



Planning and Zoning Board / Local Planning Agency

Brevard County Government Center

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

Agenda

Monday, September 12, 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 - August 15, 2022

H. Public Hearings

- H.1.** Mark A. and Rebecca L. Oostdyk request a change of zoning classification from RR-1 to AU. (22Z00036) (Tax Account 2405176) (District 1)
- H.2.** *CGCR Holdings, LLC (Kelly Hyvonen) request a Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC and RES 4 to CC. (22SS00009) (Tax Account 2400719) (District 1)*
- H.3.** CGCR Holdings, LLC (Kelly Hyvonen) request a change of zoning classification from IN(L) to BU-2. (22Z00031) (Tax Account 2400719) (District 1)
- H.4.** Dieter Tytko (Kim Rezanka) requests a change of zoning classification from RR-1 to RU-2-4. (22Z00039) (Tax Account 2955625) (District 3)
- H.5.** Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust (Kim Rezanka) request a change of zoning classification from AU to RR-1. (22Z00038) (Tax Account 2316453) (District 2)
- H.6.** Andrea Bedard and Nicholas Boardman (Kim Rezanka) request a change of zoning classification from AU to RU-2-4 and RU-2-6. (22Z00015) (Tax Account 2511124) (District 2)
- H.7.** *Review and Recommendation for Proposed Amendments to Sec. 62-1844, Brevard County Code of Ordinances RE: Criteria for Tiny Homes and Tiny Homes on Wheels.*

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.

9/12/2022

Subject:

Mark A. and Rebecca L. Oostdyk request a change of zoning classification from RR-1 to AU. (22Z00036) (Tax Account 2405176) (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 requesting to rezone from RR-1 to AU. The applicant is proposing to build one single-family detached residential dwelling, and would like to raise and graze farm animals, including fowl, as well as beekeeping and growing fruit trees. The subject parcel is undeveloped.

The subject parcel was recorded into the Official Record Books in June 1982. The easement over the north 50 feet of the east 149.66 feet was recorded in Official Record Book (ORB) 2779, Page 1737 dated March 3, 1987. A revision to the easement was made through an Administrative Action (AA-485) on March 15, 1990. The applicants would need to obtain flag lot approval prior to applying for Building Permits or demonstrate easement access satisfies Section 62-102.

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 permits the raising/grazing of animals and plant nurseries.

All immediate surrounding parcels are single-family residential or undeveloped. Several parcels in the immediate area have horses but there was no observation of agricultural use during a recent site visit. On Rayburn Road, south of the subject parcel, is Rudy Ranch which has cattle. There is a mixture of GU and RR-1 zoning classifications in the general area. There is an existing pattern of consistent zoning in the area surrounding the subject parcel. The closest parcel with AU zoning, as mentioned, is 641 feet north.

Should the Board be concerned with compatibility and consistency of agricultural activities, on a commercial level, they may consider a lower intensity zoning classification such as AU(L).

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may consider whether the potential of Agritourism activities adversely affect the surrounding area.

The Board of County Commissioners will consider the request on **Thursday, October 6, 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:

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

22Z00036

Mark & Rebecca Oostdyk

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

Tax Account Number: 2405176

Parcel I.D.: 24-35-14-00-769

Location: 2030 Cox Rd., Cocoa, FL 32926 (District 1)

Acreage: 10.89 acres

Planning & Zoning Board: 9/12/2022

Board of County Commissioners: 10/06/2022

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	RR-1	AU
Potential*	2 SF unit	1 SF unit
Can be Considered under the Future Land Use Map	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 requesting to rezone the property from RR-1 (Rural Residential) to AU (Agricultural Residential). The applicant is proposing to build one single-family detached residential dwelling on the property as well as using it for personal and commercial agricultural pursuits. Applicants would like to raise and graze farm animals including fowl as well as beekeeping and growing fruit trees. The subject parcel is undeveloped.

The subject parcel was recorded into the Official Record Book in June 1982. The easement over the north 50 feet of the east 149.66 feet was recorded in Official Record Book (ORB) 2779, Page 1737 dated March 3, 1987. A revision to the easement was made through an Administrative Action (**AA-485**) on March 15, 1990.

The applicants would need to obtain flag lot approval prior to applying for Building Permits or demonstrate easement access satisfies Section 62-102.

Land Use

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

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 Future Land Use.

Applicable Land Use Policies

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

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

The applicant proposes to build a single-family home as well as conduct personal agriculture and commercial ventures. It is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

There is one (1) FLU designation (RES 1) within 500-feet of this site. There have been no FLU changes within 500-feet. 10 out of 44 parcels within ½ mile are undeveloped. Properties to the east, located on the east side of Cox Rd. is City of Cocoa and is zoned as RR-1; the properties to the southeast are also located in the City of Cocoa and are zoned RU-1-7. Property sizes range from 0.5-acres to 5.29-acres. The closest parcel with AU zoning is 642 feet to the north; there are others to the west that are 700 feet away.

All immediate surrounding parcels are single-family residential or undeveloped. Several parcels in the immediate area have horses but there was no observation of agricultural use when a recent site visit was performed. On Rayburn, a street south of the subject parcel, is Rudy Ranch and they have cattle.

There has not been any actual development within this area in the preceding three (3) years. There has not been any approved development within 500-feet in the preceding three (3) years.

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

Zoning Resolution **Z-2219**, changed the parcel's zoning from GU (General Use) to RR-1 (Rural Residential) in 1968. The general area is residential in character with single-family homes on lots ranging in size from approximately one (1) to five (5) acres.

There is a mixture of GU and RR-1 zoning classifications in the general area. There is an existing pattern of consistent zoning in the area surrounding the subject parcel. The closest parcel with AU zoning, as mentioned, is 641 feet north.

The proposed AU zoning may be considered to be consistent with RES 1 as AU has a minimum required lot area of 2.5-acres. The AU (Agricultural Residential) zoning classification is generally intended to encompass lands devoted to agricultural pursuits and single-family residential development of spacious character. The classification is divided into two types, AU and AU(L). The AU is the standard agricultural residential classification, while the AU(L) is a low intensity sub-classification more suited to smaller lots where the neighborhood has a more residential than agricultural character.

Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes. To the north are two developed parcels, 1.58-acres and the other 3.16-acres with a single-family residence zoned RR-1. To the south are four (4) parcels (5.29-acre, 2.19-acre, 2.63-acre and 3.78-acre), each developed with a single-family residence and zoned RR-1. To the east is an undeveloped 4.7-acre parcel with RR-1 zoning. Also, to the east is a developed parcel with a single-family residence on 3.69-acres. Directly to the east from the easement, across Cox Rd., are what appear to be single-family residences but are under the City of Cocoa's jurisdiction and their confirmed zoning is RR-1. To the west are two (2) undeveloped utility owned 3.42-acre parcels zoned GU. To the southwest are four (4) undeveloped parcels zoned GU ranging from 0.63-acres – 0.88-acres.

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. Within a 500-foot radius there are no parcels that have an Agricultural exemption.

Should the Board be concerned with compatibility and consistency of agricultural activities, on a commercial level, they may consider a lower intensity zoning classification such as AU(L) may consider a lower intensity zoning classification such as AU(L). It is a lower intensity sub-classification of AU. The AU(L) classification allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense "commercial" agricultural activities. Should the Board consider AU(L) zoning be a more appropriate zoning classification in order to protect the existing residential designation of the neighborhood.

Analysis of Administrative Policy #7 – Significant Adverse Environmental Impacts

The Environmental Constraints section of the reports identify several environment limitations effecting the development potential of the property. The top half of the property is in a flood zone. There is also Hydric Soil by Parcel in the north east corner of the property.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	SF Residences	RR-1	RES 1
South	SF Residences	RR-1	RES 1
East	SF Residences	RR-1	RES 1
West	Undeveloped	GU	RES 1

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.

City of Cocoa RR-1 zoning classification permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width of 125 feet and minimum lot depth of 200 feet. Their RR-1 classification permits as accessory uses horses, cattle and other farm animals for personal use provided there is a minimum of 20,000 sq. ft of land for each animal.

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.

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 permits the raising/grazing of animals and plant nurseries. Conditional uses in AU include hog farms, zoological parks, and land alteration.

The AU(L) zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots for personal use, with a minimum lot width and depth of 150 feet. The minimum house size in AU(L) is 750 square feet. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use but mitigates commercial agricultural activities.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Cox Rd., between SR 524 to James Rd., 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 maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.76%. The

corridor is anticipated to operate at 15.08% 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 closest City of Cocoa utilities service area for public water is 0.4 miles away at the intersection of SR 524 and Cox Rd. Potable water is available through the City of Cocoa and is servicing the immediate neighbors.

Environmental Constraints

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

The subject parcel contains mapped hydric soils, National Inventory Wetland (NWI) wetlands, and hydric pine flatwoods indicators that wetlands may be present. A wetland delineation will be required prior to any land clearing activities or building permit application 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 Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with 62-3696.

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 classification requirements.** If Bona Fide Agriculture classification is not established, then land clearing activities 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 shall be permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any to any land clearing activities, site plan design or building 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 consider whether the potential of Agritourism activities adversely affect the surrounding area.

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

Item # 22Z00036

Applicant: Mark & Rebecca Oostdyk

Zoning Request: RR-1 to AU

Notes: Applicant wants agricultural uses

P&Z Hearing Date: 09/12/22; **BCC Hearing Date:** 10/06/22

Tax ID No: 2405176

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

The subject parcel contains mapped hydric soils, National Inventory Wetland (NWI) wetlands, and hydric pine flatwoods indicators that wetlands may be present. A wetland delineation will be required prior to any land clearing activities or building permit application 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 Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with 62-3696.

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Page 6

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Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Anclote sand), hydric pine flatwoods, and NWI wetlands (freshwater forested/shrub wetland) as shown on the USDA Soil Conservation Service Soils Survey and NWI Wetlands maps, respectively; indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities or building permit application 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 Sections 62-3694(e), including avoidance of impacts, and will require mitigation in accordance with 62-3696.

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Floodplain

Approximately half of the property is mapped as being within the isolated floodplain as identified by FEMA and as shown on the FEMA Flood Zones Map. The portion of the property located within the floodplain is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. 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 an isolated floodplain greater than one third (1/3) acre in size. Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Land Clearing and Landscape Requirements

The entire parcel is mapped with SJRWMD FLUCCS code 4100-Pine Flatwoods. Protected Trees (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) are likely found on the parcel. A tree survey of Protected and Specimen Trees is required prior to any land clearing activities, site plan design or building permit submittal. At time of building permit 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.

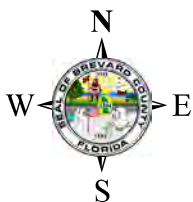
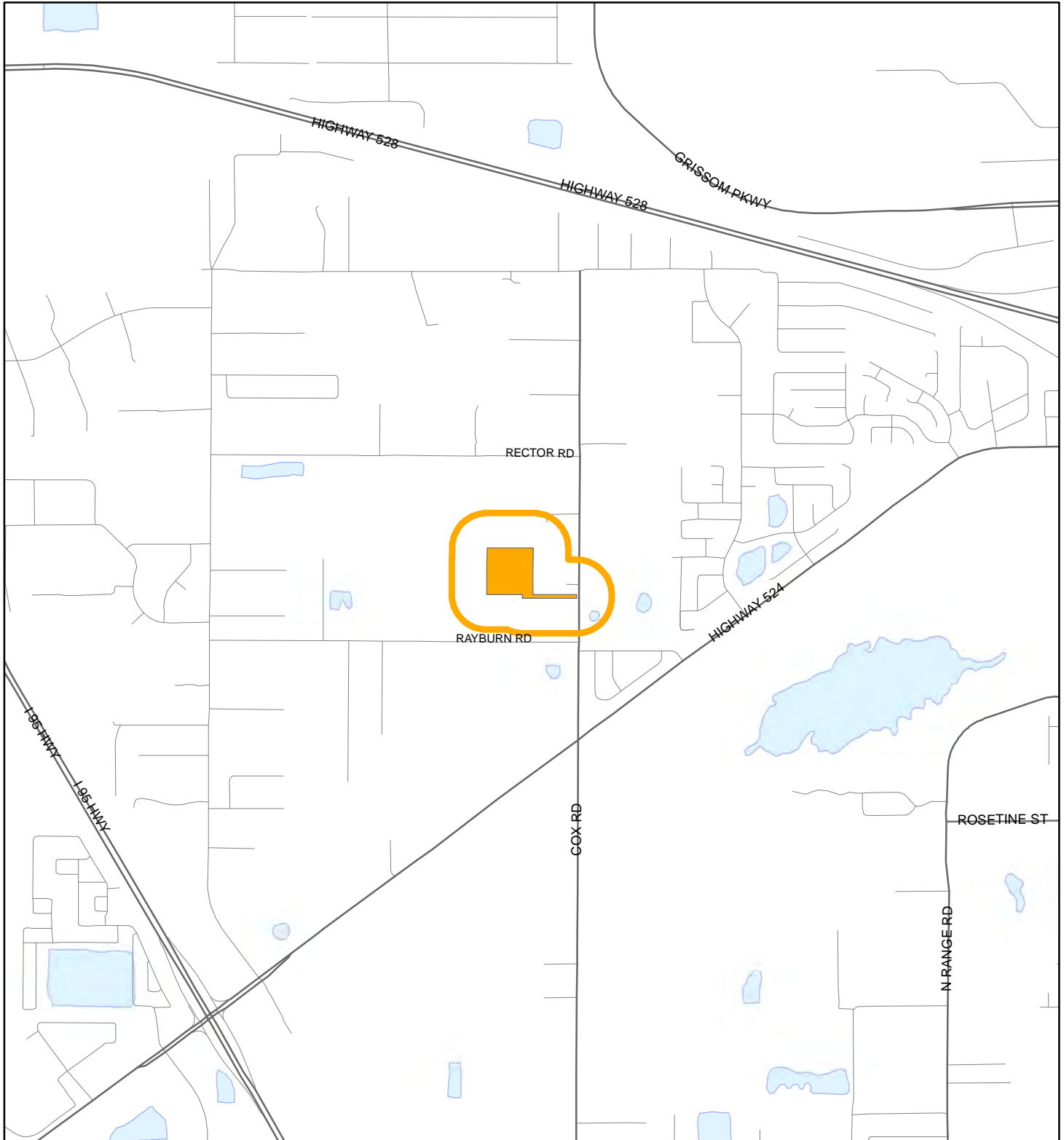
Protected Species

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

OOSTDYK, MARK A

22Z00036





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.

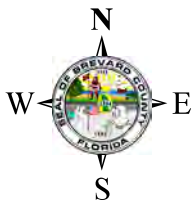
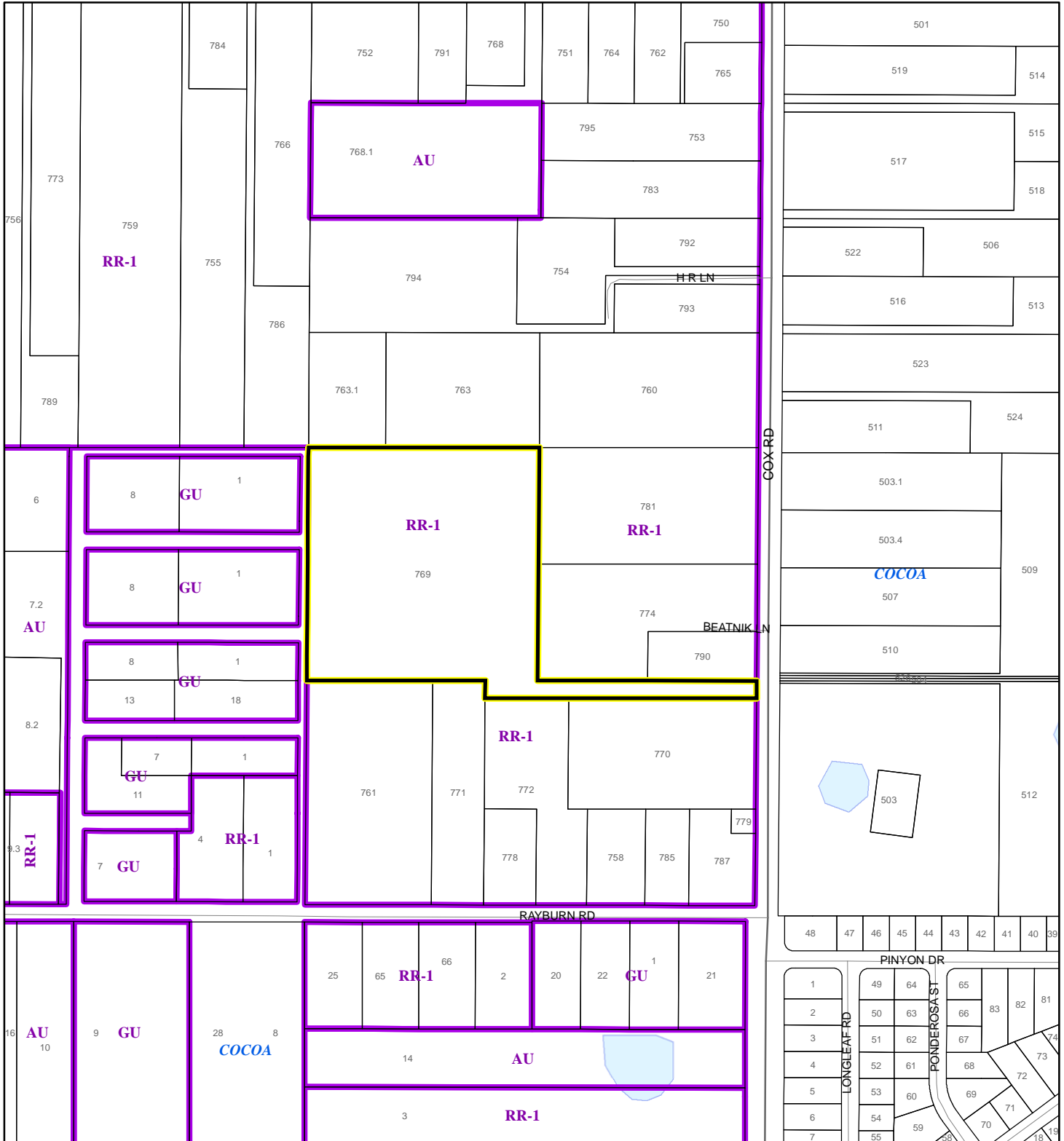
Produced by BoCC - GIS Date: 7/15/2022

 Buffer
 Subject Property

ZONING MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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Subject Property

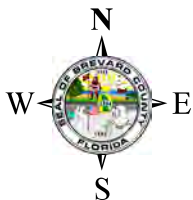
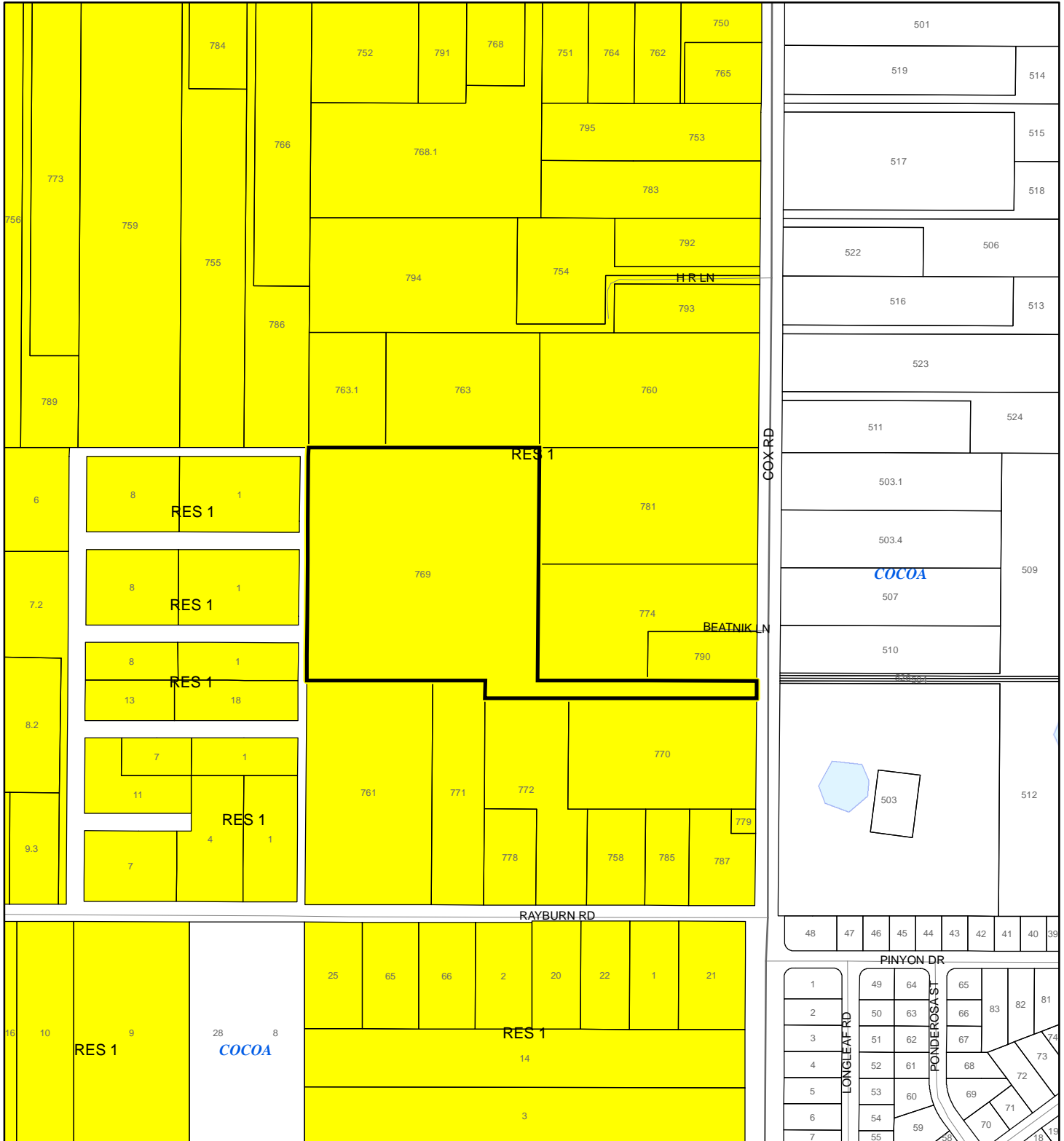
Parcels

Zoning

FUTURE LAND USE MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/15/2022

Subject Property
 Parcels

AERIAL MAP

OOSTDYK, MARK A

22Z00036




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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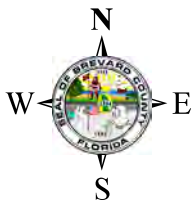
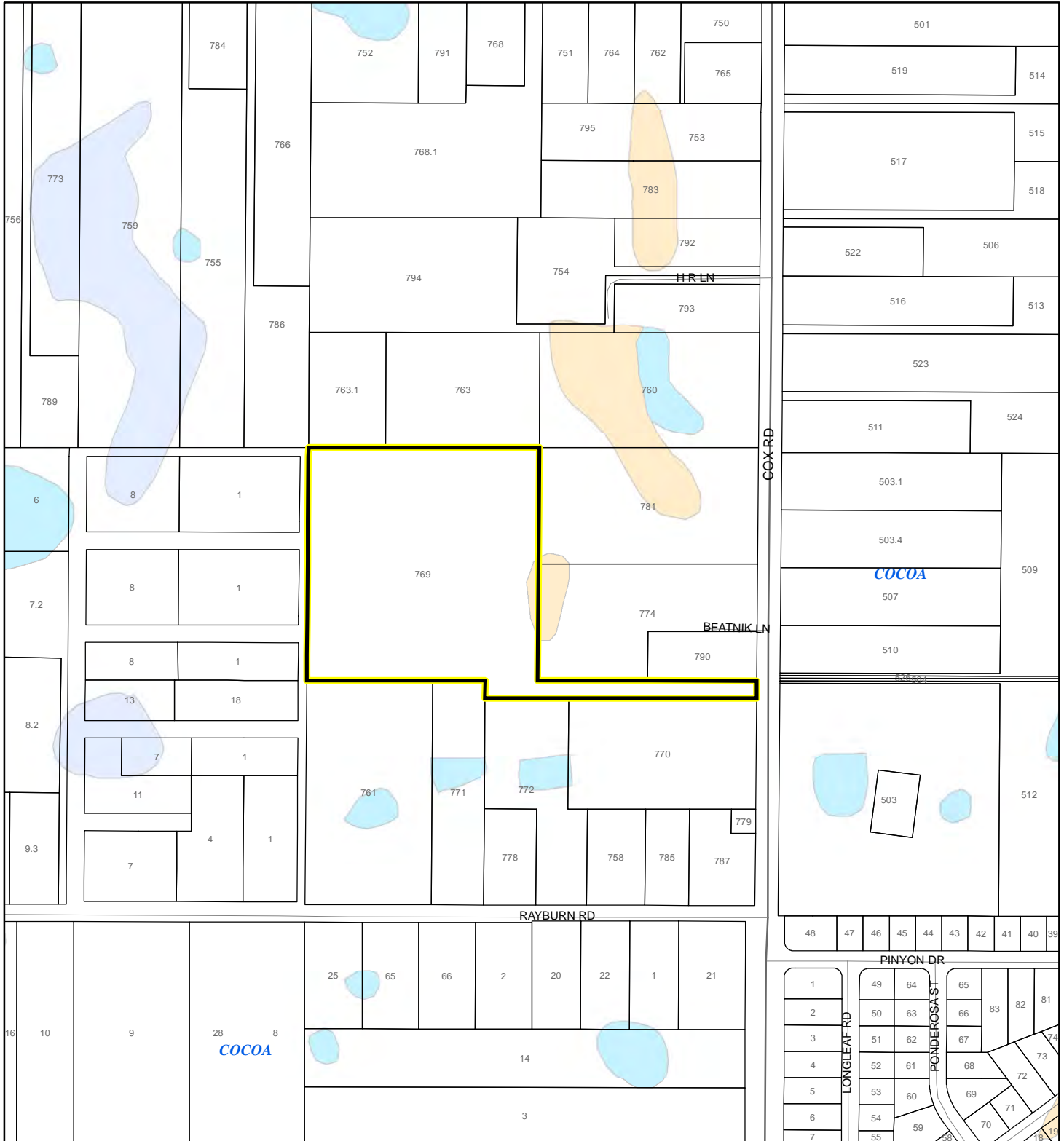
 Subject Property

 Parcels

NWI WETLANDS MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/15/2022

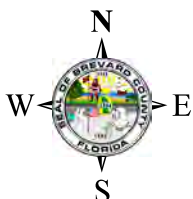
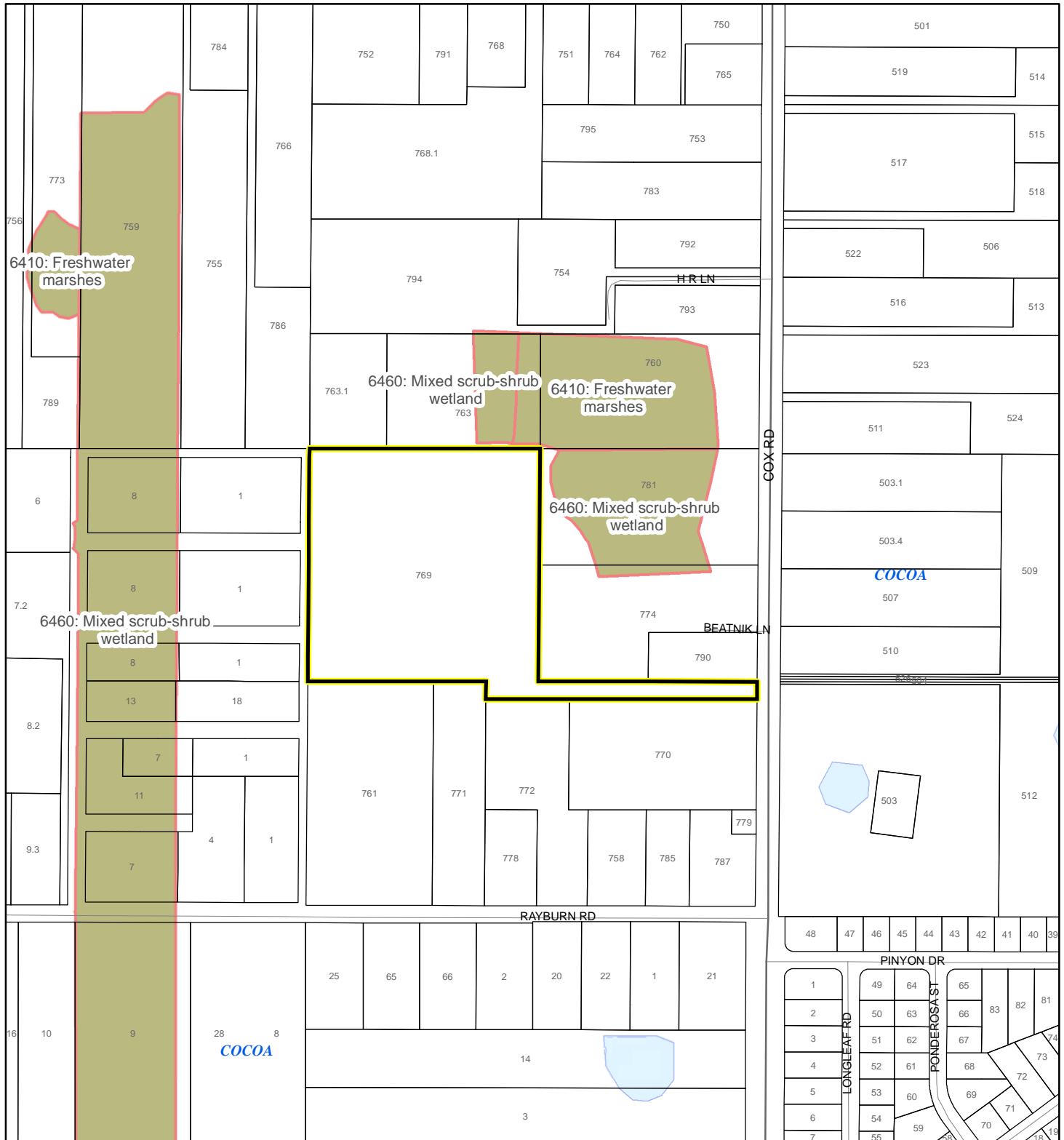
National Wetlands Inventory (NWI)

	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

OOSTDYK, MARK A

22Z00036



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

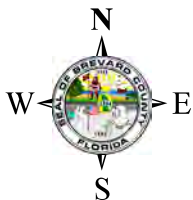
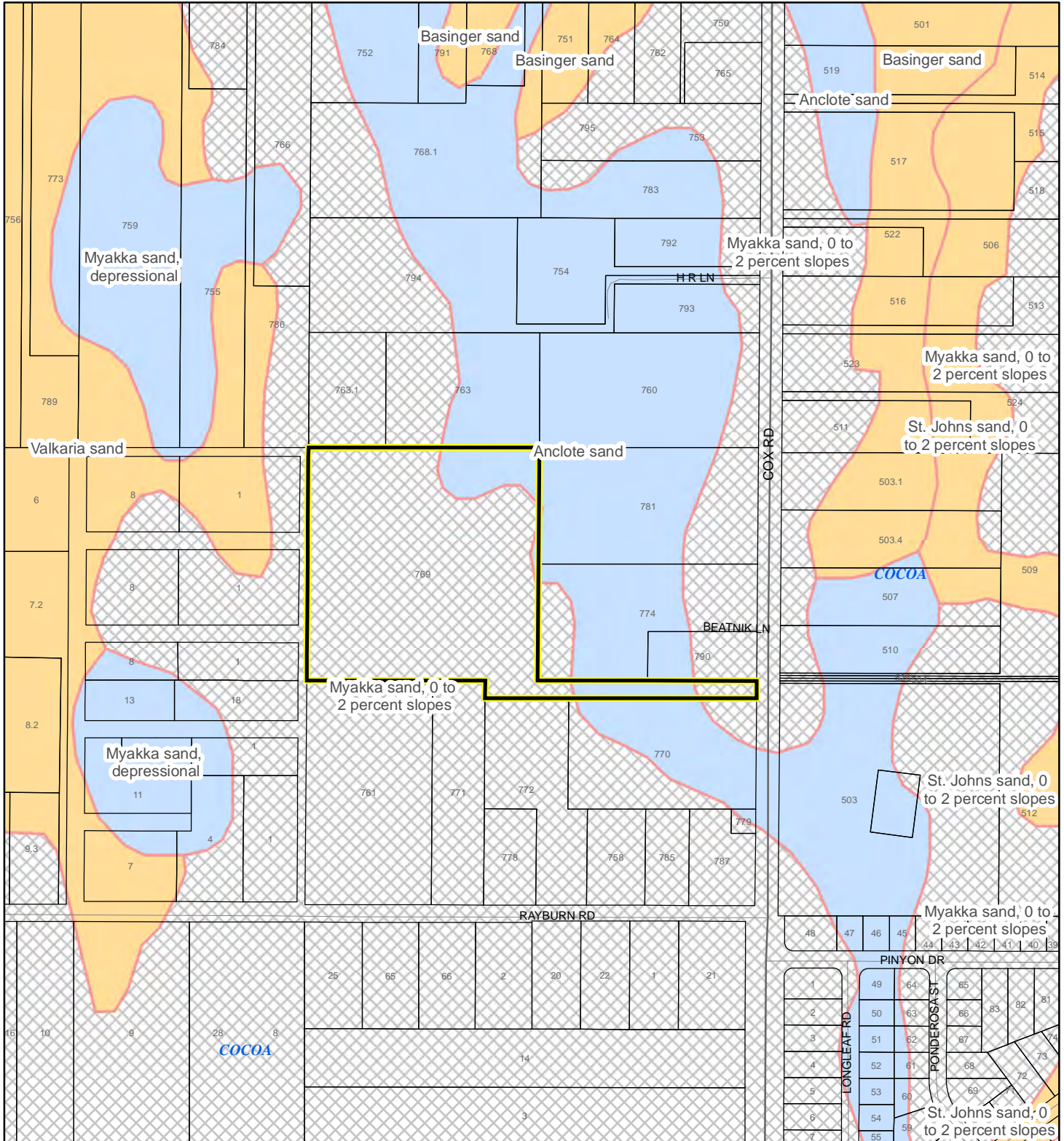
Subject Property

Parcels

USDA SCSSS SOILS MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

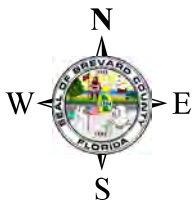
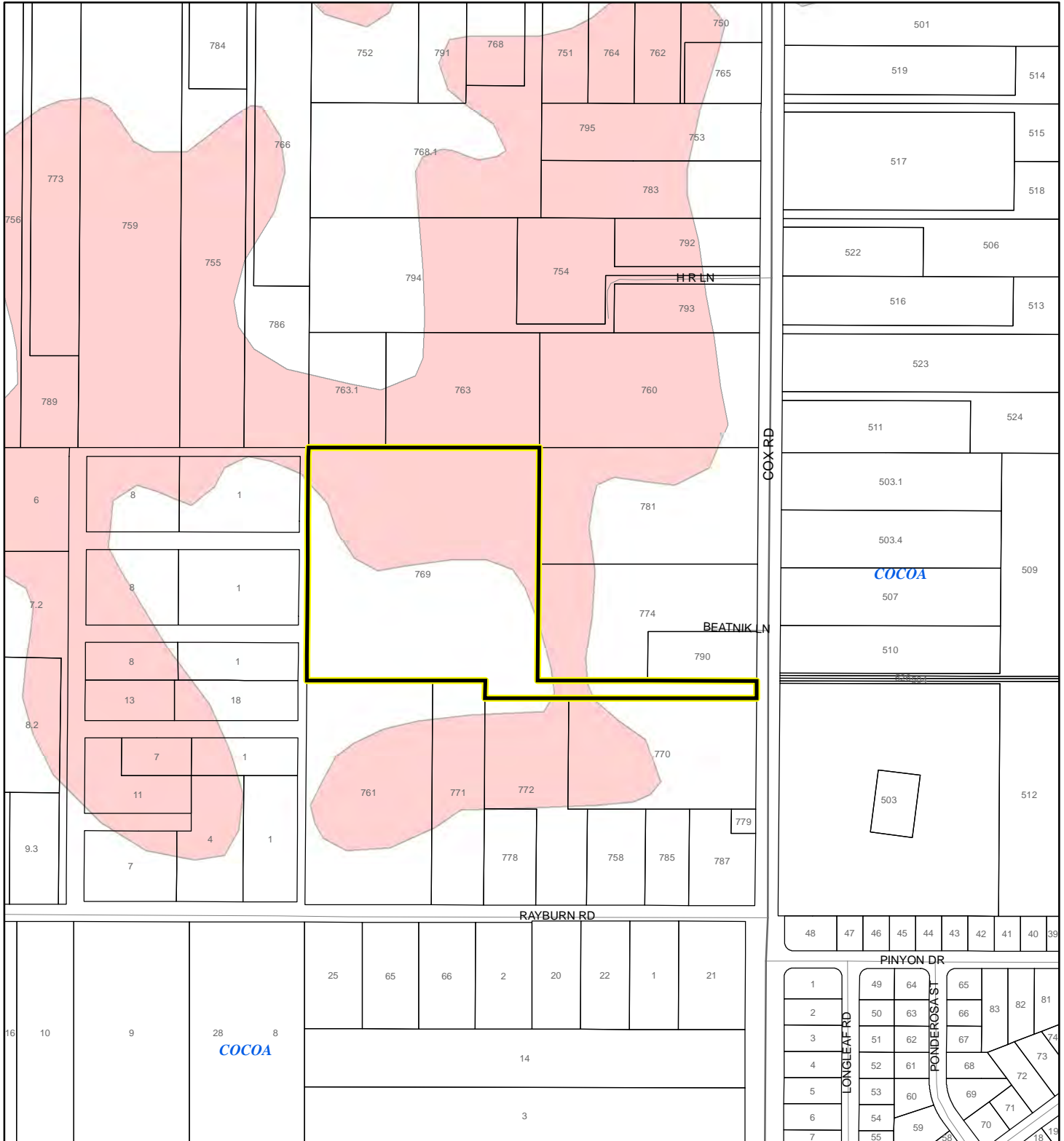
Subject Property

Parcels

FEMA FLOOD ZONES MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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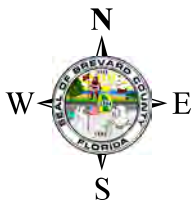
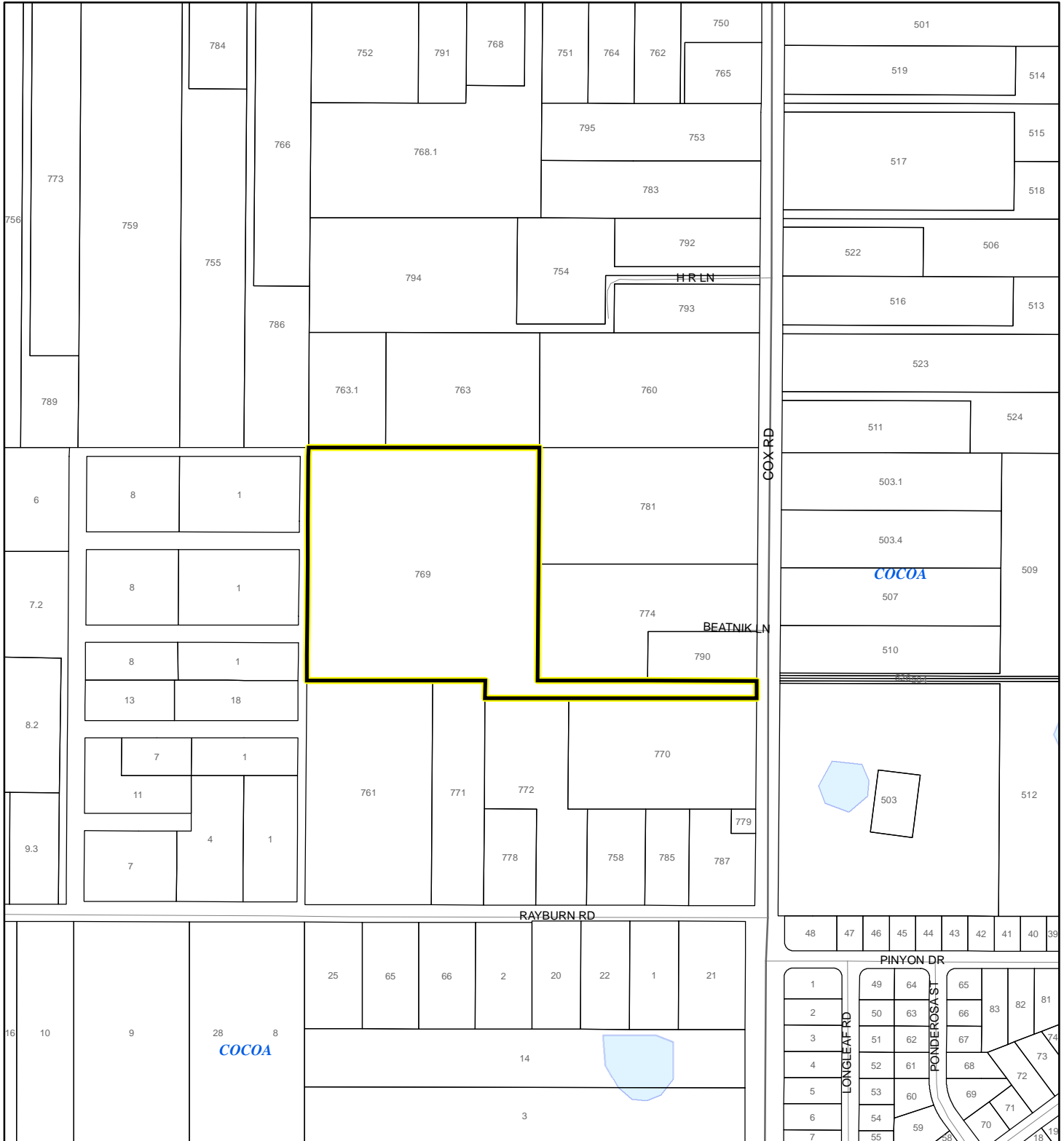
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/15/2022

 Subject Property

 Parcels

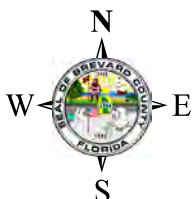
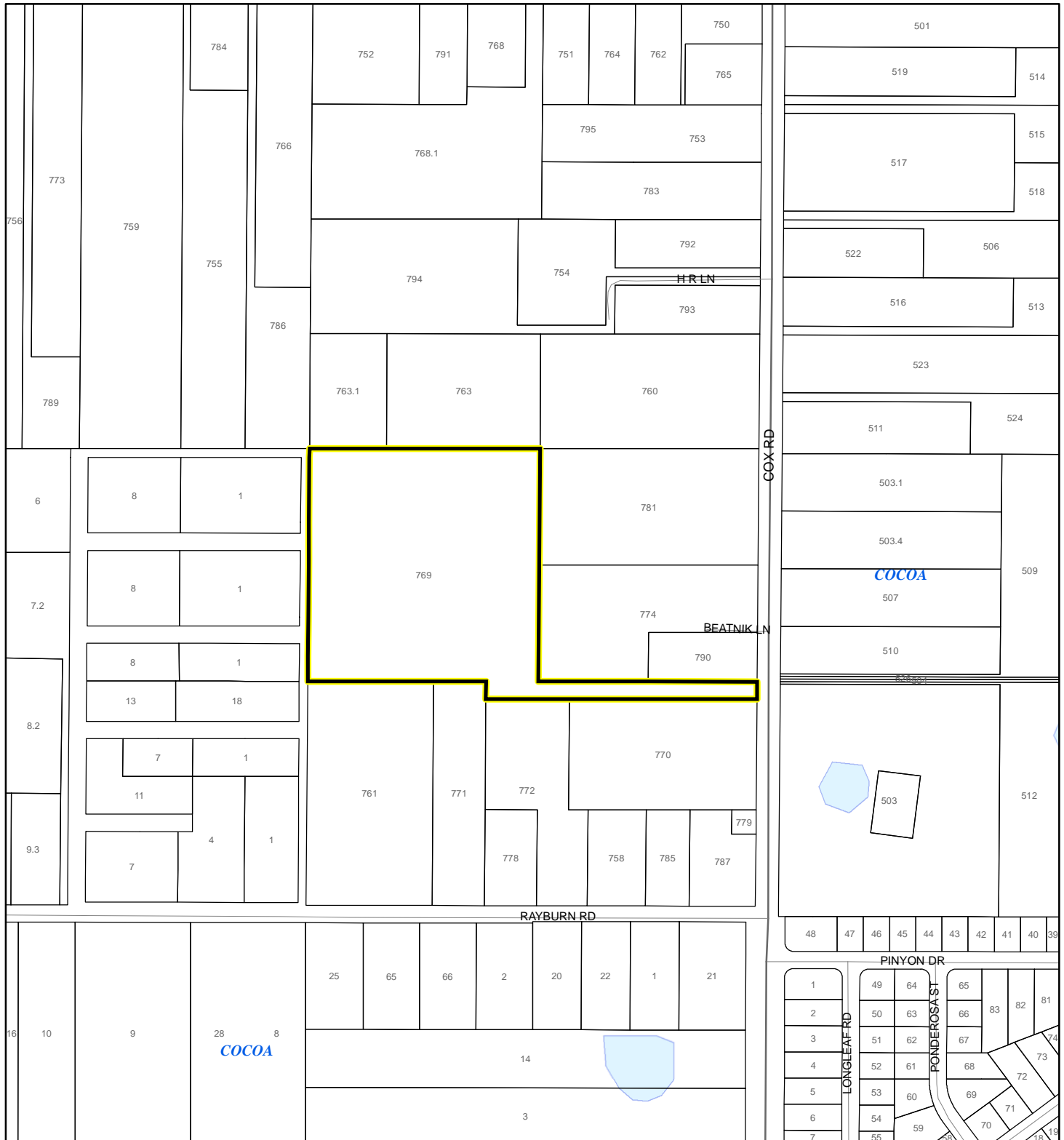
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/15/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

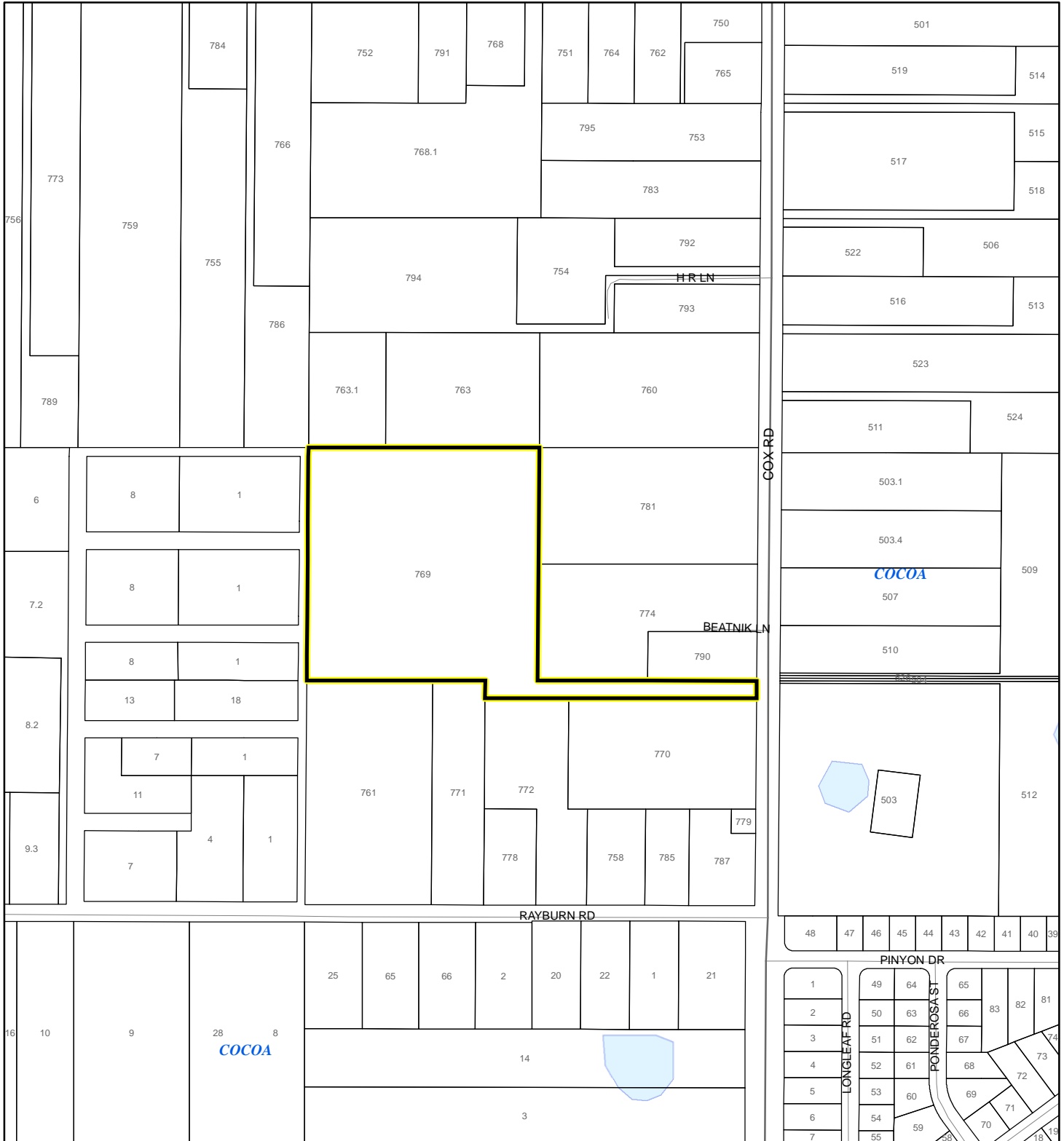
 60 Meters

 All Distances

EAGLE NESTS MAP

OOSTDYK, MARK A

22Z00036



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/15/2022

 Subject Property

 Parcels

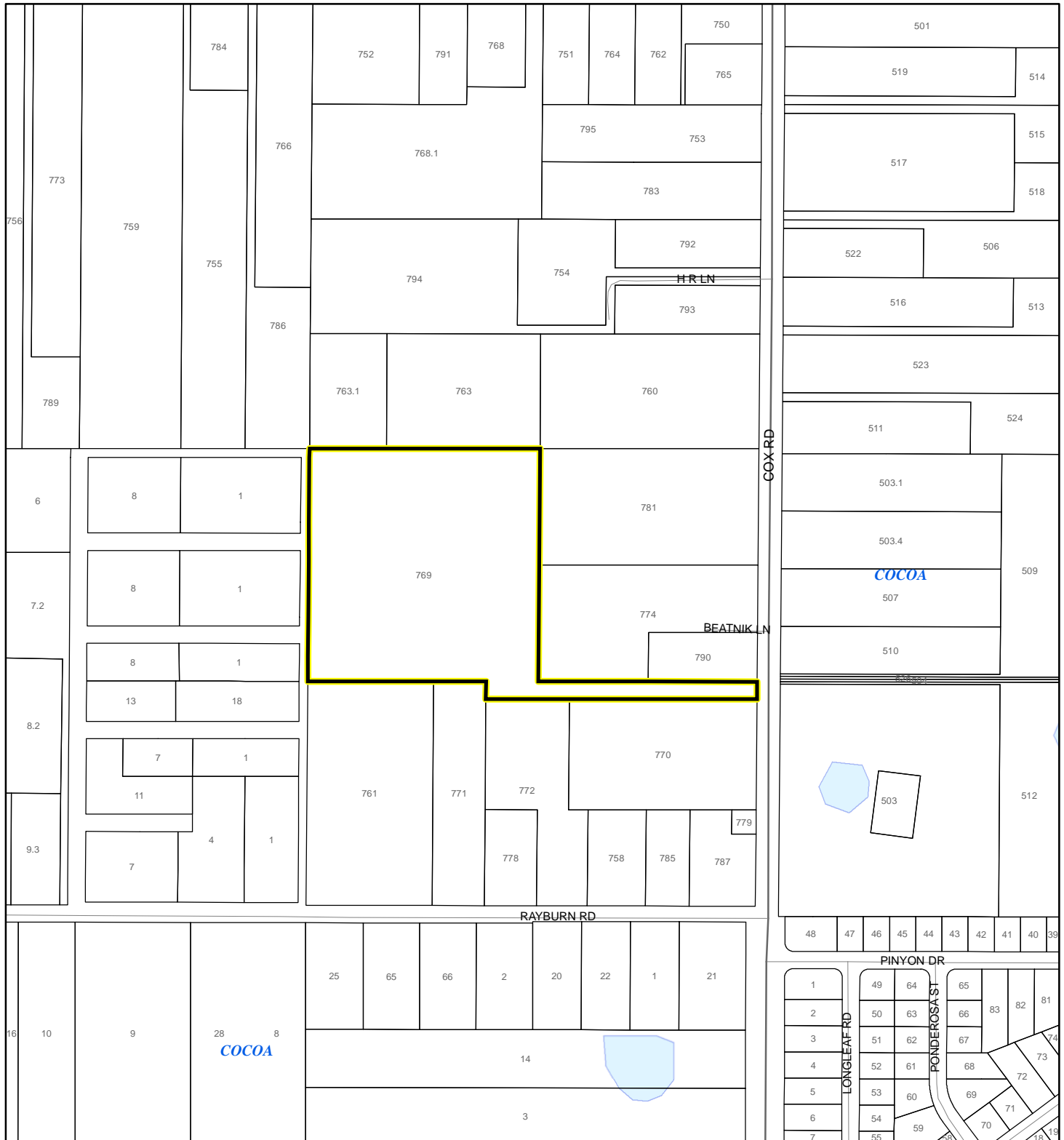


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

OOSTDYK, MARK A

22Z00036



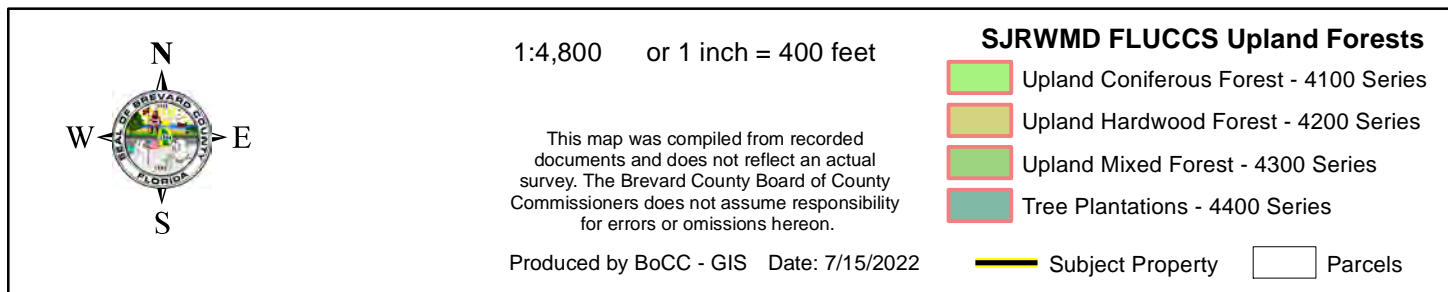
1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/15/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

22Z00036





Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

9/12/2022

Subject:

CGCR Holdings, LLC (Kelly Hyvonen) request a Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC and RES 4 to CC. (22SS00009) (Tax Account 2400719) (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 Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC (Neighborhood Commercial) and RES 4 (Residential 4) to CC (Community Commercial).

