



North Merritt Island Dependent Special District Board

**Merritt Island Service Complex
2575 N. Courtenay Pkwy., Second Floor
Merritt Island, Florida 32952**

**Agenda
Thursday, April 13, 2023**

Call To Order - 6:00 PM

Approval of Minutes - February 9, 2023

H. Public Hearings

- H.1.** Lake Geneva Group, LLC (Bruce Moia) requests a change of zoning classification from PIP and BU-2, with an existing BDP, to all BU-2, retaining the existing BDP; and a CUP for Overnight Commercial Parking. (23Z00014) (Tax Account 2411749) (District 2)

Public Comment

Adjournment

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

We respectfully request that ALL ELECTRONIC ITEMS and CELL PHONE REMAIN OFF while the North Merritt Island Dependent Special District Board is in session. Thank You.



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

4/13/2023

Subject:

Lake Geneva Group, LLC (Bruce Moia) requests a change of zoning classification from PIP and BU-2, with an existing BDP, to all BU-2, retaining the existing BDP; and a CUP for Overnight Commercial Parking. (23Z00014) (Tax Account 2411749) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the North Merritt Island Dependent Special District Board conduct a public hearing to consider a change of zoning classification from PIP (Planned Industrial Park) and BU-2 (Retail, Warehousing, and Wholesale Commercial), with an existing BDP (Binding Development Plan), to all BU-2, retaining the existing BDP; and a CUP (Conditional Use Permit) for Overnight Commercial Parking.

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from PIP to BU-2 with a CUP on the north 6.51 acres of the parcel to develop the site for an Overnight Commercial Parking Lot. The south 15 feet +/- of the proposal has a BDP recorded in Official Records Book 5797, Page 90-94.

This request is an expansion of the existing overnight parking lot facility to the east and south of the subject property. That property was approved prior to the code being changed to require a CUP for Overnight Commercial Parking Lot.

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

The developed character of the area is Planned Industrial and Commercial along the east corridor of N. Courtenay Parkway, and transitions to residential zoning toward the east of these properties. The residential zoning in the area is AU (Agricultural Residential), which allows 2.5-acre lots, and EU and EU-2 (Estate Use Residential) zoning which allows 15,000 and 9,000 square-foot lots.

The applicant provided a copy of the traffic study required in Section 62-1941.3 on April 3, 2023. On April 6th Brevard County Traffic Operations requested additional information be included in the study. Presuming these

concerns are satisfied prior to the upcoming meeting, staff will update the Board. Otherwise, staff will request the item be tabled until the next meeting.

The Board may wish to consider if the proposed CUP mitigates potential impacts on the surrounding area.

The Board of County Commissioners will consider the request on **Thursday, May 4, 2023**, beginning at **5:00 p.m.** The meeting will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Viera, Florida.

Clerk to the Board Instructions:

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

23Z00014

Lake Geneva Group, LLC

PIP (Planned Industrial Park) with an existing Binding Development Plan (BDP) to BU-2 (Retail, warehousing and wholesale commercial) with a Conditional Use Permit (CUP) for a Overnight Commercial Parking Lot and retaining the existing BDP over the south 15 feet +/- of the proposal.

Tax Account Numbers: 2411749
Parcel I.D.: 24-36-11-00-501
Location: Southeast corner of North Courtenay Parkway and Smith Road (District 2)
Acreage: 6.51 Acres

North Merritt Island Board: 04/13/2023

Board of County Commissioners: 05/04/2023

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 would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	PIP	BU-2
Potential*	102,087 sq. ft.	79,401 sq. ft.
Can be Considered under the Future Land Use Map	YES PI	YES** PI

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

** Classification may be considered if use is transitional, per Policy 2.11 of the Future Land Use Element.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from PIP (Planned Industrial Park) to BU-2 (Retail, warehousing and wholesale commercial) with a CUP (Conditional Use Permit) on the north 6.51 acres of the parcel to develop the site for Overnight Commercial Parking Lot. The south 15 feet +/- of the proposal has a Binding Development Plan (BDP) recorded in Official Records Book 5797, Page 90-94. The north 6.51 acres of subject property is currently undeveloped and had a code enforcement case (**22CE-00785**) for having Long-term storage of RV's, trailers & boats along with mechanical work being

done on this portion of the parcel. The storage of boats and boat trailers on the parcel have been removed and the code enforcement case (**22CE-00785**) has been closed. The south remaining portion of the parcel has been developed as overnight commercial parking lot for cruise ship parking with a Binding Development Plan (BDP) recorded in Official Records Book 5797, Page 90-94.

The subject north 6.51 acres is proposed to be developed as an overnight commercial parking lot for cruise ship parking which required a Conditional Use Permit (CUP) approved by the Board of County Commission.

The existing Binding Development Plan Stipulates: The County and the Developer/Owner agree as follows:

- A. There shall be two access points to the Property; one on State Road 3, one on Smith Road, as indicated on the attached Concept Plan dated March 2, 2007.
- B. A building setback of 50 feet shall be applicable along State Road 3.
- C. Landscape plan must meet the criteria established by the North Courtenay Parkway Corridor Study.

The conditions of the Binding Development Plan apply only on the south 15 feet +/- of the subject 6.51 acres.

The site has frontage on North Courtenay Parkway (State Road 3) and Smith Road. The PIP zoning permits a CUP for overnight commercial parking lot, however the setback requirement for PIP zoning is greater than in BU-2 zoning.

PIP setback requirements:

- a. Front yard. All buildings shall be set back from all street right-of-way lines at least 50 feet.
- b. Side yard. No building or wall shall be located closer than 50 feet to a side yard lot line.
- c. Rear yard. No structures or truck parking and loading shall be located closer than 25 feet to the rear lot line.

BU-2 setback requirements:

- 1. Gasoline Service Station setbacks in this zoning classification shall be governed by section 62-1835.7.
- 2. The front setback shall be 25 feet from the front lot line.
- 3. The rear setback shall be 15 feet from the rear lot line. However, if the rear lot line abuts a dedicated 20-foot alley or roadway, the setback shall be five feet.
- 4. Side Setbacks:
 - a. Where a side lot line abuts a residential zone, such side setback shall be a minimum of 15 feet.

- b. Where a side lot line abuts a non-residential zone, such side setback shall be 5 feet.
- c. Where a side lot line abuts a combination of commercial, industrial or residential zonings, the respective side setbacks as stated in a. or b. above shall apply to the affected side yard area.
- d. Where a 20-foot dedicated alleyway or roadway exists adjacent to or abutting the rear lot line, and the zoning adjacent to the side yard area is non-residential, no side setback is required when a three-hour firewall is constructed along the side lot line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.
- e. Notwithstanding the requirements of section 5(a)(4)(b) above, where a 20-foot dedicated alleyway or roadway does not exist adjacent to or abutting the rear lot line, lots whose sides abut non-residential zonings may utilize a ten-foot paved driveway setback along one side and a zero-foot setback on the other provided a three-hour firewall is constructed where the building is proposed within five feet of the side property line. However, where the side lot line abuts a residential zone on that side, the minimum side setback shall be 15 feet.
- f. On a corner lot, the side street setback shall be 15 feet. If a corner lot is contiguous to a key lot, then the side street setback shall 25 feet.

The original zoning of the subject property was AU.

On September 04, 1975 zoning action **Z-3943** rezoned the parcel from AU to IU (Industrial).

On January 22, 1990 zoning action **Z-8530** rezoned the parcel IU to PIP (Planned Industrial Park).

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

Land Use

The subject north 6.51 acres of the property is currently designated as Planned Industrial (PI) FLU. The existing PIP zoning can be considered consistent with the existing PI FLU designation. The proposed BU-2 zoning may be considered consistent with the existing PI FLU.

Applicable Land Use Policies

Future Land Use: FLUE Policy 3.5 - The Planned Industrial land use designation is intended to accommodate the clustering of light industrial and business uses in settings which provide special attention to the integration of infrastructure, such as circulation, parking, and utilities, while placing emphasis upon aesthetics of the project and compatibility with abutting properties and properties within the industrial park. These parks shall be designed to limit intrusion into residential areas. Appropriate uses are those that operate within enclosed buildings such as manufacturing, assembling, fabricating, warehousing and retailing activities. Hotel and motel accommodations that

serve the travel needs of employees or clients associated with firms within the planned industrial or business parks are also appropriate. Marinas may also be considered within this land use designation.

Criteria:

- A. Planned industrial park project sites shall incorporate at least three (3) acres.

Analysis: This PIP portion of the parcel is 6.51 acres.

- B. Planned industrial parks must be within 660 feet of the major transportation corridors. Major transportation corridors include such roadways as Interstate 95, U.S. Highways 1 and 192, and State Roads 3, 46, 50, 528, 524, 520, 518, and 516.

Analysis: The parcel is located on State Road 3.

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

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

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

Criteria:

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

The applicant proposes to rezone the north 6.51 acres of the parcel to BU-2 zoning classification with a CUP for overnight commercial parking lot and develop this portion of the parcel as overnight cruise ship parking. 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 east side of North Courtenay Pkwy. with Planned Industrial (PI) and Community Commercial (CC) FLU. There are residential land uses east of the PI and CC. There are four (4) FLU designations within 500 feet of the subject site: PI, CC, RES 2, RES 4. The predominant FLU designation along the east corridor of North Courtenay Pkwy. is PI.

This request may be considered with PI FLU if use is transitional in the area along North Courtenay Pkwy. (SR-3), per Policy 2.11 of the Future Land Use Element.

