



Planning and Zoning Board / Local Planning Agency
Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida
Agenda
Monday, August 23, 2021

Call To Order - 3:00 P.M.

Approval of Minutes - July 26, 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)
- H.4.** Comprehensive Plan text amendment to include a Property Rights Element as required by House Bill 59, requiring all local governments to create a Property Rights Element.

Public Comment

Adjournment

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

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

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



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

8/23/2021

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 Local Planning Agency 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 North Merritt Island Dependent Special District Board will hear the request on Thursday, August 12, 2021. Staff will update the LPA of the special district board's recommendation.

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.

Please note this application was received and deemed complete on May 10, 2021, which was before the July 2nd cutoff date of House Bill 59 (Chapter 2021-195). According to correspondence from DEO on August 5, 2021, applications initiated before July 2, 2021, may continue through the public hearing process.

Clerk to the Board Instructions:

None



Agenda Report

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Way
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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

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
North	Three (3) Single-Family residences	RR-1	RES 1
South	Vacant, undeveloped land	AU	RES 1
East	Two (2) Single-Family residences	RR-1 and AU	RES 1 and RES 1:2.5
West	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 ≥ 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

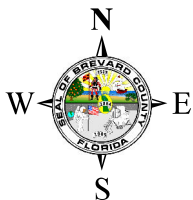
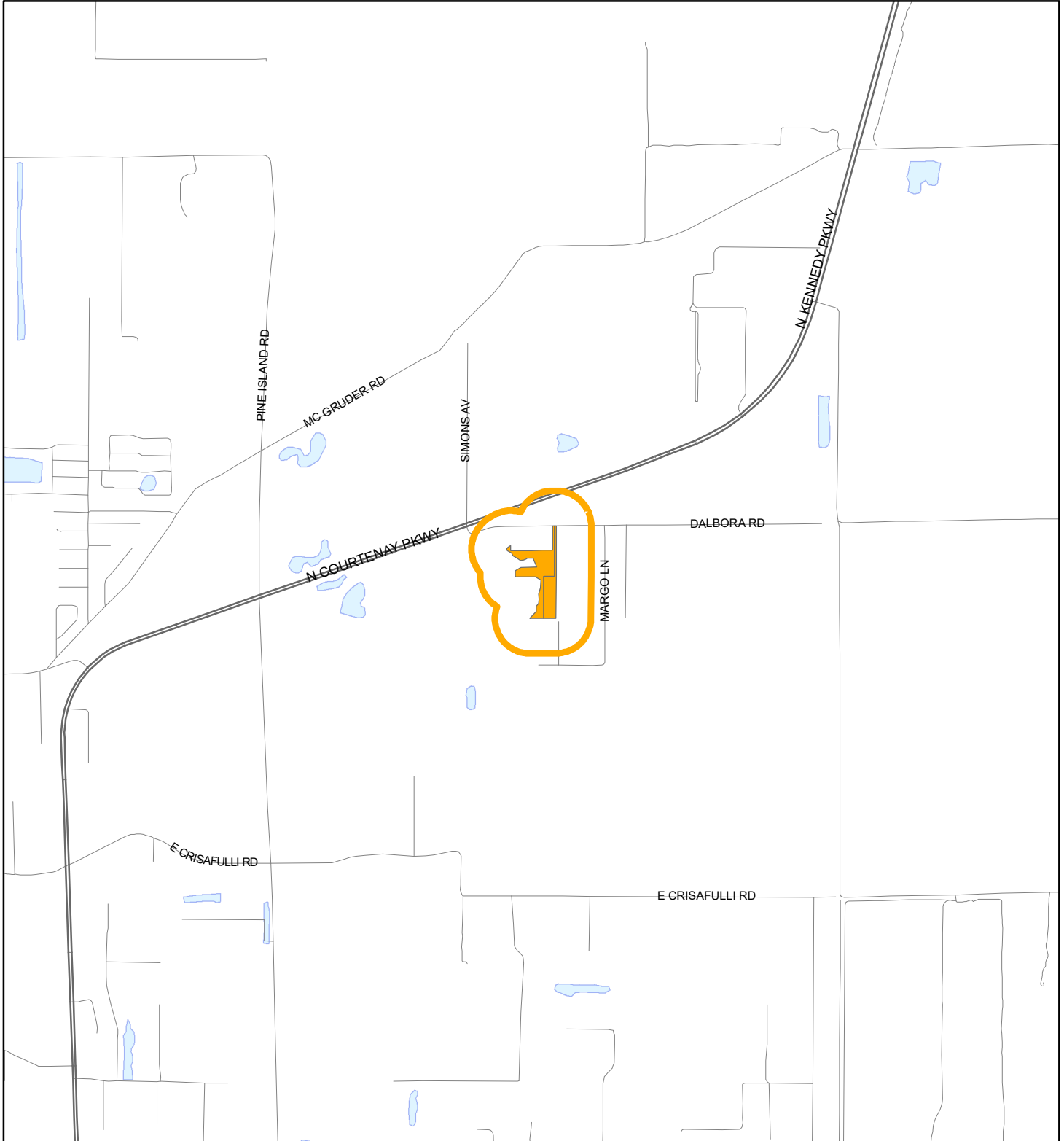
Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen 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

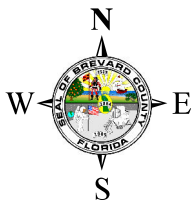
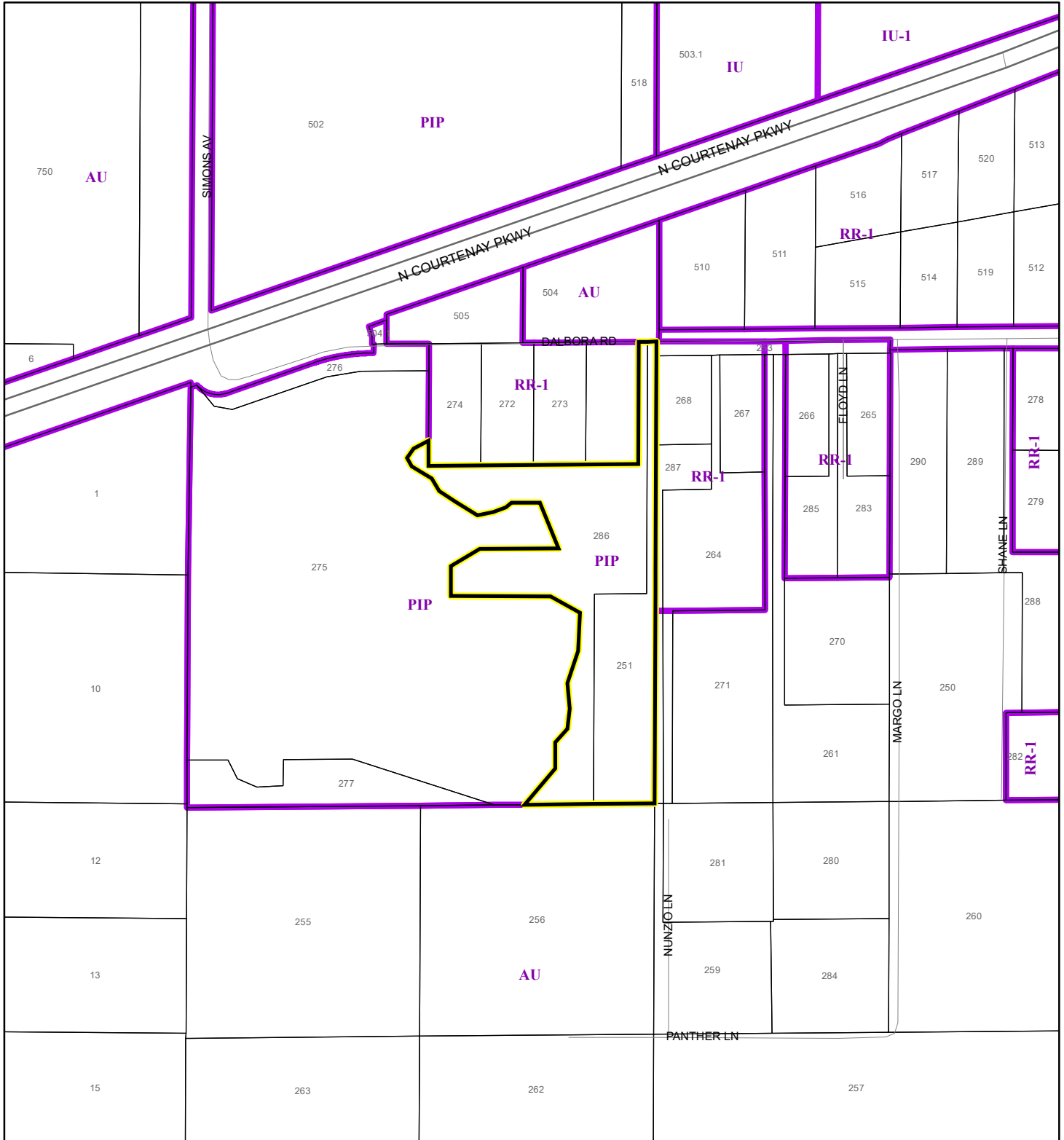
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

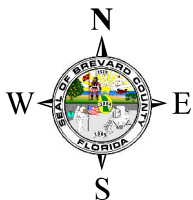
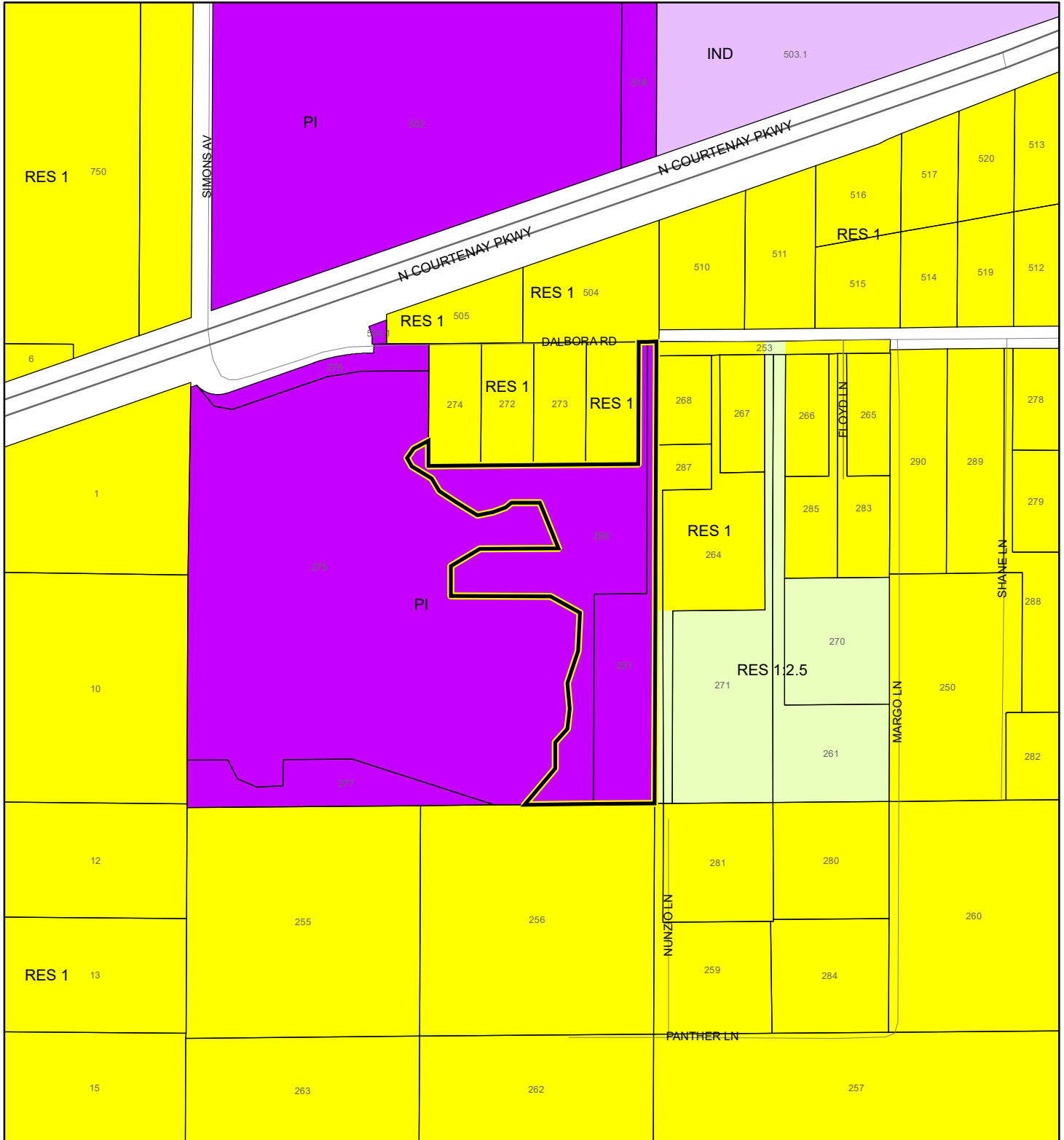
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Produced by BoCC - GIS Date: 5/26/2021



- 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

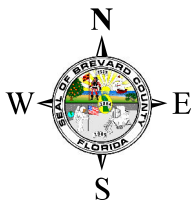
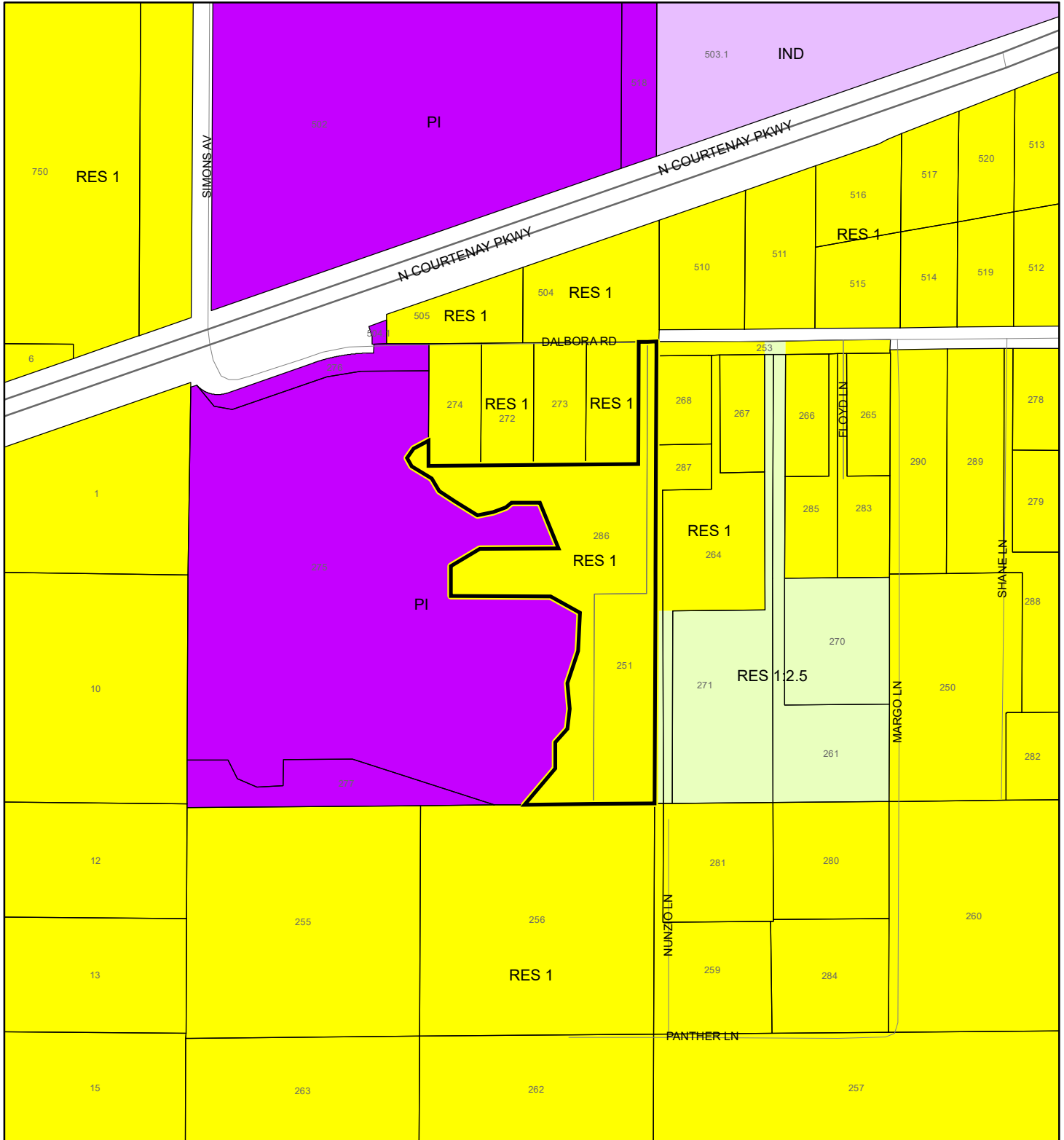
 Subject Property
 Parcels

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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

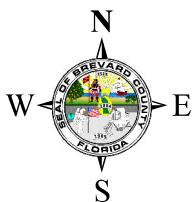
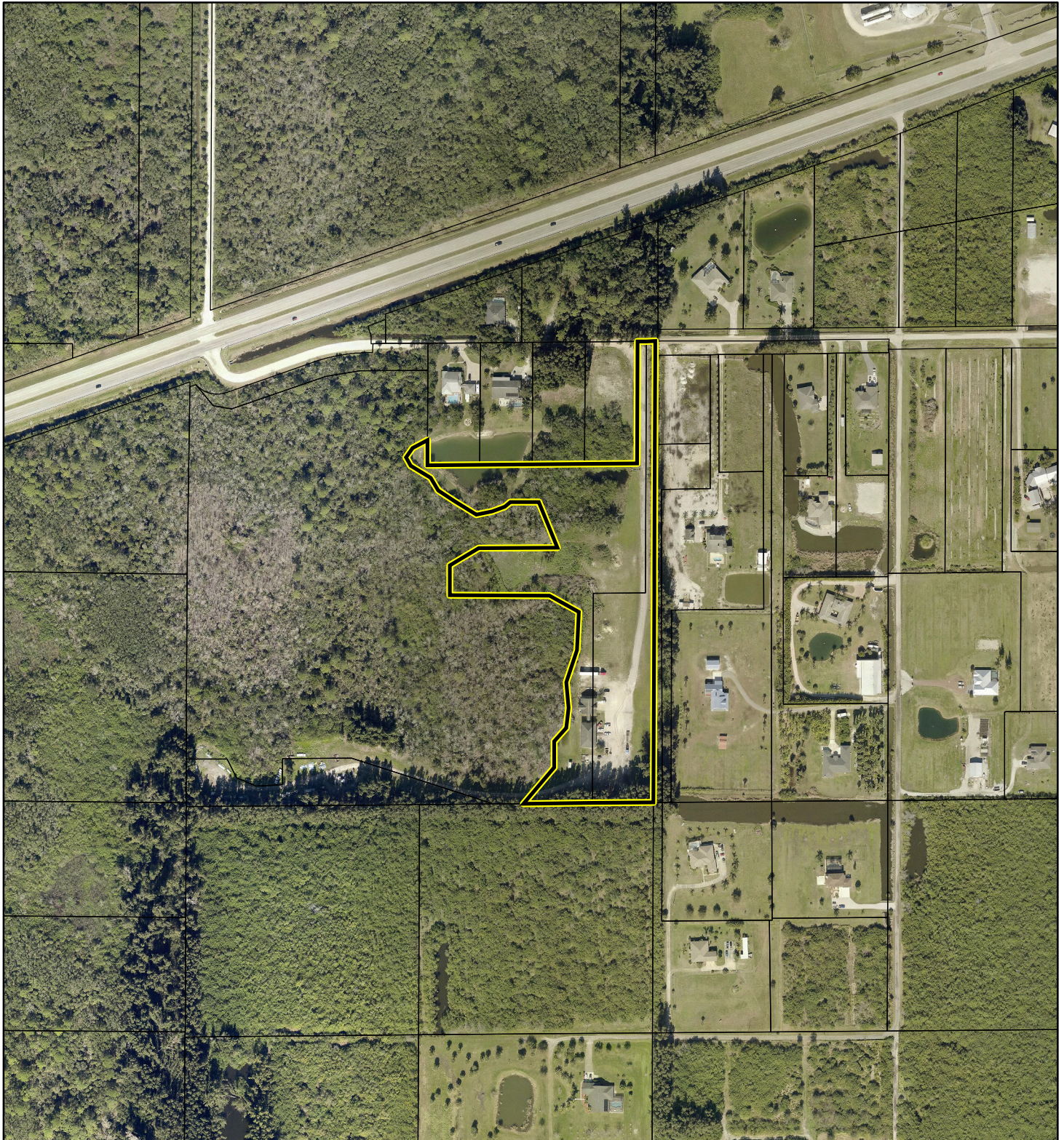
Subject Property
 Parcels

