



**North Merritt Island Dependent Special District Board**

Merritt Island Service Complex  
2575 North Courtenay Parkway  
Second Floor  
Merritt Island, Florida 32952  
Agenda  
Thursday, August 12, 2021

**Call To Order 6:00 P.M.**

**Approval of Minutes - July 15, 2021**

**H. Public Hearings**

- H.1.** William D. and Elizabeth Anne Elliott, Trustees (Joe Mayer) request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI to RES 1. (21PZ00033) (Tax Accounts 2616601 & 2323951) (District 2)
- H.2.** William D. and Elizabeth Anne Elliott, Trustees (Joe Mayer) request a change of zoning classification from PIP to RR-1. (21Z00020) (Tax Accounts 2616601 & 2323951) (District 2)
- H.3.** Joseph A. Calderone requests change of zoning classification from TR-3 (21Z00021) (Tax Account 2315419) (District 2)

**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.



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.1.

8/12/2021

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### **Subject:**

William D. and Elizabeth Anne Elliott, Trustees (Joe Mayer) request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from PI to RES 1. (21PZ00033) (Tax Accounts 2616601 & 2323951) (District 2)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the North Merritt Island Dependent Special District Board conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (21S.05) to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1).

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

The applicant is requesting to amend the Future Land Use designation from Planned Industrial (PI) to Residential 1 (RES 1) on 8.25 acres parcel of land. The subject property is currently developed with one (1) single-family residence that was built in 2003 and has a Future Land Use designation of PI that was adopted with the Comprehensive Plan in September of 1988.

Existing development of the surrounding area is generally described as single-family homes on lots ranging in size from approximately one (1) to four (4) acres. The applicant intends to create two (2) flag lots for two (2) single family homes.

A companion rezoning application (21Z00020) was submitted accompanying this request for a Zoning change from Planned Industrial Park (PIP) to Rural Residential (RR-1).

To the north and east of the subject property are single-family residences. To the south and west of the subject property is vacant, undeveloped land. The closest developed industrial parcel (Air Liquide) is located approximately 575 feet to the northeast of the subject property, on the north side of North Courtenay Parkway. Air Liquide purchased the property in 1968. Staff is in the process of reviewing a Vested Rights determination. There have been numerous noise complaints regarding the activities performed at the property.

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area, recognizing the existing development trends.

The Local Planning Agency will hear the request on **Monday, August 23, 2021**, at **3:00 p.m.** at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

The Brevard County Board of County Commissioners will hear the request on **Thursday, November 4, 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.

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 21S.05 (21PZ00033)*  
**Township 23, Range 36, Section 24**

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**Property Information**

**Owner / Applicant:** Elliott Family Revocable Trust

**Adopted Future Land Use Map Designation:** Planned Industrial (PI)

**Requested Future Land Use Map Designation:** Residential 1 (RES 1)

**Acreage:** 8.25 acres

**Tax Account #:** 2316601 and 2323951

**Site Location:** South of Dalbora Road, approximately 1,220 feet east of N. Courtenay Parkway

**Commission District:** 3

**Current Zoning:** Planned Industrial Park (PIP)

**Requested Zoning:** Rural Residential (RR-1) (21Z00020)

**Background & Purpose**

The applicant is requesting to amend the Future Land Use designation from Planned Industrial (PI) to Residential 1 (RES 1) on 8.25 acres parcel of land. The subject property is currently developed with one (1) single-family residence that was built in 2003 and has a Future Land Use designation of PI that was adopted with the Comprehensive Plan in September of 1988.

Existing development of the surrounding area is generally described as single-family homes on lots ranging in size from approximately one (1) to four (4) acres. The applicant intends to create two (2) flag lots for two (2) single family homes.

A companion rezoning application (21Z00020) was submitted accompanying this request for a Zoning change from Planned Industrial Park (PIP) to Rural Residential (RR-1).

The subject property is not considered an appropriate location for planned industrial land use as the site does not meet the criteria in FLU policy 3.5B which requires

planned industrial parks to be within 660 feet of a major transportation corridor. The site is located over 1,200 feet from SR 3 (North Courtenay Parkway).

### Surrounding Land Use Analysis

|              | Existing Land Use                  | Zoning      | Future Land Use     |
|--------------|------------------------------------|-------------|---------------------|
| <b>North</b> | Three (3) Single-Family residences | RR-1        | RES 1               |
| <b>South</b> | Vacant, undeveloped land           | AU          | RES 1               |
| <b>East</b>  | Two (2) Single-Family residences   | RR-1 and AU | RES 1 and RES 1:2.5 |
| <b>West</b>  | Vacant, undeveloped land           | PIP         | PI                  |

To the north and east of the subject property are single-family residences. To the south and west of the subject property is vacant, undeveloped land. The closest developed industrial parcel (Air Liquide) is located approximately 575 feet to the northeast of the subject property, on the north side of North Courtenay Parkway. Air Liquide purchased the property in 1968. Staff is in the process of reviewing a Vested Rights determination. There have been numerous noise complaints regarding the activities performed at the property.

### Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

### 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:

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



*The general area is residential in character with single-family homes on lots ranging in size from approximately one (1) to four (4) acres. Although the immediate area originally had a Future Land Use of PI that was adopted with the Comprehensive Plan in September of 1988, many properties in the vicinity now have RES 1 Future Land Use. As such, a pattern of rural residential land use has been established along Dalbora Road.*

*A Future Land Use Map amendment from PI to Residential 1 (along with a rezoning to RR-1) would allow for development of the subject property that is compatible with the rural residential character of the area.*

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

*One (1) single family residence was constructed adjacent to the north of the subject property in 2019.*

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

*There have not been any development approvals that are pending construction along Dalbora Road within the past three (3) years.*

## **Residential Land Use Designations**

### **Policy 1.1**

The residential land use designations adopted as part of the Future Land Use Map represent maximum density thresholds. Approved densities may be lower than the maximum allowed by a residential land use designation as a result of one or more of the following:

#### **Criteria:**

- F. Policies established in specialized plans as may be adopted by the Board of County Commissioners.

*The subject property was located within the 2018 North Merritt Island Small Area Study (SAS) boundary. A recommendation from the 2018 North Merritt Island SAS was for all parcels  $\geq 2.5$  acres in size designated as Residential 1 (RES 1) Future Land Use and Agricultural Residential (AU) zoning classification, Brevard County should amend the Future Land Use Map to Residential 1:2.5 (RES 1:2.5). The Board of County Commissioners acknowledged the Recommendations of the 2018 North Merritt Island SAS. Staff was not directed to implement this recommendation.*

## **Residential 1 (maximum of 1 dwelling unit per acre)**

### **Policy 1.8**

The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 land use designation may be

considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

**Criteria:**

- A. Areas adjacent to existing Residential 1 land use designation; or

*The subject parcel is adjacent to existing Residential 1 land use designation to the north and east.*

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than one (1) unit per acre and areas with lesser; or

*The subject parcel does not serve as a transition between greater and lesser densities.*

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 1.

*The subject parcel is not adjacent to an incorporated area.*

**Concurrency**

*The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The parcel is within the City of Cocoa's service area for potable water. The parcel is not serviced by public sewer. The closest available Brevard County sewer line is approximately 2.4 miles southwest of the subject property. No school concurrency information has been provided as the development potential is considered de minimis and falls below the minimum number of new residential lots that would require a formal review.*

**Environmental Resources**

*Mapped resources and noteworthy land use issues include wetlands/hydric soils, floodplain, Indian River Lagoon Nitrogen Reduction Overlay, protected and specimen trees and protected species.*

*Please refer to all comments provided by the Natural Resource Management Department at the end of this report.*

**Historic Resources**

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

**For Board Consideration**

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area, recognizing the existing development trends.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Future Land Use (FLU) Review & Summary**  
**Item # 21PZ00033**

**Applicant:** Mayer for Elliot

**FLU Request:** PI to RES-1

**Note:** Applicant wants two flag lots to build two single family homes.

**NMI Hearing Date:** 08/12/21; **P&Z Hearing Date:** 08/23/21; **BCC Hearing Date:** 09/02/21

**Tax ID Nos:** 2323951 & 2316601

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

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

- Wetlands/Hydric Soils
- Floodplain
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcels contain mapped hydric soils and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination/delineation will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Portions of the properties are located within areas mapped as FEMA Special Flood Hazard Area (SFHA) AE; and are thus subject to criteria in Section 62-3724(4) of the

Floodplain Protection ordinance, including compensatory storage. Please see Floodplain section in NRM comments for more information.

Information available to NRM indicates that impacts to wetlands and floodplain may have occurred when a portion of the site (and potentially offsite) was cleared and filled. The discovery of unpermitted land clearing, and/or wetland or floodplain impacts may result in enforcement action. Restoration may be required. The applicant is advised to cease further site work until a Building permit or other development order is issued.

### **Land Use Comments:**

#### **Wetlands/Hydric Soils**

The subject parcel contains mapped hydric soils (Riviera & Winder soils, Copeland-Bradenton-Wabasso complex, and Bradenton fine sand), and SJRWMD wetlands as shown on the USDA Soil Conservation Service Soils Survey, and SJRWMD Florida Land Use & Cover Codes maps, respectively; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Information available to NRM indicates that impacts to wetlands may have occurred when a portion of the site (and potentially off-site) was cleared and filled. The discovery of unpermitted wetland impacts may result in enforcement/restoration action.

#### **Floodplain**

Portions of the properties are located within areas mapped as FEMA Special Flood Hazard Area (SFHA) AE. Per Section 62-3724(4) of the Floodplain Protection ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic

modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM prior to any grading, filling or land alteration activities.

Information available to NRM indicates that impacts to the floodplain may have occurred when a portion of the site (and potentially off-site) was cleared and filled. The discovery of unpermitted floodplain impacts may result in enforcement/restoration action.

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

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

### **Protected and Specimen Trees**

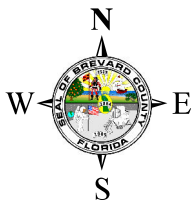
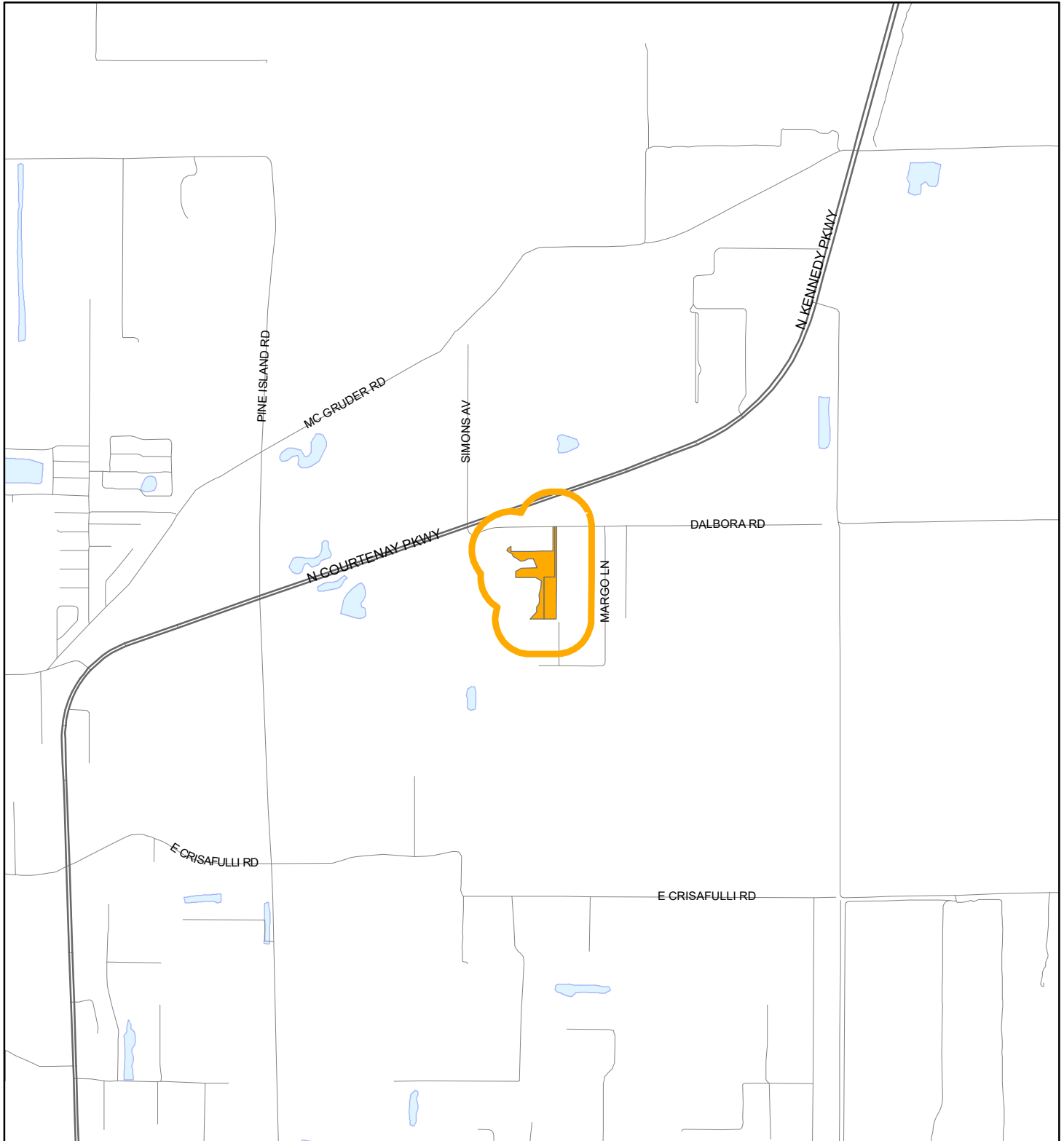
Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen 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, and Protected/Specimen tree 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. The applicant should contact NRM prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM. Information available to NRM indicates that unpermitted land clearing may have occurred when a portion of the site (and potentially off-site) was cleared. The discovery of unpermitted land clearing activities may result in enforcement/restoration action.

### **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

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



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

Buffer Distance: 500 feet

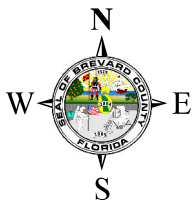
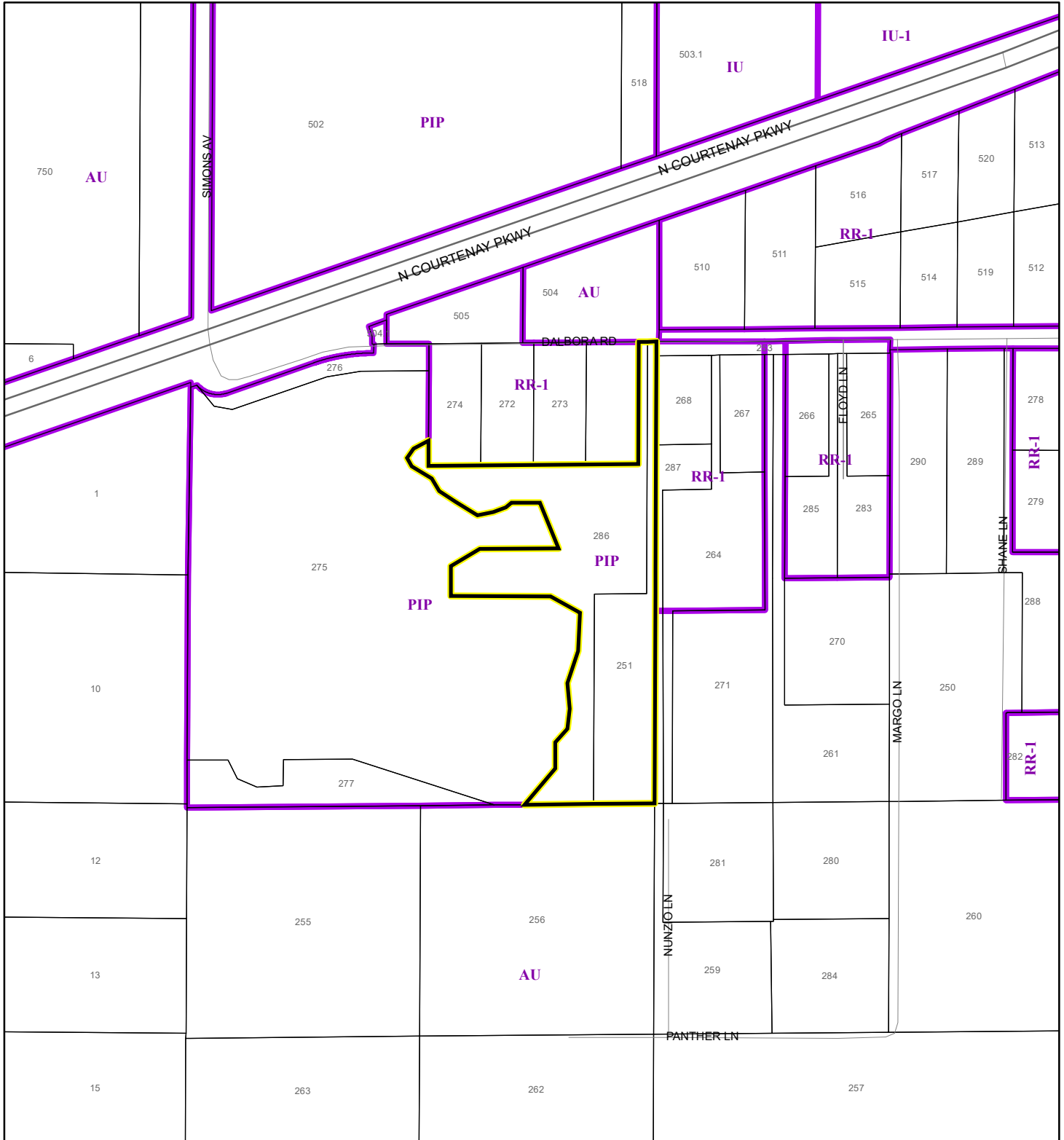
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/26/2021

Buffer  
Subject Property

# ZONING MAP


WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/26/2021

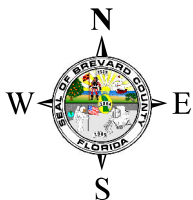
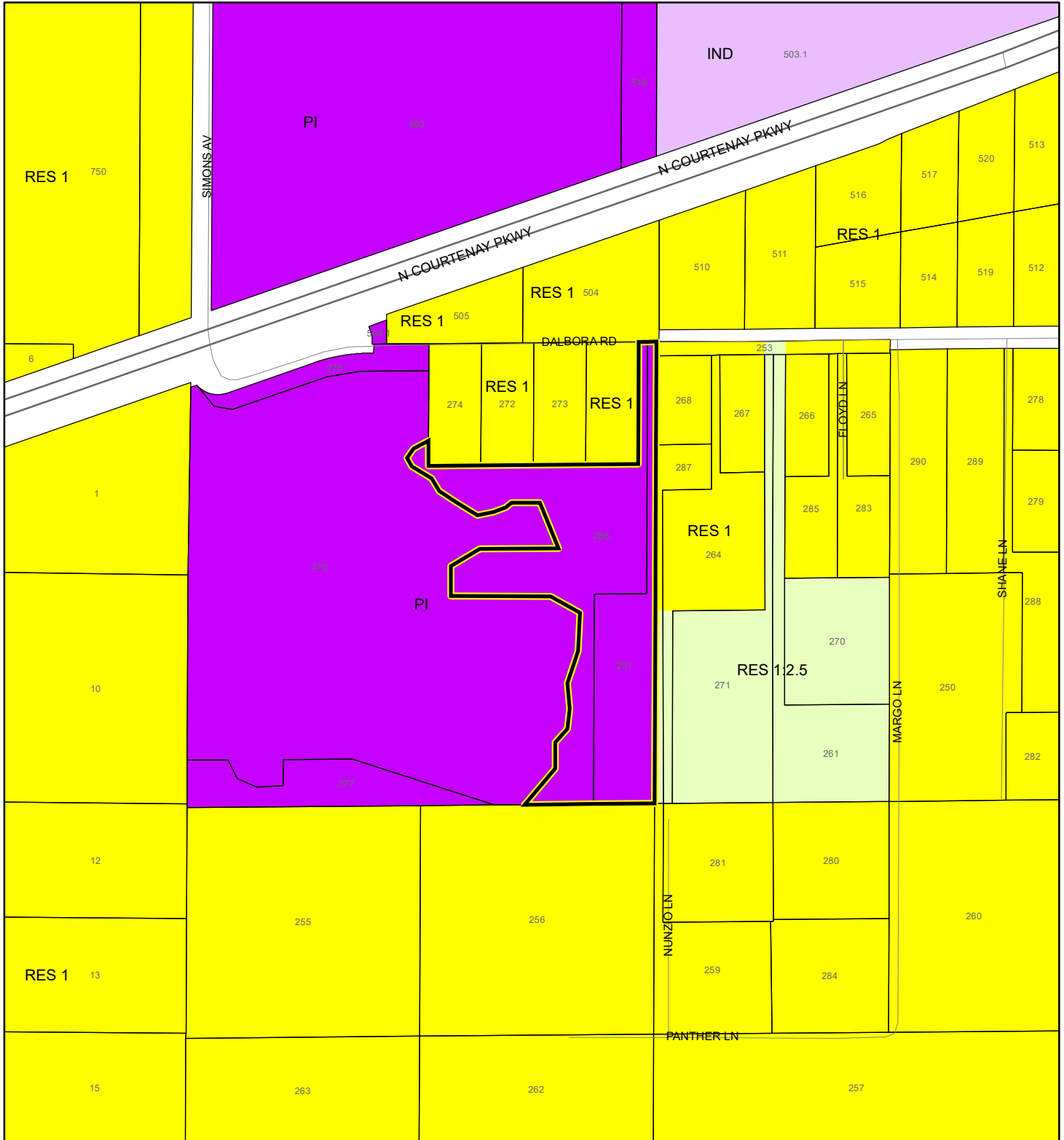
 Subject Property

