



Planning and Zoning Board / Local Planning Agency  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida  
Agenda  
Monday, August 15, 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 - July 18, 2022**

**H. Public Hearings**

- H.1.** 2354 Talmadge Drive, LLC (Aldon Bookhardt) requests a change of zoning classification from AU to RU-1-11. (22Z00028) (Tax Account 2103243) (District 1)
- H.2.** Carla Theadora Reece requests a change of zoning classification from RR-1 to AU. (22Z00032) (Tax Account 2403816) (District 1)
- H.3.** Daren T. and Regina M. Dempsey request a change of zoning classification from AU to RU-1-13. (22Z00033) (Tax Account 2318342) (District 2)
- H.4.** *Robert Clay and Ethyl May Kirk (Chad Genoni) request a Small Scale Comprehensive Plan Amendment (22S.10), to change the Future Land Use designation from REC to RES 4. (22SS00007) (Tax Account 3018268) (District 1)*
- H.5.** *Paul J. Marion, Kimberly Ann LaMattina, Kayla Marie Losat, and Jessica Lynn Ripper; and Robert Clay Kirk and Ethylmay Kirk (Chad Genoni) request a Small Scale Comprehensive Plan Amendment (22S.11), to change the Future Land Use designation from RES 2 to RES 4. (22SS00008) (Tax Accounts 2102878 & 2102882) (District 1)*
- H.6.** Paul J. Marion, Kimberly Ann LaMattina, Kayla Marie Losat, and Jessica Lynn Ripper; and Robert Clay Kirk and Ethylmay Kirk (Chad Genoni) request a change of zoning classification from AU, SR, RU-1-11, and GML, with an existing BDP on SR and RU-1-11 portions, to RU-1-7, removing the existing BDP, and adding a new BDP. (22Z00029) (Tax Accounts 2102878, 2102918, 2102919, 2102882, 3018268, & 2113544) (District 1)
- H.7.** Lynda L. Lyles (Nita Salmon) requests removal of an existing BDP in an AU zoning classification. (22Z00035) (Tax Account 3010233) (District 3)

- H.8.** *A Text Amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI.*

## **Public Comment**

### **Adjournment**

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

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

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



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.1.

8/15/2022

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### Subject:

2354 Talmadge Drive, LLC (Aldon Bookhardt) requests a change of zoning classification from AU to RU-1-11. (22Z00028) (Tax Account 2103243) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

It is requested that the Planning & Zoning Board conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential).

### Summary Explanation and Background:

The applicant is seeking to change 7.68 acres from AU to the RU-1-11 zoning classification, for the purpose of constructing 25 single-family homes. The parcel is currently undeveloped. Based on the Future Land Use Element, potential is up to 30 units. The RU-1-11 classification permits single-family residential uses on a minimum 7,500 square-foot lot, with a minimum lot width and depth of 75 feet, and a minimum house size of 1,100 square feet.

The character of the surrounding area is a mixture low density residential, agricultural-residential, and agricultural. It is predominantly residential to the north and south. To the east and west it is predominantly Agricultural Residential. The adjacent properties to the south, 3.76-acres and 2.96-acres, are zoned as RU-1-11 with a BDP across E. Main St. The single-family residence to the east is on 5.06-acres and the undeveloped lot to the east is 5-acres. The undeveloped lot to the north is on 5-acres. The undeveloped lot to the west is on 7-acres.

The applicant provided a school impact analysis letter dated May 23, 2022, that indicates there is sufficient capacity at Mims Elementary School, Madison Middle School, and Astronaut High School for up to 25 single-family homes.

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, September 1, 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, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

(c) General Standards of Review.

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

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

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

### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**22Z00028**

**2354 Talmadge Drive, LLC**

**AU (Agricultural Residential) to RU-1-11 (Single-Family Residential)**

Tax Account Number: 2103243  
Parcel I.D.s: 21-35-17-00-5  
Location: No address (District 1)  
Acreage: 7.68 acres

Planning & Zoning Board: 8/15/2022  
Board of County Commissioners: 9/01/2022

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	AU	RU-1-11
<b>Potential*</b>	1 SF unit	30 SF units
<b>Can be Considered under the Future Land Use Map</b>	YES RES 4	YES RES 4

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

**Background and Purpose of Request**

The applicant is seeking to change 7.68 acres from AU (Agricultural Residential) to the RU-1-11 (Single-Family Residential) zoning classification. The applicant is proposing to construct 25 new single-family homes. The parcel is currently undeveloped. Based on the Future Land Use Element potential is up to 30 units.

The original zoning on the property was AU (Agricultural Residential). The subject parcel was recorded into the current configuration per Official Records Book 5504, Page 7196 on July 25, 2005.

**Land Use**

The subject property is currently designated Residential 4 (RES 4). Both AU and RU-1-11 zoning classifications can be considered consistent with the Residential 4 FLU designation.

## **Applicable Land Use Policies**

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

### **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;

**Residential uses will need to comply with Brevard County's Performance Standards, as defined by Sections 62-2251 through 62-2272.**

- 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 property was created September 21, 1977 recorded with a Warranty Deed in ORB 1863, Page 0386. The property remains undeveloped. There is a mix of single-family residential and agricultural residential classifications on lots ranging from 2.5-acres to 31.77-acres. The majority of those parcels are undeveloped. There is one (1) FLU designation, RES 4, within 500-feet of the subject property.**

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

**There has not been any development over the immediate preceding area within the past three (3) years.**

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

**There is undeveloped property 3.76-acres that has a new single-family residential building permit application on file, 22BC07077, zoned as RU-1-11. The parcel is directly to the south west of the subject property on ROW of E. Main St. and is the only development approved in the last three years within a ½ mile radius.**

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

**If connection is not provided Policy 1.2(c) in the RES 4 FLU, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.**

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

The character of the surrounding area is a mixture low density residential, agricultural-residential, and agricultural. It is predominantly residential to the north and south. To the east and west it is predominantly Agricultural Residential.

#### **Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	One (1) undeveloped lot	AU	RES 4
<b>South</b>	Across from ROW, two (2) undeveloped lots	RU-1-11	RES 4
<b>East</b>	One (1) undeveloped lot and one (1) residence	AU	RES 4
<b>West</b>	One (1) undeveloped lot	AU	RES 4

The subject property is currently zoned AU. The adjacent properties to the south, 3.76-acres and 2.96-acres, are zoned as RU-1-11 across E. Main St. The single-family residence to the east is on 5.06-acres and the undeveloped lot to the east is 5-acres. The undeveloped lot to the north is on 5-acres. The undeveloped lot to the west is on 7-acres.

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.

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

#### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is a segment of US Hwy 1, between Dairy Rd. and SR 46, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per

day, a Level of Service (LOS) of D, and currently operates at 7.12% of capacity daily. The maximum development potential from the proposed rezoning changes the percentage of MAV utilization by 1.65%. The proposal is not anticipated to create a deficiency in LOS.

The applicant provided a school impact analysis letter dated May 23, 2022, that indicates there is sufficient capacity at Mims Elementary School, Madison Middle School and Astronaut High School for up to 25 single-family homes.

The closest Brevard County water line is approximately 404 feet west of the subject property on E. Main Street. The closest Brevard County sanitary sewer line is approximately 2,950 feet west of the subject property also on E. Main Street.

### **Environmental Constraints**

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

The entire parcel is mapped with hydric soils, and portions of the parcel are mapped with SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland survey is required prior to any land clearing activities, site plan design or site plan submittal, and is subject to verification by State or County agency. 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 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 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 #22Z00028**

**Applicant:** Aldon Bookhardt

**Zoning Request:** AU to RU-1-11

**Note:** Applicant wants to develop 25 single-family residences

**P&Z Hearing Date:** 08/15/22; **BCC Hearing Date:** 09/01/22

**Tax ID No:** 2103243

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

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

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

The entire parcel is mapped with hydric soils, and portions of the parcel are mapped with SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland survey is required prior to any land clearing activities, site plan design or site plan submittal, and is subject to verification by State or County agency. 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 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 plan design or permit submittal.

### **Land Use Comments:**

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

The entire parcel is mapped with hydric soils (Anclote sand – frequently ponded, Floridana sand – frequently ponded, Basinger sand depressional, Riviera sand, and Pompano sand), and a portion of the parcel is mapped with SJRWMD wetlands as shown on the USDA Soil Conservation Service Soils Survey and SJRWMD wetlands maps, respectively. Both are indicators that wetlands may be present on the property. A wetland survey is required prior to any land clearing activities, site plan design or site plan submittal, and is subject to verification by State or County agency. 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 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 plan design or permit submittal.

#### **Aquifer Recharge Soils**

Pompano 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.

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

A 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 sewer is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

#### **Protected and Specimen Trees**

A majority of the subject property is overlaid in a mapped polygon of SJRWMD FLUCCS code 4200-Upland Hardwood forests. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and are likely found on the project area. A tree survey is required prior to any land clearing activities, site plan design or site plan submittal. The applicant is encouraged incorporate valuable vegetative communities or robust trees into the site plan design. 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 Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan 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.

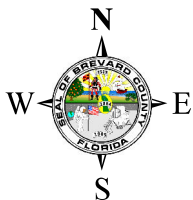
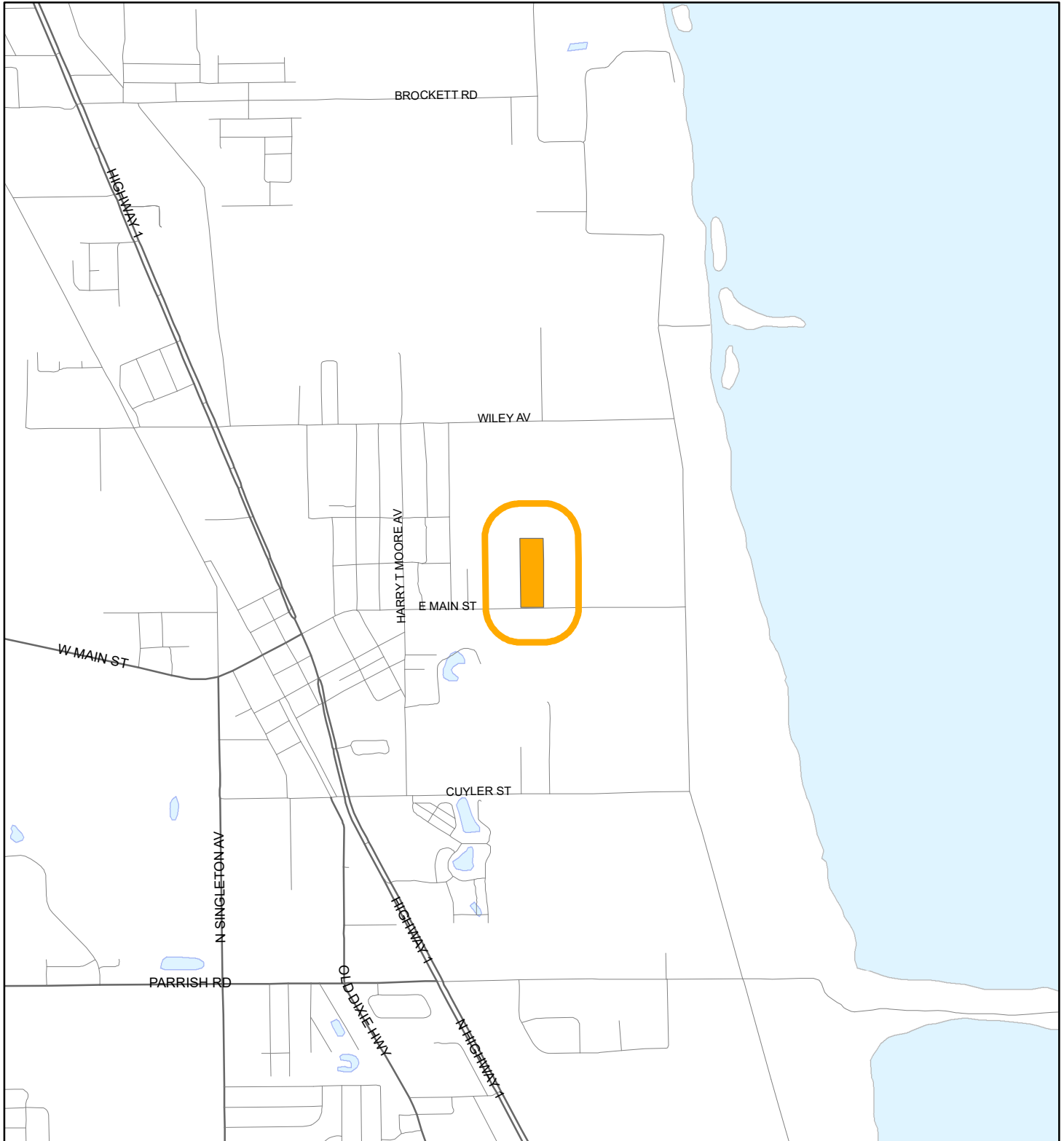
### **Protected Species**

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

2354 TALMADGE DRIVE LLC

22Z00028



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

Buffer Distance: 500 feet

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

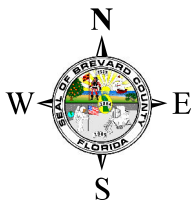
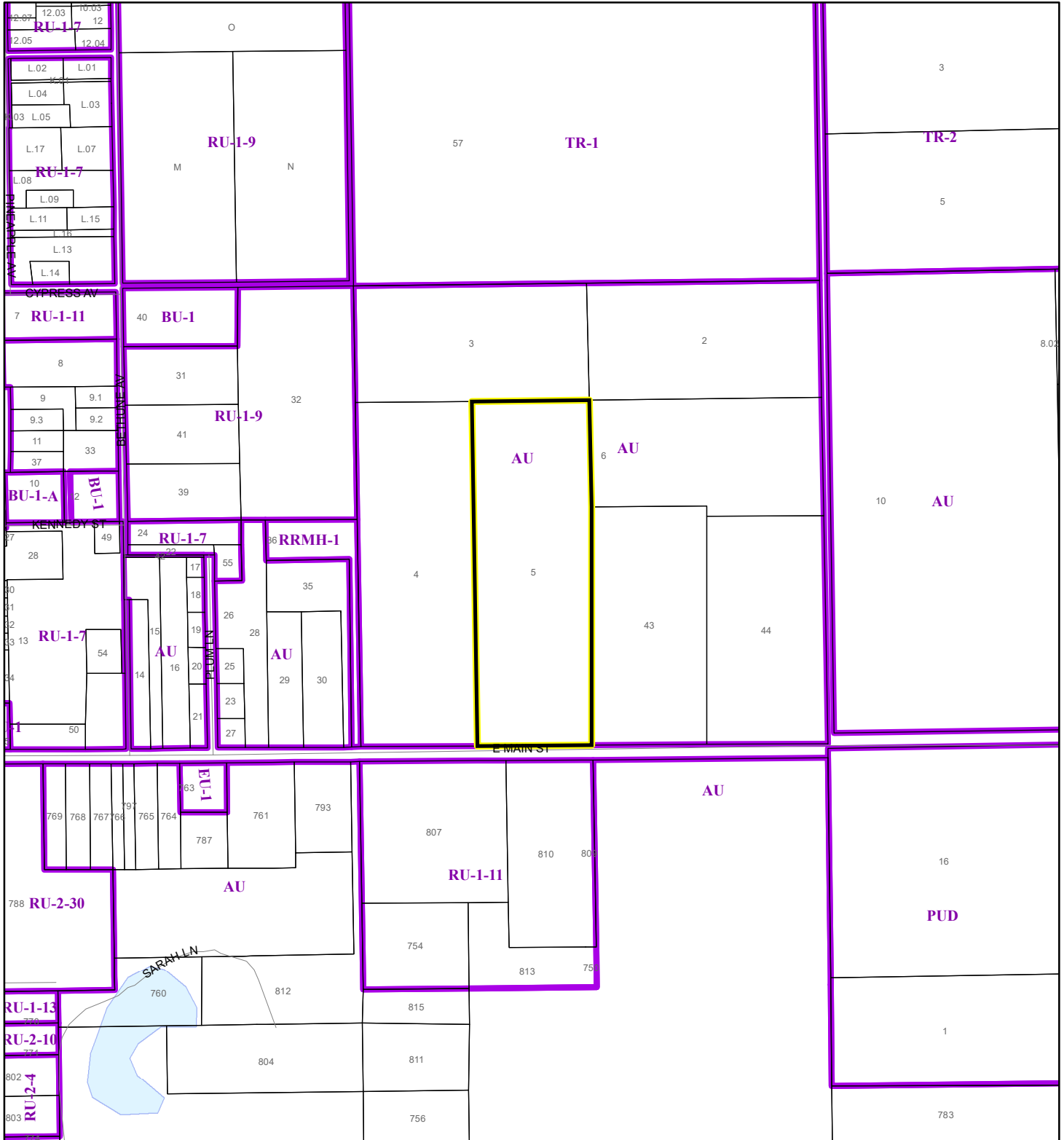
Produced by BoCC - GIS Date: 6/13/2022

— Buffer  
— Subject Property

# ZONING MAP

2354 TALMADGE DRIVE LLC


22Z00028



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

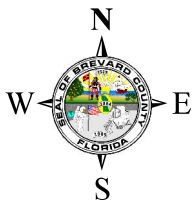
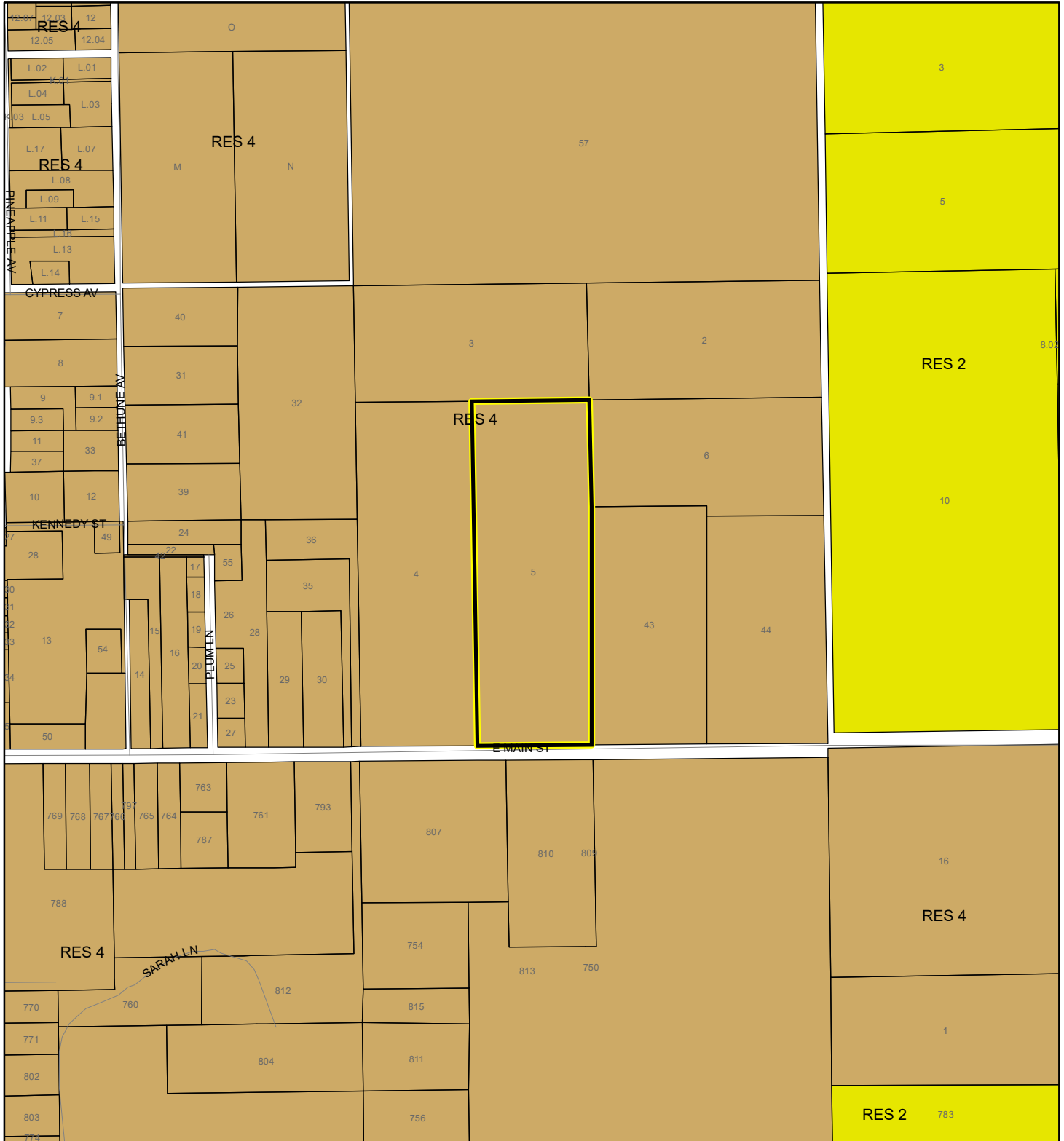
 Parcels

 Zoning

# FUTURE LAND USE MAP

2354 TALMADGE DRIVE LLC

22Z00028



1:4,800 or 1 inch = 400 feet

Subject Property  
Parcels

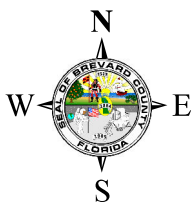
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/13/2022

# AERIAL MAP

2354 TALMADGE DRIVE LLC

22Z00028




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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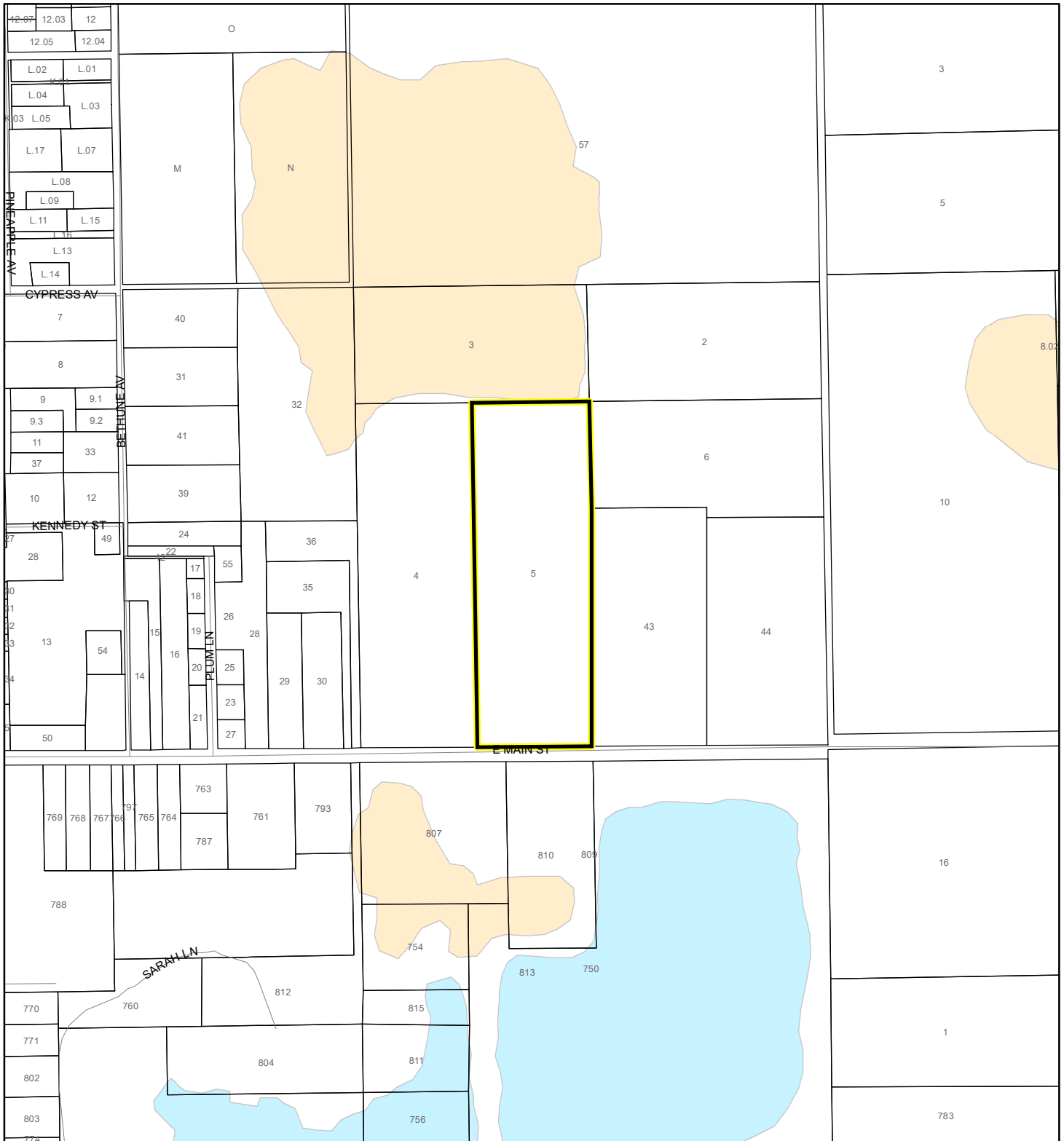
 Subject Property

 Parcels

# NWI WETLANDS MAP

2354 TALMADGE DRIVE LLC

22Z00028



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	

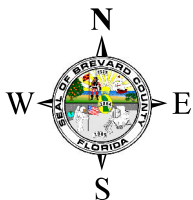
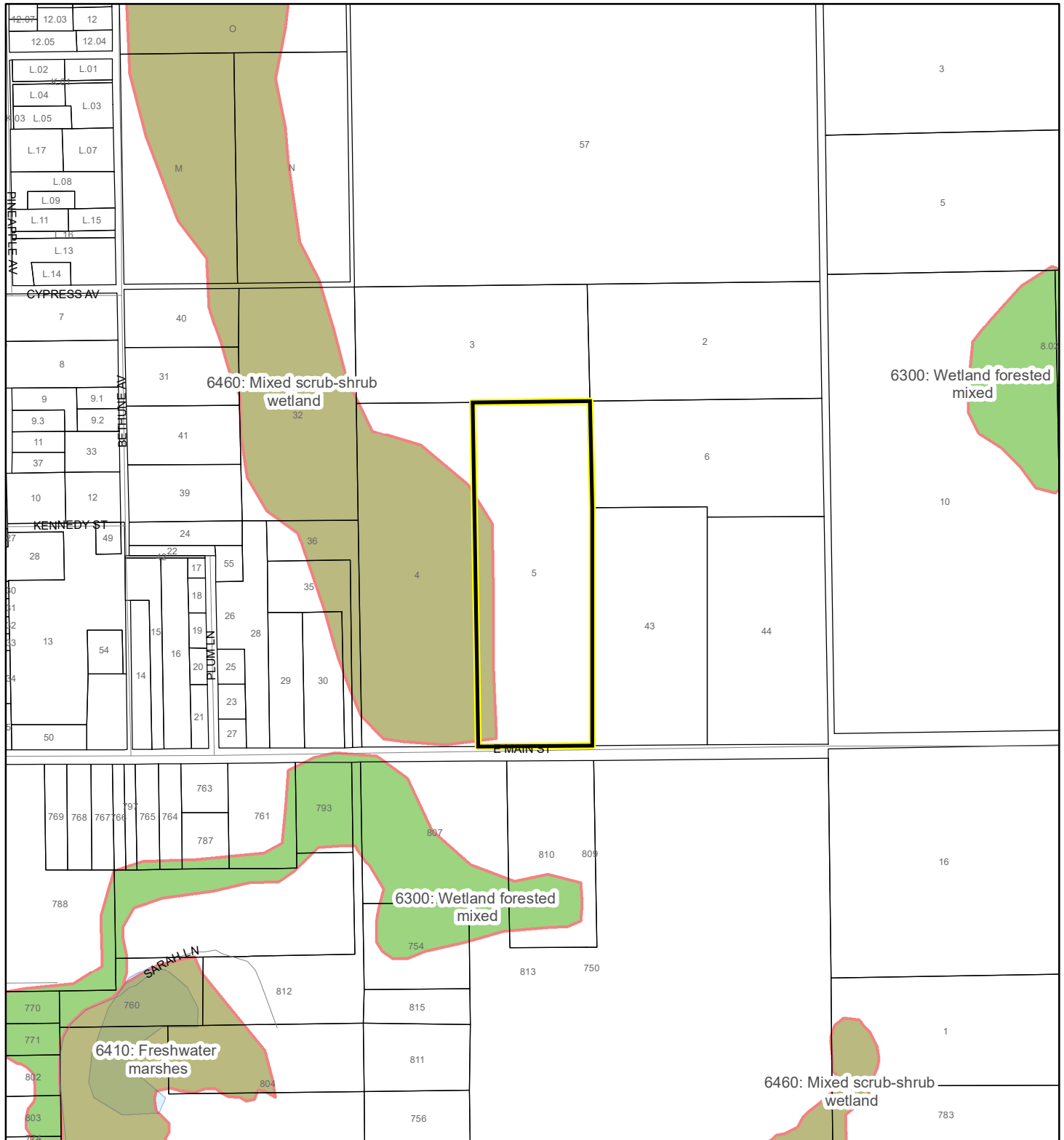
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/13/2022

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

2354 TALMADGE DRIVE LLC

22Z00028



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/13/2022

## 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

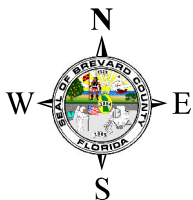
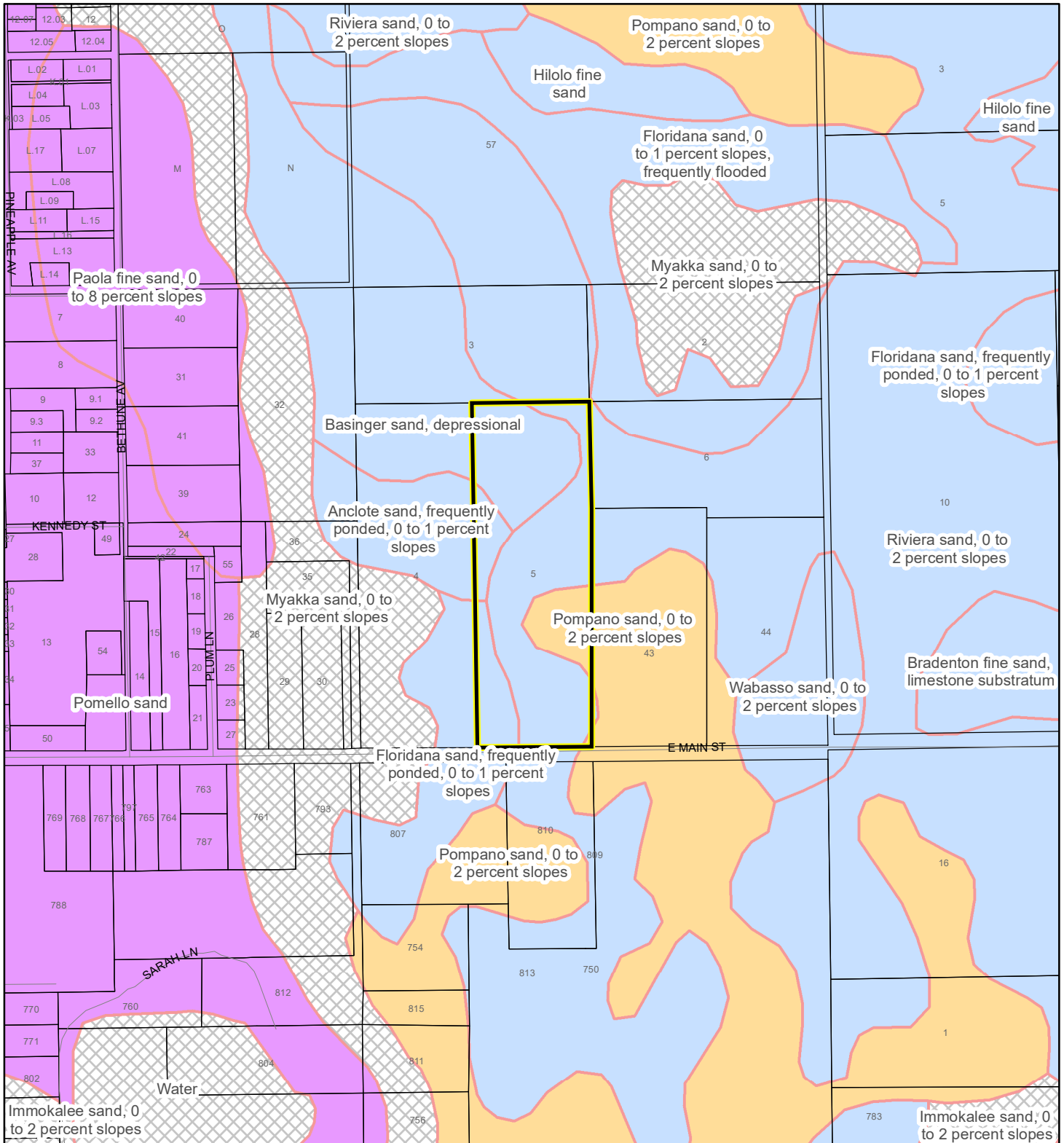
Subject Property

Parcels

# USDA SCSSS SOILS MAP

2354 TALMADGE DRIVE LLC

22Z00028



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

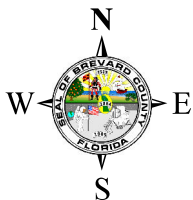
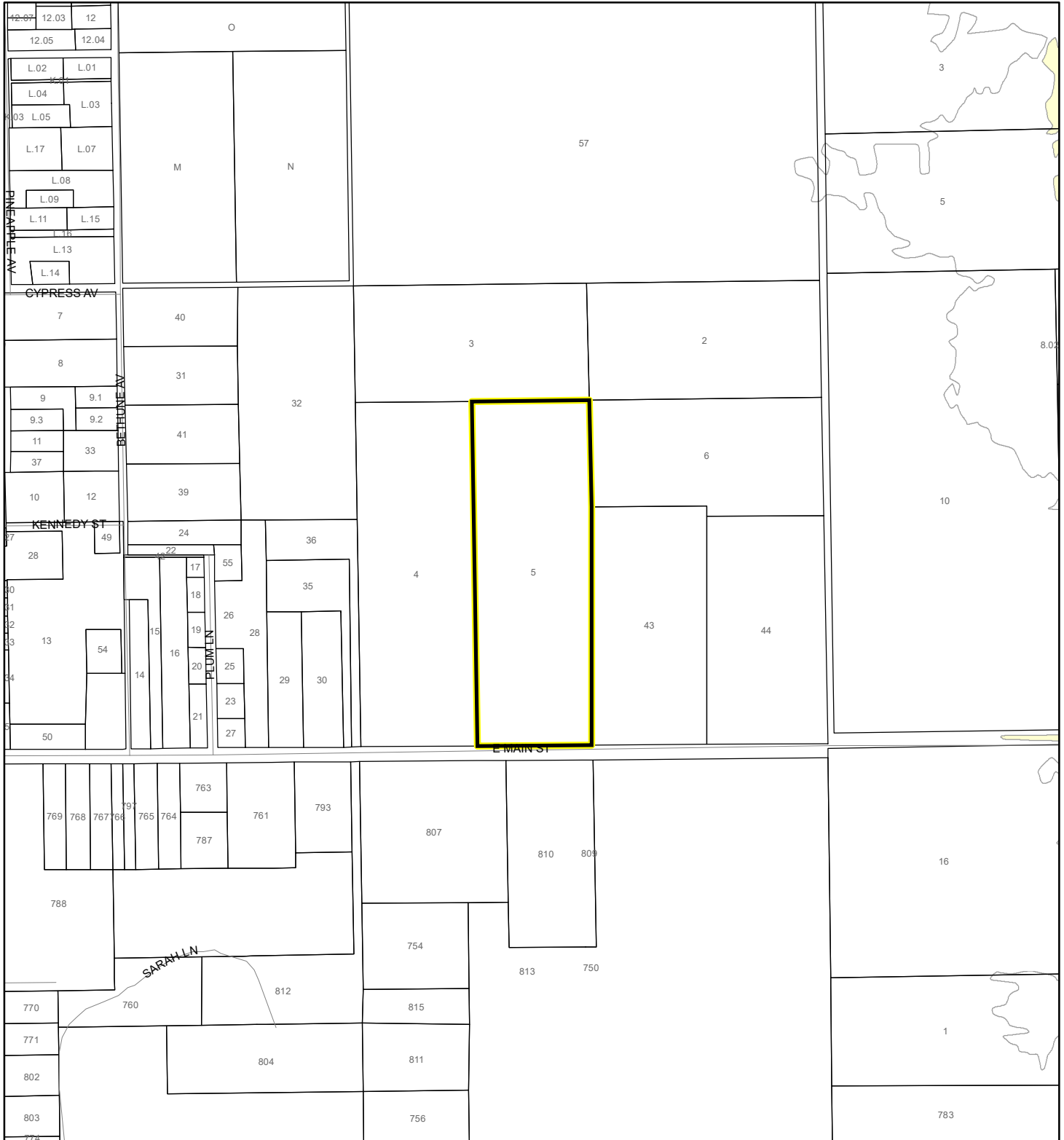
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

2354 TALMADGE DRIVE LLC

22Z00028



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

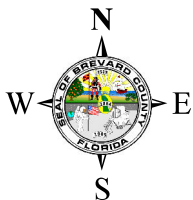
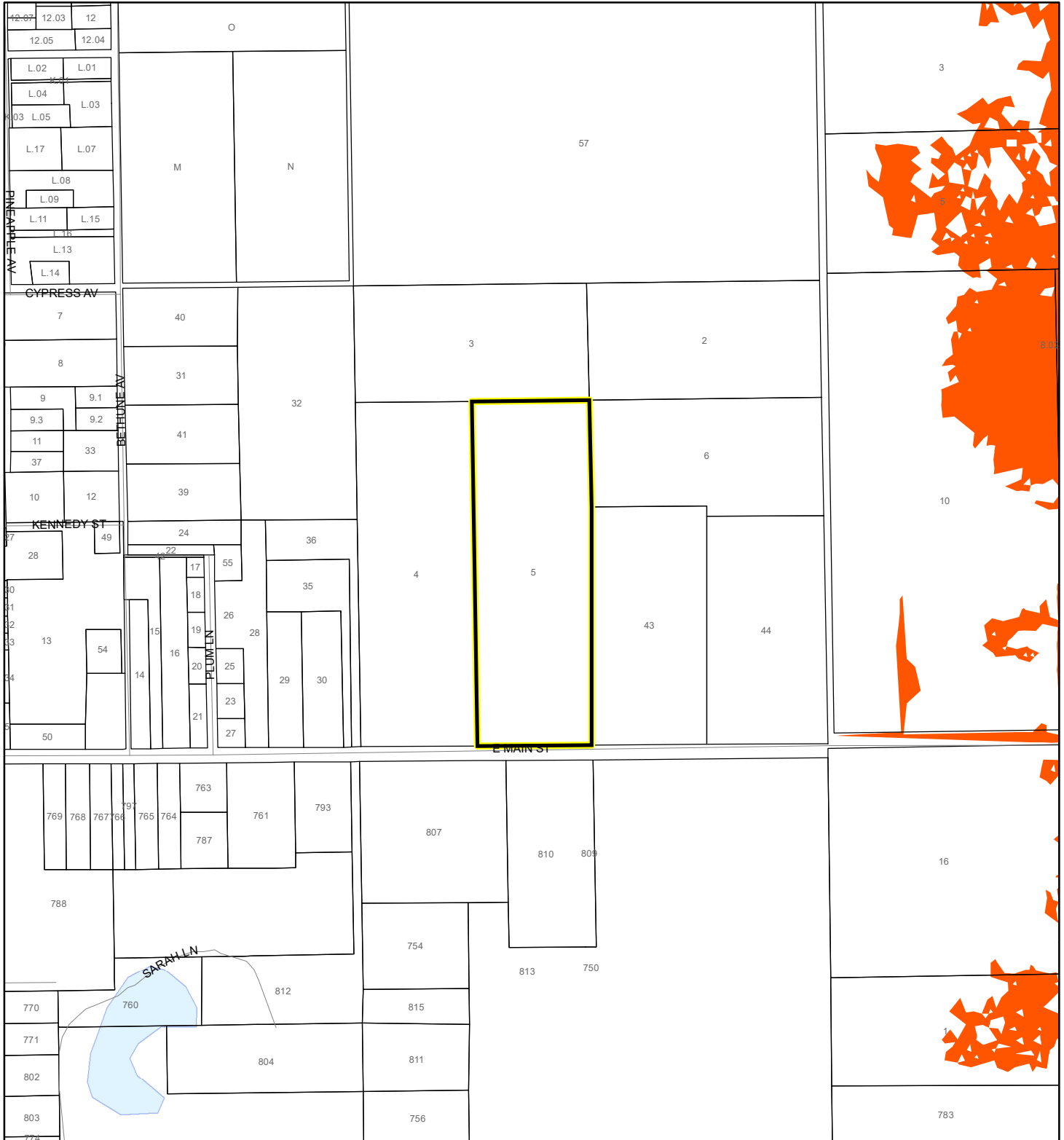
## FEMA Flood Zones

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

# COASTAL HIGH HAZARD AREA MAP

2354 TALMADGE DRIVE LLC

22Z00028



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

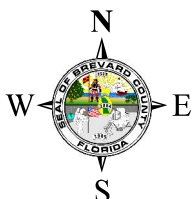
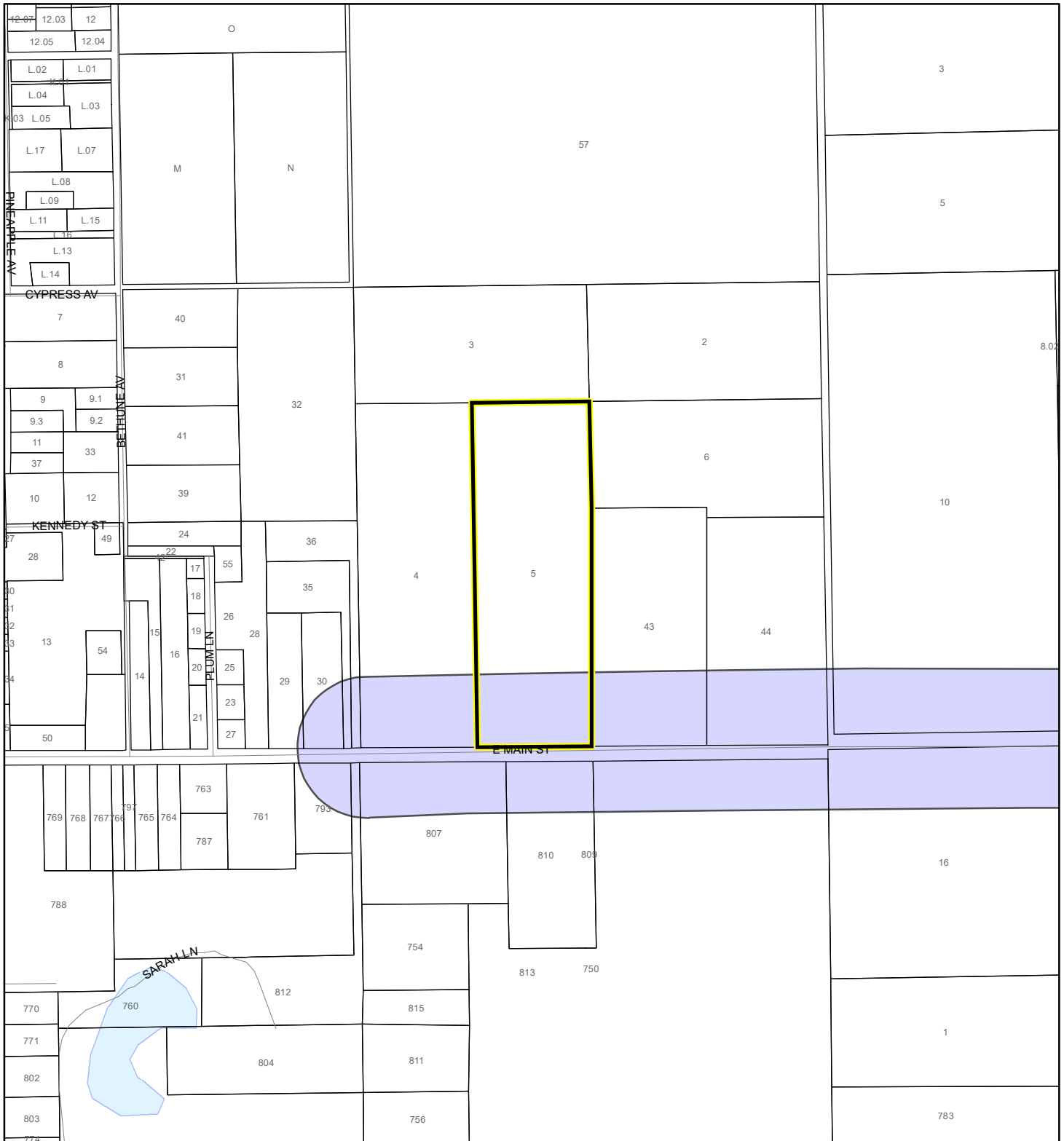
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

2354 TALMADGE DRIVE LLC

22Z00028



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

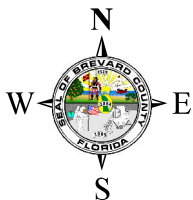
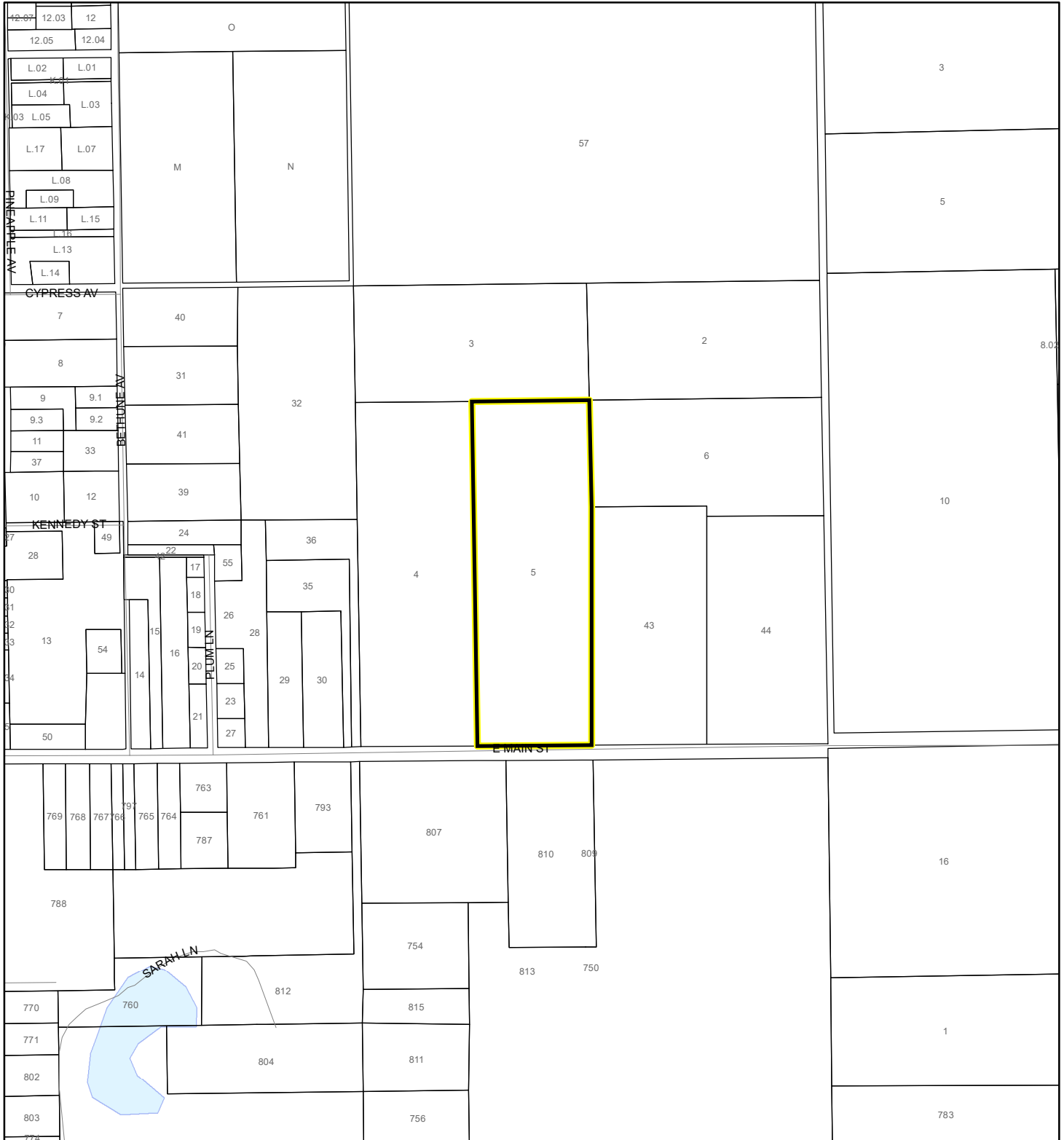
 60 Meters

 All Distances

# EAGLE NESTS MAP

2354 TALMADGE DRIVE LLC

22Z00028



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

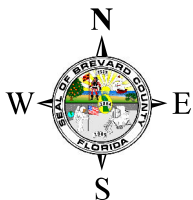
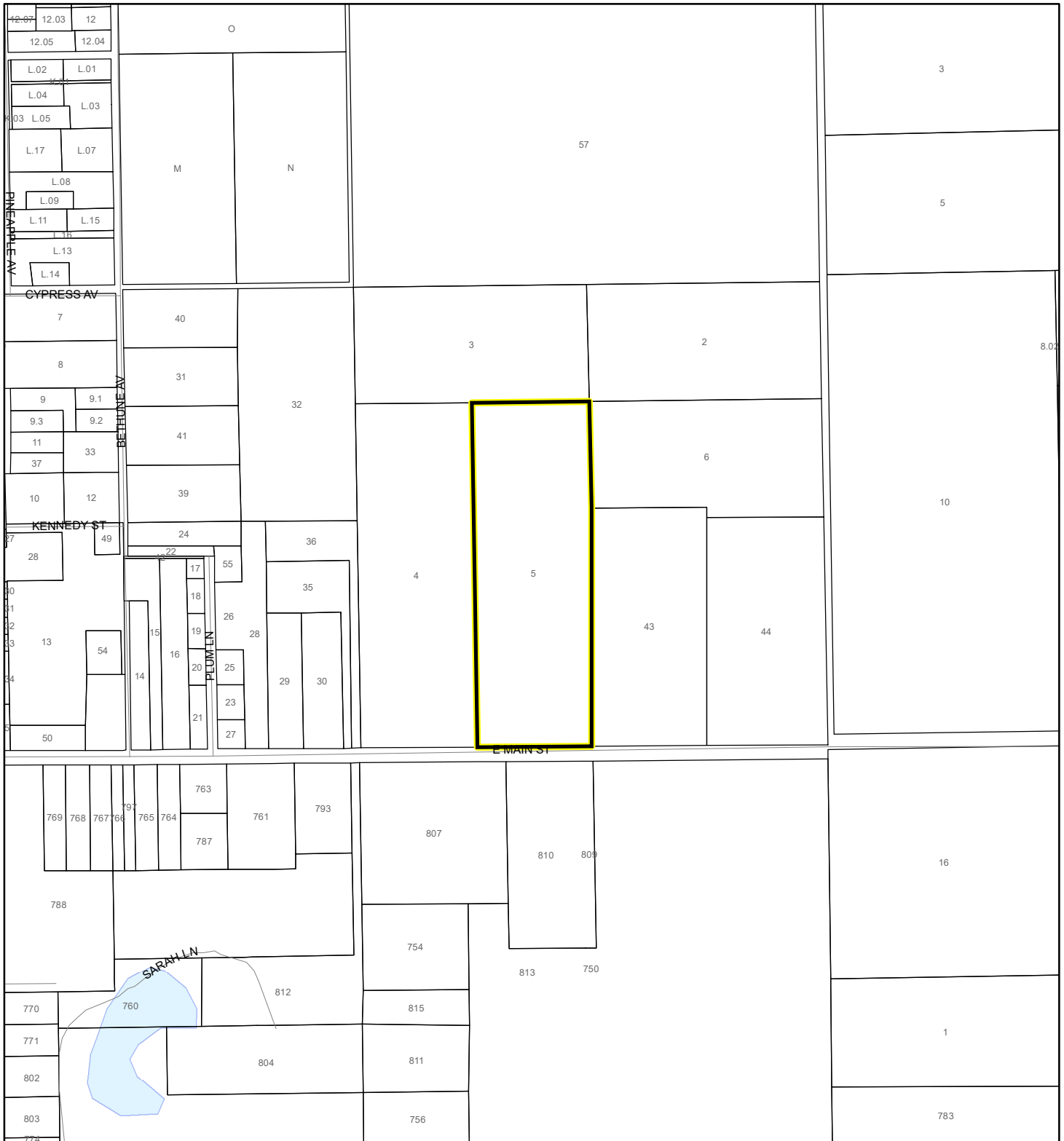


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

2354 TALMADGE DRIVE LLC

22Z00028



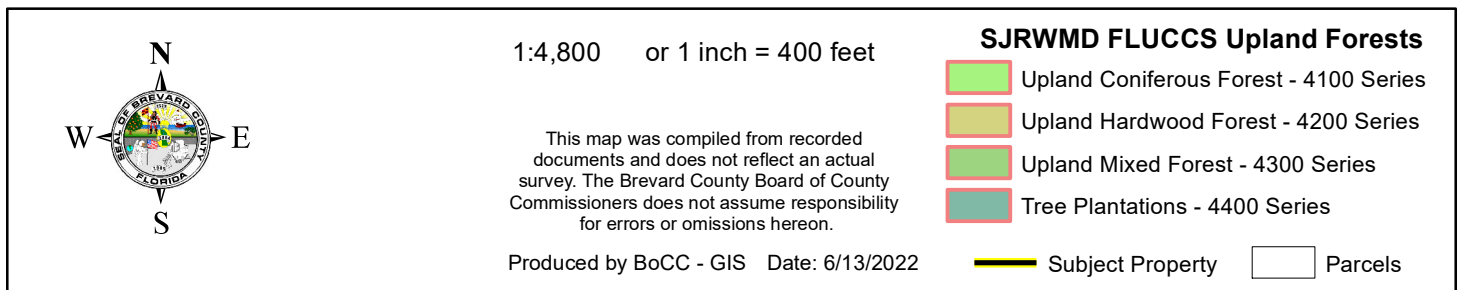
1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/13/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

22Z00028





## School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699  
Dr. Mark W. Mullins, Ed.D., Superintendent

May 23, 2022

Ms. Jane Hart, Planner  
Land Development Section  
Planning & Development Department  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, Florida 32940

**RE: Proposed East Main Street Mims Development  
School Impact Analysis – Capacity Determination CD-2022-27**

Dear Ms. Jane Hart,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account number 2103243 (Parcel ID number: 21-35-17-00-5) containing a total of approximately 7.68 acres in District 1, Brevard County, Florida. The proposed development includes 25 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 and Amended Appendix "A"-School District Student Generation Multiplier (approved April 11, 2022) 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 25			
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.24	6	6
Middle	0.07	1.75	2
High	0.12	3	3
<b>Total</b>	<b>0.43</b>		<b>11</b>

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
Mims	725	725	725	725	725
Madison	781	781	781	781	781
Astronaut	1,451	1,451	1,451	1,451	1,451

**Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	442	433	441	452	446
Madison	480	471	480	457	446
Astronaut	1,076	1,094	1,086	1,078	1,086

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	-	-	-	-	-
Madison	-	-	-	-	-
Astronaut	-	-	-	-	-

**Cumulative Students Generated by  
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	-	2	5	6	6
Madison	-	1	1	2	2
Astronaut	-	1	2	3	3

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	442	435	446	458	452
Madison	480	472	481	459	448
Astronaut	1,076	1,095	1,088	1,081	1,089

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	283	290	279	267	273
Madison	301	309	300	322	333
Astronaut	375	356	363	370	362

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 East Main Street Mims 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  
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-2022-27

David G. Lindemann, AICP, Director of Planning & Project  
Management, Facilities Services  
File CD-2022-27



# East Main Street Mims Location Map



**East Main Street Mims  
25 Single-Family Units**



**Schools Affected by Development:**  
Mims Elementary School  
Madison Middle School  
Astronaut High School

Drawn By:  
Planning & Project Management  
Blake Stinson  
05/20/2022

1,200 600 0 1,200 Feet



**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	508	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	920	97%
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	72%
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	99%
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%	879	855	97%	901	872	97%	923	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	1,319	87%	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%	960	787	82%
Hoover	Middle	7-8	90%	680	510	75%	680	510	75%	680	485	71%	680	506	74%	680	550	81%	680	539	79%
Jackson	Middle	7-8	90%	660	574	87%	660	574	87%	660	594	90%	660	556	84%	660	540	82%	660	531	80%
Jefferson	Middle	7-8	90%	873	622	71%	873	622	71%	873	583	67%	873	580	66%	873	583	67%	873	535	61%
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%	1,064	813	76%
Kennedy	Middle	7-8	90%	869	682	78%	869	682	78%	869	641	74%	869	617	71%	869	628	72%	869	656	75%
Madison	Middle	7-8	90%	781	480	61%	781	480	61%	781	471	60%	781	480	61%	781	457	59%	781	446	57%
McNair	Middle	7-8	90%	611	336	55%	611	350	57%	611	359	59%	611	353	58%	611	362	59%	611	349	57%
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%	1,211	1,157	96%
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%	1,024	846	83%
Middle Totals				10,247	7,595		10,247	7,617		10,247	7,514		10,247	7,661		10,247	7,941		10,247	8,019	
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%	2,084	1,626	78%
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%	1,445	782	54%
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%	1,852	1,448	78%
Jr / Sr High Totals				5,381	4,015		5,381	4,029		5,381	4,021		5,381	4,028		5,381	3,923		5,381	3,856	
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	1,078	74%	1,451	1,086	75%
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%	2,263	2,069	91%
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%	2,221	1,700	77%
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%	2,314	2,248	97%
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%	2,370	2,185	92%
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%	1,962	1,389	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%	2,631	1,643	62%
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%	1,836	1,620	88%
Satellite	High	PK, 9-12	95%	1,527	1,513	99%	1,551	1,550	100%	1,551	1,533	99%	1,551	1,470	95%	1,551	1,438	93%	1,551	1,387	89%
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%	1,849	1,270	69%
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%	2,583	2,469	96%
High Totals				22,627	17,878		22,699	18,126		23,031	18,630		23,031	18,930		23,031	18,953		23,031	19,066	
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%	475	414	87%
South Lake	Elementary	K-6	100%	481	396	82%	481	417	87%	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%	569	508	89%
West Melbourne	Elementary	K-6	100%	618	544	88%	618	552	89%	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%	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%	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		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		85,878	66,275	

## 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.2.

8/15/2022

### Subject:

Carla Theadora Reece requests a change of zoning classification from RR-1 to AU. (22Z00032) (Tax Account 2403816) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

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

### Summary Explanation and Background:

The applicant is seeking a change of zoning classification from RR-1 to AU on a 7.21-acre flag lot parcel for agricultural pursuits such as raising quail for off-site resale of birds and eggs; raising chicken for off-site sale of eggs - and birds as needed; and honey production and off-site sales. The subject parcel is developed with one single family residence. 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, and a minimum house size of 750 square feet. The AU classification also permits the raising/grazing of animals and plants nurseries.

