



Planning and Zoning Board / Local Planning Agency

Brevard County Government Center

2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida

Agenda

Monday, March 14, 2022

Local Planning Agency Items are in Italics.

The Board of County Commissioners may approve or deny the requested classification, or may approve a classification of lesser intensity than that requested.

Call To Order - 3:00 P.M.

Approval of Minutes - February 14, 2022

H. Public Hearings

- H.1.** Scott Minnick requests a change of zoning classification from AU to RR-1, with a BDP. (22Z00003) (Tax Account 2004518) (District 1)
- H.2.** Clair John Jaussi and Janel Hamilton Jaussi Revocable Trust requests a CUP for six goats. (22PZ00002) (Tax Account 2416958) (District 2)
- H.3.** *Storsafe of Rockledge, LLC (Nathan Lee) requests a Small Scale Comprehensive Plan Amendment (21S.03) to change the Future Land Use designation from RES 4, NC, and CC, to all CC. (21PZ00083) (Tax Accounts 2511096, 2511103, 2511119) (District 2)*
- H.4.** Storsafe of Rockledge, LLC (Nathan Lee) requests a change of zoning classification from AU and BU-1 to BU-2. (22Z00004) (Tax Accounts 2511096, 2511103, 2511119) (District 2)
- H.5.** *Rushing Wind, LLC (Steven Austin) requests a Small Scale Comprehensive Plan Amendment (22S.02) to change the Future Land Use designation from RES 1 to RES 4. (22PZ00003) (Tax Account 3008616) (District 3)*
- H.6.** Rushing Wind, LLC (Steven Austin) requests a change of zoning classification from RR-1 and IN(L) to RU-1-11. (22Z00001) (Tax Account 3008616) (District 3)
- H.7.** Brian G. and Debra S. Lawson (Kim Rezanka) request a change of zoning classification from GU to RR-1 with a BDP. (22Z00005) (Tax Accounts 2314706, 2314720, 2322365, 2322366, 2314737, 3018241, 2314738, 2314709) (District 1)

- H.8.** John Johanson requests a change of zoning classification from AU to RU-1-13. (22Z00002) (Tax Account 2501508) (District 2)
- H.9.** South Beach Cove Development Corp.; and Robert A. Baugher, Trustee (David Menzel) request a change of zoning classification from RU-2-15 to BU-1. (21Z00050) (Tax Account 2520070) (District 2)
- H.10.** *Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc. (Vaheed Teimouri) request a Small Scale Comprehensive Plan Amendment (21S.11) to change the Future Land Use designation from NC to CC. (21PZ00095) (Tax Accounts 2511036 & 2511043) (District 2)*
- H.11.** Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc. (Vaheed Teimouri) request a change of zoning classification from BU-1-A to BU-1. (21Z00049) (Tax Accounts 2511036 & 2511043) (District 2)
- H.12.** *The Heather Calligan Trust requests a Small Scale Comprehensive Plan Amendment (22S.01) to change the Future Land Use designation from RES 1 to RES 4. (22PZ00001) (Tax Account 2112413) (District 1)*
- H.13.** Norfolk Parkway, LLC (Bruce Moia) requests a change of zoning classification from GU with a CUP to BU-2 and removal of CUP. (22Z00006) (Tax Accounts 2802674 & 2802676) (District 5)
- H.14.** *Wireless Telecommunications Facilities Ordinance*

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.

3/14/2022

Subject:

Scott Minnick requests a change of zoning classification from AU to RR-1, with a BDP. (22Z00003) (Tax Account 2004518) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), with a BDP (Binding Development Plan).

Summary Explanation and Background:

The applicant requests to change 2.76 acres of the parcel from AU to RR-1 in order to reduce the minimum required lot width, and proposes a BDP to maintain consistency with the Comprehensive Plan. The northern 25 feet of the existing parcel is excluded from the rezoning request in order for that land to retain the AU zoning of the lot to the west, as the applicant intends to split off this 25-foot-wide strip and adjoin it to that lot.

The developed character of the surrounding area is a mixture suburban residential, agricultural-residential, and agricultural uses. All adjacent properties and all properties in the general vicinity are currently zoned AU. The introduction of RR-1 in the area could be considered to be out of character because this zoning classification allows one acre lots. The proposed BDP will cap the density potential of the subject property to 1 unit per 2.5 acres, which could provide the consistency and compatibility with the surrounding area.

The 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, 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 principal residence within the RR-1 zoning classification.

The Board may wish to consider whether the request to RR-1 and the BDP limiting the development to one dwelling on 2.5 acres is consistent and compatible with the surrounding area.

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way,

Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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

22Z00003

Scott Minnick

AU (Agricultural Residential) to RR-1 (Rural Residential) with a Binding Development Plan (BDP)

Tax Account Numbers: 2004518
Parcel I.D.s: 20G-35-02-AI-7.01
Location: 5170 Dixie Way, Mims, Florida 32754 (District 1)
Acreage: 2.76 acres

Planning & Zoning Board: 3/14/2022
Board of County Commissioners: 4/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	AU	RR-1 with BDP
Potential*	1 SF unit	1 SF unit
Can be Considered under the Future Land Use Map	YES RES 1:2.5	YES** RES 1:2.5

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Application includes a Binding Development Plan (BDP), limiting density to 1 unit per 2.5 acres.

Background and Purpose of Request

The applicant requests to change 2.76 acres of the parcel from AU (Agricultural Residential) to the RR-1 (Rural Residential) zoning classification, in order to reduce the minimum required lot width, along with a BDP requiring a minimum 2.5 acre lot size to maintain consistency with the maximum Future Land Use (FLU) density of the Comprehensive Plan. The northern 25 feet of the existing parcel is excluded from the rezoning request, in order for that land to retain the AU zoning of the lot to the west, as the applicant intends to split off this 25-foot-wide strip and adjoin it to that lot. To gain access to the abutting lot, for the purposes of obtaining a residential building permit, the applicant for such lot split will need to demonstrate compliance with Section 62-102 by obtaining approval of an Administrative Action (AA) for a flag lot. The applicant could be eligible to apply for an AA for a flag lot to the abutting property to the west if this rezoning is approved.

The current zoning of AU is the original zoning classification of the property.

Land Use

The subject property is currently designated Residential 1:2.5 (RES 1:2.5) FLU. The proposed RR-1 zoning, with a BDP limiting density to 1 single-family dwelling unit per 2.5 acres, could be considered to be consistent with the RES 1:2.5 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.10 – Residential 1:2.5 (maximum of 1 unit per 2.5 acres)

The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. The Residential 1:2.5 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

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

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

Criteria:

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

Since RR-1 is considerably less intense than AU in terms of permitted uses, the potential effects in terms of hours of operation, lighting, odor, noise levels, traffic or other site activity of the proposed RR-1 zoning could be considerably less than what is permitted by the current AU zoning.

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

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

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

1. historical land use patterns;

The historical land use pattern is agricultural use with AU zoning, including some residential, on parcels of 2.5 acres and larger. The agricultural use of land has mostly transitioned to low- density residential uses, with lot sizes of 2.5 acres or larger.

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

There have been approximately one half-dozen single-family residences granted building permits and no zoning actions approved within ½ mile of the subject property in the last three years.

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

No development plans have been approved within ½ mile of the subject property in the last three years.

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

This could be considered to create increased impact on abutting properties. The requirement of the BDP for a minimum lot area of 2.5 acres could be considered to make the proposed action materially consistent with policies of elements of the Comprehensive Plan.

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

The developed character of the surrounding area is a mixture suburban residential, agricultural-residential, and agricultural uses.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	One (1) single-family residential lot and one (1) vacant lot	AU	RES 1:2.5
South	Two (2) vacant lots	AU	RES 1:2.5
East	One (1) vacant lot (across right-of-way)	AU (across ROW)	RES 1 (across ROW)
West	One (1) vacant lot	AU	RES 1:2.5

The subject property is currently zoned AU, as are all adjacent properties and all properties in the general vicinity. The introduction of RR-1 zoning classification within this exclusively AU zoned area could be considered to be out of character with the area because this zoning classification allows one acre lots. The BDP will cap the density potential of the subject property to 1 unit per 2.5 acres, which could provide the consistency and compatibility with the surrounding area.

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

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 district.

There have been six (6) Administrative Actions for flag lots and/or access easements approved within a half-mile radius of the subject property within the last three years. Additionally, an application for an Administrative Action (21AA00053) for an easement through the subject property to access the abutting property to the west was denied.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US-1, from Burkholm Road to Volusia County Line, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 10.16% of capacity daily. The maximum development potential from the proposed rezoning does not change the percentage of MAV utilization. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal is below the threshold requiring school concurrency review.

The parcel is not connected to water. The closest Brevard County water line is approximately 2.8 miles south of the subject property. The parcel is not connected to sanitary sewer. The closest Brevard County sanitary sewer line is approximately 3.6 miles south of the subject property.

Environmental Constraints

- Hydric Soils/Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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

For Board Consideration

The Board may wish to consider whether the request to RR-1 and the BDP limiting the development to one dwelling on 2.5 acres is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary

Item # 22Z00003

Applicant: Scott Minnick

Zoning Request: AU to RR-1 with BDP

Note: Applicant wants to create a flag stem on portion of parcel, and place BDP on remainder of parcel to be no less than 2.5 acres in size.

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID No: 2004518

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils/Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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

Land Use Comments:

Hydric Soils/Wetlands

The subject property contains an area of mapped hydric soils (Bradenton fine sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. 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 as defined in Section 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. At time of building permit application, a wetland determination/delineation may be required.

Recent aeriels indicate that a portion the parcel has been filled. The discovery of unpermitted wetland impacts may result in enforcement action.

Indian River Lagoon Nitrogen Overlay

The east portion of the 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.

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 preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

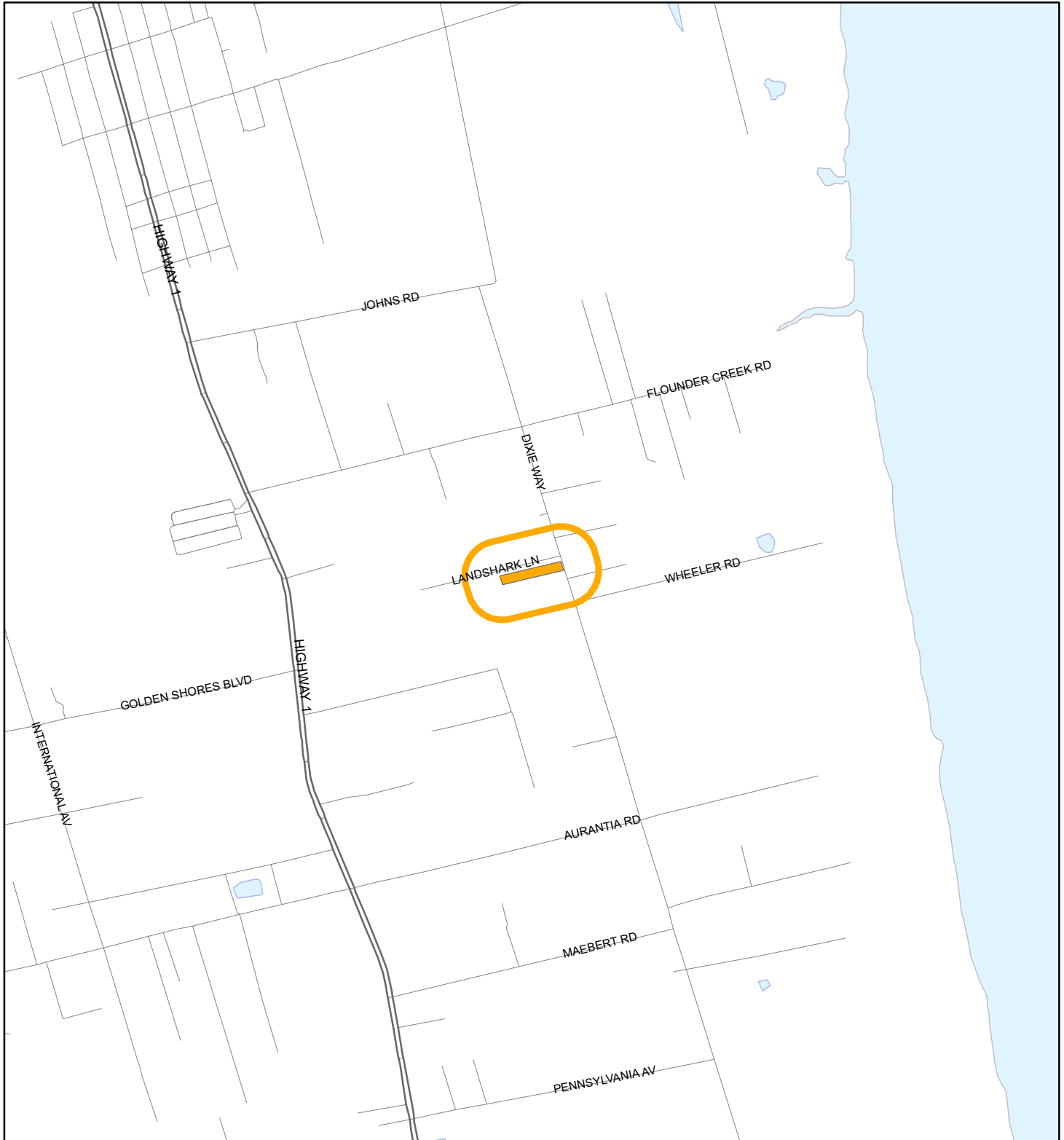
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

SCOTT MINNICK

22Z00003



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

Buffer Distance: 500 feet

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

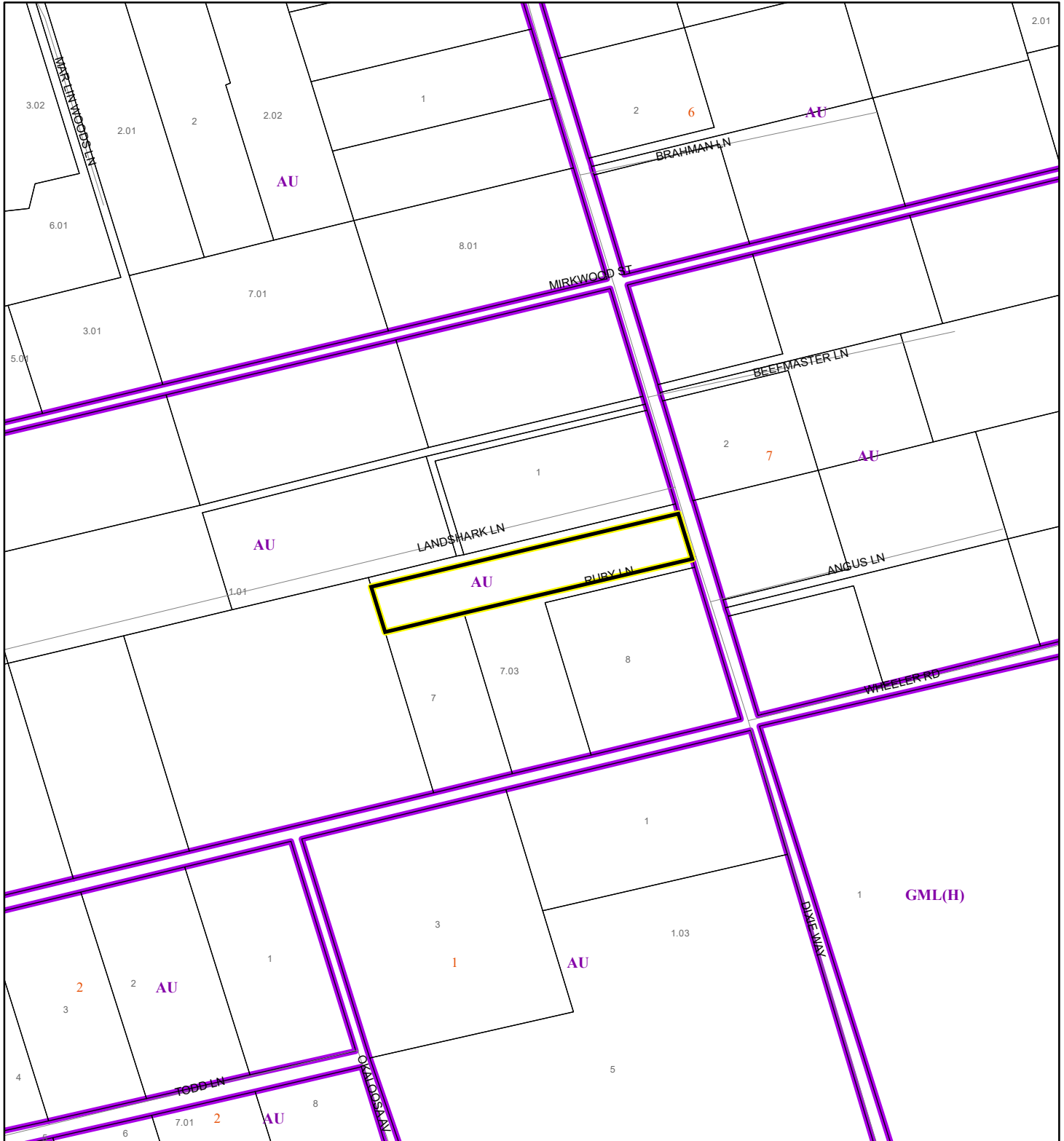
Produced by BoCC - GIS Date: 2/16/2022

— Buffer
— Subject Property

ZONING MAP

SCOTT MINNICK


22Z00003



1:4,800 or 1 inch = 400 feet

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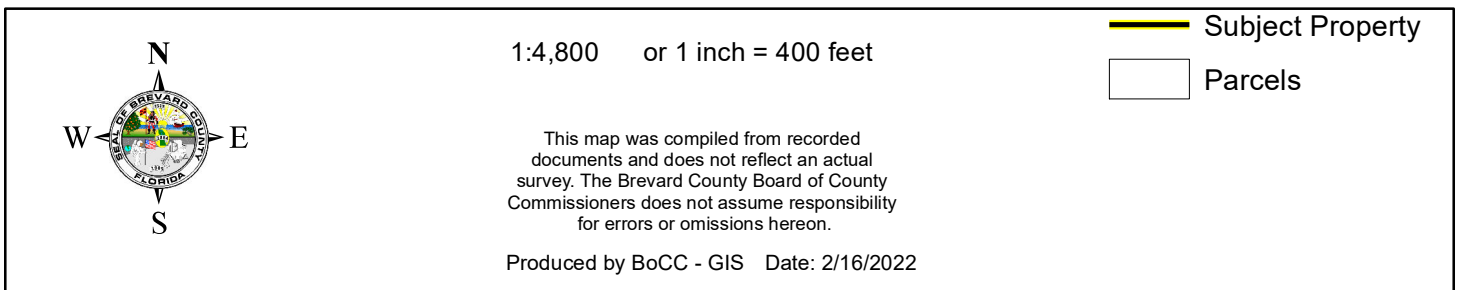
Produced by BoCC - GIS Date: 2/16/2022

 Subject Property

 Parcels

 Zoning

SCOTT MINNICK
22Z00003



AERIAL MAP

SCOTT MINNICK

22Z00003




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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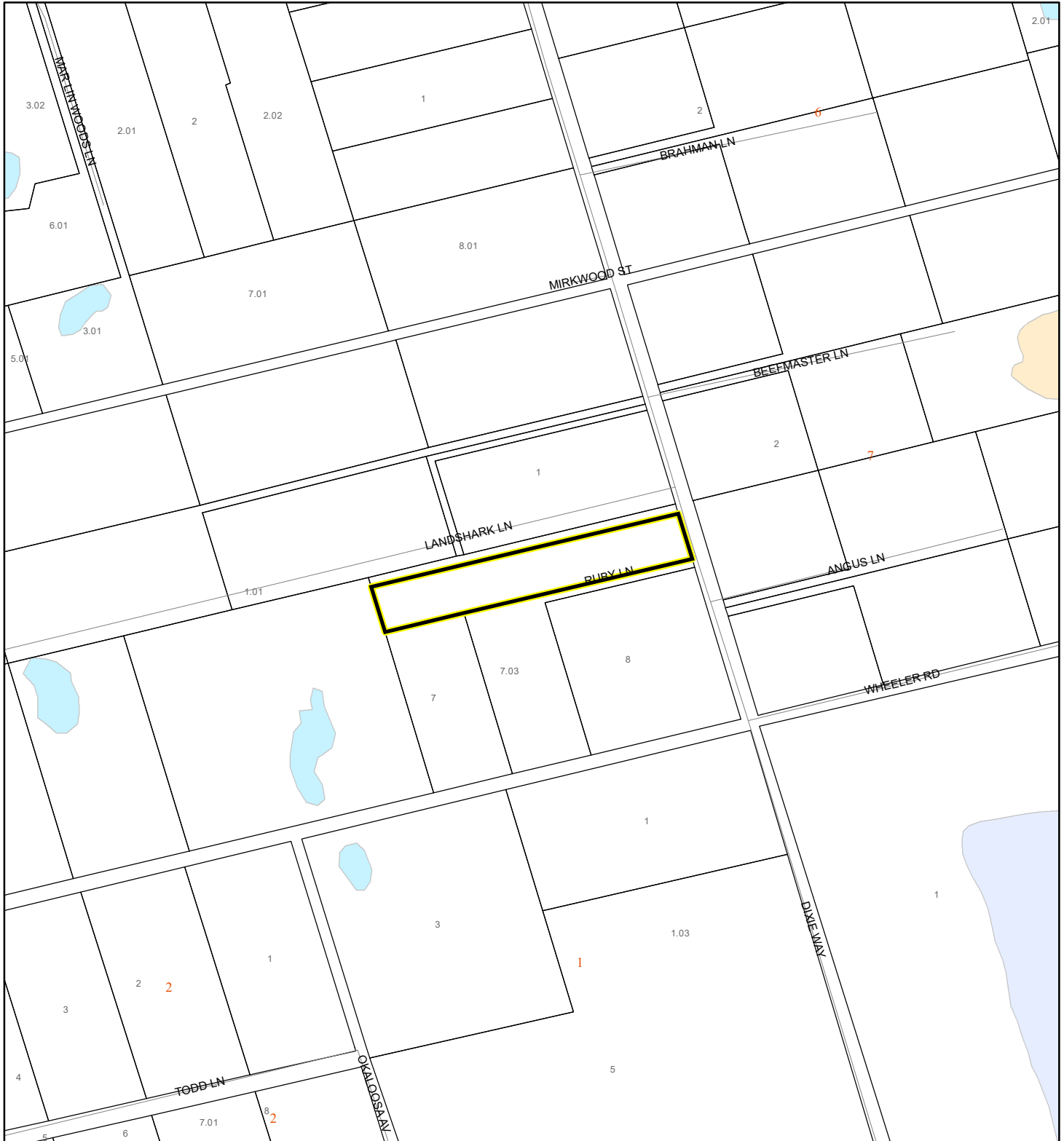
 Subject Property

 Parcels

NWI WETLANDS MAP

SCOTT MINNICK

22Z00003













1:4,800 or 1 inch = 400 feet

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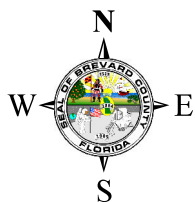
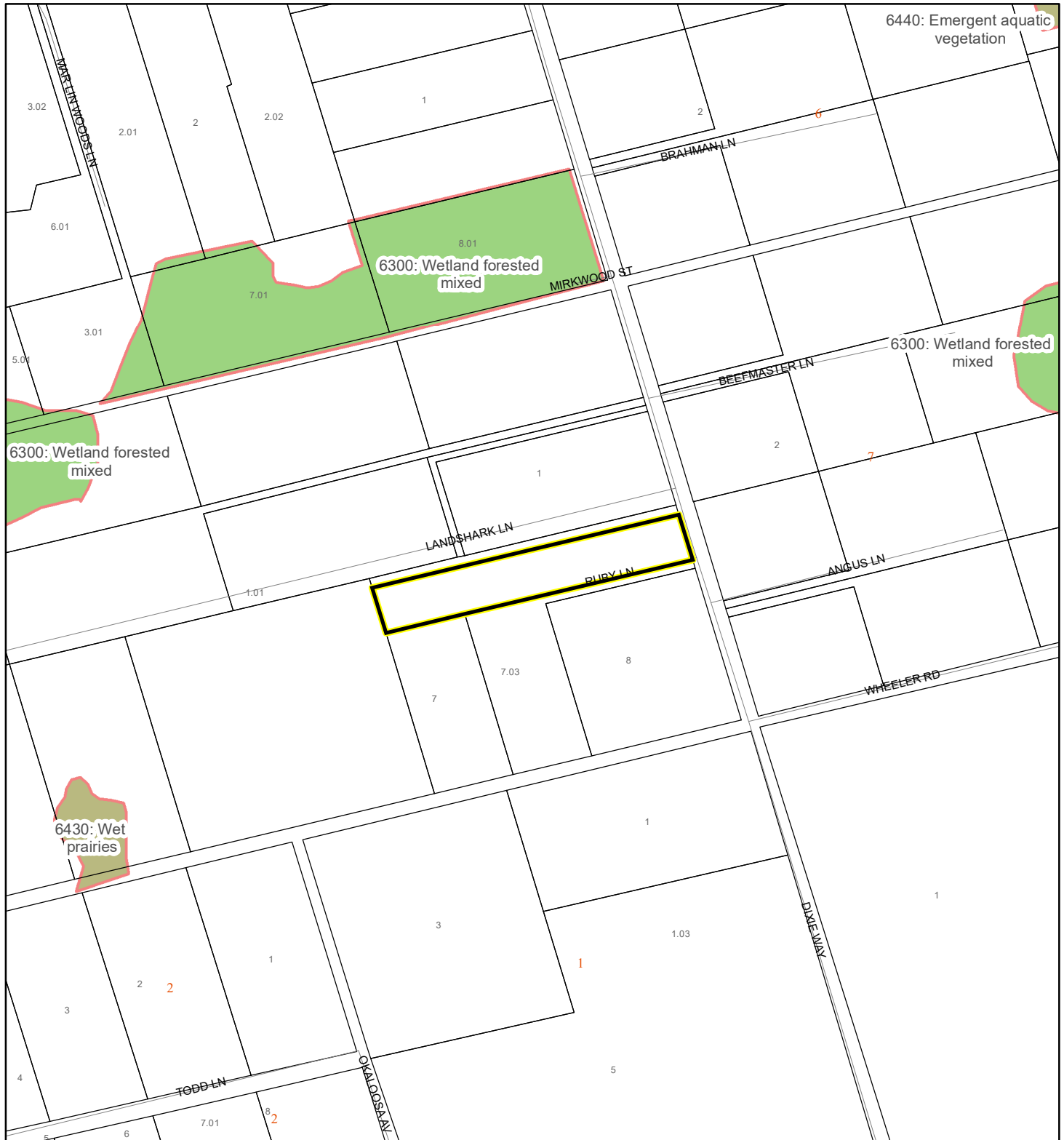
National Wetlands Inventory (NWI)

 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

SCOTT MINNICK

22Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/16/2022

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

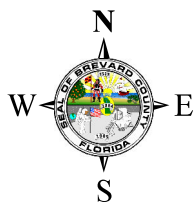
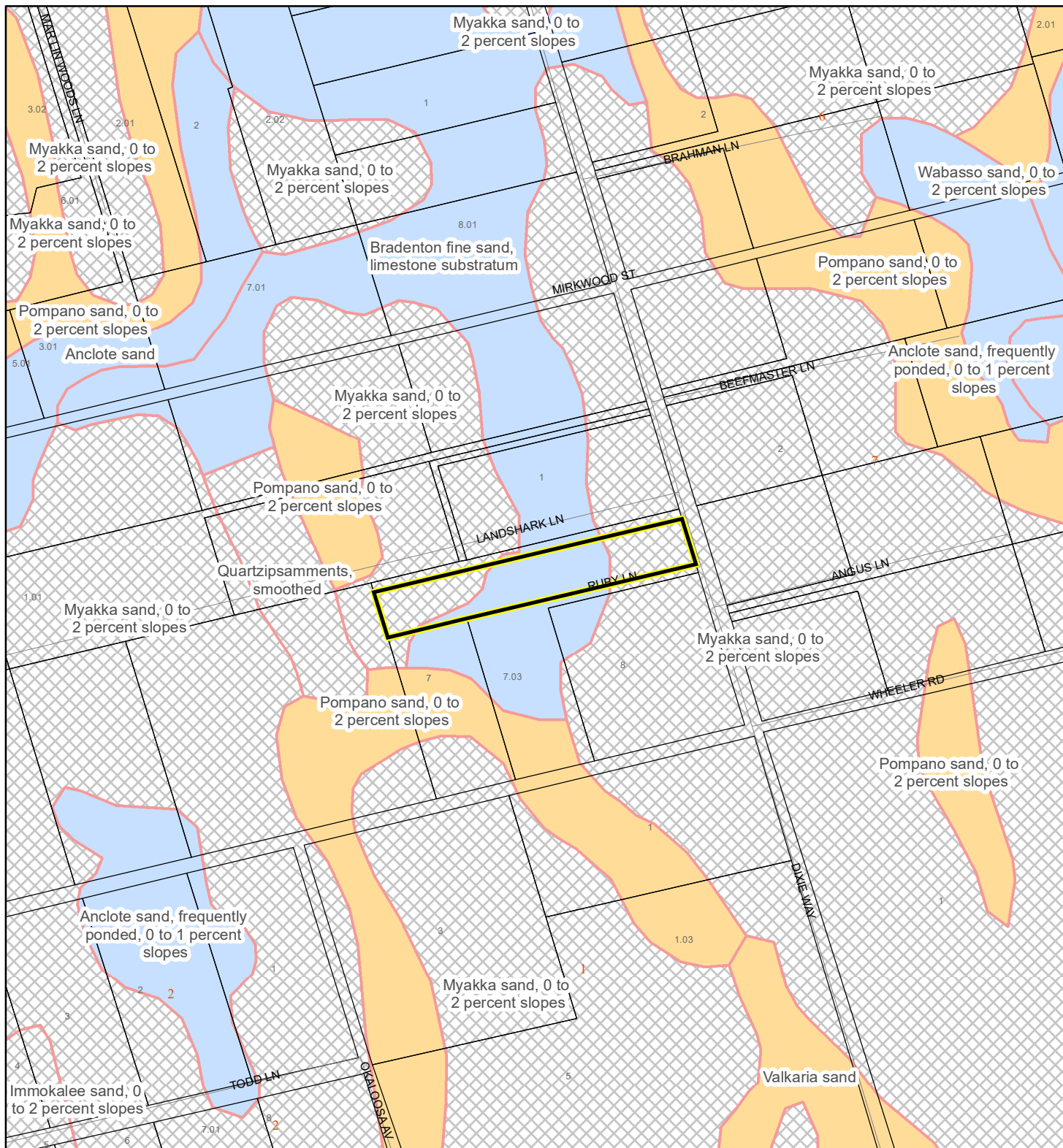
Subject Property

Parcels

USDA SCSSS SOILS MAP

SCOTT MINNICK

22Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/16/2022

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

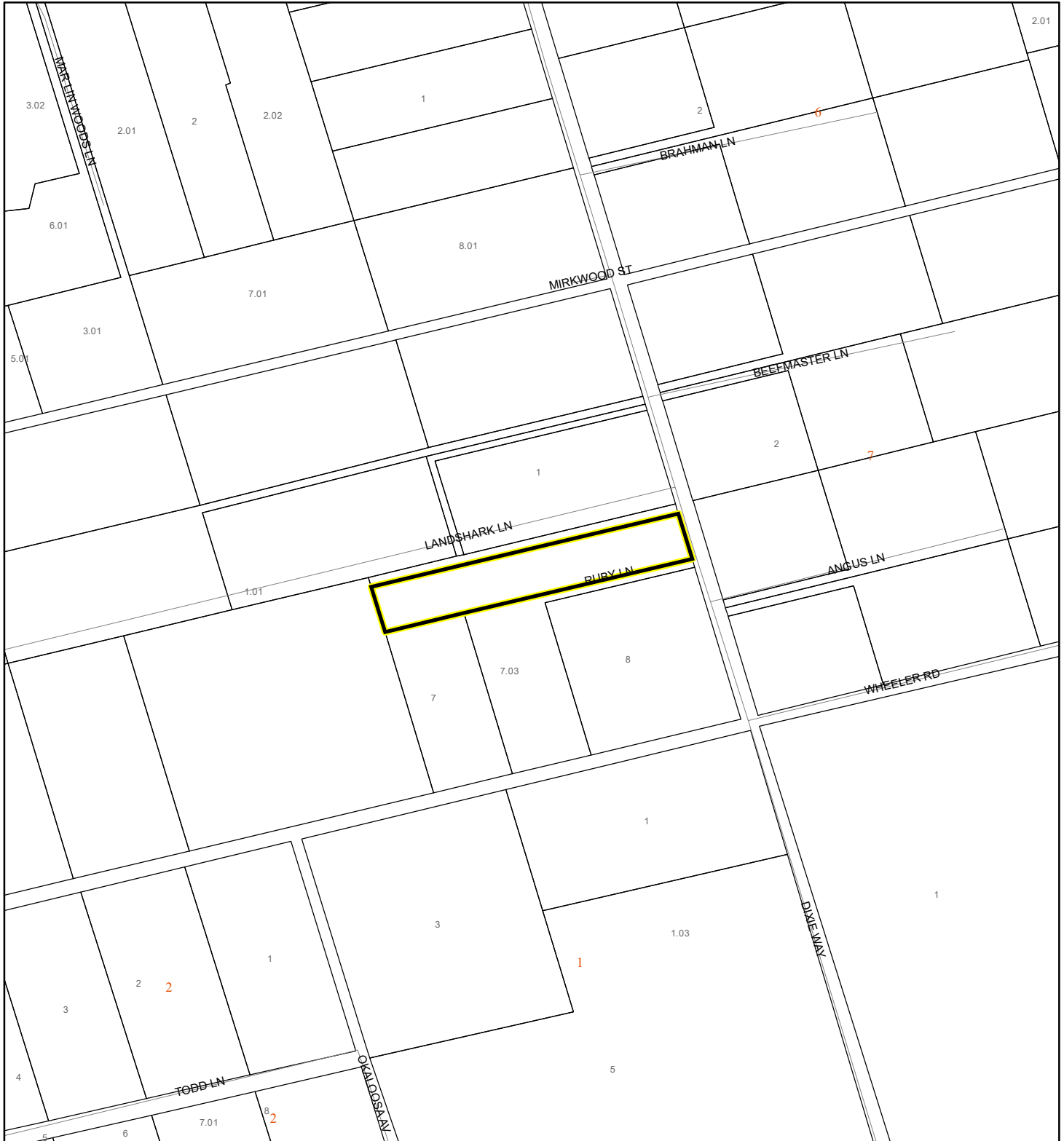
Subject Property

Parcels

FEMA FLOOD ZONES MAP

SCOTT MINNICK

22Z00003



1:4,800 or 1 inch = 400 feet

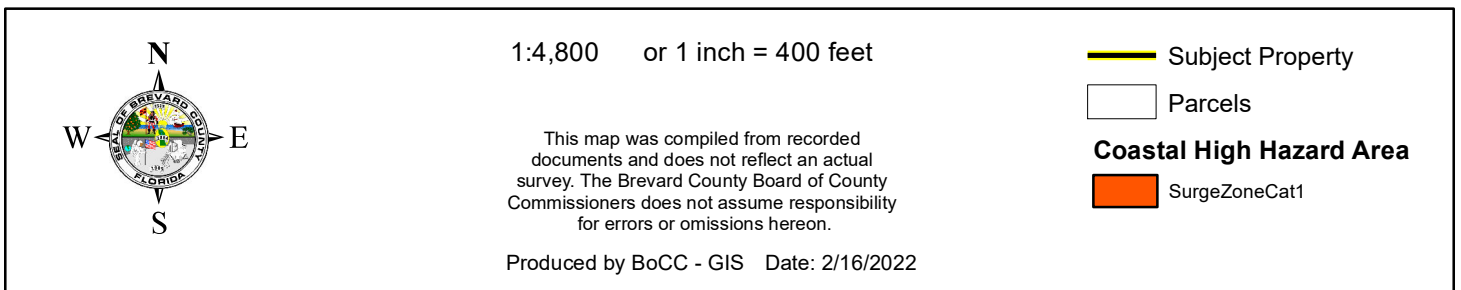
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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FEMA Flood Zones

 A	 AO	 X
 AE	 Open Water	
 AH	 VE	
 Subject Property		 Parcels

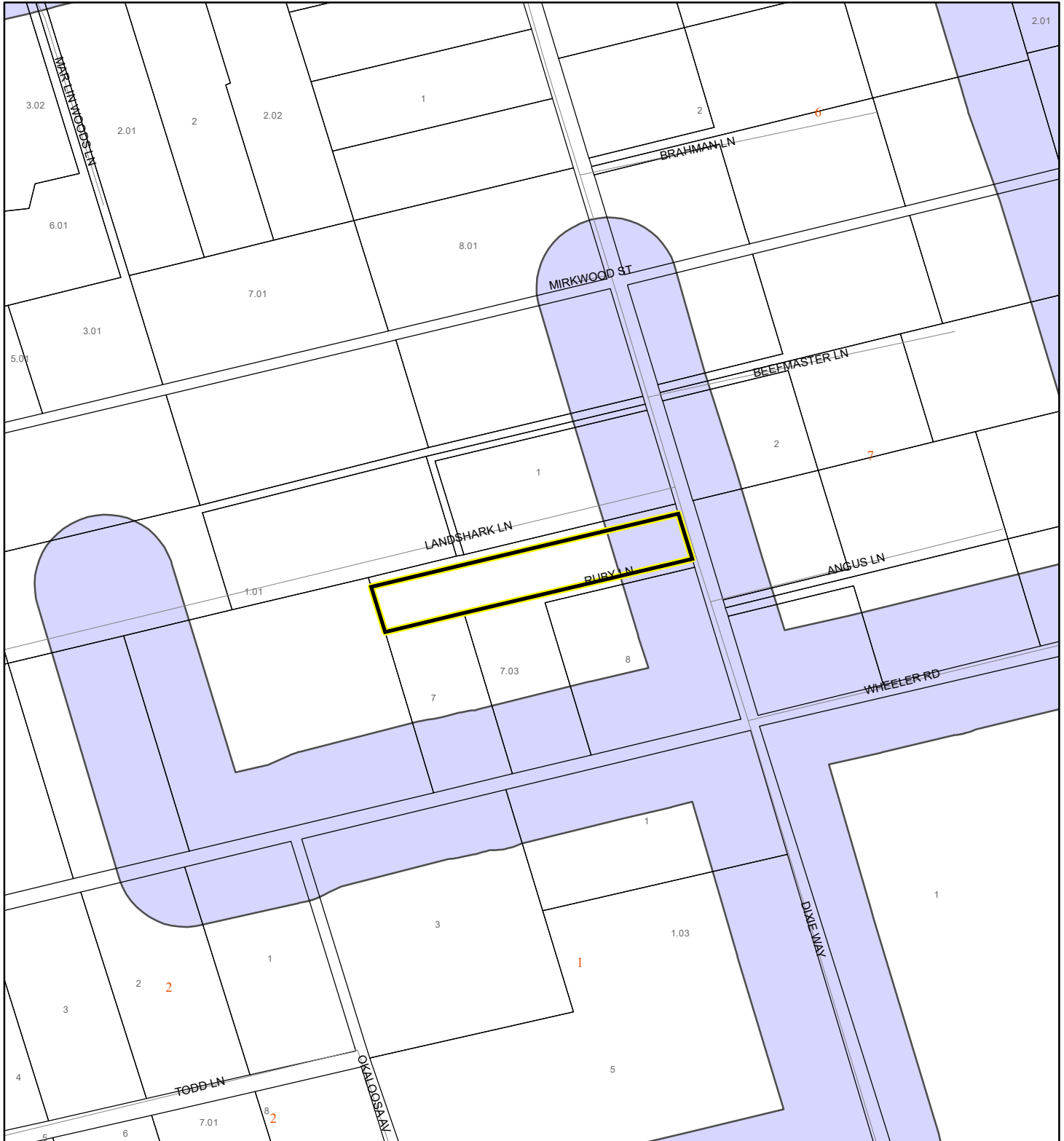
SCOTT MINNICK
22Z00003



INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SCOTT MINNICK

22Z00003



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

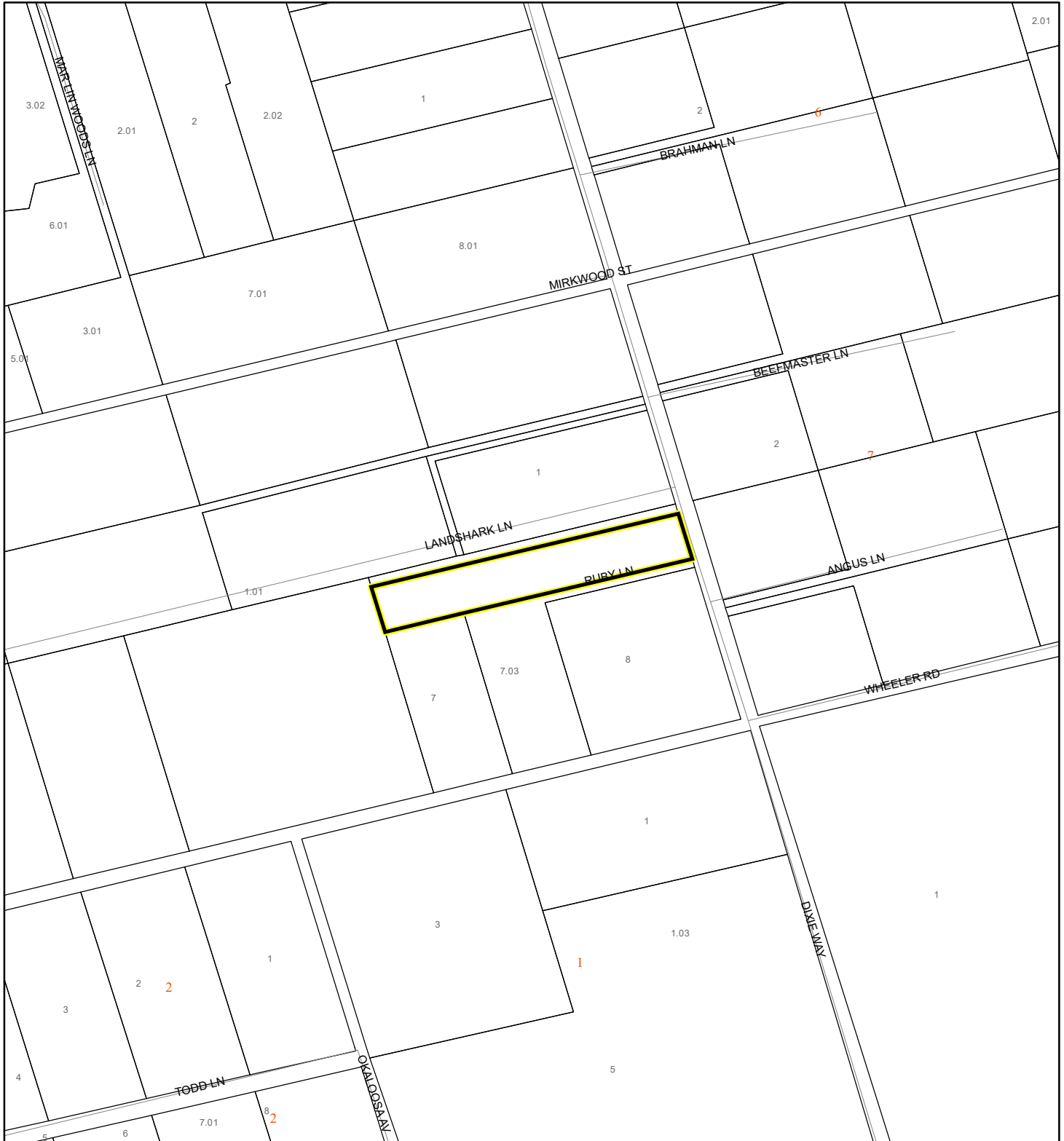
 60 Meters

 All Distances

EAGLE NESTS MAP

SCOTT MINNICK

22Z00003



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

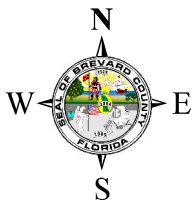
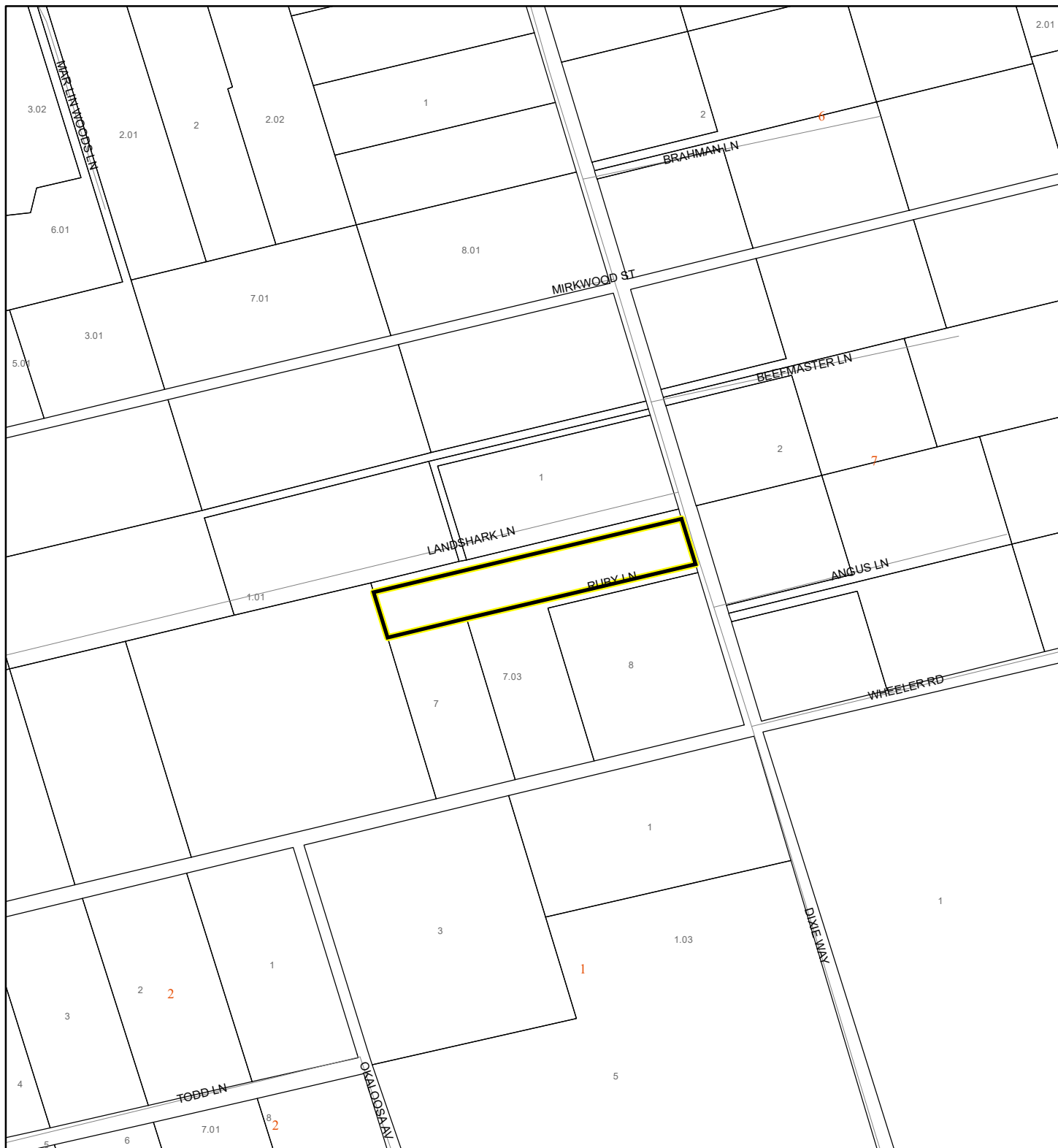


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

SCOTT MINNICK

22Z00003




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/16/2022

Subject Property

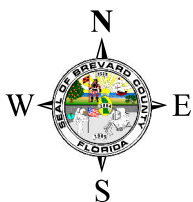
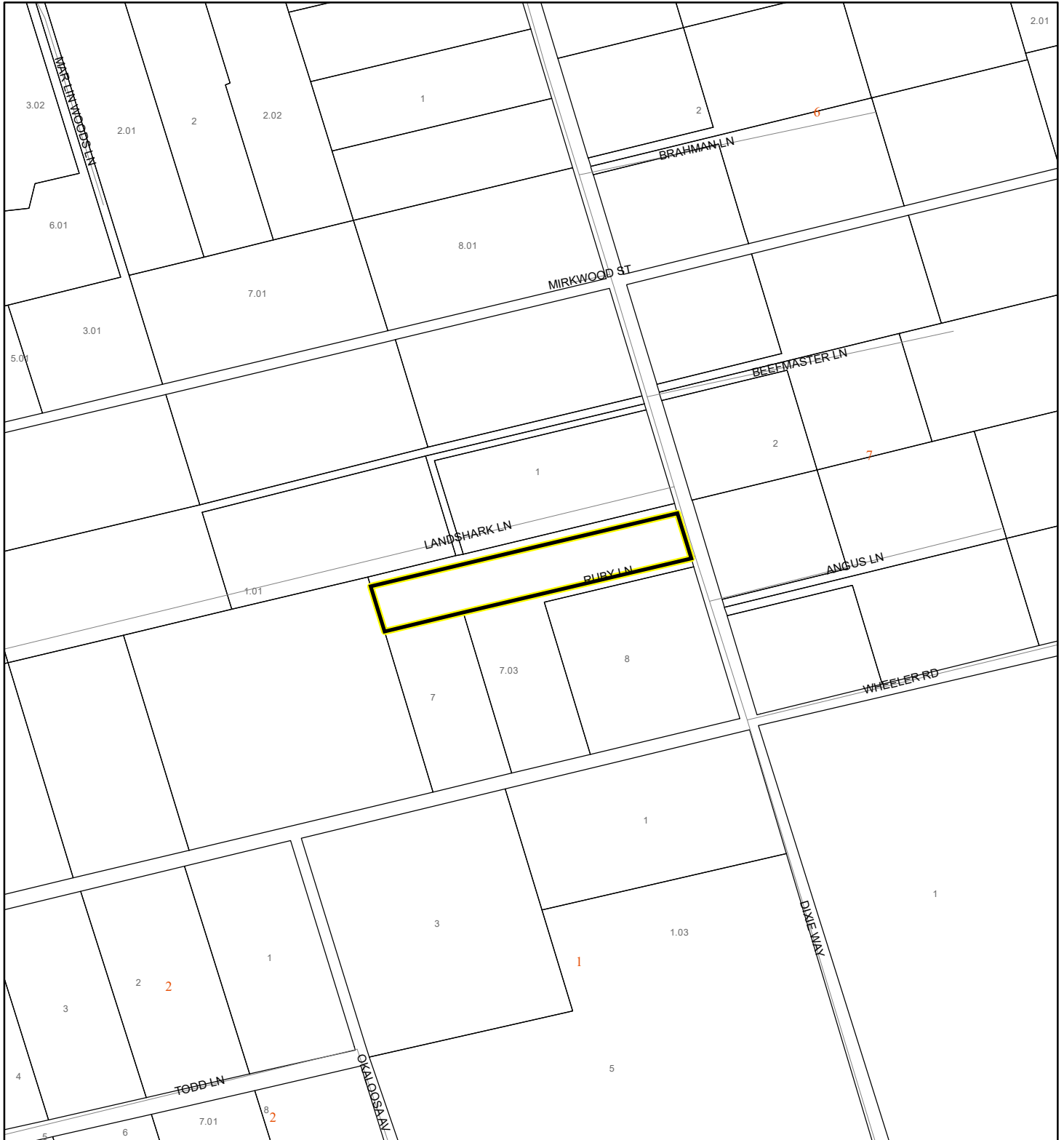
Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SCOTT MINNICK

22Z00003






1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/16/2022

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

Prepared by: _____
Address: _____

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 11th day of January, 2022 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Scott Minnick, a _____ corporation (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the RR 1 zoning classification(s) and desires to develop the Property as Single family, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impacts on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the

Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

3. Developer/Owner shall provide a 0 foot buffer on the N/A portion of the Property.
4. The Developer/Owner shall limit density to 1 ^{2.5 ACRES} units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
5. The Developer/Owner shall limit ingress and egress to N/A.
6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
7. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
9. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 9 above.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

3/14/2022

Subject:

Clair John Jaussi and Janel Hamilton Jaussi Revocable Trust requests a CUP for six goats. (22PZ00002) (Tax Account 2416958) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a CUP (Conditional Use Permit) for six goats.

Summary Explanation and Background:

The property owner is seeking a CUP to allow up to six goats in the SEU zoning classification. The CUP is for the western 7.04-acre portion of a 10.05-acre parcel that is split by N. Tropical Trail. The lot currently contains a single-family home and three accessory buildings. The applicant intends to locate the goats on a portion of his property enclosed with a 5-foot tall fence as depicted on the boundary survey.

Section 62-1935 allows an application for a CUP for horses, mules, goats and barns in the SEU classification if the following conditions are met: a minimum of five acres; one horse, mule, or goat permitted for each 20,000 square feet of land area; maximum of six such animals. This application is only for goats.

The area does not appear to have other CUP's for farm animals. Across N. Tropical Trail on the east side there are several parcels with the AU zoning classification including a portion of the subject property (not included in this application). None of these properties are currently being used for agricultural purposes.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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

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

STAFF COMMENTS

22PZ00002

Clair John Jaussi & Janet Hamilton Jaussi Revocable Trust Conditional Use Permit (CUP) for six goats in SEU zoning classification

Tax Account Number: 2416958 (7.04-acre portion on west side of N. Tropical Trail)
Parcel I.D.: 24-36-22-00-6 (7.04-acre portion on west side of N. Tropical Trail)
Location: West side of N. Tropical Trail, 250 feet northwest of Mango Hill Drive
(District 2)
Acreage: 7.04 acres portion of a 10.05-acre lot

Planning and Zoning Board: 03/14/2022
Board of County Commissioners: 04/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	SEU	SEU with CUP for six goats
Potential*	One single-family home	One single-family home w/ six goats
Can be Considered under the Future Land Use Map	YES Residential 1	YES Residential 1

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

Background and Purpose of Request

The property owner is seeking a Conditional Use Permit (CUP) to allow up to six goats in the SEU zoning classification as per Sec. 62-1935. The CUP is for the western 7.04-acre portion of a 10.05-acre parcel that is split by N. Tropical Trail. The lot currently contains a single-family home and three accessory buildings. The applicant intends to locate the goats on a portion of his property enclosed with a 5-ft. tall fence as depicted on the boundary survey.

The remaining 3.01 acres of this parcel is located on the east side of N. Tropical Trail. This portion of the parcel is currently vacant and is zoned Agricultural Residential (AU). It is not included in this request.

Sec. 62-1935 allows an application for a CUP for horses, mules, goats and barns in the SEU classification if the following conditions are met: a minimum of five acres; one horse, mule, or goat permitted for each 20,000 square feet of land area; maximum of six such animals. This application is

only for goats. Another CUP application would be necessary if the landowner were to request horses, mules, or a barn in the future.

The original zoning of this property was EU (Estate Use Residential). On May 3, 2018, it was rezoned under zoning action **18PZ00007** from EU to SEU with the intention of creating a subdivision with five lots, and in order to be consistent with the RES 1 Future Land Use designation.

Land Use

The SEU zoning classification can be considered consistent with the Residential 1 (RES 1) Future Land Use designation.

Applicable Land Use Policies

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 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The proposed CUP for goats is not anticipated to 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 the surrounding area.

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

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.

- 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 historic land use pattern on the western side of N. Tropical Trail has been the development of single-family homes on lots of an acre or greater in size. The lots to the north and south of the subject property. The Future Land Use designation on the eastern side of N. Tropical Trail is primarily RES 15, which allows for residential development that is more dense.

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

It appears no changes to the immediate area have occurred within the last three years. This parcel is adjacent to developed parcels lying to the north and south of this site that were developed more than three years ago.

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

It appears there has been no development approved within the past three years that has not yet been constructed.

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

The proposed use would not result in a material violation of relevant policies in any elements of the Comprehensive Plan.

The subject property was part of the **2007 Southern N. Tropical Trail Small Area Study (SAS)** boundary. Among the recommendations of the SAS are to encourage maintenance of the current semi-rural atmosphere of the study area.

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

The developed character of the surrounding area differs depending on which side of N. Tropical Trail the lots are located. The western side contains several riverfront lots developed with single-family homes. Besides these, most of the other lots on the western side of N. Tropical Trail are approximately one acre in size and are also developed with large single-family homes. SEU and EU are the most common zoning classifications. The EU zoning in this area is nonconforming to the FLU designation of RES 1. Approximately 500 feet to the north of the subject property is an approved residential subdivision zoned SEU that has been developed. There is also an approved subdivision located approximately 250 feet south of the subject property with EU zoning that has not been developed.

The lot directly east across N. Tropical Trail of the subject property is zoned AU and is part of the overall parcel owned by the applicant.

East of this AU lot, the other zoning classifications vary widely and include BU-1-A, BU-1, RU-1-7, RU-2-30, and IN(L). Lot sizes are smaller here, with many under 0.25 acres in size. The neighborhood to the east of Hill Avenue has a mix of housing types, including site-built single-family homes, duplexes, and multifamily structures. There is a convenience store where N. Tropical Trail meets Hill Avenue.

The area does not appear to have other CUP's for farm animals. Across N. Tropical Trail on the east side there are several parcels with the AU zoning classification including a portion of the subject property (which is not included in this application. None of these properties are currently being used for agricultural purposes.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	EU	RES 1
South	Single-family residence and nursery	EU	RES 1
East	Undeveloped land	AU	RES 15
West	River	N/A	N/A

The properties to the north and south of the subject property both contain single-family homes with EU zoning, which are nonconforming lots that are not consistent with their FLU designations of RES 1. The Brevard County Property Appraiser lists the property to the south as having a nursery.

The EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

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

21Z00007 – 05/03/2021; A rezoning from RU-2-30 to RU-2-15 was approved on 1.78 acres located approximately 900 feet east of the subject property on the northern side of Houston Lane.

Special Considerations for CUP (Conditional Use Permit)

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that the approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. **The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which**

do not satisfy this burden cannot be approved. The applicant's responses and staff observations, if any, are indicated below.

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

This request should be evaluated in the context of **Section 62-1935** which governs **Section 62-1935** which governs the keeping of horses, mules, goats, and barns.

General Standards of Review

Section 62-1901(c)(1)(a): The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.

Applicant's Response: This is a request for 6 goats to graze on 6 acres of property. (1) No additional persons will be using the property. (2) The only emissions will be scattered goat dung. These are small less than ½ inch round balls that become fertilizer. The noise will be limited to goat "bleating" which only happens when someone is trying to feed them. (3) No increase in traffic because the goats will only be used for grazing.

Staff analysis: The CUP will not permit the goats to be used for any commercial purposes. The CUP is not anticipated to result in excessive noise, odor, or traffic.

Section 62-1901(c)(1)(b): The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

Applicant's Response: Yes. Palm farm on both sides. These properties on both the north and south sides have palm groves which are used to obtain an agricultural tax exemption for orchard use. The property on the east [of N. Tropical Trail] is thick jungle. West is the Indian River.

Staff analysis: The proposed area where the goats will be held is a large grazing area. If there is noise and odor, it may be close to neighboring properties.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebutably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a reputable presumption that a substantial diminution has occurred. The board of county commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by a MAI certified appraiser,

that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

Applicant's Response: No. All grazing of 6 goats will have no impact on adjacent properties that are presently being used as orchard properties.

Staff analysis: Evidence from an appraiser has not been provided by the applicant.

Section 62-1901(c)(2)(a): Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any.

Note: Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at level of service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable county standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.

Applicant's Response: All fences are inside property lines and off roads on perimeter. No additional traffic will be caused.

Staff analysis: This property will remain residential and therefore is not anticipated to cause an increase of any traffic.

Section 62-1901(c)(2)(b): The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.

Applicant's Response: No (goats don't stink). Goats don't make noise unless someone tries to feed them, then they will beg.

Staff analysis: This project shall comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272.

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

Applicant's Response: No noise is expected or anticipated.

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

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

Applicant's Response: No change in solid waste disposal.

Staff analysis: The use is not anticipated to cause the adopted level of service for solid waste disposal to be exceeded.

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

Applicant's Response: The only water use will be sufficient drinking water for the goats provided by an existing well located on the property.

Staff analysis: The subject property is not served by any water or sewer lines.

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

Applicant's Response: Fencing will be provided to ensure the goats are contained. This will be a 5-ft. tall "tensile electric" fence (see attached drawings). This type of fence is very secure and less noticeable than standard fencing. It is powered by a standard electric fence charger with battery backup. It has a tensile strength of 920 lbs. $\frac{3}{32}$ – 7x7 hot dip galvanized steel cable

Staff analysis: Must meet the fence code of 62-2109 and any requirements in the building code for materials. The proposed fencing appears to meet all code requirements.

Section 62-1901(c)(2)(g): Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to, traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.

Applicant's Response: No new signs or exterior lighting.

Staff analysis: No signage or exterior lighting has been identified.

Section 62-1901(c)(2)(h): Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.

Applicant's Response: Goats graze 24/7, plants grow 24/7.

Staff analysis: The use will need to comply with noise level performance standards.

Section 62-1901(c)(2)(i): The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

Applicant's Response: All buildings are pre-existing and maximum fence height will be 5 feet.

Staff analysis: No new structures are proposed. The proposed fence meets height limitations.

Section 62-1901(c)(2)(j): Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

Note: for existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

Applicant's Response: No parking needed. Any "catch pens" are already constructed or will be built within the enclosure. None will exceed 5 feet in height.

Staff analysis: New parking will not be required.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Tropical Trail, between Lucas and Pioneer, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of C, and currently operates at 21.86% of capacity daily. The CUP is not anticipated to increase the MAV utilization. The corridor is anticipated to operate at 21.86% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as this site is not proposing additional residential density.

The subject property is not connected to potable water or sewer.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands
- Aquifer Recharge Soils
- Floodplain Protection
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Surface Water Protection Buffer
- Protected and Specimen Trees
- Protected Species

Mapped natural resources such as wetlands, floodplain, CHHA, and surface water protection buffer (including native vegetation in the buffer) are located adjacent to the Indian River Lagoon (IRL), but are located outside of the proposed fenced-in area (as shown on the drawing in the CUP application) for the goats. The remaining mapped natural resources are located within the fenced-in area. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Conditional Use Permit (CUP) Review & Summary**

Item # 22PZ00002

Applicant: Jaussi

CUP: Applicant wants six goats

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID No: 2416958 (portion on west side of N. Tropical Trail)

- 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
- Aquifer Recharge Soils
- Floodplain Protection
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Surface Water Protection Buffer
- Protected and Specimen Trees
- Protected Species

Mapped natural resources such as wetlands, floodplain, CHHA, and surface water protection buffer (including native vegetation in the buffer) are located adjacent to the Indian River Lagoon (IRL), but are located outside of the proposed fenced-in area (as shown on the drawing in the CUP application) for the goats. The remaining mapped natural resources are located within the fenced-in area. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Wetlands

The subject parcel contains a small area of mapped National Wetland Inventory (NWI) wetlands (Estuarine and marine deep-water wetlands) along the IRL as shown on the NWI Wetlands map, an indicator that wetlands may be present on the property.

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

Aquifer Recharge Soils

Most of the parcel contains mapped aquifer recharge soils (Paola-Urban land complex) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Floodplain Protection

A small portion of the property located along the IRL is mapped as being within the floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Coastal High Hazard Area

A portion of the property located along the IRL is mapped within the Coastal High Hazard Area as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The mapped area may be susceptible to nuisance flooding.

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. For any future development requiring sewer/septic, and if sewer is not available, then 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.

Surface Water Protection Buffer

The subject property is located on the Indian River Lagoon, designated as a Class II surface water in this location. A 50-foot surface water protection buffer (Buffer) is required. The removal of native vegetation located within the Buffer shall be avoided.

Per Section 62-3668(10) & (12), discharges into Class II waters shall not degrade existing water quality below existing conditions, or those standards outlined in Chapter 62-302, F.A.C., as amended, for Class II water bodies, whichever provides for better water quality. Within the surface water protection buffer, the storage of fertilizers, pesticides, hazardous materials or other pollutants which may run off into surface waters shall be prohibited. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or building permit submittal within the surface water protection buffer.

Protected and Specimen Trees

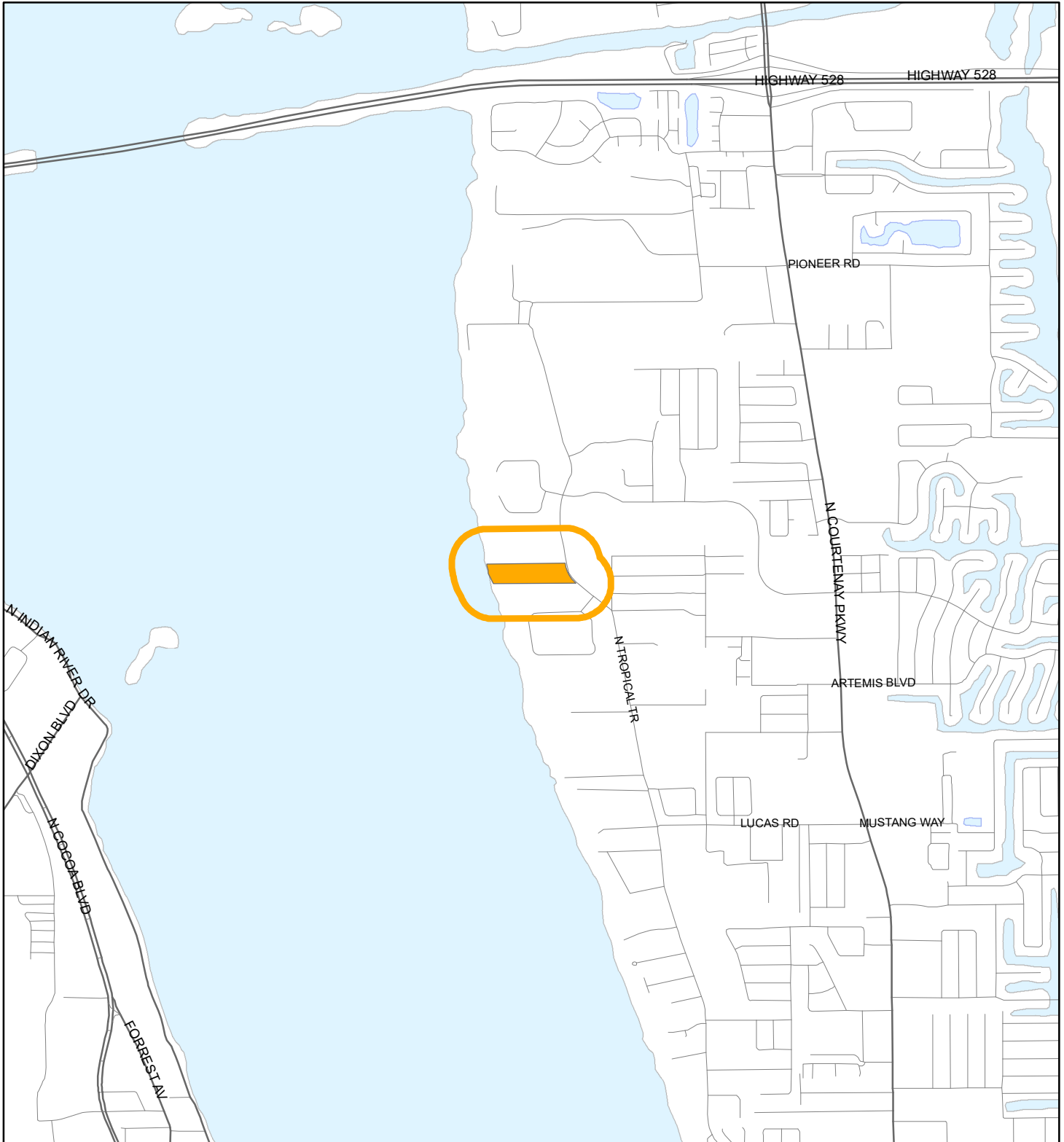
Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. 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

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST
22PZ00002





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

Buffer Distance: 500 feet

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

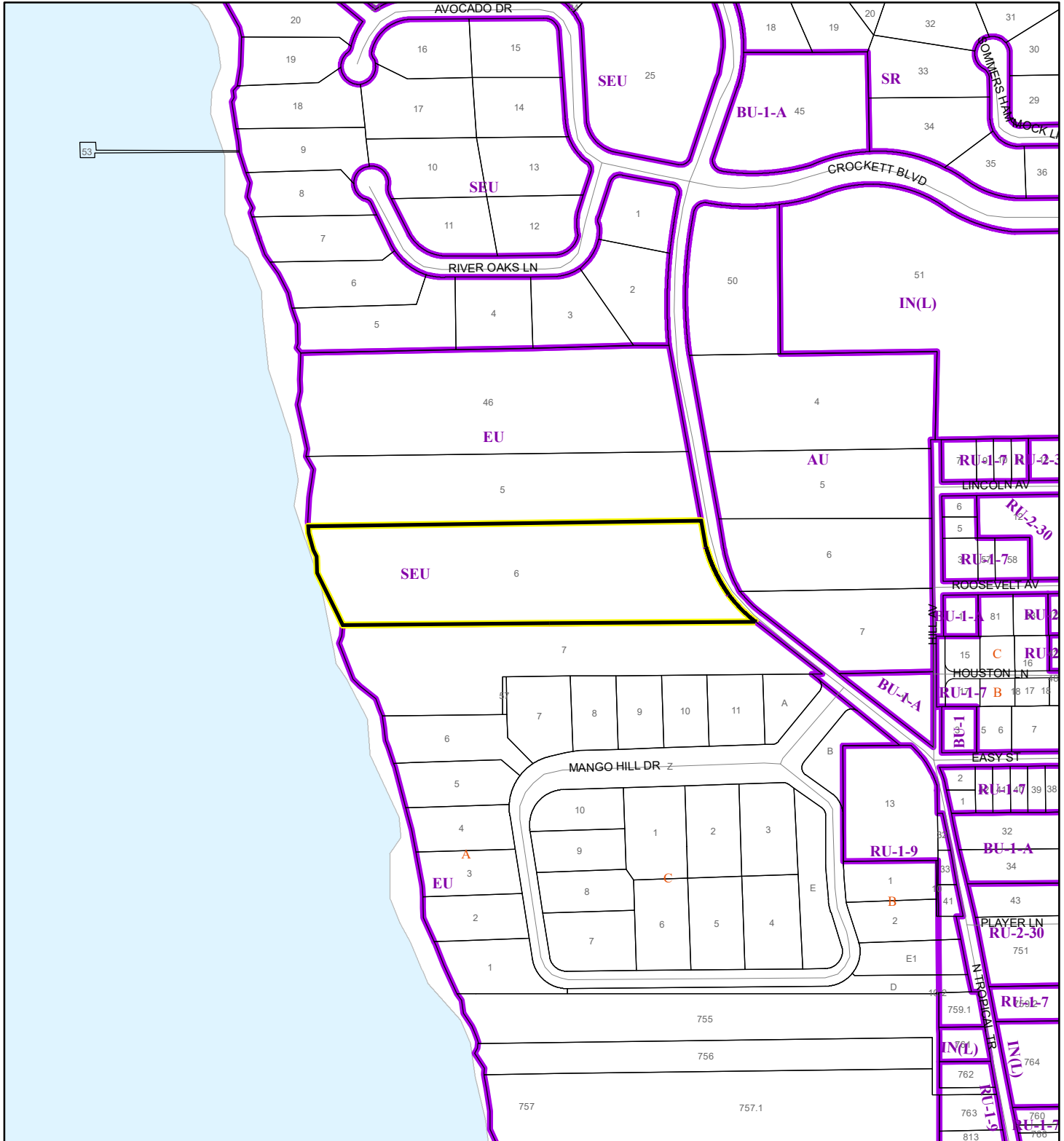
Produced by BoCC - GIS Date: 1/12/2022

 Buffer
 Subject Property

ZONING MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

 Subject Property

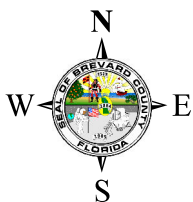
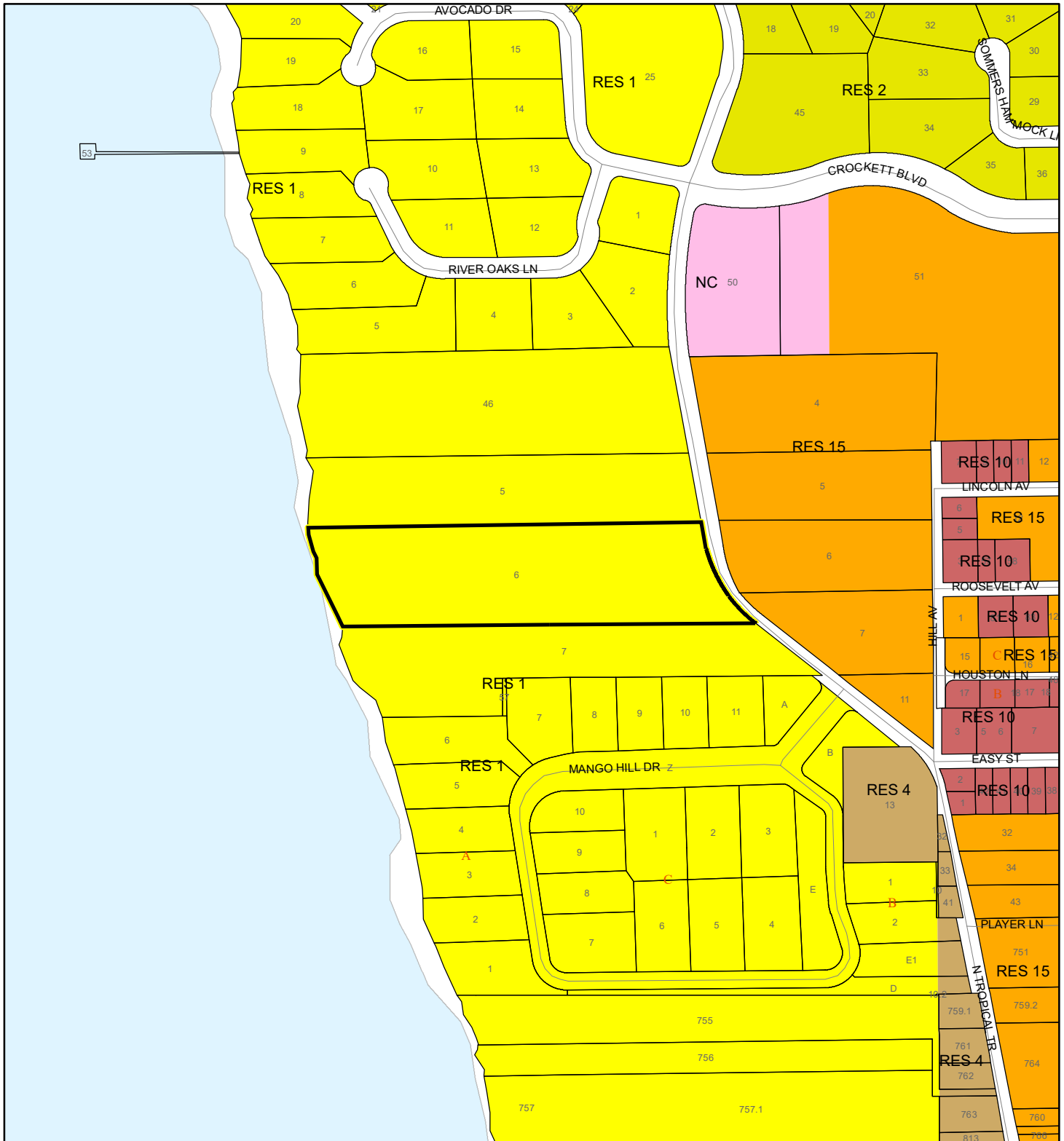
Parcels

Zoning

FUTURE LAND USE MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



1:4,800 or 1 inch = 400 feet

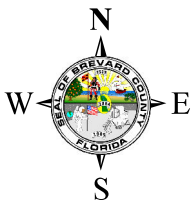
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Produced by BoCC - GIS Date: 1/12/2022

Subject Property
Parcels

AERIAL MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST
22PZ00002





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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

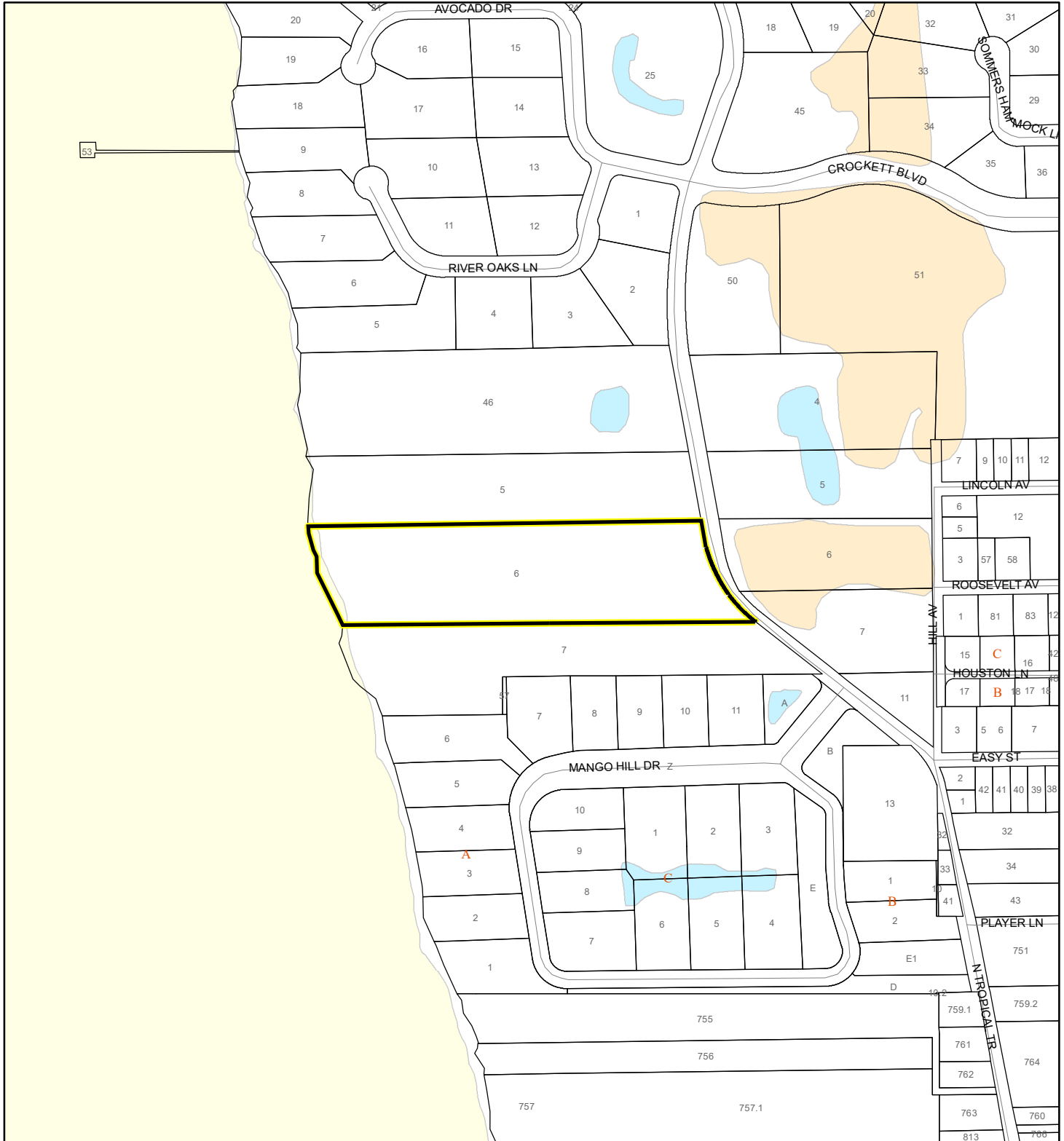
Produced by BoCC - GIS Date: 1/12/2022

 Subject Property
 Parcels

NWI WETLANDS MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

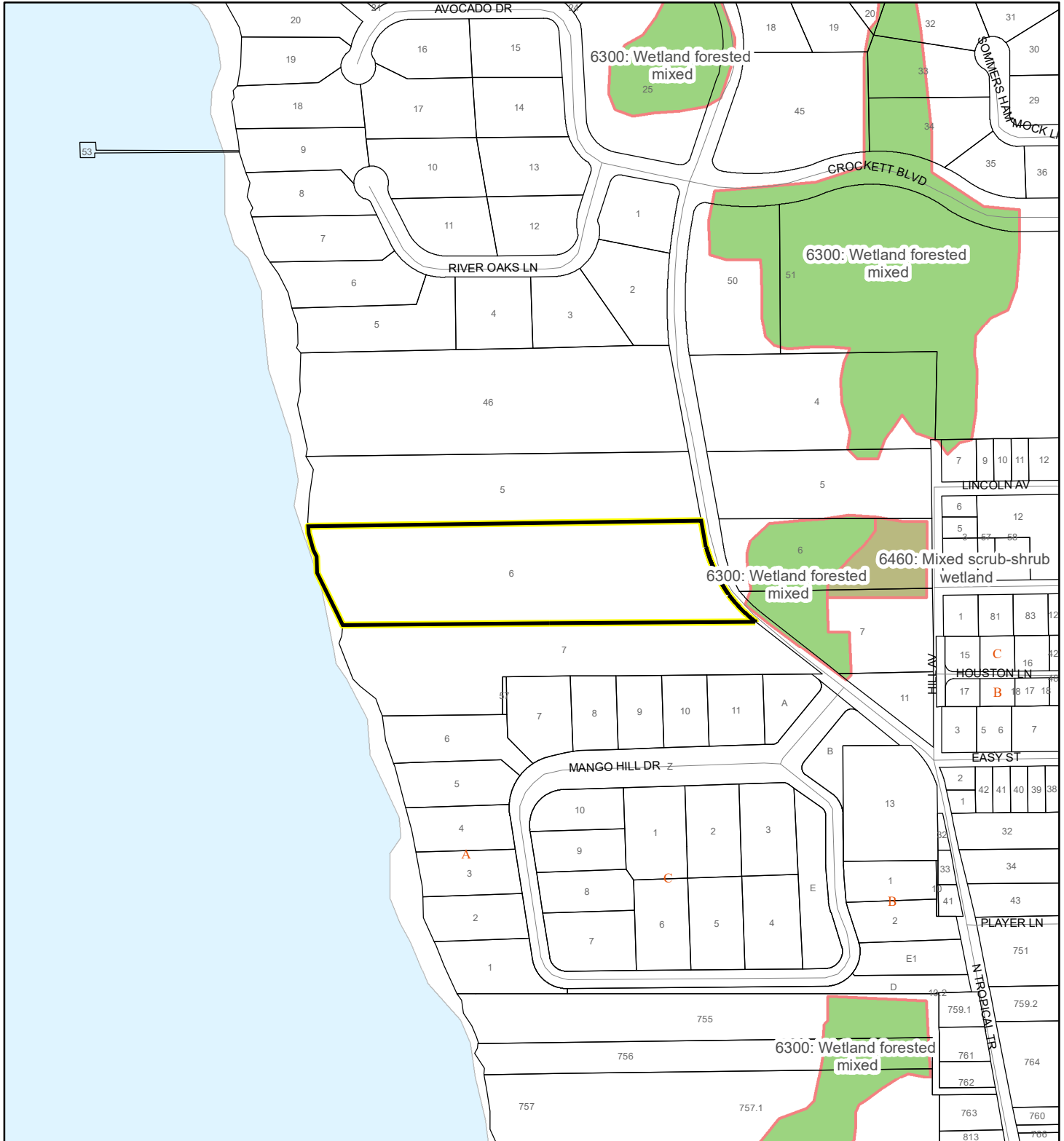
National Wetlands Inventory (NWI)

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

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



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SJRWMD FLUCCS WETLANDS

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

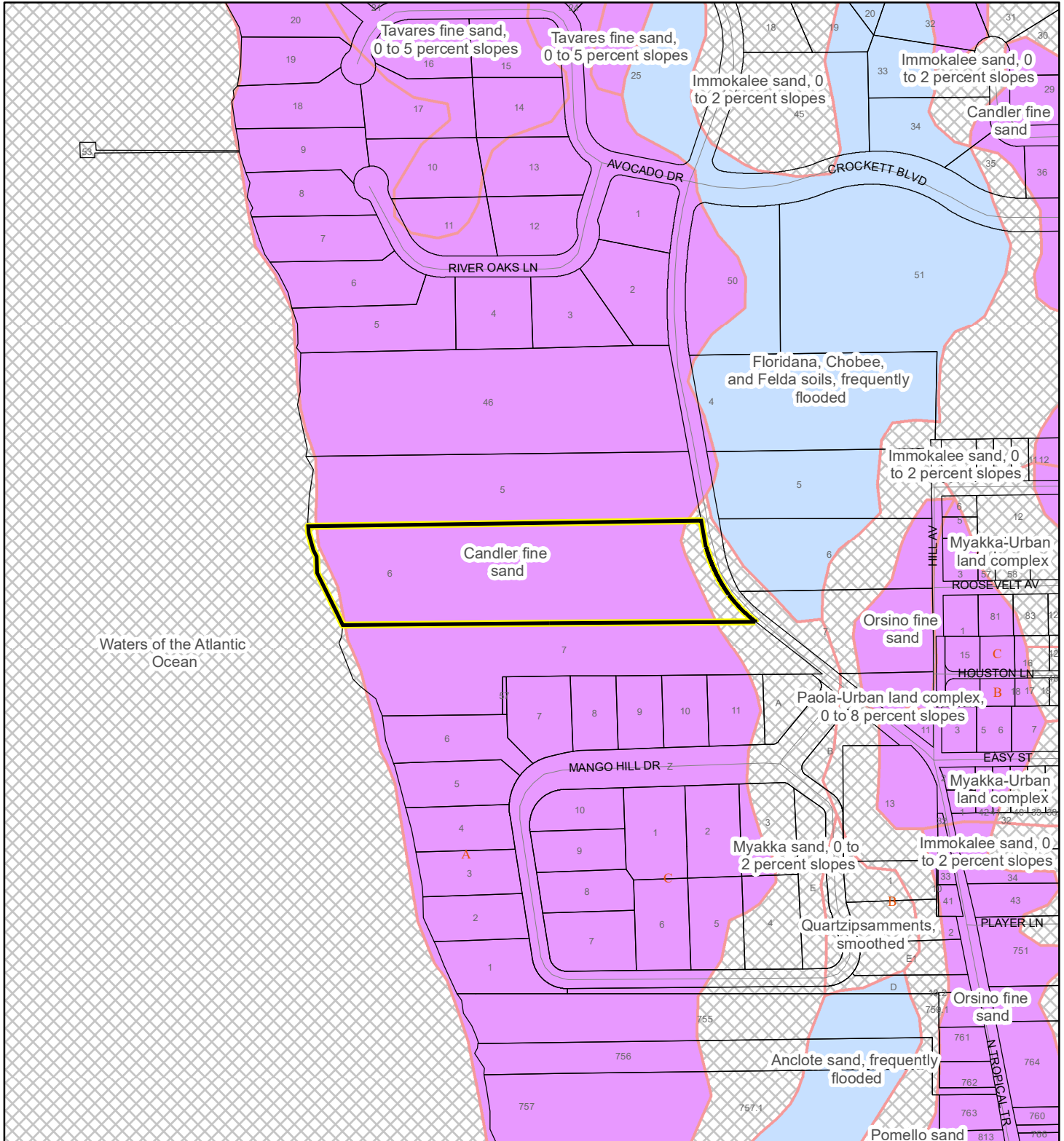
Subject Property

Parcels

USDA SCSSS SOILS MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



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Produced by BoCC - GIS Date: 1/12/2022

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

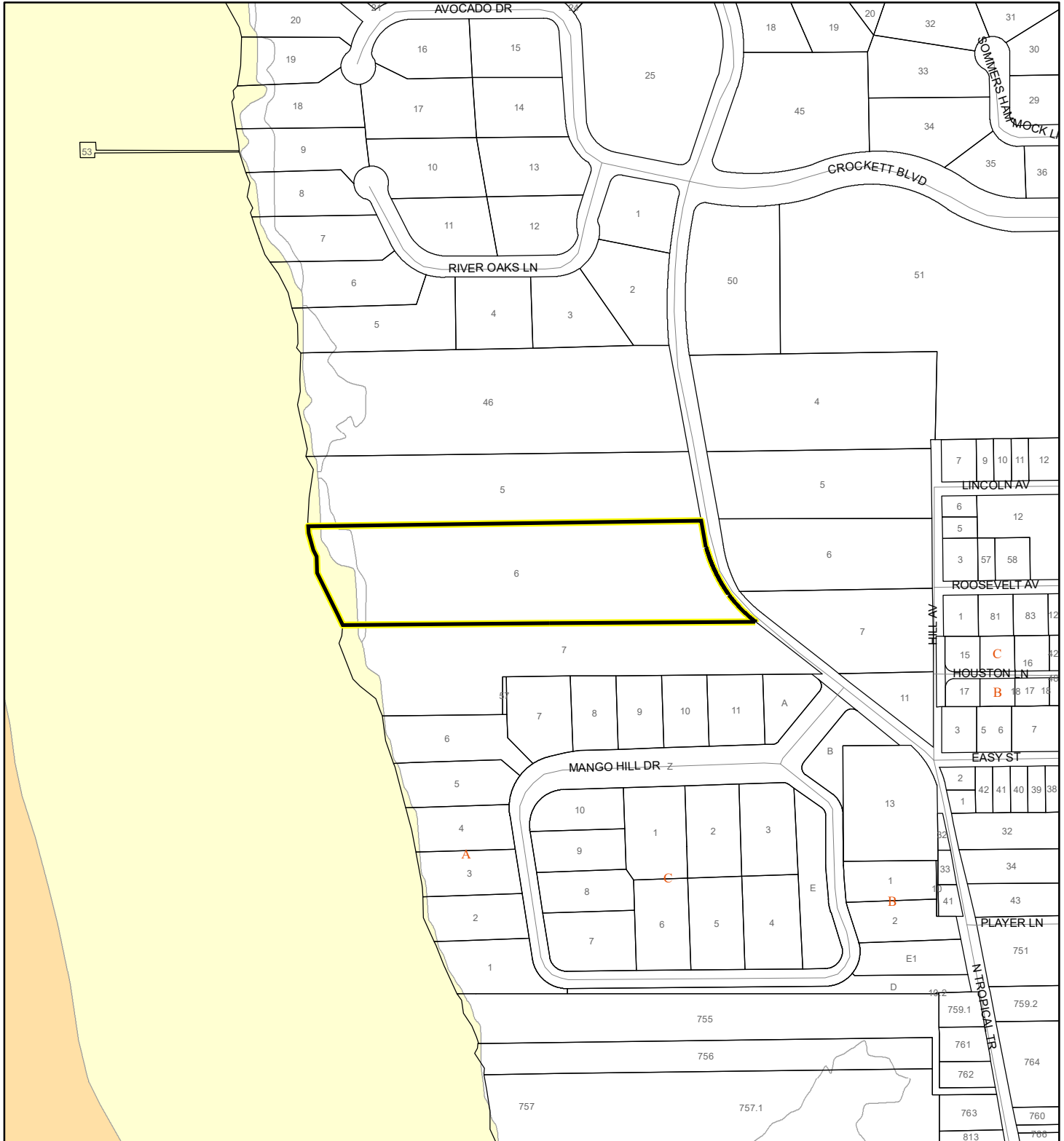
Subject Property

Parcels

FEMA FLOOD ZONES MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



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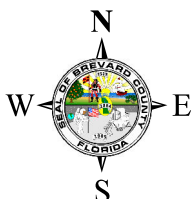
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



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Produced by BoCC - GIS Date: 1/12/2022

Subject Property

Parcels

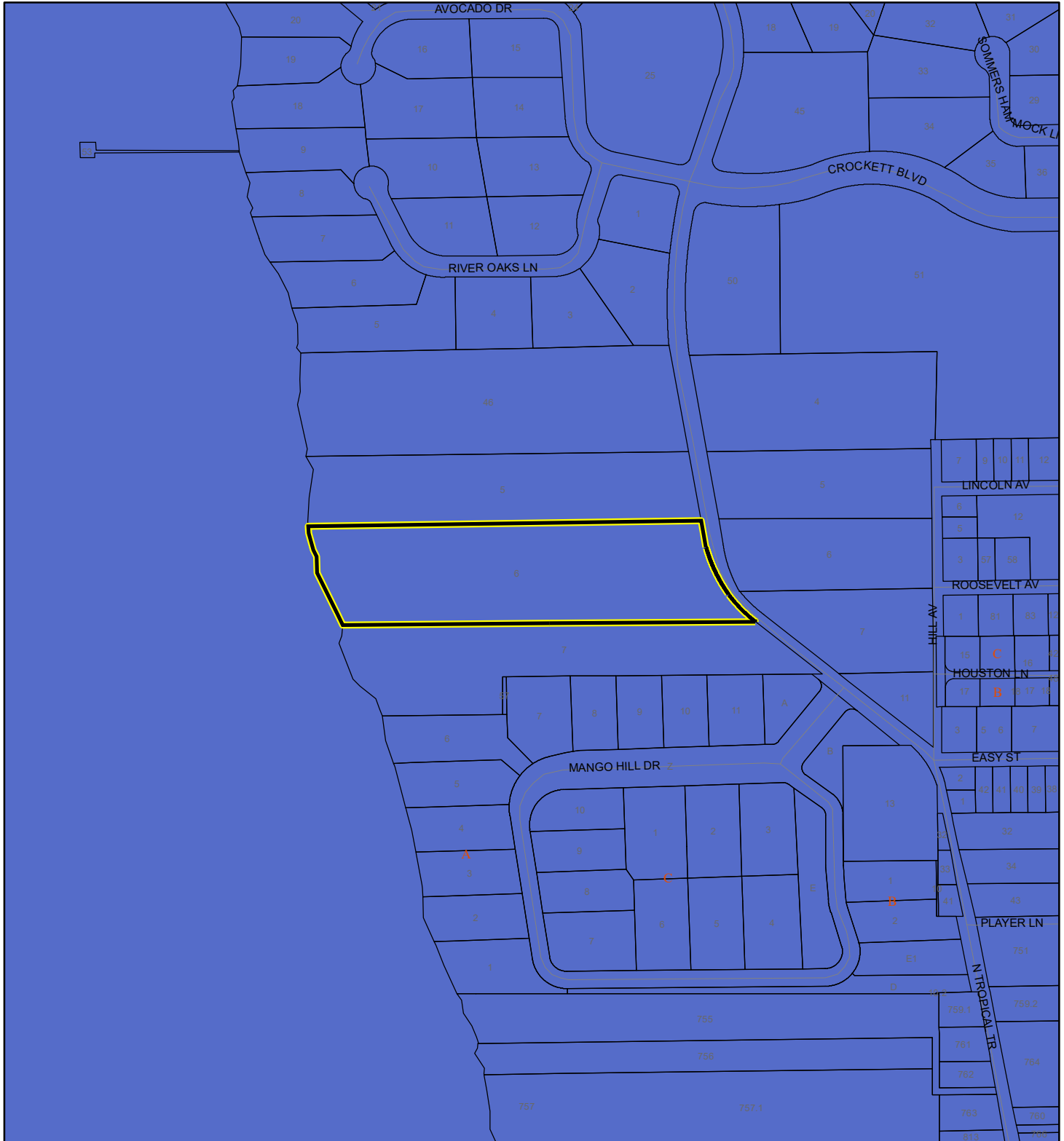
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



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Produced by BoCC - GIS Date: 1/12/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

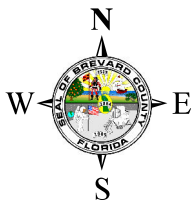
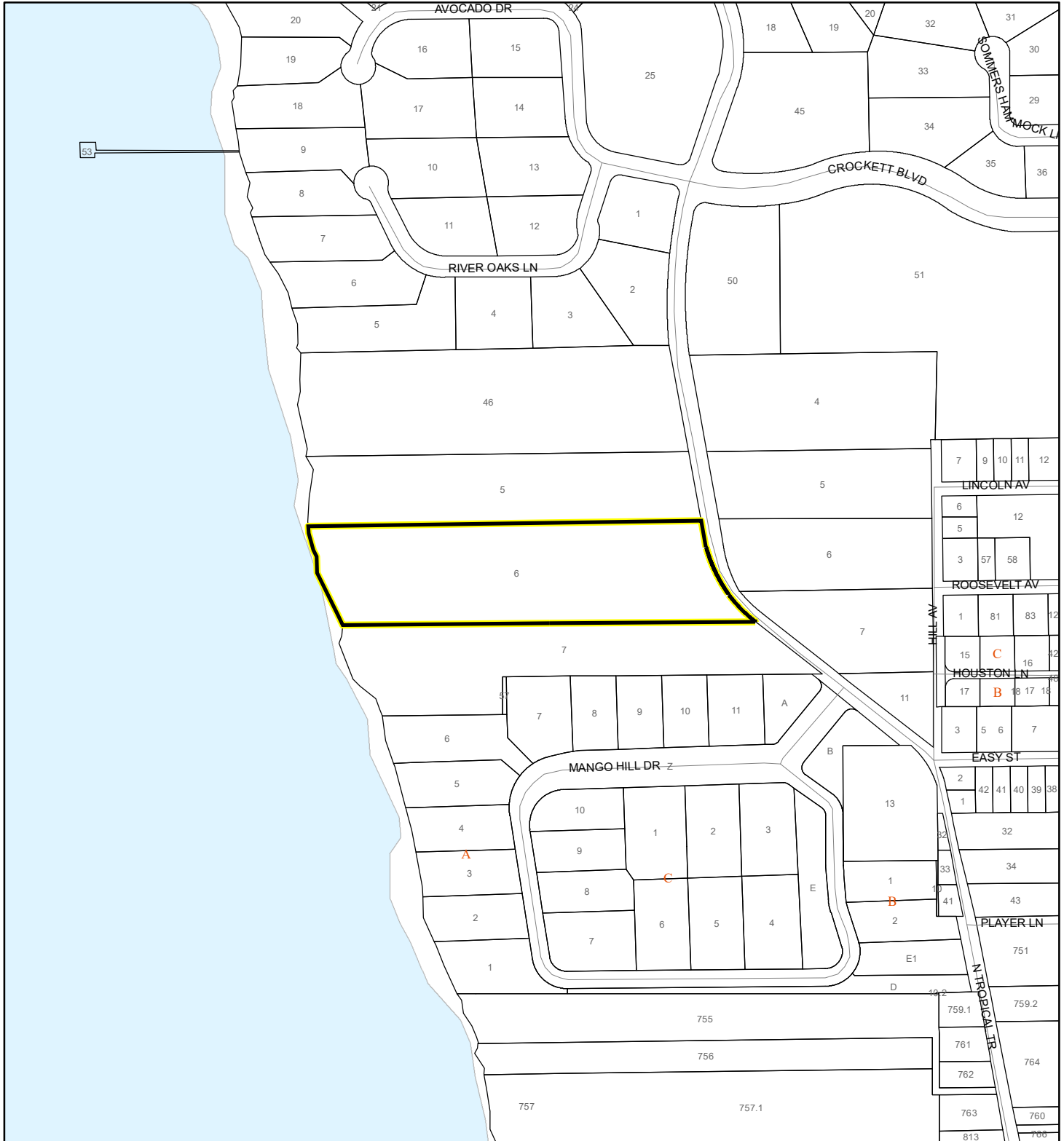
 60 Meters

 All Distances

EAGLE NESTS MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



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 Subject Property

 Parcels

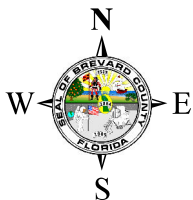
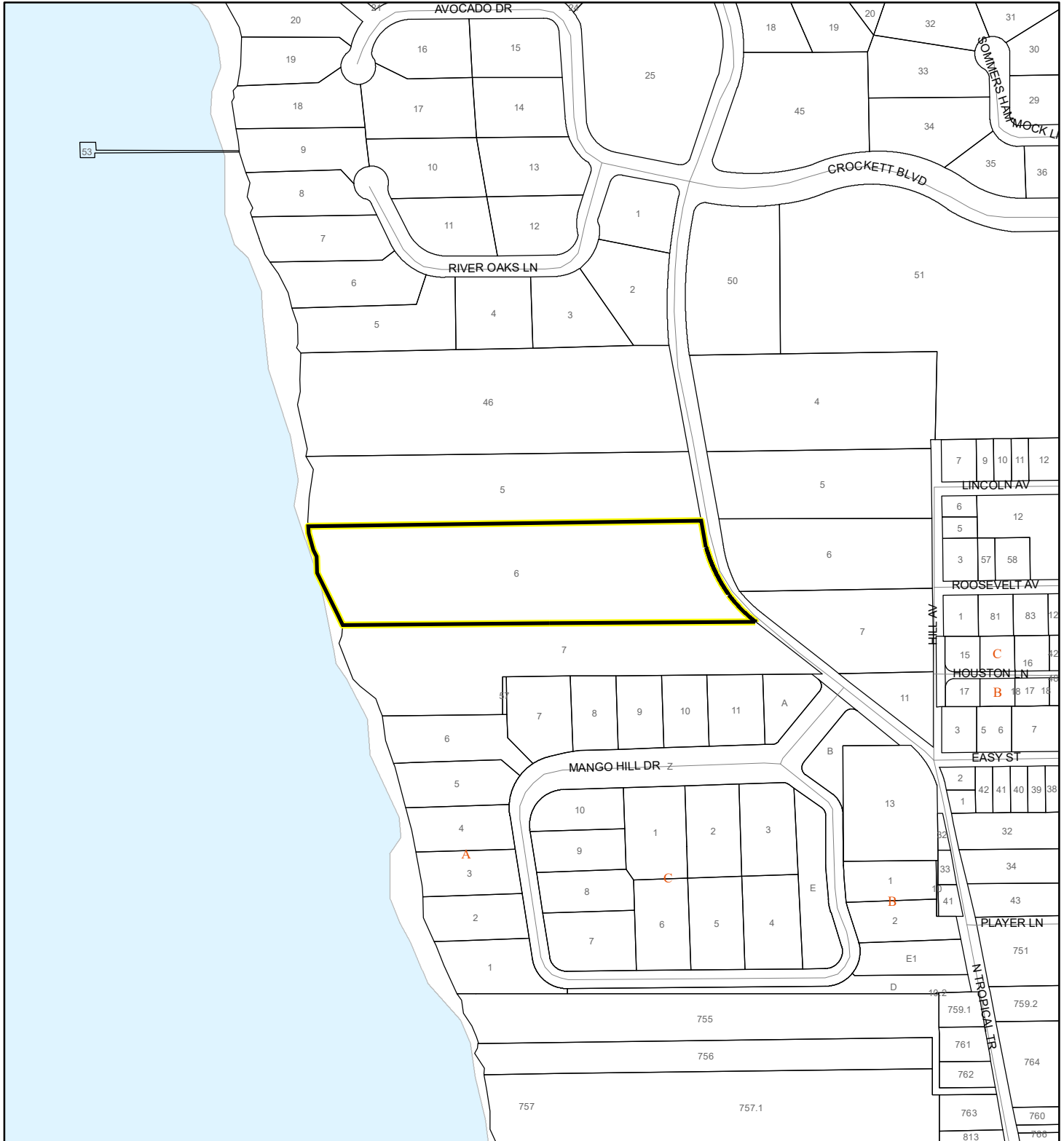


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



1:4,800 or 1 inch = 400 feet

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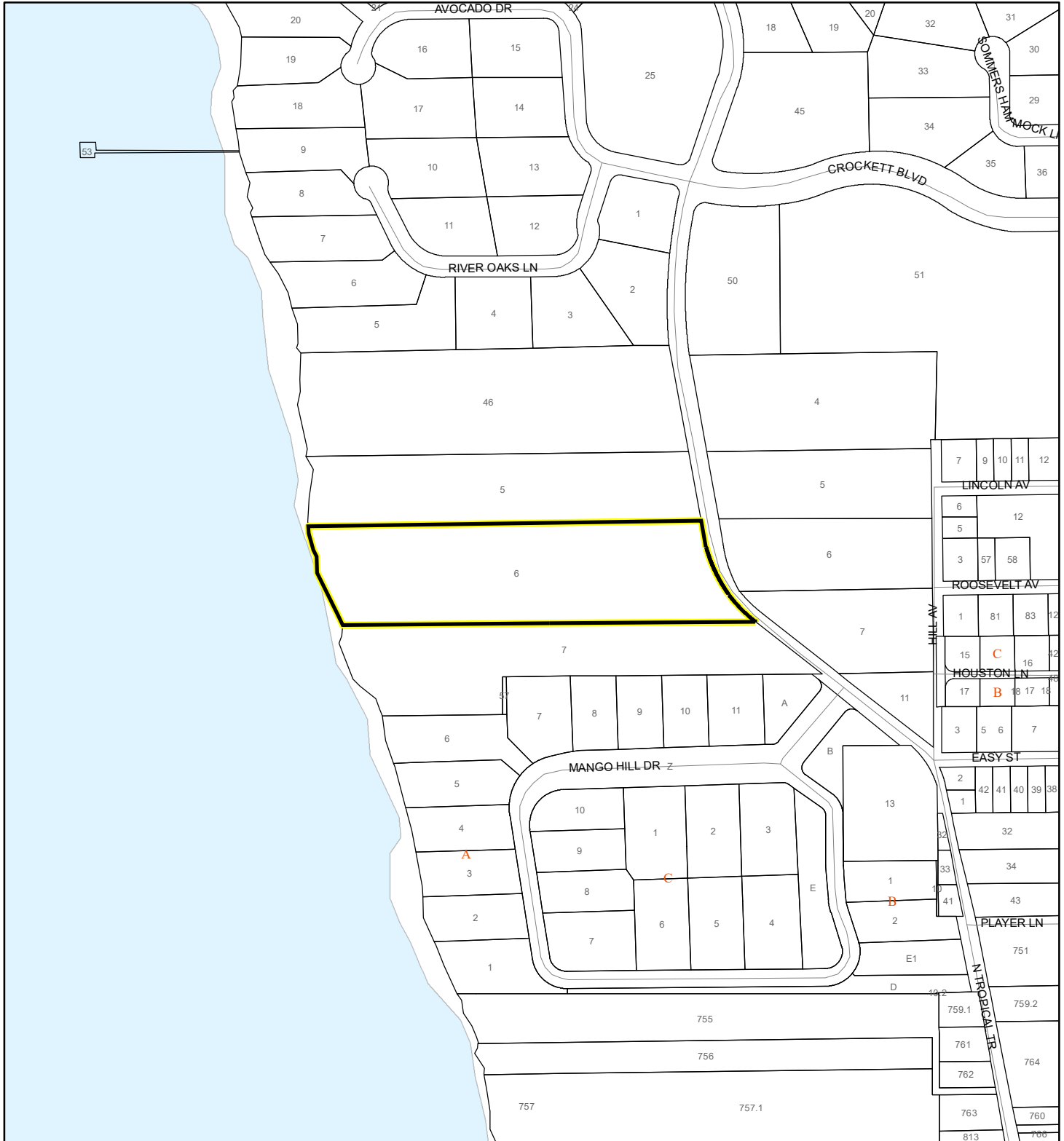
Produced by BoCC - GIS Date: 1/12/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CLAIR JOHN JAUSSI AND JANET HAMILTON JAUSSI REVOCABLE TRUST

22PZ00002



1:4,800 or 1 inch = 400 feet

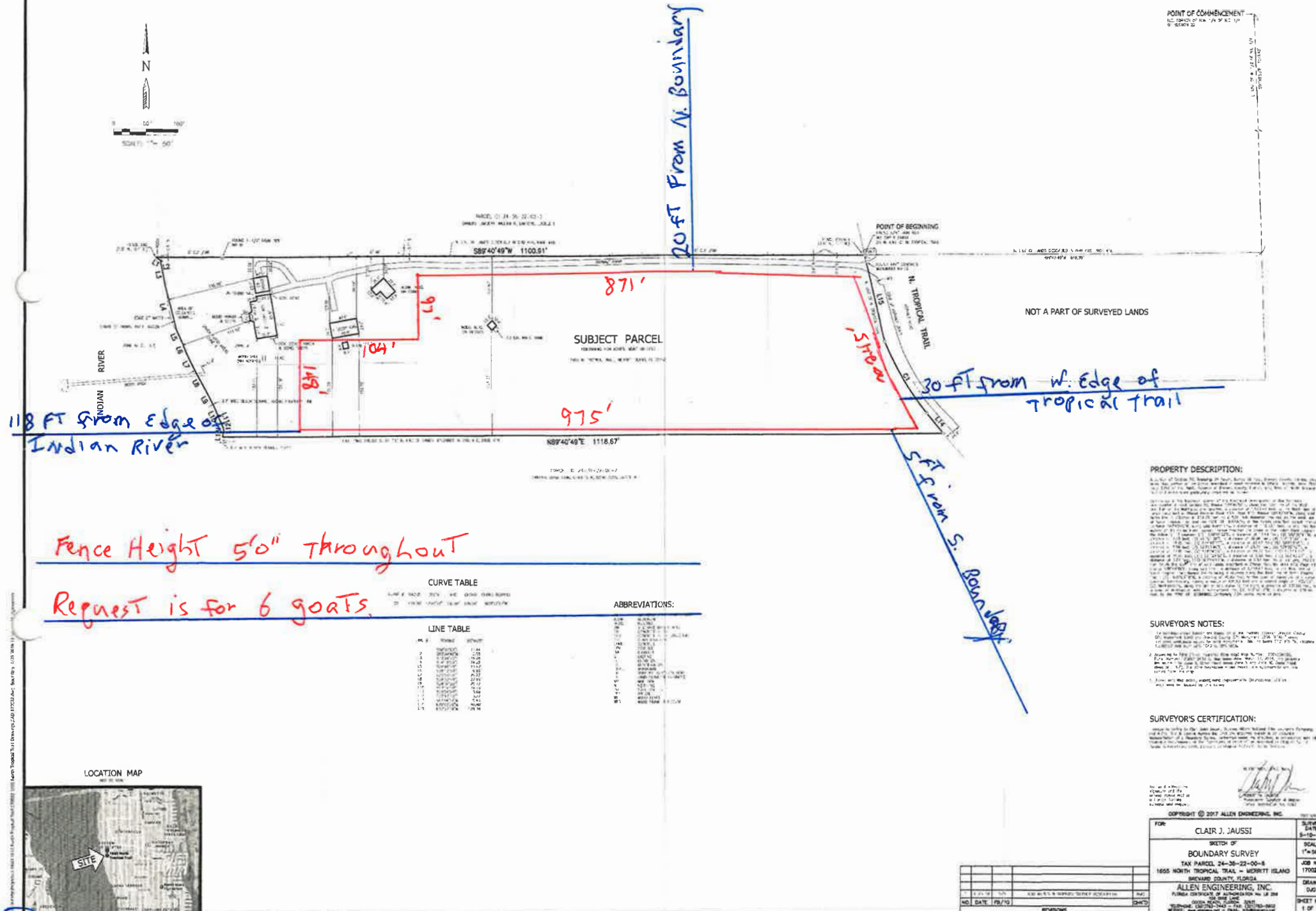
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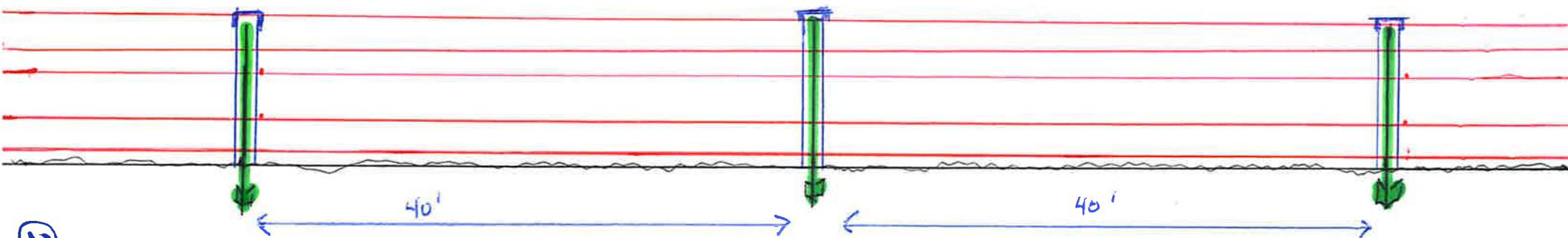
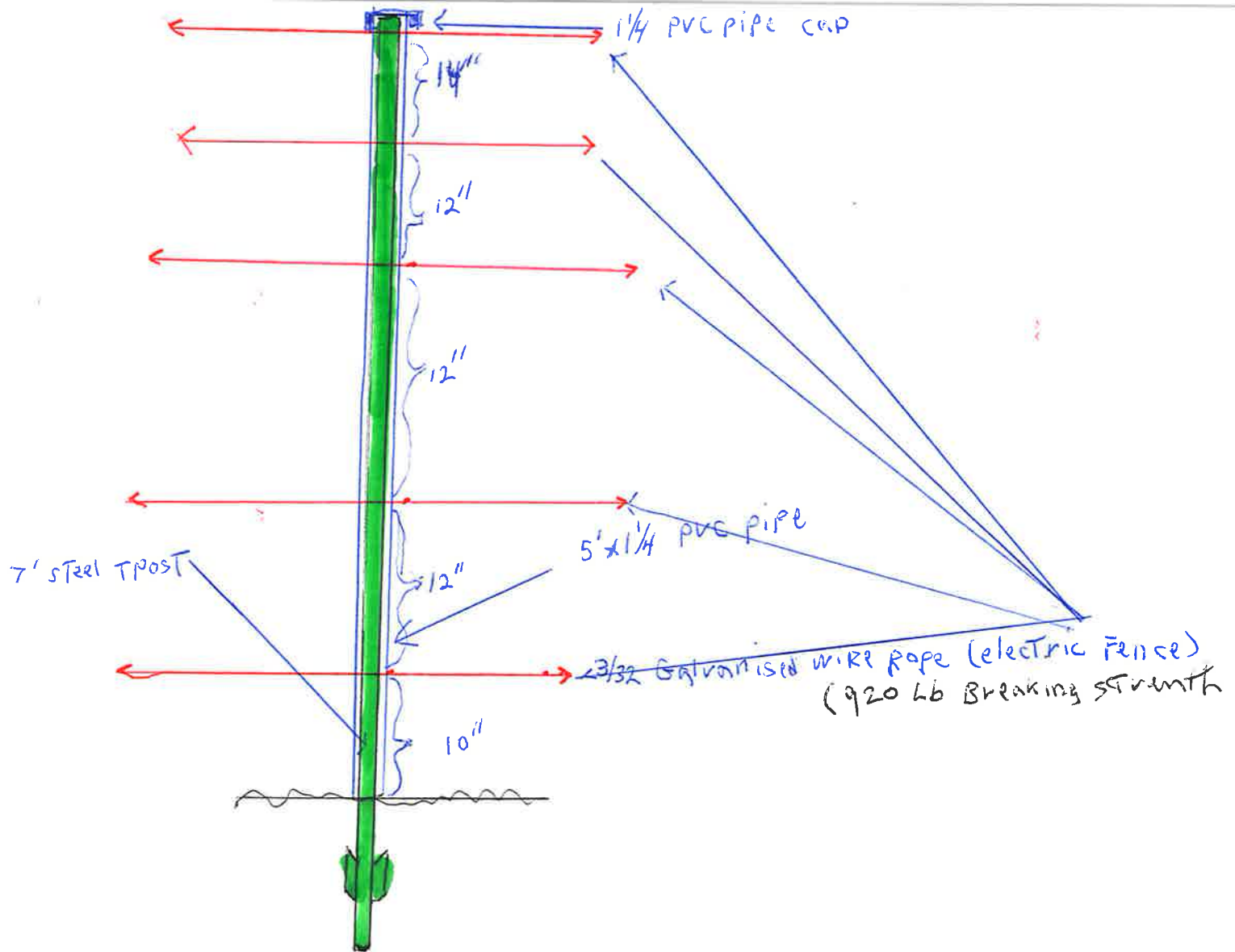
Produced by BoCC - GIS Date: 1/12/2022

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





From: [Tribe Mobile](#)
To: [Jones, Jennifer](#)
Subject: ID 22pz00002, CUP for Goats
Date: Friday, March 4, 2022 10:51:57 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I have no objection but please inform the owners that coyotes have been seen and heard in that area.