The most recent FLU amendment (16S.04) in this area was adopted August 9, 2016 by Ordinance 16-12 to change the FLU designation from RES 2 and PI to all RES 2 on 1.57 acres located 1,425 feet to the north of the subject property on North Courtenay Pkwy.

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

56 single-family residences have been developed within one-half mile of the subject property in the preceding three (3) years. All 56 single-family residences are located in the Savannah Landing subdivision, Plat Book 69, page 17, located 1,425 feet to the north of the subject property on North Courtenay Pkwy.

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

There have been no zoning actions approved within one-half mile in the past 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.

The developed character of the area is Planned Industrial and Commercial along the east corridor of North Courtenay Parkway (SR-3) which transitions to residential zoning towards the east of these properties. The residential zoning in the area is AU agriculture residential zoning which allows two and one-half (2 1/2) acre lots and EU and EU-2 estate use residential zoning which allows 15,000 and 9,000 sq. ft. lots.

North Courtenay Parkway Corridor Study. The proposed rezoning is within the North Courtenay Parkway Corridor Study Area for which staff drafted a report for the Citizen Resource Group (CRG), dated October 2005. The study area is bounded on the north by NASA's Kennedy Space Center, on the east by the rear property lines of properties fronting the east side of North Courtenay Parkway, on the south by the Barge Canal, and on the west by the rear property lines of properties fronting the west side of North Courtenay Parkway. The CRG examined the future land use and zoning for the corridor area and generated the following Land Use recommendations:

LU-1: *For properties zoned BU-2, outdoor storage areas shall not be visible from the roadway. An opaque buffer that shields storage areas from view shall be required for BU-2 uses within the North Courtenay Parkway corridor.*

LU-2: *No bay doors should face the roadway. All such doors should face to the side or rear of the building.*

LU-3: *No portion of a building constructed of sheet metal shall be visible from North Courtenay Parkway. Stucco, wood siding, brick, and other materials with similar textures are appropriate.*

These recommendations were never codified by the Board of County Commission.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Convenience store with gas pumps and a Single-family residence with a plant nursery.	PIP, AU	PI, RES 2
South	Commercial Cruise Parking Lot.	BU-2, PIP	PI
East	Vacant Land	PIP	PI
West	Single-family residences west of Courtenay Pkwy.	RA-2-10	RES 4

To the north, across Smith Road, is a 2.02-acre parcel with PIP zoning and developed as convenience store with gas pumps. Also, across Smith Road is a 2.92-acre parcel with AU (Agricultural Residential) zoning and is developed with a single-family residence and a plant nursery.

To the south is the remainder of the subject parcel with BU-2 and PIP zoning which is developed with overnight commercial parking lot for cruise ship parking.

To the east is a 37.66-acre undeveloped parcel with PIP zoning.

To the west across North Courtenay Parkway are 0.26 to 0.52-acre parcels with RA-2-10 zoning which are developed with single-family residences.

The current PIP classification is the second lightest industrial classification, allowing light manufacturing within enclosed buildings with strict buffering, storage and other requirements. PIP also permits all uses permitted in the BU-1 and BU-2 classification

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

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

RA-2-10 classification permits single-family attached development at a density of up to 10 units per acre. RA-2-10 is intended to provide a transition between single-family detached zoning classifications and multiple-family zoning classifications, permitting fee simple ownership of individual attached units.

Preliminary Concurrency

The closest concurrency management segment to the subject property is North Courtenay Parkway, from the north ramp of SR 528 to Hall 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 43.17% of capacity daily. The maximum proposed development potential from the proposed rezoning increases the percentage of MAV utilization by 5.80%. The corridor is anticipated to operate at 48.97% 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.

No school concurrency information has been provided as this site is a proposed commercial development.

The parcel is serviced by the City of Cocoa utilities for public water. The property is serviced by Brevard County sewer.

Special Considerations for CUP (Conditional Use Permit)

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that the approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. **The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1936, Land Alteration.

This request should be evaluated in the context of **Section 62-1941.3** which outlines conditions for Overnight Commercial Parking Lot which states:

Overnight commercial parking lots are those commercial parking lots which offer 24-hour or longer extended parking for motorized vehicles. Overnight commercial parking lot use is a conditional use in the BU-1, BU-2, PBP and PIP zoning classifications; however, when an overnight commercial

Page 7

parking lot use is located within IU or IU-1 zoning, it shall be considered a permitted with conditions use. Both types of overnight commercial parking lots are subject to the provisions of this section. The following conditions are the minimum conditions necessary to mitigate adverse impacts upon surrounding properties.

- (1) Minimum lot size shall be not less than three acres for sites zoned: BU-1, BU-2, PBP or PIP. For sites zoned: IU or IU-1, the minimum lot size is two acres.

The applicant's request is for 6.51 acres.

- (2) An overnight commercial parking lot which is secondary or accessory to a developed site shall demonstrate the site has adequate surplus parking beyond the number of spaces required by the parking code to support the primary use or other uses occurring on the subject property.

The subject parcel south of this request is developed as overnight commercial parking lot and is not a secondary use.

- (3) All drive aisles and parking spaces shall be paved unless an alternative stabilized surface is approved. Secondary or accessory parking facilities that have demonstrated compliance with condition (2) above shall only be performed from paved parking spaces.

Proposed site plan has parking spaces paved.

- (4) A routing map shall be provided which depicts the routes shuttle service vehicles used to transport passengers to and from the overnight commercial parking lot. Shuttle routes shall avoid residential areas.

The proposed site depicts the routing routes.

- (5) A traffic study, statement or report of traffic patterns (incoming/outgoing) shall be provided for the board to review to assist in determining if additional roadway improvements are warranted.

A traffic study was provided by the applicant on April 03, 2023. Brevard County Engineering is reviewing the study for compliance and will forward comments when they are available.

- a. The applicant shall be responsible for the design, permitting, and construction of all necessary roadway improvements.
- b. The site plan shall be designed and the site constructed to facilitate all peak hour trips on site so there is no queuing in any public right-of-way.

Site plan will be required to show these conditions.

- (6) Applicant shall submit a site plan consistent with chapter 62, article VIII after board approval of the CUP.

The concept plan is included with the application.

Special Considerations for Conditional Use Permit

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6-9 of these comments. Section 62-1901 provides that the approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. The applicant's responses are indicated in bold and staff observations, if any, are provided in italics.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1941.3, Overnight Commercial Parking Lot.

General Standards of Review

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

Applicant's Response: No adverse impact on any adjacent or nearby properties is anticipated.

Staff analysis: Any noise generated in conjunction with the operation of the business would need to comply with the performance standards of Section 62-2251 through 62-2272, including the noise regulations of Section 62-2271. The remainder of the parcel to south is developed as overnight commercial parking lot for cruise ship parking. The adjacent lands to the east are undeveloped Planned Industrial Park and undeveloped State Park and will not be substantially nor adversely impacted by the proposed activities.

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

Applicant's Response: Use will be compatible with adjacent and nearby properties regarding function, operation etc.

Staff analysis: The applicant has proposed their intent to comply with code provisions. If the Board desires additional information, beyond these standards it should be identified at the public hearing.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttable presumed to have occurred

if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a reputable presumption that a substantial diminution has occurred. The board of county commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by a MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

Applicant's Response: Will not affect any abutting properties, it is within the "parent" parcel.

Staff analysis: The parcel is located adjacent to undeveloped Planned Industrial Park and undeveloped State Park at this time; should this neighboring use change due to proposed residential development of the abutting sites; it may be necessary to re-evaluate the potential impacts that this site may propose.

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

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

Applicant's Response: New traffic will not be significant enough to cause any adverse traffic flow.

Staff analysis: There shall be two access points to the Property; one on State Road 3, one on Smith Road, as indicated on the Concept Plan dated March 2, 2007.

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

Applicant's Response: No noise, glare, odor etc. will be generated by the development.

Staff analysis: The "performance standards" will be reviewed as part of the site plan review process..

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

Applicant's Response: Property already compliant. No changes foreseen.

Staff analysis: The “performance standards” will be reviewed as part of the site plan review process.

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

Applicant’s Response: There will be no increase to the solid waste disposal.

Staff analysis: The CUP for Overnight Commercial Parking Lot should not cause the level of service for solid waste disposal for the property or area covered by such level of service to be exceeded.

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

Applicant’s Response: There will be no increase for potable water or wastewater.

Staff analysis: The service for potable water or wastewater for the Overnight Commercial Parking Lot CUP will be reviewed at site plan application.

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

Applicant’s Response: Parcel buffers are already in place within the parent parcel.

Staff analysis: The screening or buffering aspects have been identified on the concept plan. Landscape plan must meet the criteria established by the North Courtenay Parkway Corridor Study. Should the Board determine that additional measures become necessary, the Board may wish to request the applicant submit a Binding Development Plan (BDP) to provide for those additional measures.

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

Applicant’s Response: No additional signage or lighting is proposed.

Staff analysis: No signage or exterior lighting has been identified on the concept plan. Should the Board determine that additional measures become necessary, the Board may wish to request the applicant submit a Binding Development Plan (BDP) to provide for those additional measures.

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

Applicant's Response: Hours of operation will remain the same as the parent parcel.

Staff analysis: The concept plan does not state hours of operation.

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

Applicant's Response: No new buildings are proposed.

Staff analysis: The concept site plan does not show any new buildings. Existing commercial buildings will be use.

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

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

Applicant's Response: Proposal is for additional parking and a site plan will be submitted to the County for approval.