Summary Explanation and Background:

The applicant is seeking to amend the Future Land Use designation on the eastern 350 feet of the property encompassing 4.83 acres from RES 4 and NC to CC to match the Future Land Use designation on the remainder of the property that is adjacent to the subject property to the west. The NC portion of the subject property encompasses 2.63 acres. The RRES 4 portion of the subject property encompasses 2.20 acres.

A companion rezoning application (22Z00045) was submitted accompanying this request for a zoning change from IN(L) to BU-2. BU-2 and CC currently exist on the western portion of the newly acquired property which has Grissom Parkway frontage. Amending the Future Land Use Map to CC would create a unified designation for development purposes.

To the north and east of the subject property is vacant residential land. To the west is vacant commercial land along the east side of Grissom Parkway and single-family residential to the west of Grissom Parkway (Canaveral Groves), on the south side of the private driveway is a religious institution. The area farther south is within the City of Cocoa. The property adjacent to the church on the south is owned by a Not for Profit corporation that leases space to organizations engaged in behavioral health therapy. Further to the south, within the City of Cocoa, land uses shift to warehousing and distribution facilities.

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, October 6, 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:

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 21S.12 (22SS00009)
Township 24, Range 35, Section 01

Property Information

Owner / Applicant: **CGCR Holdings, LLC**

Adopted Future Land Use Map Designation: Residential 4 (RES 4) and
Neighborhood Commercial (NC)

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

Acreage: 4.83

Tax Account #: part of 2400719

Site Location: Approximately 350 feet west of Grissom Parkway right-of-way on the
north side of a private driveway for a religious institution.

Commission District: 1

Current Zoning: Institutional Use – Light Intensity IN(L)

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

Background & Purpose

The property has frontage on Grissom Parkway and lies north of a private driveway for an existing religious institution. The applicant is seeking to amend the Future Land Use designation on the eastern 350 feet of the property encompassing 4.83 acres from Residential 4 (RES 4) and Neighborhood Commercial (NC) to Community Commercial (CC) to match the Future Land Use designation on the remainder of the property that is adjacent to the subject property to the west. The Neighborhood Commercial (NC) portion of the subject property encompasses 2.63 acres. The Residential 4 (RES 4) portion of the subject property encompasses 2.20 acres.

A companion rezoning application was submitted accompanying this request for a Zoning change from IN(L) to BU-2. BU-2 and CC currently exist on the western portion of the newly acquired property which has Grissom Parkway frontage. Amending the Future Land Use Map to CC would create a unified FLUM designation for development purposes.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Vacant	GU	NC & RES 4
South	Institutional	IN(L)	NC & RES 4
East	Vacant	GU	RES 4
West	Vacant	BU-2	CC

To the north and east of the subject property is vacant residential land. This area is a part of the Canaveral Groves subdivision but lacks County maintained road infrastructure that is necessary to facilitate development. To the west is vacant commercial land along the east side of Grissom Parkway and low density, single family residential to the west of Grissom Parkway (Canaveral Groves), on the south side of the private driveway is a religious institution. The area farther south is within the City of Cocoa. The property adjacent to the church on the south is owned by a Not for Profit corporation that leases space to other Not for Profit organizations engaged in behavioral health therapy. Further to the south within the City of Cocoa land uses shift to warehousing and distribution facilities.

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 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 commercial development. Until a specific use is identified, the impact on Grissom Parkway cannot be determined. Certain uses could 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;

On the west side of Grissom Parkway, the historical land use pattern is single family residential platted as a part of the Canaveral Groves subdivision with one acre lots and RES 1:2.5 Future Land Use Map (FLUM) designation . On the east side of Grissom Parkway to the north and east is vacant residential property platted as a part of the Canaveral Groves subdivision with one acre lots with RES 4 FLUM designation. On the east side of Grissom Parkway to the south is within the City of Cocoa and has been developed primarily with warehousing and distribution facilities.

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

There does not appear to have 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 1 unit per acre on the west side of Grissom Parkway to vacant residential land platted at 1 unit per acre but that has a RES 4 FLUM designation. Existing single-family residential development within the Canaveral Groves subdivision encompasses a large area with limited access to commercial opportunities in the immediate vicinity. Three (3) FLUM designations are located within 500 feet of the subject property: RES 4, NC, and CC.

- 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 Canaveral Groves Subdivision, west of Grissom Parkway, is an established single-family, residential neighborhood. This subdivision is located west of the subject property.

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.

The closest retail uses which include a convenience store with gas pumps and a restaurant are near Grissom Parkway at Canaveral Groves Boulevard which is approximately 0.75 miles north of the subject property.

Role of the Comprehensive Plan in the Designation of Commercial Lands

FLUE Policy 2.1

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

Criteria:

- A. Overall accessibility to the site;

The subject property is the easternmost 350 feet of a larger parcel that has 316 feet of frontage on Grissom Parkway, an urban minor arterial operating at 60.76% of Maximum Acceptable Volume. A private driveway is located along the south property line and could also provide access to Grissom Parkway. Depending on the commercial use ultimately established on the site, there may not be sufficient roadway capacity to accommodate some commercial uses. Please refer to the preliminary concurrency section for more details.

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

There are NC and CC future land use map designations adjacent to the subject property. Those properties are vacant at this time. To the north and east of the subject property, the area is platted with one acre lots and has a FLUM designation of Residential 4 (RES 4). The current FLUM designation of Neighborhood Commercial (NC) on the subject property serves a buffer to the more intensive Community Commercial land use designation adjacent to it on the west. Amending the NC designation to CC could be considered an encroachment into the residential area to the east of the subject property.

- C. Existing commercial development trend in the area;

Existing commercial development along this segment of Grissom Parkway is very limited at this time.

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

Although the County has improved Grissom Parkway and established a connection to Interstate 95 at the Port St. John interchange, the character of the area has changed very little in that time.

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

The subject property has roadway access and potable water service is provided to the site by the City of Cocoa. There is no centralized sanitary sewer service available. Solid Waste collection and disposal can be provided by Brevard County once the property is developed. The site will need to provide on-site surface water management. Emergency services will be provided by Brevard County Fire/Rescue and the Brevard County Sheriff's Office.

- F. Spacing from other commercial activities;

On Grissom Parkway the closest other Community Commercial facilities are located approximately 0.75 miles to the north near its

intersection with Canaveral Groves Boulevard. Grissom Parkway will intersect with US Highway 1 approximately 2.5 miles to the south. Additional commercial activities can be found along the US Highway 1 corridor.

- G. Size of proposed commercial designation compared with current need for commercial lands;

Relative to the extent of the existing single-family residential development in Canaveral Groves, there appears to be a current need for additional commercial development in the area.

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

The provisions of this Criterion will be addressed at the site plan stage.

- I. Integration of open space; and

Open space has been conserved on the east side of Grissom Parkway because there are no County maintained roads which prevents development from occurring. Extensive natural resource constraints may also play a role in conserving open space.

- J. Impacts upon strip commercial development.

On the west side of Grissom Parkway, residential lots have internal access to the Canaveral Groves Subdivision and have been substantially built out with single-family residences.

On the east side of Grissom, the area has been platted as one acre lots with Residential 4 (RES 4) FLUM designation but remains substantially vacant due to the lack of County maintained roads serving the interior platted lots.

To the north of the subject property near Grissom's intersection with Canaveral Groves Boulevard, a commercial strip is beginning to emerge along the east side of Grissom. The FLUM designations on several lots with Grissom frontage has been amended to Community Commercial and they have established direct access to Grissom.

To the south of the subject property along Grissom, the frontage is within the City of Cocoa and has been substantially developed with warehousing and distribution facilities.

Locational and Development Criteria for Community Commercial Uses FLUE Policy 2.8

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

Criteria:

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

A private driveway runs along the south property line and provides access to Grissom Parkway for the existing religious institution. It is not a County maintained road and therefore is not classified as an arterial or collector.

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

The subject property together with the two adjacent Community Commercial properties on the west total less than 10 acres.

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

There are four other parcels with Community Commercial land use designation within 0.75 miles of the subject property. Two of these are vacant.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

The gross floor area cannot be determined until the site plan stage.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

The Floor Area Ratio cannot be determined until the site plan stage. The applicant has not requested PUD zoning.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

The requested zoning classification is BU-2 and does not permit recreational vehicle parks.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Grissom Parkway, from Industry to Canaveral Groves, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 60.76% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 99.70%. The corridor is anticipated to operate at 160.46% of capacity daily. The proposal is anticipated to create a deficiency in LOS. Specific concurrency issues will be addressed at the time of site plan review.

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

The parcel is within the City of Cocoa utilities service area for potable water. The closest Brevard County sewer line is approximately 2.8 miles southwest on Adamson Road.

Environmental Constraints

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

A portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696.

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

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
Zoning Review & Summary
Item #22Z00031

Applicant: Hyvonen for Mitchell

Zoning Request: IN(L) to BU-2

Note: Applicant wants to unify zoning across parcel for future development

P&Z Hearing Date: 09/12/22; **BCC Hearing Date:** 10/06/22

Tax ID No: 2400719

- 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
- Protected Species
- Protected and Specimen Trees

A portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

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 and SJRWMD wetlands (freshwater marshes); indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. 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 & St. Lucie 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.

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

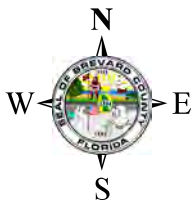
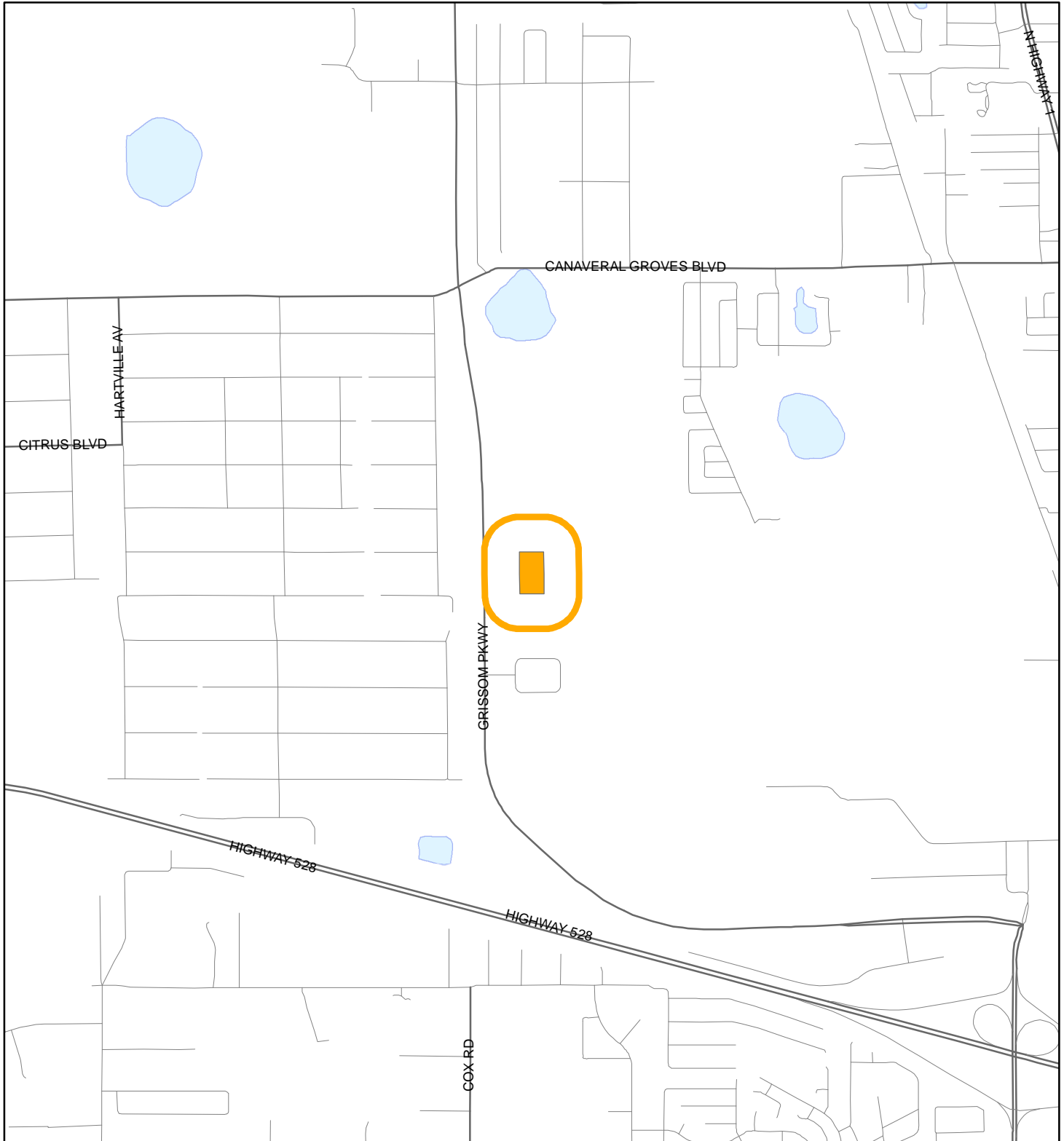
Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

Protected and Specimen Trees

A large portion of the subject property is mapped with SJRWMD FLUCCS code 4100-Pine Flatwoods. Protected Trees (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) are included in this FLUCCS code, and may be 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

CGCR Holdings, LLC
22SS00009 Small Scale Amendment 22S.12



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.

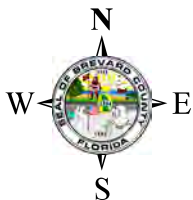
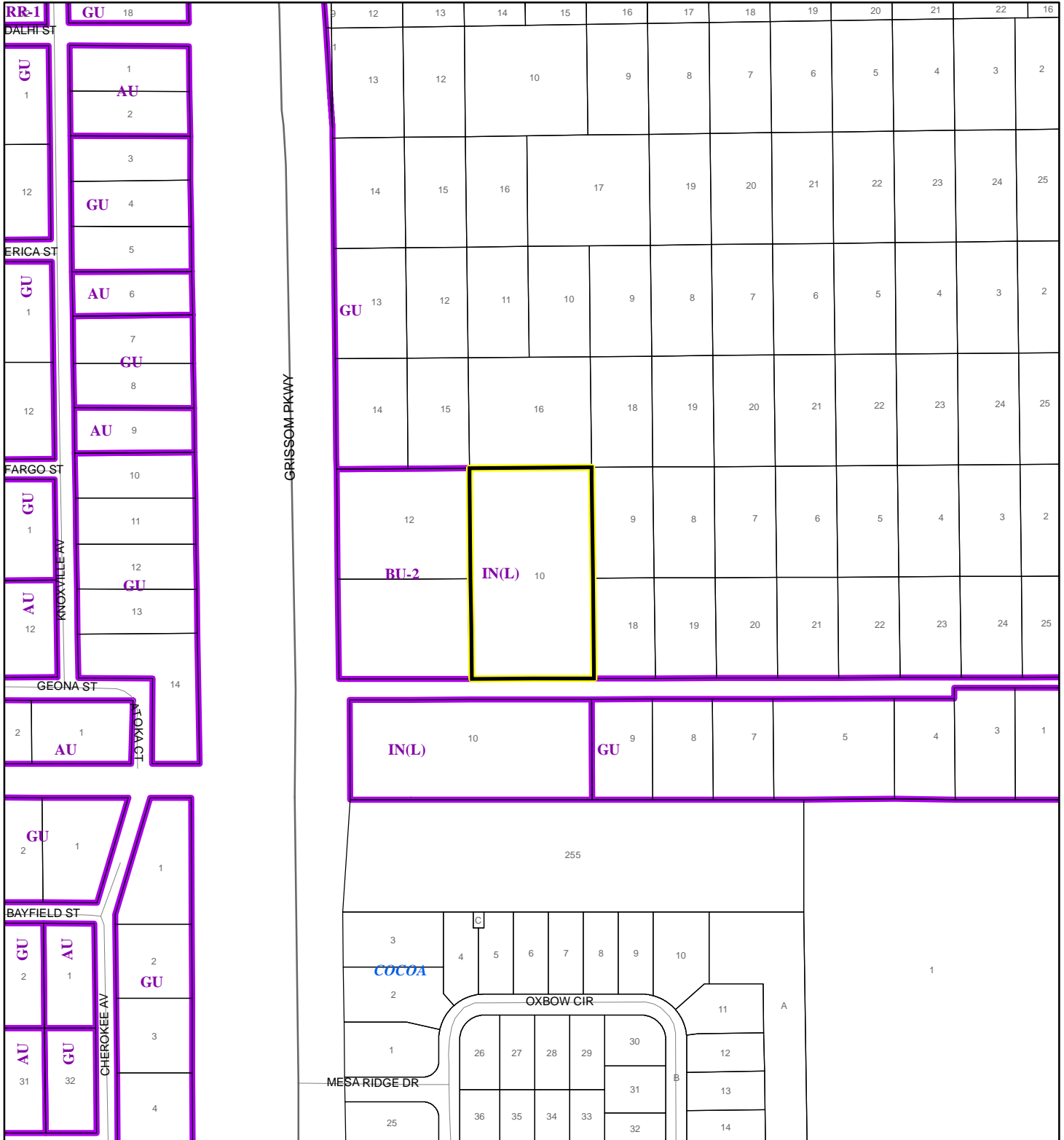
Produced by BoCC - GIS Date: 7/1/2022

— Buffer
— Subject Property

ZONING MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



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: 7/1/2022

Subject Property

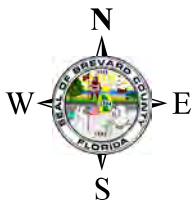
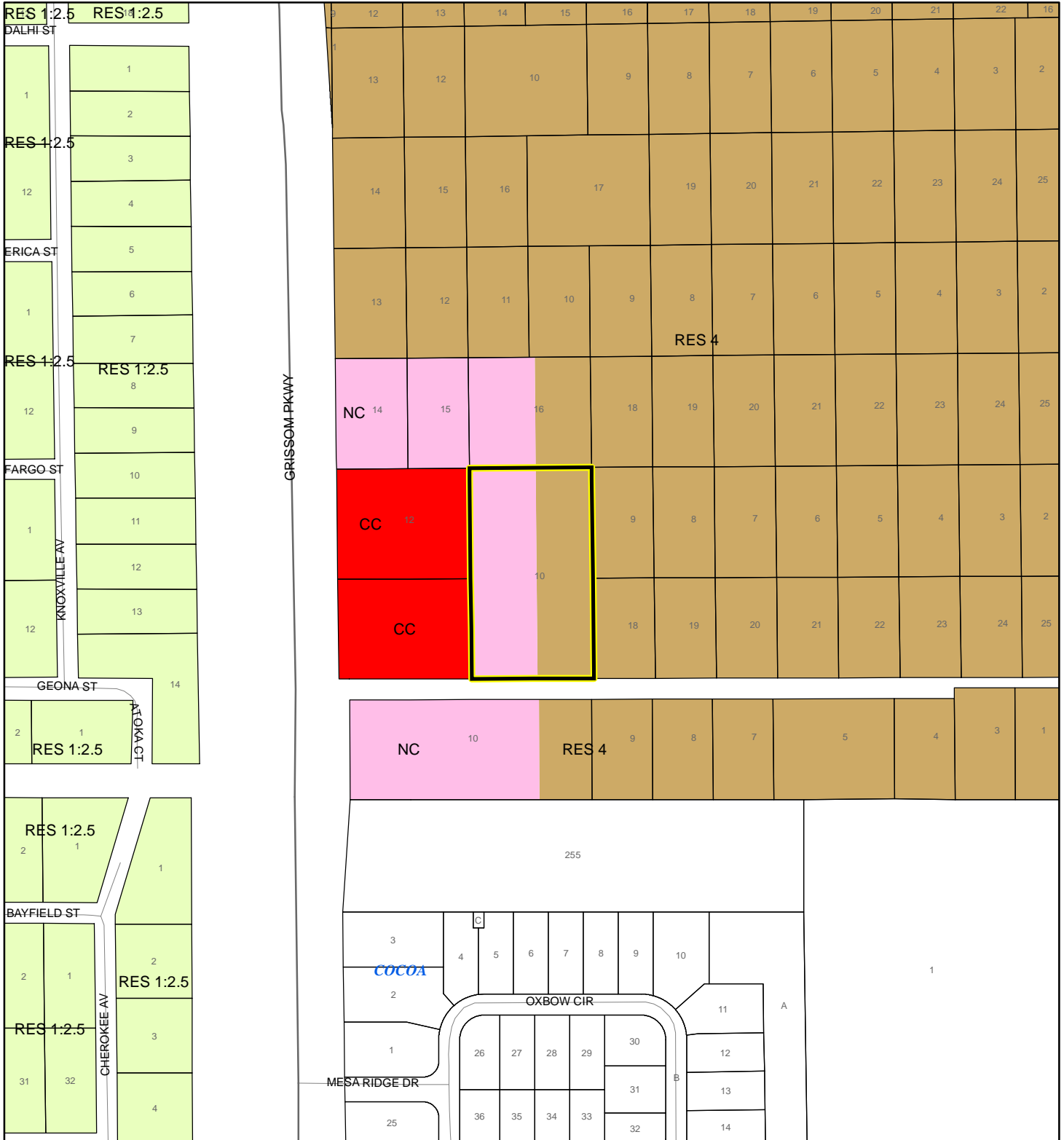
Parcels

Zoning

FUTURE LAND USE MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

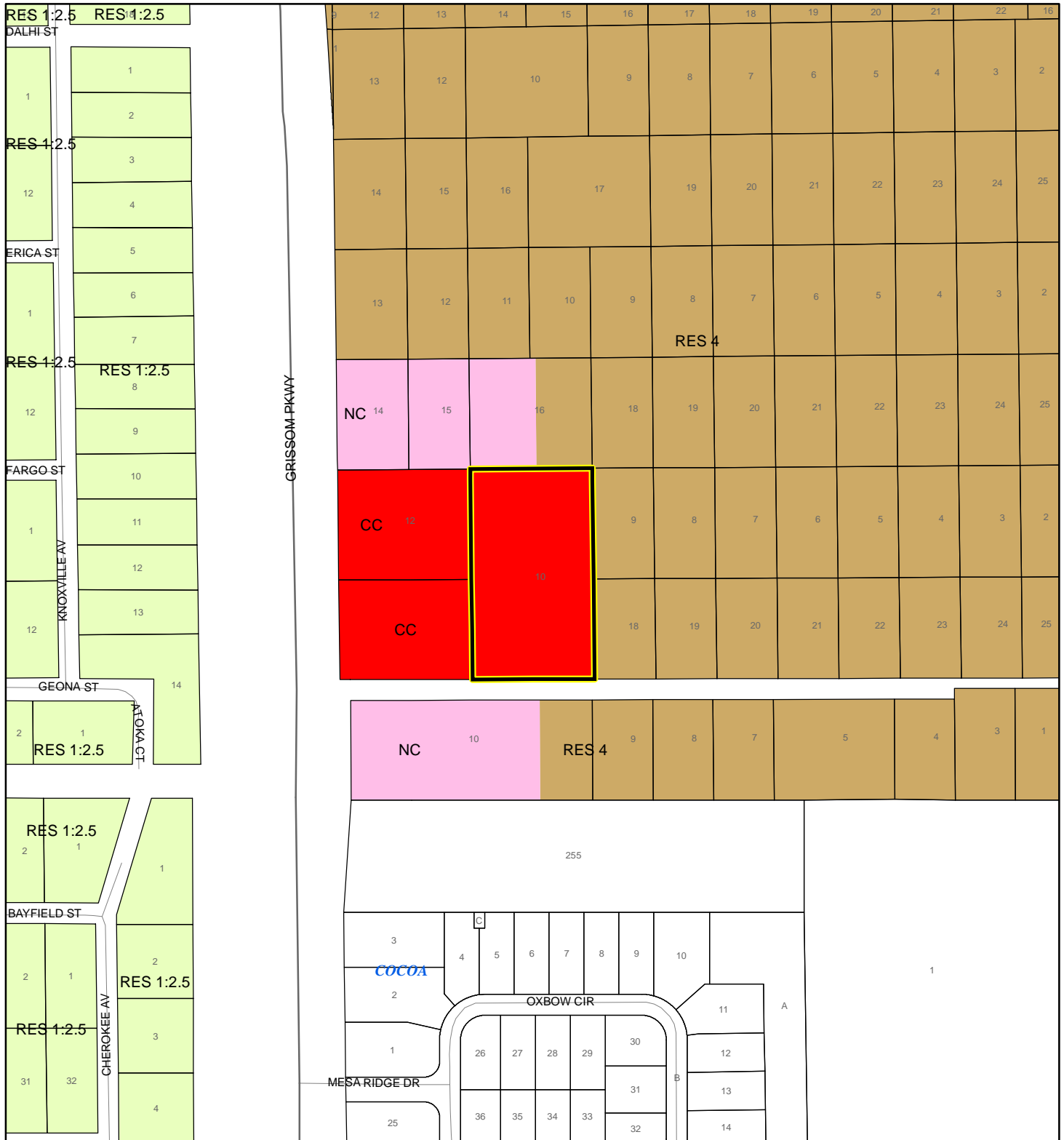
Subject Property
 Parcels

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: 7/1/2022

PROPOSED FUTURE LAND USE MAP

CGCR Holdings, LLC
22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

Subject Property
 Parcels

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Produced by BoCC - GIS Date: 7/1/2022

AERIAL MAP

CGCR Holdings, LLC
22SS00009 Small Scale Amendment 22S.12





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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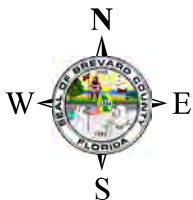
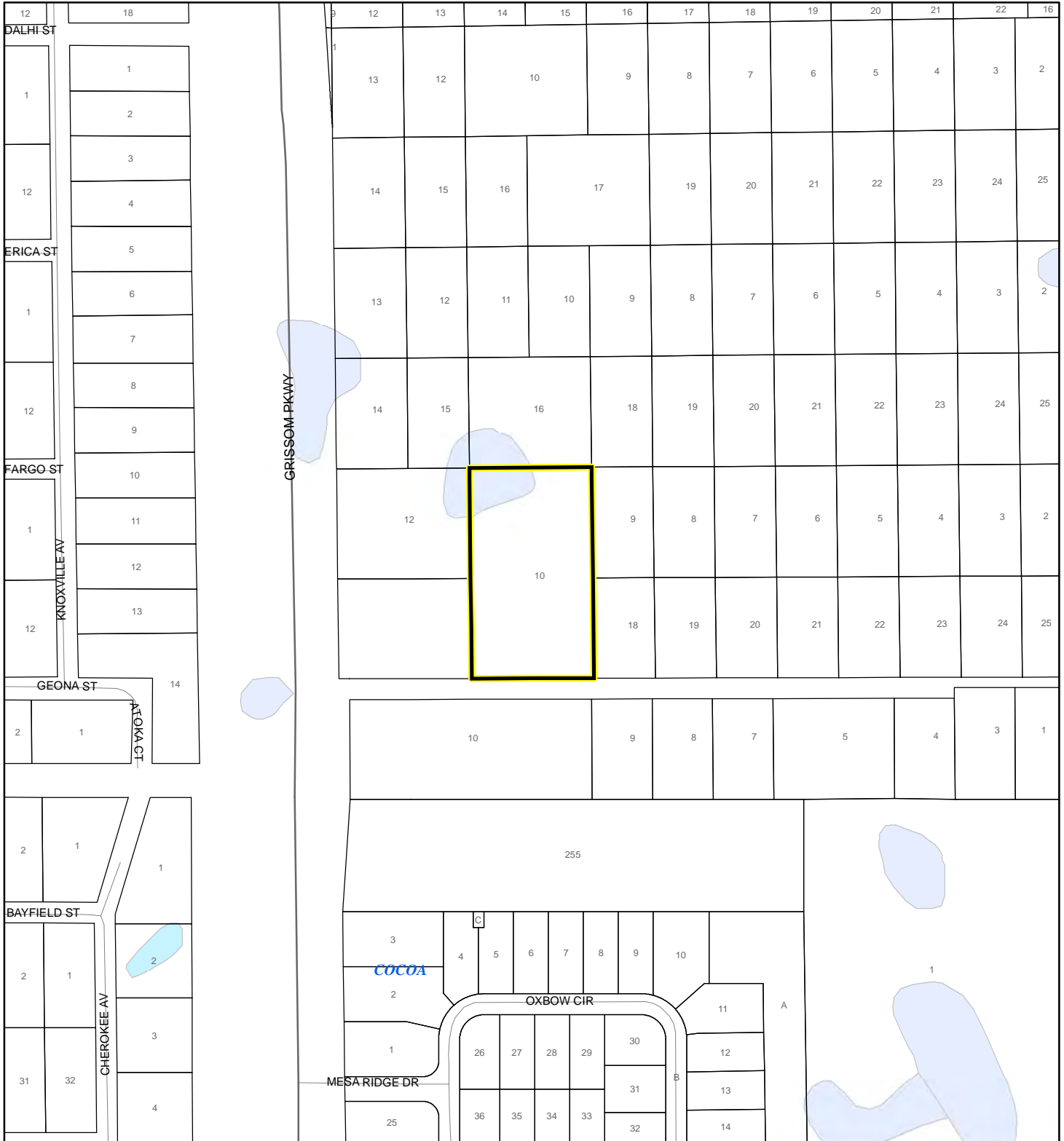
Produced by BoCC - GIS Date: 8/10/2022

 Subject Property
 Parcels

NWI WETLANDS MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/1/2022

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

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/1/2022

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

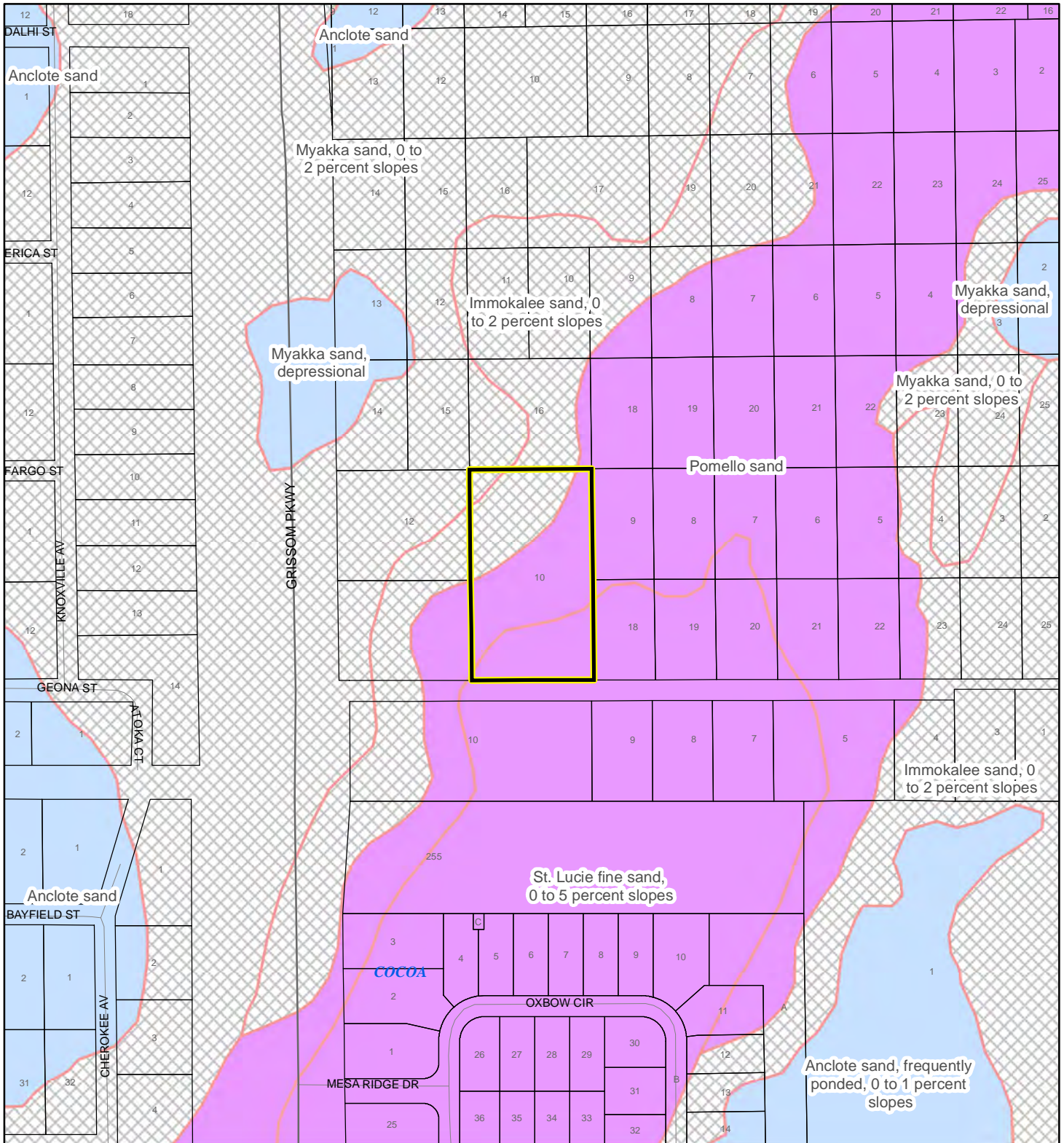
Subject Property

Parcels

USDA SCSSS SOILS MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



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: 7/1/2022

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

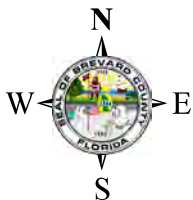
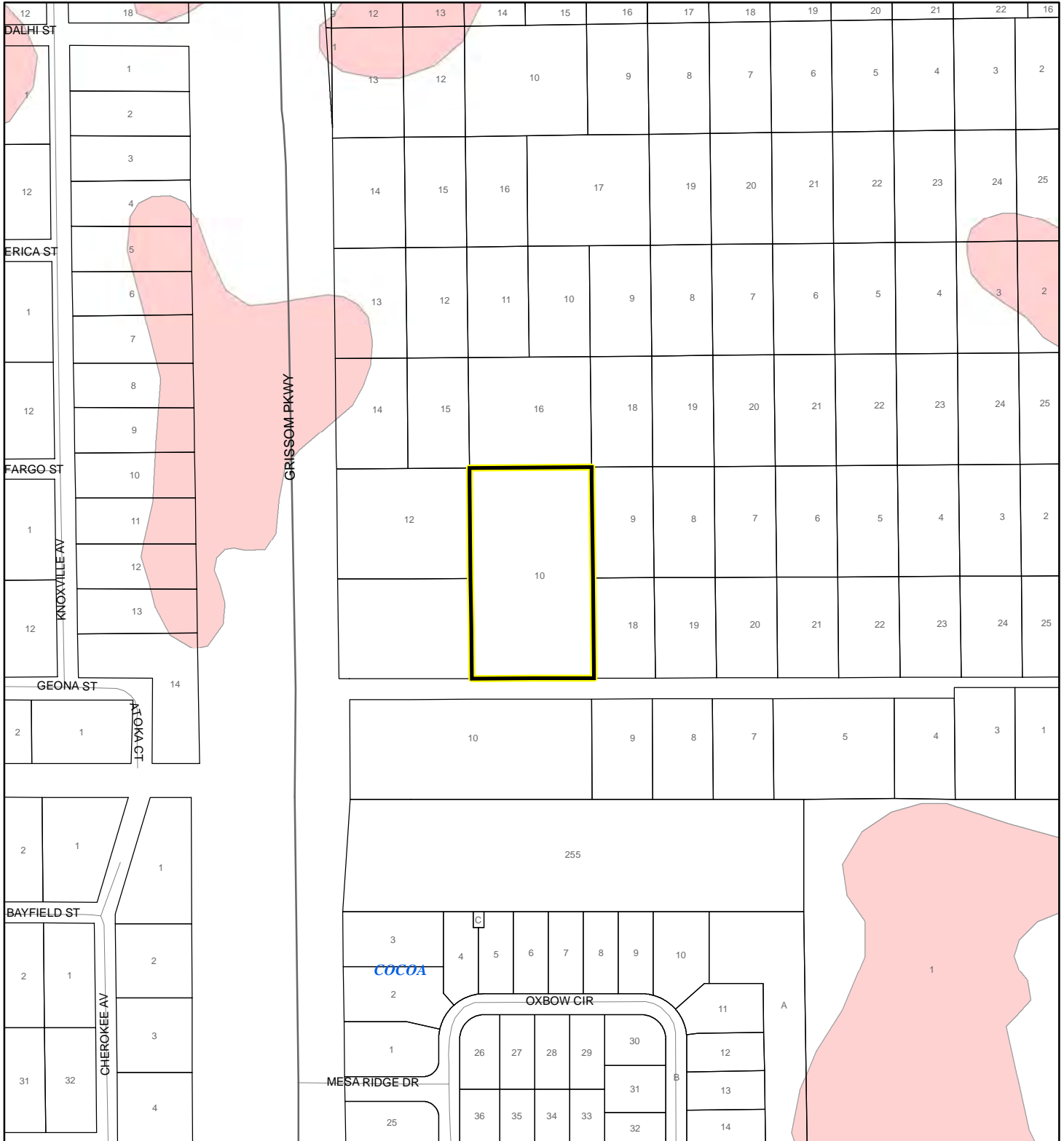
Subject Property

Parcels

FEMA FLOOD ZONES MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



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: 7/1/2022

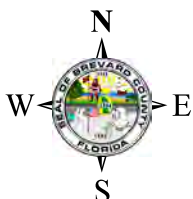
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CGCR Holdings, LLC
22SS00009 Small Scale Amendment 22S.12



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: 7/1/2022

Subject Property

Parcels

Septic Overlay

40 Meters

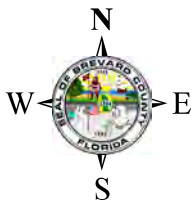
60 Meters

All Distances

EAGLE NESTS MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



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: 7/1/2022

 Subject Property

 Parcels

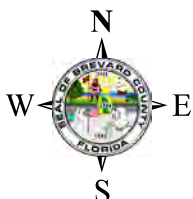
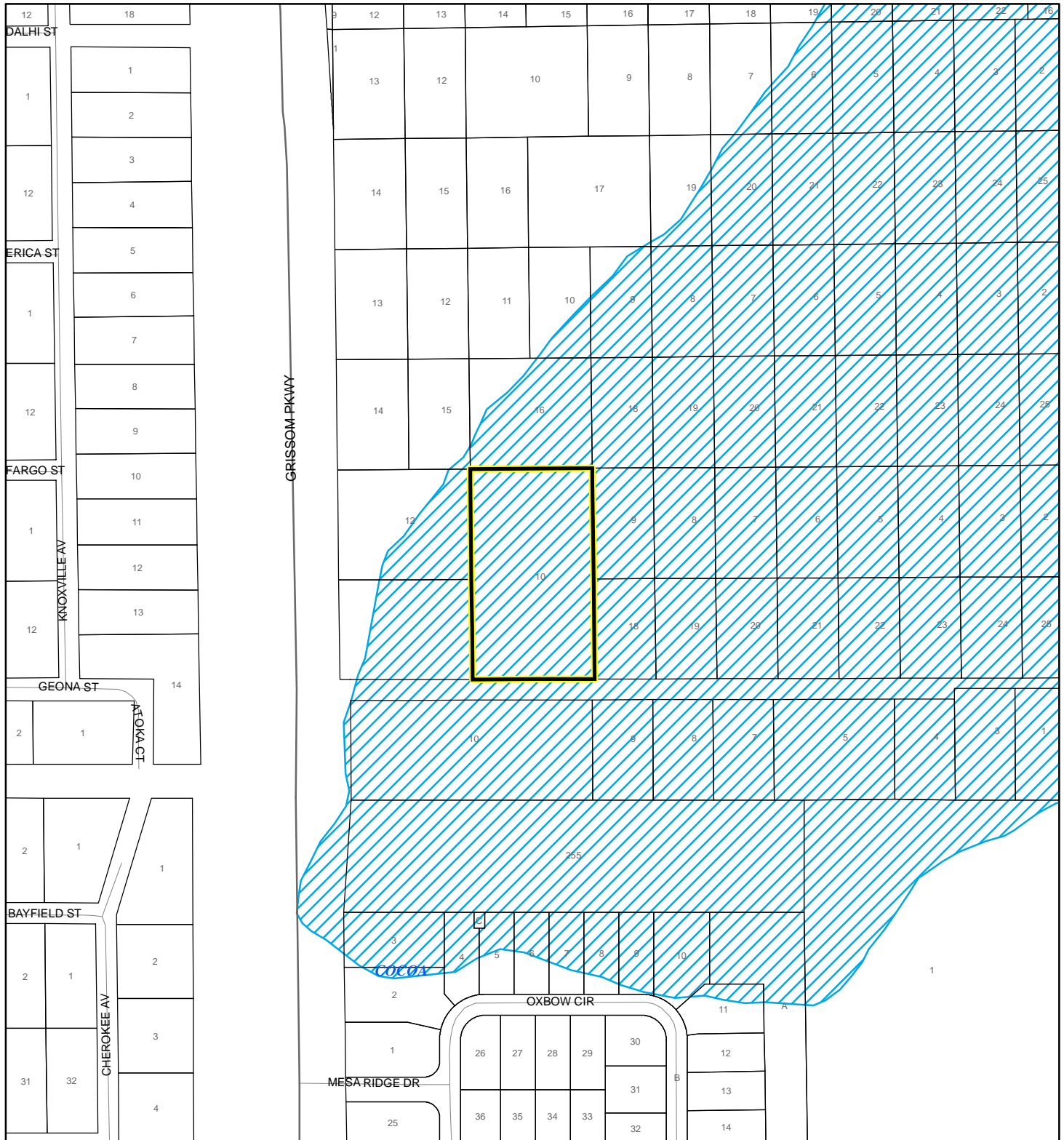


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



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.

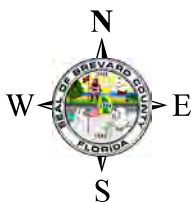
Produced by BoCC - GIS Date: 7/1/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



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: 7/1/2022

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

June 7, 2022



Jim Ford
Watson Commercial Real Estate
335 S Plumosa Street, Suite J
Merritt Island, FL 32952

RE: Environmental Assessment
For Three Parcels of Property totally 10.8 acres
Located near Grissom Parkway in Cocoa, Brevard County, Florida
With Tax and Parcel Identification Numbers:
1. 2400719 & 24-35-01-25-13-10: 7.31-Acres (Northern Tract Only)
2. 2400700 & 24-35-01-25-12-16: 2.30-Acres
3. 2400694 & 24-35-01-25-12-10: 1.15-Acres

Dear Mr. Ford:

The following is a summary of Toland Environmental Consulting's (TEC) environmental assessment for three lots located adjacent to Grissom Parkway in Cocoa, Florida whose tax and parcel identification numbers are listed above. The lots are bounded to the north, east and west by undeveloped single family residential lots, and to the south by an access driveway to an existing church (Figure 1).

The purpose of the site inspection was to identify environmental resources on the site and to evaluate whether consideration needs to be made during the acquisition or conceptual design process to address environmental restrictions on the property's development. To prepare this ecological assessment, TEC reviewed natural resource maps including GIS database coverages of the Brevard County Soil Survey as maintained by the National Resources Conservation Service (NRCS), the National Wetland Inventory (NWI) as maintained by the US Fish and Wildlife Service (USFWS), Brevard Natural Communities Cover maps maintained by the St. Johns River Water Management District (SJRWMD) using the Florida Department of Transportation's (FDOT) Florida Land Use, Cover and Forms Classification System (FLUCCS) as last amended in 1999, the United States Geological Survey's (USGS) Topographic Quadrangle Maps, the 2008 Brevard County Florida Scrub- Jay Occupancy Polygon Maps as maintained by USFWS, the Florida Fish and Wildlife Conservation Commission's (FWC) Bald Eagle Nest Site Locator Map, USFWS Wood Stork (*Mycteria americana*) Nesting Colonies and Core Foraging Areas Maps, and the USFWS Audubon's Crested Caracara (*Polyborus plancus audubonii*) Consultation Area Map, and other listed species databases, as appropriate.

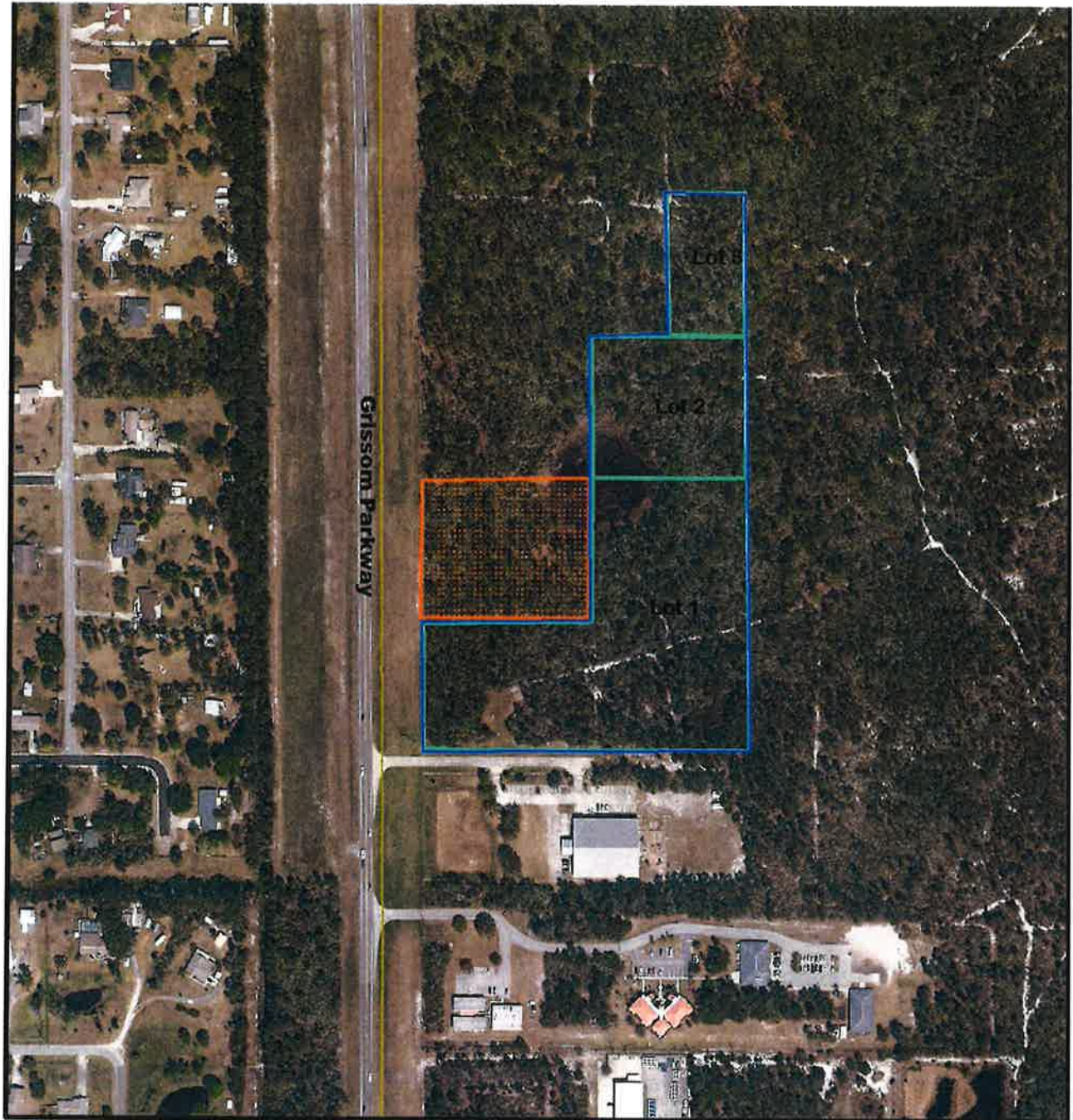
In addition, on March 07, 2022, TEC ground-truthed, delineated and described the natural communities present within the study area with reference to Florida's Cooperative Land Cover (CLC) classification system as maintained by FWC as well as by FDOT FLUCCS codes. The property would be classified by CLC as having 9.86 acres of CLC 1312 Scrubby Pine Flatwoods (FLUCCS 4110 - Pine Flatwoods)(Photograph 1), and 0.942 acres of CLC 21211 - Depression Marsh (FLUCCS 6410 - Freshwater Marsh)(Figure 2).






Photograph 1:
Typical Site Interior - Facing North

4092 Sparrow Hawk Road, Melbourne, Florida 32934 321-242-7173, 321-751-4070(fax) teclisa@cfl.rr.com

Figure 1: Regional Location Map



Legend

-  Properties
-  Individual Lot Lines
-  Property Excluded by USFWS for Scrub-Jays



0 110 220 440 660 880
Ft

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

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Page 2 of 8



Figure 2: Natural Communities Cover Map



Legend

- | | |
|---|--|
|  Property Location |  CLC 1312 -
Scrubby Flatwoods
(FLUCCS 4110 - Pine
Flatwoods) |
|  CLC 21211 - Depression
Marsh (FLUCCS 6410 -
Freshwater Marsh) | |

0 62.5 125 250 375 500
US Feet



Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

The depression marsh extends offsite, and the onsite portion of the system is split between the northern reaches of parcel #2400719 with 0.484 acres and the southwest corner of lot #2400700 with 0.458 acres. (Figure 2).

Fire suppression has resulted in the canopy of the scrubby pine flatwoods to become dominated by sand pines (*Pinus clausa*), with lesser amounts of longleaf pines (*Pinus palustris*) and occasional Live oak (*Quercus virginiana*). The lack of fire has also resulted in a dense and overgrown mid-story and understory with rank saw palmetto (*Serenoa repens*), tall, dense sand live oak (*Quercus geminata*), intermittent dwarf live oak (*Quercus minima*), runner oak (*Quercus pumila*), and rusty lyonia (*Lyonia ferruginea*). The depression marsh shows damage from wild hogs with groundcover including chalky bluestem (*Andropogon capillipes*), redroot (*Lachnanthes caroliniana*), soft rush (*Juncus effusus*), and wax myrtle (*Myrica cerifera*) around the perimeter.