Melinda Tribe
Avocado Dr.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

3/14/2022

Subject:

Storsafe of Rockledge, LLC (Nathan Lee) requests a Small Scale Comprehensive Plan Amendment (21S.03) to change the Future Land Use designation from RES 4, NC, and CC, to all CC. (21PZ00083) (Tax Accounts 2511096, 2511103, 2511119) (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 change of Future Land Use designation from RES 4 (Residential 4), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC.

Summary Explanation and Background:

The applicant is seeking to amend the Future Land Use designation on 12.19 acres of land from RES 4 (Residential 4), CC (Community Commercial), and NC (Neighborhood Commercial) to all CC in order to develop a self-storage facility with outdoor boat and RV (Recreational Vehicle) storage.

The character of the area is defined by a mix of developed and undeveloped commercial parcels along S. Highway 1 and an established residential area directly to the east of the property along Rockledge Drive. To the north of the subject property is a single-family residence with a CC and RES 4 Future Land Use designation, to the east is vacant land, single-family residences and a multi-family residence with a NC designation, to the south is a motel and single-family residences with a Future Land Use designation of NC and to the west, across U.S. Highway 1 are developed and undeveloped commercial land with NC and CC Future Land Use designations.

The concept plan was provided as a courtesy, and is not a requirement for rezoning and has not been reviewed for compliance with the land development codes and other County departments. The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00**

p.m. The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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 22S.03 (21PZ00083)
Township 25, Range 36, Section 23

Property Information

Owner / Applicant: Storsafe of Rockledge, LLC

Adopted Future Land Use Map Designation: Community Commercial (CC),
Neighborhood Commercial (NC) & Residential 4 (RES 4)

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

Acreage: 12.19 acres

Tax Account #: 2511096, 2511103 & a portion of 2511119 (east of U.S. Highway 1)

Site Location: On the east side of U.S. Highway 1 approximately 192 feet north of
Barnes Boulevard

Commission District: 2

Current Zoning: General Retail Commercial (BU-1) and Agricultural Residential (AU)

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

Background & Purpose

The applicant is seeking to amend the Future Land Use designation on 12.19 acres of land from Community Commercial (CC), Neighborhood Commercial (NC) and Residential 4 (RES 4) to all Community Commercial (CC) in order to develop a self-storage facility with outdoor boat and Recreational Vehicle (RV) storage.

This segment of U.S. Highway 1 had a Mixed Use (MIX) Future Land Use designation since 1997. In 2001, the Future Land Use designations were changed from MIX to NC and CC along this segment of U.S. Highway 1 when Brevard County updated the Comprehensive Plan and the Future Land Use Map. At the time of the Future Land Use Map changed from MIX to CC approximately 200' to the east with a NC buffer of approximately 75' to 150' to the east between CC and RES 4 land uses. Currently, the subject parcel has CC, NC and RES 4 Future Land Use designations.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Single-Family Residence	AU	CC & RES 4
South	Motel & Single-Family Residence	TU-1& AU	NC
East	Single-Family Residences, Vacant Residential Land, Multi-Family Residences	AU, EU, EU-2	NC
West	Retail & Vacant Commercial	GU & BU-1	NC & CC

To the north of the subject property is a single-family residence with a CC and RES 4 Future Land Use designation, to the east is vacant land, single-family residences and a multi-family residence with a NC designation, to the south is a motel and single-family residences with a Future Land Use designation of NC and to the west, across U.S. Highway 1 are developed and undeveloped commercial land with NC and CC Future Land Use designations.

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:

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

The applicant has stated a specific commercial use of a self-storage facility with outdoor boat and RV storage. There are potential impacts on the future residential developments directly to the east. Currently the RES 4 and NC Future Land Use designations serve as a buffer between the residential neighborhood to the east from the commercial development on the west along U.S. Highway 1.

- 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;

U.S. Highway 1 is a commercial corridor with CC Future Land Use designations along the majority of it to provide an array of services for local, subregional and regional neighborhoods.

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

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

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

There have not been any development approvals within the past three (3) years.

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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The proposed use of self-storage with outdoor boat and RV storage will not adversely impact the established residential neighborhood to the east by intensifying traffic along U.S. Highway 1. The established residential neighborhood to the east has access to Rockledge Drive, an urban minor collector road.

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

The area surrounding the subject site has clearly distinct established boundaries. To the east of the subject site there is Rockledge drive that runs along the Indian River Lagoon to facilitate an established neighborhood along the lagoon.

Role of the Comprehensive Plan in the Designation of Commercial Lands

Policy 2.1

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

Criteria:

- A. Overall accessibility to the site;

The subject 12.19 acre site has frontage on U.S. Highway 1 to the west.

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

A CC Future Land Use designation is compatible to the north and south of the subject site and inter-connectivity could be provided between these adjacent uses.

- C. Existing commercial development trend in the area;

The existing historical trend in the area are CC Future Land Use designations along U.S. Highway 1 with an array of retail businesses and services serving the local, subregional and regional neighborhoods within the surrounding area.

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

There are no fundamental changes in character within this area prompted by County infrastructure improvements.

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

The parcel is serviced by the City of Rockledge sanitary sewer and potable water by the City of Cocoa. Based upon Floor Area Ratio (FAR) used for traffic analysis when considering Future Land use changes, U.S. Highway 1 would be operating below the Acceptable Level of Service (LOS) of D. Specific concurrency issues will be addressed at the time of Site Plan review.

- F. Spacing from other commercial activities;

An approximately 1.4 acre portion of the overall 12.19 acre site is located within a commercial cluster of approximately 5.9 acres located at the intersection of Barnes Boulevard and U.S. Highway 1.

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

The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary on pages 8 and 9).

- I. Integration of open space; and

Open space will be evaluated during the site plan review process.

- J. Impacts upon strip commercial development.

The subject 12.19 acre site would be considered infill and not an extension of strip commercial development. Along this section of U.S. Highway.

Activities Permitted in Community Commercial (CC) Future Land Use Designations

Policy 2.7

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

- a) Existing strip commercial;

With a Future Land Use designation of CC, the subject parcel would not be extending strip commercial along this segment of U.S. Highway 1 from Viera Boulevard to Barnes Boulevard.

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

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

Approximately 1.4 acres of the 12.19 acre site is part of an approximately 5.9 acre community commercial cluster located at the intersection of Barnes Boulevard and U.S. Highway 1. Both are classified as Urban Principal Arterial roadways according to the Space Coast Transportation Planning Organization.

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

The subject site is not located at an intersection and won't exceed 40 acres.

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

The subject site is located along a commercial corridor and is not clustered at an intersection.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

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

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

The overall subject site has the potential for a five hundred thirty thousand nine hundred and ninety-six square foot (530,996 s.f.) building. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio

(FAR) is regulated through the land development regulations at the time of site plan review.

Concurrency

The preliminary concurrency analysis did indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The subject site is within the City of Cocoa's service area for potable water. The subject parcel is located within the City of Rockledge centralized sewer system.

Environmental Resources

Mapped resources include Hydric Soils/Wetlands, 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 however; the building located at 3700 U.S. 1 is c1939 Masonry Vernacular and is eligible for a State Historic Preservation Office (SHPO) evaluation.

For Board Consideration

The Board should also consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item # 21PZ00083**

Applicant: Lee for Harvey

FLU request: CC, NC & RES 4 to CC

Note: Applicant wants self-serve storage facility with outdoor boat and RV storage.

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID Nos: East portions of 2511096, 2511103, & 2511119

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

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

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel with Tax Account ID # 2511119 contains a small area of mapped hydric soils (Tomoka muck) as shown on the USDA Soil Conservation Service Soils Survey map, an indicator that wetlands may be present on the property. An environmental report, prepared by Bio-Tech Consulting, Inc. on November 29, 2021, did not find any wetlands onsite. The report will be verified at the time of site plan submittal. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Highway 1 is an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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. Although not a part of the FLU request, and not included in the

environmental report, the parcel with Tax Account ID # 2511119 has mapped wetlands on the west side of Highway 1.

Indian River Lagoon Nitrogen Reduction Overlay

A small portion of the northmost 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 within the overlay. 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 reside 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. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

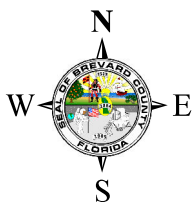
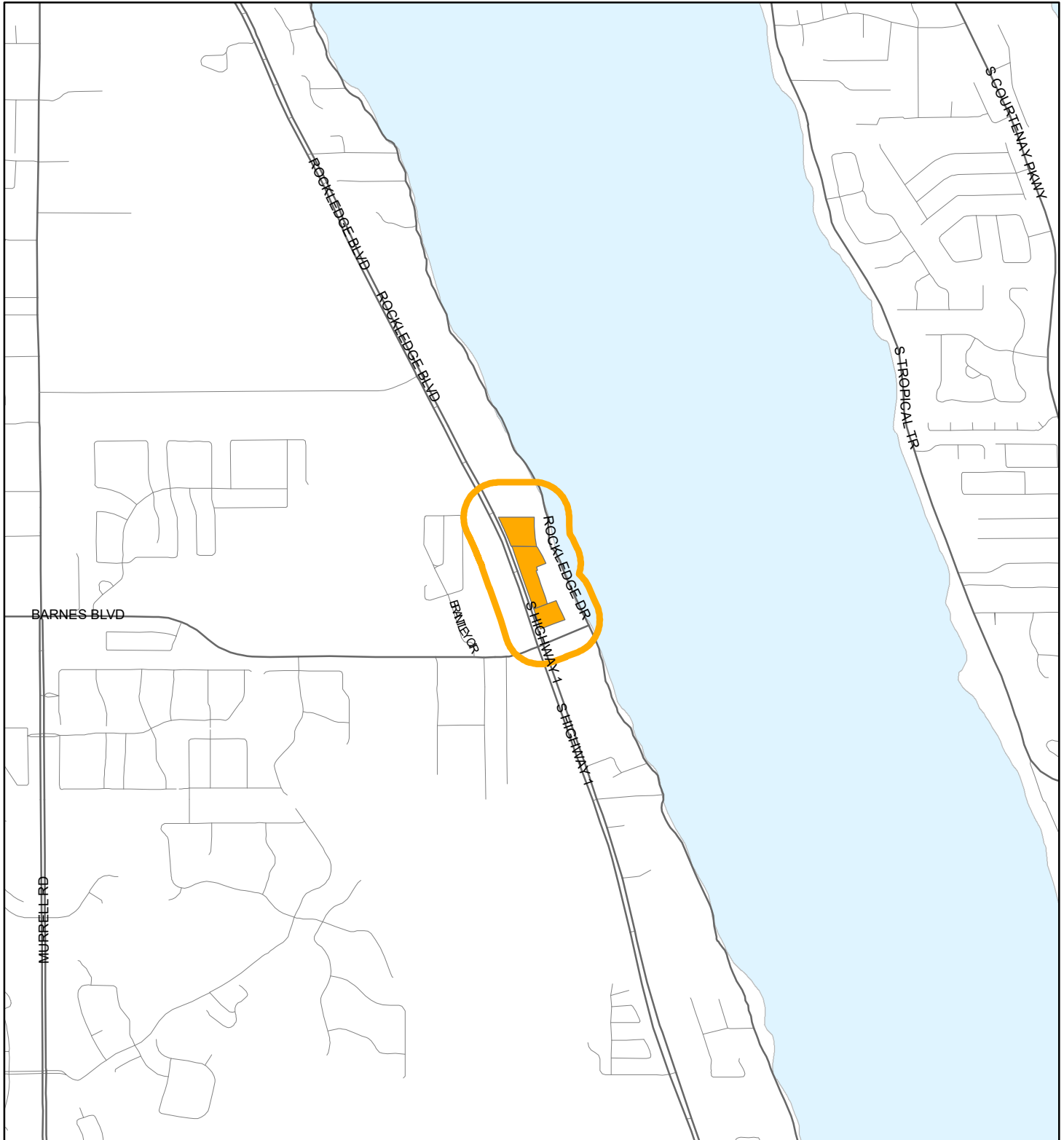
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03





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

Buffer Distance: 500 feet

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

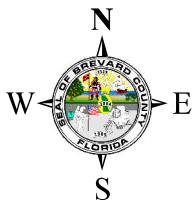
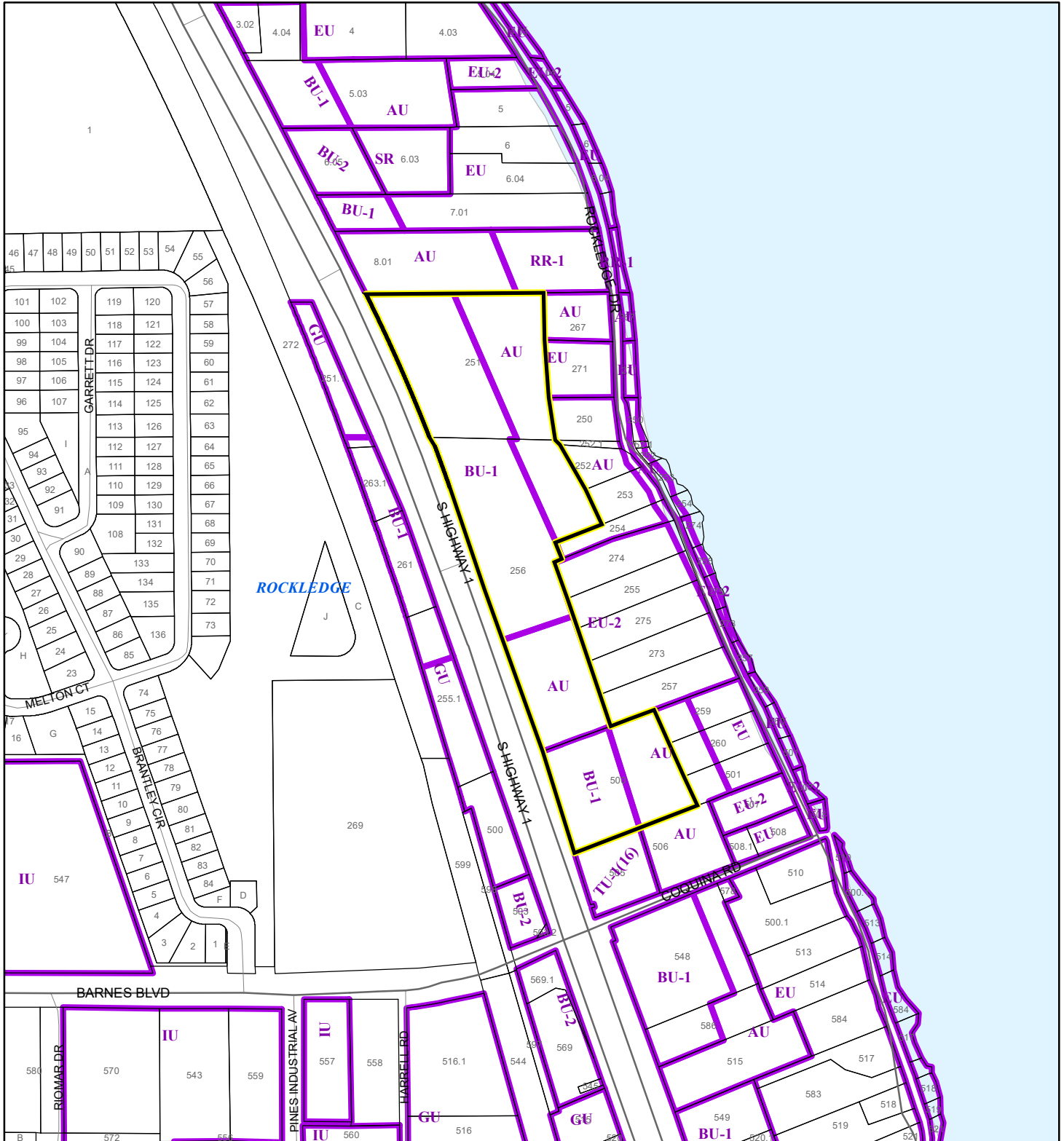
Produced by BoCC - GIS Date: 1/21/2022

 Buffer
 Subject Property

ZONING MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

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Subject Property

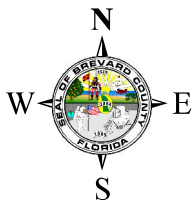
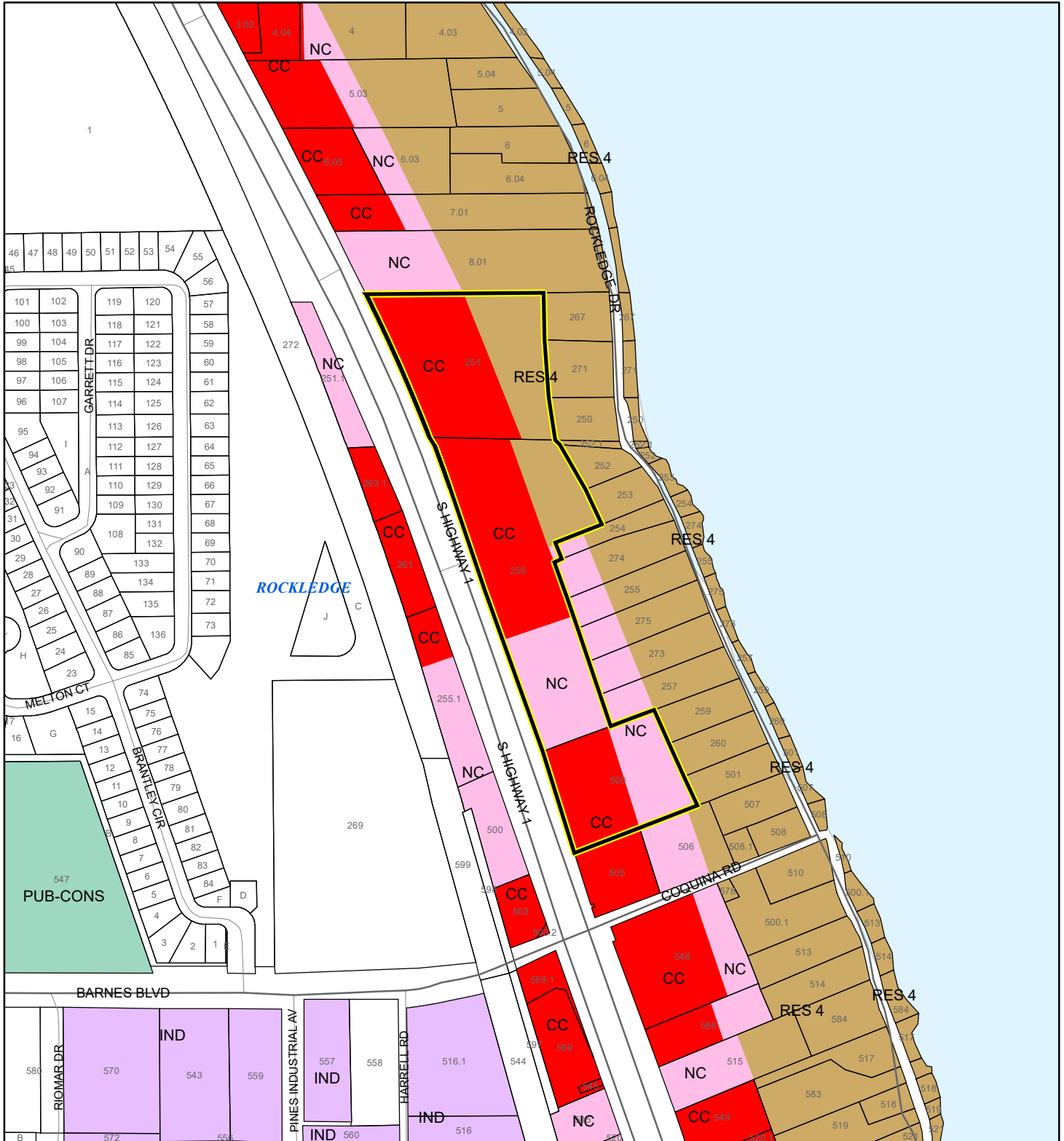
Parcels

Zoning

FUTURE LAND USE MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

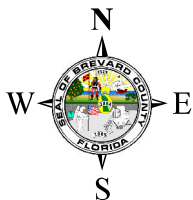
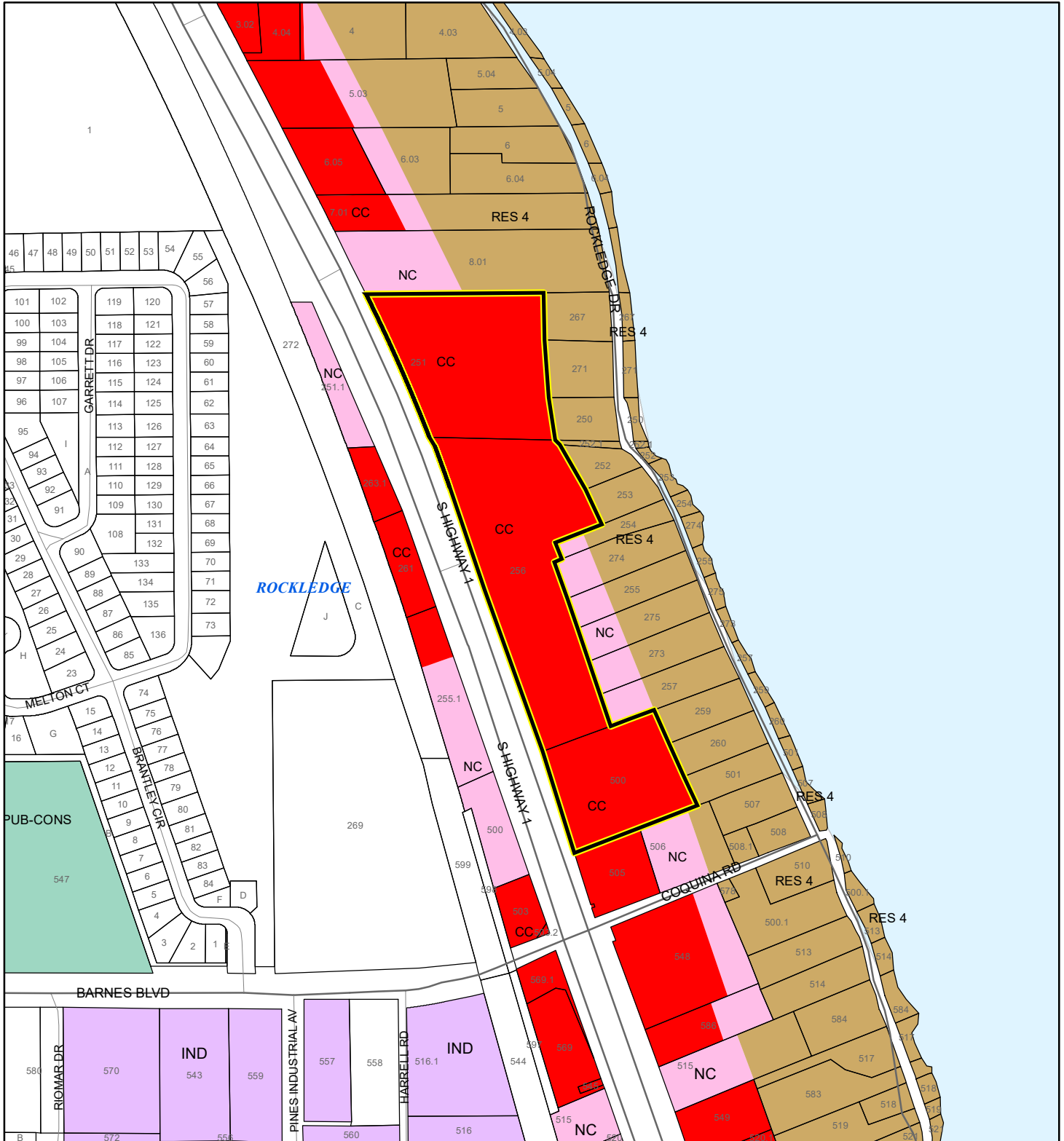
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PROPOSED FUTURE LAND USE MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

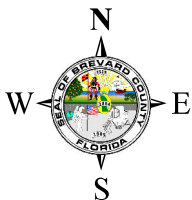
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Produced by BoCC - GIS Date: 1/21/2022

AERIAL MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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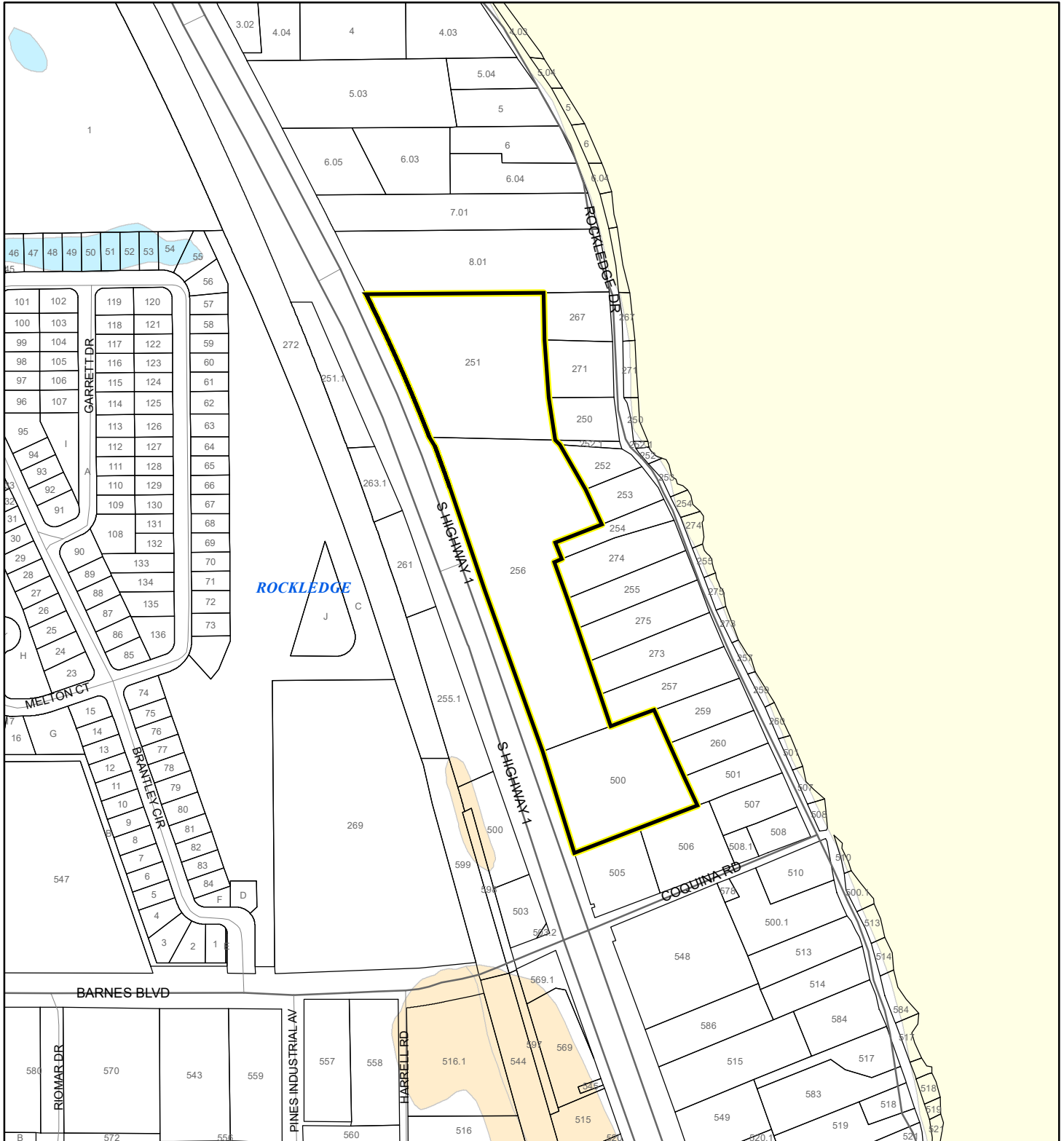
 Subject Property

 Parcels

NWI WETLANDS MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

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 | |

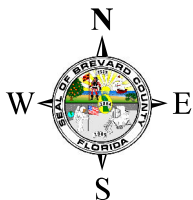
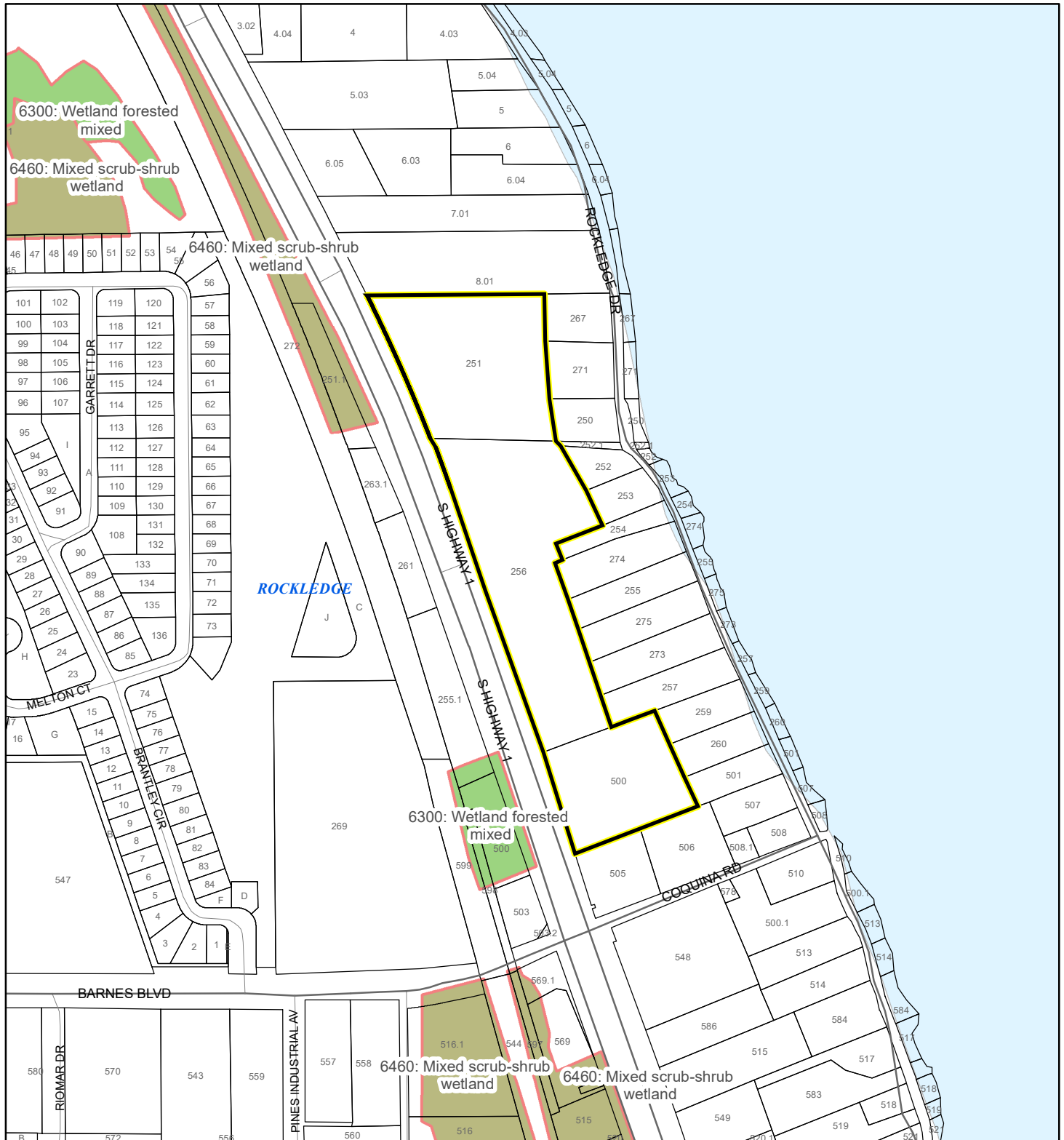
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/21/2022

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

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

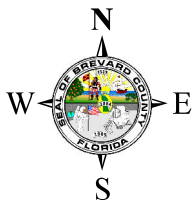
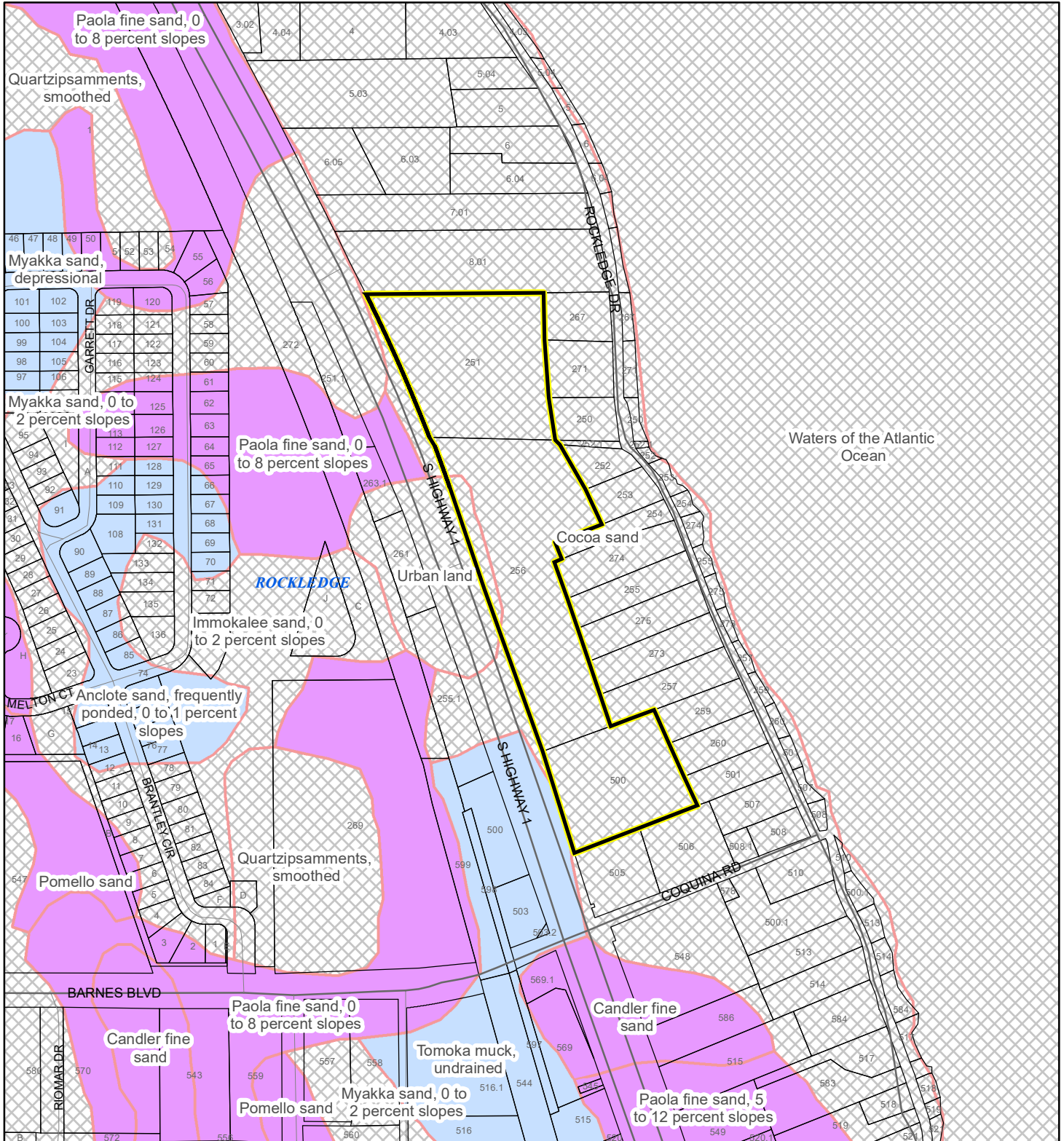
Subject Property

Parcels

USDA SCSSS SOILS MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

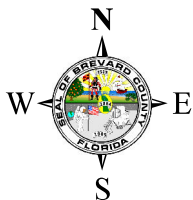
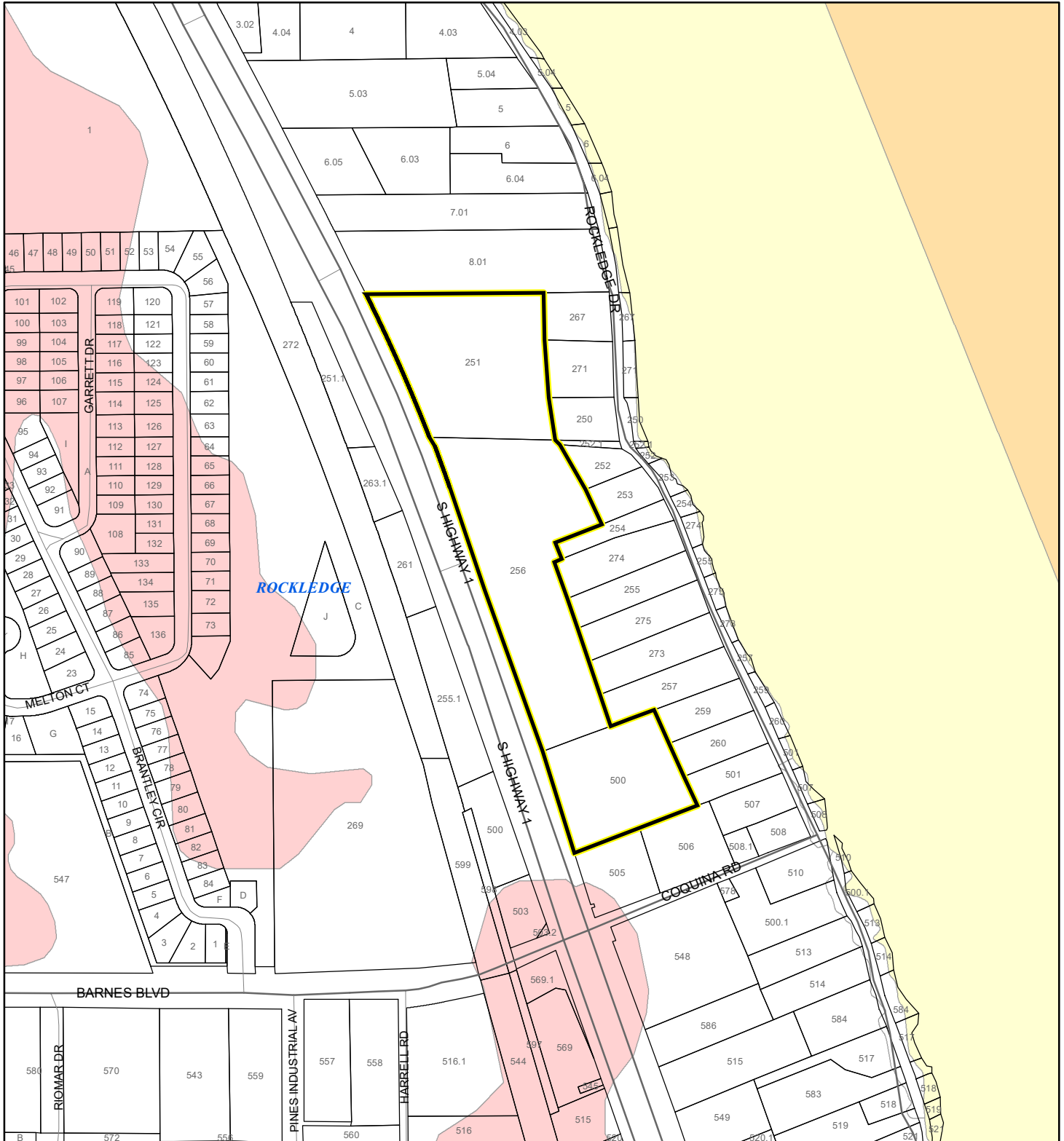
Subject Property

Parcels

FEMA FLOOD ZONES MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

FEMA Flood Zones

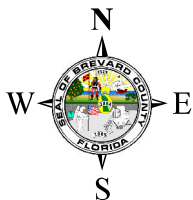
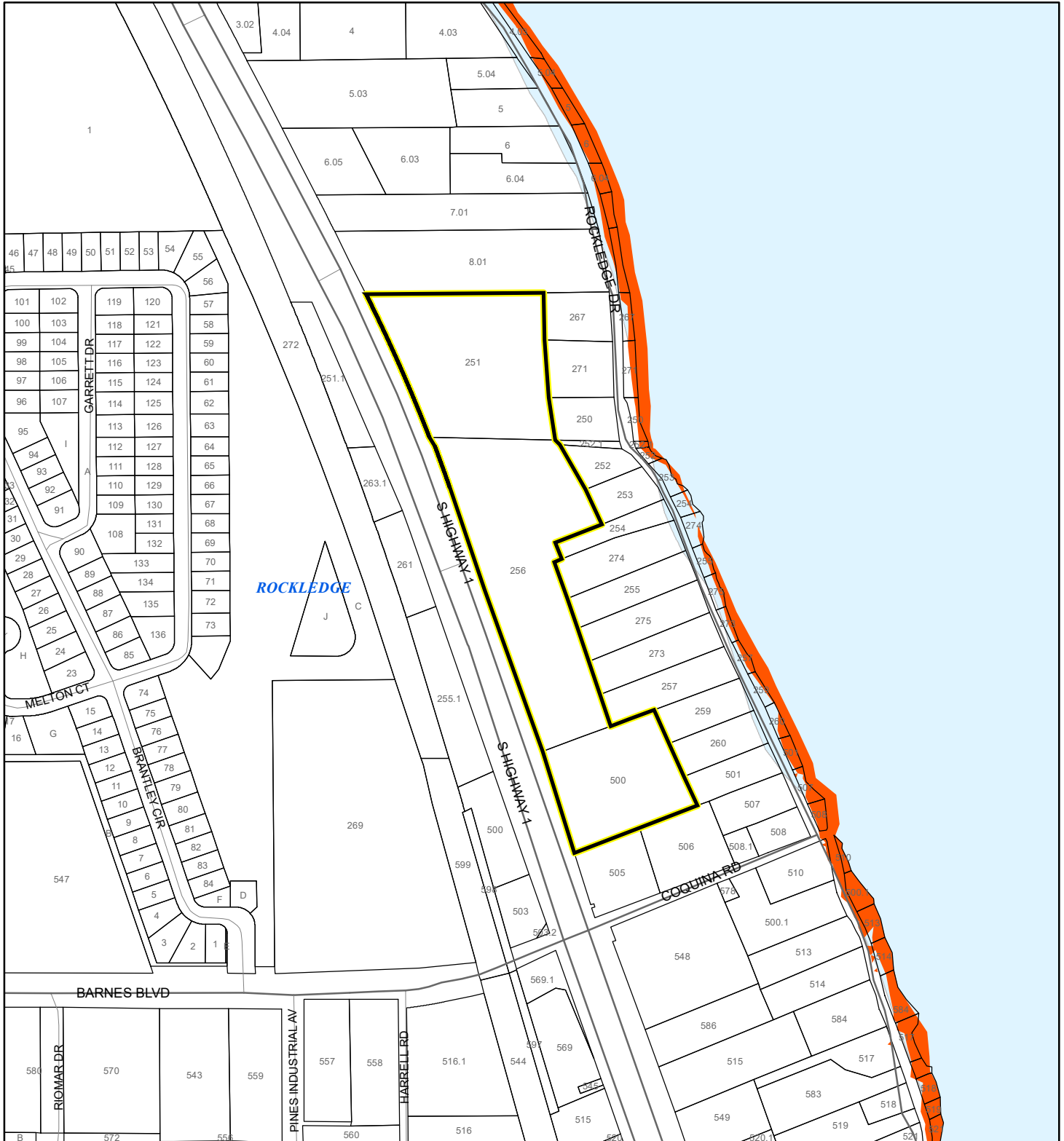
- | | | |
|--------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| A | AO | X |
| AE | Open Water | |
| AH | VE | |

- | | |
|-------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|
| Subject Property | Parcels |
|-------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------|

COASTAL HIGH HAZARD AREA MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

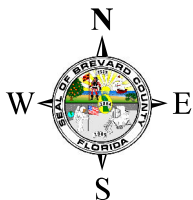
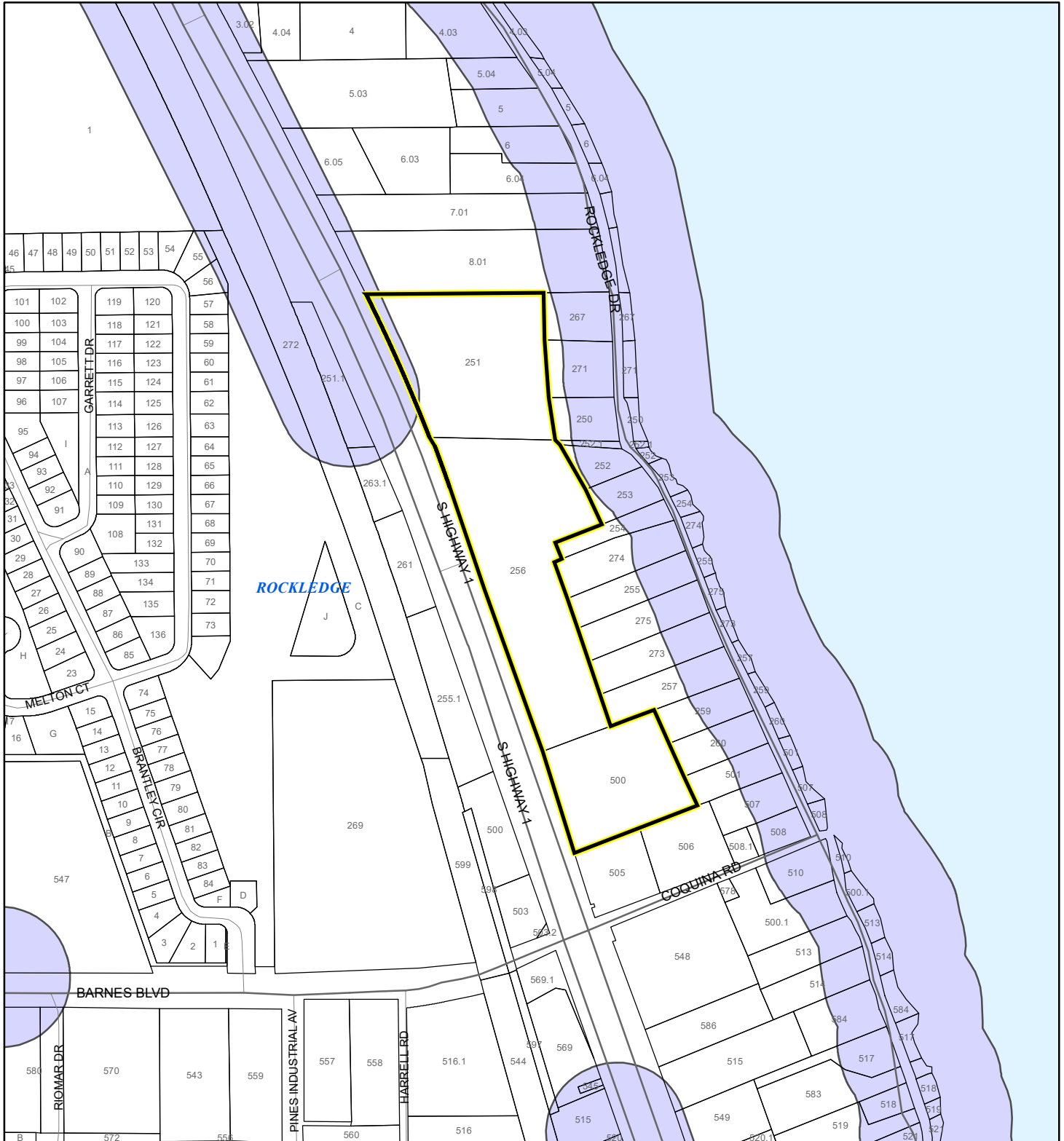
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

STORSAGE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

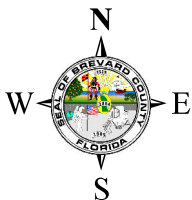
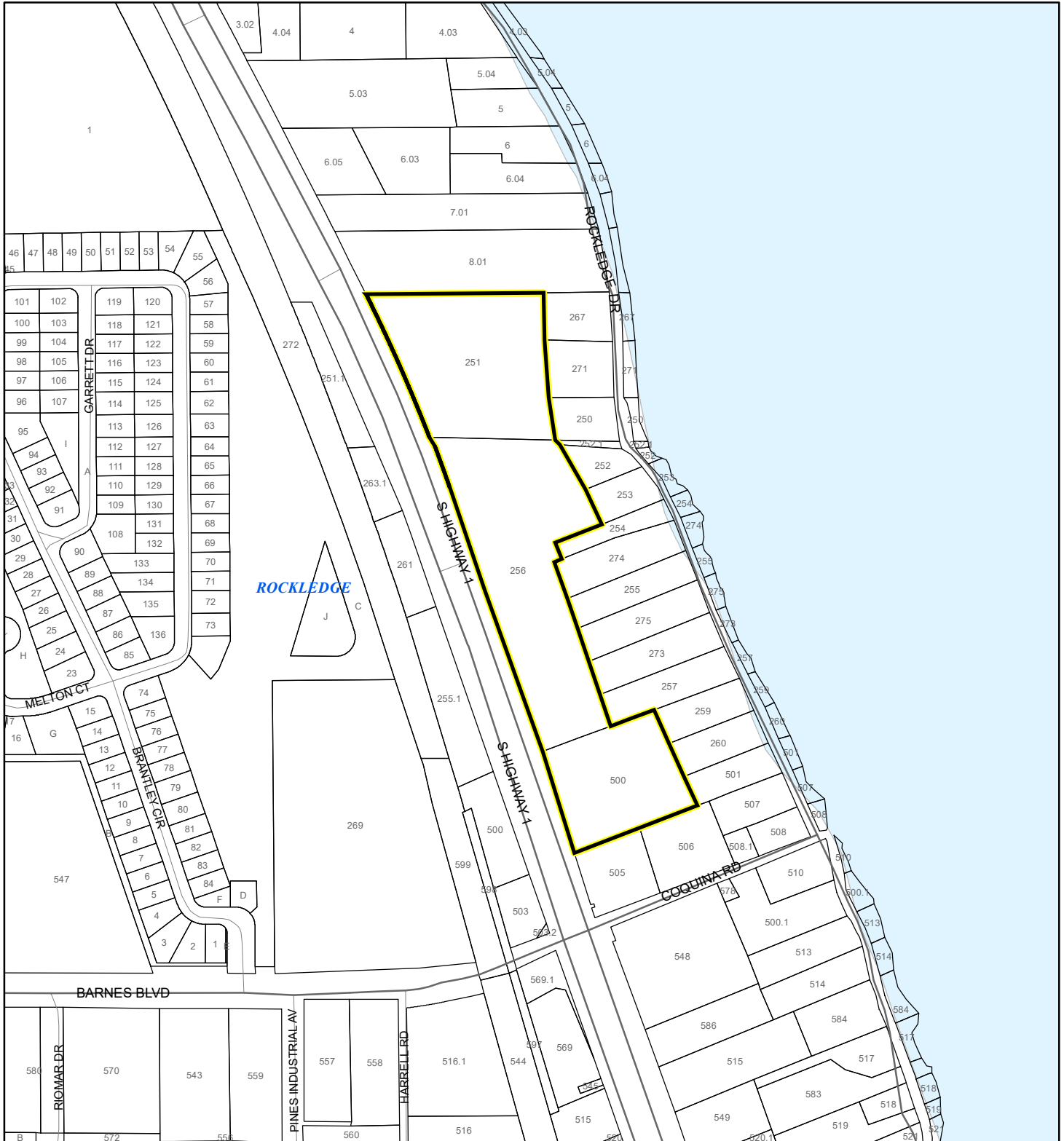
 60 Meters

 All Distances

EAGLE NESTS MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

 Subject Property

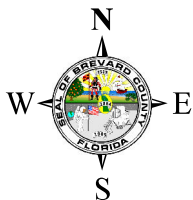
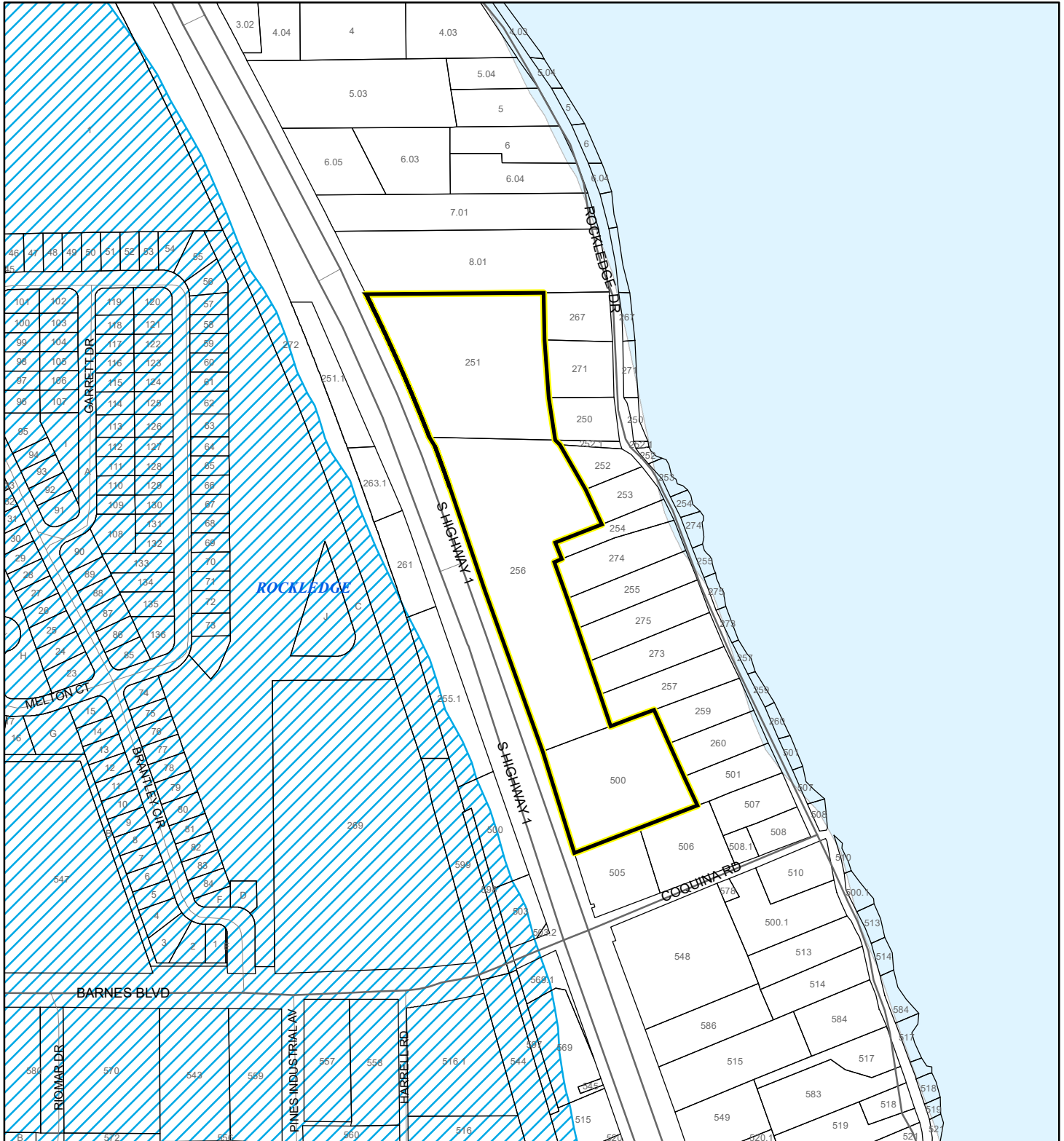
 Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

STORSAFE OF ROCKLEDGE, LLC 21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

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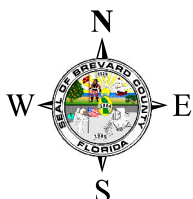
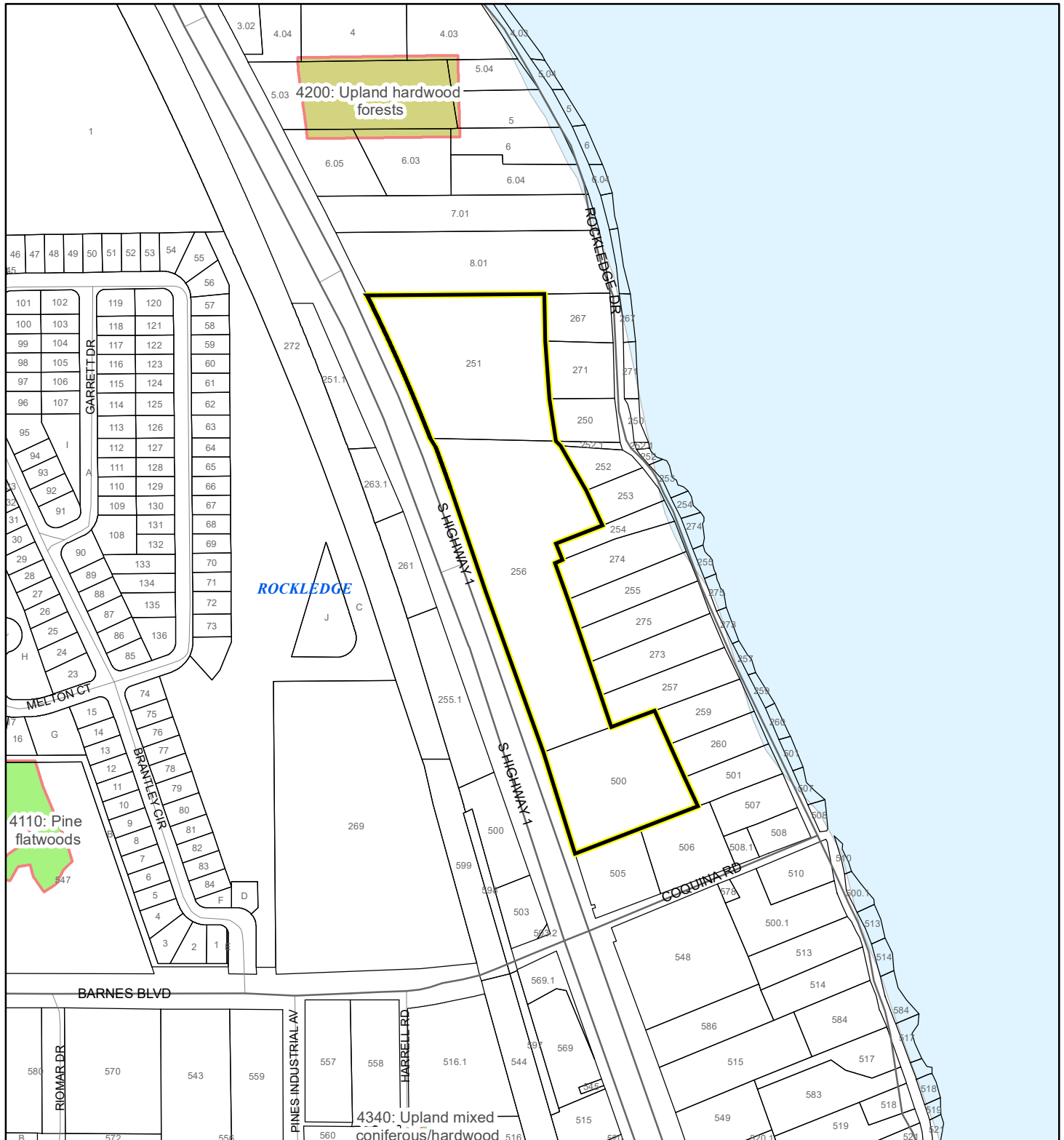
Produced by BoCC - GIS Date: 1/21/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

STORSAFE OF ROCKLEDGE, LLC

21PZ00083 SSA 22S.03



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

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

Reason for Request
21PZ00083
Storsafe

Planning & Development Department

2725 Judge Fran Jamieson Way, Bldg A, Suite 114

Viera, FL 32940

Phone: (321) 633-2070, Fax: (321) 633-2074

www.BrevardFL.gov/PlanningDev

Supplement to Comprehensive Plan Amendment Application

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: Nathan Lee (Kimley-Horn) Staff Planner: _____

3. Comprehensive Plan Amendment Information:

Adopted Future Land Use Designation: CC, NC, RES 4

Requested Future Land Use Designation: CC

Existing Zoning: BU-1, AU

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 rationale 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.

The purpose of this request is to change the Future Land Use designations assigned to portions of Parcels 25-36-23-00-251, 25-36-23-00-256 and 25-36-23-00-500. Please see the attached FLU Exhibit for the proposed FLU changes described as follows:

> 1.17 acres of Parcel 25-36-23-00-251 is to be changed from RES-4 to CC. The remaining 2.51 acres of Parcel 25-36-23-00-251 is to remain CC.

> 1.10 acres of Parcel 25-36-23-00-256 is to be changed from RES-4 to CC and 1.72 acres of the parcel is to be changed from NC to CC. The remaining 2.94 acres of Parcel 25-36-23-00-251 is to remain CC.

> 1.05 acres of Parcel 25-36-23-00-500 is to be changed from NC to CC. The remaining 1.46 acres of Parcel 25-36-23-00-250 located west of US-1 is to remain CC and the remaining 0.64 acres of Parcel 25-36-23-00-250 located east of US-1 is to remain NC.

The proposed development is for a self-storage facility with outdoor boat and RV storage. The current future land use is a combination of CC, NC, and RES-4. The Proposed future land use of Community Commercial (CC) will allow for the proposed development and remain consistent with the surrounding land uses along US hwy 1.

(Use additional sheets if necessary)



Bio-Tech Consulting Inc.
Environmental and Permitting Services

Environmental Report
21PZ00083
Storsafe

info@bio-techconsulting.com
www.bio-techconsulting.com

November 29, 2021

Austin Anderson
10043 W Dublin Street
Crystal River, Florida 33428

Proj: Brevard Storage – Brevard County, Florida
Sections 23 Township 25 South, Range 36 East
(BTC File #597-24)
Re: Environmental Assessment Report

Dear Mr. Anderson:

During November of 2021, Bio-Tech Consulting, Inc. (BTC) conducted an environmental assessment of the approximately 12.83-acre Brevard Storage property. The site is located east of US-1 South, and north of Coquina Road, within Section 23, Township 25 South, Range 36 East, Brevard County, Florida (Figures 1, 2 & 3). This environmental assessment includes the following elements:

- general review of site topography;
- review of soil types mapped within the site boundaries;
- evaluation of land use types/vegetative communities present;
- field review for occurrence of protected flora and fauna, and
- permitting summary.

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3025 East South Street
Orlando, FL 32803

Vero Beach Office
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Vero Beach, FL 32963

Jacksonville Office
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Tampa Office
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3825 Rouse Road
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Orlando

Vero Beach

Jacksonville

Tampa

Key West

SOILS

According to the Soil Survey of Brevard County, Florida, prepared by the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), three (3) soil types exist within the subject site (Figure 4). These soil types include the following:

- **Cocoa sand (#15)**
- **Tomoka muck, undrained (#67)**
- **Urban land (#69)**

The following presents a brief description of each of the soil types mapped for the subject property:

Cocoa sand (#15) this is a nearly level and gently sloping, well-drained, sandy soil over coquina rock. These are undulating soils on low ridges. The surface layer is dark-brown sand about 6 inches thick. The water table is below a depth of 6 feet all the time. The permeability is rapid in all layers of this soil series.

Tomoka muck, undrained (#67) is a nearly level, very poorly drained muck soil in broad flat marshes, small depressions, and swamps. Sandy and loamy layers are at a depth of 16 to 40 inches. The water table is within a depth of 10 inches for 9 to 12 months in most years, and water is frequently above the surface. In dry periods it is between 10 and 30 inches.

Urban Land (#69) consists of areas that are 60 to more than 75 percent covered with streets, buildings, large parking lots, shopping centers, industrial parks, airports, and related facilities. Unoccupied areas, mostly lawns, parks, vacant lots, and playgrounds, are Astatula, Paola, Myakka, St. Lucie, Immokalee, Pomello, Cocoa, and Canaveral soils in tracts too small to be mapped separately.

The Florida Association of Environmental Soil Scientists (FAESS) considers the components of Tomoka muck, undrained (#67) to be hydric in nature. This information can be found in the Hydric Soils of Florida Handbook, Third Edition (March, 2000).

LAND USE TYPES/VEGETATIVE COMMUNITIES

The subject site currently supports two (2) land use types/vegetative communities (Figure 5). These land use types/vegetative communities were identified utilizing the Florida Land Use, Cover and Forms Classification System, Level III (FLUCFCS, FDOT, January 1999). The on-site upland land use types/vegetative communities are classified as Industrial (150) and Open

Land (190). No wetland/surface water land use types were found on site. The following provides a brief description of the on-site land use types/vegetative communities:

Uplands:

150 Industrial

The property contains an abandoned warehouse with a store and a parking lot that is most consistent with the Industrial (150) FLUCFCS code. Vegetative species identified include Brazilian pepper (*Schinus terebinthifolia*), lantana (*Lantana strigocamara*), Spanish needles (*Bidens alba*), Mexican clover (*Richardia brasiliensis*), switchgrass (*Panicum virgatum*), and bahiagrass (*Paspalum notatum* var. *notatum*).

190 Open Land

Surrounding the warehouse on either side are fields with no structures being most consistent with the Open Land (190) FLUCFCS code. Vegetative species identified include live oak (*Quercus virginiana*), cabbage palm (*Sabal palmetto*), slash pine (*Pinus elliottii*), Australian pine (*Casuarina equisetifolia*), golden bamboo (*Phyllostachys aurea*), carrotwood (*Cupaniopsis anacardioides*), chinaberry tree (*Melia azedarach*), golden raintree (*Koelreuteria paniculata*), white lead tree (*Leucaena leucocephala*), saw palmetto (*Serenoa repens*), Mexican clover (*Richardia brasiliensis*), and bahiagrass (*Paspalum notatum* var. *notatum*).

PROTECTED SPECIES

Using methodologies outlined in the Florida's Fragile Wildlife (Wood, 2001); Measuring and Monitoring Biological Diversity Standard Methods for Mammals (Wilson, et al., 1996); and Florida Fish and Wildlife Conservation Commission's (FFWCC) Gopher Tortoise Permitting Guidelines (January 2017); a cursory assessment for "listed" floral and faunal species was conducted at the subject property on November 23, 2021. This assessment included both direct observations and indirect evidence, such as tracks, burrows, tree markings and birdcalls that indicated the presence of species observed. The assessment focused on species that are "listed" by the FFWCC's Official Lists - Florida's Endangered Species, Threatened Species and Species of Special Concern (June 2021) that have the potential to occur in Brevard County (See attached Table 1).

No plant species “listed” by either the state or federal agencies were identified on the subject site during the assessments conducted. The following is a list of those wildlife species identified during the evaluation of the site:

Reptiles and Amphibians

brown anole (*Anolis sagrei*)
green anole (*Anolis caroliniana*)
six-lined racerunner (*Cnemidophorus sexlineatus sexlineatus*)
gopher tortoise (*Gopherus polyphemus*)

Birds

Black Vulture (*Coragyps atratus*)
Blue Jay (*Cyanocitta cristata*)
Mourning Dove (*Zenaida macroura*)
Northern Mockingbird (*Mimus polyglottos*)
Northern Cardinal (*Cardinalis cardinalis*)
Red-shouldered Hawk (*Buteo lineatus*)

Mammals

eastern cottontail (*Sylvilagus floridanus*)
eastern gray squirrel (*Sciurus carolinensis*)
nine-banded armadillo (*Dasypus novemcinctus*)
Virginia opossum (*Didelphis virginiana*)

None of the above wildlife species were identified in the FFWCC’s Official Lists - Florida’s Endangered Species, Threatened Species and Species of Special Concern (June 2021). The following provides a brief description of the species as they relate to the development of the project site.

Gopher Tortoise (*Gopherus polyphemus*)

State Listed as “Threatened” by FFWCC

While the site presently was not observed to have a gopher tortoise (*Gopherus polypemus*) population, updated wildlife surveys should be completed to ensure that future populations do not inhabit the project site and cause construction delays.

Currently the gopher tortoise (*Gopherus polyphemus*) is classified as a "Category 2 Candidate Species" by USFWS, and as of September 2007 is now classified as "Threatened" by FFWCC, and as "Threatened" by FCREPA. The basis of the "Threatened" classification by the FFWCC for the gopher tortoise is due to habitat loss and destruction of burrows. Gopher tortoises are commonly found in areas with well-drained soils associated with the pine flatwoods, pastures and abandoned orange groves. Several other protected species known to occur in Brevard County have a possibility of occurring in this area as these species are gopher tortoise commensal species. These species include the eastern indigo snake (*Drymarchon corais couperi*), Florida mouse (*Peromyscus floridanus*) and the gopher frog (*Rana capito*). However, none of these species were observed during the survey conducted.

Bald Eagle (*Haliaeetus leucocephalus*)

State protected by F.A.C. 68A-16.002 and federally protected by both the Migratory Bird Treaty Act (1918) and the Bald and Golden Eagle Protection Act (1940)

In August of 2007, the US Fish and Wildlife Service (USFWS) removed the Bald Eagle from the list of federally endangered and threatened species. Additionally, the Bald Eagle was removed from FFWCC's imperiled species list in April of 2008. Although the Bald Eagle is no longer protected under the Endangered Species Act, it is still protected under the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and FFWCC's Bald Eagle rule (Florida Administrative Code 68A-16.002 Bald Eagle (*Haliaeetus leucocephalus*)).

In May of 2007, the USFWS issued the National Bald Eagle Management Guidelines. In April of 2008, the FFWCC adopted a new Bald Eagle Management Plan that was written to closely follow the federal guidelines. In November of 2017, the FFWCC issued "A Species Action Plan for the Bald Eagle" in response to the sunset of the 2008 Bald Eagle Management Plan. Under the USFWS's management plans, buffer zones are recommended based on the nature and magnitude of the project or activity. The recommended protective buffer zone is 660 feet or less from the nest tree, depending on what activities or structures are already near the nest. As provided within the above referenced Species Action Plan, the USFWS is the regulating body responsible for issuing permits for Bald Eagles. In 2017, the need to obtain a State permit (FFWCC) for the take of Bald Eagles or their nests in Florida was eliminated following revisions to Rule 68A-16.002, F.A.C.. A USFWS Bald Eagle "Non-Purposeful Take Permit" is not needed for any activity occurring outside of the 660-foot buffer zone. No activities are permitted within 330 feet of a nest without a USFWS permit.

In addition to the on-site evaluation for listed species, BTC conducted a review of FFWCC's database and Audubon's Eagle Watch program database for recorded Bald Eagle nests within the surrounding 660 feet of the subject site. This review revealed no Bald Eagle nests, through the 2020-2021 nesting season, located within one (1) mile of the subject site (see attached Bald Eagle Nest Data). Therefore, there will be no development constraints regarding Bald Eagle nests unless a new nest is found.

USFWS CONSULTATION AREAS

The U.S. Fish and Wildlife Service has established "consultation areas" for certain listed species. Generally, these consultation areas only become an issue if USFWS consultation is required, which is usually associated with permitting through the U.S. Army Corps of Engineers. The reader should be aware that species presence and need for additional review are often determined to be unnecessary early in the permit review process due to lack of appropriate habitat or other conditions. However, the USFWS makes the final determination.

Consultation areas are typically very regional in size, often spanning multiple counties where the species in question are known to exist. Consultation areas by themselves do not indicate the presence of a listed species. They only indicate an area where there is a potential for a listed species to occur and that additional review might be necessary. Such review might include the need for species-specific surveys using established methodologies that have been approved by the USFWS.

The following paragraphs include a list of the USFWS Consultation Areas associated with the subject property. Also included, is a brief description of the respective species habitat and potential for additional review:

Florida Scrub-jay (*Aphelocoma coerulescens*)

Federally Listed as "Threatened" by USFWS

Currently the Florida Scrub-Jay is listed as threatened by the USFWS. Florida Scrub-jays are largely restricted to scattered, often small and isolated patches of sand pine scrub, xeric oak, scrubby flatwoods, and scrubby coastal stands in peninsular Florida (Woolfenden 1978a, Fitzpatrick et al. 1991). They avoid wetlands and forests, including canopied sand pine stands. Optimal Scrub-jay habitat is dominated by shrubby scrub, live oaks, myrtle oaks, or scrub oaks from 1 to 3 m (3 to 10 ft.) tall, covering 50% to 90 % of the area; bare ground or sparse

vegetation less than 15 cm (6 in) tall covering 10% to 50% of the area; and scattered trees with no more than 20% canopy cover (Fitzpatrick et al. 1991).

No Florida Scrub-jays were observed on the subject site during the wildlife survey conducted by BTC. The subject site does contain suitable Live Oak habitat in the eastern portion of the site. As such, no further action should be required pertaining to this species.

Audubon's Crested Caracara (Polyborus plancus audubonii)
Federally Listed as "Threatened" by USFWS

The subject site falls within the USFWS Consultation Areas for the species Audubon's Crested Caracara (*Polyborus planeus audubonii*). Currently the Audubon's Crested Caracara is listed as threatened by the USFWS due primarily to habitat loss. The Audubon's Crested Caracara commonly occurs in dry or wet prairie areas with scattered cabbage palms, lightly wooded areas with saw palmetto, scrub oaks and cypress. The Audubon's Crested Caracara also uses improved or semi-improved pasture with seasonal wetlands. Audubon's Crested Caracaras construct new nests each nesting season, often in the same tree as the previous year.

Although the subject site falls within the USFWS Audubon's Crested Caracara consultation area, no crested caracaras were observed and no suitable habitat for this species exists within the project boundaries. No further action should be required pertaining to crested caracaras.

West Indian Manatee (Trichechus manatus)
Federally Listed as "Threatened" by USFWS

The subject site falls within the USFWS Consultation Area for the West Indian manatee. Currently the West Indian manatee is listed as "Threatened" by the USFWS. Manatees are protected under the Marine Mammal Protection Act, which prohibits the take (i.e., harass, hunt, capture, or kill) of all marine mammals. Manatees are found in marine, estuarine and freshwater environments. The West Indian manatee (*Trichechus manatus*), includes two distinct subspecies, the Florida manatee (*Trichechus manatus latirostris*) and the Antillean manatee (*Trichechus manatus manatus*). While morphologically distinctive, both subspecies have many common features. Manatees have large, seal-shaped bodies with paired flippers and a round, paddle-shaped tail. They are typically grey in color (color can range from black to light brown) and occasionally spotted with barnacles or colored by patches of green or red algae. The muzzle is heavily whiskered and coarse, single hairs are sparsely distributed throughout the body. Adult manatees, on average, are about nine feet long (3 meters) and weigh about 1,000 pounds (200 kilograms). At birth, calves are between three and four feet long (1 meter) and weigh between 40 and 60 pounds (30 kilograms).

As the site is not located within or abutting any surface waters, no future permitting issues should arise as a result of site development.

Piping Plover (*Charadrius melodus*)
Federally Listed as "Threatened" by USFWS

The subject site falls within the USFWS Consultation Areas for the species Piping Plover (*Charadrius melodus*). Currently the Piping Plover is listed as threatened by the USFWS due primarily to habitat loss. Piping plovers do not breed in Florida, but they spend a large portion of their year "wintering" here. They typically inhabit sandy beaches, sand flats, and mudflats along coastal areas. The main threat to Piping Plovers is habitat loss due to the development of beaches. The Piping Plover is protected by the U.S. Migratory Bird Treaty Act, as well as the Federal Endangered Species Act.

No Piping Plovers were observed on the subject site during the survey conducted by BTC. The subject site does not contain suitable habitat for this species. Therefore, the proposed action will have no effect on the Piping Plover.

ENVIRONMENTAL PERMITTING SUMMARY

There are no wetlands or other surface waters located within or abutting the project site. This site resides in the Northern Indian River Lagoon basin.

St. Johns River Water Management District

An Environmental Resource Permit (ERP) will be required through the SJRWMD to authorize the construction and operation of a stormwater management system for the site. Since the site does not contain any wetlands and/or surface waters, no wetland mitigation will be required by SJRWMD in association with the proposed site development plan. Coordination with the Division of Historical Resources (DHR) and the Florida Fish and Wildlife Conservation Commission (FFWCC) will be necessary as part of the ERP process. However, no wildlife or archeological issues are anticipated as the site has been historically developed.

US Army Corps of Engineers (USACE)

There are no wetlands or other surface waters located within the project boundary. As such, no permitting is required through the ACOE for any development of this site as USACE permits only address wetland impacts and not the stormwater management system. You may, however, request a "No Permit Required" determination from the USACE. However, this process may

take several months to complete as this request would be considered a "low priority" for USACOE to address.

The environmental limitations described in this document are based on observations and technical information available on the date of the on-site evaluation. This report is for general planning purposes only. The limits of any on-site wetlands/surface waters can only be determined and verified through field delineation and/or on-site review by the pertinent regulatory agencies. The wildlife surveys conducted within the subject property boundaries do not preclude the potential for any listed species, as noted on Table 1 (attached), currently or in the future. Should you have any questions or require any additional information, please do not hesitate to contact our office at (407) 894-5969. Thank you.

Regards,

Adam Mirajkar

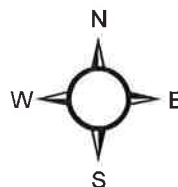
Adam Mirajkar
Field Biologist

Stephanie Salvilla

Stephanie Salvilla
Project Manager



Brevard Storage
Brevard, Florida
Figure 1
Location Map



2,500 Feet

Project #: 597
Produced By: AOM
Date: 11/22/2021



Source: Esri, Maxar, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community, Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS user community.

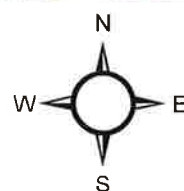
Legend



Boundary (12.83 Ac)

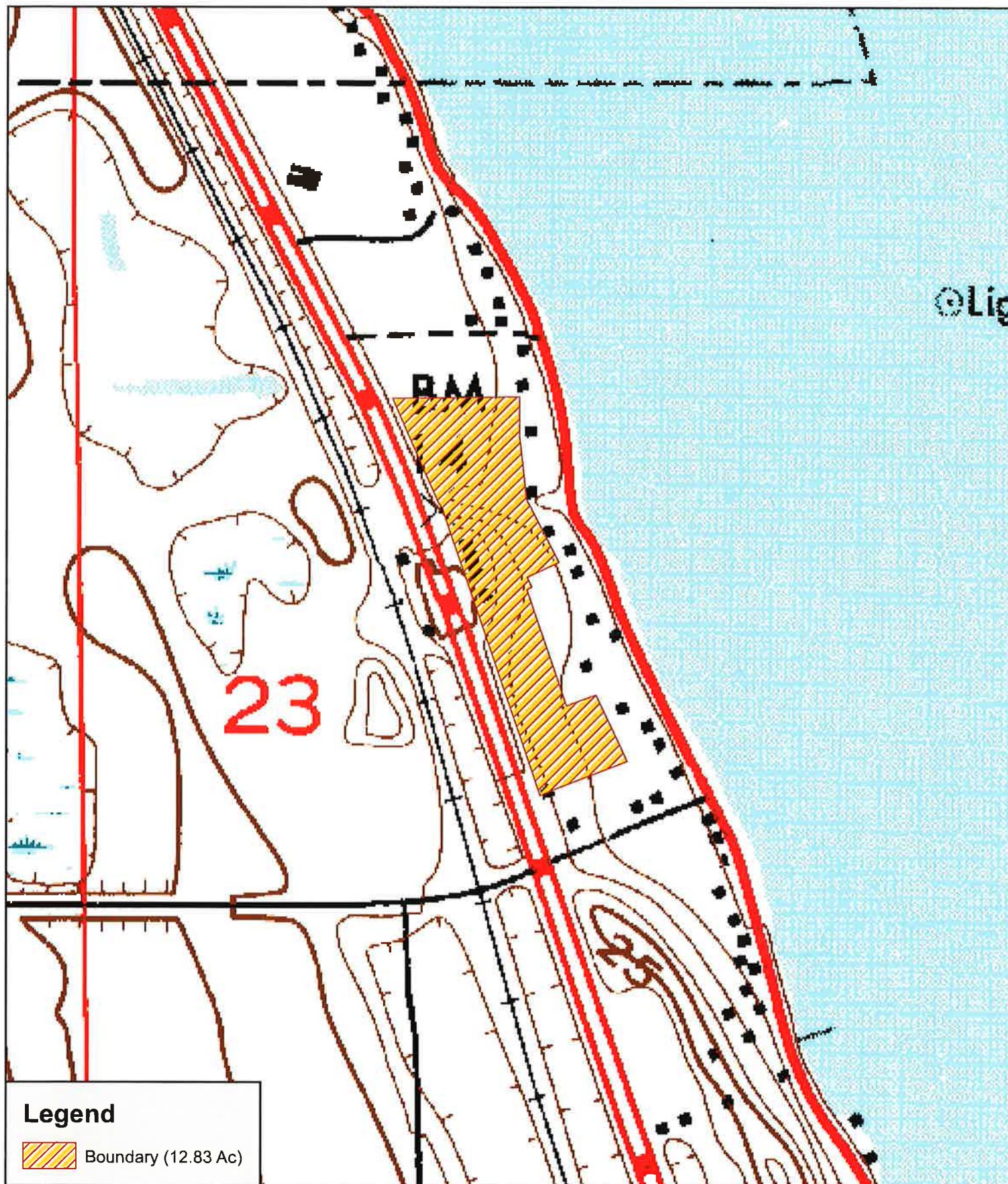
Bio-Tech Consulting Inc.
Environmental and Permitting Services
3025 E. South Street Orlando, FL 32803
Ph: 407-894-5969 Fax: 407-894-5970
www.bio-techconsulting.com

Brevard Storage
Brevard, Florida
Figure 2
Aerial Map



500
Feet

Project #: 597
Produced By: AOM
Date: 11/22/2021



Brevard Storage

Brevard, Florida

Figure 3

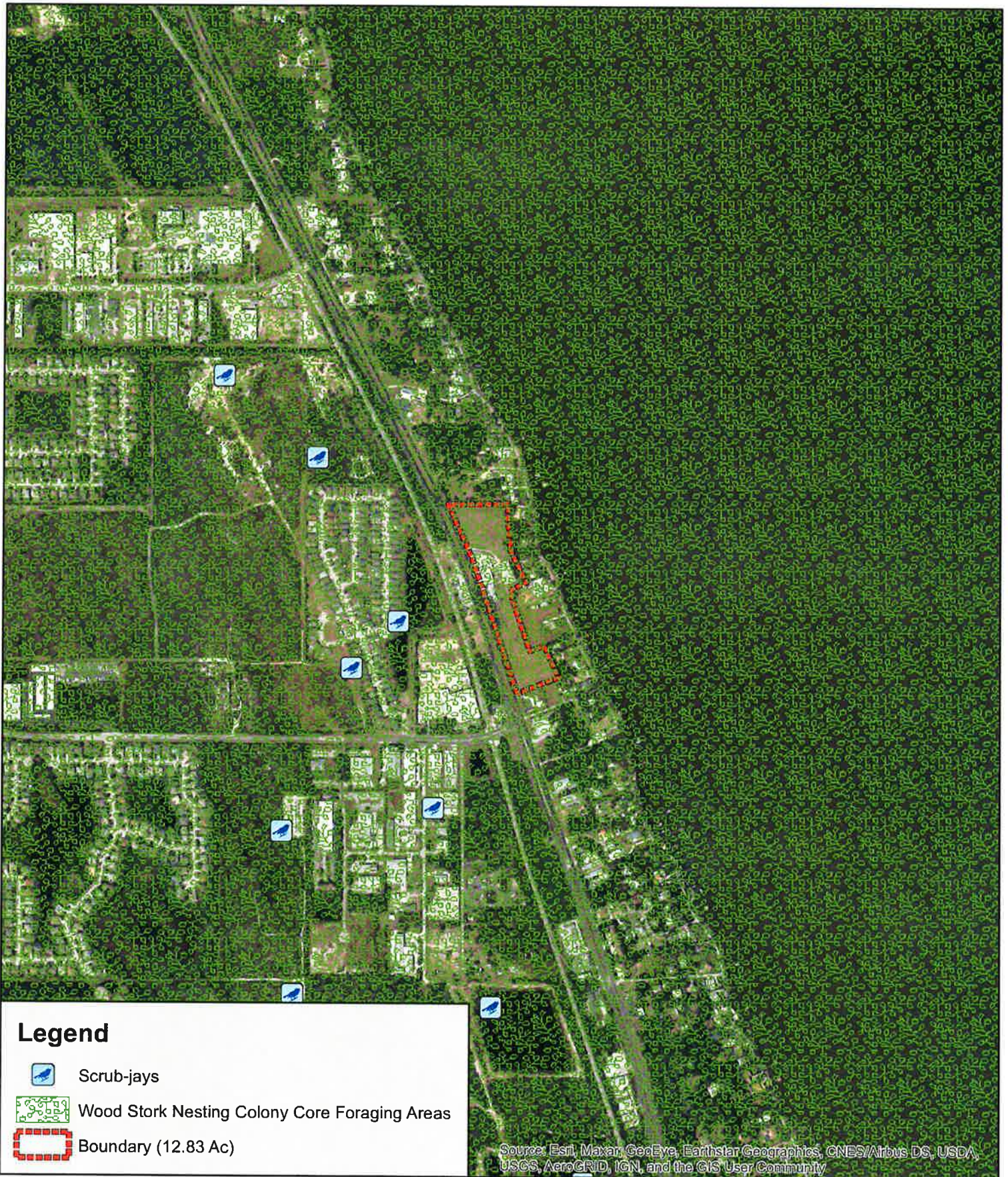
USGS Topography Map



Brevard Storage
Brevard, Florida
Figure 4
SSURGO Soils Map

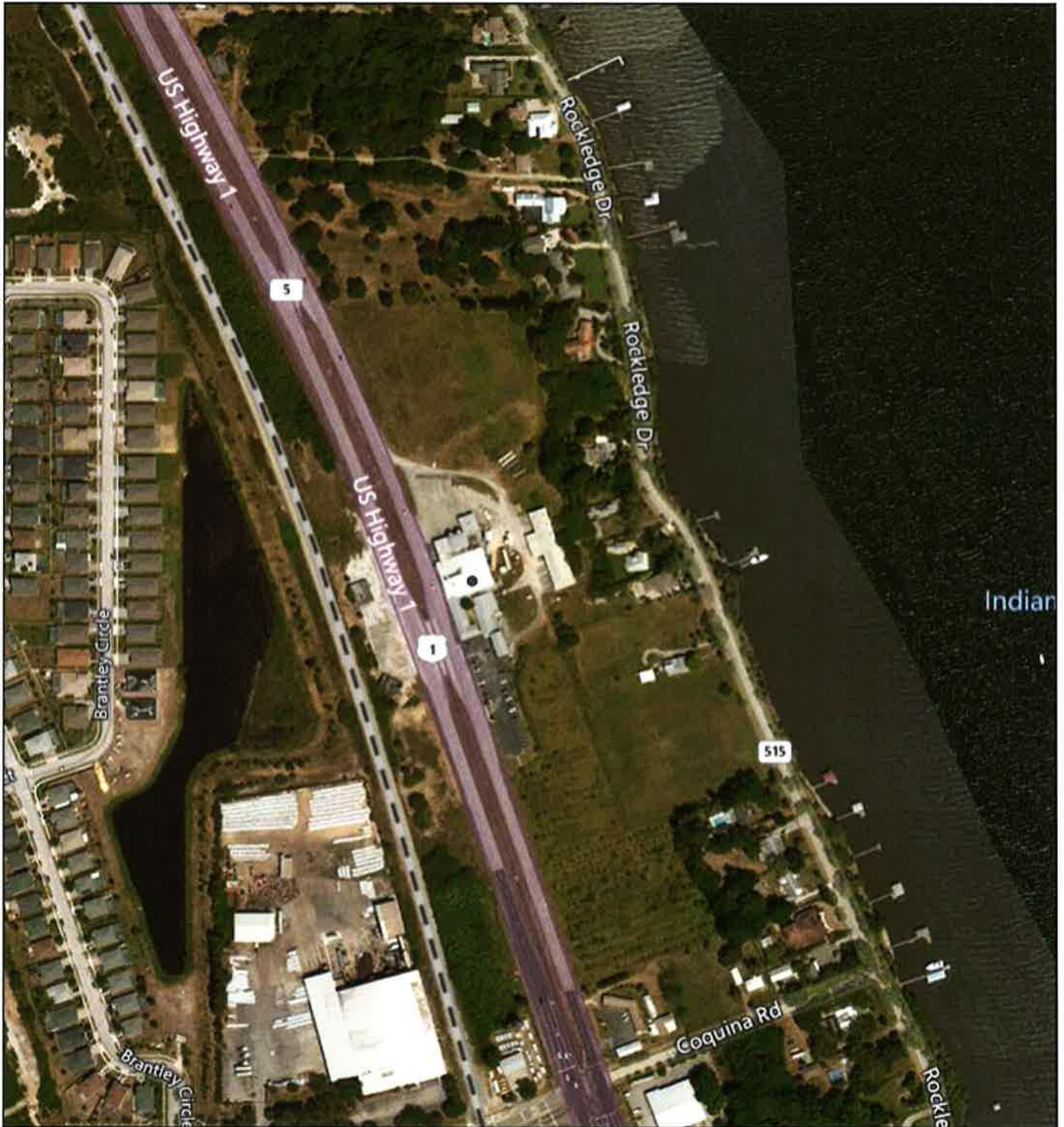
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Project #: 597
Produced By: AOM
Date: 11/22/2021



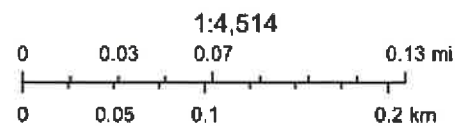


Brevard Storage
Brevard, Florida
Figure 6
Wildlife Survey Map

EagleWatch Map



11/24/2021, 12:40:59 PM



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Table 1:

**Potentially Occurring Listed Wildlife and Plant Species in
Brevard County, Florida**

Scientific Name	Common Name	Federal Status	State Status	Occurrence Status
FISH				
<i>Acipenser oxyrinchus</i>	Atlantic sturgeon	LE	FE	C
REPTILES				
<i>Alligator mississippiensis</i>	American alligator	T(S/A)	FT(S/A)	C
<i>Caretta caretta</i>	loggerhead sea turtle	LT	FT	C
<i>Chelonia mydas</i>	green sea turtle	LT	FT	C
<i>Dermochelys coriacea</i>	leatherback sea turtle	LE	FE	C
<i>Drymarchon corais couperi</i>	eastern indigo snake	LT	FT	C
<i>Gopherus polyphemus</i>	gopher tortoise	C	ST	C
<i>Lepidochelys kempii</i>	Kemp's ridley sea turtle	LE	FE	P
<i>Pituophis melanoleucus mugitus</i>	Florida pine snake	N	ST	C
BIRDS				
<i>Platalea ajaja</i>	roseate spoonbill	N	ST	C
<i>Aphelocoma coerulescens</i>	Florida scrub-jay	LT	FT	C
<i>Polyborus plancus audubonii</i>	Audubon's crested caracara	LT	FT	C
<i>Charadrius melodus</i>	piping plover	LT	FT	P
<i>Egretta caerulea</i>	little blue heron	N	ST	C
<i>Egretta rufescens</i>	reddish egret	N	ST	C
<i>Egretta tricolor</i>	tricolored heron	N	ST	C
<i>Falco sparverius paulus</i>	southeastern American kestrel	N	ST	P
<i>Grus canadensis pratensis</i>	Florida sandhill crane	N	ST	C
<i>Haematopus palliatus</i>	American oystercatcher	N	ST	P
<i>Haliaeetus leucocephalus</i>	bald eagle	N	**	C
<i>Mycteria americana</i>	wood stork	LT	FT	C
<i>Pandion haliaetus</i>	osprey	N	SSC*	C
<i>Picoides borealis</i>	red-cockaded woodpecker	LE	FE	C
<i>Rynchops niger</i>	black skimmer	N	ST	C
<i>Athene cunicularia</i>	burrowing owl	N	ST	P
<i>Sterna antillarum</i>	least tern	N	ST	C
MAMMALS				
<i>Eubalaena glacialis</i>	North Atlantic right whale	LE	FE	C
<i>Peromyscus polionotus niveiventris</i>	southeastern beach mouse	LT	FT	C
<i>Sciurus niger shermani</i>	Sherman's fox squirrel	N	SSC	P
<i>Trichechus manatus (Trichechus manatus latirostris)</i>	West Indian manatee (Florida manatee)	E, PT	FE	C

** See Rank and Status Explanations and Definitions, Special Animal Listings - Federal and State Status



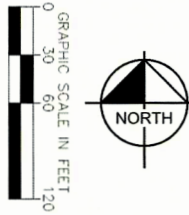
County Occurrence Status

Vertebrates and Invertebrates:

C = (Confirmed) Occurrence status derived from a documented record in the FNAI data base.

P = (Potential) Occurrence status derived from a reported occurrence for the county or the occurrence lies within the published range of the taxon.

N = (Nesting) For sea turtles only; occurrence status derived from documented nesting occurrences.



Proposed Site Plan 21P200083 Storsafe

BREVARD STORAGE		BREVARD COUNTY		FLORIDA	
DATE		10/12/2021			
PROJECT NO.					
SHEET NUMBER					

SITE PLAN

SCALE	AS NOTED
DESIGNED BY	
DRAWN BY	
CHECKED BY	

FOR EXHIBIT
PURPOSES
ONLY

Kimley»Horn

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655 NORTH FRANKLIN STREET, SUITE 150, TAMPA, FL 33602
PHONE: 813-620-1460
WWW.KIMLEY-HORN.COM CA 0000696

No	REVISIONS	DATE

From: [Ed Johnson](#)
To: [Jones, Jennifer](#)
Subject: Concerns about rezoning request for properties ID# 21PZ00083 & 22Z00004
Date: Friday, March 11, 2022 9:11:34 AM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good morning Ms. Jones,

After talking with several of my neighbors many of us have concerns about this rezoning request. If possible we would like to have these concerns added to the public comment record. Listed below are our concerns:

- **Buildings:** Building height does not conform to the existing residential properties that border the east side of the property. Single story buildings with a 12 foot solid barrier wall that block the buildings from the view of the existing residential properties and our historic Rockledge Drive and Indian river would be much more desirable.
- **Zoning:** BU-2 zoning (property is currently BU-1 and AU) allows vehicles, RV's and large truck storage. With 24 x 7 access to the property the existing residential properties could experience noise, traffic and odors throughout the day and night as well as contamination from these vehicles when cleaning trucks and pumping sewage from the RV's. This could be harmful to both the residential properties and the Indian river. Four single story buildings would be more desirable with no vehicle storage.
- **Lighting:** Tall light towers like those used at other large parking lots (picture Walmart) would light up our backyards and rear house windows and seriously impact our privacy.
- **Ponds:** Will ponds be retention or detention? Dry detention ponds would be preferred to reduce the potential of creating a habitat for mosquitoes and snakes.
- **Devaluation of abutting residential properties:** A 5 percent (probably more) devaluation of our property would be a material financial event for our

families.

Thank you in advance for any assistance you can provide concerning this matter.
Ed Johnson



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

3/14/2022

Subject:

Storsafe of Rockledge, LLC (Nathan Lee) requests a change of zoning classification from AU and BU-1 to BU-2. (22Z00004) (Tax Accounts 2511096, 2511103, 2511119) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) and BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

Summary Explanation and Background:

The applicants are requesting to change the zoning of a 12.19-acre property from BU-1 and AU to BU-2 in order to develop a self-storage facility with outdoor boat and RV storage. The applicants included a non-binding concept plan in their application showing two 62,000 sq. ft. buildings, two ponds, and associated parking. The concept plan was provided as a courtesy, and is not a requirement for rezoning and has not been reviewed for compliance with the land development codes and other County departments. The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots.

The character of the area is defined by a mix of developed and undeveloped commercial parcels along S. Highway 1 and an established residential area directly to the east of the property along Rockledge Drive. The commercial development on the eastern side of S. Highway 1, where the subject property is located, consists primarily of retail and office buildings. Development on the western side of S. Highway 1 and along Barnes Blvd. includes heavy commercial and industrial uses in addition to a residential subdivision within the city limits of Rockledge. The established residential neighborhood to the east directly abuts the subject property and includes lots that vary in size but are mostly a half-acre or larger and zoned EU, EU-2, and AU. The subject property currently has AU zoning in most areas where it borders these residential lots.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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

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

STAFF COMMENTS

22Z00004

Storsafe of Rockledge, LLC

BU-1 (General Retail Commercial) and AU (Agricultural Residential) to BU-2 (Retail, Warehousing, and Wholesale Commercial)

Tax Account Numbers: 2511096, 2511103, & a portion of 2511119 (east of U.S. Highway 1)
Parcel I.D.s: 25-36-23-00-251, 25-36-23-00-256, & a portion of 25-36-23-00-500
Location: On the east side of U.S. Highway 1 approximately 192 feet north of Barnes Boulevard (District 2)
Acreage: 12.19 acres

Planning & Zoning Board: 3/14/2022

Board of County Commissioners: 4/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1 and AU	All BU-2
Potential*	<ul style="list-style-type: none">• 1 SFR unit• 384,417 sq. ft. of commercial	530,996 sq. ft. of commercial (using 1.0 FAR for CC)
Can be Considered under the Future Land Use Map	YES CC, NC, & RES 4	YES** CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request **21PZ00083** which proposes to change the Future Land Use Designation from Community Commercial (CC), Neighborhood Commercial (NC), and Residential 4 (RES 4) to all Community Commercial (CC).

Background and Purpose of Request

The applicants are requesting to change the zoning of a 12.19-acre property from BU-1 (General Retail Commercial) and AU (Agricultural Residential) to all BU-2 (Retail, Warehousing, and Wholesale Commercial) in order to develop a self-storage facility with outdoor boat and RV storage. BU-2 zoning is necessary for their proposed use, as the existing AU zoning does not permit a storage facility, and the BU-1 zoning classification only permits self-storage facilities if the conditions of Sec. 62-1837.5 are met.

The most recent use on the property was an orange orchard, processing facility for the oranges, and associated offices. These uses have been discontinued. The area to be rezoned is currently three separate parcels that the owners intend to combine into one. The 0.7-acre portion of tax account 2411119 on the western side of S. Highway 1 is not included in the rezoning and is to remain zoned GU with a FLU designation of NC.

The applicants included a concept plan in their application showing two 62,000 sq. ft. buildings, two ponds, and associated parking. Please note, the concept plan included in the application was provided as a courtesy. This is not a requirement for rezoning and has not been reviewed for compliance with the land development codes and other County departments. The concept plan is non-binding.

Each of the AU portions of the property retain their original zoning. The BU-1 portion on tax account 2511103 is the original zoning. The BU-1 portion of tax account 2511096 was rezoned from AU to BU-1 on August 26, 1968, as zoning action **Z-2332**. The BU-1 portion of tax account 2511119 was rezoned from AU to BU-1 in June 1966 as zoning action **Z-1923**. There is a variance, **V-2163**, that permits 23 ft. from the required 25 ft. front setback in BU-1. However, this rezoning will result in this variance becoming void, as this portion of the property will no longer be zoned BU-1.

Land Use

The subject property is currently designated as Community Commercial (CC), Neighborhood Commercial (NC), and Residential 4 (RES 4) FLU. The proposed BU-2 zoning is consistent with the existing Community Commercial (CC) FLU designation, but not with the existing Neighborhood Commercial (NC) or Residential 4 (RES 4) FLU designations. A companion application, **21PZ00083**, if approved, would change the Future Land Use designation on the NC and RES 4 portions of the parcel to all CC.

Applicable Land Use Policies

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

Criteria:

A. Permitted/prohibited uses;

The applicant wishes to develop a self-storage facility with outdoor boat/RV parking. This use needs BU-2 zoning as outdoor storage is not permitted under the AU and BU-1 zoning classifications.

B. Existing commercial zoning trends in the area;

There have not been any other commercial rezoning requests in the surrounding area within the BU-1 or BU-2 zoning classification within the last three years.

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

The property is adjacent to residential properties on the north, east, and south. The closest developed BU-2 lot on the eastern side of S. Highway 1 is approximately 950 feet to the north – it is currently developed with a retail store.

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

The preliminary concurrency analysis did indicate that the proposed development has the potential to cause a deficiency in the transportation adopted level of service. The subject site is within the City of Cocoa's service area for potable water. The subject parcel is located within the City of Rockledge centralized sewer system. Specific concurrency issues will be addressed at the time of Site Plan review.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

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

This property will need to comply with Brevard County Performance Standards noted within Section Sections 62-2251 through 62-2272 of Brevard County Code.

Policy 2.3 – Land development regulations provide performance standards for evaluating the acceptability of proposed commercial development activities. Criteria include:

Criteria:

- A. Integration of vehicular and non-vehicular access into the site and access management features of site in terms of driveway cuts and cross access between adjacent sites, including use of frontage roads and/or shared access, where feasible, as determined by Brevard County;

This will be reviewed at the site plan stage.

- B. Buffering from adjacent existing/potential uses;

The concept plan submitted is non-binding. It does not identify the distance between the proposed structures and the residential lots.

- C. Open space provisions and balance of proportion between gross floor area and site size;

Open space development is not required for this type of commercial usage. Building type and floor area ratio will be reviewed at the site plan stage.

- D. Adequacy of pervious surface area in terms of drainage requirements;

Drainage requirements will be reviewed at the site plan stage.

- E. Placement of signage;
Sign location has not been identified on the submitted survey or concept plan.
- F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;
External site lighting height has been proposed; however, lighting will need to comply with Section 62-2257 of Brevard County Code and will be reviewed at the site plan review stage.
- G. Safety of on-site circulation patterns (patron, employee and delivery vehicles), including parking layout and drive aisles, and points of conflict;
Review will be performed at the site plan review stage.
- H. Landscaping, as it relates to the requirements of the Comprehensive Plan and Land Development Regulations;
Review will be performed at the site plan review stage.
- I. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance; and
No noteworthy comments have been identified by the NRMD review. Review will be performed at the site plan review stage.
- J. Performance based zoning requirements which may serve as a substitute for or accompany land development regulations in attaining acceptable site design.
Nothing in the form of waivers, administrative approvals or variances have been applied for at this time.

Policy 2.7 – Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The applicant has stated a specific commercial use of a self-storage facility with outdoor boat and RV storage. The applicant has not provided hours of operation, a lighting plan, or a traffic analysis. The proposed use is not anticipated to generate odor or noise that would diminish the quality of life of the existing neighborhood along Rockledge Drive. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.

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

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.

- 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;

U.S. Highway 1 is a commercial corridor with CC Future Land Use designations along the majority of it to provide an array of services for local, sub-regional and regional neighborhoods.

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

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

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

There have not been any development approvals within the past three (3) years.

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

In general, the character of the area is defined by a mix of developed and undeveloped commercial parcels along S. Highway 1 and an established residential area directly to the east of the property along Rockledge Drive. The commercial development on the eastern side of S. Highway 1, where the subject property is located, consists primarily of retail and office buildings on lots with BU-1, TU-1, and RP zoning. Development on the western side of S. Highway 1 and along Barnes Blvd. includes heavy commercial and industrial uses on lots with BU-2 and IU zoning in addition to a residential subdivision within the city limits of Rockledge. Both sides of S. Highway 1 contain several undeveloped commercial parcels.

There is an established residential neighborhood to the east that directly abuts the subject property. The lots vary in size but are mostly a half-acre or larger and are zoned EU, EU-2, and AU. The subject property currently has AU zoning in most areas where it borders these residential lots. On the

eastern side of Rockledge Drive are small parcels fronting the Indian River that are utilized as river access for the lots on the western side of Rockledge Drive.

If the zoning is approved, the subject property would be the largest parcel with BU-2 zoning in the surrounding area at 12.19 acres. There are no comparable properties with the same zoning along this segment of S. Highway 1. The closest developed BU-2 lot on the eastern side of S. Highway 1 is located approximately 950 feet to the north and contains a retail store on 1.24 acres. While the applicants are proposing a self-storage facility, the BU-2 zoning classification also permits other commercial activity of a higher intensity than BU-1 and AU. Consideration should be given to uses permitted in BU-2 that have the potential to impact the residential area adjacent to the subject parcel. Such uses in BU-2 include major automobile repairs (permitted by right), the manufacturing and assembly of certain products (permitted with conditions), and overnight commercial parking (conditional use).

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	AU	CC & RES 4
South	Motel & single-family residence	TU-1 & AU	NC
East	Single-family residences, vacant residential land, multi-family residences	AU, EU, EU-2	NC
West	Retail & vacant commercial	GU & BU-1	NC & CC

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

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

EU-2 zoning classification is an estate single family residential zoning classification. The minimum lot size is 9,000 square feet with a minimum lot width of 90 feet and depth of 100 feet. The minimum living area is 1,500 square feet.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Viera Blvd. to Barnes Blvd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 67.67% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 227.34%. The corridor is anticipated to operate at 295.01% of capacity daily. The proposal is anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The subject parcel is within the City of Cocoa's service area for potable water. The subject parcel is located within the City of Rockledge centralized sewer system.

Environmental Constraints

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

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

The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

For Board Consideration

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

Please note: The concept plan included in the application was provided as a courtesy. This is not a requirement for rezoning and has not been reviewed for compliance with the land development codes and other County departments. The concept plan is non-binding.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary
Item # 22Z00004**

Applicant: Lee for Harvey

Zoning request: BU-1 & AU to BU-2

Note: Applicant wants self-serve storage facility with outdoor boat and RV storage.

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID Nos: East portions of 2511096, 2511103, & 2511119

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

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

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel with Tax Account ID # 2511119 contains a small area of mapped hydric soils (Tomoka muck) as shown on the USDA Soil Conservation Service Soils Survey map, an indicator that wetlands may be present on the property. An environmental report, prepared by Bio-Tech Consulting, Inc. on November 29, 2021, did not find any wetlands onsite. The report will be verified at the time of site plan submittal. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). Highway 1 is an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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. Although not a part of the zoning request, and not included in the environmental report, the parcel with Tax Account ID # 2511119 has mapped wetlands on the west side of Highway 1.

Indian River Lagoon Nitrogen Reduction Overlay

A small portion of the northmost 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 within the overlay. 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 reside 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. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

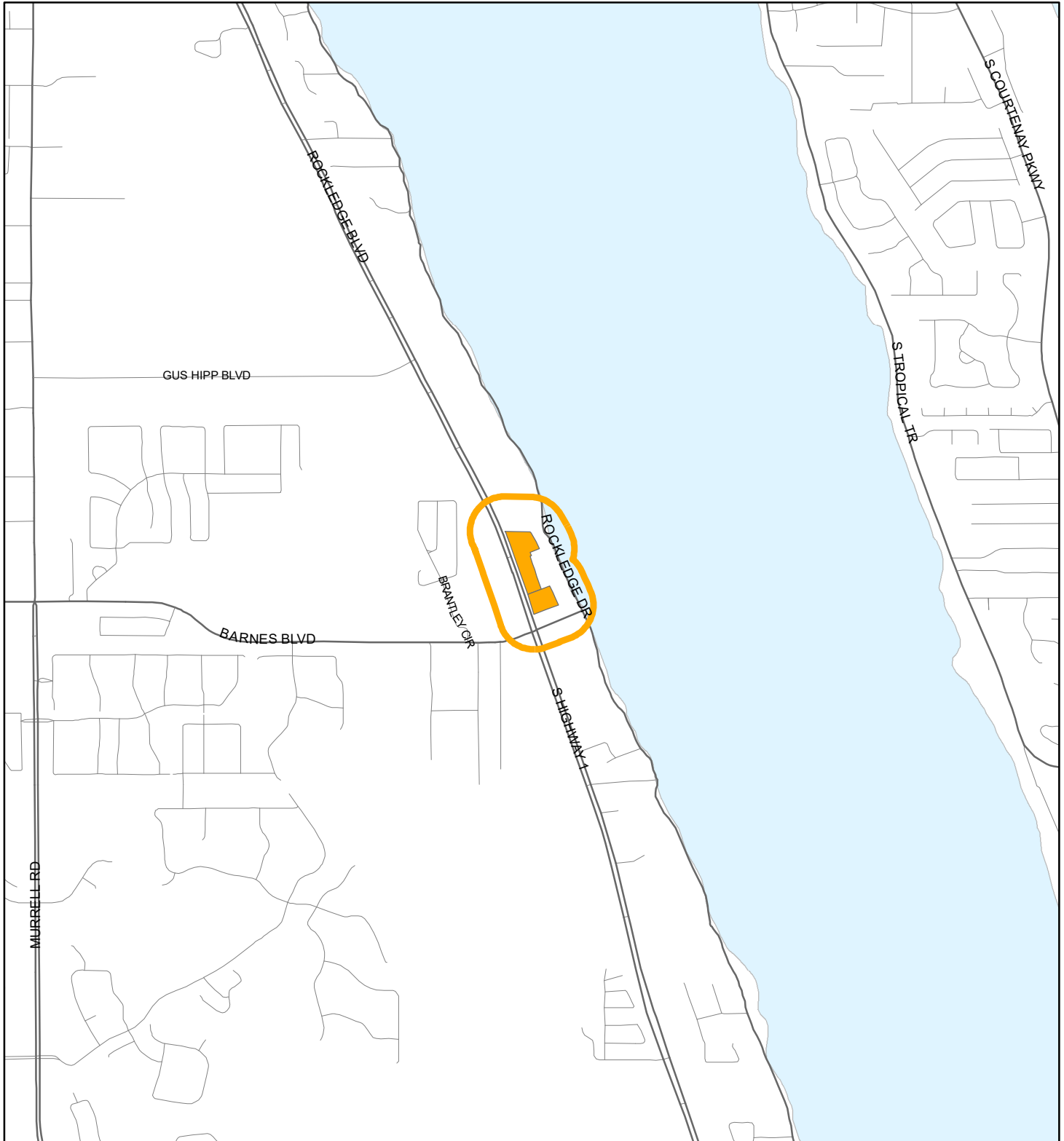
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004





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

Buffer Distance: 500 feet

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

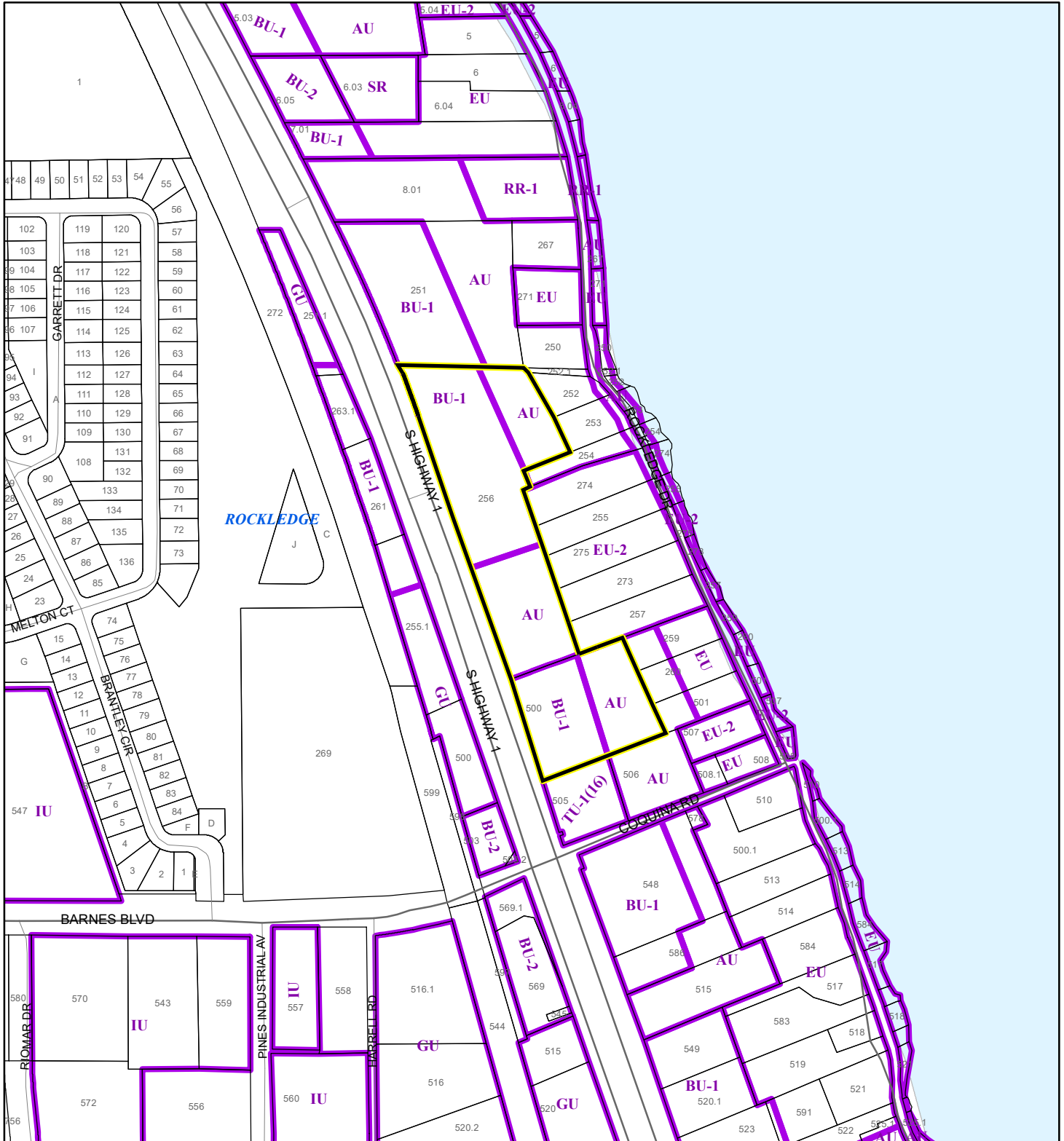
Produced by BoCC - GIS Date: 1/18/2022

 Buffer
 Subject Property

ZONING MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/19/2022

Subject Property

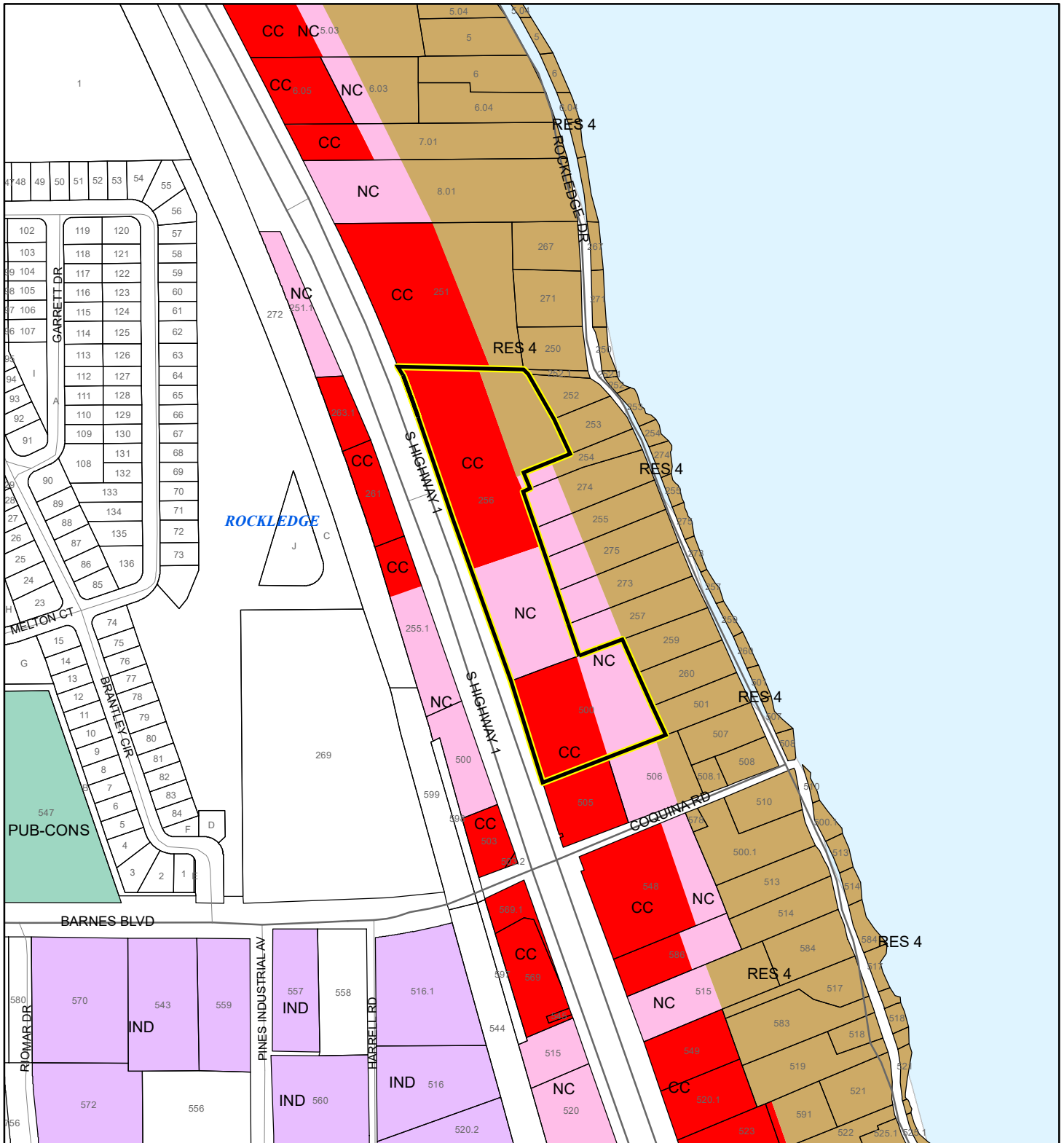
Parcels

Zoning

FUTURE LAND USE MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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Produced by BoCC - GIS Date: 1/13/2022

AERIAL MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 1/13/2022

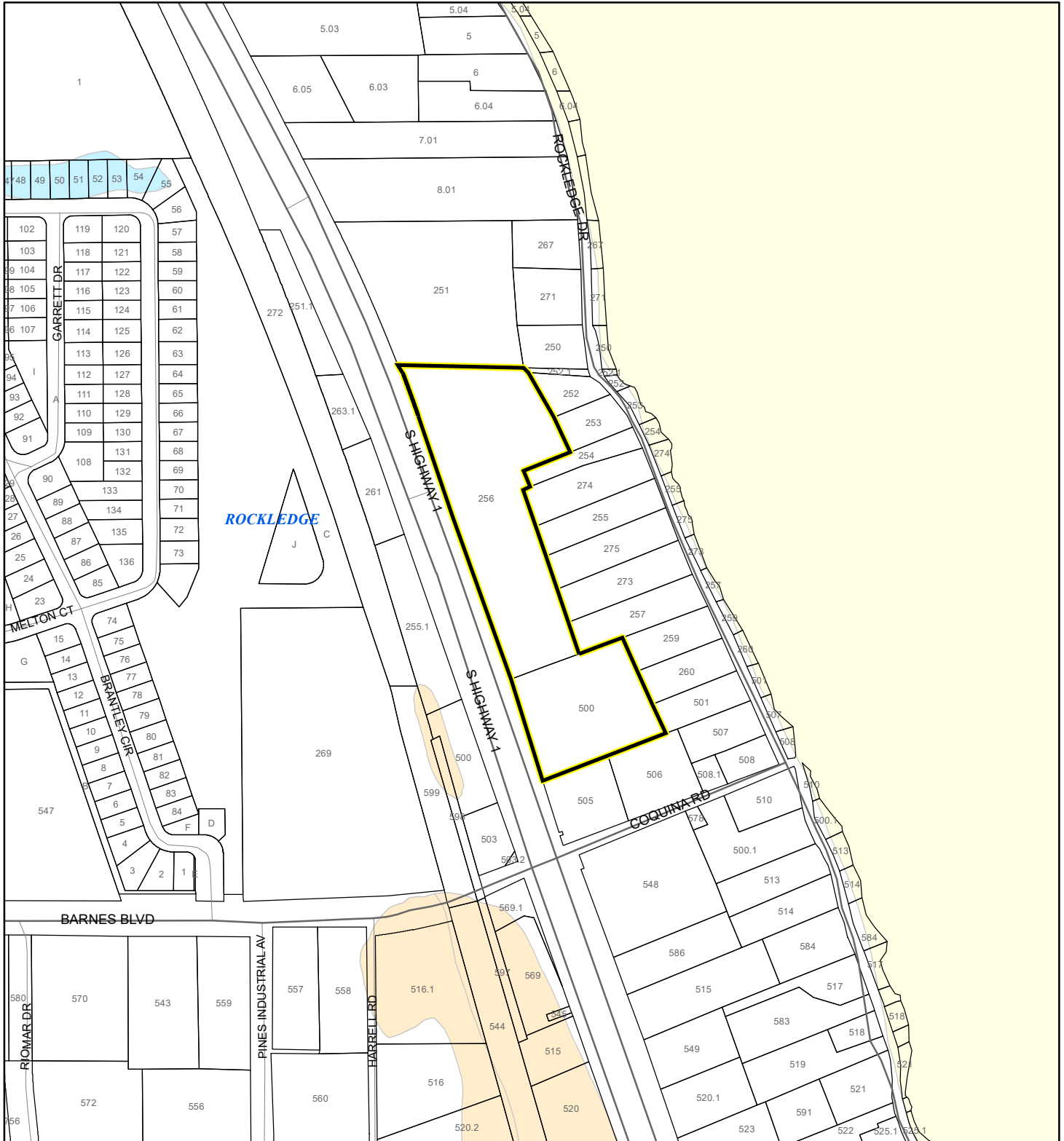
 Subject Property

 Parcels

NWI WETLANDS MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004



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.