 Parcels



 Zoning

# FUTURE LAND USE MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

 Subject Property  
 Parcels

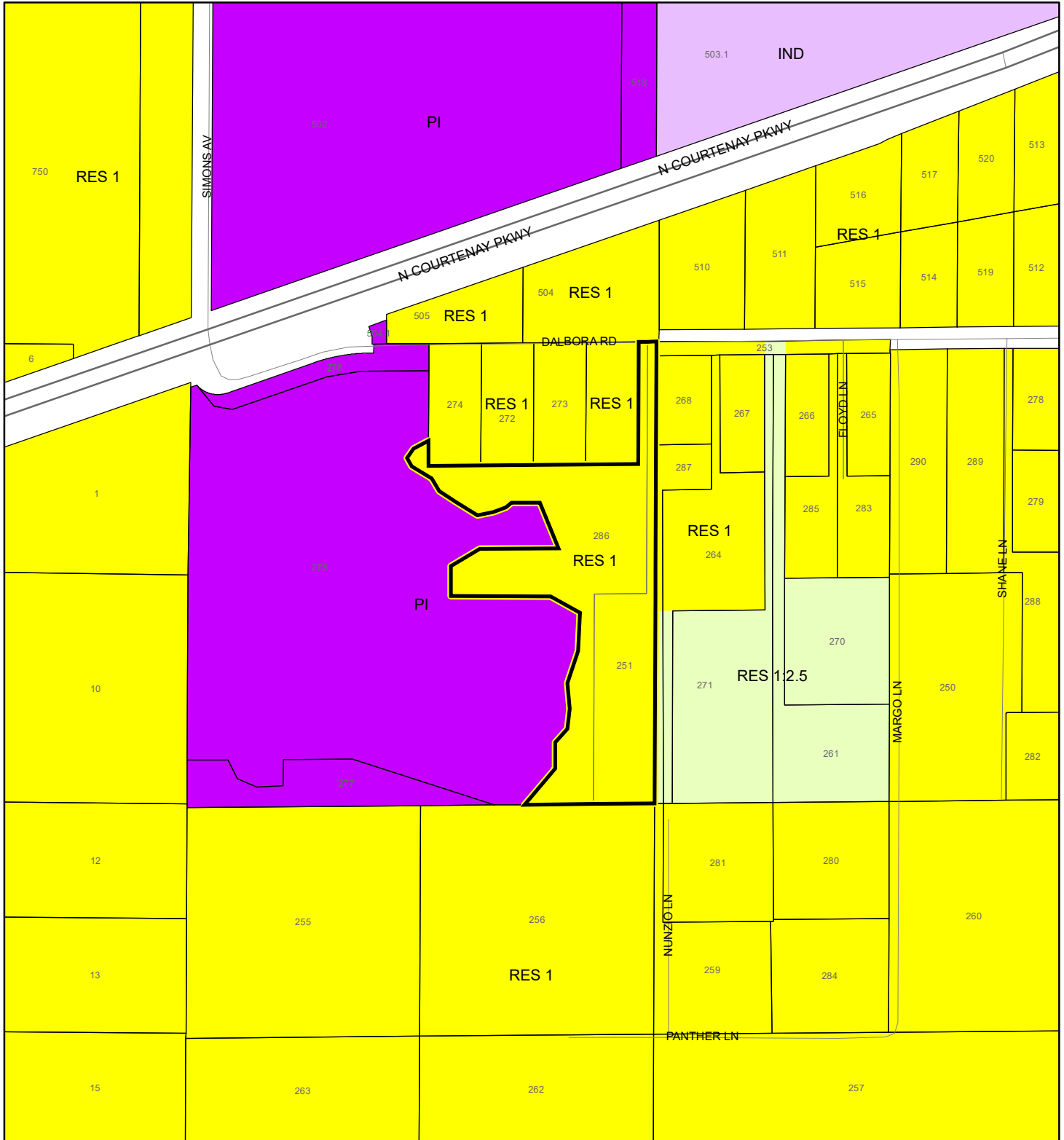
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/26/2021



# PROPOSED FUTURE LAND USE MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

**Subject Property**  
**Parcels**

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Produced by BoCC - GIS Date: 5/26/2021



# AERIAL MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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Produced by BoCC - GIS Date: 5/26/2021

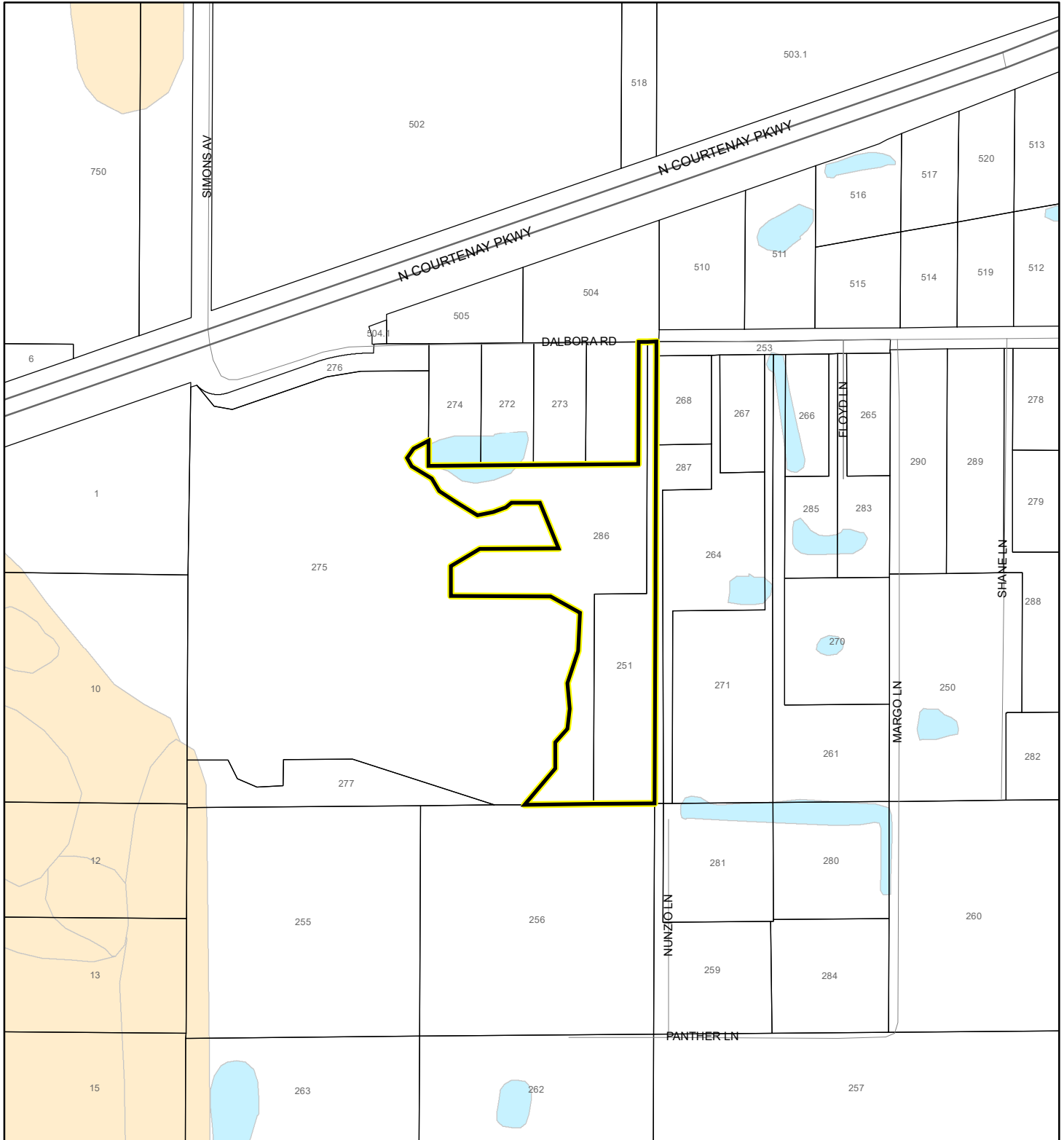
 Subject Property

 Parcels



# NWI WETLANDS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



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.

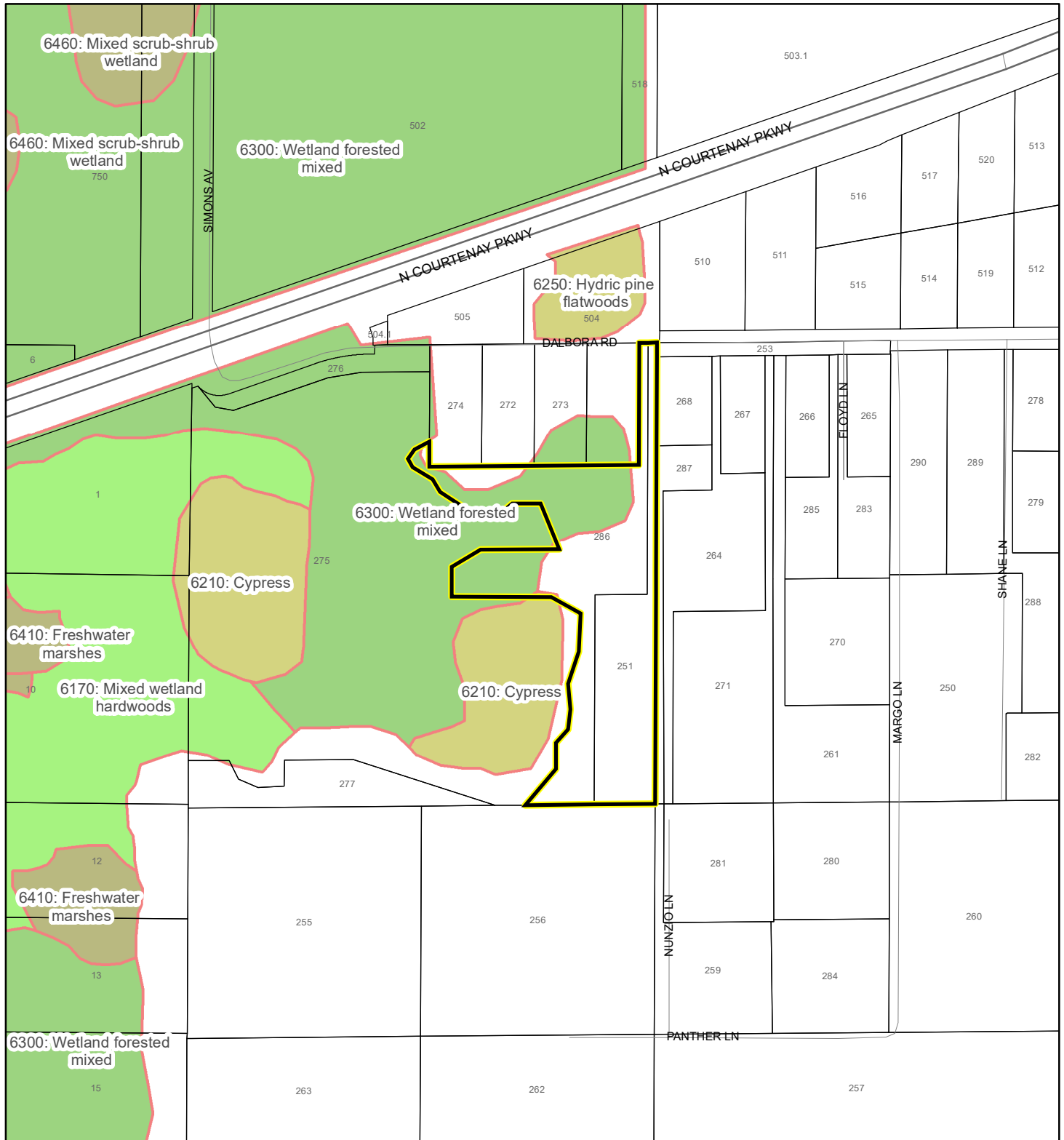
Produced by BoCC - GIS Date: 5/26/2021

## 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

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/26/2021

## SJRWMD FLUCCS WETLANDS

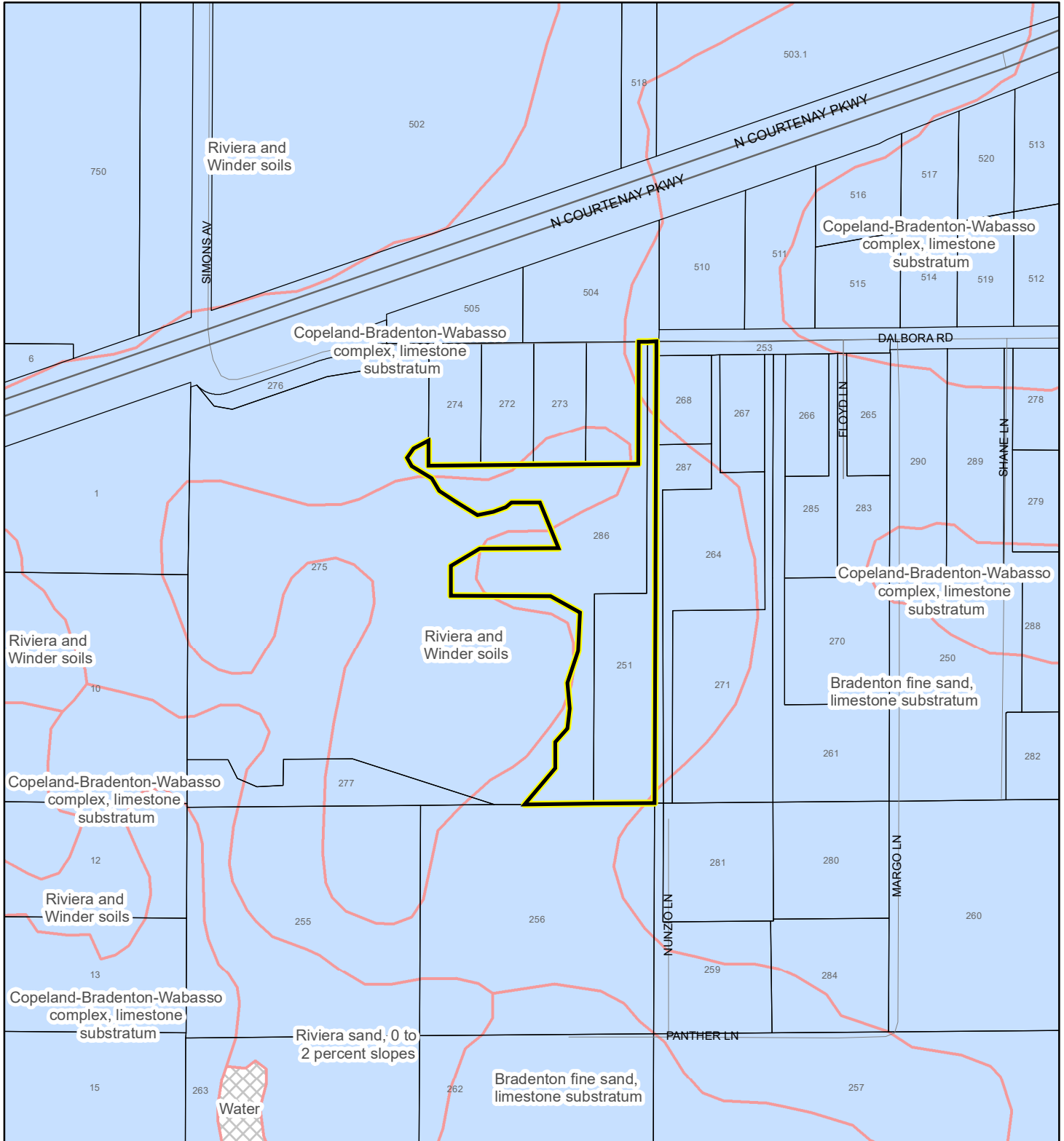
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

# USDA SCSSS SOILS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/26/2021

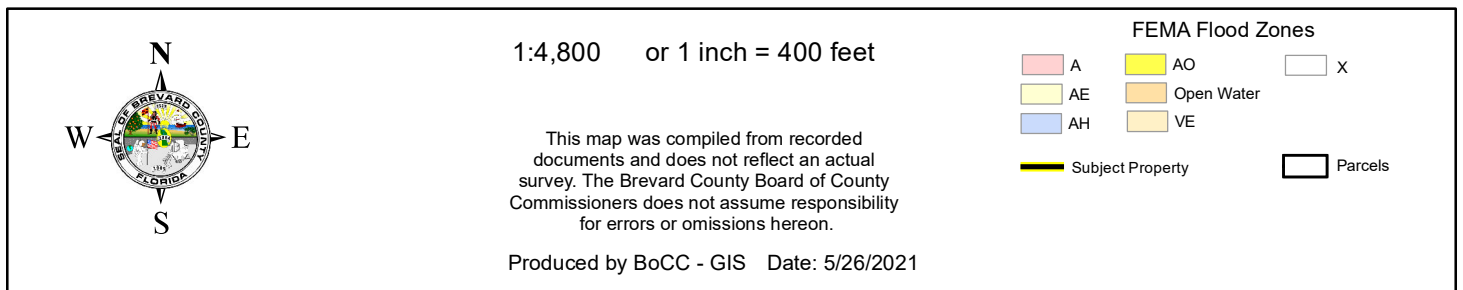
## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

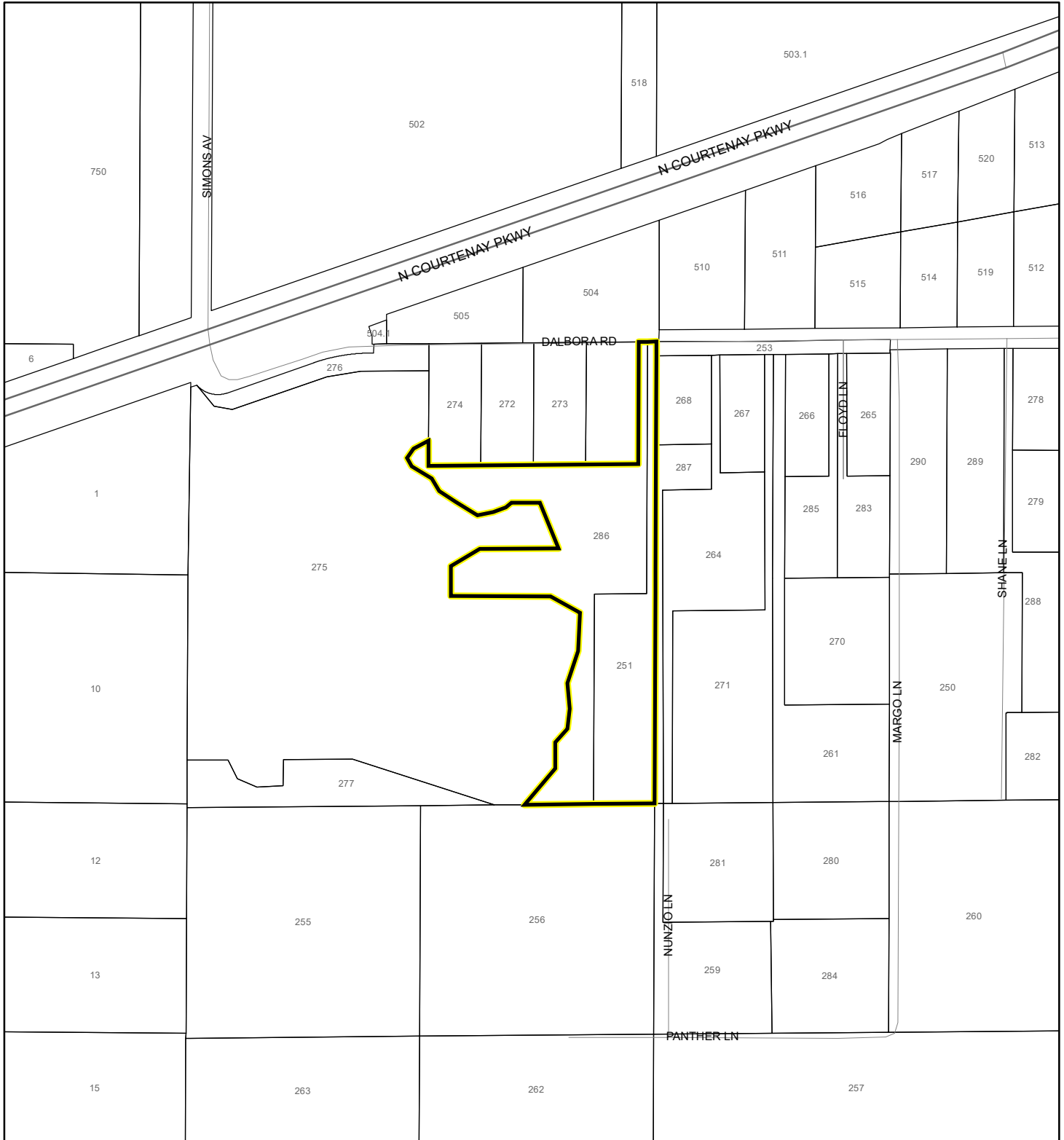
WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



# COASTAL HIGH HAZARD AREA MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/26/2021

 Subject Property

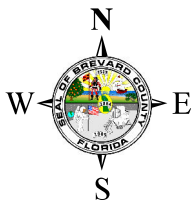
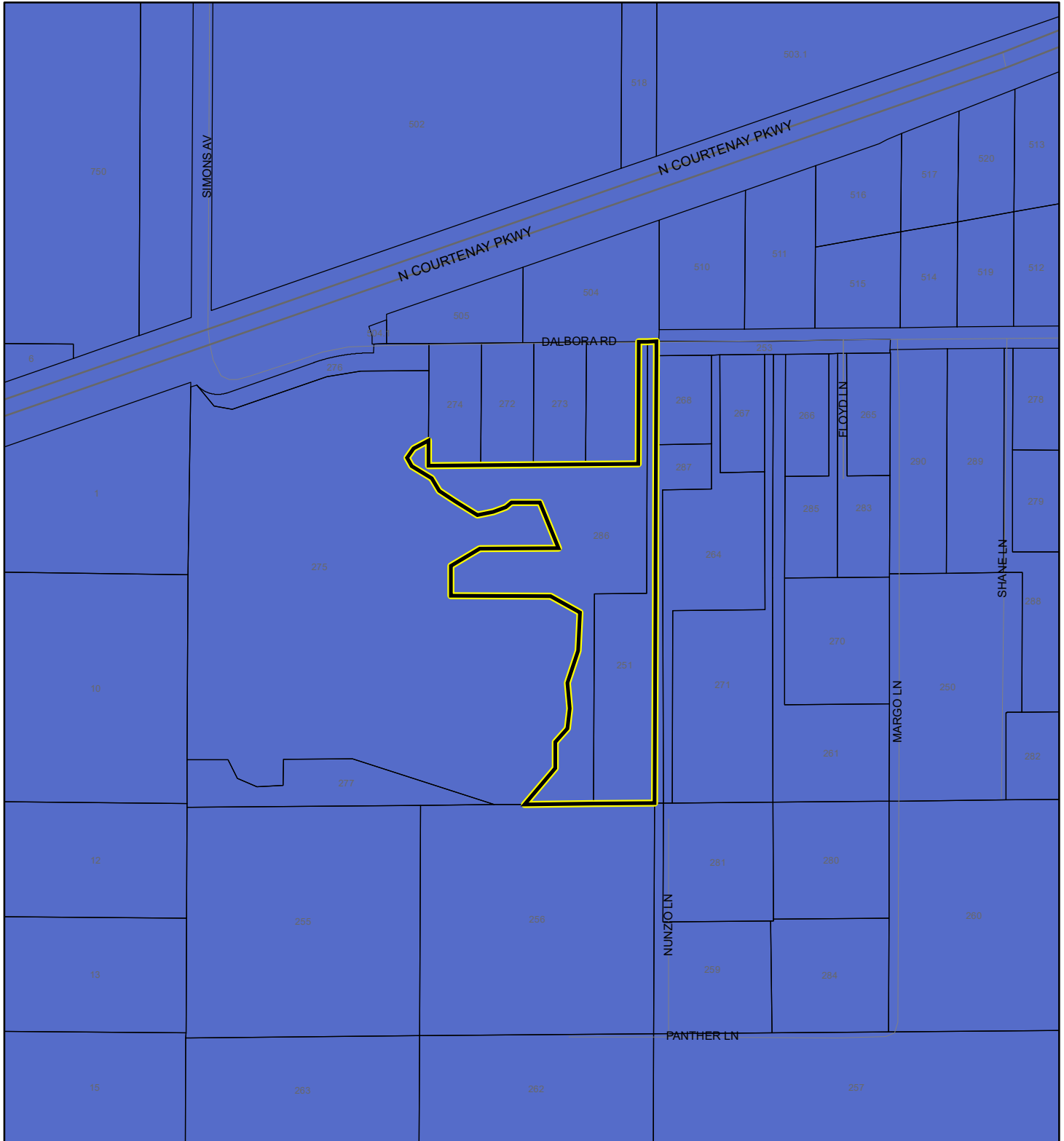
 Parcels