In order of relative abundance, the onsite soils are classified by NRCS as Immokalee sand, Pomello sand, Myakka sand and St. Lucie fine sand (Figure 3). As would be expected in scrubby pine flatwoods, all onsite soils are classified as upland soils within the "Hydric Soils of Florida Handbook, fourth edition" prepared by Florida Association of Environmental Soil Scientist. Immokalee sand may be a hydric soil or an aquifer recharge soil depending upon its position in the landscape. Hydric soils form under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile. Hydric soils are usually associated with wetlands while non-hydric soils are generally associated with upland habitats. Two of the soils, Pomello sand and St. Lucie fine sand are also classified as aquifer recharge soils which have very high vertical conductivity (Ksat) values that reflect the rapid vertical movement of water through the groundwater table. Brevard County classifies recharge soils as any soil with a Ksat value of more than 20 inches per hour.

Within the scrubby flatwoods, TEC reviewed representative samples of the onsite soils and found they lacked the required features to be classified as hydric or indicative of having been formed under aerobic conditions by exhibiting signs of stripping, redox concentrations, or substantial organic accumulations within the first six inches of the soil profile. Soils within the depression marshes showed organic accumulations within the first six inches of the soil profile including mucky minerals (A7 indicator) and muck (A9 indicator) that demonstrated the soils formed under anaerobic conditions and would meet the criteria found within the Handbook and Florida's wetland delineation rules to be classified as hydric.

TEC observed signs of hydrology within the depression marsh that would indicate that the property flooded or had water ponding on it. Signs of hydrology included algal matting, standing water, and vegetative adaptations.

The depression marsh is mapped by both the NWI and the SJRWMD as wetlands. Within the depression marsh, TEC's onsite field review found the property displayed the proper combinations of hydric soils, wetland vegetation and signs of hydrology to meet the criteria for classification as wetlands according to the delineation criteria found within Chapter 62-340, Florida Administrative Code or Section 404 of the Clean Water Act (33U.S.C. 1344) (Figure 2).

Figure 3: NRCS Soils Map

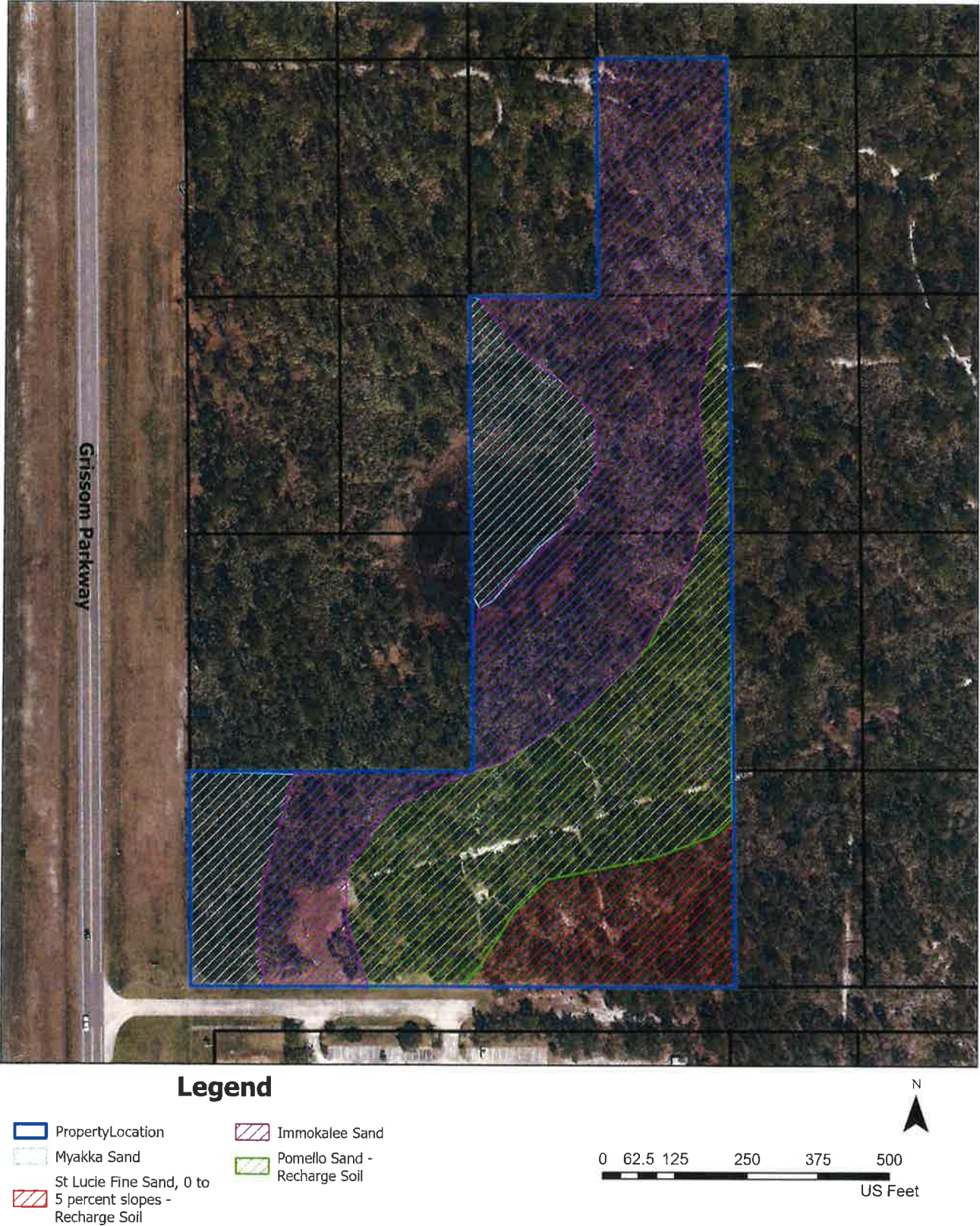


Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery



Impacts to wetlands are regulated by the federal, state and local governments through the Clean Water Act, Chapter 62-340, Florida Administrative Code (FAC) and local land development regulations. Recently, the State of Florida assumed part of the federal 404 Wetland Permitting Program (404 Permit) allowing Florida to issue both the state's Environmental Resource Permit (ERP) and the federal 404 Permit within areas that are not retained for jurisdiction by the US Army Corps of Engineers (ACOE) or federal retained waters. The Applicant's site does not lie within 300-feet of a retained water. Therefore, commercial development for the two lots containing the depression marsh would be subject to the jurisdiction of the SJRWMD issuing the permit for the State of Florida and the Florida Department of Environmental Protection (FDEP) permits for ACOE. Both agencies, will require mitigation for primary and secondary impacts that cause a loss of functional wetland systems that are isolated and bigger than one-half acre and do not provide habitat for listed species or are wetlands connected to the St. Johns River or Indian River Lagoon System and larger than 0.1-acres. Primary impacts are direct impacts to wetland areas within an approved jurisdictional line, and secondary impacts are alterations within an average of 25-feet of a wetland jurisdictional line where the 25-feet may be reduced to 15-feet in some areas so long as larger buffers are provided elsewhere adjacent to the jurisdictional line that net in an average 25-foot buffer.

The study contains approximately 0.942 acres of isolated wetlands. To issue the permit, FDEP will require that any impacts to wetlands be avoided by directing development into uplands, whenever possible, and minimized as much as is reasonably practical. If development does not occur within 25-feet of the jurisdictional boundary of the freshwater marsh, no mitigation would be required. However, if impacts can't be avoided an ERP and 404 Permit from FDEP for any primary or secondary impacts will be required.

Brevard County will be the local regulating agency for wetland impacts. The Conservation Element and its implementing Land Development Regulations require that the County avoid duplication of wetland regulation. Chapter 5.3 of the Conservation Element states: "Where the wetland degradation or destruction has been permitted by FDEP or SJRWMD based on FDEP and SJRWMD professional staff application of criteria and evaluation, the County shall apply the land use and density requirements of Policy 5.2 and the avoidance, minimization of impacts, and mitigation priorities established by Objective 5. Any permitted wetland degradation or destruction shall provide for mitigation as designated in the Conservation Element." Since FDEP does an avoidance and minimization analysis as part of their standard permit review, any development impacts to wetlands on this site that are permitted under an ERP permit obtained from FDEP which requires mitigation for the loss of those wetland impact, will not be duplicated for regulation by Brevard County. The County can only apply the County's land use and density restrictions on development proposals for wetlands permitted by the State that result in a no net loss of wetlands. In situations where the state issues an ERP but does not require mitigation for the loss of wetlands, the County can require mitigation consistent with the standards found within Florida's Unified Mitigation Assessment Method, Chapter 62-345 FAC.

Scrubby pine flatwoods can potentially support federal, or state species listed as endangered, threatened, or species of special concern including gopher tortoises (*Gopherus polyphemus*), Florida scrub-jays (*Aphelocoma coerulescens*), eastern indigo snakes (*Drymarchon corais couperi*), and bald eagles (*Haliaeetus leucocephalus*). The property is mapped as having a scrub-jay occupancy polygon present. TEC prepared a request for a Letter of Clearance from the USFWS and was granted clearance on May 9, 2022 (Attachment A). TEC's review of FWC's eagle nest maps found that this agency did not map the three properties as having eagles present on the property or within the protection limits required for this species. In addition, TEC did not observe eagles on the site or any of their sign that indicated occupation was possible on the property.

The property lies within the consultation area for crested caracaras; however, no crested caracaras were observed, and the site lacks the open, suitable habitat for this species. Accordingly, no further action should be required with respect to crested caracaras.

The property lies within a core foraging area for wood stork and is approximately 4 miles to the nearest active wood stork nesting colony site. According to the ACOE and USFWS' Effect Determination Key for Wood Storks In Central and North Peninsular Florida as last updated in September 2008, the property does not provide

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suitable foraging habitat (SFH) for wood storks and therefore would be keyed to "no effect" determination and would not require additional consultation or coordination with these agencies. SFH is described within the Determination Key as "any area containing patches of relatively open (< 25% aquatic vegetation), calm water, and having a permanent or seasonal water depth between 2 and 15 inches (5 to 38 cm). SFH supports and concentrates, or is capable of supporting and concentrating small fish, frogs, and other aquatic prey".

As an authorized gopher tortoise agent for FWC to survey for gopher tortoises, TEC surveyed 15 percent of all suitable gopher tortoise habitats on the property using the surveying protocols outlined in FWC's Gopher Tortoise Permitting Guidelines as last updated in July 2019. During the site visit, TEC did not observe any potentially occupied gopher tortoises' burrows or their sign on the property. This lack of utilization on the property by gopher tortoises is attributed to fire suppression and the overgrown nature of the properties that has allowed dense saw palmetto to crowd out the traditional understory plants that tortoises normally forage upon including wiregrass (*Aristida stricta*), dwarf wild blueberry (*Vaccinium myrsinites*), prickly pear cactus (*Opuntia humifusa*), blackberries (*Rubus spp.*), paw-paws (*Asimina obovata*) and other seasonal fruits which support gopher tortoise populations.

If you have any questions or require additional information regarding this initial site inspection, please contact me on my office phone at 321-242-7173 or by e-mail [at teclisa@cfl.rr.com](mailto:teclisa@cfl.rr.com).

Sincerely,

Lisa J. Toland

Lisa Toland, President



ATTACHMENT A

FWS Letter of Clearance for Florida Scrub-Jays

From: [Gawera, Erin](#)
To: [Toland Environmental Consulting](#)
Subject: Re: [EXTERNAL] Revised request for letter of clearance
Date: Monday, May 9, 2022 4:24:10 PM

Hi Lisa,

You are all good to go! The Service accepts the results of your surveys. Florida scrub-jays are not currently occupying these properties:

Tax and Parcel Identification Numbers:

1. 2400719 & 24-35-01-25-13-10: 7.31-Acres (Northern Tract Only)
2. 2400700 & 24-35-01-25-12-16: 2.30-Acres
3. 2400694 & 24-35-01-25-12-10: 1.15-Acres

No further coordination with the Service is needed at this time and development of these properties will not impact scrub-jays. Should you discover scrub-jays in the future, please come back to us for re-evaluation.

Thank you so much,

Erin

Log #2022-0028513 Grissom Road_Toland_Brevard

Erin M. Gawera, Fish and Wildlife Biologist
US Fish and Wildlife Service
Email: erin_gawera@fws.gov
<https://www.fws.gov/office/florida-ecological-services>
Florida Ecological Services Field Office
7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7517
904/731-3121 (direct)
904/731-3336 (main)
Fax: 904/731-3045 or 3048

From: Toland Environmental Consulting <teclisa@cfl.rr.com>
Sent: Monday, May 9, 2022 7:16 AM
To: Gawera, Erin <erin_gawera@fws.gov>
Subject: RE: [EXTERNAL] Revised request for letter of clearance



May 05, 2022

Ms. Erin Gawera
Fish and Wildlife Biologist
US Fish and Wildlife Service
Florida Ecological Services Field Office
7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7517
Sent Via Email: erin_gawera@fws.gov



RE: Request for a Letter of Clearance for Florida Scrub-Jays (*Aphelocoma coerulescens*)
For Three Parcels of Property totally 10.8 acres
Located near Grissom Parkway in Cocoa, Brevard County, Florida
With Tax and Parcel Identification Numbers:
1. 2400719 & 24-35-01-25-13-10: 7.31-Acres (Northern Tract Only)
2. 2400700 & 24-35-01-25-12-16: 2.30-Acres
3. 2400694 & 24-35-01-25-12-10: 1.15-Acres

Dear Ms. Gawera:

I am writing to request a Letter of Clearance for Florida Scrub-jays (*Aphelocoma coerulescens*) for three lots located adjacent to Grissom Parkway in Cocoa, Florida whose tax and parcel identification numbers are listed above. The parcels lie between Canaveral Groves Boulevard and State Road 528 in Brevard County (Figure 1). The lots are bounded to the north, east and west by undeveloped single family residential lots, and to the south by an access driveway to an existing church (Figure 1). In addition, the properties are adjacent to a 2.3-acre tract of land recently cleared for scrub jays by U.S. Fish and Wildlife Service's (USFWS) Jacksonville Field Office (Log #04EF1000-2022-TA-0391) (Figure 1).

The subject properties lie within the southwest edge of a larger USFWS Florida Scrub-Jay Occupancy Polygon along the Grissom Parkway corridor as last established for Brevard County in 2008 (Figure 2). Fire exclusion has created an unnaturally rare to absent fire regime within the onsite scrub habitats that has resulted in the succession of the oak scrub into scrubby sand pine flatwoods that lack optimal habitat features to sustain scrub-jay populations.

Optimal habitat criteria have been compiled by Florida's Fish and Wildlife Conservation Commission (FWC) gathered from a compendium of studies produced by numerous scrub-jay researchers under FWC's Scrub Management Guidelines. Florida scrub-jay territories ideally occupy twenty-five acres of optimal scrub habitat with a vegetative structure made up of a patchy mosaic of treeless expanses of low shrubs that provide cover, nest sites and acorns interspersed with open, bare sandy patches needed for caching acorns. Typically, in optimal habitat, oaks and other shrubs have an average height of 4 to 5.5 feet. When the tree densities exceed one tree per acre or vegetation exceeds 5.5 feet, scrub-jay numbers decline, and sandy openings disappear.

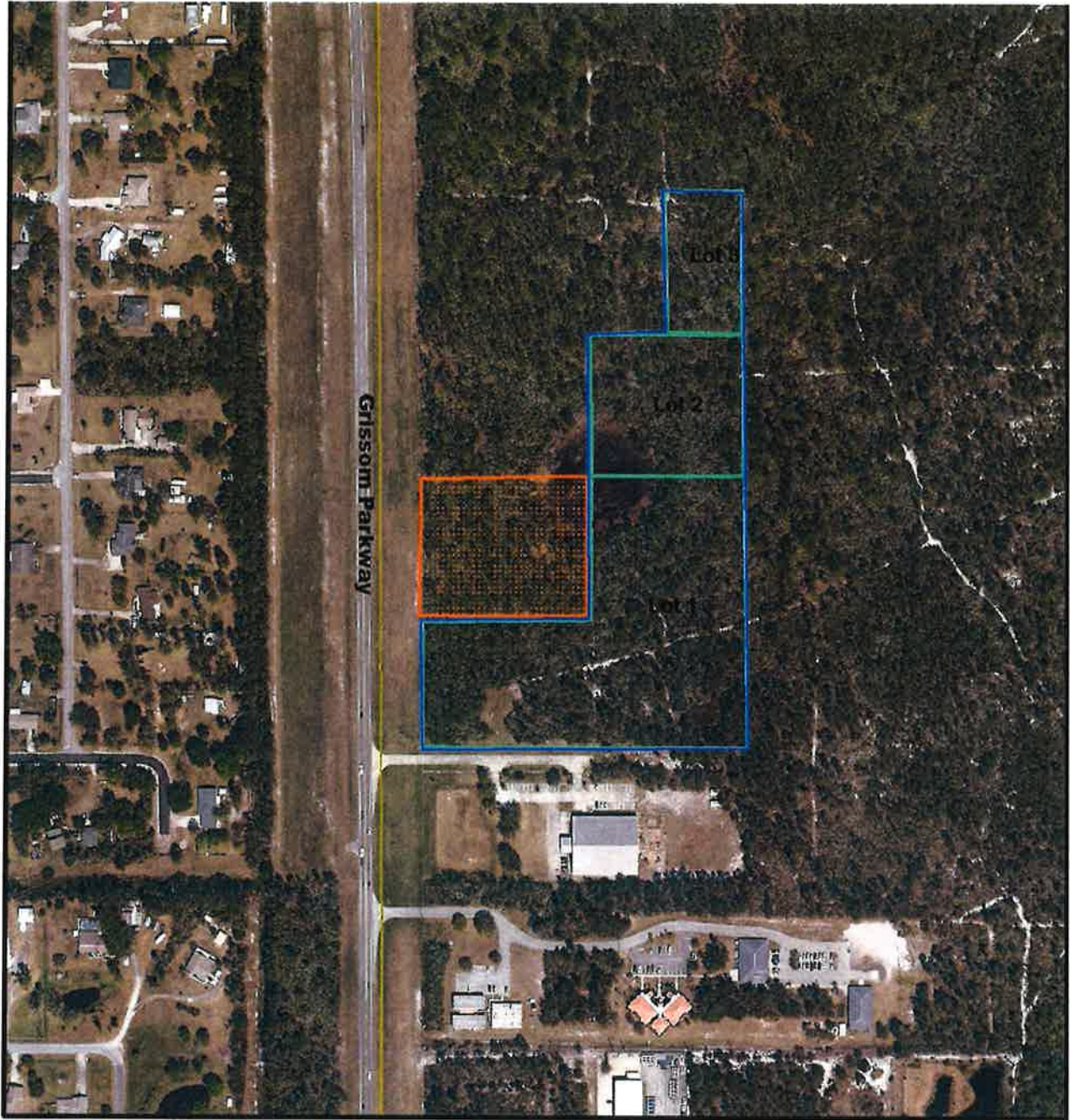
On March 7, 2022, Toland Environmental Consulting (TEC) conducted an onsite review of existing habitat within the three parcels. TEC ground-truthed, delineated and described the natural communities present within the study area with reference to Florida's Cooperative Land Cover (CLC) classification system as maintained by FWC and last updated in September 2018 as well as classifications established by the Florida Department of Transportation's FLUCCS codes. In its present state, the property would be classified by CLC as having 9.38

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Page 1 of 14



Figure 1: Regional Location Map



Legend

-  Properties
-  Individual Lot Lines
-  Property Excluded by USFWS for Scrub-Jays

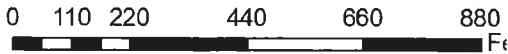
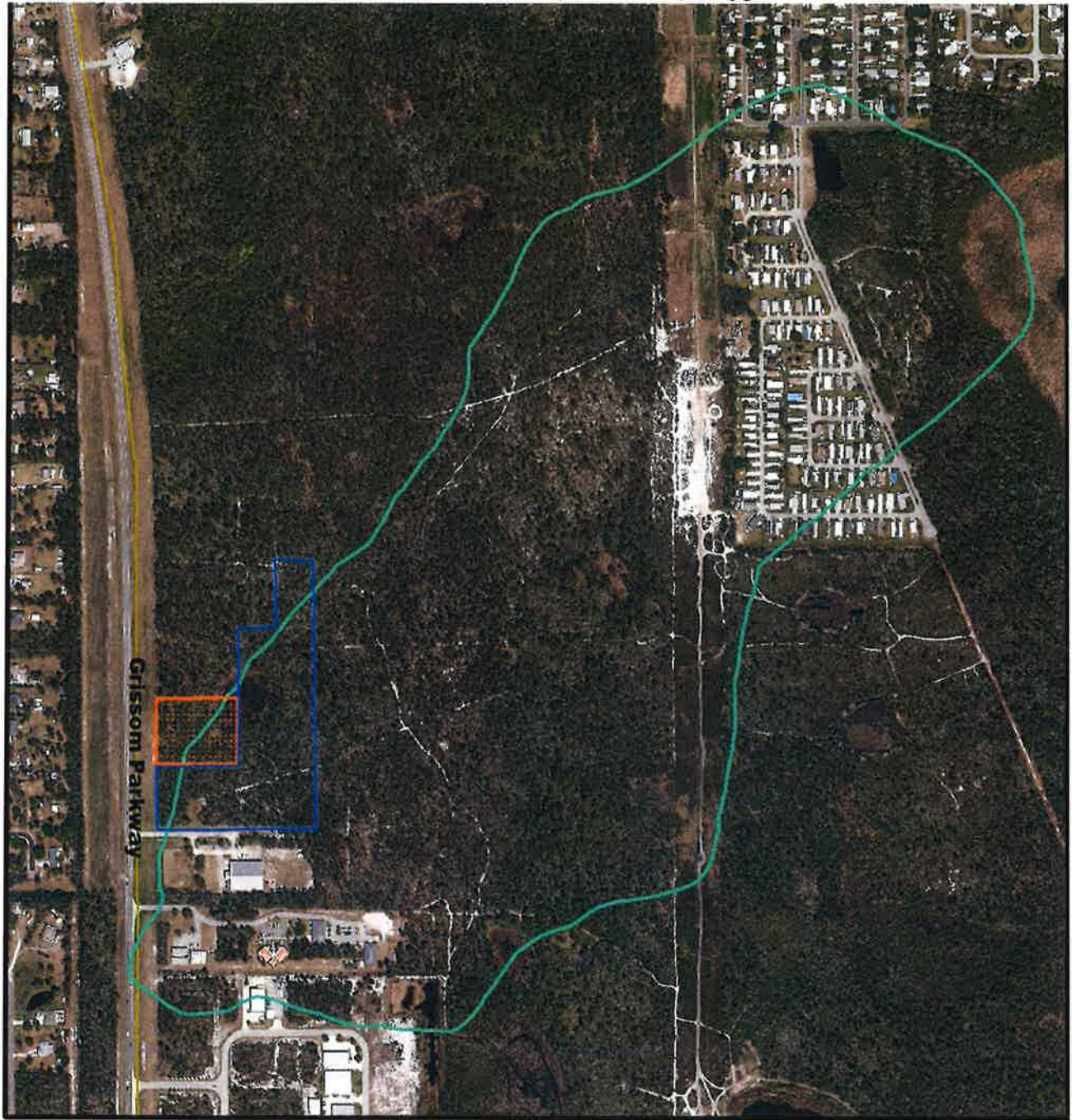


Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

Figure 2: Florida Scrub-Jay Occupancy Polygon



Legend

- Properties
- Property Excluded by USFWS for Scrub-Jays
- 2008 Florida Scrub Jay Occupancy Polygon

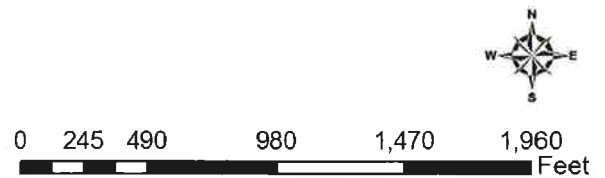


Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery



acres of 1213 – Sand Pine Scrub (FLUCCS 4130 Sand Pine), 0.6 acres of isolated patches of overgrown 1210-Scrub (FLUCCS 3200 – Shrub and Brushlands) and 0.82 acres of Depression Marsh (FLUCCS – 6410 Freshwater Marsh) (Figure 3). Outside of the depression marsh, canopy coverage exceeds 15 trees per acre, a density that significantly surpasses one tree per acre for optimal habitat and two trees per acre for habitat that would be sufficiently suitable to allow scrub-jays to persist in the short-run (Photograph 7, Appendix 1). Canopy coverage is dominated by sand pines (*Pinus clausa*) that transition into slash pine (*Pinus elliottii*) along the edges of the depression marsh as well as occasional cabbage palms (*Sabal palmetto*) (Figure 4, Appendix 1). The oak scrub is limited to very small patches that are surrounded by curtains of tall pine making predation of jays by hawks easier in these areas. The scrub also exceeds the optimal height standard of 4 to 5.5 feet. Within the scrub, oaks consist of sand live oak (*Quercus geminata*) that are sparse within the landscape and often exceed ten feet in height, well above the maximum suitable height standard of eight feet. In addition, fire suppression has allowed the saw palmetto (*Serenoa repens*) to become rank, exceed recommended heights for suitable scrub and to fill in open sandy areas (Appendix 1). Finally, as a forested area, the properties lack the non-forested buffer of less than two tree per acre between optimal or suitable scrub-jay habitat and forested areas (Photograph 7, Appendix 1).

Although scrub habitats were not suitable or optimal for scrub-jays, to ensure no jays were lingering in unsuitable habitat, TEC conducted a five-day presence/absence survey for scrub-jays beginning on April 11, 2022 and continuing through April 18, 2022. These surveys were performed within all scrub habitats whether optimal, suitable, or unsuitable. TEC's methodology followed the USFWS's "Scrub-Jay Survey Guidelines, as last updated on 08/24/2007" which employed the systematic broadcast of high-quality taped vocalizations of Florida scrub-jay territorial scolding's from twelve established playback stations designed to elicit responses from scrub-jays in territorial defense of their occupied habitat areas (Figure 5). The density of saw palmetto restricted movement into the interior of the northern parcel. Here an offsite playback station #12 was established to potentially capture jays moving from suitable habitat to the northeast into the inaccessible areas within the study site (Figures 2 and 5). The survey was conducted during the spring activity period of scrub-jays when territorial displays are more frequent. No jays were observed within the proposed development site for which this letter of clearance is being sought (Attachment 2). This lack of utilization by scrub-jays is attributed to the continued decline of the scrub habitat because of ongoing fire suppression.

Given the existing site conditions and lack of responses during the presence/absence survey, TEC is requesting that the USFWS clear the three lots for Florida scrub-jays.

If you have any questions or require additional information regarding this request for clearance, please contact me on my office phone at 321-242-7173 or by e-mail [at teclisa@cfl.r.com](mailto:teclisa@cfl.r.com).

Sincerely,

Lisa J. Toland

Lisa Toland, President

References

Florida Fish and Wildlife Conservation Commission, 2019. Scrub Management Guidelines. FWC - Tallahassee, Florida.





Lacy, R.C., and Breininger D.R. (2021). Population Viability Analysis (PVA) as a platform for predicting outcomes of management options for the Florida Scrub-Jay in Brevard County. The Nature Conservancy contract: FL Scrub-Jay MOU/Research Period of work covered: 1 January 2019 – 31 January 2021. Chicago Zoological Society, Herndon Solutions Group LLC, and University of Central Florida.



Figure 3: Natural Communities Cover Map



Legend

-  Properties
-  CLC 1210-Scrub (FLUCCS 3200 Shrub and Brushland)
-  CLC 1213-Sand Pine Scrub (FLUCCS 4130-Sand Pine)
-  CLC 21211-Depression Marsh (FLUCCS 6410 Freshwater Marsh)



0 50 100 200 300 400 Feet

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

4092 Sparrow Hawk Road, Melbourne, Florida 32934 321-242-7173, 3217514070(fax) teclisa@cfl.rr.com

Page 5 of 14

Figure 4: Photo Station Location Map



Legend

- Properties
- Photostation
- Direction Photo Was Taken

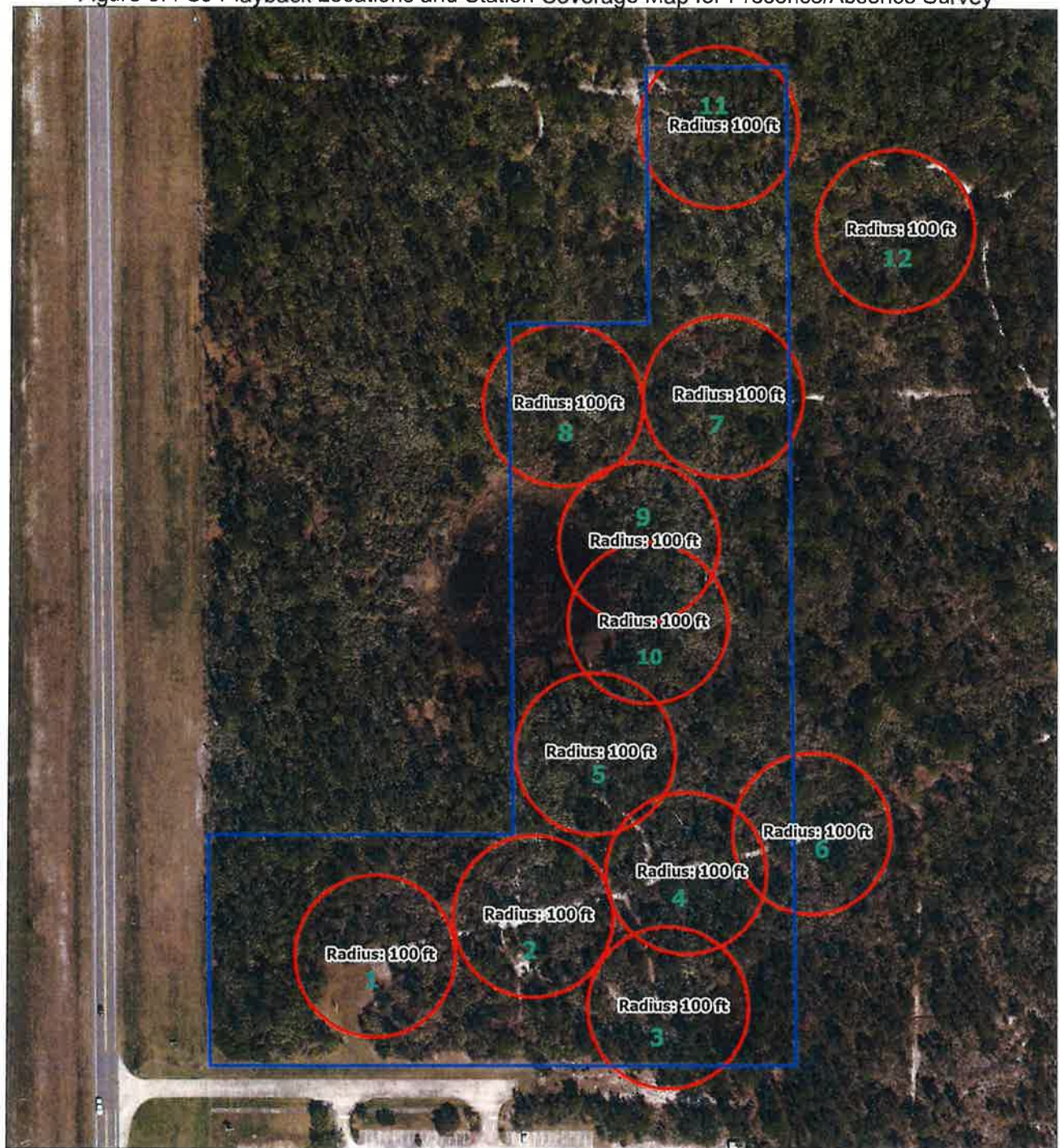


0 60 120 240 360 480 Feet

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

4092 Sparrow Hawk Road, Melbourne, Florida 32934 321-242-7173, 321 751 4070 (fax) teclisa@cfl.rr.com
Page 6 of 14

Figure 5: FSJ Playback Locations and Station Coverage Map for Presence/Absence Survey



Legend

Property Location

Playback Station Coverage

0 62.5 125 250 375 500
US Feet



Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

4092 Sparrow Hawk Road, Melbourne, Florida 32934 321-242-7173, 321-751-4070(fax) teclisa@cfl.rr.com
Page 7 of 14

APPENDIX 1
PHOTOSTATION LOG

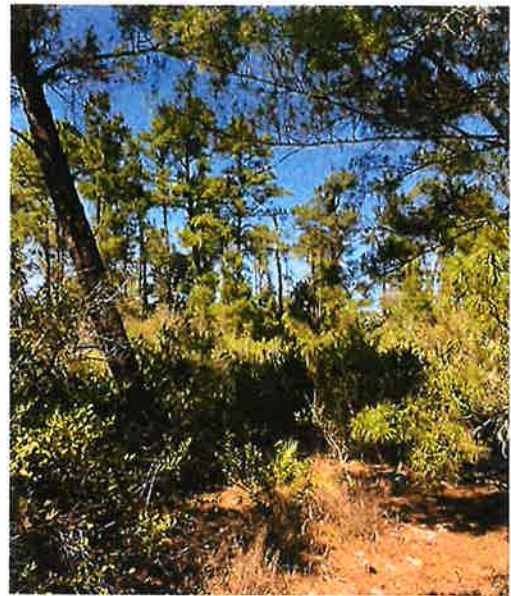




Photo #7 – Eagle View of Site from
Brevard County Property Appraiser's Office.

APPENDIX 2: FIELD SHEETS

Start Stop
 Weather Sunny Clear / Sunny Clear
 Temperature 67° 75°
 Winds < 5 from east / 9 mph from east

Date 4-11-22
 Surveyors L. Toland

Playback Station	Time	Comments
1	8:30	No response
2	8:32	" "
3	8:37	" "
4	8:45	" "
5	9:00	" "
6	9:14	No Response
7	9:32	" "
8	9:40	" "
9	9:55	" "
10	10:04	No Response
11	10:30	" "
12	10:35	" "
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Birds observed:
 . GECA
 . BJA
 . BWO
 . NOCA

Sunrise: 7:02

Start / End

Weather Sunny / Rainy Cloudy

Temperature 70° F / 76°

Winds < 5 mph / 10 mph
45° E / 55° E
Gusts 5 → 15 mph

Date 4-18-22

Surveyors L. Toland

J. Toland

Playback Station	Time	Comments
1	8:15	No response
2	"	"
3	"	"
4	"	"
5	"	"
6	"	"
7	"	"
8	"	"
9	"	"
10	"	"
11	"	"
12	10:33	No response
13	"	"
14	"	"
15	"	"
16	"	"
17	"	"
18	"	"
19	"	"
20	"	"
21	"	"
22	"	"
23	"	"
24	"	"
25	"	"

Sunrise: 7:01 am

start / End
 Weather Partly Cloudy / Sunny
 Temperature 75° / 78° F
 Winds 10 mph / 12 mph
 Gusts to 18 mph

Date 4-13-22
 Surveyors L. Toland

Playback Station	Time	Comments	
1	9:02	No	Response
2		"	"
3		"	"
4		"	"
5		"	"
6		"	"
7		No	Response
8		"	"
9		"	"
10		"	"
11		"	"
12	11:12	No	Response
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23		Sunrise:	7:00
24			
25			

Start End
 Weather Partly Cloudy / Mostly Cloudy
 Temperature 75°F / 78°F
 Winds 18 mph / 14 mph
 E E

Date 7-15-88
 Surveyors L. Toland
 J. Toland

Playback Station	Time	Comments
1	8:30	
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12	10:40	
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		



	Start	End
Weather	Sunny	Partly Cloudy
Temperature	76°	83°F
Winds	9mph ← W	9mph ← W

Date 7-18-22
 Surveyors L. Toland

Playback Station	Time	Comments	
1	9:30	No	response
2	↓	"	"
3		"	"
4		"	"
5		"	"
6		"	"
7		No	Response
8	↓	"	"
9		"	"
10		"	"
11		"	"
12	11:23	No	Response
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

9/12/2022

Subject:

CGCR Holdings, LLC (Kelly Hyvonen) request a change of zoning classification from IN(L) to BU-2. (22Z00031)
(Tax Account 2400719) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Planning & Zoning Board conduct a change of zoning classification from IN(L) (Institutional Use, Low-Intensity) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from IN(L) to BU-2 on an undeveloped, 4.83-acre portion of a larger 10.7-acre parcel for future development purposes. The parent parcel is bifurcated by Right of Way (ROW) (Al Klinefeldt Way, constructed as a private drive) where the southern portion of the larger parcel is currently zoned IN(L) for the existing religious institution. The 4.83-acre subject parcel on the north side of the ROW is currently zoned IN(L) and abuts an undeveloped, 2.5-acre BU-2 portion of the larger parcel. The larger 10.7-acre parcel has frontage along Grissom Parkway; however, the 4.83-acre subject parcel is not located on a county-maintained roadway.

The subject property currently has a Future Land Use designation of RES 4 (Residential 4) and NC (Neighborhood Commercial). The proposed BU-2 zoning cannot be considered consistent with the existing RES 4 and NC designations. A companion application, 22SS00009, if approved, would amend the Future Land Use from RES 4 and NC to CC (Community Commercial). The proposed BU-2 zoning can be considered consistent with the proposed CC designation.

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

To the north is an undeveloped 2.3-acre parcel with GU zoning. To the south is a 4.5-acre (approximate) portion of the larger 10.7-acre parcel developed as a religious institution with IN(L) zoning, and further south is Manufacturing and Industrial zoning within the City of Cocoa. To the east are two undeveloped 1.15-acre parcels with GU zoning. To the west is an undeveloped 2.5-acre portion of the larger 10.7-acre parcel with BU-

2 zoning.

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

The Board of County Commissioners will consider the request on **Thursday, October 6, 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:

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

22Z00031

CGCR Holdings, LLC (Kelly Hyvonen)

IN(L) (Institutional Use-Low Intensity) to BU-2 (Retail, Warehousing and Wholesale Commercial)

Tax Account Number: 2400719

Parcel I.D.: 24-35-01-25-13-10

Location: Approximately 500 feet east of Grissom Parkway and 4,238 feet south of Canaveral Groves Boulevard (District 1)

Acreage: 4.83 acre portion of 10.7 acre parcel

Planning & Zoning Board: 09/12/2022

Board of County Commissioners: 10/06/2022

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would not maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	IN(L)	BU-2
Potential*	Low-intensity institutional uses	210,395 sq. ft. of commercial (using 1.0 FAR for CC)
Can be Considered under the Future Land Use Map	YES RES 4, NC	NO** CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request **22SS00009** which proposes to amend the Future Land Use designation from Residential 4 (RES 4) and Neighborhood Commercial (NC) to Community Commercial (CC).

Background and Purpose of Request

The applicant is requesting a change of zoning classification from IN(L) (Institutional Use-Low Intensity) to BU-2 (Retail, Warehousing and Wholesale Commercial) on an undeveloped, 4.83-acre portion of a larger 10.7-acre parcel for future development purposes. The parent parcel is bifurcated by Right Of Way (ROW) (Al Klinefeldt Way, constructed as a private drive) where the southern portion of the larger parcel is currently zoned IN(L) for the existing religious institution. The 4.83-acre subject parcel on the north side of the ROW is currently zoned IN(L) and abuts an undeveloped, 2.5-acre BU-2 portion of the larger parcel.

The applicant states that the property owner, CGCR Holdings, LLC, recently purchased the undeveloped portion of Tax Account 2400719 north of the religious institution and is seeking to change the zoning of the newly acquired property from IN(L) to BU-2 to provide a unified zoning across the newly acquired property for future development purposes.

The larger 10.7-acre parcel has frontage along Grissom Parkway; however, the 4.83-acre subject parcel is not located on a county-maintained roadway.

The parcel was originally zoned GU and was administratively rezoned from GU to IN(L) on December 2, 2004, as zoning action **Z-10985(27)**.

Land Use

The subject property is currently designated as Residential 4 (RES 4) and Neighborhood Commercial (NC) FLU. The proposed BU-2 zoning cannot be considered consistent with the existing RES 4 and NC FLU designations. A companion application, **22SS00009**, if approved, would amend the Future Land Use designation from Residential 4 (RES 4) and Neighborhood Commercial (NC) to Community Commercial (CC) FLU.

The proposed BU-2 zoning can be considered consistent with the proposed Community Commercial (CC) FLU designation.

Applicable Land Use Policies

FLUE Policy 2.7 – Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses.

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 has not proposed a specific commercial use or provided hours of operation, a lighting plan, or a traffic analysis. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.

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

Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed 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 Community Commercial, Neighborhood Commercial and single-family residential in character. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 4, and RES 1:2.5 east of Grissom Parkway.

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, one zoning action has been approved within one-half mile.

20PZ00021, approved by the Board on May 6, 2020, was a request to change GU (General Use) to BU-1 (General Retail Commercial) on 0.44 acres located approximately 2,460 feet northwest 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.

The developed character of the surrounding area is institutional and single-family residential on lots one (1) acre in size or larger. There is an existing pattern of commercial, institutional and residential zoning surrounding the subject parcel.

One zoning action has been approved within a half-mile radius of the subject property within the last three years: **20PZ00021**, approved by the Board on May 6, 2020, was a request to change GU (General Use) to BU-1 (General Retail Commercial) on 0.44 acres located approximately 2,460 feet northwest of the subject property.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Vacant	GU	NC, RES 4
South	Religious Institution	IN(L)	NC, RES 4
East	Vacant	GU	RES 4
West	Vacant	BU-2	CC

To the north is an undeveloped 2.3-acre parcel with GU zoning. To the south is a 4.5-acre (approximate) portion of the larger 10.7-acre parcel developed as a religious institution with IN(L) zoning, and further south is Manufacturing and Industrial zoning within the City of Cocoa. To the east are two undeveloped 1.15-acre parcels with GU zoning. To the west is an undeveloped 2.5-acre portion of the larger 10.7-acre parcel with BU-2 zoning.

The current IN(L) classification of the subject parcel is an Institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

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

GU zoning 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.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Grissom Parkway, from Industry to Canaveral Groves, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 60.76% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 99.70%. The corridor is anticipated to operate at 160.46% of capacity daily. The proposal could create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review.

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

The parcel is within the City of Cocoa utilities service area for public water. The closest Brevard County sewer line is approximately 2.8 miles southwest on Adamson Road.

Environmental Constraints

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

A portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. 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 if the request is consistent and compatible with the surrounding area.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item #22Z00031

Applicant: Hyvonen for Mitchell

Zoning Request: IN(L) to BU-2

Note: Applicant wants to unify zoning across parcel for future development

P&Z Hearing Date: 09/12/22; **BCC Hearing Date:** 10/06/22

Tax ID No: 2400719

- 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
- Protected Species
- Protected and Specimen Trees

A portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

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 and SJRWMD wetlands (freshwater marshes); indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. 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 & St. Lucie 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.

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.

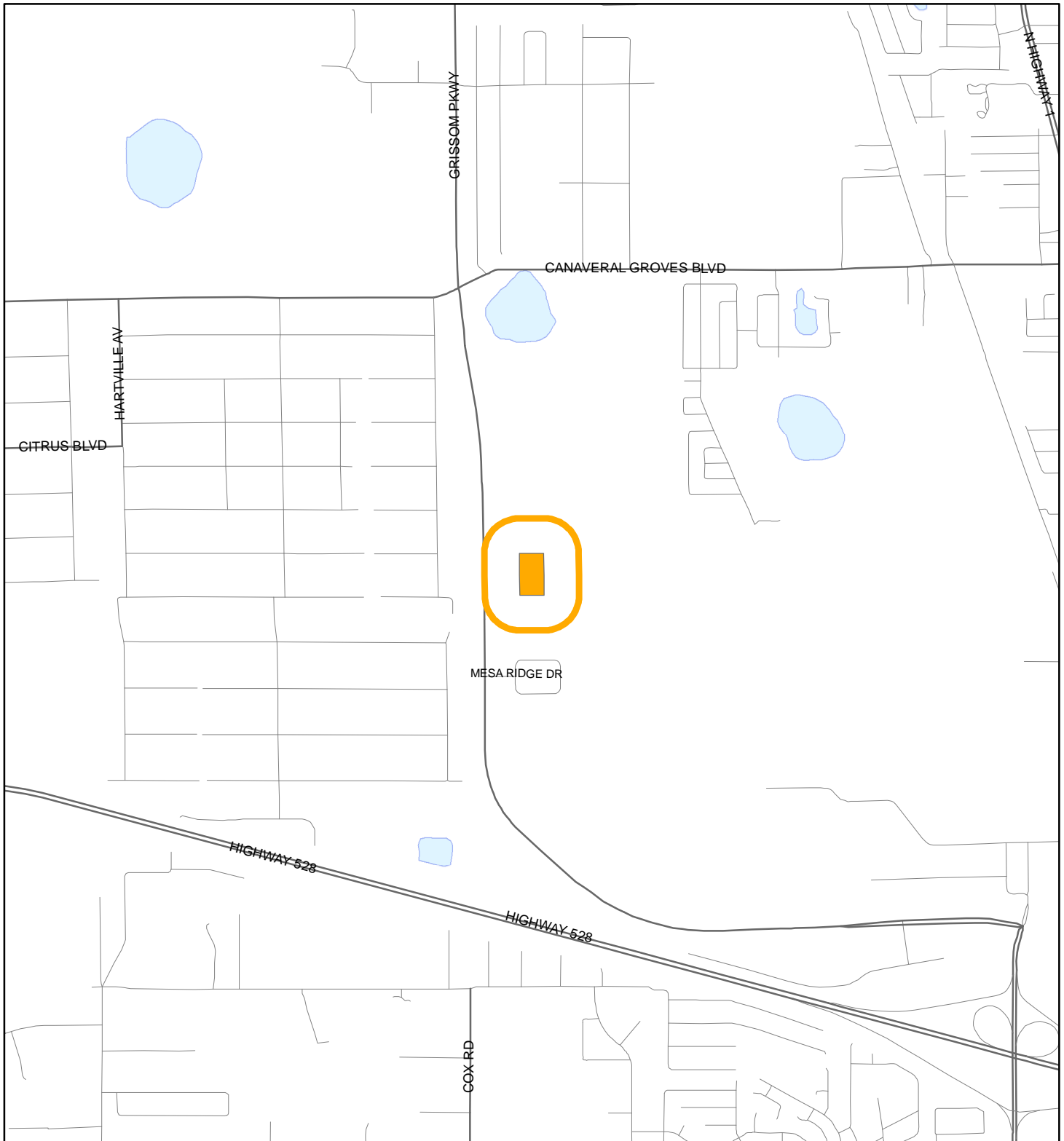
Protected and Specimen Trees

A large portion of the subject property is mapped with SJRWMD FLUCCS code 4100-Pine Flatwoods. Protected Trees (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) are included in this FLUCCS code, and may be 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

CGCR Holdings, LLC
22Z00031





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.