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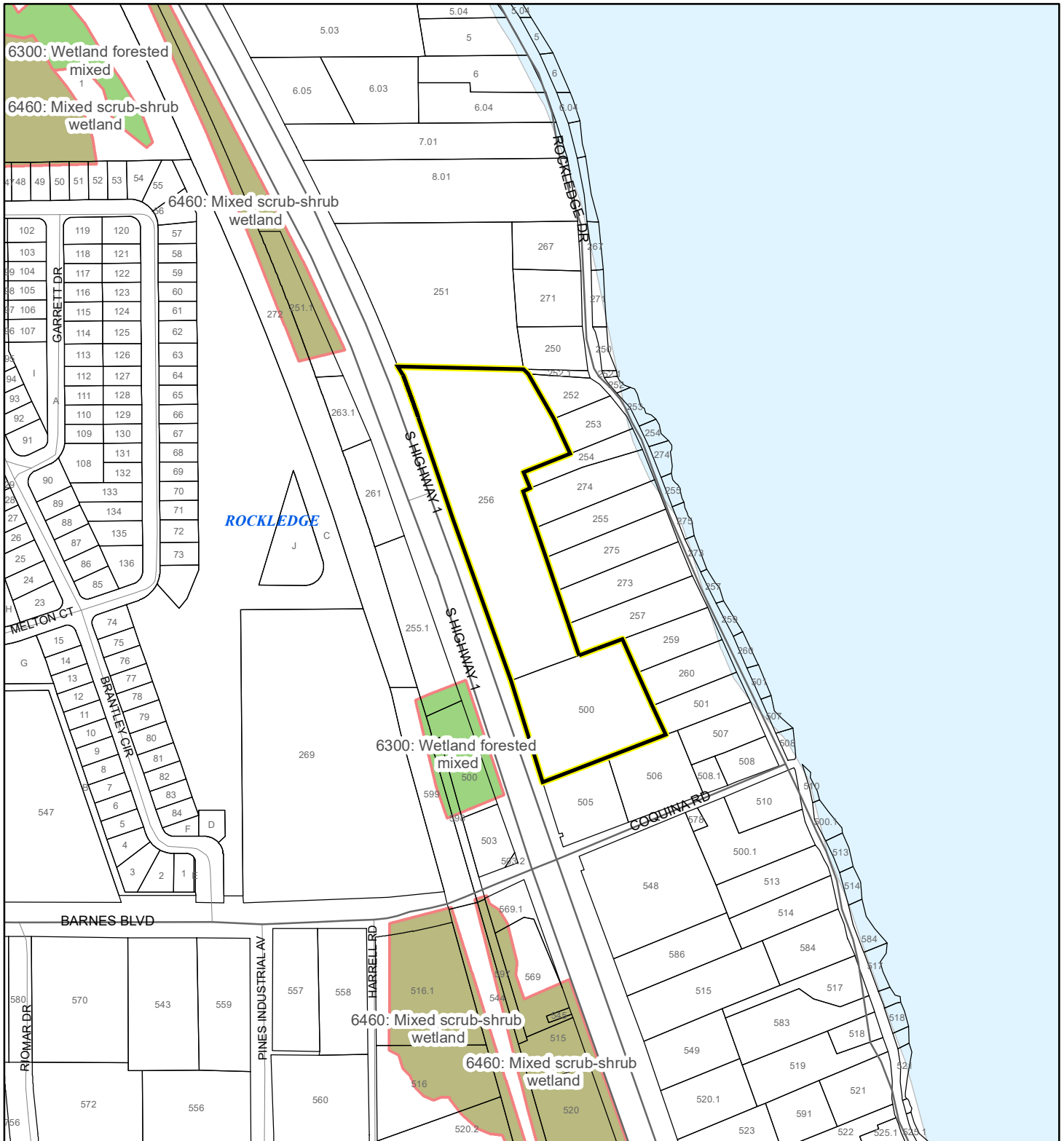
National Wetlands Inventory (NWI)

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

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/13/2022

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

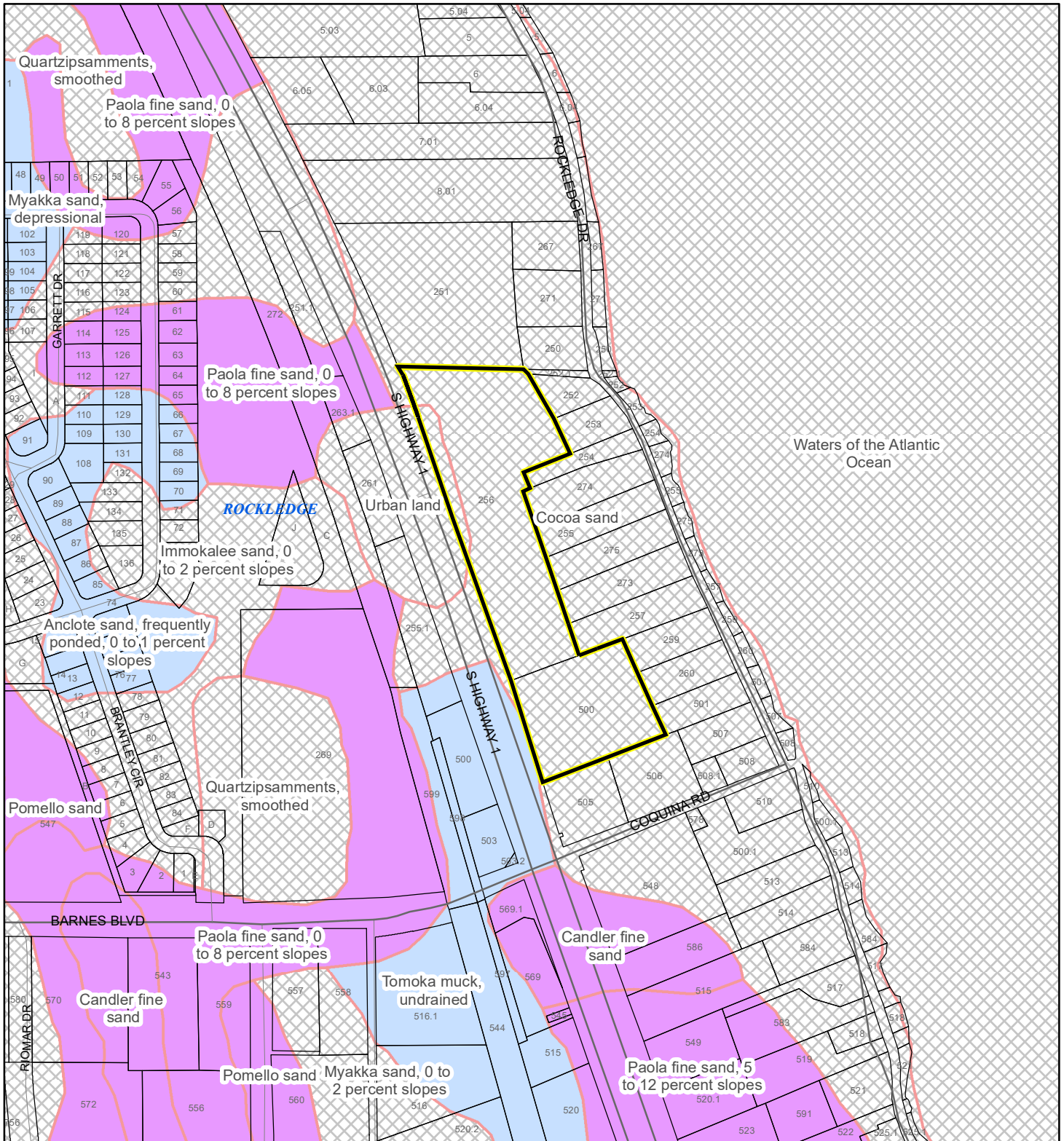
Subject Property

Parcels

USDA SCSSS SOILS MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004



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 herein.

Produced by BoCC - GIS Date: 1/13/2022

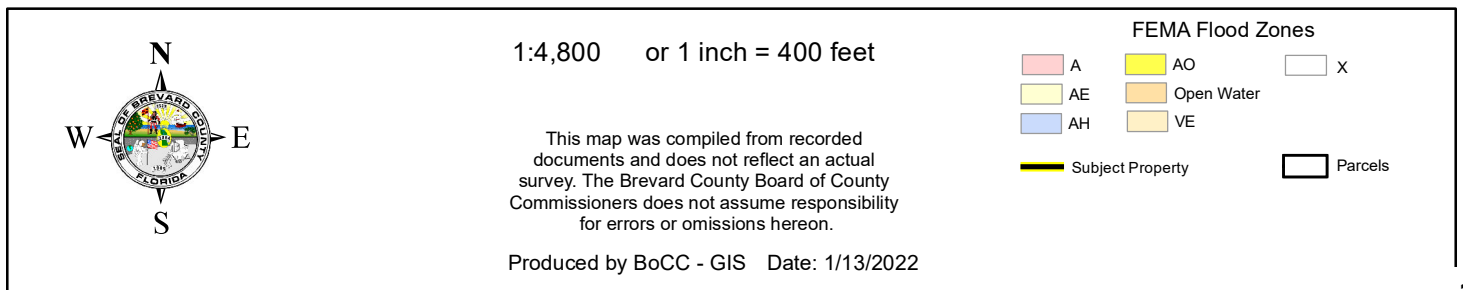
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

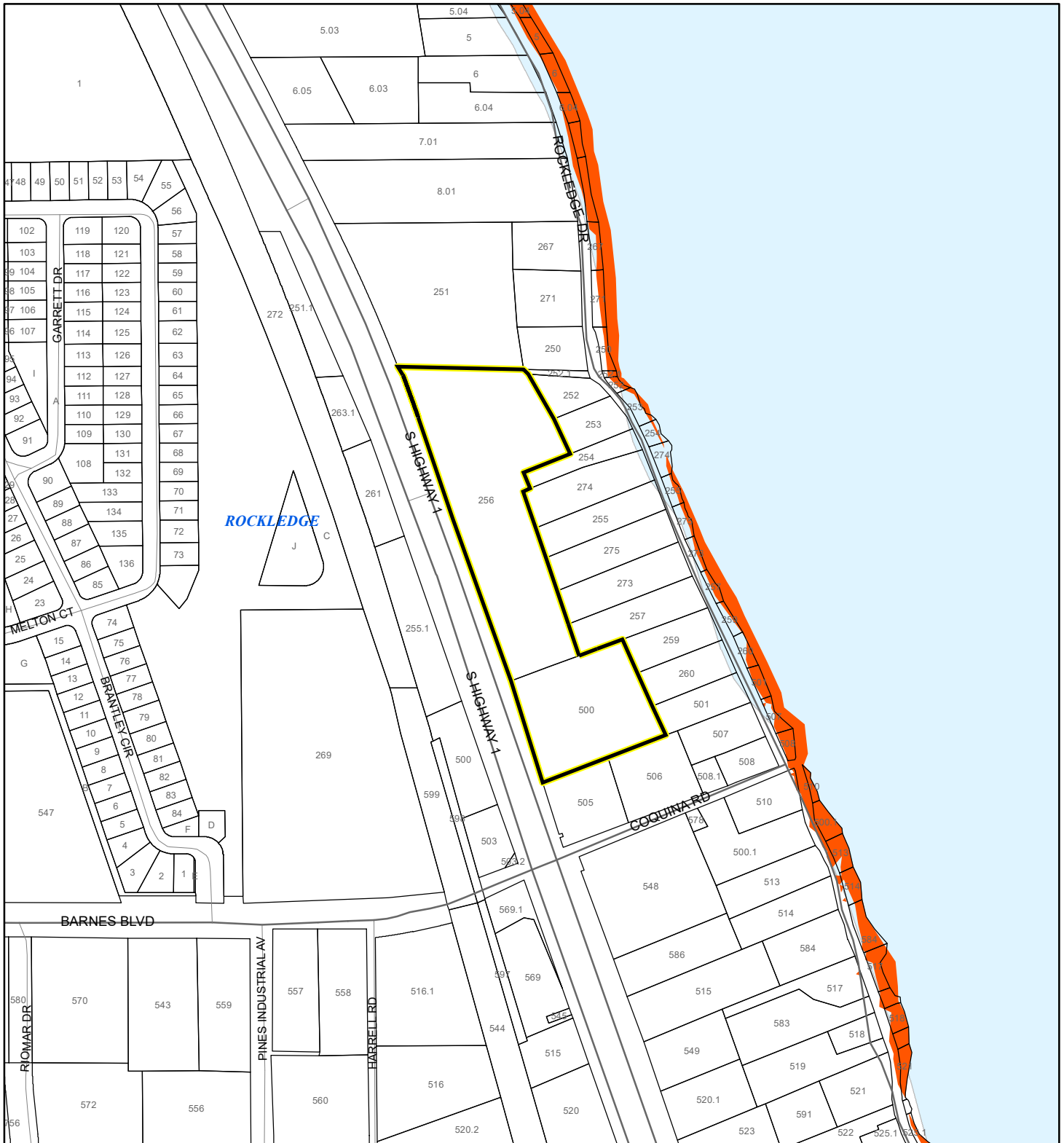
22Z00004



COASTAL HIGH HAZARD AREA MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004



1:4,800 or 1 inch = 400 feet

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Subject Property

Parcels

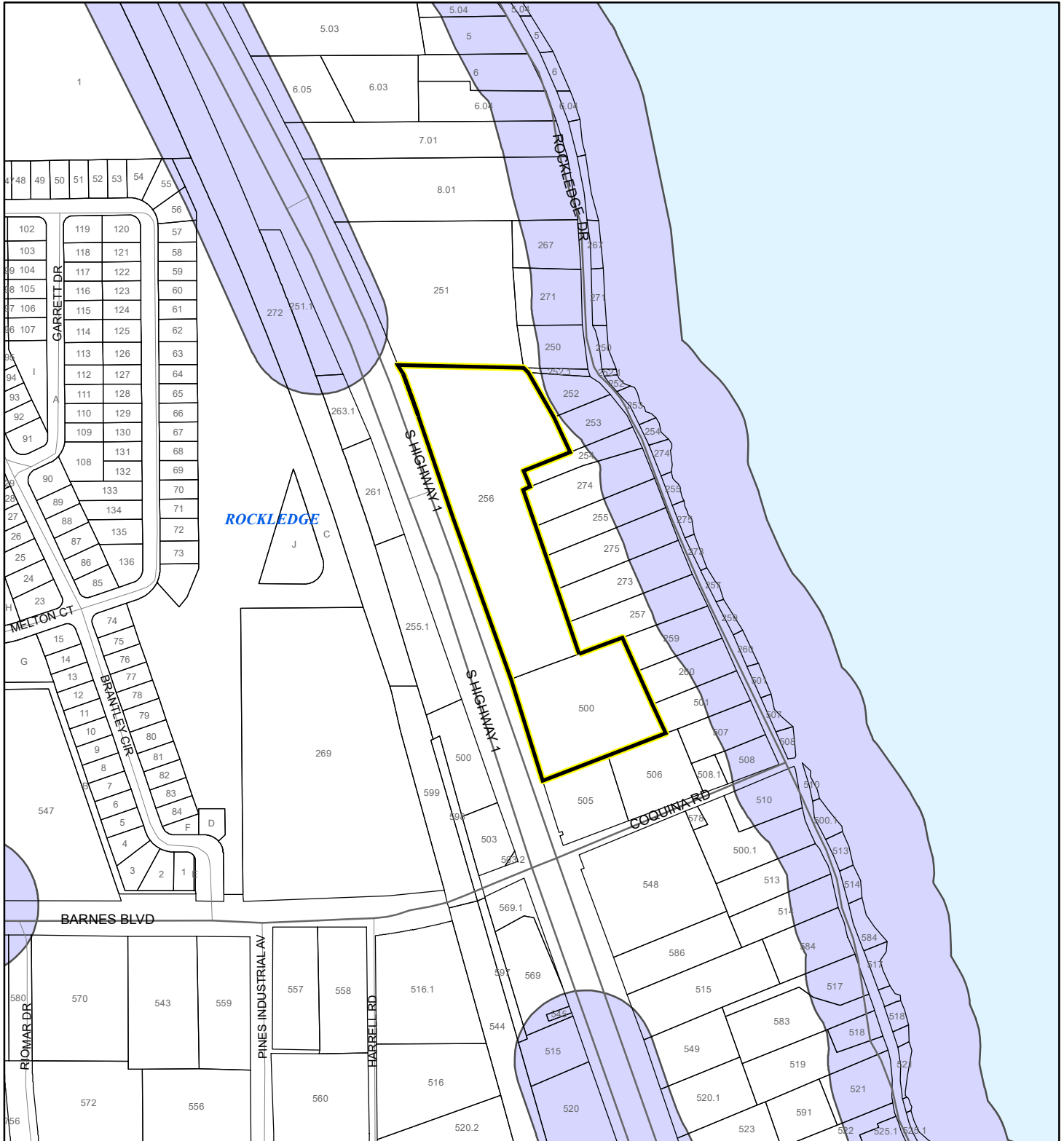
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/13/2022

Subject Property

Parcels

Septic Overlay

40 Meters

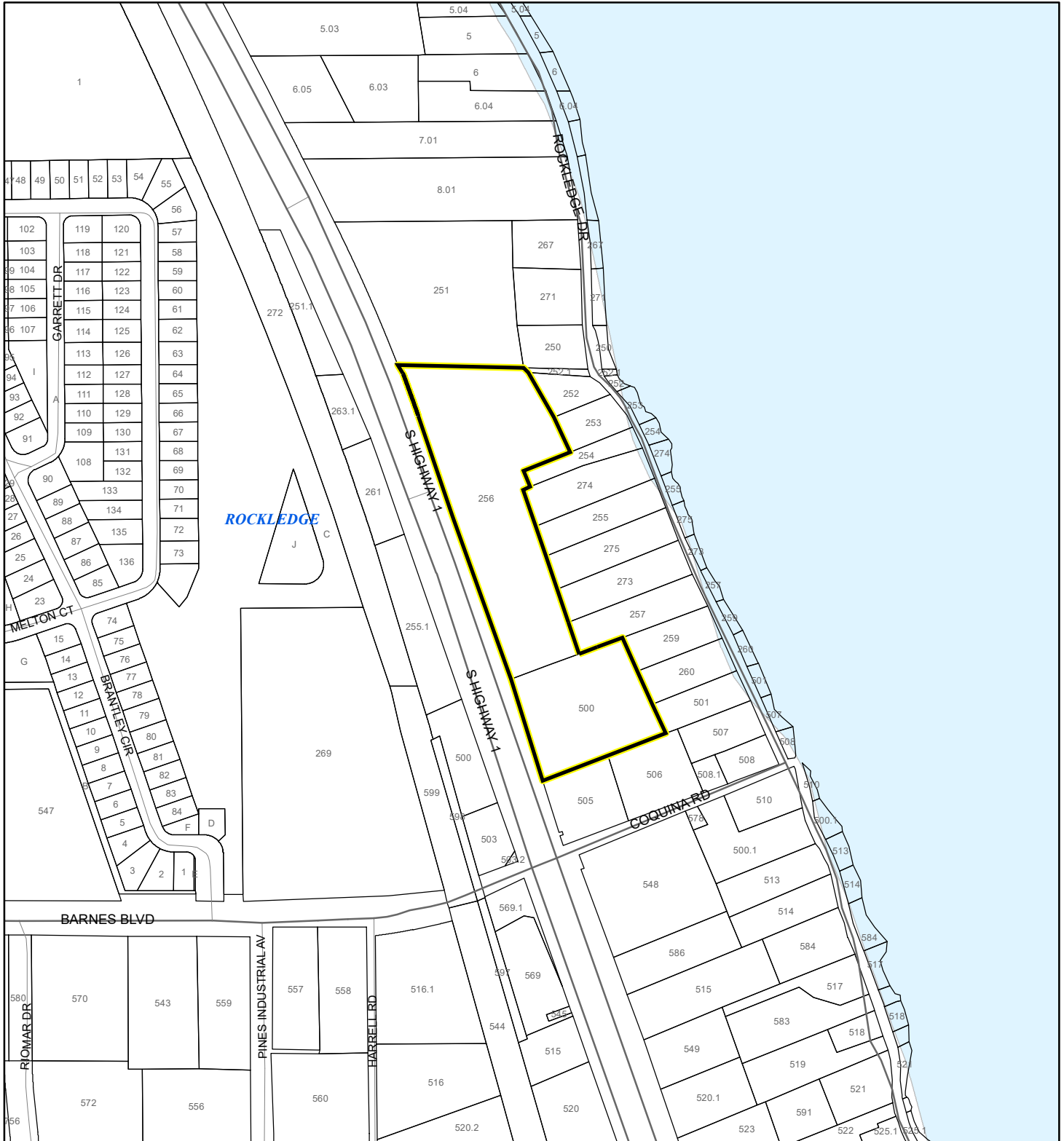
60 Meters

All Distances

EAGLE NESTS MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/13/2022

 Subject Property

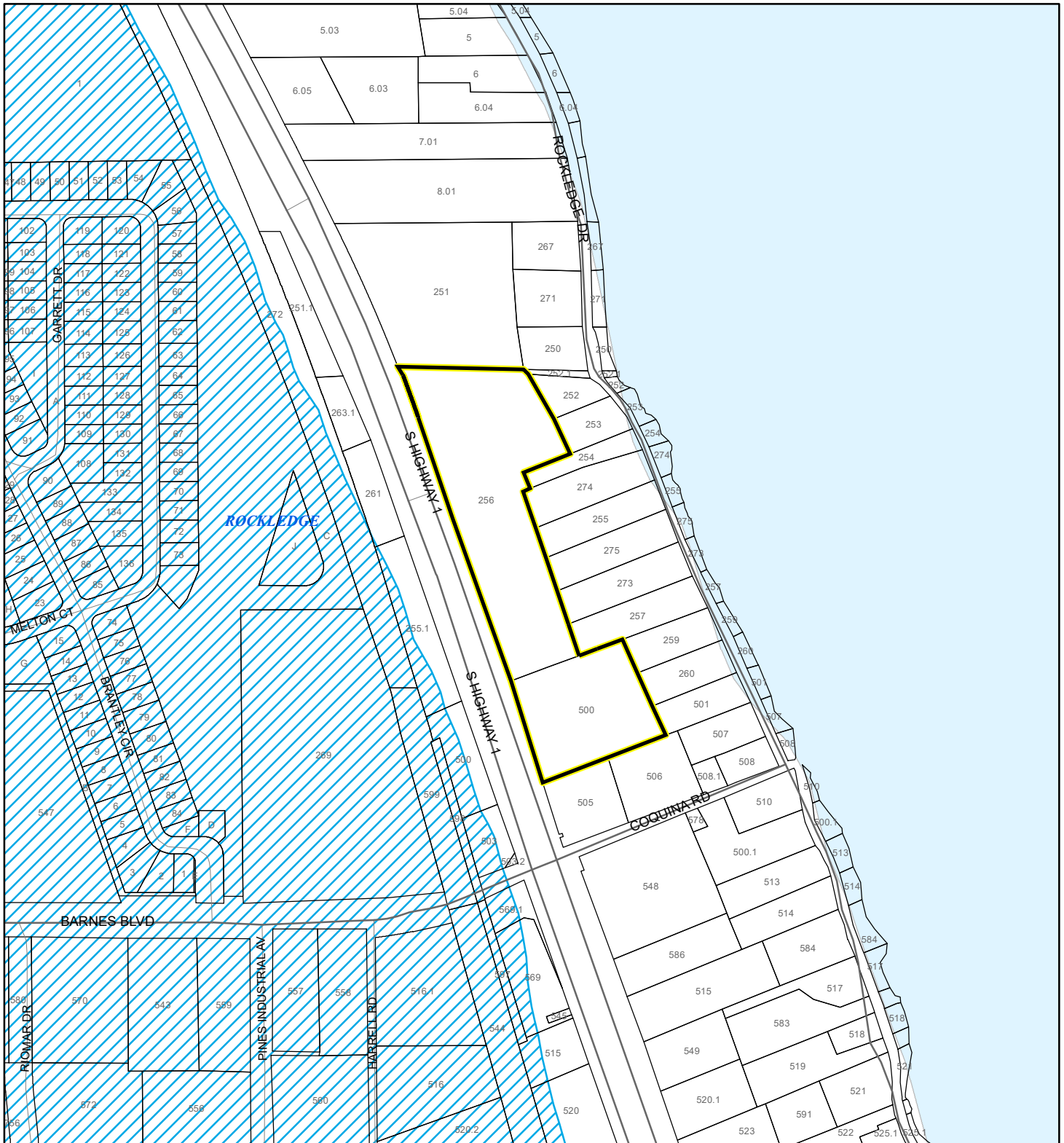
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

HARVEY REALTY CORPORATION, AND HARVEY'S INDIAN RIVER GROVES, INC.

22Z00004



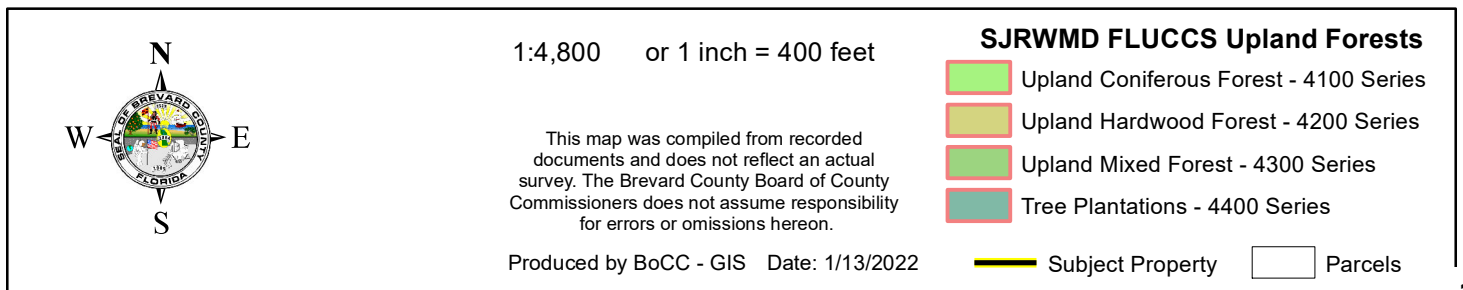
1:4,800 or 1 inch = 400 feet

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

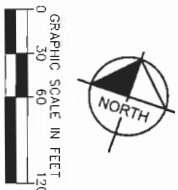
Produced by BoCC - GIS Date: 1/13/2022



- Subject Property
- Parcels
- Scrub Jay Occupancy

22Z00004

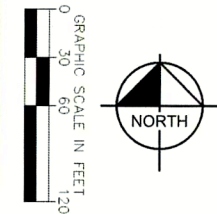



This document, together with the concepts and designs presented herein, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adoption by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



 SHEET NUMBER EXHIBIT	DATE 1/5/2022	BREVARD STORAGE		PROPOSED ZONING EXHIBIT	SCALE AS NOTED	FOR EXHIBIT PURPOSES ONLY	 © 2022 KIMLEY-HORN AND ASSOCIATES, INC. 655 NORTH FRANKLIN STREET, SUITE 150, TAMPA, FL 33602 PHONE: 813-620-1460 WWW.KIMLEY-HORN.COM REGISTRY NO. 696				
	PROJECT NO. 145018010	BREVARD COUNTY			DESIGNED BY RPC						
	FLORIDA		DRAWN BY MAD								
			CHECKED BY NQL								
								No.	REVISIONS	DATE	

This item has been digitally signed and sealed by Nathan Q. Lee, P.E., on the date attached to the seal.
Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.



 SHEET NUMBER	DATE 10/12/2021 PROJECT NO.	BREVARD STORAGE	BREVARD COUNTY	FLORIDA	SITE PLAN	SCALE AS NOTED DESIGNED BY DRAWN BY CHECKED BY	FOR EXHIBIT PURPOSES ONLY	Kimley»Horn © 2021 KIMLEY-HORN AND ASSOCIATES, INC. 655 NORTH FRANKLIN STREET, SUITE 150, TAMPA, FL 33602 PHONE: 813-620-1460 WWW.KIMLEY-HORN.COM CA 00000696	REVISIONS		DATE
									No.		



Bio-Tech Consulting Inc.
Environmental and Permitting Services

Environmental Report
22Z00004
Storsafe

info@bio-techconsulting.com
www.bio-techconsulting.com

November 29, 2021

Austin Anderson
10043 W Dublin Street
Crystal River, Florida 33428

Proj: Brevard Storage – Brevard County, Florida
Sections 23 Township 25 South, Range 36 East
(BTC File #597-24)
Re: Environmental Assessment Report

Dear Mr. Anderson:

During November of 2021, Bio-Tech Consulting, Inc. (BTC) conducted an environmental assessment of the approximately 12.83-acre Brevard Storage property. The site is located east of US-1 South, and north of Coquina Road, within Section 23, Township 25 South, Range 36 East, Brevard County, Florida (Figures 1, 2 & 3). This environmental assessment includes the following elements:

- general review of site topography;
- review of soil types mapped within the site boundaries;
- evaluation of land use types/vegetative communities present;
- field review for occurrence of protected flora and fauna, and
- permitting summary.

Orlando: Main Office
3025 East South Street
Orlando, FL 32803

Vero Beach Office
4445 N A1A
Suite 221
Vero Beach, FL 32963

Jacksonville Office
1157 Beach Boulevard
Jacksonville Beach, FL 32250

Tampa Office
6011 Benjamin Road
Suite 101 B
Tampa, FL 33634

Key West Office
1107 Key Plaza
Suite 259
Key West, FL 33040

Aquatic & Land
Management Operations
3825 Rouse Road
Orlando, FL 32817

407.894.5969
7.894.5969
7.894.5970 fax

Orlando

Vero Beach

Jacksonville

Tampa

Key West

SOILS

According to the Soil Survey of Brevard County, Florida, prepared by the U.S. Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS), three (3) soil types exist within the subject site (Figure 4). These soil types include the following:

- **Cocoa sand (#15)**
- **Tomoka muck, undrained (#67)**
- **Urban land (#69)**

The following presents a brief description of each of the soil types mapped for the subject property:

Cocoa sand (#15) this is a nearly level and gently sloping, well-drained, sandy soil over coquina rock. These are undulating soils on low ridges. The surface layer is dark-brown sand about 6 inches thick. The water table is below a depth of 6 feet all the time. The permeability is rapid in all layers of this soil series.

Tomoka muck, undrained (#67) is a nearly level, very poorly drained muck soil in broad flat marshes, small depressions, and swamps. Sandy and loamy layers are at a depth of 16 to 40 inches. The water table is within a depth of 10 inches for 9 to 12 months in most years, and water is frequently above the surface. In dry periods it is between 10 and 30 inches.

Urban Land (#69) consists of areas that are 60 to more than 75 percent covered with streets, buildings, large parking lots, shopping centers, industrial parks, airports, and related facilities. Unoccupied areas, mostly lawns, parks, vacant lots, and playgrounds, are Astatula, Paola, Myakka, St. Lucie, Immokalee, Pomello, Cocoa, and Canaveral soils in tracts too small to be mapped separately.

The Florida Association of Environmental Soil Scientists (FAESS) considers the components of Tomoka muck, undrained (#67) to be hydric in nature. This information can be found in the Hydric Soils of Florida Handbook, Third Edition (March, 2000).

LAND USE TYPES/VEGETATIVE COMMUNITIES

The subject site currently supports two (2) land use types/vegetative communities (Figure 5). These land use types/vegetative communities were identified utilizing the Florida Land Use, Cover and Forms Classification System, Level III (FLUCFCS, FDOT, January 1999). The on-site upland land use types/vegetative communities are classified as Industrial (150) and Open

Land (190). No wetland/surface water land use types were found on site. The following provides a brief description of the on-site land use types/vegetative communities:

Uplands:

150 Industrial

The property contains an abandoned warehouse with a store and a parking lot that is most consistent with the Industrial (150) FLUCFCS code. Vegetative species identified include Brazilian pepper (*Schinus terebinthifolia*), lantana (*Lantana strigocamara*), Spanish needles (*Bidens alba*), Mexican clover (*Richardia brasiliensis*), switchgrass (*Panicum virgatum*), and bahiagrass (*Paspalum notatum* var. *notatum*).

190 Open Land

Surrounding the warehouse on either side are fields with no structures being most consistent with the Open Land (190) FLUCFCS code. Vegetative species identified include live oak (*Quercus virginiana*), cabbage palm (*Sabal palmetto*), slash pine (*Pinus elliottii*), Australian pine (*Casuarina equisetifolia*), golden bamboo (*Phyllostachys aurea*), carrotwood (*Cupaniopsis anacardioides*), chinaberry tree (*Melia azedarach*), golden raintree (*Koelreuteria paniculata*), white lead tree (*Leucaena leucocephala*), saw palmetto (*Serenoa repens*), Mexican clover (*Richardia brasiliensis*), and bahiagrass (*Paspalum notatum* var. *notatum*).

PROTECTED SPECIES

Using methodologies outlined in the Florida's Fragile Wildlife (Wood, 2001); Measuring and Monitoring Biological Diversity Standard Methods for Mammals (Wilson, et al., 1996); and Florida Fish and Wildlife Conservation Commission's (FFWCC) Gopher Tortoise Permitting Guidelines (January 2017); a cursory assessment for "listed" floral and faunal species was conducted at the subject property on November 23, 2021. This assessment included both direct observations and indirect evidence, such as tracks, burrows, tree markings and birdcalls that indicated the presence of species observed. The assessment focused on species that are "listed" by the FFWCC's Official Lists - Florida's Endangered Species, Threatened Species and Species of Special Concern (June 2021) that have the potential to occur in Brevard County (See attached Table 1).

No plant species “listed” by either the state or federal agencies were identified on the subject site during the assessments conducted. The following is a list of those wildlife species identified during the evaluation of the site:

Reptiles and Amphibians

brown anole (*Anolis sagrei*)
green anole (*Anolis caroliniana*)
six-lined racerunner (*Cnemidophorus sexlineatus sexlineatus*)
gopher tortoise (*Gopherus polyphemus*)

Birds

Black Vulture (*Coragyps atratus*)
Blue Jay (*Cyanocitta cristata*)
Mourning Dove (*Zenaida macroura*)
Northern Mockingbird (*Mimus polyglottos*)
Northern Cardinal (*Cardinalis cardinalis*)
Red-shouldered Hawk (*Buteo lineatus*)

Mammals

eastern cottontail (*Sylvilagus floridanus*)
eastern gray squirrel (*Sciurus carolinensis*)
nine-banded armadillo (*Dasypus novemcinctus*)
Virginia opossum (*Didelphis virginiana*)

None of the above wildlife species were identified in the FFWCC’s Official Lists - Florida’s Endangered Species, Threatened Species and Species of Special Concern (June 2021). The following provides a brief description of the species as they relate to the development of the project site.

Gopher Tortoise (*Gopherus polyphemus*)

State Listed as “Threatened” by FFWCC

While the site presently was not observed to have a gopher tortoise (*Gopherus polypemus*) population, updated wildlife surveys should be completed to ensure that future populations do not inhabit the project site and cause construction delays.

Currently the gopher tortoise (*Gopherus polyphemus*) is classified as a "Category 2 Candidate Species" by USFWS, and as of September 2007 is now classified as "Threatened" by FFWCC, and as "Threatened" by FCREPA. The basis of the "Threatened" classification by the FFWCC for the gopher tortoise is due to habitat loss and destruction of burrows. Gopher tortoises are commonly found in areas with well-drained soils associated with the pine flatwoods, pastures and abandoned orange groves. Several other protected species known to occur in Brevard County have a possibility of occurring in this area as these species are gopher tortoise commensal species. These species include the eastern indigo snake (*Drymarchon corais couperi*), Florida mouse (*Peromyscus floridanus*) and the gopher frog (*Rana capito*). However, none of these species were observed during the survey conducted.

Bald Eagle (*Haliaeetus leucocephalus*)

State protected by F.A.C. 68A-16.002 and federally protected by both the Migratory Bird Treaty Act (1918) and the Bald and Golden Eagle Protection Act (1940)

In August of 2007, the US Fish and Wildlife Service (USFWS) removed the Bald Eagle from the list of federally endangered and threatened species. Additionally, the Bald Eagle was removed from FFWCC's imperiled species list in April of 2008. Although the Bald Eagle is no longer protected under the Endangered Species Act, it is still protected under the Bald and Golden Eagle Protection Act, the Migratory Bird Treaty Act, and FFWCC's Bald Eagle rule (Florida Administrative Code 68A-16.002 Bald Eagle (*Haliaeetus leucocephalus*)).

In May of 2007, the USFWS issued the National Bald Eagle Management Guidelines. In April of 2008, the FFWCC adopted a new Bald Eagle Management Plan that was written to closely follow the federal guidelines. In November of 2017, the FFWCC issued "A Species Action Plan for the Bald Eagle" in response to the sunset of the 2008 Bald Eagle Management Plan. Under the USFWS's management plans, buffer zones are recommended based on the nature and magnitude of the project or activity. The recommended protective buffer zone is 660 feet or less from the nest tree, depending on what activities or structures are already near the nest. As provided within the above referenced Species Action Plan, the USFWS is the regulating body responsible for issuing permits for Bald Eagles. In 2017, the need to obtain a State permit (FFWCC) for the take of Bald Eagles or their nests in Florida was eliminated following revisions to Rule 68A-16.002, F.A.C.. A USFWS Bald Eagle "Non-Purposeful Take Permit" is not needed for any activity occurring outside of the 660-foot buffer zone. No activities are permitted within 330 feet of a nest without a USFWS permit.

In addition to the on-site evaluation for listed species, BTC conducted a review of FFWCC's database and Audubon's Eagle Watch program database for recorded Bald Eagle nests within the surrounding 660 feet of the subject site. This review revealed no Bald Eagle nests, through the 2020-2021 nesting season, located within one (1) mile of the subject site (see attached Bald Eagle Nest Data). Therefore, there will be no development constraints regarding Bald Eagle nests unless a new nest is found.

USFWS CONSULTATION AREAS

The U.S. Fish and Wildlife Service has established "consultation areas" for certain listed species. Generally, these consultation areas only become an issue if USFWS consultation is required, which is usually associated with permitting through the U.S. Army Corps of Engineers. The reader should be aware that species presence and need for additional review are often determined to be unnecessary early in the permit review process due to lack of appropriate habitat or other conditions. However, the USFWS makes the final determination.

Consultation areas are typically very regional in size, often spanning multiple counties where the species in question are known to exist. Consultation areas by themselves do not indicate the presence of a listed species. They only indicate an area where there is a potential for a listed species to occur and that additional review might be necessary. Such review might include the need for species-specific surveys using established methodologies that have been approved by the USFWS.

The following paragraphs include a list of the USFWS Consultation Areas associated with the subject property. Also included, is a brief description of the respective species habitat and potential for additional review:

Florida Scrub-jay (*Aphelocoma coerulescens*)

Federally Listed as "Threatened" by USFWS

Currently the Florida Scrub-Jay is listed as threatened by the USFWS. Florida Scrub-jays are largely restricted to scattered, often small and isolated patches of sand pine scrub, xeric oak, scrubby flatwoods, and scrubby coastal stands in peninsular Florida (Woolfenden 1978a, Fitzpatrick et al. 1991). They avoid wetlands and forests, including canopied sand pine stands. Optimal Scrub-jay habitat is dominated by shrubby scrub, live oaks, myrtle oaks, or scrub oaks from 1 to 3 m (3 to 10 ft.) tall, covering 50% to 90 % of the area; bare ground or sparse

vegetation less than 15 cm (6 in) tall covering 10% to 50% of the area; and scattered trees with no more than 20% canopy cover (Fitzpatrick et al. 1991).

No Florida Scrub-jays were observed on the subject site during the wildlife survey conducted by BTC. The subject site does contain suitable Live Oak habitat in the eastern portion of the site. As such, no further action should be required pertaining to this species.

Audubon's Crested Caracara (Polyborus plancus audubonii)
Federally Listed as "Threatened" by USFWS

The subject site falls within the USFWS Consultation Areas for the species Audubon's Crested Caracara (*Polyborus planeus audubonii*). Currently the Audubon's Crested Caracara is listed as threatened by the USFWS due primarily to habitat loss. The Audubon's Crested Caracara commonly occurs in dry or wet prairie areas with scattered cabbage palms, lightly wooded areas with saw palmetto, scrub oaks and cypress. The Audubon's Crested Caracara also uses improved or semi-improved pasture with seasonal wetlands. Audubon's Crested Caracaras construct new nests each nesting season, often in the same tree as the previous year.

Although the subject site falls within the USFWS Audubon's Crested Caracara consultation area, no crested caracaras were observed and no suitable habitat for this species exists within the project boundaries. No further action should be required pertaining to crested caracaras.

West Indian Manatee (Trichechus manatus)
Federally Listed as "Threatened" by USFWS

The subject site falls within the USFWS Consultation Area for the West Indian manatee. Currently the West Indian manatee is listed as "Threatened" by the USFWS. Manatees are protected under the Marine Mammal Protection Act, which prohibits the take (i.e., harass, hunt, capture, or kill) of all marine mammals. Manatees are found in marine, estuarine and freshwater environments. The West Indian manatee (*Trichechus manatus*), includes two distinct subspecies, the Florida manatee (*Trichechus manatus latirostris*) and the Antillean manatee (*Trichechus manatus manatus*). While morphologically distinctive, both subspecies have many common features. Manatees have large, seal-shaped bodies with paired flippers and a round, paddle-shaped tail. They are typically grey in color (color can range from black to light brown) and occasionally spotted with barnacles or colored by patches of green or red algae. The muzzle is heavily whiskered and coarse, single hairs are sparsely distributed throughout the body. Adult manatees, on average, are about nine feet long (3 meters) and weigh about 1,000 pounds (200 kilograms). At birth, calves are between three and four feet long (1 meter) and weigh between 40 and 60 pounds (30 kilograms).

As the site is not located within or abutting any surface waters, no future permitting issues should arise as a result of site development.

Piping Plover (*Charadrius melodus*)
Federally Listed as "Threatened" by USFWS

The subject site falls within the USFWS Consultation Areas for the species Piping Plover (*Charadrius melodus*). Currently the Piping Plover is listed as threatened by the USFWS due primarily to habitat loss. Piping plovers do not breed in Florida, but they spend a large portion of their year "wintering" here. They typically inhabit sandy beaches, sand flats, and mudflats along coastal areas. The main threat to Piping Plovers is habitat loss due to the development of beaches. The Piping Plover is protected by the U.S. Migratory Bird Treaty Act, as well as the Federal Endangered Species Act.

No Piping Plovers were observed on the subject site during the survey conducted by BTC. The subject site does not contain suitable habitat for this species. Therefore, the proposed action will have no effect on the Piping Plover.

ENVIRONMENTAL PERMITTING SUMMARY

There are no wetlands or other surface waters located within or abutting the project site. This site resides in the Northern Indian River Lagoon basin.

St. Johns River Water Management District

An Environmental Resource Permit (ERP) will be required through the SJRWMD to authorize the construction and operation of a stormwater management system for the site. Since the site does not contain any wetlands and/or surface waters, no wetland mitigation will be required by SJRWMD in association with the proposed site development plan. Coordination with the Division of Historical Resources (DHR) and the Florida Fish and Wildlife Conservation Commission (FFWCC) will be necessary as part of the ERP process. However, no wildlife or archeological issues are anticipated as the site has been historically developed.

US Army Corps of Engineers (USACE)

There are no wetlands or other surface waters located within the project boundary. As such, no permitting is required through the ACOE for any development of this site as USACE permits only address wetland impacts and not the stormwater management system. You may, however, request a "No Permit Required" determination from the USACE. However, this process may

take several months to complete as this request would be considered a "low priority" for USACOE to address.

The environmental limitations described in this document are based on observations and technical information available on the date of the on-site evaluation. This report is for general planning purposes only. The limits of any on-site wetlands/surface waters can only be determined and verified through field delineation and/or on-site review by the pertinent regulatory agencies. The wildlife surveys conducted within the subject property boundaries do not preclude the potential for any listed species, as noted on Table 1 (attached), currently or in the future. Should you have any questions or require any additional information, please do not hesitate to contact our office at (407) 894-5969. Thank you.

Regards,

Adam Mirajkar

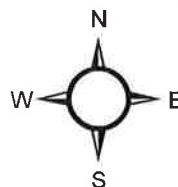
Adam Mirajkar
Field Biologist

Stephanie Salvilla

Stephanie Salvilla
Project Manager



Brevard Storage
Brevard, Florida
Figure 1
Location Map



2,500
Feet

Project #: 597
Produced By: AOM
Date: 11/22/2021



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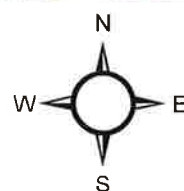
Legend



Boundary (12.83 Ac)

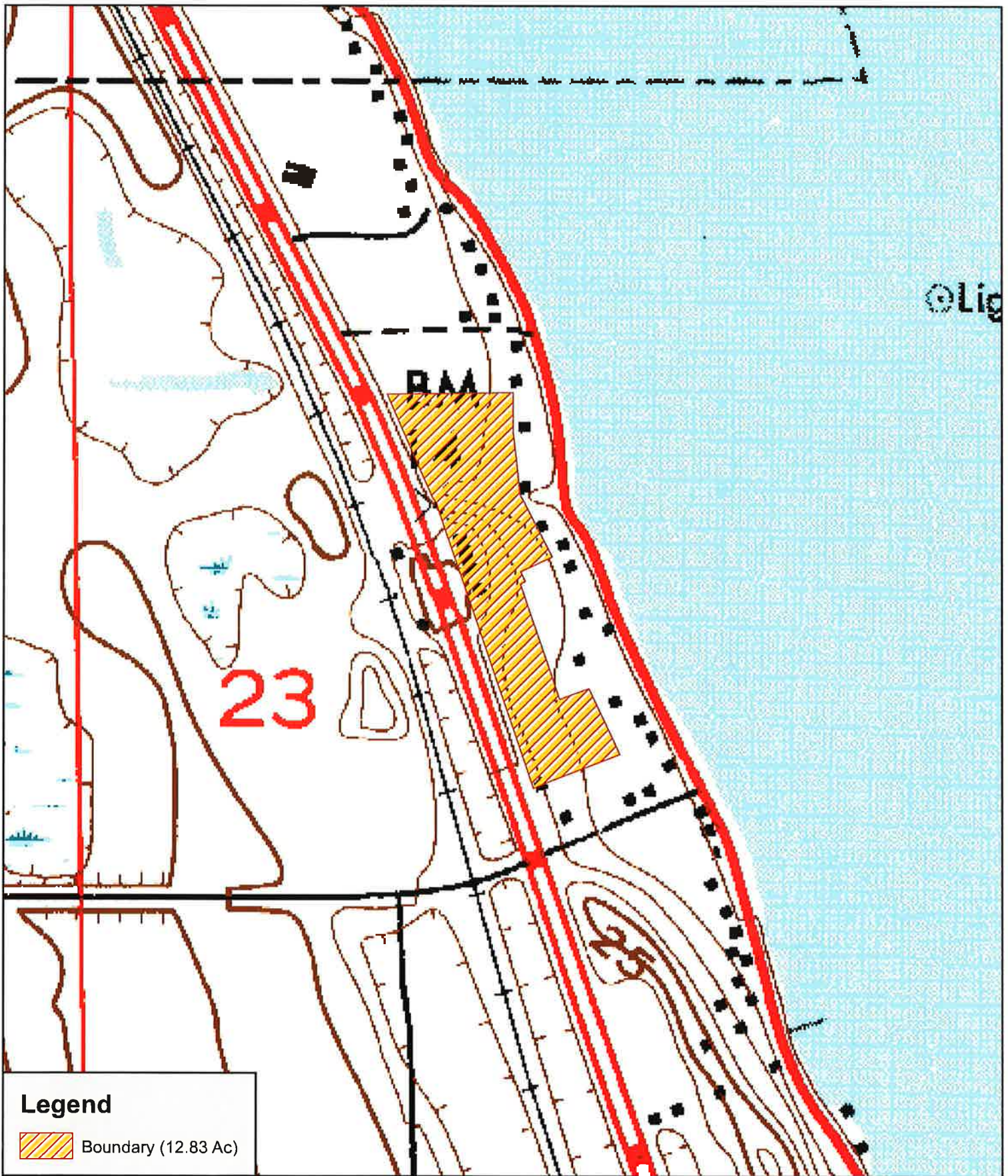
Bio-Tech Consulting Inc.
Environmental and Permitting Services
3025 E. South Street Orlando, FL 32803
Ph: 407-894-5969 Fax: 407-894-5970
www.bio-techconsulting.com

Brevard Storage
Brevard, Florida
Figure 2
Aerial Map



500
Feet

Project #: 597
Produced By: AOM
Date: 11/22/2021



Brevard Storage
Brevard, Florida

Figure 3

USGS Topography Map



Brevard Storage
Brevard, Florida
Figure 4
SSURGO Soils Map

500 Feet
Project #: 597
Produced By: AOM
Date: 11/22/2021

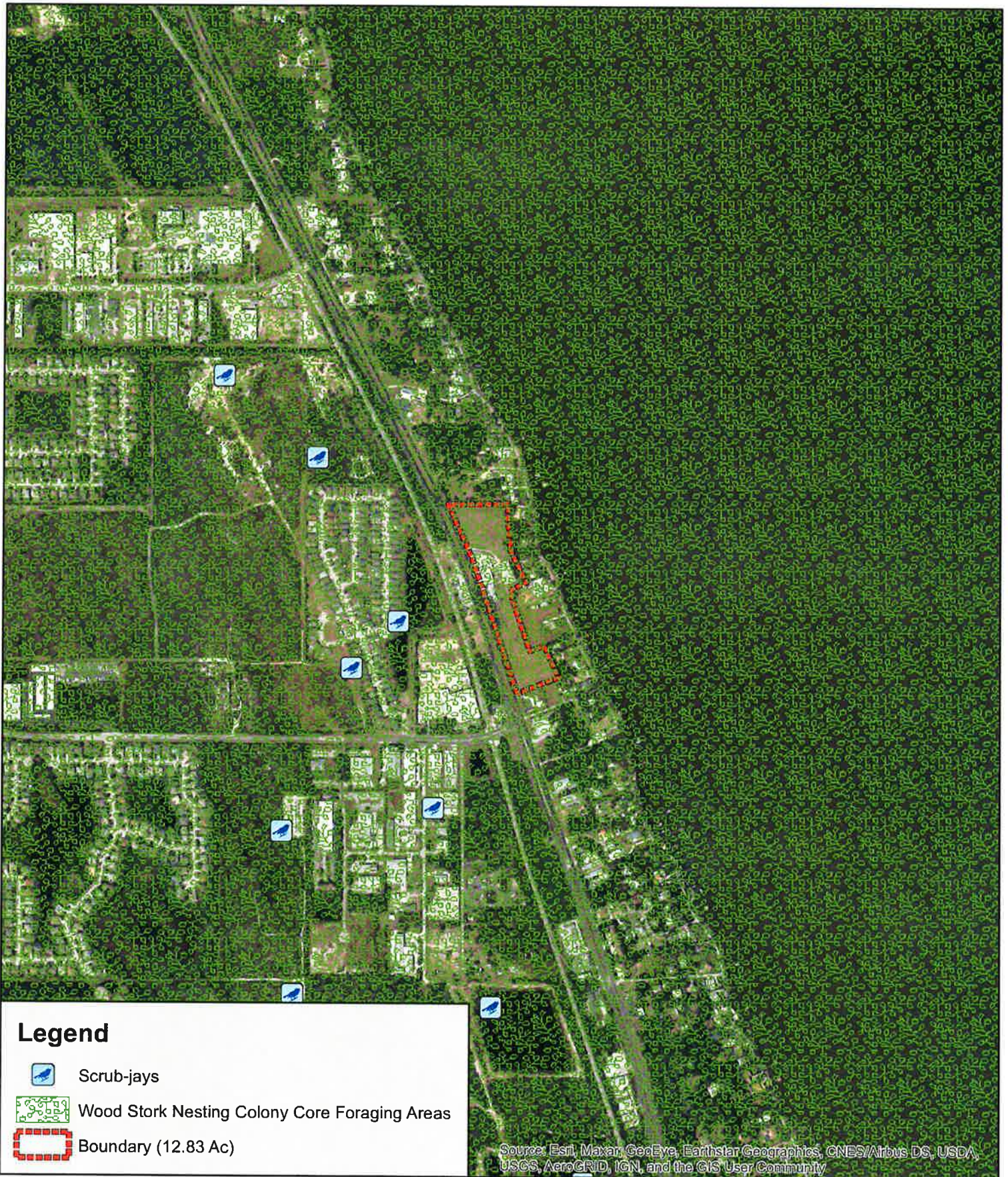


Brevard Storage
Brevard, Florida
Figure 5
FLUCFCS Map

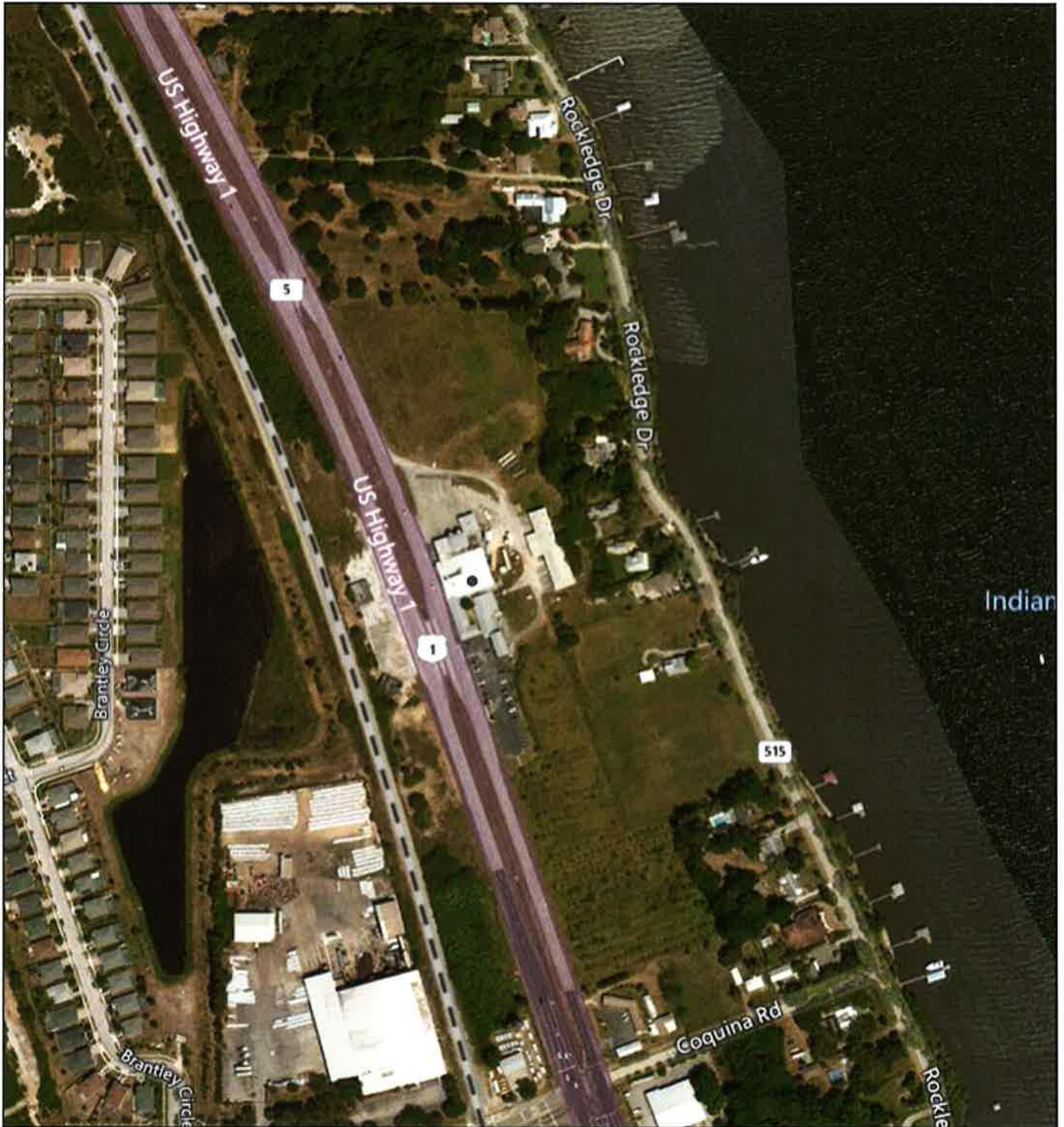
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Project #: 597
Produced By: AOM
Date: 11/24/2021

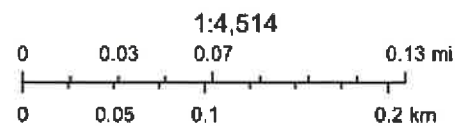
47



EagleWatch Map



11/24/2021, 12:40:59 PM



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Table 1:

**Potentially Occurring Listed Wildlife and Plant Species in
Brevard County, Florida**

Scientific Name	Common Name	Federal Status	State Status	Occurrence Status
FISH				
<i>Acipenser oxyrinchus</i>	Atlantic sturgeon	LE	FE	C
REPTILES				
<i>Alligator mississippiensis</i>	American alligator	T(S/A)	FT(S/A)	C
<i>Caretta caretta</i>	loggerhead sea turtle	LT	FT	C
<i>Chelonia mydas</i>	green sea turtle	LT	FT	C
<i>Dermochelys coriacea</i>	leatherback sea turtle	LE	FE	C
<i>Drymarchon corais couperi</i>	eastern indigo snake	LT	FT	C
<i>Gopherus polyphemus</i>	gopher tortoise	C	ST	C
<i>Lepidochelys kempii</i>	Kemp's ridley sea turtle	LE	FE	P
<i>Pituophis melanoleucus mugitus</i>	Florida pine snake	N	ST	C
BIRDS				
<i>Platalea ajaja</i>	roseate spoonbill	N	ST	C
<i>Aphelocoma coerulescens</i>	Florida scrub-jay	LT	FT	C
<i>Polyborus plancus audubonii</i>	Audubon's crested caracara	LT	FT	C
<i>Charadrius melodus</i>	piping plover	LT	FT	P
<i>Egretta caerulea</i>	little blue heron	N	ST	C
<i>Egretta rufescens</i>	reddish egret	N	ST	C
<i>Egretta tricolor</i>	tricolored heron	N	ST	C
<i>Falco sparverius paulus</i>	southeastern American kestrel	N	ST	P
<i>Grus canadensis pratensis</i>	Florida sandhill crane	N	ST	C
<i>Haematopus palliatus</i>	American oystercatcher	N	ST	P
<i>Haliaeetus leucocephalus</i>	bald eagle	N	**	C
<i>Mycteria americana</i>	wood stork	LT	FT	C
<i>Pandion haliaetus</i>	osprey	N	SSC*	C
<i>Picoides borealis</i>	red-cockaded woodpecker	LE	FE	C
<i>Rynchops niger</i>	black skimmer	N	ST	C
<i>Athene cunicularia</i>	burrowing owl	N	ST	P
<i>Sterna antillarum</i>	least tern	N	ST	C
MAMMALS				
<i>Eubalaena glacialis</i>	North Atlantic right whale	LE	FE	C
<i>Peromyscus polionotus niveiventris</i>	southeastern beach mouse	LT	FT	C
<i>Sciurus niger shermani</i>	Sherman's fox squirrel	N	SSC	P
<i>Trichechus manatus (Trichechus manatus latirostris)</i>	West Indian manatee (Florida manatee)	E, PT	FE	C

** See Rank and Status Explanations and Definitions, Special Animal Listings - Federal and State Status



County Occurrence Status

Vertebrates and Invertebrates:

C = (Confirmed) Occurrence status derived from a documented record in the FNAI data base.

P = (Potential) Occurrence status derived from a reported occurrence for the county or the occurrence lies within the published range of the taxon.

N = (Nesting) For sea turtles only; occurrence status derived from documented nesting occurrences.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

3/14/2022

Subject:

Rushing Wind, LLC (Steven Austin) requests a Small Scale Comprehensive Plan Amendment (22S.02) to change the Future Land Use designation from RES 1 to RES 4. (22PZ00003) (Tax Account 3008616) (District 3)

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 change of Future Land Use designation from RES 1 (Residential 1) to RES 4 (Residential 4).

Summary Explanation and Background:

The applicant is seeking to amend the Future Land Use designation on 24 acres of land from RES 1 to RES 4 to build up to a ninety-six (96) unit single-family subdivision. The RES 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre. A companion application for a change of zoning classification from RR-1 (Rural Residential) and IN(L) (Institutional Use, Low-Intensity) to RU-1-11 (Single-Family Residential) accompanies this request.

To the north of the subject property is grazing land, to the east is the Lakes at St. Sebastian Common Area and The Lakes at St. Sebastian Preserve subdivision, to the south is State-owned land being used by St. John's River Water Management District, and to the west is grazing land within the City of Palm Bay.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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.10 (22PZ00003)
Township 30G, Range 38, Section 01

Property Information

Owner / Applicant: Rushing Wind, LLC

Adopted Future Land Use Map Designation: Residential 1 (RES 1)

Requested Future Land Use Map Designation: Residential 4 (RES 4)

Acreage: 24 acres

Tax Account #: 3008616

Site Location: Approximately .37 miles west of the intersection of Dottie Drive and Micco Road

Commission District: 3

Current Zoning: Rural Residential 1 (RR-1)

Requested Zoning: Single-family Residential (RU-1-11)

Background & Purpose

The applicant is seeking to amend the Future Land Use designation on 24 acres of land from Residential 1 (RES 1) to Residential 4 (RES 4) to build up to ninety-six (96) unit single-family subdivision.

To the north is grazing land with a Future Land Use designation of Residential 6 (RES 6) which received a Future Land Use designation change from RES 1 to RES 6 on September 4, 2008 with a companion Zoning change from Agricultural Residential (AU) and Rural Residential (RR-1) to Institutional Use-Low Intensity IN(L). Access to Micco Road will be required through the property to the north.

A companion rezoning application was submitted accompanying this request for a zoning change from RR-1 (Rural Residential), IN(L) (Institutional Use, Low Intensity) to RU-1-11 (Single-Family Residential).

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Grazing Land	IN(L)	RES 6
South	State Owned Land	AU	PUB-CONS
East	Residential Common Area and Single-Family Residences	GU	RES 1
West	City of Palm Bay Grazing Land	City of Palm Bay Rural Residential	City of Palm Bay Micco Park Village (MPVD)

To the north of the subject property is grazing land, to the east is the Lakes at St. Sebastian Common Area and The Lakes at St. Sebastian Preserve Phase 1 Single-Family Residences, to the south is State Owned Land being use by St. John's River Water Management District and to the west is grazing land within the City of Palm Bay.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

Policy 1.2

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.

Connection to centralized potable water and wastewater treatment is required. The nearest potential potable water connection is directly to the east of the subject site servicing The Lakes at St. Sebastian Preserve. Presently, there are no wastewater treatment connections to this property.

Residential 4 (maximum of 4 units per acre)

Policy 1.7

The Residential 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within this element. The Residential 4 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 4 land use designation; or

The subject site is not immediately adjacent to RES 4 land use designation; however, it is located adjacent to RES 6 immediately to the north which is a higher density than what is being proposed on the subject site.

The closest RES 4 land use designation is approximately .4 miles to the east on the north side of Micco Road at Barefoot Bay.

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than four (4) units per acre and areas with density of less than four (4) units per acre; or

The subject site does not serve as a transition between densities greater than four (4) units per acre and areas with density of less than four (4) units per acre.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 4.

The subject site is adjacent to the incorporated area of Palm Bay along the west side.

- D. Up to a 25% density bonus to permit up to five (5) units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and

promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant is not proposing a Planned Unit Development.

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;

There has been a historical pattern of residential development along Micco Road.

Approximately .4 miles east of the subject site is the Barefoot Bay manufactured home community with a RES 4 Future Land Use designation with development beginning in the 1970's and continuing up to the present.

Directly adjacent to the east of the subject site is The Lakes at St. Sebastian Preserve, a single-family development with houses constructed in 2019 through the present.

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

There has not been any development immediately adjacent to the subject parcel in the preceding three (3) years.

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

There have not been any development approvals immediately adjacent to the subject parcel within the past three (3) years that have not been constructed.

Concurrency

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

The nearest potential potable water connection is directly to the east of the subject site servicing The Lakes at St. Sebastian Preserve. Presently, there are no wastewater treatment connections to this site.

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development.

Environmental Resources

Mapped resources include Hydric Soils/Wetlands, Indian River Lagoon Nitrogen Reduction Overlay and Protected Species.

Approximately 1/3 of the entire parcel, and 1/3 of the area of the parcel requesting the FLU change 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. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel.

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

Historic Resources

The Florida Master Site File Department cannot find a record of this site.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item # 22PZ00003**

Applicant: Rushing Wind

FLU Request: RES-1 to RES-4

Note: Applicant wants to increase density for a subdivision

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID No: 3008616

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils/Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

Approximately 1/3 of the entire parcel, and 1/3 of the area of the parcel requesting the FLU change 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. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel.

Land Use Comments:

Hydric Soils/Wetlands

The entire parcel contains mapped hydric soils (Eau Gallie sand, Riviera sand, and Pineda sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit

per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. At time of site plan review, a wetland determination/delineation will be required.

Indian River Lagoon Nitrogen Reduction Overlay

Approximately 1/3 of the entire parcel, and 1/3 of the area of the parcel requesting the FLU change 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. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Land Clearing and Landscape Requirements

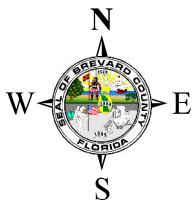
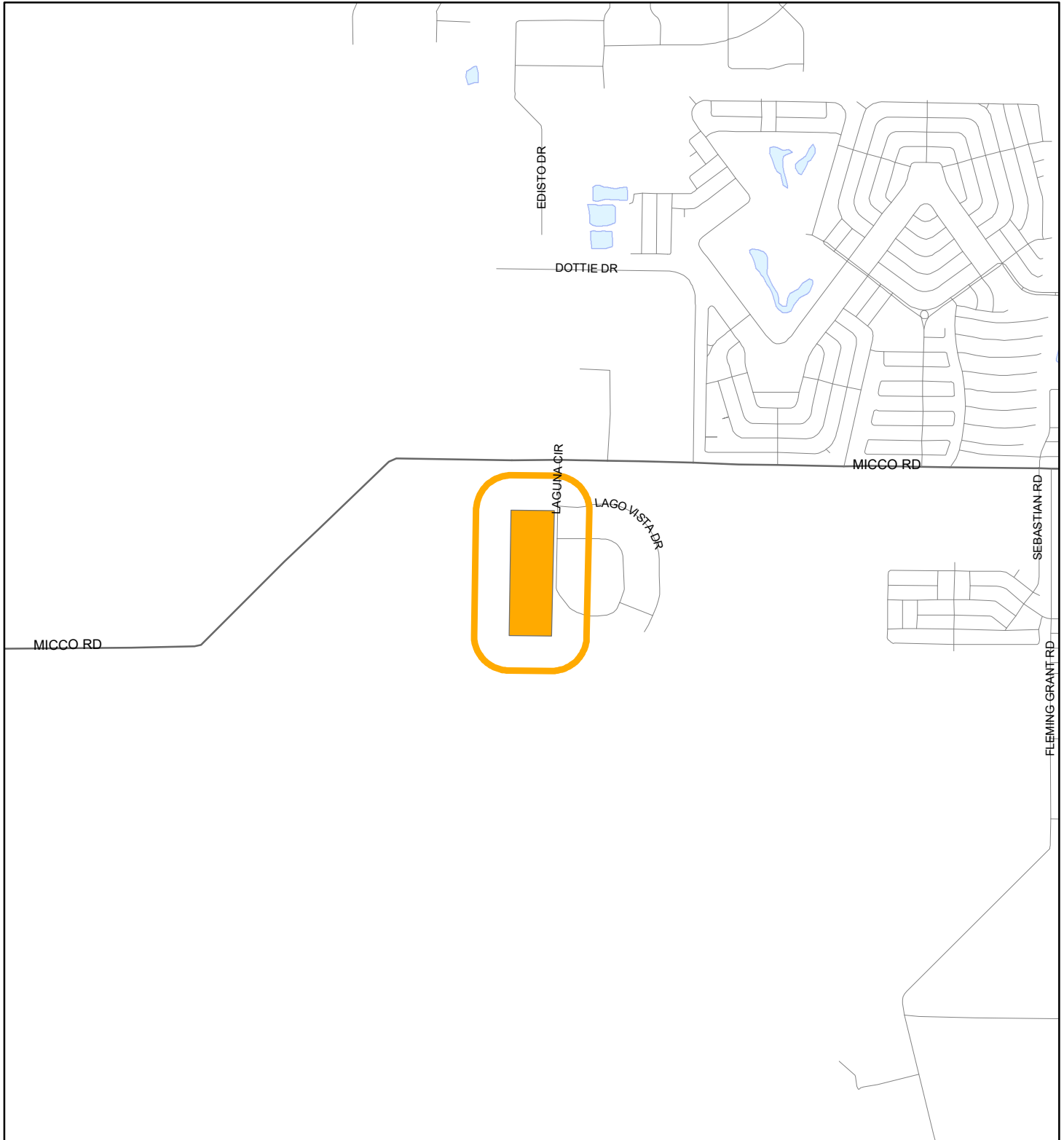
The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. Septic systems may limit tree planting locations.

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

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02





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

Buffer Distance: 500 feet

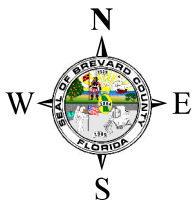
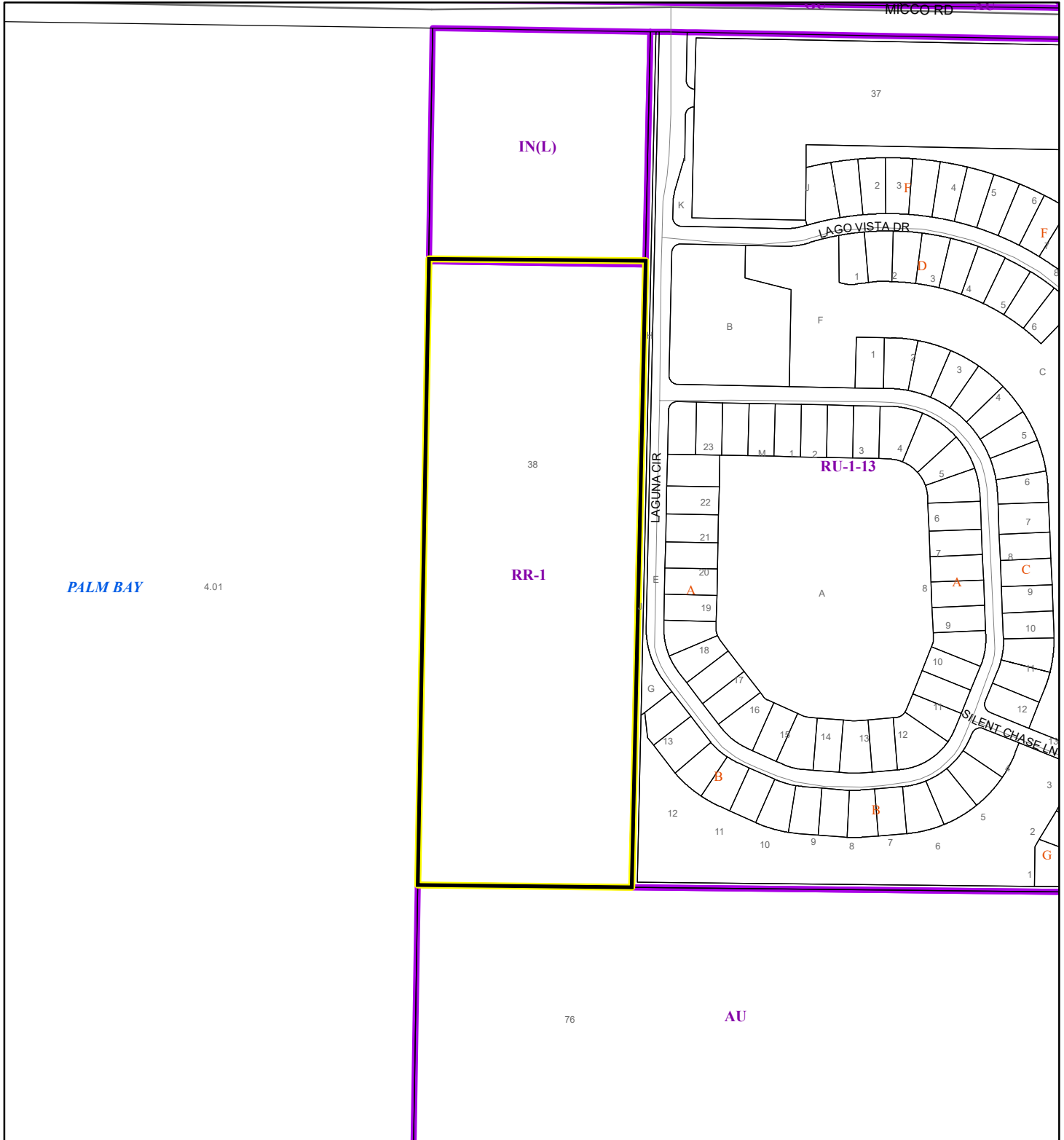
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/21/2022

 Buffer
 Subject Property

ZONING MAP

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

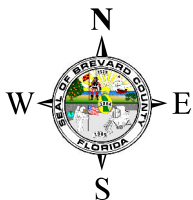
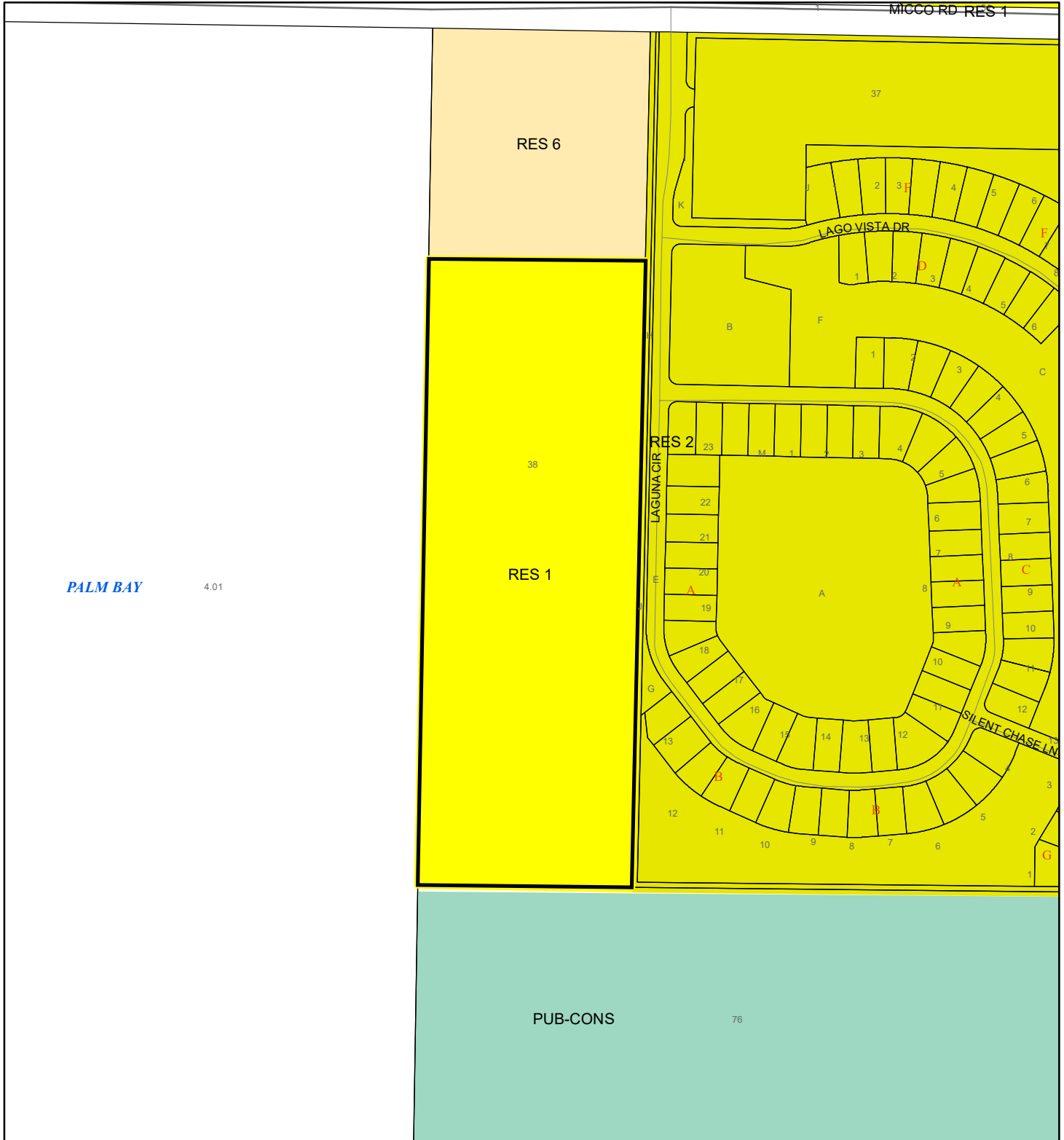
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/21/2022



- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

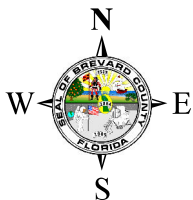
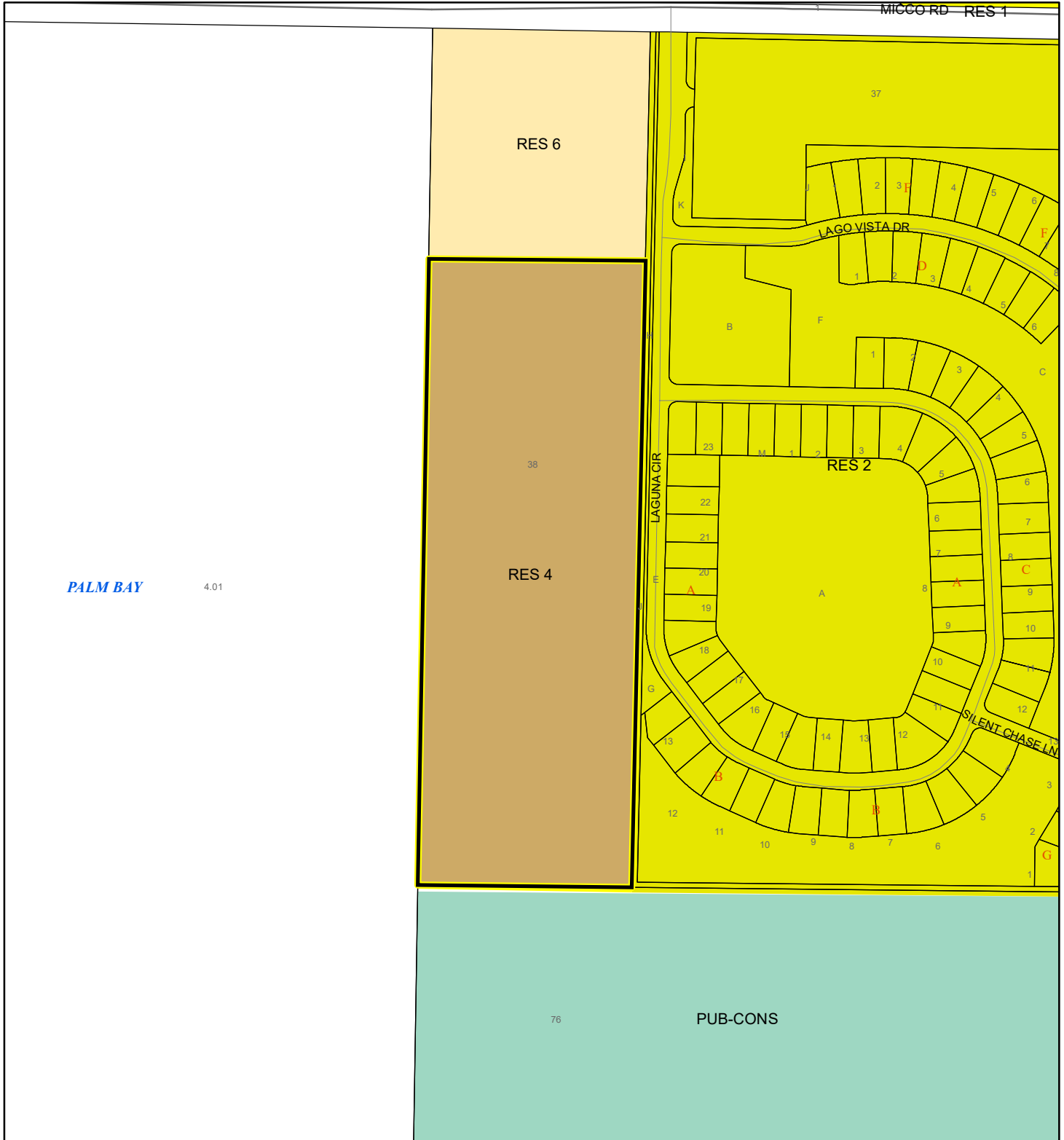
 Subject Property
 Parcels

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



Produced by BoCC - GIS Date: 1/20/2022

PROPOSED FUTURE LAND USE MAP

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



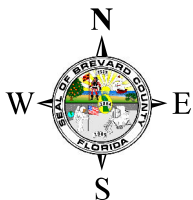
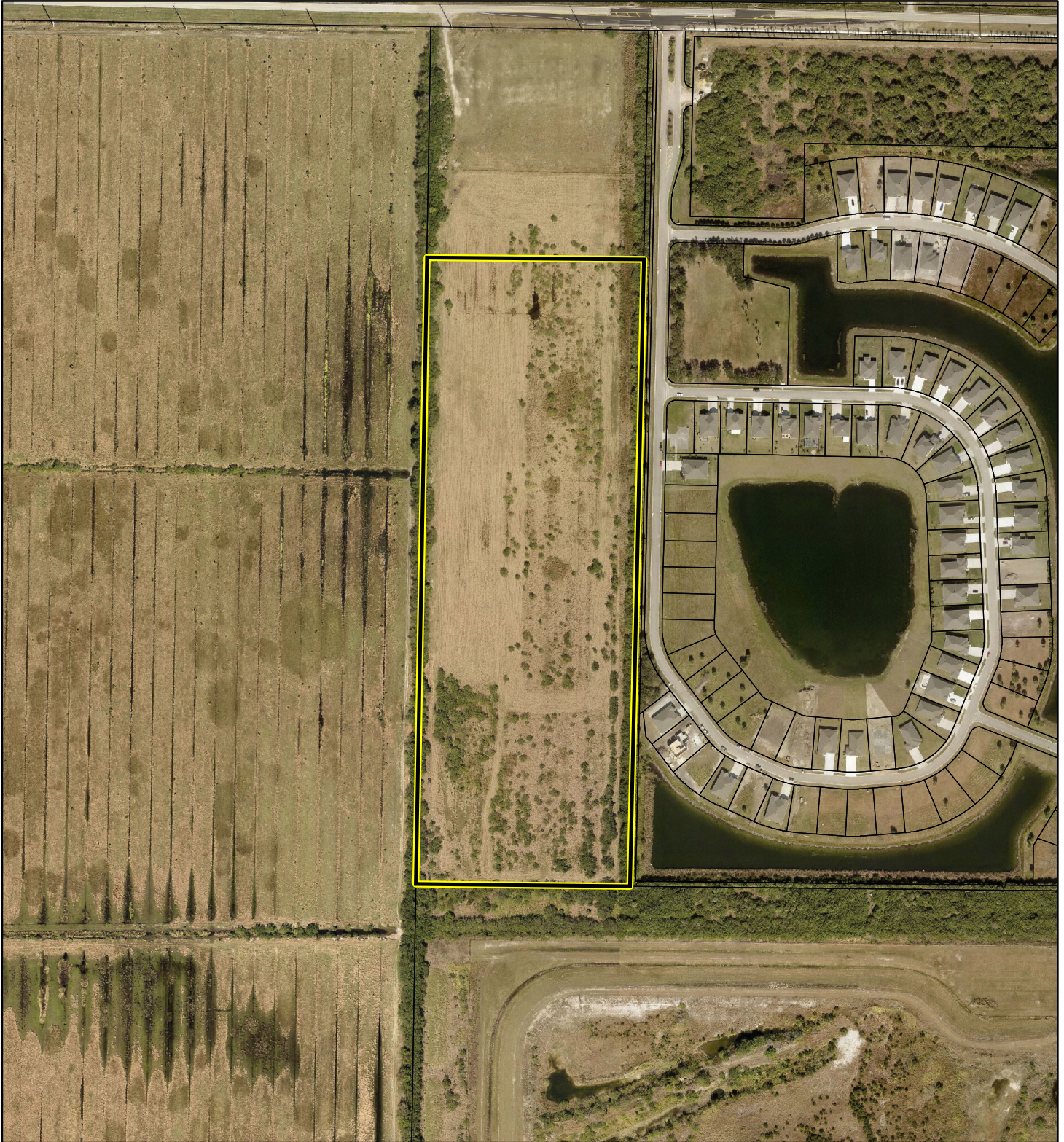
1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

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

Produced by BoCC - GIS Date: 1/20/2022

AERIAL MAP
RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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

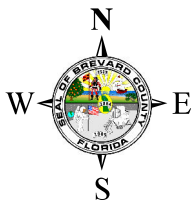
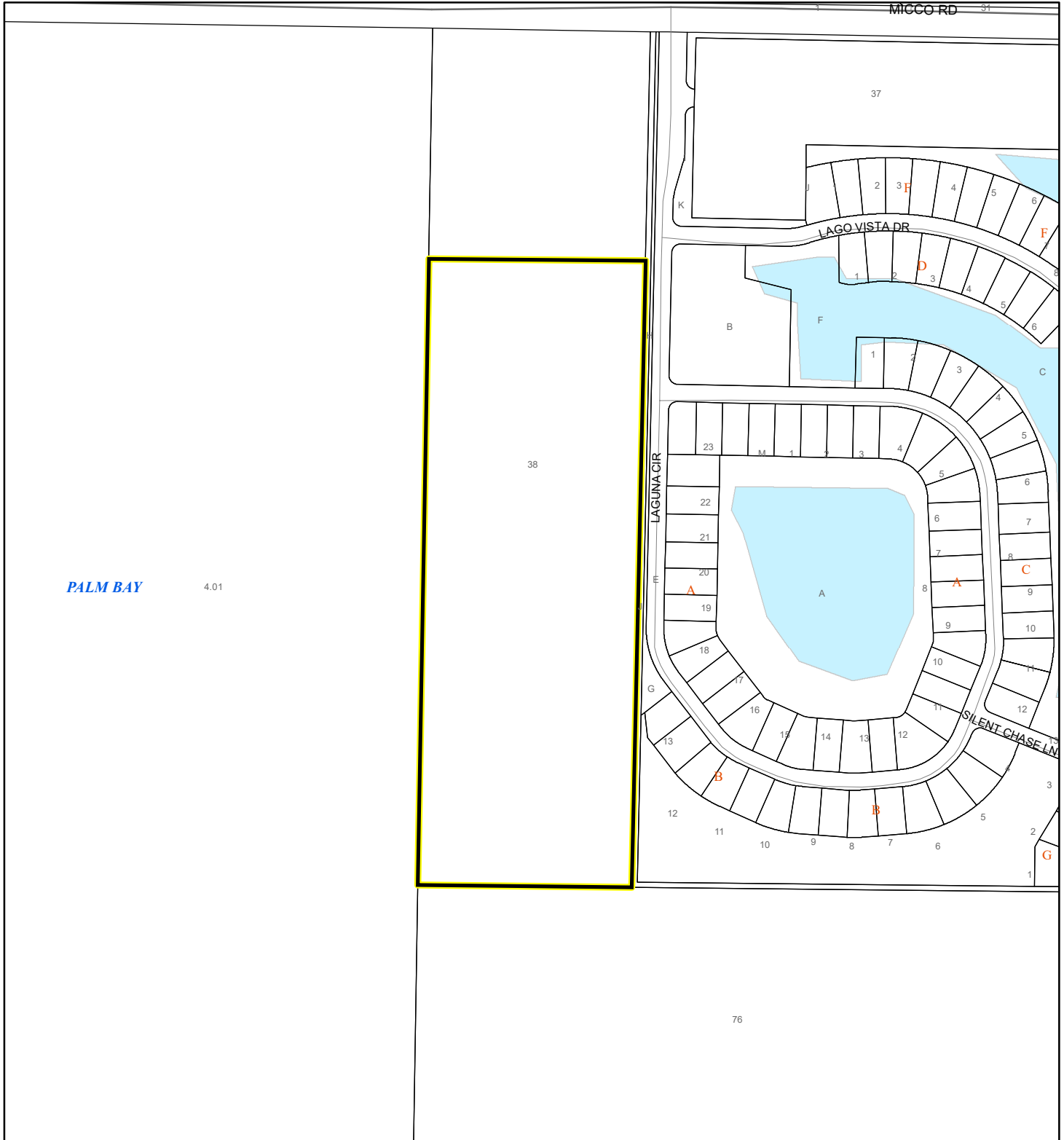
Produced by BoCC - GIS Date: 1/20/2022

 Subject Property
 Parcels

NWI WETLANDS MAP

RUSHING WIND, LLC

22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

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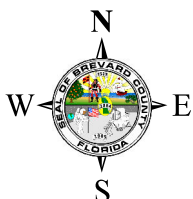
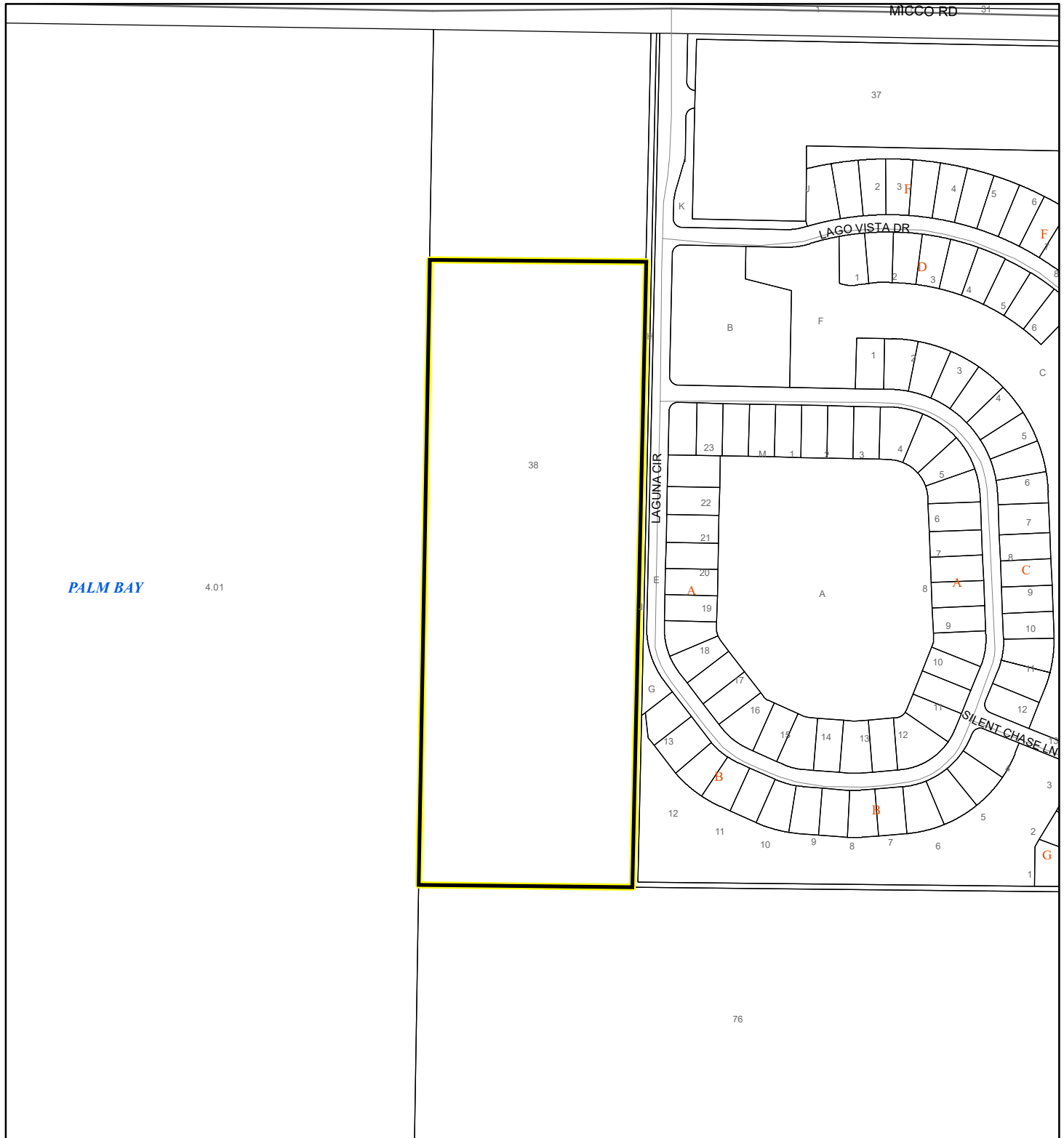
Produced by BoCC - GIS Date: 1/20/2022

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

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/20/2022

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

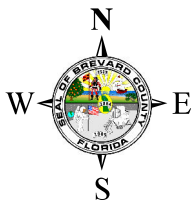
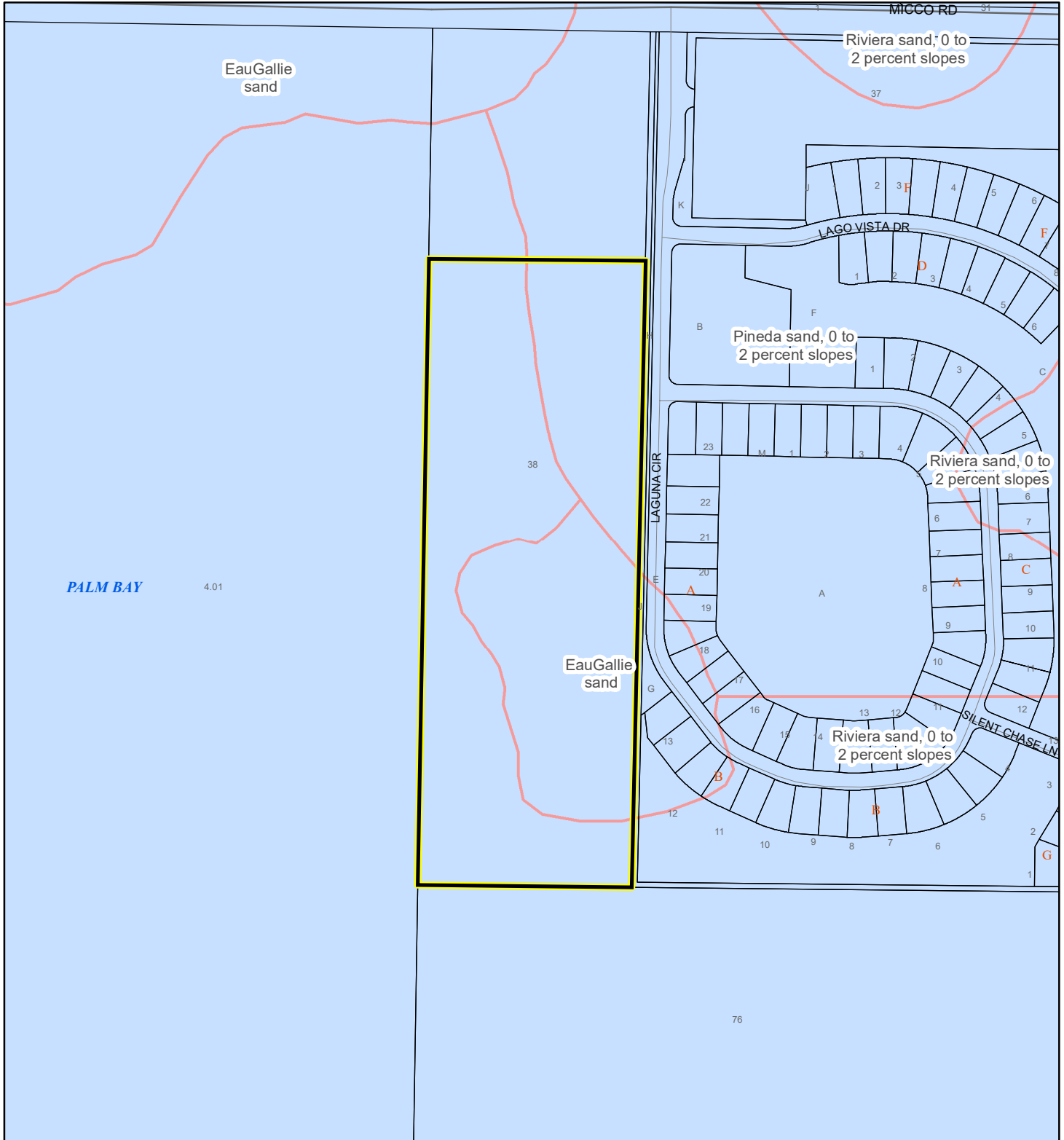
Subject Property

Parcels

USDA SCSSS SOILS MAP

RUSHING WIND, LLC

22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/20/2022

USDA SCSSS Soils

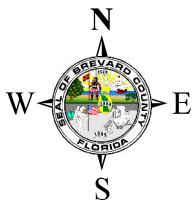
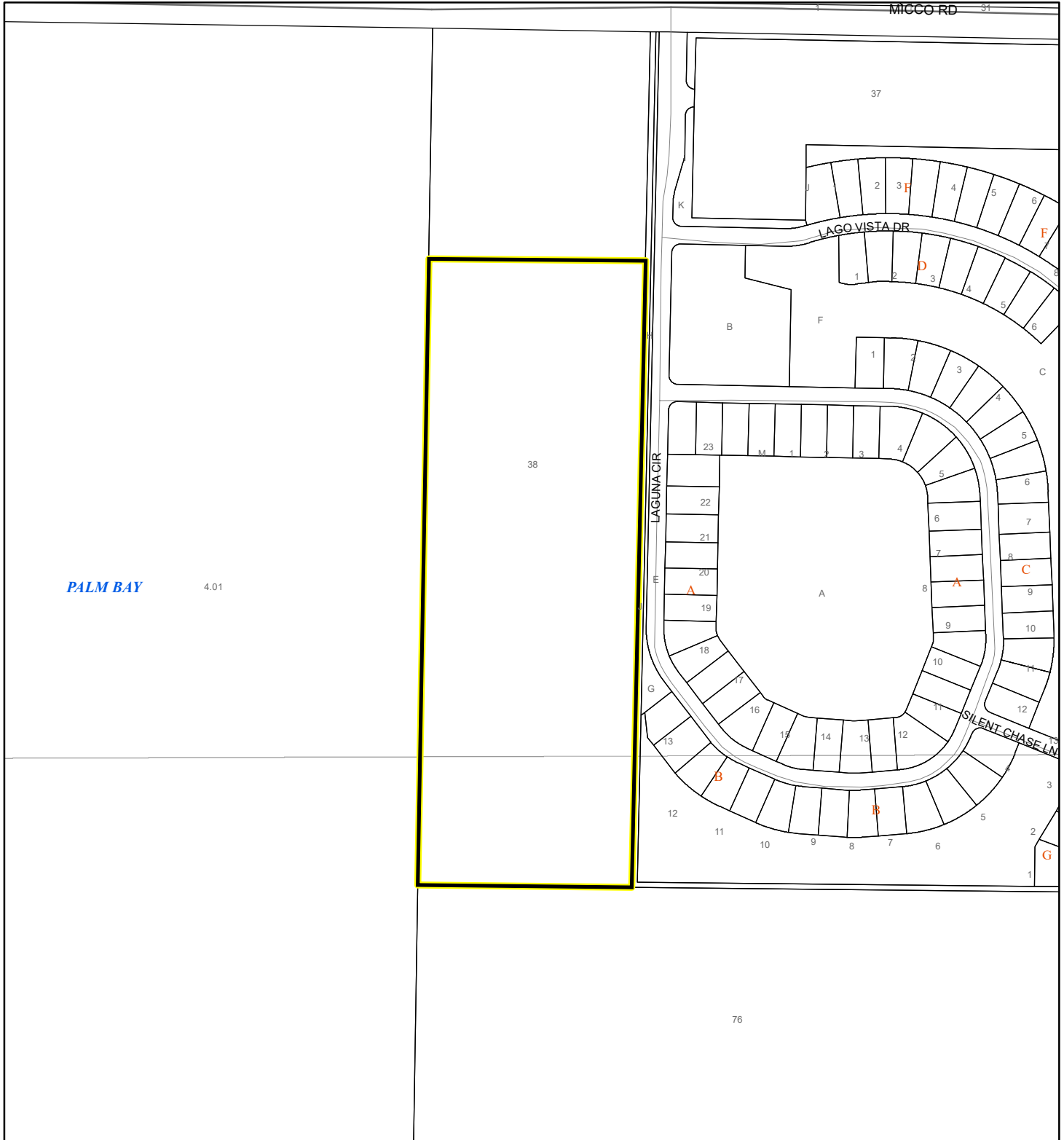
- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

FEMA FLOOD ZONES MAP

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

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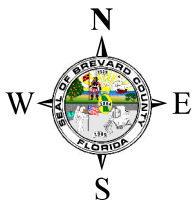
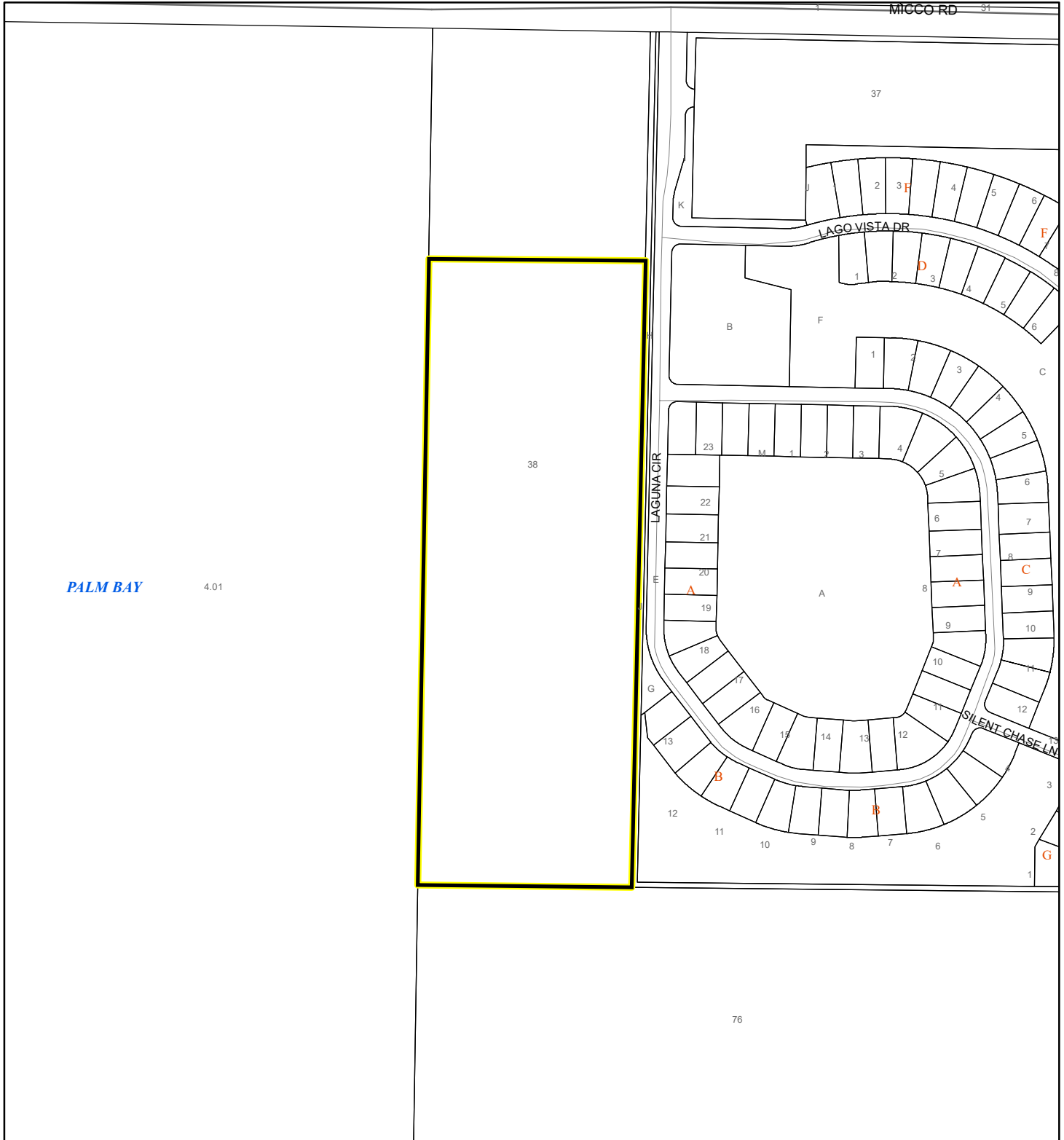
Produced by BoCC - GIS Date: 1/20/2022

FEMA Flood Zones

A	AO	X
AE	Open Water	Parcels
AH	VE	
Subject Property		

COASTAL HIGH HAZARD AREA MAP

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 1/20/2022

 Subject Property

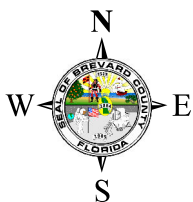
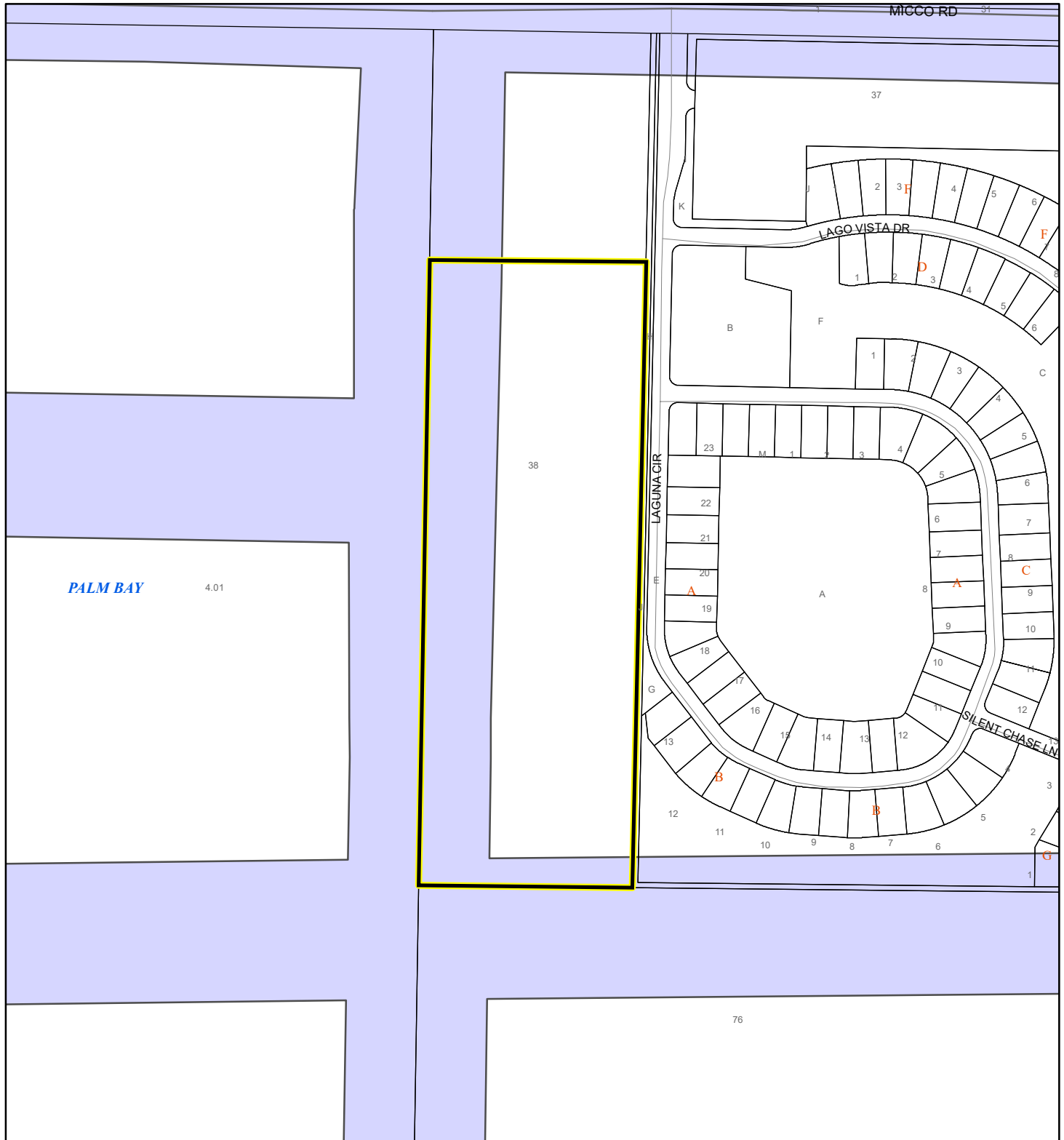
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/20/2022

 Subject Property

 Parcels

Septic Overlay

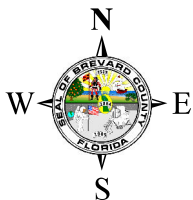
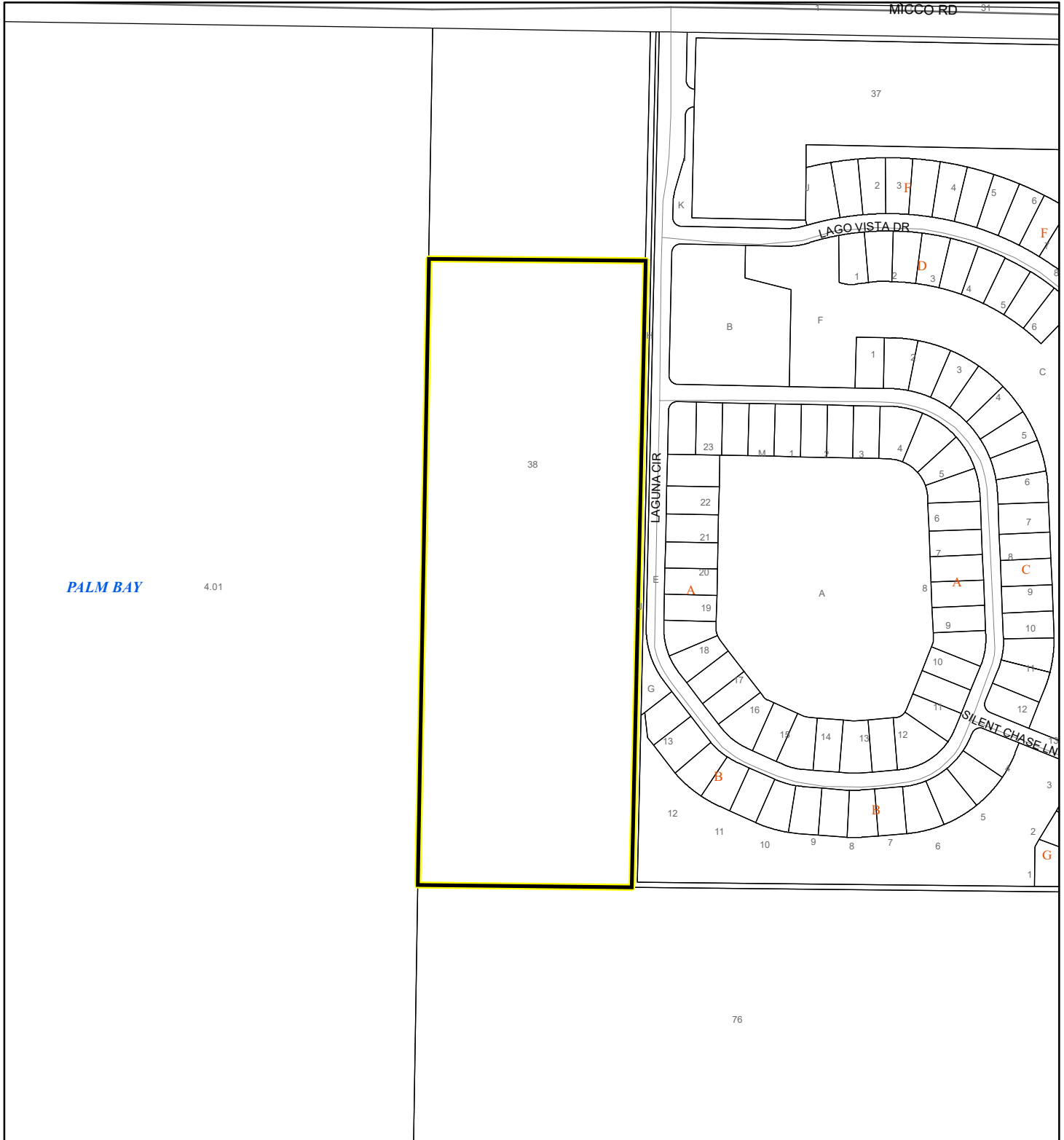
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/20/2022

 Subject Property

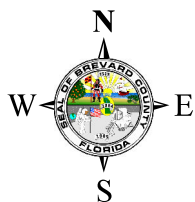
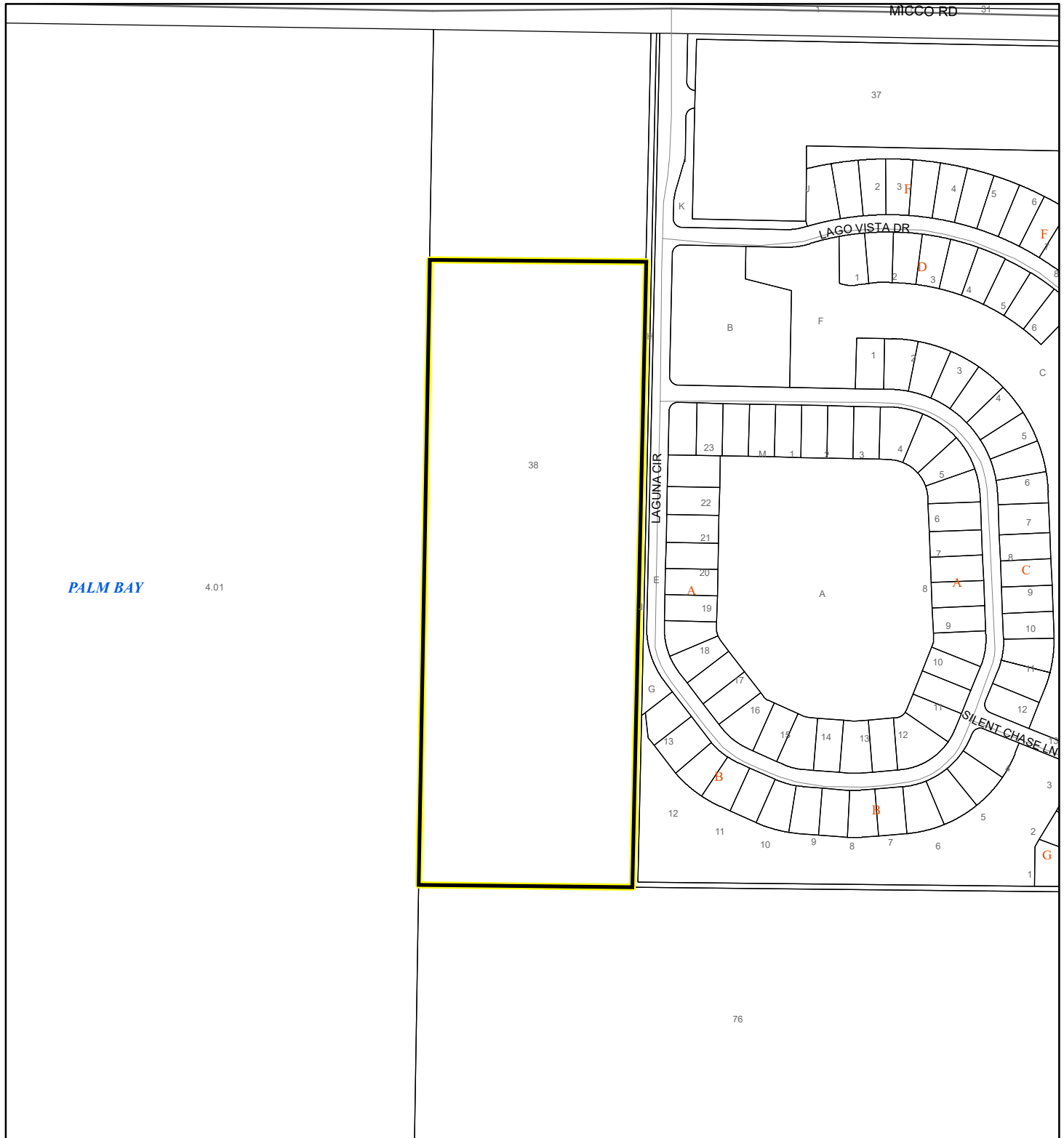
 Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

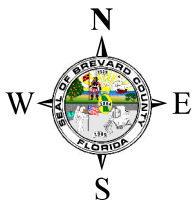
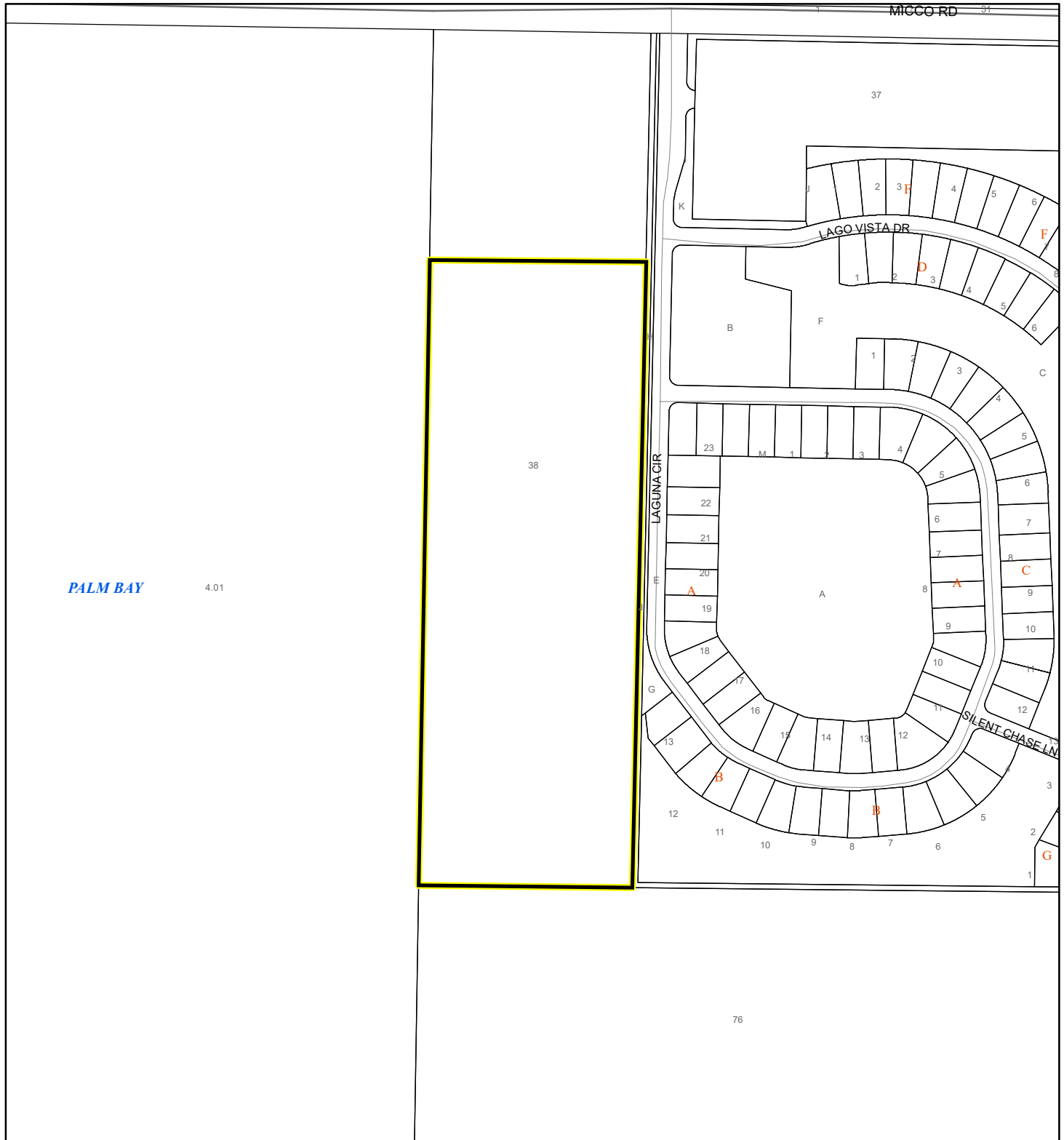
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Produced by BoCC - GIS Date: 1/20/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

RUSHING WIND, LLC
22PZ00003 SMALL SCALE AMENDMENT 22S.02



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/20/2022

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

Brevard County

Supplement to Comprehensive Plan Amendment Application

Planning and Zoning Office, 2725 Judge Fran Jamieson Way, Viera, FL 32940
(321) 633-2069

Reason for Request
22PZ00003
Rushing Wind



1. Type of Application:

X 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: Steven Austin **Staff Planner:** Cheryl X Campbell

3. Comprehensive Plan Amendment Information:

Adopted Future Land Use Designation: Res 4

Requested Future Land Use Designation: Res 4

Existing Zoning: RR-1

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.

