



Planning and Zoning Board / Local Planning Agency

Brevard County Government Center

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

Agenda

Monday, July 6, 2020

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

Call To Order

Approval of Minutes - June 15, 2020

H. Public Hearings

- H.1.** Theodore Goodenow (Chad Genoni) requests a change of zoning classification from AU to RU-1-9. (19PZ00158) (Tax Account 2105262) (District 1)
- H.2.** Richard R. Jr., and Gina M. Wrubel, Trust, request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC. (20PZ00051) Tax Account 2000354) (District 1)
- H.3.** Richard R. Jr., and Gina M. Wrubel, Trust, request a change of zoning classification from AU to BU-1. (20Z00003) (Tax Account 2000354) (District 1)
- H.4.** McD Family Trust, LLC, requests an amendment to an existing BDP in a BU-2 zoning classification. (20Z00004) (Tax Account 2323791) (District 1)
- H.5.** Canaveral Landing, LLC, requests a change of zoning classification from TR-1 to TRC-1 with a CUP for the Cluster Development of Mobile Homes and a BDP limiting residential development to 100 units. (20Z00006) (Tax Account 2314846) (District 1)
- H.6.** 3101 Gannett Plaza, LLC (Kevin Saltman) requests a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with an Indoor Family Entertainment Center, in the BU-1 and BU-2 Zoning Classifications. (20Z00007) (Tax Accounts 2602422 & 2602423)

Public Comment

Adjournment

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

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

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



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

7/6/2020

Subject:

Theodore Goodenow (Chad Genoni) requests a change of zoning classification from AU to RU-1-9. (19PZ00158) (Tax Account 2105262) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

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

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from AU to RU-1-9 in order to develop a 62-lot single-family subdivision, with a BDP (Binding Development Plan) limiting density to two units per acre and connection to City of Titusville central water and sewer. The property is located at 1930 Hammock Road, Titusville. The RU-1-9 zoning classification permits single-family residences on minimum 6,600 square-foot lots with minimum width of 66 feet and depth of 100 feet, and 900 square feet minimum living area.

The property retains split FLU (Future Land Use) designations of RES 2 (Residential 2) and PI (Planned Industrial). A companion application for a Small-Scale Comprehensive Plan Amendment accompanies this rezoning request to amend the FLU designation on the 4.85 acre portion of the property located east of Hammock Road from PI to RES 2.

The surrounding parcels are a mixture of single-family residential, single-family mobile home, and planned industrial. The abutting property to the south is a 71.76 acre undeveloped parcel in the City of Titusville that retains the Planned Unit Development Zone classification.

The Board may wish to consider if introducing RU-1-9 zoning is consistent and compatible with the surrounding RRMH-1 (Rural Residential Mobile Home) and TR-2 (Single-Family Mobile Home) zoning classifications.

On June 15, 2020, the Planning and Zoning Board heard the request and tabled this item to the July 6, 2020, Planning and Zoning Board meeting.

The final public hearing will be held by the Board of County Commissioners on **THURSDAY, AUGUST 6, 2020 at**

5:00 p.m., at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Building C, Viera, Florida.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return 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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

CONDITIONAL USE PERMITS (CUPs)

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

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way

Building A, Room 114

Viera, Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

19PZ00158

Theodore C. Goodenow

AU (Agricultural Residential) to RU-1-9 (Single-Family Residential) with a BDP (Binding Development Plan) limited to 62 lots

Tax Account Number: 2105262
Parcel I.D.: 21-35-21-00-501
Location: 1930 Hammock Road, Titusville (District 1)
Acreage: 31.43 acres

Planning and Zoning Board: 07/06/20

Board of County Commissioners: 08/06/20

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 with BDP
Potential*	12 Single-Family Units	62 Single-Family Units
Can be Considered under the Future Land Use Map	NO RES 2 and PI	YES** RES 2***

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. ** A BDP limiting the density of the property to Residential 2 (RES 2) is required for this action to establish consistency with the Future Land Use Map. *** A small scale comprehensive plan amendment application from Planned Industrial (PI) to RES 2 is being reviewed concurrently with this application for the portion of the site designated PI east of Hammock Road.

Background and Purpose of Request

The applicant is seeking a change of zoning classification from Agricultural Residential (AU) to Single-Family Residential (RU-1-9) in order to develop a residential subdivision of up to 62 single-family lots. The request is accompanied by a Binding Development Plan (BDP) limiting the project density to two units per acre and committing to connection to City of Titusville central water and sewer.

The subject property is located at the intersection of Parrish Road and Hammock Road between North U.S. Highway 1 and the Indian River. It is split by Hammock Road with the majority of the property being located between Hammock Road and US 1. At the closest point, the property is

approximately 1,250 feet from the Indian River Lagoon. At this point, staff anticipates this property to be developed in two separate projects as there is no interconnectivity between the two parcels. Also, based on the design, there maybe a need to have two separate stormwater ponds. This will be determined at a later stage of development.

The property has been AU zoned since 1958. There have been no prior zoning requests on the subject property.

Land Use

This site retains split Future Land Use (FLU) designation of RES 2, which allows residential development with a maximum gross density of up to two (2) units per acre, and Planned Industrial (PI). A companion Small Scale Comprehensive Plan Amendment application 20S.02 (20PZ00024) was submitted accompanying this rezoning request to amend the FLU designation on the 4.85 portion of the project site located east of Hammock Road from PI to RES 2. The requested change of zoning from AU to RU-1-9 with a BDP is consistent with the proposed Future Land Use Map (FLUM), but is not consistent with the current FLUM of PI for the portion of the property east of Hammock Road. Neither AU nor RU-1-9 zoning is permitted in PI FLU designation. 20PZ00024 would have to be approved by the Board in order for the requested rezoning from AU to RU-1-9 to be considered. The applicant is requesting this zoning in order to tailor lot dimensions and area to obtain the maximum gross density of 2 units per acre permitted by RES 2 FLU.

Residential 2 (maximum of 2 dwelling units per acre)

Policy 1.8

The Residential 2 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 this element. The Residential 2 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

The subject parcel does not serve as a transition between land uses with a density greater than two (2) units per acre and areas with lesser density. The subject parcel is surrounded by PI land use and residential parcels of 0.5 acres or larger. The portion of the subject property located east of Hammock Road is not immediately adjacent to Residential 2 (RES 2) Future Land Use designation.

Only a portion of the southern boundary of subject parcel to the west of Hammock Road is located adjacent to an incorporated area and that unincorporated area retains a low density residential FLU designation. On the west side of Hammock Road the City of Titusville boundary is located approximately 200 feet to the south, where a developed parcel with Heavy Industrial Zoning and Industrial Future Land Use currently exists.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric soils
- Indian River Lagoon Septic Overlay

- Protected Species

Portions of the property are mapped within the Indian River Lagoon Septic Overlay. If sewer is not available, the project will require septic systems that provide at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV-Nitrogen Reduction Overlay.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US-1, between Dairy Road and State Road 46, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 40.05% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 1.41%. The corridor is anticipated to continue to operate at 41.46% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

According to the School Impact Analysis Capacity Determination (CD-2019-18) dated November 20, 2019, the proposed development for the subject property is projected to generate 17 elementary students, 5 middle school students, and 10 high school students. CD-2019-18 concludes: "At this time, Mims Elementary School, Madison Middle School and Astronaut High School are projected to have enough capacity for the total of projected and potential students from the [proposed development on the subject property]."

The subject property is neither served by county nor city potable water. The nearest county potable water is approximately 3,000 feet east northeast of the property. The closest city potable water provided by City of Titusville Utilities is approximately 900 feet south of the property on the west side of Hammock Road.

The subject property is neither served by county nor city sanitary sewer. The nearest sanitary sewer is provided by City of Titusville Utilities and is located on Truman Scarborough Way, approximately 2,800 feet south of the property. The nearest county sewer is approximately 1.6 miles to the west of the property at the intersection of Parrish Road and Briarcliff Way.

The applicant's BDP states the project will connect to City of Titusville water and sewer. If centralized potable water is not provided, centralized sanitary sewer must be provided for densities greater than 2 units per acre per Future Land Use Element (FLUE) Policy 1.2 E that states: "Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system."

Applicable Land Use Policies

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

The RU-1-9 classification permits single-family residences on minimum 6,600 square foot lots with minimum widths of 66 feet and depth of 100 feet. The minimum house size is 900 square feet.

The adjacent properties to the north across Parrish Road retain Rural Residential Mobile Home (RRMH-1) and Single-Family Mobile Home (TR-1 and TR-2) zoning classifications and are currently developed with lot sizes ranging from 0.52 to 1.4 acres. The adjacent property to the south is 0.52 acres, retains TR-1 zoning, and is developed with a single-family manufactured home. The other property abutting to the south is a ~~45.29~~ 71.76 acre undeveloped parcel in the City of Titusville that retains City of Titusville Planned Unit Development Zone (PUDZ) zoning and Low Density Residential FLU designation with four pockets of City of Titusville Open Space Recreation (OR) zoning and Conservation FLU. The properties to the east and across Hammock Road (northern half) of the east lot line are developed under the TR-2 zoning classification with lots ranging in size from 0.5 to 0.59 acres. The abutting property to the east (southern half) of the east lot line is undeveloped and retains Planned Industrial Park (PIP) zoning. The seven properties abutting the subject property to the west all retain RR-1 zoning and are all developed with single-family homes with lot sizes ranging from 1.03 to 1.64 acres. The developed character of the area is half-acre to one-acre developed single family sites.

In review of Administrative Policy 3 (c), concerning the compatibility of the proposed rezoning with adjacent and surrounding historical and actual land use patterns, the fact that there have been no zoning actions within ½ mile of the subject property within the last three years, and the most recent request 14PZ-00061 approved September 4, 2014 downzoned the property from Rural Residential (RR-1) with a BDP to Agricultural Residential (AU), the RU-1-9 zoning classification is neither an established nor emerging zoning classification within the surrounding area. Further, Administrative Policy 4 states: "The character of the area must not be materially or adversely affected by the proposed rezoning or land use application." The neighboring lots are one-half acre or larger in size and have a rural neighborhood character. Although the required BDP limits the potential density to 62 single-family lots with central water and sewer connection, which allows RU-1-9 to be considered within the RES 2 FLU per Section 62-1255, RU-1-9 is not an established zoning classification in the neighborhood. Compatibility can be achieved by increasing the minimum lot size to ½ acre.

For Board Consideration

The applicant is seeking a change of zoning classification from Agricultural Residential (AU) to Single-Family Residential (RU-1-9) in order to develop a residential subdivision of up to 62 single-family lots. The request is accompanied by a Binding Development Plan (BDP) limiting the project density to two units per acre and committing to connection to central water and sewer. This rezoning request is accompanied by a companion SSCPA from PI to RES 2 20S.02 (20PZ00024) that would need to be approved by the Board in order for this rezoning to be considered.

The Board may wish to consider if introducing RU-1-9 zoning classification is consistent and compatible with the surrounding RRMH-1 and TR-2 zoning classifications. The Board may wish to consider whether the proposed BDP helps mitigate the potential impacts to the surrounding area and the proximity to the Indian River Lagoon.

The Board should note: the Code requires a landscaping & wall buffer when residential abuts a commercial or industrial zoning classification. The burden of the improvement is on the commercial/industrial zoned properties. The Board may wish to consider requiring the applicant provide the buffering at the time of development.

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

Item # 19PZ00158

Applicant: Theodore Goodenow, Chad Genoni

Zoning Request: Applicant wants to build a 62-unit subdivision on 31.43 acres.

P&Z Hearing Date: 03/09/20; **BCC Hearing date:** 04/02/20

Tax ID No: 2105262

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department 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
- Indian River Lagoon Septic Overlay
- Protected Species

Portions of the property are mapped within the Indian River Lagoon Septic Overlay. If sewer is not available, the project will require septic systems that provide at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV-Nitrogen Reduction Overlay.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains 100% hydric soils (Copeland-Bradenton-Wabasso complex, and Riviera sand), and a small area of mapped SJRWMD wetlands along the southern property boundary, as shown on the USDA SCSSs soils, and SJRWMD FLUCCS Wetlands maps, respectively; indicators that wetlands may be present on the property. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally

established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696.

Indian River Lagoon Septic Overlay

Portions of the property are mapped within the Indian River Lagoon Septic Overlay. If sewer is not available, the project will require septic systems that provide at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV-Nitrogen Reduction Overlay.

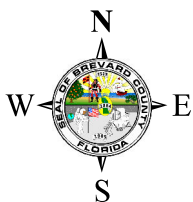
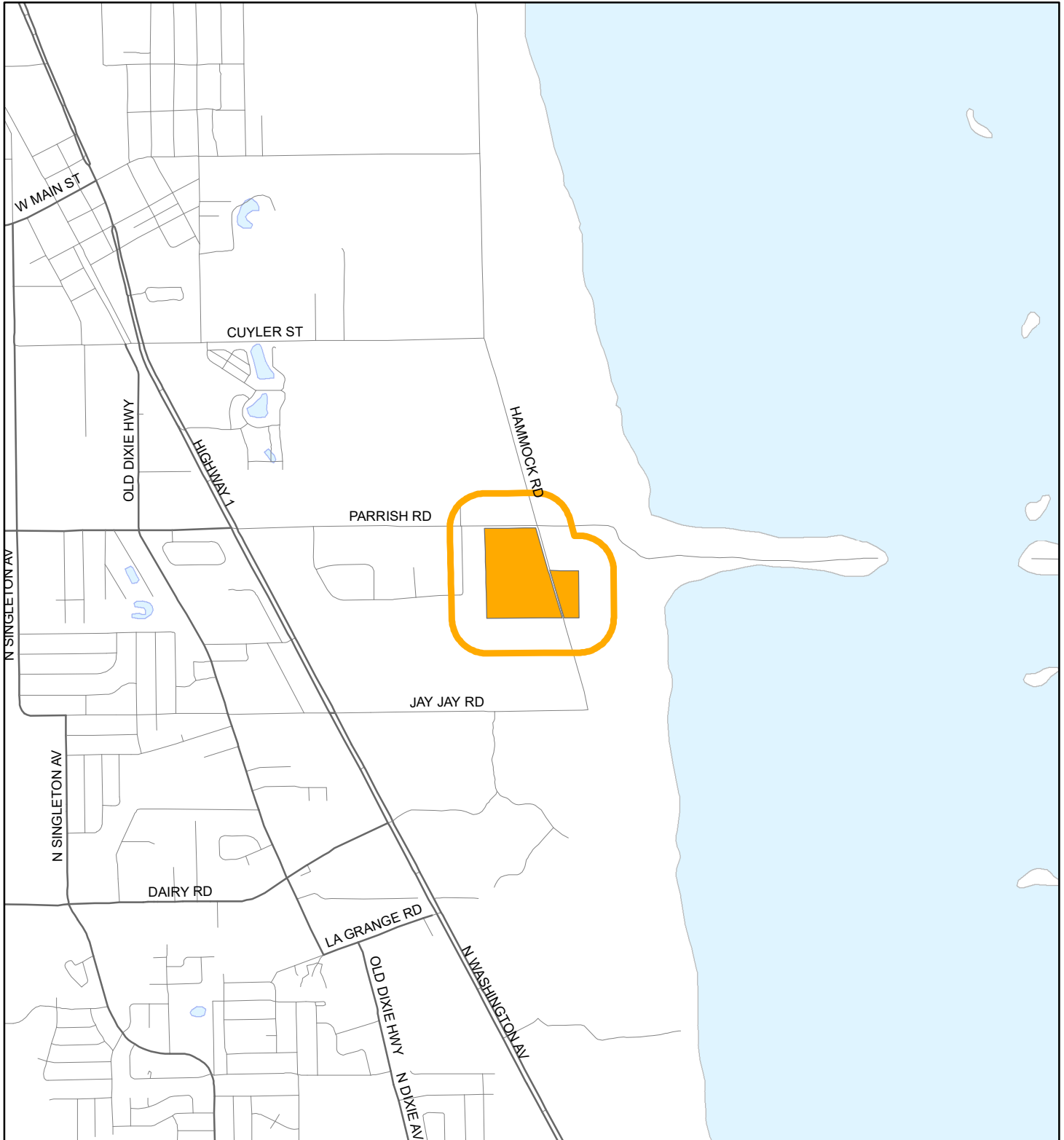
Protected Species

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

LOCATION MAP

GOODENOW, THEODORE C.