Staff analysis: All parking and loading areas can be done on site.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

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

For Board Consideration

The Board may wish to consider if the proposed CUP mitigates potential impacts on the surrounding area.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00063

Applicant: Bruce Moia for Summit Shah

Zoning Request: PIP to BU-2

Note: Applicant wants outdoor boat/RV storage and parking.

NMI Hearing Date: 02/09/23; **BCC Hearing Date:** 03/02/2023

Tax ID No: 2411749

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

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

Land Use Comments:

Hydric Soils

The subject parcel contains mapped hydric soils (Basinger sand), an indicator that wetlands may be present on the property. A wetland delineated was provided as part of the original cruise parking site plan (18SP00008). Wetlands were not delineated in the project area.

Aquifer Recharge Soils

The site has mapped aquifer recharge soils (Pomello sand) on the east side of the project area 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

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the project area. These trees may have been preserved to meet landscaping requirements for Site Plan 18SP00008. If so, the applicant may need a revised landscaping plan for the entire parcel. The applicant is encouraged to incorporate 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.

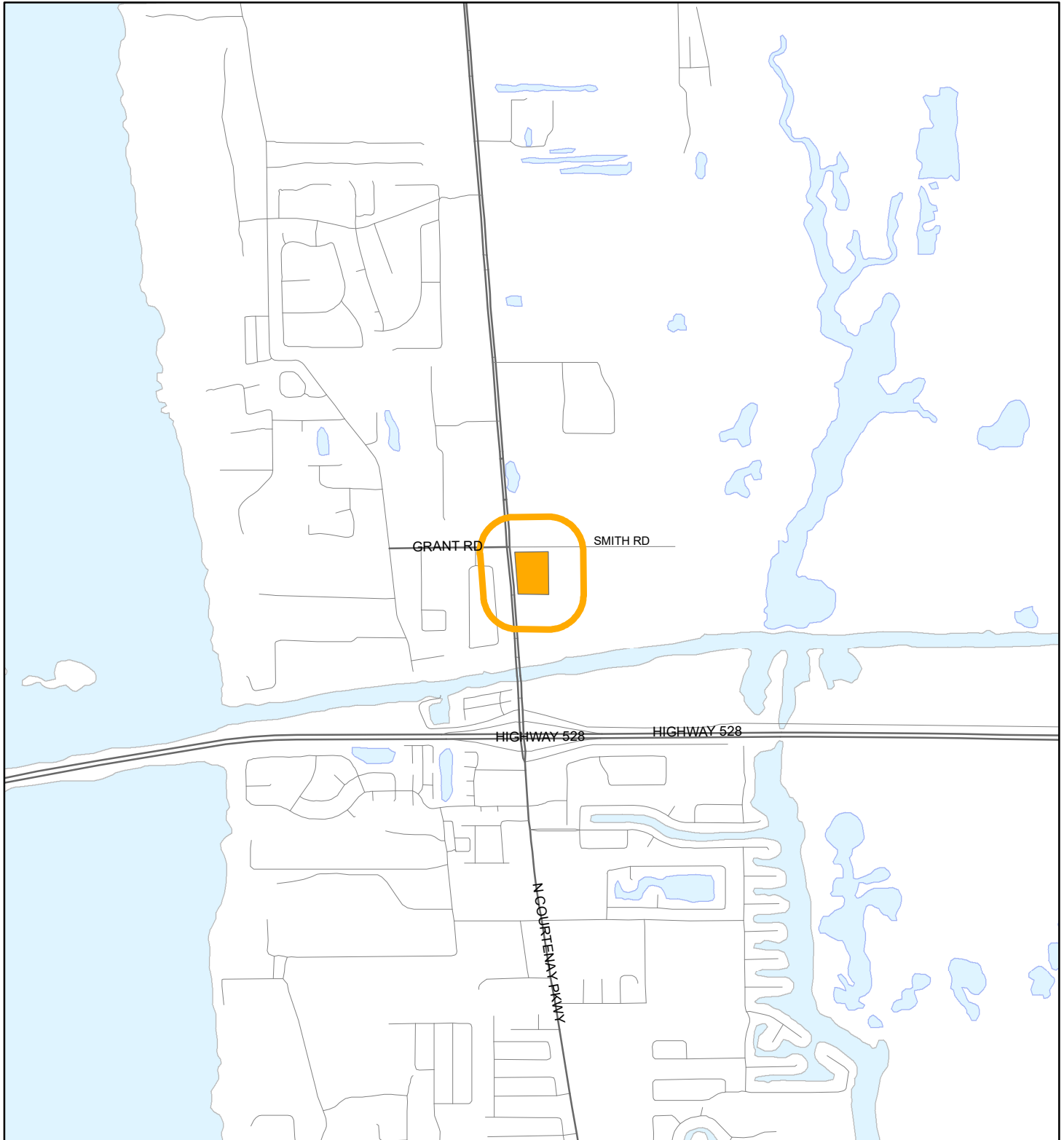
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. 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

LAKE GENEVA GROUP LLC

23Z00014



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: 3/15/2023

— Buffer
— Subject Property

ZONING MAP

LAKE GENEVA GROUP LLC

23Z00014



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: 3/3/2023

Subject Property

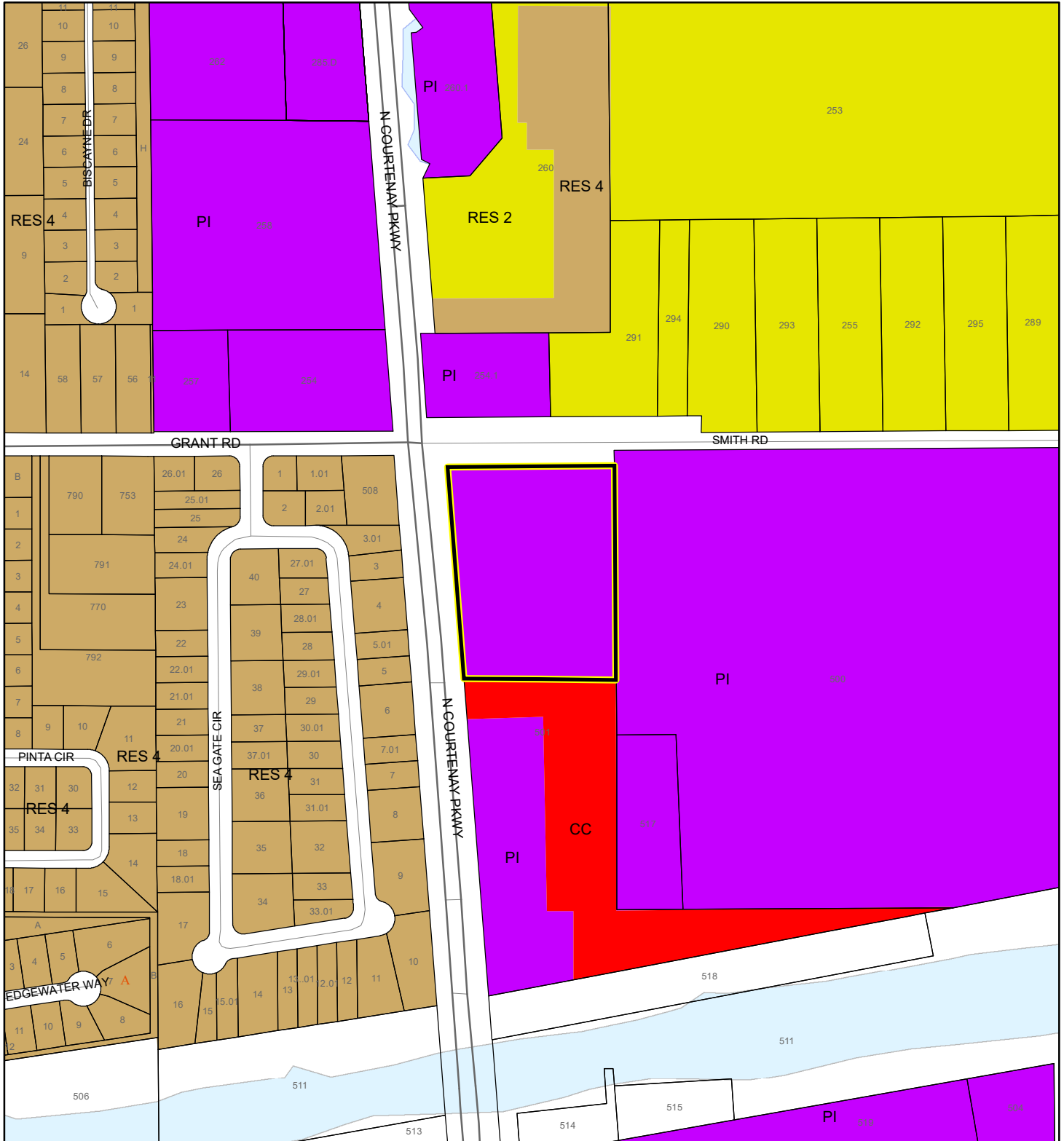
Parcels

Zoning



FUTURE LAND USE MAP

LAKE GENEVA GROUP LLC

23Z00014



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

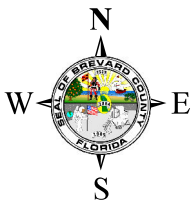
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

