**

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;*

*Staff analysis: The proposed CUP for beer and wine includes a portion of an existing building (Unit # 102) together with an outside fenced area as a play yard for dogs.*

The Board should consider the compatibility of the proposed CUP with surrounding development. To the north of this unit, is a retention pond. To the west is a storage/warehouse facility and to the east beyond the railroad tracks is a multiple office/business establishments extending south to Suntree Boulevard.

##### *B. Existing commercial zoning trends in the area;*

*Staff analysis: There have been six recent commercial zoning requests within the area within the last three years. More information has been provided below in the surrounding area analysis section.*

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

*Staff analysis: This CUP request, if approved, could be compatible with the existing commercial office/warehouse center. The Board may desire buffering be added to the property in order to reduce potential noise and provide for a visual buffer.*

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

*Staff analysis: It appears no LOS has been exceeded for road capacity. Other LOS criteria will be reviewed at the site plan review stage.*

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.** This site is located within a large Community Commercial node. To the east, west and south, the area is under the FLU designation of Community Commercial. The commercial zoning is pre-existing. To the north lies the Public Facility FLU designation which supports a retention pond servicing Wickham Road.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The character of the area is a complex mix of existing commercial development. This use will be located at the rear of the project away from Suntree Boulevard traffic near a communication tower, offsite retention and the FEC railway.

### **Surrounding Area**

The abutting parcel to the north is zoned Government Managed Land (GML); it is utilized as a retention pond. The property to the east beyond the FEC railroad is zoned BU-2 and Light Industrial (IU); this area is developed as an office complex. The properties to the south across Suntree Boulevard are zoned General Retail Commercial (BU-1) and BU-2; they are developed with a commercial strip center and office space. To the west is a parcel zoned BU-2; this area is developed with a warehouse/storage facility with abutting retention pond.

The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots.

The IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

The GML government managed lands zoning classification is used to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

There have been six zoning actions within a half-mile radius around this site within the last 3 years. The zoning changes identify:

**20Z00014** – 9/30/2020; PUD and PIP to all PUD with retention of the CUP for alcoholic beverages (full-liquor) at an Assisted Living Facility (ALF) with waiver for building separation between existing and proposed ALF expansion. Located upon the east half of the Brevard Medical City site 2,500 feet south at the intersection of Pineda Court and Wickham Road.

**20Z00007** – 8/05/2020; Conditional Use Permit (CUP) for Alcoholic beverages for on-premises consumption; beer and wine accessory to an indoor family entertainment center. Located 1,050 feet in a SE direction lying 900 feet south of Suntree Boulevard on the west side of Highway 1.

**19PZ00035** – 8/21/2019; Rezoning from GU to BU-2 with a BDP recorded in ORB 8521 Pages 1208-1244. Located 1,160 feet in a NW direction lying east of Waelti Drive and on the north side of Freeman Lane.

**18PZ00113** – 9/05/2018; CUP for alcoholic beverages for on-premises consumption beer and wine only in conjunction with a vapor store. Located 380 feet in a SW direction in the shopping center at the SE corner of Suntree Boulevard and Wickham Road.

**18PZ00104** – 12/05/2018; Rezoning from BU-1 & IU to all BU-2. Located 600 feet to the west at the NE corner of Waelti Drive and Wickham Road.

**18PZ00055** – 8/01/2018; Rezoning from General Use, GU to Single-family residential, RU-1-7. Located 1,300 feet north along the south side of Ernest Sands Road between U.S. Highway 1 and the FEC railroad.

### **Special Considerations for CUP (Conditional Use Permit)**

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that 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.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1906, on-premises consumption of alcohol.

This request should be evaluated in the context of **Section 62-1906** which governs alcoholic beverages for on-premises consumption which states in, specifically 62-1906 (3) and (5):

- 3) Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes.

*Staff analysis: The owner/applicant has provided a survey which states that there are no churches or schools within 400 feet of the area within this CUP request.*

- 5) Imposition of additional operational requirements. When deemed appropriate, as based upon circumstances revealed through the general and specific standards of review set forth in this division, the Board shall have the option of imposing operational requirements upon an establishment approved for a conditional use for alcoholic beverages for on-premises consumption. Requirements may include, but are not limited to, the following: maximum number of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations. Additional requirements shall not exceed the limits of regulatory authority granted to local governments in the State Beverage Law, F.S. § 562.45.

*Staff analysis: Serving and consumption of beverages, alcohol or otherwise, shall be strictly prohibited outside of the existing building and the proposed fenced yard.*

## **General Standards of Review**

Section 62-1901(c)(1)(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.

Applicant's Response: The proposed project will not cause adverse impacts to the adjacent properties with respect to the above described items.

*Staff analysis: The owner/applicant has not addressed the adverse impacts such as noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use nor has the number of patrons been identified.*

Section 62-1901(c)(1)(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.

Applicant's Response: The proposed use is compatible with the adjacent properties with regard to function.

*Staff analysis: The parcel is a portion of a developed commercial property that is not adjacent to residential development. During site plan review, the proposed fenced doggy play area will need to comply with the county's noise ordinance.*

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebutably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a reputable 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 a MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own



expert witnesses.

Applicant's Response: The proposed use should not cause diminution in value.

*Staff analysis: Competent and substantial evidence by a MAI certified appraiser has not been provided by the applicant.*

Section 62-1901(c)(2)(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.

Note: Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent 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 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.

Applicant's Response: The proposed property has existing ingress/egress facilities that were certified to meet county standards with respect to vehicular circulation, emergency response, and pedestrian safety.

*Staff analysis: This project has two access points identified on the concept plan. The change of use is anticipated to increase traffic needs for this site.*

Section 62-1901(c)(2)(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.

Applicant's Response: No adverse impacts to the adjacent properties is expected due to the proposed conditional use.

Staff analysis: This project shall comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Any proposed outdoor lighting and noise standards should remain within code parameters or a violation will be created.

Section 62-1901(c)(2)(c): Noise levels for a conditional use are governed by section 62-2271.

Applicant's Response: Proposed use shall comply with all noise ordinances.

*Staff analysis: The concept plan's "noise standards" will be reviewed as part of the site plan review process. Proposed outside fenced doggy play area must comply with the noise ordinance.*

Section 62-1901(c)(2)(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.

Applicant's Response: The proposed conditional use will not require the level of service to increase.

*Staff analysis: The adopted level of service for solid waste disposal will be reviewed as part of the site plan review process.*

Section 62-1901(c)(2)(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.

Applicant's Response: The proposed conditional use will not exceed the allotted design service level for potable water or waste water.

*Staff analysis: The adopted level of service for potable water or wastewater will be reviewed by utilities as part of the site plan review process.*

Section 62-1901(c)(2)(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.

Applicant's Response: The proposed conditional use is part of an existing commercial complex, the buffering and landscaping are existing and will not cause adverse impacts with regard to lighting or noise.

*Staff analysis: As the project covers only a small portion of the overall site and is located at the extreme northern end behind the existing building and abutting an existing retention pond no screening or buffering has been identified on the concept plan, just a fenced area placed to the property line. Should the Board determine that additional measures become necessary, the Board may wish to request the applicant submit a Binding Development Plan (BDP) to provide for those additional measures.*

Section 62-1901(c)(2)(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.

Applicant's Response: No new signs or lighting are proposed as a result of the proposed conditional use.

*Staff analysis: No signage or exterior lighting has been identified on the concept plan. Should the Board determine that additional measures become necessary, the Board may wish to request the applicant submit a Binding Development Plan (BDP) to provide for those additional measures.*

Section 62-1901(c)(2)(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.

Applicant's Response: The hours of operation are consistent with the existing commercial complex.

*Staff analysis: The hours of operation has not been specified. Should the Board determine that additional measures become necessary, the Board may wish to request the applicant submit a Binding Development Plan (BDP) to provide for additional mitigation for offsite impacts.*

Section 62-1901(c)(2)(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.

Applicant's Response: The structure is existing. The proposed conditional use will not modify the existing structure height.

*Staff analysis: The existing commercial complex and the proposed fence doggy play area appear to meet height limitations identified in the Code.*

Section 62-1901(c)(2)(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.

Note: 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.

Applicant's Response: No parking modifications are proposed. The existing and permitted use requires 22 parking spaces. The proposed conditional use proposes +/- 700 square feet of office space (3-spaces), +/- 1,900 square feet of cocktail/entertainment space (19-spaces) and +/- 1,200 square feet of dog park (no spaces). There are no spaces assigned to the dog park since the patrons utilizing the dog park shall utilize the cocktail (sitting) area as well. Total spaces for the proposed conditional use is 22-parking spaces which is congruent with the existing permitted use.

*Staff analysis: The CUP concept plan does not identify the total number of existing parking spaces. Parking for warehouse use is calculated in Section 62-3206 (d) (18) of Brevard County Code. This section states: "Lumber yards, manufacturing and warehouses: One space per each 500 square feet of floor space. Building units having a minimum of 50 square feet and not exceeding 200 square feet, whose primary purpose is to provide an address for a business tax receipt, parking shall be one space per unit." Section 62-3206 (d) (6) states: "Business complex: Consisting of a mix of office, retail, wholesale stores, recreational areas, warehousing, manufacturing, light industrial, or scientific research functions shall provide one space per 325 square foot total." Section 62-3206 (d) (29) states: "Restaurants, cocktail lounges and other eating and drinking establishments: one space for every 100 square feet of gross floor area of the building including outdoor seating." Based upon a 2,800 square foot unit, the proposed parking threshold would be for 28 parking spaces. The Board may require that the applicant obtain a shared parking agreement with the owner to verify that available parking needs have been met.*

## **Environmental Constraints**

No formal review by the Natural Resources Management Department is required for a CUP for on-premises consumption of alcoholic beverages. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Suntree, between Wickham Road and U.S. Highway 1, which has a Maximum Acceptable Volume (MAV) of 19,451 trips per day, a Level of Service (LOS) of E, and currently operates at 86.01% of capacity daily. The maximum development potential from the proposed CUP request increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 86.03% of capacity daily (LOS E). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as this site is a proposed commercial development.

