



Zoning

Brevard County Board Of County Commissioners Governing Board Of The Brevard Mosquito Control District Governing Board Of The Barefoot Bay Water And Sewer District

2725 Judge Fran Jamieson Way

Viera, FL 32940

Agenda

Thursday, April 6, 2023

If you wish to speak to any item on the agenda, please fill out a speaker card. Persons addressing the Board shall have three minutes to complete his/her comments on each public hearing agenda item for which he/she has filled out a card.

The Board of County Commissioners requests that speakers appearing under the Public Comment section of the agenda limit their comments and/or presentations to matters under the Board's jurisdiction. It is the responsibility of the Chair to determine the time limit on comments under Public Comment and other agenda items that are not Quasi-Judicial Public Hearings. In Quasi-Judicial proceedings, fifteen (15) minutes shall be allowed for applicants and five (5) minutes for other speakers.

- A. CALL TO ORDER 5:00 PM**
- B. INTENTIONALLY OMITTED**
- C. PLEDGE OF ALLEGIANCE: Commissioner Tom Goodson, District 2, Vice Chair**
- D. MINUTES FOR APPROVAL:**
- E. RESOLUTIONS, AWARDS AND PRESENTATIONS**
- F. CONSENT AGENDA (The entire Consent Agenda will be passed in one motion to include everything under Section F.)**

Development and Environmental Services Group

Planning and Development

- F.1.** Acceptance, Re: Binding Development Plan with Jerry W. and Violet Shirley Solomon (District 1)
- F.2.** Acceptance, Re: Binding Development Plan with Ronald Abbott (District 3)

- G. PUBLIC COMMENTS**
- H. PUBLIC HEARINGS**

- H.1.** Bobby Jo Thomas requests a change of zoning classification from GU to RRMH-1. (23Z00002) (Tax Account 3029907) (District 1)
- H.2.** Louise Julia Goloversic requests a change of zoning classification from GU and ARR to AU. (23Z00005) (Tax Account 2406379) (District 1)
- H.3.** IR Tiki 2, LLC (Sandeep Patel), requests a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from NC to CC. (22SS00015) (Tax Account 2611662) (District 4)
- H.4.** Chelsey L. Cobb requests a change of zoning classification from RR-1 to AU. (23Z00004) (Tax Account 2405118) (District 1)
- H.5.** Timothy Shane and Debra Jane Kelley (Don Human) request a change of zoning classification from AU to RU-1-11. (22Z00074) (Tax Account 2113314) (District 1)
- H.6.** Half Halt Stables, LLP (Toni Pastermack) requests a change of zoning classification from AU to RU-1-9. (22Z00068) (Tax Account 2407648) (District 2)
- H.7.** Wendy Kleefisch requests a change of zoning classification from RU-1-11 to RU-2-12. (22Z00067) (Tax Account 2731680) (District 5)
- H.8.** Morris M. Taylor Revocable Living Trust (Chelsea Anderson) requests a change of zoning classification from SEU, EA, and BU-1-A to AU and BU-1-A. (23Z00001) (Tax Account 3008434) (District 3)
- H.9.** Thomas A. Metzger; Alan and Grace Metzger request a change of zoning classification from RR-1 to AU. (22Z00069) (Tax Account 2801827) (District 5)
- H.10.** QW Trust Agreement (Carolyn Haslam) requests a Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15, NC, and CC, to all CC. (23SS00001) (Tax Accounts 2407572 & 2407578) (District 2)
- H.11.** QW Trust Agreement (Carolyn Haslam) requests a change of zoning classification from GU and IU-1 to BU-1. (23Z00003) (Tax Accounts 2407572 & 2407578) (District 2)
- H.12.** Crane View, LLC (Steve Anderson) requests a Small Scale Comprehensive Plan Amendment (22S.19) to change the Future Land Use designation from RES 15 and NC to RES 30 DIR. (22SS00016) (Tax Account 2412341) (District 2)
- H.13.** Crane View, LLC (Steve Anderson) requests a change of zoning classification from RU-2-15, with an existing BDP, to RU-2-30, removal of existing BDP, and adding a new BDP. (22Z00071) (Tax Account 24112341) (District 2)

I. UNFINISHED BUSINESS

J. NEW BUSINESS

K. BOARD REPORTS

- K.1. Frank Abbate, County Manager
- K.2. Morris Richardson, County Attorney
- K.3. Tom Goodson, Commissioner District 2, Vice-Chair
- K.4. John Tobia, Commissioner District 3
- K.5. Rob Feltner, Commissioner District 4
- K.6. Rita Pritchett, Commissioner District 1, Chair

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 County Manager's Office no later than 48 hours prior to the meeting at (321) 633-2010.

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 County Commission 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>

In accordance with BCC-97 Section G.1 the agenda shall provide a section for public comment following approval of the consent agenda during each regular County Commission meeting. The purpose of public comment is to allow individuals to comment on any topic relating to County business which is not on the meeting agenda. Individuals delivering public comment shall be restricted to a three-minute time limit on their presentation. Speakers will be heard in the order in which they turned in a pink card asking to be heard. With the exception of emergency items, the Board will take no action under the Public Comment section, but can refer the matter to another meeting agenda or request a staff report.

Any invocation that may be offered before the official start of the Commission meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Commission. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Commission, and the Commission is not allowed by law to endorse the religious beliefs or views of this, or any other speaker.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.1.

4/6/2023

Subject:

Acceptance, Re: Binding Development Plan with Jerry W. and Violet Shirley Solomon (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept, and the Chair sign, the Binding Development Plan.

Summary Explanation and Background:

A BDP (Binding Development Plan) is a voluntary agreement presented by the property owner to self-impose limits upon development of a property in support of a change of zoning or conditional use permit. Pursuant to Section 62-1157, a BDP shall be recorded in the public records within 120 days of the Board's approval of the zoning request. Following staff and legal review, the BDP is presented to the Board in recordable form as a Consent Agenda item in order to finalize the zoning action.

On March 2, 2023, the Board approved a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial) with a BDP retaining all BU-1 uses and limiting the BU-2 use to boat and RV storage only. The attached BDP includes this condition.

Clerk to the Board Instructions:

Upon recordation, please return two certified copies of the BDP to Planning and Development.

Prepared by: Richard Spangler
Address: 2068 Arnold Palmer Dr.
Titusville, FL 32796

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Jerry W. Solomon and Violet Shirley Solomon, (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the BU-2 zoning classification and desires to develop the Property as boat and RV storage, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

Rev. 3/2/2023

3. Developer/Owner shall agree to retain all BU-1 uses and limit the BU-2 use to boat and RV storage only.
4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
5. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on 03/02/23. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
7. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 7 above.
9. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

Exhibit "A"

Tax Parcel 774, as recorded in ORB 7657, Pages 2771 - 2773, of the Public Records of Brevard County, Florida. Section 06, Township 21, Range 35.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel M. Sadoff, Clerk of Court

Rita Pritchett, Chair

(SEAL)

As approved by the Board

on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:



WITNESS SIGNATURE

Richard Spangler

WITNESS PRINTED NAME

OWNER:



Jerry W. Solomon

(Name typed, printed or stamped)



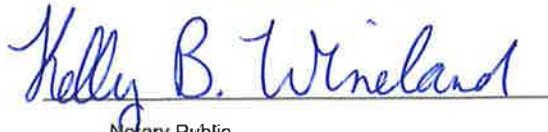
WITNESS SIGNATURE

Andrea Spangler

WITNESS PRINTED NAME

STATE OF Florida §
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of X physical presence or online notarization, this 1 day of March, 2023 by Jerry W. Solomon, Property Owner, who is personally known to me or who has produced Drivers License as identification.



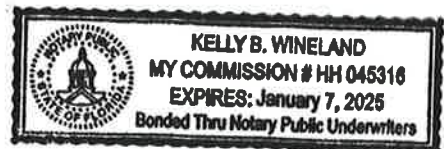
My commission expires

Notary Public

SEAL

Commission No.:

(Name typed, printed or stamped)



WITNESSES:

Richard Spangler

WITNESS SIGNATURE

Richard Spangler

WITNESS PRINTED NAME

OWNER:

Violet Shirley Solomon

Violet Shirley Solomon

(Name typed, printed or stamped)

Andrea Spangler

WITNESS SIGNATURE

Andrea Spangler

WITNESS PRINTED NAME

STATE OF Florida §
COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of X physical presence or
online notarization, this 1 day of March, 2023 by Violet Shirley Solomon,
Property Owner, who is personally known to me or who has produced Drivers License as
identification.

Kelly B. Wineland

Notary Public

My commission expires

SEAL
Commission

No.:

Kelly B. Wineland

(Name typed, printed or stamped)



STATE OF FLORIDA
COUNTY OF BREVARD

Jerry W. & Violet Shirley Solomon, after being
duly sworn, deposes and says:

The undersigned is the owner of the real property described as follows:

21-35-06--6-00-00774.0-0000.00 Tax account id:2102130

There are no mortgages on the above described property

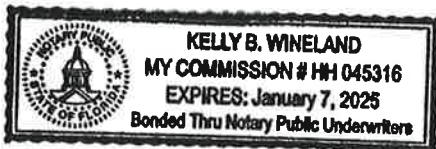
Dated this 28th day of February 2023..

Jerry W. & Violet Shirley Solomon
Signature

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was sworn to before me this 1 day of March
2023, by

Jerry W & Violet Shirley Solomon who is personally known to me or who has
produced Drivers License as identification, and who did take an oath.



Notary Public:

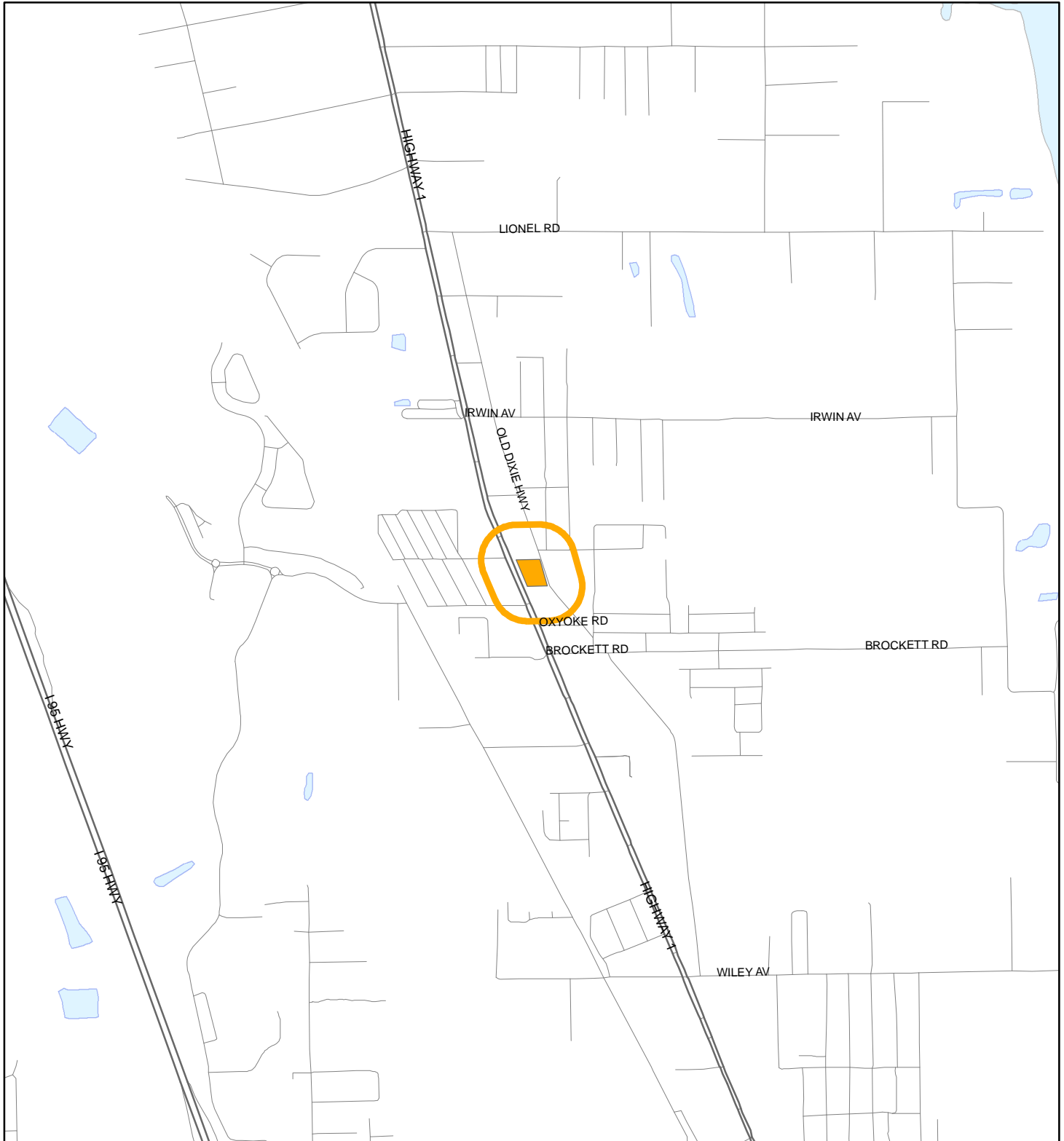
Kelly B. Wineland

State of Florida at Large
My Commission Expires:

(SEAL)

LOCATION MAP

JERRY W SOLOMON & VIOLET SHIRLEY SOLOMON REVOCABLE TRUST
22Z00065





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

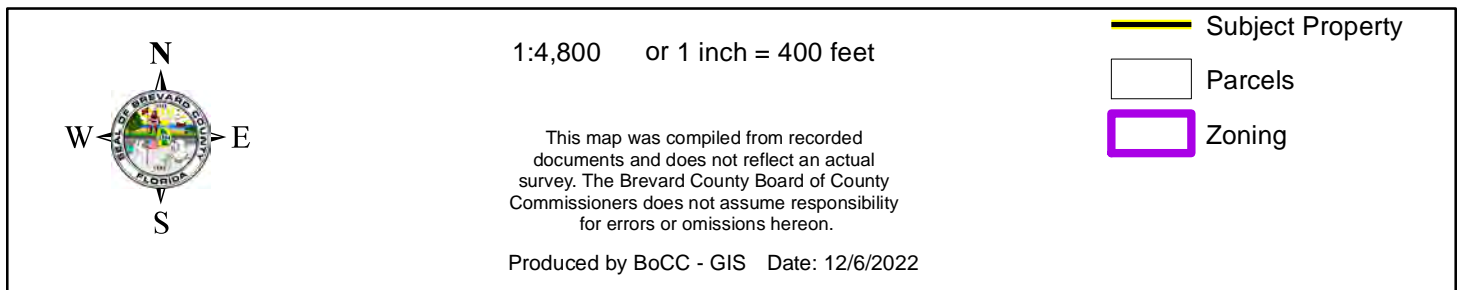
Buffer Distance: 500 feet

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: 12/9/2022

 Buffer
 Subject Property

JERRY W SOLOMON & VIOLET SHIRLEY SOLOMON REVOCABLE TRUST
22Z00065



H. PUBLIC HEARINGS

Planning and Zoning Board / Local Planning Agency
Monday, February 13, 2023, at 3:00 p.m.

Brevard County Board of County Commissioners
Thursday, March 2, 2023, at 5:00 p.m.

Both at the
Brevard County Government Center
2725 Judge Fran Jamieson Way, Building C, First Floor, Viera, Florida

1. **(22Z00066) Lori Ann Halbert** (Jason Steele) requests a change of zoning classification from RU-1-13 (Single-Family Residential) to RU-2-15 (Medium Density Multi-Family Residential), on 0.57 acres, located on the north side of Coral Way, approx. 685 ft. west of Highway A1A. (124 E. Coral Way, Indialantic) (Tax Account 2716292) (District 5)

P&Z Recommendation: Glover/Thomas - Approved. The vote was 9:1, with Sullivan voting nay.

BCC ACTION: Zonka/Tobia - Approved as recommended. The vote was unanimous.

2. **(22Z00064) Brian and Dana Scholz** (Stuart Buchanan) request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on 3.91 acres, located on the north side of Orlando Ave., approx. 0.25 mile east of U.S. Highway 1 (3620 Orlando Ave., Mims) (Tax Account 2004785) (District 1)

P&Z Recommendation: Bartcher/Minneboo - Approved. The vote was unanimous.

BCC ACTION: Zonka/Tobia - Approved as recommended. The vote was unanimous.

3. **(22SS00014) Norman Leigh Sherman, Jr., and Karen Denise Turowski** request a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from AGRIC (Agricultural) to RES 1 (Residential 1), on 4.40 acres, located on the southeast corner of Pine Needle St. and Hog Valley Rd. (4791 Pine Needle St., Mims) (Tax Account 2002089) (District 1)

LPA Recommendation: Moia/Hodgers - Approved. The vote was unanimous with John Hopengarten abstaining.

BCC ACTION: Zonka/Tobia - Tabled to future P&Z and BCC meetings in order for the applicant to provide an appropriate description of the subject property. The vote was unanimous.

4. **(22Z00065) Jerry W. Solomon and Violet Shirley Solomon, Revocable Trust** (Richard Bartley Spangler) request a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on 2.88 acres, located on the east side of U.S. Highway 1, approx. 0.21 mile north of Brockett Rd. (No assigned address. In the Mims area.) (Tax Account 2102130) (District 1)

P&Z Recommendation: Bartcher/Hopengarten - Approved with a BDP retaining all BU-1 uses and limiting the BU-2 use to boat and RV storage only. The vote was unanimous.

PLANNING AND ZONING BOARD RECOMMENDATIONS

- Item H.1. **Lori Ann Halbert.** Zonka/Tobia. Approved the request of changing the zoning classification from RU-1-13 to RU-2-15 as recommended. (22Z00066)
- Item H.2. **Brian and Dana Scholz.** Zonka/Tobia. Approved the request of changing the zoning classification from AU to RR-1 as recommended. (22Z00064)
- Item H.3. **Norman Leigh Sherman, Jr. and Karen Denise Turowski.** Continued the request of a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from AGRIC to RES 1, until an appropriate description of the property is obtained. (22SS00014)
- Item H.4. **Jerry W. Solomon and Violet Shirley Solomon, Revocable Trust.** Tobia/Zonka. Approved the request of changing the zoning classification from BU-1 to BU-2 with a BDP limiting to BU-1 uses and RV and boat storage. The P&Z board recommended approval of all BU-1 uses and the use of recreational vehicle and boat storage only. (22Z00065)
- Item H.5. **Edita Realty.** Tobia/Feltner. Approved the request of changing the zoning classification from BU-1 to RU-2-10 as recommended. (22Z00049)
- Item H.6. **Lake Geneva Group, LLC.** Withdrawn by the applicant. Letter received February 28, 2023. (22Z00063)



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.2.

4/6/2023

Subject:

Acceptance, Re: Binding Development Plan with Ronald Abbott (District 3)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

In accordance with Section 62-1157, it is requested that the Board of County Commissioners accept, and the Chair sign, the Binding Development Plan.

Summary Explanation and Background:

A BDP (Binding Development Plan) is a voluntary agreement presented by the property owner to self-impose limits upon development of a property in support of a change of zoning or conditional use permit. Pursuant to Section 62-1157, a BDP shall be recorded in the public records within 120 days of the Board's approval of the zoning request. Following staff and legal review, the BDP is presented to the Board in recordable form as a Consent Agenda item in order to finalize the zoning action.

On February 2, 2023, the Board approved a change of zoning classification from BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial), with a BDP retaining all BU-1 uses and limiting the BU-2 use to boat and RV storage only. The attached BDP includes this condition.

Clerk to the Board Instructions:

Upon recordation, please return two certified copies of the BDP to Planning and Development.

Prepared by: Kelly Hyvonen
Address: 355 Spoonbill Lane
Melbourne Beach, FL 32951

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 2023 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and RONALD ABBOTT (hereinafter referred to as "Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the BU-2 zoning classification and desires to develop the Property as boat and recreational vehicle storage, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by their reference.
2. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
3. The Owner retains all BU-1 uses and limits the BU-2 uses to boat and recreational vehicle storage only.

Rev. 3/22/2023

4. Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
5. Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
6. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on February 2, 2023. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
7. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
8. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 7 above.
9. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel M. Sadoff, Clerk of Court
(SEAL)

Rita Pritchett, Chair

As approved by the Board on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:



Ryan Runte
(Witness Name typed or printed)



SCOTT MARTIN
(Witness Name typed or printed)

RONALD ABBOTT
as OWNER

5345 S A1A
MEL. BCH FLA 3295
(Address)


Signature

Ronald Abbott

STATE OF FL §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or
_____ online notarization, this 22nd day of March, 2023, by
Ronald Abbott, President of _____, who is
personally known to me or who has produced _____ as identification.

My commission expires 12/17/24
SEAL

Commission No.: HH 073190


Notary Public Lisa Marie Martel

(Name typed, printed or stamped)



Exhibit "A"

That part of Government Lots 2 and 3, Section 11, Township 30 South, Range 38 East, Brevard County, Florida, lying South of O.R. Book 4303, Page 3589, Public Records of Brevard County, Florida, East of the right of way line of the Florida East Coast Railroad right of way and North of the North right of way line of Barefoot Boulevard, less and except that part contained in O.R. Book 3633, Page 928, recorded in Public Records of Brevard County, Florida. Less the right of way for U.S. Highway No. 1.

AND

Less and except the following as described in Warranty Deed recorded in O.R. Book 6492, Page 1998, Public Records of Brevard County, Florida:

A portion of Government Lot 2, Section 11, Township 30 South, Range 38 East, Brevard County, Florida, lying South of Official Record Book 4303, Page 3589, Public Records of Brevard County, Florida, West of U.S. Highway No. 1 and North of Barefoot Boulevard as described in Official Record Book 144, Page 610 of the Public Records of Brevard County, Florida, said parcel being more particularly described as follows:

Commence at the Northwest corner of said Government Lot 2, said point also being the Northwest corner of the SW $\frac{1}{4}$ of said Section 11; thence along the West line of Government Lot 2 and the West line of Section 11, S $00^{\circ} 09' 34''$ E, 994.98 feet; thence departing said West line N $89^{\circ} 51' 30''$ E, 1357.07 feet to the Point of Beginning, said point also lying on the South line of that certain parcel as described in Official Record Book 4303, Page 3589 of the Public Records of Brevard County, Florida; thence continue N $89^{\circ} 51' 30''$ E, 205.20 feet to a point on the West right of way of U.S. Highway No. 1; thence along said West right of way, S $25^{\circ} 27' 07''$ E, 185.78 feet; thence departing said West right of way, along the Northerly right of way of said Barefoot Boulevard S $19^{\circ} 34' 28''$ W, 71.01 feet; thence S $64^{\circ} 37' 12''$ W, 13.32 feet to a point of curvature of a curve to the right; thence 122.00 feet along the Arc of said curve having an radius of 2375.00 feet, a central angle of $02^{\circ} 56' 36''$, a chord bearing and distance of S $66^{\circ} 05' 30''$ W, 121.99 feet; thence departing said Northerly right of way N $25^{\circ} 27' 07''$ W, 320.38 feet to the Point of Beginning. Said parcel containing 1.16 acres, more or less.

STATE OF FLORIDA
COUNTY OF BREVARD

Ronald Abbott, after being duly sworn, deposes and says:

The undersigned is the owner of the real property described as follows:

See Exhibit "A" for Legal Description

There are no mortgages on the above described property

Dated this 22nd day of March 2023



Signature

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was sworn to before me this 23rd day of March, by
Ronald Abbott, who is personally known to me or who has
produced _____ as identification, and who did take an oath.

Notary Public:



State of Florida at Large
My Commission Expires: 12/17/24

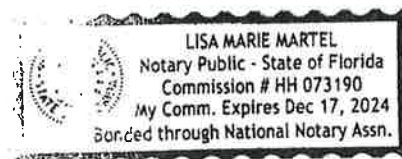


Exhibit "A"

That part of Government Lots 2 and 3, Section 11, Township 30 South, Range 38 East, Brevard County, Florida, lying South of O.R. Book 4303, Page 3589, Public Records of Brevard County, Florida, East of the right of way line of the Florida East Coast Railroad right of way and North of the North right of way line of Barefoot Boulevard, less and except that part contained in O.R. Book 3633, Page 928, recorded in Public Records of Brevard County, Florida. Less the right of way for U.S. Highway No. 1.

AND

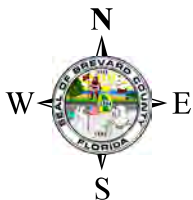
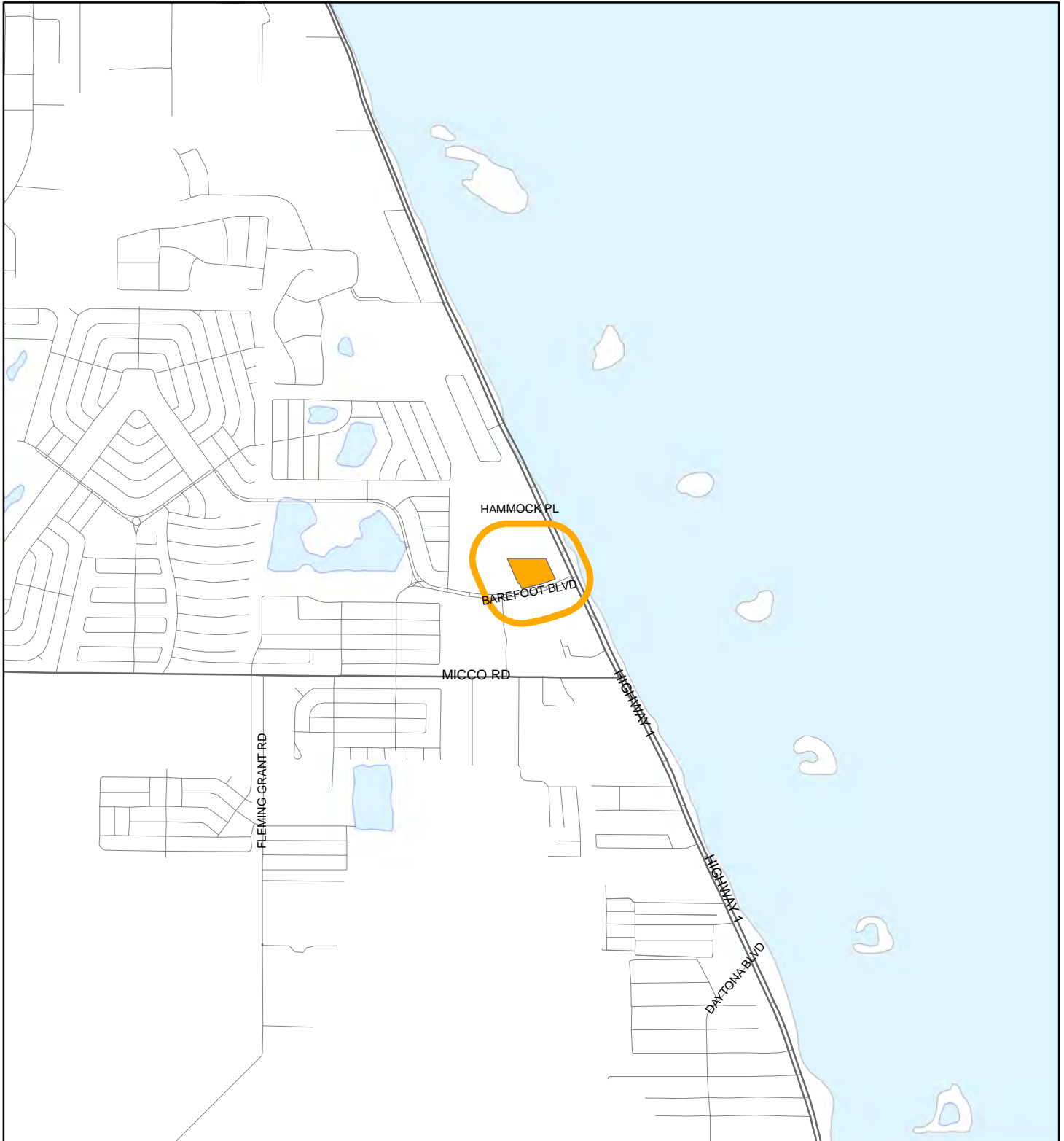
Less and except the following as described in Warranty Deed recorded in O.R. Book 6492, Page 1998, Public Records of Brevard County, Florida:

A portion of Government Lot 2, Section 11, Township 30 South, Range 38 East, Brevard County, Florida, lying South of Official Record Book 4303, Page 3589, Public Records of Brevard County, Florida, West of U.S. Highway No. 1 and North of Barefoot Boulevard as described in Official Record Book 144, Page 610 of the Public Records of Brevard County, Florida, said parcel being more particularly described as follows:

Commence at the Northwest corner of said Government Lot 2, said point also being the Northwest corner of the SW $\frac{1}{4}$ of said Section 11; thence along the West line of Government Lot 2 and the West line of Section 11, S $00^{\circ} 09' 34''$ E, 994.98 feet; thence departing said West line N $89^{\circ} 51' 30''$ E, 1357.07 feet to the Point of Beginning, said point also lying on the South line of that certain parcel as described in Official Record Book 4303, Page 3589 of the Public Records of Brevard County, Florida; thence continue N $89^{\circ} 51' 30''$ E, 205.20 feet to a point on the West right of way of U.S. Highway No. 1; thence along said West right of way, S $25^{\circ} 27' 07''$ E, 185.78 feet; thence departing said West right of way, along the Northerly right of way of said Barefoot Boulevard S $19^{\circ} 34' 28''$ W, 71.01 feet; thence S $64^{\circ} 37' 12''$ W, 13.32 feet to a point of curvature of a curve to the right; thence 122.00 feet along the Arc of said curve having an radius of 2375.00 feet, a central angle of $02^{\circ} 56' 36''$, a chord bearing and distance of S $66^{\circ} 05' 30''$ W, 121.99 feet; thence departing said Northerly right of way N $25^{\circ} 27' 07''$ W, 320.38 feet to the Point of Beginning. Said parcel containing 1.16 acres, more or less.

LOCATION MAP

ABBOTT, RONALD; ABBOTT MANUFACTURED HOUSING INC
22Z00060



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

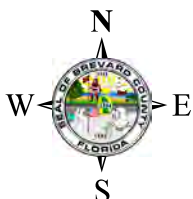
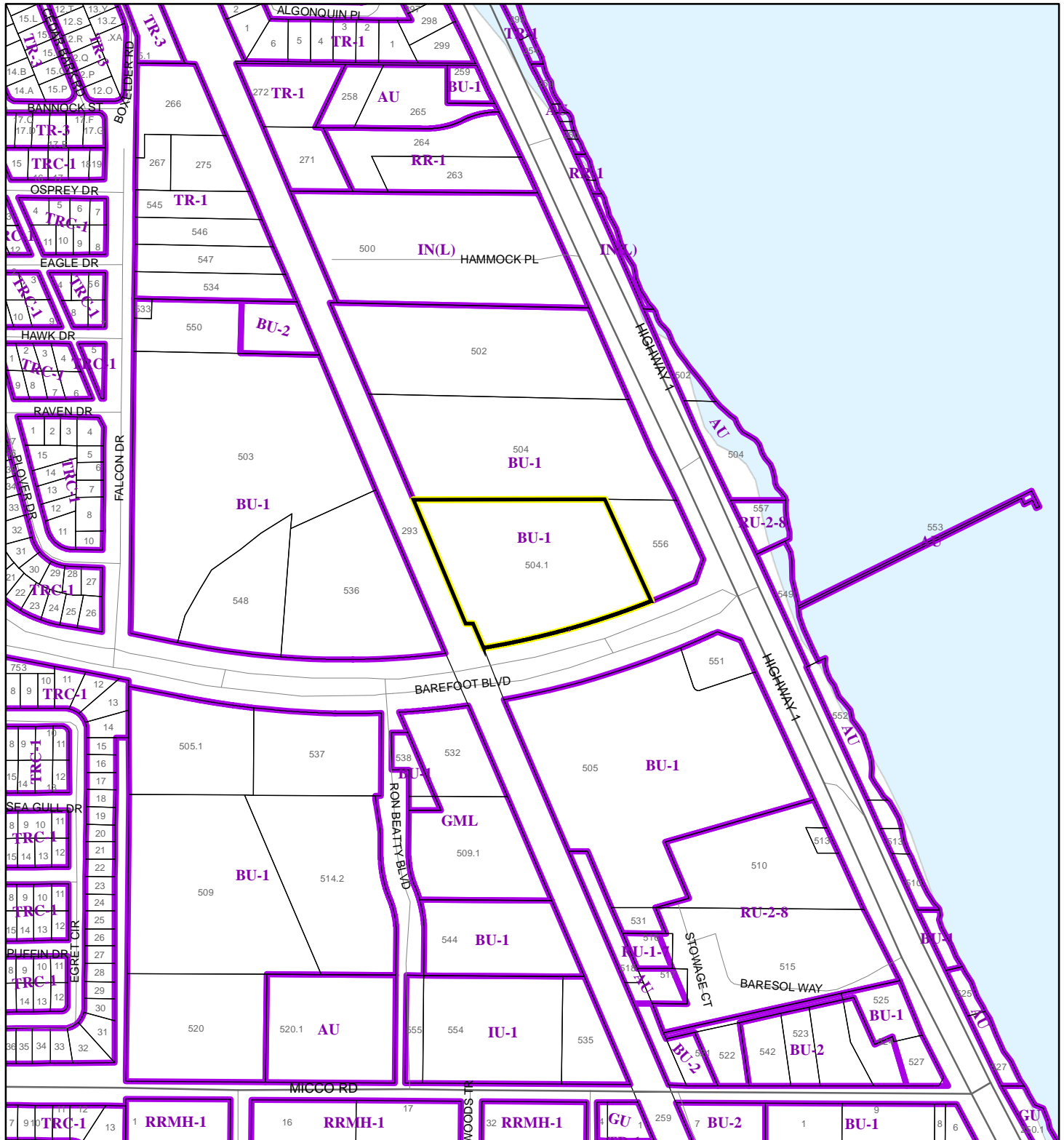
Buffer Distance: 500 feet

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: 11/2/2022

— Buffer
— Subject Property




22Z00060



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: 11/2/2022

-  Subject Property
 Parcels
 Zoning

5. **(22Z00058) Tomas Manuel Guillen Arguelles and Elsa F. Rodriguez Arriaga** request a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential). The property is 0.24 acres, located on the west side of Koch St., approx. 245 ft. south of Lucas Rd. (No assigned address. In the Merritt Island area.) (Tax Account 2419383) (District 2)

P&Z Recommendation: Hodgers/Filiberto - Approved. The vote was unanimous.

BCC ACTION: Goodson/Feltner - Approved. The vote was unanimous.

6. **(22Z00060) Ronald Abbott; Abbott Manufactured Housing, Inc.** (Kelly Hyvonen) requests a change of zoning classification from BU-1 (General Retail Commercial) with an existing BDP (Binding Development Plan) to BU-2 (Retail, Warehousing, and Wholesale Commercial) and removal of existing BDP. The property is 4.58 acres, located on the north side of Barefoot Bay Blvd., approx. 200 ft. west of U.S. Highway 1. (No assigned address, in the Micco area.) (Tax Account 3010400) (District 3)

P&Z Recommendation: Bartcher/Filiberto - Approved as requested, and with a BDP retaining all BU-1 uses, and limiting the BU-2 use to boat and RV storage only. The vote was 7:2, with Minneboo and Hopengarten voting nay.

BCC ACTION: Tobia/Zonka - Approved as recommended, with a BDP retaining all BU-1 uses, and limiting the BU-2 use to boat and RV storage only. The Binding Development Plan will be scheduled as a Consent Item on a subsequent County Commission agenda, per Policy BCC-52. Resolution to be completed upon receipt of recorded BDP.

7. **(22SS00012) Kanes Furniture, LLC** (Bruce Moia) requests a *Small Scale Comprehensive Plan Amendment (22S.16)*, to change the *Future Land Use designation* from CC (Community Commercial) and RES 4 (Residential 4), to RES 15 (Residential 15). The property is 12.59 acres, located on the south side of W. New Haven Ave., approx. 300 ft. east of Seminole Blvd. (No assigned address. In the West Melbourne area.) (Tax Accounts 2800116 & 2800342) (District 5)

LPA Recommendation: Glover/Bartcher - Denied. The vote was unanimous.

BCC ACTION:

8. **(22Z00052) Kanes Furniture, LLC** (Bruce Moia) requests a change of zoning classification from RU-1-7 (Single-Family Residential) and BU-1 (General Retail Commercial) with an existing BDP (Binding Development Plan), to RU-2-15 (Medium Density Multi-Family Residential), and removal of existing BDP. The property is 12.59 acres, located on the south side of W. New Haven Ave., approx. 300 ft. east of Seminole Blvd. (No assigned address. In the West Melbourne area.) (Tax Accounts 2800116 & 2800342) (District 5)

P&Z Recommendation: Glover/Sullivan - Denied. The vote was unanimous.

BCC ACTION:

9. **(22Z00062) NDA Merritt Project Zenith, LLC; and SES Merritt Project Zenith, LLC** (Ross Abramson / Kim Rezanka) requests a change of zoning classification from BU-1 (General



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

4/6/2023

Subject:

Bobby Jo Thomas requests a change of zoning classification from GU to RRMH-1. (23Z00002) (Tax Account 3029907) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from GU to RRMH-1 for the purpose of building a single-family residence on the vacant unimproved property. At 2.87 acres, the subject property does not meet the minimum size requirement of 5 acres for the GU zoning classification. The proposed RRMH-1 classification permits single-family mobile homes and detached single-family on a minimum one-acre lots, with a minimum width and depth of 125 feet, and a minimum living area of 600 square feet. The RRMH-1 classification also permits horses, barns, and horticulture as accessory uses.

Parcels in the surrounding area range from 3 acres to 4.45 acres. The parcel to the north is zoned GU with a single-family residence on 2.87 acres. The undeveloped parcel to the west, across Blounts Ridge Road, is zoned AU & RRMH-1 on 3 acres. The undeveloped parcel to the south and east is zoned GU on 4.45 acres.

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

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning & Development.

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

23Z00002

Bobby Jo Thomas

GU (General Use) to RRMH-1 (Rural Residential Mobile Home)

Tax Account Number: 3029907
Parcel I.D.: 20G-34-16-AI-2-5.01
Location: East side of Blounts Ridge Road, approximately 2140-feet northeast of Fain Lane (District 1)
Acreage: 2.87 acre

Planning & Zoning Board: 3/13/2023
Board of County Commissioners: 4/06/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	GU	RRMH-1
Potential*	0	1 SFR 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 applicants are requesting a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home) for the purpose of allowing the applicant to build a single-family residence on the vacant unimproved property. The current zoning classification does not meet the requirements of the existing zoning classification of GU. The parcel is 2.87-acre in size and the GU zoning classification requires a minimum of 5-acres. GU went from 1-acre to 5-acres on May 20, 1975.

The subject parcel was recorded into the current configuration per ORB 9566, Page 1387, on July 12, 2022. The parcel has frontage on Blounts Ridge Road which is a County paved and maintained road.

Land Use

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

Applicable Land Use Policies

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

The applicant's request could be considered consistent with the existing 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 subject property is currently vacant unimproved land. The proposed addition of a single-family mobile home is not anticipated to have hours of operation, lighting, odor, noise levels, traffic or site activity that would diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. There have not been any commercial or residential developments over the past three (3) years.

- 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.

Only a certified MAI (Member Appraisal Institute) 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;

Land use patterns for this property has not changed since the adoption of the RES 1 FLU designation. There is one (1) FLU designation (RES 1) within 500-feet of this site. There have been no FLU changes over the past 3 years.

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 approved development within 500-feet in the preceding three (3) years.

- A. 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.

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

Criteria:

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

The surrounding area is a mixture of undeveloped land, site-built and single-family mobile homes ranging from 0.26-acres to 8-acres.

Parcels in the immediate surrounding area range from 3.0-acres to 4.45-acres. The parcel to the north is single-family residence zoned GU (General Use) on 2.87 acres. The undeveloped parcel to the west across Blounts Ridge Road is zoned AU/RRMH-1 on 3.0 acres. The undeveloped parcel to the south and east is zoned GU (General Use) on 4.45 acres.

A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding established 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.

The parcel is within a clearly defined residential area with I95 to the east.

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 subject property is not requesting to be rezoned for commercial uses.

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.

The subject parcel is not requesting to be rezoned for commercial, industrial or other non-residential uses.

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

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family	GU	RES 1
South	Undeveloped	GU	RES 1
East	Undeveloped	GU	RES 1
West	Undeveloped	AU/RRMH-1	RES 1

The current 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.

The RRMH-1 classification permits single-family mobile homes and detached single-family residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet. This classification permits horses, barns and horticulture as accessory uses. The minimum house size is 600 square feet.

The AU agricultural residential zoning classification encompasses land devoted to single-family agricultural pursuits and single-family residential development on a lot not less than 2.5 acres having a width of not less than 150-feet and depth of not less than 150-feet. The minimum floor area in AU is 750 square feet of living area.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Lionel Road to Burkholm Road, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 23.47% 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 23.50% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is not serviced by public sewer or within the Brevard County service area for potable water. The closest available Brevard County potable water line or sewer connection to the subject property is approximately three (3) miles south across I-95 HWY at the north end of Morrow Place.

Environmental Constraints

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

Wetlands/Hydric Soils

The eastern one-third of subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils, as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities. The wetland delineation shall be verified at time of site plan submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 62-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

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.

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 (NRM) DEPARTMENT
Zoning Review & Summary**

Item #23Z00002

Applicant: Bobby Thomas

Zoning Request: GU to RRMH-1

Note: Wants to legitimize lot size to build a single-family residence.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 3029907

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

Wetlands/Hydric Soils

The eastern one-third of subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils, as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities. The wetland delineation shall be verified at time of site plan submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

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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.

Land Use Comments:

Wetlands/Hydric Soils

The eastern one-third of subject parcel contains mapped NWI wetlands, SJRWMD wetlands, and hydric soils (Samsula muck, frequently ponded, 0 to 1 percent slopes), as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities. The wetland delineation shall be verified at time of site plan submittal. Per Section 62 3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand & Candler 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 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.

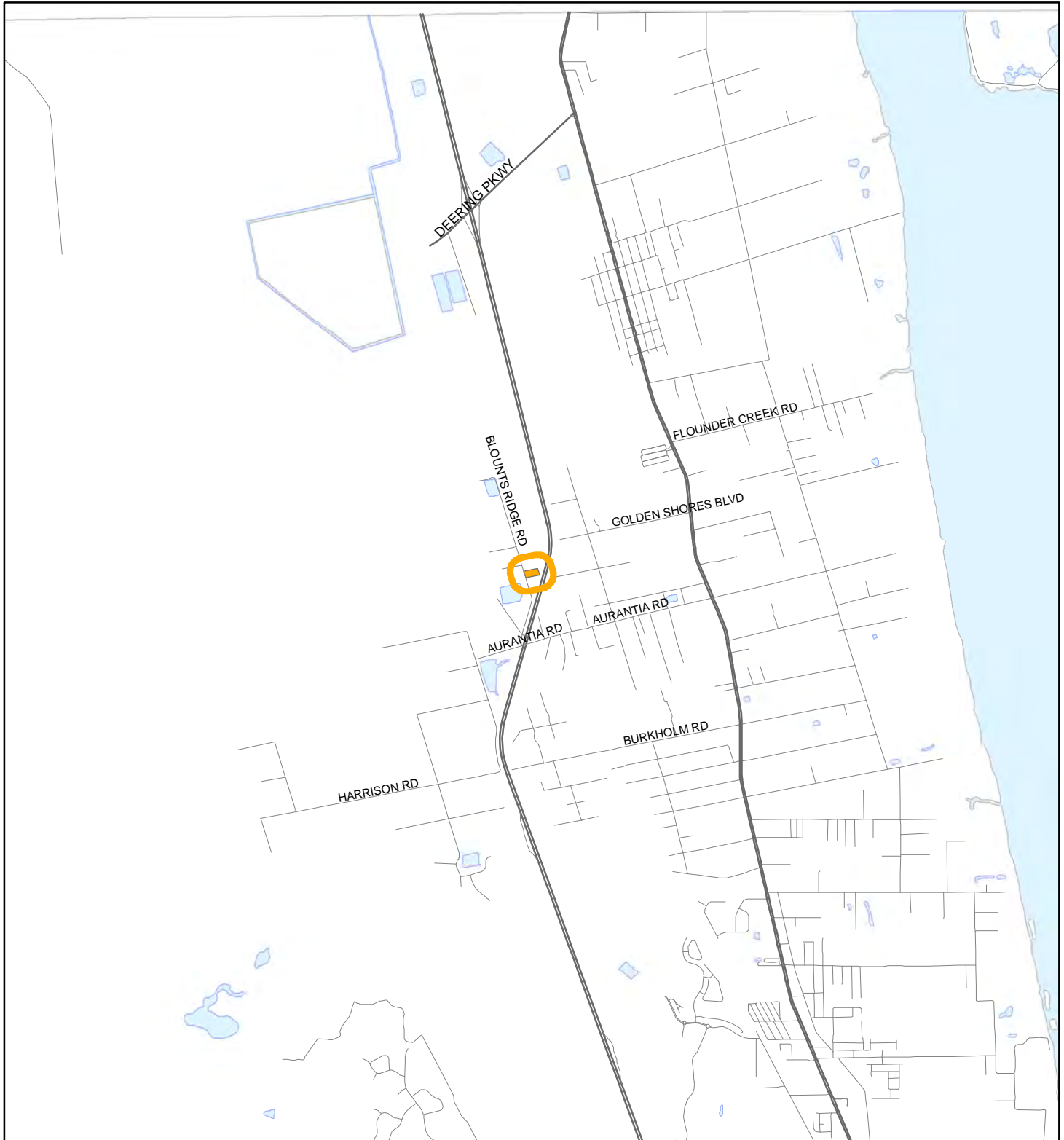
Protected Species

Federally and/or state protected species may be present on properties with aquifer recharge soils (e.g., gopher tortoises). Should any protected species be present, 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 prior to any plan, permit submittal, or development activity, including land clearing, as applicable.

LOCATION MAP

BOBBY THOMAS

23Z00002



1:61,050 or 1 inch = 5,087 feet

Buffer Distance: 500 feet

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

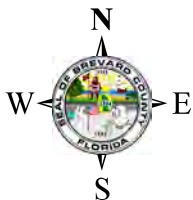
Produced by BoCC - GIS Date: 1/11/2023

Buffer
Subject Property

ZONING MAP

BOBBY THOMAS

23Z00002



1:4,800 or 1 inch = 400 feet

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

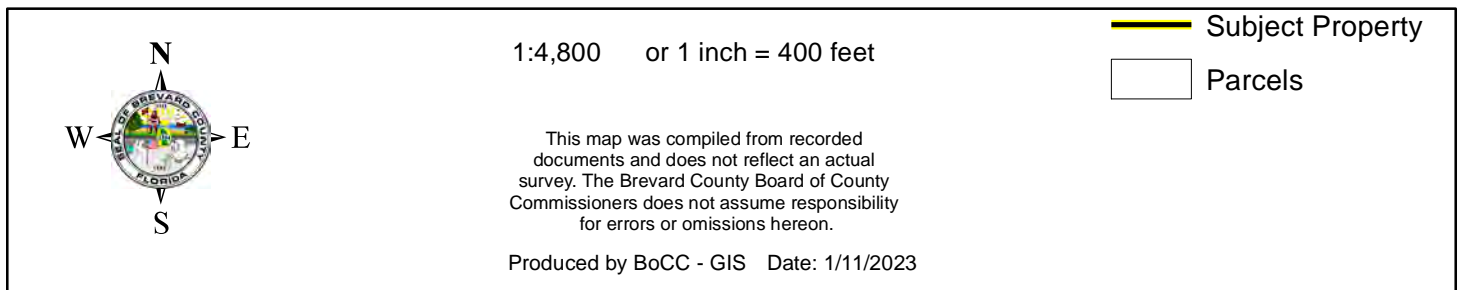
Produced by BoCC - GIS Date: 1/11/2023

Subject Property

Parcels

Zoning

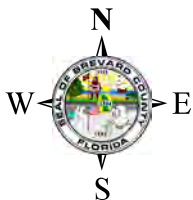
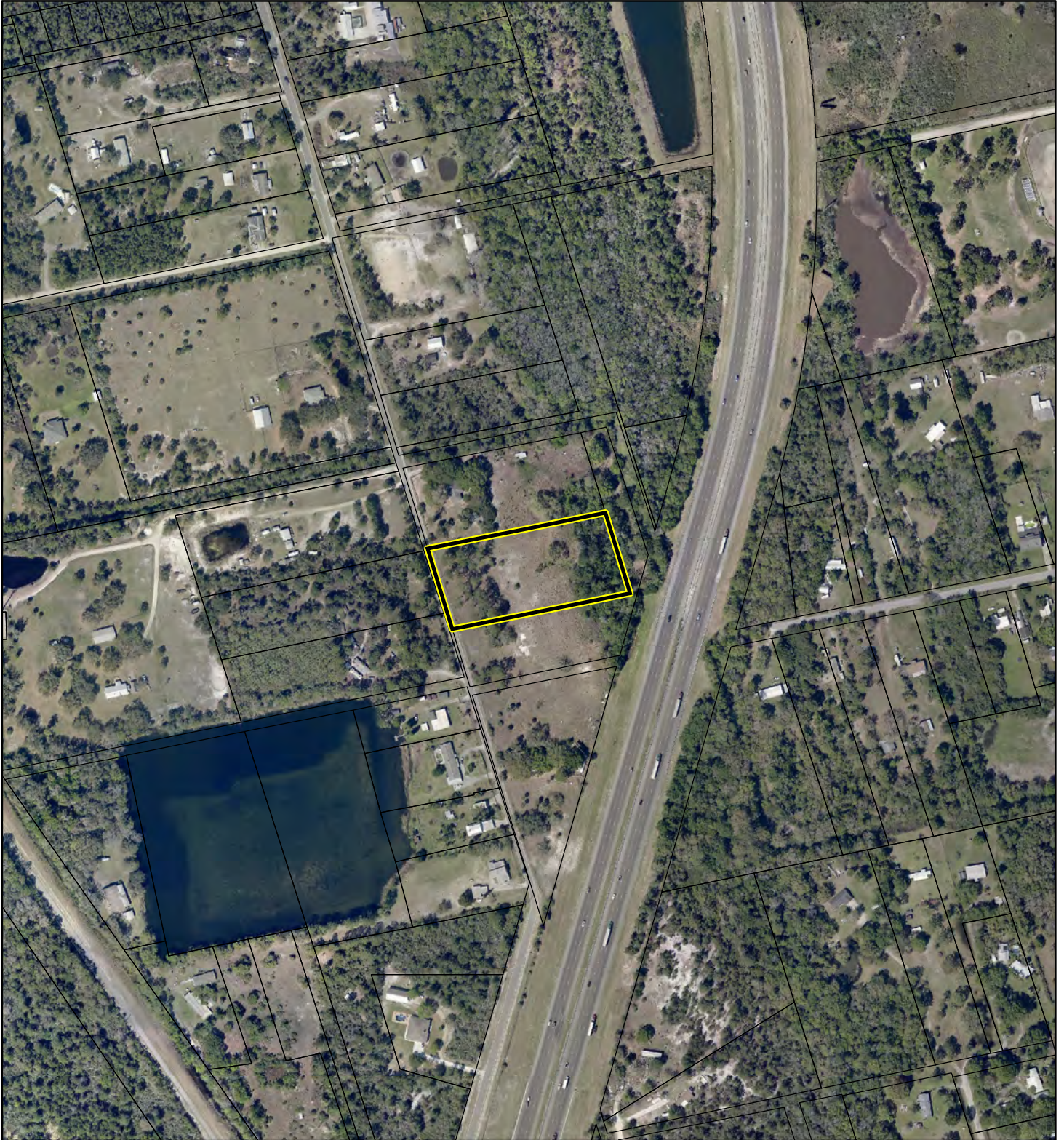
BOBBY THOMAS
23Z00002



AERIAL MAP

BOBBY THOMAS

23Z00002




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

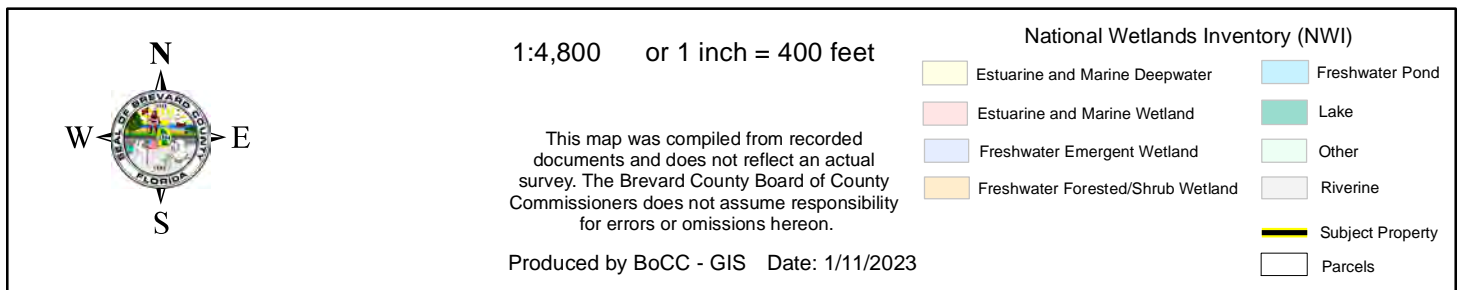
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Produced by BoCC - GIS Date: 1/11/2023

 Subject Property

 Parcels

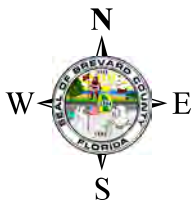
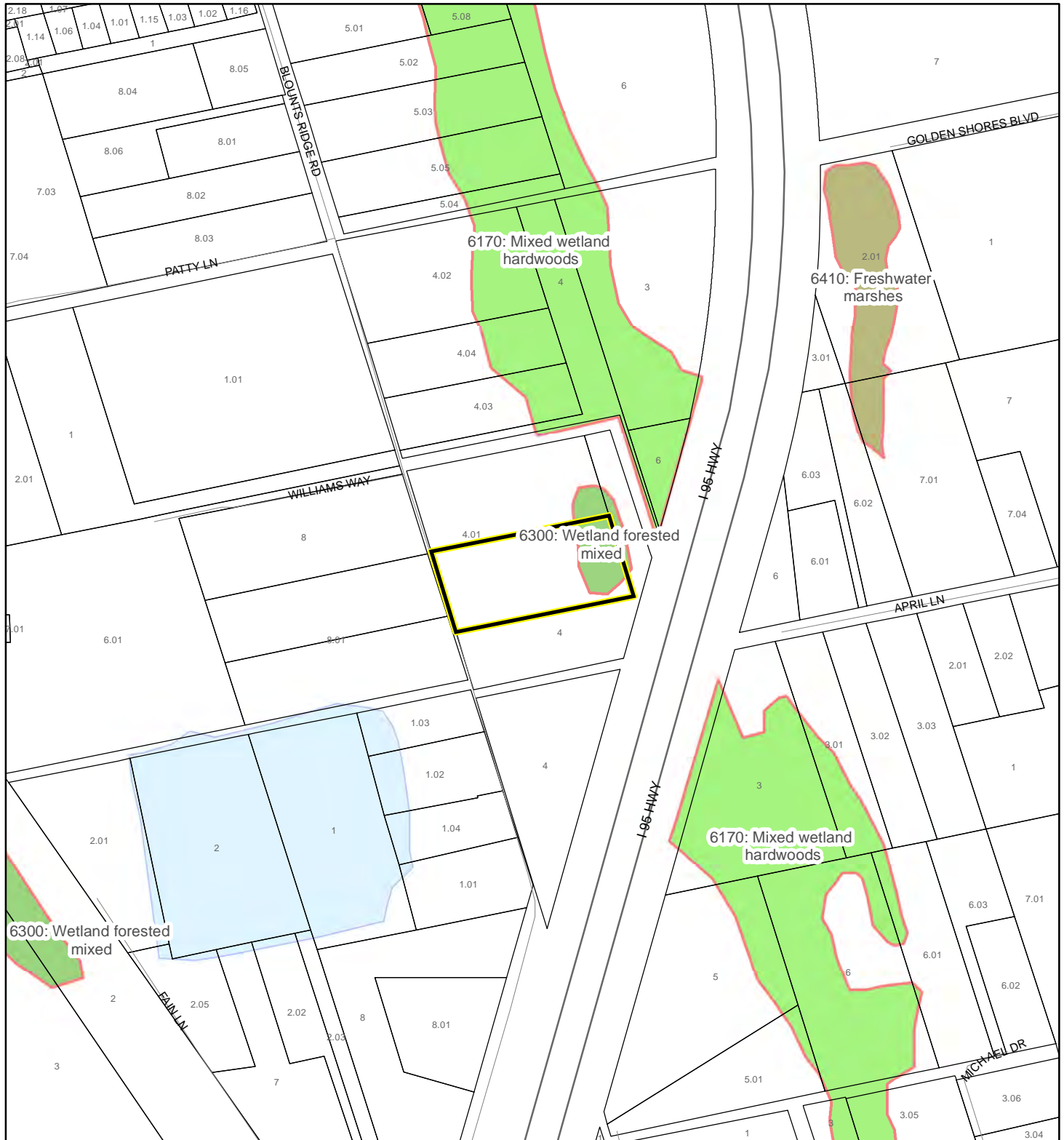
BOBBY THOMAS
23Z00002



SJRWMD FLUCCS WETLANDS - 6000 Series MAP

BOBBY THOMAS

23Z00002



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/11/2023

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

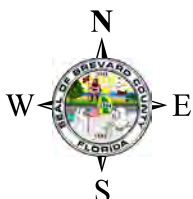
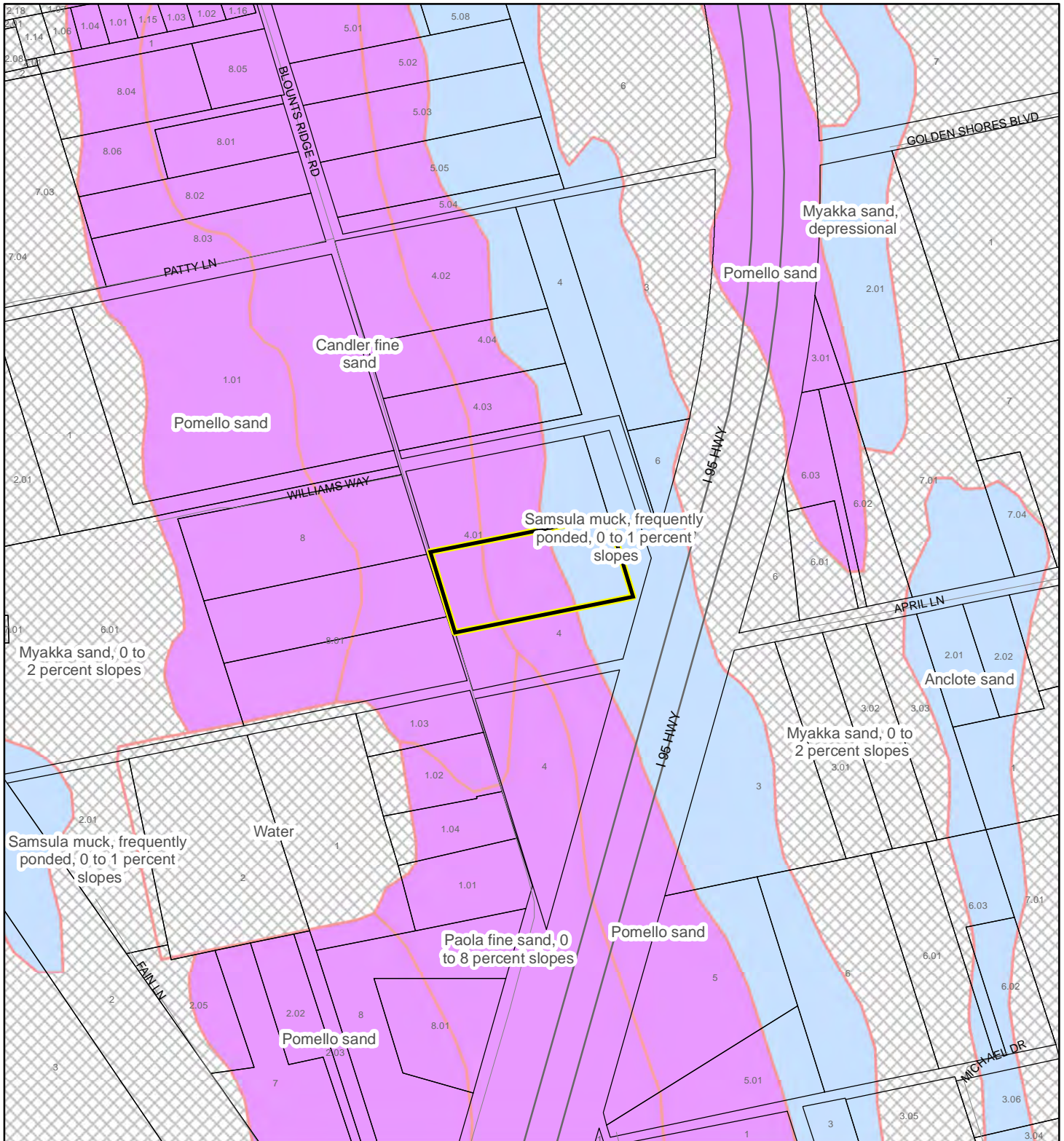
Subject Property

Parcels

USDA SCSSS SOILS MAP

BOBBY THOMAS

23Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

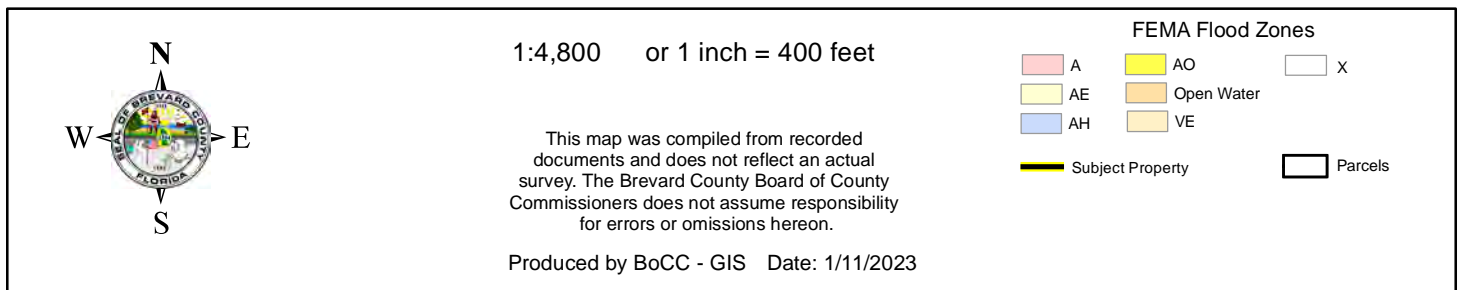
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

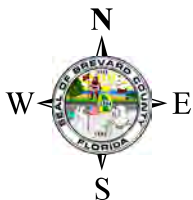
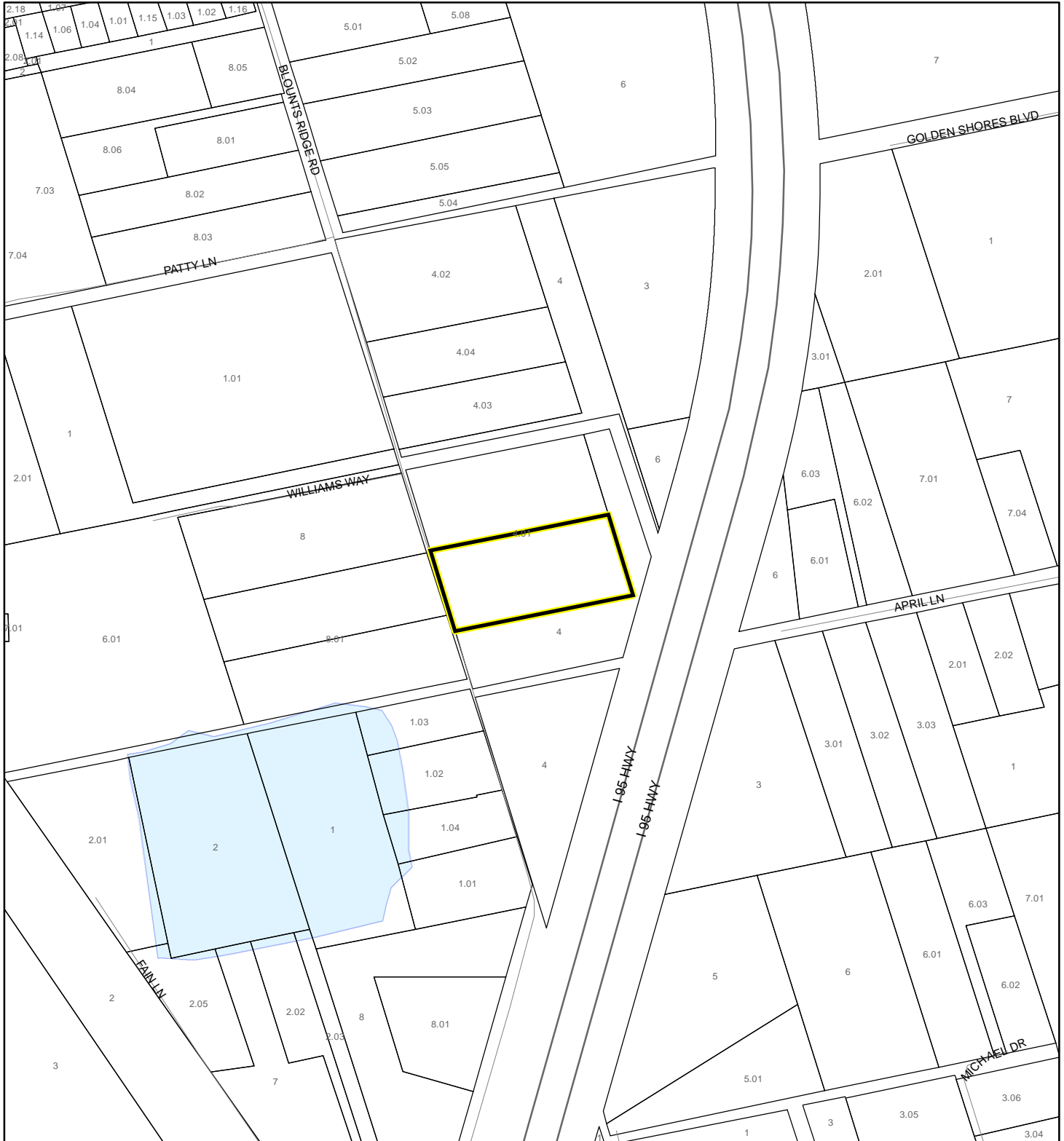
BOBBY THOMAS
23Z00002



COASTAL HIGH HAZARD AREA MAP

BOBBY THOMAS

23Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

 Subject Property

 Parcels

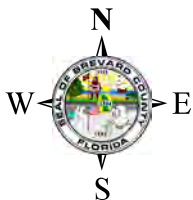
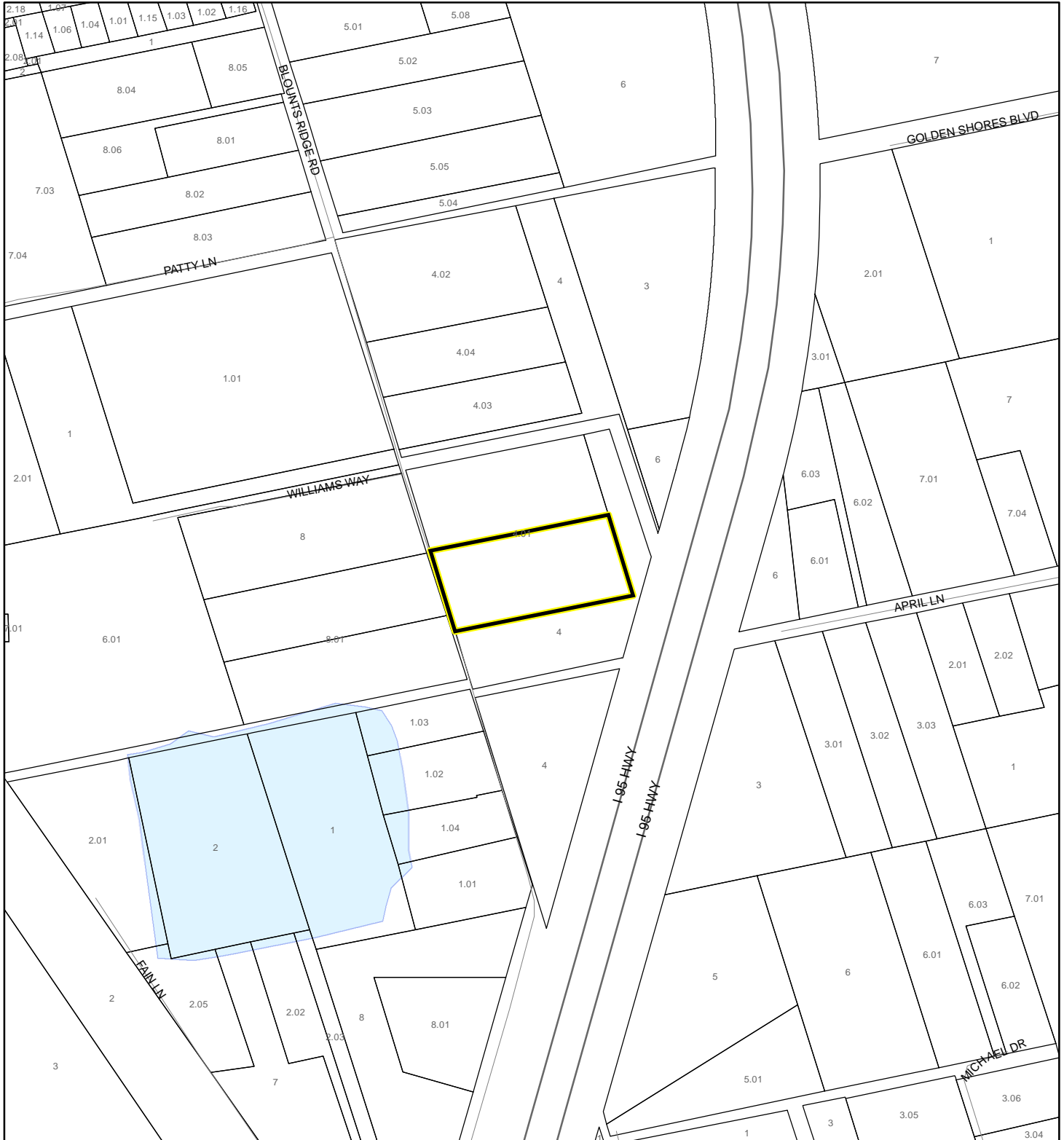
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

BOBBY THOMAS

23Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

Subject Property

Parcels

Septic Overlay

40 Meters

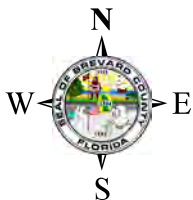
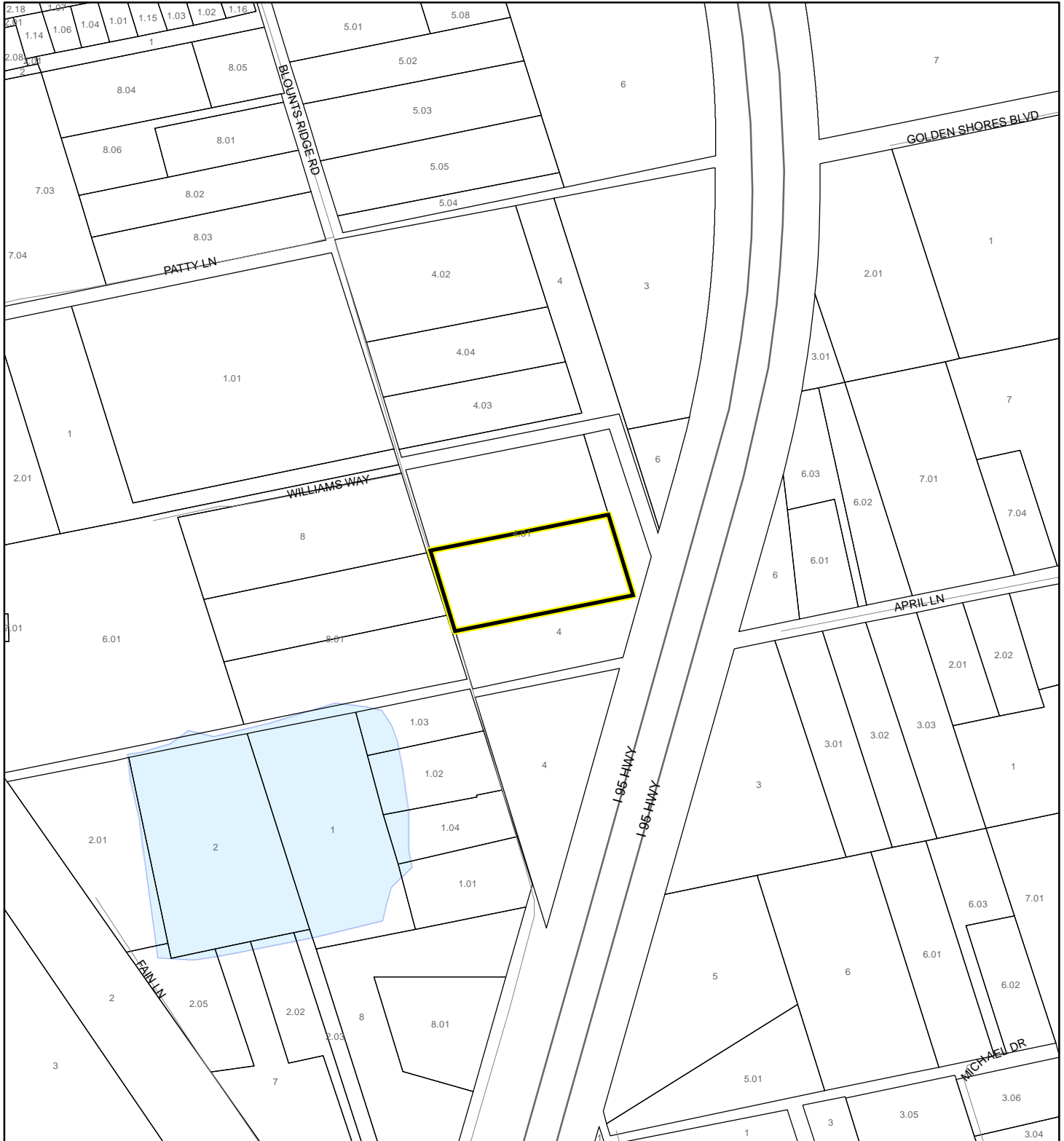
60 Meters

All Distances

EAGLE NESTS MAP

BOBBY THOMAS

23Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

 Subject Property

 Parcels

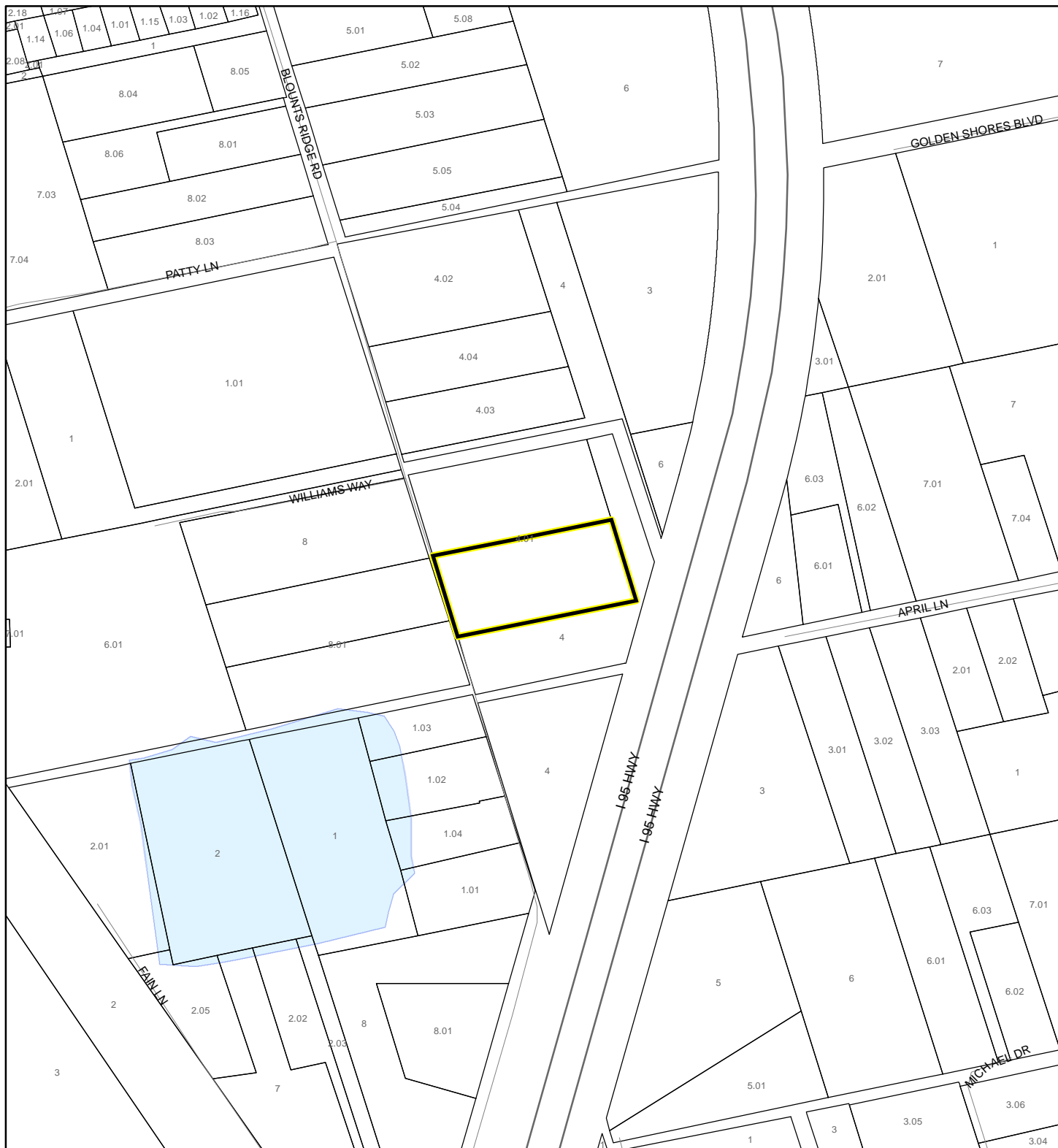


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

BOBBY THOMAS

23Z00002



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

Subject Property

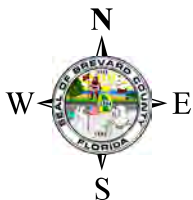
Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

BOBBY THOMAS

23Z00002



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/11/2023

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

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Bobby Jo Thomas

A change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home), on 2.87 acres, located on the east side of Blounts Ridge Rd., approx. 0.17 mile south of Patty Lane. (No assigned address. In the Mims area.) (23Z00002) (Tax Account 3029907) (District 1)

Bobby Jo Thomas, 5035 Blounts Ridge Road, Mims, stated he bought subject property from his mother and he would like to build a house next to her.

No public comment.

Motion by Ron Bartcher, seconded by Robert Sullivan, to recommend approval of the change of zoning classification from GU to RRMH-1. The motion passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

4/6/2023

Subject:

Louise Julia Goloversic requests a change of zoning classification from GU and ARR to AU. (23Z00005) (Tax Account 2406379) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from GU and ARR to AU for the purpose of replacing a dilapidated barn, and adding a carport and shop. The shop could be used in conjunction with an agricultural use. The subject property does not meet the 5-acre minimum lot size requirement of the GU zoning classification.

The surrounding area is a mixture of undeveloped land and agricultural rural residential ranging from 1 acre to 3 acres. The two most prevalent zoning districts in the surrounding area is ARR and GU. Approximately, 475 feet to the west of the subject are environmental areas owned by St. Johns River Water Management District and others. The closest AU zoned parcel is 1,021 feet to the south off Breckinridge Avenue.

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

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning & Development.

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

23Z00005

Louise Goloversic

GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential)

Tax Account Number: 2406379

Parcel I.D.: 24-35-20-01-7.A-2

Location: North side of Soggy Bottom Ave approximately 1780 feet west of Satellite Blvd (District 1)

Acreage: 3 acre

Planning & Zoning Board: 3/13/2023

Board of County Commissioners: 4/06/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	GU/ARR	AU
Potential*	0	1 SFR 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 applicants are requesting a change of zoning classification from GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential) for the purpose of allowing the applicants to replace dilapidated barn, add carport and shop. The current zoning classification does not meet the requirements of the GU zoning classification. The parcel is 3-acres in size and the GU zoning classification requires a minimum of 5-acres. GU went from 1-acre to 5-acres on May 20, 1975. The ARR zoning classification requires a minimum 1-acre lot size. AU (Agricultural residential) requires a minimum of 2.5-acres of land. The requested AU zoning classification could be considered an introduction to the west of Satellite Blvd area. However, AU is consistent with the development trends in the area and would require a lot size of 2.5 acres.

Previously approved zoning actions on the subject property include administrative action A-0495, change of zoning classification from IU to GU on all of Section 20 Township 24 Range 35 East on

May 31, 1961; Z-9908 administrative change in zoning classification from GU to ARR on Lot 2 block 7.A on June 26, 1997.

The subject parcel was recorded into the current configuration per ORB 9599, Page 466, on August 29, 2022 merging Tract 1, 2, and 3. The two-thirds of the parcel has frontage on Soggy Bottom Ave which is an unpaved road not maintained by the county. Pursuant to Sec. 62-102(c)7a. – Unpaved road agreements and Sec. 62-510. – West Canaveral Groves, existing parcel with existing permanent structures that have been identified to be in existence as of December 9, 1994 and certified on or before January 30, 1995 from the growth management director shall be authorized and accepted as permitted single-family residential structures provided the owner complies with the conditions of said ordinances, including, but not limited to dedication of road rights-of-way. The subject property was identified and certified during the aforementioned time period. A Certificate of Occupancy (existing home for compliance) was issued on April 17, 2003 under Permit # C0081747.

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.

Applicable Land Use Policies

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

The applicant's request could be considered consistent with the existing 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 subject property, based on BCPAO aerial map and details, appears to have several building structures including a Pole Barn. The proposed replacement of the existing dilapidated horse barn and accessory structures with a new carport/shop for their personal enjoyment is not anticipated to have hours of operation, lighting, odor, noise levels, traffic or site activity that would diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. There have not been any commercial or residential developments over the past three (3) years.

- 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 (Member Appraisal Institute) 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;

Land use patterns for this property has not changed since the adoption of the RES 1 FLU designation. There are two (2) FLU designations (RES 1 and PUB-CONS) within 500-feet of this site. There have been no FLU changes over the past 3 years.

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 approved development within 500-feet in the preceding three (3) years.

- A. 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.

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:

West Canaveral Groves is an area of the County that is sparsely developed with single-family residences. Sec. 62-102. – Criteria for issuance of a residential building permit and Sec. 62-510. – West Canaveral Groves area, must be met prior to issuance of a residential building permit. Pursuant to Sec. 62-510, existing permanent structures identified to be in existence as of December 9, 1994 and dedicated road right-of-way to the County were authorized and accepted as permitted single-family residential structures. Which may be replaced provided the owner complies with the requirements of the applicable zoning classification.

Criteria:

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

The surrounding area is a mixture of undeveloped land and agricultural rural residential ranging from 1-acre to 3-acres. Approximately, 475 feet to the west of the subject are environmental areas owned by St. Johns River Water Management District and others. The closest AU zoned parcel is 1021-feet to the south off Breckinridge Ave.

Parcels in the immediate surrounding area are approximately 1.0-acre in size. To the north are single-family residence and undeveloped zoned GU (General Use) and ARR approximately 1-acre sized parcels separated by a stormwater canal approximately 59 feet in width. There are 2 undeveloped parcels approximately 1-acre in size to the west of the subject property with GU (General Use) zoning. The properties to the west are separated from the subject properties by Albert Ln (an undeveloped roadway). To the south is an undeveloped lot and a single-family residence, both 1-acre in size. East of the subject property is a undeveloped lot zoned GU (General Use) on approximately 1-acre.

A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding established 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.

The parcel has frontage on Soggy Bottom Av which is an unpaved road.

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 subject property is not requesting to be rezoned for commercial uses.

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.

The subject parcel is not requesting to be rezoned for commercial, industrial or other non-residential uses.

No zoning action has been approved within one-half mile within the last three years.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Canal	N/A	N/A
South	Undeveloped	ARR	RES 1
East	Undeveloped	GU	RES 1
West	Undeveloped	GU	RES 1

The 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.

The ARR agricultural rural residential zoning classification incorporates lands devoted to a mixture of agricultural pursuits and single-family residential land uses on minimum one acre lots, with a minimum width of 125 feet and depth of 200 feet. The minimum house size is 700 square feet.

The AU agricultural residential zoning classification encompasses land devoted to agricultural pursuits and single-family residential development of spacious character on a lot not less than 2.5-acres having a width of not less than 150-feet and depth of not less than 150-feet. The minimum floor area in AU is 750 square feet of living area.

Preliminary Concurrency

The closest concurrency management segment to the subject property is SR 520, between Orange C/L and SR 524, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 43.37% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.0%. The corridor is anticipated to operate at 43.37% 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.

Environmental Constraints

- Wetlands/Hydric Soils
- Floodplain Protection
- Protected and Specimen Trees
- Potential Unpermitted Activities

Wetlands/Hydric Soils

The entire subject parcel is mapped as National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. Additionally, the entire parcel is mapped with hydric soils as shown on the USDA Soil Conservation Service Soils Survey map. These are indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design, or building permit submittal.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. 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's Office establishes Bona Fide Agricultural land classification. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Floodplain Protection

The middle portion of the parcel is mapped within the Riverine floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones Map. The property may be 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 the isolated floodplain greater than one third (1/3) acre in size. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Protected and Specimen Trees

Protected (≥ 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.

Potential Unpermitted Activities

It appears that a number of potential unpermitted activities may have occurred over the past 25 years, and as recently as 2021/2022. These activities may include:

- Clearing and filling of wetlands
- Land clearing, including tree removal
- Filling of riverine floodplain

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's Office (PAO) establishes Bona Fide Agricultural land classification. The PAO lists the use of this property as "0110 - SINGLE FAMILY RESIDENCE."

The discovery of unpermitted activities may result in code enforcement action.

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 recognizing existing development trends.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #23Z00005

Applicant: Louise Julia Goloversic

Zoning Request: GU & ARR to AU

Note: Wants to replace barn and add carport and shop.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2406379

- 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 Protection
- Protected and Specimen Trees
- Potential Unpermitted Activities

Wetlands/Hydric Soils

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The discovery of unpermitted activities may result in code enforcement action.

Land Use Comments:

Wetlands/Hydric Soils

The entire subject parcel is mapped as NWI and SJRWMD wetlands. Additionally, the entire parcel is mapped with hydric soils (Holopaw sand, 0 to 2 percent slopes) as shown on the USDA Soil Conservation Service Soils Survey map. These are indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design, or building permit submittal.

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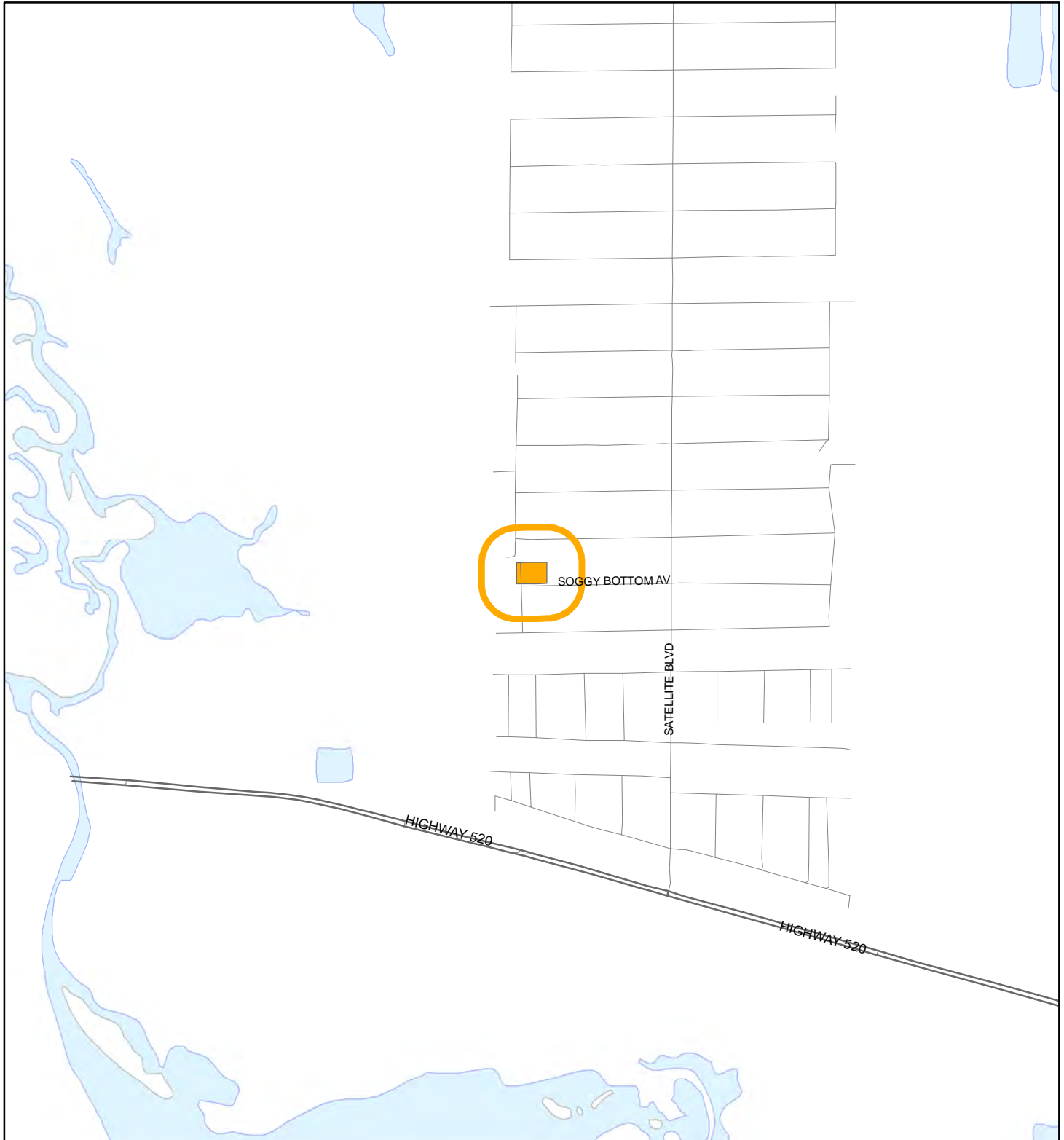
Protected Species

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

GOLOVERSIC, LOUISE JULIA

23Z00005



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

Buffer Distance: 500 feet

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

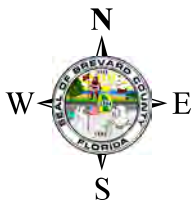
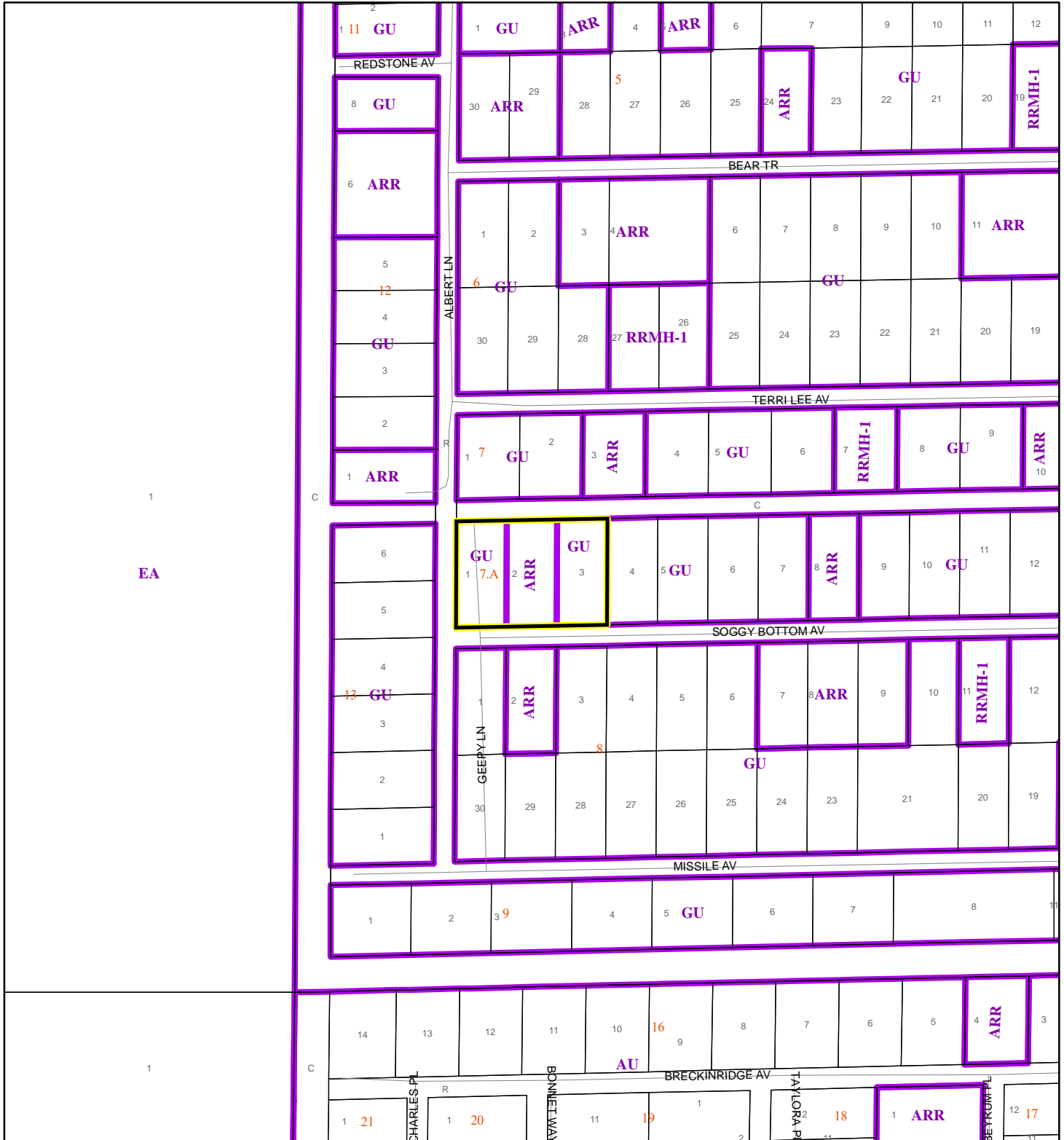
Produced by BoCC - GIS Date: 2/3/2023

— Buffer
— Subject Property

ZONING MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



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: 2/3/2023

Subject Property

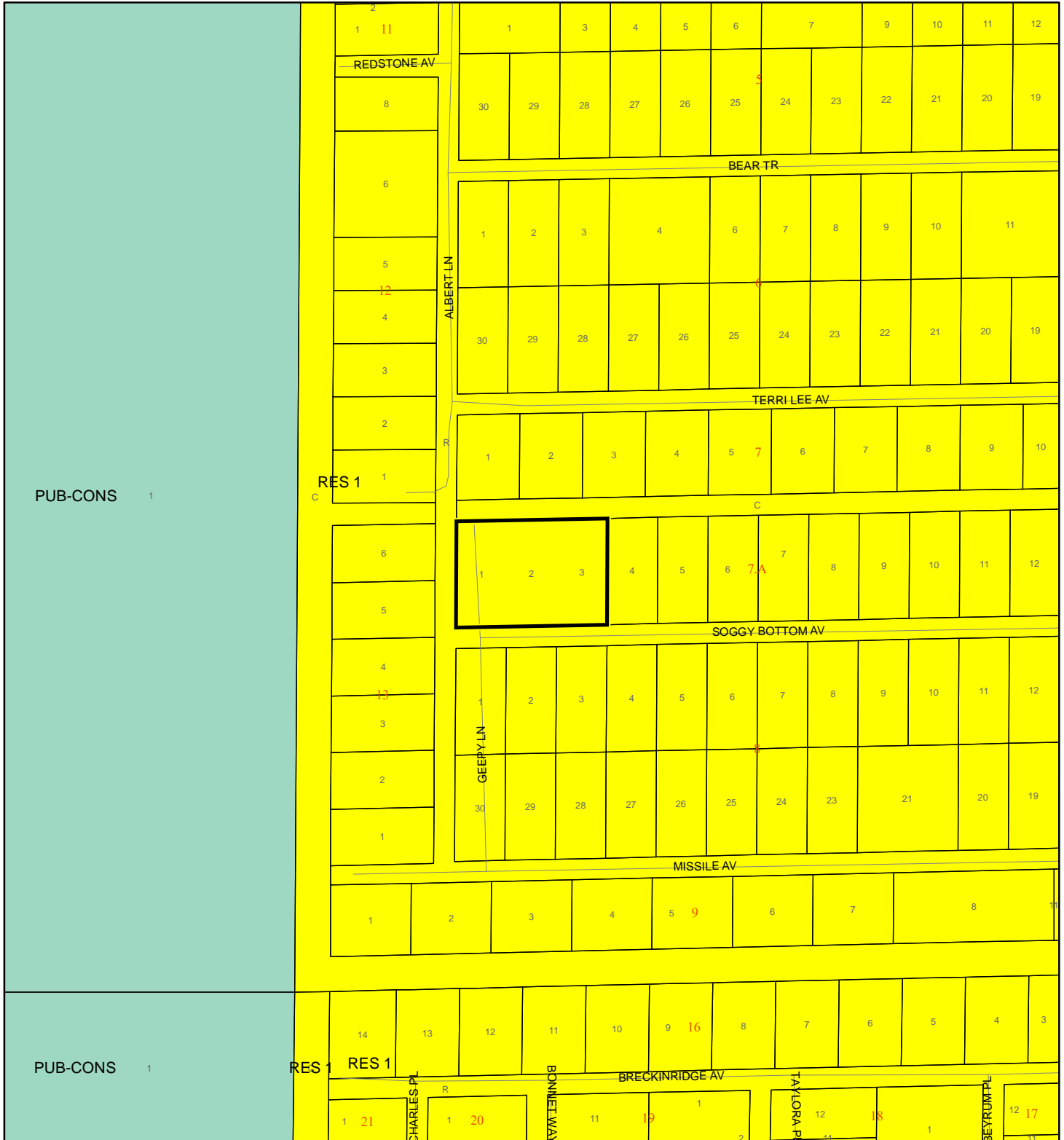
Parcels

Zoning

FUTURE LAND USE MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



1:4,800 or 1 inch = 400 feet

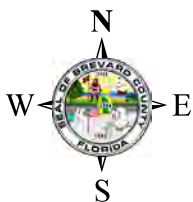
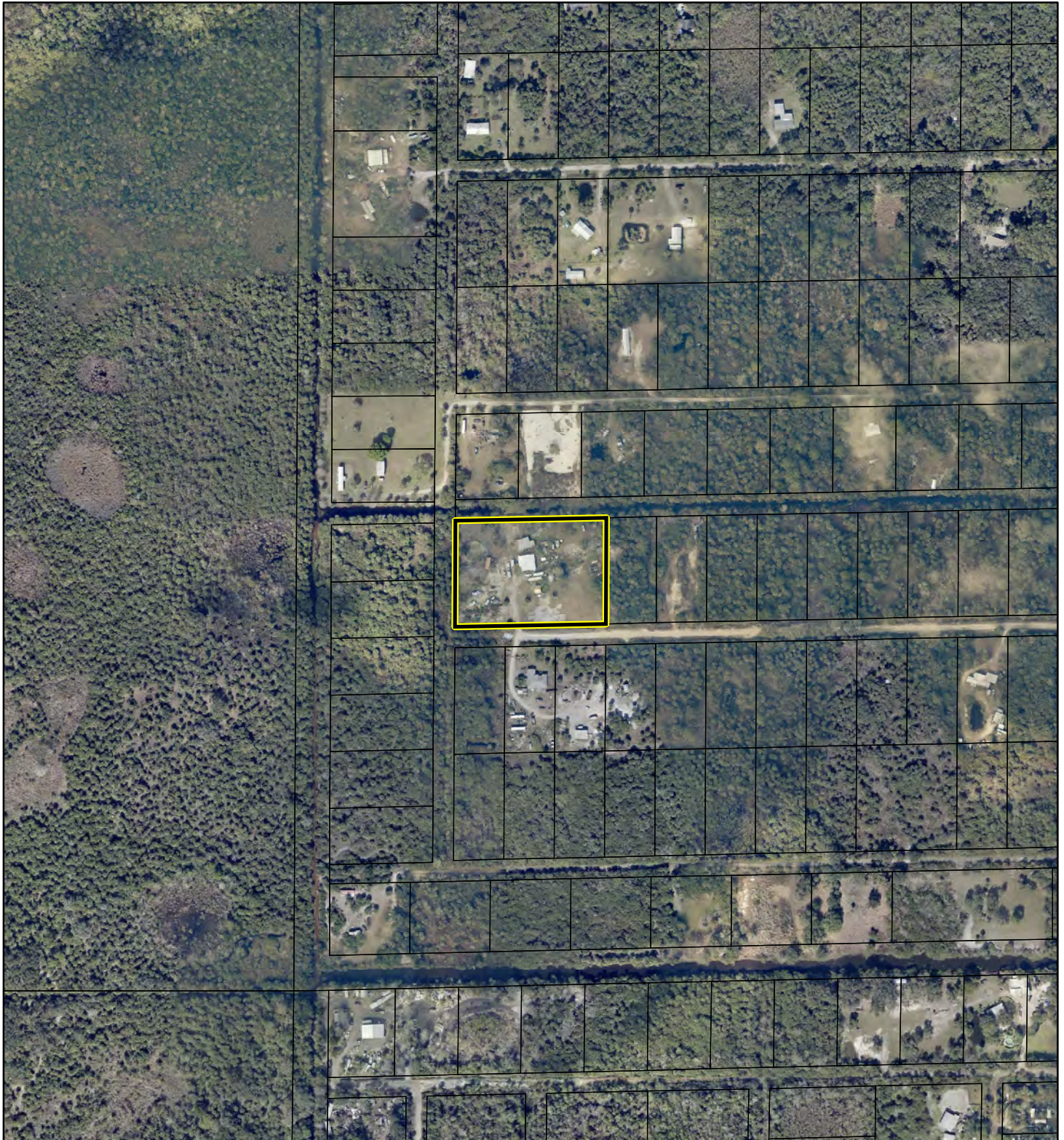
Subject Property
Parcels

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Produced by BoCC - GIS Date: 1/26/2023

AERIAL MAP

GOLOVERSIC, LOUISE JULIA
23Z00005





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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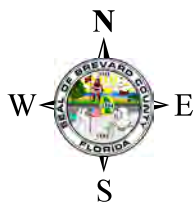
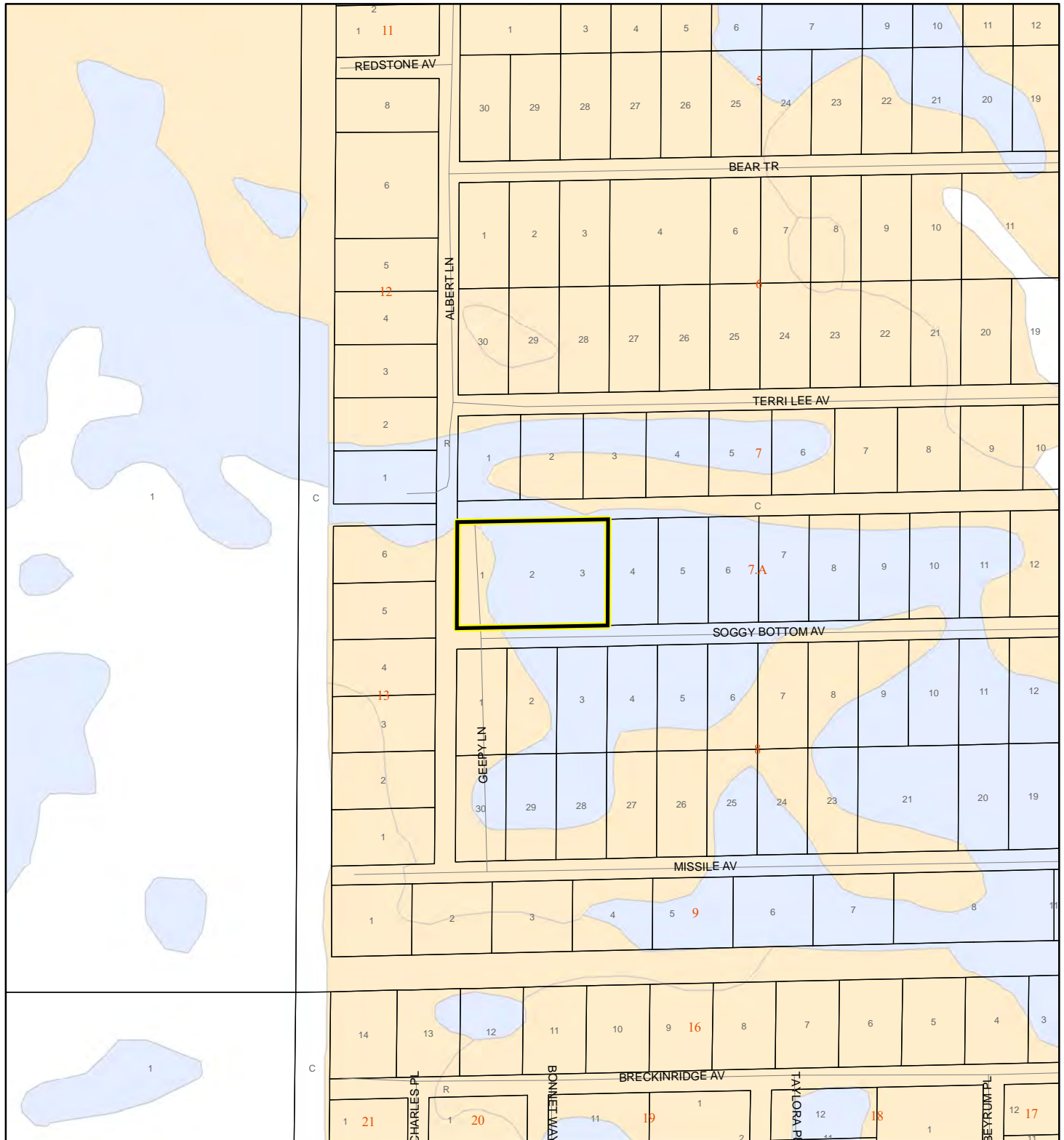
Produced by BoCC - GIS Date: 1/26/2023

 Subject Property
 Parcels

NWI WETLANDS MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

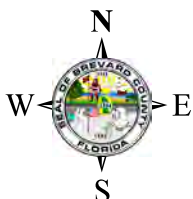
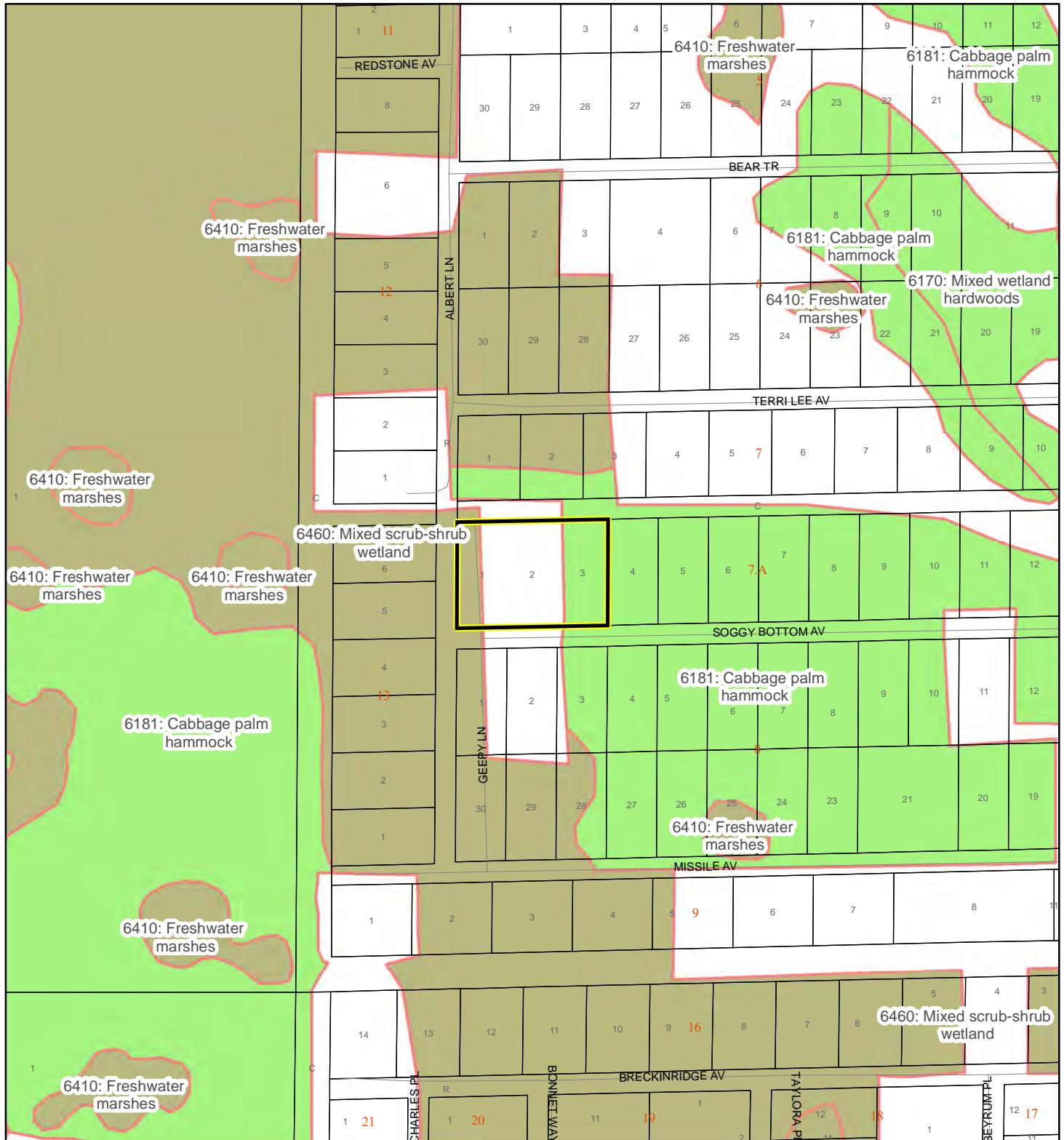
National Wetlands Inventory (NWI)

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

GOLOVERSIC, LOUISE JULIA

23Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

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

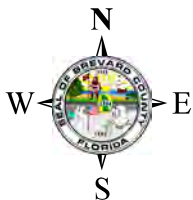
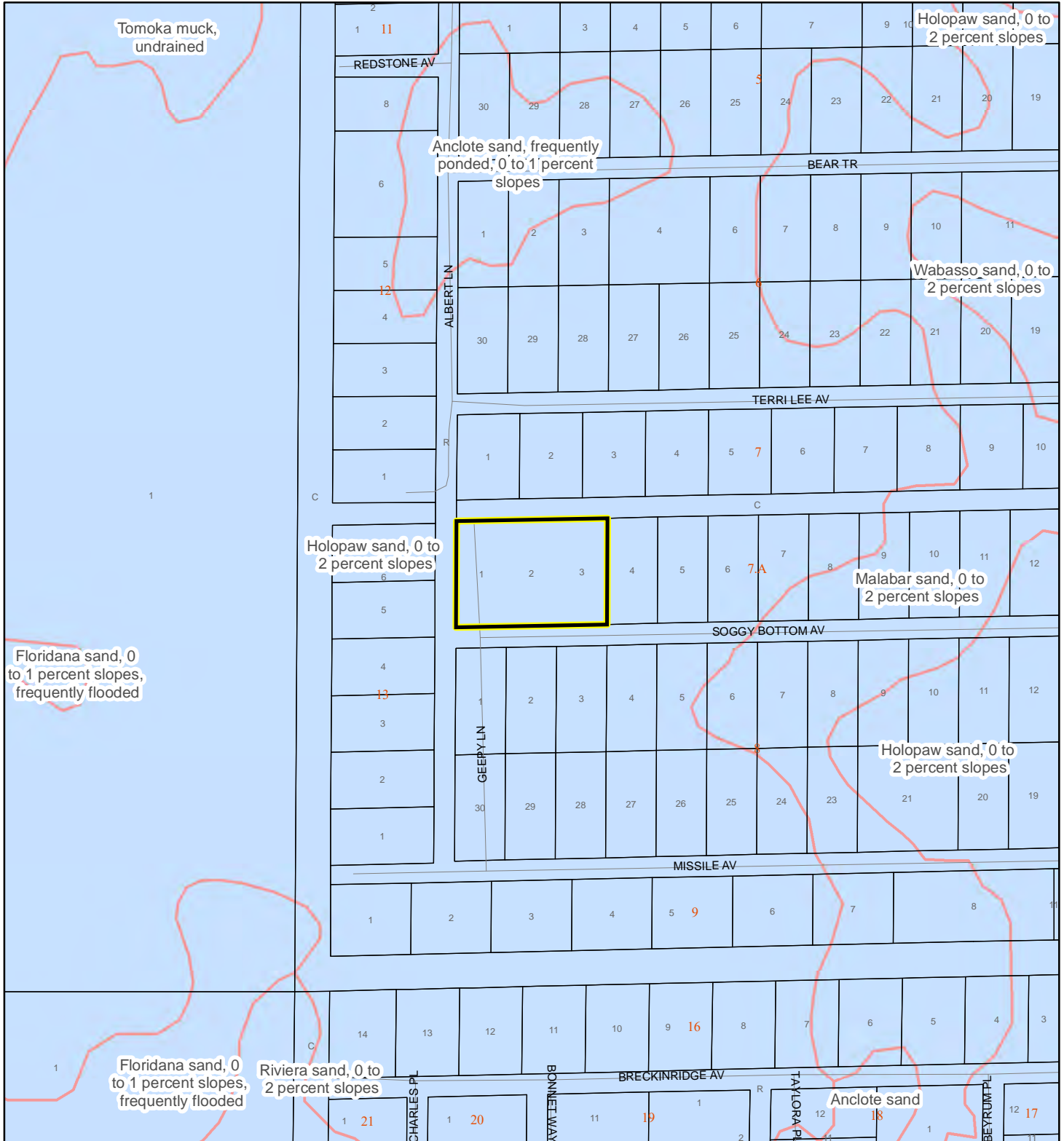
Subject Property

Parcels

USDA SCSSS SOILS MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

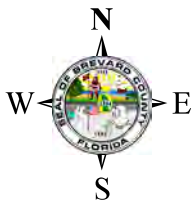
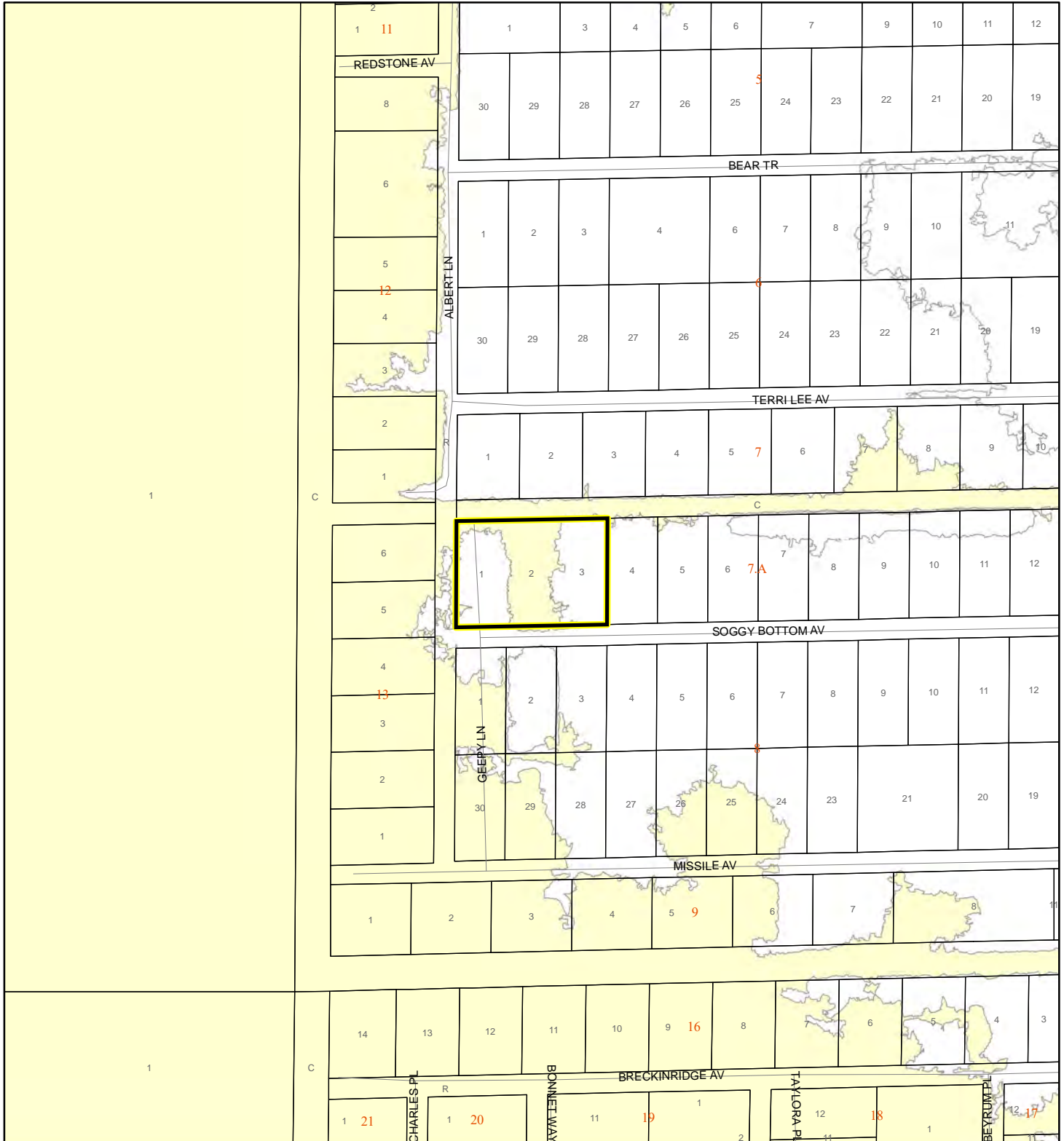
Subject Property

Parcels

FEMA FLOOD ZONES MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



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Produced by BoCC - GIS Date: 1/26/2023