AERIAL MAP

LAKE GENEVA GROUP LLC

23Z00014




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: 3/3/2023

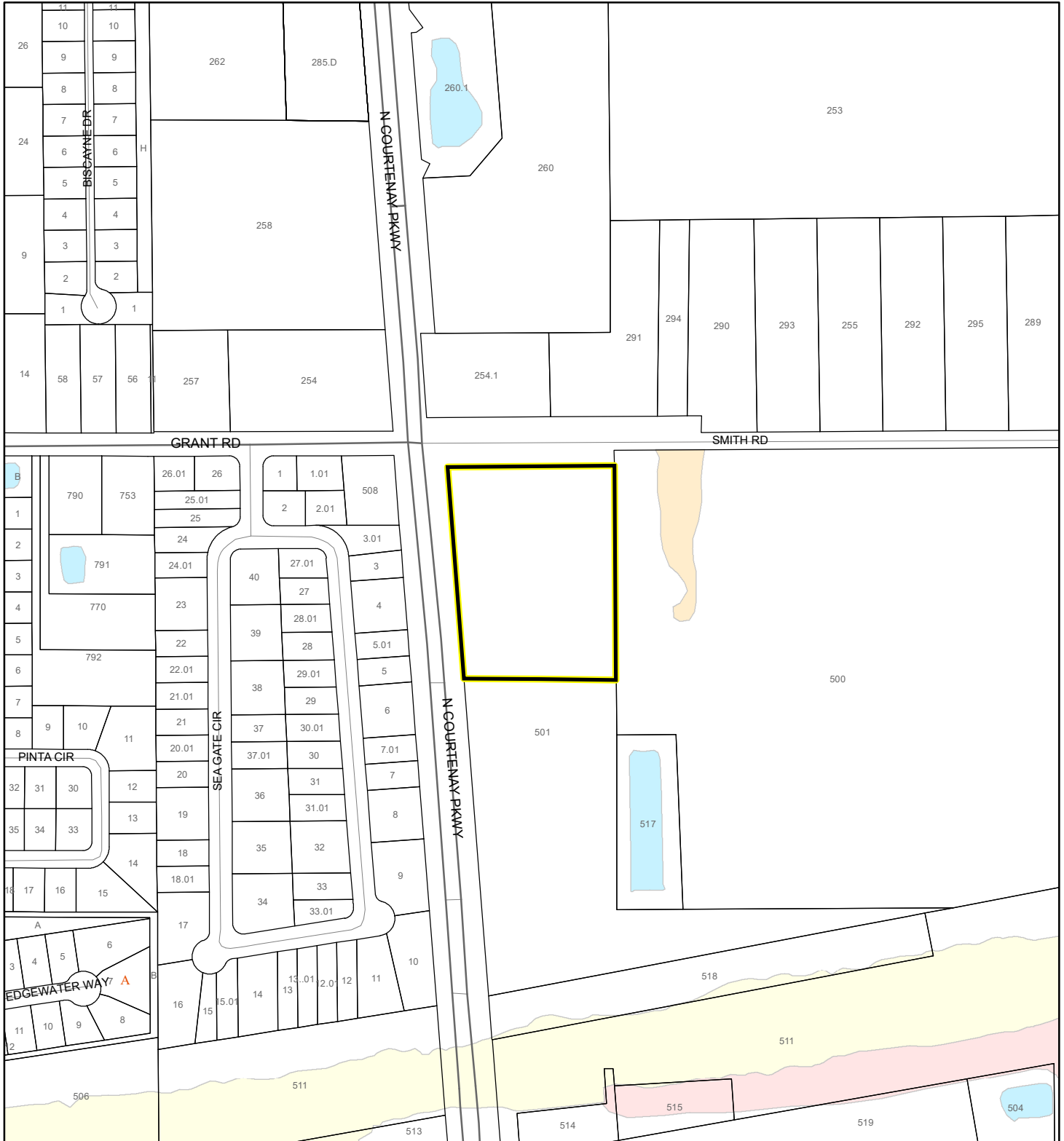
 Subject Property

 Parcels

NWI WETLANDS MAP

LAKE GENEVA GROUP LLC

23Z00014



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: 3/3/2023

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	

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

LAKE GENEVA GROUP LLC

23Z00014



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: 3/3/2023

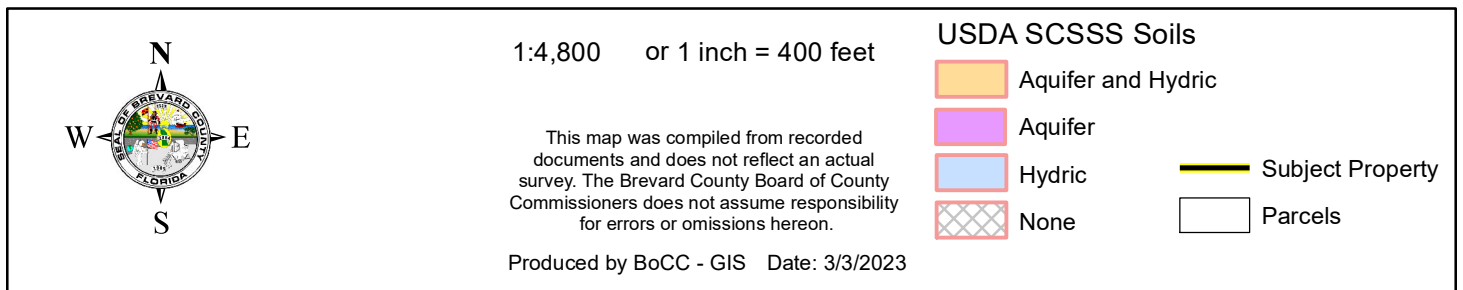