We would like to increase our density to
4 units per acre and surrounding properties.
Our goal is to market homes using a builder
like ~~the~~ similar to homes next door.

(use additional sheets if necessary)



School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699

Dr. Mark W. Mullins, Ed.D., Superintendent

January 7, 2022

Mr. Kyle Harris, Planner 1
Planning & Development Department
Brevard County Board of County Commissioners
2726 Judge Fran Jamieson Way
Viera, Florida 32940

**RE: Proposed Rushing Wind Development,
City Project No. 3008616
School Impact Analysis – Capacity Determination CD-2022-04**

Dear Mr. Harris,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account number 3008616 (Parcel ID number: 30G-38-01-HJ-*-38), containing approximately 34.65 acres in unincorporated District 3, Brevard County, Florida. The proposed development includes 96 single-family homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2022-23 to 2026-27 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2021-22 to 2026-27* which is attached for reference.

Single-Family Homes		96	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students Generated
Elementary	0.28	26.88	27
Middle	0.08	7.68	8
High	0.16	15.36	15
Total	0.52		50

Planning & Project Management
Facilities Services
Phone: (321) 633-1000 x11418 • FAX: (321) 633-4646



**FISH Capacity (including relocatable classrooms) from the
Financially Feasible Plan (FFP) Data and Analysis for School Years 2022-23 to
2026-27**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	913	913	935	1,001	1,067
Southwest	1,211	1,211	1,211	1,211	1,211
Bayside	2,263	2,263	2,263	2,263	2,263

Projected Student Membership

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	690	738	824	929	1,061
Southwest	940	922	1,000	1,119	1,157
Bayside	1,728	1,850	1,942	2,002	2,069

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	-	-	-	-	-
Southwest	-	7	7	7	7
Bayside	-	14	14	14	14

**Cumulative Students Generated by
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	-	6	11	17	27
Southwest	-	2	3	5	8
Bayside	-	3	6	10	15

**Total Projected Student Membership (includes
Cumulative Impact of Proposed Development)**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	690	744	835	946	1,088
Southwest	940	931	1,010	1,131	1,172
Bayside	1,728	1,867	1,962	2,026	2,098

**Projected Available Capacity =
FISH Capacity - Total Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	223	169	100	55	(21)
Southwest	271	280	201	80	39
Bayside	535	396	301	237	165

At this time, Sunrise Elementary School is not projected to have enough capacity for the total of projected and potential students from the Rushing Wind development. Because there is a shortfall of available capacity in the concurrency service areas of the Rushing Wind development, the capacity of adjacent concurrency service areas must be considered.

The adjacent elementary school concurrency service areas are Port Malabar Elementary School, Columbia Elementary School, and Westside Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Areas* that could accommodate the impacts of the Rushing Wind development is shown:

**FISH Capacity (including relocatable classrooms) from the
Financially Feasible Plan (FFP) Data and Analysis for School Years 2022-23 to
2026-27**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	852	852	852	852	852
Columbia	751	751	751	751	751

Projected Student Membership

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	636	630	636	645	632
Columbia	484	546	568	569	572

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	-	-	-	-	-
Columbia	-	-	-	-	-

**Cumulative Students Generated by
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	-	6	11	17	27
Columbia	-	6	11	17	27

**Total Projected Student Membership (includes
Cumulative Impact of Proposed Development)**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	636	636	647	662	659
Columbia	484	552	579	586	599

**Projected Available Capacity =
FISH Capacity - Total Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	216	216	205	190	193
Columbia	267	199	172	165	152

This is a **non-binding** review; a *Concurrency Determination* must be performed by the School District prior to a Final Development Order and the issuance of a Concurrency Evaluation Finding of Nondeficiency by the Local Government.

We appreciate the opportunity to review this proposed project. Please let us know if you require additional information.

Sincerely,



Karen M. Black, AICP
Manager – Facilities Planning & Intergovernmental Coordination
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years 2021-22 to 2026-27*

Copy: Susan Hann, AICP, Assistant Superintendent of Facility Services
File CD-2022-04

David G. Lindemann, AICP, Director of Planning & Project Management,
Facilities Services
File CD-2022-04



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

3/14/2022

Subject:

Rushing Wind, LLC (Steven Austin) requests a change of zoning classification from RR-1 and IN(L) to RU-1-11. (22Z00001) (Tax Account 3008616) (District 3)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from RR-1 (Rural Residential) and IN(L) (Institutional Use, Low-Intensity) to RU-1-11 (Single-Family Residential).

Summary Explanation and Background:

The applicants are requesting to change the zoning of a 34.65-acre property from RR-1 and IN(L) to RU-1-11 in order to develop a subdivision. The RU-1-11 classification permits single-family residences on minimum 7,500 square-foot lots, with a minimum width and depth of 75 feet, and a minimum living area of 1,100 square feet.

In general, the character of the area is rural with low-density residential to the East. Across Micco Road to the north is property within the City limits of Palm Bay. To the east of the subject property is the Lakes at St. Sebastian Preserve, a subdivision with RU-1-13 zoning, with lot sizes of approximately 0.25 acres. The subdivision has a BDP limiting the overall density to 2 units per acre. To the south of the subject property is undeveloped state-owned land. The area to the west is undeveloped and within the jurisdiction of Palm Bay. The City of Palm Bay has stated that there are currently no plans to develop these large parcels to the west.

The subdivision to the east is the closest similar zoning classification, RU-1-13. RU-1-11 and RU-1-13 have the same requirements for minimum lot size, lot width, and lot depth, and have the same setback requirements. RU-1-13 requires a minimum living area of 1,300 square feet whereas RU-1-11 requires a minimum living area of 1,100 square feet.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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

22Z00001

Rushing Wind LLC

RR-1 (Rural Residential) and IN(L) (Institutional – Low Intensity) to RU-1-11 (Single-Family Residential)

Tax Account Numbers: 3008616
Parcel I.D.s: 30G-38-01-HJ-* -38
Location: South side of Micco Rd. approximately 0.37 miles west of Dottie Drive
(District 3)
Acreage: 34.65

Planning & Zoning Board: 3/14/2022

Board of County Commissioners: 4/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RR-1 and IN(L)	RU-1-11
Potential*	<ul style="list-style-type: none">• 25 SFR units (RR-1 portion)• Low-intensity institutional uses	138 SFR units
Can be Considered under the Future Land Use Map	YES RES 1 & RES 6	YES** RES 4 & RES 6

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request **22PZ00003** which proposes to change the Future Land Use Designation from Residential 1 (RES 1) to Residential 6 (RES 6).

Background and Purpose of Request

The applicants are requesting to change the zoning of a 34.65-acre property from RR-1 (Rural Residential) and IN(L) (Institutional – Low Intensity) to RU-1-11 (Single-Family Residential) in order to develop a subdivision. The parcel is currently vacant.

The site has access along Micco Road, which is a paved county-maintained road. In order to develop the parcel at a density of four units per acre or higher, the applicants will be required to connect to potable water and sewer.

The original zoning of the property was AU (Agricultural Residential). On November 3, 2005, 28.866 acres of the parcel were rezoned from AU to RR-1 as part of zoning action **Z-11135**. On September 4, 2008, 9.026 acres were rezoned from AU and RR-1 to IN(L) as part of zoning action **Z-11440**.

Land Use

The subject property is currently designated as Residential 1 (RES 1) and Residential 6 (RES 6) FLU. The proposed RU-1-11 zoning is consistent with the existing Residential 6 (RES 6) FLU designation, but not with the existing Residential 1 (RES 1) FLU designation. A companion application, **22PZ00003**, if approved, would change the Future Land Use designation on the RES 1 portion of the parcel to RES 4.

Applicable Land Use Policies

Policy 1.2 - Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.

Connection to centralized potable water and wastewater treatment is required. The nearest potential potable water connection is directly to the east of the subject site servicing The Lakes at St. Sebastian Preserve. Presently, there are no wastewater treatment connections to this site.

Policy 1.7 - The Residential 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within this element. The Residential 4 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 4 land use designation; or

The subject site is not immediately adjacent to RES 4 land use designation; however, it is located adjacent to RES 6 immediately to the north which is a higher density than what is being proposed on the subject site.

The closest RES 4 land use designation is approximately .4 miles to the east on the north side of Micco Road at Barefoot Bay.

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than four (4) units per acre and areas with density of less than four (4) units per acre; or

The subject site does not serve as a transition between densities greater than four (4) units per acre and areas with density of less than four (4) units per acre.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 4.

The subject site is adjacent to the incorporated area of Palm Bay along the west side.

- D. Up to a 25% density bonus to permit up to five (5) units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant is not proposing a Planned Unit Development.

Policy 2.7 – Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The proposed use (residential subdivision) is not anticipated to have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly

diminish the quality of life in the existing neighborhood in the area. Currently the only other subdivision in the area is located to the east of the subject property.

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

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.

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

1. historical land use patterns;

There has been a historical pattern of residential development along Micco Road.

Approximately .4 miles east of the subject site is the Barefoot Bay manufactured home community with a RES 4 Future Land Use designation with development beginning in the 1970's and continuing up to the present.

Directly adjacent to the east of the subject site is The Lakes at St. Sebastian Preserve, a single-family development with houses constructed in 2019 through the present.

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

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

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

There have not been any development approvals within the past three (3) years.

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

In general, the character of the area is rural with a low-density residential neighborhood to the east. Across Micco Road to the north is property within the City limits of Palm Bay. To the east of the subject property is the Lakes at St. Sebastian Preserve, a subdivision with RU-1-13 zoning that was approved in August 2013. Lot sizes in this subdivision are around 0.25 acres. The site has a Binding Development Plan limiting the overall density to 2 units per acre in order to be consistent with the RES 2 land use. To the south of the subject property is state-owned land that is undeveloped. The area to the west of the subject property is entirely undeveloped, with some of it within the jurisdiction of Palm Bay. The City of Palm Bay has stated that there are currently no plans to develop these large parcels to the west.

There is no RU-1-11 in the area, with the RU-1-13 directly to the east being the closest similar zoning classification. RU-1-11 and RU-1-13 have the same requirements for minimum lot size, lot width, and lot depth, and have the same setback requirements. RU-1-13 requires a minimum living area of 1,300 sq. ft. whereas RU-1-11 requires a minimum living area of 1,100 sq. ft. The rezoning to RU-1-13 on the adjacent property included a Binding Development Plan limiting development to two units per acre.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	City of Palm Bay Vacant Orchard Groves	GU & AU	RES 1
South	State-owned land	AU	PUB-CONS
East	Residential Common Area and Single-Family Residences	GU	RES 1
West	City of Palm Bay Grazing Land	City of Palm Bay Rural Residential	City of Palm Bay Micco Park Village (MPVD)

RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

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

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

TRC-1 encompasses lands devoted to planned single-family mobile home development which permits mobile homes or residences on lots of minimum 6,500 square feet with a lot width of 65 feet and a lot depth of 80 feet.

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

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is Micco Rd., between Babcock and Dottie Dr., which has a Maximum Acceptable Volume (MAV) of 14,200 trips per day, a Level of Service (LOS) of C, and currently operates at 16.33% of capacity daily. This rezoning is anticipated to increase the MAV utilization by 6.44%. The corridor is anticipated to operate at 22.77% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

The applicants provided a school impact analysis letter dated January 7, 2022, that indicates there is sufficient capacity for 96 single-family homes.

The subject property is not connected to potable water or sewer. The nearest potential potable water connection is directly to the east of the subject site servicing The Lakes at St. Sebastian Preserve. Presently, there are no wastewater treatment connections to this site.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils/Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

Approximately 1/3 of the 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. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Rezoning Review & Summary
Item # 22Z00001

Applicant: Rushing Wind

Zoning Request: RR-1 and IN(L) to RU-1-11

Note: Applicant wants to increase density for a subdivision

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID No: 3008616

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils/Wetlands
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

Approximately 1/3 of the 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. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel.

Land Use Comments:

Hydric Soils/Wetlands

The entire parcel contains mapped hydric soils (Eau Gallie sand, Riviera sand, and Pineda sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as

unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. At time of site plan review, a wetland determination/delineation will be required.

Indian River Lagoon Nitrogen Reduction Overlay

Approximately 1/3 of the 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. The parcel is connected to the Indian River Lagoon by way of drainage ditches/canals that encompass three sides of the parcel. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

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 preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. Septic systems may limit tree planting locations.

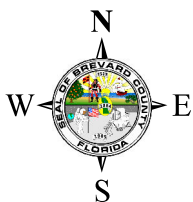
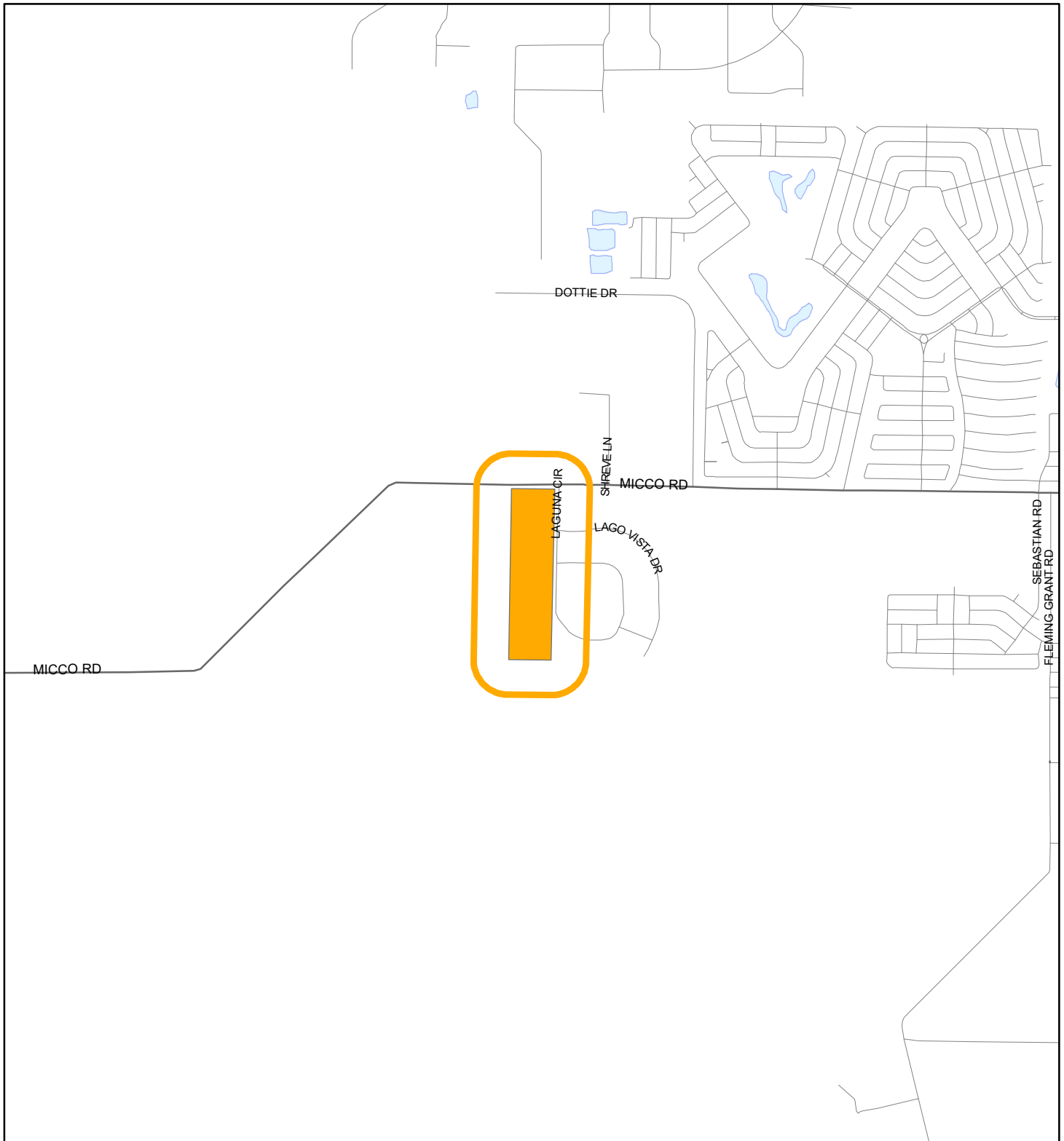
Protected Species

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

RUSHING WIND, LLC

22Z00001



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

Buffer Distance: 500 feet

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

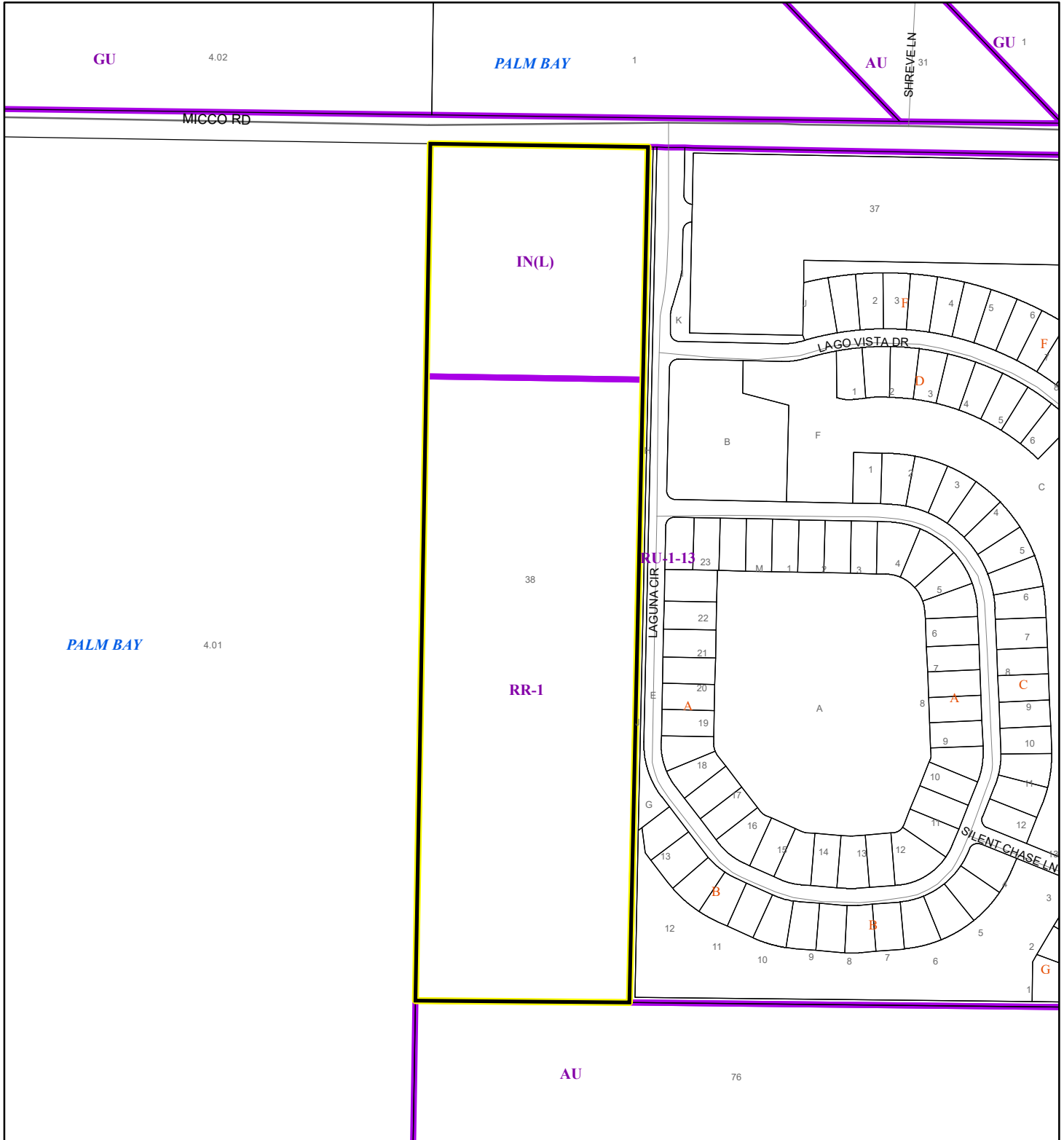
Produced by BoCC - GIS Date: 1/21/2022

— Buffer
— Subject Property

ZONING MAP

RUSHING WIND, LLC

22Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

Subject Property

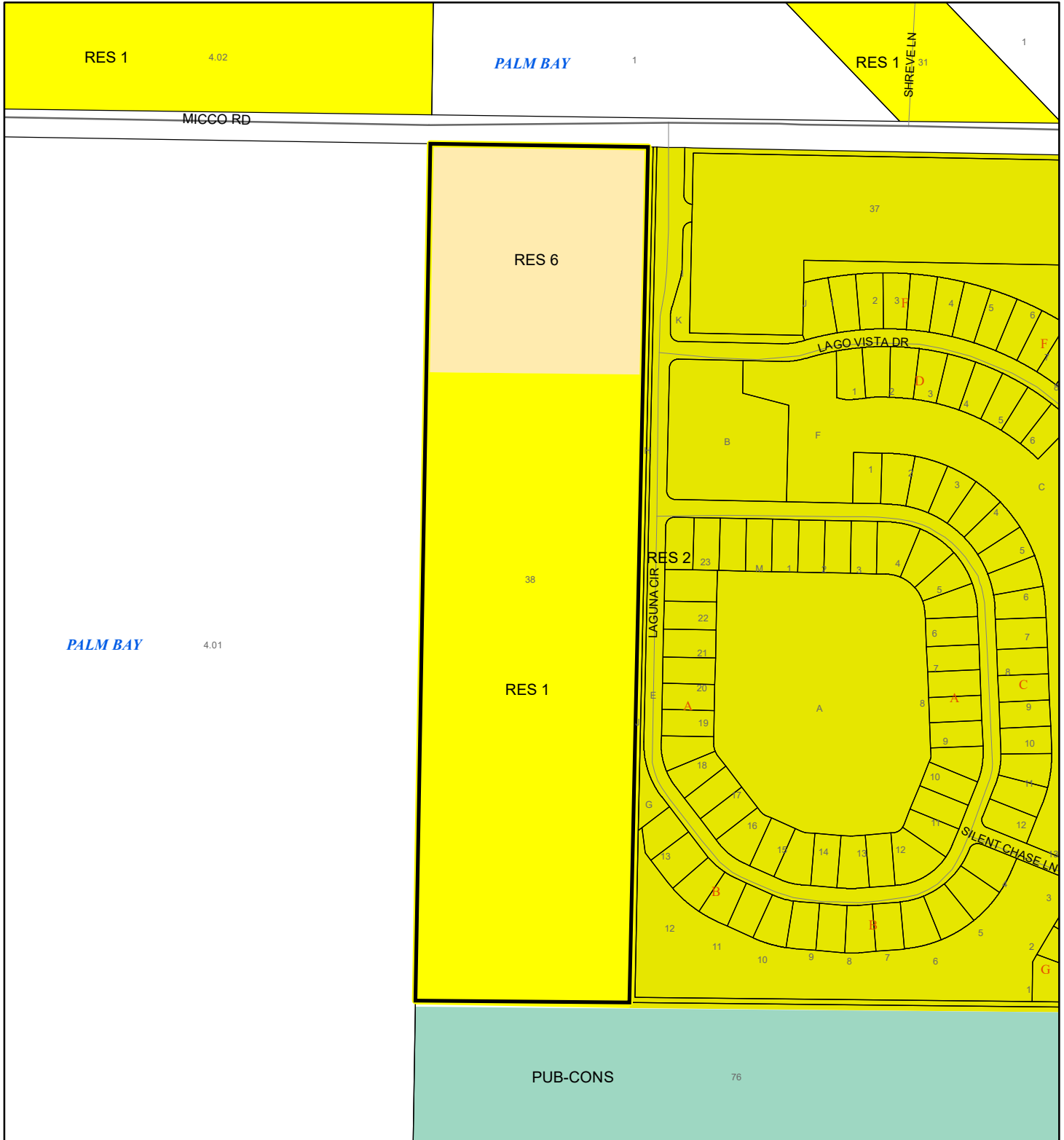
Parcels

Zoning



FUTURE LAND USE MAP

RUSHING WIND, LLC

22Z00001



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

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AERIAL MAP

RUSHING WIND, LLC

22Z00001



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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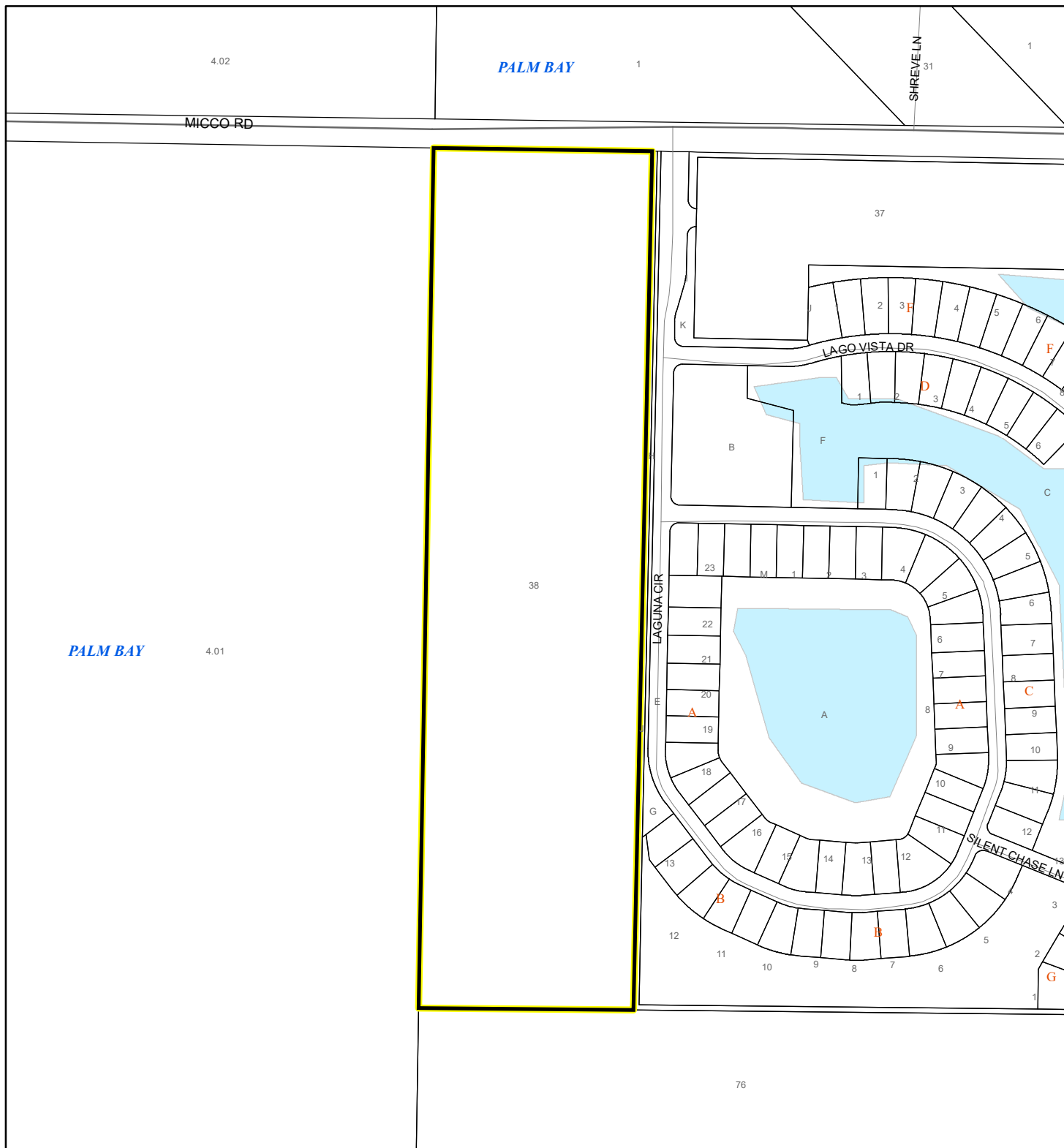
 Subject Property

 Parcels

NWI WETLANDS MAP

RUSHING WIND, LLC

22Z00001



1:4,800 or 1 inch = 400 feet

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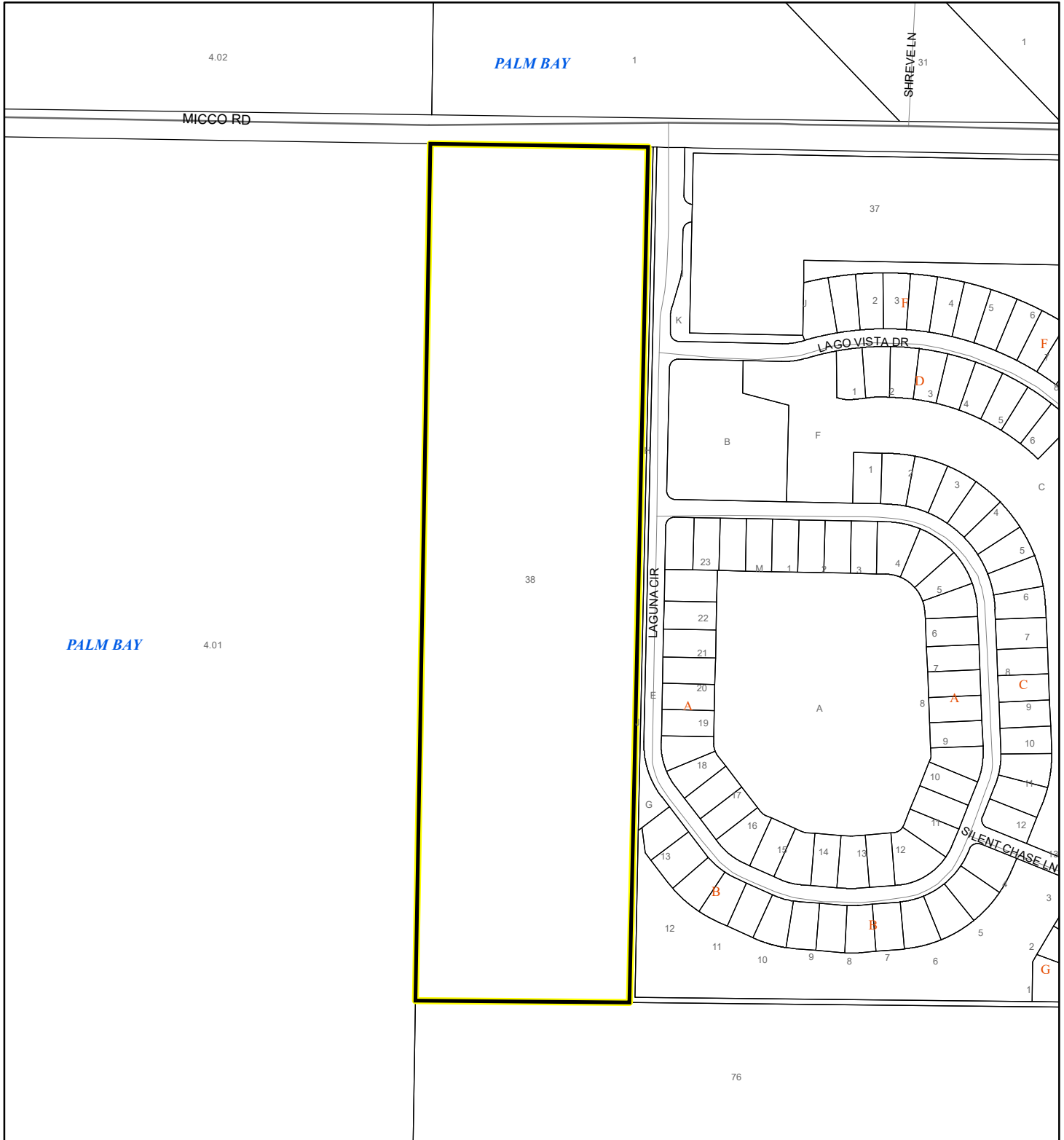
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National Wetlands Inventory (NWI)

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

RUSHING WIND, LLC
22Z00001



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

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

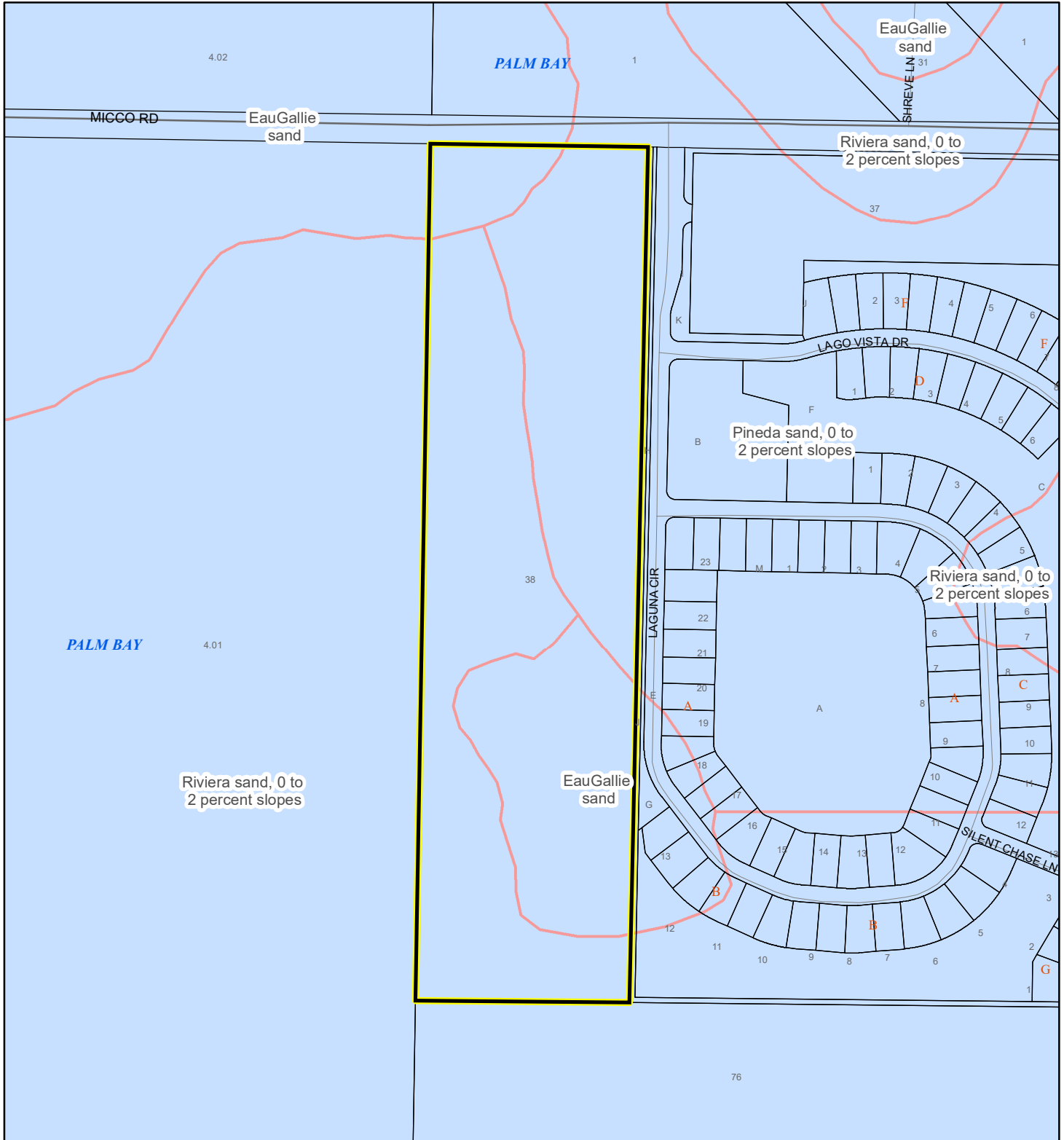
Subject Property

Parcels

USDA SCSSS SOILS MAP

RUSHING WIND, LLC

22Z00001



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

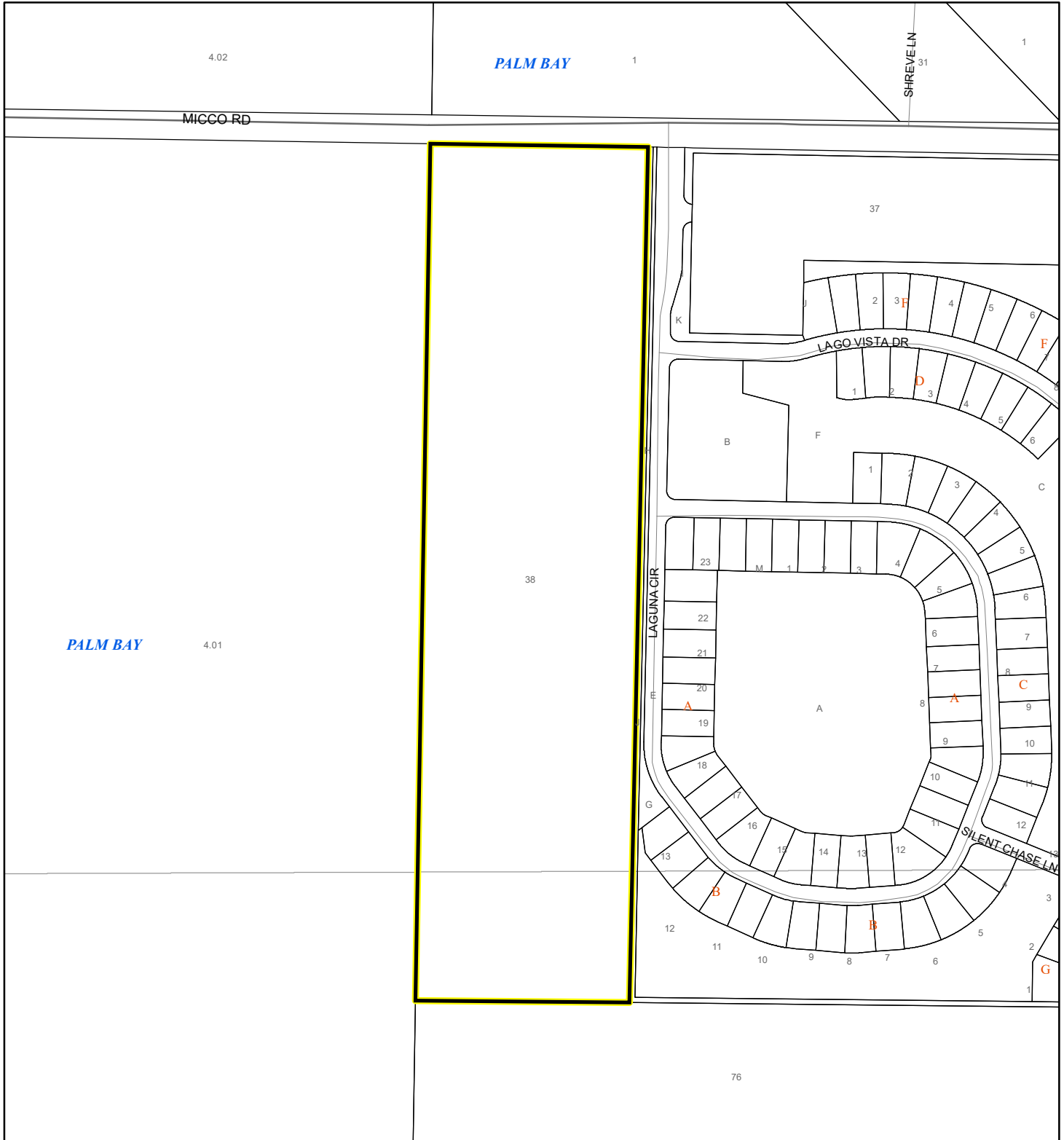
Subject Property

Parcels

FEMA FLOOD ZONES MAP

RUSHING WIND, LLC

22Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

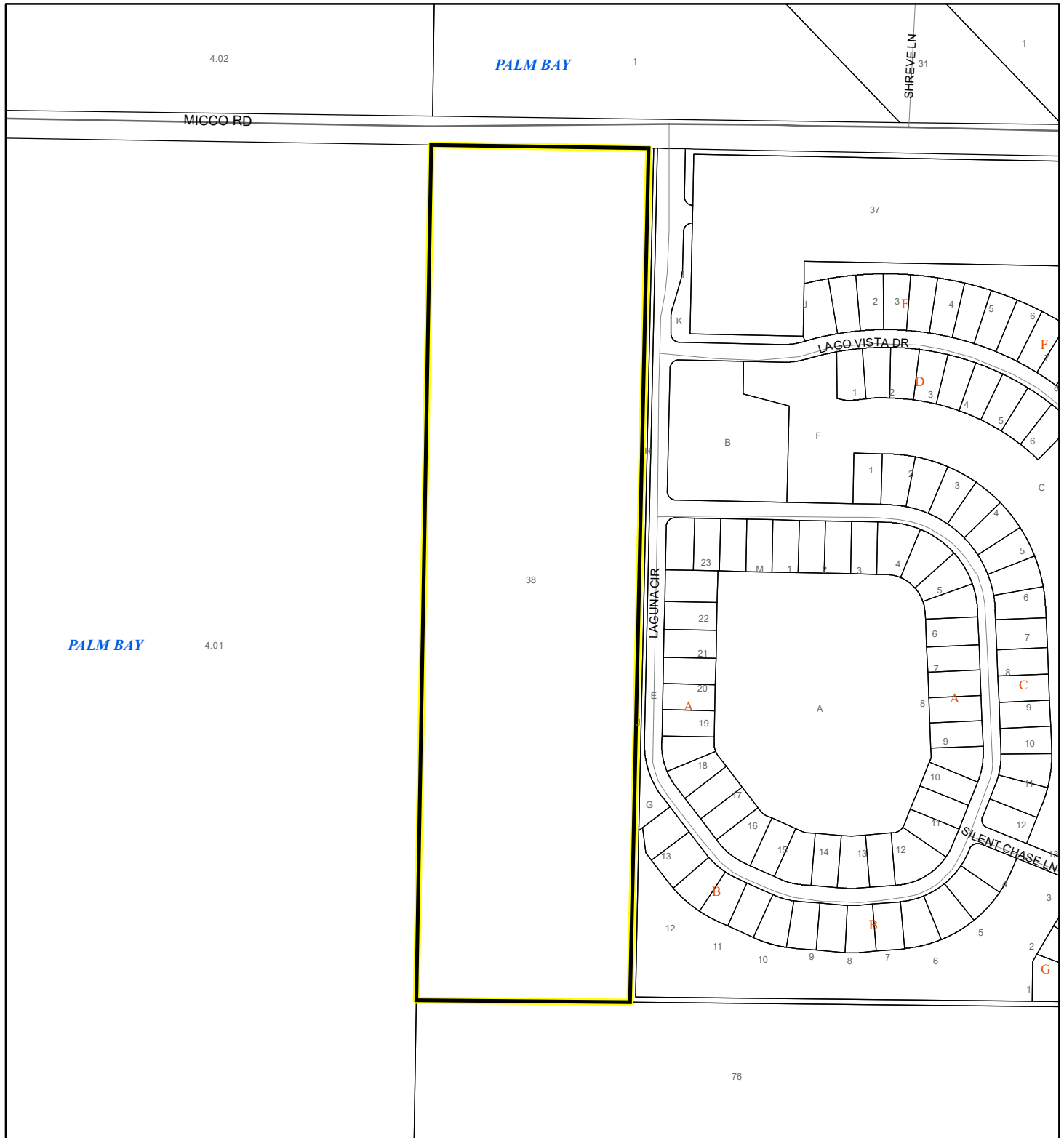
FEMA Flood Zones

 A	 AO	 X
 AE	 Open Water	
 AH	 VE	
 Subject Property	 Parcels	

COASTAL HIGH HAZARD AREA MAP

RUSHING WIND, LLC

22Z00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

 Subject Property

 Parcels

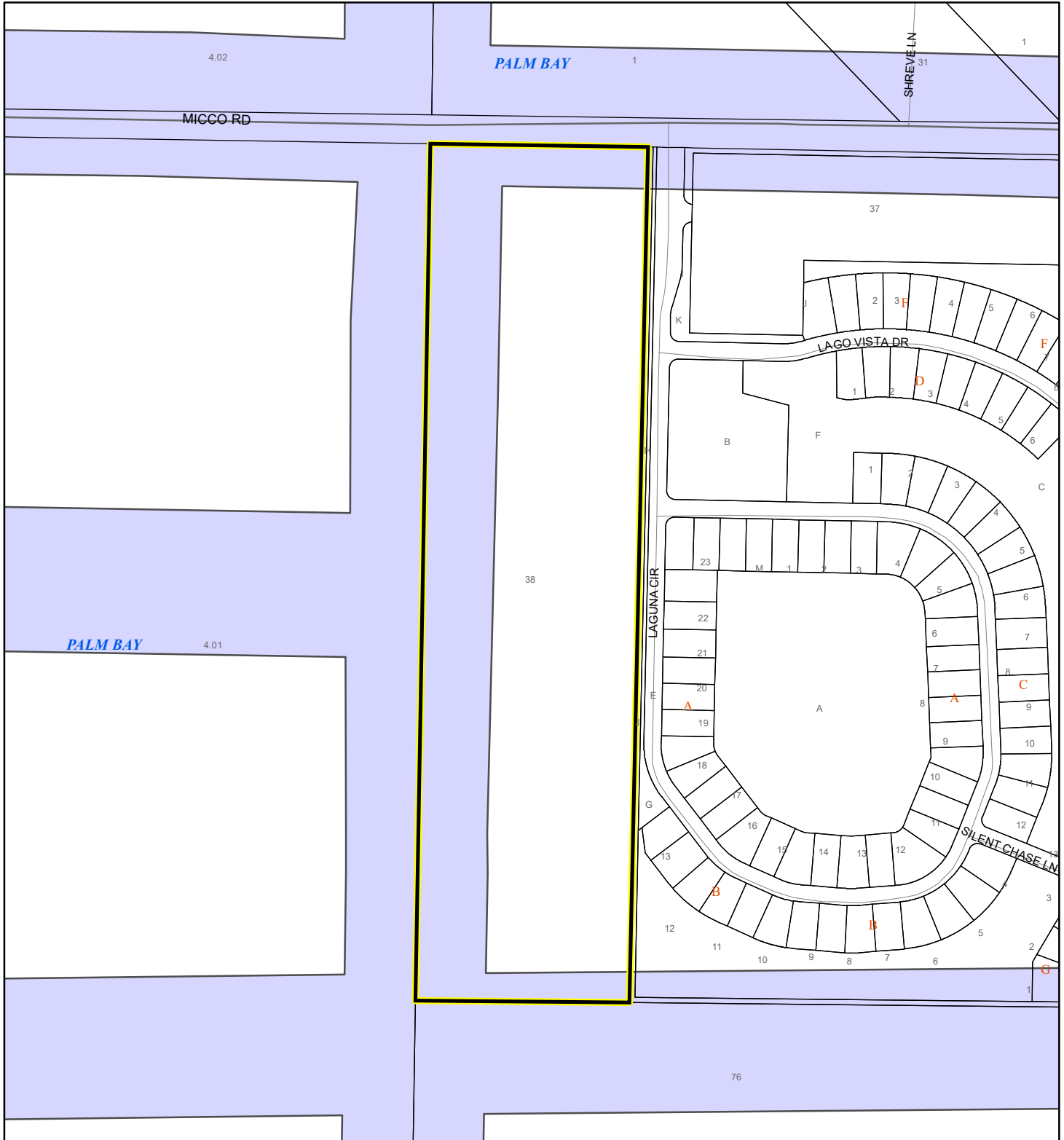
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

RUSHING WIND, LLC

22Z00001



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

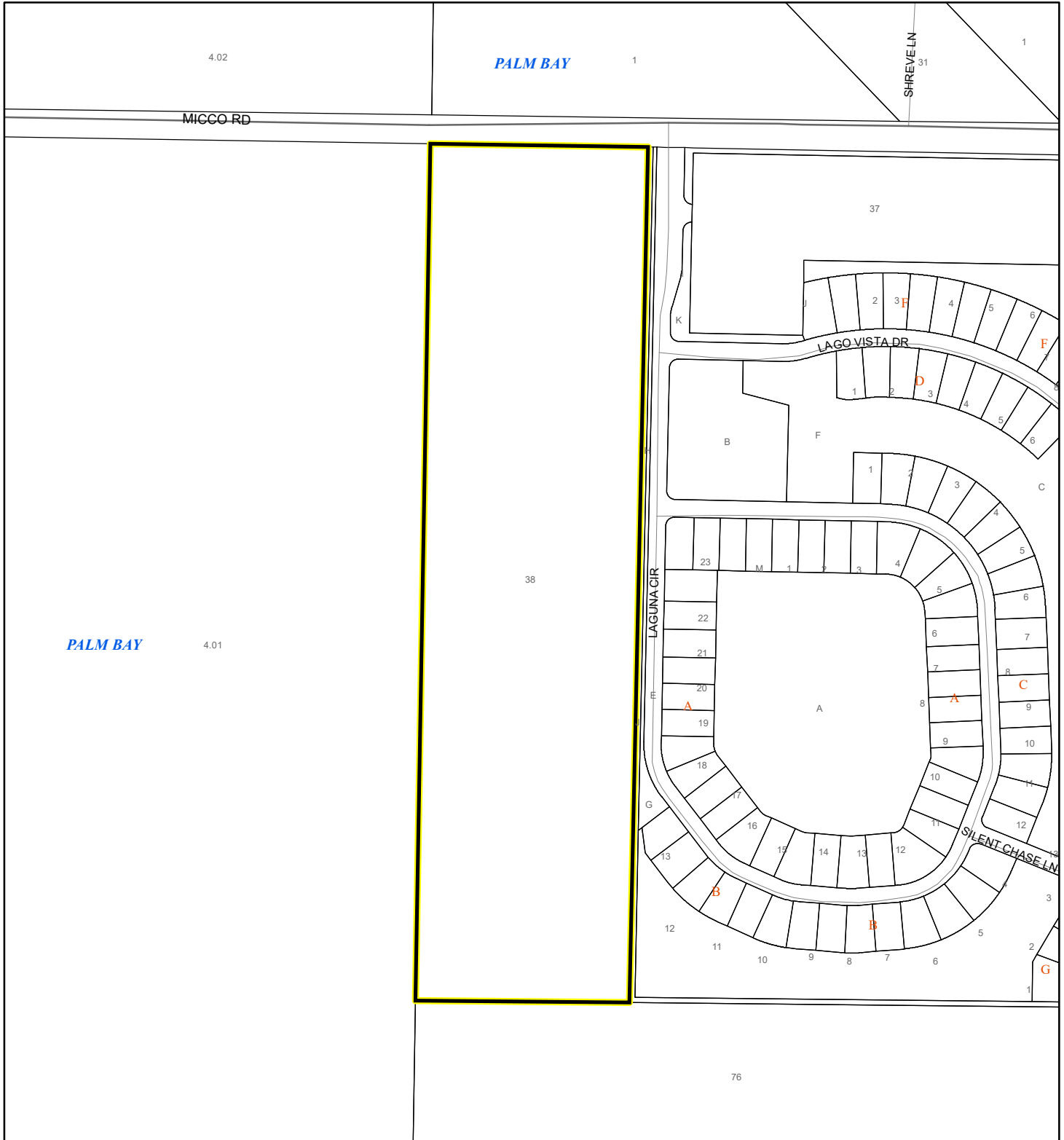
 60 Meters

 All Distances

EAGLE NESTS MAP

RUSHING WIND, LLC

22Z00001




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/21/2022

 Subject Property

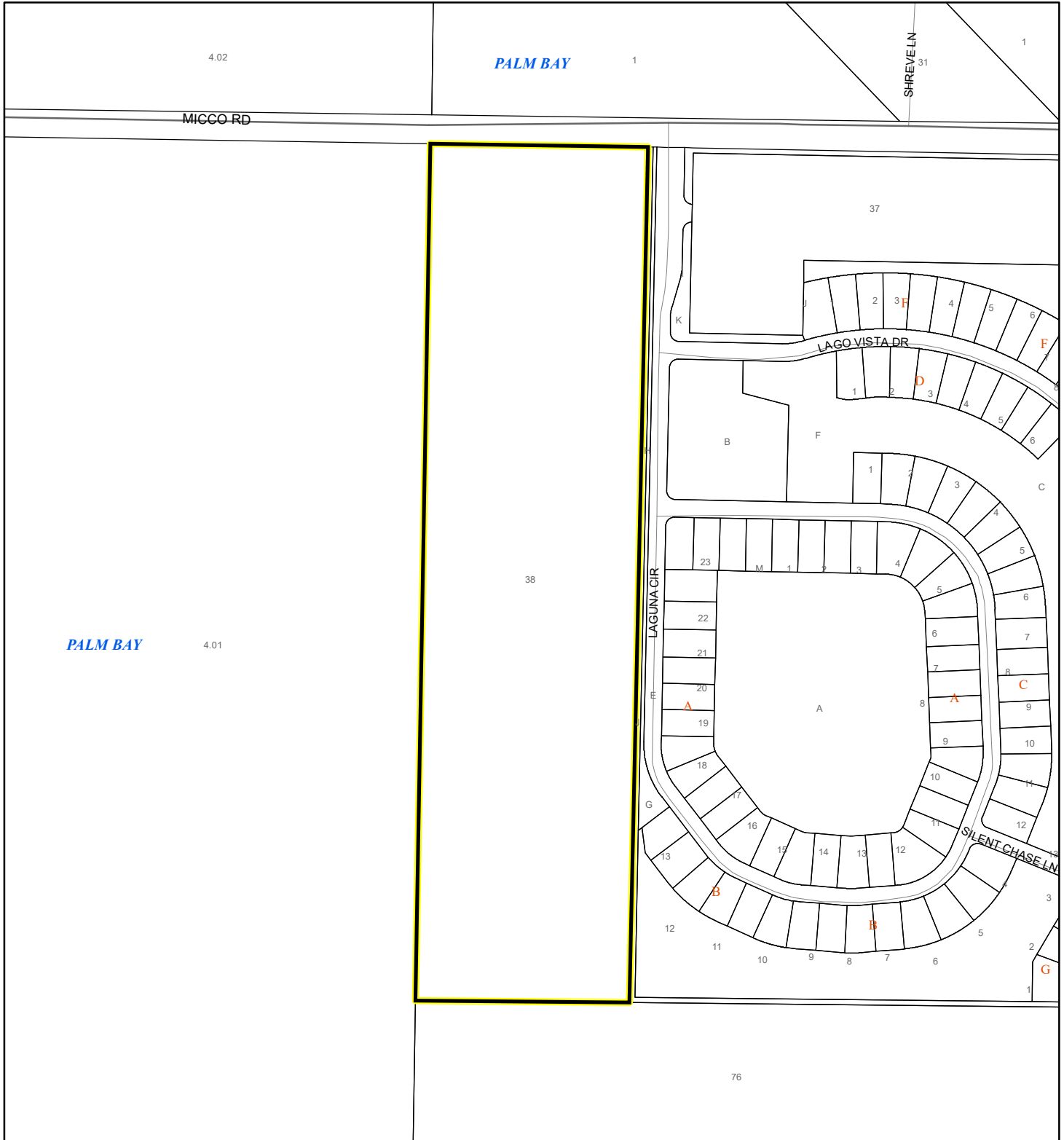
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

RUSHING WIND, LLC

22Z00001



1:4,800 or 1 inch = 400 feet

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- Subject Property
- Parcels
- Scrub Jay Occupancy

238



School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699

Dr. Mark W. Mullins, Ed.D., Superintendent

January 7, 2022

Mr. Kyle Harris, Planner 1
Planning & Development Department
Brevard County Board of County Commissioners
2726 Judge Fran Jamieson Way
Viera, Florida 32940

**RE: Proposed Rushing Wind Development,
City Project No. 3008616
School Impact Analysis – Capacity Determination CD-2022-04**

Dear Mr. Harris,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account number 3008616 (Parcel ID number: 30G-38-01-HJ-*38), containing approximately 34.65 acres in unincorporated District 3, Brevard County, Florida. The proposed development includes 96 single-family homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2022-23 to 2026-27 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2021-22 to 2026-27* which is attached for reference.

Single-Family Homes		96	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students Generated
Elementary	0.28	26.88	27
Middle	0.08	7.68	8
High	0.16	15.36	15
Total	0.52		50

Planning & Project Management
Facilities Services
Phone: (321) 633-1000 x11418 • FAX: (321) 633-4646

An Equal Opportunity Employer



**FISH Capacity (including relocatable classrooms) from the
Financially Feasible Plan (FFP) Data and Analysis for School Years 2022-23 to
2026-27**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	913	913	935	1,001	1,067
Southwest	1,211	1,211	1,211	1,211	1,211
Bayside	2,263	2,263	2,263	2,263	2,263

Projected Student Membership

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	690	738	824	929	1,061
Southwest	940	922	1,000	1,119	1,157
Bayside	1,728	1,850	1,942	2,002	2,069

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	-	-	-	-	-
Southwest	-	7	7	7	7
Bayside	-	14	14	14	14

**Cumulative Students Generated by
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	-	6	11	17	27
Southwest	-	2	3	5	8
Bayside	-	3	6	10	15

**Total Projected Student Membership (includes
Cumulative Impact of Proposed Development)**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	690	744	835	946	1,088
Southwest	940	931	1,010	1,131	1,172
Bayside	1,728	1,867	1,962	2,026	2,098

**Projected Available Capacity =
FISH Capacity - Total Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Sunrise	223	169	100	55	(21)
Southwest	271	280	201	80	39
Bayside	535	396	301	237	165

At this time, Sunrise Elementary School is not projected to have enough capacity for the total of projected and potential students from the Rushing Wind development. Because there is a shortfall of available capacity in the concurrency service areas of the Rushing Wind development, the capacity of adjacent concurrency service areas must be considered.

The adjacent elementary school concurrency service areas are Port Malabar Elementary School, Columbia Elementary School, and Westside Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Areas* that could accommodate the impacts of the Rushing Wind development is shown:

**FISH Capacity (including relocatable classrooms) from the
Financially Feasible Plan (FFP) Data and Analysis for School Years 2022-23 to
2026-27**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	852	852	852	852	852
Columbia	751	751	751	751	751

Projected Student Membership

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	636	630	636	645	632
Columbia	484	546	568	569	572

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	-	-	-	-	-
Columbia	-	-	-	-	-

**Cumulative Students Generated by
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	-	6	11	17	27
Columbia	-	6	11	17	27

**Total Projected Student Membership (includes
Cumulative Impact of Proposed Development)**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	636	636	647	662	659
Columbia	484	552	579	586	599

**Projected Available Capacity =
FISH Capacity - Total Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Port Malabar	216	216	205	190	193
Columbia	267	199	172	165	152

This is a **non-binding** review; a *Concurrency Determination* must be performed by the School District prior to a Final Development Order and the issuance of a Concurrency Evaluation Finding of Nondeficiency by the Local Government.

We appreciate the opportunity to review this proposed project. Please let us know if you require additional information.

Sincerely,



Karen M. Black, AICP
Manager – Facilities Planning & Intergovernmental Coordination
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years
2021-22 to 2026-27*

Copy: Susan Hann, AICP, Assistant Superintendent of Facility Services
File CD-2022-04

David G. Lindemann, AICP, Director of Planning & Project Management,
Facilities Services
File CD-2022-04





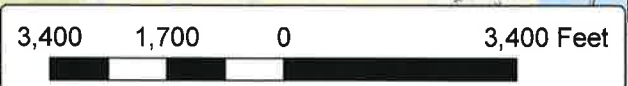
Rushing Wind Location Map



**Rushing Wind
96 Single-Family Units**

Schools Affected by Development:
Sunrise Elementary School
Southwest Middle School
Bayside High School

Drawn By:
Planning & Project Management
Karen M. Black
01/07/2022



Brevard County Public Schools
Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service
Data and Analysis for School Years 2021-22 to 2026-27



Summary	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Highest Utilization Elementary Schools:	88%	89%	95%	98%	97%	99%
Highest Utilization Middle Schools:	88%	89%	90%	89%	92%	96%
Highest Utilization Jr / Sr High Schools:	84%	84%	82%	82%	79%	78%
Highest Utilization High Schools:	101%	100%	99%	95%	94%	97%

School	Type	Grades	Utilization Factor	School Year 2021-22			School Year 2022-23			School Year 2023-24			School Year 2024-25			School Year 2025-26			School Year 2026-27		
				FISH Capacity	10/15/21 Membership	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization
Elementary School Concurrency Service Areas																					
Allen	Elementary	PK-6	100%	751	630	84%	751	632	84%	751	694	92%	751	739	98%	773	752	97%	773	738	95%
Andersen	Elementary	K-6	100%	884	592	67%	884	591	67%	884	597	68%	884	589	67%	884	565	64%	884	554	63%
Apollo	Elementary	K-6	100%	902	782	87%	902	783	87%	902	755	84%	902	761	84%	902	739	82%	902	729	81%
Atlantis	Elementary	PK-6	100%	739	629	85%	739	630	85%	739	616	83%	739	600	81%	739	592	80%	739	576	78%
Audubon	Elementary	PK-6	100%	761	464	61%	761	464	61%	761	458	60%	761	438	58%	761	427	56%	761	440	58%
Cambridge	Elementary	PK-6	100%	765	506	66%	765	506	66%	765	513	67%	765	510	67%	765	485	63%	765	480	63%
Cape View	Elementary	PK-6	100%	570	278	49%	570	285	50%	570	287	50%	570	281	49%	570	286	50%	570	284	50%
Carroll	Elementary	K-6	100%	751	614	82%	751	619	82%	751	605	81%	751	613	82%	751	600	80%	751	593	79%
Challenger 7	Elementary	PK-6	100%	573	506	88%	573	508	89%	573	476	83%	573	449	78%	573	437	76%	573	414	72%
Columbia	Elementary	PK-6	100%	751	462	62%	751	484	64%	751	546	73%	751	568	76%	751	569	76%	751	572	76%
Coquina	Elementary	K-6	100%	711	534	75%	711	531	75%	711	557	78%	711	572	80%	711	596	84%	711	602	85%
Creel	Elementary	PK-6	100%	1,114	717	64%	1,114	762	68%	1,114	812	73%	1,114	847	76%	1,114	877	79%	1,114	922	83%
Croton	Elementary	PK-6	100%	795	487	61%	795	488	61%	795	530	67%	795	559	70%	795	586	74%	795	604	76%
Discovery	Elementary	PK-6	100%	980	615	63%	980	644	66%	980	639	65%	980	633	65%	980	608	62%	980	611	62%
Endeavour	Elementary	PK-6	100%	968	657	68%	968	670	69%	968	668	69%	968	641	66%	968	627	65%	968	640	66%
Enterprise	Elementary	K-6	100%	729	605	83%	729	608	83%	729	587	81%	729	561	77%	729	529	73%	729	513	70%
Fairglenn	Elementary	PK-6	100%	789	581	74%	789	580	74%	789	597	76%	789	620	79%	789	626	79%	789	639	81%
Gemini	Elementary	K-6	100%	711	427	60%	711	442	62%	711	440	62%	711	424	60%	711	420	59%	711	409	58%
Golfview	Elementary	PK-6	100%	777	454	58%	777	454	58%	777	467	60%	777	503	65%	777	513	66%	777	521	67%
Harbor City	Elementary	PK-6	100%	629	359	57%	629	357	57%	629	386	61%	629	399	63%	629	400	64%	629	411	65%
Holland	Elementary	PK-6	100%	605	444	73%	605	465	77%	605	471	78%	605	473	78%	605	472	78%	605	477	79%
Imperial Estates	Elementary	K-6	100%	729	624	86%	729	622	85%	729	626	86%	729	619	85%	729	620	85%	729	645	88%
Indianantic	Elementary	K-6	100%	798	671	84%	798	672	84%	798	658	82%	798	646	81%	798	620	78%	798	622	78%
Jupiter	Elementary	PK-6	100%	930	724	78%	930	721	78%	930	817	88%	930	857	92%	930	854	92%	930	820	87%
Lockmar	Elementary	PK-6	100%	892	632	71%	892	631	71%	892	594	67%	892	578	65%	892	559	63%	892	553	62%
Longleaf	Elementary	PK-6	100%	790	594	75%	790	594	75%	790	587	74%	790	583	74%	790	565	72%	790	551	70%
Manatee	Elementary	K-6	100%	998	843	84%	998	855	86%	998	815	82%	998	793	79%	998	765	77%	998	750	75%
McAuliffe	Elementary	PK-6	100%	918	634	69%	918	633	69%	918	624	68%	918	583	64%	918	576	63%	918	565	62%
Meadowlane Intermediate	Elementary	3-6	100%	1,114	832	75%	1,114	832	75%	1,114	902	81%	1,114	920	83%	1,114	950	85%	1,114	950	85%
Meadowlane Primary	Elementary	K-6	100%	824	678	82%	824	678	82%	824	731	89%	824	725	88%	824	734	89%	824	731	89%
Mila	Elementary	PK-6	100%	707	438	62%	707	432	61%	707	430	61%	707	444	63%	707	417	59%	707	416	59%
Mims	Elementary	PK-6	100%	725	431	59%	725	442	61%	725	433	60%	725	441	61%	725	452	62%	725	446	62%
Oak Park	Elementary	PK-6	100%	968	561	58%	968	563	58%	968	554	57%	968	510	53%	968	508	52%	968	523	54%
Ocean Breeze	Elementary	PK-6	100%	654	538	82%	654	543	83%	654	524	80%	654	506	77%	654	484	74%	654	472	72%
Palm Bay Elem	Elementary	PK-6	100%	983	547	56%	983	567	58%	983	571	58%	983	570	58%	983	602	61%	983	622	63%
Pinewood	Elementary	PK-6	100%	569	496	87%	569	500	88%	569	517	91%	569	524	92%	569	526	92%	569	532	93%
Port Malabar	Elementary	PK-6	100%	852	636	75%	852	636	75%	852	630	74%	852	636	75%	852	645	76%	852	632	74%
Quest	Elementary	PK-6	100%	1,152	673	58%	1,152	673	58%	1,152	694	60%	1,152	722	63%	1,152	734	64%	1,152	728	63%
Riviera	Elementary	PK-6	100%	777	624	80%	777	631	81%	777	681	88%	777	709	91%	777	722	93%	777	750	97%
Roosevelt	Elementary	K-6	100%	599	263	44%	599	261	44%	599	241	40%	599	221	37%	599	202	34%	599	190	32%
Sabal	Elementary	PK-6	100%	785	516	66%	785	507	65%	785	516	66%	785	523	67%	785	516	66%	785	530	68%
Saturn	Elementary	PK-6	100%	976	678	69%	976	679	70%	976	731	75%	976	772	79%	976	822	84%	976	810	83%
Sea Park	Elementary	PK-6	100%	461	299	65%	461	317	69%	461	324	70%	461	324	70%	461	330	72%	461	331	72%
Sherwood	Elementary	PK-6	100%	609	428	70%	609	429	70%	609	429	70%	609	434	71%	609	442	73%	609	441	73%
Sunrise	Elementary	PK-6	100%	913	691	76%	913	690	76%	913	738	81%	913	824	88%	1,001	929	93%	1,067	1,061	95%
Suntree	Elementary	K-6	100%	755	595	79%	755	595	79%	755	584	77%	755	555	74%	755	546	72%	755	523	69%
Surfside	Elementary	K-6	100%	541	408	75%	541	407	75%	541	372	69%	541	345	64%	541	336	62%	541	329	61%
Tropical	Elementary	K-6	100%	910	641	70%	910	642	71%	910	635	70%	910	614	67%	910	597	66%	910	609	67%
Turner	Elementary	PK-6	100%	874	579	66%	874	576	66%	874	621	71%	874	642	73%	874	659	75%	874	694	79%
University Park	Elementary	PK-6	100%	811	466	57%	811	464	57%	811	496	61%	811	554	68%	811	622	77%	811	657	81%
Viera Elem	Elementary	K-6	100%	1,030	585	57%	1,030	635	62%	1,030	671	65%	1,030	742	72%	1,030	826	80%	1,030	902	88%
Westside	Elementary	K-6	100%	857	728	85%	857	761	89%	857	815	95%	857	855	97%	857	872	97%	857	895	97%
Williams	Elementary	PK-6	100%	715	494	69%	715	493	69%	715	483	68%	715	473	66%	715	452	63%	715	438	61%
Elementary Totals				42,471	29,890		42,471	30,184		42,471	30,745		42,515	31,024		42,625	31,190		42,735	31,547	



Middle School Concurrency Service Areas																		
Central	Middle	7-8	90%	1,514	1,171	77%	1,514	1,171	77%	1,514	1,217	80%	1,514	1,238	82%	1,514	1,360	90%
DeLaura	Middle	7-8	90%	960	843	88%	960	851	89%	960	829	86%	960	854	89%	960	816	85%
Hoover	Middle	7-8	90%	680	510	75%	680	510	75%	680	485	71%	680	506	74%	680	550	81%
Jackson	Middle	7-8	90%	660	574	87%	660	574	87%	660	594	90%	660	556	84%	660	540	82%
Jefferson	Middle	7-8	90%	873	622	71%	873	622	71%	873	583	67%	873	580	66%	873	583	67%
Johnson	Middle	7-8	90%	1,064	690	65%	1,064	690	65%	1,064	707	66%	1,064	752	71%	1,064	795	75%
Kennedy	Middle	7-8	90%	869	682	78%	869	682	78%	869	641	74%	869	617	71%	869	628	72%
Madison	Middle	7-8	90%	781	480	61%	781	480	61%	781	471	60%	781	480	61%	781	457	59%
McNair	Middle	7-8	90%	611	336	55%	611	350	57%	611	359	59%	611	353	58%	611	362	59%
Southwest	Middle	7-8	90%	1,211	940	78%	1,211	940	78%	1,211	922	76%	1,211	1,000	83%	1,211	1,119	92%
Stone	Middle	7-8	90%	1,024	747	73%	1,024	747	73%	1,024	706	69%	1,024	745	73%	1,024	772	75%
Middle Totals				10,247	7,595		10,247	7,617		10,247	7,514		10,247	7,681		10,247	7,941	
Junior / Senior High School Concurrency Service Areas																		
Cocoa	Jr / Sr High	PK, 7-12	90%	2,084	1,516	73%	2,084	1,517	73%	2,084	1,578	76%	2,084	1,627	78%	2,084	1,637	79%
Cocoa Beach	Jr / Sr High	7-12	90%	1,445	943	65%	1,445	955	66%	1,445	917	63%	1,445	890	62%	1,445	821	57%
Space Coast	Jr / Sr High	7-12	90%	1,852	1,556	84%	1,852	1,557	84%	1,852	1,526	82%	1,852	1,511	82%	1,852	1,465	79%
Jr / Sr High Totals				5,381	4,015		5,381	4,029		5,381	4,021		5,381	4,028		5,381	3,923	
Senior High School Concurrency Service Areas																		
Astronaut	High	9-12	95%	1,451	1,077	74%	1,451	1,076	74%	1,451	1,094	75%	1,451	1,086	75%	1,451	1,076	74%
Bayside	High	9-12	95%	2,263	1,653	73%	2,263	1,728	76%	2,263	1,850	82%	2,263	1,942	86%	2,263	2,002	88%
Eau Gallie	High	PK, 9-12	95%	2,221	1,610	72%	2,221	1,605	72%	2,221	1,634	74%	2,221	1,655	75%	2,221	1,680	76%
Heritage	High	9-12	95%	2,314	1,991	86%	2,314	2,038	88%	2,314	2,149	93%	2,314	2,193	95%	2,314	2,179	94%
Melbourne	High	9-12	95%	2,370	2,210	93%	2,370	2,208	93%	2,370	2,201	93%	2,370	2,200	93%	2,370	2,151	91%
Merritt Island	High	PK, 9-12	95%	1,962	1,523	78%	1,962	1,523	78%	1,962	1,494	76%	1,962	1,454	74%	1,962	1,401	71%
Palm Bay	High	PK, 9-12	95%	2,631	1,286	49%	2,631	1,325	50%	2,631	1,467	56%	2,631	1,573	60%	2,631	1,645	63%
Rockledge	High	9-12	95%	1,836	1,568	85%	1,836	1,568	85%	1,836	1,641	89%	1,836	1,658	90%	1,836	1,638	89%
Satellite	High	PK, 9-12	95%	1,527	1,513	99%	1,551	1,550	100%	1,551	1,533	98%	1,551	1,470	95%	1,551	1,438	93%
Titusville	High	9-12	95%	1,849	1,231	67%	1,849	1,272	69%	1,849	1,295	70%	1,849	1,313	71%	1,849	1,330	72%
Viera	High	PK, 9-12	95%	2,203	2,216	101%	2,251	2,233	99%	2,583	2,272	88%	2,583	2,386	92%	2,583	2,411	93%
High Totals				22,627	17,878		22,699	18,126		23,031	18,630		23,031	18,930		23,031	18,953	
Schools of Choice (Not Concurrency Service Areas)																		
Freedom 7	Elementary	K-6	100%	475	406	85%	475	414	87%	475	414	87%	475	414	87%	475	414	87%
South Lake	Elementary	K-6	100%	481	396	82%	481	417	87%	481	417	87%	481	417	87%	481	417	87%
Stevenson	Elementary	K-6	100%	569	498	88%	569	508	89%	569	508	89%	569	508	89%	569	508	89%
West Melbourne	Elementary	K-6	100%	618	544	88%	618	552	89%	618	552	89%	618	552	89%	618	552	89%
Edgewood	Jr / Sr High	7-12	90%	1,077	921	86%	1,077	950	88%	1,077	950	88%	1,077	950	88%	1,077	950	88%
West Shore	Jr / Sr High	7-12	90%	1,264	946	75%	1,264	946	75%	1,264	946	75%	1,264	946	75%	1,264	946	75%
Schools of Choice				4,484	3,711		4,484	3,787		4,484	3,787		4,484	3,787		4,484	3,787	
Brevard Totals				85,210	63,089		85,282	63,743		85,614	64,697		85,658	65,450		85,768	65,794	

Notes

1. FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2021-22 are reported from the FISH database as of October 12, 2021.
2. Student Membership is reported from the Fall Final Membership Count (10/15/2021).
3. Davis Demographics SchoolSite Enrollment Forecasting Extension for ArcGIS estimates future student populations by analyzing the following data:
 - Development Projections from Brevard County Local Government Jurisdictions
 - Brevard County School Concurrency Student Generation Multipliers (SGM)
 - Fall Membership student addresses and corresponding concurrency service areas
 - Student Mobility Rates / Cohort Survival Rates
 - Brevard County Birth rates by zip code
4. Davis Demographics estimates are then adjusted using the following factors:
 - PK (Pre-Kindergarten) and AH (daycare for students with infants) enrollment number are assumed to be constant
 - Current From/To attendance patterns are assumed to remain constant.
 - Nongeocoded student addresses are assumed to continue in their attendance schools.
 - Charter School Growth.
5. In order to maintain utilization rates lower than the 100% Level of Service, Permanent Capacity and Relocatable Classrooms are assumed to add future student stations as necessary.
6. A total of 15 Relocatable Classrooms are assumed to add future student stations as listed below:
 - Primary relocatable classrooms (Grades K-3) = 18 student stations, Intermediate (Grades 4-8) relocatable classrooms = 22 student stations, and High School (Grades 9-12) relocatable classrooms = 25 student stations
 - Intermediate relocatable classrooms are proposed to be added at Roy Allen Elementary, Jupiter Elementary, Sunrise Elementary, and Westside Elementary Schools (Total 12 Classrooms)
 - High school relocatable classrooms are proposed to be added at Satellite High and Viera High (Total of 3 Classrooms)
7. A classroom addition is planned for construction at Viera High School for 2023-24. The factored capacity is adjusted for the proposed 350 student stations.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.7.

3/14/2022

Subject:

Brian G. and Debra S. Lawson (Kim Rezanka) request a change of zoning classification from GU to RR-1 with a BDP. (22Z00005) (Tax Accounts 2314706, 2314720, 2322365, 2322366, 2314737, 3018241, 2314738, 2314709) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from GU (General Use) to RR-1 (Rural Residential) with a BDP (Binding Development Plan).

Summary Explanation and Background:

The applicant requests to reconfigure 10-lots zoned GU (General Use) into 4-lots zoned RR-1 (Rural Residential) with a BDP (Binding Development Plan) limited to 4 units. This request has the potential to reduce the number of lots from 10 to 4 lots and increase the minimum residential living area from 750 square feet as currently required by the GU zoning classification to at least 1,200 square feet required by the RR-1 zoning classification.

The developed character of the surrounding area is a mixture of single-family residential and mobile home zoning classifications. Surrounding the property is undeveloped lots retaining the GU and AU zoning classification. The introduction of RR-1 zoning could be considered consistent with the prior recordings of 1-acre lots within the recorded Survey Book. The RR-1 zoning classification will recognize the existing development patterns of the area.

The Board may wish to consider whether the rezoning request with a BDP is consistent and compatible with the surrounding area.

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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

22Z00005

Brian G. & Debra S. Lawson

GU (General Use) to RR-1 (Rural Residential) with BDP

Tax Account Numbers: 2314706, 2314720, 2314737, 2314738, 2314739, 2322365, 2322366, and 3018241

Parcel I.D.s: 23-35-35-01-14-4, 23-35-35-01-16-2, 23-35-35-01-16-3, 23-35-35-01-16-5, 23-35-35-01-16-23, 23-35-35-01-16-24, 23-35-35-01-16-25, 23-35-35-01-16-26

Location: 4680 Grissom Parkway Cocoa, FL 32927 (District 1)

Acreage: 11.8 acres

Planning & Zoning Board: 3/14/2022

Board of County Commissioners: 4/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	GU	RR-1 with BDP
Potential*	9 combined nonconforming lots** 1 substandard remnant lot	4 SF lots
Can be Considered under the Future Land Use Map	YES RES 1:2.5	YES RES 1:2.5***

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. ** 62-1188(4) considers ownership for combining lots to satisfy the Comprehensive Plan.

***Applicant/owner is proposing to combine various lots to be consistent with the 2.5-acre lot area density limitation to be consistent with RES 1:2.5 Future Land Use Designation.

Background and Purpose of Request

The applicant requests to reconfigure 10-lots zoned GU (General Use) into 4-lots zoned RR-1 (Rural Residential) classification with a BDP (Binding Development Plan) limited to 4 units.

The zoning is the original 1958 GU zoning. This request has the potential to reduce the number of lots from 10 to 4 lots and increase the minimum residential living area from 750 square feet as

currently required by the GU zoning classification to at least 1,200 square feet required by the RR-1 zoning classification. The proposed BDP is used to limit the minimum lot area of each proposed lot. The reconfiguration of lots will require the revocation of a previously approved administrative approval for a flag lot and for an administrative approval of an easement lot. The easement lot was approved under **AA-1871** on September, 2003. The flag lot was administratively approved under **18PZ00034** on May 30, 2018. The applicant will need to demonstrate compliance with 62-102 regarding access and the issuance of a Building Permit.

According to 62-1188(4), If two or more lots or a combination of lots and portions of lots with contiguous frontage in single ownership are of record, and if all or part of the lots do not meet the requirements for lot width, lot area and lot depth as established in this section, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter. Where two or more nonconforming lots of record are combined for the purpose of requesting a new zoning classification which would make the combined lots conforming as one parcel, the lots shall not be re-divided subsequent to the rezoning except where such division would create lots consistent with all other provisions of the comprehensive plan and zoning regulations.

Land Use

The subject property is currently designated Residential 1:2.5 (RES 1:2.5). The existing GU and proposed RR-1 zoning with BDP density limitation request are both consistent with the Residential 1:2.5 (RES 1:2.5) FLU designation.

Applicable Land Use Policies

FLUE Policy 1.10 The Residential 1:2.5 Future land use designation. The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The applicant proposes the development of four single-family residential lots limited under a Binding Development Plan.

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

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

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

1. historical land use patterns;

This area is residential in nature. Most of the lots identified within the Canaveral Groves Subdivision recorded in Survey Book 2 Page 57.

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

The owner has received approval to create a flag lot for residential purposes within this area in the preceding four (4) years. The residence was completed on February 19, 2020.

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

There is a mobile home development within this area that has received Zoning approval in the preceding three (3) years. That project lies 865-feet to the east and was approved under Zoning Resolution 20Z00006. That action approved a change in zoning from TR-1 to TRC-1 with CUP for the cluster development of mobile homes with a BDP to limit development to 100-units.

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

This property will need to be developed in compliance with the Comprehensive Plan.

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

The developed character of the surrounding area is a mixture of single-family residential and mobile home zoning classifications. Surrounding the property is undeveloped lots retaining the GU and AU zoning classification. The introduction of RR-1 zoning could be considered consistent with the prior recordings of 1-acre lots within the recorded Survey Book. The RR-1 zoning classification will recognize the existing development patterns of the area. GU zoning is considered a holding zoning classification for areas lacking specific development trends. Consistency with the RES 1:2.5 FLUM would suggest the RR-1 zoning is not consistent with the current FLUM per Section 62-1255 Exhibit A of Brevard County Code. The proposed BDP will limit development consistent with 2.5-acre lots.

	Existing Land Use	Zoning	Future Land Use
--	-------------------	--------	-----------------

North	vacant	GU	RES 1;2.5
South	vacant	GU	RES 1;2.5
East	vacant	GU	RES 1;2.5
West	vacant	GU & AU	RES 1;2.5

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

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

TR-1 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet.

There was one zoning action within a half-mile radius of the subject property within the last three years. The zoning action was **20Z00006** which was approved by the Board on November 17, 2020. The request changed the property from TR-1 (Single-Family Mobile Home) to TRC-1 (Single-Family Mobile Home Cooperative) with a CUP for Cluster Development of Mobile Homes and a (Binding Development Plan (BDP) recorded in ORB 8923, Pages 875-886. The BDP limited development to 100 units, expanded a 10-foot buffer to 20-feet and provided a conservation easement over the wetlands. That site is 870 feet to the east of this request between Fountain Palm Road and Hess Avenue.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Grissom Parkway, between Canaveral Groves Boulevard to Camp Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 48.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.1%. The corridor is anticipated to operate at 48.38% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal reduces the number of residential lots.

The parcel does not have access to public water from the City of Cocoa. The potential sewer connection is on the east side of the Grissom Parkway 2,060 feet south at the Canaveral Groves Boulevard intersection.

Environmental Constraints

- Hydric Soils/Wetlands

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species – Florida Scrub Jay

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

For Board Consideration

The Board may wish to consider whether the rezoning request with a BDP is consistent and compatible with the surrounding area.

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

Item # 22Z00005

Applicant: Rezanka for Lawson

Zoning Request: GU to RR-1 w/BDP

Note: Applicant wants to combine eight parcels into four SFR flag lots

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID Nos: 2314706, 2314720, 2314737, 2314738, 2314739, 2322365, 2322366 & 3018241

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species – Florida Scrub Jay

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

Land Use Comments:

Hydric Soils/Wetlands

The subject property contains a small area of mapped hydric soils (St Johns sand depression) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. 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 as defined in Section 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. At time of building permit application, a wetland determination/delineation may be required.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

Aerials indicate that project site is forested. Protected (greater than or equal to 14 inches in diameter for pines) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside 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. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

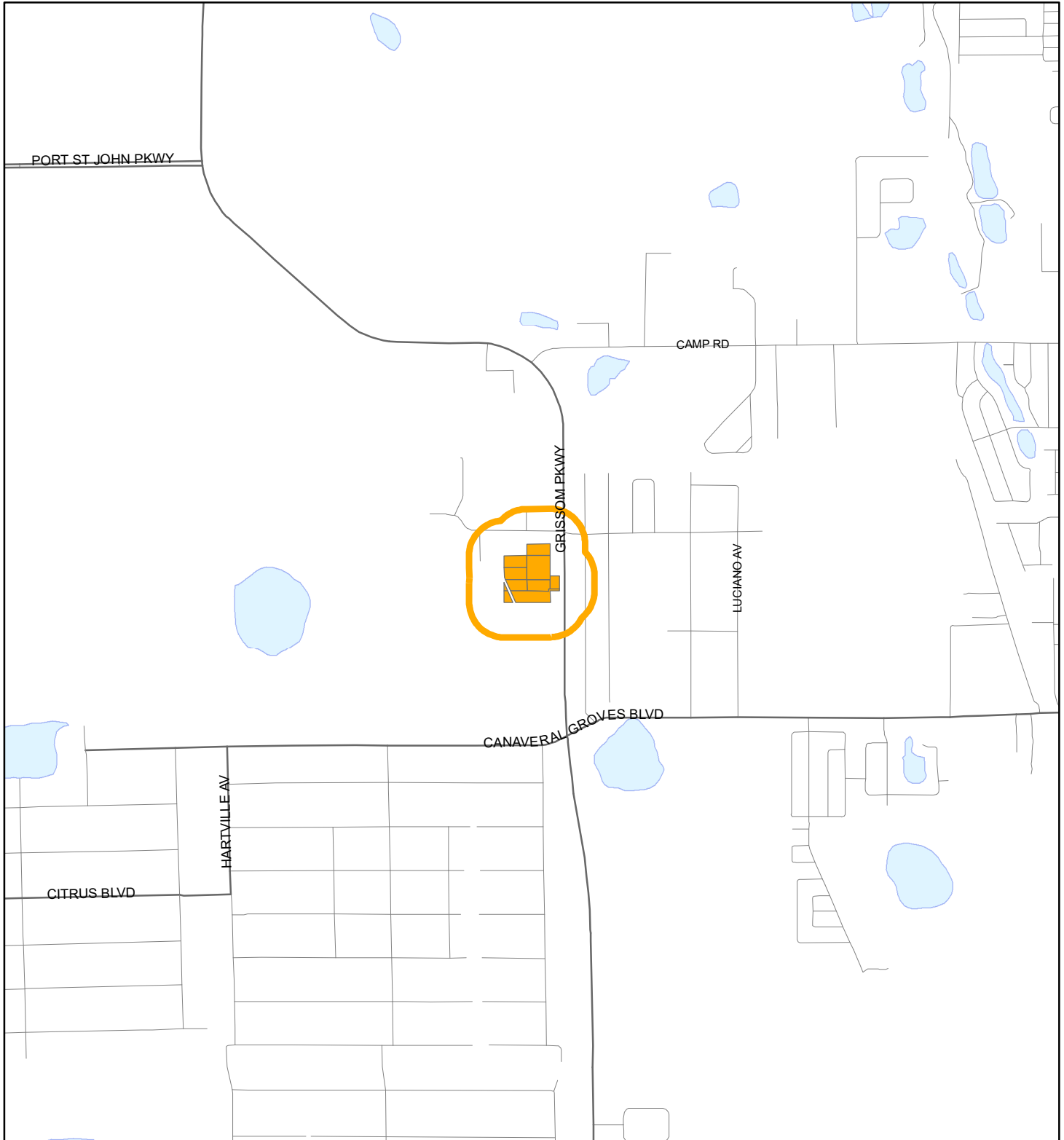
Protected Species – Florida Scrub Jay

Information available to NRM indicates that federally and/or state protected species may be present on the property. The subject property has mapped Florida Scrub Jay polygon over the entire site as shown on the Scrub Jay Occupancy Map. In addition, gopher tortoises can be found in areas of aquifer recharge soils. 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

LAWSON, BRIAN G. AND DEBRA S.

22Z00005





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

Buffer Distance: 500 feet

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

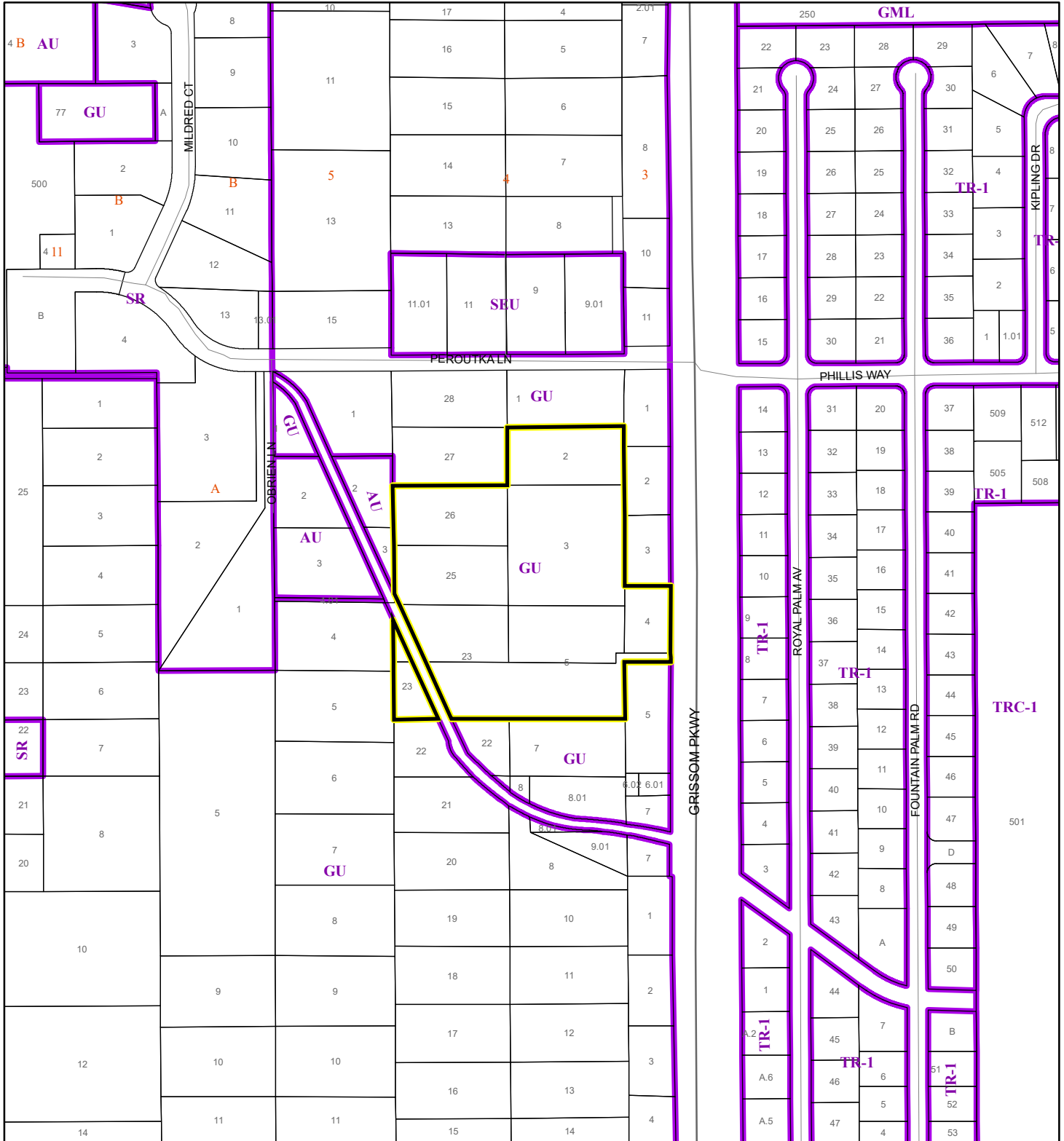
Produced by BoCC - GIS Date: 1/12/2022

 Buffer
 Subject Property

ZONING MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/12/2022

Subject Property

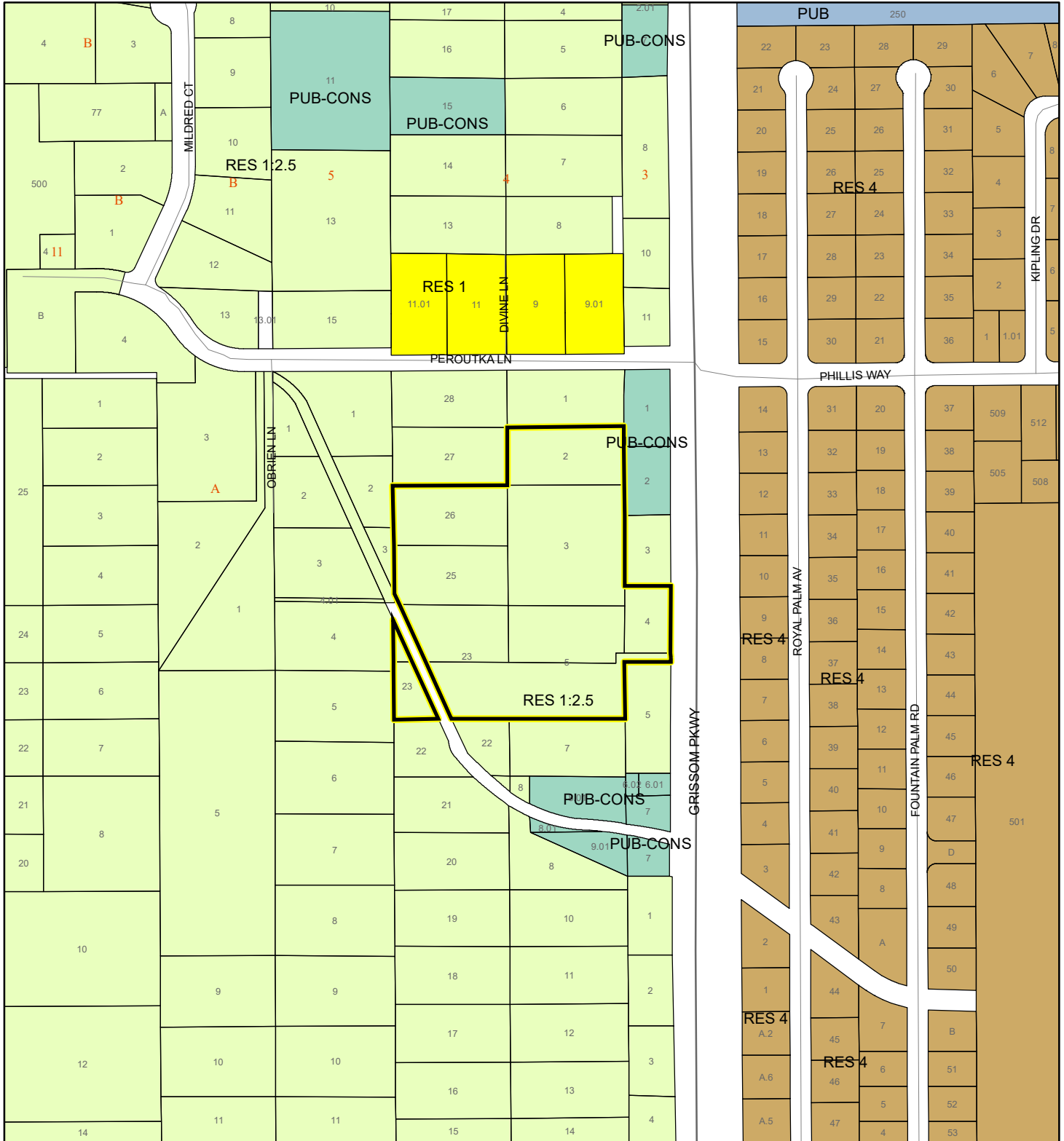
Parcels

Zoning

FUTURE LAND USE MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

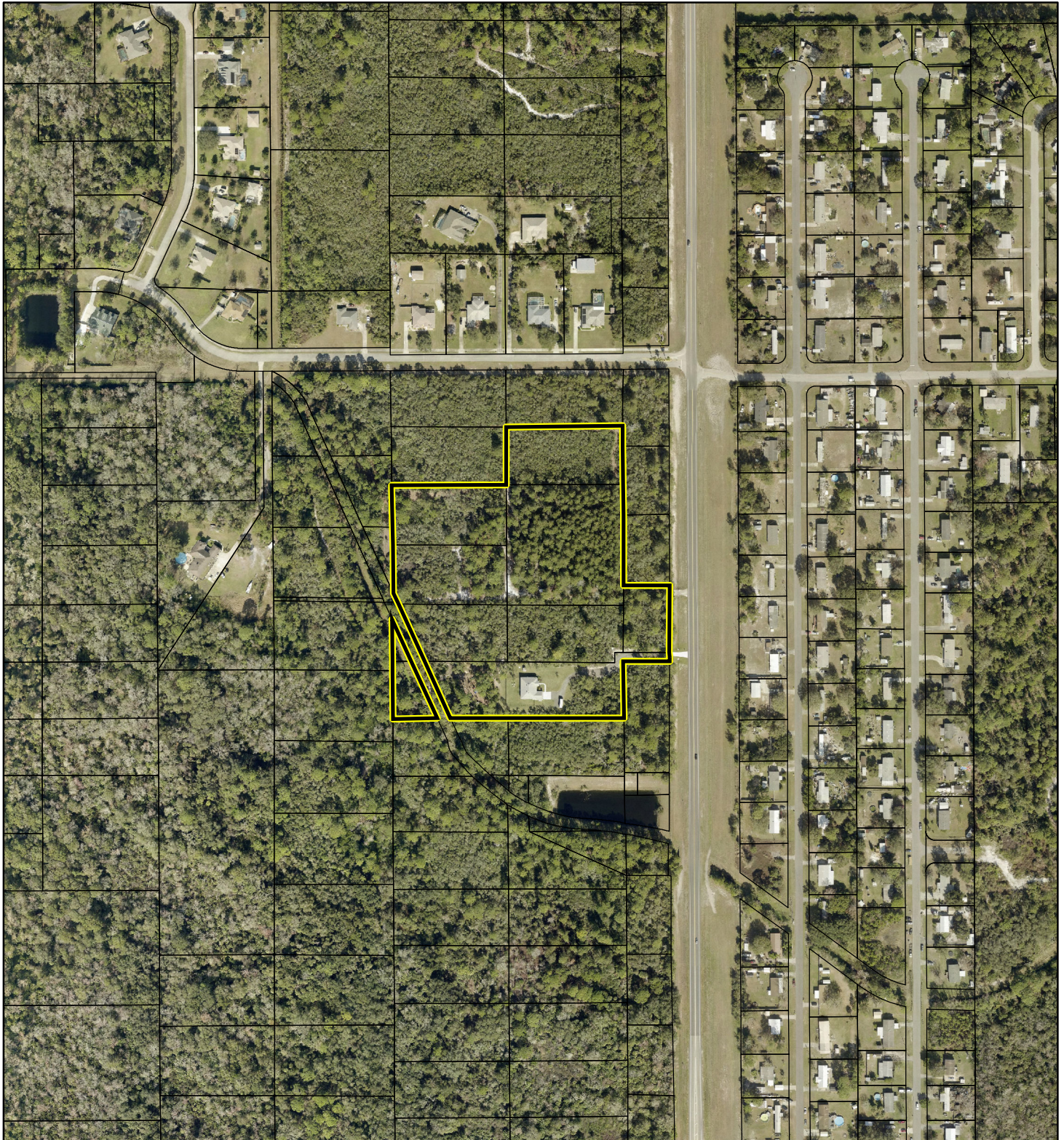
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/12/2022

AERIAL MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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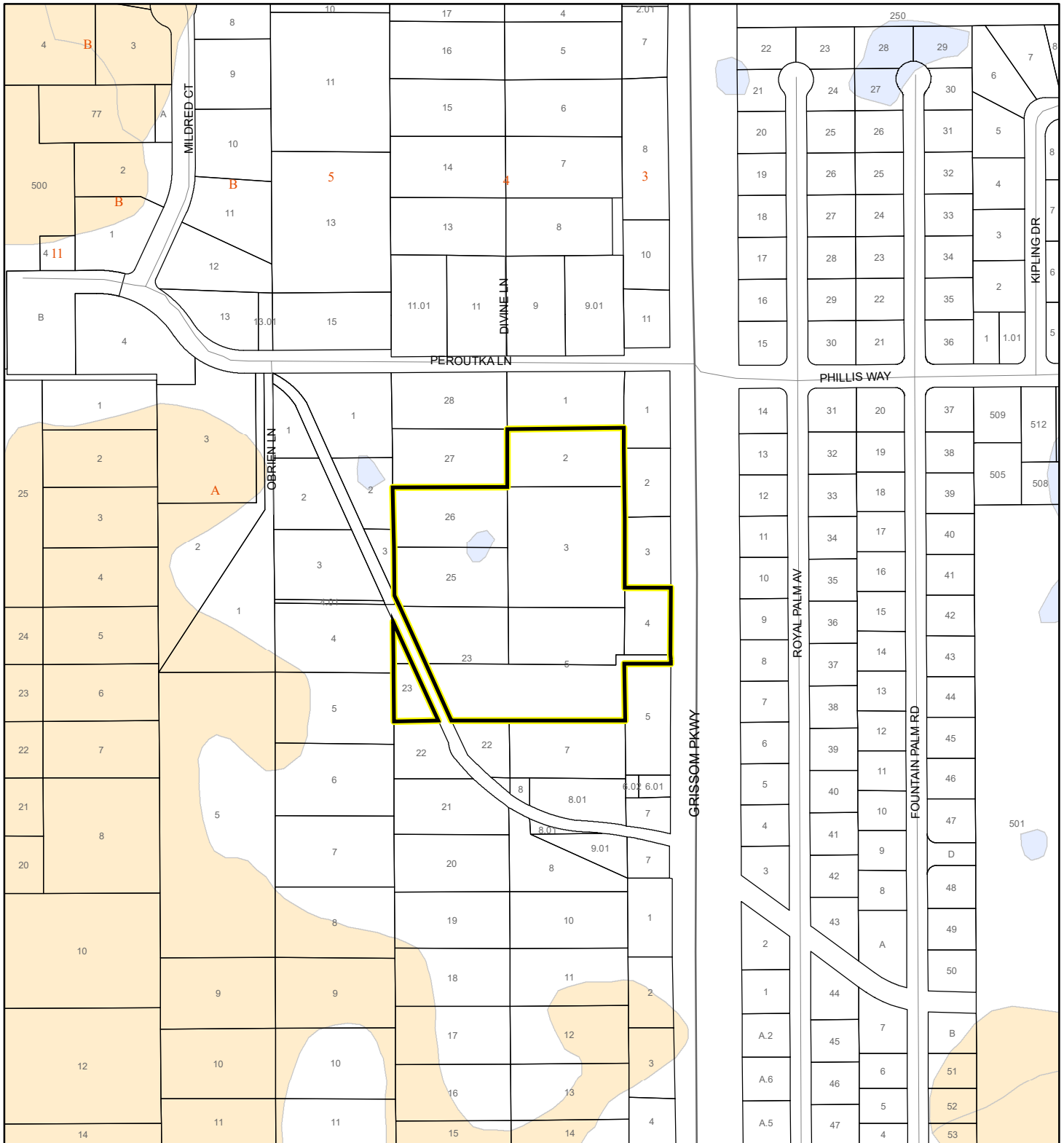
Produced by BoCC - GIS Date: 1/12/2022

 Subject Property
 Parcels

NWI WETLANDS MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

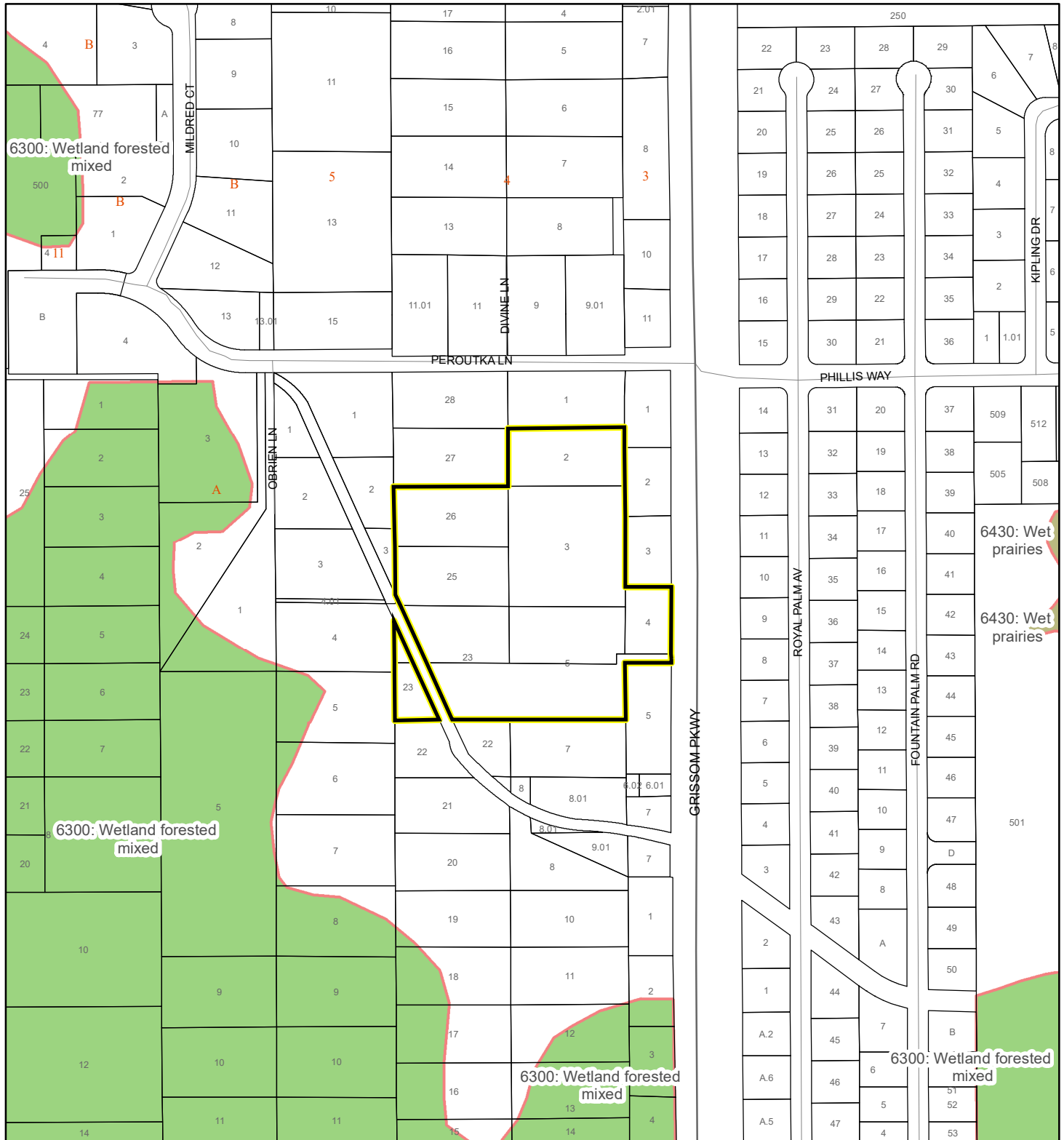
National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|-----------------|
| 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