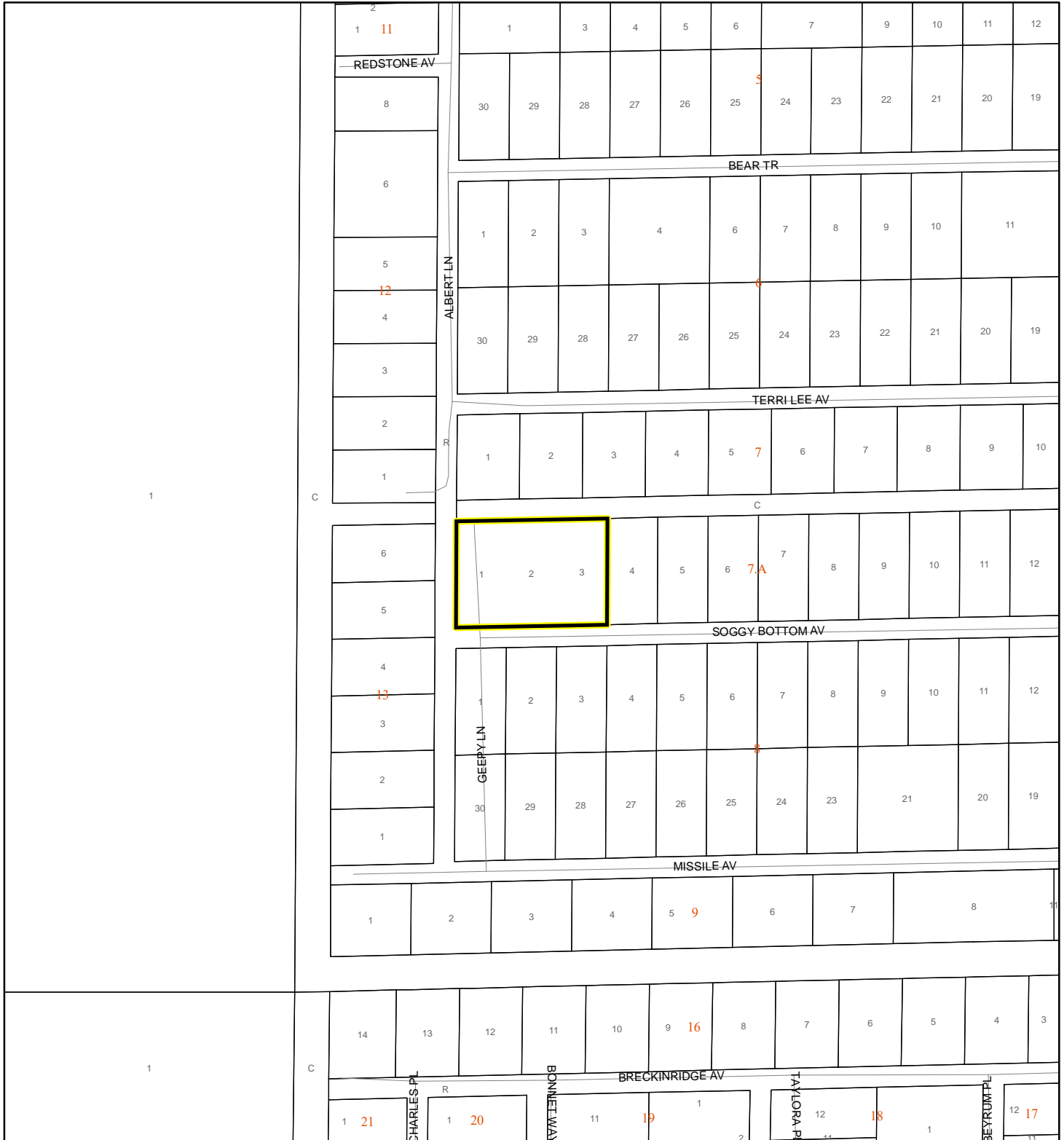
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



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Produced by BoCC - GIS Date: 1/26/2023

Subject Property

Parcels

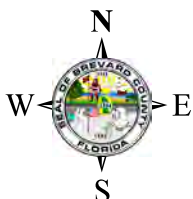
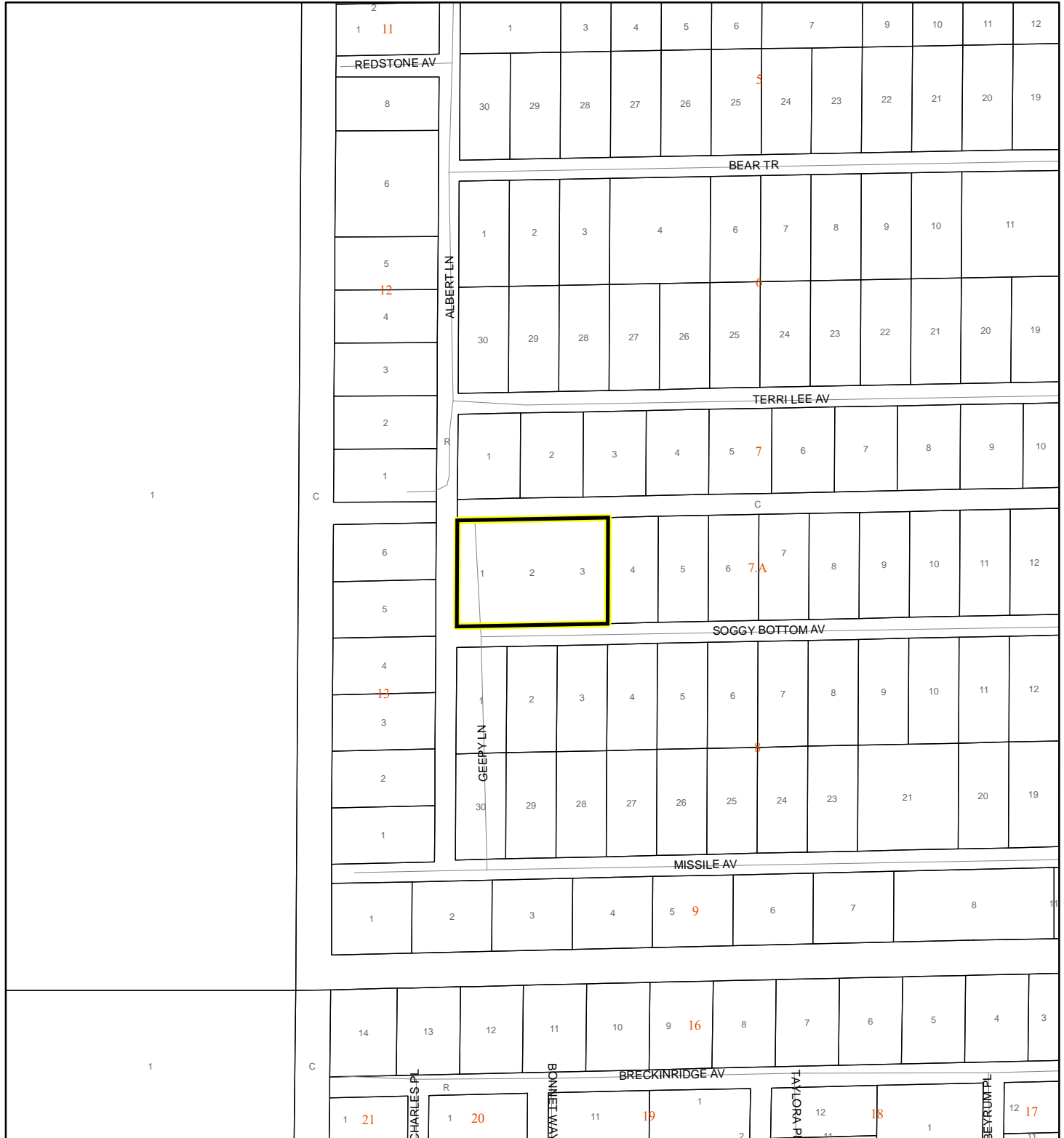
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

Subject Property

Parcels

Septic Overlay

40 Meters

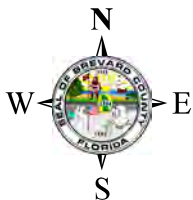
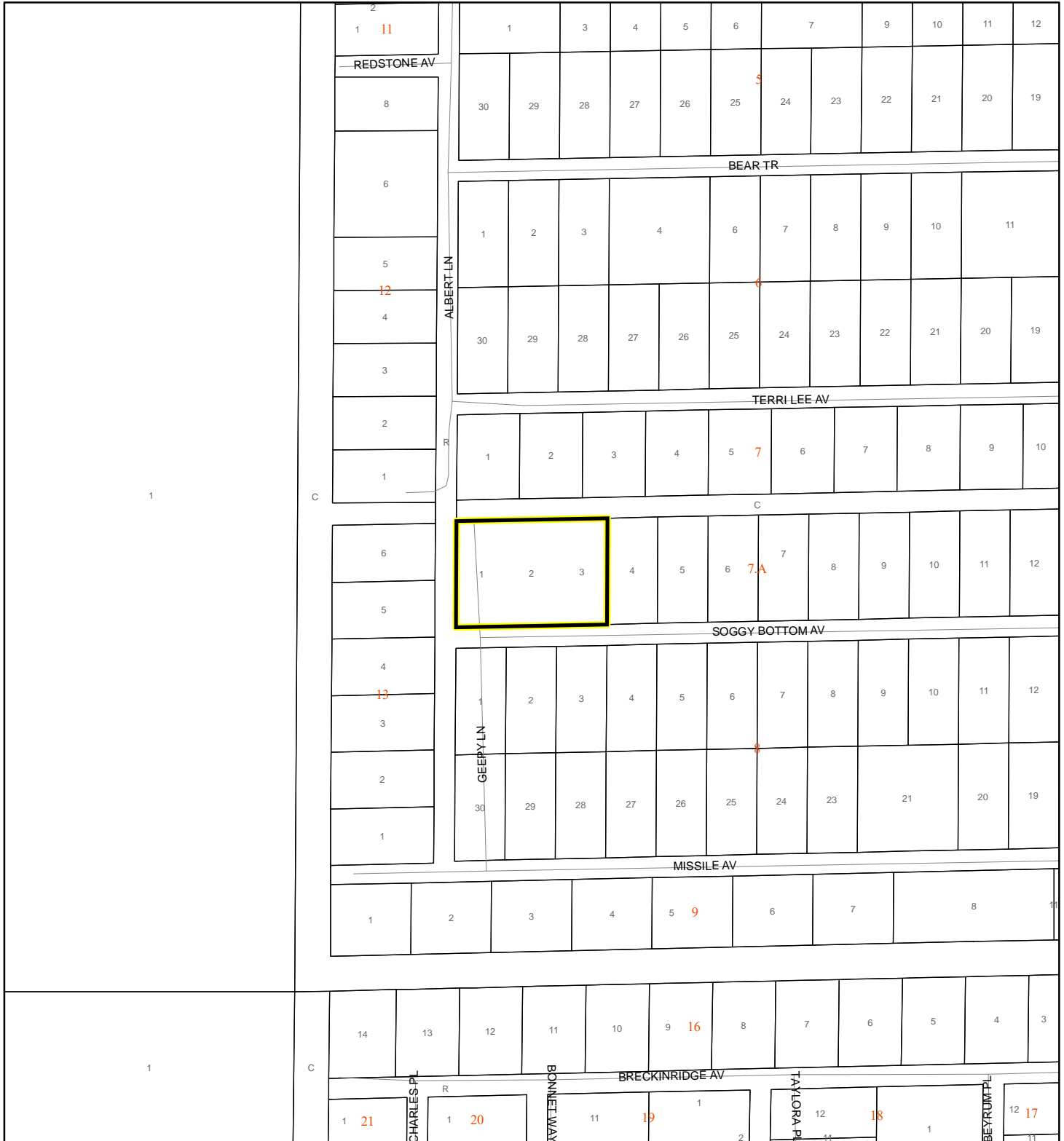
60 Meters

All Distances

EAGLE NESTS MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

 Subject Property

 Parcels

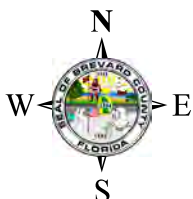
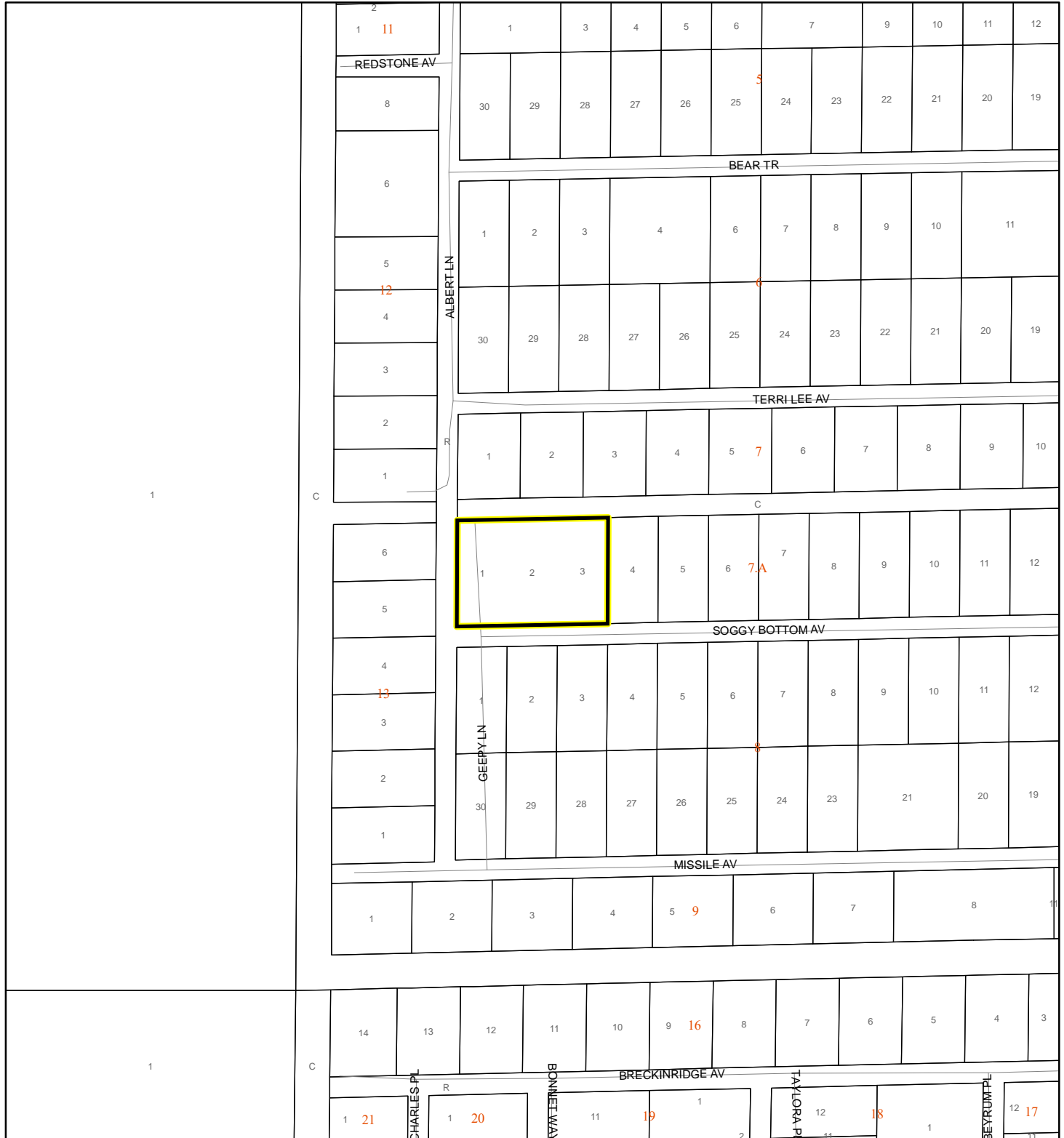


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



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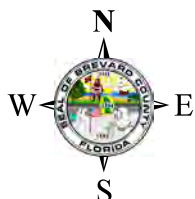
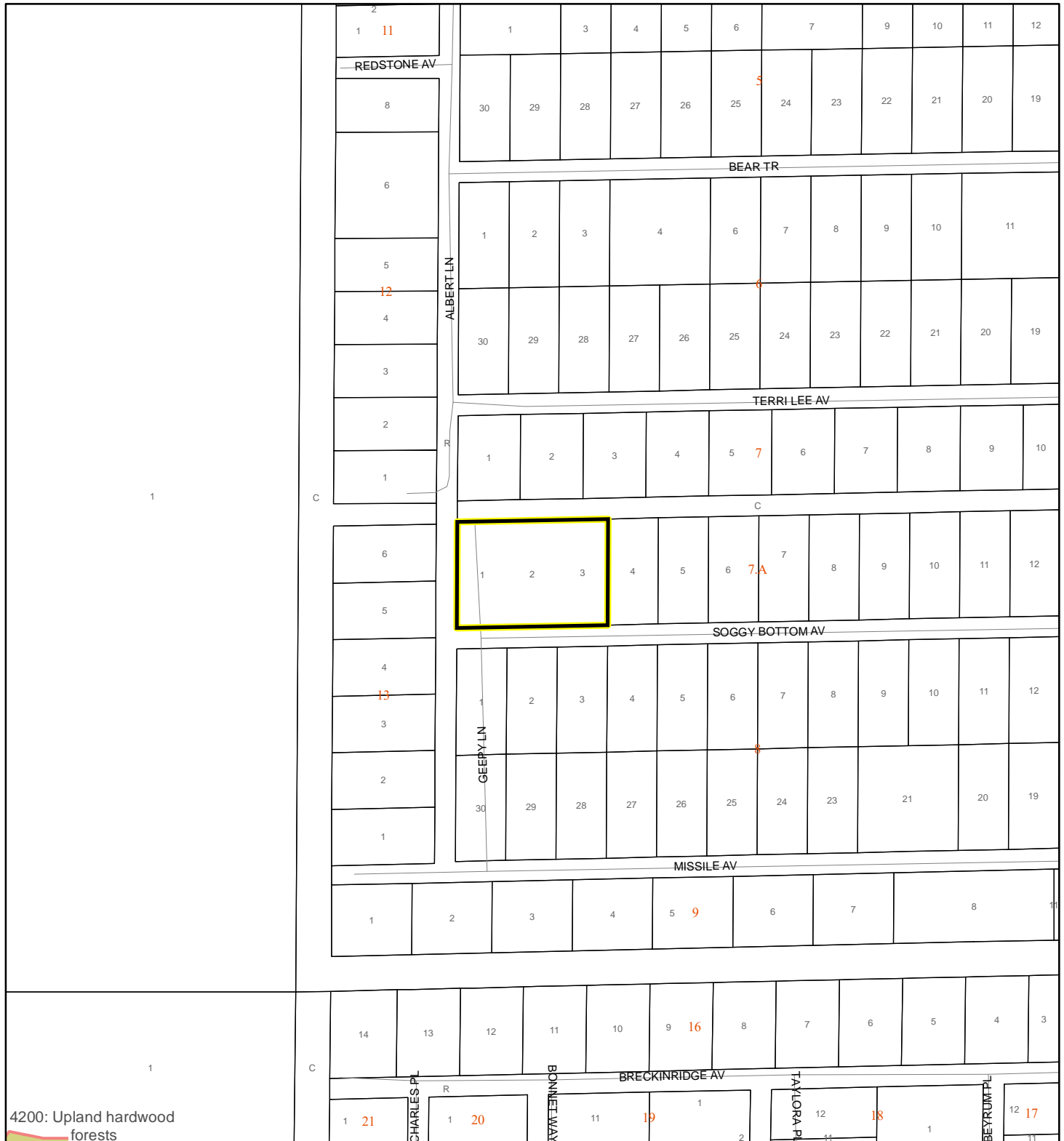
Produced by BoCC - GIS Date: 1/26/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

GOLOVERSIC, LOUISE JULIA

23Z00005



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

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

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Louise Julia Goloversic

A change of zoning classification from GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential), on 3 acres, located on the north side of Soggy Bottom Ave., approx. 0.34 mile west of Satellite Blvd. (6906 Soggy Bottom Ave., Cocoa) (23Z00005) (Tax Account 2406379) (District 1)

Louise Julia Goloversic, 6906 Soggy Bottom Avenue, Cocoa, stated she would like to rezone to AU in order to replace a horse barn and carport.

No public comment.

Joh Hopengarten asked if Ms. Goloversic plans on building a shop on her property. Ms. Goloversic replied no, she would like to have a carport to park horse trailers.

Motion by Ron Bartcher, seconded by Robert Sullivan, to recommend approval of the change of zoning classification from GU and ARR to AU. The motion passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

4/6/2023

Subject:

IR Tiki 2, LLC (Sandeep Patel), requests a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from NC to CC. (22SS00015) (Tax Account 2611662) (District 4)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial).

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use designation from NC to CC on 0.96 acres of land in order to establish a consistent Future Land Use with the existing BU-1 zoning classification.

A Future Land Use Map (FLUM) designation of Mixed Use District was adopted in 1988 and applied to the subject property. Comprehensive Plan Amendment 1999B.14 converted Mixed Use Districts into two new designations of NC and CC. Properties with the BU-1 zoning classification were proposed as CC; however, NC was applied to the subject property. According to Sec. 62-1255, the NC FLU is not consistent with BU-1 zoning. The restaurant use on the subject property was permitted to continue, because it meets the criteria of Section 62-1181, Nonconforming Uses. Since the applicant is proposing to expand the use of existing restaurant with an addition of a tiki hut, the property will need to be brought into compliance with the Comprehensive Plan.

This area of Highway 1 can be considered a commercial corridor with either NC or CC FLU designations. However, development in the surrounding area includes a mix of commercial and single-family residential.

The Board may wish to consider if the request is consistent with the Comprehensive Plan.

On March 13, 2023, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning & Development.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 22S.18 (22SS00015)
Township 26, Range 37, Section 32

Property Information

Owner / Applicant: **IR Tiki 2, LLC**

Adopted Future Land Use Map Designation: Neighborhood Commercial (NC)

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

Acreage: 0.96 acres

Tax Account #: 2611662

Site Location: East of N Highway 1 and approx. 1,684 feet North of Post Rd,

Commission District: 4

Current Zoning: General Retail Commercial (BU-1)

Requested Zoning: N/A

Background & Purpose

The applicant is requesting to amend the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) on 0.96 acres of land in order to establish a consistent Future Land Use with the existing BU-1 zoning classification. In 1961, the subject property was approved for a zoning change from RU-1, a single-family residential classification, to BU-1 with Beer and Wine permit. A Future Land Use Map (FLUM) designation of Mixed Use District was adopted in 1988 and applied to the subject property. Comprehensive Plan Amendment 1999B.14 converted Mixed Use Districts into two new designations; NC and CC. The new commercial designation assigned to a particular piece of property depended on the current zoning placed on that land. CC was proposed for properties with the BU-1 zoning classification, however, NC was applied to the subject property.

The restaurant use on the subject property was permitted to continue because it meets the criteria of Sec. 62-1181, Nonconforming uses. "A "nonconforming use" is as the use of land or structures that was lawful prior to the effective date of the ordinance from which this article is derived or the county comprehensive plan, or the effective date of any amendments thereto, but is not now permitted within the applicable zoning

classification or is not permitted under any provisions of this article or the county comprehensive plan or any amendment thereto. In order for a use of land or structures to be included within such definition, such use must have been permanent and continuous prior to the effective date of the ordinance from which this article is derived or the effective date of any amendment to this article.”

The applicant is seeking to construct a Tiki Hut as an expansion to a non-conforming use. Active code enforcement cases related to the subject property include; **22CE-01360**, construction and renovations without permits done by unlicensed building contractor. The applicant is working with an engineer and Code Enforcement to address the code enforcement case. A Future Land Use Map amendment from (NC) to (CC) is required to establish consistency of the BU-1 zoning classifications with comprehensive plan, as set forth in Sec. 62-1255.

This segment of N. Highway 1 from the Town of Palm Shores city line to Post Road is a primarily commercial corridor where the majority of Future Land Use designations are CC & NC. Also, along this corridor to the north and south, are properties with Future Land use designation of RES 6 .

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.

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 has frontage on N Highway 1, an urban principal arterial operating at 57.50% of Maximum Acceptable Volume. With the proposed commercial use being an addition of a 180 square foot tiki hut, traffic volume is not anticipated to increase higher than 0.02%. 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 is a Future Land Use designation of RES 6 to the south and NC to the north and south adjacent to the subject property.

- C. Existing commercial development trend in the area;

This area of Highway 1 can be considered a commercial corridor with either NC or CC FLU designations. However, development in this area include a mix of commercial and single-family residential. There has not been any new commercial development within the last three (3) years.

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

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

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

The preliminary concurrency analysis did not indicate that the maximum development potential from the proposed Future Land Use designation would cause a deficiency in the transportation adopted level of service. The subject property is within the City of Melbourne's service area for potable water. Additionally, the subject property is connected to Brevard sanitary sewer services. The closest connection for sanitary sewer is located north of US Highway 1, approximately 1,390-feet away.

- F. Spacing from other commercial activities;

Commercial activities are located approximately 141-feet north of the subject property along the east of Highway 1 and immediately south of the subject property. Additional commercial activities are located southwest of the subject property along west of Highway 1 approximately 468-feet. Additional commercial activities can be found along this section of US Highway 1.

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

The 0.96-acre subject property is developed as a restaurant and designated as NC is requesting a change from NC to CC.

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

The applicants will work with Natural Resources to ensure minimization of impacts upon natural resources and systems.

- I. Integration of open space; and

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

- J. Impacts upon strip commercial development.

The applicant is proposing an expansion of his existing restaurant with an addition of a tiki hut. This site is not considered strip commercial

development, which is discouraged within the Future Land Use element of the Comprehensive Plan.

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

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. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant's proposed use can be considered consistent with Policy 2.7.

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.

The subject property is not located within a commercial cluster but rather along an existing commercial corridor (Highway 1).

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

The subject property is not located at an intersection and will not exceed 40 acres.

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

Highway 1, a major arterial roadway, which is an existing commercial corridor serving the community and the surrounding region. As such, the development pattern in this area does not allow itself to cluster commercial analysis.

- 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 is regulated through the land development regulations and reviewed at the time of site plan review.

- 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 overall subject property has the potential for a 41,817.6 sq. ft. building. The Floor Area Ratio (FAR) of up to 1.00 is permitted for CC designated sites. The Floor Area Ratio (FAR) is evaluated at the time of site plan review and regulated through the land development regulations. 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 applicant is not requesting a change in zoning classification and the current BU-1 zoning does not permit recreational vehicle parks.

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 utilize the eastern 0.96-acre parcel for tiki hut to complement their business. The hours of operation, lighting and traffic is not anticipated to affect the quality of life in the existing neighborhood. There is no anticipation of odor, noise level or site activity more so than already exists.

Per Brevard County Code of Ordinances, Section 62-2256 Odor, Section 62-2257 Lighting and Section 62-2271 establishes performance standards for all residential, commercial, and industrial uses.

- 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 (Member Appraisal Institute) 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;

Land use patterns for this property has not changed since the adoption of the NC FLU designation.

No FLU amendments have occurred within 500-feet of the subject property since 2005.

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

There have been one residential development within this area over the past three (3) years:

East of N Highway 1, approximately 695 feet to the south, a new home construction was approved on 09/16/2020.

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

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

- 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.

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.

Parcels in the surrounding area range from 0.13-acres to 3.59-acres. The parcel to the north is zoned BU-1 (General retail Commercial) on 0.91-acres of vacant land. The parcels to the west across Highway 1 are zoned BU-1 (General retail commercial) and RU-1-7 (Single-family Residential). Both properties are zoned BU-1 on the eastern portion of the property fronting Highway 1. Parcel one (1) is owned by FDOT for ROW and stormwater pond on 2.4-acres. The other parcel is 2.16-acres of undeveloped land. The parcel to the south is vacant commercial land zoned BU-1 (General Retail Commercial) on 0.76-acres fronting Highway 1. The property was previously used as a daycare, which is owned by the applicant and provides ingress/egress to the two (2) properties to the rear. The 2 properties to the rear, 0.44-acres and 0.57-acres are zoned RU-1-9 with single-family residences. East of the subject property is the Indian River Lagoon.

There were three zoning actions within a half-mile radius of the subject properties within the last three years. 20Z00025, approved by the Board on December 3, 2020, was a request to change zoning classification RU-1-9 (Single-family Residential) to RU-1-7 (Single-family Residential) on 0.99 acres located south of E Elm Dr and east of US Highway 1. 21PZ00022, approved May 26, 2021, a variance request to Section 62-1341(5)(b), to permit a variance of 15.1 feet from the required 20 foot front setback for an accessory structure, Section 62-1341(5)(b) to permit a variance of 6.6 feet from the required 7.5 foot (north) side setback for an accessory structure and 62-1341(5)(b), to permit a variance of 5.0 feet from the required 5.0 foot structure spacing in an RU-1-9 (Single-family Residential) zoning classification on 0.21-acres located in Coquina Ridge Subdivision east of Highway 1. 20PZ00032, approved by the Board on July 9, 2020, was request to change zoning classification from RU-1-

7 (Single-family Residential), RU-2-10 (Medium Density Multi-family Residential), and BU-1 (General Retail Commercial) to all BU-1 (General Retail Commercial) on 0.92-acres located west of Highway 1, north of Post Rd and Highway 1.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Vacant	BU-1	NC
South	Vacant Child Care Center/Single-family	BU-1/RU-1-9	NC/RES 6
East	Indian River Lagoon	N/A	N/A
West	Undeveloped	BU-1/RU-1-7	CC

To the north of the subject property is vacant parcel of land with a Future Land Use designation of NC with a BU-1 zoning classification.

The parcel fronting US Highway 1 is a vacant structure (former daycare center) with BU-1 zoning classification; eastern portion is a single-family residence with a Future Land Use RES 6 and zoning classification of RU-1-9.

To the east is the Indian River Lagoon.

West of the subject property is undeveloped land with CC FLU designation. This parcel has two (2) zoning classifications. BU-1 zoning is on the portion of the property fronting US Highway 1 and the remainder of the parcel is RU-1-7 Single-family Residential.

Concurrency

The closest concurrency management segment to the subject property is US Hwy 1, from Pineda Causeway to Post Rd, which has a Maximum Acceptable Volume (MAV) of 59,900 trips per day, a Level of Service (LOS) of D, and currently operates at 57.50% of capacity daily. The maximum development potential from the proposed Future Land Use change increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 57.52% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

The parcel is not serviced by public sewer or within the Brevard County service area for potable water. The closest available Brevard County sewer connection to the subject property is approximately 1,385 feet to the north. Water service is provided by the City of Melbourne.

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

Environmental Resources

- Wetlands/Hydric Soils
- Floodplain Protection
- Surface Waters of the State
- Coastal High Hazard Area
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class III Water in this location. A 25-foot Surface Water Protection Buffer (Buffer) is required. Primary structures shall be located outside the Buffer. A maximum of 30% impervious area is permissible within the Buffer. Stormwater management in accordance with Section 62-3666(3) is required. The removal of native vegetation located within the Buffer shall be avoided, and any impacts require in-kind restoration. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming, and can be reached at 407-897-4101. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and the impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance. The recent unpermitted land alteration of the parking lot may require stormwater management.

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.

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

Historic Resources

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

For Board Consideration

The Board may wish to consider if the request is consistent with the Comprehensive Plan.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22SS00015

Applicant: Sandeep Patel

FLU Request: NC to CC

Note: To resolve unpermitted expansion of a non-conforming use.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2611662

- 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 Protection
- Surface Waters of the State
- Coastal High Hazard Area
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees

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The subject property is located on the Indian River Lagoon, designated as a Class III Water in this location. A 25-foot Surface Water Protection Buffer (Buffer) is required. Primary structures shall be located outside the Buffer. A maximum of 30% impervious area is permissible within the Buffer. Stormwater management in accordance with Section 62-3666(3) is required. The removal of native vegetation located within the Buffer shall be avoided, and any impacts require in-kind restoration. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming, and can be reached at 407-897-4101. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

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Element Policy 10.2 and the Aquifer Protection Ordinance. The recent unpermitted land alteration of the parking lot may require stormwater management.

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Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands along the property shoreline. This is an indicator that wetlands may be present on the property. A wetland determination may be required prior to any land clearing activities, site plan design, or building permit submittal.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). U.S. Highway 1 is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners 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 site plan design or permit submittal.

Floodplain Protection

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

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class III Water in this location. A 25-foot Buffer is required. Primary structures shall be located outside the Buffer. A maximum of 30% impervious area is permissible within the Buffer. Stormwater management in accordance with Section 62-3666(3) is required. The removal of native vegetation located within the Buffer shall be avoided, and any impacts require in-kind restoration. FDEP regulates mangrove trimming, and can be reached at 407-897-4101. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

Coastal High Hazard Area

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

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and the impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance. The recent unpermitted land alteration of the parking lot may require stormwater management.

Indian River Lagoon Nitrogen Reduction Overlay

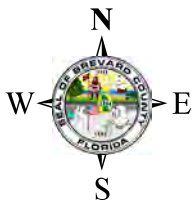
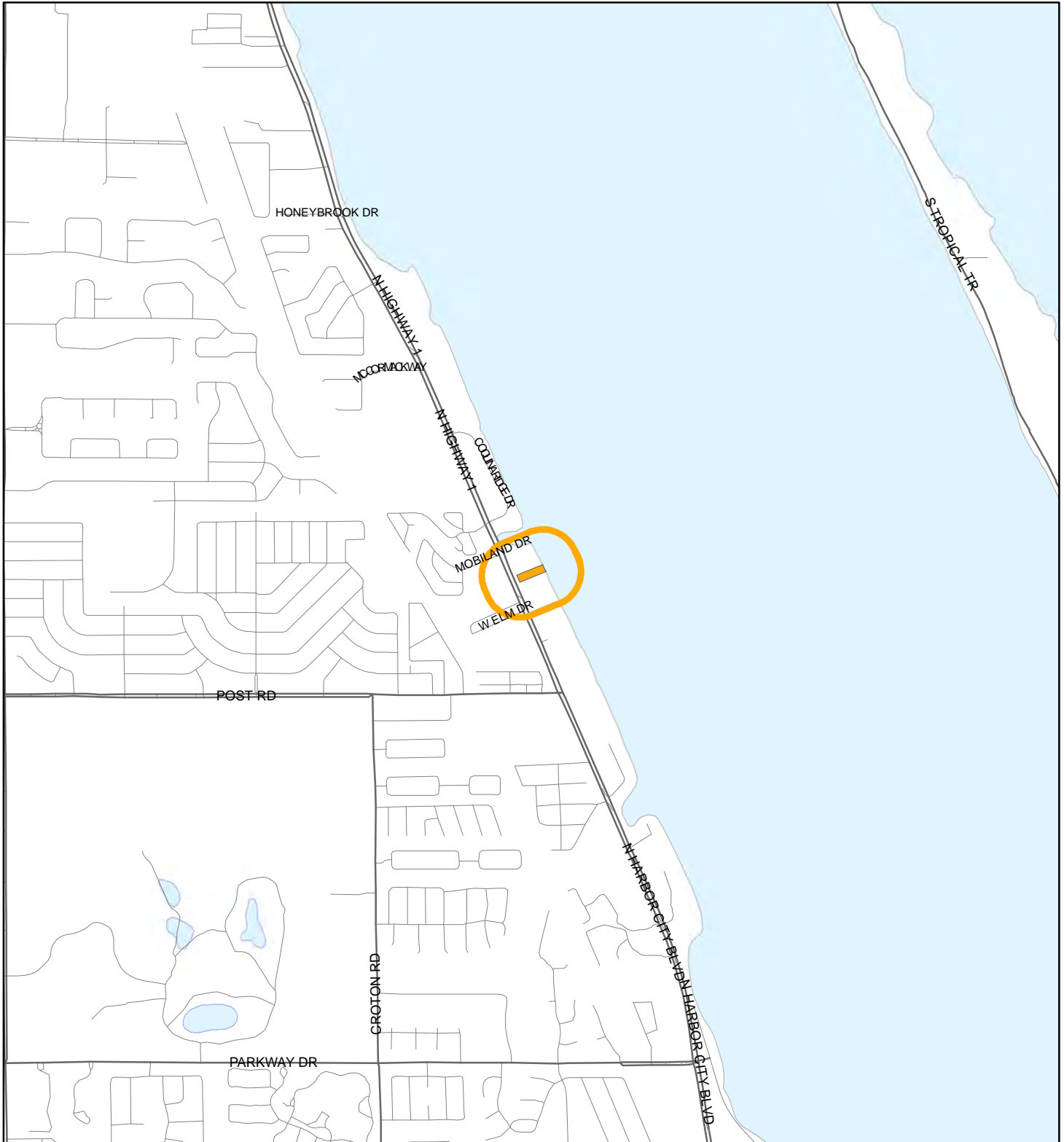
The eastern half of the parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65%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

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

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)
22SS00015





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

Buffer Distance: 500 feet

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

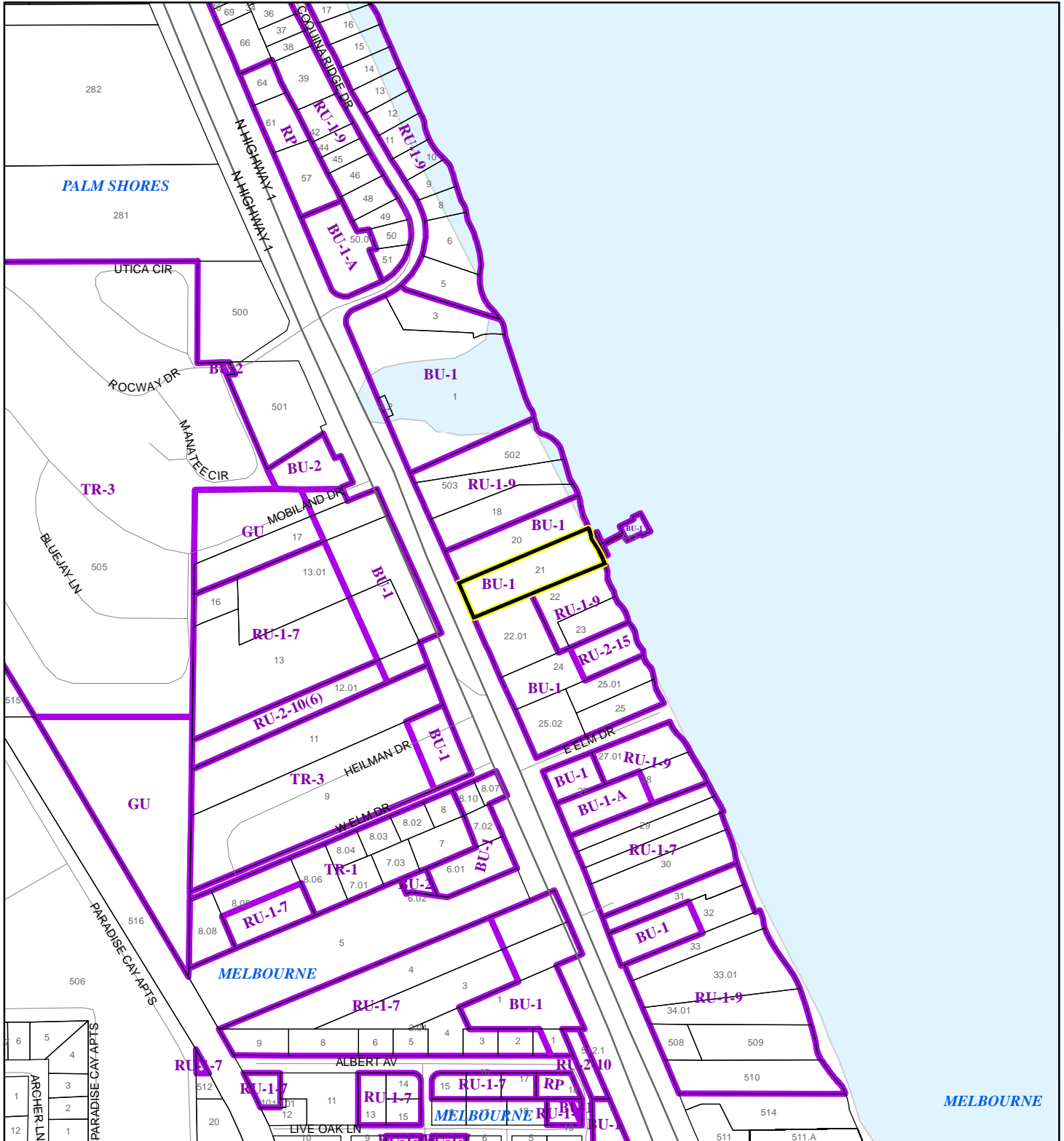
Produced by BoCC - GIS Date: 1/5/2023

-  Buffer
-  Subject Property

ZONING MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/5/2023

Subject Property

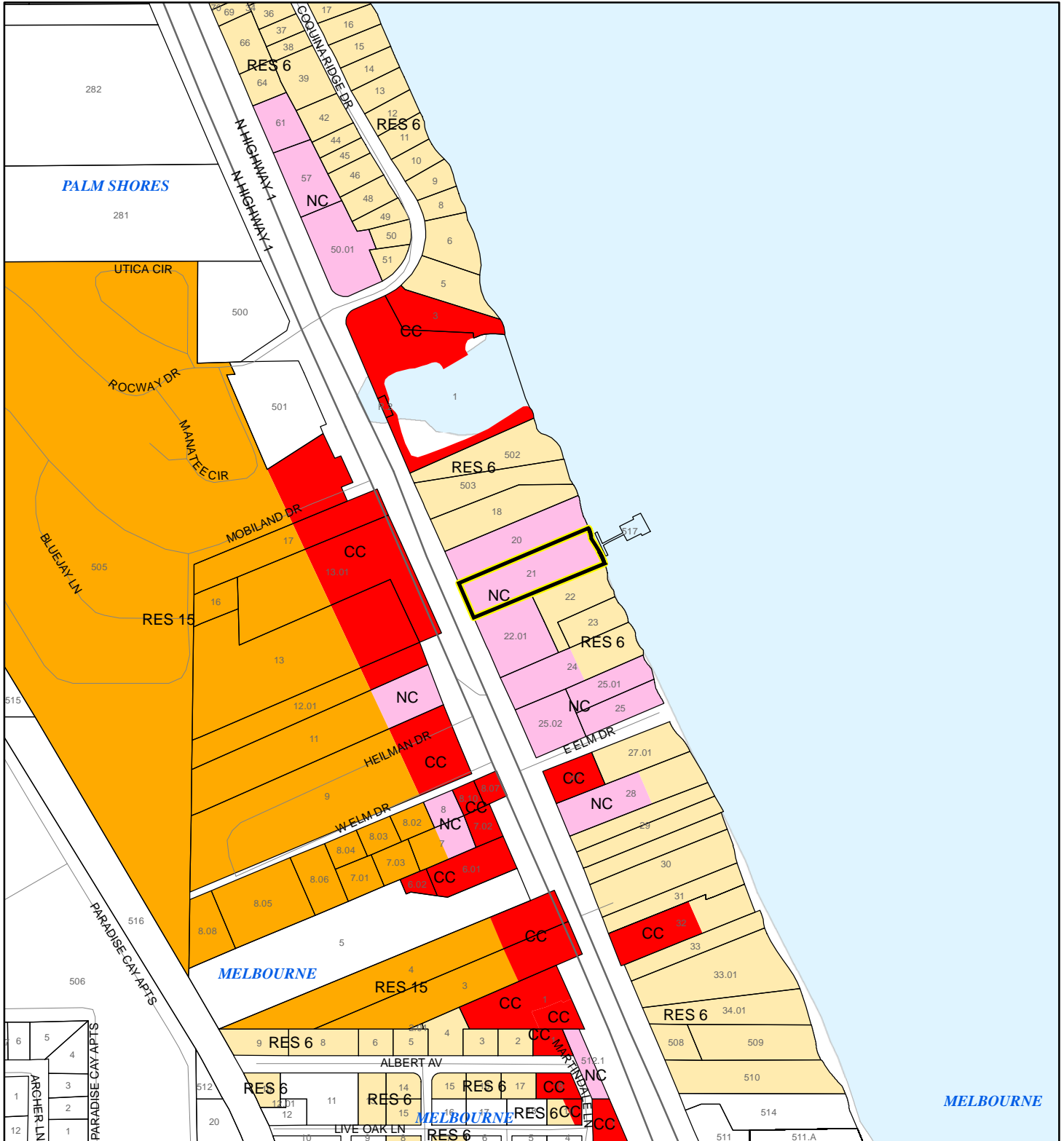
Parcels

Zoning

FUTURE LAND USE MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

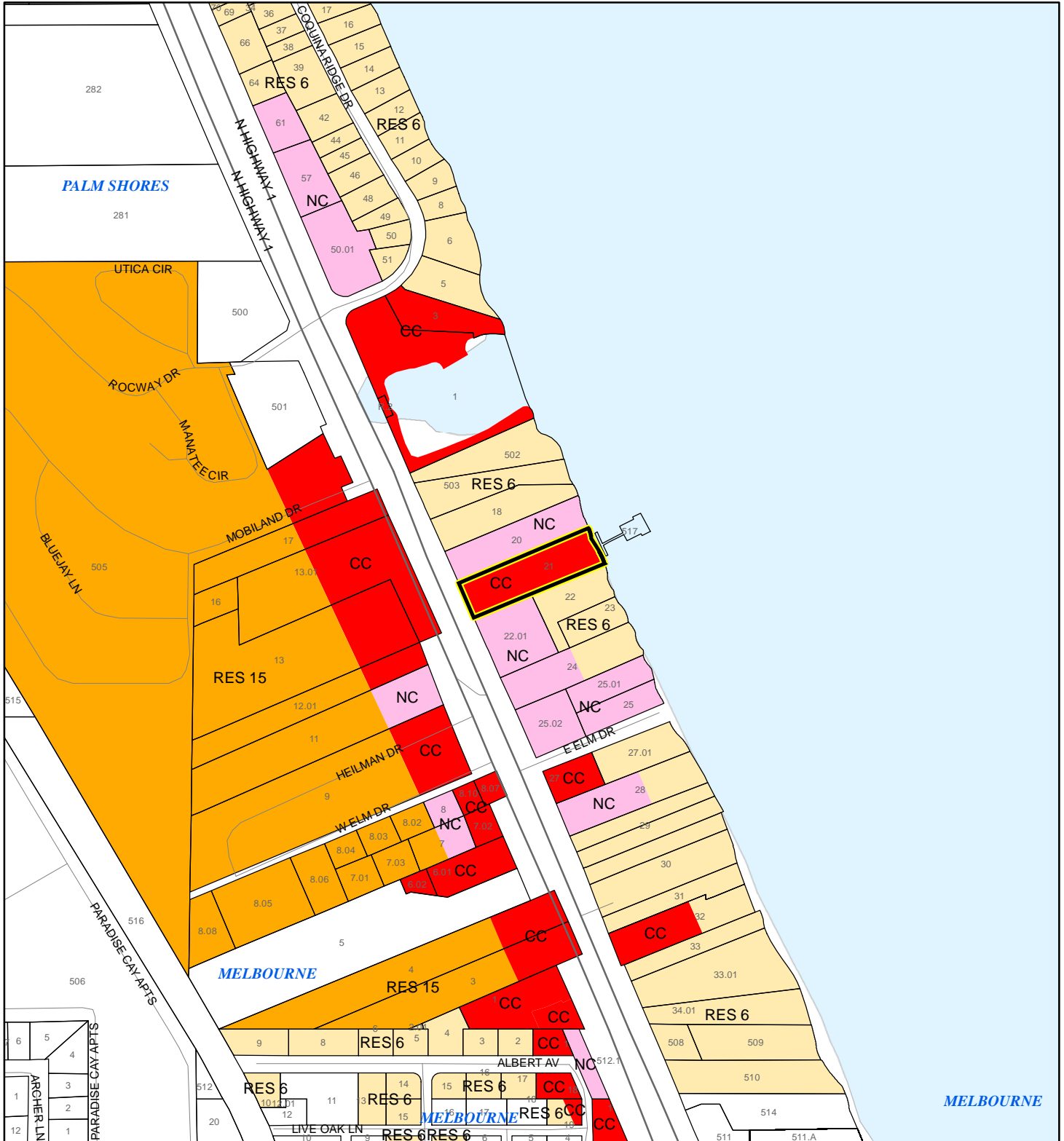
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/4/2023

PROPOSED FUTURE LAND USE MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

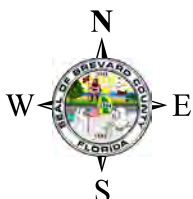
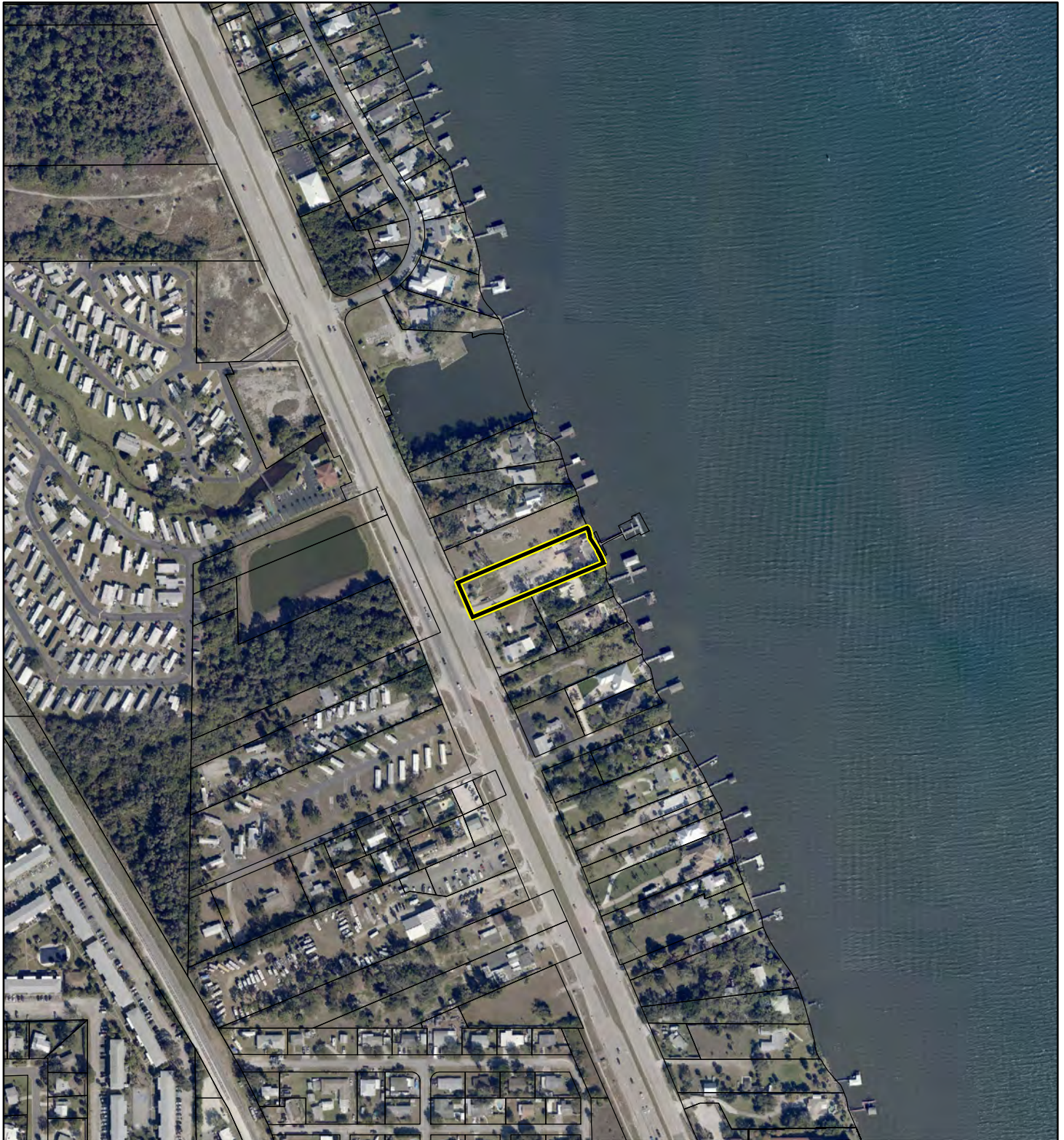
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Produced by BoCC - GIS Date: 1/5/2023

AERIAL MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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

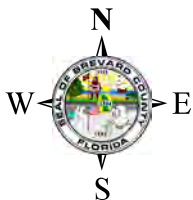
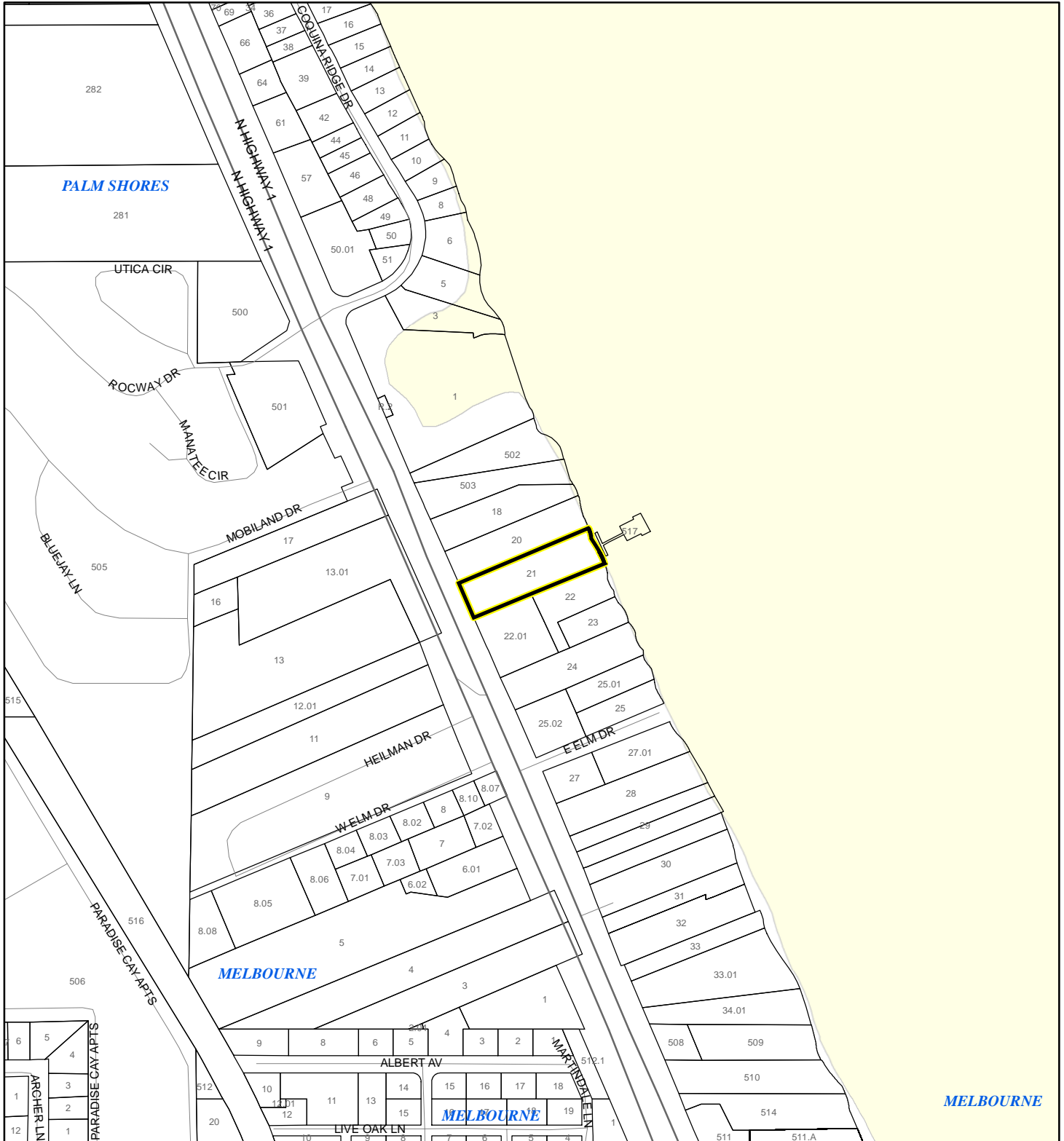
Produced by BoCC - GIS Date: 1/4/2023

 Subject Property
 Parcels

NWI WETLANDS MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015













1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/4/2023

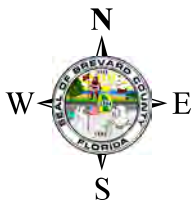
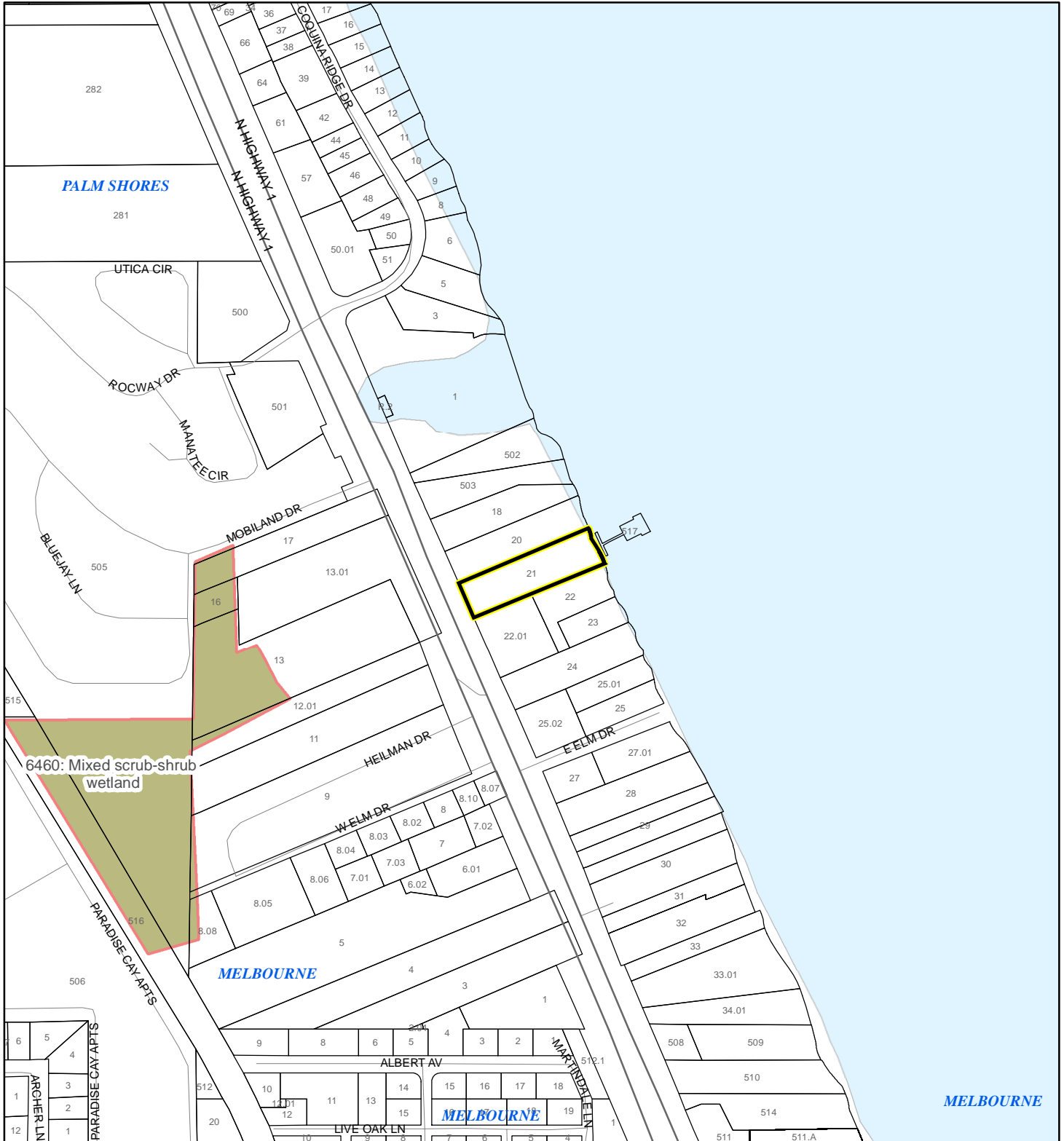
National Wetlands Inventory (NWI)

 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

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/4/2023

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

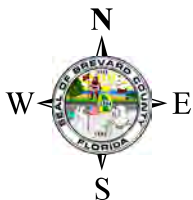
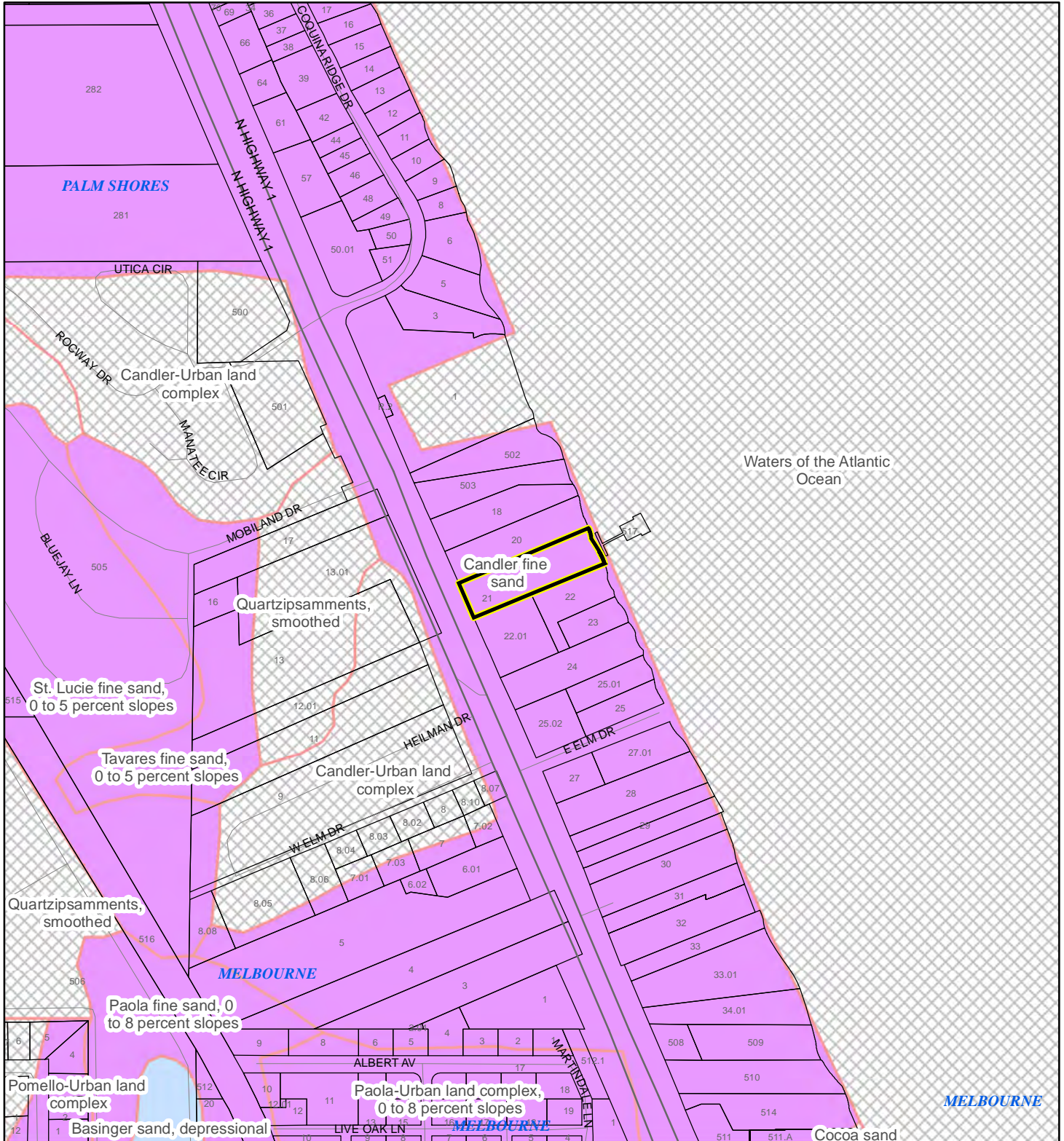
Subject Property

Parcels

USDA SCSSS SOILS MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



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Produced by BoCC - GIS Date: 1/4/2023

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

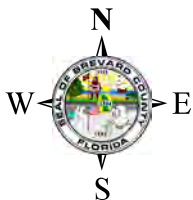
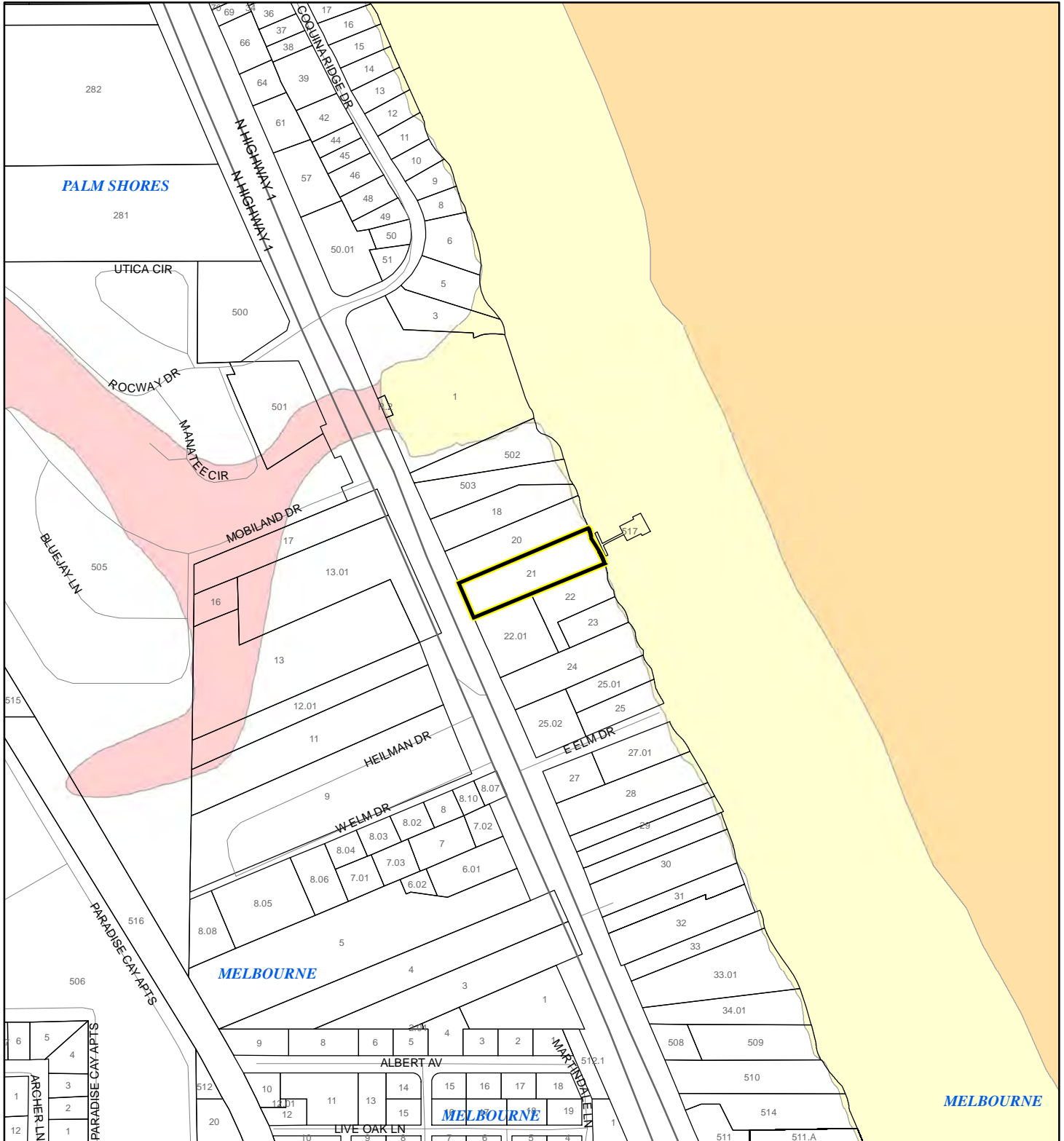
Subject Property

Parcels

FEMA FLOOD ZONES MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/4/2023

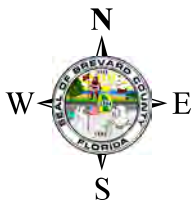
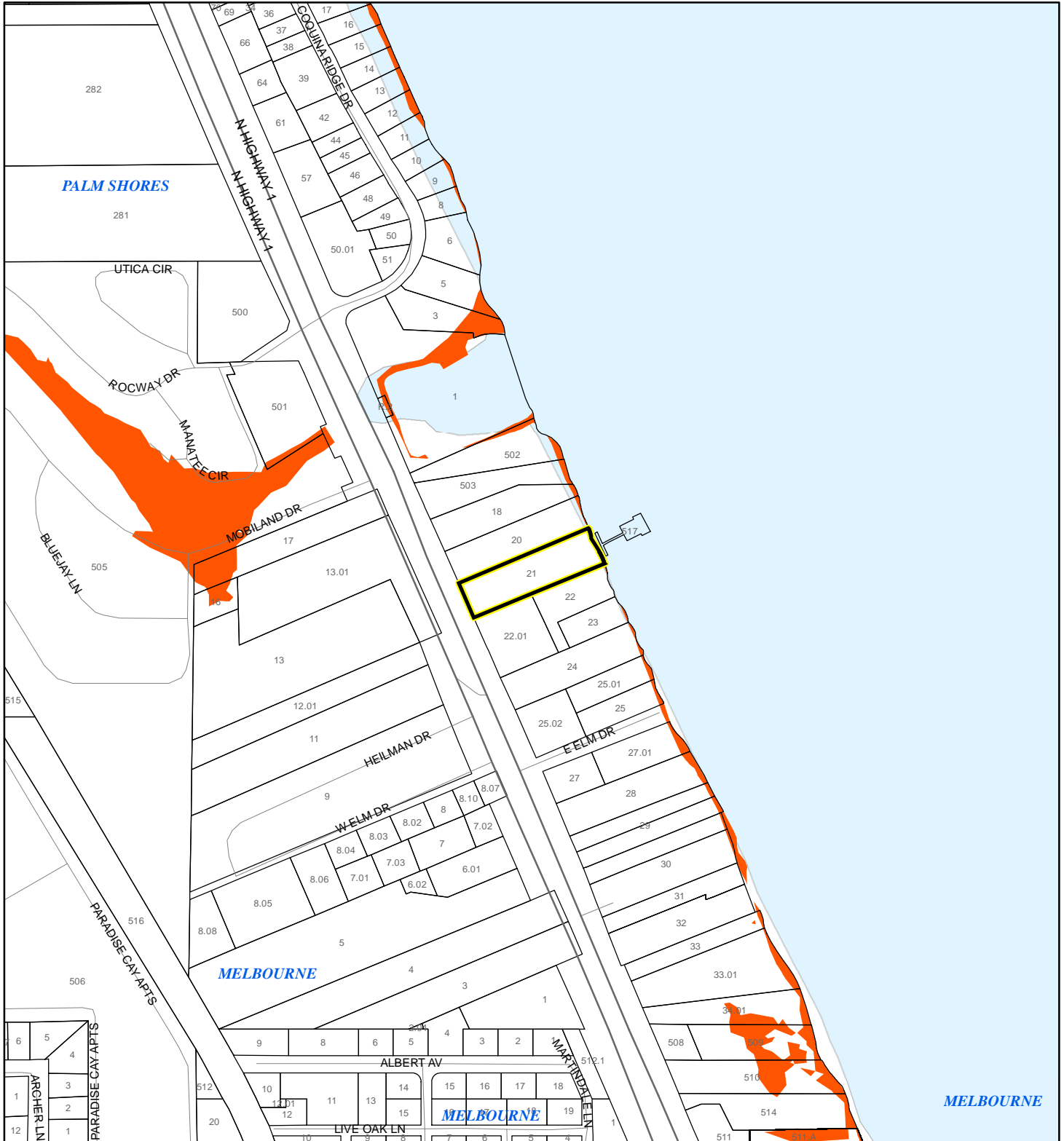
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/4/2023

 Subject Property

 Parcels

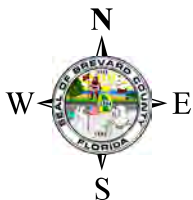
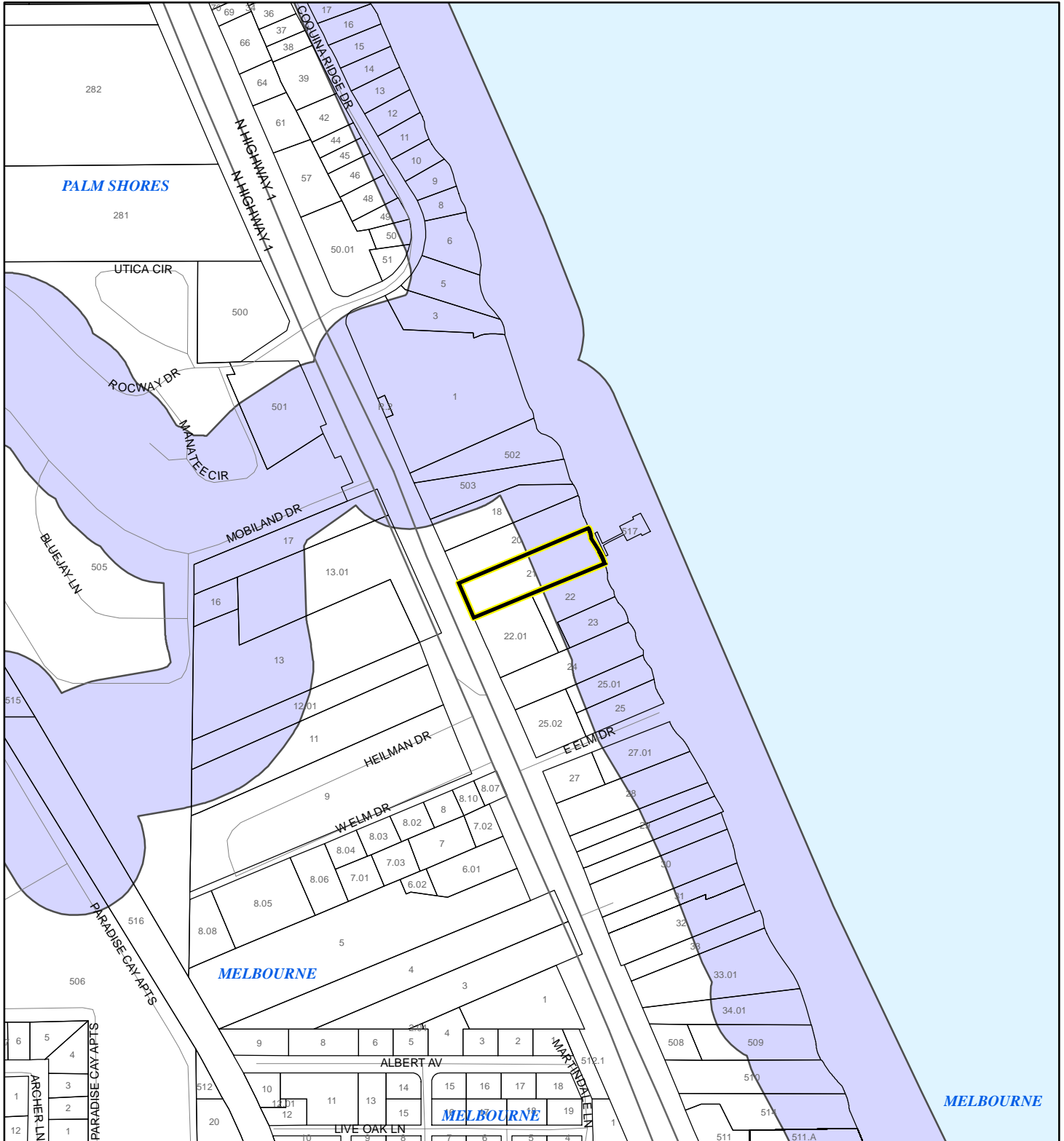
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/4/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

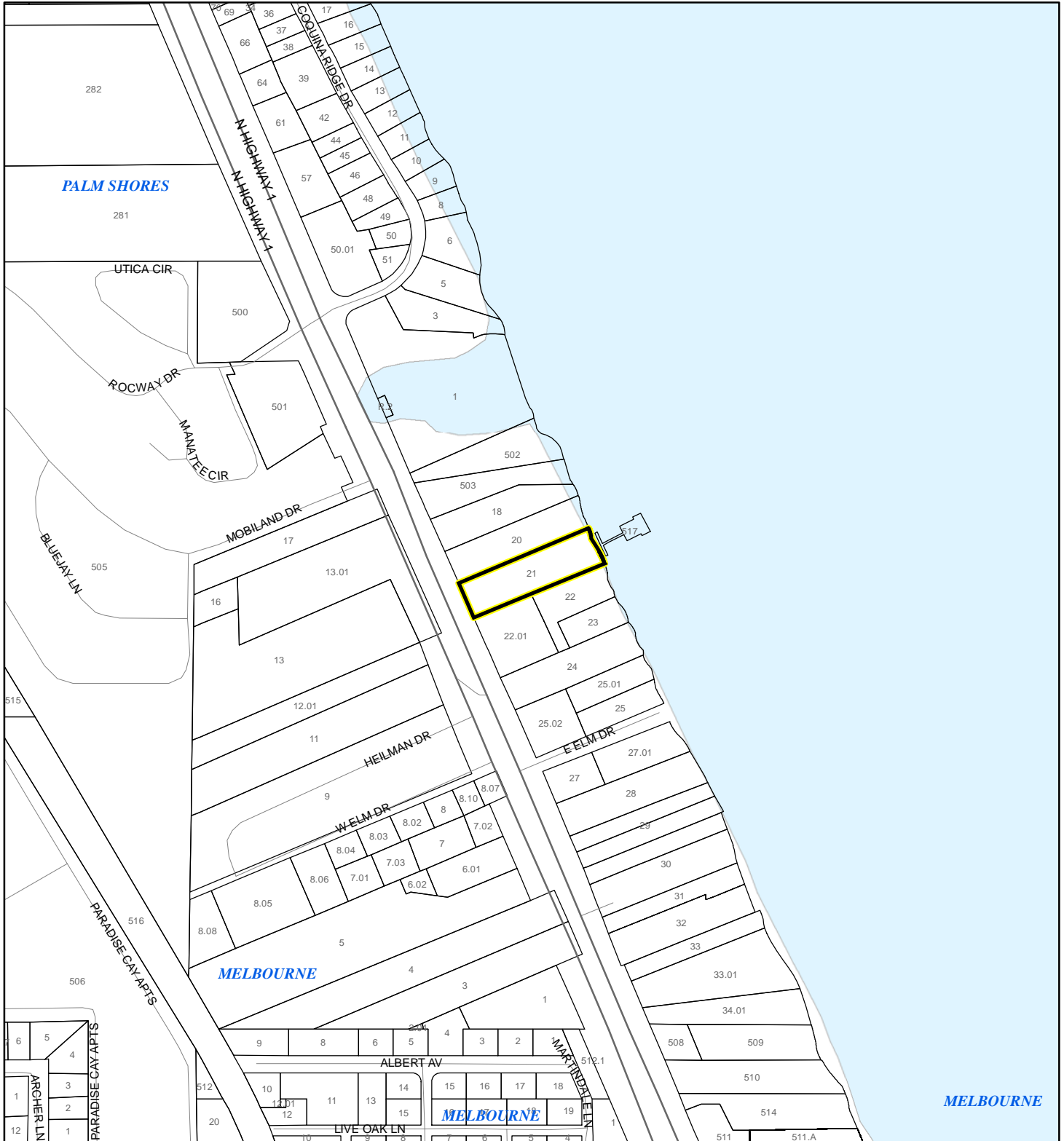
 60 Meters

 All Distances

EAGLE NESTS MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/4/2023

 Subject Property

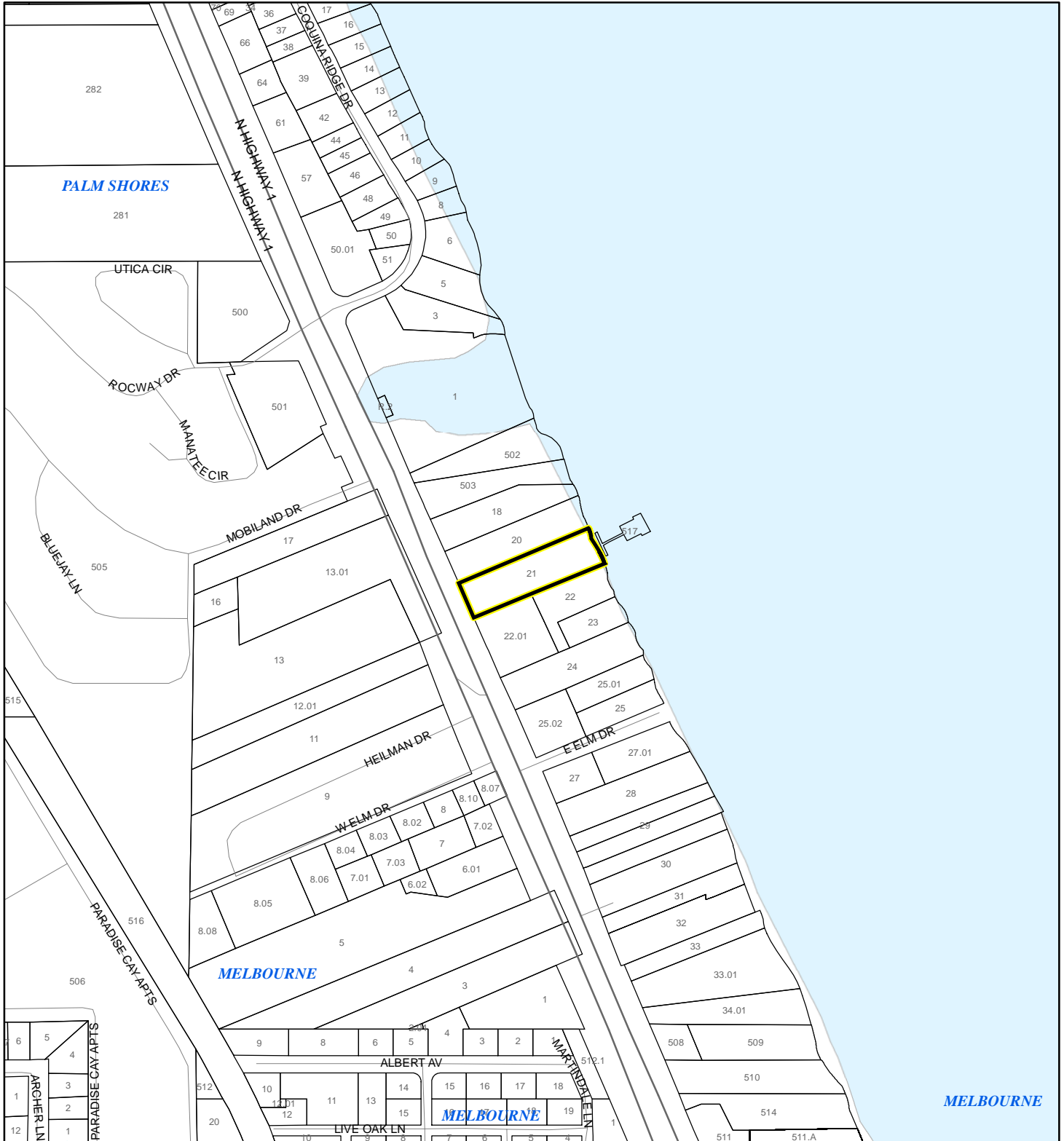
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

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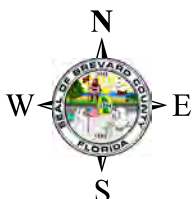
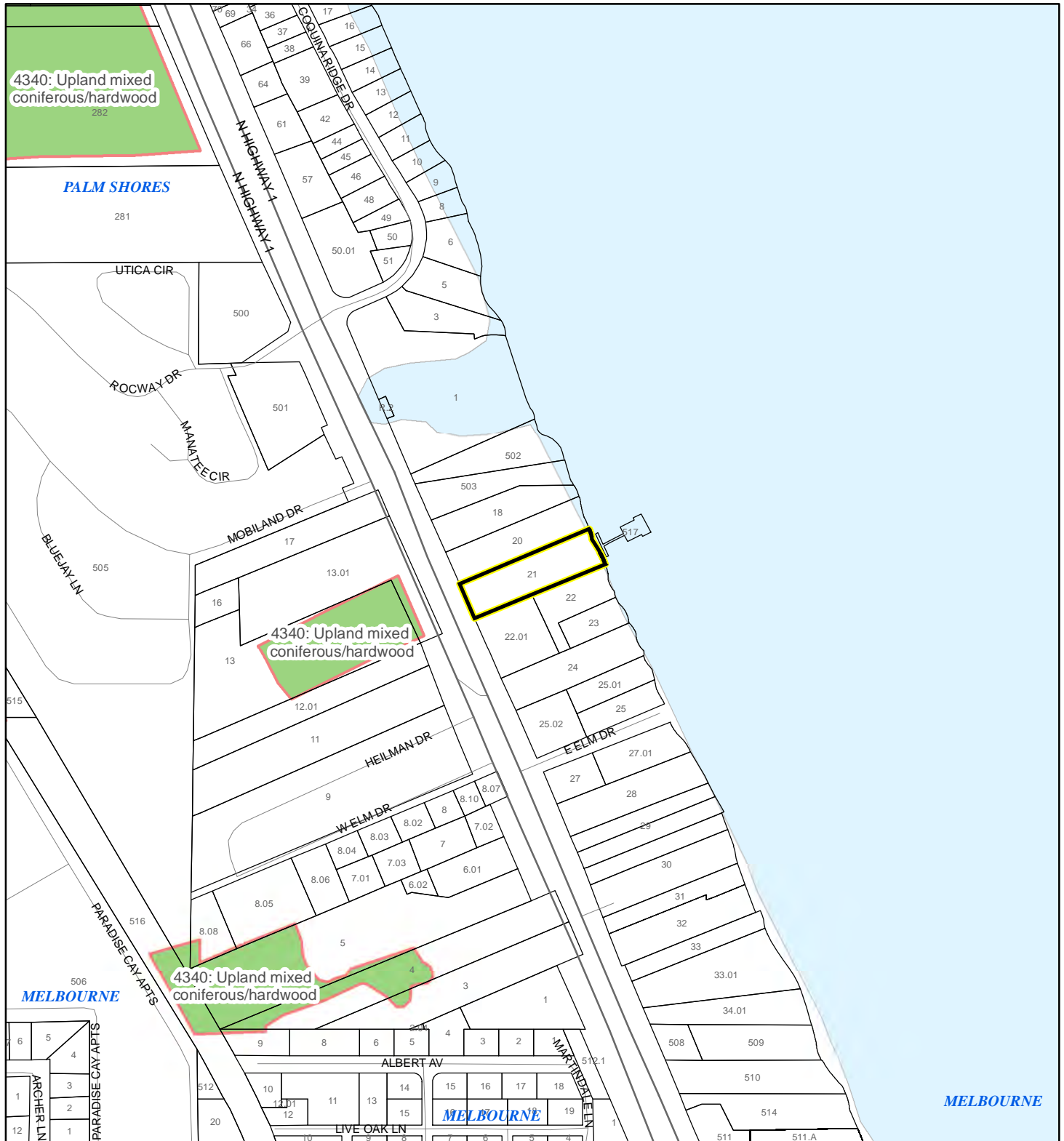
Produced by BoCC - GIS Date: 1/4/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/4/2023

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

ORDINANCE NO. 23- ____

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE NINETEENTH SMALL SCALE PLAN AMENDMENT OF 2022, 22S.18, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2022 as Plan Amendment 22S.18; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 22S.18; and

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

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

WHEREAS, on March 13, 2023, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 22S.18, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on April 4, 2023, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 22S.18; and

WHEREAS, Plan Amendment 22S.18 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 22S.18 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 22S.18 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 22S.18, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this ____ day of _____, 2023.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

By: _____
Rita Pritchett, Chair

As approved by the Board on _____, 2023.

EXHIBIT A
22S.18 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

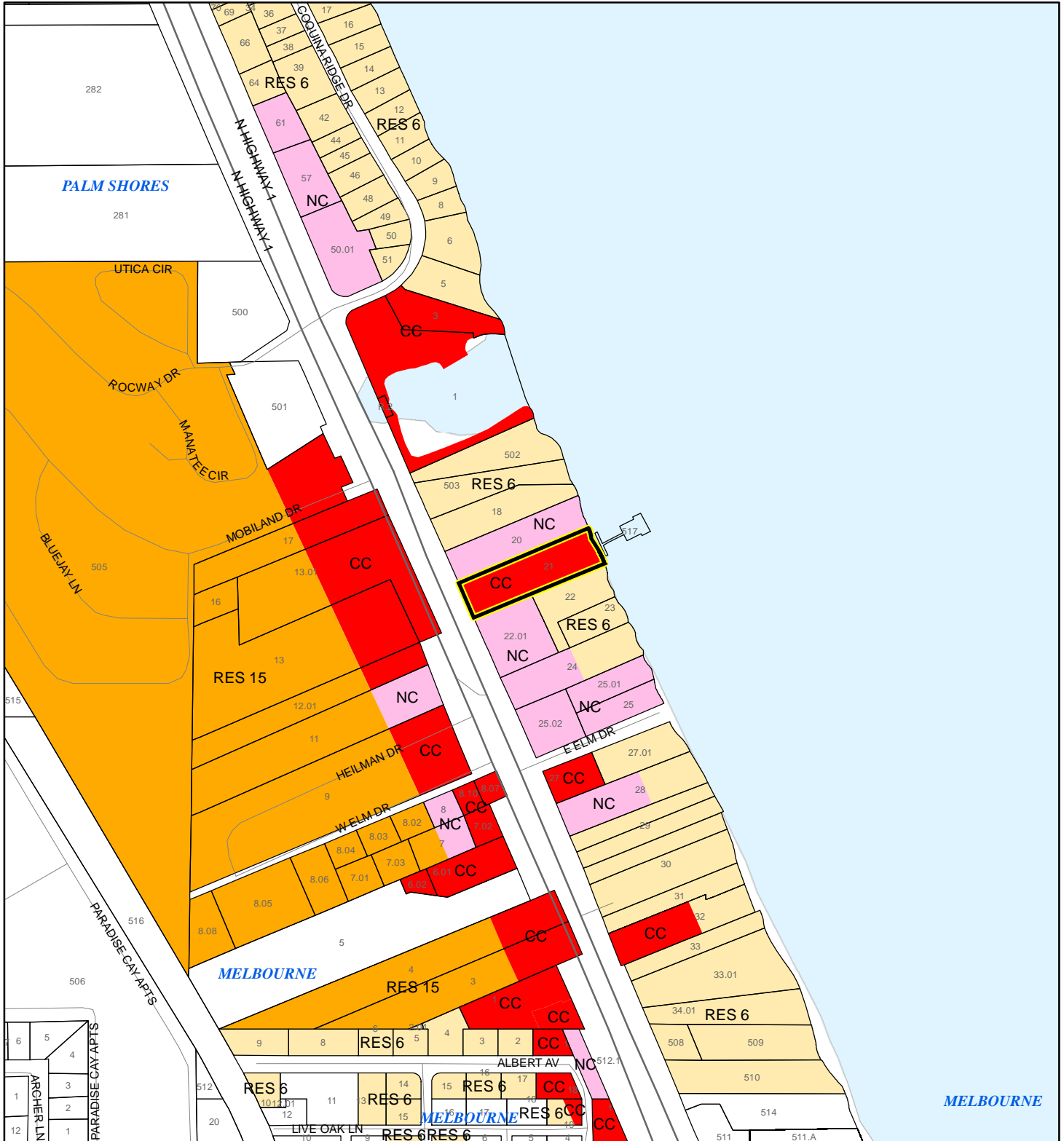
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

IR TIKI 2, LLC (SANDEEP PATEL, MANAGER)

22SS00015



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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Produced by BoCC - GIS Date: 1/5/2023

EXHIBIT B

Contents

1. Legal Description

A PUBLIC HEARING NOTICE

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, MARCH 13, 2023, and THURSDAY, APRIL 6, 2023:

DISTRICT 1 1. (23200002) Bobby J. Thomas requests a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home), on property described as Lot 5.01, Block 2, Indian River Park, as recorded in ORB 9566, Pages 1387 - 1388, of the Public Records of Brevard County, Florida, Section 16, Township 20S, Range 34, (2.87 acres) Located on the east side of Blounts Ridge Rd., approx. 0.17 mile south of Patty Lane. (No assigned address. In the Mims area.)

DISTRICT 1 2. (23200005) Louise Julia Goloversic requests a change of zoning classification from GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential), on property described as Lot 7.2-A, Canaveral Grove Subdivision, per SB 2, Pg. 64, and ORB 9599, Page 466 - 467, of the Public Records of Brevard County, Section 20, Township 24, Range 35, (3 acres) Located on the north side of Soggy Bottom Ave., approx. 0.34 mile west of Satellite Blvd, (6906 Soggy Bottom Ave., Cocoa)

DISTRICT 4 3. (225500015) IR Tiki 2, LLC (Sandeep Patel) requests a Small Scale Comprehensive Plan Amendment (225.18) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as Lot 21, Block 52, Indian River Estates Villas, as recorded in ORB 8743, Pages 795 - 797, of the Public Records of Brevard County, Florida, Section 32, Township 26, Range 37, (0.96 acres) Located on the east side of U.S. Highway 1, approx. 0.16 mile south of Coquina Ridge Dr. (4263 N. U.S. Highway 1, Melbourne) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.18: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 1 4. (23200004) Chelsey L. Cobb requests a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Tax Parcel 271, as recorded in ORB 9283, Pages 2274 - 2275, of the Public Records of Brevard County, Florida, Section 14, Township 24, Range 35, (3.09 acres) Located on the south side of James Rd., approx. 0.34 mile east of Friday Rd. (4475 James Rd., Cocoa)

DISTRICT 1 5. (22200074) Timothy Shane and Debra Jane Kelley (Don Hurnan) request a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential), on property described as Tax Parcel 52, as recorded in ORB 9437, Pages 689 - 690, of the Public Records of Brevard County, Florida, Section 29, Township 21, Range 35, (0.45 acres) Located on the west side of Old Dixie Hwy., approx. 165 ft. north of Diamond Rd. (1650 Old Dixie Hwy., Titusville)

DISTRICT 2 6. (22200068) Half Halt Stables, LLP (Toni Pasternack) requests a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential), on property described as a part of the SW ¼ of the NW ¼ of the SE ¼ of Section 25, Township 24S, Range 35E, Brevard County, Florida, being more particularly described as follows: begin at the SW corner of the NW ¼ of the SE ¼ of said Section 25; thence for a first course run north along the west line of the NW ¼ of the SE ¼ of said Section 25, a distance of 105 ft.; thence for a second course, run N89deg15'41"E, parallel to the south line of the NW ¼ of the SE ¼ of said Section 25, a distance of 105 ft.; thence for a third course, run south a distance of 105 ft.; thence for a fourth and final course, run S89deg15'41"W, a distance of 168 ft. to the point of beginning. Less 33 ft. of road right-of-way for Burnett Rd. (0.33 acres) Located on the east side of Burnett Rd., approx. 0.25 mile north of Lake Dr. (525 & 655 N. Burnett Rd., Cocoa)

DISTRICT 5 7. (22200067) Wendy Kleefisch requests a change of zoning classification from RU-1-11 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential), on property described as the east 103.5 ft. of Lot 4, Block F, of Map of Replat of North Indianlake By-The-Sea, according to the Plat thereof, as recorded in Plat Book 9, Page(s) 70, of the Public Records of Brevard County, Florida, Section 31, Township 27, Range 38, (0.36 acres) Located between Franklin Ave. and Grosse Pointe, approx. 0.07 mile west of Highway A1A, (107 Franklin Ave., Indian Lake)

DISTRICT 3 8. (23200001) Morris M. Taylor Revocable Living Trust (Chelsea Anderson) requests a change of zoning classification from SEU (Suburban Estate Use Residential), EA (Environmental Area), and BU-1-A (Restricted Neighborhood Commercial), to AU (Agricultural Residential) and BU-1-A, on property described as follows: Parcel No. 1: The south 273.75 ft. of Government Lot 2, Section 7, Township 30S, Range 39E, Brevard County, Florida, less the south 125 ft. of said Lot 2. Together with the following described parcel: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida: Thence run N00deg58'52"E along the west line of said Government Lot 1, a distance of 273.75 ft. to the point of beginning; thence run S89deg49'57"E, a distance of 188.01 ft.; thence run S00deg10'03"W, a distance of 123.75 ft.; thence run

S89deg49'57"E, a distance of 326.25 ft.; thence run S44deg49'57"E, a distance of 1.77 ft.; thence S89deg49'57"E, a distance of 25 ft.; thence N45deg10'03"E, a distance of 6.89 ft.; thence S89deg49'57"E, a distance of 376.72 ft. to a point on the westerly right-of-way line of S.R. A1A (100-ft. total right-of-way); thence S29deg42'09"E, along said westerly right-of-way line, a distance of 28.28 ft.; thence S45deg10'03"W, a distance of 6.89 ft.; thence N89deg49'57"W, a distance of 25 ft.; thence N44deg49'57"W, a distance of 1.77 ft.; thence N89deg49'57"W, a distance of 521.04 ft. to a point on the west line of said Government Lot 1; thence N00deg58'52"E, a distance of 148.75 ft. to the point of beginning. Together with riparian and littoral right thereunto belonging. Said parcel No. 1 containing 1.90 upland acres more or less. Parcel No. 2: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida: thence run N00deg58'52"E along the west line of said Government Lot 1, a distance of 273.75 ft.; thence run S89deg49'57"E, a distance of 188.01 ft. to the point of beginning; thence run S89deg49'57"E, a distance of 353 ft.; thence run S00deg10'03"W, a distance of 125 ft.; thence run N89deg49'57"W, a distance of 25 ft.; thence run N44deg49'57"W, a distance of 1.77 ft.; thence run N89deg49'57"W, a distance of 326.25 ft.; thence run N00deg10'03"E, a distance of 123.75 ft. to the point of beginning. Containing in all, 1.00 acres more or less. Together with an exclusive and irrevocable easement for ingress and egress over the north 22.10 ft. or the north 273.75 ft. of Government Lot 1. Lying west of the right-of-way for S.R. A1A (100-ft. total right-of-way) less the west 541.01 ft. thereof, (3 acres +/-) Located on the west side of Highway A1A, approx. 0.36 mile north of River Oaks Rd. (8850 Highway A1A, Melbourne Beach)

DISTRICT 5 9. (22200069) Thomas A. Metzger, Alan and Grace Metzger request a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Lot 1, Block KK, as recorded in ORB 9447, Pages 1675 - 1677, of the Public Records of Brevard County, Florida, Section 11, Township 28, Range 36, (5.14 acres) Located on the south side of Chicago Ave., approx. 300 ft. east of Cave St. (No assigned address. In the Micco area.)

DISTRICT 2 10. (235500001) QW Trust Agreement (Carolyn Haslam) requests a Small Scale Comprehensive Plan Amendment (235.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, on property described as Tax Parcels 512 & 519, as recorded in ORB 8483, Pages 2310 - 2311, of the Public Records of Brevard County, Florida, Section 25, Township 24, Range 35, (13.36 acres) Located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 235.01: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 2 11. (23200003) QW Trust Agreement (Carolyn Haslam) requests a change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial), on property described as Tax Parcels 512 & 519, as recorded in ORB 8483, Pages 2310 - 2311, of the Public Records of Brevard County, Florida, Section 25, Township 24, Range 35, (13.36 acres) Located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa)

DISTRICT 2

12. (225500016) Crane View, LLC (Steve Anderson) requests a Small Scale Comprehensive Plan Amendment (225.19), to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to RES 30 DIR (Residential 30 Directive), on property described as Tax Parcel 589, as recorded in ORB 6763, Page 1549, of the Public Records of Brevard County, Florida, Section 14, Township 24, Range 36, (3.95 +/- acres) Located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln., 242, 252, 262, & 272 Crane View Ln., Merritt Island) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.19: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 2 13. (22200071) Crane View, LLC (Steve Anderson) requests a change of zoning classification from RU-2-15 (Medium Density Multi-Family Residential) with an existing BDP (Binding Development Plan), to RU-2-30 (High Density Multi-Family Residential), and an amendment to the existing BDP, on property described as Tax Parcel 589, as recorded in ORB 6763, Page 1549, of the Public Records of Brevard County, Florida, Section 14, Township 24, Range 36, (3.95 +/- acres) Located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln., 242, 252, 262, & 272 Crane View Ln., Merritt Island) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, MARCH 13, 2023, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, APRIL 6, 2023, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2063 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

BOUNDARY SURVEY

IN A PORTION OF SECTION 32,
TOWNSHIP 26 SOUTH, RANGE 37 EAST, BREVARD COUNTY, FLORIDA

Survey
22SS00015
IR Tiki 2



SCALE 1"=20'

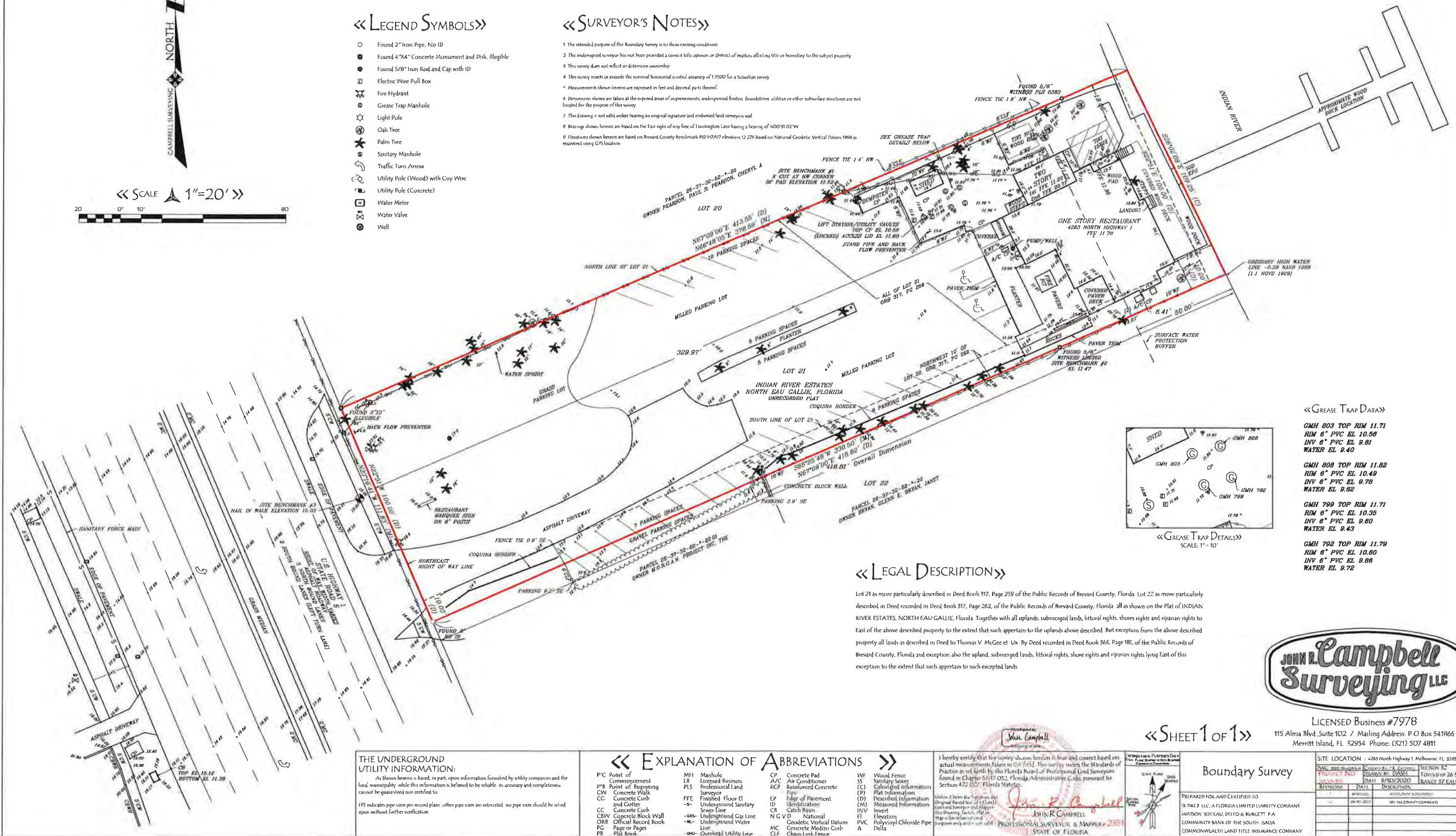


«LEGEND SYMBOLS»

- Found 2" Iron Pipe, No ID
- Found 4"x4" Concrete Monument and Disk, Illegible
- Found 5/8" Iron Rod and Cap with ID
- ⊠ Electric Wire Pull Box
- ⊠ Fire Hydrant
- ⊠ Grease Trap Manhole
- ⊠ Light Pole
- ⊠ Oak Tree
- ⊠ Palm Tree
- ⊠ Sanitary Manhole
- ⊠ Traffic Turn Arrow
- ⊠ Utility Pole (Wood) with Guy Wire
- ⊠ Utility Pole (Concrete)
- ⊠ Water Meter
- ⊠ Water Valve
- ⊠ Well

«SURVEYOR'S NOTES»

- The intended purpose of this Boundary Survey is to show existing conditions.
- The undersigned surveyor has not been provided a current title opinion or abstract of matters affecting title or boundary to the subject property.
- This survey does not reflect or determine ownership.
- This survey meets or exceeds the minimal horizontal control accuracy of 1:7500 for a Suburban survey.
- Measurements shown hereon are expressed in feet and decimal parts thereof.
- Dimensions shown are taken at the exposed areas of improvements, underground features, foundations, utilities or other subsurface structures are not located for the purpose of this survey.
- This drawing is not valid unless bearing an original signature and embossed land surveyor's seal.
- Bearings shown hereon are based on the East right of way line of Huntington Lane having a bearing of N00°31'02"W.
- Elevations shown hereon are based on Brevard County Benchmark PID H7A17 elevation 12.376 based on National Geodetic Vertical Datum 1988 as recovered using GPS location.



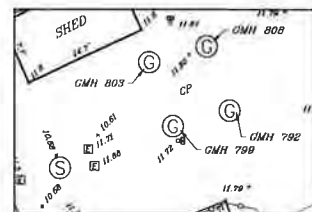
«GREASE TRAP DATA»

GMH 803 TOP RIM 11.71
RIM 6" PVC EL 10.58
INV 6" PVC EL 9.81
WATER EL 9.40

GMH 808 TOP RIM 11.82
RIM 6" PVC EL 10.49
INV 6" PVC EL 9.78
WATER EL 9.62

GMH 799 TOP RIM 11.71
RIM 6" PVC EL 10.35
INV 6" PVC EL 9.80
WATER EL 9.43

GMH 782 TOP RIM 11.79
RIM 6" PVC EL 10.80
INV 6" PVC EL 9.88
WATER EL 9.72



«GREASE TRAP DETAILS»
SCALE: 1" = 10'

«LEGAL DESCRIPTION»

Lot 21 as more particularly described in Deed Book 317, Page 259 of the Public Records of Brevard County, Florida. Lot 22 as more particularly described in Deed recorded in Deed Book 317, Page 262, of the Public Records of Brevard County, Florida. All as shown on the Plat of INDIAN RIVER ESTATES, NORTH EAU GALLIE, FLORIDA. Together with all uplands, submerged lands, littoral rights, shore rights and riparian rights to East of the above described property to the extent that such appertain to the uplands above described. But exception from the above described property all lands as described in Deed to Thomas V. McGee et. Ux. By Deed recorded in Deed Book 365, Page 181, of the Public Records of Brevard County, Florida and exception also the upland, submerged lands, littoral rights, shore rights and riparian rights lying East of this exception to the extent that such appertain to such excepted lands.



LICENSED BUSINESS #7978

115 Alma Blvd., Suite 102 / Mailing Address: P.O. Box 541866
Meritt Island, FL 32954 Phone: (321) 507 4811

«SHEET 1 OF 1»

Boundary Survey

PREPARED FOR AND CERTIFIED TO
IR TIKI 2, LLC, A FLORIDA LIMITED LIABILITY COMPANY
WATSON, SOLEAU, DEITO & BURGESS, P.A.
COMMUNITY BANK OF THE SOUTH, ISAQA
COMMONWEALTH LAND TITLE INSURANCE COMPANY

SITE LOCATION : 4263 North Highway 1, Melbourne, FL 32955			
PROJECT NO.	DATE	SECTION 32	TOWNSHIP 26 SOUTH
22SS00015	9/30/2020	SECTION 32	RANGE 37 EAST
REVISION	DATE	DESCRIPTION	REV. PER COUNTY COMMENTS
1	09/30/2020	REVISED PLAN	

«EXPLANATION OF ABBREVIATIONS»

PC Point of Commencement	MH Manhole	CP Concrete Pad	WF Wood Fence
PB Point of Beginning	LS Licensed Business	A/C Air Conditioner	SS Sanitary Sewer
CW Concrete Walk	PLS Professional Land Surveyor	RCP Reinforced Concrete Pipe	(C) Calculated Information
CG Concrete Curb and Gutter	FFE Finished Floor El	EP Edge of Pavement	(P) Plat Information
CC Concrete Curb	-S- Underground Sanitary Sewer Line	ID Identification	(M) Measured Information
CBW Concrete Block Wall	-G- Underground Gas Line	CR Catch Basin	INV Invert
ORB Official Record Book	-W- Underground Water Line	NGVD National Geodetic Vertical Datum	EL Elevation
PG Page or Pages	-OU- Overhead Utility Line	MC Concrete Median Curb	PVC Polyvinyl Chloride Pipe
PB Plat Book		CLF Chain Link Fence	Δ Delta

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 47-17.052, Florida Administrative Code pursuant to Section 472.027, Florida Statute.

JOHN R. CAMPBELL
PROFESSIONAL SURVEYOR & MAPPER #2351
STATE OF FLORIDA



THE UNDERGROUND UTILITY INFORMATION:

As shown hereon is based, in part, upon information furnished by utility companies and the local municipality while this information is believed to be reliable its accuracy and completeness cannot be guaranteed nor certified to.

(P) indicates pipe sizes per record plans. Other pipe sizes are estimated. No pipe sizes should be relied upon without further verification.

NOTE TO CONTRACTOR CONCERNING SIDEWALK SLOPES:
ALL NEW SIDEWALKS SHALL COMPLY WITH THE CURRENT ADA GUIDELINES & THE 2020 FLORIDA BUILDING CODE ACCESSIBILITY 7TH EDITION.
* SIDEWALKS:
** LANDINGS SHALL BE MINIMUM OF 5'X5' AND NOT EXCEED A 2% SLOPE IN ANY DIRECTION.
** LANDINGS & DIMENSIONS RELATIVE TO DOOR SWING SHALL BE PROVIDED PER FBC.
** RAMP SLOPES SHALL NOT EXCEED A 1:12 SLOPE FOR A MAXIMUM RISE OF 0.5'. HAND RAILS SHALL BE PROVIDED IF RISE EXCEEDS 0.5'.
** RAMP SLOPES MAY NOT EXCEED A MAXIMUM RISE OF 30" WITH HAND RAILS.
** RUNNING SLOPES SHALL NOT EXCEED A 1:20 SLOPE WITHOUT PROVIDING HAND RAILS.
* HANDRAILS:
** WHEN HAND RAILS ARE PROVIDED, HAND RAILS SHALL BE PER FBC.
** MINIMUM CLEARANCE SHALL BE 32".
** HEIGHT SHALL NOT BE LESS THAN 32" NOR MORE THAN 36".
* HANDICAP PARKING:
** SLOPE SHALL NOT EXCEED 2% SLOPE IN ANY DIRECTION. IF SLOPES EXCEED 2% ON EXISTING PAVED AREAS, THEY CAN NOT BE DESIGNATED AS A HANDICAP PARKING SPACE.



VICINITY

GENERAL STATEMENT: THIS PROJECT IS LOCATED WITHIN UNINCORPORATED BREVARD COUNTY (JURISDICTION). THE SITE HAS AN EXISTING RESTAURANT BUILT IN 1978 WITH AN EXISTING ASPHALT MILLING PARKING LOT. THE EXISTING PARKING LOT DIRECT DRAINS TO THE INDIAN RIVER WITHOUT TREATMENT. THE PROJECT PROPOSES TO SITE PLAN (1) TIKI HUT, SIDEWALKS AND A NEW PARKING LOT. THE NEW PARKING LOT WILL CONSIST OF BOTH CONCRETE & PERVIOUS CONCRETE. THE PERVIOUS CONCRETE WILL RETAIN 100% OF THE STORMWATER ON SITE FROM THE NEW PARKING LOT & NEW SIDEWALKS, PROVIDING TREATMENT & ATTENUATION.

OWNER/ APPLICANT: IR TIKI 2, LLC
577 BARNES BLVD., SUITE 650
ROCKLEDGE, FLORIDA 32955
MR. SK. PATEL
PHONE: 321-636-7110

ENGINEER OF RECORD: MONROE ENGINEERING, INC.
P.O. BOX 121094
WEST MELBOURNE, FLORIDA 32912
MR. STEVEN W. MONROE, P.E.
PHONE: 321-544-8177

SITE ADDRESS: 4263 N HIGHWAY 1, MELBOURNE, FLORIDA 32935

TAX PARCEL IDENTIFICATION: 26-37-32-52-A-21

LEGAL DESCRIPTION: SEE SHEET C-1

FLOOD ZONE: FLOOD ZONE X PER FIRM MAP #20090517H, DATED JANUARY 26, 2021

AREA OWNED: ±45,981 SF = ±1.056 AC = 100%

PROJECT AREA: ±34,613 SF = ±0.795 AC

CONSTRUCTION TYPE: EXISTING MASONRY/WOOD FRAME BUILDING

MUNICIPALITY: BREVARD COUNTY

FUTURE LAND USE: NC NEIGHBORHOOD COMMERCIAL

ZONING: BU-1 ADJACENT ZONING: NORTH 5' SOUTH 5' EAST 15' WEST 25'

EXISTING USE: RESTAURANT

BUILDING SETBACK REQUIRED: NORTH 5' SOUTH 5' EAST 15' WEST 25'

BUILDING SETBACK EXISTING: NORTH 19.06' SOUTH 8.41' EAST 19.47' WEST 329.97'

ALLOWABLE BUILDING HEIGHT: 35'

PROPOSED BUILDING(S): NO NEW STRUCTURES PROPOSED

EXISTING BUILDING(S): (1) (SINGLE STORY & 2 STORY)

EXISTING BUILDING AREA: ±3,999 SF

MAXIMUM FLOOR AREA RATIO (FAR): 0.75

PROPOSED FLOOR AREA RATIO (FAR): 0.087

PARKING

PARKING CALCULATION			
SITE USE	AREA (SF)	PARKING RATIO	REQUIRED
EXIST BUILDING	3,999	100	40
OUTSIDE SEATING	2,100	100	21
HANDICAP PARKING REQUIRED			3
TOTAL PARKING REQUIRED (INC. 3 H/C)			61
TOTAL PARKING PROVIDED (INC. 3 H/C)			61

- NOTES:
1. SOO ALL DISTURBED AREAS & SLOPES GREATER THAN 4:1.
 2. ALL DIMENSIONS ARE TO/ FROM FACE OF CURB.
 3. ALL PROPOSED ELEVATIONS ARE EDGE OF PAVEMENT ELEVATIONS.
 4. ALL SIDEWALKS, RAMPS AND CROSS WALKS WILL BE BUILT & INSPECTED TO MEET THE MOST CURRENT ADA GUIDELINES.
 5. THIS SITE PLAN COMPLIES WITH BREVARD COUNTY'S PERFORMANCE STANDARD 62-2281 THROUGH 62-2272.
 6. THE USES PROPOSED AS PART OF THIS SITE PLAN DO NOT REQUIRE A SUBMITTAL OF A RISK MANAGEMENT PLAN PURSUANT TO U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) REGULATIONS AND SHALL NOT EXCEED EPA'S RMP THRESHOLD QUANTITIES OF LISTED SUBSTANCES.
 7. ALL POSTS AND HARDWARE FOR ANY SIGNS INSTALLED ON THE SITE OR IN THE BREVARD COUNTY RIGHT OF WAY WILL ADHERE TO THE REQUIREMENTS SPELLED OUT IN BREVARD COUNTY LAND DEVELOPMENT EXHIBIT 26.

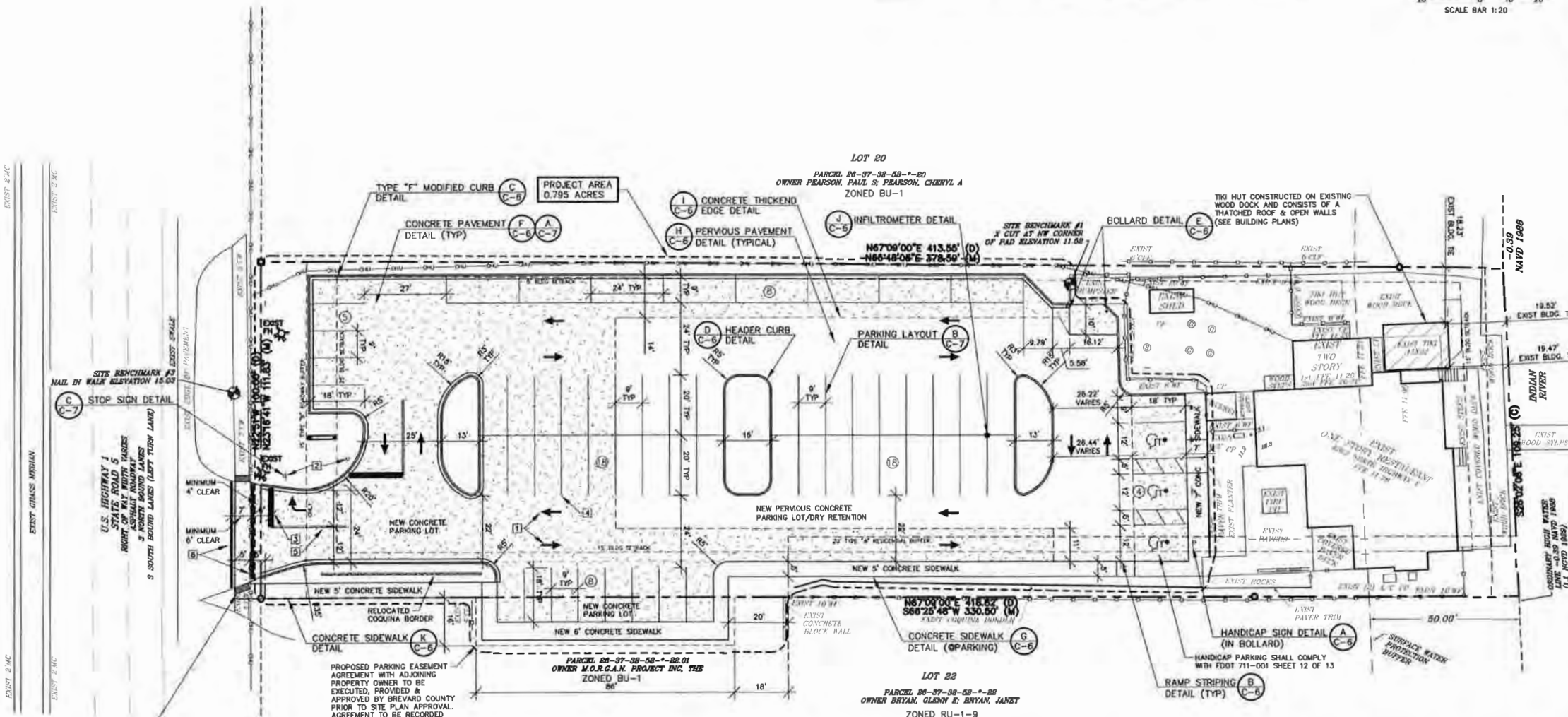
SURVEY: SURVEY INFORMATION USED IN THIS PROJECT TO DEPICT PROPERTY BOUNDARY, TOPOGRAPHY, TREES, UTILITIES & OTHER IMPROVEMENTS WAS PROVIDED BY JOHN R. CAMPBELL SURVEYING, LLC. PROJECT #2020-155, UPDATED 6-30-22.

MONROE

ENGINEERING, INC.