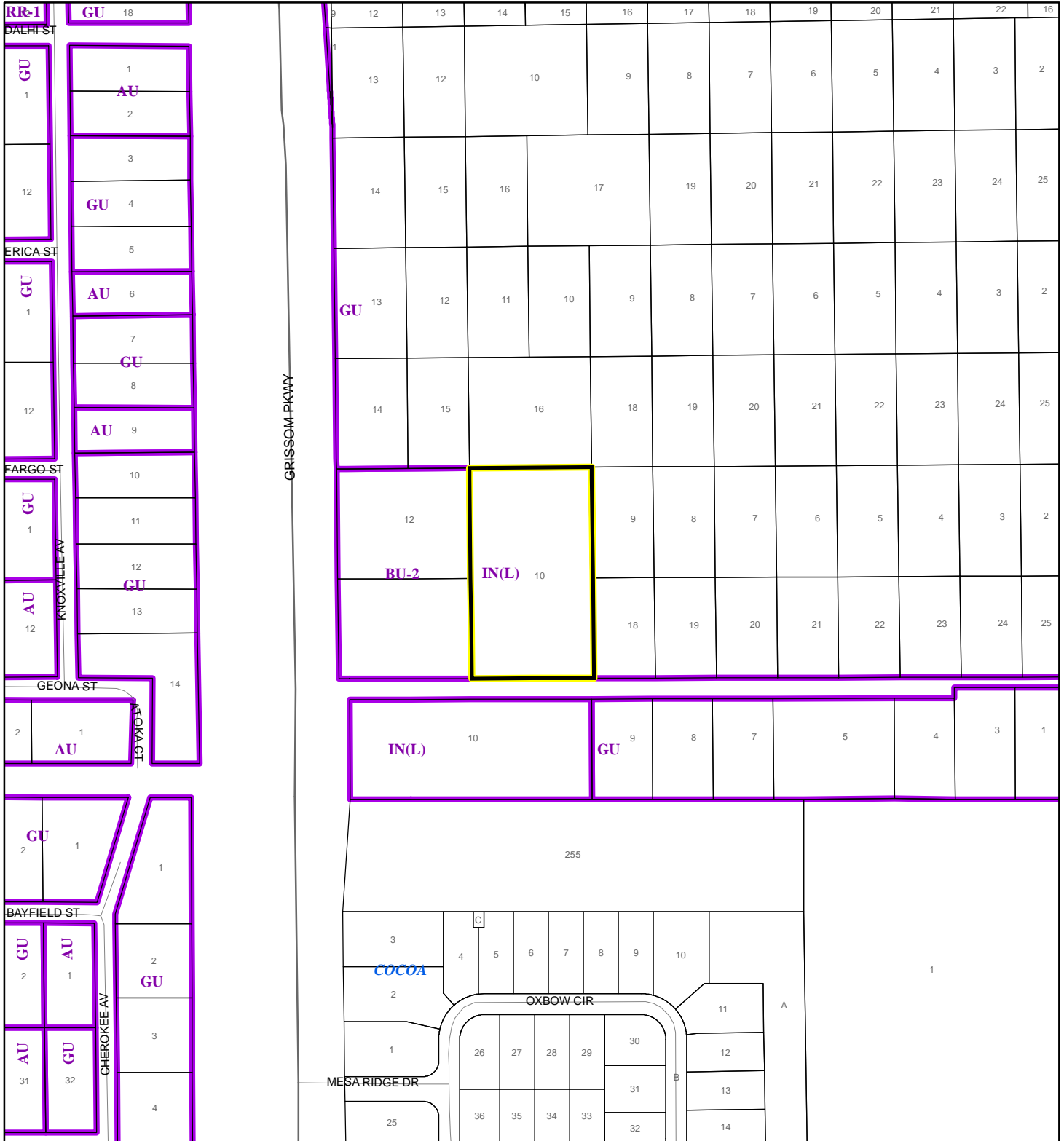
Produced by BoCC - GIS Date: 7/7/2022

 Buffer
 Subject Property

ZONING MAP

CGCR Holdings, LLC

22Z00031



1:4,800 or 1 inch = 400 feet

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Subject Property

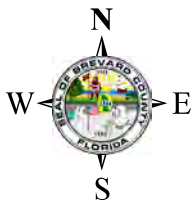
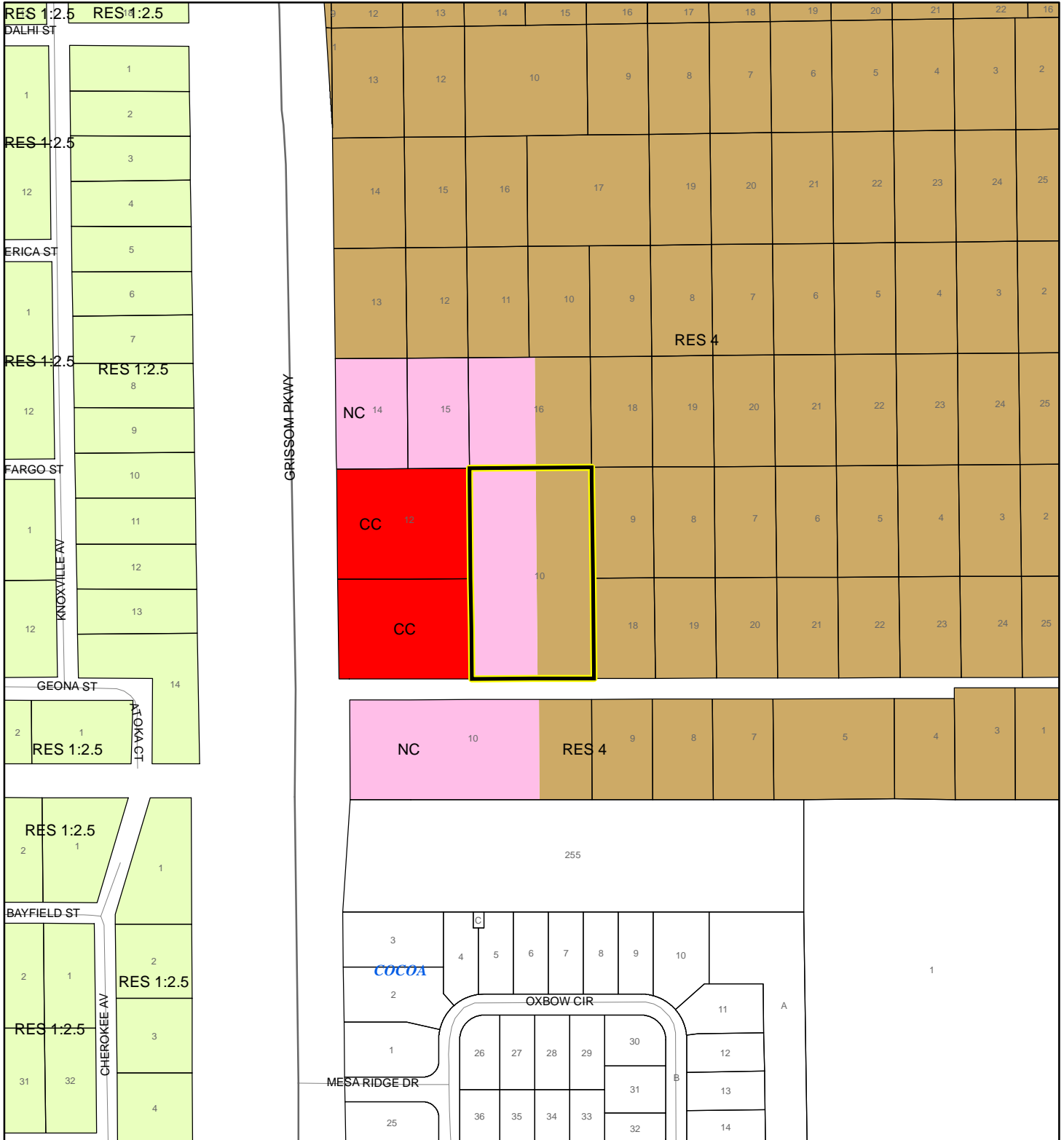
Parcels

Zoning

FUTURE LAND USE MAP

CGCR Holdings, LLC

22Z00031



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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AERIAL MAP

CGCR Holdings, LLC
22Z00031





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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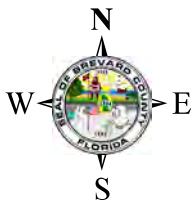
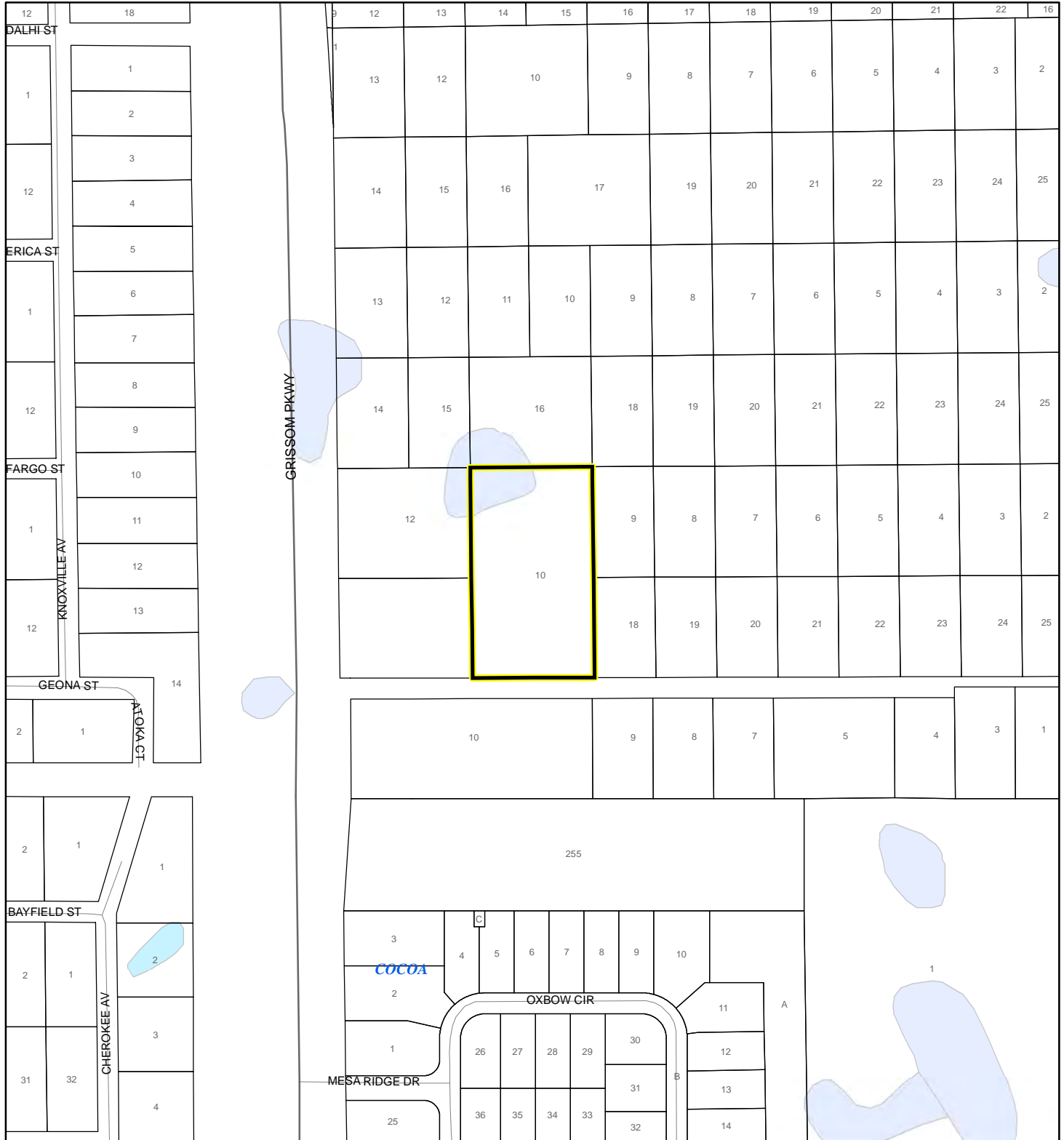
Produced by BoCC - GIS Date: 8/10/2022

 Subject Property
 Parcels

NWI WETLANDS MAP

CGCR Holdings, LLC

22Z00031



1:4,800 or 1 inch = 400 feet

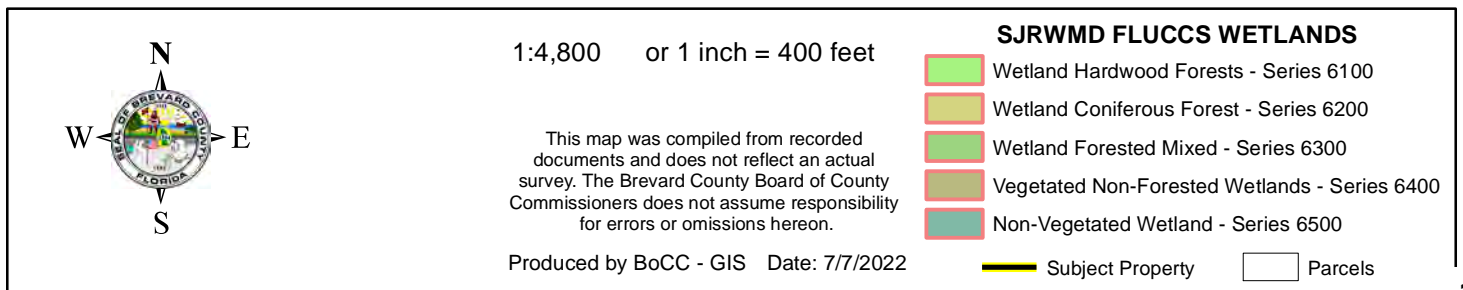
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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National Wetlands Inventory (NWI)

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

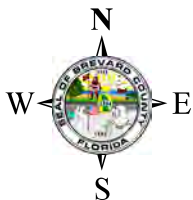
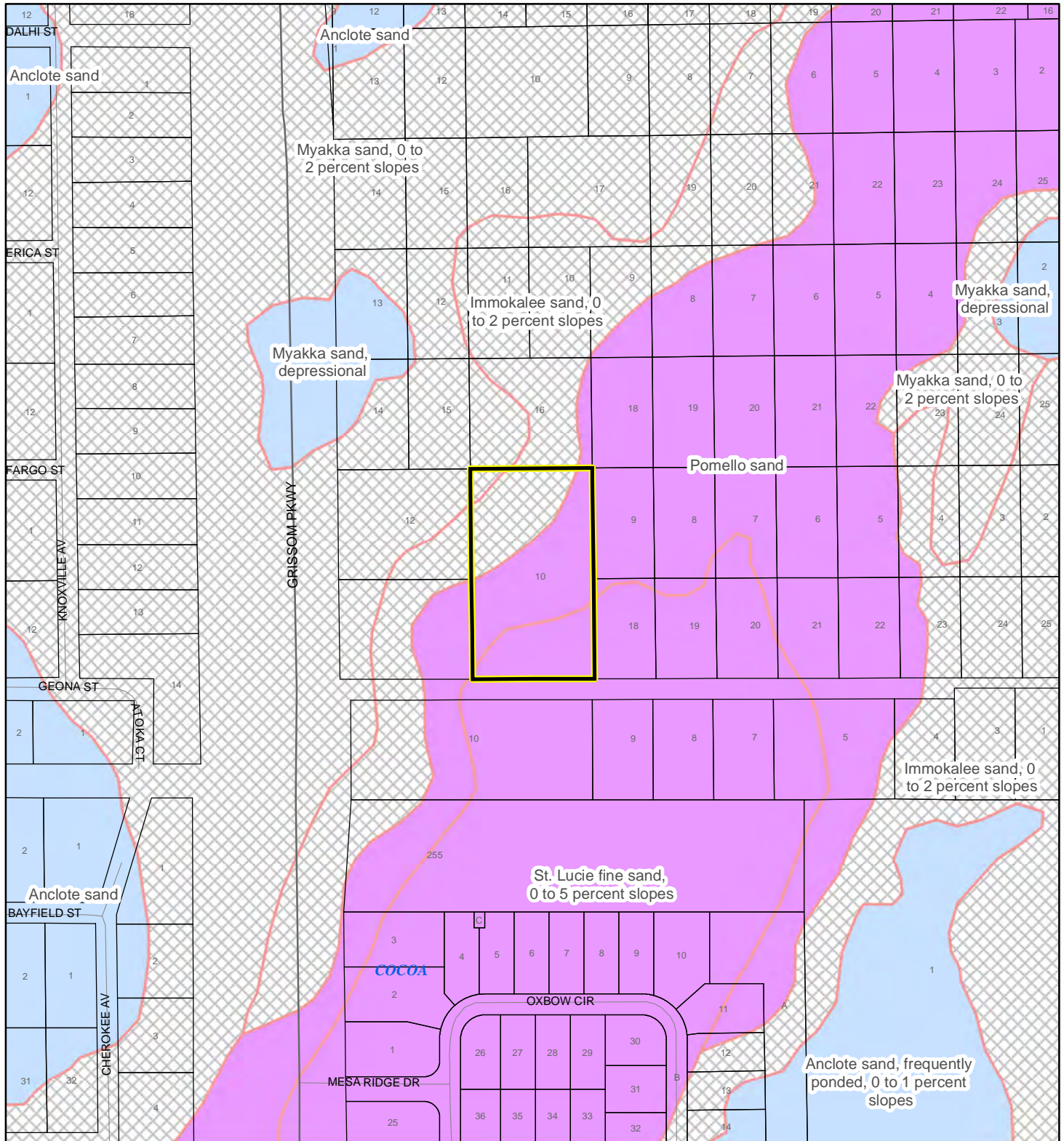
CGCR Holdings, LLC
22Z00031



USDA SCSSS SOILS MAP

CGCR Holdings, LLC

22Z00031



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

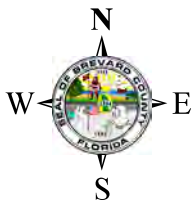
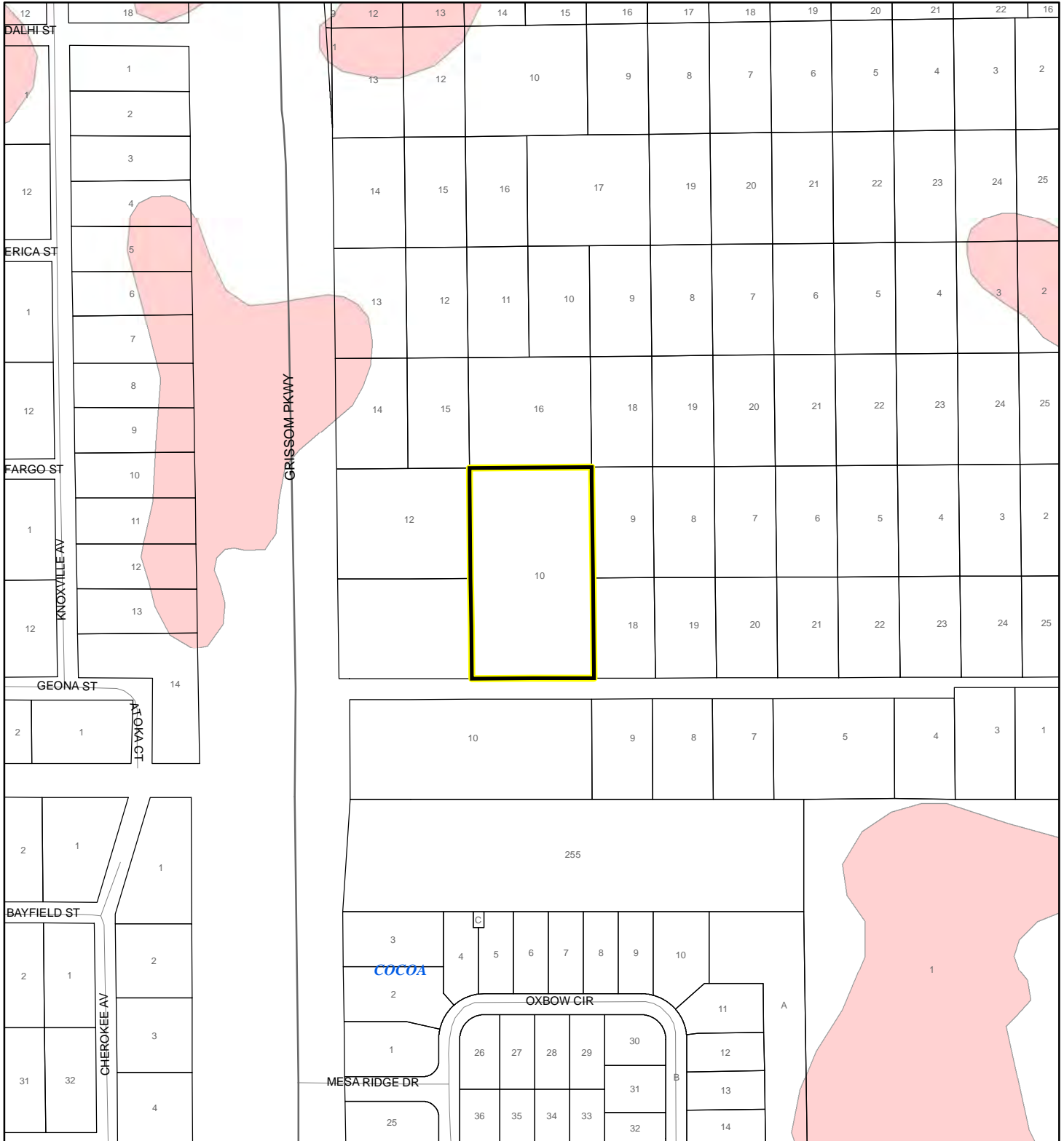
Subject Property

Parcels

FEMA FLOOD ZONES MAP

CGCR Holdings, LLC

22Z00031



1:4,800 or 1 inch = 400 feet

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

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FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

CGCR Holdings, LLC

22Z00031



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CGCR Holdings, LLC

22Z00031



1:4,800 or 1 inch = 400 feet

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Subject Property

Parcels

Septic Overlay

40 Meters

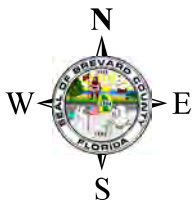
60 Meters

All Distances

EAGLE NESTS MAP

CGCR Holdings, LLC

22Z00031




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/7/2022

 Subject Property

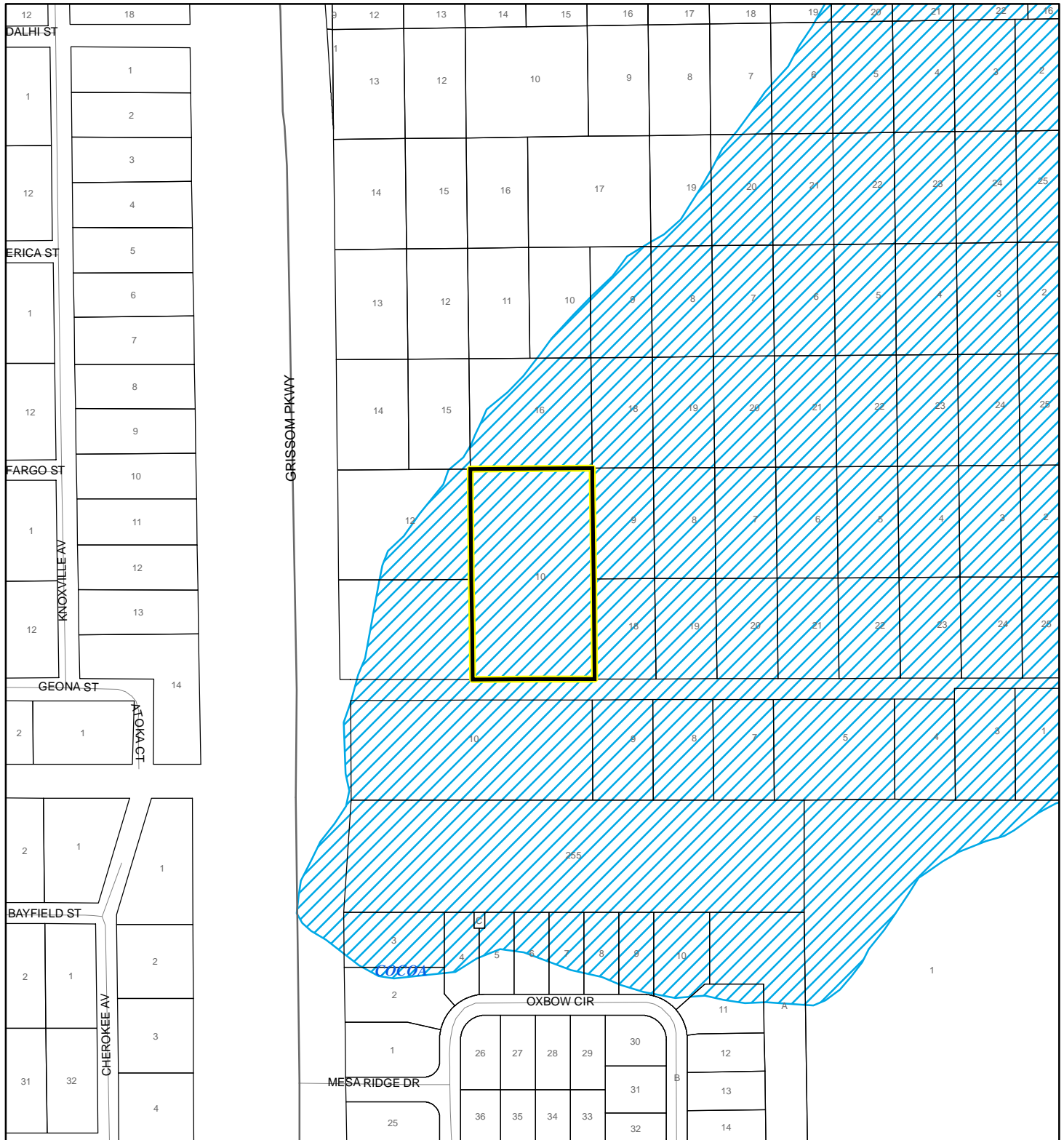
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CGCR Holdings, LLC

22Z00031



1:4,800 or 1 inch = 400 feet

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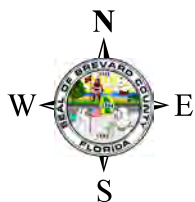
Produced by BoCC - GIS Date: 7/7/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CGCR Holdings, LLC

22Z00031



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: 7/7/2022

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

June 7, 2022



Jim Ford
Watson Commercial Real Estate
335 S Plumosa Street, Suite J
Merritt Island, FL 32952

RE: Environmental Assessment
For Three Parcels of Property totally 10.8 acres
Located near Grissom Parkway in Cocoa, Brevard County, Florida
With Tax and Parcel Identification Numbers:
1. 2400719 & 24-35-01-25-13-10: 7.31-Acres (Northern Tract Only)
2. 2400700 & 24-35-01-25-12-16: 2.30-Acres
3. 2400694 & 24-35-01-25-12-10: 1.15-Acres

Dear Mr. Ford:

The following is a summary of Toland Environmental Consulting's (TEC) environmental assessment for three lots located adjacent to Grissom Parkway in Cocoa, Florida whose tax and parcel identification numbers are listed above. The lots are bounded to the north, east and west by undeveloped single family residential lots, and to the south by an access driveway to an existing church (Figure 1).

The purpose of the site inspection was to identify environmental resources on the site and to evaluate whether consideration needs to be made during the acquisition or conceptual design process to address environmental restrictions on the property's development. To prepare this ecological assessment, TEC reviewed natural resource maps including GIS database coverages of the Brevard County Soil Survey as maintained by the National Resources Conservation Service (NRCS), the National Wetland Inventory (NWI) as maintained by the US Fish and Wildlife Service (USFWS), Brevard Natural Communities Cover maps maintained by the St. Johns River Water Management District (SJRWMD) using the Florida Department of Transportation's (FDOT) Florida Land Use, Cover and Forms Classification System (FLUCCS) as last amended in 1999, the United States Geological Survey's (USGS) Topographic Quadrangle Maps, the 2008 Brevard County Florida Scrub- Jay Occupancy Polygon Maps as maintained by USFWS, the Florida Fish and Wildlife Conservation Commission's (FWC) Bald Eagle Nest Site Locator Map, USFWS Wood Stork (*Mycteria americana*) Nesting Colonies and Core Foraging Areas Maps, and the USFWS Audubon's Crested Caracara (*Polyborus plancus audubonii*) Consultation Area Map, and other listed species databases, as appropriate.

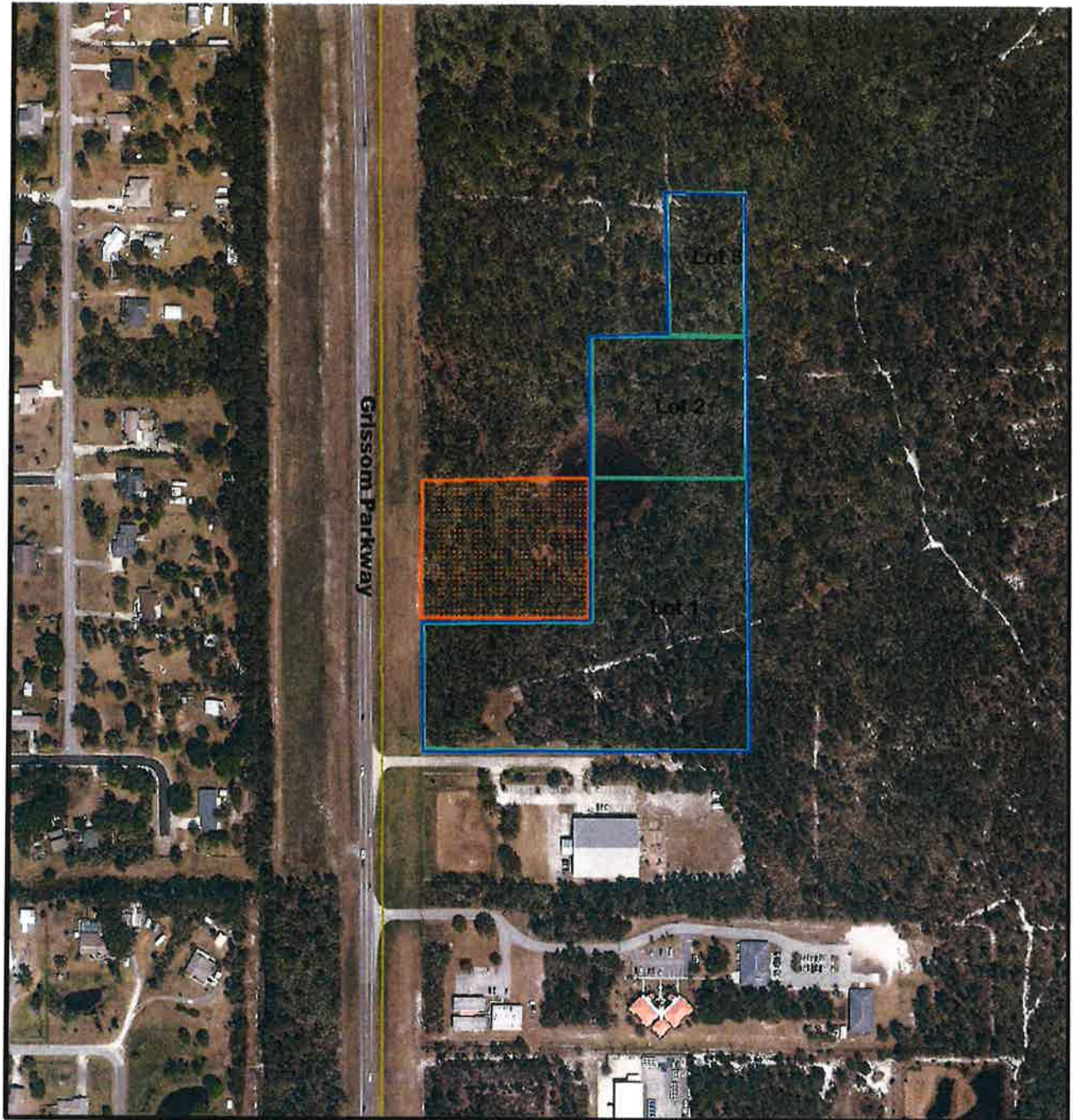
In addition, on March 07, 2022, TEC ground-truthed, delineated and described the natural communities present within the study area with reference to Florida's Cooperative Land Cover (CLC) classification system as maintained by FWC as well as by FDOT FLUCCS codes. The property would be classified by CLC as having 9.86 acres of CLC 1312 Scrubby Pine Flatwoods (FLUCCS 4110 - Pine Flatwoods)(Photograph 1), and 0.942 acres of CLC 21211 - Depression Marsh (FLUCCS 6410 - Freshwater Marsh)(Figure 2).



Photograph 1:
Typical Site Interior - Facing North

4092 Sparrow Hawk Road, Melbourne, Florida 32934 321-242-7173, 3217514070(fax) teclisa@cfl.rr.com

Figure 1: Regional Location Map



Legend

- Properties
- Individual Lot Lines
- Property Excluded by USFWS for Scrub-Jays



0 110 220 440 660 880
Feet

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

4092 Sparrow Hawk Road, Melbourne, Florida 32934 321-242-7173, 3217514070(fax) teclisa@cfl.rr.com

Page 2 of 8



Figure 2: Natural Communities Cover Map



Legend

- | | |
|---|---|
|  Property Location | CLC 1312 - Scrubby Flatwoods (FLUCCS 4110 - Pine Flatwoods) |
|  CLC 21211 - Depression Marsh (FLUCCS 6410 - Freshwater Marsh) |  |

0 62.5 125 250 375 500
US Feet



Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

The depression marsh extends offsite, and the onsite portion of the system is split between the northern reaches of parcel #2400719 with 0.484 acres and the southwest corner of lot #2400700 with 0.458 acres. (Figure 2).

Fire suppression has resulted in the canopy of the scrubby pine flatwoods to become dominated by sand pines (*Pinus clausa*), with lesser amounts of longleaf pines (*Pinus palustris*) and occasional Live oak (*Quercus virginiana*). The lack of fire has also resulted in a dense and overgrown mid-story and understory with rank saw palmetto (*Serenoa repens*), tall, dense sand live oak (*Quercus geminata*), intermittent dwarf live oak (*Quercus minima*), runner oak (*Quercus pumila*), and rusty lyonia (*Lyonia ferruginea*). The depression marsh shows damage from wild hogs with groundcover including chalky bluestem (*Andropogon capillipes*), redroot (*Lachnanthes caroliniana*), soft rush (*Juncus effusus*), and wax myrtle (*Myrica cerifera*) around the perimeter.

In order of relative abundance, the onsite soils are classified by NRCS as Immokalee sand, Pomello sand, Myakka sand and St. Lucie fine sand (Figure 3). As would be expected in scrubby pine flatwoods, all onsite soils are classified as upland soils within the "Hydric Soils of Florida Handbook, fourth edition" prepared by Florida Association of Environmental Soil Scientist. Immokalee sand may be a hydric soil or an aquifer recharge soil depending upon its position in the landscape. Hydric soils form under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile. Hydric soils are usually associated with wetlands while non-hydric soils are generally associated with upland habitats. Two of the soils, Pomello sand and St. Lucie fine sand are also classified as aquifer recharge soils which have very high vertical conductivity (Ksat) values that reflect the rapid vertical movement of water through the groundwater table. Brevard County classifies recharge soils as any soil with a Ksat value of more than 20 inches per hour.

Within the scrubby flatwoods, TEC reviewed representative samples of the onsite soils and found they lacked the required features to be classified as hydric or indicative of having been formed under aerobic conditions by exhibiting signs of stripping, redox concentrations, or substantial organic accumulations within the first six inches of the soil profile. Soils within the depression marshes showed organic accumulations within the first six inches of the soil profile including mucky minerals (A7 indicator) and muck (A9 indicator) that demonstrated the soils formed under anaerobic conditions and would meet the criteria found within the Handbook and Florida's wetland delineation rules to be classified as hydric.

TEC observed signs of hydrology within the depression marsh that would indicate that the property flooded or had water ponding on it. Signs of hydrology included algal matting, standing water, and vegetative adaptations.

The depression marsh is mapped by both the NWI and the SJRWMD as wetlands. Within the depression marsh, TEC's onsite field review found the property displayed the proper combinations of hydric soils, wetland vegetation and signs of hydrology to meet the criteria for classification as wetlands according to the delineation criteria found within Chapter 62-340, Florida Administrative Code or Section 404 of the Clean Water Act (33U.S.C. 1344) (Figure 2).

Figure 3: NRCS Soils Map

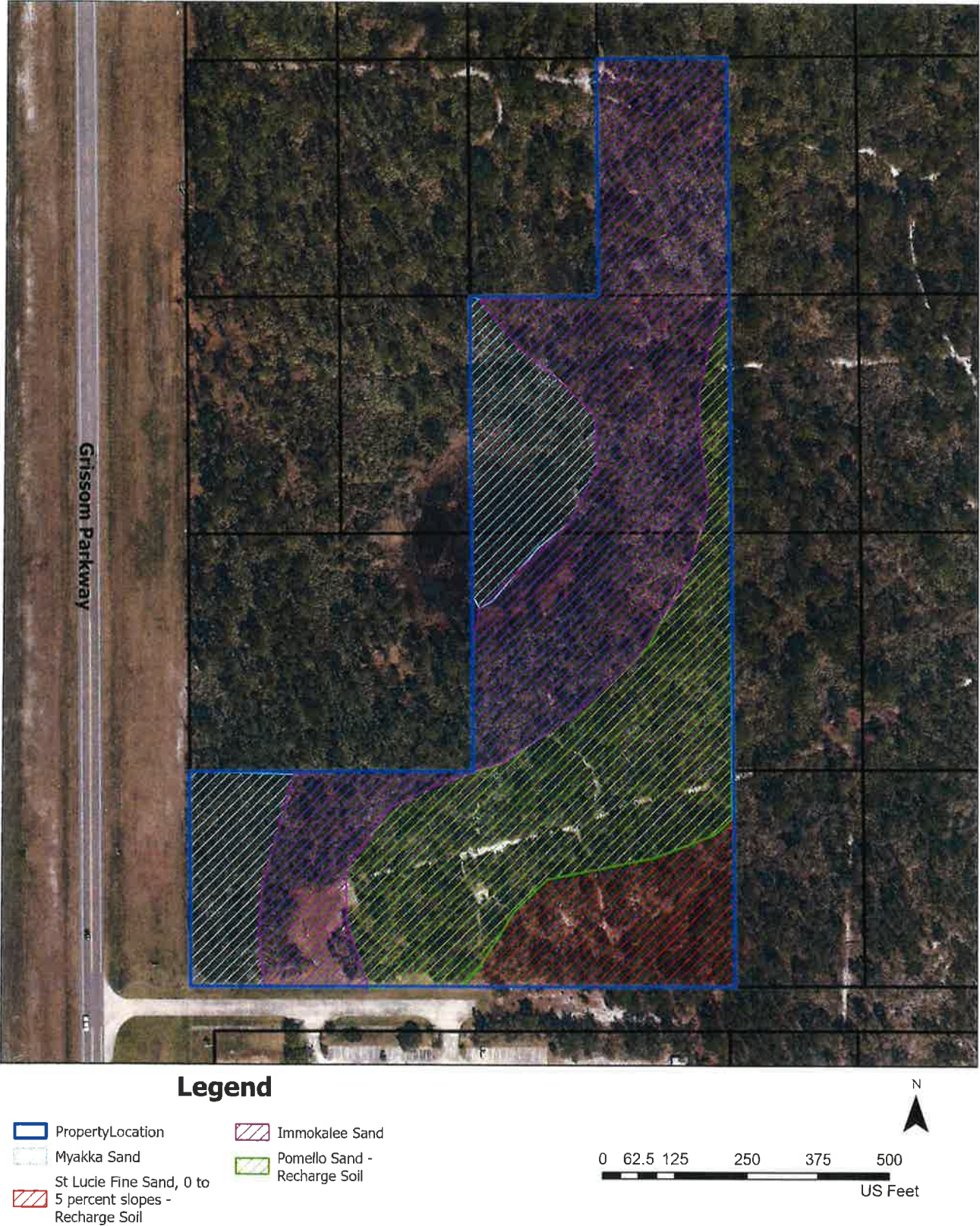


Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery



Impacts to wetlands are regulated by the federal, state and local governments through the Clean Water Act, Chapter 62-340, Florida Administrative Code (FAC) and local land development regulations. Recently, the State of Florida assumed part of the federal 404 Wetland Permitting Program (404 Permit) allowing Florida to issue both the state's Environmental Resource Permit (ERP) and the federal 404 Permit within areas that are not retained for jurisdiction by the US Army Corps of Engineers (ACOE) or federal retained waters. The Applicant's site does not lie within 300-feet of a retained water. Therefore, commercial development for the two lots containing the depression marsh would be subject to the jurisdiction of the SJRWMD issuing the permit for the State of Florida and the Florida Department of Environmental Protection (FDEP) permits for ACOE. Both agencies, will require mitigation for primary and secondary impacts that cause a loss of functional wetland systems that are isolated and bigger than one-half acre and do not provide habitat for listed species or are wetlands connected to the St. Johns River or Indian River Lagoon System and larger than 0.1-acres. Primary impacts are direct impacts to wetland areas within an approved jurisdictional line, and secondary impacts are alterations within an average of 25-feet of a wetland jurisdictional line where the 25-feet may be reduced to 15-feet in some areas so long as larger buffers are provided elsewhere adjacent to the jurisdictional line that net in an average 25-foot buffer.

The study contains approximately 0.942 acres of isolated wetlands. To issue the permit, FDEP will require that any impacts to wetlands be avoided by directing development into uplands, whenever possible, and minimized as much as is reasonably practical. If development does not occur within 25-feet of the jurisdictional boundary of the freshwater marsh, no mitigation would be required. However, if impacts can't be avoided an ERP and 404 Permit from FDEP for any primary or secondary impacts will be required.

Brevard County will be the local regulating agency for wetland impacts. The Conservation Element and its implementing Land Development Regulations require that the County avoid duplication of wetland regulation. Chapter 5.3 of the Conservation Element states: "Where the wetland degradation or destruction has been permitted by FDEP or SJRWMD based on FDEP and SJRWMD professional staff application of criteria and evaluation, the County shall apply the land use and density requirements of Policy 5.2 and the avoidance, minimization of impacts, and mitigation priorities established by Objective 5. Any permitted wetland degradation or destruction shall provide for mitigation as designated in the Conservation Element." Since FDEP does an avoidance and minimization analysis as part of their standard permit review, any development impacts to wetlands on this site that are permitted under an ERP permit obtained from FDEP which requires mitigation for the loss of those wetland impact, will not be duplicated for regulation by Brevard County. The County can only apply the County's land use and density restrictions on development proposals for wetlands permitted by the State that result in a no net loss of wetlands. In situations where the state issues an ERP but does not require mitigation for the loss of wetlands, the County can require mitigation consistent with the standards found within Florida's Unified Mitigation Assessment Method, Chapter 62-345 FAC.

Scrubby pine flatwoods can potentially support federal, or state species listed as endangered, threatened, or species of special concern including gopher tortoises (*Gopherus polyphemus*), Florida scrub-jays (*Aphelocoma coerulescens*), eastern indigo snakes (*Drymarchon corais couperi*), and bald eagles (*Haliaeetus leucocephalus*). The property is mapped as having a scrub-jay occupancy polygon present. TEC prepared a request for a Letter of Clearance from the USFWS and was granted clearance on May 9, 2022 (Attachment A). TEC's review of FWC's eagle nest maps found that this agency did not map the three properties as having eagles present on the property or within the protection limits required for this species. In addition, TEC did not observe eagles on the site or any of their sign that indicated occupation was possible on the property.

The property lies within the consultation area for crested caracaras; however, no crested caracaras were observed, and the site lacks the open, suitable habitat for this species. Accordingly, no further action should be required with respect to crested caracaras.

The property lies within a core foraging area for wood stork and is approximately 4 miles to the nearest active wood stork nesting colony site. According to the ACOE and USFWS' Effect Determination Key for Wood Storks In Central and North Peninsular Florida as last updated in September 2008, the property does not provide

4092 Sparrow Hawk Road, Melbourne, Florida 32934 321-242-7173, 321-751-4070(fax) teclisa@cfl.rr.com

suitable foraging habitat (SFH) for wood storks and therefore would be keyed to "no effect" determination and would not require additional consultation or coordination with these agencies. SFH is described within the Determination Key as "any area containing patches of relatively open (< 25% aquatic vegetation), calm water, and having a permanent or seasonal water depth between 2 and 15 inches (5 to 38 cm). SFH supports and concentrates, or is capable of supporting and concentrating small fish, frogs, and other aquatic prey".

As an authorized gopher tortoise agent for FWC to survey for gopher tortoises, TEC surveyed 15 percent of all suitable gopher tortoise habitats on the property using the surveying protocols outlined in FWC's Gopher Tortoise Permitting Guidelines as last updated in July 2019. During the site visit, TEC did not observe any potentially occupied gopher tortoises' burrows or their sign on the property. This lack of utilization on the property by gopher tortoises is attributed to fire suppression and the overgrown nature of the properties that has allowed dense saw palmetto to crowd out the traditional understory plants that tortoises normally forage upon including wiregrass (*Aristida stricta*), dwarf wild blueberry (*Vaccinium myrsinites*), prickly pear cactus (*Opuntia humifusa*), blackberries (*Rubus spp.*), paw-paws (*Asimina obovata*) and other seasonal fruits which support gopher tortoise populations.

If you have any questions or require additional information regarding this initial site inspection, please contact me on my office phone at 321-242-7173 or by e-mail [at teclisa@cfl.rr.com](mailto:teclisa@cfl.rr.com).

Sincerely,

Lisa J. Toland

Lisa Toland, President



ATTACHMENT A

FWS Letter of Clearance for Florida Scrub-Jays

From: [Gawera, Erin](#)
To: [Toland Environmental Consulting](#)
Subject: Re: [EXTERNAL] Revised request for letter of clearance
Date: Monday, May 9, 2022 4:24:10 PM

Hi Lisa,

You are all good to go! The Service accepts the results of your surveys. Florida scrub-jays are not currently occupying these properties:

Tax and Parcel Identification Numbers:

1. 2400719 & 24-35-01-25-13-10: 7.31-Acres (Northern Tract Only)
2. 2400700 & 24-35-01-25-12-16: 2.30-Acres
3. 2400694 & 24-35-01-25-12-10: 1.15-Acres

No further coordination with the Service is needed at this time and development of these properties will not impact scrub-jays. Should you discover scrub-jays in the future, please come back to us for re-evaluation.

Thank you so much,

Erin

Log #2022-0028513 Grissom Road_Toland_Brevard

Erin M. Gawera, Fish and Wildlife Biologist
US Fish and Wildlife Service
Email: erin_gawera@fws.gov
<https://www.fws.gov/office/florida-ecological-services>
Florida Ecological Services Field Office
7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7517
904/731-3121 (direct)
904/731-3336 (main)
Fax: 904/731-3045 or 3048

From: Toland Environmental Consulting <teclisa@cfl.rr.com>
Sent: Monday, May 9, 2022 7:16 AM
To: Gawera, Erin <erin_gawera@fws.gov>
Subject: RE: [EXTERNAL] Revised request for letter of clearance



May 05, 2022

Ms. Erin Gawera
Fish and Wildlife Biologist
US Fish and Wildlife Service
Florida Ecological Services Field Office
7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7517
Sent Via Email: erin_gawera@fws.gov



RE: Request for a Letter of Clearance for Florida Scrub-Jays (*Aphelocoma coerulescens*)
For Three Parcels of Property totally 10.8 acres
Located near Grissom Parkway in Cocoa, Brevard County, Florida
With Tax and Parcel Identification Numbers:
1. 2400719 & 24-35-01-25-13-10: 7.31-Acres (Northern Tract Only)
2. 2400700 & 24-35-01-25-12-16: 2.30-Acres
3. 2400694 & 24-35-01-25-12-10: 1.15-Acres

Dear Ms. Gawera:

I am writing to request a Letter of Clearance for Florida Scrub-jays (*Aphelocoma coerulescens*) for three lots located adjacent to Grissom Parkway in Cocoa, Florida whose tax and parcel identification numbers are listed above. The parcels lie between Canaveral Groves Boulevard and State Road 528 in Brevard County (Figure 1). The lots are bounded to the north, east and west by undeveloped single family residential lots, and to the south by an access driveway to an existing church (Figure 1). In addition, the properties are adjacent to a 2.3-acre tract of land recently cleared for scrub jays by U.S. Fish and Wildlife Service's (USFWS) Jacksonville Field Office (Log #04EF1000-2022-TA-0391) (Figure 1).

The subject properties lie within the southwest edge of a larger USFWS Florida Scrub-Jay Occupancy Polygon along the Grissom Parkway corridor as last established for Brevard County in 2008 (Figure 2). Fire exclusion has created an unnaturally rare to absent fire regime within the onsite scrub habitats that has resulted in the succession of the oak scrub into scrubby sand pine flatwoods that lack optimal habitat features to sustain scrub-jay populations.

Optimal habitat criteria have been compiled by Florida's Fish and Wildlife Conservation Commission (FWC) gathered from a compendium of studies produced by numerous scrub-jay researchers under FWC's Scrub Management Guidelines. Florida scrub-jay territories ideally occupy twenty-five acres of optimal scrub habitat with a vegetative structure made up of a patchy mosaic of treeless expanses of low shrubs that provide cover, nest sites and acorns interspersed with open, bare sandy patches needed for caching acorns. Typically, in optimal habitat, oaks and other shrubs have an average height of 4 to 5.5 feet. When the tree densities exceed one tree per acre or vegetation exceeds 5.5 feet, scrub-jay numbers decline, and sandy openings disappear.

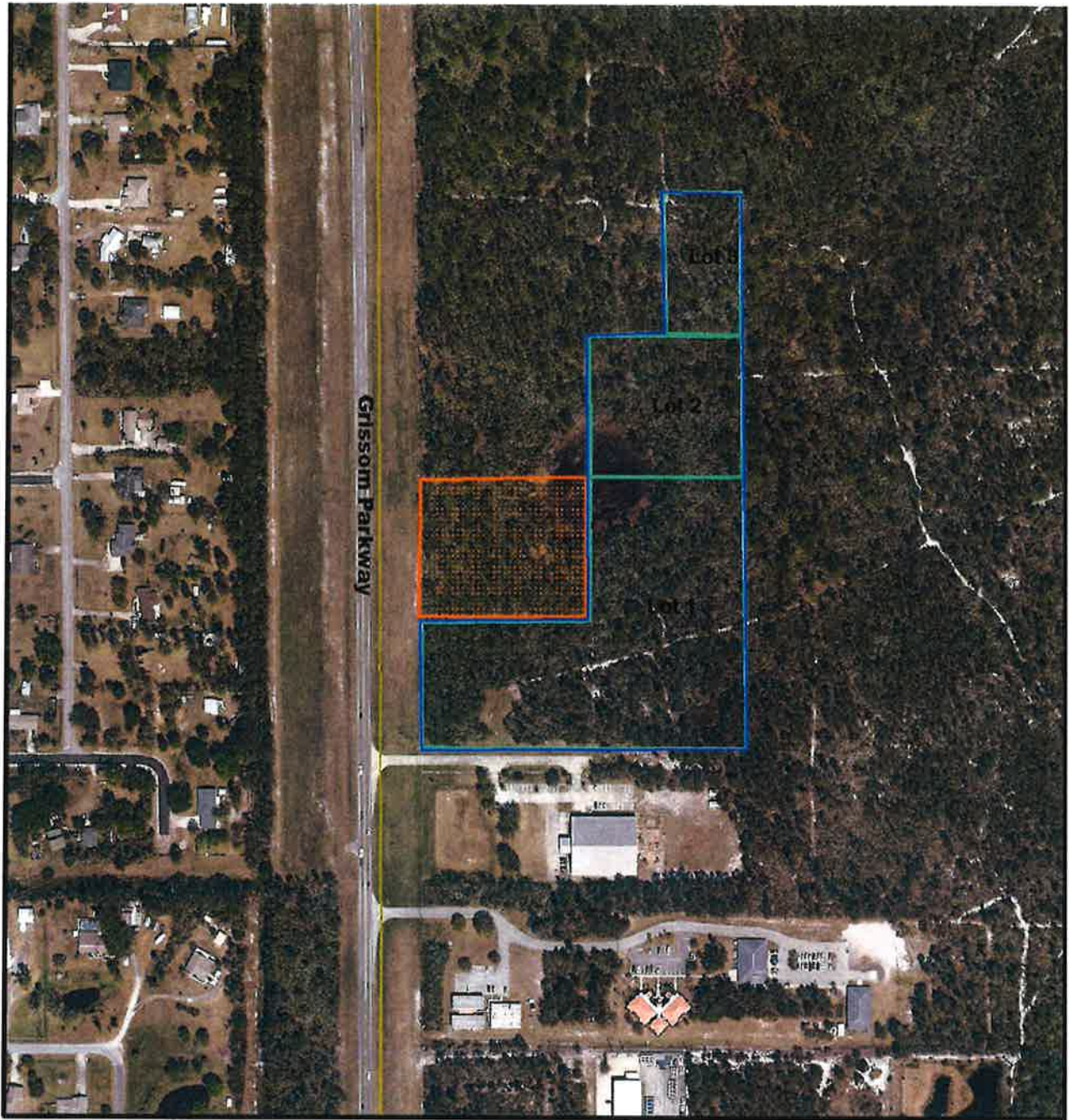
On March 7, 2022, Toland Environmental Consulting (TEC) conducted an onsite review of existing habitat within the three parcels. TEC ground-truthed, delineated and described the natural communities present within the study area with reference to Florida's Cooperative Land Cover (CLC) classification system as maintained by FWC and last updated in September 2018 as well as classifications established by the Florida Department of Transportation's FLUCCS codes. In its present state, the property would be classified by CLC as having 9.38

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Figure 1: Regional Location Map



Legend

-  Properties
-  Individual Lot Lines
-  Property Excluded by USFWS for Scrub-Jays

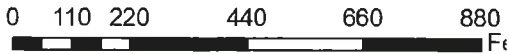
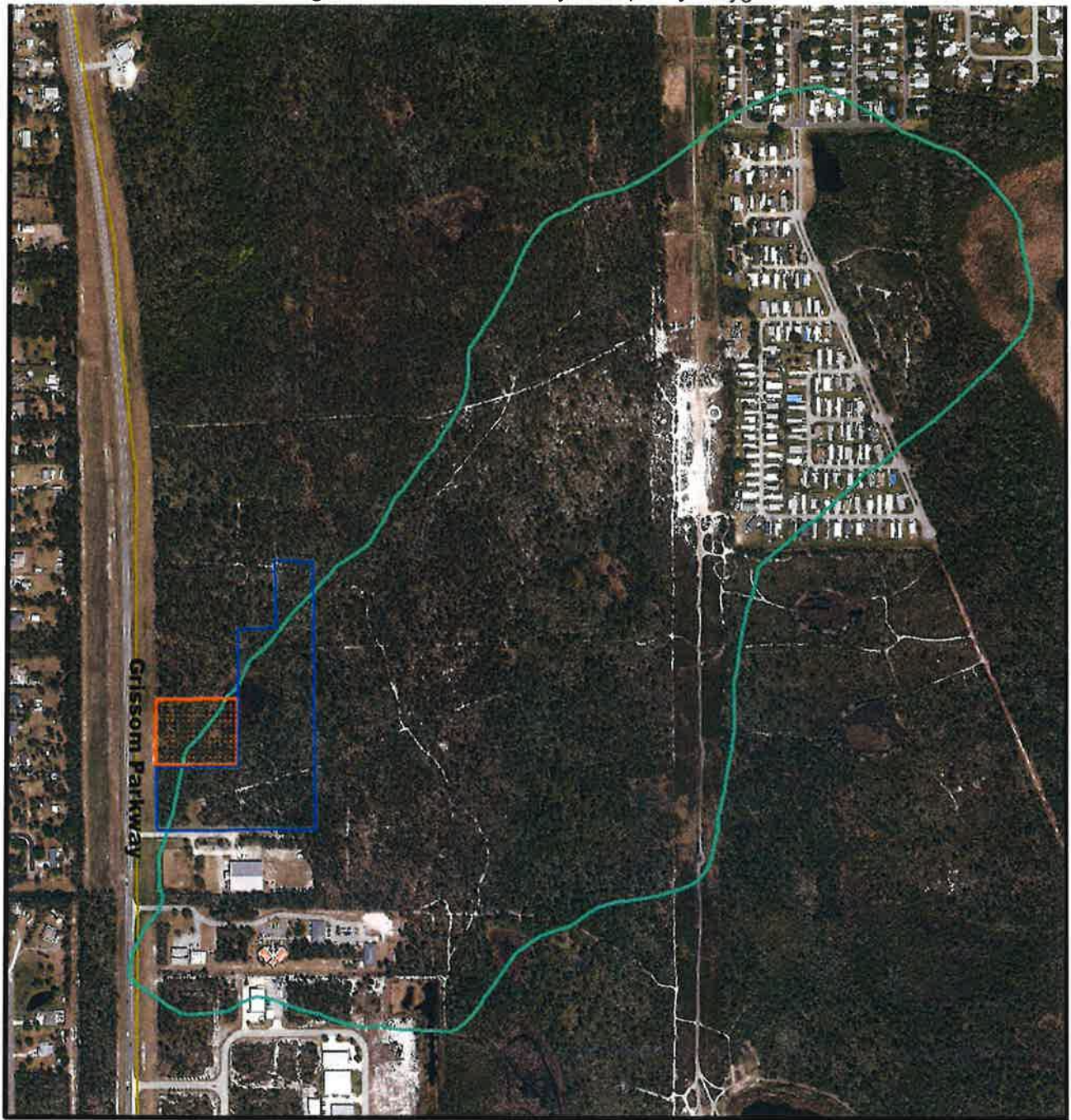





Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

Figure 2: Florida Scrub-Jay Occupancy Polygon



Legend

-  Properties
-  Property Excluded by USFWS for Scrub-Jays
-  2008 Florida Scrub Jay Occupancy Polygon



0 245 490 980 1,470 1,960 Feet

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery



acres of 1213 – Sand Pine Scrub (FLUCCS 4130 Sand Pine), 0.6 acres of isolated patches of overgrown 1210-Scrub (FLUCCS 3200 – Shrub and Brushlands) and 0.82 acres of Depression Marsh (FLUCCS – 6410 Freshwater Marsh) (Figure 3). Outside of the depression marsh, canopy coverage exceeds 15 trees per acre, a density that significantly surpasses one tree per acre for optimal habitat and two trees per acre for habitat that would be sufficiently suitable to allow scrub-jays to persist in the short-run (Photograph 7, Appendix 1). Canopy coverage is dominated by sand pines (*Pinus clausa*) that transition into slash pine (*Pinus elliottii*) along the edges of the depression marsh as well as occasional cabbage palms (*Sabal palmetto*) (Figure 4, Appendix 1). The oak scrub is limited to very small patches that are surrounded by curtains of tall pine making predation of jays by hawks easier in these areas. The scrub also exceeds the optimal height standard of 4 to 5.5 feet. Within the scrub, oaks consist of sand live oak (*Quercus geminata*) that are sparse within the landscape and often exceed ten feet in height, well above the maximum suitable height standard of eight feet. In addition, fire suppression has allowed the saw palmetto (*Serenoa repens*) to become rank, exceed recommended heights for suitable scrub and to fill in open sandy areas (Appendix 1). Finally, as a forested area, the properties lack the non-forested buffer of less than two tree per acre between optimal or suitable scrub-jay habitat and forested areas (Photograph 7, Appendix 1).