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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

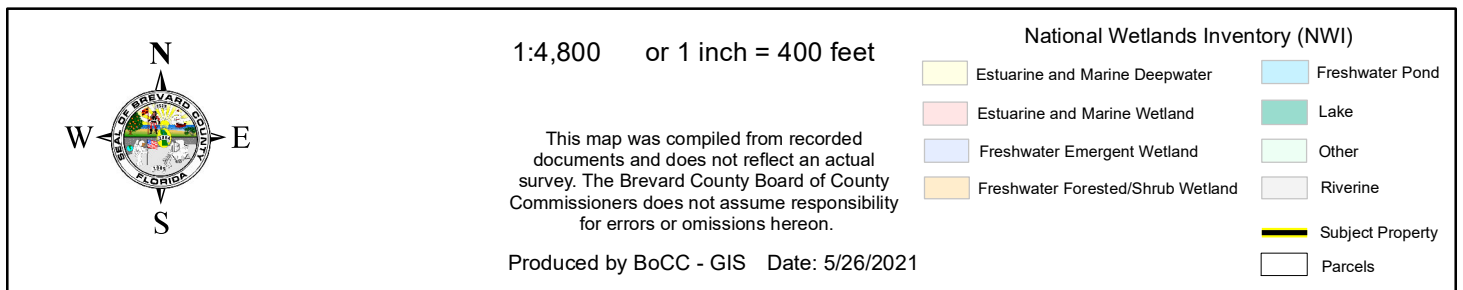
PHOTO YEAR: 2020

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

 Subject Property
 Parcels

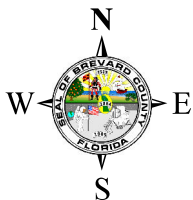
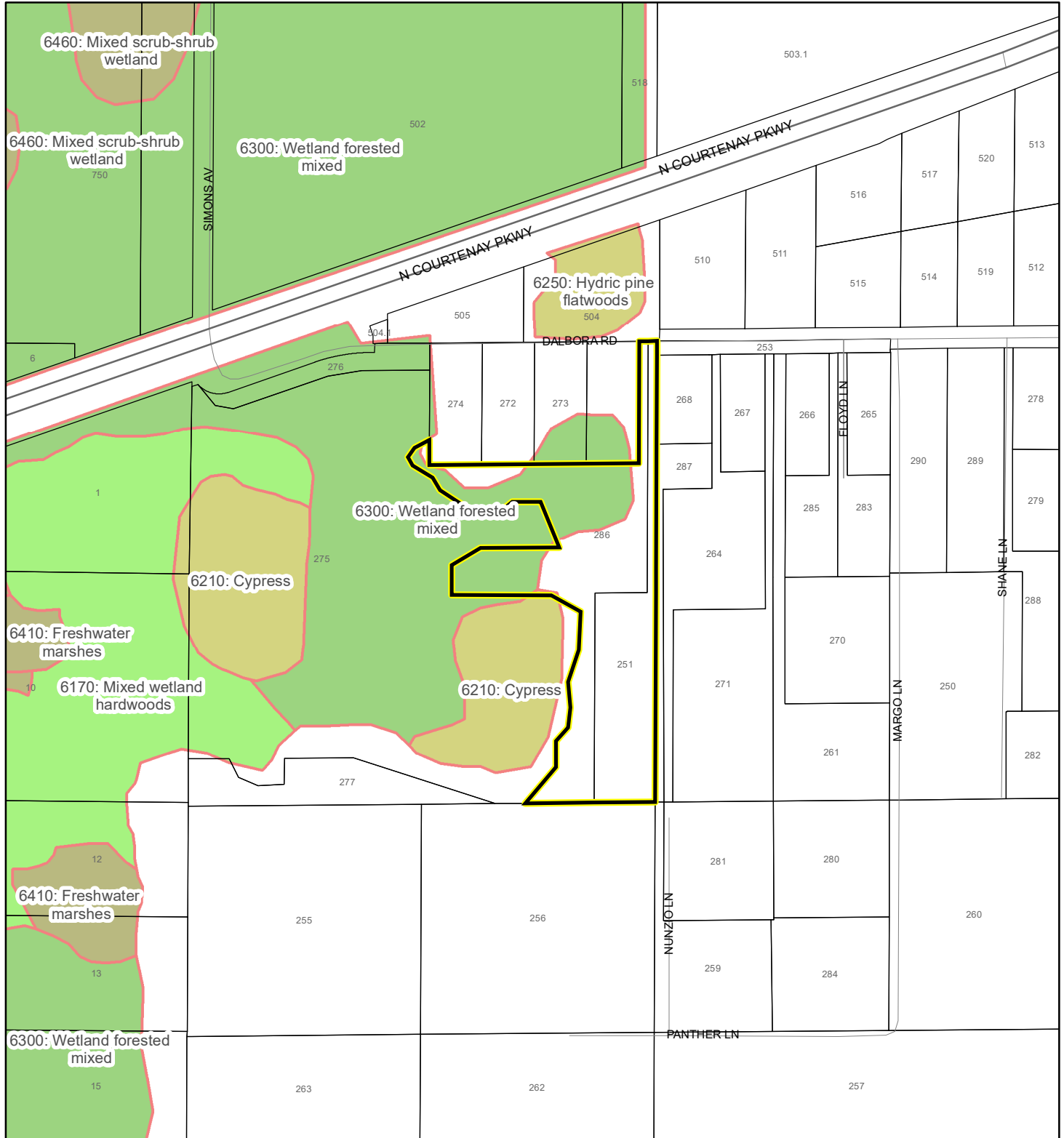
WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21PZ00033 SMALL SCALE AMENDMENT 21S.05



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

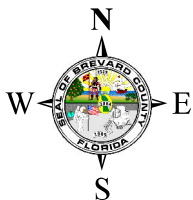
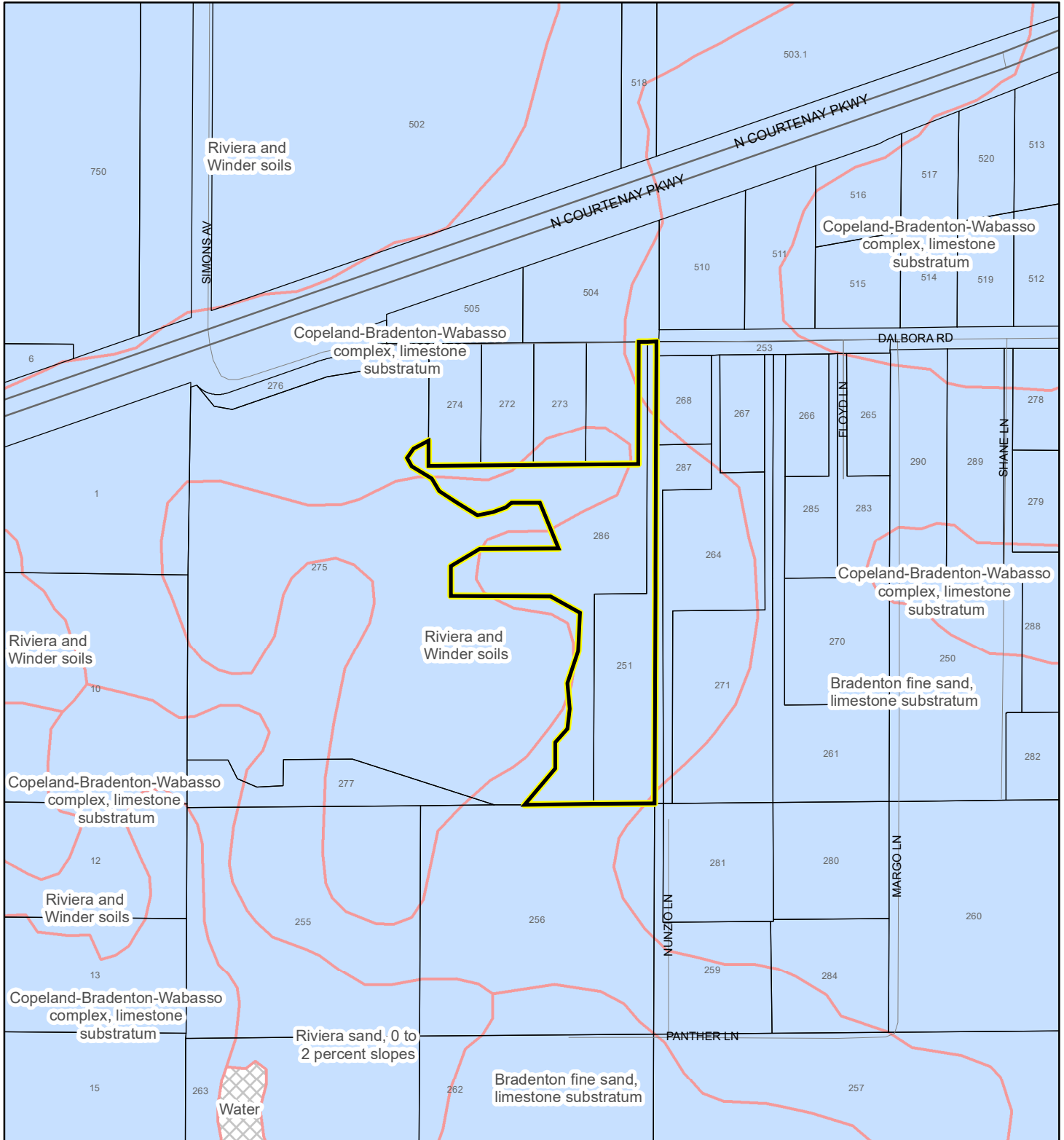
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

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

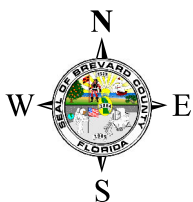
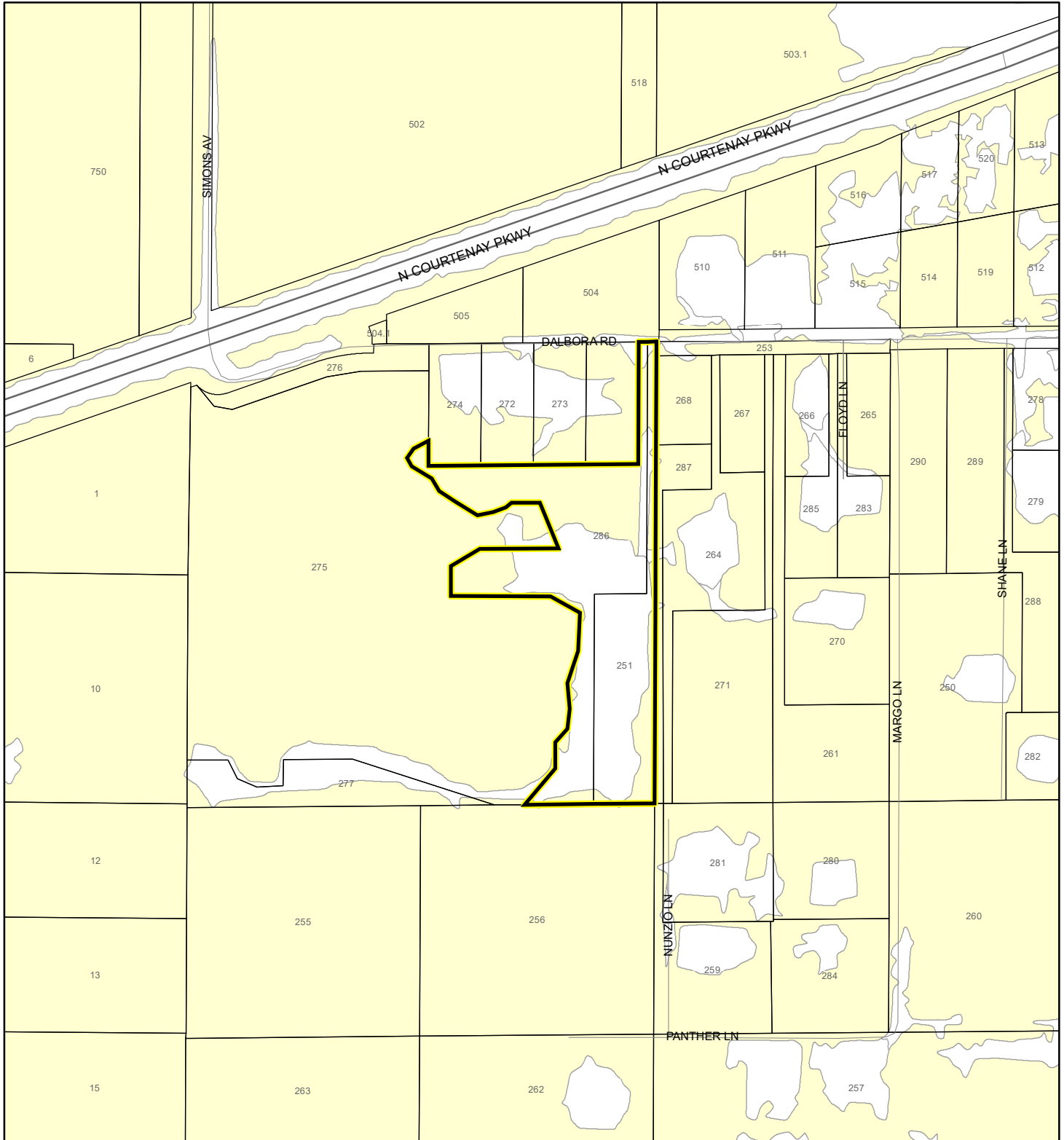
- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

FEMA FLOOD ZONES MAP

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



1:4,800 or 1 inch = 400 feet

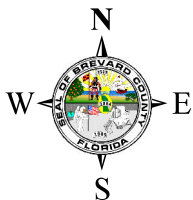
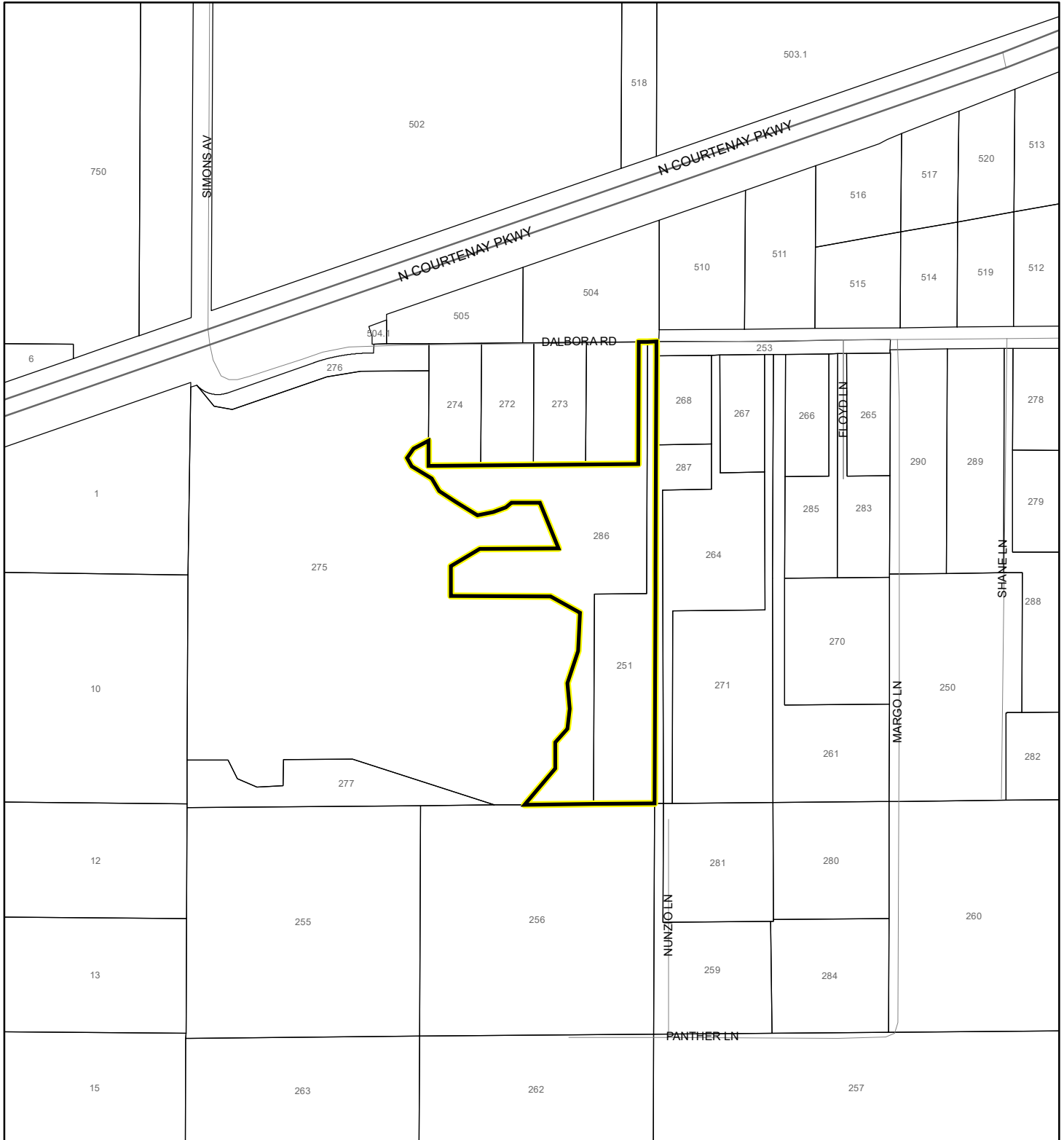
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Produced by BoCC - GIS Date: 5/26/2021

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
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

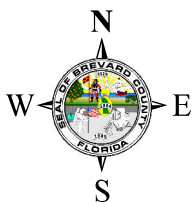
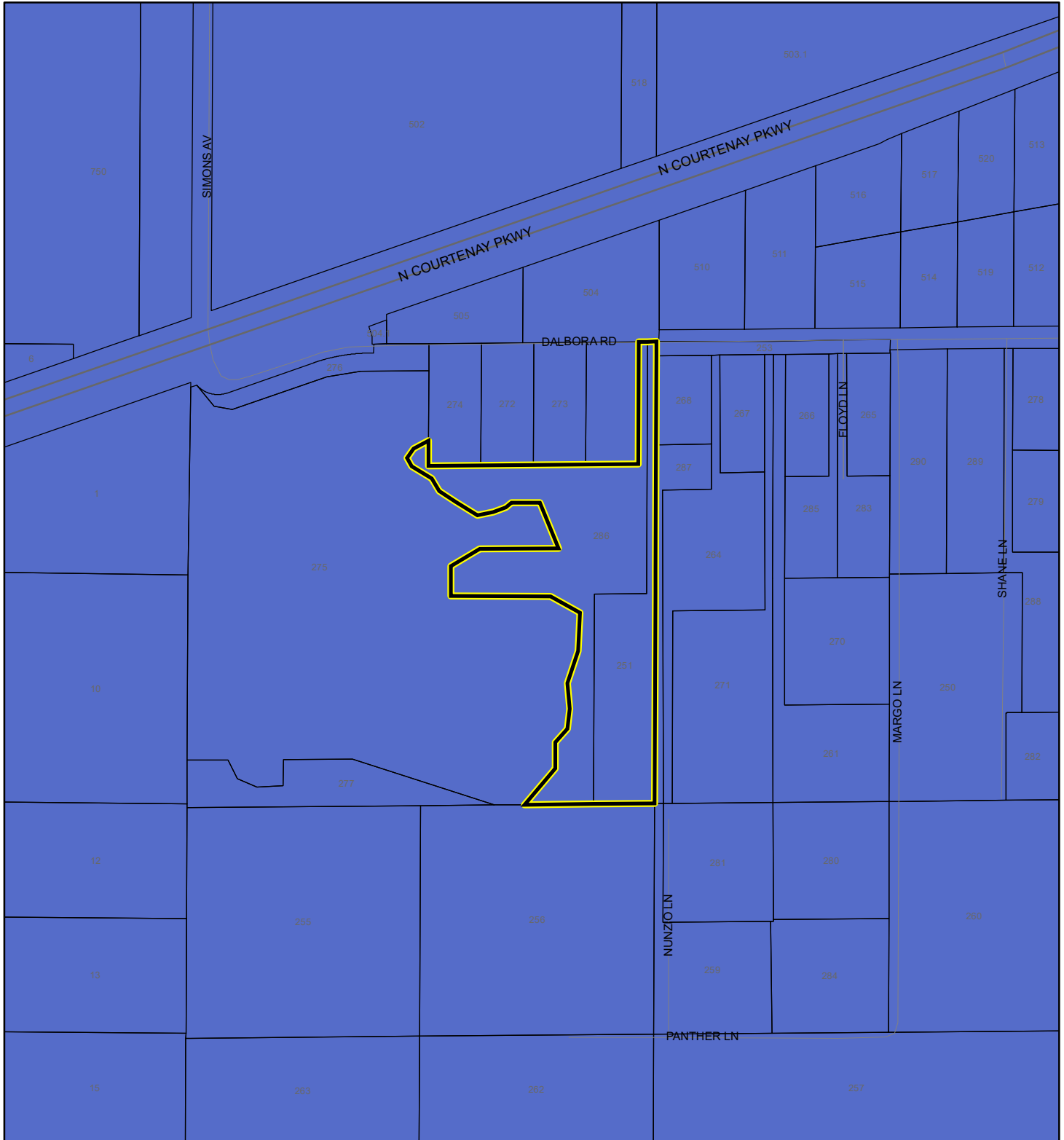
 Parcels