SJRWMD FLUCCS WETLANDS

- 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

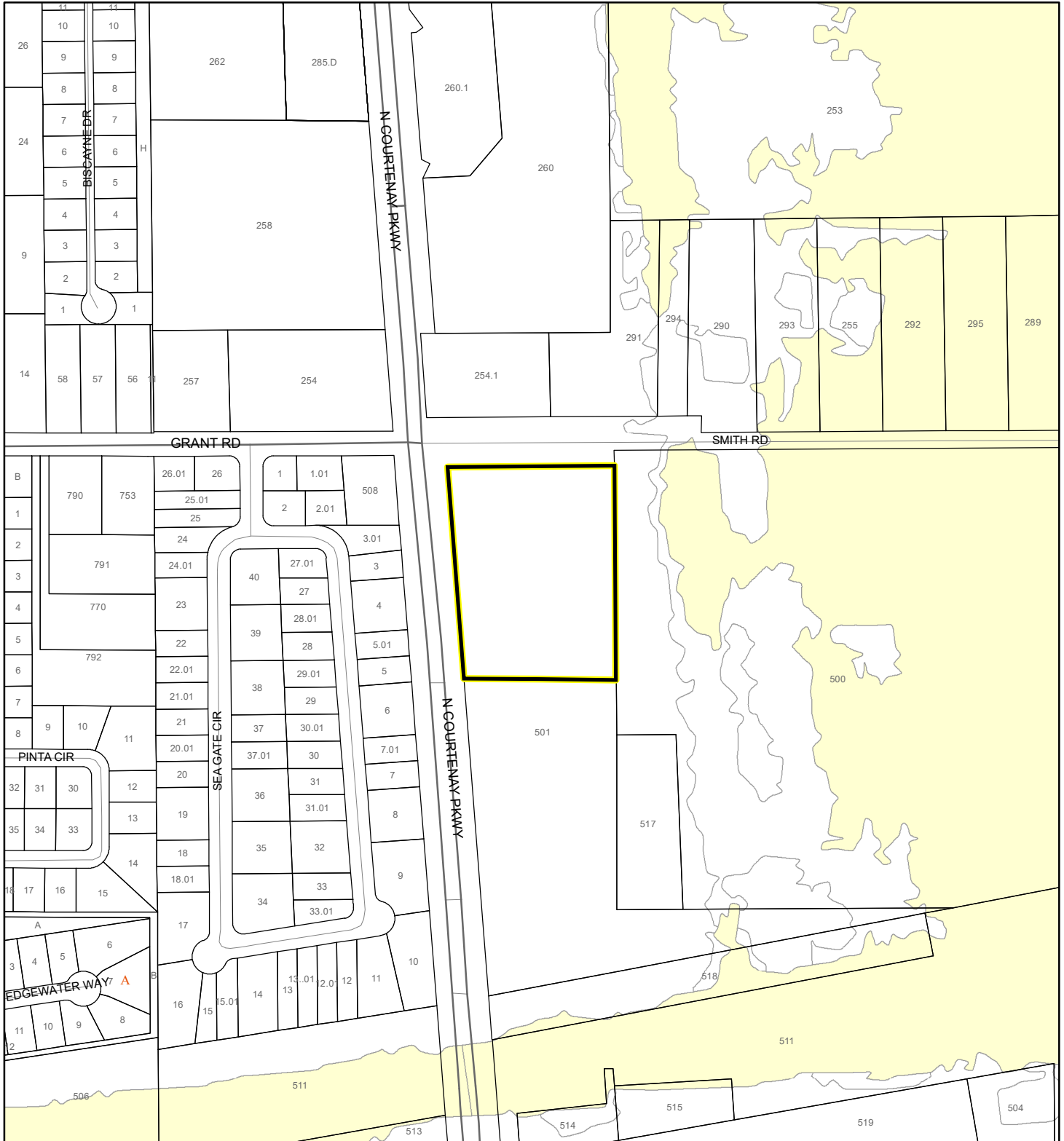
23Z00014



FEMA FLOOD ZONES MAP

LAKE GENEVA GROUP LLC

23Z00014



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: 3/3/2023

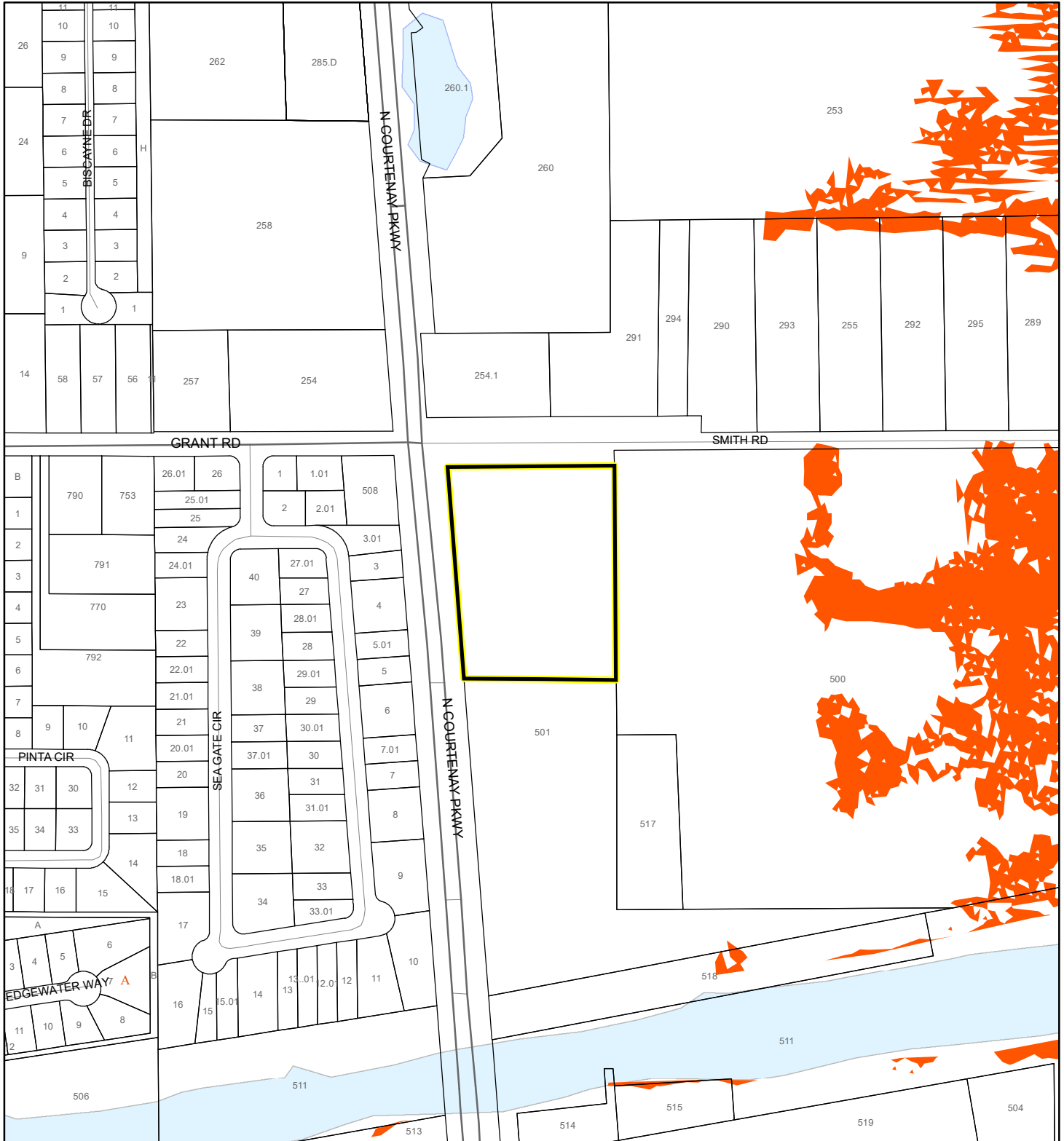
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

LAKE GENEVA GROUP LLC

23Z00014



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: 3/3/2023

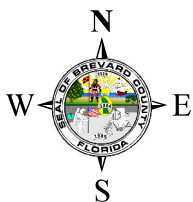
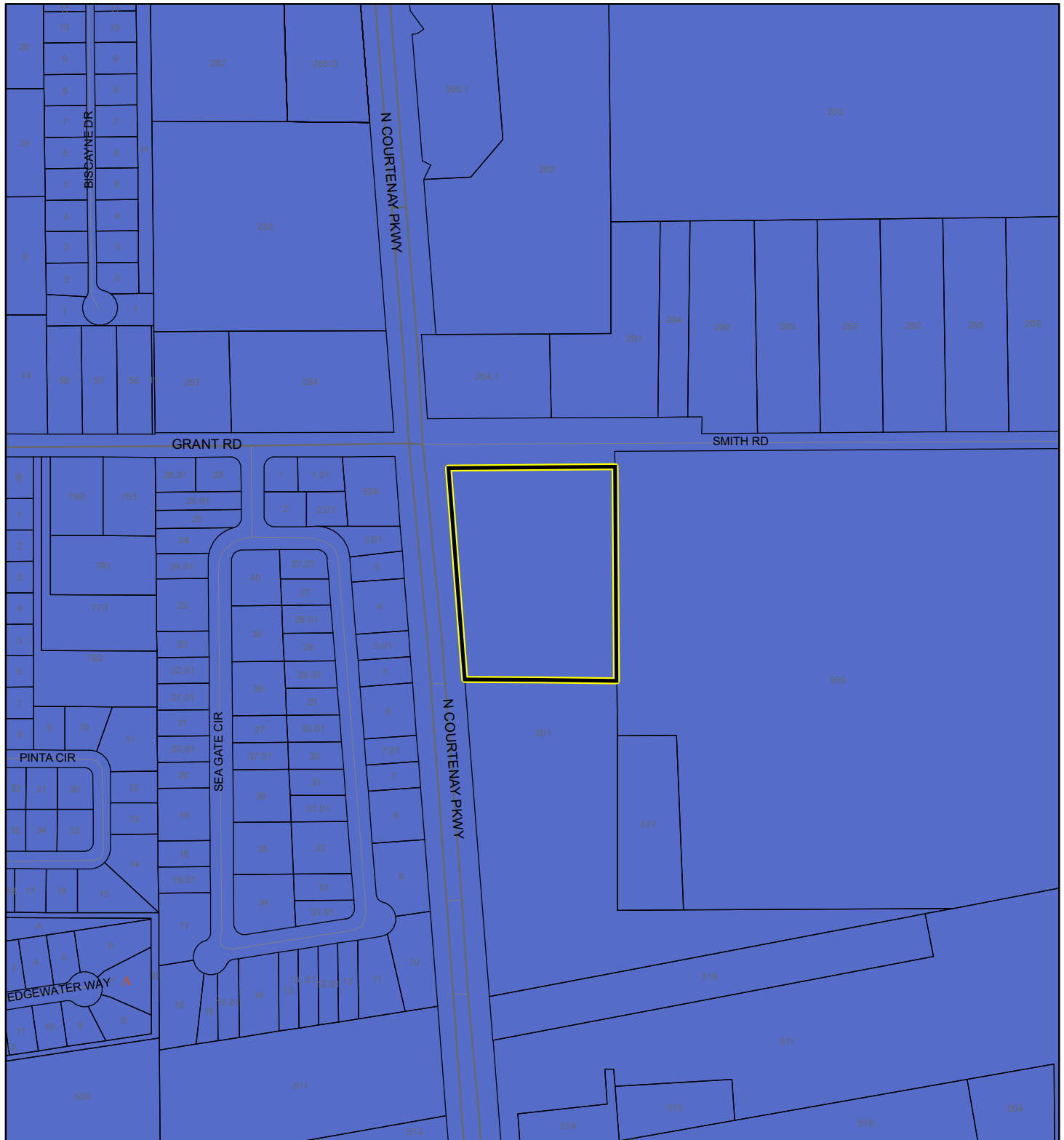
 Subject Property