**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/26/2021

Subject Property

Parcels

**Septic Overlay**

40 Meters

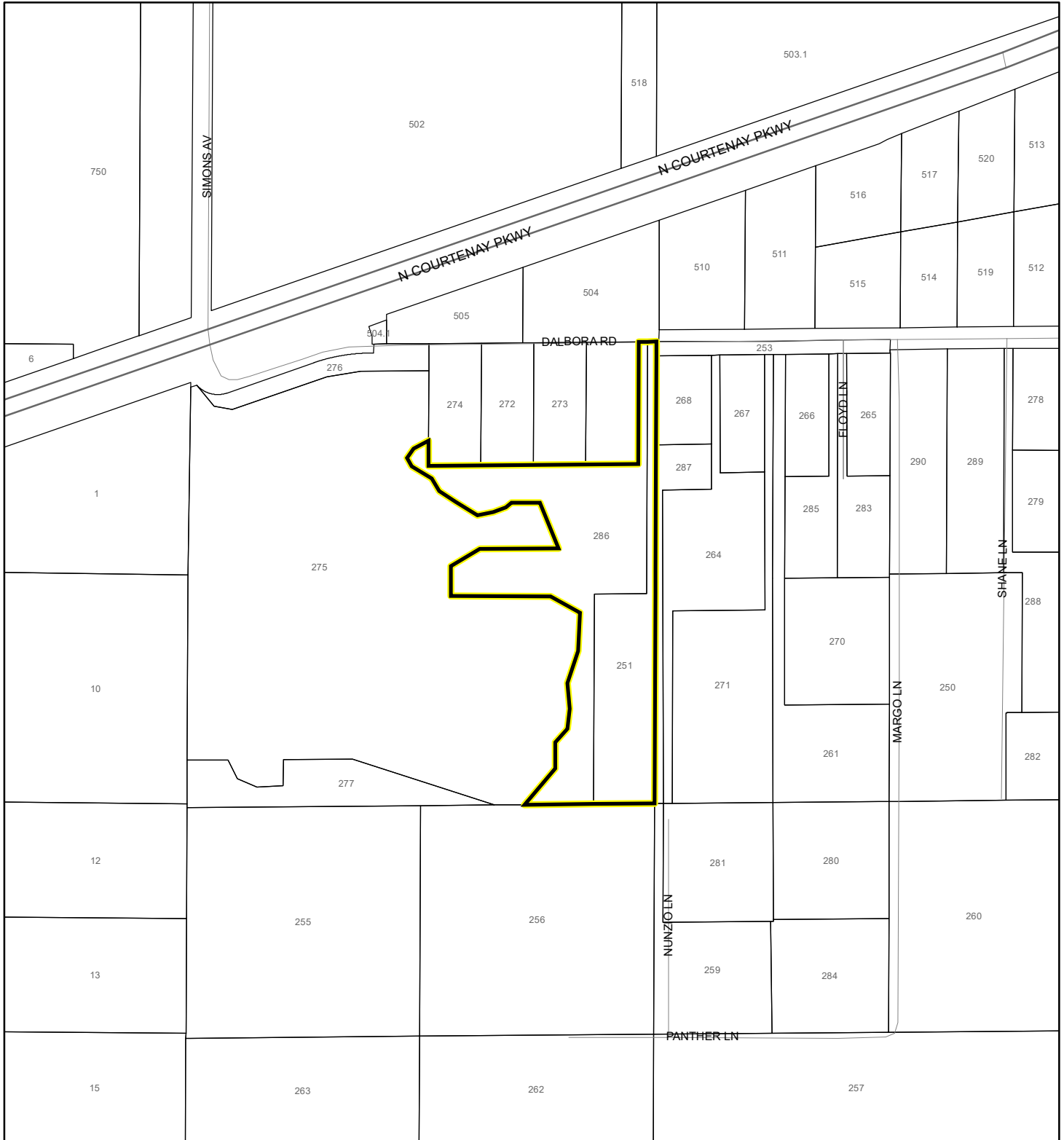
60 Meters

All Distances



# EAGLE NESTS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/26/2021

 Subject Property

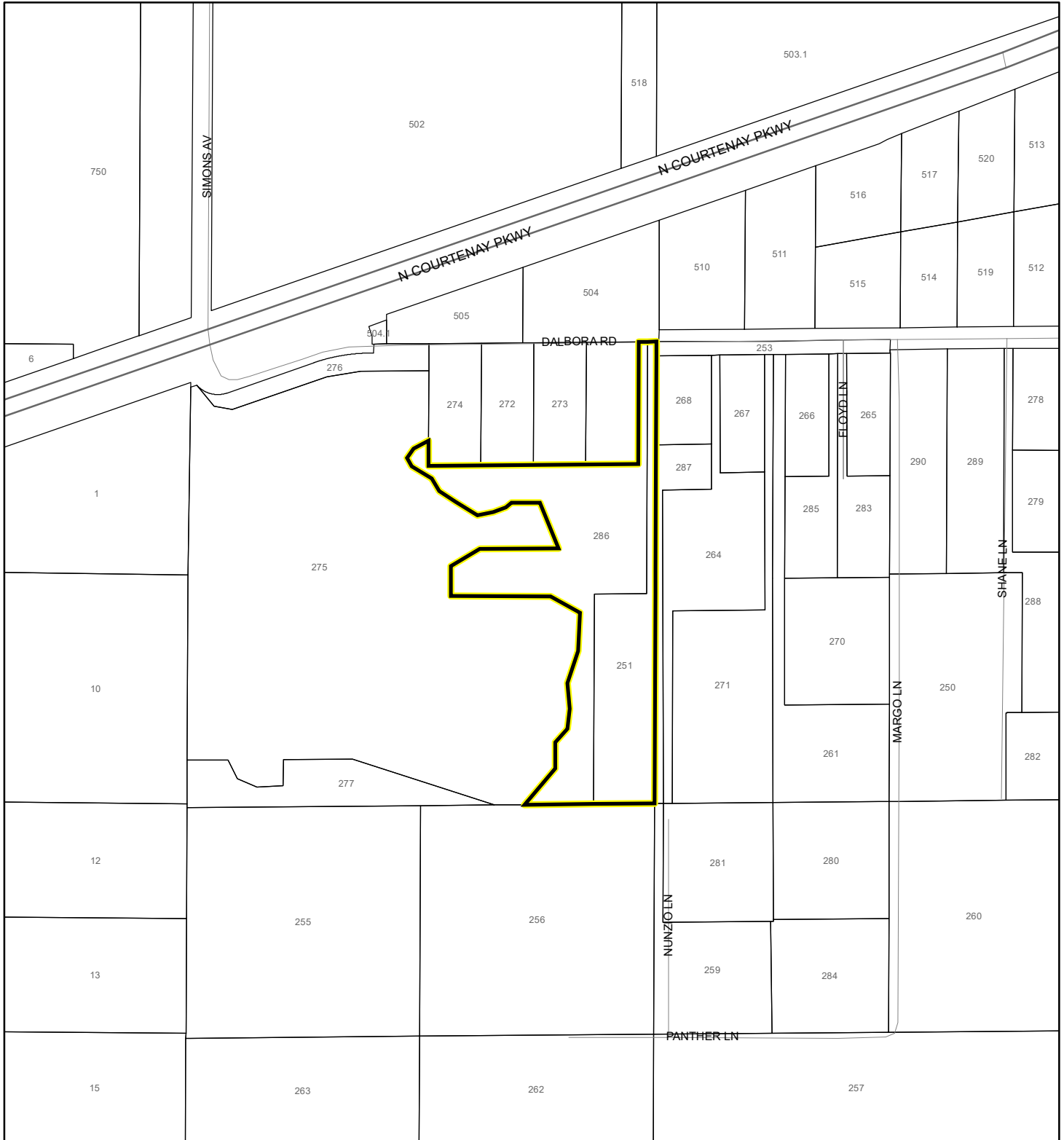
 Parcels



Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21PZ00033 SMALL SCALE AMENDMENT 21S.05



1:4,800 or 1 inch = 400 feet

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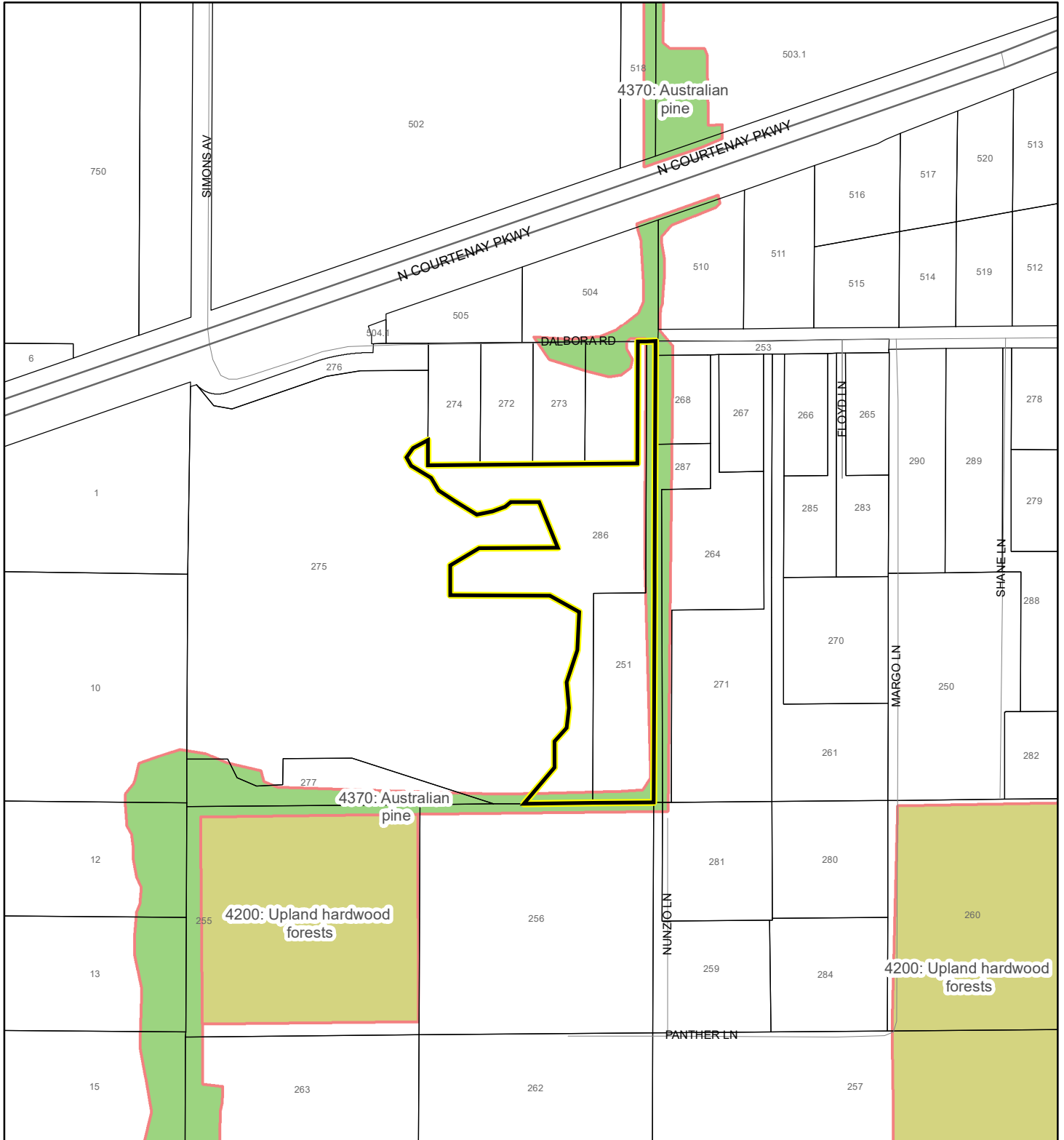
Produced by BoCC - GIS Date: 5/26/2021

- Subject Property
- Parcels
- Scrub Jay Occupancy

## SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21PZ00033 SMALL SCALE AMENDMENT 21S.05







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: 5/26/2021

## 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

21S.05

**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 # 21 PZ00033

Existing FLU: PI(Planned Industrial) Existing Zoning: PIP(Planned Industrial Park)

Proposed FLU: RES1 Proposed Zoning: \_\_\_\_\_

**PROPERTY OWNER INFORMATION**

RE: Parcel ID#23-36-24-00-251/Tax Acct. #2316601  
Parcel ID#23-36-24-00-286/Tax Acct. #2323951

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

**Elliott Family Revocable Trust**

|                                 |                       |           |              |
|---------------------------------|-----------------------|-----------|--------------|
| Name(s)                         | Company               |           |              |
| <u>1355 Dalbora Road</u>        | <u>Merritt Island</u> | <u>FL</u> | <u>32953</u> |
| Street                          | City                  | State     | Zip Code     |
| <u>gunnstruction@cfl.rr.com</u> | <u>321-455-6498</u>   |           |              |
| Email                           | Phone                 | Cell      |              |

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☐ Contract Purchaser ☒ Other Engineer/Surveyor

|                        |                       |  |              |
|------------------------|-----------------------|--|--------------|
| <u>Joc Mayer</u>       |                       | <u>Bussen-Mayer Engineering Group, Inc</u> |              |
| Name(s)                | Company               |  |              |
| <u>100 Parnell St.</u> | <u>Merritt Island</u> | <u>FL</u>                                  | <u>32953</u> |
| Street                 | City                  | State                                      | Zip Code     |
| <u>joc@bmeg.net</u>    | <u>321-453-0010</u>   | <u>321-543-0494</u>                        |              |
| 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: 8.25  
~~9.6~~ AC ±

Reason for Request:

Applicant is requesting Residential Zoning in order to allow approval of two (2) flag lots. Surrounding area is rural residential and industrial development would be incompatible. Requesting verification that Flag lots can be approved; then rezoning and Comp Plan amendment; followed by formal application and approval of the two proposed flag lots.

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.

William Elliott  
Signature of Property Owner or  
Authorized Representative

5-7-21  
Date

State of Florida  
County of Brevard

Subscribed and sworn before me, by X physical presence or \_\_\_\_\_ online notarization,  
this 7<sup>th</sup> day of May, 20 21, personally appeared  
William Elliott, who is personally known to me or produced  
William Elliott as identification, and who did / did not take an oath.

Angela O'Brien  
Notary Public Signature

Seal



**Office Use Only:**

Accela No. 21P200033 Fee: \$1,219<sup>00</sup> Date Filed: 5/10/21 District No. 2

Tax Account No. (list all that apply) 2316601 and 2323951

Parcel I.D. No.

23 36 24 00 251  
23 36 24 00 286  
Twp Rng Sec Sub Block Lot/Parcel

Planner: J. Hart Sign Issued by: N/A Notification Radius: \_\_\_\_\_

**MEETINGS**

**DATE**

**TIME**

|   |                |            |
|---|----------------|------------|
| <input type="checkbox"/> P&Z                  | _____          | _____      |
| <input type="checkbox"/> PSJ Board            | _____          | _____      |
| <input checked="" type="checkbox"/> NMI Board | <u>8/12/21</u> | <u>6pm</u> |
| <input checked="" type="checkbox"/> LPA       | <u>8/23/21</u> | <u>3pm</u> |
| <input type="checkbox"/> BOA                  | _____          | _____      |
| <input checked="" type="checkbox"/> BCC       | <u>9/2/21</u>  | <u>5pm</u> |

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 North Merritt Island DSD

Location of subject property:

South of Dalbora Rd, approximately 1220 feet east of N. Courtenay Parkway.

Description of Request:

PI to RES 1

Brevard County  
Supplement to Comprehensive Plan Amendment Application  
Planning and Zoning Office, 2725 Judge Fran Jamieson Way, Viera, FL 32940  
(321) 633-2069



1. Type of Application:

- ☒ Small-scale Comprehensive Plan Future Land Use Map Amendment
- ☐ Large-scale Future Land Use Map Amendment
- ☐ Comprehensive Plan Text Amendment  
Plan Element(s) of Text Amendment request: \_\_\_\_\_

2. Applicant: William Elliott Staff Planner: Paul Body/Jane Hart

3. Comprehensive Plan Amendment Information:

Adopted Future Land Use Designation: PI (Planned Industrial)  
Requested Future Land Use Designation: RES1  
Existing Zoning: PIP (Planned Industrial Park)

Proposed Text Amendment (if applicable): Attach the proposed text amendment in a strike-thru/underlined format along with one copy on a CD in Microsoft Word, rtf or text format.

4. Description of Request/Justification: Must include a written statement explaining the rational and the appropriate data and analysis necessary to support the proposed change.

Text amendment supplemental information shall include any goal, objective, policy, implementation strategy, directive and any supporting data and analysis, including maps, figures and tables, and; (1) Identification of the particular element of the plan on which the request is based; and, (2) Citation of the existing language which is proposed to be changed; and, (3) Proposed rewording of the existing language or the wording of proposed new text.

Applicant is requesting Residential Zoning in order to allow approval of two (2) flag lots. Surrounding area is rural residential and industrial development would be incompatible. Only industrial development is possible under the current zoning and Comprehensive Plan FLU designation of Planned Industrial. This change will limit development of the parcel to 2 flag lots.

(use additional sheets if necessary)



## 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:

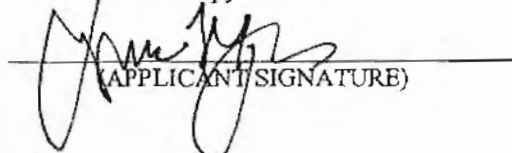
- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with 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:

joe@bmcg.net or ( ) or U.S. Mail  
mail address fax number

Yes/No

I have received a copy of this notice:

  
(APPLICANT SIGNATURE)



DESCRIPTION:

FLAG 1 PARCEL:

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 23 SOUTH, RANGE 36 EAST AND BEING A PORTION OF LANDS AS DESCRIBED IN OR BOOK 5970 PAGE 43 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTH-EAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 24; THENCE SOUTH 89°27'21" WEST ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24 A DISTANCE OF 25.00 FEET TO THE POINT-OF-BEGINNING; THENCE SOUTH 00°19'16" EAST PARALLEL WITH AND 25.00 FEET WEST OF SAID EAST LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 A DISTANCE OF 724.35 FEET; THENCE SOUTH 60°00'00" WEST A DISTANCE OF 183.55 FEET TO A POINT ON THE EAST LINE OF LANDS AS DESCRIBED IN OR BOOK 4867 PAGE 1934 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE ALONG THE EAST LINE OF SAID LANDS THE FOLLOWING SEVENTEEN (17) COURSES NORTH 60°39'22" WEST A DISTANCE OF 96.42 FEET; THENCE NORTH 89°46'54" WEST A DISTANCE OF 285.42 FEET; THENCE NORTH 00°26'40" EAST A DISTANCE OF 85.10 FEET; THENCE NORTH 59°24'07" EAST A DISTANCE OF 95.54 FEET; THENCE NORTH 89°26'55" EAST A DISTANCE OF 225.27 FEET; THENCE NORTH 22°02'07" WEST A DISTANCE OF 140.87 FEET; THENCE NORTH 89°48'50" WEST A DISTANCE OF 81.85 FEET; THENCE SOUTH 50°27'07" WEST A DISTANCE OF 20.90 FEET; THENCE SOUTH 89°09'21" WEST A DISTANCE OF 39.01 FEET; THENCE SOUTH 78°22'17" WEST A DISTANCE OF 46.28 FEET; THENCE NORTH 58°15'40" WEST A DISTANCE OF 73.90 FEET; THENCE NORTH 57°23'31" WEST A DISTANCE OF 56.23 FEET; THENCE NORTH 29°48'40" WEST A DISTANCE OF 41.08 FEET; THENCE NORTH 58°44'39" WEST A DISTANCE OF 67.09 FEET; THENCE NORTH 29°44'37" WEST A DISTANCE OF 27.57 FEET; THENCE NORTH 34°06'28" EAST A DISTANCE OF 32.86 FEET; THENCE NORTH 63°06'09" EAST A DISTANCE OF 49.44 FEET; THENCE SOUTH 00°19'16" WEST A DISTANCE OF 88.23 FEET; THENCE NORTH 89°27'21" EAST A DISTANCE OF 50.00 FEET TO THE POINT-OF-BEGINNING.

CONTAINING 4.34 ACRES MORE OR LESS AND BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAYS OF RECORD.

FLAG 2 PARCEL:

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 23 SOUTH, RANGE 36 EAST AND BEING A PORTION OF LANDS AS DESCRIBED IN OR BOOK 5970 PAGE 43 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 24; THENCE SOUTH 00°19'16" WEST ALONG THE EAST LINE OF SAID NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24 A DISTANCE OF 1322.56 FEET; THENCE SOUTH 89°30'45" WEST ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24 A DISTANCE OF 354.42 FEET; THENCE NORTH 00°24'15" WEST A DISTANCE OF 34.98 FEET TO A POINT ON THE SOUTH LINE OF LANDS AS DESCRIBED IN OR BOOK 4867 PAGE 1934; THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF SAID LANDS THE FOLLOWING SEVEN (7) COURSES; THENCE NORTH 40°41'31" EAST A DISTANCE OF 111.80 FEET; THENCE NORTH 00°36'34" WEST A DISTANCE OF 74.85 FEET; THENCE NORTH 43°05'41" EAST A DISTANCE OF 51.78 FEET; THENCE NORTH 06°15'42" EAST A DISTANCE OF 58.96 FEET; THENCE NORTH 05°16'50" WEST A DISTANCE OF 72.36 FEET; THENCE NORTH 18°00'28" EAST A DISTANCE OF 97.56 FEET; THENCE NORTH 02°47'58" EAST A DISTANCE OF 109.35 FEET; THENCE NORTH 60°39'22" WEST A DISTANCE OF 96.42 FEET; THENCE NORTH 89°46'54" WEST A DISTANCE OF 285.42 FEET; THENCE NORTH 00°26'40" EAST A DISTANCE OF 85.10 FEET; THENCE NORTH 59°24'07" EAST A DISTANCE OF 95.54 FEET; THENCE NORTH 89°26'55" EAST A DISTANCE OF 225.27 FEET; THENCE NORTH 22°02'07" WEST A DISTANCE OF 140.87 FEET; THENCE NORTH 89°48'50" WEST A DISTANCE OF 81.85 FEET; THENCE SOUTH 50°27'07" WEST A DISTANCE OF 20.90 FEET; THENCE SOUTH 89°09'21" WEST A DISTANCE OF 39.01 FEET; THENCE SOUTH 78°22'17" WEST A DISTANCE OF 46.28 FEET; THENCE NORTH 58°15'40" WEST A DISTANCE OF 73.90 FEET; THENCE NORTH 57°23'31" WEST A DISTANCE OF 56.23 FEET; THENCE NORTH 29°48'40" WEST A DISTANCE OF 41.08 FEET; THENCE NORTH 58°44'39" WEST A DISTANCE OF 67.09 FEET; THENCE NORTH 34°06'28" EAST A DISTANCE OF 32.86 FEET; THENCE NORTH 63°06'09" EAST A DISTANCE OF 49.44 FEET; THENCE SOUTH 00°19'16" WEST A DISTANCE OF 88.23 FEET; THENCE NORTH 89°27'21" EAST A DISTANCE OF 50.00 FEET TO THE POINT-OF-BEGINNING.