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

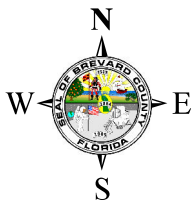
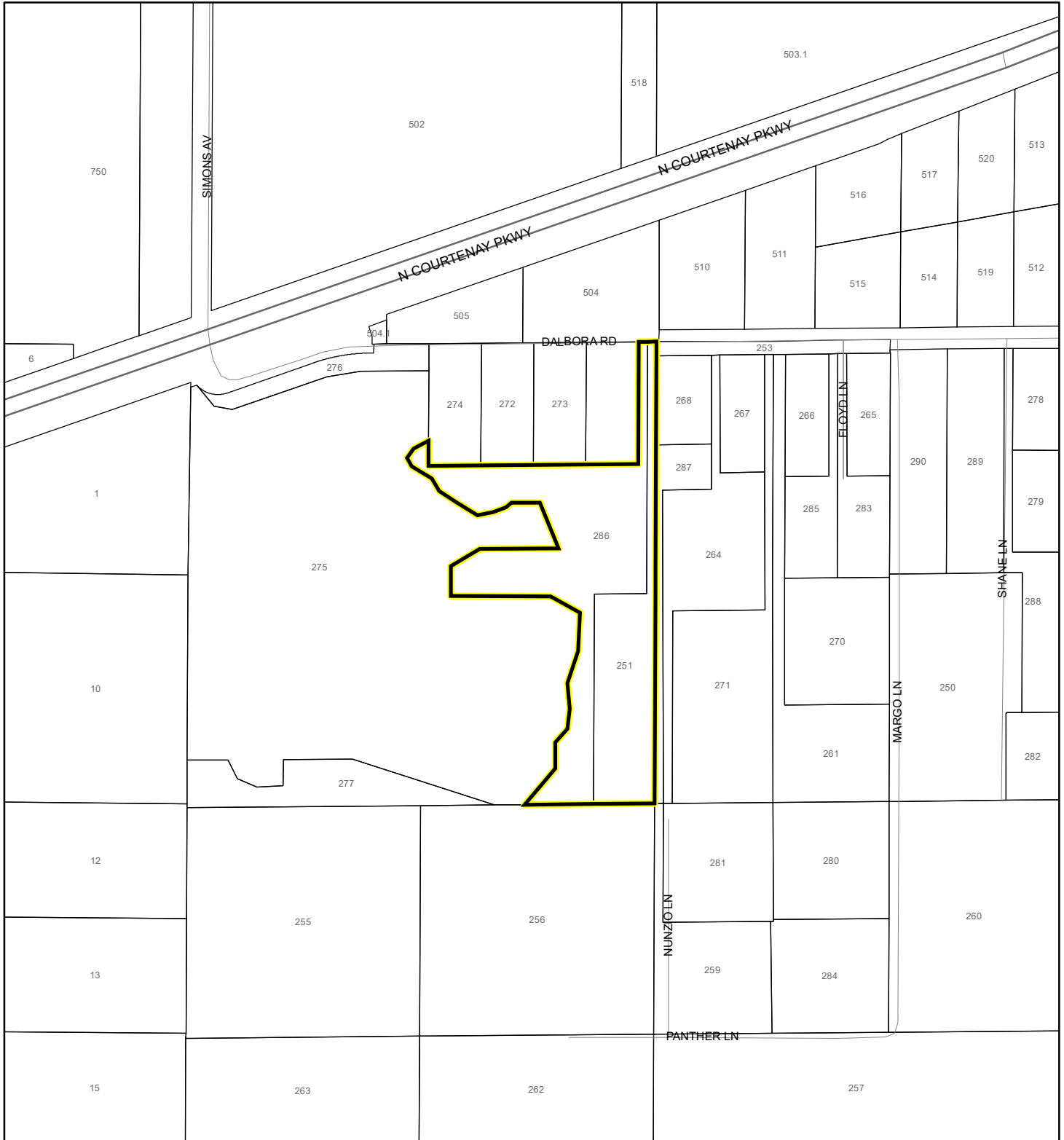
40 Meters

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

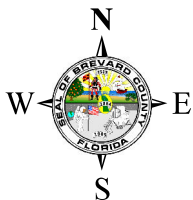
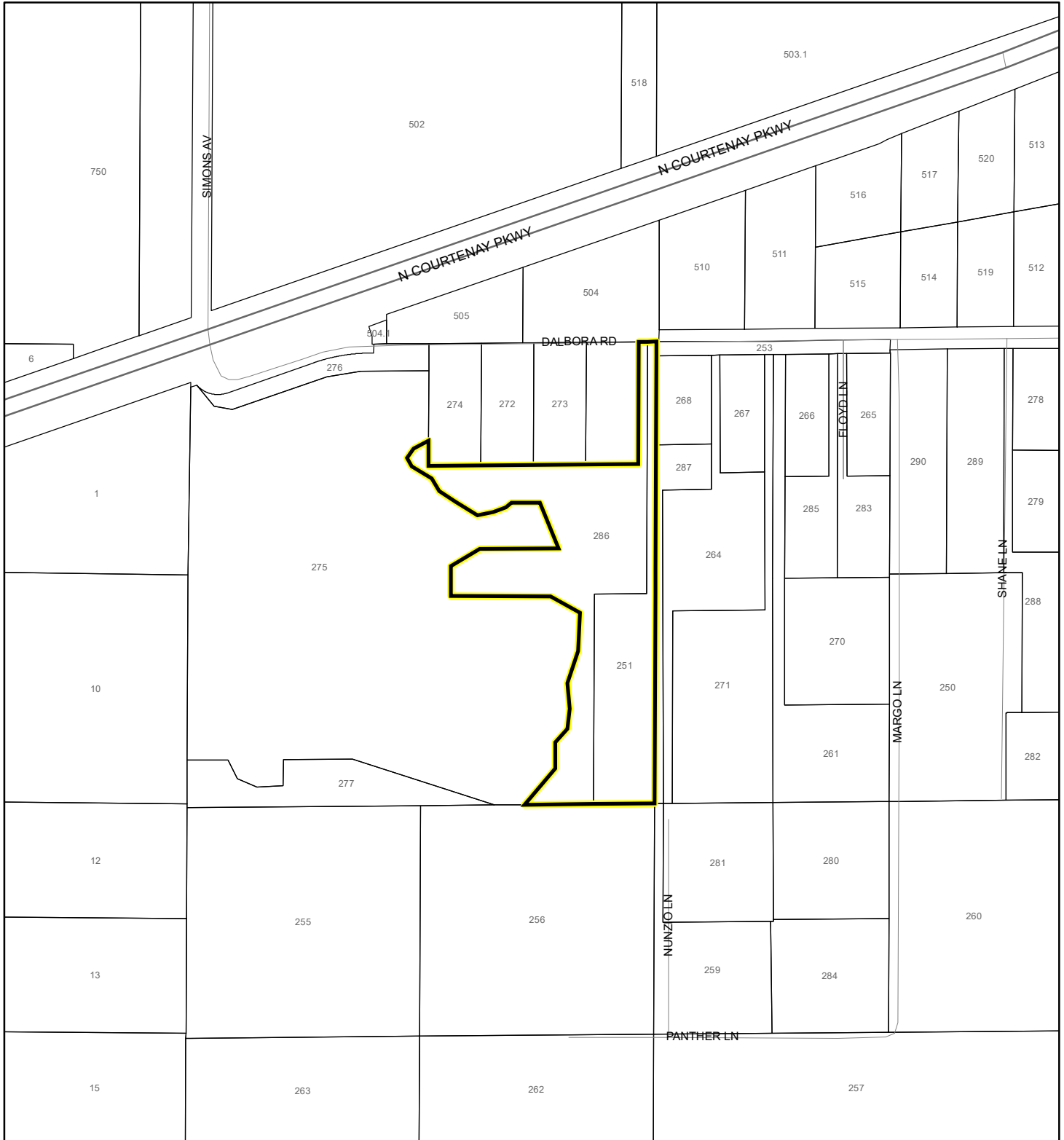
 Subject Property

 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

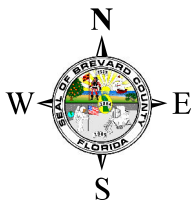
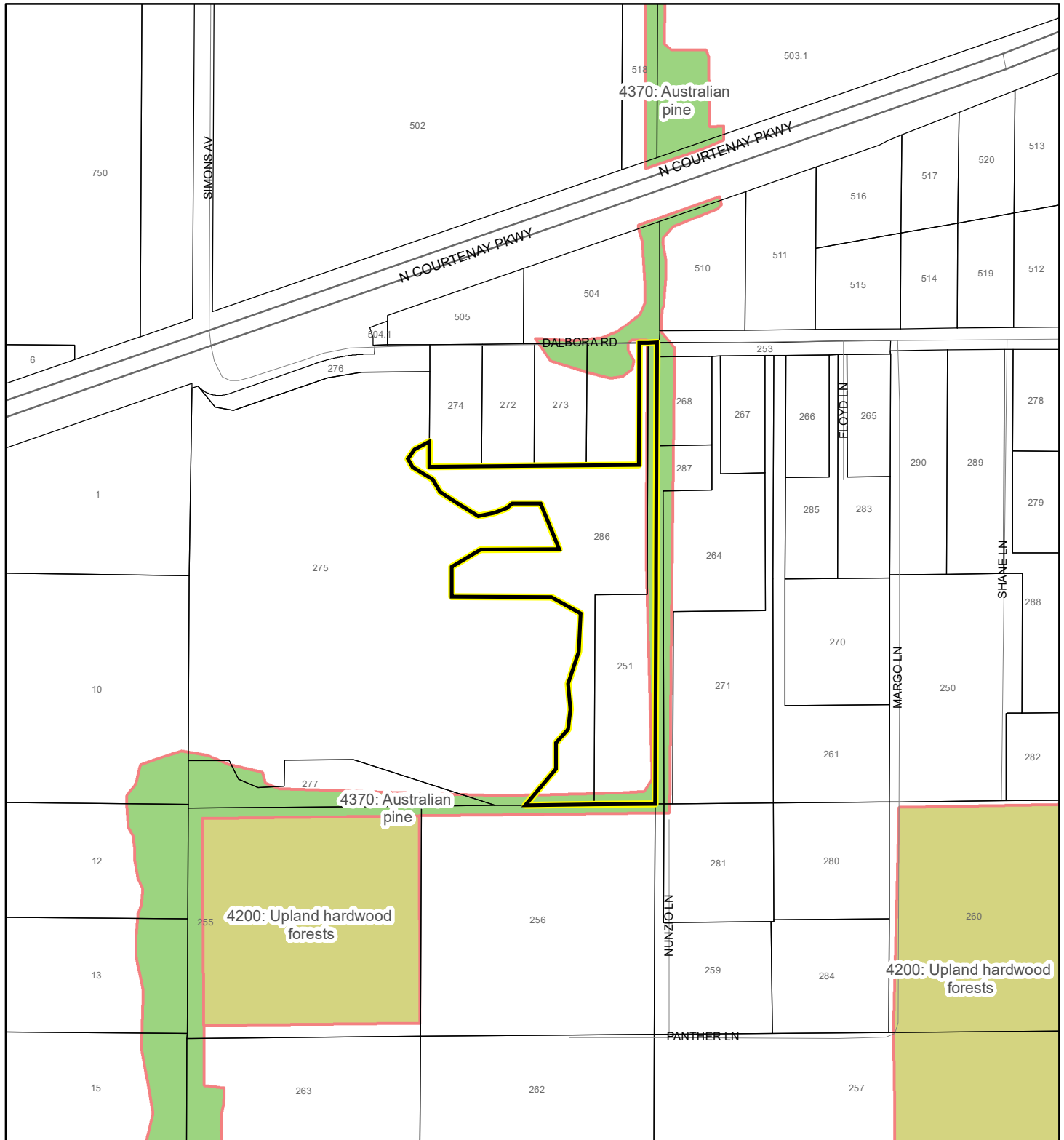
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

- 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

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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 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 O'Brien
Notary Public Signature

Seal



Office Use Only:

Accela No. 21P200033 Fee: \$1,219⁰⁰ 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:

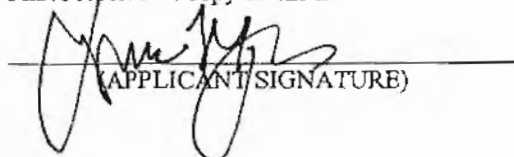
- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with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

- 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.
- 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 12090C0327H, 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-WAY 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

FYI Submitted by Applicant
21PZ00033 & 21Z00020
Elliott Family Trust
(Submitted 08/12/21)



NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, August 12, 2021**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

Board members present were: Mary Hillberg, Chair; Gina Lindhorst; Catherine Testa; Jack Ratterman, Vice Chair; Jim Carbonneau; Chris Cook; and Ted Balke.

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; Kyle Harris Planner I; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

William D. and Elizabeth Anne Elliott (Joe Mayer)

A Small Scale Comprehensive Plan Amendment (21S.05) to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1). The property is 8.25 acres, located on the south side of D'Albora Rd., approx. 0.23 mile east of N. Courtenay Pkwy. (Tax Parcel 251 = 1401 D'Albora Rd.; Tax Parcel 286 = No assigned address. In the N. Merritt Island area.) (21PZ00033) (Tax Accounts 2616601 & 2323951) (District 2)

William D. and Elizabeth Anne Elliott (Joe Mayer)

A change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential). The property is 8.25 acres, located on the south side of D'Albora Rd., approx. 0.23 mile east of N. Courtenay Pkwy. (Tax Parcel 251 = 1401 D'Albora Rd.; Tax Parcel 286 = No assigned address. In the N. Merritt Island area.) (21Z00020) (Tax Account 2616601 & 2323951) (District 2)

Joe Mayer - My name is Joe Mayer, 100 Parnell Street, Merritt Island, and I'm the engineer representing the applicant, Bill Elliott. We're here to propose a rezoning and comp plan amendment on 8.25 acres, located south of D'Albora Road. The current Future Land Use designation is Planned Industrial and we are proposing Residential 1. The current zoning is Planned Industrial Park, and we are proposing RR-1 zoning. What we are truly proposing to do is two flag lots, each approximately four acres in size. [Mr. Mayer handed out an aerial photo of the proposed flag lots. The photo can be found in files 21PZ00033 and 21Z00020, located in the Planning and Development Department.] The existing land to the west of the flag lots is a conservation easement made up of wetlands, and it will stay that way. The properties to the east and north are zoned RR-1 and the property to the south is AU (Agricultural Residential). The adjacent Future Land Use to the north, east, and south is Residential 1, and there is a small piece to the southeast that is Residential 1:2.5. We believe this is a much more compatible zoning classification than Planned Industrial on this large lot. D'Albora Road, as you know, has been developed as large lots with flag lots. We would like to change our zoning so we can do the same thing.

Jack Ratterman - Is the odd shape due to the wetlands next to it?

Joe Mayer - Yes, sir. The edge of the wetland was identified years ago and put into a conservation easement.

Mary Hillberg - Are these houses going to have septic?

Joe Mayer - Yes.

Mary Hillberg - Will they be the advanced septic systems?

Joe Mayer - Yes, we are mandated by code, just like everybody else on Merritt Island, and we'll have to put in the advanced treatment system.

Mary Hillberg - For the record, there are a lot of people here who understand that these advanced systems only hold 65% of the affluent, but that other 35% is not welcome either.

Jeffrey Ball - It's not 65% of the affluent, it's 65% of the nitrogen.

Mary Hillberg - Yes, nitrogen, the part that does the damage. For the record, the community is aware that 65% sounds good, but 35% is still going back into the groundwater. We're anxious to see everybody get onto sewer if and when they can.

Joe Mayer - I believe State law would require us hook up to sewer once it becomes available in front of our property.

Gina Lindhorst - So, there's no sewer available at all there?

Joe Mayer - No.

Gina Lindhorst - So, the lots to the east do not have sewer?

Joe Mayer - They are all on septic.

Mary Hillberg - The first flag lot says it will permit one residence maximum.

Joe Mayer - Correct.

Mary Hillberg - Does that mean the second flag lot will be more than that?

Joe Mayer - No, it will be one residence per flag lot, for a total of two. If we successfully make it through the rezoning and comp plan amendment, there is a flag lot process that we have to go through to establish the flag lots.

Chris Cook - The property to the west that is not included, that's over one acre, correct?

Joe Mayer - Yes, but it will be part of the second flag lot; it's not buildable.

Chris Cook - Should it be colored in as part of the flag lot?

Joe Mayer - Technically, yes. There will not be a third lot because there is no access to it, but it will be part of the second flag lot.

Jeffrey Ball - The closest sewer line is approximately 2.4 miles southwest of the parcel, so sewer is not available.

Mary Hillberg - I just wanted the record to reflect that we are not enthusiastic about septic tanks putting 35% of nitrogen into our groundwater.

Public Comment.

Kim Smith - My name is Kim Smith, and I'm here to speak for the North Merritt Island Homeowners Association, and regarding these requests, the HOA had no objections.

Mary Hillberg - Seeing no other public comment, it is back to the board. What's your pleasure?

Jack Ratterman - I make a motion that we accept Item H.1., Small Scale Plan Amendment.

Jim Carbonneau - I second.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.

Jack Ratterman - I make a motion that we accept Item H.2.

Jim Carbonneau - I'll second.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

8/23/2021

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 Planning & Zoning 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 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.

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

The North Merritt Island Dependent Special District Board will hear the request on Thursday, August 12, 2021. Staff will update P&Z of the special district board's recommendation.

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



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

8/23/2021

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 Planning & Zoning 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.