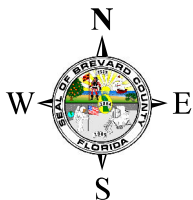
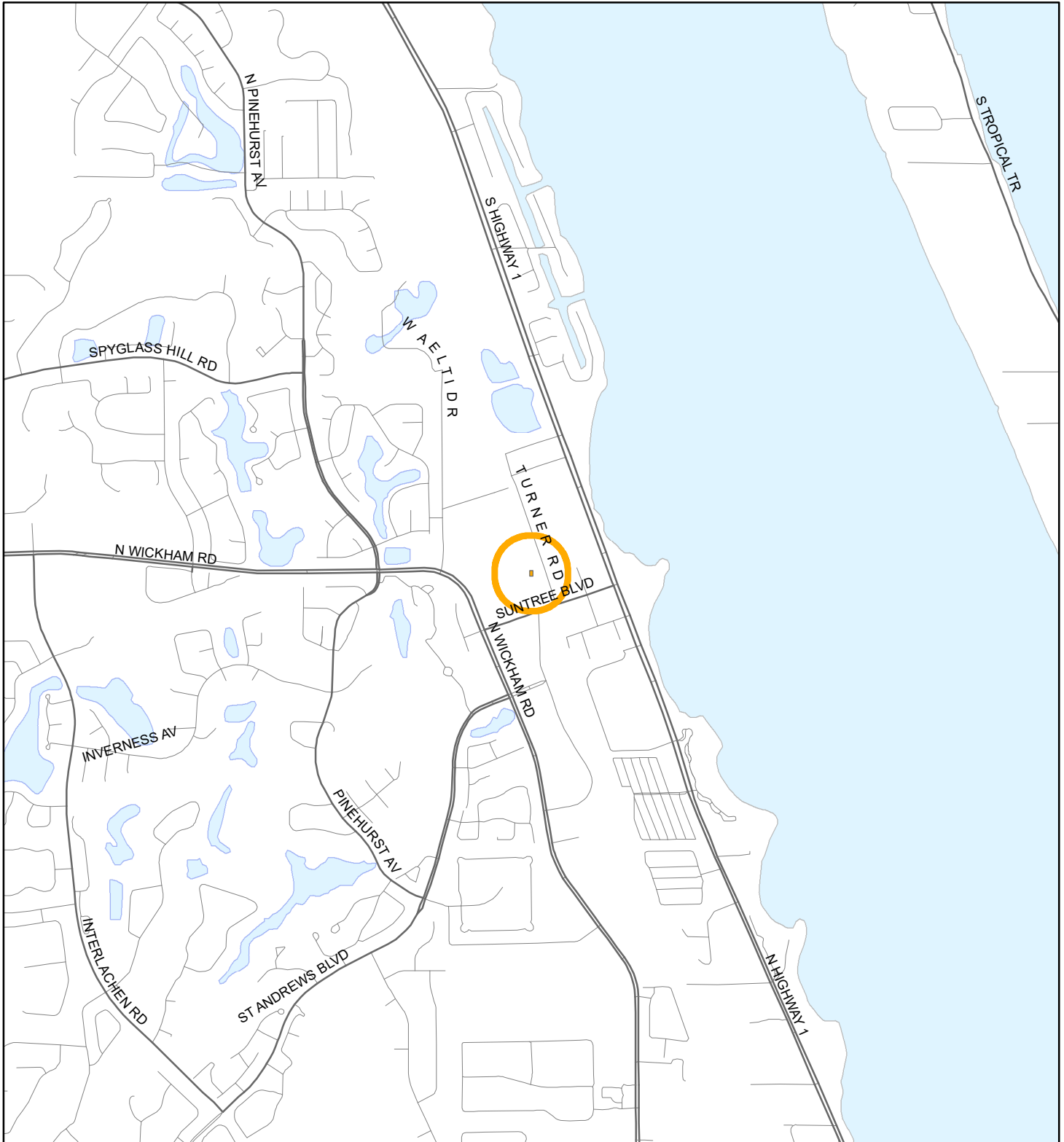
The subject property is served by potable water by the City of Cocoa. Sewer is provided by the County.

## **For Board Consideration**

The Board may wish to consider parking requirements and the compatibility of the proposed CUP with surrounding development. The Board may consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the abutting properties.