Although scrub habitats were not suitable or optimal for scrub-jays, to ensure no jays were lingering in unsuitable habitat, TEC conducted a five-day presence/absence survey for scrub-jays beginning on April 11, 2022 and continuing through April 18, 2022. These surveys were performed within all scrub habitats whether optimal, suitable, or unsuitable. TEC's methodology followed the USFWS's "Scrub-Jay Survey Guidelines, as last updated on 08/24/2007" which employed the systematic broadcast of high-quality taped vocalizations of Florida scrub-jay territorial scolding's from twelve established playback stations designed to elicit responses from scrub-jays in territorial defense of their occupied habitat areas (Figure 5). The density of saw palmetto restricted movement into the interior of the northern parcel. Here an offsite playback station #12 was established to potentially capture jays moving from suitable habitat to the northeast into the inaccessible areas within the study site (Figures 2 and 5). The survey was conducted during the spring activity period of scrub-jays when territorial displays are more frequent. No jays were observed within the proposed development site for which this letter of clearance is being sought (Attachment 2). This lack of utilization by scrub-jays is attributed to the continued decline of the scrub habitat because of ongoing fire suppression.

Given the existing site conditions and lack of responses during the presence/absence survey, TEC is requesting that the USFWS clear the three lots for Florida scrub-jays.

If you have any questions or require additional information regarding this request for clearance, please contact me on my office phone at 321-242-7173 or by e-mail [at teclisa@cfl.r.com](mailto:teclisa@cfl.r.com).

Sincerely,

Lisa J. Toland

Lisa Toland, President

References

Florida Fish and Wildlife Conservation Commission, 2019. Scrub Management Guidelines. FWC - Tallahassee, Florida.





Lacy, R.C., and Breininger D.R. (2021). Population Viability Analysis (PVA) as a platform for predicting outcomes of management options for the Florida Scrub-Jay in Brevard County. The Nature Conservancy contract: FL Scrub-Jay MOU/Research Period of work covered: 1 January 2019 – 31 January 2021. Chicago Zoological Society, Herndon Solutions Group LLC, and University of Central Florida.



Figure 3: Natural Communities Cover Map



Legend

-  Properties
-  CLC 1210-Scrub (FLUCCS 3200 Shrub and Brushland)
-  CLC 1213-Sand Pine Scrub (FLUCCS 4130-Sand Pine)
-  CLC 21211-Depression Marsh (FLUCCS 6410 Freshwater Marsh)

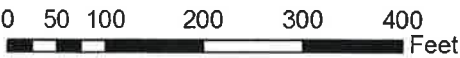


Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

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Figure 4: Photo Station Location Map



Legend

-  Properties
-  Photostation
-  Direction Photo Was Taken

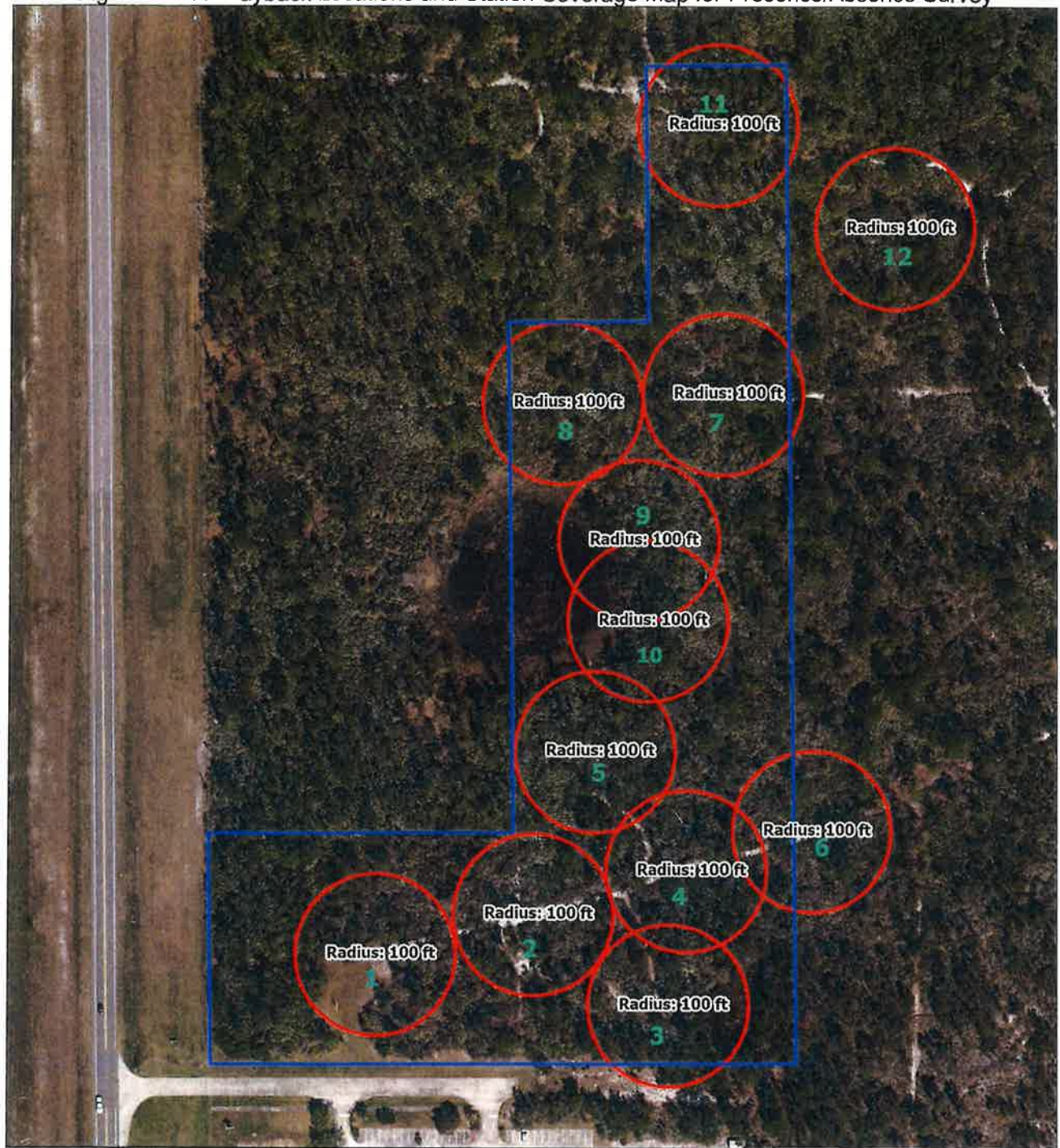


0 60 120 240 360 480 Feet

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

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Figure 5: FSJ Playback Locations and Station Coverage Map for Presence/Absence Survey



Legend

Property Location

Playback Station Coverage

0 62.5 125 250 375 500
US Feet



Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

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APPENDIX 1
PHOTOSTATION LOG

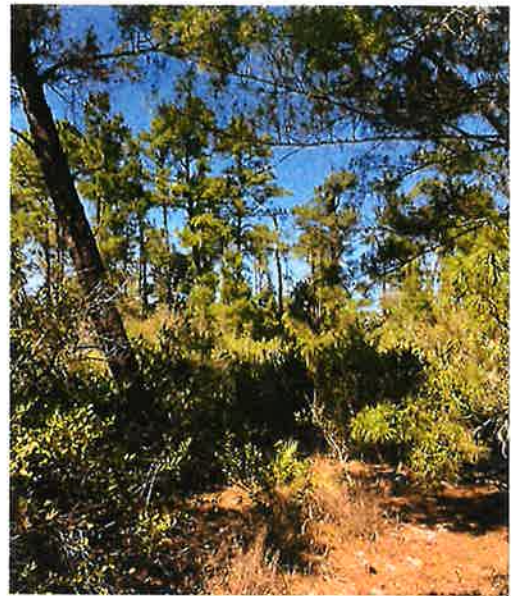




Photo #7 – Eagle View of Site from
Brevard County Property Appraiser's Office.

APPENDIX 2: FIELD SHEETS

Start Stop
 Weather Sunny Clear / Sunny Clear
 Temperature 67° 75°
 Winds < 5 from east / 9 mph from east

Date 4-11-22
 Surveyors L. Toland

Playback Station	Time	Comments
1	8:30	No response
2	8:32	" "
3	8:37	" "
4	8:45	" "
5	9:00	" "
6	9:14	No Response
7	9:32	" "
8	9:40	" "
9	9:55	" "
10	10:04	No Response
11	10:30	" "
12	10:35	" "
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Birds observed:
 . GECA
 . BJA
 . BWO
 . NOCA

Sunrise: 7:02

Start / End

Weather Sunny / Rainy Cloudy

Temperature 70° F / 76°

Winds < 5 mph / 10 mph
45° E / 55° E
Gusts 5 → 15 mph

Date 4-18-22

Surveyors L. Toland
J. Toland

Playback Station	Time	Comments
1	8:15	No response
2	"	"
3	"	"
4	"	"
5	"	"
6	"	"
7	"	"
8	"	"
9	"	"
10	"	"
11	"	"
12	10:33	No response
13	"	"
14	"	"
15	"	"
16	"	"
17	"	"
18	"	"
19	"	"
20	"	"
21	"	"
22	"	"
23	"	"
24	"	"
25	"	"

Sunrise: 7:01 am

start / End
 Weather Partly Cloudy / Sunny
 Temperature 75° / 78° F
 Winds 10 mph / 12 mph
 Gusts to 18 mph

Date 4-13-22
 Surveyors L. Toland

Playback Station	Time	Comments	
1	9:02	No	Response
2		"	"
3		"	"
4		"	"
5		"	"
6		"	"
7		No	Response
8		"	"
9		"	"
10		"	"
11		"	"
12	11:12	No	Response
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23		Sunrise:	7:00
24			
25			

Start End
 Weather Partly Cloudy / Mostly Cloudy
 Temperature 75°F / 78°F
 Winds 18 mph / 14 mph
 E E

Date 7-15-88
 Surveyors L. Toland
 J. Toland

Playback Station	Time	Comments
1	8:30	
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12	10:40	
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		



	Start	End
Weather	Sunny	Partly Cloudy
Temperature	76°	83°F
Winds	9mph ← W	9mph ← W

Date 7-18-22
 Surveyors L. Toland

Playback Station	Time	Comments	
1	9:30	No	response
2	↓	"	"
3		"	"
4		"	"
5		"	"
6		"	"
7		No	Response
8	↓	"	"
9		"	"
10		"	"
11		"	"
12	11:23	No	Response
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

9/12/2022

Subject:

Dieter Tytko (Kim Rezanka) requests a change of zoning classification from RR-1 to RU-2-4. (22Z00039) (Tax Account 2955625) (District 3)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Planning & Zoning Board conduct a change of zoning classification from RR-1 (Rural Residential) to RU-2-4 (Low Density Multi-Family Residential).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RR-1 to RU-2-4 on a 1.01-acre parcel to develop four (4) multiple-family units. The RU-2-4 zoning is a four-unit per-acre multi-family residential classification that permits multi-family residential development or single-family residences at a density of up to four units per acre on 7,500 square-foot lots.

Coastal Management Element Policy 7.1 "States Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet." While this application does not affect the subject property's Future Land Use "residential density designation", the RU-2-4 zoning will allow three additional units than the current RR-1 will allow.

The developed character of the surrounding area is multi-family residential and single-family residential on lots approximately one-half acre or larger in size. To the north is a 3.9-acre multi-family development with RU-2-10 zoning; to the south is a 0.8-acre multi-family development with RU-2-10 zoning; to the west is a single-family residence on 1.97-acres with RU-1-13 zoning; and to the east is the Atlantic Ocean. Central water and sewer are approximately 5 miles to the North.

The Board may wish to consider whether the request is consistent and compatible with the surrounding area and the Coastal Management Element Policy 7.1.

The Board of County Commissioners will consider the request on Thursday, October 6, 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:

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

22Z00039

Dieter Tytko

RR-1 (Rural Residential) to RU-2-4 (Low-density Multiple-family Residential)

Tax Account Number: 2955625
Parcel I.D.: 29-38-23-00-3.1
Location: East side of State Road A1A approximately 700 feet north Cortez Street
(District 3)
Acreage: 1.01 acres

Planning & Zoning Board: 09/12/2022
Board of County Commissioners: 10/06/2022

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 not maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RR-1	RU-2-4
Potential*	1 SF units	4 SF units
Can be Considered under the Future Land Use Map	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 requesting a change of zoning classification from RR-1 (Rural Residential) to RU-2-4 (Low-density Multiple-family Residential) on a 1.01-acre parcel to develop four (4) multiple-family units.

The subject property is currently undeveloped and was administratively rezoned from RU-2-4 to RR-1 on October 5, 1998, per zoning action **Z-10170(D)**. The original zoning was RU-2-4. The subject property has frontage on State Road A1A.

Land Use

The subject property is currently designated as Residential 4 Directive (RES 4 Directive) Future Land Use, adopted in Comprehensive Plan Amendment 1992B by Brevard County Ordinance 93-02. The subject property, which was located within the boundaries of the 1992 South Beaches Small Area Plan Study, was not included in the residential density reductions on over 4,000 acres in the south

beaches that resulted from the recommendations of the Study (referred to as the South Beaches amendments). The South Beaches Future Land Use Element Directives excluded nine specific properties (totaling 3.5 acres) from those residential density changes because it was recognized that lower densities would result in significant incompatibilities based upon areas of existing higher land use densities and intensities. The subject property, located between two parcels that were constructed at ten (10) dwelling units per acre, was adopted with a maximum density to be considered of four (4) dwelling units per acre under the South Beaches Future Land Use Element Directives. The directives did not increase density, rather, densities were not reduced.

The existing RR-1 zoning can be considered consistent with the existing RES 4 FLU designation, and the proposed RU-2-4 zoning can be considered consistent with the existing RES 4 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.7 –The Residential 4 Future land use designation. 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 the Future Land Use Element.

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.
- E. Where public water service is not available, residential development proposals with densities greater than two 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. Central water and sewer is approximately 5 miles away to the North.

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 1.01-acre lot to RU-2-4 zoning classification for the purpose of developing four (4) multiple-family units. Development would need to meet performance standards set forth in 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 residential in character on lots approximately one-half acre or larger in size. There are three FLU designations within 500 feet of the subject property: RES 1, RES 4 Directive, and PUB-CONS. The predominant FLU designation along the east side of Highway A1A 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.

There has not been any development approved but not yet constructed within this area in the preceding three (3) years.

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

Coastal Management Element Policy 7.1 “States Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.” While this application does not affect the subject property’s Future Land Use “residential density designation”, the RU-2-4 zoning will allow three additional units than the current RR-1 will allow.

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

The developed character of the surrounding area is multi-family residential and single-family residential on lots approximately one-half acre or larger in size.

The current 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.

The proposed RU-2-4 classification is a four unit per acre multiple-family residential zoning classification. It permits multi-family residential development or single family residences at a density of up to four units per acre on 7,500 square foot lots.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Multi-Family	RU-2-10	RES 1
South	Multi-Family	RU-2-10	RES 1
East	(Ocean)	(Ocean)	(Ocean)
West	SF residence	RU-1-13	RES 1

To the north is a 3.9-acre (approximate) multi-family development with RU-2-10 zoning, and to the south is a 0.8-acre (approximate) multi-family development with RU-2-10 zoning. To the west is a single-family residence on 1.97-acres (approximate) with RU-1-13 zoning. To the east is the Atlantic Ocean.

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.

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.

RU-2-10 classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

GML government managed lands zoning classification recognizes the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county,

electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

Preliminary Concurrency

The closest concurrency management segment to the subject property is State Road A1A, from Strawberry Lane to Heron Drive, which has a Maximum Acceptable Volume (MAV) of 24,200 trips per day, a Level of Service (LOS) of D, and currently operates at 18.71% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 18.74% 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.

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 serviced with centralized potable water or sanitary sewer. The closest Brevard County water and sewer lines are approximately 5.1 miles north on Highway A1A.

Environmental Constraints

- Coastal Management
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The Coastal Management Element of the Comprehensive Plan, Policy 7.1, Coastal Residential Densities, states that Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.

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.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00039

Applicant: Rezanka for Tytko

Zoning Request: RR-1 to RU-2-4

Note: Applicant wants to rezone for development of 4-unit multi-family complex.

P&Z Hearing Date: 09/12/22; **BCC Hearing Date:** 10/06/22

Tax ID No: 2955625

- 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:

- Coastal Management
- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The Coastal Management Element of the Comprehensive Plan, Policy 7.1, Coastal Residential Densities, states that Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.

Land Use Comments:

Coastal Management

The Coastal Management Element of the Comprehensive Plan, Policy 7.1, Coastal Residential Densities, states that Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.

The property is located adjacent to the Atlantic Ocean and is subject to Chapter 62, Article XIII of the Coastal Setback and Control Lines ordinance. The applicant is encouraged to call NRM at 321-633-2016 prior to any land clearing, site plan design or building permit submittal.

Floodplain

The eastern two-thirds of the property is mapped within the coastal floodplain (VE) as identified by the Federal Emergency Management Agency and as shown on the FEMA Flood Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain 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 use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

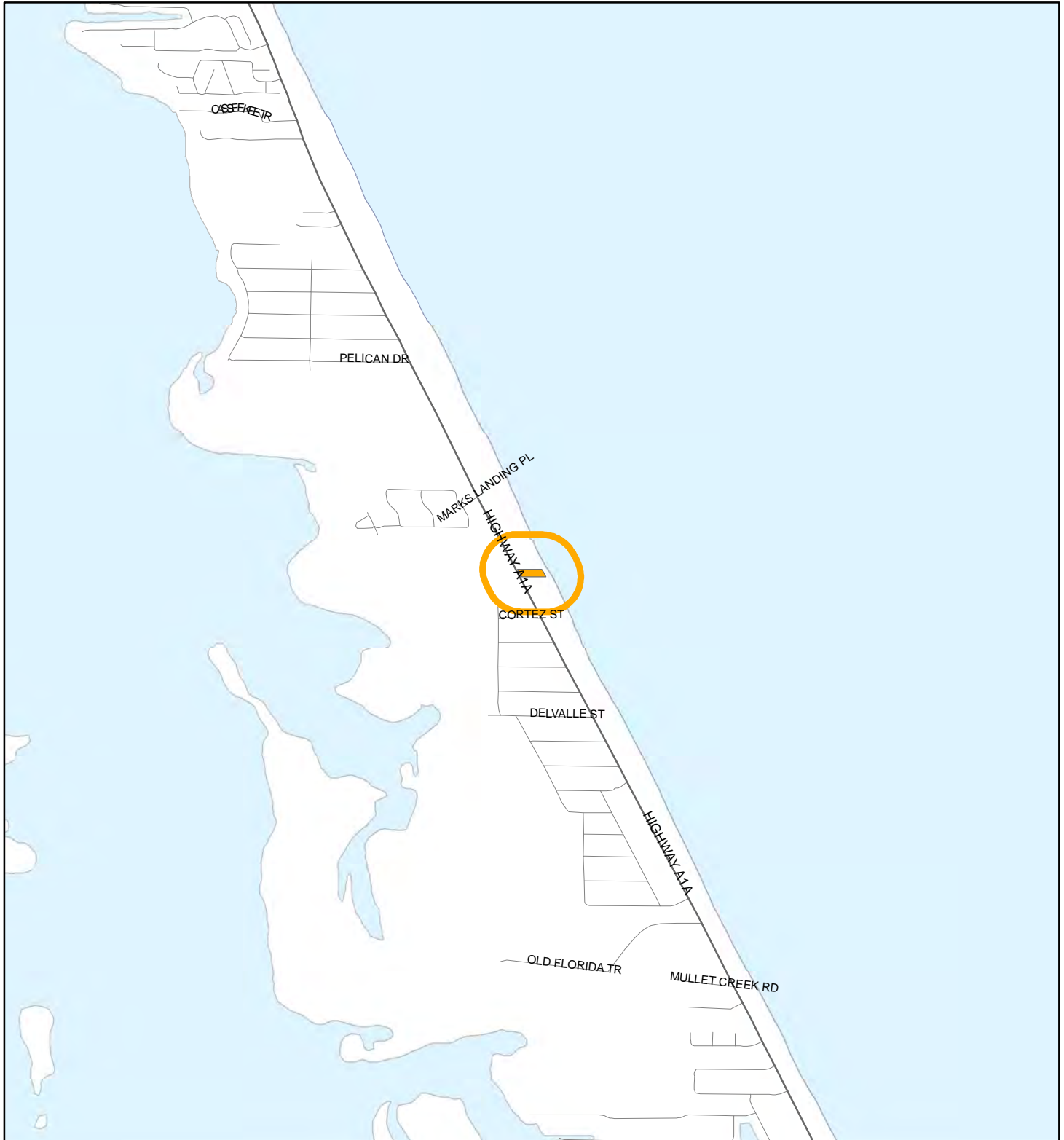
Aerials show mature canopy on the subject parcel. The applicant is encouraged to incorporate robust trees into the site plan design. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation 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 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. 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

TYTKO, Dieter
22Z00039



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

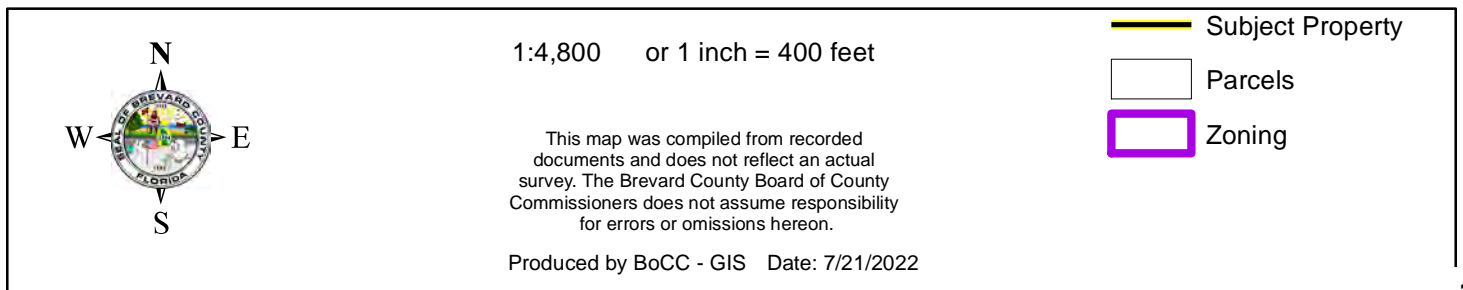
Buffer Distance: 500 feet

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— Buffer
— Subject Property

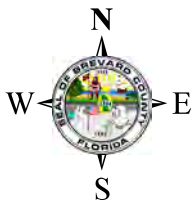
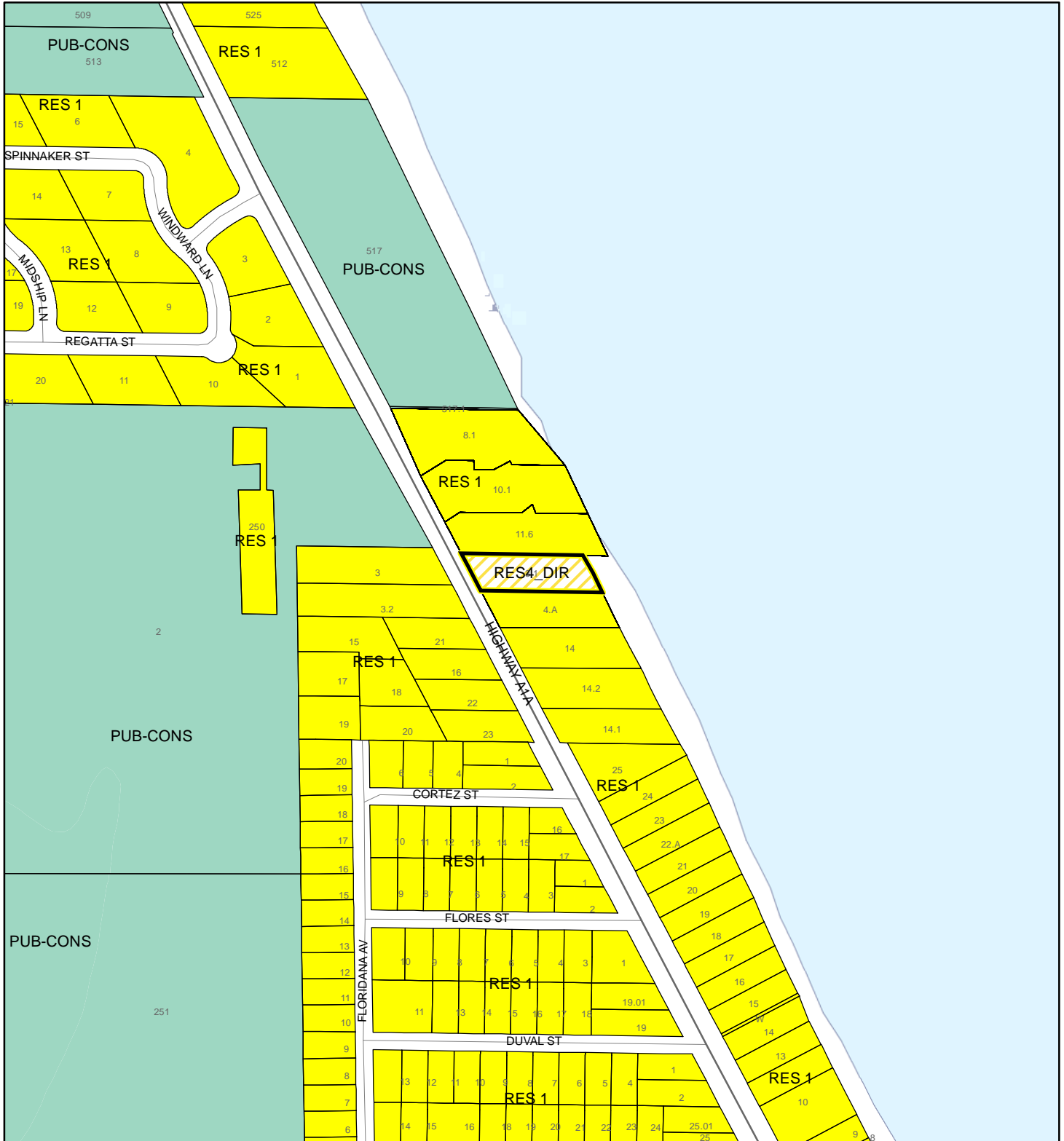
TYTKO, Dieter
22Z00039



FUTURE LAND USE MAP

TYTKO, Dieter

22Z00039



1:4,800 or 1 inch = 400 feet

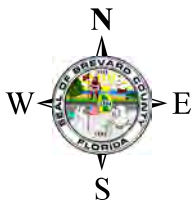
Subject Property
Parcels

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AERIAL MAP

TYTKO, Dieter
22Z00039




1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2021

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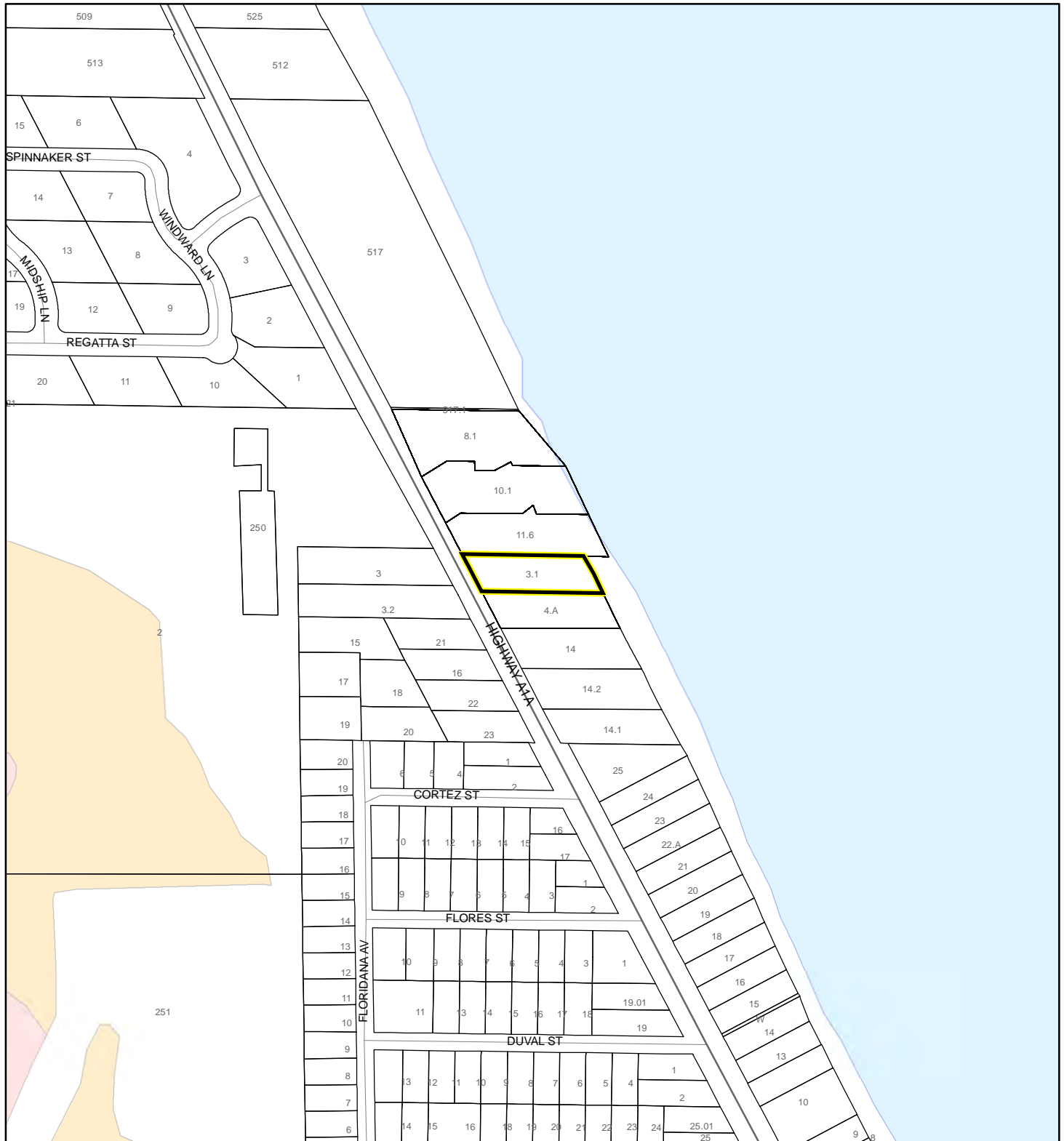
 Subject Property

 Parcels

NWI WETLANDS MAP

TYTKO, Dieter

22Z00039













1:4,800 or 1 inch = 400 feet

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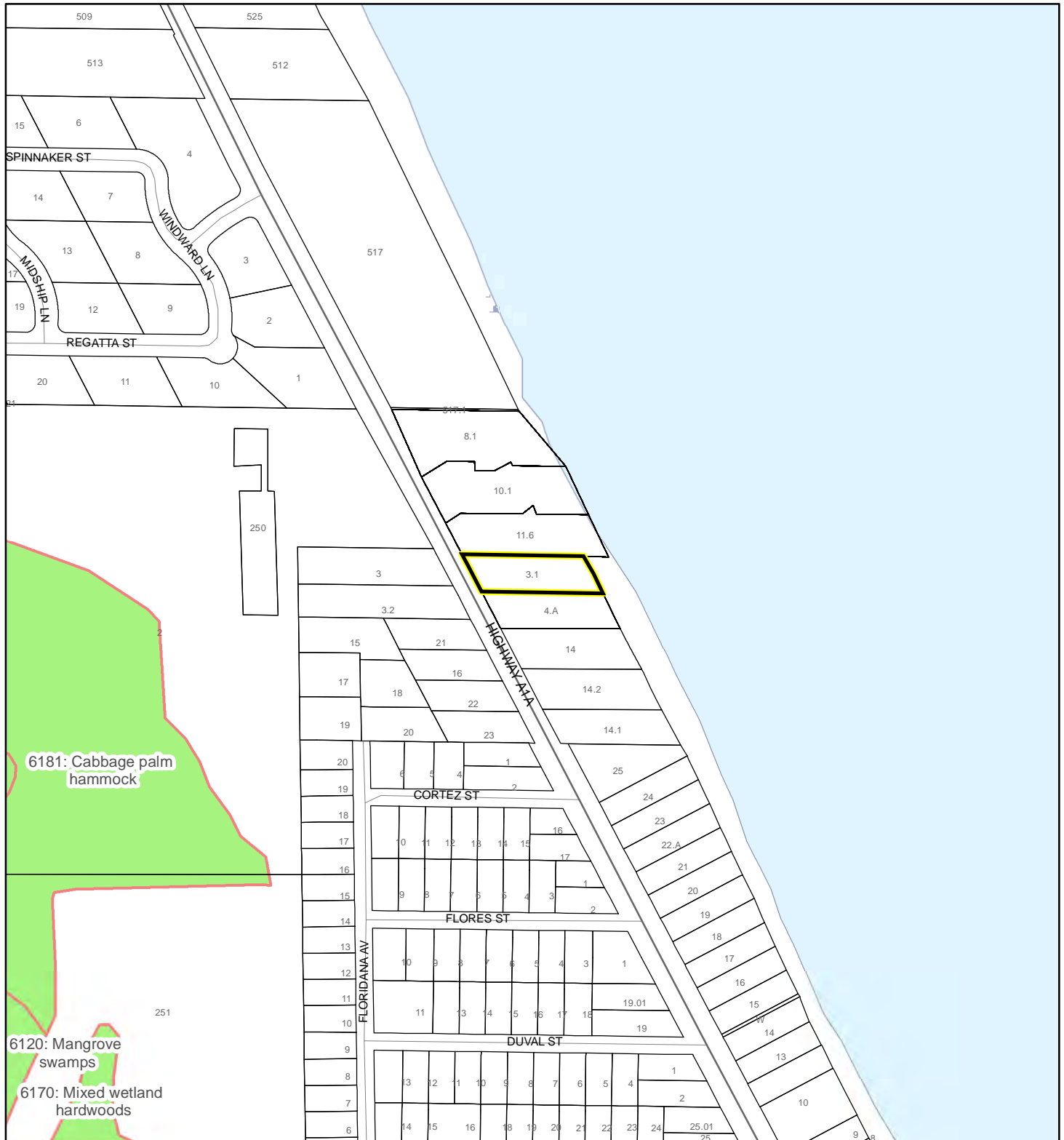
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

TYTKO, Dieter

22Z00039



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

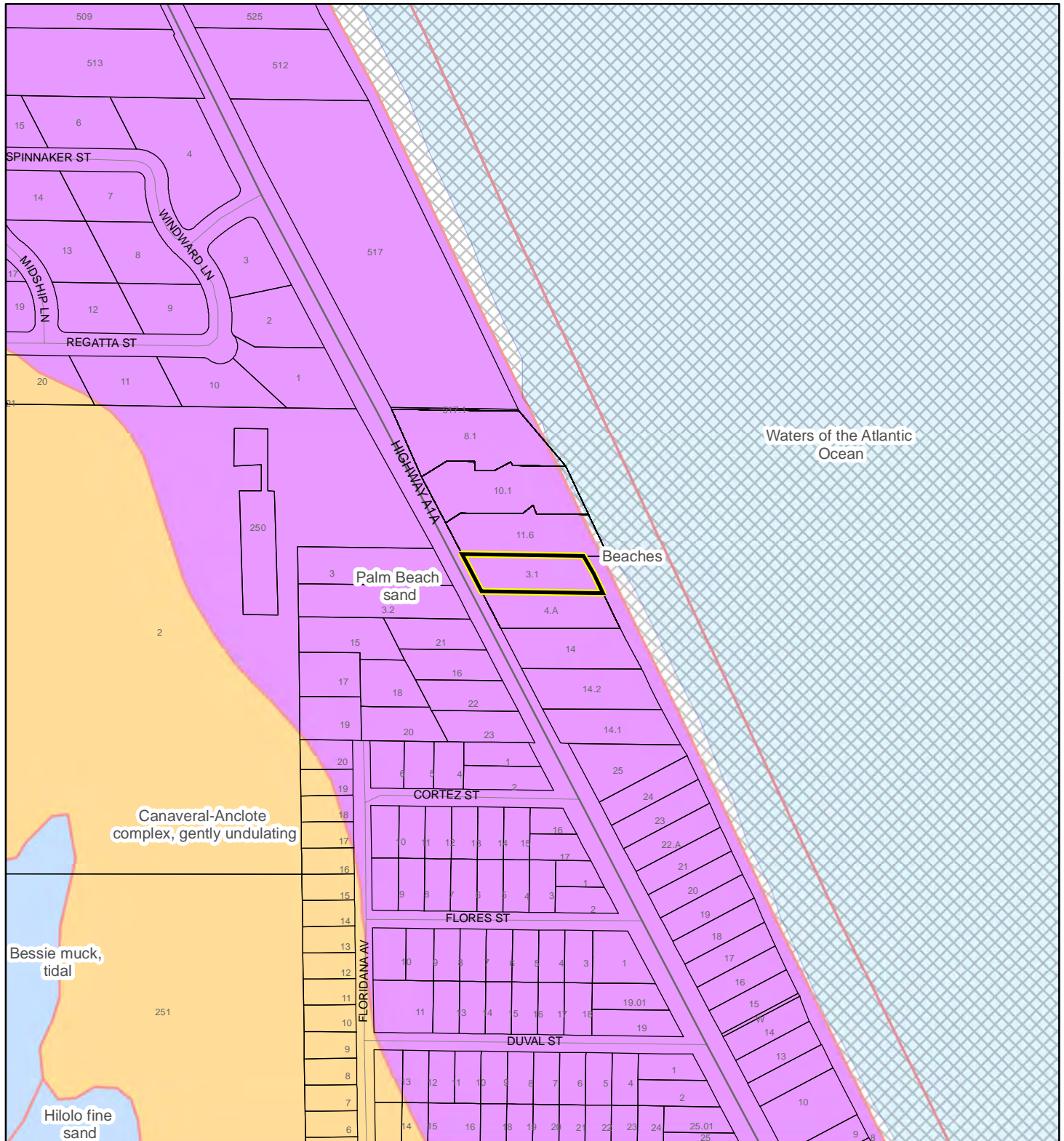
Subject Property

Parcels

USDA SCSSS SOILS MAP

TYTKO, Dieter

22Z00039



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

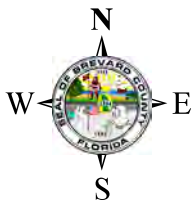
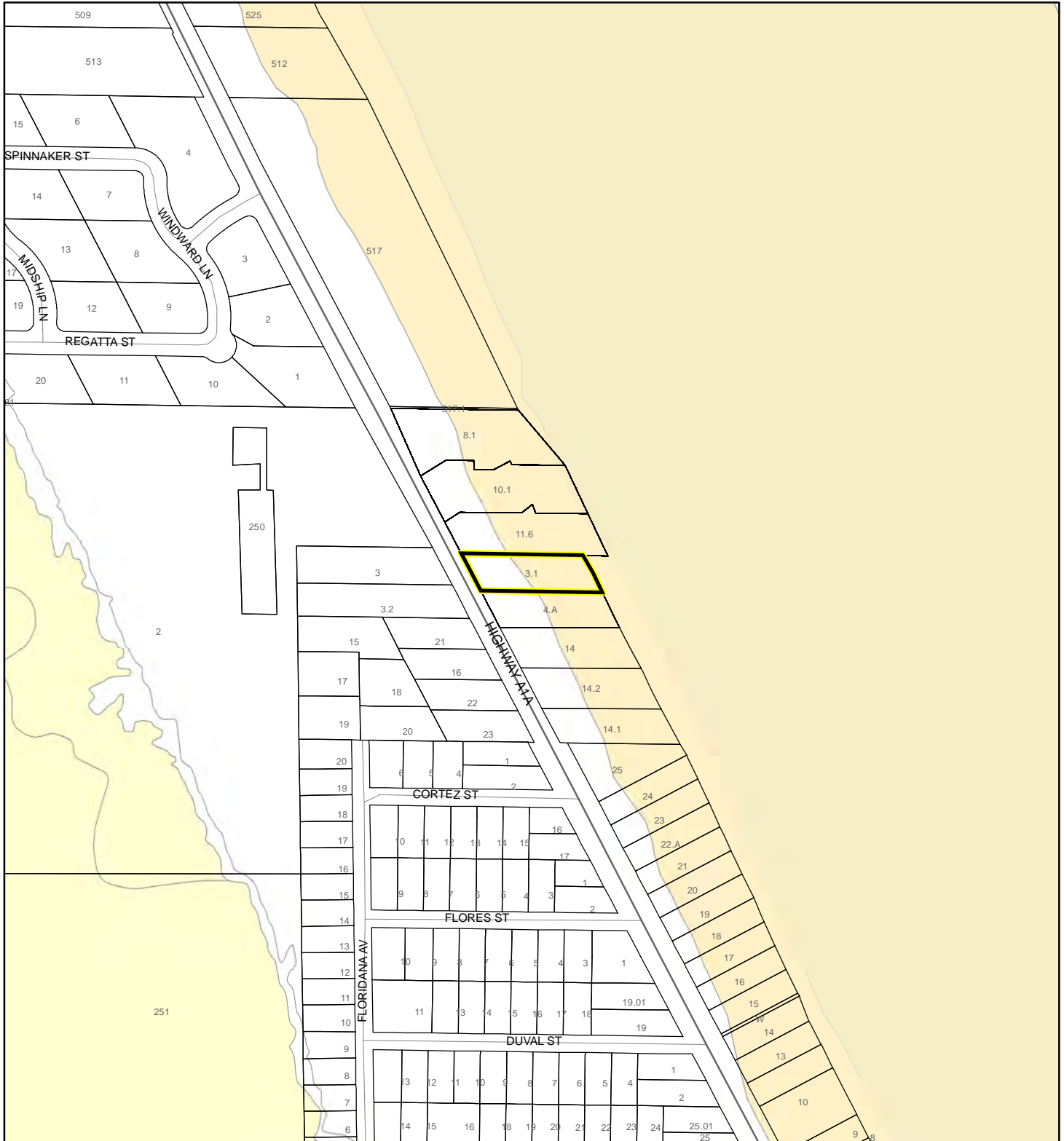
Subject Property

Parcels

FEMA FLOOD ZONES MAP

TYTKO, Dieter

22Z00039



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/21/2022

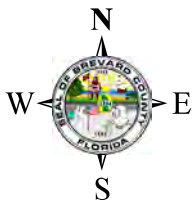
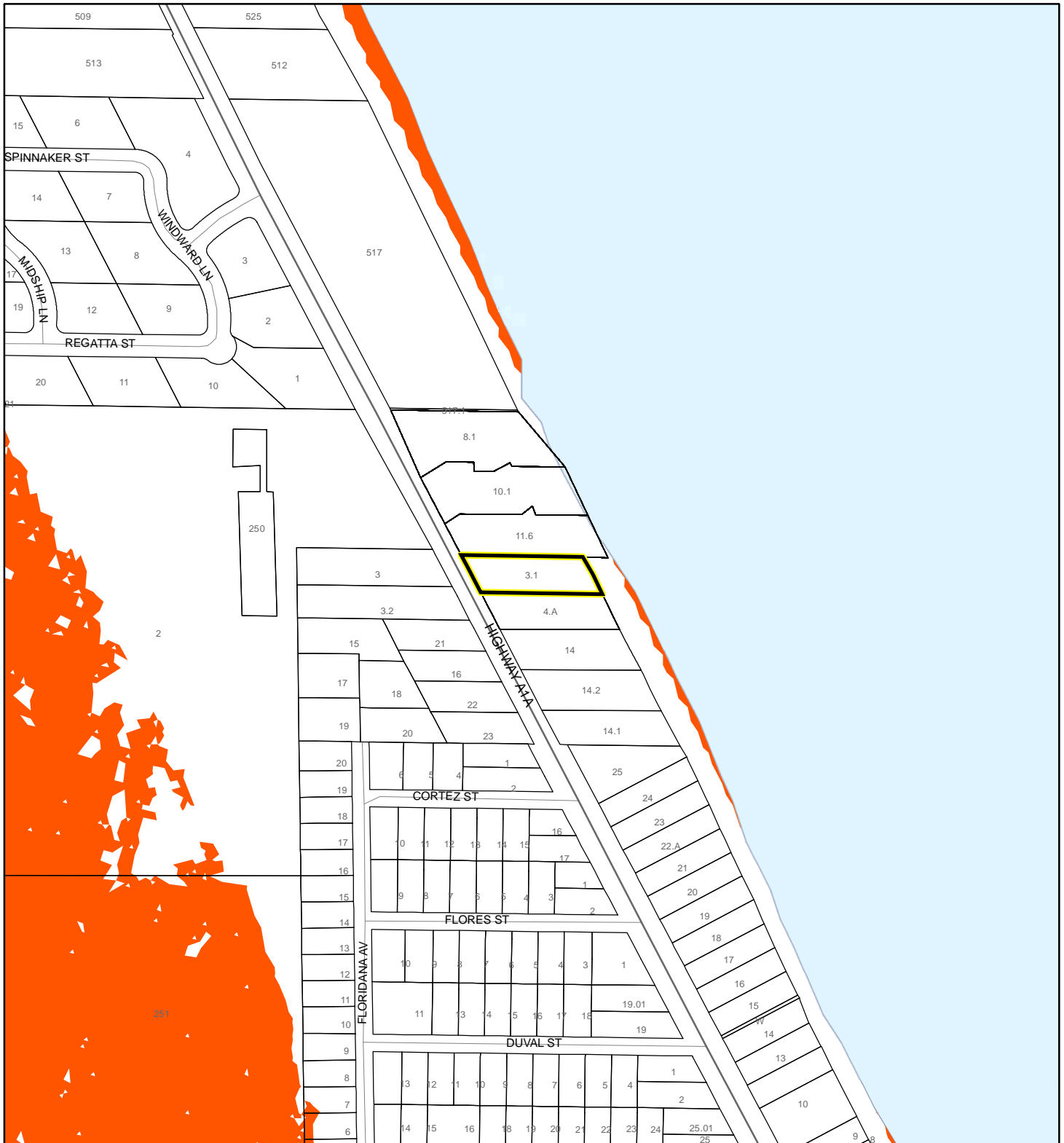
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

TYTKO, Dieter

22Z00039



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: 7/21/2022

 Subject Property

 Parcels

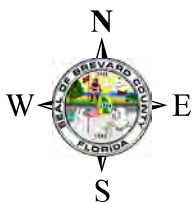
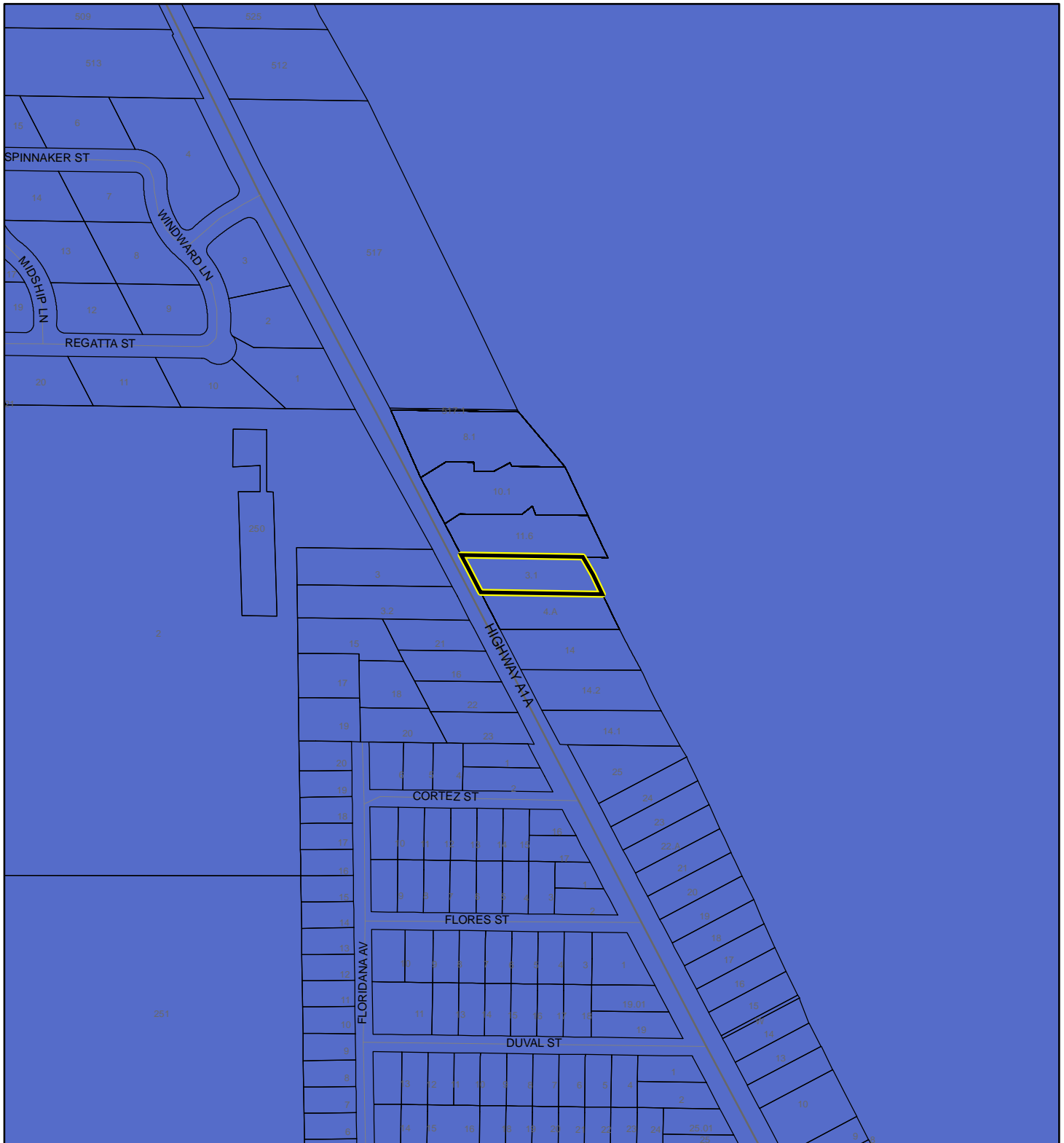
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

TYTKO, Dieter

22Z00039




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/21/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