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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
Zoning	PIP	RR-1
Potential*	No units	Two single-family units
Can be Considered under the Future Land Use Map	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

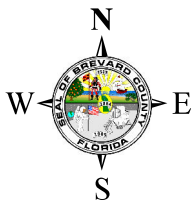
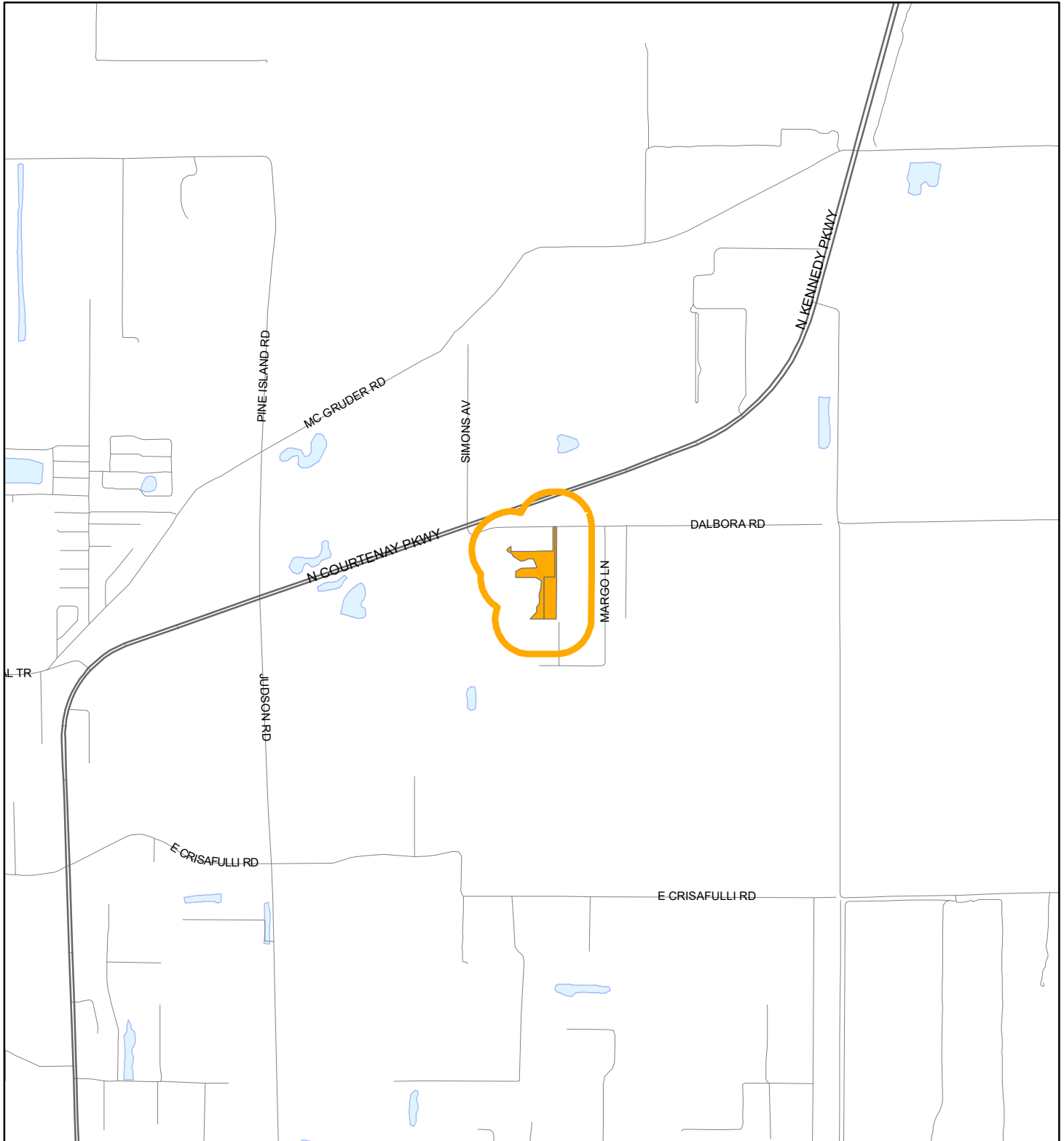
Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen 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

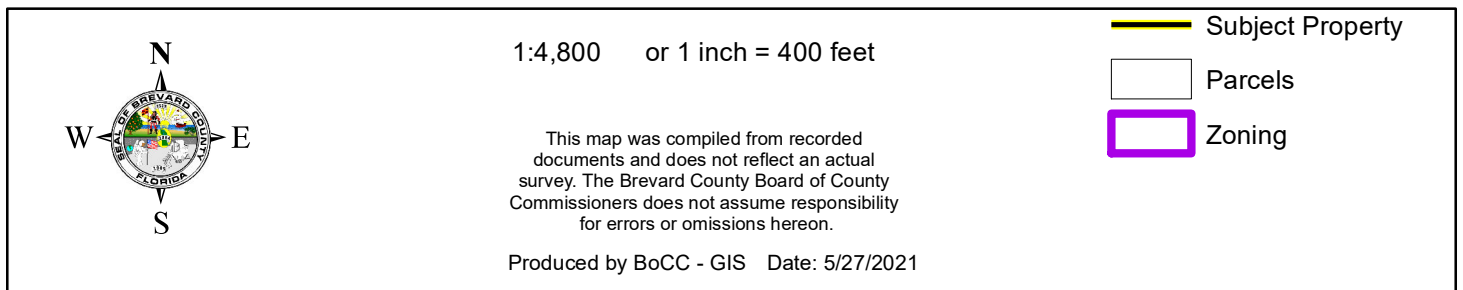
Buffer Distance: 500 feet

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.

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

Buffer
Subject Property

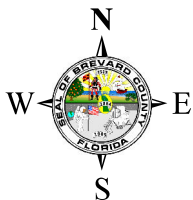
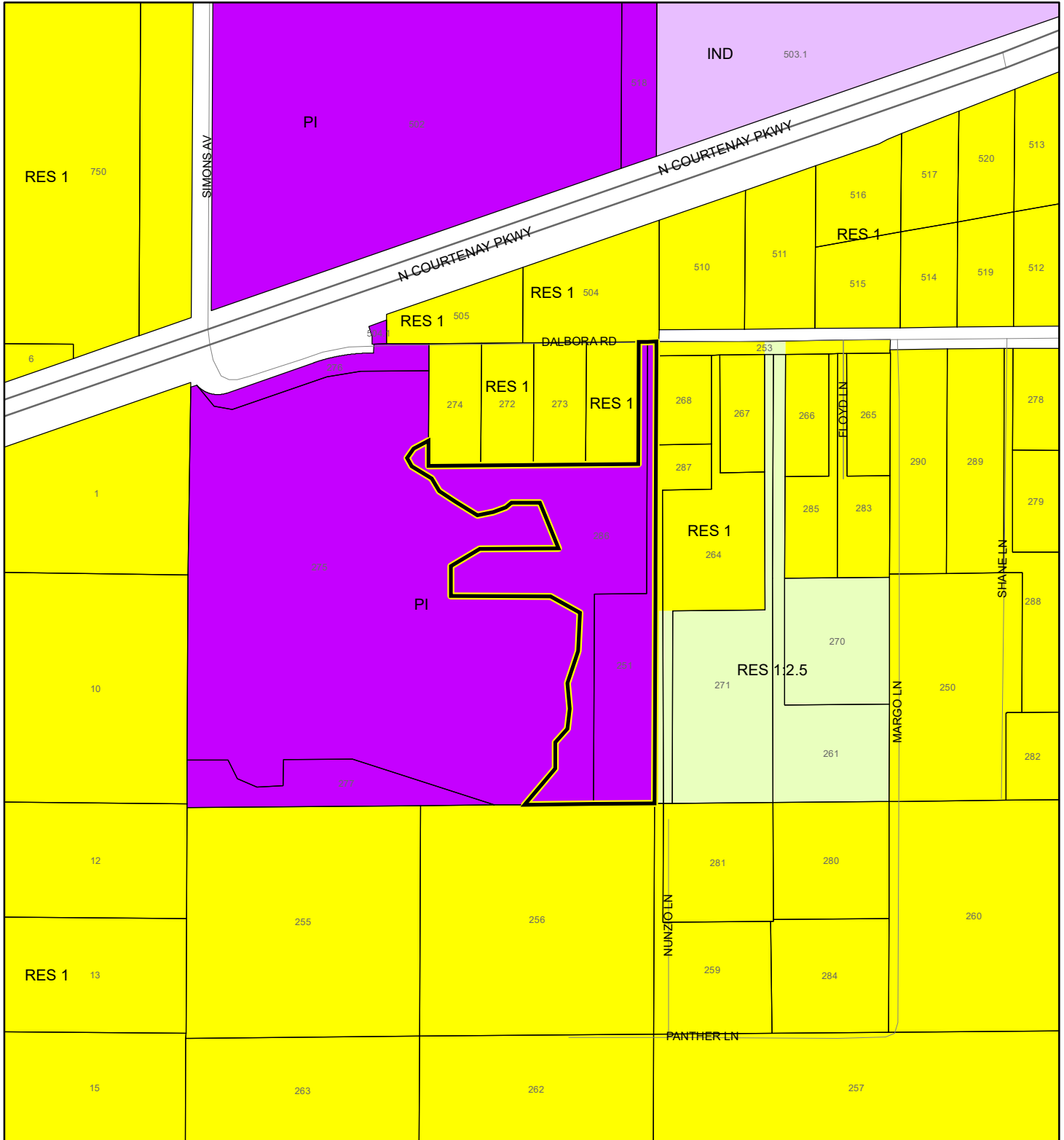
WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21Z00020



FUTURE LAND USE MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



1:4,800 or 1 inch = 400 feet

Subject Property
 Parcels

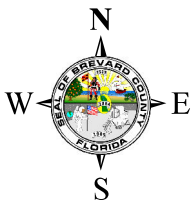
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

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

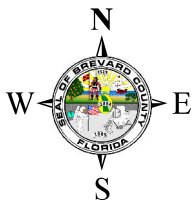
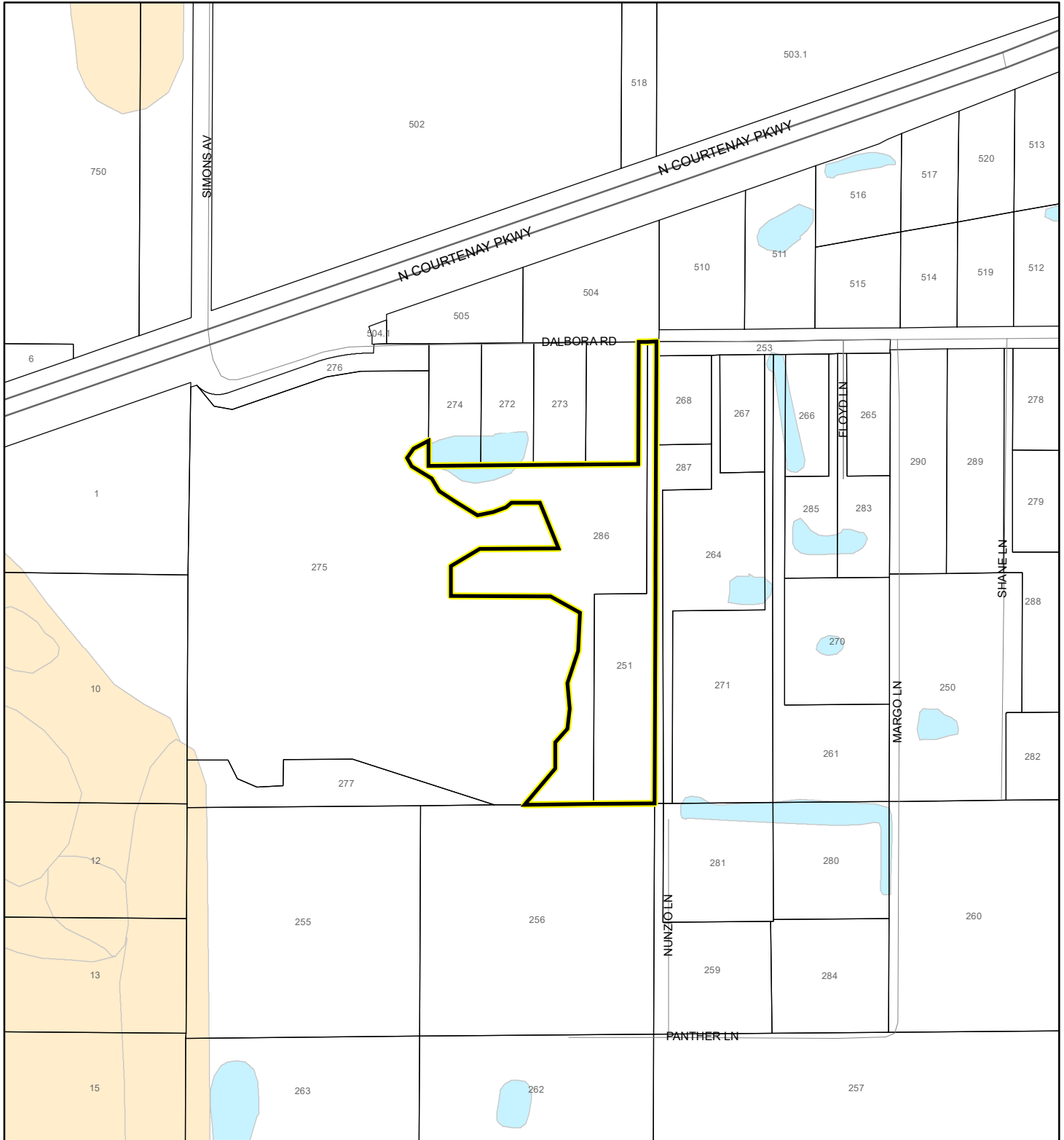
 Subject Property

 Parcels

NWI WETLANDS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020













1:4,800 or 1 inch = 400 feet

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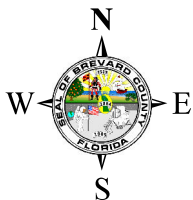
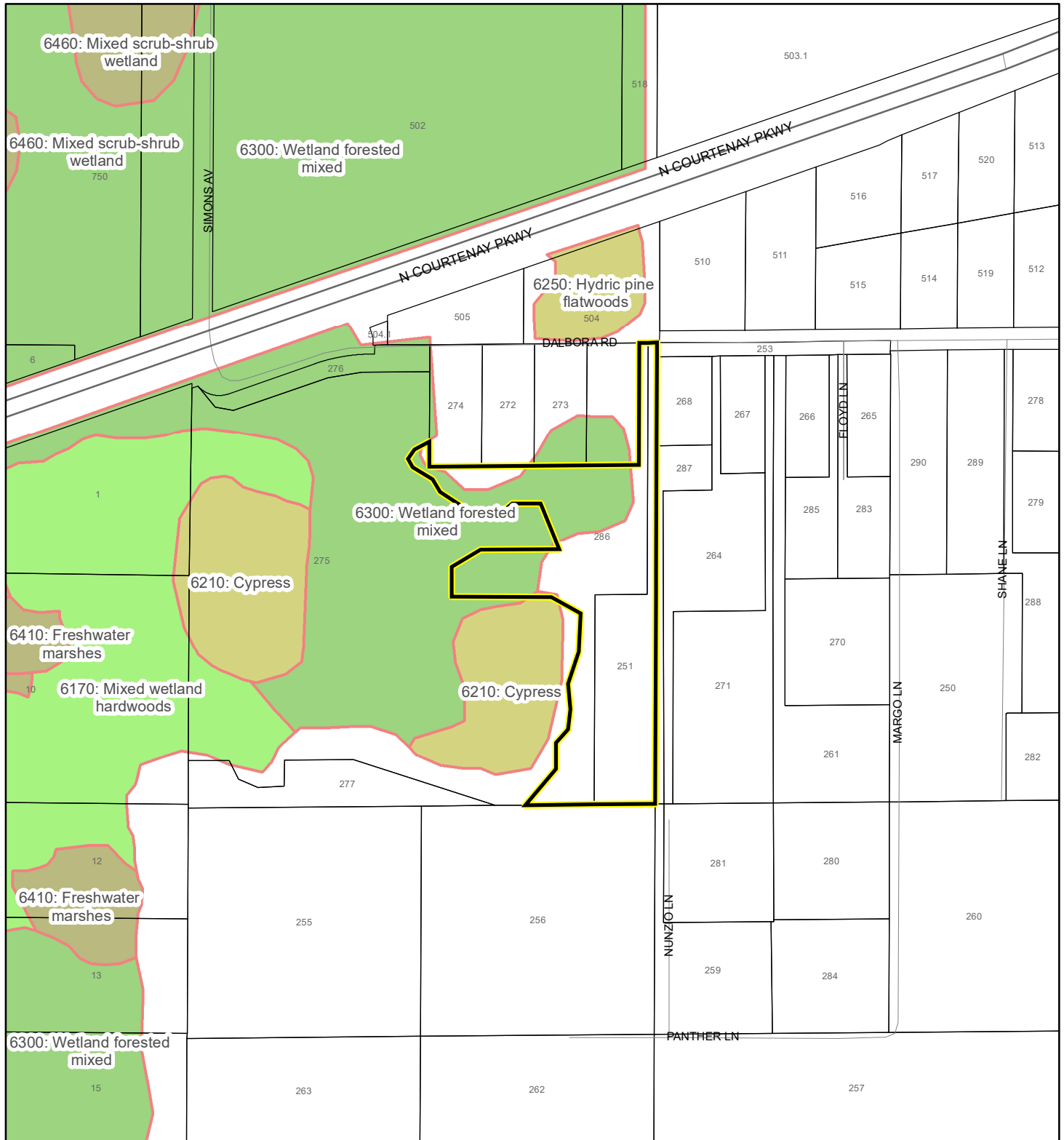
National Wetlands Inventory (NWI)

 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

21Z00020



1:4,800 or 1 inch = 400 feet

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

SJRWMD FLUCCS WETLANDS

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

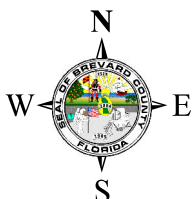
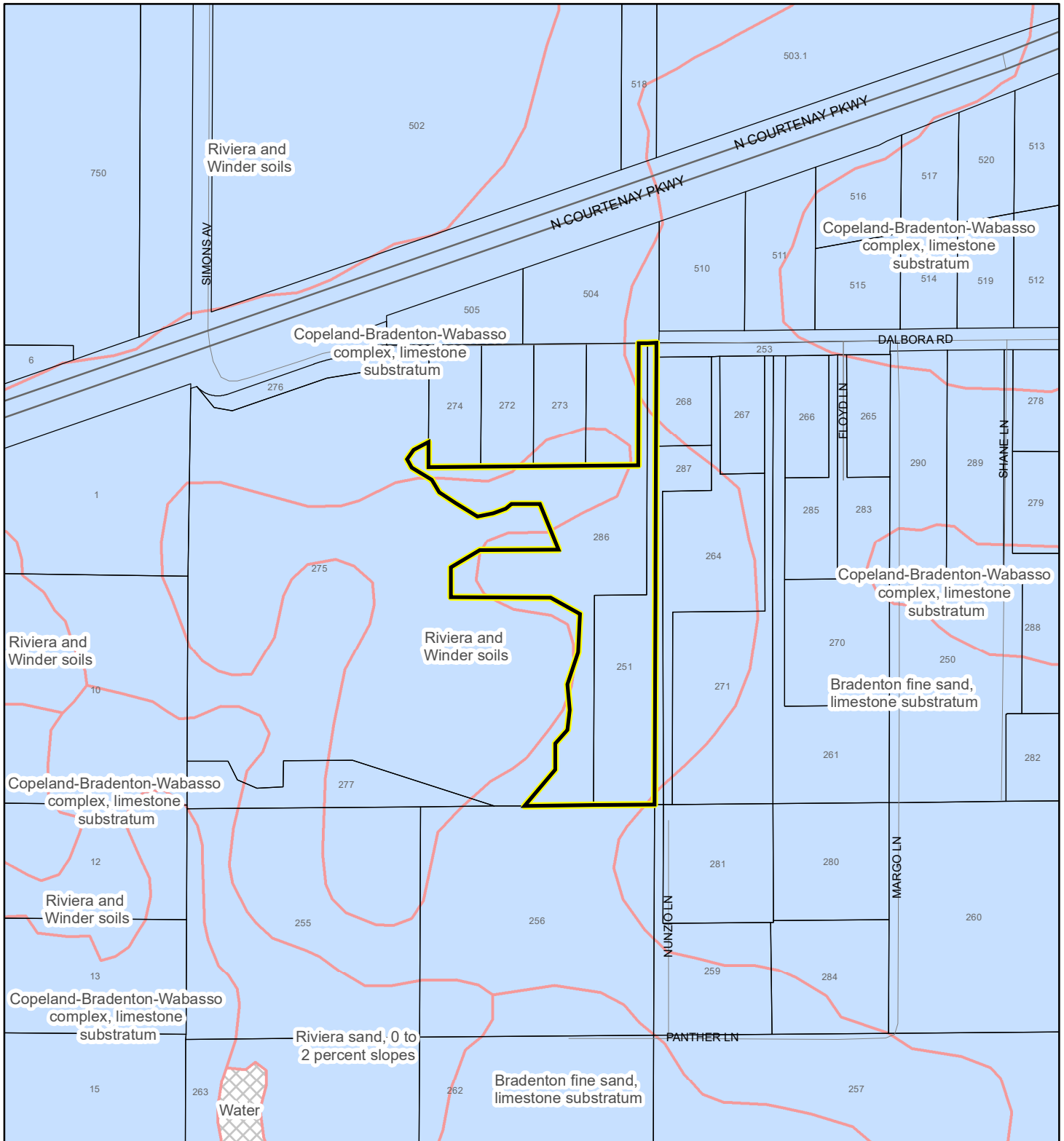
Subject Property