CONTAINING 3.91 ACRES MORE OR LESS AND BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAYS OF RECORD.

NOTES:

1. BEARING STRUCTURE AS SHOWN HEREON IS BASED ON THE NORTH LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 23 SOUTH, RANGE 36 EAST OF BREVARD COUNTY, FLORIDA, BEING 89°27'21" AN ASSUMED BEARING.
2. DATE OF FIELD SURVEY: JUNE 26, 2017; RE-CERTIFIED 5/11/2021.
3. THIS SURVEY DOES NOT WARRANT TITLE.
4. TITLE INFORMATION NOT FURNISHED; PARCEL IS SUBJECT TO RESTRICTIONS, COVENANTS, EASEMENTS, AND/OR RIGHTS-OF-WAY OF RECORD, IF ANY.
5. UNDERGROUND IMPROVEMENTS (SEPTIC TANKS, FOUNDATIONS, DRAINFIELDS, ETC.), IF ANY, WERE NOT LOCATED.
6. SUBJECT PARCEL LIES IN ZONE "X" (AREAS OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN), ZONE "X" (SHADED)-AREAS OF 0.2% ANNUAL CHANCE FLOODPLAIN AND ZONE AE ELEVATION 3.0) AS DETERMINED FROM FLOOD INSURANCE RATE MAP 12009C0327H, MAP DATED 1/29/2021 AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
7. THE COORDINATES SHOWN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM OF FLORIDA EAST ZONE, NORTH AMERICAN DATUM OF 1983 AS ADJUSTED IN 2009 (NAD 83/09). ALL DISTANCES DEPICTED HEREON ARE GROUND DISTANCES.
8. THE FOLLOWING HORIZONTAL CONTROL STATIONS WERE USED TO ESTABLISH THE STATE PLANE COORDINATES SHOWN HEREON:  
  
STATION NAME: BREVARD GPS 1037 (PID); AK7499  
NORTHINGS: 1,505,753.02; EASTINGS: 752,439.59  
LATITUDE: 28°28'32.30309"(N); LONGITUDE: 80°42'01.18663"(W)  
COMBINED SCALE FACTOR: 0.99995180 CONVERGENCE: 0°08'34.4"
  
STATION NAME: CIGAR (PID); AK2131  
NORTHINGS: 1,501,667.42; EASTINGS: 767,344.87  
LATITUDE: 28°27'51.45401"(N); LONGITUDE: 80°39'14.29548"(W)  
COMBINED SCALE FACTOR: 0.99995534 CONVERGENCE: 0°09'53.7"  
STATION NAME: COURTNEY (PID); AK2148  
NORTHINGS: 1,504,805.90; EASTINGS: 749,819.27  
LATITUDE: 28°28'22.98916"(N); LONGITUDE: 80°42'30.57477"(W)  
COMBINED SCALE FACTOR: 0.99995123 CONVERGENCE: 0°08'20.3"9. I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AS PERFORMED UNDER MY DIRECTION AND SUPERVISION, AND THAT IT MEETS OR EXCEEDS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 53-17.05 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. SEE TITLE BLOCK FOR SIGNATURE AND SEAL.
10. THIS SURVEY WAS PREPARED FOR THE EXCLUSIVE USE OF THE PARTIES LISTED BELOW AND COPIES ARE VALID ONLY WHEN BEARING THE SURVEYOR'S ORIGINAL SIGNATURE AND SEAL OR VERIFIED ELECTRONIC SIGNATURE AND SEAL.
11. CERTIFIED FOR THE EXCLUSIVE USE OF:  
BILL ELLIOTT

LEGEND:

|           |                                      |               |   |
|-----------|--------------------------------------|---------------|---|
| B-MEG     | BUSSEN-WAYER ENGINEERING GROUP, INC. | CCR           | CERTIFIED CORNER RECORD                 |
| DOT       | DEPARTMENT OF TRANSPORTATION         | CONC.         | CONCRETE                                |
| C.M.      | CONCRETE MONUMENT                    | AKA           | ALSO KNOWN AS                           |
| FND.      | FOUND                                | R/W           | RIGHT-OF-WAY                            |
| REC.      | RECOVERED                            | W/            | WITH                                    |
| D.B.      | DEED BOOK                            | F.F. EL.      | FINISH FLOOR ELEVATION                  |
| O.R.B.    | OFFICIAL RECORDS BOOK                | EL.           | ELEVATION                               |
| P.C.      | PAGE                                 | F.P. & L. CO. | FLORIDA POWER AND LIGHT COMPANY         |
| ESW.T.    | EASEMENT                             | (P)           | BEARING/DISTANCE BASED ON PLAT GEOMETRY |
| RB/C      | RE-BAR WITH SURVEYOR'S CAP           | (M)           | BEARING/DISTANCE PER SURVEY             |
| P.K. NAIL | PARKER-KAYLON NAIL/WASHER            | (TYP)         | TYPICAL                                 |

Digitally Signed  
by Joseph Barry Cabaniss  
Date: 2021.07.08  
17:05:57 -04'00'

Florida

A FLAG LOT SURVEY PREPARED FOR:  
**BILL ELLIOTT**

Brevard County

**Bussen - Mayer Engineering Group, Inc.**  
100 PARKVIEW STREET • NEWPORT BEACH, FLORIDA 92659  
PH. NO.: (949) 450-0010 • FAX NO.: (949) 450-0986

Date : JUNE 26, 2017  
Scale : 1" = 100'  
Proj. No.: 298505  
Sheet No.  
1 of 1



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.2.

8/12/2021

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### Subject:

William D. and Elizabeth Anne Elliott, Trustees (Joe Mayer) request a change of zoning classification from PIP to RR-1. (21Z00020) (Tax Accounts 2616601 & 2323951) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the North Merritt Island Dependent Special District Board conduct a public hearing to consider a change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential).

### Summary Explanation and Background:

The applicant is seeking a change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential) for the purpose of creating two residential lots. The applicant also wishes to be able to build a single-family home on the east parcel. The parcels appear to be configured as flag lots. The PIP zoning does not permit a flag lot configuration; however residential parcels can be administratively approved per Section 62-102(B) to utilize them for frontages less than 125 feet of road frontage. If approved, the applicants will be required to have the two parcels administratively approved as Flag Lots.

The proposed RR-1 zoning permits single-family residential land uses on a minimum one acre lot, with a minimum lot width and depth of 125 feet, and a minimum house size of 1,200 square feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The keeping of horses and agricultural uses are accessory to a principle residence.

The applicants have also applied for a companion application to change the FLU (Future Land Use) designation from PI (Planned Industrial) to RES 1 (Residential 1) FLU. The Residential 1 designation permits low density residential development with a maximum density of up to one (1) dwelling unit per acre, except as otherwise may be provided for within the Future Land Use Element.

The existing development of the surrounding area along Dalbora Road is described as single-family homes on lots that meet the one dwelling unit per acre density allowed by the RES 1 Future Land Use. A FLU designation of RES 1 is necessary to be compatible with the propose RR-1 zoning.

The Board may wish to consider whether the request to RR-1 is consistent and compatible with the surrounding area.

The Planning and Zoning Board will hear the request on **Monday, August 23, 2021**, at 3:00 p.m. at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

The Brevard County Board of County Commissioners will hear the request on **Thursday, November 4, 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

**21Z000020**

**William D. & Elizabeth Anne Elliott, Trustees**  
**PIP (Planned Industrial Park) to RR-1 (Rural Residential)**

Tax Account Number: 2323951 and 2316601  
Parcel I.D.: 23-36-24-00-286 and 23-36-24-00-251  
Location: South side of Dalbora Road, 1,270 feet east of N. Courtenay Pkwy.  
(District 2)  
Acreage: 8.25

North Merritt Island Board: 08/21/2021  
Land Planning Agency: 08/23/2021  
Board of County Commissioners: 09/02/2021

### 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, per Policy 2.13 of the Future Land Use Element.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

|  | CURRENT  | PROPOSED                |
|--|----------|-------------------------|
| <b>Zoning</b>  | PIP      | RR-1                    |
| <b>Potential*</b>                                      | No units | Two single-family units |
| <b>Can be Considered under the Future Land Use Map</b> | Yes PI   | YES** RES 1             |

\*Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. In the PIP zoning, property owners who purchased such property prior to October 19, 2004 are permitted to construct single family residences. The applicants purchase the two parcels on July 12, 2017.

\*\*There is a Small-Scale Future Land Use Map (FLUM) amendment companion application under **21PZ00033** which proposes to change the PI (Planned Industrial) Future Land Use (FLU) designation to RES 1 (Residential 1) FLU.

### Background and Purpose of Request

The applicant is seeking a change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential) for the purpose of creating two residential lots. The applicant also wishes to be able to build a single-family home on the east parcel. The parcels appear to be configured as flag lots. The PIP zoning does not permit a flag lot configuration; however residential parcels can be

administratively approved per Section 62-102(B) to utilize them for frontages less than 125 feet of road frontage.

The PIP zoning of the parcels was adopted September 02, 1999 per zoning action **Z-10287**. The subject east parcel was subdivided into its current configuration on July 21, 2006, per Official Records Book 5679, Page 4093 and is vacant land. The subject west parcel was subdivided into its current configuration on December 27, 2017, per Official Records Book 8059, Page 1425 when the northwest abutting 1.21 acre parcel was split off from this parcel. This west parcel is developed with a single-family home.

If the Board approves this request, the applicants will be required to have the two parcels administratively approved as Flag Lots per Section 62-102(B).

The applicants have also applied for a companion application **21PZ00033** to change the PI (Planned Industrial) Future Land Use (FLU) designation to RES 1 (Residential 1) FLU.

## **Land Use**

The subject property is currently designated as PI (Planned Industrial). The companion application **21PZ00033** proposes to change the PI FLU to RES 1 Future Land Use designation. The proposed RR-1 zoning classification is not compatible with PI FLU; the proposed RR-1 zoning is consistent with the proposed RES 1 FLU.

## **Applicable Future Land Use Policies**

**The Current FLU follows: FLUE Policy 3.5** - The Planned Industrial Future land use designation. The Planned Industrial land use designation is intended to accommodate the clustering of light industrial and business uses in settings which provide special attention to the integration of infrastructure, such as circulation, parking, and utilities, while placing emphasis upon aesthetics of the project and compatibility with abutting properties and properties within the industrial park. These parks shall be designed to limit intrusion into residential areas. Appropriate uses are those that operate within enclosed buildings such as manufacturing, assembling, fabricating, warehousing and retailing activities. Hotel and motel accommodations that serve the travel needs of employees or clients associated with firms within the planned industrial or business parks are also appropriate. Marinas may also be considered within this land use designation.

**The Proposed FLU follows: FLUE Policy 1.9** -The Residential 1 Future land use designation. The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit 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.**

The East parcel is vacant land. The West parcel is developed with a single-family residence and both parcels lie within the PI Future Land Use designation. In the PIP zoning, property owners who purchased such property prior to October 19, 2004 are permitted to construct single family residences. The single-family residence on the West parcel was built in 2003 prior to the applicants owning the parcel. The abutting developed parcels and the surrounding area have a Residential 1 Future Land Use designation. The subject parcels PI Future Land Use is not compatible with the proposed RR-1 zoning. The proposed RR-1 zoning is consistent with the proposed RES 1 Future Land Use designation.

The existing development of the surrounding area along Dalbora Road is described as single-family homes on lots that meet the one dwelling unit per acre (1du/ac) density allowed by the RES 1 Future Land Use. A FLU designation of RES 1 is necessary to be compatible with the propose RR-1 zoning.

There have been two changes to the Future Land Use within the past 5 years in the surrounding area from PI to RES 1.

The subject property is located within the 2018 North Merritt Island Small Area Study (SAS) boundary. A recommendation of the 2018 North Merritt Island SAS was for all parcels 2.5 acres in size designated as Residential 1 (RES 1) Future Land Use and Agricultural Residential (AU) zoning classification, Brevard County should amend the Future Land Use Map to Residential 1:2.5 (RES 1:2.5). While the Board acknowledged the Recommendations of the 2018 North Merritt Island SAS, staff was not directed to implement this recommendation.

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

The subject parcels are zoned PIP. The east parcel is vacant. The west parcel is developed with a single-family residence.

The developed character of the surrounding area along Dalbora Road is Rural Residential (RR-1) and Agricultural Residential (AU) zoned parcels which are developed with single-family houses.

Properties along Dalbora Road are single-family residential in nature. The development trend for the surrounding area has been from Planned Industrial Park to single-family residential homes along with agricultural use and animals for the past 20 years.

The current PIP classification is the second lightest industrial classification, allowing light manufacturing within enclosed buildings with strict buffering, storage and other requirements on a minimum one acre lot, with a minimum lot width of 150 feet and minimum lot depth of 200 feet. PIP permits single family residences with conditions in section 62-1841.9: property owners who purchased such property prior to October 19, 2004 are permitted to construct single family residences (one per minimum lot size required). The PIP zoning does not permit a flag lot configuration.

The proposed RR-1 classification permits single-family residential land uses on a minimum one acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200

square feet. Keeping of horses and agricultural uses are accessory to a principle residence within the RR-1 zoning classification.

There have been two rezoning applications in the surrounding area in the past 5 years.

May 03, 2018; **18PZ00010**: Changed zoning from AU to RR-1. This rezoning was on a 2.64 acre parcel, approximately 1,021 feet easterly of the subject parcels and located on the north side of D'albora Road.

March 07, 2019; **18PZ00142**: Changed zoning from PI to RR-1. This rezoning was on a 1.21 acre parcel, which abuts the subject parcels along the west and located on the south side of D'albora Road.

### **Surrounding Area**

The abutting parcel to the north is zoned AU with agricultural amenities. The abutting parcels to the east are zoned RR-1 and AU and are developed with single-family residences. The abutting parcel to the south is zoned AU and is vacant. The abutting parcels along the west are zoned RR-1 and PIP. The RR-1 parcel is developed with single-family residence and the PIP parcel is vacant. The closest developed industrial parcel (Air Liquide) is located approximately 575 feet to the northeast of the subject property, on the north side of North Courtenay Parkway. Air Liquide purchased the property in 1968. Staff is in the process of reviewing a Vested Rights determination. There has been numerous noise complaints regarding the activities performed at the property.

### **Environmental Constraints**

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

- Wetlands/Hydric Soils
- Floodplain
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcels contain mapped hydric soils and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination/delineation will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Portions of the properties are located within areas mapped as FEMA Special Flood Hazard Area (SFHA) AE; and are thus subject to criteria in Section 62-3724(4) of the Floodplain Protection

ordinance, including compensatory storage. Please see Floodplain section in NRM comments for more information.

Information available to NRM indicates that impacts to wetlands and floodplain may have occurred when a portion of the site (and potentially offsite) was cleared and filled. The discovery of unpermitted land clearing, and/or wetland or floodplain impacts may result in enforcement action. Restoration may be required. The applicant is advised to cease further site work until a Building permit or other development order is issued.

### **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is N. Courtenay Parkway, between N. Tropical Trail and Space Commerce Way, which has a Maximum Acceptable Volume of 40,300 trips per day, a Level of Service (LOS) of D, and currently operates at 22.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to continue to operate at 22.31% 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. The closest available Brevard County sewer line is located approximately 2.4 miles southwest of the parcel. The parcels can be serviced by City of Cocoa water.

### **For Board Consideration**

The Board may wish to consider whether the request to RR-1 is consistent and compatible with the surrounding area given the fact that RR-1 zoning has been established in the surrounding area.



**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary  
Item # 21Z00020**

**Applicant:** Mayer for Elliot

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

**Note:** Applicant wants two flag lots to build two single family homes.

**NMI Hearing Date:** 08/12/21; **P&Z Hearing Date:** 08/23/21; **BCC Hearing Date:** 09/02/21

**Tax ID Nos:** 2323951 & 2316601

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

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

- Wetlands/Hydric Soils
- Floodplain
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcels contain mapped hydric soils and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination/delineation will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Portions of the properties are located within areas mapped as FEMA Special Flood Hazard Area (SFHA) AE; and are thus subject to criteria in Section 62-3724(4) of the Floodplain Protection

ordinance, including compensatory storage. Please see Floodplain section in NRM comments for more information.

Information available to NRM indicates that impacts to wetlands and floodplain may have occurred when a portion of the site (and potentially offsite) was cleared and filled. The discovery of unpermitted land clearing, and/or wetland or floodplain impacts may result in enforcement action. Restoration may be required. The applicant is advised to cease further site work until a Building permit or other development order is issued.

### **Land Use Comments:**

#### **Wetlands/Hydric Soils**

The subject parcel contains mapped hydric soils (Riviera & Winder soils, Copeland-Bradenton-Wabasso complex, and Bradenton fine sand), and SJRWMD wetlands as shown on the USDA Soil Conservation Service Soils Survey, and SJRWMD Florida Land Use & Cover Codes maps, respectively; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Information available to NRM indicates that impacts to wetlands may have occurred when a portion of the site (and potentially off-site) was cleared and filled. The discovery of unpermitted wetland impacts may result in enforcement/restoration action.

#### **Floodplain**

Portions of the properties are located within areas mapped as FEMA Special Flood Hazard Area (SFHA) AE. Per Section 62-3724(4) of the Floodplain Protection ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM prior to any grading, filling or land alteration activities.

Information available to NRM indicates that impacts to the floodplain may have occurred when a portion of the site (and potentially off-site) was cleared and filled. The discovery of unpermitted floodplain impacts may result in enforcement/restoration action.

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

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

### **Protected and Specimen Trees**

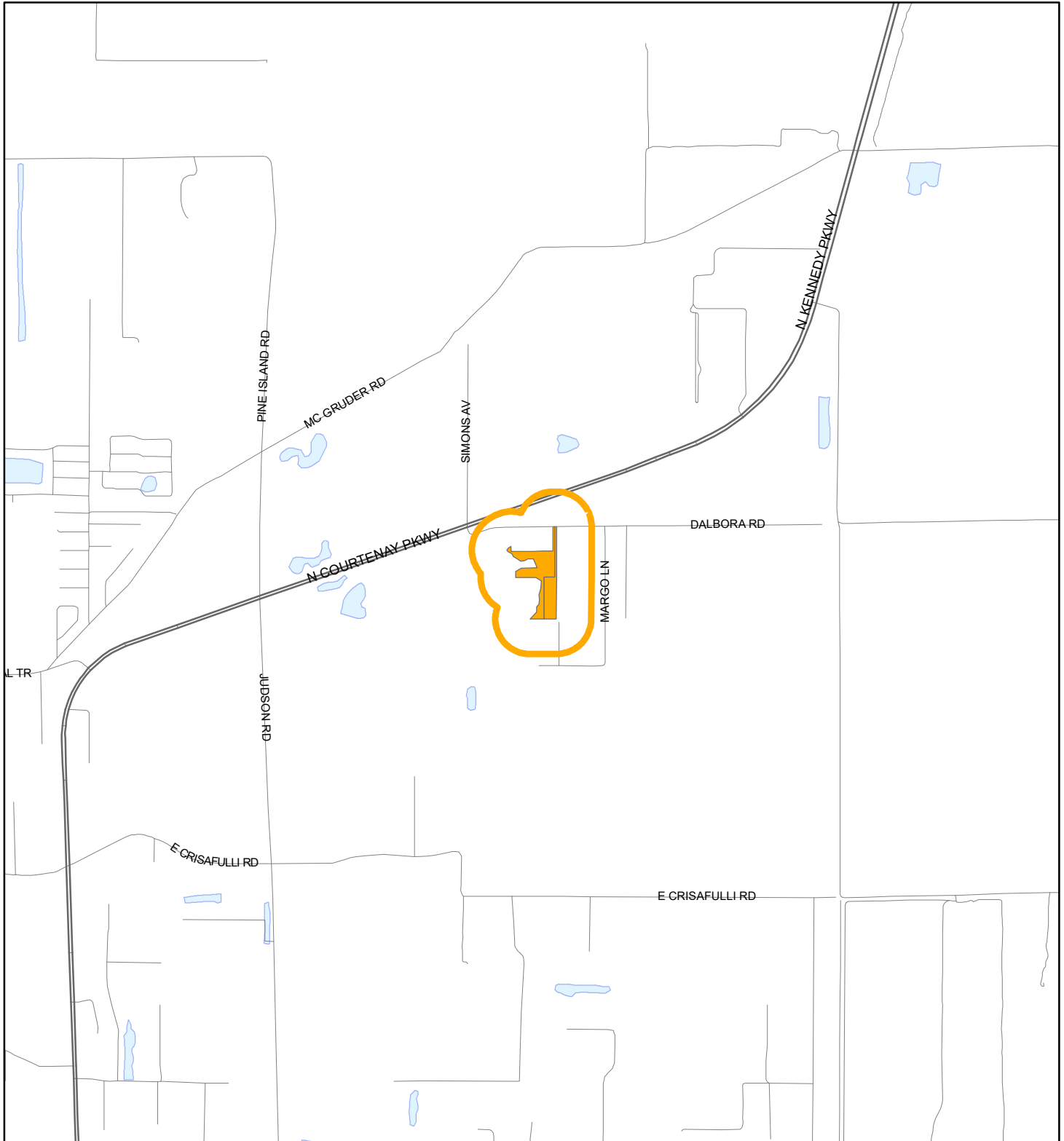
Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen 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, and Protected/Specimen tree 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. The applicant should contact NRM prior to performing any land clearing activities. Land clearing is not permitted without prior authorization by NRM. Information available to NRM indicates that unpermitted land clearing may have occurred when a portion of the site (and potentially off-site) was cleared. The discovery of unpermitted land clearing activities may result in enforcement/restoration action.

### **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

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21Z00020



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.