The developed character of the surrounding area is residential and agricultural residential. Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes. To the north is an AU-zoned portion of a 10.1-acre parcel that has RR-1 zoning on the remaining portion west of the subject property. To the south, across James Road, is an undeveloped 8.48-acre parcel with RR-1 zoning. To the west are two parcels (3.0-acre and 1.96-acre), each developed with a single-family residence and zoned RR-1. To the east is an undeveloped 15.7-acre parcel with RR-1 zoning.

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may also wish to consider the potential impacts of agritourism activities in the area.

The Board of County Commissioners will consider the request on **Thursday, September 1, 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, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

(c) General Standards of Review.

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

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

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

### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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

### STAFF COMMENTS

22Z00032

Carla T. Reece

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

Tax Account Number: 2403816  
Parcel I.D.: 24-35-11-00-757  
Location: North side of James Road approximately 0.4 miles west of Cox Road  
(District 1)  
Acreage: 7.21 acres

Planning & Zoning Board: 8/15/2022

Board of County Commissioners: 9/01/2022

#### 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
<b>Zoning</b>	RR-1	AU
<b>Potential*</b>	7 SF units	2 SF unit
<b>Can be Considered under the Future Land Use Map</b>	YES RES 1	YES RES 1

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

#### Background and Purpose of Request

The applicant is seeking a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) on a 7.21-acre flag lot parcel for agricultural pursuits such as raising quail for off-site resale of birds and eggs; raising chicken for off-site sale of eggs - and birds as needed; and honey production and off-site sales. The subject parcel consists of a flag lot, approved July 13, 1990 as administrative action **AA-0517**, and is currently developed with one single family residence built in 2004.

The parcel was originally zoned GU and was rezoned from GU to RR-1 on April 4, 1974, as zoning action **Z-3595**.

#### Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. The proposed AU zoning can be considered consistent with the existing RES 1 FLU designation.

## Applicable Land Use Policies

**FLUE Policy 1.9** –The Residential 1 Future land use designation. The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit per acre, except as otherwise may be provided for within the Future Land Use Element.

The applicant's request can be considered consistent with the existing RES 1 Future Land Use.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

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

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

Criteria:

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

**The applicant proposes to rezone the 7.21-acre flag lot property to AU zoning classification for agricultural pursuits such as raising quail for resale of birds and eggs; raising chicken for sale of eggs - and birds as needed; and honey production and sales. Preliminary concurrency would need to meet code sections 62-2251 through 62-2272. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the 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;

**The surrounding area is single-family residential and agricultural residential in character on lots one (1) acre or larger in size. The predominant FLU designation south of State Road 528 is RES 1.**

- 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.

**While there has not been any actual development within this area in the preceding three (3) years, three zoning actions have been approved within one-half mile.**

**21Z00046, approved by the Board on March 3, 2022, was a request to change GU (General Use) to AU(L) (Agricultural Residential, Low Intensity) on 1.08 acres located approximately 1,440 feet north of the subject property. 21PZ00039, approved April 19, 2022, was a request to change RR-1 (Rural Residential) to AU(L) (Agricultural Residential, Low Intensity) with a BDP prohibiting agritourism on 3.96 acres located approximately 2,275 feet northwest of the subject property. 19PZ00078, approved September 5, 2019, was a request to change RR-1 (Rural Residential) to AU (Agricultural Residential) on 8.88 acres located approximately 1,640 feet southwest of the subject property.**

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

**No material violation of relevant policies has been identified.**

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

There is an existing pattern of agricultural and rural residential zoning surrounding the subject parcel.

#### **Surrounding Area**

	Existing Use	Zoning	Future Land Use
<b>North</b>	Vacant	AU	RES 1
<b>South</b>	Vacant	RR-1	RES 1
<b>East</b>	Vacant	RR-1	RES 1
<b>West</b>	SF residences	RR-1	RES 1

The developed character of the surrounding area is residential and agricultural residential. Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes.

To the north is an AU-zoned portion of a 10.1-acre parcel that has RR-1 zoning on the remaining portion west of the subject property. To the south, across James Road, is an undeveloped 8.48-acre parcel with RR-1 zoning. To the west are two parcels (3.0-acre and 1.96-acre), each developed with a single-family residence and zoned RR-1. To the east is an undeveloped 15.7-acre parcel with RR-1 zoning.

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 and plants nurseries.

RR-1 zoning 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 principal residence within RR-1 zoning.

Two (2) properties classified as bona fide agricultural with the Brevard County Property Appraiser's office are located within 500 feet of the subject property.

Florida Statute 570.86 defines "agritourism activity" as "any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions." Local government is prohibited from adopting ordinances, regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Cox Road, from SR 524 to James 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 14.32% of capacity daily. The development potential from the proposed rezoning decreases the percentage of MAV utilization by 0.27%. The corridor is anticipated to operate at 14.05% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line is approximately 1.9 miles southwest on Adamson Road.

### **Environmental Constraints**

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

The subject parcel contains mapped wetlands and hydric soils; indicators that wetlands may be present of the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict

application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property acreage. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. **The Brevard County Property Appraiser Office establishes Bona Fide Agricultural land classification**, and should be contacted at 321-264-6700 for Bona Fide Agricultural classification requirements. If Bona Fide Agriculture classification is not established, then land clearing and accessory structures, including barns, sheds and other detached structures, are not permitted in wetlands. Section 62-3694(a)(1) states that non-bonafide 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.

Portions of the property are mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

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

### **For Board Consideration**

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may also wish to consider the potential impacts of agritourism activities in the area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item #22Z00032**

**Applicant:** Carla Reece

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

**Note:** Applicant wants to raise fowl & keep bees

**P&Z Hearing Date:** 08/15/22; **BCC Hearing Date:** 09/01/22

**Tax ID No:** 2403816

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

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

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

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

Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. **The Brevard County Property Appraiser Office establishes Bona Fide Agricultural land classification**, and should be contacted at 321-264-6700 for Bona Fide Agricultural classification requirements. If Bona Fide Agriculture classification is not established, then land clearing and accessory structures, including barns, sheds and other detached structures, are not permitted in wetlands. Section 62-3694(a)(1) states that non-bonafide 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.

Portions of the property are mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

### **Land Use Comments:**

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

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

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#### **Aquifer Recharge Soils**

Basinger and Valkaria sands may also function as aquifer recharge soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

#### **Floodplain**

Portions of the property are mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Per Section 62-

3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

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

### **Protected and Specimen Trees**

Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on the parcel. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. A tree survey will be required at time of any building permit submittal, and is recommended prior to any site plan design.

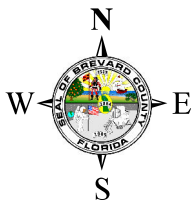
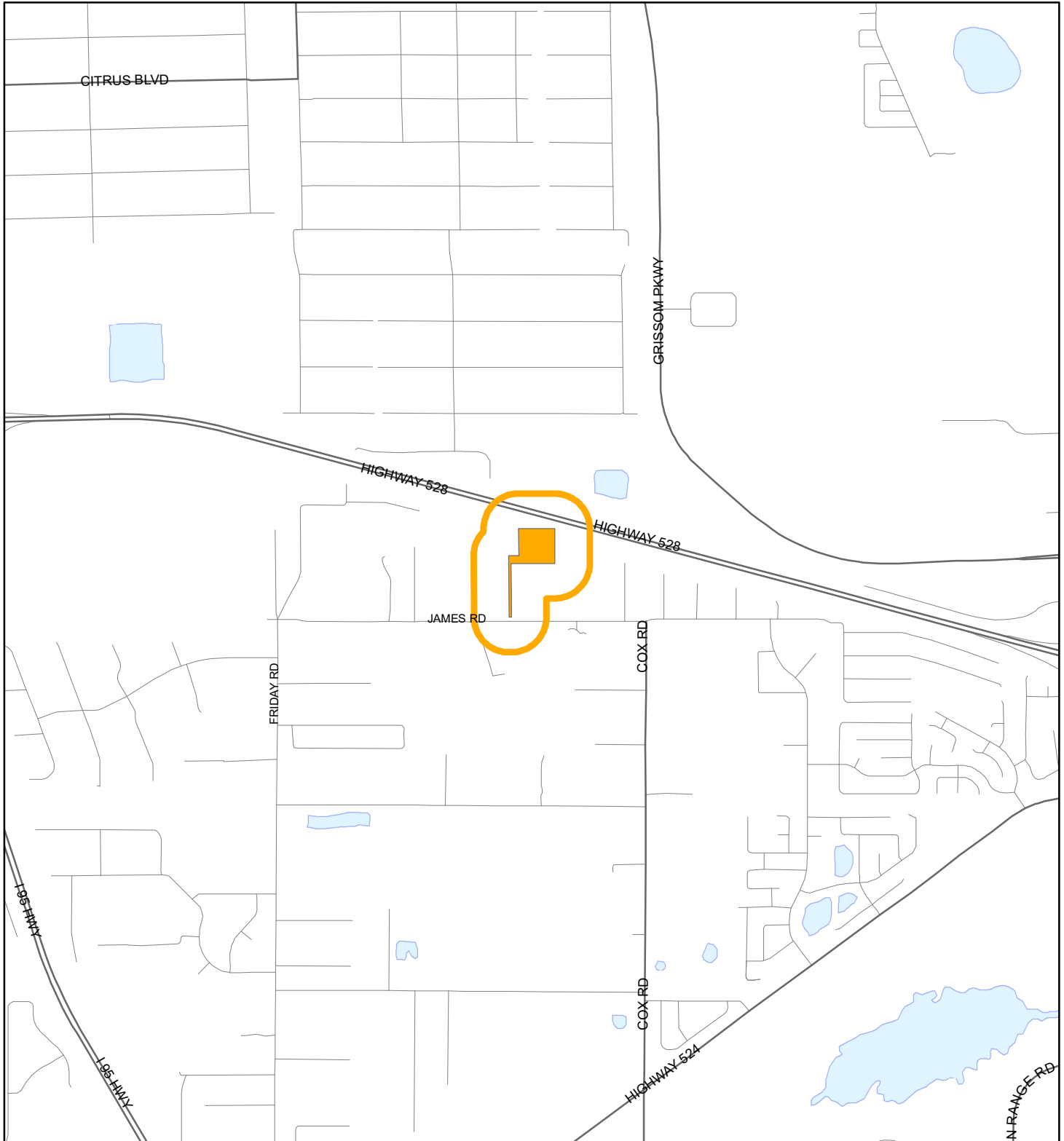
### **Protected Species**

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

REECE, CARLA THEADORA

22Z00032



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

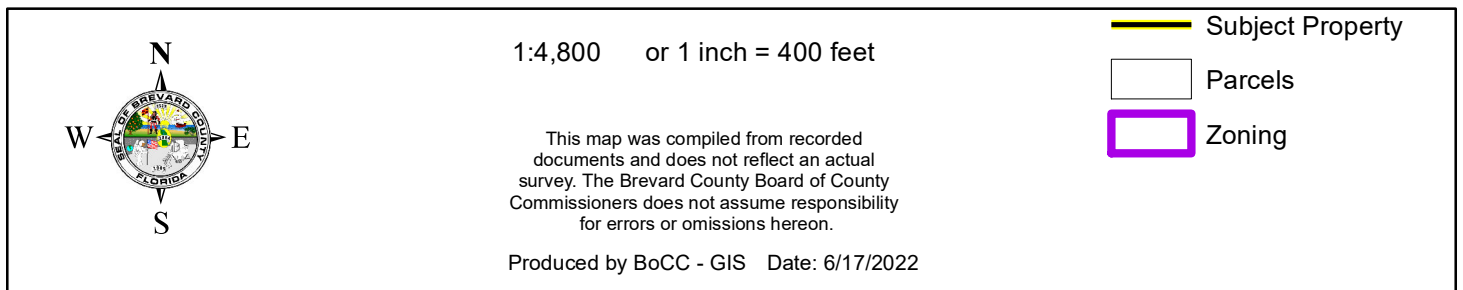
Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 6/17/2022

Buffer  
Subject Property

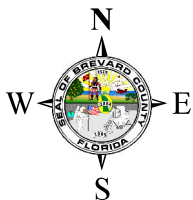
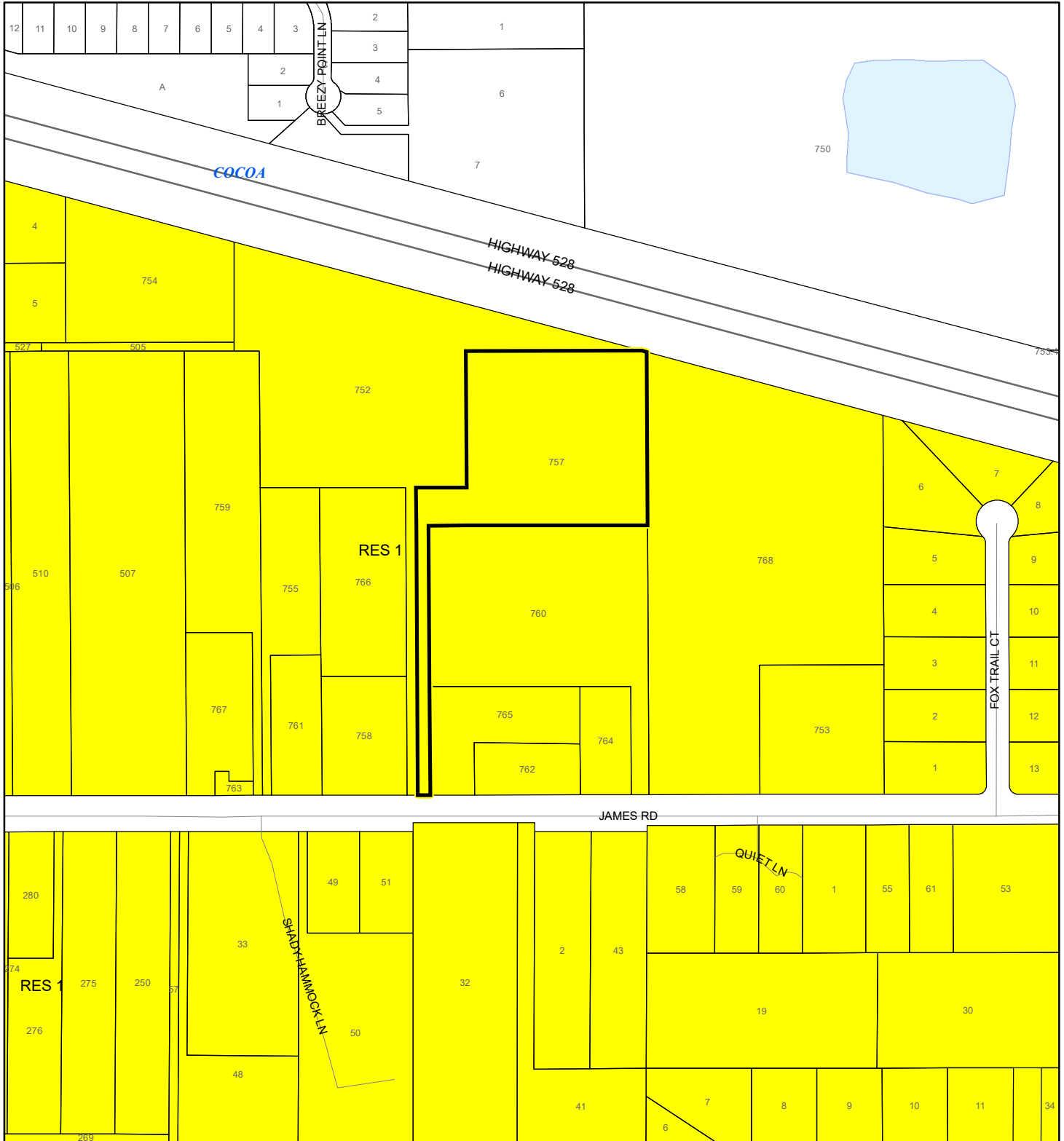
22Z00032



# FUTURE LAND USE MAP

REECE, CARLA THEADORA

22Z00032



1:4,800 or 1 inch = 400 feet

**Subject Property**  
**Parcels**

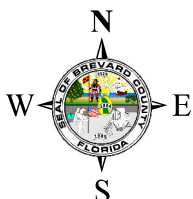
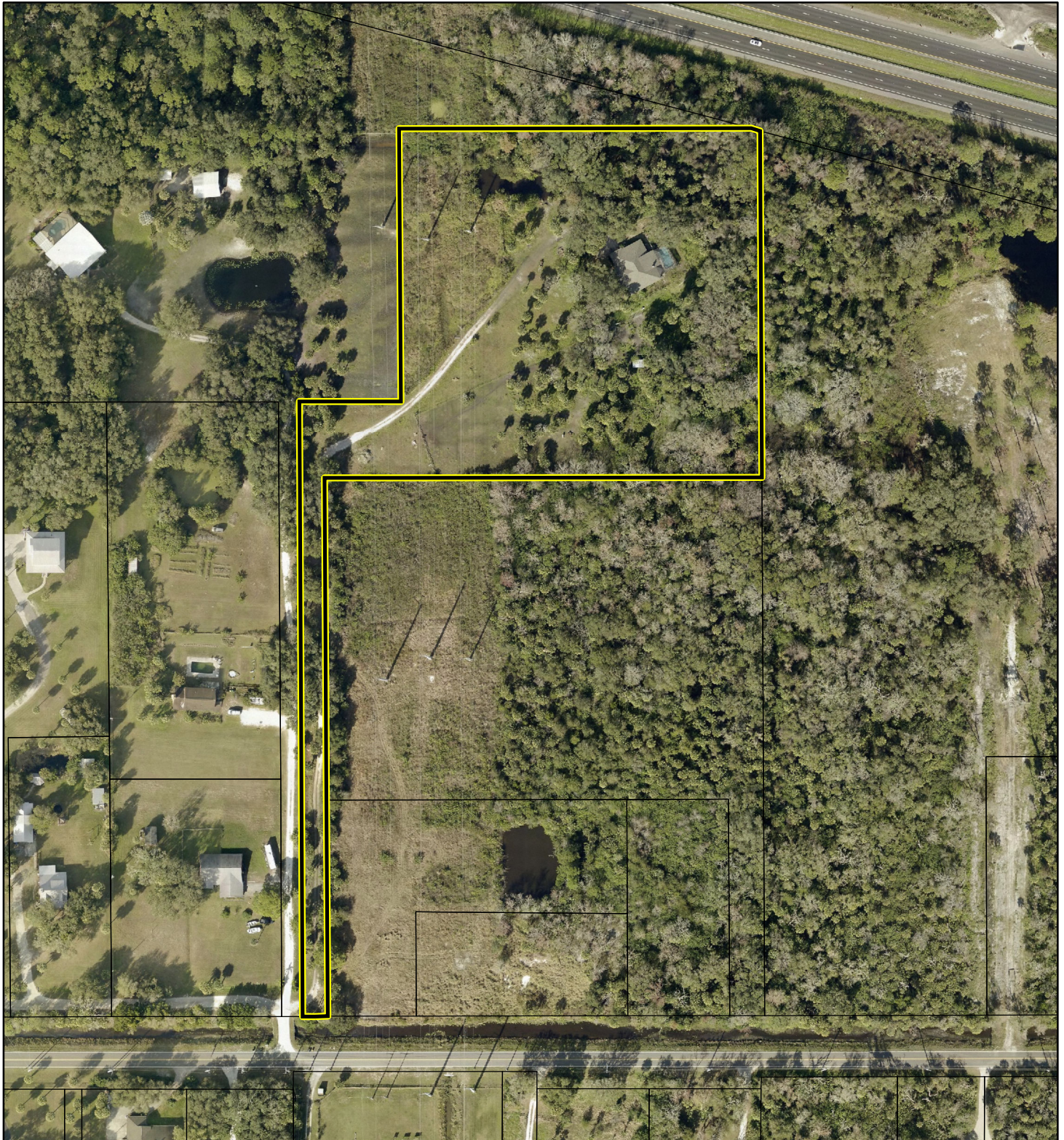
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/17/2022

# AERIAL MAP

REECE, CARLA THEADORA

22Z00032




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

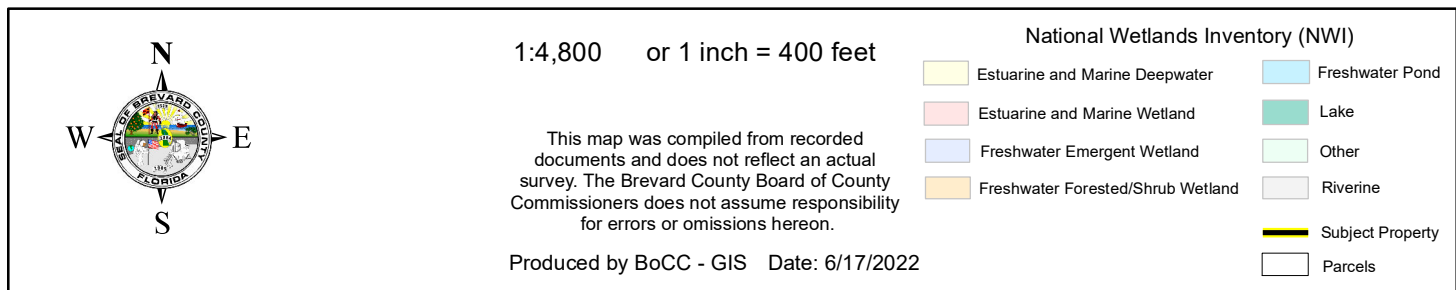
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/17/2022

 Subject Property

 Parcels

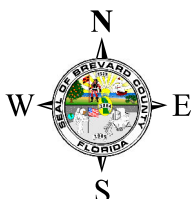
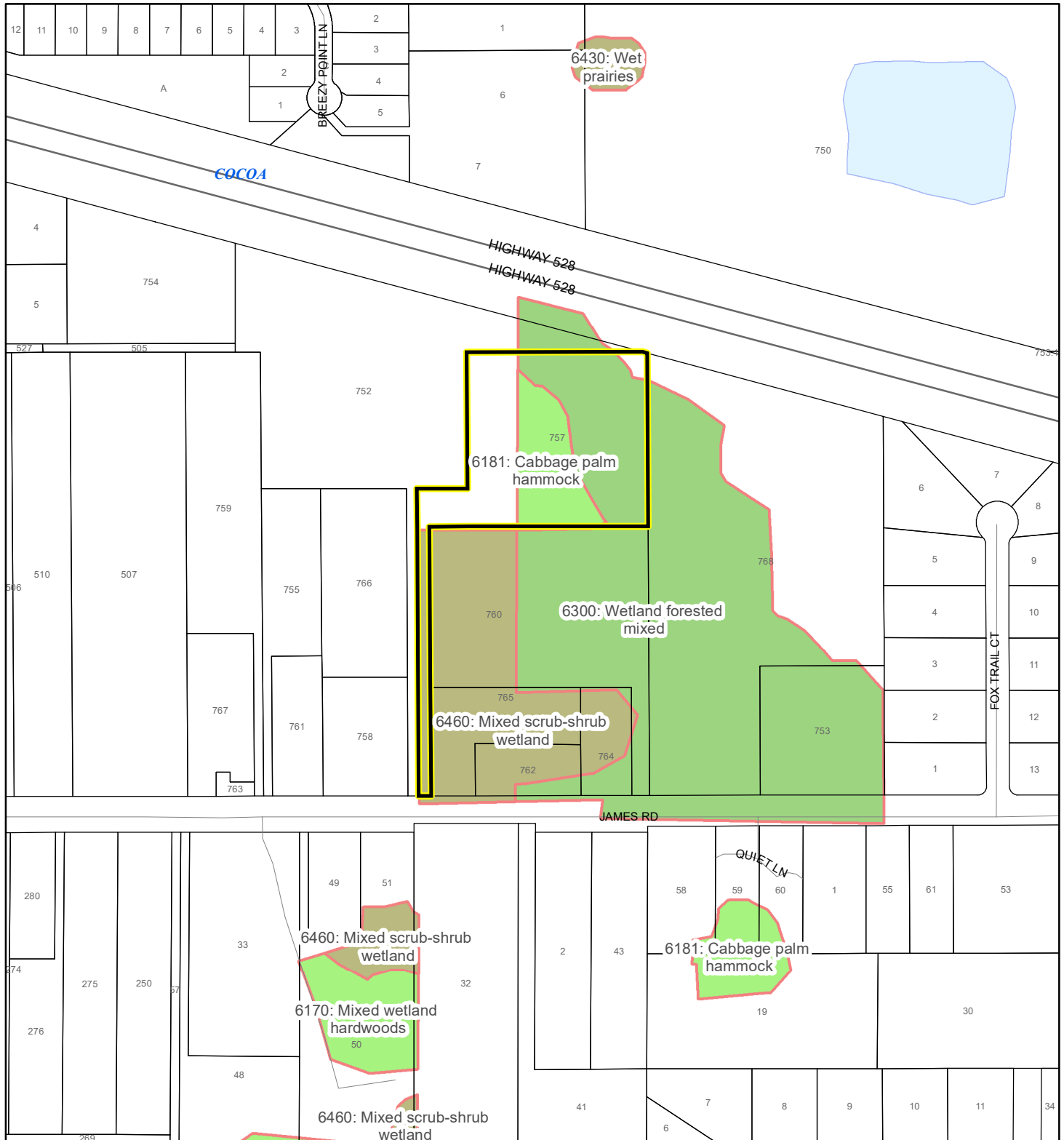
REECE, CARLA THEADORA  
22Z00032



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

REECE, CARLA THEADORA

22Z00032



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

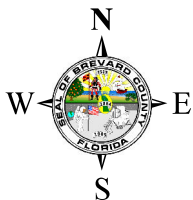
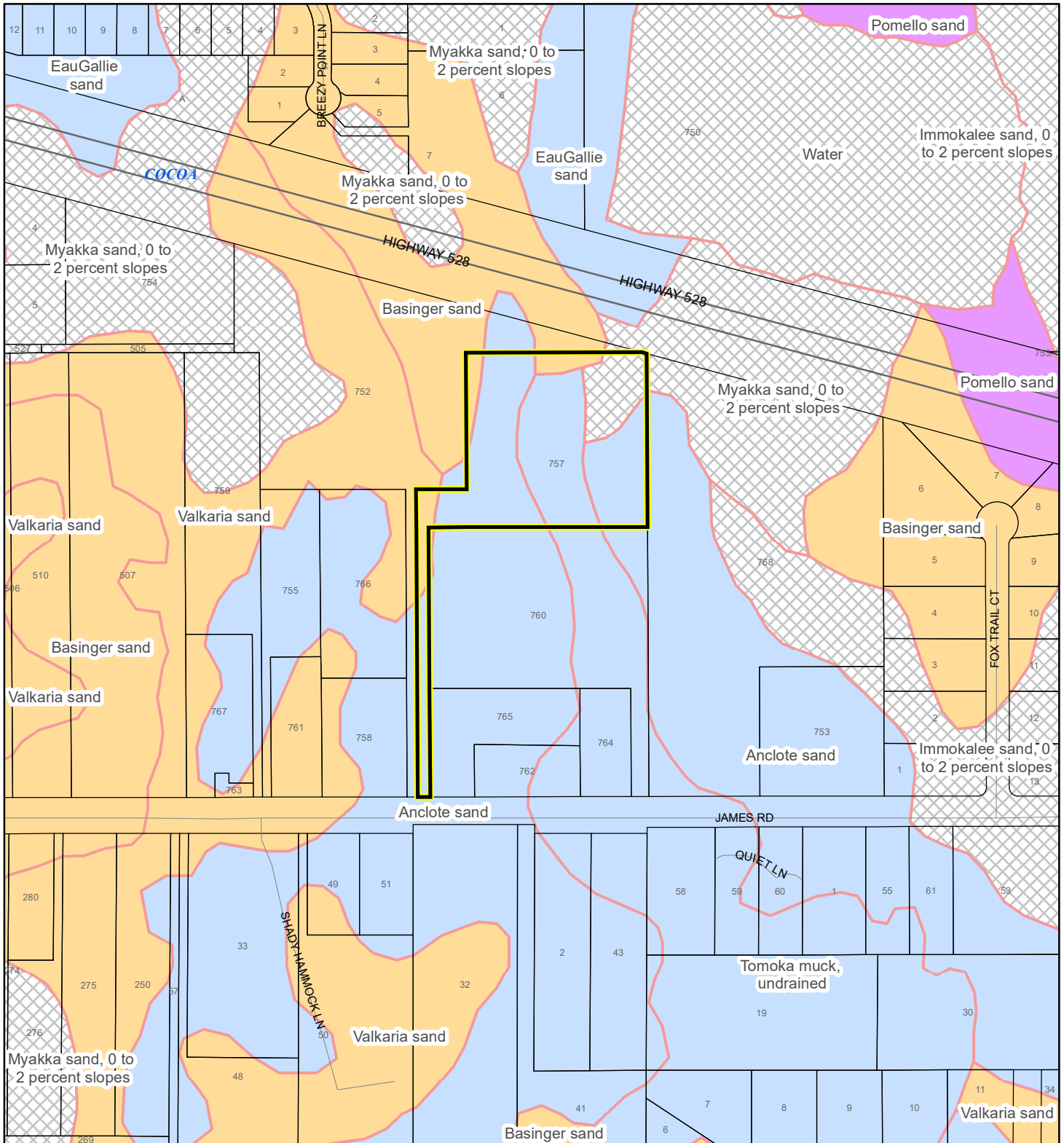
Subject Property

Parcels

# USDA SCSSS SOILS MAP

REECE, CARLA THEADORA

22Z00032



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/17/2022

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

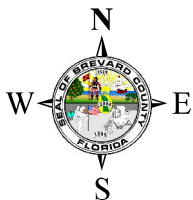
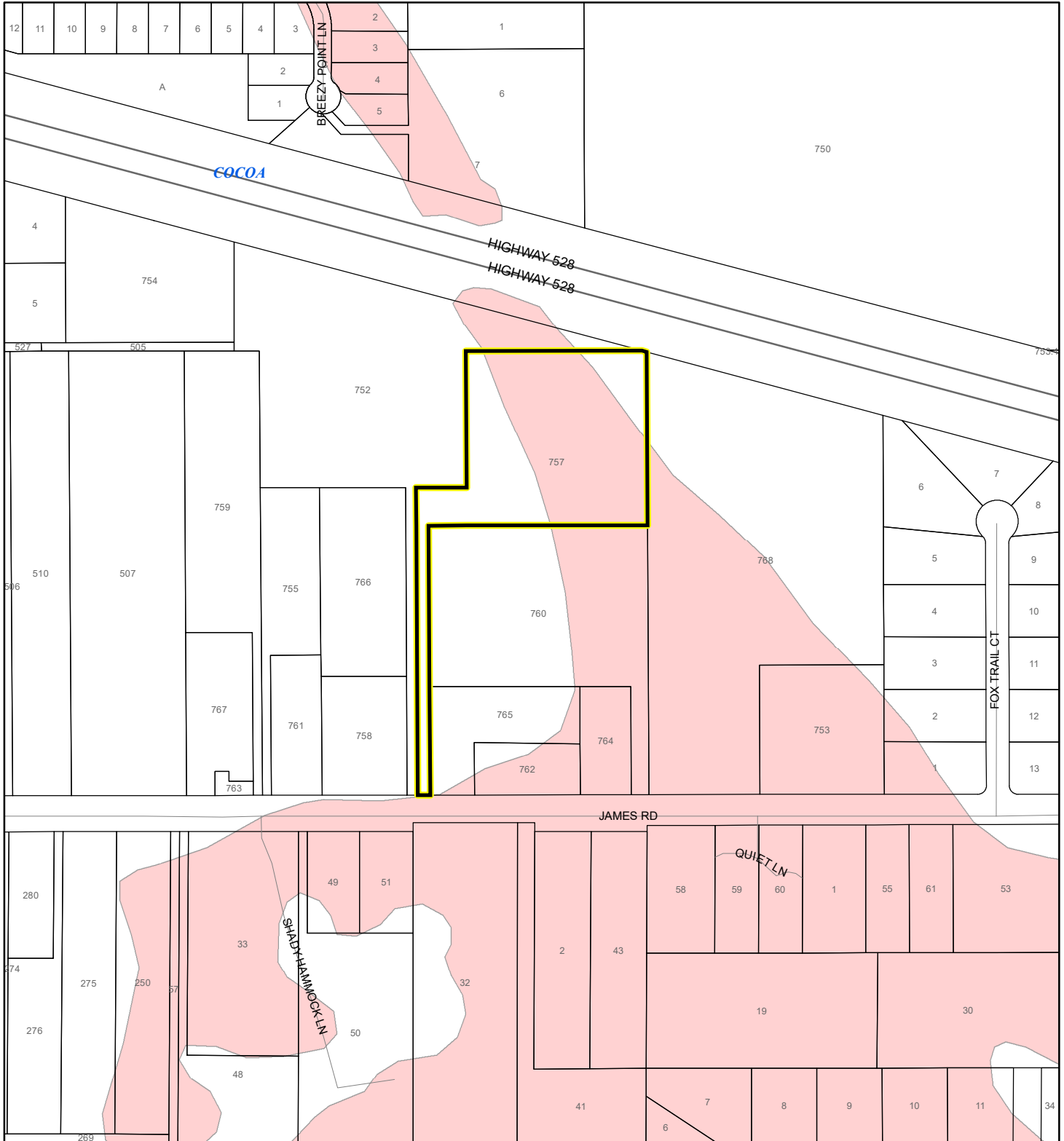
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

REECE, CARLA THEADORA

22Z00032



1:4,800 or 1 inch = 400 feet

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

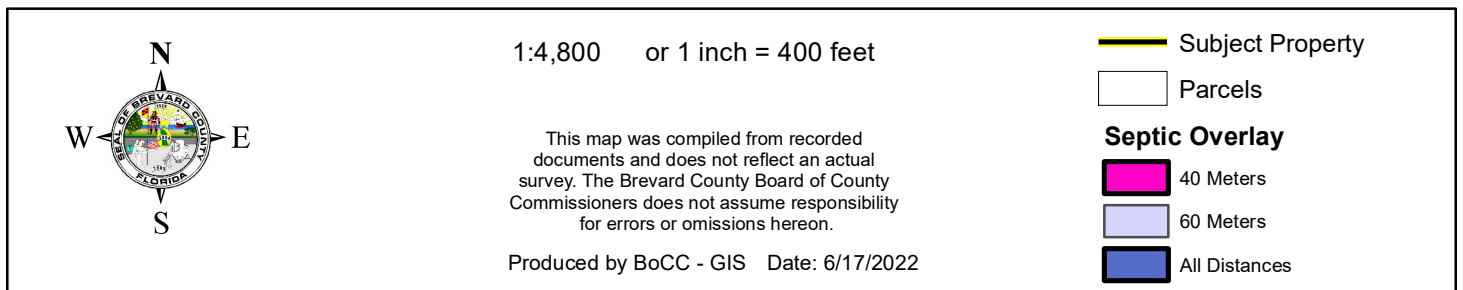
Produced by BoCC - GIS Date: 6/17/2022

## FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	



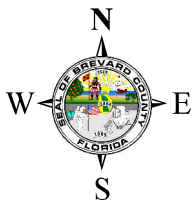
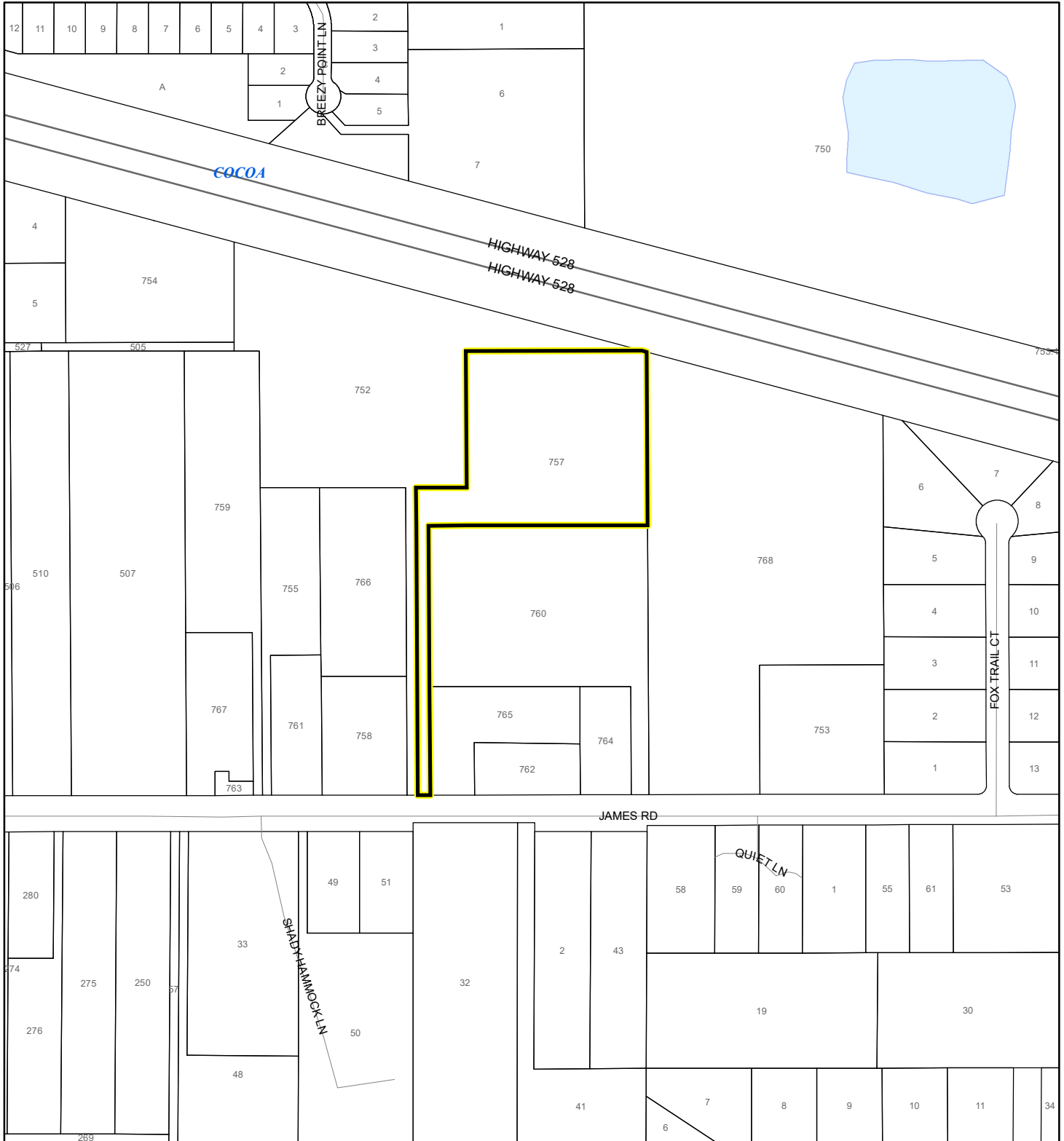
22Z00032



# EAGLE NESTS MAP

REECE, CARLA THEADORA

22Z00032



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

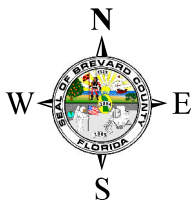
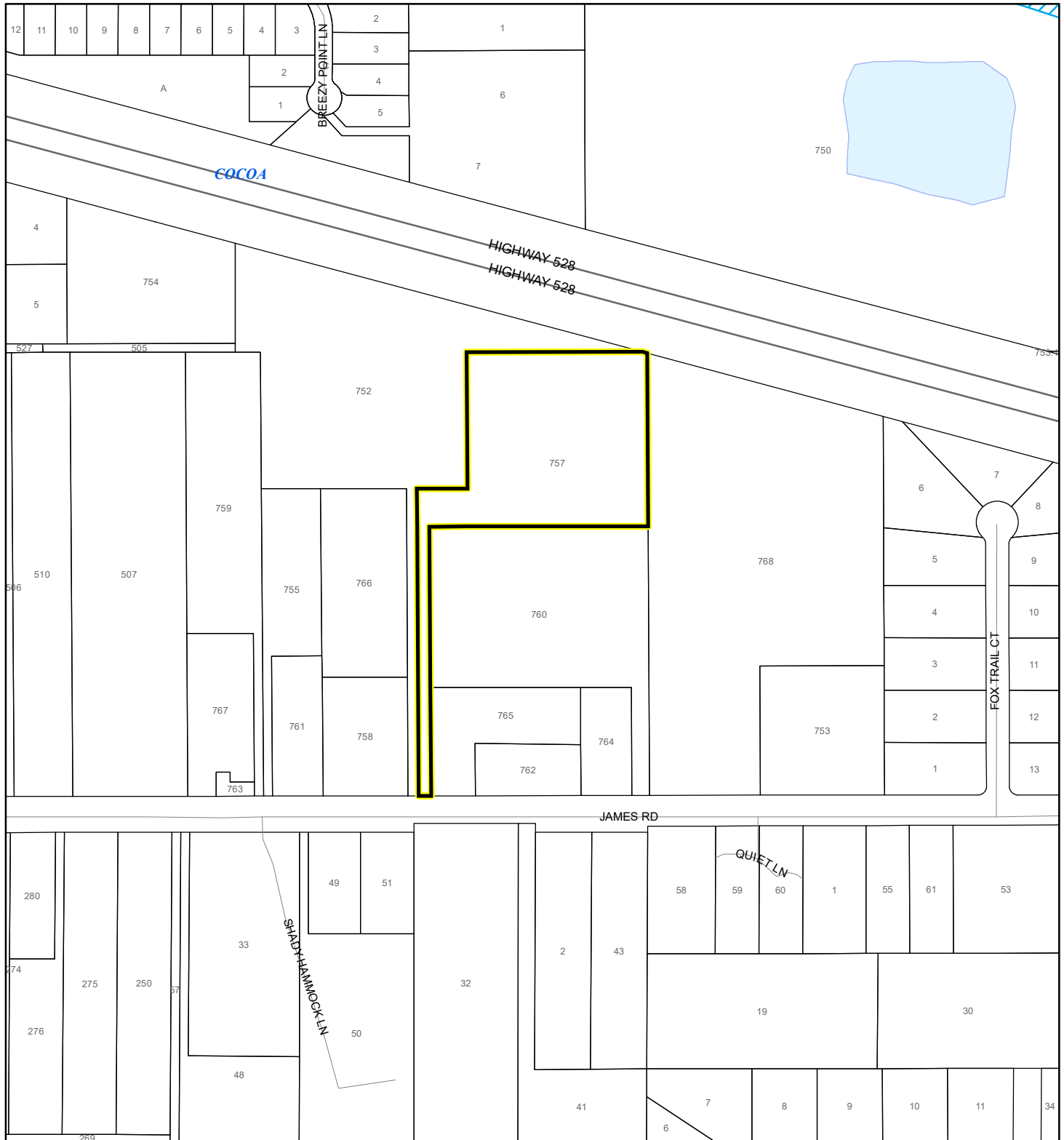
 Subject Property

 Parcels



Eagle Nests  
FWS 2010

22Z00032



1:4,800      or 1 inch = 400 feet

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Produced by BoCC - GIS    Date: 6/17/2022

**Subject Property**

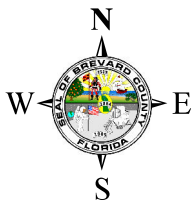
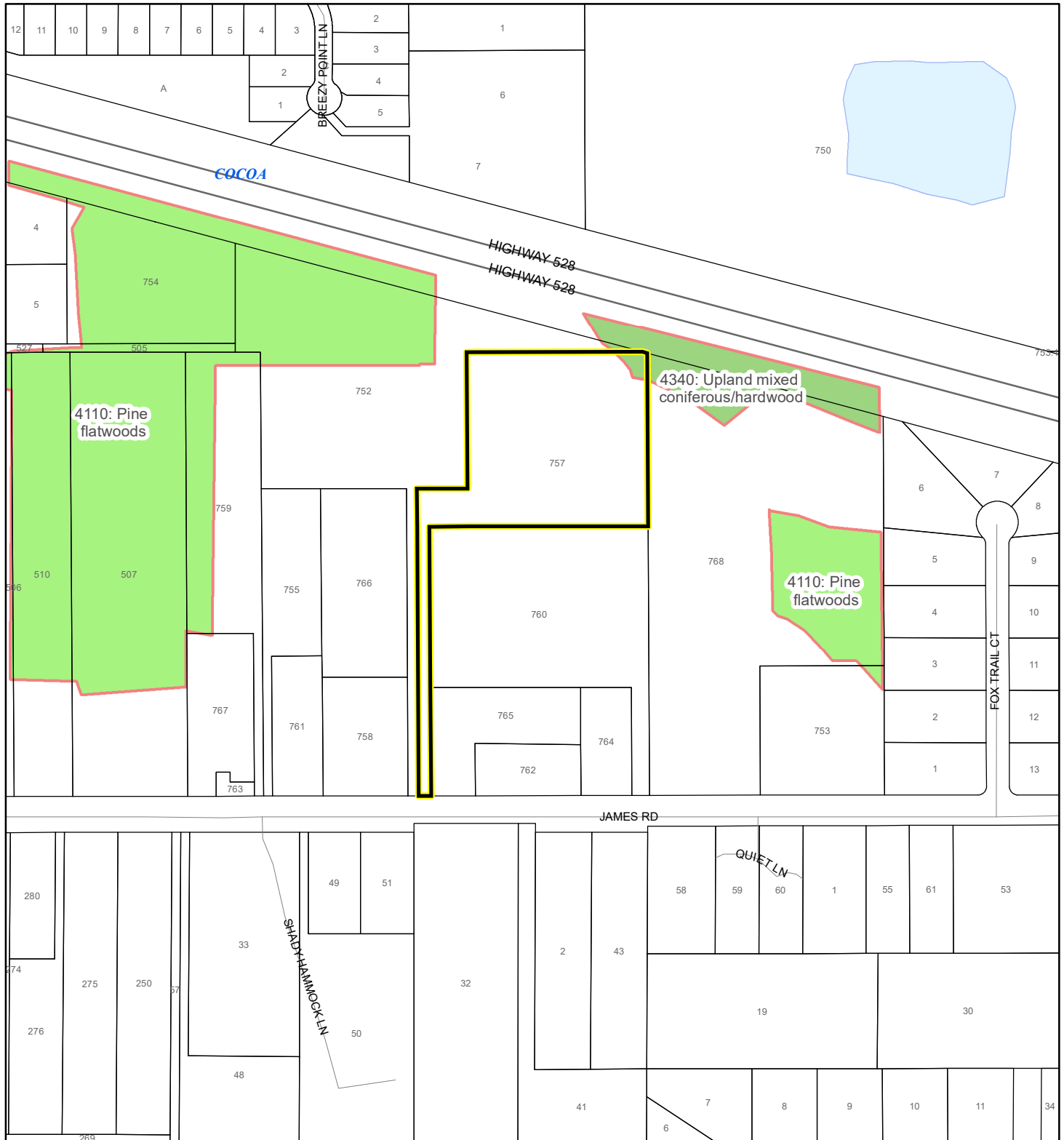
Parcels

 Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

REECE, CARLA THEADORA

22Z00032



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

## 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.3.

8/15/2022

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### Subject:

Daren T. and Regina M. Dempsey request a change of zoning classification from AU to RU-1-13. (22Z00033)  
(Tax Account 2318342) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

It is requested that the Planning & 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 applicants are seeking a change of zoning classification from AU to RU-1-13 in order to split their 1.41-acre property into 2-lots. The current Future Land Use designation of RES 4, will allow up to 5 dwelling units on the property. The RU-1-13 zoning classification permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet, and a minimum house size of 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

The existing house is 1,379 sq. ft. that was built in the 1950's, which is less than the minimum size for either EU or EU-2 zoning classification. In comparison to EU and EU-2, RU-1-13 has the smallest square feet of minimum living area; least setbacks for principal and accessory structures; and least square footage of minimum lot size. All three zoning classifications are devoted to single-family residential development of spacious character with the same permitted uses.

There is an existing pattern of agricultural residential zoning and estate use residential zoning on lots ranging from 0.34 acres to 3.04 acres surrounding the subject property. To the north of the subject property is a single-family residence on a 2.74-acre lot zoned AU; to the south is an HOA-owned tennis court on a 0.56-acre lot zoned EU-2; to the east is a single-family residence on 3.04 acres zoned AU. To the west, across N. Tropical Trail, are two (2) single-family residences, each on 1.25 acres lots zoned EU.

The request can be considered an introduction of RU-1-13 zoning classification into an area developed mostly as single-family residences on lots of spacious character with agricultural uses.

The Board may wish to consider whether the request is consistent and compatible with the surrounding area. The North Merritt Island Dependent Special District Board will hear the request on August 11, 2022. Staff will

update the board of its recommendation.

The Board of County Commissioners will consider the request on **Thursday, September 1, 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, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

(c) General Standards of Review.

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

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

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

### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**22Z00033**

**Daren and Regina Dempsey**

**AU (Agricultural Residential) to RU-1-13 (Single-Family Residential)**

Tax Account Number: 2318342  
Parcel I.D.s: 23-36-34-00-8  
Location: 4850 N. Tropical Trail, Merritt Island, FL 32953 (District 2)  
Acreage: 1.41 acres

North Merritt Island Board: 8/11/2022  
Planning & Zoning Board: 8/15/2022  
Board of County Commissioners: 9/01/2022

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	AU	RU-1-13
<b>Potential*</b>	1 SF lot	5 SF lots
<b>Can be Considered under the Future Land Use Map</b>	YES RES 4	YES RES 4

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

**Background and Purpose of Request**

The applicants are seeking a change of zoning classification from AU (Agricultural Residential) to RU-1-13 (Single-family Residential) in order to split their 1.41-acre property into 2-lots. The current Future Land Use designation of RES 4 will allow up to 5 dwelling units on the property.

The original zoning on the property was AU. The existing residence is 1,379 sq. ft. in size and was built in 1950 according to the Brevard County Property Appraiser website. Brevard County Code of Ordinance, Section 62-1340(1)(a) allows one single-family detached dwelling per lot. In comparison, EU or EU-2 requires a larger house size than what is currently on the property.

In comparison to EU and EU-2, RU-1-13 has the smallest square feet of minimum living area; least setbacks for principal and accessory structures; least square footage of minimum lot size. All three zoning classifications are devoted to single-family residential development of spacious character with the same permitted uses.

The subject property is located within the 2019 North Merritt Island Small Area Study boundary. A recommendation from the 2019 North Merritt Island SAS was for all parcels  $\geq 2.5$  acres in size designated as RES 1 Future Land Use and AU zoning classification, to be amended on the Future Land Use Map to RES 1:2.5. The subject property would have not been subject to this recommendation. The Board of County Commissioners acknowledged the recommendations of the 2019 North Merritt Island SAS, but did not direct staff to implement this recommendation.

## **Land Use**

The subject property is currently designated Residential 4 (RES 4). Both the AU and RU-1-13 zoning classifications can be considered consistent with the Residential 4 FLU designation.

## **Applicable Land Use Policies**

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

## **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;

**Regarding the hours of operation, lighting, odor, noise levels, traffic or site activity. The proposed rezoning is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. Residential uses will need to comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272.**

- 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 subject property has been developed as a single-family residence since 1950. The area immediately surrounding the subject site has been developed as single-family residences with the exception of the Citrus Club HOA tennis court abutting the property to the south. Across N. Tropical Trail northwest of the subject property is a 24.27-acre County-owned park that features an equestrian facility and riverfront launch site for canoes.**

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 development approved but not yet constructed within a half mile 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.

**No material violation of relevant policies has been identified.**

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

There is an existing pattern of agricultural residential zoning and estate use residential zoning on lots ranging from 0.34 acres to 3.04 acres surrounding the subject property.

The request can be considered an introduction of RU-1-13 zoning classification into an area developed mostly as single-family residences on lots of spacious character with agricultural uses.

#### **Surrounding Area**

	Existing Use	Zoning	Future Land Use
<b>North</b>	Single-Family	AU	RES 2
<b>South</b>	Tennis Court	EU-2	RES 4
<b>East</b>	Single-Family	AU	RES 4
<b>West</b>	Single-Family	EU – across N. Tropical Trail	RES 4

To the north of the subject property is a single-family residence on a 2.74-acre lot zoned AU; to the south is an HOA-owned tennis court on a 0.56-acre lot zoned EU-2; to the east is a single-family

residence on 3.04 acres zoned AU. To the west, across N. Tropical Trail, are two (2) single-family residences, each on 1.25 acres lots zoned EU.

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 and plants nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration.

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.

The proposed 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.

There has been one (1) zoning action within a half-mile radius of the subject property within the last three years. **21Z00042, approved** May 31, 2022, was a request to change AU (Agricultural Residential) to RU-2-4 (Low-density Multiple-family Residential) with a BDP on 2.79 acres located 1,757 feet southeast of the subject property.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is N. Tropical Trail, between Hall Road to W. Crisafulli Rd., which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of C, and currently operates at 10.01% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.24%. The corridor is anticipated to operate at 10.25% of capacity daily. The request is not anticipated to create a deficiency in LOS.

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

The parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line and water line is approximately 0.4 miles east on N. Courtenay Pkwy.

### **Environmental Constraints**

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

Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

### **For Board Consideration**

The Board may wish to consider whether the introduction of RU-1-13 is consistent and compatible with the surrounding area.

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

**Item #22Z00033**

**Applicant:** Regina Dempsey

**Zoning Request:** AU to RU-1-13

**Note:** Applicant wants to split lot

**NMI Hearing Date:** 8/11/22; **P&Z Hearing Date:** 8/15/22; **BCC Hearing Date:** 9/1/22

**Tax ID No:** 2318342

- 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 Septic Overlay
- Protected and Specimen Trees
- Protected Species

**Land Use Comments:**

**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.

**Indian River Lagoon Nitrogen Reduction Overlay**

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If no sewer is 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.

### **Protected and Specimen Trees**

Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan 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.