19PZ00158





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

Buffer Distance: 500 feet

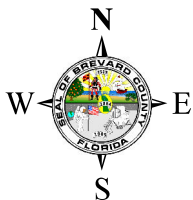
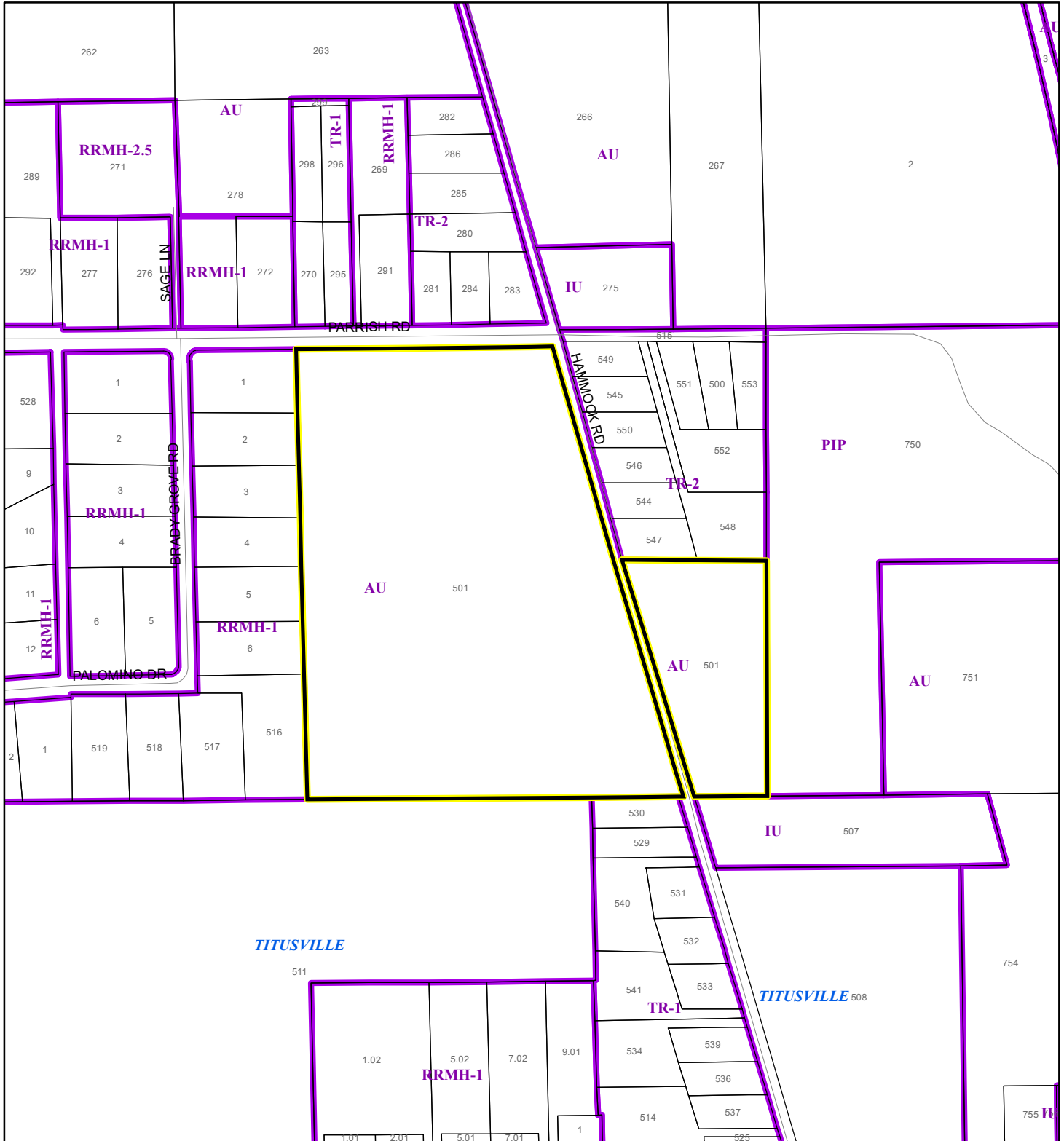
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/6/2020

 Buffer
 Subject Property

ZONING MAP

GOODENOW, THEODORE C.
19PZ00158



1:4,800 or 1 inch = 400 feet

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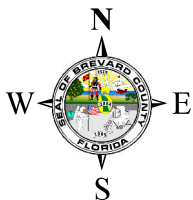
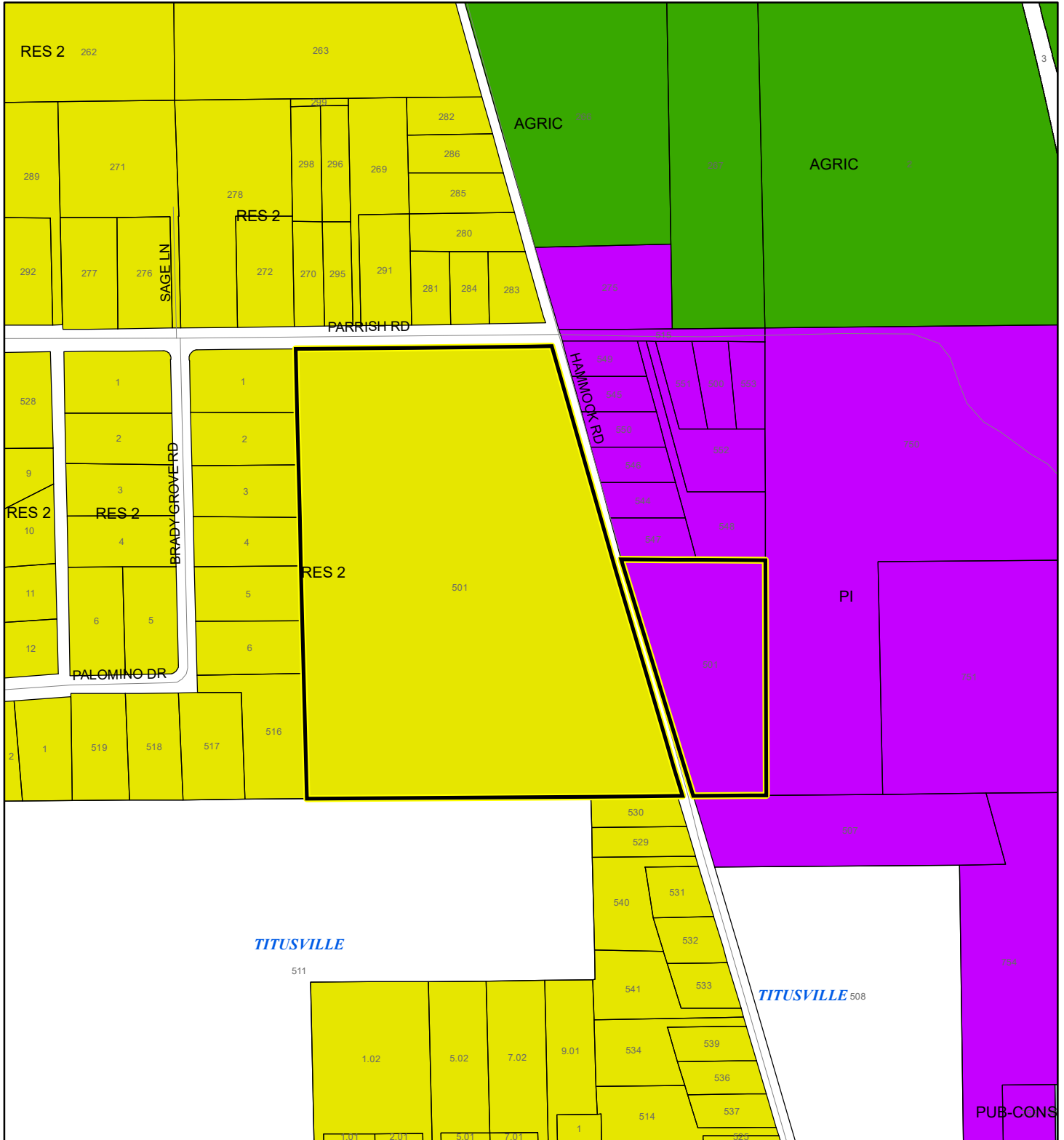
Produced by BoCC - GIS Date: 1/6/2020

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

GOODENOW, THEODORE C.

19PZ00158



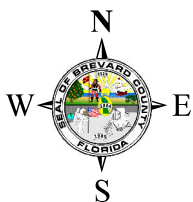
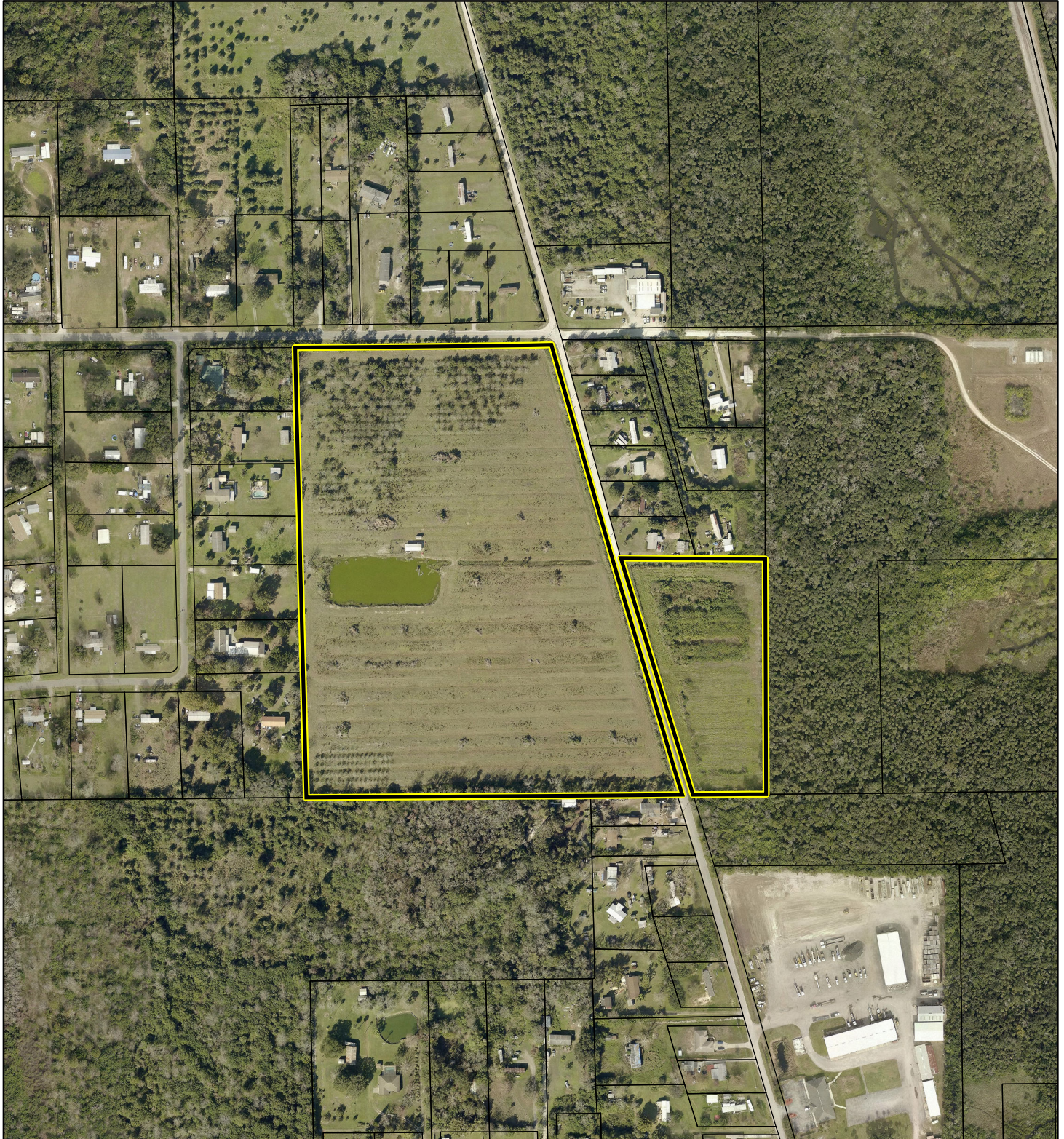
1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

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Produced by BoCC - GIS Date: 1/6/2020

AERIAL MAP
GOODENOW, THEODORE C.
19PZ00158





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2019

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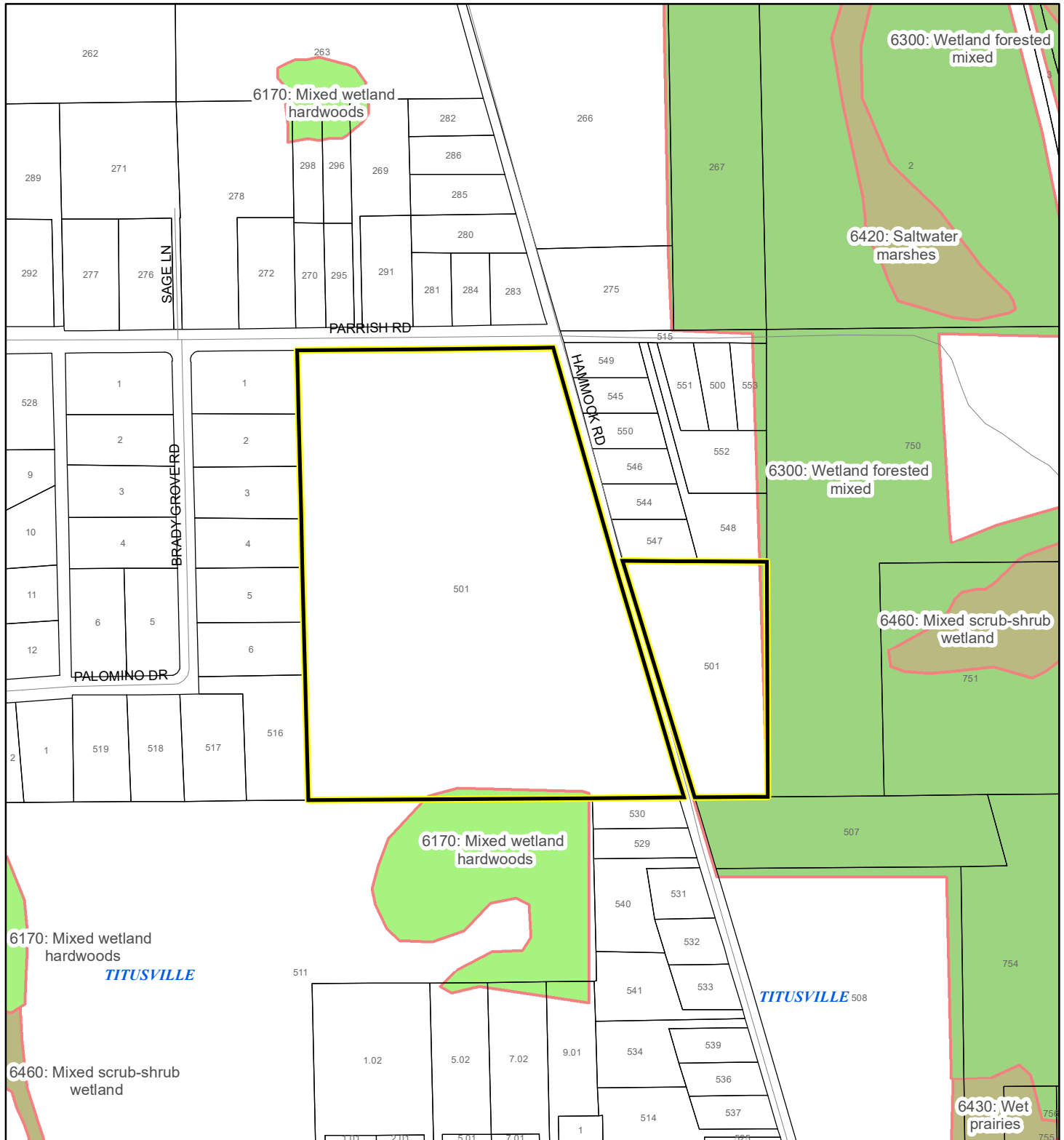
Produced by BoCC - GIS Date: 1/6/2020

 Subject Property
 Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

GOODENOW, THEODORE C.