Parcels

USDA SCSSS SOILS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



1:4,800 or 1 inch = 400 feet

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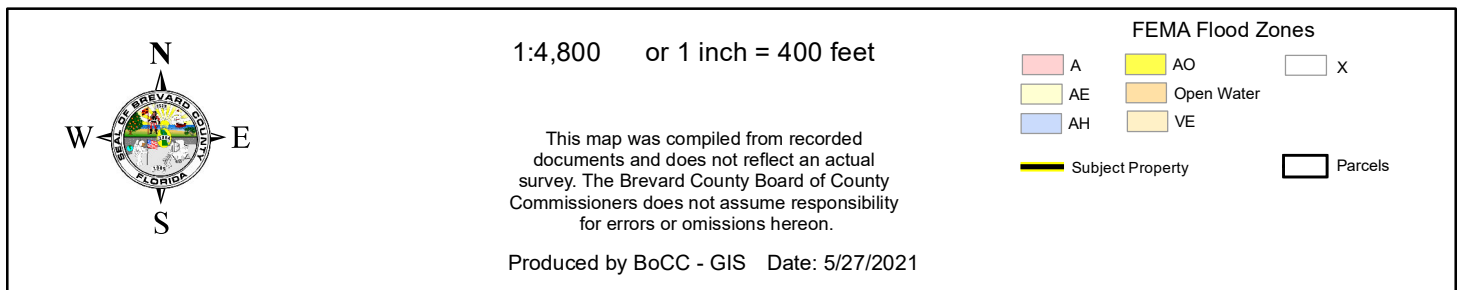
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

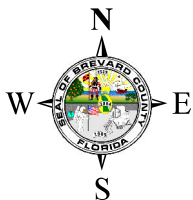
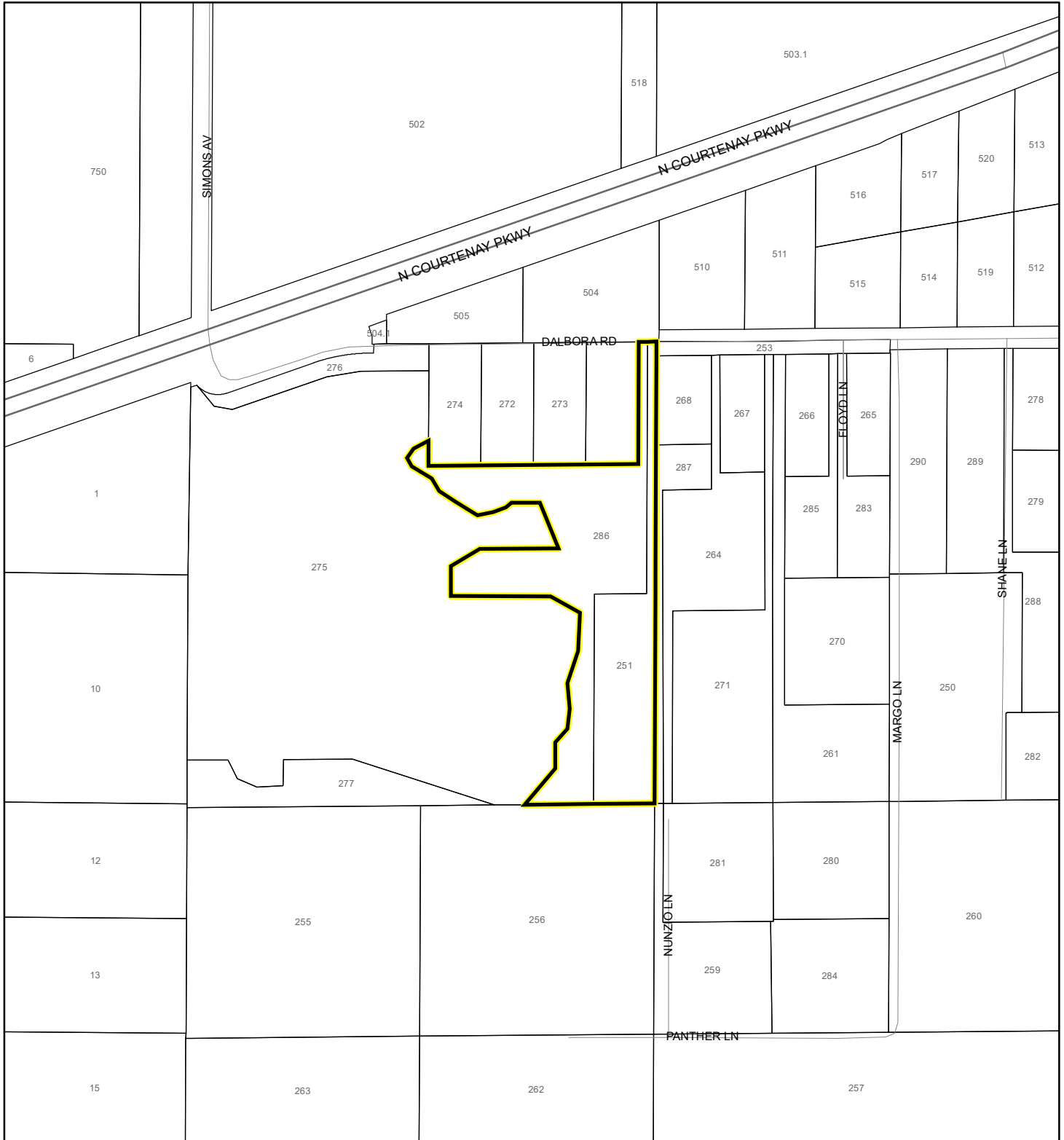
WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES
21Z00020



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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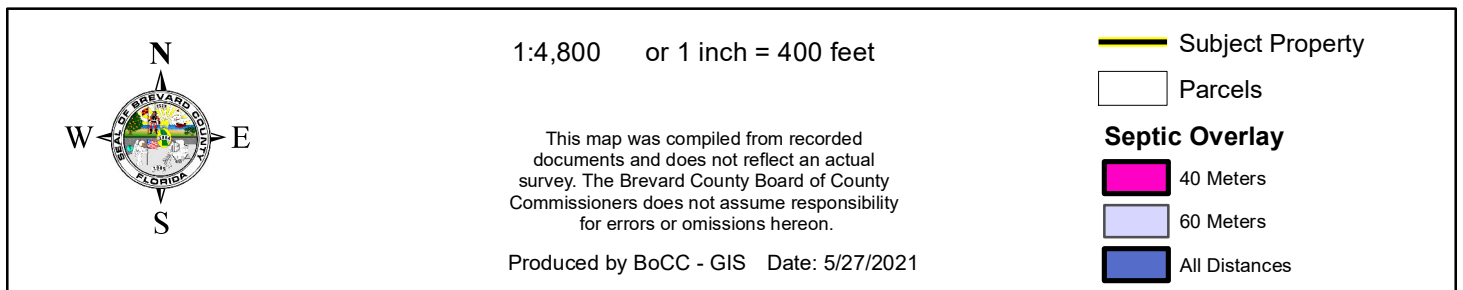
 Subject Property

 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

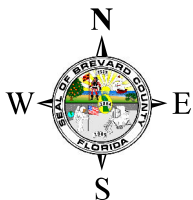
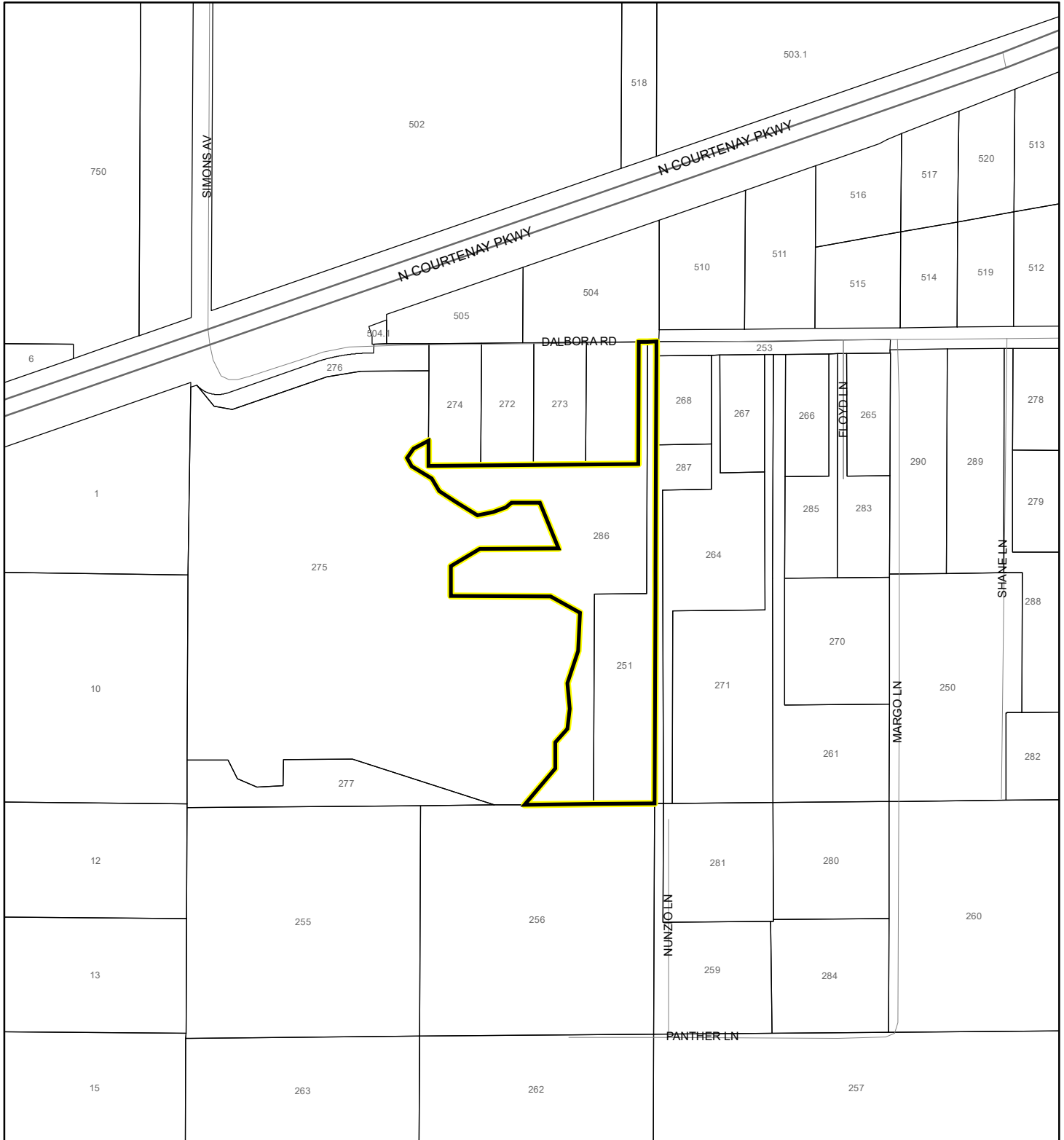
21Z00020



EAGLE NESTS MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



1:4,800 or 1 inch = 400 feet

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

 Subject Property

 Parcels

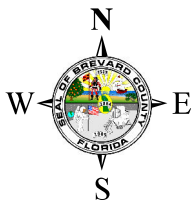
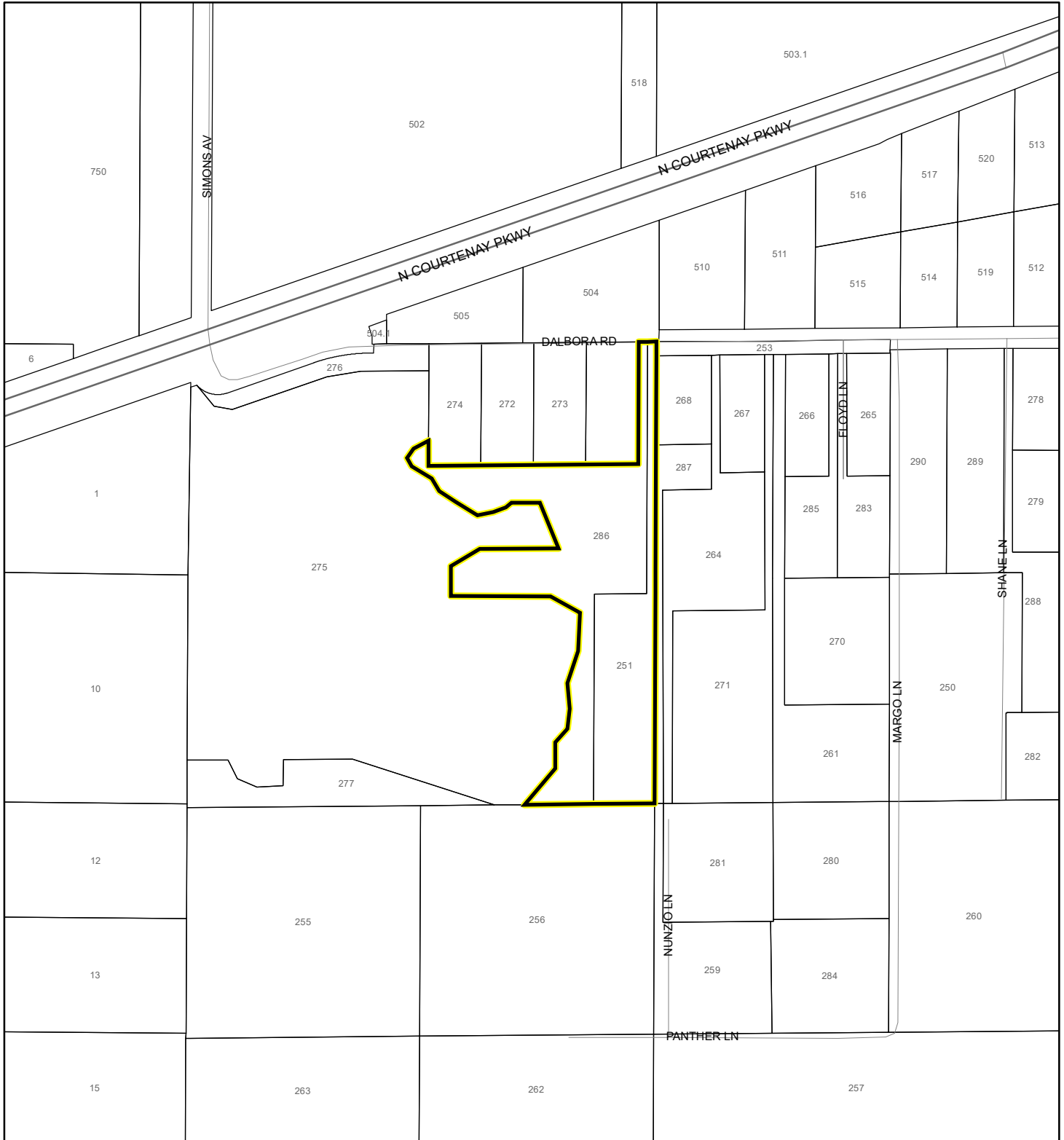


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



1:4,800 or 1 inch = 400 feet

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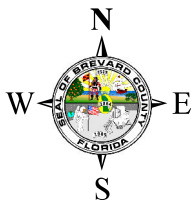
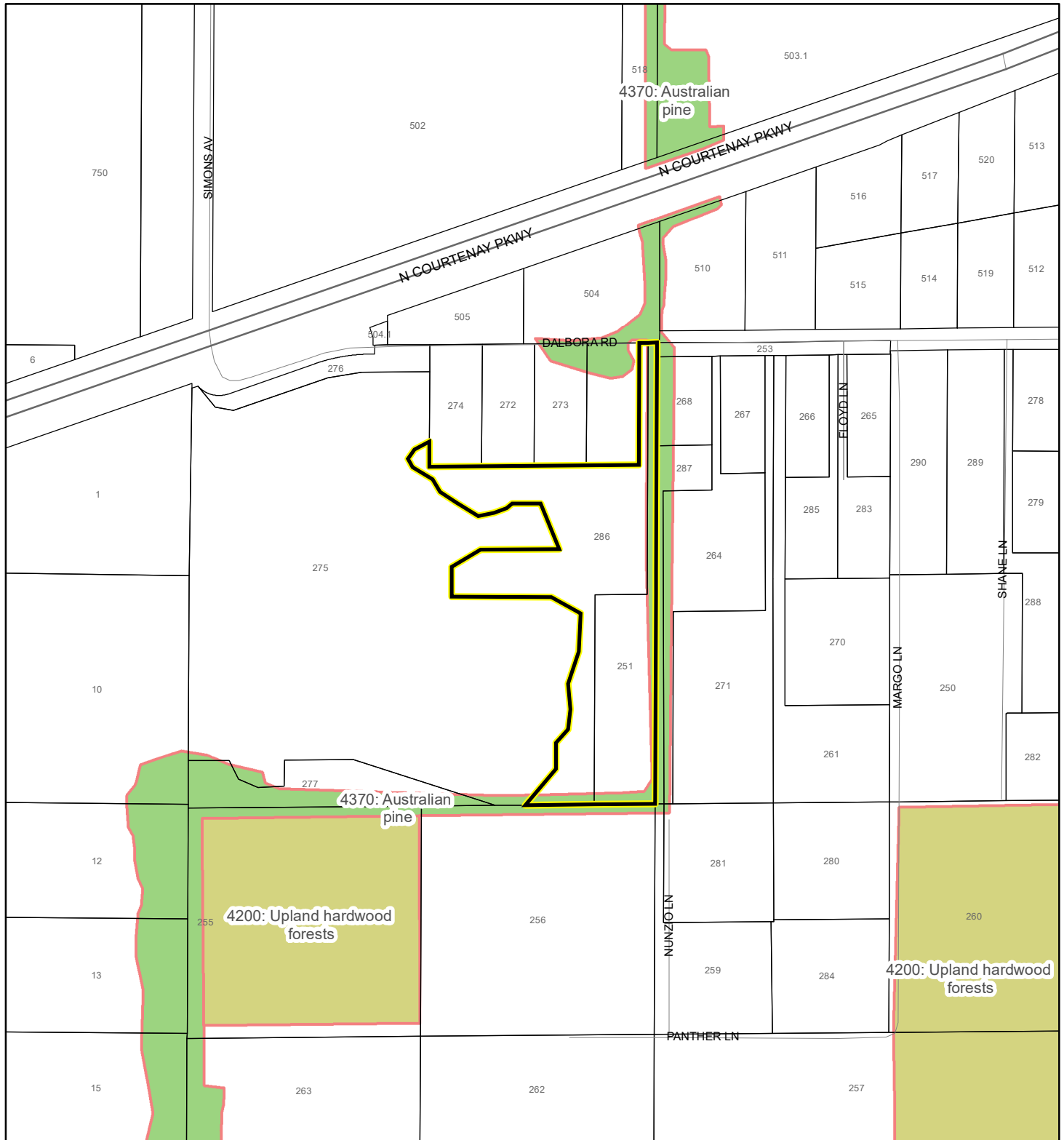
Produced by BoCC - GIS Date: 5/27/2021

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

WILLIAM D. ELLIOTT AND ELIZABETH ANNE ELLIOTT, TRUSTEES

21Z00020



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: 5/27/2021

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. 21Z 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 45.28 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 600.00 FEET; THENCE NORTH 00°19'16" EAST A DISTANCE OF 350.00 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 00°36'34" WEST A DISTANCE OF 74.85 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 45.28 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 600.00 FEET; THENCE NORTH 00°19'16" EAST A DISTANCE OF 350.00 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" 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 1209C0327H, 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"
- 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'

Bussen - Mayer Engineering Group, Inc.
100 PARKVIEW STREET • NEWPORT BEACH, FLORIDA 92659
PH: (949) 450-0010 • FAX: (949) 450-0985

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

SURVEY DEPT.

FYI Submitted by Applicant
21PZ00033 & 21Z00020
Elliott Family Trust
(Submitted 08/12/21)



NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, August 12, 2021**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

Board members present were: Mary Hillberg, Chair; Gina Lindhorst; Catherine Testa; Jack Ratterman, Vice Chair; Jim Carbonneau; Chris Cook; and Ted Balke.

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; Kyle Harris Planner I; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

William D. and Elizabeth Anne Elliott (Joe Mayer)

A Small Scale Comprehensive Plan Amendment (21S.05) to change the Future Land Use designation from PI (Planned Industrial) to RES 1 (Residential 1). The property is 8.25 acres, located on the south side of D'Albora Rd., approx. 0.23 mile east of N. Courtenay Pkwy. (Tax Parcel 251 = 1401 D'Albora Rd.; Tax Parcel 286 = No assigned address. In the N. Merritt Island area.) (21PZ00033) (Tax Accounts 2616601 & 2323951) (District 2)

William D. and Elizabeth Anne Elliott (Joe Mayer)

A change of zoning classification from PIP (Planned Industrial Park) to RR-1 (Rural Residential). The property is 8.25 acres, located on the south side of D'Albora Rd., approx. 0.23 mile east of N. Courtenay Pkwy. (Tax Parcel 251 = 1401 D'Albora Rd.; Tax Parcel 286 = No assigned address. In the N. Merritt Island area.) (21Z00020) (Tax Account 2616601 & 2323951) (District 2)

Joe Mayer - My name is Joe Mayer, 100 Parnell Street, Merritt Island, and I'm the engineer representing the applicant, Bill Elliott. We're here to propose a rezoning and comp plan amendment on 8.25 acres, located south of D'Albora Road. The current Future Land Use designation is Planned Industrial and we are proposing Residential 1. The current zoning is Planned Industrial Park, and we are proposing RR-1 zoning. What we are truly proposing to do is two flag lots, each approximately four acres in size. [Mr. Mayer handed out an aerial photo of the proposed flag lots. The photo can be found in files 21PZ00033 and 21Z00020, located in the Planning and Development Department.] The existing land to the west of the flag lots is a conservation easement made up of wetlands, and it will stay that way. The properties to the east and north are zoned RR-1 and the property to the south is AU (Agricultural Residential). The adjacent Future Land Use to the north, east, and south is Residential 1, and there is a small piece to the southeast that is Residential 1:2.5. We believe this is a much more compatible zoning classification than Planned Industrial on this large lot. D'Albora Road, as you know, has been developed as large lots with flag lots. We would like to change our zoning so we can do the same thing.