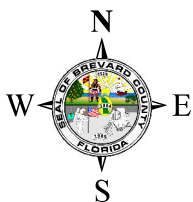
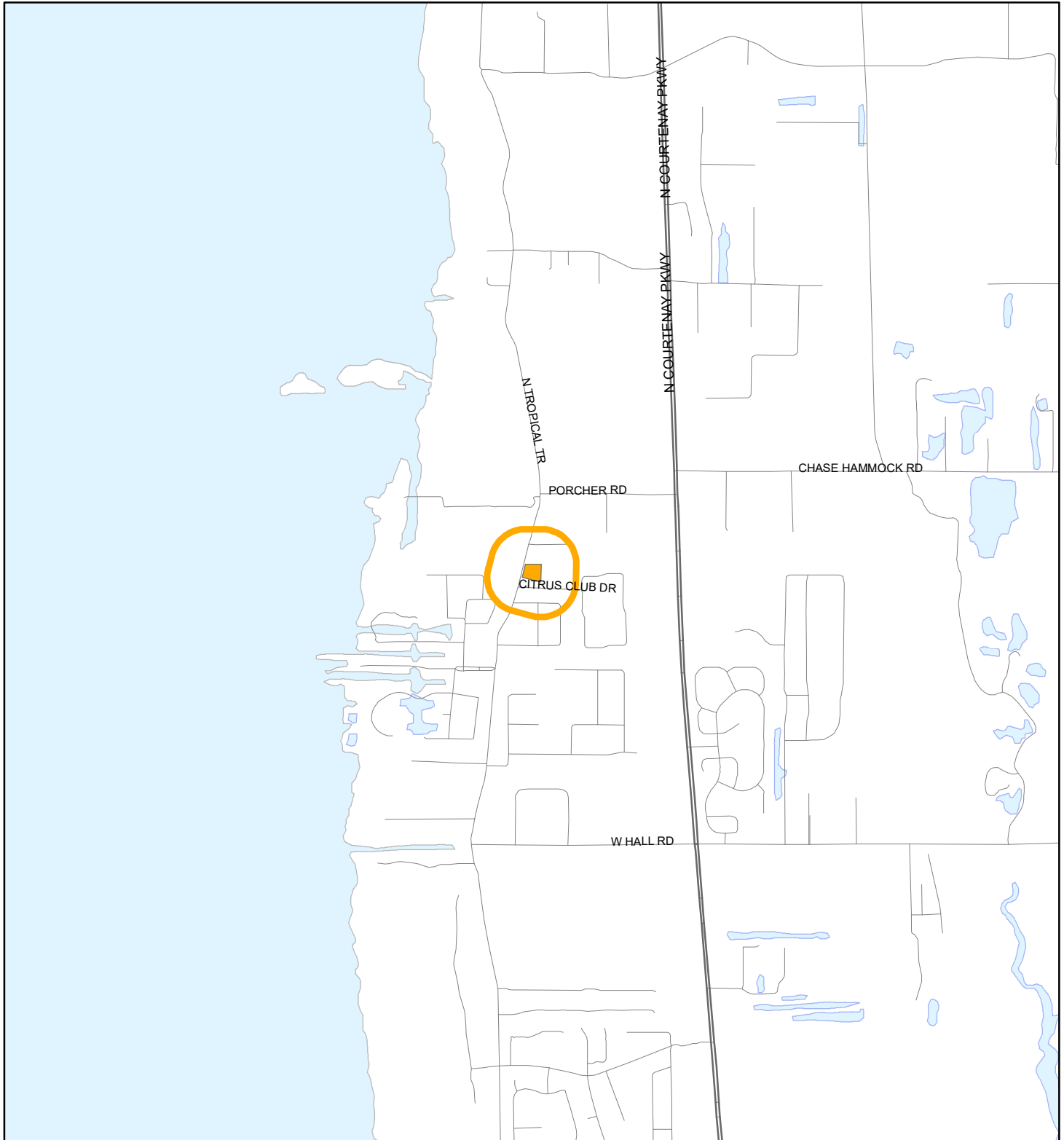
### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is potential for existence of Gopher Tortoises 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

DEMPSEY, DAREN T

22Z00033



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

Buffer Distance: 500 feet

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

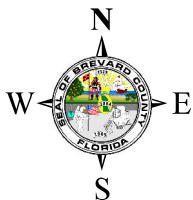
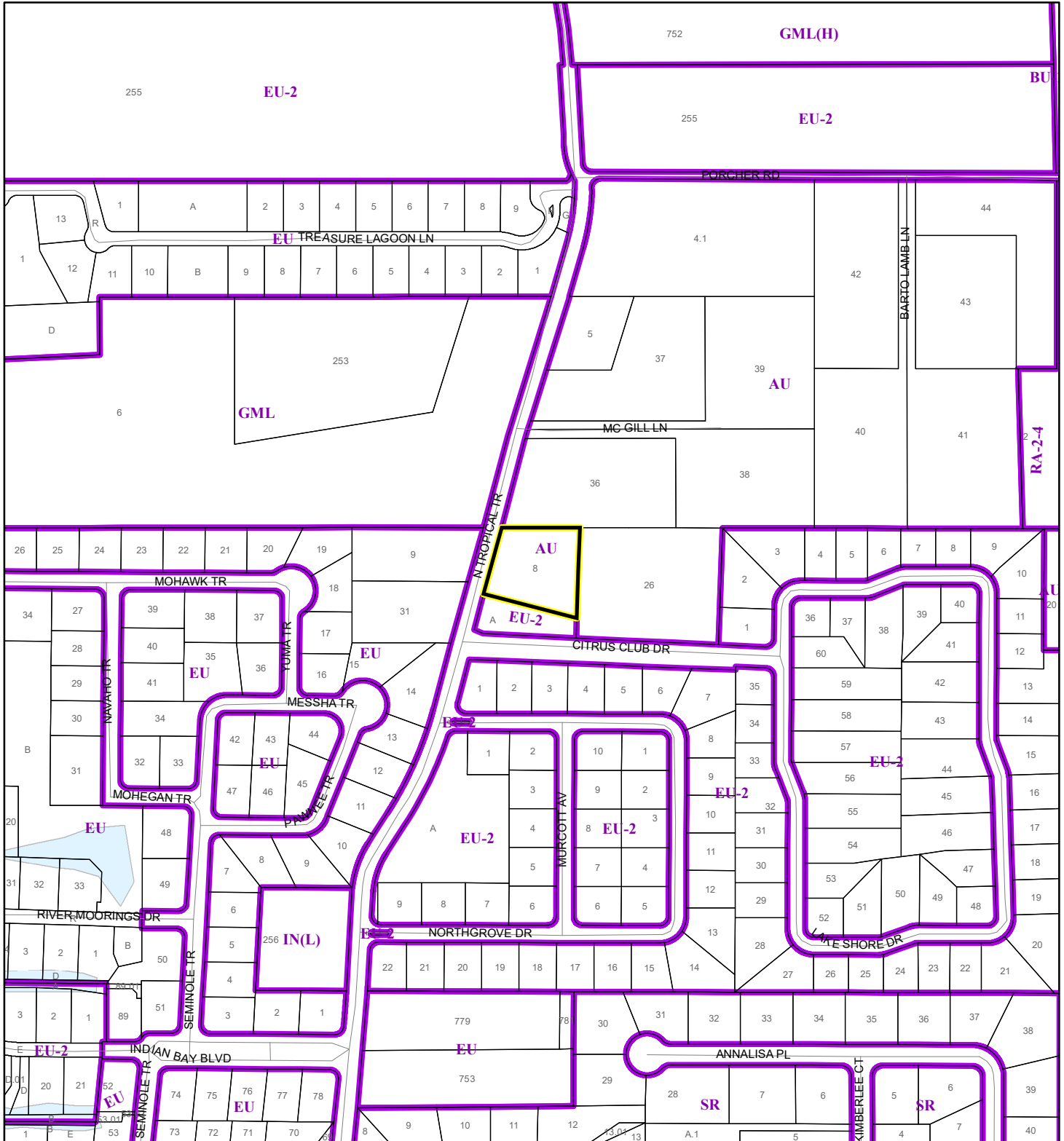
Produced by BoCC - GIS Date: 6/17/2022

Buffer  
Subject Property

# ZONING MAP

DEMPSEY, DAREN T

22Z00033



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/17/2022

Subject Property

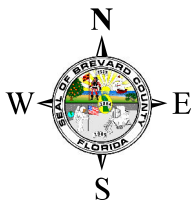
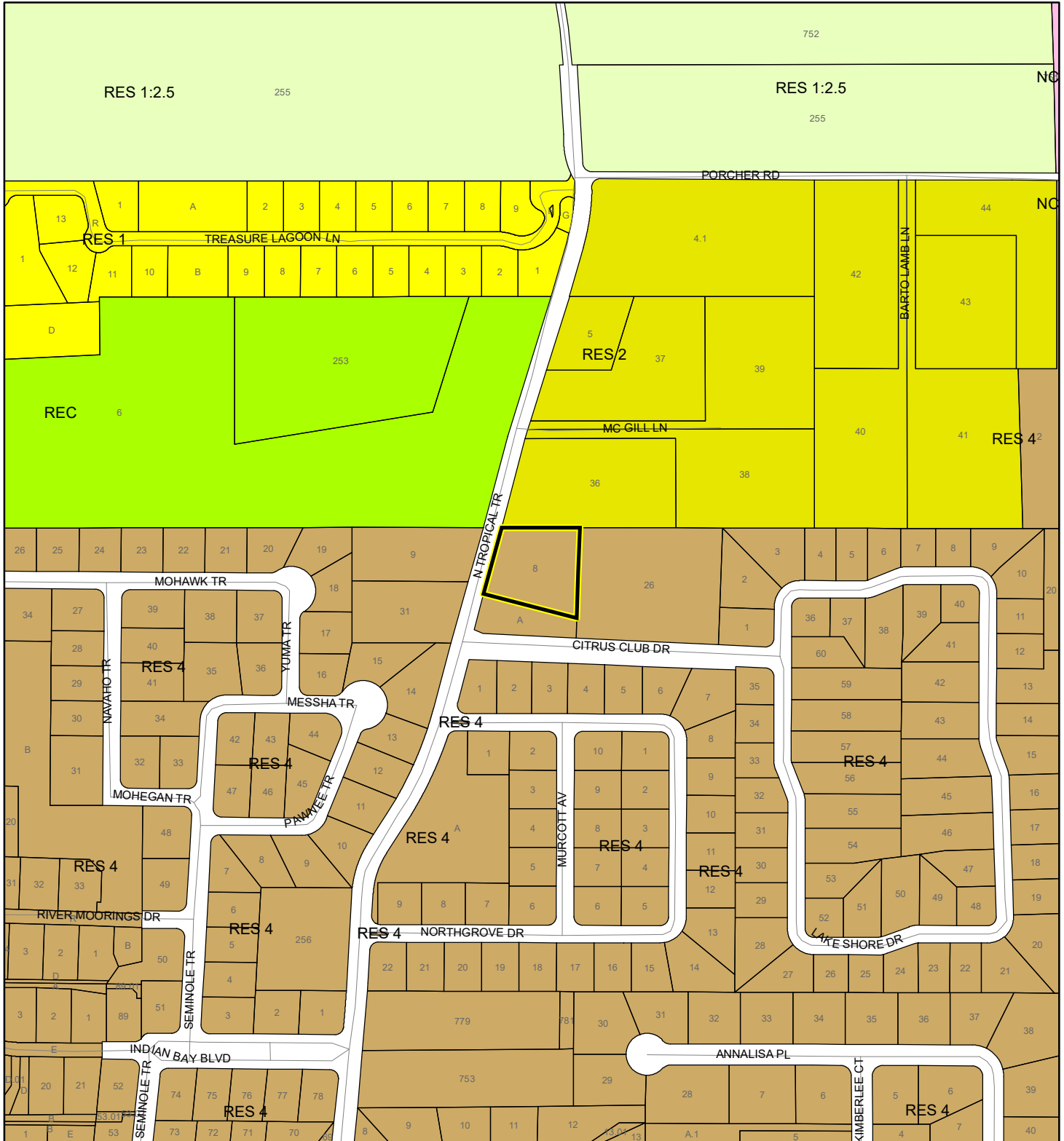
Parcels

Zoning

# FUTURE LAND USE MAP

DEMPSEY, DAREN T

22Z00033



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

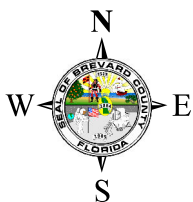
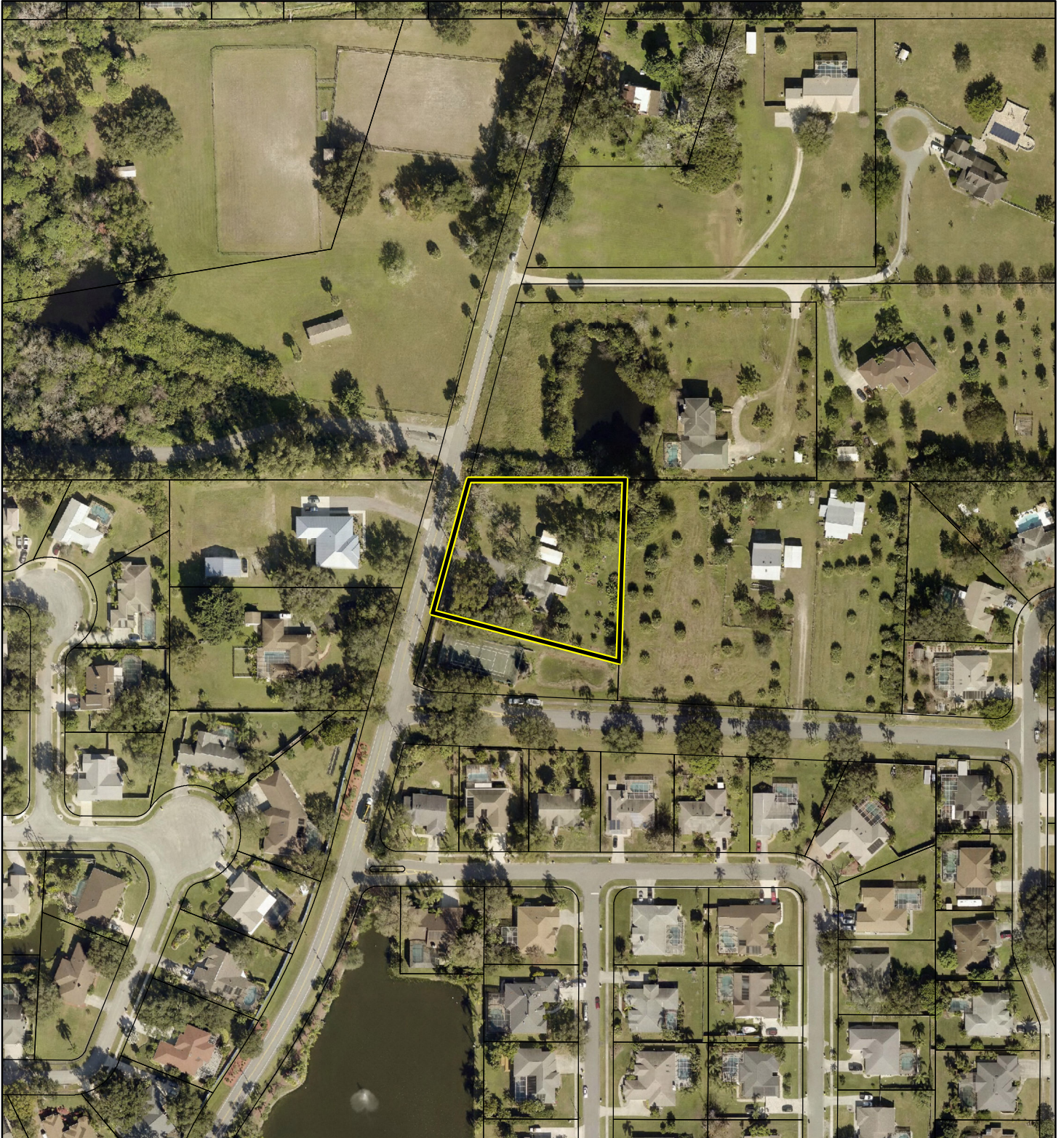
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/17/2022

# AERIAL MAP

DEMPSEY, DAREN T

22Z00033





1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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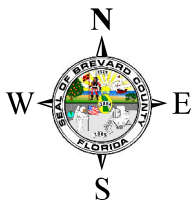
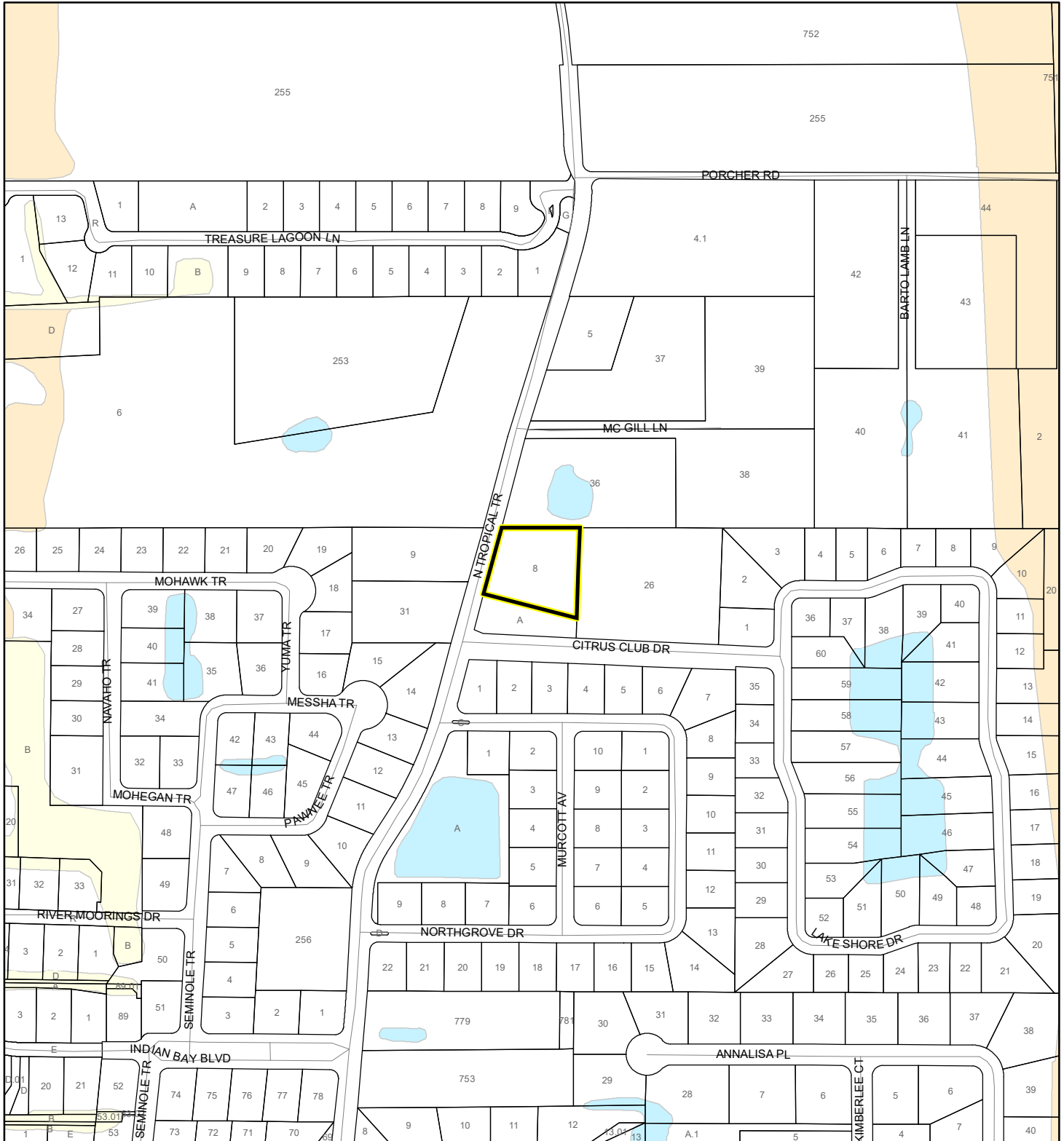
Produced by BoCC - GIS Date: 6/17/2022

 Subject Property  
 Parcels

# NWI WETLANDS MAP

DEMPSEY, DAREN T

22Z00033













1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

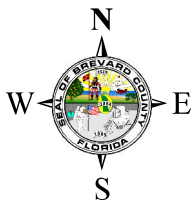
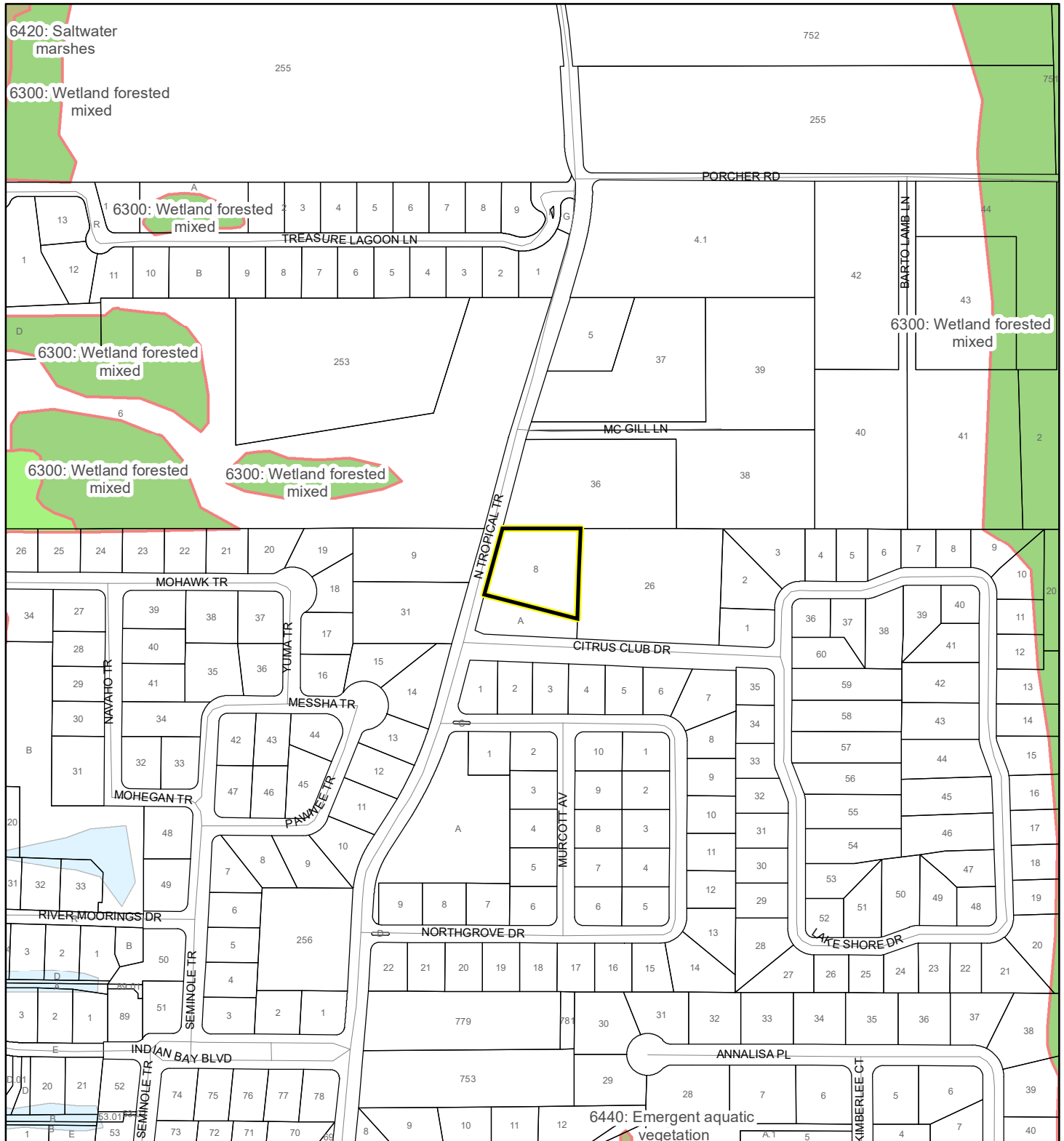
## National Wetlands Inventory (NWI)

 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

DEMPSEY, DAREN T

22Z00033



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

## 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

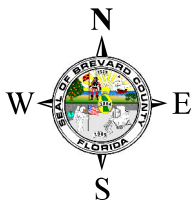
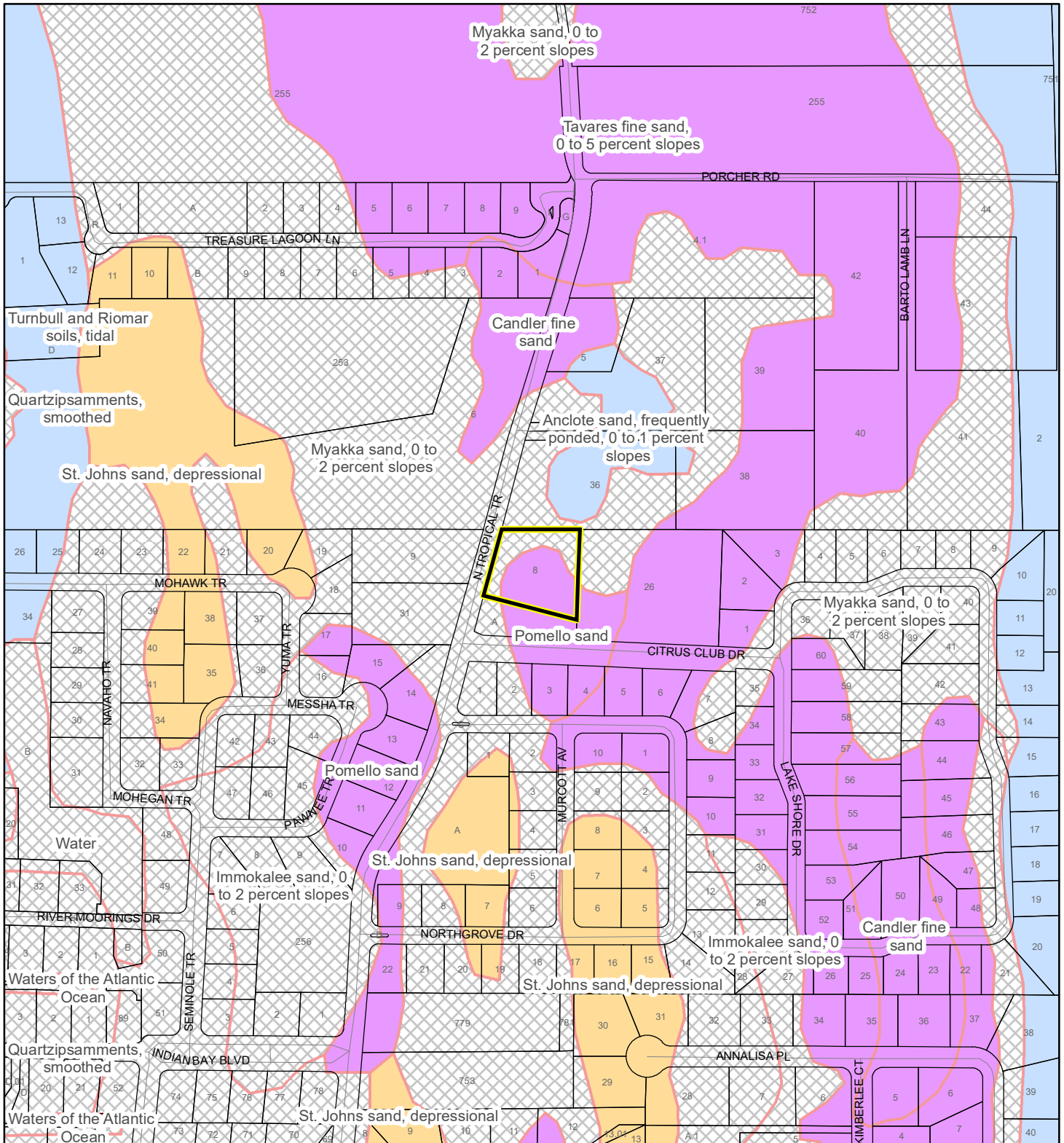
Subject Property

Parcels

# USDA SCSSS SOILS MAP

DEMPSEY, DAREN T

22Z00033



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/17/2022

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

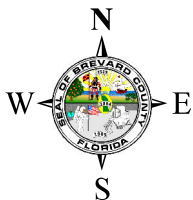
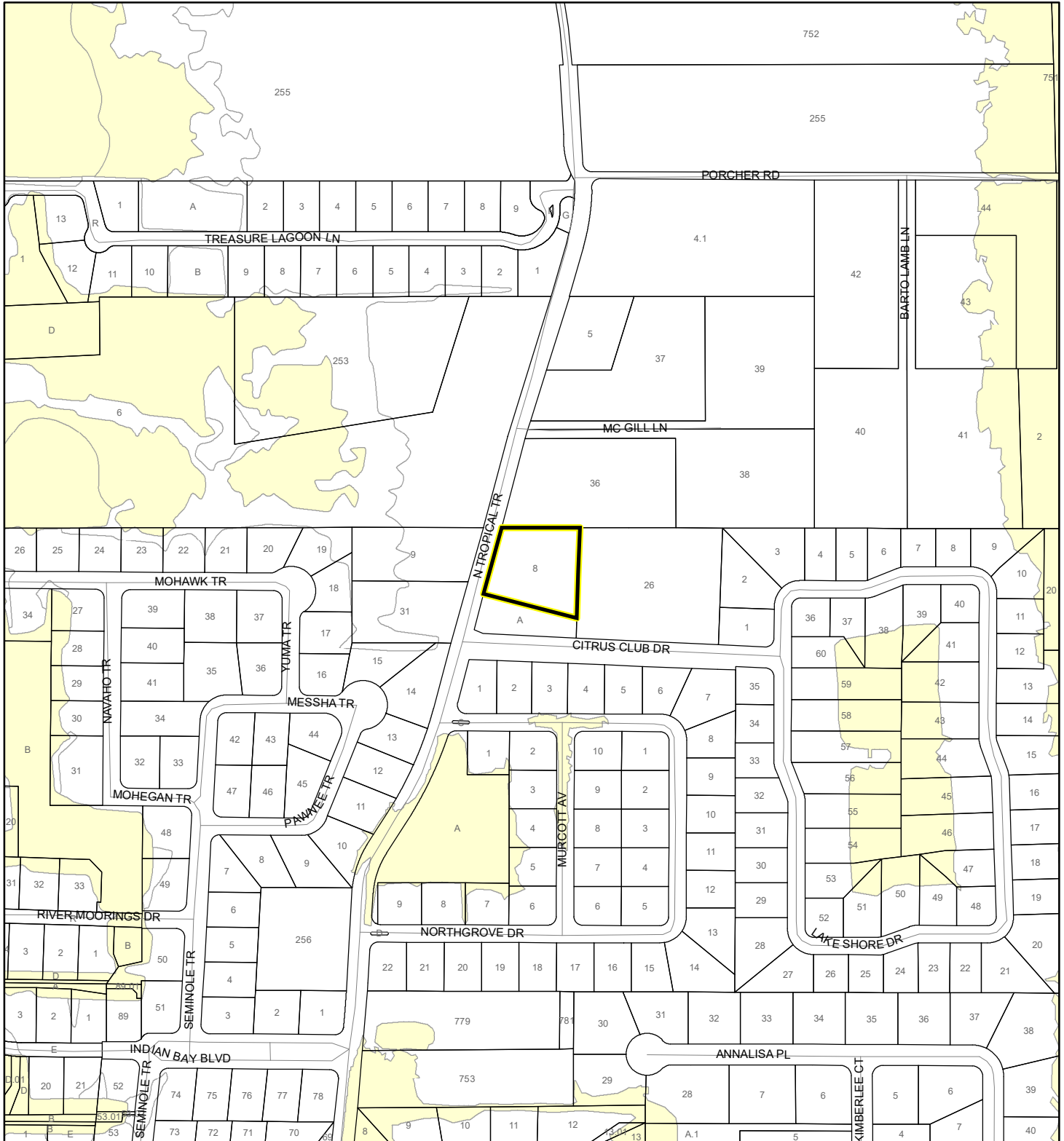
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

DEMPSEY, DAREN T

22Z00033



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

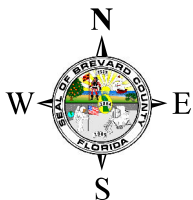
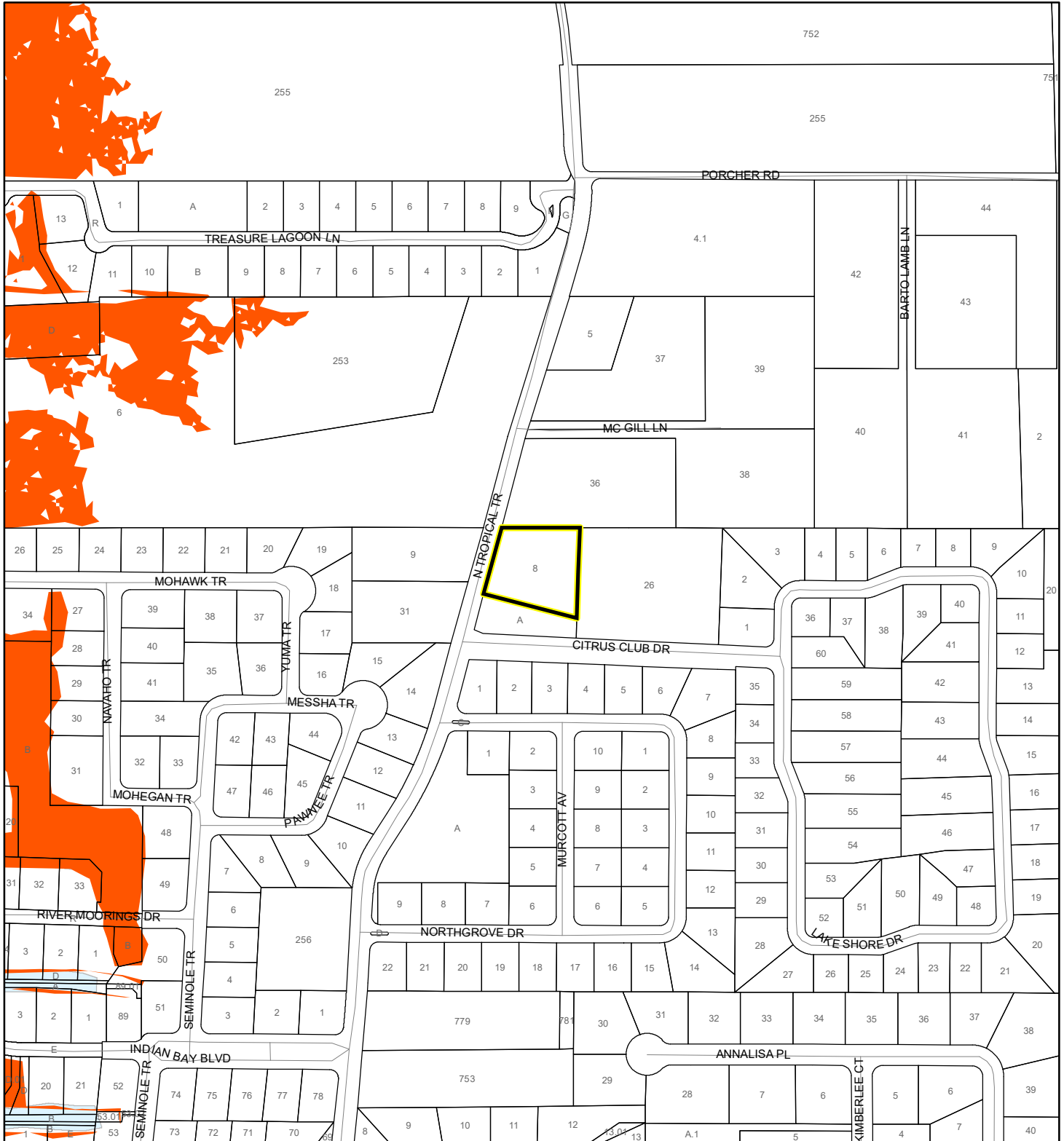
## FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

# COASTAL HIGH HAZARD AREA MAP

DEMPSEY, DAREN T

22Z00033



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 6/17/2022

 Subject Property

 Parcels

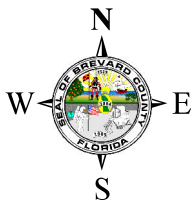
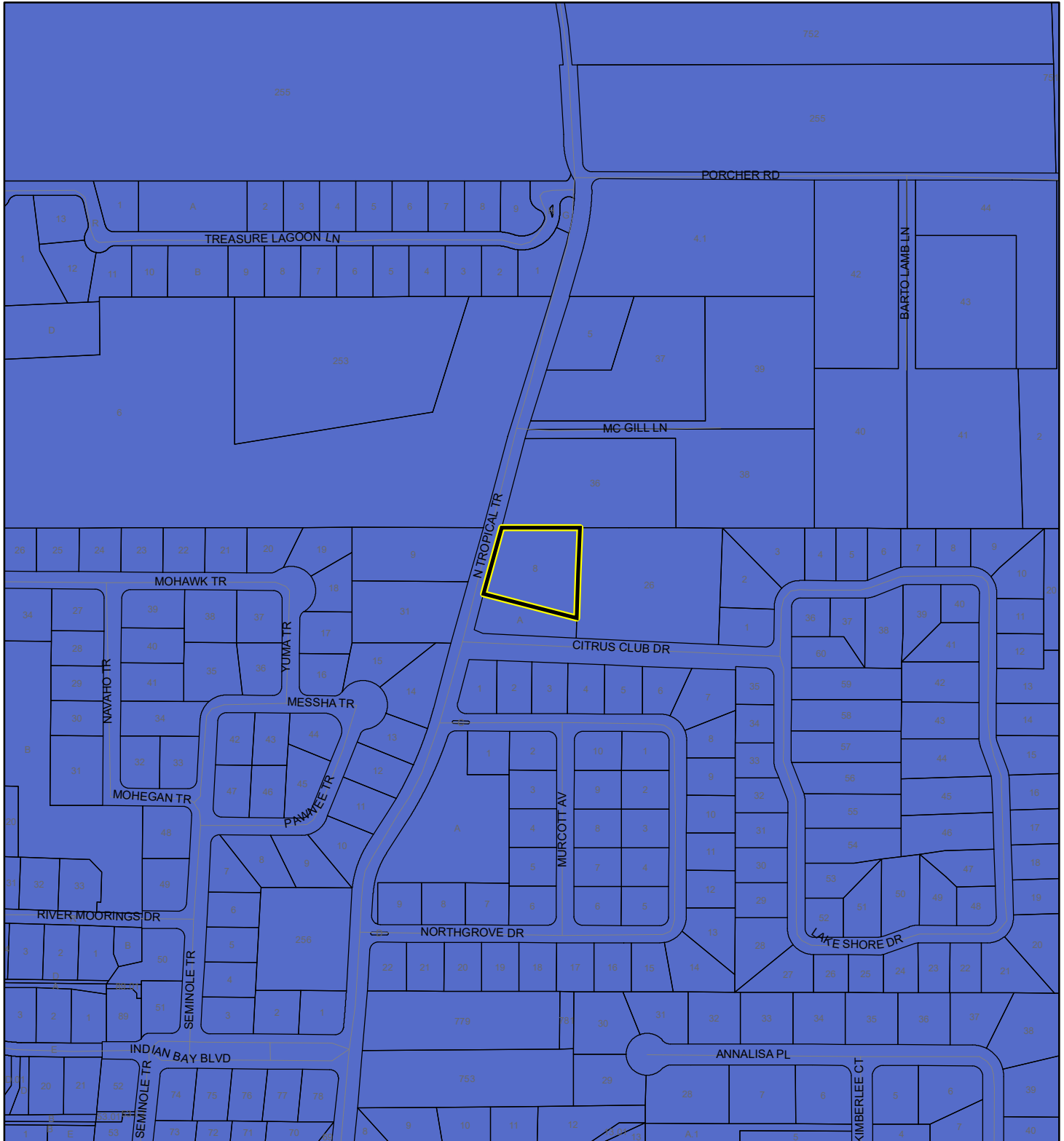
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DEMPSEY, DAREN T

22Z00033



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/17/2022

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

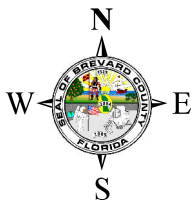
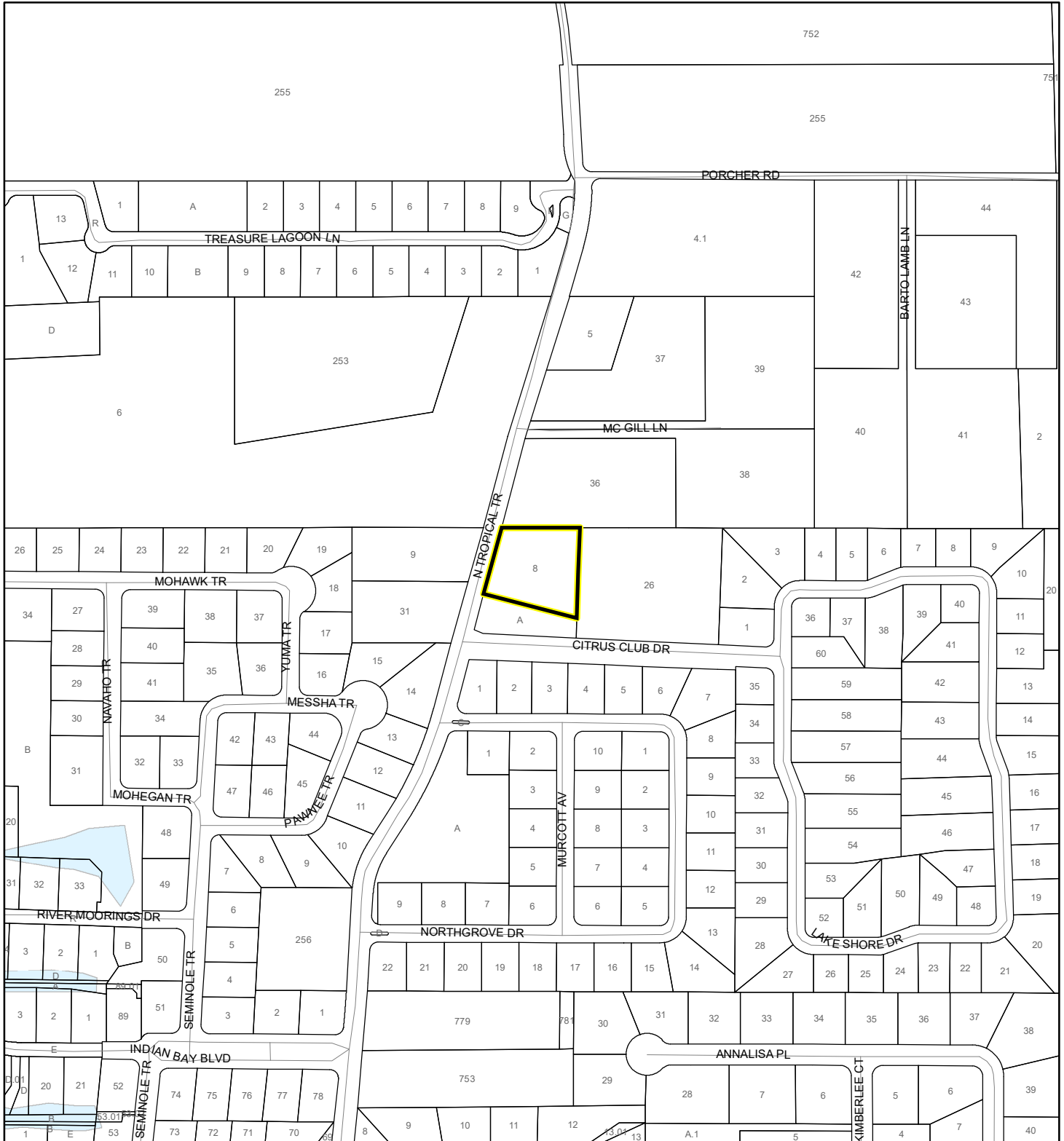
 60 Meters

 All Distances

# EAGLE NESTS MAP

DEMPSEY, DAREN T

22Z00033



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/17/2022

 Subject Property

 Parcels

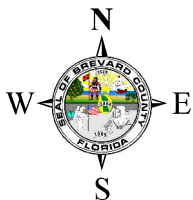
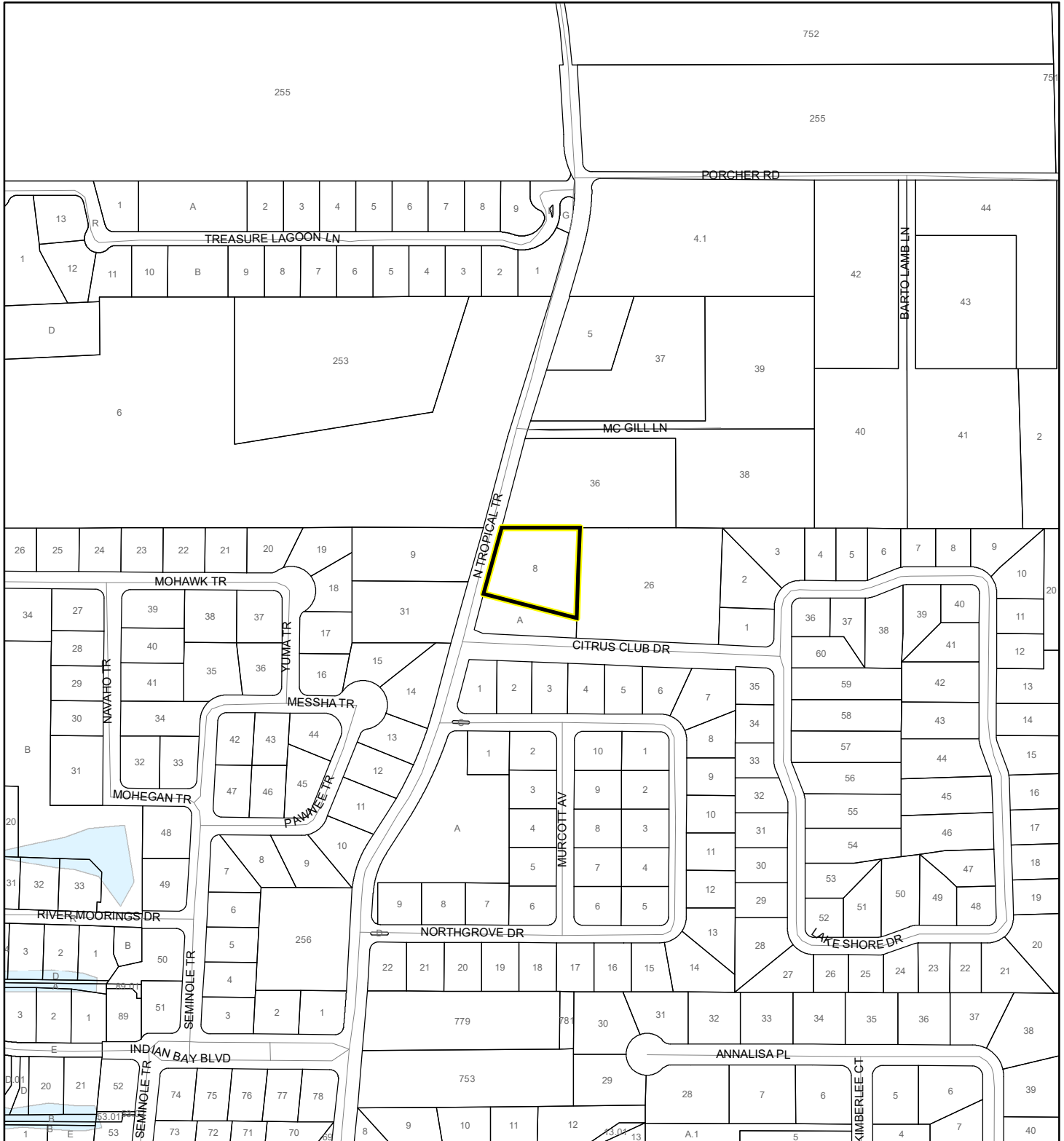


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

DEMPSEY, DAREN T

22Z00033



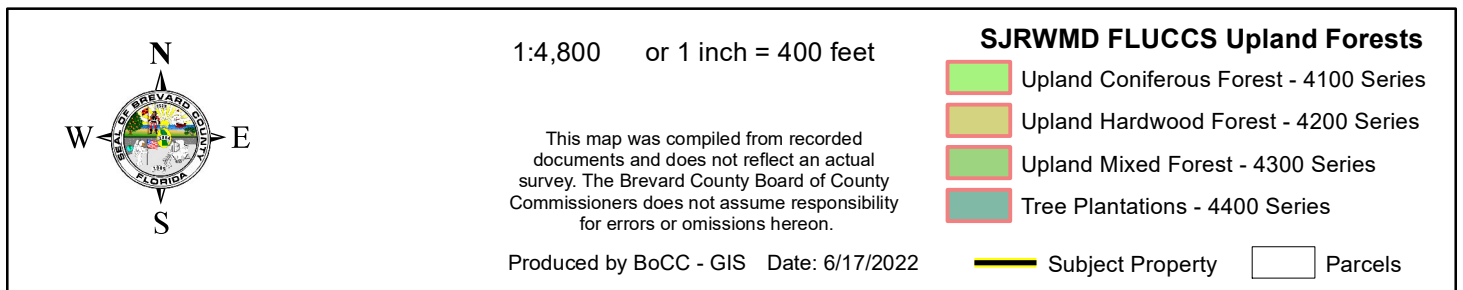
1:4,800 or 1 inch = 400 feet

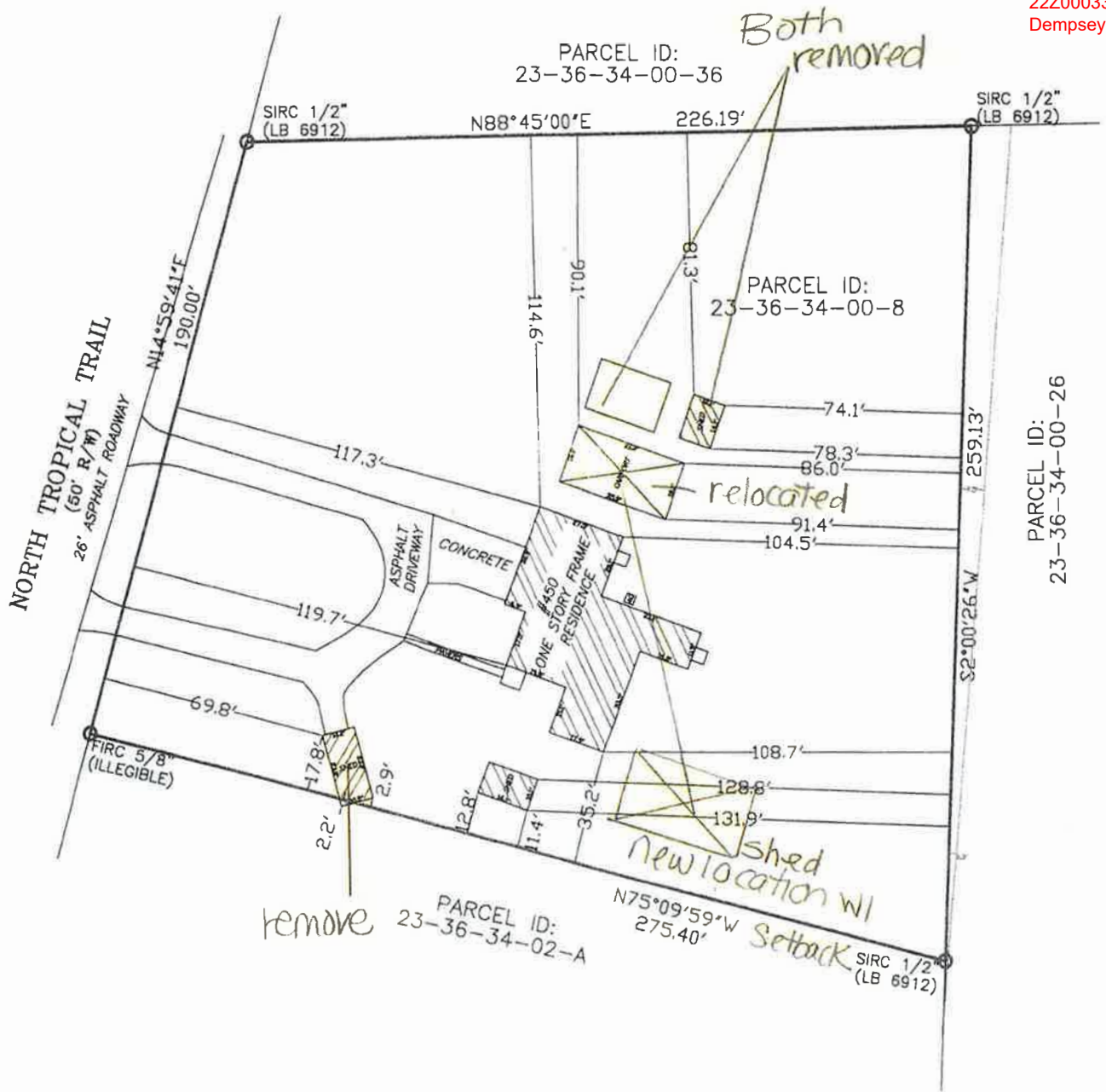
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/17/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

22Z00033





Permit applied for (5/26/22)  
relocation of shed  
22BC10813

**NOTABLE CONDITIONS:**

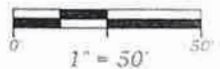
A FRAME SHED ENCROACHES 2.2' OVER THE SOUTHERLY PROPERTY LINE.

**NOTES:**

ALL BEARINGS AND DISTANCES SHOWN ARE RECORD AND MEASURED, UNLESS OTHERWISE SHOWN.  
BEARINGS ARE BASED UPON THE RECORD BEARING FOR THE SOUTHERLY LOT LINE.



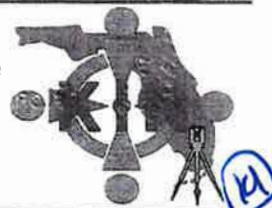
NORTH ARROW &  
GRAPHIC SCALE



JOB # - 2202-287	REVISION -
FIELD DATE - 03/16/2022	REVISION -
DRAWN BY - D.B.	REVISION -
REVISION -	REVISION -
REVISION -	REVISION -
REVISION -	REVISION -

FLORIDA BUSINESS CERTIFICATE OF AUTHORIZATION NUMBER LB 6912

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# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.4.

8/15/2022

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### Subject:

*Robert Clay and Ethyl May Kirk (Chad Genoni) request a Small Scale Comprehensive Plan Amendment (22S.10), to change the Future Land Use designation from REC to RES 4. (22SS00007) (Tax Account 3018268) (District 1)*

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

It is requested the Local Planning Agency conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (22S.10), to change the Future Land Use designation from REC (Recreation) to RES 4 (Residential 4).

### Summary Explanation and Background:

The applicant is seeking to amend the Future Land Use designation on 2.12 acres of land from REC to RES 4 in order to provide a second access point to four adjacent properties to develop a single-family residential subdivision with up to three hundred six (306) single family lots, although available school capacity may limit the development to one hundred ninety-seven (197) single-family lots. The proposed development will be limited to a density of four (4) units per acre. At only 70 feet in width, the subject property is only suitable for construction of an access road.

A separate small scale amendment application was submitted for the proposed development requesting a Future Land Use Map designation change from RES 2 (Residential) to RES 4 (Residential 4) (22SS00008) on 35.36 acres in order to provide a consistent Future Land Use Map designation that will encompass the entire proposed development. A companion rezoning application (22Z00029) was submitted accompanying this request for a zoning change from RU-1-11, SR, GML, and AU to RU-1-7, with a Binding Development Plan proposing to limit development to 4 units per acre. The proposed RU-1-7 zoning can be considered consistent with the proposed RES 4 FLU designation with a BDP limiting development to 4 units per acre.

Immediately adjacent to the subject property on the north side is vacant County-owned land. To the north of the County property are the Oakwood and Oakwood Village subdivisions, zoned TR-1 with established manufactured housing. To the east is vacant residential land which will be developed residentially with the subject parcel providing secondary access to Old Dixie Highway. Immediately adjacent to the subject property on the south is vacant residential land, and to the west is existing large lot, single-family residential development which is unplatted.

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, September 1, 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, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

(c) General Standards of Review.

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

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

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

### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 22S.10 (22SS00007)*  
**Township 21, Range 35, Section 08**

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**Property Information**

**Owner / Applicant:** Ethylmay Kirk and Robert Kirk

**Adopted Future Land Use Map Designation:** Recreation (REC)

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

**Acreage:** 2.12 acres

**Tax Account #:** 3018268

**Site Location:** South side of Brockett Road approximately 975 feet east of U.S. Highway 1.

**Commission District:** 1

**Current Zoning:** Government Managed Lands (GML) and Agricultural Residential (AU)

**Requested Zoning:** Single-family Residential (RU-1-7)

**Background & Purpose**

The applicant is seeking to amend the Future Land Use designation on 2.12 acres of land from Recreation (REC) to Residential 4 (RES 4) to provide a second access point to four adjacent properties to develop a single-family residential subdivision with up to three hundred six (306) single family lots, although available school capacity may limit the development to one hundred ninety-seven (197) single-family lots. The proposed development will be limited to a density of four (4) units per acre. At only 70 feet in width, the subject property is only suitable for construction of an access road.

A separate small scale amendment application was submitted for the proposed development requesting a Future Land Use Map designation change from Residential 2 (RES 2) to Residential 4 (RES 4) (22SS00008) on 35.36 acres in order to provide a consistent Future Land Use Map designation that will encompass the entire proposed development. A companion rezoning application (22Z00029) was submitted accompanying this request for a zoning change from RU-1-11, SR, GML, and AU to RU-1-7, with a Binding Development Plan proposing to limit development to 4 units per acre. The proposed RU-1-7 zoning can be considered consistent with the proposed RES 4 FLU designation with a BDP limiting development to 4 units per acre.

## Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
<b>North</b>	Vacant & Existing Manufactured Housing	GML & TR-1	REC & RES 4
<b>South</b>	Vacant	RU-1-7	RES 4
<b>East</b>	Vacant	RU-1-11	RES 4
<b>West</b>	Unplatted Single-Family Residential	AU	RES 4

Immediately adjacent to the subject property on the northside is vacant County owned land. To the north of the County property are the Oakwood and Oakwood Village subdivisions, zoned TR-1 with established manufactured housing. To the east is vacant residential land which will be developed residentially with the subject parcel providing secondary access to Old Dixie Highway. Immediately adjacent to the subject property on the south is vacant residential land and to the west is existing large lot, single-family residential development which is unplatted.

## 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.

## FLUE Policy 1.2 - Public Facilities and Services Requirements

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.
- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.

***As the project's density is 4 units per acre, connection to centralized sewer and potable water could be required under Criterion C, above. Site is currently unimproved and not connected to utilities.***

#### **FLUE Policy 1.7 - Residential 4 (maximum of 4 units per acre)**

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 existing RES 4 Future Land Use Map designations on the east, west and south. To the north of the vacant County owned land, there is existing residential development with a RES 4 Future Land Use Map designation.***

- 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 is not located within a transitional area between land use densities greater than 4 dwelling units per acre and areas of land use densities that are less than 4 dwelling 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 incorporated areas.***

- 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.***

**FLUE 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 develop the subject property as a single-family residential subdivision. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the 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 character of the area is residential and transitions from 4 units per acre to 2 units per acre along Brockett Road heading east from US Highway 1. This request could be considered an encroachment into the RES 2 area which is primarily still vacant land but does contain established manufactured homes on large lots along Brockett Road. These lots range in size from 0.71 acres to 11.25 acres.***

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 immediately adjacent to the subject parcel within the past three (3) years that have not been constructed.***

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

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

Criteria:

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

***In general, the character of the area is residential and transitions from 4 units per acre to 2 units per acre along Brockett Road heading east from US Highway 1. Three (3) FLU designations are located within 500 feet of the subject property: RES 2, RES 4, and REC.***

***The applicants are proposing a 306-unit single-family residential subdivision. The closest established residential neighborhood is located immediately west of the subject property with a range of lot sizes from 0.2-acre to 1-acre lots. To the north of the subject property is vacant land and single-family residences. To the south is vacant residential zoning (approximately 40 acres zoned RU-1-7). To the east are single-family residences, manufactured/mobile homes and vacant land.***

***The proposed RU-1-7 zoning classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.***

***The proposed residential subdivision will have two access points, on the north via Brockett Road to US Highway 1 and on the west via Old Dixie Highway to US Highway 1. The relatively low density of existing development and the extent of vacant property in the surrounding area suggest that existing neighborhoods will not be materially and adversely impacted by the proposed development.***

- 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.

***The Oakwood and Oakwood Village Subdivisions, platted at 4 units per acre, are an established residential neighborhood. These subdivisions are located west and northwest of the proposed development.***

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.

***There are no non-residential uses in the immediate vicinity of the proposed development.***

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, from SR 46 to Lionel, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 24.88% of capacity daily. The maximum development potential from the proposed rezoning at 306 single family units increases the percentage of MAV utilization by 2.67%. The corridor is anticipated to operate at 27.54% of capacity daily. The proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review.

The school concurrency analysis is based on development of 197 single family lots and indicates that Pinewood Elementary is not projected to have sufficient capacity for the total of projected and potential students from the proposed development; however, the adjacent elementary school service area (Mims Elementary) could accommodate the impacts of the proposed development. Madison Middle and Astronaut High are both projected to have enough capacity for the total of projected and potential students from the proposed development.

The nearest potable water connection is approximately 400 feet north of the subject site and serves the Oakwood Village subdivision. There is also another County potable water line approximately one-half mile south of the subject site. Presently, the nearest sanitary sewer force main connections are approximately one mile south of the subject site.

### **Environmental Resources**

Mapped resources include Aquifer Recharge Soils, Indian River Lagoon Nitrogen Reduction Overlay and Protected Species (Scrub Jay and Gopher Tortoise).

This 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.

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 does not contain any record of historical or cultural resources on this site.

### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Future Land Use (FLU) Review & Summary  
Item #22SS00007**

**Applicant:** Genoni

**FLU Request:** REC to RES-4

**Note:** Applicant wants to develop 197 lots connected to this parcel

**P&Z Hearing Date:** 08/15/22; **BCC Hearing Date:** 09/01/22

**Tax ID No:** 3018268

- 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.
- A rezoning zoning or Future Land Use approval by the Board of County Commissioners does not vest the property from meeting the current wetland ordinance. A formal review of current proposed wetland impacts at time of building permit or site plan review is required, regardless of any previously approved wetland impacts from any Federal, State or local agency. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design.

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

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected Species

There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

The subject parcel contains mapped aquifer recharge soils as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious

restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

### **Land Use Comments:**

#### **Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Pomello and Paola fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. 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 parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, then the use of 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.