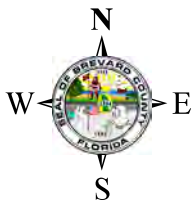
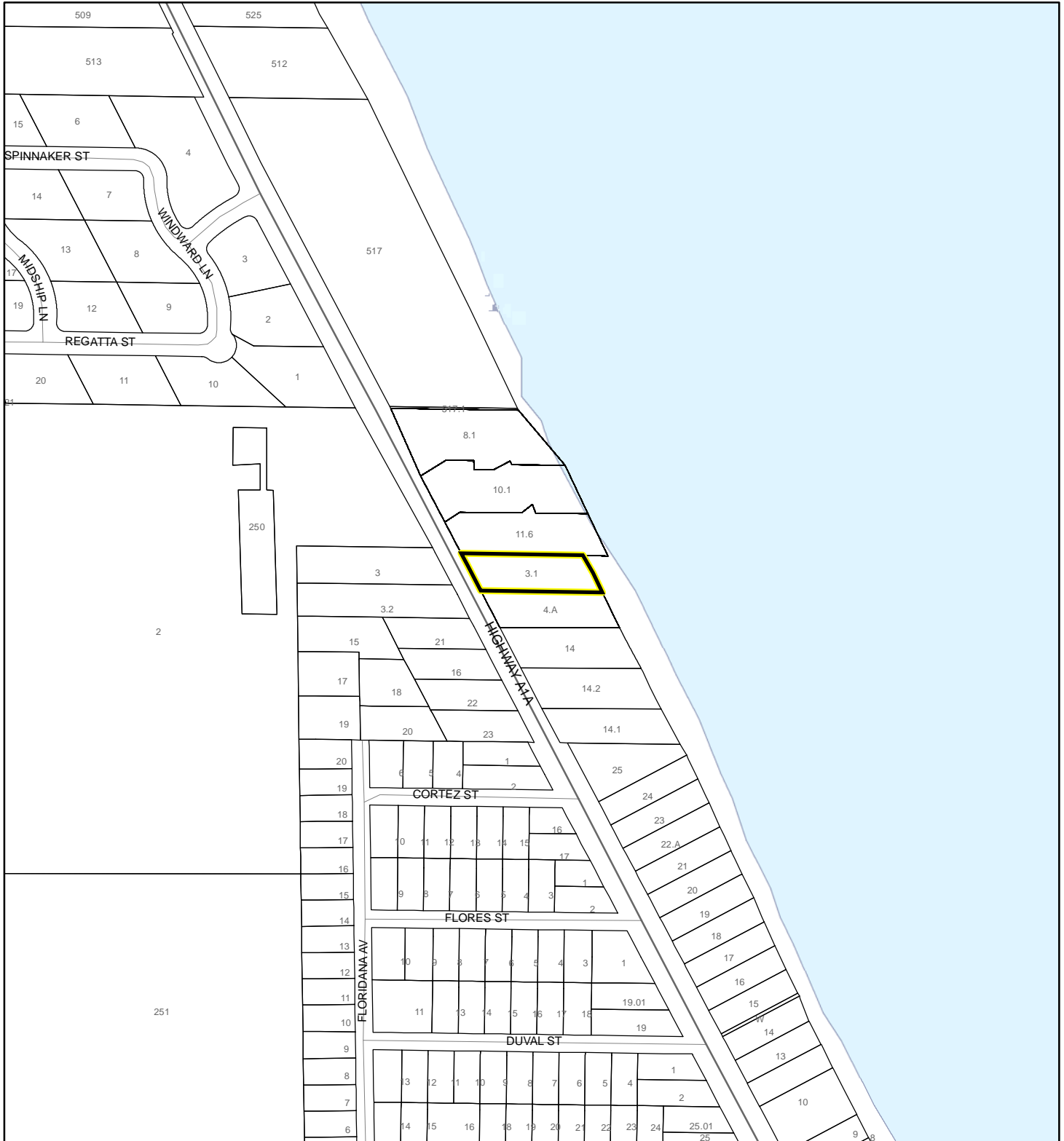
 60 Meters

 All Distances

EAGLE NESTS MAP

TYTKO, Dieter

22Z00039



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/21/2022

 Subject Property

 Parcels

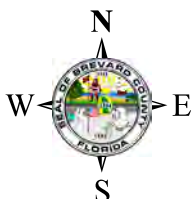
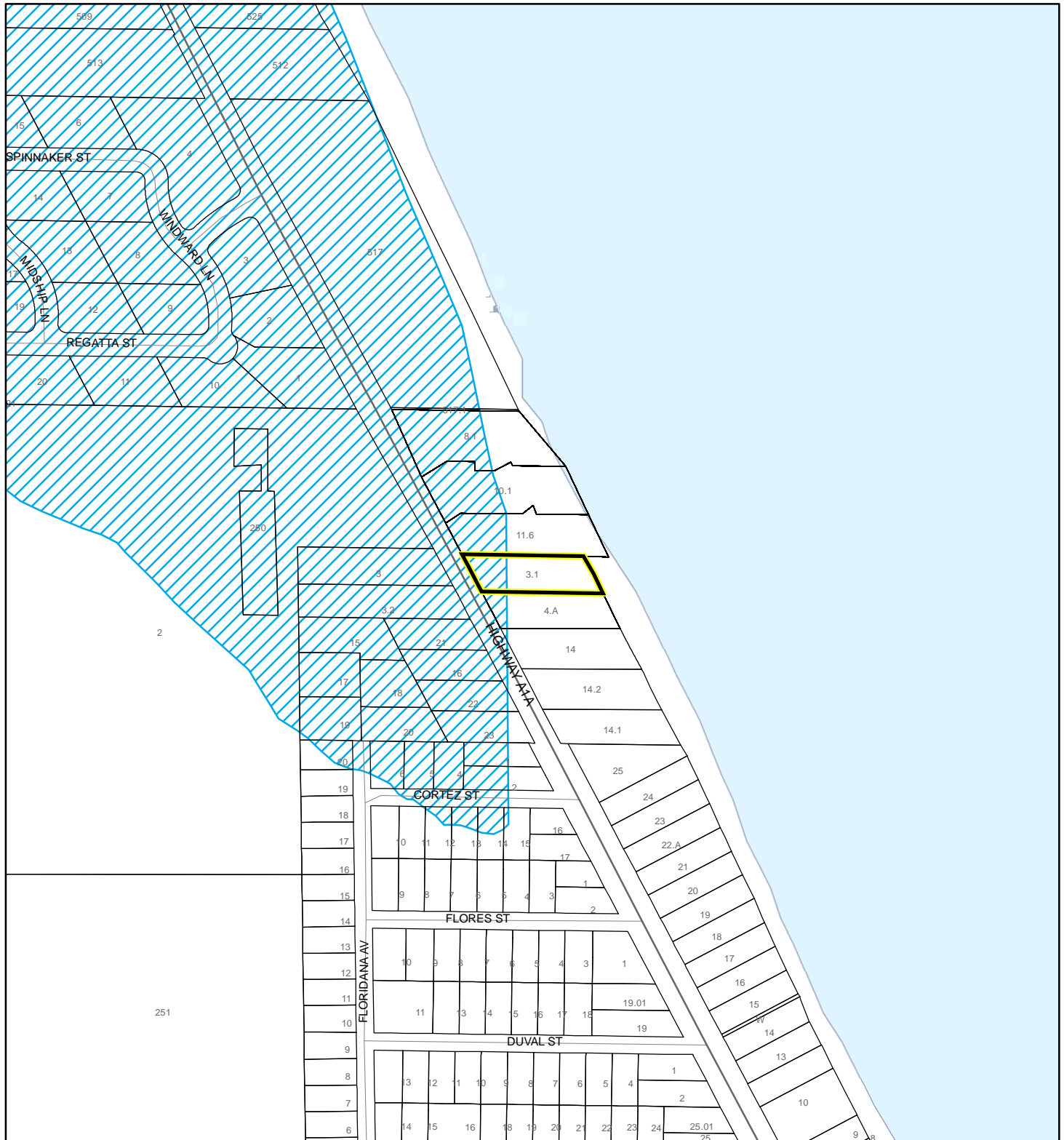


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

TYTKO, Dieter

22Z00039



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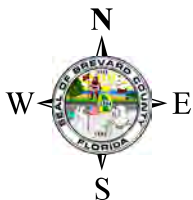
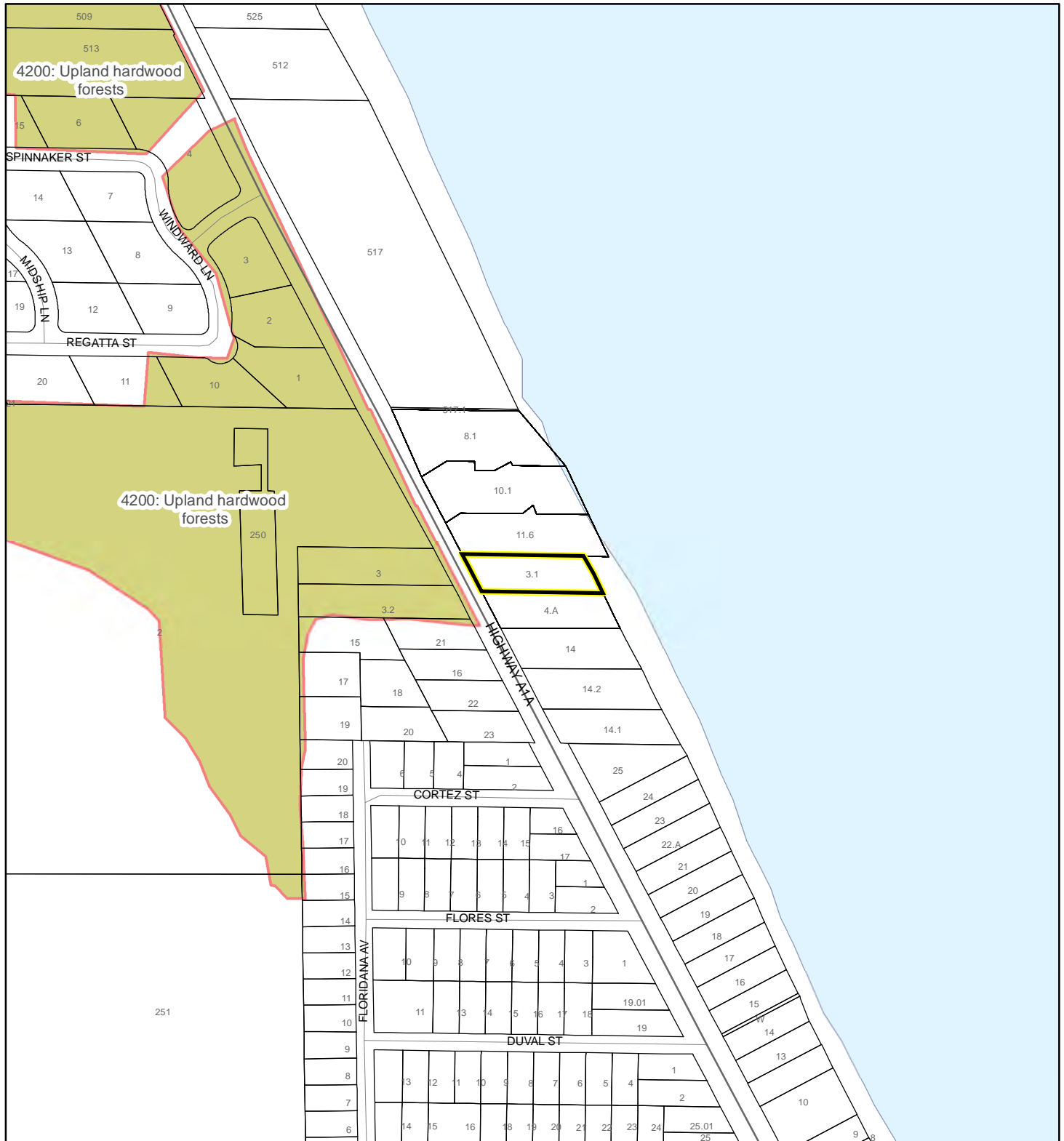
Produced by BoCC - GIS Date: 7/21/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

TYTKO, Dieter

22Z00039



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: 7/21/2022

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

September 1, 2022

Paul Moran

6340 S Highway A1a

Melbourne Beach, FL 32951

To: Brevard County Zoning Board

Subject: Zoning Change request 22Z00039, RR-1 to RU-2-4

My wife Cynthia and I are owners of 2 parcels ID 29-38-23-00-3.2 and 29-38-23-00-3 (tax ID 2955626, 2955624) approximately 2 acres combined, zoned single family, located directly west from subject parcel requesting zoning reclassification in file 22Z00039. We request zoning reclassification 22Z00039 be denied due to following reasons:

- This subject parcel acts as a buffer to the condominiums developed on parcels abutting to north and south on the east side of A1a. Both condominium developments were developed between 1980 and 1986, maximum density under zoning codes. Granting additional zoning density to this subject parcel will only add to congestion and safety concerns on Highway A1a. While FL Dot indicates that A1a has an average vehicle load at about 20% max capacity (24 hrs.) the fact remains, A1a in the South Beaches has experienced numerous accidents and traffic fatalities in the last year. I have personally witnessed, many times vehicles pulling into the abutting condominium complexes from A1a stop the A1a traffic flow, impatient driver's pass using the multipurpose pathway on the west side of A1a, creating a dangerous situation. Presently, FL DOT is evaluating improved ways to manage traffic flows on traffic A1a but is uncommitted on a solution.
- The average residential parcel in the immediate area is .95 acres. Granting the request of 22Z00039 to RU-2-4 would increase the density of this parcel to be 4 times greater as compared to other immediate residential area parcels, a much broader sample of lots the east side of A1a as the average is more in the .68 acres per residential lot which is 2.5 times density. Excluding existing condo developments. There is no need to grant the zoning density to 4 units per acre as requested, as there are several of other residential lots available in the immediate area for sale.
- In 1998 this parcel was rezoned from RU-2-4 to RR-1, the development over the last 25 years in the South Beaches area has been exponential which questions the impact of rezoning to RU-2-4. Coastal Management Element Policy 7.1 "States Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet." Increasing the density of the subject property would be in direct conflict with Coastal Management Policy.
- The current owner purchased subject parcel as a RR-1 zoned lot, 10 years ago and now wants a rezone as the property has a pending sales contract on it for the last 6 months. Why would the present owner want to rezone if he has a sales contract on the property?
- My wife and I enjoy being Brevard County residents since 2013, purchased this property 9 years ago and our house in 2016, a gated single family 5100 ft² house on 2 acres, with residential parcels in the immediate area all zoned single family. Granting rezoning of abutting lots to

increase density has the potential of a greater 5% negative impact on market value of our property.

- While each rezoning request is handled on an individual merit basis granting the zoning density of this request will only set precedence for other developers to follow suit on properties in the immediate area further adding to the over development. Specifically parcel id 29-38-23-00-14.2 and 29-38-23-00-14 (tax ids 2959157 and 2961222) which are single family 1+acre lots located within 300ft to the south of subject parcel on the east side of A1a, presently owned by out of county developers.

My wife and I, fully support the development of the subject parcel at the current RR-1, as the current owner purchased the parcel several years ago as single family residential, now has a sale contract on it as it was marketed as a potential RU-2-4.

Regards,

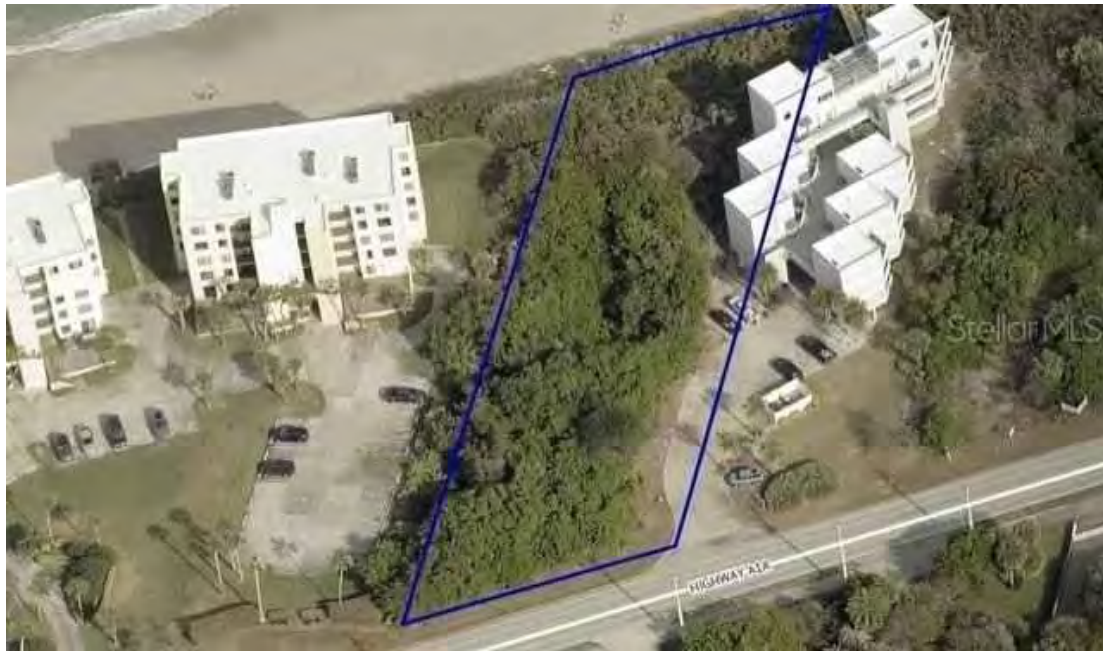
Paul and Cynthia Moran

Email: 6340pem@gmail.com

Phone: 6076433052

Property Details

Attention OCEANFRONT Lovers! Beautifully located parcel over 1 acre. Zoned RR-1 perfect for your beachside single-family home (no HOA). But this lot has more to offer re-zoning up to 4 units per acre (RU-2-4) according to Melbourne building & zoning dept. upon request/application. Please reconfirm during buyers' due diligence. Super close to great surf break, awesome fishing, and wide sandy unpopulated beach. Natural Wildlife Refuge just minutes away. Great schools, close to shopping and restaurants. Quiet laid-back community just north of Vero Beach in a natural setting only a 20 min. drive to Melbourne International Airport and 1.5-hour drive to Orlando! Directions: East over New Haven 192 Bridge, Right on A1A, Left on Ocean Ave, slight Right to A1A, approx. 8.75 miles to Gullhouse Condos. The parcel is nestled between Gull House and Sterling House condominiums.



From: [Calkins, Tad](#)
To: [Jones, Jennifer](#)
Subject: FW: Community Opposition to increased density/re-zoning on South Beaches: Notice # 22Z00039
Date: Friday, September 9, 2022 9:26:23 AM

FYI

From: sea <seabomds@aol.com>
Sent: Thursday, September 8, 2022 3:43 PM
To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>
Cc: Calkins, Tad <tad.calkins@brevardfl.gov>; McGee, Darcie A <Darcie.Mcgee@brevardfl.gov>
Subject: Community Opposition to increased density/re-zoning on South Beaches: Notice # 22Z00039

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

Dear Commissioners,

This is about the **first** re-zoning request on the south beaches that we have seen in many, many years.

Subject: Increasing RR-1 zoning to a RU-2-4 zoning (22Z00039).

Location: 6345 S. A1A

Public Zoning Hearing: **Monday , Sept. 12th at 3 pm**

FINAL Commission Meeting: **Thursday Oct. 6th at 5 pm**

We at BIPPA believe this is a bad idea, not to mention, just **bad precedence** that needs to be stopped so other development requests do not follow. The attorney or owner will most likely say it should be approved because multi-family is already adjacent. Using that logic, this up-zoning will creep up and down the entire island and eventually engulf every home, destroying the fabric of neighborhoods and families that have lived peacefully for generations.

There is no hardship as the adjacent multi-family property the applicant will mention was there for years before the current owner bought the property in 2012.

He was well aware of the restriction of RR-1 zoning when he purchased, which should immediately disqualify him as having a hardship.

Further, there is already too much density in the south beaches for evacuations, flooding, natural habitat, day-to-day traffic, infrastructure and preservation of Sea Turtle nesting.

WE DO NOT NEED MORE DENSITY

Satellite Beach began with small up-zoning like this and now look what they have. Quite a mess!
Miami Beach started with small up-zoning like this and were soon at 125 units per acre! Crazy!

This will aggravate our residents by disrupting the current balance of population and natural habitat and wildlife.

Lets not have another "vacation rental" scenario if we can help it.

Please express these concerns to whomever you think is necessary. If you have any questions, feel free to call me anytime at 321-733-6123.

Thank You,

Mark Shantzis, President

Barrier Island Preservation and Protection Association (BIPPA)

"Leading Efforts To Preserve The Balance of Population Growth, Wildlife and Habitat on the Barrier Islands for over 40 Years"



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

9/12/2022

Subject:

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust (Kim Rezanka) request a change of zoning classification from AU to RR-1. (22Z00038) (Tax Account 2316453) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

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

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from AU to RR-1 on an undeveloped 1.15-acre portion of a larger 6.83-acre parcel for the purpose of developing a single-family residence. The subject property retains the original AU zoning classification and does not meet the current lot area requirements of AU zoning.

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

The proposed 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, and a minimum house size of 1,200 square feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning. The RR-1 zoning classification is an established zoning in the surrounding area.

To the north, across N. Courtenay Parkway, is an undeveloped 8.2-acre parcel with GML zoning. To the south is an approximate 5.68-acre portion of the larger 6.83-acre parcel with AU zoning utilized for agricultural purposes. To the east is a 2.17-acre parcel with AU zoning developed as a single-family residence. To the west is a 1.35-acre parcel with IN(L) zoning developed as a religious institution.

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

On September 8, 2022, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended approval.

The Board of County Commissioners will consider the request on **Thursday, October 6, 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:

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

22Z00038

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust

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

Tax Account Number: 2316453
Parcel I.D.: 23-36-23-00-254
Location: South side of N. Courtenay Parkway approximately 104 feet east of N. Tropical Trail (District 2)
Acreage: 1.15 acres (portion of 6.83-acre parcel)
NMI Board: 09/08/2022
Planning & Zoning Board: 09/12/2022
Board of County Commissioners: 10/06/2022

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	RR-1
Potential*	0 SF units	1 SF unit
Can be Considered under the Future Land Use Map	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 requesting a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential) on an undeveloped 1.15-acre portion of a larger 6.83-acre parcel for the purpose of developing a single-family residence. The subject property retains the original AU zoning classification and does not meet the current lot area requirements of AU zoning. Applicant states if rezoning is approved, the remainder of the parcel (approximately 5.68 acres) will be joined with the parcel tax account #2316462. This will allow the remainder of the parcel zoned AU to meet access requirements provided in Section 62-102.

The subject property was located within the 2019 North Merritt Island Small Area Study (SAS) boundary. A recommendation from the 2019 North Merritt Island SAS was for all parcels ≥ 2.5 acres in size designated as Residential 1 (RES 1) Future Land Use and Agricultural Residential (AU) zoning classification, Brevard County should amend the Future Land Use Map to Residential 1:2.5 (RES 1:2.5).

The Board of County Commissioners acknowledged the Recommendations of the 2019 North Merritt Island SAS. Staff was not directed to implement this recommendation.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. The existing 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 1.15 acres to RR-1 zoning classification for the purpose of developing a single-family residence. Development would need to meet performance standards set forth in 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. There are four (4) FLU designations within 500 feet of the subject site: RES 1, CC, NC, and PUB.

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, one zoning action has been approved within one-half mile:

22Z00009, approved by the Board on May 5, 2022, was a request to rezone from AU (Agricultural Residential) to RR-1 (Rural Residential) on 2.51 acres located approximately 2,250 feet west 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.

The developed character of the surrounding area is institutional and residential with on lots one (1) acre in size or larger with agricultural uses.

One zoning action has been approved within a half-mile radius of the subject property within the last three years: **22Z00009**, approved by the Board on May 5, 2022, was a request to rezone from AU (Agricultural Residential) to RR-1 (Rural Residential) on 2.51 acres located approximately 2,250 feet west of the subject property.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Vacant	GML	PUB
South	Agricultural	AU	RES 1
East	SF residence	AU	RES 1
West	Religious Institution	IN(L)	RES 1

To the north, across N. Courtenay Parkway, is an undeveloped 8.2-acre parcel with GML zoning. To the south is an approximate 5.68-acre portion of the larger 6.83-acre parcel with AU zoning utilized for

agricultural purposes. To the east is a 2.17-acre parcel with AU zoning developed as a single-family residence. To the west is a 1.35-acre parcel with IN(L) zoning developed as a religious institution.

The current 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 all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

The proposed 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.

IN(L) classification of the subject parcel is an Institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

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

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Courtenay Parkway, from N. Tropical Trail to Space Commerce Way, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 25.59% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 25.62% 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.

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 220 feet west at N. Courtenay Parkway and N. Tropical Trail.

Environmental Constraints

- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

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

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item #22Z00038

Applicant: Rezanka for Crisafulli

Zoning Request: AU to RR-1

Note: Applicant wants to rezone a portion of the parcel to develop a single-family residence.

NMI Hearing Date: 9/8/22; **P&Z Hearing Date:** 9/12/22; **BCC Hearing Date:** 10/6/22

Tax ID No: 2316453 (north portion)

- 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:

- Floodplain
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

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

Land Use Comments:

Floodplain

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

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 use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

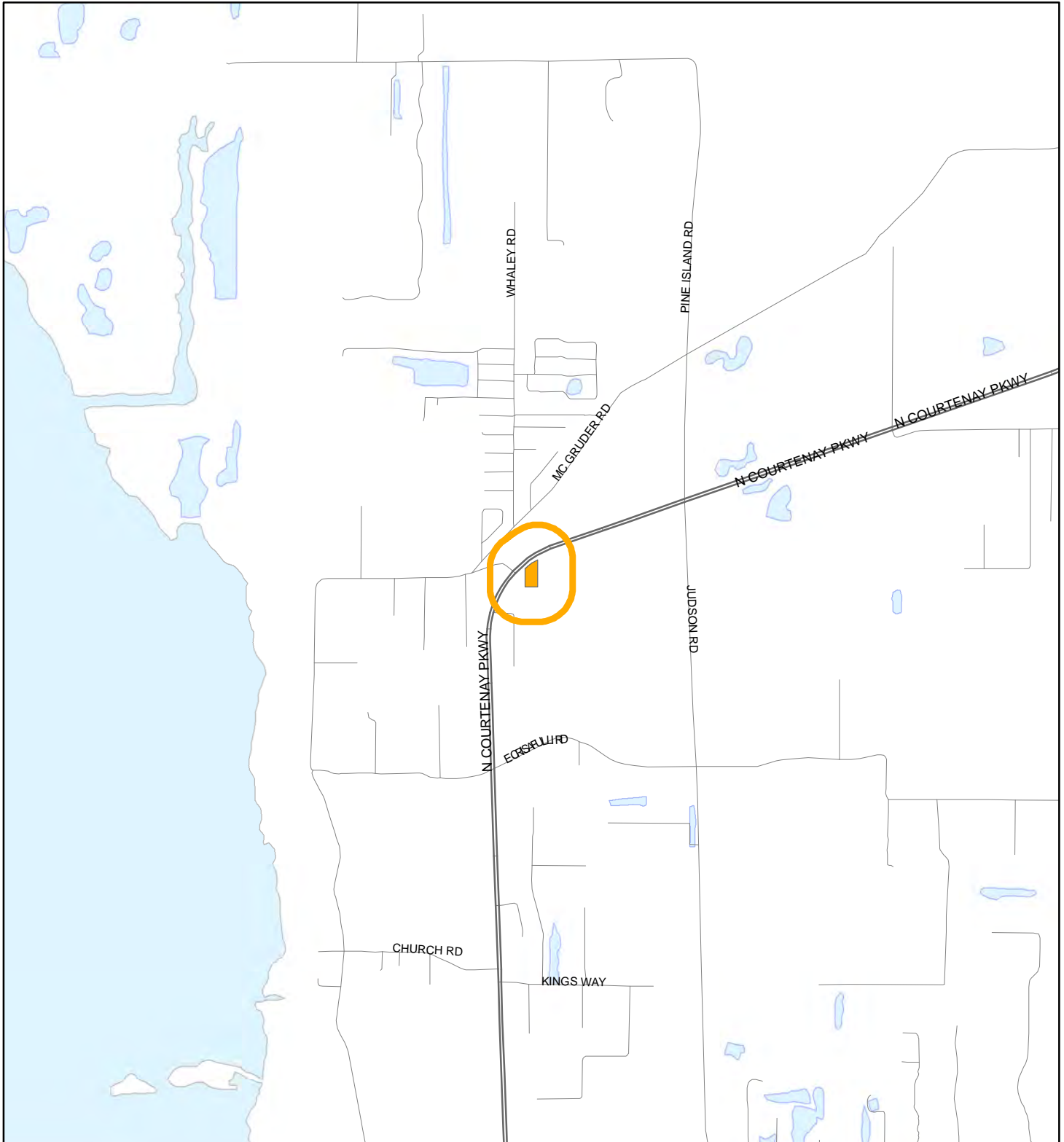
Aerials show mature canopy on the subject parcel. Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is encouraged to incorporate robust trees into the 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 a large area of mapped Florida Scrub Jay occupancy near the parcel. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust
22Z00038



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

Buffer Distance: 500 feet

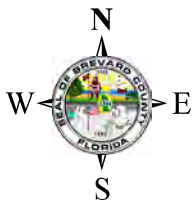
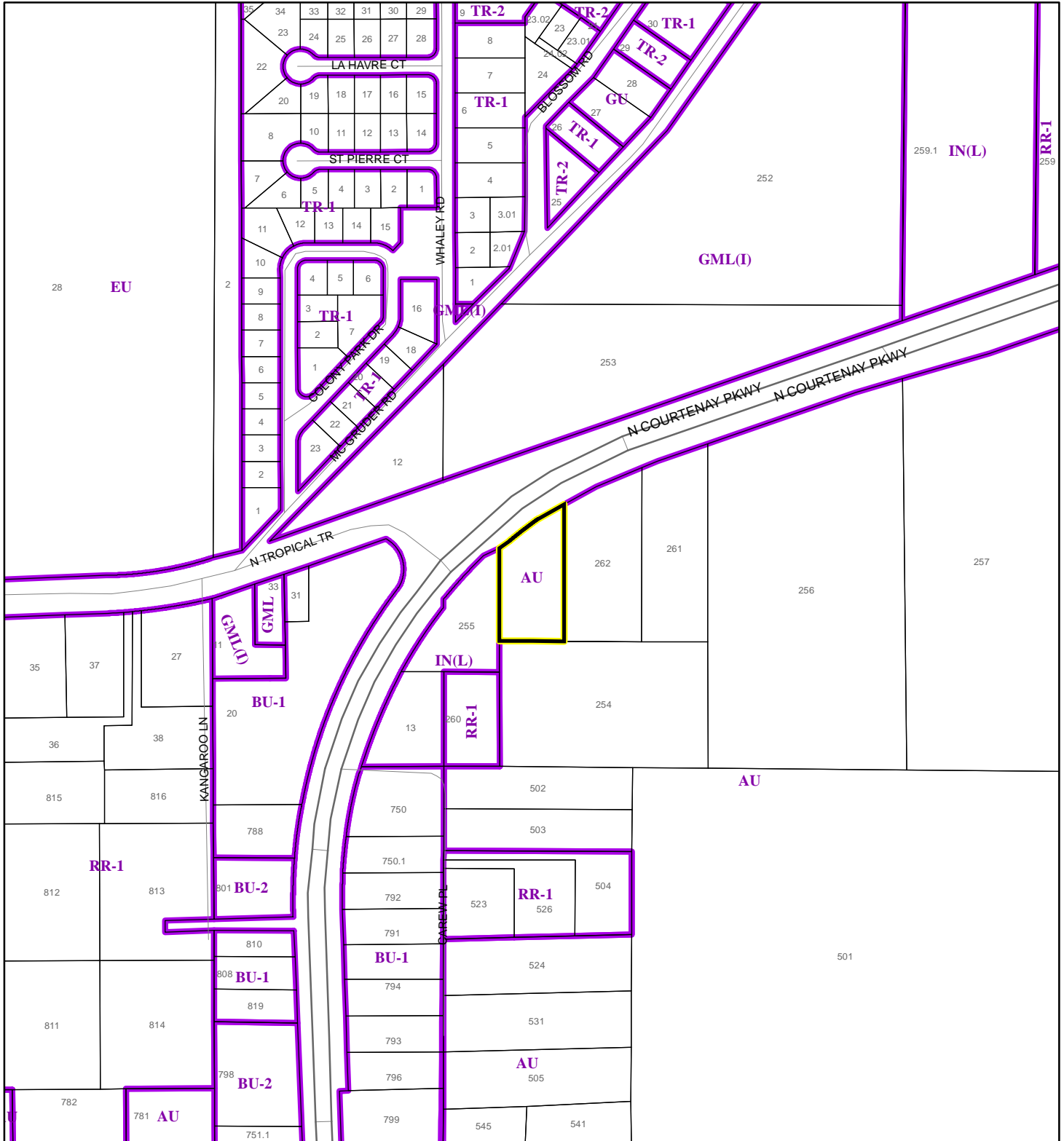
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/21/2022

— Buffer
— Subject Property

ZONING MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust
22Z00038



1:4,800 or 1 inch = 400 feet

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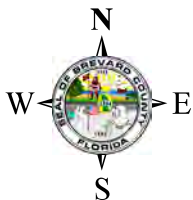
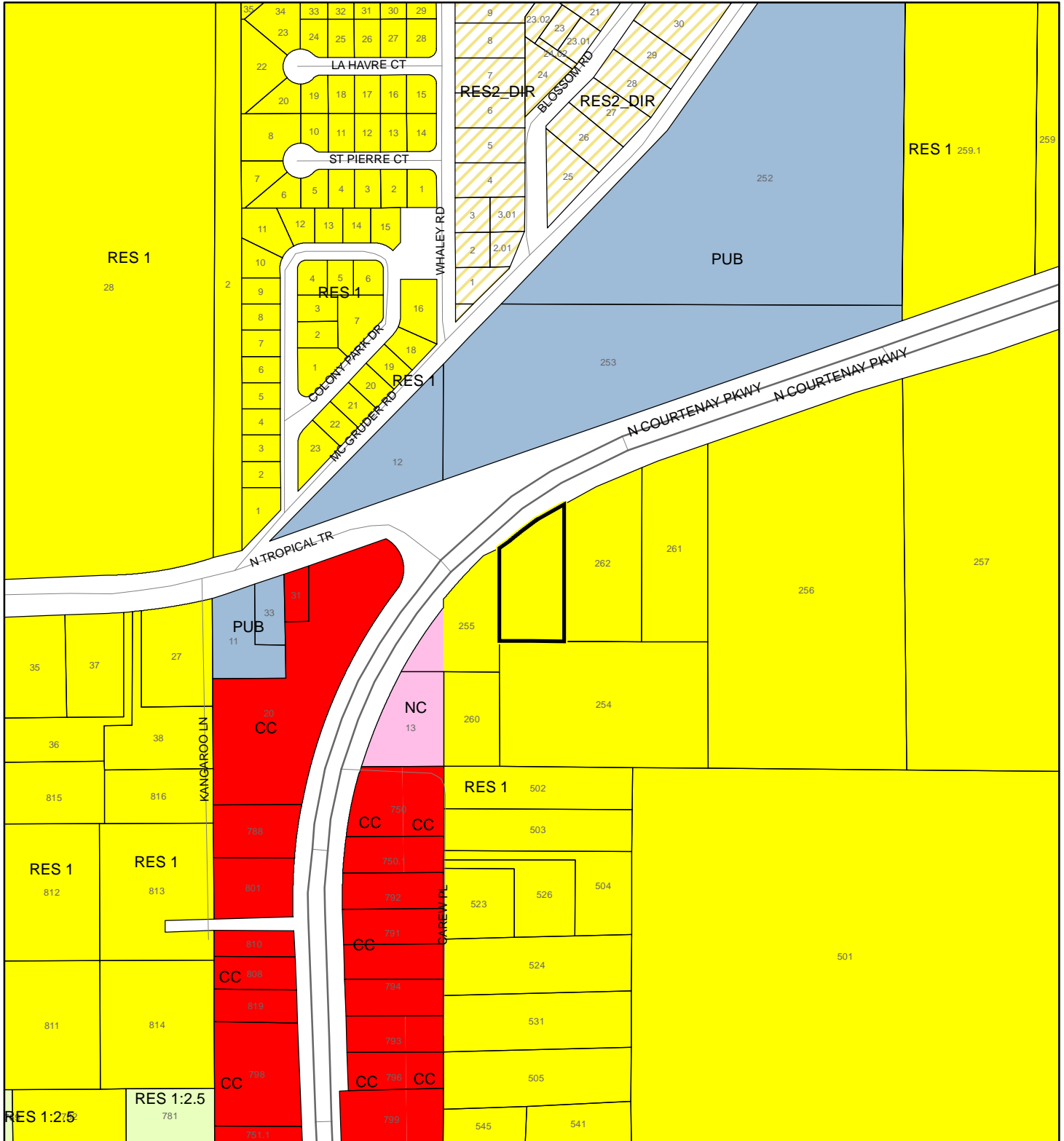
Subject Property

Parcels

Zoning

FUTURE LAND USE MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust
22Z00038



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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AERIAL MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust
22Z00038




1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2021

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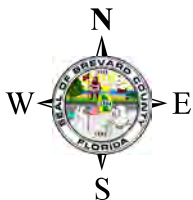
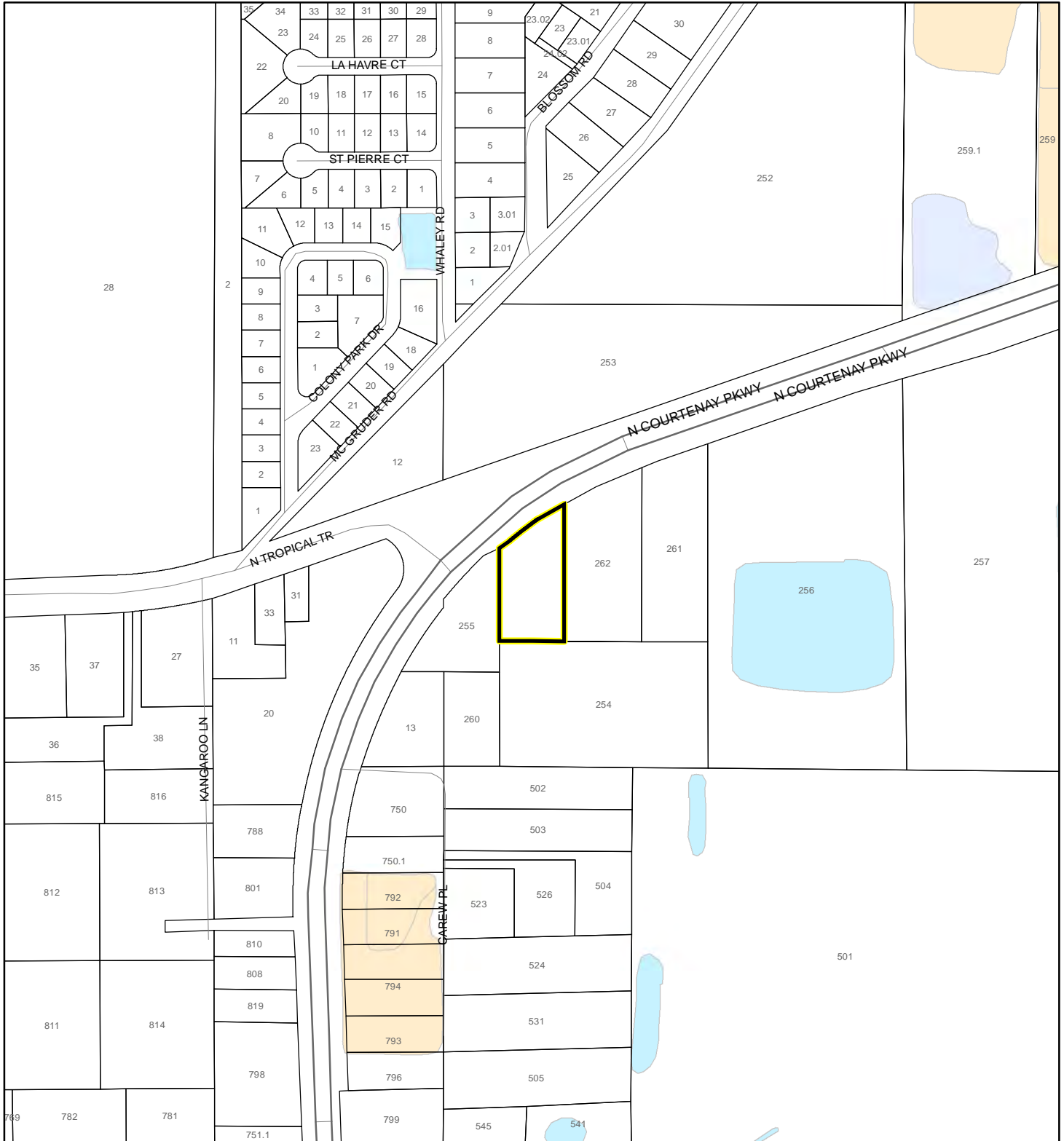
Produced by BoCC - GIS Date: 7/21/2022

 Subject Property

 Parcels

NWI WETLANDS MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust
22Z00038



1:4,800 or 1 inch = 400 feet

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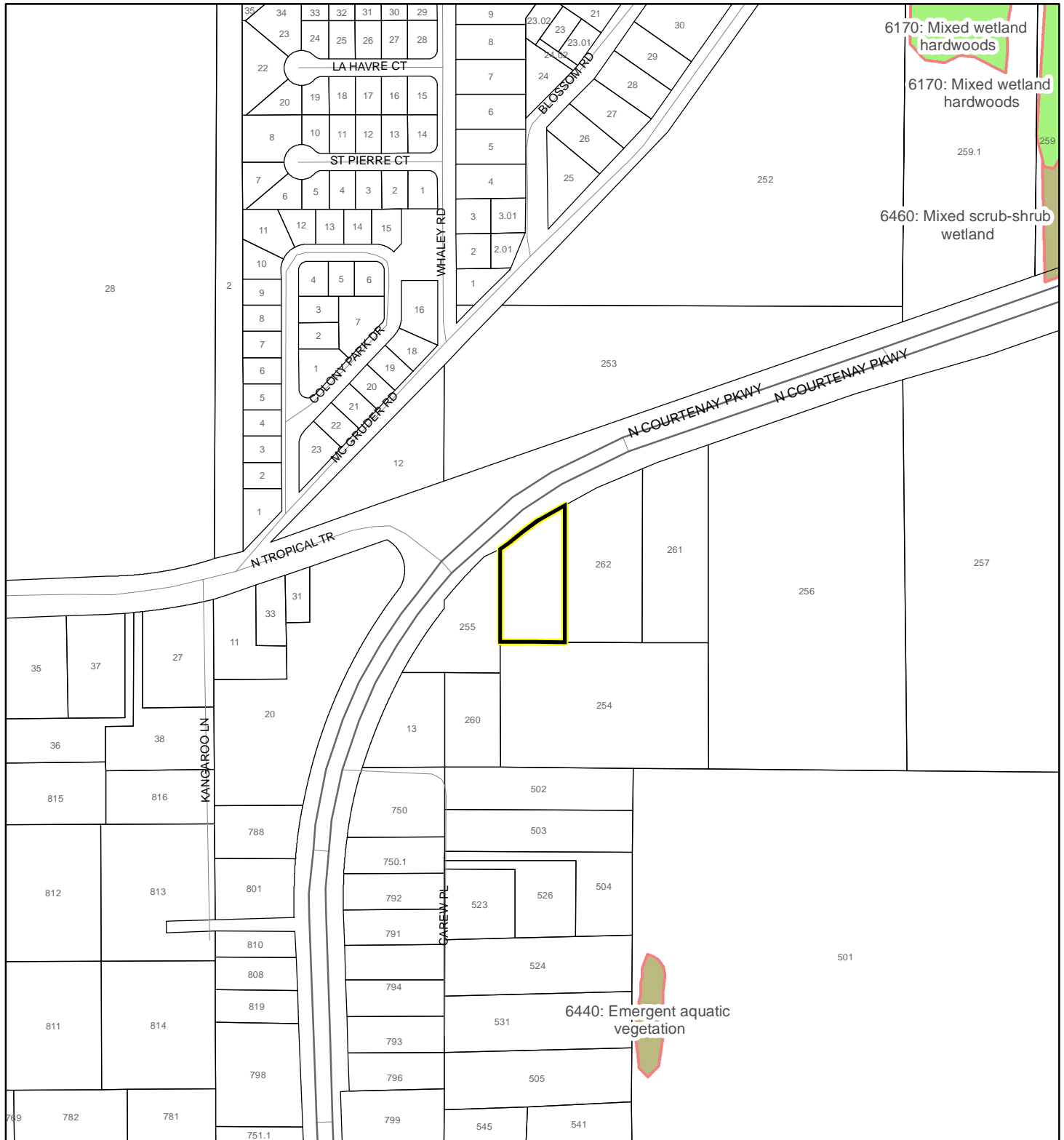
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust

22Z00038



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

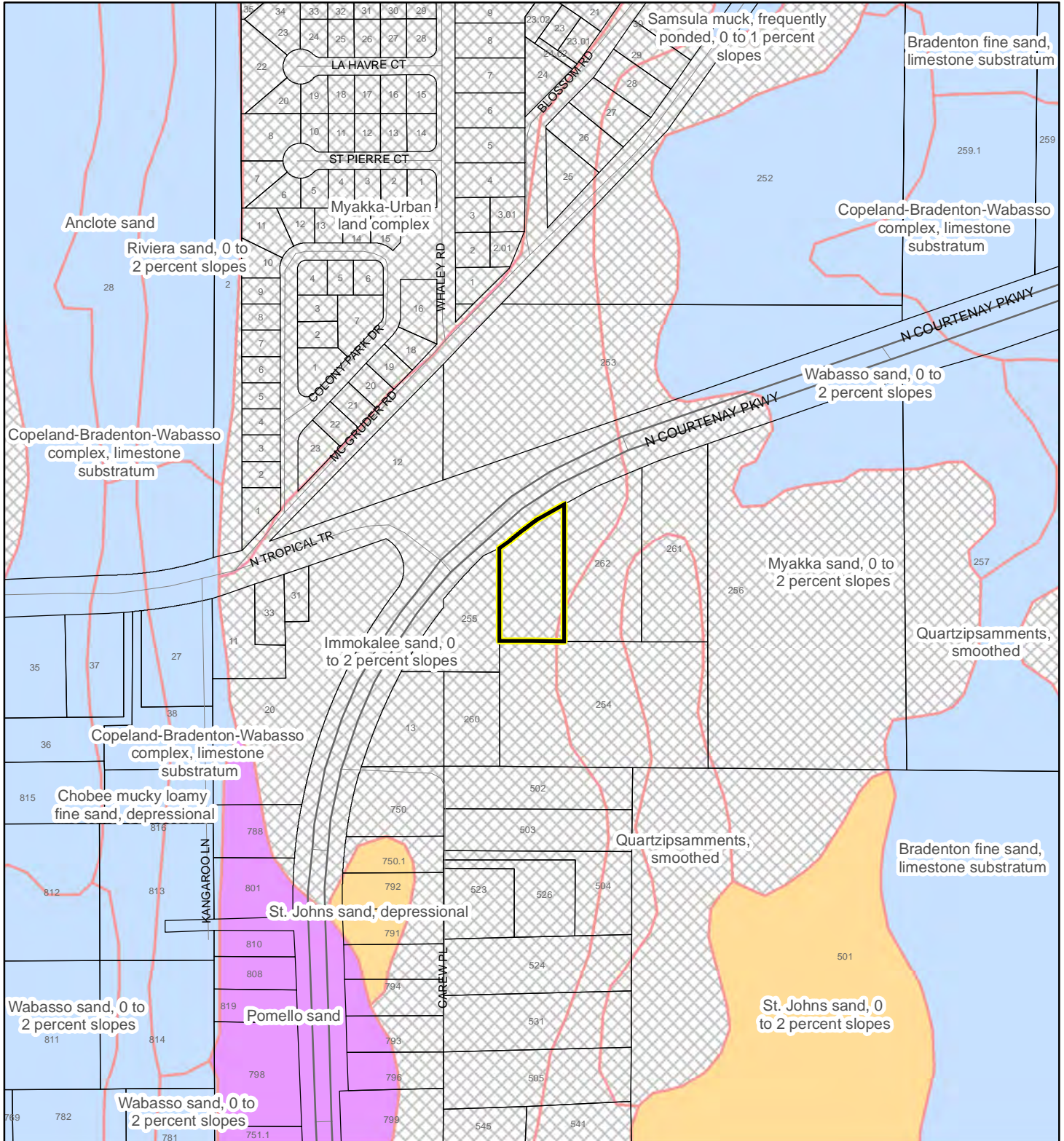
Subject Property

Parcels

USDA SCSSS SOILS MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust

22Z00038



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/20/2022

USDA SCSSS Soils

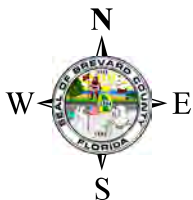
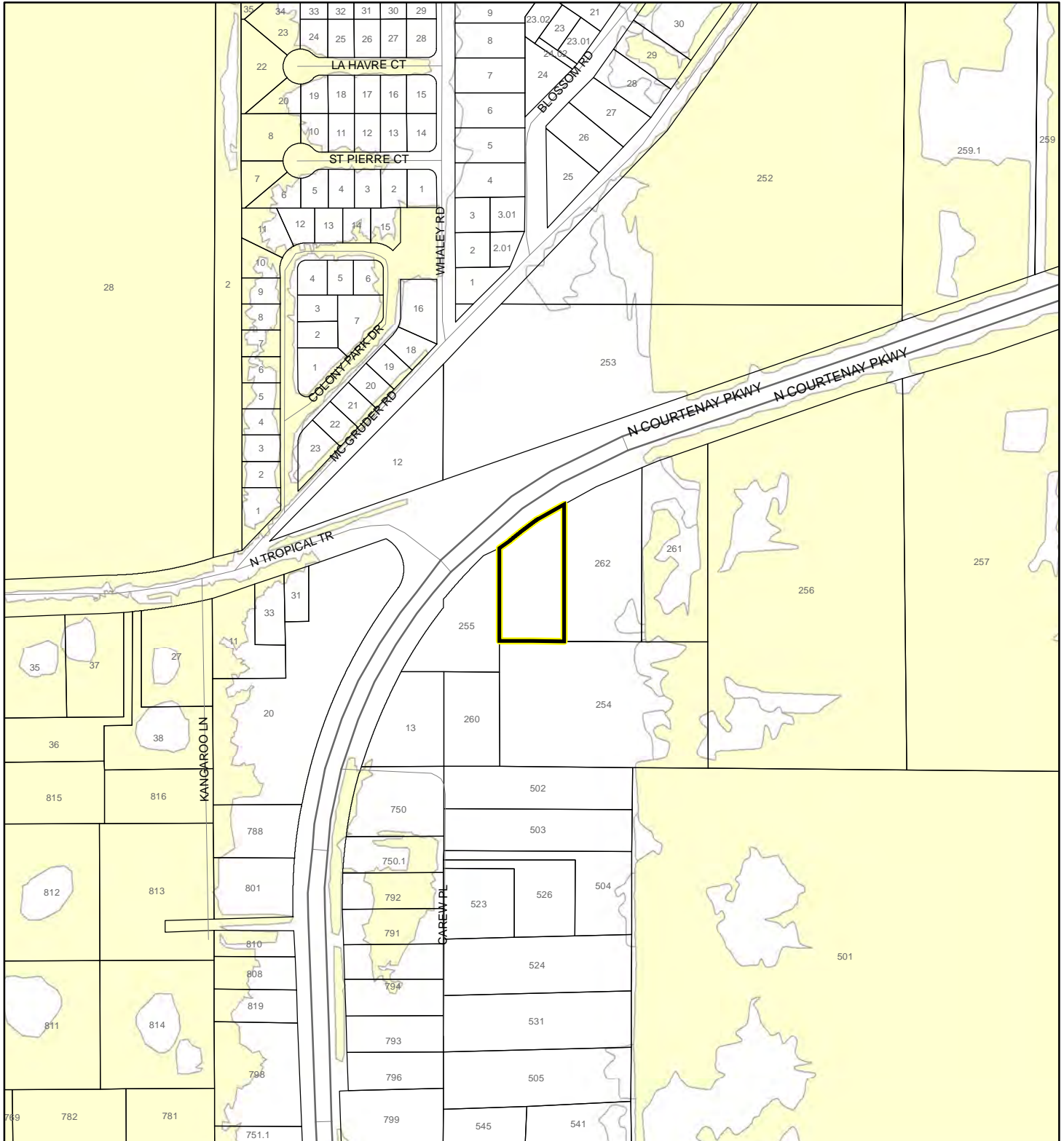
- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

FEMA FLOOD ZONES MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust
22Z00038