CIVIL ENGINEERING / STRUCTURAL ENGINEERING
P.O. BOX 121094, WEST MELBOURNE, FL 32912
PE #61778 PHONE: 321-544-8177 CA #32271

PROJECT: MARKER 99 PARKING LOT	
SHEET TITLE: SITE PLAN	
ISSUE DATE: 10-31-22	DRAWN BY: SM
REV. BY: DATE	CHECK BY: SM
APPR. BY: SM	
SCALE: 1:20	
JOB NO. 22-001	
SHEET: 4 OF 15	
C-3	



- PERVIOUS CONCRETE NOTES:
1. INSTALLATION OF THE PERVIOUS CONCRETE SHALL FOLLOW THE NATIONAL READY MIX CONCRETE ASSOCIATION GUIDELINES AND RECOMMENDATIONS.
 2. PERVIOUS PAVEMENT CONSTRUCTION WILL BE PERFORMED BY A CONTRACTOR THAT IS TRAINED AND CERTIFIED BY THE PRODUCT MANUFACTURER PRIOR TO INSTALLING THE PERVIOUS PAVEMENT SYSTEM.
 3. RUNOFF FROM LANDSCAPE AREAS MUST NOT BE DIRECTED TO ONTO THE PERVIOUS PAVEMENT SYSTEM.
 4. SEE PLAN FOR LOCATION OF INFILTRATION METERS.
 - 4.1. MINIMUM OF ONE INFILTRATION METER REQUIRED FOR EACH SECTION OF PERVIOUS PAVEMENT SYSTEM.
 - 4.2. LARGER SECTIONS OF PERVIOUS PAVEMENT SYSTEM REQUIRE A MINIMUM OF TWO INFILTRATION METERS PER ACRE.
 - 4.3. PROVIDE SIGNAGE TO INFORM USERS WITH HEAVY WHEEL LOADS OR TRANSIENT CONSTRUCTION EQUIPMENT NOT TO ENTER THE PERVIOUS PAVEMENT SYSTEM AREA.
 5. FOR AREAS WITH PREVIOUS EXISTING PAVEMENT AND BASE, PAVEMENT AND BASE SHALL BE REMOVED. UNDERLYING SOILS ARE TO BE SCARIFIED TO A MINIMUM 16" DEPTH, RE-GRADED, FILLED WITH HYDRAULICALLY CLEAN SOILS (IF APPLICABLE) AND PROOF ROLLED PER SUBGRADE REQUIREMENTS.
- PERVIOUS CONCRETE MAINTENANCE SCHEDULE:
1. PERVIOUS CONCRETE MAINTENANCE AND OPERATION SHALL FOLLOW THE NATIONAL READY MIX CONCRETE ASSOCIATION GUIDE.
 2. DO NOT SEAL OR RE-PAVE PERVIOUS CONCRETE WITH IMPERVIOUS MATERIALS. IN PARTICULAR, NEVER USE ASPHALT OR OTHER TAR-TYPE SEALERS ON PERVIOUS CONCRETE.
 3. MAINTAIN PERVIOUS CONCRETE AS FOLLOWS:
 - 3.1. AS NEEDED:
 - 3.1.1. MAINTAIN UPLAND AND ADJACENT GRASSY AREAS AS NEEDED.
 - 3.1.2. SEED UPLAND AND ADJACENT BARE AREAS.
 - 3.1.3. KEEP THE PERVIOUS PAVEMENT SURFACE FREE OF SEDIMENT BY BLOWING, SWEEPING OR VACUUMING.
 - 3.1.4. EXCESSIVE WATER FLOW CARRYING DEBRIS TOWARD THE PAVEMENT SHOULD BE DIVERTED.
 - 3.2. MONTHLY: VISUALLY INSPECT PERVIOUS PAVEMENT TO ENSURE THAT IT IS:
 - 3.2.1. CLEAN OF DEBRIS.
 - 3.2.1.1. DE-WATERS BETWEEN STORIES.
 - 3.2.2. CLEAN OF SEDIMENTS.
 - 3.3. ANNUALLY:
 - 3.3.1. INSPECT THE PERVIOUS PAVEMENT SURFACE FOR DETERIORATION OR SPALLING.

- BREVARD COUNTY FIRE NOTES:
1. LANDSCAPING OR ANY OTHER OBSTRUCTION SHALL NOT BE LOCATED WITHIN 36 INCHES AROUND THE CIRCUMFERENCE OF FIRE HYDRANTS EXCEPT AS OTHERWISE REQUIRED OR APPROVED. FIRE DEPARTMENT CONNECTIONS SHALL BE LOCATED AND ARRANGED SO THAT HOSE LINES CAN BE ATTACHED TO THE INLETS WITHOUT INTERFERENCE FROM NEARBY OBJECTS, INCLUDING BUILDINGS, FENCES, POSTS, LANDSCAPING, VEHICLES, OR OTHER FIRE DEPARTMENT CONNECTIONS. (FFPC 1-18.5.3, NFPA 14-4.4.5.1.1)
 2. WATER FOR FIRE FIGHTING PURPOSES SHALL BE INDICATED WITH A BLUE ROADWAY REFLECTOR PLACED ON THE CENTER LINE OF THE TRAFFIC LANE NEAREST TO THE FIRE HYDRANT. THIS INCLUDES NEW AND EXISTING SOURCES. (NFPA 1-18.5.7.1, NFPA 1142-7.3)
 3. WATER FOR FIRE FIGHTING PURPOSES SHALL BE AVAILABLE AT THE TIME CONSTRUCTION ARE BROUGHT ON SITE. (FFPC 1-18-4.3.1.1)
 4. NEW FIRE HYDRANTS SHALL BE POSITIONED NOT MORE THAN 8 FEET NOR LESS THAN 6 FEET OFF THE EDGE OF PAVEMENT. THE CENTER LINE OF THE STEAMER CONNECTION (4 1/2") SHALL BE POSITIONED BETWEEN 16"-24" ABOVE FINISH ALL HYDRANTS SHALL BE READILY ACCESSIBLE WITHOUT THE NEED TO TRAVERSE SWALES, DITCHES, ETC. (FFPC 1-18.5.2, NFPA 24-7.3)
 5. PERMANENT ACCESS SHALL BE PROVIDED BY AN UNOBSTRUCTED, 20 FOOT WIDE, ALL WEATHER DRIVING SURFACE CAPABLE OF SUPPORTING A 32-TON EMERGENCY VEHICLE. THE DRIVING SURFACE SHALL BE MAINTAINED DURING ALL PHASES OF CONSTRUCTION. (FFPC 1-18-2.3.4.1.1, FFPC 1-18.2.3.4.2)
 6. ALL CONTROL VALVES FOR ANY FIRE SPRINKLER SYSTEM SHALL BE ELECTRONICALLY MONITORED.

SIGNAGE & STRIPING SHALL BE PER FOOT REQUIREMENTS

1	WHITE DIRECTION ARROW TYP. PER FOOT INDEX 711-001, SHEET 1 OF 13
2	36" HIGH INTENSITY GRADE STOP SIGN R1-1
3	24" WIDE WHITE STOP BAR (MIN 4" CLEAR OF CROSSWALK)
4	6" SINGLE WHITE
5	6" DOUBLE YELLOW STRIPES (25' LONG FROM STOP BAR)
6	12" SINGLE WHITE STRIPE PER FOOT INDEX 711-001 SHEET 9 OF 13 MINIMUM 6" CLEAR BETWEEN STRIPES MINIMUM 4" CLEAR TO STOP BAR

NOTE: ALL STRIPING IN THE PUBLIC RIGHT OF WAY & PROPOSED DRIVEWAY CONNECTION SHALL BE THERMOPLASTIC.

SIGNAGE & STRIPING LEGEND

Area Owned			
	sf	ac	%
Area Owned	45,981	1.056	100.0

Basin Information			
	sf	ac	% S&B
On-Site	33,403	0.767	77.5
Off-Site	1,645	0.038	3.8
RDwy	5,061	0.116	11.7
Total	45,109	0.999	100.0

Post Condition Impervious Areas (Theoretical Volume)			
	sf	ac	%
On-Site Building	434	0.010	1.0
On-Site Paving	26,332	0.604	61.1
On-Site Sidewalks	1,602	0.037	3.8
Off-Site Building	0	0.000	0.0
Off-Site Paving	590	0.014	1.4
Off-Site Sidewalks	374	0.013	1.3
RDwy Building	0	0.000	0.0
RDwy Paving	6,470	0.149	15.0
RDwy Sidewalks	344	0.008	0.8
Total	36,366	0.835	84.4

Pervious Areas			
	sf	ac	%
Pervious	6,723	0.154	15.6

- FOOT NOTES:
1. ALL CONSTRUCTION WITHIN THE FOOT RIGHT OF WAY SHALL BE IN ACCORDANCE WITH THE LATEST EDITION OF THE FOOT DESIGN STANDARDS, FOOT SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, AND 2017 UTILITY ACCOMMODATIONS MANUAL.
 2. ALL UNPAVED AREAS WITHIN THE FOOT AREAS THAT HAVE BEEN DISTURBED BY CONSTRUCTION SHALL BE SOODED WITH COMMON BERBERA.
 3. PLACE SOO PER FOOT DESIGN STANDARDS INDEX 105 WITH STAGGERED TRANSVERSE JOINTS (BRICK) PATTERN DETAIL AT 1" DROP OFF BELOW THE EDGE OF PAVEMENT.
 4. ALL EXCAVATION WITHIN (10) FEET OF THE TRAVEL LANES WITH A DROP OFF GREATER THAN (3) INCHES DEEP MUST BE FILLED IN OR HAVE A 4:1 SHOULDER TREATMENT PLACED PER FOOT DESIGN STANDARD INDEX 102-600 BY THE END OF THE WORKING DAY.
 5. FOOT MUST BE CONTACTED 48 HOURS IN ADVANCE BEFORE WORK BEGINS.
 6. ALL MATERIALS USED WITHIN THE FOOT RIGHT OF WAY MUST BE STATE CERTIFIED.

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ENGINEERS CERTIFICATION

STEVEN W. MONROE, P.E. #61778

SIGNATURE: _____

DATE: OCTOBER 31, 2022

THIS PLAN IS NOT VALID WITHOUT THE ENGINEER OF RECORD'S ORIGINAL SIGNATURE, DATE & SEAL

FOR REVIEW
NOT FOR
CONSTRUCTION

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

IR Tiki 2, LLC (Sandeep Patel)

A Small Scale Comprehensive Plan Amendment (22S.18) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on 0.96 acres, located on the east side of U.S. Highway 1, approx. 0.16 mile south of Coquina Ridge Dr. (4263 N. U.S. Highway 1, Melbourne) (22SS00015) (Tax Account 2611662) (District 4)

Steve Monroe, 3080 Brandywine Lane, Melbourne, stated he is the engineer representing the applicant. The property is the Marker 99 restaurant, originally built in 1978. When the present owners bought the property, the first thing they did was install a new lift station and force, main and connected to the City of Melbourne Utilities. The second thing they are in the process of doing is changing the existing parking, which is dirt and asphalt that directs drainage to the Indian River. A site plan has been prepared that will provide pervious concrete to replace the current parking lot, and it will retain 100% of the stormwater, eliminating any further discharge to the river. During the site plan stage, it was recognized by staff that the tiki hut expansion is a non-conforming use, and that is the reason for the request from Neighborhood Commercial to Community Commercial.

Public comment.

John Dinome, 4233 N. Harbor City Boulevard, Melbourne, asked if just the parking lot is changing, or if a new structure will be built on the empty lot next door.

Mr. Monroe replied there are no proposed improvements on the neighboring lot; they don't own that property. The proposed improvements are to the paving of the parking lot; the tiki hut currently exists.

Mr. Dinome stated he is in favor of the request if there is not going to be additional construction.

Motion by Bruce Moia, seconded by Robert Sullivan, to recommend approval of the Small Scale Comprehensive Plan Amendment from NC to CC. The motion passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

4/6/2023

Subject:

Chelsey L. Cobb requests a change of zoning classification from RR-1 to AU. (23Z00004) (Tax Account 2405118) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners 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 the property from RR-1 to AU. The applicant also proposes to use the property for a small nursery, raise chickens, and small livestock, as well as make the property more sustainable and self-sufficient. The applicant currently has a cow and bull on the property. Code Enforcement case 22CE-00499, related to a pole-barn being constructed without a permit.

The AU zoning classification permits single-family residential and agricultural uses on 2.5-acre lots, with a minimum lot width and depth of 150 feet, and a minimum living area of 750 square feet. The AU classification permits the raising/grazing of animals and plant nurseries. AU(L) prohibits the commercial aspects of the agricultural uses and would not allow a nursery.

Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family homes.

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may consider whether there are potential effects of Agritourism activities on the surrounding area.

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval to the AU(L) (Agricultural Residential, Low Intensity) zoning classification.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning & Development.

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

23Z00004

Chelsey L. Cobb

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

Tax Account Number: 2405118
Parcel I.D.: 24-35-14-00-271
Location: 4475 James Rd., Cocoa, FL 32926 (District 1)
Acreage: 3.09 acres

Planning & Zoning Board: 03/13/2023
Board of County Commissioners: 04/06/2023

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*	3 SFR	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) to seek compliance with Code Enforcement case, 22CE-00499, related to a pole-barn being constructed without a permit. The applicant also proposes to use the property for a small nursery and be able to raise their children with animals, chickens, small livestock as well as make the property more sustainable and self-sufficient. The applicant currently has a cow and bull on the property.

The subject parcel was recorded into the Official Record Book 1918, page 67, in June 1978. Parcel was rezoned from GU (General Use) to RR-1 (Rural Residential) per Zoning Resolution, **Z-2219**, on February 29, 1968.

The existing single-family residence was built in 1991. The parcel size meets both RR-1 and AU minimum lot size and dimensions measuring 154-feet wide by 883-feet deep.

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:

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;

There is an existing pattern of residential land uses surrounding the subject parcel. A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding established neighborhood. There is a mixture of AU and RR-1 zoning classifications in the general area.

The proposed use(s) would not have any different hours of operation, lighting, odor, noise levels, traffic or site activity than that which the applicant is currently conducting.

- 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.

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

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

- 1. historical land use patterns;

There are two (2) FLU designations (RES 1 and RES 3 Dir) within 500-feet of this site. There have been no FLU changes within 500-feet. Property sizes in the immediate area range from 1.0-acre to 9.62-acres. The surrounding area is developed as single-family residential homes.

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

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

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

There have been three (3) zoning changes approved within 0.5-miles over the preceding three (3) years:

21Z00039 was a zoning change established April 21, 2022 from RR-1 to AU(L) (Agricultural Residential-Low Intensity) with a BDP (Binding Development Plan) to restrict agritourism.

22Z00032 was a zoning change from RR-1 to AU with a resolution date of August 31, 2022.

22Z00036 was a zoning change from RR-1 to AU with a resolution date of October 6, 2022.

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

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

1. Most parcels in the immediate area are one (1) acre or larger in size and developed with single-family home. To the north are two parcels, 1.0-acre SFR zoned RR-1 and the other, a 3.39-acre parcel with a SFR zoned AU. To the south is one (1) 8.88-acre parcel developed as a SFR with AU zoning. To the east is a SFR 3.06-acre parcel with RR-1 zoning. To the west is one (1) SFR on 3.09-acres zoned RR-1.
2. The proposed AU zoning could 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.
3. The Board may consider a lower intensity zoning classification such as AU(L), with agriculture activity on a non-commercial level. 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 character of the neighborhood.

4. 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. Both of the AU zoned parcels have a Homestead First and Homestead Additional 2022 exemption.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family	RR-1 & AU	RES 1
South	Single-family	AU	RES 1
East	Single-family	AU	RES 1
West	Single-family	RR-1	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.

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 decreases the percentage of MAV utilization by -0.11%. The corridor is anticipated to operate at 14.21% 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 potable water is 1.4 miles away at the intersection of SR 524 and Cox Rd. The subject property is developed and has current water service. The developed subject property has City of Cocoa sewer.

Environmental Constraints

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

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.

Information available to NRM indicates that unpermitted land clearing activities may have occurred 2021/2022. The discovery of unpermitted land clearing activities may result in code enforcement action.

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 (NRM) DEPARTMENT
Zoning Review & Summary**

Item #23Z00004

Applicant: Chelsea Lyn Cobb

Zoning Request: RR-1 to AU

Note: Need AU zoning for existing business.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2405118

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

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.

Information available to NRM indicates that unpermitted land clearing activities may have occurred 2021/2022. The discovery of unpermitted land clearing activities may result in code enforcement action.

Land Use Comments:

Hydric Soils

The subject parcel contains mapped hydric soils (Basinger sand and Valkaria sand) as shown on the USDA Soil Conservation Service Soils Survey map. This is an indicator that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design, or building permit submittal.

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

Aquifer Recharge Soils

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

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.

Information available to NRM indicates that unpermitted land clearing activities may have occurred in the Surface Water Protection Buffer. The discovery of unpermitted land clearing activities may result in code enforcement action.

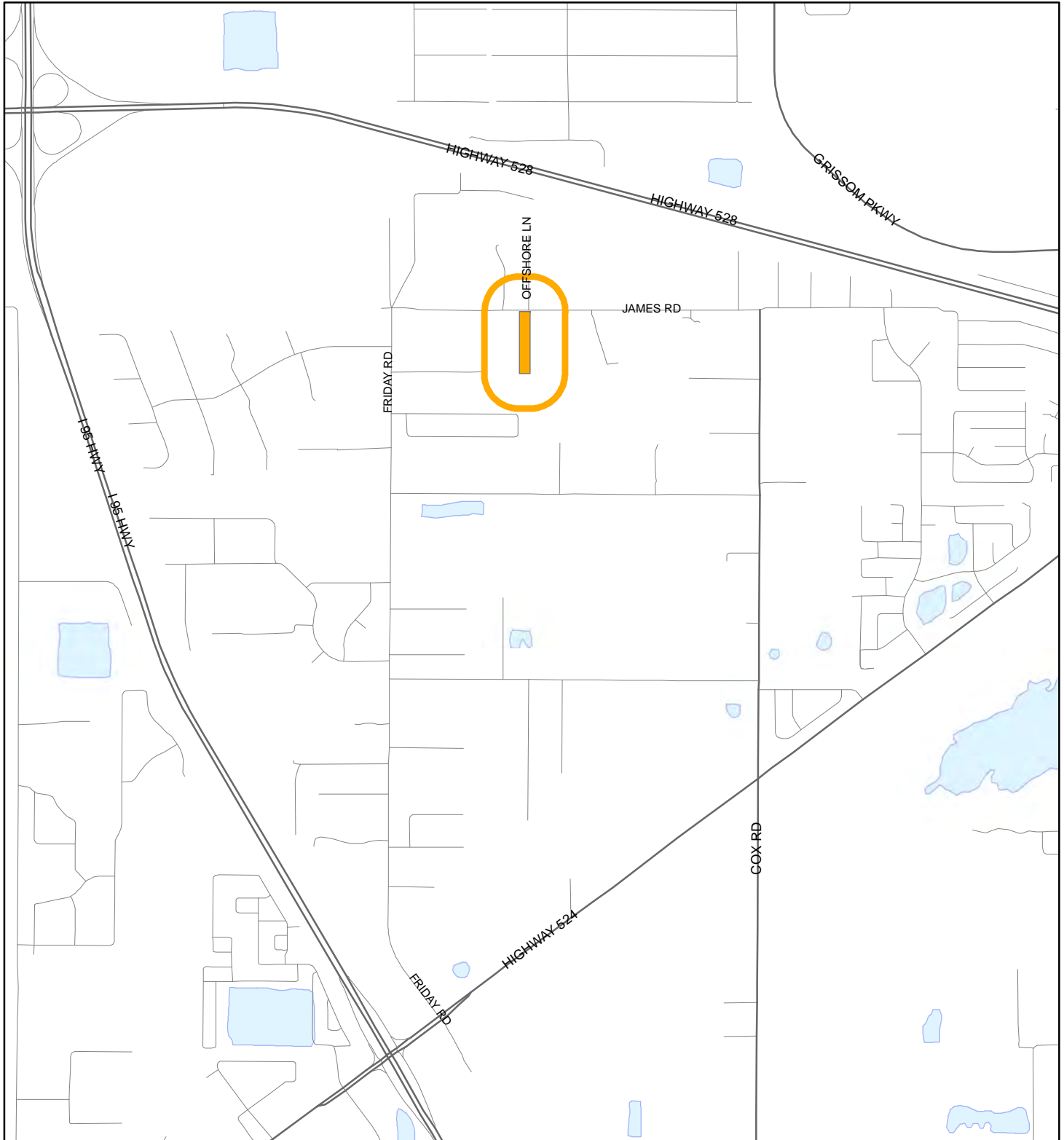
Protected Species

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

CHELSEY LYN COBB

23Z00004





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

Buffer Distance: 500 feet

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

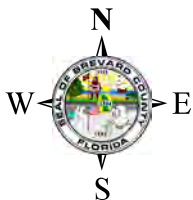
Produced by BoCC - GIS Date: 1/11/2023

 Buffer
 Subject Property

ZONING MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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 Subject Property

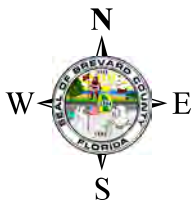
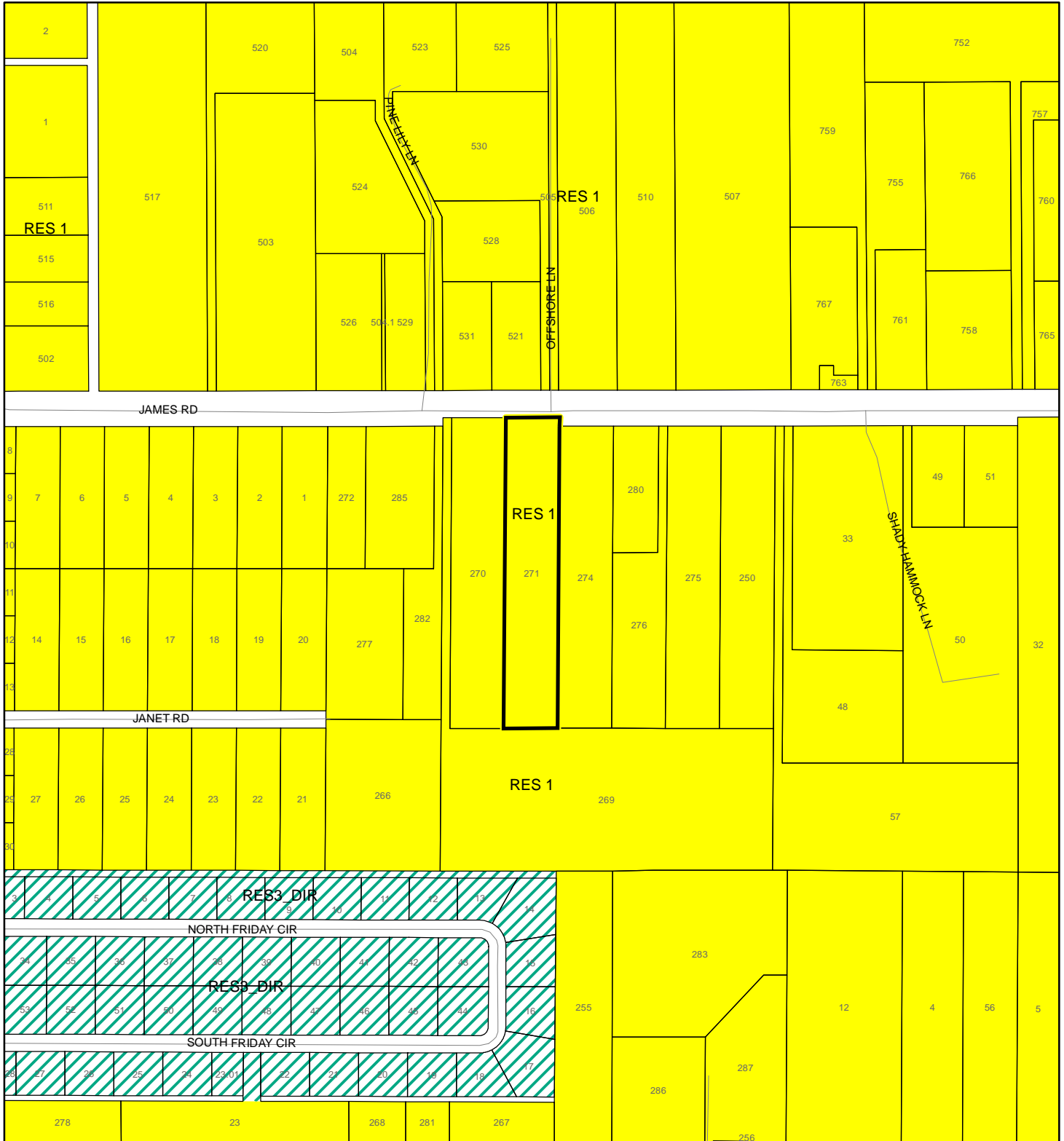
Parcels

Zoning



FUTURE LAND USE MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

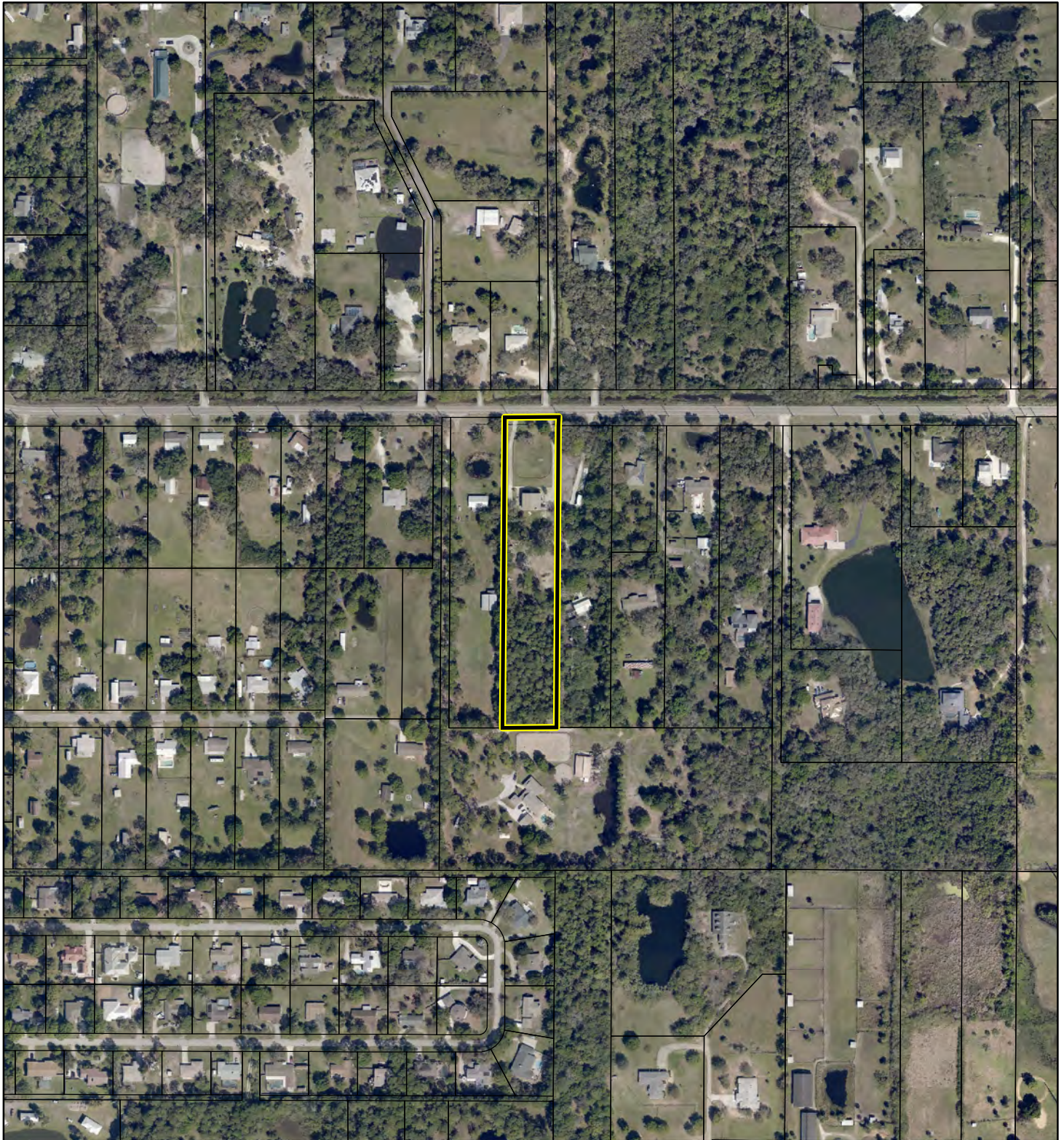
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AERIAL MAP

CHELSEY LYN COBB

23Z00004




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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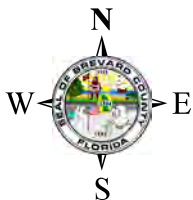
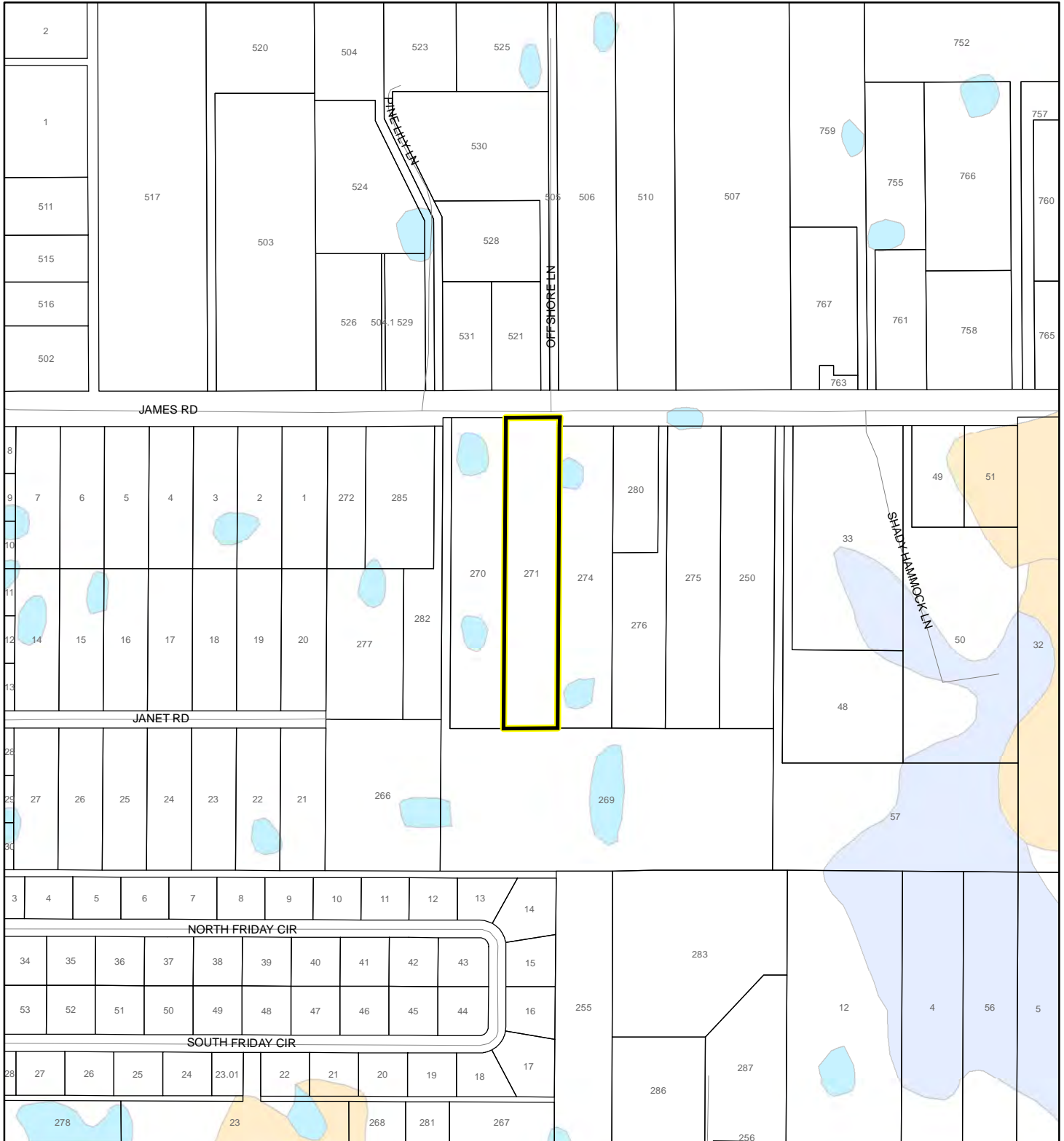
 Subject Property

 Parcels

NWI WETLANDS MAP

CHELSEY LYN COBB

23Z00004













1:4,800 or 1 inch = 400 feet

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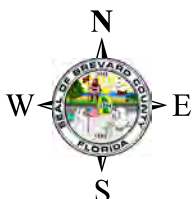
National Wetlands Inventory (NWI)

 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

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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

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SJRWMD FLUCCS 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

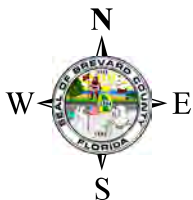
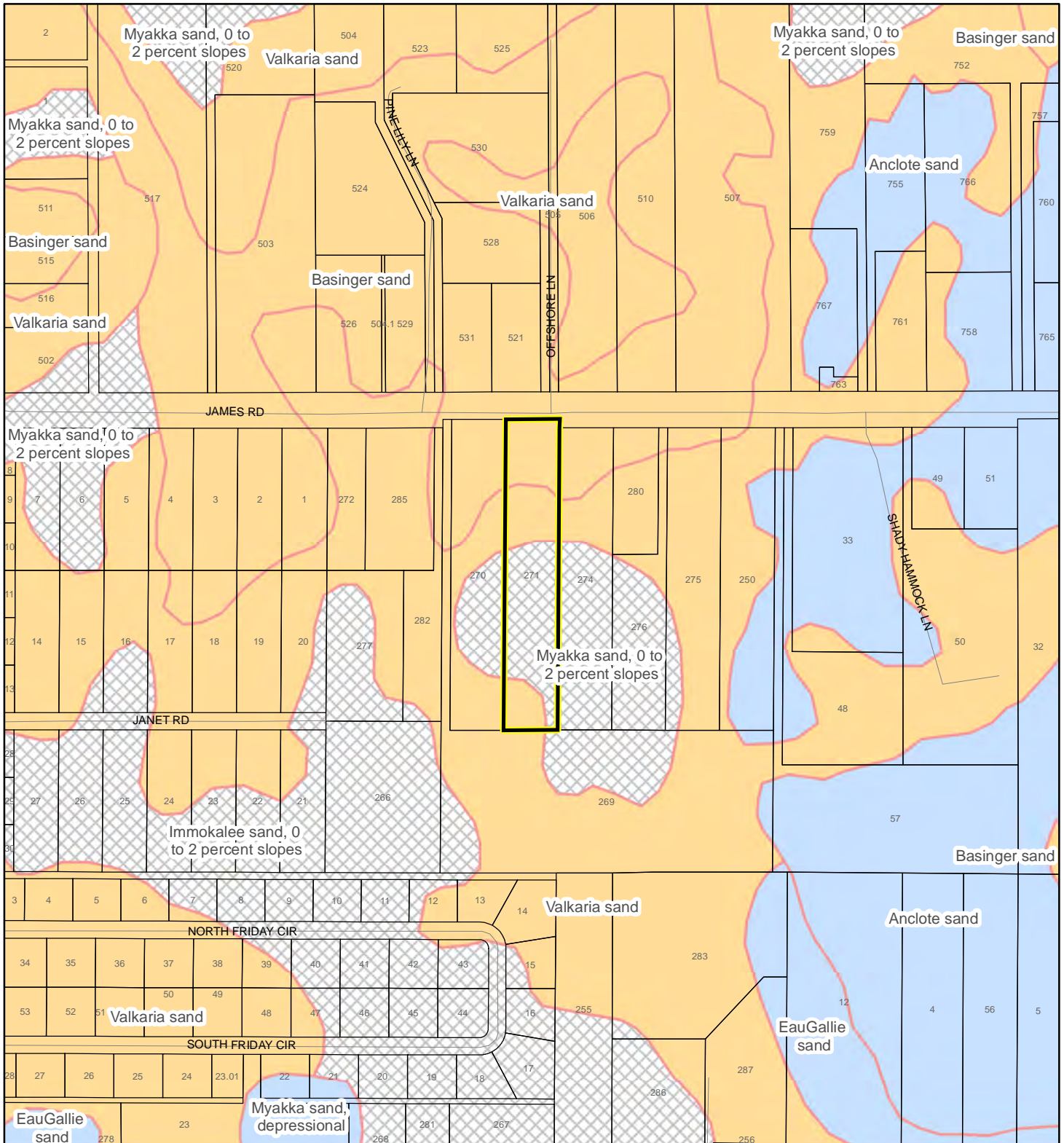
Subject Property

Parcels

USDA SCSSS SOILS MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/11/2023

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

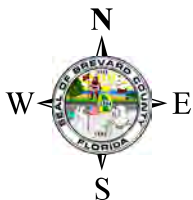
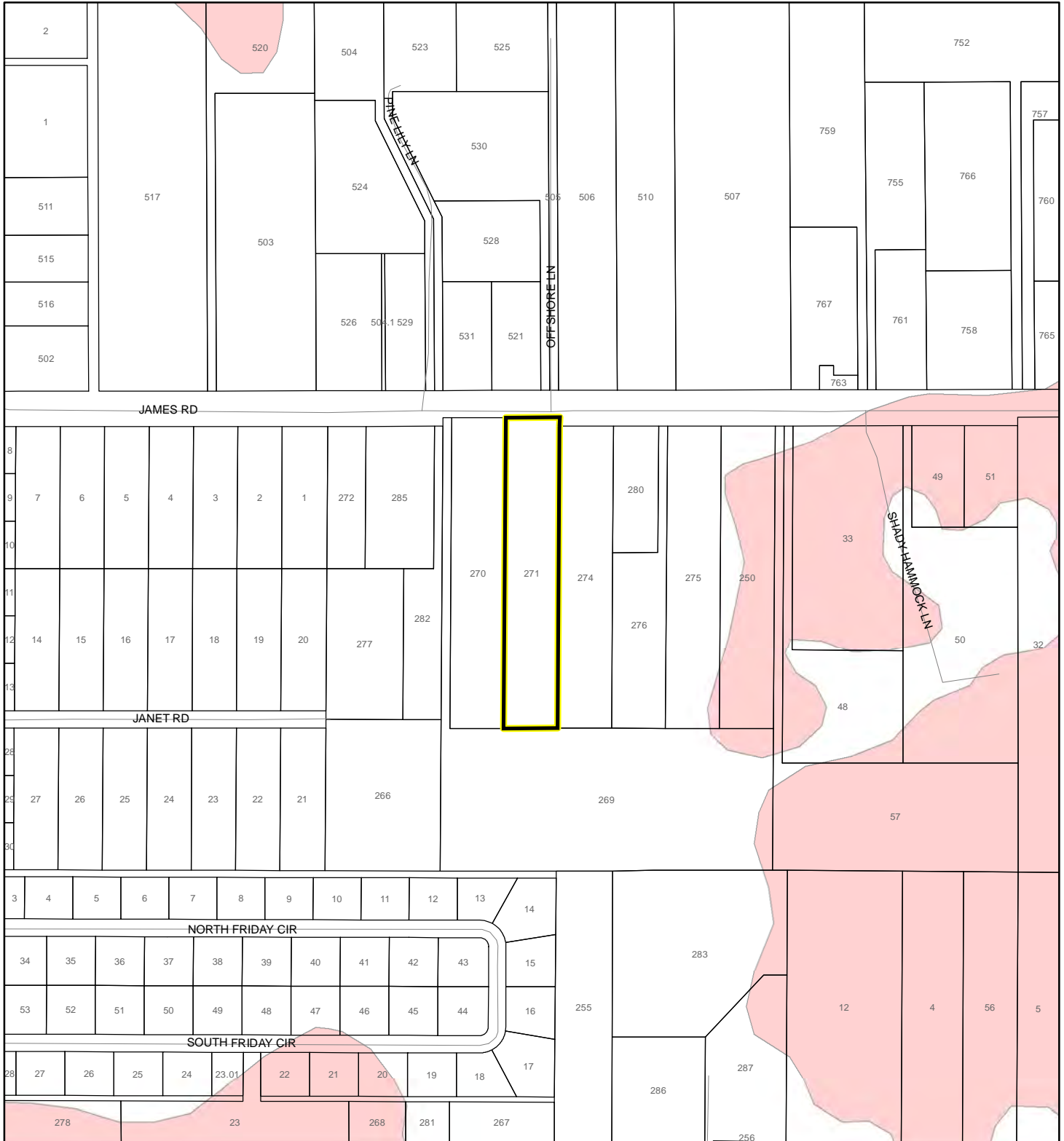
Subject Property

Parcels

FEMA FLOOD ZONES MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

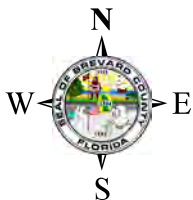
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

 Subject Property

 Parcels

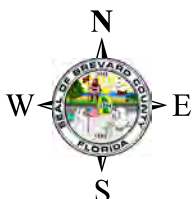
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

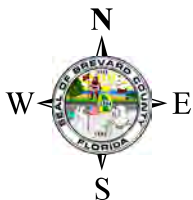
 60 Meters

 All Distances

EAGLE NESTS MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

 Subject Property

 Parcels

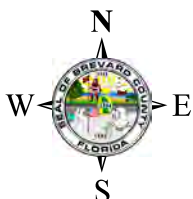


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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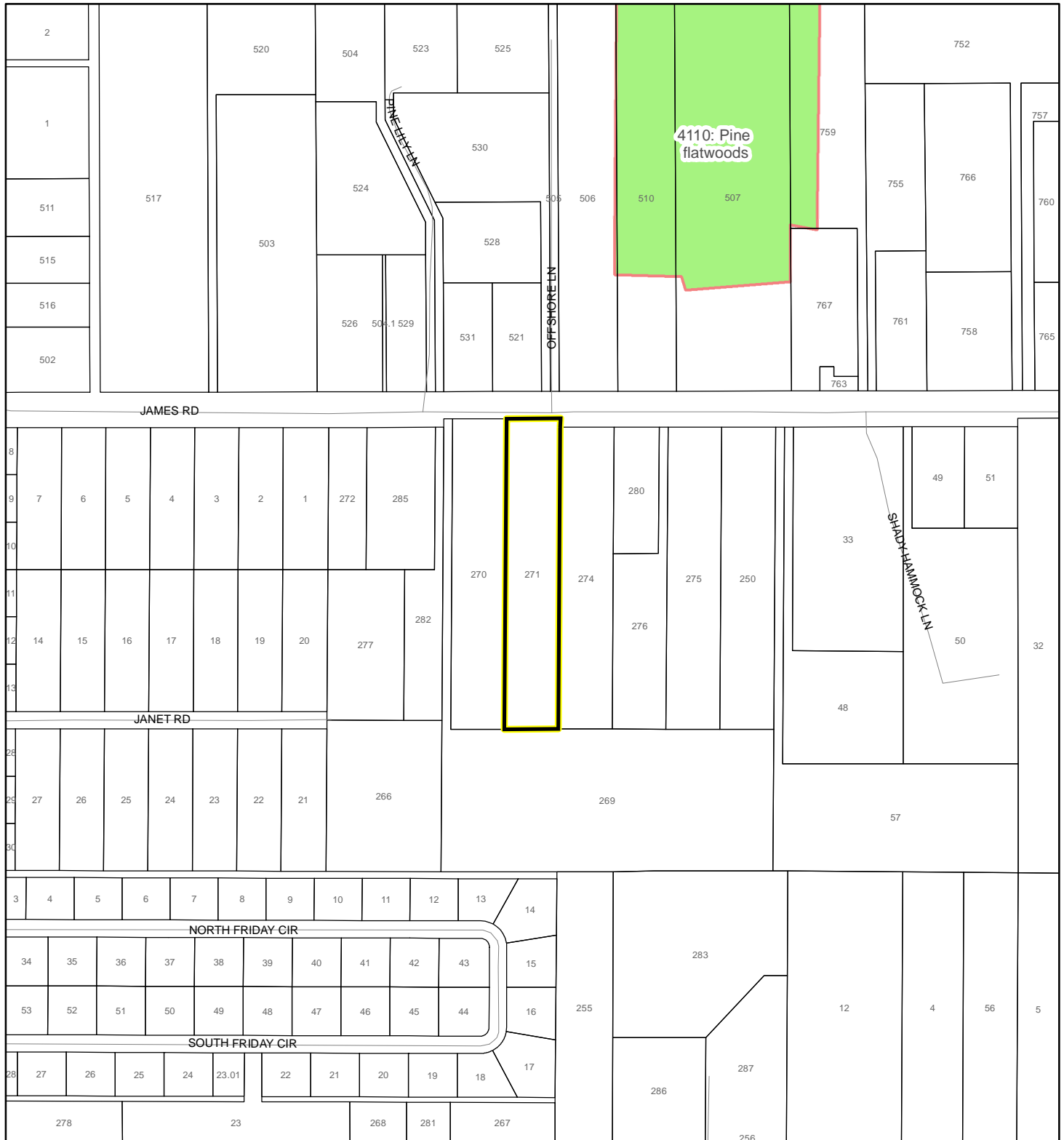
Produced by BoCC - GIS Date: 1/11/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CHELSEY LYN COBB

23Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

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

ID # 23Z00004

March 8, 2023

TO Planning & Development Dept:

I am sorry I will not be able to attend Both meetings on Monday, March 13 2023 at 3PM and on Thursday, April 6 2023 beginning at 5PM, same location. Due to my age and state of Health, my preference is not to participate in this meetings.

Also because we don't know what Ms. Cobb is planning to do with the zoning change, we respectfully request that the zoning commission reject this reclassification.

Thank you for your kindness & understanding.
for your

yours Truly
Denise Moriarty

PS: Primarily, the plan is to sell this property at some future time - soon -

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Chelsey L. Cobb

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on 3.09 acres, located on the south side of James Rd., approx. 0.34 mile east of Friday Rd. (4475 James Rd., Cocoa) (23Z00004) (Tax Account 2405118) (District 1)

Cameron Lightholder, 4475 James Road, Cocoa, stated the reason for the request is to come into compliance on an old code violation and also to make a more sustainable lifestyle by having farm animals and agricultural uses.

Public comment.

Carl Exline, 4375 James Road, Cocoa, stated the subject property currently has an open code enforcement case. The owners would like to have a plant nursery, chickens, and cows on the property. Usually, a garden is planted for vegetables and not an entire nursery, which is considered a business. With the constant use of dump trucks, tractors, and backhoes to move material on and off the property, the addition of a nursery is too much of a commercial venture in the RR-1-zoned surrounding area. He said as of today, there are two piles of dirt over 20 feet tall behind the house, and another pile of tree removal on the road in front of the neighbor's house east of the subject property. He stated as far as his property valuation of the surrounding homes, it's less marketable because no one would want to live next to 20-foot piles of dirt and heavy equipment. He said his concern is that changing the zoning to AU will provide an avenue for continued heavy equipment operations, pole barns, and other unpermitted structures to be built. He said his recommendation would be to change the zoning to AU(L), which is more limited but will allow the single-family home and agricultural pursuits of a personal, non-commercial nature, and allows limited farm animals.

Sandra Ake, 4525 James Road, Cocoa, asked the difference between RR-1 and AU. Jeffrey Ball replied, RR-1 zoning is a single-family zoning classification that allows agricultural uses on a personal level, and it allows for horses on a certain amount of acreage. The AU zoning classification allows for farm animals and agricultural commercial uses.

Ms. Ake stated along with the large piles of dirt on the property, there is also commercial equipment, and it is quite loud. She said she is afraid a commercial business will be conducted from the property because right now, that is what is happening.

Carie Exline, 4473 James Road, Cocoa, stated she moved to her house in 2004 on one acre, and she fell in love with the area because it is quiet and residential. The homes in the area are custom built with up to 3,000 square feet of living area. She said the subject property has a large pole barn that houses industrial equipment such as dump trucks, and no one needs such equipment for residential use. She stated she doesn't have a problem with a cow or six chickens, or a vegetable garden, but not for commercial use, and she is concerned about how many cows and chickens they will have because more farm animals will cause an odor issue. She asked if the change of zoning allow them to keep the industrial equipment.

Ron Bartcher asked the applicant if he has plans for commercial uses on the property. Mr. Lightholder replied there will not be any commercial use, nor selling of anything from the property.

Mr. Bartcher asked the reason for the piles of dirt. Mr. Lightholder replied the dirt will be used to build up the soil in the back yard, and it will be spread out to make a garden.

Mr. Bartcher asked staff if there is any reason why he could not have AU(L) zoning. Mr. Ball replied no, the only difference between AU and AU(L) is that AU(L) prohibits commercial uses.

Mr. Bartcher stated it seems AU(L) would be a better solution for the property since he does not want any commercial uses.

Mark Wadsworth asked the applicant if he would agree to AU(L). Mr. Lightholder replied he would rather have AU, but if the board is willing to approve AU(L), he would agree.

Bruce Moia asked what kind of equipment is on the property. Mr. Lightholder replied farm tractors, excavators, front loaders, and dump trucks. Mr. Moia asked if they are full size. Mr. Lightholder replied no, they are mid-size.

Debbie Thomas asked staff if AU zoning increase the number of farm animals allowed on the property. Mr. Ball replied AU and AU(L) allow for the same amount of farm animals.

Mr. Wadsworth asked the nature of the code violation. Mr. Lightholder replied it was for an unpermitted open structure.

Motion by Ron Bartcher, seconded by Ben Glover, to recommend approval as AU(L) (Agricultural Residential). The motion passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

4/6/2023

Subject:

Timothy Shane and Debra Jane Kelley (Don Human) request a change of zoning classification from AU to RU-1-11. (22Z00074) (Tax Account 2113314) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

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

Summary Explanation and Background:

The applicants are requesting a change of zoning classification from AU to RU-1-11 in order to develop a single-family residence. The original zoning on the property is AU. The parcel was subdivided in December 2008 making it a substandard lot that does not meet the current AU size requirement of 2.5 acres, with a width and depth of 150 feet.

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

The character of the area is predominantly residential with AU zoning surrounding the subject property. Further south across Diamond Dr., is RU-1-11. Across Old Dixie Hwy. is RU-1-11 zoning. This parcel abuts a single-family residence to the west, north and south. Directly to the east is Old Dixie Highway with single-family residences across the ROW.

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

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning & Development.

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

22Z00074

Timothy Shane and Debra J. Kelley

AU (Agricultural residential) to RU-1-11 (Single-family residential)

Tax Account Number: 2113314
Parcel I.D.s: 21-35-29-00-S-52
Location: West side of Old Dixie Highway, 165-feet north of Diamond Road
(District 2)
Acreage: 0.45 acres

Planning & Zoning Board: 03/13/2023
Board of County Commissioners: 04/06/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	RU-1-11
Potential*	0	1 SFR
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 applicants are requesting a change of zoning classification from AU (Agricultural residential) to RU-1-11 (Single-family residential) in order to develop a single-family residence.

The original zoning on the property is AU. The parcel was subdivided on December 11, 2008 and does not meet the AU zoning classification size requirement thus making it a substandard lot. AU zoning classification requires 2.5 acres with a width and depth of 150-feet.

Land Use

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

Applicable Land Use Policies

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

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

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

Criteria:

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

The applicants propose a single-family residence. Residential uses will need to comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. It is not anticipated to have hours of operations, lighting, odor, noise levels, traffic, or site activity that would diminish the enjoyment of, safety or quality of life in the neighborhood.

- 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 (Master Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

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

- 1. historical land use patterns;

The historical land use pattern has been residential in the surrounding area. The property is undeveloped with a Residential 4 (RES 4) FLU. There are two (2) Brevard County FLU designations (RES 4 and RES 15) within 500-feet of this site. The proposed RU-1-11 zoning can be considered consistent with the existing RES 4 FLU designation.

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

There was an application, 22Z00013, approved by the Board of County Commissioners effective May 26, 2022 for a rezoning from AU to RU-1-11. An application was received for a development of a major subdivision, 22SD00011, approximately 1,185-feet west on Diamond Road. The development consists of 4.63-acres for 13 lots.

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

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

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

No policies have been identified.

Analysis of 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.

The character of the area is predominantly residential with a range of lot sizes from 0.19-acres to over 16.19-acre lot sizes. This parcel abuts a single-family residence to the west, north and south. Directly to the east is Old Dixie Highway with single-family residences across the ROW.

The required lot size required for RU-1-11 will be consistent with having an area of not less than 7,500 sq. ft, a width of not less than 75-feet and depth of not less than 75-feet. Existing adjacent residential development across Old Dixie Highway to the east zoned either RU-1-11 or RU-1-13 range from 0.18 – 0.31-acre lot sizes.

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

The subject parcel is west of Old Dixie Highway and north of Diamond Road. Within 500-feet there are three (3) zoning classification: Agricultural Residential (AU), Single-family Residential (RU-1-11) and Institutional Use – Light (IN(L)).

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 request is not for commercial use. It is located in an existing residential area.

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.

The area is primarily single-family residential along with agricultural and institutional uses. There has been one zoning action within a half-mile radius of the subject property within the last three years. 22Z00013 was a rezoning application with a resolution date of May 26, 2022 going from AU to RU-1-11 in order to build a major subdivision.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family	AU	RES 4
South	Single-family	AU	RES 4
East	Old Dixie Highway	N/A	N/A
West	Single-family	AU	RES 4

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 the raising/grazing of animals and plants nurseries.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is Old Dixie Highway, between Dairy Road to Parker Road, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 5.64% 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 5.67% 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 site is currently undeveloped. The subject property has access to potable water through the City of Titusville located at the edge of the property abutting Old Dixie Highway. There does not appear to be any access to city or county sewer..

Environmental Constraints

- Aquifer Recharge Soils
 - Prime wellhead protection area
 - Type 1 Aquifer Recharge Area
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. **This property is located within Titusville's Area of Critical Concern. Mapped topographic elevations are approximately 31 to 33 feet NAVD, indicating this parcel is likely within a Type 1 Aquifer Recharge Area and a Prime Wellhead Protection Area.**

These areas have a maximum septic tank density of one black water tank and one gray water tank, or one combined tank, per acre. The maximum impervious surface shall be 25 percent of the Type 1 recharge area on the site. Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal of high-permeability soils or replacement with lower-permeability soils; compaction; or the cutting, filling, grading or alteration of natural topography without an active development order.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #22Z00074

Applicant: Timothy Shane and Debra Jane Kelley

Zoning Request: AU to RU-1-11

Note: Lot size is not consistent with AU Zoning. Wants to build SFR.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2113314

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
 - Prime wellhead protection area
 - Type 1 Aquifer Recharge Area
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. **This property is located within Titusville's Area of Critical Concern. Mapped topographic elevations are approximately 31 to 33 feet NAVD, indicating this parcel is likely within a Type 1 Aquifer Recharge Area and a Prime Wellhead Protection Area.**

These areas have a maximum septic tank density of one black water tank and one gray water tank, or one combined tank, per acre. The maximum impervious surface shall be 25 percent of the Type 1 recharge area on the site. Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal of high-permeability soils or

replacement with lower-permeability soils; compaction; or the cutting, filling, grading or alteration of natural topography without an active development order.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Candler fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. **This property is located within Titusville's Area of Critical Concern. Mapped topographic elevations are approximately 31 to 33 feet NAVD, indicating this parcel is likely within a Type 1 Aquifer Recharge Area and a Prime Wellhead Protection Area.** Sections 62-3634 and 62-3635 contain development criteria for these areas, including, but not limited to:

- **A maximum septic tank density of one black water tank and one gray water tank, or one combined tank, per acre.**
- **A maximum impervious surface shall be 25 percent of the Type 1 recharge area on the site.**
- **Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal of high-permeability soils or replacement with lower-permeability soils; compaction; or the cutting, filling, grading or alteration of natural topography without an active development order.**

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.

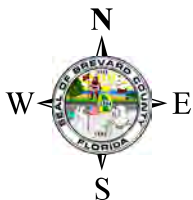
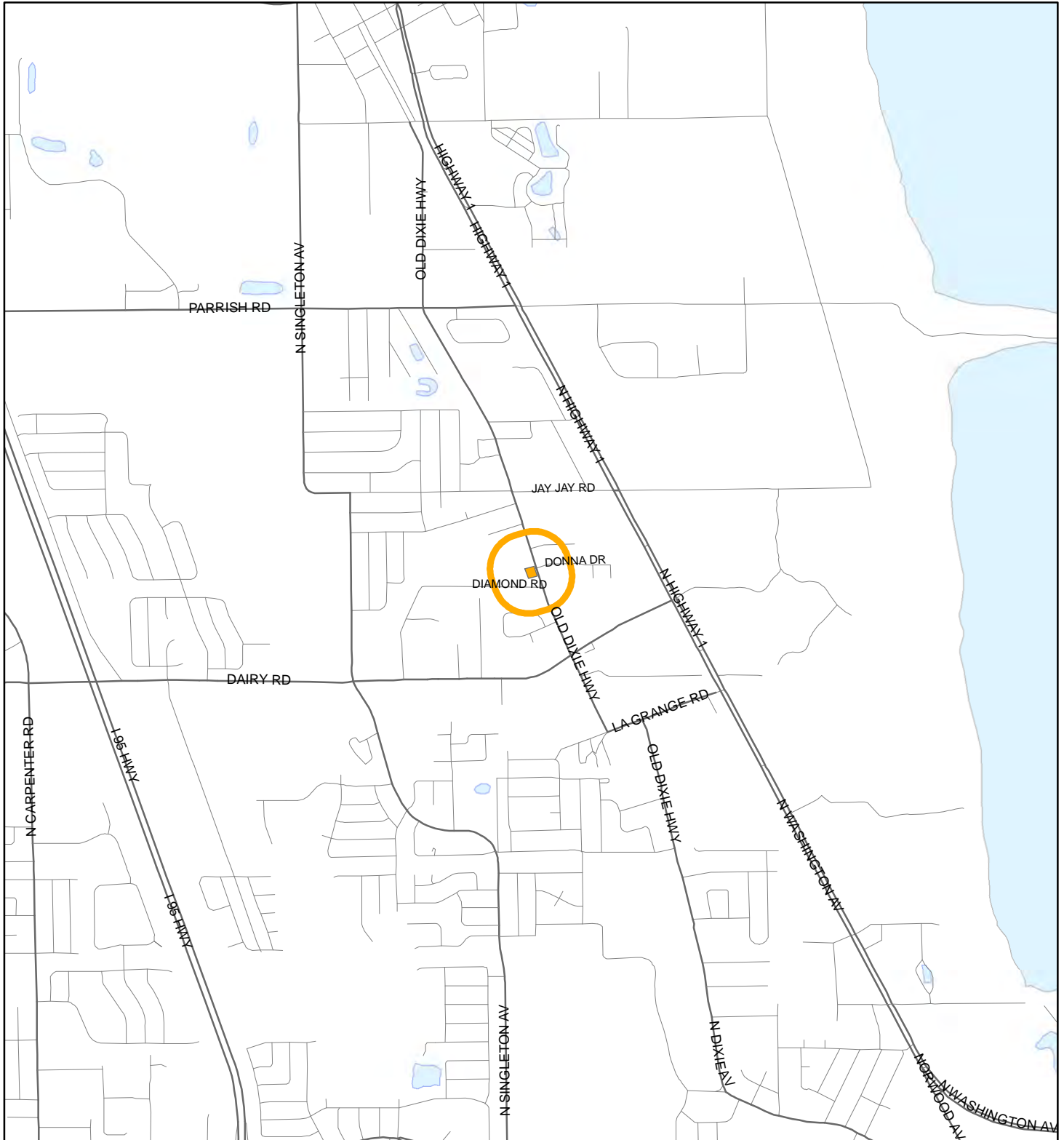
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, 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 and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

KELLEY, TIMOTHY S AND DEBRA J

22Z00074





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

Buffer Distance: 500 feet

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

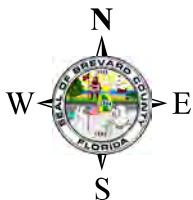
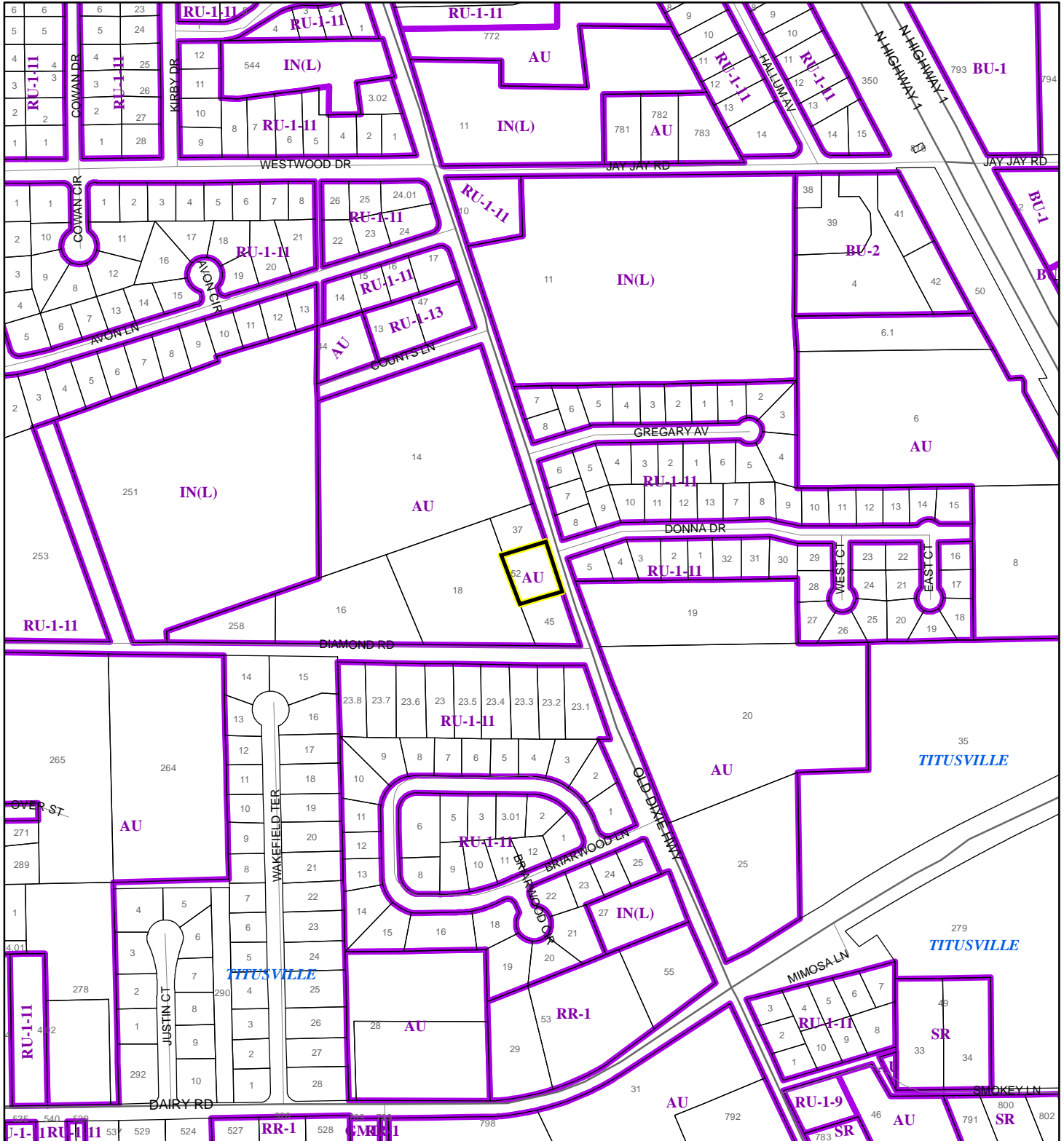
Produced by BoCC - GIS Date: 1/9/2023

-  Buffer
-  Subject Property

ZONING MAP

KELLEY, TIMOTHY S AND DEBRA J


22Z00074



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/9/2023

 Subject Property

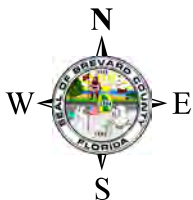
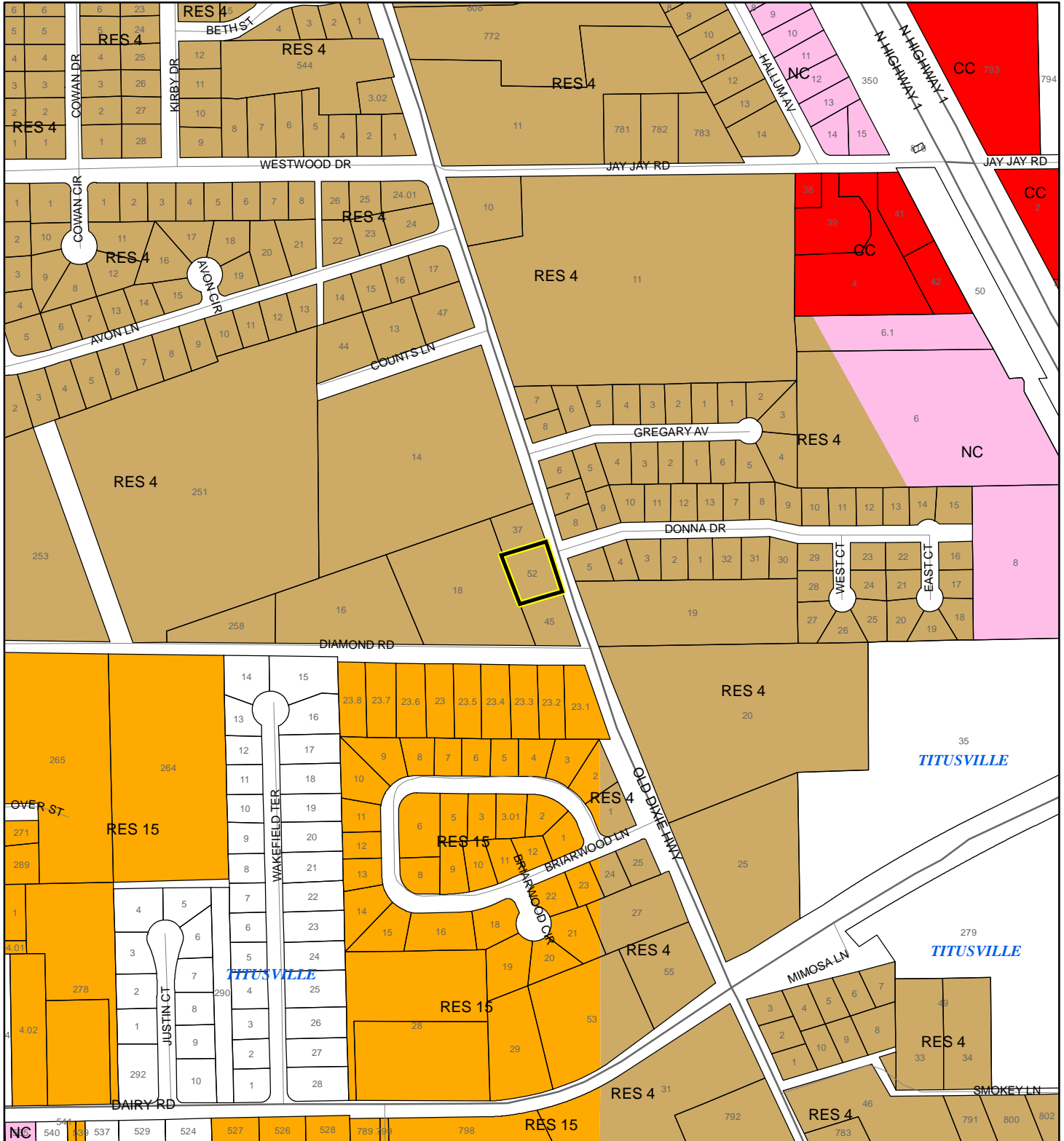
 Parcels

 Zoning

FUTURE LAND USE MAP

KELLEY, TIMOTHY S AND DEBRA J

22Z00074



1:4,800 or 1 inch = 400 feet

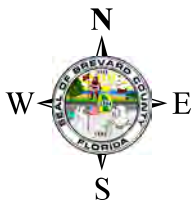
Subject Property

Parcels

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Produced by BoCC - GIS Date: 1/9/2023

AERIAL MAP
KELLEY, TIMOTHY S AND DEBRA J
22Z00074





1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2022

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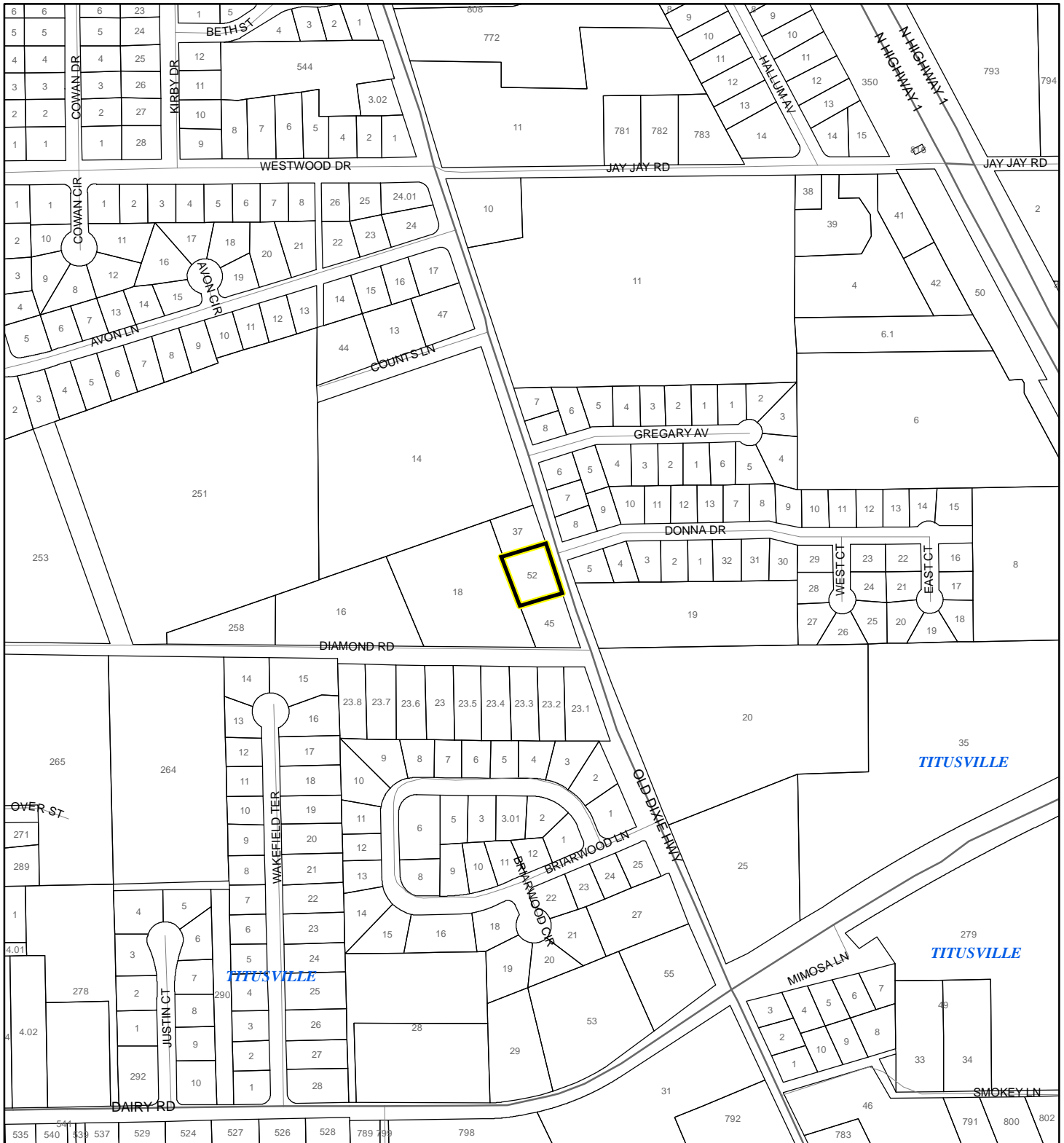
Produced by BoCC - GIS Date: 1/9/2023

 Subject Property
 Parcels

NWI WETLANDS MAP

KELLEY, TIMOTHY S AND DEBRA J

22Z00074



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/9/2023

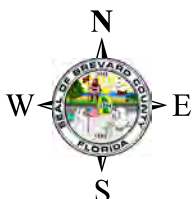
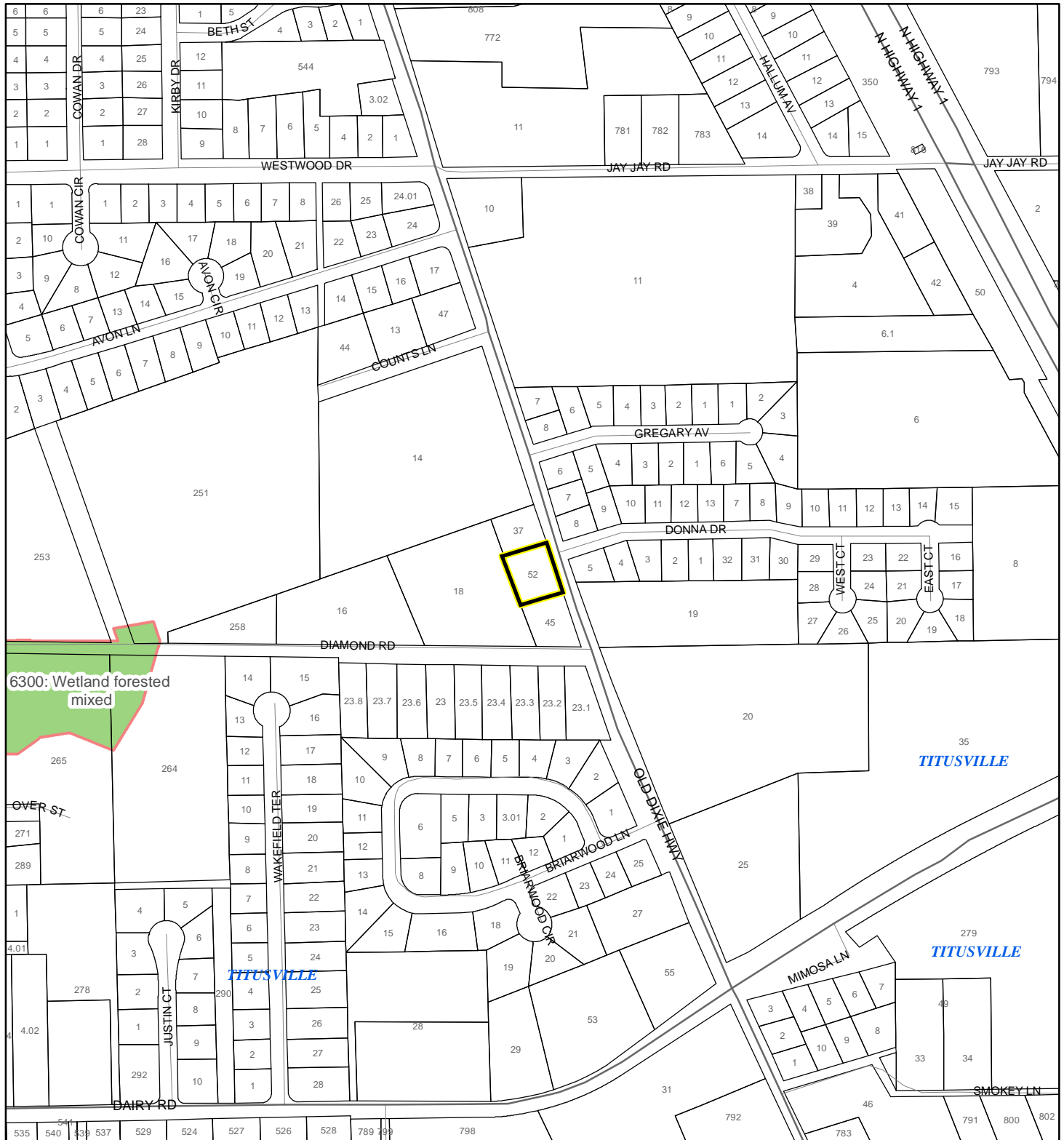
National Wetlands Inventory (NWI)

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

KELLEY, TIMOTHY S AND DEBRA J

22Z00074



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/9/2023

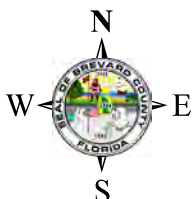
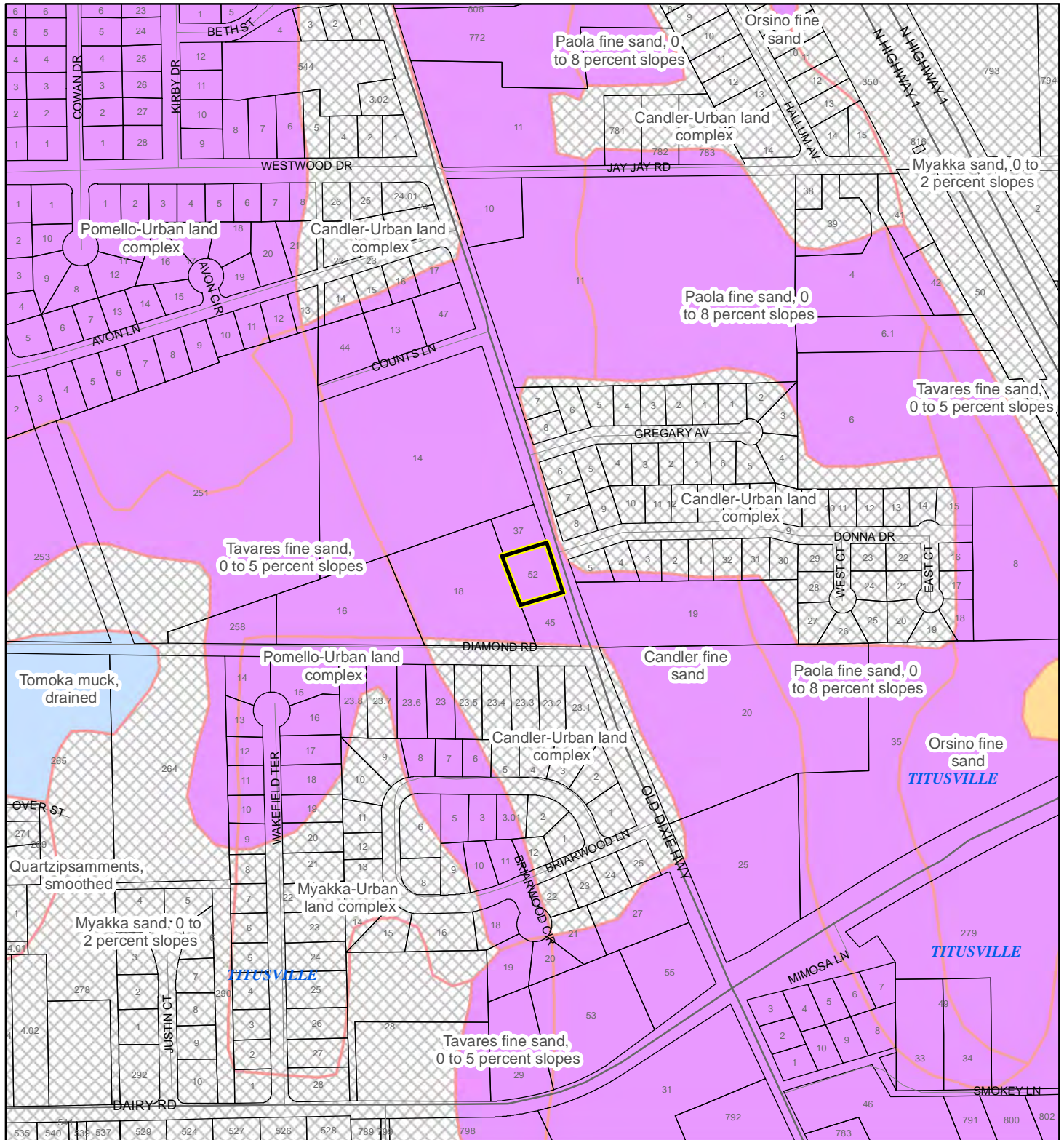
SJRWMD FLUCCS WETLANDS

- 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

22Z00074









1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/9/2023

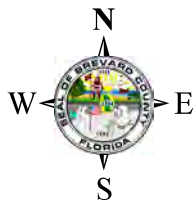
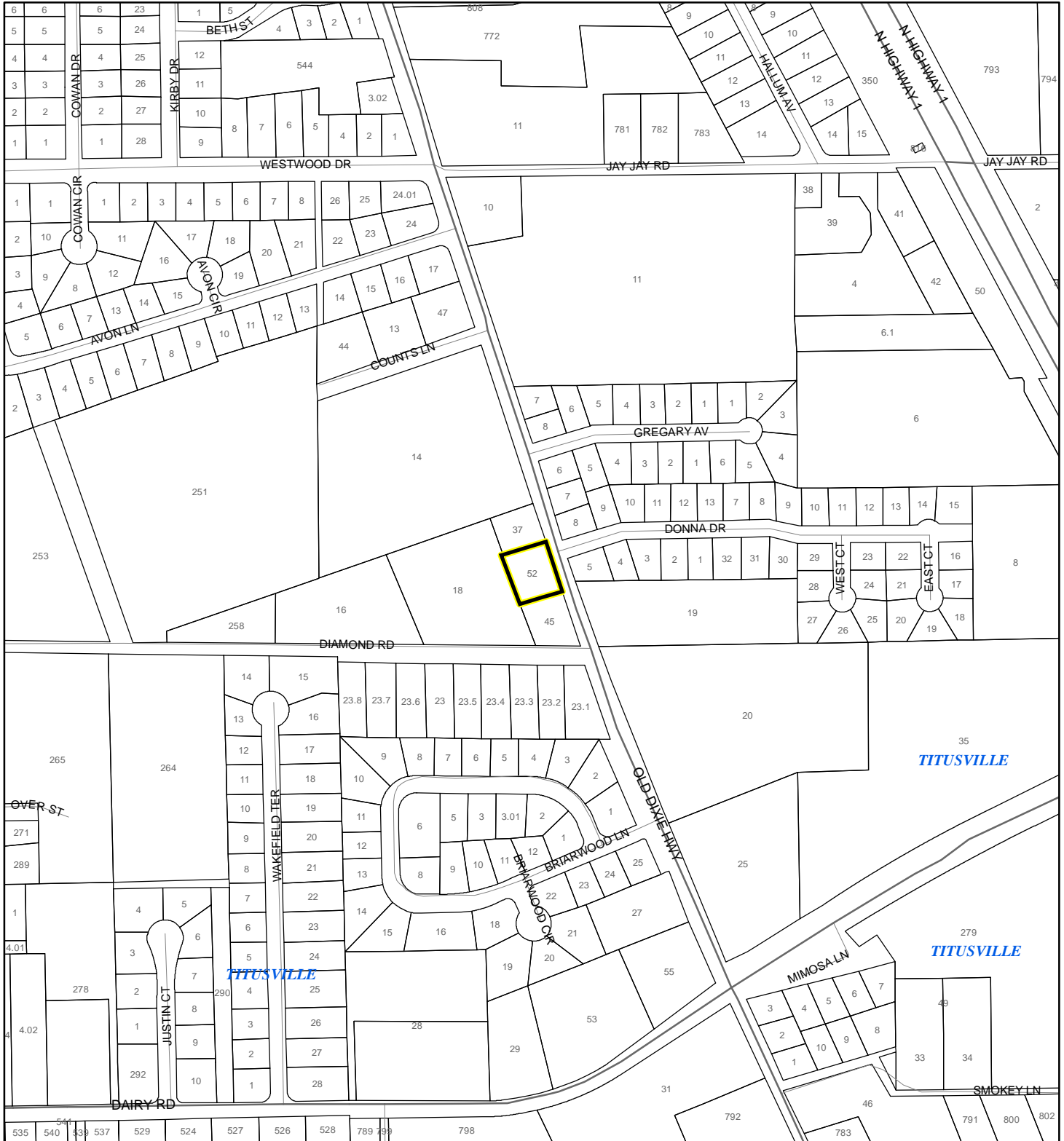
USDA SCSSS Soils

-  Aquifer and Hydric
 Aquifer
 Hydric
 None
-  Subject Property
 Parcels

FEMA FLOOD ZONES MAP

KELLEY, TIMOTHY S AND DEBRA J

22Z00074



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/9/2023

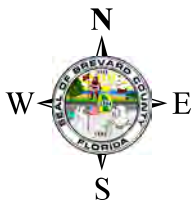
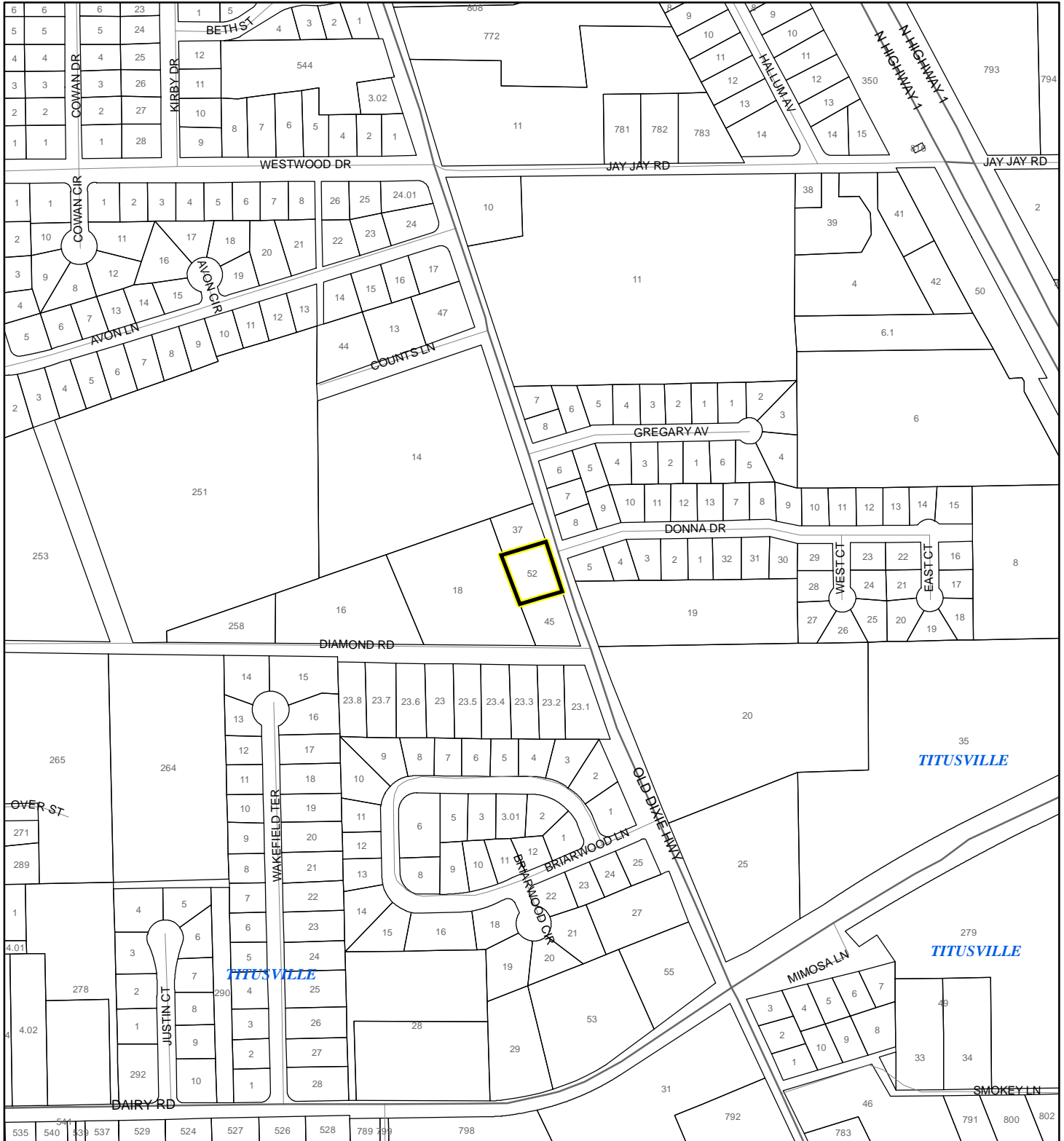
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

KELLEY, TIMOTHY S AND DEBRA J

22Z00074



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/9/2023

 Subject Property

 Parcels

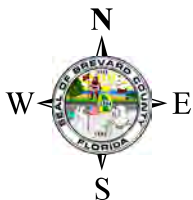
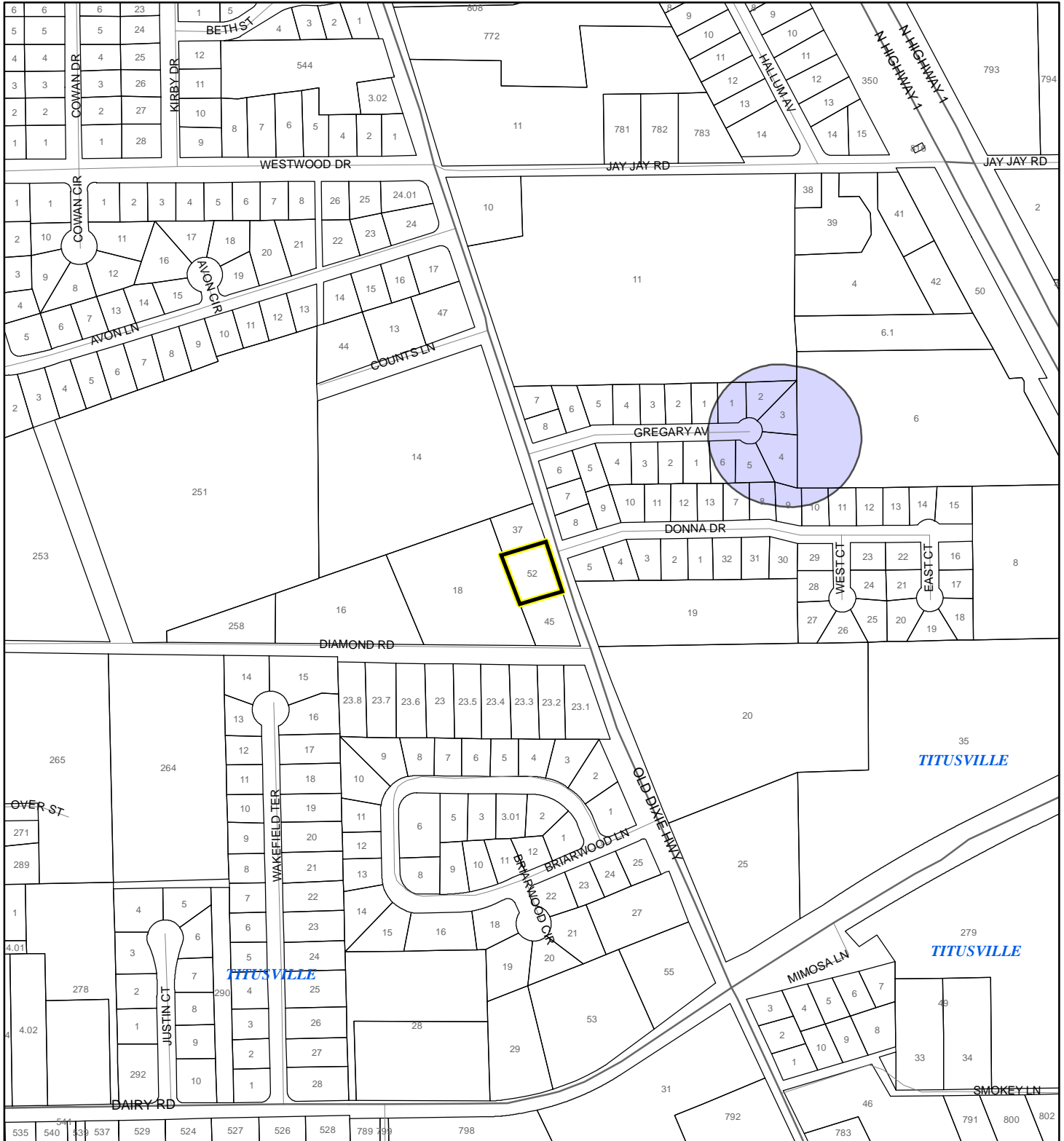
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KELLEY, TIMOTHY S AND DEBRA J

22Z00074



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/9/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

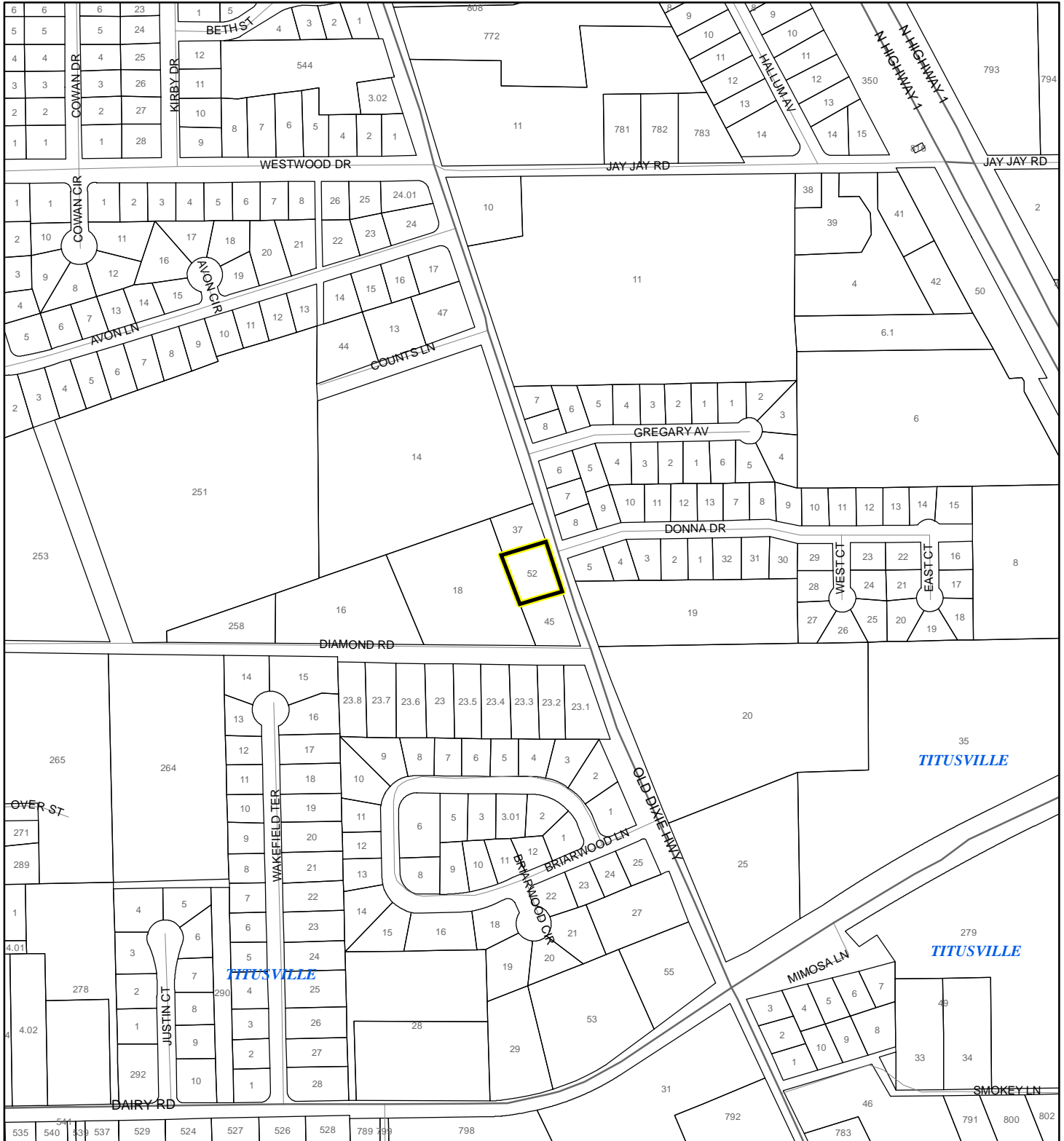
 60 Meters

 All Distances

EAGLE NESTS MAP

KELLEY, TIMOTHY S AND DEBRA J

22Z00074




1:4,800 or 1 inch = 400 feet

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 Subject Property

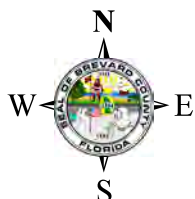
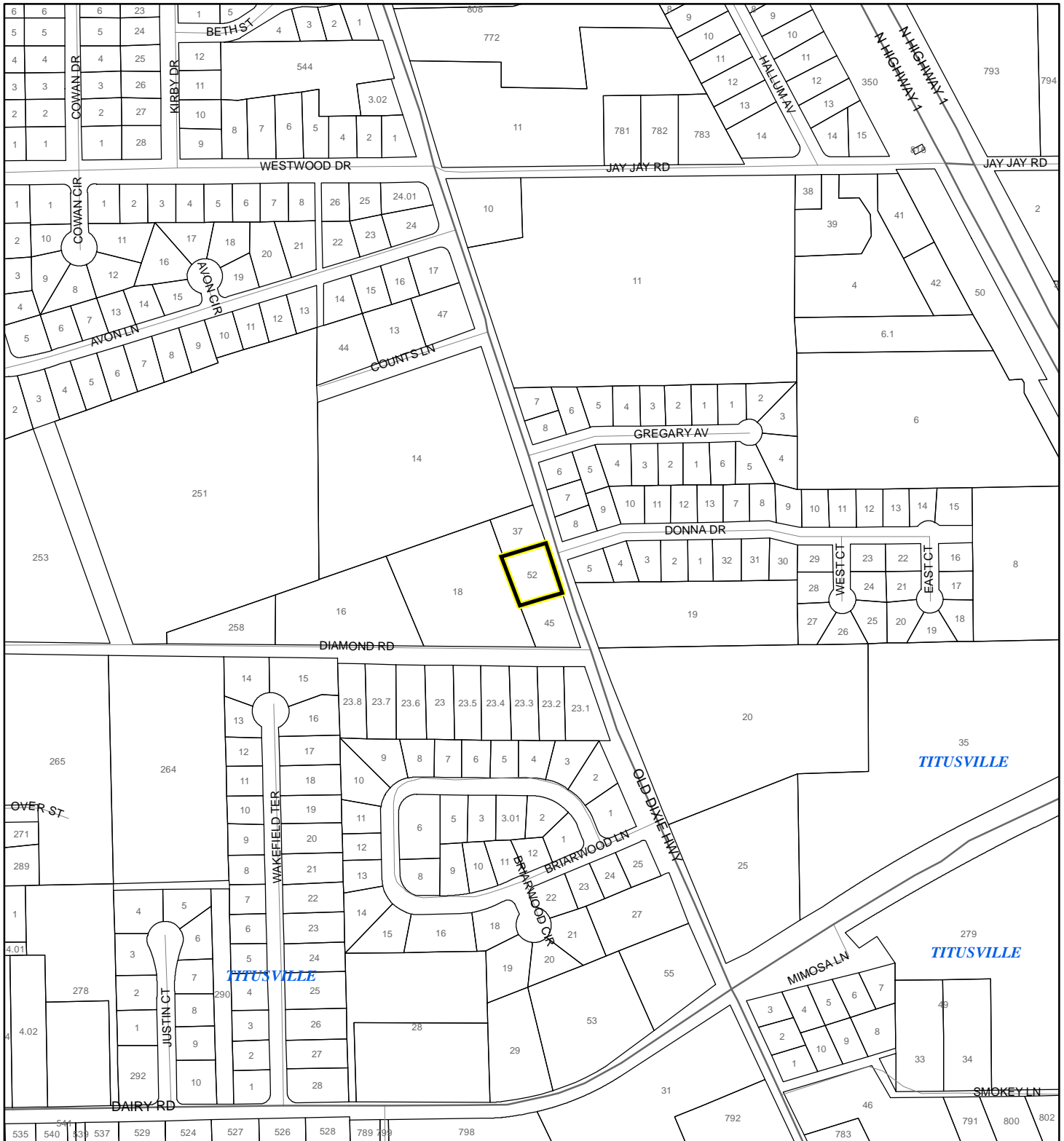
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

KELLEY, TIMOTHY S AND DEBRA J

22Z00074



1:4,800 or 1 inch = 400 feet

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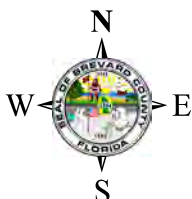
Produced by BoCC - GIS Date: 1/9/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KELLEY, TIMOTHY S AND DEBRA J

22Z00074



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/9/2023

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

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Timothy Shane and Debra Jane Kelley (Don Human)

A change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential), on 0.45 acres, located on the west side of Old Dixie Hwy., approx. 165 ft. north of Diamond Rd. (1650 Old Dixie Hwy., Titusville) (22Z00074) (Tax Account 2113314) (District 1)

Don Human, 1965 Tranquility Lane, Titusville, stated he initially bought the property in order to build a single-family home, and when he purchased it, the Property Appraiser had it listed as RR-1 zoning, and the realtor who sold it to him told him it was RR-1 with city water. He said he later sold the property to his brother-in-law who wants to retire on the property. He noted the property has been approved by the State for a septic permit, and they were nearly through the permitting process with the County until finding out from zoning that AU requires a larger lot size than a half-acre.

No public comment.

Motion by Ron Bartcher, seconded by Robert Sullivan, to recommend approval of the change of zoning classification from AU to RU-1-11. The motion passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

4/6/2023

Subject:

Half Halt Stables, LLP (Toni Pastermack) requests a change of zoning classification from AU to RU-1-9. (22Z00068) (Tax Account 2407648) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential).

Summary Explanation and Background:

The applicants are requesting a change of zoning classification from AU to RU-1-9 on a portion of their property in order to subdivide the a 0.33-acre portion in order to sell. The entire property consists of 12.28-acres with two zoning classifications, RR-1 (Rural Residential) and AU. The applicants combined two parcels creating two single-family homes on one parcel forming the current configuration. The intention is to separate them, putting them back in their original configuration.

The proposed RU-1-9 zoning classification permits single-family residential development on lots a minimum of 6,600 square feet, with a minimum width of 66 feet and a minimum depth of 100 feet, and a minimum living area of 900 square feet.

The character of the area is predominantly residential with lot sizes ranging from 1 acre to over 17.92 acres.

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

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once the resolution is received, please execute and return a copy to Planning & Development.

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

22Z00068

Half Halt Stables, LLP

AU (Agricultural Residential) to RU-1-9 (Single-Family Residential)

Tax Account Number: 2407648
Parcel I.D.s: 24-35-25-00-768
Location: East side of Burnett Road, 1,310-feet north of Lake Drive (District 2)
Acreage: 0.33 acres

Planning & Zoning Board: 03/13/2023
Board of County Commissioners: 04/06/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	RU-1-9
Potential*	2 SF Units	1 SF unit
Can be Considered under the Future Land Use Map	YES RES 15	YES RES 15

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

Background and Purpose of Request

The applicants are requesting a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-family Residential) on a portion of their property in order to subdivide the parcel on 0.33-acre parcel and sell. The entire property consists of 12.28-acres with two zoning classifications, RR-1 (Rural Residential) and AU (Agricultural Residential). The applicants combined two parcels creating two single-family homes on one parcel forming the current configuration. The intention is to separate them, putting them back in their original configuration.

The original zoning on the property was GU and under zoning resolution **Z-2145** was changed to AU in September 1967. There were two prior denied zoning requests, **Z-6538** was a request to change from AU to RR-1 November 17, 1983 and then **Z-5510** was a request to change from AU to RU-1-9 January 1981.

Land Use

The subject property is currently designated Residential 15 (RES 15). Both the AU and RU-1-9 zoning classifications are consistent with the Residential 15 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.2 – Public Facilities and Services Requirements

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

Criteria:

- A. Adequate roadways, solid waste disposal, drainage and recreation facilities to serve the needs of associated development shall be available concurrent with development in all residential land use designations.
- B. Fire and police protection and emergency medical services to serve the needs of associated development shall be available concurrent with development in all residential land use designations in accordance with policies set forth in the “Service Delivery, Concurrency and Growth” section of this Future Land Use Element.
- C. In the Residential 30 Directive, 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 centralized sewer system.

FLUE Policy 1.4 – The Residential 15 land use designation affords the second highest density allowance, permitting a maximum density of up to fifteen (15) units per acre. The Residential 15 land use designation may be considered for lands within the following generalized locations:

Criteria:

- A. Areas located east of Interstate-95, except in instances where they are adjacent to existing or designated residential densities of an equal or higher density allowance; and
- B. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 15 area;

- C. Areas adjacent to an existing Residential 15 land use designation; and
- D. Areas which have access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.

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;

A single-family residence is not anticipated to have hours of operation, lighting, odor, noise levels, traffic or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area. There would be no change to it's current use.

- 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 (Master Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

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

- 1. historical land use patterns;

The property is developed with a Residential 15 (RES 15) FLU. There are two (2) Brevard County FLU designations (RES 15 and NC) within 500-feet of this site. The NC FLU designation is located to the south east off Gray Road. The proposed RU-1-9 zoning is consistent with the existing RES 15 FLU designation.

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

There has been one single-family residence located to the northwest of the subject property off Brush Lane, application 20BC25757, approved December 22, 2020.

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

There has not been any approved development 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.

No material violation of relevant policies has been identified.

Analysis of 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.

The character of the area is predominantly residential with zoning classifications of AU, GU, RR-1, RU-2-8 and RU-2-15 (11). The lot sizes range from 1.0-acre to over 17.92-acre lot sizes. This portion of the parcel abuts N. Burnett Road to the west. The undeveloped parcel to the south is zoned RU-2-15 (11). To the north and east the zoning is AU as well as RR-1 and is the main parcel that the subject property is being requested to be portioned from.

The use could be considered an introduction of RU-1-9 on the southern east portion of N Burnett Road. The RU-1-9 zoning classification allows for a lot size of 6,600 square feet.

- 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.

This developed parcel is located in a residential area on the outskirts of Cocoa.

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 request is not for commercial 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.

There have been no zoning changes within 0.5-miles of the subject property within the last 5 years.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family and Undeveloped	RR-1	RES 15
South	Undeveloped	RU-2-15 (11)	RES 15
East	Single-family and Undeveloped	AU & GU	RES 15
West	N Burnett Road	N/A	N/A

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

The proposed RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

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.

RU-2-15 (11) zoning classification is a 11 unit per acre multiple-family residential zoning classification. It permits multiple-family residential development or single-family residences at a density of up to 11 units per acre on 7,500 square foot lots.

The 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.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is Lake Drive, between Cox Road to Range Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 18.64% of capacity daily. As there is already a SFR on the proposed rezoning parcel, the maximum development potential from the proposed rezoning would not increase the percentage of MAV utilization. The corridor would continue to operate at 18.64% 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 site is currently developed. The subject property has potable water through the City of Cocoa. There does not appear to be any access to city or county sewer. This parcel is on septic.