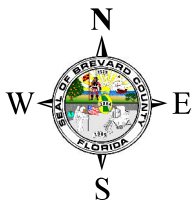
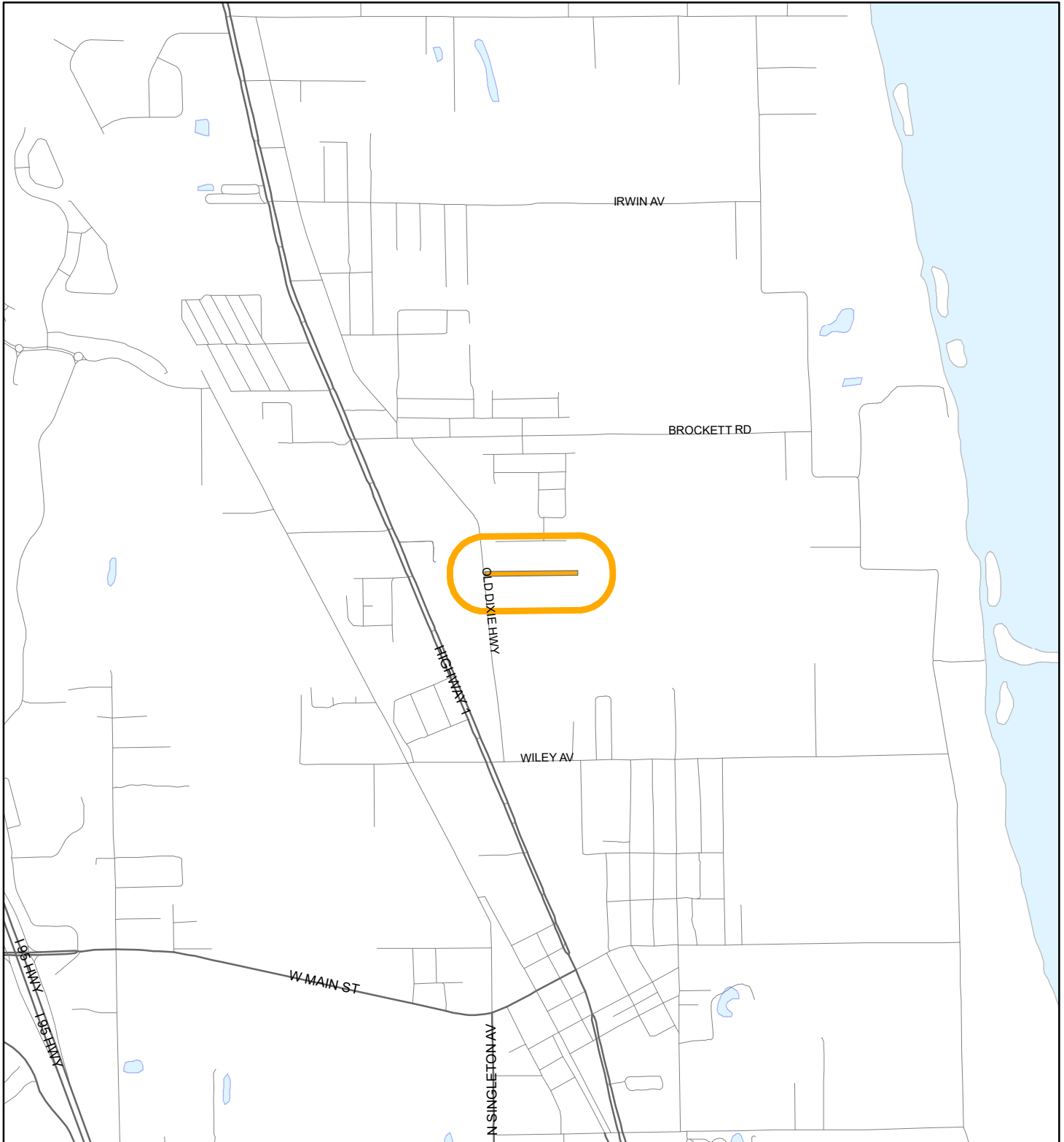
#### **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

# LOCATION MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



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

Buffer Distance: 500 feet

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

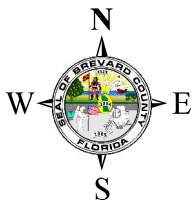
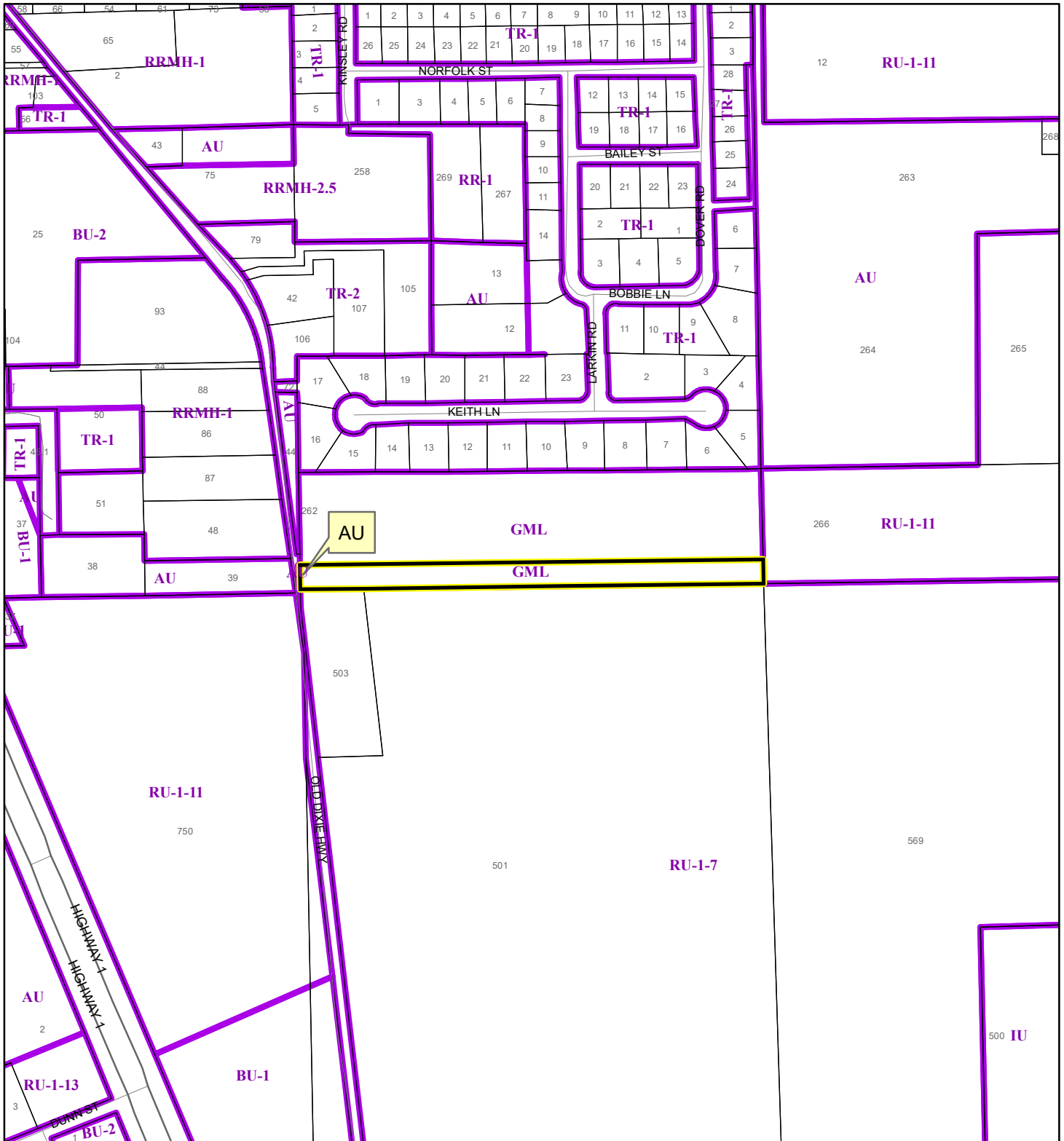
Produced by BoCC - GIS Date: 6/13/2022

Buffer  
Subject Property

# ZONING MAP

KIRK, ROBERT CLAY


22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

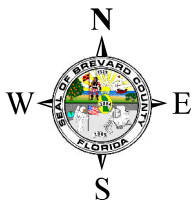
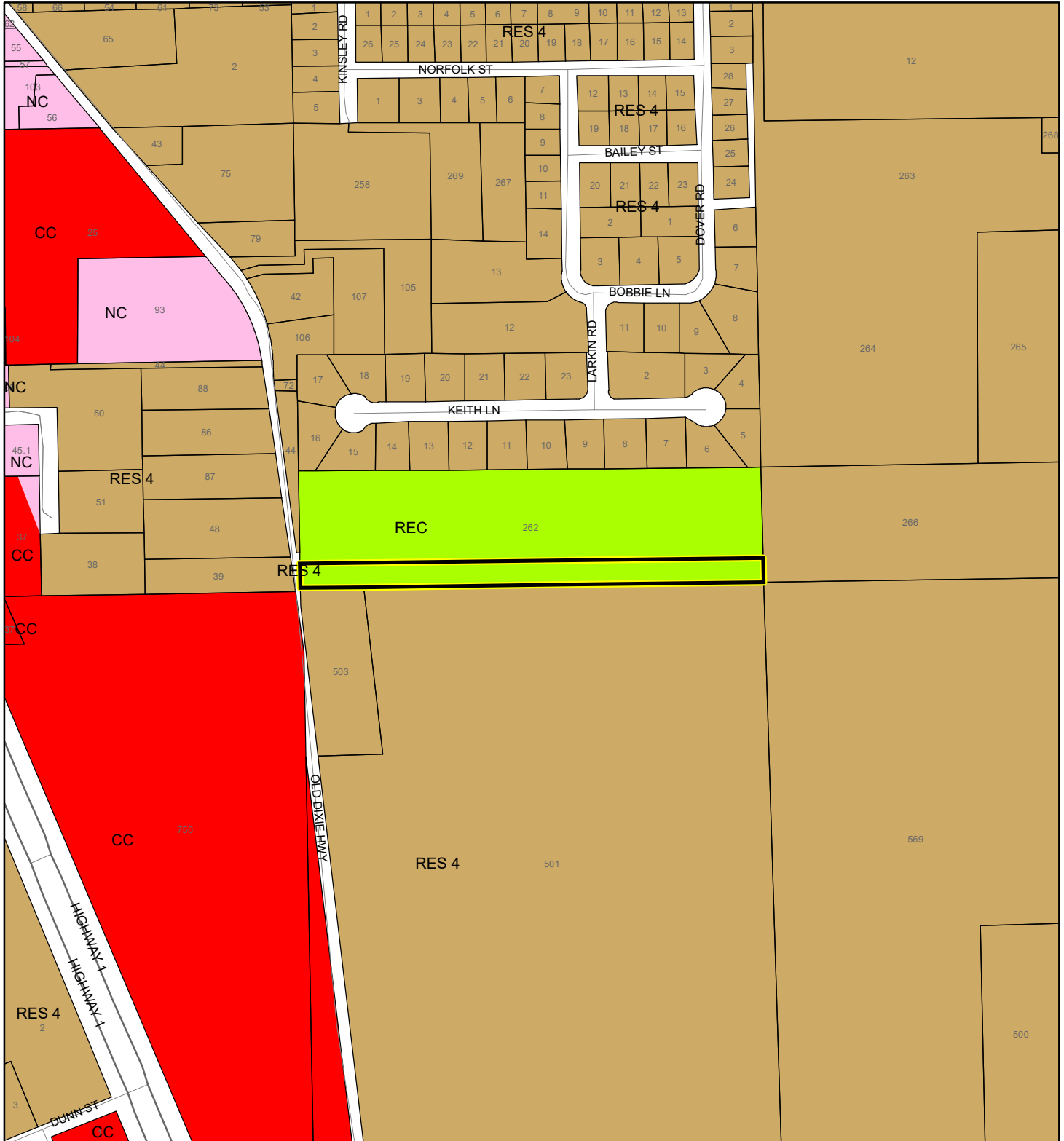
 Parcels

 Zoning

# FUTURE LAND USE MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

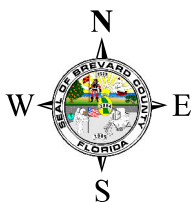
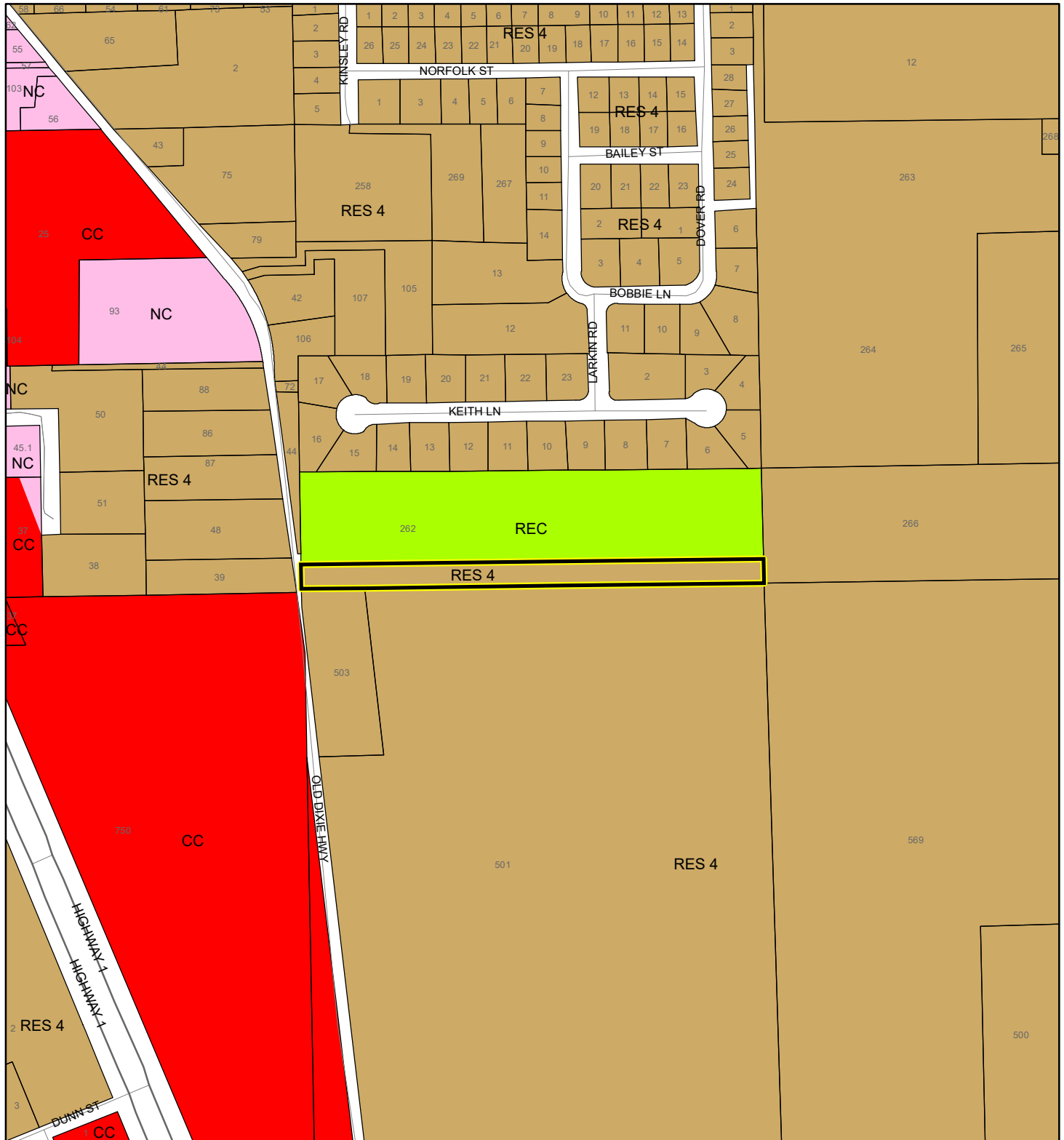
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/13/2022

# PROPOSED FUTURE LAND USE MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

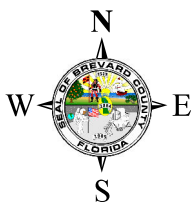
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# AERIAL MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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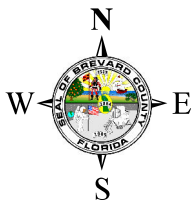
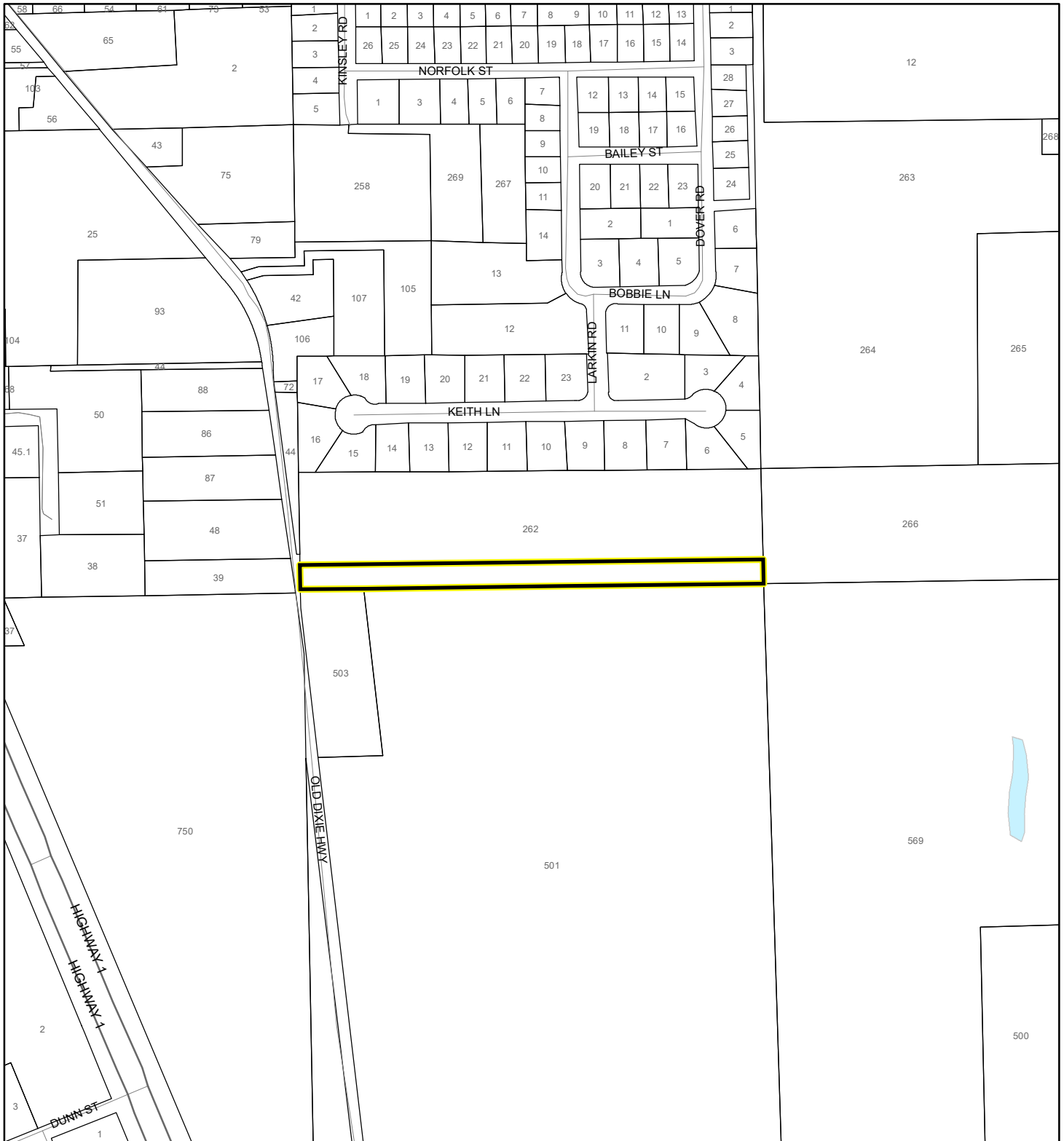
 Subject Property

 Parcels

# NWI WETLANDS MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

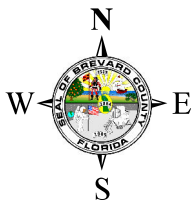
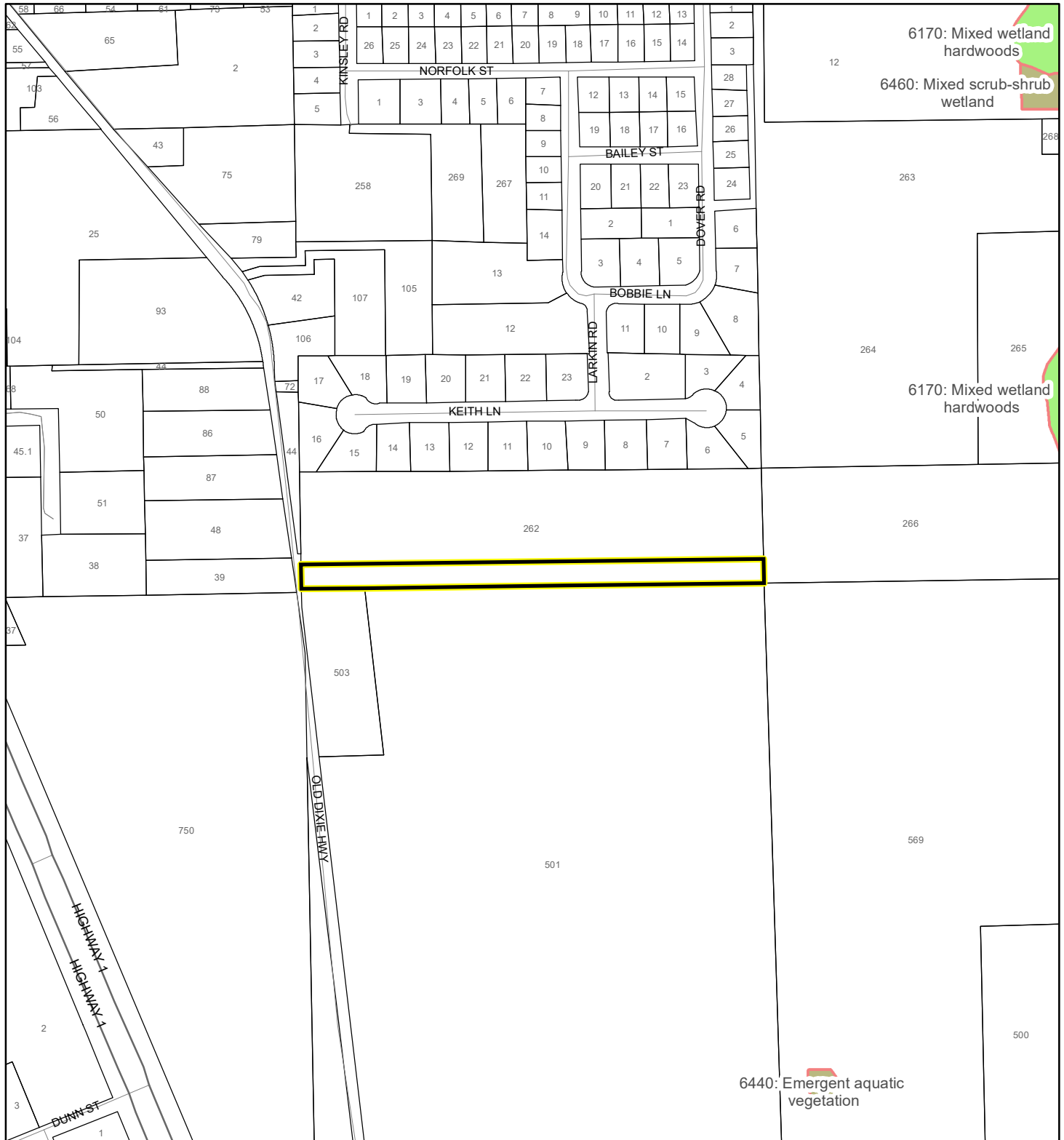
## National Wetlands Inventory (NWI)

 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

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/13/2022

## 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

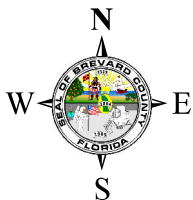
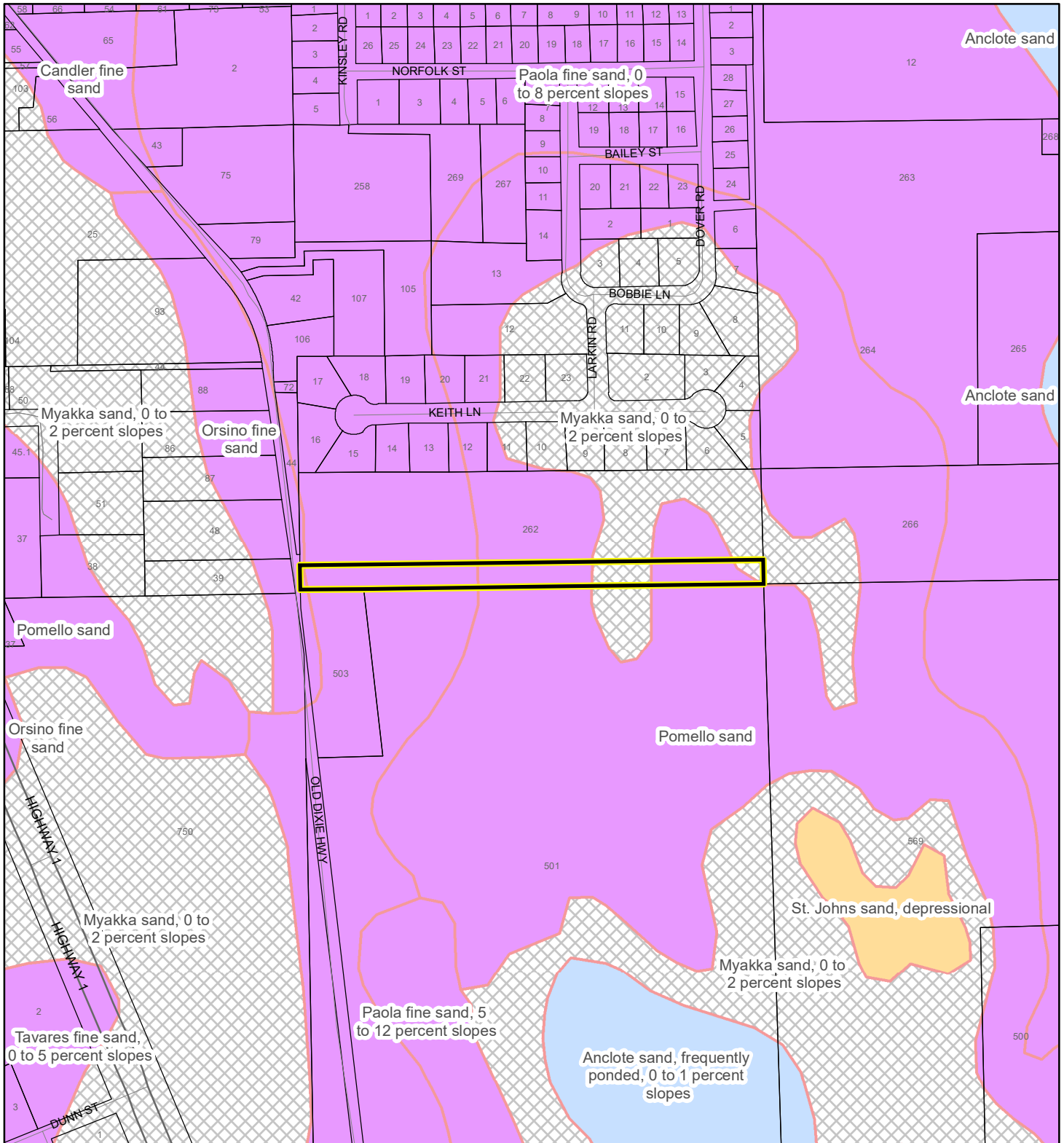
Subject Property

Parcels

# USDA SCSSS SOILS MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

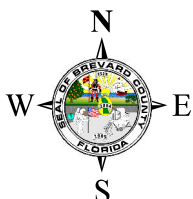
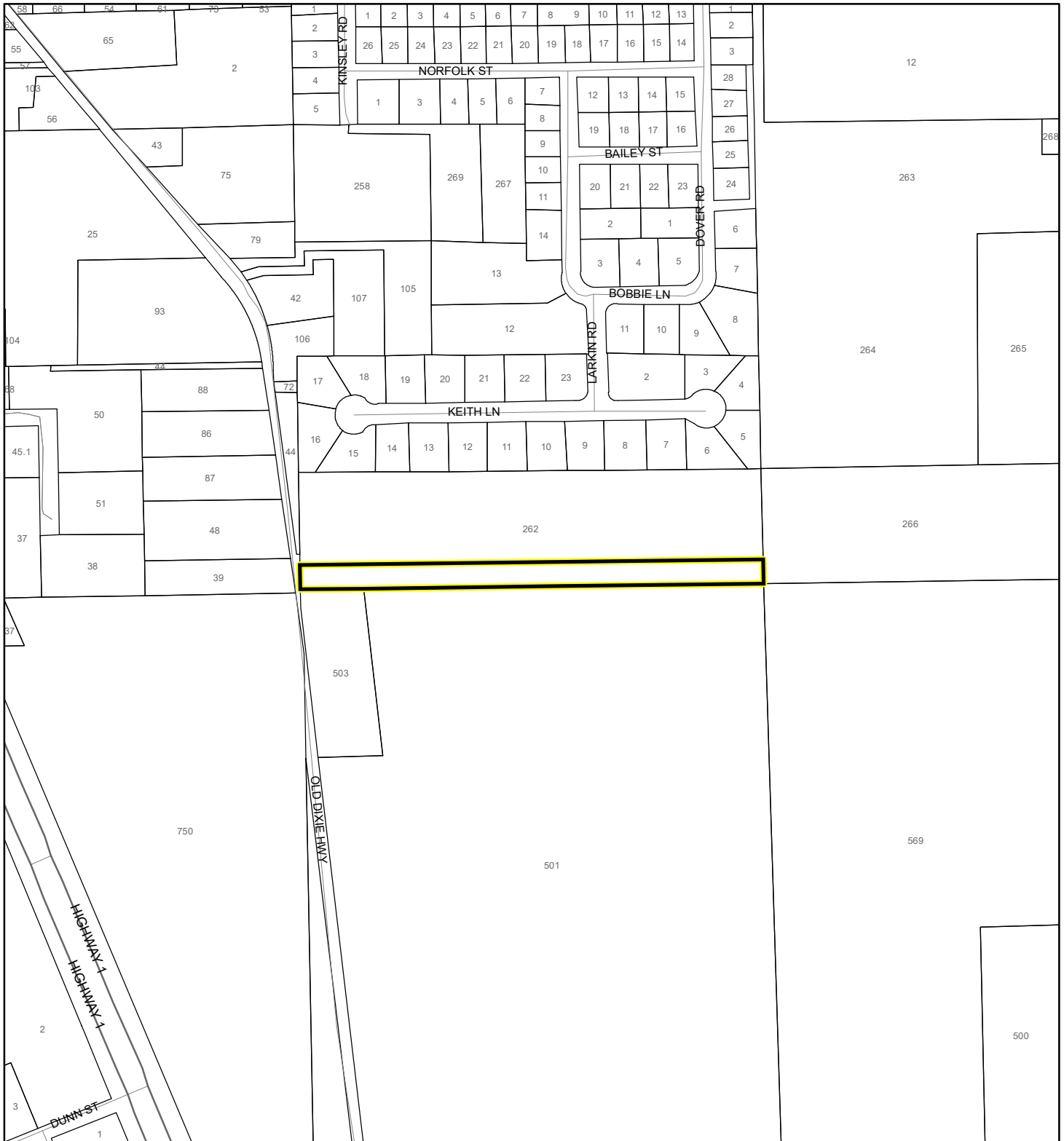
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

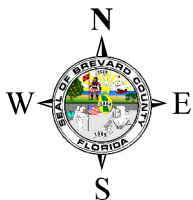
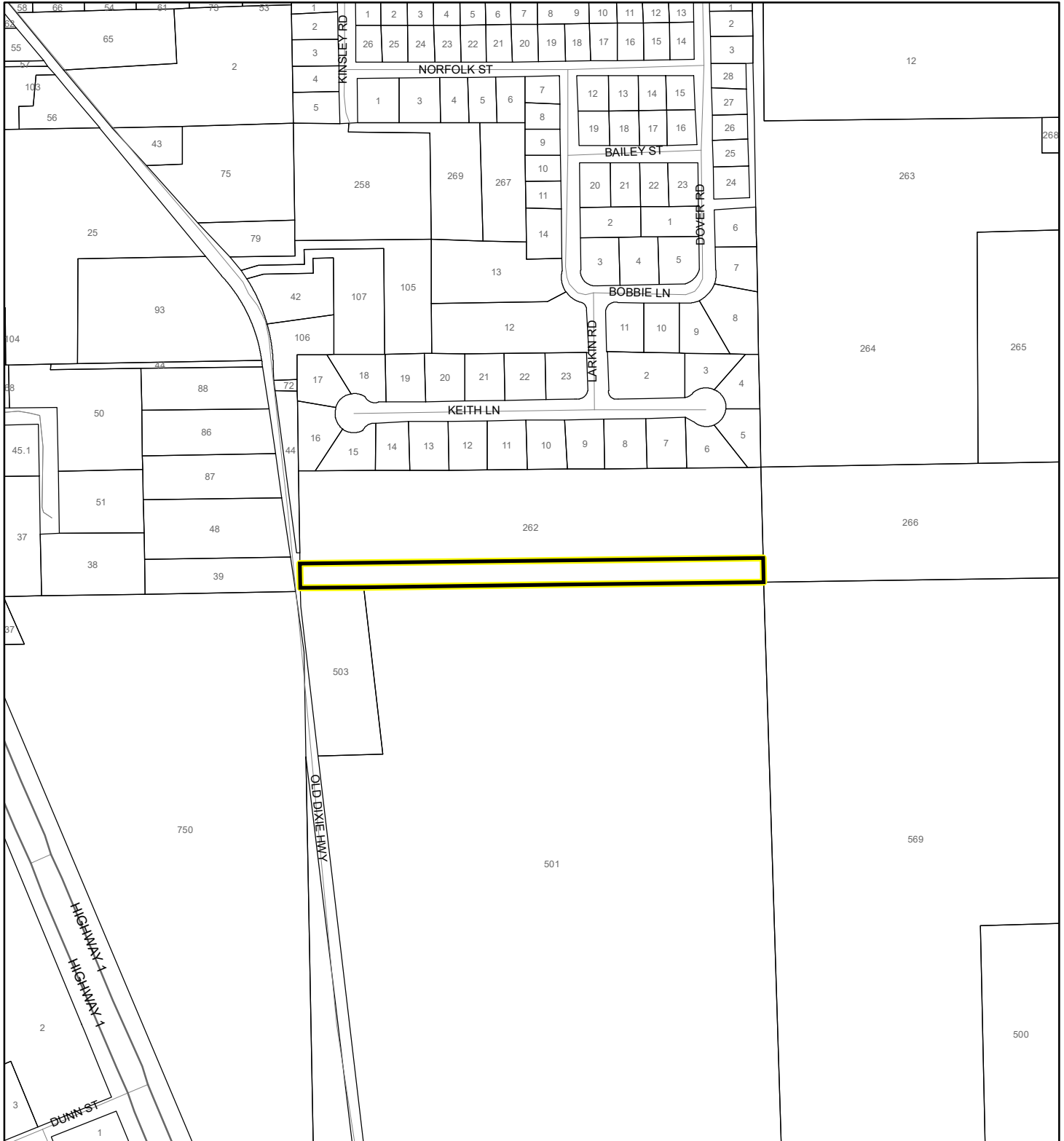
## FEMA Flood Zones

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

# COASTAL HIGH HAZARD AREA MAP

KIRK, ROBERT CLAY


22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

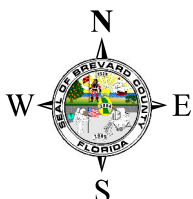
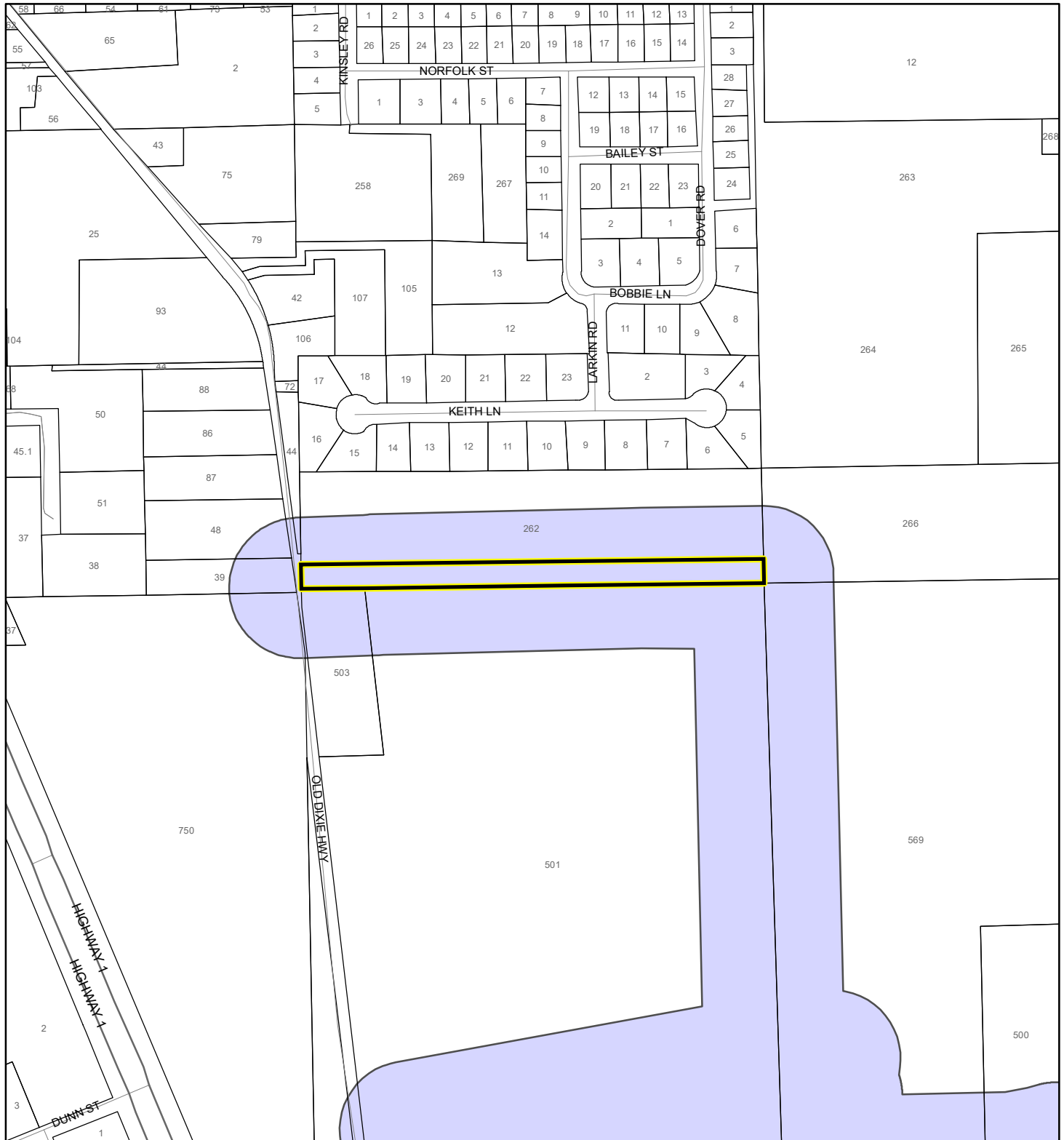
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

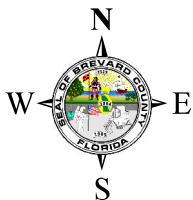
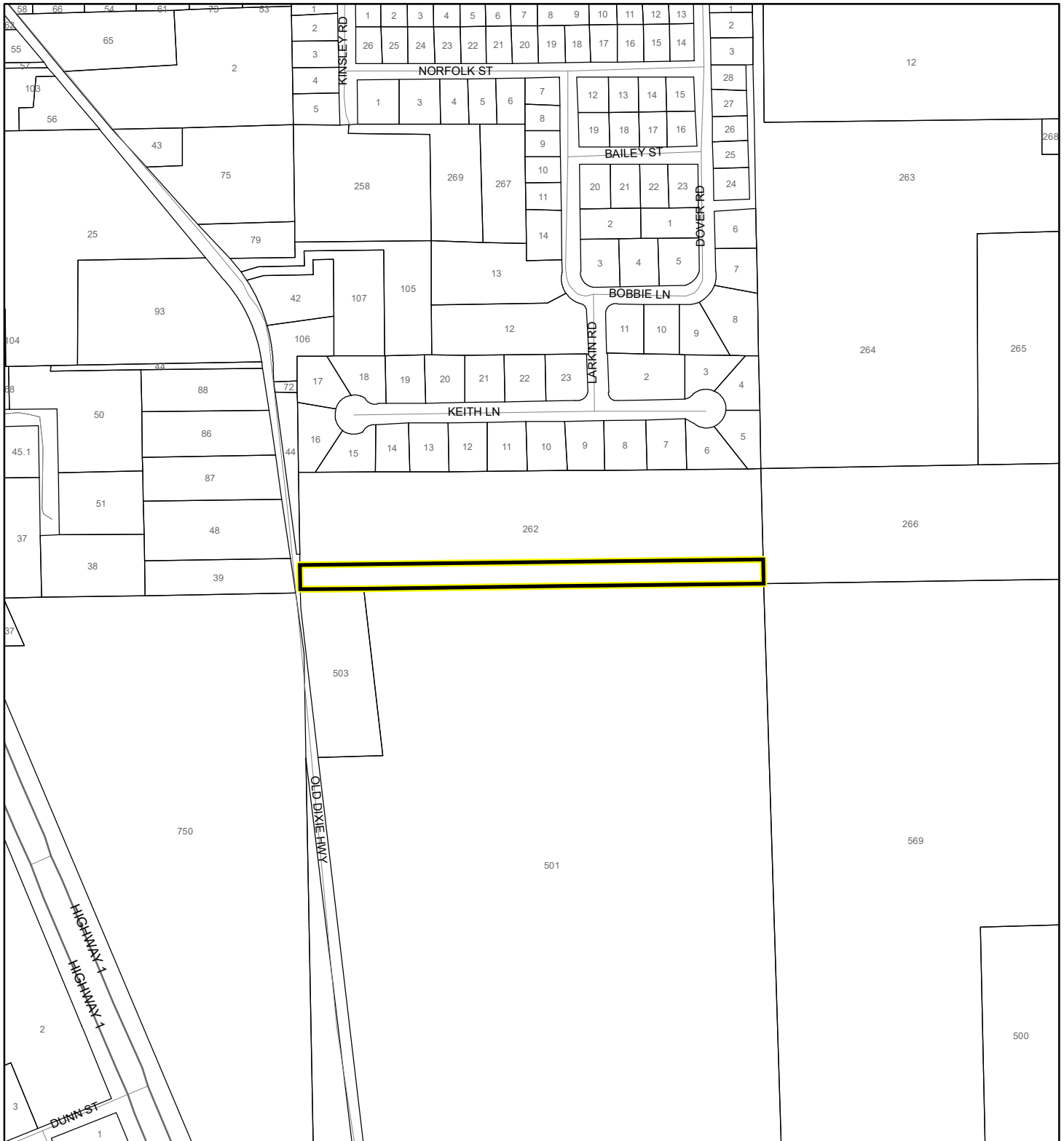
 60 Meters

 All Distances

# EAGLE NESTS MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

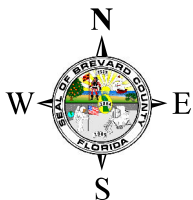
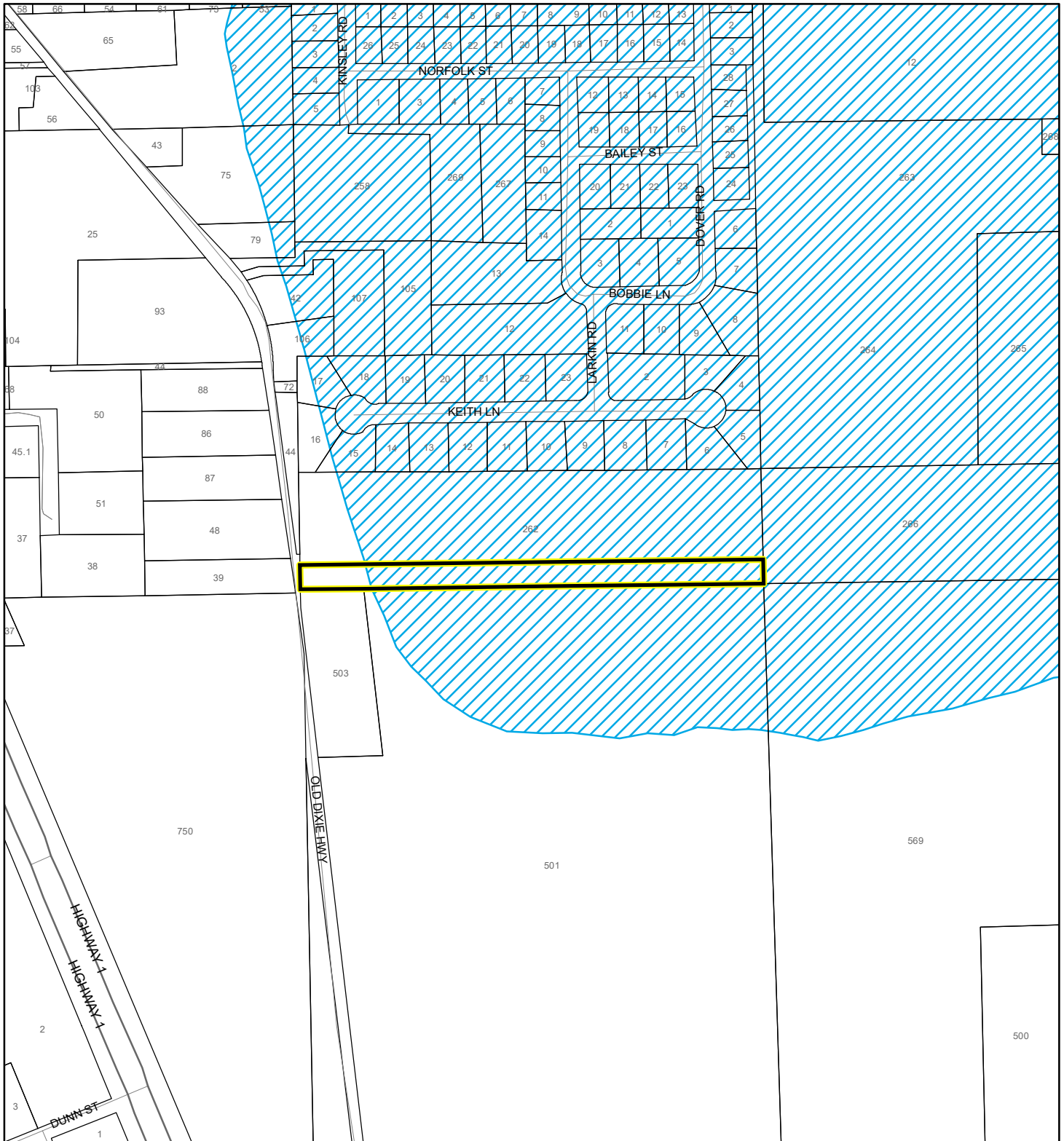


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

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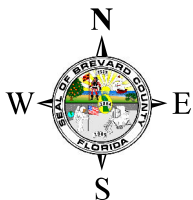
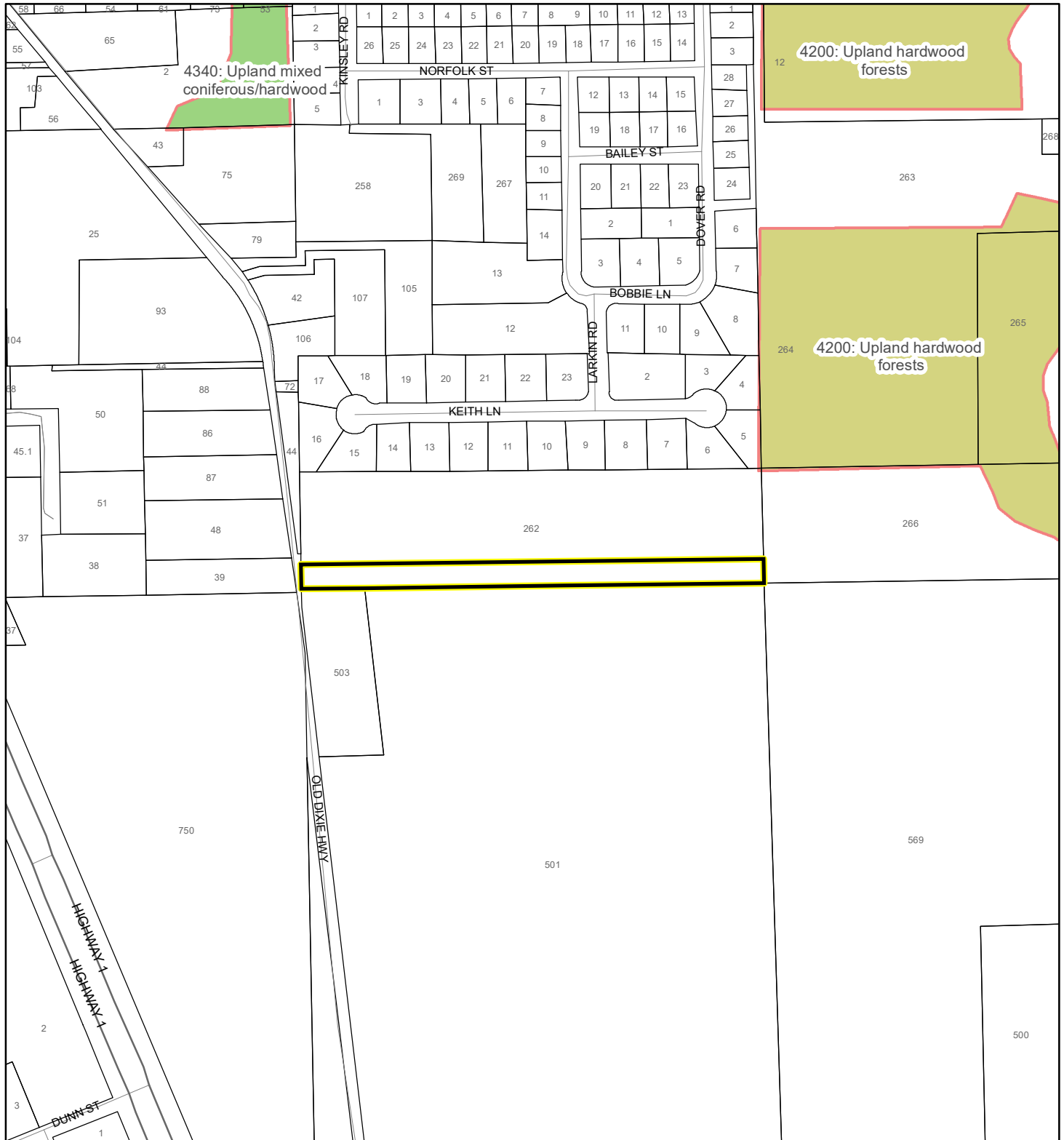
Produced by BoCC - GIS Date: 6/13/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KIRK, ROBERT CLAY

22SS00007 Small Scale Amendment 22S.10



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/13/2022

## 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

# School Board of Brevard County

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

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



May 2, 2022

Mr. Timothy Craven, Planner II  
Land Development Section  
Planning & Development Department  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, Florida 32940

**RE: Proposed Hamlin Ridge Development  
School Impact Analysis – Capacity Determination CD-2022-25**

Dear Mr. Craven,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account number 2102919 (Parcel ID number: 21-35-08-00-266), Tax Account number 2102882 (Parcel ID number 21-35-08-0-17), Tax Account number 3018268 (Parcel ID number 21-35-08-00-270), Tax Account number 2102878 (Parcel ID number 21-35-08-00-12), and Tax Account number 2102918 (Parcel ID number 21-35-08-00-265) containing a total of approximately 76.51 acres in District 1, Brevard County, Florida. The proposed development includes 197 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 and Amended Appendix "A"-School District Student Generation Multiplier (approved April 11, 2022) 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		197	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students Generated
Elementary	0.24	47.28	47
Middle	0.07	13.79	14
High	0.12	23.64	24
Total	0.43		85

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
Pinewood	569	569	569	569	569
Madison	781	781	781	781	781
Astronaut	1,451	1,451	1,451	1,451	1,451

**Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	500	517	524	526	532
Madison	480	471	480	457	446
Astronaut	1,076	1,094	1,086	1,078	1,086

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	-	-	-	-	-
Madison	-	-	-	-	-
Astronaut	-	-	-	-	-

**Cumulative Students Generated by  
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	-	-	16	31	47
Madison	-	-	5	9	14
Astronaut	-	-	8	16	24

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	500	517	540	557	579
Madison	480	471	485	466	460
Astronaut	1,076	1,094	1,094	1,094	1,110

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	69	52	29	12	(10)
Madison	301	310	296	315	321
Astronaut	375	357	357	357	341

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

The adjacent elementary school service area is Mims Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Area* that could accommodate the impacts of the Hamlin Ridge 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
Mims	725	725	725	725	725

**Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	442	433	441	452	446

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	-	-	-	-	-

**Cumulative Students Generated by  
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	-	-	16	31	47

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	442	433	457	483	493

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	283	292	268	242	232

Considering the adjacent elementary school service areas, there is sufficient capacity for the total projected student membership to accommodate the Hamlin Ridge 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  
Manager – Facilities Planning & Intergovernmental Coordination  
Planning & Project Management, Facilities Services

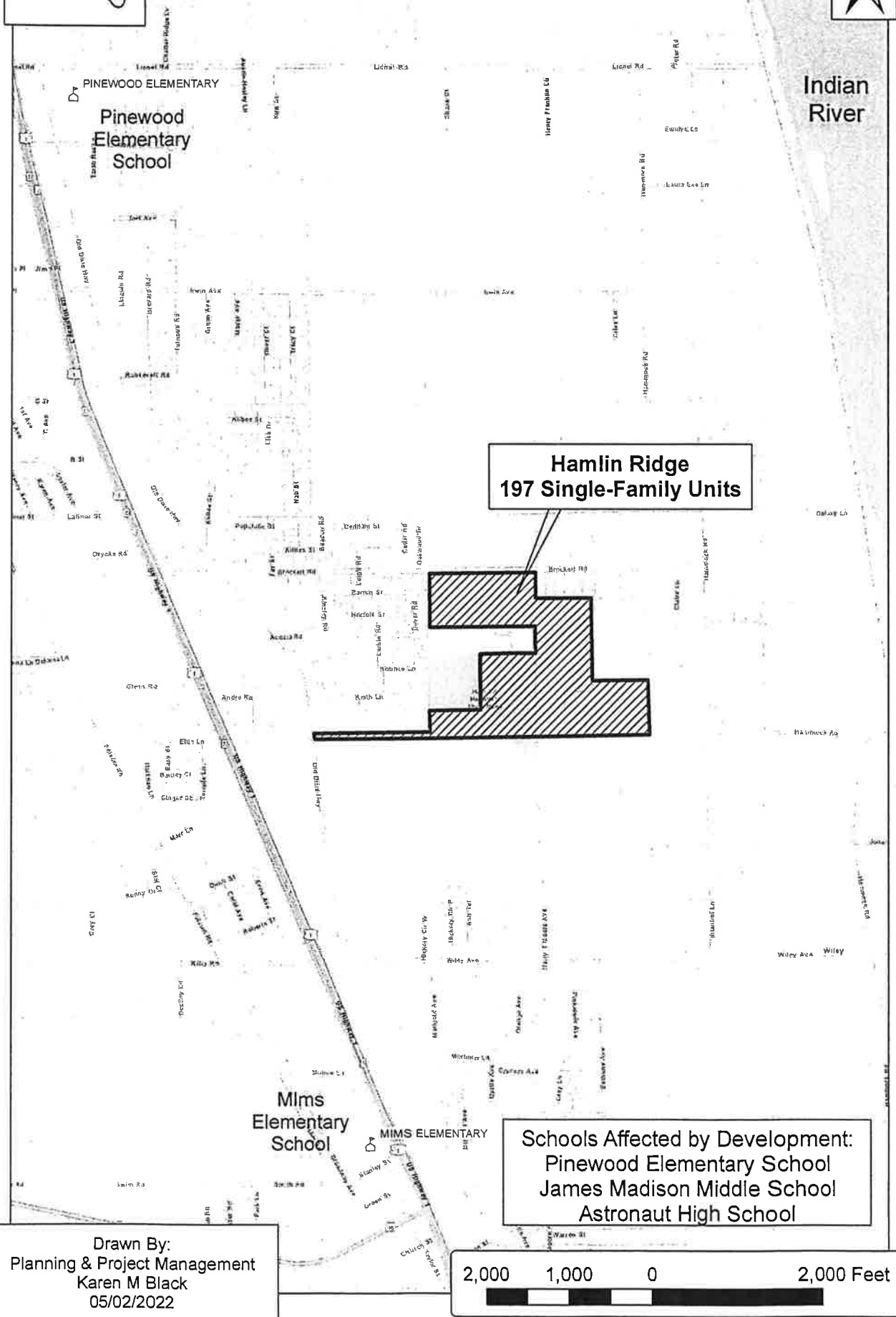
Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years 2021-22 to 2026-27*

Copy: Susan Hann, AICP, Assistant Superintendent of Facility Services  
File CD-2022-25

David G. Lindemann, AICP, Director of Planning & Project  
Management, Facilities Services  
File CD-2022-25



# Hamlin Ridge Development Location Map



**Hamlin Ridge  
197 Single-Family Units**

**Schools Affected by Development:**  
Pinewood Elementary School  
James Madison Middle School  
Astronaut High School

Drawn By:  
Planning & Project Management  
Karen M Black  
05/02/2022



**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%			99%		
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%	781	484	61%	781	484	61%	781	458	60%	781	438	58%	781	427	56%	781	440	58%
Cambridge	Elementary	PK-6	100%	785	508	68%	785	508	68%	785	513	67%	785	510	67%	785	485	63%	785	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	508	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	581	77%	729	529	73%	729	513	70%
Fairgren	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	406	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%
Indialantic	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	920	97%
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	785	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	418	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	506	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	587	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	283	44%	599	281	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%
Satum	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	289	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	72%
Sunrise	Elementary	PK-6	100%	913	691	76%	913	690	76%	913	738	81%	935	824	88%	1,001	929	93%	1,067	1,061	99%
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	328	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	781	89%	857	815	95%	879	855	97%	901	872	97%	923	895	97%
Williams	Elementary	PK-6	100%	715	494	69%	715	493	69%	715	483	68%	715	473	68%	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	1,319	87%	1,514	1,360	90%
Delaura	Middle	7-8	90%	980	843	86%	980	851	86%	980	829	84%	980	854	87%	980	816	84%	980	787	81%
Hoover	Middle	7-8	90%	680	510	75%	680	510	75%	680	485	71%	680	506	74%	680	550	81%	680	539	79%
Jackson	Middle	7-8	90%	660	574	87%	660	574	87%	660	594	90%	660	556	84%	660	540	82%	660	531	80%
Jefferson	Middle	7-8	90%	873	822	71%	873	822	71%	873	583	67%	873	580	66%	873	583	67%	873	535	61%
Johnson	Middle	7-8	90%	1,064	890	83%	1,064	890	83%	1,064	707	66%	1,064	752	71%	1,064	795	75%	1,064	813	76%
Kennedy	Middle	7-8	90%	869	882	78%	869	882	78%	869	641	74%	869	817	71%	869	828	72%	869	856	75%
Madison	Middle	7-8	90%	781	480	61%	781	480	61%	781	471	60%	781	480	61%	781	457	59%	781	446	57%
McNair	Middle	7-8	90%	611	336	55%	611	350	57%	611	359	59%	611	353	58%	611	362	59%	611	349	57%
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%	1,211	1,157	96%
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%	1,024	846	83%
<b>Middle Totals</b>				<b>10,247</b>	<b>7,595</b>		<b>10,247</b>	<b>7,617</b>		<b>10,247</b>	<b>7,514</b>		<b>10,247</b>	<b>7,681</b>		<b>10,247</b>	<b>7,941</b>		<b>10,247</b>	<b>8,019</b>	

## 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%	2,084	1,626	78%
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%	1,445	782	54%
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%	1,852	1,448	78%
<b>Jr / Sr High Totals</b>				<b>5,381</b>	<b>4,015</b>		<b>5,381</b>	<b>4,029</b>		<b>5,381</b>	<b>4,021</b>		<b>5,381</b>	<b>4,028</b>		<b>5,381</b>	<b>3,923</b>		<b>5,381</b>	<b>3,856</b>	

## 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	1,078	74%	1,451	1,086	75%
Bayside	High	9-12	95%	2,263	1,653	73%	2,263	1,728	76%	2,263	1,850	82%	2,263	1,842	81%	2,263	2,002	88%	2,263	2,069	91%
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%	2,221	1,700	77%
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%	2,314	2,246	97%
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%	2,370	2,185	92%
Meritt 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%	1,962	1,389	71%
Palm Bay	High	PK, 9-12	95%	2,631	1,266	48%	2,631	1,326	50%	2,631	1,467	56%	2,631	1,573	60%	2,631	1,645	63%	2,631	1,643	62%
Rockledge	High	9-12	95%	1,836	1,668	91%	1,836	1,668	91%	1,836	1,641	89%	1,836	1,658	90%	1,836	1,638	89%	1,836	1,620	88%
Satellite	High	PK, 9-12	95%	1,527	1,513	99%	1,551	1,550	100%	1,551	1,533	99%	1,551	1,470	95%	1,551	1,438	93%	1,551	1,387	89%
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%	1,849	1,270	69%
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%	2,583	2,469	96%
<b>High Totals</b>				<b>22,627</b>	<b>17,878</b>		<b>22,699</b>	<b>18,126</b>		<b>23,031</b>	<b>18,630</b>		<b>23,031</b>	<b>18,930</b>		<b>23,031</b>	<b>18,953</b>		<b>23,031</b>	<b>19,066</b>	

## 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%	475	414	87%
South Lake	Elementary	K-6	100%	481	395	82%	481	417	87%	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%	569	508	89%
West Melbourne	Elementary	K-6	100%	618	544	88%	618	552	89%	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%	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%	1,264	946	75%
<b>Schools of Choice</b>				<b>4,484</b>	<b>3,711</b>		<b>4,484</b>	<b>3,787</b>		<b>4,484</b>	<b>3,787</b>		<b>4,484</b>	<b>3,787</b>		<b>4,484</b>	<b>3,787</b>		<b>4,484</b>	<b>3,787</b>	
<b>Brevard Totals</b>				<b>85,210</b>	<b>63,089</b>		<b>85,282</b>	<b>63,743</b>		<b>85,614</b>	<b>64,697</b>		<b>85,658</b>	<b>65,450</b>		<b>85,768</b>	<b>65,794</b>		<b>85,878</b>	<b>66,275</b>	

## 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.
  - Nongecoded 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.5.