# LOCATION MAP

THE SUNTREE BUSINESS CENTER, LLC  
21PZ00012





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

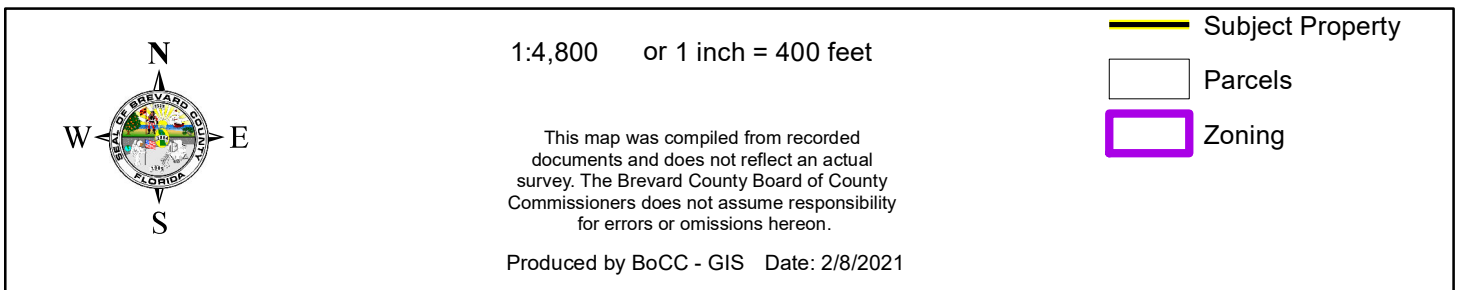
Buffer Distance: 500 feet

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: 2/8/2021

 Buffer  
 Subject Property

THE SUNTREE BUSINESS CENTER, LLC  
21PZ00012

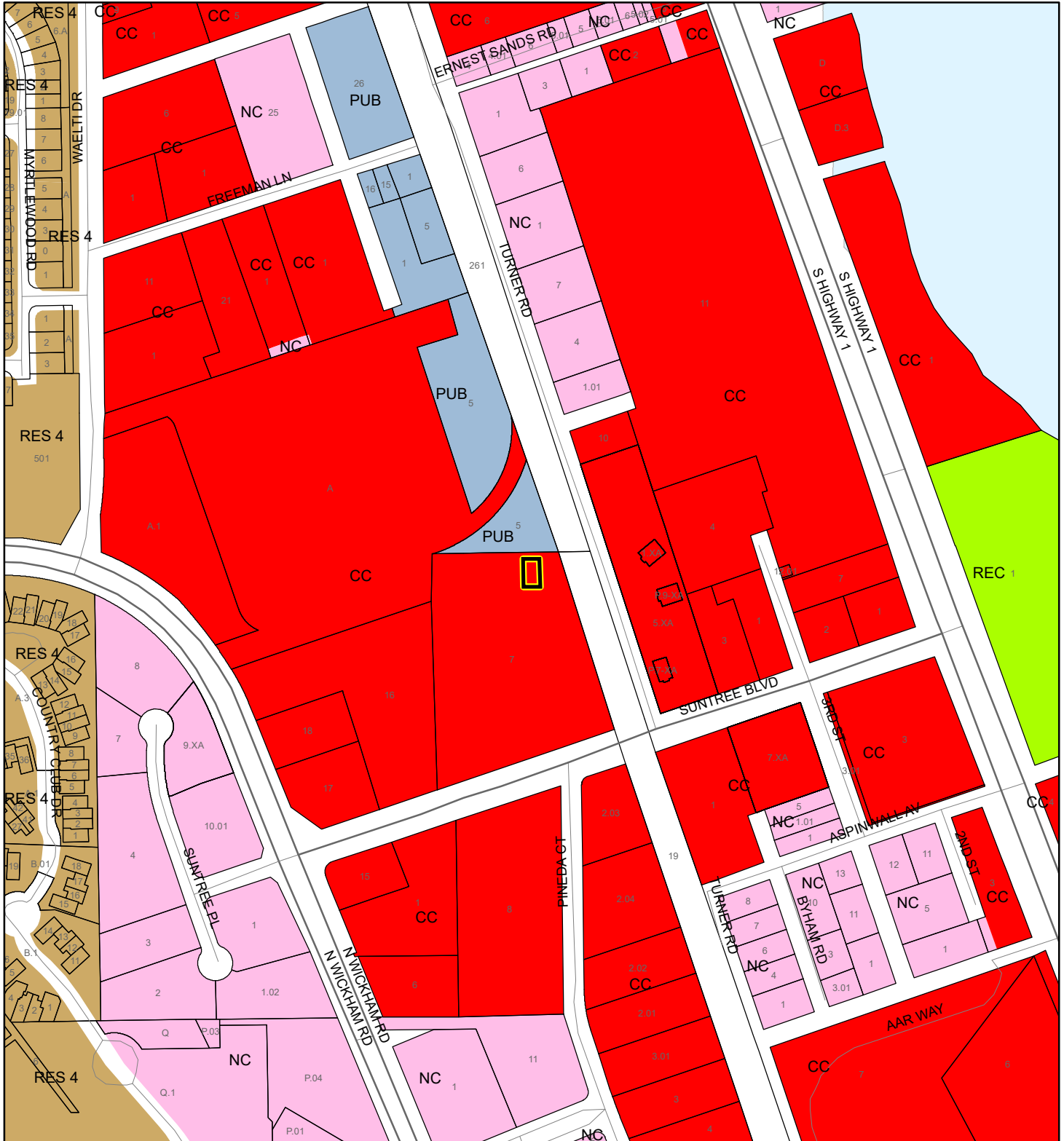






# FUTURE LAND USE MAP

THE SUNTREE BUSINESS CENTER, LLC

21PZ00012



1:4,800 or 1 inch = 400 feet

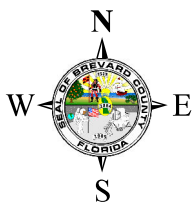
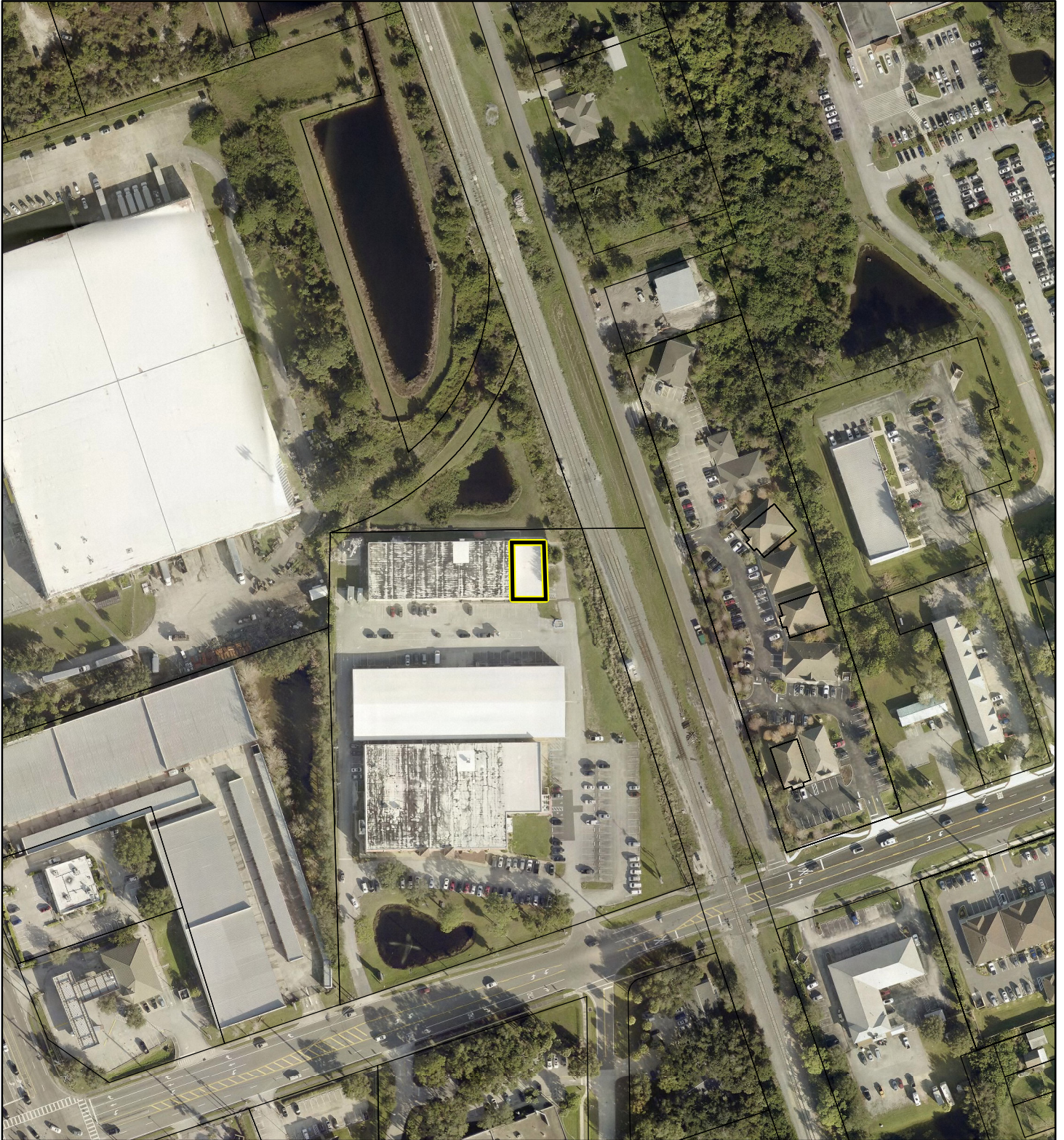
 Subject Property  
 Parcels

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: 2/8/2021



AERIAL MAP  
THE SUNTREE BUSINESS CENTER, LLC  
21PZ00012





1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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: 2/8/2021