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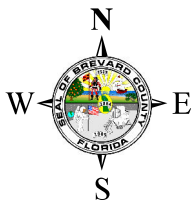
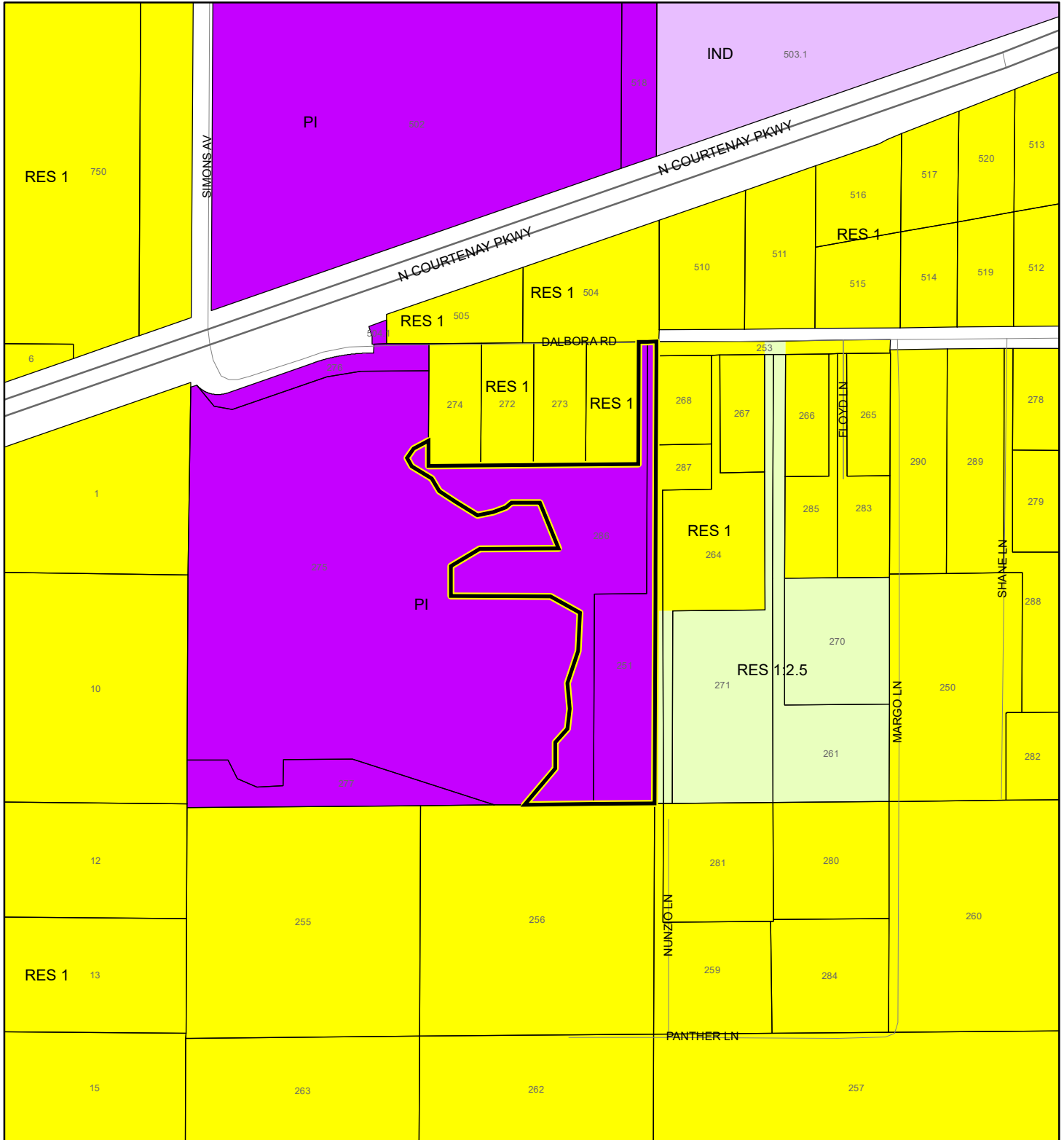
Buffer  
Subject Property



# FUTURE LAND USE MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



1:4,800 or 1 inch = 400 feet

**Subject Property**  
**Parcels**

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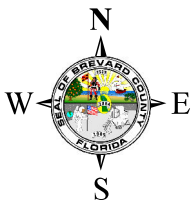
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# AERIAL MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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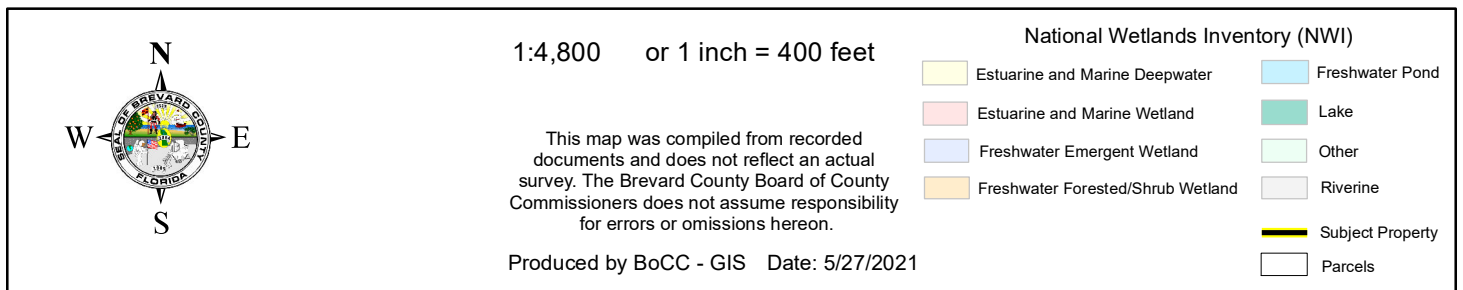
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 Subject Property

 Parcels



WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES  
21Z00020

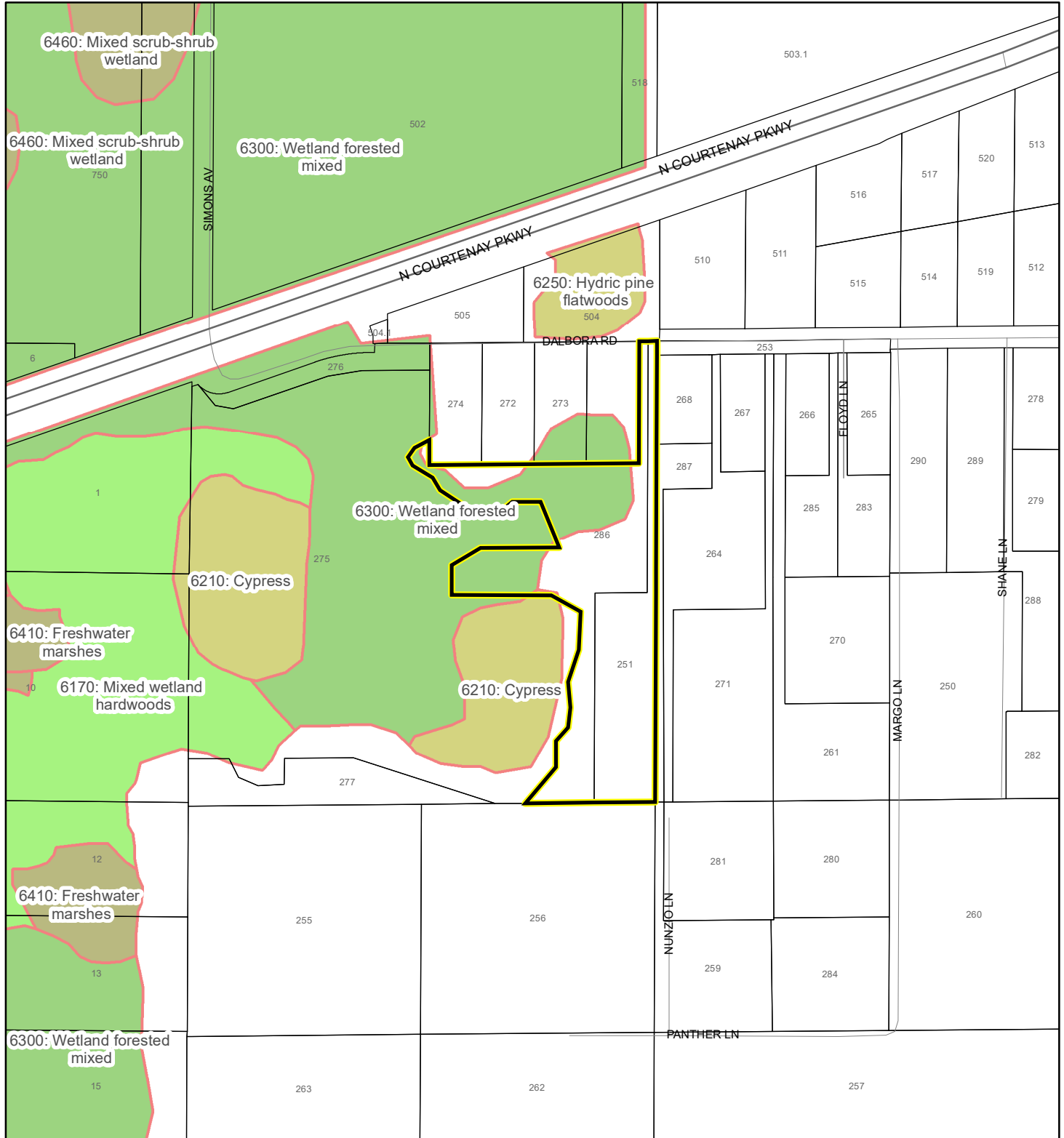




# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



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## 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

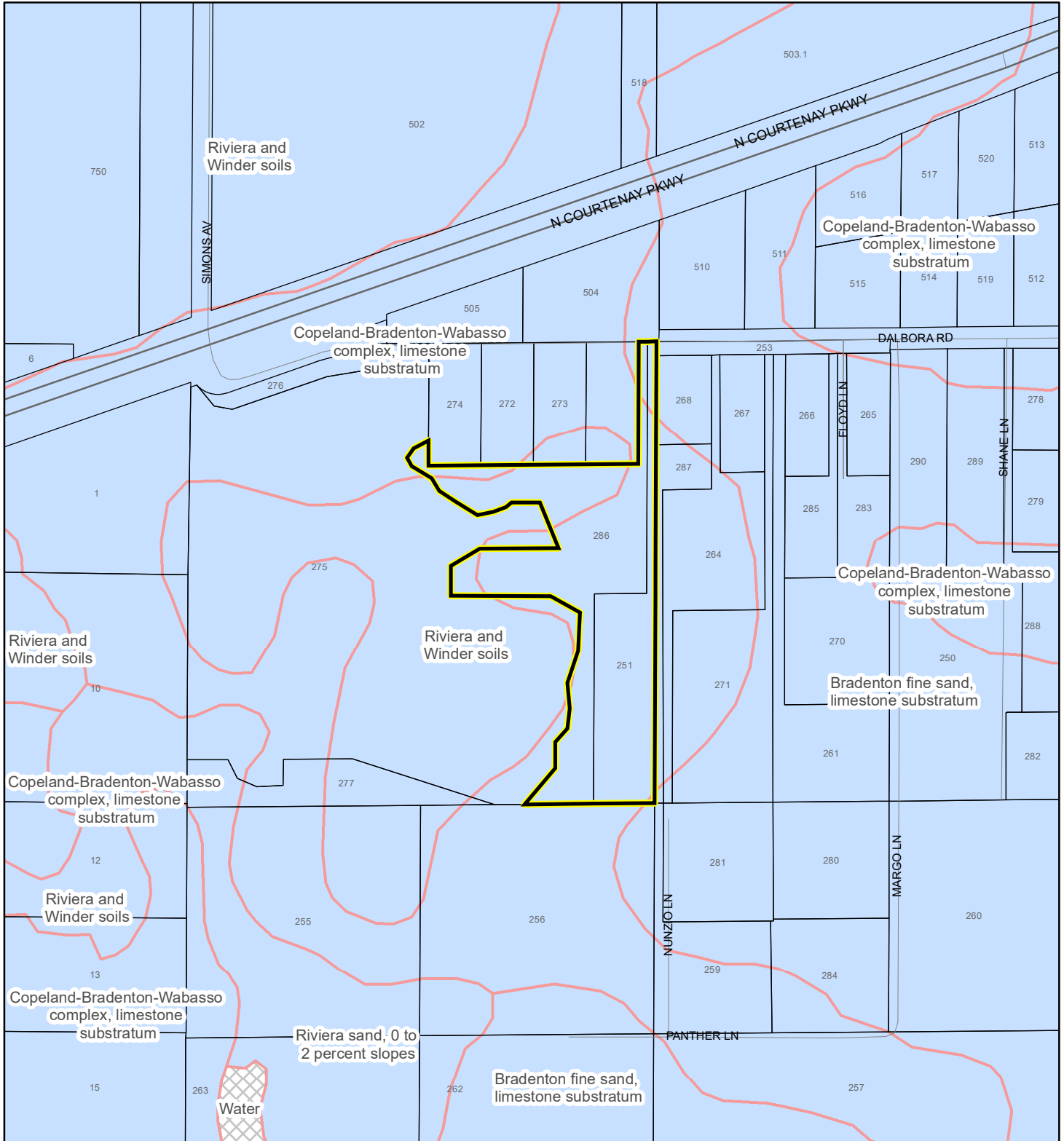
Subject Property

Parcels

# USDA SCSSS SOILS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



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## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

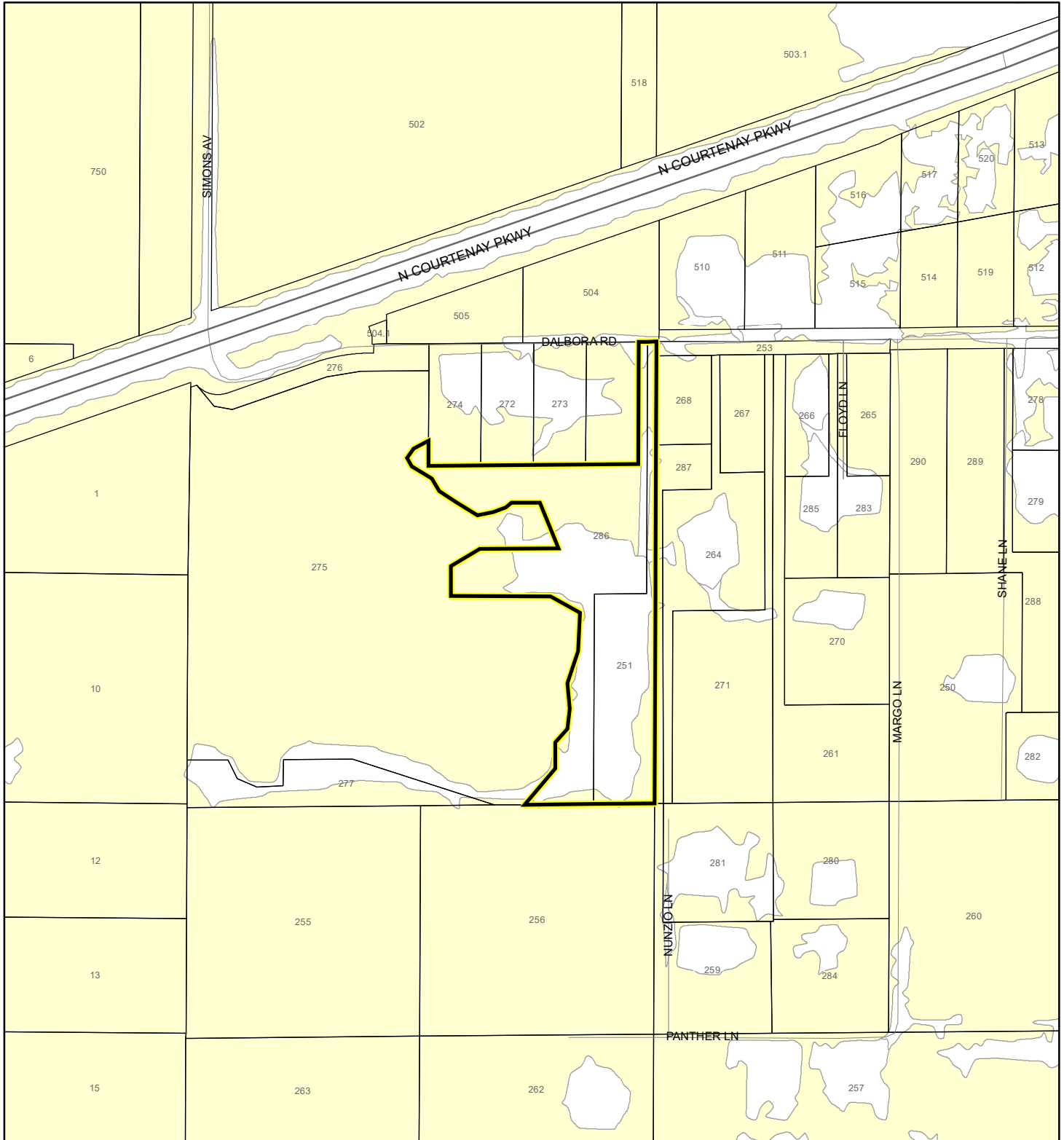
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



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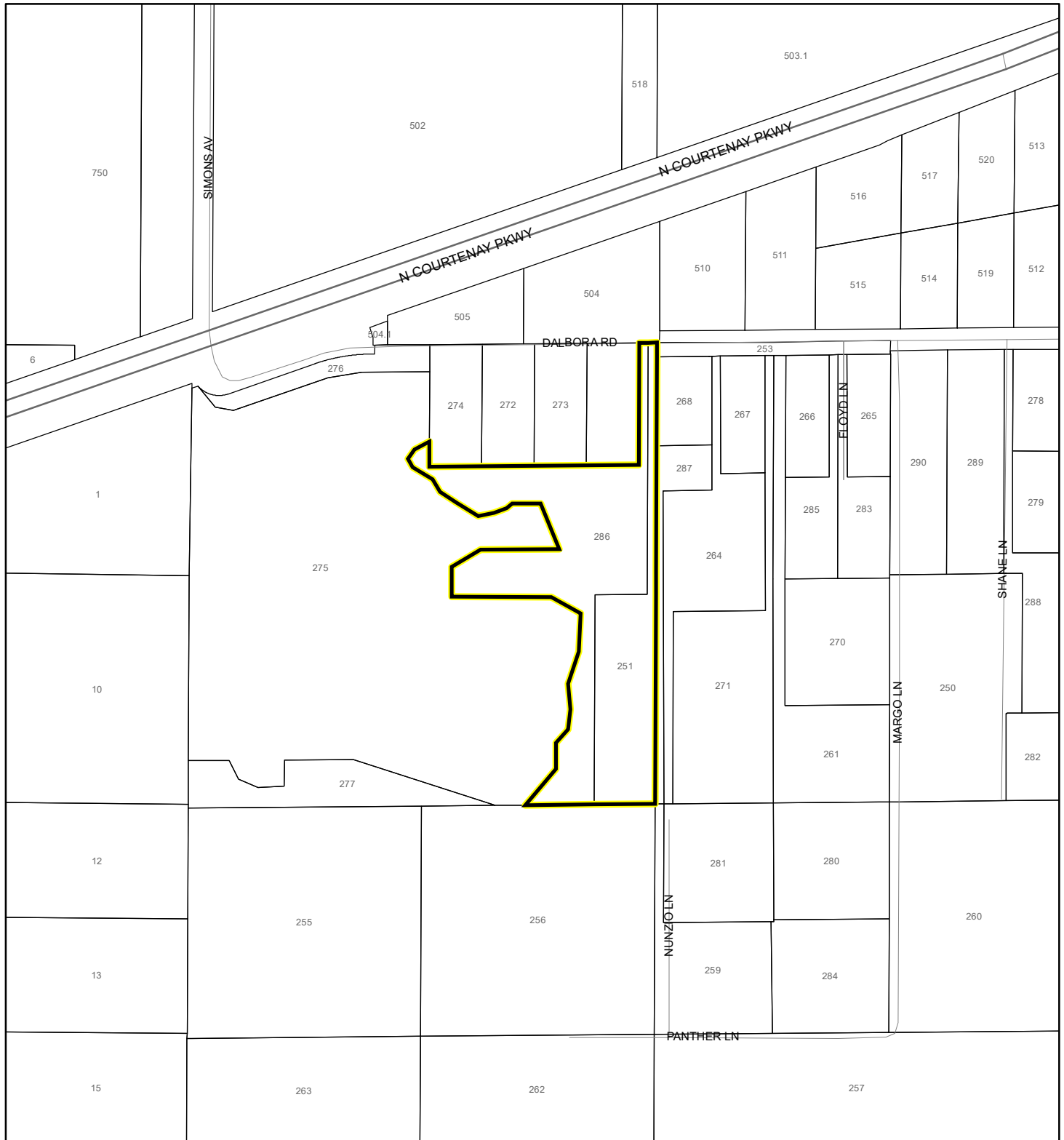
## FEMA Flood Zones

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

# COASTAL HIGH HAZARD AREA MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



1:4,800 or 1 inch = 400 feet


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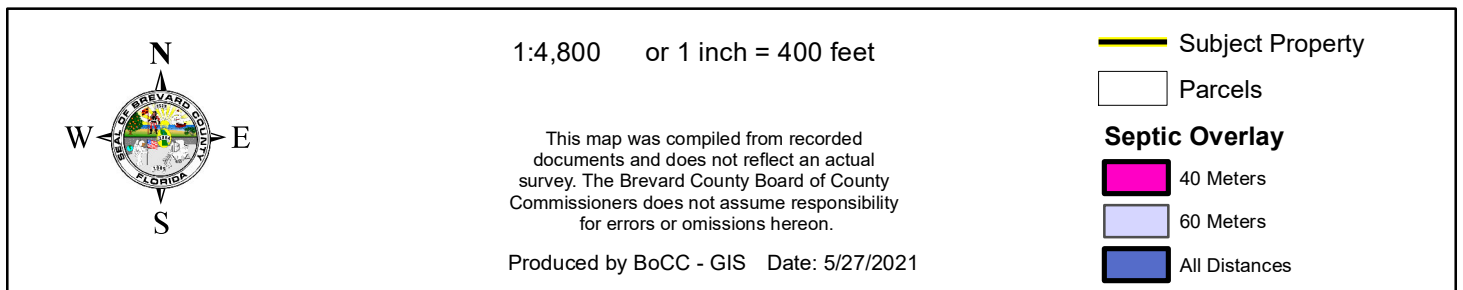
 Subject Property