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

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

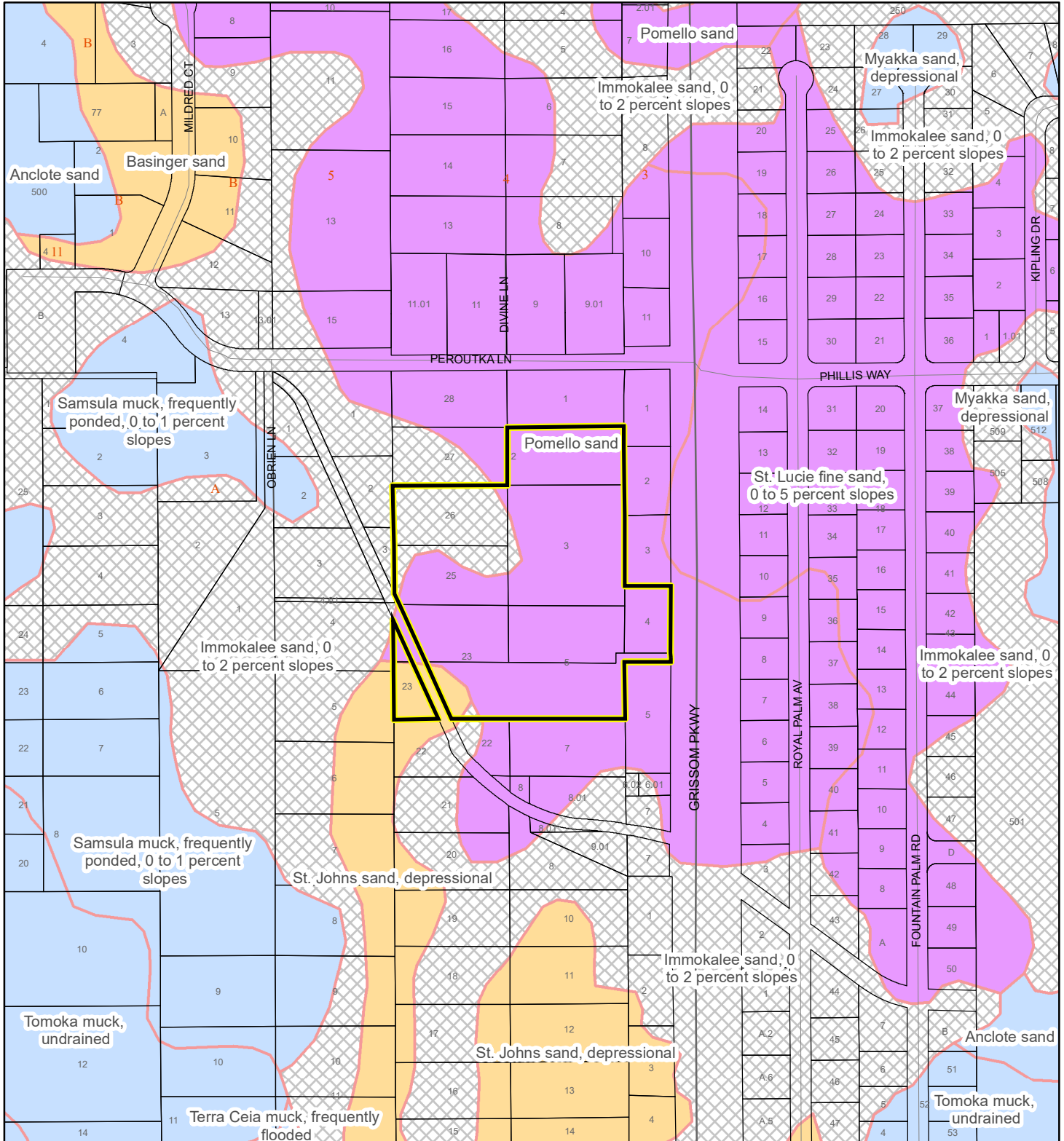
Subject Property

Parcels

USDA SCSSS SOILS MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/12/2022

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

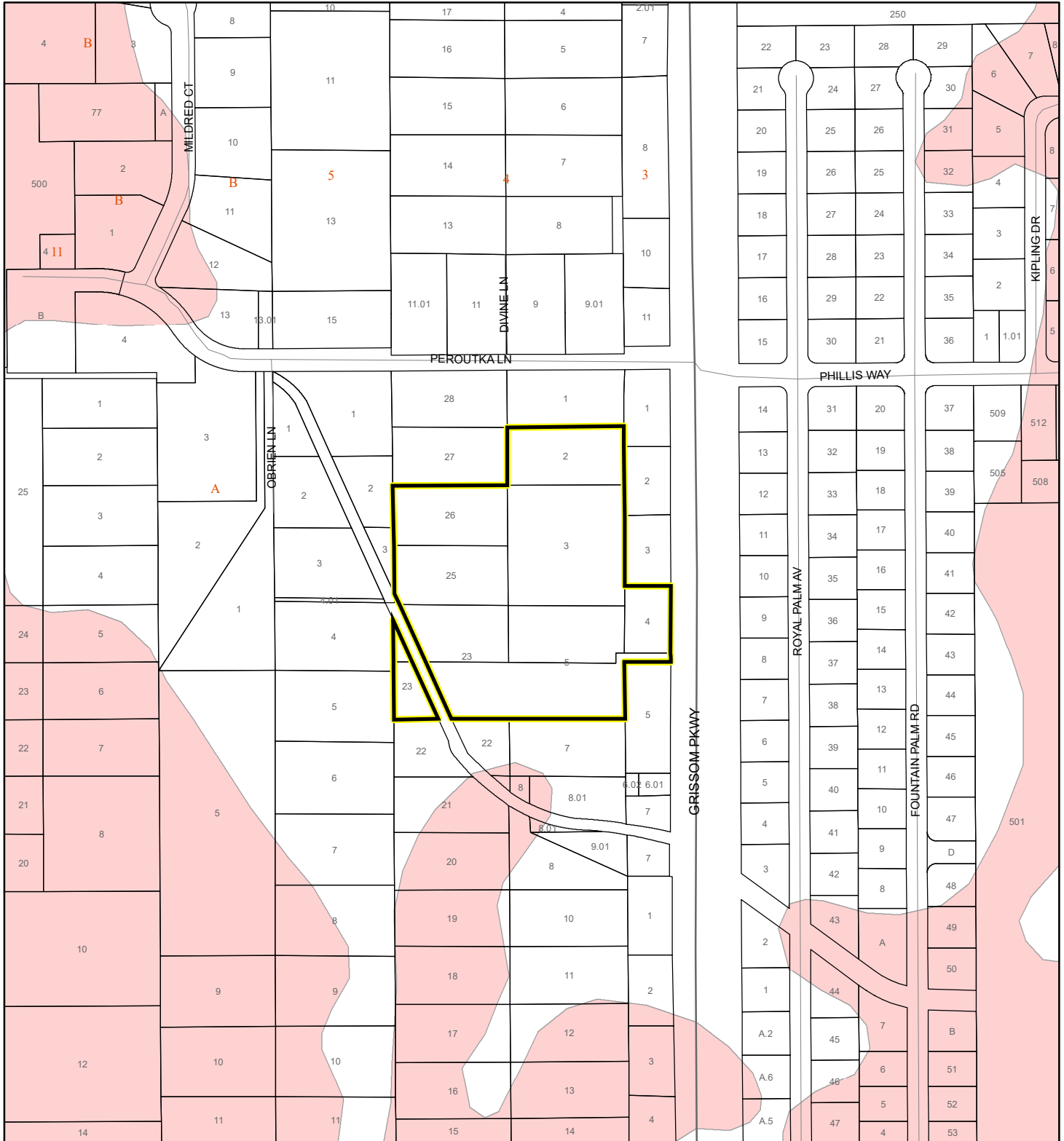
Subject Property

Parcels

FEMA FLOOD ZONES MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

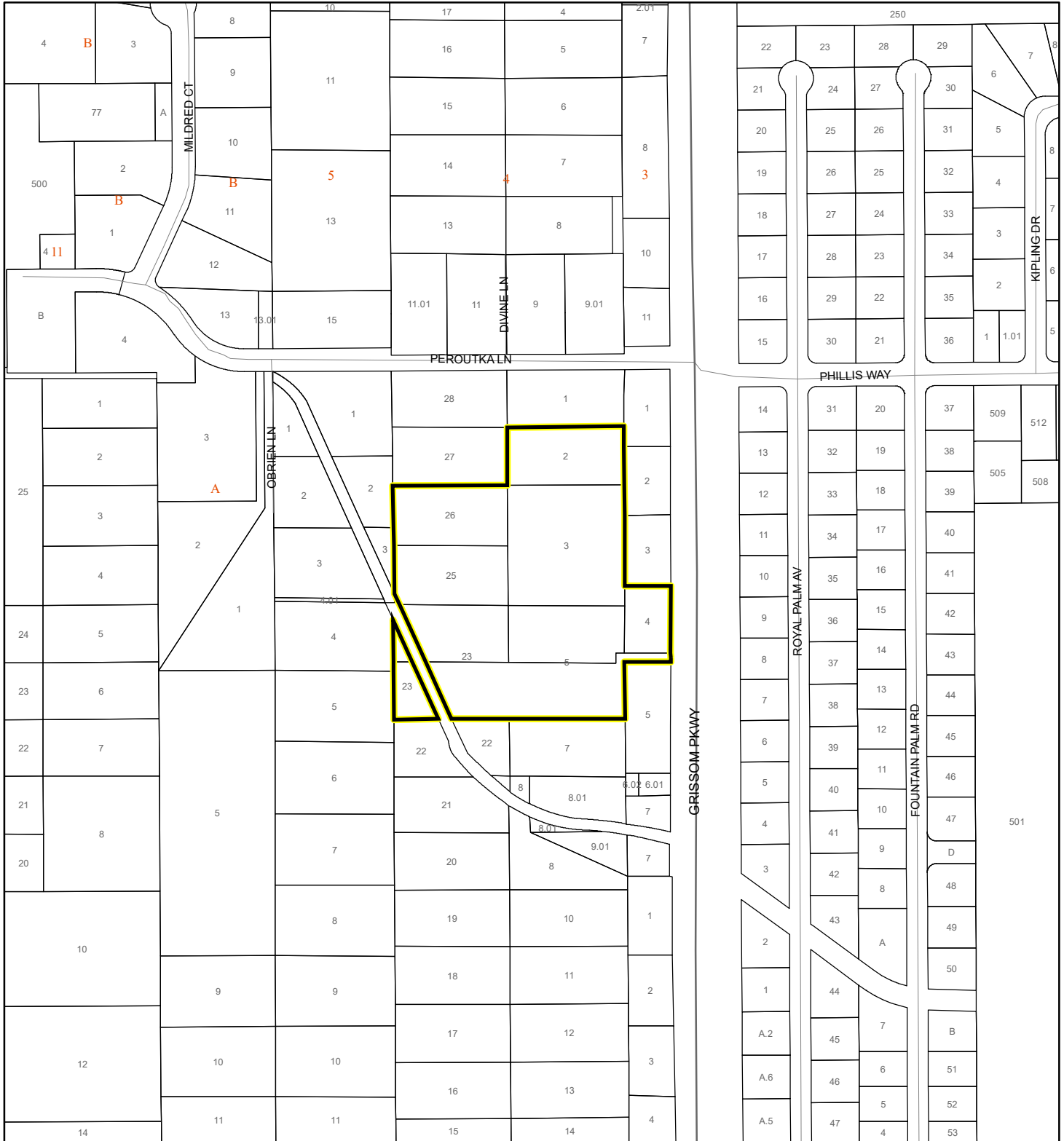
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 1/12/2022

 Subject Property

 Parcels

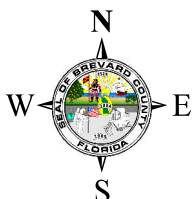
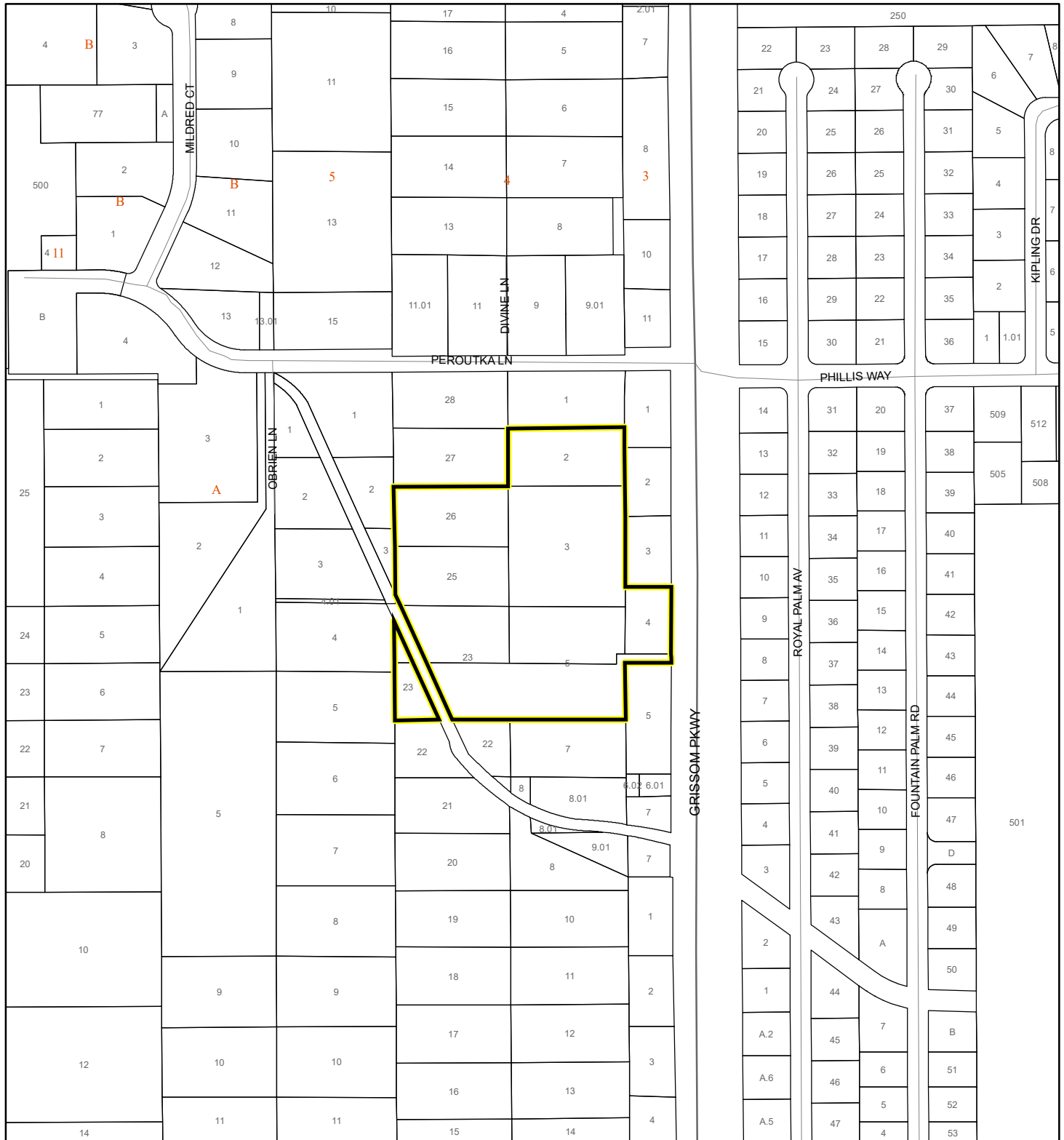
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

Subject Property

Parcels

Septic Overlay

40 Meters

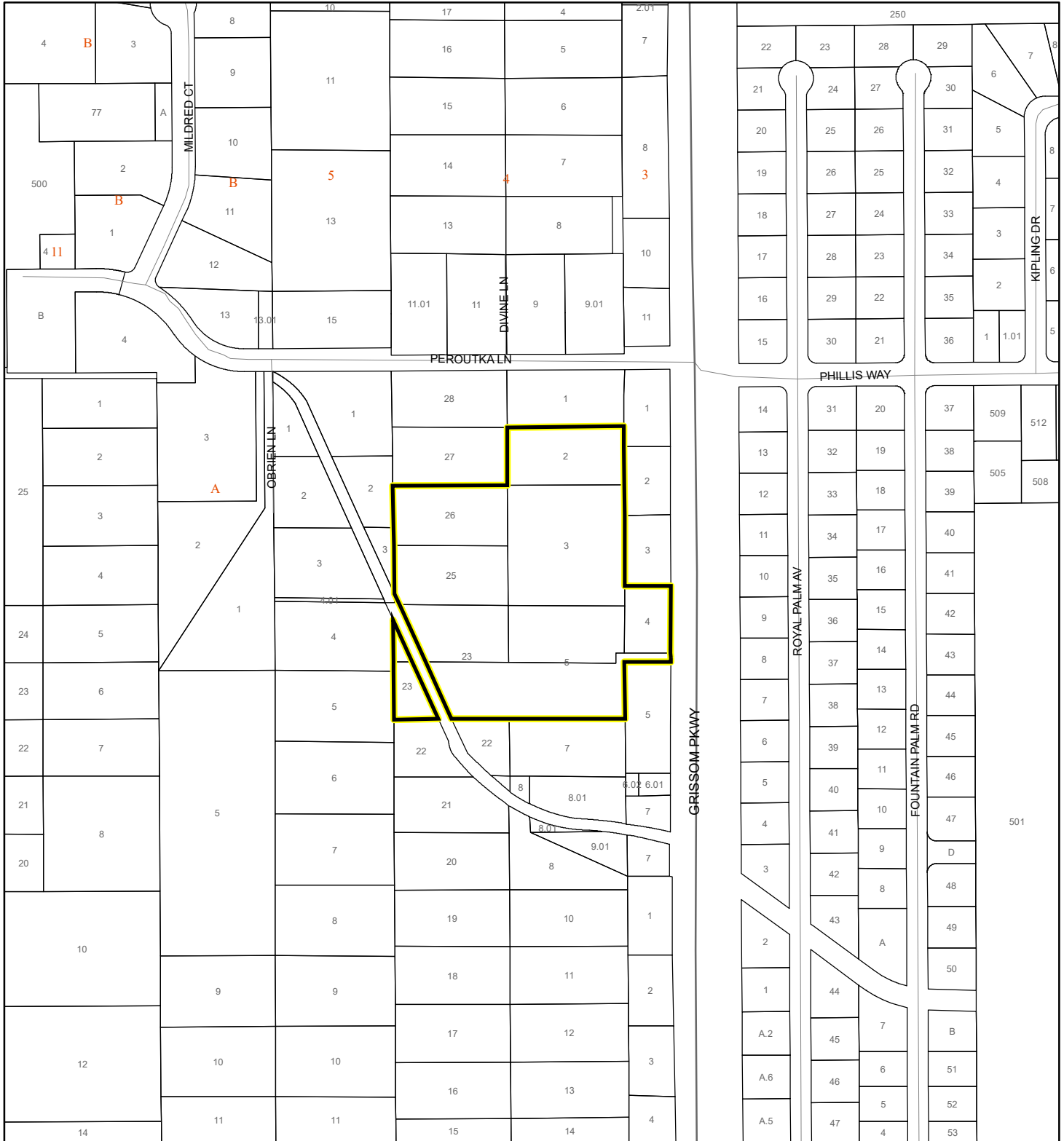
60 Meters

All Distances

EAGLE NESTS MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

 Subject Property

 Parcels

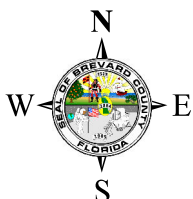
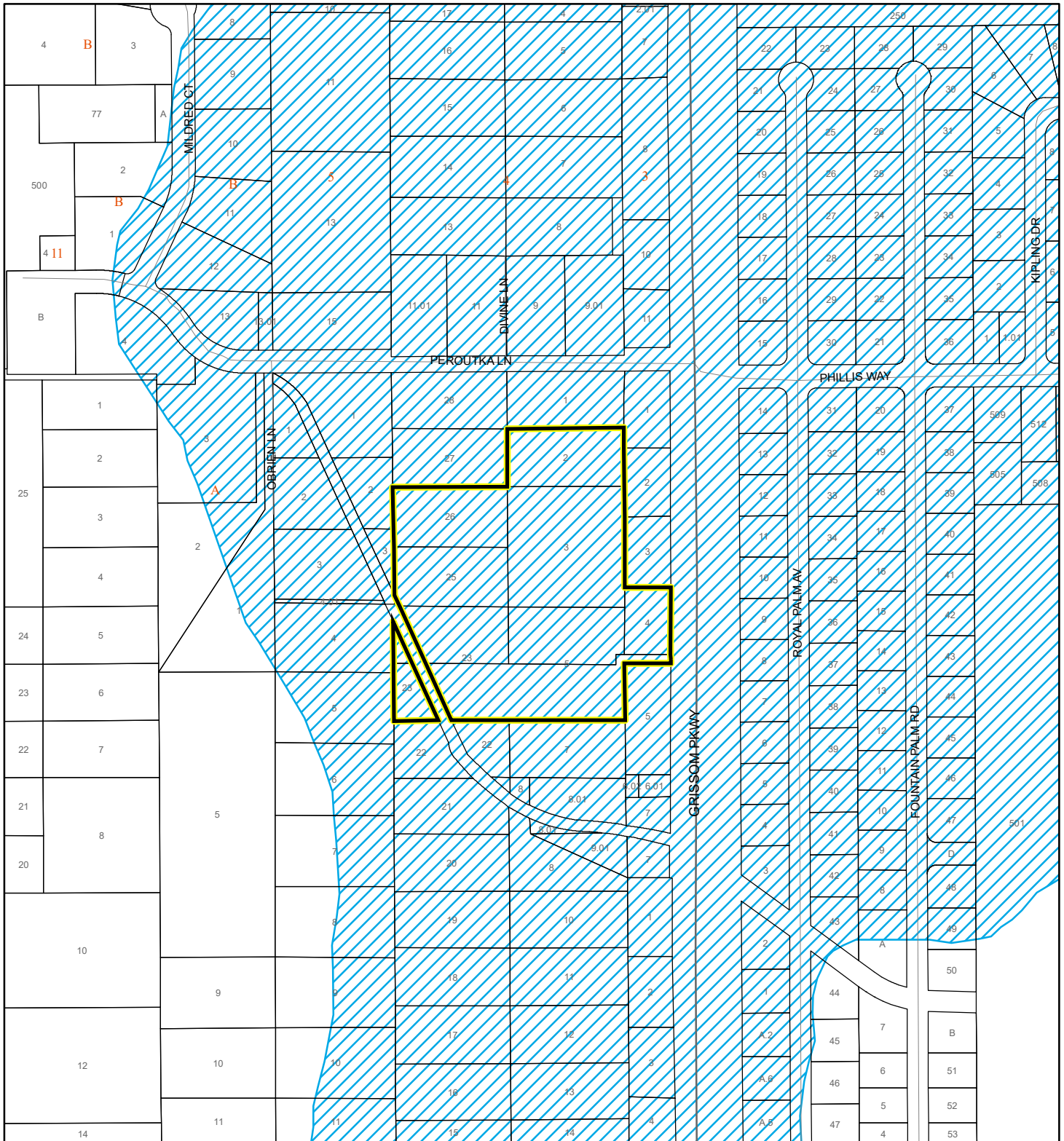


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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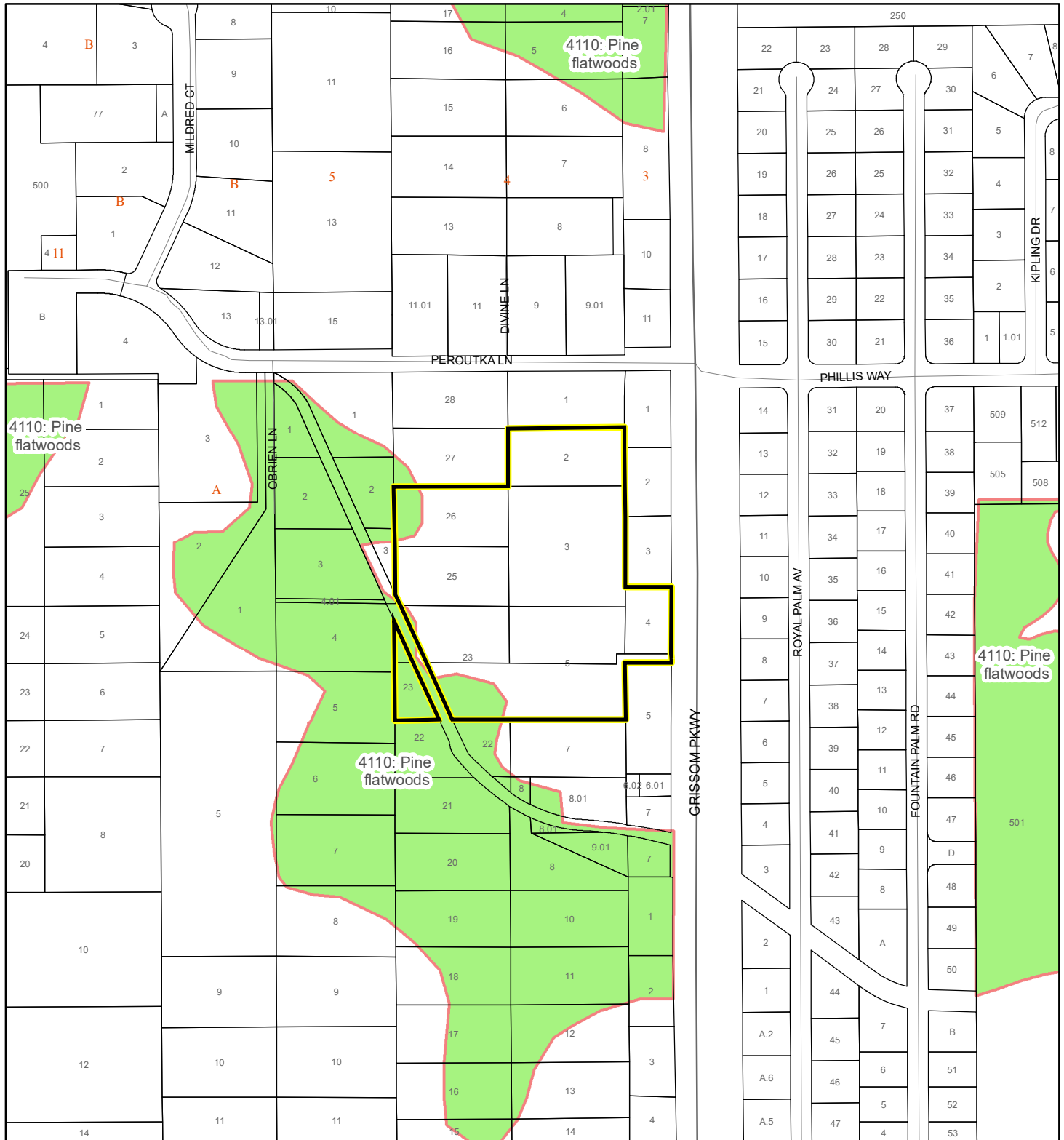
Produced by BoCC - GIS Date: 1/12/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LAWSON, BRIAN G. AND DEBRA S.

22Z00005



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/12/2022

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

Prepared by: Kimberly Bonder Rezanka, Esquire
Address: 1290 U.S. Hwy 1, Ste. 201
Rockledge, FL 32955

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and BRIAN and DEBRA LAWSON ("Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in **Exhibit "A"**; and

WHEREAS, Developer/Owner has requested the RR-1 zoning classification(s) and desires to develop the Property as single family residential, and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impacts on abutting landowners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
3. The Developer/Owner shall limit density to allowable density under the Comprehensive Plan Land Use designation to four (4) units, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _____, 2022. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
7. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 9 above.
9. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel M. Sadoff, Clerk of Court
(SEAL)

Kristine Zonka, Chair

As approved by the Board on _____

WITNESSES:

Brian Lawson

(Witness Name typed or printed)

(Witness Name typed or printed)

WITNESSES:

Debra Lawson

(Witness Name typed or printed)

(Witness Name typed or printed)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or
_____ online notarization, this _____ day of _____, 20____, by Brian Lawson and Debra
Lawson, who are personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.8.

3/14/2022

Subject:

John Johanson requests a change of zoning classification from AU to RU-1-13. (22Z00002) (Tax Account 2501508) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to RU-1-13 (Single-Family Residential).

Summary Explanation and Background:

The applicant requests to change the zoning classification from the original AU (Agricultural Residential) zoning to RU-1-13 (Single-Family Residential). The owner proposes to divide the property east/west into two (2) lots. This request has the potential to reduce the number of lots from 3 to 2 lots and increase the required minimum residential living area from 750 square feet required by the AU zoning to at least 1,300 square feet required by the RU-1-13 zoning classification.

The developed character of the surrounding area is a mixture of single-family residential zonings. Most of the subdivision lots within the area are zoned RU-1-9 (Single-Family Residential). Those lots developed as parcels outside of the subdivision process have EU (Estate Use Residential) designations. Original AU zoning remains on multiple large tracts as remnants of prior agricultural holdings.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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

22Z00002

John Johanson

AU (Agricultural Residential) to RU-1-13 (Single-Family Residential)

Tax Account Number: 2501508

Parcel I.D.: 25/36/02/27/2/6-8

Location: 887 S. Tropical Trail Merritt Island, FL 32952 (District 2)

Acreage: 0.65 acres

Planning & Zoning Board: 3/14/2022

Board of County Commissioners: 4/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	AU	RU-1-13
Potential*	3 nonconforming SF units	2 SF units
Can be Considered under the Future Land Use Map	YES RES 15	YES RES 15

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

Background and Purpose of Request

The applicant requests to change the property from AU (Agricultural Residential) to RU-1-13 (Single-Family Residential) zoning classification. AU zoning is the original 1958 zoning. The three lots # (6, 7, & 8) are nonconforming lots of record meeting the size requirements of Section 62-1188 (1) of Brevard County Code as the River Cliff Plat was recorded prior to May 2, 1958. The owner proposes to divide the property east/west into two (2) lots.

This request has the potential to reduce the number of lots from 3 to 2 lots and increase the required minimum residential living area from 750 square feet required by the AU zoning to at least 1,300 square feet required by the RU-1-13 zoning classification.

Land Use

The subject property is currently designated Residential 15 (RES 15). The existing AU and proposed RU-1-13 zoning request are consistent with the Residential 15 (RES 15) FLU designation.

Applicable Land Use Policies

FLUE Policy 1.4 – The Residential 15 Future Land Use designation affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The applicant proposes the reconfiguration of three single-family residential lots into two new parcels. The owner will propose a new residence upon each lot. Property is currently vacant.

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

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

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

- 1. historical land use patterns;

This area is can be considered residential in nature. Most of the subdivision lots within this area are zoned RU-1-9 (Single-Family Residential). Those lots developed as parcels outside of the subdivision process have EU (Estate Use Residential) designations. Original AU zoning remains on multiple large tracts as remnants of prior agricultural holdings.

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

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

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

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

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

As this site is currently vacant/unimproved, no material violation of relevant policies have been identified.

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

The developed character of the surrounding area is a mixture of single-family residential zonings. Surrounding the property is existing developed lots retaining the AU zoning classification.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SF residence	AU	RES 15
South	SF residence	AU/RU-1-13	RES 15
East	SF residence	AU	RES 15
West	SF residence	AU	RES 15

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

RU-1-13 classification permits single family residential development on lots of 7,500 square feet (minimum). The minimum house size is 1,300 square feet.

There were two zoning actions within a half-mile radius of the subject property within the last three years. The first action was **21Z00001** which was approved by the Board on April 15, 2021. The request changed the property from AU to EU. That site is 411 feet to the south of this request. The second action was **21Z00004** which was approved by the Board on July 7, 2021. The request changed the property from RU-1-9 to BU-2 subject to a Binding Development Plan recorded in ORB 9183, Page 614. That site is located 2,600 feet in a NE direction from this request at the SW corner of Cone Road and Oleander Drive.

Preliminary Concurrency

The closest concurrency management segment to the subject property is S. Tropical Trail, between Plantation Road to Cone Road, which has a Maximum Acceptable Volume (MAV) of 12,480 trips per day, a Level of Service (LOS) of E, and currently operates at 59.33% of capacity daily. The maximum development potential from the proposed rezoning decreases the percentage of MAV utilization by 0.08%. The corridor is anticipated to operate at 59.25% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal reduces the number of residential lots.

The parcel has access to public water from the City of Cocoa. Sanitary sewer is on the east side of S. Tropical Trail at the entrance to River Cliff Lane approximately 170 feet north.

Environmental Constraints

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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

For Board Consideration

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

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

Item # 22Z00002

Applicant: John Johanson

Zoning Request: AU to RU-1-13

Note: Applicant wants to split lot

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID No: 2501508

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Paola fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

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.

Land Clearing and Landscape Requirements

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Specimen trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

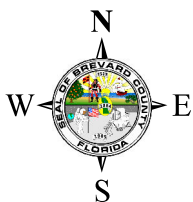
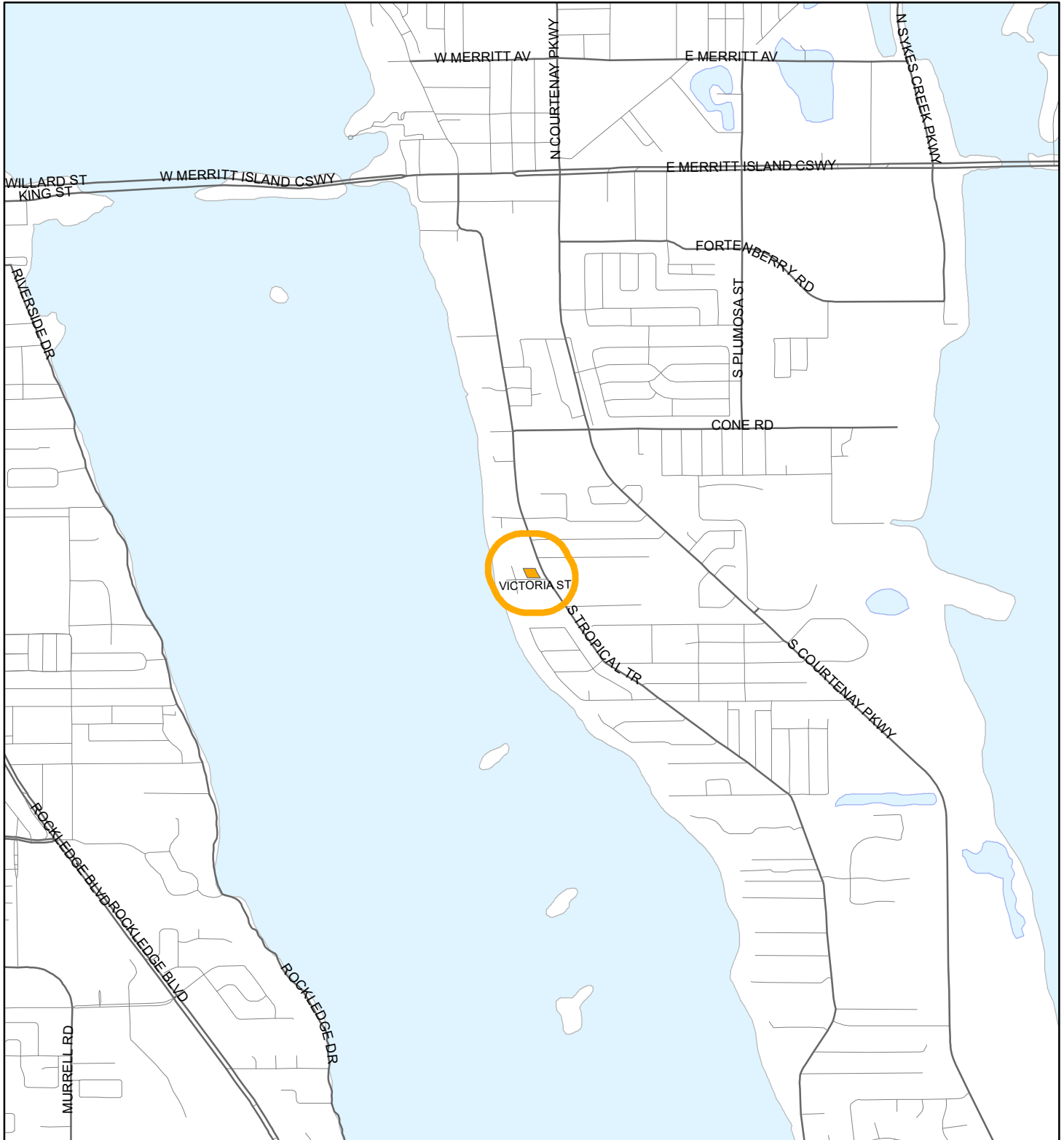
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. 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

JOHANSON, JOHN

22Z00002





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

Buffer Distance: 500 feet

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

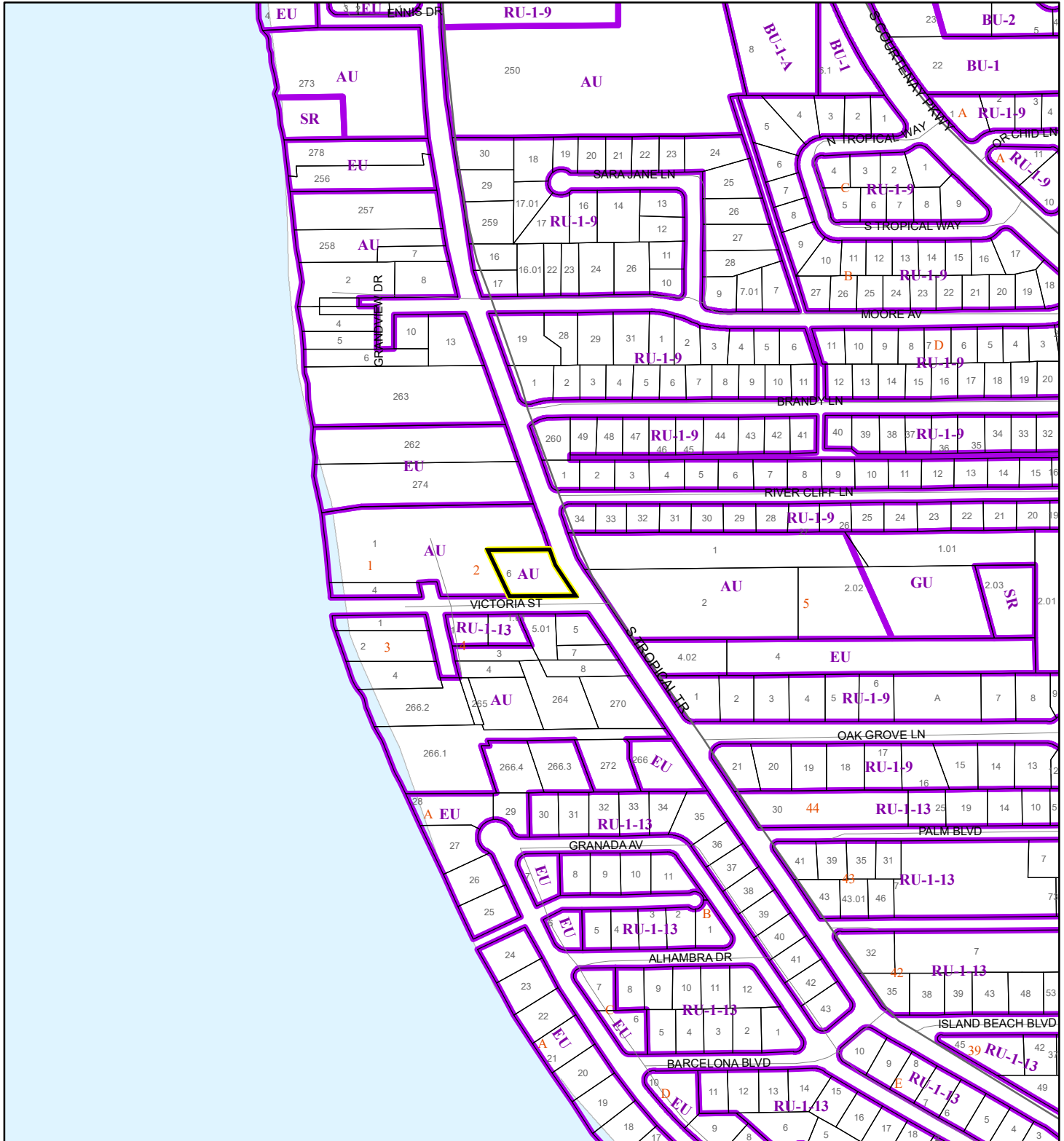
Produced by BoCC - GIS Date: 1/10/2022

 Buffer
 Subject Property

ZONING MAP

JOHANSON, JOHN

22Z00002



1:4,800 or 1 inch = 400 feet

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Subject Property

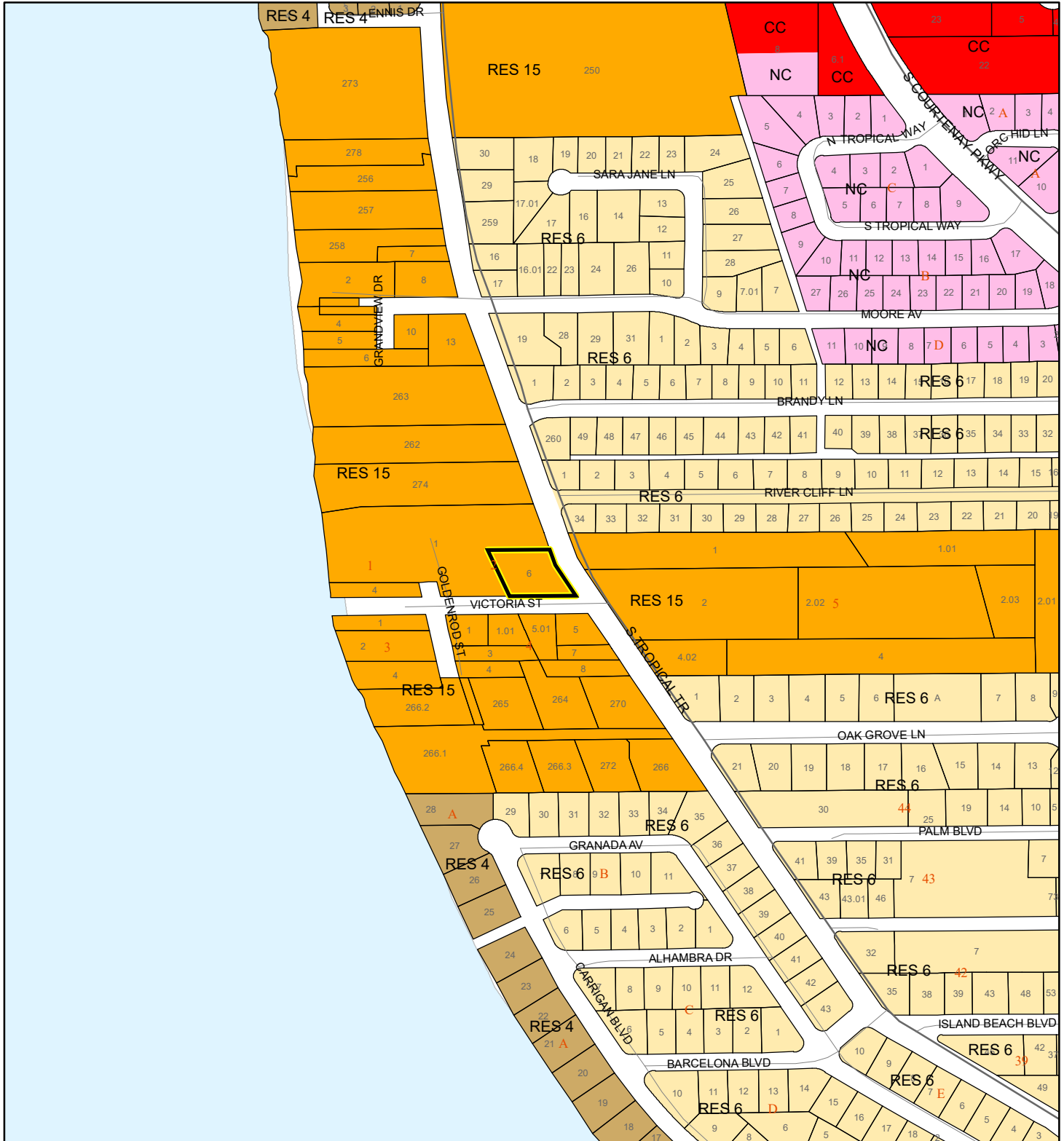
Parcels

Zoning



FUTURE LAND USE MAP

JOHANSON, JOHN

22Z00002



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

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AERIAL MAP

JOHANSON, JOHN

22Z00002



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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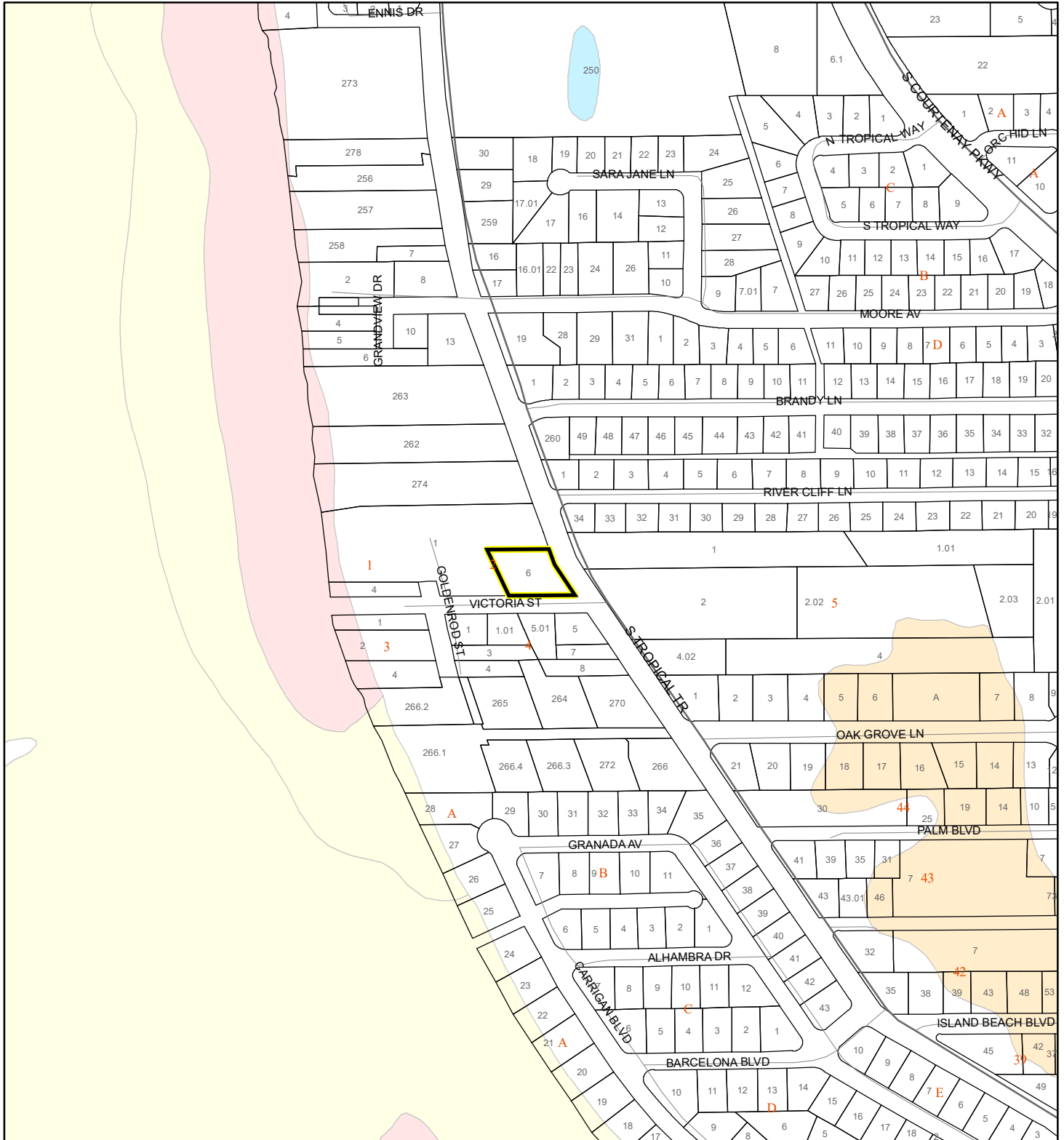
 Subject Property

 Parcels

NWI WETLANDS MAP

JOHANSON, JOHN

22Z00002













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Produced by BoCC - GIS Date: 1/10/2022

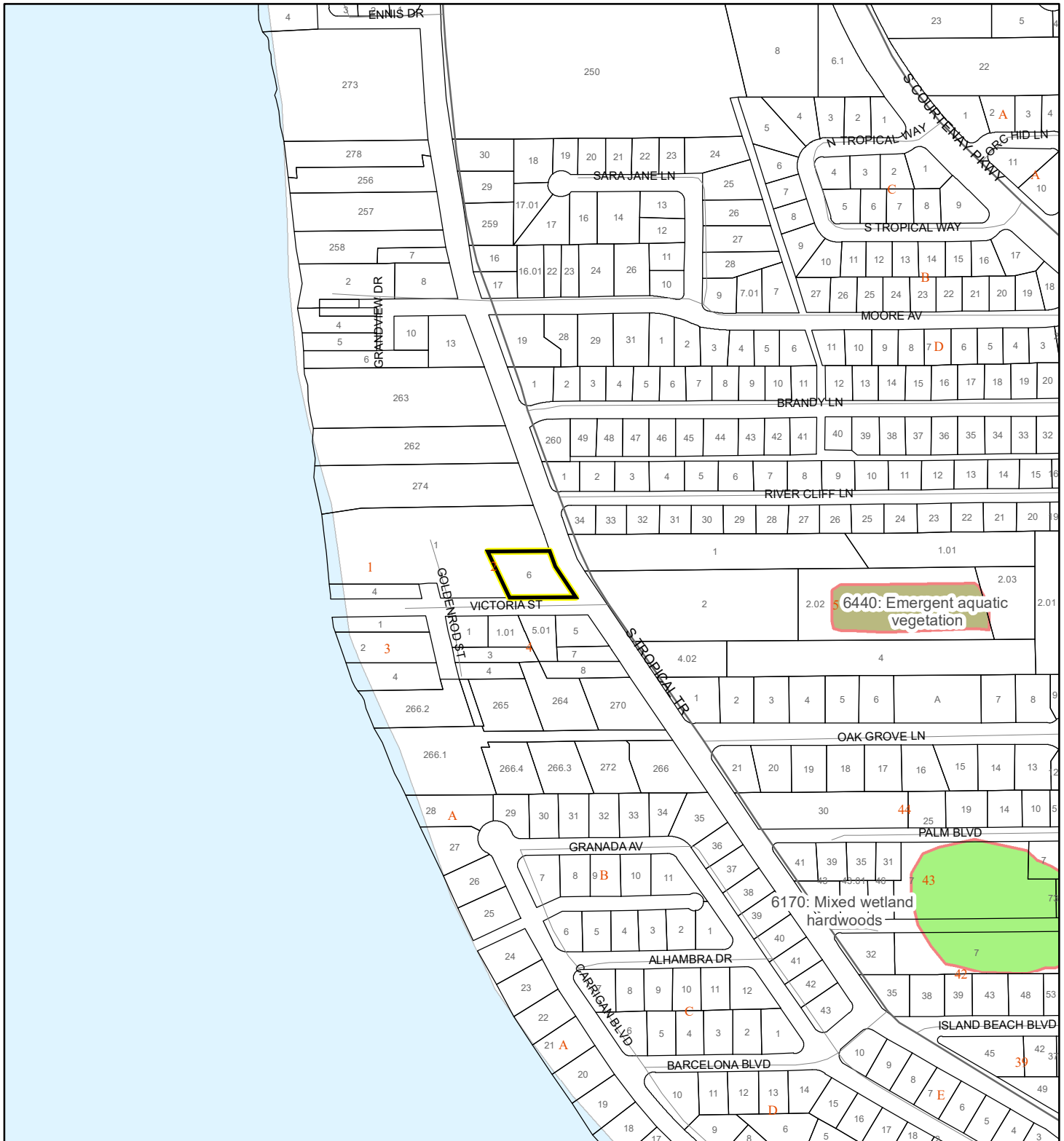
National Wetlands Inventory (NWI)

 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

JOHANSON, JOHN

22Z00002



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

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

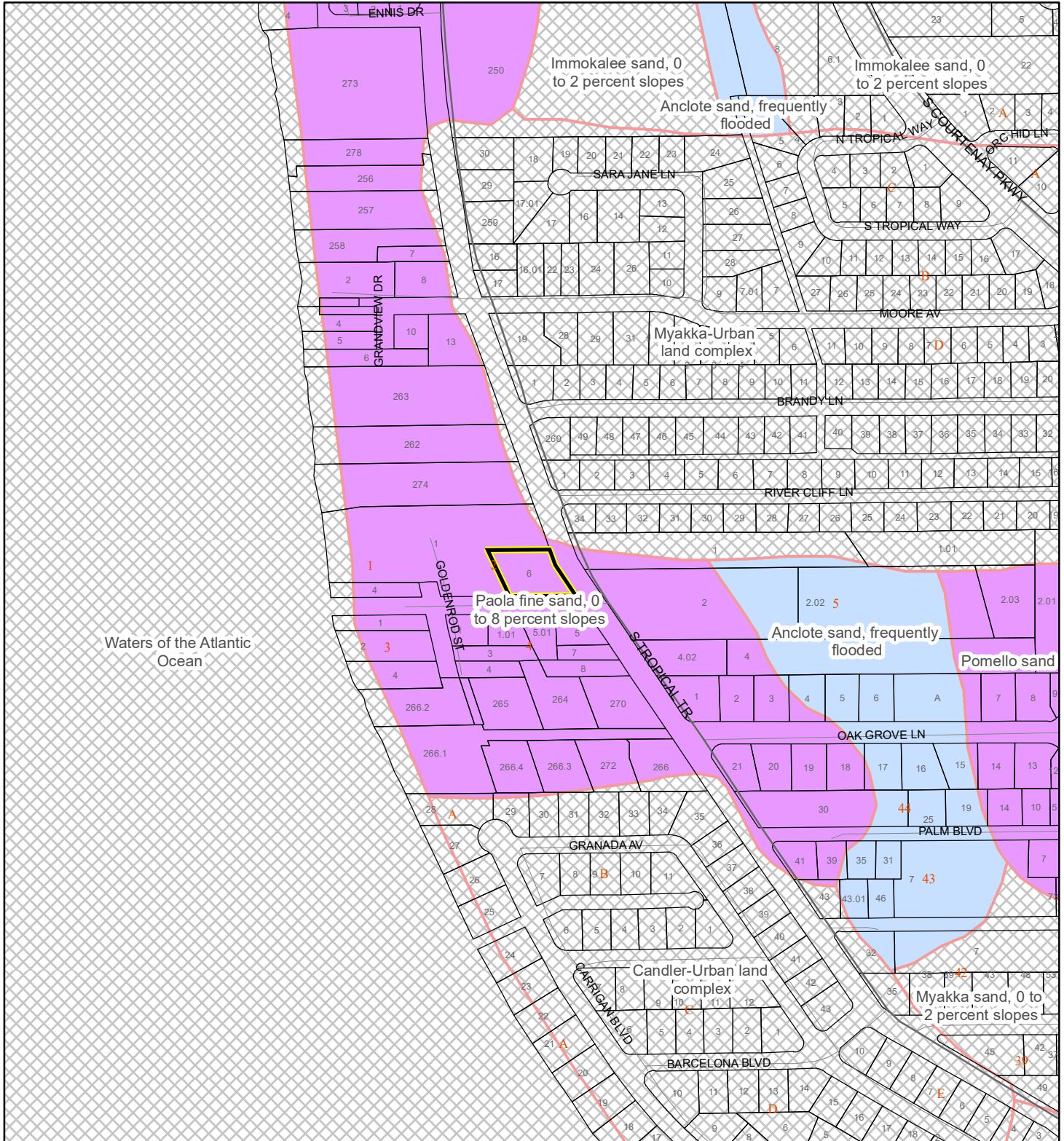
Subject Property

Parcels

USDA SCSSS SOILS MAP

JOHANSON, JOHN

22Z00002



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

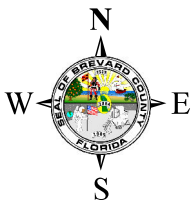
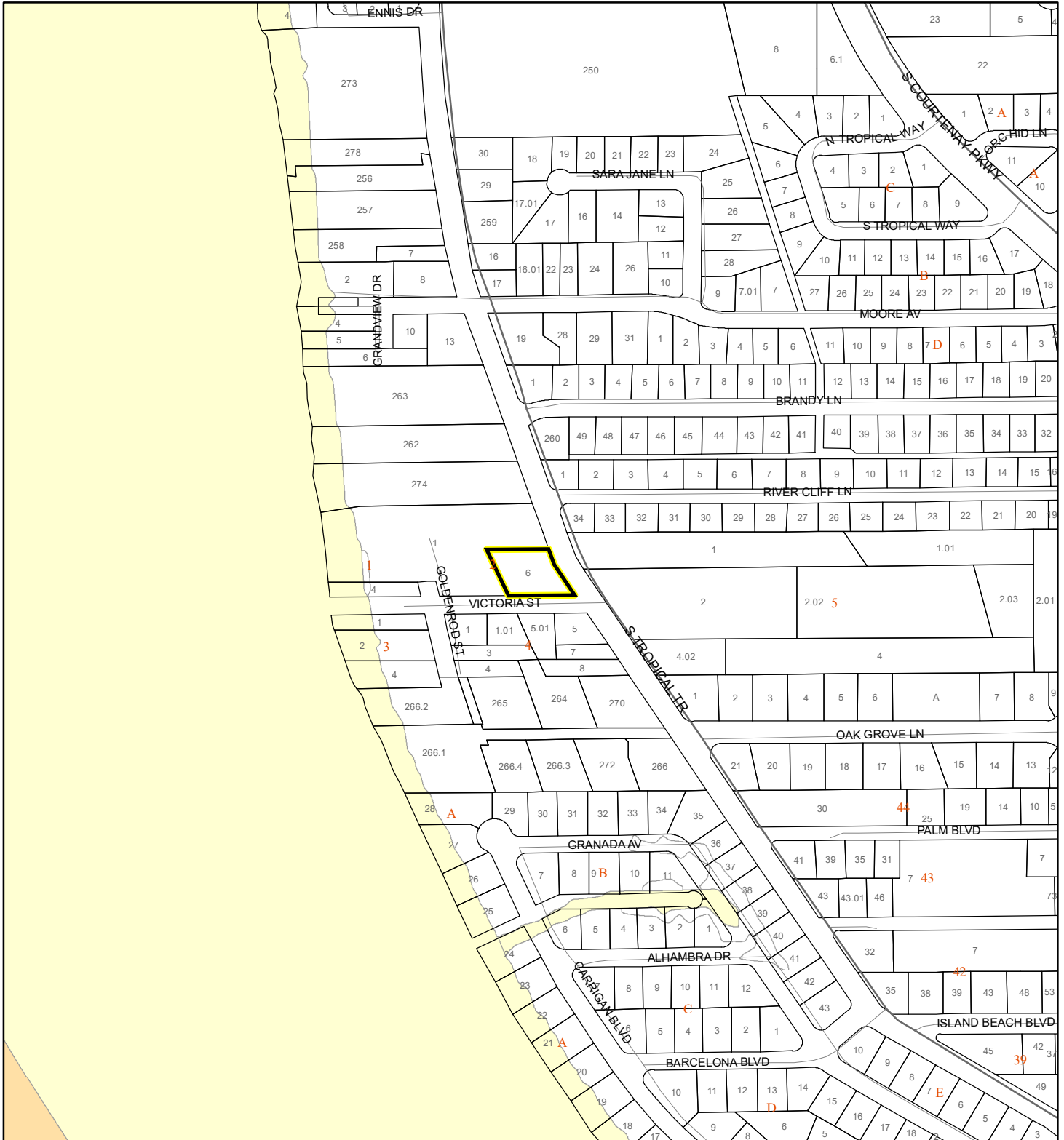
Subject Property

Parcels

FEMA FLOOD ZONES MAP

JOHANSON, JOHN

22Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/10/2022

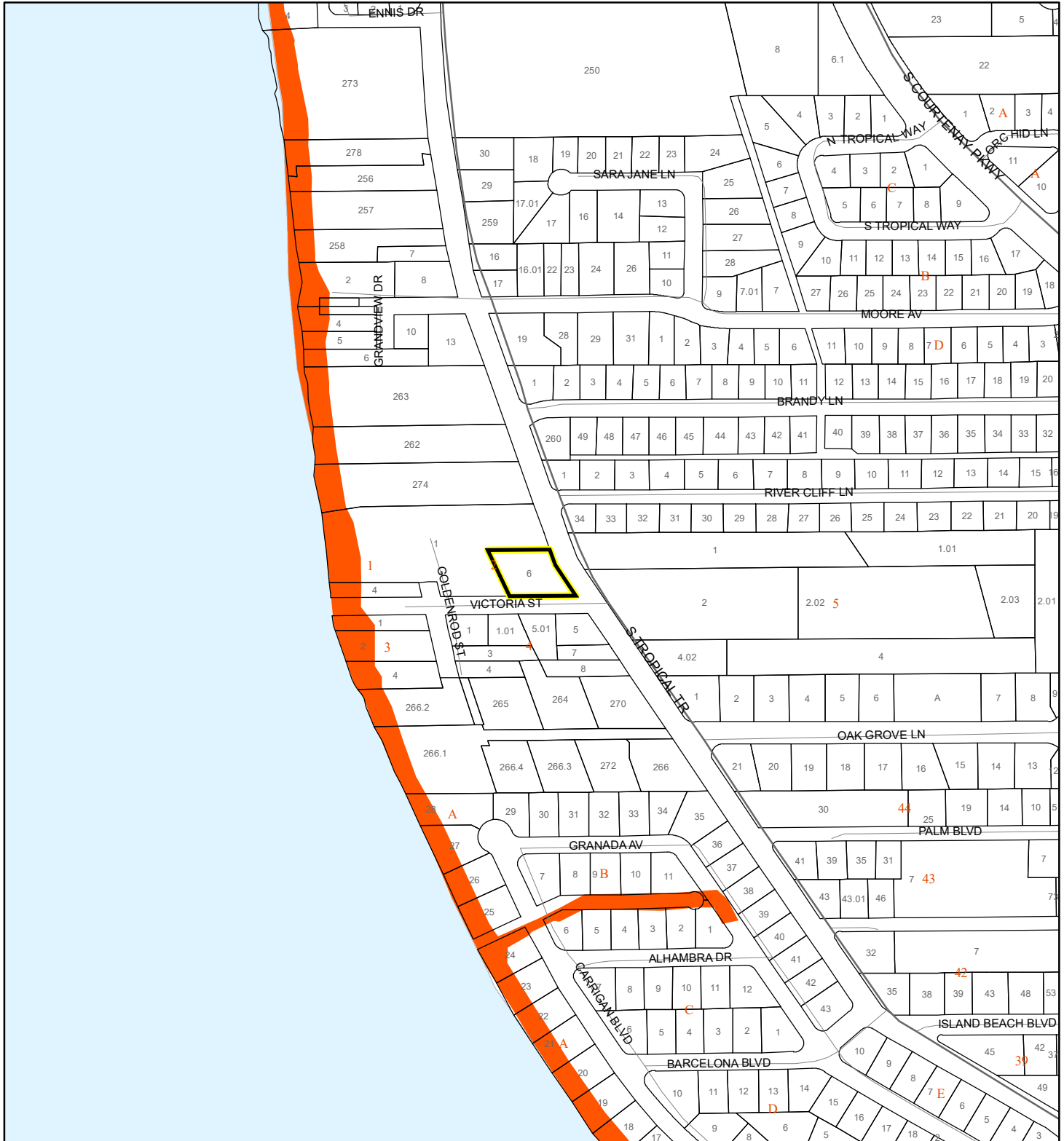
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

JOHANSON, JOHN

22Z00002



1:4,800 or 1 inch = 400 feet


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

Produced by BoCC - GIS Date: 1/10/2022

 Subject Property

 Parcels

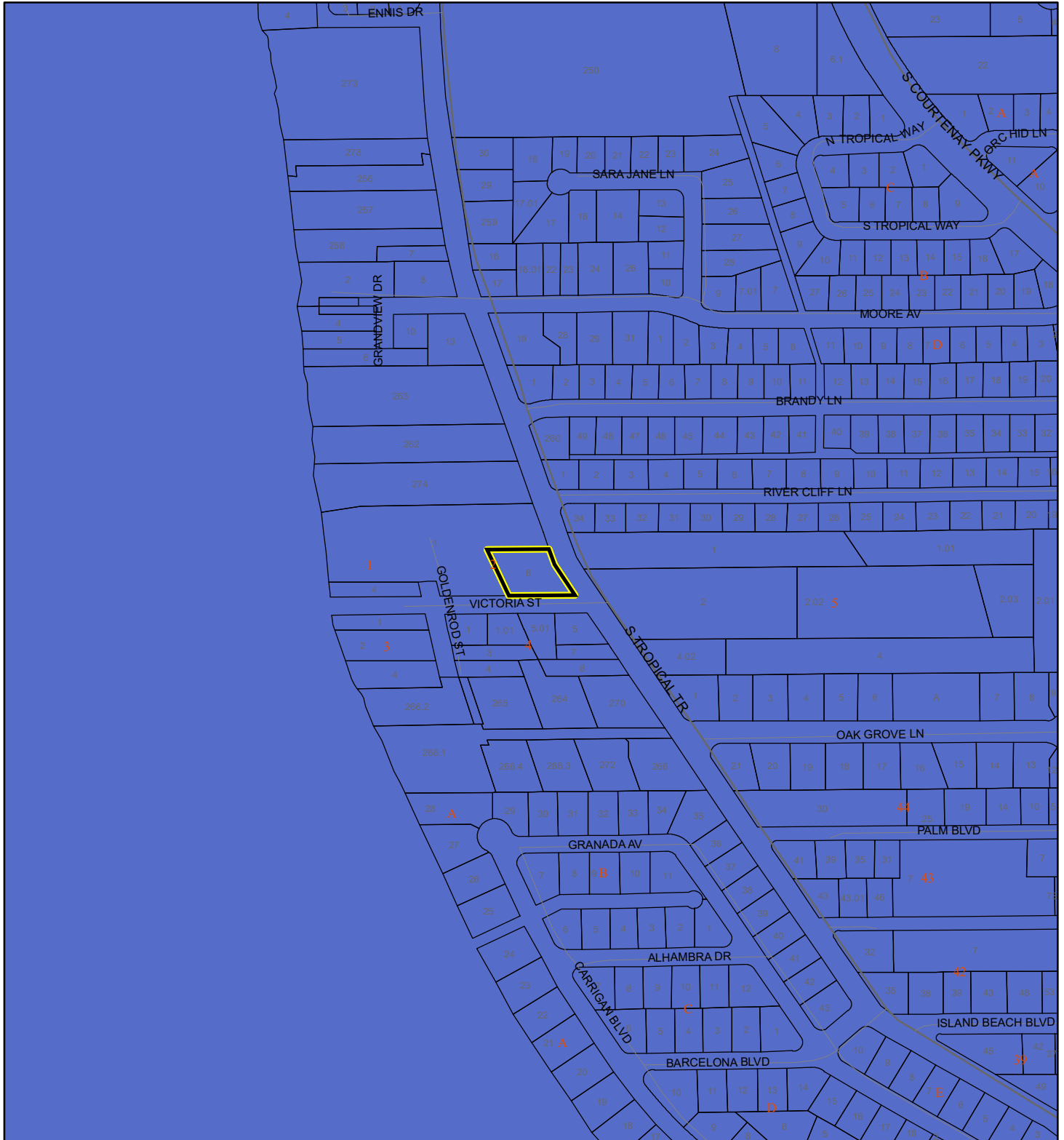
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

JOHANSON, JOHN

22Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/10/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

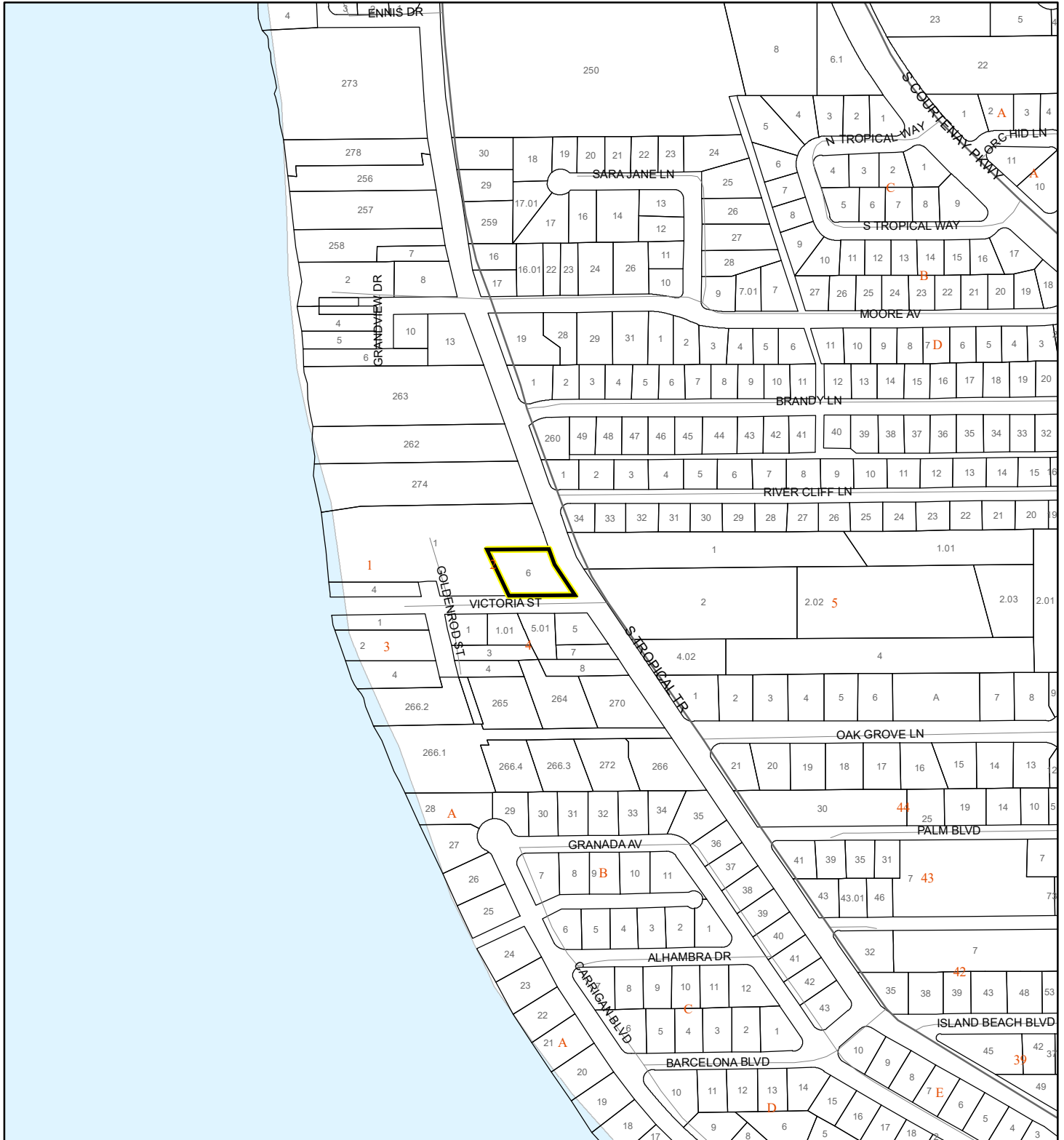
 60 Meters

 All Distances

EAGLE NESTS MAP

JOHANSON, JOHN

22Z00002




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/10/2022

 Subject Property

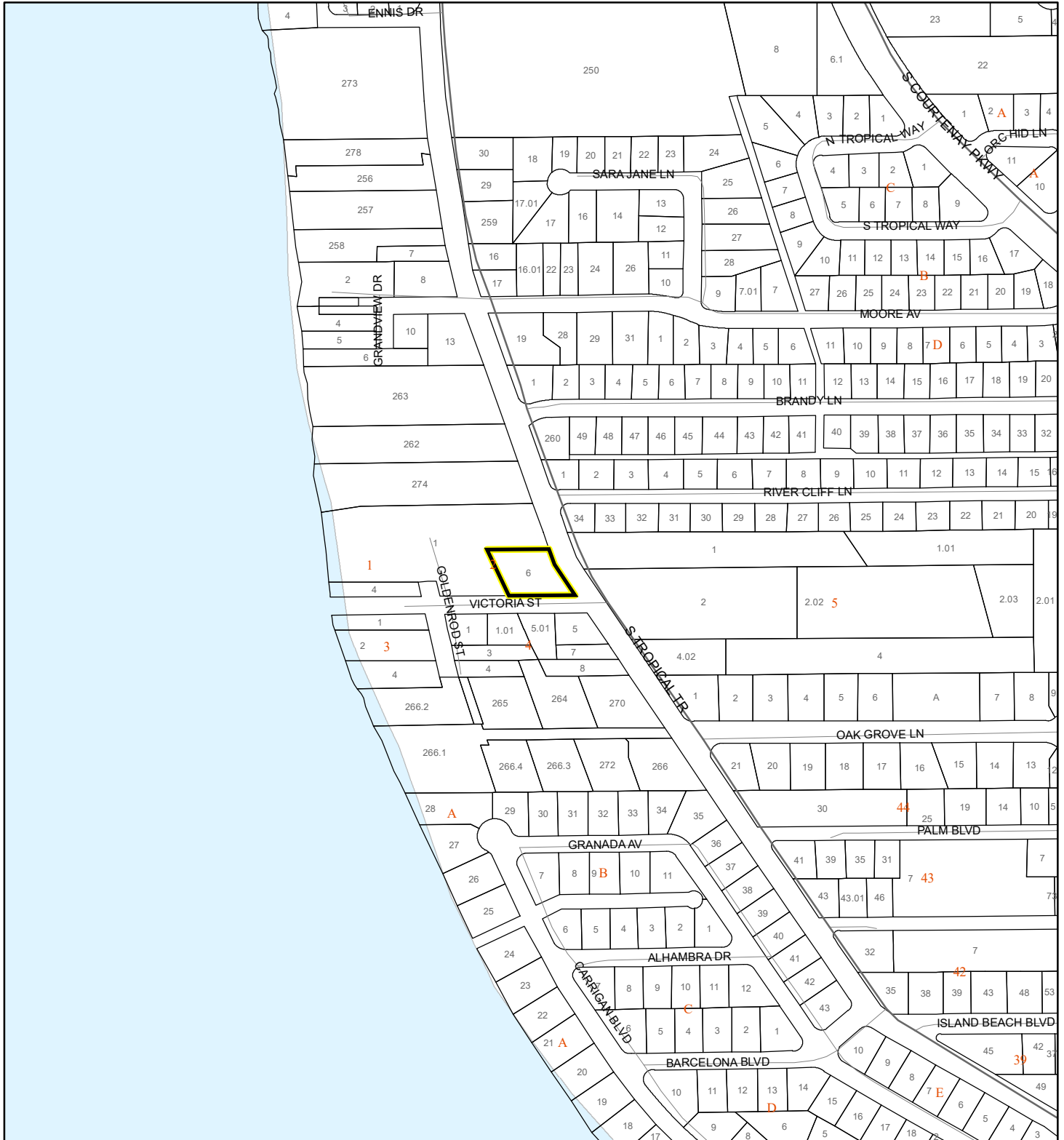
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

JOHANSON, JOHN




22Z00002



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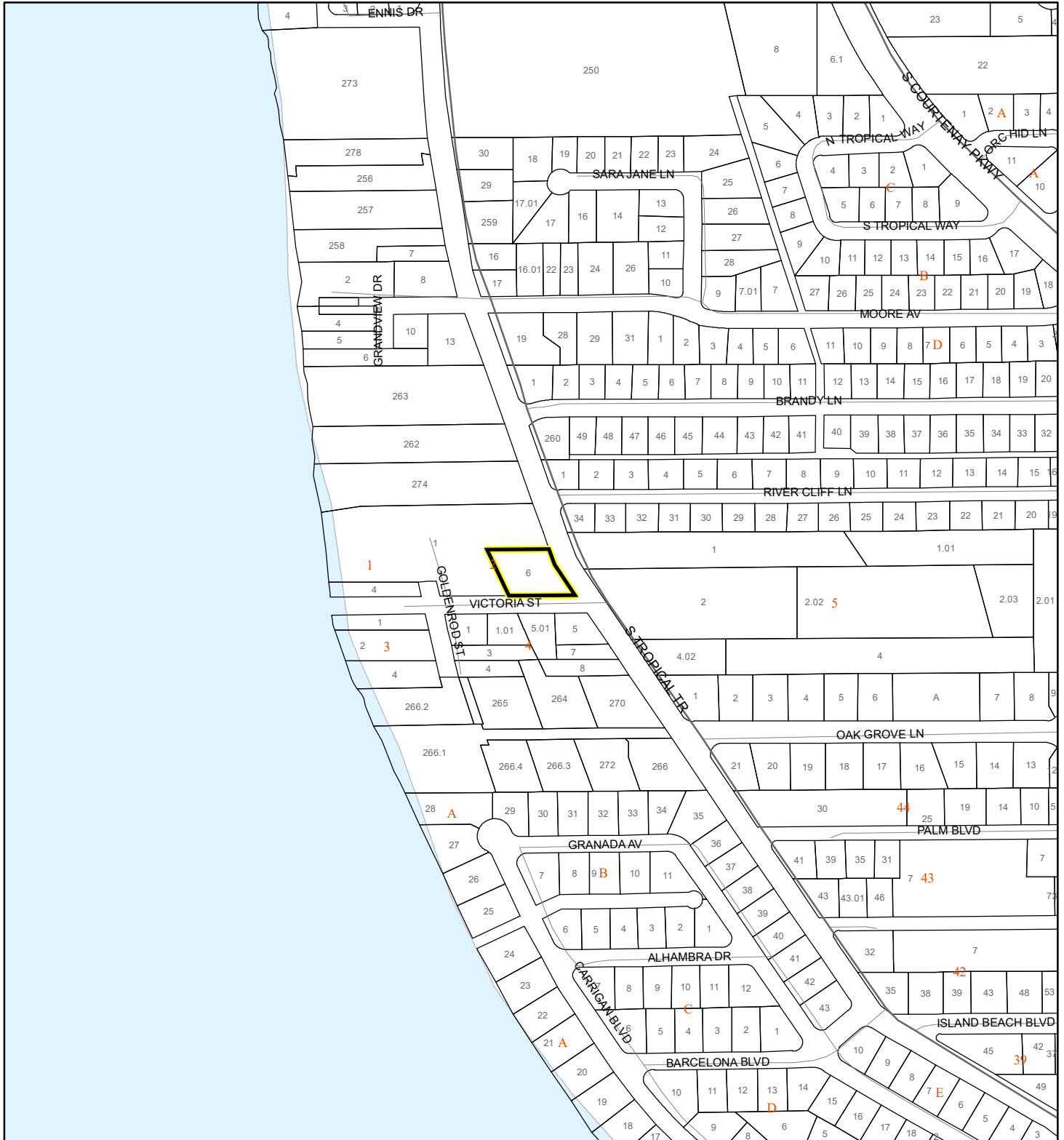
Produced by BoCC - GIS Date: 1/10/2022

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

JOHANSON, JOHN

22Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/10/2022

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



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.9.

3/14/2022

Subject:

South Beach Cove Development Corp.; and Robert A. Baugher, Trustee (David Menzel) request a change of zoning classification from RU-2-15 to BU-1. (21Z00050) (Tax Account 2520070) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from RU-2-15 (Medium Density Multi-Family Residential) to BU-1 (General Retail Commercial).

Summary Explanation and Background:

The applicant requests to change the zoning classification from RU-2-15 to BU-1. This parcel is developed with an existing multi-tenant commercial building, built in 1965. Rezoning to BU-1 would make the use of the property consistent with the Future Land Use designation of CC (Community Commercial). The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots, but does not allow warehousing or wholesaling.

Commercial use has been allowed on this property since August, 1973. It is currently identified as nonconforming use since rezoning from BU-1 to RU-2-15 on November 2, 2006. The applicant proposes to continue the existing commercial uses that the property had retained as nonconforming uses. Proposed modifications will be reviewed at the site plan review stage for the enlarged parking lot area.

The developed character of the surrounding area is a mixture of commercial and multi-family residential zoning classifications developed with restaurant, retail, single-family and multi-family uses.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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

21Z00050

South Beach Cove Development Corp.

RU-2-15 (Medium-Density Multiple-Family Residential) to BU-1 (General Retail Commercial)

Tax Account Numbers: parts of: 2520069 & 2520070
Parcel I.D.s: 25-37-26-00-25 & 25-37-26-00-25.01
Location: 2210 Atlantic Avenue Cocoa Beach, FL 32931 (District 2)
Acreage: 0.673 acres

Planning & Zoning Board: 3/14/2022

Board of County Commissioners: 4/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-2-15	BU-1
Potential*	10 SF/MF units	29,315 sq. ft. commercial
Can be Considered under the Future Land Use Map	YES CC	YES CC

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

Background and Purpose of Request

The applicant requests to change the property from RU-2-15 (Medium-Density Multiple-Family Residential) to the BU-1 (General Retail Commercial) zoning classification. This parcel is developed with an existing multi-tenant commercial building. With this rezoning to BU-1 would make the use of the property consistent with the Future Land Use. According to the Property Appraiser's record the building was constructed in 1965.

The property is currently under Zoning Resolution **Z-11290** adopted on November 2, 2006. That request changed BU-1 and RU-2-10 with a BDP to all RU-2-15 and the removal of the existing BDP. The original BU-1 area was rezoned from RU-3 to BU-1 under Ordinance 73-13 adopted August, 1973.

Land Use

The subject property is currently designated Community Commercial (CC). The BU-1 request would be consistent with the Community Commercial (CC) FLU designation.

Applicable Land Use Policies

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

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

Criteria:

A. Permitted/prohibited uses;

Applicant wishes to retain the existing multi-tenant commercial building.

B. Existing commercial zoning trends in the area;

There has not been any other commercial rezoning requests within the BU-1 zoning classification within the last three years. The next lot to the north has a Mediation Settlement Agreement that was approved on March 21, 2017 allowing the nonconforming commercial use to remain on the property.

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

The adjacent properties remain vacant. The modified area of this request will comply with current buffering and setback requirements.

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

As the property is already commercial, no change is expected to change the LOS standards.

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

As the property is already used as commercial, no change is expected to change the LOS standards

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

This property will need to comply with Brevard County Performance Standards noted within Section Sections 62-2251 through 62-2272 of Brevard County Code.

FLUE Policy 2.3 – Role of Land Development Regulations in the Designation of Commercial Lands

Land development regulations provide performance standards for evaluating the acceptability of proposed commercial development activities. Criteria include:

Criteria:

A. Integration of vehicular and non-vehicular access into the site and access management features of site in terms of driveway cuts and cross access between adjacent sites, including use of frontage roads and/or shared access, where feasible, as determined by Brevard County;

Site already has a commercial building on it.

B. Buffering from adjacent existing/potential uses;

Building is existing. Expansion area is used for parking.

C. Open space provisions and balance of proportion between gross floor area and site size;

Not applicable for commercial usage.

D. Adequacy of pervious surface area in terms of drainage requirements;

Existing building less than FAR (Floor area ratio) of 1:1.

E. Placement of signage;

Location not identified on submitted survey.

F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;

External site lighting is existing, modified or new lighting will need to comply with Section 62-2257 of Brevard County Code.

G. Safety of on-site circulation patterns (patron, employee and delivery vehicles), including parking layout and drive aisles, and points of conflict;

Site is already developed.

H. Landscaping, as it relates to the requirements of the Comprehensive Plan and Land Development Regulations;

Review will be performed at site plan review stage.

I. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance; and

None identified by the NRMD review.

J. Performance based zoning requirements which may serve as a substitute for or accompany land development regulations in attaining acceptable site design.

No waivers, administrative approvals, or variances have been applied for.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in

existing neighborhoods within the area which could foreseeably be affected by the proposed use;

The applicant proposes to continue the existing commercial uses that the property had retained as nonconforming uses. Proposed modifications will be reviewed at the site plan review stage for the enlarged parking lot area.

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

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

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

1. historical land use patterns;

Commercial use has been allowed on this property since August, 1973. It is currently identified as nonconforming use since rezoning from BU-1 to RU-2-15 on November 2, 2006.

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

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

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

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

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

As this site was previously developed, no material violation of relevant policies have been identified.

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

The developed character of the surrounding area is a mixture of commercial and multi-family residential zoning classifications developed with restaurant, retail, single-family and multi-family uses. To the north of the subject property is the remainder of this residentially zoned parcel and adjacent to that is a developed nonconforming restaurant. To the south, is a vacant multi-family zoned lot that used to be operated as a nonconforming trailer park under designation NMH-62. To the east is a single-family residence that was built in 1973. To the west, is the remainder of the parent parcel which is currently undeveloped.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Vacant	RU-2-15	CC
South	Vacant	RU-2-15	CC
East	SF residence	RU-2-15	RES 15
West	Vacant	RU-2-15	CC & RES 15

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

RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

There are three pending zoning actions within a half-mile radius of the subject property within the last three years. All three actions are located approximately 780 feet to the north at the NE corner of Summer Street and S. Orlando Avenue. Those actions are: **21PZ00059** which was heard by the Board on December 2, 2021 and a BDP is pending approval/recording; **21PZ00090** and **21PZ00091** are to be heard on March 3, 2022 and are adjacent applications to remove/modify the same BDP limitations that **21PZ00059** was obtaining relief from.

Preliminary Concurrency

The closest concurrency management segment to the subject property is SR Highway A1A, between Minuteman Causeway to one-way pairs (SR A1A north and south bound meet), which has a Maximum Acceptable Volume (MAV) of 19,440 trips per day, a Level of Service (LOS) of D, and currently operates at 58.93% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 1.54%. The corridor is anticipated to operate at 60.47% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The parcel has access to public water by the City of Cocoa and centralized sewer may be available from the City of Cocoa Beach.

Environmental Constraints

- Aquifer Recharge Soils
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species

- Land Clearing and Landscape Requirements

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

For Board Consideration

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

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

Item # 21Z00050

Applicant: Menzel for Baugher

Zoning Request: RU-2-15 to BU-1

Note: Applicant wants commercial uses retained

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID Nos: 2520070 and portion of 2520069

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species
- Land Clearing and Landscape Requirements

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

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Canaveral-Palm Beach urban land complex) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area

A small portion of the property is located within the Coastal High Hazard Area (CHHA) as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

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 Species

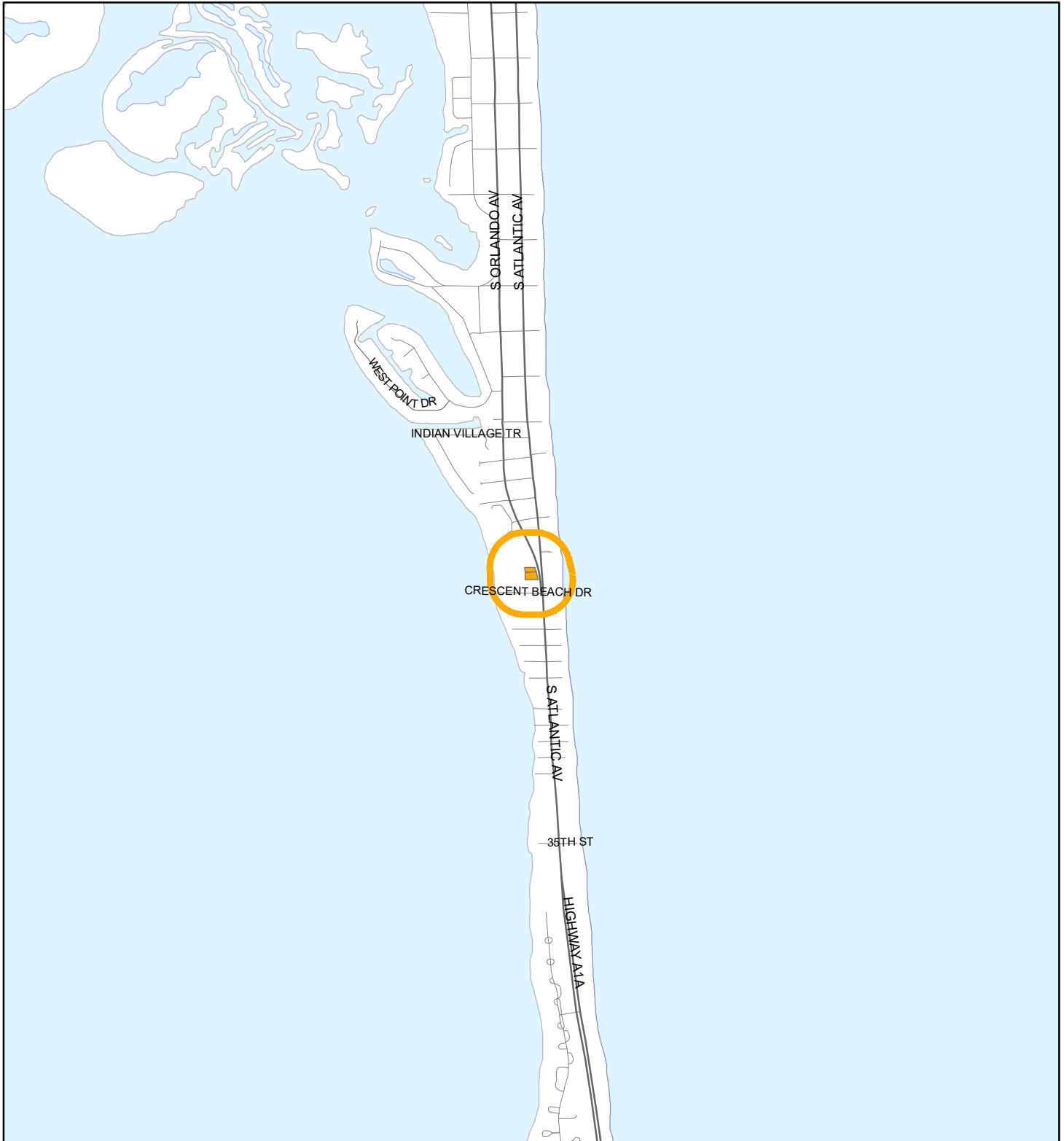
Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should 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.

Land Clearing and Landscape Requirements

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Specimen trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE
21Z00050



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

Buffer Distance: 500 feet

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

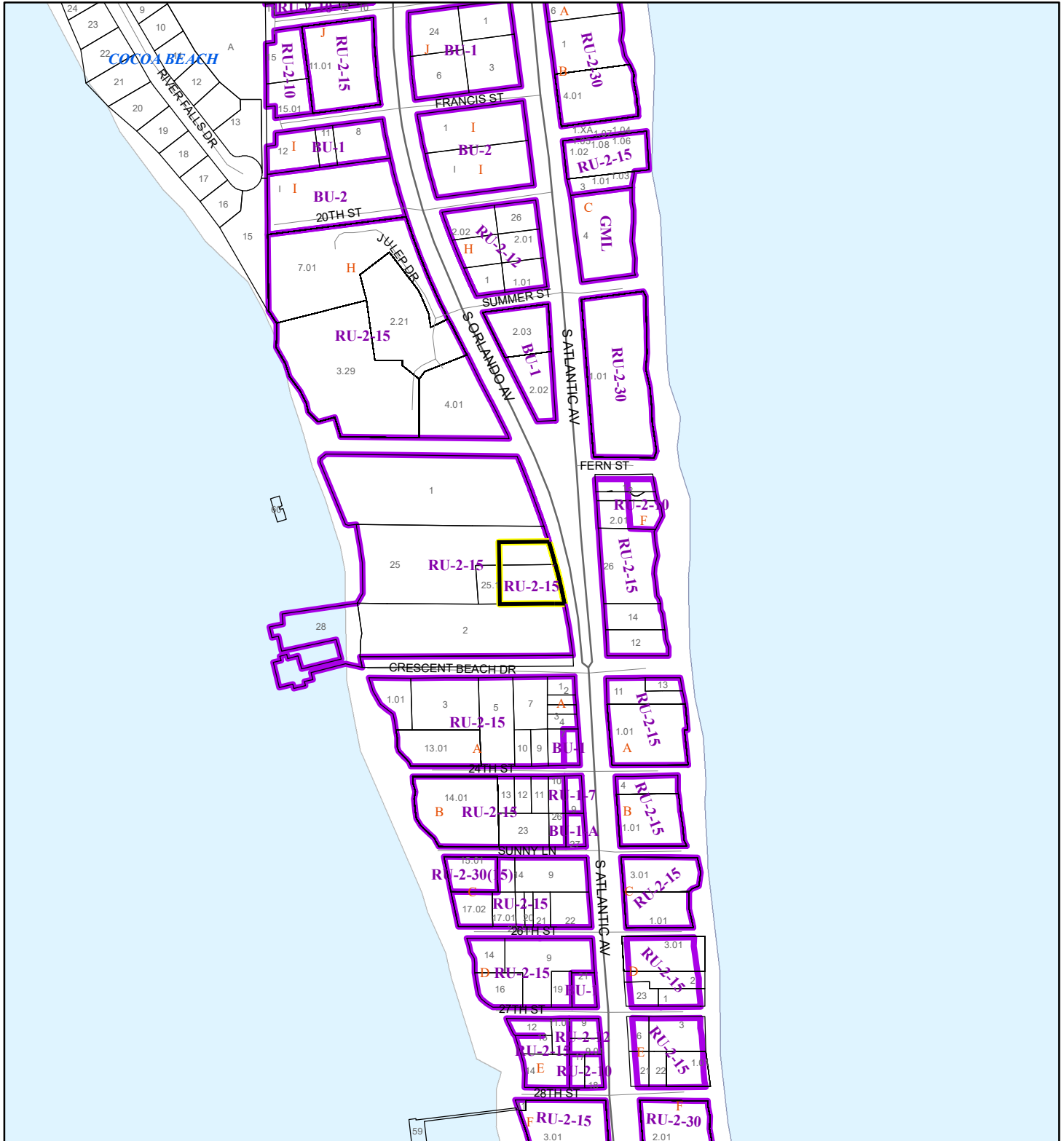
Produced by BoCC - GIS Date: 1/3/2022

— Buffer
— Subject Property

ZONING MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE


21Z00050



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

 Subject Property

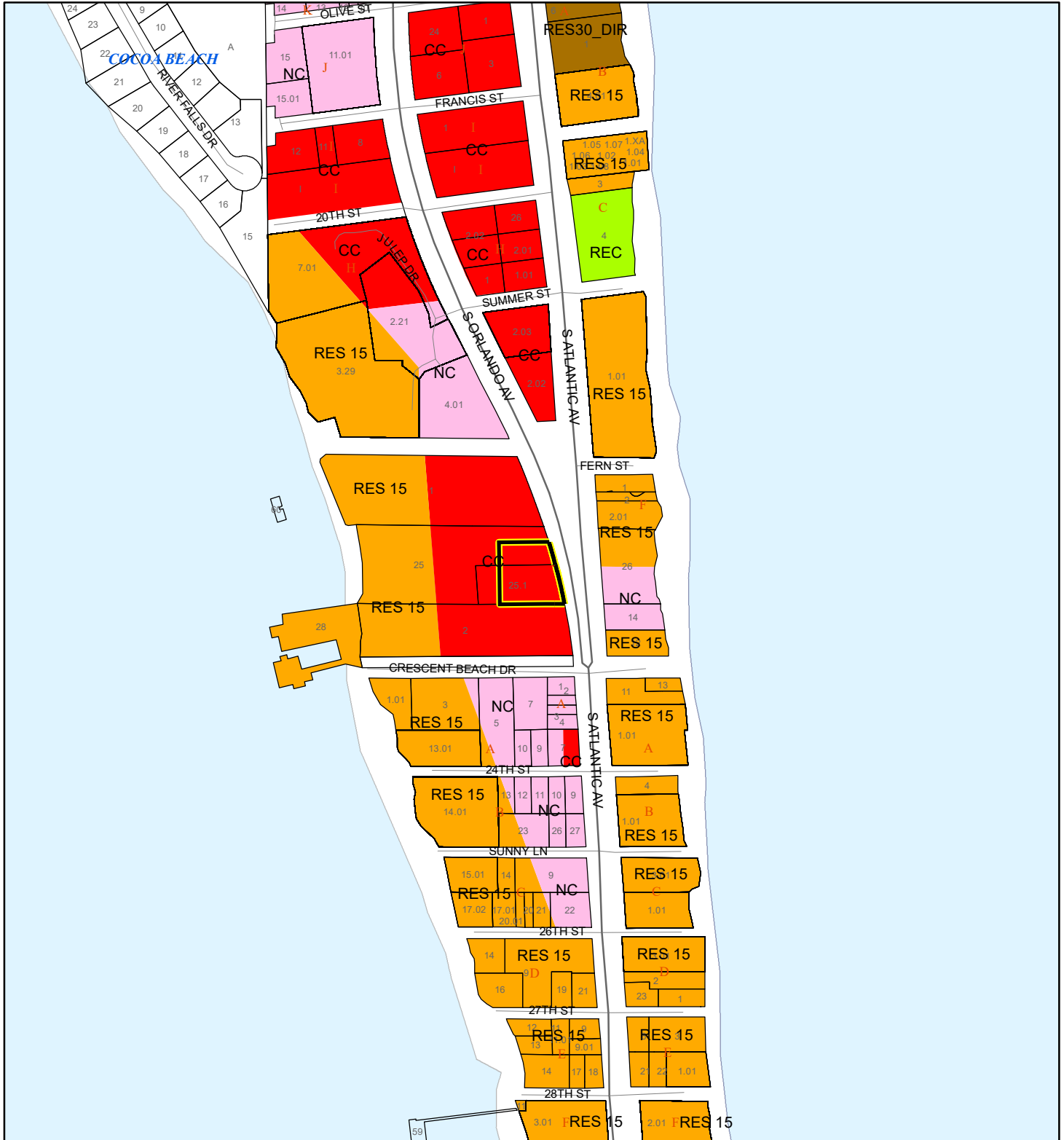
 Parcels

 Zoning

FUTURE LAND USE MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE

21Z00050



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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Produced by BoCC - GIS Date: 1/3/2022

AERIAL MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE
21Z00050





1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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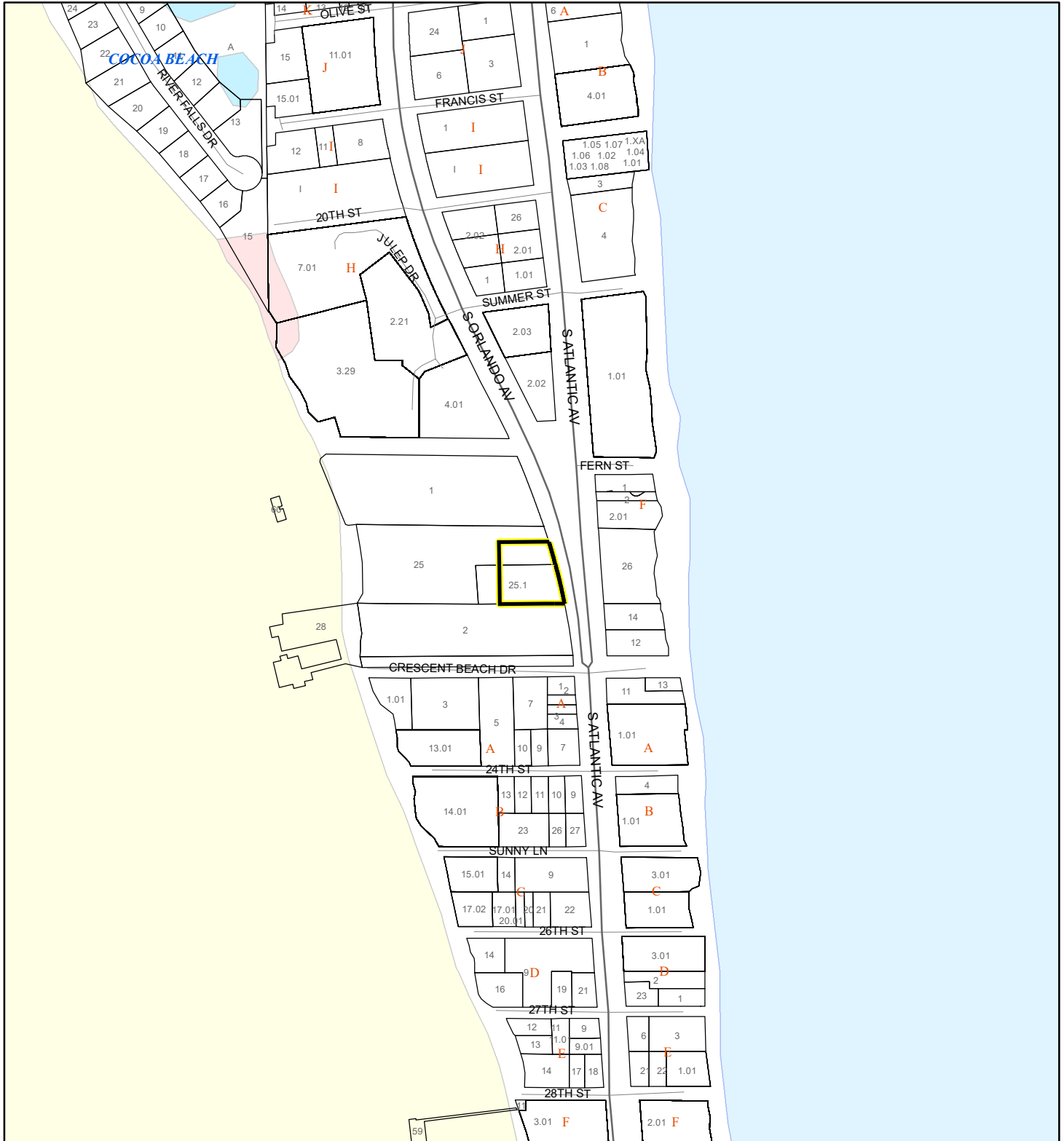
Produced by BoCC - GIS Date: 1/3/2022

 Subject Property
 Parcels

NWI WETLANDS MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE

21Z00050













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

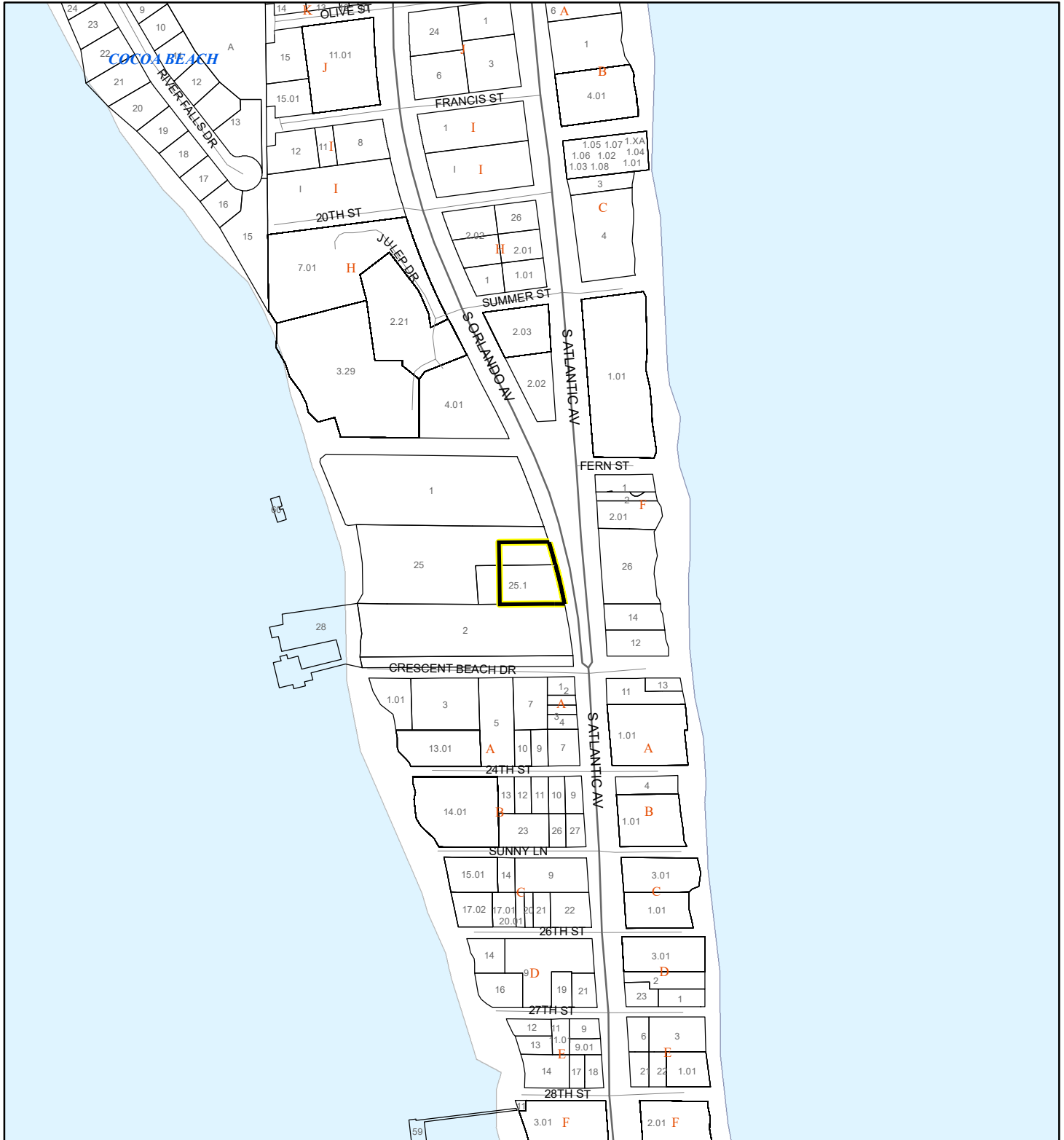
National Wetlands Inventory (NWI)

 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

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE

21Z00050



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

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

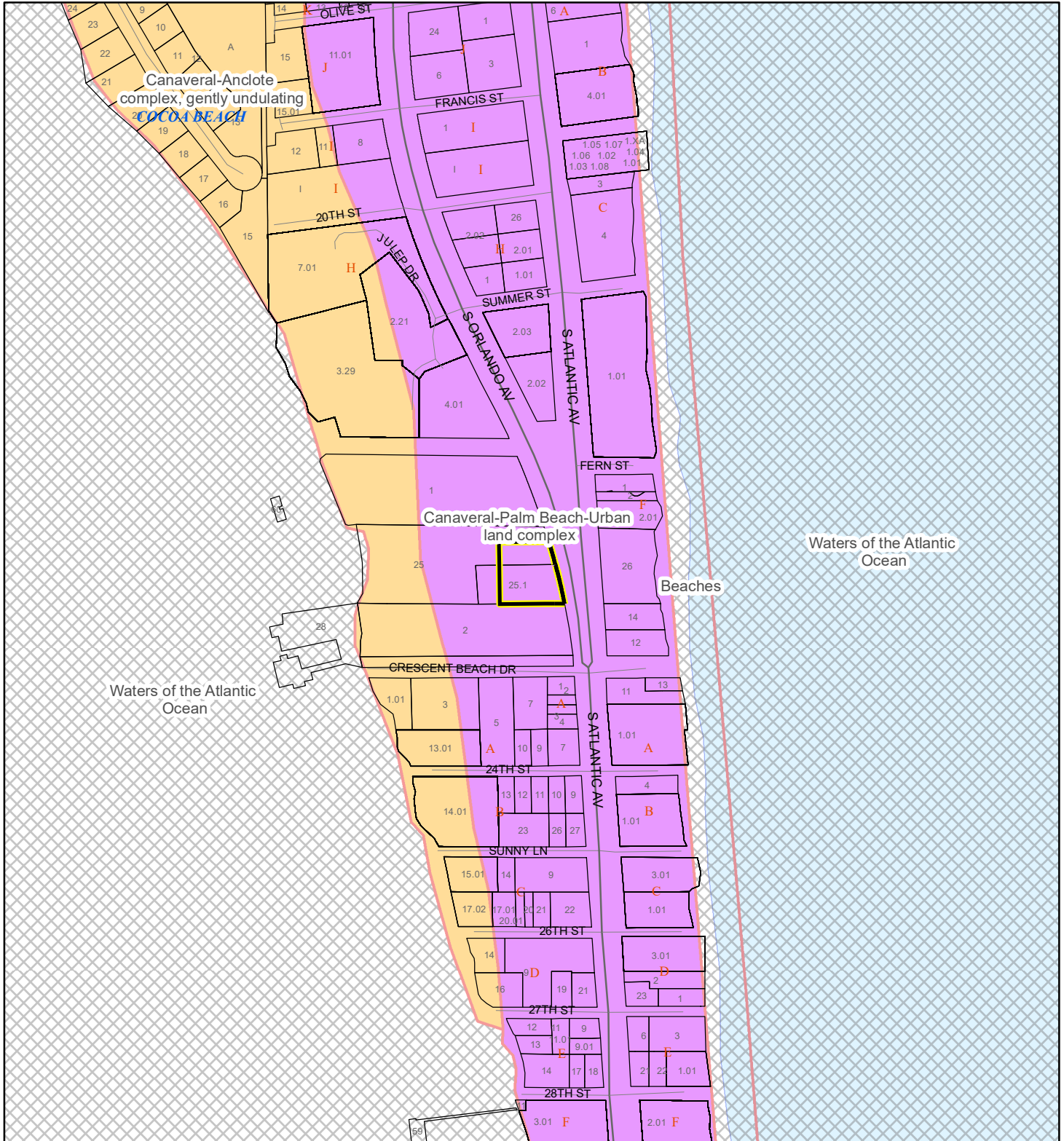
Subject Property

Parcels

USDA SCSSS SOILS MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE

21Z00050



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

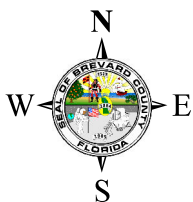
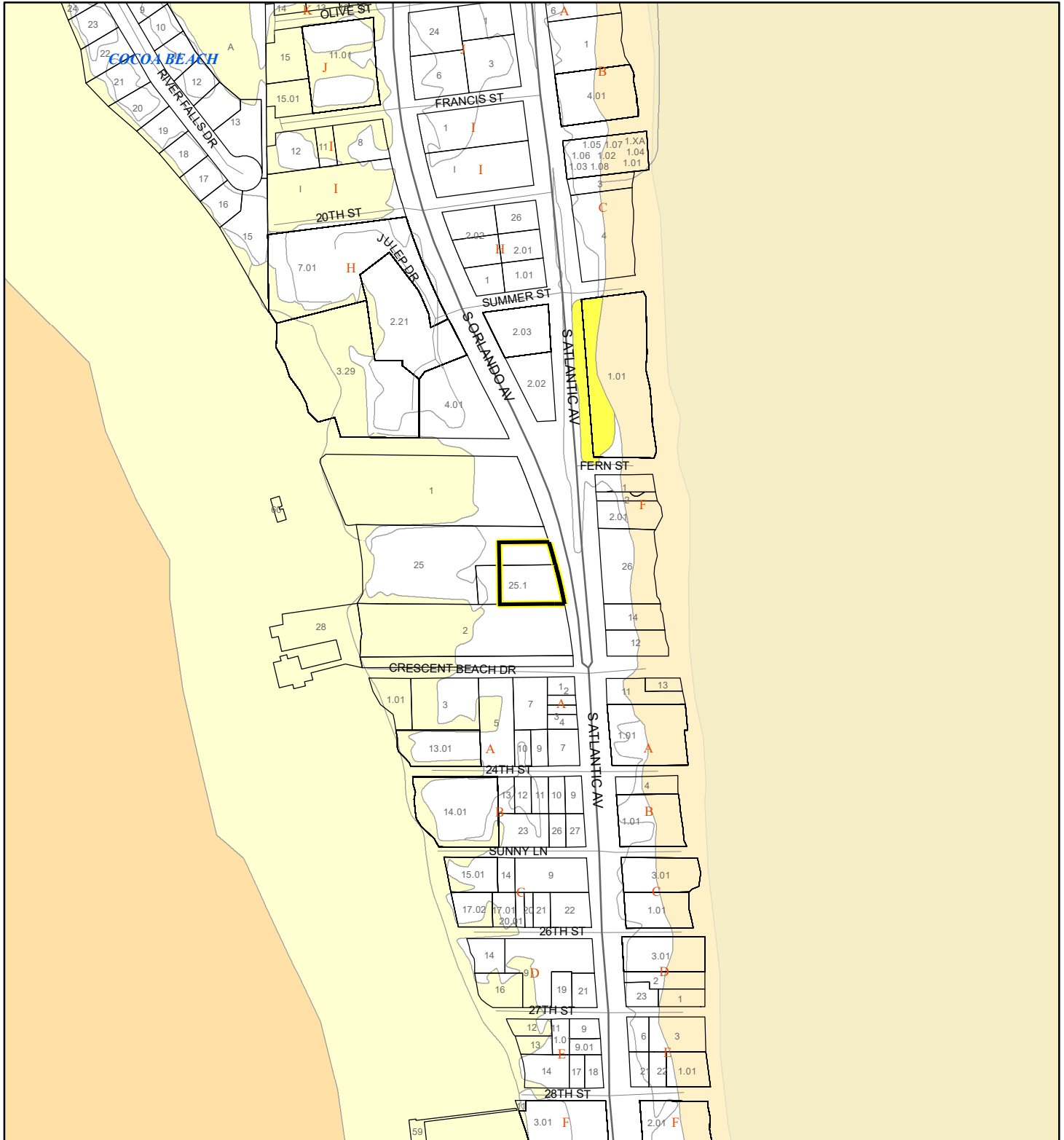
USDA SCSSS Soils