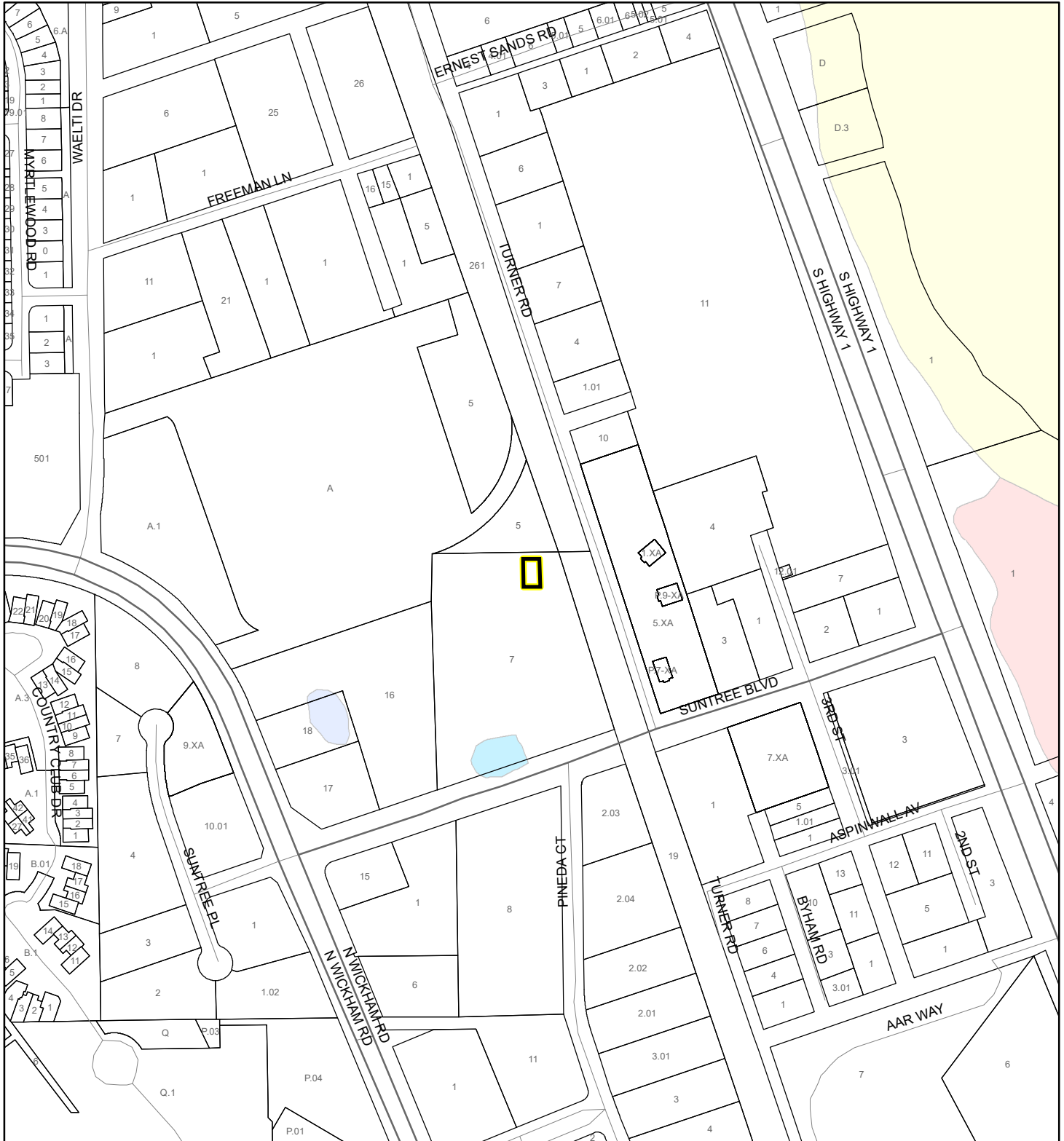
 Subject Property  
 Parcels



# NWI WETLANDS MAP

THE SUNTREE BUSINESS CENTER, LLC

21PZ00012



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: 2/8/2021

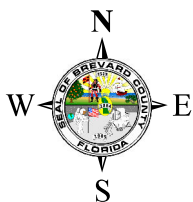
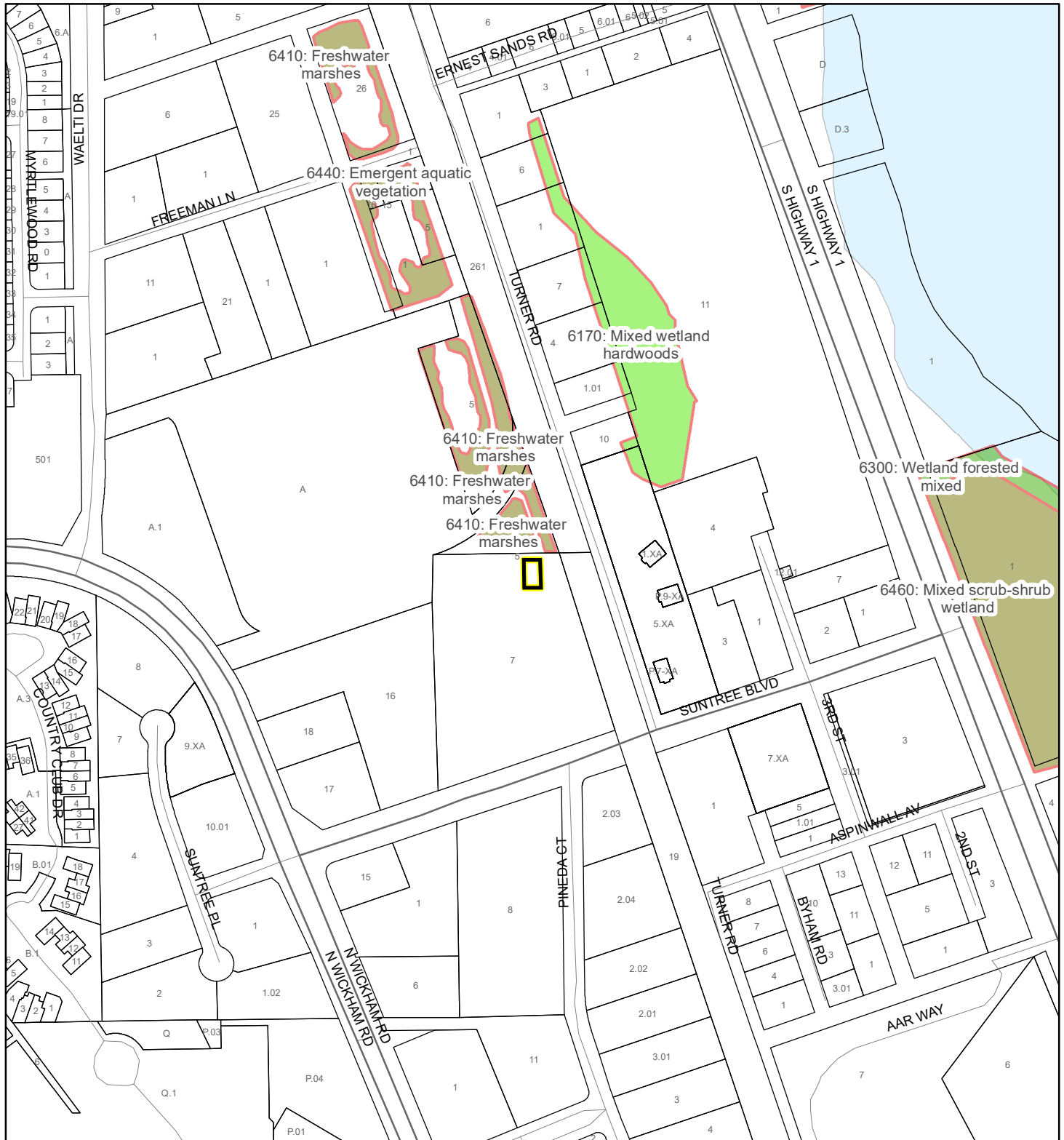
## National Wetlands Inventory (NWI)