Environmental Constraints

- Hydric Soils
- Aquifer Recharge Soils

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 proposed request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #22Z00068

Applicant: Antonia Pastermack

Zoning Request: AU to RU-1-9

Note: Applicant wants to subdivide a portion of 0.33 acres from the 12.28-acre property to allow for the sale of an existing single-family home on the property.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: Portion of 2407648

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Aquifer Recharge Soils

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Hydric Soils

The entire subject parcel contains mapped hydric soils (Pompano sand), as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that hydric soils and wetlands may be present on the property. A wetland determination may be required for further development and/or clearing. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. Wetland impacts are not allowed for accessory structures. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Aquifer Recharge Soils

Pompano sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

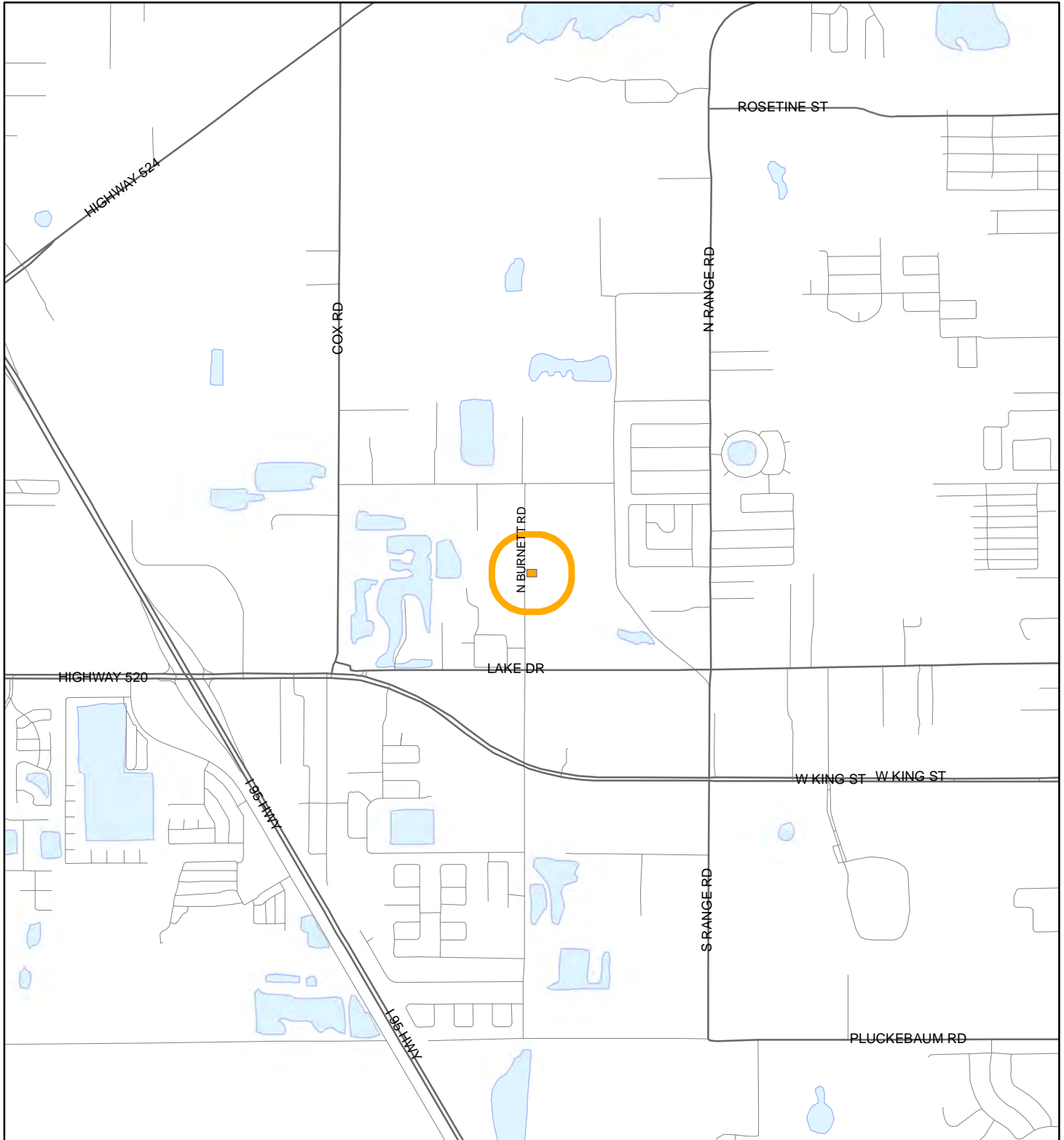
Protected Species

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

Half Halt Stables

22Z00068





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

Buffer Distance: 500 feet

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

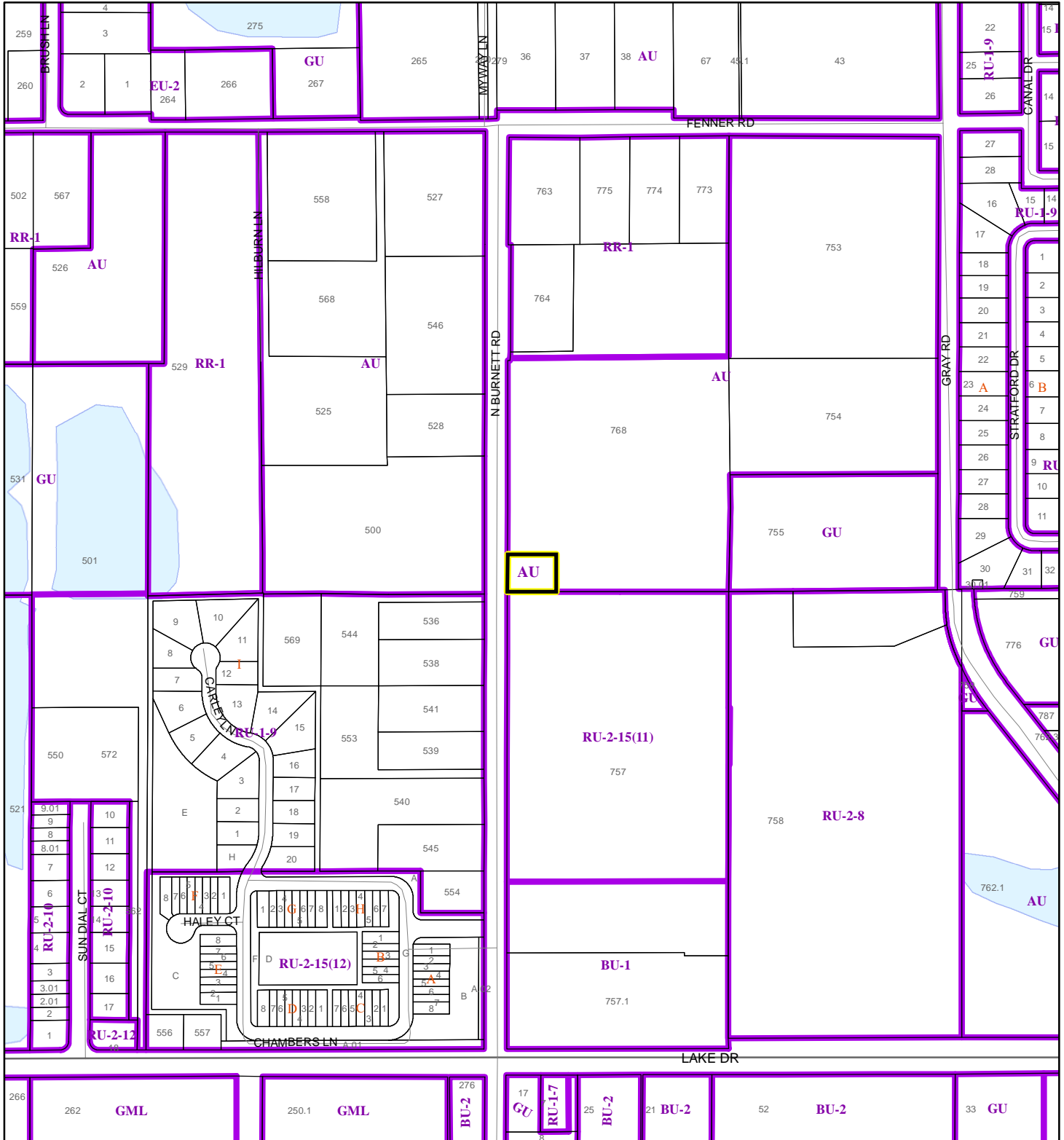
Produced by BoCC - GIS Date: 1/5/2023

 Buffer
 Subject Property

ZONING MAP

Half Halt Stables

22Z00068



1:4,800 or 1 inch = 400 feet

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Subject Property

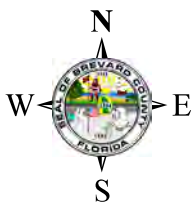
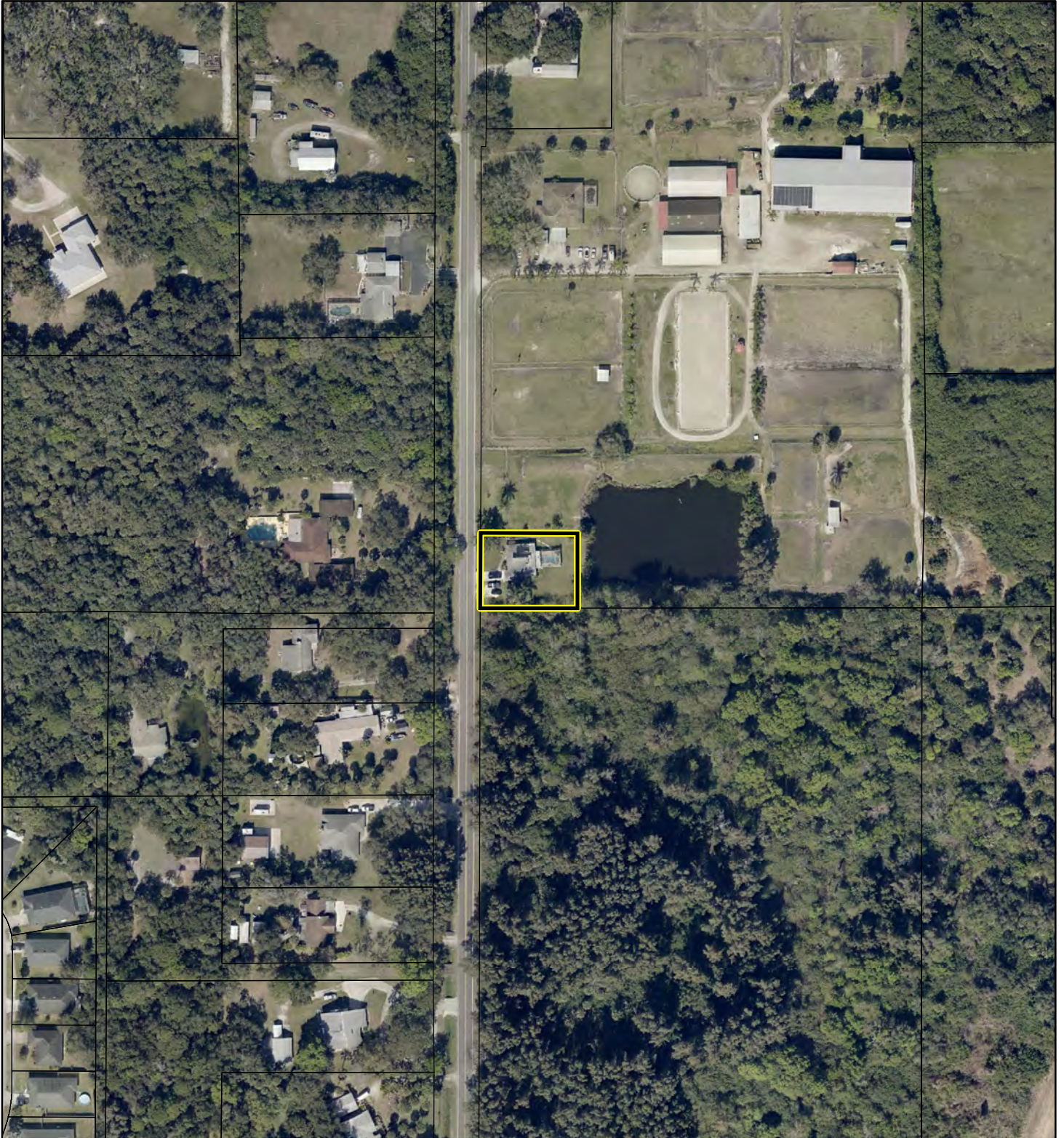
Parcels

Zoning

AERIAL MAP

Half Halt Stables

22Z00068




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2022

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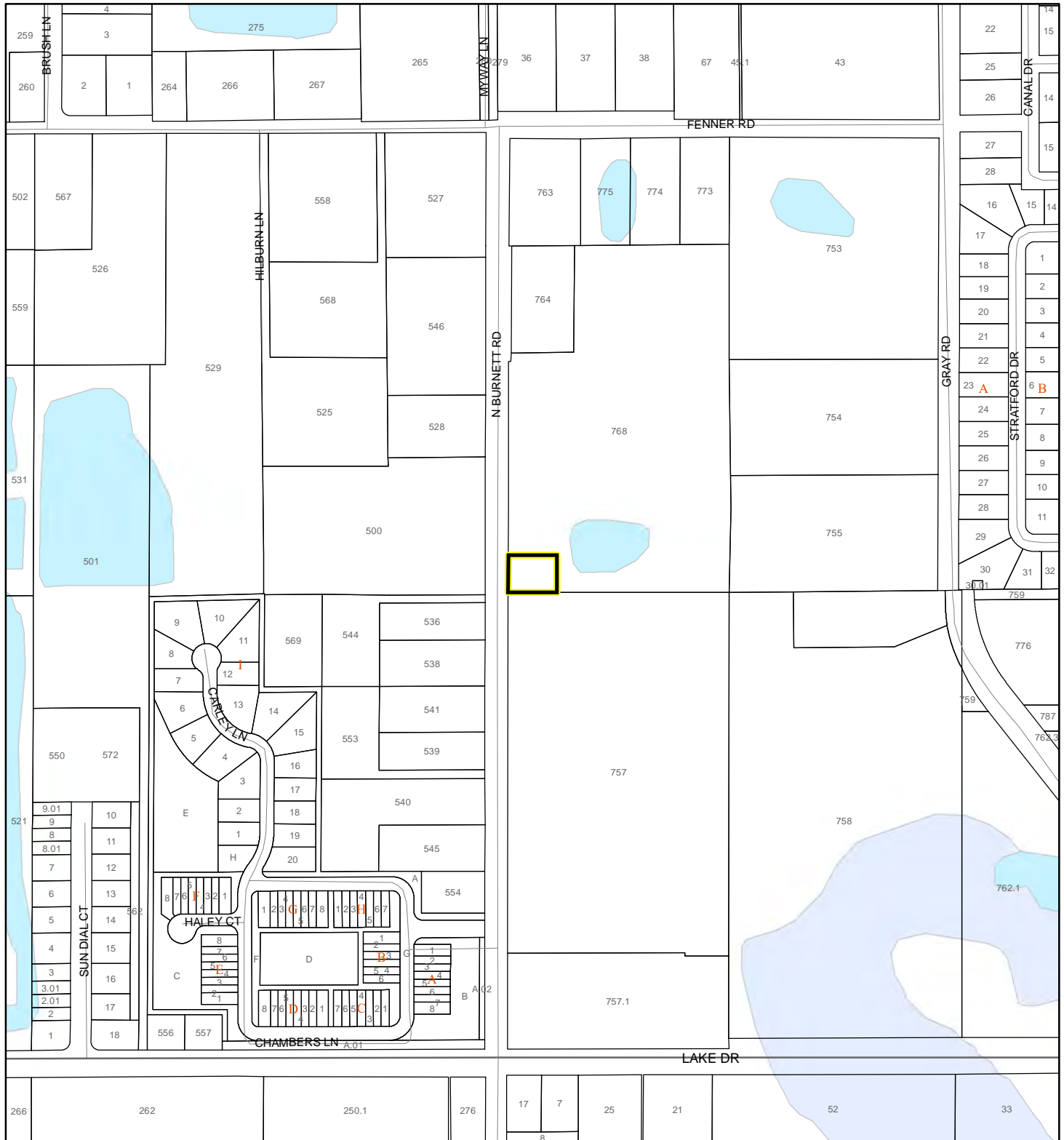
 Subject Property

 Parcels

NWI WETLANDS MAP

Half Halt Stables

22Z00068













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

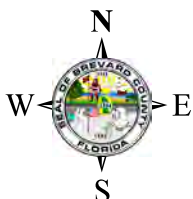
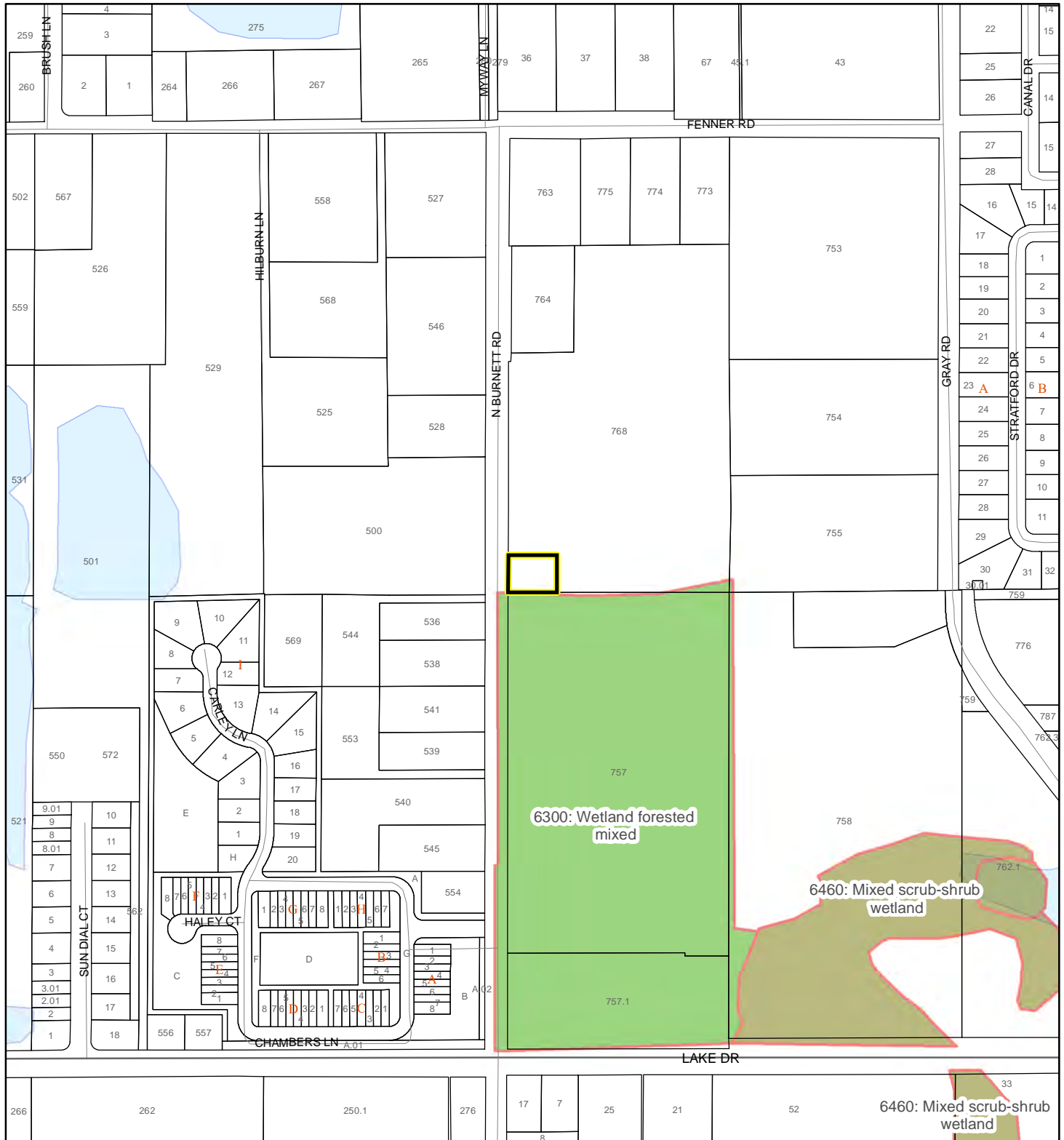
National Wetlands Inventory (NWI)

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

SJRWM FLUCCS WETLANDS - 6000 Series MAP

Half Halt Stables

22Z00068



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/3/2023

SJRWM 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

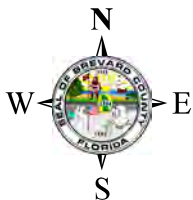
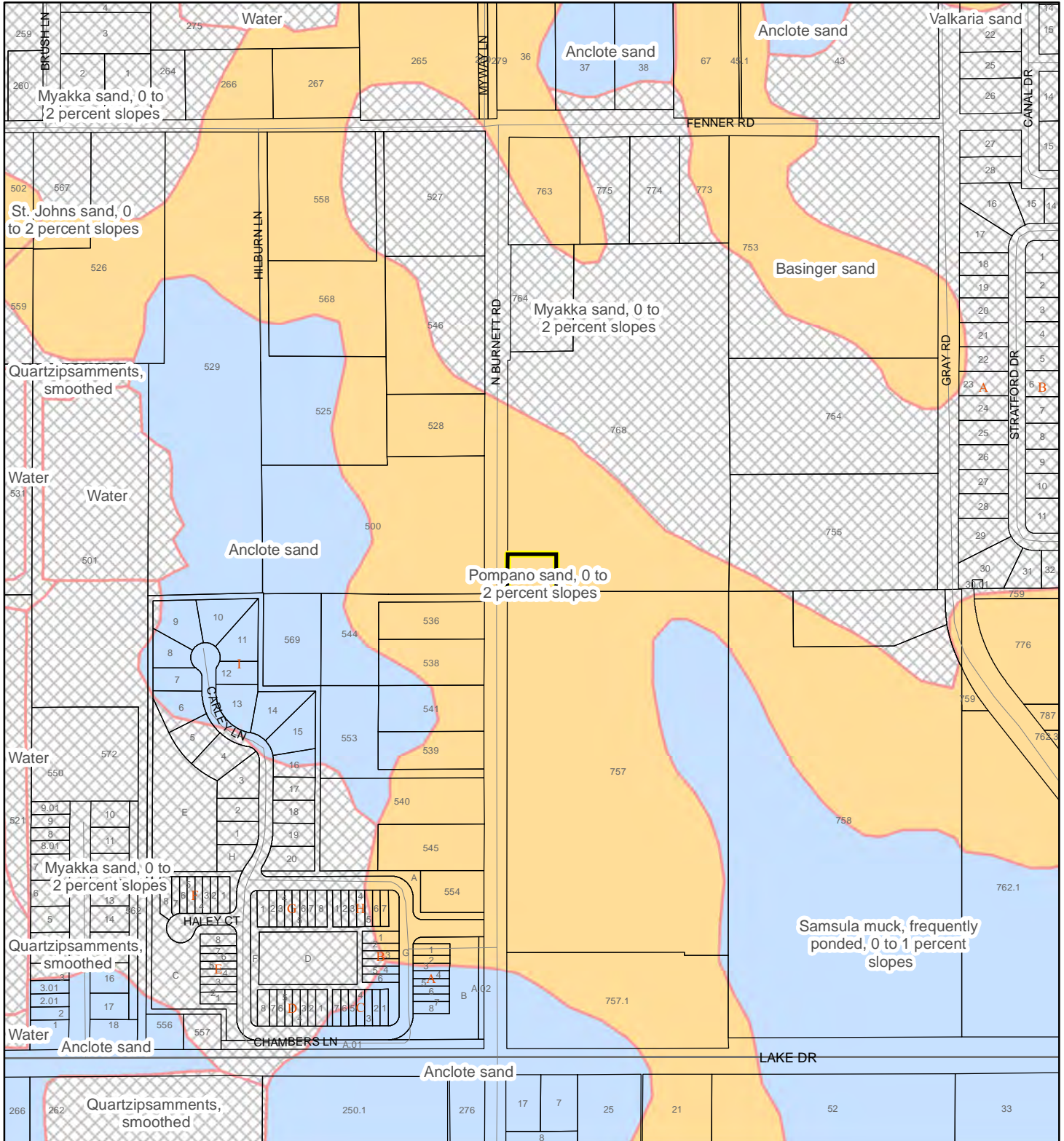
Subject Property

Parcels

USDA SCSSS SOILS MAP

Half Halt Stables

22Z00068



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

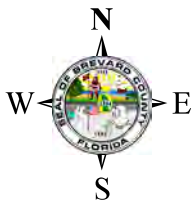
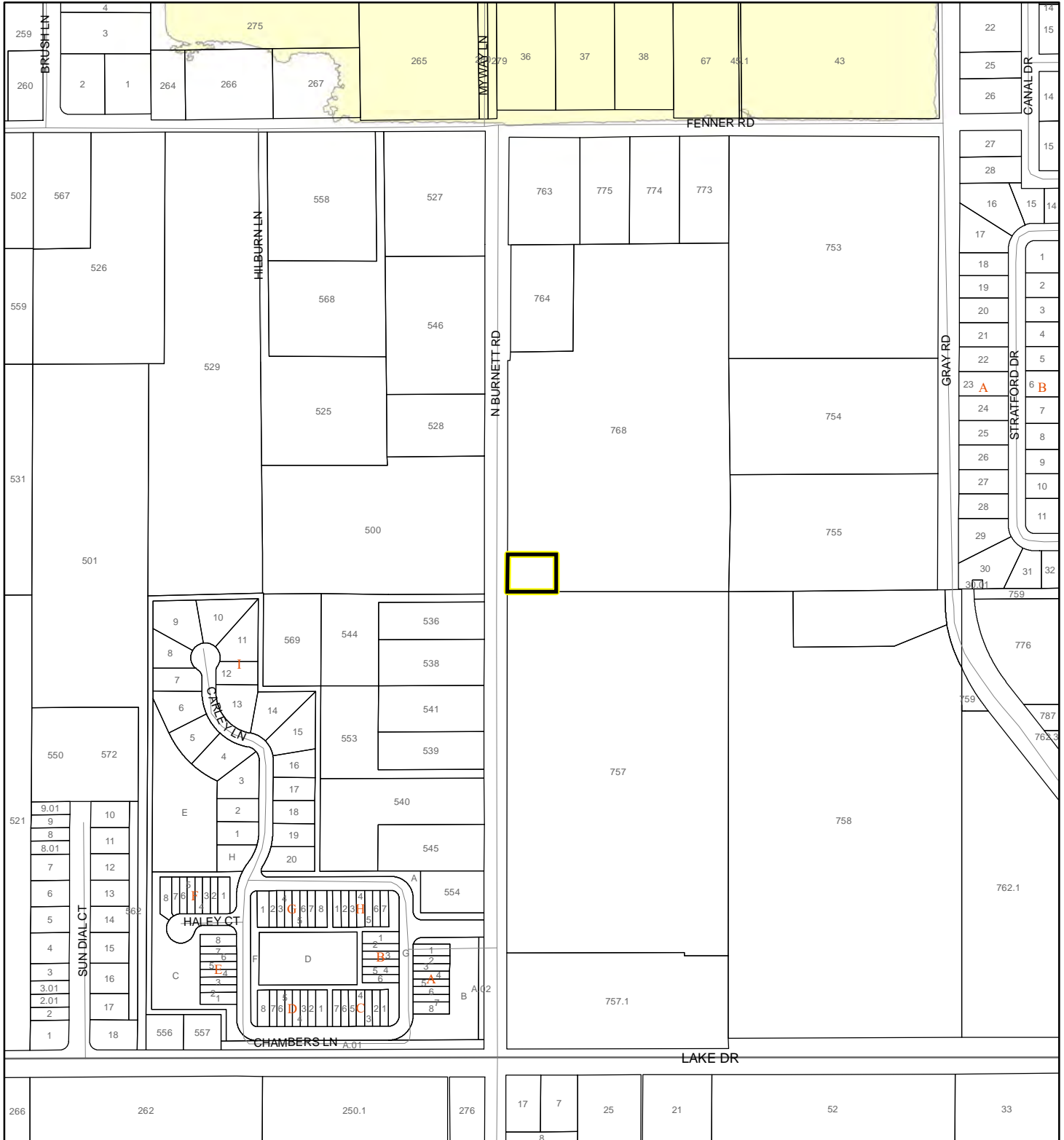
Subject Property

Parcels

FEMA FLOOD ZONES MAP

Half Halt Stables

22Z00068



1:4,800 or 1 inch = 400 feet

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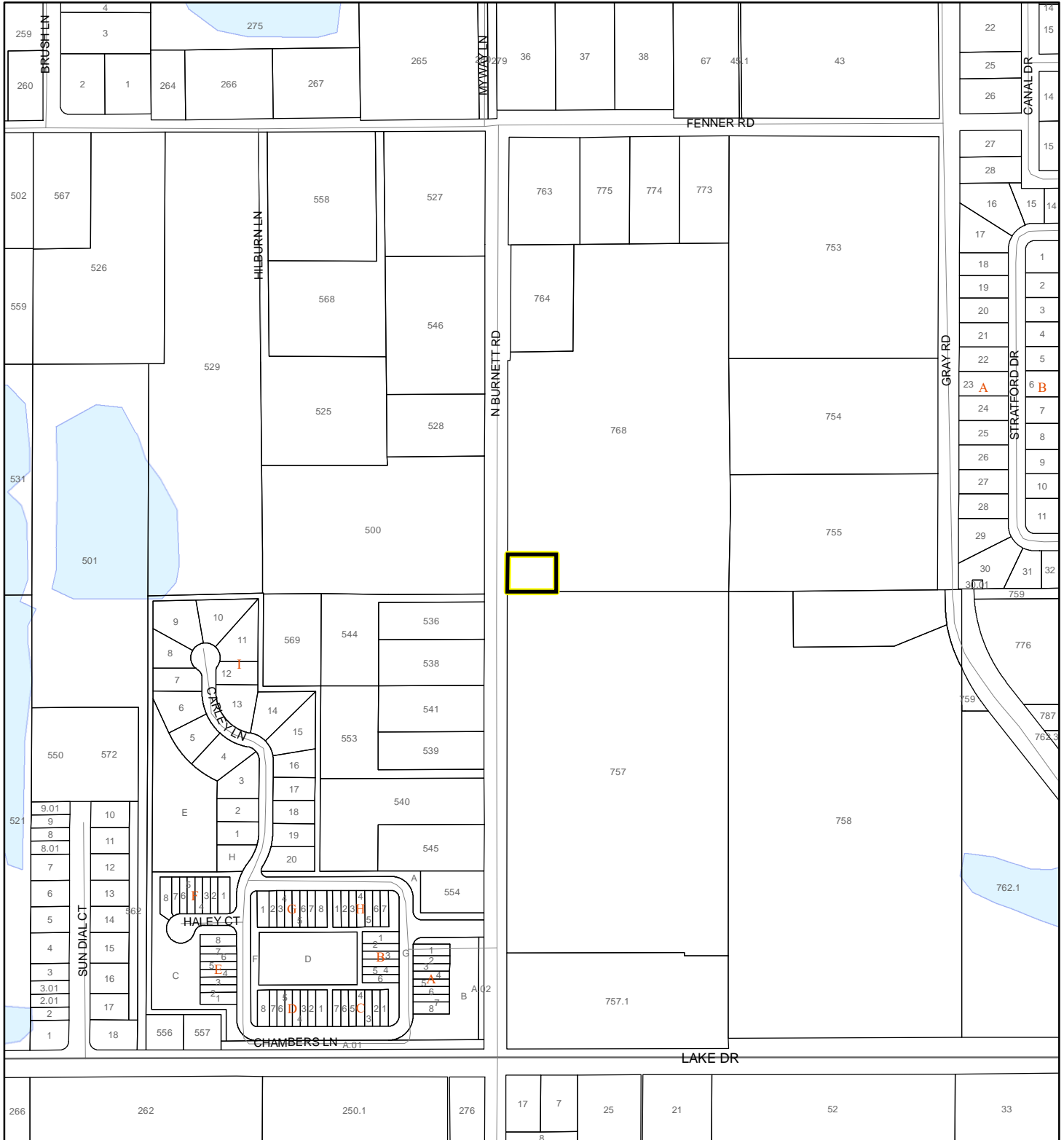
FEMA Flood Zones

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

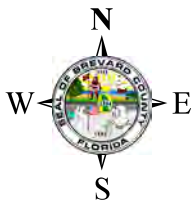
COASTAL HIGH HAZARD AREA MAP

Half Halt Stables

22Z00068



1:4,800 or 1 inch = 400 feet



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Produced by BoCC - GIS Date: 1/3/2023

 Subject Property

 Parcels

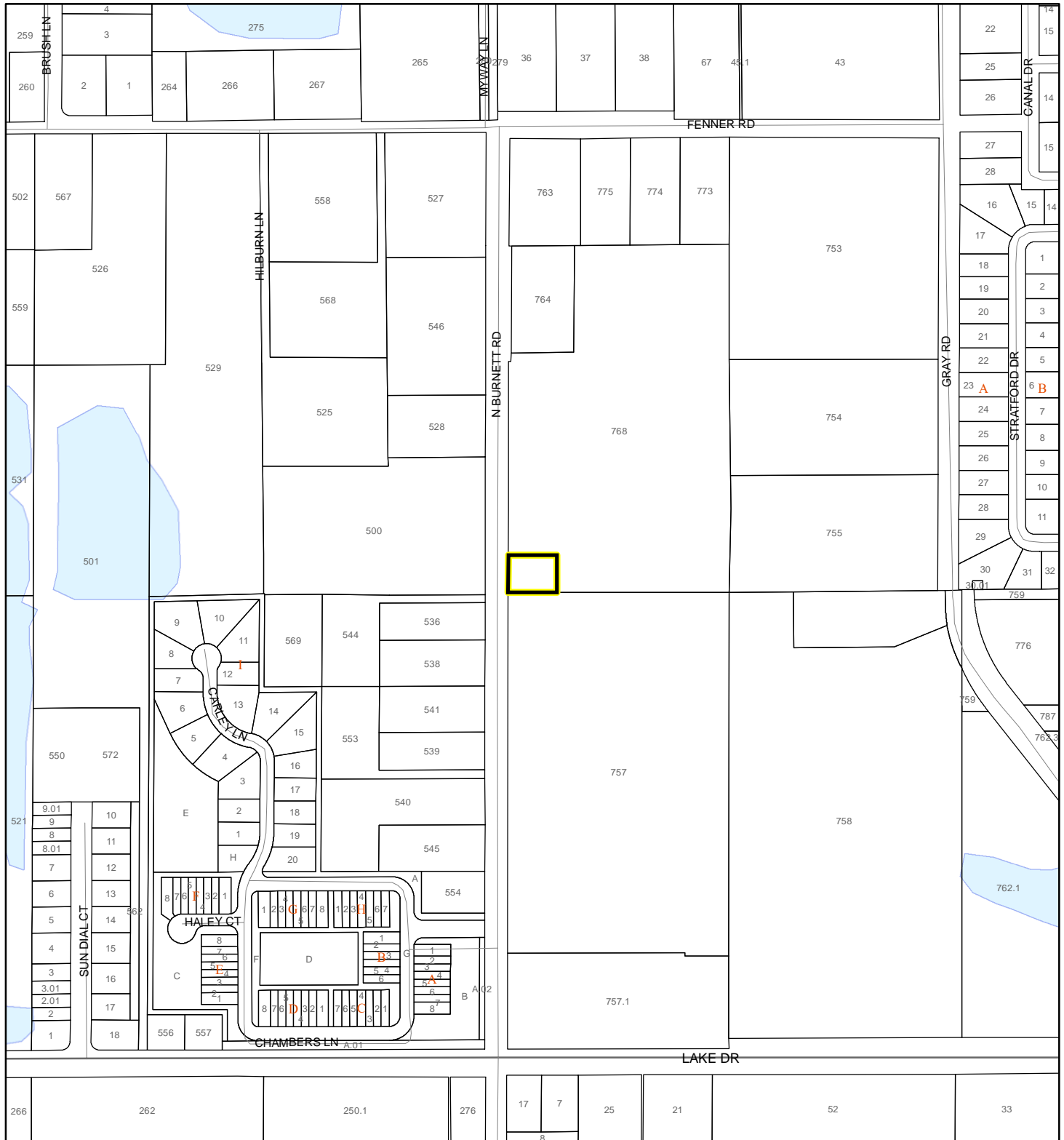
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Half Halt Stables

22Z00068



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

 Subject Property

 Parcels

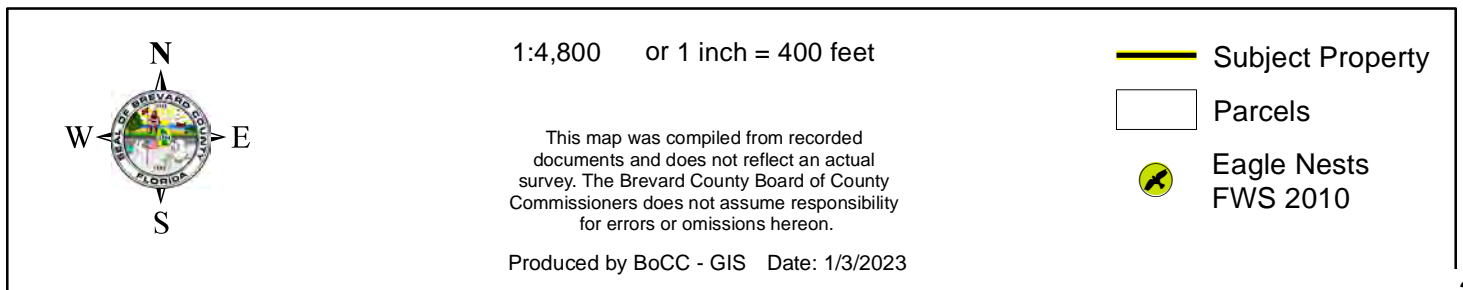
Septic Overlay

 40 Meters

 60 Meters

 All Distances

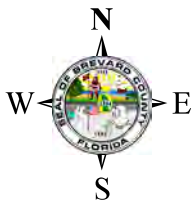
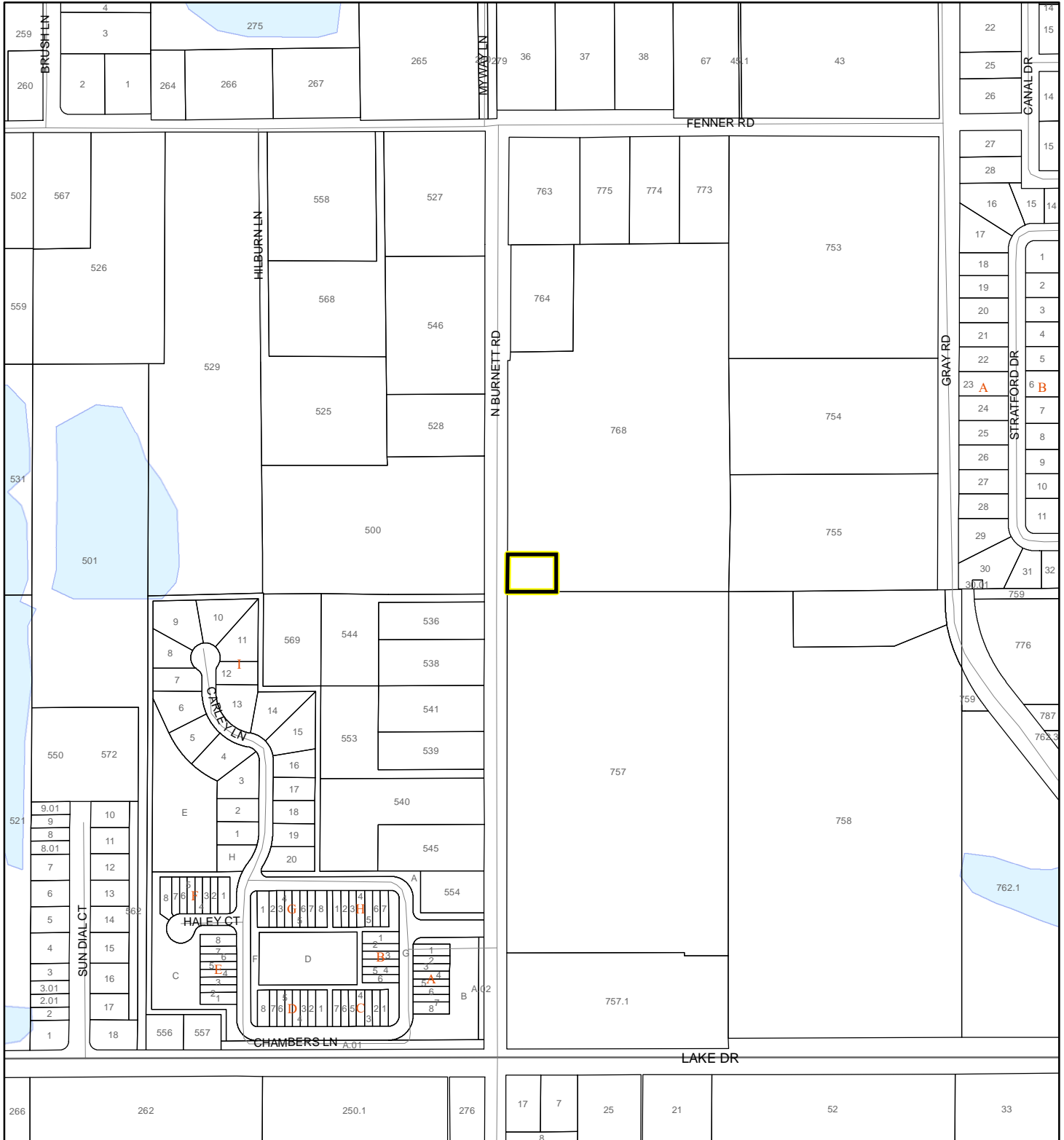
22Z00068



SCRUB JAY OCCUPANCY MAP

Half Halt Stables

22Z00068



1:4,800 or 1 inch = 400 feet

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

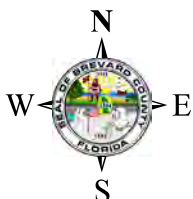
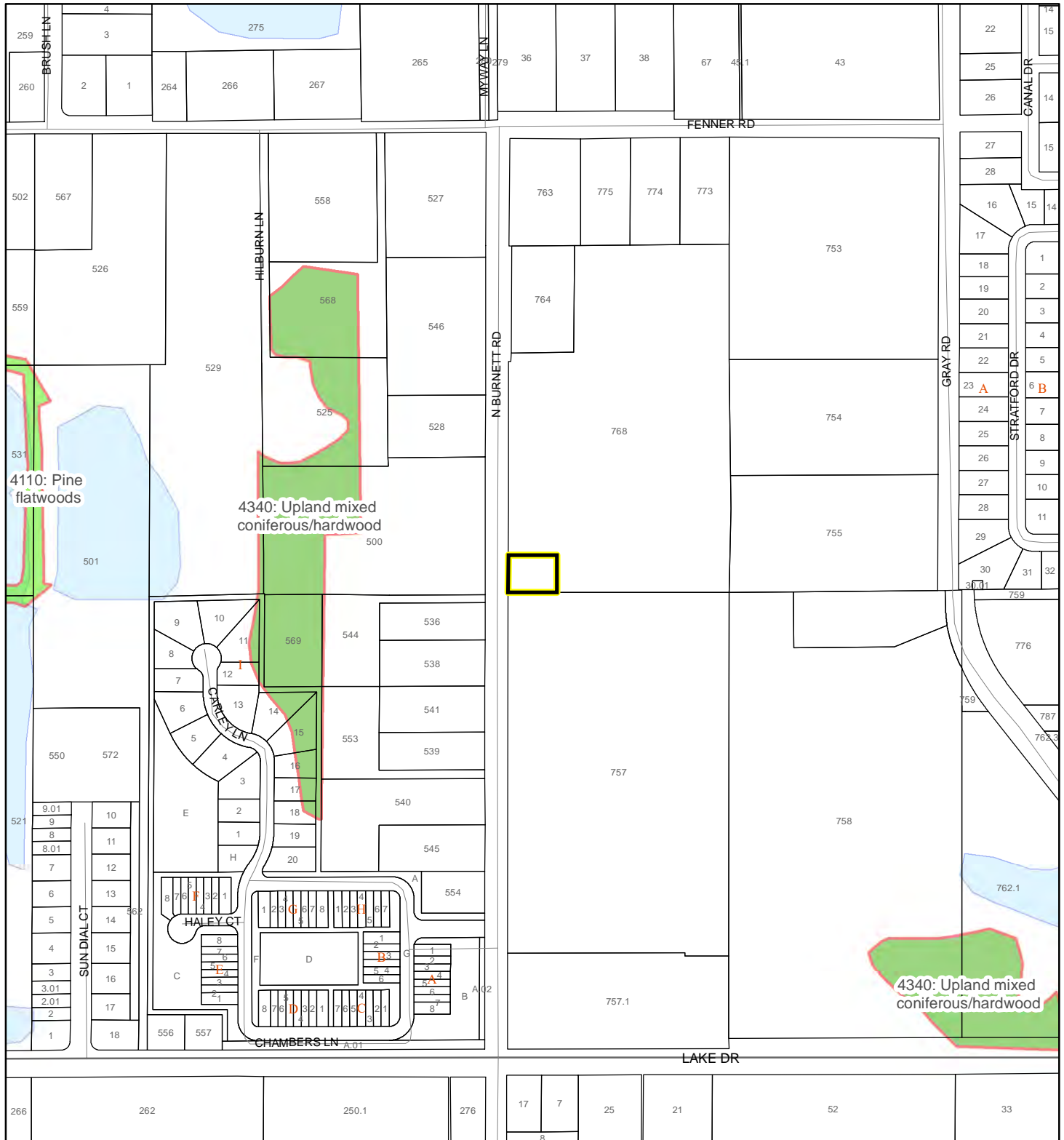
Produced by BoCC - GIS Date: 1/3/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Half Halt Stables

22Z00068



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/3/2023

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

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Half Halt Stables, LLP (Toni Pastermack)

A change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential), on 0.33 acres, located on the east side of Burnett Rd., approx. 0.25 mile north of Lake Dr. (525 & 655 N. Burnett Rd., Cocoa) (22Z00068) (Tax Account 2407648) (District 2)

Toni Pastermack, 4405 Crooked Mile Road, Merritt Island, stated the subject property is part of larger property that is zoned AU and is a horse farm. She said her clients would like to rezone to RU-1-9 in order to sell the house.

No public comment.

Motion by Bruce Moia, seconded by Debbie Thomas, to recommend approval of the change of zoning classification from AU to RU-1-9. The motion passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.7.

4/6/2023

Subject:

Wendy Kleefisch requests a change of zoning classification from RU-1-11 to RU-2-12. (22Z00067) (Tax Account 2731680) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-11 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential)

Summary Explanation and Background:

The applicant is requesting to rezone from RU-1-11 to RU-2-12 for the purpose of constructing up to four multi-family residential units as two duplexes. The RU-1-11 classification permits one single-family residential dwelling; RU-2-12 allows single-family dwellings, duplexes, and resort dwellings, also on a 7,500 square-foot lots.

The developed character of the surrounding area to the northeast is a commercial retail building adjacent Highway A1A. To the north across Franklyn Avenue, is a duplex zoned RU-2-10. West is a single-family attached residence with a zoning classification of RA-2-6. The vacant parcel to the east was recently rezoned in November 2022 from BU-1-A to RU-2-12. To the south across Grosse Pointe are multi-family residences zoned multi-family within the City of Indialantic.

While BU-1 zoning exists along Highway A1A, there is a history of commercial parcels being rezoned to multi-family residential. This rezoning could be considered consistent with the character of the area, and could be considered as a buffer between the commercial and single-family residential zoning further west, away from Highway A1A.

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

On March 13, 2023, the Planning & Zoning Board heard the request and voted 9:1 to recommend approval.

Clerk to the Board Instructions:

Once resolution is received please return a copy to Planning & Development.

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

22Z00067

Wendy Kleefisch

RU-1-11 (Single-family residential) to RU-2-12 (Medium-density multi-family residential)

Tax Account Number: 2731680
Parcel I.D.: 27-38-31-EW-F-4
Location: On the south side of Franklyn Ave., approximately 275-feet west of Highway A1A (District 5)
Acreage: 0.36 acres

Planning and Zoning Board: 03/13/2023

Board of County Commissioners: 04/06/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	RU-1-11	RU-2-12
Potential*	1 SF Unit	4 MF units
Can be Considered under the Future Land Use Map	YES RES 15	YES RES 15

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

Background and Purpose of Request

The applicant is requesting to rezone from RU-1-11 (Single-family residential) to RU-2-12 (Medium-density multi-family residential) for the purpose of constructing up to (4) four multi-family residential units as two (2) duplexes. The RU-1-11 classification permits one single-family residential dwelling, on a 7,500 sq. ft. lot. RU-2-12 allows single-family dwellings, duplexes, and resort dwellings, also on a 7,500 sq. ft. lot.

The RU-2-12 setbacks are more restrictive than RU-1-11. The RU-1-11 classification requires a front setback of 20 feet from the front lot line, side setbacks of 7.5 feet and a rear setback of 20 feet. The property has double frontage. Principal buildings or structures shall be spaced a minimum of 15-feet from other principal buildings or structures on the same site. RU-2-12 would allow up to 4 dwelling units on 0.36-acres.

On June 1, 1972, the subject property was rezoned from RU-1 to RU-1-11 (Z-2980).

Land Use

The subject property is currently designated as Residential 15 (RES 15) FLU. RES 15 is the second highest density designation, permitting a maximum density of up to fifteen (15) units per acre. Both the RU-1-11 and the RU-2-12 zoning classifications can be considered consistent with the RES 15 FLU designation.

Applicable Land Use Policies

FLUE Policy 1.4 –The Residential 15 Future land use designation. The Residential 15 affords the second highest density allowance, permitting a maximum density of up to 15 units per acre.

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

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

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

Criteria:

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

The applicant proposes the development of four (4) multi-family units as two (2) duplexes. It is not anticipated to have hours of operation, lighting, odor noise levels, additional traffic or site activity that would 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 (Master Appraisers Institute) 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 historic land use pattern is a mixture of commercial and residential along Highway A1A with single-family residences to the west and multi-family residences mainly east of Highway A1A. Commercial retail lines the west corridor of Highway A1A.

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

There have been two (2) zoning actions within a half-mile radius. The first zoning action is 315-feet west of the subject property on Franklyn Ave.. 21Z00033 was an approved application to rezone from RU-1-11 to RU-2-12 with a BDP limiting uses for the property to not be used as a resort dwelling. The density is limited to two (2) units, constructed as a duplex. Access of ingress and egress is limited to one (1) unit to Franklyn Avenue and one (1) unit to Gross Pointe Avenue.

The second zoning action, 22Z00046, was a rezoning from BU-1-A to RU-2-12 with a resolution date of November 3, 2022. This rezoned parcel is directly to the east of the subject property.

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

It appears there has been no development approved but not yet constructed in the area within the last three years.

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

No material violation of relevant policies has been identified.

Analysis of 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.

The developed character of the surrounding area to the north is a commercial retail building adjacent Highway A1A. To the northwest across Franklyn Ave., is a multi-family residence zoned RU-2-10. West is a single-family attached residence with a zoning classification of RA-2-6. The vacant parcel to the east was recently rezoned in November 2022 from BU-1-A to RU-2-12. To the south across Grosse Pointe are multi-family residences zoned multi-family (R-P and SC) within the City of Indian Shores.

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.

While BU-1 zoning exists along Highway A1A, there is a history of commercial parcels being rezoned to multi-family residential classifications. This rezoning could be considered consistent with the character of the area. The request could be considered as a buffer between the commercial and single-family residential zoning further away from Highway A1A.

There are 3 FLU designations in the immediate area: Community Commercial (CC), Neighborhood Commercial (NC) and Residential 15 (RES 15). The subject property is located in the RES 15 designation.

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 request is not for commercial 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.

The closest RU-2-12 zoning classification to the subject property is directly to the east. The subject parcel is not requesting to be rezoned for commercial, industrial or other non-residential uses.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Road ROW/Multi-Family Residence	RU-2-10	RES 15
South	City of Indialantic	R-P & SC (multi-family)	N/A
East	Undeveloped	RU-2-12	NC
West	Single-family	RA-2-6	RES 15

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

The RU-2-10 classification permits multi-family dwellings, duplexes, resort dwellings and single-family dwellings with a minimum lot size of 7,500 square feet having a minimum lot width and depth of 75 feet. The maximum density is ten (10) units per acre.

The proposed RU-2-12 zoning classification would allow up to 12 units per acre of multi-family residential zoning classification. It permits multi-family residential development or single-family residences at a density of up to 12 units per acre on 7,500 square foot lots.

The RA-2-6 zoning classification is a single family attached residential classification providing a transition between single family residential detached zoning and multi-family residential zoning. The maximum density is six (6) dwelling units per acre having a minimum lot of 7,500 square feet with a minimum width of 75 feet and depth of 100 feet.

There have been two (2) zoning actions within a half-mile radius. The first is 315-feet of the subject property. **21Z00033** was an approved application to rezone from RU-1-11 to RU-2-12 with a BDP limiting uses for the property to not be used as a resort dwelling. The density is limited to two (2) units, constructed as a duplex. Access of ingress and egress is limited to one (1) unit to Franklyn Avenue and one (1) unit to Gross Pointe Avenue.

The second zoning action, **22Z00046**, was a rezoning from BU-1-A to RU-2-12 with a resolution date of November 3, 2022. This rezoned parcel is directly to the east of the subject property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway A1A between US 192 and Paradise Blvd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 52.29% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.07%. The corridor is anticipated to operate at 52.35% 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.

Central sewer is directly north of the parcel on Franklyn. Potable water is directly north of the parcel on Franklyn. According to the City of Melbourne they have the capacity to service this parcel.

Environmental Constraints

- Aquifer Recharge
- Indian River Lagoon Nitrogen Reduction Septic Overlay

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 proposed request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary**

Item #22Z00067

Applicant: Wendy Kleefisch

Zoning Request: RU-1-11 to RU-2-12

Note: Applicant wants to build six (6) multi-family residential units as three duplexes.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2731680

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge
- Indian River Lagoon Nitrogen Reduction Septic Overlay

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The site has mapped aquifer recharge soils (Canaveral-Palm Beach- Urban Land Complex) on the entire parcel as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is

hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Septic Overlay

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

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

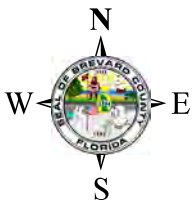
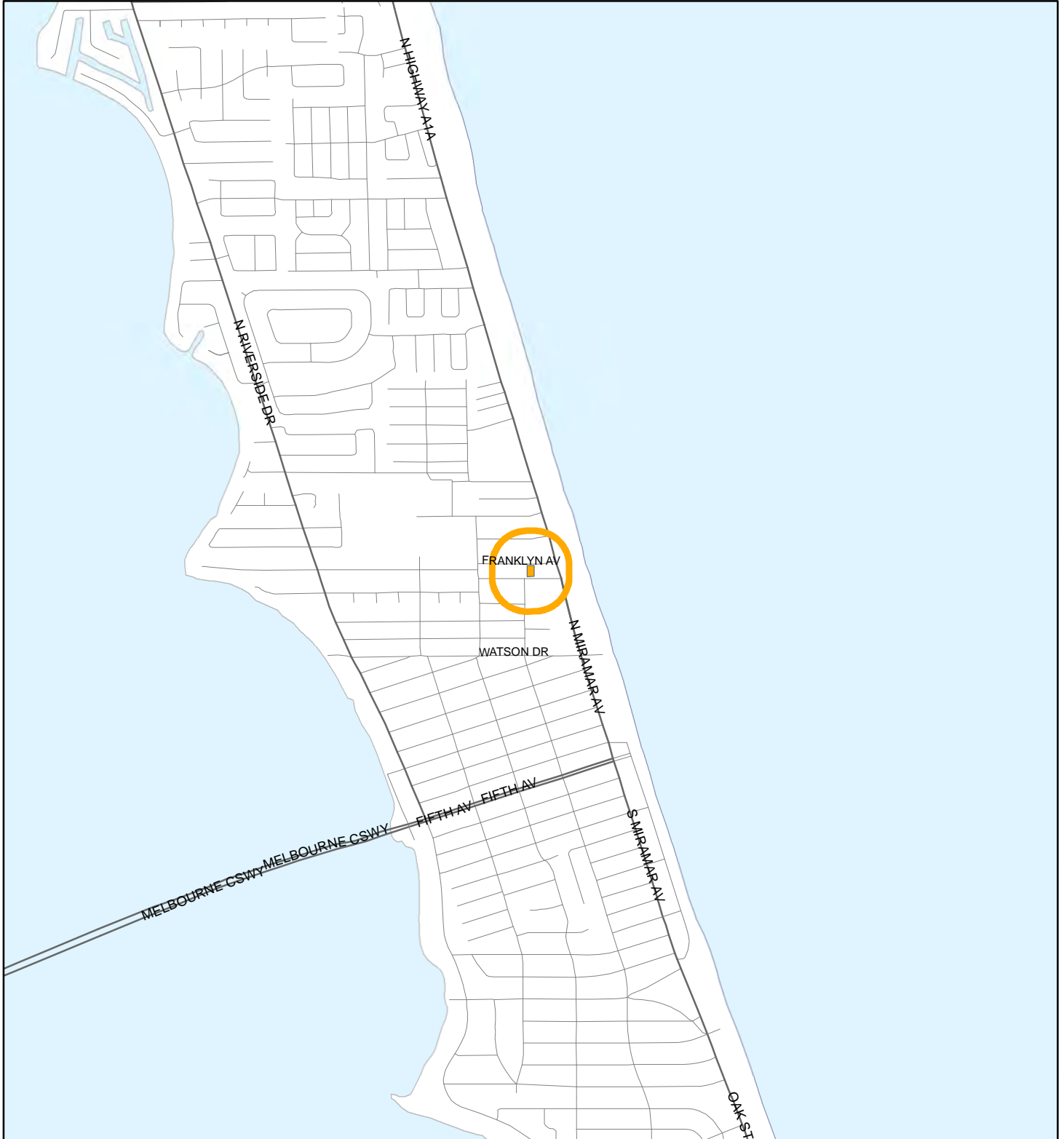
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is potential for the presence 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 and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

KLEEFISCH, WENDY

22Z00067



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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 1/3/2023

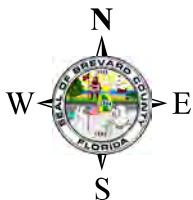
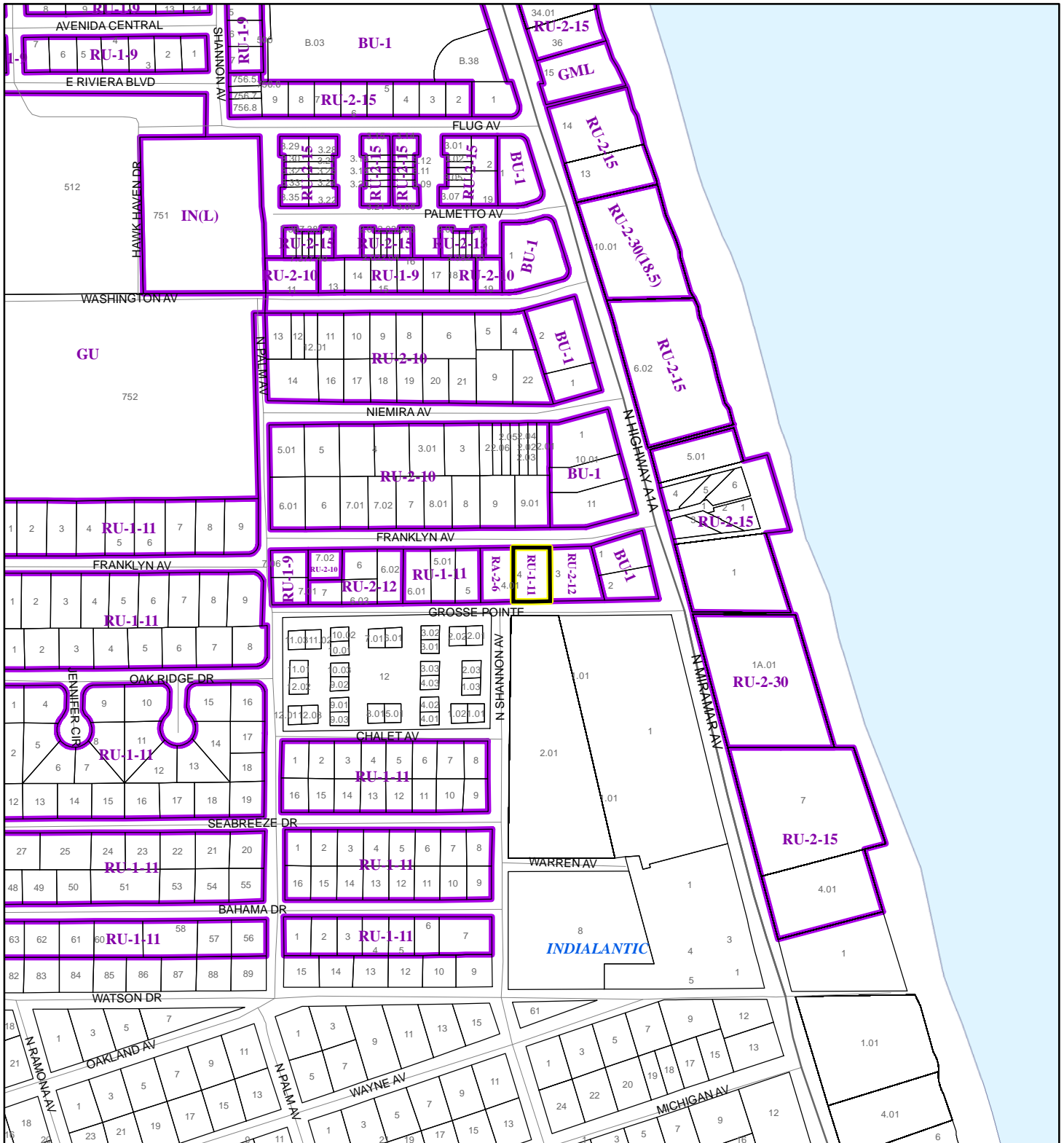
Buffer

Subject Property

ZONING MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

Zoning

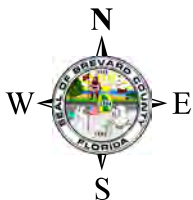
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/3/2023

FUTURE LAND USE MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

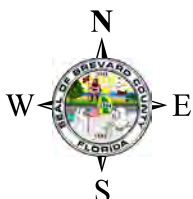
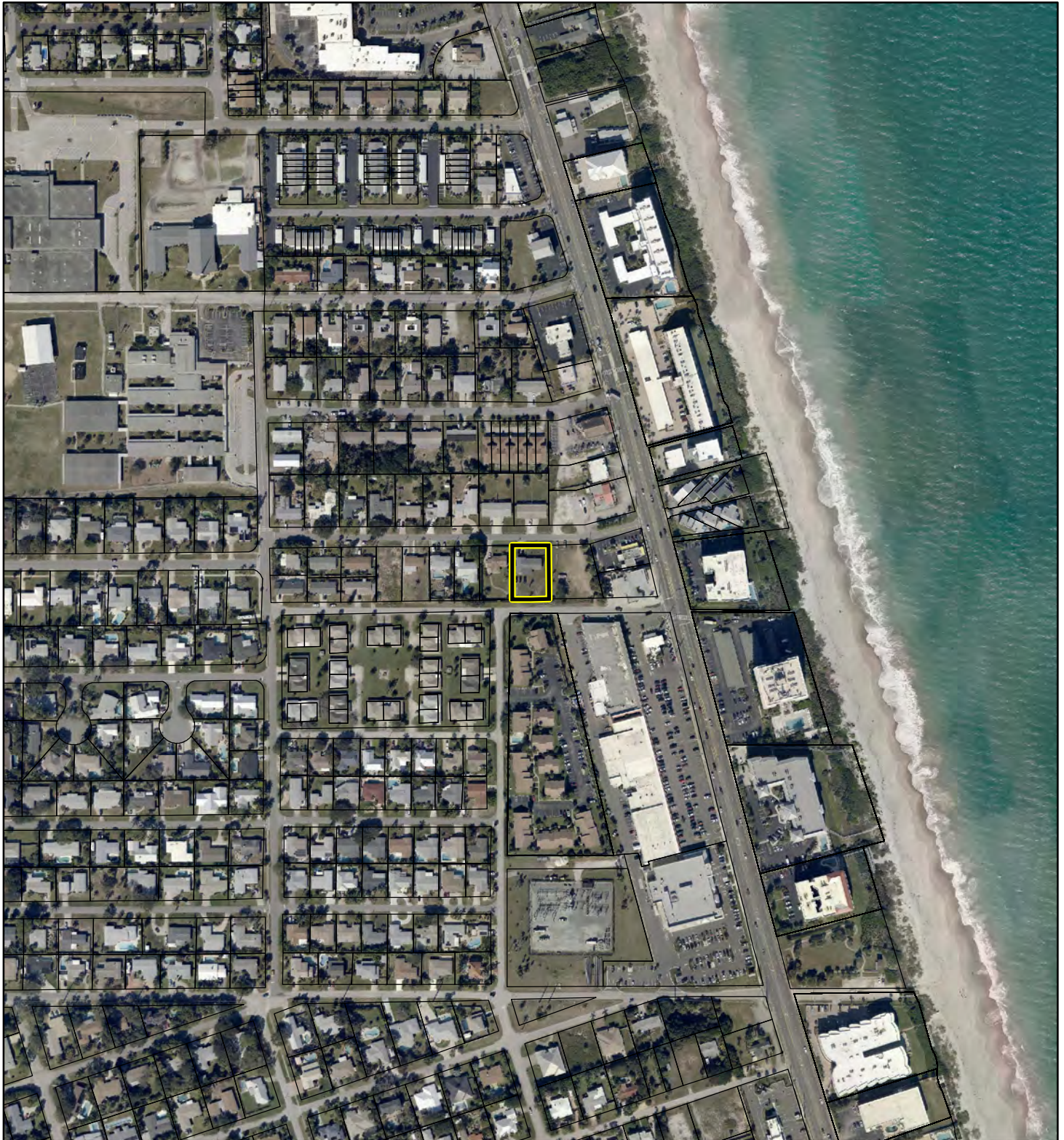
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Produced by BoCC - GIS Date: 1/3/2023

AERIAL MAP

KLEEFISCH, WENDY

22Z00067




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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Produced by BoCC - GIS Date: 1/3/2023

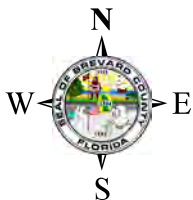
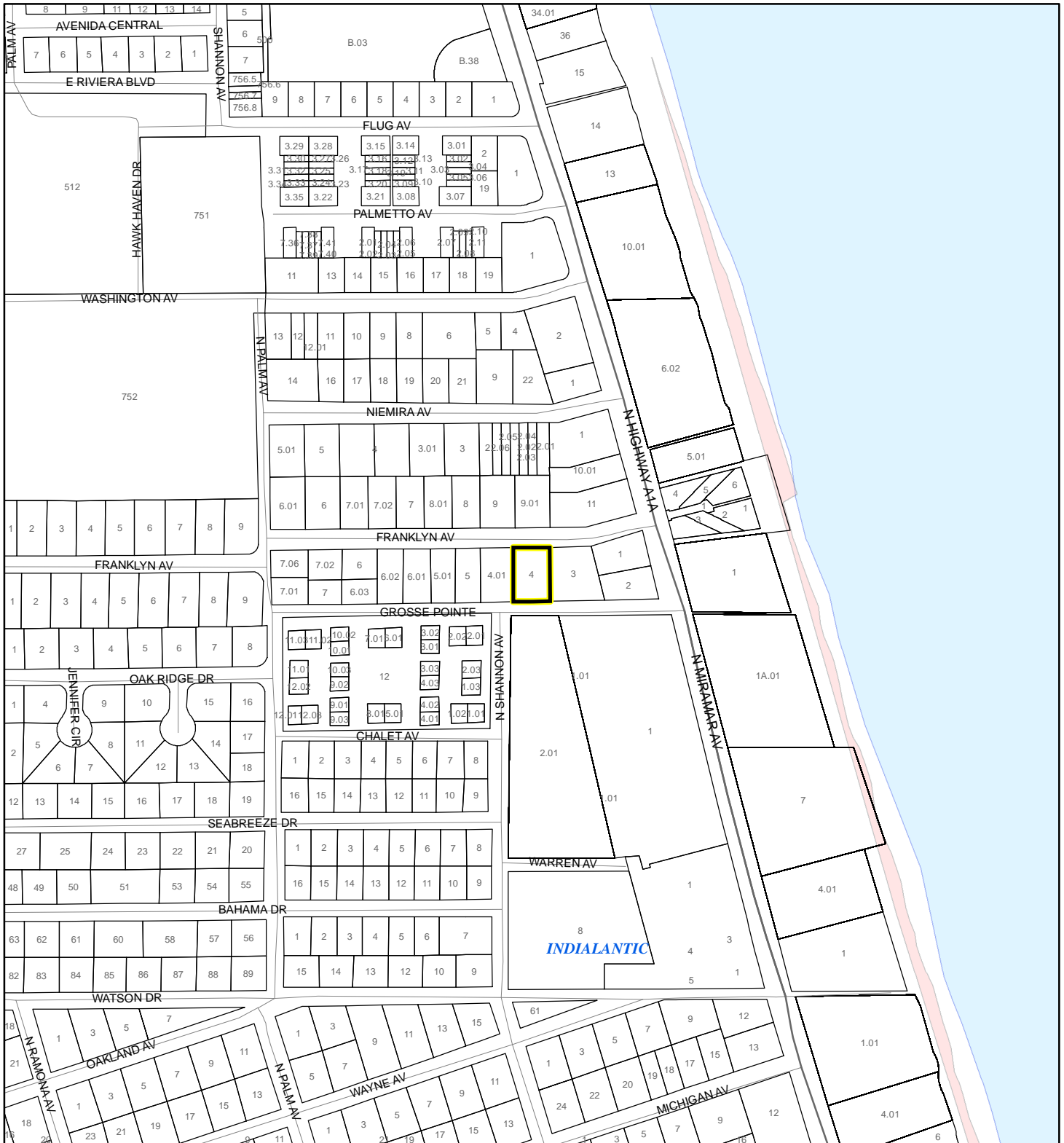
 Subject Property

 Parcels

NWI WETLANDS MAP

KLEEFISCH, WENDY

22Z00067













1:4,800 or 1 inch = 400 feet

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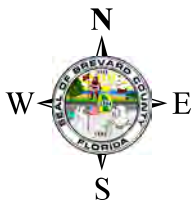
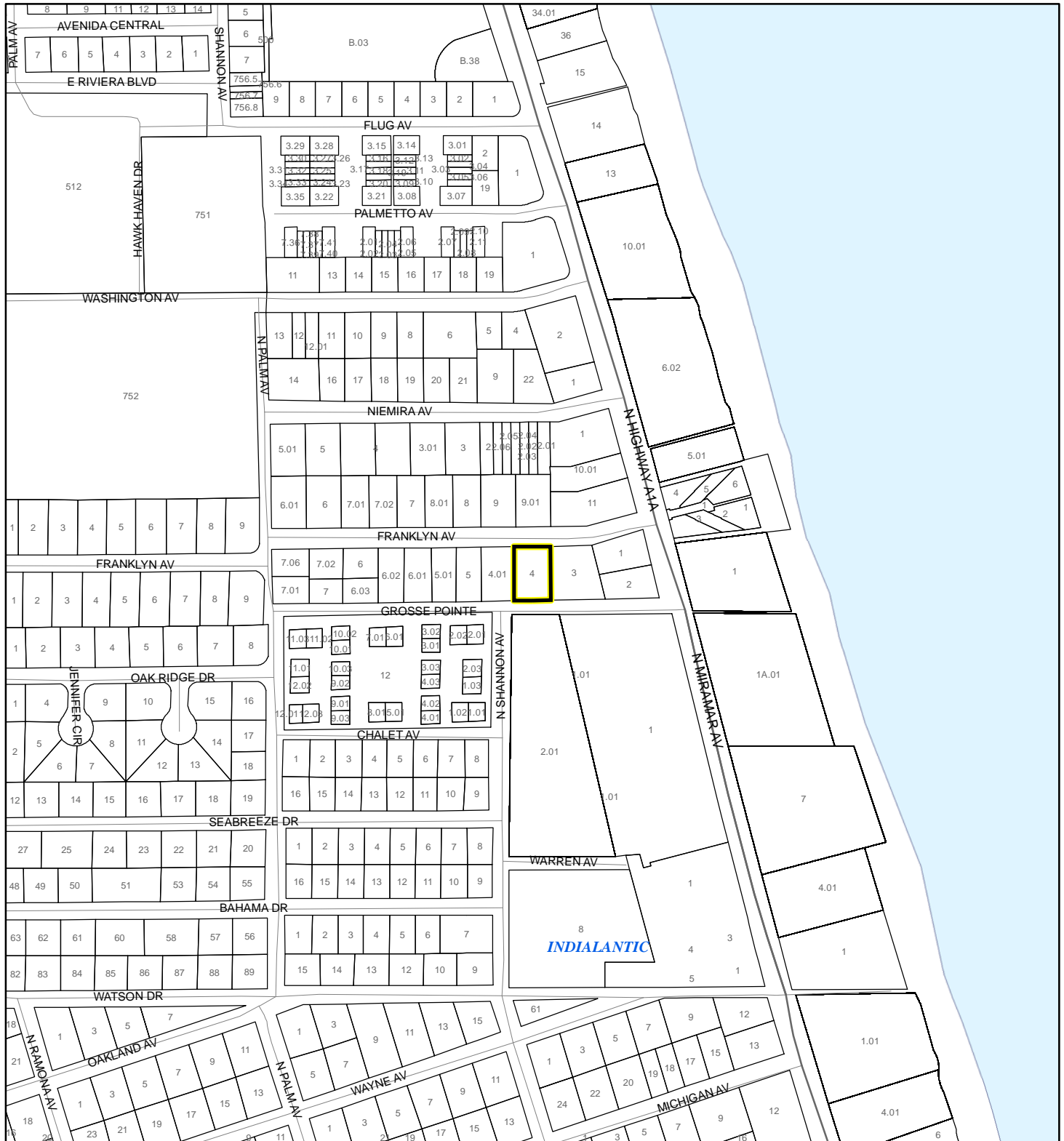
National Wetlands Inventory (NWI)

 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

KLEEFISCH, WENDY

22Z00067



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

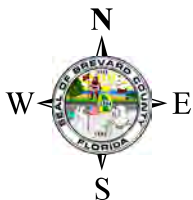
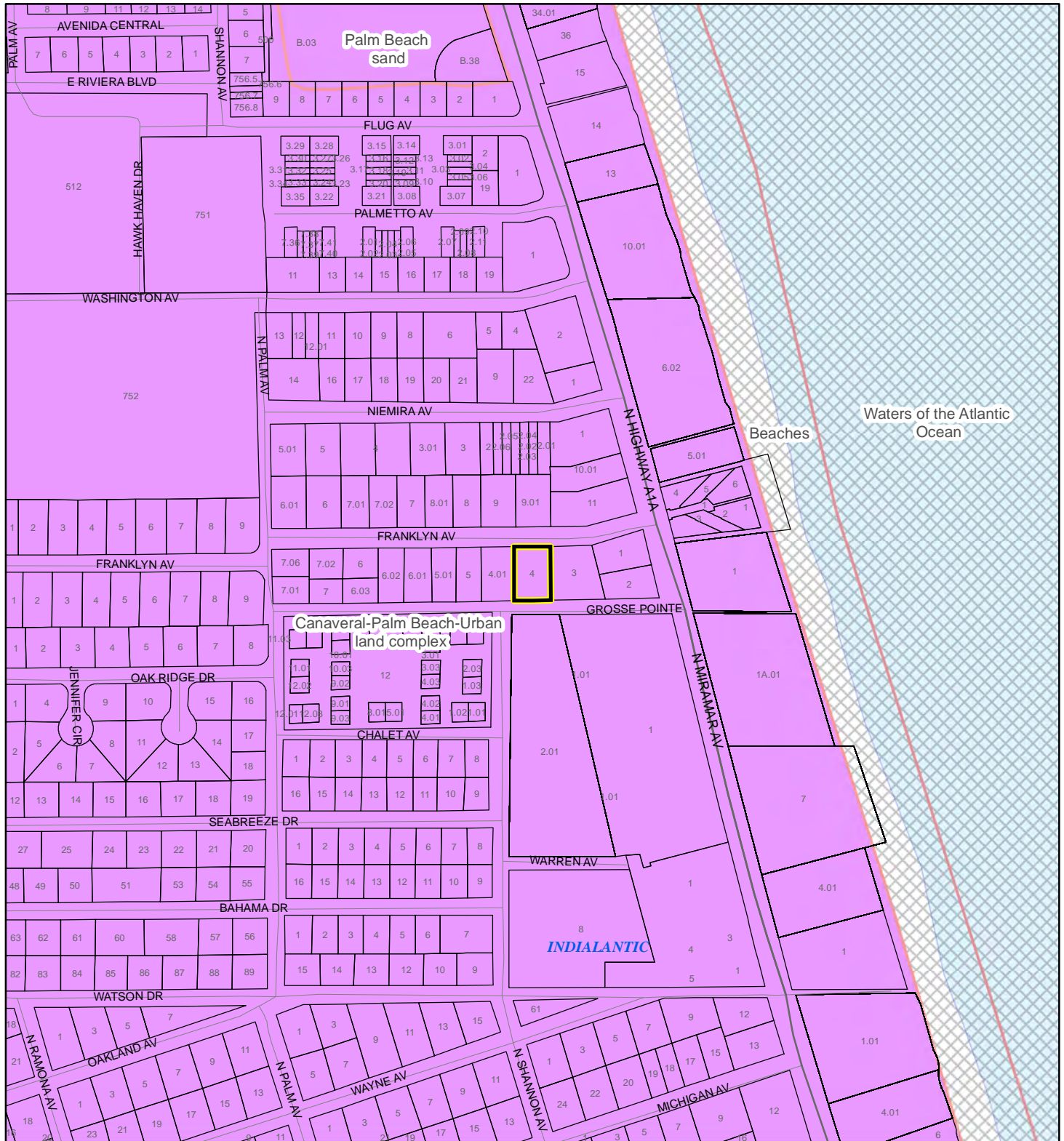
Subject Property

Parcels

USDA SCSSS SOILS MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

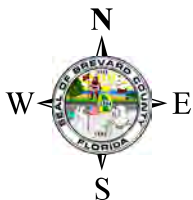
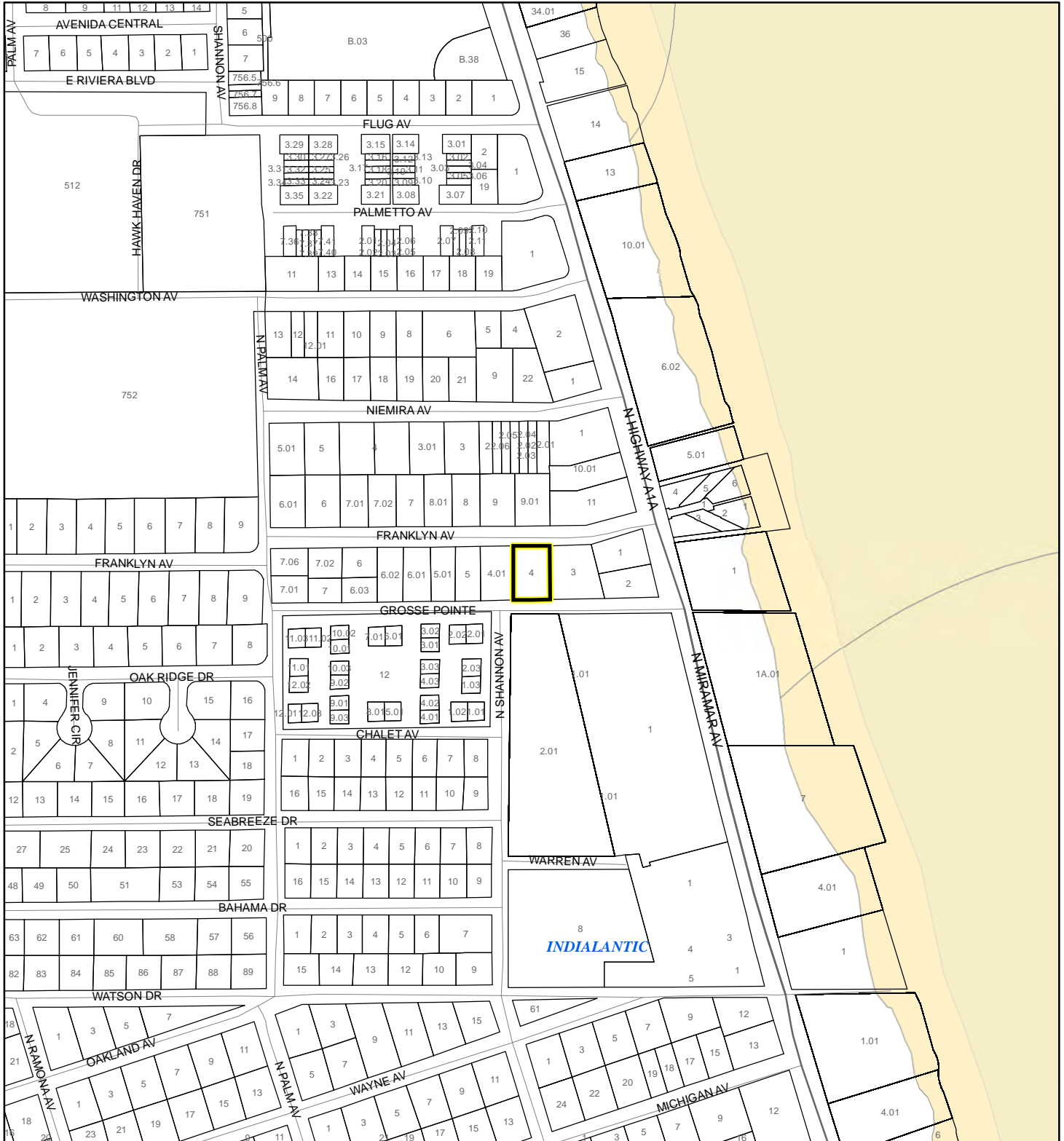
Subject Property

Parcels

FEMA FLOOD ZONES MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

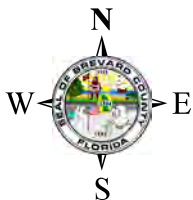
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

 Subject Property

 Parcels

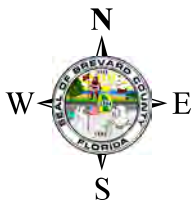
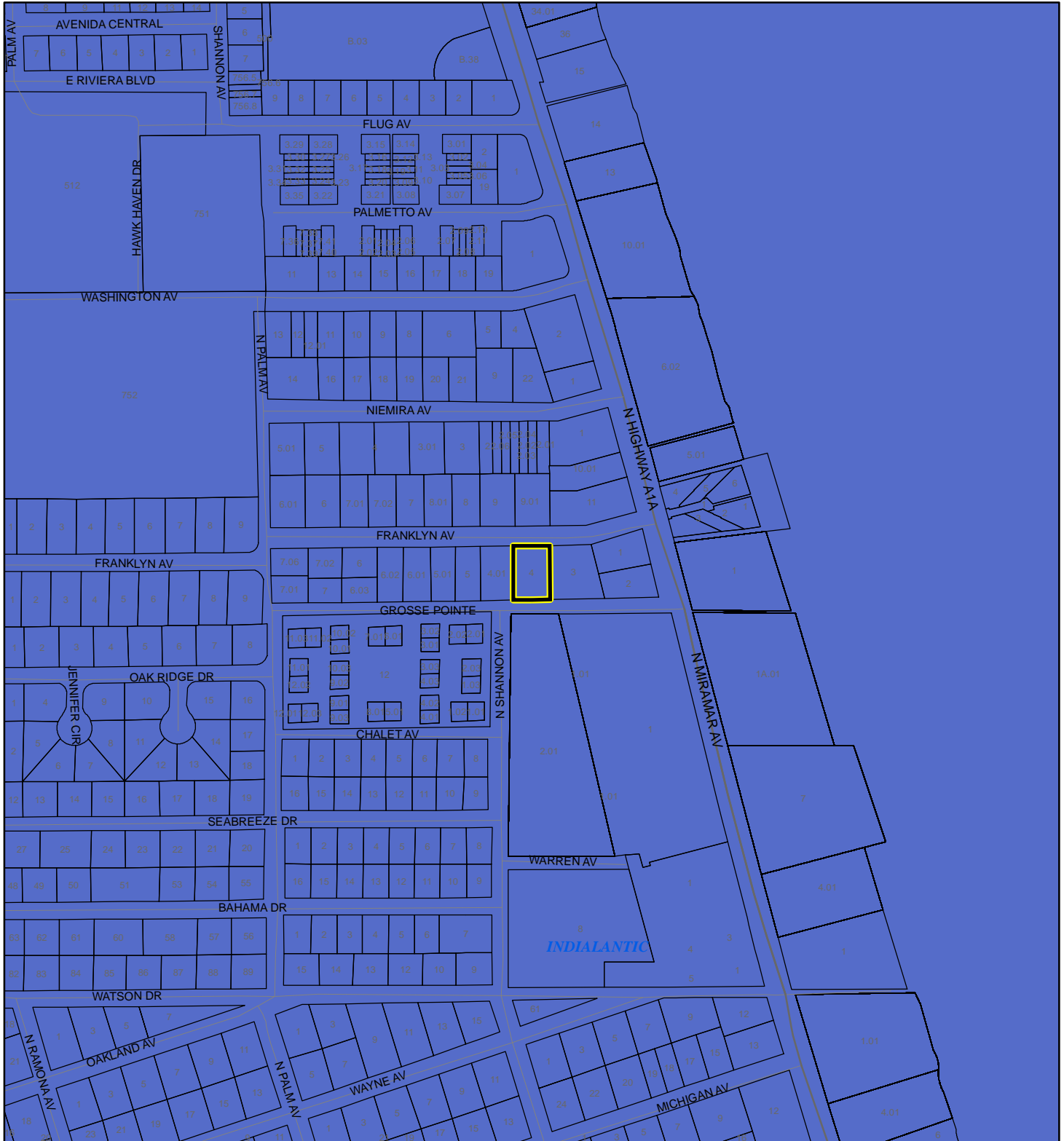
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

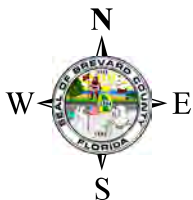
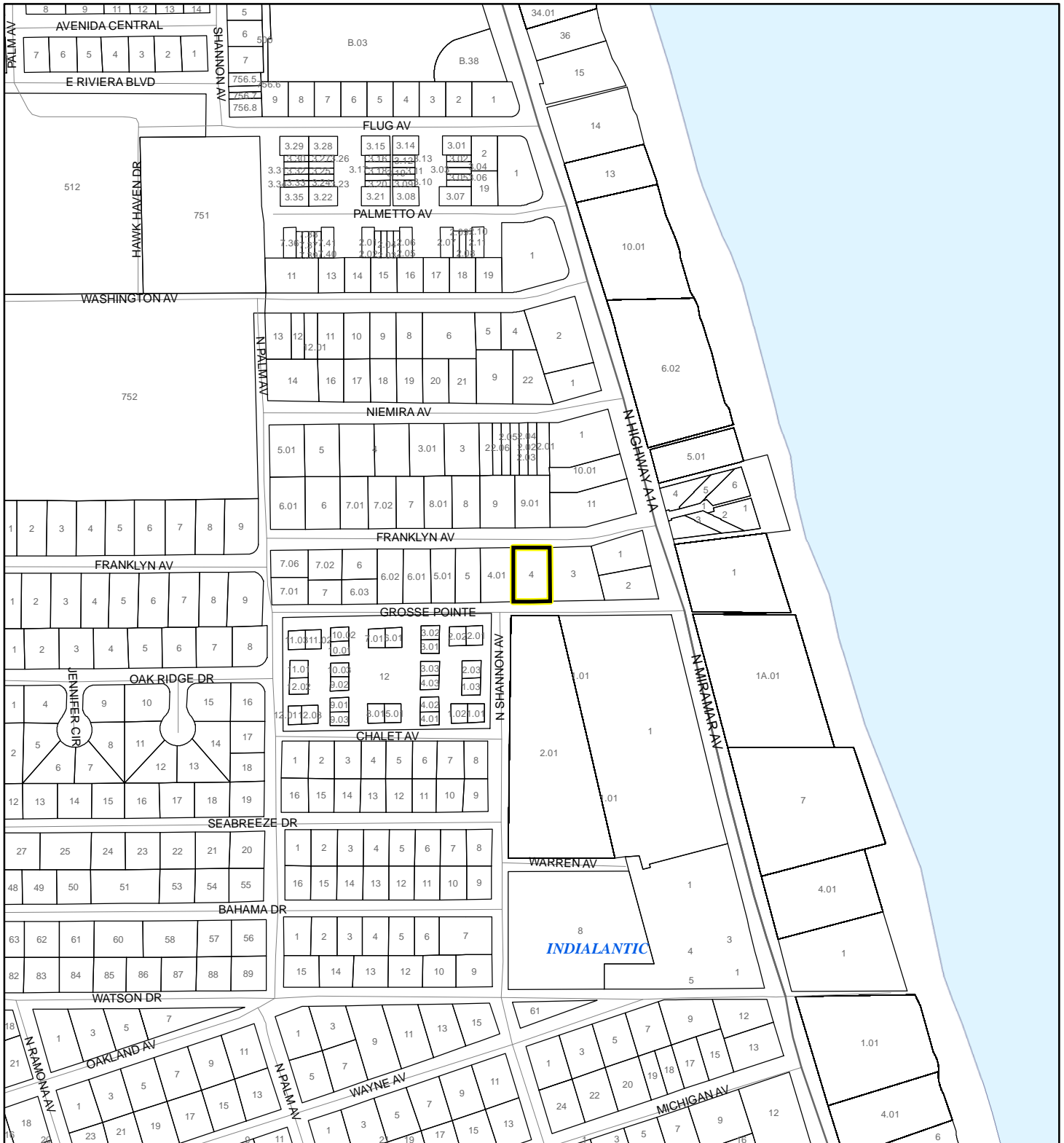
 60 Meters

 All Distances

EAGLE NESTS MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

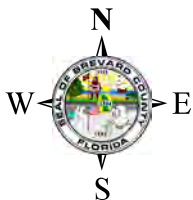
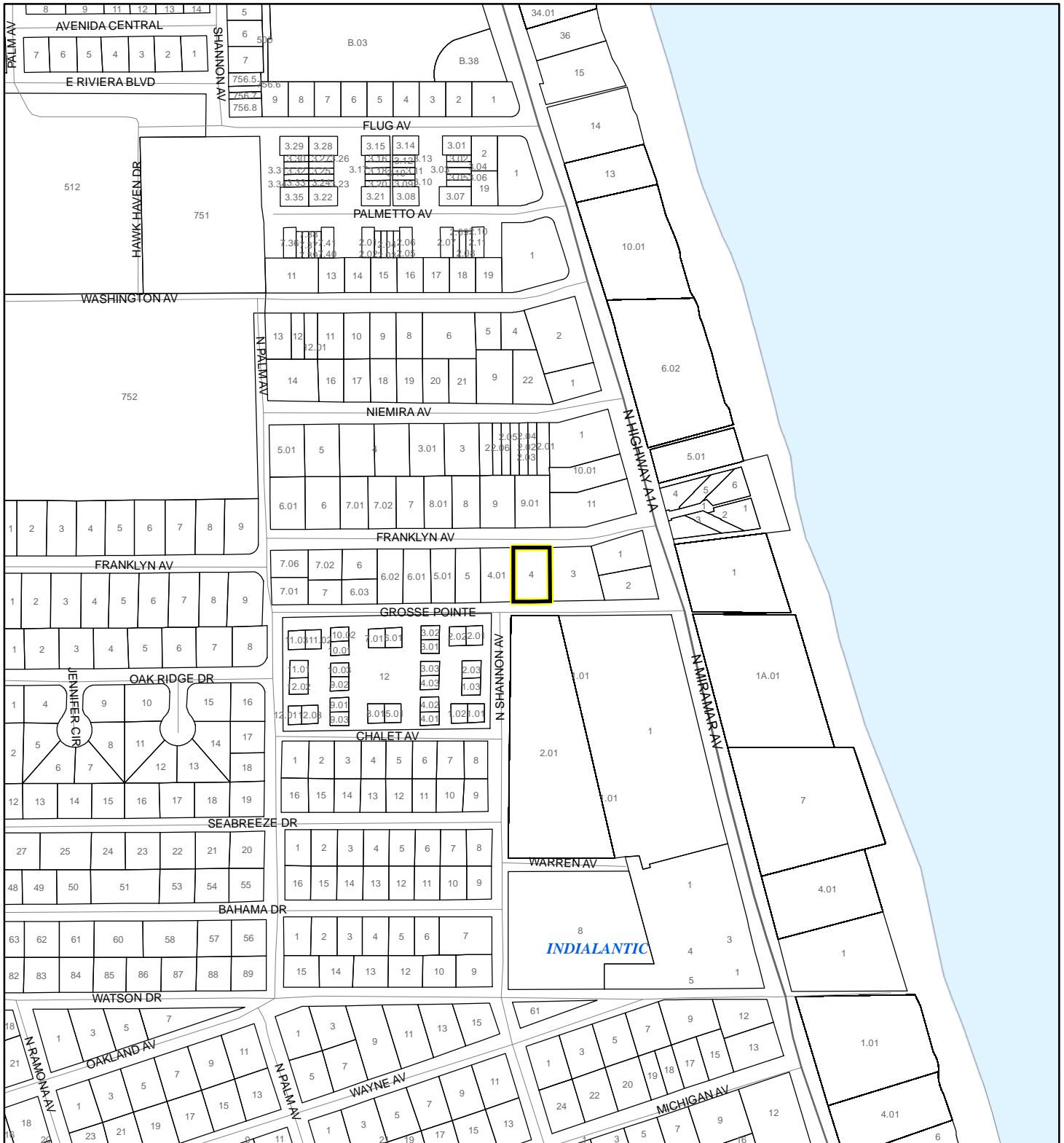


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

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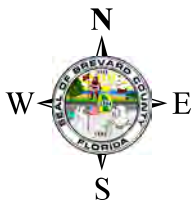
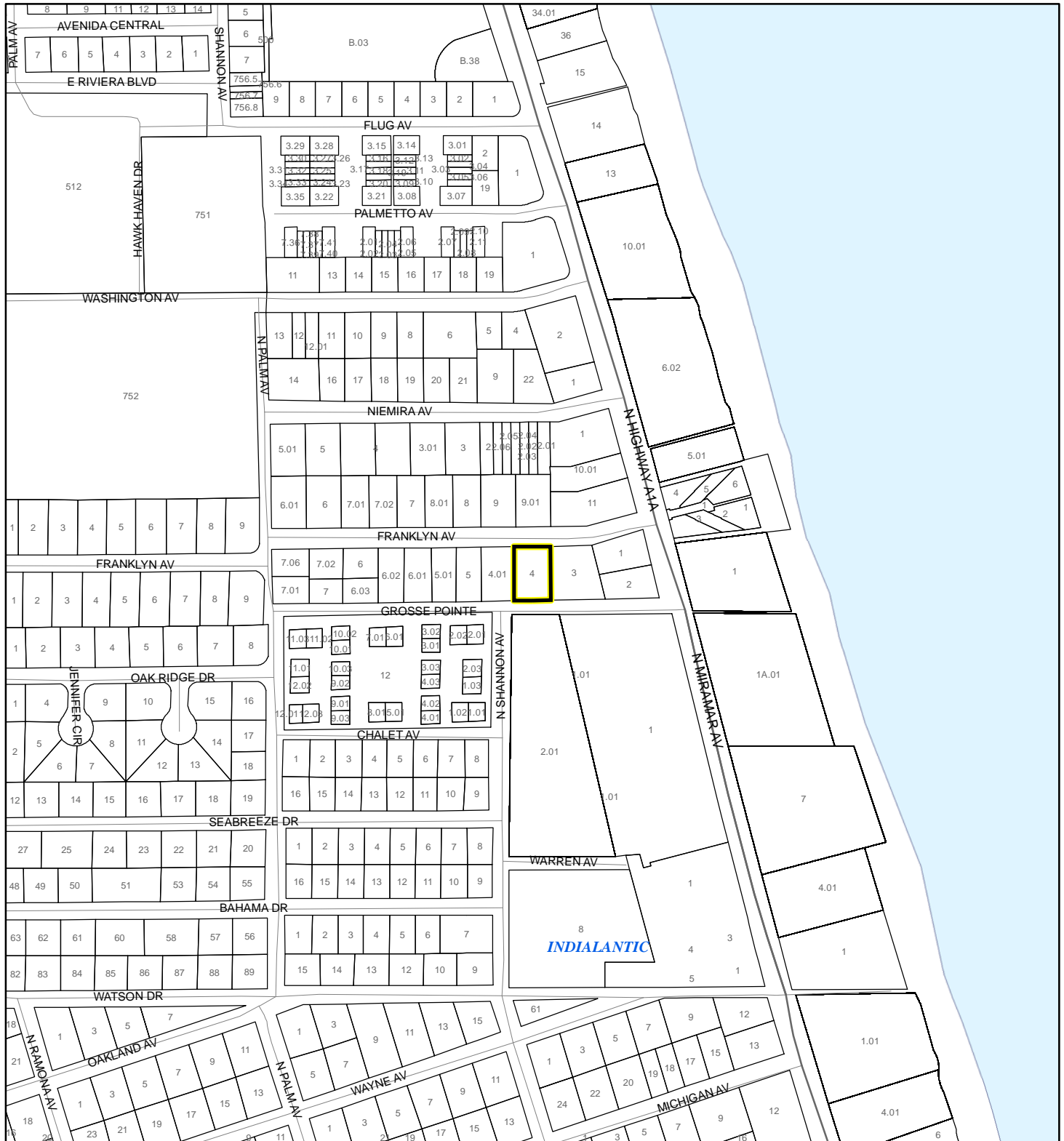
Produced by BoCC - GIS Date: 1/3/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KLEEFISCH, WENDY

22Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

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

Re: Rezoning from single-family (RU-1-11) to multi-family (RU-2-12): 107 Franklyn Ave

Dear Members of the Planning and Zoning Board,

My husband Denis and I, Alena Knoepfler are the owners of 109 Franklyn Ave, which is next door to 107 Franklyn Ave, which applied for a rezoning.

All 5 single-family homes 107, 109, 111, 113 and 115 Franklyn Ave (incl. the subject property at 107 Franklyn Ave) are double-lots of the county jurisdiction but adjacent to the Town of Indialantic.

For this reason, your decision will influence not only the character and density of the neighborhood but also the consistency and combability in regards to the community of the Town of Indialantic:


- 1) The two rezoned properties at Franklyn Ave (21Z00033 and 22Z00069) were approved but not yet constructed. So, there is no reference property in place which was rezoned and build within a 750ft radius within the last three years. This includes the Town of Indialantic. One rezoned naked land, 117 Franklyn Ave (21T00033), was restricted with a BDP to a duplex.
- 2) For 35+ years, the whole neighborhood consists of 1-story-homes only - 80% are detached single family homes, 20% are duplexes, again one story maximum. (The Commercial zoned spots at the A1A are of course higher density zones)
- 3) With formerly two others approved rezonings at Franklyn, one of them was a spot zoning in the middle of single-family homes, you would transform the street and the neighborhood into a "multi-family transition zone" – where lots would be combined to high-rise buildings.

However, we understand the wish to upzone and sell to thrive for the highest outcome possible: For this reason, we would support the rezoning on one hand, on the other, we would urge the P&Z Board to consider the following three BDP restrictions:

- 1) No resort dwelling should be allowed: To protect the workers and families of Brevard County and the Town of Indialantic.
- 2) One driveway to Franklyn Ave and one to Grosse Pointe - to have equal traffic to both streets.
- 3) With reference to the size of the lot, the required setbacks, and the outcome of the rezoning at 117 Franklyn Ave, we would support one duplex or max. one triplex with one story. This would allow equal density/combability according to the nature of the 0.36 acre lot. Also, this would allow a smooth transition into the one-story homes of the neighborhood.

Please see attached the aerials of the subject property in the area.
We appreciate your consideration, thank you.

Alena & Denis Knoepfler
109 Franklyn Ave
Indialantic, FL, 32903



Capacity / Combability: single family homes
or duplexes with 1 (!) story only

Subject property is a
single family home
- one story

Franklyn Ave

All single family homes

Grosse Pointe

Within 500-feet radius and within the past 3 years - 2 rezoning approved
RU-2-12 - but not yet constructed or developed



Jones, Jennifer

From: Dave Mack <dmack@pathfindergroupllc.com>
Sent: Sunday, April 2, 2023 11:38 PM
To: Jones, Jennifer
Subject: Reference: 22Z00067 - rezoning of 107 Franklyn Ave

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

Ms Jones,

I live at 219 Grosse Pointe Avenue just a couple of houses west of 107 Franklyn Ave. Rezoning 107 Franklyn Ave property to be multi-family buildings would create added congestion to Franklyn and Grosse Pointe streets and neighborhoods. The neighborhood on Franklyn are single family houses. Grosse Pointe Ave is quite busy and is already dense with through traffic, building multi-family buildings will only increase our side street traffic. The density and traffic will be troublesome for our community. Thank you for your consideration. You can contact me through the email or by telephone at (847)274-7604.

David E. Mack

Pathfinder Group

dmack@pathfindergroupllc.com

(847)274-7604



From: [Carol Fisher](#)
To: [Jones, Jennifer](#)
Subject: Rezoning for 107 Franklyn Avenue
Date: Monday, April 3, 2023 3:57:22 PM

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

Ms. Jones,

I'm writing to express my hope that you will oppose (or limit) the rezoning of 107 Franklyn Ave in Indialantic. We are a neighborhood of ONE STORY HOMES and would prefer to keep it that way. As it is, Grosse Pointe gets a lot of traffic because it is the street with the stop light. Adding multiple homes to a space originally designed for one, would unnecessarily increase the traffic on an already busy street where many people walk and many kids ride their bikes.

Please remember to take the desires of your constituents into consideration when making your decision. That is supposed to be part of the job and would be much appreciated..

Thank you,
Carol Fisher
224 Grosse Pointe Ave

From: [Mark Vorwaller](#)
To: [Jones, Jennifer](#)
Subject: Reference: 22Z00067
Date: Monday, April 3, 2023 8:14:51 PM

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

I have been a resident of Franklyn Avenue for 33 years. I oppose rezoning 107 Franklyn Ave to multi-family buildings. The barrier island is already overpopulated -- we should not be engaged in actions that make it worse.

Best regards,

Mark Vorwaller

From: [John Reynolds](#)
To: [Jones, Jennifer](#)
Subject: 22Z00067
Date: Tuesday, April 4, 2023 2:31:46 PM
Attachments: [image001.png](#)

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

Commissioner Jones,

I would like you to know that I do not support rezoning 107 Franklyn Ave. Indialantic Fl. 32903, (unincorporated Brevard County) to multi-family / multi-storied buildings.

1. All surrounding residential properties are one story.
2. Franklyn Ave. and Grosse Pointe experience traffic congestion already, this zoning changing would increase the problem.

Thank you,
John Reynolds

John Reynolds

Head Coach Women's Basketball

Florida Tech Athletics

O: 321-674-7512 **C:** 321-537-7854 **E:** reynolds@fit.edu

FloridaTechSports.com

FB: [/Florida Tech Athletics](#) **T:** [@FloridaTechWBB](#) **IG:** [@FloridaTechWBB](#)



From: [Allan Guarino](#)
To: [Jones, Jennifer](#)
Subject: Rezoning of 107 Franklyn Ave
Date: Tuesday, April 4, 2023 4:11:22 PM

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

Ms Jones,

I am against the rezoning of 107 Franklyn Ave in Indialantic from single family to multi-family. We live in one-story homes and enjoy a friendly and quiet neighborhood. Please vote NO to the rezoning plan.

Thank you.

Al Guarino,
Homeowner
309 Franklyn Ave

Zoning Change ID# 22Z00067

I am the owner of 117 Franklyn Avenue. I fully support Wendy Kleefisch's request to change the property located at 107 Franklyn Avenue to RU-2-12 zoning without any use restrictions. I have attached the relevant zoning map and multi-family comparison.

107 Franklyn Ave. is adjacent to multi-family on all sides including a 48-unit plus a 28-unit, multi-family complex adjacent to the south boundary. While the west boundary property 109 Franklyn Ave. is zoned RA-2-6 which allows for fee simple ownership of individual attached units (multi-family).

In addition, the 107 Franklyn Avenue property boundaries are within a 500-foot radius of 97, 50, 30, 7, 6, unit Condominiums. The 97 unit has a height of 10 floors, the 7 unit has height of 8 floors, the 30 units has a height of 6 floors. Of the 22 parcels located on the 100 block of Franklyn Avenue only three would remain RU-1-11 and all three are adjacent to multifamily on two or more sides.

115 Franklyn Ave. is adjacent to multi-family including RU-2-12 & RU-2-10, plus a 28-unit complex on its south side.

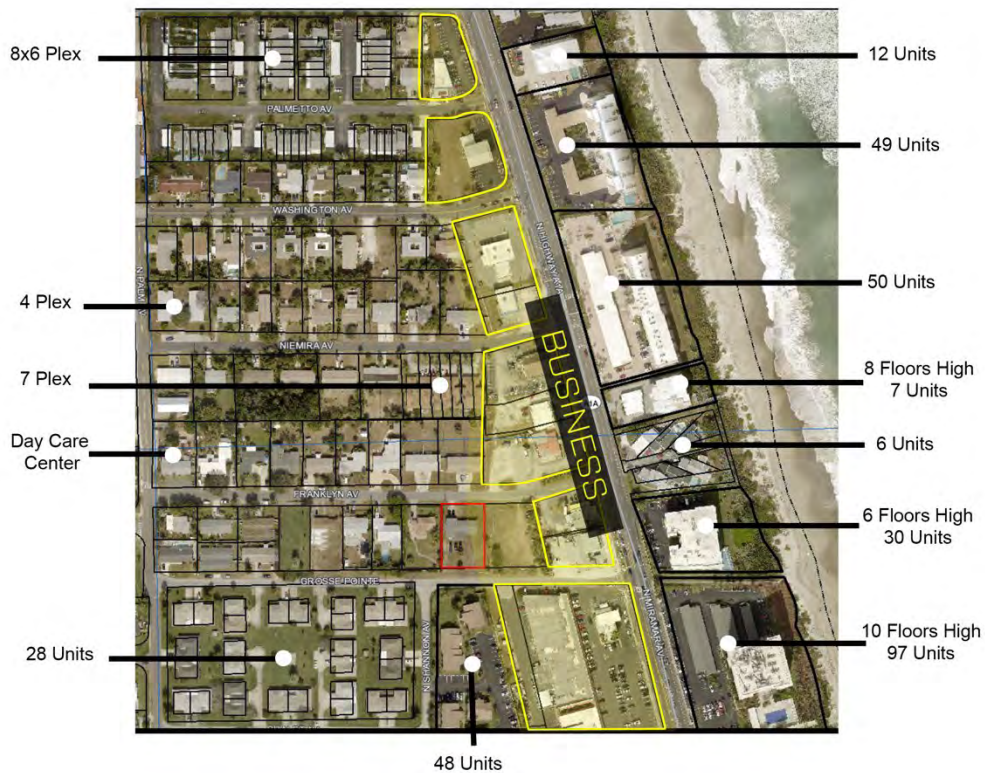
113 Franklyn Ave. is adjacent to multi-family RU-2-10, plus a 28-unit complex on its south side.

111 Franklyn Ave. is adjacent to multi-family RU-2-10 & RA-2-6, plus a 28-unit complex on its south side.

Short term rentals are now being done directly across from 107 Franklyn Ave at 104 & 106. In addition, two more are in process at 119 & 121. Therefore, it would not be reasonable to restrict 107 Franklyn Ave. from this use allowed in RU-2-10 and RU-2-12 zoning.

During the planning and zoning board someone got up and made a comment about traffic being increased by the zoning change. In my opinion this zoning change increases the traffic count by 4 vehicles per day it would be less than 1% increase in traffic.

James Eric Preece
117 Franklyn Ave. Owner



From: [Sharon Gehl](#)
To: [Jones, Jennifer](#); [Sharon Gehl](#)
Subject: Rezoning of 107 Franklyn
Date: Wednesday, April 5, 2023 2:39:24 PM

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

Attn: Jennifer

22Z00067 Wendy Kleefisch

I am an owner on Franklyn Avenue for 22 years and know applicant. She has always kept her property clean and I'm sure will do great with her approval. I fully support Wendy Kleefisch's request to change the property located at 107 Franklyn Avenue to RU-2-12 zoning. Whatever she does will increase my property value as we know it will be beautiful. Thank you
Sharon Gehl

[Sent from Yahoo Mail for iPhone](#)

From: [Sallie Trecek](#)
To: [Jones, Jennifer](#)
Subject: Franklyn Ave Zoning (22Z00067)
Date: Wednesday, April 5, 2023 7:12:24 PM

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

Dear Commissioners,

My name is Sallie Trecek and I moved to Grosse Pointe a year ago this week. I love living in this town and where I live and yet am alarmed about the new zoning proposal. I am a retired teacher and as I sit in my home at my computer, I see the amount of traffic, especially school traffic which utilizes Grosse Pointe. And I am a daily pedestrian as I walk my dog. I must say, many do not follow the speed limit and don't pay attention to the pedestrians who have to walk in the streets due to the lack of sidewalks for most of the streets.

I see a great deal of pedestrian and vehicular traffic in front of my house, and especially around school hours. I would strongly urge you to deny the zoning request for the multi-family buildings at 107 Franklin. The traffic would be increased exponentially and we already have speeders. And, thinking about people trying to turn left onto A1A would create a nightmare!

As I stated, there is a great deal of pedestrian traffic already due to the schools and the general beach traffic --- and no sidewalks! And adding to that, a great deal of motor vehicle traffic already! It is a wonder there have not been injuries to the pedestrians already ... and adding how many new residences? each one having at least one car, probably two? I'm not a mathematician, but statistics would indicate that there definitely would be over saturation for the neighborhood streets!

Thank you for the consideration for the neighborhood and especially for the safety of our elementary and middle school students! They deserve to be safe on the streets!

Regards,
Sallie Trecek
220 Grosse Point Ave
Indialantic, FL 32903

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Wendy Kleefisch

A change of zoning classification from RU-1-11 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential), on 0.36 acres, located between Franklyn Ave. and Grosse Pointe, approx. 0.07 mile west of Highway A1A. (107 Franklyn Ave., Indialantic) (22Z00067) (Tax Account 2731680) (District 5)

Wendy Kleefisch, 107 Franklyn Avenue, Indialantic, stated she would like to rezone to multi-family, similar to the property to the east that was recently rezoned.

Public comment.

Kim Atkinson, 1145 Shannon Avenue, Indialantic, stated Franklyn Avenue is on the north side of the subject property, and Grosse Pointe is on the south side of the property, which is residential. She said if a fourplex is built and the access is from Franklyn Avenue it would not be a big deal, but if the entrance was on Grosse Pointe, that is all residential, and more traffic in the area it would ruin the feel. She said while properties to the east and north have some multi-family, the properties to the west do not.

Alena Knoepfler, 109 Franklyn Avenue, Indialantic, stated the applicant did not fully disclose what she would like to do with her property, which is surrounded by one-story single-family homes. She said she would like to know the next step, and she is not completely against it, but she is curious if there can be a win/win, because the request will affect the entire area.

Bruce Moia stated the property directly across Grosse Point is multi-family.

Ms. Kleefisch stated there is multi-family zoning throughout the area, and she is excited about the growth.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the change of zoning classification from RU-1-11 to RU-2-12.

Robert Sullivan stated the concerns from the speakers are that the area is all single-family all single-story, and asked if Ms. Kleefisch would continue with a single-story structure. Ms. Kleefisch replied she is not sure, because the property to the east was allowed three stories.

Mark Wadsworth called for a vote on the motion as stated, and it passed 9:1, with Mr. Sullivan voting nay.



Commissioner Rob Feltner, District 4

2725 Judge Fran Jamieson Way

Suite: C-214

Viera, FL 32940

Phone: (321) 633-2044

D4.Commissioner@Brevardfl.gov

March 20, 2023

To: Jennifer Jones

From: Rob Feltner, Brevard County Commissioner, District 4

Re: Meeting Disclosure – 22Z00067

Concerning **22Z00067** on the April 4, 2023 Brevard County Zoning meeting agenda; on March 9, 2023, Commissioner Feltner met with Ms. Alena Knoepfler in the District 4 Commission Office. The meeting lasted approximately 30 minutes. Ms. Knoepfler stated that she is for development and improvements; however, she does not want anything more than one story buildings in her neighborhood.



BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
COMMISSIONER JOHN TOBIA, DISTRICT 3

2539 Palm Bay Rd NE, Suite 4
Palm Bay, FL 32905
www.Brevardfl.gov

Phone: (321) 633-2075
Fax: (321) 633-2196
John.Tobia@Brevardfl.gov

April 4, 2023

To: Jennifer Jones
From: John Tobia, Brevard County Commissioner, District 3
Re: Meeting Disclosure

Ms. Jones,

Regarding the upcoming agenda item H.7 on the Brevard County Zoning meeting on April 6, 2023, please be advised in advance that I met with the following party in my district office on March 20, 2023.

Alena Knoepfler

The meeting lasted approximately thirty minutes, during which the above individual provided comments and concerns regarding the item.

Sincerely,

John Tobia
County Commissioner, District 3



District 3 Includes:

Palm Bay, Melbourne Beach, Melbourne, Malabar, Grant-Valkaria, West Melbourne, Micco



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.8.

4/6/2023

Subject:

Morris M. Taylor Revocable Living Trust (Chelsea Anderson) requests a change of zoning classification from SEU, EA, and BU-1-A to AU and BU-1-A. (23Z00001) (Tax Account 3008434) (District 3)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from SEU (Suburban Estate Use), EA (Environmental Areas), and BU-1-A (Restricted Neighborhood Commercial) to AU (Agricultural Residential) and BU-1-A.

Summary Explanation and Background:

The applicant is requesting to change the zoning classification from SEU, EA, and BU-1-A, to AU and BU-1-A to allow for the expansion of an Aquaculture Case II use on the current SEU portion of the parcel. The BU-1-A portion of the parcel will remain unchanged. There was a Conditional Use Permit for the use of Aquaculture Case II approved on the SEU portion of the parcel per zoning action Z-9871 on April 24, 1997. On March 19, 2002, Ordinance No. 02-014 removed the CUP use for Aquaculture Case II from the SEU zoning classification. On October 02, 2003, CUP Z-9871 was administratively removed from the parcel per zoning action Z-10847 (19). The subject parcel has continued as an established non-conforming Aquaculture Case II commercial use. The rezoning of the this property will allow for the expansion of the aquaculture use.

Aquaculture means the cultivation, production, and raising of the natural products of water, including associated activities such as landing, processing and transporting of shellfish. Case II Aquaculture is product is grown on site (i.e., hatchery or nursery) and transferred to the property owner's lease. On parcels having a commercial or industrial zoning classification, the product may also be sold to the customer directly from the site. Case II Aquaculture is permitted in the AU zoning classification.

The proposed 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 zoning 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 property is developed with a 2,156 square-foot single-family home and accessory structures for aquaculture use.

The subject property is bound by a 6.59 undeveloped parcel to the north with GML (Government Managed

Lands) zoning. To the east is Highway A1A. To the south is a 3.36-acre parcel developed with a single-family residence with SEU, BU-1-A and EA zoning.

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

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning and Development.

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

23Z00001

Morris M. Taylor Revocable Living Trust (Chelsea Anderson, Esq.)

SEU (Suburban Estate Use), EA (Environmental Areas) and BU-1-A (Restricted Neighborhood Retail Commercial) to AU (Agricultural Residential and BU-1-A (Restricted Neighborhood Retail Commercial)

Tax Account Number: 3008434

Parcel I.D.: 30-39-07-00-13

Location: West side of Highway A1A, approximately 1,885 feet north of River Oaks Road (District 3)

Acreage: 3 acres +/-

Planning and Zoning Board: 03/13/2023

Board of County Commissioners: 04/06/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	SEU, EA, BU-1-A	AU and BU-1-A
Potential*	1 unit	1 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 change the zoning classification from SEU (Suburban Estate Use), EA (Environmental Areas), and BU-1-A (Restricted Neighborhood Retail Commercial) to AU (Agricultural Residential and BU-1-A (Restricted Neighborhood Retail Commercial) to allow for expansion of an Aquaculture Case II use on the current SEU portion of the parcel. The BU-1-A portion of the parcel to remain BU-1-A. There was a Conditional Use Permit (CUP) for the use of Aquaculture Case II that was approved on the SEU portion of the parcel per zoning action **Z-9871** on April 24, 1997. On March 19, 2002, Ordinance **No. 02-014** removed the CUP use for Aquaculture Case II from the SEU zoning classification. On October 02, 2003, **CUP Z-9871** was administratively removed from the parcel per zoning action **Z-10847(19)**. The subject parcel has continued an established non-conforming Aquaculture Case II commercial use.

Section 62-1102. Definitions and rules of construction:

Aquaculture means the cultivation, production, and raising of the natural products of water, including associated activities such as landing, processing and transporting of shellfish. For the purposes of this chapter, aquaculture shall be divided into three categories:

Case I. Product is brought on-shore (landed) from a lease and transferred from that point to an off-site market.

Case II. Product is grown on site (i.e., hatchery or nursery) and transferred to the property owner's lease. On parcels having a commercial or industrial zoning classification as described below, the product may also be sold to the customer directly from the site.

Case III. Product is brought on-shore and then is further processed on site (depuration) before being transferred off site.

Aquaculture Case I and Case III are permitted in BU-2 or industrial classifications. Aquaculture, Case II is permitted in BU-1, BU-2 or industrial zoning classifications. All cases are permitted in AU, PA and AGR classifications.

The property is developed with a 2,156 sq. ft. single-family home and accessory structures for aquaculture use.

The original zoning of the subject property was GU (General Use). The parcel was rezoned to RU-3 (Multi-Family Residential) and BU-1 (Neighborhood Retail Business on the east 400 feet) on May 07, 1964 per zoning action **Z-1393**.

The RU-3 zoning on the parcel was Administratively replaced with the new zoning classification RU-2-10 (Medium-Density Multi-Family) in 1973 per Ordinance **73-13**.

The RU-2-10 portion of the parcel was Administratively rezoned from RU-2-10 to RU-2-4 (Low-Density Multi-Family) and the BU-1 portion to BU-1-A (Restricted Neighborhood Retail Commercial) on March 04, 1985 per zoning action **Z-6977**.

The parcel was rezoned from RU-2-4 and BU-1-A to SEU and BU-1-A on March 28, 1994 per zoning action **Z-9290**.

A CUP for Aquaculture Case II on the SEU zoned portion of the parcel was approved on April 24, 1997 per zoning action **Z-9871**.

On March 19, 2002, Ordinance **No. 02-014** removed the CUP use for Aquaculture Case II from the SEU zoning classification.

The parcel was denied a rezoned from SEU and BU-1-A to AU with a Binding Development Plan (BDP) with removal of existing CUP for Aquaculture Case II on February 07, 2002 per zoning action **Z-10668**.

The **CUP Z-9871** for Aquaculture Case II on the SEU zoned portion of the parcel was Administratively remove on October 02, 2003 per zoning action **Z-10847(19)**.

Land Use

The subject property is currently designated as Residential 1 (RES 1) FLU. Both the AU and BU-1-A zoning classifications may be considered consistent with the Residential 1 FLU designation.

Applicable Land Use Policies

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

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

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

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

Criteria:

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

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. AU zoning permits all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises, also permits the raising/grazing of animals, fowl and beekeeping. The agricultural/aquaculture commercial use would need to meet performance standards set forth in code sections 62-2251 through 62-2272 for hours of operation, lighting, odor, noise levels, traffic, or site activity.

- 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 historic land use pattern has been single-family homes built on lots of approximately two acres or more in size.

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.

It appears there has been no development approved within the last three years.

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

No material violation of relevant policies has been identified.

Analysis of 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.

The applicant proposes expanding the existing Aquaculture Case II use on the parcel. The commercial nature of the activity may impact the abutting parcels to the south with SEU zoning.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The area is established by existing developed parcels with established roads and river.

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 subject parcel has an established non-conforming Aquaculture Case II commercial use. The proposed request could be considered and introduction of AU zoning.

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.

The subject parcel has an established non-conforming Aquaculture Case II commercial use. The surrounding area is could be classified as residential on lots greater than one acre (1.0) and does not have commercial or industrial uses.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Vacant land	GML & EA	PUB-CONS
South	Single-Family	SEU, BU-1-A & EA	RES 1
East	Right-of-Way	none	none
West	River	none	none

The subject property is bounded by a 6.59 undeveloped parcel to the north with GML (Government Managed Lands) zoning. To the east is Highway A1A. To the south is a 3.36-acre parcel developed with a single-family residence with SEU, BU-1-A and EA zoning.

The existing SEU zoning permits suburban estate residential uses on lots of one acre (minimum) with a width of 125 feet and a depth of 200 feet. Minimum floor area is 2,000 square feet of living area.

The existing BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

The existing EA environmental area zoning classification recognizes the natural resource components as defined and provided for by the provisions of the Comprehensive Plan. The purpose of this classification is to conserve natural resource functions and features by retaining lands and waters in their pristine character and condition, but permit uses which are compatible with or which shall enhance or restore the functions and features of such natural resources. The EA classification permits single-family detached residential dwellings units and passive recreation. Minimum lot area is ten (10) acres with width and depth of 125 feet. This classification includes wetlands identified on the National Wetlands Inventory Maps, naturally formed or man-made islands and the dune beach.

The proposed 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 zoning classification also permits all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

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.

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

There are no agritourism activity currently within a 500 feet radius.

There are 11 single-family residences currently within a 500 feet radius.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway A1A between Strawberry Lane and 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 17.23% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to operate at 17.23% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is not service the Brevard County utilities service area for public water or sewer. The closest Brevard County sewer line is approximately 9.4 miles north of the parcel at the west end of Glengarry Avenue. The closest Brevard County water line is approximately 9.4 miles north of the parcel at the south end of MacFarlane Street.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Floodplain Protection
- Surface Waters of the State
- Coastal High Hazard Area
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #23Z00001

Applicant: Chelsea Anderson, Esq.

Zoning Request: SEU, EA, & BU-1-A to AU & BU-1-A

Note: Wants to expand aquaculture use on property.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 3008434

- 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 Protection
- Surface Waters of the State
- Coastal High Hazard Area
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees

Wetlands/Hydric Soils

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands along the property shoreline. Additionally, most of the parcel is mapped with hydric soils as shown on the USDA Soil Conservation Service Soils Survey map. These are indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design, or building permit submittal.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. 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's Office establishes Bona Fide Agricultural land classification. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Floodplain Protection

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

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class II Water, Outstanding FL Water (OFW), and Aquatic Preserve in this location. A 50-foot Surface Water Protection Buffer is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). The removal of native vegetation located within the Buffer shall be avoided. Temporary impacts to native vegetation require in-kind restoration. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming, and can be reached at (407) 897-4101. The applicant is encouraged to contact NRM at 321 633 2016 prior to any activities, plan, or permit submittal.

Coastal High Hazard Area

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

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.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped NWI wetlands (Estuarine and Marine Deepwater) along the property shoreline. Additionally, most of the parcel is mapped with hydric soils (Bessie muck, tidal, and Canaveral-Anclote complex, gently undulating) as shown on the USDA Soil Conservation Service Soils Survey map. These are indicators that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design, or building permit submittal.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. 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's Office establishes Bona Fide Agricultural land classification. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Floodplain Protection

Nearly the entirety of the parcel is mapped within the estuarine floodplain as identified by FEMA and as shown on the FEMA Flood Zones Map. FEMA SFHA VE is mapped along the shoreline, and SFHA AE on the uplands. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

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Coastal High Hazard Area

Nearly the entire property is located within the CHHA as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Palm Beach sand) as shown on the USDA Soil Conservation Service Soils Survey map. Canaveral-Anclote complex, gently undulating, may also function as aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

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

Protected and Specimen Trees

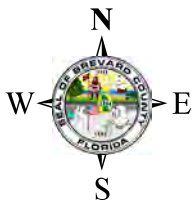
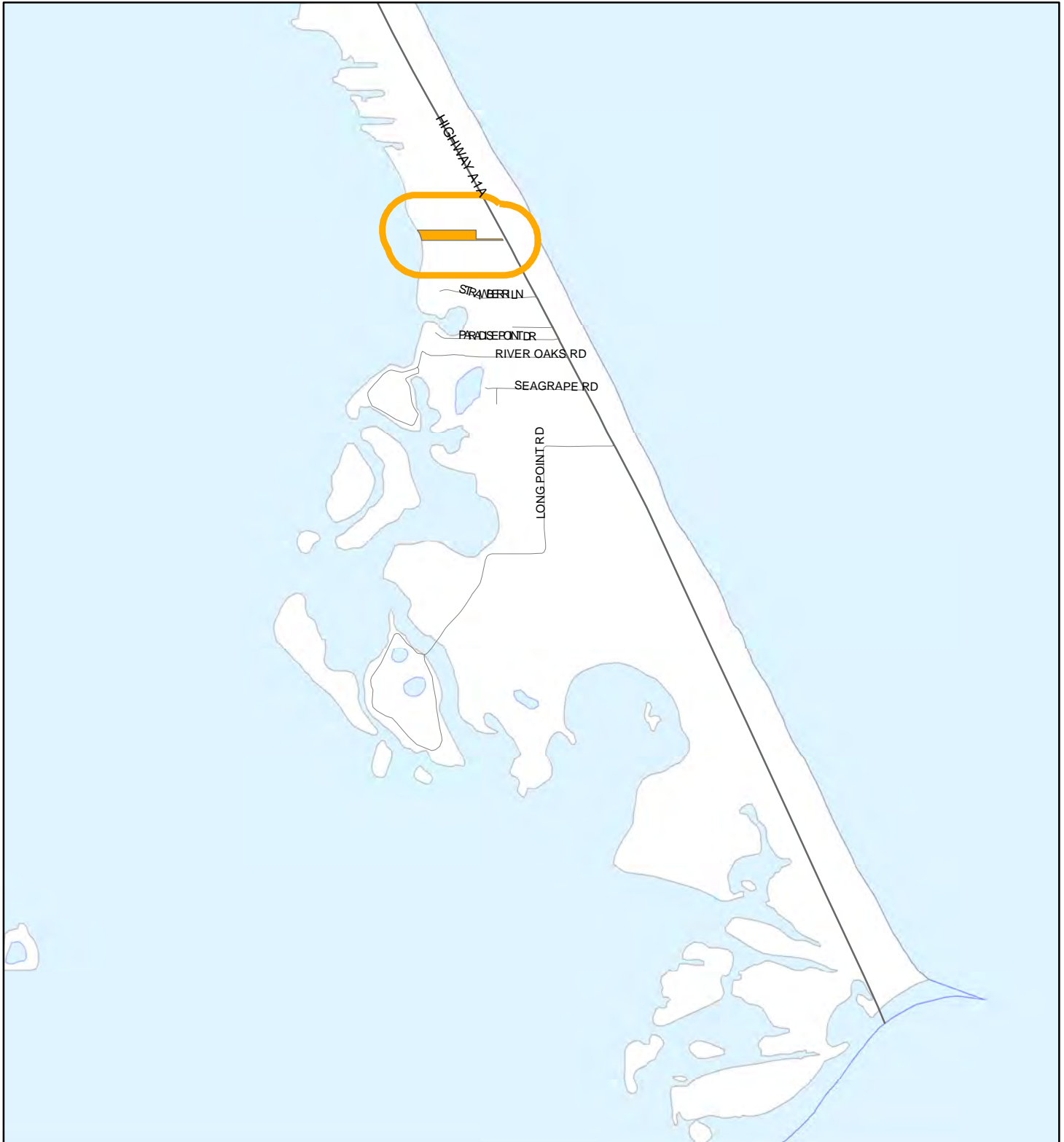
Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities 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.