 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

23Z00014



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: 3/3/2023

Subject Property

☐ Parcels

Septic Overlay

 40 Meters

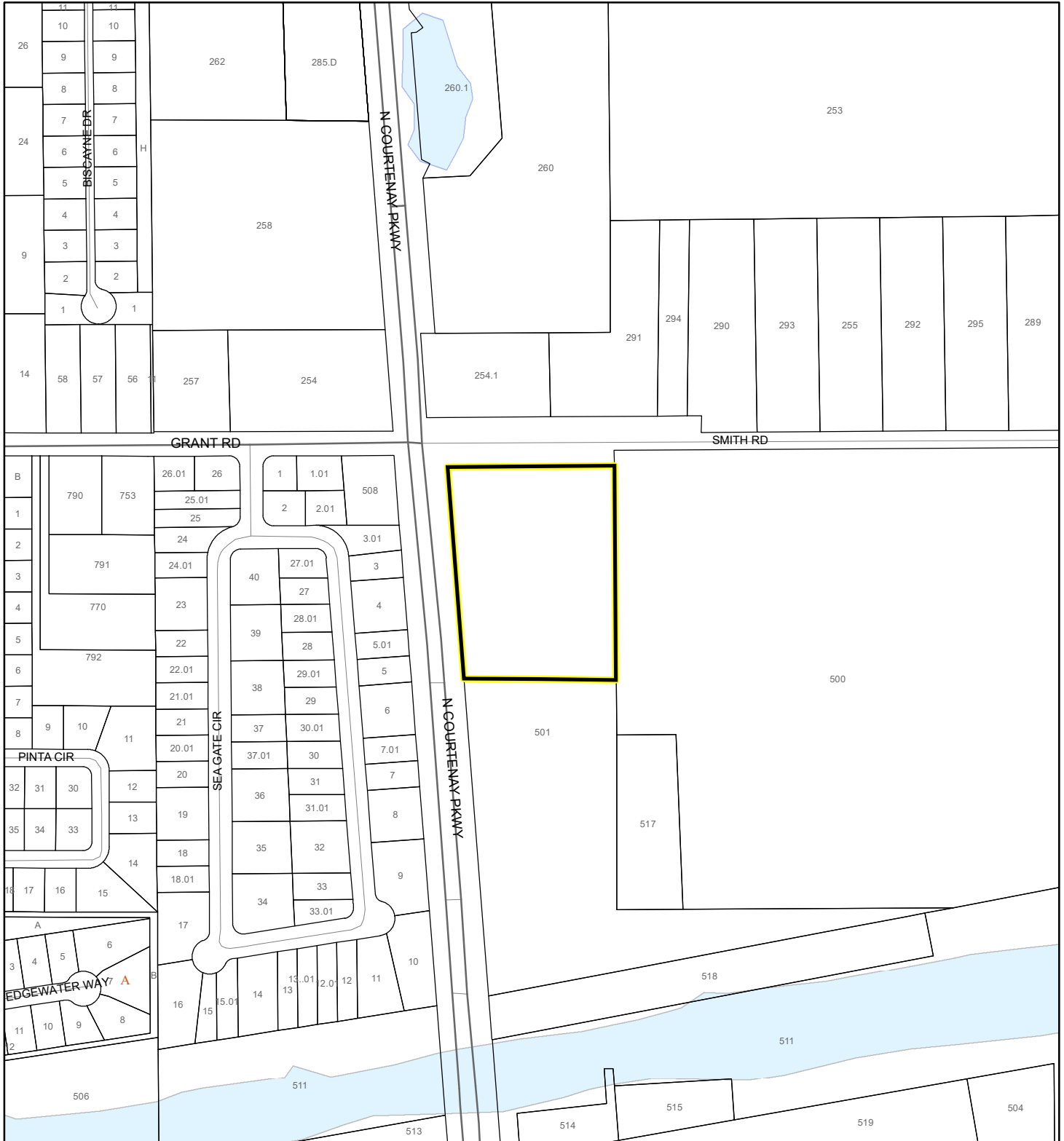
60 Meters

 All Distances

EAGLE NESTS MAP

LAKE GENEVA GROUP LLC

23Z00014



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: 3/3/2023

 Subject Property

 Parcels

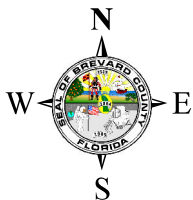
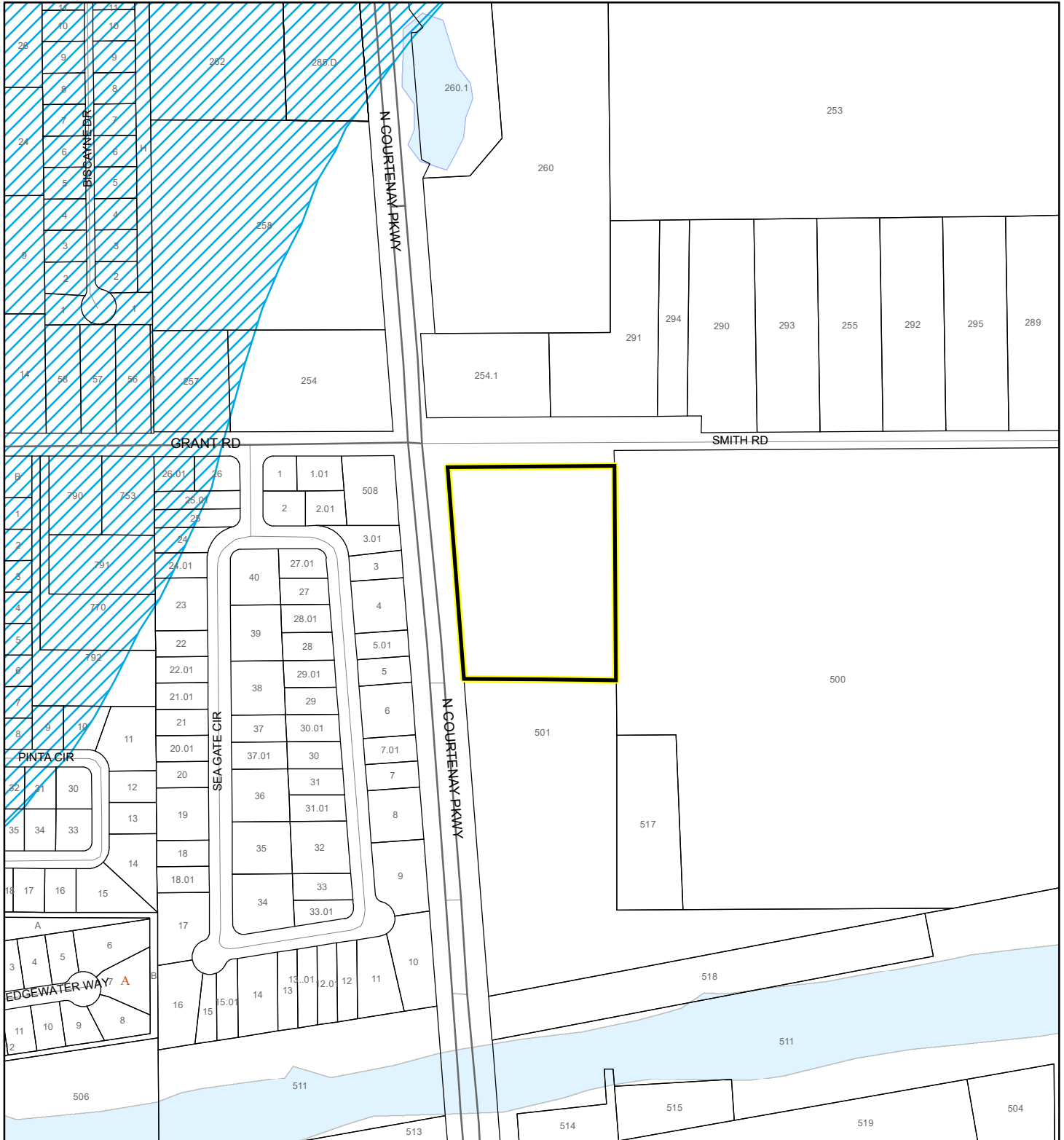


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

LAKE GENEVA GROUP LLC

23Z00014



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.

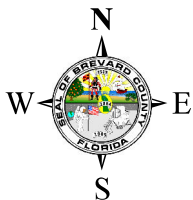
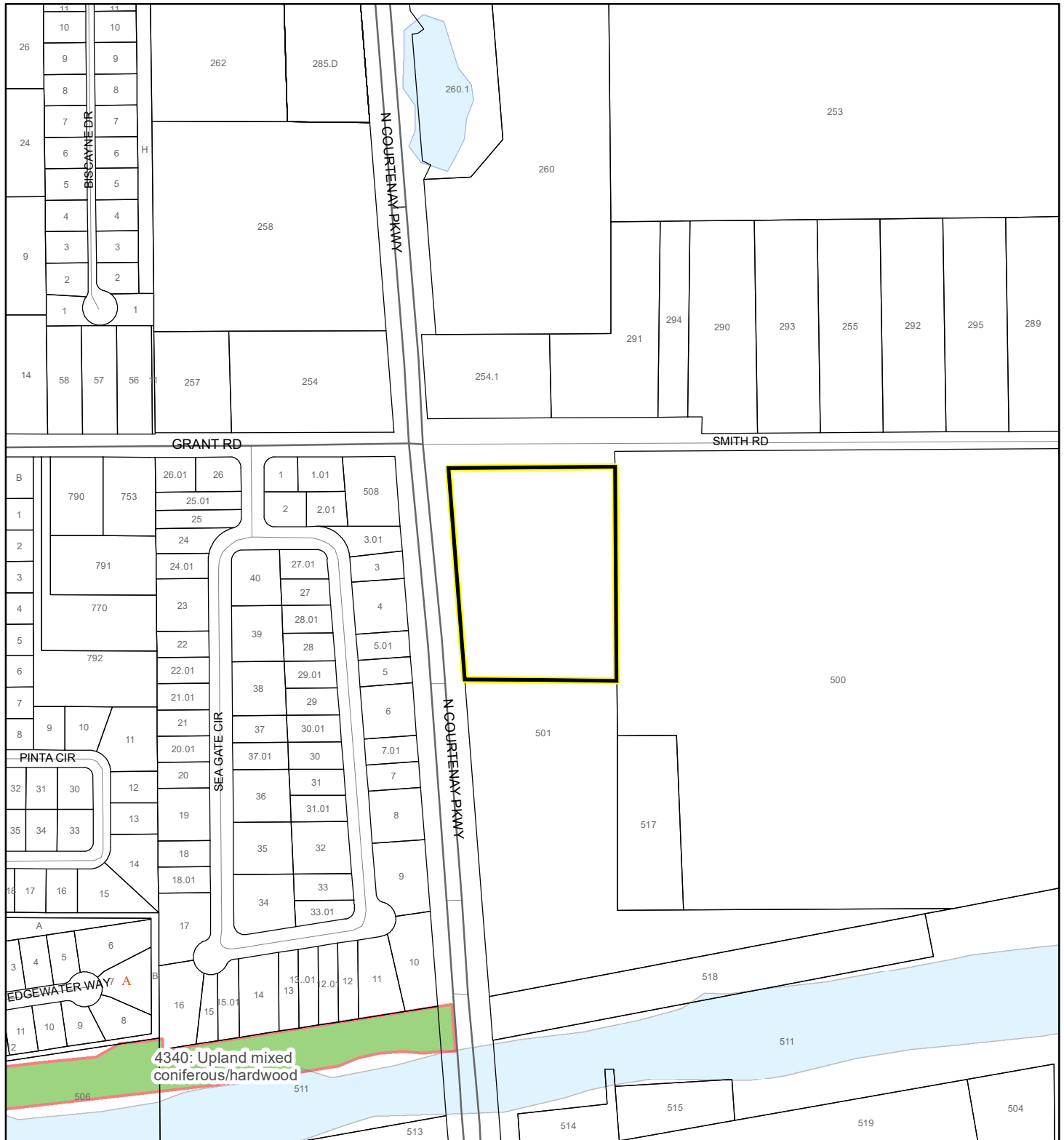
Produced by BoCC - GIS Date: 3/3/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LAKE GENEVA GROUP LLC