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

FEMA FLOOD ZONES MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE

21Z00050



1:4,800 or 1 inch = 400 feet

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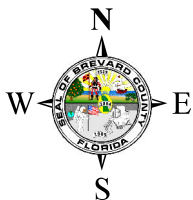
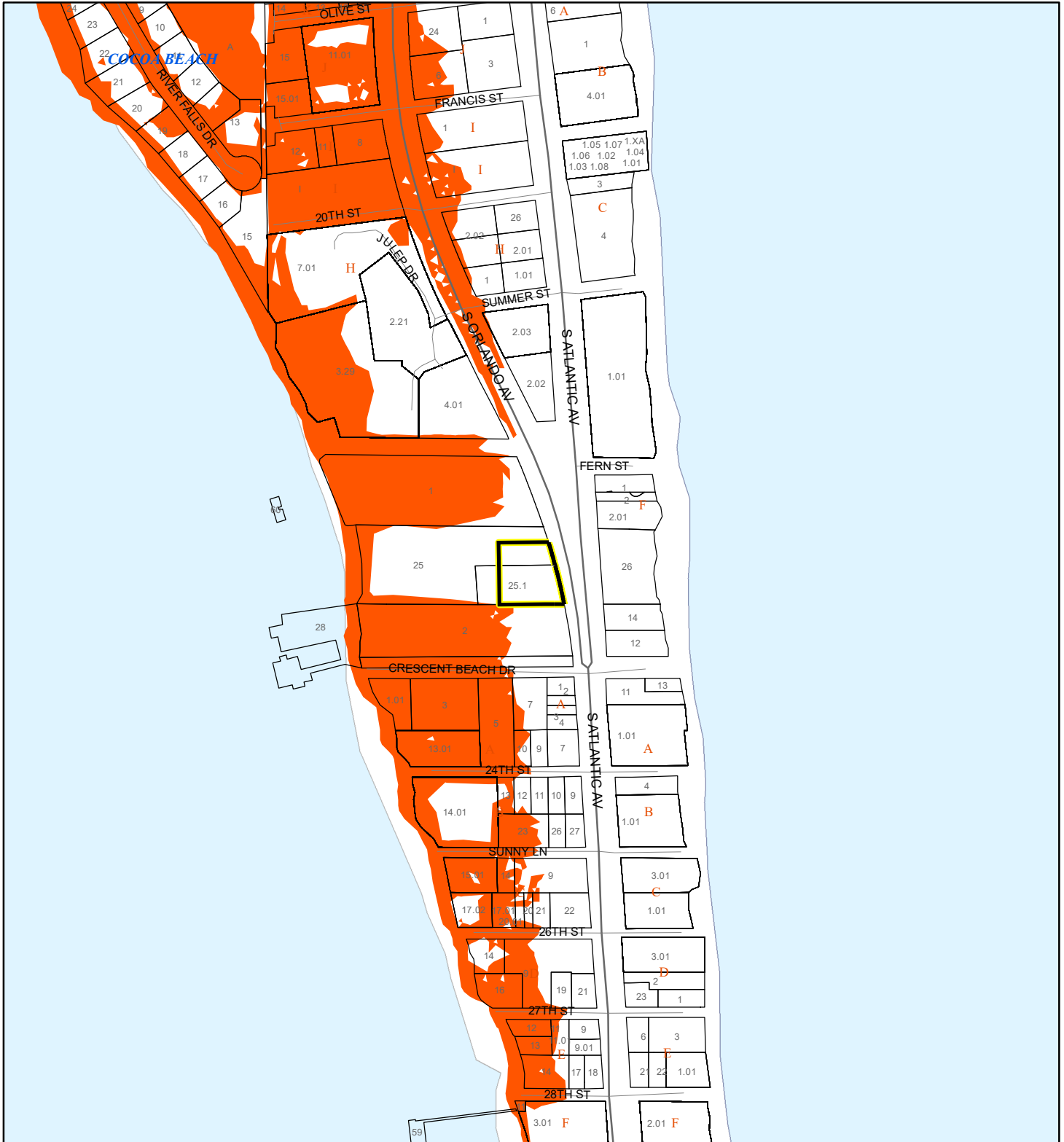
Produced by BoCC - GIS Date: 1/3/2022

FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE
21Z00050



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 1/3/2022

 Subject Property

 Parcels

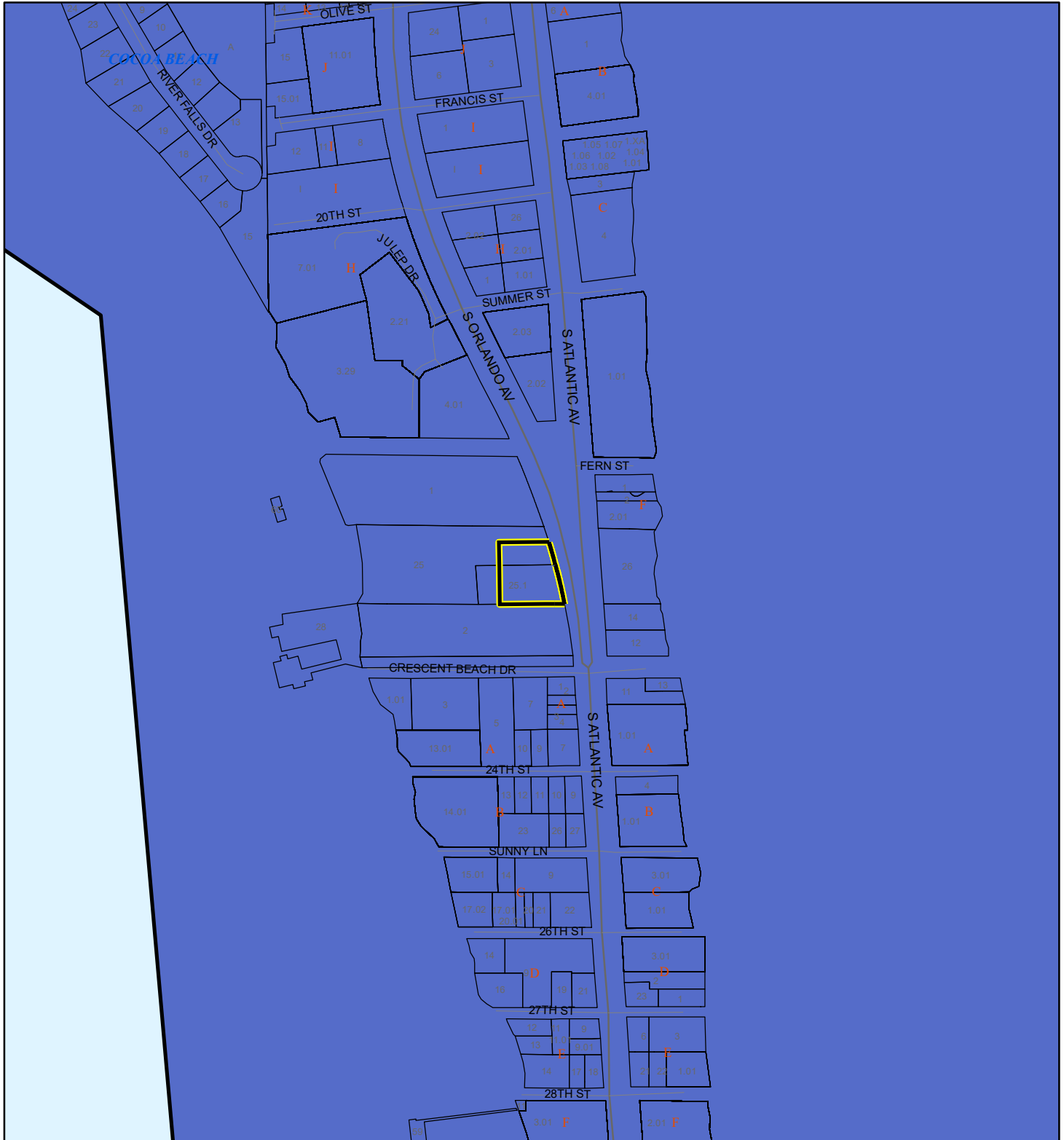
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE

21Z00050



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

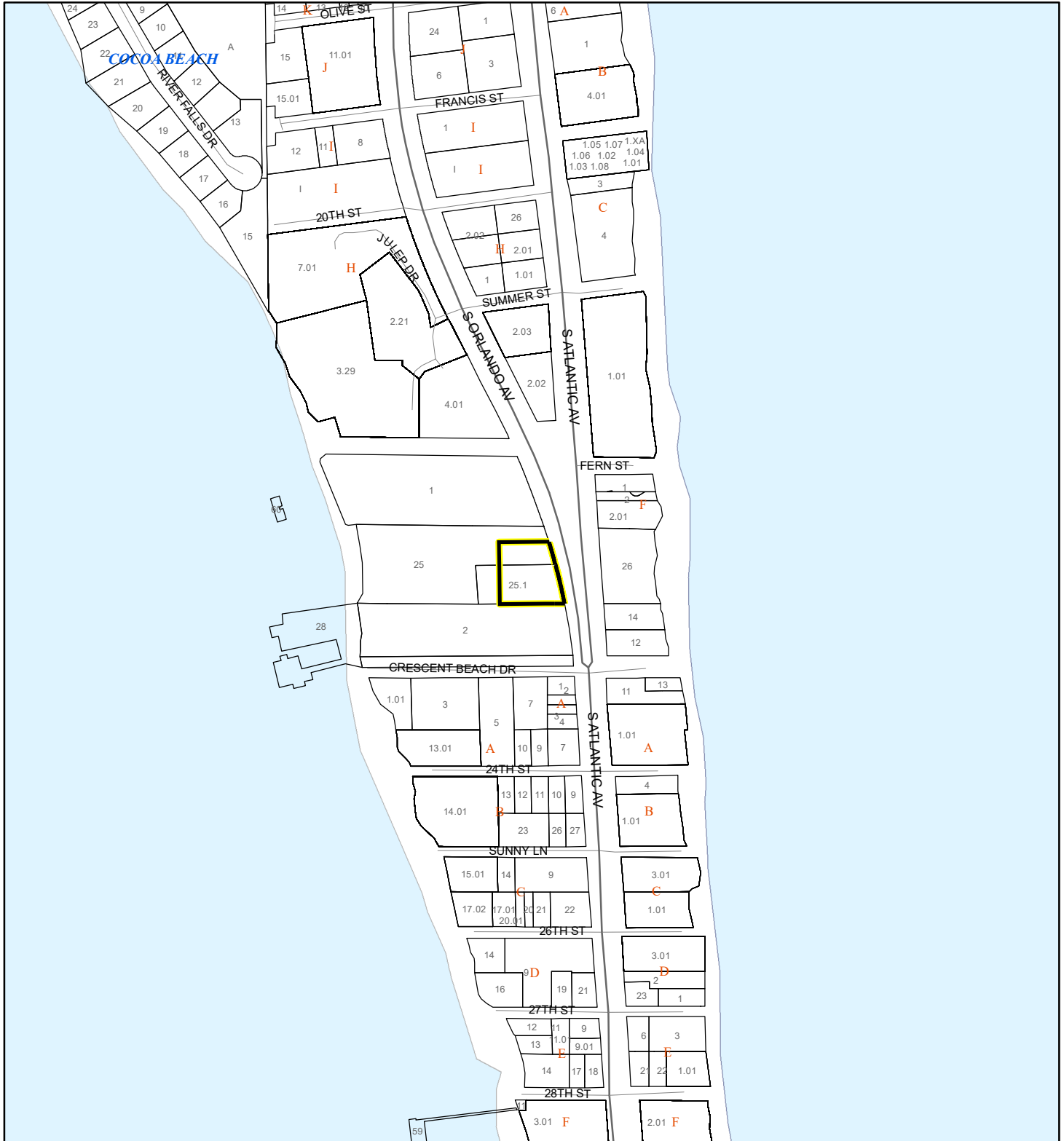
 60 Meters

 All Distances

EAGLE NESTS MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE

21Z00050




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

 Subject Property

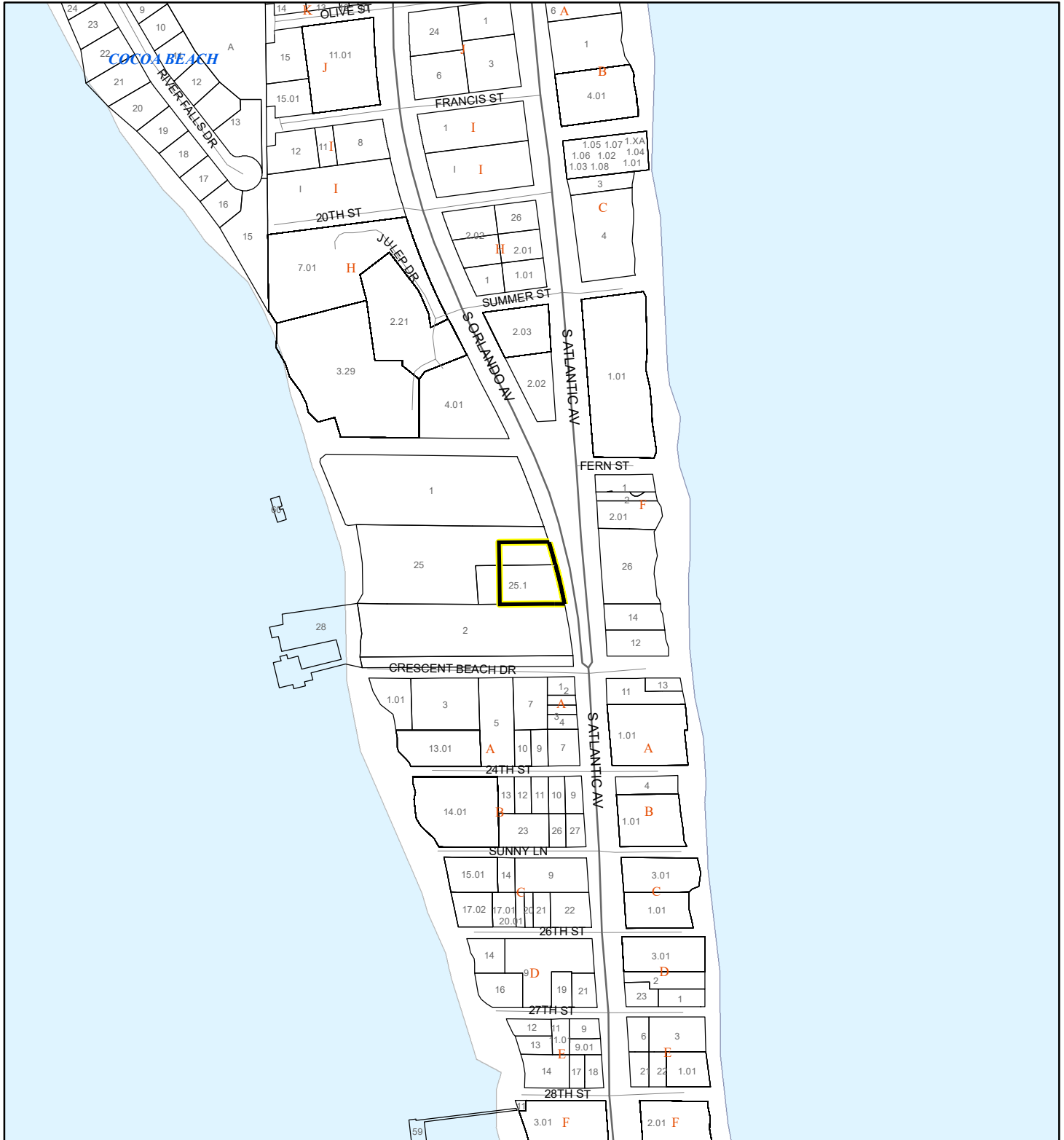
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE

21Z00050



1:4,800 or 1 inch = 400 feet

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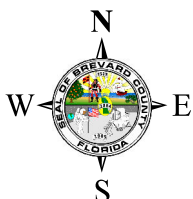
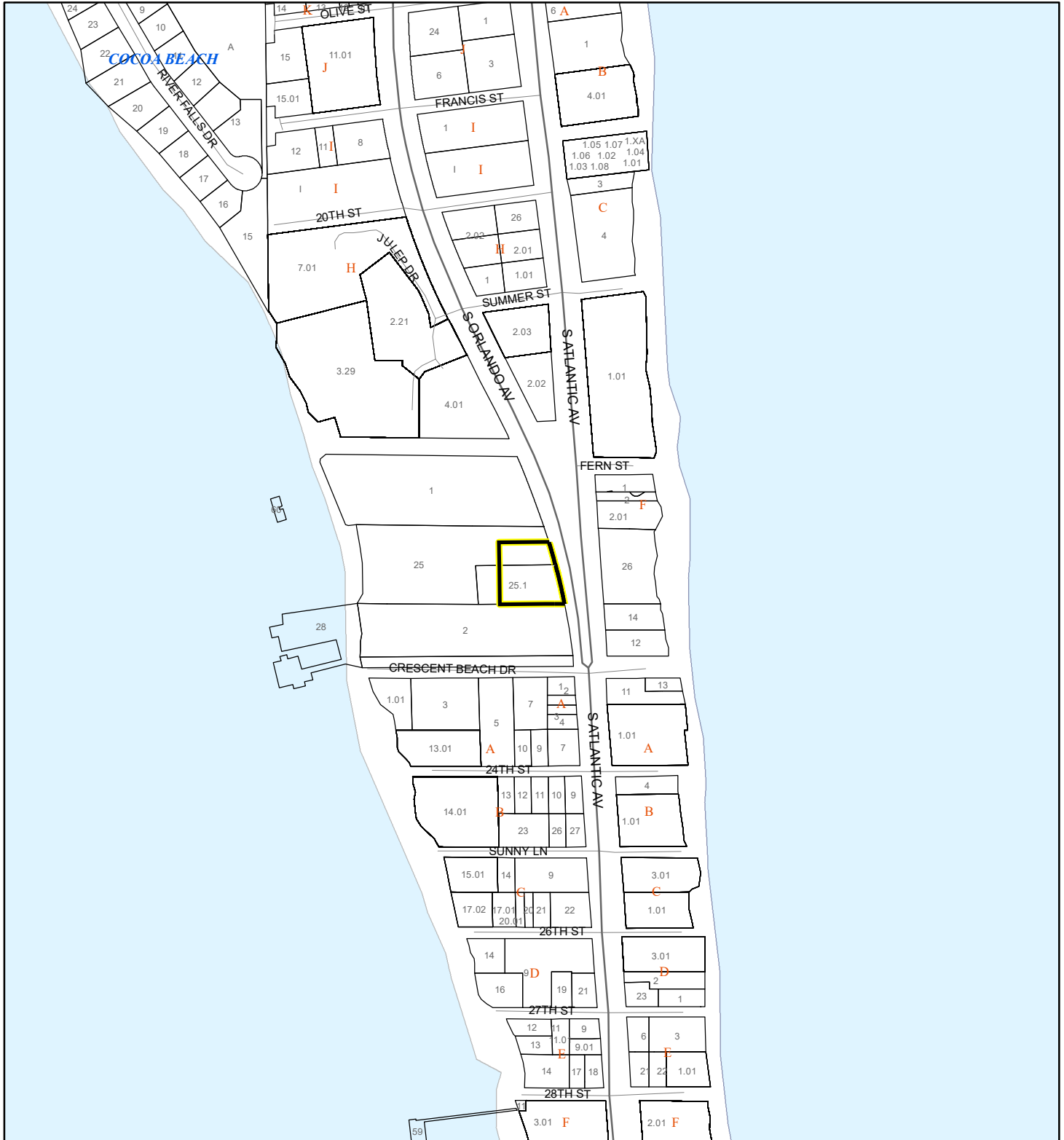
Produced by BoCC - GIS Date: 1/3/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SOUTH BEACH DEVELOPMENT CORP., ROBERT A. BAUGHER, TRUSTEE

21Z00050



1:4,800 or 1 inch = 400 feet

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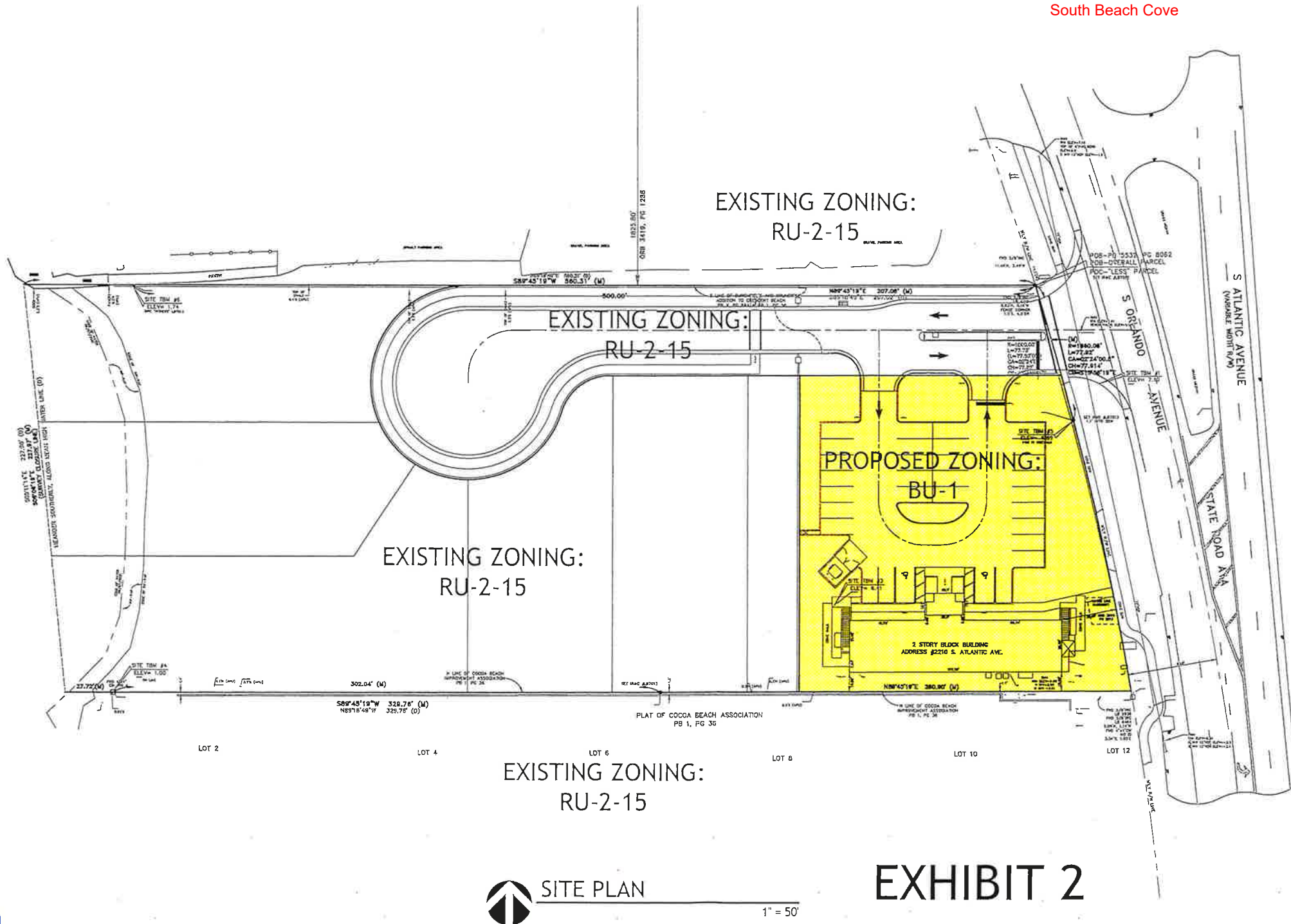
Produced by BoCC - GIS Date: 1/3/2022

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



From: [David Fine](#)
To: [Jones, Jennifer](#)
Cc: ["Bob Baugher"](#); ["Angie Fine"](#)
Subject: RE: id# 21z00050
Date: Thursday, March 10, 2022 3:38:21 PM
Attachments: [Wells River Cove C-1 1-7-2021.pdf](#)

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Jennifer

I have now spoken to Bob Baugher, the owner of the land in question. I have also reviewed the plot plans.

He is adding a gated community with 5 houses, as well as moving the driveway north to make it safer.

I therefore remove my objection, which was specifically for the use for 'Retail Commercial'. My concern was the likelihood of accidents, The property will not be used for retail commercial.

David Fine

From: David Fine <davidhfine@comcast.net>
Sent: Saturday, March 05, 2022 7:49 PM
To: 'jennifer.jones@brevardfl.gov' <jennifer.jones@brevardfl.gov>
Subject: id# 21z00050

I have a major objection with changing this from medium Density Multi-family residential to General Retail Commercial.

The location is right where A1A North and South come together to form a single highway. It is already an accident prone area

This list is just what I have seen with my own eyes

A young boy was killed there a few years ago.

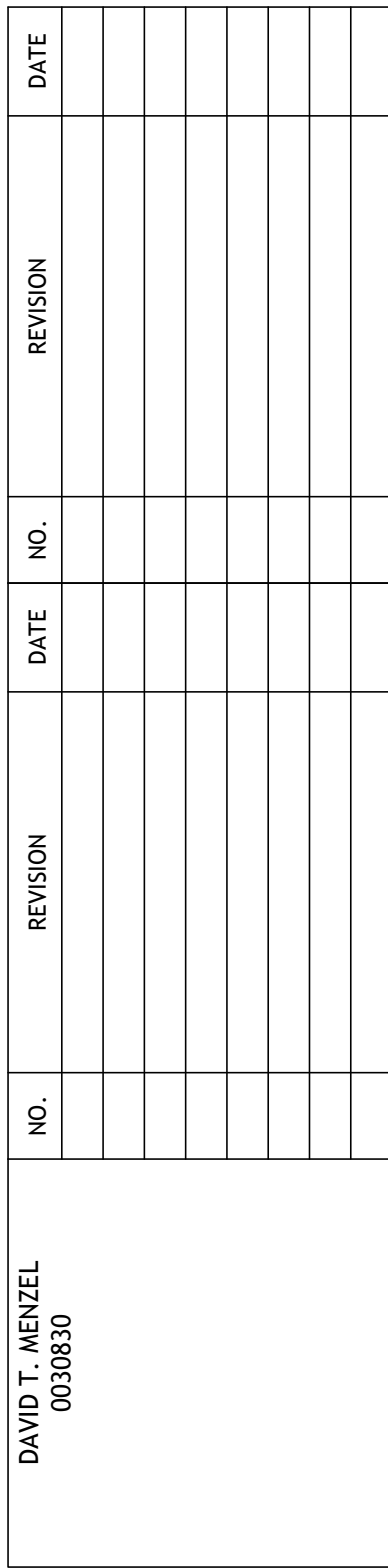
A car went out of control on another occasion and crashed into the single floor white house on the Ocean side, demolishing a fence and a shed.

I have seen one fender bender.

Another retail commercial facility there will only add to the traffic hazard. Already, it is very scary to try and cross A1A at his location. The cars are moving so fast that I cannot run fast enough with a car coming from the north. We do not want another fatality at the location

We live at 2375 South Atlantic Avenue, which is the 6 floor apartment building, called Ocean Cove, on the ocean side. Unfortunately, we will not be able to attend the public hearing

David Fine
508 878 6865



**WELLS RIVER COVE
DEVELOPMENT**
2210 S. ATLANTIC AVENUE
COCOA BEACH, BREVARD COUNTY, FLORIDA

SITE DEVELOPMENT PLAN

Cert. of Author. #31547	
Date: 10-15-2020	Sheet
Scale: 1"=40'	C-1
Drawn: WAA	
Checked: DTM	
Approved: DTM	
Proj #: 2020-016	
1 of 1	

From: [David Fine](#)
To: [Jones, Jennifer](#)
Subject: id# 21z00050
Date: Saturday, March 5, 2022 7:49:56 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I have a major objection with changing this from medium Density Multi-family residential to General Retail Commercial.

The location is right where A1A North and South come together to form a single highway. It is already an accident prone area

This list is just what I have seen with my own eyes

A young boy was killed there a few years ago.

A car went out of control on another occasion and crashed into the single floor white house on the Ocean side, demolishing a fence and a shed.

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Another retail commercial facility there will only add to the traffic hazard. Already, it is very scary to try and cross A1A at his location. The cars are moving so fast that I cannot run fast enough with a car coming from the north. We do not want another fatality at the location

We live at 2375 South Atlantic Avenue, which is the 6 floor apartment building, called Ocean Cove, on the ocean side. Unfortunately, we will not be able to attend the public hearing

David Fine
508 878 6865



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.10.

3/14/2022

Subject:

Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc. (Vaheed Teimouri) request a Small Scale Comprehensive Plan Amendment (21S.11) to change the Future Land Use designation from NC to CC. (21PZ00095) (Tax Accounts 2511036 & 2511043) (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 change of Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial).

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use designation on 2.0 acres of developed land from NC to CC for the purpose of having an assisted living facility (ALF). The subject property consists of two (2) one-acre (1-acre). Parcels are developed as an office building and a single-family residence. A companion rezoning application (21Z00049) was submitted accompanying this request for a Zoning change from BU-1-A (Restricted Neighborhood Retail Commercial) to BU-1 (General Retail Commercial).

To the north of the subject property is an office building (City of Rockledge). To the south, is a single-family residence (City of Rockledge). To the east is an airstrip (Greenlight Industrial Airpark). To the west, across Murrell Road are single-family residences (City of Rockledge).

The general area is commercial in character with an existing pattern of commercial use along this segment of Murrell Road, more specifically on the east side from Gus Hipp Boulevard south to Barnes Boulevard. The subject property is surrounded on three sides by commercially-zoned parcels within the City of Rockledge and is adjacent to existing County industrial park zoning. The parcels on the east side of Murrell Road have transitioned from residential uses to commercial uses under the previous zoning actions.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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.11 (21PZ00095)
Township 25, Range 36, Section 22*

Property Information

Owner / Applicant: Harmony Villas Properties, Inc., Murrell Road Properties

Adopted Future Land Use Map Designation: Neighborhood Commercial (NC)

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

Acreage: 2.0 acres

Tax Account #: 2511043 and 2511036

Site Location: On the east side of Murrell Road, approximately 640 ft south of Roy Wall Boulevard

Commission District: 2

Current Zoning: Restricted Neighborhood Retail Commercial (BU-1-A)

Requested Zoning: General Retail Commercial (BU-1)
(application 21Z00049)

Background & Purpose

The applicant is requesting to amend the Future Land Use designation on 2.0 acres of developed land from Neighborhood Commercial (NC) to Community Commercial (CC) for the purpose of having an assisted living facility on site. The subject property consists of two (2) one-acre (1-acre) parcels developed as an office building and a single-family residence. The northern parcel is utilized in site plan 21SP00034 for an existing office and proposed group home level II use.

The subject site currently has a Future Land Use designation of NC that was adopted in May of 2000 when the Mixed Use District land use designation throughout the County at the time was converted into either NC or CC depending on the underlying zoning classification in place (Amendment No. 99B.14). The original land use designation adopted with the Comprehensive Plan in September of 1988 was Heavy and Light Industrial along this segment of Murrell Road that was subsequently amended to Mixed Use District in 1995 (Amendment No. 95A.3).

A companion rezoning application (21Z00049) was submitted accompanying this request for a Zoning change from Restricted Neighborhood Retail Commercial (BU-1-A) to General Retail Commercial (BU-1).

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Office building	City of Rockledge: C2-General Commercial	Rockledge: MUPD7-Mixed Use Planning District 7
South	One (1) single-family residence	City of Rockledge: C2-General Commercial	Rockledge: MUPD7-Mixed Use Planning District 7
East	Airstrip	IU-Light Industrial	IND-Heavy/Light Industrial
West	Two (2) single-family residences (across Murrell Road)	City of Rockledge: P1-Professional; and AU	Rockledge: MUPD7-Mixed Use Planning District 7; and RES 15

To the north of the subject property is an office building (City of Rockledge). To the south, is a single-family residence (City of Rockledge). To the east is an airstrip (Greenlight Industrial Airpark). To the west, across Murrell Road are single-family residences (City of Rockledge).

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

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 foresee ably be affected by the proposed use;

The applicant proposes to utilize the subject property as an Assisted Living Facility. The effects of lighting, site activity and traffic will be evaluated at the time of site plan review.

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

1. historical land use patterns;

There is an existing pattern of commercial use along this segment of Murrell Road, more specifically on the east side from Gus Hipp Boulevard south to Barnes Boulevard. The subject property is surrounded on three sides by commercially-zoned parcels within the City of Rockledge and is adjacent to existing County industrial park zoning. The parcels on the east side of Murrell Road have transitioned from residential uses to commercial uses under the previous zoning actions.

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

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

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

There have not been any development approvals within the past three (3) years.

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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The general area is commercial in character with an existing pattern of commercial use along this segment of Murrell Road, more specifically on the east side from Gus Hipp Boulevard south to Barnes Boulevard. The subject property is surrounded on three sides by commercially-zoned parcels within the City of Rockledge and is adjacent to existing County industrial park zoning. The parcels on the east side of Murrell Road have transitioned from residential uses to commercial uses under the previous zoning actions.

Role of the Comprehensive Plan in the Designation of Commercial Lands

Policy 2.1

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

Criteria:

- A. Overall accessibility to the site;

The subject 2.0 acre parcel has frontage on Murrell Road to the west.

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

The subject 2.0 acre parcel is directly adjacent to Mixed Use Planning District 7 Future Land Use (City of Rockledge) to the north, south, and west (across Murrell Road). West of the subject site is an airstrip with Industrial Future Land Use (Brevard County). Inter-connectivity can be provided between the subject site and the commercial parcel to the north.

- C. Existing commercial development trend in the area;

The developed character of the surrounding area is a mixture of commercial zoning classifications along both sides of Murrell Road either under City of Rockledge or County Zoning jurisdiction.

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

There are no fundamental changes in character within this area prompted by County infrastructure improvements.

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

The subject property is within the City of Cocoa's service area for potable water. The closest Brevard County sanitary sewer line is approximately 6,025 feet south of the subject property at Murrell Road and Solitary Drive.

Based upon Floor Area Ratio (FAR) used for traffic analysis when considering Future Land use changes, the preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service.

- F. Spacing from other commercial activities;

The subject property is immediately adjacent to a commercial office building to the north. A commercial node (City of Rockledge) is located approximately 1,660 feet south of the subject site at Murrell Road and Barnes Boulevard.

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

The subject parcel is 2.0 acres. An existing cluster of approximately sixteen (16) acres of Commercial Future Land Use (City of Rockledge) and approximately thirty (30) acres of Mixed Use Future Land Use (City of Rockledge) is located approximately 1,660 feet south of the subject property at the intersection of Murrell Road and Barnes Boulevard.

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

The Natural Resource Management (NRM) Department has provided a preliminary summary of adherence to the objectives/policies of the Conservation Element and the minimization of impacts upon natural resources and systems. (See attached NRM Department Summary).

- I. Integration of open space; and

Open space will be evaluated during the site plan review process.

- J. Impacts upon strip commercial development.

The subject 2.0 acre site would provide infill rather than extend strip commercial development which is discouraged within the Future Land Use element of the Comprehensive Plan.

Activities Permitted in Community Commercial (CC) Future Land Use Designations

Policy 2.7

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

- a) Existing strip commercial;

This segment of Murrell from Gus Hipp Boulevard to Barnes Boulevard has a pattern of commercial development, the majority of which is along the east side of the road, abutting the airstrip to the east.

This area is an enclave with the City of Rockledge having jurisdiction over the abutting properties located to the north, south, to the west across Murrell Road right-of-way. The applicant does not currently propose to annex into Rockledge.

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

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

The subject parcel is not located at an intersection. A commercial node (City of Rockledge) is located approximately 1,660 feet south of the subject site at Murrell Road and Barnes Boulevard.

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

The subject site is not located at an intersection. This request would introduce Community Commercial (CC) future land use into the area. CC future land use allows for an increase in commercial intensity.

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

The nearest commercial cluster is approximately 1,660 feet south of the subject property at the intersection of Murrell Road and Barnes Boulevard.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size.

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

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites.

The overall subject site has the potential for an eighty seven thousand one hundred twenty square foot (87,120 s.f.) building. The FAR of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

Concurrency

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The subject site is within the City of Cocoa's service area for potable water. The closest Brevard County centralized sewer line is approximately 6,025 feet to the south of the subject site. A School Impact Analysis was not required for this application as this proposed project is not residential.

Environmental Resources

Preliminary review of mapped resources indicates the following land use issues:

- Protected Species
- Land Clearing and Landscape Requirements

Please refer to the attached comments provided by the Natural Resources Management Department.

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 and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item # 21PZ00095**

Applicant: Vaheed Teimouri

FLU Request: NC to CC

Note: Applicant wants to increase number of beds 28.

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID Nos: 2511043 & 2511036

- 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:

- Protected Species
- Land Clearing and Landscape Requirements

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

Land Use Comments:

Protected Species

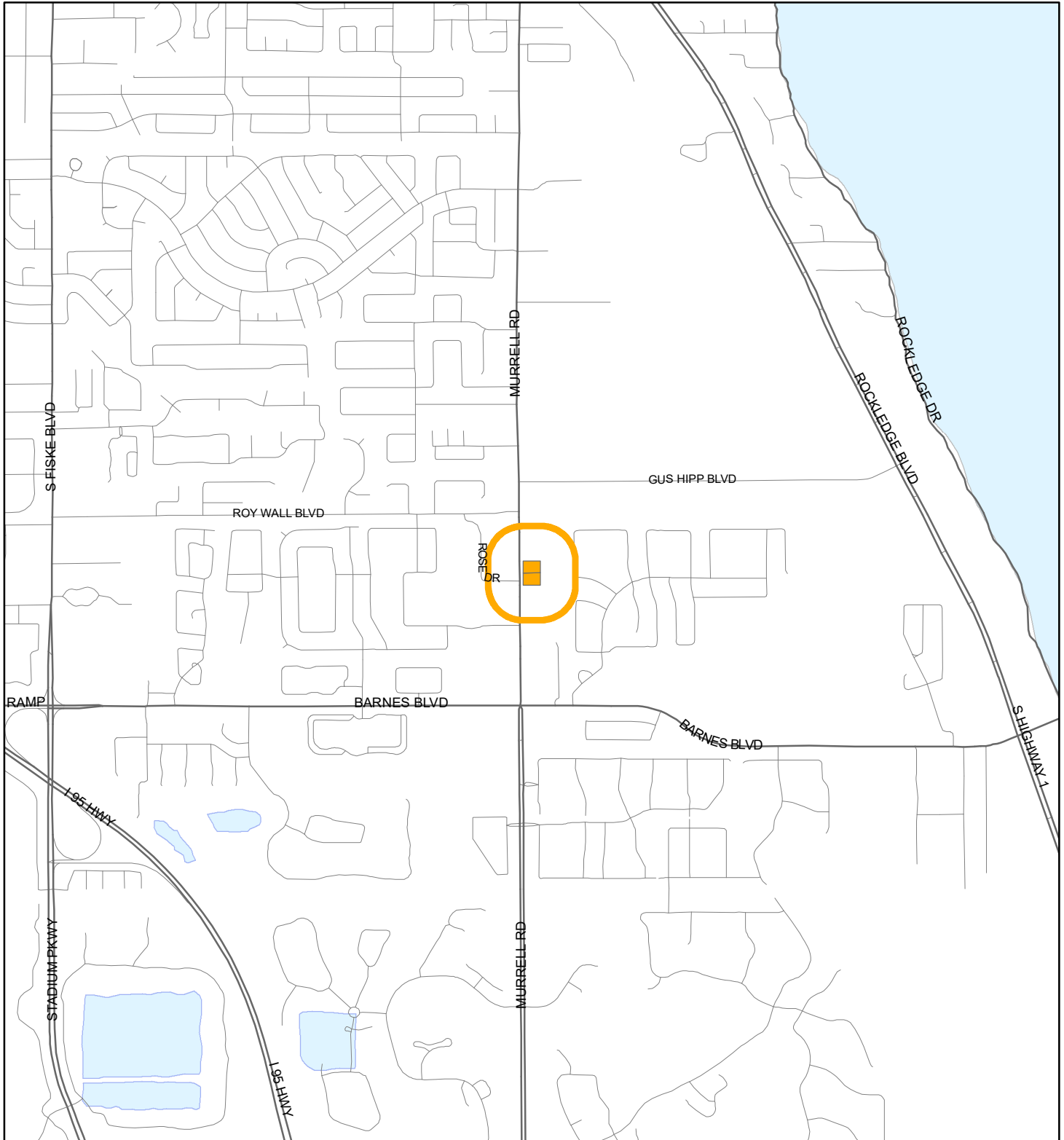
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

Land Clearing and Landscape Requirements

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Specimen trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.
21PZ00095 SMALL SCALE AMENDMENT 21S.11





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

Buffer Distance: 500 feet

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

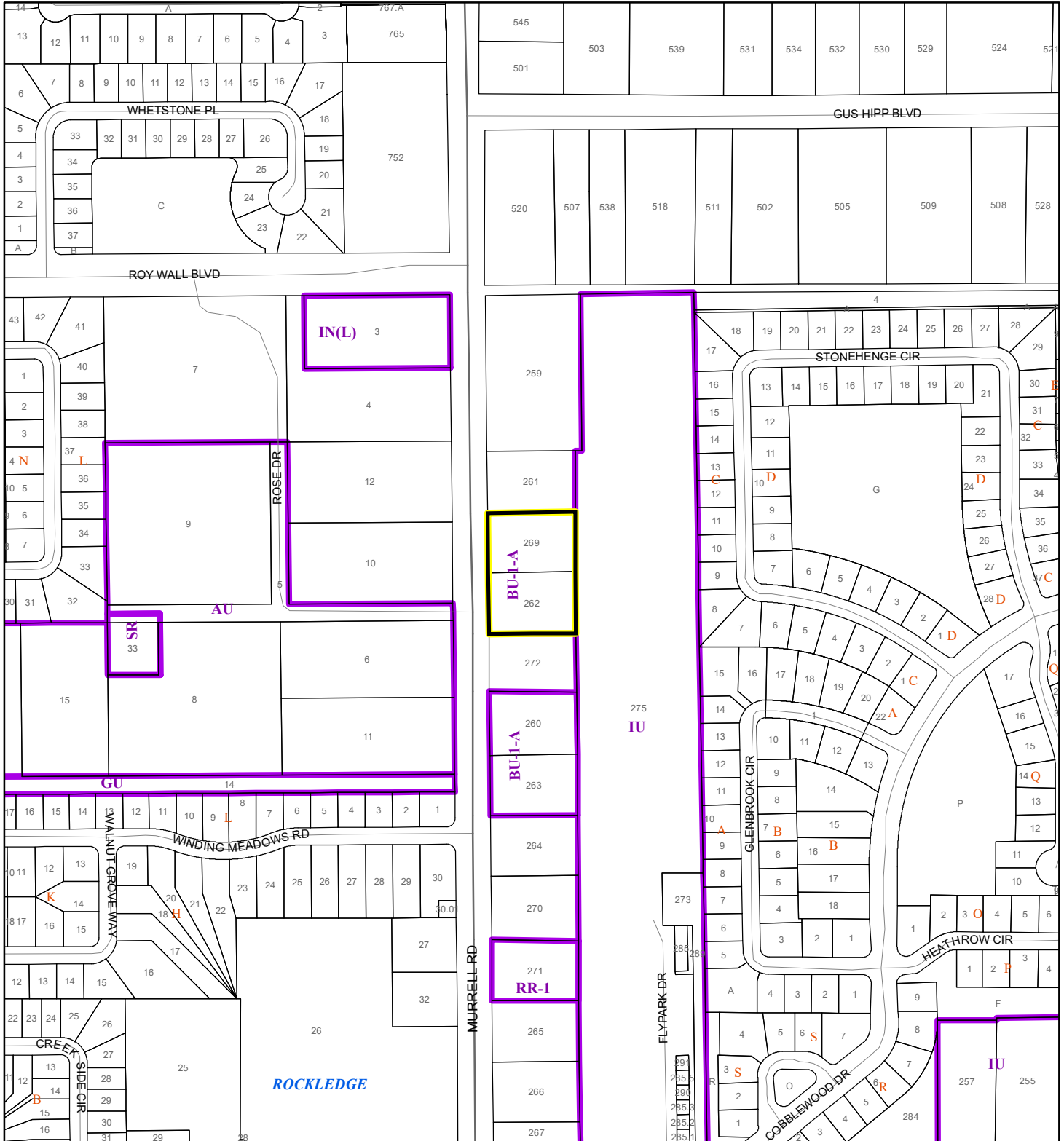
Produced by BoCC - GIS Date: 1/4/2022

 Buffer
 Subject Property

ZONING MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



1:4,800 or 1 inch = 400 feet

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Subject Property

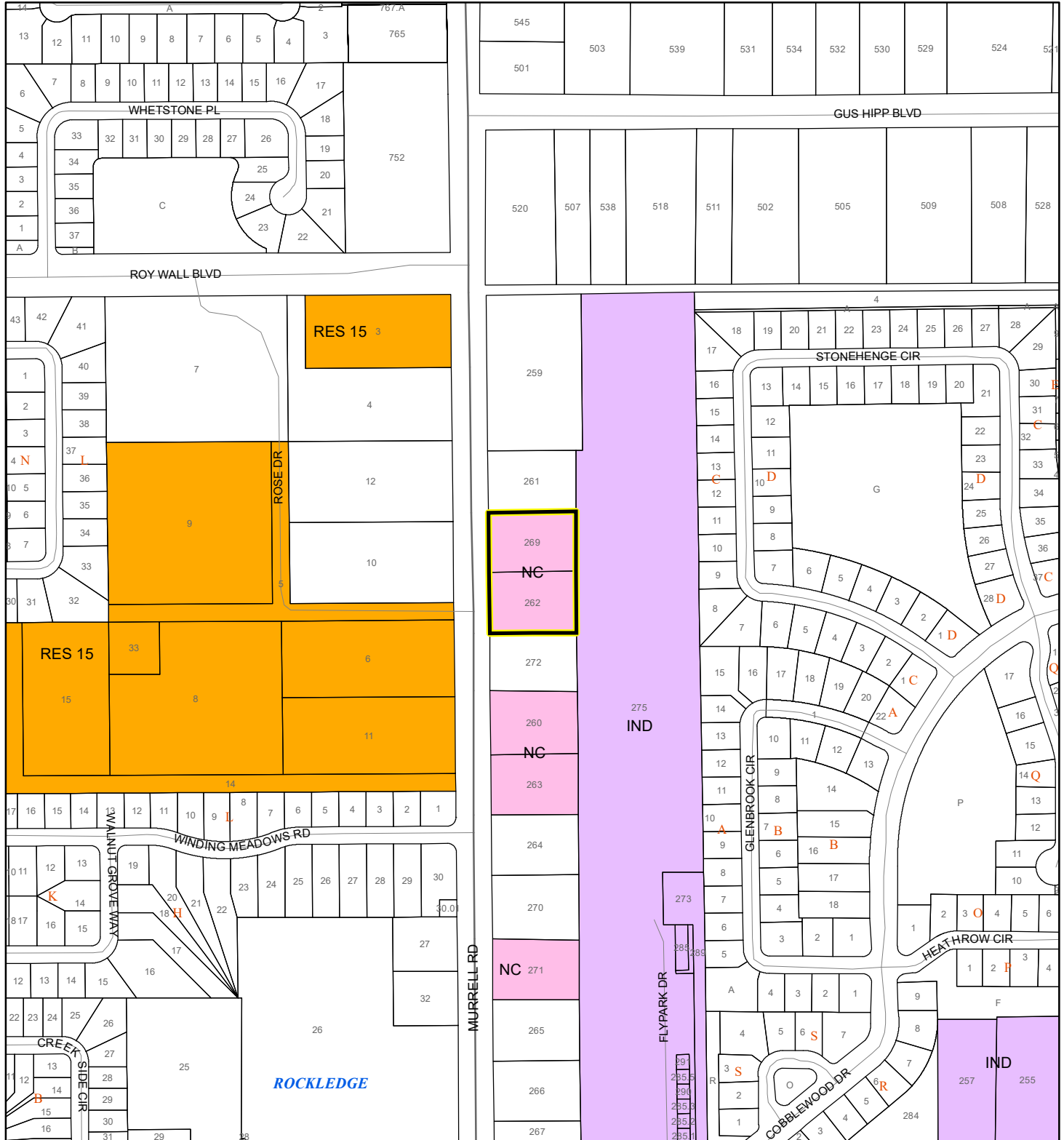
Parcels

Zoning

FUTURE LAND USE MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

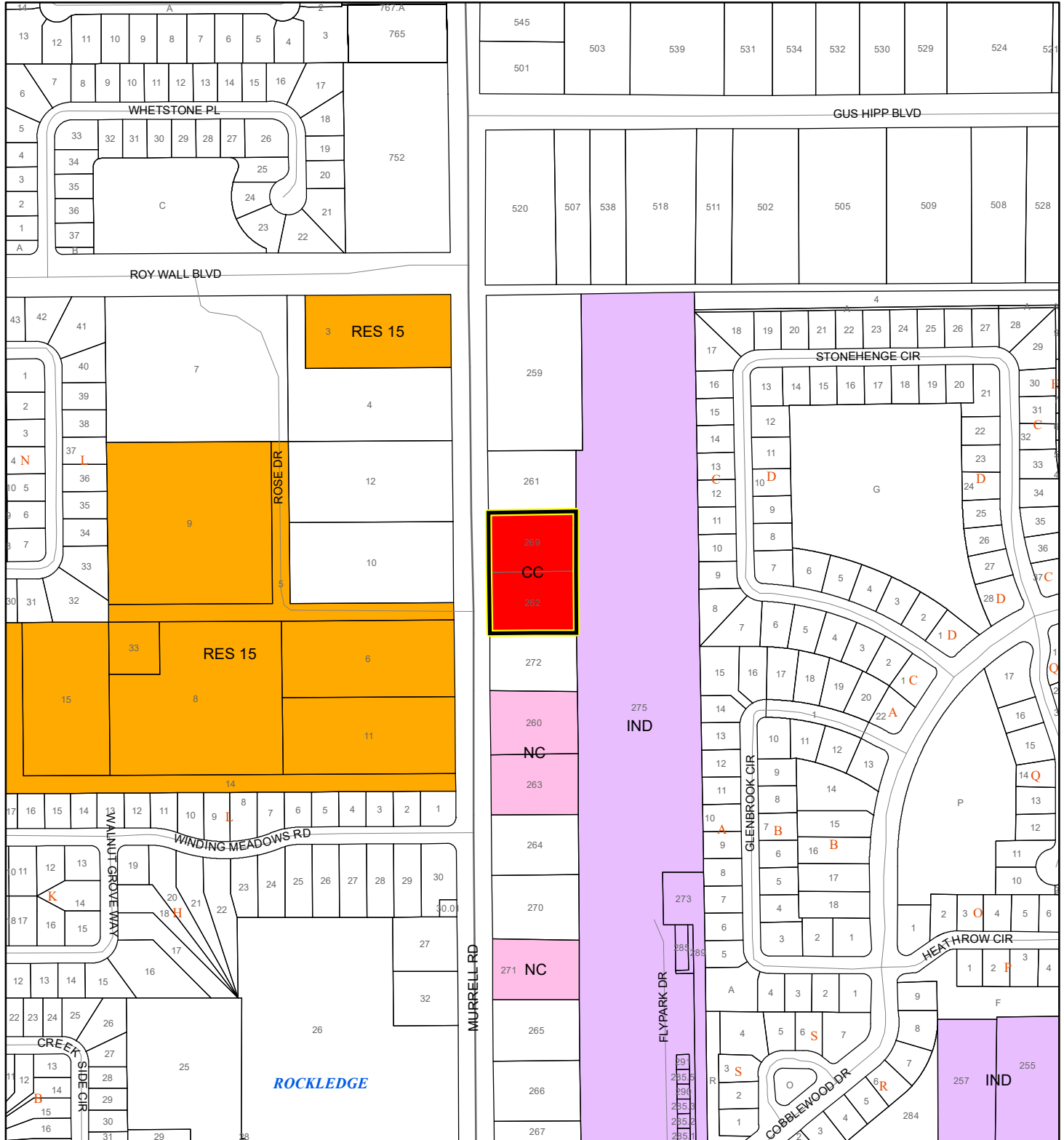
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PROPOSED FUTURE LAND USE MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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AERIAL MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.
21PZ00095 SMALL SCALE AMENDMENT 21S.11





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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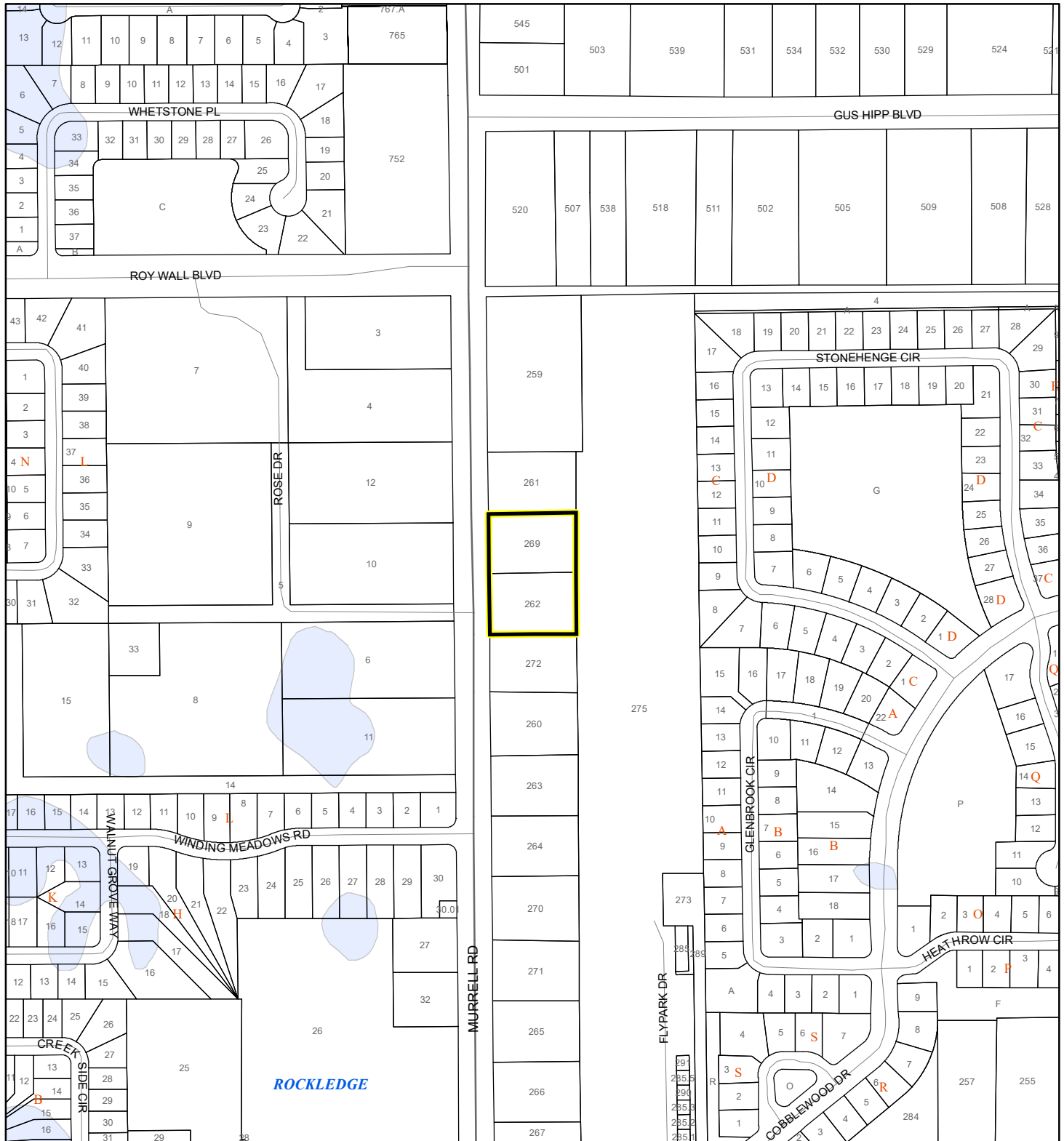
Produced by BoCC - GIS Date: 1/4/2022

 Subject Property
 Parcels

NWI WETLANDS MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/4/2022

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

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



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Produced by BoCC - GIS Date: 1/4/2022

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

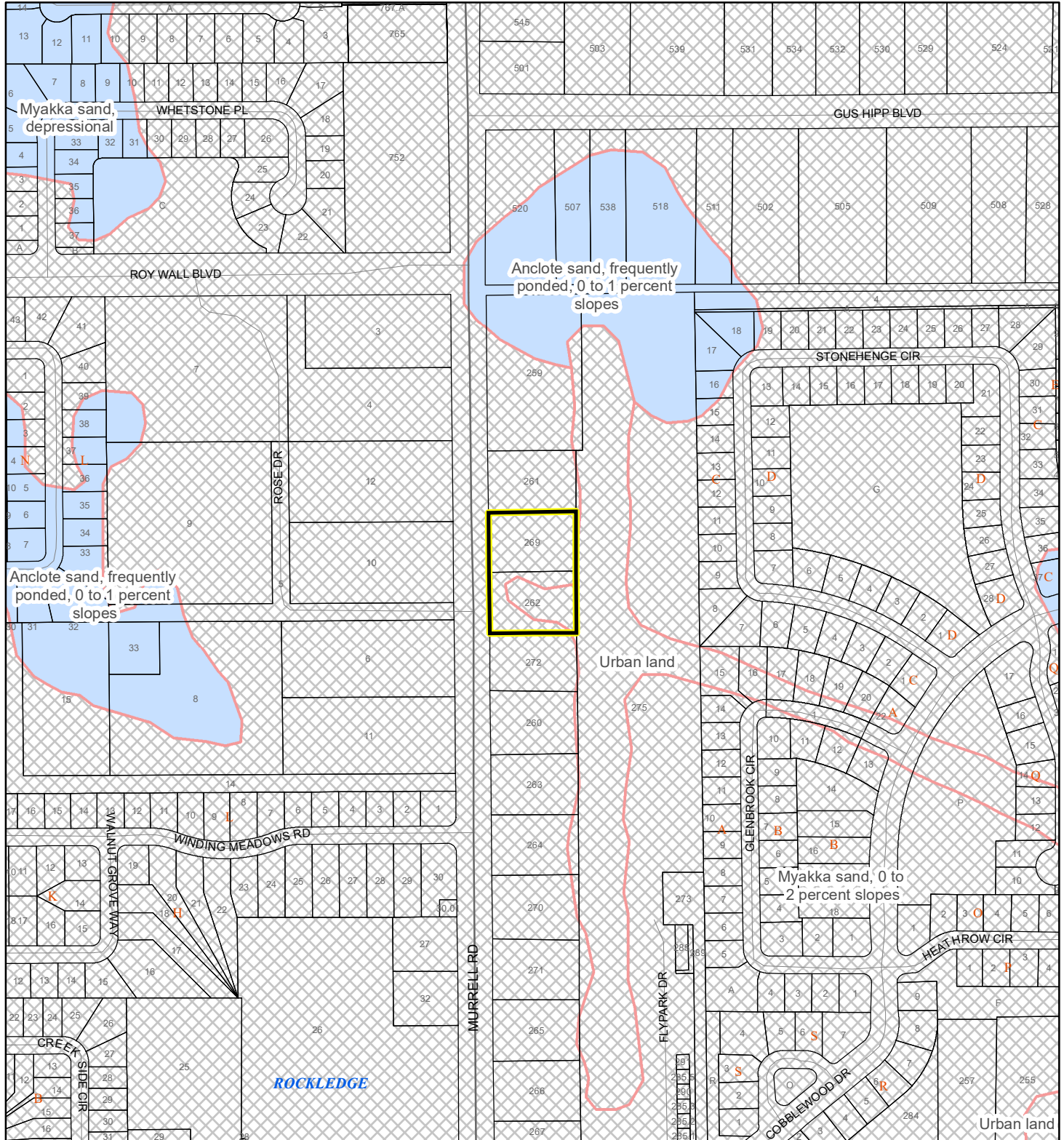
Subject Property

Parcels

USDA SCSSS SOILS MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/4/2022

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

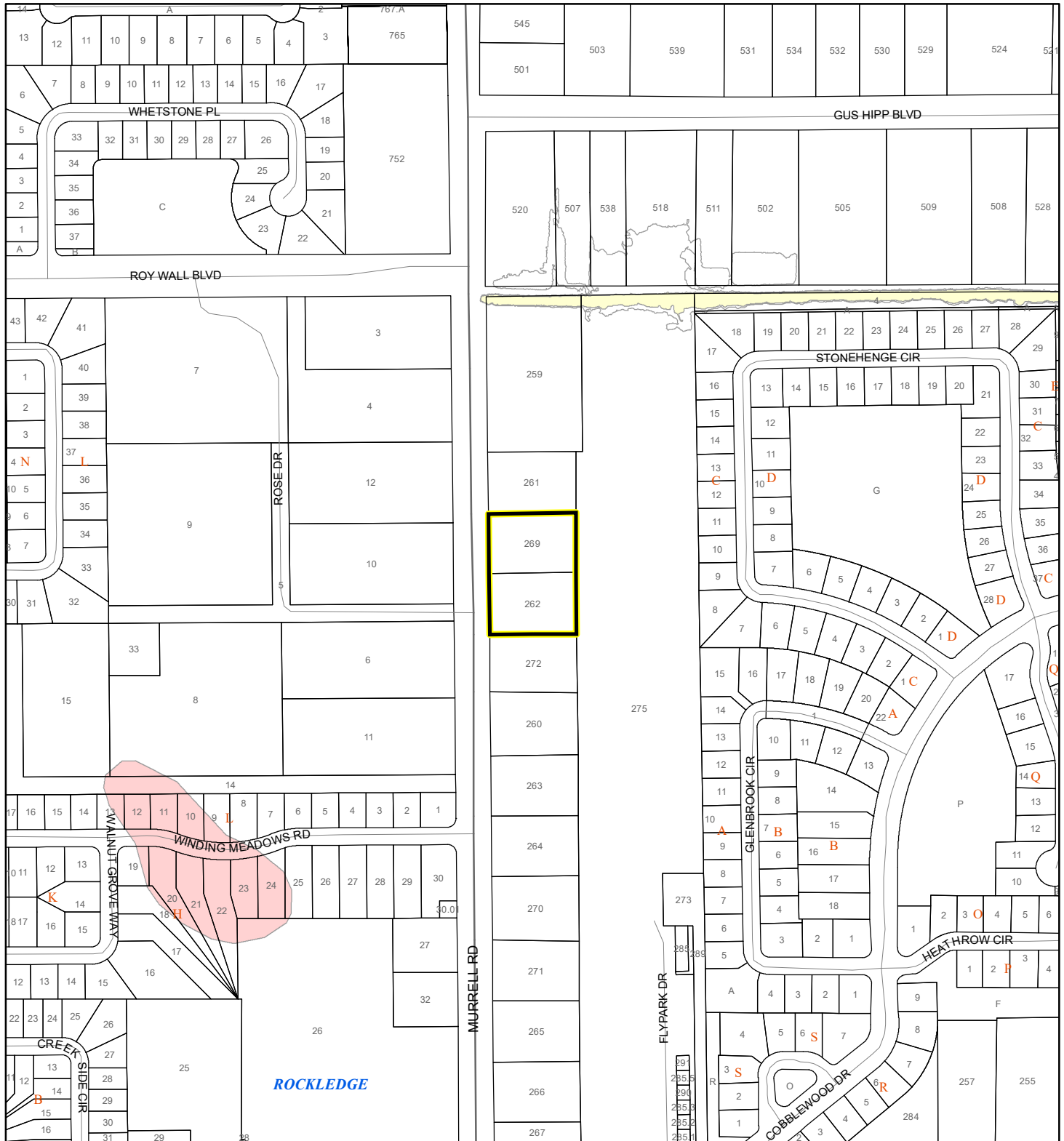
Subject Property

Parcels

FEMA FLOOD ZONES MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/4/2022

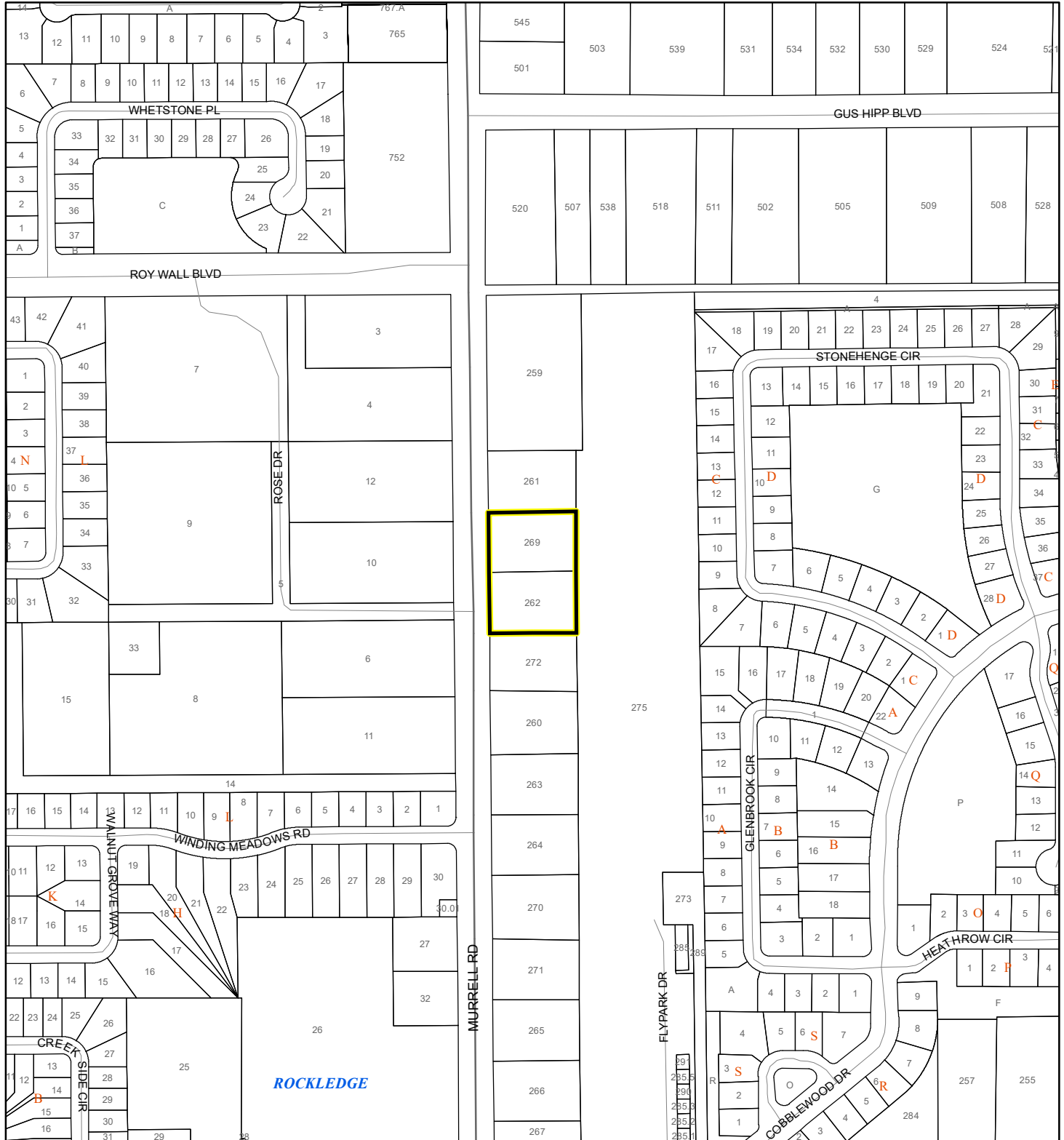
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



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Produced by BoCC - GIS Date: 1/4/2022

 Subject Property

 Parcels

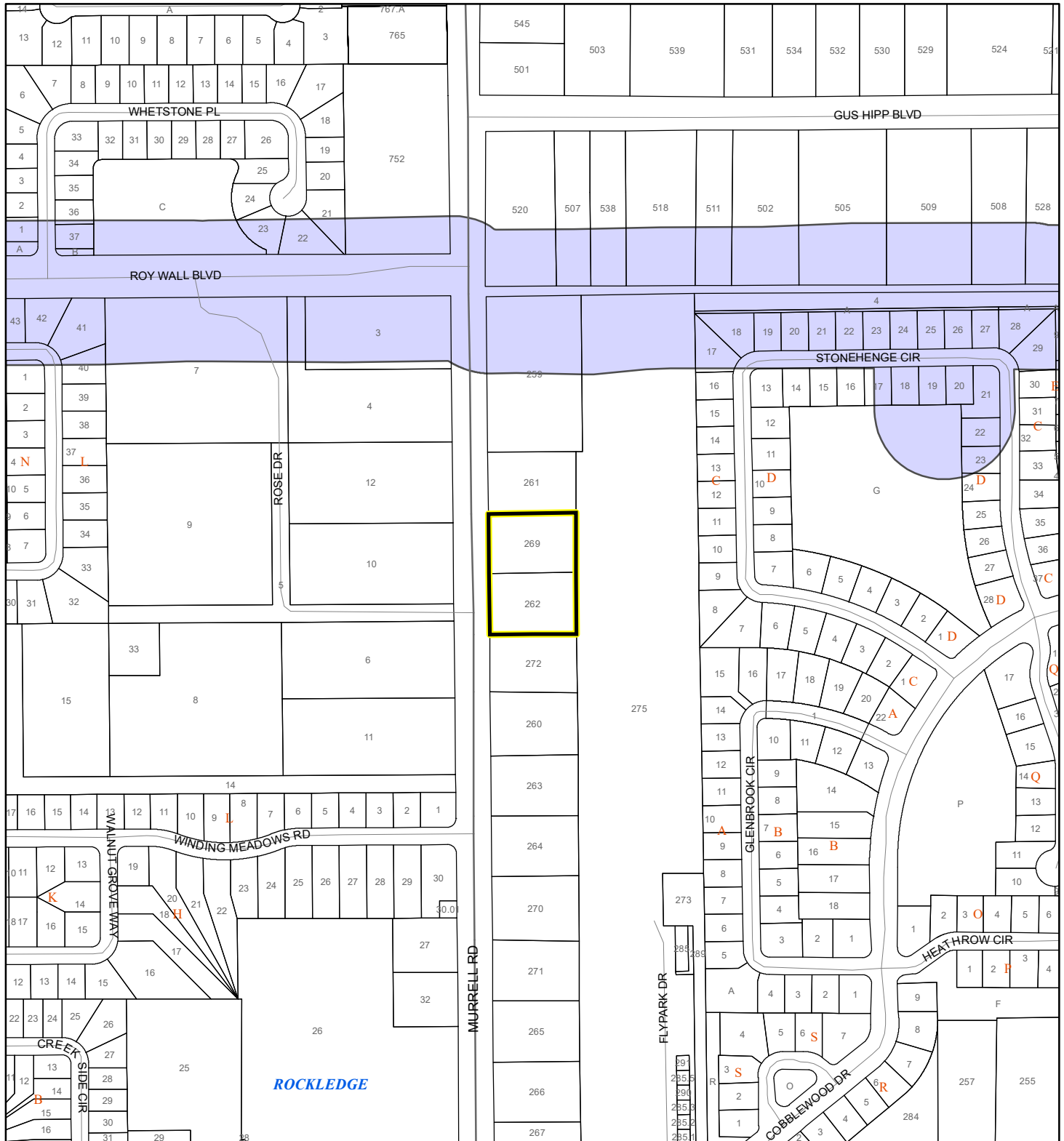
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



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Produced by BoCC - GIS Date: 1/4/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

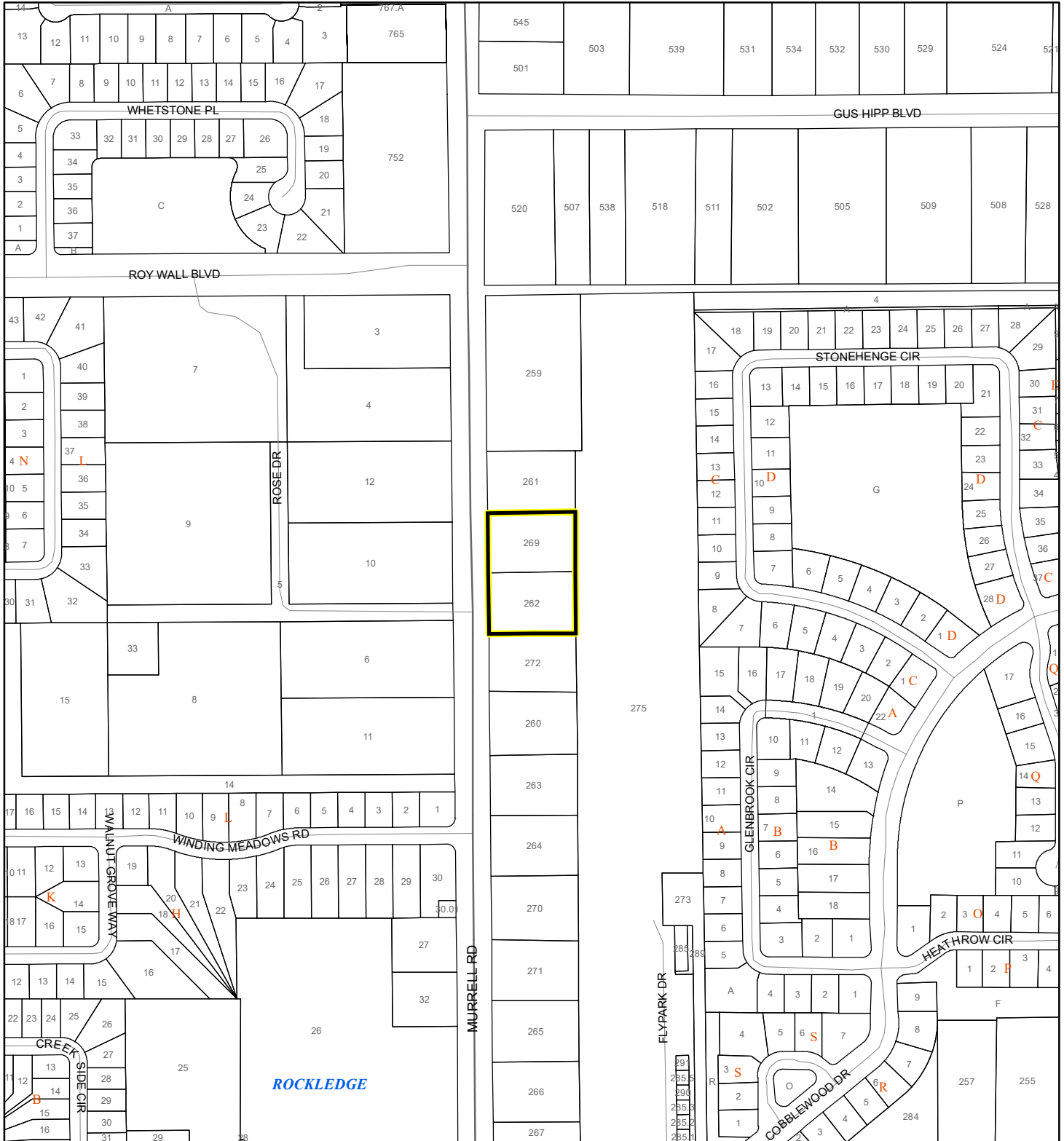
 60 Meters

 All Distances

EAGLE NESTS MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



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 Subject Property

 Parcels

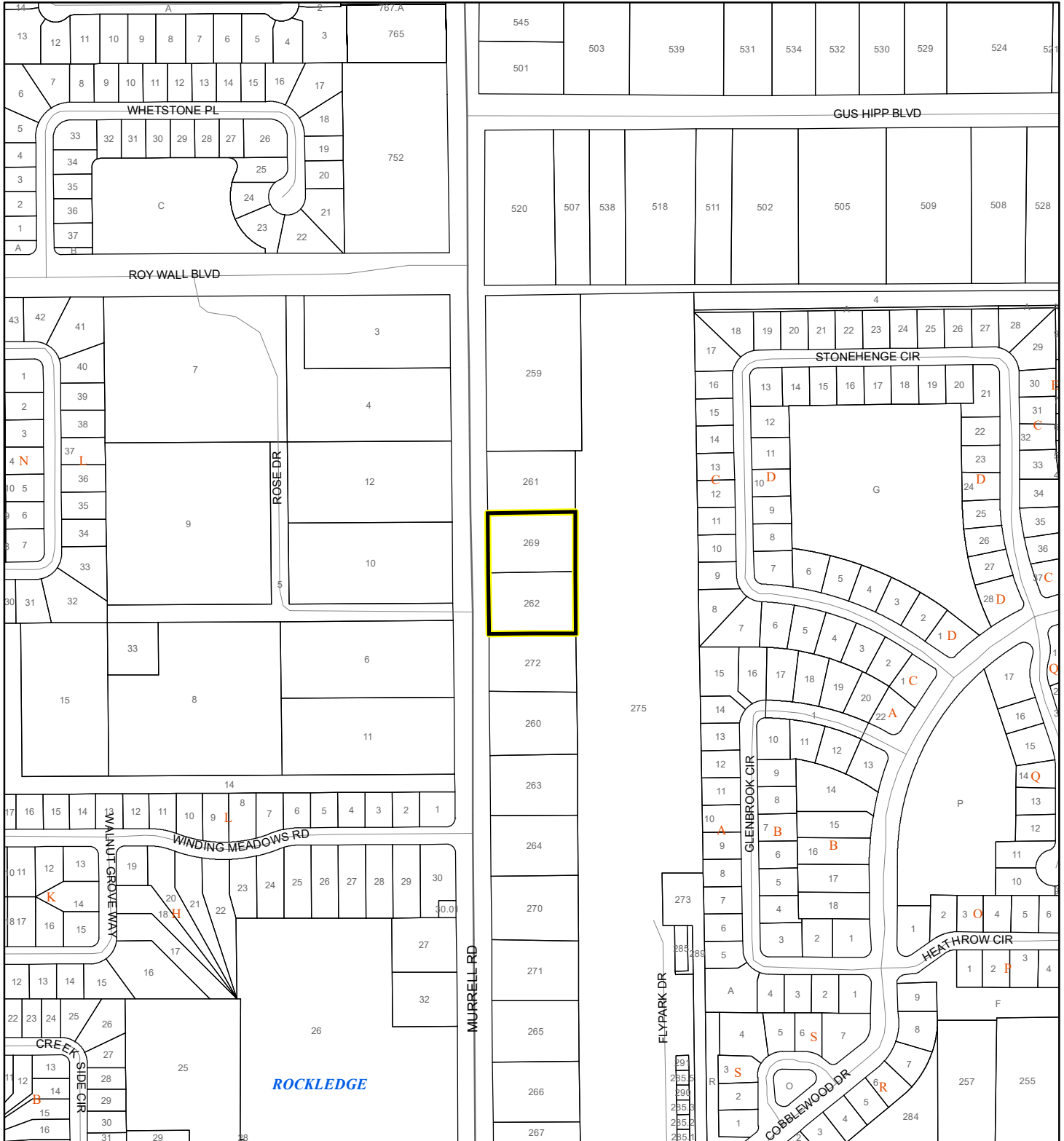


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



1:4,800 or 1 inch = 400 feet

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

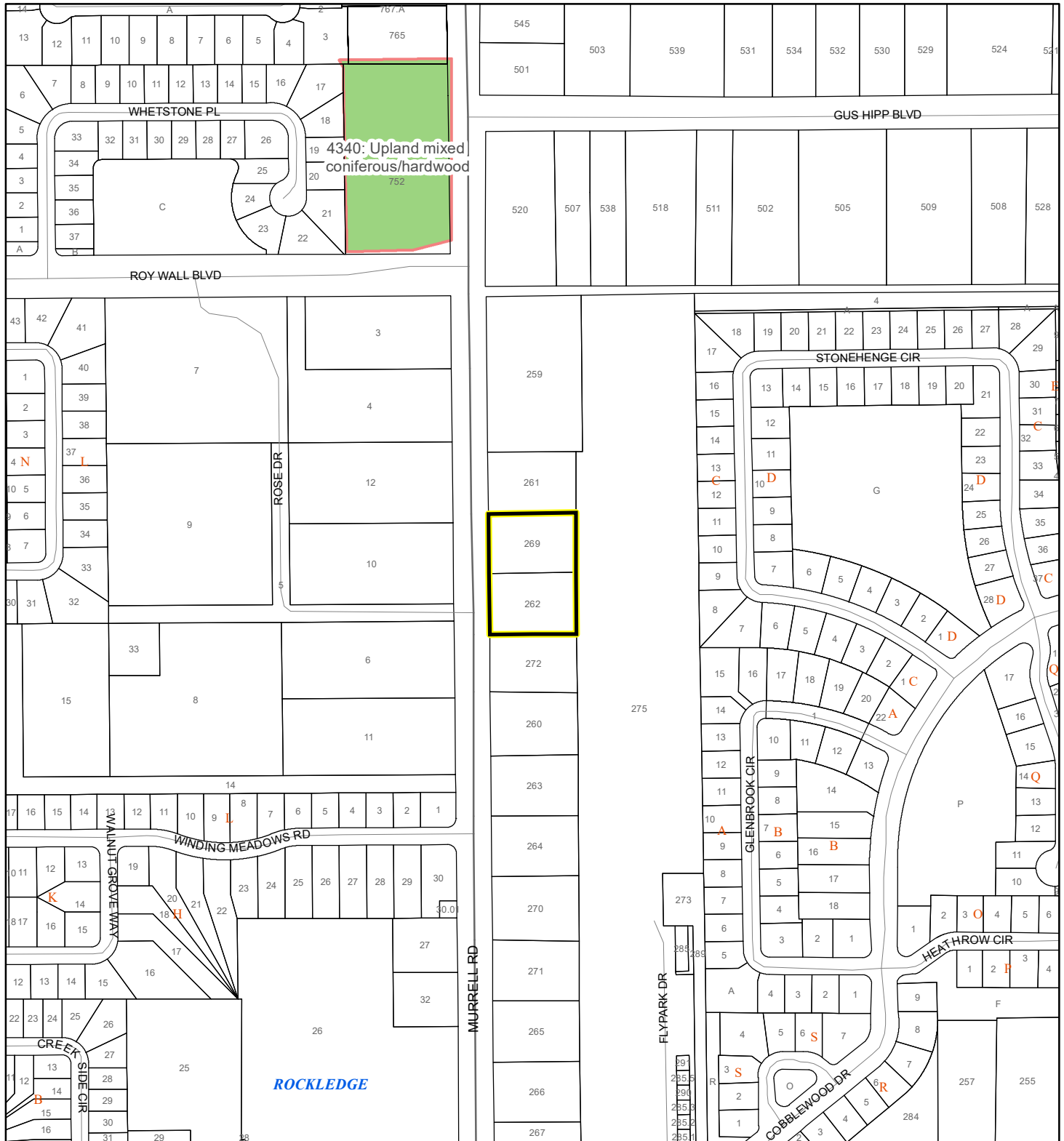
Produced by BoCC - GIS Date: 1/4/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21PZ00095 SMALL SCALE AMENDMENT 21S.11



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/4/2022

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

Brevard County
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: Vaheed B. Teimouri, P.E. **Staff Planner :** George Ritchie

3. Comprehensive Plan Amendment Information:

Adopted Future Land Use Designation: NC, Neighborhood Commercial
Requested Future Land Use Designation: CC, Community Commercial
Existing Zoning: BU-1A

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 test.

The property is currently is being used for groupe homes level II which allows maximum of 14 occupants, the proposed use will not change, only the number of beds will increase to 28, and that is why the BU-1 zoning with future land use of Community Commercial.

(use additional sheets if necessary)



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.11.

3/14/2022

Subject:

Murrell Properties of Brevard, LLC; and Harmony Villas Properties, Inc. (Vaheed Teimouri) request a change of zoning classification from BU-1-A to BU-1. (21Z00049) (Tax Accounts 2511036 & 2511043) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) to BU-1 (General Retail Commercial)

Summary Explanation and Background:

The applicant requests to change the property from BU-1-A to BU-1. Both parcels are developed with existing buildings. The northern parcel is developed with an office use. The southern parcel is developed as a single-family residence. The BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots, but does not permit warehousing or wholesaling.

The applicant wishes to develop two Assisted Living Facilities (ALF); one on each lot. An ALF use is not allowed under the current BU-1-A zoning. This use requires the BU-1 zoning classification, which allows higher intensity retail uses.

The developed character of the surrounding area is a mixture of commercial zoning classifications along both sides of Murrell Road either under City of Rockledge or County jurisdiction. This area is an enclave with the City of Rockledge having jurisdiction over the abutting properties located to the north, south, and west across Murrell Road. To the north of the subject property is an office building (City of Rockledge). To the south, is a single-family residence (City of Rockledge). To the east is an airstrip (Greenlight Industrial Airpark). To the west, across Murrell Road are single-family residences (City of Rockledge). The applicant does not currently propose to annex into Rockledge. The parcels on the east side of Murrell Road have transitioned from residential uses to commercial uses under previous zoning actions.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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

21Z00049

Harmony Villas Properties, Inc. & Murrell Properties of Brevard, LLC

BU-1-A (Restricted Neighborhood Retail Commercial) to BU-1 (General Retail Commercial)

Tax Account Numbers: 2511043 & 2511036
Parcel I.D.s: 25-36-22-00-269 & 25-36-22-00-262
Location: 3525 & 3545 Murrell Road Rockledge, FL 32955 (District 2)
Acreage: 2.00 acres

Planning & Zoning Board: 3/14/2022
Board of County Commissioners: 4/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal 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	BU-1-A	BU-1
Potential*	65,340 sq. ft. commercial	87,120 sq. ft. commercial
Can be Considered under the Future Land Use Map	YES NC	YES** CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Application is pending approval of companion request **21PZ00095** which proposes to change the Future Land Use Designation from Neighborhood Commercial (NC) to Community Commercial (CC). If approved, this request can be heard.

Background and Purpose of Request

The applicant requests to change the property from BU-1-A (Restricted Neighborhood Retail Commercial) (lowest intensity commercial zoning classification) to the BU-1 (General Retail Commercial) zoning classification. Both parcels are developed with existing buildings. The northern parcel (269) is developed with an office use. The southern parcel (262) is developed as a home. The northern parcel is utilized in site plan **21SP00034** for an existing office and proposed group home level II use. The southern parcel was already developed as a home (residential use).

The northern parcel (269) received its current BU-1-A zoning under Zoning Resolution **Z-9598** adopted on August 28, 1995. The southern parcel (262) received its current BU-1-A zoning under Zoning Resolution **15PZ00075** adopted on February 4, 2016.

Land Use

The subject property is currently designated Neighborhood Commercial (NC) FLU. The proposed BU-1 zoning is not consistent with the Neighborhood Commercial (NC) FLU designation. The companion request **21PZ00095** proposes to change the Future Land Use Designation from Neighborhood Commercial (NC) to Community Commercial (CC) on these two parcels. The BU-1 request would be consistent with the Community Commercial (CC) FLU designation.

Applicable Land Use Policies

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

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

Criteria:

A. Permitted/prohibited uses;

Applicant wishes to develop two Assisted Living Facilities (ALF); one on each lot. ALF use cannot be performed from the current BU-1-A zoning. This use requires the BU-1 zoning classification. The BU-1 classification allows higher intensity retail uses, automobile washing and minor/major automotive repairs.

B. Existing commercial zoning trends in the area;

These parcels already have commercial zoning (BU-1-A). City zoning adjacent to these lots is also a commercial designation. This request will increase the potential commercial uses allowed on these properties from fulfilling local needs to regional needs.

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

The development is buffered north and south by existing commercial zoning under the City of Rockledge's jurisdiction. To the east is a private airport zoned Light Industrial (IU) under county zoning jurisdiction.

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

As the site is already developed, should the property propose future development, those plans will need to meet county site plan approval.

E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and **NRMD will review impacts to natural resources as part of this zoning action and under site plan review should the zoning request be approved.**

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

This property will need to comply with Brevard County Performance Standards noted within Sections 62-2251 through 62-2272 of Brevard County Code.

FLUE Policy 2.3 – Role of Land Development Regulations in the Designation of Commercial Lands

Land development regulations provide performance standards for evaluating the acceptability of proposed commercial development activities. Criteria include:

Criteria:

A. Integration of vehicular and non-vehicular access into the site and access management features of site in terms of driveway cuts and cross access between adjacent sites, including use of frontage roads and/or shared access, where feasible, as determined by Brevard County;

B. Buffering from adjacent existing/potential uses;

Site abuts commercial on both sides and the rear lot line. No buffering is proposed.

C. Open space provisions and balance of proportion between gross floor area and site size;

Open space development is not required for this type of commercial usage. Building type and floor area ratio will be reviewed at the site plan stage.

D. Adequacy of pervious surface area in terms of drainage requirements;

Drainage requirements will be reviewed at the site plan stage.

E. Placement of signage;

Sign location has been identified on aerials of the property. New signage will need to comply with Section 62-3316 of Brevard County Code.

F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;

External site lighting will need to comply with Section 62-2257 of Brevard County Code and will be reviewed at the site plan review stage.

G. Safety of on-site circulation patterns (patron, employee and delivery vehicles), including parking layout and drive aisles, and points of conflict;

Review will be performed at the site plan review stage.

H. Landscaping, as it relates to the requirements of the Comprehensive Plan and Land Development Regulations;

Review will be performed at the site plan review stage.

I. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance; and

No noteworthy comments have been identified by the NRMD review. Review will be performed at the site plan review stage.

J. Performance based zoning requirements which may serve as a substitute for or accompany land development regulations in attaining acceptable site design.

No waivers, administrative approvals or variances have been applied for at this time.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The applicant has not identified any operational changes to the use of the subject property. The effects of lighting, site activity and traffic will be evaluated as part of a future site plan review.

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

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

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

1. historical land use patterns;

There is an existing commercial use pattern along this segment of Murrell Road, more specifically on the east side from Gus Hipp Boulevard south to Barnes Boulevard. City of Rockledge zoning is C2 (a general commercial designation) and IP (an industrial park designation). Existing county zoning is identified as BU-1-A for this set of abutting parcels and the next set of abutting parcels to the south under county jurisdiction.

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

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

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

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

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

As this site (both parcels) were previously developed, no material violation of relevant policies have been identified.

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

The developed character of the surrounding area is a mixture of commercial zoning classifications along both sides of Murrell Road either under City of Rockledge or County Zoning jurisdiction. This area is an enclave with the City of Rockledge having jurisdiction over the abutting properties located to the north, south, to the west across Murrell Road right-of-way. To the north of the subject property is an office building (City of Rockledge). To the south, is a single-family residence (City of Rockledge). To the east is an airstrip (Greenlight Industrial Airpark). To the west, across Murrell Road are single-family residences (City of Rockledge). The applicant does not currently propose to annex into Rockledge. The parcels on the east side of Murrell Road have transitioned from residential uses to commercial uses under the previous zoning actions: **Z-9468**, **Z-9872**, **Z-9900** and **15PZ00075**.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Office building	City of Rockledge: C2-General Commercial	Rockledge: MUPD7-Mixed Use Planning District 7
South	One (1) single-family residence	City of Rockledge: C2-General Commercial	Rockledge: MUPD7-Mixed Use Planning District 7
East	Airstrip	IU	IND
West	Two (2) single-family residences (across Murrell Road)	City of Rockledge: P1-Professional; and AU	Rockledge: MUPD7-Mixed Use Planning District 7; and RES 15

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

BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

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

There has been no zoning action within a half-mile radius of the subject property within the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Murrell Road, between Roy Wall Boulevard to Barnes Boulevard, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 43.27% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 5.99%. The corridor is anticipated to operate at 49.26% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The parcel is connected to City of Cocoa water. The parcel is not connected to sanitary sewer. The closest Brevard County sanitary sewer line is approximately 6,025 feet south of the subject property at Murrell Road and Solitary Drive. The City of Rockledge can provide sewer service, if requested.

Environmental Constraints

- Protected Species
- Land Clearing and Landscape Requirements

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

For Board Consideration

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

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

Item # 21Z00049

Applicant: Vaheed Teimouri

Zoning Request: BU-1A to BU-1

Note: Applicant wants assisted living facility use

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID Nos: 2511043 & 2511036

- 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:

- Protected Species
- Land Clearing and Landscape Requirements

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

Land Use Comments:

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.

Land Clearing and Landscape Requirements

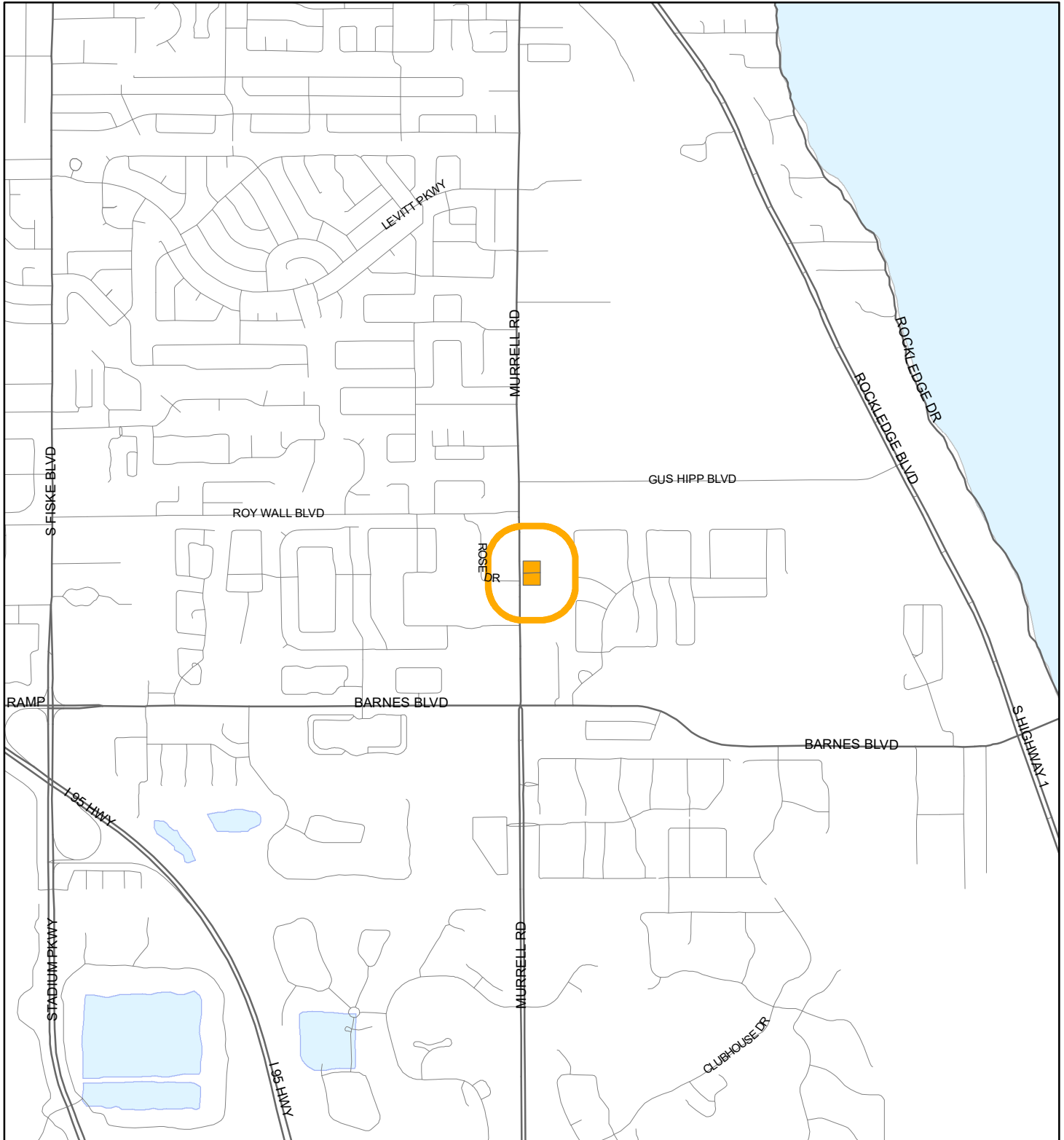
Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Specimen trees. The

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

LOCATION MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



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

Buffer Distance: 500 feet

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

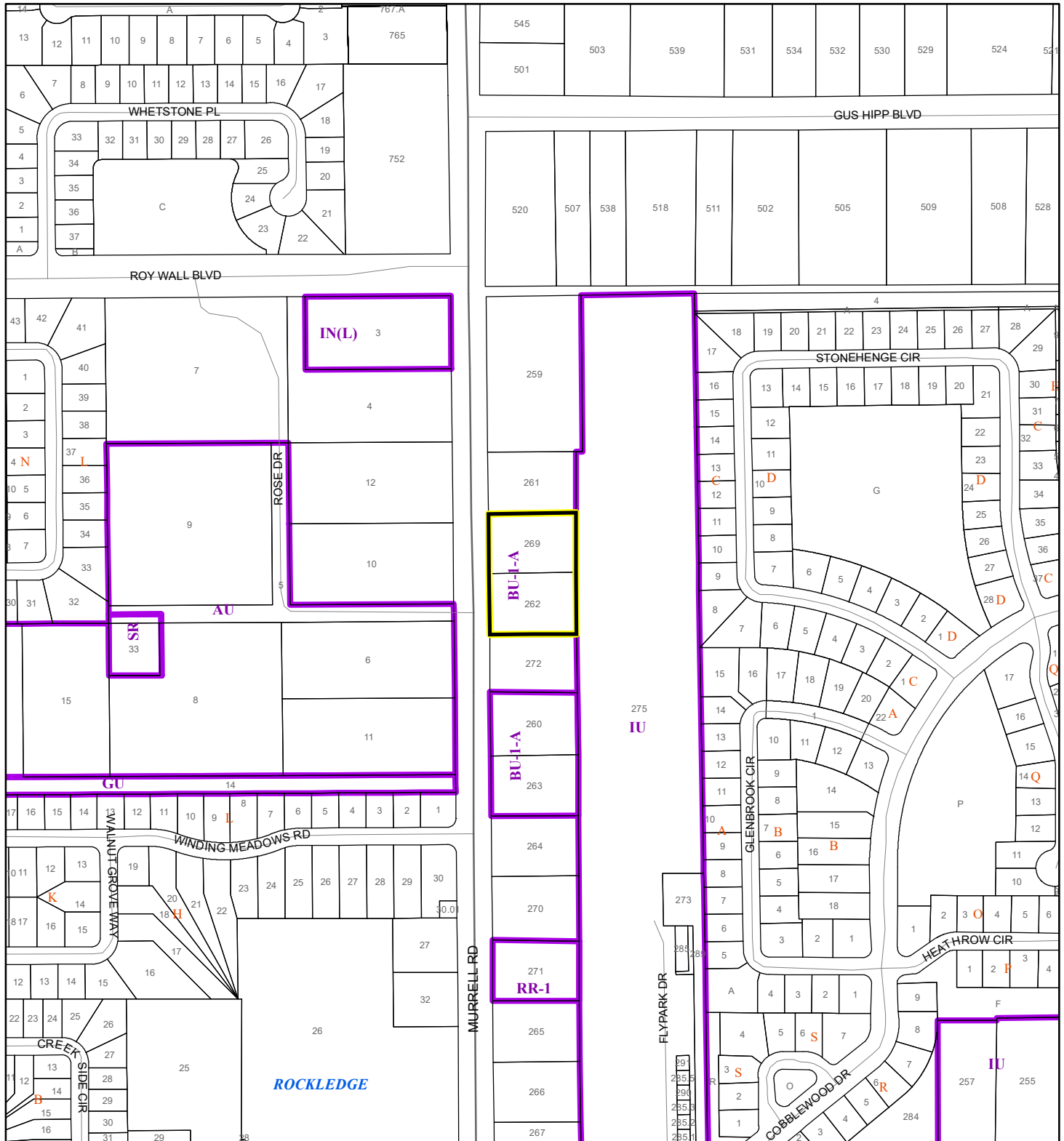
Produced by BoCC - GIS Date: 1/3/2022

Buffer
Subject Property

ZONING MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.


21Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

 Subject Property

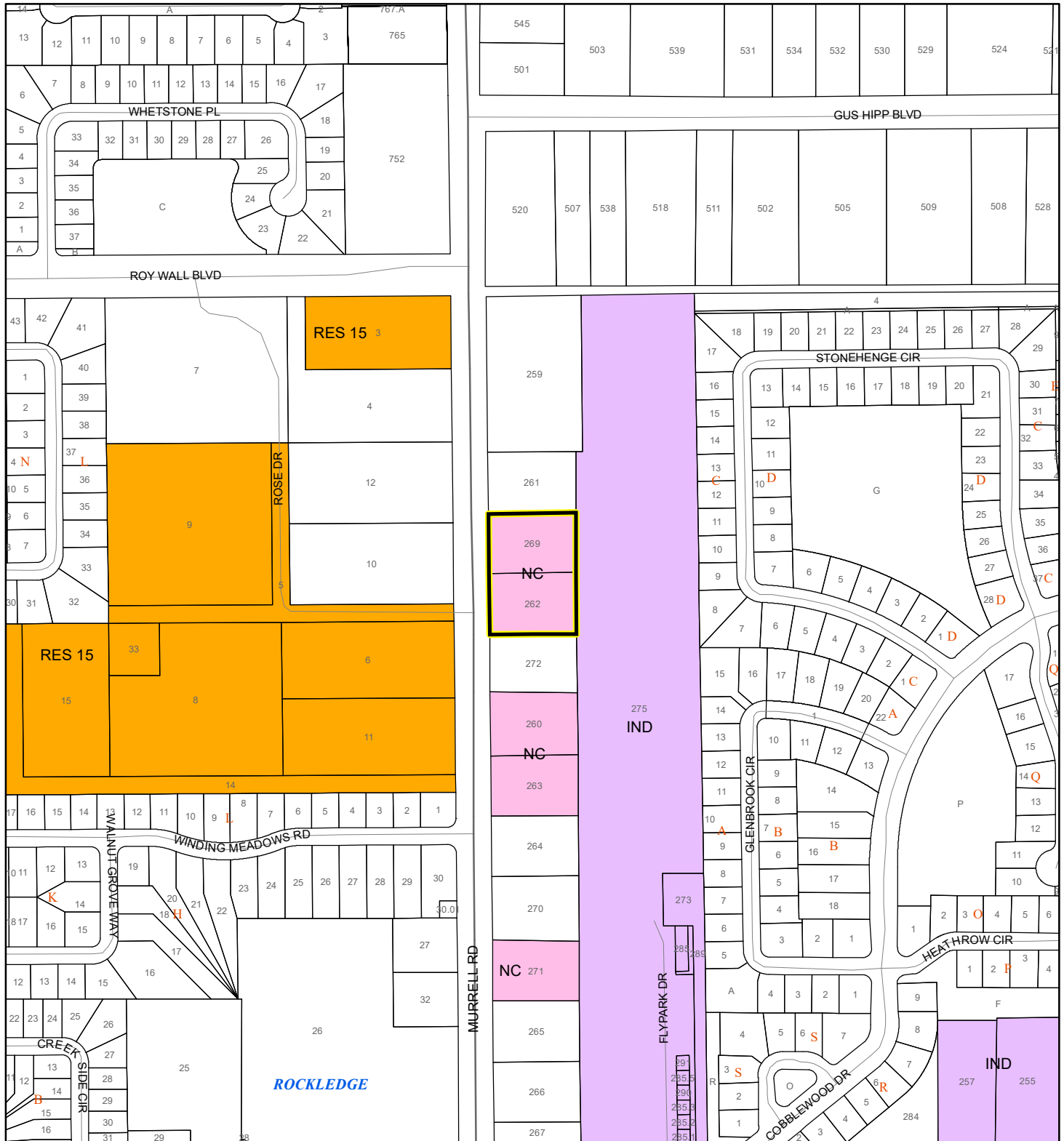
 Parcels

 Zoning

FUTURE LAND USE MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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AERIAL MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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

Produced by BoCC - GIS Date: 1/3/2022

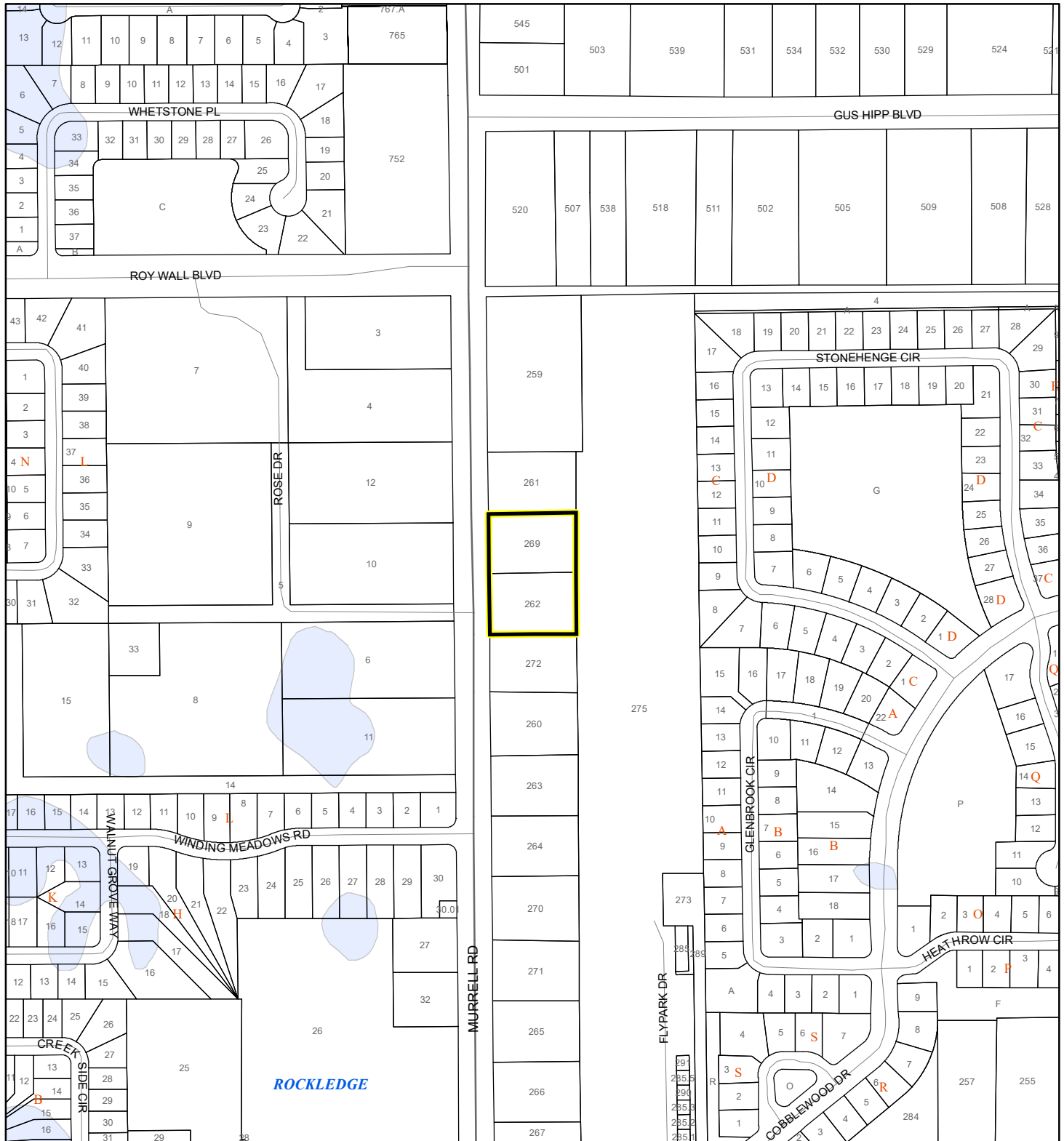
 Subject Property

 Parcels

NWI WETLANDS MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

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

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

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

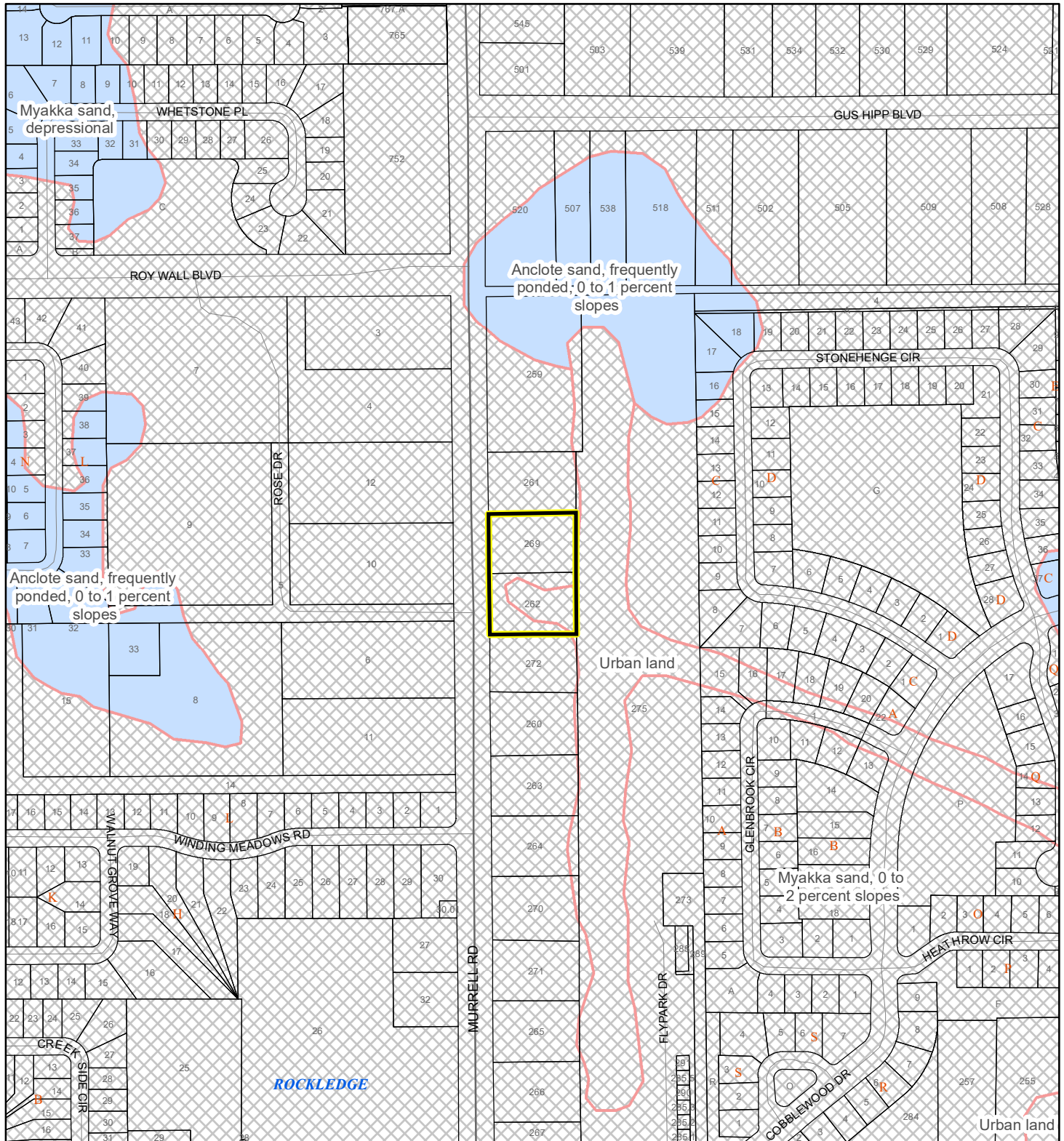
Subject Property

Parcels

USDA SCSSS SOILS MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

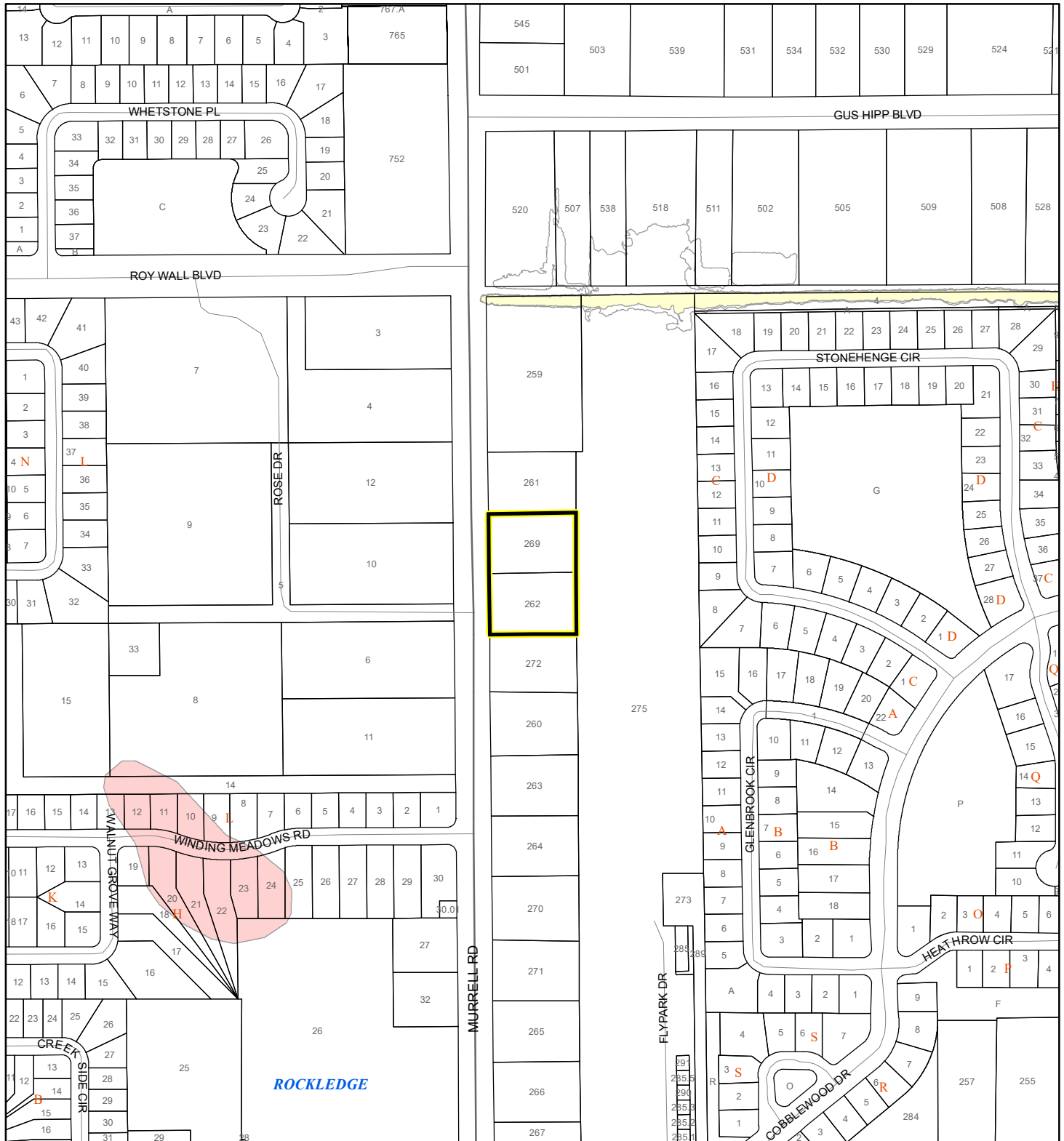
USDA SCSSS Soils

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

FEMA FLOOD ZONES MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

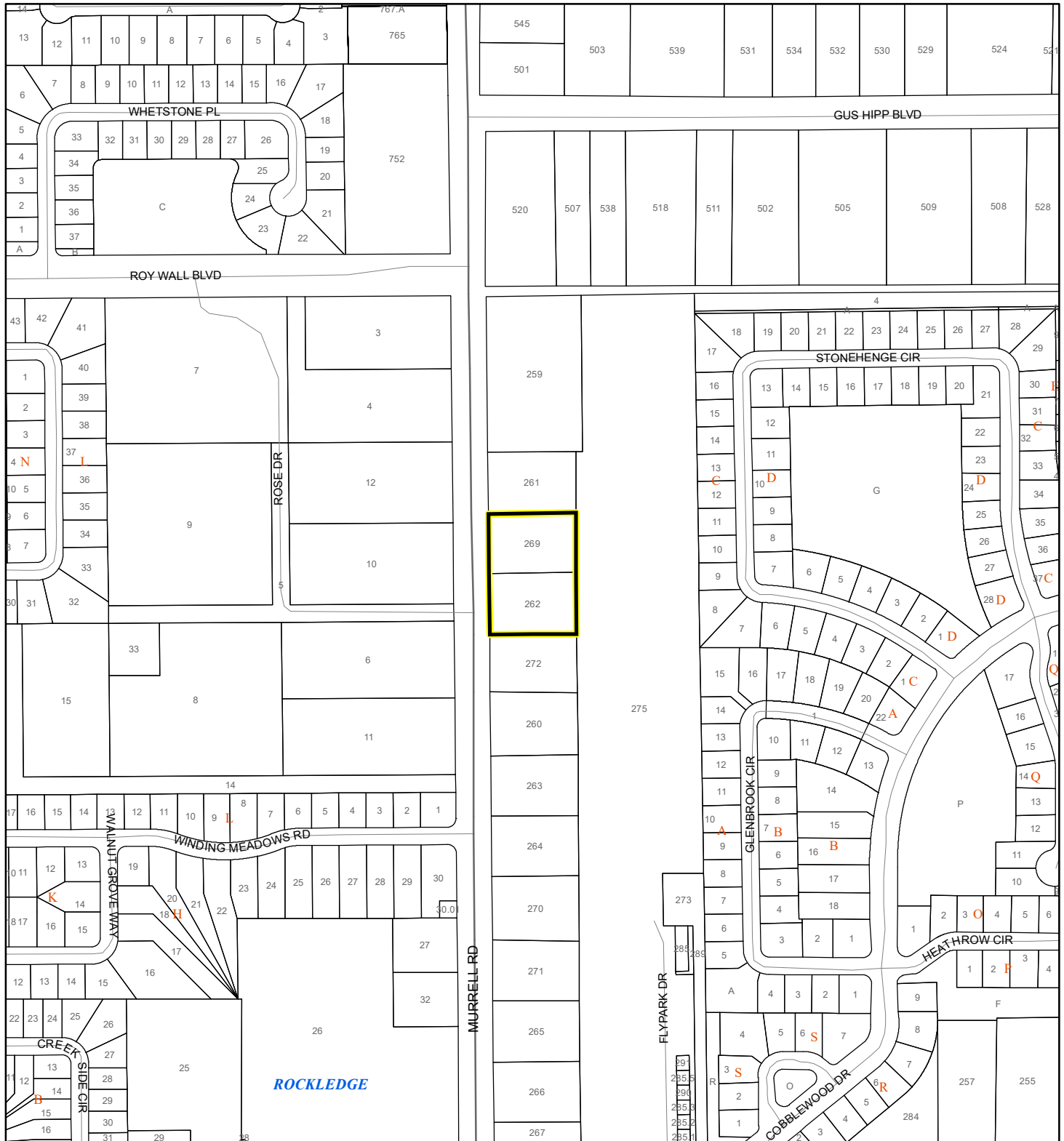
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 1/3/2022

 Subject Property

 Parcels

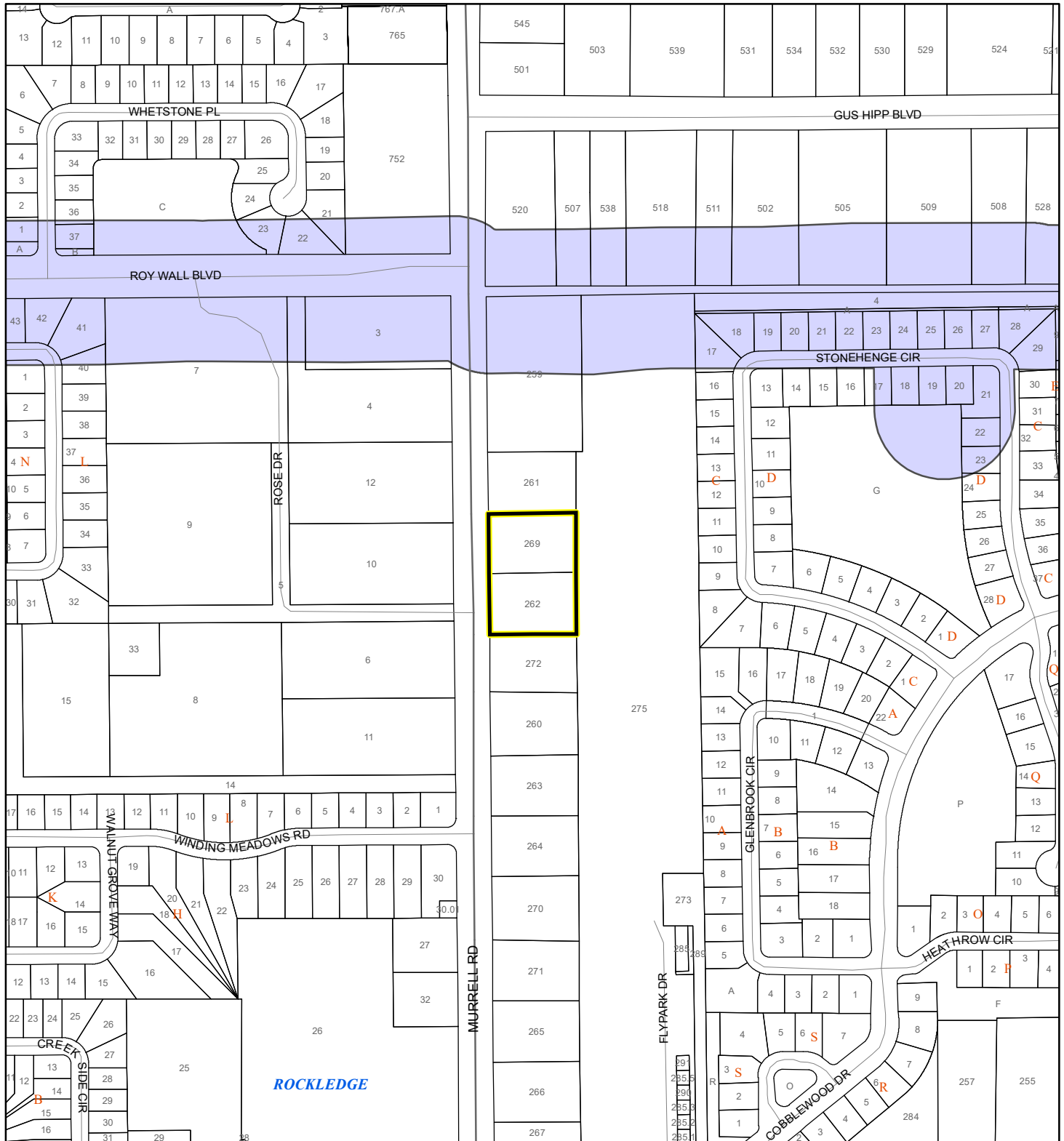
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

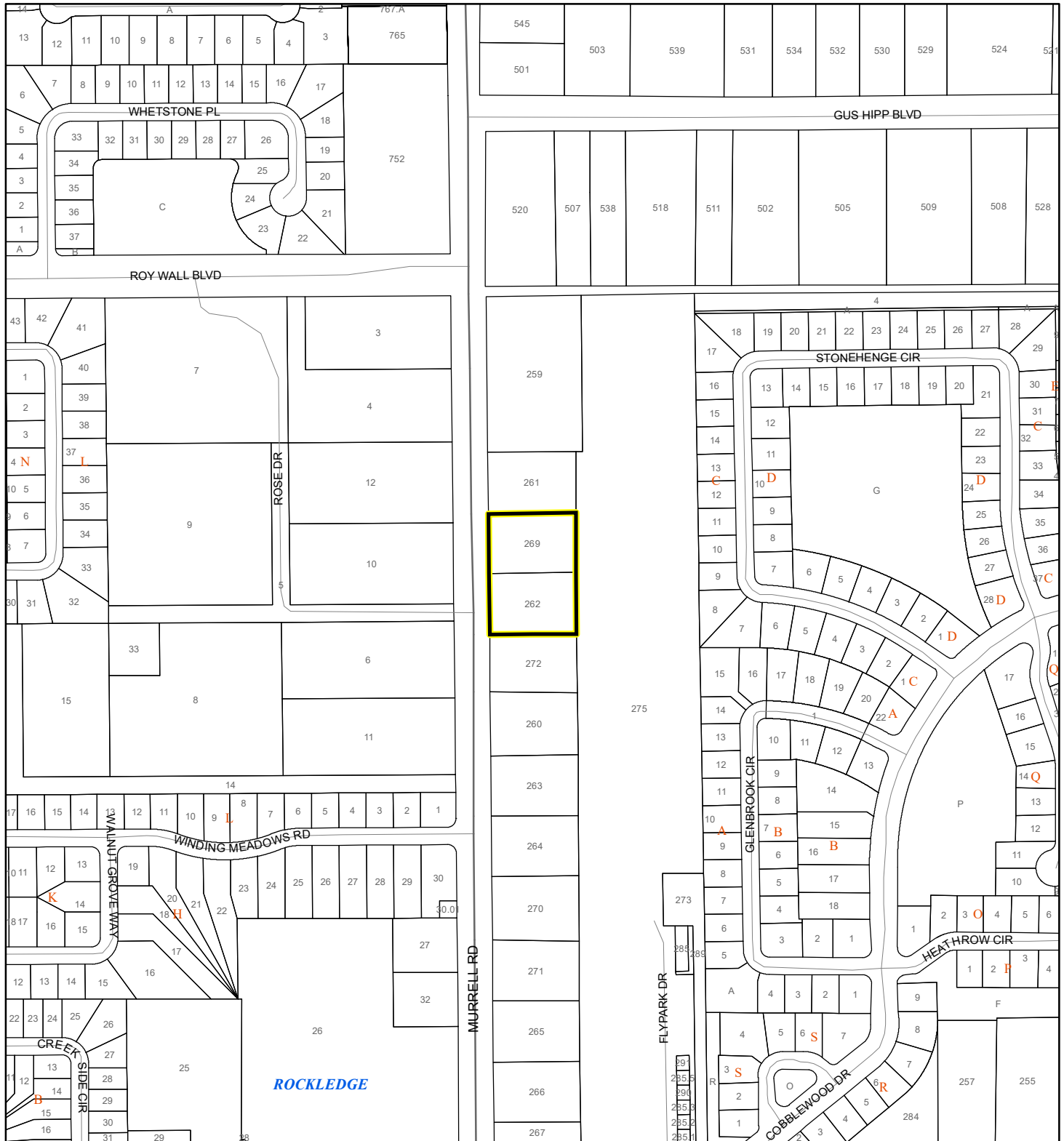
 60 Meters

 All Distances

EAGLE NESTS MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049




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Produced by BoCC - GIS Date: 1/3/2022

 Subject Property

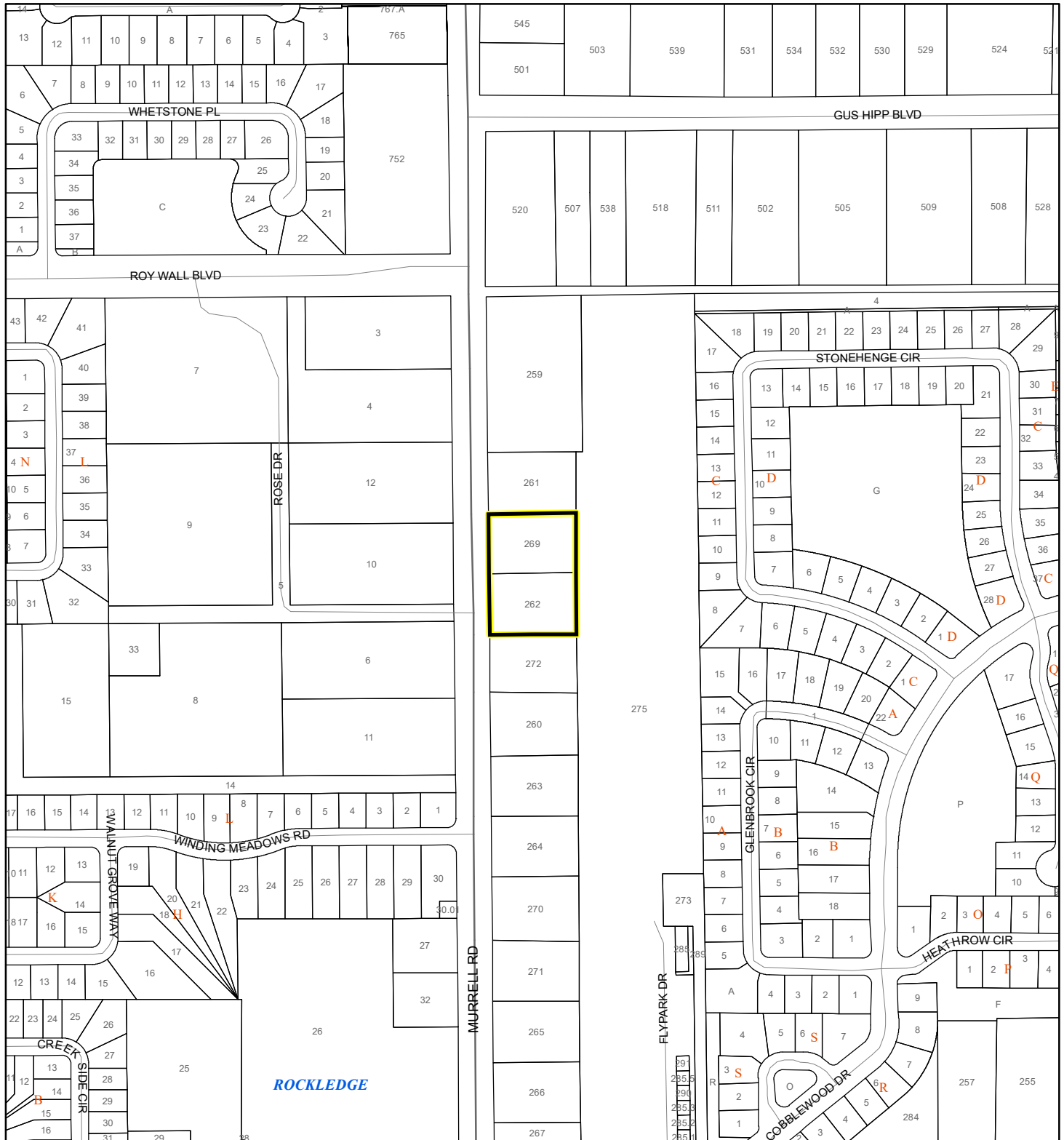
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



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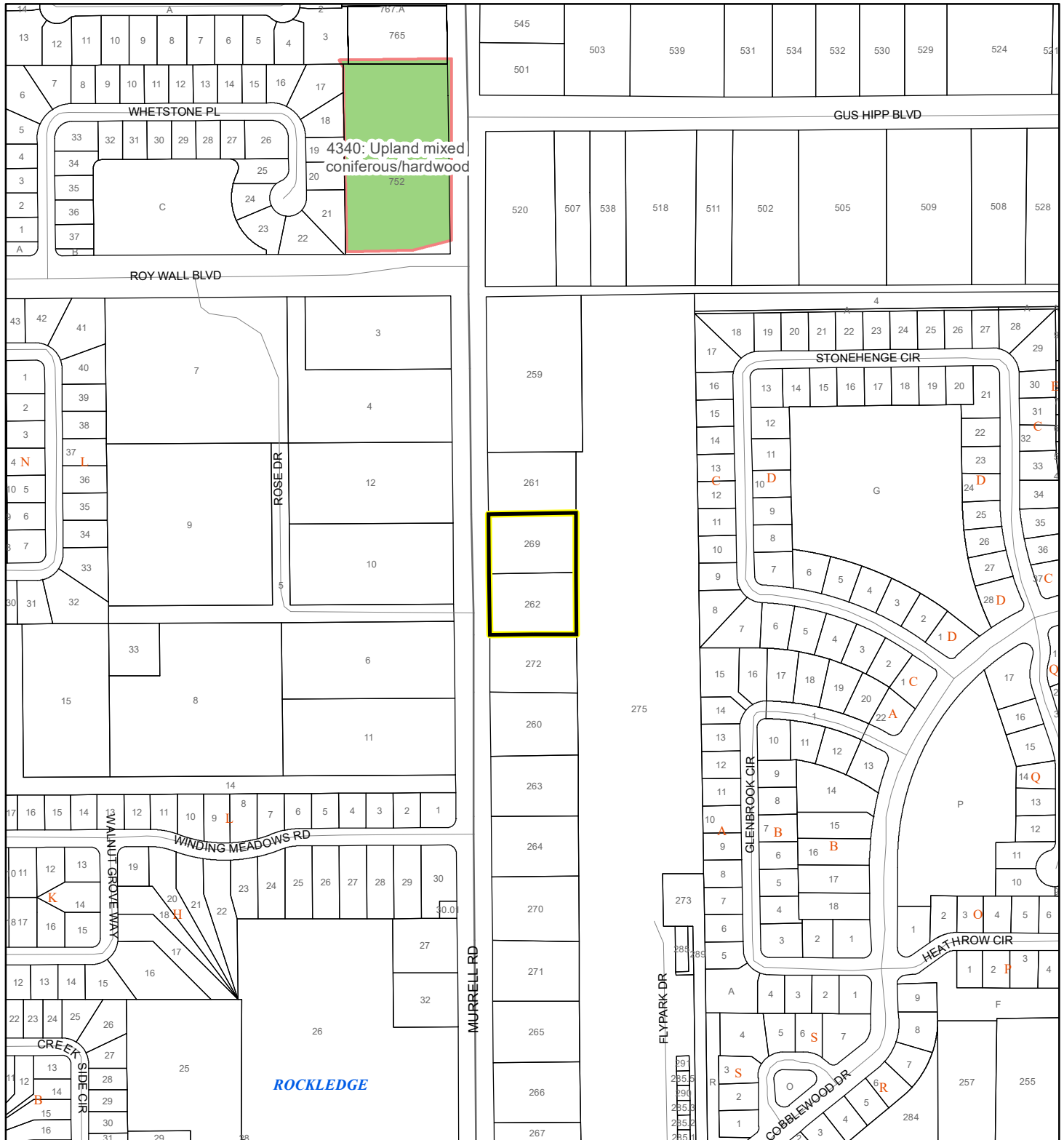
Produced by BoCC - GIS Date: 1/3/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MURRELL PROPERTIES OF BREVARD, LLC, HARMONY VILLAS PROPERTIES, INC.