8/15/2022

### Subject:

*Paul J. Marion, Kimberly Ann LaMattina, Kayla Marie Losat, and Jessica Lynn Ripper; and Robert Clay Kirk and Ethylmay Kirk (Chad Genoni) request a Small Scale Comprehensive Plan Amendment (22S.11), to change the Future Land Use designation from RES 2 to RES 4. (22SS00008) (Tax Accounts 2102878 & 2102882) (District 1)*

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

It is requested that the Local Planning Agency conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (22S11), to change the Future Land Use designation from RES 2 (Residential 2) to RES 4 (Residential 4).

### Summary Explanation and Background:

The applicant is seeking to amend the Future Land Use Map designation on 35.36 acres of land from RES 2 to RES 4 to establish a consistent Future Land Use Map designation on 5 adjacent parcels in order to develop a single-family residential subdivision with up to 306 single family lots, although available school capacity may limit the development to 197 single-family lots on approximately 76.52 acres. The proposed development will be limited to a density of 4 units per acre. Currently, 2 ten-acre parcels and a 19.03 acre portion of a third parcel already have the necessary RES 4 designation. The larger parcel has approximately 1,300 linear feet of frontage on Brockett Road which can provide primary access to the development from US Highway 1.

A separate small scale amendment application was submitted for the proposed development requesting a Future Land Use Map designation change from REC (Recreation) to RES 4 (22SS00007) in order to provide a second access point to US Highway 1 via Old Dixie Highway. A companion rezoning application was submitted accompanying this request for a Zoning change from RU-1-11, SR, GML, and AU to RU-1-7 (22Z00029), with a BDP proposing to limit development to 4 units per acre. The proposed RU-1-7 zoning can be considered consistent with the proposed RES 4 FLU designation with a BDP limiting development to 4 units per acre.

To the north of the subject property are existing manufactured homes on unplatted lots which range in size from 0.71 acres to 11.25 acres, to the east is vacant residential land, to the south is vacant residential land and to the west is vacant residential land which will be developed as a single family residential subdivision as a part of this overall project.

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, September 1, 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, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

(c) General Standards of Review.

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

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

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

### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES  
PLAN AMENDMENT**

**STAFF COMMENTS**

*Small Scale Plan Amendment 22S.11 (22SS00008)*  
**Township 21, Range 35, Section 08**

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**Property Information**

**Owner / Applicant: Paul Marion, Kimberly Lamattina, Kayla Losat, Jessica Ripper, Ethylmay Kirk and Robert Kirk**

**Adopted Future Land Use Map Designation:** Residential 2 (RES 2)

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

**Acreage:** 35.36 acres

**Tax Account #:** 2102882 and part of 2102878

**Site Location:** South side of Brockett Road approximately 0.6 miles east of U.S. Highway 1

**Commission District:** 1

**Current Zoning:** Suburban Residential 1 (SR)

**Requested Zoning:** Single-family Residential (RU-1-7)

**Background & Purpose**

The applicant is seeking to amend the Future Land Use Map designation on 35.36 acres of land from Residential 2 (RES 2) to Residential 4 (RES 4) to establish a consistent Future Land Use Map designation on five (5) adjacent parcels in order to develop a single-family residential subdivision with up to three hundred six (306) single family lots, although available school capacity may limit the development to one hundred ninety-seven (197) single-family lots on approximately 76.52 acres. The proposed development will be limited to a density of four (4) units per acre. Currently, two (2) ten-acre parcels and a 19.03 acre portion of a third parcel already have the necessary Residential 4 (RES 4) Future Land Use Map designation. The larger parcel has approximately 1,300 linear feet of frontage on Brockett Road which can provide primary access to the development from US Highway 1 via Brockett Road.

A separate small scale amendment application was submitted for the proposed development requesting a Future Land Use Map designation change from Recreation (REC) to Residential 4 (RES 4) (22SS00007) in order to provide a second access point to US Highway 1 via Old Dixie Highway. A companion rezoning application was

submitted accompanying this request for a Zoning change from RU-1-11, SR, GML, and AU to RU-1-7 (22Z00029), with a BDP proposing to limit development to 4 units per acre. The proposed RU-1-7 zoning can be considered consistent with the proposed RES 4 FLU designation with a BDP limiting development to 4 units per acre.

### Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
<b>North</b>	Manufactured Housing	TR-2 & AU	RES 2
<b>South</b>	Vacant	AU, TR-2 & SR	RES 2
<b>East</b>	Vacant	RU-1-7	RES 2
<b>West</b>	Vacant	RU-1-11	RES 4

To the north of the subject property are existing manufactured homes on unplatted lots which range in size from 0.71 acres to 11.25 acres, to the east is vacant residential land, to the south is vacant residential land and to the west is vacant residential land which will be developed as a single family residential subdivision as a part of this overall project..

### 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.

### FLUE Policy 1.2 - Public Facilities and Services Requirements

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.

- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.

***As the project's density is 4 units per acre, connection to centralized sewer and potable water could be required under Criterion C, above. Site is currently unimproved and not connected to utilities.***

**FLUE Policy 1.7 - Residential 4 (maximum of 4 units per acre)**

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 west.***

- 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 is not located within a transitional area of land use densities greater than 4 dwelling units per acre and areas of land use densities less than 4 dwelling 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 incorporated areas.***

- 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.***

**FLUE 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 develop the subject property as a single-family residential subdivision. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the 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 character of the area is residential and transitions from 4 units per acre to 2 units per acre along Brockett Road heading east from US Highway 1. This request could be considered an encroachment into the RES 2 area which is primarily still vacant land but does contain established manufactured homes on large lots along Brockett Road. These lots range in size from 0.71 acres to 11.25 acres.***

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 immediately adjacent to the subject parcel within the past three (3) years that have not been constructed.***

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

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

Criteria:

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

***In general, the character of the area is residential and transitions from 4 units per acre to 2 units per acre along Brockett Road heading east from US Highway 1. Three (3) FLU designations are located within 500 feet of the subject property: RES 2, RES 4, and REC.***

***The applicants are proposing a 306-unit single-family residential subdivision. The closest established residential neighborhood is located immediately west of the subject property with a range of lot sizes from 0.2-acre to 1-acre lots. To the north of the subject property is vacant land and single-family residences. To the south is vacant residential zoning (approximately 40 acres zoned RU-1-7). To the east are single-family residences, manufactured/mobile homes and vacant land.***

***The proposed RU-1-7 zoning classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.***

***The proposed residential subdivision will have two access points, on the north via Brockett Road to US Highway 1 and on the west via Old Dixie Highway to US Highway 1. The relatively low density of existing development and the extent of vacant property in the surrounding area suggest that existing neighborhoods will not be materially and adversely impacted by the proposed development.***

- 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.

***The Oakwood and Oakwood Village Subdivisions, platted at 4 units per acre, are an established residential neighborhood. These subdivisions are located west and northwest of the proposed development.***

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.

***There are no non-residential uses in the immediate vicinity of the proposed development.***

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, from SR 46 to Lionel, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 24.88% of capacity daily. The maximum development potential from the proposed rezoning at 306 single family units increases the percentage of MAV utilization by 2.67%. The corridor is anticipated to operate at 27.54% of capacity daily. The proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review.

The school concurrency analysis is based on development of 197 single family lots and indicates that Pinewood Elementary is not projected to have sufficient capacity for the total of projected and potential students from the proposed development; however, the adjacent elementary school service area (Mims Elementary) could accommodate the impacts of the proposed development. Madison Middle and Astronaut High are both projected to have enough capacity for the total of projected and potential students from the proposed development.

The nearest potable water connection is approximately 400 feet north of the subject site and serves the Oakwood Village subdivision. There is also another County potable water line approximately one-half mile south of the subject site. Presently, the nearest sanitary sewer force main connections are approximately one mile south of the subject site.

### **Environmental Resources**

Mapped resources include Wetlands/Hydric Soils, Aquifer Recharge Soils, Protected Species and Protected and Specimen Trees.

National Wetlands Inventory (NWI) wetlands have been mapped on the adjacent property on the west side that will developed along with the subject site in a common

development plan, SJRWMD wetlands have been mapped on the subject site, and hydric soils encompass the entire site with a small proportion of the site that also serves as aquifer recharge.

Scrub jay habitat has been mapped on the adjacent property on the west side that will developed along with the subject site in a common development plan and there is potential for existence of Gopher Tortoises on site.

SJRWMD upland forest has been mapped on the adjacent property on the west side that will developed along with the subject site in a common development plan.

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 does not contain any record of historical or cultural resources on this site.

### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Future Land Use (FLU) Review & Summary  
Item #22SS00008**

**Applicant:** Genoni

**FLU Request:** RES-2 to RES-4

**Note:** Applicant wants to develop 197 lots

**P&Z Hearing Date:** 08/15/22; **BCC Hearing Date:** 09/01/22

**Tax ID Nos:** 2102882 & portion of 212878

- 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.
- A rezoning or Future Land Use approval by the Board of County Commissioners does not vest the property from meeting the current wetland ordinance. A formal review of current proposed wetland impacts at time of building permit or site plan review is required, regardless of any previously approved wetland impacts from any Federal, State or local agency. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design.

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

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

A majority of the parcels are mapped with National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or site plan 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 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 plan or permit submittal.

There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

A majority of the parcels is forested. A tree survey is required prior to any land clearing activities, site plan design or site plan submittal. The applicant is encouraged incorporate valuable vegetative communities or robust trees into the site plan design.

### **Land Use Comments:**

#### **Wetlands**

A majority of the parcels are mapped with NWI wetlands (freshwater forested/shrub wetland), SJRWMD wetlands (mixed wetland hardwoods), and hydric soils (Basinger sand depressional, Copeland-Bradenton-Wabasso complex, Hilolo fine sand, Pompano sand, Riviera sand & Anclote sand); indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or site plan 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 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 plan or permit submittal.

#### **Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Pompano 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 Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay

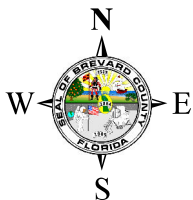
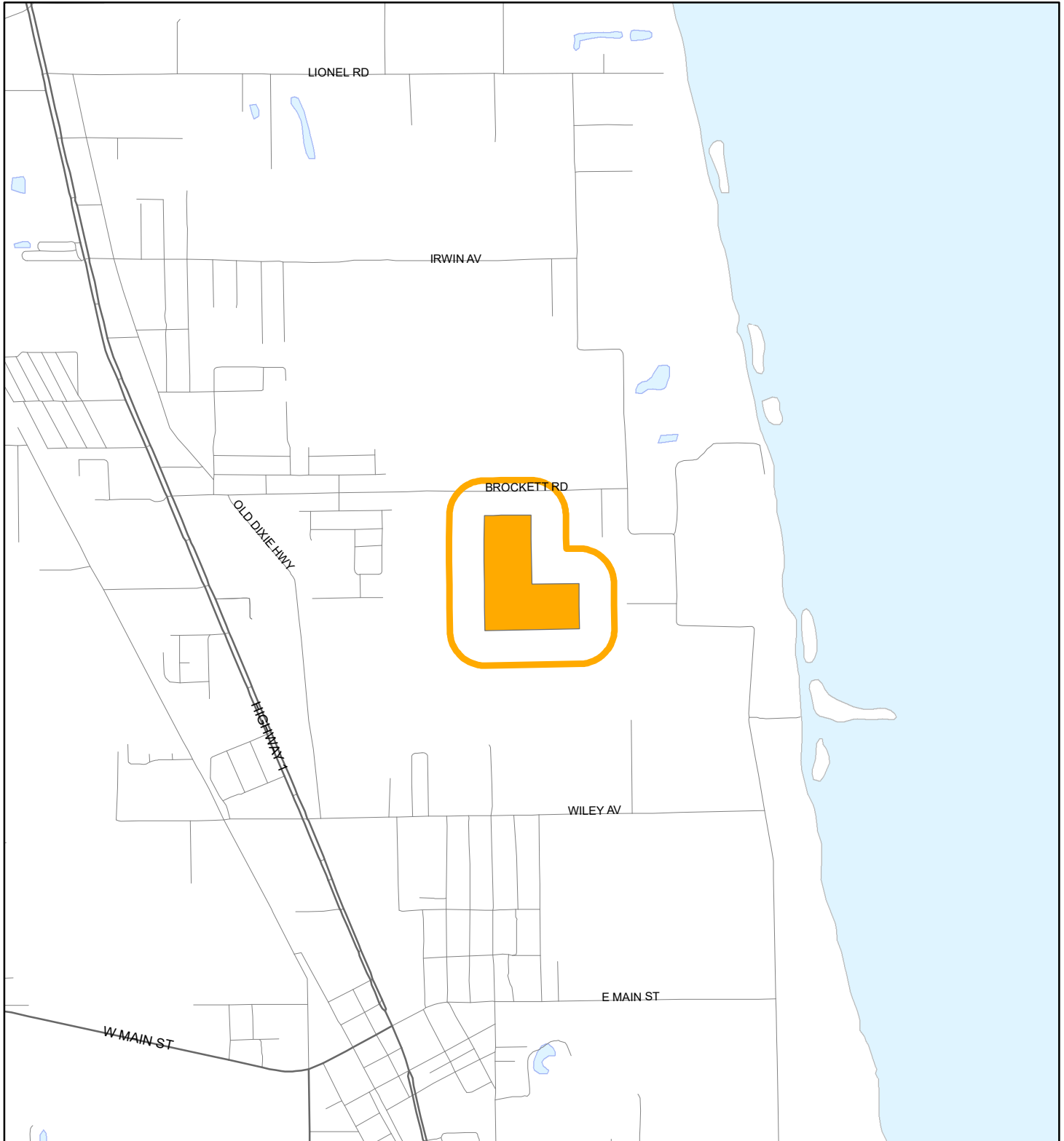
occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

### **Protected and Specimen Trees**

A large portion of the parcels are forested. Protected Trees ( $\geq 10$  inches in diameter) and Specimen Trees ( $\geq 24$  inches in diameter) are included in this FLUCCS code and are likely found on the project area. A tree survey is required prior to any land clearing activities, site plan design or site plan submittal. The applicant is encouraged incorporate valuable vegetative communities or robust trees into the site plan design. 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 Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan 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. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

# LOCATION MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



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

Buffer Distance: 500 feet

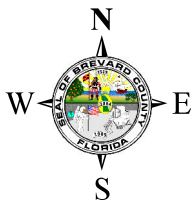
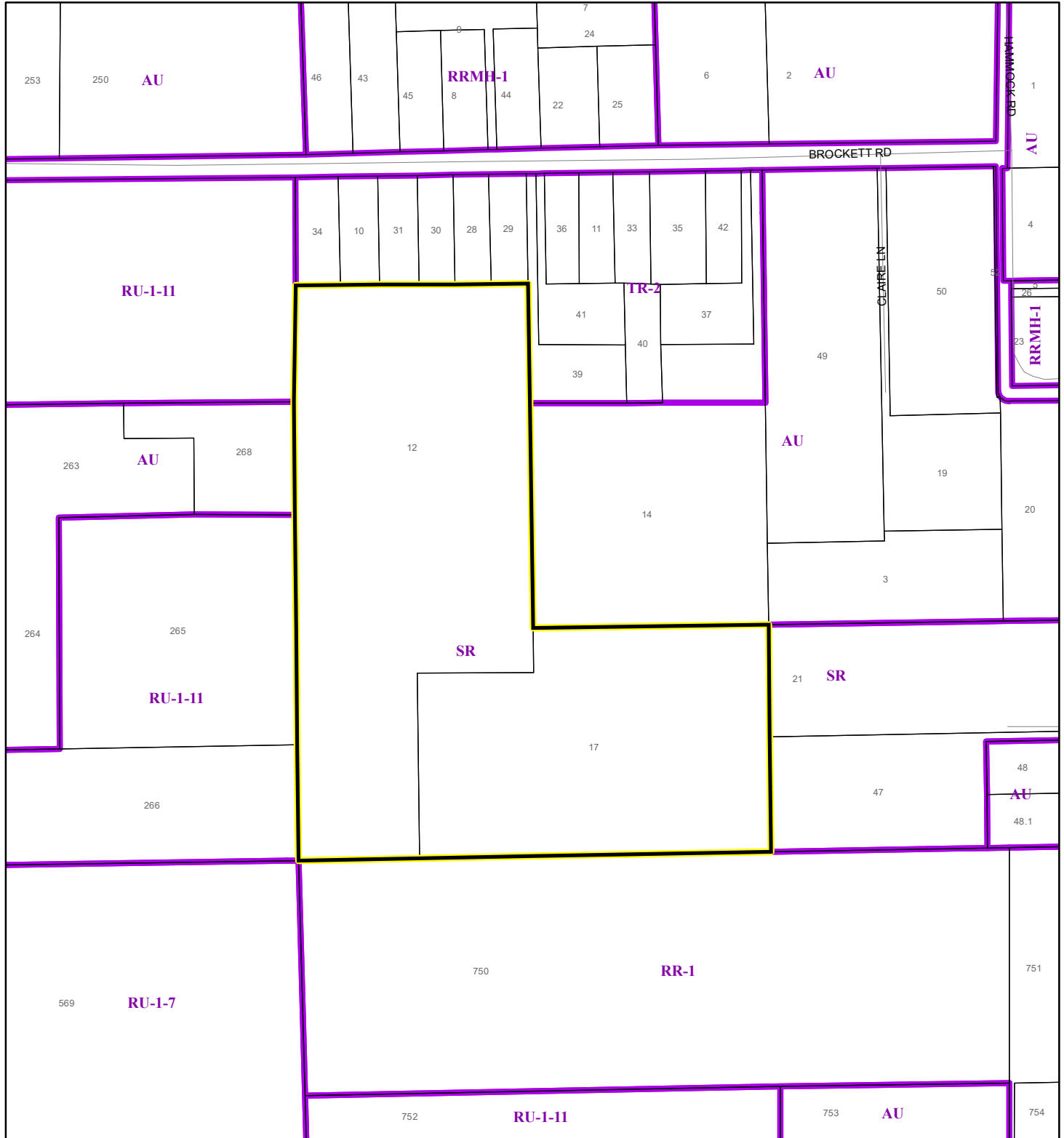
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/13/2022

Buffer  
Subject Property

# ZONING MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

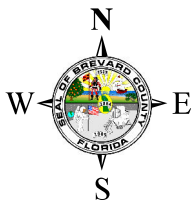
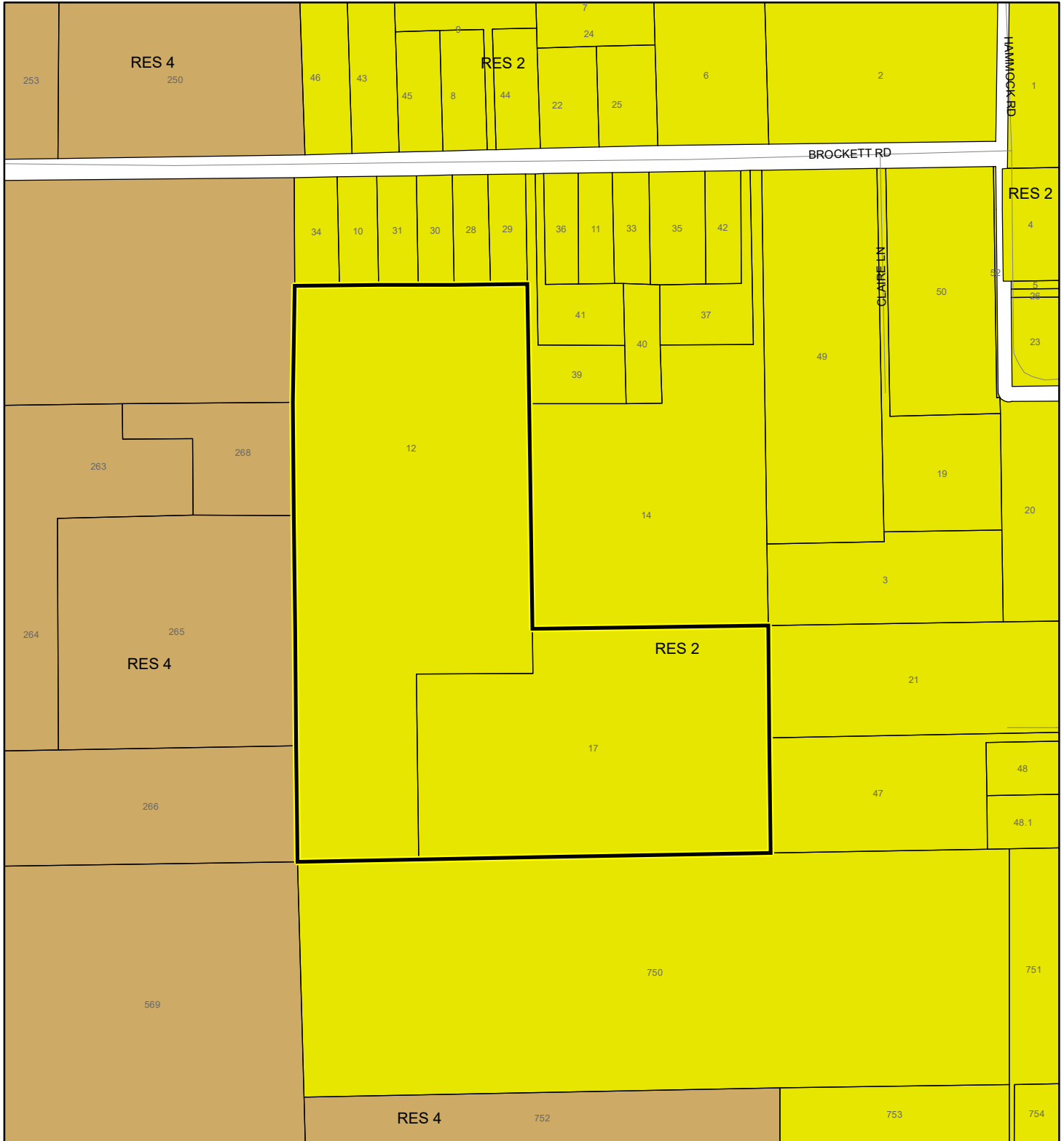
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Produced by BoCC - GIS Date: 6/13/2022

- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

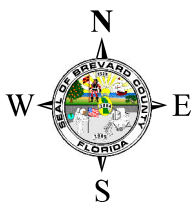
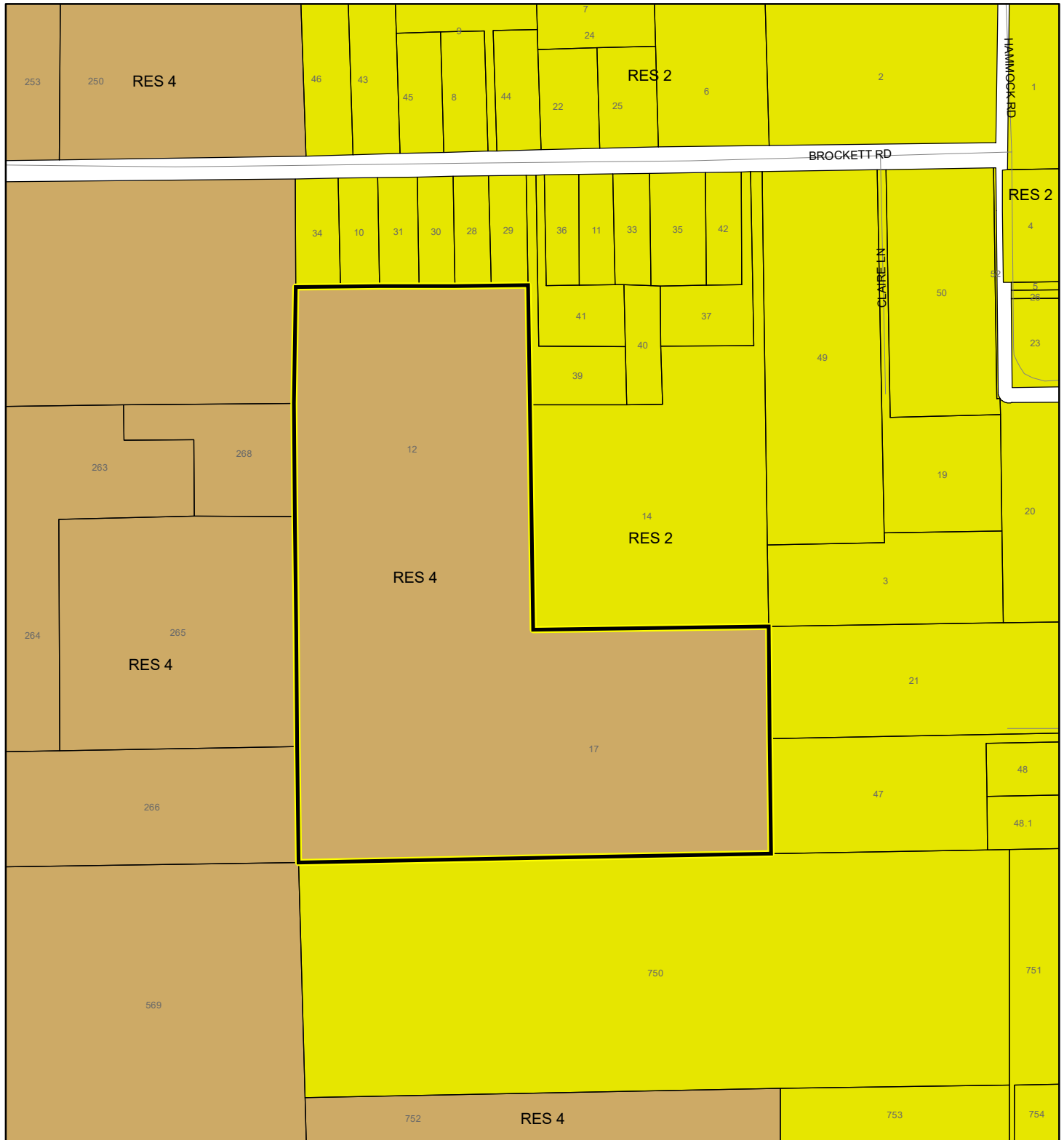
Subject Property  
 Parcels

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Produced by BoCC - GIS Date: 6/13/2022

# PROPOSED FUTURE LAND USE MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

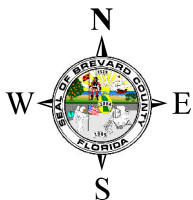
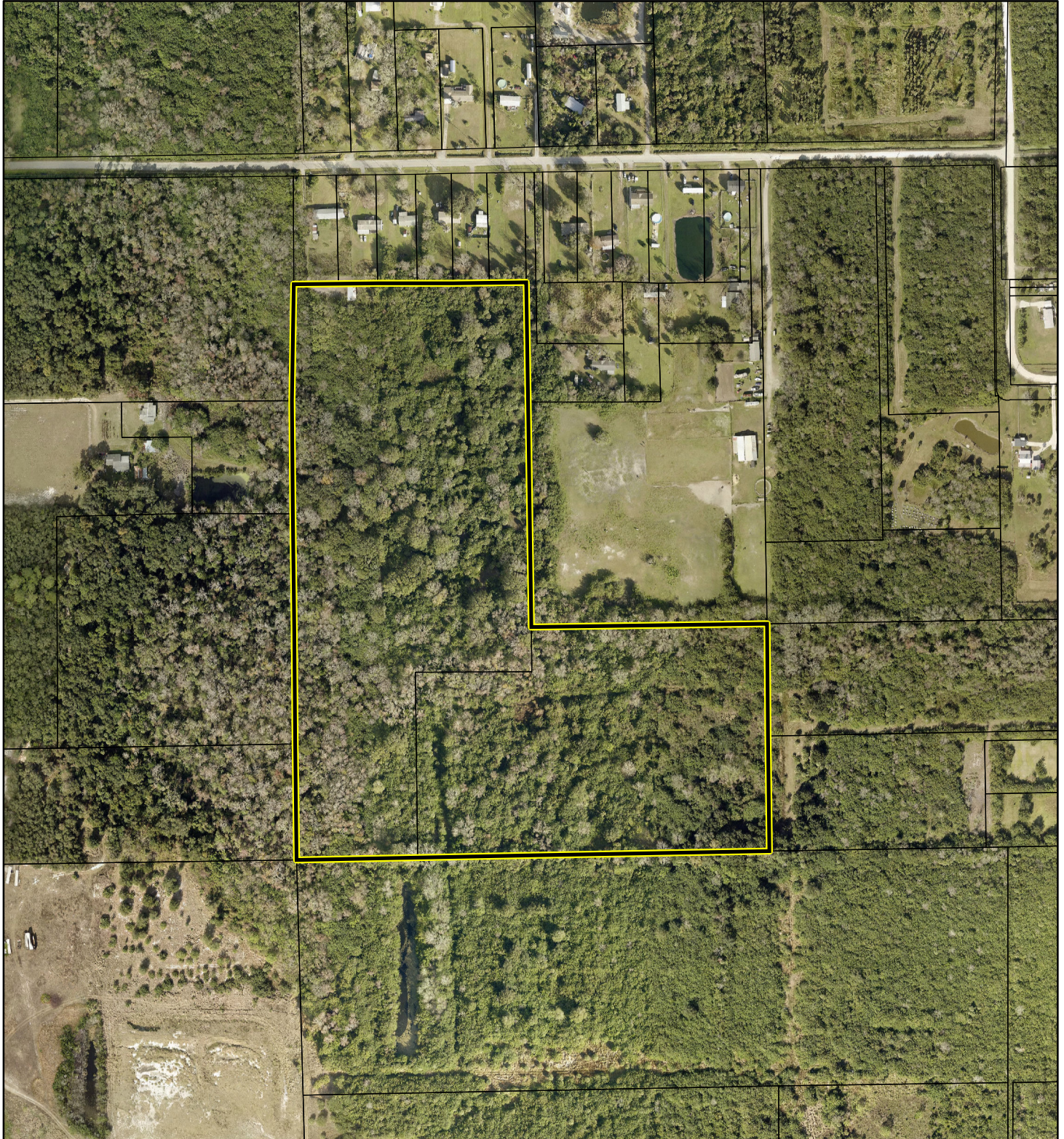
 Subject Property  
 Parcels

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Produced by BoCC - GIS Date: 6/13/2022

# AERIAL MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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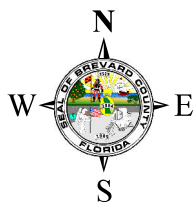
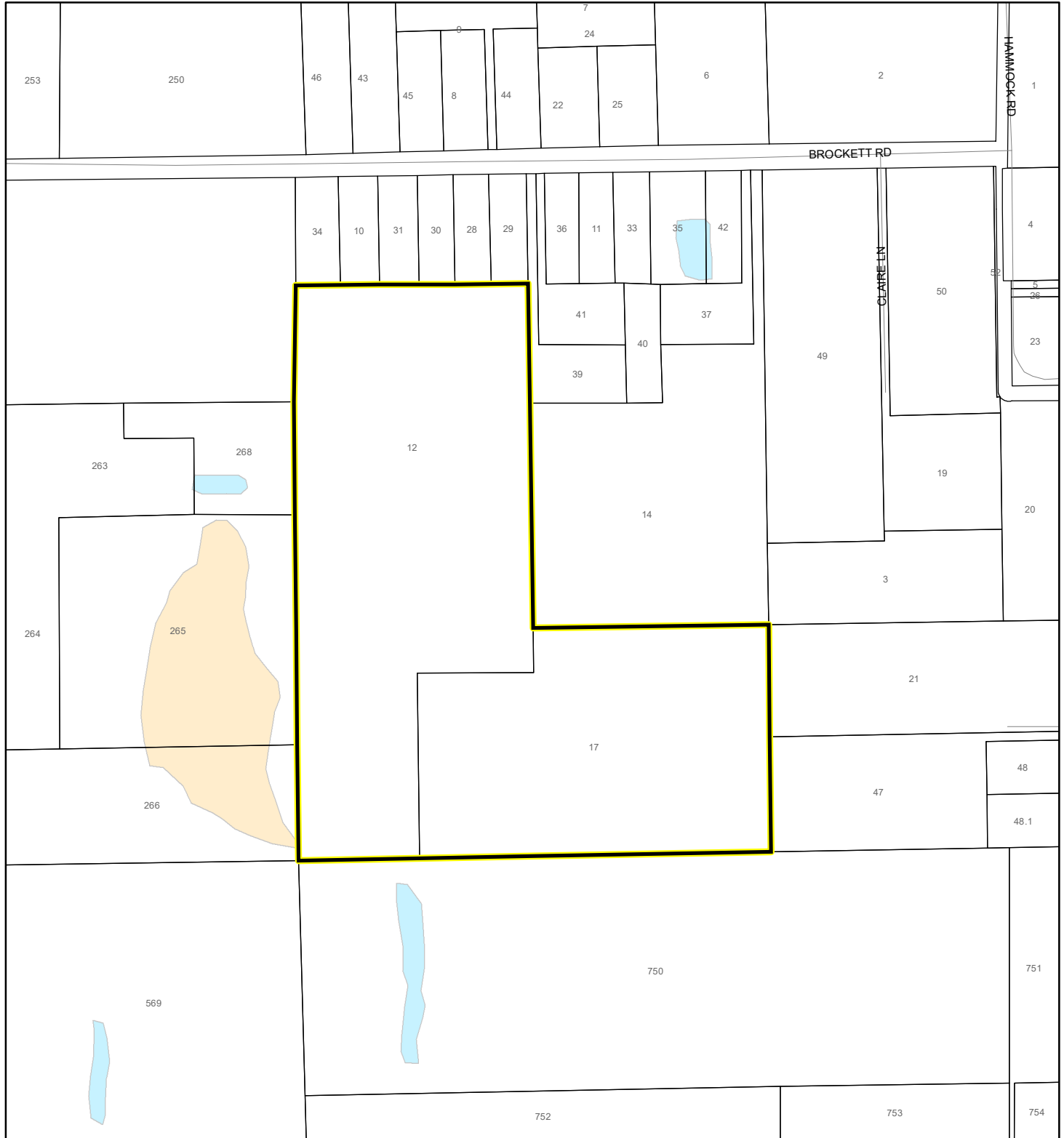
Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

# NWI WETLANDS MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

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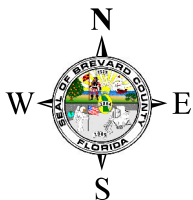
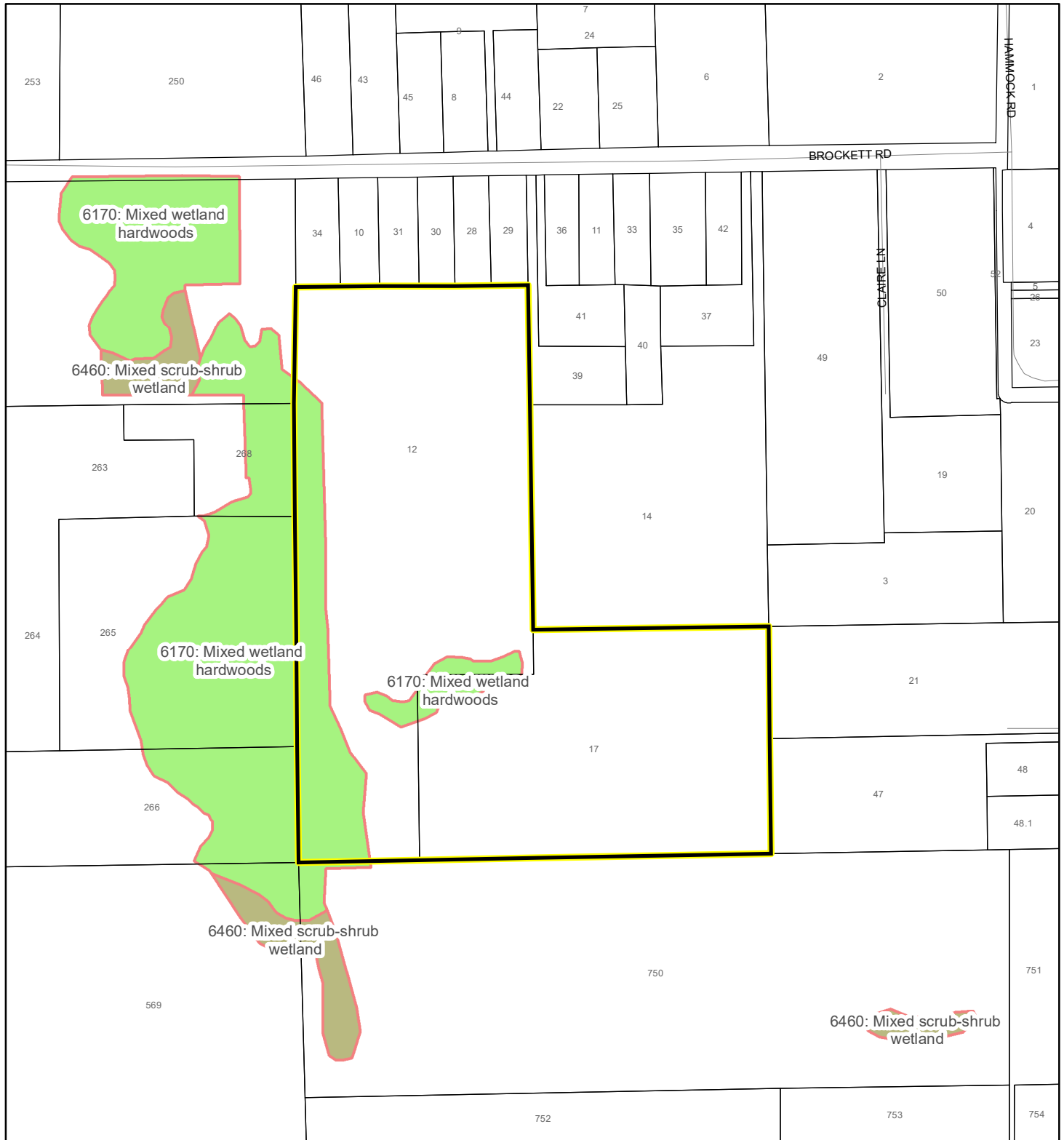
Produced by BoCC - GIS Date: 6/13/2022

## 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

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

## SJRWMD FLUCCS WETLANDS

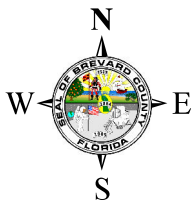
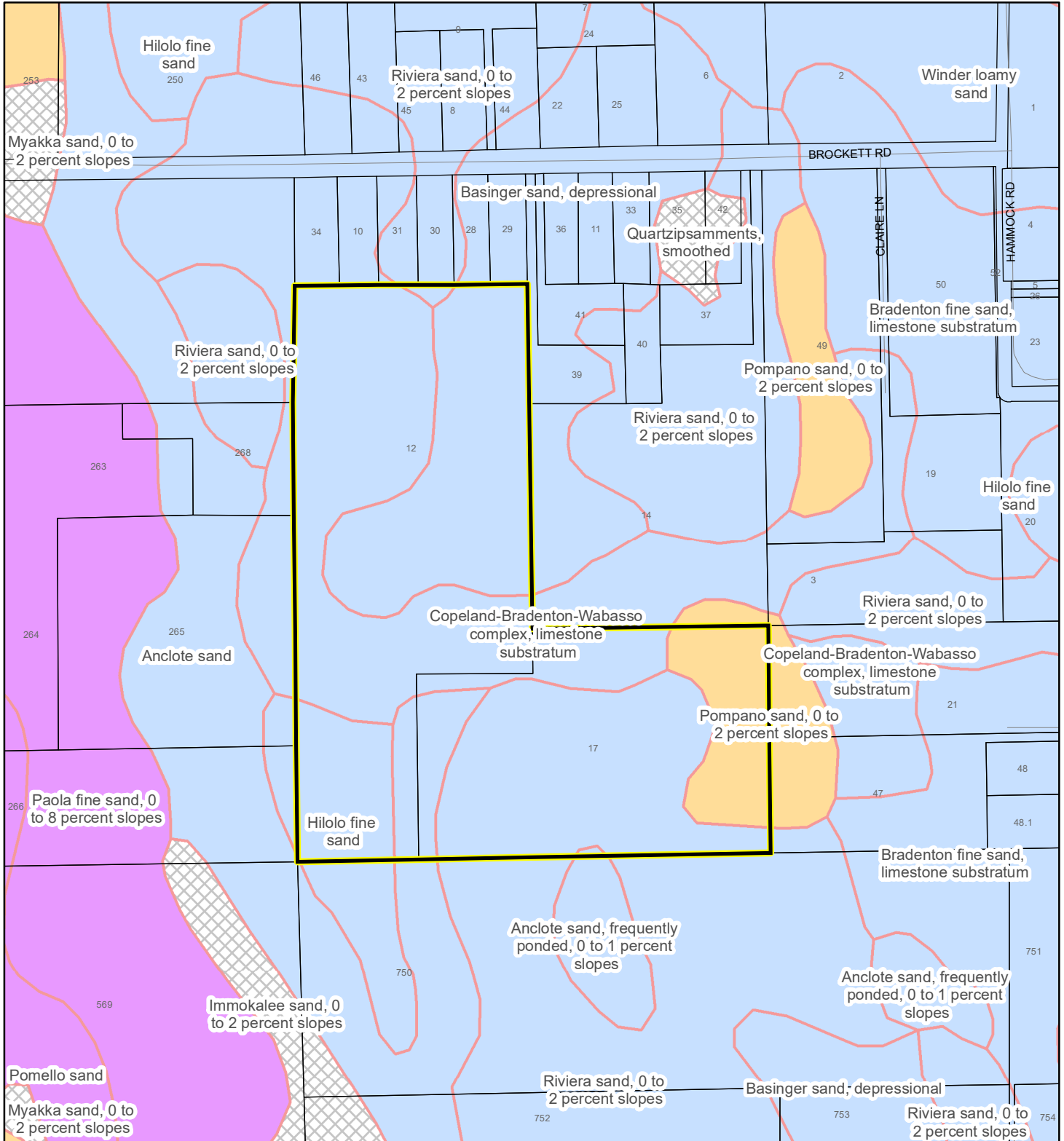
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

# USDA SCSSS SOILS MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



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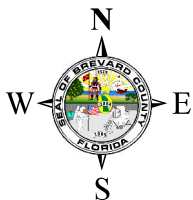
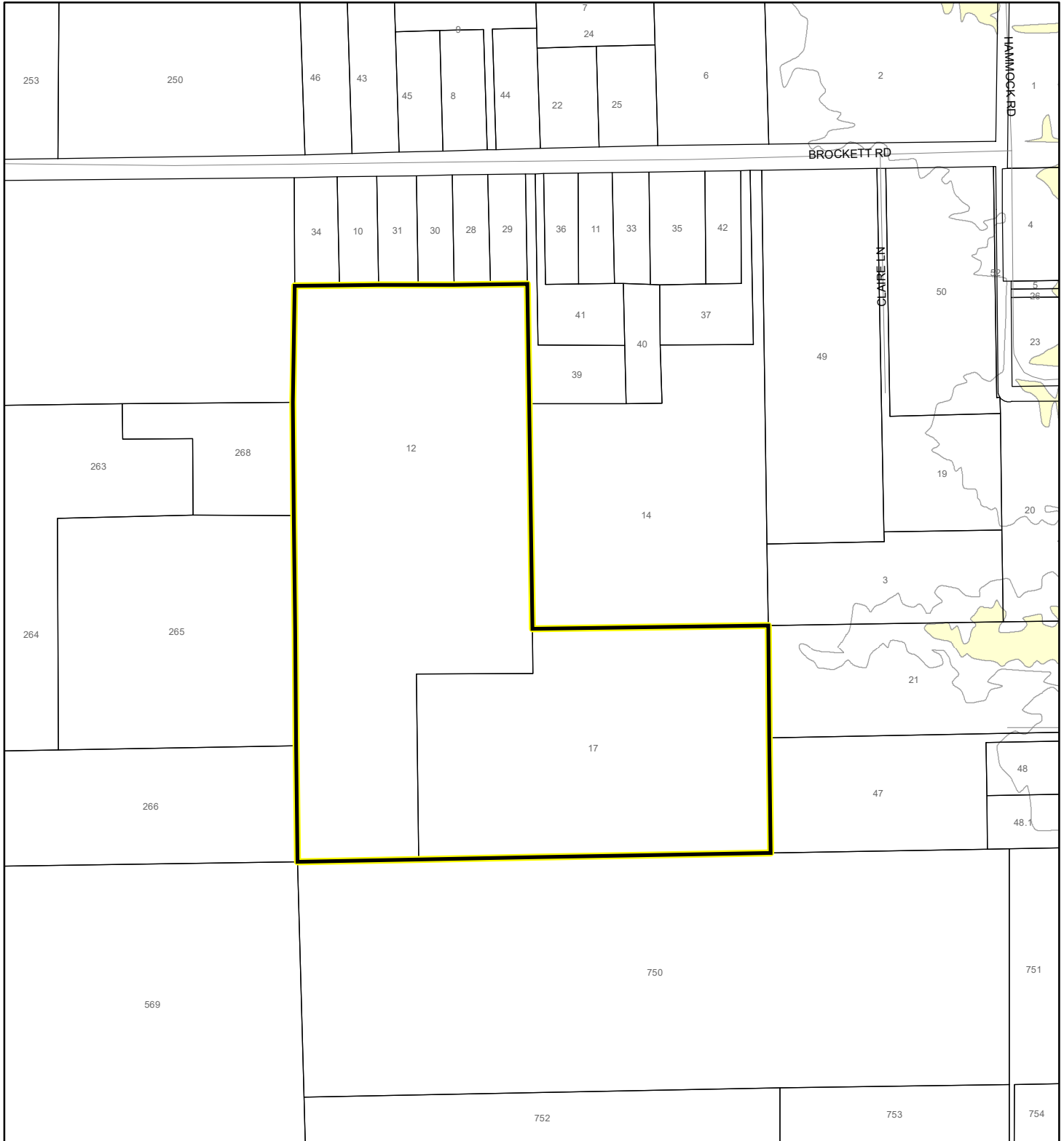
Produced by BoCC - GIS Date: 6/13/2022

## USDA SCSSS Soils

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

# FEMA FLOOD ZONES MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

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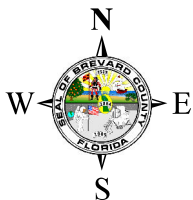
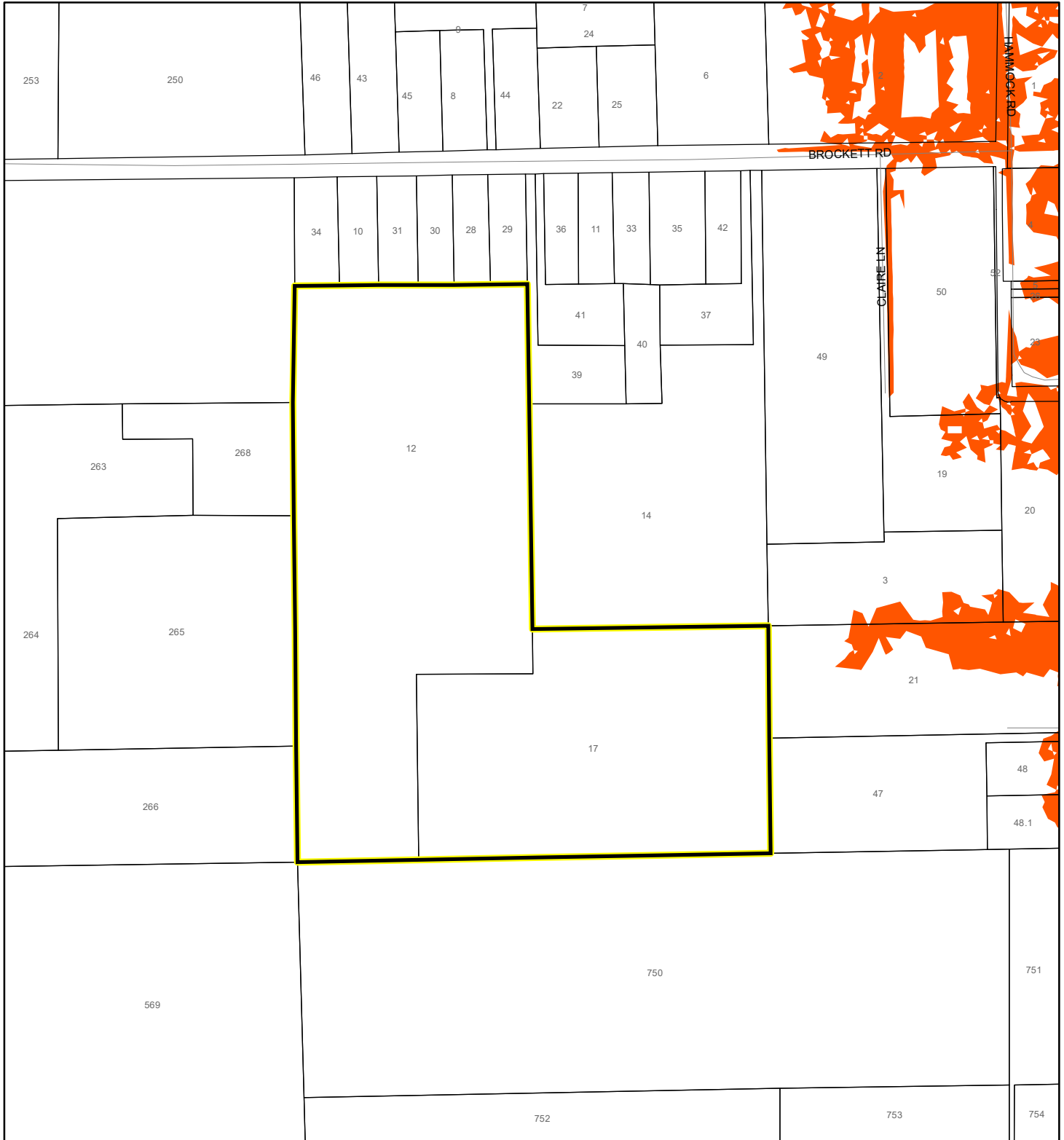
Produced by BoCC - GIS Date: 6/13/2022

## FEMA Flood Zones

- |  |  |  |
|--|--|--|
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFB6C1; border: 1px solid black;"></span> A  | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFF00; border: 1px solid black;"></span> AO         | <span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black;"></span> X |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFF00; border: 1px solid black;"></span> AE | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black;"></span> Open Water |  |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> AH | <span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black;"></span> VE         |  |
| <span style="display: inline-block; width: 15px; height: 10px; border: 2px solid yellow;"></span> Subject Property             | <span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black;"></span> Parcels                               |  |

# COASTAL HIGH HAZARD AREA MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

Subject Property

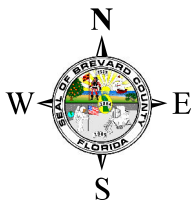
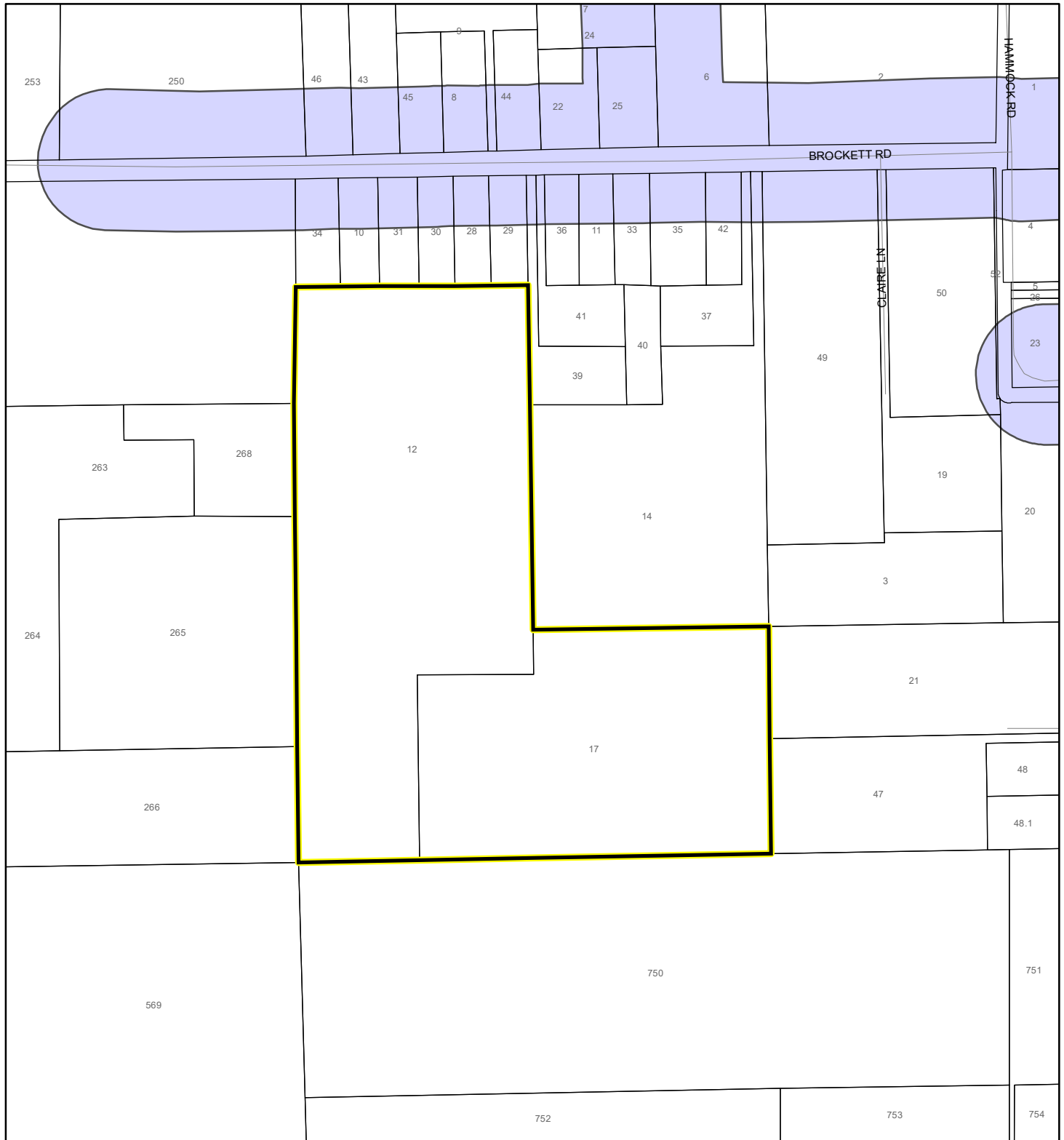
Parcels

**Coastal High Hazard Area**

SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

**Septic Overlay**

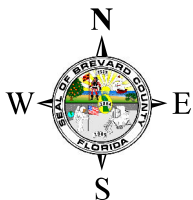
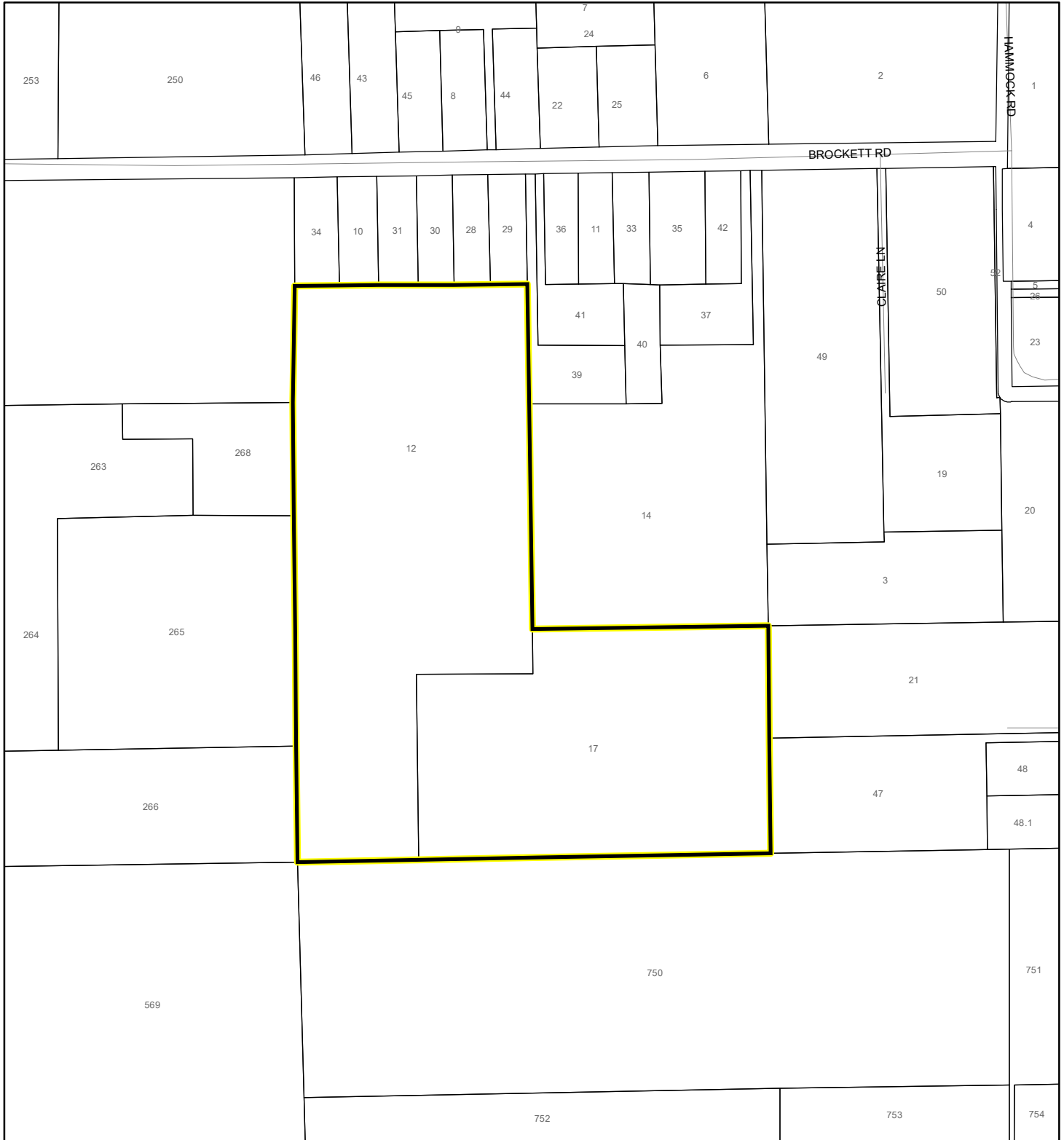
 40 Meters