19PZ00158



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2020

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

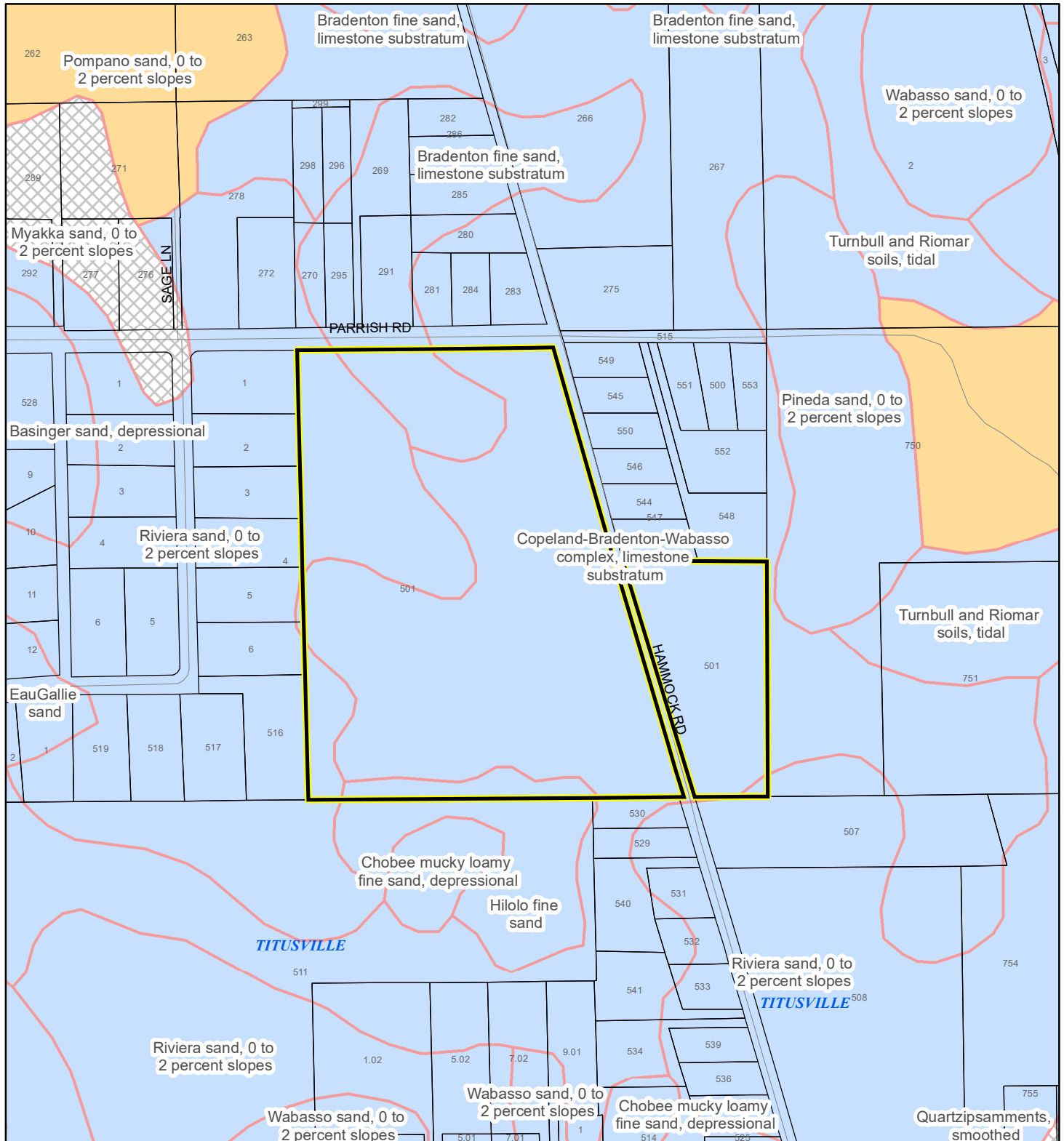
Subject Property

Parcels

USDA SCSSS SOILS MAP

GOODENOW, THEODORE C.

19PZ00158



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2020

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

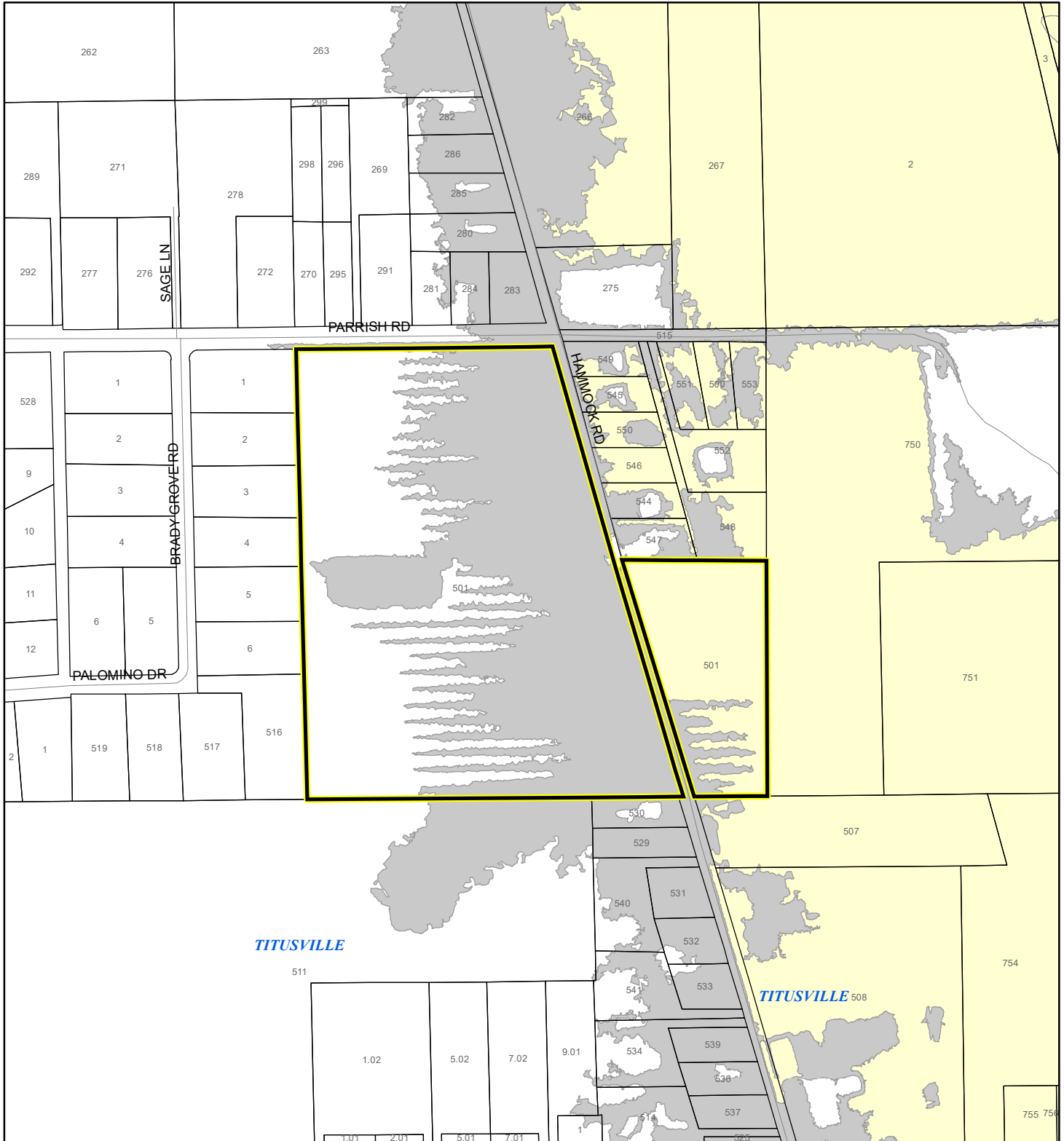
Subject Property

Parcels

FEMA FLOOD ZONES MAP

GOODENOW, THEODORE C.

19PZ00158



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2020

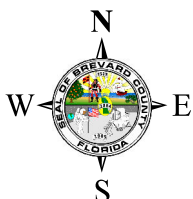
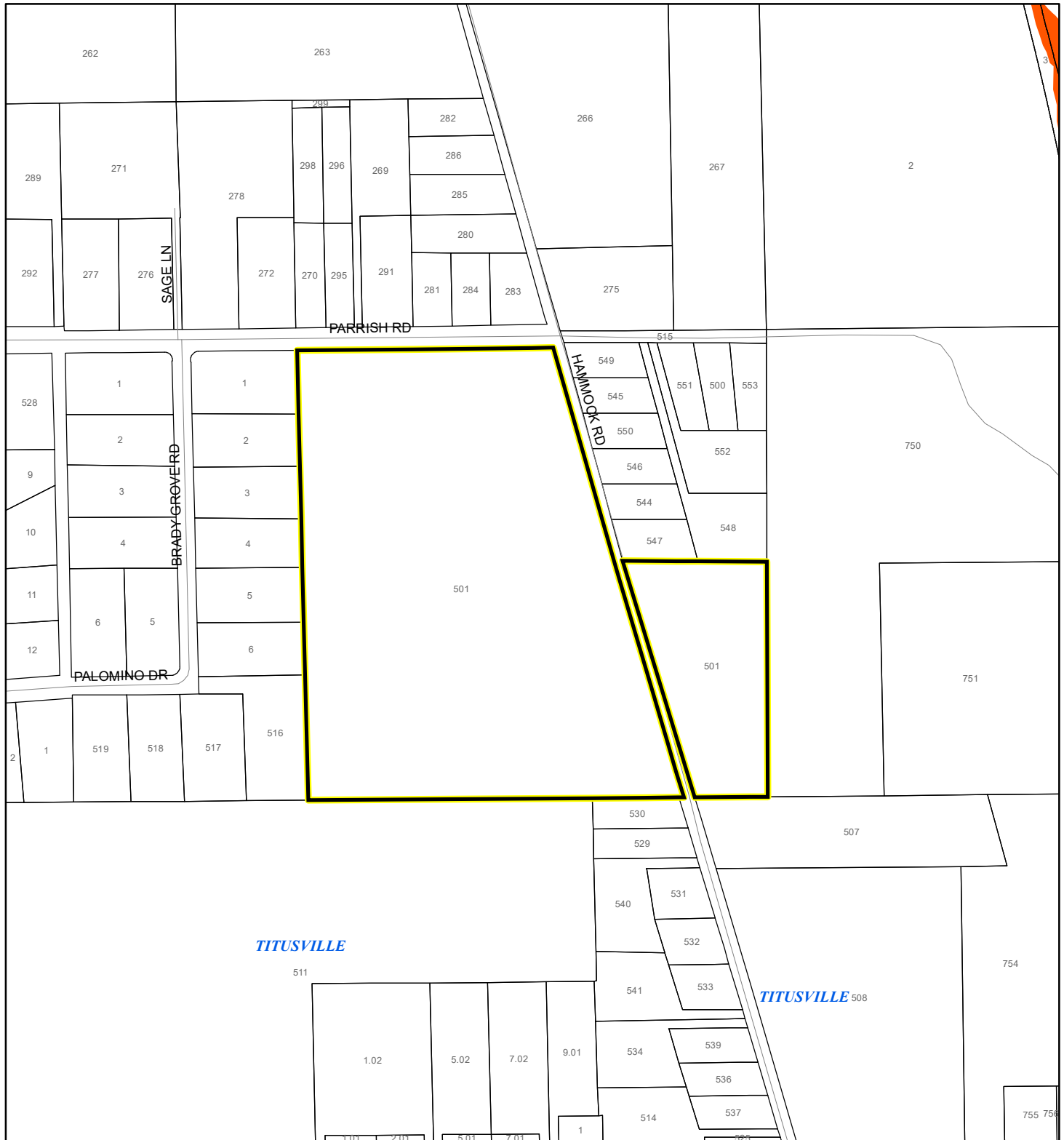
FEMA Flood Zones

 A	 AO	 X
 AE	 Open Water	 X Protected By Levee
 AH	 VE	
 0.2 Percent Annual Chance Flood Hazard		
 0.2 Percent Annual Chance Flood Hazard Contained in Channel		
 Subject Property		 Parcels

COASTAL HIGH HAZARD AREA MAP

GOODENOW, THEODORE C.

19PZ00158



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 1/6/2020

 Subject Property

 Parcels

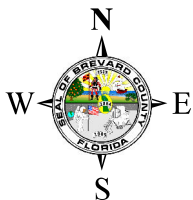
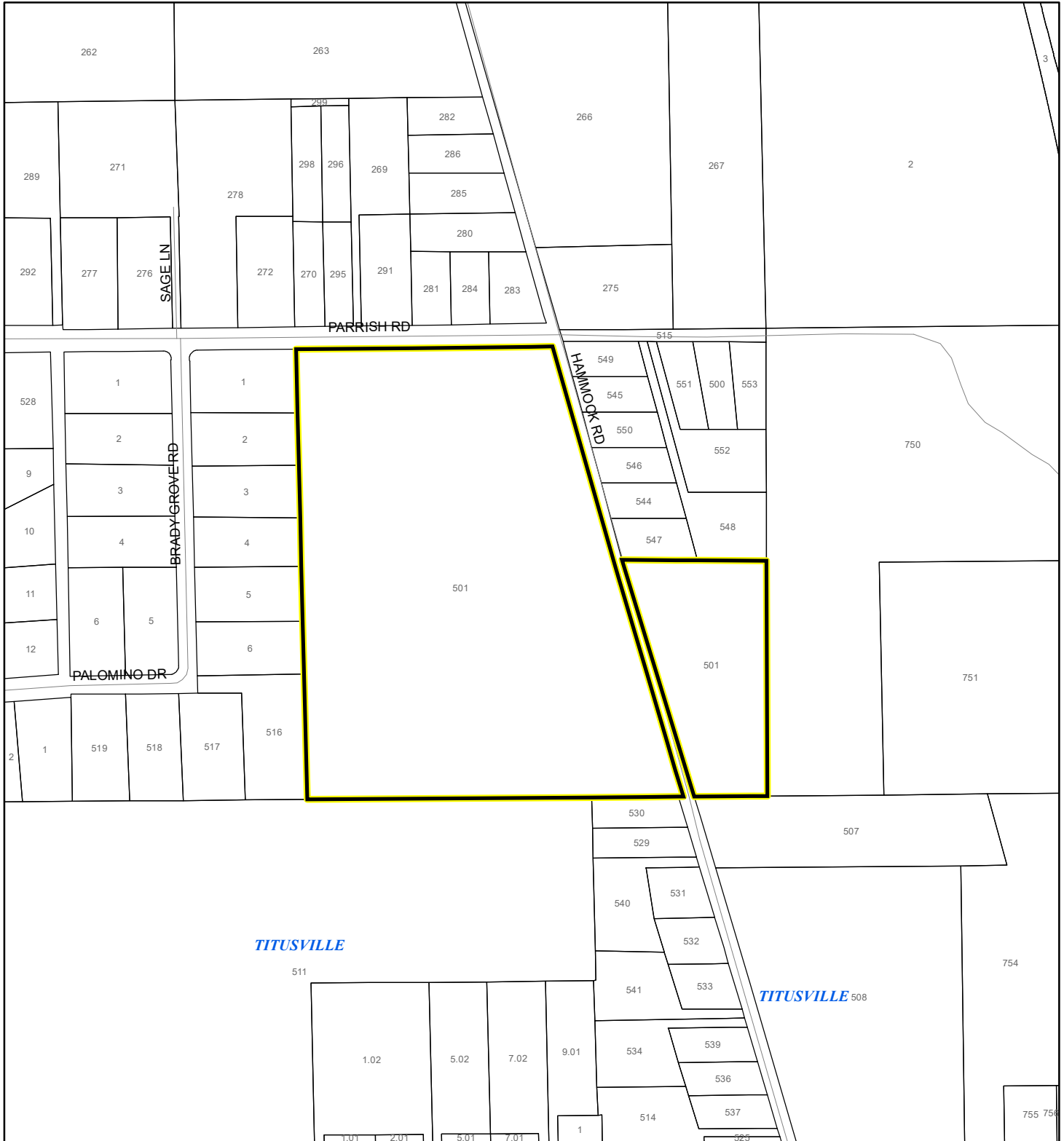
Coastal High Hazard Area

 SurgeZoneCat1

EAGLE NESTS MAP

GOODENOW, THEODORE C.

19PZ00158



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2020

 Subject Property

 Parcels

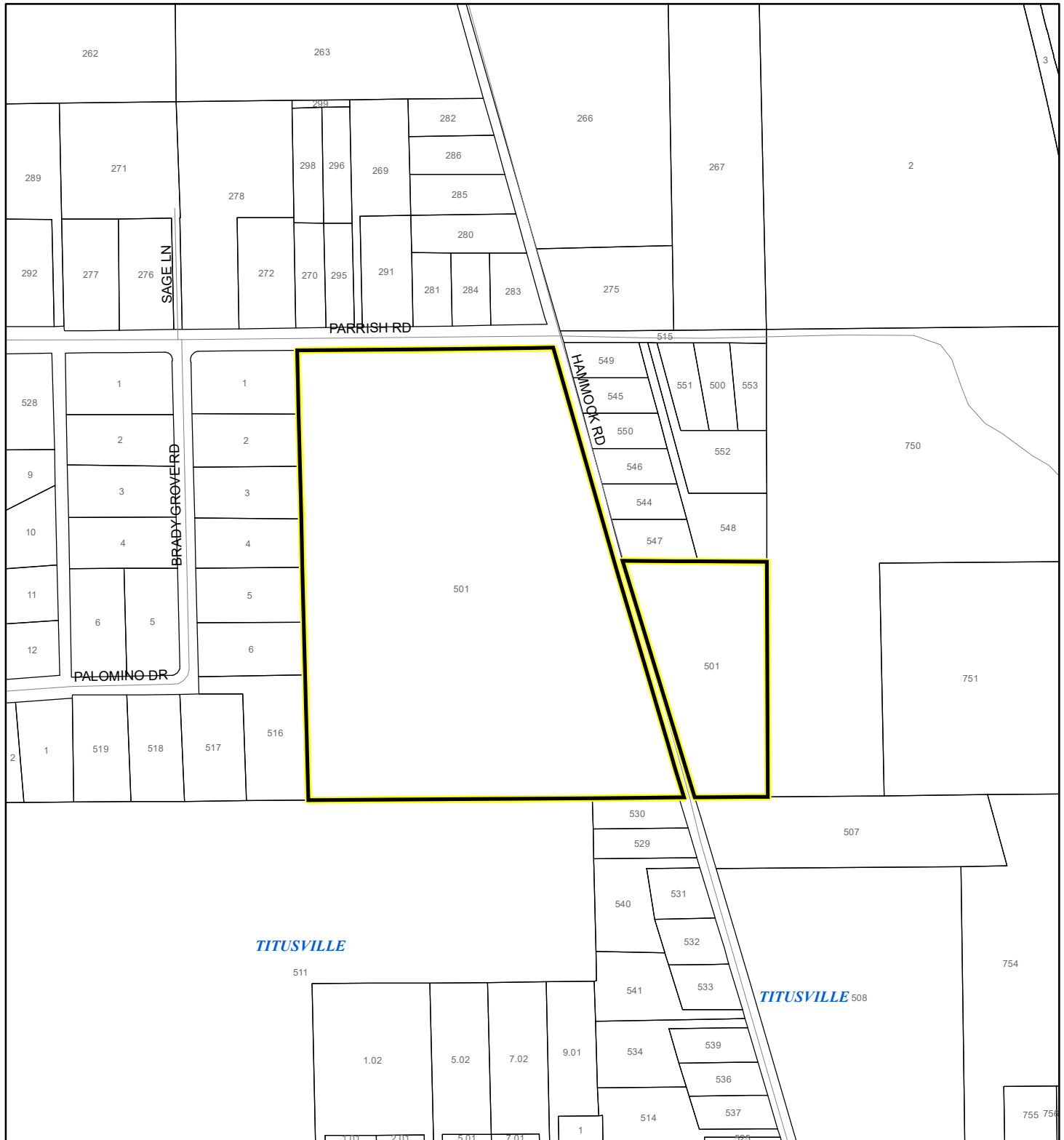


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

GOODENOW, THEODORE C.