23Z00014



1:4,800 or 1 inch = 400 feet

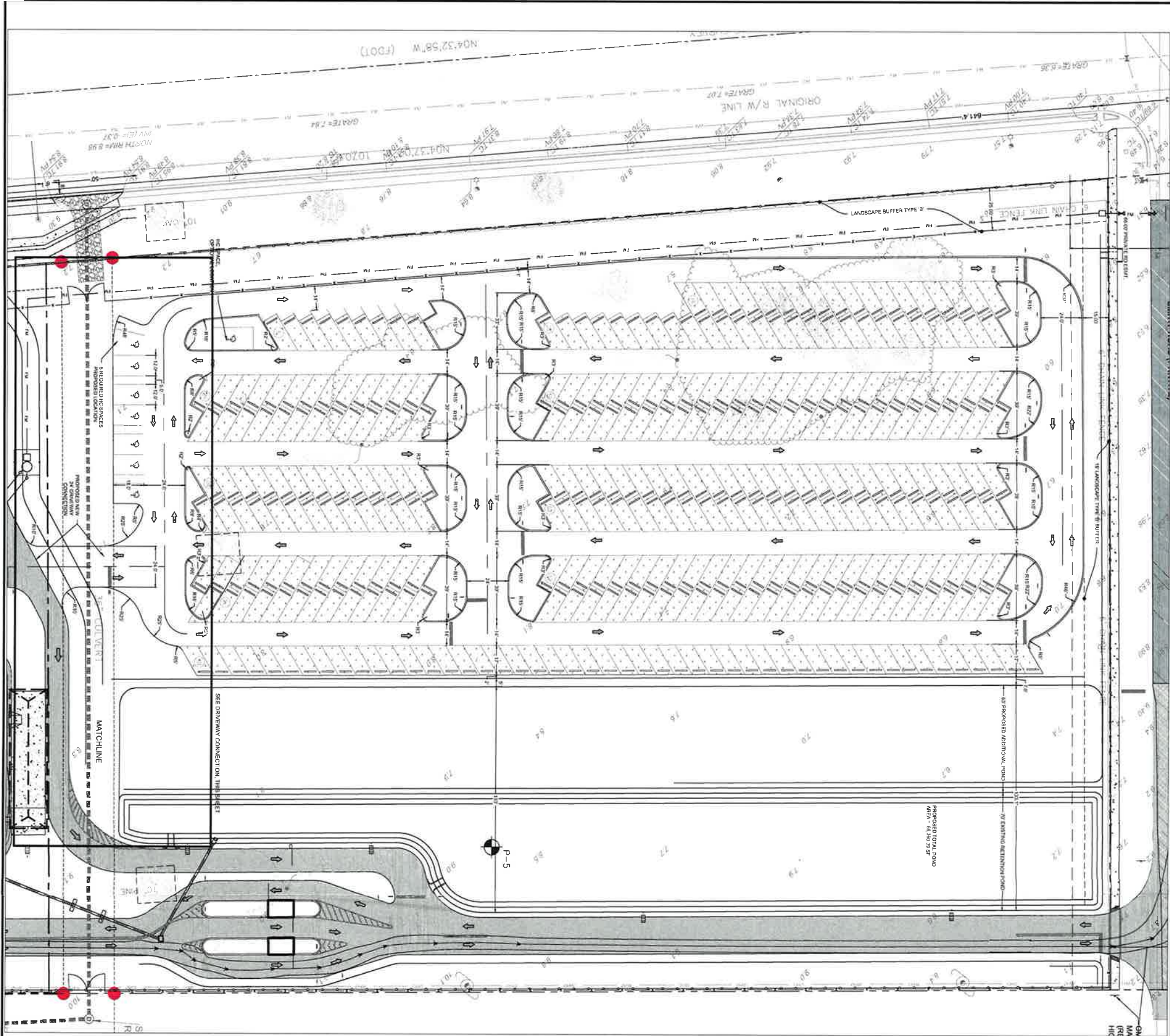
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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

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



FLOOD ZONE
THE SUBJECT PROPERTY IS LOCATED IN FLOOD ZONE 'A' AND ZONE 'X'.
PER FIRM PANEL NO. 12009C-0310 D & 12009C-0355, DATED MARCH 11, 2014.

ZONING
FIRM (COUNTY PLANNED INDUSTRIAL PARK) UNDER ZONING ACTION 2, B50 LOR
WITH BDP RECORDED IN OMB 5797 PG. 80-96
MIN. LOT SIZE 43,568 SF
MAX. LOT SIZE 281,753.9 SF
MIN. LOT WIDTH 46 FT
MAX. BUILDING HEIGHT 45 FT
HEIGHT 45 FT
BULZ (COUNTY) RETAIL, WAREHOUSING, AND WHOLESALE COMMERCIAL UNDER ZONING
ACTION 2, A158 WITH BDP RECORDED IN OMB 5797 PG. 80-96
MIN. LOT SIZE 43,568 SF
MAX. LOT SIZE 281,753.9 SF
MIN. LOT WIDTH 46 FT
MAX. BUILDING HEIGHT 45 FT
HEIGHT 45 FT

SITE INFORMATION
GENERAL STATEMENT
SITE IMPROVEMENTS CONSIST OF THE CONSTRUCTION OF A 1,27,348 SQ. FT. UNCOVERED
BOAT & RV PARKING AND OTHER NECESSARY SITE IMPROVEMENTS, INCLUDING PAVING,
STORMWATER UTILITIES AND LANDSCAPING.

APPLICANT/OWNER
DAR GENOVA GROUP LLC
1200 EAU GALLE BLVD., UNIT 101
COCOA, FL 32908
(321) 631-0245

ENGINEER
MBV ENGINEERING, INC.
1200 EAU GALLE BLVD., UNIT 101
COCOA, FL 32908
(321) 253-1510

FUTURE LAND USE
FIRM (PLANNED INDUSTRIAL PARK)
CC (COMMUNITY COMMERCIAL)

TAX PARCEL ID. NUMBER(S)
24-36-11-00-001

TAX ACCOUNT NO.
2411748

PARKING REQUIREMENTS
TOTAL PROPOSED 457 PARKING SPACES
457 PARKING - 356 SPACES
REQUIRED HC = 8 SPACES

LEGEND
PROPOSED GRASS PARKING
PROPOSED ASPHALT DRIVE/PARKING
EDGE OF PARKING



NOT FOR CONSTRUCTION
THIS IS A CONCEPTUAL LAYOUT ONLY. IT IS NOT TO BE USED FOR CONSTRUCTION. ANY CONSTRUCTION SHALL BE BASED ON THE FINAL ENGINEERING DRAWINGS. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE ENGINEER'S LIABILITY IS LIMITED TO THE DESIGN AND CALCULATIONS PROVIDED HEREIN. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS. THE ENGINEER'S LIABILITY IS LIMITED TO THE DESIGN AND CALCULATIONS PROVIDED HEREIN.

SR 3 BOAT & RV STORAGE

CONCEPTUAL LAYOUT 01

CITY OF PALM BAY **FLORIDA**

MBV ENGINEERING, INC.
MOYA BOWLES VILAMIZAR & ASSOCIATES
Civil • Structural • Surveying • Environmental
1200 W. EAU GALLE BLVD., SUITE H
MELBOURNE, FLORIDA 32908
P: 321-253-1510 F: 321-253-0911
ALSO WITH OFFICES IN:
VENO: 772-566-0205 FT. PIERCE: 772-466-9055 PALM CITY: 772-426-9999

JOB NO. 22-1042
DESIGNED DCM
DRAWN KLB
DATE 08.26.2022
CHECKED DWB/BAM
DATE ISSUED 11.11.2022

REVISIONS
1. 11.11.2022
2. 11.11.2022
3. 11.11.2022
4. 11.11.2022
5. 11.11.2022
6. 11.11.2022
7. 11.11.2022
8. 11.11.2022

COMMENTS
1. 11.11.2022
2. 11.11.2022
3. 11.11.2022
4. 11.11.2022
5. 11.11.2022
6. 11.11.2022
7. 11.11.2022
8. 11.11.2022

DATE

CFN 2007176810, OR BK 5797 Page 90,
Recorded 07/18/2007 at 12:24 PM, Scott Ellis, Clerk of
Courts, Brevard County
Pgs:7

Prepared by: John L. Soileau
Address: 3490 N. U.S. Highway 1
Cocoa, FL 32926

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 10 day of July, 2007 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and MERRITT ISLAND VENTURE, LLC, a Florida limited liability company (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 a planned industrial park, 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 County and the Developer/Owner agree as follows:

- A. There shall be two access points to the Property; one on State Road 3, one on Smith Road, as indicated on the attached Concept Plan dated March 2, 2007.
- B. A building setback of 50 feet shall be applicable along State Road 3.
- C. Landscape plan must meet the criteria established by the North Courtenay Parkway Corridor Study.