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

THE SUNTREE BUSINESS CENTER, LLC

21PZ00012



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: 2/8/2021

## 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

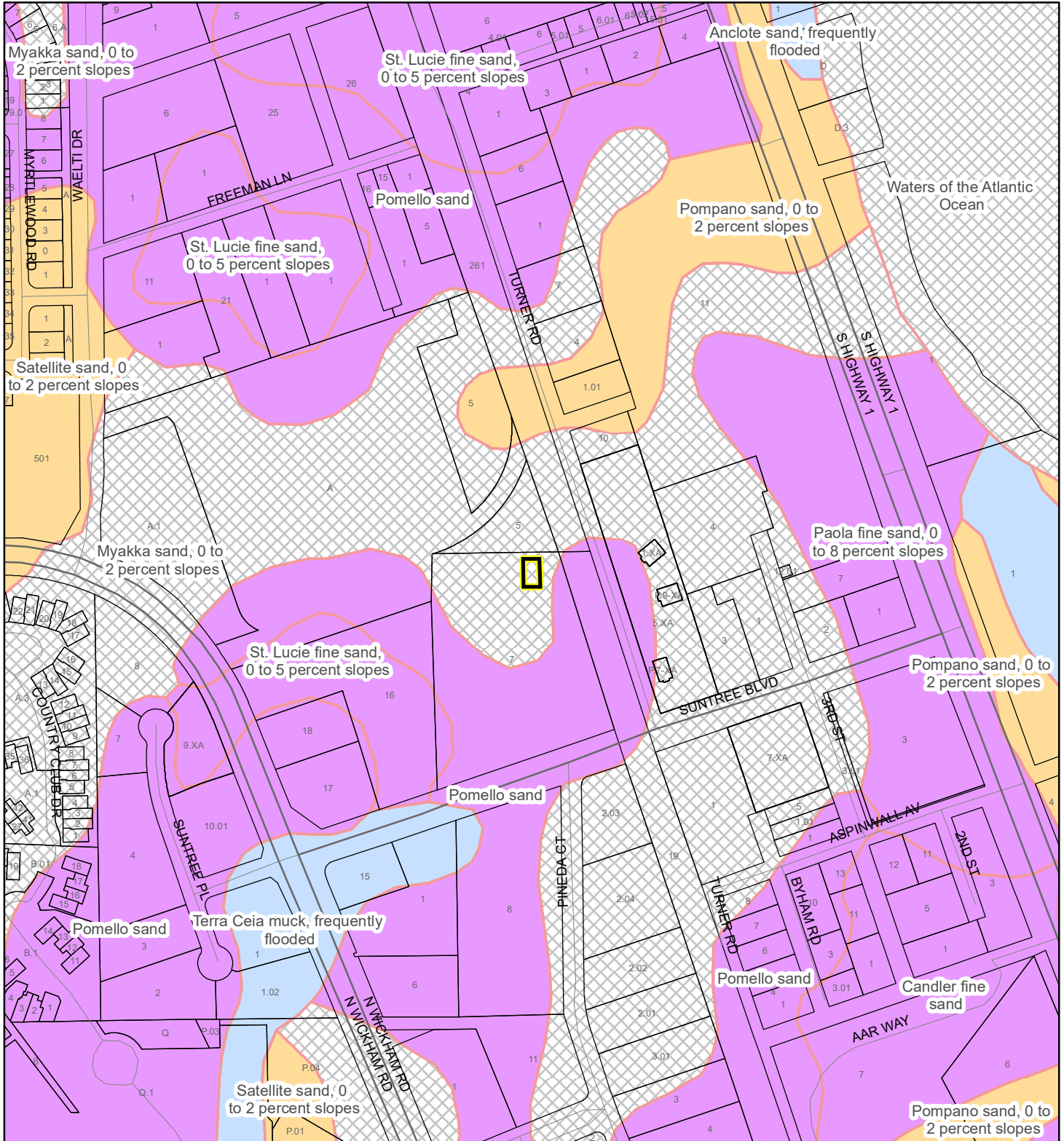
Subject Property

Parcels

# USDA SCSSS SOILS MAP

THE SUNTREE BUSINESS CENTER, LLC

21PZ00012



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: 2/8/2021

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

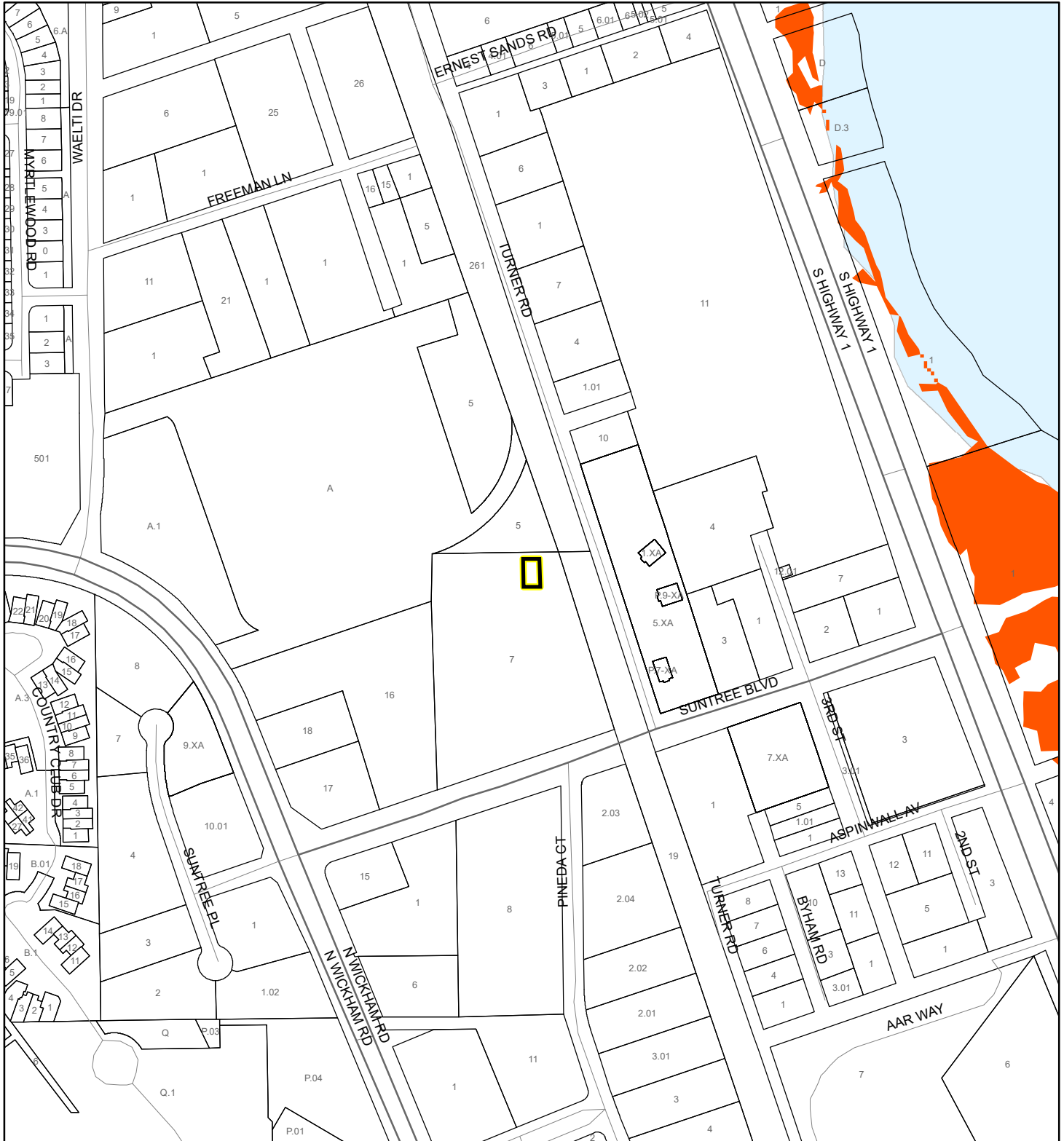
Subject Property

Parcels

# COASTAL HIGH HAZARD AREA MAP

THE SUNTREE BUSINESS CENTER, LLC

21PZ00012



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: 2/8/2021

 Subject Property

 Parcels

**Coastal High Hazard Area**

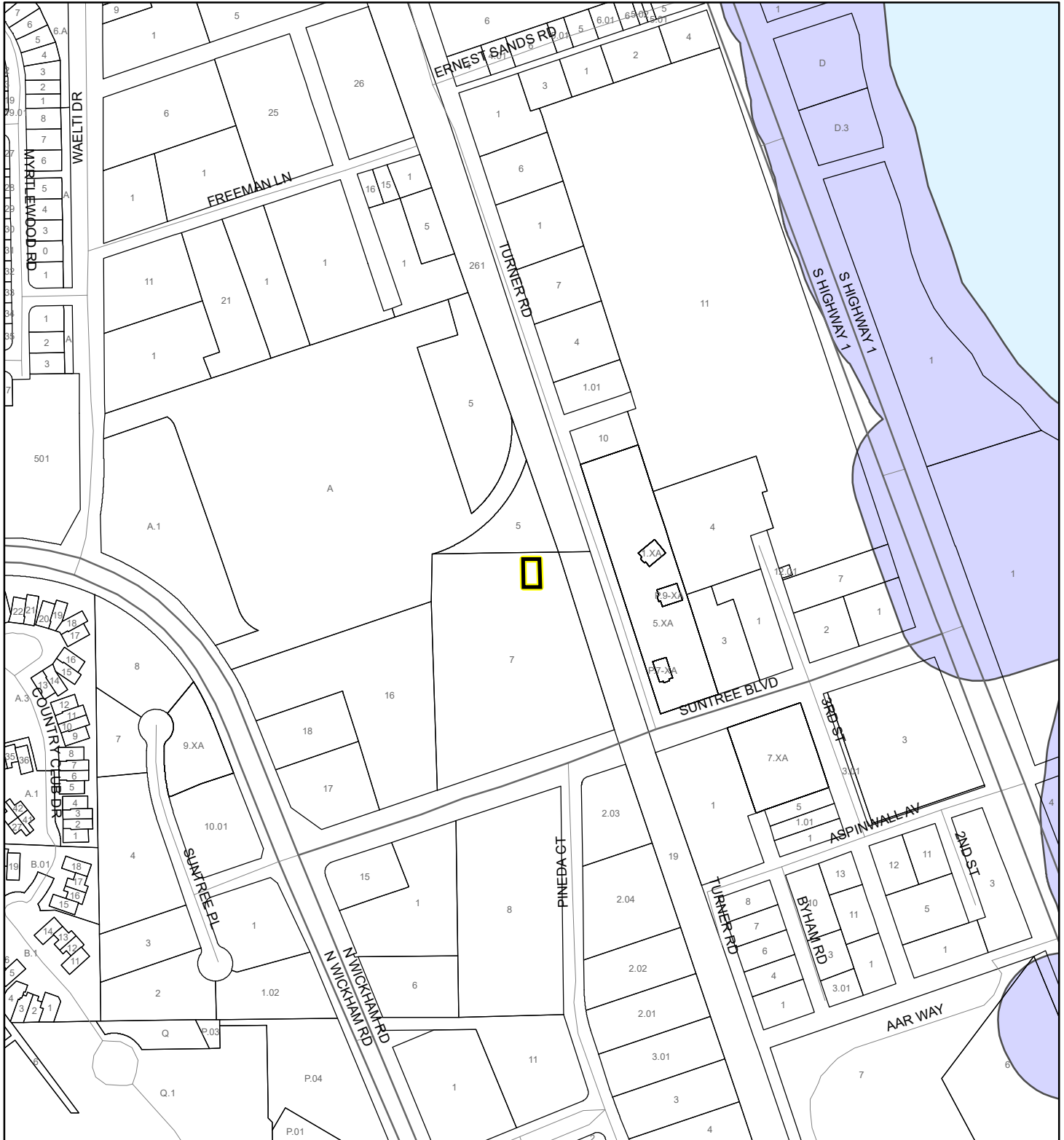
 SurgeZoneCat1