21Z00049



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Produced by BoCC - GIS Date: 1/3/2022

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

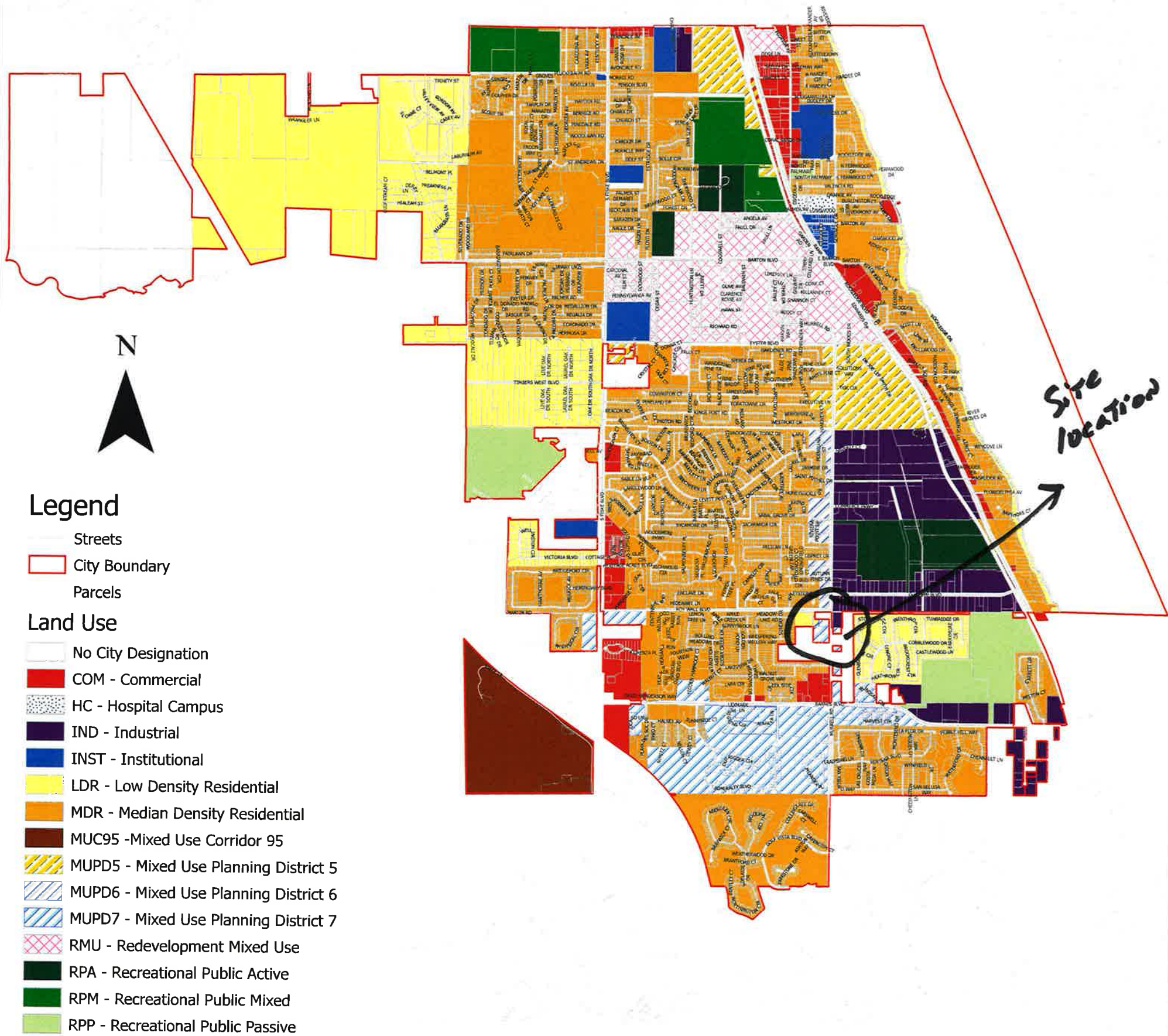
Parcels



City of Rockledge Future Land Use

21200049

RECEIVED
FEB 08 2022
BY:



Map Revision

Adoption Date:	Ordinance #:	Adoption Date:	Ordinance #:	Adoption Date:	Ordinance #:	Adoption Date:	Ordinance #:	Adoption Date:	Ordinance #:
10/5/1988	890-88	3/25/1998	1156-98	2/2/2002	1266-2002	8/1/2007	1453-07	6/5/2013	1619-2013
5/3/1989	911-89	10/21/1998	1170-98	10/2/2002	1290-2002	8/1/2007	1454-07	12/18/2019	1758-2019
10/18/1989	931-89	5/19/1999	1182-99	2/5/2003	1300-02	12/5/2007	1473-07	12/19/2019	1759-2019
6/5/1991	998-91	2/16/2000	1203-2000	9/8/2004	1348-04	9/17/2008	1503-08	12/20/2019	1760-2019
8/18/1993	1060-93	2/16/2000	1205-2000	12/15/2004	1361-04	2/2/2011	1574-2011	4/7/2021	1810-2021
4/6/1994	1070-94	2/16/2000	1207-2000	1/4/2006	1402-06	4/20/2011	1577-2011	6/2/2021	1819-2021
8/16/1995	1099-95	2/16/2000	1209-2000	8/16/2006	1413-06	8/17/2011	1580-2011	12/15/2021	1845-2021
9/20/1995	1108-95	7/19/2000	1217-2000	8/1/2007	1450-07	4/3/2013	1615-2013	12/15/2021	1848-2021
1/17/1996	1109-96	7/19/2000	1219-2000	8/1/2007	1451-07	4/3/2013	1616-2013	12/15/2021	1849-2021
4/3/1996	1117-96	7/19/2000	1225-2000	8/1/2007	1452-07	4/3/2013	1617-2013		

GENERAL DISCLAIMER

This map was compiled from recorded documents and DOES NOT REFLECT AN ACTUAL SURVEY. The City of Rockledge does not assume responsibility for any errors or omissions contained herein. This map was prepared only for the expressed and official use by the City of Rockledge.

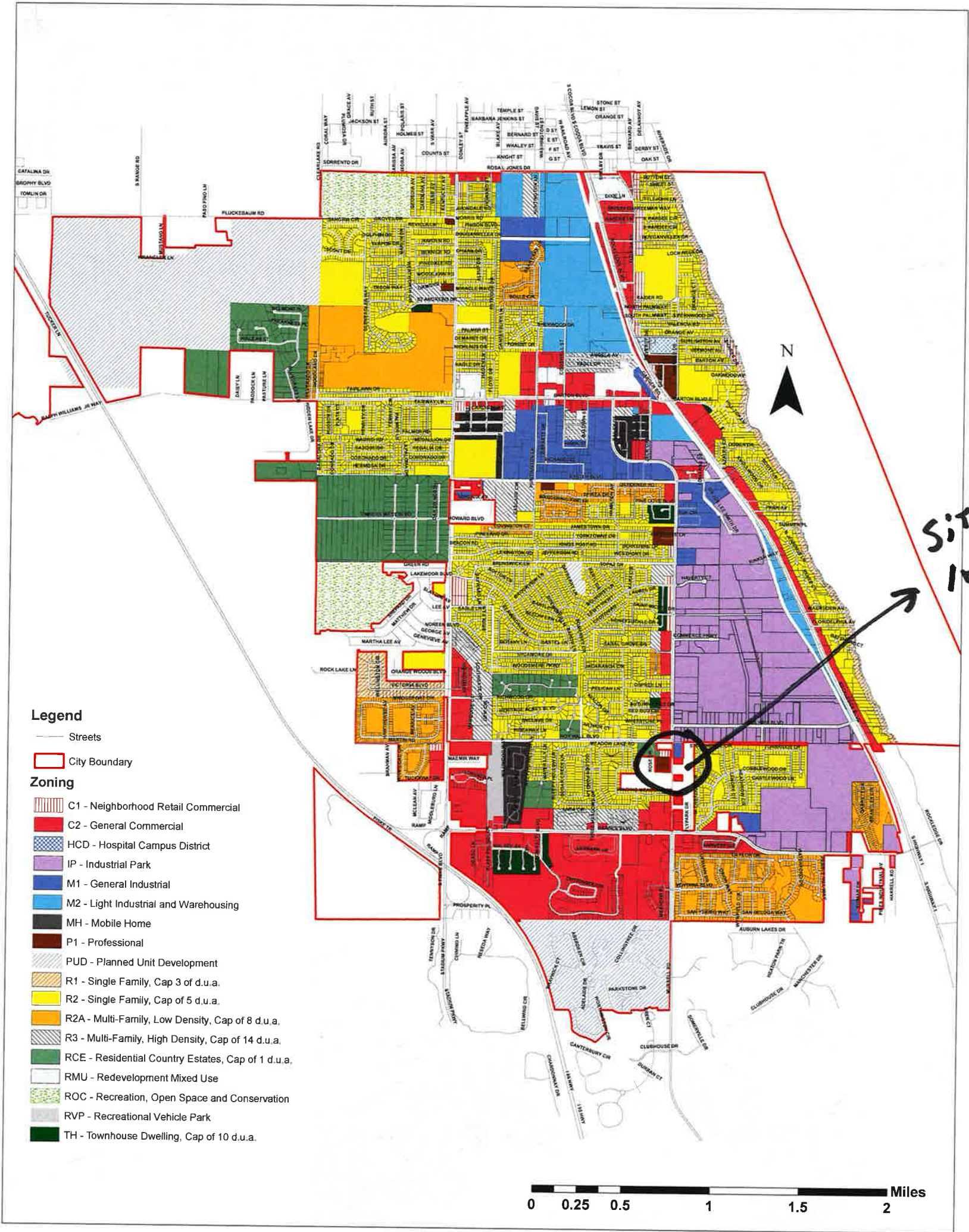


Verified by: John Cooper, Planning/Building Department Director
Date Revised: 12.22.2021

21200049
RECEIVED
FEB 08 2022
BY:



City of Rockledge Zoning Map



Site location

GENERAL DECLARATION
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Date Revised: 10.22.2020
Verified by: Trina Gilliam, Senior City Planner

NORTHERN LOT

Phone (321)724-2940
Fax (321)951-4879
E-MAIL: SMITHSURVEYING@GMAIL.COM

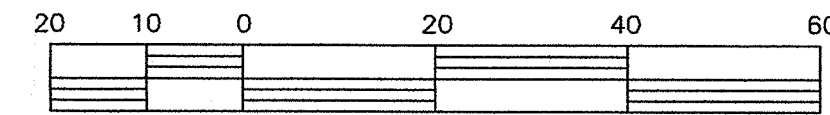


1350 MALABAR ROAD S.E., SUITE 1
PALM BAY, FLORIDA 32907
WEBSITE: SMITHSURVEYING.NET

MAP OF SURVEY
CERTIFICATE OF AUTHORIZATION L.B. 7426

LEGAL DESCRIPTION: (PER OFFICIAL RECORDS BOOK 5677, PAGE 6160)

A PARCEL OF LAND LYING IN THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 25 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCE AT THE NORTHWEST CORNER OF SAID SECTION 22, AND RUN N89°44'52"E, ALONG THE NORTH LINE OF SAID SECTION A DISTANCE OF 50.00 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF MURRELL ROAD (A 100 FOOT WIDE RIGHT OF WAY); THENCE S00°20'48"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 624.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S00°20'48"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 174.00 FEET; THENCE N89°44'52"E, PARALLEL TO THE AFORESAID NORTH LINE OF SECTION 22, A DISTANCE OF 251.00 FEET; THENCE N00°20'48"W, PARALLEL TO SAID RIGHT OF WAY LINE, A DISTANCE OF 174.00 FEET; THENCE S89°44'52"W, PARALLEL TO SAID NORTH LINE, A DISTANCE OF 251.00 FEET TO THE POINT OF BEGINNING.



SCALE IN FEET
1 INCH = 20 FEET

- SURVEYORS NOTES:**
- LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR ADJOINING DEEDS, RIGHT-OF-WAY, RESERVATIONS, AGREEMENTS AND/OR EASEMENTS OF RECORD. SUCH INFORMATION, IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHERS THROUGH APPROPRIATE TITLE VERIFICATION.
 - ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
 - DRAWINGS ARE NOT TO BE RELIED UPON FOR SCALE PURPOSES.
 - ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF AND ARE IN ACCORDANCE WITH THE STANDARDS OF THE UNITED STATES (CHAPTER 517-6.003(1)(B) F.A.C.).
 - PURSUANT TO FLORIDA LAW (F.A.C. 517-6.003(17)) THIS SURVEY IS BASED ON A CLOSED TRAVERSE.
 - USE ONLY PROPERTY CORNERS FOR CONSTRUCTION OF FENCES AND OTHER IMPROVEMENTS.
 - ONLY OPEN AND NOTORIOUS EVIDENCE OF EASEMENTS AND RIGHT-OF-WAYS ARE LOCATED AND SHOWN HEREON. THE SURVEYOR HAS NOT LOCATED ANY UNDERGROUND UTILITIES OR FOUNDATIONS WHICH MAY ENCROACH.
 - LEGAL DESCRIPTION AS SHOWN WAS PROVIDED BY CLIENT.
 - ELEVATIONS BASED ON 50.00' ASSUMED AT N/A.
 - ELEVATIONS BASED ON NORTH AMERICAN VERTICAL DATUM OF 1988 (PARENT B.M. RK047, ELEVATION 24.550') AND ARE EXPRESSED IN FEET AND DECIMAL THEREOF.
 - BEARINGS BASED ON EAST RIGHT OF WAY OF MURRELL RD. BEING S00°20'48"E (ASSUMED).
 - PLOT PLANS ARE NOT TO BE USED FOR CONSTRUCTION LAYOUT PURPOSES.
 - LOT DIMENSIONS AND BEARINGS ARE RECORD AND MEASURED UNLESS OTHERWISE NOTED.
 - SEPTIC TANKS AND WELLS IF SHOWN ARE APPROXIMATE LOCATIONS AND SHOULD BE FIELD VERIFIED BY CONTRACTOR FOR CORRECT POSITION AND SEPARATION.
 - NORTH ARROW AS SHOWN DOES NOT REPRESENT TRUE NORTH OR GRID NORTH, IT IS FOR APPROXIMATE POSITION ONLY.
 - ALL RIGHT-OF-WAYS, ALLEYS, DIRT ROADS, AND ASPHALT ROADS IF SHOWN ARE "OPEN TO TRAVEL" BOTH BY FOOT AND VEHICLE UNLESS OTHERWISE NOTED BY (CLOSED TO TRAVEL).
 - SETBACKS AS SHOWN ON PLOT PLANS WERE PROVIDED BY CONTRACTOR.
 - HORIZONTAL FEATURE ACCURACY: TOPOGRAPHIC LAND FEATURES (SIGNS, INLETS, VALVES, MAILBOXES, POWER POLES, DRAINAGE, CULVERTS, AND SIMILAR FEATURES) HAVE A HORIZONTAL FEATURE ACCURACY OF PLUS OR MINUS 0.25 FEET.
 - VERTICAL FEATURE ACCURACY: ELEVATIONS ON THE SITE (GROUND, PAVEMENT, INLETS, ETC.) HAVE A VERTICAL FEATURE ACCURACY OF PLUS OR MINUS 0.10 FEET.
 - THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
 - THE EXPECTED USE OF THE LAND IS COMMERCIAL. THE MINIMUM RELATIVE DISTANCE ACCURACY FOR THIS TYPE OF BOUNDARY SURVEY IS 1 FOOT IN 10,000 FEET WHICH WAS MET IN THE CASE OF THIS SURVEY.
 - ALL "PROPOSED" IMPROVEMENTS SHOWN HEREON ARE NOT "AS-BUILT". ALL CONSTRUCTION PERFORMED ACCORDING TO THE "PROPOSED" INFORMATION SHOWN HEREON IS SUBJECT TO BEING APPROVED BY THE APPLICABLE AUTHORIZING AGENCIES. THE CLIENT IS RESPONSIBLE FOR COMPARING THE "PROPOSED" INFORMATION AS SHOWN, WITH THE "FINAL" APPROVED FOR CONSTRUCTION" DOCUMENTATION PRIOR TO AUTHORIZING ANY LAYOUT WORK.

ACCORDING TO MAP NO. 12009C0436 H,
DATED JAN 29, 2021, THIS PROPERTY
LIES IN FLOOD ZONE "X".

CERTIFIED TO: GIBLARTAR CORPORATE CAPITAL, INC.

LEGEND:		LEGEND:	
S.B.M. = SITE BENCH MARK	B.S.L. = BUILDING SETBACK LINE	⊕ = GAS VALVE	
P.C.P. = PERMANENT CONTROL POINT	T.O.B. = APPROX. TOP OF BANK	⊕ = RECLAIM WATER METER	
P.O.C. = POINT OF COMMENCEMENT	N.T.S. = NOT TO SCALE	⊕ = GAS SERVICE	
P.O.B. = POINT OF BEGINNING	L.F. = LOWEST FLOOR ELEVATION	⊕ = WATER VALVE IN 2" x 2" CONC.	
P.T. = POINT OF TANGENCY	G.F.E. = GARAGE FLOOR ELEVATION	⊕ = WATER VALVE	
P.R.M. = PERMANENT REFERENCE MONUMENT	F.F.E. = FINISHED FLOOR ELEVATION	⊕ = FIRE HYDRANT	
R.P. = RADIUS POINT	O.R.B. = OFFICIAL RECORDS BOOK	⊕ = POWER POLE	
P.C. = POINT OF CURVATURE	P.B. = PLAT BOOK	⊕ = LIGHT POLE	
P.C.C. = POINT OF COMPOUND CURVATURE	D.B. = DEED BOOK	⊕ = GUY ANCHOR	
P.C.A. = POINT OF CENTRAL ANGLE	P. = PAGE	⊕ = OVERHEAD WIRE (O.H.W.)	
R = RADIUS	EL = ELEVATION	⊕ = APPROXIMATE SEPTIC TANK	
A = ARC	EL = ELEVATION	⊕ = UNDER MAIN ROOF	
T = TANGENT	F.M. = FLOOD ZONE LINE	⊕ = IRON MARKER FOUND - SEE DESCRIPTION	
(R) = RECORD	N.A.V.D. = NORTH AMERICAN VERTICAL DATUM	⊕ = 1/2" IRON ROD WITH PLASTIC CAP MARKED "K.A. SMITH LB 7426" SET	
(M) = MEASURED	N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM	⊕ = 4" x 4" CONC. MONUMENT FOUND	
(C) = CALCULATED	CLEANOUT = CLEANOUT	⊕ = 4" x 4" CONC. MONUMENT MARKED "K.A. SMITH LB 7426" SET	
(D) = DEED	WATER METER = WATER METER	⊕ = NAIL & DISK FOUND - SEE DESCRIPTION	
NO I.D. = NO IDENTIFICATION	ELECTRIC METER/HANDHOLE = ELECTRIC METER/HANDHOLE	⊕ = SET MAGNETIC NAIL	
CONC. = CONCRETE (TYP.) = TYPICAL	SANITARY SEWER MANHOLE = SANITARY SEWER MANHOLE	⊕ = HUB & TACK SET	
APPROX. = APPROXIMATE	STORM SEWER MANHOLE = STORM SEWER MANHOLE		
E.O.P. = EDGE OF PAVEMENT	SOUTHERN BELL MANHOLE/HANDHOLE = SOUTHERN BELL MANHOLE/HANDHOLE		
T.O.S. = APPROX. TOE OF SLOPE	CABLE TELEVISION RISER = CABLE TELEVISION RISER		
E.O.W. = APPROX. EDGE OF WATER			

PROPERTY ADDRESS: 3525 MURRELL ROAD
ROCKLEDGE, FLORIDA 32955

TYPE	SURVEY DATE	JOB NUMBER	CK. BY
LOCATE TREES	21-1140		
BOUNDARY/TOPOGRAPHIC SURVEY	21-0079 ~ KING FELVIN L. SMITH		
DRAWN BY: A. TEJADA	4457	SCALE: 1" = 20'	

PROFESSIONAL SURVEYOR & MAPPER RESPONSIBLE CHARGE
KEVIN M. SMITH - FLORIDA CERTIFICATE NO. 4457
ANDREW J. SMITH - FLORIDA CERTIFICATE NO. 5890

THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP
© COPYRIGHT 2021 SMITH & ASSOCIATES SURVEYING AND MAPPING, INC.
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF
A FLORIDA LICENSED SURVEYOR AND MAPPER.

Southern 107

21

Phone (321) 724-2940
Fax (321) 951-4879
E-MAIL: SMITHSURVEYINGFL@gmail.com

SMITH SURVEYING & MAPPING, INC.

1350 MALABAR ROAD S.E., SUITE 1
PALM BAY, FLORIDA 32907
WEBSITE: SMITHSURVEYING.NET

MAP OF SURVEY
CERTIFICATE OF AUTHORIZATION L.B. 7426

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A PARCEL OF LAND LYING IN SECTION 22, TOWNSHIP 25 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
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20 10 0 20 40 60

SCALE IN FEET
1 INCH = 20 FEET

SURVEYORS NOTES:

- LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR ADJOINING DEEDS, RIGHT-OF-WAY, RESERVATION, AGREEMENTS AND/OR EASEMENTS OF RECORD. SUCH INFORMATION, IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHERS THROUGH APPROPRIATE TITLE VERIFICATION.
- ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
- DRAWINGS ARE NOT TO BE RELIED UPON FOR SCALE PURPOSES.
- ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF AND ARE IN ACCORDANCE WITH THE STANDARDS OF THE UNITED STATES (CHAPTER 5J17-6.003(1)(B) F.A.C.).
- PURSUANT TO FLORIDA LAW (F.A.C. 5J17-6.003(17)) THIS SURVEY IS BASED ON A CLOSED TRAVERSE.
- USE ONLY PROPERTY CORNERS FOR CONSTRUCTION OF FENCES AND OTHER IMPROVEMENTS.
- ONLY OPEN AND NOTORIOUS EVIDENCE OF EASEMENTS AND RIGHT-OF-WAYS ARE LOCATED AND SHOWN HEREON. THE SURVEYOR HAS NOT LOCATED ANY UNDERGROUND UTILITIES OR FOUNDATIONS WHICH MAY ENCRUMB.
- LEGAL DESCRIPTION AS SHOWN WAS PROVIDED BY CLIENT.
- ELEVATIONS BASED ON 50.00' ASSUMED AT N/A.
- ELEVATIONS BASED ON NORTH AMERICAN VERTICAL DATUM OF 1988 (PARENT B.M. RK047, ELEVATION 24.550') AND ARE EXPRESSED IN FEET AND DECIMAL THEREOF.
- BEARINGS BASED ON EAST RIGHT OF WAY OF MURRELL RD. BEING S00°20'48"E (ASSUMED).
- PLOT PLANS ARE NOT TO BE USED FOR CONSTRUCTION LAYOUT PURPOSES.
- LOT DIMENSIONS AND BEARINGS ARE RECORD AND MEASURED UNLESS OTHERWISE NOTED.
- SEPTIC TANKS AND WELLS IF SHOWN ARE APPROXIMATE LOCATIONS AND SHOULD BE FIELD VERIFIED BY CONTRACTOR FOR CORRECT POSITION AND SEPARATION.
- NORTH ARROW AS SHOWN DOES NOT REPRESENT TRUE NORTH OR GRID NORTH, IT IS FOR APPROXIMATE POSITION ONLY.
- ALL RIGHT-OF-WAYS, ALLEYS, DIRT ROADS, AND ASPHALT ROADS IF SHOWN ARE "OPEN TO TRAVEL" BOTH BY FOOT AND VEHICLE UNLESS OTHERWISE NOTED BY (CLOSED TO TRAVEL).
- SETBACKS AS SHOWN ON PLOT PLANS WERE PROVIDED BY CONTRACTOR.
- HORIZONTAL FEATURE ACCURACY: TOPOGRAPHIC LAND FEATURES (SIGNS, INLETS, VALVES, MAILBOXES, POWER POLES, DRIVEWAYS, CULVERTS, AND SIMILAR FEATURES) HAVE A HORIZONTAL FEATURE ACCURACY OF PLUS OR MINUS 0.25 FEET.
- VERTICAL FEATURE ACCURACY: ELEVATIONS ON THE SITE (GROUND, PAVEMENT, INLETS, ETC.) HAVE A VERTICAL FEATURE ACCURACY OF PLUS OR MINUS 0.10 FEET.
- THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
- THE EXPECTED USE OF THE LAND IS COMMERCIAL. THE MINIMUM RELATIVE DISTANCE ACCURACY FOR THIS TYPE OF BOUNDARY SURVEY IS 1 FOOT IN 10,000 FEET WHICH WAS MET IN THE CASE OF THIS SURVEY.
- ALL "PROPOSED" IMPROVEMENTS SHOWN HEREON ARE NOT "AS-BUILT". ALL CONSTRUCTION PERFORMED ACCORDING TO THE "PROPOSED" INFORMATION SHOWN HEREON IS SUBJECT TO BEING APPROVED BY THE APPLICABLE AUTHORIZING AGENCIES. THE CLIENT IS RESPONSIBLE FOR COMPARING THE "PROPOSED" INFORMATION AS SHOWN, WITH THE "FINAL APPROVED FOR CONSTRUCTION" DOCUMENTATION PRIOR TO AUTHORIZING ANY LAYOUT WORK.

ACCORDING TO MAP NO. 12009C0436 H,
DATED JAN 29, 2021, THIS PROPERTY
LIES IN FLOOD ZONE "X".

CERTIFIED TO: GIBRALTAR CORPORATE CAPITAL, INC.

LEGEND:

S.B.M. = SITE BENCH MARK	B.S.L. = BUILDING SETBACK LINE	W = GAS VALVE
P.C.P. = PERMANENT CONTROL POINT	T.O.B. = APPROX. TOP OF BANK	W = RECLAIM WATER METER
P.O.C. = POINT OF COMMENCEMENT	N.T.S. = NOT TO SCALE	W = GAS SERVICE
P.O.B. = POINT OF BEGINNING	O/S = OFFSET	W = WATER VALVE IN 2'x 2' CONC.
P.T. = POINT OF TANGENCY	L.F.E. = LOWEST FLOOR ELEVATION	W = WATER VALVE
P.R.M. = PERMANENT REFERENCE MONUMENT	G.F.E. = GARAGE FLOOR ELEVATION	W = FIRE HYDRANT
R.P. = RADIUS POINT	F.F.E. = FINISHED FLOOR ELEVATION	W = POWER POLE
P.C. = POINT OF CURVATURE	O.R.B. = OFFICIAL RECORDS BOOK	W = LIGHT POLE
P.R.C. = POINT OF REVERSE CURVATURE	P.B. = PLAT BOOK	W = GUY ANCHOR
D = DELTA (CENTRAL ANGLE)	D.B. = DEED BOOK	W = FENCE
R = RADIUS	PG. = PAGE	W = OVERHEAD WIRE (O.H.W.)
A = ARC	P.V.C. = POLYVINYL CHLORIDE	W = APPROXIMATE SEPTIC TANK
T = TANGENT	C.M.P. = CORRUGATED METAL PIPE	W = UNDER MAIN ROOF
(R) = RECORD	R.C.P. = REINFORCED CONCRETE PIPE	W = WELL
(M) = MEASURED	C.P.P. = CORRUGATED PLASTIC PIPE	W = IRON MARKER FOUND - SEE DESCRIPTION
(C) = CALCULATED	INV. = INVERT	W = 1/2" IRON ROD WITH PLASTIC CAP
(D) = DEED	F.Z.L. = FLOOD ZONE LINE	W = MARKED "X.A. SMITH LB 7426" SET
(N.O.I.D.) = NO IDENTIFICATION	N.A.V.D. = NORTH AMERICAN VERTICAL DATUM	W = 4" x 4" CONC. MONUMENT FOUND
C.B.S. = CONCRETE BLOCK & STUCCO	N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM	W = 4" x 4" CONC. MONUMENT MARKED
F.P. & L. = FLUORIDE POWER AND LIGHT	CLEANTOUT	W = "X.A. SMITH LB 7426" SET
RES. = RESIDENCE	WATER METER	W = NAIL & DISK FOUND - SEE DESCRIPTION
PROP. = PROPOSED	ELECTRIC METER/HANDHOLE	W = SET MAGNETIC NAIL
TX = TRANSFORMER	SANITARY SEWER MANHOLE	W = HUB & TACK SET
CONC. = CONCRETE (TYP.) = TYPICAL	STORM SEWER MANHOLE	
E.O.P. = EDGE OF PAVEMENT	SOUTHERN BELL MANHOLE/HANDHOLE	
T.O.S. = APPROX. TOE OF SLOPE	SOUTHERN BELL RISER	
E.O.W. = APPROX. EDGE OF WATER	CABLE TELEVISION RISER	

PROPERTY ADDRESS: 3545 MURRELL ROAD
ROCKLEDGE, FLORIDA 32955

TYPE	SURVEY DATE	JOB NUMBER	CK. BY
BOUNDARY/TOPOGRAPHIC SURVEY	21-0078	21-0078	KEVIN A. SMITH
DRAWN BY: A. TEJADA			

PROFESSIONAL SURVEYOR & MAPPER IN CHARGE
KEVIN A. SMITH - FLORIDA CERTIFICATE NO. 4457
ANDREW J. SMITH - FLORIDA CERTIFICATE NO. 5690

THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP
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NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF
A FLORIDA LICENSED SURVEYOR AND MAPPER.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.12.

3/14/2022

Subject:

The Heather Calligan Trust requests a Small Scale Comprehensive Plan Amendment (22S.01) to change the Future Land Use designation from RES 1 to RES 4. (22PZ00001) (Tax Account 2112413) (District 1)

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 change of Future Land Use designation from RES 1 (Residential 1) to RES 4 (Residential 4).

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use designation from RES 1 to RES 4 on 8.25 acres of undeveloped land within a larger parcel (79.16 acres) proposed for a single-family subdivision. The RES 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre. There is no companion rezoning application accompanying this request as the current RU-1-7 (Single-Family Residential) zoning was adopted in January 2022, with an amended BDP on the larger 79.16 acre parcel of which the 8.25 acre subject property is included.

The subject property has retained the FLU designation of RES 1 since 2008 when the comprehensive plan amendment implementing recommendations of the Mims Small Area Study was adopted resulting in a reduction of residential density.

There is an existing pattern of residential land use along this segment of Turpentine Road from SR 46 to Wherry Road. Developed lots range from 0.18 acre to 2.13 acres and include a mix of manufactured housing and single-family residences. The proposed residential use appears consistent with the historical and existing pattern of residential development along Turpentine Road.

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

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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 22S.01 (22PZ00001)
Township 21, Range 34, Section 13*

Property Information

Owner / Applicant: Heather Calligan Trust

Adopted Future Land Use Map Designation: Residential 1 (RES 1)

Requested Future Land Use Map Designation: Residential 4 (RES 4)

Acreage: 8.25 acres

Tax Account #: 2112413

Site Location: Northeast corner of Turpentine Road and Wherry Road, on north and south sides of Hammock Trail

Commission District: 1

Current Zoning: Single-family Residential (RU-1-7)
(21Z00030 - adopted 12/02/2021)

Background & Purpose

The applicant is requesting to amend the Future Land Use designation from Residential 1 (RES 1) to Residential 4 (RES 4) on 8.25 acres of undeveloped land within a larger parcel (79.16 acres) proposed for a single-family subdivision.

There is no companion rezoning application accompanying this request as the current Single-Family Residential (RU-1-7) zoning was recently adopted in January 2022, with an amended binding development plan (BDP) on the larger 79.16 acre parcel of which the 8.25 acre subject property is included (21Z00030). The RU-1-7 zoning with BDP limits the proposed project to be consistent with the Residential 4 FLU designations and includes a development limitation of 2.5 dwelling units per acre or 198 SFR units across the entire 79.16 acre parcel.

The 8.25-acre subject property has retained the FLU designation of RES 1 since 2008 when the comprehensive plan amendment implementing recommendations of the Mims Small Area Study was adopted (Amendment 2008-A.4) resulting in a reduction of residential density. The subject parcel originally retained a future land use designation of Residential with maximum density of 4 dwelling units per acre at the adoption of the FLU map in 1988.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	One (1) Single-Family Residence and One (1) Manufactured Home	GU and RRMH-1	RES 1
South	One (1) Single-Family Residence	AU	RES 1
East	Vacant, Undeveloped Land	RU-1-7 (adopted 12/02/21)	RES 4
West	Seven (7) Single-Family Residences and Vacant, Undeveloped Land (across Turpentine Road)	AU and RU-1-11	RES 1

To the north of the subject property is one (1) single-family residence and one (1) manufactured home. South of the subject property is one (1) single-family residence. East of the subject property is vacant, undeveloped land. West of the subject property, across Turpentine Road, are seven (7) single-family homes and 2.43-acres of vacant, undeveloped land.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

Policy 1.2

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.

Connection to centralized potable water and wastewater treatment is required. The subject site is within Brevard County Utilities service area for potable water. The closest Brevard County centralized sewer line is located approximately 1,230 feet to the east of the subject site on Hammock Trail.

Residential 4 (maximum of 4 units per acre)

Policy 1.7

The Residential 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within this element. The Residential 4 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 4 land use designation; or

The subject site is immediately adjacent to RES 4 land use designation to the east.

- B. Areas which serve as a transition between existing land uses or land use designations with density greater than four (4) units per acre and areas with density of less than four (4) units per acre; or

The subject site does not serve as a transition between densities greater than four (4) units per acre and areas with density of less than four (4) units per acre.

- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 4.

The subject site is not adjacent to an incorporated area.

- D. Up to a 25% density bonus to permit up to five (5) units per acre may be considered with a Planned Unit Development where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and

promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant is not proposing a Planned Unit Development.

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;

There is an existing pattern of residential land use along this segment of Turpentine Road from SR 46 to Wherry Road. Developed lots range from 0.18 acre to 2.13 acres and include a mix of manufactured housing and single-family residences.

The subject property is located within the boundaries of the 2007 Mims Small Area Study. Recommendations of the Study resulted in the reduction of residential densities, including the subject property (Amendment 2008-A.4). The subject parcel originally retained a future land use designation of Residential with maximum density of 4 dwelling units per acre at the adoption of the FLU map in 1988.

The Study also noted that development in residential areas with density of two units per acre and higher should be encouraged to cluster development and to leave portions of each site open, with particular attention to reducing environmental impacts, to maintaining recreation space, and to preserving the Mims area's agricultural landscapes when possible.

The proposed residential use appears to be consistent with the historical and existing pattern of residential development along Turpentine Road.

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

There has not been any development immediately adjacent to the subject parcel in the preceding three (3) years.

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

In January 2022, a binding development plan for a 198 unit single-family subdivision was approved on the 79.16-acre parent parcel which includes the 8.25 acre subject property.

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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

There is an existing pattern of residential land use along this segment of Turpentine Road from SR 46 to Wherry Road.

Concurrency

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

The subject site is within Brevard County Utilities service area for potable water. The closest Brevard County centralized sewer line is located approximately 1,230 feet to the east of the subject site on Hammock Trail.

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development.

Environmental Resources

Preliminary review of mapped resources indicates the following land use issues:

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

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

Historic Resources

According to the Florida Master Site File (FMSF) from the Florida Division of Historic Resources, one (1) cultural resource (#8BR2084 - Irvine Holder Farm) is located on the subject property. Information provided by the FMSF describes the Irvine Holder Farm as “a canal and road constructed by Irvine Holder in the 1920s that provided drainage, irrigation, and access to his truck farm, and two pump houses he constructed in the late 1940s that were needed to run sprinklers used when freezing temperatures threatened to destroy his citrus groves.”

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use (FLU) Review & Summary
Item # 22PZ00001**

Applicant: Genoni for Calligan

FLU Request: RES 1 to RES 4

Note: Applicant wants a 198-unit subdivision

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID No: 2112413 (portion of)

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

The subject parcel contains mapped hydric soils, an indicator that wetlands may be present on the property. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 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 plan design or permit submittal.

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Anclote sand frequently ponded and Basinger sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. A wetland determination/delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 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 plan design or permit submittal.

Aquifer Recharge Soils

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

Protected and Specimen Trees

Aerials indicate that project site is forested. Protected (greater than or equal to 14 inches in diameter for pines) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside 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. The applicant is encouraged to perform a tree survey prior to site plan design in order to incorporate valuable vegetative communities or robust trees into the design. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

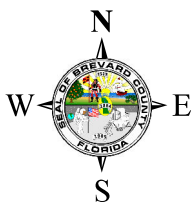
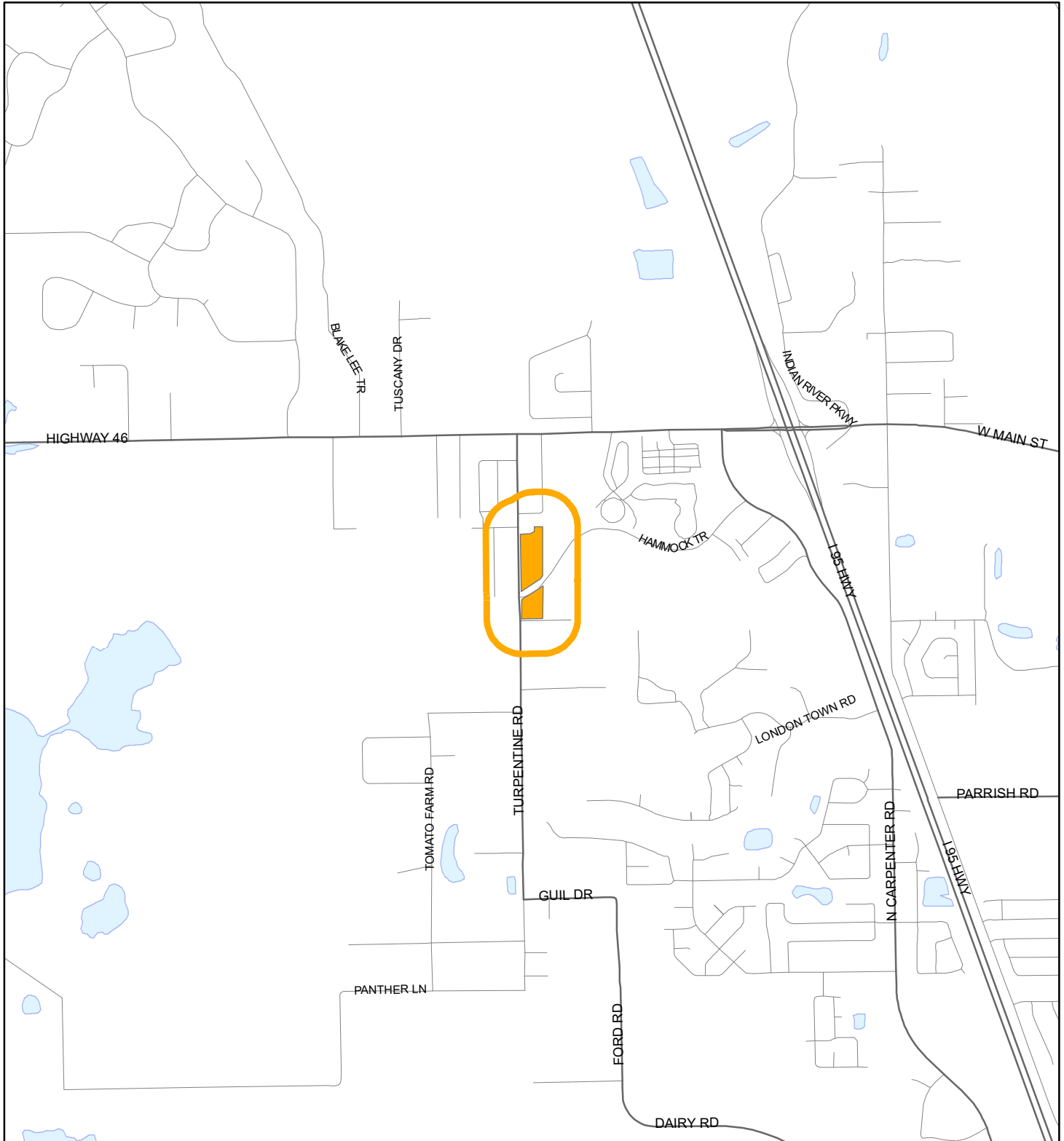
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

THE HEATHER CALLIGAN TRUST

22PZ00001 SMALL SCALE AMENDMENT 22S.01





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

Buffer Distance: 500 feet

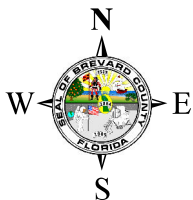
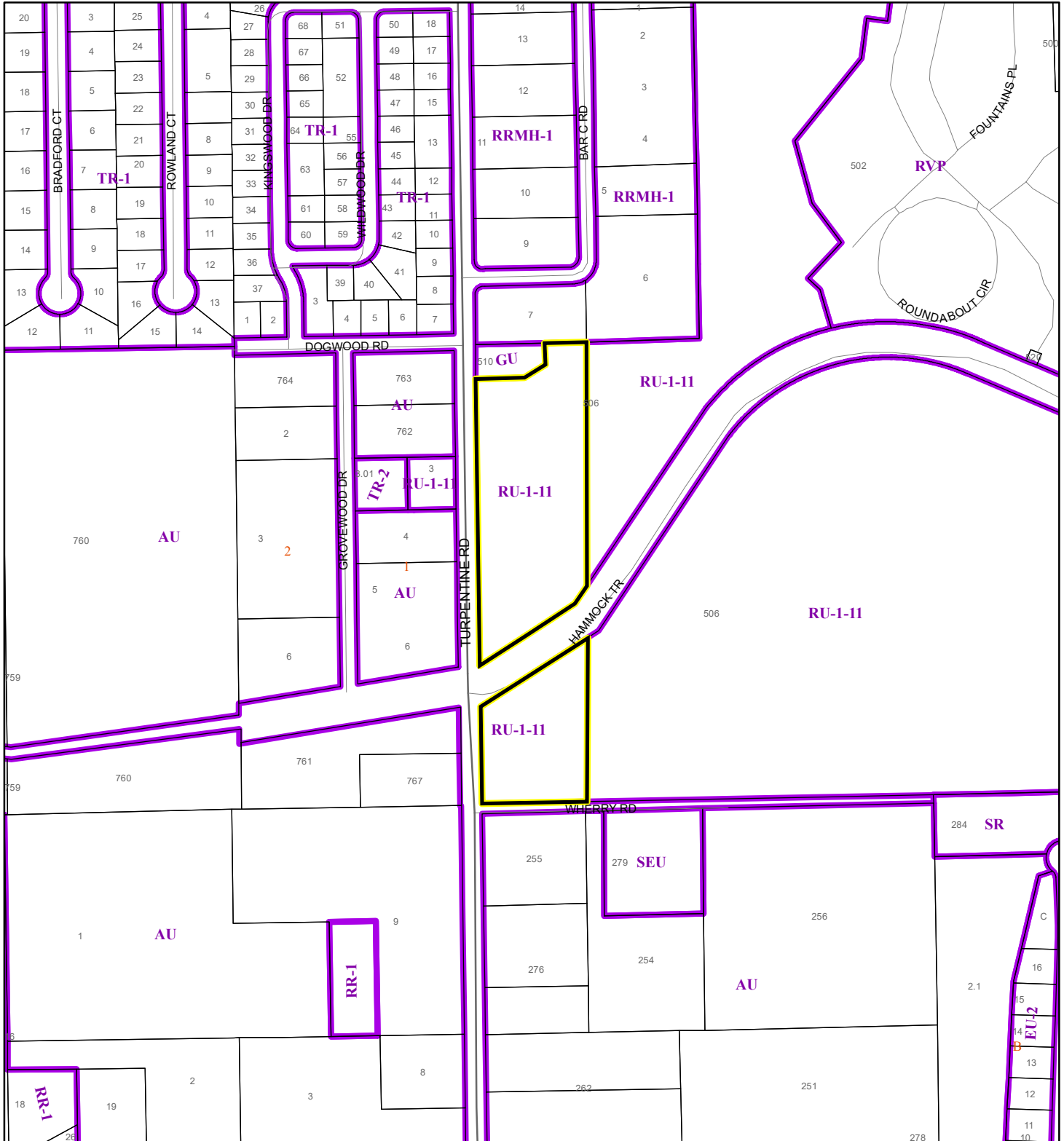
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/10/2022

 Buffer
 Subject Property

ZONING MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/10/2022

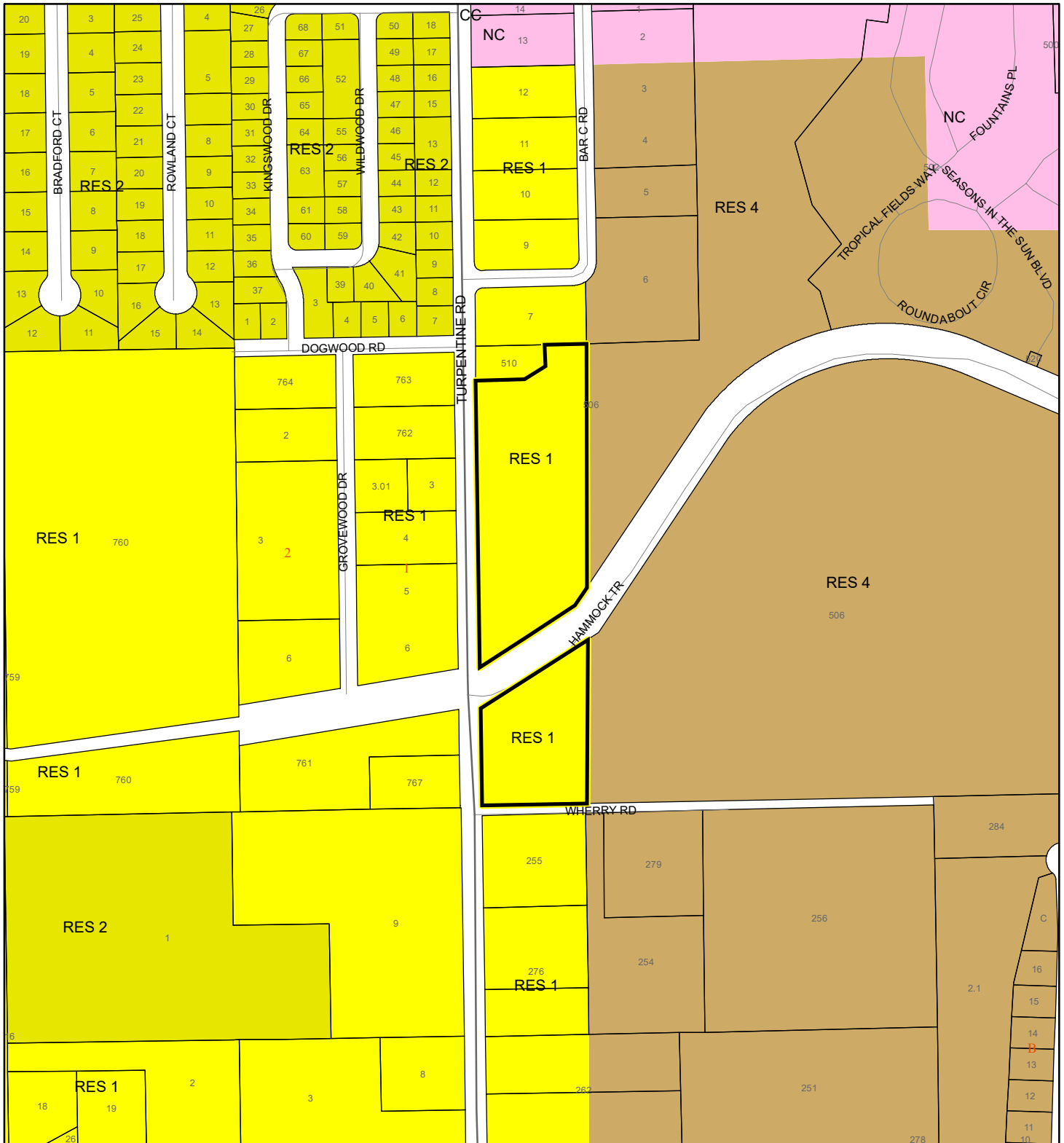
 Subject Property

Parcels

Zoning

FUTURE LAND USE MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

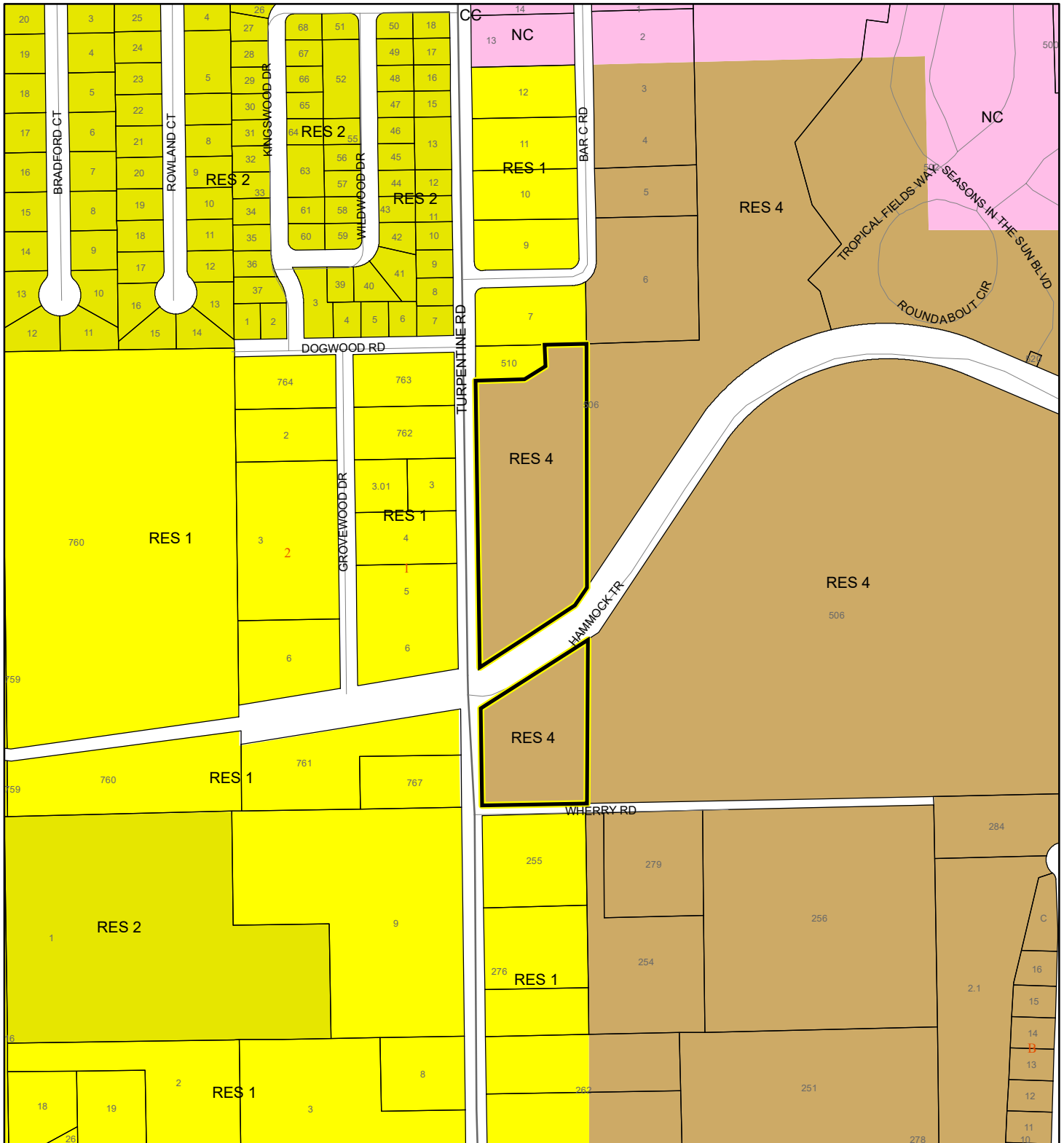
Subject Property
Parcels

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Produced by BoCC - GIS Date: 1/7/2022

PROPOSED FUTURE LAND USE MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

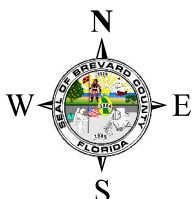
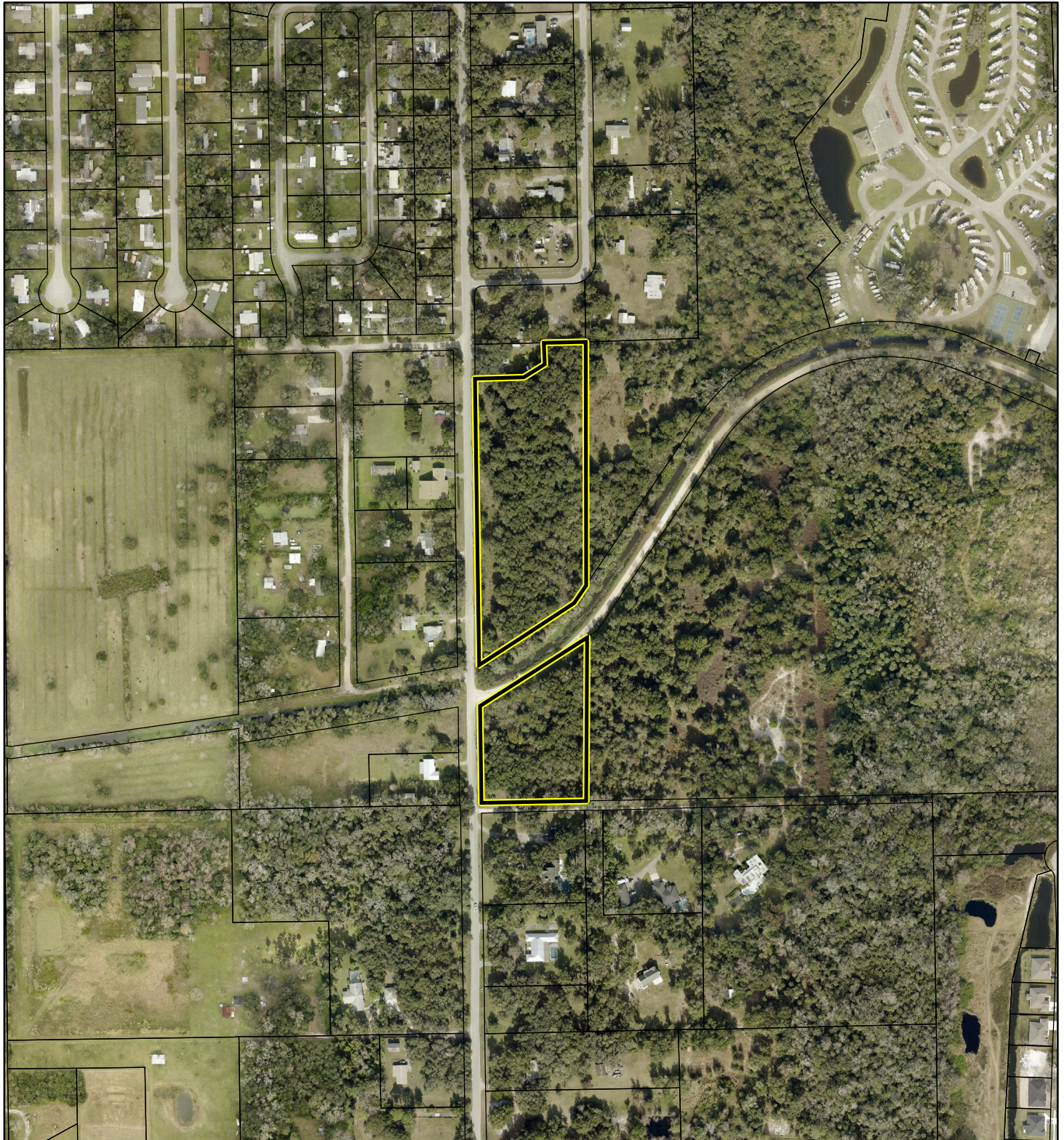
Subject Property
Parcels

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Produced by BoCC - GIS Date: 1/10/2022

AERIAL MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

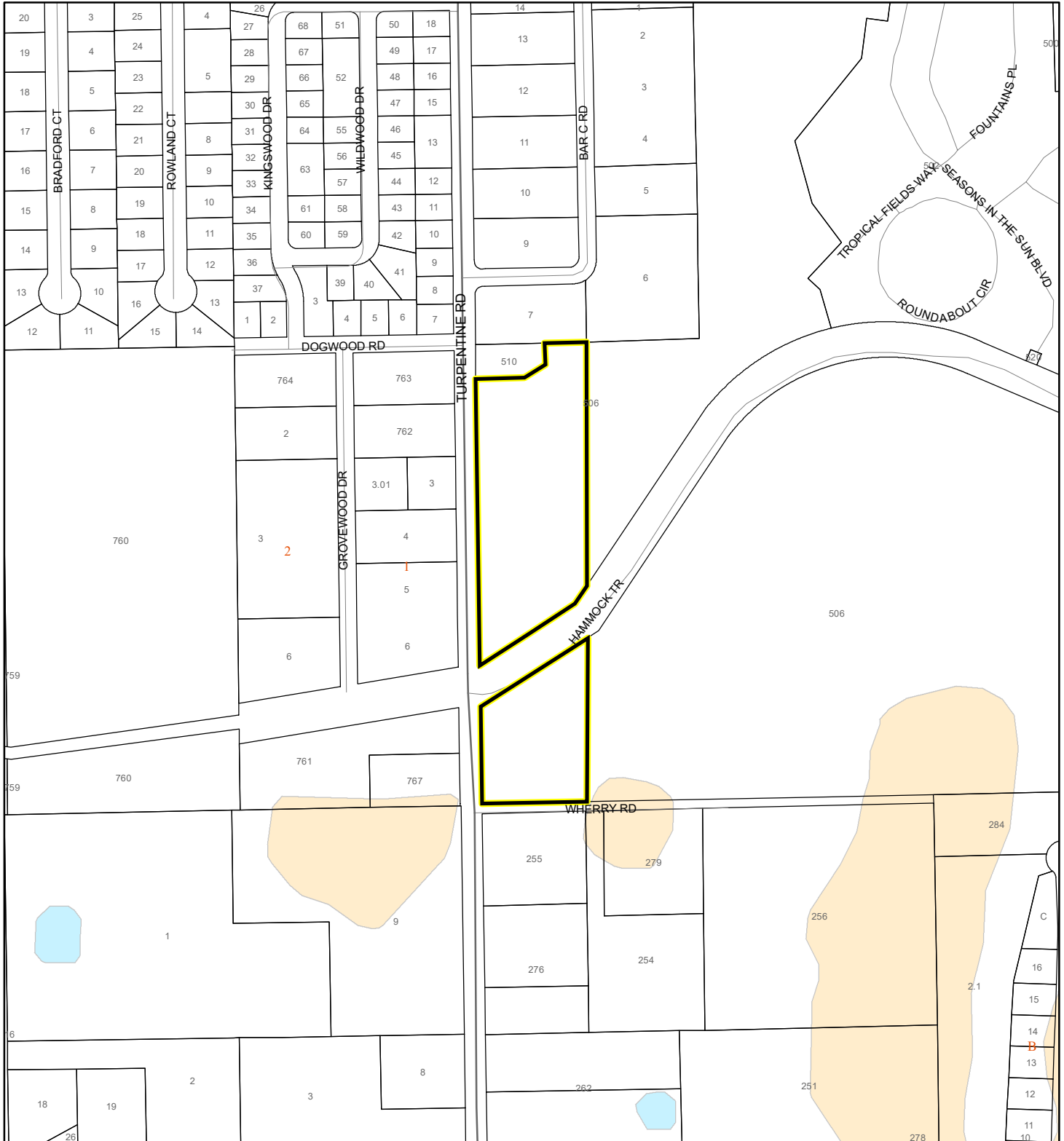
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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 Subject Property
 Parcels

NWI WETLANDS MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

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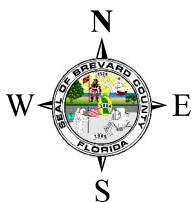
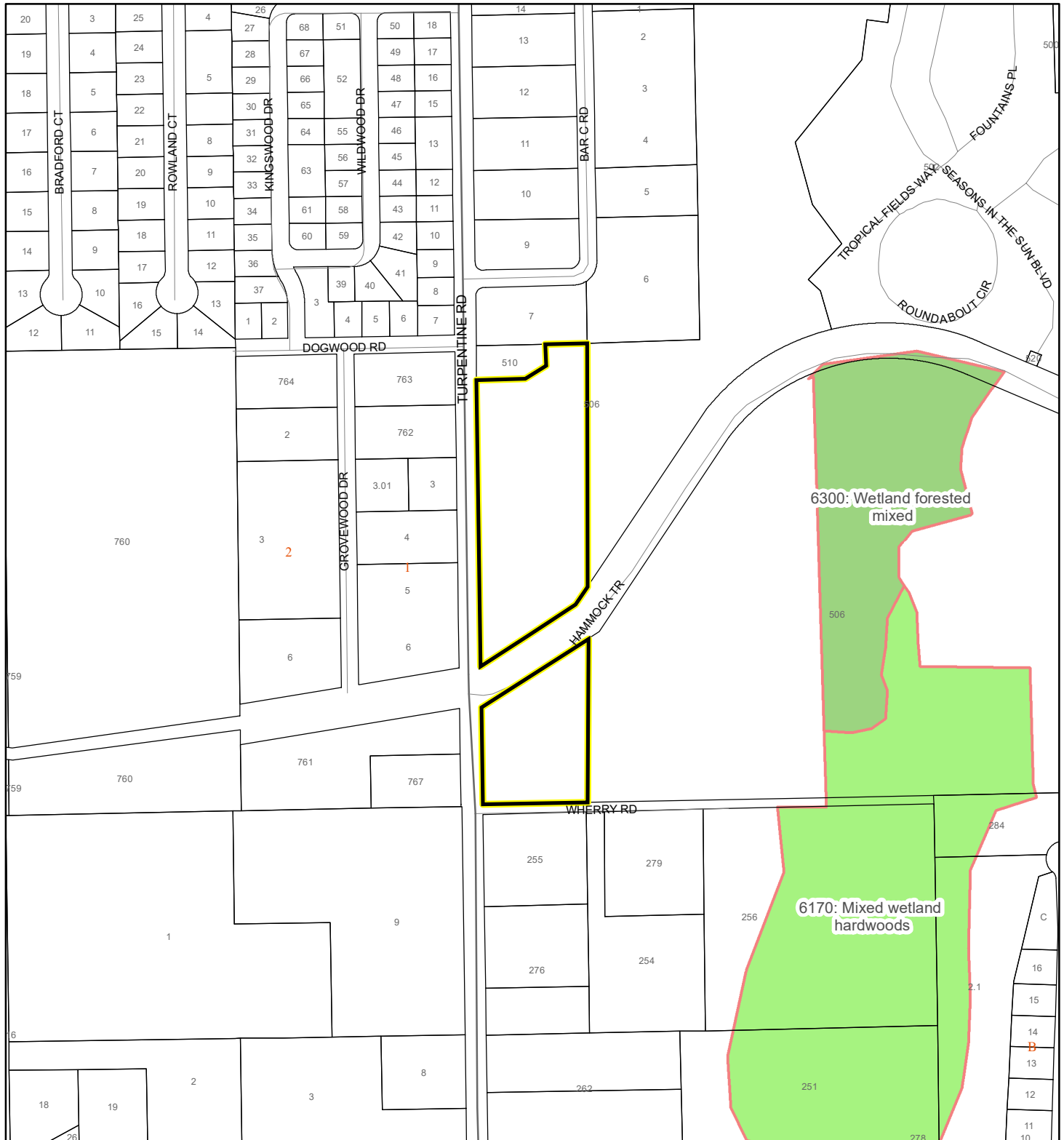
Produced by BoCC - GIS Date: 1/7/2022

National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

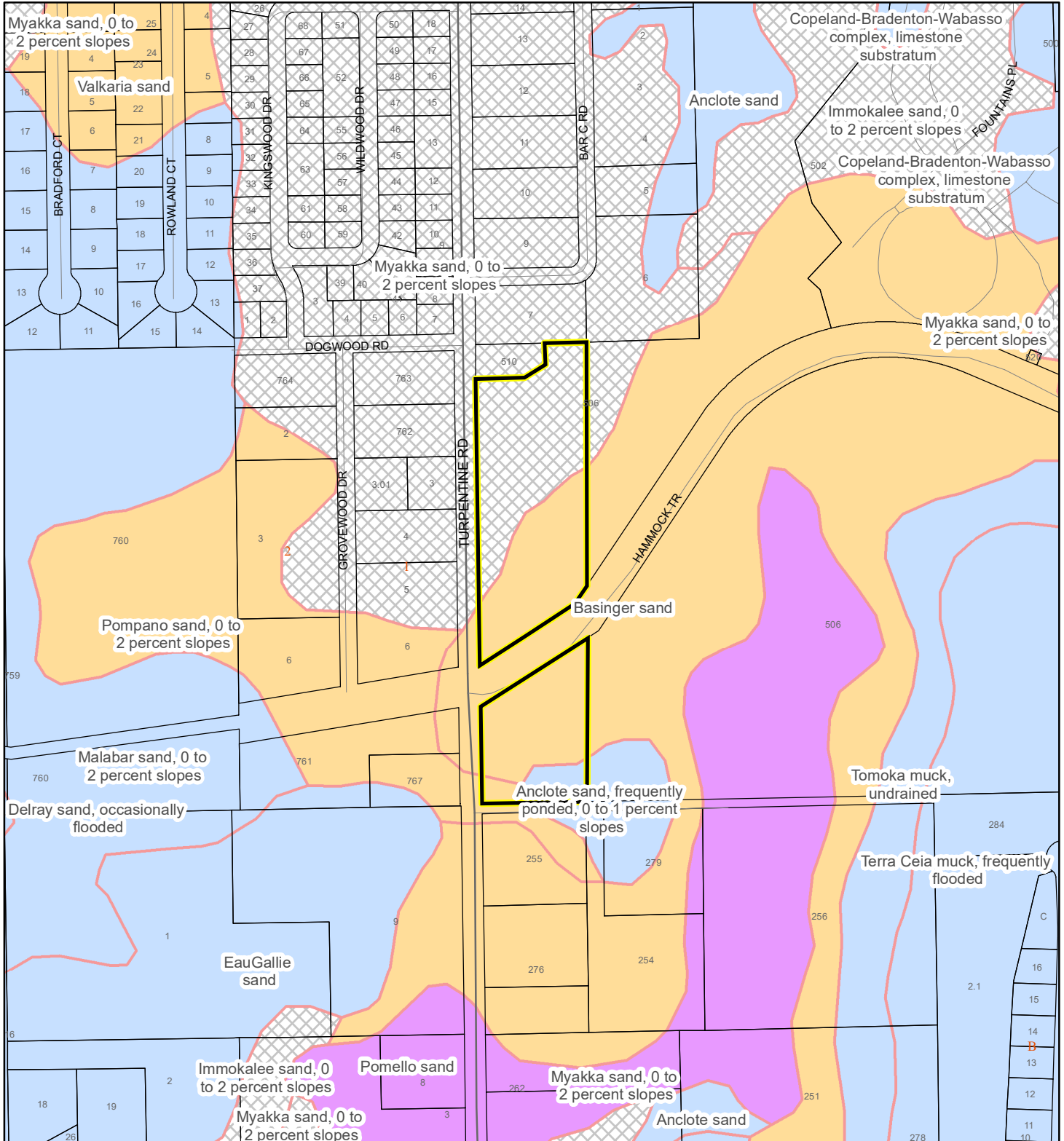
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

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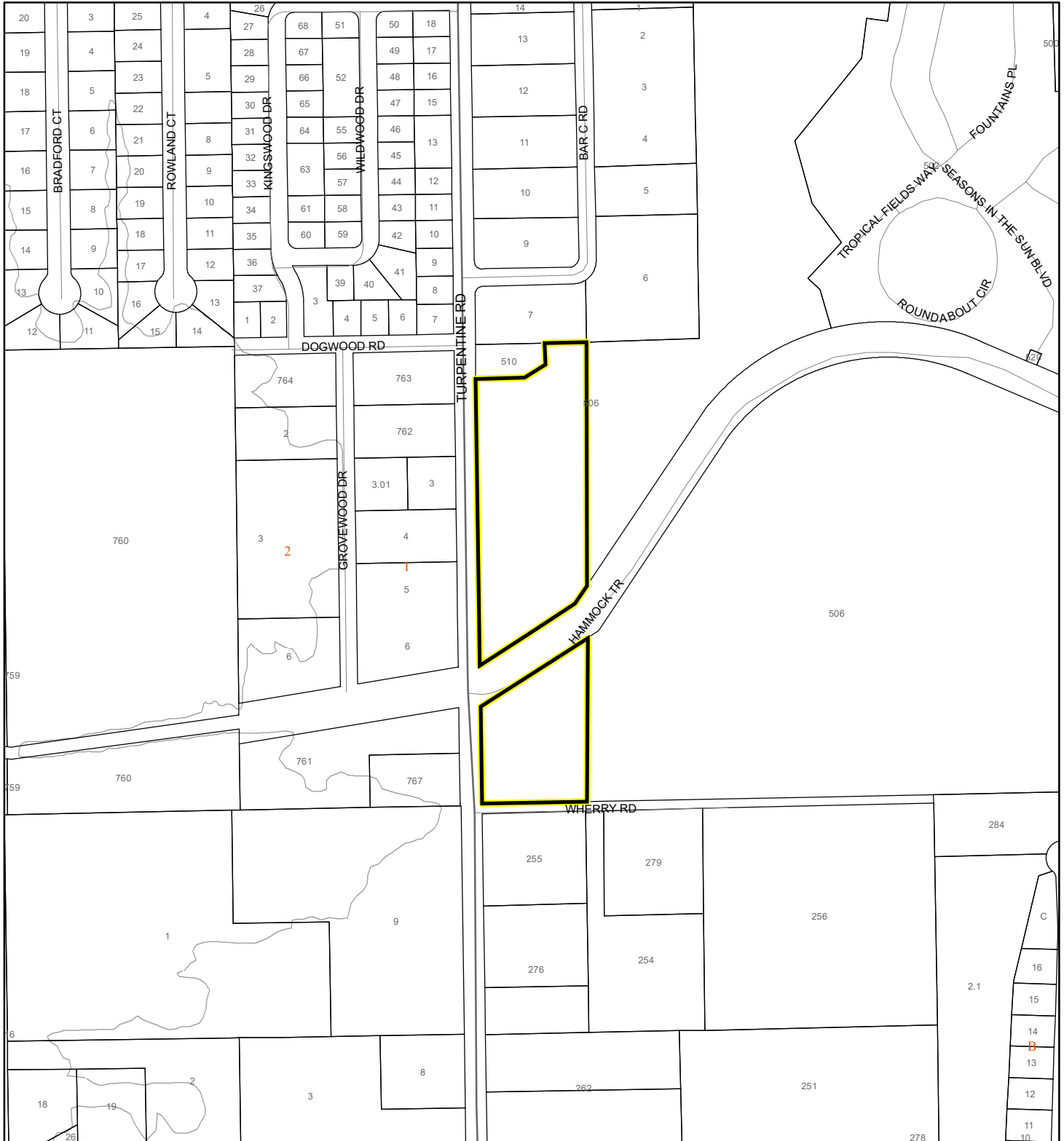
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



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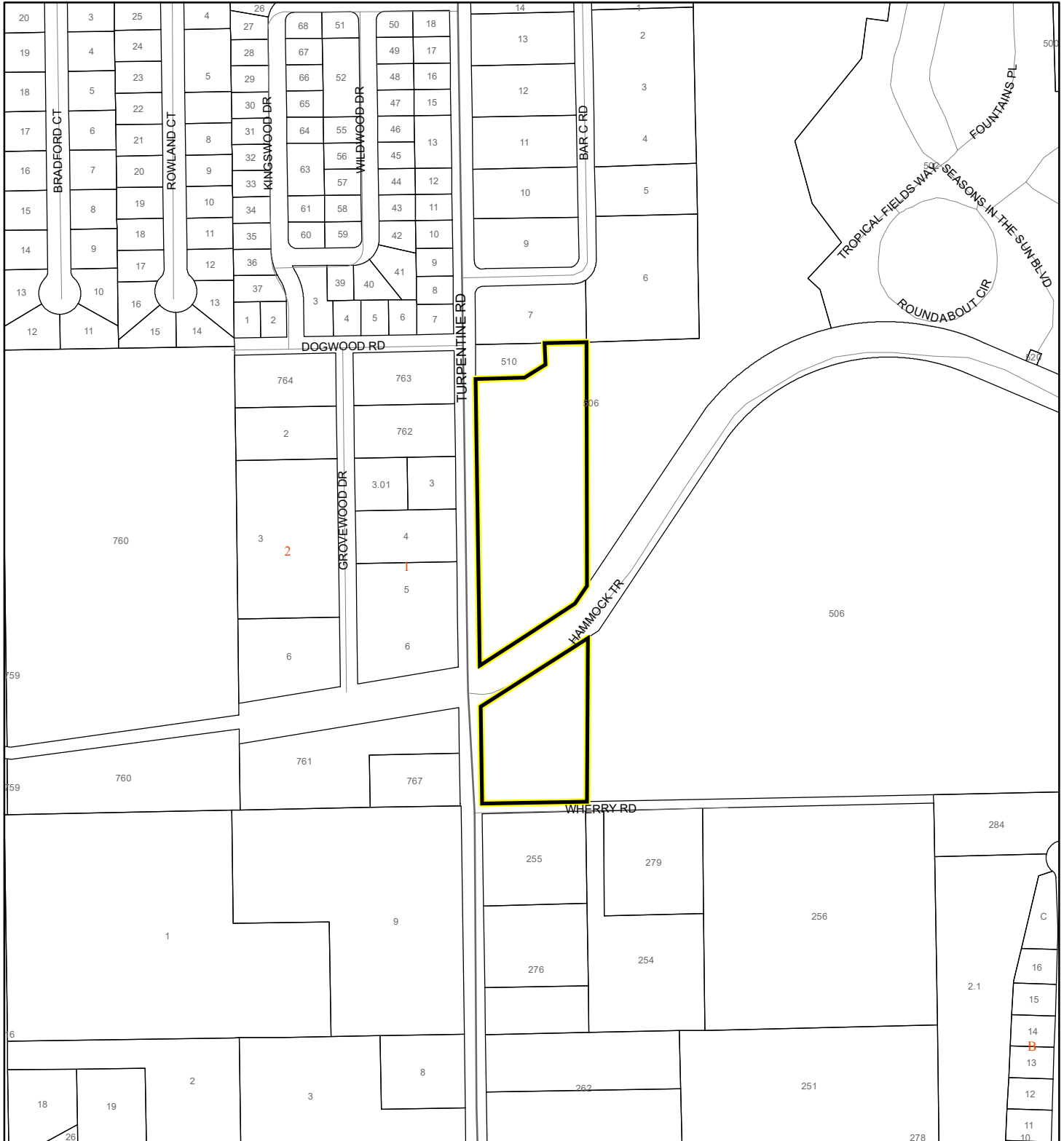
Produced by BoCC - GIS Date: 1/7/2022

FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet


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 Subject Property

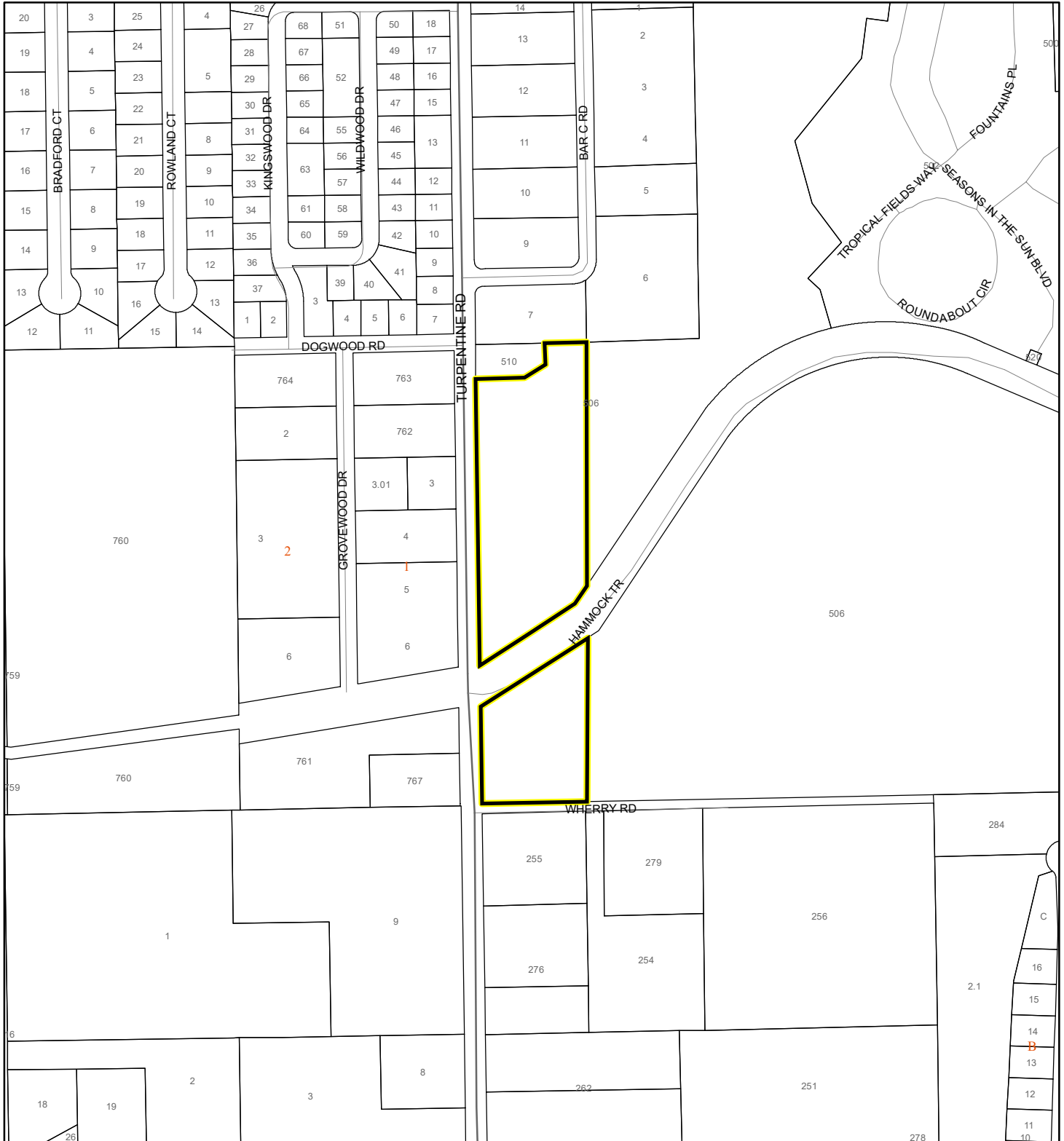
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

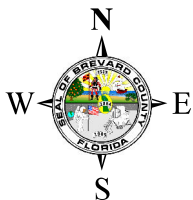
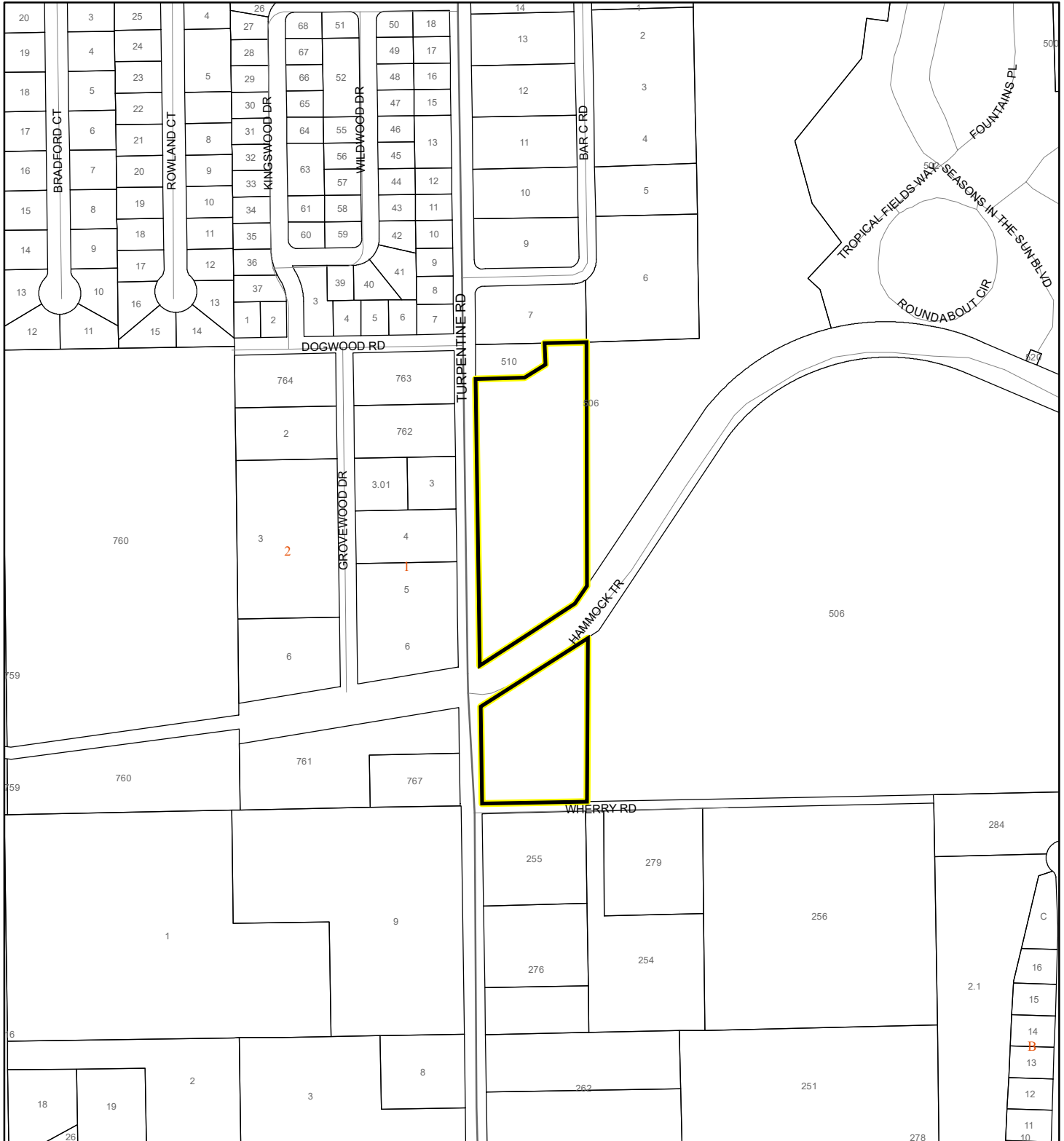
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

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 Subject Property

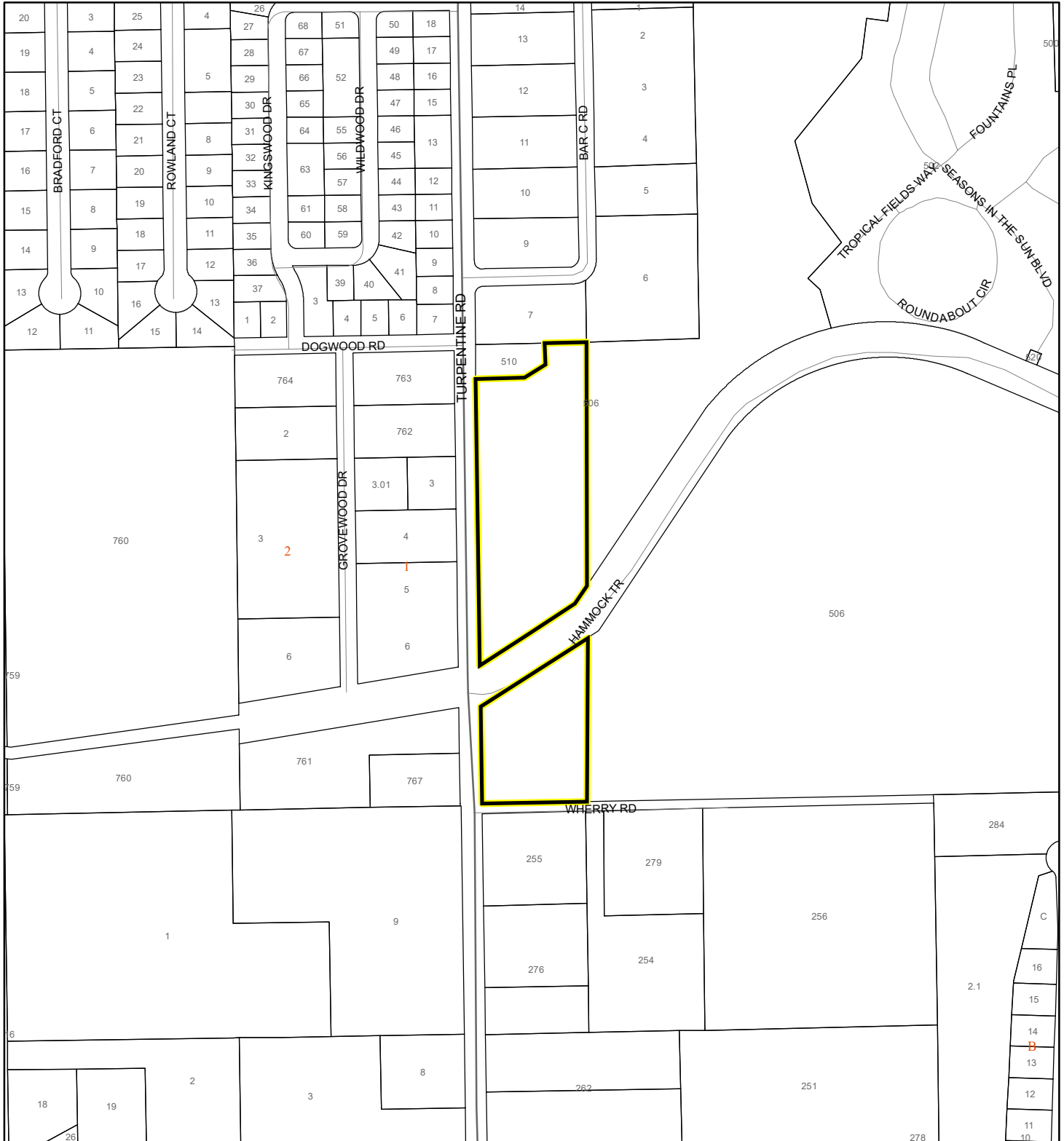
 Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

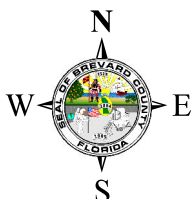
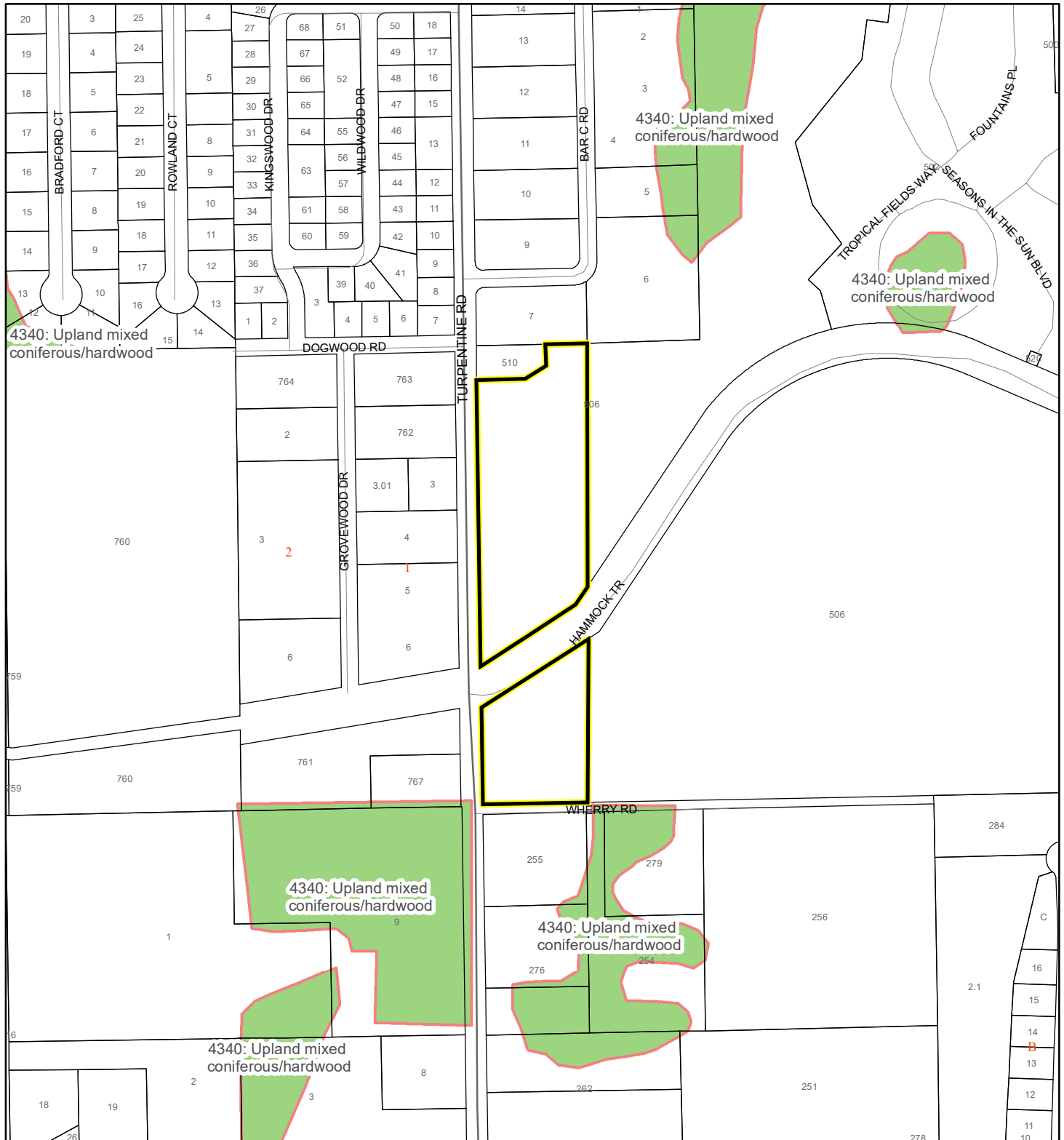
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

THE HEATHER CALLIGAN TRUST
22PZ00001 SMALL SCALE AMENDMENT 22S.01



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/7/2022

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

Reason for Request
22PZ00001
Calligan

Planning & Development Department
2725 Judge Fran Jamieson Way, Bldg A, Suite 114
Viera, FL 32940
Phone: (321) 633-2070, Fax: (321) 633-2074
www.BrevardFL.gov/PlanningDev

Supplement to Comprehensive Plan Amendment Application

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:** Flordevco **Staff Planner:** Cheryl Campbell

3. **Comprehensive Plan Amendment Information:**

Adopted Future Land Use Designation: RES1

Requested Future Land Use Designation: RES4

Existing Zoning: RU-1-11 zoning app to change to RU-1-7 is 21Z00030

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 rationale 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.

The purpose of the Comp Plan Amendment is to Allow the property to be developed as a Single Family Subdivision with the Recently approved RU-1-7 Zoning. The increase in Density on the 8 acres from Res1 to Res4 will not have a net impact on the project Density because the overall project has been capped at ~198 units.

(Use additional sheets if necessary)



School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699
Mark W. Mullins, Ed.D., Superintendent

September 1, 2021

Mr. Paul Body
Planner II
Planning & Development Department
Brevard County Board of County Commissioners
2726 Judge Fran Jamieson Way
Viera, Florida 32940

**RE: Proposed Summerfields Development
School Impact Analysis – Capacity Determination CD-2021-21**

Dear Mr. Body,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account 2112413 (Parcel ID: 21-34-13-00-506) containing approximately 79.16 acres in District 1, Brevard County, Florida. The proposed single-family development includes 198 homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2020-21 to 2025-26 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2020-2021 to 2025-26* which is attached for reference.

Single-Family Homes	198		
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.28	55.44	55
Middle	0.08	15.84	16
High	0.16	31.68	32
Total	0.52		103

Planning & Project Management
Facilities Services
Phone: (321) 633-1000 x11418 • FAX: (321) 633-4646

An Equal Opportunity Employer



**FISH Capacity (including relocatables) from the
Financially Feasible Plan (FFP) Data and Analysis for School Years 2020-21 to
2025-26**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Mims	725	725	725	725	725
Madison	781	781	781	781	781
Astronaut	1,446	1,446	1,446	1,446	1,446

Projected Student Membership

School	2021-22	2022-23	2023-24	2024-25	2025-26
Mims	422	398	499	514	515
Madison	475	445	468	465	426
Astronaut	1,141	1,081	1,092	1,065	1,052

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2021-22	2022-23	2023-24	2024-25	2025-26
Mims	-	52	104	104	104
Madison	-	13	24	24	24
Astronaut	1	22	41	41	41

**Cumulative Students Generated by
Proposed Development**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Mims	-	14	28	42	55
Madison	-	4	8	12	16
Astronaut	-	8	16	24	32

**Total Projected Student Membership (includes
Cumulative Impact of Proposed Development)**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Mims	422	464	631	660	674
Madison	475	462	500	501	466
Astronaut	1,142	1,111	1,149	1,130	1,125

**Projected Available Capacity =
FISH Capacity - Total Projected Student Membership**

School	2021-22	2022-23	2023-24	2024-25	2025-26
Mims	303	261	94	65	51
Madison	306	319	281	280	315
Astronaut	304	335	297	316	321

At this time, Mims Elementary School, Madison Middle School and Astronaut High School are projected to have enough capacity for the total of projected and potential students from the Summerfields development.

This is a **non-binding** review; a *Concurrency Determination* must be performed by the School District prior to a Final Development Order and the issuance of a Concurrency Evaluation Finding of Nondeficiency by the Local Government.

We appreciate the opportunity to review this proposed project. Please let us know if you require additional information.