 60 Meters

 All Distances

# EAGLE NESTS MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

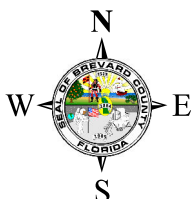
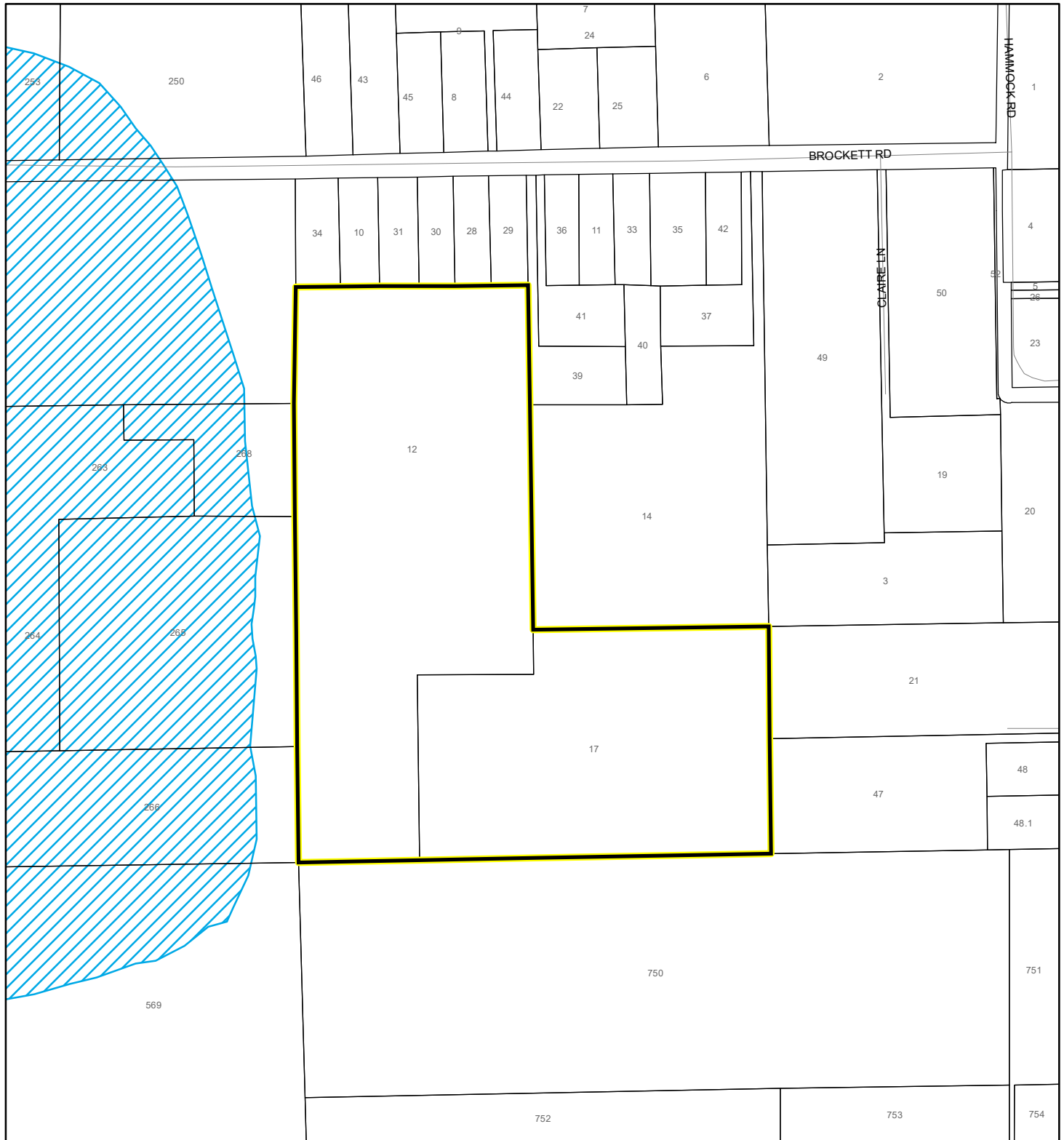
 Parcels



Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

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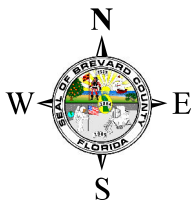
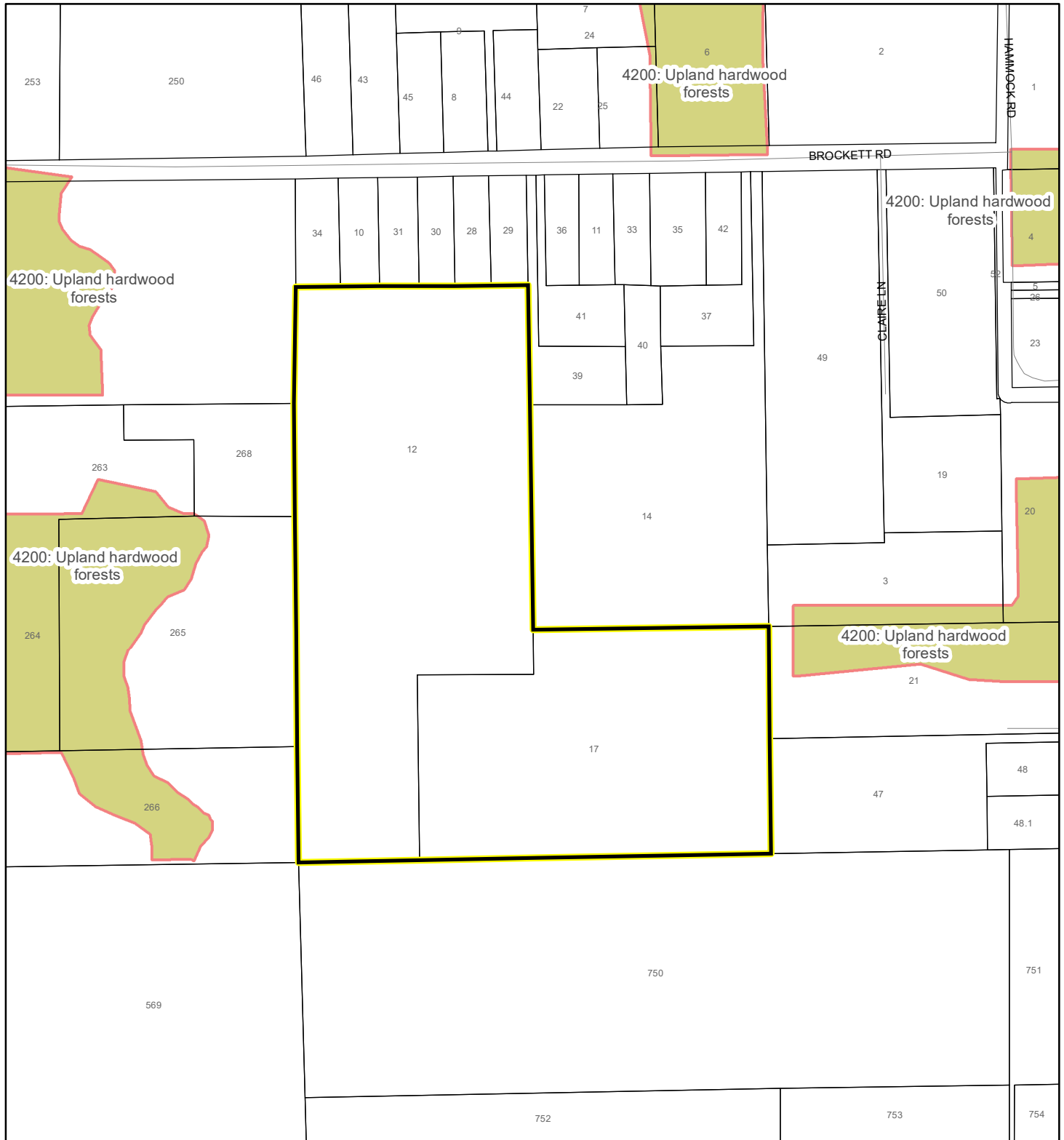
Produced by BoCC - GIS Date: 6/13/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert

22SS00008 Small Scale Amendment 22S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/13/2022

## 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

## School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699  
Dr. Mark W. Mullins, Ed.D., Superintendent



May 2, 2022

Mr. Timothy Craven, Planner II  
Land Development Section  
Planning & Development Department  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, Florida 32940

**RE: Proposed Hamlin Ridge Development  
School Impact Analysis – Capacity Determination CD-2022-25**

Dear Mr. Craven,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account number 2102919 (Parcel ID number: 21-35-08-00-266), Tax Account number 2102882 (Parcel ID number 21-35-08-0-17), Tax Account number 3018268 (Parcel ID number 21-35-08-00-270), Tax Account number 2102878 (Parcel ID number 21-35-08-00-12), and Tax Account number 2102918 (Parcel ID number 21-35-08-00-265) containing a total of approximately 76.51 acres in District 1, Brevard County, Florida. The proposed development includes 197 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 and Amended Appendix "A"-School District Student Generation Multiplier (approved April 11, 2022) 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		197	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students Generated
Elementary	0.24	47.28	47
Middle	0.07	13.79	14
High	0.12	23.64	24
Total	0.43		85

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
Pinewood	569	569	569	569	569
Madison	781	781	781	781	781
Astronaut	1,451	1,451	1,451	1,451	1,451

**Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	500	517	524	526	532
Madison	480	471	480	457	446
Astronaut	1,076	1,094	1,086	1,078	1,086

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	-	-	-	-	-
Madison	-	-	-	-	-
Astronaut	-	-	-	-	-

**Cumulative Students Generated by  
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	-	-	16	31	47
Madison	-	-	5	9	14
Astronaut	-	-	8	16	24

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	500	517	540	557	579
Madison	480	471	485	466	460
Astronaut	1,076	1,094	1,094	1,094	1,110

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	69	52	29	12	(10)
Madison	301	310	296	315	321
Astronaut	375	357	357	357	341

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

The adjacent elementary school service area is Mims Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Area* that could accommodate the impacts of the Hamlin Ridge 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
Mims	725	725	725	725	725

**Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	442	433	441	452	446

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	-	-	-	-	-

**Cumulative Students Generated by  
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	-	-	16	31	47

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	442	433	457	483	493

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	283	292	268	242	232

Considering the adjacent elementary school service areas, there is sufficient capacity for the total projected student membership to accommodate the Hamlin Ridge 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  
Manager – Facilities Planning & Intergovernmental Coordination  
Planning & Project Management, Facilities Services

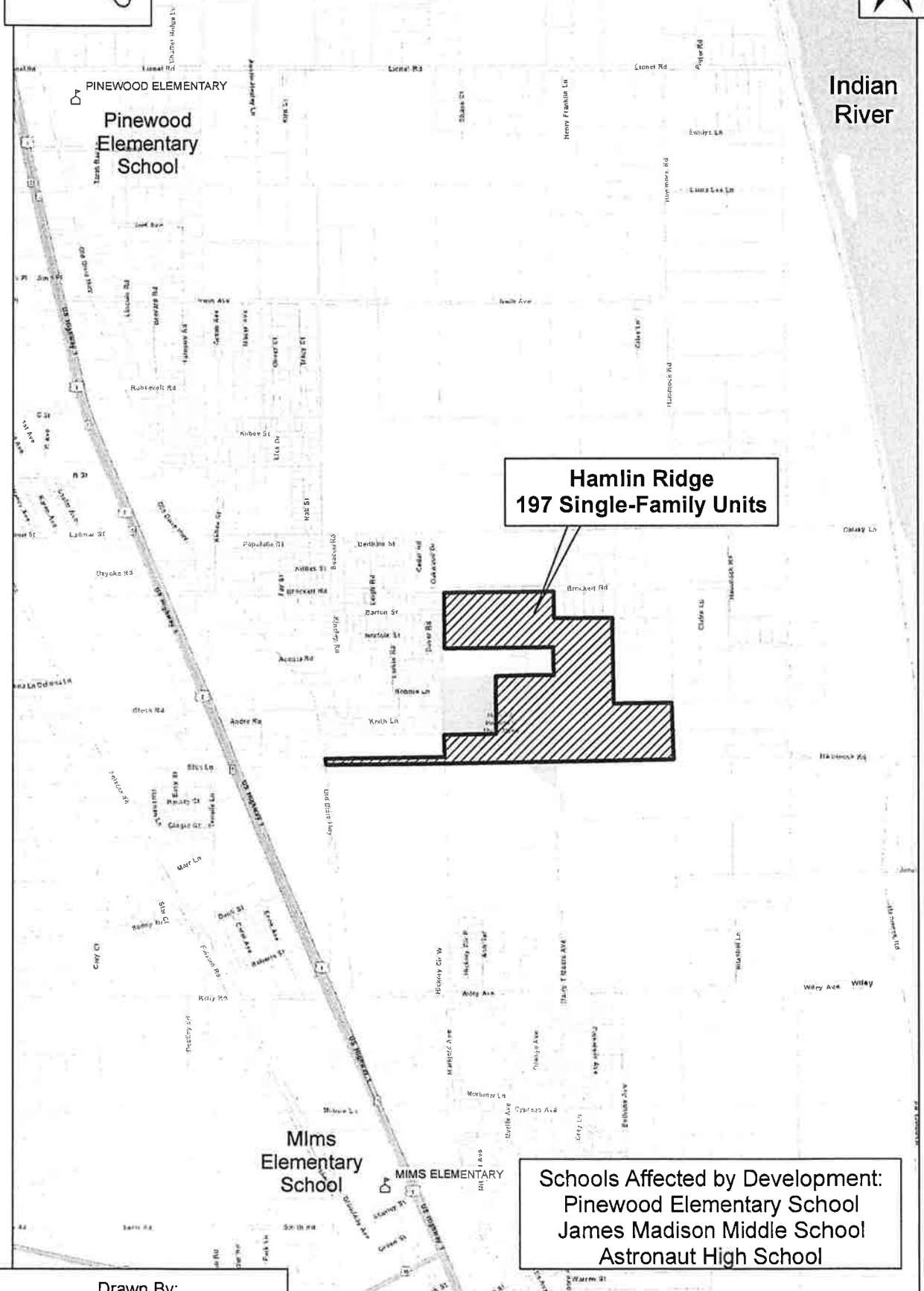
Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years 2021-22 to 2026-27*

Copy: Susan Hann, AICP, Assistant Superintendent of Facility Services  
File CD-2022-25

David G. Lindemann, AICP, Director of Planning & Project  
Management, Facilities Services  
File CD-2022-25



# Hamlin Ridge Development Location Map



Drawn By:  
Planning & Project Management  
Karen M Black  
05/02/2022

Schools Affected by Development:  
Pinewood Elementary School  
James Madison Middle School  
Astronaut High School



**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%	90%
Highest Utilization Jr / Sr High Schools:	84%	84%	82%	82%	79%	78%
Highest Utilization High Schools:	101%	100%	98%	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	508	66%	765	508	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%
Fairglen	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	86%	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	88%
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	581	59%	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	72%
Sunrise	Elementary	PK-6	100%	913	691	76%	913	690	76%	913	738	81%	935	824	88%	1,001	929	93%	1,067	1,061	99%
Suntree	Elementary	K-6	100%	755	595	79%	755	595	79%	755	584	77%	755	555	74%	755	548	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%	879	855	97%	901	872	97%	923	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	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%
Delaura	Middle	7-8	90%	960	843	88%	960	851	89%	960	829	86%	960	854	89%
Hoover	Middle	7-8	90%	680	510	75%	680	510	75%	680	485	71%	680	508	74%
Jackson	Middle	7-8	90%	660	574	87%	660	574	87%	660	594	90%	660	556	84%
Jefferson	Middle	7-8	90%	873	822	71%	873	822	71%	873	583	67%	873	583	67%
Johnson	Middle	7-8	90%	1,084	890	82%	1,084	890	82%	1,084	707	65%	1,084	752	71%
Kennedy	Middle	7-8	90%	869	682	78%	869	682	78%	869	641	74%	869	617	71%
Madison	Middle	7-8	90%	781	480	61%	781	480	61%	781	471	60%	781	480	61%
McNair	Middle	7-8	90%	611	336	55%	611	350	57%	611	359	59%	611	362	59%
Southwest	Middle	7-8	90%	1,211	940	78%	1,211	940	78%	1,211	922	76%	1,211	1,119	92%
Stone	Middle	7-8	90%	1,024	747	73%	1,024	747	73%	1,024	706	69%	1,024	772	75%
<b>Middle Totals</b>				<b>10,247</b>	<b>7,595</b>		<b>10,247</b>	<b>7,617</b>		<b>10,247</b>	<b>7,514</b>		<b>10,247</b>	<b>7,681</b>	

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%
Cocoa Beach	Jr / Sr High	7-12	90%	1,445	943	65%	1,445	955	66%	1,445	917	63%	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%
<b>Jr / Sr High Totals</b>				<b>5,381</b>	<b>4,015</b>		<b>5,381</b>	<b>4,029</b>		<b>5,381</b>	<b>4,021</b>		<b>5,381</b>	<b>4,028</b>	

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%
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%
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%
Heritage	High	9-12	95%	2,314	1,991	86%	2,314	2,038	88%	2,314	2,149	93%	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%
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%
Palm Bay	High	PK, 9-12	95%	2,631	1,288	49%	2,631	1,325	50%	2,631	1,467	56%	2,631	1,573	60%
Rockledge	High	9-12	95%	1,836	1,568	85%	1,836	1,568	85%	1,836	1,641	89%	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	99%	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%
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%
<b>High Totals</b>				<b>22,827</b>	<b>17,878</b>		<b>22,699</b>	<b>18,126</b>		<b>23,031</b>	<b>18,630</b>		<b>23,031</b>	<b>18,930</b>	

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%
South Lake	Elementary	K-6	100%	481	396	82%	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%
West Melbourne	Elementary	K-6	100%	618	544	88%	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%
West Shore	Jr / Sr High	7-12	90%	1,264	946	75%	1,264	946	75%	1,264	946	75%	1,264	946	75%
<b>Schools of Choice</b>				<b>4,484</b>	<b>3,711</b>		<b>4,484</b>	<b>3,787</b>		<b>4,484</b>	<b>3,787</b>		<b>4,484</b>	<b>3,787</b>	
<b>Brevard Totals</b>				<b>85,210</b>	<b>63,089</b>		<b>85,282</b>	<b>63,743</b>		<b>85,614</b>	<b>64,697</b>		<b>85,658</b>	<b>65,450</b>	

- 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.6.

8/15/2022

### Subject:

Paul J. Marion, Kimberly Ann LaMattina, Kayla Marie Losat, and Jessica Lynn Ripper; and Robert Clay Kirk and Ethylmay Kirk (Chad Genoni) request a change of zoning classification from AU, SR, RU-1-11, and GML, with an existing BDP on SR and RU-1-11 portions, to RU-1-7, removing the existing BDP, and adding a new BDP. (22Z00029) (Tax Accounts 2102878, 2102918, 2102919, 2102882, 3018268, & 2113544) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

It is requested that the Planning & Zoning Board conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential), SR (Suburban Residential), RU-1-11 (Single-Family Residential), and GML (Government Managed Lands), with an existing BDP (Binding Development Plan) on SR and RU-1-11 portions, to RU-1-7, removing existing BDP and adding a new BDP.

### Summary Explanation and Background:

The applicants are requesting to change the zoning of 76.52± acres of properties from AU, SR, RU-1-11, and GML, with an existing BDP to RU-1-7, removing the existing BDP and adding a new BDP in order to develop a 306-unit single-family subdivision. The proposed RU-1-7 zoning classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet, and a minimum house size of 700 square feet.

Two companion applications have been submitted by the applicant to change the Future Land Use designation to RES 4 on two parcels within the entire subject property. If approved, application 22SS00007 would change the Future Land Use designation on 2.12 acres from REC (Recreation) to RES 4 (Residential 4). Application 22SS00008 would change the Future Land Use designation on 35.36 acres from RES 2 (Residential 2) to RES 4 (Residential 4).

The applicant has submitted a BDP proposing to limit development to 4 units per acre. The proposed RU-1-7 zoning can be considered consistent with the proposed RES 4 FLU designation with a BDP limiting development to 4 units per acre.

School concurrency is based on 197 units and indicates that Pinewood Elementary is not projected to have enough capacity for the total of potential students from the proposed development; however, Mims Elementary School could accommodate the impacts of the proposed development. Madison Middle School

and Astronaut High School are both projected to have enough capacity for the total of potential students.

The Board may wish to consider whether the request for RU-1-7 and the proposed BDP limitation without provisions for connection to centralized water and sewer are consistent and compatible with the surrounding area.

The Board of County Commissioners will consider the request on **Thursday, September 1, 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, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

#### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

(c) General Standards of Review.

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

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

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

### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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

### STAFF COMMENTS

**22Z00029**

**Paul J. Marion, Kimberly Ann Lamattina, Kayla Marie Losat, Jessica Lynn Ripper,  
Robert Clay Kirk and Ethyl May Kirk**

**AU (Agricultural Residential), SR (Suburban Residential), RU-1-11 (Single-family Residential)  
and GML (Government Managed Lands) with Existing BDP to  
RU-1-7 (Single-family Residential) with Removal of Existing BDP and Addition of a New BDP**

Tax Account Numbers: 2102878, 2102918, 2102882, 2102319, 3018268, 2113544  
Parcel I.D.s: 21-35-08-00-12, 21-35-08-00-265, 21-35-08-00-266, 21-35-08-00-17, 21-35-08-00-270, 21-35-07-00-109  
Location: On the south side of Brockett Road approximately 3,115 feet east of US Highway 1 (District 1)  
Acreage: 76.52± acres

Planning & Zoning Board: 8/15/2022

Board of County Commissioners: 9/01/2022

### Consistency with Land Use Regulations

- Current zoning cannot 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).

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	AU, GML, SR, and RU-1-11 with BDP	RU-1-7 with BDP
<b>Potential*</b>	<ul style="list-style-type: none"> <li>• 0 SFR unit in AU</li> <li>• 0 SFR units in GML</li> <li>• 61 SFR units in SR</li> <li>• 128 SFR units in RU-1-11</li> </ul>	306 single-family units**
<b>Can be Considered under the Future Land Use Map</b>	NO RES 2, RES 4, and REC	YES; RES 4***

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\* A BDP proposing to limit development to 4 units per acre has been submitted by the applicant. \*\*\*Two companion applications have been submitted by the applicant: **22SS00007**, if approved would change the Future Land Use designation on 2.12 acres from Recreation (REC) to Residential 4 (RES 4) and **22SS00008**, if approved would change the Future Land Use designation on 35.36 acres Residential 2 (RES 2) to Residential 4 (RES 4). Section 62-1255 Exhibit A requires RU-1-7 consistency with RES 6.

## Background and Purpose of Request

The applicants are requesting to change the zoning of a 76.52± acre property from AU (Agricultural Residential), SR (Suburban Residential), RU-1-11 (Single-family Residential) and GML (Government Managed Lands) with Existing BDP to RU-1-7 (Single-family Residential) with Removal of Existing BDP and Addition of a New BDP in order to develop a single-family subdivision.

The proposed development includes 197 single-family homes according to the School Impact Analysis Report provided by the applicant; however, the maximum potential of 306 units based on density stated in the proposed BDP was analyzed for preliminary concurrency purposes. Per Section 62-2957, subdivisions with 201-350 dwelling units are required to provide two (2) entrances to provide for traffic flow and emergency ingress and egress. The subject property has frontage on Brockett Road to the north and Old Dixie Highway to the west.

The subject property consists of six parcels that are undeveloped. The AU portion of the property (0.01-acre) retains the original zoning (note: this parcel may not be visible on the official zoning map due to its small size). The GML portion (2.12 acres) was administratively rezoned from AU to GML on August 28, 1989 as zoning action Z-8467. The SR and RU-1-11 portions of the property were rezoned from AU to SR and RU-1-11 with BDP on February 22, 2007 as zoning action Z-11321. That BDP, recorded in ORB 5751, Pages 9334-9347, limits the RU-1-11 portion to a total of 128 units and limits the SR portion to a total of 61 units. The BDP also stipulates that not less than 20% of homes built shall be priced as affordable housing and initially sold to households who can qualify only for affordable housing; onsite wet detention ponds be utilized for irrigation; and landscaping shall be Florida grade 1 or Florida Fancy and irrigated by automatic sprinkler systems.

## Land Use

The subject property is currently designated as Residential 2 (RES 2), Residential 4 (RES 4), and Recreation (REC). The proposed RU-1-7 zoning cannot be considered consistent with the existing RES 4, RES 2, and REC FLU designations.

Two companion applications have been submitted by the applicant to change the Future Land Use designation to RES 4 on two parcels within the 76.52± acre subject property. **22SS00007**, if approved, would change the Future Land Use designation on 2.12 acres from Recreation (REC) to Residential 4 (RES 4). **22SS00008**, if approved, would change the Future Land Use designation on 35.36 acres Residential 2 (RES 2) to Residential 4 (RES 4).

The applicant has submitted a BDP proposing to limit development to 4 units per acre. The proposed RU-1-7 zoning can be considered consistent with the proposed RES 4 FLU designation with a BDP limiting development to 4 units per acre.

## Applicable Land Use Policies

### FLUE Policy 1.2 - Public Facilities and Services Requirements

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.
- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.

**As the project's density is 4 units per acre, connection to centralized sewer and potable water could be required under Criterion C, above. Site is currently unimproved and not connected to utilities.**

**FLUE 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 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 rezone the 76.52± acre subject property to develop a single-family residential subdivision. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the 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 character of the area is residential and transitions from 4 units per acre to 2 units per acre along Brockett Road heading east from US Highway 1. This request could be considered an encroachment into the RES 2 area which is primarily still vacant land but does contain established manufactured homes on large lots along Brockett Road. These lots range in size from 0.71 acres to 11.25 acres.**

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 immediately adjacent to the subject parcel within the past three (3) years that have not been constructed.**

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

In general, the character of the area is residential and transitions from 4 units per acre to 2 units per acre along Brockett Road heading east from US Highway 1. Three (3) FLU designations are located within 500 feet of the subject property: RES 2, RES 4, and REC.

The applicants are proposing a 306-unit single-family residential subdivision. The closest established residential neighborhood is located immediately west of the subject property with a range of lot sizes from 0.2-acre to 1-acre lots. To the north of the subject property is vacant land and single-family residences. To the south is vacant residential zoning (approximately 40 acres zoned RU-1-7). To the east are single-family residences, manufactured/mobile homes and vacant land.

The proposed RU-1-7 zoning classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

#### **Surrounding Area**

	<b>Existing Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-Family Residences; Vacant	AU, TR-2, GML	RES 4, RES 2, REC
<b>South</b>	Vacant	RU-1-7, RR-1	RES 4, RES 2
<b>East</b>	Single-Family Residences and Manufactured/Mobile Homes	SR, AU, TR-2	RES 2
<b>West</b>	Vacant; Single-Family Residences and Manufactured/Mobile Homes	TR-1	RES 4

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. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

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.

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.

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.

TR-2 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on one-half acre lots.

There have been four (4) zoning actions within a half-mile radius of the subject property within the last three years. **21Z00025**, approved by the Board on March 3, 2022, was a request to change AU (Agricultural Residential) to RR-1 (Rural Residential) on a 1.15 acre parcel located 1,540 feet west of the subject property on the west side of US Highway 1. **21Z00026**, approved by the Board on November 4, 2021, was a request to change AU (Agricultural Residential) to SR (Suburban Residential) on a 0.5 acre parcel located 1,940 feet west of the subject property on the west side of US Highway 1. **20PZ00101**, approved by the Board on March 25, 2021, was a request for BDP limiting to 4 units per acre on a 110 acre parcel located south and adjacent to the subject property. **19PZ00010**, approved by the Board on May 2, 2019, was a request to change RRMH-2.5 (Rural Residential Mobile Home) to AGR (Agricultural) on a parcel located 390 feet northeast of the subject property on the west side of Hammock Road.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, from SR 46 to Lionel, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 24.88% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 2.67%. The corridor is anticipated to operate at 27.54% of capacity daily. The proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review.

The school concurrency indicates that Pinewood Elementary is not projected to have enough capacity for the total of projected and potential students from the proposed development; however, the adjacent elementary school service area (Mims Elementary) could accommodate the impacts of the proposed development. Madison Middle and Astronaut High are both projected to have enough capacity for the total of projected and potential students from the proposed development.

The nearest potable water connection is approximately 400 feet north of the subject site and serves the Oakwood Village subdivision. There is also another County potable water line approximately

one-half mile south of the subject site. Presently, the nearest sanitary sewer force main connections are approximately one mile south of the subject site.

### **Environmental Constraints**

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

A large portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or site plan 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 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 plan or permit submittal.

### **For Board Consideration**

The Board may wish to consider whether the request for RU-1-7 and the proposed BDP limitation without provisions for connection to centralized water and sewer are consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item #22Z00029**

**Applicant:** Genoni

**Zoning Request:** RU-1-11, SR, GML & AU w/ BDPs to RU-1-7 w/ BDP

**Note:** Applicant wants to develop 197 lots

**P&Z Hearing Date:** 08/15/22; **BCC Hearing Date:** 09/01/22

**Tax ID Nos:** 2102878, 2102918, 2102882, 2102919, 3018268 & 2113544

- 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.
- A rezoning zoning or Future Land Use approval by the Board of County Commissioners does not vest the property from meeting the current wetland ordinance. A formal review of current proposed wetland impacts at time of building permit or site plan review is required, regardless of any previously approved wetland impacts from any Federal, State or local agency. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design

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

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

A large portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils; indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or site plan 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 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 plan or permit submittal.

Portions of the project area are mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, then the use of 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.

A large portion of the subject property is mapped within an Upland Hardwood Forest. A tree survey is required prior to any land clearing activities, site plan design or site plan submittal. The applicant is encouraged incorporate valuable vegetative communities or robust trees into the site plan design.

The subject parcel contains mapped aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

### **Land Use Comments:**

#### **Wetlands**

A large portion of the project area is mapped with NWI wetlands (freshwater forested/shrub wetland), SJRWMD wetlands (mixed wetland hardwoods & mixed scrub/shrub wetland), and hydric soils (Basinger sand depressional, Copeland-Bradenton-Wabasso complex, Hilolo fine sand & Anclote sand); indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or site plan 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 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 plan or permit submittal.

#### **Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Pomello sand & Paola sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. 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**

Portions of the project area are mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, then the use of 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**

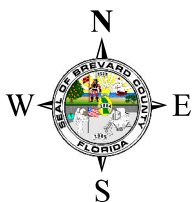
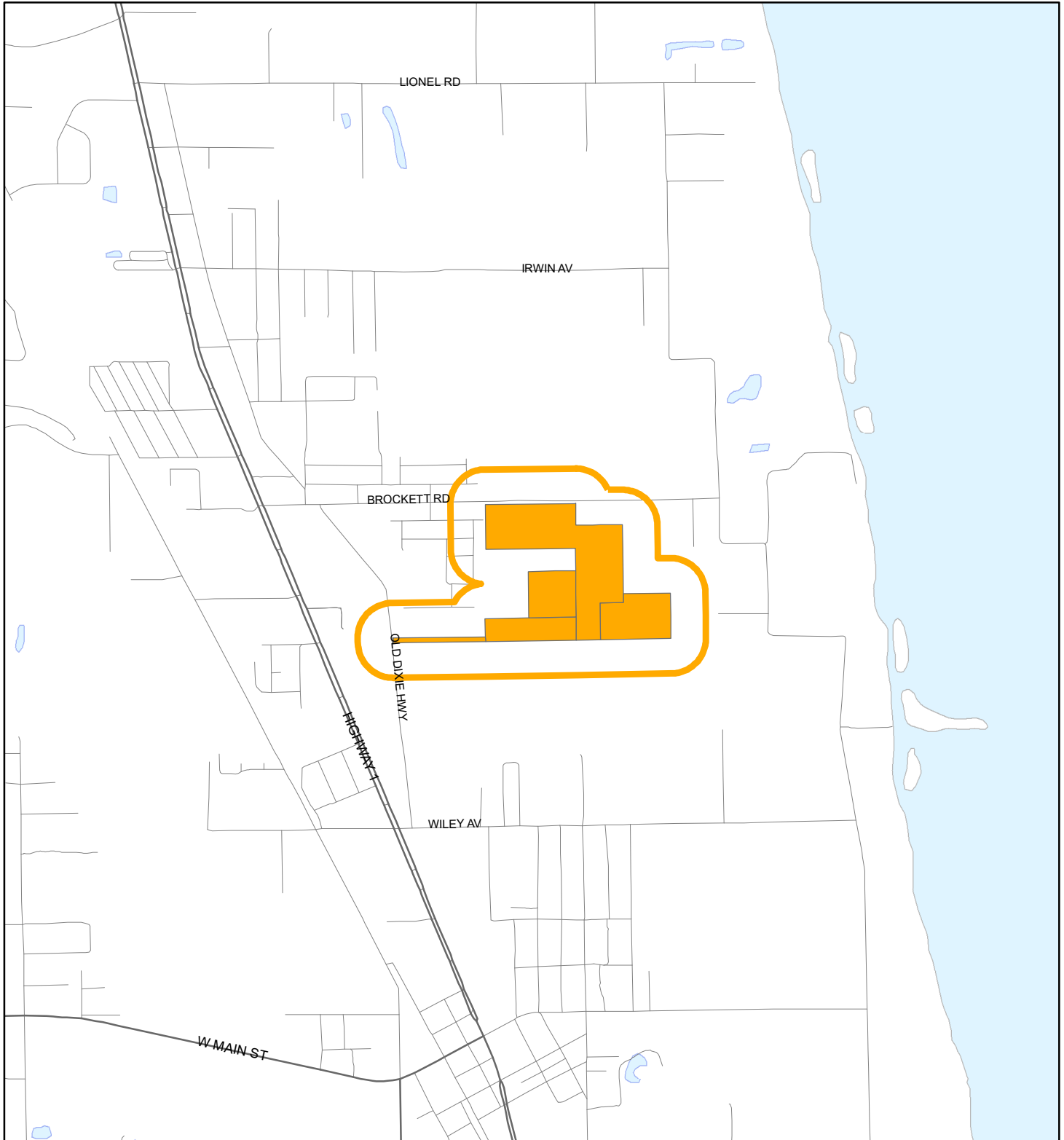
Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

### **Protected and Specimen Trees**

A large portion of the subject property is mapped with SJRWMD FLUCCS code 4200-Upland Hardwood Forest. Protected Trees ( $\geq 10$  inches in diameter) and Specimen Trees ( $\geq 24$  inches in diameter) are included in this FLUCCS code and are likely found on the project area. A tree survey is required prior to any land clearing activities, site plan design or site plan submittal. The applicant is encouraged incorporate valuable vegetative communities or robust trees into the site plan design. 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 Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

# LOCATION MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22Z00029



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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 6/13/2022

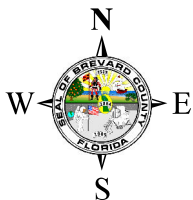
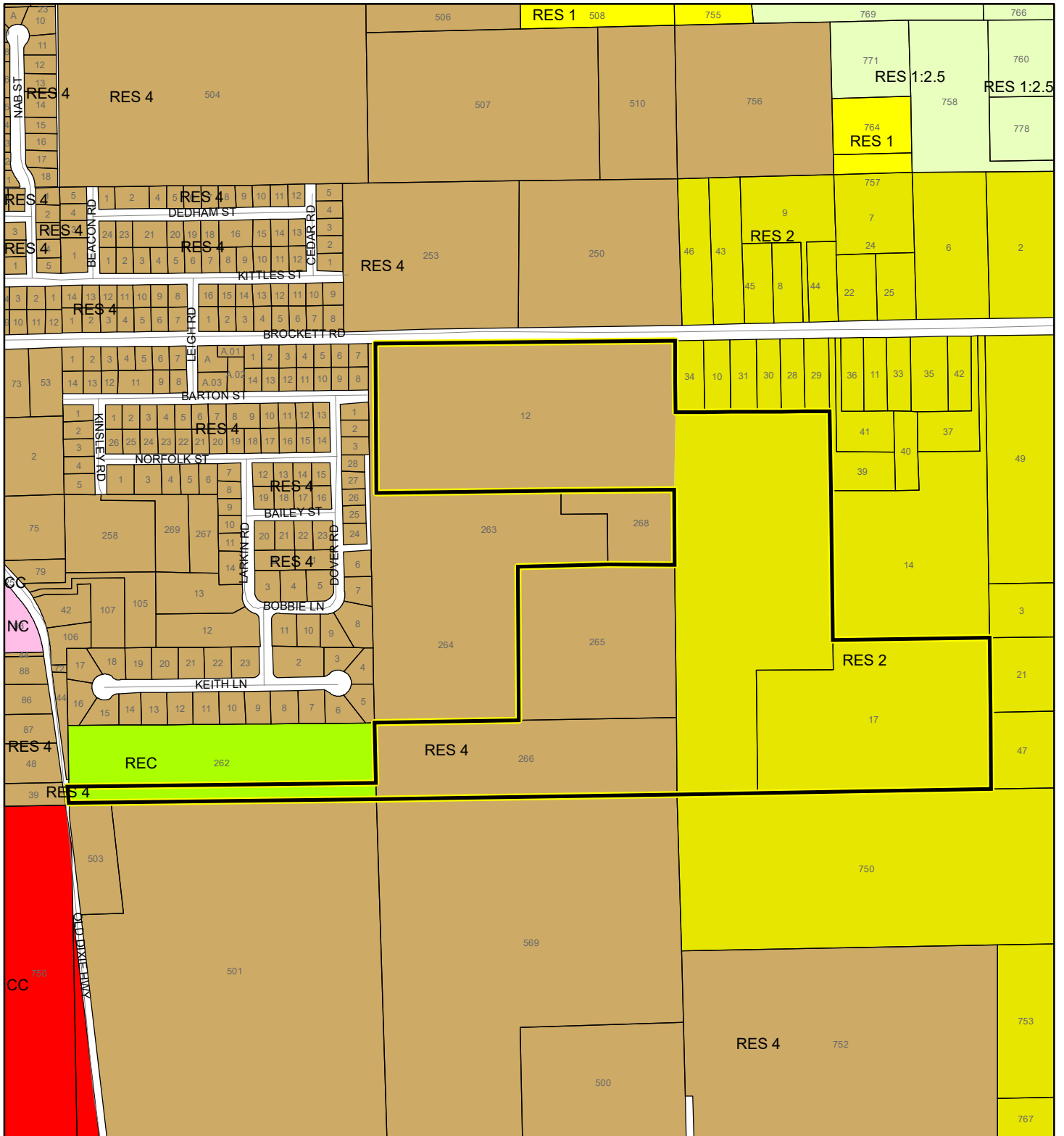
— Buffer  
— Subject Property





# FUTURE LAND USE MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert

22Z00029



1:7,200 or 1 inch = 600 feet

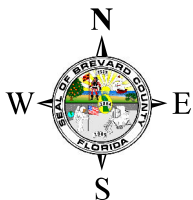
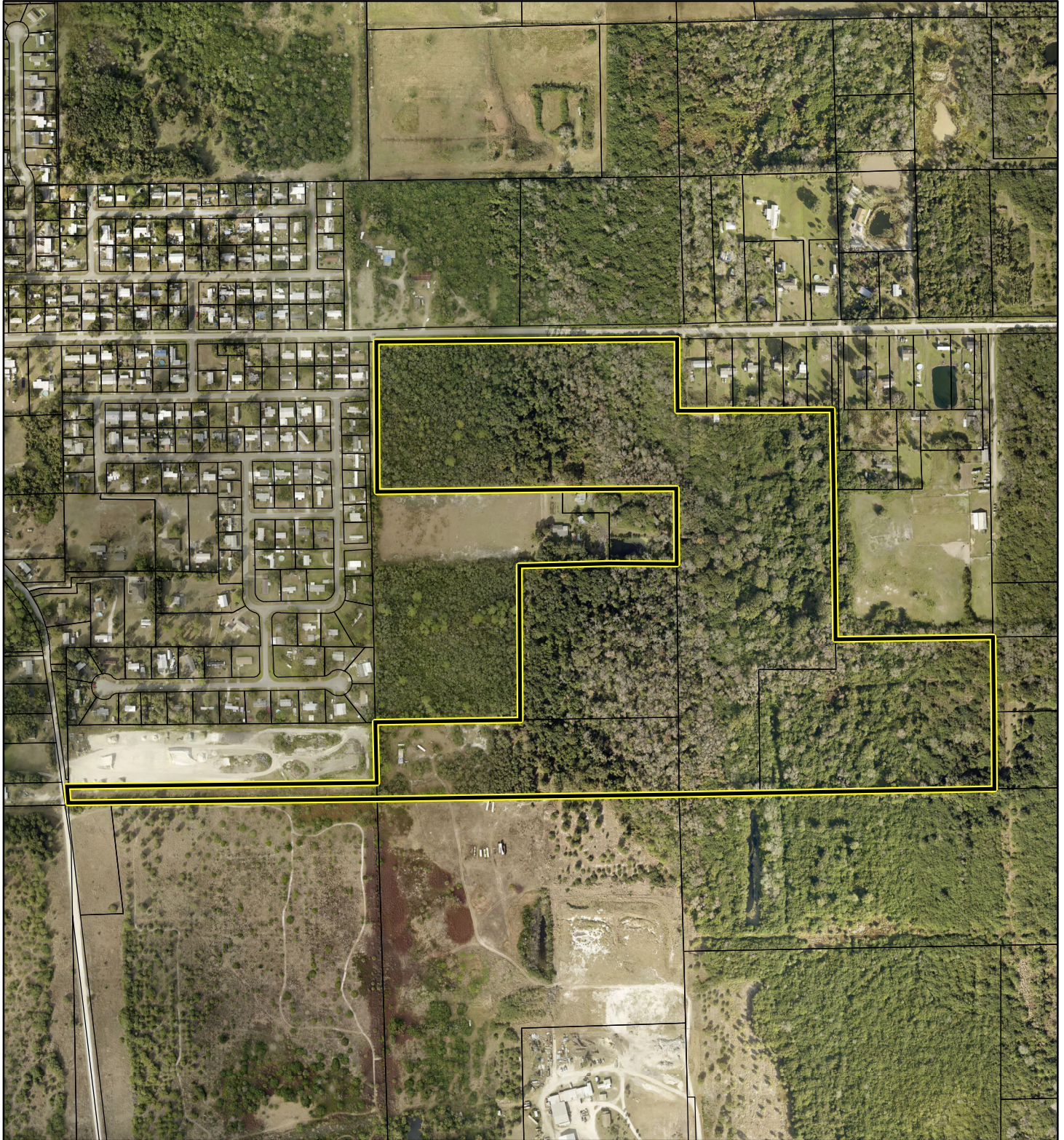
 Subject Property  
 Parcels

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# AERIAL MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22Z00029




1:7,200 or 1 inch = 600 feet

PHOTO YEAR: 2021

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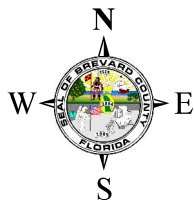
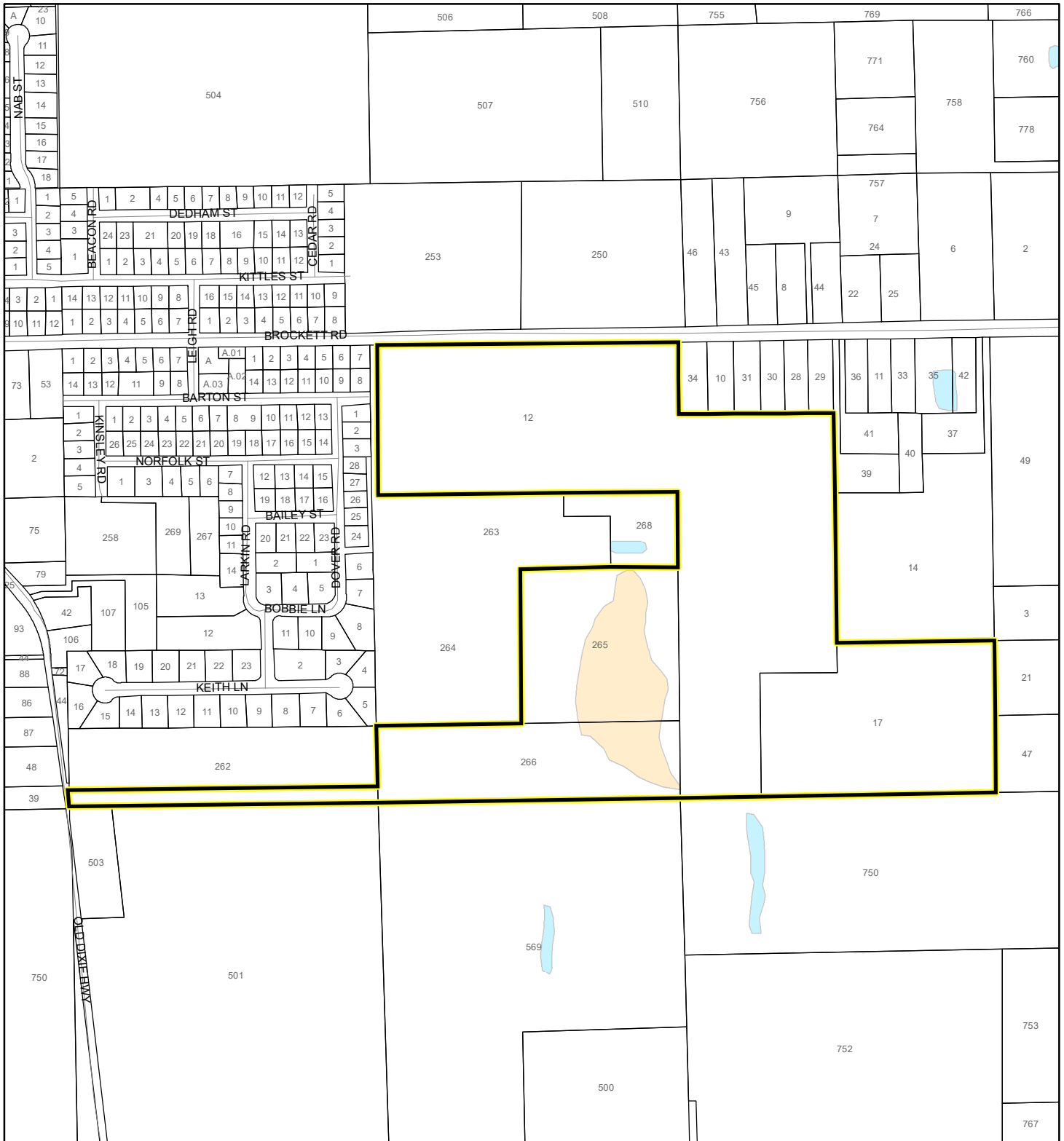
Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

# NWI WETLANDS MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22Z00029



1:7,200 or 1 inch = 600 feet

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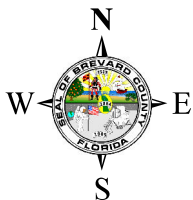
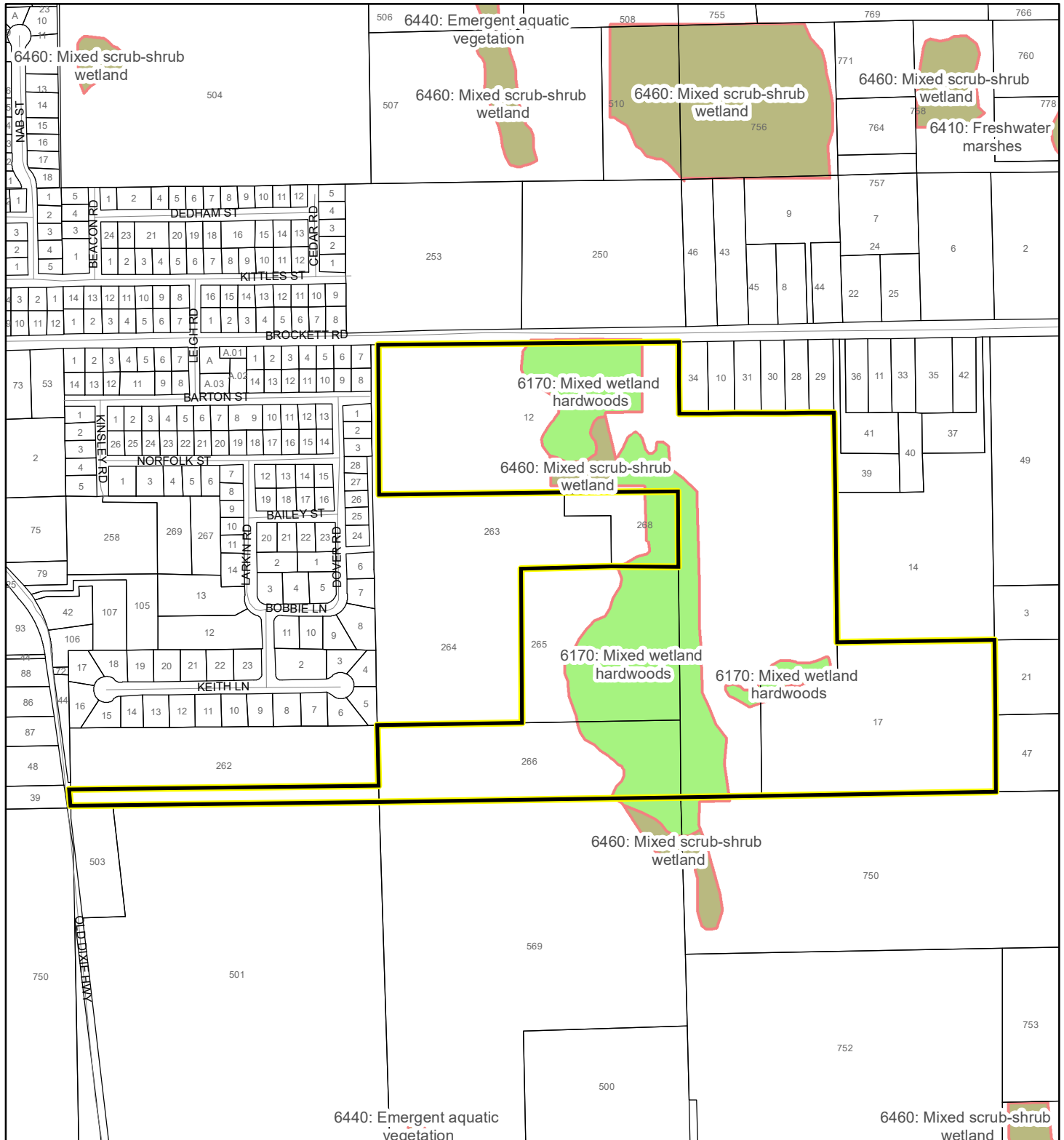
## National Wetlands Inventory (NWI)

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

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert

22Z00029



1:7,200 or 1 inch = 600 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

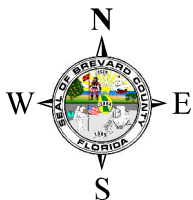
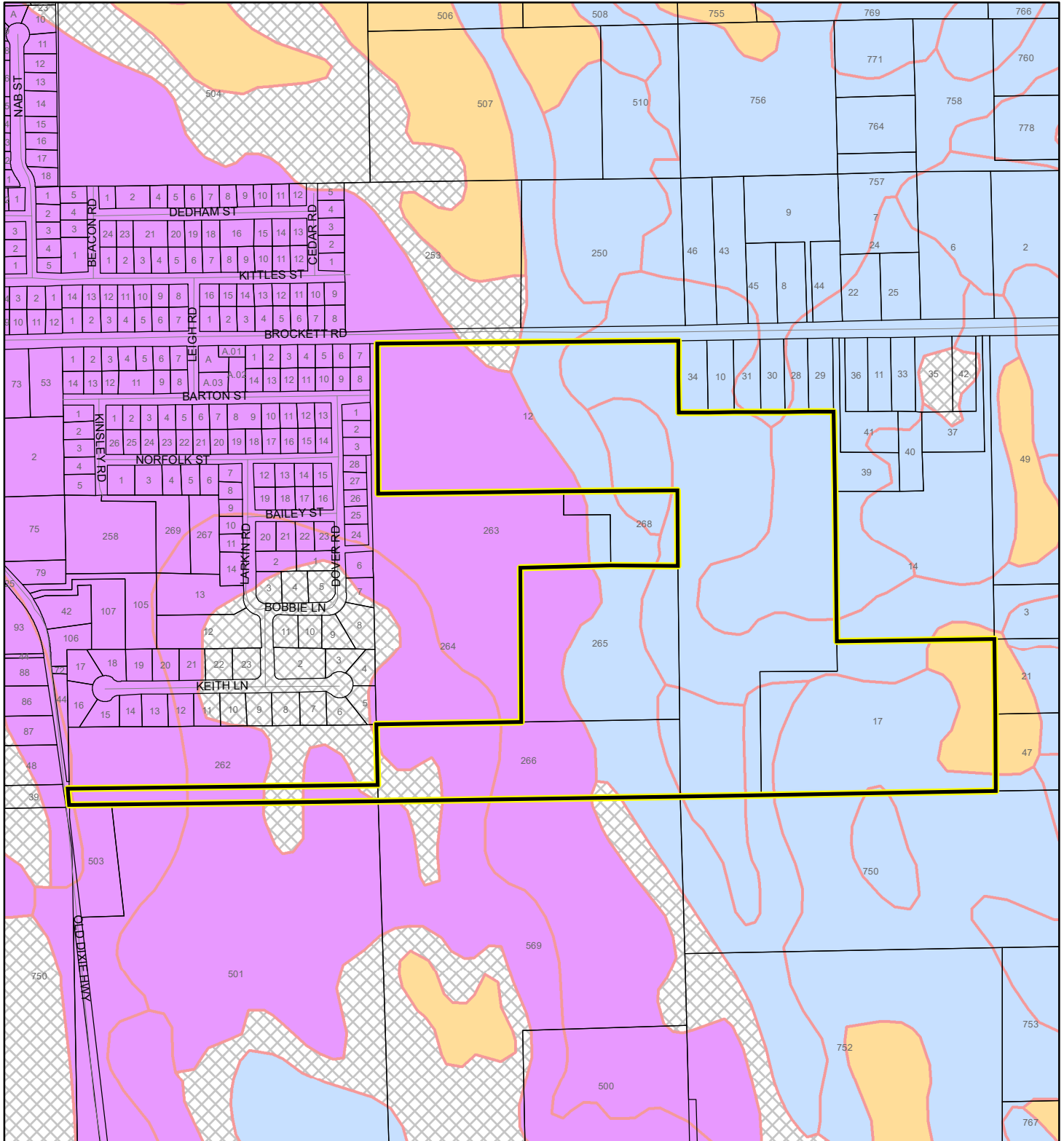
Subject Property

Parcels

# USDA SCSSS SOILS MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert

22Z00029



1:7,200 or 1 inch = 600 feet

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## USDA SCSSS Soils

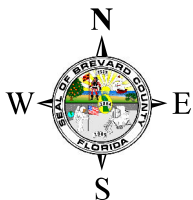
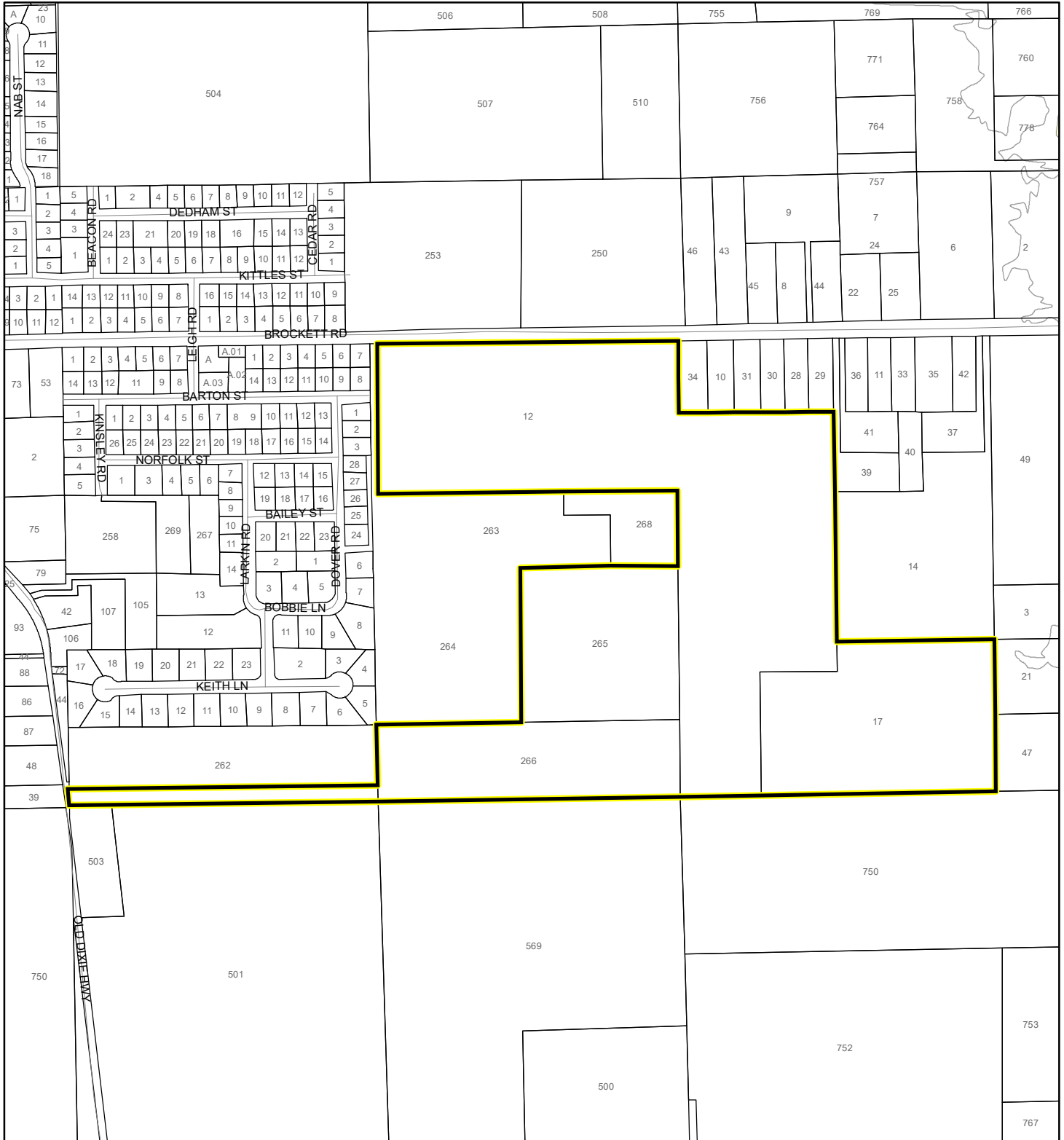
- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