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/20/2022

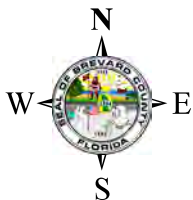
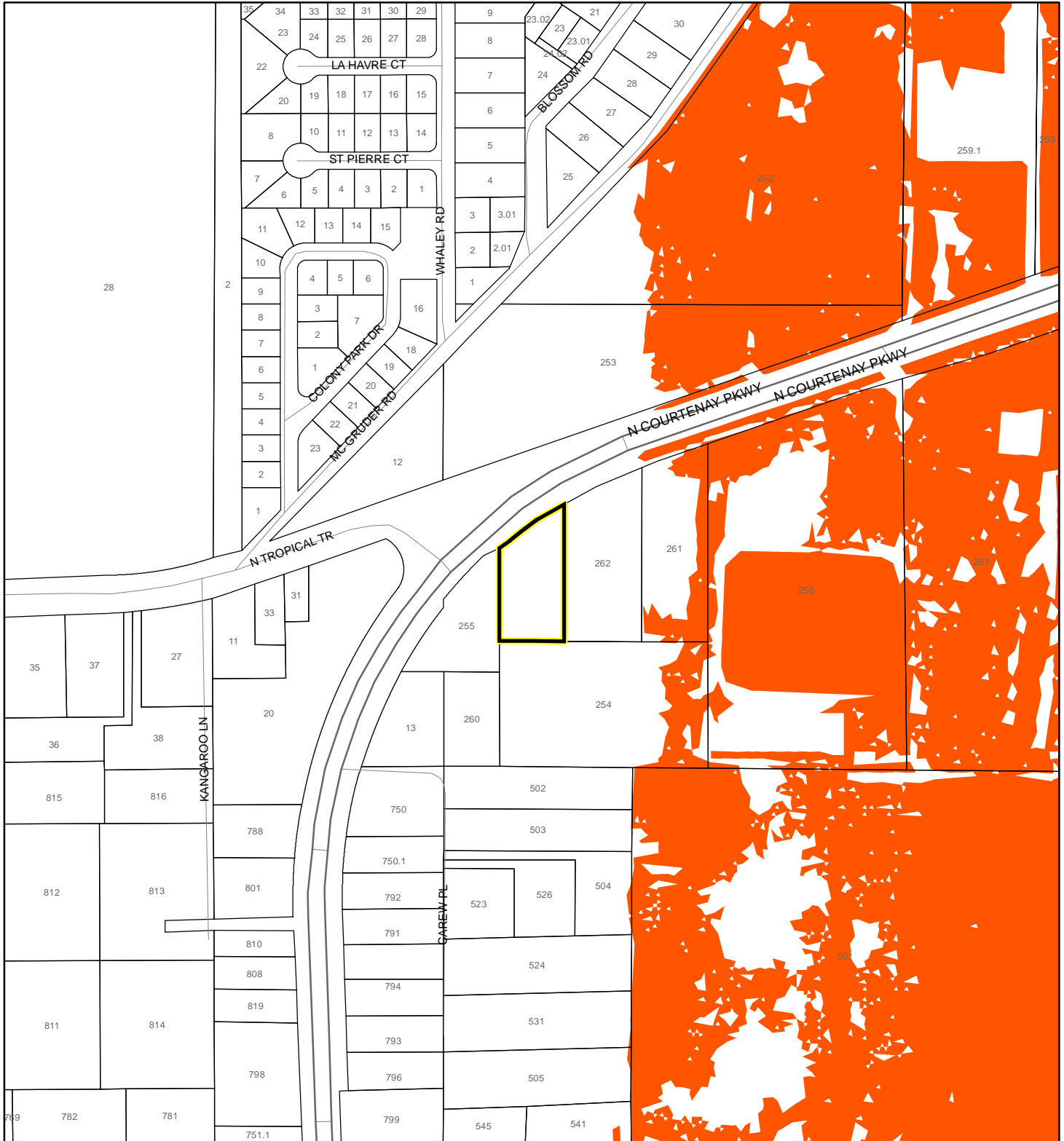
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust

22Z00038



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

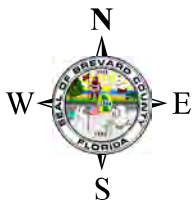
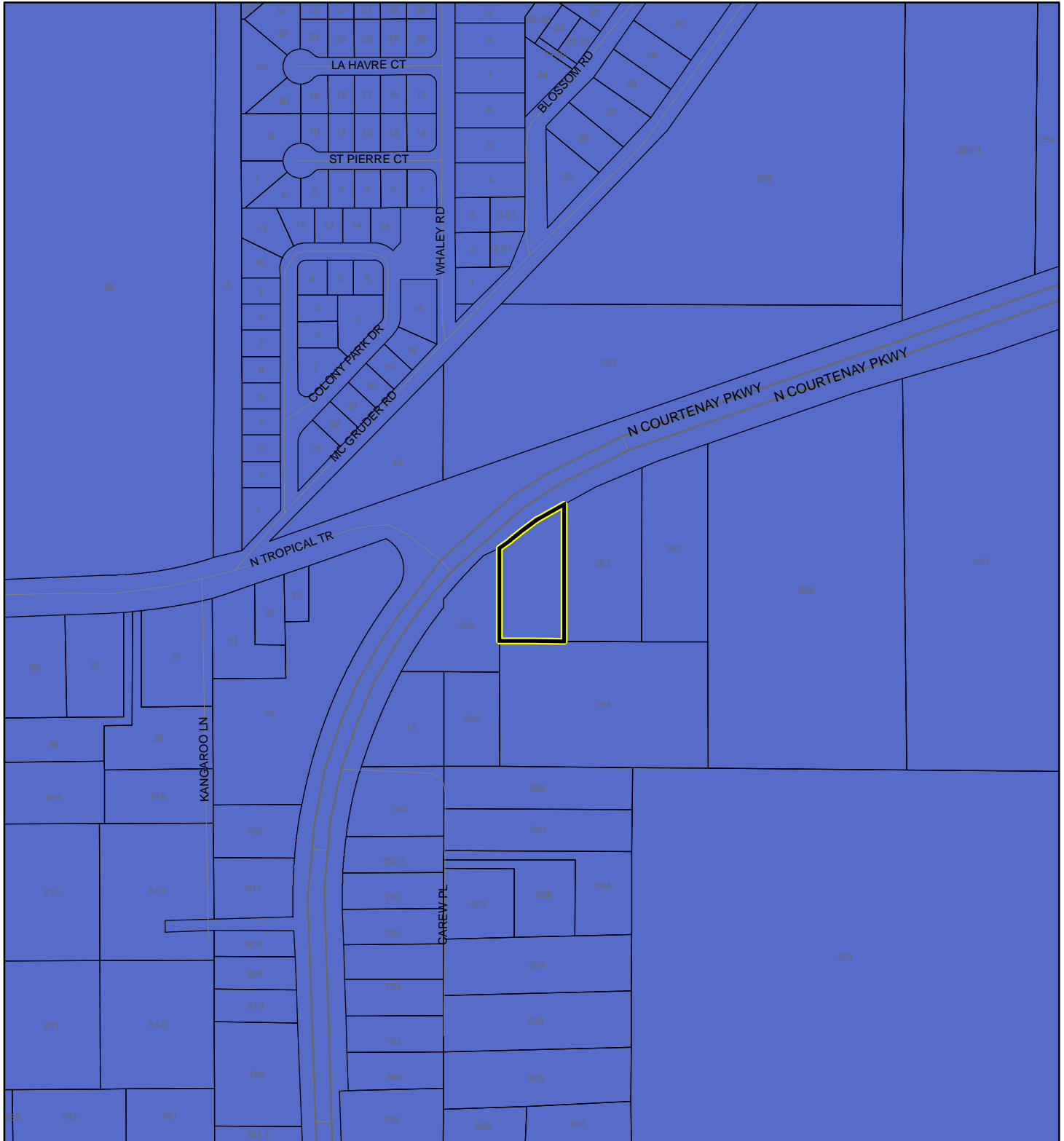
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust

22Z00038



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

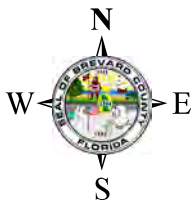
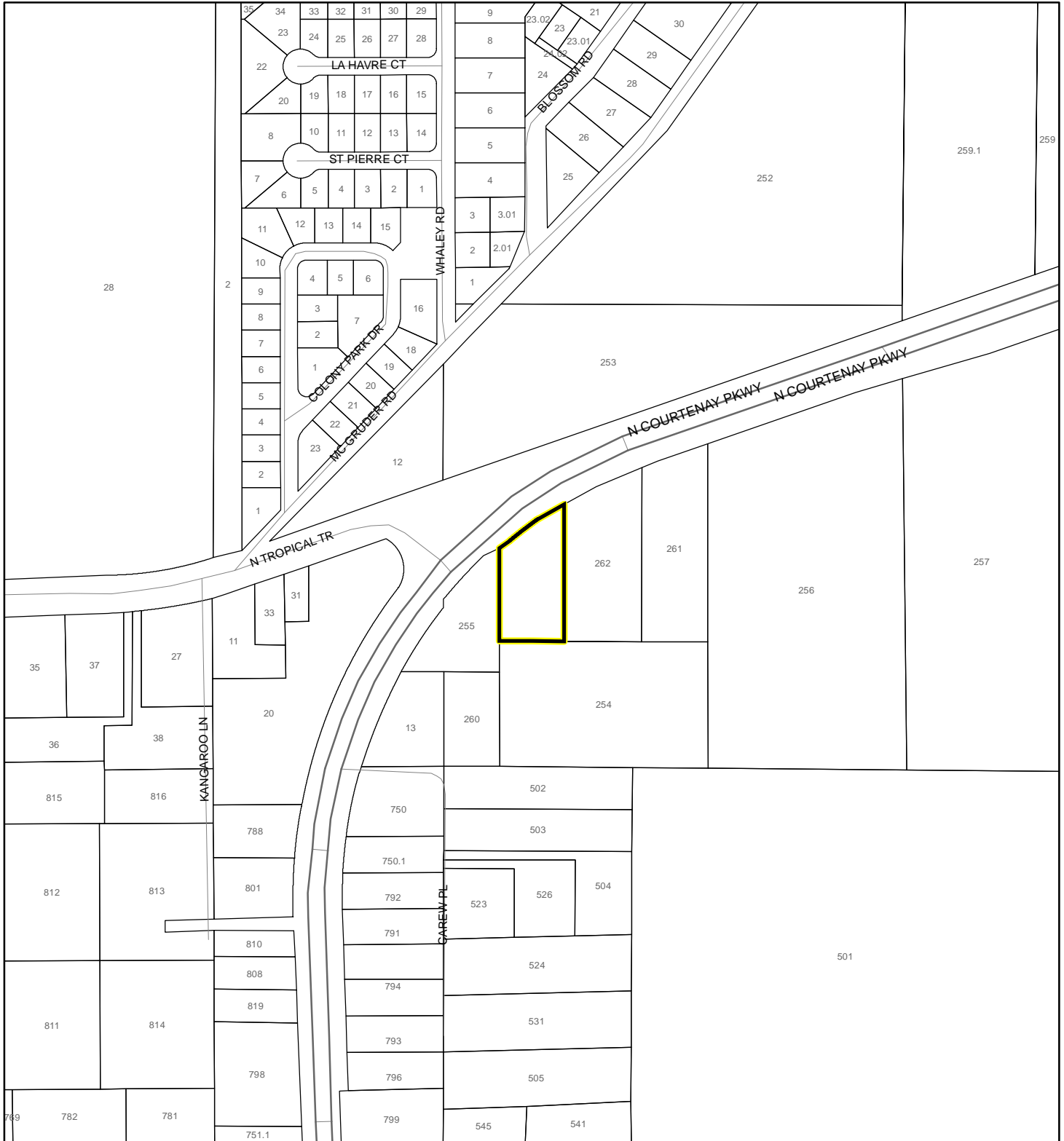
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust
22Z00038




1:4,800 or 1 inch = 400 feet

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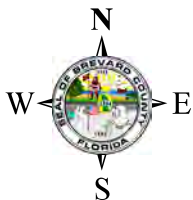
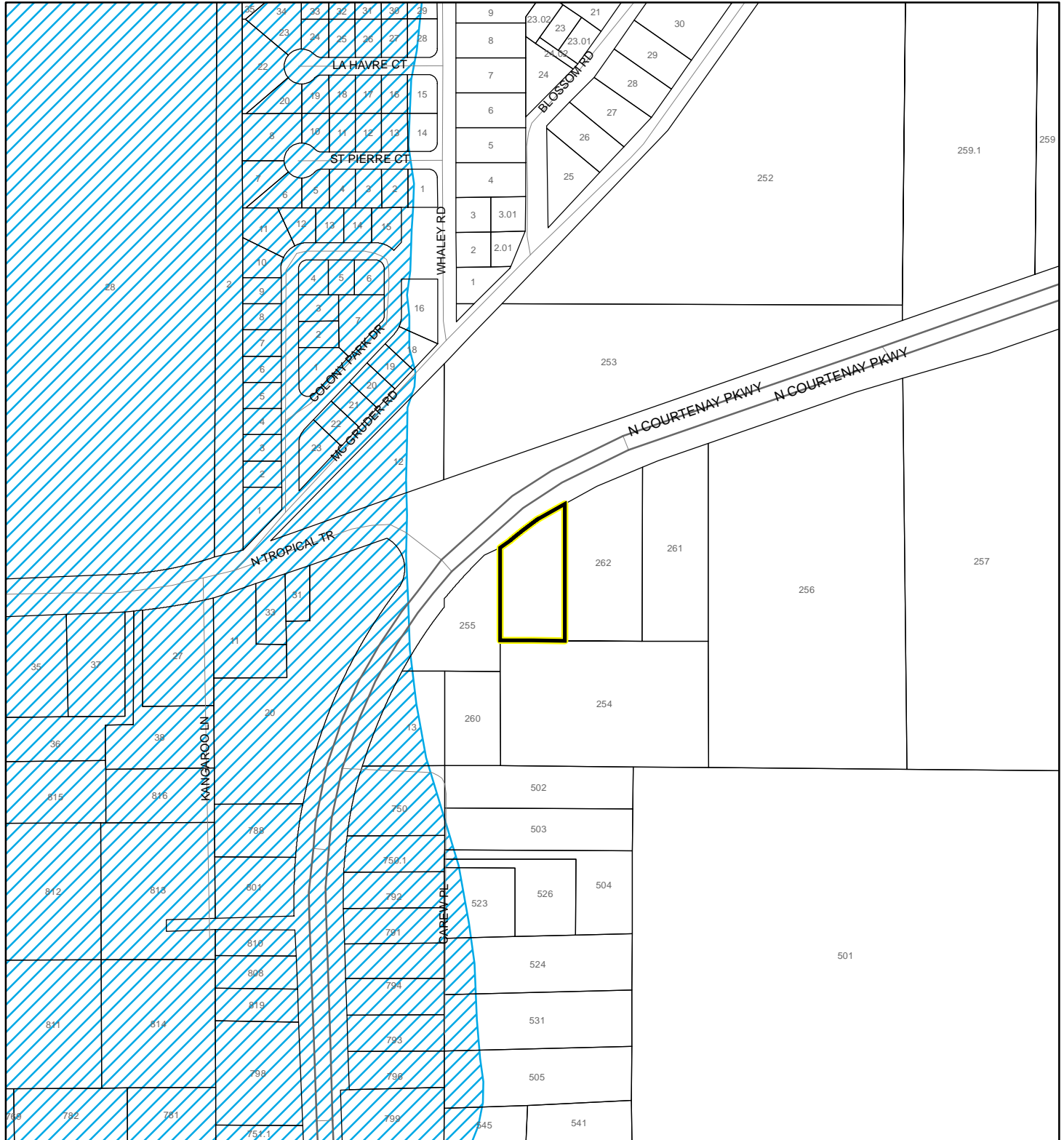
 Subject Property

 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust
22Z00038



1:4,800 or 1 inch = 400 feet

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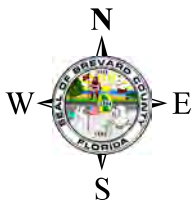
Produced by BoCC - GIS Date: 7/20/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust

22Z00038



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/20/2022

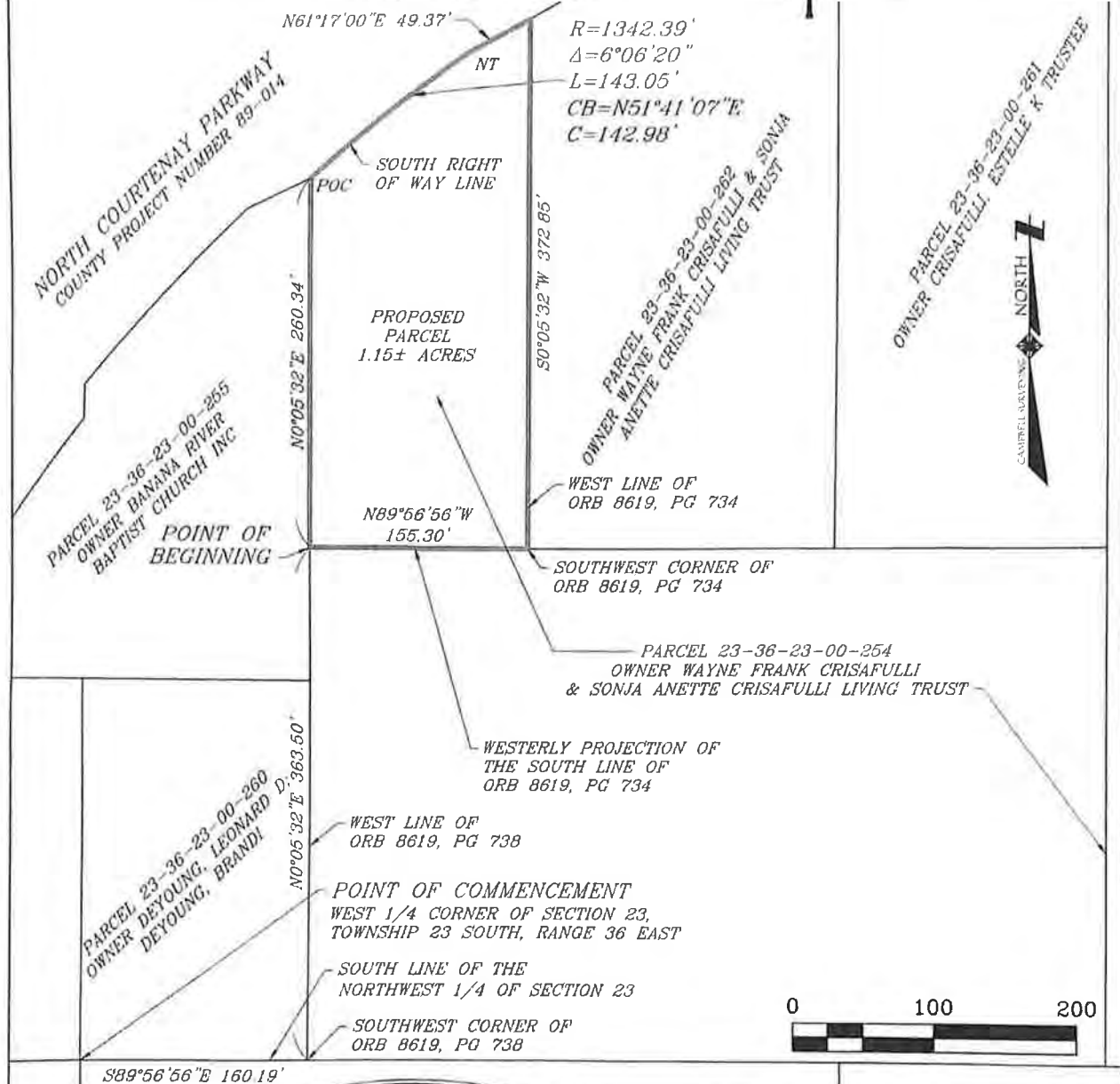
SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

Sketch of Description



SHEET 2 OF 2

SCALE: 1" = 100'
SEE SHEET 1 FOR DESCRIPTION

SITE LOCATION : North Courtenay Parkway, Merritt Island, FL 32953

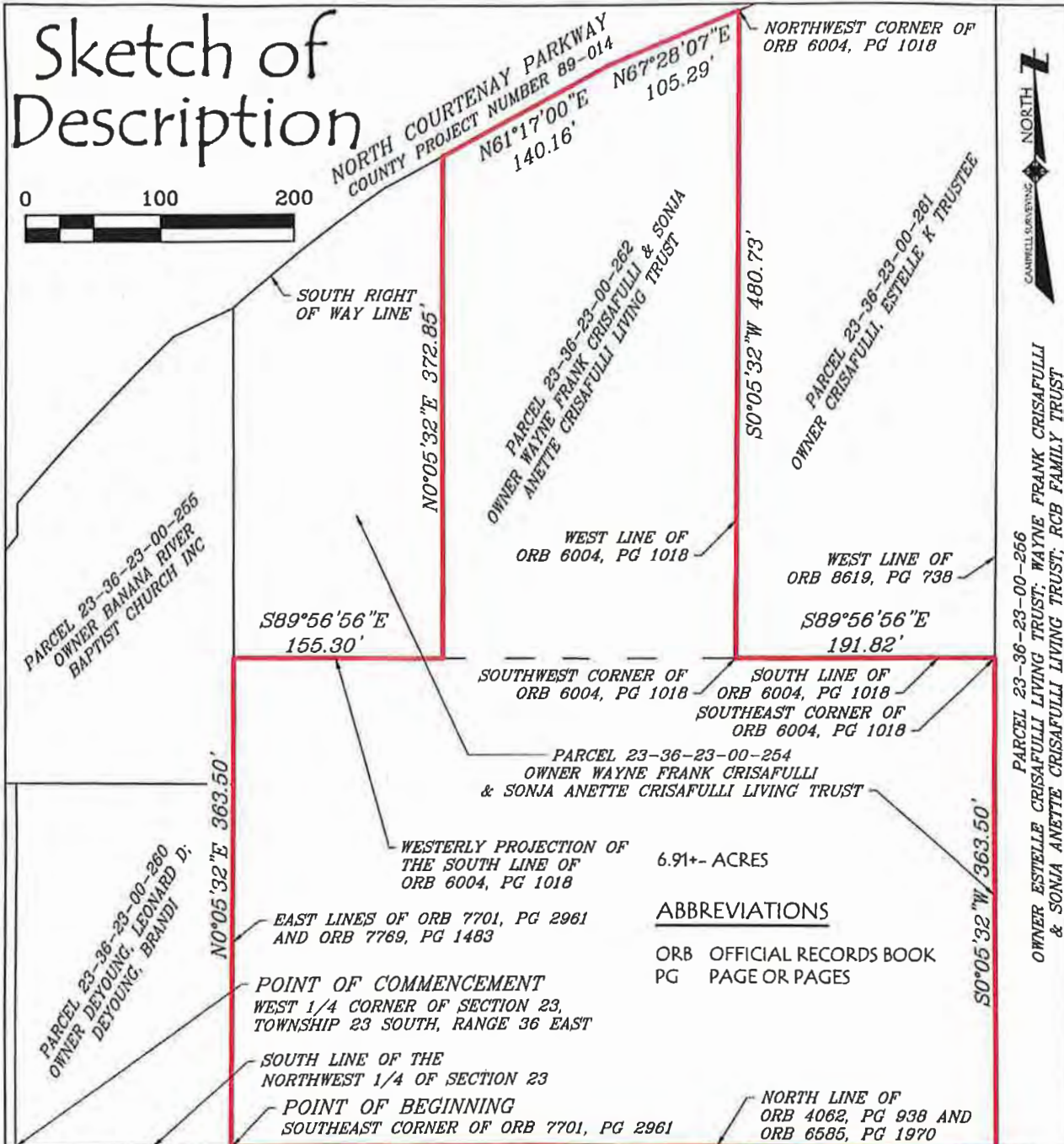
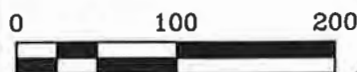
115 Alma Blvd., Suite 102
Mailing Address: P.O. Box 541866
Merritt Island, FL. 32954
Phone: (321) 507.4811
LICENSED BUSINESS #7978

Sketch of Description

PREPARED FOR AND CERTIFIED TO:
SHELLY CRISAFULLI

DWG. 2020-239-North Cove	CHECKED BY: J.R. Campbell	SECTION 23
PROJECT NO. 2020-239	DRAWN BY: DASH	TOWNSHIP 23 SOUTH
REVISIONS	DATE	DESCRIPTION

Sketch of Description



6.91+- ACRES

ABBREVIATIONS

ORB OFFICIAL RECORDS BOOK
PG PAGE OR PAGES



115 Alma Blvd., Suite 102
Mailing Address: P.O. Box 541866
Merritt Island, FL. 32954
Phone: (321) 507.4811
LICENSED BUSINESS #7978

SITE LOCATION:
North Courtenay Parkway,
Merritt Island, FL 32953

SHEET 2 OF 2

SCALE: 1" = 100'

SEE SHEET 1 FOR DESCRIPTION

PARCEL 23-36-23-00-502
OWNER ZNOJ, JEFFREY M;
ZNOJ, PEGGY

PARCEL
23-36-23-00-501
OWNER ISLAND MIST
GROVE LLC

Sketch of Description

PREPARED FOR AND CERTIFIED TO:
WAYNE FRANK CRISAFULLI & SONJA ANETTE CRISAFULLI LIVING TRUST

DWG: 2020-239, North Cass	CHECKED BY: J.R. Campbell	SECTION 23
PROJECT NO.: 2020-239	DRAWN BY: DASH	TOWNSHIP 23 SOUTH
DATE: 6/1/2022		RANGE 36 EAST

Sketch of Description

LEGAL DESCRIPTION:

A parcel of land lying within the Northwest 1/4 of Section 23, Township 23 South, Range 36 East of Brevard County, Florida; and being more particularly described as follows:

Commence at the West 1/4 corner of Section 23, Township 23 South, Range 36 East of Brevard County, Florida; thence S89°56'56"E, along the South line of the Northwest 1/4 of said Section 23, a distance of 160.19 feet to the Southeast corner of lands described in Official Records Book 7701, page 2961 as recorded in the Public Records of said county, for a Point of Beginning; thence departing said South line of the Northwest 1/4 of said Section 23, run N0°05'32"E, along the East line of said lands described in Official Records Book 7701, page 2961 and the East line of lands described in Official Records Book 7769, page 1483 of said Public Records, a distance of 363.50 feet; thence departing said East line, run S89°56'56"E, along the Westerly projection of the South line of lands described in Official Records Book 6004, page 1018 of said Public records, a distance of 155.30 feet; thence N0°05'32"E a distance of 372.85 feet to a point lying on the South right of way line of North Courtenay Parkway, per North Courtenay Parkway Widening Project, County Project Number 89-014, as prepared by Stottler Staggs & Associates, last dated February 9, 1990, Job Number 89143; thence along said South right of way line the following two (2) courses: run N61°17'00"E a distance of 140.16 feet; thence N67°28'07"E a distance of 105.29 feet to the Northwest corner of aforesaid land described in Official Records Book 6004, page 1018; thence departing said South right of way line, run S0°05'32"W, along the West line of said lands described in Official Records Book 6004, page 1018 of said Public Records, a distance of 480.73 feet to the Southwest corner of said lands described in Official Records Book 6004, page 1018; thence S89°56'56"E, along the aforesaid South line of said lands described in Official Records Book 6004, page 1018, a distance of 191.82 feet to the Southeast corner of said lands described in Official Records Book 6004, page 1018, lying on the West line of land described in Official Records Book 8619, Book 738 of said Public Records; thence S0°05'32"W, along said West line of land described in Official Records Book 8619, Book 738, a distance of 363.50 feet to the Southwest corner of said land described in Official Records Book 8619, Book 738; thence N89°56'56"W, along the North line of land described in Official Records Book 6585, Book 1970 and the North line of land described in Official Records Book 4062, Book 938, a distance 567.12 feet, to the Point of Beginning. Containing therein 6.91 acres, more or less

SURVEYOR'S NOTES:

1. The intended purpose of this sketch of description is to delineate an outparcel from the parent tract.
2. The undersigned surveyor has not been provided a current title opinion or abstract of matters affecting title or boundary to the subject property.
3. This sketch of description does not reflect or determine ownership.
4. This sketch of description meets or exceeds the minimal horizontal control accuracy of 1:7500 for a Suburban survey.
5. Measurements shown hereon are expressed in feet and decimal parts thereof.
6. Dimensions shown are taken at the exposed areas of improvements, underground footers, foundations, utilities or other subsurface structures are not located for the purpose of this sketch of description.
7. Bearings shown hereon are based on the South line of the Northwest 1/4 of Section 23, Township 23 South, Range 36 East of Brevard County, having a bearing of S89°56'56"E.
8. This drawing is not valid unless bearing an original signature and embossed land surveyor's seal.



115 Alma Blvd., Suite 102
Mailing Address: P.O. Box 541866
Merritt Island, FL 32954
Phone: (321) 507.4811
LICENSED BUSINESS #7978

SHEET 1 OF 2

SEE SHEET 2 FOR SKETCH

SITE LOCATION : North Courtenay Parkway, Merritt Island, FL 32953

I hereby certify that the survey shown hereon is true and correct based on actual measurements taken in the field. This survey meets the Standards of Practice as set forth by the Florida Board of Professional Land Surveyors found in Chapter 51-17.052, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

John R. Campbell
John R. Campbell
Professional Surveyor & Mapper #2351
State of Florida

Sketch of Description

PREPARED FOR AND CERTIFIED TO:
WAYNE FRANK CRISAFULLI & SONJA ANETTE CRISAFULLI LIVING TRUST

DWG: 2020-239-North-Cor	CHECKED BY: J.R. Campbell	SECTION 23
PROJECT NO: 2020-239	DRAWN BY: DASH	TOWNSHIP 23 SOUTH
	DATE: 6/1/2022	RANGE 36 EAST
REVISIONS	DATE	DESCRIPTION

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, September 8, 2022**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

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

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

Approval of August 11, 2022, Minutes

Motion by Gina Lindhorst, seconded by Jim Carbonneau, to approve the minutes from August 11, 2022. The motion passed unanimously.

Wayne Frank Crisafulli and Sonja Anette Crisafulli Living Trust (Kim Rezanka)

A change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential). The property is 1.15 +/- acres, located on the south side of N. Courtenay Parkway, approx. 104 ft. east of N. Tropical Trail. (No assigned address. In the North Merritt Island area.) (22Z00038) (Tax Account 2316453) (District 2)

Kim Rezanka, Lacey Lyons Rezanka, 1290 U.S. Highway 1, Rockledge - The applicants are requesting a rezoning from AU to RR-1. A survey was submitted with the application showing what the property would look like after it is split for their daughter to build her home. [Ms. Rezanka submitted a survey of the subject property to the board and to staff. The survey can be found in file 22Z00038, located in the Planning & Development Department.] As stated, this is a request from AU to RR-1, carving out a 1.15-acre parcel from a 6.83-acre parcel. The remainder of the larger parcel will be joined with the parcel to the south, so there will be no more nonconforming lots remaining. The reason for the request is to allow their daughter to have a piece of property to build a home. The request is consistent with the Future Land Use of Residential 1, and it is consistent with the variety of houses and uses in the neighborhood. The parcel has residential to the east, residential to the north, residential to the west, and a mix of residential and commercial to the south. The acreage of parcels in the area range from the Crisafulli's property of 6.83 acres, to some of the manufactured homes to the north, in Colony Park, from .20 to 1/3 of an acre, and going to the east along N. Tropical Trail there are a variety of lot sizes and uses, and this is just to allow one more home. To the east of this property is the Baptist church and manufactured homes, to the west is the Crisafulli homestead, and to the north is manufactured homes as well. We believe this is consistent with the Comprehensive Plan, it meets the Land Development Regulations for creating a 1.15-acre parcel. We would ask that you approve the rezoning request.

Mary Hillberg - You're combining the other properties into one?

Kim Rezanka - That will have to happen, we are not rezoning anything else, and if that would be a condition of the rezoning, or if you need a BDP to that extent, it could be done.

Mary Hillberg - I just wondered if you're including that one.

Kim Rezanka - It has to be done, otherwise the parcel to the south would be landlocked, so it's not being rezoned, only the 1.15 acres is being rezoned. There is RR-1 to the south and southwest, and there is a variety of other residential zonings in the area.

Chris Cook - When was the property split?

Kim Rezanka - It hasn't been split yet. That will occur if the zoning is approved.

Public comment.

Kim Smith - I'm here representing the North Merritt Island Homeowners Association, PO Box 542372, Merritt Island. Regarding this request of the Crisafulli's application, 22Z00038, the homeowner's association had no objections.

Mary Hillberg - Ok, back to the board. Is there a motion?

Jim Carbonneau - I make a motion to approve.

Jack Ratterman - I'll second.

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

Upon consensus, the meeting adjourned at 6:15 p.m.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

9/12/2022

Subject:

Andrea Bedard and Nicholas Boardman (Kim Rezanka) request a change of zoning classification from AU to RU-2-4 and RU-2-6. (22Z00015) (Tax Account 2511124) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to RU-2-4 (Low Density Multi-Family Residential) and RU-2-6 (Low Density Multi-Family Residential).

Summary Explanation and Background:

The applicant requests to rezone the entire 1.01 acre subject property from AU to RU-2-4 on the 0.34-acre portion of the site designated as Residential 4 Future Land Use and RU-2-6 on the 0.67-acre portion of the site designated as Neighborhood Commercial Future Land Use.

Both RU-2-4 and RU-2-6 are multi-family residential zoning classifications. The primary difference between the two zoning classifications is the allowable density. It permits multi-family residential development or single-family residences at a density of up to four/six units per acre on 7,500 square-foot lots. The minimum living area for a single-family dwelling unit is 1,100 square feet. For a duplex, the minimum living area 1,150 square feet, and for an apartment, the minimum living area is 500 square feet.

The area between the East side of US Highway 1 and Indian River Lagoon largely consists of commercial (BU-1 & BU-2), estate residential (EU & EU-2) and agricultural (AU) zoning classifications, with the commercial zoning classifications fronting US Highway 1 and the estate zoning classification along Rockledge Drive. The closest multi-family zoning is located approximately 1,800 feet south of the subject site and is developed as a duplex with RU-2-10 zoning. Resort dwellings and apartments are allowed as a permitted use in both RU-2-4 and RU-2-6 zoning classifications.

The Board may wish to consider whether the introduction of multi-family zoning classifications is consistent and compatible with the surrounding area.

The Board of County Commissioners will consider the request on **Thursday, October 6, 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:

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

22Z00015

Nicholas Boardman & Andrea Bedard

**AU (Agricultural Residential) to RU-2-4 (Low-density Multiple-family Residential)
and RU-2-6 (Low-density Multiple-family Residential)**

Tax Account Number: 2511124
Parcel I.D.: 25-36-23-00-506
Location: North side of Coquina Road, approximately 200 feet east of Highway 1
(District 2)
Acreage: 1.01 acres

Planning and Zoning Board: 09/12/2022
Board of County Commissioners: 10/06/2022

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	RU-2-4 and RU-2-6
Potential*	1 SF unit	RU-2-4 portion: 1 SF units RU-2-6 portion: 4 SF units
Can be Considered under the Future Land Use Map	YES NC & RES 4	YES NC & RES 4

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

Background and Purpose of Request

The applicant requests to rezone the entire 1.01 acre subject property from AU (Agricultural Residential) to RU-2-4 (Low-density Multiple-family Residential) on the 0.34-acre portion of the site designated as RES 4 FLU and RU-2-6 (Low-density Multiple-family Residential) on the 0.67-acre portion of the site designated as NC FLU.

According to the Property Appraiser's record, the parcel is developed with a single-family residence built in 1951 and an accessory building. AU is the original zoning classification.

Land Use

The subject property has split Future Land Use. The subject property is currently designated as Neighborhood Commercial (NC) and Residential 4 (RES 4). The existing AU zoning can be considered consistent with the Neighborhood Commercial (NC) and Residential 4 (RES 4) Future Land Use designations.

The proposed RU-2-4 zoning can be considered consistent with the Residential 4 (RES 4) Future Land Use designation and the proposed RU-2-6 zoning can be considered consistent with the Neighborhood Commercial (NC) Future Land Use designation.

Applicable Land Use Policies

FLUE Policy 1.7 - Residential 4 (maximum of 4 dwelling 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 the Future Land Use Element.

FLUE Policy 2.5 – Activities Permitted in Neighborhood Commercial (NC) Future Land Use Designations

Neighborhood Commercial (NC) development activities are intended to be low-impact in nature and serve the needs of the immediate residential area. Intrusion of these land uses into surrounding residential areas shall be limited. Existing BU-1-A uses, which were established as of the adoption date of this provision shall be considered consistent with this policy. Development activities which may be considered within Neighborhood Commercial (NC) Future Land Use designation, provided that listed criteria are met, include the following:

- a) Professional offices (no drive through lanes permitted);
- b) Personal Services (no drive through lanes permitted);
- c) Convenience stores (no drive through lanes permitted);
- d) Residential uses;
- e) Institutional uses;
- f) Recreational uses;
- g) Public facilities; and
- h) Transitional uses pursuant to Policy 2.12.

FLUE Policy 2.10 – Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

Criteria:

- A. Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.
- B. Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

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.
- E. Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system.
- F. The County shall not extend public utilities and services outside of established service areas to accommodate new development in Residential 2, Residential 1 and Residential 1:2.5 land use designations, unless an overriding public benefit can be demonstrated. This criterion is not intended to preclude acceptance of dedicated facilities and services by the County through MSBU's, MSTU's and other means through which the recipients pay for the service or facility.

The subject site is within the City of Cocoa's service area for potable water and within the City of Rockledge's service area for centralized sewer. Connection to centralized sewer and potable water is required under Criterion C, above.

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 develop multi-family residential units on the subject property. Proposed development will be reviewed at the site plan review stage.

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 site fronts Coquina Road, an east to west local roadway that serves the residential community to the east along the Indian River Lagoon. There are CC Future Land Uses at the intersection of Coquina Road and S. U.S. Highway 1.

During an update to the Comprehensive Plan in 2001, the Future Land Use designation of mixed use was removed county-wide and replaced with either NC or CC based upon the densities and intensities of the underlying zoning classification. At the time of the Future Land Use change, CC was designated along this segment of S. U.S. Highway 1 with approximately two hundred feet (200') of NC to the east.

Currently, the NC Future Land Use designation serves as a transitional buffer between the single-family residences to the east and the commercial development to the west along S. U.S. Highway 1. In order for FLUE Policy 2.10 to apply, the scale and intensity of residential/mixed use development in commercial land use designations must be compatible with abutting residential development which is EU. The closest multi-family zoning is RU-2-10 located approximately 1,800 feet south of the subject site.

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

It appears no changes to the immediate area have occurred within the last three years.

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

A small-scale comprehensive plan amendment to change the future land use to CC (Community Commercial) and a rezoning to BU-2 with a BDP (Binding Development Plan) for a proposed self-storage facility were approved March 5, 2022 on approximately 12 acres adjacent to the subject property on the north side. Site plan review and approval are the next steps for the proposed development.

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.

East of the subject property is primarily single-family residences with zoning classifications of EU and EU-2. There is also limited commercial development along US Highway 1 with zoning classifications of BU-1 and BU-2, and a motel with a zoning classification of TU-1(16). North of the subject property is vacant commercial land (proposed self-storage facility) and a portion of a developed single-family residential lot; to the east are single-family residences; to the south is a retail store and a single-family residence; and to the west is a motor court. This request may be considered an introduction of multi-family zoning into the area.

The current AU zoning classification on the property is substandard as it is only 1.01 acres in size. AU zoning 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 permits all agricultural pursuits including the packing and processing, and sale of commodities raised on the property as well as allowing the grazing of animals, fowl and beekeeping.

Both RU-2-4 and RU-2-6 zoning classifications are multi-family residential zoning classifications. The only difference between the two zoning classifications is the allowable density. It permits multi-family residential development or single-family residences at a density of up to four/six units per acre on 7,500 square foot lots. Resort dwellings and apartments are allowed as a permitted use in both zoning classifications. In multi-family zoning classifications, the minimum living area for a single-family dwelling unit is 1,100 square feet. For a duplex, the minimum living area 1,150 square feet, and for an apartment, the minimum living area is 500 square feet. The closest multi-family zoning is a located approximately 1,800 feet south of the subject site and is developed as a duplex with RU-2-10 zoning.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Vacant Land (proposed self-storage facility) & a Single-Family Residence	BU-2 & AU	CC & RES 4
South	Retail Store & a Single-Family Residence	BU-1, AU & EU	CC, NC & RES 4
East	Single-Family Residences	EU & EU-2	RES 4
West	Bonsai Motor Court	TU-1(16)	CC

BU-1 zoning classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. Resort dwelling use is allowed as a permitted use in the BU-1 classification.

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.

TU-1 is a general tourist commercial zoning classification which permits hotels and motels among its listed uses. It also permits BU-1-A type retail uses in conjunction with and accessory to a hotel or motel with a minimum of 25 rooms. The minimum lot size is 15,000 with a minimum width of 100' and minimum depth of 150'. Maximum density allowances range from 8 units per acre (in the South Beaches area) to 30 units per acre (in the North Beaches, Mainland and Merritt Island Redevelopment Area). Resort dwelling use is allowed as a permitted use in the TU-1 classification.

Three development actions have been approved within a half-mile radius of the subject property within the last three years. **20PZ00042** was approved for rezoning 1.2 acres to EU approximately 0.4 miles south of the subject property. The property has been developed with a single-family residence. **21PZ00083** for a small-scale comprehensive plan amendment to CC (Community Commercial), and **22Z00004** for a rezoning to BU-2 with a BDP (Binding Development Plan) have also been approved for approximately 12 acres adjacent to the subject property on the north side. A self-storage facility is proposed for the site. Conditions of the BDP, recorded July 14, 2022 in ORB 9560, Pages 520-529, include the following:

- Developer/Owner shall limit the use of the property to self-storage use only
- Developer/Owner agrees not the use the Property for outdoor storage and, therefore, such use shall be prohibited on the Property
- Developer/Owner agrees to limit the height of any buildings on the Property to single-story and, therefore, no building shall exceed single-story height
- Developer/Owner agrees and shall ensure that no lighting elements shall face residential properties
- Developer/Owner shall provide a 20 foot landscape buffer in accordance with Code requirements
- A finished 8-foot masonry wall shall be required along the edge of the improvements, such wall to be in accordance with Code requirements.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US 1 between Barnes Boulevard and Eyster Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 61.92% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.09%. Based on proposed use provided by the applicant, the corridor is anticipated to operate at 62.01% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. This is only a preliminary review and is subject to change.

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's service area for potable water and within the City of Rockledge's service area for centralized sewer.

Environmental Constraints

- Protected Species
- Protected and Specimen Trees

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

For Board Consideration

The Board may wish to consider whether the introduction of multi-family zoning classification (RU-2-4 and RU-2-6) request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item #22Z00015**

Applicant: Treharne for Bedard

Zoning Request: AU to RU-2-4 and RU-2-6

Note: Applicant wants to expand hotel use to the east

P&Z Hearing Date: 07/18/22; **BCC Hearing Date:** 8/04/22

Tax ID No: 2511124

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Protected Species
- Protected and Specimen Trees

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

Land Use Comments:

Protected Species

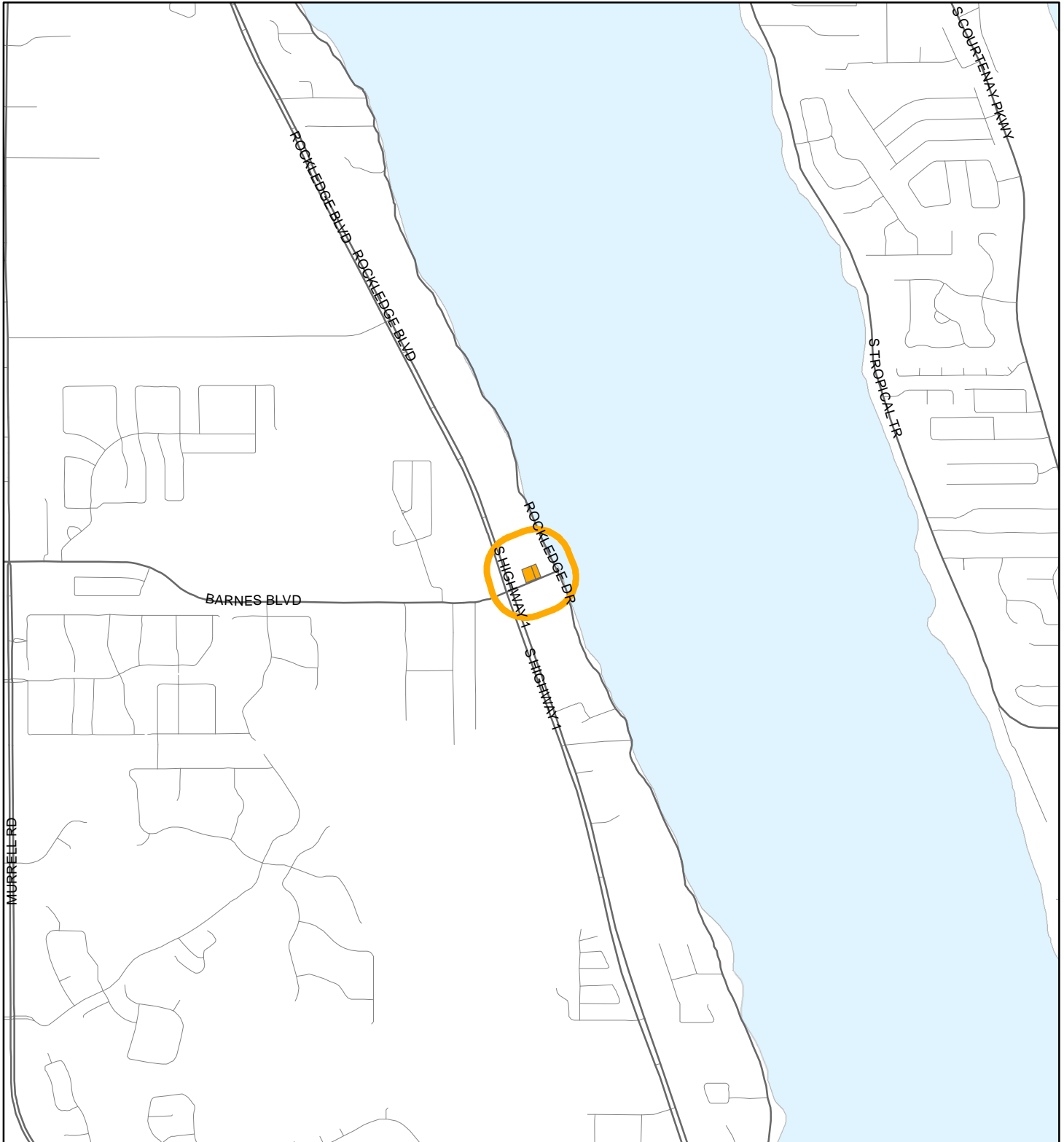
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. 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 preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

LOCATION MAP

BEDARD, Andrea and BOARDMAN, Nicholas
22Z00015



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.