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

THE SUNTREE BUSINESS CENTER, LLC

21PZ00012



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: 2/8/2021

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

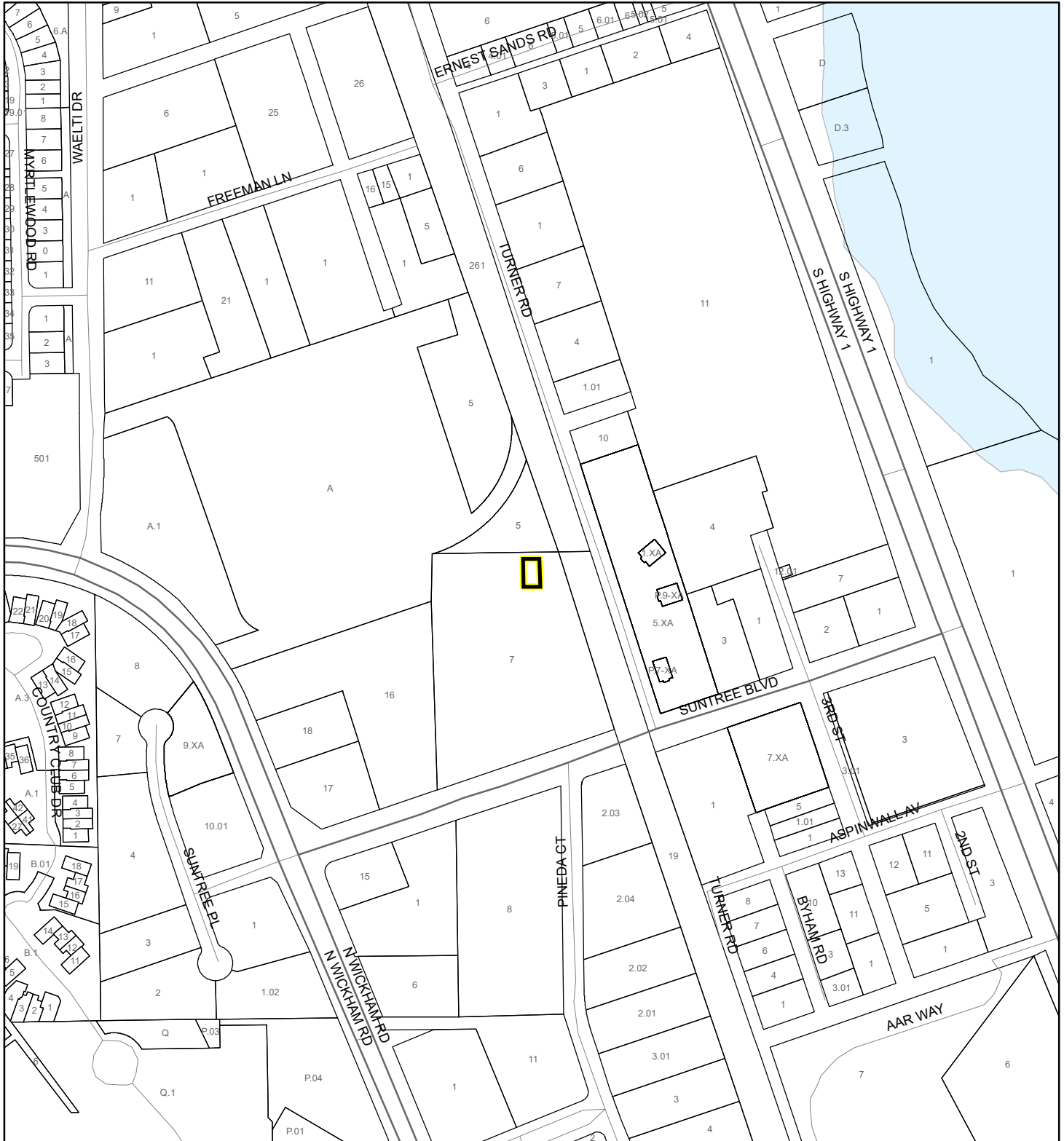
 60 Meters

 All Distances

# EAGLE NESTS MAP

THE SUNTREE BUSINESS CENTER, LLC

21PZ00012




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: 2/8/2021

 Subject Property

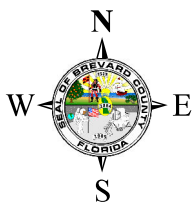
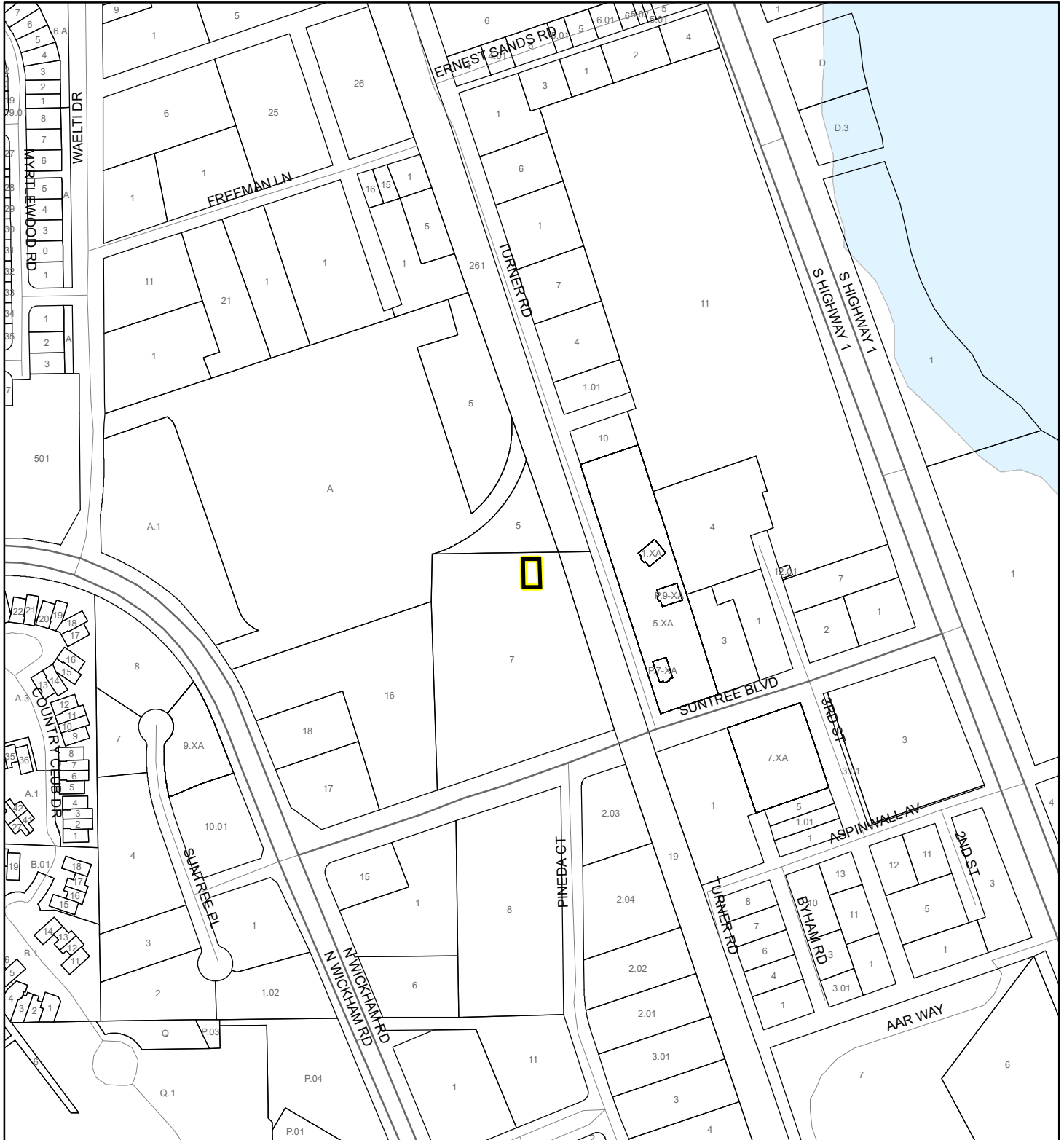
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

THE SUNTREE BUSINESS CENTER, LLC




21PZ00012



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.

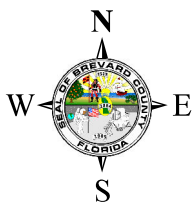
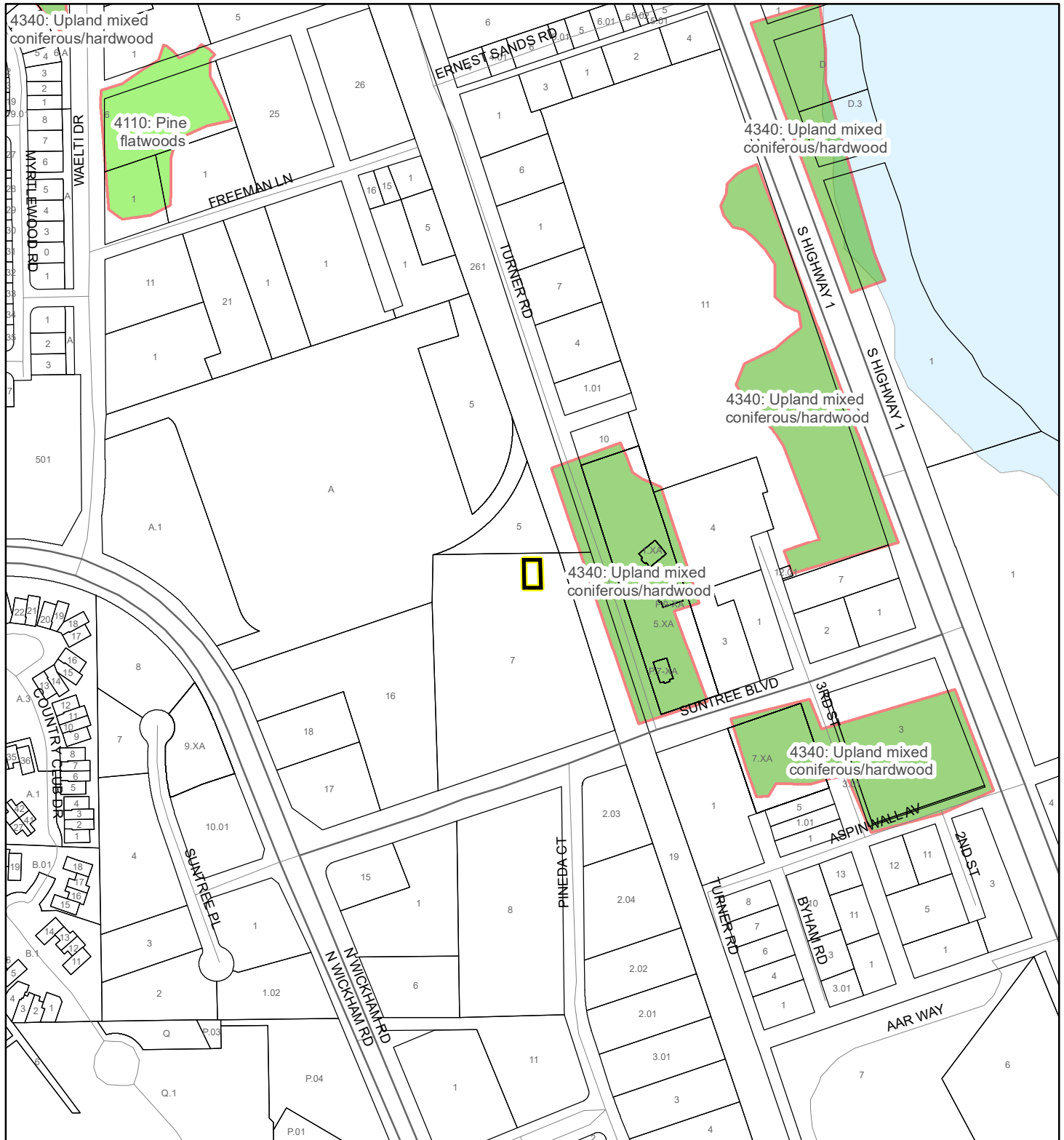
Produced by BoCC - GIS Date: 2/8/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