Sincerely,



Karen M. Black, AICP Candidate
Manager – Facilities Planning & Intergovernmental Coordination
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years 2020-2021 to 2025-26*

Copy: Susan Hann, Assistant Superintendent of Facility Services
File CD-2021-21

David G. Lindemann, AICP, Director of Planning & Project Management,
Facilities Services
File CD-2021-21

Brevard County Public Schools
Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service
Data and Analysis for School Years 2020-21 to 2025-26



Summary	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26
Highest Utilization Elementary Schools:	87%	90%	100%	100%	100%	100%
Highest Utilization Middle Schools:	87%	89%	90%	93%	98%	99%
Highest Utilization Jr / Sr High Schools:	81%	81%	80%	89%	94%	96%
Highest Utilization High Schools:	93%	99%	99%	99%	99%	100%

School	Type	Grades	Utilization Factor	School Year 2020-21			School Year 2021-22			School Year 2022-23			School Year 2023-24			School Year 2024-25			School Year 2025-26		
				FISH Capacity	10/09/19 Member-ship	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization
Elementary School Concurrency Service Areas																					
Allen	Elementary	PK-6	100%	751	596	79%	751	679	90%	751	652	87%	751	681	91%	773	758	98%	795	781	99%
Andersen	Elementary	K-6	100%	884	618	70%	884	617	70%	884	687	78%	884	696	79%	884	702	79%	884	713	81%
Apollo	Elementary	K-6	100%	902	785	87%	902	801	89%	902	777	86%	902	755	84%	902	757	84%	902	744	82%
Atlantis	Elementary	PK-6	100%	739	633	86%	739	680	89%	739	625	85%	739	624	84%	739	616	83%	739	610	83%
Audubon	Elementary	PK-6	100%	781	489	62%	781	475	62%	781	471	62%	781	478	63%	781	475	62%	781	484	64%
Cambridge	Elementary	PK-6	100%	765	519	68%	765	525	69%	765	503	66%	765	494	65%	765	489	61%	765	458	60%
Cape View	Elementary	PK-6	100%	570	302	53%	570	283	50%	570	277	49%	570	289	47%	570	253	44%	570	254	45%
Carroll	Elementary	K-6	100%	751	593	79%	751	593	79%	751	530	71%	751	553	74%	751	559	74%	751	540	72%
Challenger 7	Elementary	PK-6	100%	573	477	83%	573	493	86%	573	443	77%	573	423	74%	573	406	71%	573	398	69%
Columbia	Elementary	PK-6	100%	751	405	54%	751	400	53%	751	455	61%	751	514	68%	751	533	71%	751	547	73%
Coquina	Elementary	K-6	100%	711	499	70%	711	532	75%	711	475	67%	711	436	61%	711	396	56%	711	376	53%
Crael	Elementary	PK-6	100%	1,154	703	61%	1,154	746	65%	1,154	743	64%	1,154	737	64%	1,154	740	64%	1,154	741	64%
Croton	Elementary	PK-6	100%	795	480	60%	795	530	67%	795	615	77%	795	622	78%	795	627	79%	795	635	80%
Discovery	Elementary	PK-6	100%	980	580	57%	980	550	56%	980	494	50%	980	500	51%	980	507	52%	980	503	51%
Endeavour	Elementary	PK-6	100%	990	608	61%	990	646	65%	990	589	59%	990	581	59%	990	528	53%	990	527	53%
Enterprise	Elementary	K-6	100%	729	536	74%	729	584	80%	729	525	72%	729	520	71%	729	512	70%	729	492	67%
Fairline	Elementary	PK-6	100%	789	577	73%	789	590	75%	789	598	76%	789	630	80%	789	678	86%	789	700	89%
Gemini	Elementary	K-6	100%	711	426	60%	711	457	64%	711	401	56%	711	384	54%	711	379	53%	711	383	54%
Golfview	Elementary	PK-6	100%	777	439	56%	777	450	58%	777	528	68%	777	522	67%	777	537	69%	777	545	70%
Harbor City	Elementary	PK-6	100%	629	345	55%	629	378	60%	629	379	60%	629	418	66%	629	412	66%	629	402	64%
Holland	Elementary	PK-6	100%	605	410	68%	605	485	80%	605	429	71%	605	430	71%	605	418	69%	605	417	69%
Imperial Estates	Elementary	K-6	100%	729	605	83%	729	608	83%	729	615	84%	729	627	86%	729	644	88%	729	648	89%
Indianapolis	Elementary	K-6	100%	798	662	83%	798	694	87%	798	883	86%	798	675	85%	798	688	84%	798	649	81%
Jupiter	Elementary	PK-6	100%	930	679	73%	930	656	71%	930	705	76%	930	806	87%	930	876	94%	930	926	100%
Lockmar	Elementary	PK-6	100%	892	632	71%	892	609	68%	892	592	66%	892	555	62%	892	541	61%	892	518	58%
Longleaf	Elementary	PK-6	100%	790	588	72%	790	577	73%	790	585	74%	790	595	75%	790	603	76%	790	602	76%
Manatee	Elementary	K-6	100%	998	668	67%	998	696	70%	998	608	61%	998	786	79%	998	748	75%	998	714	72%
McAuliffe	Elementary	PK-6	100%	918	689	75%	918	657	72%	918	591	64%	918	594	65%	918	561	61%	918	570	62%
Meadowlane Intermediate	Elementary	3-6	100%	1,114	772	69%	1,114	839	75%	1,114	853	77%	1,114	915	82%	1,114	968	87%	1,114	998	90%
Meadowlane Primary	Elementary	K-6	100%	824	661	80%	824	724	88%	824	634	77%	824	687	83%	824	687	83%	824	699	85%
Mila	Elementary	PK-6	100%	707	428	61%	707	442	63%	707	432	61%	707	428	61%	707	418	59%	707	408	58%
Mims	Elementary	PK-6	100%	725	389	54%	725	422	58%	725	398	55%	725	499	69%	725	514	71%	725	515	71%
Oak Park	Elementary	PK-6	100%	968	603	62%	968	580	60%	968	542	56%	968	514	53%	968	484	50%	968	482	50%
Ocean Breeze	Elementary	PK-6	100%	654	508	78%	654	545	83%	654	465	71%	654	462	71%	654	455	70%	654	429	66%
Palm Bay Elem	Elementary	PK-6	100%	983	573	58%	983	596	61%	983	653	66%	983	738	75%	983	770	78%	983	773	79%
Pinewood	Elementary	PK-6	100%	569	470	83%	569	486	85%	569	493	87%	569	504	89%	569	510	90%	569	516	91%
Port Malabar	Elementary	PK-6	100%	852	648	76%	852	631	74%	852	618	72%	852	612	72%	852	617	72%	852	625	73%
Quest	Elementary	PK-6	100%	1,152	795	69%	1,152	882	77%	1,152	676	59%	1,152	651	57%	1,152	647	56%	1,152	675	59%
Riviera	Elementary	PK-6	100%	777	561	72%	777	578	74%	777	821	100%	777	865	111%	777	865	111%	777	865	111%
Roosevelt	Elementary	K-6	100%	599	263	44%	599	247	41%	599	242	40%	599	230	38%	599	207	35%	599	193	32%
Sabal	Elementary	PK-6	100%	785	549	70%	785	564	72%	785	584	74%	785	594	76%	785	580	74%	785	581	74%
Saturn	Elementary	PK-6	100%	976	794	81%	976	841	86%	976	825	85%	976	1,042	107%	976	1,020	105%	976	997	98%
Sea Park	Elementary	PK-6	100%	461	272	59%	461	298	65%	461	287	62%	461	288	62%	461	294	64%	461	288	62%
Sherwood	Elementary	PK-6	100%	609	393	65%	609	416	68%	609	379	62%	609	381	63%	609	386	63%	609	379	62%
South Lake	Elementary	K-6	100%	481	367	76%	481	397	83%	481	367	76%	481	367	76%	481	367	76%	481	367	76%
Sunrise	Elementary	PK-6	100%	913	700	77%	913	693	76%	913	791	87%	913	941	103%	913	1,021	112%	913	1,098	120%
Suntree	Elementary	K-6	100%	755	594	79%	755	618	82%	755	571	76%	755	579	77%	755	546	72%	755	535	71%
Surfside	Elementary	K-6	100%	541	438	81%	541	457	84%	541	430	79%	541	412	76%	541	398	74%	541	400	74%
Tropical	Elementary	K-6	100%	910	682	75%	910	725	80%	910	623	68%	910	603	66%	910	585	62%	910	547	60%
Turner	Elementary	PK-6	100%	874	529	61%	874	525	60%	874	602	69%	874	675	77%	874	720	82%	874	733	84%
University Park	Elementary	PK-6	100%	811	432	53%	811	471	58%	811	638	79%	811	738	91%	811	748	92%	811	747	92%
Viera Elem	Elementary	K-6	100%	1,012	384	38%	1,012	643	64%	1,012	613	61%	1,012	697	69%	1,012	738	73%	1,012	741	73%
Westside	Elementary	K-6	100%	857	671	78%	857	594	69%	857	617	72%	857	641	75%	857	663	77%	857	663	77%
Williams	Elementary	PK-6	100%	715	482	67%	715	484	68%	715	463	65%	715	444	62%	715	425	59%	715	396	55%
Elementary Totals				42,996	29,621		42,996	30,667		43,040	30,387		43,194	31,384		43,282	31,483		43,392	31,487	

Middle School Concurrency Service Areas																					
Central	Middle	7-8	90%	1,505	1,135	75%	1,505	1,138	75%	1,505	1,076	71%	1,505	1,167	78%	1,505	1,173	78%	1,505	1,250	83%
DeLaura	Middle	7-8	90%	939	800	85%	939	787	84%	939	846	90%	939	873	93%	939	924	98%	939	899	96%
Hoover	Middle	7-8	90%	680	469	69%	680	493	73%	680	480	71%	680	468	69%	680	486	71%	680	529	78%
Jackson	Middle	7-8	90%	654	566	87%	654	583	89%	654	523	80%	654	558	85%	654	565	86%	654	534	82%
Jefferson	Middle	7-8	90%	854	647	76%	854	640	75%	854	632	74%	854	609	71%	854	601	70%	854	593	69%
Johnson	Middle	7-8	90%	997	731	73%	997	710	71%	997	694	70%	997	727	73%	997	773	78%	997	805	81%
Kennedy	Middle	7-8	90%	813	666	82%	813	638	78%	813	618	76%	813	606	75%	813	618	76%	813	635	78%
Madison	Middle	7-8	90%	781	470	60%	781	475	61%	781	445	57%	781	466	60%	781	465	60%	781	426	55%
McNair	Middle	7-8	90%	611	407	67%	611	390	64%	611	438	72%	611	448	73%	611	440	72%	611	455	74%
Southwest	Middle	7-8	90%	1,177	904	77%	1,177	886	75%	1,177	892	76%	1,177	879	75%	1,177	949	81%	1,177	1,025	87%
Stone	Middle	7-8	90%	1,024	775	76%	1,024	754	74%	1,024	856	84%	1,024	927	91%	1,044	1,021	98%	1,044	1,031	99%
Middle Totals				10,035	7,570		10,035	7,492		10,035	7,500		10,035	7,730		10,055	8,015		10,055	8,182	
Junior / Senior High School Concurrency Service Areas																					
Cocoa	Jr / Sr High	PK, 7-12	90%	2,084	1,572	75%	2,084	1,578	76%	2,084	1,668	80%	2,084	1,857	89%	2,084	1,966	94%	2,084	2,005	96%
Cocoa Beach	Jr / Sr High	7-12	90%	1,466	964	66%	1,466	1,000	68%	1,466	948	65%	1,466	914	62%	1,488	884	60%	1,466	818	56%
Space Coast	Jr / Sr High	7-12	90%	1,857	1,501	81%	1,857	1,505	81%	1,857	1,492	80%	1,857	1,455	78%	1,857	1,460	79%	1,857	1,437	77%
Jr / Sr High Totals				5,407	4,037		5,407	4,063		5,407	4,108		5,407	4,226		5,407	4,310		5,407	4,260	
Senior High School Concurrency Service Areas																					
Astronaut	High	9-12	95%	1,446	1,087	75%	1,446	1,141	79%	1,446	1,081	75%	1,446	1,092	76%	1,446	1,065	74%	1,446	1,052	73%
Bayside	High	9-12	95%	2,257	1,588	69%	2,257	1,625	72%	2,257	1,868	83%	2,257	2,010	89%	2,257	2,046	91%	2,257	2,034	90%
Eau Gallie	High	PK, 9-12	95%	2,221	1,605	72%	2,221	1,642	74%	2,221	1,726	78%	2,221	1,741	78%	2,221	1,758	79%	2,221	1,783	80%
Heritage	High	9-12	95%	2,314	1,899	82%	2,314	1,953	84%	2,314	1,980	86%	2,314	2,081	90%	2,314	2,161	93%	2,314	2,179	94%
Melbourne	High	9-12	95%	2,370	2,112	89%	2,370	2,148	91%	2,370	2,338	99%	2,370	2,354	99%	2,393	2,373	99%	2,393	2,392	100%
Merritt Island	High	PK, 9-12	95%	1,891	1,489	79%	1,891	1,587	84%	1,891	1,494	79%	1,891	1,517	80%	1,891	1,491	79%	1,891	1,428	76%
Palm Bay	High	PK, 9-12	95%	2,602	1,336	51%	2,602	1,286	50%	2,602	1,629	63%	2,602	1,827	70%	2,602	1,943	75%	2,602	2,041	78%
Rockledge	High	9-12	95%	1,701	1,518	89%	1,701	1,570	92%	1,701	1,624	95%	1,701	1,664	98%	1,701	1,676	99%	1,701	1,663	98%
Satellite	High	PK, 9-12	95%	1,516	1,412	93%	1,516	1,496	99%	1,516	1,411	93%	1,516	1,393	92%	1,516	1,343	89%	1,516	1,334	88%
Titusville	High	9-12	95%	1,848	1,230	67%	1,848	1,230	67%	1,848	1,391	75%	1,848	1,428	77%	1,848	1,460	79%	1,848	1,490	81%
Viera	High	PK, 9-12	95%	2,275	2,096	92%	2,275	2,165	95%	2,322	2,266	98%	2,393	2,377	99%	2,512	2,493	99%	2,512	2,495	99%
High Totals				22,441	17,352		22,441	17,845		22,488	18,809		22,559	19,484		22,701	19,809		22,701	19,891	
Schools of Choice (Not Concurrency Service Areas)																					
Freedom 7	Elementary	K-6	100%	475	395	83%	475	414	87%	475	395	83%	475	395	83%	475	395	83%	475	395	83%
Stevenson	Elementary	K-6	100%	569	487	86%	569	505	89%	569	488	86%	569	488	86%	569	488	86%	569	488	86%
West Melbourne	Elementary	K-6	100%	618	531	86%	618	552	89%	618	531	86%	618	531	86%	618	531	86%	618	531	86%
Edgewood	Jr / Sr High	7-12	90%	1,072	937	87%	1,072	950	89%	1,072	942	88%	1,072	942	88%	1,072	942	88%	1,072	942	88%
West Shore	Jr / Sr High	7-12	90%	1,264	967	77%	1,264	956	76%	1,264	967	77%	1,264	967	77%	1,264	967	77%	1,264	967	77%
Schools of Choice				3,998	3,317		3,998	3,377		3,998	3,323		3,998	3,323		3,998	3,323		3,998	3,323	
Brevard Totals				84,877	61,897		84,877	63,464		84,968	64,127		85,193	66,147		85,443	66,940		85,553	67,143	

Notes

1. FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2020-21 are reported from the FISH database as of August 6, 2020.
2. Student Membership is reported from the Fall Final Membership Count (10/09/20).
3. Davis Demographics SchoolSite Enrollment Forecasting Extension for ArcGIS estimates future student populations by analyzing the following data:
 - Development Projections from Brevard County Local Government Jurisdictions
 - Brevard County School Concurrency Student Generation Multipliers (SGM)
 - Fall Membership student addresses and corresponding concurrency service areas
 - Student Mobility Rates / Cohort Survival Rates
 - Brevard County Birth rates by zip code
4. Davis Demographics estimates are then adjusted using the following factors:
 - PK (Pre-Kindergarten) and AH (daycare for students with infants) enrollment number are assumed to be constant
 - Current From/To attendance patterns are assumed to remain constant.
 - Nongeocoded student addresses are assumed to continue in their attendance schools.
 - Charter School Growth.
5. In order to maintain utilization rates lower than the 100% Level of Service, Permanent Capacity and Relocatable Classrooms are assumed to add future student stations as necessary.
6. A total of 30 Relocatable Classrooms are assumed to add future student stations as listed below:
 - Primary relocatable classrooms (Grades K-3) = 18 student stations, Intermediate (Grades 4-8) relocatable classrooms = 22 student stations, and High School (Grades 9-12) relocatable classrooms = 25 student stations
 - Intermediate relocatable classrooms are proposed to be added at Roy Allen Elementary, Riviera Elementary, Saturn Elementary, and Stone Middle School (Total 19 Classrooms)
 - High school relocatable classrooms are proposed to be added at Melbourne High and Viera High (Total of 11 Classrooms)
7. Redistricting was approved for the 2021-22 school year and the projected enrollment for 2021-22 is adjusted for those areas.

Summerfields Location Map



**Summerfields
198 SFD Units**

Schools Affected by Development:
Mims Elementary School
Madison Middle School
Astronaut High School

Drawn By:
Blake Stinson
08/31/2021
Facility Services

3,300 1,650 0 3,300 Feet



School Board of Brevard County
School Facility Planning and Concurrency Application
(School Impact Analysis)

Instructions: Submit one copy of completed application, location map, and applicable fee for each project with a residential component requiring a review by the School Board to each affected Local Government.

The School Board requires this information for student generation to be calculated, school capacity evaluated, and potential mitigation addressed. For information regarding this application process, please contact the Planning and Project Management Department of the School Board of Brevard County at 321.633.1000 x463.

Local Government to determine the type of Application:

FEES: See Brevard County Public School Concurrency Review Fee Schedule. Make check payable to School Board of Brevard County

I. Project Information

Project Name: Summerfields County / Municipality: Brevard County
Parcel ID / Tax Account #. (attach separate sheet for multiple parcels): 21-34-13-00-506 / 2112413
Location / Address of subject property: Not Assigned (Attach location map)
Acreage: 79.16 Type of Request at Local Government Rezoning

II. Ownership / Agent Information

Owner/Contract Purchaser Name(s): Contract Purchaser - Flordevco
Agent / Contact Person: Charles Genoni
(Please note that if agent or contact information is completed, the District will forward all information to that person.)
Mailing Address: 4760 N US Hwy 1 #201 Melbourne FL 32935
Telephone: 321-508-5052 Fax: 321-255-0722

I hereby certify the statements and/or information contained in this application with any attachments submitted herewith are true and correct to the best of my knowledge.

[Signature]
Owner or Agent Signature

8-26-21
Date

If applicant is not the owner of record, the "Agent for Owner" form (see page 4 of this application form) must be completed and included with this application at time of application submittal. If owner is a company/corporation, please submit documentation that signatory is an authorized officer of the company/corporation.

State of Florida, County of Brevard
Sworn and subscribed to before me

This 26th day of Aug 2021

Tanya Ludzieski
Notary Public

Commission Expires: 9/30/21

(Form of Identification)



SCHOOL BOARD USE ONLY

October 2018
Facilities Services

Date / Time Stamp: _____



School Board of Brevard County
School Facility Planning and Concurrency Application
(School Impact Analysis)

III. Development Information

Current Land Use Designation	RES 4/RES 1	Proposed Land Use Designation	RES 4/ RES 1	
Current Zoning	RU-1-11	Proposed Zoning	RU-1-7	
Project Acreage	79.16			
Total Dwelling Units Proposed	198			
Dwelling Unit Breakdown (Qty)	Single Family or Town Homes: 198	Multi-Family or Apartments:	Condo:	Mobile Home / Manufactured:

Year of Project or Phase Completion: Total Dwelling Units by Type / Year

Year End 20XX	2023	2024	2025	2026	2027
Unit Type	Year 1	Year 2	Year 3	Year 4	Year 5+
Single Family / Town Homes	50	50	50	48	
Multi-Family / Apartments					
Condominium					
Mobile Home / Manufactured					
Totals by Year					

NOTE: This application will not be deemed complete until all required information has been submitted to the School Board of Brevard County. Submittal requirements include completed application, phasing information, review fee(s), agent authorization (if applicable) and location map. Please be advised that additional documentation/information may be requested during the review process.

October 2018
Facilities Services

SCHOOL BOARD USE ONLY
Date / Time Stamp: _____



School Board of Brevard County
School Facility Planning and Concurrency Application
(School Impact Analysis)

Local Government Agency

This section is to be completed by the Local Government and submitted to the School Board of Brevard County. The Local Government is responsible for verifying the number of units currently vested under the existing Comprehensive Plan and Zoning or a previously issued School Concurrency Availability Determination Letter.

Local Government Case #:

Please check [✓] type of application request (check only one; as defined by Interlocal Agreement):

☒ School Capacity Determination (Preliminary Development Requests)

☐ Exemption Review

☐ Capacity Determination Conversion to Concurrency Determination

☐ Time Extension

☐ Concurrency Determination (Final Development Requests)

Preliminary Development Requests (examples: Rezoning and Comp Plan Amendments):

Number of Units by Type	Maximum Permitted by Proposal	Currently Permitted (Vested)	Difference
Single Family / Town Homes	198	292	-94
Multi-Family / Apartments			
Condominium			
Mobile Home / Manufactured			
Totals:			

Note: The Total Difference will determine if this meets the De Minimis Impact per the Interlocal Agreement.

Final Development Requests requesting a Concurrency Determination:

Number of Units by Type	Proposed
Single Family / Town Homes	
Multi-Family / Apartments	
Condominium	
Mobile Home / Manufactured	

Paul Body
Local Government Reviewer's Signature / Title

8-27-2021
Date

Other Affected Local Governments: _____

Comments: Proposed Rezoning

October 2018
Facilities Services

SCHOOL BOARD USE ONLY

Date / Time Stamp: _____

CONCURRENCY FEE SCHEDULE

CONCURRENCY FEE SCHEDULE		
Review / Negotiation	Type	Cost
School Capacity Determination	Preliminary Development Request (CDL)	\$200
Capacity Determination Conversion to Concurrency Determination	Previously Reviewed in the same School Board Reporting Year	\$200
Concurrency Determination	Final Development Request (SCADL)	\$400
Exemption Letter	See Section 13.1(d)2. of the Interlocal Agreement	\$100
Time Extensions	All	\$100
Proportionate Share Mitigation Agreement	All	\$3000
Appeals	All	\$1000
Capacity Enhancement Agreement	All	\$3000

F.S. 163.31777, 163.3180, 1001.41, 1001.42

August 28, 2014

Updated October 22, 2018



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.13.

3/14/2022

Subject:

Norfolk Parkway, LLC (Bruce Moia) requests a change of zoning classification from GU with a CUP to BU-2 and removal of CUP. (22Z00006) (Tax Accounts 2802674 & 2802676) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from GU (General Use) with CUP (Conditional Use Permit) for Tower & Antenna, to BU-2 (Retail, Warehousing, and Wholesale Commercial).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from GU with a CUP for Towers and Antenna to BU-2 (Retail, Warehousing and Wholesale Commercial) and the removal of the CUP for Towers and Antenna, to develop a storage facility with outdoor boat/RV parking.

The BU-2 zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. This zoning classification also supports the use of outdoor storage as a permitted with conditions use identified under Section 62-1833.5 of Brevard County Code

The applicant has submitted a BDP (Binding Development Plan) proposing limitations including, but not limited to, a 50-foot vegetative buffer, limiting the number of outdoor storage spaces, limiting ingress and egress to Norfolk Parkway, limiting use to a boat and RV storage facility, prohibiting an RV dump station unless sewer connection is obtained, limiting outdoor lighting, providing a traffic study, and prohibiting overnight stays within the stored vehicles.

The developed character of the surrounding area is mostly vacant/unimproved land. To the north is a developed communication tower on GU zoning; further to the north is a developed single-family lot zoned AU (Agricultural Residential). To the east is a vacant GU-zoned parcel and City zoned parcels which mostly seem to be used as a private school/learning center. To the south is the Norfolk Parkway road right-of-way. To the west is a large retention tract/lake for the Sawgrass Lakes community.

The Board may wish to consider whether this request is consistent and compatible with the surrounding area,

and whether the proposed conditions within the BDP help mitigate off-site impacts.

The Board of County Commissioners will consider the request on **Thursday, April 7, 2022**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

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

22Z00006

Norfolk Parkway LLC.

GU with a CUP for Towers and Antenna to BU-2 with Proposed Binding Development Plan (BDP) and the removal of a CUP for Towers and Antenna

Tax Account Number: part of 2802676
Parcel I.D.: 28-36-13-00-758
Location: North side of Norfolk Parkway, 1,200 feet west of Minton Road (District 5)
Acreage: 17.5 acres of 18.11-acre total size

Planning & Zoning Board: 3/14/2022
Board of County Commissioners: 4/07/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	GU with CUP for towers and antenna	BU-2 with BDP and removal of CUP for towers and antenna
Potential*	Two single-family lots	762,300 square feet of commercial use
Can be Considered under the Future Land Use Map	Yes CC	Yes CC

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from GU (General Use) with a Conditional Use Permit (CUP) for Towers and Antenna to BU-2 (Retail, Warehousing and Wholesale Commercial) with a Binding Development Plan (BDP) and the removal of the CUP for Towers and Antenna to create a storage facility with outdoor boat/RV parking. The submitted BDP proposes eight (8) site limitations. Those limitations are: 1) Provide a 50-foot undisturbed vegetative buffer and to maintain the existing vegetative buffer along the west and north boundaries of the property. No improvements shall be allowed within the buffer; 2) Limit the number of outdoor storage spaces to 350; 3) Limit ingress and egress to Norfolk Parkway; 4) Limit use to a boat and RV storage facility and related ancillary services and facilities; 5) Not to provide a RV dump station unless public sewer connection is obtained; 6) Limit outdoor lighting to 17-feet in height when measured from grade to

bottom of the light fixture; 7) Provide a traffic study detailing any required roadway improvements including, but not limited to, a westbound right turn lane, at the time of site plan submittal; and, 8) No residing or overnight stays within stored vehicles shall be allowed.

A prior application submittal was applied for under Zoning application # **20Z00015**. That request failed to record a Binding Development Plan (BDP) prior to its expiration. The Board's last hearing on that request was on February 4, 2021. The BDP conditions proposed under that action were: 1.) to develop the property as a boat and RV storage facility and related ancillary services and facilities; 2.) to provide a 50-foot buffer along the west and north boundaries of the property, in lieu of a 6-foot wall; 3.) to limit the number of outdoor storage spaces to 350; 4.) to limit ingress and egress to Norfolk Parkway; 5.) the site shall be developed as a Boat & RV storage facility and related ancillary service and facilities; 6.) to prohibit a sewage dump station unless public sewer connection is obtained; 7.) to limit outdoor lighting to 17 feet in height from grade to bottom of light fixture; 8.) to provide a traffic study detailing any required roadway improvements including, but not limited to a right turn lane, at the time of site plan submittal. If an improvement is warranted, and approved by the City of West Melbourne, it shall be constructed accordingly; 9.) to prohibit residing and overnight stays within the stored vehicles; 10) complying with applicable Florida Department of Environmental Protection requirements for building on a landfill.

This site previously had a CUP for towers and antenna approved under Z-6769 which was adopted on July 12, 1984. The existing tower (480-foot tall) is located to the north and outside of this zoning action's legal description. The applicant does not wish to retain the CUP over this property description. The GU zoning is original zoning dating back to May 22, 1958. The property is also known to have had an unlicensed landfill at this location. Brevard County entered into a settlement Agreement on March 25, 1991 closed the site. The landfill operation activity started in January, 1984 was terminated on December 31, 1991.

Land Use

The subject property is currently designated Community Commercial (CC). The existing GU and proposed BU-2 zoning with BDP are both consistent with the Community Commercial (CC) FLU designation.

Applicable Land Use Policies

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

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

Criteria:

A. Permitted/prohibited uses;

Applicant wishes to develop a storage facility with outdoor boat/RV parking. This use needs BU-2 zoning as outdoor storage is not permitted under the GU and BU-1 zoning classifications.

B. Existing commercial zoning trends in the area;

There have not been other commercial rezoning attempts within the last three years, except for this parcel. This parcel is located upon a side street west of the Minton Road right-of-way.

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

The development proposes a 50-foot buffer to the north and west property lines; however, no buffer is proposed to the abutting lot to the east which lies within the City of West Melbourne's jurisdiction.

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

Development of a storage yard (mini-warehouse # 151) is one of the lowest commercial traffic generators identified in the ITE Handbook. Additionally, the applicant is binding themselves as part of the proposed BDP to provide a traffic study for the site plan review stage.

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

NRMD will review impacts to natural resources as part of this zoning action and under site plan review should the zoning request be approved.

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

This property will need to comply with Brevard County Performance Standards noted within Sections 62-2251 through 62-2272 of Brevard County Code.

FLUE Policy 2.3 – Role of Land Development Regulations in the Designation of Commercial Lands

Land development regulations provide performance standards for evaluating the acceptability of proposed commercial development activities. Criteria include:

Criteria:

A. Integration of vehicular and non-vehicular access into the site and access management features of site in terms of driveway cuts and cross access between adjacent sites, including use of frontage roads and/or shared access, where feasible, as determined by Brevard County;

B. Buffering from adjacent existing/potential uses;

Buffering is proposed along the west and northern property lines.

C. Open space provisions and balance of proportion between gross floor area and site size;

Open space development is not required for this type of commercial usage. Building type and floor area ratio will be reviewed at the site plan stage.

D. Adequacy of pervious surface area in terms of drainage requirements;

Drainage requirements will be reviewed at the site plan stage.

E. Placement of signage;

Sign location has not been identified on the submitted survey.

F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;
External site lighting height has been proposed; however, lighting will need to comply with Section 62-2257 of Brevard County Code and will be reviewed at the site plan review stage.

G. Safety of on-site circulation patterns (patron, employee and delivery vehicles), including parking layout and drive aisles, and points of conflict;
Review will be performed at the site plan review stage.

H. Landscaping, as it relates to the requirements of the Comprehensive Plan and Land Development Regulations;
Review will be performed at the site plan review stage.

I. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance; and
No noteworthy comments have been identified by the NRMD review. Review will be performed at the site plan review stage.

J. Performance based zoning requirements which may serve as a substitute for or accompany land development regulations in attaining acceptable site design.
Two land development waivers have been submitted on this site. The first is: 21WV00005 which was approved by the Board on February 23, 2021 for a waiver of Section 62-3202(h) which requires a 6-foot masonry or solid wall when commercial developments are adjacent to a residential zoning classification. A 50-foot vegetative buffer was allowed in lieu of the required wall. The second is: 21WV00009 a waiver to a site plan provision (Section 62-3206.B.5) for waiver of asphalt submitted April 14, 2021 for site plan review # 21SP0015. This request has not been finalized as this date.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

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

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

Criteria:

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

The applicant proposes to limit the use of the property by providing a Binding Development Plan. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning be approved.

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

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

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

1. historical land use patterns;

To the west of this parcel, a residential subdivision has developed. To the north and east of this parcel which lies on the north side of Norfolk Parkway a majority of the area remains vacant. Improvements within that area include single-family home sites and limited institutional uses. To the east lies the City of West Melbourne's jurisdiction.

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

There has been no development in the preceding three (3) years.

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

There has been no development in the preceding three (3) years.

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

This property will need to be developed in compliance with the Comprehensive Plan.

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

Surrounding Area

The developed character of the surrounding area is mostly vacant/unimproved land. To the north is a developed single-family lot zoned Agricultural Residential (AU). There is also a developed communication tower on General Use (GU) zoning. To the east is a vacant GU zoned parcel and city zoned parcels which mostly seem to be used as a private school/learning center. To the south is the Norfolk Parkway road right-of-way. To the west is a large retention tract/lake for the Sawgrass Lakes community.

The four adjacent city zoning classifications abutting this area allow for residential, institutional and commercial use. The 2016-2021 aerials do not reflect any current development pattern except for the residential subdivision buildout (west) of this parcel in the immediate neighborhood.

	Existing Land Use	Zoning	Future Land Use
North	Communication tower	GU	RES 2
South	street	N/A	N/A
East	vacant	West Melbourne	West Melbourne
West	Retention Pond	West Melbourne	West Melbourne

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

The BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. This zoning classification also supports the use of outdoor storage as a permitted with conditions use identified under Section 62-1833.5 of Brevard County Code.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

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

There does not appear to be any emerging development trends in the existing area located north or east of this site.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Minton Road, between Hield Road to Eber Boulevard, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 76.83% of capacity daily. The maximum development potential from a min-warehouse and RV/Boat storage use as limited in the proposed BDP would increase the percentage of MAV utilization by 4.74%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 81.57% of capacity daily (LOS C). The proposal is anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the project is not intended for residential uses.

The parcels currently do not have access to either potable water or sanitary sewer. In the future, the parcels may be able to obtain potable water from the City of West Melbourne, if they can connect to the main located on the south side of the Norfolk Parkway.

Environmental Constraints

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

For Board Consideration

The Board may wish to consider whether this request is consistent and compatible with the surrounding area, and whether the proposed conditions within the BDP help mitigate off-site impacts.

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

Item # 22Z00006

Applicant: Moia for Boozer

Zoning Request: GU w/ CUP for tower & antenna to BU-2 & remove CUP for tower & antenna

Note: Applicant wants BU-2 & removal of CUP for tower and antenna

P&Z Hearing Date: 03/14/22; **BCC Hearing Date:** 04/07/22

Tax ID Nos: 2802676 & 2802674

- 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:

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

Land Use Comments:

Wetlands

The subject parcel contains mapped NWI (Freshwater emergent wetlands) as shown on the NWI Wetlands map, an indicator that wetlands may be present on the property. A wetland delineation was performed in December 2019 by Andrew Conklin Environmental Services, LLC (ACES), and found approximately 0.22 acres of wetlands in the northeast corner of the parcel.

Per Section 62-3694(3), commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands. In no instance shall a proposed land development activity result in increased flooding on adjacent properties. Where the State does not require a buffer, wetland buffers shall be established in accordance with Section 62-3694(c)(10). Where impacts are permitted, the applicant is encouraged to propose innovative wetland preservation alternatives. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Section 62-3696. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Aquifer Recharge Soils

A small area of the parcel contains mapped aquifer recharge soils (Palm Beach sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

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

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

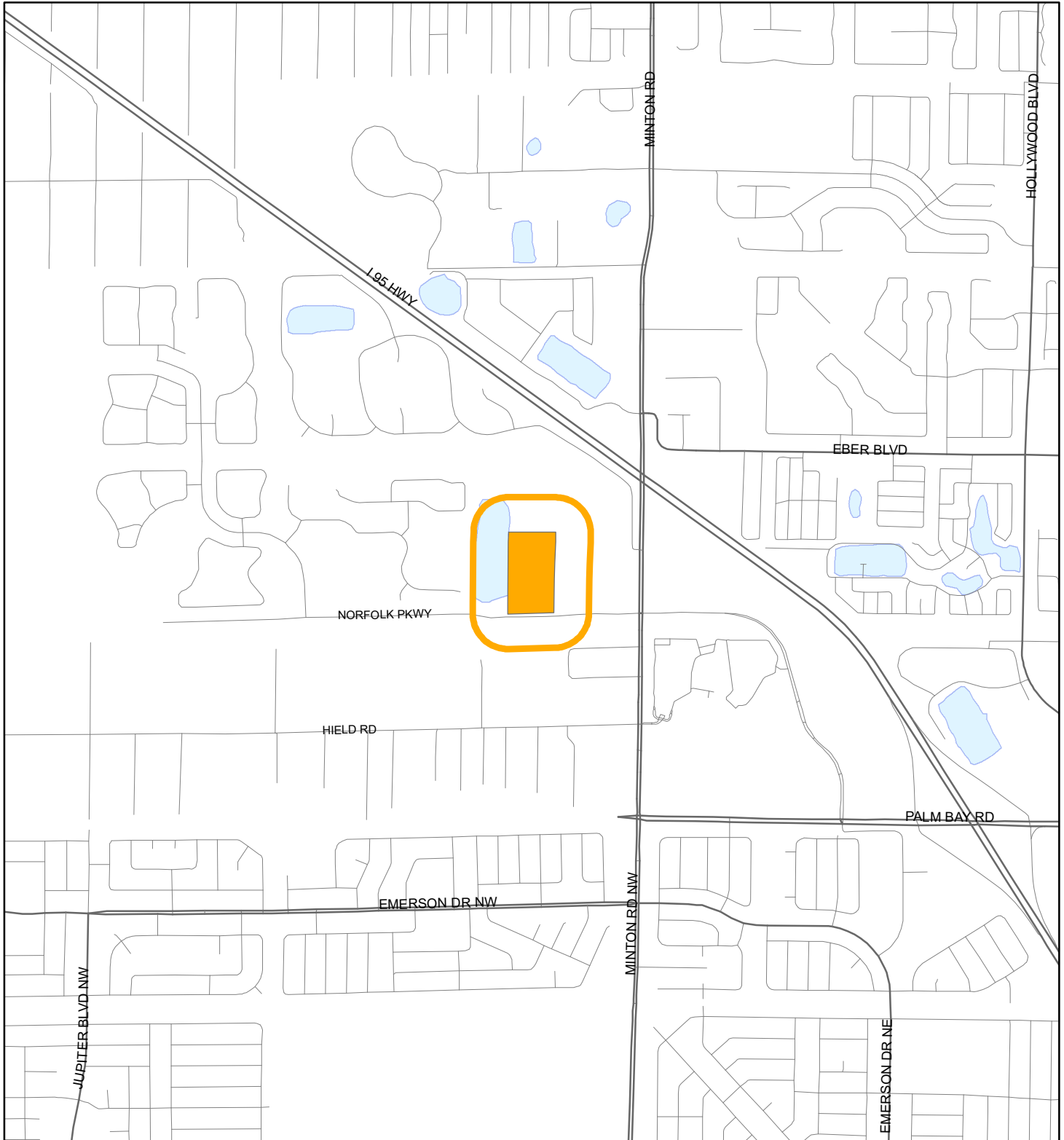
Other

According to Florida Department of Environmental Protection (FDEP) records, the subject property was utilized as a construction and demolition debris landfill site from approximately 1984 to 1992. The applicant should contact FDEP at (407) 897-4313 for guidance regarding disturbing/developing old landfill sites to ensure that public health and the environment will not be harmed by the disturbance of the waste at the site.

LOCATION MAP

NORFOLK PARKWAY, LLC

22Z00006





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

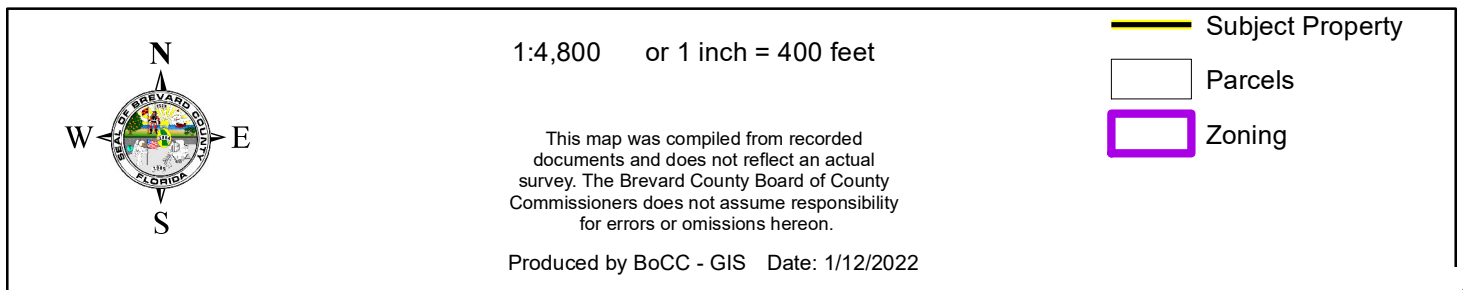
Buffer Distance: 500 feet

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

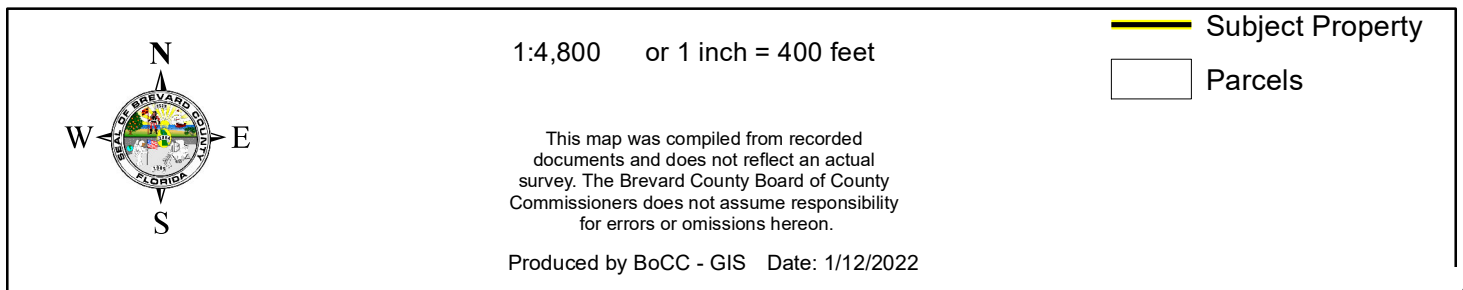
Produced by BoCC - GIS Date: 1/12/2022

 Buffer
 Subject Property

22Z00006



NORFOLK PARKWAY, LLC
22Z00006



AERIAL MAP

NORFOLK PARKWAY, LLC

22Z00006




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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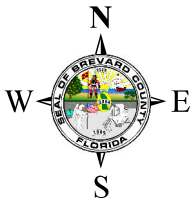
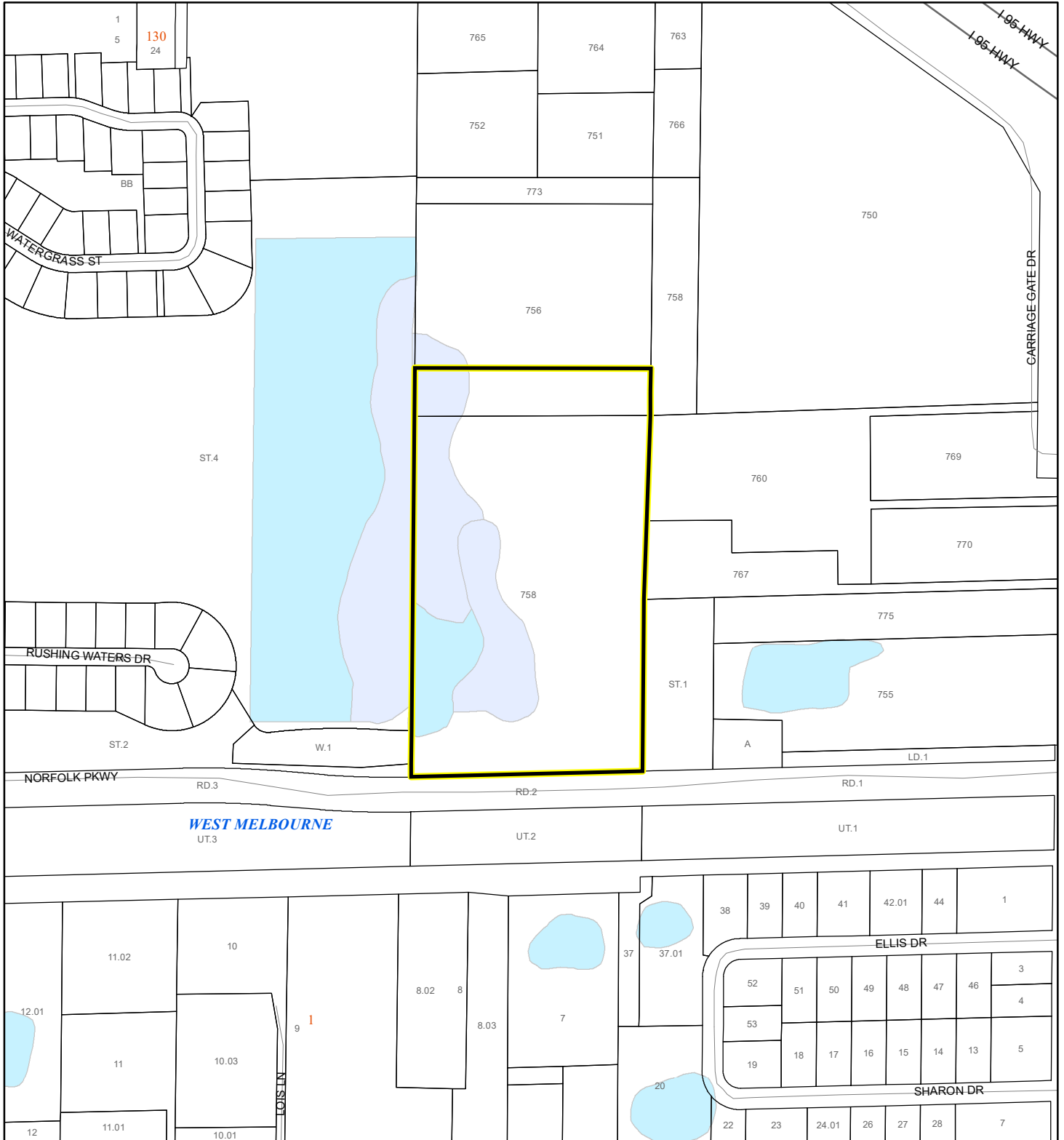
 Subject Property

 Parcels

NWI WETLANDS MAP

NORFOLK PARKWAY, LLC

22Z00006













1:4,800 or 1 inch = 400 feet

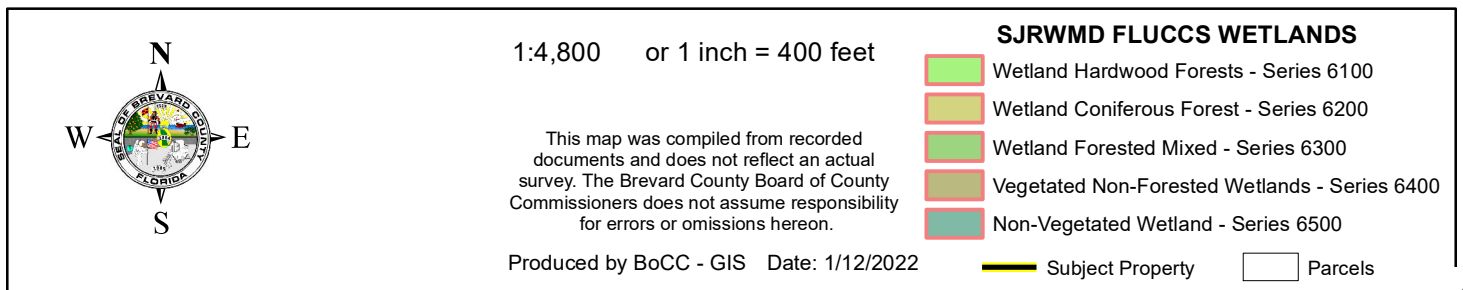
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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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

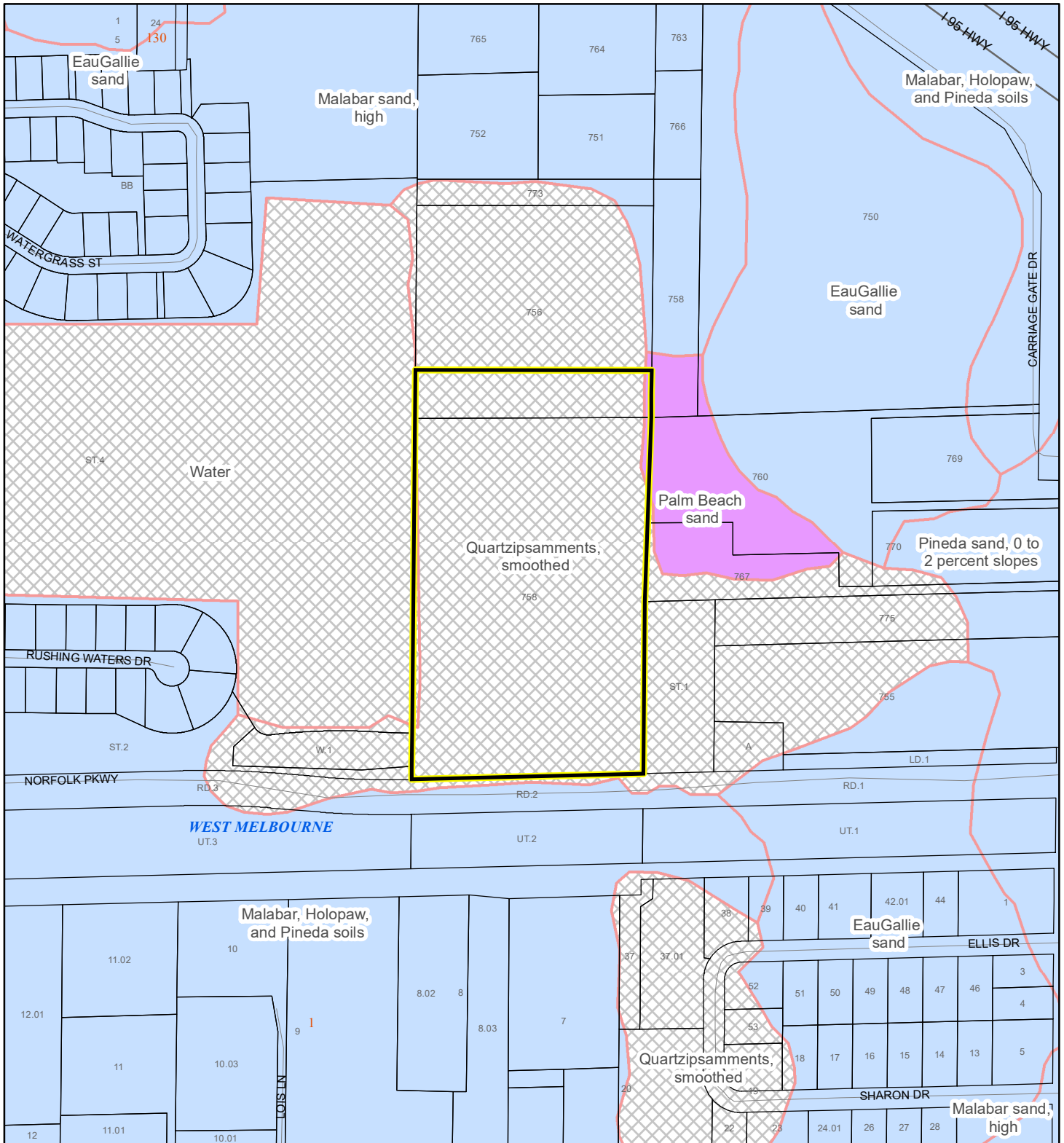
NORFOLK PARKWAY, LLC
22Z00006



USDA SCSSS SOILS MAP

NORFOLK PARKWAY, LLC

22Z00006



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.

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USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

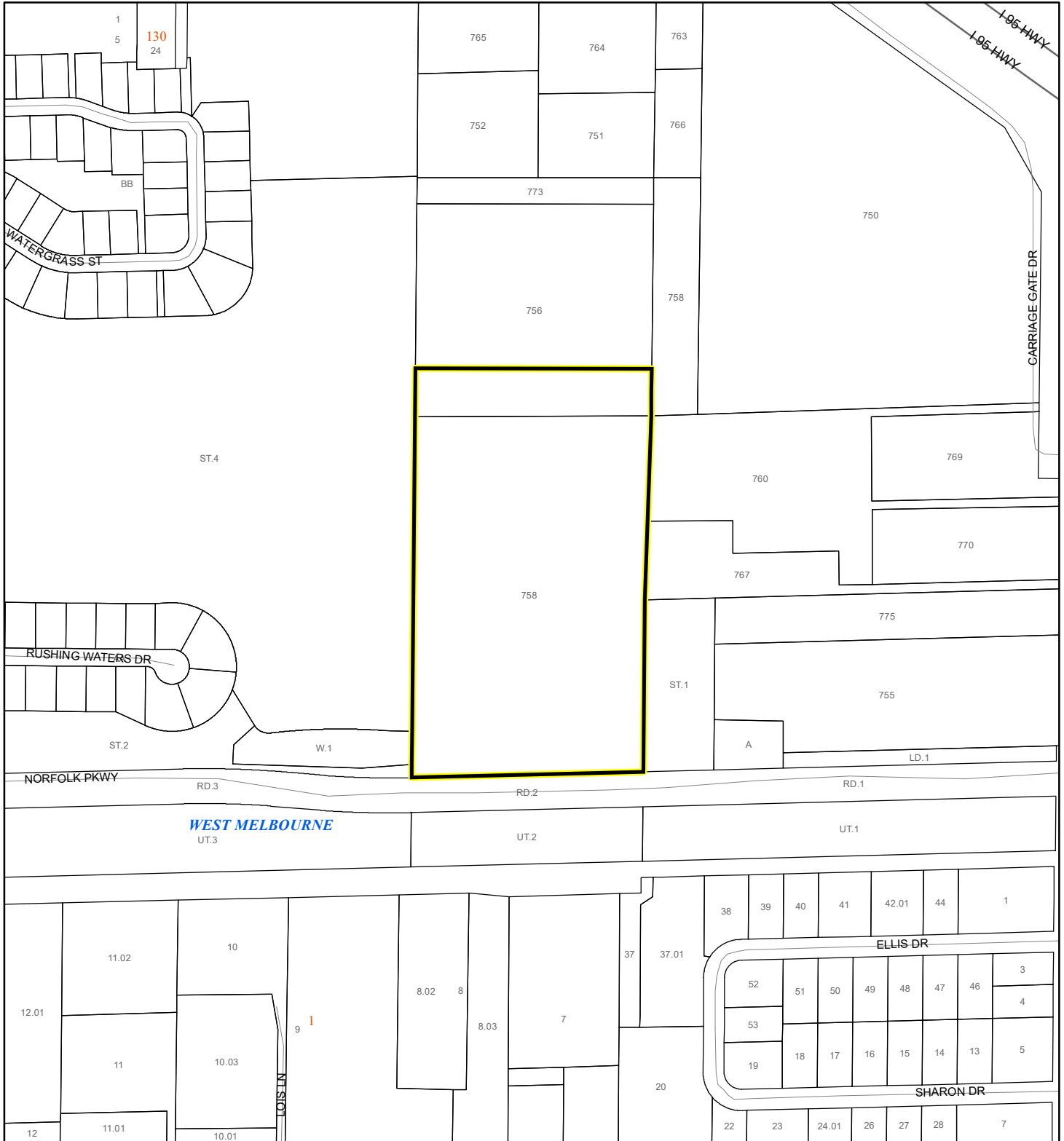
Subject Property

Parcels

FEMA FLOOD ZONES MAP

NORFOLK PARKWAY, LLC

22Z00006



1:4,800 or 1 inch = 400 feet

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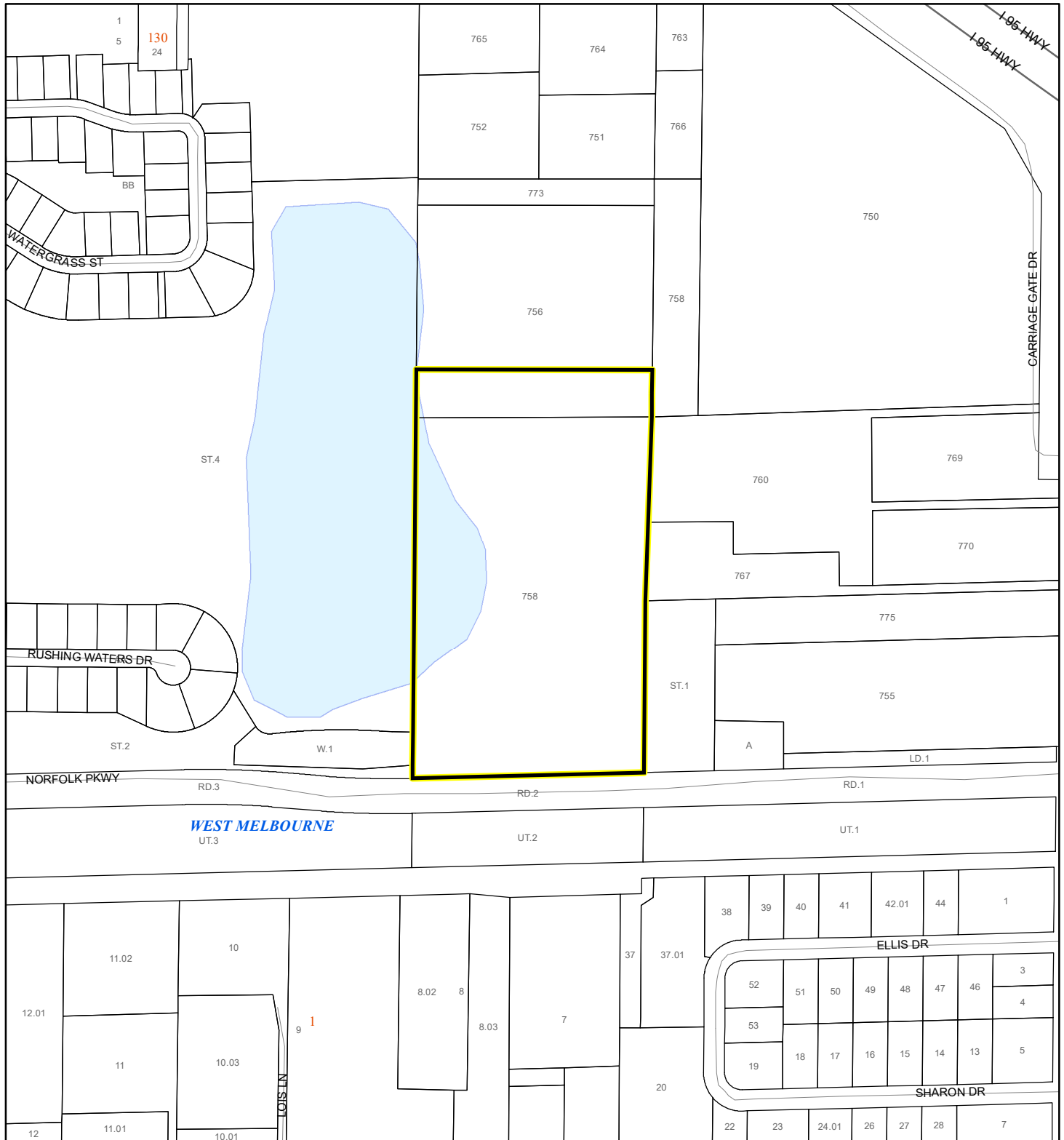
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

NORFOLK PARKWAY, LLC

22Z00006



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

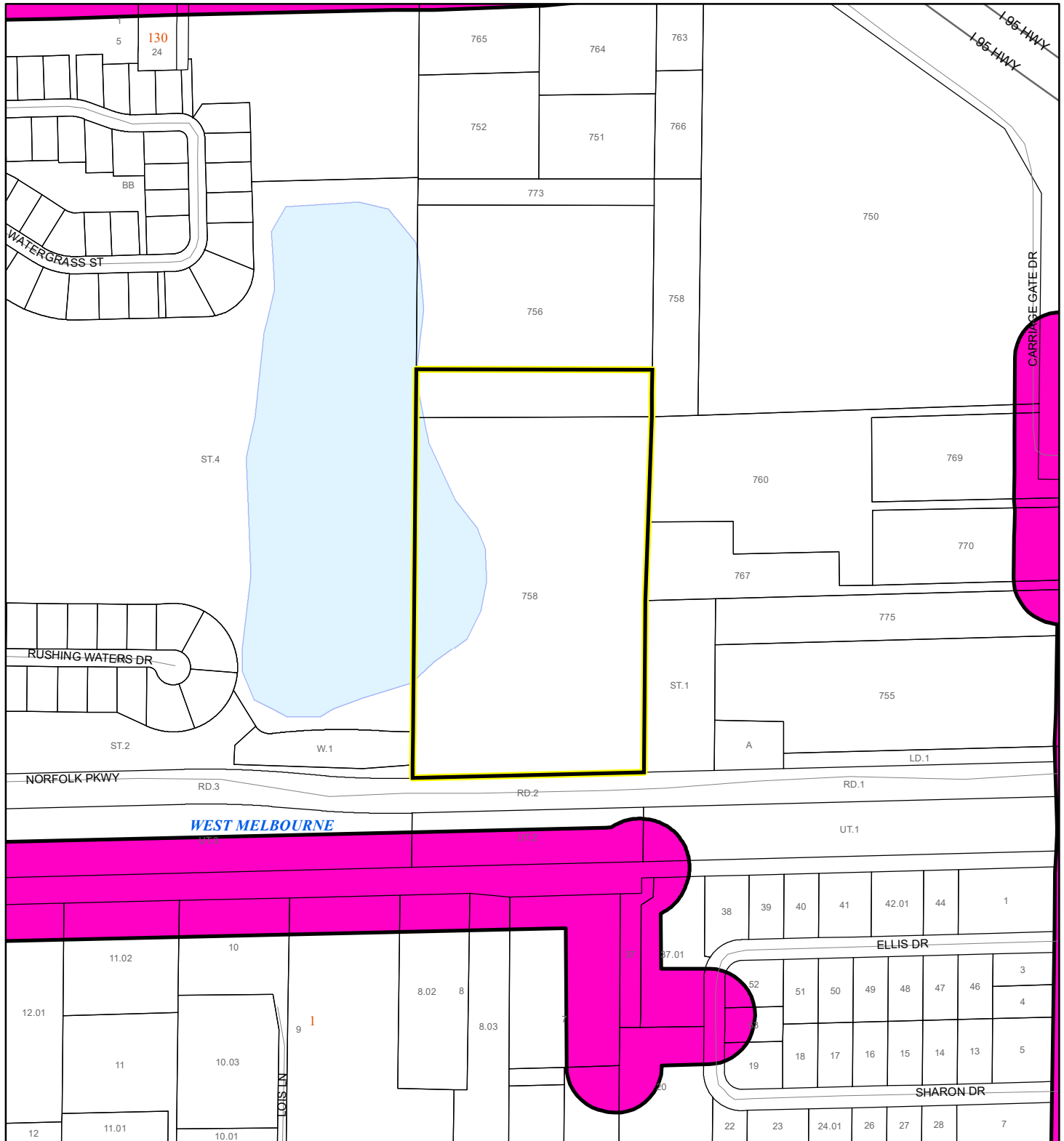
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

NORFOLK PARKWAY, LLC

22Z00006



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/12/2022

Subject Property

Parcels

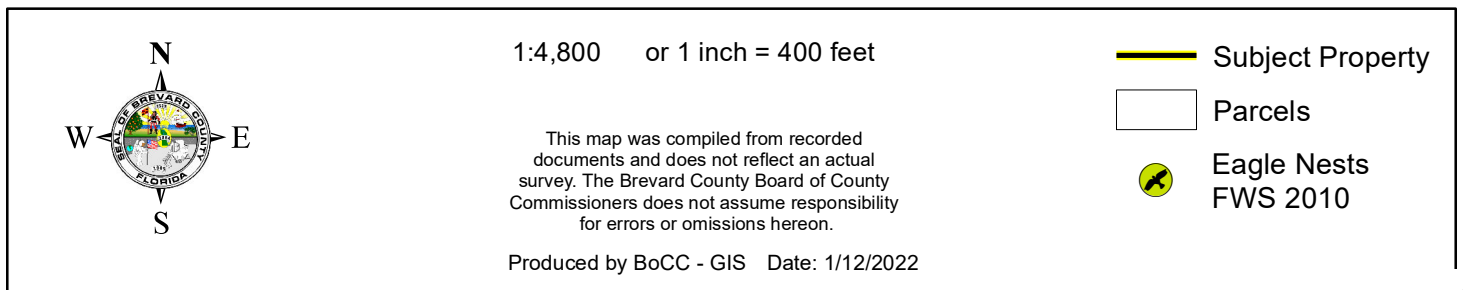
Septic Overlay

40 Meters

60 Meters

All Distances

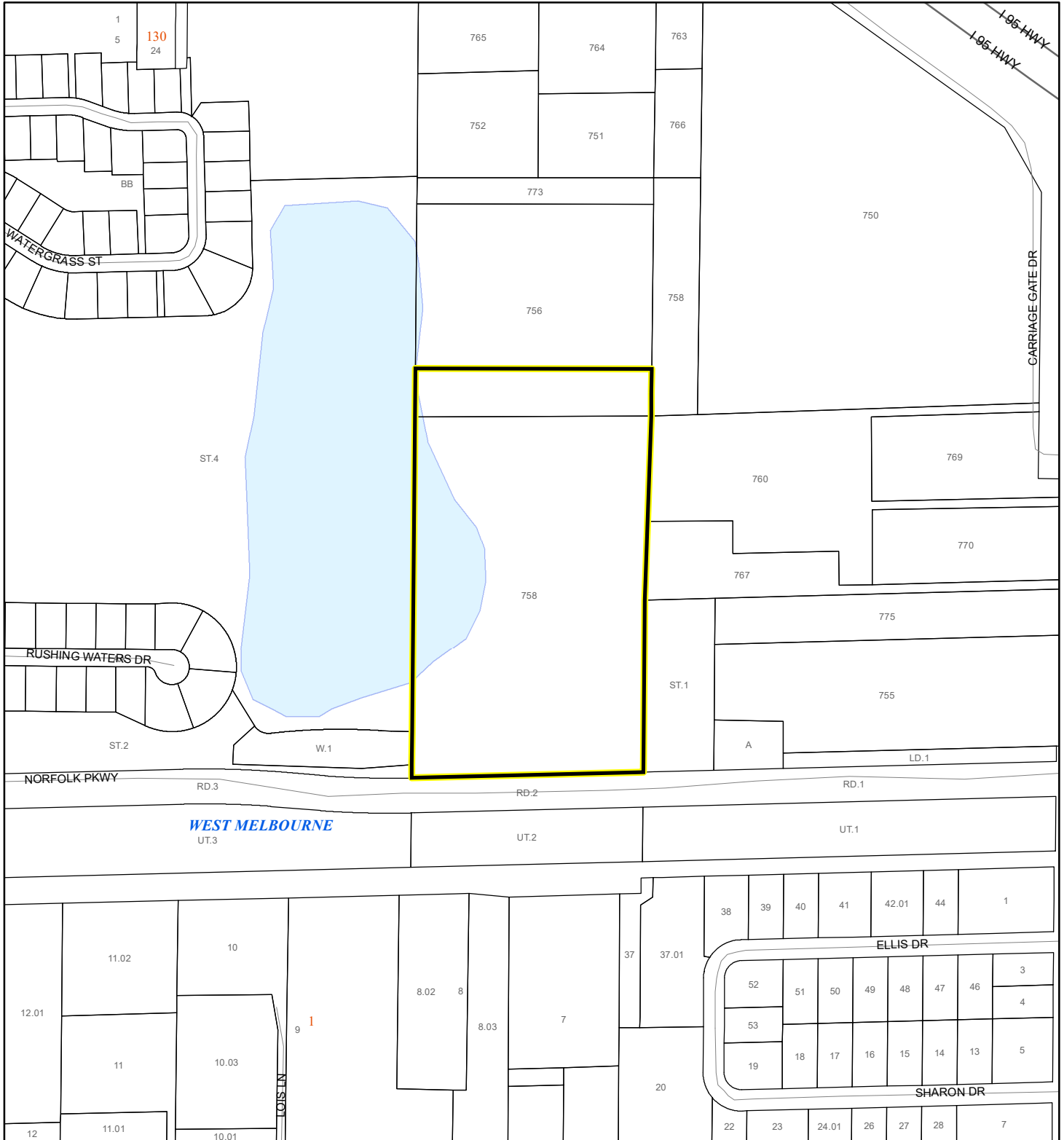
NORFOLK PARKWAY, LLC
22Z00006



SCRUB JAY OCCUPANCY MAP

NORFOLK PARKWAY, LLC

22Z00006



1:4,800 or 1 inch = 400 feet

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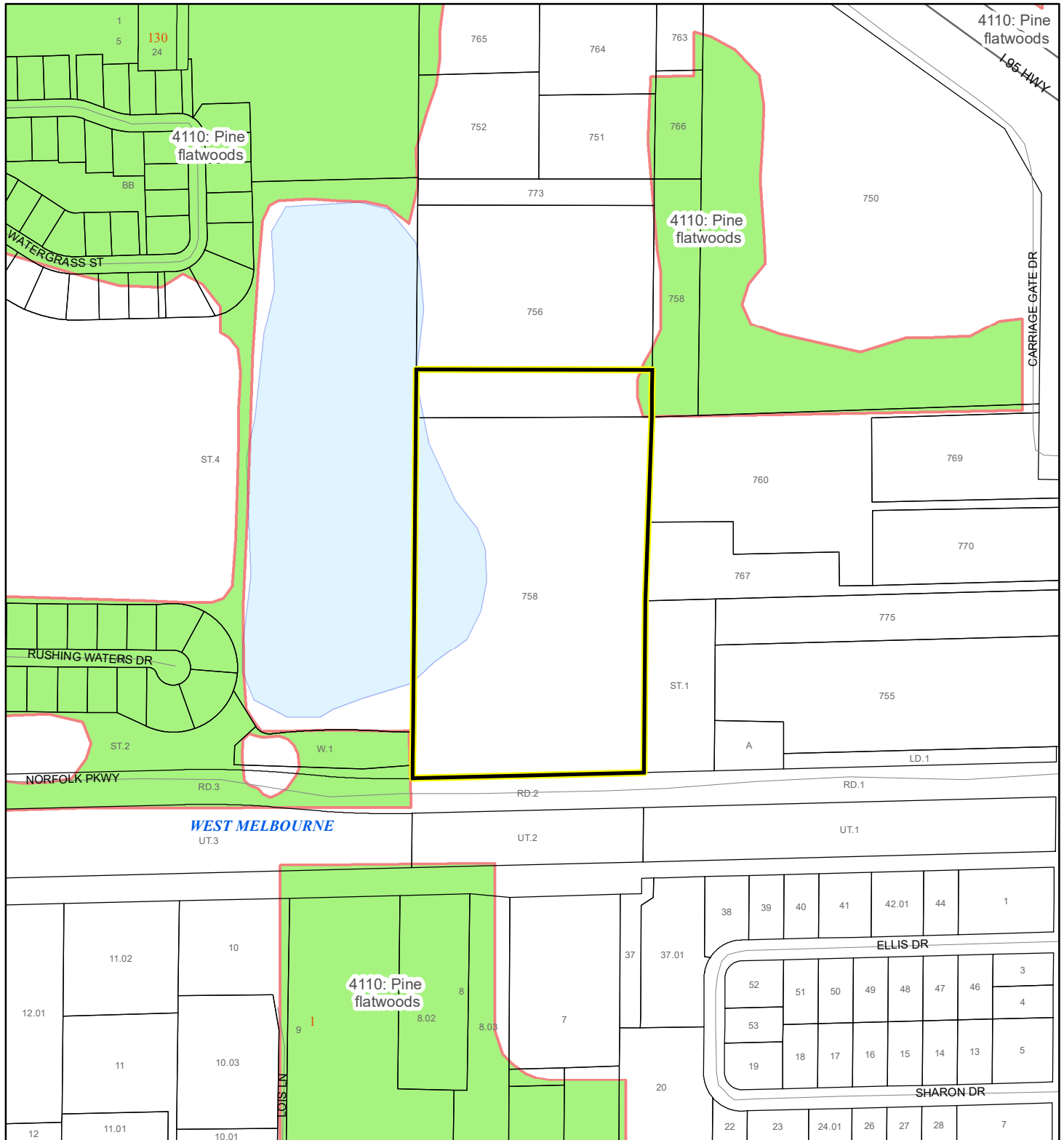
Produced by BoCC - GIS Date: 1/12/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

NORFOLK PARKWAY, LLC

22Z00006



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.

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SJRWMD FLUCCS Upland Forests

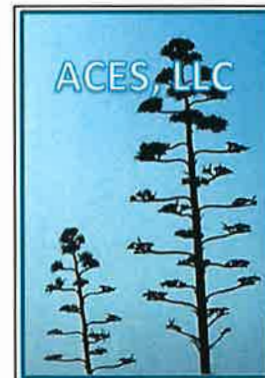
- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property

Parcels

ANDREW CONKLIN ENVIRONMENTAL SERVICES, LLC
INTEGRATING SUCCESSFUL DEVELOPMENT AND ENVIRONMENTAL INTEGRITY

P.O. Box 500407, MALABAR, FLORIDA, 32950
PHONE: (321) 848-1143 EMAIL: ACESLLC7@GMAIL.COM



December 19, 2019

Mr. Andrew Gardner
Condev Properties, LLC
PO Box 1748
Winter Park, Florida 32790

Re: Parcel No. 28-36-13-00-758, Norfolk Parkway, West Melbourne, Florida
ACES File No. 1993

Dear Mr. Gardner,

Andrew Conklin Environmental Services, LLC (ACES) has completed a review of environmental issues associated with the above-referenced ± 18.11 -acre property, located in Section 13, Township 28 South, Range 36 East, Brevard County, Florida. Figure 1 depicts the location of the subject site, and Figure 2 is a recent aerial photograph of the site depicting current conditions thereon. On December 16, 2019, ACES inspected the property for the presence of wetlands, surface waters, protected species, and indications of protected species habitat. The purpose of our study was to estimate the current extent of wetlands and protected species habitat on the site. To assess the presence and extent of wetlands, we implemented the jurisdictional wetland identification methodologies of the St. Johns River Water Management District (SJRWMD) and the U.S. Army Corps of Engineers (ACOE), which incorporate an analysis of on-site vegetation, soils, and hydrology to determine the presence or absence of state-jurisdictional wetlands. Where jurisdictional wetlands were found to exist, ACES identified their boundaries on a recent aerial photograph of the site. The likelihood of protected species habitation was determined by identifying the various vegetative communities, habitat types, and species indicators currently present on the site, and referencing these against standards and indicators used by the Florida Fish and Wildlife Conservation Commission (FWC) and the U.S. Fish and Wildlife Service (USFWS). Following is a presentation of our findings.

Soil Types

The USDA Natural Resource Conservation Service (NRCS) identifies one soil type on the property (see Figure 3). Soil maps are used by the environmental regulatory agencies as a general guideline to determine the likelihood of wetland and upland conditions on reviewed properties; soils more commonly associated with wetland conditions potentially indicate areas of lower elevation and greater surface hydrology, whereas soil types that are more commonly associated with uplands are expected to exhibit fewer or no wetland characteristics. Potentially hydric (i.e., wetland) soil types are listed in the *Hydric Soils of Florida Handbook* (Victor W. Carlisle, et al., 2000). It should be noted that the soil types listed by NRCS are based on a 1974 soil survey of Brevard County by the USDA Soil Conservation Service, and no comprehensive soil survey of the county has been completed since 1974. As such, it is not uncommon for there to be some inconsistencies between historically-mapped soil types and current on-site soil conditions. ACES sampled soil types throughout the subject property by excavating 6-inch diameter, 12-inch deep cylindrical plugs from the surface, and assessing the soil profiles and characteristics

of each plug. Following is a brief description of the soil type that is mapped on the subject site, compared to our observations of current soil conditions.

Quartzipsammments, Smoothed – NRCS Code No. 52: These are nearly level to steep sandy soils that have been reworked and shaped by earthmoving equipment. They are commonly near urban centers or along major highways on the mainland. Many areas are former sloughs, marshes, or shallow ponds that have been filled with various soil material to surrounding ground level or to elevations above natural ground level. Drainage is variable. Most excavated areas are well drained, but the water table is generally within a depth of 50 inches in filled areas. This soil type is not listed in the *Hydric Soils of Florida Handbook*.

This upland soil type is mapped over the entire site, except for a very narrow strip along the west site boundary, which consists of the open waters of a large pond. Soils on the property consist of an amalgam of materials, including sand, shell, gravel, marl, clay, crushed asphalt, and crushed concrete. In some areas (such as the dirt road that meanders through the site), soils have been so compacted that they are very difficult to penetrate with hand tools. Elsewhere, soils exhibit non-hydric characteristics, being composed of loamy sand over a gravel and sand mixture.

Soils examined within an upland-cut ditch that parallels the eastern site boundary exhibit mucky-textured sand, a hydric soil characteristic. Further north along the ditch, soils become more hydric, and are associated with a small on-site wetland (see Figure 4), where they are composed of mucky-textured sand and muck.

Thus, except for a narrow strip of open water along the west property boundary and a linear path of upland cut ditch and wetland along the eastern site boundary, the site appears to be underlain entirely by non-hydric soils.

Community Types

Using the Florida Land Use, Cover and Forms Classification System (FLUCFCS) as a guideline, ACES categorized the different natural communities and land uses on the subject site according to FLUCFCS designations and code numbers. Figure 4 depicts the different FLUCFCS communities on the property. The major FLUCFCS categories on the site are:

Industrial – FLUCFCS Code No. 150: This category refers to two buildings near the south end of the site. Their use is unclear, but their size and appearance seem consistent with light industrial use and/or storage. The area occupied by these structures is estimated at 0.17 acres.

Herbaceous – FLUCFCS Code No. 310: This non-forested upland community exists mainly as a grassy expanse extending south from near the middle of the property, then narrowing into a cleared access drive that meanders back north through the site. The total area occupied by this community on the site is estimated at 3.70 acres. It is dominated by grasses, low shrubs, and herbaceous species, including cogongrass, Johnson grass, smutgrass, Bahia grass, Bermuda grass, lantana, Mexican clover, Spanish needles, and rattlebox. Underlying soils are composed of non-hydric loamy sand; along the access drive, soils also contain compacted gravel, crushed concrete, crushed asphalt, shell, and other foreign materials. No wetland hydrologic indicators are present in this community.

Brazilian Pepper – FLUCFCS Code No. 422: This forested upland community dominates the site, covering approximately 13.47 acres. It consists of a dense cover of Brazilian pepper, and invasive exotic species. A few slash pines, cabbage palm, Chinese tallow, strangler fig, and air potato vines are scattered throughout. Underlying soils are composed of non-hydric loamy sand mixed with gravel, shell, and marl. No wetland hydrologic indicators were observed in this community.

Water – FLUCFCS Code No. 500: This category refers to the man-made pond (surface waters, not wetlands) that extends westward from the site. The eastern ± 0.42 acres of the pond extends slightly onto the western boundary of the site. The pond has no littoral shelf, but falls off into deep water almost immediately; as such, no wetland plants are present, and no wetland fringe exists along the edge of the pond.

Streams and Waterways – FLUCFCS Code No 510: This category refers to the north/south drainage ditch that runs along the eastern property boundary. Like the pond, the ditch is considered surface waters, not wetlands, where it is cut through uplands. The area occupied by the ditch is estimated at 0.12 acres.

Exotic Wetland Hardwoods – FLUCFCS Code No. 619: This degraded wetland community is covered with a monoculture of dense Brazilian pepper growing over mucky-textured sand. Although once just a northern extension of the ditch, this area appears to have broadened over time and now is perennially hydrologically connected to the Wetland Shrub community (see below). The presence of hydric soils and wetland hydrology (high water marks, saturated soil) allows this small area (± 0.10 acre) to be claimed as degraded low-quality wetlands.

Wetland Shrub – FLUCFCS Code No. 631: This wetland community is present in the northeast corner of the site, where it occupies approximately 0.12 acre of the property. It contains a fringe of Carolina willow, saltbush, creeping oxeeye and cattails around a deep-water depression. Soils are composed of mucky-textured sand and muck, and hydrologic indicators show that this area is inundated virtually year-round.

Thus, the entire site contains a total of approximately 17.34 acres of uplands, 0.55 acres of surface waters (the pond and ditch), and 0.22 acres of low-quality wetlands. The surface waters and wetlands fall under the jurisdiction of SJRWMD and ACOE. If impacts are proposed to any of the hydrologic resources (wetlands and/or surface waters), the appropriate permits must be obtained from the applicable regulatory agencies. Following is a discussion of potential wetland permitting and mitigation issues for this site.

Wetland Considerations

SJRWMD and ACOE have jurisdiction over the small wetland area. Both agencies require that all proposed wetland impacts be justified by the permittee, who is responsible for demonstrating that all reasonable efforts have been made to design the site development project in a way that avoids or minimizes wetland impacts. Simply put, the onus is on the applicant to show that proposed wetland impacts are essentially unavoidable. Although SJRWMD's rules have a caveat that allows applicants to impact any wetlands if mitigation is provided that is "regionally significant" (i.e., the purchasing of mitigation bank credits), ACOE does not provide that flexibility. Furthermore, ACOE does not accept any mitigation that does not meet the very strict standards of a wetland mitigation bank, essentially

obligating all applicants to purchase credit at a federally approved mitigation bank for any wetland impacts the Corps deems acceptable.

In addition to direct wetland impacts (dredging or filling within wetlands), an applicant must also consider the extent of secondary wetland impacts, which are assessed by SJRWMD. Secondary wetland impacts are those potentially adverse effects to wetlands that occur due to the proximity of human activities (i.e., noise, traffic, pollution, lighting, human intrusion, pets, yard waste, etc.). To protect against secondary impacts, SJRWMD encourages applicants to preserve a naturally-vegetated upland buffer around all portions of wetlands that are to remain undisturbed. The buffer must be at least 15 feet wide, with a minimum average width of at least 25 feet. In all areas where the minimum buffer cannot be provided, SJRWMD will assess secondary impacts extending into the adjacent wetlands. The extent of secondary impacts is determined on a case-by-case basis, but is typically determined by extending a 100 to 200-foot radius into the affected wetland from each point where an adequate upland buffer cannot be provided. Secondary impacts are considered to be significantly less adverse than direct impacts. Thus, although secondary wetland impacts (if assessed) add to the amount of mitigation that an applicant must provide to satisfy SJRWMD, they are typically only a small percentage of the whole. Since SJRWMD (unlike ACOE) recognizes the long-term value of on-site wetland preservation and enhancement, the secondary wetland impact issue can frequently be addressed by the placement of a conservation easement over remaining on-site wetlands and their adjacent upland buffers. If all on-site wetlands are proposed for direct impacts (dredging and/or filling), then secondary wetland impact issues will not apply.

For this site, as long as development plans do not encroach within 25 feet of the small wetland area, no wetland permitting or mitigation will be required by SJRWMD or ACOE. It seems reasonable to assume that most site planning will be able to accomplish this. However, in the event that wetland impacts are proposed, some form of wetland mitigation must be provided to offset those impacts.

As mentioned, due to the restrictions of ACOE wetland mitigation standards, the purchase of wetland mitigation bank credits will be the only means of addressing direct wetland impacts for this site. Currently, the subject site falls into the service areas of two wetland mitigation banks: Mary A Mitigation Bank and Lake Washington Mitigation Bank. Both have herbaceous wetland mitigation credits available, and both are within the same SJRWMD drainage basin as the subject site. The two banks use different methods of assessing how many mitigation credits are necessary to offset proposed impacts; currently, the most affordable option is Lake Washington Mitigation Bank, which calculates mitigation credits according to the Uniform Mitigation Assessment Method (UMAM).

UMAM is a method of assessing and calculating environmental losses (Functional Loss, or FL) and environmental gains (Functional Gain, or FG). Wetlands proposed for impact are assigned a specific FL via a set of standardized evaluations and calculations; whatever the total FL is for a particular project, the proposed mitigation (assessed in units of FG) must be equal or greater than the FL. In general, the calculated FL is a measure of the current quality (value and function) of the wetlands that are proposed for impact. As stated previously, the quality of wetlands on the subject site is low; we do not expect that on-site wetlands will rate an FL of more than 0.5 per acre of impact. Therefore, if all ± 0.22 acres of wetlands on this site are proposed for impact, the total calculated FL is expected to be no more than 0.11 ($0.22 \times 0.50 = 0.11$). To offset this, at least 0.11 units of FG would need to be provided. Lake Washington Mitigation Bank charges \$99,000 for each unit of FG. Therefore, the maximum anticipated wetland mitigation cost if this project (assuming all on-site wetlands are proposed for impact) would be about \$10,890 ($0.11 \times 99,000 = 10,890$).

If wetland permitting is necessary, the time associated with it is expected to be between two and three months for SJRWMD. Permitting through ACOE occurs concurrently, but typically takes a bit longer to complete than state permitting, since ACOE requires more documentation and is not subject to minimum time frames in their review process.

Surface Waters

A SJRWMD permit is required for any impacts to surface waters, to ensure that such impacts do not adversely affect the existing hydrologic regime of the site, or any properties that are upstream or downstream from the site. Surface waters that are greater than 1.0 acres in size are assumed by SJRWMD to provide aquatic habitat that is beneficial to fish and wildlife; as such, if impacts are proposed to surface waters that are greater than 1.0 acre in size, such impacts must be offset by mitigation, which is typically accomplished on a 1:1 basis on-site. For example, if 0.25 acres along the eastern shore of the pond were proposed to be filled to accommodate the size and configuration of a proposed project, an acceptable form of mitigation would be to excavate 0.50 acres of the Brazilian Pepper community on the western boundary of the site down to the pond elevation, thereby resulting in no net decrease in the size, volume, and habitat potential of the pond.

Protected Species

On the date of our site assessment, ACES examined the property for any indications of habitation by protected wildlife species. This included inspecting the property for direct visual and auditory evidence of protected species themselves, as well as assessing the site for the presence of secondary indicators, such as burrows, nests, nesting cavities, scat, tracks, trails, rookeries, etc. We also used on-line mapping resources from Brevard County, USFWS, and FWC to identify the known location of certain protected species populations, such as bald eagles. Following is a discussion identifying the extent to which protected species are thought to be using the site, and the procedures by which such concerns can be addressed during the project permitting process.

Gopher Tortoises: Gopher tortoises are protected as a Threatened species by the Florida Fish and Wildlife Conservation Commission (FWC). Gopher tortoises require habitat that includes well-drained sandy soils for burrowing, open sunlit areas for nesting, and adequate herbaceous forage. Although adequate herbaceous cover, open sunlit areas, and sufficiently drained soil appear to be present within the Herbaceous community, we found no evidence of gopher tortoises (no burrows, scat, tracks, trails, etc.). The disturbances associated with the historical land uses on the site are likely to have precluded its habitation by this species. It is our professional opinion that gopher tortoises are not present on the property, and no gopher tortoise permitting or mitigation will be required prior to site development.

American Alligator: Alligators are protected by USFWS due to their similarity in appearance to the American crocodile. It is illegal to kill, harm, or feed alligators, or to destroy their nests. Nuisance alligators can only be relocated or killed by licensed and permitted professionals. Mature alligators may be present in the pond. However, due to the lack of littoral zones or lateral upland banks adjacent to the pond, no alligator nesting habitat is expected to exist on the site. As such, no nest surveys are expected to be required during nesting season (June through September), and site development is not expected to have any adverse impacts to this species.

Wading Birds: A variety of protected wading birds may occasionally be present within the Wetland Shrub community and the edge of the pond for foraging purposes. These include the tricolored heron, great egret, white ibis, snowy egret, sandhill crane, and greenback heron. There is no rookery habitat on the site to support nesting of any of these species, and none of these species were observed on the site during our inspection. Although it is possible that some or all of these species may be present from time to time in the wetland areas on a transitory foraging basis, such behavior is opportunistic, and not indicative of critical reliance on any on-site natural resources. Therefore, no special permits for potential impacts to these species are expected to be required.

Wood Stork (*Mycteria americana*): Wood stork nesting habitat is not present on the site. However, the Wetland Shrub community does provide foraging habitat for this federally listed endangered species. Federal rules require that when a project falls under federal jurisdiction, the potential for federally-endangered species must be assessed. In the case of the wood stork, the mere potential of wood stork foraging behavior within affected wetlands is enough to impose regulatory oversight, as long as: a) the affected wetland contains Suitable Foraging Habitat (SFH) for wood storks (the on-site Wetland Shrub community does); b) the affected wetland falls within the Core Foraging Area (CFA) of at least one known wood stork rookery (on-site wetlands fall within the CFA of several wood stork rookeries); and c) more than 0.5 acres of CFA are proposed for impact (this is not the case for the site). Since wetlands are less than 0.50 acres, no adverse impacts to wood storks are expected to be assessed for this site.

Bald Eagle (*Haliaeetus leucocephalus*): No recorded bald eagle nests exist within at least 1.0 miles of the subject site, and no eagle nests, eagle activity, or potential nest trees were observed on the site. Therefore, it is not expected that potential impacts to this species will need to be addressed prior to site development.

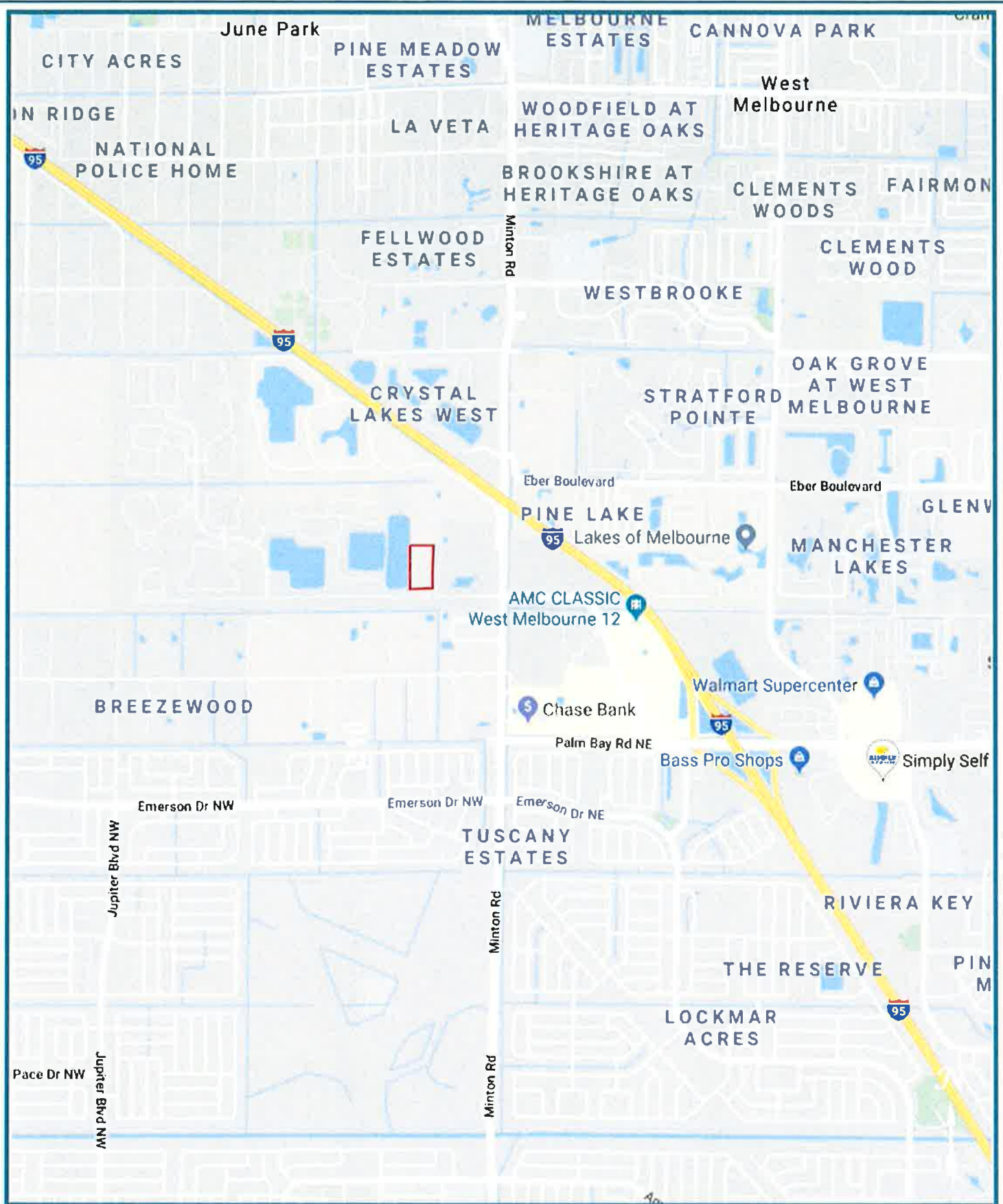
Summary and Conclusion

ACES has completed an environmental assessment of Parcel No. 28-36-13-00-758, Norfolk Parkway, West Melbourne, Florida. It is our determination that approximately 17.34 acres of uplands, 0.55 acres of surface waters (the pond and ditch), and 0.22 acres of low-quality wetlands are present on the site. If impacts are proposed to wetlands, then permits will be needed from SJRWMD and ACOE, and mitigation will be required. If impacts are proposed to the ditch, a permit will be needed from SJRWMD, and the project design must show that the current volume and rate of flow within the ditch will be sustained in the post-development condition. If impacts are proposed to the pond, a permit will be needed from SJRWMD, and 1:1 compensation will be required. No evidence of listed species occupation of the site was found during our inspection; as such, no permits or mitigation for potential impacts to listed species are expected to be required prior to site development. Upon your review of this report, should you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,



Andrew Conklin – President, ACES, LLC



Source -Google Maps



Figure 1 - Location Map

ACES File No. 1993 - Parcel 758, Norfolk Parkway

- Property Boundary

PO Box 500407, Malabar, FL 32950 Phone: (321) 848-1143 Email: acesllc7@gmail.com





Source -Brevard County Property Appraiser



Figure 2 - Aerial Site Photograph
ACES File No. 1993 - Parcel 758, Norfolk Parkway

- Property Boundary

PO Box 500407, Malabar, FL 32950 Phone: (321) 848-1143 Email: acesllc7@gmail.com



Source -USDA Natural Resources Conservation Service (NRCS)



Figure 3 - NRCS Soils Map
ACES File No. 1993 - Parcel 758, Norfolk Parkway

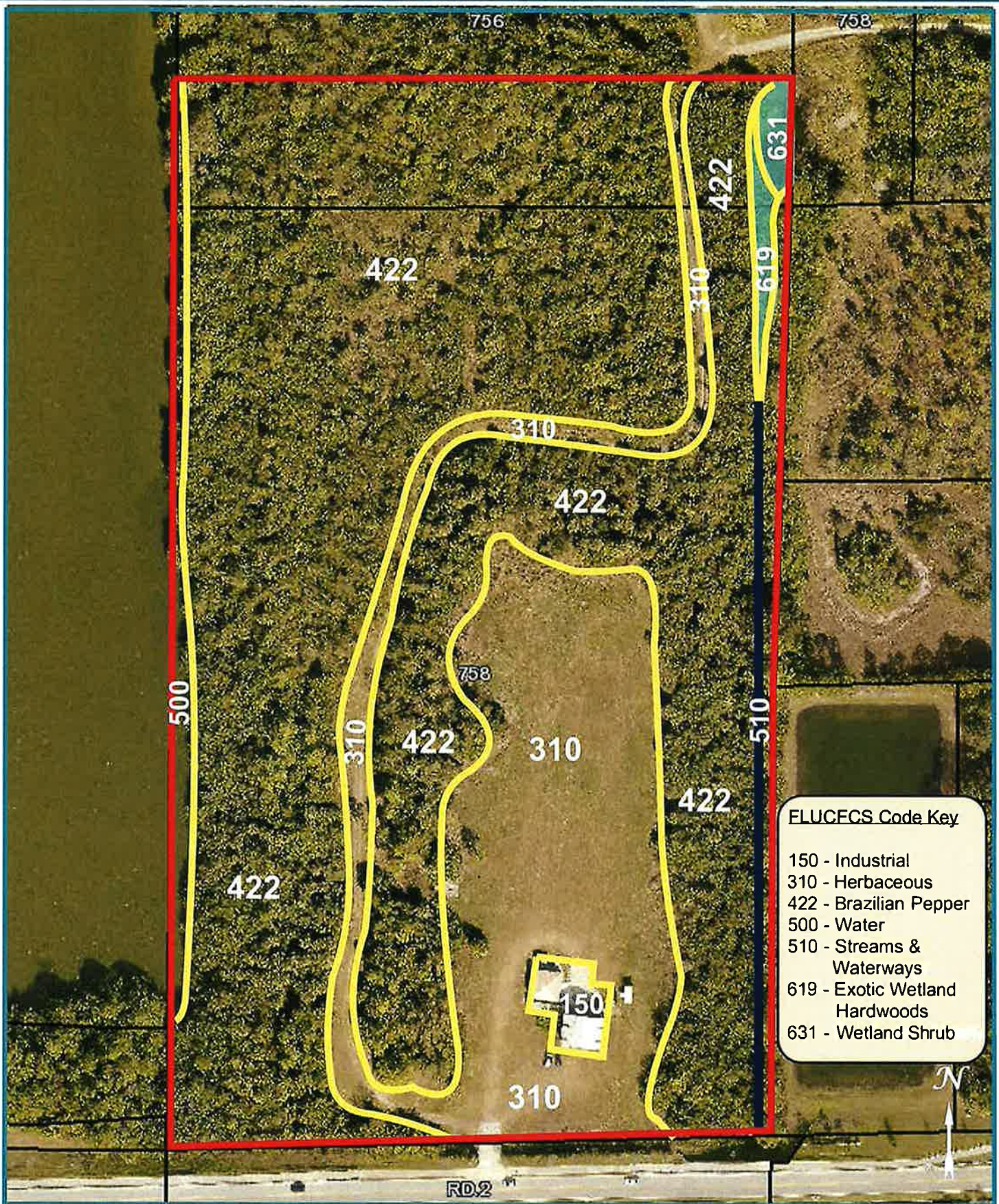
- Property Boundary

- NRCS Soil Type Boundaries

52 - Quartzipsamments, Smoothed
 99 - Water

PO Box 500407, Malabar, FL 32950 Phone: (321) 848-1143 Email: acesllc7@gmail.com





FLUCFCS Code Key

- 150 - Industrial
- 310 - Herbaceous
- 422 - Brazilian Pepper
- 500 - Water
- 510 - Streams & Waterways
- 619 - Exotic Wetland Hardwoods
- 631 - Wetland Shrub

Source - Brevard County Property Appraiser

Codes referenced to the Florida Land Use Cover and Forms Classification System (FLUCFCS)

Figure 2 - Aerial Site Photograph

ACES File No. 1993 - Parcel 758, Norfolk Parkway

- Ditch

- Property Boundary

- FLUCFCS Community Boundaries

- On-site wetlands, ±0.22 acres

PO Box 500407, Malabar, FL 32950 Phone: (321) 848-1143 Email: acesllc7@gmail.com

24

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Boozer Properties, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the BU-2 zoning classification(s) and desires to develop the Property as a boat and RV storage facility and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impacts on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

Rev. 1/4/2022

3. Developer/Owner shall provide a 50 foot undisturbed vegetative buffer and maintain the existing vegetative buffer along the west and north boundaries of the Property. No improvements shall be allowed within the buffer.
4. The Developer/Owner shall limit the number of outdoor storage spaces to 350.
5. The Developer/Owner shall limit ingress and egress to Norfolk Parkway.
6. The site shall be developed as a Boat and RV storage facility and related ancillary services and facilities.
7. No sewage dump station shall be allowed, unless public sewer connection is obtained.
8. Outdoor lighting is limited to 17 feet in height from grade to bottom of light fixture.
9. The Developer/Owner shall provide a traffic study detailing any required roadway improvements including, but not limited to a westbound right turn lane, at the time of site plan submittal. If an improvement is warranted, and is approved by the City of West Melbourne, it shall be constructed accordingly.
10. No residing or overnight stays within the stored vehicles shall be allowed.
11. The Developer/Owner shall comply with all applicable requirements of the FDEP Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida.
12. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property prior to issuance of an approved development order.
13. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
14. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board

of County Commissioners on _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

15. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
16. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 15 above.
17. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect without being impaired or invalidated in any way.

[The remainder of this page left intentionally blank]

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel Sadoff, Clerk of Court
(SEAL)

Kristine Zonka, Chair
As approved by the Board on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

BOOZER PROPERTIES, LLC
as DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

(Witness Name typed or printed)

(President)
(Name typed, printed or stamped)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me, by means of _____ physical presence or _____ online notarization, this _____ day of _____, 20____, by _____, President of _____, who is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public
(Name typed, printed or stamped)

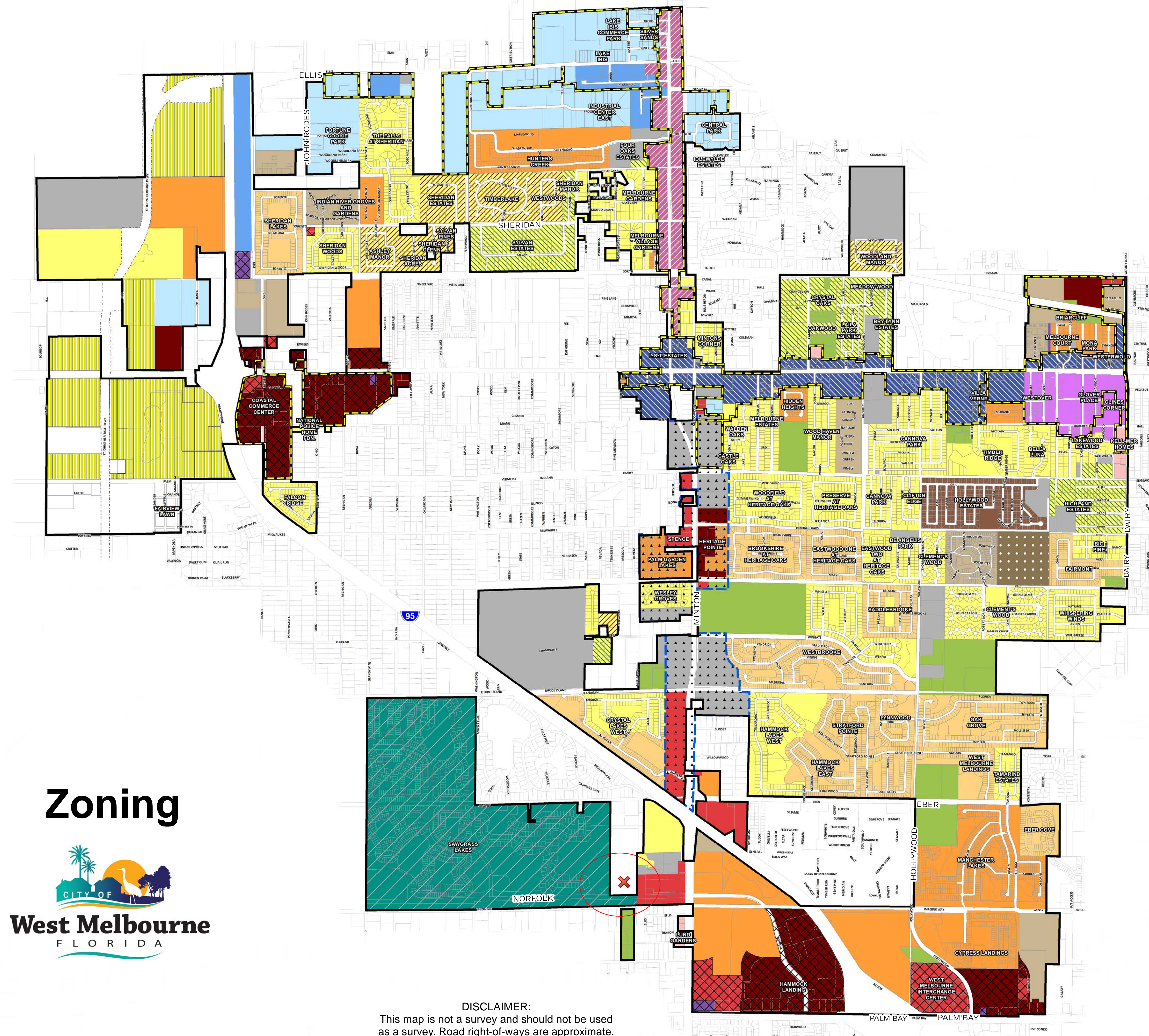
Exhibit "A"

LEGAL DESCRIPTION:

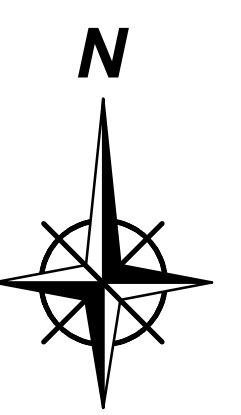
(Per Old Republic National Title Insurance Company File No.: 19129417 LLC)

A portion of the lands described in Official Records Book 3277, Page 924, of the Public Records of Brevard County, Florida, said lands lying in Section 13, Township 28 South, Range 36 East and being more particularly described as follows:

Beginning at the Southwest Corner of Tract ST-1, Sawgrass Lakes Phase One, according to the plat thereof, as recorded in Plat Book 60, Pages 52 through 63 of the said public records, said point being the POINT OF BEGINNING; thence South 89 degrees 32 minutes 31 seconds West, along the North right-of-way line to Norfolk Parkway, per said Sawgrass Lakes Phase One, a distance of 662.33 feet to the Easterly line of said Sawgrass Lakes Phase One, thence North 01 degrees 30 minutes 06 seconds East, along said East line, a distance of 1,151.77 feet; thence leaving said line, North 89 degrees 32 minutes 54 seconds East, a distance of 662.19 feet to the East line of Parcel 1 of said Official Records Book 3277, Page 924; thence South 01 degrees 29 minutes 41 seconds West, along the East line of said Parcel 1 and the East line of Parcel 2 of the Official Records Book 3277, Page 924, a distance of 1,151.69 feet to the POINT OF BEGINNING.



0 0.25 0.5 1
Miles



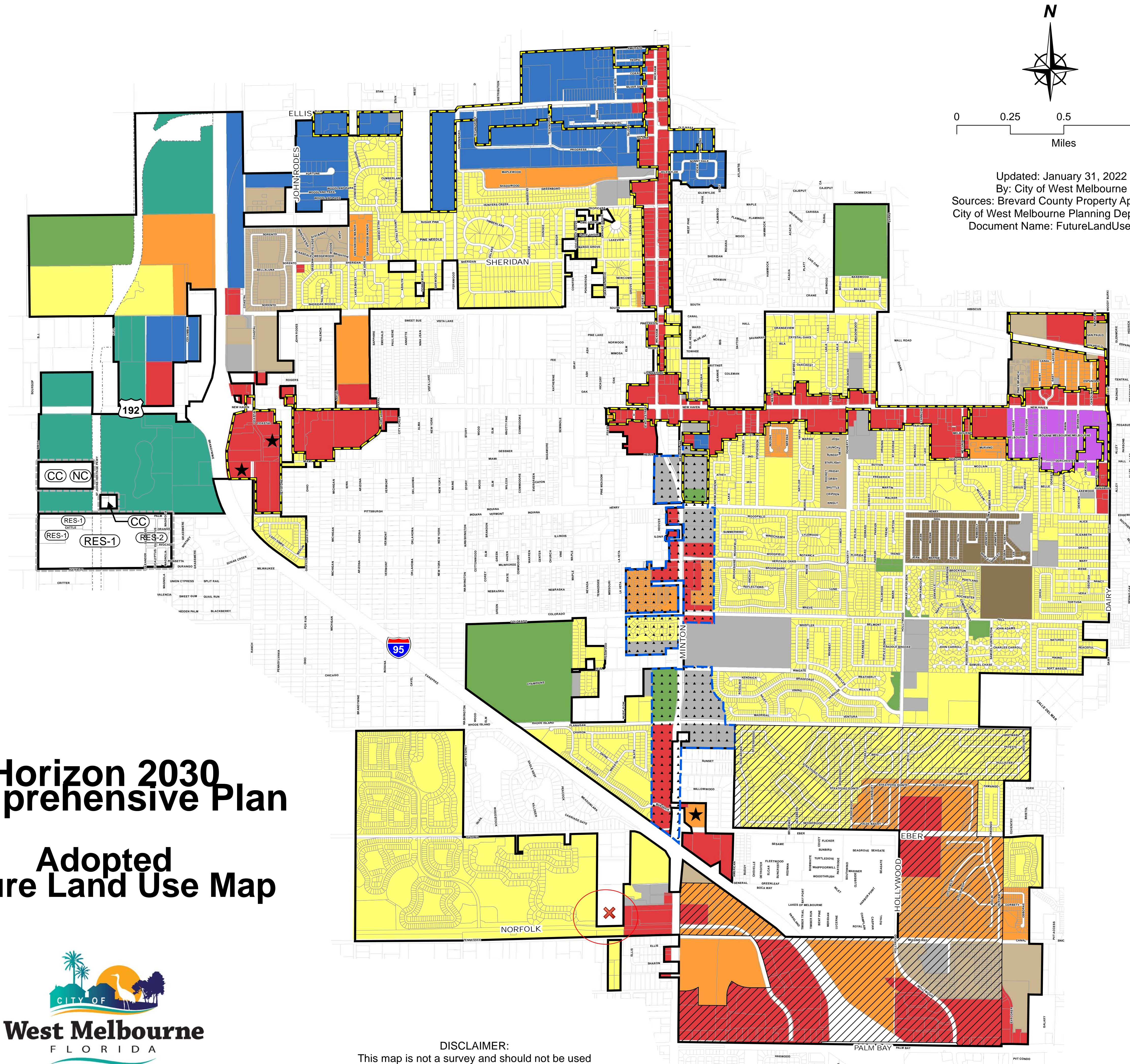
Updated: January 31, 2022
By: City of West Melbourne
Sources:
Brevard County Property Appraiser,
City of West Melbourne Planning Department

Horizon 2030 Comprehensive Plan

Adopted Future Land Use Map



DISCLAIMER:
This map is not a survey and should not be used
as a survey. Road right-of-ways are approximate.



Updated: January 31, 2022
By: City of West Melbourne
Sources: Brevard County Property Appraiser,
City of West Melbourne Planning Department
Document Name: FutureLandUse.mxd

Legend

- City Limits
- CRA Overlay
- Palm Bay Road Overlay
- Town Center Overlay
- COM *Commercial*
- CON-REC *Conservation-Recreation*
- IB *Integrated Business*
- IND *Industrial*
- INST *Institutional*
- LD-RES *Low-Density Residential*
- MD-RES *Medium-Density Residential*
- UD-RES *Urban-Density Residential*
- MH-RES *Manufactured Home Residential*
- PI *Parkway Interchange*
- County FLU Designations Still Apply As Noted

Brevard County Future Land Uses

- | | |
|----------------------------|------------------------------|
| CC Community Commercial | RES-1 Residential 1 (1 DUPA) |
| NC Neighborhood Commercial | RES-2 Residential 2 (2 DUPA) |
| | RES-4 Residential 4 (4 DUPA) |

Designations not shown on map

- | | |
|-----|------------------------------|
| GU | General Use |
| NAC | Neighborhood Activity Center |
| UMU | Urban Mixed Use |

★ These properties have additional density and intensity restrictions.
Please refer to the Future Land Use Element of the Comprehensive Plan.

Horizon 2030 Comprehensive Plan Amendments

Amendment No:	Ordinance No:	Amendment No:	Ordinance No:	Amendment No:	Ordinance No:
LSA 2012-01	2012-22	LSA 2016-01	2016-01	SSA 2021-03	2021-20
SSA 2012-01	2012-09	LSA 2016-02	2016-09	LSA 2021-03	2021-14
LSA 2012-02	2013-05	LSA 2016-04	2016-24		
SSA 2012-02	2012-09	SSA 2016-04	2016-21		
SSA 2012-03	2012-09	SSA 2018-17	2018-02		
SSA 2012-04	2012-09	LSA 2017-03	2018-03		
SSA 2012-05	2012-10	SSA 2018-01	2018-05		
SSA 2013-01	2013-03	SSA 2018-04	2019-04		
SSA 2013-02	2013-17	SSA 2018-05	2019-02		
SSA 2013-03	2013-16	LSA 2018-01	2018-10		
SSA 2013-04	2013-18	SSA 2019-01	2019-12		
SSA 2013-05	2013-25	SSA 2019-02	2019-14		
SSA 2014-01	2014-02	LSA 2019-03	2019-22		
SSA 2014-02	2014-04	SSA 2019-03	2019-27		
SSA 2014-03	2014-25	SSA 2019-04	2019-25		
SSA 2014-04	2014-25	LSA 2020-01	2020-07		
SSA 2014-05	2014-27	LSA 2020-02	2020-14		
SSA 2014-07	2015-03	LSA 2021-01	2021-02		
LSA 2015-01	2015-09	SSA 2021-01	2021-10		
SSA 2015-01	2015-07	LSA 2021-02	2021-05		
SSA 2015-02	2015-19	SSA 2021-02	2021-24		



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.14.

3/14/2022

Subject:

Wireless Telecommunications Facilities Ordinance

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Local Planning Agency conduct a public hearing to consider code revisions addressing emerging wireless technology.

Summary Explanation and Background:

The Board of County Commissioners, in regular session on July 6, 2021, unanimously approved legislative intent and permission to advertise revisions to Chapter 62, Article VI, Division 7, in order to address emerging wireless technology, specifically incorporating small wireless facilities. The proposed changes include defining small wireless facilities, establishing setback requirements for the placement of certain wireless telecommunication facilities, and restricting the placement of commercial small wireless facilities in residential zoning classifications.

The current definition of wireless telecommunications facilities contained in Section 62-2403 does not address certain new technologies, such as small wireless facilities. The proposed legislation amends the current definition of wireless telecommunications facilities to incorporate the definition of small wireless facilities as delineated in State law. Furthermore, the proposal amends Section 62-2422 in order to provide setback requirements for the placement of wireless telecommunications facilities as they relate to residential structures, child care facilities, and public and non-public schools. Finally, the amendment creates a new section of Code, Section 62-2425, which prohibits commercial wireless providers from installing wireless telecommunication facilities in residential zoning classifications.

The Building Construction Advisory Committee is scheduled to hear this item at their meeting on March 9th.

Please do not hesitate to contact me if you would like additional information, or if you have questions prior to the meeting. I can be reached by email at Jeffrey.Ball@BrevardFL.gov or by phone at (321)633-2070, ext. 58273.

Clerk to the Board Instructions:

None

ORDINANCE NO. 212-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 62. OF THE BREVARD COUNTY CODE OF ORDINANCES, LAND DEVELOPMENT REGULATIONS. AT ARTICLE VI. ZONING REGULATIONS. DIVISION 7. COMMUNICATIONS FACILITIES., SUBDIVISION I. GENERAL PROVISIONS. AT SECTION 62-2403 DEFINITIONS. TO AMEND THE DEFINITION OF WIRELESS TELECOMMUNICATIONS FACILITY. AND TO FURTHER AMEND SUBDIVISION II. PERMIT LEVELS AND GENERAL DEVELOPMENT STANDARDS. AT SECTION 62-2422. GENERAL DEVELOPMENT STANDARDS. IN ORDER TO AMEND THE STANDARDS AS TO MINIMUM SETBACKS AND TO PROVIDE A WAIVER PROVISION; AND CREATING A NEW SECTION 62-2425. COMMERCIAL SMALL WIRELESS FACILITY LOCATIONS. IN ORDER TO ADDRESS THE PLACEMENT OF COMMERCIAL SMALL WIRELESS FACILITIES IN RESIDENTIALLY ZONED CLASSIFICATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, AREA ENCOMPASSED, PROVIDING FOR AN EFFECTIVE DATE AND INCLUSION IN CODE.

WHEREAS, pursuant to Article VIII, Section (1)(g) of the Florida Constitution and Section 125.01, Florida Statutes, the Board of County Commissioners of Brevard County, Florida (hereinafter "Board"), has broad authority to enact ordinances not inconsistent with general law or with special laws approved by the vote of the electors; and

WHEREAS, the Board of County Commissioners wishes to clarify the definition of wireless telecommunications facilities; and

WHEREAS, the Board of County Commissioners desires to amend the residential setbacks as they pertain to wireless telecommunications facilities and limit commercial activities in residential zoning classifications; and

WHEREAS, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 62., Article VI., Division. 7., Subdivision I., at Section 62-2403., entitled, "Definitions," of the Code of Ordinances of Brevard County, Florida, is hereby amended in order to amend the definition of Wireless telecommunications facility (WTCF) to read as follows:

Sec. 62-2403. -Definitions.

Wireless telecommunications facility (WTCF) means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables fiber optic cables, DC power cables, and equipment cabinets, and may include a tower. The following shall be deemed a wireless communications facility: new, mitigated, or existing towers, public towers, replacement towers, antenna co-location on existing towers, attached wireless communications facilities, concealed wireless communication facilities, non-concealed wireless communication facilities and all small wireless facilities installed and operated by a wireless provider as defined in Chapter 337, Florida Statutes, that meet the following qualifications (1) any antenna associated with the facility that is located inside an enclosure of no more than six cubic feet in volume or, in the case of antennas that have exposed elements, any antenna and all of its exposed elements that could fit within an enclosure of no more than six cubic feet in volume; and (2) all other wireless equipment associated with the facility that is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment shall not be included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

SECTION 2. Chapter 62, Article IV., Division. 7., Subdivision II., at Section 62-2422., entitled, "General Development Standards." of the Code of Ordinances of Brevard County, Florida, is hereby amended to read as follows:

Sec. 62-2422. - General development standards.

The following design standards apply generally to all WTCF antenna, antenna support structures and towers unless a different design standard is identified in the specific permit level requirements.

(1) *Minimum setbacks.*

- a. ~~Residential Ssetbacks. from residential, child care facility, public and nonpublic school structures.~~ All WTCFs must be setback from residentially zoned properties, excluding the property that the facility is located on, at shall have a minimum setback of a distance equal to twice the height of the proposed tower except if no tower is being utilized then the setback shall be a minimum of 100 feet from a residential, child care facility, public, or nonpublic school structures, as defined in Chapter 402, Florida Statutes. The requirements of this section shall not apply to the installation of small wireless facilities and support structures located within county public rights-of-way as governed by the regulations of Section 86-73 of the Brevard County Code of Ordinances. Furthermore, the requirements of this section shall apply to new WTCFs only and shall not apply to the installation or modification of antennas or equipment on existing WTCFs.

- b. [This subsection shall remain as previously adopted.]

(2)-(9) [These sections shall remain as previously adopted.]

(10) These general design standards may be waived by the Board of County Commissioners upon a showing that said general design standards will result in either a significant diminution or a significant gap in a wireless provider's service. Any waiver shall be granted or denied within 45 days after the date of a hearing on the request.

SECTION 3. Chapter 62, Article IV., Division. 7., Subdivision II., is hereby amended to include a new section 62-2425. entitled "Commercial small wireless facility locations." and said new section 62-2425 of the Code of Ordinances of Brevard County, Florida shall read as follows:

Sec. 62-2425. - Commercial small wireless facility locations.

No commercial wireless providers as defined in Chapter 337, Florida Statutes shall be allowed to install commercial small wireless facilities in residential zoning classifications.

Secs. 62-2426-62-2429. – Reserved.

SECTION 4. Severability. If any section, subsection, sentence, clause or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause or provision and shall not be affected by such holding.

SECTION 5. Conflict. All resolutions, ordinances, and agreements or parts thereof that may be determined to be in conflict with this ordinance are repealed.

SECTION 6. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 7. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This Ordinance shall take effect upon adoption and filing pursuant to law.

SECTION 8. Inclusion in Code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word “ordinance” may be changed to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED AND ADOPTED, in Regular Session, this _____ day of _____, 20212.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk
(SEAL)

Kristine Zonka, Chair

As approved by the Board on _____

Reviewed for legal form and content:

County Attorney



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.42.

7/6/2021

Subject:

Legislative Intent and Permission to Advertise an Ordinance Amending the Brevard County Code of Ordinances at Chapter 62, Article VI, Zoning Regulations, at Division 7 in order to amend the general development standards for setbacks for wireless telecommunications facilities.

Fiscal Impact:

None

Dept/Office:

District 1

Requested Action:

Permission to advertise an ordinance amending the Brevard County Code of Ordinances, Chapter 62, Article VI, Zoning Regulations, at Division 7 in order to amend the general development standards for setbacks for wireless telecommunications facilities.

Summary Explanation and Background:

Chapter 62, Article VI, Zoning Regulations at Division 7 of the Brevard County Code of Ordinances regulates the placement of wireless telecommunications facilities. The current definition of wireless telecommunications facilities contained in Section 62-2403 does not address new technology as that of small wireless facilities. The proposed legislation amends the current definition of wireless telecommunications facilities to incorporate the definition of small wireless facilities as defined in state law. Furthermore, the proposed legislation proposes to amend Section 62-2422 in order to provide setback requirements for the placement of wireless telecommunications facilities to residential structures, child care facilities, and public and non-public schools. Finally, the proposed amendment includes a new Section 62-2425 which prohibits commercial wireless providers from installing wireless telecommunication facilities in residential zoning classifications.

Clerk to the Board Instructions:



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

July 7, 2021

MEMORANDUM

TO: Rita Pritchett, Commissioner District 1, Chair

RE: Item F.42., Legislative Intent and Permission to Advertise an Ordinance Amending the Brevard County Code of Ordinances at Chapter 62, Article VI, Zoning Regulations, at Division 7 in Order to Amend the General Development Standards for Setbacks for Wireless Telecommunications Facilities

The Board of County Commissioners, in regular session on July 6, 2021, granted legislative intent and permission to advertise an ordinance amending the Brevard County Code of Ordinances at Chapter 62, Article VI, Zoning Regulations, at Division 7, in order to amend the general development standards for setbacks for wireless telecommunications facilities.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell".

Kimberly Powell, Clerk to the Board

cc: County Manager