# FEMA FLOOD ZONES MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22Z00029



1:7,200 or 1 inch = 600 feet

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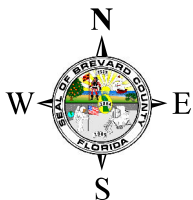
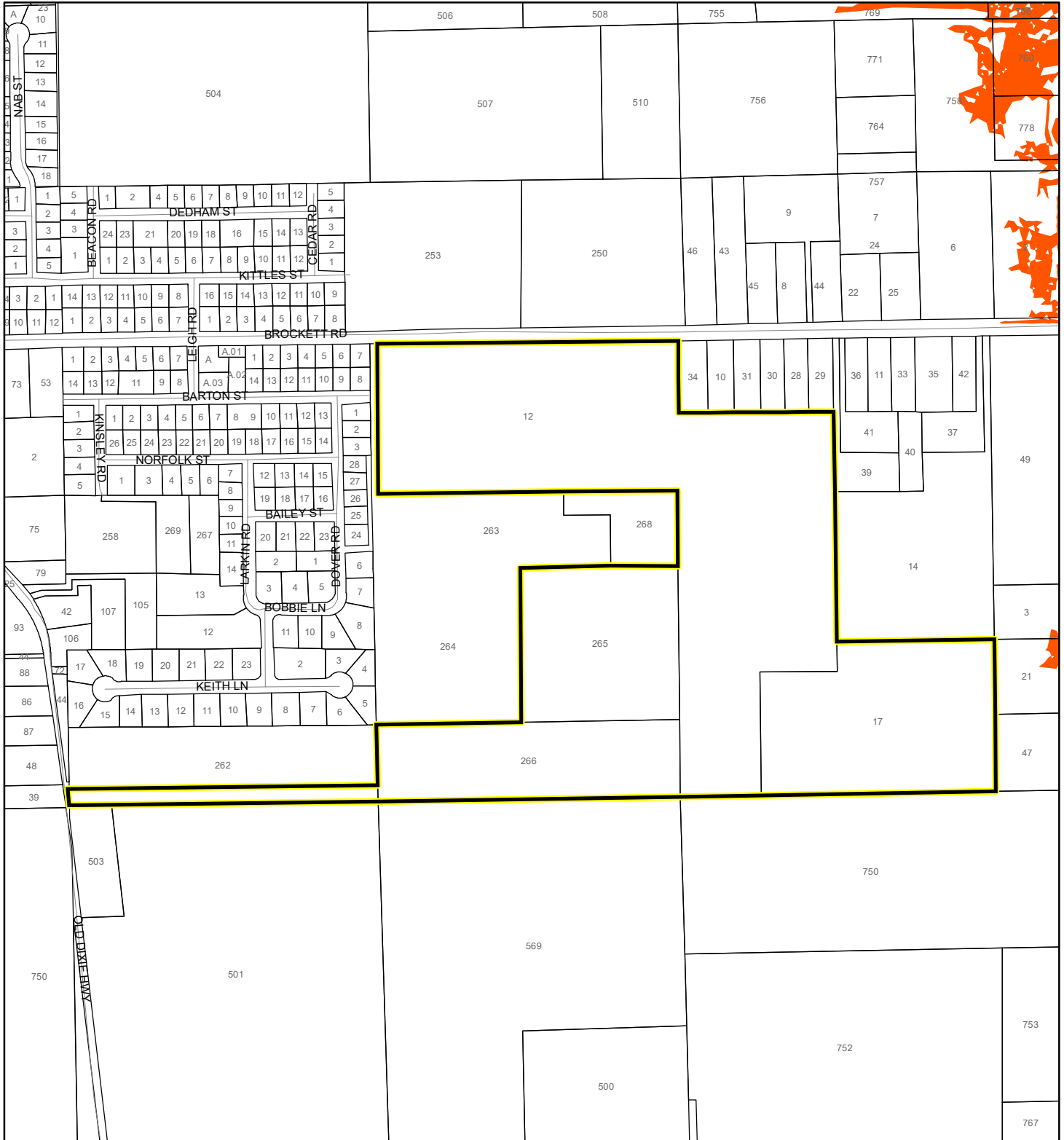
Produced by BoCC - GIS Date: 6/13/2022

## FEMA Flood Zones

- |  |  |   |
|--|--|---|
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFC0CB; border: 1px solid black;"></span> A  | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFFF00; border: 1px solid black;"></span> AO         | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFFFFF; border: 1px solid black;"></span> X |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFFF00; border: 1px solid black;"></span> AE | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFDAB9; border: 1px solid black;"></span> Open Water |   |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #ADD8E6; border: 1px solid black;"></span> AH | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFDAB9; border: 1px solid black;"></span> VE         |   |
| <span style="display: inline-block; width: 15px; height: 15px; border: 2px solid yellow;"></span> Subject Property             | <span style="display: inline-block; width: 15px; height: 15px; border: 1px solid black;"></span> Parcels                               |   |

# COASTAL HIGH HAZARD AREA MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22Z00029



1:7,200 or 1 inch = 600 feet


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

Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

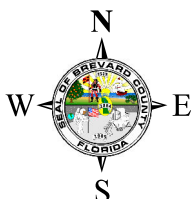
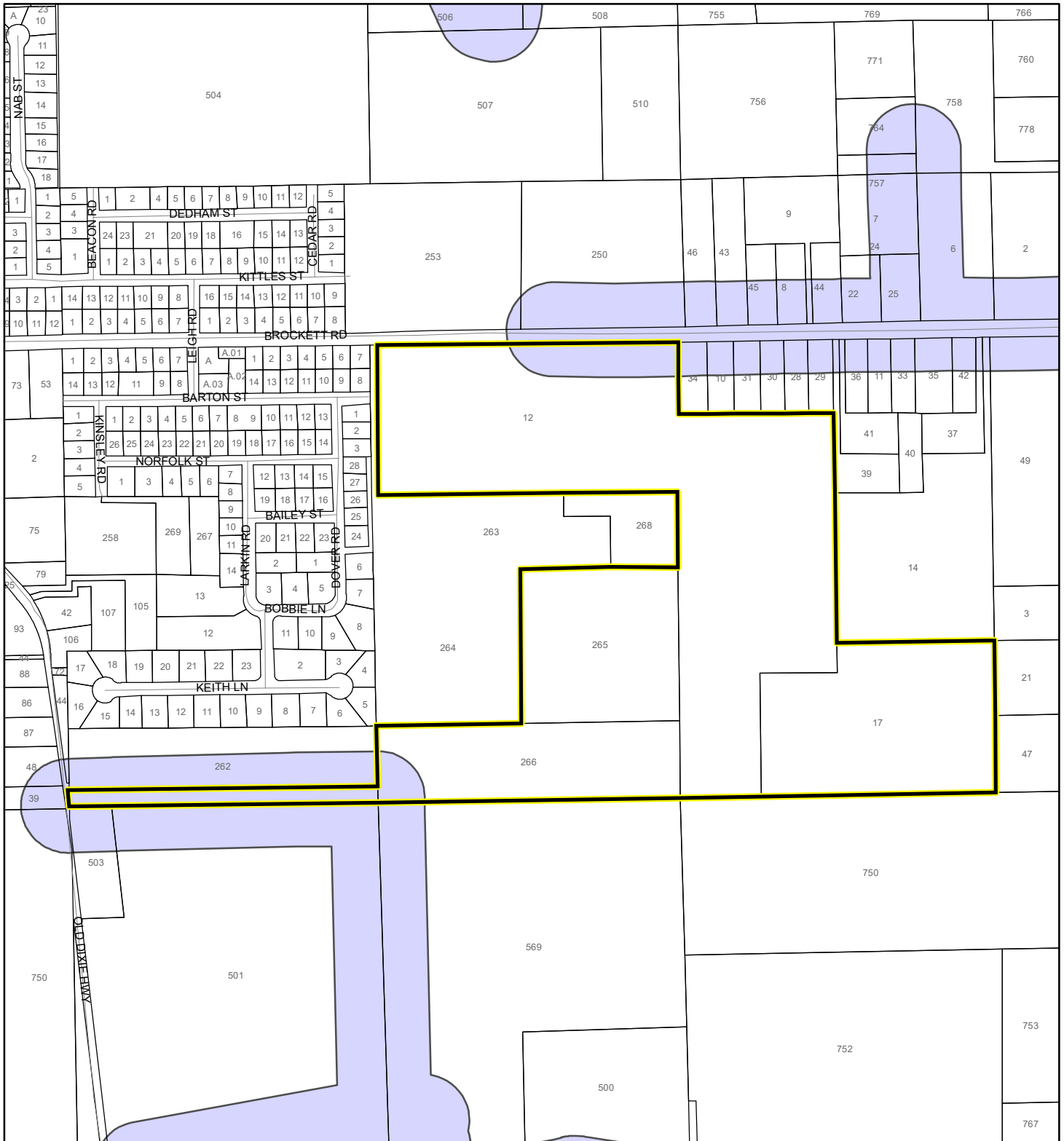
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert

22Z00029



1:7,200 or 1 inch = 600 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

 Parcels

**Septic Overlay**

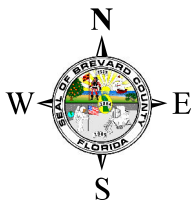
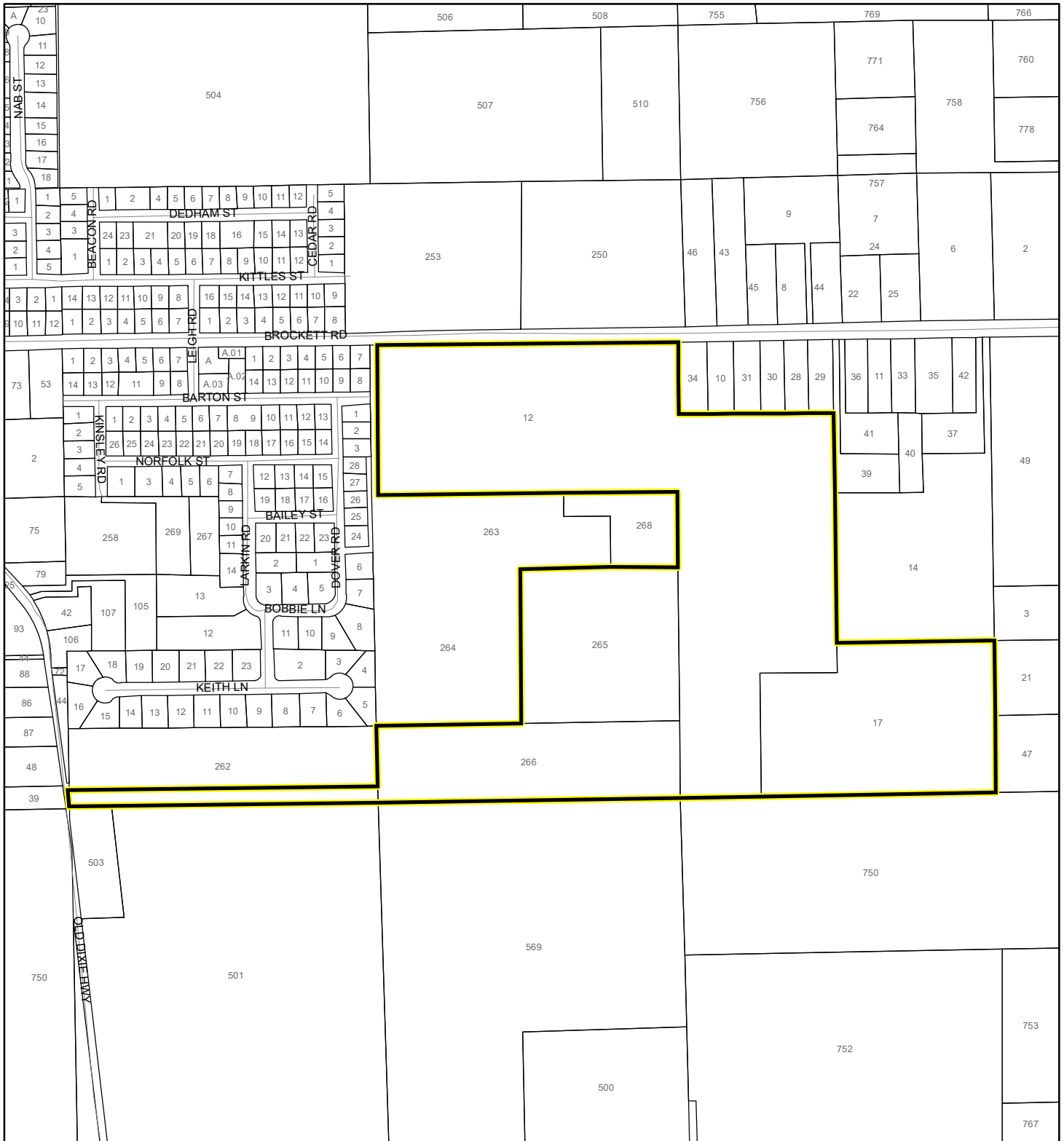
 40 Meters

 60 Meters

 All Distances

# EAGLE NESTS MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22Z00029



1:7,200 or 1 inch = 600 feet

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Produced by BoCC - GIS Date: 6/13/2022

 Subject Property

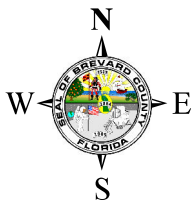
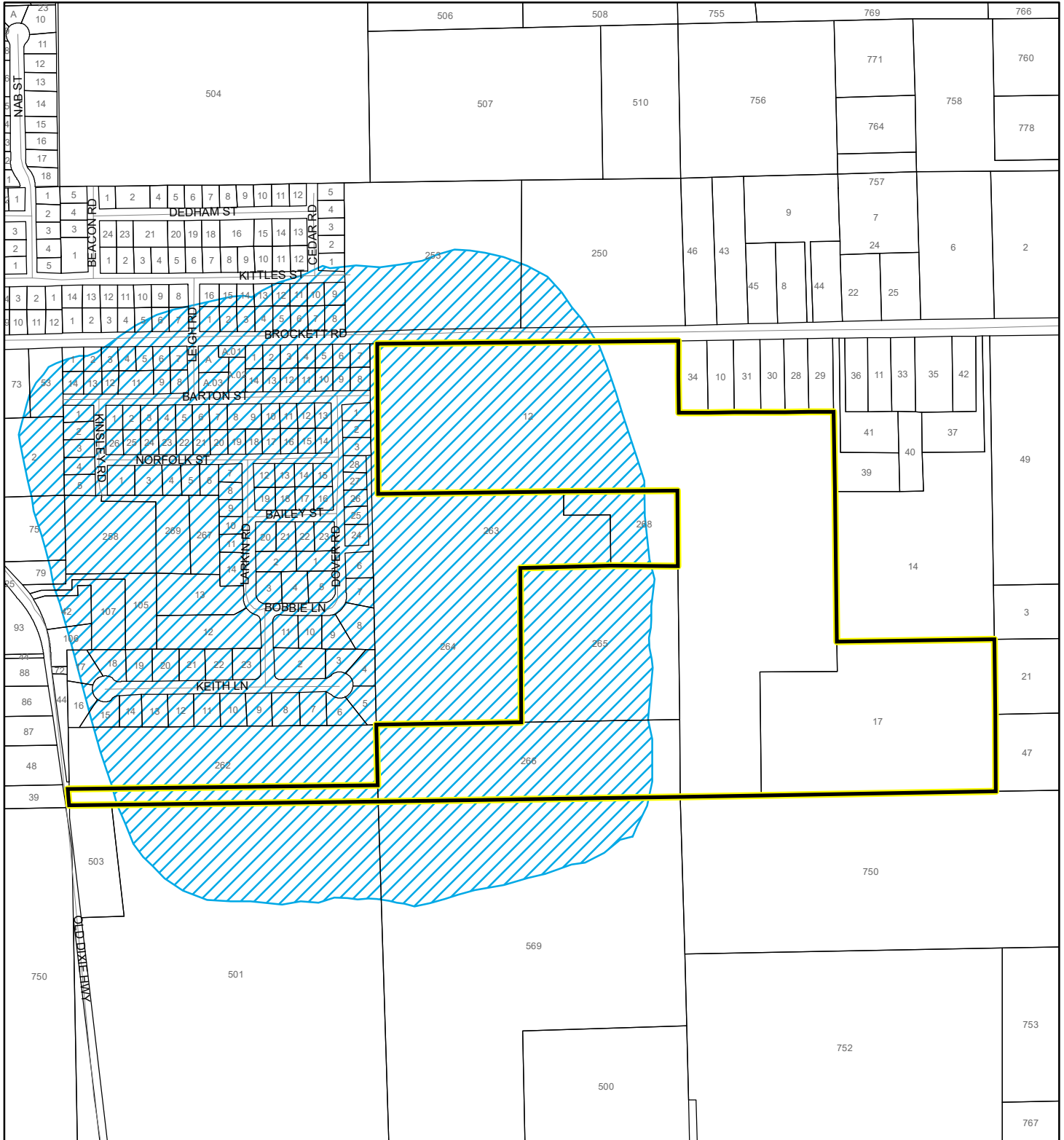
 Parcels



Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert  
22Z00029



1:7,200 or 1 inch = 600 feet

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

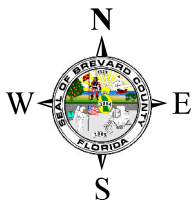
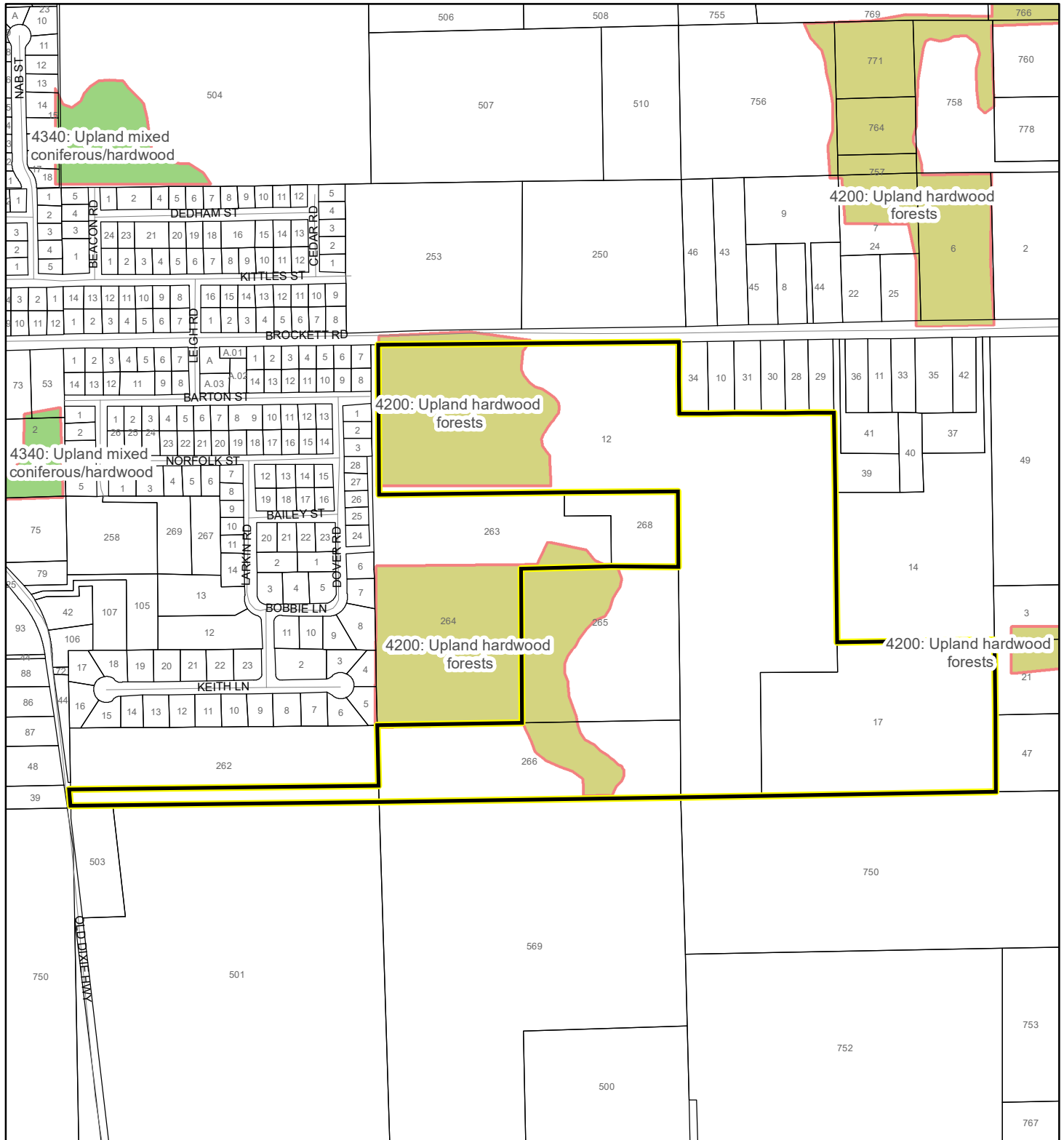
Produced by BoCC - GIS Date: 6/13/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MARION, Paul; LAMATTINA, Kimberly; LOSAT, Kayla; RIPPER, Jessica; KIRK, Ethylmay and Robert

22Z00029



1:7,200 or 1 inch = 600 feet

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

Produced by BoCC - GIS Date: 6/13/2022

## 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

# School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699  
Dr. Mark W. Mullins, Ed.D., Superintendent



May 2, 2022

Mr. Timothy Craven, Planner II  
Land Development Section  
Planning & Development Department  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, Florida 32940

**RE: Proposed Hamlin Ridge Development  
School Impact Analysis – Capacity Determination CD-2022-25**

Dear Mr. Craven,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account number 2102919 (Parcel ID number: 21-35-08-00-266), Tax Account number 2102882 (Parcel ID number 21-35-08-0-17), Tax Account number 3018268 (Parcel ID number 21-35-08-00-270), Tax Account number 2102878 (Parcel ID number 21-35-08-00-12), and Tax Account number 2102918 (Parcel ID number 21-35-08-00-265) containing a total of approximately 76.51 acres in District 1, Brevard County, Florida. The proposed development includes 197 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 and Amended Appendix "A"-School District Student Generation Multiplier (approved April 11, 2022) 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		197	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students Generated
Elementary	0.24	47.28	47
Middle	0.07	13.79	14
High	0.12	23.64	24
<b>Total</b>	<b>0.43</b>		<b>85</b>

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
Pinewood	569	569	569	569	569
Madison	781	781	781	781	781
Astronaut	1,451	1,451	1,451	1,451	1,451

**Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	500	517	524	526	532
Madison	480	471	480	457	446
Astronaut	1,076	1,094	1,086	1,078	1,086

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	-	-	-	-	-
Madison	-	-	-	-	-
Astronaut	-	-	-	-	-

**Cumulative Students Generated by  
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	-	-	16	31	47
Madison	-	-	5	9	14
Astronaut	-	-	8	16	24

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	500	517	540	557	579
Madison	480	471	485	466	460
Astronaut	1,076	1,094	1,094	1,094	1,110

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Pinewood	69	52	29	12	(10)
Madison	301	310	296	315	321
Astronaut	375	357	357	357	341

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

The adjacent elementary school service area is Mims Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Area* that could accommodate the impacts of the Hamlin Ridge 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
Mims	725	725	725	725	725

**Projected Student Membership**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	442	433	441	452	446

**Students Generated by Newly Issued SCADL Reservations Since FFP**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	-	-	-	-	-

**Cumulative Students Generated by  
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	-	-	16	31	47

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	442	433	457	483	493

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mims	283	292	268	242	232

Considering the adjacent elementary school service areas, there is sufficient capacity for the total projected student membership to accommodate the Hamlin Ridge 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  
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-2022-25

David G. Lindemann, AICP, Director of Planning & Project  
Management, Facilities Services  
File CD-2022-25

# 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 Year 2021-22			School Year 2022-23			School Year 2023-24			School Year 2024-25			School Year 2025-26			School Year 2026-27		
School	Type	Grades	Utilization Factor	FISH Capacity	10/15/21 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	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	56%
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%
Fairglen	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	366	61%	629	399	63%	629	400	64%	629	411	65%
Holland	Elementary	PK-6	100%	805	444	73%	805	465	77%	805	471	78%	805	473	78%	805	472	78%	805	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%
Indianalantic	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	920	97%
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	418	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%
Satum	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	72%
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	99%
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%	879	855	97%	901	872	97%	923	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		42,825	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	1,319	87%	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%	960	787	82%
Hoover	Middle	7-8	90%	680	510	75%	680	510	75%	680	485	71%	680	506	74%	680	550	81%	680	539	79%
Jackson	Middle	7-8	90%	660	574	87%	660	574	87%	660	594	90%	660	556	84%	660	540	82%	660	531	80%
Jefferson	Middle	7-8	90%	873	622	71%	873	622	71%	873	583	67%	873	580	66%	873	583	67%	873	535	61%
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%	1,064	813	76%
Kennedy	Middle	7-8	90%	869	682	78%	869	682	78%	869	641	74%	869	617	71%	869	628	72%	869	656	75%
Madison	Middle	7-8	90%	781	480	61%	781	480	61%	781	471	60%	781	480	61%	781	457	59%	781	446	57%
McNair	Middle	7-8	90%	611	336	55%	611	350	57%	611	359	59%	611	353	58%	611	362	59%	611	349	57%
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%	1,211	1,157	96%
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%	1,024	846	83%
Middle Totals				10,247	7,595		10,247	7,617		10,247	7,514		10,247	7,681		10,247	7,941		10,247	8,019	
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%	2,084	1,626	78%
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%	1,445	782	54%
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%	1,852	1,448	78%
Jr / Sr High Totals				5,381	4,015		5,381	4,029		5,381	4,021		5,381	4,028		5,381	3,923		5,381	3,856	
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	1,078	74%	1,451	1,086	75%
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%	2,263	2,069	91%
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%	2,221	1,700	77%
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%	2,314	2,248	97%
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%	2,370	2,185	92%
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%	1,962	1,389	71%
Palm Bay	High	PK, 9-12	95%	2,631	1,268	49%	2,631	1,325	50%	2,631	1,467	56%	2,631	1,573	60%	2,631	1,645	63%	2,631	1,643	62%
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%	1,836	1,620	88%
Satellite	High	PK, 9-12	95%	1,527	1,513	99%	1,551	1,550	100%	1,551	1,533	99%	1,551	1,470	95%	1,551	1,438	93%	1,551	1,387	89%
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%	1,849	1,270	69%
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%	2,583	2,469	96%
High Totals				22,627	17,878		22,699	18,126		23,031	18,630		23,031	18,930		23,031	18,953		23,031	19,066	
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%	475	414	87%
South Lake	Elementary	K-6	100%	481	395	82%	481	417	87%	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%	569	508	89%
West Melbourne	Elementary	K-6	100%	618	544	88%	618	552	89%	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%	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%	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		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		85,878	66,275	

## 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.



## Hamlin Ridge Development Location Map



Indian  
River

PINEWOOD ELEMENTARY

Pinewood  
Elementary  
School

## Hamlin Ridge 197 Single-Family Units

Mims  
Elementary  
School

MIMS ELEMENTARY

**Schools Affected by Development:**  
**Pinewood Elementary School**  
**James Madison Middle School**  
**Astronaut High School**

Drawn By:  
Planning & Project Management  
Karen M Black  
05/02/2022

2,000      1,000      0      2,000 Feet

Return to  
RK Engineering  
385 Pineda Court #200  
Melbourne, FL 32940

### **BINDING DEVELOPMENT PLAN**

THIS BINDING DEVELOPMENT PLAN (the "Agreement") is entered into this 20 day of February, 2007, by and between the BOARD OF COUNTY COMMISSSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (the COUNTY) and The Paul J. Marion and Dale K. Marion Trust, Robert C. Kirk and Ethylmay Kirk, Raymond F. Marion, and Margaret Ruth Marion ("DEVELOPER").

#### **Witnesseth:**

WHEREAS, DEVELOPER owns property (the "Property") located in Brevard County, Florida, as more particularly described Parcel ID Numbers 21-35-08-00-00265.0-0000.0, 21-35-08-00-00266.0-0000.00, 21-35-08-00-00012.0-000.00, 21-35-08-00-00017.0000.00.

WHEREAS, DEVELOPER desires to develop the Property as single family residential subdivision with RU-1-11 zoning and SR zoning.

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

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

NOW, THEREFORE, the parties agree as follows:

1. County shall not be required or obligated in any way to construct any of the improvements COUNTY shall only be obligated to maintain roads and drainage located in public right-of-way or public drainage easements. It is the intent of the parties that DEVELOPER, its grantees, successors or assigns in interest, or some other association and/or assigns satisfactory to COUNTY, shall be responsible for the maintenance of all improvements except those improvements accepted for maintenance by COUNTY or any other governmental body.

2. The Property as described in Exhibit "A", attached hereto and made a part hereof, is rezoned to RU-1-11. The land rezoned to RU-1-11 shall be limited to a total of 128 units. Not less



than 20% of the homes actually built on the land rezoned to RU-1-11 shall be priced as affordable housing, and shall initially be sold to individuals/households who can qualify only for affordable housing. Affordable housing is defined as follows: Affordable housing means a single family owner occupied, or multi-family owner occupied, or rental unit that has a mortgage or rental payment, including utilities, not exceeding 30% of the gross income of households at or below 120% of the Area Median Income as adjusted for family size. Developer/Owner shall provide assurance of the financial ability and qualifications of the purchasers of the affordable housing units to the Brevard County Housing and Human Services Department for verification.

3. The Property as described in Exhibit "B", attached hereto and made a part hereof, is rezoned to SR zoning with a minimum of 0.50 acre lot size. The land rezoned to SR shall be limited to a total of 61 units. Not less than 20% of the homes actually built on the land rezoned to SR shall be priced as affordable housing, and shall initially be sold to individuals/households who can qualify only for affordable housing, as defined in paragraph 2 of this agreement. Developer/Owner shall provide assurance of the financial ability and qualifications of the purchasers of the affordable housing units to the Brevard County Housing and Human Services Department for verification.

4. The Developer, to the extent possible, practical and within government regulations, shall utilize the onsite wet detention ponds for irrigation purposes.

5. Residential landscaping shall be Florida grade 1 or Florida Fancy and shall be irrigated by the use of automatic sprinkler systems.

6. Developer shall comply with all regulations and ordinances of Brevard County Florida. This Agreement constitutes Developer 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.

7. 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 and be binding upon any persons, firm or corporation who may become the successor in interest, directly or indirectly, to the subject Property. In the event that the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.


IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.



ATTEST

  
\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

  
\_\_\_\_\_  
Jackie Colon, Chairperson

As approved by the Board 02/20/07.

STATE OF FLORIDA       §  
COUNTY OF BREVARD   §

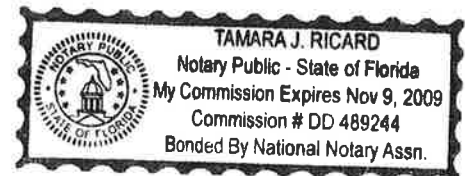
The foregoing instrument was acknowledged before me this 20 day of February, 2007, by Jackie Colon, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced as identification.

My commission expires

SEAL  
Commission No.:

  
\_\_\_\_\_  
Notary Public

Tamara Ricard  
(Name typed, printed or stamped)



WITNESSES:

Sonya Warnick

Sonya Warnick  
(Witness Name typed or printed)

Maria Erdman

Maria Erdman  
(Witness Name typed or printed)

DEVELOPER

Paul J. Marion and Dale K. Marion Trust

Paul J. Marion Trustee  
Paul J. Marion, trustee

STATE OF FLORIDA §

COUNTY OF BREVARD\_ §

The foregoing instrument was acknowledged before me this 20 day of Nov. 2006, by Paul J. Marion, trustee, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires  
SEAL  
Commission No.:

Audrey Ruth Rowe  
Notary Public

(Name typed, printed or stamped)



Audrey Ruth Rowe  
MY COMMISSION # DD172583 EXPIRES  
January 26, 2007  
BONDED THRU TROY FAIN INSURANCE, INC.

WITNESSES:

Sonya Warnick

Sonya Warnick

(Witness Name typed or printed)

Maria Erdman

Maria Erdman

(Witness Name typed or printed)

DEVELOPER

Paul L. Marion and Dale K. Marion Trust

Dale K. Marion

Dale K. Marion, trustee

STATE OF FLORIDA §

COUNTY OF BREVARD\_ §

The foregoing instrument was acknowledged before me this 20 day of Nov, 2006, by Dale K. Marion, trustee, who is personally known to me, or who has produced \_\_\_\_\_ as identification.

My commission expires

SEAL

Commission No.:

Audrey Ruth Rowe

Notary Public

(Name typed, printed or stamped)



Audrey Ruth Rowe  
MY COMMISSION # DD172583 EXPIRES  
January 26, 2007  
BONDED THRU TROY FAIN INSURANCE, INC.

WITNESSES:

Paul J. Marion

Paul J. Marion

(Witness Name typed or printed)

Sonya Warnick

Sonya Warnick

(Witness Name typed or printed)

DEVELOPER

Ethylmay Kirk

Ethylmay Kirk

WITNESSES:

Paul J. Marion

Paul J. Marion

(Witness Name typed or printed)

Sonya Warnick

Sonya Warnick

(Witness Name typed or printed)

DEVELOPER

Robert C. Kirk

Robert C. Kirk

STATE OF FLORIDA §

COUNTY OF BREVARD\_ §

The foregoing instrument was acknowledged before me this 20 day of Nov 2006, by Ethylmay Kirk and Robert C. Kirk, who is personally known to me or who has produced as identification.

My commission expires

SEAL

Commission No.:

Audrey Ruth Rowe

Notary Public

(Name typed, printed or stamped)



Audrey Ruth Rowe  
MY COMMISSION # DD172583 EXPIRES  
January 26, 2007  
BONDED THRU TROY FAIN INSURANCE, INC.

WITNESSES:

Sonya Warnick

Sonya Warnick  
(Witness Name typed or printed)

Maria Erdman

Maria Erdman  
(Witness Name typed or printed)

DEVELOPER

Raymond F. Marion  
Raymond F. Marion

STATE OF FLORIDA §

COUNTY OF BREVARD\_ §

The foregoing instrument was acknowledged before me this 20 day of Nov. 2006, by  
Raymond F Marion, who is personally known to me or who has produced \_\_\_\_\_ as  
identification.

My commission expires

SEAL

Commission No.:

Audrey Ruth Rowe  
Notary Public

(Name typed, printed or stamped)



Audrey Ruth Rowe  
MY COMMISSION # DD172583 EXPIRES  
January 26, 2007  
BONDED THRU TROY FAIN INSURANCE, INC.

WITNESSES:

DEVELOPER

Patricia Denmark

PATRICIA DENMARK

(Witness Name typed or printed)

Nita Ferguson

Nita Ferguson

(Witness Name typed or printed)

STATE OF FLORIDA §

COUNTY OF ~~BREVARD~~ PASCO §

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of Nov 2006, by Margaret Ruth Marion, who is personally known to me or who has produced Fla. Driver License as identification.

My commission expires

SEAL

Commission No.:

Patricia Denmark  
Notary Public

(Name typed, printed or stamped)





## EXHIBIT A

### LEGAL DESCRIPTION:

A TRACT OF LAND LYING IN THE N.W. 1/4 OF SECTION 8, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

#### TRACT 1

BEGIN AT THE S.E. CORNER OF THE N.W. 1/4 OF SAID SECTION 8. THENCE S.89°32'58"W. ALONG THE SOUTH BOUNDARY OF SAID N.W. 1/4 A DISTANCE OF 1361.68 FEET; THENCE N.00°01'20"W. 320.54 FEET; THENCE N.00°13'17"W. 9.47 FEET; THENCE N.89°32'58"E. 676.40 FEET; THENCE N.00°07'47"W. 638.74 FEET; THENCE N.89°30'44"E. 680.05 FEET TO A POINT ON THE EAST BOUNDARY OF THE AFORESAID N.W. 1/4 OF SECTION 8; THENCE S.00°24'16"E. ALONG SAID EAST BOUNDARY 969.17 FEET TO THE POINT OF BEGINNING.

#### TOGETHER WITH

COMMENCE AT THE S.E. CORNER OF THE N.W. 1/4 OF SAID SECTION 8. THENCE N.00°24'16"W. ALONG THE EAST BOUNDARY OF SAID N.W. 1/4 A DISTANCE OF 1283.51 FEET TO THE S.E. CORNER OF THE S. 1/2 OF THE N.E. 1/4 OF THE N.W. 1/4 OF SAID SECTION 8 AND THE POINT OF BEGINNING. THENCE N.89°08'55"W. ALONG THE SOUTH BOUNDARY OF SAID S. 1/2 OF THE N.E. 1/4 OF THE N.W. 1/4 OF SECTION 8 A DISTANCE OF 1356.79 FEET TO THE S.W. CORNER OF SAID S. 1/2 OF THE N.E. 1/4 OF THE N.W. 1/4 OF SECTION 8; THENCE N.00°01'33"E. ALONG THE WEST BOUNDARY OF SAID S. 1/2 OF THE N.E. 1/4 OF THE N.W. 1/4 OF SECTION 8 A DISTANCE OF 640.50 FEET TO THE N.W. CORNER OF SAID S. 1/2 OF THE N.E. 1/4 OF THE N.W. 1/4 OF SECTION 8; THENCE S.89°53'02"E. ALONG THE NORTH BOUNDARY OF SAID S. 1/2 OF THE N.E. 1/4 OF THE N.W. 1/4 OF SECTION 8 A DISTANCE OF 1350.03 FEET TO A POINT ON THE AFORESAID EAST BOUNDARY OF N.W. 1/4; THENCE S.00°24'16"E. 657.93 FEET TO THE POINT OF BEGINNING.

TRACTS 1 AND 2 CONTAINING A TOTAL ACREAGE OF 40.47 ACRES, MORE OR LESS.



## EXHIBIT B

### LEGAL DESCRIPTION:

A TRACT OF LAND LYING IN THE N.E. 1/4 OF SECTION 8, TOWNSHIP 21 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGIN AT THE S.W. CORNER OF SAID N.E. 1/4 OF SECTION 8. THENCE N.00°24'16"W. ALONG THE WEST BOUNDARY OF SAID N.E. 1/4 A DISTANCE OF 1642.81 FEET; THENCE S.89°58'03"E. ALONG THE NORTH BOUNDARY OF THE SOUTH 1/2 OF THE S.W. 1/4 OF THE N.W. 1/4 OF SAID N.E. 1/4 A DISTANCE OF 672.33 FEET; THENCE S.00°15'35"E. ALONG THE EAST BOUNDARY OF THE WEST 1/4 OF SAID N.E. 1/4 A DISTANCE OF 987.38 FEET; THENCE S.89°49'50"E. ALONG THE NORTH BOUNDARY OF THE S.E. 1/4 OF THE S.W. 1/4 OF SAID N.E. 1/4 A DISTANCE OF 668.09 FEET; THENCE S.00°01'21"E. ALONG THE EAST BOUNDARY OF THE S.W. 1/4 OF SAID N.E. 1/4 A DISTANCE OF 659.41 FEET; THENCE N.89°43'36"W. ALONG THE SOUTH BOUNDARY OF SAID N.E. 1/4 A DISTANCE OF 1000.16 FEET TO THE POINT OF BEGINNING.  
CONTAINING 35.38 ACRES, MORE OR LESS.

Prepared by: Charles B. Genoni  
Flordevco Corp.  
4760 N. US1 #201  
Melbourne FL 32935

**BINDING  
DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between the BOARD OF COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Ethylmay Kirk, Robert Kirk, Paul Marion, Kimberly Lamattina, Kayla Losat, & Jessica Ripper (hereinafter referred to as 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 rezoned the property to RU 1-7 zoning classification and desires to develop the Property as a Single-Family Subdivision, 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 impact 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. 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.

2. The Developer/Owner shall:

- Limit the project density to 4 units per acre to be consistent with the Future Land Use designation of RES 4.

3. 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.

4. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Courts the cost of recording this Agreement in the Public Records of Brevard County, Florida.

5. This Agreement shall be binding and shall insure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property and be subject to the above referenced conditions as approved by the Board of County Commissioners on \_\_\_\_\_ 20\_\_\_\_. In the event the subject Property is annexed into a municipality and rezoned, this agreement shall be null and void.

6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 6 above.

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 Jamison Way  
Viera, FL 32940

\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

\_\_\_\_\_  
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:

OWNERS

\_\_\_\_\_  
Witness sign & Print

\_\_\_\_\_  
Paul Marion

\_\_\_\_\_  
Witness Sign & Print

\_\_\_\_\_  
Kimberly Lamattina

\_\_\_\_\_  
Witness Sign & Print

\_\_\_\_\_  
Kayla Losat

\_\_\_\_\_  
Witness Sign & Print

\_\_\_\_\_  
Jessica Ripper

\_\_\_\_\_  
Witness Sign & Print

\_\_\_\_\_  
Ethylmay Kirk

\_\_\_\_\_  
Witness Sign & Print

\_\_\_\_\_  
Robert Kirk

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_,

who is personally known or produced \_\_\_\_\_ as identification.

My commission expires \_\_\_\_\_  
Commission no \_\_\_\_\_  
SEAL

\_\_\_\_\_  
Notary Public  
(Name typed, printed or stamped)



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.7.

8/15/2022

### Subject:

Lynda L. Lyles (Nita Salmon) requests removal of an existing BDP in an AU zoning classification. (22Z00035) (Tax Account 3010233) (District 3)

### Fiscal Impact:

None

### Dept/Office:

Planning & Development

### Requested Action:

It is requested that the Planning & Zoning Board conduct a public hearing to consider removal of an existing BDP (Binding Development Plan) in an AU (Agricultural Residential) zoning classification.

### Summary Explanation and Background:

The applicant is requesting to remove the existing BDP recorded in ORB 4803, Pages 531 - 534. The existing BDP, approved on January 28, 2003, limits agricultural use of the subject property to a tree farm only; limits the residential use of the property to only the existing residence; stipulates that no manufactured homes or mobile homes shall be placed on the subject property; and limits horses to no more than two. 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, and a minimum house size of 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

To the north of the subject property are three undeveloped parcels zoned AU, ranging in size from 5 acres to 15.43, and an undeveloped 150-acre parcel zoned SEU; to the south are single-family residences on lots ranging from 10.91 acres to 22.34 acres and zoned AU; to the east is 7.77 acres of undeveloped land zoned AU. To the west is an undeveloped 8.65-acre parcel zoned GU, and a single-family residence on 8.7 acres zoned GU and REU. While there have been no development approvals, research identified seven BDP's/BSP's which contain conditions limiting density on property within ½ mile. None of these BDP's/BSP's have a density restriction greater than 1 unit on 2.5 acres. The subject property's BDP limits development to 1 unit on 20 acres.

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, September 1, 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, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

(c) General Standards of Review.

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

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

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

### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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

### STAFF COMMENTS

**22Z00035**

**Linda L. Lyles**

### **Removal of an Existing Binding Development Plan (BDP) in AU (Agricultural Residential)**

Tax Account Number: 3010233  
Parcel I.D.: 30G-38-20-HR-34  
Location: 9385 Flemming Grant Road; Northeast corner of Fleming Grant Road and Hitchin Post Lane (District 3)  
Acreage: 20.25 acres

Planning and Zoning Board: 8/15/2022

Board of County Commissioners: 9/01/2022

### **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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	AU with BDP	AU with removal of existing BDP
<b>Potential*</b>	1-unit	8-units
<b>Can be Considered under the Future Land Use Map</b>	YES RES 1	YES RES 1

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

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

The applicant requests to remove the existing BDP recorded in ORB 4803, Pages 531 – 534. The existing BDP, approved under **Z-10766** on January 28, 2003, limits agricultural use of the subject property to tree farm only; limits the residential use of the property to only the existing residence; stipulates that no manufactured homes or mobile homes shall be placed on the subject property; and limits horses to no more than two.

The subject property is currently developed with one single-family residence and a detached garage. The applicant has submitted a Flag Lot application (22FL00034) to build another single-family residence on the subject property. Flag Lot review is not part of this request and would proceed as separate zoning action following the removal of the existing BDP, if approved.

## Land Use

The subject property is currently designated as RES 1 (Residential 1) FLU. The AU zoning classification can be considered consistent with the Residential 1 FLU designation. The removal of the BDP does not impact the FLU designation; however, the removal of the single-residence limitation in the BDP does increase the potential development density of this site (from 1 dwelling unit to 8 potential dwelling units on the 20.25-acre parcel). The increase in potential density is consistent with the FLU density of one dwelling unit per acre.

## Applicable Land Use Policies

**FLUE Policy 1.9** –The Residential 1 Future land use designation. The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit per acre, except as otherwise may be provided for within the Future Land Use Element.

The Board should evaluate the compatibility of this application within the context of Administrative Policies 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 removal of an existing BDP. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the 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 surrounding area is low-density residential. There are two (2) FLU designations (RES 1:2.5 and RES 1) within 500 feet of the subject property.**

- 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 development approved within this area in the preceding three (3) years pending construction.**

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

**No material violation of relevant policies has been identified.**

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

There is an existing pattern of agricultural residential zoning and estate use residential zoning on lots ranging from 7.77 acres to 22.34 acres surrounding the subject property.

The current AU 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.

REU classification permits rural estate residential uses on lots of 2.5 acres (minimum) with minimum lot width and depth of 200'. Minimum floor area is 1,200 square feet of living area. Accessory uses include agricultural pursuits and the maintenance of horses, not to exceed four per acre, for the personal, non-commercial use of the occupant of the property, provided there is a minimum of 10,000 square feet of land for each animal. The raising of farm animals and fowl requires Conditional Use Permit approval.

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.

#### **Surrounding Area**

	<b>Existing Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Undeveloped	AU and SEU	RES 1
<b>South</b>	Two (2) single-family residences (across Hitchin Post Lane)	AU	RES 1
<b>East</b>	Undeveloped	AU	RES 1
<b>West</b>	Undeveloped and One (1) single-family residence	REU and GU	RES 1:2.5

To the north of the subject property are three undeveloped parcels zoned AU, ranging in size from 5 acres to 15.43, and an undeveloped 150-acre parcel zoned SEU; to the south single-family residences on lots ranging in size from 10.91 acres to 22.34 acres and zoned AU; to the east is undeveloped agricultural residential on 7.77 acres zoned AU. To the west, across Fleming Grant Road, is an undeveloped 8.65-acre parcel zoned GU and a single-family residence on 8.7 acre lot zoned GU and REU.

No zoning actions have been requested or approved within one-half mile of the subject site in the preceding three (3) years. While there have been no development approvals, research identified seven BDP's/BSP's which contain conditions limiting density on property within ½ mile. None of these BDP's/BSP's have a density restriction greater than 1 unit on 2.5 acres. The subject property's BDP limits development to 1 unit on 20 acres.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, from Indian River County Line to Micco Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 45.74% of capacity daily. The development potential from the proposed zoning action increases the percentage of MAV utilization by 0.16%. The corridor is anticipated to operate at 45.90% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is not service with public water or centralized sewer. The closest Brevard County potable water and sewer lines are approximately 1.9 miles north on Fleming Grant Road.

### **Environmental Constraints**

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

The subject parcel contains mapped National Wetland Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils; indicators that wetlands may be present of the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal.

Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

### **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 #22Z00035**

**Applicant:** Salmon for Lyles

**Zoning Request:** Remove BDP

**Note:** Applicant wants to remove BDP that limits agricultural use to tree farm only, does not permit manufactured or mobile homes to be placed on property, and does not allow more than 2 horses.

**P&Z Hearing Date:** 08/15/22; **BCC Hearing Date:** 09/01/22

**Tax ID No:** 3010233

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

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

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

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

Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. **The Brevard County Property Appraiser Office establishes Bona Fide Agricultural land classification**, and should be contacted at 321-264-6700 for Bona Fide classification requirements. If Bona Fide Agriculture classification is not established, then land

clearing and accessory structures, including barns, sheds and other detached structures, are not permitted in wetlands. Section 62-3694(a)(1) states that non-bonafide 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.

Portions of the property are mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

### **Land Use Comments:**

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

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

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#### **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.

#### **Floodplain**

Portions of the property are mapped as being within an isolated floodplain as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. Per Section 62-3724(3)(d), compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within the isolated floodplain greater than one third (1/3) acre in size. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance.

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

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

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If applicable, the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required if no sewer is available. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

### **Protected and Specimen Trees**

Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on the parcel. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities. A tree survey will be required at time of building permit submittal, and is recommended prior to any site plan design.

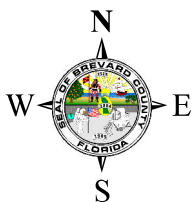
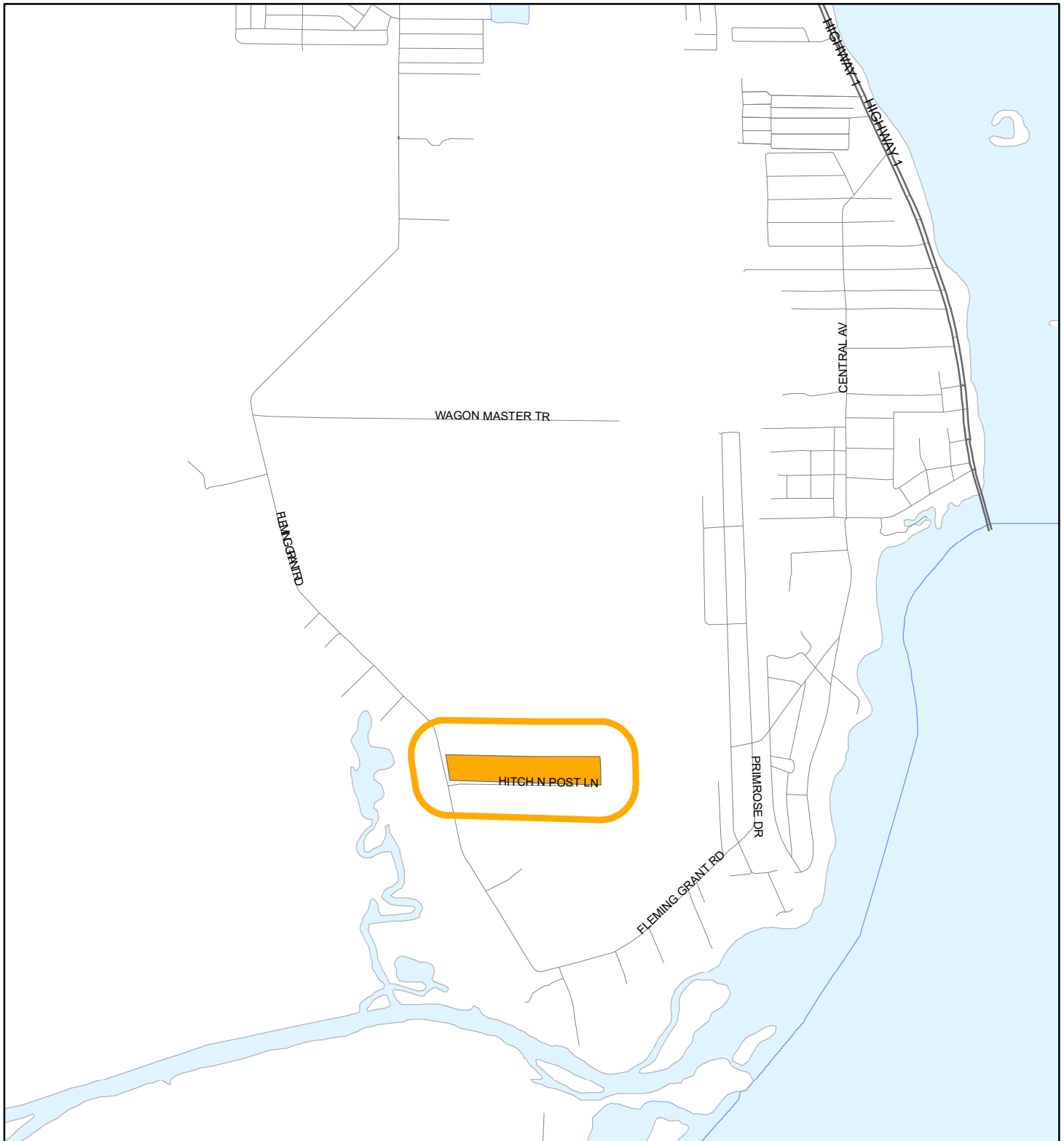
### **Protected Species**

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

LYLES, LINDA L

22Z00035





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

Buffer Distance: 500 feet

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

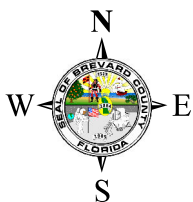
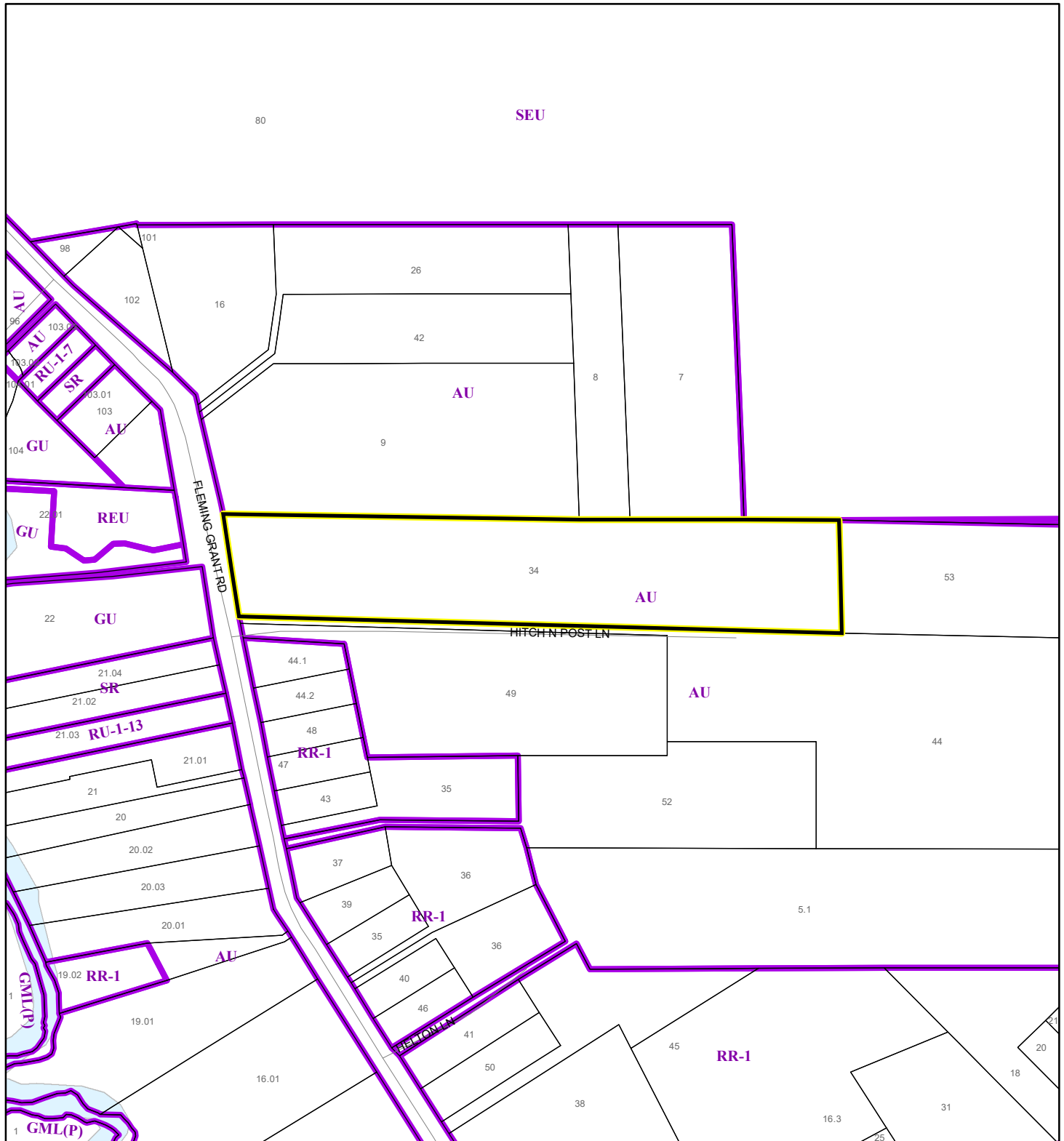
Produced by BoCC - GIS Date: 6/17/2022

 Buffer  
 Subject Property

# ZONING MAP

LYLES, LINDA L


22Z00035



1:6,000 or 1 inch = 500 feet

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

Produced by BoCC - GIS Date: 6/17/2022

 Subject Property

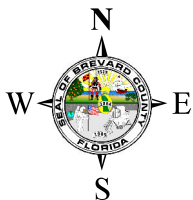
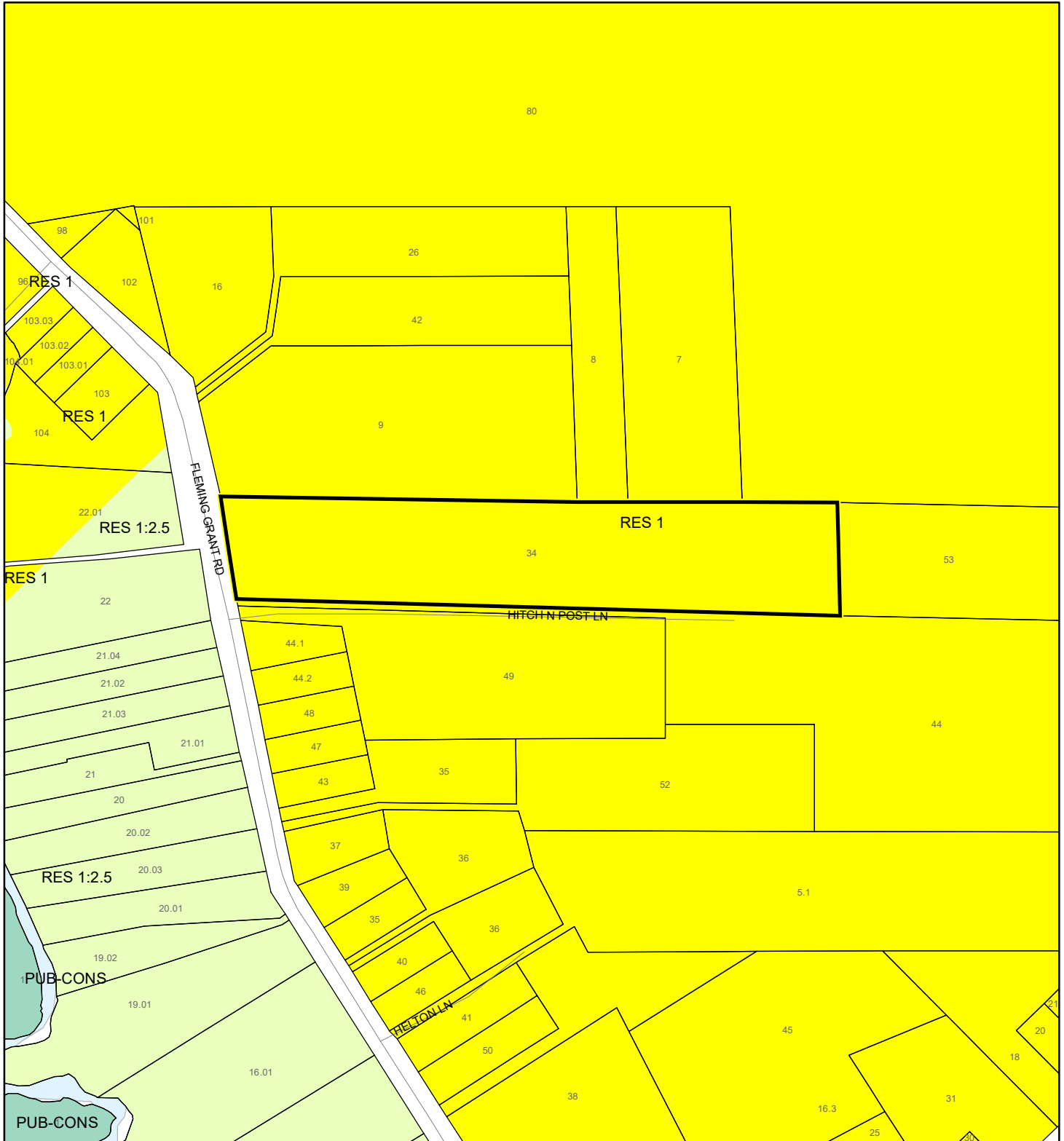
 Parcels