Protected Species

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

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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

Buffer Distance: 500 feet

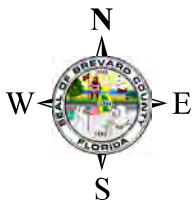
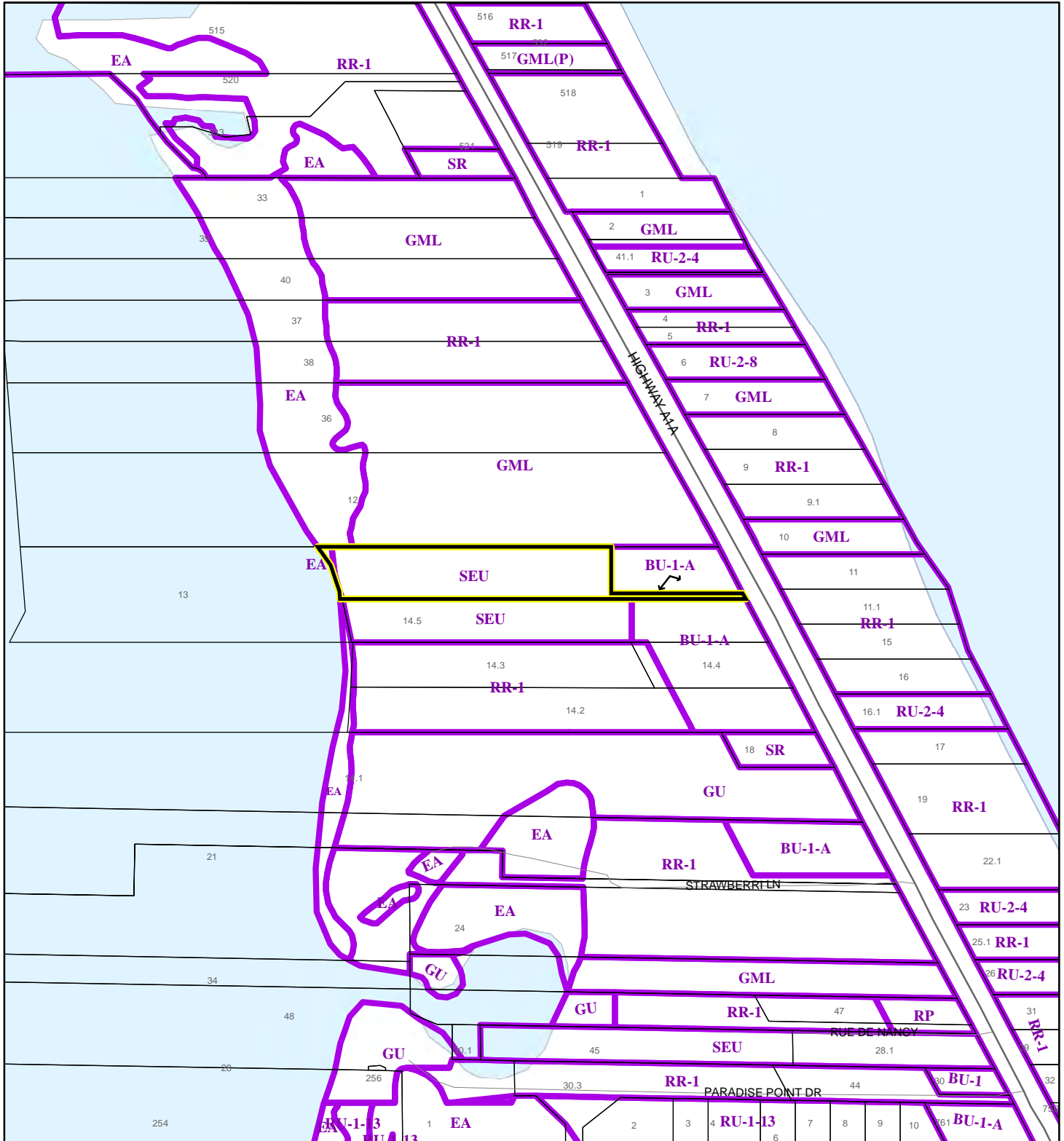
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/27/2023

— Buffer
— Subject Property

ZONING MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



1:4,800 or 1 inch = 400 feet

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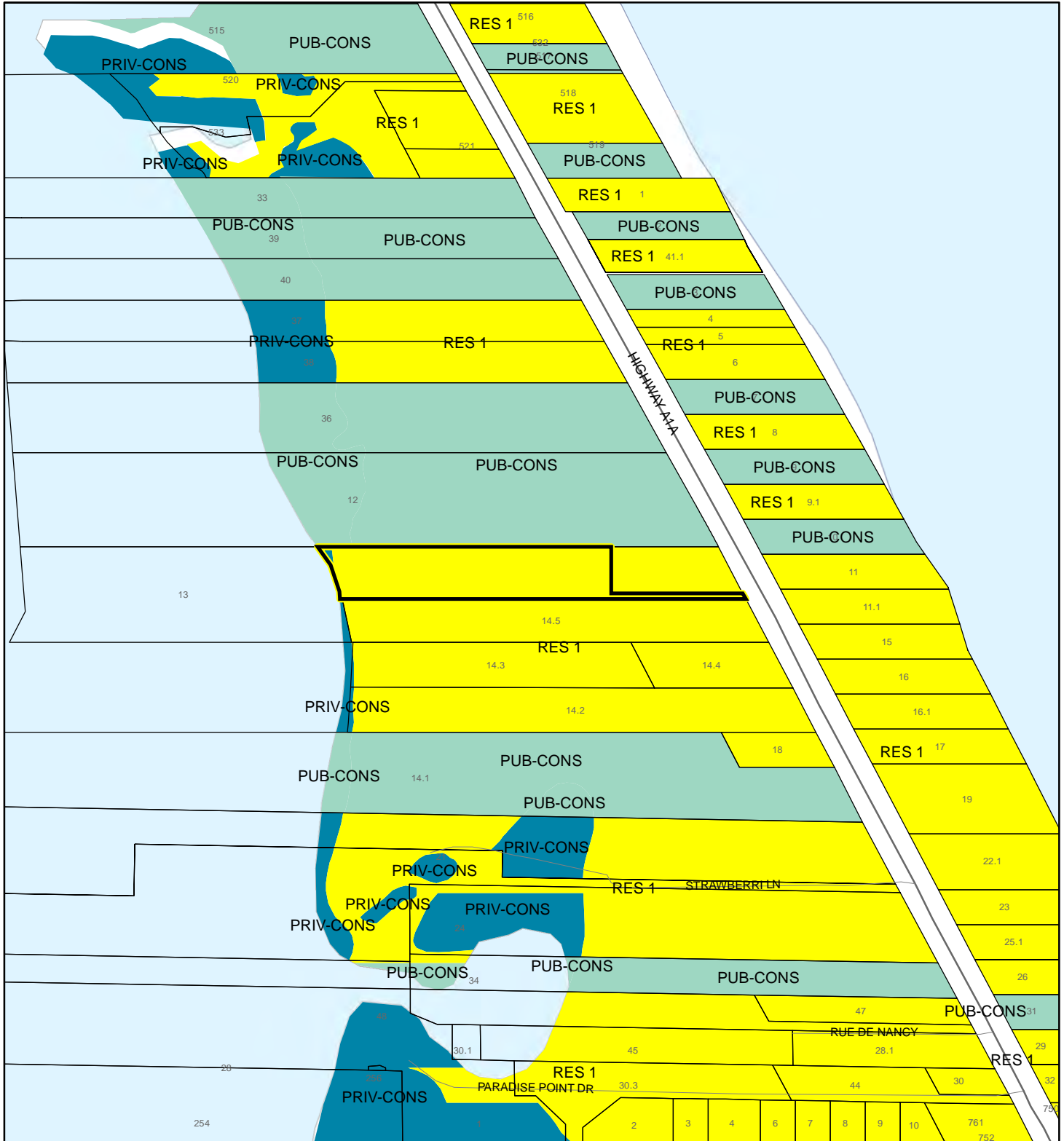
Produced by BoCC - GIS Date: 1/27/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020

23Z00001



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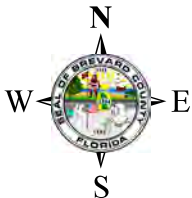
Subject Property
Parcels

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AERIAL MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

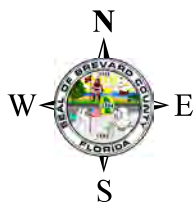
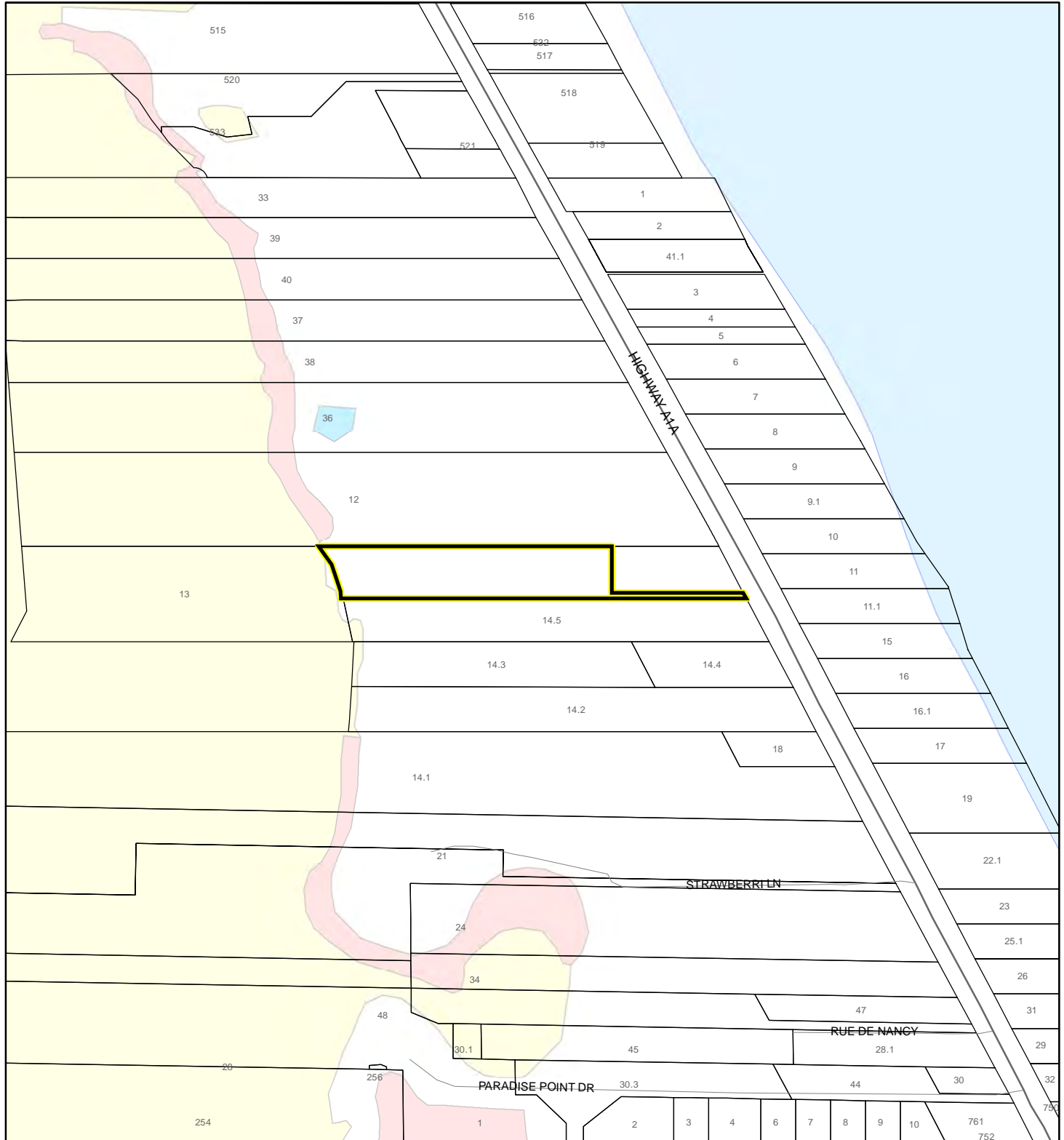
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-  Subject Property
-  Parcels

NWI WETLANDS MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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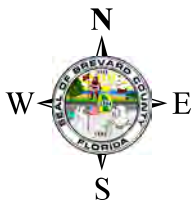
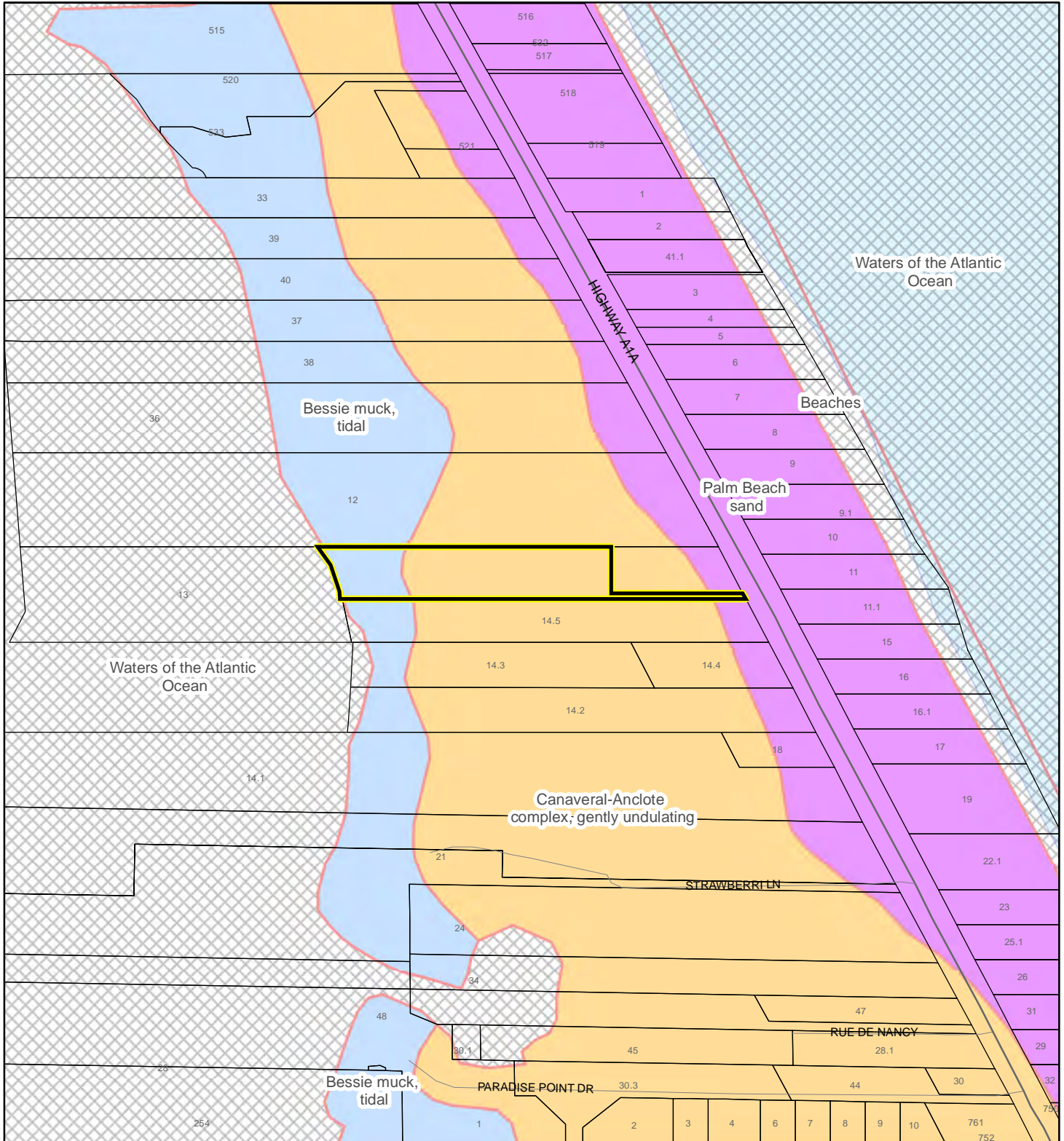
National Wetlands Inventory (NWI)

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

USDA SCSSS SOILS MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020

23Z00001



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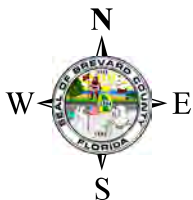
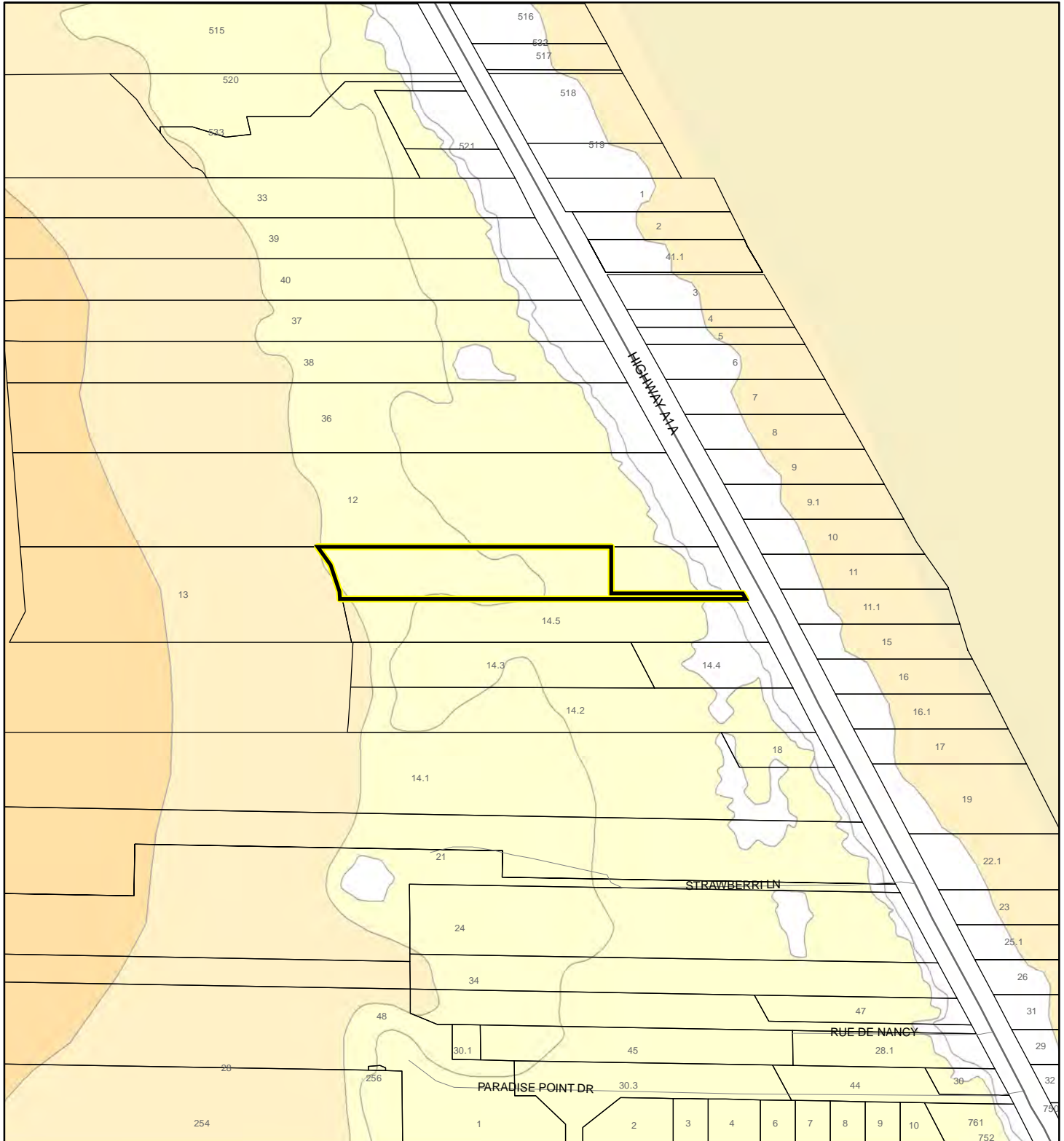
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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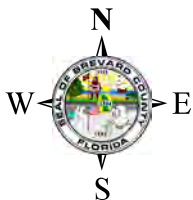
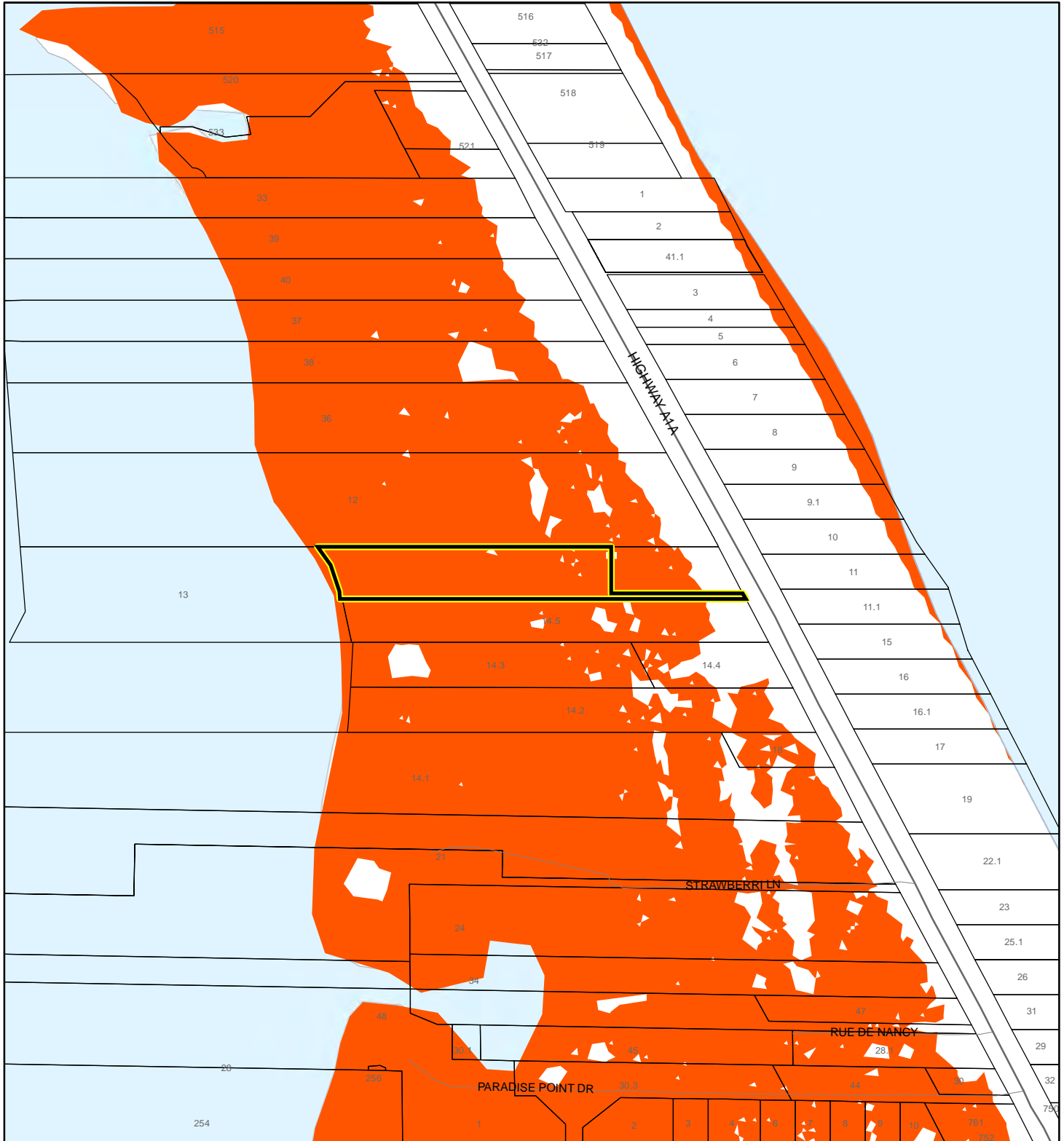
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020

23Z00001



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Produced by BoCC - GIS Date: 1/27/2023

 Subject Property

 Parcels

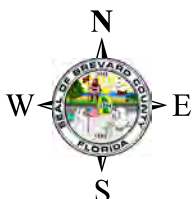
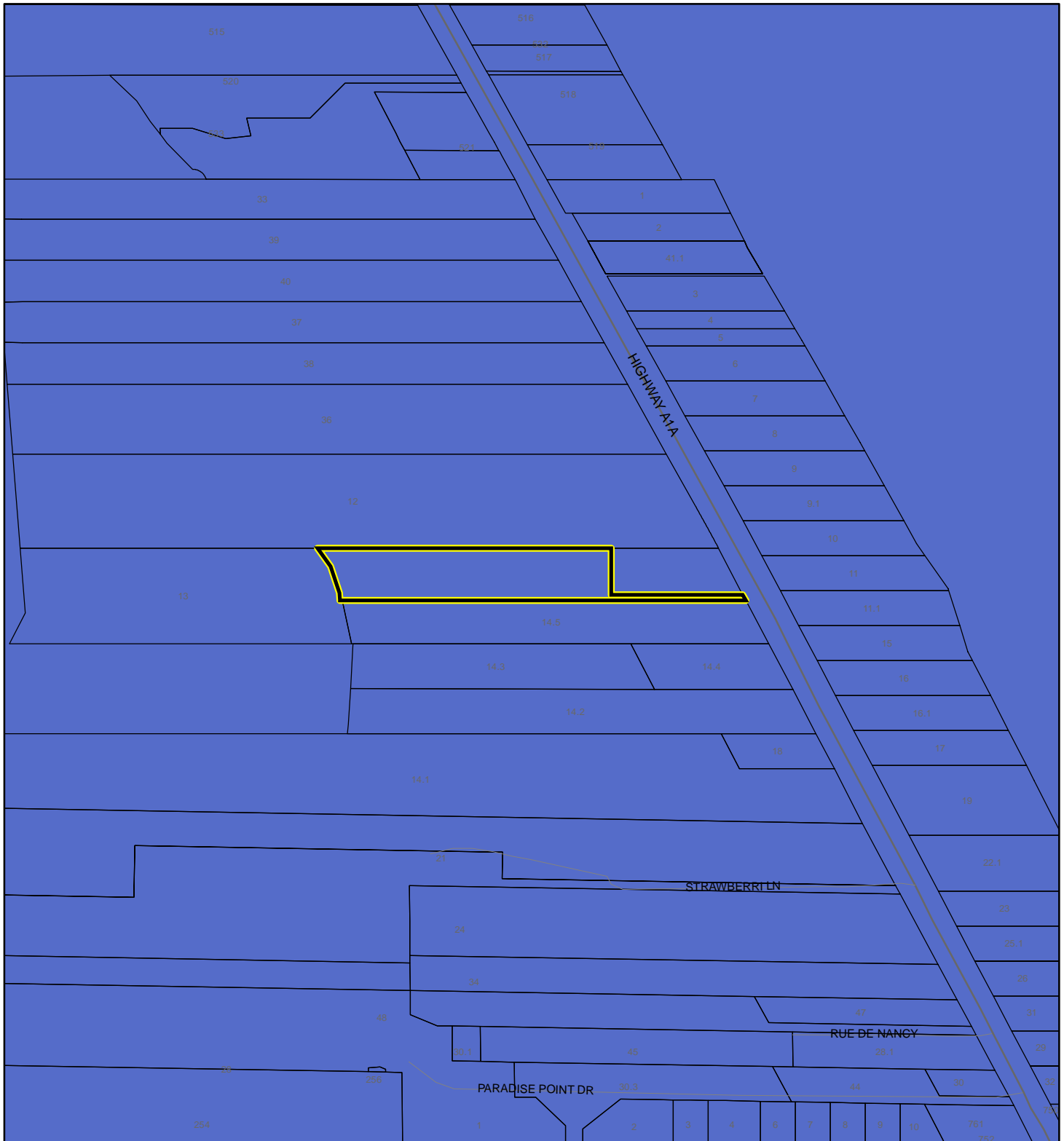
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020

23Z00001



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Produced by BoCC - GIS Date: 1/27/2023

 Subject Property

 Parcels

Septic Overlay

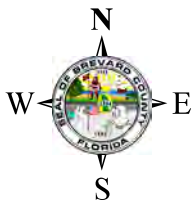
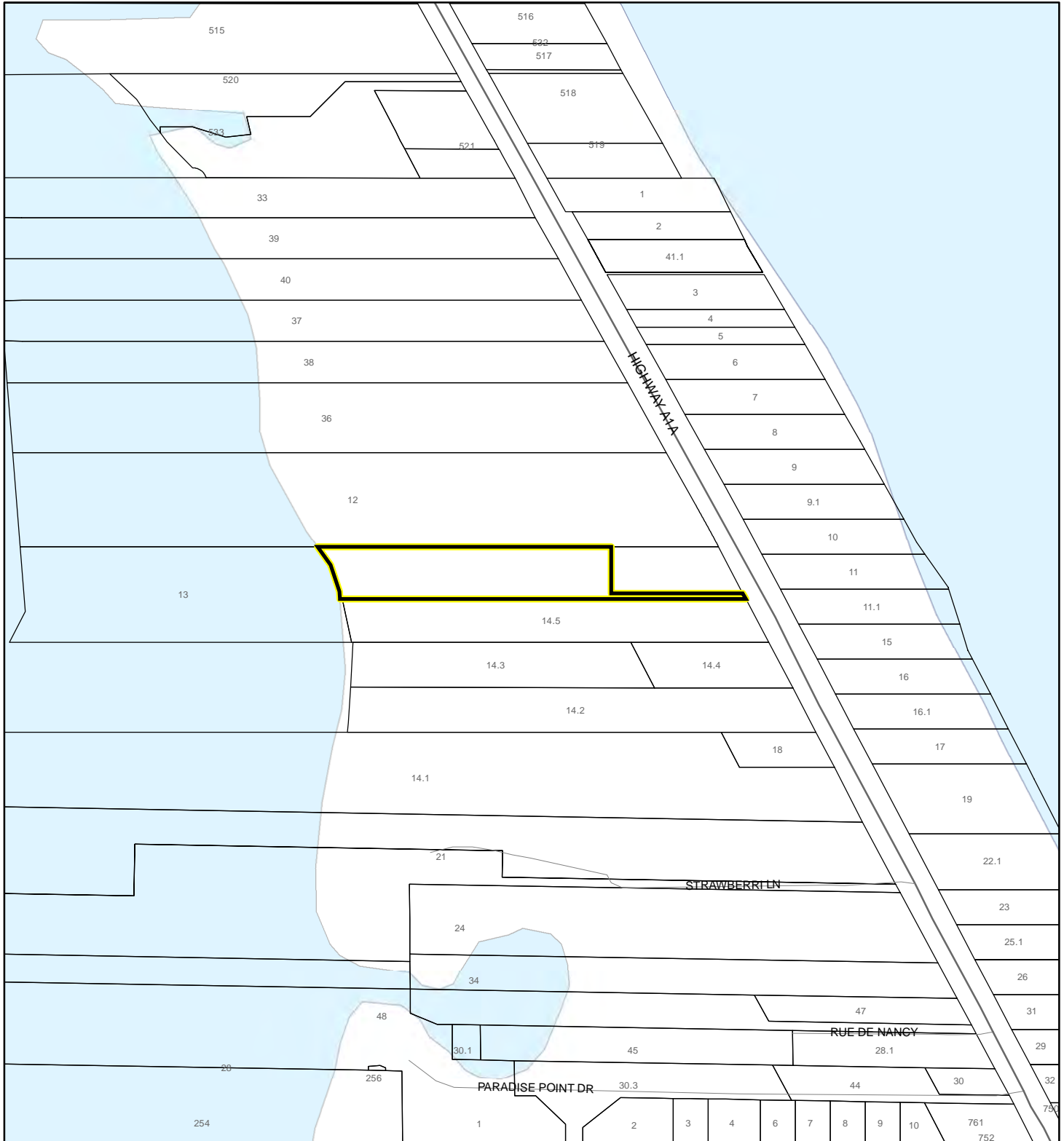
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



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 Subject Property

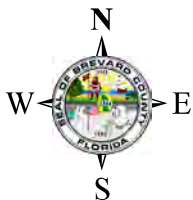
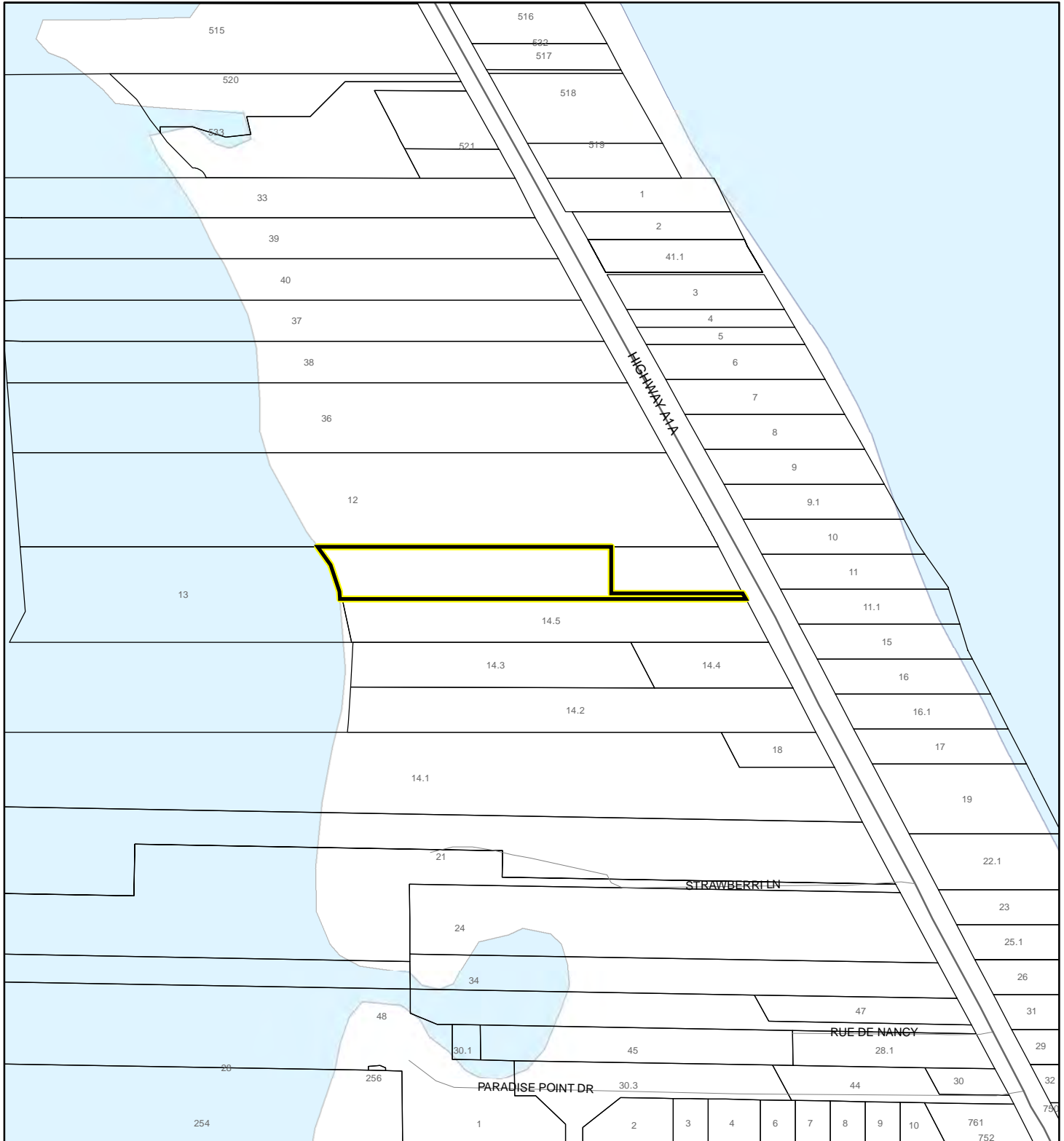
 Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020
23Z00001



1:4,800 or 1 inch = 400 feet

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

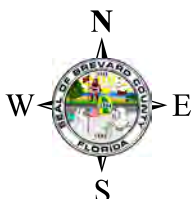
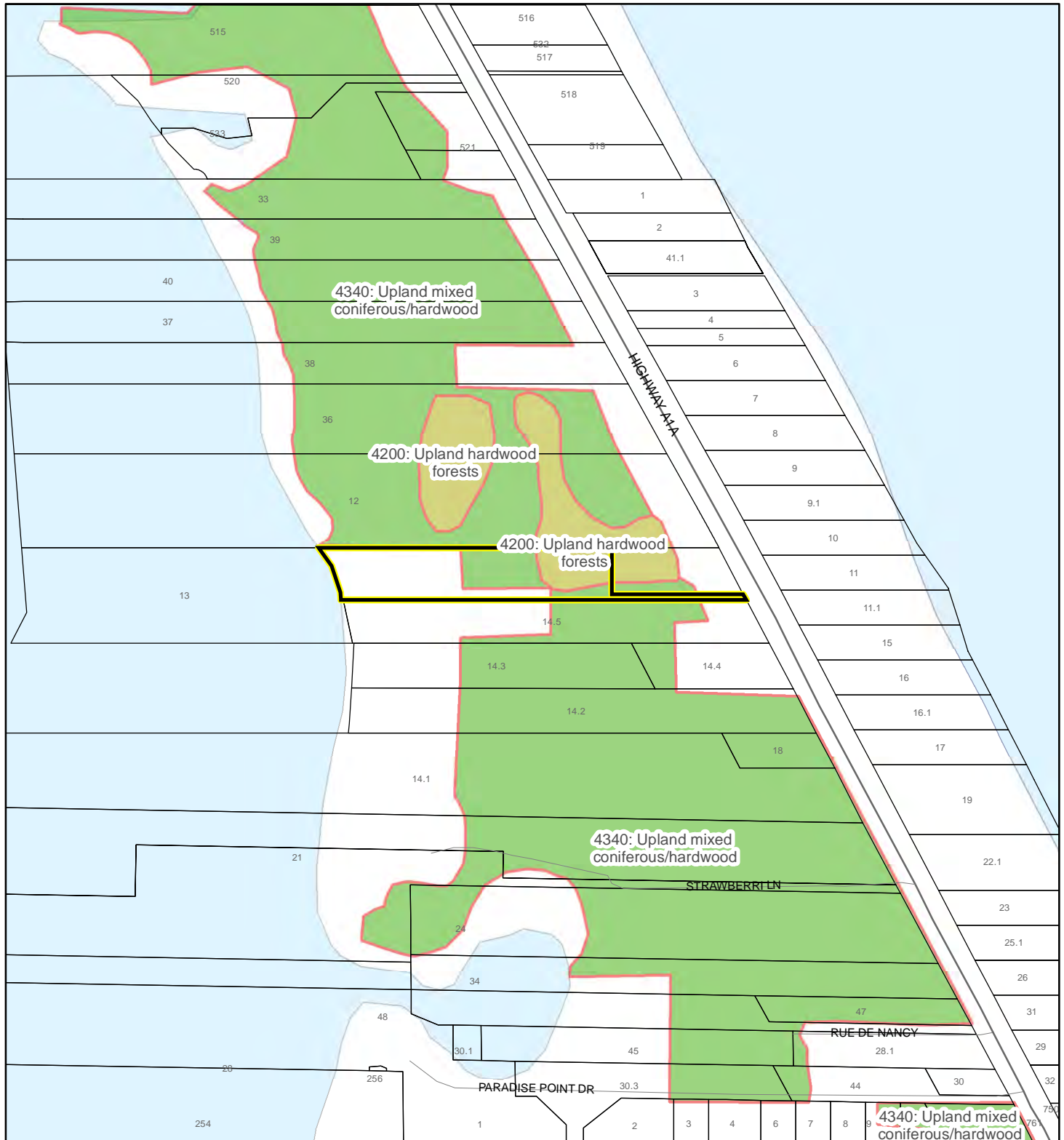
Produced by BoCC - GIS Date: 1/27/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MORRIS M TAYLOR, TRUSTEE of THE MORRIS M TAYLOR REVOCABLE LIVING TRUST u/t/d/ MARCH 4, 2020

23Z00001



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/27/2023

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

Ref: Taylor Property Rezoning

December 31, 2022

Brevard Planning and Zoning Board

Dear Board Members,

I write to you today in strong support of Mr. Ewan Leighton's request for a zoning change of the Taylor property located in Melbourne Beach. As you may be aware, over the last few years the myriad efforts to restore the Indian River Lagoon have made great progress using shellfish for the improvement of water quality. Specifically, hard clams have been exceptionally successful in this approach and the demand for clam production by licensed and qualified commercial producers has skyrocketed. However, state laws delineate specific areas in which this type of aquaculture can occur and unfortunately, the number of suitable locations in the IRL is severely limited. Further, the recent closure of a large-scale clam nursery facility at Harbor Branch Oceanographic Institute in Ft. Pierce has significantly reduced the capacity for clam seed production on the East Coast of Florida (both for restoration and commercial seafood production). Many current and planned restoration projects in the IRL utilize clams to a great extent and I have been working with Mr. Leighton to increase clam production in an effort to bolster projects and reduce costs by growing clams that will be utilized locally. It is my understanding that the Taylor property is a rarity as it is suitable by standards set forth by the Florida Department of Agriculture and Consumer Services making it an ideal location to conduct clam nursery and aquaculture activities. My collaborators and I at the Indian River Clam Restoration Project are proud to support Mr. Leighton's request and ultimately his efforts to help solve the environmental issues faced by the Indian River Lagoon. If I can be of any service to you in the decision making process, please do not hesitate to contact me by one of the means below.

Sincerely,



Todd Z. Osborne, Ph.D.

Associate Professor

Soil, Water and Ecosystem Sciences Department

Whitney Laboratory for Marine Bioscience

University of Florida

osbornet@ufl.edu

352-256-3826

9505 N Ocean Shore Blvd.

St. Augustine, FL 32080

GRETCHEN KELLY
Executive Director

DENNIS DAVID
Chair
New Smyrna

TOM McCRUDDEN
Secretary
Tequesta, Florida

CURT HEMMEL
Treasurer
Terra Ceia, Florida

ANDY ARNOLD
Carrabelle

ROSE CANTWELL
Cedar Key

HEATH DAVIS
Cedar Key

TYLER HEEB
St. James City

TIM JORDAN
Panacea

ERIN MCGUIRE
Crawfordville

DON McMAHON
Pensacola

DAN SOLANO
Cedar Key

DJ STROTT
Tampa

To The Brevard County Planning and Zoning Board of Directors,

The Florida Shellfish Aquaculture Association (FSAA) is writing to you in support of rezoning The Taylor property in Melbourne Beach, FL. Our mission is to share best practices, inform policy makers and regulators, and seek funding for research that can improve our productivity and product safety in Florida shellfish aquaculture. In this pursuit, we are encouraged to see Ewan Leighton's innovative efforts to expand production, work in tandem with our cause for the betterment of Florida's economy and ecosystem .

The FSAA supports the growth of shellfish production in Florida for commercial purposes and environmental benefits. As the United States is seeing a 90% seafood trade deficit, shellfish act as an opportunity for American farmers to help reverse that percentage. In recent years, there has been growing scientific evidence of the key role shellfish play in providing ecosystem benefits to our nearshore marine environment. Efforts to produce more seed will aid in the many new and ongoing restoration projects across the state of Florida.

For these reasons, we certainly encourage the necessary growth of bivalve production at the hatchery level. Its importance cannot be overstated. Ewan Leighton is a member of the FSAA and we hope that you consider and support the request of a zoning change of the Taylor property in Melbourne Beach, FL. Please do not hesitate to reach out with any questions.

Sincerely,

Gretchen Kelly

Gretchen Kelly
Executive Director
gretchenkellyfsaa@gmail.com

CEDAR KEY SEAFOOD DISTRIBUTORS, INC.

PO Box 979

Cedar Key, FL 32625

Lori Schleede, President 352-221-0572

John F. Schleede, Vice President 352-221-5656

12/30/2022

To whom it may concern:

I am writing to express my concern and support of the rezoning of the Taylor Property in Melbourne Beach to AU (Agriculture.) The shellfish hatchery has been operating on the Taylor property for +/- 20 years. This is one of very few remaining hatcheries that supports the farmed clam industry in the state of Florida.

This industry is already stressed due to weather events, hatcheries closing, limited supply and high demand. The remaining hatcheries are currently operating at maximum capacity, trying to supply our industry, as well as support waterway restoration. Assurance to secure this property as agricultural is essential to aqua culturalists, their supporting industries, and water quality projects .

The farmed clam industry affects 275 farmers and 1500 employees directly. As a \$35,000,000 industry, hatcheries are essential, without one, the other will fail. For that reason, this is so important. Our industry needs your support.

Feel free to contact me at any time to discuss this issue. I have been in Cedar Key since 1997. Prior to that time, I was a resident of Melbourne Beach. As a grower and wholesaler, I am fully aware of the impact shellfish hatcheries have on our industry and the wellbeing of the Indian River Lagoon.

Sincerely,



Lori Schleede, President CEO



P.O. Box 725
Cedar Key, FL 32625
(O): 352-543-6346
(C): 352-215-6341
cantwellrr@bellsouth.net

December 29, 2022

To Whom It May Concern,

We are writing to you at this time in hopes of your willingness to visit a rezone request from The Taylor Property in Melbourne, Florida. The request pertains to the current property in hopes of enlarging the clam hatchery facility. By enabling The Taylor Property to rezone it would also enable the expansion of an already existing clam hatchery. This expansion would be a tremendous asset to our industry now and to our future. Currently our industry which is composed of over 200 certified clam farmers is in dire needs of having more opportunities for clam seed and this request would secure that issue.

As an industry we have been faced with numerous setbacks, such as BP Oil Spill, hurricanes, Red Tide etc. Those issues unfortunately deal with Mother Nature which we can't control however expanding a hatchery is something that is not Mother Nature related. Unfortunately, our large industry currently is at the mercy of 2-4 local clam hatcheries to purchase seed from. We have lost some major players in the recent past, one big issue has been to restoration projects. Which don't get us wrong that is definitely a direction we are very supportive of, but we also need hatcheries to substantiate our farmers to fill their immediate and future needs with clam seed. This year we lost one of our largest hatcheries Seaventure Clams, and we are all feeling the pain and need a "life line"

Please consider Mr. Leighton's request for rezoning and in turn expanding. This would certainly be the answer we all as an industry need to move forward with ease.

Thank you for your time with this matter. If you have any questions, please feel free to contact us at 352-215-6341 or cantwellrr@bellsouth.net.

Regards,

Rosanne Cantwell (President)
Dog Island Blues Clam Co., Inc.
P.O. Box 725
Cedar Key, FL 32625
352-215-6341

1-4-23

Brevard County Office of Planning and Zoning

Mark E. Headley

8894 South A1A Highway

Melbourne Beach, FL 32951

To whom it may concern: This communication is from Mark E. Headley. My home is located at 8894 South A1A Highway in Melbourne Beach, Brevard County Florida. The Parcel I.D. # on my property is 30-39-07-00-14.3. The Tax Account # is 3008434. It is Homesteaded property.

This message is to voice my approval and encouragement of my neighbor, Morris M. Taylor, in his effort to rezone his SEU property located at 8850 South A1A in Melbourne Beach, Brevard County, Florida to AU (Agricultural/Residential.) I understand this effort is in furtherance of a desire to increase production of bivalves to seed in the Indian River Lagoon. I understand also that this is part of a State/private program to use shellfish to begin the process of cleaning a badly damaged waterway in an ecologically sustainable manner.

Again, as a property owner adjacent to the proposed land use alteration, I repeat my wholehearted endorsement of this project.

A handwritten signature in black ink, appearing to read 'Mark E. Headley', written in a cursive style.

Mark E. Headley





UF/IFAS Extension
Shellfish Aquaculture Extension Program

PO Box 89
Cedar Key, FL 32625
352-543-5057
Lnst@ufl.edu

January 4, 2023

To Whom It May Concern:

I am writing this letter in support of a request being made by Max Taylor and Ewan Leighton, owners and operators of a molluscan shellfish hatchery located in Melbourne Beach, Florida, to change zoning of the hatchery property from residential to agricultural. The hatchery facility maintains an Aquaculture Certificate of Registration from the Florida Department of Agriculture and Consumer Services, Division of Aquaculture and meets the agency's best management practices as defined in Chapter 5L-3, F.A.C. The Certificate authorizes production and sale of aquaculture products, identifies aquaculture products as cultured products, and entitles the producer to the same benefits bestowed on other agricultural producers.

As aquaculture production of shellfish, in particular hard clams, has increased throughout the state over the past 40 years, the demand for seed has likewise increased. There are over 250 certified shellfish growers who are dependent on a handful of private hatcheries producing from 400-500 million clam seed annually. Unfortunately, the number of hatcheries has not increased. With the closing last year of a large facility located at Harbor Branch Oceanographic Institute, seed supply will most likely not meet the demand. This hatchery has been in operation in Brevard County since 2000 and must expand to meet the current seed demand.

The clam aquaculture industry actually began in Brevard County in the 1980s as a result of a declining fishery. Today, the industry is centered along the north Gulf coast as the impaired waters of the Indian River Lagoon no longer support optimal production. This hatchery operates using highly filtered water to maintain the necessary water quality.

Clams are now being used for restoration efforts in the IRL, particularly for water quality improvement. Mollusks are filter feeders and have the capacity to reduce sediment loads, turbidity, and excess nutrients from the waters in which they are grown. Projects such as the Indian River Clam Restoration Project are using clams as natural biofilters and have out planted over 11 million clams in the Lagoon since 2019. In collaboration with the Brevard Zoo, a new clam gardener program has established 100 clam growout sites within Brevard County that are being monitored by citizen scientists. All of these efforts require hatchery-produced seed, thus increasing the overall demand for seed.

For these reasons, Mr. Taylor and Mr. Leighton would like approval of a land use change for their shellfish hatchery, an aquaculture facility which has minimal environmental impact.

Sincerely,

Leslie Sturmer
Shellfish Aquaculture Extension Specialist

GRETCHEN KELLY
Executive Director

DENNIS DAVID
Chair
New Smyrna

TOM McCRUDDEN
Secretary
Tequesta, Florida

CURT HEMMEL
Treasurer
Terra Ceia, Florida

ANDY ARNOLD
Carrabelle

ROSE CANTWELL
Cedar Key

HEATH DAVIS
Cedar Key

TYLER HEEB
St. James City

TIM JORDAN
Panacea

ERIN MCGUIRE
Crawfordville

DON McMAHON
Pensacola

DAN SOLANO
Cedar Key

DJ STROTT
Tampa

To The Brevard County Planning and Zoning Board of Directors,

The Florida Shellfish Aquaculture Association (FSAA) is writing to you in support of rezoning The Taylor property in Melbourne Beach, FL. Our mission is to share best practices, inform policy makers and regulators, and seek funding for research that can improve our productivity and product safety in Florida shellfish aquaculture. In this pursuit, we are encouraged to see Ewan Leighton's innovative efforts to expand production, work in tandem with our cause for the betterment of Florida's economy and ecosystem .

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For these reasons, we certainly encourage the necessary growth of bivalve production at the hatchery level. Its importance cannot be overstated. Ewan Leighton is a member of the FSAA and we hope that you consider and support the request of a zoning change of the Taylor property in Melbourne Beach, FL. Please do not hesitate to reach out with any questions.

Sincerely,

Gretchen Kelly

Gretchen Kelly
Executive Director
gretchenkellyfsaa@gmail.com

CEDAR KEY SEAFOOD DISTRIBUTORS, INC.

PO Box 979

Cedar Key, FL 32625

Lori Schleede, President 352-221-0572

John F. Schleede, Vice President 352-221-5656

12/30/2022

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This industry is already stressed due to weather events, hatcheries closing, limited supply and high demand. The remaining hatcheries are currently operating at maximum capacity, trying to supply our industry, as well as support waterway restoration. Assurance to secure this property as agricultural is essential to aqua culturalists, their supporting industries, and water quality projects .

The farmed clam industry affects 275 farmers and 1500 employees directly. As a \$35,000,000 industry, hatcheries are essential, without one, the other will fail. For that reason, this is so important. Our industry needs your support.

Feel free to contact me at any time to discuss this issue. I have been in Cedar Key since 1997. Prior to that time, I was a resident of Melbourne Beach. As a grower and wholesaler, I am fully aware of the impact shellfish hatcheries have on our industry and the wellbeing of the Indian River Lagoon.

Sincerely,



Lori Schleede, President CEO



P.O. Box 725
Cedar Key, FL 32625
(O): 352-543-6346
(C): 352-215-6341
cantwellrr@bellsouth.net

December 29, 2022

To Whom It May Concern,

We are writing to you at this time in hopes of your willingness to visit a rezone request from The Taylor Property in Melbourne, Florida. The request pertains to the current property in hopes of enlarging the clam hatchery facility. By enabling The Taylor Property to rezone it would also enable the expansion of an already existing clam hatchery. This expansion would be a tremendous asset to our industry now and to our future. Currently our industry which is composed of over 200 certified clam farmers is in dire needs of having more opportunities for clam seed and this request would secure that issue.

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Please consider Mr. Leighton's request for rezoning and in turn expanding. This would certainly be the answer we all as an industry need to move forward with ease.

Thank you for your time with this matter. If you have any questions, please feel free to contact us at 352-215-6341 or cantwellrr@bellsouth.net.

Regards,

Rosanne Cantwell (President)
Dog Island Blues Clam Co., Inc.
P.O. Box 725
Cedar Key, FL 32625
352-215-6341

January 5, 2023

Brevard County Office of Planning & Zoning
2725 Judge Fran Jamieson Way
Viera, FL 32940

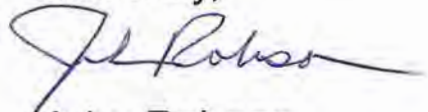
To Whom It May Concern,

I am writing to express my support and approval for the rezoning of the property at 8850 S. Highway A1A, Melbourne Beach, FL 32951 from the current SEU designation to an Agricultural (AU) designation. With the continuing rapid development of properties on and near the Indian River Lagoon contributing to its disastrous demise, it is vital to give relief to properties being used to bring health back to the Lagoon.

I understand that the property at 8850 is already being used to produce bivalves to be seeded in the Lagoon as a part of the State/Private program to use shellfish to rehabilitate the lagoon in an ecologically sustainable manner. However, the Agricultural designation is necessary to allow the property owner, Morris M. Taylor, to substantially increase his investment and expand the bivalve facility to become a more important contributor in the fight to save the Lagoon.

As a neighbor of the property at 8850, I believe they are leading the way in demonstrating how local residents can have a positive effect on the Lagoon ... before it is too late.

Sincerely,



John Robson
8898 S. Highway A1A
Melbourne Beach, FL

1-4-23

Brevard County Office of Planning and Zoning

Chris Sutton

8888 South A1A Highway

Melbourne Beach, FL 32951

To whom it may concern: This communication is from Chris Sutton. I am the Authorized Agent for Lisa A. Sagun. Her property is located at 8888 South A1A Highway in Melbourne Beach, Brevard County Florida. The Parcel I.D. # on this property is 30-39-07-00-14.5. The Tax Account # is 3009706.

This message is to voice my approval and encouragement of my neighbor, Morris M. Taylor, in his effort to rezone his SEU property located at 8850 South A1A in Melbourne Beach, Brevard County, Florida to AU (Agricultural/Residential.) I understand this effort is in furtherance of a desire to increase production of bivalves to seed in the Indian River Lagoon. I understand also that this is part of a State/private program to use shellfish to begin the process of cleaning a badly damaged waterway in an ecologically sustainable manner.

Again, as a property owner adjacent to the proposed land use alteration, I repeat my wholehearted endorsement of this project.

Chris Sutton

A handwritten signature in black ink that reads "Chris Sutton". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Morris M. Taylor Revocable Living Trust (Chelsea Anderson)

A change of zoning classification from SEU (Suburban Estate Use Residential), EA (Environmental Area), and BU-1-A (Restricted Neighborhood Commercial), to AU (Agricultural Residential) and BU-1-A, on 3 acres +/-, located on the west side of Highway A1A, approx. 0.36 mile north of River Oaks Rd. (8850 Highway A1A, Melbourne Beach) (23Z00001) (Tax Account 3008434) (District 3)

Chelsea Anderson, 1530 U.S. Highway 1, Rockledge, stated the purpose of the rezoning is to allow the expansion of the existing clam hatchery use on the property with the intent of supplying clam seed for the Indian River Lagoon clam restoration efforts. The property has been continuously used for aquaculture and agricultural uses for over 30 years, and the uses are established as non-conforming, which cannot be expanded or enlarged without a rezoning. The change in zoning would allow a small expansion to have a huge beneficial impact on the county. She stated the property is the last privately owned clam hatchery in the county, and currently there is no insulation, which is one of the factors that determines production. All of the seed being produced currently is fulfilling obligations to the State aquaculture industry. She stated the Save Our Indian River Lagoon Project Plan has allocated funding to stimulate clam aquaculture in Brevard County. She said there are several Comprehensive Plan policies that the hatchery would be in furtherance of, and the Coastal Management Element Policy 5.15 states that during rezonings, the County should give immediate shoreline use priority to water dependent uses, including shellfish production.

No public comment.

Morris "Max" Taylor, 8850 Highway A1A, Melbourne Beach, stated his parents bought the property in the early 1960's after searching the south beaches looking for agricultural land that was high and dry. He said there is an existing grove on the property consisting of avocado, mango, leche, macadamia nuts, and cherries. He stated the Lagoon is under attack, and one of the things they have done with the clam operation is put in a water purification system, which is the only one remaining in Brevard, and one of only three on the entire east coast. He said they are trying to produce more clams; they have been supplying clams to commercial growers for over 20 years and are at capacity, and they would like to continue to supply to the farmers as well.

Motion by Robert Sullivan, seconded by Debbie Taylor, to approve the change of zoning classification from SEU, EA, and BU-1-A to AU and BU-1-A. The motion passed unanimously.

Morris “Max” Taylor
8850 S. Highway A1A
Melbourne Beach, FL 32951
gypsyscribe.max@gmail.com

March 15, 2023

Commissioner Rita Pritchett
Brevard County Board of County Commissioners, District 1
7101 S Highway 1
Titusville, Florida 32780
D1.Commissioner@BrevardFL.gov

RE: Rezoning Application 23Z00001
8850 S. Highway A1A, Melbourne Beach, FL 32951 (District 3)

Dear Commissioner Pritchett:

I am the owner of the property at 8850 S. Highway A1A, Melbourne Beach, FL 32951 located about two miles north of Sebastian Inlet. On March 13, 2023, the Brevard County Planning and Zoning Board unanimously recommended approval of my rezoning request 23Z00001 to rezone a portion of my property from SEU and EA to AU so that I can modernize the existing clam hatchery on my property. This rezoning is scheduled for the April 6th Commission meeting.


With the modernization of the hatchery, I will be able to supply clam seed to use in the Indian River Lagoon clam restoration efforts. The clam seed we will produce for restoration efforts will be dispersed over the entire lagoon system and will be beneficial to all five of the Commission Districts as they all border sections of the Indian River Lagoon.

As you are probably aware, the Indian River Lagoon is in failing health as a result of pollution carried by runoff. You may not be aware that a concerted effort is underway to reintroduce clams into the lagoon to filter out some of this pollution. As the owner of the only clam hatchery/nursery in Brevard County, I have been approached to participate in this effort.

As my facility is currently at production capacity as an established non-conforming use, I need to streamline and consolidate my operations. To accomplish this, I must rezone a portion of the property to AU which allows the Aquaculture Case II use. As most of my neighbors don't even know we have been producing clams on my property for over 20 years, there is currently no impact on the community and there will be none in the future.

The reason I am writing this personal note is to provide some background information on the request and the huge beneficial impact it could have on Brevard County as a whole. My hope is that this letter will prompt you to contact me if you have any concerns or questions.

Sincerely,



M. M. (Max) Taylor

cc: Chelsea Anderson, Esq. (canderson@mangrovelegal.com)
Ewan Leighton (ewan191@gmail.com)



Commissioner Rob Feltner, District 4

2725 Judge Fran Jamieson Way

Suite: C-214

Viera, FL 32940

Phone: (321) 633-2044

D4.Commissioner@Brevardfl.gov

March 30, 2023

To: Jennifer Jones

From: Rob Feltner, Brevard County Commissioner, District 4

Re: Meeting Disclosure – 23Z00001

Concerning **23Z00001** on the April 6, 2023, Brevard County Zoning meeting agenda; on March 28, 2023, Commissioner Feltner met with Mr. Morris "Max" Taylor, Ms. Chelsea Anderson, Esq. and Mr. Ewan Leighton in the District 4 Commission Office. The meeting lasted approximately 25 minutes. Subject of the discussion was the clam hatchery.

A handwritten signature in blue ink, appearing to read 'Rob Feltner', is written below the text.



BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
COMMISSIONER JOHN TOBIA, DISTRICT 3

2539 Palm Bay Rd NE, Suite 4
Palm Bay, FL 32905
www.Brevardfl.gov

Phone: (321) 633-2075
Fax: (321) 633-2196
John.Tobia@Brevardfl.gov

April 4, 2023

To: Jennifer Jones
From: John Tobia, Brevard County Commissioner, District 3
Re: Meeting Disclosure

Ms. Jones,

Regarding the upcoming agenda item H.8 on the Brevard County Zoning meeting on April 6, 2023, please be advised in advance that I met with the following parties in my district office on March 15, 2023.

Max Taylor
Ewan Leighton
Chelsea Anderson

The meeting lasted approximately thirty minutes, during which the above individuals provided information regarding the item.

Sincerely,

John Tobia
County Commissioner, District 3



District 3 Includes:

Palm Bay, Melbourne Beach, Melbourne, Malabar, Grant-Valkaria, West Melbourne, Micco

District 2 Disclosures
4/6/2023 BOCC Zoning Meeting

H.8. Morris M. Taylor Revocable Living Trust (Chelsea Anderson) requests a change of zoning classification from SEU, EA, and BU-1-A to AU and BU-1-A. (23Z00001) (Tax Account 3008434) (District 3)

- Between 2/28/2023 and 3/29/2023, there are several email exchanges with Chelsea Anderson requesting to meet with the Commissioner; providing information for the rezoning and how it would benefit the County as a whole due to the Indian River Lagoon clam restoration efforts it would support;
- On 3/14/2023, D2 office called UF/IFAS University of Florida and spoke with Leslie Sturmer with the Shellfish Aquaculture Extension Program to obtain additional information.
- On 3/15/2023, received email from Leslie Sturmer regarding shellfish leases in Brevard County, statewide leases, and further information about the shellfish aquaculture industry in Florida, and provided links to some of the data.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.9.

4/6/2023

Subject:

Thomas A. Metzger; Alan and Grace Metzger request a change of zoning classification from RR-1 to AU. (22Z00069) (Tax Account 2801827) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners 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 applicants are seeking a change of zoning classification from RR-1 to AU for the purpose of having horses, fowl, and a barn to store farm equipment on the undeveloped property.

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 zoning 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 established area is rural residential and agricultural zoning with single-family residences. The subject parcel abuts RR-1 zoning to the west which does not permit commercial agricultural uses. AU zoning exists to the east and south of the subject property. North is I-95.

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

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning and Development.

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

22Z00069

**Thomas A. Metzger; Alan and Grace Metzger
RR-1 (Rural Residential) to AU (Agricultural Residential)**

Tax Account Number: 2801827
Parcel I.D.: 28-36-11-01-KK-1
Location: South side of Chicago Avenue, 300 feet east of Cavel Street. (District 5)
Acreage: 5.14 acres

Planning & Zoning Board: 3/13/2023
Board of County Commissioners: 4/06/2023

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposed zoning 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*	5 units	1 unit
Can be Considered under the Future Land Use Map	YES, RES 2	Yes, RES 2

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential) for the purpose of having horses, fowl and a barn to store farm equipment. The property is undeveloped. The parcel is a Flag Lot configuration and the applicant has applied for Flag Lot administrative approval application **22FL00070**. Access will need to meet section 62-102. The parcel was created on November 19, 2021 when the abutting parcel to the east was split per Official Records Book 9332, page 2686.

In the AU and AU(L) zoning classification accessory buildings shall be located to the rear of the front building line, excluding barns, of the principal building and shall be set back not less than 15-feet from the side lot lines and not less than 15-feet from the rear lot lines. There are also setbacks for barns and stalls: 125-feet from the front lot line, 50-feet from the side lot lines and 50-feet from the rear lot

line. The AU zoning allows for buildings or structures accessory to agricultural uses including stables, barns, paddock areas and storage areas without a principal dwelling.

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 existing parcel was originally zoned RU-1 (Single-Family Residential). The property was rezoned to all RR-1 on September 08, 1966 as part of zoning action **Z-1971**.

Land Use

The subject property retains a FLU designation of Residential 2 (RES 2). Both the existing RR-1 and the proposed AU zoning classifications may be considered consistent with the RES 2 FLU designation.

Applicable Future Land Use Policies

FLUE Policy 1.8 – The Residential 2 Future land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within the Future Land Use Element.

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

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

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 having farm animals; horses, chickens and a barn to store farm equipment. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 for hours of operation, lighting, odor, noise levels, traffic, or site activity. As the parcel is abutting two parcels, to the east and south, with AU zoning on these parcels, the proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhood 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 has AU zoning to the south and east and RR-1 zoning to the west. The AU zoning to the south and east have existed since May 22, 1995 per zoning action Z-9535. The proposed AU zoning may be considered consistent with the existing RES 2 Future Land Use.

2. actual development over the immediately preceding three years.

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

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

There has not been any actual development within this area in the preceding three (3) years. There have been no zoning actions approved within one-half mile.

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.

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

Criteria:

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

The applicant proposes having farm animals; horses, chickens and a barn to store farm equipment. As the parcel is abutting two parcels, to the east and south, with AU zoning on these parcels, and RR-1 zoning to the west which permits four horse per acre on single-family developed parcels, the proposal is not anticipated to impact the existing neighborhood within the area with traffic, parking, commercial activity or industrial activity.

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

The area is established by existing developed parcels and developed platted lots with established roads.

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 parcel does not have any established neighborhood commercial uses or non-conforming commercial uses.

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.

The established area is rural residential and agricultural and does not have commercial or industrial uses.

As the subject parcel abuts RR-1 zoning to the west which does not permit commercial agricultural uses, the Board may consider the lower intensity zoning classification of AU(L). The AU(L) zoning classification is a lower intensity sub-classification of AU. The AU(L) classification allows agricultural pursuits of a personal non-commercial nature. It also allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense “commercial” agricultural activities to help preserve the residential character of the neighborhood.

Surrounding Area

Direction	Existing Land Use	Zoning	Future Land Use
North	Right-of-Way	N/A	N/A
South	Single-Family	AU	RES 2
East	Single-Family	AU	RES 2
West	Single-Family	RR-1	RES 2

To the north, across Chicago Avenue, is a 1.16-acre parcel with RR-1 zoning developed with a single-family residence. To the east is a 10.82-acre parcel with AU zoning developed with a single-family residence with a barn/stable and horses. To the south is a 4.82-acre parcel with AU zoning developed with a single-family residence and residential accessory structures. To the west are 0.85-acre parcels with RR-1 zoning developed a single-family residence.

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. Keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning.

The proposed 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 zoning classification also permits all agricultural pursuits, including the raising/grazing of animals, plants nurseries, and the packing and processing of commodities raised on site.

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.

There are 22 single-family residences currently within a 500 feet radius.

There are no agritourism activity currently within a 500 feet radius.

There have been no zoning actions approved within one-half mile of the parcel in the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway US 192, between Simon Road and I-95, which has a MAV (Maximum Acceptable Volume) of 41,790 trips per day, a Level of Service (LOS) of C, and currently operates at 31.20% of capacity daily. The maximum proposed development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 31.23% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS.

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

The parcel is not serviced by Brevard County water or sewer. The closest water line to the parcel is approximately 8.8 miles to the north along the east side of Lake Andrew Drive. The closest sewer line to the parcel is approximately 7.1 miles away to the north at the east end of Kennesaw Place.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Wetlands

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. The Board may consider whether the potential agritourism activities adversely affect the surrounding area.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00069

Applicant: Thomas Metzger

Zoning Request: RR-1 to AU

Note: Applicant wants to have farm animals and associated accessory structures.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2801827

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Wetlands

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Hydric Soils

The subject parcel contains mapped hydric soils (Malabar sand), in the northern part of the property, an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities. The wetland delineation shall be verified at time of site plan submittal.

Wetlands

The National Wetlands Inventory maps show a freshwater emergent wetland on the southeast corner of the property. The SJRWMD FL Land Use and Land Cover (FLUCCS), 2009 map shows Code 6430, Wet Prairies, in that same location. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Section 62 3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands. 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's Office establishes Bona Fide Agricultural land classification. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

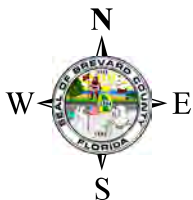
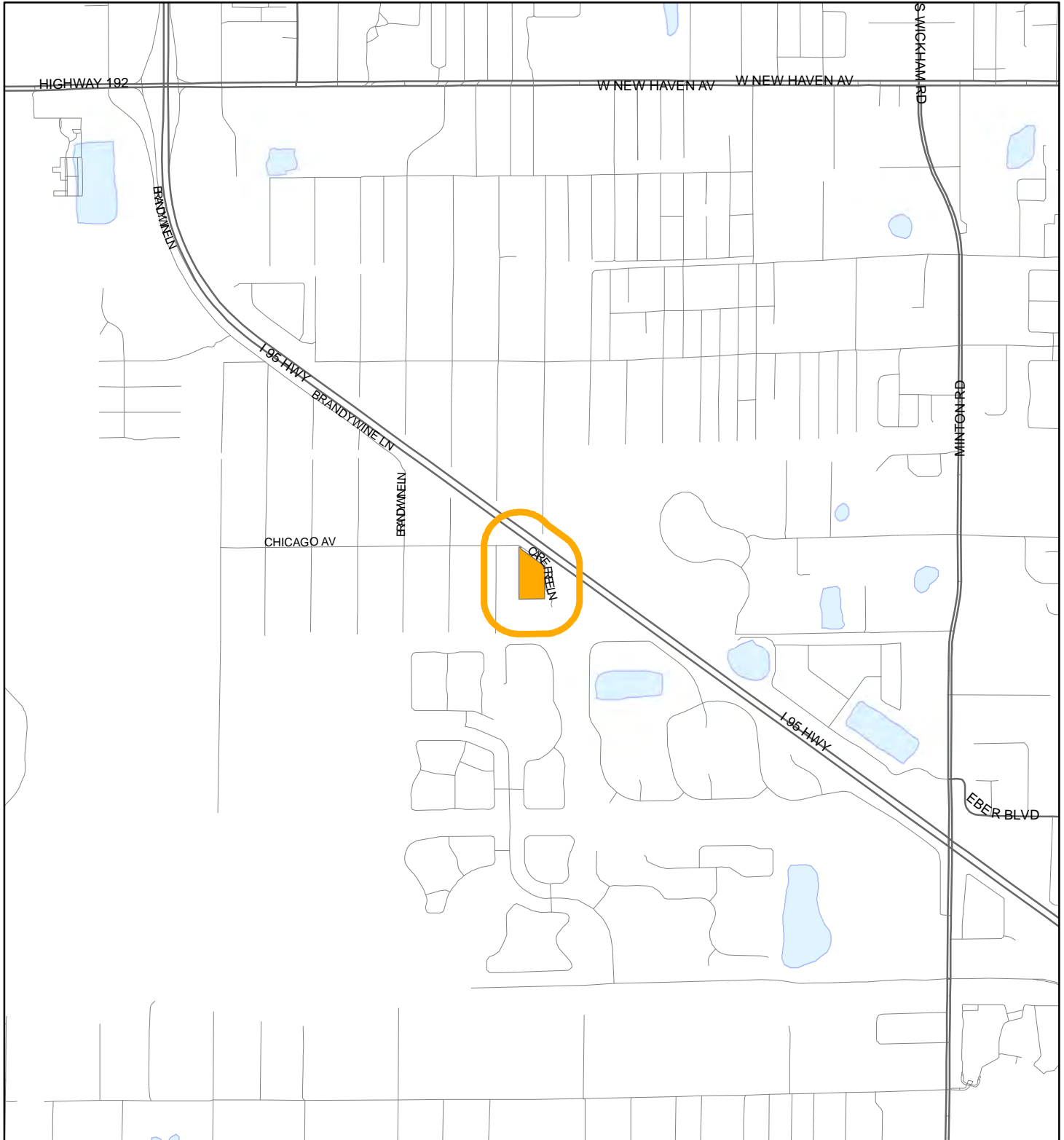
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is potential for the presence 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 and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069





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

Buffer Distance: 500 feet

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

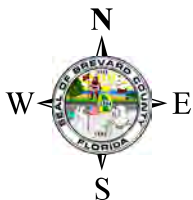
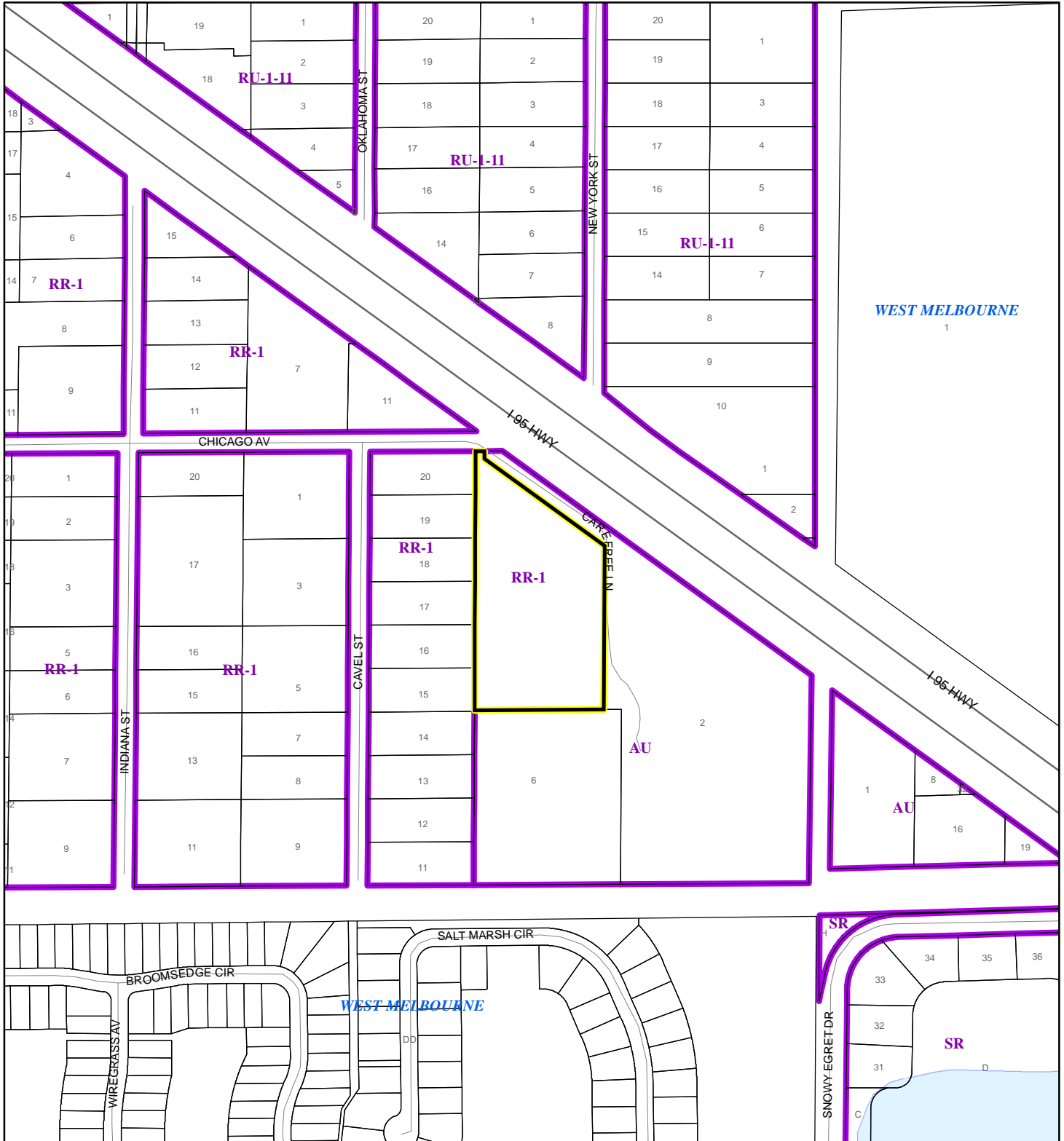
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 Buffer
 Subject Property

ZONING MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE


22Z00069



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/3/2023

 Subject Property

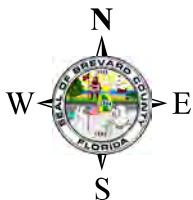
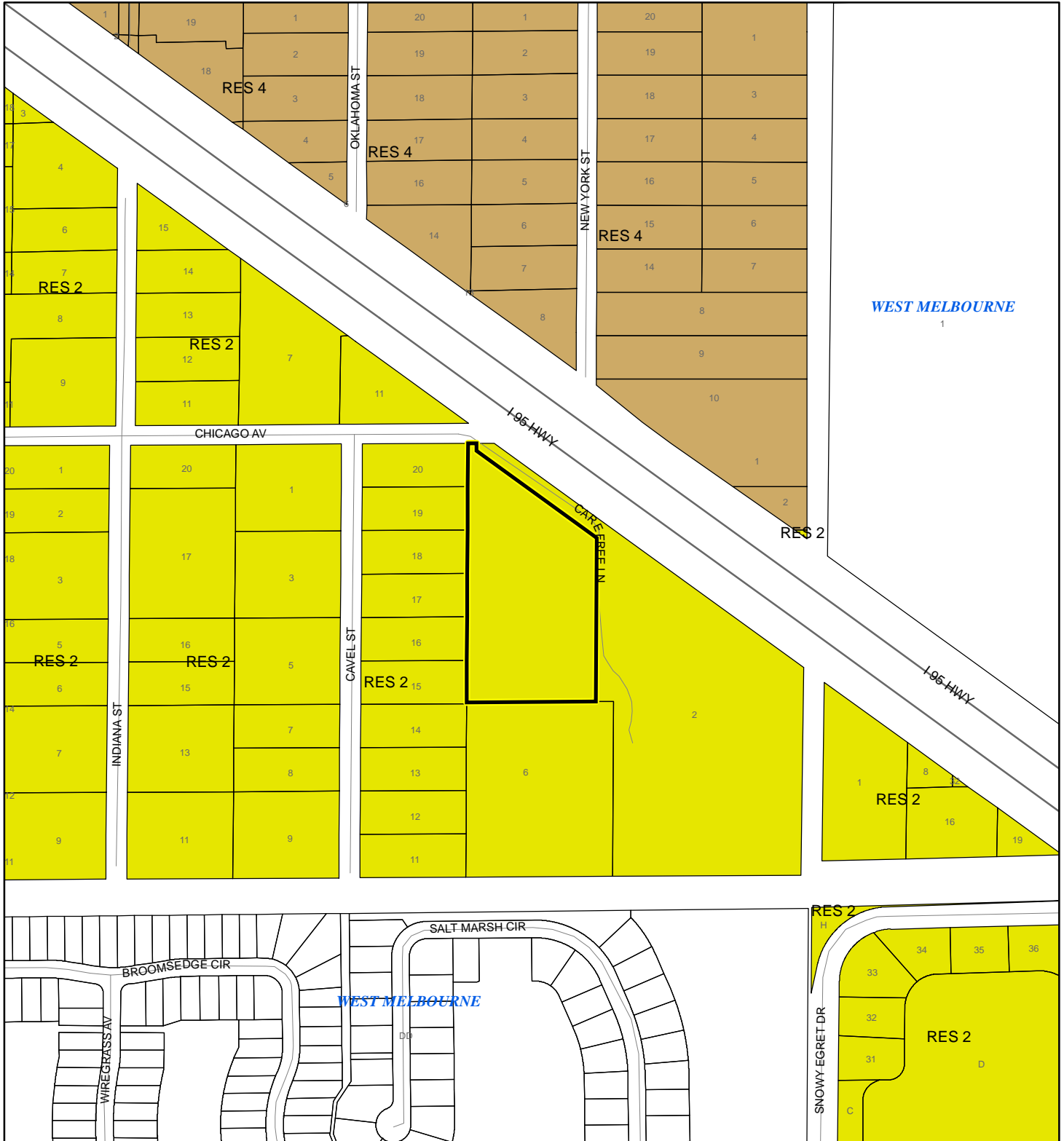
 Parcels

 Zoning

FUTURE LAND USE MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE



22Z00069



1:4,800 or 1 inch = 400 feet

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

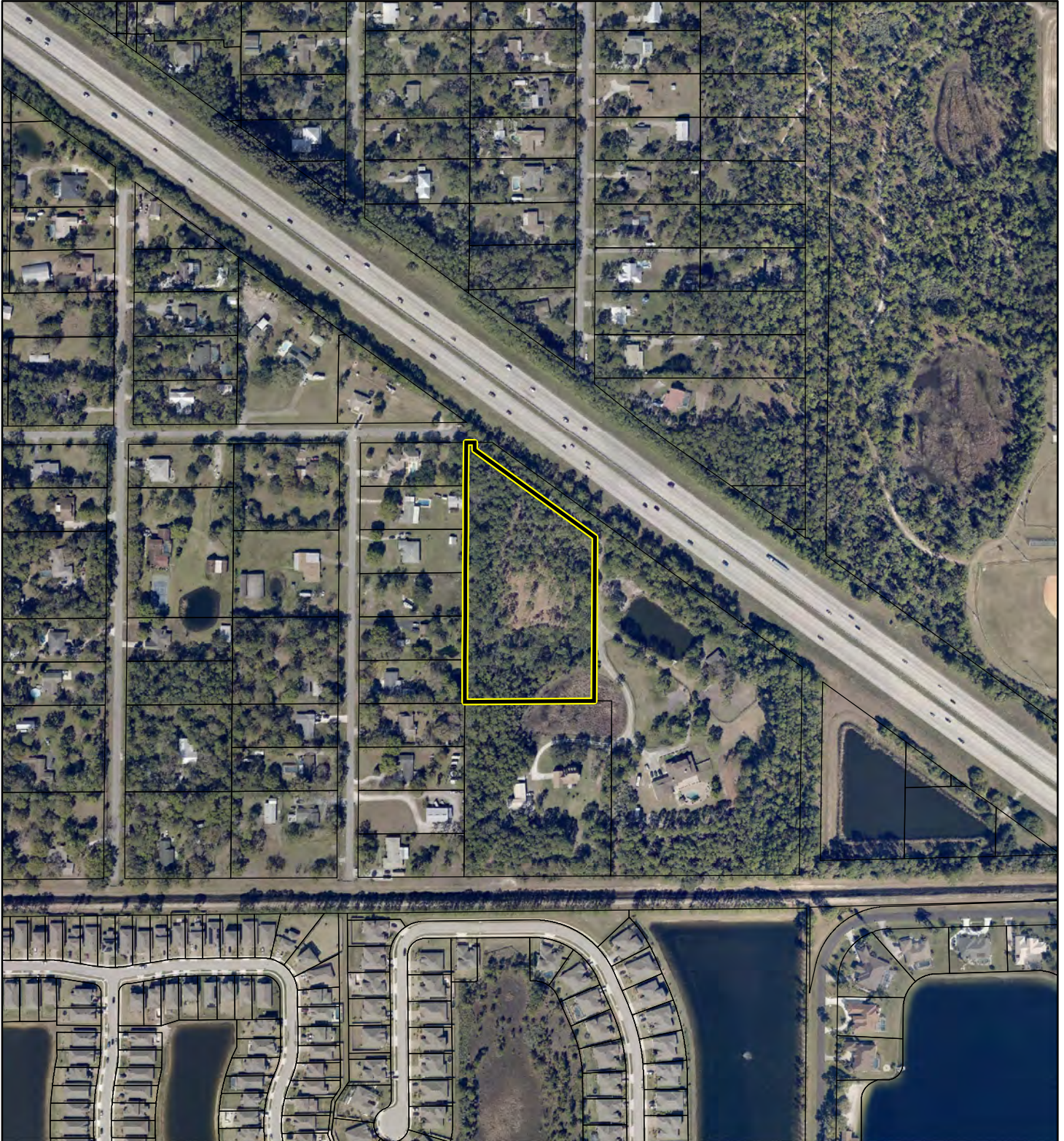
Produced by BoCC - GIS Date: 1/3/2023

 Subject Property
 Parcels

AERIAL MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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Produced by BoCC - GIS Date: 1/3/2023

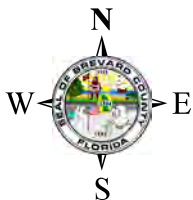
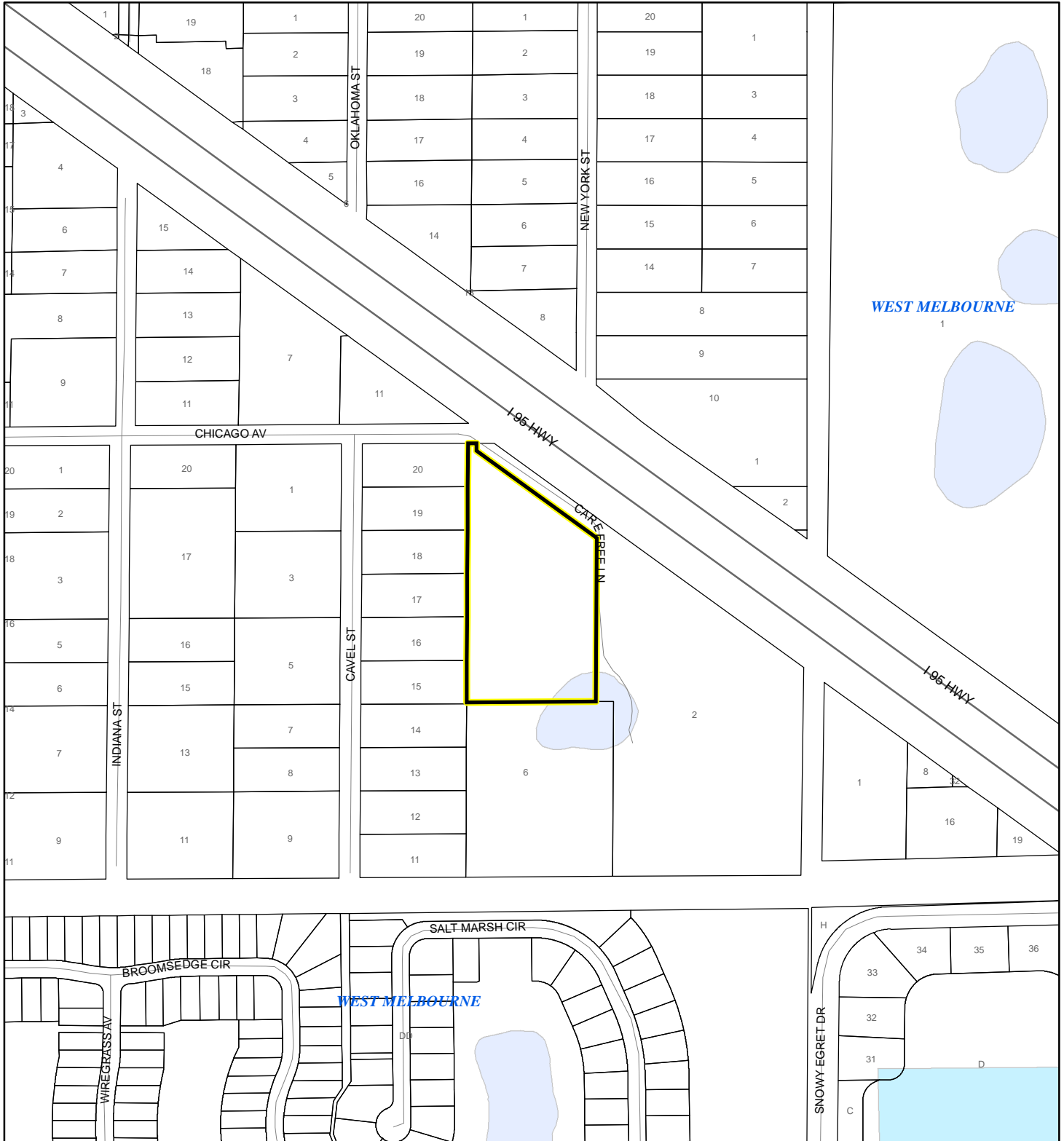
 Subject Property

 Parcels

NWI WETLANDS MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069













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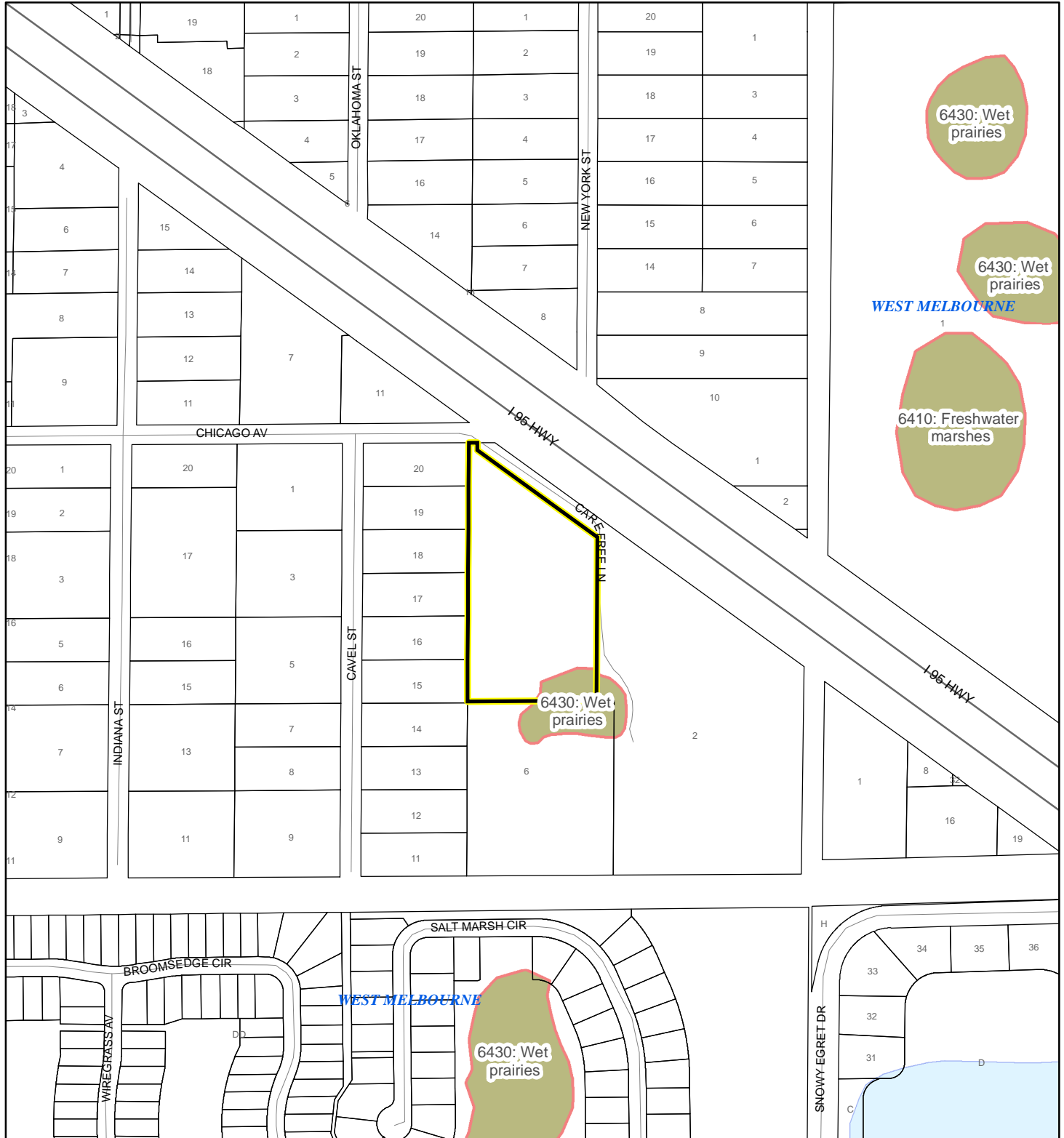
National Wetlands Inventory (NWI)

 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

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

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

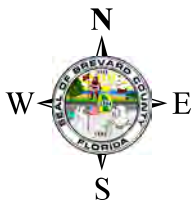
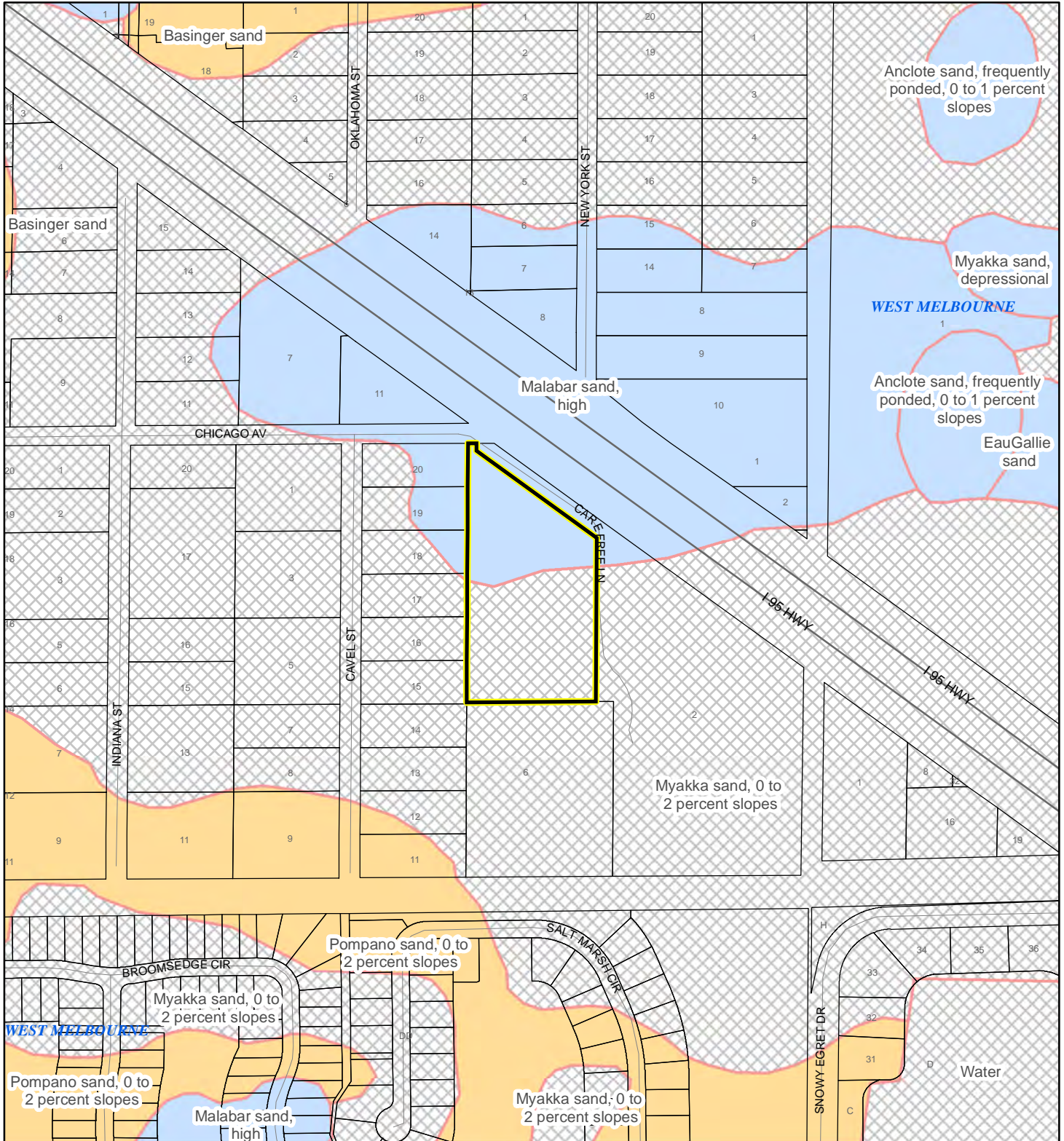
Subject Property

Parcels

USDA SCSSS SOILS MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

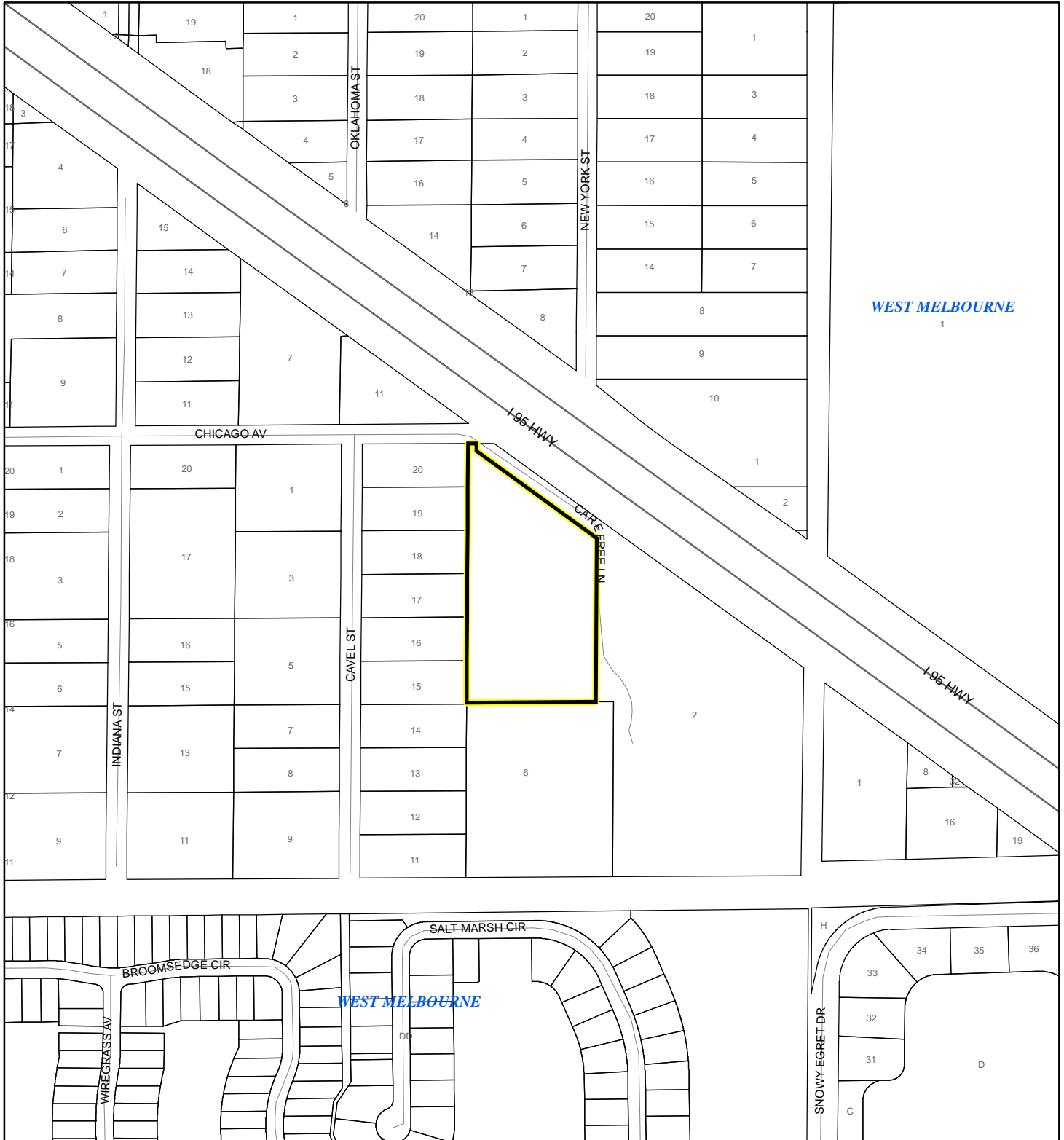
Subject Property

Parcels

FEMA FLOOD ZONES MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



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Produced by BoCC - GIS Date: 1/3/2023

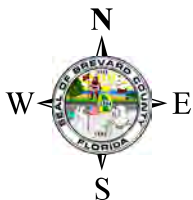
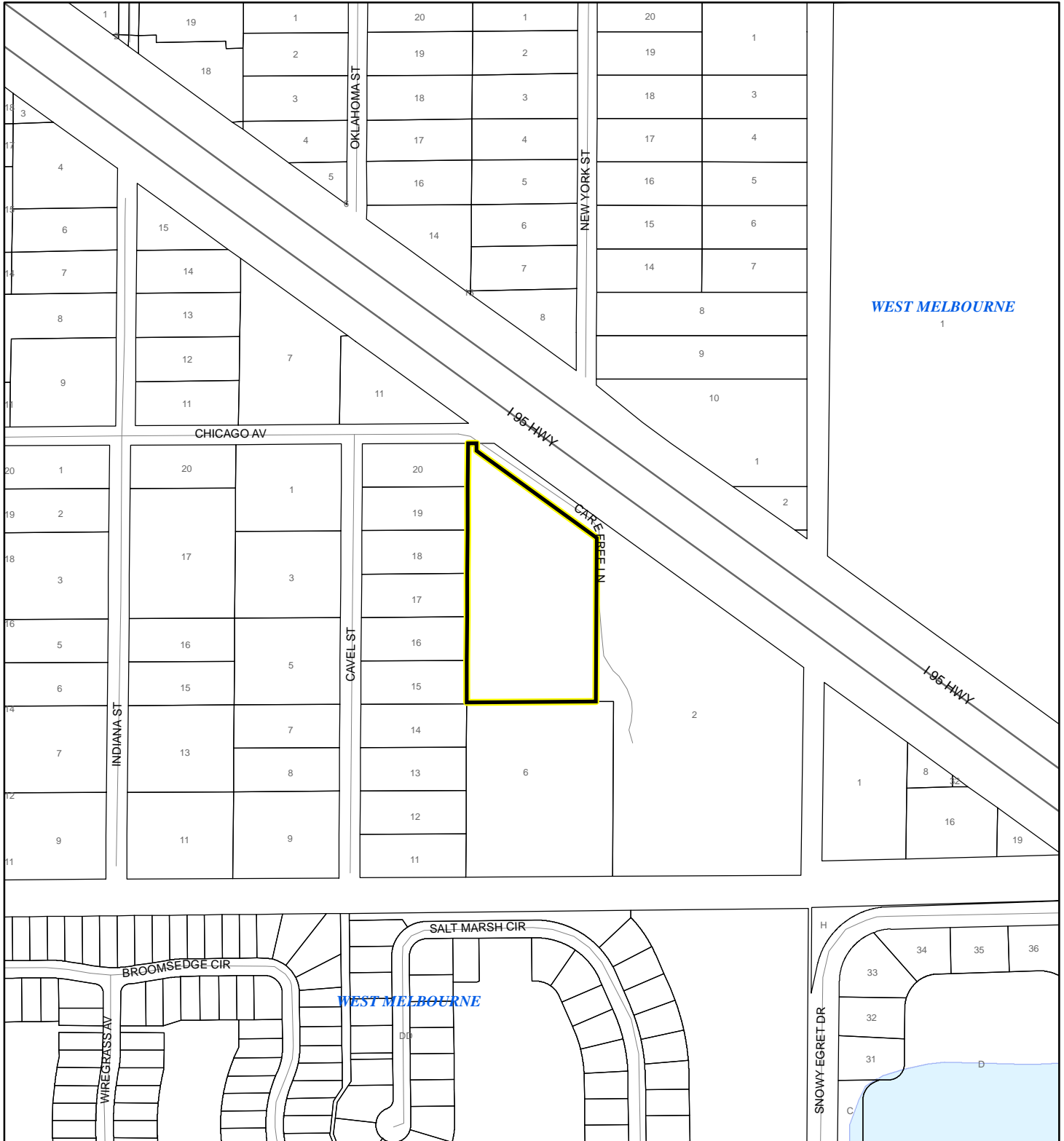
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



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Produced by BoCC - GIS Date: 1/3/2023

 Subject Property

 Parcels

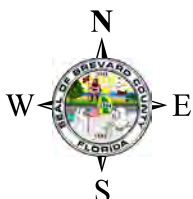
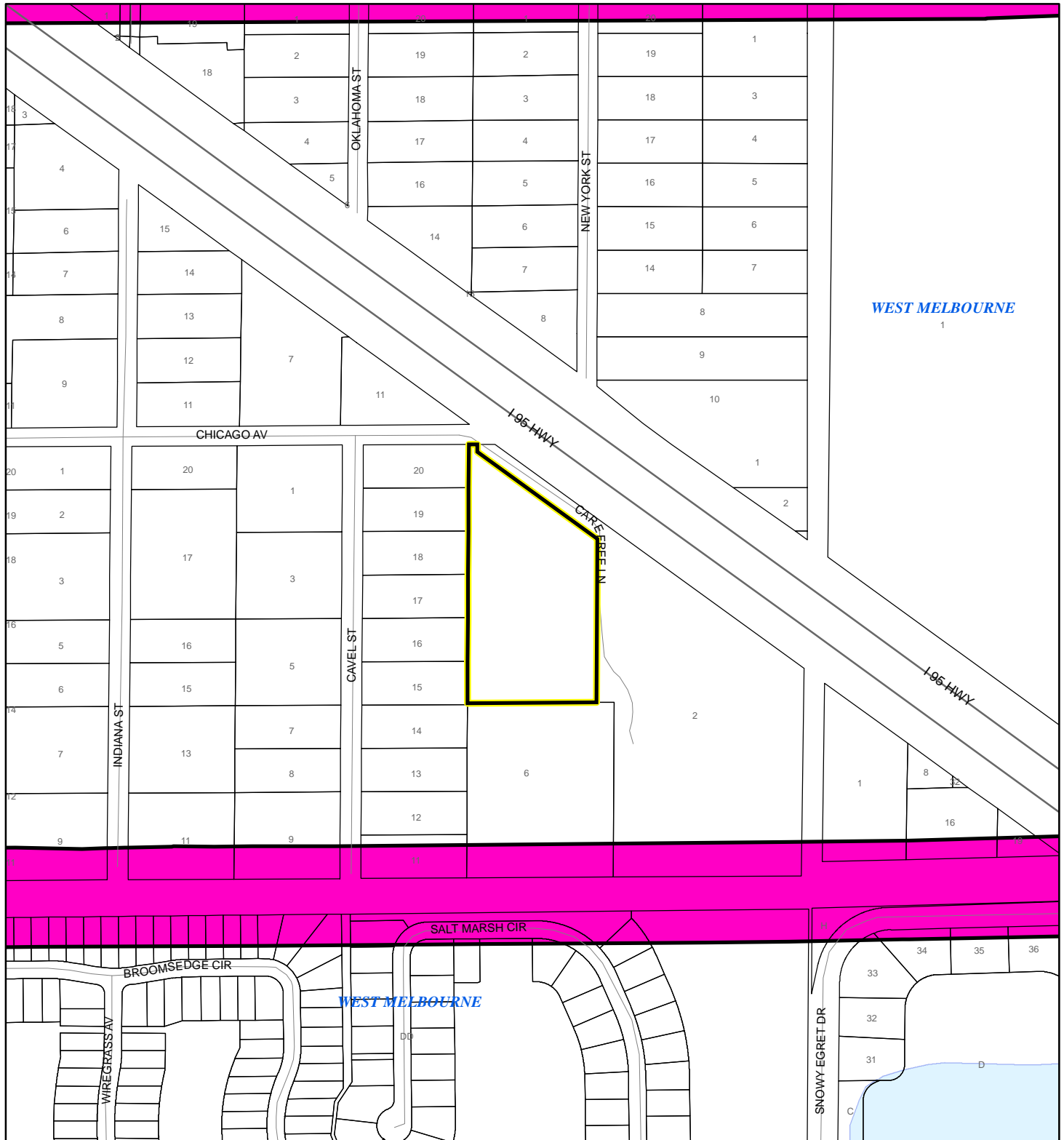
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/3/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

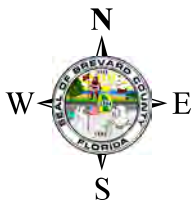
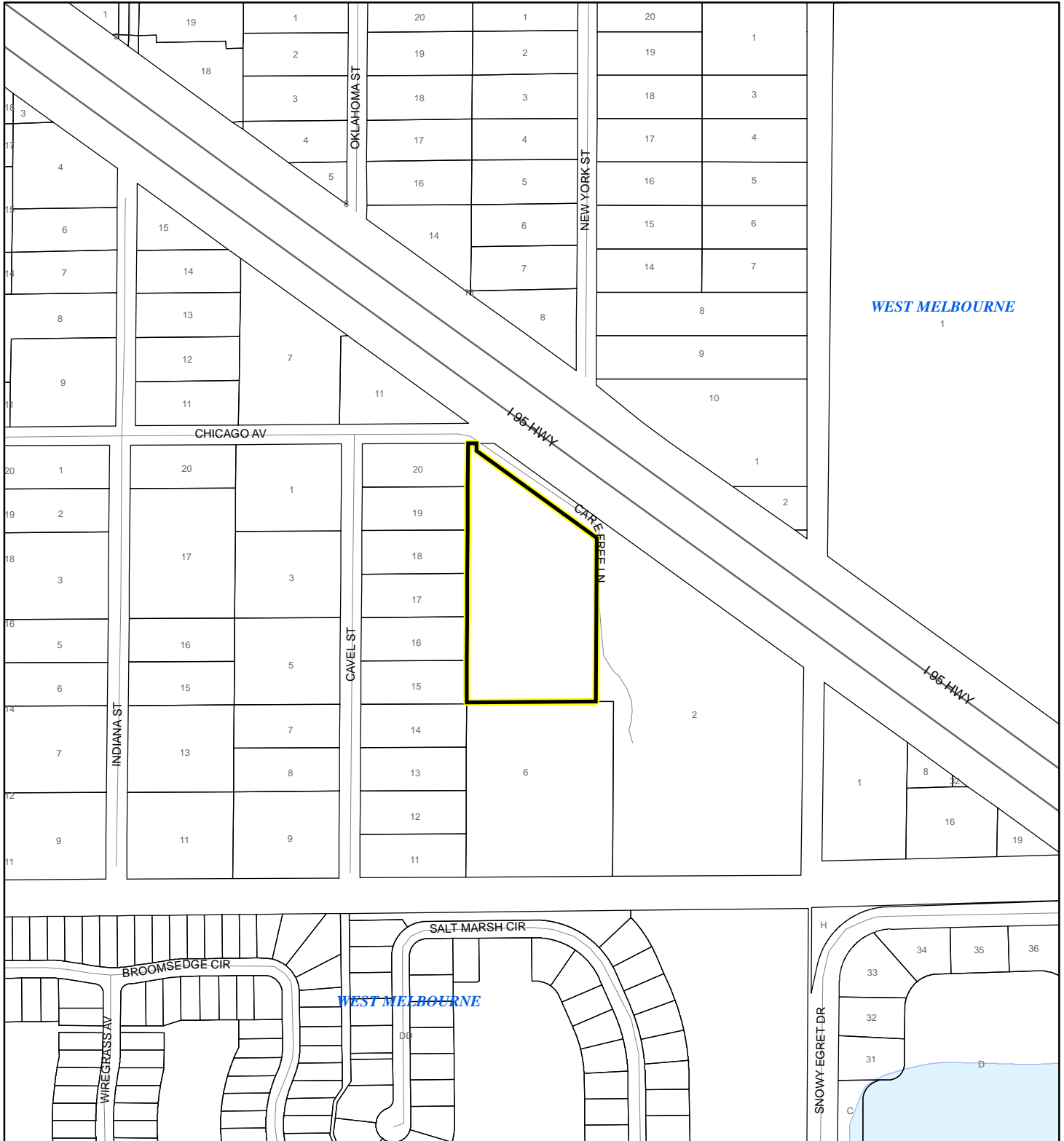
 60 Meters

 All Distances

EAGLE NESTS MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



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Produced by BoCC - GIS Date: 1/3/2023

 Subject Property

 Parcels

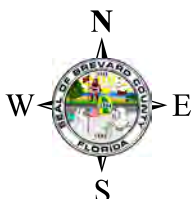
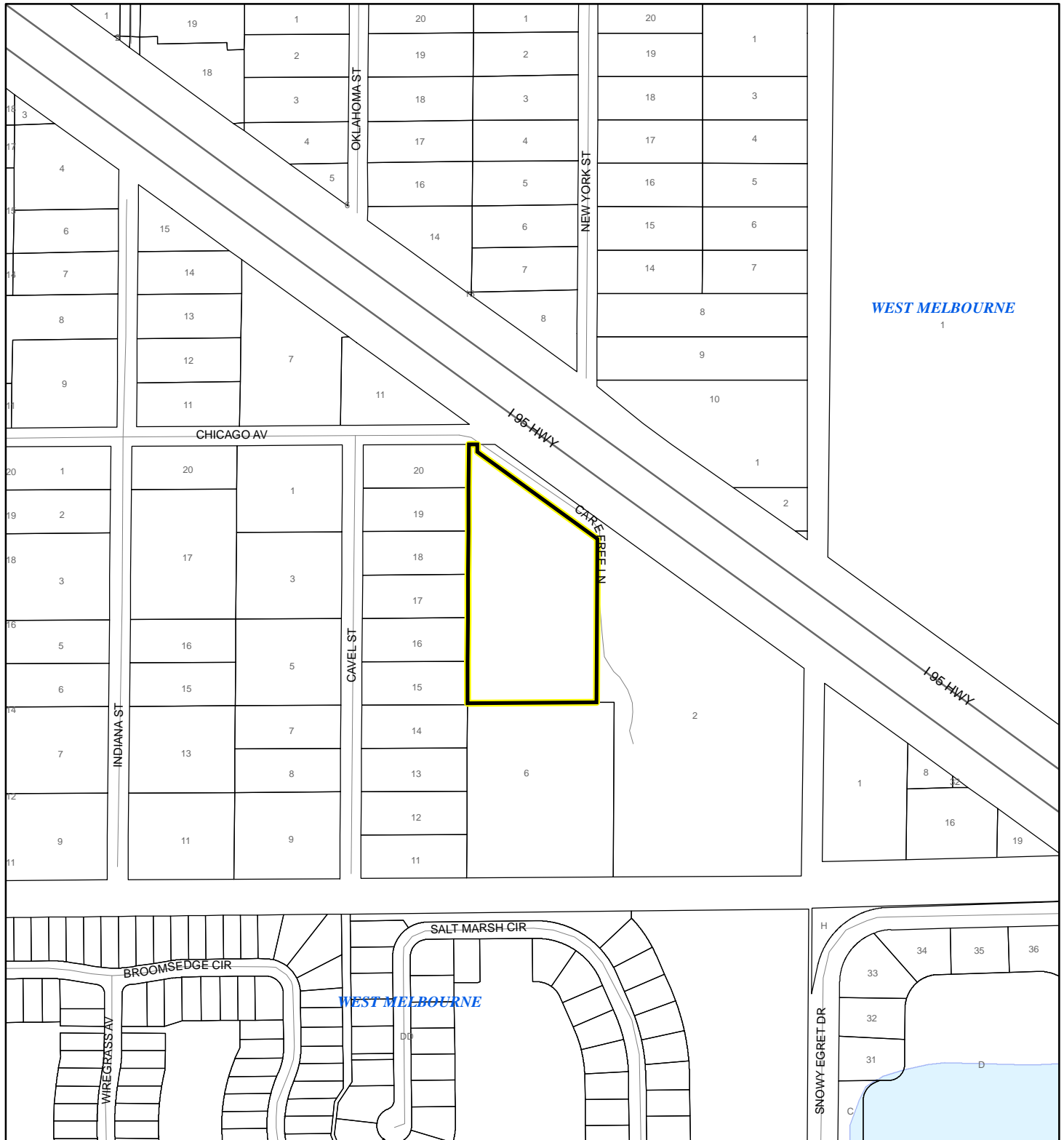


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



1:4,800 or 1 inch = 400 feet

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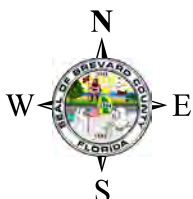
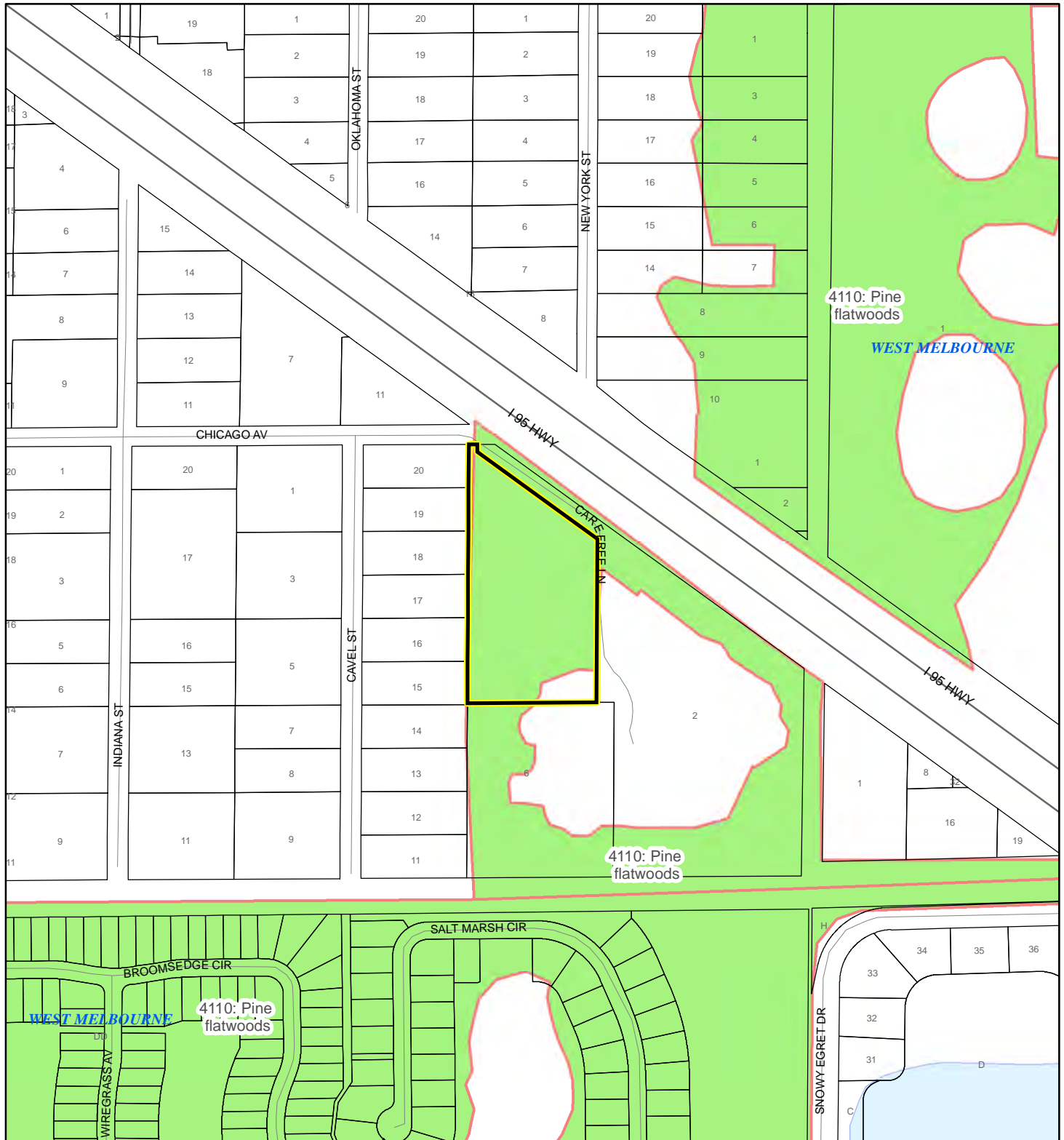
Produced by BoCC - GIS Date: 1/3/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

METZGER, THOMAS; METZGER, ALAN; METZGER, GRACE

22Z00069



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Produced by BoCC - GIS Date: 1/3/2023

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

Wayne & Theresa Stewart
3020 Carefree Lane
West Melbourne FL. 32904

4 March 2023

Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

To Whom It May Concern:

We saw the zoning request 22Z00069 at the front entrance to both our property and the Metzger's 5 acre lot. We would like this entered into the official record that we support the zoning change being requested as it is consistent with our current zoning. We have no objection to Tommy building his barn and house, and look forward to Tommy being a neighbor again.

Thank you,

Wayne & Theresa Stewart

Handwritten signatures of Wayne Stewart and Theresa Stewart. Wayne's signature is on the left, followed by a horizontal line, and Theresa's signature is on the right.

Billy & Susan Curry
4010 Chicago Avenue
West Melbourne FL. 32904

6 March 2023

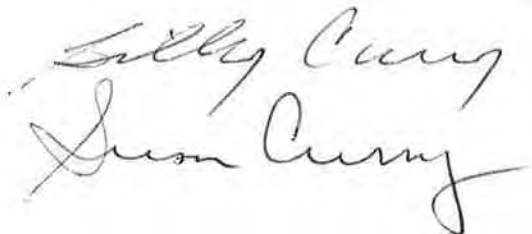
Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

To Whom It May Concern:

As neighbors to the Metzger's for over the last 25 years, we saw the zoning request sign at the front 5acre lot that they own, application/zoning request number 22Z00069. We just want to provide a pledge of support to the zoning request as we believe this will be consistent and beneficial to the neighborhood. We actually helped Mr. Metzger do the original site development when he converted what could have been 26 planned homes in our neighborhood into the three lots that have existed for a number of years. The two homes built over the years have been beneficial to the neighborhood, and we believe that the rezoning request from RR-1 to AU is consistent with properties in the area at both this end of Chicago Ave as well as the other end of the neighborhood off of Ranch Road. We look forward to having Tommy as a neighbor again.

If there are any questions, please feel free to contact us. Thank you.

Billy & Susan Curry

Handwritten signatures of Billy Curry and Susan Curry. The signature of Billy Curry is on top, and the signature of Susan Curry is below it. Both are written in cursive.

Amanda Skeen
4000 Chicago Avenue
West Melbourne FL. 32904

6 March 2023

Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

To Whom It May Concern:

We have been neighbors with the Metzger's for over 10 years, and saw the zoning request (22Z00069) at the front of their property. We support the zoning change from RR-1 to AU, as it is consistent with the surrounding neighbors. We look forward to having Tommy as a neighbor, and believe his plans for the property will be beneficial to the neighborhood. Please feel free to reach out with any questions.

Sincerely,

Amanda Skeen

A handwritten signature in dark ink, appearing to read 'Amanda Skeen' in a cursive script.

Richard & Shauna Seenath
2995 Carefree Lane
West Melbourne FL. 32904

4 March 2023

Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

To Whom It May Concern:

We saw the zoning request number 22Z00069 at the front of the Metzger's lot near our Carefree Lane entrance. We purchased Alan & Grace Metzger's home in Nov. 2021. Although we have only known them a short time, we support the zoning change to Agricultural that is being requested as it is consistent with both our property as well as our neighbors the Stewart's that are both AU. We look forward to Tommy building on his property and having him in the neighborhood.

Please feel free to reach out with any questions.

Thank you,



Richard & Shauna Seenath

Darin & Angela Zeger
2911 Cavel Street
West Melbourne FL. 32904

2 March 2023

Planning & Development Department
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940

To Whom It May Concern:

We have owned our property for over 15 years that adjoins the property owned by the Metzger's, and recently saw the zoning request number 22Z00069 at the front of the Metzger's lot to the rear of our property. Our property fronts Cavel Street, and our side yard is along the paved Brevard County Road Chicago Ave. We support the zoning change that Tommy is requesting as it is consistent with the other properties the Metzger's used to own that border the other sides of this 5-ac lot. We know Tommy wants to build a barn and home on the property and are fine with that. If there are any questions, please feel free to contact us. Thank you.

Darin & Angela Zeger

The block contains two handwritten signatures. The top signature is in cursive and reads "Angela C Zeger". Below it is a second signature, also in cursive, which appears to be "Darin".

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Thomas A. Metzger; Alan and Grace Metzger

A change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on 5.14 acres, located on the south side of Chicago Ave., approx. 300 ft. east of Cavel St. (No assigned address. In the Micco area.) (Tax Account 2801827) (District 5)

Thomas Metzger, 9899 Riverview Drive, Micco, stated there are three large parcels in the back of the neighborhood that are all zoned AU, and he would like the same zoning. He said the primary reason for the request is to build a barn for a tractor and a horse before he builds a house.

No public comment.

Mr. Hopengarten asked if there is a drainage ditch on the north side of the property.

Alan Metzger, 989 Oak Trail, Micco, stated he is the original developer of the property. He said St. Louis Avenue was a County-platted road that has never been developed, and it goes across the back of the Tillman Canal drainage area, but it doesn't touch the subject property.

Mr. Hopengarten asked why Carefree Road is not being used as the as access.

Alan Metzger replied in 1993 he bought 26 acres; the County had a platted element with New York Avenue proposed, and everything dead-ended into the 26 acres; it was 26 non-conforming lots of record. He said he plan was to make three lots out of the 26 acres; 11 acres for himself, and then two 5-acre lots. The County told him to extend Chicago Road 350 feet, and deed the road back to the County in 1995. The subject property has access off of Chicago Avenue.