 Parcels

**Coastal High Hazard Area**

 SurgeZoneCat1

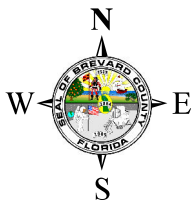
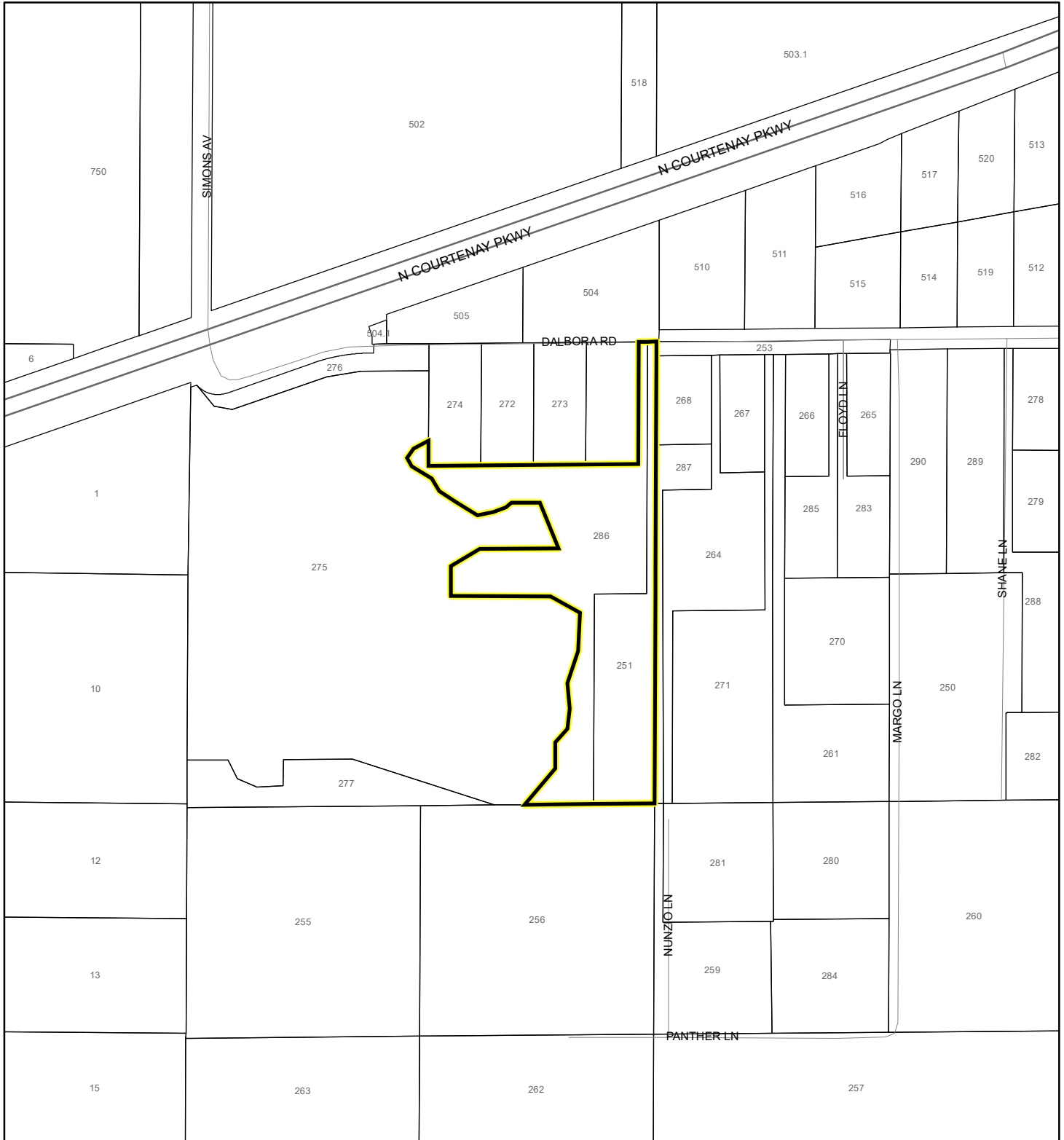
21Z00020



# EAGLE NESTS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



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 Subject Property

 Parcels

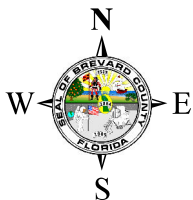
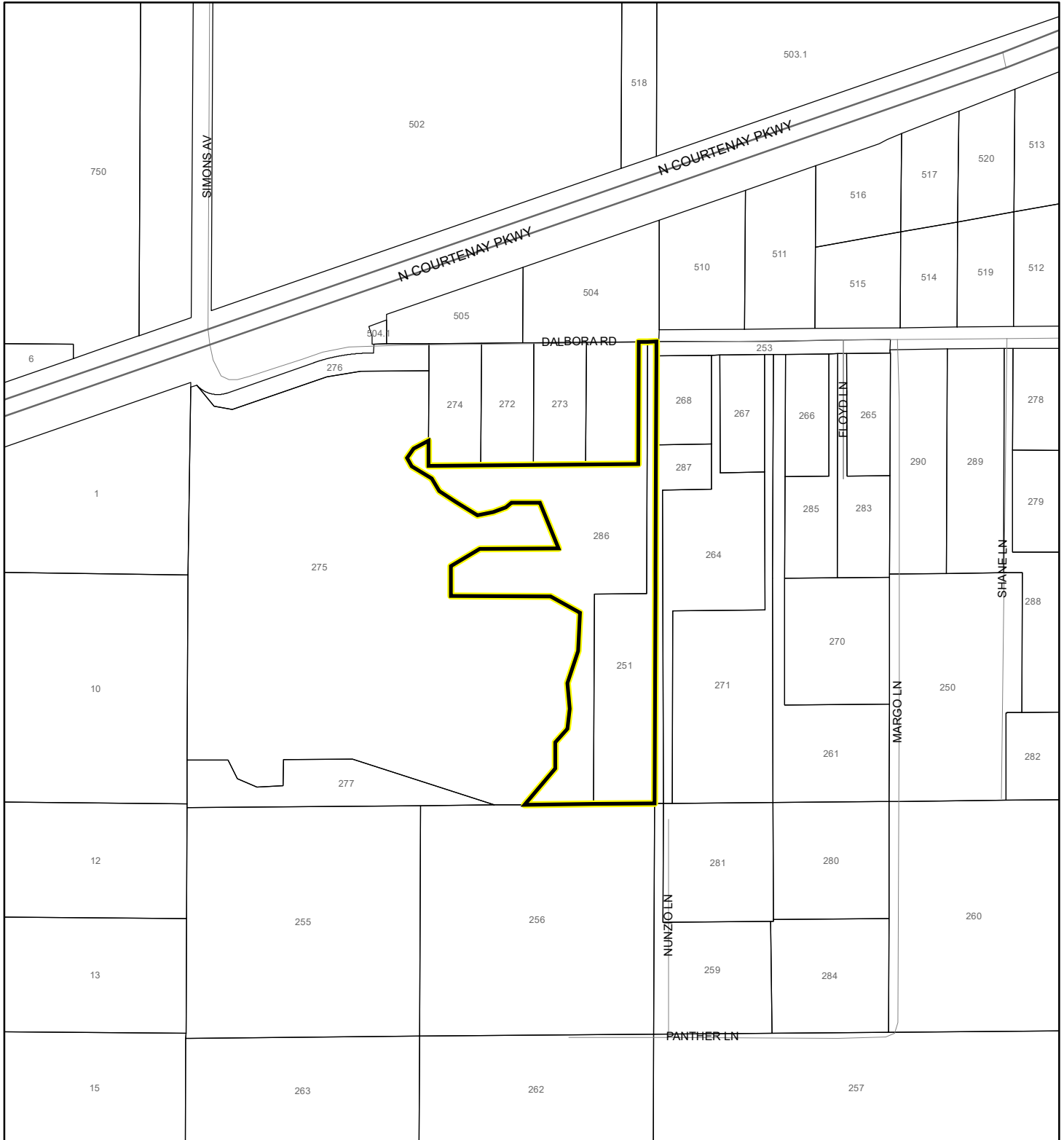


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



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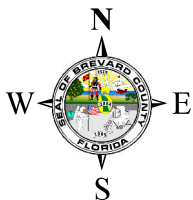
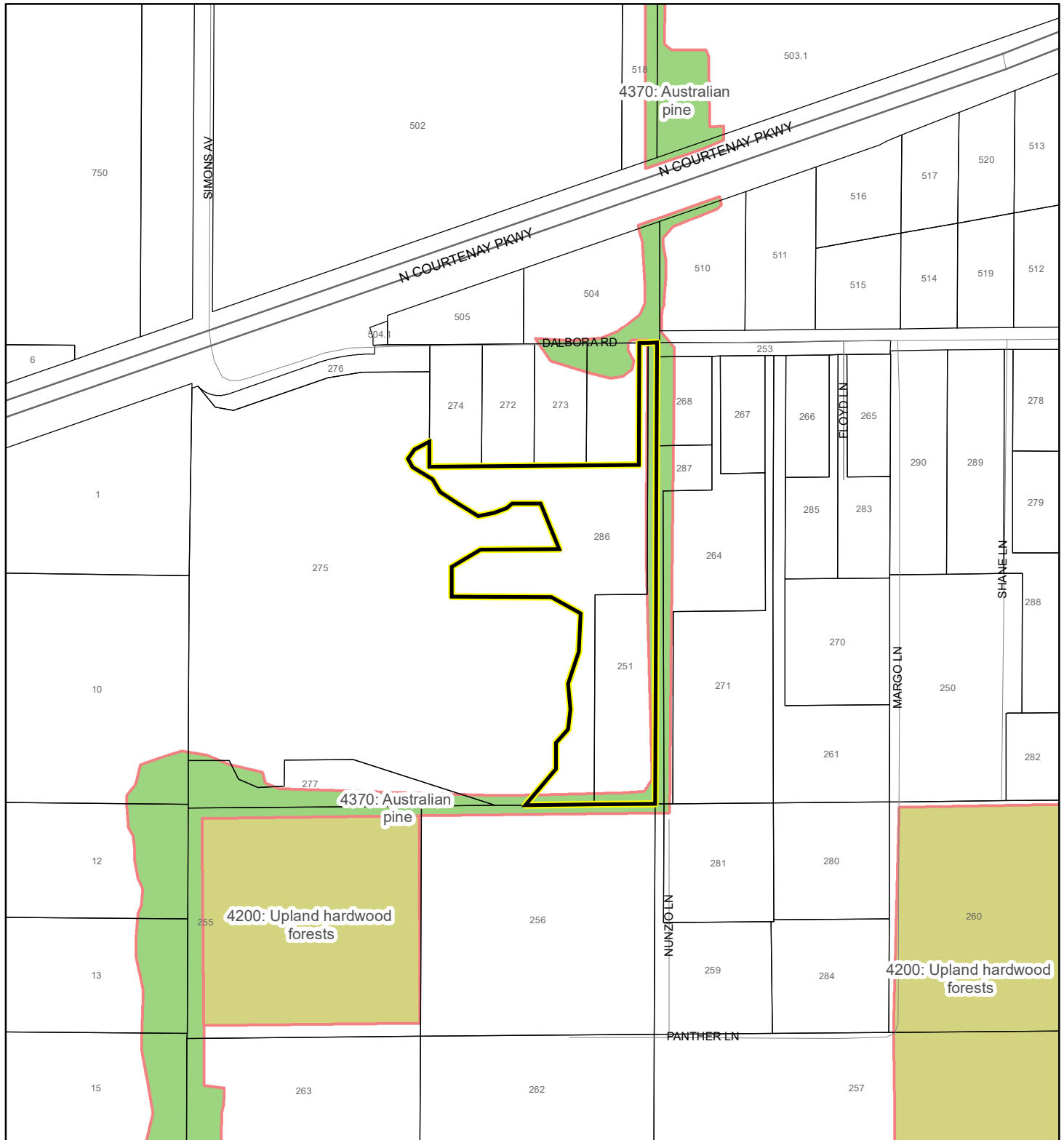
Produced by BoCC - GIS Date: 5/27/2021

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



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Produced by BoCC - GIS Date: 5/27/2021

## 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 # 21Z00020

Existing FLU: PI(Planned Industrial) Existing Zoning: PIP(Planned Industrial Park)

Proposed FLU: \_\_\_\_\_ Proposed Zoning: RR-1

**PROPERTY OWNER INFORMATION**

RE: Parcel ID#23-36-24-00-251/Tax Acct. #2316601  
Parcel ID#23-36-24-00-286/Tax Acct. #2323951

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

**Elliott Family Revocable Trust**

|                                 |                       |           |              |
|---------------------------------|-----------------------|-----------|--------------|
| Name(s)                         | Company               |           |              |
| <u>1355 Dalbora Road</u>        | <u>Merritt Island</u> | <u>FL</u> | <u>32953</u> |
| Street                          | City                  | State     | Zip Code     |
| <u>gunnstruction@cfl.rr.com</u> | <u>321-455-6498</u>   |           |              |
| Email                           | Phone                 | Cell      |              |

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☐ Contract Purchaser ☒ Other Engineer/Surveyor

|                        |                       |   |              |
|------------------------|-----------------------|---|--------------|
| <u>Joe Mayer</u>       |                       | <u>Bussen-Mayer Engineering Group, Inc.</u> |              |
| Name(s)                | Company               |   |              |
| <u>100 Parnell St.</u> | <u>Merritt Island</u> | <u>FL</u>                                   | <u>32953</u> |
| Street                 | City                  | State                                       | Zip Code     |
| <u>joe@bmeg.net</u>    | <u>321-453-0010</u>   | <u>321-543-0494</u>                         |              |
| 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: 8.25  
~~9.6~~ AC ±

### Reason for Request:

Applicant is requesting Residential Zoning in order to allow approval of two (2) flag lots. Surrounding area is rural residential and industrial development would be incompatible. Requesting verification that Flag lots can be approved; then rezoning and Comp Plan amendment; followed by formal application and approval of the two proposed flag lots.



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.

William Elliott  
Signature of Property Owner or  
Authorized Representative

5-7-21  
Date

State of Florida  
County of Brevard

Subscribed and sworn before me, by X physical presence or \_\_\_\_\_ online notarization,  
this 7th day of May, 20 21, personally appeared  
William Elliott, who is personally known to me or produced  
William Elliott as identification, and who did / did not take an oath.

Angela R. O'Brien  
Notary Public Signature

Seal



ANGELA R. O'BRIEN  
Commission # GG 963501  
Expires March 25, 2024  
Bonded Thru Budget Notary Services

Office Use Only:

Accela No. 212 10020 Fee: \$269.00 Date Filed: 5-10-21 District No. 2

Tax Account No. (list all that apply) 232395, 2316601

Parcel I.D. No.

| Twp       | Rng       | Sec       | Sub       | Block | Lot/Parcel |
|-----------|-----------|-----------|-----------|-------|------------|
| <u>23</u> | <u>36</u> | <u>24</u> | <u>00</u> |       | <u>286</u> |
| <u>23</u> | <u>36</u> | <u>20</u> | <u>00</u> |       | <u>251</u> |

Planner: PB Sign Issued by: code enforcement Notification Radius: 500

MEETINGS

DATE

TIME

☐

P&Z

☐

PSJ Board

☒

NMI Board

☒

LPA

☐

BOA

☒

BCC

August 12, 2021

6:00 p.m.

August 23, 2021

3:00 p.m.

September 2, 2021

5:00 p.m.

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

North Merritt Island

Location of subject property:

South side of Dalbora Rd. 1,270ft.  
East of N. Courtenay Pkwy.

Description of Request:

Rezone From PIP to RR-1

## 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:

joe@bmeg.net or ( ) or U.S. Mail \_\_\_\_\_  
email address fax number

Yes/No

I have received a copy of this notice:

[Signature]  
(APPLICANT SIGNATURE)



DESCRIPTION:

FLAG 1 PARCEL:

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 23 SOUTH, RANGE 36 EAST AND BEING A PORTION OF LANDS AS DESCRIBED IN OR BOOK 5970 PAGE 43 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTH-EAST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 24; THENCE SOUTH 89°27'21" WEST ALONG THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24 A DISTANCE OF 25.00 FEET TO THE POINT-OF-BEGINNING; THENCE SOUTH 00°19'16" EAST PARALLEL WITH AND 25.00 FEET WEST OF SAID EAST LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 A DISTANCE OF 724.35 FEET; THENCE SOUTH 60°00'00" WEST A DISTANCE OF 183.55 FEET TO A POINT ON THE EAST LINE OF LANDS AS DESCRIBED IN OR BOOK 4867 PAGE 1934 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE ALONG THE EAST LINE OF SAID LANDS THE FOLLOWING SEVENTEEN (17) COURSES NORTH 60°39'22" WEST A DISTANCE OF 96.42 FEET; THENCE NORTH 89°46'54" WEST A DISTANCE OF 285.42 FEET; THENCE NORTH 00°26'40" EAST A DISTANCE OF 85.10 FEET; THENCE NORTH 59°24'07" EAST A DISTANCE OF 95.54 FEET; THENCE NORTH 89°26'55" EAST A DISTANCE OF 225.27 FEET; THENCE NORTH 22°02'07" WEST A DISTANCE OF 140.87 FEET; THENCE NORTH 89°48'50" WEST A DISTANCE OF 81.85 FEET; THENCE SOUTH 50°27'07" WEST A DISTANCE OF 20.90 FEET; THENCE SOUTH 89°09'21" WEST A DISTANCE OF 39.01 FEET; THENCE SOUTH 78°22'17" WEST A DISTANCE OF 46.28 FEET; THENCE NORTH 58°15'40" WEST A DISTANCE OF 73.90 FEET; THENCE NORTH 57°23'31" WEST A DISTANCE OF 56.23 FEET; THENCE NORTH 29°48'40" WEST A DISTANCE OF 41.08 FEET; THENCE NORTH 58°44'39" WEST A DISTANCE OF 67.09 FEET; THENCE NORTH 29°44'37" WEST A DISTANCE OF 27.57 FEET; THENCE NORTH 34°06'28" EAST A DISTANCE OF 32.86 FEET; THENCE NORTH 63°06'09" EAST A DISTANCE OF 49.44 FEET; THENCE SOUTH 00°19'16" WEST A DISTANCE OF 88.23 FEET; THENCE NORTH 89°27'21" EAST A DISTANCE OF 50.00 FEET TO THE POINT-OF-BEGINNING.

CONTAINING 4.34 ACRES MORE OR LESS AND BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAYS OF RECORD.

FLAG 2 PARCEL:

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 23 SOUTH, RANGE 36 EAST AND BEING A PORTION OF LANDS AS DESCRIBED IN OR BOOK 5970 PAGE 43 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 24; THENCE SOUTH 00°19'16" WEST ALONG THE EAST LINE OF SAID NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24 A DISTANCE OF 1322.56 FEET; THENCE SOUTH 89°30'45" WEST ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24 A DISTANCE OF 354.42 FEET; THENCE NORTH 00°24'15" WEST A DISTANCE OF 34.98 FEET TO A POINT ON THE SOUTH LINE OF LANDS AS DESCRIBED IN OR BOOK 4867 PAGE 1934; THENCE ALONG THE SOUTHERLY AND EASTERLY LINES OF SAID LANDS THE FOLLOWING SEVEN (7) COURSES; THENCE NORTH 40°41'31" EAST A DISTANCE OF 111.80 FEET; THENCE NORTH 00°36'34" WEST A DISTANCE OF 74.85 FEET; THENCE NORTH 43°05'41" EAST A DISTANCE OF 51.78 FEET; THENCE NORTH 06°15'42" EAST A DISTANCE OF 58.96 FEET; THENCE NORTH 05°16'50" WEST A DISTANCE OF 72.36 FEET; THENCE NORTH 18°00'28" EAST A DISTANCE OF 97.56 FEET; THENCE NORTH 02°47'58" EAST A DISTANCE OF 109.35 FEET; THENCE NORTH 60°39'22" WEST A DISTANCE OF 96.42 FEET; THENCE NORTH 89°46'54" WEST A DISTANCE OF 285.42 FEET; THENCE NORTH 00°26'40" EAST A DISTANCE OF 85.10 FEET; THENCE NORTH 59°24'07" EAST A DISTANCE OF 95.54 FEET; THENCE NORTH 89°26'55" EAST A DISTANCE OF 225.27 FEET; THENCE NORTH 22°02'07" WEST A DISTANCE OF 140.87 FEET; THENCE NORTH 89°48'50" WEST A DISTANCE OF 81.85 FEET; THENCE SOUTH 50°27'07" WEST A DISTANCE OF 20.90 FEET; THENCE SOUTH 89°09'21" WEST A DISTANCE OF 39.01 FEET; THENCE SOUTH 78°22'17" WEST A DISTANCE OF 46.28 FEET; THENCE NORTH 58°15'40" WEST A DISTANCE OF 73.90 FEET; THENCE NORTH 57°23'31" WEST A DISTANCE OF 56.23 FEET; THENCE NORTH 29°48'40" WEST A DISTANCE OF 41.08 FEET; THENCE NORTH 58°44'39" WEST A DISTANCE OF 67.09 FEET; THENCE NORTH 34°06'28" EAST A DISTANCE OF 32.86 FEET; THENCE NORTH 63°06'09" EAST A DISTANCE OF 49.44 FEET; THENCE SOUTH 00°19'16" WEST A DISTANCE OF 88.23 FEET; THENCE NORTH 89°27'21" EAST A DISTANCE OF 50.00 FEET TO THE POINT-OF-BEGINNING.

CONTAINING 3.91 ACRES MORE OR LESS AND BEING SUBJECT TO ANY EASEMENTS AND/OR RIGHTS-OF-WAYS OF RECORD.

NOTES:

- BEARING STRUCTURE AS SHOWN HEREON IS BASED ON THE NORTH LINE OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 23 SOUTH, RANGE 36 EAST OF BREVARD COUNTY, FLORIDA, BEING 89°27'21" WEST, AN ASSUMED BEARING.
- DATE OF FIELD SURVEY: JUNE 26, 2017; RE-CERTIFIED 5/11/2021.
- THIS SURVEY DOES NOT WARRANT TITLE.
- TITLE INFORMATION NOT FURNISHED; PARCEL IS SUBJECT TO RESTRICTIONS, COVENANTS, EASEMENTS, AND/OR RIGHTS-OF-WAY OF RECORD, IF ANY.
- UNDERGROUND IMPROVEMENTS (SEPTIC TANKS, FOUNDATIONS, DRAINFIELDS, ETC.), IF ANY, WERE NOT LOCATED.
- SUBJECT PARCEL LIES IN ZONE "X" (AREAS OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN), ZONE "X" (SHADED)-AREAS OF 0.2% ANNUAL CHANCE FLOODPLAIN AND ZONE AE ELEVATION 3.0) AS DETERMINED FROM FLOOD INSURANCE RATE MAP 12009C0327H, MAP DATED 1/29/2021 AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- THE COORDINATES SHOWN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM OF FLORIDA EAST ZONE, NORTH AMERICAN DATUM OF 1983 AS ADJUSTED IN 2009 (NAD 83/09). ALL DISTANCES DEPICTED HEREON ARE GROUND DISTANCES.
- THE FOLLOWING HORIZONTAL CONTROL STATIONS WERE USED TO ESTABLISH THE STATE PLANE COORDINATES SHOWN HEREON:  
  
STATION NAME: BREVARD GPS 1037 (PID); AK7499  
NORTHINGS: 1,505,753.02; EASTINGS: 752,439.59  
LATITUDE: 28°28'32.30309"(N); LONGITUDE: 80°42'01.18663"(W)  
COMBINED SCALE FACTOR: 0.99995180 CONVERGENCE: 0°08'34.4"
  
STATION NAME: CIGAR (PID); AK2131  
NORTHINGS: 1,501,667.42; EASTINGS: 767,344.87  
LATITUDE: 28°27'51.45401"(N); LONGITUDE: 80°39'14.29548"(W)  
COMBINED SCALE FACTOR: 0.99995534 CONVERGENCE: 0°09'53.7"  
STATION NAME: COURTNEY (PID); AK2148  
NORTHINGS: 1,504,805.90; EASTINGS: 749,819.27  
LATITUDE: 28°28'22.98916"(N); LONGITUDE: 80°42'30.57477"(W)  
COMBINED SCALE FACTOR: 0.99995123 CONVERGENCE: 0°08'20.3"  
9. I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AS PERFORMED UNDER MY DIRECTION AND SUPERVISION, AND THAT IT MEETS OR EXCEEDS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 53-17.05 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. SEE TITLE BLOCK FOR SIGNATURE AND SEAL.- THIS SURVEY WAS PREPARED FOR THE EXCLUSIVE USE OF THE PARTIES LISTED BELOW AND COPIES ARE VALID ONLY WHEN BEARING THE SURVEYOR'S ORIGINAL SIGNATURE AND SEAL OR VERIFIED ELECTRONIC SIGNATURE AND SEAL.
- CERTIFIED FOR THE EXCLUSIVE USE OF:  
BILL ELLIOTT

LEGEND:

|           |                                      |               |   |
|-----------|--------------------------------------|---------------|---|
| B-MEG     | BUSSEN-WAYER ENGINEERING GROUP, INC. | CCR           | CERTIFIED CORNER RECORD                 |
| DOT       | DEPARTMENT OF TRANSPORTATION         | CONC.         | CONCRETE                                |
| C.M.      | CONCRETE MONUMENT                    | AKA           | ALSO KNOWN AS                           |
| FND.      | FOUND                                | R/W           | RIGHT-OF-WAY                            |
| REC.      | RECOVERED                            | W/            | WITH                                    |
| D.B.      | DEED BOOK                            | F.F. EL.      | FINISH FLOOR ELEVATION                  |
| O.R.B.    | OFFICIAL RECORDS BOOK                | EL.           | ELEVATION                               |
| P.C.      | PAGE                                 | F.P. & L. CO. | FLORIDA POWER AND LIGHT COMPANY         |
| ESW.T.    | EASEMENT                             | (P)           | BEARING/DISTANCE BASED ON PLAT GEOMETRY |
| RB/C      | RE-BAR WITH SURVEYOR'S CAP           | (M)           | BEARING/DISTANCE PER SURVEY             |
| P.K. NAIL | PARKER-KAYLON NAIL/WASHER            | (TYP)         | TYPICAL                                 |

Digitally signed by Joseph Barry Cabaniss  
Date: 2021.07.08 17:05:57 -04'00'

A FLAG LOT SURVEY PREPARED FOR:  
BILL ELLIOTT  
Brevard County

Date : JUNE 26, 2017  
Scale : 1" = 100'  
Proj. No.: 298505  
Sheet No. 1 of 1



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.3.