19PZ00158



1:4,800 or 1 inch = 400 feet

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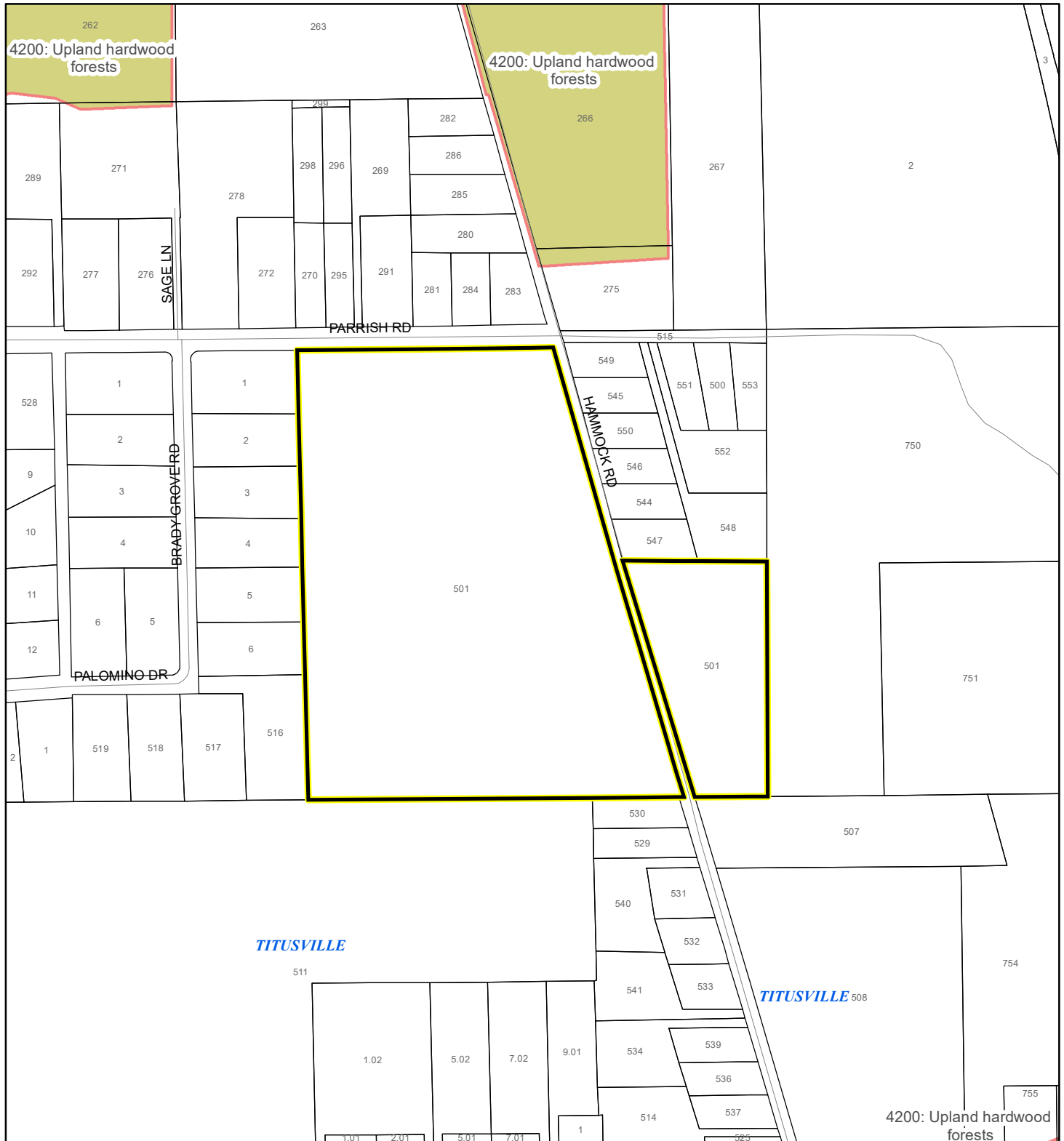
Produced by BoCC - GIS Date: 1/6/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

GOODENOW, THEODORE C.

19PZ00158



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2020

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
Mark W. Mullins, Ed.D., Superintendent

School Concurrency
19PZ00158
Goodenow

Public
Schools



November 20, 2019

Mr. Gabriel Quintas
Community Development Department
City of Titusville
555 South Washington Avenue
Post Office Box 2806
City of Titusville, Florida 32781-2806

**RE: Proposed Brooks Landing Phase 2 Development
School Impact Analysis - Capacity Determination CD-2019-18**

Dear Mr. Quintas,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property includes Tax Account 2105262 (Parcel ID: 21-35-21-00-501) containing approximately 31.43 acres in the City of Titusville, Brevard County, Florida. The proposed single-family development includes 62 homes. The School Impact Analysis of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2018-19 to 2023-24 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2018-19 to 2023-24* which is attached for reference.

Single Family Homes 62			
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students
Elementary	0.28	17.36	17
Middle	0.08	4.96	5
High	0.16	9.92	10
Total	0.52		32

Planning & Project Management
Facilities Services
Phone: (321) 633-1000 x450 • FAX: (321) 633-4646

**FISH Capacity (including relocatables) from the
Financially Feasible Plan Data and Analysis for School Years 2018-19 to 2023-24**

School	2019-20	2020-21	2021-22	2022-23	2023-24
Mims	725	725	725	725	725
Madison	743	743	743	743	743
Astronaut	1,446	1,446	1,446	1,446	1,446

Projected Student Membership

School	2019-20	2020-21	2021-22	2022-23	2023-24
Mims	472	450	458	485	478
Madison	496	491	465	455	475
Astronaut	1,081	1,101	1,144	1,176	1,189

Students Generated by Previously Issued SCADL Reservations

School	2019-20	2020-21	2021-22	2022-23	2023-24
Mims	6	6	6	6	6
Madison	21	24	24	24	24
Astronaut	132	137	137	137	137

**Cumulative Students Generated by
Proposed Development**

School	2019-20	2020-21	2021-22	2022-23	2023-24
Mims	-	3	7	11	17
Madison	-	1	2	3	5
Astronaut	-	2	4	6	10

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

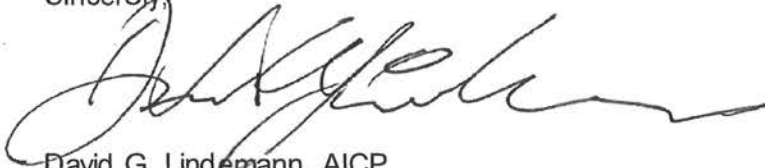
School	2019-20	2020-21	2021-22	2022-23	2023-24
Mims	478	459	471	502	501
Madison	517	516	491	482	504
Astronaut	1,213	1,240	1,285	1,319	1,336

At this time, Mims Elementary School, Madison Middle School and Astronaut High School are projected to have enough capacity for the total of projected and potential students from the Brooks Landing Phase 2 development.

This is a **non-binding** review; a *Concurrency Determination* must to 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,

A handwritten signature in black ink, appearing to read 'D. Lindemann', written over a horizontal line.

David G. Lindemann, AICP
Director - Facilities Planning & Intergovernmental Coordination
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years
2018-19 to 2023-24*

Copy: Susan Hann, Assistant Superintendent of Facilities Services
File CD-2019-18

Brevard County Public Schools

Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service

Data and Analysis for School Years 2018-19 to 2023-24



Summary				2018-19			2019-20			2020-21			2021-22			2022-23			2023-24		
Highest Utilization Elementary Schools:				107%			105%			99%			99%			100%			99%		
Highest Utilization Middle Schools:				87%			92%			92%			100%			99%			98%		
Highest Utilization Jr / Sr High Schools:				88%			89%			86%			86%			92%			94%		
Highest Utilization High Schools:				95%			96%			99%			100%			100%			99%		

School	Type	Grades	Utilization Factor	School Year 2018-19			School Year 2019-20			School Year 2020-21			School Year 2021-22			School Year 2022-23			School Year 2023-24		
				FISH Capacity	10/12/18 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																					
New Central Elementary	Elementary	K-6	100%	-	-	0%	-	-	0%	970	513	53%	970	639	66%	970	788	81%	970	788	81%
Allen	Elementary	PK-6	100%	751	711	95%	751	717	95%	751	703	94%	751	725	97%	751	716	95%	751	703	94%
Andersen	Elementary	K-6	100%	884	720	81%	884	706	80%	884	696	79%	884	686	78%	884	699	79%	884	706	80%
Apollo	Elementary	K-6	100%	902	847	94%	902	861	95%	902	872	97%	902	895	99%	902	901	100%	902	905	98%
Atlantis	Elementary	PK-6	100%	739	713	96%	739	693	94%	739	668	90%	739	669	91%	739	658	89%	739	641	87%
Audubon	Elementary	PK-6	100%	761	536	70%	761	538	71%	761	490	64%	761	485	64%	761	476	63%	761	483	63%
Cambridge	Elementary	PK-6	100%	765	661	86%	765	659	86%	765	641	84%	765	624	82%	765	616	81%	765	623	81%
Cape View	Elementary	PK-6	100%	548	381	70%	548	368	67%	548	348	64%	548	328	60%	548	320	58%	548	327	60%
Carroll	Elementary	K-6	100%	751	664	88%	751	661	88%	751	637	85%	751	597	79%	751	595	79%	751	581	77%
Challenger 7	Elementary	PK-6	100%	573	571	100%	595	577	97%	595	541	91%	595	526	88%	595	518	87%	595	502	84%
Columbia	Elementary	PK-6	100%	751	478	64%	751	449	60%	751	439	58%	751	446	59%	751	447	60%	751	437	58%
Coquina	Elementary	K-6	100%	711	515	72%	711	482	65%	711	427	60%	711	404	57%	711	374	53%	711	357	50%
Creel	Elementary	PK-6	100%	1,154	845	73%	1,154	853	74%	1,154	855	74%	1,154	876	76%	1,154	919	80%	1,154	932	81%
Croton	Elementary	PK-6	100%	795	552	69%	795	538	68%	795	559	70%	795	621	78%	795	626	79%	795	621	78%
Discovery	Elementary	PK-6	100%	980	644	66%	980	606	62%	980	587	60%	980	577	59%	980	592	60%	980	592	60%
Endeavour	Elementary	PK-6	100%	990	662	67%	990	649	66%	990	619	63%	990	590	60%	990	569	57%	990	573	58%
Enterprise	Elementary	K-6	100%	729	599	82%	729	620	85%	729	605	83%	729	615	84%	729	632	87%	729	643	88%
Fairglen	Elementary	PK-6	100%	789	681	86%	789	675	86%	789	680	86%	789	705	89%	789	732	93%	789	745	94%
Gemini	Elementary	K-6	100%	711	468	66%	711	467	66%	711	451	63%	711	430	60%	711	417	59%	711	418	59%
Golfview	Elementary	PK-6	100%	777	555	71%	777	517	67%	777	521	67%	777	510	66%	777	512	66%	777	503	65%
Harbor City	Elementary	PK-6	100%	629	371	59%	629	365	58%	629	347	55%	629	345	55%	629	366	58%	629	362	58%
Holland	Elementary	PK-6	100%	605	497	82%	605	510	84%	605	510	84%	605	507	84%	605	509	84%	605	511	84%
Imperial Estates	Elementary	K-6	100%	729	639	88%	729	630	86%	729	636	87%	751	636	85%	773	629	81%	773	611	79%
Indianantic	Elementary	K-6	100%	798	740	93%	798	737	92%	798	741	93%	798	740	93%	798	750	94%	798	765	96%
Jupiter	Elementary	PK-6	100%	930	728	78%	930	686	74%	930	749	81%	930	795	85%	930	828	89%	930	856	92%
Lockmar	Elementary	PK-6	100%	892	699	78%	892	674	76%	892	659	74%	892	655	73%	892	684	77%	892	677	76%
Longleaf	Elementary	PK-6	100%	790	647	82%	790	646	82%	790	618	78%	790	605	77%	790	591	75%	790	588	74%
Manatee	Elementary	K-6	100%	954	949	99%	954	950	100%	954	805	84%	954	801	84%	954	803	84%	954	782	82%
McAuliffe	Elementary	PK-6	100%	918	777	85%	918	763	83%	918	685	75%	918	655	71%	918	604	66%	918	598	65%
Meadowlane Intermediate	Elementary	3-6	100%	1,114	868	78%	1,114	847	76%	1,114	851	76%	1,114	886	80%	1,114	943	85%	1,114	978	88%
Meadowlane Primary	Elementary	K-6	100%	824	626	76%	824	637	77%	824	668	81%	824	682	83%	824	702	85%	824	704	85%
Mila	Elementary	PK-6	100%	707	465	66%	707	449	64%	707	442	63%	707	447	63%	707	447	63%	707	483	68%
Mims	Elementary	PK-6	100%	725	479	66%	725	472	65%	725	450	62%	725	458	63%	725	485	67%	725	478	66%
Oak Park	Elementary	PK-6	100%	968	723	75%	968	675	70%	968	658	68%	968	637	66%	968	629	65%	968	622	64%
Ocean Breeze	Elementary	PK-6	100%	654	532	81%	654	524	80%	654	511	78%	654	497	76%	654	490	75%	654	490	75%
Palm Bay	Elementary	PK-6	100%	1,005	615	61%	1,005	607	60%	1,005	622	62%	1,005	598	60%	1,005	649	65%	1,005	683	68%
Pinewood	Elementary	PK-6	100%	569	517	91%	569	506	89%	569	506	89%	591	512	87%	635	518	82%	679	530	78%
Port Malabar	Elementary	PK-6	100%	852	688	81%	852	682	80%	852	632	74%	852	607	71%	852	613	72%	852	604	71%
Quest	Elementary	PK-6	100%	1,022	1,089	107%	1,088	1,144	105%	1,088	970	89%	1,088	947	87%	1,088	875	80%	1,088	874	80%
Riviera	Elementary	PK-6	100%	777	692	89%	777	687	88%	777	771	99%	865	847	98%	865	852	98%	865	844	98%
Roosevelt	Elementary	K-6	100%	599	380	63%	599	360	60%	599	338	56%	599	331	55%	599	324	54%	599	322	54%
Sabal	Elementary	PK-6	100%	785	538	69%	785	533	68%	785	516	66%	785	507	65%	785	494	63%	785	485	62%
Saturn	Elementary	PK-6	100%	976	853	87%	976	877	90%	976	894	92%	976	933	96%	998	987	99%	1,086	1,070	99%
Sea Park	Elementary	PK-6	100%	461	321	70%	461	333	72%	461	301	65%	461	302	66%	461	335	73%	461	350	76%
Sherwood	Elementary	PK-6	100%	609	456	75%	609	442	73%	609	426	70%	609	410	67%	609	407	67%	609	423	69%
South Lake	Elementary	K-6	100%	481	311	65%	437	348	80%	437	348	80%	437	348	80%	437	348	80%	437	348	80%
Sunrise	Elementary	PK-6	100%	913	820	90%	913	800	88%	913	803	88%	913	844	92%	913	883	97%	935	914	98%
Suntree	Elementary	K-6	100%	755	675	89%	755	655	87%	755	556	74%	755	515	68%	755	498	66%	755	517	68%
Surfside	Elementary	K-6	100%	541	460	85%	541	456	84%	541	442	82%	541	421	78%	541	420	78%	541	392	72%
Tropical	Elementary	K-6	100%	910	825	91%	910	821	90%	910	826	91%	910	829	91%	910	813	89%	910	832	91%
Turner	Elementary	PK-6	100%	874	562	64%	874	519	59%	874	521	60%	874	509	58%	874	502	57%	874	516	59%
University Park	Elementary	PK-6	100%	811	473	58%	811	489	60%	811	566	70%	811	672	83%	811	721	89%	811	703	87%
Westside	Elementary	K-6	100%	857	769	90%	857	724	84%	857	733	86%	857	737	86%	857	829	97%	901	892	99%
Williams	Elementary	PK-6	100%	715	582	81%	715	568	79%	715	524	73%	715	530	74%	715	521	73%	715	508	71%
Elementary Totals				41,810	33,169		41,854	32,732		42,824	32,477		42,956	32,693		43,044	33,156		43,264	33,392	