Motion by John Hopengarten, seconded by Bruce Moia, to approve the change of zoning classification from RR-1 to AU. The motion passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.10.

4/6/2023

Subject:

QW Trust Agreement (Carolyn Haslam) requests a Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15, NC, and CC, to all CC. (23SS00001) (Tax Accounts 2407572 & 2407578) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC.

Summary Explanation and Background:

The applicant is requesting to change to the Future Land Use designation from RES 15, NC and CC on 13.36 acres to develop the site as a grocery store and retail commercial. The subject property consists of Tax Accounts 2407572 and 2407578. Currently, Tax Account 2407572 (approximately 0.19 acres) is designated as RES 15, and Tax Account 2407578 (approximately 13.17 acres) is designated as RES 15, NC, and CC. The subject property is currently undeveloped and has frontage on Lake Drive as well as Cox Road, which is 50 feet in width. A companion rezoning application was submitted accompanying this request to change the zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial) (23Z00003).

The developed character of the surrounding area is commercial and government managed lands, with a mix of residential to the north and east. Industrial uses are located along the west side of Cox Road (City of Cocoa). Existing commercial development in the immediate area includes a convenience store with gas pump, warehousing, retail, and office. Additional commercial uses are located along W. King Street (SR 520), which is principal arterial commercial corridor. The proposed commercial use of the subject property may be considered compatible with the existing pattern of surrounding development.

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

On March 13, 2023, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once the Ordinance is filed with the State, please return two executed copies to Planning and Development.

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 23S.01 (23SS00001)
Township 24, Range 35, Section 25

Property Information

Owner / Applicant: **QW Trust**

Adopted Future Land Use Map Designation: Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC)

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

Acreage: 13.36

Tax Account #s: 2407578 and 2407572

Site Location: North side of Lake Drive, approximately 171 feet east of Cox Road

Commission District: 2

Current Zoning: General Use (GU) and IU-1 (Heavy Industrial)

Requested Zoning: all General Retail Commercial (BU-1) (23Z00003)

Background & Purpose

The applicant is requesting to change the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) on 13.36 acres to develop the site as a grocery store and retail commercial. The subject property consists of two parcels, 24-35-25-00-512 and 24-35-25-00-519. Currently, parcel 24-35-25-00-512 (approximately 0.19 acres) is designated as RES 15 FLU with GU zoning, and parcel 24-35-25-00-519 (approximately 13.17 acres) is designated as RES 15, CC, and NC FLU with IU-1 and GU zoning classifications. The subject property is currently undeveloped with a substantial portion of the property underwater. The site has frontage on Lake Drive as well as Cox Road (50 feet in width).

A companion rezoning application was submitted accompanying this request to change the zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial) (**23Z00003**).

The existing GU zoning classification may be considered consistent with the existing RES 15, NC and CC Future Land Use designations; however, the existing IU-1 zoning

classification may not be considered consistent with the existing RES 15, NC and CC Future Land Use designations.

The proposed BU-1 zoning classification can not be considered consistent with the existing RES 15 and NC Future Land Use designations; however, the proposed BU-1 zoning classification may be considered consistent with the requested CC Future Land Use designation.

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 is proposing the development of a grocery store and retail commercial. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.

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

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

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

The surrounding area is commercial in character with government facilities and residential land uses north and east of the subject site. The west side of Cox Road is within the City of Cocoa and is designated as Industrial FLU. There are four (4) FLU designations within 500 feet of the subject site: RES 15, CC, NC, and PUB.

Cox Road and Lake Drive both connect to W. King Street (SR 520) has a historic pattern of strip commercial development.

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

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

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

While there has not been any new development in the preceding three (3) years, one zoning action has been approved within one-half mile.

21Z00031, approved by the Board on December 2, 2021, was a request to rezone from RU-1-9 and RU-2-10 to all RU-2-10 on a 9.19-acre parcel located approximately 0.4 miles south of the subject property on the north side of Parrish Road.

There are no pending zoning actions within one-half mile 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.

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.

The developed character of the surrounding area is commercial and government managed lands, with a mix of residential to the north and east. Industrial use is located along the west side of Cox Road (City of Cocoa). Cox Road and Lake Drive both connect to W. King Street (SR 520), a commercial corridor that serves regional and tourist markets in the vicinity of the Interstate 95 interchange.

The proposed commercial use of the subject property may be considered compatible with the existing pattern of surrounding development.

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 has frontage on Lake Drive, an urban major collector roadway operating at 18.64% of Maximum Acceptable Volume (MAV), as well as access to Cox Road, an urban major collector roadway operating at 27.01% of MAV. A detailed analysis will be conducted at site plan.

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

There are CC future land use map designations adjacent to the subject property along Cox Road.

C. Existing commercial development trend in the area;

Existing commercial development in the immediate area includes a convenience store with gas pump, warehousing, and retail to the north. Additional commercial uses are located along W. King Street (SR 520), a commercial corridor.

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

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

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

A preliminary concurrency analysis did indicate that the maximum development potential from the proposed Future Land Use designation could cause a deficiency in the transportation adopted level of service. A detailed analysis will be conducted when a use is proposed at the time of Site Plan.

The subject site has access to Cocoa City Water Distribution per the City of Cocoa. The closest Brevard County sanitary sewer line is approximately 350 feet to the south at Lakeview Boulevard and W. King Street (SR 520).

F. Spacing from other commercial activities;

The closest Community Commercial activities are located immediately to the west of the subject site with frontage on Cox Road and south of the subject site, across W. King Street (SR 520).

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

The 13.36-acre subject property is currently designated RES 15, NC, and CC. The request for CC across the entire parcel represents an increase of approximately ten (10) acres of CC.

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

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

J. Impacts upon strip commercial development.

The subject property is currently undeveloped and could be considered infill and not an expansion of strip development.

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

Designations

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. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and

- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant has proposed to develop the site as a grocery store and retail commercial use.

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.

The subject property is located approximately 165 feet east of the intersection of Cox Road, an urban major collector roadway, and W. King Street (SR 520), an urban principal arterial roadway.

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

The Community Commercial designated properties immediately adjacent to the subject property at the northeast quadrant of the Cox Road and W. King Street (SR 520) intersection total less than four (4) acres. This request, if approved, would represent an increase of approximately ten (10) acres of CC.

- 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.

W. King Street (SR 520), an urban principal arterial roadway, is a commercial corridor serving the community and the surrounding region. As such, this area presents an historical strip development pattern and does not lend itself to cluster commercial analysis.

- 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.

This criterion will be addressed at the site plan review stage of development.

- 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 overall subject site has the potential for a 581,962 sq. ft. building. The Floor Area Ratio (FAR) is evaluated at the time of site plan review and regulated through the land development regulations. 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-1 and does not permit recreational vehicle parks.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Commercial mixed use; Single-family	BU-2; AGR	CC; RES 15
South	Commercial undeveloped; Commercial retail	BU-2; BU-1	CC
East	Warehousing	GML	PUB
West	Commercial retail; Commercial warehousing; Commercial undeveloped; Two (2) single-family residences	GU; BU-1-A; BU-1; BU-2	RES 15; CC

To the north is a 1.13-acre parcel designated as CC FLU and developed as a mixed use commercial property with an office building and residence. Also, to the north is an 8.68-acre parcel designated as RES 15 FLU and developed as a single-family residence (built in 1910) with horse stables (built in 2005).

To the south, across Lake Drive, is a 2.42-acre undeveloped parcel designated as CC FLU. Further to the south, across W. King Street (SR 520), are two parcels (8.27-acres and 1.2-acres) both designated as CC FLU and each developed as retail commercial stores.

To the east is 20-acre parcel owned by Brevard County that is designated as PUB and developed as warehousing and storage.

To the west, along Cox Road, are four (4) commercial properties with CC FLU designations, including a 0.8-acre parcel developed as convenience store/gas station; a 1.46-acre parcel developed as warehousing; a 0.67-acre parcel developed as warehousing; and a 0.38-acre undeveloped commercial parcel. There is one commercial parcel (0.77-acres) with RES 15 FLU developed as a retail store.

Also, to the west, along Cox Road, is a 0.69-acre parcel developed as a single-family residence (built in 1959) with CC FLU; and a 0.38-acre parcel developed as a single-family residence (built in 1962) with RES 15 FLU. Further west, across Cox Road, is the City of Cocoa.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Lake Drive, from Cox Road to Range Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 18.64% of capacity daily. The maximum development potential from the proposed land use change increases the percentage of MAV utilization by 140.40%. The corridor is anticipated to operate at 159.05% of capacity daily. Specific concurrency issues and operational improvements will be addressed at the time of site plan review when a specific use is identified.

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

The subject site has access to Cocoa City Water Distribution per information provided by the City of Cocoa. The closest Brevard County sanitary sewer line is approximately 350 feet to the south at Lakeview Boulevard and W. King Street (SR 520).

Environmental Constraints

- Wetlands/Hydric Soils
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

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

Historic Resources

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

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Comprehensive Plan Review & Summary
Item #23SS00001

Applicant: Carolyn Haslam

FLU Request: RES 15, NC, & CC to all CC

Note: Applicant wants to develop a grocery and retail site.

LPA Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID Nos: 2407578 & 2407572

- 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
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Lake Drive is an MQR in this location; Cox Road is not. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners 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 site plan design or permit submittal.

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.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped hydric soils (Anclote sand, frequently ponded, 0 to 1 percent slopes and Anclote sand), and NWI and SJRWMD wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Lake Drive is an MQR in this location; Cox Road is not. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners 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 site plan design or permit submittal.

Protected and Specimen Trees

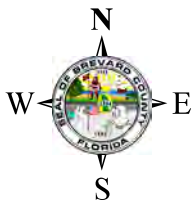
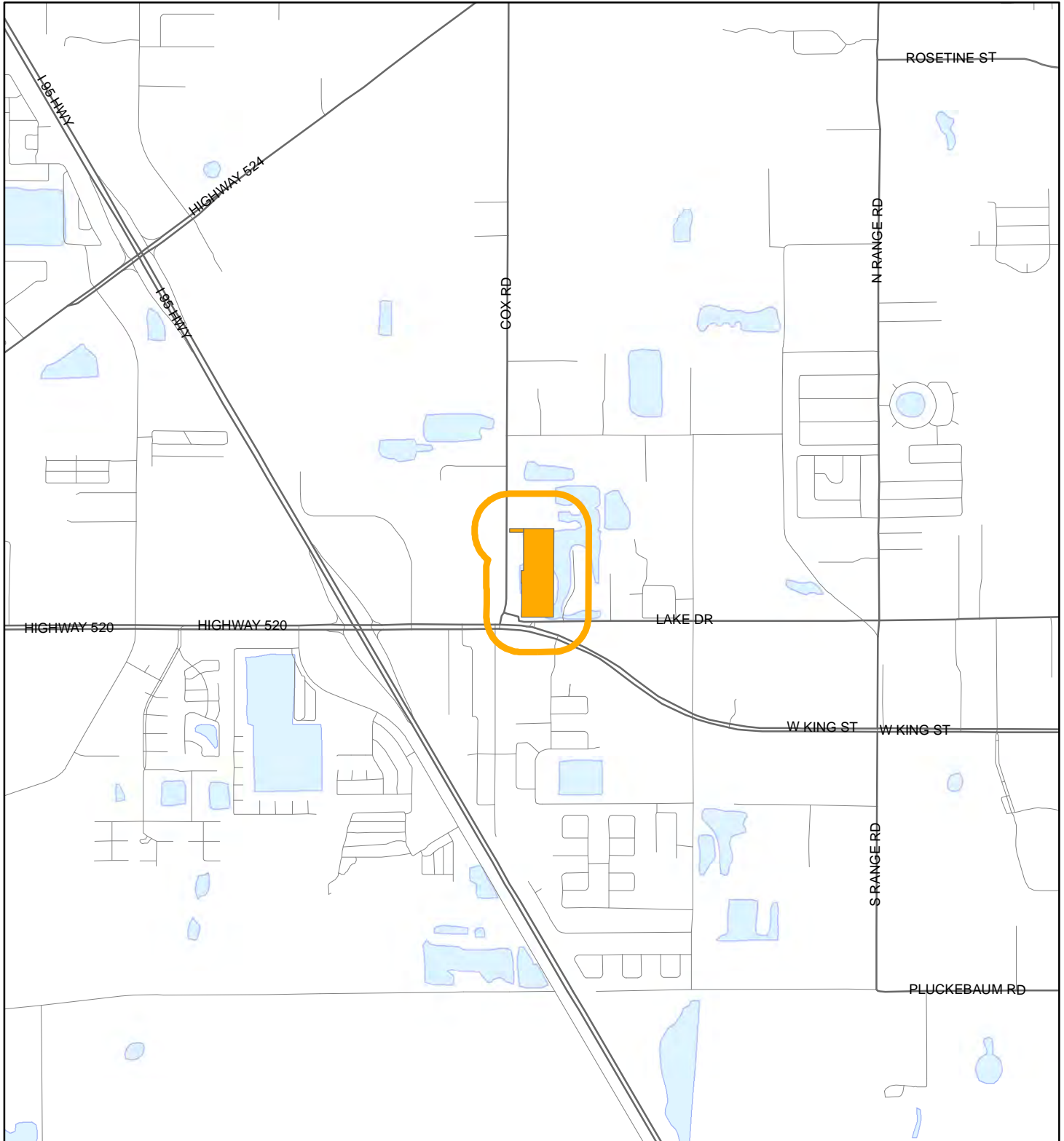
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Protected Species

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

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001





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

Buffer Distance: 500 feet

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

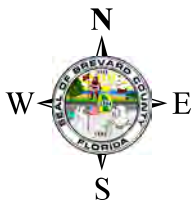
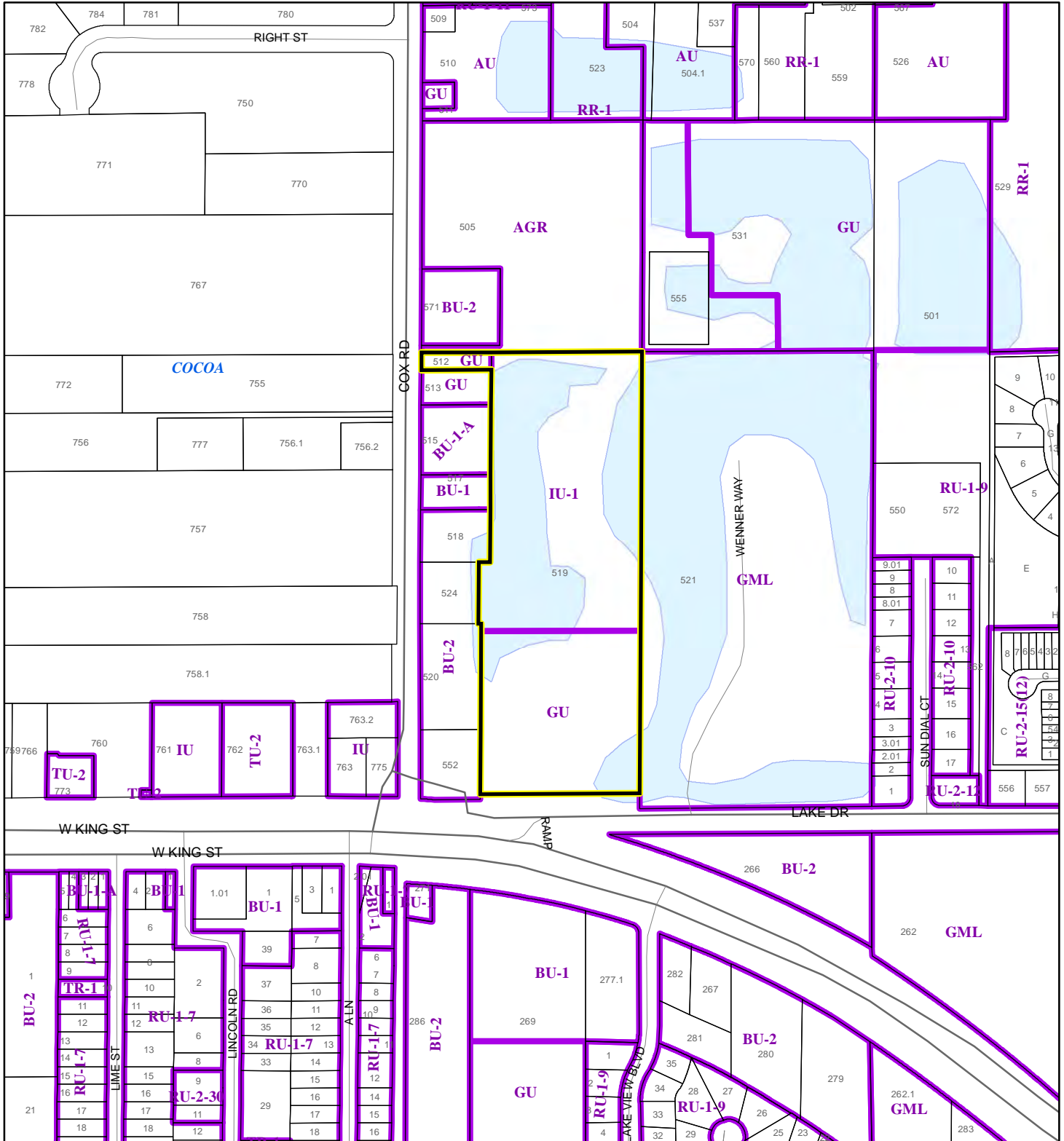
Produced by BoCC - GIS Date: 1/25/2023

 Buffer
 Subject Property

ZONING MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/25/2023

Subject Property

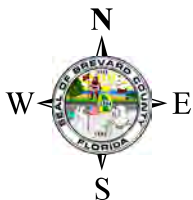
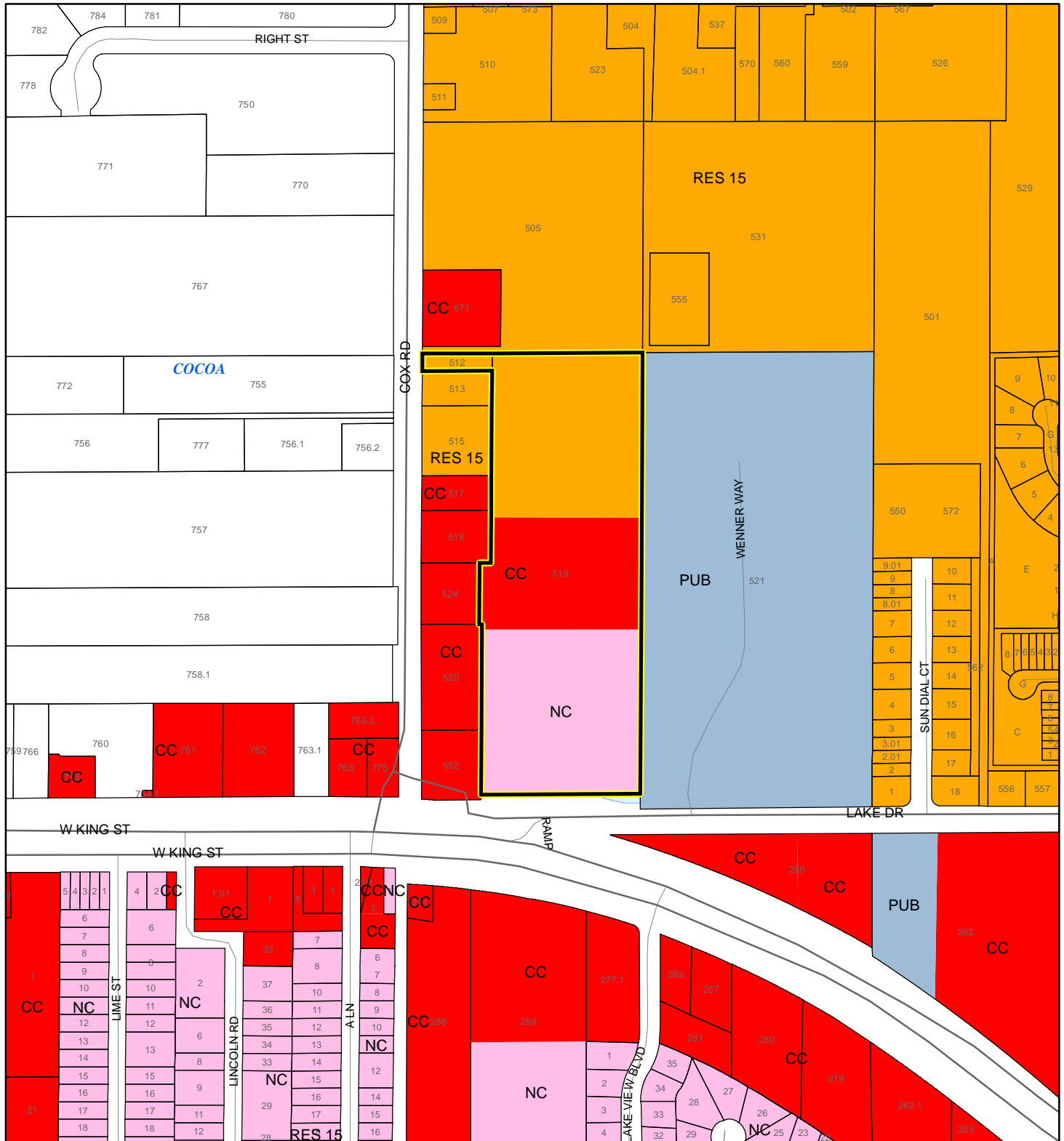
Parcels

Zoning

FUTURE LAND USE MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

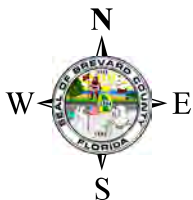
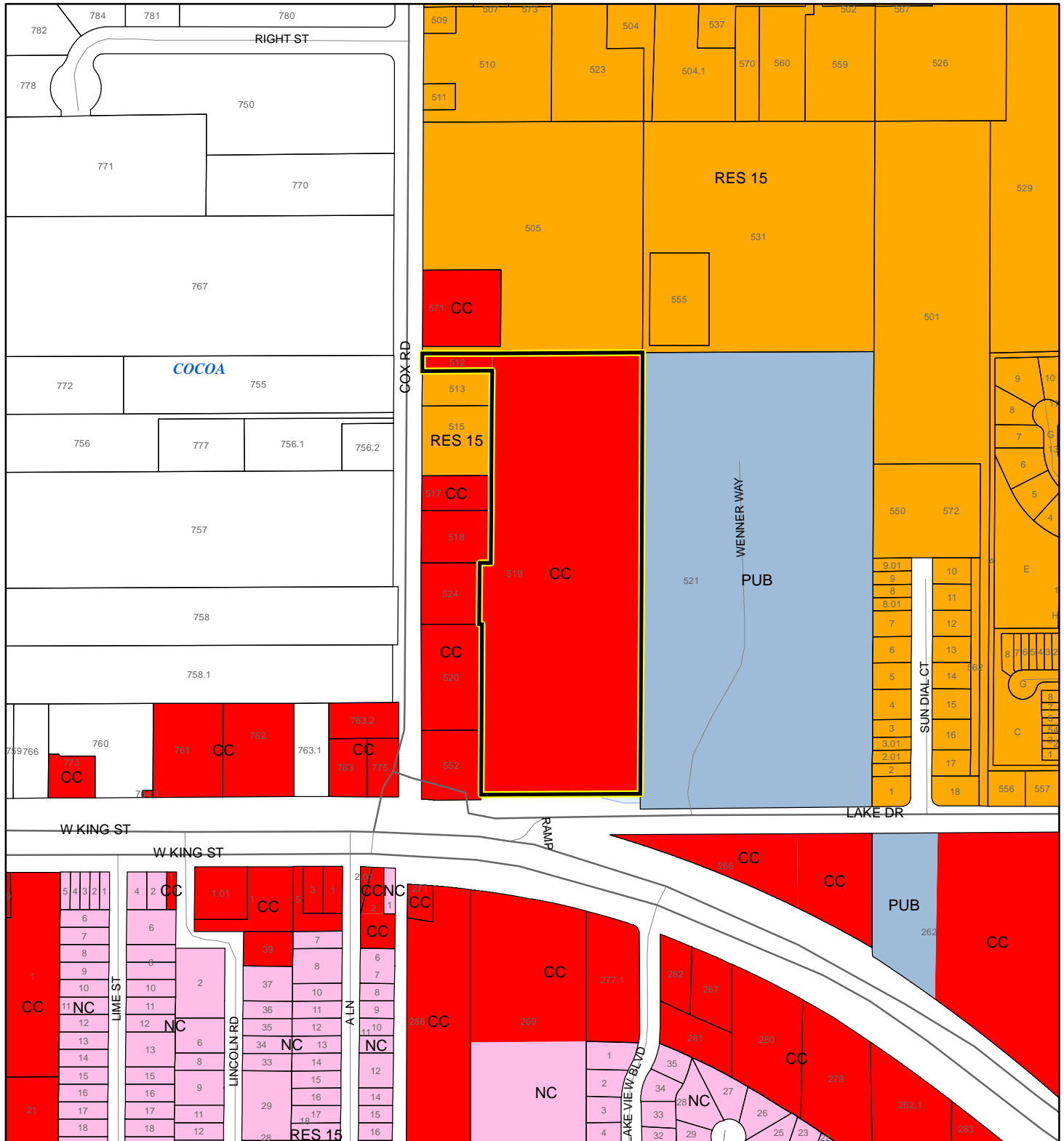
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/25/2023

PROPOSED FUTURE LAND USE MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



1:4,800 or 1 inch = 400 feet

Subject Property

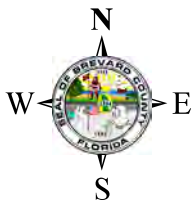
Parcels

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Produced by BoCC - GIS Date: 1/25/2023

AERIAL MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23SS00001





1:4,800 or 1 inch = 400 feet

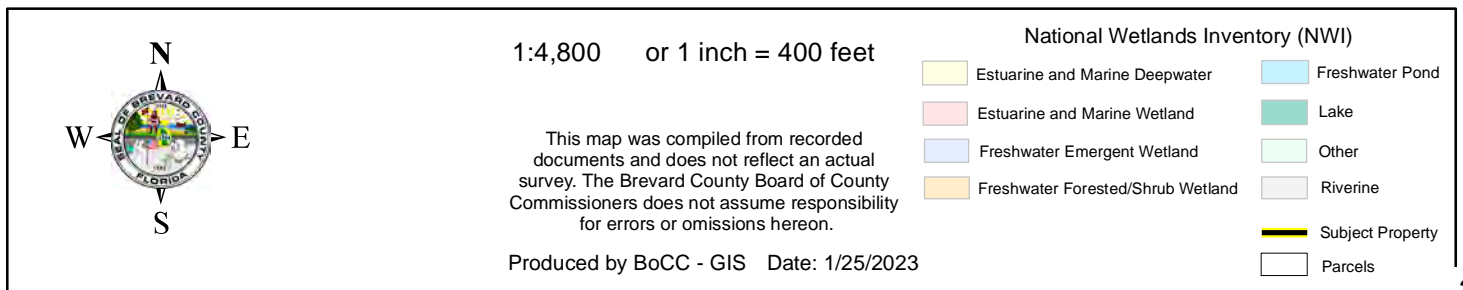
PHOTO YEAR: 2022

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Produced by BoCC - GIS Date: 1/25/2023

 Subject Property
 Parcels

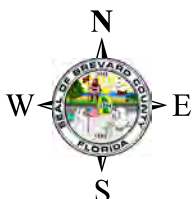
23SS00001



SJRWMD FLUCCS WETLANDS - 6000 Series MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



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Produced by BoCC - GIS Date: 1/25/2023

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

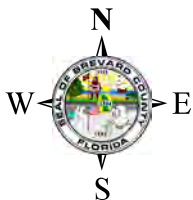
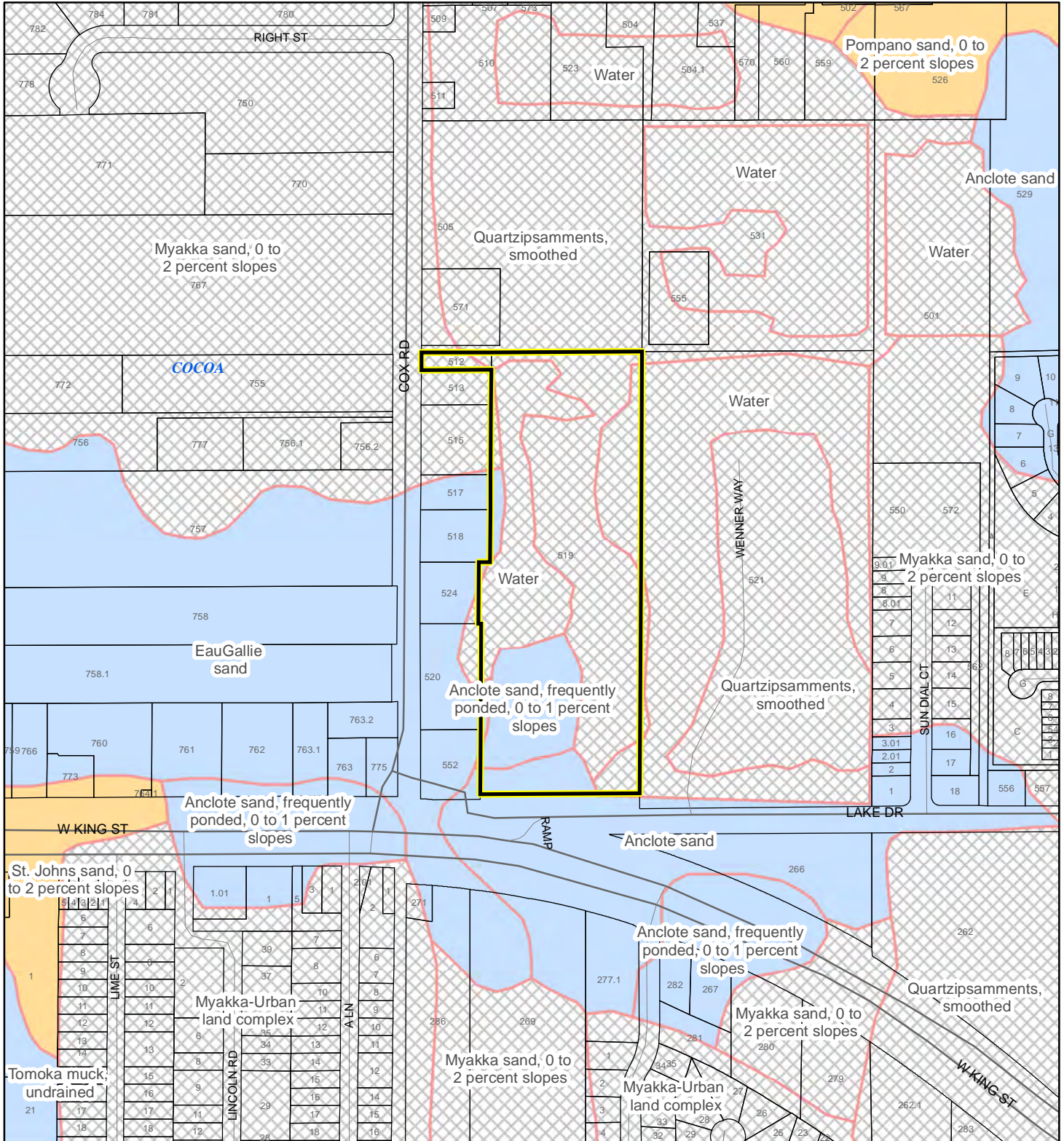
Subject Property

Parcels

USDA SCSSS SOILS MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



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Produced by BoCC - GIS Date: 1/25/2023

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

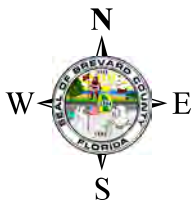
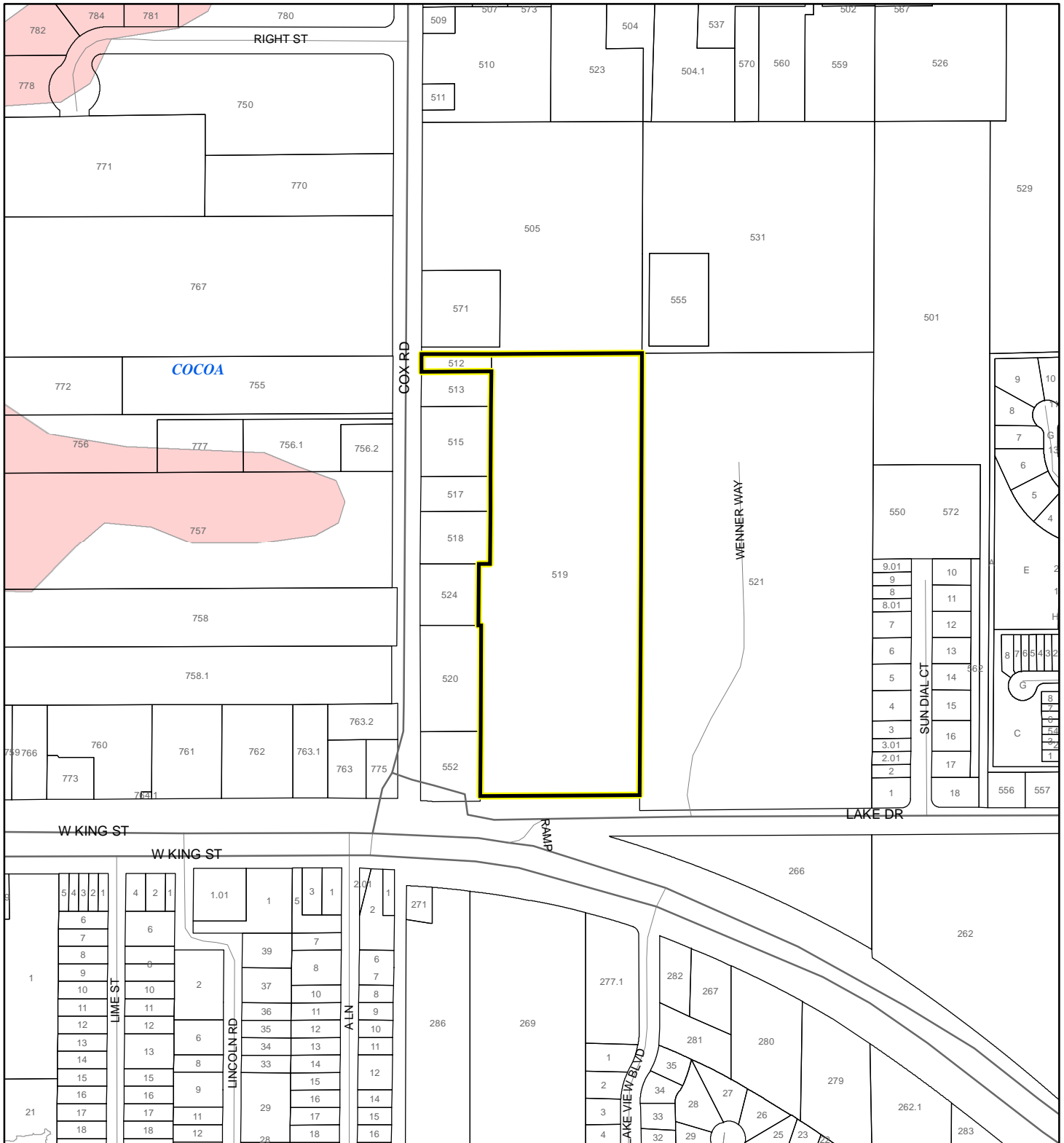
Subject Property

Parcels

FEMA FLOOD ZONES MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



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Produced by BoCC - GIS Date: 1/25/2023

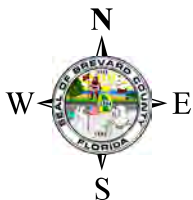
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



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Produced by BoCC - GIS Date: 1/25/2023

 Subject Property

 Parcels

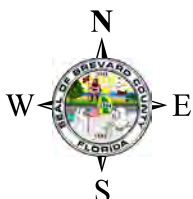
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



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Produced by BoCC - GIS Date: 1/25/2023

 Subject Property

 Parcels

Septic Overlay

 40 Meters

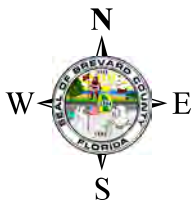
 60 Meters

 All Distances

EAGLE NESTS MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



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 Subject Property

 Parcels

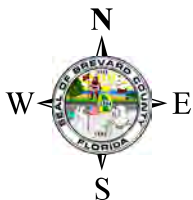


Eagle Nests
FWS 2010

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



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Produced by BoCC - GIS Date: 1/25/2023

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

ORDINANCE NO. 23- ____

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE FIRST SMALL SCALE PLAN AMENDMENT OF 2023, 23S.01, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2023 as Plan Amendment 23S.01; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 23S.01; and

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

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

WHEREAS, on March 13, 2023, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 23S.01, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on April 4, 2023, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 23S.01; and

WHEREAS, Plan Amendment 23S.01 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 23S.01 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 22S.17 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 23S.01, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this ____ day of _____, 2023.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

By: _____
Rita Pritchett, Chair

As approved by the Board on _____, 2023.

EXHIBIT A
23S.01 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

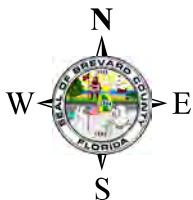
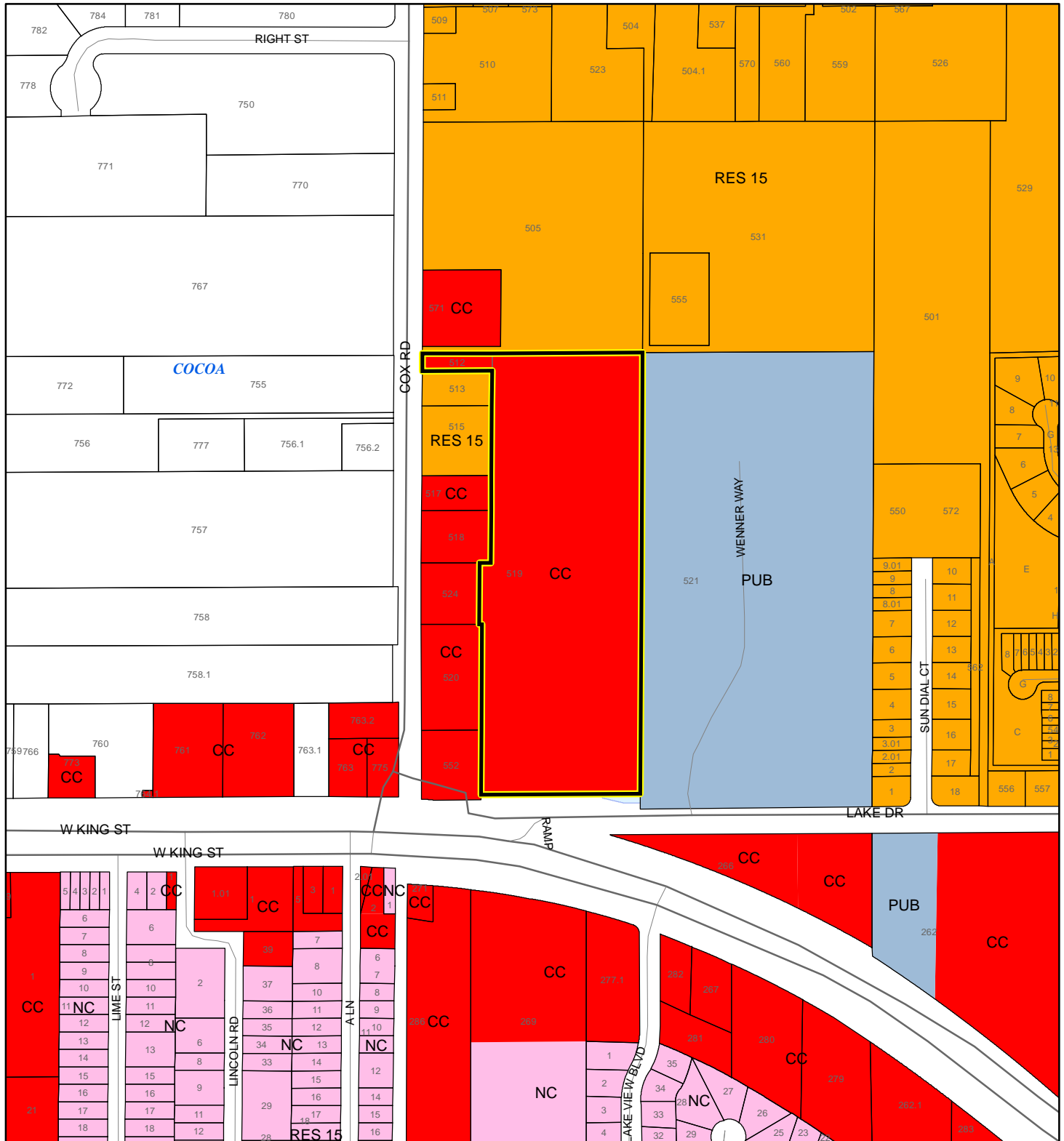
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23SS00001



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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Produced by BoCC - GIS Date: 1/25/2023

EXHIBIT B

Contents

1. Legal Description

A PUBLIC HEARING NOTICE

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, MARCH 13, 2023, and THURSDAY, APRIL 6, 2023:

DISTRICT 1 1. (23200002) Bobby J. Thomas requests a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home), on property described as Lot 5.01, Block 2, Indian River Park, as recorded in ORB 9566, Pages 1387 - 1388, of the Public Records of Brevard County, Florida. Section 16, Township 20S, Range 34, (2.87 acres) Located on the east side of Blounts Ridge Rd., approx. 0.17 mile south of Patty Lane. (No assigned address. In the Mims area.)

DISTRICT 1 2. (23200005) Louise Julia Goloversic requests a change of zoning classification from GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential), on property described as Lot 7.2-A, Canaveral Grove Subdivision, per SB 2, Pg. 64, and ORB 9599, Page 466 - 467, of the Public Records of Brevard County, Florida. Section 20, Township 24, Range 35, (3 acres) Located on the north side of Soggy Bottom Ave., approx. 0.34 mile west of Satellite Blvd, (6906 Soggy Bottom Ave., Cocoa)

DISTRICT 4 3. (225500015) IR Tiki 2, LLC (Sandeep Patel) requests a Small Scale Comprehensive Plan Amendment (225.18) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as Lot 21, Block 52, Indian River Estates Villas, as recorded in ORB 8743, Pages 795 - 797, of the Public Records of Brevard County, Florida. Section 32, Township 26, Range 37, (0.96 acres) Located on the east side of U.S. Highway 1, approx. 0.16 mile south of Coquina Ridge Dr. (4263 N. U.S. Highway 1, Melbourne) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.18: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 1 4. (23200004) Chelsey L. Cobb requests a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Tax Parcel 271, as recorded in ORB 9283, Pages 2274 - 2275, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 35, (3.09 acres) Located on the south side of James Rd., approx. 0.34 mile east of Friday Rd. (4475 James Rd., Cocoa)

DISTRICT 1 5. (22200074) Timothy Shane and Debra Jane Kelley (Don Hurnan) request a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential), on property described as Tax Parcel 52, as recorded in ORB 9437, Pages 689 - 690, of the Public Records of Brevard County, Florida. Section 29, Township 21, Range 35, (0.45 acres) Located on the west side of Old Dixie Hwy., approx. 165 ft. north of Diamond Rd. (1650 Old Dixie Hwy., Titusville)

DISTRICT 2 6. (22200068) Half Halt Stables, LLP (Toni Pasternack) requests a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential), on property described as a part of the SW ¼ of the NW ¼ of the SE ¼ of Section 25, Township 24S, Range 35E, Brevard County, Florida, being more particularly described as follows: begin at the SW corner of the NW ¼ of the SE ¼ of said Section 25; thence for a first course run north along the west line of the NW ¼ of the SE ¼ of said Section 25, a distance of 105 ft.; thence for a second course, run N89deg15'41"E, parallel to the south line of the NW ¼ of the SE ¼ of said Section 25, a distance of 105 ft.; thence for a third course, run south a distance of 105 ft.; thence for a fourth and final course, run S89deg15'41"W, a distance of 168 ft. to the point of beginning. Less 33 ft. of road right-of-way for Burnett Rd. (0.33 acres) Located on the east side of Burnett Rd., approx. 0.25 mile north of Lake Dr. (525 & 655 N. Burnett Rd., Cocoa)

DISTRICT 5 7. (22200067) Wendy Kleefisch requests a change of zoning classification from RU-1-11 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential), on property described as the east 103.5 ft. of Lot 4, Block F, of Map of Replat of North Indianlake by The Sea, according to the Plat thereof, as recorded in Plat Book 9, Page(s) 70, of the Public Records of Brevard County, Florida. Section 31, Township 27, Range 38, (0.36 acres) Located between Franklin Ave. and Grosse Pointe, approx. 0.07 mile west of Highway A1A, (107 Franklin Ave., Indianlake)

DISTRICT 3 8. (23200001) Morris M. Taylor Revocable Living Trust (Chelsea Anderson) requests a change of zoning classification from SEU (Suburban Estate Use Residential), EA (Environmental Area), and BU-1-A (Restricted Neighborhood Commercial), to AU (Agricultural Residential) and BU-1-A, on property described as follows: Parcel No. 1: The south 273.75 ft. of Government Lot 2, Section 7, Township 30S, Range 39E, Brevard County, Florida, less the south 125 ft. of said Lot 2. Together with the following described parcel: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida: Thence run N00deg58'52"E along the west line of said Government Lot 1, a distance of 273.75 ft. to the point of beginning; thence run S89deg49'57"E, a distance of 188.01 ft.; thence run S00deg10'03"W, a distance of 123.75 ft.; thence run

S89deg49'57"E, a distance of 326.25 ft.; thence run S44deg49'57"E, a distance of 1.77 ft.; thence S89deg49'57"E, a distance of 25 ft.; thence N45deg10'03"E, a distance of 6.89 ft.; thence S89deg49'57"E, a distance of 376.72 ft. to a point on the westerly right-of-way line of S.R. A1A (100-ft. total right-of-way); thence S29deg42'09"E, along said westerly right-of-way line, a distance of 28.28 ft.; thence S45deg10'03"W, a distance of 6.89 ft.; thence N89deg49'57"W, a distance of 25 ft.; thence N44deg49'57"W, a distance of 1.77 ft.; thence N89deg49'57"W, a distance of 521.04 ft. to a point on the west line of said Government Lot 1; thence N00deg58'52"E, a distance of 148.75 ft. to the point of beginning. Together with riparian and littoral right thereunto belonging. Said parcel No. 1 containing 1.90 upland acres more or less. Parcel No. 2: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida: thence run N00deg58'52"E along the west line of said Government Lot 1, a distance of 273.75 ft.; thence run S89deg49'57"E, a distance of 188.01 ft. to the point of beginning; thence run S89deg49'57"E, a distance of 353 ft.; thence run S00deg10'03"W, a distance of 125 ft.; thence run N89deg49'57"W, a distance of 25 ft.; thence run N44deg49'57"W, a distance of 1.77 ft.; thence run N89deg49'57"W, a distance of 326.25 ft.; thence run N00deg10'03"E, a distance of 123.75 ft. to the point of beginning. Containing in all, 1.00 acres more or less. Together with an exclusive and irrevocable easement for ingress and egress over the north 22.10 ft. or the north 273.75 ft. of Government Lot 1. Lying west of the right-of-way for S.R. A1A (100-ft. total right-of-way) less the west 541.01 ft. thereof, (3 acres +/-) Located on the west side of Highway A1A, approx. 0.36 mile north of River Oaks Rd. (8850 Highway A1A, Melbourne Beach)

DISTRICT 5 9. (22200069) Thomas A. Metzger, Alan and Grace Metzger request a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Lot 1, Block KK, as recorded in ORB 9447, Pages 1675 - 1677, of the Public Records of Brevard County, Florida. Section 11, Township 28, Range 36, (5.14 acres) Located on the south side of Chicago Ave., approx. 300 ft. east of Cave St. (No assigned address. In the Micco area.)

DISTRICT 2 10. (235500001) QW Trust Agreement (Carolyn Haslam) requests a Small Scale Comprehensive Plan Amendment (235.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, on property described as Tax Parcels 512 & 519, as recorded in ORB 8483, Pages 2310 - 2311, of the Public Records of Brevard County, Florida. Section 25, Township 24, Range 35, (13.36 acres) Located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 235.01: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 2 11. (23200003) QW Trust Agreement (Carolyn Haslam) requests a change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial), on property described as Tax Parcels 512 & 519, as recorded in ORB 8483, Pages 2310 - 2311, of the Public Records of Brevard County, Florida. Section 25, Township 24, Range 35, (13.36 acres) Located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa)

DISTRICT 2

12. (225500016) Crane View, LLC (Steve Anderson) requests a Small Scale Comprehensive Plan Amendment (225.19), to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to RES 30 DIR (Residential 30 Directive), on property described as Tax Parcel 589, as recorded in ORB 6763, Page 1549, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 36, (3.95 +/- acres) Located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln., 242, 252, 262, & 272 Crane View Ln., Merritt Island) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.19: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 2 13. (22200071) Crane View, LLC (Steve Anderson) requests a change of zoning classification from RU-2-15 (Medium Density Multi-Family Residential) with an existing BDP (Binding Development Plan), to RU-2-30 (High Density Multi-Family Residential), and an amendment to the existing BDP, on property described as Tax Parcel 589, as recorded in ORB 6763, Page 1549, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 36, (3.95 +/- acres) Located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln., 242, 252, 262, & 272 Crane View Ln., Merritt Island) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, MARCH 13, 2023, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, APRIL 6, 2023, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2063 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

QW Trust Agreement (Carolyn Haslam)

A Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, on 13.36 acres, located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) (23SS00001) (Tax Accounts 2407572 & 2407578) (District 2)

QW Trust Agreement (Carolyn Haslam)

A change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial), on 13.36 acres, located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) (23Z00003) (Tax Accounts 2407572 & 2407578) (District 2)

Bruce Moia disclosed he had a brief conversation with the applicant about the property.

Carolyn Haslam, 420 S. Orange Avenue, Orlando, stated the reason for the Small Scale Plan Amendment and rezoning is so the property can be unified as Community Commercial and BU-1. She said the proposed use is a high-quality retail development that will include a grocery store. The proposed amendments will allow for the development to be consistent with the comp plan policies, and they are compatible with the area, which is a mix a commercial and industrial. She stated the proposed commercial use will benefit the community, and we ask for your approval of both requests.

No public comment.

Henry Minneboo asked what is the final plan for the property. Ms. Haslam replied the plan is for commercial, including a grocery store, drug store, and retail. Mr. Minneboo asked if the project will have access to Cox Road. Ms. Haslam replied yes, there will be access on Cox Road and Lake Drive.

Ben Glover asked how much of the property can be filled.

Bruce Moia stated if the lake is surface water then it is not an impact as far as the permitting agencies are concerned.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15, NC, and CC, to all CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the change of zoning classification from GU and IU-1, to BU-1. The motion passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.11.

4/6/2023

Subject:

QW Trust Agreement (Carolyn Haslam) requests a change of zoning classification from GU and IU-1 to BU-1. (23Z00003) (Tax Accounts 2407572 & 2407578) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial).

Summary Explanation and Background:

The applicant is requesting to change the zoning classification from GU and IU-1 to BU-1 on 13.36 acres to develop the site as a grocery store and retail commercial. The subject property consists of Tax Accounts 2407572 and 2407578. Currently, Tax Account 2407572 (approximately 0.19 acres) is classified as GU zoning, and Tax Account 2407578 (approximately 13.17 acres) retains IU-1 and GU zoning classifications. The subject property is currently undeveloped and has frontage on Lake Drive as well as Cox Road (50 feet in width).

The proposed BU-1 classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community and allows for retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. A companion application, 23SS00001, if approved, would amend the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) to all Community Commercial (CC).

The developed character of the surrounding area is commercial and government managed lands, with a mix of residential to the north and further east. Industrial use is located along the west side of Cox Road (City of Cocoa). Cox Road and Lake Drive both connect to W. King Street (SR 520), a commercial corridor that serves regional and tourist markets.

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

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning and Development.

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

23Z00003

QW Trust

GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial)

Tax Account Numbers: 2407578 and 2407572

Parcel I.D.: 24-35-25-00-512 and 24-35-25-00-519

Location: North side of Lake Drive, approximately 171 feet east of Cox Road
(District 2)

Acreage: 13.36 acres

Planning & Zoning Board: 3/13/2023

Board of County Commissioners: 4/06/2023

Consistency with Land Use Regulations

- Current zoning cannot 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 may not maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	GU and IU-1	BU-1
Potential*	0	581,962 sq. ft. commercial
Can be Considered under the Future Land Use Map	NO RES 15, NC, and CC	YES** CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request 23SS00001 which proposes to amend the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) to all Community Commercial (CC).

Background and Purpose of Request

The applicant is requesting to change the zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial) on 13.36 acres to develop the site as a grocery store and retail commercial. The subject property consists of two parcels, 24-35-25-00-512 and 24-35-25-00-519. Currently, parcel 24-35-25-00-512 (approximately 0.19 acres) is classified as GU zoning, and parcel 24-35-25-00-519 (approximately 13.17 acres) retains IU-1 and GU zoning classifications. The subject property is currently undeveloped and has frontage on Lake Drive as well as Cox Road (50 feet in width).

The subject property was originally zoned GU and was rezoned to BU-2 on September 8, 1960 as zoning action **Z-396**. The property was rezoned from BU-2 to TR-3 on November 8, 1962, as zoning action **Z-858** and then reverted back to GU in July 8, 1963, as referenced in zoning file Z-858. A 12-acre portion of the subject property was rezoned from GU to IU-1 on June 5, 1975, as zoning action **Z-3892**.

A CUP renewal for temporary trailer for security purposes was approved on October 11, 1984 as zoning action **Z-6858**. The original CUP was approved on June 16, 1983 as zoning action **Z-6379**. There is no CUP associated with the subject property currently.

Land Use

The subject property is currently designated as Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) FLU. The existing GU zoning classification can be considered consistent with the existing RES 15, NC and CC Future Land Use designations. However, the existing IU-1 zoning classification may not be considered consistent with the existing RES 15, NC and CC Future Land Use designations.

The proposed BU-1 zoning classification cannot be considered consistent with the existing RES 15 and NC Future Land Use designations; however, the proposed BU-1 zoning classification can be considered consistent with the requested CC Future Land Use designation.

A companion application, **23SS00001**, if approved, would amend the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) to all Community Commercial (CC).

Applicable Land Use Policies

FLUE Policy 2.2 - Role of Zoning Regulations in the Designation of Commercial Lands

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

Criteria:

- A. Permitted/prohibited uses;
- B. Existing commercial zoning trends in the area;
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
- F. Other issues which may emerge specific to a particular property which may be addressed through performance based zoning criteria.

FLUE Policy 2.7 – Activities Permitted in Community Commercial (CC) Future Land Use Designations

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community

Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant has proposed to develop the site as a grocery store and retail commercial 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 is proposing the development of a grocery store and retail commercial. 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 commercial in character with government facilities and residential land uses north and east of the subject site. The west side of Cox Road is within the City of Cocoa and is designated as Industrial FLU. There are four (4) FLU designations within 500 feet of the subject site: RES 15, CC, NC, and PUB. The predominant FLU designation in this area is CC.

Cox Road and Lake Drive both connect to W. King Street (SR 520) which has a historic pattern of strip commercial development.

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

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

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

While there has not been any new development in the preceding three (3) years, one zoning action has been approved within one-half mile.

21Z00031, approved by the Board on December 2, 2021, was a request to rezone from RU-1-9 and RU-2-10 to all RU-2-10 on a 9.19-acre parcel located approximately 0.4 miles south of the subject property on the north side of Parrish Road.

There are no pending zoning actions within one-half mile 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.

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

Criteria:

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

The developed character of the surrounding area is commercial and government managed lands, with a mix of residential to the north and further east. Industrial use is located along the west side of Cox Road (City of Cocoa). Cox Road and Lake Drive both connect to W. King Street (SR 520), a commercial corridor that serves regional and tourist markets.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Commercial mixed use; Single-family	BU-2; AGR	CC; RES 15
South	Commercial undeveloped; Commercial retail	BU-2; BU-1	CC
East	Warehousing	GML	PUB
West	Commercial retail; Commercial warehousing; Commercial undeveloped; Two (2) single-family residences	GU; BU-1-A; BU-1; BU-2	RES 15; CC

To the north is a 1.13-acre parcel with BU-2 zoning and developed as a mixed use commercial property with an office building and residence. Also, to the north is an 8.68-acre parcel with AGR zoning and developed as a single-family residence (built in 1910) with horse stables (built in 2005).

To the south, across Lake Drive, is a 2.42-acre undeveloped parcel with BU-2 zoning. Further to the south, across W. King Street (SR 520), are two parcels (8.27-acres and 1.2-acres) both with BU-1 zoning and each developed as retail commercial stores.

To the east is 20-acre parcel owned by Brevard County with GML zoning and developed as warehousing and storage.

To the west, along Cox Road, are several commercial properties, including a 0.8-acre parcel with BU-2 zoning developed as convenience store/gas station; a 1.46-acre parcel with BU-2 zoning developed as warehousing; a 0.67-acre parcel with BU-2 zoning developed as warehousing; and a 0.38-acre undeveloped commercial parcel with BU-1 zoning. There is one commercial parcel (0.77-acres) with BU-1-A zoning developed as a retail store.

Also, to the west, along Cox Road, is a 0.69-acre parcel developed as a single-family residence (built in 1959) with BU-2 zoning; and a 0.38-acre parcel developed as a single-family residence (built in 1962) with GU zoning. Further west, across Cox Road, is the City of Cocoa.

The current 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 current IU-1 classification is the heaviest industrial zoning classification in the Code. It permits heavy manufacturing, including outside activities such as livestock yards and commercial incinerators. The minimum lot size is 40,000 square feet with a minimum width and depth of 200 feet.

The proposed BU-1 classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community and allows for retail commercial land uses on

minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The 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.

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. Resort dwelling use is allowed as a permitted use in the BU-2 classification.

The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

One zoning action has been approved within a half-mile radius of the subject property within the last three years: **21Z00031**, approved by the Board on December 2, 2021, was a request to rezone from RU-1-9 and RU-2-10 to all RU-2-10 on a 9.186-acre parcel located approximately 0.4 miles south of the subject property on the north side of Parrish Road.

There are no pending zoning actions within a half-mile radius of the subject property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Lake Drive, from Cox Road to Range Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 18.64% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 140.40%. The corridor is anticipated to operate at 159.05% of capacity daily. Specific concurrency issues and operational improvements 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 has access to Cocoa City Water Distribution per information provided by the City of Cocoa. The closest Brevard County sanitary sewer line is approximately 350 feet to the south at Lakeview Boulevard and W. King Street (SR 520).

Environmental Constraints

- Wetlands/Hydric Soils
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

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

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 #23SS00001

Applicant: Carolyn Haslam

FLU Request: GU & IU-1 to BU-1

Note: Applicant wants to develop a grocery and retail site.

Zoning Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID Nos: 2407578 & 2407572

- 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
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Lake Drive is an MQR in this location; Cox Road is not. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners 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 site plan design or permit submittal.

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.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped hydric soils (Anclote sand, frequently ponded, 0 to 1 percent slopes and Anclote sand), and NWI and SJRWMD wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Lake Drive is an MQR in this location; Cox Road is not. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners 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 site plan design or permit submittal.

Protected and Specimen Trees

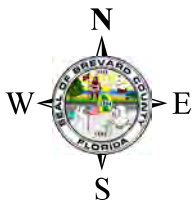
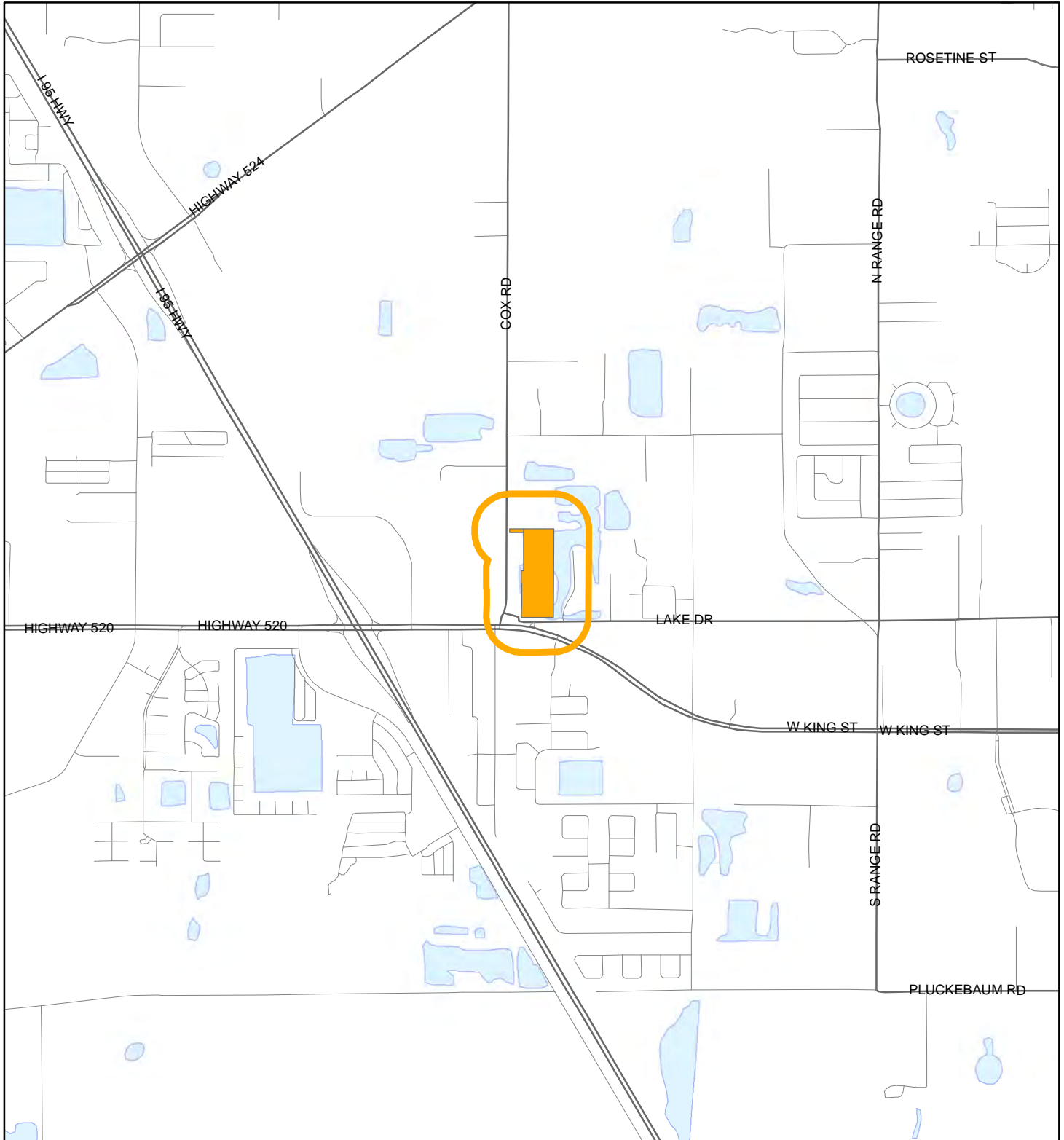
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Protected Species

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

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003





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

Buffer Distance: 500 feet

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

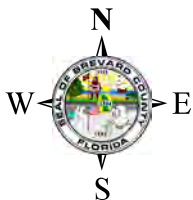
Produced by BoCC - GIS Date: 1/11/2023

 Buffer
 Subject Property

ZONING MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003



1:4,800 or 1 inch = 400 feet

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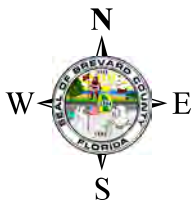
Produced by BoCC - GIS Date: 1/11/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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AERIAL MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003





1:4,800 or 1 inch = 400 feet

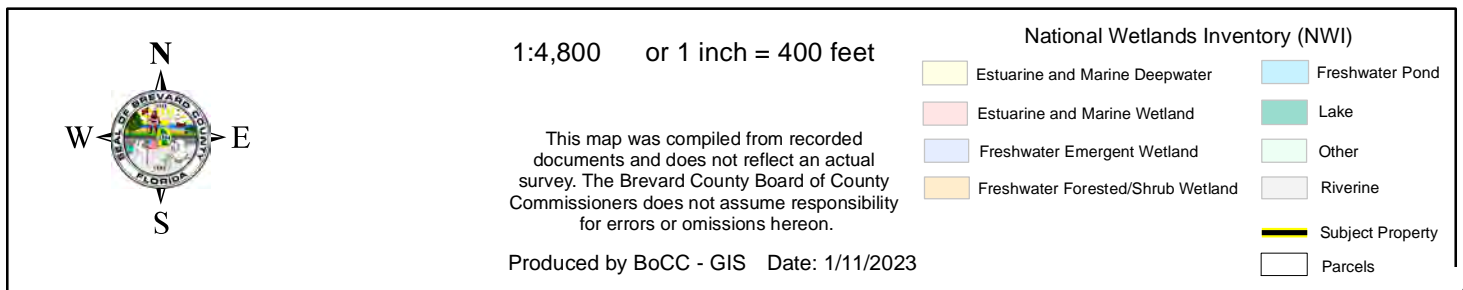
PHOTO YEAR: 2022

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Produced by BoCC - GIS Date: 1/11/2023

 Subject Property
 Parcels

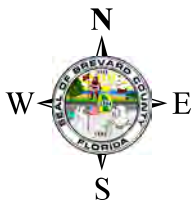
23Z00003



SJRWMD FLUCCS WETLANDS - 6000 Series MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003



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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

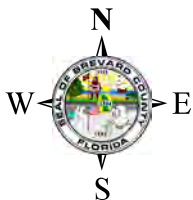
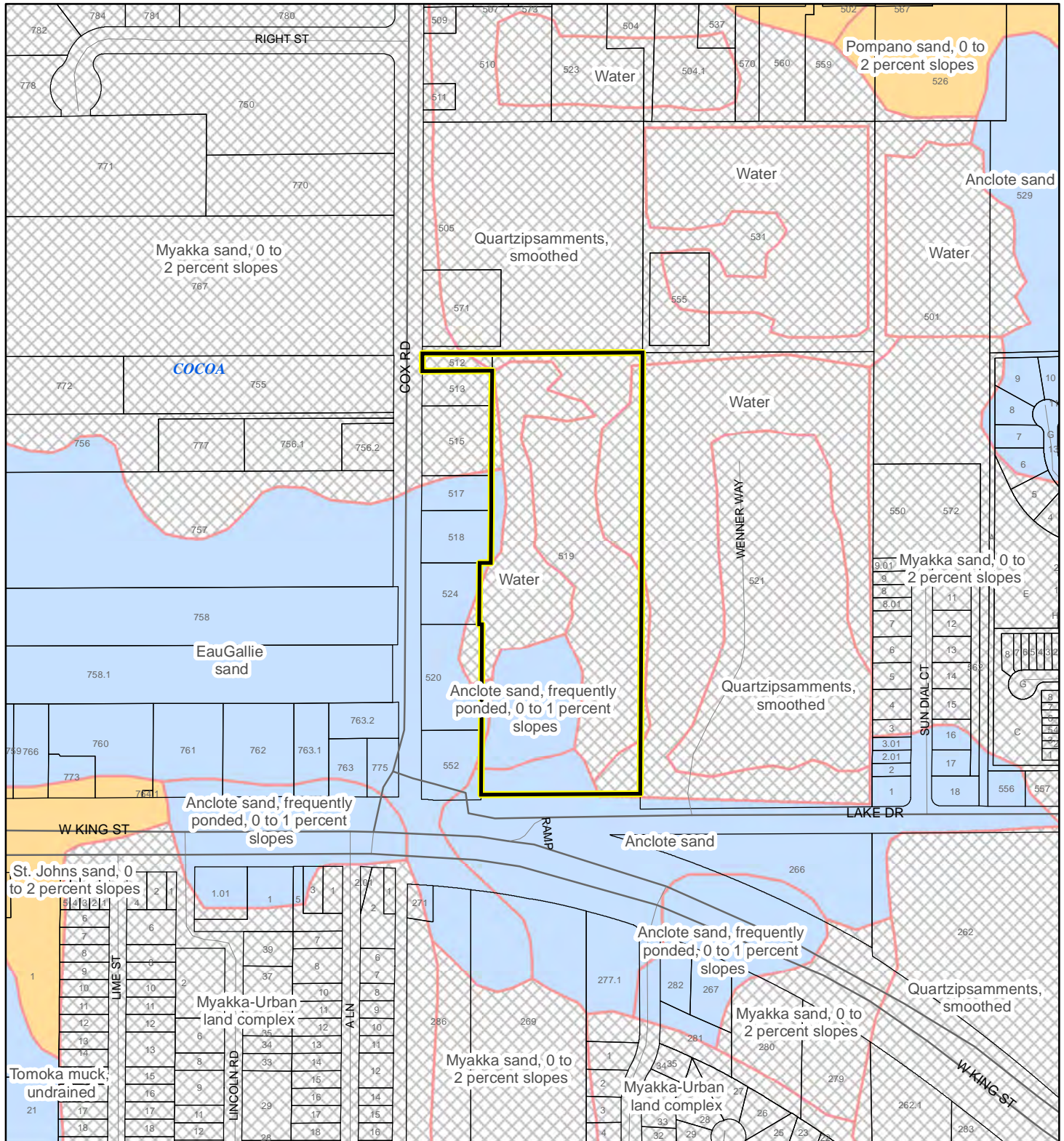
Subject Property

Parcels

USDA SCSSS SOILS MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

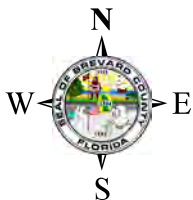
Subject Property

Parcels

COASTAL HIGH HAZARD AREA MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003



1:4,800 or 1 inch = 400 feet

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

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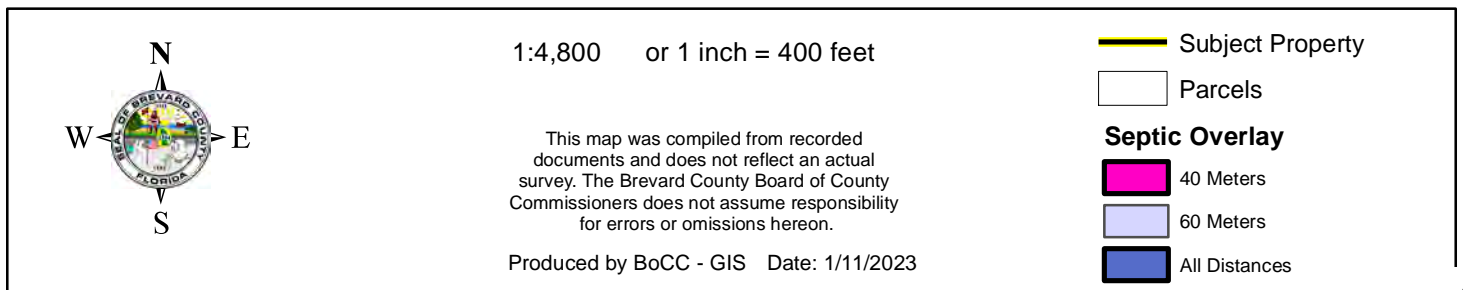
 Subject Property

 Parcels

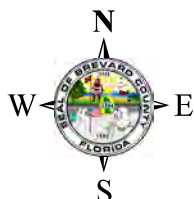
Coastal High Hazard Area

 SurgeZoneCat1

23Z00003



23Z00003



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Produced by BoCC - GIS Date: 1/11/2023

— Subject Property

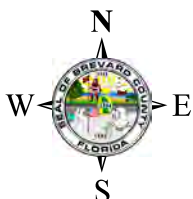
☐ Parcels

Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003



1:4,800 or 1 inch = 400 feet

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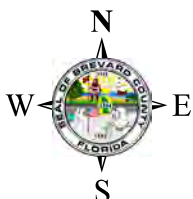
Produced by BoCC - GIS Date: 1/11/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

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

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

QW Trust Agreement (Carolyn Haslam)

A Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, on 13.36 acres, located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) (23SS00001) (Tax Accounts 2407572 & 2407578) (District 2)

QW Trust Agreement (Carolyn Haslam)

A change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial), on 13.36 acres, located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) (23Z00003) (Tax Accounts 2407572 & 2407578) (District 2)

Bruce Moia disclosed he had a brief conversation with the applicant about the property.

Carolyn Haslam, 420 S. Orange Avenue, Orlando, stated the reason for the Small Scale Plan Amendment and rezoning is so the property can be unified as Community Commercial and BU-1. She said the proposed use is a high-quality retail development that will include a grocery store. The proposed amendments will allow for the development to be consistent with the comp plan policies, and they are compatible with the area, which is a mix a commercial and industrial. She stated the proposed commercial use will benefit the community, and we ask for your approval of both requests.

No public comment.

Henry Minneboo asked what is the final plan for the property. Ms. Haslam replied the plan is for commercial, including a grocery store, drug store, and retail. Mr. Minneboo asked if the project will have access to Cox Road. Ms. Haslam replied yes, there will be access on Cox Road and Lake Drive.

Ben Glover asked how much of the property can be filled.

Bruce Moia stated if the lake is surface water then it is not an impact as far as the permitting agencies are concerned.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15, NC, and CC, to all CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the change of zoning classification from GU and IU-1, to BU-1. The motion passed unanimously.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.12.

4/6/2023

Subject:

Crane View, LLC (Steve Anderson) requests a Small Scale Comprehensive Plan Amendment (22S.19) to change the Future Land Use designation from RES 15 and NC to RES 30 DIR. (22SS00016) (Tax Account 2412341) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (22S.19) to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to RES 30 DIR (Residential 30 Directive).

Summary Explanation and Background:

The applicant is requesting to change the Future Land Use designation on 3.95 acres of land from RES 15 and NC to RES 30 DIR to develop the site as an apartment complex with up to 90 multi-family residential units. The subject property is currently vacant with four (4) partially constructed buildings.

A companion rezoning application (22Z00052) was submitted accompanying this request to change the zoning classification from RU-2-15 (Medium-Density Multi-Family Residential) with a BDP (Binding Development Plan) to RU-2-30 (High-Density Multi-Family Residential) with the removal and replacement of the existing BDP. The proposed RU-2-30 zoning can be considered consistent with the proposed RES 30 DIR Future Land Use, as provided in Section 62-1255.

The character of the area is commercial along North Courtenay Parkway with residential land uses in the surrounding areas. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 15, and RES 6. The predominant FLU designations along this section of North Courtenay Parkway are NC and CC.

The Board may consider if the request to introduce RES 30 is consistent and compatible with the surrounding area and the comprehensive plan.

On March 13, 2023, the Local Planning Agency heard the request and voted 8:2 to recommend approval.

Clerk to the Board Instructions:

Once the Ordinance is filed with the State, please return two executed copies to Planning and Development.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 22S.19 (22SS00016)
Township 24, Range 36 Section 14

Property Information

Owner / Applicant: Crane View LLC

Adopted Future Land Use Map Designation: Residential 15 (RES 15) and
Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Residential 30 Directive (RES 30 DIR)

Acreage: 3.95 acres

Tax Account #: 2412341

Site Location: West side of N. Courtenay Parkway, approximately 580 feet east of Butler
Avenue

Commission District: 2

Current Zoning: Medium-Density Multiple-Family Residential (RU-2-15) with a Binding
Development Plan (BDP)

Requested Zoning: High-Density Multiple-Family Residential (RU-2-30) and
amendment of a Binding Development Plan (BDP) (22Z00071)

Background & Purpose

The applicant is requesting to change the Future Land Use designation on 3.95 acres of land from Residential 15 (RES 15) and Neighborhood Commercial (NC) to Residential 30 Directive (RES 30 DIR) to develop the site as an apartment complex with up to 90 multi-family residential units. The subject property is currently vacant with four (4) partially constructed buildings.

The subject property retains RES 15 and NC Future Land Use designations. The closest RES 30 Directive is 3.1 miles to the south of the subject site on S. Tropical Trail. If approved, this request would equate to 23 units per acre with limitations within the BDP.

There are five (5) active liens on open code enforcement cases (21CE-01807, 20CE-01187, 18CE-00793, 18CE-00742, and 16CE-02285) associated with this property

including two active violations for unsafe structure and failure to maintain vacant structure.

A companion rezoning application was submitted accompanying this request to change the zoning classification from RU-2-15 (Medium-Density Multiple-Family Residential) with a Binding Development Plan (BDP) to RU-2-30 (High-Density Multiple-Family Residential) with the removal and replacement of a Binding Development Plan (BDP) (22Z00052).

The existing RU-2-15 zoning can be considered consistent with the existing RES 15 FLU and NC FLU designations, as provided in Sec. 62-1255.

The proposed RU-2-30 zoning can be considered consistent with the existing NC FLU, as provided in FLU Policy 2.10; however, the proposed RU-2-30 zoning may not be considered consistent with the existing RES 15 FLU, as provided in Sec. 62-1255.

The proposed RU-2-30 zoning can be considered consistent with the proposed RES 30 DIR FLU, as provided in Sec. 62-1255.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

Policy 1.2

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

Criteria:

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

This Future Land Use Amendment request to change from RES 15 and NC to RES 30 DIR will require a connection to a centralized water and sewer service.

- 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.

The subject site is within the City of Cocoa's service area public water. This Future Land Use Amendment request to change from RES 15 and NC to RES 30 DIR will require a connection to a centralized water and sewer service.

Residential 30 Directive (maximum of 30 dwelling units per acre)

Policy 1.3

The Residential 30 Directive Future Land Use designation affords the highest density allowance, permitting a maximum density of up to thirty (30) units per acre, except as otherwise may be provided for within the Future Land Use Element. Parameters for this future land use designation include:

Criteria:

- A. The Residential 30 Directive land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

1. Areas located east of Interstate-95; and

The subject site is located 6.6 miles east of Interstate-95 (I-95).

2. Unincorporated enclaves located within or adjacent to incorporated areas which permit similar or greater density allowance; or

The subject site is not located adjacent to an incorporated area.

3. Areas adjacent to existing Residential 30 land use designation; and

The subject site is not adjacent to an existing RES 30 land use designation. This request can be considered an introduction of RES 30 into the surrounding area. The closest RES 30 DIR is 3.1 miles south of the subject property on South Tropical Trail.

4. Areas with direct access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.

The subject site has direct access to an arterial roadway. North Courtenay Parkway is classified as an Urban Principal Arterial roadway.

- B. In the Merritt Island Redevelopment Area, Brevard County should encourage high density development in clustered patterns that maximize the provision of open space to avoid the impacts of "strip" or "checkerboard" land use patterns and to assist in the development of an urban atmosphere. The Residential 30 Directive land use designation may permit development in excess of 30 units per acre, provided that one of the

following applies:

1. Residential density of up to 37.5 dwelling units per acre, may be considered if approved as part of a redevelopment plan; or

The subject site is not part of an approved redevelopment plan.

2. Developments which are tied to a binding development plan and propose a mixture of residential and commercial uses may permit the residential portion of the project with density of up to 50 dwelling units per acre.

The subject site is within the Merritt Island Redevelopment Agency (MIRA); however, the proposal is not part of a redevelopment plan approved by Board of County Commissioners.

The applicant has submitted a companion application to this Future Land Use Amendment requesting to rezone from RU-2-15 with a Binding Development Plan (BDP) to RU-2-30 and remove the existing BDP and add a new BDP (22Z00071).

The proposed BDP limits the parcel to density of 90 dwelling units per acre.

- C. A 25% density bonus to permit up to 37.5 dwelling units per acre may be considered, except in the Coastal High Hazard Area (CHHA), where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant has not proposed a Planned Unit Development. The subject site is not located within the CHHA.

Administrative Policy 3

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

Criteria:

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

1. historical land use patterns;

The character of the area is commercial along North Courtenay Parkway with residential land uses in the surrounding areas. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 15, and RES 6. The predominant FLU designations along this section of North Courtenay Parkway are NC and CC.

This request can be considered an introduction of RES 30 DIR into the area along North Courtenay Parkway. The closest RES 30 DIR FLU designation is located approximately 3.1 miles south of the subject property on South Tropical Trail. That parcel is currently undeveloped.

The most recent FLU amendment (21S.09) in this area was adopted March 3, 2022 by Ordinance 22-05 to change the FLU designation from NC to CC on 0.92 acres 233 feet to the southeast of the subject property on N Courtenay Parkway. That parcel is currently undeveloped.

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

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

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

While there has not been any new development in the preceding three (3) years, one zoning action has been approved within one-half mile.

20Z00042, approved by the Board on November 3, 2022, was a request to amend a BDP to add car wash use on an 8.89-acre parcel with BU-1 zoning located approximately 136 feet northeast of the subject property at the southeast corner of Skyline Boulevard and North Courtenay Parkway.

- 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.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed

rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

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

The developed character of the area along North Courtenay Parkway to the north of the subject parcel is mostly commercial that transitions to multi-family residential to the west.

South of the subject property is a mix of commercial, institutional, and residential development. There is an older single-family residential neighborhood (platted in 1962) immediately adjacent to the south of the subject property. The residential zoning in the area is RU-1-11 single-family residential which allows one quarter (1/4) acre lots.

There are multiple parcels with multi-family zoning classifications within a one-half mile radius of the subject property ranging from RU-2-10 to RU-2-30. The closest RU-2-30 zoning classification is located immediately to the north of the subject property on 6.3 acres developed as a condominium complex (Island Village Condominiums). Property Appraiser records indicate a total of 93 units in Island Village Condominiums Phases A through F which equates to a built-out density of approximately 14.76 units per acre.

As provided in FLU Policy 2.10, residential development or the integration of residential development with commercial development can be permitted in the Neighborhood Commercial (NC) land use designation, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and area designated for residential use on the Future Land Use Map, as provided in FLU Policy 2.10. Residential development may be permissible in 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.

The existing RES 15 and NC FLU designations would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site (59 units), this request actually represents an increase of approximately 31 units.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Commercial; Multi-family	BU-1-A & BU-1; RU-2-30	NC & CC; RES 15
South	Single-family	RU-1-11	RES 15
East	Retail Commercial	BU-1-A	NC
West	Single-family	RU-1-11	RES 15

To the north is a 0.92-acre parcel designated as NC and CC FLU and developed as a commercial financial institution.

To the south is a single-family residential neighborhood (platted in 1962) with RES 15 FLU.

To the east, across North Courtenay Parkway, is a 0.51-acre parcel and a 1.88-acre parcel, both designated as NC FLU and developed as retail commercial.

To the west is a single-family residential neighborhood (platted in 1962) with RES 15 FLU.

Concurrency

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The subject site is within the City of Cocoa's service area public water. The closest centralized sewer line (Brevard County Utilities) is located adjacent to the subject property on the west side of North Courtenay Parkway. The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development.

Environmental Constraints

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

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

Historic Resources

According to information provided by the Florida Master Site File of the Florida Division of Historic Resources, there are no recorded cultural resources associated with the subject site.

For Board Consideration

The Board may consider if the request to introduce RES 30 is consistent and compatible with the surrounding area and the comprehensive plan.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Comprehensive Plan Review & Summary
Item #22SS00016

Applicant: Steve Anderson/Larry Poliner

FLU Request: RES 15 & NC to RES 30, with new BDP limiting to 90 units

Note: Applicant wants to demo partially completed residential development, and construct new multi-family development.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2412341

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Taveres fine sand, 0-5% slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage

treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

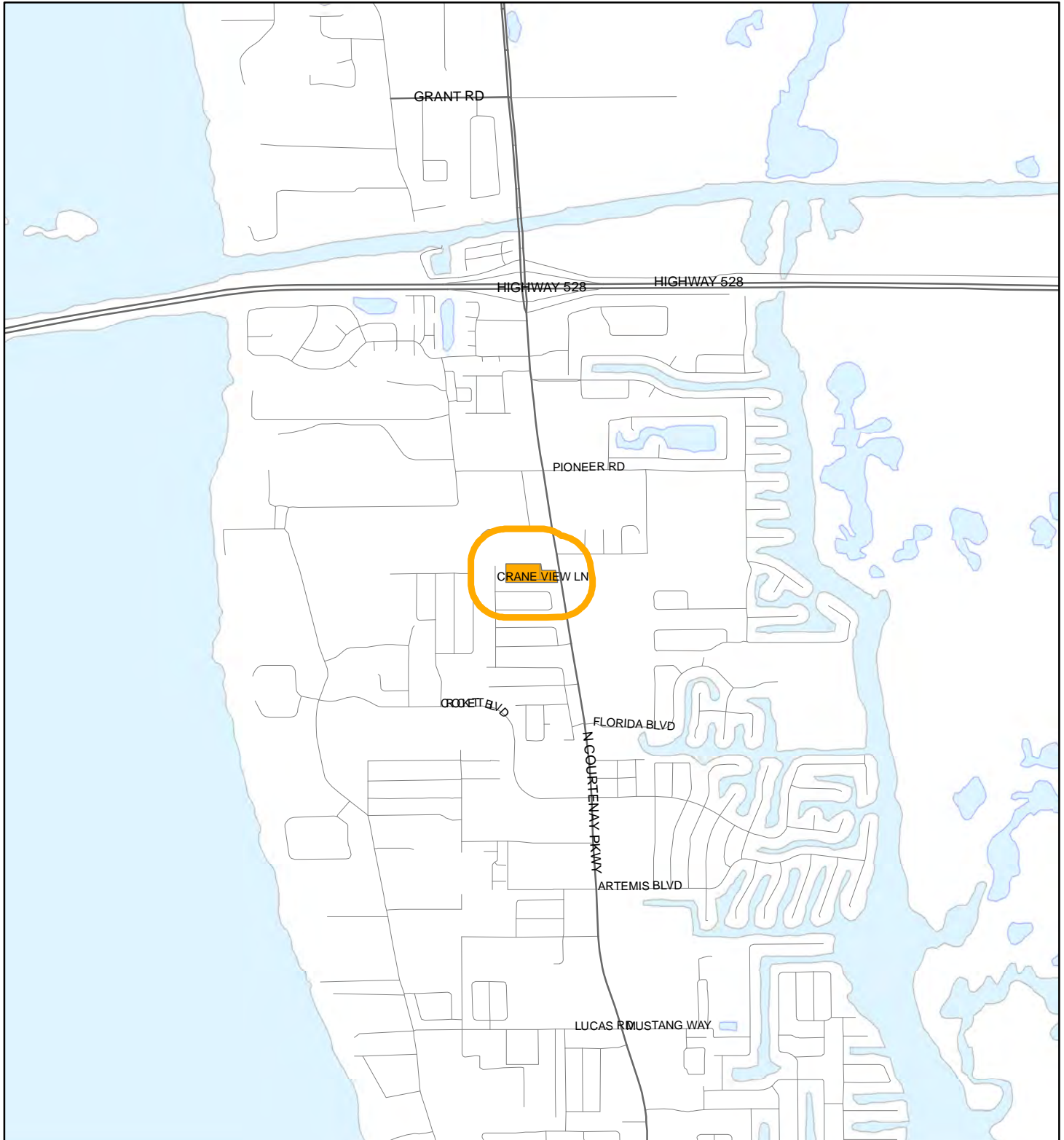
Protected Species

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

CRANE VIEW LLC

22SS00016



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

Buffer Distance: 500 feet

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

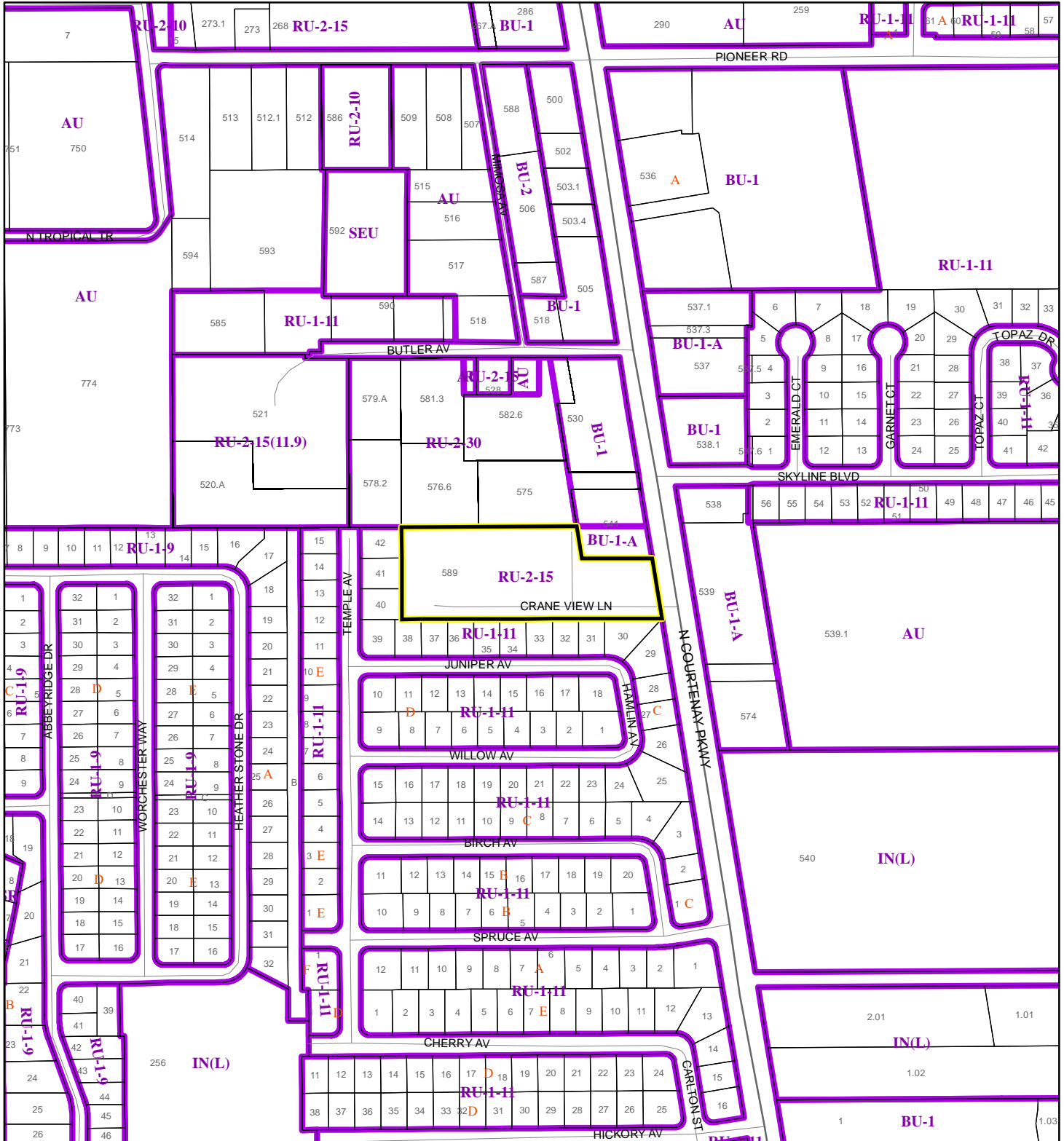
Produced by BoCC - GIS Date: 1/27/2023

— Buffer
— Subject Property

ZONING MAP

CRANE VIEW LLC

22SS00016



1:4,800 or 1 inch = 400 feet

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Subject Property

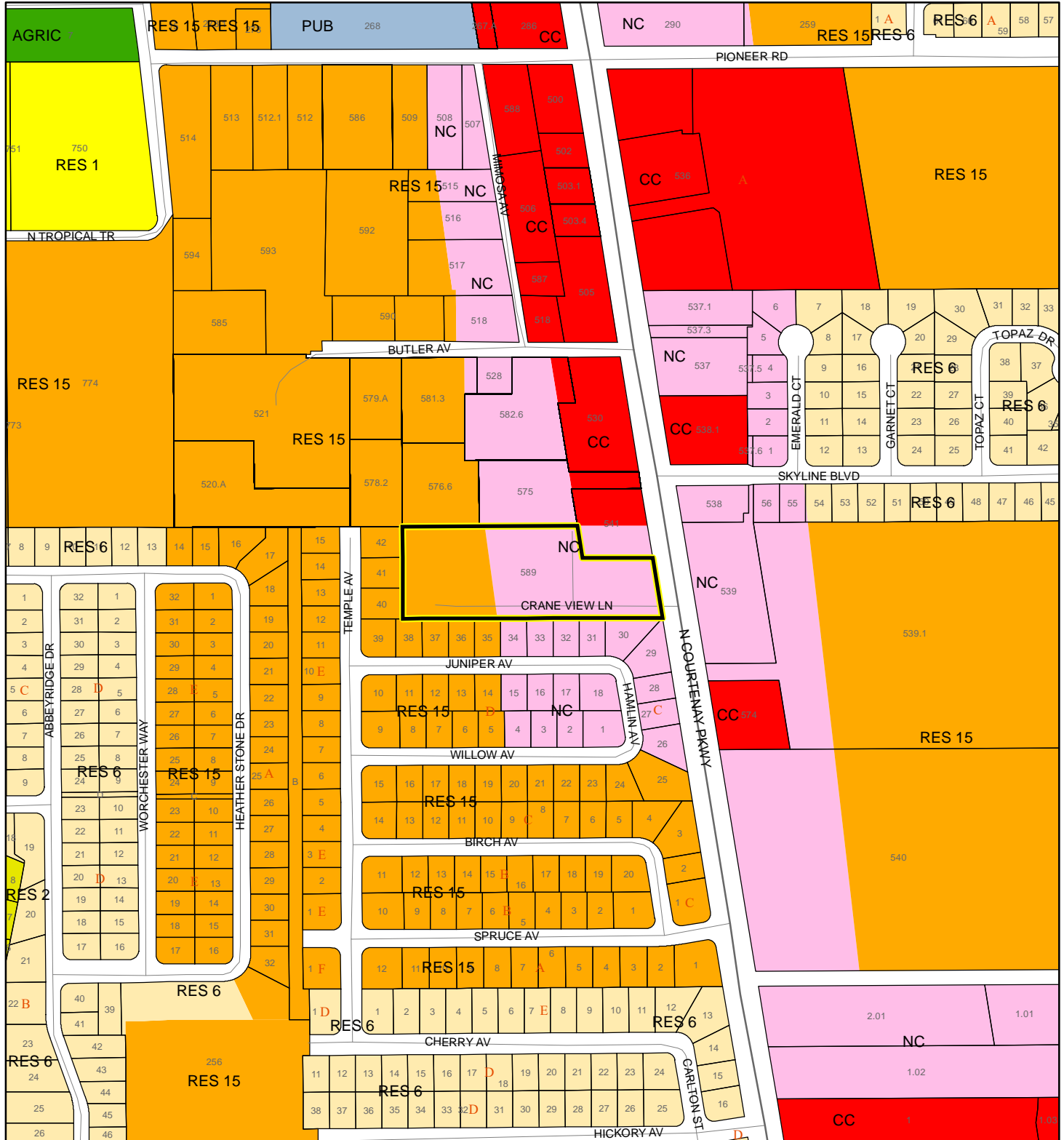
Parcels

Zoning



FUTURE LAND USE MAP

CRANE VIEW LLC

22SS00016



1:4,800 or 1 inch = 400 feet

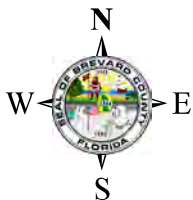
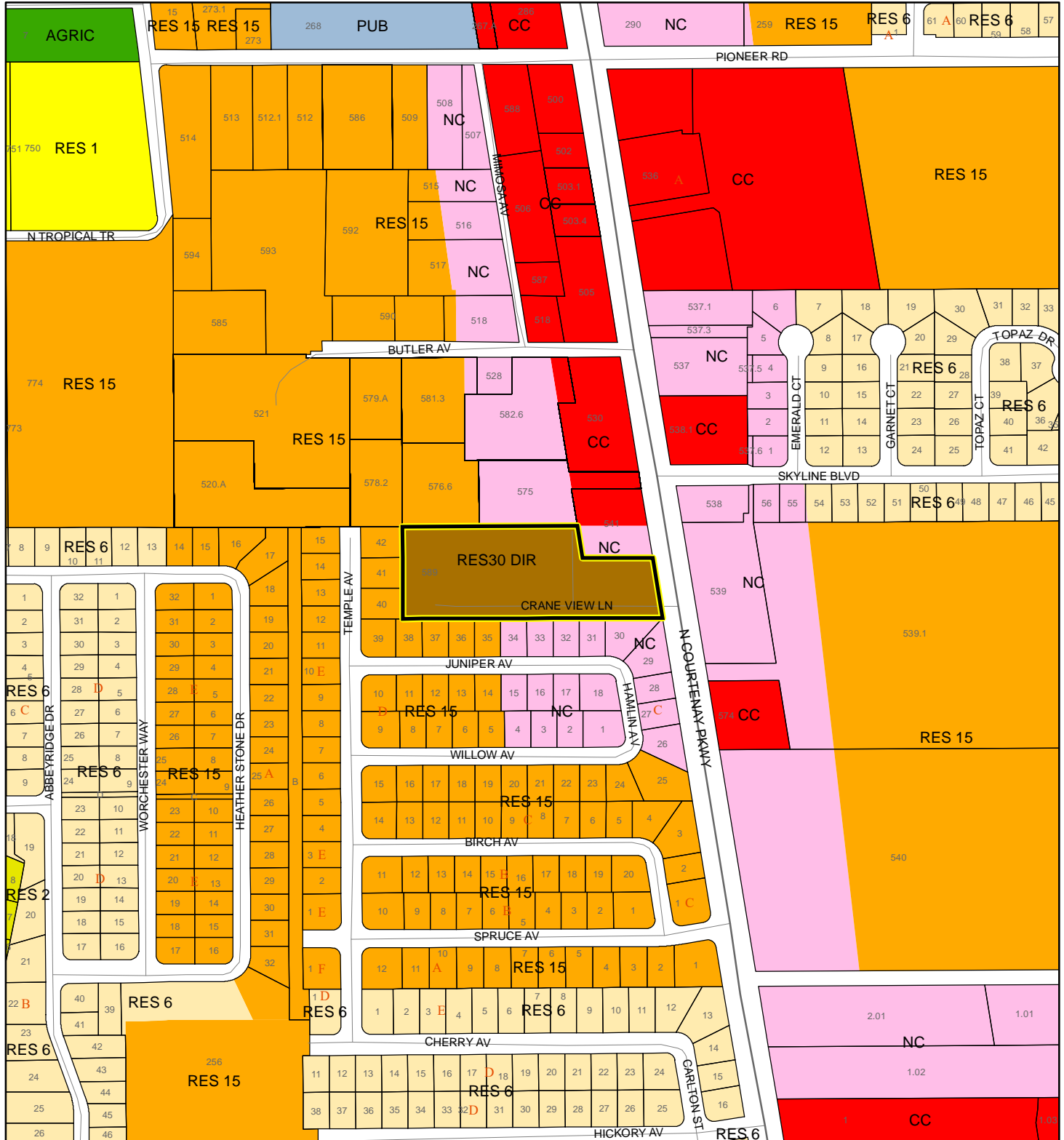
 Subject Property
 Parcels

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Produced by BoCC - GIS Date: 1/26/2023

PROPOSED FUTURE LAND USE MAP

CRANE VIEW LLC
22SS00016 22S.19



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

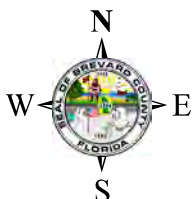
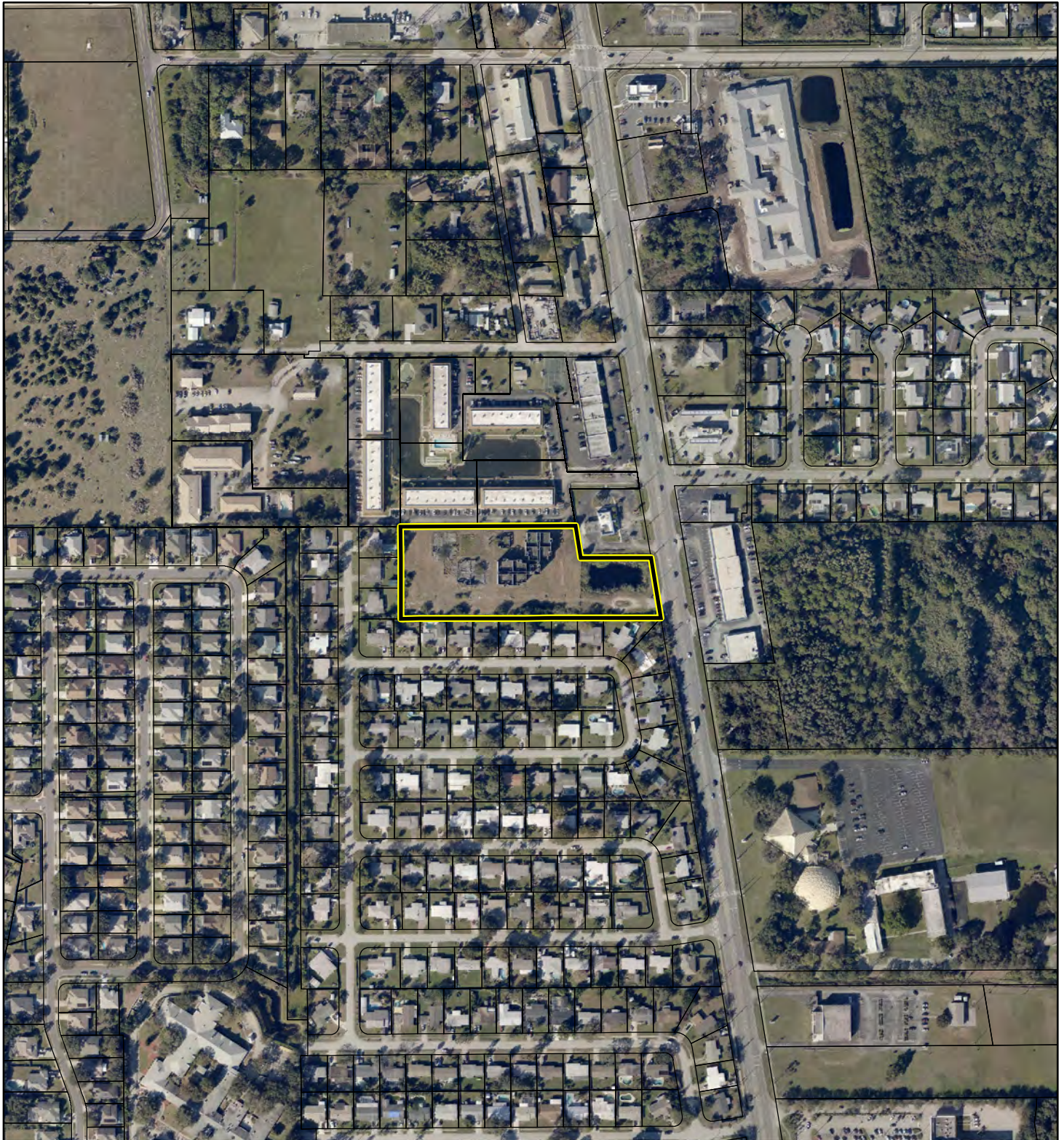
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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AERIAL MAP

CRANE VIEW LLC

22SS00016




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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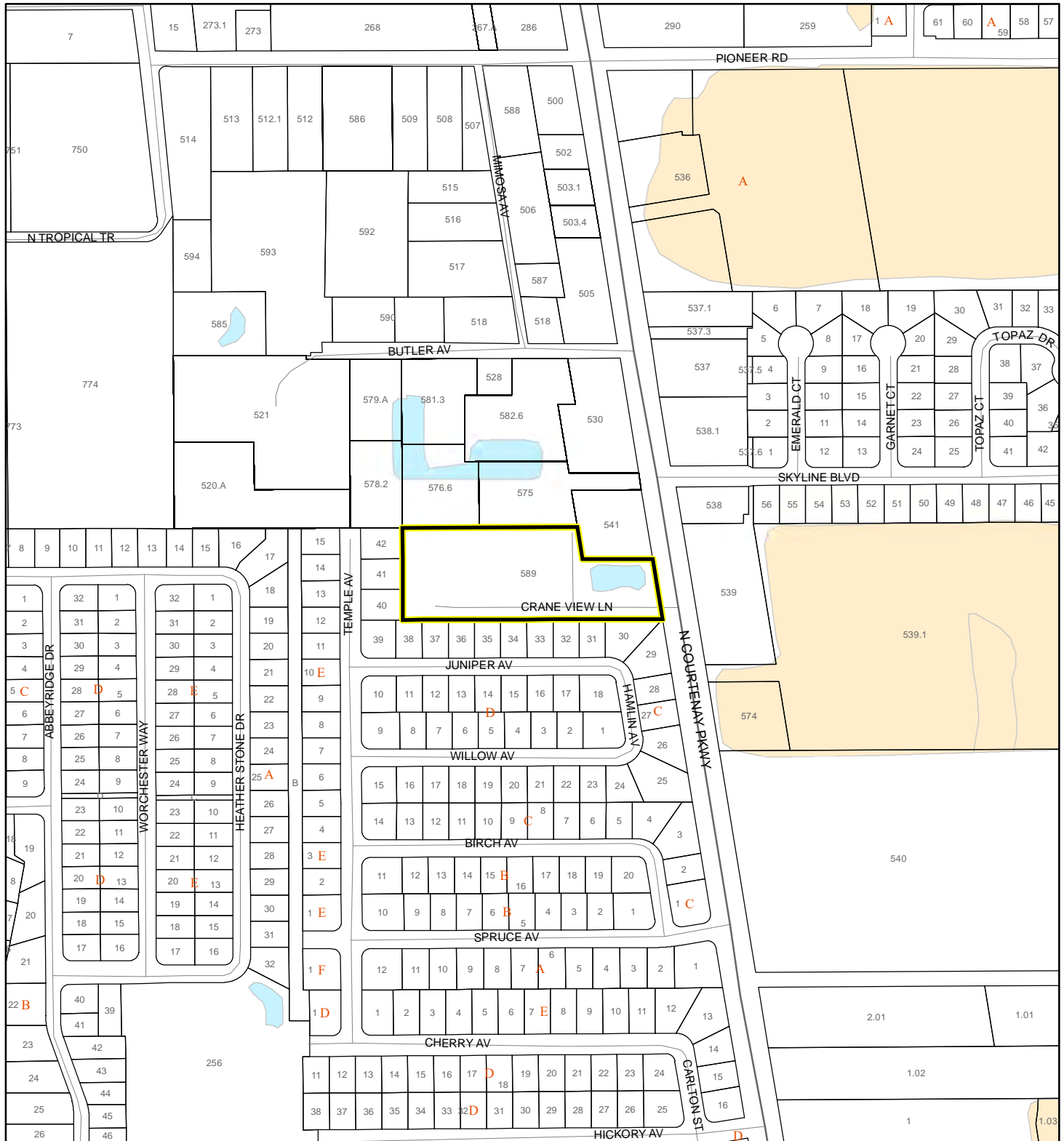
 Subject Property

 Parcels

NWI WETLANDS MAP

CRANE VIEW LLC

22SS00016













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

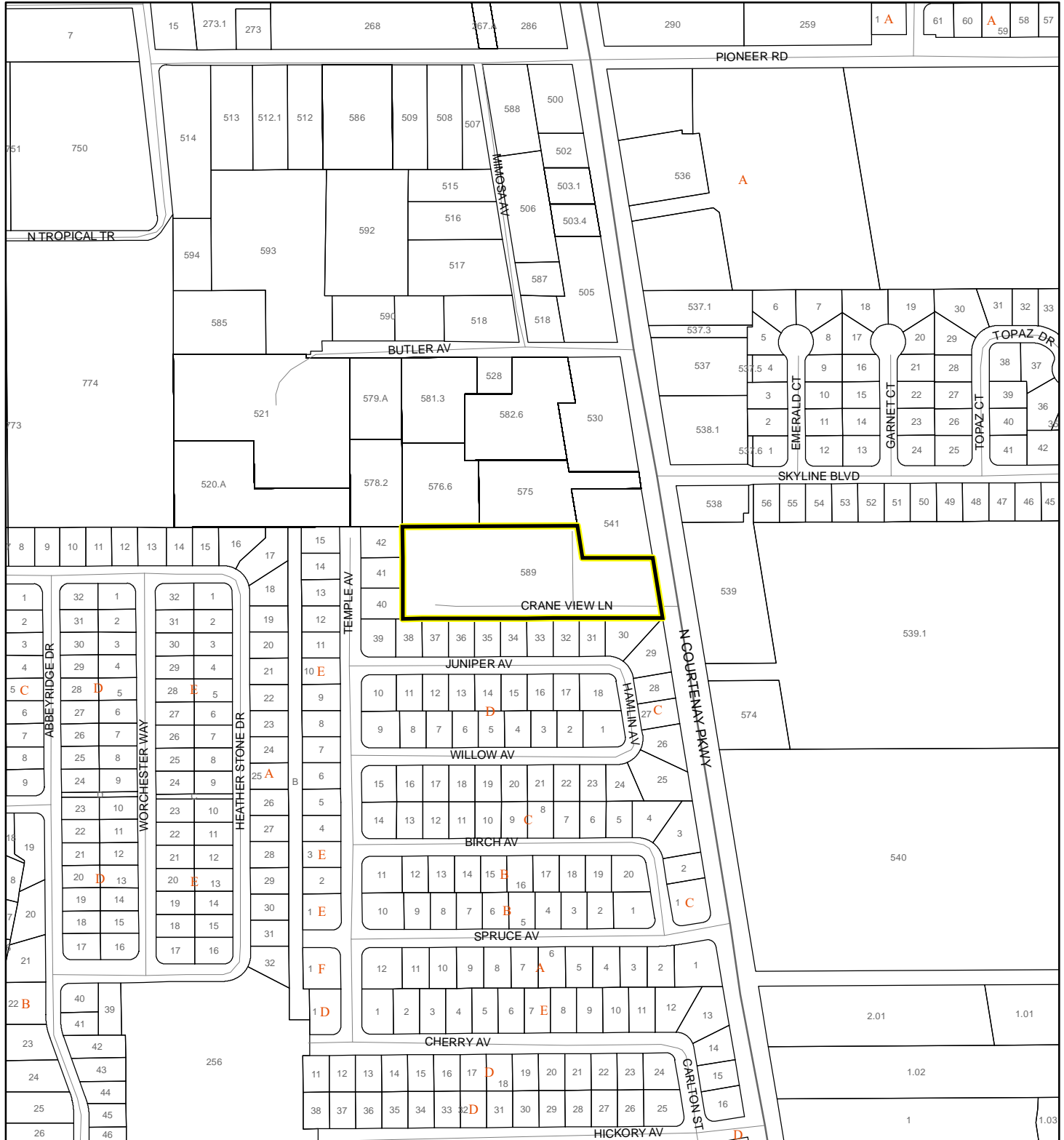
National Wetlands Inventory (NWI)

 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

CRANE VIEW LLC

22SS00016



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

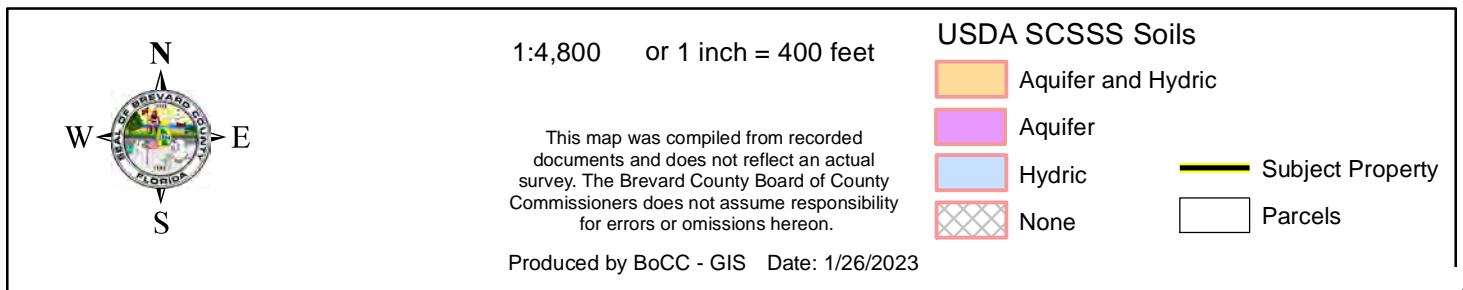
SJRWMD FLUCCS WETLANDS

- 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

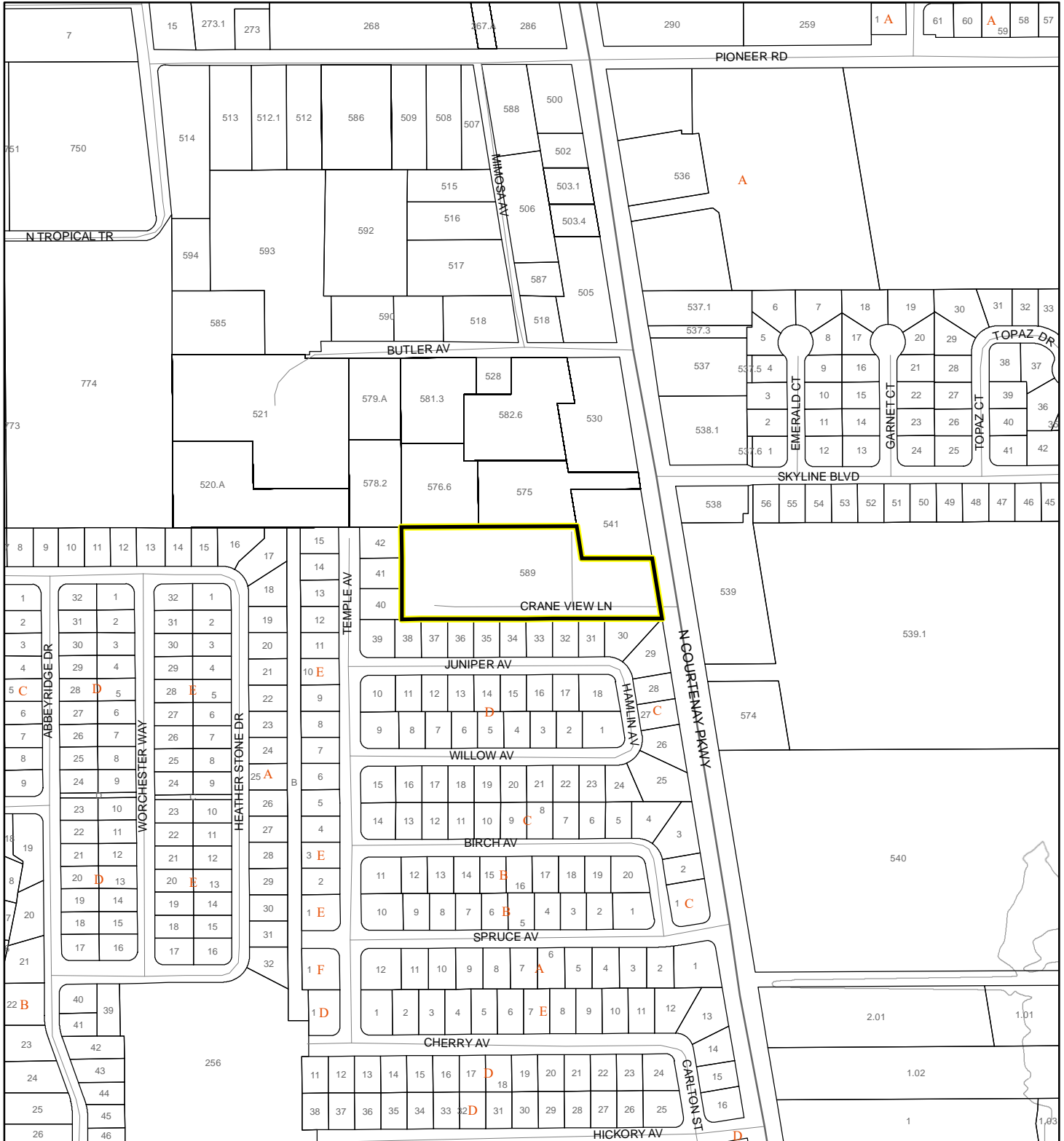
22SS00016



FEMA FLOOD ZONES MAP

CRANE VIEW LLC

22SS00016

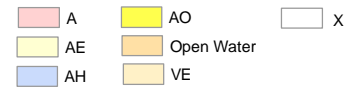


1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/26/2023

FEMA Flood Zones



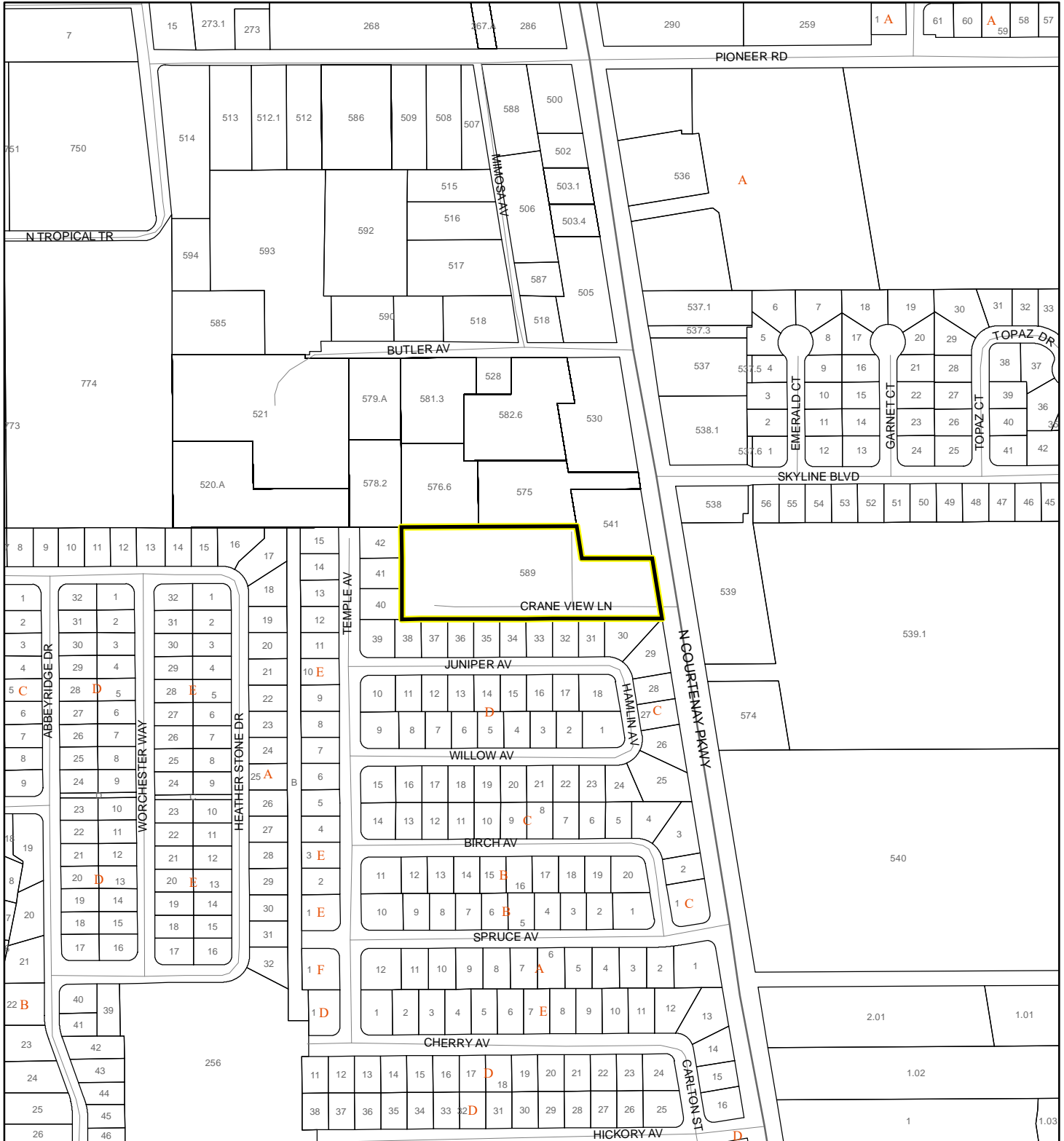
Subject Property

Parcels

COASTAL HIGH HAZARD AREA MAP

CRANE VIEW LLC

22SS00016



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/26/2023

 Subject Property

 Parcels

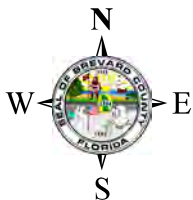
Coastal High Hazard Area

 SurgeZoneCat1

EAGLE NESTS MAP

CRANE VIEW LLC

22SS00016



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/26/2023

 Subject Property

 Parcels

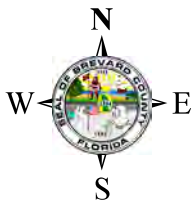
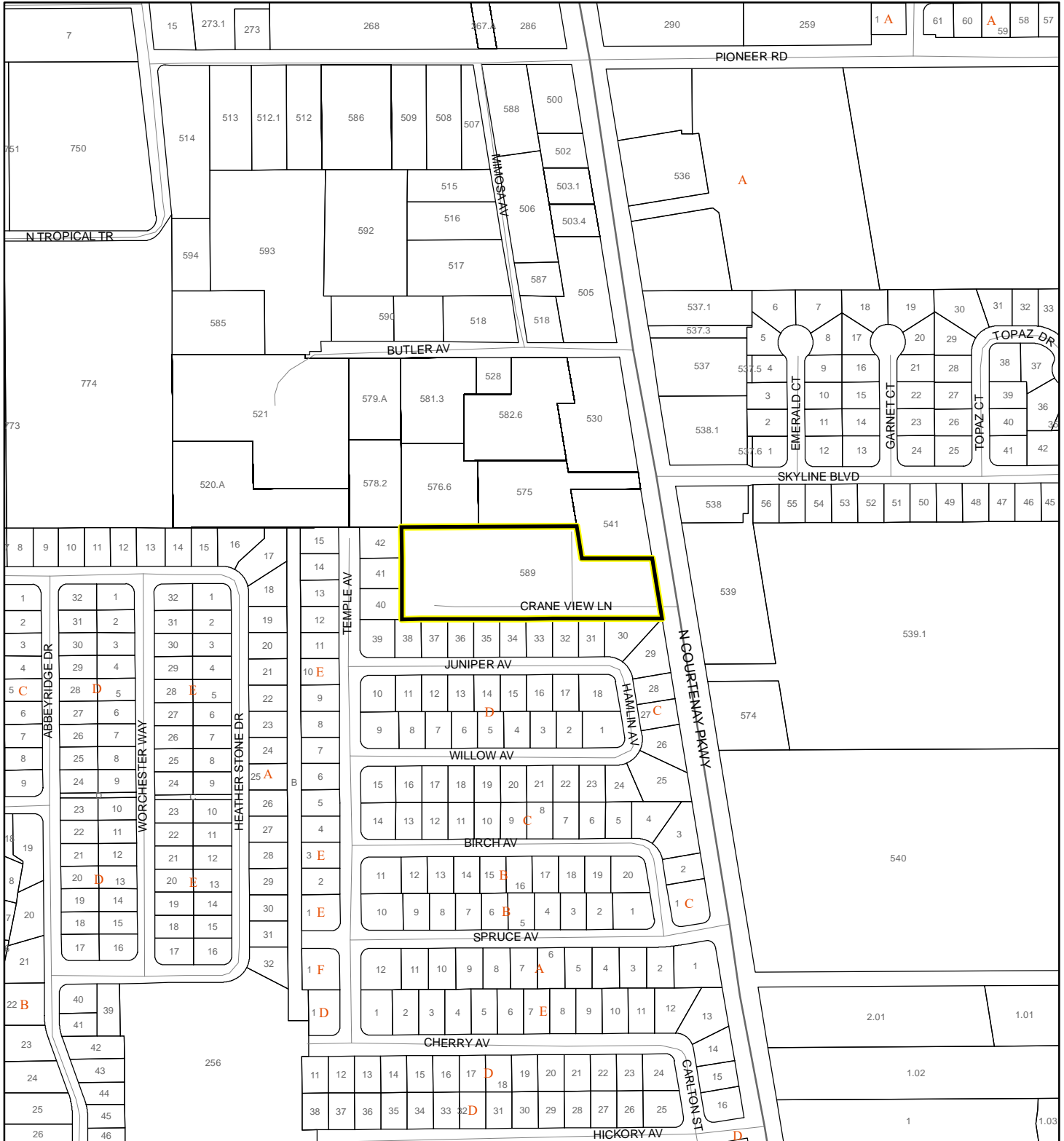


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CRANE VIEW LLC

22SS00016



1:4,800 or 1 inch = 400 feet

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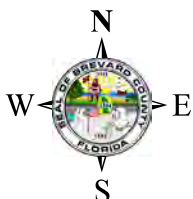
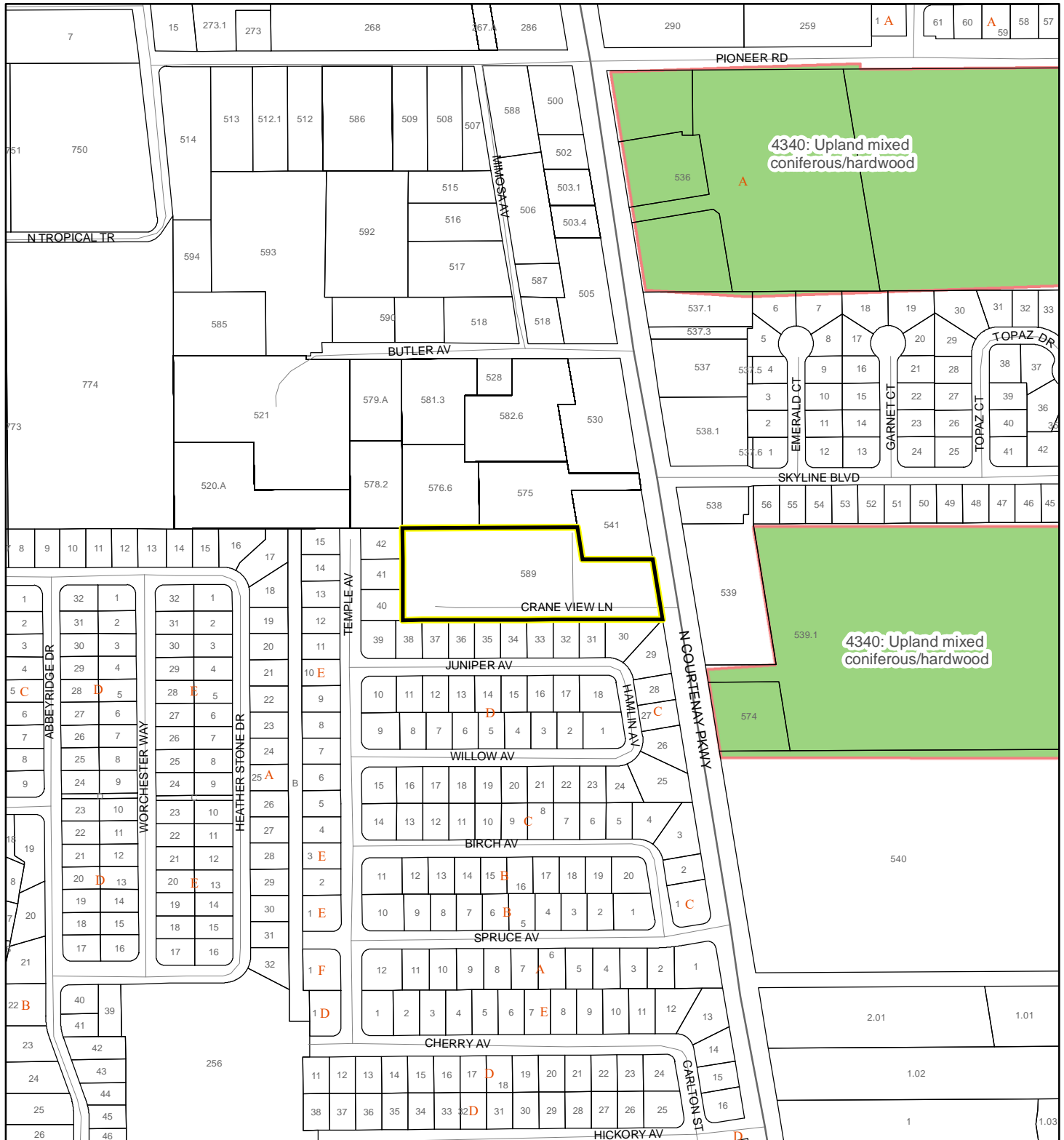
Produced by BoCC - GIS Date: 1/26/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CRANE VIEW LLC

22SS00016



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 1/26/2023

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels



School Board of Brevard County

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

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

December 19, 2022

Mr. Paul Body, Planner III
Land Development Section
Planning & Development Department
Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, Florida 32940

**RE: Proposed Falling Leaf Development
School Impact Analysis – Capacity Determination CD-2022-51**

Dear Mr. Paul Body,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account number 2412341 (Parcel ID number: 24-36-14-00-589) containing a total of approximately 3.9 acres in District 2, Brevard County, Florida. The proposed development includes 90 multi-family homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 and Amended Appendix "A"-School District Student Generation Multiplier (approved April 11, 2022) of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2022-23 to 2026-27 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2021-22 to 2026-27* which is attached for reference.