Jack Ratterman - Is the odd shape due to the wetlands next to it?

Joe Mayer - Yes, sir. The edge of the wetland was identified years ago and put into a conservation easement.

Mary Hillberg - Are these houses going to have septic?

Joe Mayer - Yes.

Mary Hillberg - Will they be the advanced septic systems?

Joe Mayer - Yes, we are mandated by code, just like everybody else on Merritt Island, and we'll have to put in the advanced treatment system.

Mary Hillberg - For the record, there are a lot of people here who understand that these advanced systems only hold 65% of the affluent, but that other 35% is not welcome either.

Jeffrey Ball - It's not 65% of the affluent, it's 65% of the nitrogen.

Mary Hillberg - Yes, nitrogen, the part that does the damage. For the record, the community is aware that 65% sounds good, but 35% is still going back into the groundwater. We're anxious to see everybody get onto sewer if and when they can.

Joe Mayer - I believe State law would require us hook up to sewer once it becomes available in front of our property.

Gina Lindhorst - So, there's no sewer available at all there?

Joe Mayer - No.

Gina Lindhorst - So, the lots to the east do not have sewer?

Joe Mayer - They are all on septic.

Mary Hillberg - The first flag lot says it will permit one residence maximum.

Joe Mayer - Correct.

Mary Hillberg - Does that mean the second flag lot will be more than that?

Joe Mayer - No, it will be one residence per flag lot, for a total of two. If we successfully make it through the rezoning and comp plan amendment, there is a flag lot process that we have to go through to establish the flag lots.

Chris Cook - The property to the west that is not included, that's over one acre, correct?

Joe Mayer - Yes, but it will be part of the second flag lot; it's not buildable.

Chris Cook - Should it be colored in as part of the flag lot?

Joe Mayer - Technically, yes. There will not be a third lot because there is no access to it, but it will be part of the second flag lot.

Jeffrey Ball - The closest sewer line is approximately 2.4 miles southwest of the parcel, so sewer is not available.

Mary Hillberg - I just wanted the record to reflect that we are not enthusiastic about septic tanks putting 35% of nitrogen into our groundwater.

Public Comment.

Kim Smith - My name is Kim Smith, and I'm here to speak for the North Merritt Island Homeowners Association, and regarding these requests, the HOA had no objections.

Mary Hillberg - Seeing no other public comment, it is back to the board. What's your pleasure?

Jack Ratterman - I make a motion that we accept Item H.1., Small Scale Plan Amendment.

Jim Carbonneau - I second.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.

Jack Ratterman - I make a motion that we accept Item H.2.

Jim Carbonneau - I'll second.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

8/23/2021

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 Planning & Zoning 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 North Merritt Island Dependent Special District Board will hear the request on Thursday, August 12, 2021. Staff will update the LPA of the special district board's recommendation.

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



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

8/23/2021

Subject:

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

Fiscal Impact:

None

Dept/Office:

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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
Zoning	TR-3	TR-1-A
Potential*	0 units	One single-family unit
Can be Considered under the Future Land Use Map	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

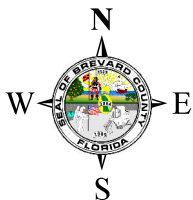
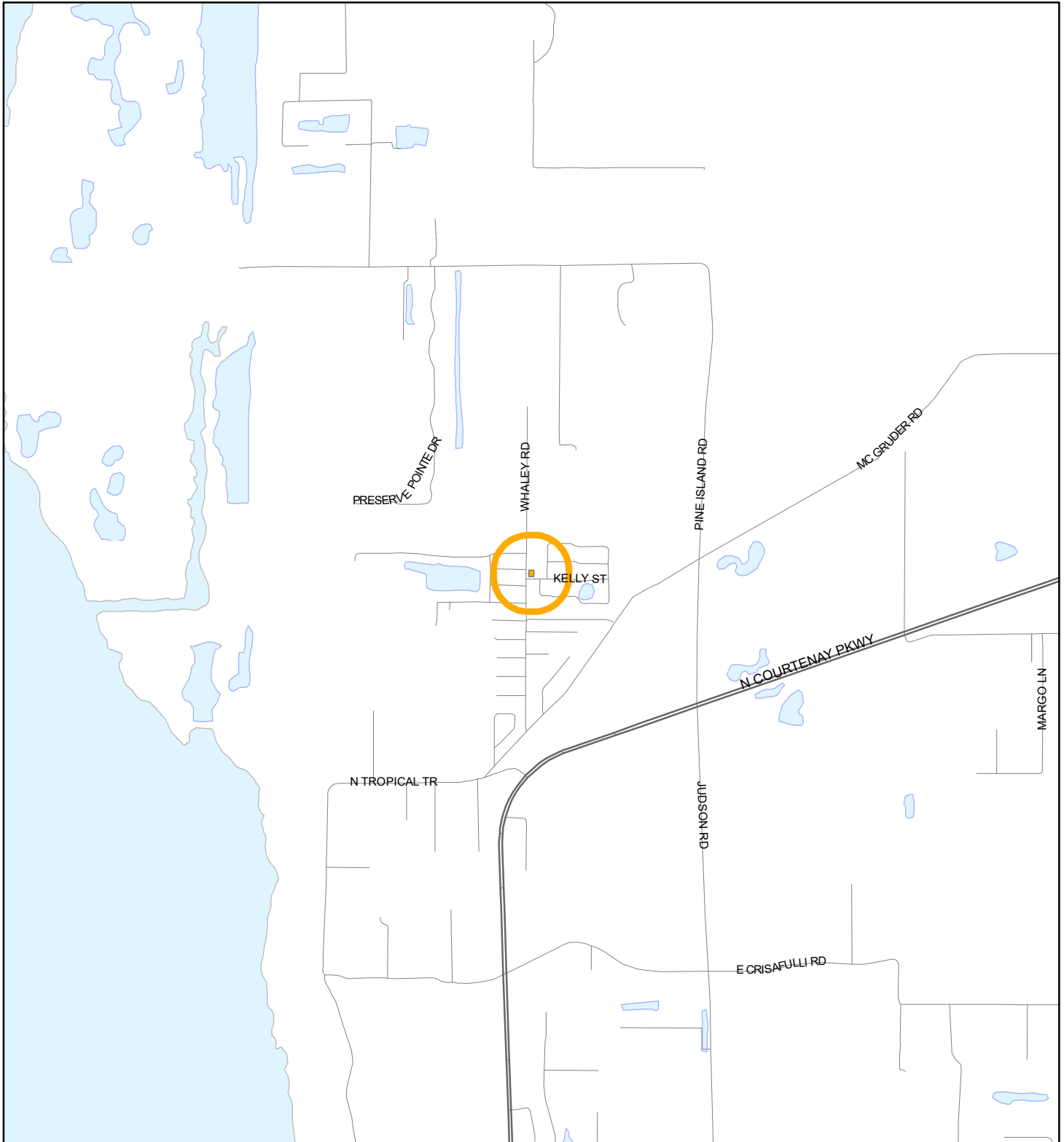
Information available to NRM indicates that federally and/or state protected species may be present on the property. A Scrub Jay Occupancy polygon is mapped across the street from the subject parcel.

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.

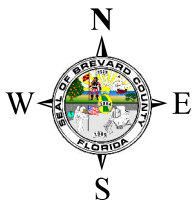
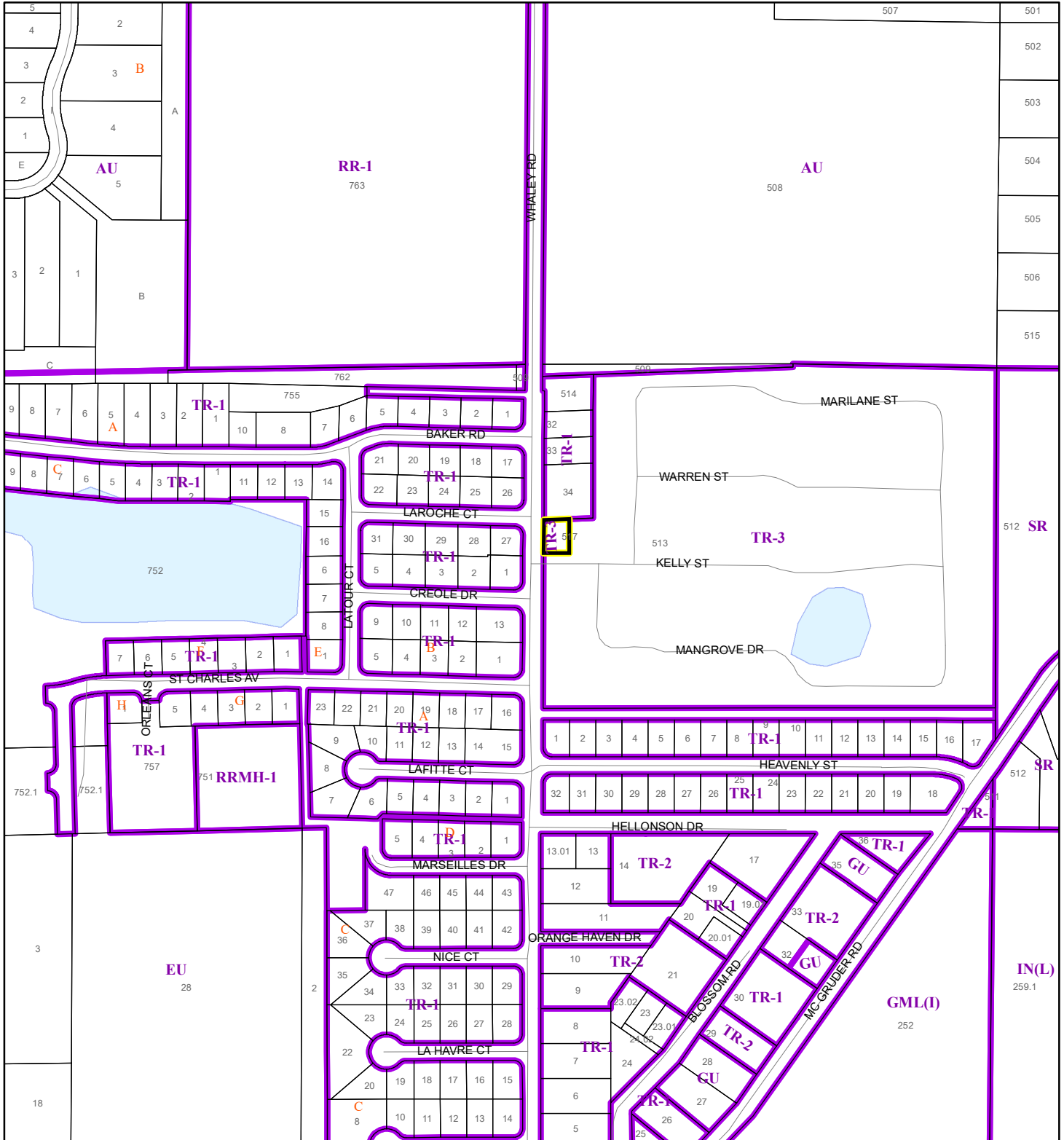
Produced by BoCC - GIS Date: 6/10/2021

-  Buffer
-  Subject Property

ZONING MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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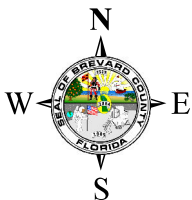
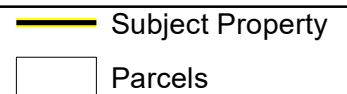
Produced by BoCC - GIS Date: 6/10/2021

 Subject Property

Parcels

Zoning

21Z00021



1:4,800 or 1 inch = 400 feet

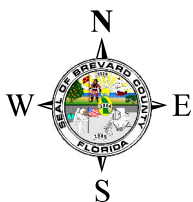
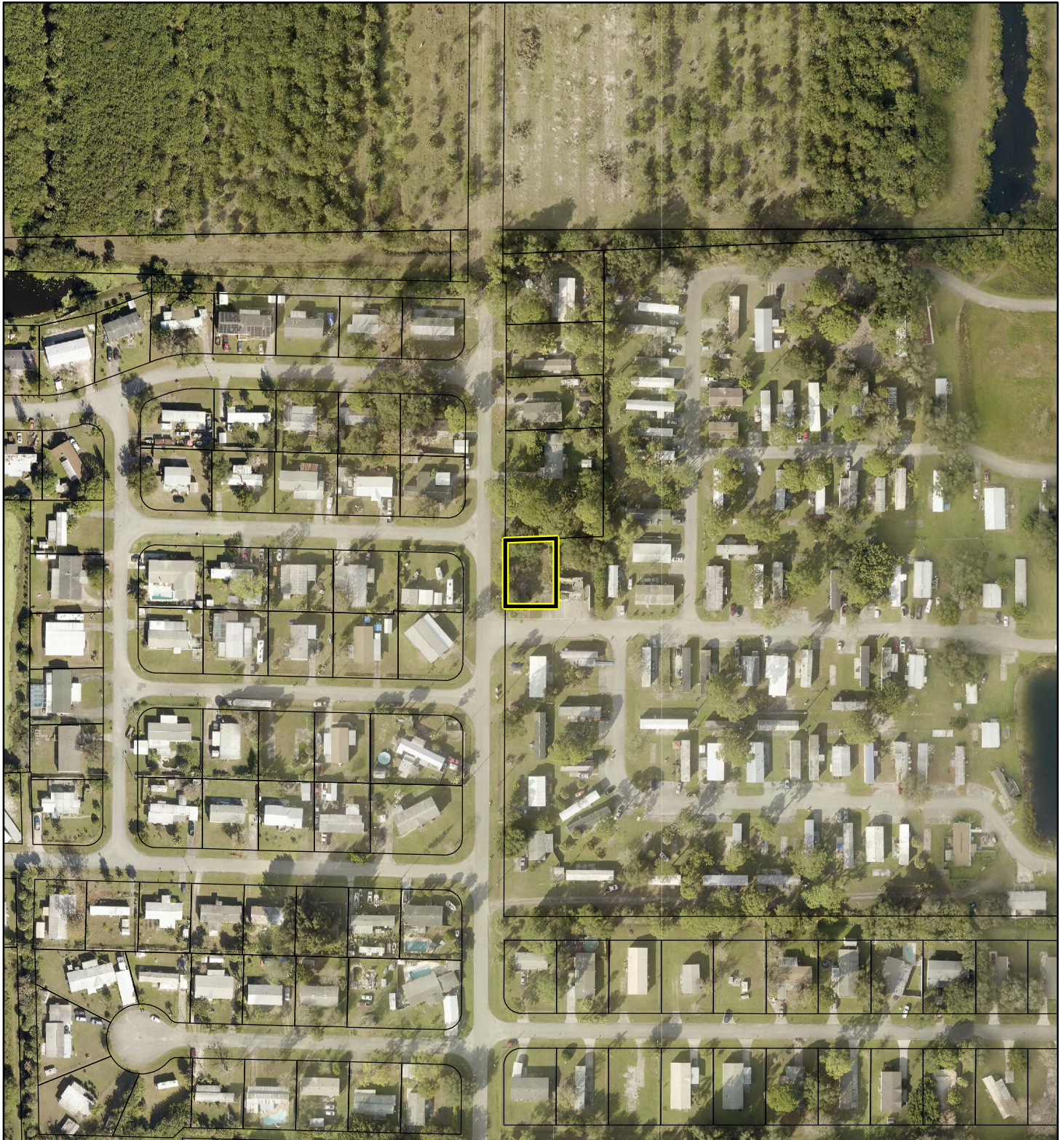
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Produced by BoCC - GIS Date: 6/10/2021

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

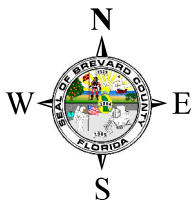
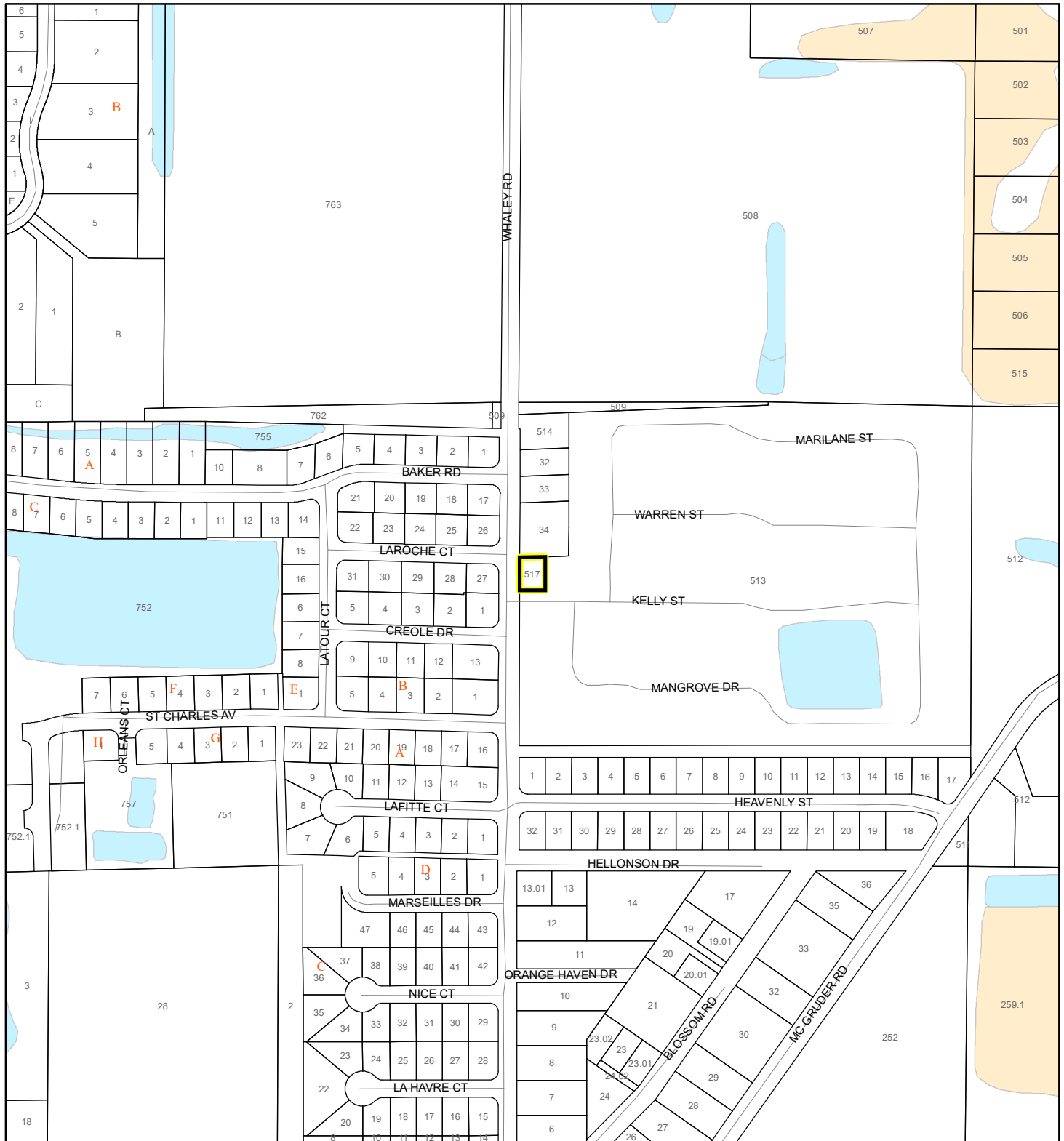
 Subject Property