Middle School Concurrency Service Areas																					
Central	Middle	7-8	90%	1,525	1,193	78%	1,525	1,195	78%	1,525	1,269	83%	1,525	1,230	81%	1,525	1,195	78%	1,525	1,207	79%
DeLaura	Middle	7-8	90%	939	819	87%	939	828	88%	939	833	89%	939	860	92%	939	874	93%	939	832	89%
Hoover	Middle	7-8	90%	659	506	77%	659	500	76%	659	512	78%	659	512	78%	659	502	76%	659	494	75%
Jackson	Middle	7-8	90%	654	548	84%	654	548	84%	654	604	92%	654	637	97%	674	664	99%	713	698	98%
Jefferson	Middle	7-8	90%	854	660	77%	854	662	78%	854	631	74%	854	595	70%	854	573	67%	854	530	62%
Johnson	Middle	7-8	90%	1,000	736	74%	1,000	746	75%	1,000	816	82%	1,000	797	80%	1,000	764	76%	1,000	761	76%
Kennedy	Middle	7-8	90%	813	611	75%	813	621	76%	813	675	83%	813	688	85%	813	739	91%	813	717	88%
Madison	Middle	7-8	90%	743	492	66%	743	496	67%	743	491	66%	743	465	63%	743	455	61%	743	475	64%
McNair	Middle	7-8	90%	611	480	79%	611	565	92%	611	539	88%	611	528	86%	611	552	90%	611	569	93%
Southwest	Middle	7-8	90%	1,177	833	71%	1,177	838	71%	1,177	944	80%	1,177	957	81%	1,177	930	79%	1,177	929	79%
Stone	Middle	7-8	90%	1,024	791	77%	1,024	824	80%	1,044	961	92%	1,044	1,041	100%	1,044	975	93%	1,044	985	94%
Middle Totals				9,999	7,669		9,999	7,823		10,019	8,275		10,019	8,310		10,039	8,223		10,078	8,197	
Junior / Senior High School Concurrency Service Areas																					
Cocoa	Jr / Sr High	PK, 7-12	90%	1,782	1,577	88%	1,782	1,582	89%	2,052	1,670	81%	2,052	1,762	86%	2,052	1,882	92%	2,052	1,929	94%
Cocoa Beach	Jr / Sr High	7-12	90%	1,466	1,013	69%	1,466	1,007	69%	1,466	977	67%	1,466	975	67%	1,466	950	65%	1,466	924	63%
Space Coast	Jr / Sr High	7-12	90%	1,857	1,586	85%	1,857	1,590	86%	1,857	1,588	86%	1,857	1,556	84%	1,857	1,513	81%	1,857	1,507	81%
Jr / Sr High Totals				5,105	4,176		5,105	4,179		5,375	4,235		5,375	4,293		5,375	4,345		5,375	4,360	
Senior High School Concurrency Service Areas																					
Astronaut	High	9-12	95%	1,446	1,076	74%	1,446	1,081	75%	1,446	1,101	76%	1,446	1,144	79%	1,446	1,176	81%	1,446	1,189	82%
Bayside	High	9-12	95%	2,235	1,706	76%	2,235	1,650	74%	2,235	1,691	76%	2,235	1,790	80%	2,235	1,901	85%	2,235	2,009	90%
Eau Gallie	High	PK, 9-12	95%	2,232	1,676	75%	2,232	1,687	76%	2,232	1,693	76%	2,232	1,770	79%	2,232	1,809	81%	2,232	1,832	82%
Heritage	High	9-12	95%	2,314	1,831	79%	2,314	1,807	78%	2,314	1,856	80%	2,314	1,966	85%	2,314	2,041	88%	2,314	2,059	89%
Melbourne	High	9-12	95%	2,356	2,113	90%	2,356	2,134	91%	2,356	2,198	93%	2,356	2,353	100%	2,474	2,455	99%	2,617	2,476	95%
Merritt Island	High	PK, 9-12	95%	1,915	1,542	81%	1,915	1,555	81%	1,915	1,571	82%	1,915	1,577	82%	1,915	1,598	83%	1,915	1,583	83%
Palm Bay	High	PK, 9-12	95%	2,613	1,543	59%	2,613	1,583	61%	2,613	1,706	65%	2,613	1,796	69%	2,613	2,011	77%	2,613	2,134	82%
Rockledge	High	9-12	95%	1,701	1,516	89%	1,701	1,520	89%	1,701	1,541	91%	1,701	1,583	93%	1,701	1,599	94%	1,701	1,657	97%
Satellite	High	PK, 9-12	95%	1,516	1,328	88%	1,516	1,345	89%	1,516	1,371	90%	1,516	1,383	91%	1,516	1,387	91%	1,516	1,392	92%
Titusville	High	9-12	95%	1,872	1,361	74%	1,872	1,343	72%	1,872	1,411	75%	1,872	1,456	78%	1,872	1,590	85%	1,872	1,677	90%
Viera	High	PK, 9-12	95%	2,277	2,157	95%	2,277	2,195	96%	2,277	2,263	99%	2,277	2,445	99%	2,609	2,605	100%	2,680	2,662	99%
High Totals				22,477	17,869		22,477	17,900		22,477	18,402		22,667	19,263		22,927	20,172		23,141	20,670	
Schools of Choice (Not Concurrency Service Areas)																					
Freedom 7	Elementary	K-6	100%	475	387	81%	475	414	87%	475	414	87%	475	414	87%	475	414	87%	475	414	87%
Stevenson	Elementary	K-6	100%	569	506	89%	569	509	89%	569	509	89%	569	509	89%	569	509	89%	569	509	89%
West Melbourne	Elementary	K-6	100%	618	553	89%	618	552	89%	618	552	89%	618	552	89%	618	552	89%	618	552	89%
Edgewood	Jr / Sr High	7-12	90%	1,072	948	88%	1,072	950	89%	1,072	950	89%	1,072	950	89%	1,072	950	89%	1,072	950	89%
West Shore	Jr / Sr High	7-12	90%	1,264	953	75%	1,264	956	76%	1,264	956	76%	1,264	956	76%	1,264	956	76%	1,264	956	76%
Schools of Choice				3,998	3,347		3,998	3,381		3,998	3,381		3,998	3,381		3,998	3,381		3,998	3,381	
Brevard Totals				83,389	66,230		83,433	66,015		84,693	66,770		85,015	67,940		85,383	69,277		85,856	70,000	

Notes

- FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2018-19 are reported from the FISH database as of October 10, 2018.
- Student Membership is reported from the Fall Final Membership Count (10/12/18).
- 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
- 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.
- 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.
- 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 Apollo Elementary, Challenger 7 Elementary, Coquina Elementary, Imperial Estates Elementary, Pinewood Elementary, Quest Elementary, Saturn Elementary, Sunrise Elementary, DeLaura Middle School, Jackson Middle School and Kennedy Middle (Total of 42 Classrooms).
 - High school relocatable classrooms are proposed to be added at Viera High (Total of 8 Classrooms)
- Redistricting was approved for the 2019-20 school year and the projected enrollment for 2019-20 is adjusted for those areas. Future redistricting is planned for a new central area elementary school in 2020-21.
- The following proposals for additional permanent capacity are included in this analysis:
 - A 12 classroom addition at Cocoa Jr/Sr High School is assumed to add 300 student stations starting in 2019-20
 - A new central area elementary is assumed to add 970 student stations starting in 2020-21. Student enrollment projections were adjusted for the 2020-21 school year.

**BINDING
DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Theodore C. Goodenow, (hereinafter referred to as Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the RU 1-9 zoning classification and desire to develop the Property as a Single-Family Subdivision, and pursuant to the Brevard County Code, Section 62-1157; and

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

WHEREAS, the County is authorized to regulate development of the

Property. NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. The Developer/Owner shall limit the project density to 62 Units with the current Future Land Use Designation of RES 2. The Developer/Owner will hook up to Titusville Water and Sewer services.

3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards

or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

4. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Courts the cost of recording this Agreement in the Public Records of Brevard County, Florida.

5. This Agreement shall be binding and shall insure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property and be subject to the above referenced conditions as approved by the Board of County Commissioners on _____, 20___. In the event the subject Property is annexed into a municipality and rezoned, this agreement shall be null and void.

6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 6 above.

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

ATTEST:

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

Scott Ellis, Clerk
(SEAL)

_____ Chair
As approved by the Board on _____

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

WITNESSES:

OWNER

Theodore C. Goodenow

(Witness Name typed or printed)

605 Sugartown St Port St. John FL 32927

(Witness Name typed or Printed)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____, as _____ of _____,
who is personally known or produced _____ as identification.

My commission expires _____
Commission no _____
SEAL

Notary Public
(Name typed, printed or stamped)

Exhibit "A"

Account 2105262

N 1/2 of NE ¼ of SW ¼ lying W of Hammock Rd & S ½ of NE ¼ of SW ¼ Exc RD R/W Pars 502,506 & 543

Prepared by: Charles B. Genoni
Beachland Managers, LLC
4760 N. US1 #201
Melbourne FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Theodore C. Goodenow, (hereinafter referred to as Owner").

RECITALS

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

WHEREAS, Developer/Owner has requested the RU 1-9 zoning classification and desire to develop the Property as a Single-Family Subdivision, and pursuant to the Brevard County Code, Section 62-1157; and

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

WHEREAS, the County is authorized to regulate development of the Property. NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The following conditions shall apply:
 - a. The Developer/Owner shall limit the project density to 62 Units with the current Future Land Use Designation of RES 2.

- b. The Developer/Owner will hook up to Titusville Water and Sewer services.
 - c. The total maximum density for the project will include the 4.845 acres of land on the east side of Hammack Rd. and the 26.328 acres of land on the west side of Hammock Rd. and shall be limited to a cumulative 62 units.
 - d. The land on East side of Hammock Rd. shall be further limited to no more than five ½ acre lots. Any lots allowed by the zoning category on the eastern portion of the Property can be recaptured on western portion of the Property so that the average density of the east side and west side combined is 2 units per acre or 62 units total.
 - e. The minimum lot size shall be 9,000 sq. ft. for lots on the west side of Hammock Rd.
 - f. There shall be a 25' buffer on the west property line of the west 26.328-acre parcel. Said buffer may be included in the rear and/or side lot setback. There shall be a 25' buffer on the north property line of the east 4.845-acre parcel. Said buffer may be included in the rear and/or side lot setback.
3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.
4. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Courts the cost of recording this Agreement in the Public Records of Brevard County, Florida.
5. This Agreement shall be binding and shall insure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property and be subject to the above referenced conditions as approved by the Board of County Commissioners on _____ 20____. In the event the subject Property is annexed into a municipality and rezoned, this agreement shall be null and void.
6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this

Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.

7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 6 above.

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

ATTEST:

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

Scott Ellis, Clerk
(SEAL)

As approved by the Board on _____ Chair

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

WITNESSES:

OWNER

Theodore C. Goodenow

(Witness Name typed or printed)

605 Sugartown St Port St. John FL 32927

(Witness Name typed or Printed)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,

by _____, as _____ of _____,

who is personally known or produced _____ as identification.

My commission expires _____

Commission no _____

SEAL

Notary Public

(Name typed, printed or stamped)

Exhibit "A"

Account 2105262

N 1/2 of NE ¼ of SW ¼ lying W of Hammock Rd & S ½ of NE ¼ of SW ¼ Exc RD R/W Pars 502,506 & 543



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

7/6/2020

Subject:

Richard R. Jr., and Gina M. Wrubel, Trust, request a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC to CC. (20PZ00051) Tax Account 2000354) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Local Planning Agency conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from NC (Neighborhood Commercial) to CC (Community Commercial).

Summary Explanation and Background:

The applicant is seeking to amend the FLU (Future Land Use) designation from NC (Neighborhood Commercial) to CC (Community Commercial) on a 1.32-acre parcel, located on the northwest corner of McCullough Road and U.S. Highway 1, in Mims. The subject property is currently vacant and has a FLU designation of NC which has been in place since 2001.

The subject parcel is contiguous to parcels with a CC FLU designation on the north and west, and with a NC designation to the east across U.S. Highway 1, and south across McCullough Road. Because the subject parcel had residential zoning when the FLU designations were changed in 2001, this parcel received a NC designation. The CC FLU designation provides an array of retail, personal, and professional uses intended to serve several neighborhoods, sub-regional, and regional areas. A companion rezoning application for a change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial) accompanies this small scale plan amendment request.

The Board may wish to consider whether the proposed CC Future Land Use designation is consistent with the surrounding area, which is largely CC on the west side of U.S. Highway 1.

The final public hearing will be held by the Board of County Commissioners on **THURSDAY, AUGUST 6, 2020 at 5:00 p.m.**, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Building C, Viera, Florida.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return 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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

CONDITIONAL USE PERMITS (CUPs)

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

(b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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

FUTURE LAND USE MAP SERIES PLAN AMENDMENT

Small Scale Plan Amendment 20S.04 (20PZ00051)
Township 20, Range 35, Sections 31

Property Information

Owner / Applicant: **Richard R. Wrubel Jr. and Gina M. Wrubel Trust**

Adopted Future Land Use Map Designation: NC

Requested Future Land Use Map Designation: CC

Acreage: 1.32 acres Tax Account #: 2000354

Site Location: Northwest corner of McCullough Road and U.S. Highway 1

Current Zoning: AU

Requested Zoning: BU-1

Background & Purpose

The applicant is seeking to amend the Future Land Use designation from Neighborhood Commercial (NC) to Community Commercial (CC) on a 1.32 acre parcel of land. The subject property is currently vacant and has a Future Land Use (FLU) designation of Neighborhood Commercial (NC) which has been in place since 2001 when Brevard County combined the Future Land Use Map with the Density Map during an Evaluation and Appraisal Review (EAR).

Prior to 2001, the subject parcel had a density designation of Mixed Use (MU) which provided for a variety of residential and commercial uses since Brevard County adopted the Comprehensive Plan in September of 1988. In 2001, the County combined the Density and Future Land Use Map into the current Future Land Use Map thus changing the designations from MU to NC and CC along this section of U.S. Highway 1. Properties with a residential zoning received a FLU designation change from MU to NC and properties with a commercial zoning received a FLU designation change of MU to CC.

The subject parcel is contiguous to parcels with a CC Future Land Use designation on the north and west and with a NC designation to the east across U.S. Highway 1 and south across McCullough Road. Because the subject parcel had residential zoning when the FLU designations were changed in 2001, this parcel received a NC designation.

The CC Future Land Use designation provides an array of retail, personal and professional uses intended to serve several neighborhoods, sub-regional and regional areas.

A companion rezoning application was submitted accompanying this request for a change of zoning classification from Agricultural Use (AU) to General Retail Commercial (BU-1).

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Vacant Commercial	BU-1-A	CC
South	Vacant Commercial	AU	NC
East	Vacant Single-Family, Two Single-Family Residences	AU & RR-1	NC
West	Vacant Commercial	BU-1-A	CC

Environmental Resources

Based on the summary provided by the Natural Resource Management Department, it has been determined that the following are present on the subject property:

- Protected Species
- Heritage Specimen Trees

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.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered.

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

Criteria:

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

1. historical land use patterns;

There is a historical land use pattern of single-family residences on the east side of U.S. Highway 1. There is one professional office approximately 597' north of the subject property. The majority of parcels along this section of U.S. Highway 1 are undeveloped commercial properties.

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

There has not been any actual development within the preceding three (3) years however, there have been 3 zoning actions in 2017, 2018 and 2020.

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

There have been no development approvals within the past three (3) years that have not yet been constructed.

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.

Based upon a traffic analysis, this segment of U.S. Highway 1 from Lionel Road to Burkholm Road will not be negatively impacted by a CC land use. Currently, this segment is operating at a level of service (LOS) of C. With a CC FLU designation, the LOS will remain the same.

Role of the Comprehensive Plan in the Designation of Commercial Lands

Policy 2.1

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

Criteria:

- A. Overall accessibility to the site;

The subject parcel does have frontage on U.S. Highway 1, an Urban Principal Arterial roadway.

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

The subject parcel is adjacent to parcels with a Future Land Use designation of CC on the north and west sides. These parcels are currently undeveloped and have the potential to provide inter-connectivity at the time of development.

- C. Existing commercial development trend in the area;

This segment of U.S. Highway 1 remains largely as undeveloped commercial properties with a FLU designation of NC and CC. On the east side of the subject site, across U.S. Highway 1, are single-family residences the majority of which were built in the 1980's with a FLU designation of NC.

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

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

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

The subject parcel is not served by Brevard County Utilities' potable water supply. Currently, there is a Brevard County water line approximately 1,570' south of McCullough Road. There is no sanitary sewer available for this parcel nor the surrounding parcels.

- F. Spacing from other commercial activities;

The subject parcel is adjacent to vacant commercial land to the north, west and south and developed residential uses across U.S. Highway 1 to the east. This section of U.S. Highway 1 has predominantly commercial land uses to serve several neighborhoods and sub-regional areas and provide an array of retail, personal and professional uses.