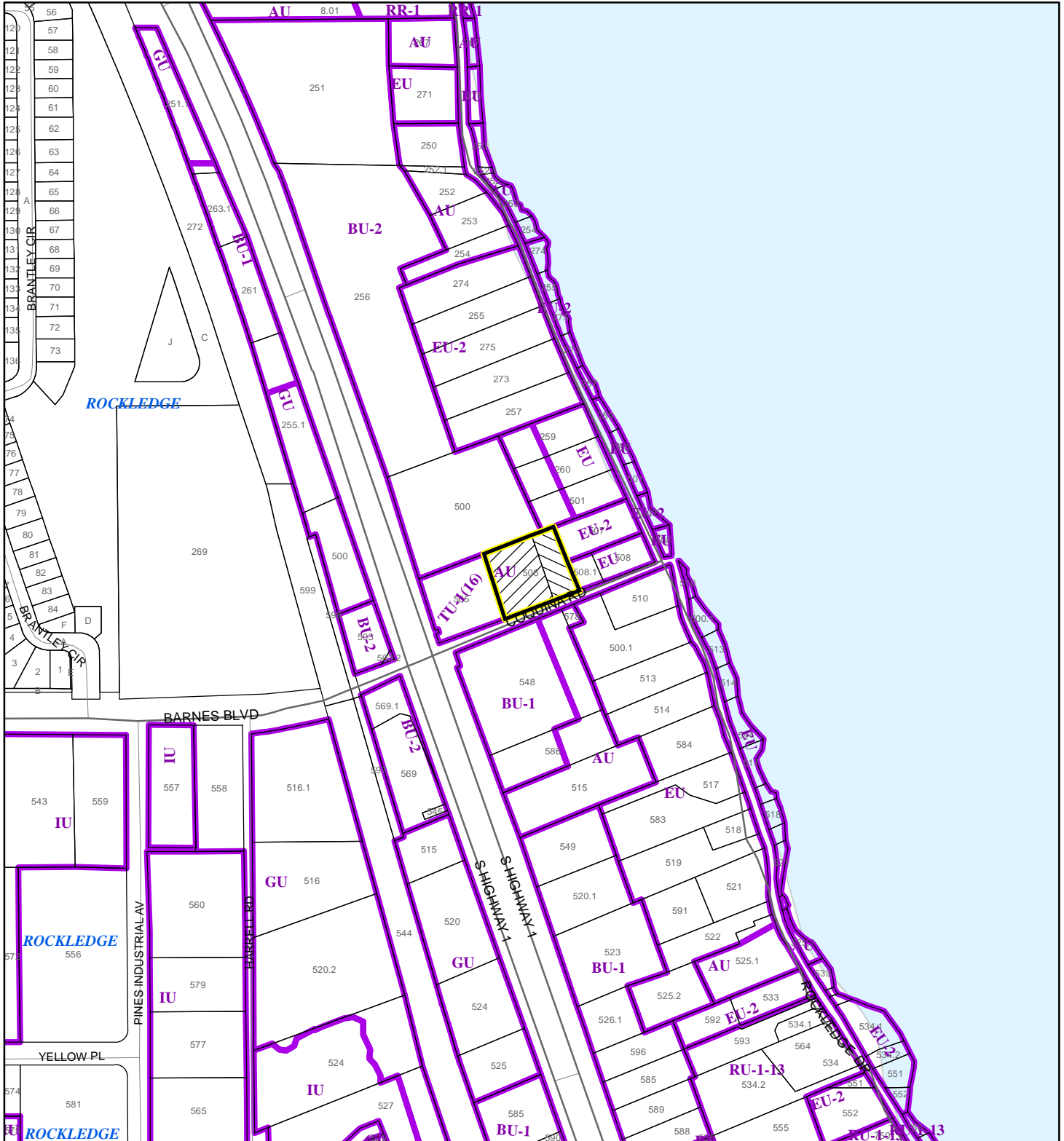
Produced by BoCC - GIS Date: 8/22/2022

Buffer
Subject Property

ZONING MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015



1:4,800 or 1 inch = 400 feet

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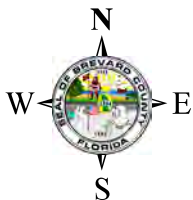
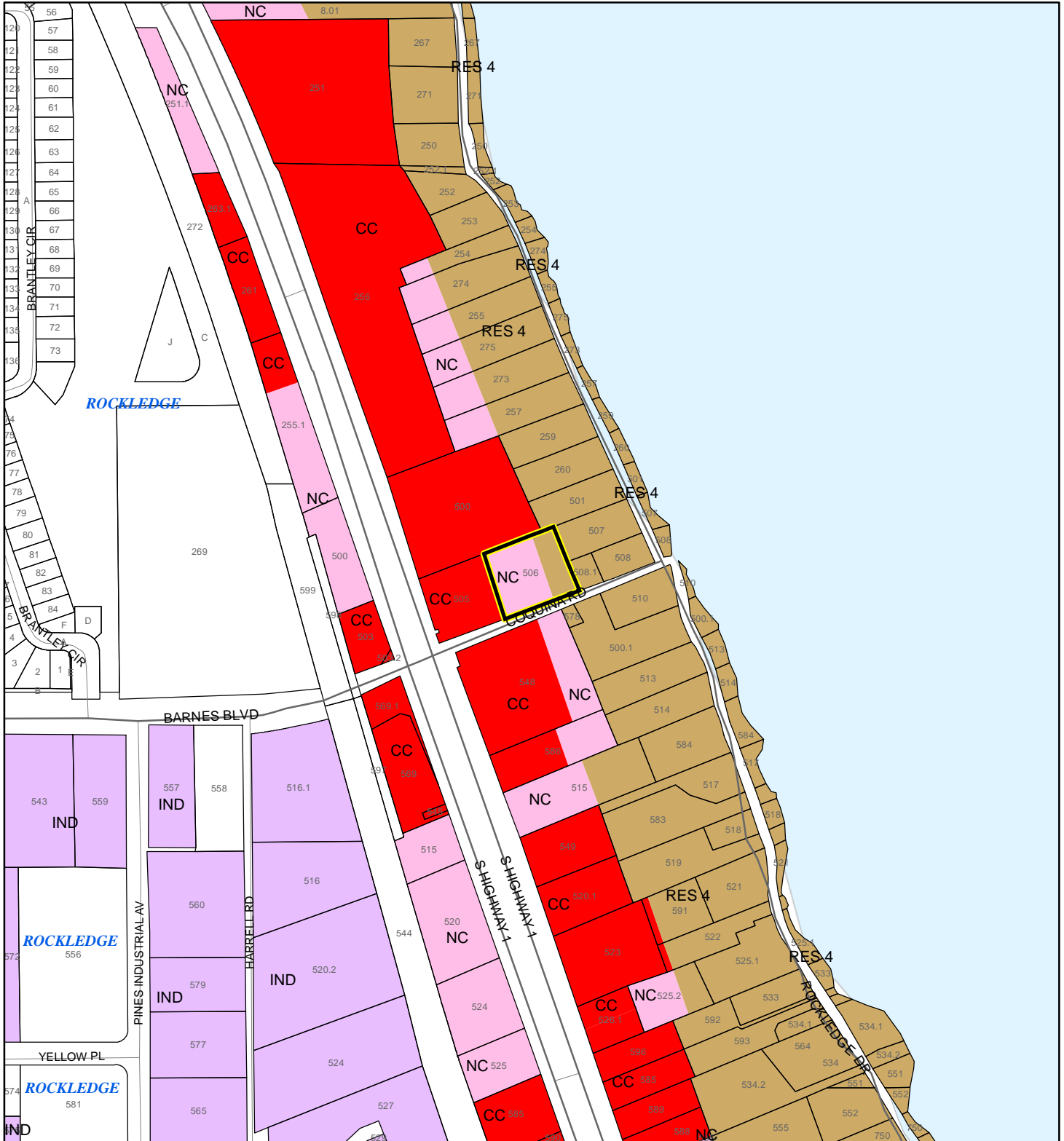
Produced by BoCC - GIS Date: 8/24/2022

- Subject Property
- Parcels
- Zoning to RU-2-6
- Zoning to RU-2-4

FUTURE LAND USE MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015



1:4,800 or 1 inch = 400 feet

Subject Property

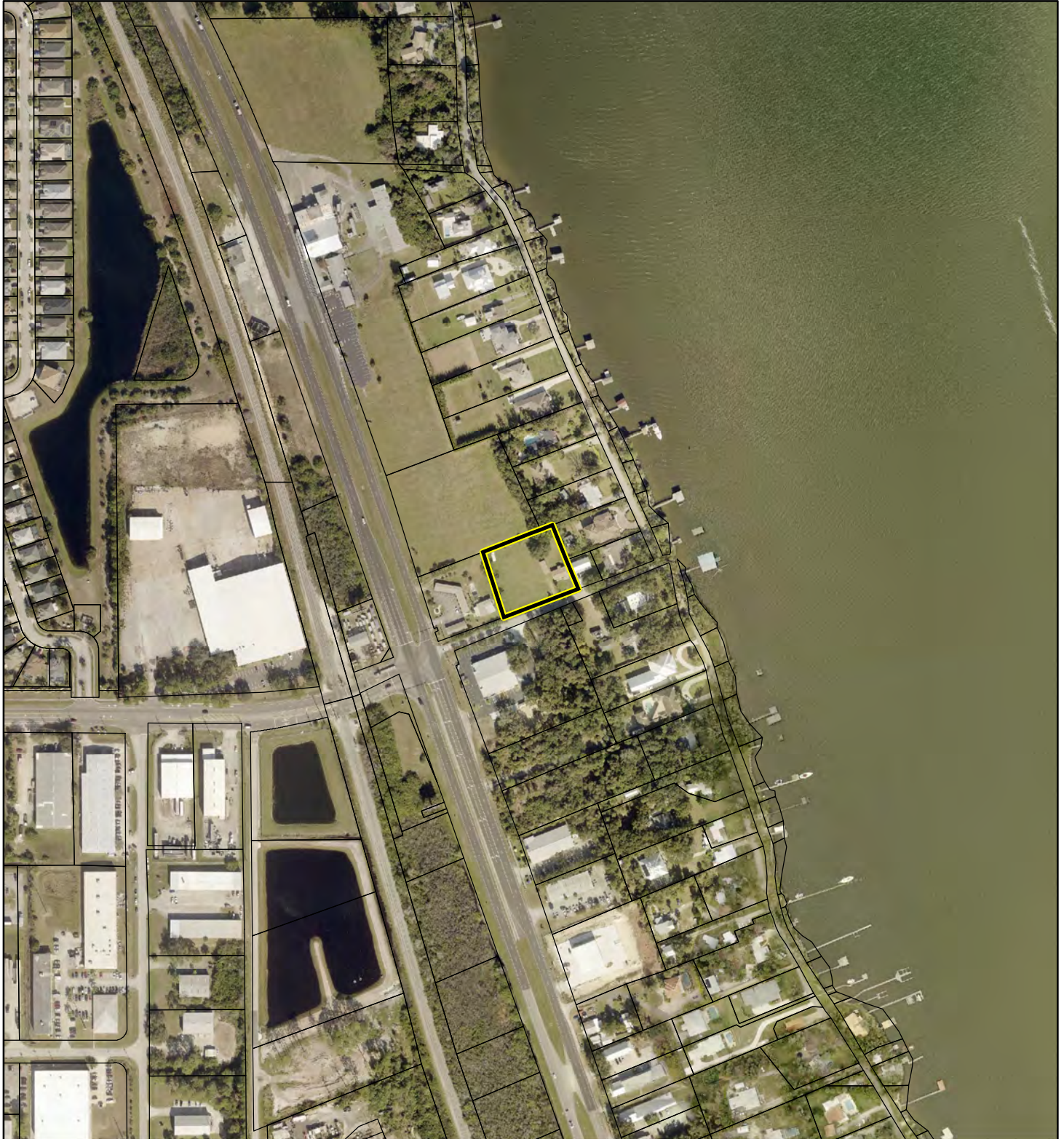
Parcels

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Produced by BoCC - GIS Date: 8/22/2022

AERIAL MAP

BEDARD, Andrea and BOARDMAN, Nicholas
22Z00015





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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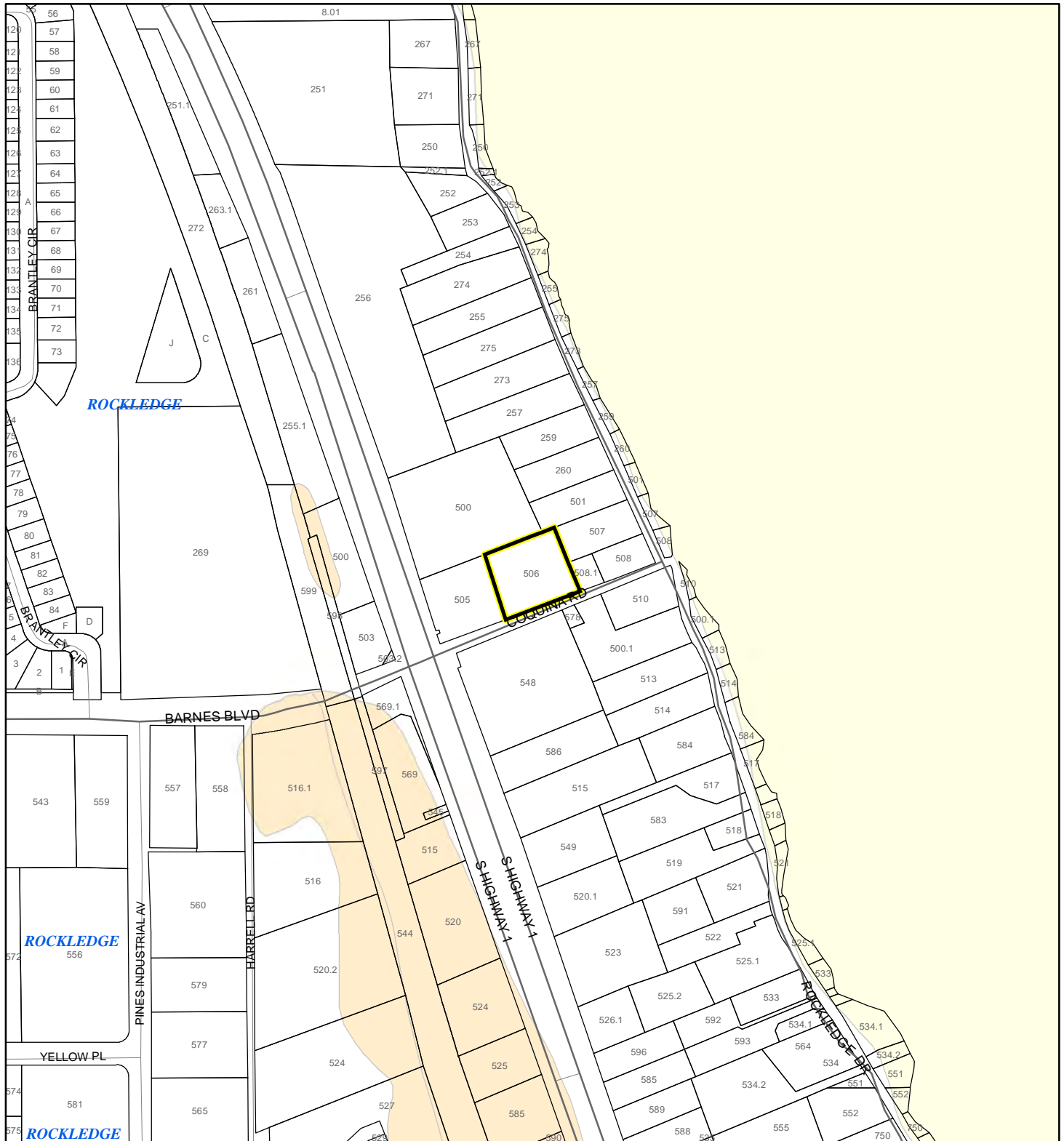
Produced by BoCC - GIS Date: 8/22/2022

 Subject Property
 Parcels

NWI WETLANDS MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015













1:4,800 or 1 inch = 400 feet

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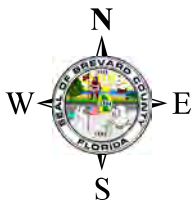
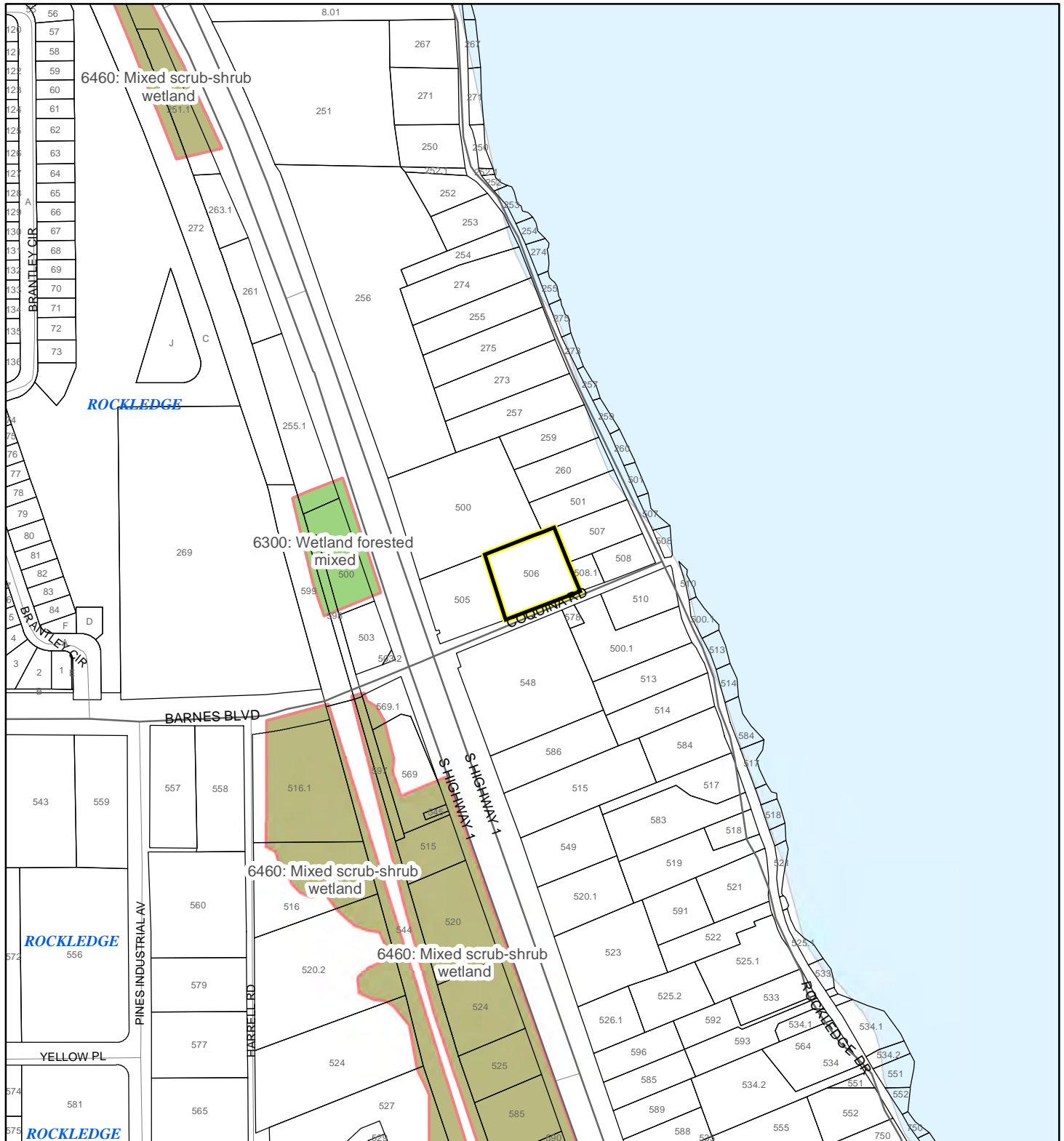
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015



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

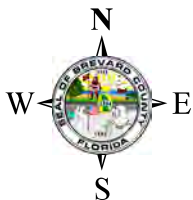
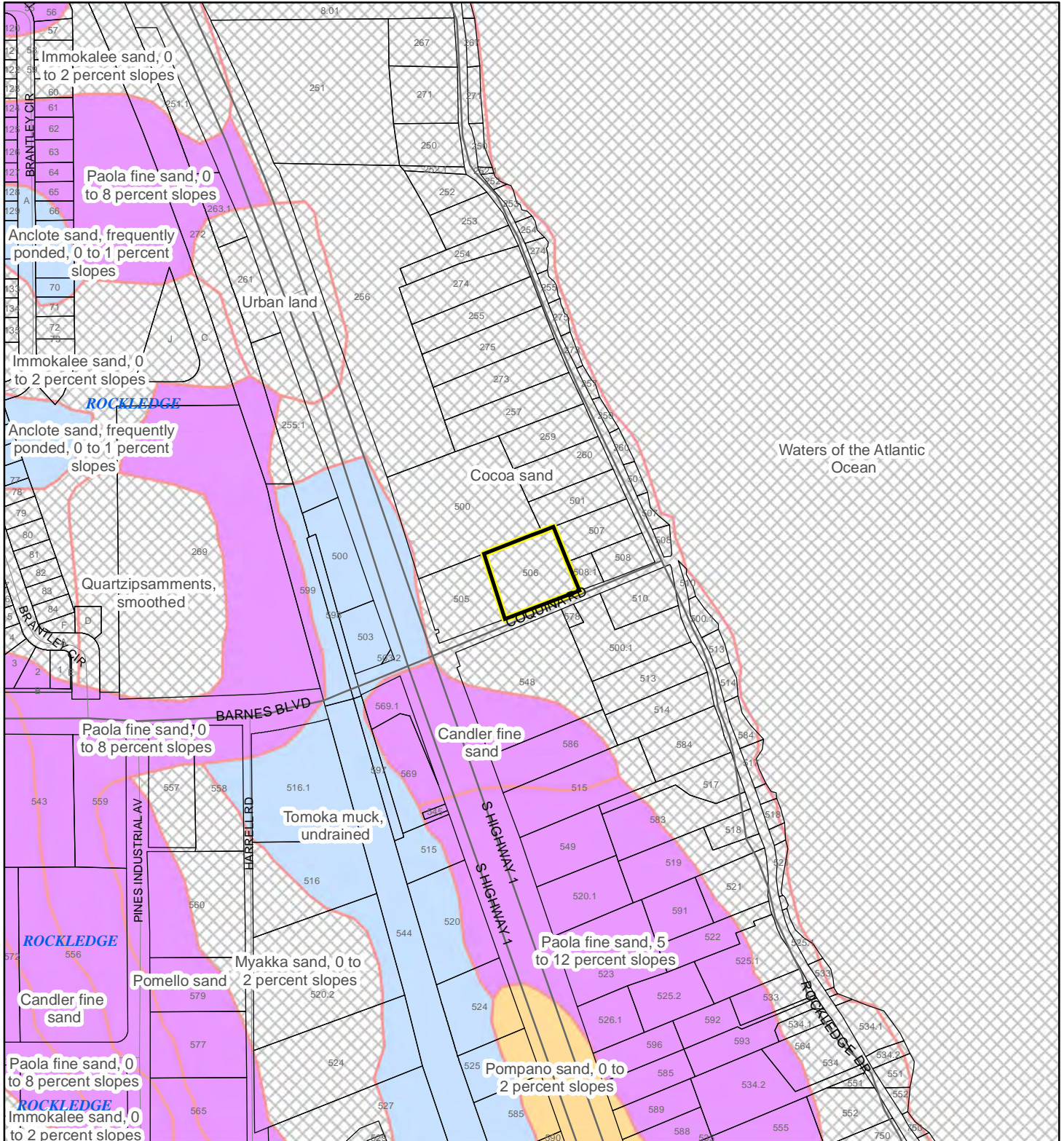
Subject Property

Parcels

USDA SCSSS SOILS MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/22/2022

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

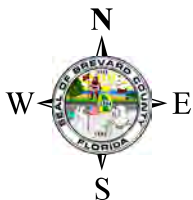
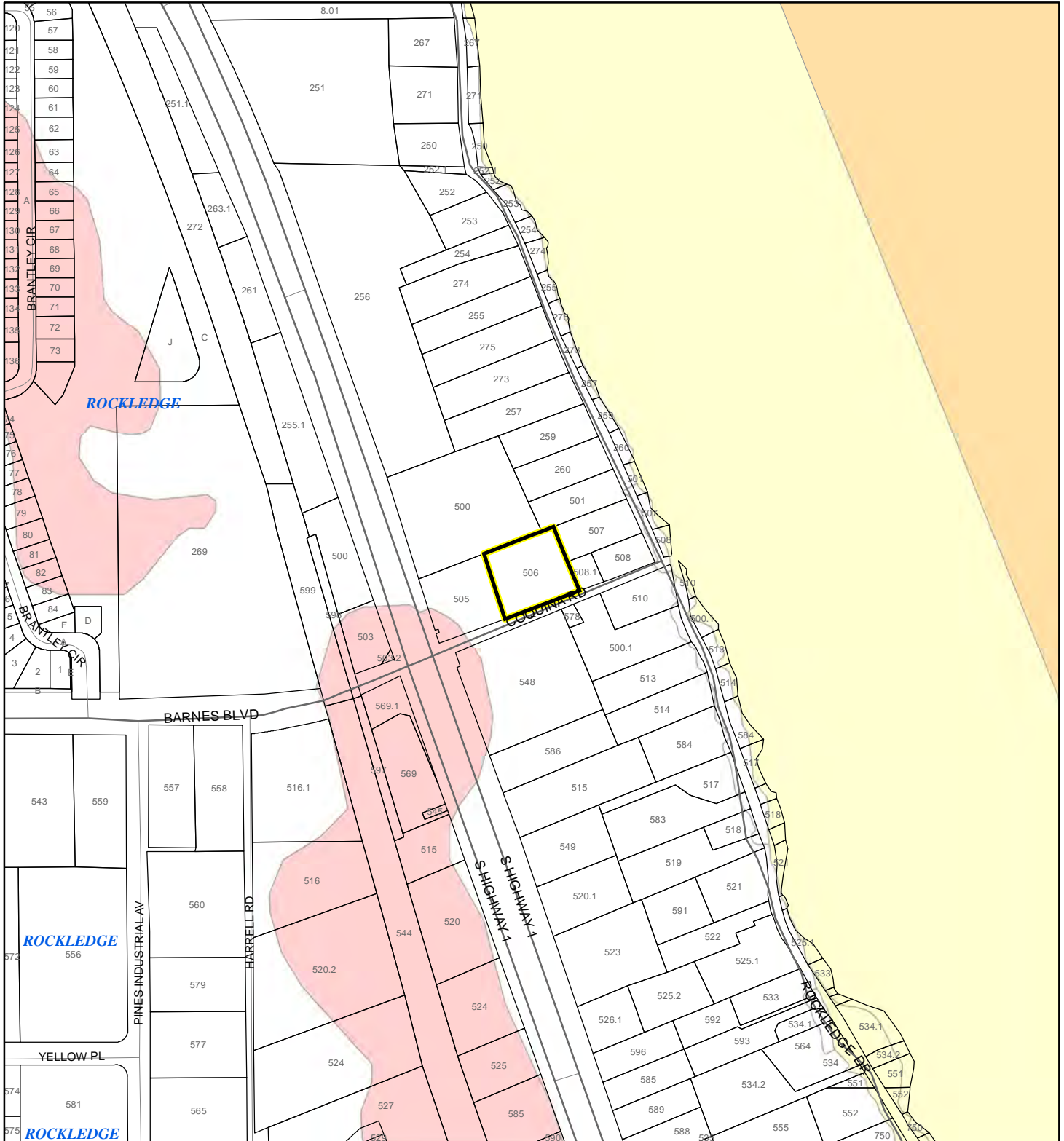
Subject Property

Parcels

FEMA FLOOD ZONES MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015



1:4,800 or 1 inch = 400 feet

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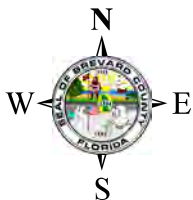
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 8/22/2022

 Subject Property

 Parcels

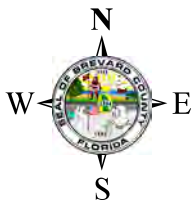
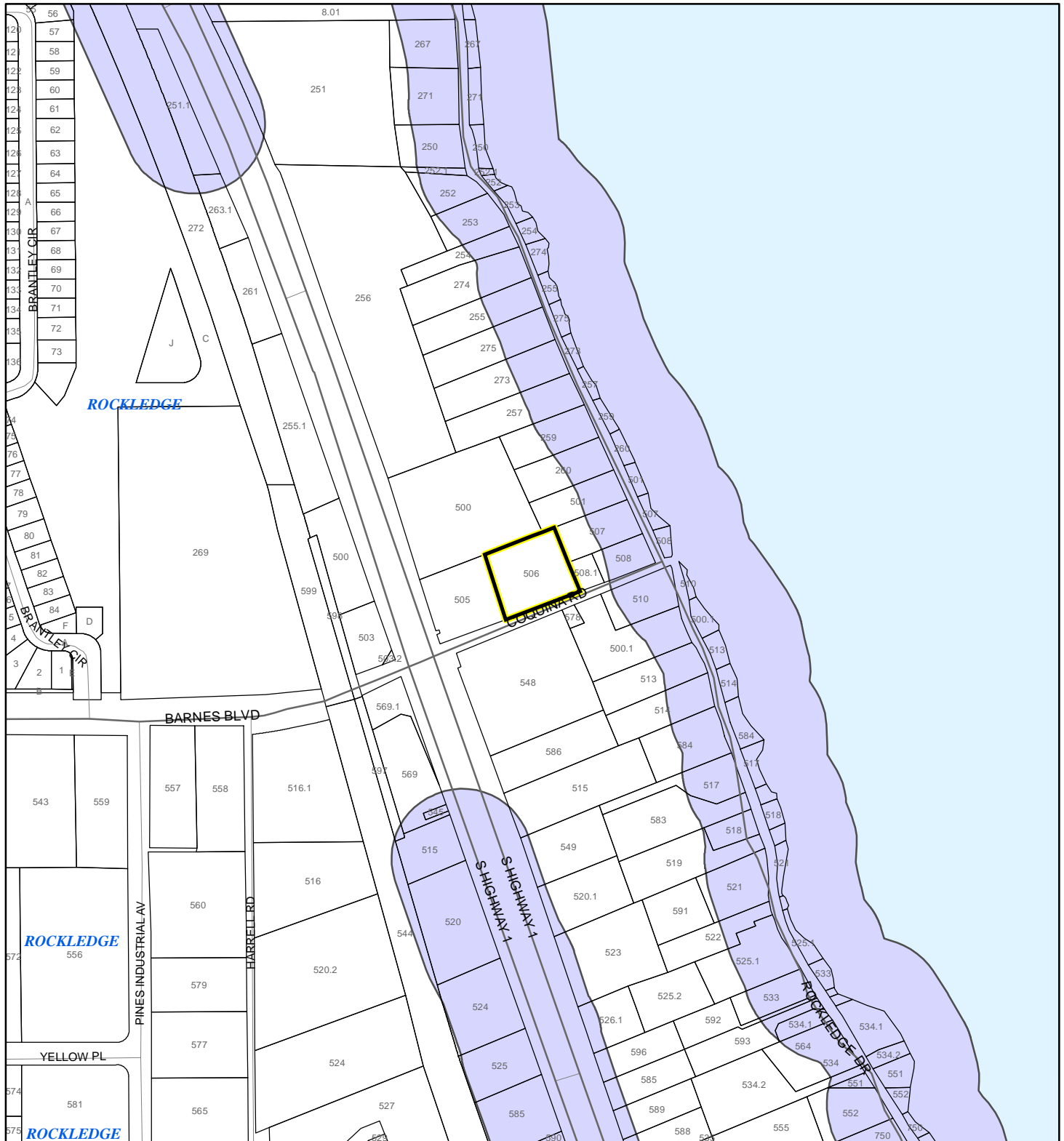
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/22/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

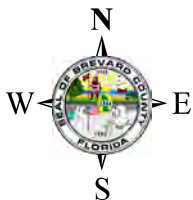
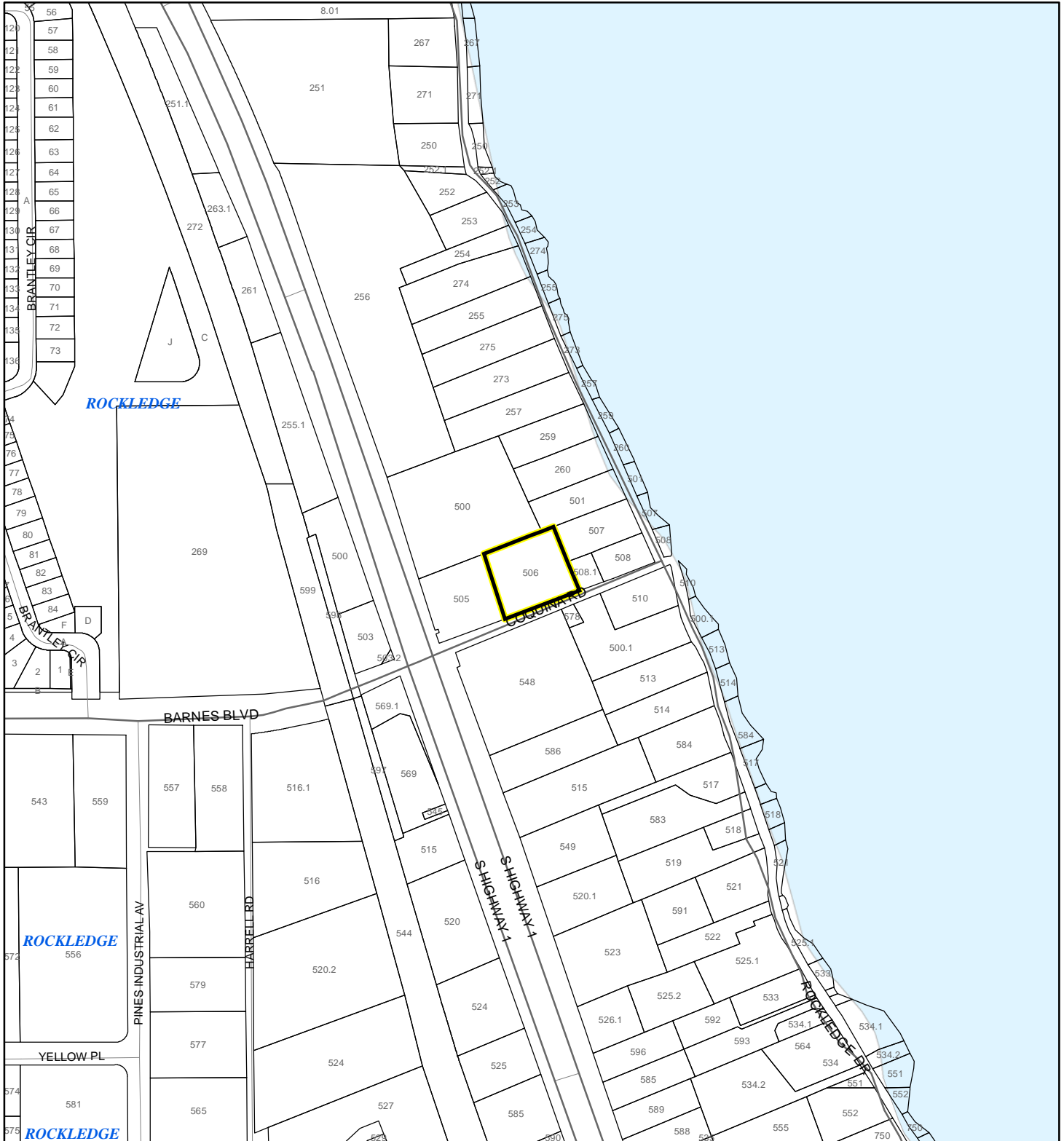
 60 Meters

 All Distances

EAGLE NESTS MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015




1:4,800 or 1 inch = 400 feet

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 Subject Property

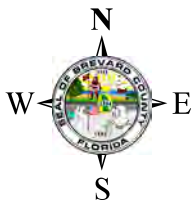
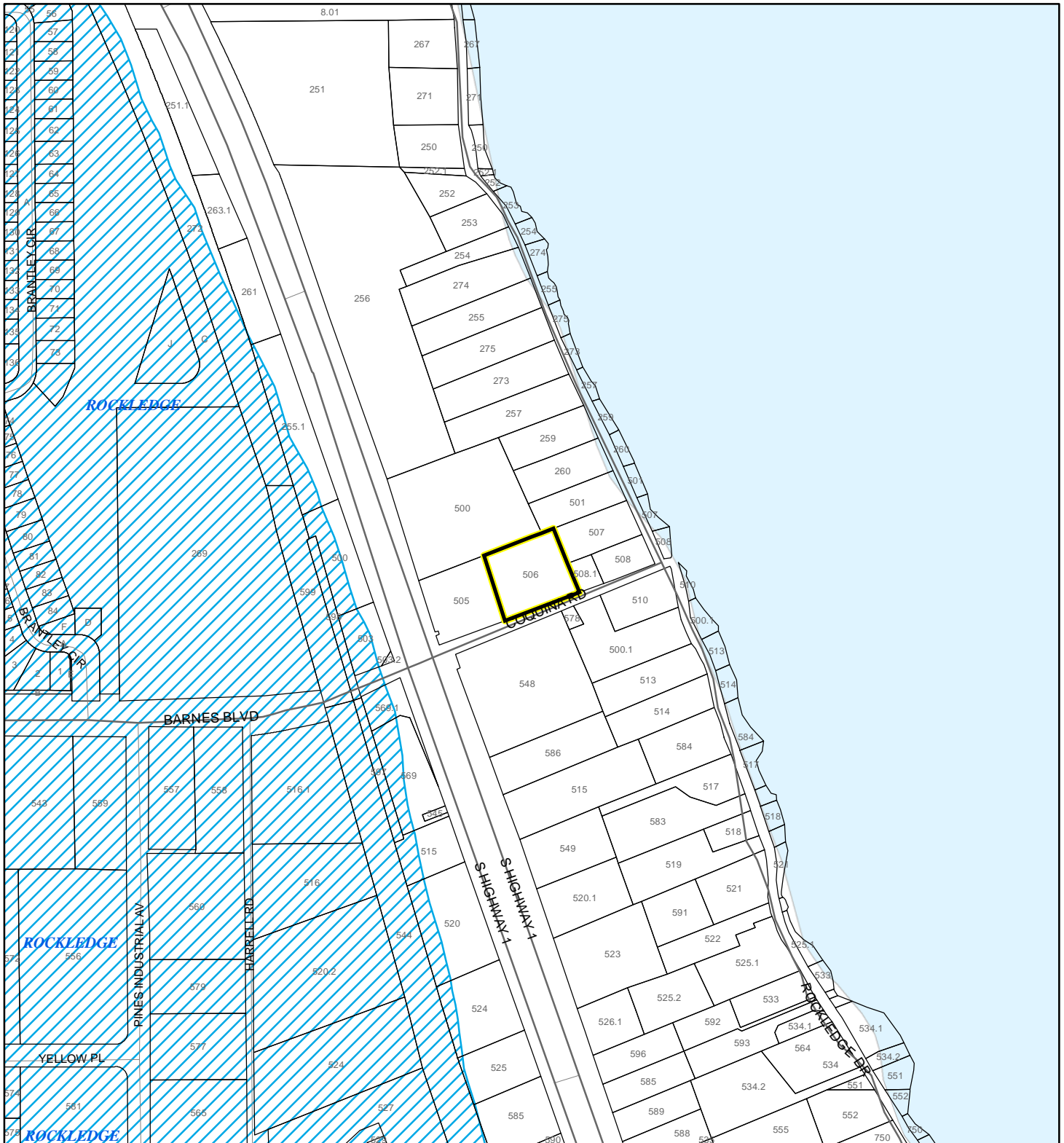
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015



1:4,800 or 1 inch = 400 feet

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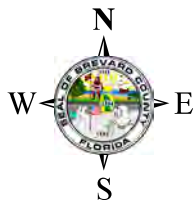
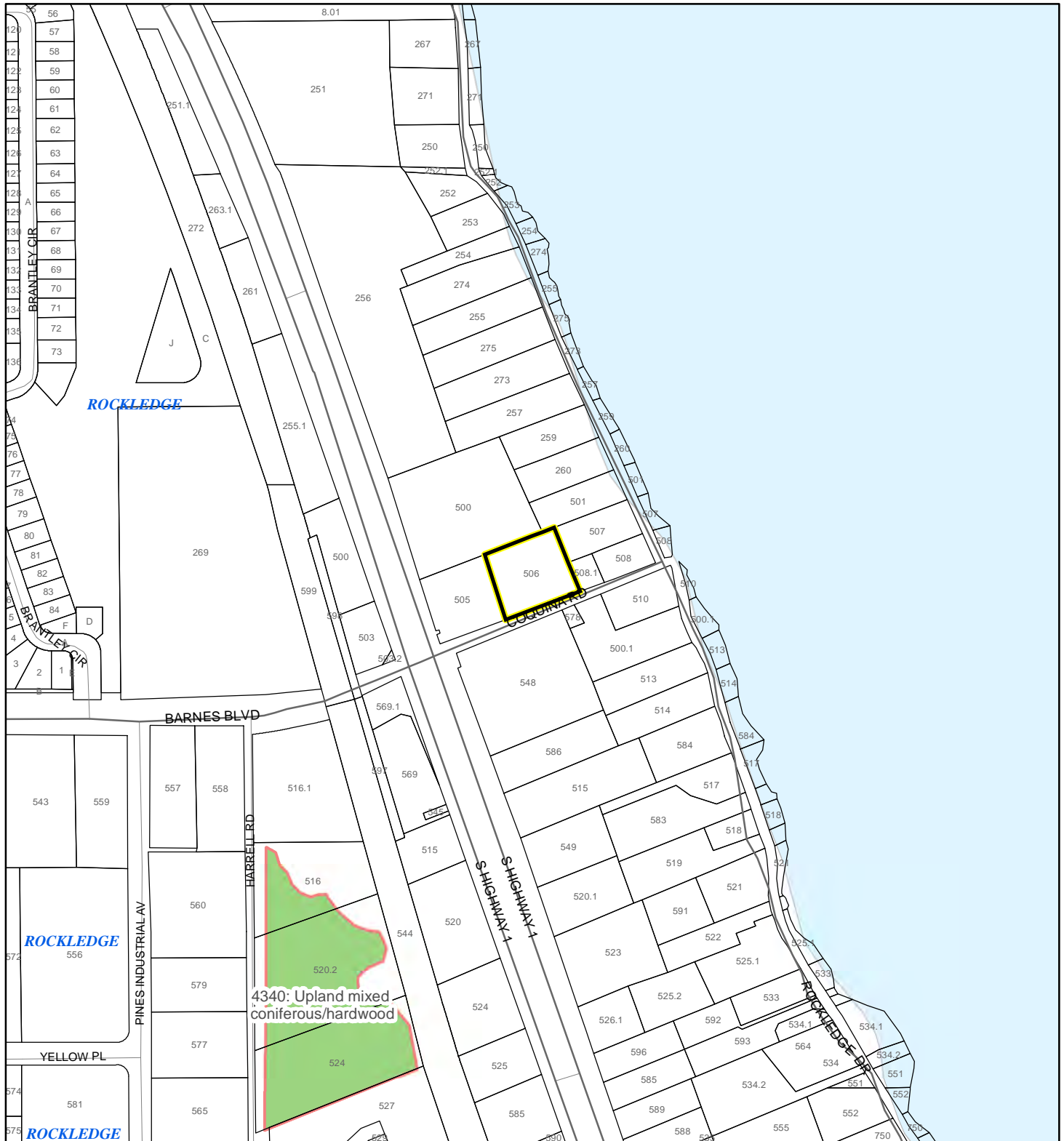
Produced by BoCC - GIS Date: 8/22/2022

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

BEDARD, Andrea and BOARDMAN, Nicholas

22Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/22/2022

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

RU-2-6	REQUIRED	PROPOSED
MINIMUM LOT AREA:	7,500 SF	29,327.67 SF
MINIMUM LOT WIDTH:	75 FT	146.84+ FT
MINIMUM LOT DEPTH:	75 FT	199.97 FT
MAXIMUM BLDG HEIGHT:	35 FT	
FRONT SETBACK:	25 FT	
FRONT CORNER SETBACK:	15 FT	
REAR SETBACK:	20 FT	
SIDE SETBACK:	10 FT	
ACCESSORY SETBACK:	10 FT	
MAXIMUM DENSITY:	6 U/AC	TBD
MAXIMUM COVERAGE:	40 %	TBD %
DISTANCE BETWEEN BLDGS:	15 FT	TBD FT

CONDITIONAL USE
GUEST HOUSE, NO KITCHEN

RU-2-4	REQUIRED	PROPOSED
MINIMUM LOT AREA:	7,500 SF	14,996.67 SF
MINIMUM LOT WIDTH:	75 FT	75.0' FT
MINIMUM LOT DEPTH:	75 FT	199.97 FT
MAXIMUM BLDG HEIGHT:	35 FT	
FRONT SETBACK:	25 FT	
FRONT CORNER SETBACK:	15 FT	
REAR SETBACK:	20 FT	
SIDE SETBACK:	10 FT	
ACCESSORY SETBACK:	10 FT	
MAXIMUM DENSITY:	4 U/AC	TBD
MAXIMUM COVERAGE:	40 %	TBD %
DISTANCE BETWEEN BLDGS:	15 FT	TBD FT

CONDITIONAL USE
GUEST HOUSE, NO KITCHEN

DISCLAIMER:

THIS SKETCH IS RECREATED FROM A SURVEY BY DAVID A. BLOCK SURVEYING & MAPPING, DAVID A. BLOCK FLORIDA P.S.M. 6263, 1545 BREAM STREET, MERRITT ISLAND, FL 32952, WWW.BLOCKSURVEYING.COM, TEL: 321-452-7048, DATED 04/22/2020, PROJECT NO. 20-187 AND IS FOR ARCHITECTURAL PURPOSES ONLY AND NOT INTENDED TO BE A LEGAL OR ACCURATE SURVEY

SEPTIC SYSTEM
ENGINEERED LOW DOSAGE AEROBIC SEPTIC SYSTEM
LOW DOSAGE (24/7) LOW PRESSURE
AEROBIC TREATMENT UNIT (ATU)
DRAIN FIELD SETBACK: 10 FT

SITE DATA

OWNER: BEDARD, ANDREA, BOARDMAN, NICHOLAS
ADDRESS: 23 COQUINA ROAD
ROCKLEDGE, FL 32955
TAX ID: 2511124
PARCEL IDS: 25-36-23-00-506
DESCRIPTION: PART OF LOT 3 AS DES IN DB 368 PG 583

PARKING:

2 PARKING SPACES PER UNIT / DWELLING
NO GARAGE REQUIRED

LIVING AREA

1,110 SF	SINGLE-FAMILY RESIDENCE
750 SF	2 BEDROOM APARTMENT
500 SF	1 BEDROOM APARTMENT
400 SF	APARTMENT
575 SF	1 BEDROOM ATTACHED RESIDENCE

OTHER USES

RP (RESIDENTIAL PROFESSIONAL 5 U/A
RU-1-13, RU-1-11
RA-2-4 SINGLE-FAMILY ATTACHED (TOWNHOUSES)
15 FT MINIMUM INTERIOR LOT WIDTH

LEGAL: (LOT A AND LOT B COMBINED)

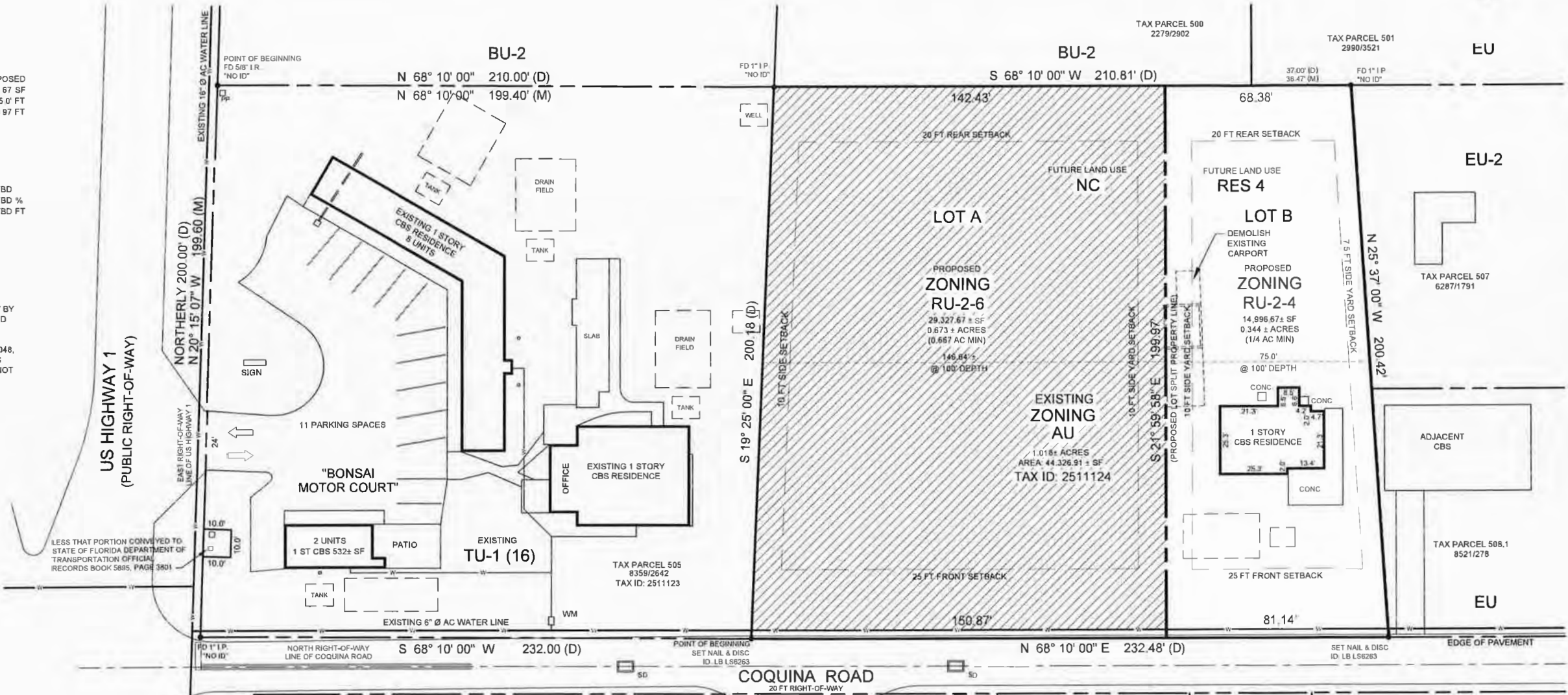
PART OF GOVERNMENT LOT 3, SECTION 23, TOWNSHIP 25 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA, AND DESCRIBED AS FOLLOWS: BEGIN AT AN IRON PIPE ON THE NORTH LINE OF THE 20 FOOT RIGHT OF WAY OF THE PUBLIC ROAD IN GOVERNMENT LOT 3, SECTION 23, TOWNSHIP 25 SOUTH, RANGE 36 EAST, ALSO KNOWN AS COQUINA ROAD, WHICH IS N68°10'00" EAST, 200 FEET FROM THE INTERSECTION OF THE NORTH LINE OF SAID COUNTY ROAD WITH THE EAST RIGHT OF WAY OF U.S. HIGHWAY NO.1; THENCE, CONTINUE N 68°10'00" EAST ALONG THE NORTH LINE OF SAID COUNTY ROAD 232.48 FEET TO AN IRON PIPE; THENCE 25°37'00" WEST, 200.42 FEET TO AN IRON PIPE; THENCE S 68°10'00" WEST, 210.81 FEET TO AN IRON PIPE; THENCE S 19°25'00" E 200.18 FEET TO THE POINT OF BEGINNING.

LOT A

FROM SAID POINT OF BEGINNING COMMENCE N 68°10'00" EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 150.87 FEET; THENCE, CONTINUE N 21°59'58" WEST A DISTANCE OF 199.97 FEET; THENCE, CONTINUE S 68°10'00" WEST A DISTANCE OF 142.43 FEET; THENCE, CONTINUE S 19°25'00" EAST TO THE POINT OF BEGINNING FOR LOT A.

LOT B

FROM SAID POINT OF BEGINNING OF COMBINED LOTS COMMENCE N 68°10'00" EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 150.87 FEET TO THE POINT OF BEGINNING FOR LOT B; THENCE, CONTINUE N 68°10'00" EAST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 81.14 FEET; THENCE, CONTINUE N 25°37'00" WEST A DISTANCE OF 200.42 FEET; THENCE, CONTINUE S 68°10'00" WEST A DISTANCE OF 68.38 FEET; THENCE, CONTINUE S 21°59'58" EAST A DISTANCE OF 199.97 FEET TO THE POINT OF BEGINNING FOR LOT B.



23 COQUINA ROAD
ROCKLEDGE, FL 32955

RE-ZONING AU
TO RU-2-6 & RU-2-4

DATE: _____
BY: _____
REVISION: _____

AKS000048
Record & Transfer
FL BAR #5337
MA #00000000
www.ark1tek.com
Melbourne, FL 32940
(321) 986-9729

ARK1TEK
Architecture & Planning

23 COQUINA ROAD
ROCKLEDGE, FL 32955
PROPOSED LOT SPLIT/REZONING

SCALE: 1" = 20'
DATE: 8-8-2022
DESIGNED BY: RJT
DRAWN BY: RJT
CHECKED BY: RJT
CAD CODE: BONSAI MOTEL
PROJECT NO.: 23 COQUINA RD
DRAWING NO.: A-1
SHEET 1 OF

THIS IS THE LEGAL DESCRIPTION TO BE
USED FOR ADVERTISING PURPOSES
Not for Applicant
Signature



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.7.

9/12/2022

Subject:

*Review and Recommendation for Proposed Amendments to Sec. 62-1844, Brevard County Code of Ordinances
RE: Criteria for Tiny Homes and Tiny Homes on Wheels.*

Fiscal Impact:

Cost of advertisement of associated ordinance amendments.

Dept/Office:

Planning and Development

Requested Action:

Pursuant to Sec. 62-181(2), Brevard County Code of Ordinances, staff is requesting the Local Planning Agency's review and recommendations for the attached ordinance amendment.

Summary Explanation and Background:

At its August 4, 2022, Zoning Meeting, the Brevard County Board of County Commissioners voted to approve legislative intent and permission to advertise regarding the following amendments to Sec. 61-1844, Brevard County Code of Ordinances (underlines indicate additions; ~~strikethrough~~ indicates deletions):

(2) Contain a minimum living area of 120 square feet up to a maximum floor area of 750 square feet:

- a. ~~Five hundred square feet for the TR-3 zoned lots;~~
- b. ~~Six hundred square feet for the PA, RRMH-1, RRMH-2.5, and RRMH-5 zoned lots;~~
- c. ~~Seven hundred fifty square feet for the GU, AGR, AU and AU(L) zoned lots~~

(3) Except in TR-3 zoned lots, ~~When~~ placed upon a lot as the primary residential structure, the tiny house or THOW shall be the only primary residential structure allowed upon that lot.

(4) When a tiny house or THOW is permitted as the primary residential structure, accessory structures shall be allowed to utilize a floor area up to 600 square feet and to be exempt from the size limitation noted in subsections 62-2100.5(1)(b) and (1)(d).

(5) Except with regards to TR-3 zoned lots, ~~b~~Before zoning approval is granted for a tiny house or THOW building permit, the applicant/owner shall submit notarized approval forms from each abutting developed property owner to the planning and development department.

The attached ordinance amendment attempts to implement this direction. Pursuant to Sec. 62-181(2), Brevard County Code of Ordinances, the Local Planning Agency's review is requested regarding this

amendment.

Clerk to the Board Instructions:

None

ORDINANCE NO. 2022-_____

AN ORDINANCE AMENDING CHAPTER 62, "LAND DEVELOPMENT REGULATIONS," CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA; AMENDING ARTICLE VI, DIVISION 5, SECTION 62-1844, "TINY HOUSE OR TINY HOUSE ON WHEELS (THOW)," BY CREATING A UNIFORM MAXIMUM FLOOR AREA OF 750 SQUARE FEET, EXEMPTING LOTS IN TR-3 ZONING FROM BEING RESTRICTED TO A SINGLE TINY HOUSE OR THOW, AND REMOVING THE REQUIREMENT FOR APPROVAL OF THE OWNERS OF ABUTTING PROPERTY WHEN SEEKING A TINY HOUSE OR THOW PERMIT; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, the Board of County Commissioners of Brevard County, Florida, (hereinafter "the Board") finds that there is a critical need for affordable housing in Brevard County; and

WHEREAS, the Board finds that one potential avenue for alleviating the strain of a lack of affordable housing is the development of tiny houses or tiny houses on wheels ("THOW"); and

WHEREAS, the Board desires to simplify regulations regarding tiny houses and THOW, in order to encourage development of such structures; and

WHEREAS, the Board wishes to clarify that more than one tiny house and/or THOW is allowable on TR-3 (mobile home park) zoned lots; and

WHEREAS, the Board finds that requiring the approval of abutting property owners when seeking a permit for a tiny house or THOW is an unnecessary barrier to development.

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

Underline indicates additions.

~~Strikethrough indicates deletions.~~

SECTION 1. Section 62-1844. – Tiny house or tiny house on wheels (THOW), Code of Ordinances of Brevard County, Florida, is hereby amended as follows:

Tiny house or tiny house on wheels (THOW) shall meet the following criteria:

- (1) Tiny house or tiny house on wheels (THOW) use is only allowed on lots that meet the current minimum lot area of their respective zoning classification.

- (2) Contain a minimum living area of 120 square feet up to a maximum floor area of 750 square feet:
 - ~~a. Five hundred square feet for the TR-3 zoned lots;~~
 - ~~b. Six hundred square feet for the PA, RRMH-1, RRMH-2.5, and RRMH-5 zoned lots;~~
 - ~~c. Seven hundred fifty square feet for the GU, AGR, AU and AU(L) zoned lots~~
- (3) Except in TR-3 zoned lots, ~~When placed upon a lot as the primary residential structure,~~ the tiny house or THOW shall be the only primary residential structure allowed upon that lot.
- (4) When a tiny house or THOW is permitted as the primary residential structure, accessory structures shall be allowed to utilize a floor area up to 600 square feet and to be exempt from the size limitation noted in subsections 62-2100.5(1)(b) and (1)(d).
- ~~(5) Before zoning approval is granted for a tiny house or THOW building permit, the applicant/owner shall submit notarized approval forms from each abutting developed property owner to the planning and development department.~~

SECTION 2. Conflicting Provisions. In the case of a direct conflict between any provision of this ordinance and a portion or provision of any other appropriate federal, state or county law, rule, code, or regulation, the more restrictive shall apply.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared severable.

SECTION 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

SECTION 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

SECTION 6. Inclusion in code. It is the intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida; that the sections of this ordinance may be renumbered or re-lettered; and that the word “ordinance” may be changed to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED, AND ADOPTED in Regular Session, this ____ day of _____, 2022.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By: Rachel Sadoff, Clerk of Court

By: Kristine Zonka, Chair
(as approved by the Board on _____)

BREVARD County

BOARD OF COUNTY COMMISSIONERS

RECEIVED

AUG 11 2022

BY:

FLORIDA'S SPACE COAST

Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 837-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us



August 5, 2022

MEMORANDUM

TO: Tad Calkins, Planning and development Director

RE: Item J.1., Legislative Intent and Permission to Advertise Amendments to Sec. 62-1844, Brevard County Code of Ordinances for Criteria for Tiny Homes and Tiny Homes on Wheels (THOW)

The Board of County Commissioners, in regular session on August 4, 2022, granted legislative intent and permission to advertise amending Section 62-1844 to reflect the changes as delineated in the requested action section of the Agenda Report; and authorized sending this Item back to the appropriate Advisory Boards before coming back to the Board of County Commissioners. Enclosed is the Agenda Report.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Each Commissioner
Robert VanVolkenburgh
Finance
Budget