8/12/2021

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### **Subject:**

Joseph A. Calderone requests change of zoning classification from TR-3 (21Z00021) (Tax Account 2315419) (District 2)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the North Merritt Island Dependent Special District Board conduct a public hearing to consider a change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home).

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

The applicant is seeking a change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home) for the purpose of placing a home on the property. The proposed TR-1-A classification permits both site-built and mobile or manufactured single-family residential homes.

The subject lot was a part of the adjacent mobile home park prior to March 1969, when it was recorded as a separate lot. This resulting lot does not meet the minimum lot size of 10 acres in TR-3, a classification intended for mobile home parks. The proposed TR-1-A zoning classification requires a minimum lot size of 5,000 square feet, with a minimum lot width of 50 feet and depth of 100 feet.

On July 21, 2021, the Board of Adjustment unanimously approved a request by the applicant for a variance of 28 feet from the 100 feet of lot depth required for TR-1-A zoning.

The overall character of the surrounding area is mobile home development, with TR-1 and TR-3 zoning classifications. Should this rezoning request be granted, this would be an introduction of TR-1-A to the area.

The parcels are not serviced by Brevard County sewer. The closest available Brevard County sewer line is approximately 2.4 miles southwest of the parcel. The parcel can be serviced by City of Cocoa water. If sewer is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

The subject parcel is located north of Hall Road in North Merritt Island and may be subject to Section 62-3724 (4) of the floodplain ordinance should it be determined that any area of the parcel is within the floodplain.

The Board may wish to consider whether the request for TR-1-A is consistent and compatible with the surrounding area.

The Planning and Zoning Board will hear the request on **Monday, August 23, 2021**, at **3:00 p.m.** at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

The Brevard County Board of County Commissioners will hear the request on **Thursday, September 2, 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

**21Z00021**

**Joseph A. Calderone**

### **TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home)**

Tax Account Number: 2315419  
Parcel I.D.: 23-36-14-00-517  
Location: Northeast corner of Whaley Road and Mangrove Drive (District 2)  
Acreage: 0.14 acres

North Merritt Island Board: 08/12/2021  
Planning & Zoning Board: 08/23/2021  
Board of County Commissioners: 09/02/2021

### Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposed zoning cannot 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>  | TR-3    | TR-1-A                 |
| <b>Potential*</b>                                      | 0 units | One single-family unit |
| <b>Can be Considered under the Future Land Use Map</b> | No      | Yes, RES 1**           |

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

\*\*Nonconforming lots of record are allowed to use a zoning classification consistent with lot dimensions even if inconsistent with the FLU designation per Sec. 62-1188(7).

### Background and Purpose of Request

The applicant is seeking a change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home) for the purpose of placing a home on the property.

The subject parcel was determined to be a nonconforming lot of record. The lot received verification of nonconforming status on July 1, 2021, as part of zoning action **21AA00043**. The lot was recorded in Official Records Book 1068, Page 456 in March 1969 excluding Official Records Book 1329, Page 901 recorded in April 1973, prior to the existence of the County's Comprehensive Plan in 1988. The subject lot is 5,971 square feet in size.



Section 62-1188(7) of the code allows nonconforming lots of record to use a zoning classification consistent with the lot dimensions even if inconsistent with the FLU designation.

The subject lot was a part of the adjacent mobile home park prior to March 1969, when it was recorded as a separate lot. This resulting lot does not meet the minimum lot size of 10 acres in TR-3, a classification intended for mobile home parks. The proposed TR-1-A zoning classification requires a minimum lot size of 5,000 square feet.

The owner of the lot has also requested a variance of 28 feet to the 100 feet of lot depth required in TR-1-A (**21PZ00034**). This request is scheduled to be heard by the Board of Adjustment (BOA) on July 21, 2021, and must be approved in order for the rezoning request to be heard.

The original zoning of the property was Agricultural Use, the predecessor to Agriculture Residential (AU) zoning. The property was rezoned to Trailer Park & Trailer Subdivision zoning, the predecessor to TR-3 zoning, on February 24, 1964 as part of zoning action **Z-1303**.

## **Land Use**

The subject property is currently designated as RES 1 (Residential 1). The proposed TR-1-A zoning classification can be considered with RES 1 FLU as the lot is a nonconforming lot of record per zoning action **21AA00043**.

## **Applicable Future Land Use Policies**

**FLUE Policy 1.9** – The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

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.**

The subject parcel retains a FLU designation of RES 1, which is consistent with other parcels in the area. The abutting parcels to the north, east, and south have a FLU designation of RES 1. Bordering the subject parcel on the west is a road (Whaley Road), the other side of which contains parcels with RES 1 FLU.

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

The parcel to the east and south is occupied by the Colony Park Mobile Home Village, a 27.24-acre mobile home park zoned TR-3 that is nonconforming in regards to its FLU designation of RES 1 (**NMH-17**). The parcel to the north and the parcels across Whaley Road to the west also contain manufactured homes.

Apart from the adjacent mobile home park zoned TR-3, the developed character of the area along Whaley Road consists primarily of parcels zoned TR-1 developed with single-family residential homes. The applicant is seeking TR-1-A zoning instead of TR-1 due to the minimum lot size requirement in TR-1 being 7,500 square feet, which this lot does not meet.

The current TR-3 classification is intended for lands devoted for mobile home parks, with a minimum lot size of 10 acres.

The proposed TR-1-A classification permits both site-built and mobile or manufactured single-family residential land uses on lots of at least 5,000 square feet in size, with a minimum lot width of 50 feet and depth of 100 feet.

The TR-1 classification also permits both site-built and mobile or manufactured single-family residential land use, but requires a minimum lot size of 7,500 square feet with a minimum lot width of 65 feet and depth of 100 feet.

There have been no rezoning applications in the surrounding area in the past 5 years.

### **Surrounding Area**

The abutting parcel to the north is zoned TR-1 with a manufactured home. The abutting parcel to the east and south is zoned TR-3 and is developed as a mobile home park. The parcel to the west across Whaley Road is zoned TR-1 and developed with a manufactured home. Should this rezoning request be granted, this would be an introduction of TR-1-A to the surrounding area.

The subject property is located within the 2018 North Merritt Island Small Area Study (SAS) boundary.

### **Environmental Constraints**

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

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Land Clearing and Landscape Requirements
- Protected Species

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. If sewer is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

The subject parcel is located north of Hall Road in Merritt Island and may be subject to Section 62-3724(4) of the floodplain ordinance should it be determined that any area of the parcel is within the floodplain.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is N. Courtenay Parkway, between N. Tropical Trail and Space Commerce Way, which has a Maximum Acceptable Volume of 40,300 trips per day, a Level of Service (LOS) of D, and currently operates at 22.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to continue to operate at 22.31% 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. The closest available Brevard County sewer line is located approximately 2.4 miles southwest of the parcel. The parcel can be serviced by City of Cocoa water.

### **For Board Consideration**

The Board may wish to consider whether the request to TR-1-A is consistent and compatible with the surrounding area given the surrounding area consists of TR-1 zoning.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Rezoning Review & Summary**

**Item # 21Z00021**

**Applicant:** Joseph Calderone

**Zoning Request:** TR-3 to TR-1-A

**Note:** Applicant wants to conform a substandard lot.

**NMI Hearing Date:** 8/12/21; **P&Z Hearing Date:** 8/23/21; **BCC Hearing Date:** 9/2/21

**Tax ID Nos:** 2315419

- 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:**

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Land Clearing and Landscape Requirements
- Protected Species

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. If sewer is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

The subject parcel is located north of Hall Road in Merritt Island and may be subject to Section 62-3724(4) of the floodplain ordinance should it be determined that any area of the parcel is within the floodplain.

### **Land Use Comments:**

#### **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 sewer is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. If a septic system is required, the applicant shall contact the Florida Department of Environmental Health at 321-633-2100. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts at time of building permit.

#### **Floodplain**

If it is determined that any area of the parcel is within the floodplain, then per Section 62-3724(4) of the floodplain ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM at 321-633-2016 prior to any grading, filling or land alteration activities.

#### **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 is not permitted without prior authorization by NRM.

#### **Protected Species**

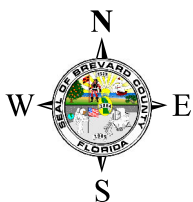
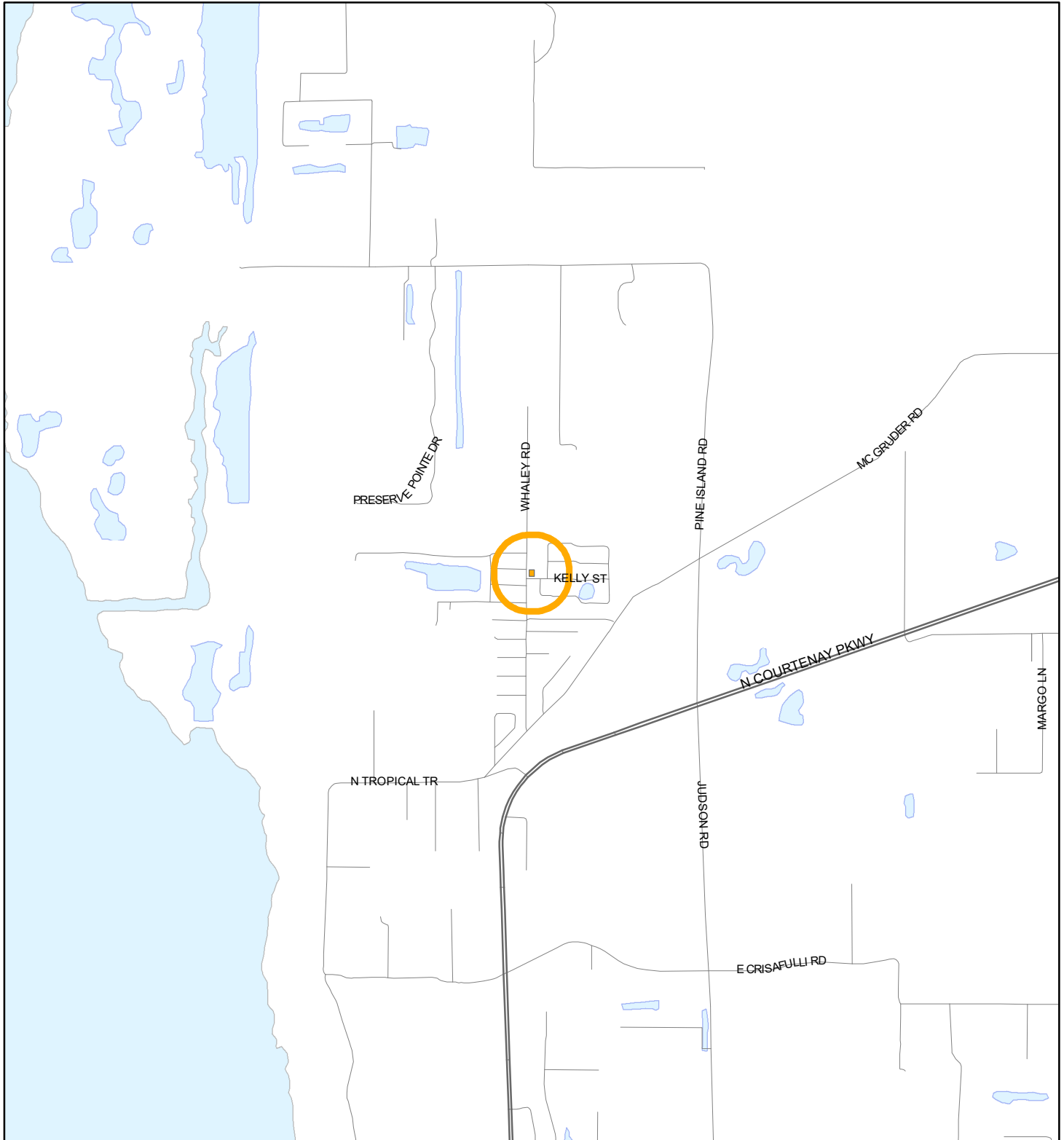
Information available to NRM indicates that federally and/or state protected species may be present on the property. A Scrub Jay Occupancy polygon is mapped across the street from the subject parcel.

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

CALDERONE, JOSEPH A.

21Z00021





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: 6/10/2021

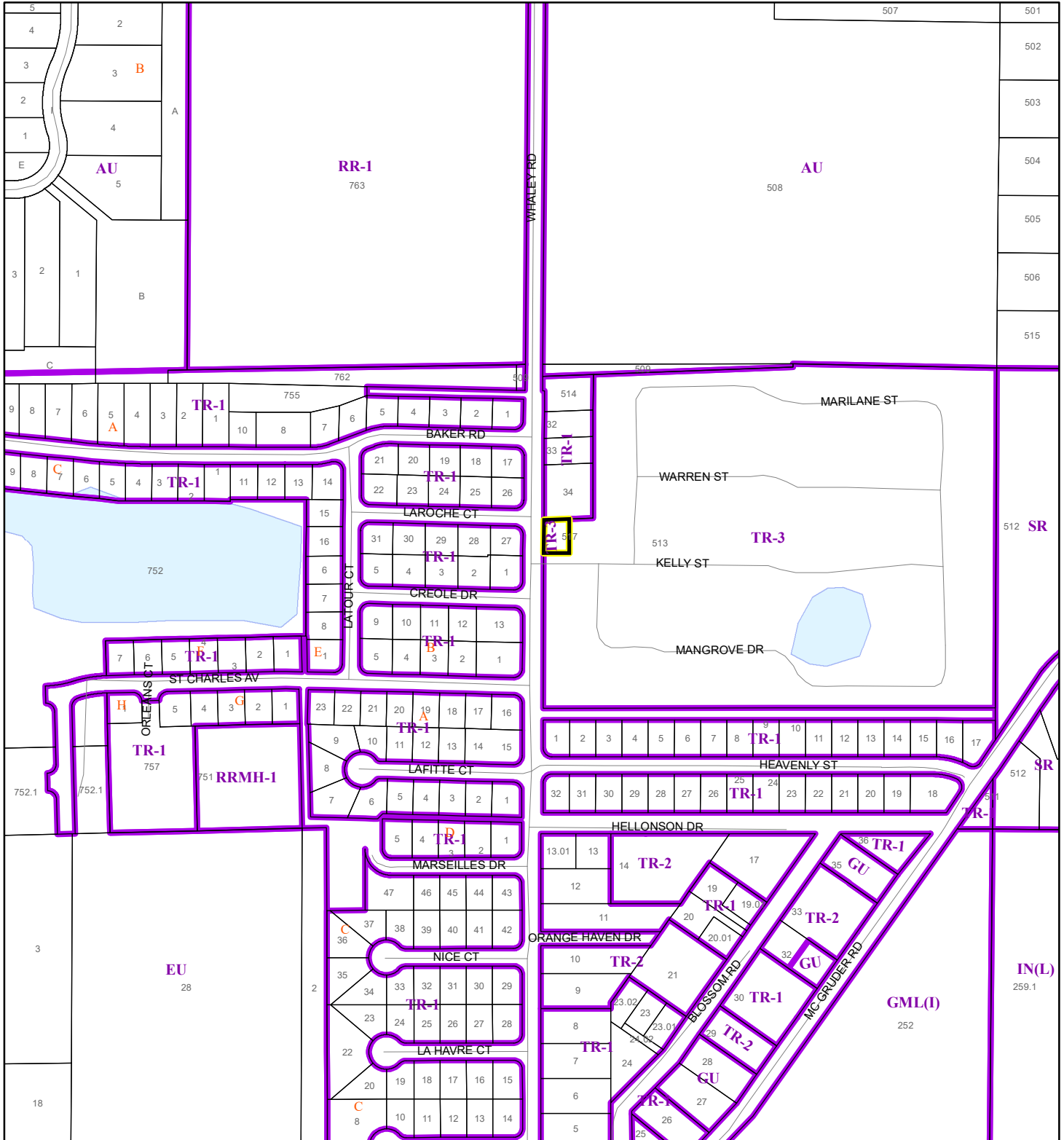
 Buffer  
 Subject Property



# ZONING MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

Subject Property

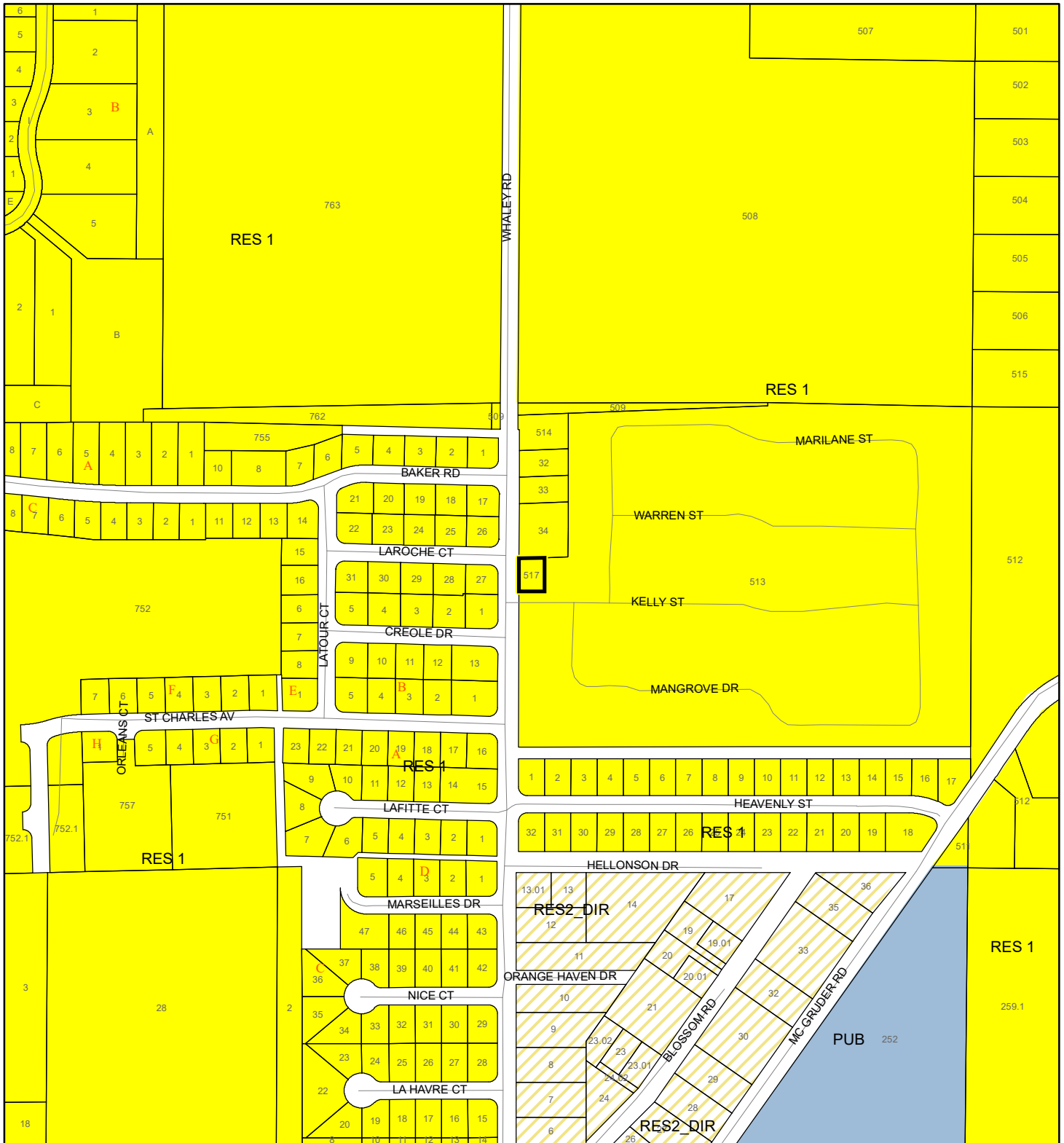
Parcels

Zoning

# FUTURE LAND USE MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

Subject Property  
 Parcels

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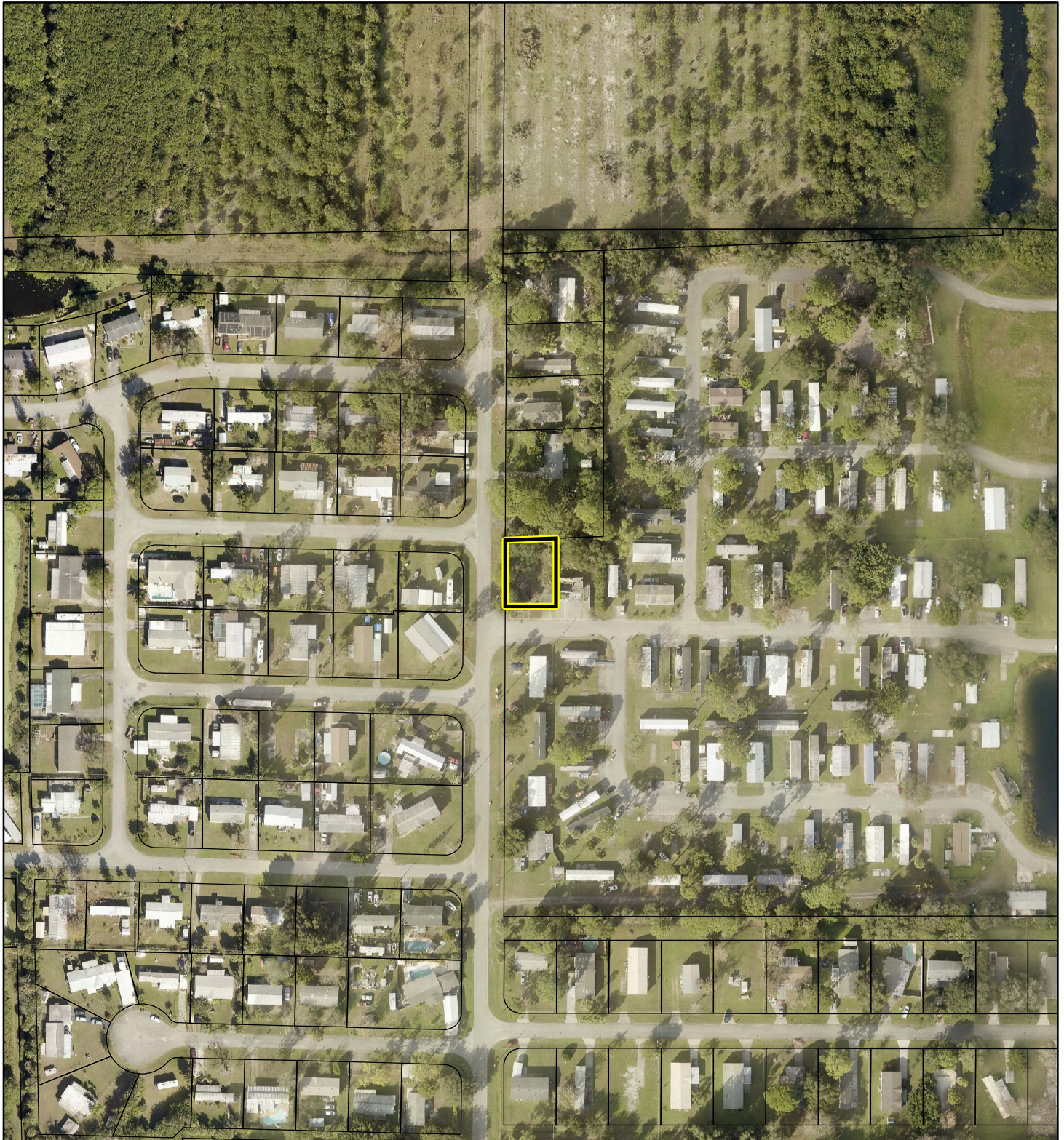
Produced by BoCC - GIS Date: 6/10/2021



# AERIAL MAP

CALDERONE, JOSEPH A.