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

The FLU designation change from NC to CC is proposed on a 1.32 acre parcel of land. Consistent with Policy 2.7 of the Future Land Use Element of the Comprehensive Plan, community commercial development is intended to serve several neighborhoods and sub-regional areas and provide an array of retail, personal and professional uses.

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

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

- I. Integration of open space; and

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

- J. Impacts upon strip commercial development.

The subject parcel does not extend strip commercial development. This section of U.S. Highway 1 between Lionel Road and Burkholm Road, has adjacent commercial land uses.

Activities Permitted in Community Commercial (CC) Future Land Use Designations Policy 2.7

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

- a) Existing strip commercial;
- 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 2.12; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

Locational and Development Criteria for Community Commercial Uses

Policy 2.8

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

Criteria:

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

This section of U.S. Highway 1 had a FLU designation of MU until the EAR in 2001, which changed the FLU designations from MU to NC and CC.

The subject site is located at the intersection of U.S. Highway 1, an Urban Arterial roadway and McCollough Road, a Local road. This section of U.S. Highway 1 was not intended to meet the Commercial Cluster criteria of commercial properties located at a Collector/Arterial intersection.

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

This 1.32 acre site would not exceed community commercial complexes of greater than forty (40) acres at an intersection.

- B. 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.

Because this segment of U.S. Highway 1 was not intended to be a commercial cluster but rather part of an overall commercial corridor, this criterion does not apply.

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

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

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

This parcel has the potential for a 5,755 square foot building. The Floor Area Ratio (FAR) is regulated through the land development regulations at the time of site plan review.

- 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.

This parcel does meet the criteria to be developed as a recreational vehicle park because it does have access to an interstate interchange from U.S. Highway 1.

Policy 2.15

Judging the suitability of a location for an extension of strip commercial development activities shall be based upon the following minimum criteria:

Criteria:

- A. Impacts upon traffic circulation should be anticipated and mitigated through the reservation of right-of-way for road widening and marginal access streets. Access points for strip commercial complexes shall seek to minimize points of conflict by utilizing frontage roads, providing cross-access between parcels or installing shared use curb cuts for access driveways to the maximum extent feasible, as determined by Brevard County.

The subject parcel does have frontage on U.S. Highway 1, a Principal Arterial roadway to the east. In addition, there is potential for access onto McCulloch Road to the south. If this parcel were to be developed, cross-access can be achieved with the parcel directly adjacent to the west.

- B. Setbacks and landscaped or other appropriate buffers shall be established to mitigate the visual impacts of strip commercial development.

When developed with a CC land use, the site plan associated with it will be reviewed for setbacks, landscape and buffering as part of that review to meet the current Land Development Regulations at the time of development.

- C. A sidewalk or bicycle path shall be required where appropriate, as encouraged by Tables 2.1 and 2.2 to provide convenient access to surrounding residents and to reduce traffic volumes on the roadways.

At the time of Site Plan review, the proposed commercial development will be reviewed taking into consideration the integration of both vehicular and non-vehicular access into the site. Currently there is no sidewalk along this portion of U.S. Highway 1 to the east nor on McCulloch Road to the south.

For Board Consideration

This request is seeking a change in Future Land Use (FLU) designation from Neighborhood Commercial (NC) to Community Commercial (CC) on 1.32 acre parcel. This section of the U.S. Highway 1 corridor, from Lionel to Burkholm Road, is intended to serve the nearby residential neighborhoods and sub-regional regional areas with an array of retail, personal and professional uses.

The subject 1.32 acre parcel currently has an existing FLU designation of NC with a CC designation on both the north and west sides. At the time of the Evaluation and Appraisal Report (EAR) in 2001, the FLU designations along this corridor were changed from Mixed Use (MU) to NC and CC. Properties with a residential zoning designation were given a NC FLU designation and parcels with a commercial zoning designation were given a CC FLU designation.

A preliminary concurrency analysis indicates that the proposed change in Future Land Use designation from NC to CC would not generate traffic that would cause deficiency of the adopted roadway level of service (LOS). Today, the traffic counts indicate that this section of U.S. Highway 1 is operating at a LOS of C and with the proposed change of use it would remain the same.

This request is accompanied by a companion proposal for a change of Zoning classification from Agricultural Residential (AU) to General Retail Commercial (BU-1).

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use Review & Summary
Item # 20PZ00051**

Applicant: Richard & Gina Wrubel

Future Land Use Request: NC to CC

Note: Applicant wants to rezone to be consistent with surrounding area and adjacent parcel also owned by applicant.

P&Z Hearing Date: 07/06/20; **BCC Hearing Date:** 08/06/20

Tax ID No: 2000354

- 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.**
- If the owner/applicant has any questions regarding any potential limitations, s/he is encouraged to contact Natural Resources Management (NRM) at 321-633-2016 prior to any land clearing activities, plan, or permit submittal.

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Protected Species
- Heritage Specimen Trees

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

Land Use Comments:

Protected Species

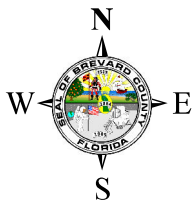
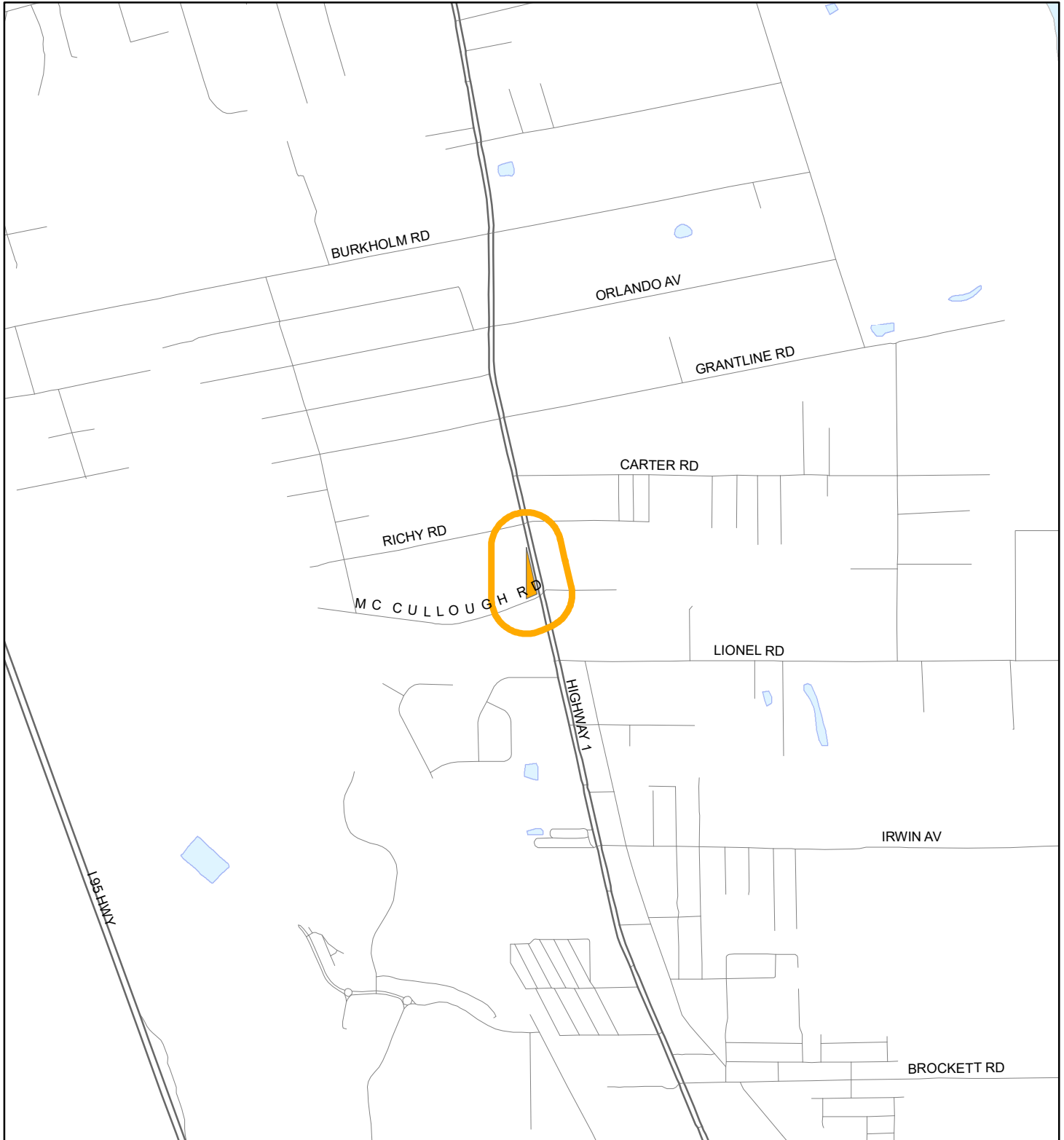
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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

Heritage Specimen Trees

The entire parcel is mapped with SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 4110 – Pine Flatwoods. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal.

LOCATION MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



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

Buffer Distance: 500 feet

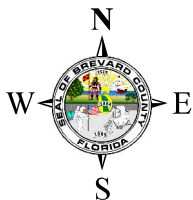
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/30/2020

Buffer
Subject Property

ZONING MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

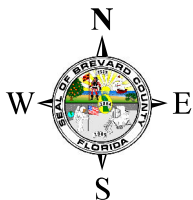
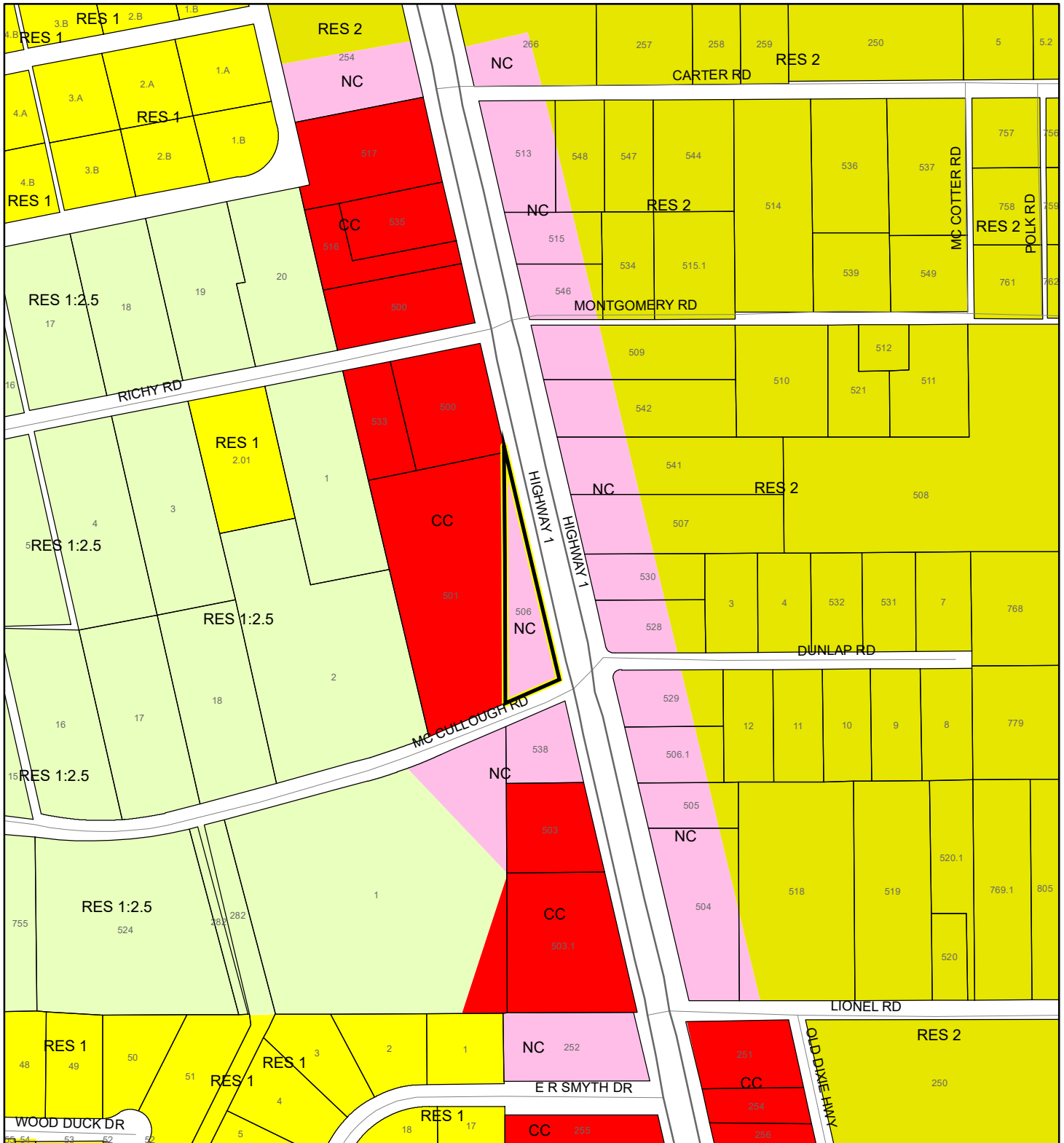
 Subject Property

Parcels

Zoning

FUTURE LAND USE MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

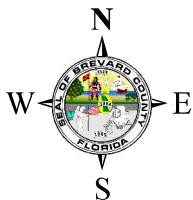
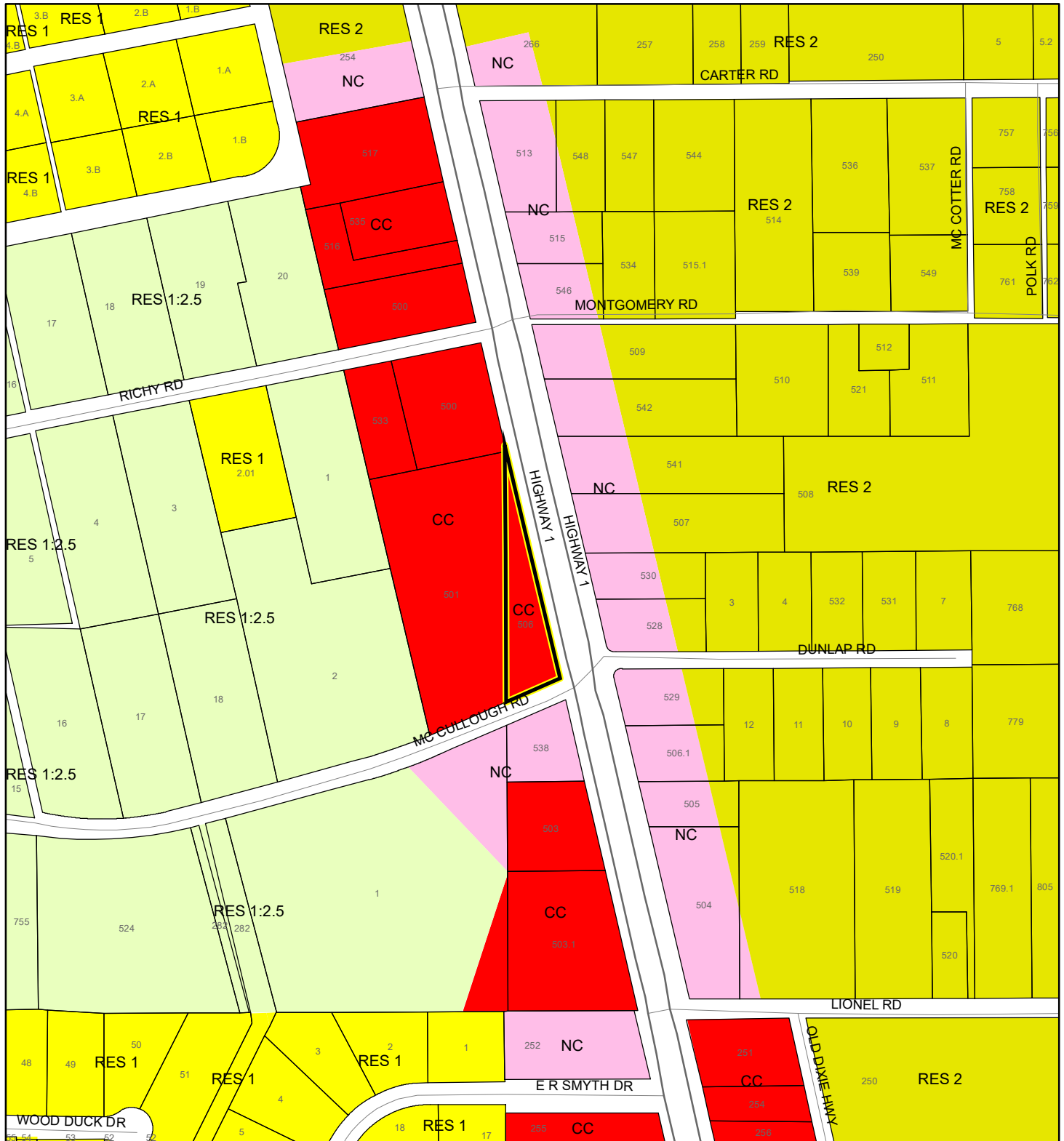
Subject Property
 Parcels