THE SUNTREE BUSINESS CENTER, LLC

21PZ00012



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: 2/8/2021

## SJRWMD FLUCCS Upland Forests

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

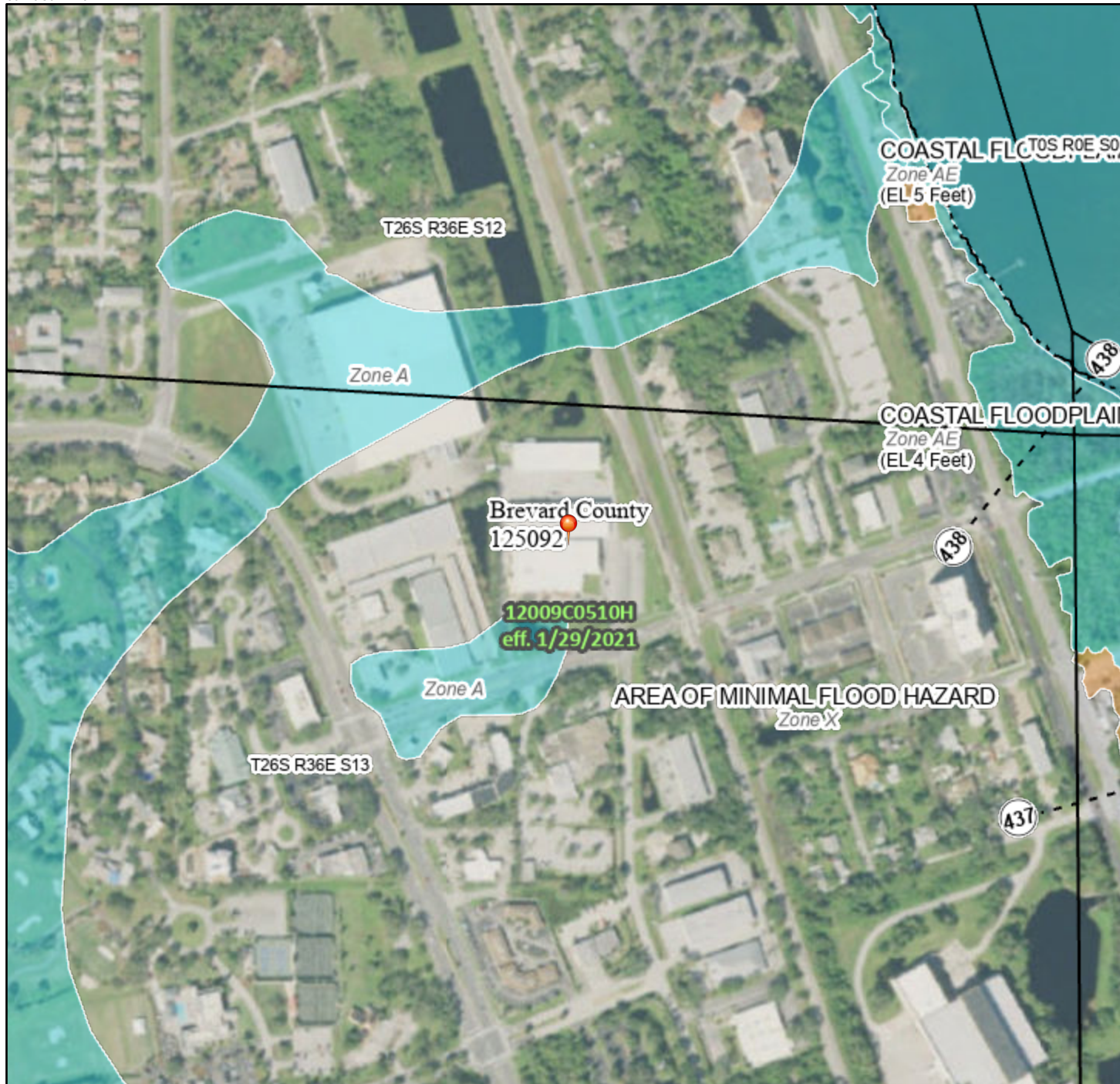
Subject Property  Parcels



# National Flood Hazard Layer FIRMMette



80°40'56"W 28°14'1"N



0 250 500 1,000 1,500 2,000 Feet 1:6,000

Basemap: USGS National Map: Orthoimagery: Data refreshed October, 2020

80°40'18"W 28°13'29"N

## Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) Zone A, V, A99
		With BFE or Depth Zone AE, AO, AH, VE, AR
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile Zone X
		Future Conditions 1% Annual Chance Flood Hazard Zone X
		Area with Reduced Flood Risk due to Levee. See Notes. Zone X
		Area with Flood Risk due to Levee Zone D
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard Zone X
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard Zone D
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		20.2 Cross Sections with 1% Annual Chance Water Surface Elevation
		17.5 Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
		Coastal Transect Baseline
		Profile Baseline
MAP PANELS		Digital Data Available
		No Digital Data Available
		Unmapped



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 2/8/2021 at 1:23 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



BOARD OF COUNTY COMMISSIONERS

**Planning and Development**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

**Application for Zoning Action, Comprehensive Plan Amendment, or  
Variance**

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21PZ00012

Existing FLU: CC Existing Zoning: BU-2

Proposed FLU: CC Proposed Zoning: BU-2

**PROPERTY OWNER INFORMATION**

If the owner is an LLC, include a copy of the operating agreement.

Ashok H Shah The Suntree Business Center LLC  
Name(s) Company  
3270 Suntree Blvd Melbourne FL 32940  
Street City State Zip Code

Email  Phone  Cell

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☐ Contract Purchaser ☒ Other Lessee

Melissa Impallomeni Ruff Houz Bark and Brew LLC  
Name(s) Company  
3290 Suntree Blvd, Ste 102 Melbourne FL 32940  
Street City State Zip Code  
ruffhouzbarkbrew@gmail.com  
Email  Phone  Cell



## APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element \_\_\_\_\_
- ☐ Other Amendment (CP): \_\_\_\_\_
- ☐ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☒ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 0.09

Reason for Request:

Applicant is the lessee at the above address and is requesting a Conditional Use Permit to bottle alcoholic beverages on premises from Brevard County. Owner of building has completed an agreement granting permissions for this.

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☐ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☒ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☒ An approval of this application does not entitle the owner to a development permit.
- ☒ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

  
Signature of Property Owner or  
Authorized Representative

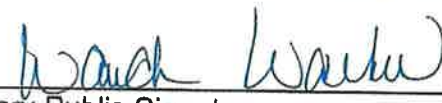
1/26/2021  
Date

State of Florida

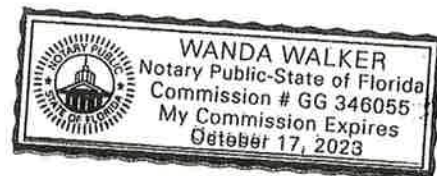
County of Brevard

Subscribed and sworn to me before me this 26<sup>th</sup> day of January, 2021.

personally appeared Melissa Impallomeni, who is personally known to me or  
produced Drivers License as identification, and who did / did not take an oath.

  
Notary Public Signature

Seal



**Office Use Only:**

Accela No. 21P200012 Fee: 849.00 Date Filed: 2/4/2021 District No. 4

Tax Account No. (list all that apply) 2602736

Parcel I.D. No.

26 36 13 00 7  
Twp Rng Sec Sub Block Lot/Parcel

Planner: GLR Sign Issued by: \_\_\_\_\_ Notification Radius: 500'

**MEETINGS**

**DATE**

**TIME**



P&Z

April 5, 2021

3:00pm



PSJ Board

\_\_\_\_\_

\_\_\_\_\_



NMI Board

\_\_\_\_\_

\_\_\_\_\_



LPA

\_\_\_\_\_

\_\_\_\_\_



BOA

\_\_\_\_\_

\_\_\_\_\_



BCC

May 6, 2021

5:00pm

Wetland survey required by Natural Resources ☐ Yes ☐ No Initials \_\_\_\_\_

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?



Yes



No

If yes, list \_\_\_\_\_

Location of subject property:

NW Corner of FBC Railroad + Shattuck  
Boulevard

Description of Request:

Needs CUP for Beer + Wine only  
for pet kennel (playground for dogs)

## Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

### NOTES:

- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ☐ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