Multi-Family Homes 90			
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.11	9.9	10
Middle	0.02	1.8	2
High	0.05	4.5	5
Total	0.18		17

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



An Equal Opportunity Employer

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	707	707	707	707	707
Jefferson	873	873	873	873	873
Merritt Island	1,962	1,962	1,962	1,962	1,962

Projected Student Membership

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	432	430	444	417	416
Jefferson	622	583	580	583	535
Merritt Island	1,523	1,494	1,454	1,401	1,389

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	-	-	3	3	3
Jefferson	1	5	10	14	17
Merritt Island	2	10	20	26	33

**Cumulative Students Generated by
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	-	-	10	10	10
Jefferson	-	-	2	2	2
Merritt Island	-	-	5	5	5

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	432	430	457	430	429
Jefferson	623	588	592	599	554
Merritt Island	1,525	1,504	1,479	1,432	1,427

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	275	277	250	277	278
Jefferson	250	285	281	274	319
Merritt Island	437	458	484	531	536

At this time, Mila Elementary School, Jefferson Middle School, and Merritt Island Senior High School are projected to have enough capacity for the total of projected and potential students from the Falling Leaf development.

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

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

Sincerely,



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

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

Copy: Susan Hann, AICP, Assistant Superintendent of Facility Services
File CD-2022-51

David G. Lindemann, AICP, Director of Planning & Project Management,
Facilities Services
File CD-2022-51

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



Summary				2021-22		2022-23		2023-24		2024-25		2025-26		2026-27							
Highest Utilization Elementary Schools:				88%		89%		95%		98%		97%		99%							
Highest Utilization Middle Schools:				88%		89%		90%		89%		92%		96%							
Highest Utilization Jr / Sr High Schools:				84%		84%		82%		79%		79%		78%							
Highest Utilization High Schools:				101%		100%		99%		95%		94%		97%							
School	Type	Grades	Utilization Factor	School Year 2021-22			School Year 2022-23			School Year 2023-24			School Year 2024-25			School Year 2025-26			School Year 2026-27		
				FISH Capacity	10/15/21 Membership	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization
Elementary School Concurrency Service Areas																					
Allen	Elementary	PK-6	100%	751	630	84%	751	632	84%	751	694	92%	751	730	97%	773	752	97%	773	738	95%
Anderson	Elementary	K-6	100%	694	592	87%	694	591	87%	694	597	86%	694	589	87%	694	565	84%	694	554	83%
Apollo	Elementary	K-6	100%	892	782	88%	892	783	88%	892	755	85%	892	701	78%	892	739	83%	892	729	81%
Atlanta	Elementary	PK-6	100%	739	629	85%	739	630	85%	739	616	83%	739	600	81%	739	592	80%	739	576	78%
Audubon	Elementary	PK-6	100%	761	464	61%	761	464	61%	761	458	60%	761	438	58%	761	427	56%	761	440	58%
Cambridge	Elementary	PK-6	100%	765	506	66%	765	506	66%	765	513	67%	765	510	67%	765	485	63%	765	480	63%
Cape View	Elementary	PK-6	100%	570	278	49%	570	285	50%	570	287	50%	570	281	49%	570	286	50%	570	284	50%
Carroll	Elementary	K-6	100%	751	614	82%	751	619	82%	751	605	81%	751	613	82%	751	600	80%	751	593	79%
Challenger 7	Elementary	PK-6	100%	573	506	88%	573	508	89%	573	476	83%	573	449	78%	573	437	76%	573	414	72%
Columbia	Elementary	PK-6	100%	751	462	62%	751	464	62%	751	466	62%	751	468	62%	751	469	62%	751	472	62%
Cookina	Elementary	K-6	100%	711	534	75%	711	531	75%	711	557	78%	711	572	80%	711	596	84%	711	602	85%
Creel	Elementary	PK-6	100%	1,114	717	64%	1,114	762	68%	1,114	812	73%	1,114	847	76%	1,114	877	79%	1,114	922	83%
Croton	Elementary	PK-6	100%	795	487	61%	795	488	61%	795	530	67%	795	559	70%	795	586	74%	795	604	76%
Discovery	Elementary	PK-6	100%	980	615	63%	980	644	66%	980	639	65%	980	633	65%	980	608	62%	980	611	62%
Endeavour	Elementary	PK-6	100%	968	657	68%	968	670	69%	968	668	69%	968	641	66%	968	627	65%	968	640	66%
Enterprise	Elementary	K-6	100%	729	605	83%	729	608	83%	729	587	81%	729	561	77%	729	529	73%	729	513	70%
Fairleigh	Elementary	PK-6	100%	789	561	71%	789	580	74%	789	597	76%	789	620	79%	789	625	79%	789	639	81%
Gemini	Elementary	K-6	100%	711	427	60%	711	442	62%	711	440	62%	711	424	60%	711	420	59%	711	409	58%
Golfview	Elementary	PK-6	100%	777	454	58%	777	454	58%	777	467	60%	777	503	65%	777	513	66%	777	521	67%
Harbor City	Elementary	PK-6	100%	629	359	57%	629	357	57%	629	386	61%	629	399	63%	629	400	64%	629	411	65%
Holland	Elementary	PK-6	100%	605	444	73%	605	465	77%	605	471	78%	605	473	78%	605	472	78%	605	477	79%
Imperial Estates	Elementary	K-6	100%	729	624	86%	729	622	85%	729	626	86%	729	619	85%	729	620	85%	729	645	88%
Indianatic	Elementary	K-6	100%	798	671	84%	798	672	84%	798	658	82%	798	646	81%	798	620	78%	798	622	78%
Jupiter	Elementary	PK-6	100%	930	724	78%	930	721	78%	930	817	88%	930	857	92%	930	854	92%	930	920	97%
Lockmar	Elementary	PK-6	100%	892	632	71%	892	631	71%	892	594	67%	892	578	65%	892	569	63%	892	553	62%
Longleaf	Elementary	PK-6	100%	790	594	75%	790	594	75%	790	583	74%	790	583	74%	790	565	72%	790	551	70%
Manatee	Elementary	K-6	100%	998	843	84%	998	855	86%	998	815	82%	998	793	79%	998	765	77%	998	750	75%
McAuliffe	Elementary	PK-6	100%	918	634	69%	918	633	69%	918	624	68%	918	583	64%	918	576	63%	918	565	62%
Meadowlane Intermediate	Elementary	K-6	100%	1,114	632	75%	1,114	632	75%	1,114	902	81%	1,114	920	83%	1,114	950	85%	1,114	950	85%
Meadowlane Primary	Elementary	K-6	100%	824	678	82%	824	678	82%	824	731	89%	824	725	88%	824	734	89%	824	731	89%
Mia	Elementary	PK-6	100%	707	438	62%	707	432	61%	707	430	61%	707	444	63%	707	417	59%	707	416	59%
Mina	Elementary	PK-6	100%	725	431	59%	725	442	61%	725	433	60%	725	441	61%	725	452	62%	725	446	62%
Oak Park	Elementary	PK-6	100%	968	561	58%	968	563	58%	968	554	57%	968	510	53%	968	508	52%	968	523	54%
Ocean Breeze	Elementary	PK-6	100%	654	538	82%	654	543	83%	654	524	80%	654	504	77%	654	484	74%	654	472	72%
Palm Bay Elem	Elementary	PK-6	100%	983	547	56%	983	567	58%	983	571	58%	983	570	58%	983	602	61%	983	622	63%
Pinewood	Elementary	PK-6	100%	569	496	87%	569	500	88%	569	517	91%	569	524	92%	569	526	92%	569	532	93%
Port Malabar	Elementary	PK-6	100%	852	636	75%	852	636	75%	852	630	74%	852	636	75%	852	645	76%	852	632	74%
Quest	Elementary	PK-6	100%	1,152	673	58%	1,152	673	58%	1,152	684	60%	1,152	722	63%	1,152	734	64%	1,152	728	63%
Riviera	Elementary	PK-6	100%	777	624	80%	777	631	81%	777	681	88%	777	709	91%	777	722	93%	777	760	97%
Roosevelt	Elementary	K-6	100%	599	263	44%	599	261	44%	599	241	40%	599	221	37%	599	202	34%	599	190	32%
Sabal	Elementary	PK-6	100%	785	516	66%	785	507	65%	785	516	66%	785	523	67%	785	516	66%	785	530	68%
Salem	Elementary	PK-6	100%	976	678	69%	976	679	70%	976	731	75%	976	772	79%	976	822	84%	976	810	83%
Sea Park	Elementary	PK-6	100%	461	292	63%	461	317	69%	461	324	70%	461	324	70%	461	330	72%	461	331	72%
Sherwood	Elementary	PK-6	100%	609	428	70%	609	429	70%	609	429	70%	609	434	71%	609	442	73%	609	441	72%
Sunrise	Elementary	PK-6	100%	913	691	76%	913	690	76%	913	738	81%	913	824	90%	1,001	929	93%	1,067	1,061	99%
Sunrise	Elementary	K-6	100%	755	595	79%	755	595	79%	755	584	77%	755	555	74%	755	546	72%	755	523	69%
Surfside	Elementary	K-6	100%	541	408	75%	541	407	75%	541	372	69%	541	345	64%	541	336	62%	541	329	61%
Tropical	Elementary	K-6	100%	910	641	70%	910	642	71%	910	635	70%	910	614	67%	910	597	65%	910	609	67%
Turner	Elementary	PK-6	100%	874	579	66%	874	576	66%	874	621	71%	874	642	73%	874	659	75%	874	694	79%
University Park	Elementary	K-6	100%	811	466	57%	811	464	57%	811	496	61%	811	554	68%	811	622	77%	811	657	81%
Viera Elem	Elementary	K-6	100%	1,030	585	57%	1,030	635	62%	1,030	671	65%	1,030	742	72%	1,030	826	80%	1,030	902	88%
Westside	Elementary	K-6	100%	857	728	85%	857	761	89%	857	815	95%	857	855	97%	901	872	97%	923	895	97%
Williams	Elementary	PK-6	100%	715	494	69%	715	493	69%	715	483	68%	715	473	66%	715	452	63%	715	438	61%
Elementary Totals				42,471	29,890		42,471	30,184		42,471	30,745		42,515	31,024		42,625	31,190		42,735	31,547	



Middle School Concurrency Service Areas												
Central	Middle	7-8	90%	1,514	1,171	77%	1,514	1,171	77%	1,514	1,217	80%
DeLauria	Middle	7-8	90%	960	843	88%	960	851	89%	960	829	86%
Hoover	Middle	7-8	90%	680	510	75%	680	510	75%	680	485	71%
Jackson	Middle	7-8	90%	660	574	87%	660	574	87%	660	594	90%
Jefferson	Middle	7-8	90%	873	622	71%	873	622	71%	873	583	67%
Johnson	Middle	7-8	90%	1,064	690	65%	1,064	690	65%	1,064	707	66%
Kennedy	Middle	7-8	90%	869	682	78%	869	682	78%	869	641	74%
Madison	Middle	7-8	90%	781	480	61%	781	480	61%	781	471	60%
McNair	Middle	7-8	90%	611	336	55%	611	350	57%	611	359	59%
Southwest	Middle	7-8	90%	1,211	940	78%	1,211	940	78%	1,211	922	76%
Stone	Middle	7-8	90%	1,024	747	73%	1,024	747	73%	1,024	706	69%
Middle Totals				10,247	7,595		10,247	7,617		10,247	7,614	
Junior / Senior High School Concurrency Service Areas												
Cocoa	Jr / Sr High	PK, 7-12	90%	2,084	1,516	73%	2,084	1,517	73%	2,084	1,578	76%
Cocoa Beach	Jr / Sr High	7-12	90%	1,445	943	65%	1,445	965	66%	1,445	917	63%
Space Coast	Jr / Sr High	7-12	90%	1,852	1,556	84%	1,852	1,557	84%	1,852	1,528	82%
Jr / Sr High Totals				5,381	4,015		5,381	4,029		5,381	4,021	
Senior High School Concurrency Service Areas												
Astronaut	High	9-12	95%	1,451	1,077	74%	1,451	1,076	74%	1,451	1,054	73%
Bayside	High	9-12	95%	2,263	1,655	73%	2,263	1,728	76%	2,263	1,650	73%
Eau Gallie	High	PK, 9-12	95%	2,221	1,610	72%	2,221	1,605	72%	2,221	1,634	74%
Heritage	High	9-12	95%	2,314	1,991	86%	2,314	2,038	88%	2,314	2,149	93%
Melbourne	High	9-12	95%	2,370	2,210	93%	2,370	2,208	93%	2,370	2,201	93%
Meritt Island	High	PK, 9-12	95%	1,962	1,523	78%	1,962	1,523	78%	1,962	1,494	76%
Palm Bay	High	PK, 9-12	95%	2,631	1,266	49%	2,631	1,325	50%	2,631	1,467	56%
Rockledge	High	9-12	95%	1,836	1,568	85%	1,836	1,568	85%	1,836	1,641	89%
Satellite	High	PK, 9-12	95%	1,527	1,513	100%	1,551	1,550	100%	1,551	1,533	99%
Titusville	High	9-12	95%	1,849	1,231	67%	1,849	1,272	69%	1,849	1,296	70%
Viera	High	PK, 9-12	95%	2,203	2,216	101%	2,251	2,233	99%	2,253	2,272	89%
High Totals				22,627	17,878		22,699	18,128		23,031	18,630	
Schools of Choice (Not Concurrency Service Areas)												
Freedom 7	Elementary	K-6	100%	475	406	85%	475	414	87%	475	414	87%
South Lake	Elementary	K-6	100%	481	395	82%	481	417	87%	481	417	87%
Stevenson	Elementary	K-6	100%	569	498	88%	569	508	89%	569	508	89%
West Melbourne	Elementary	K-6	100%	618	544	88%	618	552	89%	618	552	89%
Edgewood	Jr / Sr High	7-12	90%	1,077	921	86%	1,077	950	88%	1,077	950	88%
West Shore	Jr / Sr High	7-12	90%	1,264	946	75%	1,264	946	75%	1,264	946	75%
Schools of Choice				4,484	3,711		4,484	3,787		4,484	3,787	
Brevard Totals				85,210	63,689		85,282	63,743		85,814	64,697	

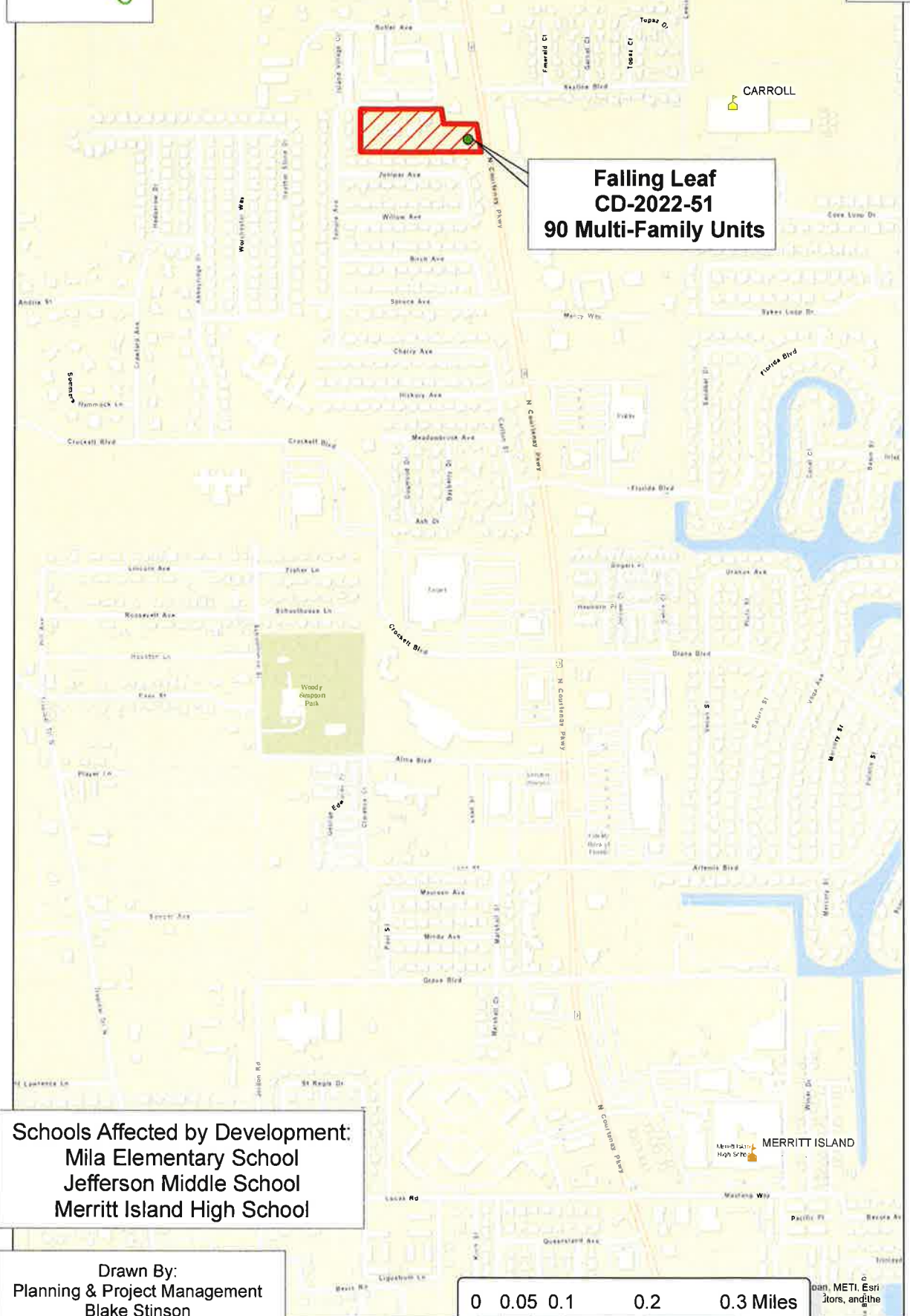
Notes

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



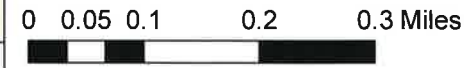


Falling Leaf Location Map



Schools Affected by Development:
Mila Elementary School
Jefferson Middle School
Merritt Island High School

Drawn By:
Planning & Project Management
Blake Stinson
12/19/2022



ORDINANCE NO. 23- ____

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE TWENTIETH SMALL SCALE PLAN AMENDMENT OF 2022, 22S.19, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2022 as Plan Amendment 22S.19; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 22S.19; and

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

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

WHEREAS, on March 13, 2023, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 22S.19, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on April 4, 2023, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 22S.19; and

WHEREAS, Plan Amendment 22S.19 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 22S.19 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 22S.17 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 22S.19, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this ____ day of _____, 2023.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

By: _____
Rita Pritchett, Chair

As approved by the Board on _____, 2023.

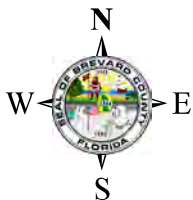
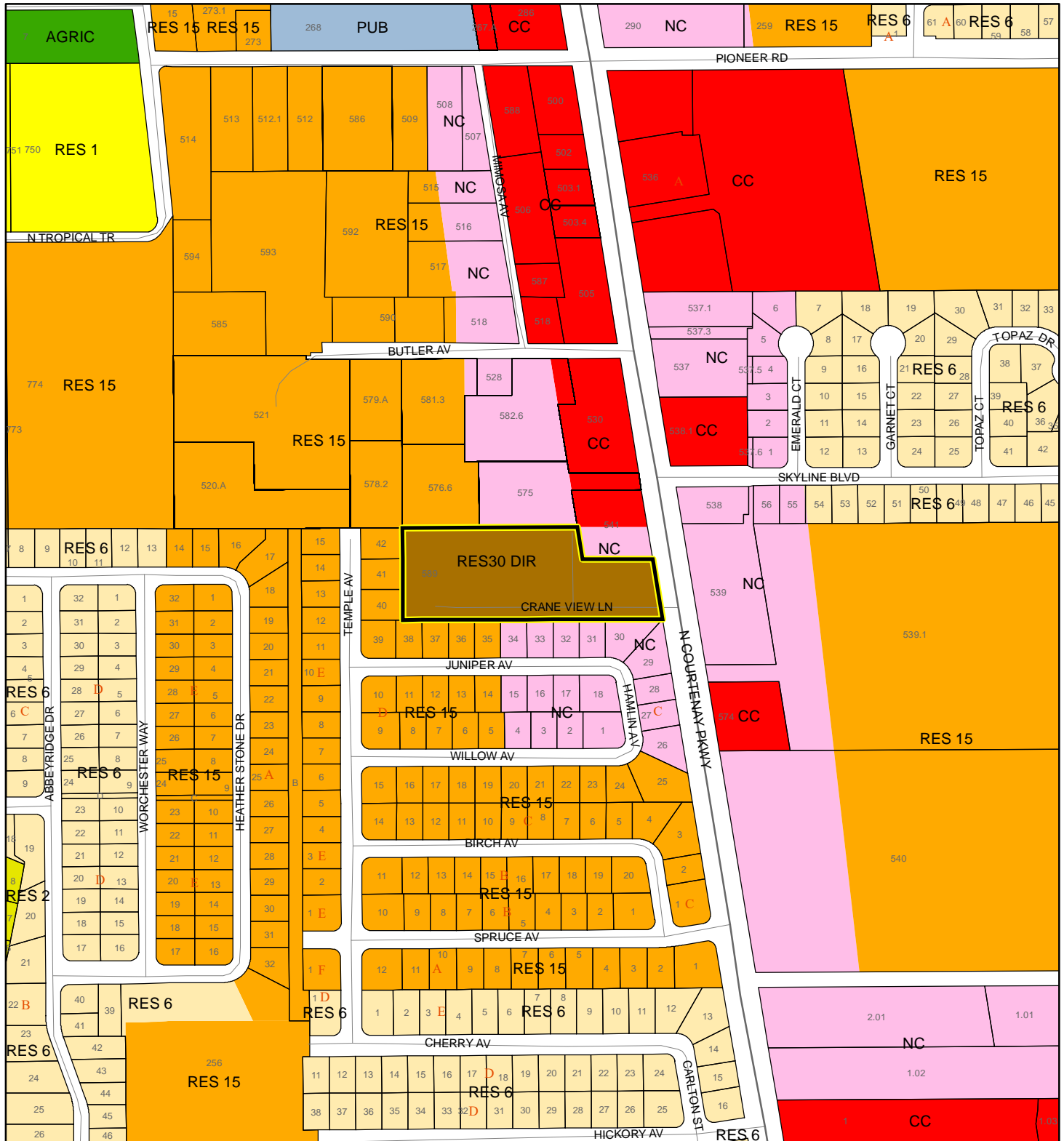
EXHIBIT A
22S.19 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

CRANE VIEW LLC
22SS00016 22S.19



1:4,800 or 1 inch = 400 feet

Subject Property
 Parcels

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

Produced by BoCC - GIS Date: 1/27/2023

EXHIBIT B

Contents

1. Legal Description

A PUBLIC HEARING NOTICE

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, MARCH 13, 2023, and THURSDAY, APRIL 6, 2023:

DISTRICT 1 1. (23200002) Bobby J. Thomas requests a change of zoning classification from GU (General Use) to RRMH-1 (Rural Residential Mobile Home), on property described as Lot 5.01, Block 2, Indian River Park, as recorded in ORB 9566, Pages 1387 - 1388, of the Public Records of Brevard County, Florida. Section 16, Township 20S, Range 34, (2.87 acres) Located on the east side of Blounts Ridge Rd., approx. 0.17 mile south of Patty Lane. (No assigned address. In the Mims area.)

DISTRICT 1 2. (23200005) Louise Julia Goloversic requests a change of zoning classification from GU (General Use) and ARR (Agricultural Rural Residential) to AU (Agricultural Residential), on property described as Lot 7.2-A, Canaveral Grove Subdivision, per SB 2, Pg. 64, and ORB 9599, Page 466 - 467, of the Public Records of Brevard County, Florida. Section 20, Township 24, Range 35, (3 acres) Located on the north side of Soggy Bottom Ave., approx. 0.34 mile west of Satellite Blvd, (6906 Soggy Bottom Ave., Cocoa)

DISTRICT 4 3. (225500015) IR Tiki 2, LLC (Sandeep Patel) requests a Small Scale Comprehensive Plan Amendment (225.18) to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial), on property described as Lot 21, Block 52, Indian River Estates Villas, as recorded in ORB 8743, Pages 795 - 797, of the Public Records of Brevard County, Florida. Section 32, Township 26, Range 37, (0.96 acres) Located on the east side of U.S. Highway 1, approx. 0.16 mile south of Coquina Ridge Dr. (4263 N. U.S. Highway 1, Melbourne) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.18: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 1 4. (23200004) Chelsey L. Cobb requests a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Tax Parcel 271, as recorded in ORB 9283, Pages 2274 - 2275, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 35, (3.09 acres) Located on the south side of James Rd., approx. 0.34 mile east of Friday Rd. (4475 James Rd., Cocoa)

DISTRICT 1 5. (22200074) Timothy Shane and Debra Jane Kelley (Don Hurnan) request a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential), on property described as Tax Parcel 52, as recorded in ORB 9437, Pages 689 - 690, of the Public Records of Brevard County, Florida. Section 29, Township 21, Range 35, (0.45 acres) Located on the west side of Old Dixie Hwy., approx. 165 ft. north of Diamond Rd. (1650 Old Dixie Hwy., Titusville)

DISTRICT 2 6. (22200068) Half Halt Stables, LLP (Toni Pasternack) requests a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential), on property described as a part of the SW ¼ of the NW ¼ of the SE ¼ of Section 25, Township 24S, Range 35E, Brevard County, Florida, being more particularly described as follows: begin at the SW corner of the NW ¼ of the SE ¼ of said Section 25; thence for a first course run north along the west line of the NW ¼ of the SE ¼ of said Section 25, a distance of 105 ft.; thence for a second course, run N89deg15'41"E, parallel to the south line of the NW ¼ of the SE ¼ of said Section 25, a distance of 105 ft.; thence for a third course, run south a distance of 105 ft.; thence for a fourth and final course, run S89deg15'41"W, a distance of 168 ft. to the point of beginning. Less 33 ft. of road right-of-way for Burnett Rd. (0.33 acres) Located on the east side of Burnett Rd., approx. 0.25 mile north of Lake Dr. (525 & 655 N. Burnett Rd., Cocoa)

DISTRICT 5 7. (22200067) Wendy Kleefisch requests a change of zoning classification from RU-1-11 (Single-Family Residential) to RU-2-12 (Medium Density Multi-Family Residential), on property described as the east 103.5 ft. of Lot 4, Block F, of Map of Replat of North Indianlake By-The-Sea, according to the Plat thereof, as recorded in Plat Book 9, Page(s) 70, of the Public Records of Brevard County, Florida. Section 31, Township 27, Range 38, (0.36 acres) Located between Franklin Ave. and Grosse Pointe, approx. 0.07 mile west of Highway A1A, (107 Franklin Ave., Indianlake)

DISTRICT 3 8. (23200001) Morris M. Taylor Revocable Living Trust (Chelsea Anderson) requests a change of zoning classification from SEU (Suburban Estate Use Residential), EA (Environmental Area), and BU-1-A (Restricted Neighborhood Commercial), to AU (Agricultural Residential) and BU-1-A, on property described as follows: Parcel No. 1: The south 273.75 ft. of Government Lot 2, Section 7, Township 30S, Range 39E, Brevard County, Florida, less the south 125 ft. of said Lot 2. Together with the following described parcel: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida: Thence run N00deg58'52"E along the west line of said Government Lot 1, a distance of 273.75 ft. to the point of beginning; thence run S89deg49'57"E, a distance of 188.01 ft.; thence run S00deg10'03"W, a distance of 123.75 ft.; thence run

S89deg49'57"E, a distance of 326.25 ft.; thence run S44deg49'57"E, a distance of 1.77 ft.; thence S89deg49'57"E, a distance of 25 ft.; thence N45deg10'03"E, a distance of 6.89 ft.; thence S89deg49'57"E, a distance of 376.72 ft. to a point on the westerly right-of-way line of S.R. A1A (100-ft. total right-of-way); thence S29deg42'09"E, along said westerly right-of-way line, a distance of 28.28 ft.; thence S45deg10'03"W, a distance of 6.89 ft.; thence N89deg49'57"W, a distance of 25 ft.; thence N44deg49'57"W, a distance of 1.77 ft.; thence N89deg49'57"W, a distance of 521.04 ft. to a point on the west line of said Government Lot 1; thence N00deg58'52"E, a distance of 148.75 ft. to the point of beginning. Together with riparian and littoral right thereunto belonging. Said parcel No. 1 containing 1.90 upland acres more or less. Parcel No. 2: Commencing at the SW corner of Government Lot 1, Section 7, Township 30S, Range 39E, Brevard County, Florida: thence run N00deg58'52"E along the west line of said Government Lot 1, a distance of 273.75 ft.; thence run S89deg49'57"E, a distance of 188.01 ft. to the point of beginning; thence run S89deg49'57"E, a distance of 353 ft.; thence run S00deg10'03"W, a distance of 125 ft.; thence run N89deg49'57"W, a distance of 25 ft.; thence run N44deg49'57"W, a distance of 1.77 ft.; thence run N89deg49'57"W, a distance of 326.25 ft.; thence run N00deg10'03"E, a distance of 123.75 ft. to the point of beginning. Containing in all, 1.00 acres more or less. Together with an exclusive and irrevocable easement for ingress and egress over the north 22.10 ft. or the north 273.75 ft. of Government Lot 1. Lying west of the right-of-way for S.R. A1A (100-ft. total right-of-way) less the west 541.01 ft. thereof, (3 acres +/-) Located on the west side of Highway A1A, approx. 0.36 mile north of River Oaks Rd. (8850 Highway A1A, Melbourne Beach)

DISTRICT 5 9. (22200069) Thomas A. Metzger, Alan and Grace Metzger request a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Lot 1, Block KK, as recorded in ORB 9447, Pages 1675 - 1677, of the Public Records of Brevard County, Florida. Section 11, Township 28, Range 36, (5.14 acres) Located on the south side of Chicago Ave., approx. 300 ft. east of Cave St. (No assigned address. In the Micco area.)

DISTRICT 2 10. (235500001) QW Trust Agreement (Carolyn Haslam) requests a Small Scale Comprehensive Plan Amendment (235.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, on property described as Tax Parcels 512 & 519, as recorded in ORB 8483, Pages 2310 - 2311, of the Public Records of Brevard County, Florida. Section 25, Township 24, Range 35, (13.36 acres) Located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 235.01: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 2 11. (23200003) QW Trust Agreement (Carolyn Haslam) requests a change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial), on property described as Tax Parcels 512 & 519, as recorded in ORB 8483, Pages 2310 - 2311, of the Public Records of Brevard County, Florida. Section 25, Township 24, Range 35, (13.36 acres) Located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa)

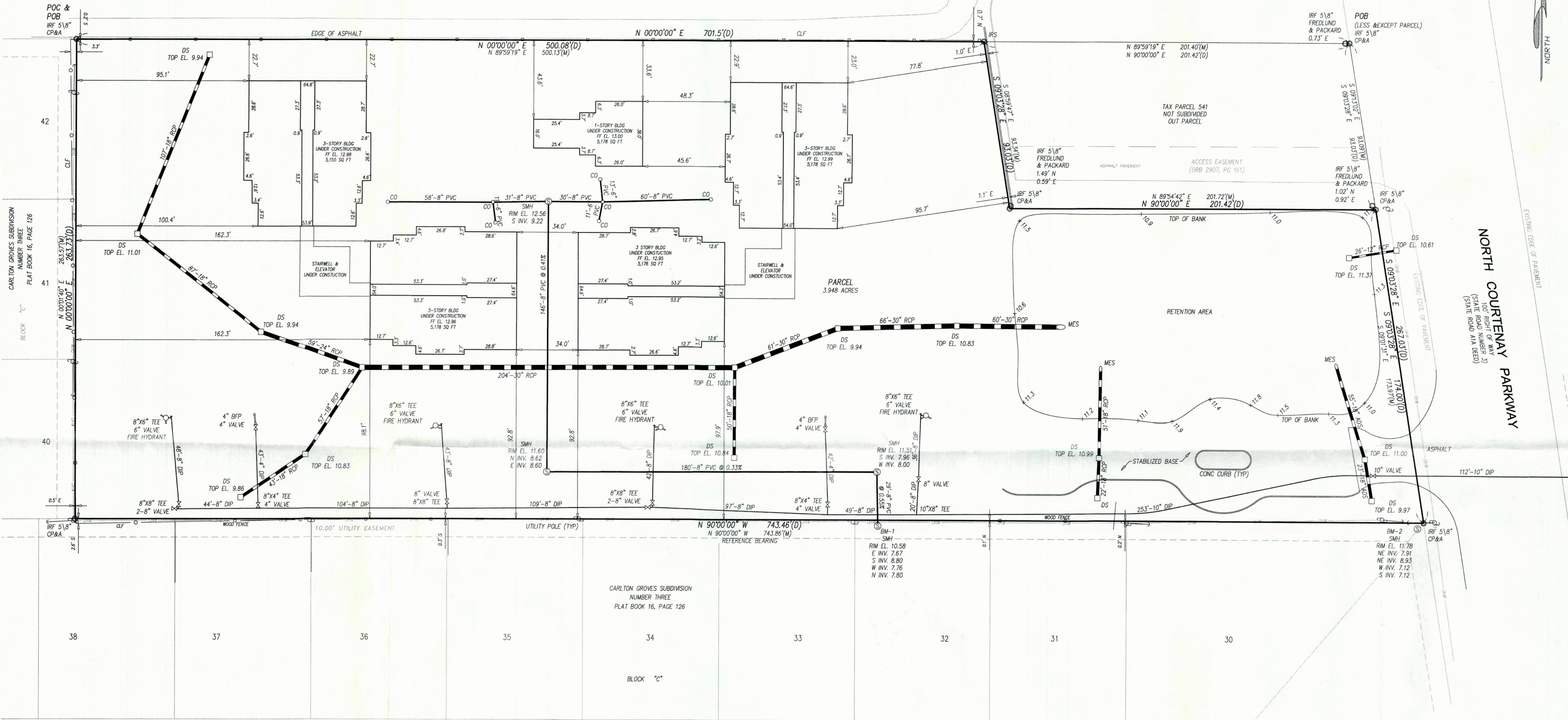
DISTRICT 2

12. (225500016) Crane View, LLC (Steve Anderson) requests a Small Scale Comprehensive Plan Amendment (225.19), to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to RES 30 DIR (Residential 30 Directive), on property described as Tax Parcel 589, as recorded in ORB 6763, Page 1549, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 36, (3.95 +/- acres) Located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln., 242, 252, 262, & 272 Crane View Ln., Merritt Island) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.19: An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date.

DISTRICT 2 13. (22200071) Crane View, LLC (Steve Anderson) requests a change of zoning classification from RU-2-15 (Medium Density Multi-Family Residential) with an existing BDP (Binding Development Plan), to RU-2-30 (High Density Multi-Family Residential), and an amendment to the existing BDP, on property described as Tax Parcel 589, as recorded in ORB 6763, Page 1549, of the Public Records of Brevard County, Florida. Section 14, Township 24, Range 36, (3.95 +/- acres) Located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln., 242, 252, 262, & 272 Crane View Ln., Merritt Island) Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, MARCH 13, 2023, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, APRIL 6, 2023, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-633-2063 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

MAP OF ALTA/ASCM
BOUNDARY SURVEY

NOT SUBDIVIDED
ISLAND VILLAGE CONDOMINIUM



- LEGEND**
- A = ARC
 - A/C = AIR CONDITIONER
 - BFE = BASE FLOOD ELEVATION
 - BRC = BEARING
 - BM = BENCH MARK
 - BLK = BLOCK
 - BLDG = BUILDING
 - (C) = CALCULATED
 - CATV = CABLE TELEVISION
 - CHD = CHORD
 - CSS = CONCRETE BLOCK STRUCTURE
 - C/L = CENTER LINE
 - CLF = CHAIN LINK FENCE
 - CONC = CONCRETE
 - CMF = CONCRETE MONUMENT FOUND
 - CO = COMPANY
 - COR = CORNER
 - (D) = DEED
 - DB = DEED BOOK
 - DA = DELTA ANGLE
 - DIST = DISTANCE
 - ESMT = EASEMENT
 - ELEC = ELECTRIC
 - ENC = ENCROACHMENT
 - ELEV = ELEVATION
 - FB = FIELD BOOK
 - FF = FINISHED FLOOR ELEVATION
 - FNC = FENCE
 - FND = FOUND
 - FP&L = FLORIDA POWER & LIGHT COMPANY
 - GOVT = GOVERNMENT
 - ID = IDENTIFICATION
 - IPF = IRON PIPE FOUND
 - IRC = IRON ROD & CAP FOUND
 - IRP = IRON ROD FOUND
 - IRS = IRON ROD SET S/8" GORDON & ASSOC.
 - LB = LICENSED BUSINESS NUMBER
 - (M) = MEASURED
 - NO. = NUMBER
 - NDF = NAIL & DISK FOUND
 - NGVD = NATIONAL GEODETIC VERTICAL DATUM
 - O/H = OVERHEAD
 - OHWM = ORDINARY HIGH WATER MARK
 - ORB = OFFICIAL RECORDS BOOK
 - O/S = OFFSET
 - (P) = PLAT
 - PS = PLAT BOOK
 - PCP = PERMANENT CONTROL POINT
 - PC = POINT OF CURVATURE
 - PCC = POINT OF COMPOUND CURVATURE
 - PT = POINT OF TANGENCY
 - PRC = POINT OF REVERSE CURVATURE
 - PRM = PERMANENT REFERENCE MONUMENT
 - RLS = REGISTERED LAND SURVEYOR
 - POB = POINT OF BEGINNING
 - POL = POINT OF LINE
 - PUE = PUBLIC UTILITY EASEMENT
 - PDE = PUBLIC DRAINAGE EASEMENT
 - PUDE = PUBLIC UTILITY & DRAINAGE EASEMENT
 - PVM = PAVEMENT
 - R = RADIUS
 - RLS = REGISTERED LAND SURVEYOR
 - REF = REFERENCE
 - RGE = RANGE
 - R/W = RIGHT OF WAY
 - SEC = SECTION
 - (SD) = SURVEY BOOK
 - TWP = TOWNSHIP
 - TYP = TYPICAL
 - USC&GS = U.S. COAST & GEODETIC SURVEY
 - WIT-COR = WITNESS CORNER IRS 5/8" LB 7012
 - XCF = CUT MARK FOUND

- NOTES:**
1. BEARINGS BASED ON SAID DEED (SEE SKETCH)
 2. ELEVATIONS BASED ON 1929 NGVD
 3. FLOOD ZONE "X" MAP NO. 12009C0290 E COMMUNITY NO. 125092 19 NOV 97
 4. HORIZONTAL CLOSURE MEETS OR EXCEEDS THE ACCURACY FOR SUBURBAN LAND AS PER FLORIDA STATUTE 61017-6.003
 5. VERTICAL CLOSURE: NOT APPLICABLE
 6. BEARINGS, DISTANCES OR ANGLES SHOWN ARE THE SAME AS PLAT, DEED OR RECORD UNLESS SHOWN OTHERWISE
 7. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFIED TO:
ISLAND OAKS OF BREVARD, LLC
COASTAL BANK, 1701 N. ATLANTIC AVE COCOA BEACH FL 32931
SUPERIOR TITLE, JOHN KABBORD
COMMONWEALTH LAND TITLE INSURANCE COMPANY

LEGAL DESCRIPTION: (OFFICIAL RECORDS BOOK 2907, PAGE 159)
A PARCEL OF LAND LYING IN THE SW 1/4 OF SECTION 14, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT 42, BLOCK "C", CARLTON GROVES SUBDIVISION NO. 3, AS RECORDED IN PLAT BOOK 16, PAGE 126 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, RUN EAST 701.5 FEET TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD A1A; THENCE SOUTH 09°03'28" EAST ALONG SAID RIGHT-OF-WAY 267.03 FEET TO THE NORTHEAST CORNER OF LOT 30, BLOCK "C", OF SAID SUBDIVISION; THENCE WEST 743.46 FEET TO THE SOUTHWEST CORNER OF LOT 40, BLOCK "C" OF SAID SUBDIVISION; THENCE NORTH 263.73 FEET TO THE POINT OF BEGINNING.

LESS THE FOLLOWING:
COMMENCE AT THE NORTHEAST CORNER OF THE AFOREMENTIONED LOT 42; THENCE RUN EAST 701.5 FEET TO THE WEST RIGHT OF WAY LINE OF STATE ROAD A1A, ALSO KNOWN AS NORTH COURTEY PARKWAY SAID POINT ALSO BEING THE POINT OF BEGINNING OF SAID LESS OUT PARCEL; THENCE RUN S 09°03'28" E ALONG SAID WEST LINE FOR 93.03 FEET; THENCE RUN WEST FOR 201.42 FEET; THENCE RUN N 09°03'28" W FOR 83.03 FEET; THENCE RUN EAST FOR 201.42 FEET TO THE POINT OF BEGINNING.

ALTA/ASCM BOUNDARY DATE: 29 NOV 07 JOB No. 05-240
ALTA/ASCM BOUNDARY DATE: 28 APR 09

**Gordon & Associates
Surveyors & Mappers Inc**
L.B. No.7012
A. EARL GORDON, JR., PSM No. LS 2866
EARL K. GORDON, PSM No. 5363
219 Forrest Ave. Cocoa, FL 32922
(321) 639-8171 FAX: (321) 639-8177

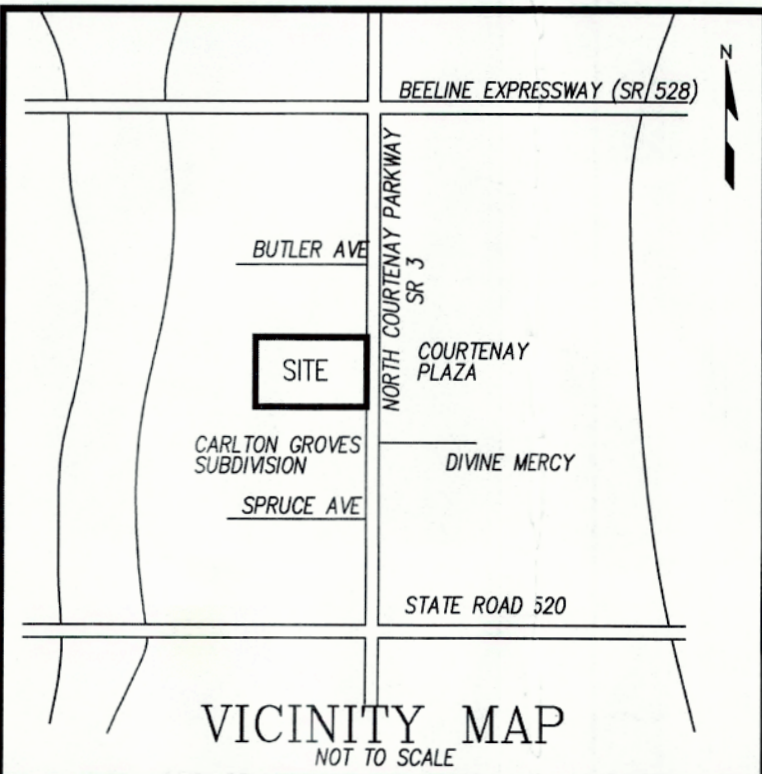
CERTIFICATION:
I HEREBY CERTIFY THAT THE ATTACHED SURVEY WAS DONE UNDER MY DIRECTION AND MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61017-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES.
Earl K. Gordon
EARL K. GORDON PROFESSIONAL LAND SURVEYOR AND MAPPER
STATE OF FLORIDA NO. LS 5363
DRAWN BY: LOVAN SCALE 1 INCH = 30 FEET

SURVEYOR'S CERTIFICATION:
THE UNDERSIGNED HEREBY CERTIFIES TO LEGACY SOUTHEAST INVESTMENTS, LLC, ITS SUCCESSORS AND/OR ASSIGNS AS THEIR INTEREST MAY APPEAR, AND TITOL TITLE INSURANCE COMPANY THAT: TO OUR BEST KNOWLEDGE AND BELIEF, (i) THE SURVEY DATED 29 NOVEMBER, 2007 AND PREPARED BY THE UNDERSIGNED (THE "SURVEY"), IS AN ACCURATE SURVEY OF THE PREMISES SHOWN THEREON AND DESCRIBED MORE FULLY HEREINAFTER (THE "PREMISES"); (ii) THIS SURVEY IS BASED ON A DILIGENT SURFACE INSPECTION OF THE PREMISES, AND IT SHOWS ALL MATTERS WHICH WERE APPARENT FROM THE SURFACE INSPECTION OF THE PREMISES INCLUDING, WITHOUT LIMITATION, THE LOCATION OF ALL IMPROVEMENTS, STRUCTURES, BUILDINGS, SHORELINES, WETLANDS, STREAMS, PONDS, CEMETERIES, BURIAL GROUNDS, ROADS, TRAILS, PATHS, WALKS, AND OTHER PHYSICAL CONDITIONS WHICH ARE EITHER EXISTING ON THE PREMISES OR PRESENTLY BEING CONSTRUCTED ON THE PREMISES; (iii) THIS SURVEY SHOWS THE LOCATION OF ALL RIGHTS-OF-WAY, EASEMENTS, BUILDING LINES, SET-BACKS, HEIGHT RESTRICTIONS, SIDE-YARD REQUIREMENTS, PARKING AREAS AND OTHER CONDITIONS WHICH APPEAR IN A TITLE REPORT BY FRESA HANSEN DATED AUGUST 28, 2007 FILE NO. M0703203 AND TITLE NO. FBS/ISLAND, OR WERE APPARENT FROM THE SURFACE INSPECTION OF THE PREMISES OR WHICH ARE IMPOSED BY LAW OR ORDINANCE AFFECTING THE PREMISES; (iv) EXCEPT AS SHOWN ON THIS SURVEY, THERE ARE NO BUILDINGS, OTHER STRUCTURES, OR IMPROVEMENTS OF ANY KIND WHICH ARE LOCATED ON THE PREMISES AND WHICH ENDOUR UPON ANY RIGHTS-OF-WAY, EASEMENTS, BUILDING LINES, PARKING AREAS, OR ADJOINING PROPERTY LINES; (v) THERE ARE NO ENCROACHMENTS OF THE PROPERTY LINES OF THE PREMISES UPON ANY ADJOINING PROPERTY LINES EXCEPT AS MAY BE SHOWN AND NOTED ON THIS SURVEY; (vi) EXCEPT AS SHOWN OR NOTED ON THIS SURVEY, THE EXISTING IMPROVEMENTS ON THE PREMISES DO NOT VIOLATE ANY SET-BACK, BUILDING LINE, SIDE-YARD, HEIGHT, FRONTAGE, DENSITY, DIMENSIONAL, OR PARKING RESTRICTIONS AND/OR REQUIREMENTS WHICH AFFECT THE PREMISES; (vii) THE PREMISES HAS THE FOLLOWING HUD FLOOD ZONE CLASSIFICATION "X"; (viii) THIS SURVEY IS AN "ALTA/ASCM LAND TITLE SURVEY" AND HAS BEEN PREPARED IN ACCORDANCE WITH THE "2005 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ASCM LAND TITLE SURVEYS" ADOPTED BY AMERICAN LAND TITLE ASSOCIATION AND NATIONAL SOCIETY OF PROFESSIONAL SURVEYORS.

DATE: 11 DEC 07
BY: *Earl K. Gordon*
EARL K. GORDON
TITLE: PROFESSIONAL LAND SURVEYOR AND MAPPER

JUNIPER AVENUE
50' RIGHT OF WAY

NOTE: UNABLE TO ACCESS DRAINAGE STRUCTURES TO GET INVERTS



- NOTES:**
1. CONTRACTOR IS TO BE RESPONSIBLE TO PROTECT AND/OR REPLACE ALL SURVEY MONUMENTATION WITHIN THE PROJECT LIMITS BY A LICENSED SURVEYOR IN THE STATE OF FLORIDA.
 2. PRIOR TO THE RELEASE OF THE CERTIFICATE OF COMPLETION OF ANY PHASE OF THIS PROJECT THE BOUNDARY SURVEY AND AS-BUILT SURVEY WILL NEED TO BE REVIEWED AND APPROVED BY THE COUNTY SURVEY DEPARTMENT. ONCE APPROVED THESE SURVEYS SHALL BE RECORDED INTO THE CONDOMINIUM OF THE PUBLIC RECORDS OF BREVARD COUNTY.

- LEGEND**
- OHW - OVERHEAD WIRE
 - SMH - SANITARY SEWER MANHOLE
 - DS - DRAINAGE STRUCTURE
 - DP - DUCTILE IRON PIPE
 - RCP - REINFORCED CONCRETE PIPE

INFORMATION FROM APPROVED CONSTRUCTION PLANS FOR MERRITT ISLAND APARTMENTS, BY SOMAX ENGINEERING & ASSOCIATES, INC.
MAXIMUM BUILDING HEIGHT 35 FEET
BUILDING SETBACKS
FRONT (EAST) 25 FEET
REAR (WEST) 20 FEET
SIDE (NORTH) 10 FEET
SIDE (SOUTH) 40 FEET



INTEROFFICE MEMORANDUM

DATE: February 24, 2023

TO: Jeffrey Ball, Planning & Zoning Manager
Jennifer Jones, Special Projects Coordinator

FROM: Larry Lallo, Executive Director on behalf of the
Merritt Island Redevelopment Agency Board of Directors

RE: **Applicant Name: Crane View LLC**
February 23, 2023 Merritt Island Redevelopment Agency Board Review of Zoning
Application Number 22Z00071

Pursuant to Section 62-2114 of Brevard County Code, "When an application is made to the planning and zoning board for a change in zoning or approval of a conditional use permit, or to the board of adjustment for a variance, for property located in the Merritt Island redevelopment area, the application shall be forwarded to the Merritt Island redevelopment agency prior to the applicable public hearing before the planning and zoning board or the board of adjustment."

On February 23, 2023 at their regular meeting, the Merritt Island Redevelopment Agency Board of Directors reviewed the above referenced Zoning Application and voted unanimously to recommend approval of the change in the Future Land Use designation from RES 15 and NC to RES 30 DIR and a zoning change from RU-2-15 to RU-2-30 subject to the following conditions:

1. Placement of a new BDP Agreement on the site limiting the development to three (3) stories and a maximum number of 90 residential dwelling units equating to a not-to-exceed density of 23 units per acre.
2. A maximum building height of thirty-five feet (35').
3. MIRA Board review of a preliminary and final site plan.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Crane View, LLC (Steve Anderson)

A Small Scale Comprehensive Plan Amendment (22S.19), to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to RES 30 DIR (Residential 30 Directive), on 3.95 +/- acres, located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln.; 242, 252, 262, & 272 Crane View Ln., Merritt Island) (22SS00016) (Tax Account 2412341) (District 2)

Crane View, LLC (Steve Anderson)

A change of zoning classification from RU-2-15 (Medium Density Multi-Family Residential) with an existing BDP (Binding Development Plan), to RU-2-30 DIR (High Density Multi-Family Residential, Directive), removal of existing BDP, and adding a new BDP, on 3.95 +/- acres, located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln.; 242, 252, 262, & 272 Crane View Ln., Merritt Island) (22Z00071) (Tax Account 2412341) (District 2)

Steve Anderson, 260 S. Osceola Drive, Orlando, stated the property has been in its current state for approximately 20 years. The request for RU-2-30 includes a BDP limited to 90 units; the project will be good for the community; and it will be the nicest, newest, and closest apartment complex to the Space Center. He noted the Merritt Island Redevelopment Agency board recommended approval of the request.

No public comment.

Henry Minneboo stated the property has been in a dilapidated state for a long time, and he remembers the last rezoning request in 2008 when there were many people present who lived in the area and were very much against anything above the 48 units allowed in the existing BDP. He said people on Merritt Island have told him they are disappointed, and now kids on the west side of N. Courtenay will have to walk across the busy road to get to school. He said the request today is to double the units, and he doesn't understand why 48 units aren't compatible on three acres of land. He said he doesn't see anything good coming out of increasing it from 48 units to 90 units.

Mr. Anderson stated in order for the project to work, it has to be 90 units. He said there is plenty of room in the schools and with water, so no accommodations have to be made for the community. It's a great project for the community, and it will serve a lot of people who work at the Space Center.

Bruce Moia pointed out that over the last 10 years he's talked to developers who have tried to develop the property but could not make it work.

John Hopengarten asked how far the property is from the high school. Mr. Anderson replied it is within 1,000 feet. Mr. Hopengarten stated a bus wouldn't be feasible, so kids would have to walk or be driven to school. He said the property can't remain in its current state. He mentioned the existing BDP and stated this is another opportunity to remove a BDP and replace it with another.

Mr. Anderson stated the proposed BDP caps the maximum units allowed, which would be 120 units under RU-2-30. He pointed out the growth on Merritt Island and stated the closest neighbor to the north is also zoned RU-2-30.

Robert Sullivan stated the development will increase traffic and density in the area, and the applicant is saying it is compatible housing. He said people who want to live in high density also want to live where there is high entertainment value. There are a lot of single-family homes in the area. He said he is also reluctant to trade one BDP for another; there was a BDP for a reason, and there was considerable opposition to get it to 48 units. He stated BDPs are not binding if they can be removed or replaced, and he is not in favor of changing BDPs.

Mr. Anderson stated he doesn't have the history of how it got to 48 units, but taking it to 90 units is what makes it a viable development for any stakeholder.

Bruce Moia stated he doesn't agree that BDP's cannot be changed, and a decision a board made 40 years ago may or may not apply, so he doesn't see changing a BDP to be an issue. He stated as for the school issue, apartments don't generate a lot of school impact.

Motion by Bruce Moia, seconded by Debbie Thomas, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15 and NC to RES 30 DIR. The motion passed 8:1, with Minneboo and Sullivan voting nay.

Motion by Bruce Moia, seconded by John Hopengarten, to recommend approval of the change of zoning classification from RU-2-15 with an existing BDP, to RU-2-30 DIR, removal of existing BDP, and adding a new BDP. The motion passed 8:1, with Minneboo and Sullivan voting nay.

Mascellino, Carol

From: Kathryn Beckman <beckmankathryn98@gmail.com>
Sent: Tuesday, March 28, 2023 12:26 PM
To: Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4;
Commissioner, D5
Subject: Hearing for April 6, 2023
Attachments: Petition of Section 8.pdf

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

Please find attached a petition to stop or alter the proposed change to a building / design construction.
If you have any additional questions or concerns, Please don't hesitate to contact us at 321.449.0621.

Kindest Regards,
Kurt and Kathryn Beckman

Date:

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

D5.Commissioner@BrevardFL.gov.

Re:Rezoning Case ID#22SS00016 & 22Z00071

Set For Hearing April 6, 2023 @ 5 P.M.

Gentlemen & Ladies:

I am a property owner in Carlton Groves Subdivision. My neighborhood is immediately south of and contiguous to the parcel subject to the above rezoning request.

This parcel is only 3.95 acres for which the Petitioner is seeking to construct 90 dwelling units.

When you subtract the square footage needed for access roads, the retention pond, the parking lots, the dumpsters/utility pads and the maintenance facility, there remains only about a 1.8 acre foot print, at the most, upon which to place 90 dwelling units.

The density will be a minimum of 50 units per acre which will necessitate a high rise building towering above the neighboring single family homes and existing two story apartments, to the west and north of the subject parcel.

This type of extreme residential density is wholly incompatible with existing improvements surrounding the parcel. Zoning of this magnitude is wholly out of place with the character of this location in the heart of Merritt Island.

With 1.5 vehicles per unit, the parking lot will have to hold a minimum of 135 vehicles, not counting fire lanes and loading areas.

I respectfully request that this petition be denied or, at the least, the density be reduced to 15 units.

Name:

Kathryn Beckman

Property Address:

250 Birch Avenue Merritt Is., Fla.

Date: March 28, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

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Name: 

Property Address: 250 Birch Avenue Merritt Is., Fla.

Mascellino, Carol

From: Stephanie Maltby <shmaltby@gmail.com>
Sent: Thursday, March 30, 2023 12:06 PM
To: Commissioner, D3; Commissioner, D2; Commissioner, D1; Commissioner, D4; Commissioner, D5
Subject: Rezoning Case ID#22SS00016 & 22Z00071 and Hearing on 4/6/23
Attachments: 205 Willow ave ltr to cc.pdf

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

County Commissioners:

Please see attached letter regarding the above mentioned rezoning cases.

Thank you,
Matthew and Stephanie Maltby
Property Owners
205 Willow Ave., Merritt Island, FL 32953
407-288-2893

Date: 3/30/23

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

D5.Commissioner@BrevardFL.gov.

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Name: Matthew & Stephanie Maltby

Property Address: 205 Willow Ave., Merritt Is., Fla.

Date: 3/30/23

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

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Name: Matthew & Stephanie Maltby

Property Address: 205 Willow Ave., Merritt Is., Fla.

Date:

Objection
22SS00016 & 22Z00071
Crane View

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

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Name:

Kathryn Beckman

Property Address: *250 Birch Avenue* Merritt Is., Fla.

Date: March 28, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

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Name: 

Property Address: 250 Birch Avenue, Merritt Is., Fla.

Mascellino, Carol

From: Carol <carol722@prodigy.net>
Sent: Sunday, April 2, 2023 2:14 PM
To: Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5
Subject: Re: Rezoning case ID#22SS00016 & 22Z00071
Attachments: rezoning petition.pdf

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

To whom it may concern,

For your consideration re: Rezoning case ID#22SS00016 & 22Z00071 on April 6, 2023 Sincerely, Carlton Groves 235 Birch Ave property owner Carol Nutter

Date: April 2, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

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Name: Carol Nutter Carol Nutter

Property Address: 235 Birch Ave, Merritt Is., Fla.

Date:

Objection
22SS00016 & 22Z00071
Crane View

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

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Kathryn Beckman

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Date: March 28, 2023

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Property Address: 250 Birch Avenue Merritt Is., Fla.

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D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

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Name: Carol Nutter Carol Nutter

Property Address: 235 Birch Ave, Merritt Is., Fla.

Date: 3/30/23

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D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

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With 1.5 vehicles per unit, the parking lot will have to hold a minimum of 135 vehicles, not counting fire lanes and loading areas.

I respectfully request that this petition be denied or, at the least, the density be reduced to 15 units.

Name: Matthew & Stephanie Maltby

Property Address: 205 Willow Ave., Merritt Is., Fla.

Date: April 4, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov. Rita Pritchett

D2.Commissioner@BrevardFL.gov. Tom Goodson

D3.Commissioner@BrevardFL.gov. John Tobia

D4.Commissioner@BrevardFL.gov. Rob Feltner

D5.Commissioner@BrevardFL.gov.

Re:Rezoning Case ID#22SS00016 & 22Z00071

Set For Hearing April 6, 2023 @ 5 P.M.

Gentlemen & Ladies:

I am a property owner in Carlton Groves Subdivision. My neighborhood is immediately south of and contiguous to the parcel subject to the above rezoning request.

This parcel is only 3.95 acres for which the Petitioner is seeking to construct 90 dwelling units.

When you subtract the square footage needed for access roads, the retention pond, the parking lots, the dumpsters/utility pads and the maintenance facility, there remains only about a 1.8 acre foot print, at the most, upon which to place 90 dwelling units.

The density will be a minimum of 50 units per acre which will necessitate a high rise building towering above the neighboring single family homes and existing two story apartments, to the west and north of the subject parcel.

This type of extreme residential density is wholly incompatible with existing improvements surrounding the parcel. Zoning of this magnitude is wholly out of place with the character of this location in the heart of Merritt Island.

With 1.5 vehicles per unit, the parking lot will have to hold a minimum of 135 vehicles, not counting fire lanes and loading areas.

I respectfully request that this petition be denied or, at the least, the density be reduced to 15 units.

Name: Michael Iannuzzi

Property Address: 205 Birch Ave., Merritt Is., Fla.

32953

Mascellino, Carol

From: miannuzzi@cfl.rr.com
Sent: Tuesday, April 4, 2023 2:05 PM
To: Commissioner, D4
Subject: FW:
Attachments: IMG_20230404_140034_01.jpg

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

From: 3214462068@vzwpix.com
To: miannuzzi@cfl.rr.com
Cc:
Sent: Tuesday April 4 2023 2:00:41PM
Subject:

Date: April 4, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov. Rita Pritchett

D2.Commissioner@BrevardFL.gov. Tom Goadson

D3.Commissioner@BrevardFL.gov. John Tobia

D4.Commissioner@BrevardFL.gov. Rob Feltner

D5.Commissioner@BrevardFL.gov.

Re:Rezoning Case ID#22SS00016 & 22Z00071

Set For Hearing April 6, 2023 @ 5 P.M.

Gentlemen & Ladies:

I am a property owner in Carlton Groves Subdivision. My neighborhood is immediately south of and contiguous to the parcel subject to the above rezoning request.

This parcel is only 3.95 acres for which the Petitioner is seeking to construct 90 dwelling units.

When you subtract the square footage needed for access roads, the retention pond, the parking lots, the dumpsters/utility pads and the maintenance facility, there remains only about a 1.8 acre foot print, at the most, upon which to place 90 dwelling units.

The density will be a minimum of 50 units per acre which will necessitate a high rise building towering above the neighboring single family homes and existing two story apartments, to the west and north of the subject parcel.

This type of extreme residential density is wholly incompatible with existing improvements surrounding the parcel. Zoning of this magnitude is wholly out of place with the character of this location in the heart of Merritt Island.

With 1.5 vehicles per unit, the parking lot will have to hold a minimum of 135 vehicles, not counting fire lanes and loading areas.

I respectfully request that this petition be denied or, at the least, the density be reduced to 15 units.

Name: Michael Iannuzzi

Property Address: 205 Birch Ave., Merritt Is., Fla.

32953

The Falling Leaf

Upscale Affordable Housing
90-unit 3-story building 35-High
Merritt Island FL. Brevard County

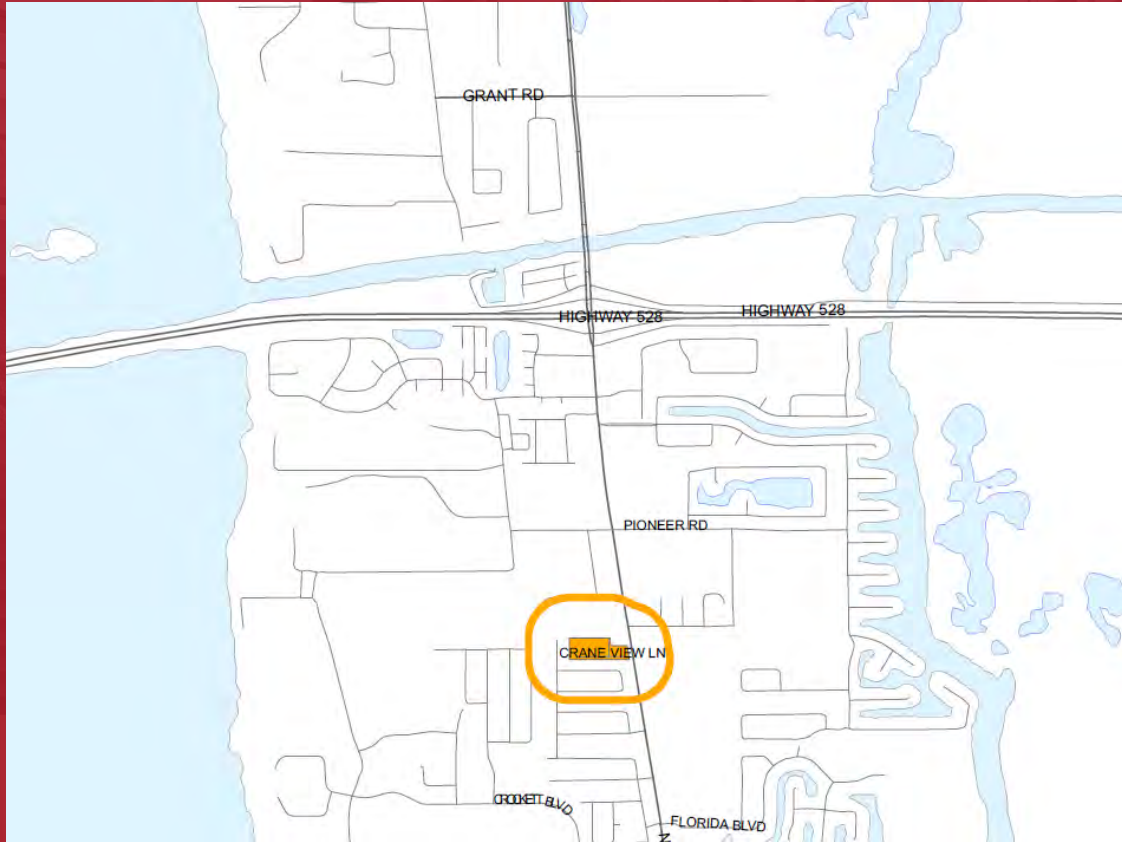


The Falling Leaf



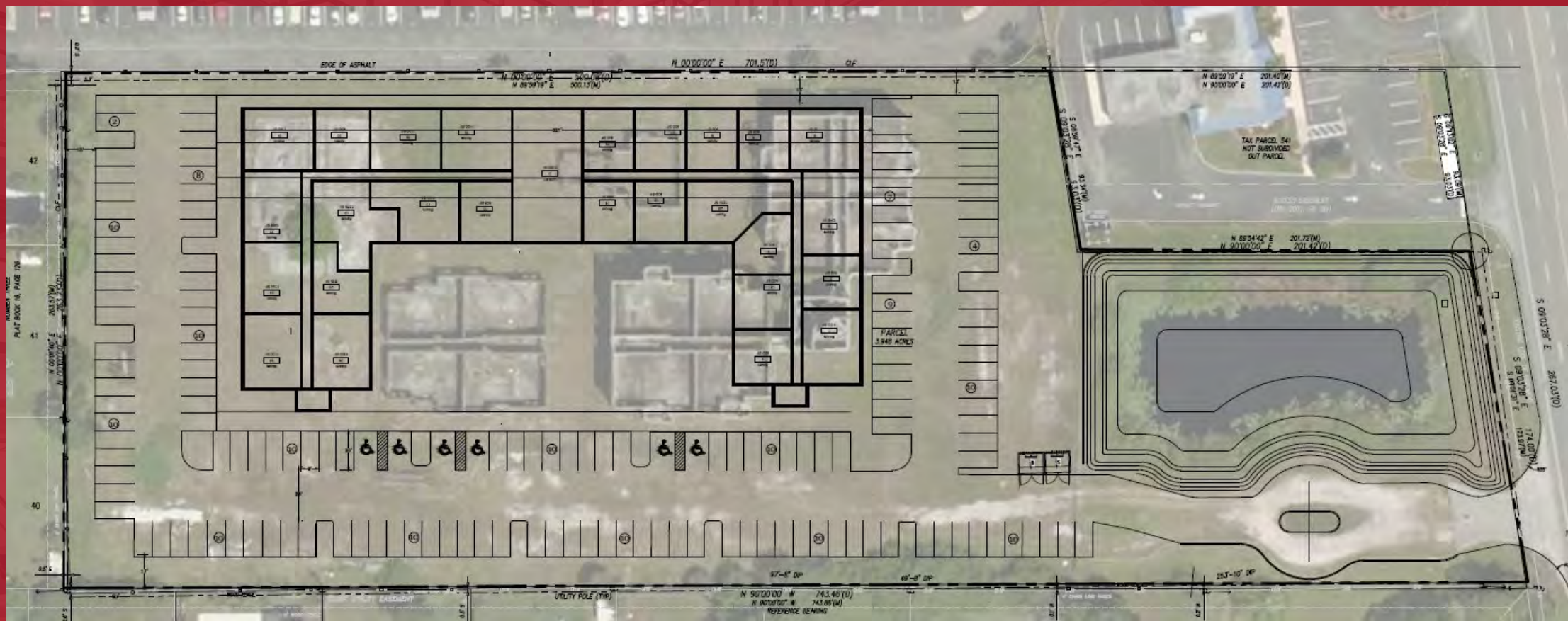
90 Multifamily Units

Location



West side of N. Courtenay Pkwy., approximately 580 feet south of Butler Avenue (District 2)

Site Plan



Elevation



Ion



Elevation



Color Scheme



1 & 2-Bedroom Floor Plan



35'-8"

38'-4"

3 BEDROOM UNIT
1,291 SQ. FT.

PROJECT: FALLING LEAF APARTMENT COMPLEX
MERRITT ISLAND
FLORIDA
3 BEDROOM UNIT FLOOR PLAN

DATE: 02-01-2013
BY: J.C.
REV: 1/2" = 1'-0"

A-P

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 22S.19 (22SS00016)
Township 24, Range 36 Section 14*

Property Information

Owner / Applicant: Crane View LLC

Adopted Future Land Use Map Designation: Residential 15 (RES 15) and
Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Residential 30 Directive (RES 30 DIR)

Acreage: 3.95 acres

Tax Account #: 2412341

Site Location: West side of N. Courtenay Parkway, approximately 580 feet east of Butler
Avenue

Commission District: 2

Current Zoning: Medium-Density Multiple-Family Residential (RU-2-15) with a Binding
Development Plan (BDP)

Requested Zoning: High-Density Multiple-Family Residential (RU-2-30) and
amendment of a Binding Development Plan (BDP) (22Z00071)

Background & Purpose

The applicant is requesting to change the Future Land Use designation on 3.95 acres of land from Residential 15 (RES 15) and Neighborhood Commercial (NC) to Residential 30 Directive (RES 30 DIR) to develop the site as an apartment complex with up to 90 multi-family residential units. The subject property is currently vacant with four (4) partially constructed buildings.

The subject property retains RES 15 and NC Future Land Use designations. The closest RES 30 Directive is 3.1 miles to the south of the subject site on S. Tropical Trail. If approved, this request would equate to 23 units per acre with limitations within the BDP.

There are five (5) active liens on open code enforcement cases (21CE-01807, 20CE-01187, 18CE-00793, 18CE-00742, and 16CE-02285) associated with this property

including two active violations for unsafe structure and failure to maintain vacant structure.

A companion rezoning application was submitted accompanying this request to change the zoning classification from RU-2-15 (Medium-Density Multiple-Family Residential) with a Binding Development Plan (BDP) to RU-2-30 (High-Density Multiple-Family Residential) with the removal and replacement of a Binding Development Plan (BDP) (22Z00052).

The existing RU-2-15 zoning can be considered consistent with the existing RES 15 FLU and NC FLU designations, as provided in Sec. 62-1255.

The proposed RU-2-30 zoning can be considered consistent with the existing NC FLU, as provided in FLU Policy 2.10; however, the proposed RU-2-30 zoning may not be considered consistent with the existing RES 15 FLU, as provided in Sec. 62-1255.

The proposed RU-2-30 zoning can be considered consistent with the proposed RES 30 DIR FLU, as provided in Sec. 62-1255.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

Policy 1.2

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

Criteria:

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

This Future Land Use Amendment request to change from RES 15 and NC to RES 30 DIR will require a connection to a centralized water and sewer service.

- 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.

The subject site is within the City of Cocoa's service area public water. This Future Land Use Amendment request to change from RES 15 and NC to RES 30 DIR will require a connection to a centralized water and sewer service.

**Residential 30 Directive (maximum of 30 dwelling units per acre)
Policy 1.3**

The Residential 30 Directive Future Land Use designation affords the highest density allowance, permitting a maximum density of up to thirty (30) units per acre, except as otherwise may be provided for within the Future Land Use Element. Parameters for this future land use designation include:

Criteria:

- A. The Residential 30 Directive land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

1. Areas located east of Interstate-95; and

The subject site is located 6.6 miles east of Interstate-95 (I-95).

2. Unincorporated enclaves located within or adjacent to incorporated areas which permit similar or greater density allowance; or

The subject site is not located adjacent to an incorporated area.

3. Areas adjacent to existing Residential 30 land use designation; and

The subject site is not adjacent to an existing RES 30 land use designation. This request can be considered an introduction of RES 30 into the surrounding area. The closest RES 30 DIR is 3.1 miles south of the subject property on South Tropical Trail.

4. Areas with direct access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.

The subject site has direct access to an arterial roadway. North Courtenay Parkway is classified as an Urban Principal Arterial roadway.

- B. In the Merritt Island Redevelopment Area, Brevard County should encourage high density development in clustered patterns that maximize the provision of open space to avoid the impacts of "strip" or "checkerboard" land use patterns and to assist in the development of an urban atmosphere. The Residential 30 Directive land use designation may permit development in excess of 30 units per acre, provided that one of the

following applies:

1. Residential density of up to 37.5 dwelling units per acre, may be considered if approved as part of a redevelopment plan; or

The subject site is not part of an approved redevelopment plan.

2. Developments which are tied to a binding development plan and propose a mixture of residential and commercial uses may permit the residential portion of the project with density of up to 50 dwelling units per acre.

The subject site is within the Merritt Island Redevelopment Agency (MIRA); however, the proposal is not part of a redevelopment plan approved by Board of County Commissioners.

The applicant has submitted a companion application to this Future Land Use Amendment requesting to rezone from RU-2-15 with a Binding Development Plan (BDP) to RU-2-30 and remove the existing BDP and add a new BDP (22Z00071).

The proposed BDP limits the parcel to density of 90 dwelling units per acre.

- C. A 25% density bonus to permit up to 37.5 dwelling units per acre may be considered, except in the Coastal High Hazard Area (CHHA), where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant has not proposed a Planned Unit Development. The subject site is not located within the CHHA.

Administrative Policy 3

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

Criteria:

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

1. historical land use patterns;

The character of the area is commercial along North Courtenay Parkway with residential land uses in the surrounding areas. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 15, and RES 6. The predominant FLU designations along this section of North Courtenay Parkway are NC and CC.

This request can be considered an introduction of RES 30 DIR into the area along North Courtenay Parkway. The closest RES 30 DIR FLU designation is located approximately 3.1 miles south of the subject property on South Tropical Trail. That parcel is currently undeveloped.

The most recent FLU amendment (21S.09) in this area was adopted March 3, 2022 by Ordinance 22-05 to change the FLU designation from NC to CC on 0.92 acres 233 feet to the southeast of the subject property on N Courtenay Parkway. That parcel is currently undeveloped.

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

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

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

While there has not been any new development in the preceding three (3) years, one zoning action has been approved within one-half mile.

20Z00042, approved by the Board on November 3, 2022, was a request to amend a BDP to add car wash use on an 8.89-acre parcel with BU-1 zoning located approximately 136 feet northeast of the subject property at the southeast corner of Skyline Boulevard and North Courtenay Parkway.

- 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.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed

rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

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

The developed character of the area along North Courtenay Parkway to the north of the subject parcel is mostly commercial that transitions to multi-family residential to the west.

South of the subject property is a mix of commercial, institutional, and residential development. There is an older single-family residential neighborhood (platted in 1962) immediately adjacent to the south of the subject property. The residential zoning in the area is RU-1-11 single-family residential which allows one quarter (1/4) acre lots.

There are multiple parcels with multi-family zoning classifications within a one-half mile radius of the subject property ranging from RU-2-10 to RU-2-30. The closest RU-2-30 zoning classification is located immediately to the north of the subject property on 6.3 acres developed as a condominium complex (Island Village Condominiums). Property Appraiser records indicate a total of 93 units in Island Village Condominiums Phases A through F which equates to a built-out density of approximately 14.76 units per acre.

As provided in FLU Policy 2.10, residential development or the integration of residential development with commercial development can be permitted in the Neighborhood Commercial (NC) land use designation, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and area designated for residential use on the Future Land Use Map, as provided in FLU Policy 2.10. Residential development may be permissible in 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.

The existing RES 15 and NC FLU designations would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site (59 units), this request actually represents an increase of approximately 31 units.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Commercial; Multi-family	BU-1-A & BU-1; RU-2-30	NC & CC; RES 15
South	Single-family	RU-1-11	RES 15
East	Retail Commercial	BU-1-A	NC
West	Single-family	RU-1-11	RES 15

To the north is a 0.92-acre parcel designated as NC and CC FLU and developed as a commercial financial institution.

To the south is a single-family residential neighborhood (platted in 1962) with RES 15 FLU.

To the east, across North Courtenay Parkway, is a 0.51-acre parcel and a 1.88-acre parcel, both designated as NC FLU and developed as retail commercial.

To the west is a single-family residential neighborhood (platted in 1962) with RES 15 FLU.

Concurrency

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The subject site is within the City of Cocoa's service area public water. The closest centralized sewer line (Brevard County Utilities) is located adjacent to the subject property on the west side of North Courtenay Parkway. The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development.

Environmental Constraints

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

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

Historic Resources

According to information provided by the Florida Master Site File of the Florida Division of Historic Resources, there are no recorded cultural resources associated with the subject site.

For Board Consideration

The Board may consider if the request to introduce RES 30 is consistent and compatible with the surrounding area and the comprehensive plan.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Comprehensive Plan Review & Summary
Item #22SS00016

Applicant: Steve Anderson/Larry Poliner

FLU Request: RES 15 & NC to RES 30, with new BDP limiting to 90 units

Note: Applicant wants to demo partially completed residential development, and construct new multi-family development.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2412341

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Taveres fine sand, 0-5% slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage

treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

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.



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

22Z00071

Crane View, LLC

RU-2-15 (Medium-Density Multi-Family Residential) with a BDP to RU-2-30 (High-Density Multi-Family Residential) and Amendment of BDP

Tax Account Numbers: 2412341
Parcel I.D.: 24-36-14-00-589
Location: West side of N. Courtenay Pkwy., approximately 580 feet south of Butler Avenue (District 2)
Acreage: 3.95 acres
MIRA: 02/23/2023
Planning & Zoning Board: 03/13/2023
Board of County Commissioners: 04/06/2023

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 current Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-2-15	RU-2-30
Potential*	48 Multi-Family units with existing BDP	90 multi-family units with proposed BDP
Can be Considered under the Future Land Use Map	NO RES 15 & NC	YES** RES 30

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request 22SS00016 which proposes to amend the Future Land Use designation from Residential 15 (RES 15) and Neighborhood Commercial (NC) to all Residential 30 (RES 30).

Background and Purpose of Request

The applicant is requesting a change of zoning classification from RU-2-15 (Medium-Density Multi-Family Residential) with an existing Binding Development Plan (BDP) to RU-2-30 (High-Density Multi-Family Residential), and applicant is proposing an amendment of BDP on 3.95 acres to develop the site as a multi-family complex with an amended BDP limited to 90 multi-family residential units. The 3.95-acre subject property currently has unfinished and dilapidated multi-family structures from a previous site plan.

There are five (5) active liens on open code enforcement cases (21CE-01807, 20CE-01187, 18CE-00793, 18CE-00742, and 16CE-02285) associated with this property including two active violations for unsafe structure and failure to maintain vacant structure.

The existing Binding Development Plan (BDP) states:

- The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
- The Developer/Owner shall limit density to 48 units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
- Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida.
- Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.
- This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on May 29, 2008. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.
- Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

The site has frontage on N. Courtenay Pkwy. (SR-3) and is located in the Merritt Island Redevelopment Area (MIRA).

The original zoning of the subject property was AU (Agricultural Use) the parcel was rezoned to RU-1 (Single-Family Residential) on August 04, 1960 per zoning action **Z-382**.

The RU-1 zoning on the parcel was Administratively replaced with the new zoning classification RU-1-11 on June 1, 1972 per zoning action **Z-2980**.

The parcel was rezoned from RU-1-11 to BU-1-A (Neighborhood Commercial) on the east 200 feet and to RU-2-15 (Medium-Density Multi-Family) on the remainder of the parcel on July 9, 1981 per zoning action **Z-5691**.

The parcel was rezoned from BU-1-A on the east 200 feet to BU-1 (General Retail Commercial) with the remainder rezoned from RU-2-15 to BU-1-A with a Binding Concept Plan (BCP) for professional office only on May 26, 1987 per zoning action **Z-7795**.

The parcel was rezoned from BU-1-A with a Binding Concept Plan and BU-1 to RU-2-12 (Medium-Density Multi-Family Residential) with removal of the Binding Concept Plan; and approval of a Conditional Use Permit (CUP) for an Independent Living Facility on August 3, 2000 per zoning action **Z-10413**.

The parcel was approved for a Conditional Use Permit (CUP) for an Adult Congregate Living Facility in an RU-2-12 zoning classification and removing the existing CUP for an Independent Living Facility on March 7, 2002 per zoning action **Z-10675**.

The Conditional Use Permit (CUP) **Z-10675** for an Adult Congregate Living Facility in an RU-2-12 zoning classification was Administratively removed on February 1, 2007 per zoning action **Z-11317(23)**.

The parcel was rezoned from RU-2-12 to RU-2-15 with a Binding Development Plan (BDP) limiting density to 48 units on July 9, 2008 per zoning action **Z-11432**.

Land Use

The subject property is currently designated as Residential 15 (RES 15) and Neighborhood Commercial (NC) FLU. The existing RU-2-15 zoning can be considered consistent with the existing RES 15 and NC FLU designation.

A companion application, **22SS00016**, if approved, would amend the Future Land Use designation from Residential 15 (RES 15) and Neighborhood Commercial (NC) to all Residential 30 (RES 30).

The proposed RU-2-30 zoning can be considered consistent with the proposed Residential 30 (RES 30) FLU designation.

The existing FLU RES 15 designation would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site, this request actually represents an increase of approximately 59 units.

Applicable Land Use Policies

FLUE Policy 1.3 – addresses the Residential 30 Directive land use designation affords the highest density allowance, permitting a maximum density of up to thirty (30) units per acre, except as otherwise may be provided for within this element. Parameters for this future land use designation include:

Criteria:

- A. The Residential 30 Directive land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

1. Areas located east of Interstate-95; and

The subject site is located 6.6 miles east of Interstate-95 (I-95).

2. Unincorporated enclaves located within or adjacent to incorporated areas which permit similar or greater density allowance; or

The subject site is not located adjacent to an incorporated area.

3. Areas adjacent to existing Residential 30 land use designation; and

The subject site is not adjacent to an existing RES 30 land use designation. This request can be considered an introduction of RES 30 into the area. The closest RES 30 DIR is 3.1 miles south of the subject property on South Tropical Trail.

4. Areas with direct access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.

The subject site has direct access to an arterial roadway. North Courtenay Parkway is classified as an Urban Principal Arterial roadway.

- B. In the Merritt Island Redevelopment Area, Brevard County should encourage high density development in clustered patterns that maximize the provision of open space to avoid the impacts of "strip" or "checkerboard" land use patterns and to assist in the development of an urban atmosphere. The Residential 30 Directive land use designation may permit development in excess of 30 units per acre, provided that one of the following applies:

1. Residential density of up to 37.5 dwelling units per acre, may be considered if approved as part of a redevelopment plan; or

The subject site is not part of an approved redevelopment plan.

2. Developments which are tied to a binding development plan and propose a mixture of residential and commercial uses may permit the residential portion of the project with density of up to 50 dwelling units per acre.

The subject site is within the Merritt Island Redevelopment Agency (MIRA); however, the proposal is not part of a redevelopment plan approved by Board of County Commissioners.

The applicant has submitted a companion application (22SS00016) to this Rezoning request to change the FLU from RES 15 and NC to RES 30.

The proposed BDP limits the parcel to density of 90 dwelling units per acre.

- C. A 25% density bonus to permit up to 37.5 dwelling units per acre may be considered, except in the Coastal High Hazard Area (CHHA), where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from

perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant has not proposed a Planned Unit Development. The subject site is not located within the CHHA.

The parcel is located in the Merritt Island Redevelopment Area (MIRA). Staff will update Board with results of this meeting.

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.

The subject site is within the City of Cocoa's service area for potable water. The closest centralized sewer line (Brevard) is located on the west side of N. Courtenay Pkwy. (SR-3). 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 rezone 3.95 acres to RU-2-30 zoning classification and amend an existing BDP for the purpose of developing a multi-family complex with up to 90 units. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and 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 character of the area is commercial along the west corridor of N. Courtenay Pkwy. (SR-3) with residential land uses further west in the surrounding areas. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 6 and RES 15. The predominant FLU designation along this west section of N. Courtenay Pkwy. is RES 15.

Although the abutting parcels to the north are zoned RU-2-30 (30 units per acre density) these parcels have a FLU designation of RES 15 (15 units per acre density) which is not consistent/compatible with RU-2-30 zoning. This request may be considered an introduction of RES 30 (30 units per acre density) into the area along the west N. Courtenay Pkwy. (SR-3).

The most recent FLU amendment (21S.09) in this area was adopted March 3, 2022 by Ordinance 22-05 to change the FLU designation from NC to CC on 0.92 acres 233 feet to the southeast of the subject property on N Courtenay Parkway. That parcel is currently undeveloped.

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

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 new development in the preceding three (3) years, one zoning action has been approved within one-half mile.

20Z00042, approved by the Board on November 3, 2022, was a request to amend a BDP to add car wash use on an 8.89-acre parcel with BU-1 zoning located approximately 136 feet northeast of the subject property at the southeast corner of Skyline Boulevard and North Courtenay Parkway.

- 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 area is commercial along the west side of N. Courtenay Pkwy (SR-3) abutting the east 200 feet of the parcel along the north and transitions to residential zoning abutting the south of the property and the west of the property. The residential zoning in the area is RU-2-15 medium density multi-family residential abutting the parcel to the north and RU-1-11 single-family residential abutting the parcel to the south and west which allows for 7,500 sq. ft. lots.

The existing RES 15 and NC designations on the parcel would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site, this request represents an increase of approximately 31 units.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Multi-family and bank	RU-2-30 & BU-1-A	RES 15 & NC
South	Single-family	RU-1-11	RES 15
East	Road Right-of-Way East of ROW Commercial retail plaza	East of ROW BU-1-A	NC
West	Single-family	RU-1-11	RES 15

To the north is two 1.12-acre parcels, each with RU-2-30 zoning and developed as multi-family condominiums.

To the south are eight 0.19-acre parcels and one 0.34-acre parcel developed as a single-family residence with RU-1-11 zoning.

To the east, across N. Courtenay Pkwy., is a 1.88-acre parcel developed as retail commercial with BU-1-A zoning.

To the west are three 0.24-acre parcels developed as a single-family residence with RU-1-11 zoning.

The current RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

The proposed RU-2-30 classification permits high density multi-family residential development of up to 30 unit per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75' of lot width and 75' of lot depth.

The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Courtenay Pkwy., from Crockett Blvd. to Pioneer Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 68.62% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.91%. The corridor is anticipated to operate at 69.53% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development. There is sufficient capacity at Mila Elementary School, Jefferson Middle School, and Merritt Island High School for the total of projected and potential students from this development.

The parcel is within the City of Cocoa utilities service area for public water. The closest centralized sewer line (Brevard County) is located on the west side of N. Courtenay Pkwy. (SR-3).

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

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

**NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00071**

Applicant: Steve Anderson/Larry Poliner

Zoning Request: RU-2-15 to RU-2-30, with new BDP limiting to 90 units

Note: Applicant wants to demo partially completed residential development, and construct new multi-family development.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2412341

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Taveres fine sand, 0-5% slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

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

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

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.



THANK YOU

District 2 Disclosures
4/6/2023 BOCC Zoning Meeting

H.12. Crane View, LLC (Steve Anderson) requests a Small Scale Comprehensive Plan Amendment (22S.19) to change the Future Land Use designation from RES 15 and NC to RES 30 DIR. (22SS00016) (Tax Account 2412341) (District 2)

H.13. Crane View, LLC (Steve Anderson) requests a change of zoning classification from RU-2-15, with an existing BDP, to RU-2-30, removal of existing BDP, and adding a new BDP. (22Z00071) (Tax Account 24112341) (District 2)

- On 3/28/2023, received email from Kathryn Beckman with opposition to the rezoning and requests that this petition be denied or at least the density be reduced to 15 units
- On 3/30/2023, received email from Matthew & Stephanie Maltby with opposition to the rezoning and requests that this petition be denied or at least the density be reduced to 15 units
- On 4/2/2023, received email from Carol Nutter with opposition to the rezoning and requests this petition be denied or at least the density be reduced to 15 units
- On 4/4/2023, received emails from the following:
 - Rory Iannuzzi with opposition to the rezoning and requests this petition be denied or at least the density be reduced to 15 units
 - Michael Iannuzzi with opposition to the rezoning and requests this petition be denied or at least the density be reduced to 15 units



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.13.

4/6/2023

Subject:

Crane View, LLC (Steve Anderson) requests a change of zoning classification from RU-2-15, with an existing BDP, to RU-2-30, removal of existing BDP, and adding a new BDP. (22Z00071) (Tax Account 24112341) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-2-15 (Medium Density Multi-Family Residential), with an existing BDP (Binding Development Plan), to RU-2-30 (High-Density Multi-Family Residential), removal of existing BDP, and adding a new BDP.

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RU-2-15 with an existing BDP, to RU-2-30, removal of existing BDP and adding a new BDP on 3.95 acres to develop the site as a multi-family complex with 90 units. The existing BDP limits the property to 48 units. This request would allow a density of 23 units/acre. The proposed RU-2-30 classification permits high density multi-family residential development of up to 30 unit per acre. Multi-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100 feet of lot width and depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75 feet of lot width depth. The applicant has submitted a companion application (22SS00016) to this Rezoning request to change the Future Land Use from RES 15 and NC to RES 30 DIR.

The character of the area is commercial along the west corridor of N. Courtenay Parkway (SR-3), with residential land uses further west in the surrounding areas. To the north is two, 1.12-acre parcels, each with RU-2-30 zoning and developed as condominiums. To the south are eight, 0.19-acre parcels and one 0.34-acre parcel developed as a single-family residential with RU-1-11 zoning. To the east, across N. Courtenay Parkway is a 1.88-acre parcel developed as retail commercial with BU-1-A zoning. To the west are three, 0.24-acre parcels developed as a single-family residential with RU-1-11 zoning.

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

MIRA heard the request on Thursday, February 23, 2023 and recommended approval.

On March 13, 2023, the Planning & Zoning Board heard the request and voted 8:2 to recommend approval.

Clerk to the Board Instructions:

Once resolution is received, please execute and return a copy to Planning and Development.

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

22Z00071

Crane View, LLC

RU-2-15 (Medium-Density Multi-Family Residential) with a BDP to RU-2-30 (High-Density Multi-Family Residential) and Amendment of BDP

Tax Account Numbers: 2412341
Parcel I.D.: 24-36-14-00-589
Location: West side of N. Courtenay Pkwy., approximately 580 feet south of Butler Avenue (District 2)
Acreage: 3.95 acres
MIRA: 02/23/2023
Planning & Zoning Board: 03/13/2023
Board of County Commissioners: 04/06/2023

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 current Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-2-15	RU-2-30
Potential*	48 Multi-Family units with existing BDP	90 multi-family units with proposed BDP
Can be Considered under the Future Land Use Map	NO RES 15 & NC	YES** RES 30

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request 22SS00016 which proposes to amend the Future Land Use designation from Residential 15 (RES 15) and Neighborhood Commercial (NC) to all Residential 30 (RES 30).

Background and Purpose of Request

The applicant is requesting a change of zoning classification from RU-2-15 (Medium-Density Multi-Family Residential) with an existing Binding Development Plan (BDP) to RU-2-30 (High-Density Multi-Family Residential), and applicant is proposing an amendment of BDP on 3.95 acres to develop the site as a multi-family complex with an amended BDP limited to 90 multi-family residential units. The 3.95-acre subject property currently has unfinished and dilapidated multi-family structures from a previous site plan.

There are five (5) active liens on open code enforcement cases (21CE-01807, 20CE-01187, 18CE-00793, 18CE-00742, and 16CE-02285) associated with this property including two active violations for unsafe structure and failure to maintain vacant structure.

The existing Binding Development Plan (BDP) states:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit density to 48 units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida.
4. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.
5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on May 29, 2008. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.
6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

The site has frontage on N. Courtenay Pkwy. (SR-3) and is located in the Merritt Island Redevelopment Area (MIRA).

The original zoning of the subject property was AU (Agricultural Use) the parcel was rezoned to RU-1 (Single-Family Residential) on August 04, 1960 per zoning action **Z-382**.

The RU-1 zoning on the parcel was Administratively replaced with the new zoning classification RU-1-11 on June 1, 1972 per zoning action **Z-2980**.

The parcel was rezoned from RU-1-11 to BU-1-A (Neighborhood Commercial) on the east 200 feet and to RU-2-15 (Medium-Density Multi-Family) on the remainder of the parcel on July 9, 1981 per zoning action **Z-5691**.

The parcel was rezoned from BU-1-A on the east 200 feet to BU-1 (General Retail Commercial) with the remainder rezoned from RU-2-15 to BU-1-A with a Binding Concept Plan (BCP) for professional office only on May 26, 1987 per zoning action **Z-7795**.

The parcel was rezoned from BU-1-A with a Binding Concept Plan and BU-1 to RU-2-12 (Medium-Density Multi-Family Residential) with removal of the Binding Concept Plan; and approval of a Conditional Use Permit (CUP) for an Independent Living Facility on August 3, 2000 per zoning action **Z-10413**.

The parcel was approved for a Conditional Use Permit (CUP) for an Adult Congregate Living Facility in an RU-2-12 zoning classification and removing the existing CUP for an Independent Living Facility on March 7, 2002 per zoning action **Z-10675**.

The Conditional Use Permit (CUP) **Z-10675** for an Adult Congregate Living Facility in an RU-2-12 zoning classification was Administratively removed on February 1, 2007 per zoning action **Z-11317(23)**.

The parcel was rezoned from RU-2-12 to RU-2-15 with a Binding Development Plan (BDP) limiting density to 48 units on July 9, 2008 per zoning action **Z-11432**.

Land Use

The subject property is currently designated as Residential 15 (RES 15) and Neighborhood Commercial (NC) FLU. The existing RU-2-15 zoning can be considered consistent with the existing RES 15 and NC FLU designation.

A companion application, **22SS00016**, if approved, would amend the Future Land Use designation from Residential 15 (RES 15) and Neighborhood Commercial (NC) to all Residential 30 (RES 30).

The proposed RU-2-30 zoning can be considered consistent with the proposed Residential 30 (RES 30) FLU designation.

The existing FLU RES 15 designation would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site, this request actually represents an increase of approximately 59 units.

Applicable Land Use Policies

FLUE Policy 1.3 – addresses the Residential 30 Directive land use designation affords the highest density allowance, permitting a maximum density of up to thirty (30) units per acre, except as otherwise may be provided for within this element. Parameters for this future land use designation include:

Criteria:

- A. The Residential 30 Directive land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

- 1. Areas located east of Interstate-95; and

The subject site is located 6.6 miles east of Interstate-95 (I-95).

2. Unincorporated enclaves located within or adjacent to incorporated areas which permit similar or greater density allowance; or

The subject site is not located adjacent to an incorporated area.

3. Areas adjacent to existing Residential 30 land use designation; and

The subject site is not adjacent to an existing RES 30 land use designation. This request can be considered an introduction of RES 30 into the area. The closest RES 30 DIR is 3.1 miles south of the subject property on South Tropical Trail.

4. Areas with direct access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.

The subject site has direct access to an arterial roadway. North Courtenay Parkway is classified as an Urban Principal Arterial roadway.

- B. In the Merritt Island Redevelopment Area, Brevard County should encourage high density development in clustered patterns that maximize the provision of open space to avoid the impacts of "strip" or "checkerboard" land use patterns and to assist in the development of an urban atmosphere. The Residential 30 Directive land use designation may permit development in excess of 30 units per acre, provided that one of the following applies:

1. Residential density of up to 37.5 dwelling units per acre, may be considered if approved as part of a redevelopment plan; or

The subject site is not part of an approved redevelopment plan.

2. Developments which are tied to a binding development plan and propose a mixture of residential and commercial uses may permit the residential portion of the project with density of up to 50 dwelling units per acre.

The subject site is within the Merritt Island Redevelopment Agency (MIRA); however, the proposal is not part of a redevelopment plan approved by Board of County Commissioners.

The applicant has submitted a companion application (22SS00016) to this Rezoning request to change the FLU from RES 15 and NC to RES 30.

The proposed BDP limits the parcel to density of 90 dwelling units per acre.

- C. A 25% density bonus to permit up to 37.5 dwelling units per acre may be considered, except in the Coastal High Hazard Area (CHHA), where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from

perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant has not proposed a Planned Unit Development. The subject site is not located within the CHHA.

The parcel is located in the Merritt Island Redevelopment Area (MIRA). Staff will update Board with results of this meeting.

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.

The subject site is within the City of Cocoa's service area for potable water. The closest centralized sewer line (Brevard) is located on the west side of N. Courtenay Pkwy. (SR-3). 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 rezone 3.95 acres to RU-2-30 zoning classification and amend an existing BDP for the purpose of developing a multi-family complex with up to 90 units. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and 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 character of the area is commercial along the west corridor of N. Courtenay Pkwy. (SR-3) with residential land uses further west in the surrounding areas. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 6 and RES 15. The predominant FLU designation along this west section of N. Courtenay Pkwy. is RES 15.

Although the abutting parcels to the north are zoned RU-2-30 (30 units per acre density) these parcels have a FLU designation of RES 15 (15 units per acre density) which is not consistent/compatible with RU-2-30 zoning. This request may be considered an introduction of RES 30 (30 units per acre density) into the area along the west N. Courtenay Pkwy. (SR-3).

The most recent FLU amendment (21S.09) in this area was adopted March 3, 2022 by Ordinance 22-05 to change the FLU designation from NC to CC on 0.92 acres 233 feet to the southeast of the subject property on N Courtenay Parkway. That parcel is currently undeveloped.

2. actual development over the immediately preceding three years.

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 new development in the preceding three (3) years, one zoning action has been approved within one-half mile.

20Z00042, approved by the Board on November 3, 2022, was a request to amend a BDP to add car wash use on an 8.89-acre parcel with BU-1 zoning located approximately 136 feet northeast of the subject property at the southeast corner of Skyline Boulevard and North Courtenay Parkway.

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 area is commercial along the west side of N. Courtenay Pkwy (SR-3) abutting the east 200 feet of the parcel along the north and transitions to residential zoning abutting the south of the property and the west of the property. The residential zoning in the area is RU-2-15 medium density multi-family residential abutting the parcel to the north and RU-1-11 single-family residential abutting the parcel to the south and west which allows for 7,500 sq. ft. lots.

The existing RES 15 and NC designations on the parcel would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site, this request represents an increase of approximately 31 units.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Multi-family and bank	RU-2-30 & BU-1-A	RES 15 & NC
South	Single-family	RU-1-11	RES 15
East	Road Right-of-Way East of ROW Commercial retail plaza	East of ROW BU-1-A	NC
West	Single-family	RU-1-11	RES 15

To the north is two 1.12-acre parcels, each with RU-2-30 zoning and developed as multi-family condominiums.

To the south are eight 0.19-acre parcels and one 0.34-acre parcel developed as a single-family residence with RU-1-11 zoning.

To the east, across N. Courtenay Pkwy., is a 1.88-acre parcel developed as retail commercial with BU-1-A zoning.

To the west are three 0.24-acre parcels developed as a single-family residence with RU-1-11 zoning.

The current RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

The proposed RU-2-30 classification permits high density multi-family residential development of up to 30 unit per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75' of lot width and 75' of lot depth.

The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Courtenay Pkwy., from Crockett Blvd. to Pioneer Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 68.62% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.91%. The corridor is anticipated to operate at 69.53% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development. There is sufficient capacity at Mila Elementary School, Jefferson Middle School, and Merritt Island High School for the total of projected and potential students from this development.

The parcel is within the City of Cocoa utilities service area for public water. The closest centralized sewer line (Brevard County) is located on the west side of N. Courtenay Pkwy. (SR-3).