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: 4/30/2020

PROPOSED FUTURE LAND USE MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

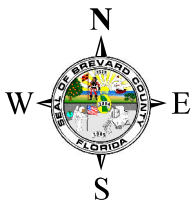
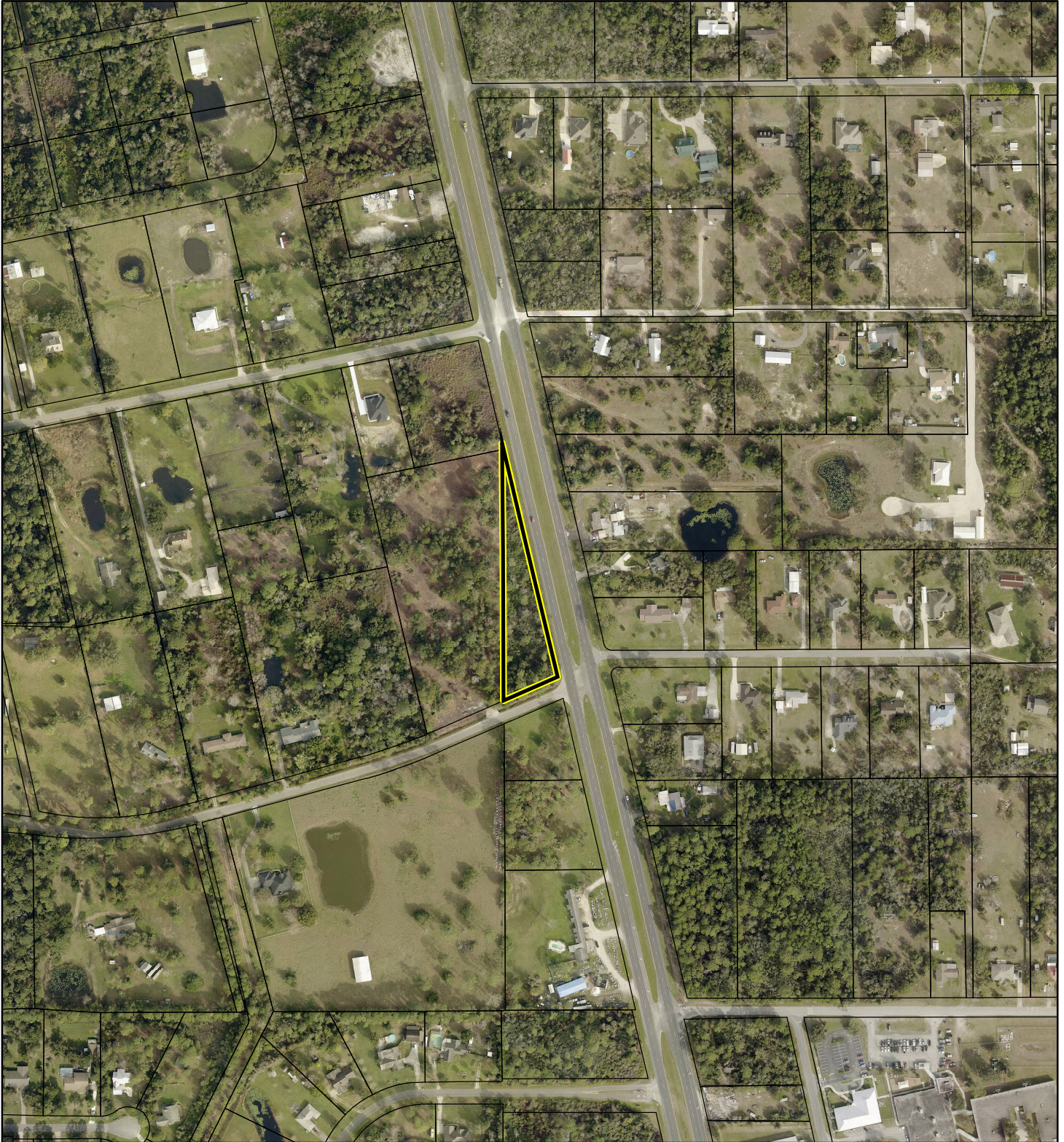
Subject Property
Parcels

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Produced by BoCC - GIS Date: 4/30/2020

AERIAL MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

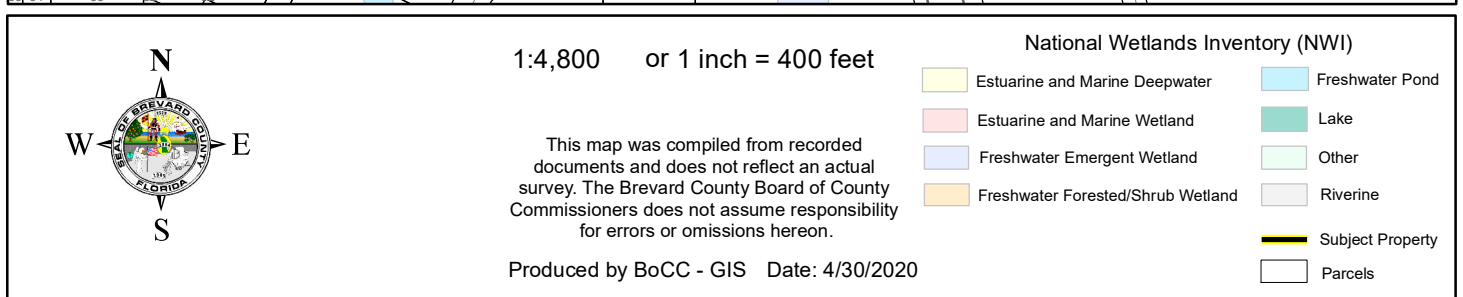
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Produced by BoCC - GIS Date: 4/30/2020

 Subject Property

 Parcels

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



SJRWMD FLUCCS WETLANDS - 6000 Series MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

SJRWMD FLUCCS WETLANDS

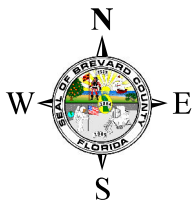
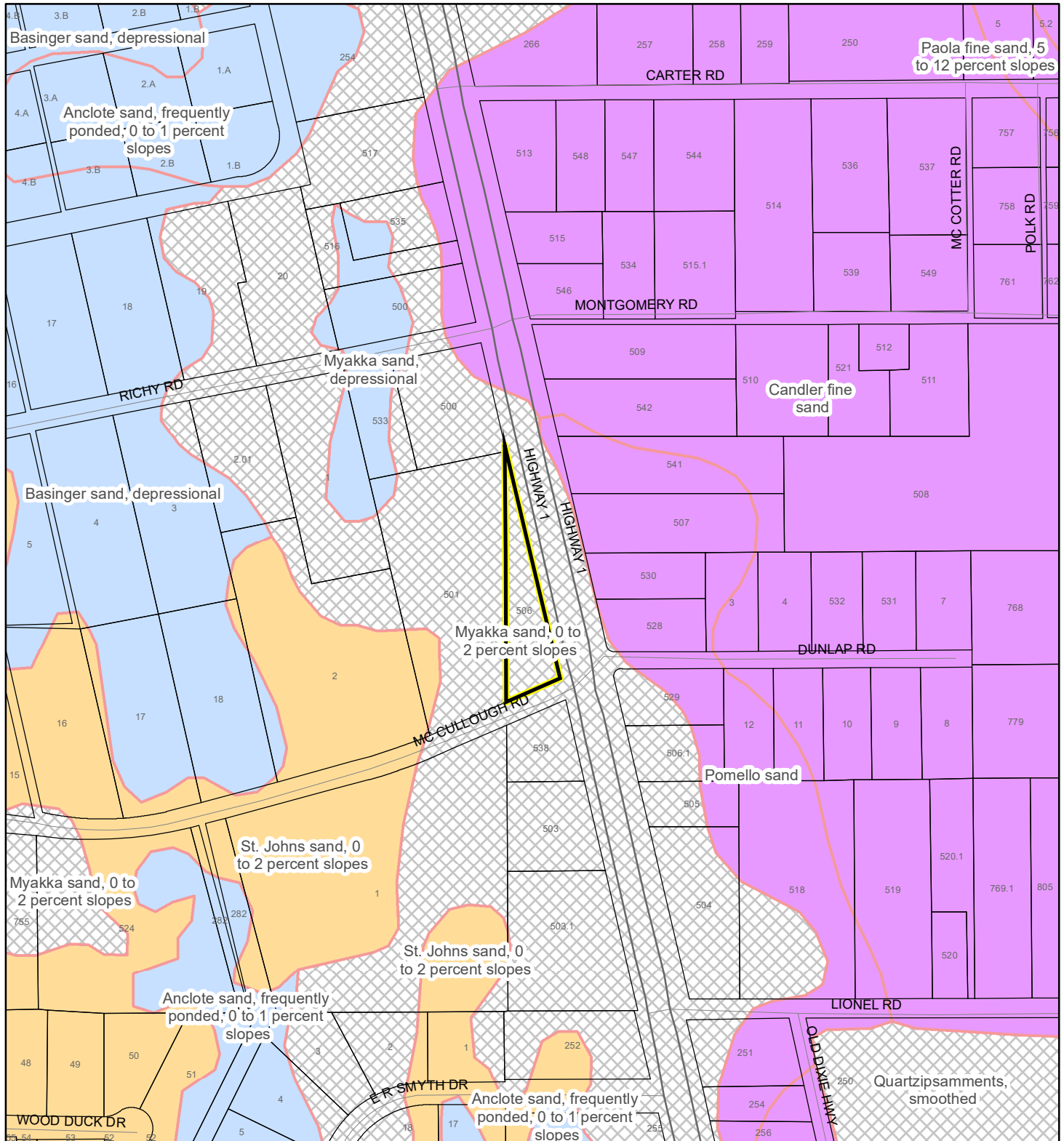
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



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: 4/30/2020

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

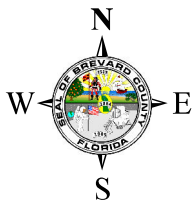
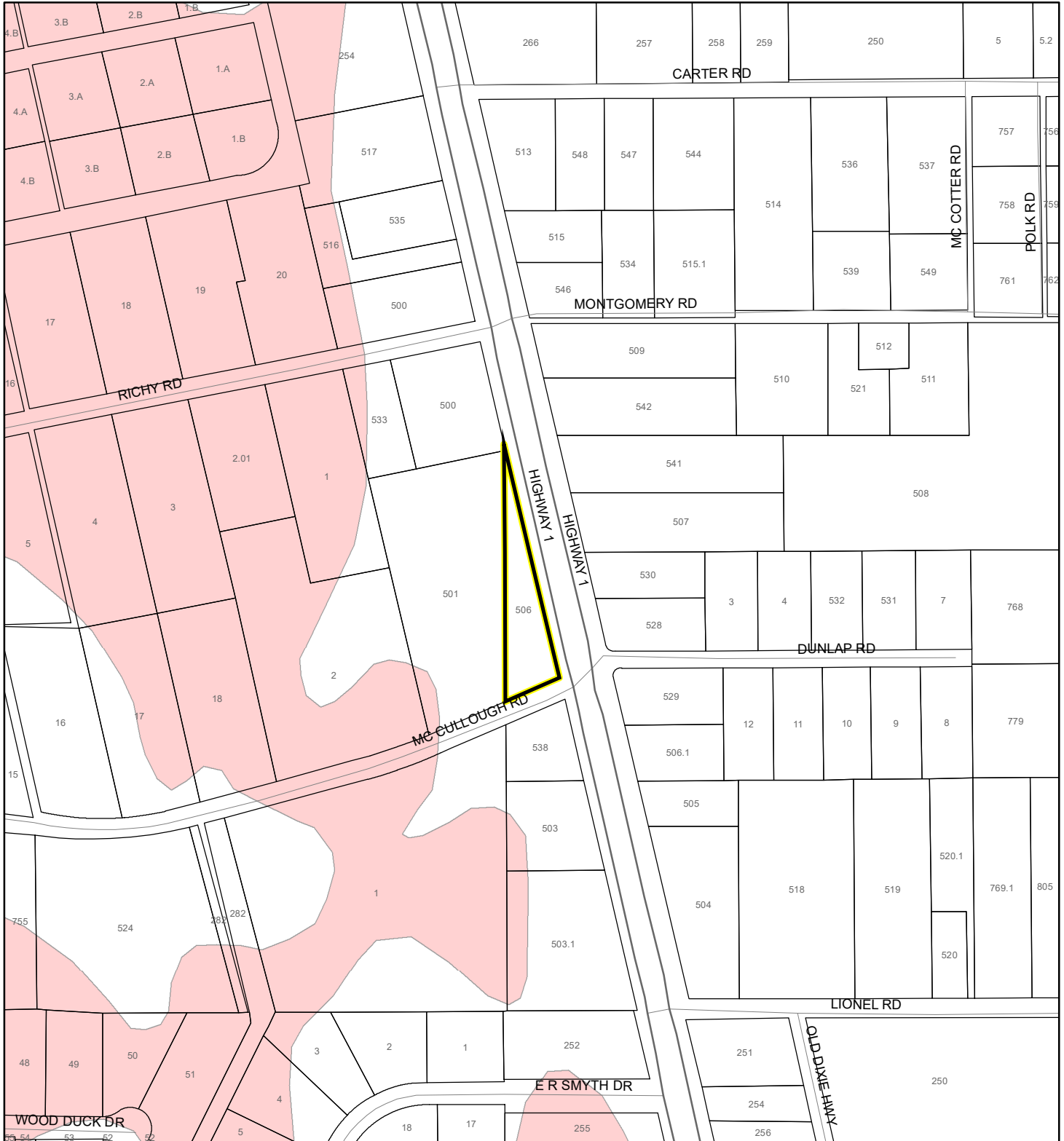
None

Subject Property

Parcels

FEMA FLOOD ZONES MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

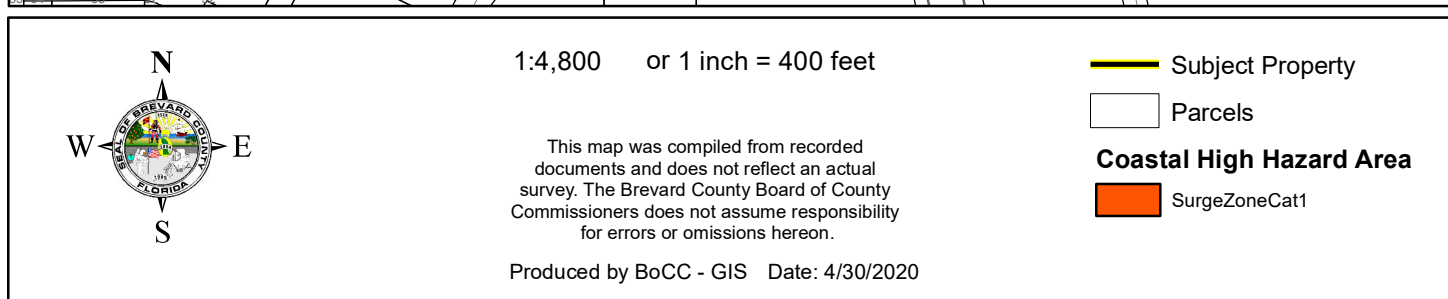
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/30/2020

FEMA Flood Zones

- | | | |
|---|------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | | Parcels |

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



EAGLE NESTS MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



SCRUB JAY OCCUPANCY MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20PZ00051 SMALL SCALE AMENDMENT 20S.04



1:4,800 or 1 inch = 400 feet

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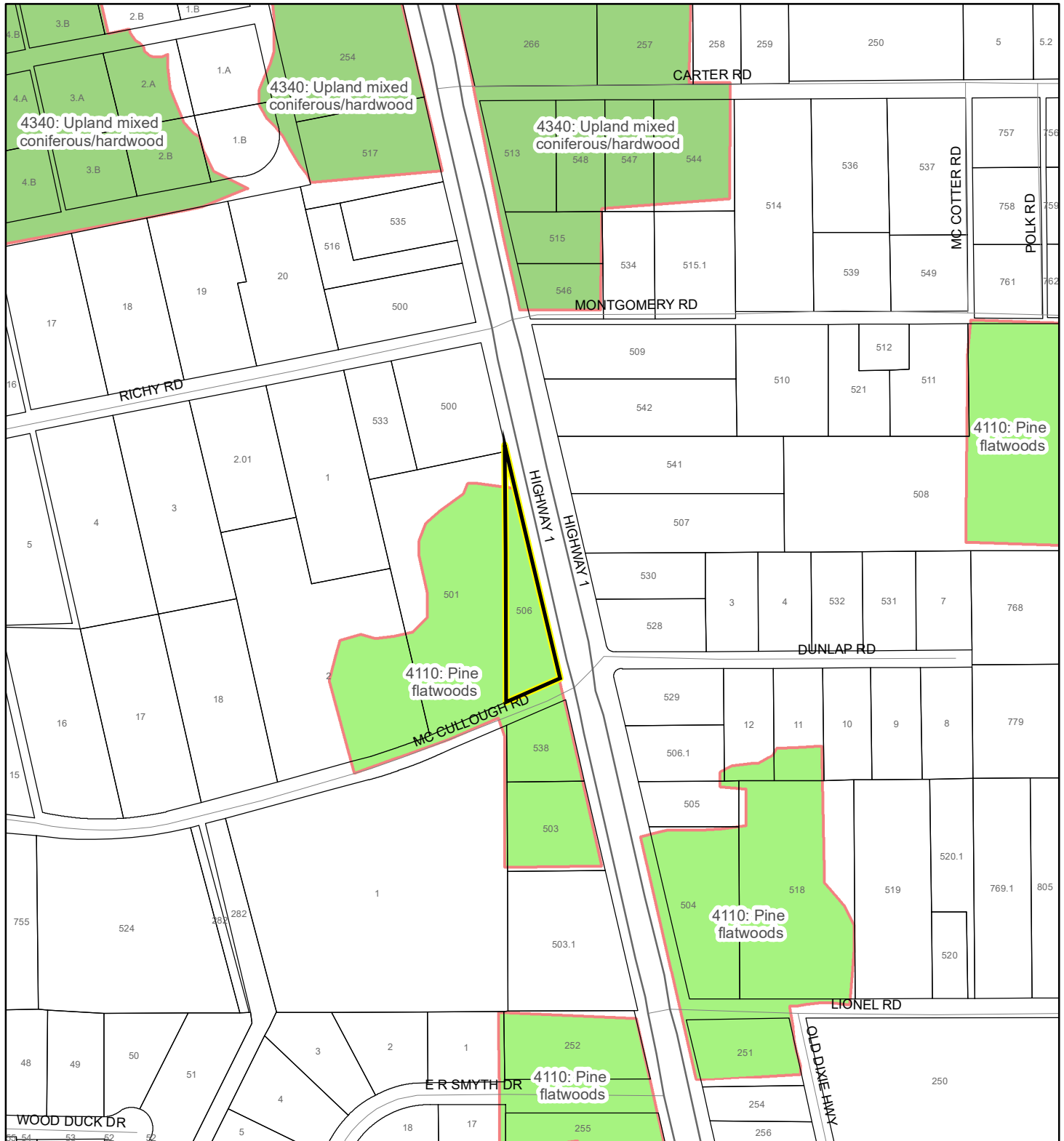
Produced by BoCC - GIS Date: 4/30/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20PZ00051 SMALL SCALE AMENDMENT 20S.04