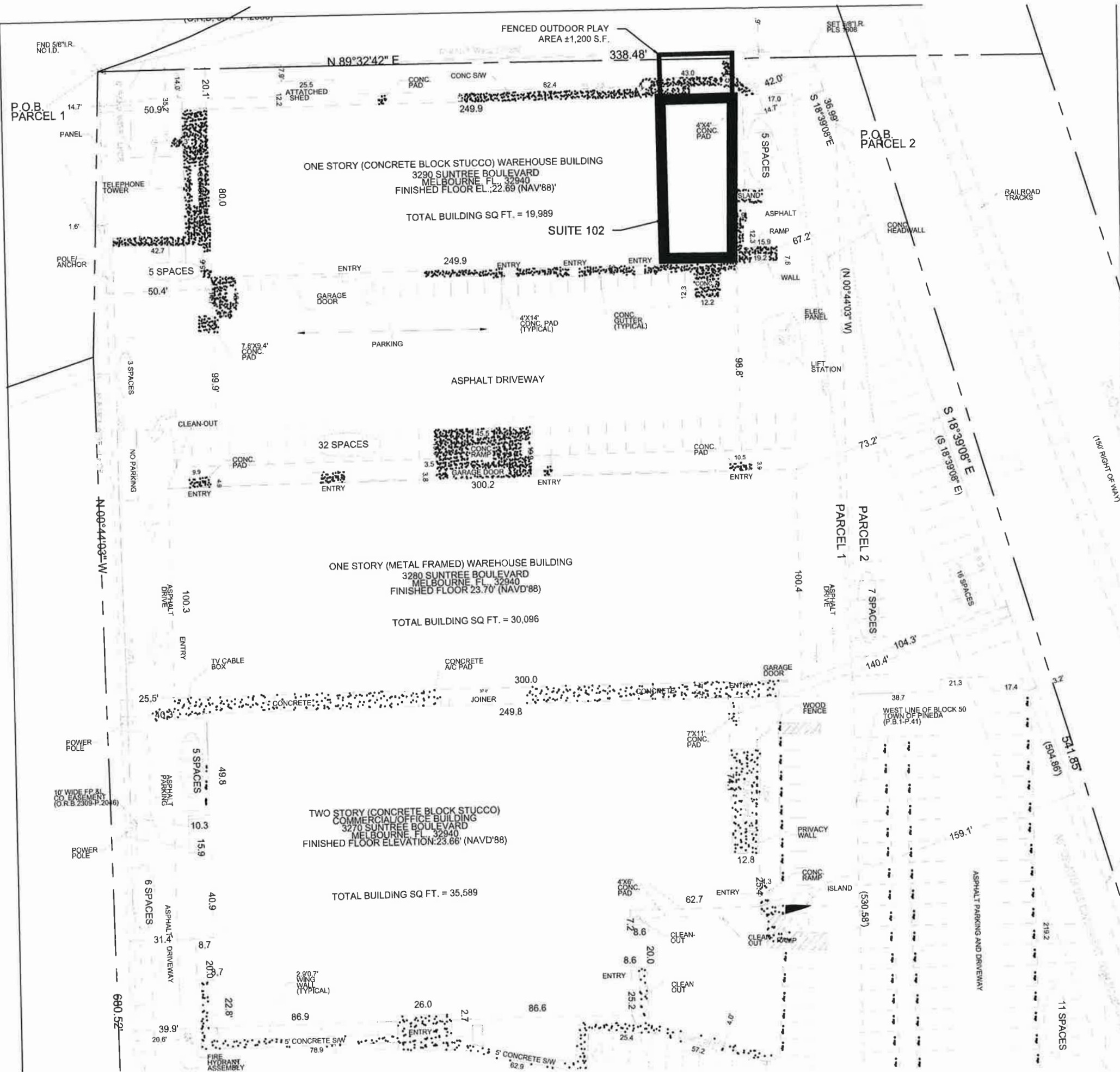
\_\_\_\_\_ or ( ) \_\_\_\_\_ or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes/No

I have received a copy of this notice:

  
(APPLICANT SIGNATURE)





- \* Existing vegetation - South of building along Suntime Blvd.
- \* Parking shown on the northern and south eastern area
- \* Refuse at North West corner of building.
- \* No Ingress/Egress, screening or buffering, height or stormwater retention area.

**BUSINESSES WITHIN 400FT VICINITY**

**7195 WAELE DRIVE**

- HEALTH FIRST DISTRIBUTION CENTER # 103
- FURNITURE NOW #101, #102

**7165 N. WICKHAM RD**

PUBLIC STORAGE

**TURNER ROAD (SUNTREE PROFESSIONAL PARK 1 - COMMERCIAL CONDO ASSOC)**

- SUNRISE FACIAL AND ORAL SURGERY - 7155 TURNER RD
- OMEGA COMMUNITY MANAGEMENT - 7145 TURNER RD #101
- MONEY STRATEGIES AND ESSENTIAL NET SOLUTIONS - 7145 TURNER RD # 102
- ED DOWNER AMERIPRISE FINANCIAL SERVICES - 7125 TURNER RD # 101
- LAW OFFICES OF JOSEPH COLUCCIO - 7125 LEM TURNER RD # 101
- AMERIPRISE FINANCIAL - 7125 TURNER RD (NO SUITE)
- ABC COUNSELING 7095 TURNER RD
- LAW OFFICE OF CHARLES THURSTON - 7105 TURNER RD.

**1458 SUNTREE BLVD**

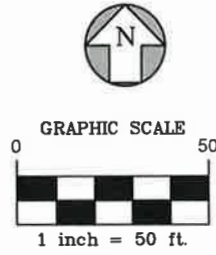
SUNTREE PROFESSIONAL PARK 1

GALLO & RUSSELL - 3188 SUNTREE BLVD

**7085 TURNER RD**

SUPER WOMEN'S HEALTH LLC (MEDICAL)

- NOTES:**
- NO CHURCHES OR SCHOOLS ARE PRESENT WITHIN THE 400 FOOT RADIUS OF THE FRONT DOOR OF BUSINESS.
  - SURVEY AS-BUILT INFORMATION SHOWN HEREON THIS SHEET HAS BEEN PROVIDED BY APPLICANT AND WAS PRODUCED BY GABRIEL DENEZ, PLS DATED JULY 17, 2008.
  - THERE ARE NO PROPOSED MODIFICATIONS TO THE EXISTING SITE LAYOUT NOR SHALL THE PROPOSED USE CHANGE THE PARKING REQUIREMENTS AS PREVIOUSLY DESIGNED AND PERMITTED.
  - THERE IS NO PROPOSED MODIFICATION TO THE ZONING OR LAND USE.
  - THE PROPOSED USE IS ALLOWED BY CODE AS A CONDITIONAL USE AND IS SUBJECT TO APPROVAL BY THE BREVARD COUNTY BOARD OF COMMISSIONERS.



DAVID W. BASSFORD  
FL. P.E. #83267  
DATE: 2/3/2021

JOB NO.		21-1007
DRAFTED:	DWB	
DESIGNED:	DWB	
CHECKED:	DWB	
DATE:	01/26/2021	
DATE ISSUED:	2/3/2021	
SCALE:	AS SHOWN	
REVISIONS		DATE
1		

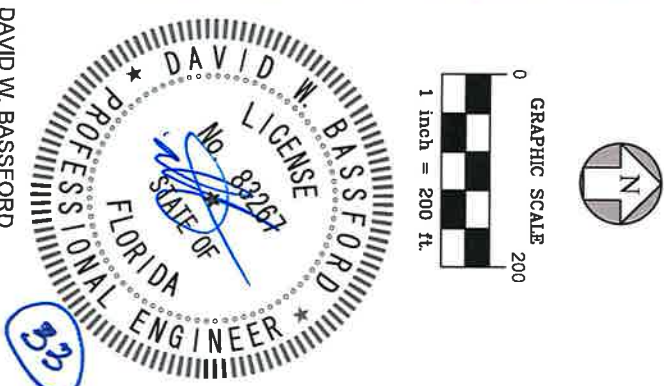
**CONDITIONAL USE AS-BUILT CONDITIONS MAP**

**RUFF HOUZ BARK PARK**

SHEET  
**C-2**

21-1007





**BUSINESSS WITHIN 400FT VICINITY**

7166 WALLY DRIVE  
HEALTH FIRST DISTRIBUTION CENTER # 103  
FURNITURE NOW #101, #102

7165 N WICKHAM RD  
PUBLIC STORAGE

TURNER ROAD/SUNTREE PROFESSIONAL PARK 1-COMMERCIAL CONDO SHELVE

SUNTREE POOL AND GOLF SURETY - 7165 TURNER RD  
ONKOR COMMUNITIY MANAGEMENT - 7165 TURNER RD #105  
KNOX STRATEGIES AND ESSENTIAL NET SOLUTIONS - 7145  
RD 101 #102  
ED DONER ALTERNATIVE FINANCIAL SERVICES - 7125 TURNER RD #101  
LAW OFFICES OF JOSEPH COLUCCIO - 7125 LEM TURNER RD #101

ALTERNATIVE FINANCIAL - 7125 TURNER RD (NO SUITE)  
ABC COUNSELING 7095 TURNER RD  
LAW OFFICE OF CHARLES THURSTON - 7105 TURNER RD

1428 SUNTREE BLVD  
SUNTREE PROFESSIONAL PARK 1  
GALLO & RUSSELL - 3188 SUNTREE BLVD

7095 TURNER RD  
SUPER WOMEN'S HEALTH LLC (MEDICAL)

JOB NO.	21-1007	8	
DRAFTED:	DWB	7	
DESIGNED:	DWB	6	
CHECKED:	DWB	5	
DATE:	01/26/2021	4	
DATE ISSUED:	2/3/2021	3	
SCALE:	AS SHOWN	2	
		1	
		Δ REVISIONS	DATE

**MBV**  
ENGINEERING, INC.  
MOIRA BOWLES VILLAMIZAR & ASSOCIATES

CIVIL • STRUCTURAL • SURVEYING • ENVIRONMENTAL

1250 W. EAU GALLIE BLVD, SUITE H  
MELBOURNE, FLORIDA 32935  
P: 321-253-1510 F: 321-253-0911  
ALSO WITH OFFICES IN:  
VERO: 772-569-0035, FT PIERCE: 772-466-9055

## CONDITIONAL USE RADIUS MAP

## RUFF HOUZ BARK PARK

BREVARD COUNTY

FLORIDA



21PZ 00012

Owner's Name: The SunTree Business Center LLC  
Hearing Date: 4/05/2021

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

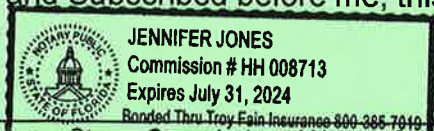
STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, MARK ENGEL,  
to me well known and known to me to be the person described in and who executed the foregoing  
affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

[Signature]  
Signature

Sworn and Subscribed before me, this 18th day of March, 2021.



(Print, Type, or Stamp Commissioned Name of Notary Public)

[Signature]  
Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: \_\_\_\_\_

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**