 Zoning



# FUTURE LAND USE MAP

LYLES, LINDA L

22Z00035



1:6,000 or 1 inch = 500 feet

 Subject Property  
 Parcels

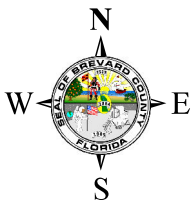
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/17/2022

# AERIAL MAP

LYLES, LINDA L

22Z00035




1:3,600 or 1 inch = 300 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: 6/17/2022

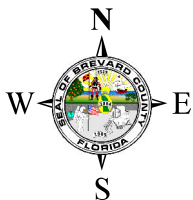
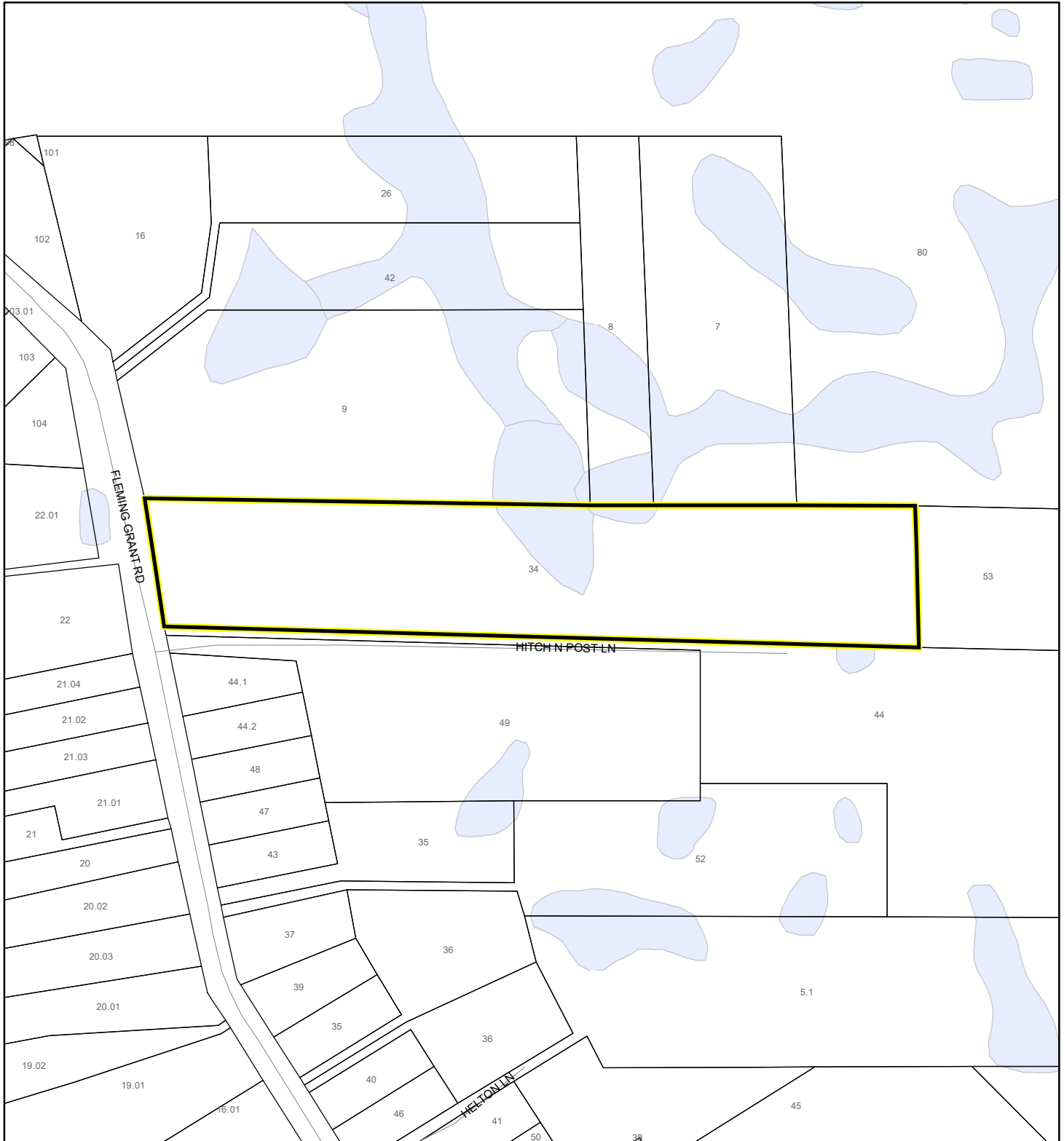
 Subject Property

 Parcels

# NWI WETLANDS MAP

LYLES, LINDA L

22Z00035













1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

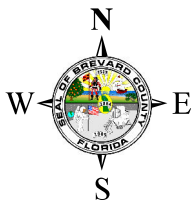
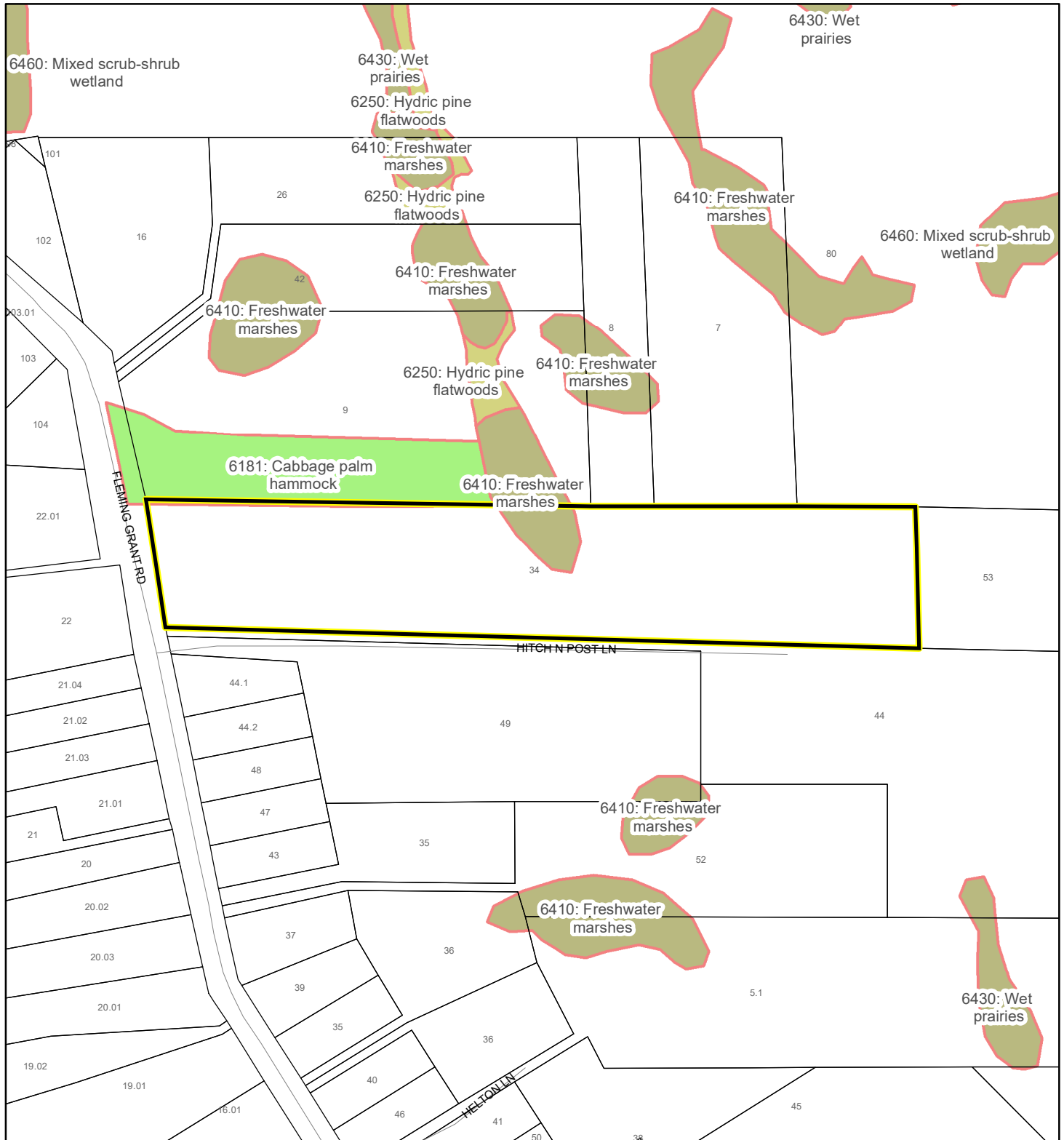
## National Wetlands Inventory (NWI)

 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

LYLES, LINDA L

22Z00035



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

## 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

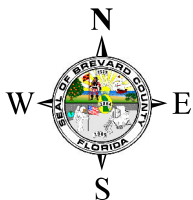
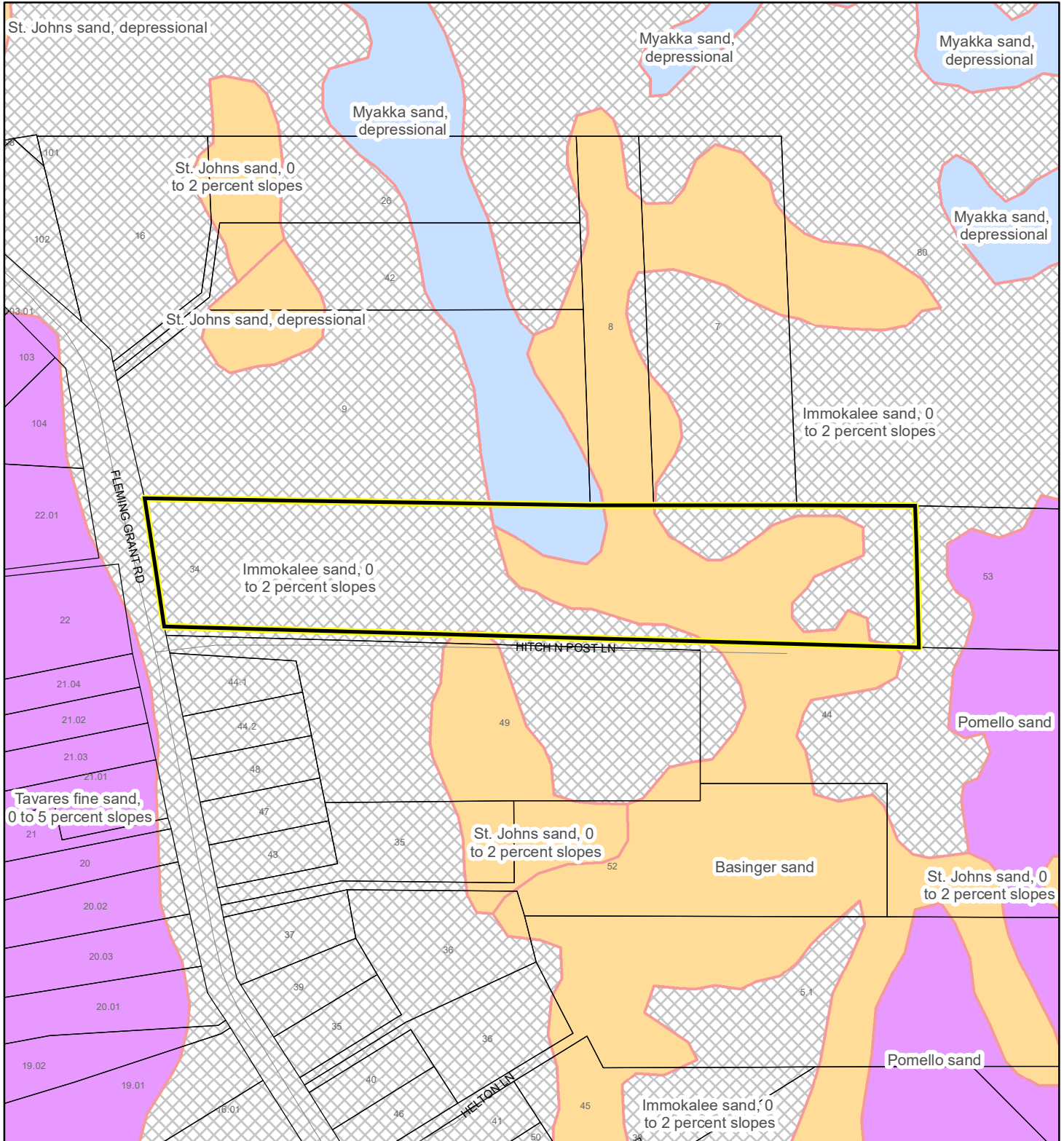
Subject Property

Parcels

# USDA SCSSS SOILS MAP

LYLES, LINDA L

22Z00035



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

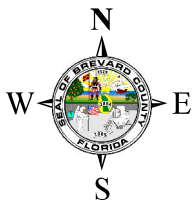
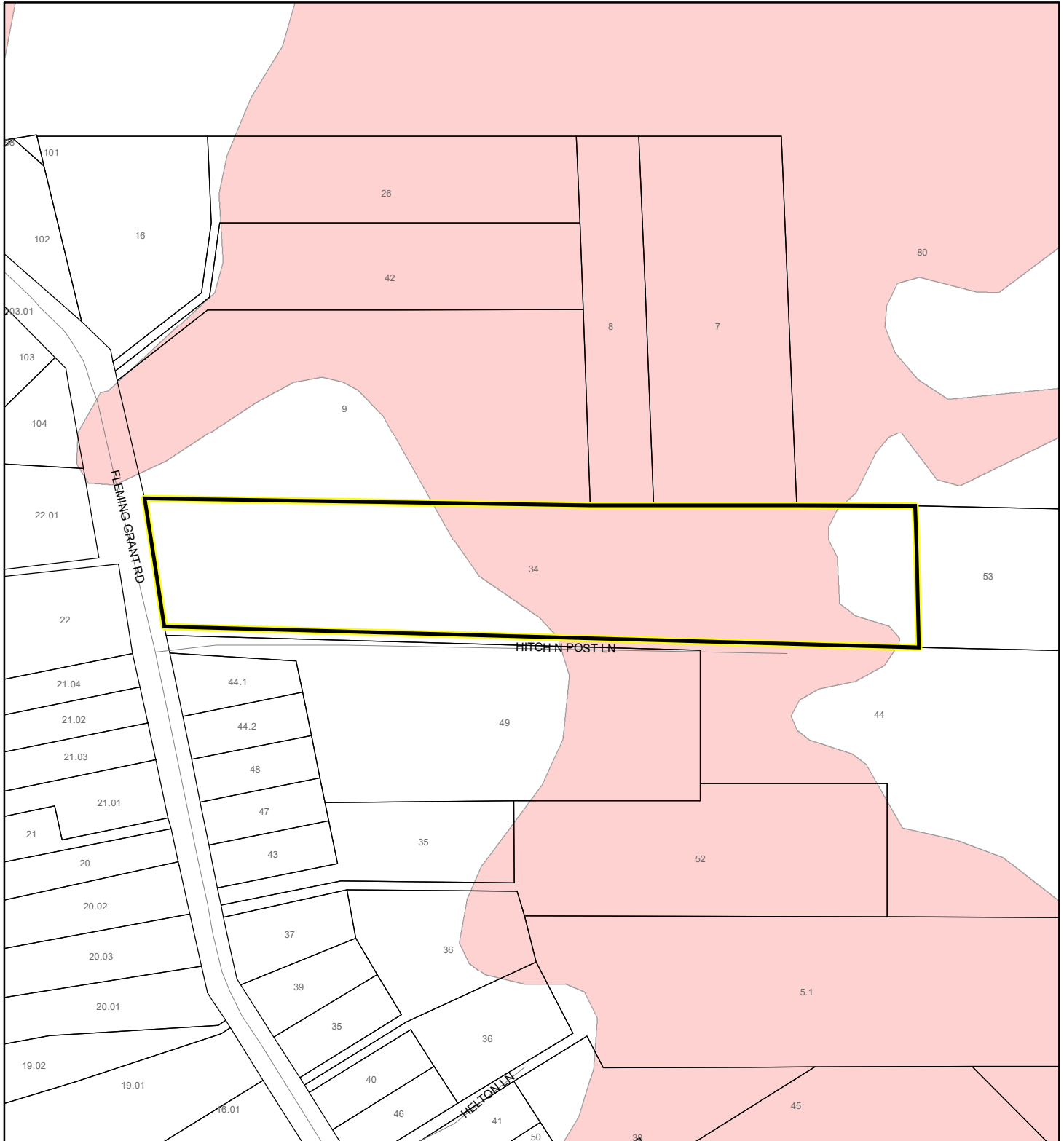
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

LYLES, LINDA L

22Z00035



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

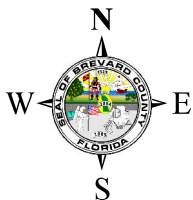
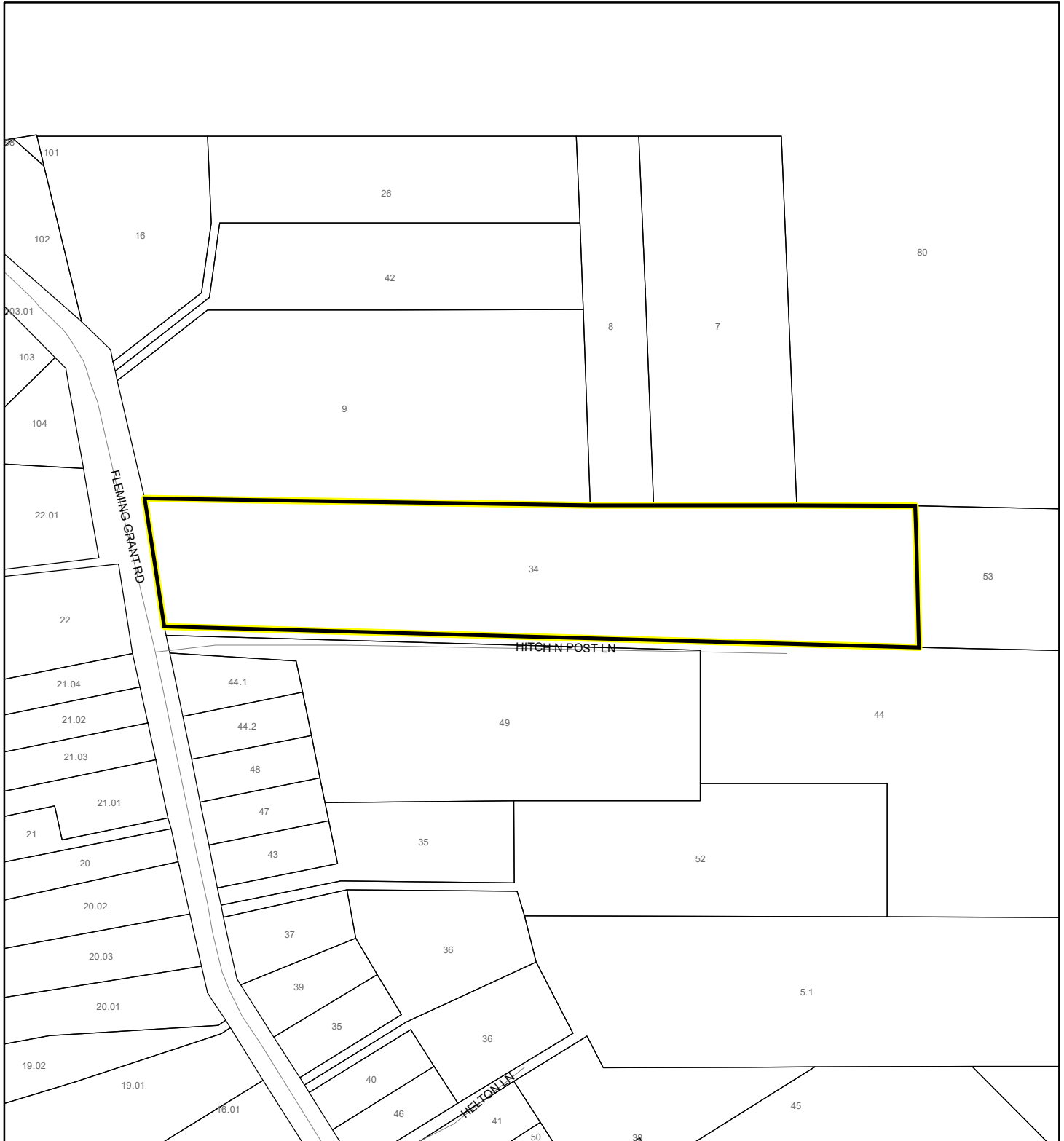
## FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

# COASTAL HIGH HAZARD AREA MAP

LYLES, LINDA L

22Z00035



1:4,800 or 1 inch = 400 feet


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

Produced by BoCC - GIS Date: 6/17/2022

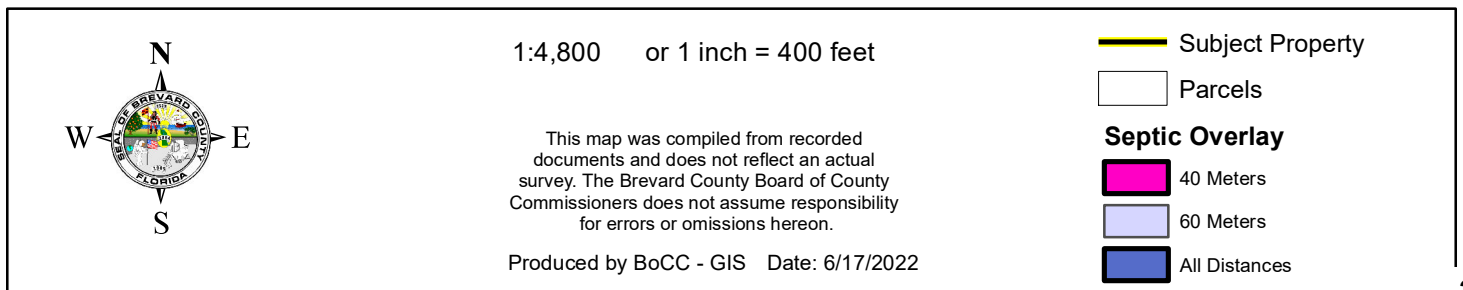
 Subject Property

 Parcels

**Coastal High Hazard Area**

 SurgeZoneCat1

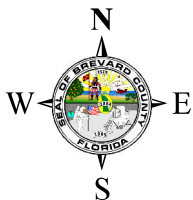
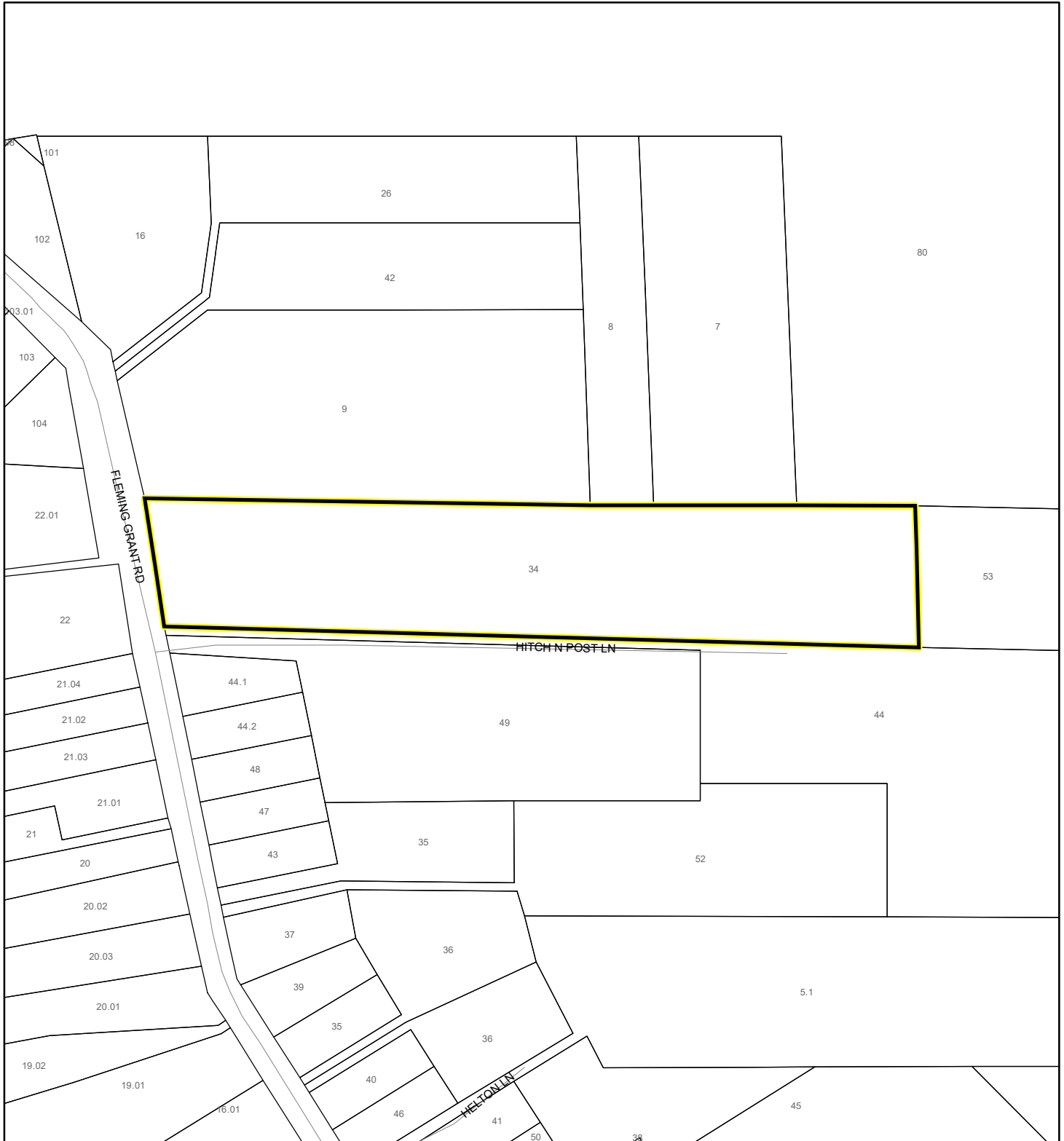
LYLES, LINDA L  
22Z00035



# EAGLE NESTS MAP

LYLES, LINDA L

22Z00035




1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

 Subject Property

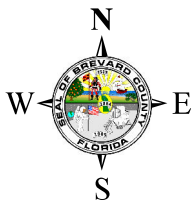
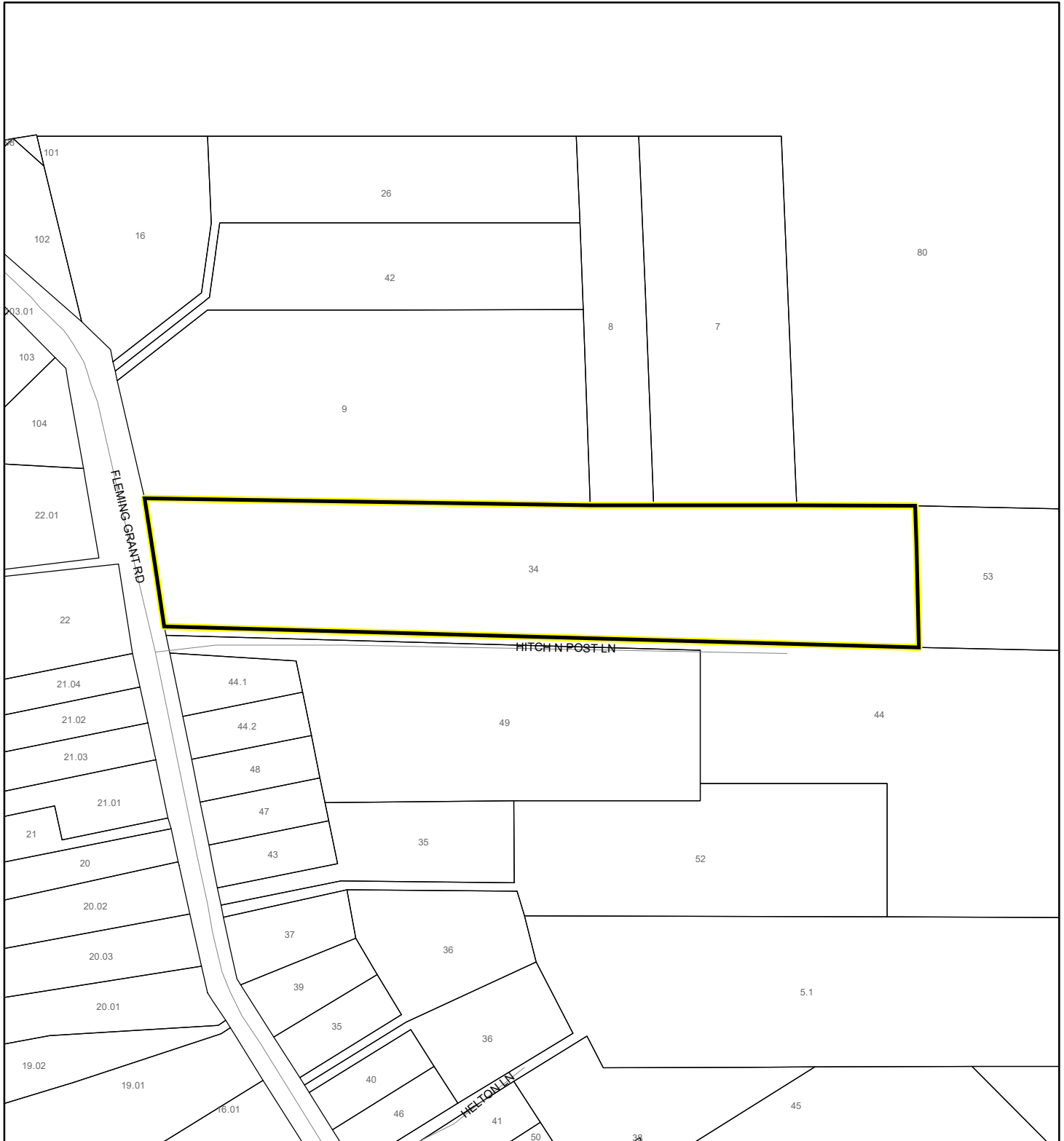
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

LYLES, LINDA L




22Z00035



1:4,800 or 1 inch = 400 feet

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

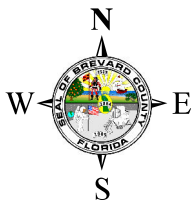
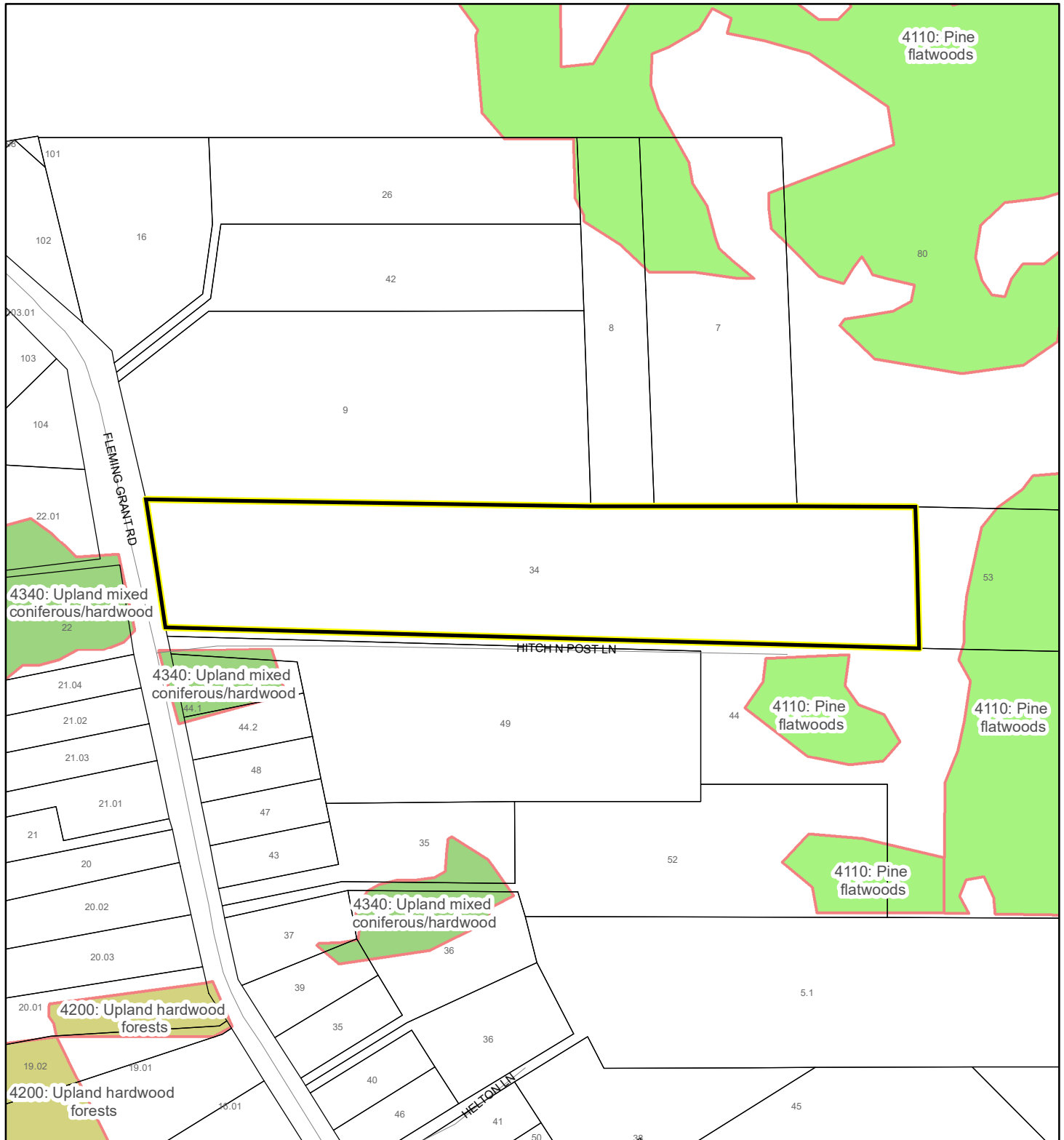
Produced by BoCC - GIS Date: 6/17/2022

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LYLES, LINDA L

22Z00035



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 6/17/2022

## 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

Handwritten: Clerk to the Board



CFN:2003025395 01-29-2003 11:23 am

OR Book/Page: 4803 / 0531

Prepared by: \_\_\_\_\_  
Address: \_\_\_\_\_

**Scott Ellis**

Clerk Of Courts, Brevard County

#Pgs: 4	#Names: 2	
Trust: 2.50	Rec: 17.00	Serv: 0.00
Deed: 0.00		Excise: 0.00
Mtg: 0.00		Int Tax: 0.00

### BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 8<sup>th</sup> day of January, 2003, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and **Edward T. and Linda L. Lyles**, (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, as part of its plan for development of the property, Developer/Owner wishes to mitigate negative impact 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. 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.

2. Owner shall limit agricultural use to a tree farm only.

3. Owner agrees the existing site built residence shall be the only residential use of the property, and no manufactured or mobile homes shall be placed on the property.

3. Owner shall limit the number of horses to no more than two.

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

Handwritten: 14

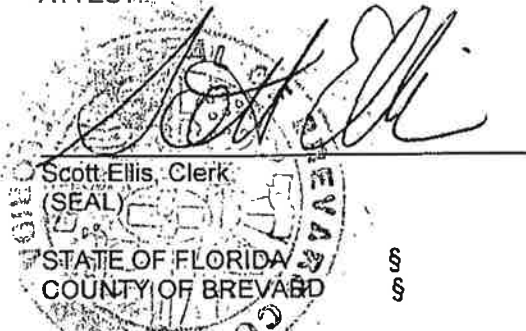
restrictions in developing the property. This agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this property.

6. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

7. 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 be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property.

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

Jackie Colon  
Jackie Colon, Chairperson  
As approved by the Board on 1/28/03

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of January, 2003, by Jackie Colon, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced \_\_\_\_\_ as identification.

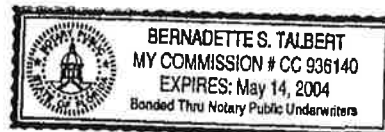
My commission expires

SEAL

Commission No.:

Bernadette S. Talbert  
Notary Public

(Name typed, printed or stamped)



CFN:2003025395

OR Book/Page: 4803 / 0532

WITNESSES:

Jennifer Golden

Jennifer Golden

(Witness Name typed or printed)

Candace Hanselman

CANDACE HANSELMAN

(Witness Name typed or printed)

OWNER

Edward T. Lyles  
9385 FLEMING GRANT MICCO FL 32976  
(Address)

OWNER

Linda L. Lyles  
9385 Fleming Grant, Micco, FL 32976

STATE OF Florida §

COUNTY OF Broward §

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of January  
2003, by Edward T. & Linda L. Lyles who is personally known to me or who has produced FDL#  
L420-522-45-808  
L420-238-37-045, as identification.



Pamela A. Barrett  
Commission # CC 958009  
Expires Sep. 11, 2004  
Bonded Thru  
Atlantic Bonding Co., Inc.

My commission expires

SEAL

Commission No.:

Notary Public

(Name typed, printed or stamped)



CFN:2003025395

OR Book/Page: 4803 / 0533

Exhibit "A"

From the intersection of the centerline of Fleming Grant Rd. and the westerly boundary line of Sebastian River Estates, as recorded in Plat Book 11, Page 23, Public Records, Brevard County, Florida and located in **Section 20, Township 30 South, Range 38 East**, run N02°15'54"W, along said westerly line, a distance of 1388.70 ft.; thence run S89°58'43"W, a distance of 2678 ft. to a 5" X 5" concrete monument No. "Cramer 4094", said point being the Point of Beginning of the herein described parcel of land; thence run N89°58'43"E, a distance of 977.70 ft.; thence run S02°15'34"E, parallel with said westerly line, a distance of 398.47 ft.; thence run S89°58'42"W, parallel with the north line of said described parcel, a distance of 2178.81 ft. to the easterly right of way line of Fleming Grant Rd.; thence N12°39'38"W, along said easterly right of way line, a distance of 408.05 ft. to a ½" Rebar No. 3863 "Mott" at the southwest corner of Lot 1, Kinney's Unrecorded Sub., of Fleming Grant; run thence, departing said right of way line, S89°58'42"E, a distance of 1274.88 ft., more or less, to the Point of Beginning of the herein described parcel of real property, containing 20.25 acres. Located on the northeast corner of Hitch-N-Post Ln. and Fleming Grant Rd.



CFN:2003025395

OR Book/Page: 4803 / 0534



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.8.

8/15/2022

---

### **Subject:**

*A Text Amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI.*

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning & Development

### **Requested Action:**

It is requested that the Local Planning Agency conduct a public hearing to consider a Text Amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X, and correcting scrivener's error in the Glossary Element XVI.

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

Following the February 3, 2022 adoption of Comprehensive Plan Amendments associated with the 2017 Evaluation and Appraisal Report (EAR), the Department of Economic Opportunity (DEO) notified Brevard County that it was necessary to include a map or map series of the Coastal High Hazard Area (CHHA) in the Comprehensive Plan pursuant to F.S. 163.3178.

While DEO found Brevard's EAR-based amendments in compliance (Docket No. 17-03ER-NOI-05-01-(A)-I), dated 3/31/2022), the County was advised to adopt the most current CHHA map back into the Comprehensive Plan during the next large-scale or text comprehensive plan amendment cycle.

Staff has prepared a series of three (3) maps depicting the Coastal High Hazard Areas in the north, central and south portions of the County and is proposing the adoption of these maps into the Coastal Management Element of the Comprehensive Plan. The maps were created using the most current data provided by East Central Florida Regional Planning Council Regional Evacuation Study Program - Storm Tide Atlas.

Additionally, staff is proposing to correct a scrivener's error identified in the Glossary discovered following the adoption of EAR-based Comprehensive Plan Amendments. The correction will change "and" to "or" in a list of conditions under the definition of "Should".

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

None

**PROPOSED COMPREHENSIVE PLAN AMENDMENT 2022-2.1  
COASTAL MANAGEMENT ELEMENT AND GLOSSARY - TEXT AMENDMENT**

<b>Request:</b>	A text amendment to the Comprehensive Plan adding the Coastal High Hazard Area map to the Coastal Management Element X and correcting a scrivener's error in the Glossary Element XVI
<b>Owner / Applicant:</b>	Planning & Development Department
<b>Location:</b>	County-wide
<b>Acreage:</b>	N/A
<b>Existing Land Use Designation:</b>	N/A
<b>Proposed Land Use Designation:</b>	N/A

---

**PROPOSED TEXT AMENDMENT**

**Background:**

Following the February 3, 2022 adoption of Comprehensive Plan Amendments associated with the 2017 Evaluation and Appraisal Report (EAR), the Department of Economic Opportunity (DEO) notified Brevard County that it was necessary to include a map or map series of the Coastal High Hazard Area (CHHA) in the Comprehensive Plan pursuant to F.S. 163.3178.

CHHA is defined in Florida Statute 163.3178(2)(h) as the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.

The Coastal Management Element previously included a map of the CHHA based on a 2009 SLOSH computerized storm surge model. Because the CHHA was deemed subject to change, the map was removed during the preparation of recent EAR-based amendments.

While DEO found Brevard's EAR-based amendments in compliance (Docket No. 17-03ER-NOI-05-01-(A)-I), dated 3/31/2022), the County was advised to adopt the most current CHHA map back into the Comprehensive Plan during the next large-scale or text comprehensive plan amendment cycle.

Staff has prepared a series of three (3) maps depicting the Coastal High Hazard Areas in the north, central and south portions of the County and is proposing the adoption of these maps into the Coastal Management Element of the Comprehensive Plan. The maps were created using the most current data provided by East Central Florida Regional Planning Council Regional Evacuation Study Program - Storm Tide Atlas.

Additionally, staff is proposing to correct a scrivener's error identified in the Glossary discovered following the adoption of EAR-based Comprehensive Plan Amendments. The correction will change "and" to "or" in a list of conditions under the definition of "Should".

#### **Description:**

The proposed amendments will add the Coastal High Hazard Area maps (as a series of three (3) maps) to the Coastal Management Element Appendix and correct a scrivener's error in the Glossary of the Comprehensive Plan.

- **Coastal Management Element X:**
  - **Policy 6.1:** Adding a reference to Maps 3a, 3b, and 3c
  - **Appendix A:** Adding Maps 3a, 3b, and 3c to List of Maps and Appendix
- **Glossary Element XVI:**
  - **Should:** Striking "and" in list of conditions and adding "or" to correct scrivener's error

#### **Proposed Text Amendments:**

The proposed amendments would be adopted as Coastal Management Element X and Glossary XVI. Additions to the Comprehensive Plan will be shown as underlined and deletions are shown as ~~strike through~~.

- E. Of lowest priority are those uses which are non-water-dependent, non-water enhanced and which result in an irretrievable commitment of coastal resources.

#### **Policy 5.16**

Brevard County should encourage the construction of marine sanitation device (MSD) pumpout facilities.

#### **Policy 5.17**

Brevard County shall utilize available management plans in developing standards for marina siting and other water-dependent uses. These management plans include, but are not limited to, Aquatic Preserve Management Plans, the Surface Water Improvement Management (SWIM) Plan and the IRLCCMP.

### **Coastal High Hazard Areas**

#### **Objective 6**

Limit future public expenditures for infrastructure and service facilities which subsidize growth within the coastal high hazard areas of Brevard County. Expenditures for public land acquisition or enhancement of natural resources shall be encouraged.

#### **Policy 6.1**

Brevard County shall designate coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model, as defined in Chapter 163, Florida Statute (see Maps 3a, 3b, and 3c).

#### **Policy 6.2**

Brevard County shall not support or finance new local transportation corridors which lie within the coastal high hazard area or areas zoned as Environmental Area, except where there are no other cost-feasible alternatives. Corresponding improvements may only be considered when the facilitation of such improvements is needed to support the densities programmed on the Future Land Use Map (FLUM) series of the Comprehensive Plan.

#### **Policy 6.3**

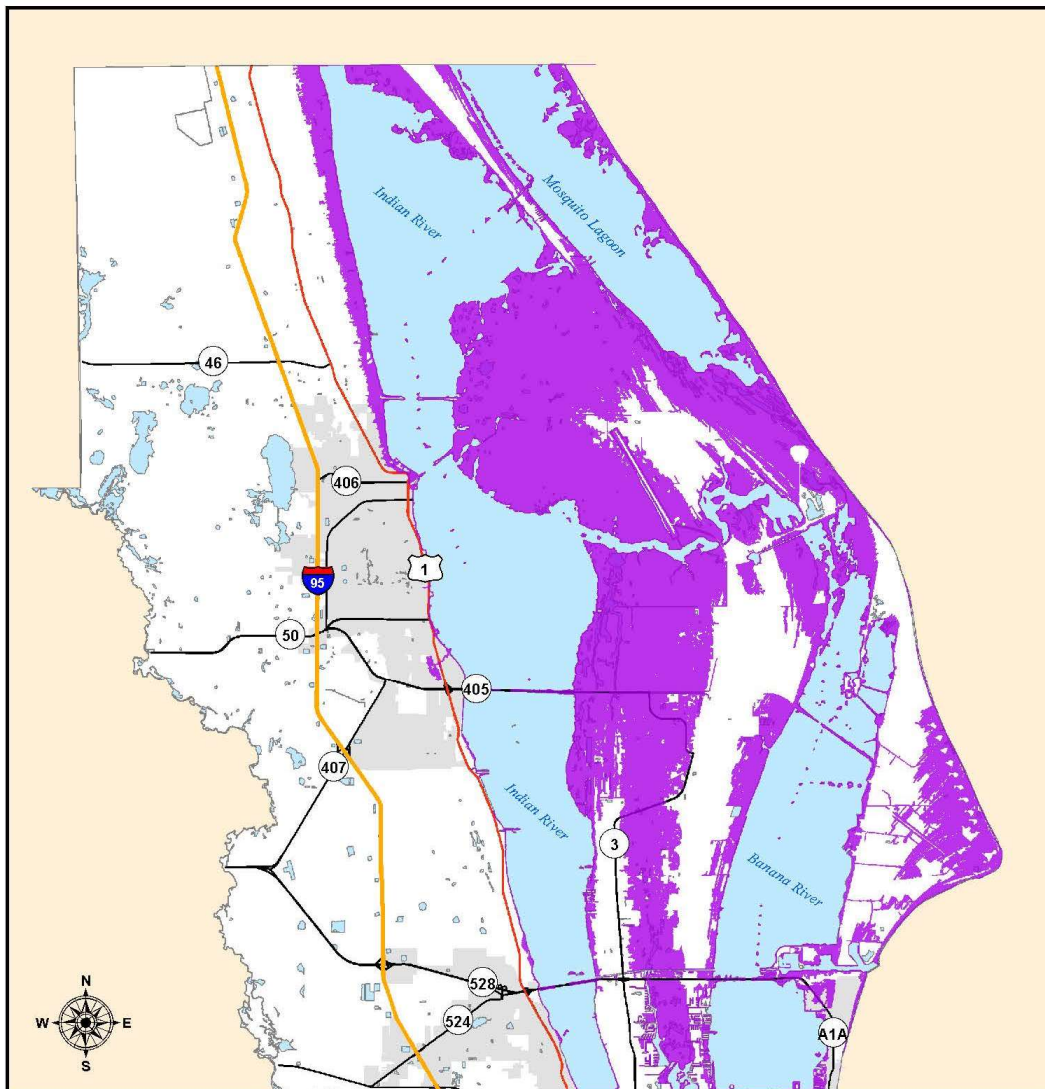
Brevard County should not locate sewer and water transmission lines within the coastal high hazard area, except where there is no practical and cost-feasible alternative due to engineering, safety and cost considerations, lack of alternative existing rights-of-way, or for septic to sewer conversion projects selected specifically to improve ground and surface water quality.

## **APPENDIX A**

### **LIST OF MAPS**

<b>Map</b>	<b>Title</b>
<b>1</b>	<b>Marine Facilities</b>
<b>2</b>	<b>Evacuation Routes</b>
<b><u>3a, 3b, 3c</u></b>	<b><u>Coastal High Hazard Areas</u></b>

# Brevard Coastal High Hazard Area Map



## Category 1

 Coastal High Hazard Area

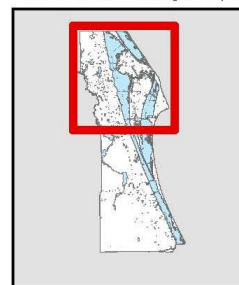
Source: East Central Florida Regional Planning Council  
Regional Evacuation Study Program - Storm Tide Atlas



Map generated by best available data on 4/29/2022. Map subject to change, please contact Brevard County for map confirmation.

Disclaimer: This map displays general County Information and was created from best data available. It is not suitable for site-specific uses. The Brevard County Board of Commissioners expressly disclaims all responsibility for errors or omissions thereof.

North Brevard CHHA Region Display



## Map 3a

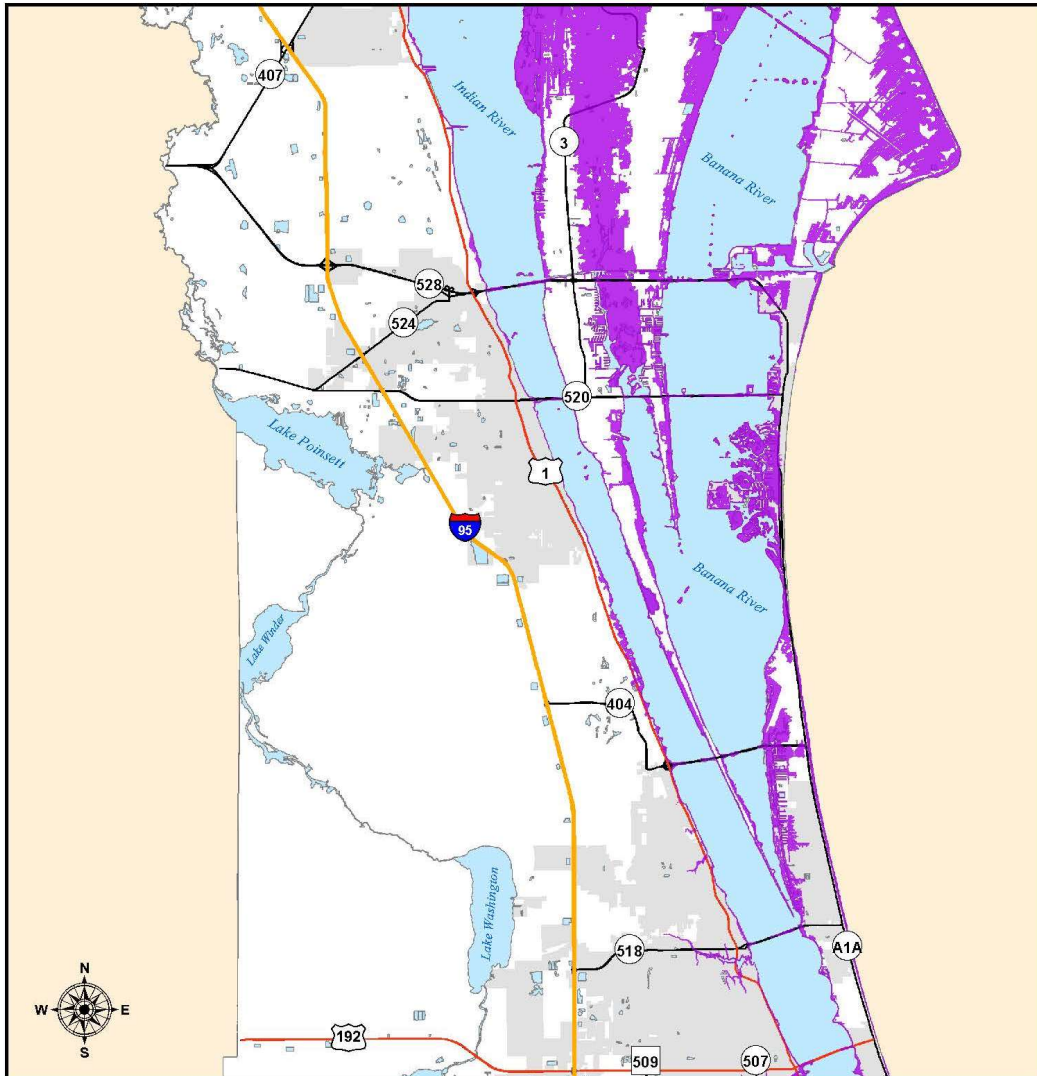
## Coastal High Hazard Area (north Brevard region)

### COASTAL MANAGEMENT ELEMENT

December 2022

X - 48

# Brevard Coastal High Hazard Area Map



Central Brevard CHHA Region Display

## Category 1

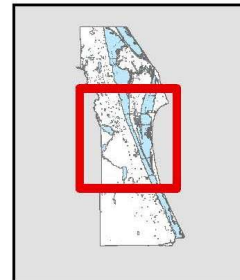
 Coastal High Hazard Area

Source: East Central Florida Regional Planning Council  
Regional Evacuation Study Program - Storm Tide Atlas



Map generated by best available data on 4/29/2022. Map subject to change, please contact Brevard County for map confirmation.

Disclaimer: This map displays general County Information and was created from best data available. It is not suitable for site-specific uses. The Brevard County Board of Commissioners expressly disclaims all responsibility for errors or omissions thereof.



## Map 3b

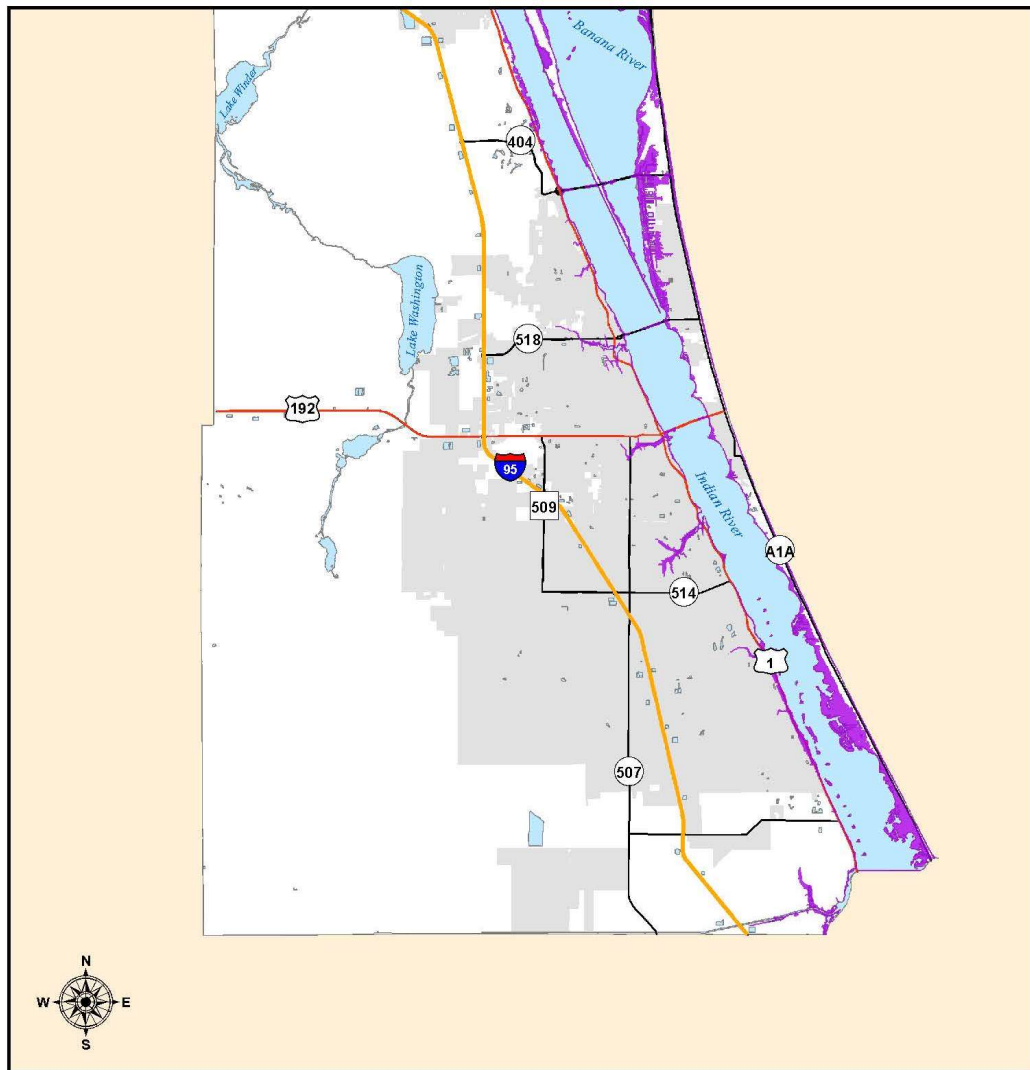
## Coastal High Hazard Areas (central Brevard region)

### COASTAL MANAGEMENT ELEMENT

December 2022

X - 49

# Brevard Coastal High Hazard Area Map



## Category 1

 Coastal High Hazard Area

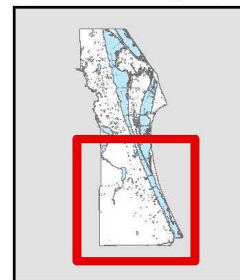
Source: East Central Florida Regional Planning Council  
Regional Evacuation Study Program - Storm Tide Atlas



Map generated by best available data on 4/29/2022. Map subject to change, please contact Brevard County for map confirmation.

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South Brevard CHHA Region Display



## Map 3c

## Coastal High Hazard Area (south Brevard region)

### COASTAL MANAGEMENT ELEMENT

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**Shoreline** means the point where the water meets the land at any point in time.

**Shoreline Protection Buffer** - a setback established from the mean or ordinary high water line or safe upland line whichever the applicant chooses. Within the shoreline protection buffer, passive recreation, hunting, fish and wildlife management open space, nature trails and limited amounts and types of shoreline access facilities shall be allowed. The amounts and types of development allowed within the shoreline protection buffer and other development restrictions are found in Conservation Element Policies 3.3, 3.4, and 3.5.

**Short Shoot** - The area between the rhizome (root) and the blade of a seagrass.

**Should** - expresses obligation; mandatory action necessary unless it can be clearly demonstrated that:

- a. Strict application will be contrary to the public interest;
- b. The public values being protected are insignificant and strict application will result in an excessive hardship to the project;
- c. Strict application will place an excessive hardship on the project, and an alternative action is available which is equal to or superior than the original requirements in reaching the policy's objective, **and or**;
- d. The activity is not financially feasible for the local government.

**Significant Adverse Impacts** means that within the sphere of influence of a proposed boating facility, death or injury to manatees or destruction of manatee habitat can be reasonably expected to occur as a result of the construction, expansion, or increase in powerboat densities and activities associated with boating facility.

**Significant Manatee Habitat Features** - each of the following five habitat features is considered significant as described.

1. Seagrass - 5% or more seagrass present on the proposed project site is considered significant.
2. Manatee Abundance - five (5) or more observations/overflight within a 5 mile radius of the site. If more than one survey falls within the 5-mile radius, the number of manatees observed will be counted for each survey, divided by the number of overflights and then the normalized values will be summed.
3. Significant Manatee Mortality - the number of watercraft mortality within a 5 mile radius, divided by the total number of watercraft mortalities in Brevard County, A value of 0.03 or larger is considered significant.
4. Manatee Freshwater Source/Calving/Cavorting/Feeding/Resting Area is within a 1/2 mile of the proposed site.
5. The proposed site is in a Class II Waterbody, Outstanding Florida Waterway (OFW), or an Aquatic Preserve.