 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

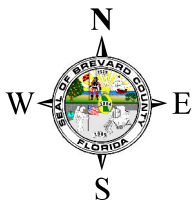
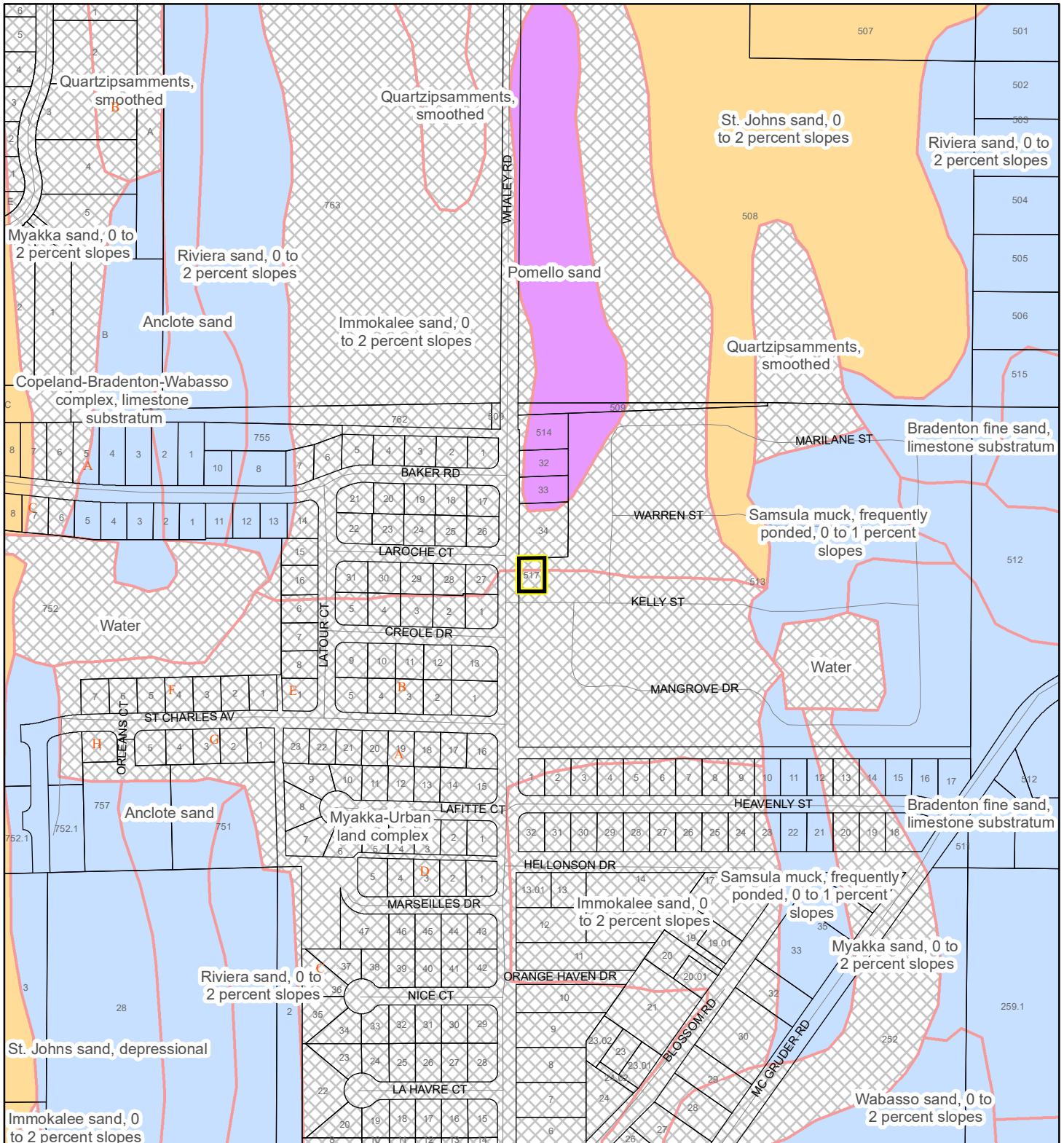
National Wetlands Inventory (NWI)

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

USDA SCSSS SOILS 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

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

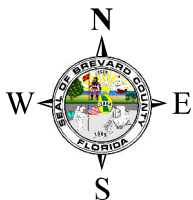
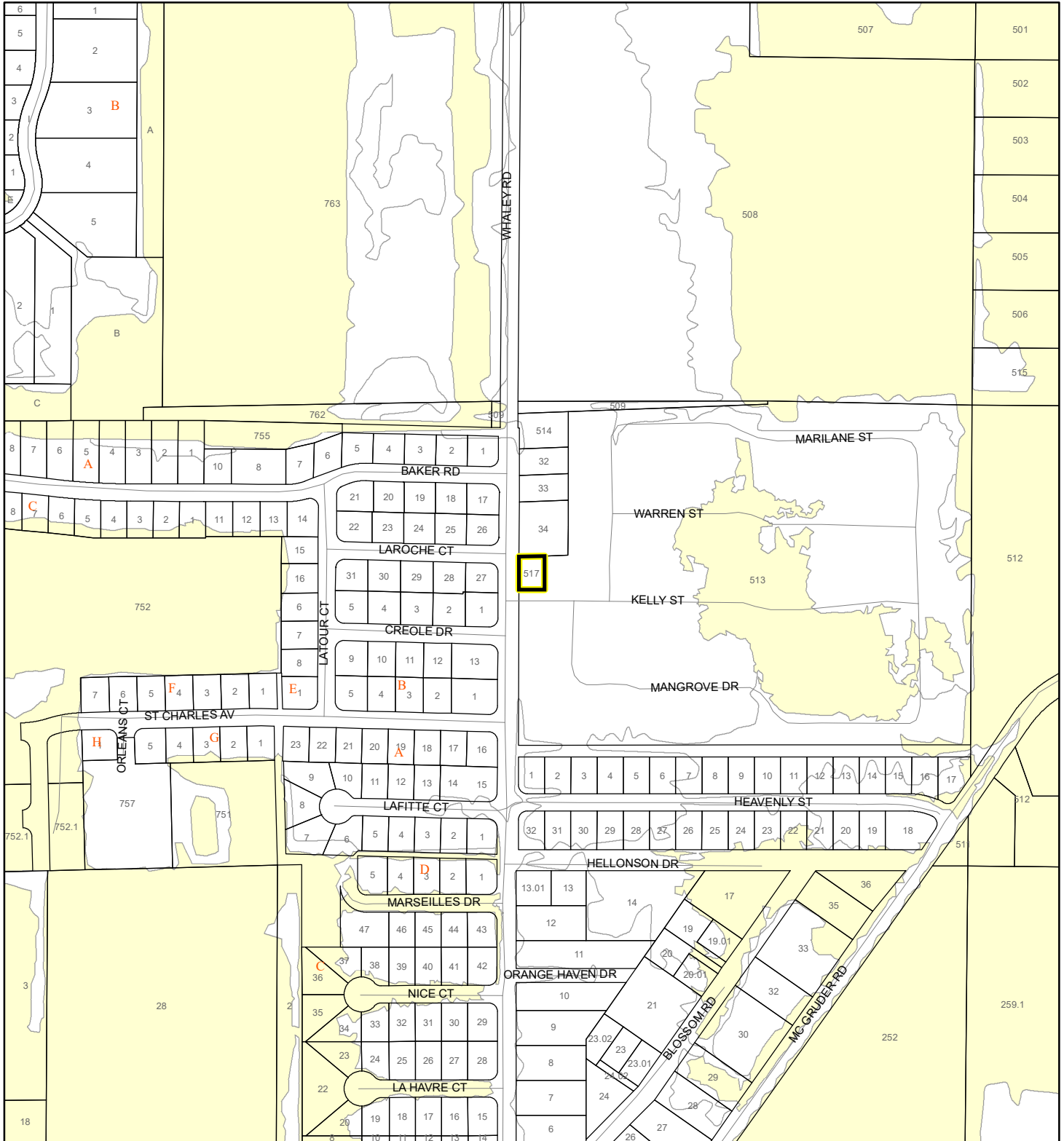
Subject Property

Parcels

FEMA FLOOD ZONES 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

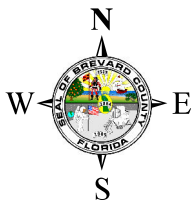
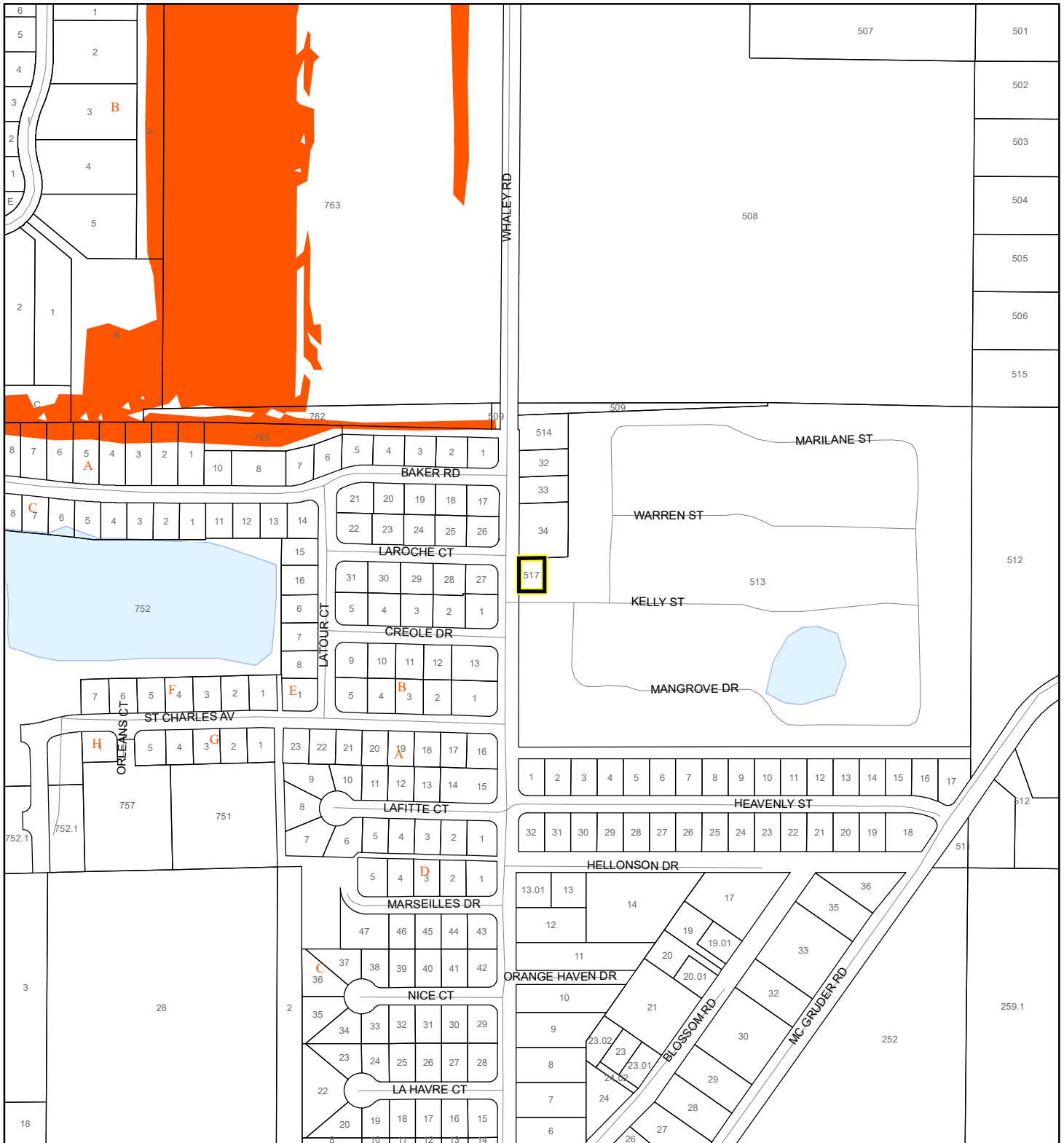
FEMA Flood Zones

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

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

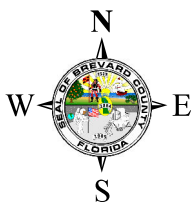
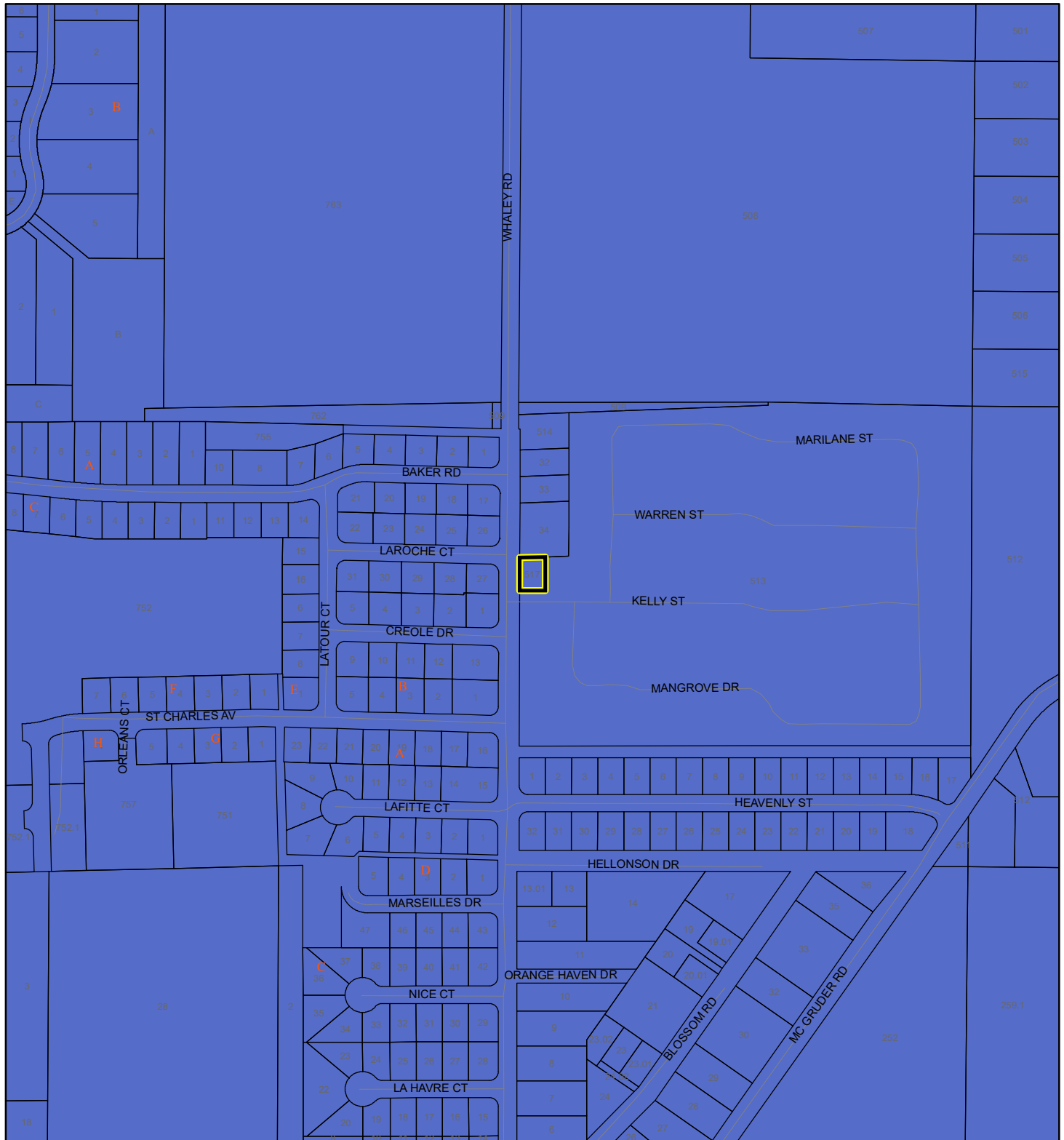
Coastal High Hazard Area

 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

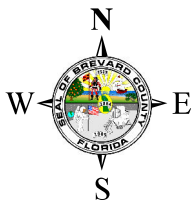
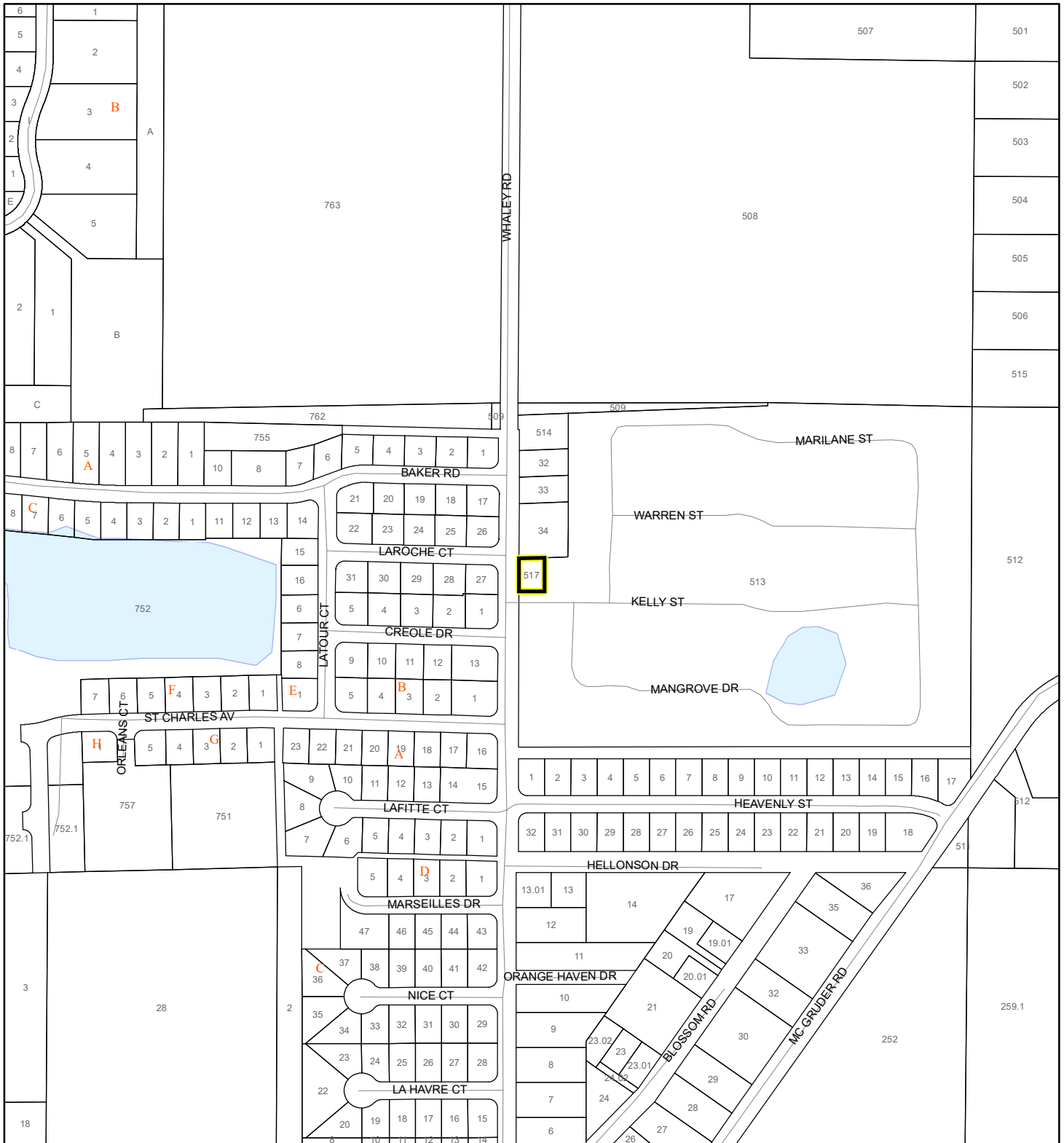
 60 Meters