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00071

Applicant: Steve Anderson/Larry Poliner

Zoning Request: RU-2-15 to RU-2-30, with new BDP limiting to 90 units

Note: Applicant wants to demo partially completed residential development, and construct new multi-family development.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2412341

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Taveres fine sand, 0-5% slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

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

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

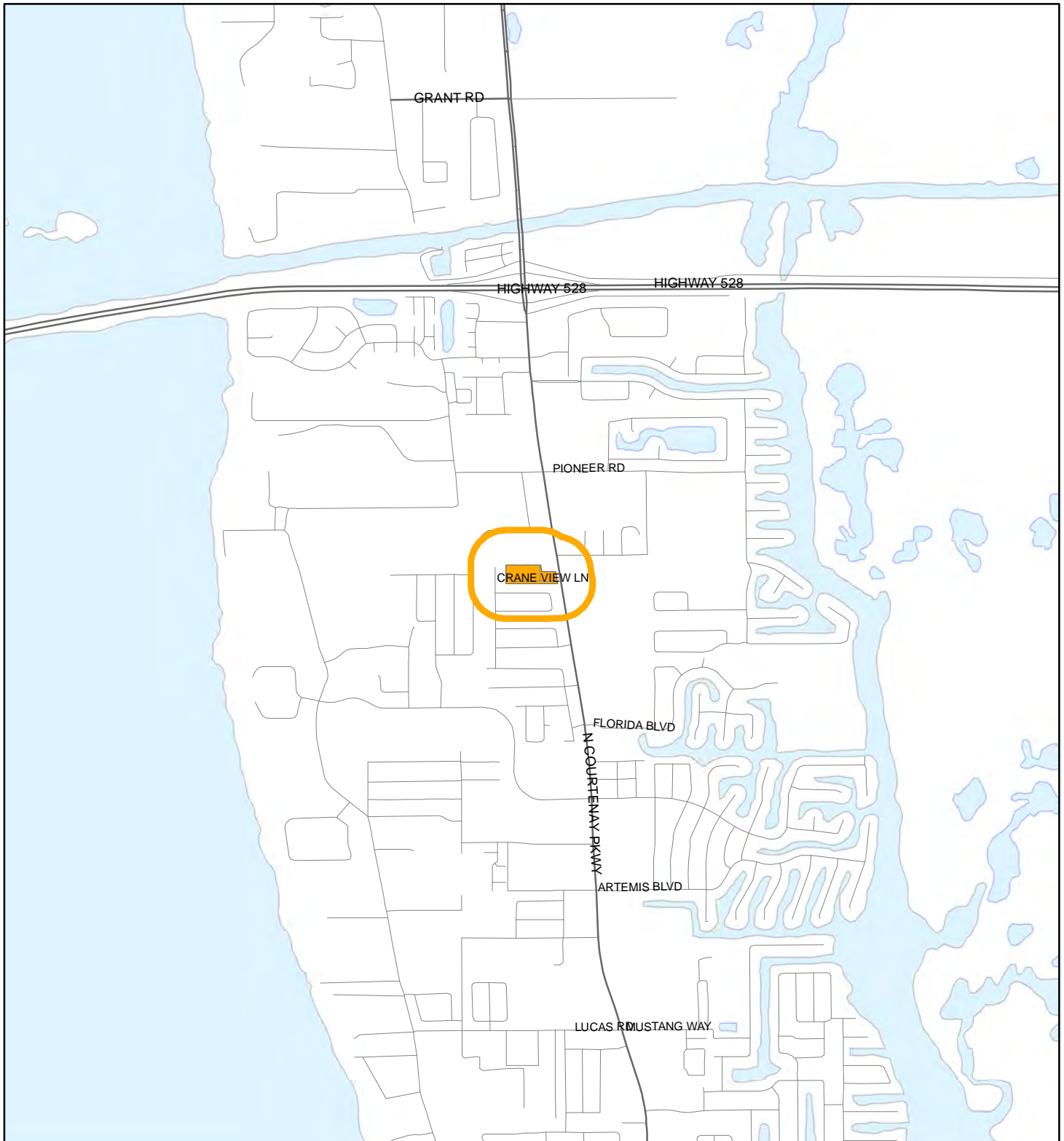
Protected Species

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

CRANE VIEW LLC

22Z00071



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

Buffer Distance: 500 feet

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

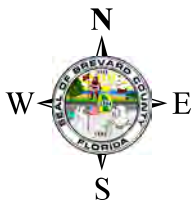
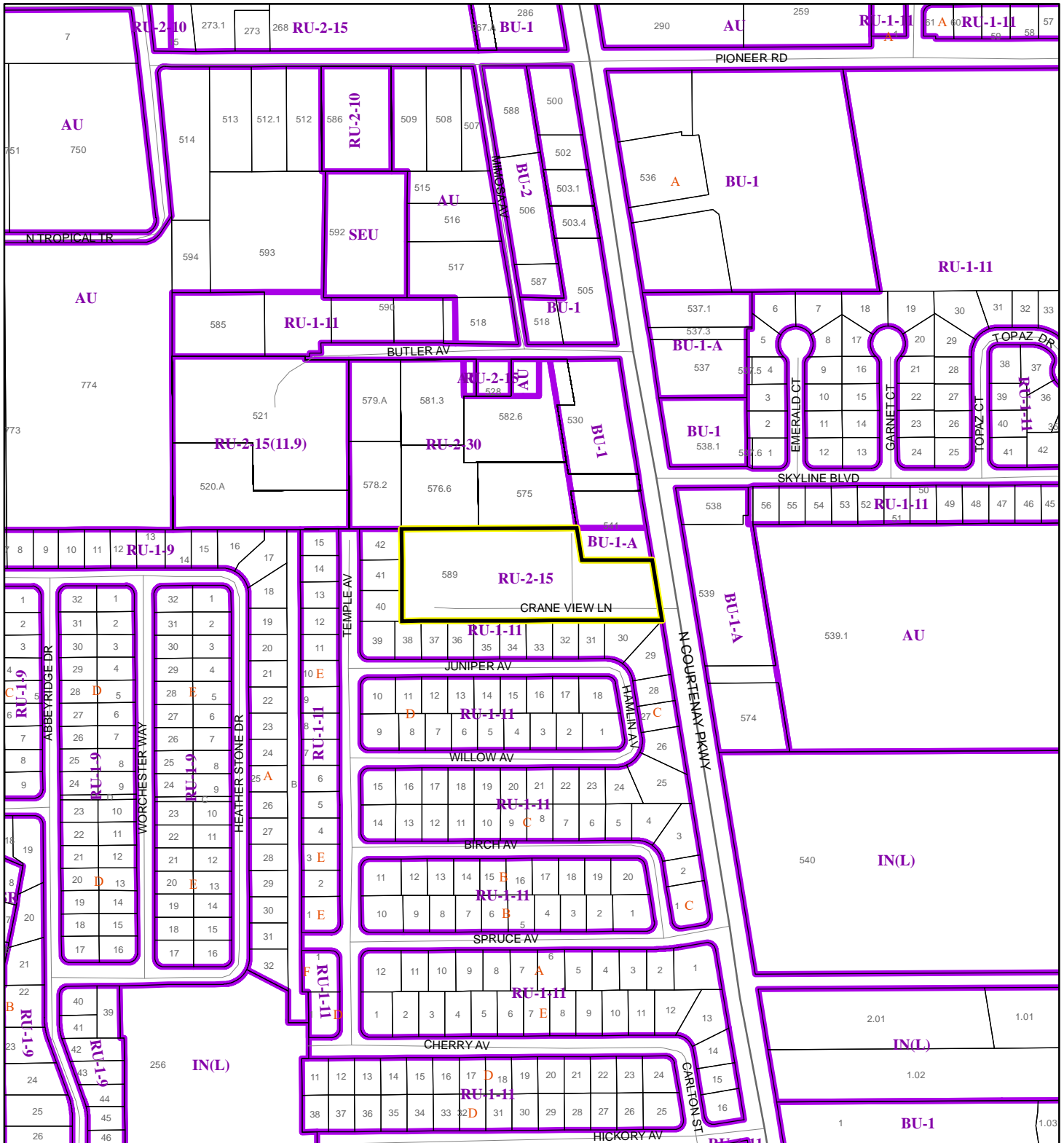
Produced by BoCC - GIS Date: 1/25/2023

Buffer
Subject Property

ZONING MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

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Subject Property

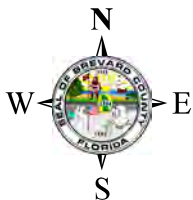
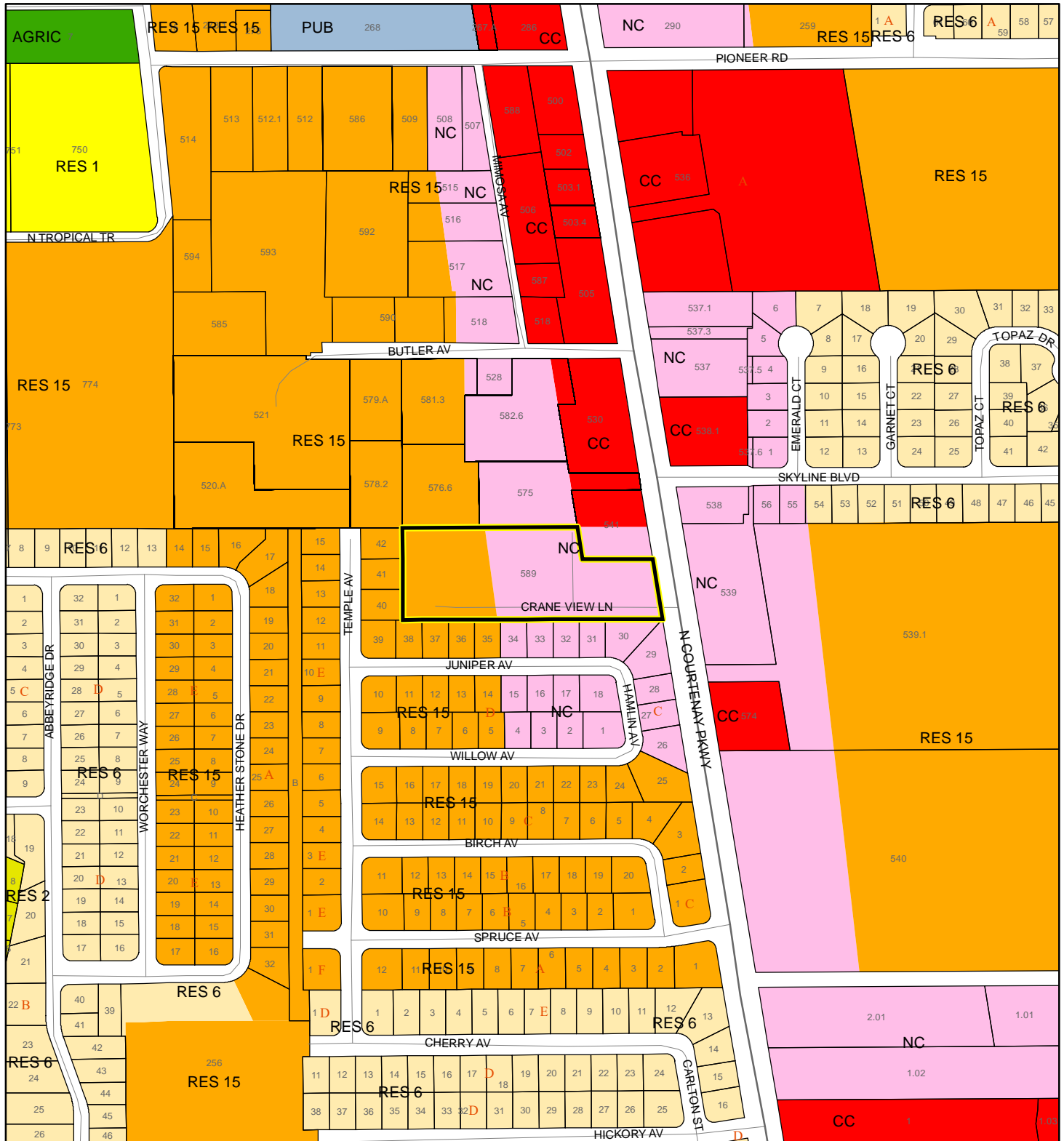
Parcels

Zoning

FUTURE LAND USE MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

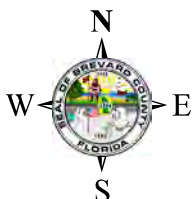
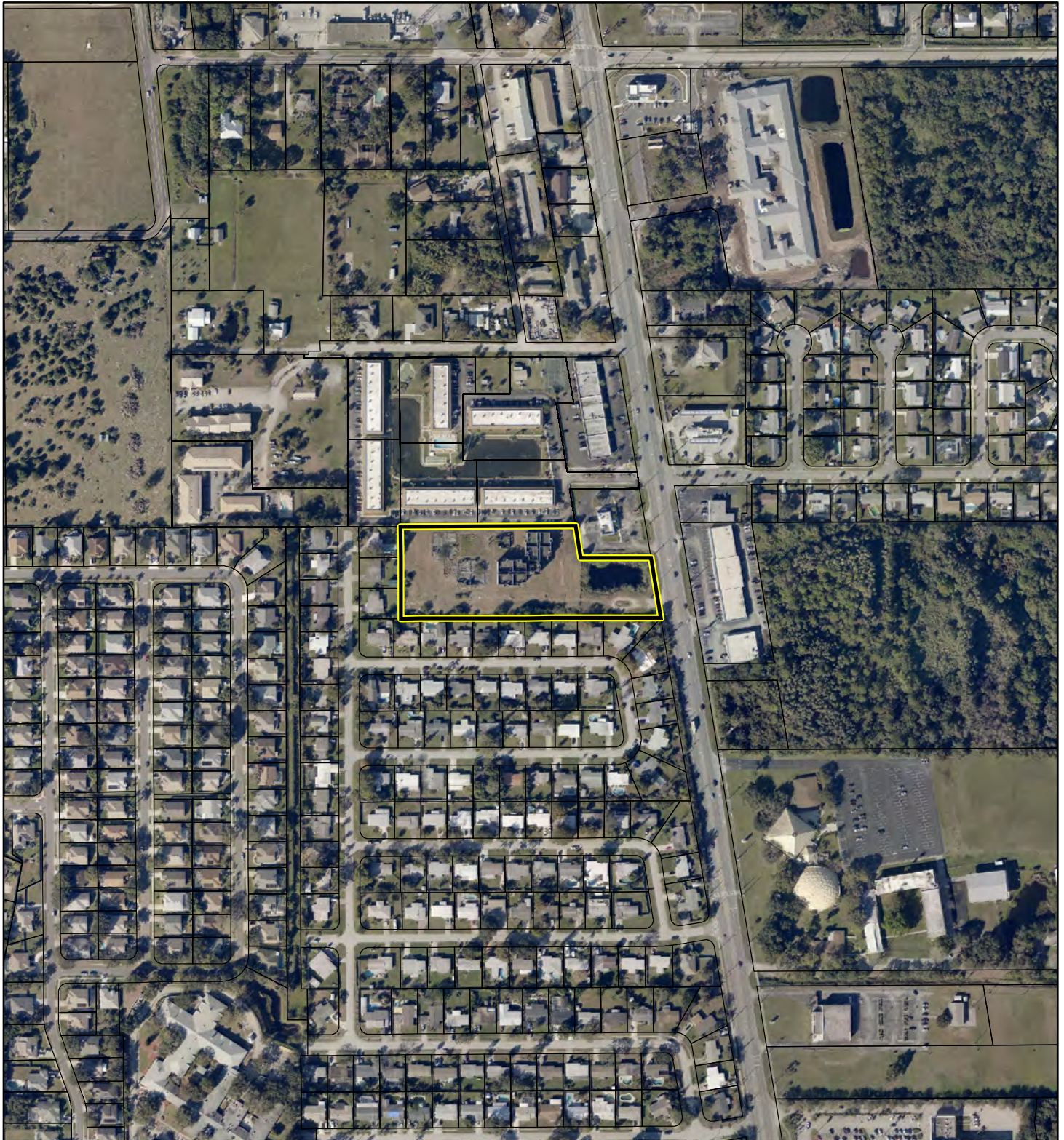
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AERIAL MAP

CRANE VIEW LLC

22Z00071




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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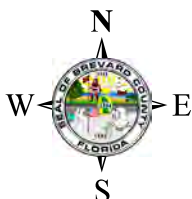
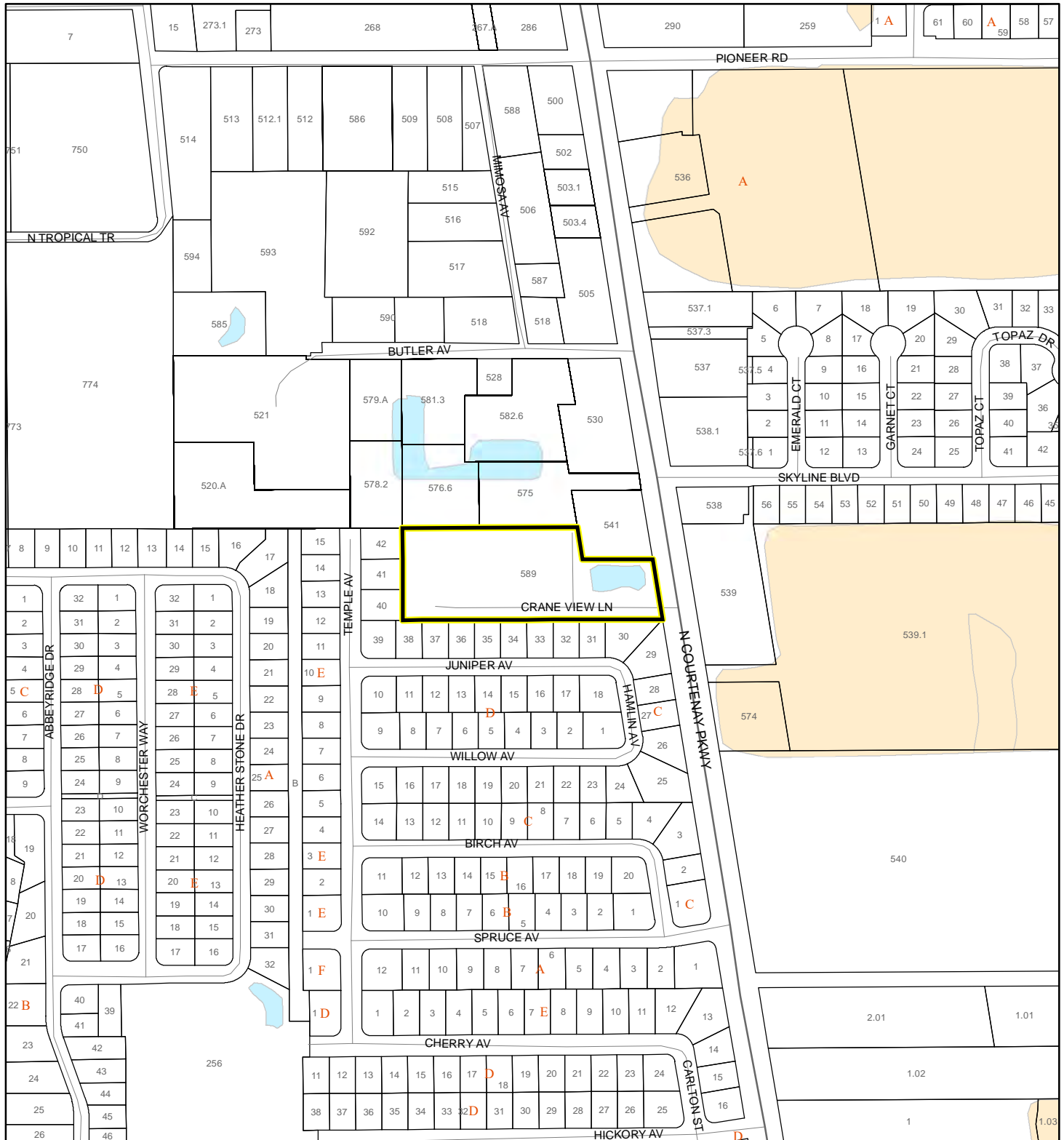
 Subject Property

 Parcels

NWI WETLANDS MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

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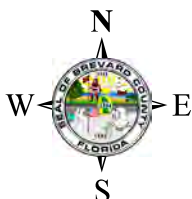
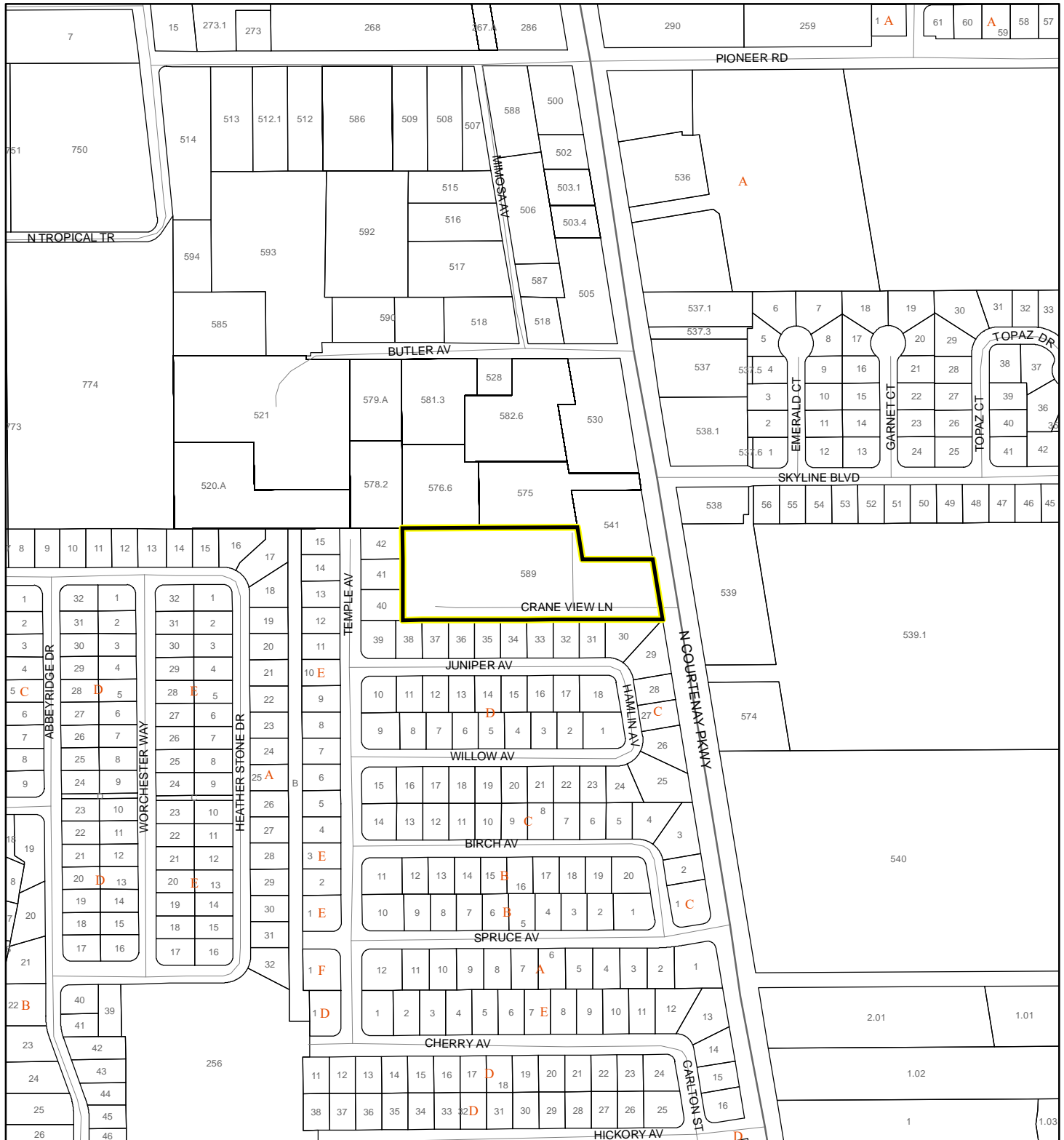
National Wetlands Inventory (NWI)

	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

CRANE VIEW LLC

22Z00071



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

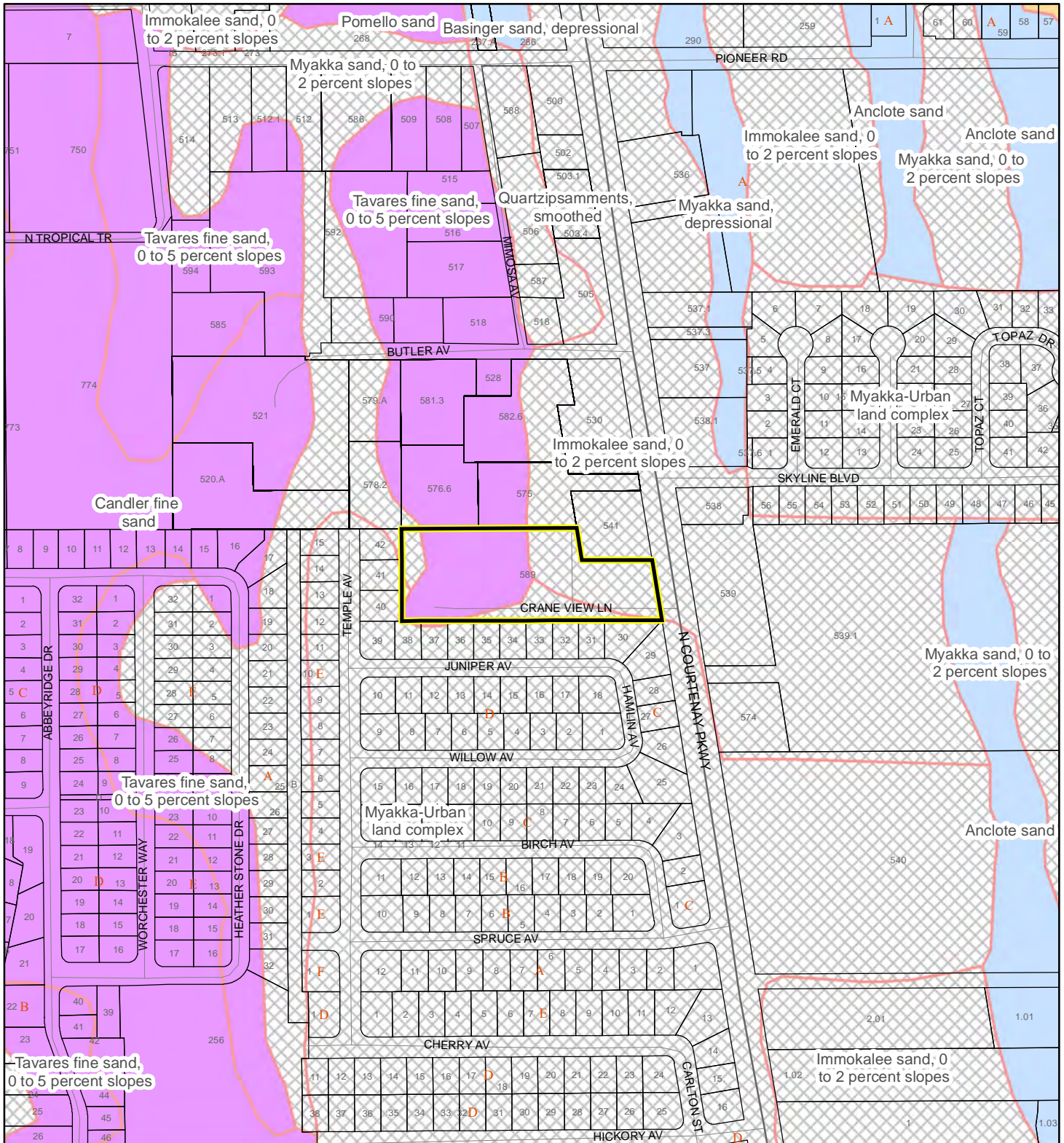
Subject Property

Parcels

USDA SCSSS SOILS MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

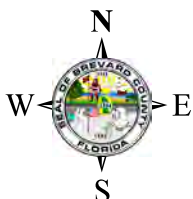
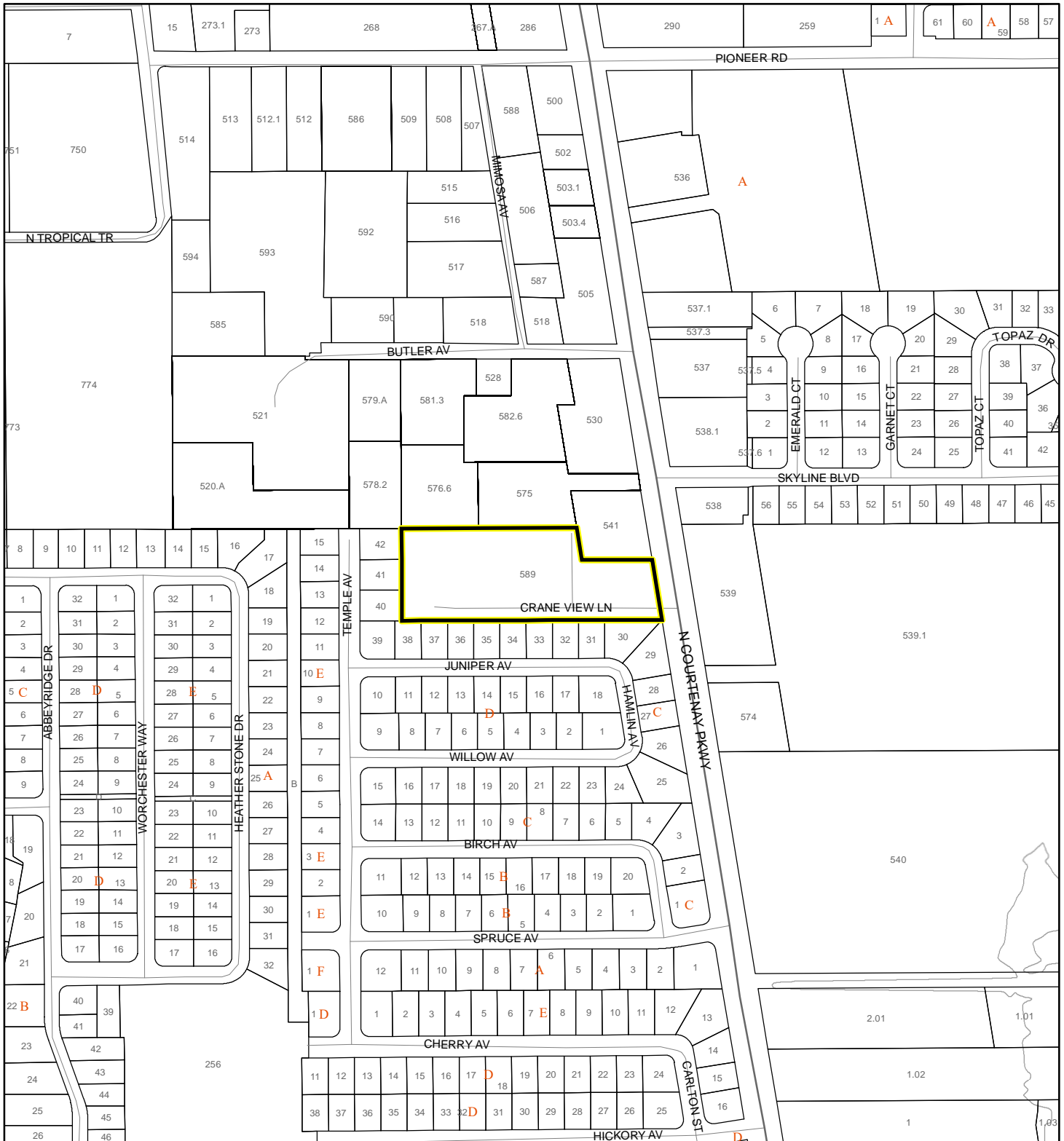
Subject Property

Parcels

FEMA FLOOD ZONES MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

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FEMA Flood Zones

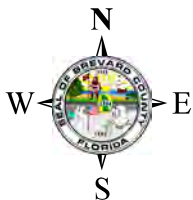
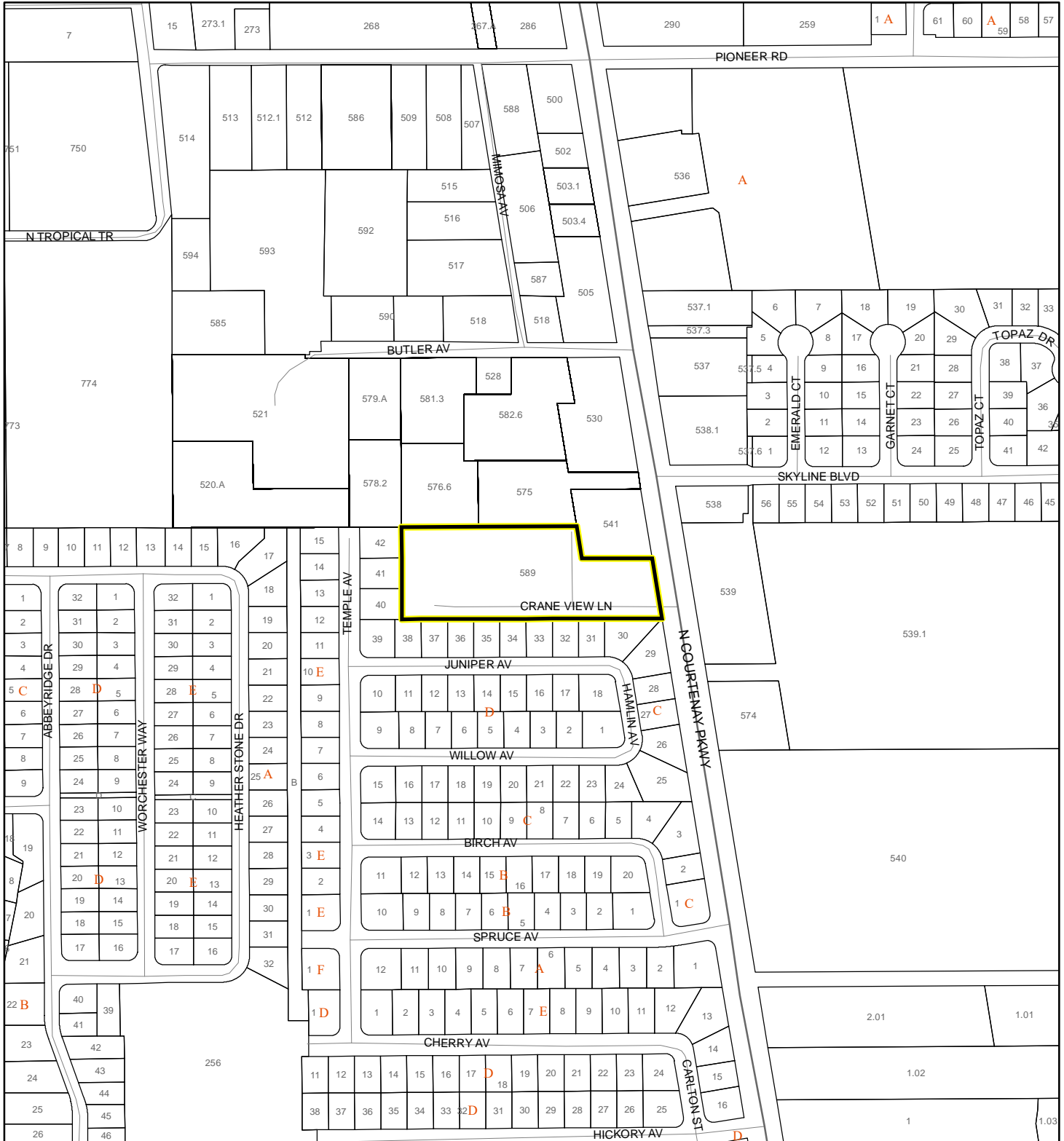
A AO X
AE Open Water
AH VE

Subject Property Parcels

COASTAL HIGH HAZARD AREA MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

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Subject Property

Parcels

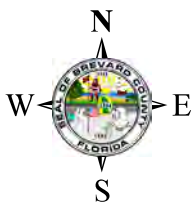
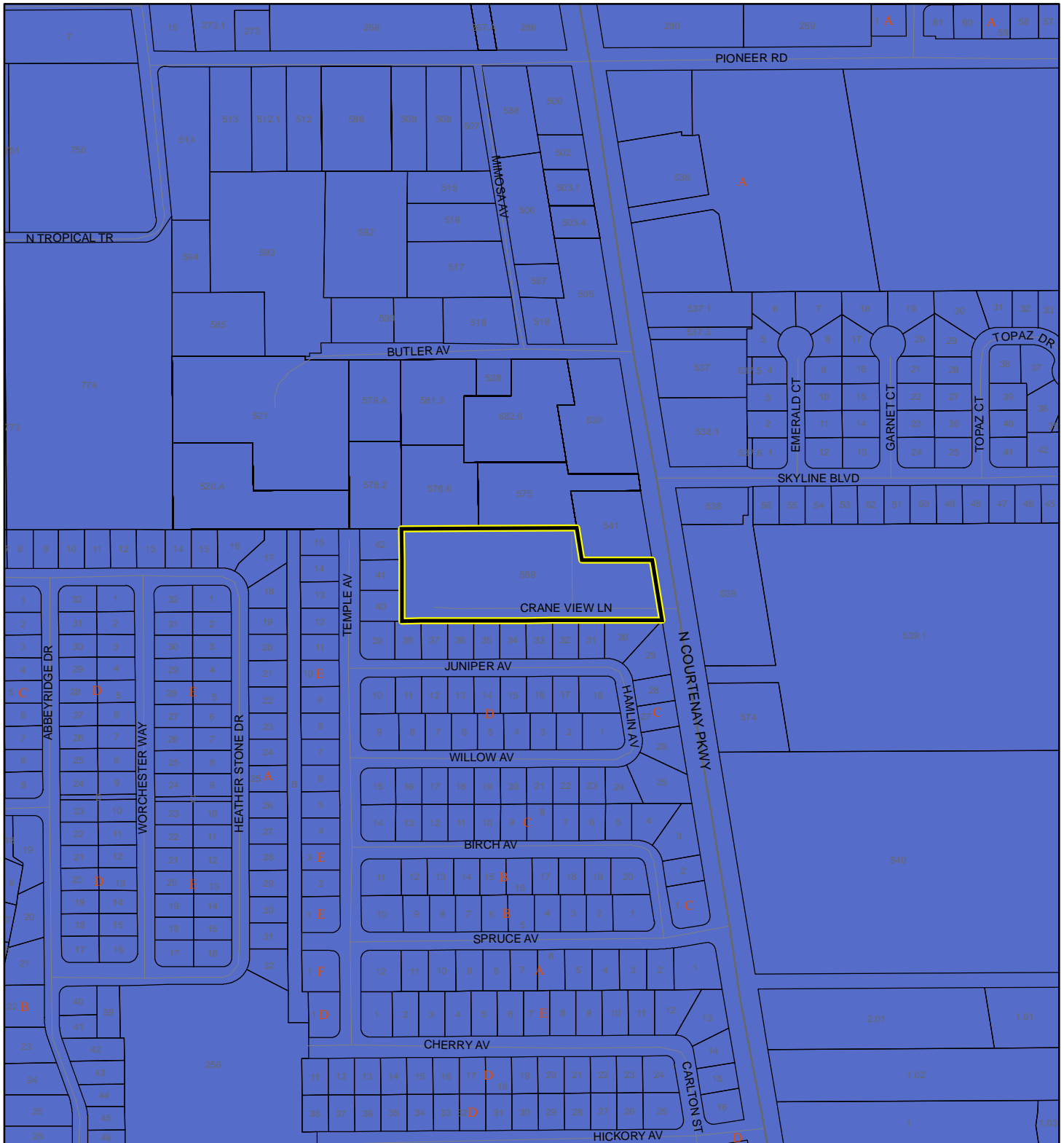
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

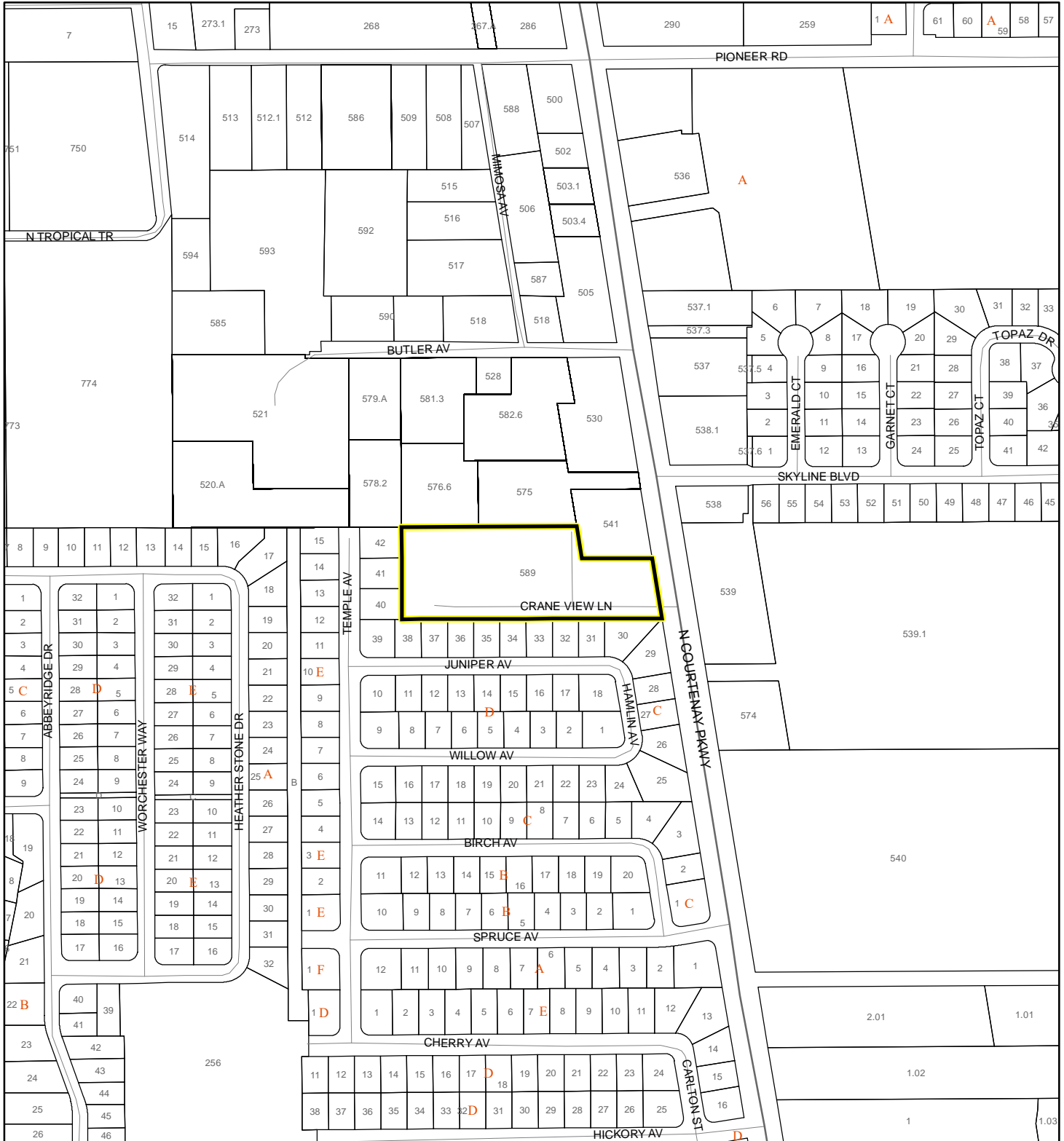
 60 Meters

 All Distances

EAGLE NESTS MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

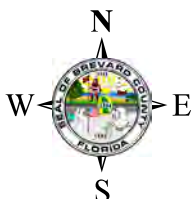
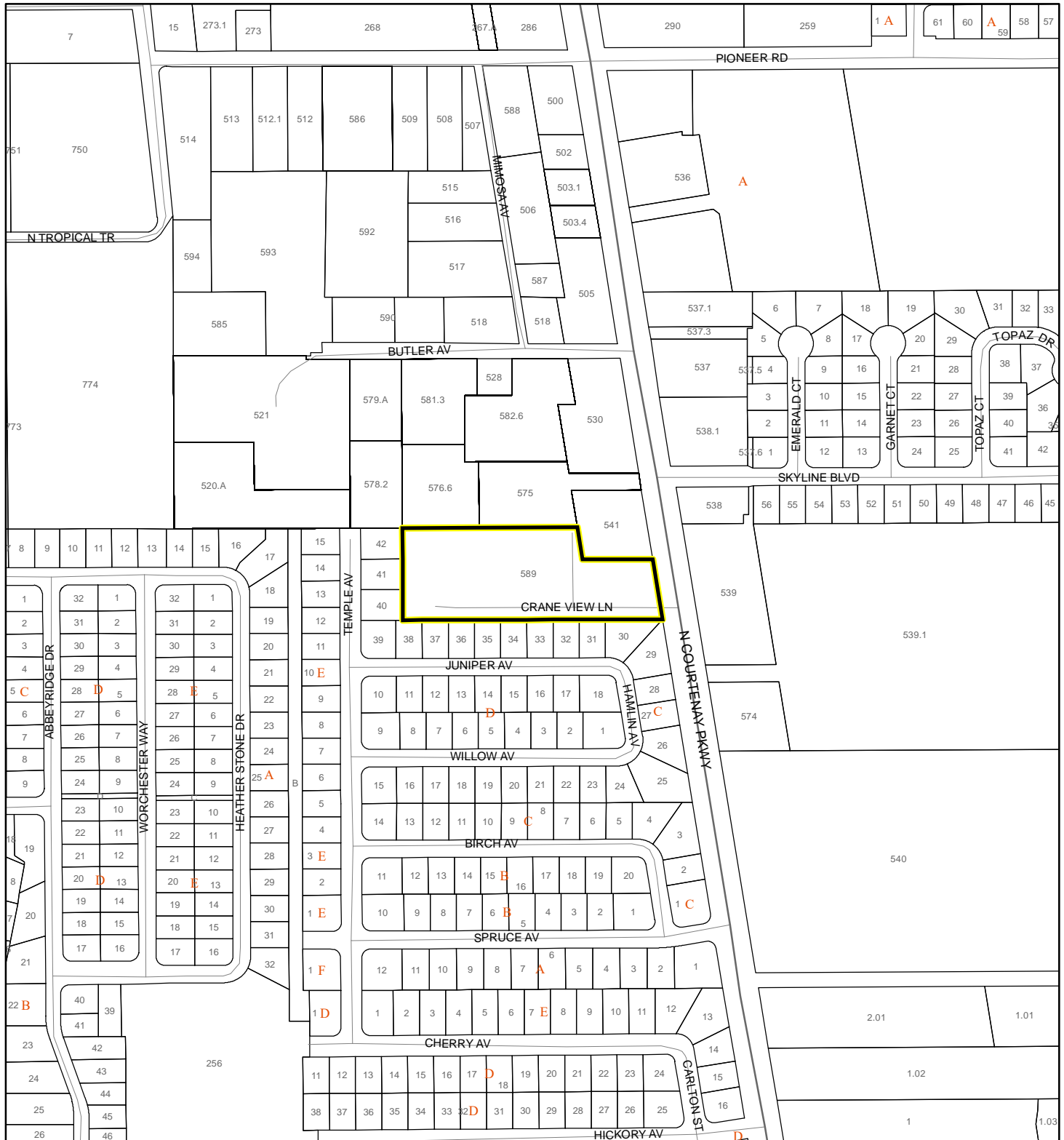


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

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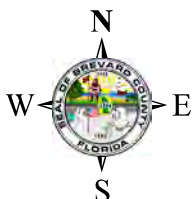
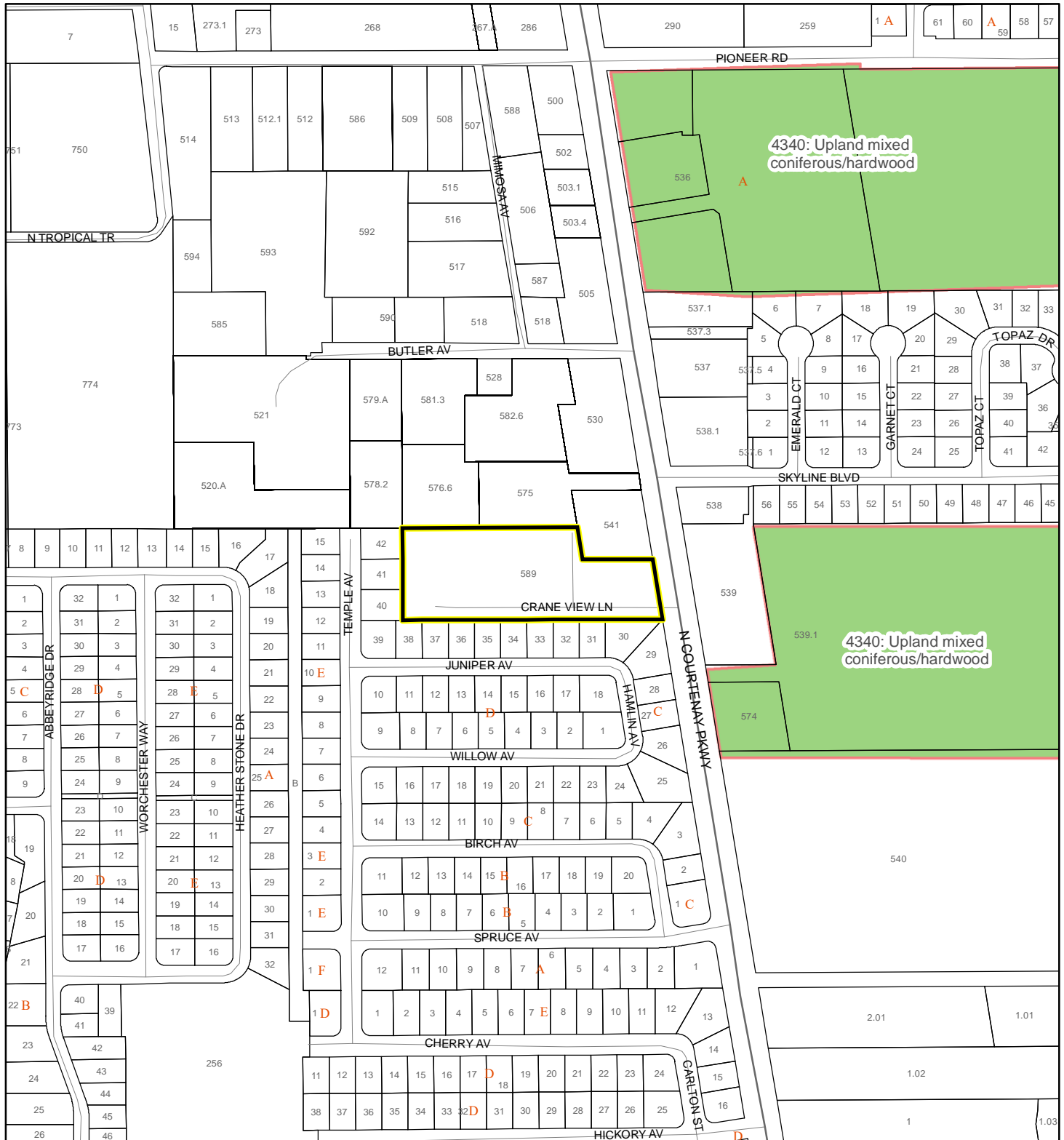
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- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CRANE VIEW LLC

22Z00071



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/13/2023

SJRWMD FLUCCS Upland Forests

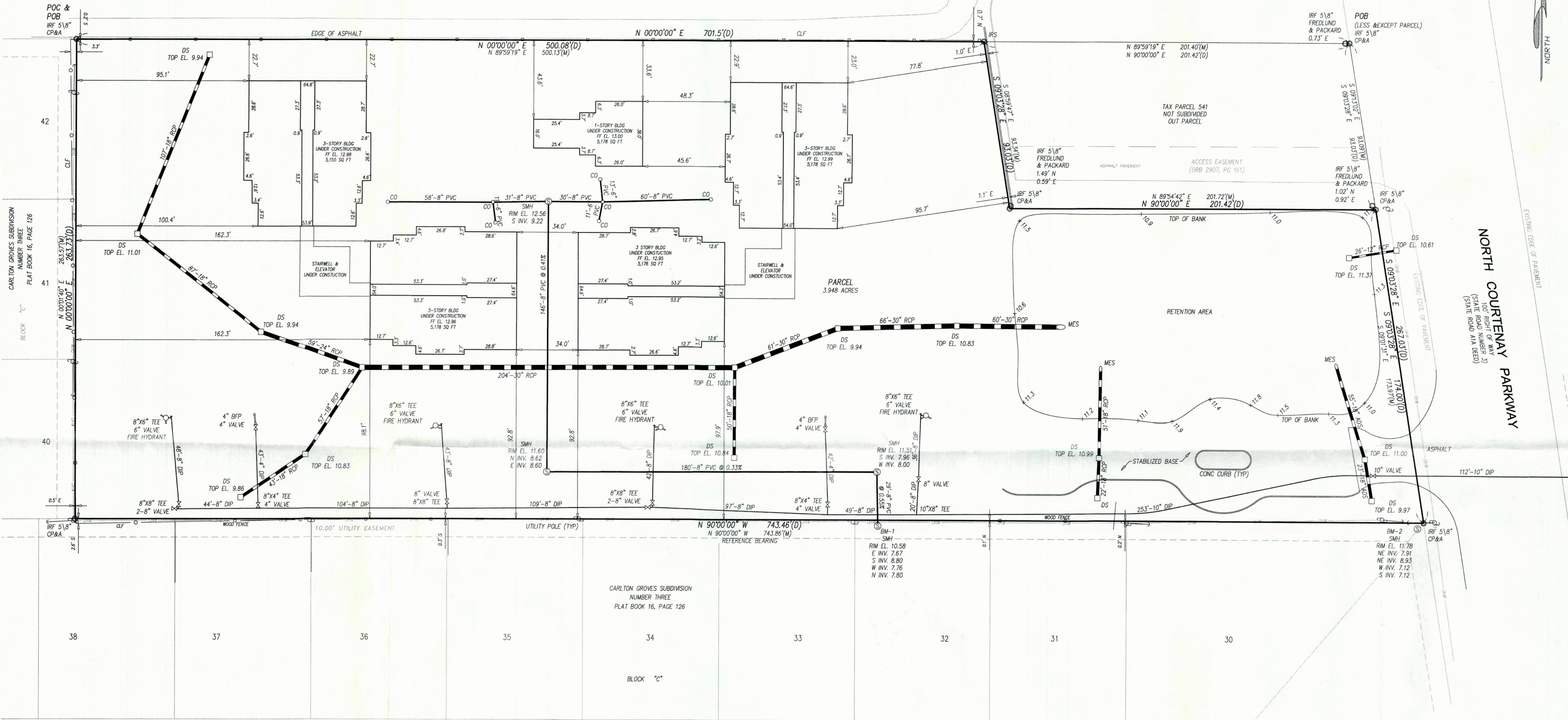
- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property

Parcels

MAP OF ALTA/ASCM
BOUNDARY SURVEY

NOT SUBDIVIDED
ISLAND VILLAGE CONDOMINIUM



- LEGEND**
- A = ARC
 - A/C = AIR CONDITIONER
 - B/E = BASE FLOOD ELEVATION
 - BRC = BEARING
 - BM = BENCH MARK
 - BLK = BLOCK
 - BLOG = BUILDING
 - (C) = CALCULATED
 - CATV = CABLE TELEVISION
 - CHD = CHORD
 - CSS = CONCRETE BLOCK STRUCTURE
 - C/L = CENTER LINE
 - CLF = CHAIN LINK FENCE
 - CONC = CONCRETE
 - CMF = CONCRETE MONUMENT FOUND
 - CO = COMPANY
 - COR = CORNER
 - (D) = DEED
 - DB = DEED BOOK
 - DA = DELTA ANGLE
 - DIST = DISTANCE
 - ESMT = EASEMENT
 - ELEC = ELECTRIC
 - ENC = ENCROACHMENT
 - ELEV = ELEVATION
 - FB = FIELD BOOK
 - FF = FINISHED FLOOR ELEVATION
 - FNC = FENCE
 - FND = FOUND
 - FP&L = FLORIDA POWER & LIGHT COMPANY
 - GOVT = GOVERNMENT
 - ID = IDENTIFICATION
 - IPF = IRON PIPE FOUND
 - IRC = IRON ROD & CAP FOUND
 - IRP = IRON ROD FOUND
 - IRS = IRON ROD SET S/8" GORDON & ASSOC.
 - (M) = MEASURED
 - NO. = NUMBER
 - NDF = NAIL & DISK FOUND
 - NGVD = NATIONAL GEODETIC VERTICAL DATUM
 - O/H = OVERHEAD
 - OHWM = ORDINARY HIGH WATER MARK
 - ORB = OFFICIAL RECORDS BOOK
 - O/S = OFFSET
 - (P) = PLAT
 - PS = PLAT BOOK
 - PCP = PERMANENT CONTROL POINT
 - PC = POINT OF CURVATURE
 - PCC = POINT OF COMPOUND CURVATURE
 - PT = POINT OF TANGENCY
 - PRC = POINT OF REVERSE CURVATURE
 - PRM = PERMANENT REFERENCE MONUMENT
 - RLS = REGISTERED LAND SURVEYOR
 - POB = POINT OF BEGINNING
 - POC = POINT OF COMMENCEMENT
 - POL = POINT ON LINE
 - PUE = PUBLIC UTILITY EASEMENT
 - PDE = PUBLIC DRAINAGE EASEMENT
 - PUDE = PUBLIC UTILITY & DRAINAGE EASEMENT
 - PVM = PAVEMENT
 - R = RADIUS
 - RLS = REGISTERED LAND SURVEYOR
 - REF = REFERENCE
 - RGE = RANGE
 - R/W = RIGHT OF WAY
 - SEC = SECTION
 - (SD) = SURVEY BOOK
 - TWP = TOWNSHIP
 - TYP = TYPICAL
 - USC&GS = U.S. COAST & GEODETIC SURVEY
 - WIT-COR = WITNESS CORNER IRS 5/8" LB 7012
 - XCF = CUT MARK FOUND

- NOTES:**
1. BEARINGS BASED ON SAID DEED (SEE SKETCH)
 2. ELEVATIONS BASED ON 1929 NGVD
 3. FLOOD ZONE "X" MAP NO. 12009C0290 E COMMUNITY NO. 125092 19 NOV 97
 4. HORIZONTAL CLOSURE MEETS OR EXCEEDS THE ACCURACY FOR SUBURBAN LAND AS PER FLORIDA STATUTE 61017-6.003
 5. VERTICAL CLOSURE: NOT APPLICABLE
 6. BEARINGS, DISTANCES OR ANGLES SHOWN ARE THE SAME AS PLAT, DEED OR RECORD UNLESS SHOWN OTHERWISE
 7. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFIED TO:
ISLAND OAKS OF BREVARD, LLC
COASTAL BANK, 1701 N. ATLANTIC AVE COCOA BEACH FL 32931
SUPERIOR TITLE, JOHN KABBORD
COMMONWEALTH LAND TITLE INSURANCE COMPANY

LEGAL DESCRIPTION: (OFFICIAL RECORDS BOOK 2907, PAGE 159)
A PARCEL OF LAND LYING IN THE SW 1/4 OF SECTION 14, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT 42, BLOCK "C", CARLTON GROVES SUBDIVISION NO. 3, AS RECORDED IN PLAT BOOK 16, PAGE 126 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, RUN EAST 701.5 FEET TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD A1A; THENCE SOUTH 09°03'28" EAST ALONG SAID RIGHT-OF-WAY 267.03 FEET TO THE NORTHEAST CORNER OF LOT 30, BLOCK "C", OF SAID SUBDIVISION; THENCE WEST 743.46 FEET TO THE SOUTHWEST CORNER OF LOT 40, BLOCK "C" OF SAID SUBDIVISION; THENCE NORTH 263.73 FEET TO THE POINT OF BEGINNING.

LESS THE FOLLOWING:
COMMENCE AT THE NORTHEAST CORNER OF THE AFOREMENTIONED LOT 42; THENCE RUN EAST 701.5 FEET TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD A1A, ALSO KNOWN AS NORTH COURTENAY PARKWAY SAID POINT ALSO BEING THE POINT OF BEGINNING OF SAID LESS OUT PARCEL; THENCE RUN S 09°03'28" E ALONG SAID WEST LINE FOR 93.03 FEET; THENCE RUN WEST FOR 201.42 FEET; THENCE RUN N 09°03'28" W FOR 83.03 FEET; THENCE RUN EAST FOR 201.42 FEET TO THE POINT OF BEGINNING.

ALTA/ASCM BOUNDARY DATE: 29 NOV 07 JOB No. 05-240
ALTA/ASCM BOUNDARY DATE: 28 APR 09

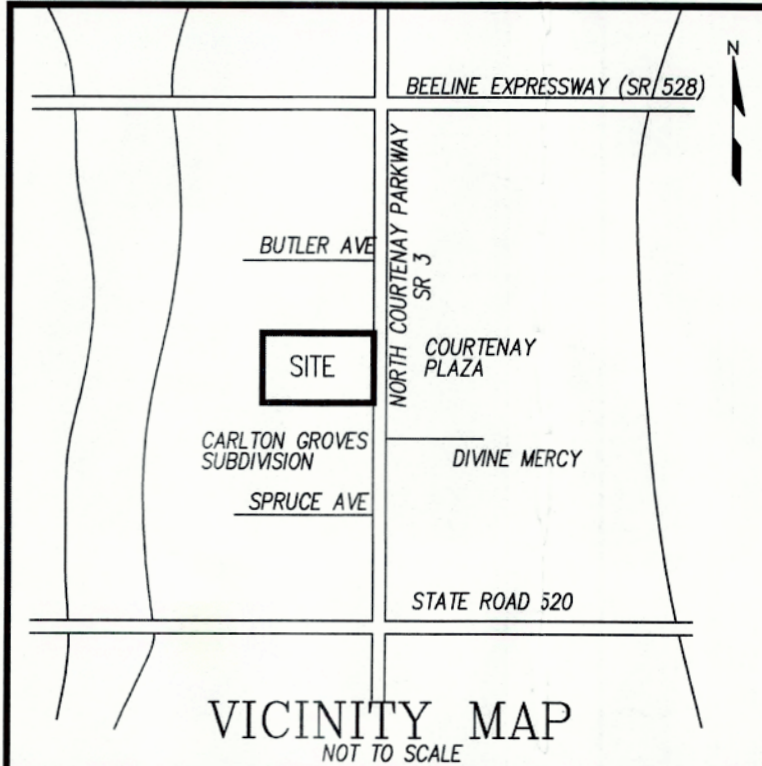
**Gordon & Associates
Surveyors & Mappers Inc**
L.B. No.7012
A. EARL GORDON, JR., PSM No. LS 2866
EARL K. GORDON, PSM No. 5363
219 Forrest Ave. Cocoa, FL 32922
(321) 639-8171 FAX: (321) 639-8177

CERTIFICATION:
I HEREBY CERTIFY THAT THE ATTACHED SURVEY WAS DONE UNDER MY DIRECTION AND MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61017-6 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA STATUTES.
Earl K. Gordon
EARL K. GORDON PROFESSIONAL LAND SURVEYOR AND MAPPER
STATE OF FLORIDA NO. LS 5363
DRAWN BY: LOVAN SCALE 1 INCH = 30 FEET

SURVEYOR'S CERTIFICATION:
THE UNDERSIGNED HEREBY CERTIFIES TO LEGACY SOUTHEAST INVESTMENTS, LLC, ITS SUCCESSORS AND/OR ASSIGNS AS THEIR INTEREST MAY APPEAR, AND TIGOR TITLE INSURANCE COMPANY THAT: TO OUR BEST KNOWLEDGE AND BELIEF, (i) THE SURVEY DATED 29 NOVEMBER, 2007 AND PREPARED BY THE UNDERSIGNED (THE "SURVEY"), IS AN ACCURATE SURVEY OF THE PREMISES SHOWN THEREON AND DESCRIBED MORE FULLY HEREINAFTER (THE "PREMISES"); (ii) THIS SURVEY IS BASED ON A DILIGENT SURFACE INSPECTION OF THE PREMISES, AND IT SHOWS ALL MATTERS WHICH WERE APPARENT FROM THE SURFACE INSPECTION OF THE PREMISES INCLUDING, WITHOUT LIMITATION, THE LOCATION OF ALL IMPROVEMENTS, STRUCTURES, BUILDINGS, SHORELINES, WETLANDS, STREAMS, PONDS, CEMETERIES, BURIAL GROUNDS, ROADS, TRAILS, PATHS, WALKS, AND OTHER PHYSICAL CONDITIONS WHICH ARE EITHER EXISTING ON THE PREMISES OR PRESENTLY BEING CONSTRUCTED ON THE PREMISES; (iii) THIS SURVEY SHOWS THE LOCATION OF ALL RIGHTS-OF-WAY, EASEMENTS, BUILDING LINES, SET-BACKS, HEIGHT RESTRICTIONS, SIDE-YARD REQUIREMENTS, PARKING AREAS AND OTHER CONDITIONS WHICH APPEAR IN A TITLE REPORT BY FRESA HANSEN DATED AUGUST 28, 2007 FILE NO. M0703203 AND TITLE NO. FBB/ISLAND, OR WERE APPARENT FROM THE SURFACE INSPECTION OF THE PREMISES OR WHICH ARE IMPOSED BY LAW OR ORDINANCE AFFECTING THE PREMISES; (iv) EXCEPT AS SHOWN ON THIS SURVEY, THERE ARE NO BUILDINGS, OTHER STRUCTURES, OR IMPROVEMENTS OF ANY KIND WHICH ARE LOCATED ON THE PREMISES AND WHICH ENDOUR UPON ANY RIGHTS-OF-WAY, EASEMENTS, BUILDING LINES, PARKING AREAS, OR ADJOINING PROPERTY LINES; (v) THERE ARE NO ENCROACHMENTS OF THE PROPERTY LINES OF THE PREMISES UPON ANY ADJOINING PROPERTY LINES EXCEPT AS MAY BE SHOWN AND NOTED ON THIS SURVEY; (vi) EXCEPT AS SHOWN OR NOTED ON THIS SURVEY, THE EXISTING IMPROVEMENTS ON THE PREMISES DO NOT VIOLATE ANY SET-BACK, BUILDING LINE, SIDE-YARD, HEIGHT, FRONTAGE, DENSITY, DIMENSIONAL, OR PARKING RESTRICTIONS AND/OR REQUIREMENTS WHICH AFFECT THE PREMISES; (vii) THE PREMISES HAS THE FOLLOWING HUD FLOOD ZONE CLASSIFICATION "X"; (viii) THIS SURVEY IS AN "ALTA/ASCM LAND TITLE SURVEY" AND HAS BEEN PREPARED IN ACCORDANCE WITH THE "2005 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ASCM LAND TITLE SURVEYS" ADOPTED BY AMERICAN LAND TITLE ASSOCIATION AND NATIONAL SOCIETY OF PROFESSIONAL SURVEYORS.

DATE: 11 DEC 07
BY: *Earl K. Gordon*
EARL K. GORDON
TITLE: PROFESSIONAL LAND SURVEYOR AND MAPPER

JUNIPER AVENUE
50' RIGHT OF WAY
NOTE: UNABLE TO ACCESS DRAINAGE STRUCTURES TO GET INVERTS



- NOTES:**
1. CONTRACTOR IS TO BE RESPONSIBLE TO PROTECT AND/OR REPLACE ALL SURVEY MONUMENTATION WITHIN THE PROJECT LIMITS BY A LICENSED SURVEYOR IN THE STATE OF FLORIDA.
 2. PRIOR TO THE RELEASE OF THE CERTIFICATE OF COMPLETION OF ANY PHASE OF THIS PROJECT THE BOUNDARY SURVEY AND AS-BUILT SURVEY WILL NEED TO BE REVIEWED AND APPROVED BY THE COUNTY SURVEY DEPARTMENT. ONCE APPROVED THESE SURVEYS SHALL BE RECORDED INTO THE CONDOMINIUM OF THE PUBLIC RECORDS OF BREVARD COUNTY.

- LEGEND**
- OHW - OVERHEAD WIRE
 - SM - SANITARY SEWER MANHOLE
 - DS - DRAINAGE STRUCTURE
 - DP - DUCTILE IRON PIPE
 - RCP - REINFORCED CONCRETE PIPE

INFORMATION FROM APPROVED CONSTRUCTION PLANS FOR MERRITT ISLAND APARTMENTS, BY SOMA ENGINEERING & ASSOCIATES, INC.
MAXIMUM BUILDING HEIGHT 35 FEET
BUILDING SETBACKS
FRONT (EAST) 25 FEET
REAR (WEST) 20 FEET
SIDE (NORTH) 10 FEET
SIDE (SOUTH) 40 FEET

School Board of Brevard County

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



December 19, 2022

Mr. Paul Body, Planner III
Land Development Section
Planning & Development Department
Brevard County Board of County Commissioners
2725 Judge Fran Jamieson Way
Viera, Florida 32940

**RE: Proposed Falling Leaf Development
School Impact Analysis – Capacity Determination CD-2022-51**

Dear Mr. Paul Body,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account number 2412341 (Parcel ID number: 24-36-14-00-589) containing a total of approximately 3.9 acres in District 2, Brevard County, Florida. The proposed development includes 90 multi-family homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 and Amended Appendix "A"-School District Student Generation Multiplier (approved April 11, 2022) of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2022-23 to 2026-27 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2021-22 to 2026-27* which is attached for reference.

Multi-Family Homes	90		
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.11	9.9	10
Middle	0.02	1.8	2
High	0.05	4.5	5
Total	0.18		17

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

An Equal Opportunity Employer



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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	707	707	707	707	707
Jefferson	873	873	873	873	873
Merritt Island	1,962	1,962	1,962	1,962	1,962

Projected Student Membership

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	432	430	444	417	416
Jefferson	622	583	580	583	535
Merritt Island	1,523	1,494	1,454	1,401	1,389

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	-	-	3	3	3
Jefferson	1	5	10	14	17
Merritt Island	2	10	20	26	33

**Cumulative Students Generated by
Proposed Development**

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	-	-	10	10	10
Jefferson	-	-	2	2	2
Merritt Island	-	-	5	5	5

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	432	430	457	430	429
Jefferson	623	588	592	599	554
Merritt Island	1,525	1,504	1,479	1,432	1,427

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

School	2022-23	2023-24	2024-25	2025-26	2026-27
Mila	275	277	250	277	278
Jefferson	250	285	281	274	319
Merritt Island	437	458	484	531	536

At this time, Mila Elementary School, Jefferson Middle School, and Merritt Island Senior High School are projected to have enough capacity for the total of projected and potential students from the Falling Leaf development.

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

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

Sincerely,



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

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

Copy: Susan Hann, AICP, Assistant Superintendent of Facility Services
File CD-2022-51

David G. Lindemann, AICP, Director of Planning & Project Management,
Facilities Services
File CD-2022-51

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



Summary				2021-22			2022-23			2023-24			2024-25			2025-26			2026-27		
Highest Utilization Elementary Schools:				88%			89%			95%			98%			97%			99%		
Highest Utilization Middle Schools:				88%			89%			90%			89%			92%			96%		
Highest Utilization Jr / Sr High Schools:				84%			84%			82%			82%			79%			78%		
Highest Utilization High Schools:				101%			100%			99%			95%			94%			97%		
School	Type	Grades	Utilization Factor	School Year 2021-22			School Year 2022-23			School Year 2023-24			School Year 2024-25			School Year 2025-26			School Year 2026-27		
				FISH Capacity	10/15/21 Member-ship	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization
Elementary School Concurrency Service Areas																					
Allen	Elementary	PK-6	100%	751	630	84%	751	632	84%	751	694	92%	751	739	98%	773	752	97%	773	738	95%
Andersen	Elementary	K-6	100%	884	592	67%	884	591	67%	884	597	68%	884	589	67%	884	565	64%	884	554	63%
Apollo	Elementary	K-6	100%	902	782	87%	902	783	87%	902	755	84%	902	761	84%	902	739	82%	902	729	81%
Atlantis	Elementary	PK-6	100%	739	629	85%	739	630	85%	739	616	83%	739	600	81%	739	592	80%	739	576	78%
Audubon	Elementary	PK-6	100%	761	464	61%	761	464	61%	761	458	60%	761	438	58%	761	427	56%	761	440	58%
Cambridge	Elementary	PK-6	100%	765	506	66%	765	506	66%	765	513	67%	765	510	67%	765	485	63%	765	480	63%
Cape View	Elementary	PK-6	100%	570	278	49%	570	285	50%	570	287	50%	570	281	49%	570	286	50%	570	284	50%
Carroll	Elementary	K-6	100%	751	614	82%	751	619	82%	751	605	81%	751	613	82%	751	600	80%	751	593	79%
Challenger 7	Elementary	PK-6	100%	573	506	88%	573	508	89%	573	476	83%	573	449	78%	573	437	76%	573	414	72%
Columbia	Elementary	PK-6	100%	751	462	62%	751	464	64%	751	546	73%	751	568	76%	751	569	76%	751	572	76%
Coquina	Elementary	K-6	100%	711	534	75%	711	531	75%	711	557	78%	711	572	80%	711	596	84%	711	602	85%
Creel	Elementary	PK-6	100%	1,114	717	64%	1,114	762	68%	1,114	812	73%	1,114	847	76%	1,114	877	79%	1,114	922	83%
Groton	Elementary	PK-6	100%	795	487	61%	795	488	61%	795	530	67%	795	559	70%	795	586	74%	795	604	76%
Discovery	Elementary	PK-6	100%	980	615	63%	980	644	66%	980	639	65%	980	633	65%	980	608	62%	980	611	62%
Endeavour	Elementary	PK-6	100%	968	657	68%	968	670	69%	968	668	69%	968	641	66%	968	627	65%	968	640	66%
Enterprise	Elementary	K-6	100%	729	605	83%	729	608	83%	729	587	81%	729	561	77%	729	529	73%	729	513	70%
Fairglen	Elementary	PK-6	100%	789	581	74%	789	580	74%	789	597	76%	789	620	79%	789	626	79%	789	639	81%
Gemini	Elementary	K-6	100%	711	427	60%	711	442	62%	711	440	62%	711	424	60%	711	420	59%	711	409	58%
Golfview	Elementary	PK-6	100%	777	454	58%	777	454	58%	777	467	60%	777	503	65%	777	513	66%	777	521	67%
Harbor City	Elementary	PK-6	100%	629	359	57%	629	357	57%	629	386	61%	629	399	63%	629	400	64%	629	411	65%
Holland	Elementary	PK-6	100%	605	444	73%	605	465	77%	605	471	78%	605	473	78%	605	472	78%	605	477	79%
Imperial Estates	Elementary	K-6	100%	729	624	86%	729	622	85%	729	626	86%	729	619	85%	729	620	85%	729	645	88%
Indialantic	Elementary	K-6	100%	798	671	84%	798	672	84%	798	658	82%	798	646	81%	798	620	78%	798	622	78%
Jupiter	Elementary	PK-6	100%	930	724	78%	930	721	78%	930	817	88%	930	857	92%	930	854	92%	930	920	97%
Lockmar	Elementary	PK-6	100%	892	632	71%	892	631	71%	892	594	67%	892	578	65%	892	559	63%	892	553	62%
Longleaf	Elementary	PK-6	100%	790	594	75%	790	594	75%	790	587	74%	790	583	74%	790	565	72%	790	551	70%
Manatee	Elementary	K-6	100%	998	843	84%	998	855	86%	998	815	82%	998	793	79%	998	765	77%	998	750	75%
McAuliffe	Elementary	PK-6	100%	918	634	69%	918	633	69%	918	624	68%	918	583	64%	918	576	63%	918	565	62%
Meadowlane Intermediate	Elementary	3-6	100%	1,114	832	75%	1,114	832	75%	1,114	902	81%	1,114	920	83%	1,114	950	85%	1,114	950	85%
Meadowlane Primary	Elementary	K-6	100%	824	678	82%	824	678	82%	824	731	89%	824	725	88%	824	734	89%	824	731	89%
Mila	Elementary	PK-6	100%	707	438	62%	707	432	61%	707	430	61%	707	444	63%	707	417	59%	707	416	59%
Mims	Elementary	PK-6	100%	725	431	59%	725	442	61%	725	433	60%	725	441	61%	725	452	62%	725	446	62%
Oak Park	Elementary	PK-6	100%	968	561	58%	968	563	58%	968	554	57%	968	510	53%	968	508	52%	968	523	54%
Ocean Breeze	Elementary	PK-6	100%	654	538	82%	654	543	83%	654	524	80%	654	506	77%	654	484	74%	654	472	72%
Palm Bay Elem	Elementary	PK-6	100%	983	547	56%	983	567	58%	983	571	58%	983	570	58%	983	602	61%	983	622	63%
Pinewood	Elementary	PK-6	100%	569	496	87%	569	500	88%	569	517	91%	569	524	92%	569	526	92%	569	532	93%
Port Malabar	Elementary	PK-6	100%	852	636	75%	852	636	75%	852	630	74%	852	636	75%	852	645	76%	852	632	74%
Quest	Elementary	PK-6	100%	1,152	673	58%	1,152	673	58%	1,152	694	60%	1,152	722	63%	1,152	734	64%	1,152	728	63%
Riviera	Elementary	PK-6	100%	777	624	80%	777	631	81%	777	681	88%	777	709	91%	777	722	93%	777	750	97%
Roosevelt	Elementary	K-6	100%	599	263	44%	599	261	44%	599	241	40%	599	221	37%	599	202	34%	599	190	32%
Sabal	Elementary	PK-6	100%	785	516	66%	785	507	65%	785	516	66%	785	523	67%	785	516	66%	785	530	68%
Saturn	Elementary	PK-6	100%	976	678	69%	976	679	70%	976	731	75%	976	772	79%	976	822	84%	976	810	83%
Sea Park	Elementary	PK-6	100%	461	299	65%	461	317	69%	461	324	70%	461	324	70%	461	330	72%	461	331	72%
Sherwood	Elementary	PK-6	100%	609	428	70%	609	429	70%	609	429	70%	609	434	71%	609	442	73%	609	441	72%
Sunrise	Elementary	PK-6	100%	913	691	76%	913	690	76%	913	736	81%	913	824	90%	1,001	929	93%	1,067	1,061	99%
Suntree	Elementary	K-6	100%	755	595	79%	755	595	79%	755	584	77%	755	565	74%	755	546	72%	755	523	69%
Surfside	Elementary	K-6	100%	541	408	75%	541	407	75%	541	372	69%	541	345	64%	541	336	62%	541	329	61%
Tropical	Elementary	K-6	100%	910	641	70%	910	642	71%	910	635	70%	910	614	67%	910	597	66%	910	609	67%
Turner	Elementary	PK-6	100%	874	579	66%	874	576	66%	874	621	71%	874	642	73%	874	659	75%	874	694	79%
University Park	Elementary	PK-6	100%	811	466	57%	811	464	57%	811	496	61%	811	554	68%	811	622	77%	811	657	81%
Viera Elem	Elementary	K-6	100%	1,030	585	57%	1,030	635	62%	1,030	671	65%	1,030	742	72%	1,030	826	80%	1,030	902	88%
Westside	Elementary	K-6	100%	857	728	85%	857	761	89%	857	815	95%	857	855	97%	857	872	97%	857	895	97%
Williams	Elementary	PK-6	100%	715	494	69%	715	493	69%	715	483	68%	715	473	66%	715	452	63%	715	438	61%
Elementary Totals				42,471	29,890		42,471	30,184		42,471	30,745		42,515	31,024		42,625	31,190		42,735	31,547	

Middle School Concurrency Service Areas																					
Central	Middle	7-8	90%	1,514	1,171	77%	1,514	1,171	77%	1,514	1,217	80%	1,514	1,238	82%	1,514	1,319	87%	1,514	1,360	90%
DeLaura	Middle	7-8	90%	960	843	88%	960	851	88%	960	829	86%	960	854	89%	960	816	85%	960	787	82%
Hoover	Middle	7-8	90%	680	510	75%	680	510	75%	680	465	71%	680	506	74%	680	550	81%	680	539	79%
Jackson	Middle	7-8	90%	660	574	87%	660	574	87%	660	594	90%	660	566	84%	660	540	82%	660	531	80%
Jefferson	Middle	7-8	90%	873	622	71%	873	622	71%	873	583	67%	873	580	66%	873	583	67%	873	535	61%
Johnson	Middle	7-8	90%	1,064	690	65%	1,064	690	65%	1,064	707	66%	1,064	752	71%	1,064	795	75%	1,064	813	76%
Kennedy	Middle	7-8	90%	869	682	78%	869	682	78%	869	641	74%	869	617	71%	869	628	72%	869	656	75%
Madison	Middle	7-8	90%	781	480	61%	781	480	61%	781	471	60%	781	480	61%	781	457	59%	781	446	57%
McNair	Middle	7-8	90%	611	336	55%	611	350	57%	611	359	59%	611	353	58%	611	362	59%	611	349	57%
Southwest	Middle	7-8	90%	1,211	940	78%	1,211	940	78%	1,211	922	76%	1,211	1,000	83%	1,211	1,119	92%	1,211	1,157	96%
Stone	Middle	7-8	90%	1,024	747	73%	1,024	747	73%	1,024	706	69%	1,024	745	73%	1,024	772	75%	1,024	846	83%
Middle Totals				10,247	7,595		10,247	7,617		10,247	7,514		10,247	7,681		10,247	7,941		10,247	8,019	
Junior / Senior High School Concurrency Service Areas																					
Cocoa	Jr / Sr High	PK, 7-12	90%	2,084	1,516	73%	2,084	1,517	73%	2,084	1,578	76%	2,084	1,627	78%	2,084	1,637	79%	2,084	1,626	78%
Cocoa Beach	Jr / Sr High	7-12	90%	1,445	943	65%	1,445	955	66%	1,445	917	63%	1,445	890	62%	1,445	821	57%	1,445	782	54%
Space Coast	Jr / Sr High	7-12	90%	1,852	1,556	84%	1,852	1,557	84%	1,852	1,526	82%	1,852	1,511	82%	1,852	1,465	79%	1,852	1,448	78%
Jr / Sr High Totals				5,381	4,015		5,381	4,029		5,381	4,021		5,381	4,028		5,381	3,923		5,381	3,856	
Senior High School Concurrency Service Areas																					
Astronaut	High	9-12	95%	1,451	1,077	74%	1,451	1,076	74%	1,451	1,094	75%	1,451	1,086	75%	1,451	1,078	74%	1,451	1,086	75%
Bayside	High	9-12	95%	2,263	1,653	73%	2,263	1,728	76%	2,263	1,850	82%	2,263	1,942	86%	2,263	2,002	88%	2,263	2,069	91%
Eau Gallie	High	PK, 9-12	95%	2,221	1,610	72%	2,221	1,605	72%	2,221	1,634	74%	2,221	1,655	75%	2,221	1,680	76%	2,221	1,700	77%
Heritage	High	9-12	95%	2,314	1,991	86%	2,314	2,038	88%	2,314	2,149	93%	2,314	2,193	95%	2,314	2,179	94%	2,314	2,248	97%
Melbourne	High	9-12	95%	2,370	2,210	93%	2,370	2,208	93%	2,370	2,201	93%	2,370	2,200	93%	2,370	2,151	91%	2,370	2,185	92%
Merritt Island	High	PK, 9-12	95%	1,962	1,523	78%	1,962	1,523	78%	1,962	1,494	76%	1,962	1,454	74%	1,962	1,401	71%	1,962	1,389	71%
Palm Bay	High	PK, 9-12	95%	2,631	1,286	49%	2,631	1,325	50%	2,631	1,467	56%	2,631	1,573	60%	2,631	1,645	63%	2,631	1,643	62%
Rockledge	High	9-12	95%	1,836	1,568	85%	1,836	1,568	85%	1,836	1,641	89%	1,836	1,658	90%	1,836	1,638	89%	1,836	1,620	88%
Satellite	High	PK, 9-12	95%	1,527	1,513	99%	1,551	1,550	100%	1,551	1,533	99%	1,551	1,470	95%	1,551	1,438	93%	1,551	1,387	89%
Titusville	High	9-12	95%	1,849	1,231	67%	1,849	1,272	69%	1,849	1,295	70%	1,849	1,313	71%	1,849	1,330	72%	1,849	1,270	69%
Viera	High	PK, 9-12	95%	2,203	2,216	101%	2,251	2,233	99%	2,583	2,272	88%	2,583	2,386	92%	2,583	2,411	93%	2,583	2,469	96%
High Totals				22,627	17,878		22,699	18,126		23,031	18,630		23,031	18,930		23,031	18,953		23,031	19,066	
Schools of Choice (Not Concurrency Service Areas)																					
Freedom 7	Elementary	K-6	100%	475	406	85%	475	414	87%	475	414	87%	475	414	87%	475	414	87%	475	414	87%
South Lake	Elementary	K-6	100%	481	396	82%	481	417	87%	481	417	87%	481	417	87%	481	417	87%	481	417	87%
Stevenson	Elementary	K-6	100%	569	498	88%	569	508	89%	569	508	89%	569	508	89%	569	508	89%	569	508	89%
West Melbourne	Elementary	K-6	100%	618	544	88%	618	552	89%	618	552	89%	618	552	89%	618	552	89%	618	552	89%
Edgewood	Jr / Sr High	7-12	90%	1,077	921	86%	1,077	950	88%	1,077	950	88%	1,077	950	88%	1,077	950	88%	1,077	950	88%
West Shore	Jr / Sr High	7-12	90%	1,264	946	75%	1,264	946	75%	1,264	946	75%	1,264	946	75%	1,264	946	75%	1,264	946	75%
Schools of Choice				4,484	3,711		4,484	3,787		4,484	3,787		4,484	3,787		4,484	3,787		4,484	3,787	
Brevard Totals				85,210	63,089		85,282	63,743		85,614	64,697		85,658	65,450		85,768	65,794		85,878	66,275	

Notes

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

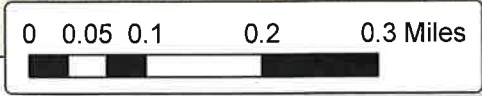


Falling Leaf Location Map



Schools Affected by Development:
Mila Elementary School
Jefferson Middle School
Merritt Island High School

Drawn By:
Planning & Project Management
Blake Stinson
12/19/2022



Prepared by: Island Oaks of Brevard, LLC
Address: 812 E. Strawbridge Ave, Melbourne FL 32901

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 8 day of July, 2008 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Island Oaks of Brevard, LLC, a Florida limited liability corporation (hereinafter referred to as "Developer/Owner").

RECITALS

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

WHEREAS, Developer/Owner desires to develop the property as Island Oaks Condominium and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit density to 48 units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida.

4. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on

May 29, 2008

In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.

6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.


IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:



Scott Ellis, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940


Truman Scarborough, Chairman
As approved by the Board on July 8, 2008

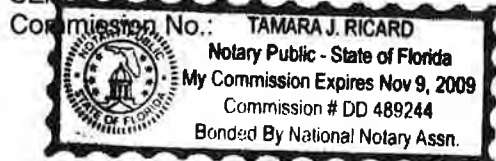
STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 8 day of July, 2008, by Truman Scarborough, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced as identification.

My commission expires


Notary Public

SEAL



Tamara J. Ricard
(Name typed, printed or stamped)

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

[Signature]
Fred C. Matik
(Witness Name typed or printed)

[Signature]
Amy Myers
(Witness Name typed or printed)

DEVELOPER/OWNER

Island Oaks of Brevard, LLC

812 E Strawbridge Ave, Melbourne FL 32901
(Address)

[Signature]
(President)
Peter Flotz
(Name typed, printed or stamped)

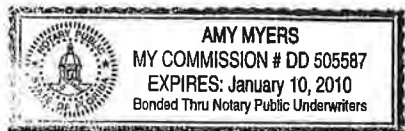
STATE OF Florida §

COUNTY OF Brevard §

The foregoing instrument was acknowledged before me this 31 day of March, 2008, by Peter Flotz, President of Island Oaks Brevard who is personally known to me or who has produced _____ as identification.

My commission expires 1/10/10
SEAL
Commission No.:

[Signature]
Notary Public
Amy Myers
(Name typed, printed or stamped)



JOINDER IN BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated Dec. 27, 2007, given by Island Oaks of Brevard, LLC as mortgagor, in favor of the undersigned, Coastal Bank, as mortgagee, recorded in Official Records Book _____, page _____, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of subordinating the lien of the undersigned's Mortgage to said Binding Development Plan.

WITNESSES:

MORTGAGEE NAME/ADDRESS

Coastal Bank

1701 N. Atlantic Avenue, Cocoa Beach, FL 32931
(Address)

Teresa Moore
TERESA MOORE
(Witness name typed or printed)
B. J. Fitch

Sue Eastling
Authorized Agent Signature
SUE EASTLING VICE PRESIDENT
(Name/title typed, printed or stamped)

B. J. Fitch
(Witness name typed or printed)

STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 31st day of March, 2008, by Sue Eastling, who is personally known to me or who has produced _____ as identification.

My commission expires

SEAL

Commission Expires

Notary Public

TERESA D. MOORE
(Name typed, printed or stamped)



Rev. 3/31/2008

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

LEGAL DESCRIPTION
(OFFICIAL RECORDS BOOK 2907, PAGE 159)

A PARCEL OF LAND LYING IN THE SW ¼ OF SECTION 14, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT 42, BLOCK "C", CARLTON GROVES, SUBDIVISION NO. 3, AS RECORDED IN PLAT BOOK 16, PAGE 126 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, RUN EAST 701.5 FEET TO THE WEST RIGHT-OF-WAY LINE OF STATE ROAD A1A; THENCE SOUTH 09°03'28" EAST ALONG SAID RIGHT-OF-WAY 267.03 FEET TO THE NORTHEAST CORNER OF LOT 30, BLOCK "C", OF SAID SUBDIVISION; THENCE NORTH 263.73 FEET TO THE POINT OF BEGINNING.

LESS THE FOLLOWING:

COMMENCE AT THE NORTHEAST CORNER OF TH AFOREMENTIONED LOT 42; THENCE RUN EAST 701.5 FEET TO THE WEST OF ROIGHT-OF-WAY LINE OF STATE ROAD A1A, ALSO KNOWN AS NORTH COURTENAY PARKWAY SAID POINT ALSO BEING THE POINT OF BEFINNING OF SAID LESS OUT PARCEL, THENCE RUN N 09°03'28" W FOR 93.03 FEET; THENCE RUN EAST FOR 201.42 FEET TO THE POINT OF BEGINNING.

Prepared by: STEVE ANDERSON
Address: 2605 OSCEOLA AVE #1102
ORLANDO FL 32801

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 3 day of JAN, 2023 between the
BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of
the State of Florida (hereinafter referred to as "County") and
CRANE VIEW LLC
(hereinafter referred to as "Developer/Owner")

RECITALS

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

WHEREAS, Developer/Owner has requested the RU-2-30 zoning classification(s)
and desires to develop the Property as
FALLING LEAF APARTMENTS, and pursuant to the Brevard
County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

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

Rev. 11/28/2022

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

3. Developer/Owner shall provide a _____ foot buffer on the _____ portion of the Property.
4. The Developer/Owner shall limit density to 22.5 units per acre and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations. TOTAL 90 UNITS
5. The Developer/Owner shall limit ingress and egress to
HWY STATE RD #3 COURTEWAY PARKWAY.
6. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This Agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
7. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
8. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
9. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
10. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 9 above.

2014

11. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel M. Sadoff, Clerk of Court
(SEAL)

Rita Pritchett, Chair
As approved by the Board on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

(INSERT BUSINESS NAME or INDIVIDUAL NAME(s))
as DEVELOPER/OWNER

X [Signature]
X [Signature]
(Witness Name typed or printed)

X Gregory R. Messer
X 5061 Beryl Pl
Cocoa RL 32927
(Address)

X [Signature]
X [Signature]
(Witness Name typed or printed)


X [Signature]
X [Signature]
(Name typed, printed or stamped)

STATE OF Florida §
COUNTY OF LEE §

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or
_____ online notarization, this 12th day of Jan, 2023, by
Gregory Messer, Managing member
President of Canaview LLC, who is
personally known to me or who has produced Drivers License as identification.

[Signature]

My commission expires
SEAL
Commission No.:



Notary Public

(Name typed, printed or stamped)



SCOTT FAST
Notary Public
State of Florida
Comm# HH179727
Expires 9/27/2025





INTEROFFICE MEMORANDUM

DATE: February 24, 2023

TO: Jeffrey Ball, Planning & Zoning Manager
Jennifer Jones, Special Projects Coordinator

FROM: Larry Lallo, Executive Director on behalf of the
Merritt Island Redevelopment Agency Board of Directors

RE: **Applicant Name: Crane View LLC**
February 23, 2023 Merritt Island Redevelopment Agency Board Review of Zoning
Application Number 22Z00071

Pursuant to Section 62-2114 of Brevard County Code, "When an application is made to the planning and zoning board for a change in zoning or approval of a conditional use permit, or to the board of adjustment for a variance, for property located in the Merritt Island redevelopment area, the application shall be forwarded to the Merritt Island redevelopment agency prior to the applicable public hearing before the planning and zoning board or the board of adjustment."

On February 23, 2023 at their regular meeting, the Merritt Island Redevelopment Agency Board of Directors reviewed the above referenced Zoning Application and voted unanimously to recommend approval of the change in the Future Land Use designation from RES 15 and NC to RES 30 DIR and a zoning change from RU-2-15 to RU-2-30 subject to the following conditions:

1. Placement of a new BDP Agreement on the site limiting the development to three (3) stories and a maximum number of 90 residential dwelling units equating to a not-to-exceed density of 23 units per acre.
2. A maximum building height of thirty-five feet (35').
3. MIRA Board review of a preliminary and final site plan.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

Crane View, LLC (Steve Anderson)

A Small Scale Comprehensive Plan Amendment (22S.19), to change the Future Land Use designation from RES 15 (Residential 15) and NC (Neighborhood Commercial) to RES 30 DIR (Residential 30 Directive), on 3.95 +/- acres, located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln.; 242, 252, 262, & 272 Crane View Ln., Merritt Island) (22SS00016) (Tax Account 2412341) (District 2)

Crane View, LLC (Steve Anderson)

A change of zoning classification from RU-2-15 (Medium Density Multi-Family Residential) with an existing BDP (Binding Development Plan), to RU-2-30 DIR (High Density Multi-Family Residential, Directive), removal of existing BDP, and adding a new BDP, on 3.95 +/- acres, located on the west side of N. Courtenay Pkwy., approx. 0.11 mile south of Butler Ave. (2104 Falling Leaf Ln.; 242, 252, 262, & 272 Crane View Ln., Merritt Island) (22Z00071) (Tax Account 2412341) (District 2)

Steve Anderson, 260 S. Osceola Drive, Orlando, stated the property has been in its current state for approximately 20 years. The request for RU-2-30 includes a BDP limited to 90 units; the project will be good for the community; and it will be the nicest, newest, and closest apartment complex to the Space Center. He noted the Merritt Island Redevelopment Agency board recommended approval of the request.

No public comment.

Henry Minneboo stated the property has been in a dilapidated state for a long time, and he remembers the last rezoning request in 2008 when there were many people present who lived in the area and were very much against anything above the 48 units allowed in the existing BDP. He said people on Merritt Island have told him they are disappointed, and now kids on the west side of N. Courtenay will have to walk across the busy road to get to school. He said the request today is to double the units, and he doesn't understand why 48 units aren't compatible on three acres of land. He said he doesn't see anything good coming out of increasing it from 48 units to 90 units.

Mr. Anderson stated in order for the project to work, it has to be 90 units. He said there is plenty of room in the schools and with water, so no accommodations have to be made for the community. It's a great project for the community, and it will serve a lot of people who work at the Space Center.

Bruce Moia pointed out that over the last 10 years he's talked to developers who have tried to develop the property but could not make it work.

John Hopengarten asked how far the property is from the high school. Mr. Anderson replied it is within 1,000 feet. Mr. Hopengarten stated a bus wouldn't be feasible, so kids would have to walk or be driven to school. He said the property can't remain in its current state. He mentioned the existing BDP and stated this is another opportunity to remove a BDP and replace it with another.

Mr. Anderson stated the proposed BDP caps the maximum units allowed, which would be 120 units under RU-2-30. He pointed out the growth on Merritt Island and stated the closest neighbor to the north is also zoned RU-2-30.

Robert Sullivan stated the development will increase traffic and density in the area, and the applicant is saying it is compatible housing. He said people who want to live in high density also want to live where there is high entertainment value. There are a lot of single-family homes in the area. He said he is also reluctant to trade one BDP for another; there was a BDP for a reason, and there was considerable opposition to get it to 48 units. He stated BDPs are not binding if they can be removed or replaced, and he is not in favor of changing BDPs.

Mr. Anderson stated he doesn't have the history of how it got to 48 units, but taking it to 90 units is what makes it a viable development for any stakeholder.

Bruce Moia stated he doesn't agree that BDP's cannot be changed, and a decision a board made 40 years ago may or may not apply, so he doesn't see changing a BDP to be an issue. He stated as for the school issue, apartments don't generate a lot of school impact.

Motion by Bruce Moia, seconded by Debbie Thomas, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15 and NC to RES 30 DIR. The motion passed 8:1, with Minneboo and Sullivan voting nay.

Motion by Bruce Moia, seconded by John Hopengarten, to recommend approval of the change of zoning classification from RU-2-15 with an existing BDP, to RU-2-30 DIR, removal of existing BDP, and adding a new BDP. The motion passed 8:1, with Minneboo and Sullivan voting nay.

Mascellino, Carol

From: Kathryn Beckman <beckmankathryn98@gmail.com>
Sent: Tuesday, March 28, 2023 12:26 PM
To: Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4;
Commissioner, D5
Subject: Hearing for April 6, 2023
Attachments: Petition of Section 8.pdf

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

Please find attached a petition to stop or alter the proposed change to a building / design construction.
If you have any additional questions or concerns, Please don't hesitate to contact us at 321.449.0621.

Kindest Regards,
Kurt and Kathryn Beckman

Date:

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

D5.Commissioner@BrevardFL.gov.

Re:Rezoning Case ID#22SS00016 & 22Z00071

Set For Hearing April 6, 2023 @ 5 P.M.

Gentlemen & Ladies:

I am a property owner in Carlton Groves Subdivision. My neighborhood is immediately south of and contiguous to the parcel subject to the above rezoning request.

This parcel is only 3.95 acres for which the Petitioner is seeking to construct 90 dwelling units.

When you subtract the square footage needed for access roads, the retention pond, the parking lots, the dumpsters/utility pads and the maintenance facility, there remains only about a 1.8 acre foot print, at the most, upon which to place 90 dwelling units.

The density will be a minimum of 50 units per acre which will necessitate a high rise building towering above the neighboring single family homes and existing two story apartments, to the west and north of the subject parcel.

This type of extreme residential density is wholly incompatible with existing improvements surrounding the parcel. Zoning of this magnitude is wholly out of place with the character of this location in the heart of Merritt Island.

With 1.5 vehicles per unit, the parking lot will have to hold a minimum of 135 vehicles, not counting fire lanes and loading areas.

I respectfully request that this petition be denied or, at the least, the density be reduced to 15 units.

Name:

Kathryn Beckner

Property Address: 250 Birch Avenue Merritt Is., Fla.

Date: March 28, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

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Name: 

Property Address: 250 Birch Avenue Merritt Is., Fla.

Mascellino, Carol

From: Stephanie Maltby <shmaltby@gmail.com>
Sent: Thursday, March 30, 2023 12:06 PM
To: Commissioner, D3; Commissioner, D2; Commissioner, D1; Commissioner, D4; Commissioner, D5
Subject: Rezoning Case ID#22SS00016 & 22Z00071 and Hearing on 4/6/23
Attachments: 205 Willow ave ltr to cc.pdf

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

County Commissioners:

Please see attached letter regarding the above mentioned rezoning cases.

Thank you,
Matthew and Stephanie Maltby
Property Owners
205 Willow Ave., Merritt Island, FL 32953
407-288-2893

Date: 3/30/23

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

D5.Commissioner@BrevardFL.gov.

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Name: Matthew & Stephanie Maltby

Property Address: 205 Willow Ave., Merritt Is., Fla.

Date: 3/30/23

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

D5.Commissioner@BrevardFL.gov.

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Name: Matthew & Stephanie Maltby

Property Address: 205 Willow Ave., Merritt Is., Fla.

Date:

Objection
22SS00016 & 22Z00071
Crane View

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

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I respectfully request that this petition be denied or, at the least, the density be reduced to 15 units.

Name:

Kathryn Beckman

Property Address: 250 Birch Avenue Merritt Is., Fla.

Date: March 28, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

D5.Commissioner@BrevardFL.gov.

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I respectfully request that this petition be denied or, at the least, the density be reduced to 15 units.

Name: 

Property Address: 250 Birch Avenue Merritt Is., Fla.

Mascellino, Carol

From: Carol <carol722@prodigy.net>
Sent: Sunday, April 2, 2023 2:14 PM
To: Commissioner, D1; Commissioner, D2; Commissioner, D3; Commissioner, D4; Commissioner, D5
Subject: Re: Rezoning case ID#22SS00016 & 22Z00071
Attachments: rezoning petition.pdf

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

To whom it may concern,

For your consideration re: Rezoning case ID#22SS00016 & 22Z00071 on April 6, 2023 Sincerely, Carlton Groves 235 Birch Ave property owner Carol Nutter

Date: April 2, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

D5.Commissioner@BrevardFL.gov.

Re:Rezoning Case ID#22SS00016 & 22Z00071

Set For Hearing April 6, 2023 @ 5 P.M.

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I respectfully request that this petition be denied or, at the least, the density be reduced to 15 units.

Name: Carol Nutter Carol Nutter

Property Address: 235 Birch Ave, Merritt Is., Fla.

Date:

Objection
22SS00016 & 22Z00071
Crane View

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

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Name:

Kathryn Beckman

Property Address:

250 Birch Avenue Merritt Is., Fla.

Date: March 28, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

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Date: April 2, 2023

To Hon. County Commissioners of Brevard County, Fla.

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Name: Carol Nutter Carol Nutter

Property Address: 235 Birch Ave, Merritt Is., Fla.

Date: 3/30/23

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov.

D2.Commissioner@BrevardFL.gov.

D3.Commissioner@BrevardFL.gov.

D4.Commissioner@BrevardFL.gov.

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Name: Matthew & Stephanie Maltby

Property Address: 205 Willow Ave., Merritt Is., Fla.

Date: April 4, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov. Rita Pritchett

D2.Commissioner@BrevardFL.gov. Tom Goodson

D3.Commissioner@BrevardFL.gov. John Tobia

D4.Commissioner@BrevardFL.gov. Rob Feltner

D5.Commissioner@BrevardFL.gov.

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Name: Michael Iannuzzi

Property Address: 205 Birch Ave., Merritt Is., Fla.

32953

Mascellino, Carol

From: miannuzzi@cfl.rr.com
Sent: Tuesday, April 4, 2023 2:05 PM
To: Commissioner, D4
Subject: FW:
Attachments: IMG_20230404_140034_01.jpg

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

From: 3214462068@vzwpix.com
To: miannuzzi@cfl.rr.com
Cc:
Sent: Tuesday April 4 2023 2:00:41PM
Subject:

Date: April 4, 2023

To Hon. County Commissioners of Brevard County, Fla.

D1.Commissioner@BrevardFL.gov. Rita Pritchett

D2.Commissioner@BrevardFL.gov. Tom Goadson

D3.Commissioner@BrevardFL.gov. John Tobia

D4.Commissioner@BrevardFL.gov. Rob Feltner

D5.Commissioner@BrevardFL.gov.

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Name: Michael Iannuzzi

Property Address: 205 Birch Ave., Merritt Is., Fla.

32953

The Falling Leaf

Upscale Affordable Housing
90-unit 3-story building 35-High
Merritt Island FL. Brevard County

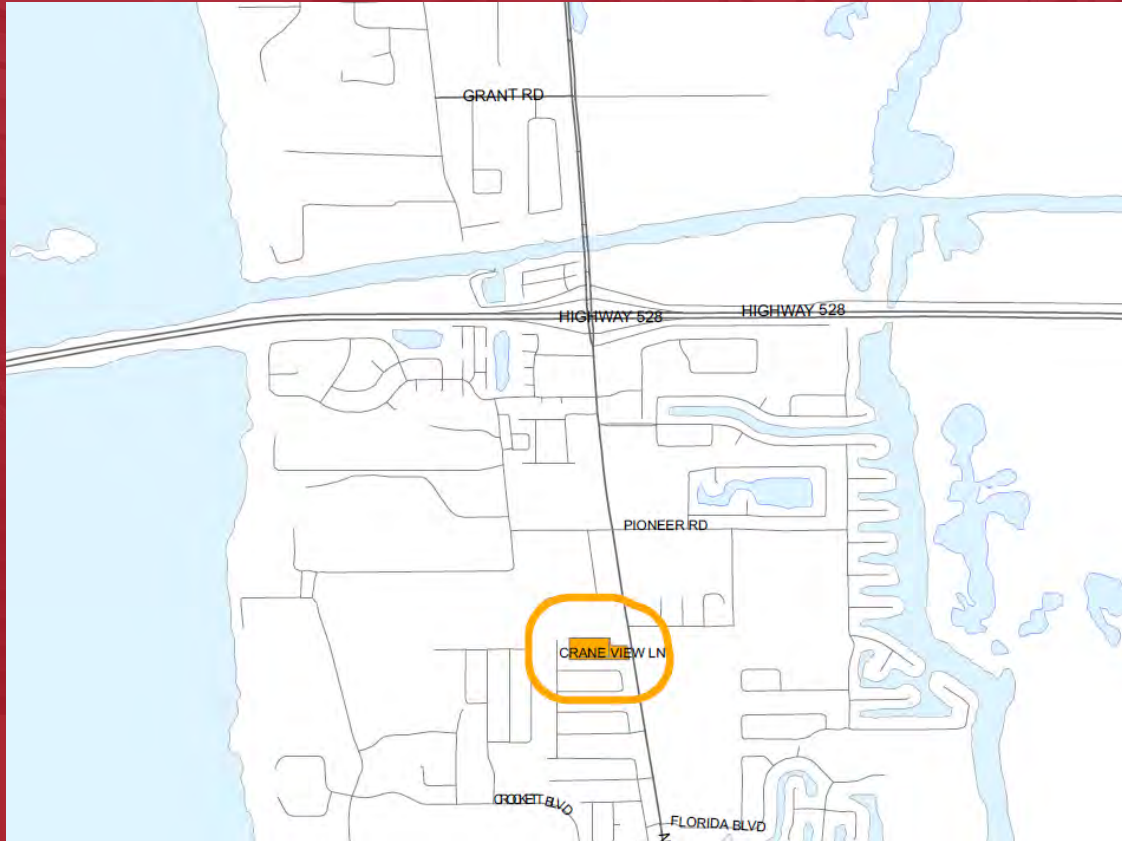


The Falling Leaf



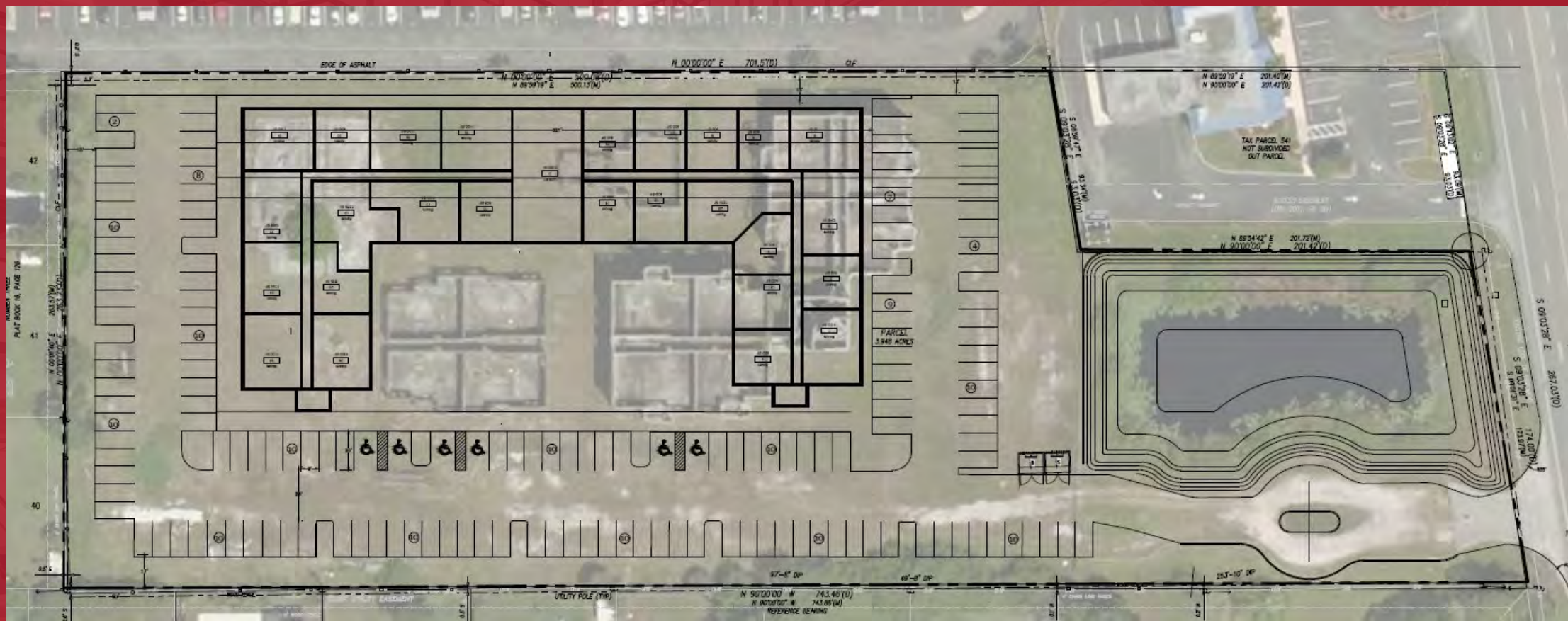
90 Multifamily Units

Location



West side of N. Courtenay Pkwy., approximately 580 feet south of Butler Avenue (District 2)

Site Plan



Elevation



lon



Elevation



Color Scheme



1 & 2-Bedroom Floor Plan



35'-8"

38'-4"

3 BEDROOM UNIT
1,291 SQ. FT.

PROJECT: FALLING LEAF APARTMENT COMPLEX
MERRITT ISLAND
FLORIDA
3 BEDROOM UNIT FLOOR PLAN

PROJECT NO. 146_01-014
DATE 02-01-2013
BY J.C.
REV. 01/13
SCALE 1/2" = 1'-0"

A-P

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 22S.19 (22SS00016)
Township 24, Range 36 Section 14*

Property Information

Owner / Applicant: Crane View LLC

Adopted Future Land Use Map Designation: Residential 15 (RES 15) and
Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Residential 30 Directive (RES 30 DIR)

Acreage: 3.95 acres

Tax Account #: 2412341

Site Location: West side of N. Courtenay Parkway, approximately 580 feet east of Butler
Avenue

Commission District: 2

Current Zoning: Medium-Density Multiple-Family Residential (RU-2-15) with a Binding
Development Plan (BDP)

Requested Zoning: High-Density Multiple-Family Residential (RU-2-30) and
amendment of a Binding Development Plan (BDP) (22Z00071)

Background & Purpose

The applicant is requesting to change the Future Land Use designation on 3.95 acres of land from Residential 15 (RES 15) and Neighborhood Commercial (NC) to Residential 30 Directive (RES 30 DIR) to develop the site as an apartment complex with up to 90 multi-family residential units. The subject property is currently vacant with four (4) partially constructed buildings.

The subject property retains RES 15 and NC Future Land Use designations. The closest RES 30 Directive is 3.1 miles to the south of the subject site on S. Tropical Trail. If approved, this request would equate to 23 units per acre with limitations within the BDP.

There are five (5) active liens on open code enforcement cases (21CE-01807, 20CE-01187, 18CE-00793, 18CE-00742, and 16CE-02285) associated with this property

including two active violations for unsafe structure and failure to maintain vacant structure.

A companion rezoning application was submitted accompanying this request to change the zoning classification from RU-2-15 (Medium-Density Multiple-Family Residential) with a Binding Development Plan (BDP) to RU-2-30 (High-Density Multiple-Family Residential) with the removal and replacement of a Binding Development Plan (BDP) (22Z00052).

The existing RU-2-15 zoning can be considered consistent with the existing RES 15 FLU and NC FLU designations, as provided in Sec. 62-1255.

The proposed RU-2-30 zoning can be considered consistent with the existing NC FLU, as provided in FLU Policy 2.10; however, the proposed RU-2-30 zoning may not be considered consistent with the existing RES 15 FLU, as provided in Sec. 62-1255.

The proposed RU-2-30 zoning can be considered consistent with the proposed RES 30 DIR FLU, as provided in Sec. 62-1255.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

Policy 1.2

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

Criteria:

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

This Future Land Use Amendment request to change from RES 15 and NC to RES 30 DIR will require a connection to a centralized water and sewer service.

- 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.

The subject site is within the City of Cocoa's service area public water. This Future Land Use Amendment request to change from RES 15 and NC to RES 30 DIR will require a connection to a centralized water and sewer service.

**Residential 30 Directive (maximum of 30 dwelling units per acre)
Policy 1.3**

The Residential 30 Directive Future Land Use designation affords the highest density allowance, permitting a maximum density of up to thirty (30) units per acre, except as otherwise may be provided for within the Future Land Use Element. Parameters for this future land use designation include:

Criteria:

- A. The Residential 30 Directive land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

1. Areas located east of Interstate-95; and

The subject site is located 6.6 miles east of Interstate-95 (I-95).

2. Unincorporated enclaves located within or adjacent to incorporated areas which permit similar or greater density allowance; or

The subject site is not located adjacent to an incorporated area.

3. Areas adjacent to existing Residential 30 land use designation; and

The subject site is not adjacent to an existing RES 30 land use designation. This request can be considered an introduction of RES 30 into the surrounding area. The closest RES 30 DIR is 3.1 miles south of the subject property on South Tropical Trail.

4. Areas with direct access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.

The subject site has direct access to an arterial roadway. North Courtenay Parkway is classified as an Urban Principal Arterial roadway.

- B. In the Merritt Island Redevelopment Area, Brevard County should encourage high density development in clustered patterns that maximize the provision of open space to avoid the impacts of "strip" or "checkerboard" land use patterns and to assist in the development of an urban atmosphere. The Residential 30 Directive land use designation may permit development in excess of 30 units per acre, provided that one of the

following applies:

1. Residential density of up to 37.5 dwelling units per acre, may be considered if approved as part of a redevelopment plan; or

The subject site is not part of an approved redevelopment plan.

2. Developments which are tied to a binding development plan and propose a mixture of residential and commercial uses may permit the residential portion of the project with density of up to 50 dwelling units per acre.

The subject site is within the Merritt Island Redevelopment Agency (MIRA); however, the proposal is not part of a redevelopment plan approved by Board of County Commissioners.

The applicant has submitted a companion application to this Future Land Use Amendment requesting to rezone from RU-2-15 with a Binding Development Plan (BDP) to RU-2-30 and remove the existing BDP and add a new BDP (22Z00071).

The proposed BDP limits the parcel to density of 90 dwelling units per acre.

- C. A 25% density bonus to permit up to 37.5 dwelling units per acre may be considered, except in the Coastal High Hazard Area (CHHA), where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant has not proposed a Planned Unit Development. The subject site is not located within the CHHA.

Administrative Policy 3

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

Criteria:

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

1. historical land use patterns;

The character of the area is commercial along North Courtenay Parkway with residential land uses in the surrounding areas. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 15, and RES 6. The predominant FLU designations along this section of North Courtenay Parkway are NC and CC.

This request can be considered an introduction of RES 30 DIR into the area along North Courtenay Parkway. The closest RES 30 DIR FLU designation is located approximately 3.1 miles south of the subject property on South Tropical Trail. That parcel is currently undeveloped.

The most recent FLU amendment (21S.09) in this area was adopted March 3, 2022 by Ordinance 22-05 to change the FLU designation from NC to CC on 0.92 acres 233 feet to the southeast of the subject property on N Courtenay Parkway. That parcel is currently undeveloped.

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

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

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

While there has not been any new development in the preceding three (3) years, one zoning action has been approved within one-half mile.

20Z00042, approved by the Board on November 3, 2022, was a request to amend a BDP to add car wash use on an 8.89-acre parcel with BU-1 zoning located approximately 136 feet northeast of the subject property at the southeast corner of Skyline Boulevard and North Courtenay Parkway.

- 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.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed

rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

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

The developed character of the area along North Courtenay Parkway to the north of the subject parcel is mostly commercial that transitions to multi-family residential to the west.

South of the subject property is a mix of commercial, institutional, and residential development. There is an older single-family residential neighborhood (platted in 1962) immediately adjacent to the south of the subject property. The residential zoning in the area is RU-1-11 single-family residential which allows one quarter (1/4) acre lots.

There are multiple parcels with multi-family zoning classifications within a one-half mile radius of the subject property ranging from RU-2-10 to RU-2-30. The closest RU-2-30 zoning classification is located immediately to the north of the subject property on 6.3 acres developed as a condominium complex (Island Village Condominiums). Property Appraiser records indicate a total of 93 units in Island Village Condominiums Phases A through F which equates to a built-out density of approximately 14.76 units per acre.

As provided in FLU Policy 2.10, residential development or the integration of residential development with commercial development can be permitted in the Neighborhood Commercial (NC) land use designation, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and area designated for residential use on the Future Land Use Map, as provided in FLU Policy 2.10. Residential development may be permissible in 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.

The existing RES 15 and NC FLU designations would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site (59 units), this request actually represents an increase of approximately 31 units.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Commercial; Multi-family	BU-1-A & BU-1; RU-2-30	NC & CC; RES 15
South	Single-family	RU-1-11	RES 15
East	Retail Commercial	BU-1-A	NC
West	Single-family	RU-1-11	RES 15

To the north is a 0.92-acre parcel designated as NC and CC FLU and developed as a commercial financial institution.

To the south is a single-family residential neighborhood (platted in 1962) with RES 15 FLU.

To the east, across North Courtenay Parkway, is a 0.51-acre parcel and a 1.88-acre parcel, both designated as NC FLU and developed as retail commercial.

To the west is a single-family residential neighborhood (platted in 1962) with RES 15 FLU.

Concurrency

The preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service. The subject site is within the City of Cocoa's service area public water. The closest centralized sewer line (Brevard County Utilities) is located adjacent to the subject property on the west side of North Courtenay Parkway. The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development.

Environmental Constraints

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

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

Historic Resources

According to information provided by the Florida Master Site File of the Florida Division of Historic Resources, there are no recorded cultural resources associated with the subject site.

For Board Consideration

The Board may consider if the request to introduce RES 30 is consistent and compatible with the surrounding area and the comprehensive plan.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Comprehensive Plan Review & Summary
Item #22SS00016

Applicant: Steve Anderson/Larry Poliner

FLU Request: RES 15 & NC to RES 30, with new BDP limiting to 90 units

Note: Applicant wants to demo partially completed residential development, and construct new multi-family development.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2412341

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Taveres fine sand, 0-5% slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

The entire parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage

treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

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.



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

22Z00071

Crane View, LLC

RU-2-15 (Medium-Density Multi-Family Residential) with a BDP to RU-2-30 (High-Density Multi-Family Residential) and Amendment of BDP

Tax Account Numbers: 2412341
Parcel I.D.: 24-36-14-00-589
Location: West side of N. Courtenay Pkwy., approximately 580 feet south of Butler Avenue (District 2)
Acreage: 3.95 acres
MIRA: 02/23/2023
Planning & Zoning Board: 03/13/2023
Board of County Commissioners: 04/06/2023

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 current Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-2-15	RU-2-30
Potential*	48 Multi-Family units with existing BDP	90 multi-family units with proposed BDP
Can be Considered under the Future Land Use Map	NO RES 15 & NC	YES** RES 30

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request 22SS00016 which proposes to amend the Future Land Use designation from Residential 15 (RES 15) and Neighborhood Commercial (NC) to all Residential 30 (RES 30).

Background and Purpose of Request

The applicant is requesting a change of zoning classification from RU-2-15 (Medium-Density Multi-Family Residential) with an existing Binding Development Plan (BDP) to RU-2-30 (High-Density Multi-Family Residential), and applicant is proposing an amendment of BDP on 3.95 acres to develop the site as a multi-family complex with an amended BDP limited to 90 multi-family residential units. The 3.95-acre subject property currently has unfinished and dilapidated multi-family structures from a previous site plan.

There are five (5) active liens on open code enforcement cases (21CE-01807, 20CE-01187, 18CE-00793, 18CE-00742, and 16CE-02285) associated with this property including two active violations for unsafe structure and failure to maintain vacant structure.

The existing Binding Development Plan (BDP) states:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit density to 48 units and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.
3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida.
4. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.
5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property, and be subject to the above referenced conditions as approved by the Board of County Commissioners on May 29, 2008. In the event the subject property is annexed into a municipality and rezoned, this Agreement shall be null and void.
6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as it may be amended.

The site has frontage on N. Courtenay Pkwy. (SR-3) and is located in the Merritt Island Redevelopment Area (MIRA).

The original zoning of the subject property was AU (Agricultural Use) the parcel was rezoned to RU-1 (Single-Family Residential) on August 04, 1960 per zoning action **Z-382**.

The RU-1 zoning on the parcel was Administratively replaced with the new zoning classification RU-1-11 on June 1, 1972 per zoning action **Z-2980**.

The parcel was rezoned from RU-1-11 to BU-1-A (Neighborhood Commercial) on the east 200 feet and to RU-2-15 (Medium-Density Multi-Family) on the remainder of the parcel on July 9, 1981 per zoning action **Z-5691**.

The parcel was rezoned from BU-1-A on the east 200 feet to BU-1 (General Retail Commercial) with the remainder rezoned from RU-2-15 to BU-1-A with a Binding Concept Plan (BCP) for professional office only on May 26, 1987 per zoning action **Z-7795**.

The parcel was rezoned from BU-1-A with a Binding Concept Plan and BU-1 to RU-2-12 (Medium-Density Multi-Family Residential) with removal of the Binding Concept Plan; and approval of a Conditional Use Permit (CUP) for an Independent Living Facility on August 3, 2000 per zoning action **Z-10413**.

The parcel was approved for a Conditional Use Permit (CUP) for an Adult Congregate Living Facility in an RU-2-12 zoning classification and removing the existing CUP for an Independent Living Facility on March 7, 2002 per zoning action **Z-10675**.

The Conditional Use Permit (CUP) **Z-10675** for an Adult Congregate Living Facility in an RU-2-12 zoning classification was Administratively removed on February 1, 2007 per zoning action **Z-11317(23)**.

The parcel was rezoned from RU-2-12 to RU-2-15 with a Binding Development Plan (BDP) limiting density to 48 units on July 9, 2008 per zoning action **Z-11432**.

Land Use

The subject property is currently designated as Residential 15 (RES 15) and Neighborhood Commercial (NC) FLU. The existing RU-2-15 zoning can be considered consistent with the existing RES 15 and NC FLU designation.

A companion application, **22SS00016**, if approved, would amend the Future Land Use designation from Residential 15 (RES 15) and Neighborhood Commercial (NC) to all Residential 30 (RES 30).

The proposed RU-2-30 zoning can be considered consistent with the proposed Residential 30 (RES 30) FLU designation.

The existing FLU RES 15 designation would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site, this request actually represents an increase of approximately 59 units.

Applicable Land Use Policies

FLUE Policy 1.3 – addresses the Residential 30 Directive land use designation affords the highest density allowance, permitting a maximum density of up to thirty (30) units per acre, except as otherwise may be provided for within this element. Parameters for this future land use designation include:

Criteria:

- A. The Residential 30 Directive land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

1. Areas located east of Interstate-95; and

The subject site is located 6.6 miles east of Interstate-95 (I-95).

2. Unincorporated enclaves located within or adjacent to incorporated areas which permit similar or greater density allowance; or

The subject site is not located adjacent to an incorporated area.

3. Areas adjacent to existing Residential 30 land use designation; and

The subject site is not adjacent to an existing RES 30 land use designation. This request can be considered an introduction of RES 30 into the area. The closest RES 30 DIR is 3.1 miles south of the subject property on South Tropical Trail.

4. Areas with direct access to an arterial or collector roadway, without impacting existing or designated lower density/intensity areas.

The subject site has direct access to an arterial roadway. North Courtenay Parkway is classified as an Urban Principal Arterial roadway.

- B. In the Merritt Island Redevelopment Area, Brevard County should encourage high density development in clustered patterns that maximize the provision of open space to avoid the impacts of "strip" or "checkerboard" land use patterns and to assist in the development of an urban atmosphere. The Residential 30 Directive land use designation may permit development in excess of 30 units per acre, provided that one of the following applies:

1. Residential density of up to 37.5 dwelling units per acre, may be considered if approved as part of a redevelopment plan; or

The subject site is not part of an approved redevelopment plan.

2. Developments which are tied to a binding development plan and propose a mixture of residential and commercial uses may permit the residential portion of the project with density of up to 50 dwelling units per acre.

The subject site is within the Merritt Island Redevelopment Agency (MIRA); however, the proposal is not part of a redevelopment plan approved by Board of County Commissioners.

The applicant has submitted a companion application (22SS00016) to this Rezoning request to change the FLU from RES 15 and NC to RES 30.

The proposed BDP limits the parcel to density of 90 dwelling units per acre.

- C. A 25% density bonus to permit up to 37.5 dwelling units per acre may be considered, except in the Coastal High Hazard Area (CHHA), where the Planned Unit Development concept is utilized, where deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from

perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses. This density bonus shall not be utilized for properties within the CHHA.

The applicant has not proposed a Planned Unit Development. The subject site is not located within the CHHA.

The parcel is located in the Merritt Island Redevelopment Area (MIRA). Staff will update Board with results of this meeting.

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.

The subject site is within the City of Cocoa's service area for potable water. The closest centralized sewer line (Brevard) is located on the west side of N. Courtenay Pkwy. (SR-3). 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 rezone 3.95 acres to RU-2-30 zoning classification and amend an existing BDP for the purpose of developing a multi-family complex with up to 90 units. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and 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 character of the area is commercial along the west corridor of N. Courtenay Pkwy. (SR-3) with residential land uses further west in the surrounding areas. There are four (4) FLU designations within 500 feet of the subject site: CC, NC, RES 6 and RES 15. The predominant FLU designation along this west section of N. Courtenay Pkwy. is RES 15.

Although the abutting parcels to the north are zoned RU-2-30 (30 units per acre density) these parcels have a FLU designation of RES 15 (15 units per acre density) which is not consistent/compatible with RU-2-30 zoning. This request may be considered an introduction of RES 30 (30 units per acre density) into the area along the west N. Courtenay Pkwy. (SR-3).

The most recent FLU amendment (21S.09) in this area was adopted March 3, 2022 by Ordinance 22-05 to change the FLU designation from NC to CC on 0.92 acres 233 feet to the southeast of the subject property on N Courtenay Parkway. That parcel is currently undeveloped.

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

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 new development in the preceding three (3) years, one zoning action has been approved within one-half mile.

20Z00042, approved by the Board on November 3, 2022, was a request to amend a BDP to add car wash use on an 8.89-acre parcel with BU-1 zoning located approximately 136 feet northeast of the subject property at the southeast corner of Skyline Boulevard and North Courtenay Parkway.

- 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 area is commercial along the west side of N. Courtenay Pkwy (SR-3) abutting the east 200 feet of the parcel along the north and transitions to residential zoning abutting the south of the property and the west of the property. The residential zoning in the area is RU-2-15 medium density multi-family residential abutting the parcel to the north and RU-1-11 single-family residential abutting the parcel to the south and west which allows for 7,500 sq. ft. lots.

The existing RES 15 and NC designations on the parcel would allow for 59 units under FLUE Policy 2.10 if the Board deemed the scale and intensity as compatible with the abutting residential development.

When considering the existing development potential of the subject site, this request represents an increase of approximately 31 units.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Multi-family and bank	RU-2-30 & BU-1-A	RES 15 & NC
South	Single-family	RU-1-11	RES 15
East	Road Right-of-Way East of ROW Commercial retail plaza	East of ROW BU-1-A	NC
West	Single-family	RU-1-11	RES 15

To the north is two 1.12-acre parcels, each with RU-2-30 zoning and developed as multi-family condominiums.

To the south are eight 0.19-acre parcels and one 0.34-acre parcel developed as a single-family residence with RU-1-11 zoning.

To the east, across N. Courtenay Pkwy., is a 1.88-acre parcel developed as retail commercial with BU-1-A zoning.

To the west are three 0.24-acre parcels developed as a single-family residence with RU-1-11 zoning.

The current RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

The proposed RU-2-30 classification permits high density multi-family residential development of up to 30 unit per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75' of lot width and 75' of lot depth.

The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Courtenay Pkwy., from Crockett Blvd. to Pioneer Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 68.62% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.91%. The corridor is anticipated to operate at 69.53% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The school concurrency indicates there is enough capacity for the total of projected and potential students from the proposed development. There is sufficient capacity at Mila Elementary School, Jefferson Middle School, and Merritt Island High School for the total of projected and potential students from this development.

The parcel is within the City of Cocoa utilities service area for public water. The closest centralized sewer line (Brevard County) is located on the west side of N. Courtenay Pkwy. (SR-3).

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00071

Applicant: Steve Anderson/Larry Poliner

Zoning Request: RU-2-15 to RU-2-30, with new BDP limiting to 90 units

Note: Applicant wants to demo partially completed residential development, and construct new multi-family development.

P&Z Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID No: 2412341

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Taveres fine sand, 0-5% slopes) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Nitrogen Reduction Overlay

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

Protected and Specimen Trees

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 and minimum landscaping requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

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.

An aerial photograph of a city construction site, overlaid with a semi-transparent red filter. The image shows a large building under construction in the center, with its steel framework visible. Surrounding it are various other city buildings, including a prominent curved building on the left and a stadium-like structure in the background with a sign that reads "WINSTON FIELD HOME OF CHICAGO CYT". A yellow crane is positioned near the construction site. The overall scene is a dense urban environment.

THANK YOU

District 2 Disclosures
4/6/2023 BOCC Zoning Meeting

H.12. Crane View, LLC (Steve Anderson) requests a Small Scale Comprehensive Plan Amendment (22S.19) to change the Future Land Use designation from RES 15 and NC to RES 30 DIR. (22SS00016) (Tax Account 2412341) (District 2)

H.13. Crane View, LLC (Steve Anderson) requests a change of zoning classification from RU-2-15, with an existing BDP, to RU-2-30, removal of existing BDP, and adding a new BDP. (22Z00071) (Tax Account 24112341) (District 2)

- On 3/28/2023, received email from Kathryn Beckman with opposition to the rezoning and requests that this petition be denied or at least the density be reduced to 15 units
- On 3/30/2023, received email from Matthew & Stephanie Maltby with opposition to the rezoning and requests that this petition be denied or at least the density be reduced to 15 units
- On 4/2/2023, received email from Carol Nutter with opposition to the rezoning and requests this petition be denied or at least the density be reduced to 15 units
- On 4/4/2023, received emails from the following:
 - Rory Iannuzzi with opposition to the rezoning and requests this petition be denied or at least the density be reduced to 15 units
 - Michael Iannuzzi with opposition to the rezoning and requests this petition be denied or at least the density be reduced to 15 units