RETURN: Clerk to the Board #27

RETURN: Clerk to the Board #27

3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the property. This Agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this property.

4. Developer/Owner, upon execution of this Agreement, shall pay to the 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 April 5, 2007. 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.

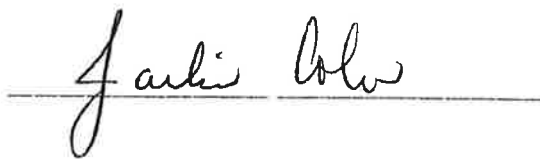
ATTEST:

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



Scott Ellis, Clerk

(SEAL)



Jackie Colon, Chairperson

As approved by the Board on 7-10-07

RETURN: Clerk to the Board #27

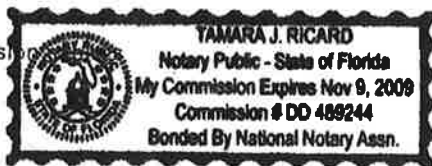
STATE OF FLORIDA §

COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 10 day of
JULY, 2007, by Jackie Colon, Chairman of the Board of
County Commissioners of Brevard County, Florida, who is personally known to me or who has produced
_____ as identification.

My commission

SEAL



Notary Public

Tamara J. Ricard

Commission No.:

(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:

DEVELOPER/OWNER

MERRITT ISLAND VENTURE, LLC

BY: PHOENIX-MIV MANAGER, LLC, Managing Member

BY: PHOENIX REALTY HOLDINGS, LLC.

By:

Patrick J. DiSalvo

As managing member

Address: 303 Banyan Blvd., Suite 101

West Palm Beach, FL 33401

Jackie Ruszenas
Jackie Ruszenas

(Witness Name typed or printed)

JACK FIEDOR

(Witness Name typed or printed)

STATE OF FLORIDA

COUNTY OF Palm Beach §

44

RETURN: Clerk to the Board #27

The foregoing instrument was acknowledged before me this 21 day of June, 2007,
by PATRICK J. DI SALVO, as MANAGING MEMBER of PHOENIX REALTY HOLDINGS, LLC, managing
member of Phoenix-MIV Manager, LLC, for PHOENIX-MIV MANAGER, LLC, managing member of
MERRITT ISLAND VENTURE, LLC, who is personally known to me or who has produced _____
as identification.

My commission expires
SEAL
Commission No.:

Notary Public

Jacqueline M. Ruszenas

(Name typed, printed or stamped)



Jacqueline M. Ruszenas
Commission # DD405165
Expires April 16, 2009
Bonded Troy Fair - Insurance, Inc. 800-385-7019

EXHIBIT "A"

LEGAL DESCRIPTION:

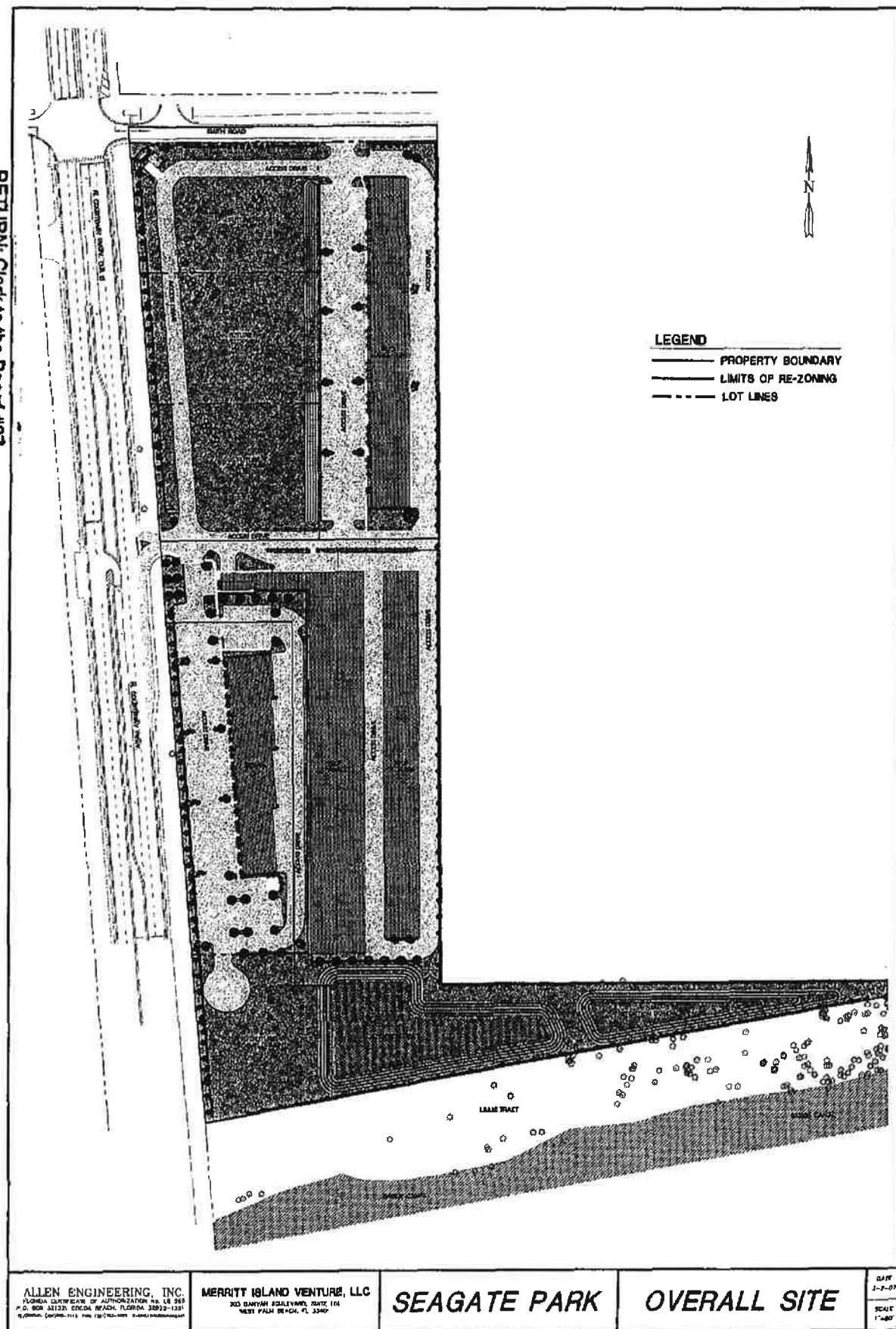
A parcel of land being part of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ East of State Road No. 3 and part of the South $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ East of State Road No. 3, North of the Barge Canal, all lying in Section 11, Township 24 South, Range 36 East, Brevard County, Florida, and being more particularly described as follows:

Commence at the West $\frac{1}{4}$ corner of said Section 11 and run North $89^{\circ}38'50''$ East, along the North line of the Southwest $\frac{1}{4}$ of said Section 11, a distance of 783.14 feet to the Point-of-Beginning of this description; thence continue North $89^{\circ}38'50''$ East, along said North line of the Southwest $\frac{1}{4}$ of said Section 11, a distance of 530.39 feet; thence run South $00^{\circ}25'16''$ East, along the East line of the Northwest $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 11, a distance of 1338.67 feet to the center of the Southwest $\frac{1}{4}$ of said Section 11; thence run North $89^{\circ}39'18''$ East, a distance of 886.37 feet to a point on the Northerly Right-of-Way line of the Barge Canal; thence run South $79^{\circ}57'02''$ West, along the Northerly Right-of-Way line of the Barge Canal, a distance of 1270.54 feet to a point on the East Right-of-Way line of State Road No. 3 as per State Right-of-Way Plans No. 70070-2502 (1959); thence run North $04^{\circ}37'07''$ West, along said East Right-of-Way line of State Road No. 3, a distance of 268.33 feet; thence run North $17^{\circ}19'03''$ West, along said East Right-of-Way line, a distance of 227.45 feet; thence run North $04^{\circ}37'07''$ West, along said East Right-of-Way line, a distance of 1070.62 feet to the Point-of-Beginning.

Less land in Final Judgment Parcel 102 in Official Records Book 3677, page 3849, Public Records of Brevard County, Florida.

RETURN: Clerk to the Board #27

RETURN: Clerk to the Board #27



RETURN: Clerk to the Board #27

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 September 14, 2006, given by MERRITT ISLAND VENTURE, LLC, as mortgagor, in favor of the undersigned, LEGACY BANK OF FLORIDA, as mortgagee, recorded in Official Records Book 5698, Page 5744, 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:

Kelley B Hellier
Kelley B Hellier
(Witness name typed or printed)

[Signature]

Pamela A Olson
(Witness name typed or printed)

MORTGAGEE NAME/ADDRESS LEGACY BANK OF FLORIDA

Jessica Hinnners

By: Jessica Hinnners

As its: Vice President

Address: 2300 Glades Road Suite 140 W
Boca Raton, Florida 33431

STATE OF FLORIDA

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me this 22 day of June, 2007, by Jessica Hinnners Vice Pres. of LEGACY BANK OF FLORIDA, who is personally known to me or who has produced as identification.

My commission expires

SEAL

Commission No.:

[Signature]
Notary Public

(Name typed, printed or stamped)