21Z00021




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 6/10/2021

 Subject Property

 Parcels



# NWI WETLANDS MAP

CALDERONE, JOSEPH A.

21Z00021













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

## 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

CALDERONE, JOSEPH A.

21Z00021



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: 6/10/2021

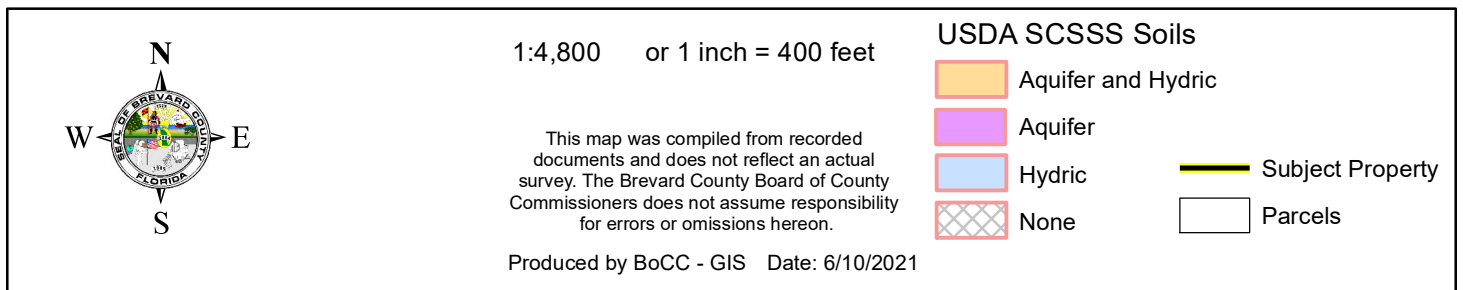
## SJRWMD FLUCCS WETLANDS

- 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

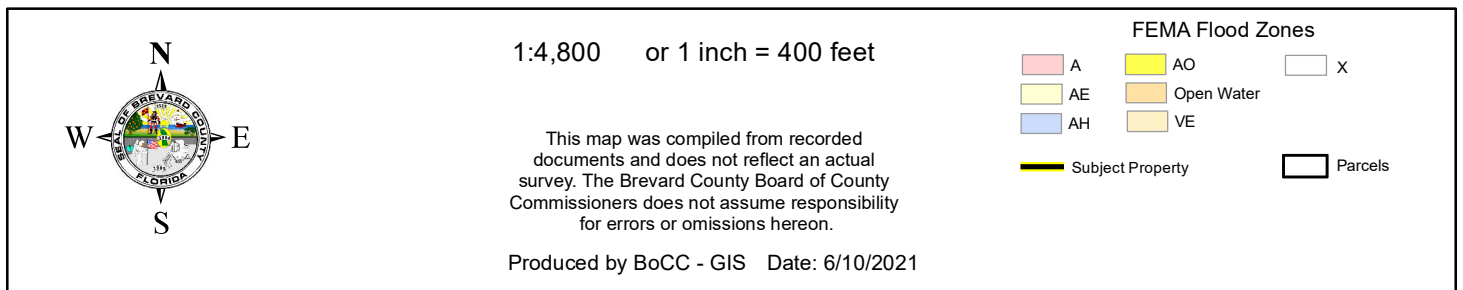
Subject Property

Parcels

## 21Z00021



21Z00021

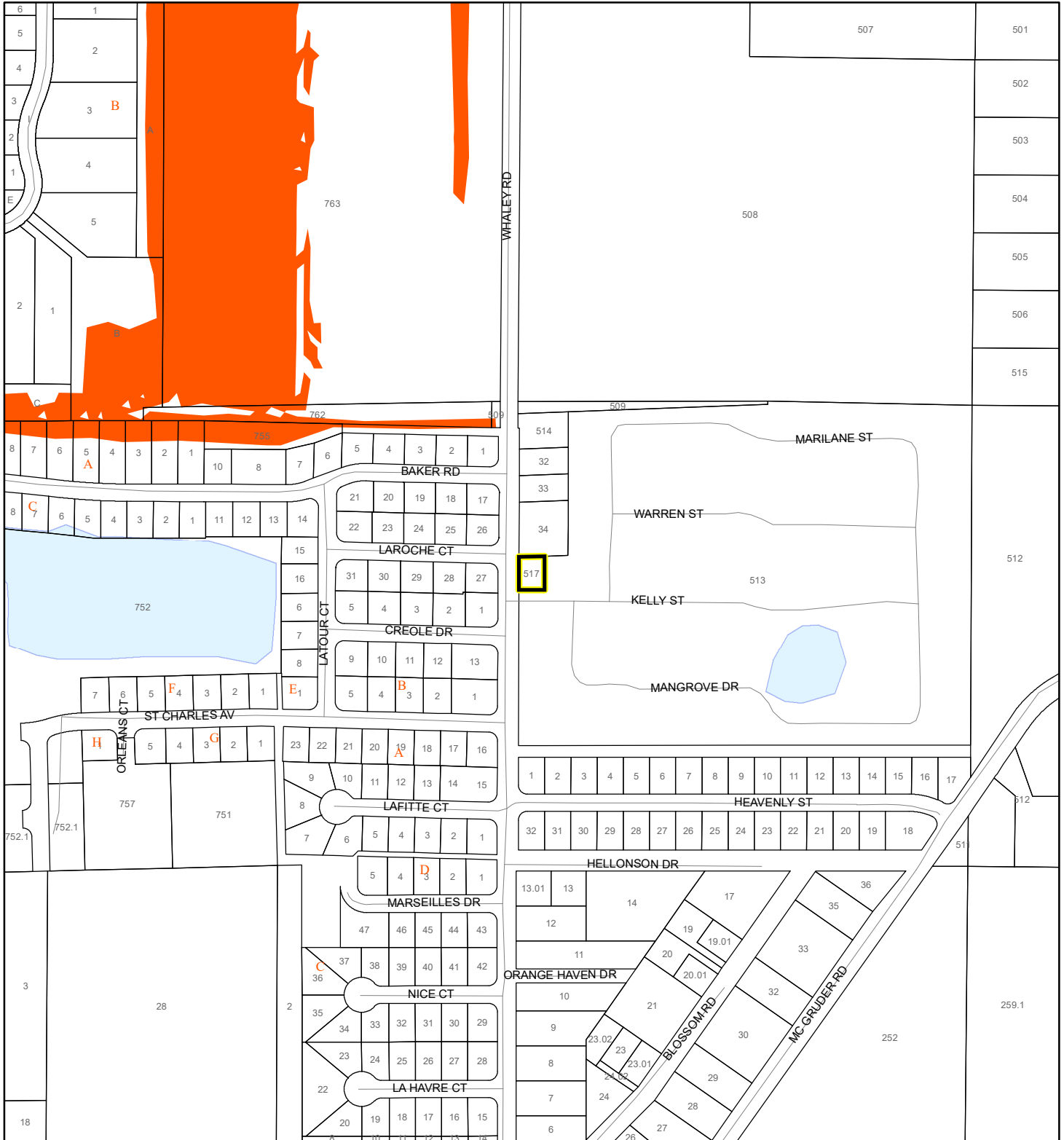




# COASTAL HIGH HAZARD AREA MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

Subject Property

Parcels

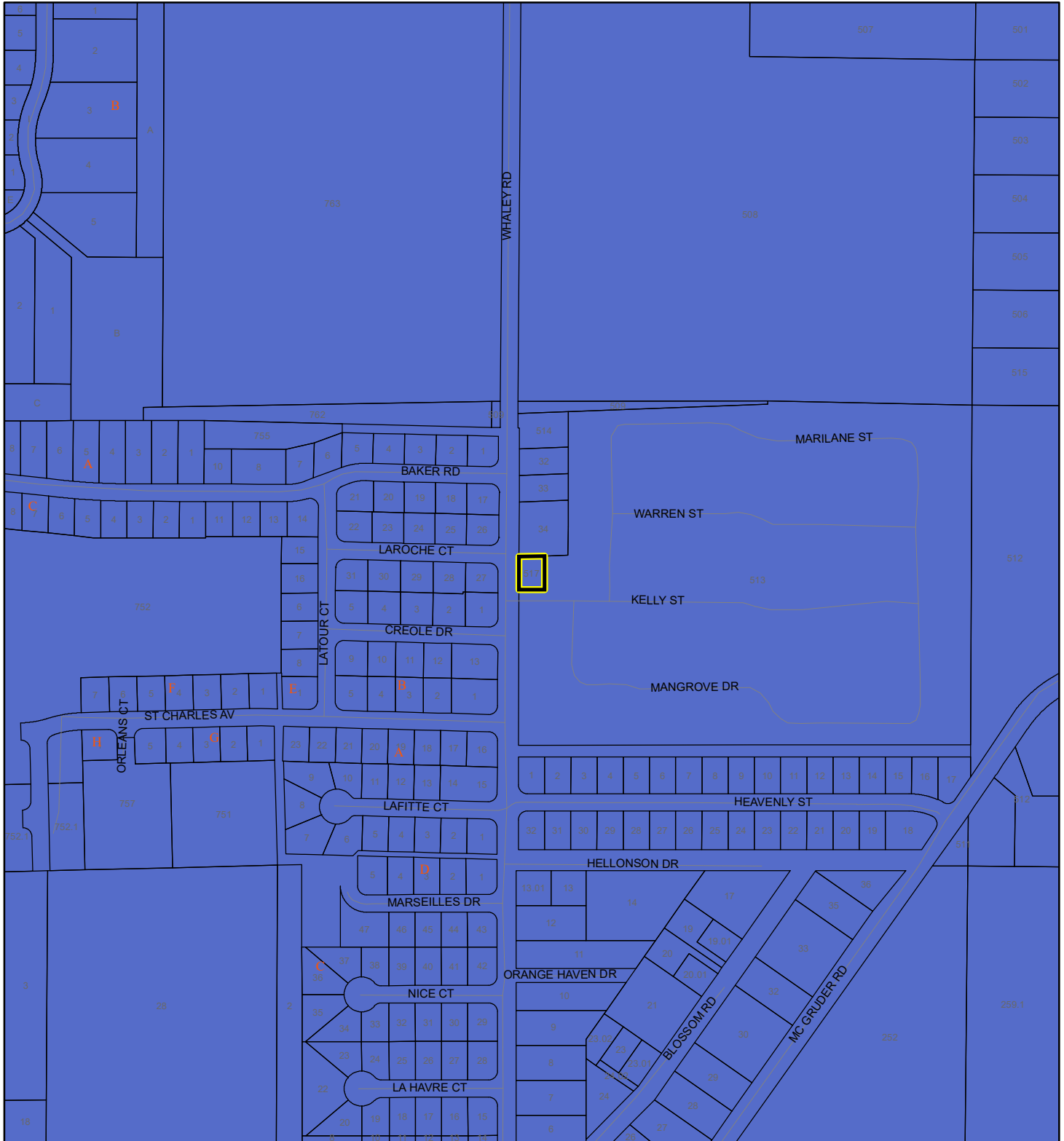
**Coastal High Hazard Area**

SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

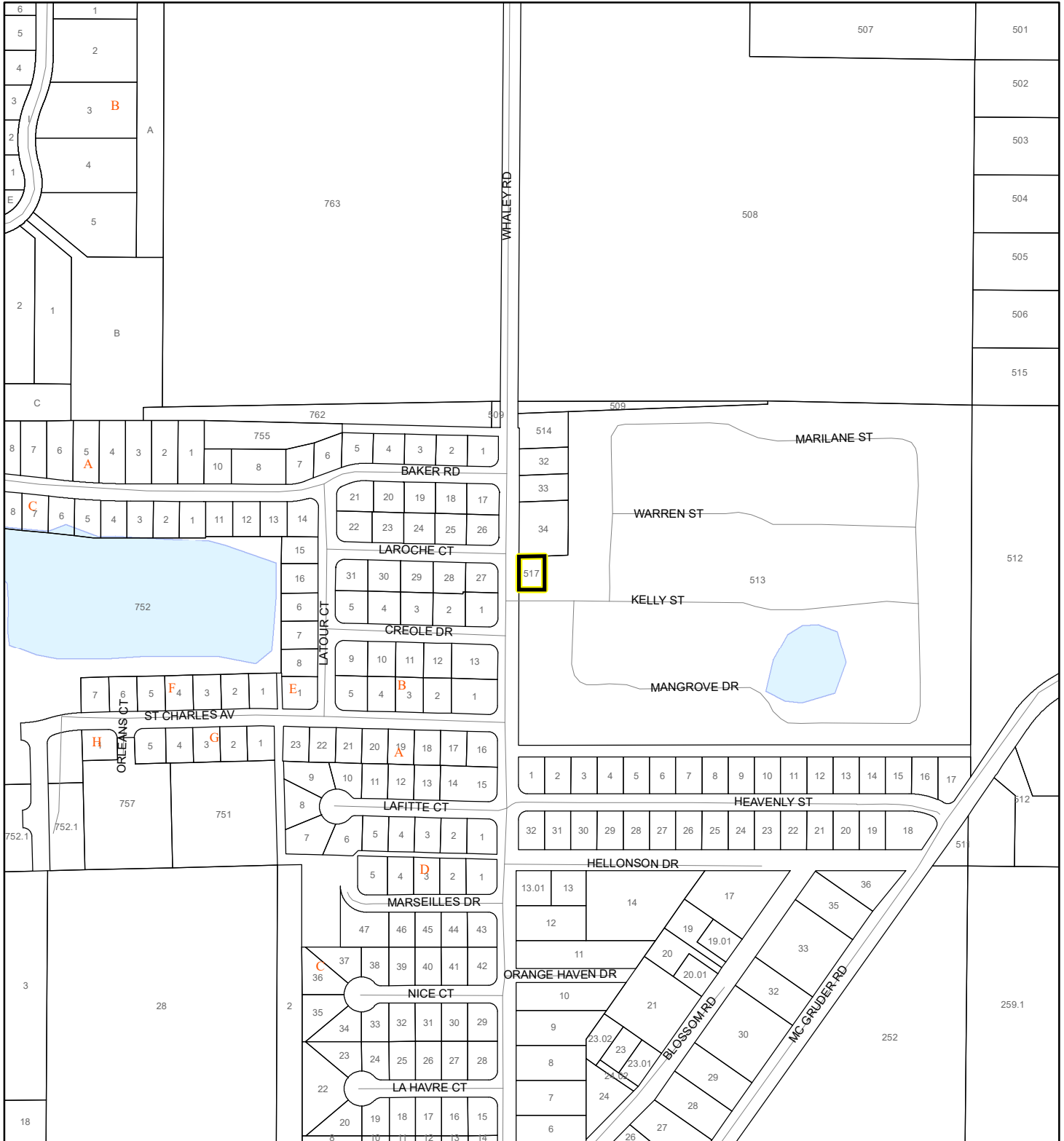
 60 Meters

 All Distances

# EAGLE NESTS MAP

CALDERONE, JOSEPH A.

21Z00021




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

 Subject Property

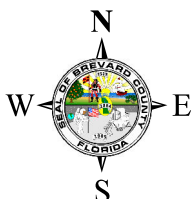
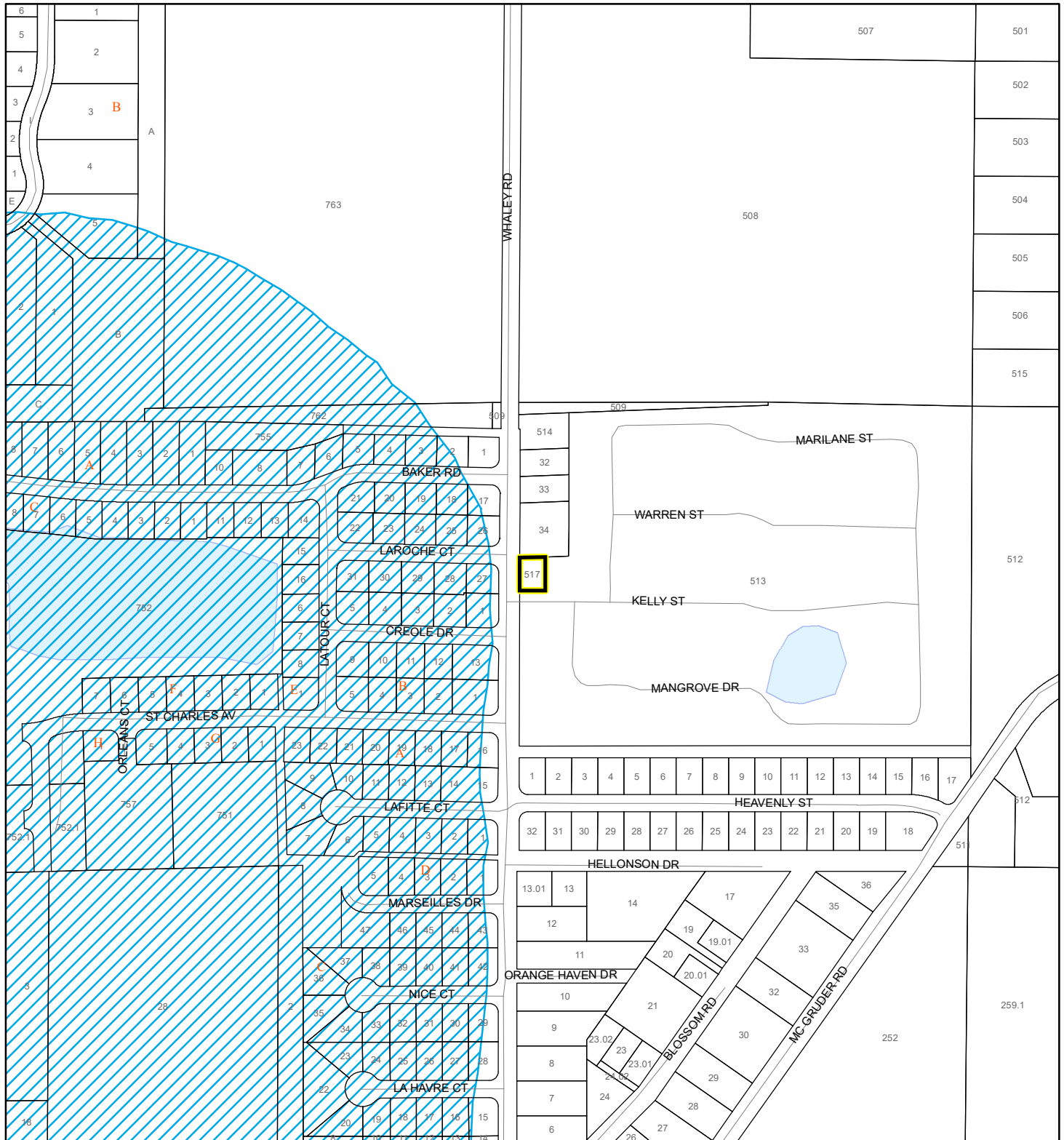
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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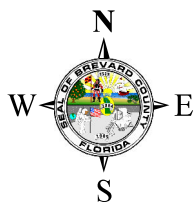
Produced by BoCC - GIS Date: 6/10/2021

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

## 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

Rezoning

Application Pages  
21Z00021  
Calderone

**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 # 21Z00021

Existing FLU: RES 1 Existing Zoning: TR-3

Proposed FLU: NA Proposed Zoning: TR-1-A

**PROPERTY OWNER INFORMATION**

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

JOSEPH A. CALDERONE  
Name(s) Company

637 Orange Ct Rockledge FL 32955  
Street City State Zip Code

jcalderonecher@gmail.com 321-544-2118  
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: 0.14 = 6,098  $\pm$

Reason for Request:

TR-3 to TR-1-A



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.

Joseph Calderone  
Signature of Property Owner or  
Authorized Representative

06/04/2021  
Date

State of Florida

County of Brevard

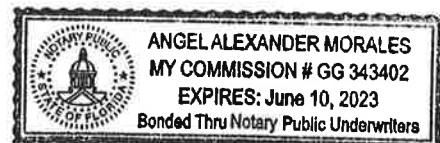
Subscribed and sworn before me, by X physical presence or \_\_\_\_\_ online notarization,  
this 4<sup>th</sup> day of, June, 20 21, personally appeared

Joseph Calderone, who is personally known to me or produced

FDL C4316-481-62-0020 as identification, and who did / did not take an oath.

Angel Morales  
Notary Public Signature

Seal



**Office Use Only:**

Accela No. 21200021 Fee: 588.00 Date Filed: 6/4/21 District No. 2

Tax Account No. (list all that apply) 2315419

Parcel I.D. No.

23 36 14 00 517  
Twp Rng Sec Sub Block Lot/Parcel

Planner: KH Sign Issued to: Code Notification Radius: 500ft  
Enforcement

**MEETINGS**

**DATE**

**TIME**

☐ P&Z

☐ PSJ Board

☒ NMI Board

☒ LPA

☐ BOA

☒ BCC

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8/12/21

6:00pm

8/23/21

3:00 p.m

\_\_\_\_\_

\_\_\_\_\_

9/2/21

5:00pm

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 North Merritt Island

Location of subject property:

Northeast corner of  
Whaley Road and Mangrove Drive

Description of Request:

TR-3 → TR-1-A

## 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:

jcalderone.cher@gmail.com ( ) or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes/No

I have received a copy of this notice:

  
(APPLICANT SIGNATURE)