 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

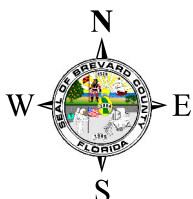
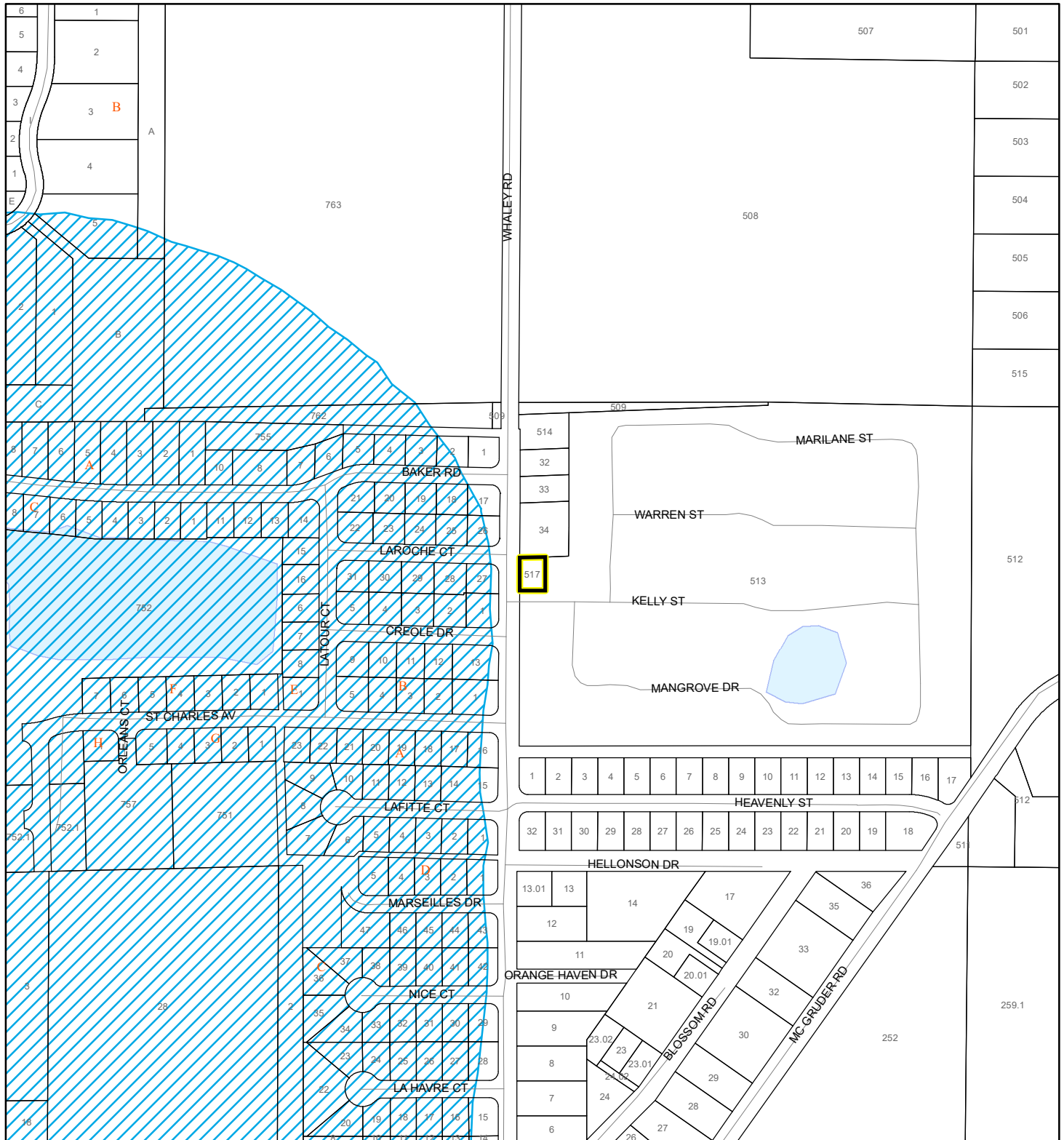
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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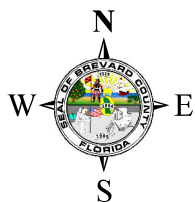
Produced by BoCC - GIS Date: 6/10/2021

- 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

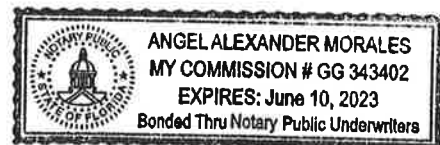
Subscribed and sworn before me, by X physical presence or _____ online notarization,
this 4th day of, June, 20 21, personally appeared

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: HH Sign Issued to: Code Notification Radius: 500ft
Enforcement

MEETINGS

DATE

TIME

☐ P&Z

☐ PSJ Board

☒ NMI Board

☒ LPA

☐ BOA

☒ BCC

8/12/21

8/23/21

9/2/21

6:00pm

3:00 p.m

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:

scalderone.cher@gmail.com () or U.S. Mail _____
e-mail address fax number

Yes/No

I have received a copy of this notice:


(APPLICANT SIGNATURE)

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, August 12, 2021**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

Board members present were: Mary Hillberg, Chair; Gina Lindhorst; Catherine Testa; Jack Ratterman, Vice Chair; Jim Carbonneau; Chris Cook; and Ted Balke.

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; Kyle Harris Planner I; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Joseph A. Calderone

A change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home). The property is 0.14 acre, located on the northeast corner of Whaley Road and Mangrove Drive. (6810 Whaley Road, Merritt Island) (21Z00021) (Tax Account 2315419) (District 2)

Joseph Calderone - My name is Joseph Calderone, I'm the owner of this property and my address is 637 Orange Court, Rockledge. The property was originally presented to me as buildable, but I ended up getting into this to convert it, so that's what I'm doing. The zoning is currently TR-3 and I was told it needs to be TR-1-A to make it buildable. I applied, and was approved, for a variance so that something can be put on the property. It has power and water and sewer line that hook into the sewage that exists for the Colony Park Mobile Home Park, so there are no improvements that need to be done on the property. I spoke to the sewer company already and I can hook up whenever something is built there.

Ted Balke - What is your potential future plan?

Joseph Calderone - To put a small building on the property. The property is about 6,000 square feet and is comparable to Colony Park.

Jim Carbonneau - What is your intended use of the building?

Joseph Calderone - A single-family residence.

Chris Cook - The building next to it on the aerial map, is that the old sewage treatment plant that was there? Just to the east.

Joseph Calderone - That was a laundromat, but it has been torn down.

Jack Ratterman - That laundromat used to serve Colony Park.

Jeffrey Ball - This property was part of Colony Park, and sometime in 1969 it was broken off, and TR-3 requires 10 acres minimum, and that was one of the reasons Mr. Calderone has to rezone it, and also because of the size of the property. I want to provide clarification for you all, part of the building permit process is that Mr. Calderone will have to get a permit from the Health Department for the septic system.

Mary Hillberg - So, he isn't going onto sewer?

Jeffrey Ball - There is no central sewer there.

Joseph Calderone - There is sewer that services Colony Park.

Jeffrey Ball - That is a package plant, it's not central sewer.

Joseph Calderone - I spoke to the supervisor of the sewage plant and he said there is a hook up to the main and as far as he's concerned there is no problem with hooking up to the sewage system as long as I'm paying the town, which I'm doing right now.

Jeffrey Ball - It's up to the Health Department to issue the permit.

Joseph Calderone - I don't see why they wouldn't.

Jack Ratterman - I know there has been a great effort in trying to redevelop that area.

Jeffrey Ball - This is a unique request; staff worked with the applicant to bring this property into a usable property. The next step after zoning is the building permit process.

Jack Ratterman - Will it be a building or will it be pre-fabricated?

Jeffrey Ball - That's up to the applicant. The zoning allows for both a site built and a mobile home.

Public Comment.

Kim Smith - My name is Kim Smith, P.O. Box 542372, Merritt Island. I'm speaking for the North Merritt Island Homeowners Association, and in regards to this zoning change, the HOA had no objections.

Mary Hillberg - I bring it back to the board. Is there a motion?

Jack Ratterman - I make a motion that we accept Item H.3.

Jim Carbonneau - I'll second.

Mary Hillberg called for a vote on the motion as stated and it passed unanimously.

Upon consensus, the meeting adjourned at 6:20 p.m.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

8/23/2021

Subject:

Comprehensive Plan text amendment to include a Property Rights Element as required by House Bill 59, requiring all local governments to create a Property Rights Element.

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Local Planning Agency consider a text amendment to the Comprehensive Plan to add a Property Rights Element, and to change the Table of Contents to include this Element.

Summary Explanation and Background:

This request is for a text amendment to create a Property Rights Element to the Comprehensive Plan adding Goals, Objectives, and Policies with regards to the local decision making process as it pertains to the rights of property owners.

This request is a result of House Bill 59, which became law on June 29, 2021, adding Section 163.3177(6)(i), Florida Statutes. Effective July 1, 2021: Each local government must adopt a property rights element in its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is **initiated** after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes (emphasis added).

The Property Rights Element creates a decision making policy with regards to the right of property owners to physically control, maintain, improve, protect, and sell properties.

Clerk to the Board Instructions:

None.



Agenda Report

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Viera, FL 32940

Public Hearing

H.4.

8/23/2021

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The Property Rights Element creates a decision making policy with regards to the right of property owners to physically control, maintain, improve, protect, and sell properties.

Clerk to the Board Instructions:

None.

**PROPOSED COMPREHENSIVE PLAN AMENDMENT 2021-2.1
PROPERTY RIGHTS ELEMENT – TEXT AMENDMENT**

Request: A text amendment to the Comprehensive Plan creating Property Rights Element XV and changing the Glossary from Element XV to XVI

Owner / Applicant: Planning & Development Department

Location: N/A

Acreage: N/A

**Existing Land
Use Designation:** N/A

**Proposed Land
Use Designation:** N/A

PROPOSED TEXT AMENDMENT

Background:

House Bill 59, which became law on June 29, 2021, adds Section 163.3177(6)(i), Florida Statutes. Effective July 1, 2021: Each local government must adopt a property rights element into its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is **initiated** after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes (emphasis added).

The new section requires that governmental entities respect judicially acknowledged and constitutionally protected private property rights. The law allows the Board to adopt its own property rights element or use the provision provided. Staff has presented the provision included in the law in order to expedite this process to ensure that development applications may continue to be processed at this time.

Description:

The proposed amendment will create a Property Rights Element to the Comprehensive Plan adding Goals, Objectives and Policies with regards to the local decision making process, as it pertains to the rights of property owners.

Proposed Text Amendment

The proposed amendment would be adopted as Property Rights Element XV and change the Glossary from XV to XVI. Additions to the Comprehensive Plan will be shown as underlined and deletions are shown as ~~strike through~~.

PROPERTY RIGHTS ELEMENT

CHAPTER 15

BREVARD COUNTY COMPREHENSIVE PLAN

CHAPTER XV

PRIVATE PROPERTY RIGHTS

TABLE OF CONTENTS

Private property rights in the local decision making process.....1

GOALS, OBJECTIVES AND POLICIES

GOAL

TO ENSURE CONSIDERATION OF PRIVATE PROPERTY RIGHTS IN THE LOCAL DECISION MAKING PROCESS.

Objective 1

Brevard County shall follow a set of policies to ensure that private property rights are considered in the local decision making process.

Policy 1.1

Brevard County shall consider the following in the local decision making process:

- A. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
- B. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or the use of any other person, subject to state law and local ordinances.
- C. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
- D. The right of a property owner to dispose of his or her property through sale or gift.

THE 1988* BREVARD COUNTY COMPREHENSIVE PLAN

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Preface

Adopting Ordinance

Part I. Conservation Element

Part II. Surface Water Management Element

Part III. Recreation and Open Space Element

Part IV. Historic Preservation Element

Part V. Housing Element

Part VI. Potable Water Element

Part VII. Sanitary Sewer Element

Part VIII. Solid Waste and Hazardous Materials Element

Part IX. Transportation Element

Part X. Coastal Management Element

Part XI. Future Land Use Element

Part XII. Intergovernmental Coordination Element

Part XIII. Capital Improvements and Programs Element

Part XIV. Public School Facilities Element

Part XV. ~~Glossary~~ Property Rights Element

Part XVI. Glossary

Updated ~~November 7, 2008~~ November 4, 2021

ORDINANCE NO. 21-__

ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY; ENTITLED “THE COMPREHENSIVE PLAN”, SETTING FORTH PLAN AMENDMENT 2021-2.1; AMENDING SECTION 62-501, ENTITLED “CONTENTS OF THE PLAN”; SPECIFICALLY AMENDING SECTION 62-501, PART IX, ENTITLED FUTURE LAND USE ELEMENT; PROVIDING FOR INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for amendments to the Comprehensive Plan on June 30, 2021, for adoption as the Plan Amendment Cycle 2021-2; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

WHEREAS, on October 25, 2021, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 2021-2.1, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on November 4, 2021, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon a thorough, and complete consideration, approval for the adoption of Plan Amendment 2021-2.1; and

WHEREAS, Plan Amendment 2021-2.1 adopted by this Ordinance complies with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 2021-2.1 adopted by this Ordinance is based upon findings of fact as included in the data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 2021-2.1 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended as specifically shown in Exhibit A. Exhibit A is hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 2021-2.1, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The plan amendment shall become effective once the state land planning agency issues a final order determining the adopted amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(9), or until the Administration Commission issues a final order determining the amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(10). A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this the ____ day of _____, 2021.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**

Rachel Sadoff, Clerk

By: _____
Rita Pritchett, Chair

Approved by the Board on _____, 2021.

ENROLLED

CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

1
2 An act relating to growth management; amending s.
3 163.3167, F.S.; specifying requirements for certain
4 comprehensive plans effective, rather than adopted,
5 after a specified date and for associated land
6 development regulations; amending s. 163.3177, F.S.;
7 requiring local governments to include a property
8 rights element in their comprehensive plans; providing
9 a statement of rights which a local government may
10 use; requiring a local government to adopt a property
11 rights element by the earlier of its adoption of its
12 next proposed plan amendment initiated after a certain
13 date or the next scheduled evaluation and appraisal of
14 its comprehensive plan; prohibiting a local
15 government's property rights element from conflicting
16 with the statement of rights contained in the act;
17 amending s. 163.3237, F.S.; providing that the consent
18 of certain property owners is not required for
19 development agreement changes under certain
20 circumstances; providing an exception; amending s.
21 337.25, F.S.; requiring the Department of
22 Transportation to afford a right of first refusal to
23 certain individuals under specified circumstances;
24 providing requirements and procedures for the right of
25 first refusal; amending s. 380.06, F.S.; authorizing

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certain developments of regional impact agreements to
be amended under certain circumstances; providing
retroactive applicability; providing a declaration of
important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 163.3167, Florida
Statutes, is amended to read:

163.3167 Scope of act.—

(3) A municipality established after the effective date of
this act shall, within 1 year after incorporation, establish a
local planning agency, pursuant to s. 163.3174, and prepare and
adopt a comprehensive plan of the type and in the manner set out
in this act within 3 years after the date of such incorporation.
A county comprehensive plan is controlling until the
municipality adopts a comprehensive plan in accordance with this
act. A comprehensive plan for a newly incorporated municipality
which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and
all land development regulations adopted to implement the
comprehensive plan must incorporate each development order
existing before the comprehensive plan's effective date, may not
impair the completion of a development in accordance with such
existing development order, and must vest the density and
intensity approved by such development order existing on the

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2021 Legislature

51 effective date of the comprehensive plan without limitation or
52 modification.

53 Section 2. Paragraph (i) is added to subsection (6) of
54 section 163.3177, Florida Statutes, to read:

55 163.3177 Required and optional elements of comprehensive
56 plan; studies and surveys.—

57 (6) In addition to the requirements of subsections (1)–
58 (5), the comprehensive plan shall include the following
59 elements:

60 (i)1. In accordance with the legislative intent expressed
61 in ss. 163.3161(10) and 187.101(3) that governmental entities
62 respect judicially acknowledged and constitutionally protected
63 private property rights, each local government shall include in
64 its comprehensive plan a property rights element to ensure that
65 private property rights are considered in local decisionmaking.
66 A local government may adopt its own property rights element or
67 use the following statement of rights:

68
69 The following rights shall be considered in local
70 decisionmaking:

71
72 1. The right of a property owner to physically
73 possess and control his or her interests in the
74 property, including easements, leases, or mineral
75 rights.

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2021 Legislature

76
77 2. The right of a property owner to use, maintain,
78 develop, and improve his or her property for personal
79 use or for the use of any other person, subject to
80 state law and local ordinances.

81
82 3. The right of the property owner to privacy and to
83 exclude others from the property to protect the
84 owner's possessions and property.

85
86 4. The right of a property owner to dispose of his or
87 her property through sale or gift.

88
89 2. Each local government must adopt a property rights
90 element in its comprehensive plan by the earlier of the date of
91 its adoption of its next proposed plan amendment that is
92 initiated after July 1, 2021, or the date of the next scheduled
93 evaluation and appraisal of its comprehensive plan pursuant to
94 s. 163.3191. If a local government adopts its own property
95 rights element, the element may not conflict with the statement
96 of rights provided in subparagraph 1.

97 Section 3. Section 163.3237, Florida Statutes, is amended
98 to read:

99 163.3237 Amendment or cancellation of a development
100 agreement.—A development agreement may be amended or canceled by

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2021 Legislature

101 mutual consent of the parties to the agreement or by their
102 successors in interest. A party or its designated successor in
103 interest to a development agreement and a local government may
104 amend or cancel a development agreement without securing the
105 consent of other parcel owners whose property was originally
106 subject to the development agreement, unless the amendment or
107 cancellation directly modifies the allowable uses or
108 entitlements of such owners' property.

109 Section 4. Subsection (4) of section 337.25, Florida
110 Statutes, is amended to read:

111 337.25 Acquisition, lease, and disposal of real and
112 personal property.—

113 (4) The department may convey, in the name of the state,
114 any land, building, or other property, real or personal, which
115 was acquired under subsection (1) and which the department has
116 determined is not needed for the construction, operation, and
117 maintenance of a transportation facility. When such a
118 determination has been made, property may be disposed of through
119 negotiations, sealed competitive bids, auctions, or any other
120 means the department deems to be in its best interest, with due
121 advertisement for property valued by the department at greater
122 than \$10,000. A sale may not occur at a price less than the
123 department's current estimate of value, except as provided in
124 paragraphs (a)-(d). The department may afford a right of first
125 refusal to the local government or other political subdivision

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126 in the jurisdiction in which the parcel is situated, except in a
127 conveyance transacted under paragraph (a), paragraph (c), or
128 paragraph (e). Notwithstanding any provision of this section to
129 the contrary, before any conveyance under this subsection may be
130 made, except a conveyance under paragraph (a) or paragraph (c),
131 the department shall first afford a right of first refusal to
132 the previous property owner for the department's current
133 estimate of value of the property. The right of first refusal
134 must be made in writing and sent to the previous owner via
135 certified mail or hand delivery, effective upon receipt. The
136 right of first refusal must provide the previous owner with a
137 minimum of 30 days to exercise the right in writing and must be
138 sent to the originator of the offer by certified mail or hand
139 delivery, effective upon dispatch. If the previous owner
140 exercises his or her right of first refusal, the previous owner
141 has a minimum of 90 days to close on the property. The right of
142 first refusal set forth in this subsection may not be required
143 for the disposal of property acquired more than 10 years before
144 the date of disposition by the department.

145 (a) If the property has been donated to the state for
146 transportation purposes and a transportation facility has not
147 been constructed for at least 5 years, plans have not been
148 prepared for the construction of such facility, and the property
149 is not located in a transportation corridor, the governmental
150 entity may authorize reconveyance of the donated property for no

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151 consideration to the original donor or the donor's heirs,
152 successors, assigns, or representatives.

153 (b) If the property is to be used for a public purpose,
154 the property may be conveyed without consideration to a
155 governmental entity.

156 (c) If the property was originally acquired specifically
157 to provide replacement housing for persons displaced by
158 transportation projects, the department may negotiate for the
159 sale of such property as replacement housing. As compensation,
160 the state shall receive at least its investment in such property
161 or the department's current estimate of value, whichever is
162 lower. It is expressly intended that this benefit be extended
163 only to persons actually displaced by the project. Dispositions
164 to any other person must be for at least the department's
165 current estimate of value.

166 (d) If the department determines that the property
167 requires significant costs to be incurred or that continued
168 ownership of the property exposes the department to significant
169 liability risks, the department may use the projected
170 maintenance costs over the next 10 years to offset the
171 property's value in establishing a value for disposal of the
172 property, even if that value is zero.

173 (e) If, at the discretion of the department, a sale to a
174 person other than an abutting property owner would be
175 inequitable, the property may be sold to the abutting owner for

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2021 Legislature

the department's current estimate of value.

Section 5. Paragraph (d) of subsection (4) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(d) Any agreement entered into by the state land planning agency, the developer, and the local government with respect to an approved development of regional impact previously classified as essentially built out, or any other official determination that an approved development of regional impact is essentially built out, remains valid unless it expired on or before April 6, 2018, and may be amended pursuant to the processes adopted by the local government for amending development orders. Any such agreement or amendment may authorize the developer to exchange approved land uses, subject to demonstrating that the exchange will not increase impacts to public facilities. This paragraph applies to all such agreements and amendments effective on or after April 6, 2018.

Section 6. The Legislature finds and declares that this act fulfills an important state interest.

Section 7. This act shall take effect July 1, 2021.