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: 4/30/2020

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

7/6/2020

Subject:

Richard R. Jr., and Gina M. Wrubel, Trust, request a change of zoning classification from AU to BU-1. (20Z00003) (Tax Account 2000354) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

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

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from AU (Agricultural Residential) to BU-1 (General Retail Commercial) for the purpose of combining the parcel with the abutting 5.24-acre BU-1 zoned parcel. A companion Small-Scale, Comprehensive Plan Amendment (SSCPA) (20PZ00051) for a Future Land Use designation changing the FLU from NC to CC (Community Commercial) was submitted accompanying this zoning request. The subject parcel is a remnant 1.32-acre of undeveloped AU land located on the northwest corner of U.S. 1 and McCullough Road in Mims, and it nonconforming to the current AU size requirements of 2.5 acres and a minimum width and depth of 150 feet.

The character of the surrounding area along the west side of U.S. 1 is BU-1 and BU-2 and is developed with various commercial uses. There is also developed and undeveloped AU along the west side of U.S. 1. The developed AU parcels have single-family homes. The parcel and the surrounding area along U.S. 1 and McCullough Road have a Future Land Use designation of Community Commercial, which is required for a proposal of BU-1 zoning.

The Board may wish to consider whether the request is consistent and compatible with the surrounding area given the fact BU-1 zoning is adjacent to the subject parcel.

The final public hearing will be held by the Board of County Commissioners on **THURSDAY, AUGUST 6, 2020 at 5:00 p.m.**, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Building C, Viera, Florida.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return 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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
2. actual development over the immediately preceding three years; and
3. development approved within the past three years but not yet constructed.

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

CONDITIONAL USE PERMITS (CUPs)

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

(b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

20Z00003

Richard R. Wrubel Jr. and Gina M. Wrubel Trust

AU (Agricultural Residential) to BU-1 (General Retail Commercial)

Tax Account Number: 2000354
Parcel I.D.: 20-35-31-00-506
Location: No address assigned, on the northwest corner of Highway US-1 and McCullough Road in the Mims area (District 1)
Acreage: 1.32 acre

Planning and Zoning Board: 07/06/2020

Board of County Commissioners: 08/06/2020

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	BU-1
Potential*	1 Single Family Unit	16,100 sq. ft.
Can be Considered under the Future Land Use Map	Yes, NC (Neighborhood Commercial)	No, Current FLU is NC BU-1 requires CC (Community Commercial)

* 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 AU (Agricultural Residential) to BU-1 (General Retail Commercial) for the purpose of combining the parcel with the abutting 5.24 acre BU-1 zoned parcel. The applicant did not provide staff with a proposed development plan submitted with this application.

The subject parcel is a remnant undeveloped AU parcel along Highway US-1 which has its original AU zoning from when zoning was established in 1958 and is a nonconforming parcel to current AU size requirements. Before March 6, 1975, AU required a minimum lot width and depth of 125 feet with a minimum lot size of one acre. The abutting BU-1 parcel to west the applicants also own and the abutting BU-1 parcel to the north were both rezoned on September 5, 1963 from AU to BU-1 per zoning action **Z-1114**.

Land Use

The subject property retains the NC (Neighborhood Commercial) FLU designation. The current zoning of AU on the subject property is consistent with the NC FLU per 62-1255 (2). The proposed zoning of BU-1 is not consistent with current FLU designation of NC. A companion Small-Scale, Comprehensive Plan Amendment (SSCPA) application, 20S.04 (20PZ00051) for a Future Land Use designation changing the FLU from NC to CC (Community Commercial) was submitted accompanying this zoning request to be consistent with the proposed BU-1 zoning.

Environmental Constraints

No noteworthy environmental issues were identified for subject parcel. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development. Please see NRM comments at the end of this report for further details.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway US-1, between Lionel Road and Burkholm Road, which has a Maximum Acceptable Volume (MAV) of 41,300 trips per day, a Level of Service (LOS) of D, and currently operates at 23.82% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 32.70%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 56.52% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is approximately 2.78 miles south of McCullough Road located along the west side of Highway US-1.

The parcel is not serviced by Brevard County water. The closest available Brevard County water line is approximately 1,570 feet south of McCullough Road located along the east side of Highway US-1.

Land Use Policy 1.2 addresses residential density requirements for sewer and potable water. This policy does not address commercial development requiring sewer and potable water.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The subject parcel is a remnant undeveloped AU parcel along Highway US-1 that is abutting BU-1 to the west and north. The developed commercial character of the surrounding area along the west side of Highway US-1 is a mix of BU-1, and BU-2 zoning developed with various commercial uses. The closest developed commercial parcel to the north lies 600 feet north. This parcel is zoned BU-2 and is developed with

an office building for a single tenant. The closest developed commercial parcel to the south lies 560 feet south. This parcel is zoned BU-2 and developed with a motor inn and has a BDP (Binding Development Plan) limiting the BU-2 use to the manufacturing and outdoor storage of concrete yard ornamental figurines and statues. The surrounding area along the west side of Highway US-1 has a Future Land Use (FLU) designation of Community Commercial (CC) which may be considered to be consistent with BU-1 zoning. The proposed BU-1 zoning may be considered to be consistent with the Future Land Use designation Community Commercial (CC).

Surrounding Properties

The developed character of the surrounding area along the west side of Highway US-1 is BU-1 and BU-2 zoning and is developed with various commercial uses. There is also developed and undeveloped AU (Agricultural Residential) along the west side of Highway US-1. The developed AU parcels have single-family homes. There is also developed and undeveloped AU (Agricultural Residential) and along both sides of McCullough Road. The parcel and the surrounding area along Highway US-1 and McCullough Road have a Future Land Use (FLU) designation of CC which is required for a proposal of BU-1 zoning.

The current AU classification permits single-family residences and agricultural pursuits on 2 ½ acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping. The subject parcel has its original AU zoning established in 1958 and is a nonconforming parcel to current AU size requirements.

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

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

The abutting parcels to the west and north are zoned BU-1 and are vacant land. The abutting parcel to the east is Highway US-1. The abutting parcel to the South is McCullough Road. The parcel south directly across McCullough Road is zoned AU and is undeveloped.

There have been three zoning actions within a half-mile of the subject property within the last three years.

On November 02, 2017, application **17PZ00120** changed the zoning from RU-1-9 to GML(I) on a 15 acre parcel located approximately 1,205 feet southeast of the subject property.

On March 09, 2018, application **17PZ00118** changed the zoning from BU-1 to BU-2 with a Binding Development Plan limiting the BU-2 use to the manufacturing and outdoor storage of concrete yard ornamental figurines and statues on a 2.98 acre parcel located approximately 490 feet south of the subject property.

On April 09, 2020, application **19PZ00127** changed the zoning from AU to RR-1 with a Binding Development Plan on a 2 acre parcel limiting development to one single-family residence located approximately 600 feet westerly of the subject property.

For Board Consideration

The Board may wish to consider whether request is consistent and compatible with surrounding area given the fact BU-1 zoning is adjacent to the subject parcel.

NATURAL RESOURCES MANAGEMENT DEPARTMENT

Zoning Review Summary

Item # 20Z00003

Applicant: RICHARD R WRUBEL JR & GINA M WRUBEL TRUST

Zoning Request: Rezone from AU to BU-1

Brevard County Planning 07/06/2020 3:00 p.m.
& Zoning Board

Brevard County Board of 08/06/2020 5:00 p.m.
County Commissioners

Tax ID No: 2000354

Summary of Mapped Resources and Noteworthy Land Use Issues

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

Heritage Specimen Trees

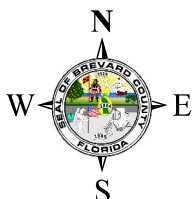
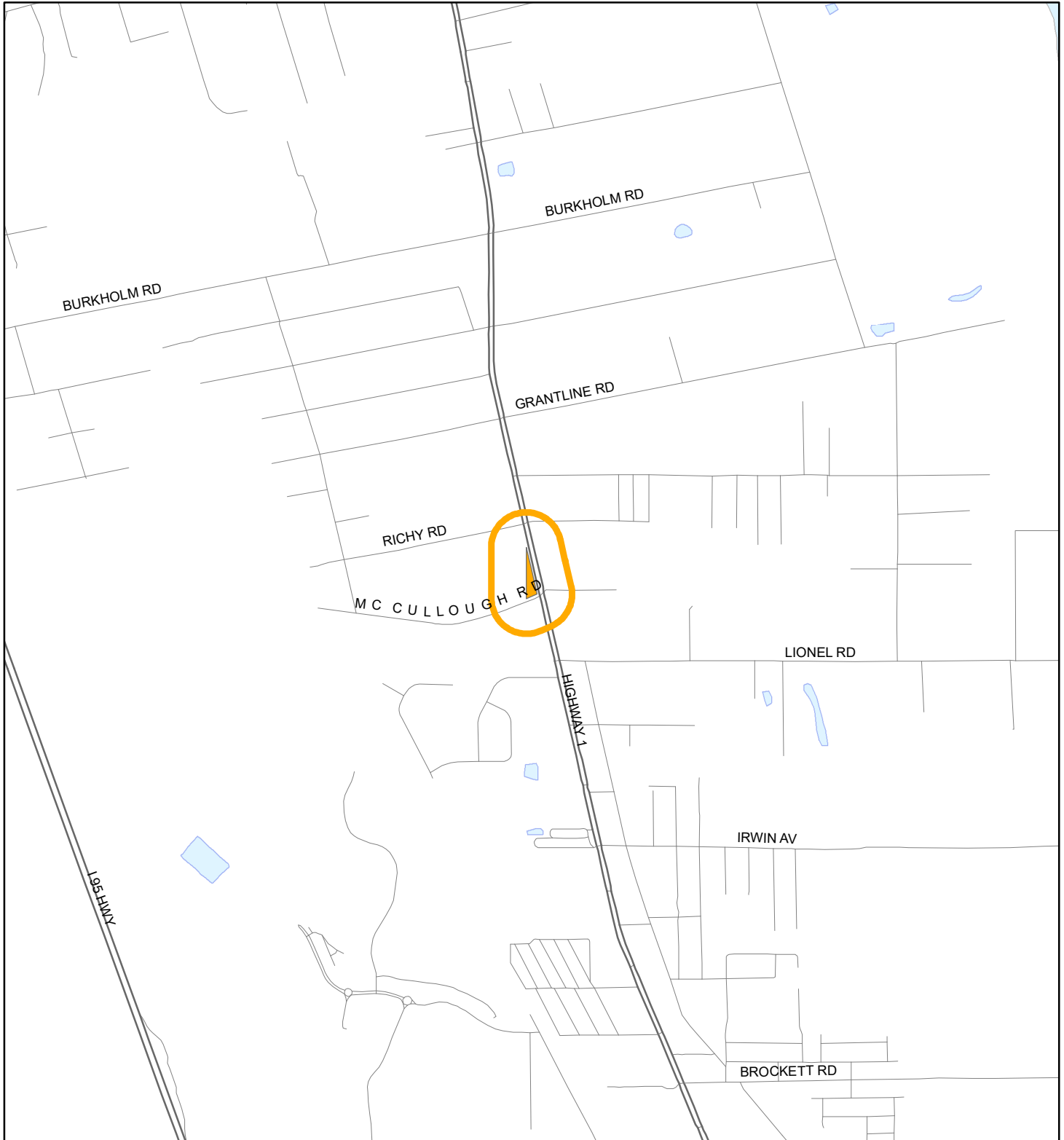
The entire parcel is mapped with SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 4110 – Pine Flatwoods. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62 4332, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan submittal.

Protected Species

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

LOCATION MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20Z00003





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

Buffer Distance: 500 feet

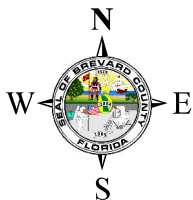
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/30/2020

 Buffer
 Subject Property

ZONING MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20Z00003



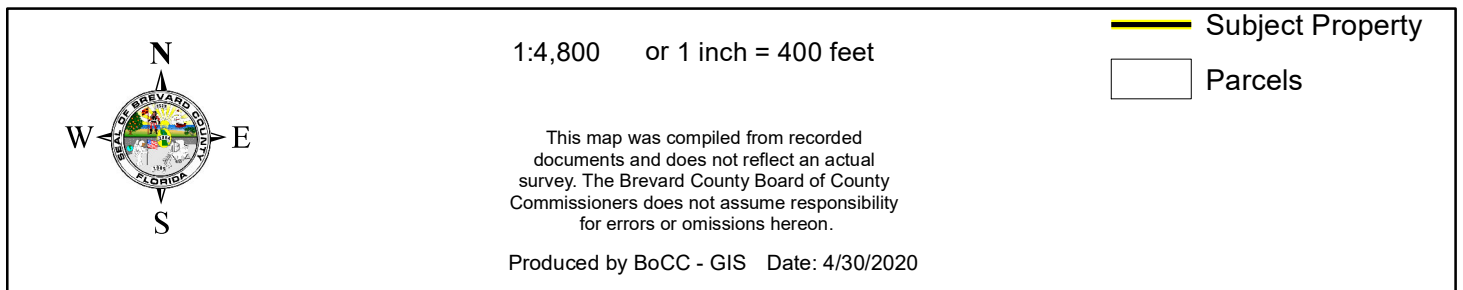
1:4,800 or 1 inch = 400 feet

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: 4/30/2020

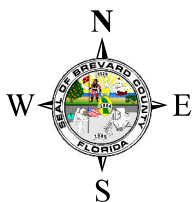
- Subject Property
- Parcels
- Zoning

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20Z00003



AERIAL MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20Z00003




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

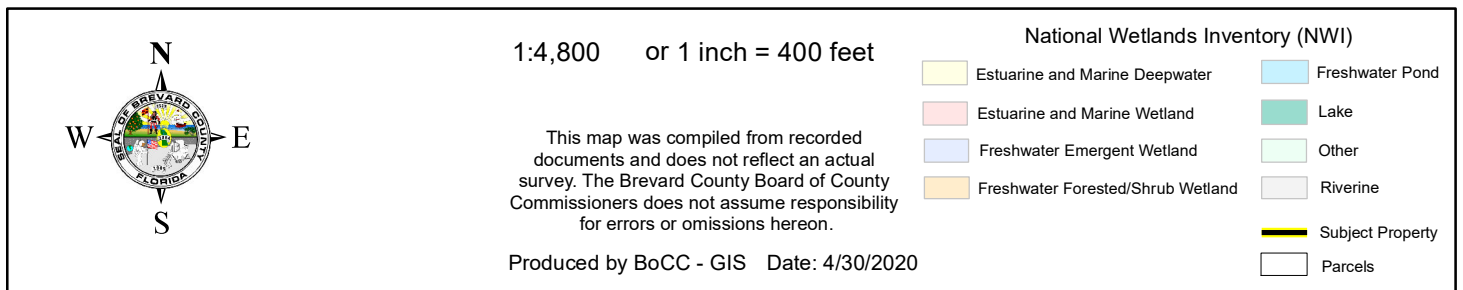
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Produced by BoCC - GIS Date: 4/30/2020

 Subject Property

 Parcels

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20Z00003



SJRWMD FLUCCS WETLANDS - 6000 Series MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20Z00003



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

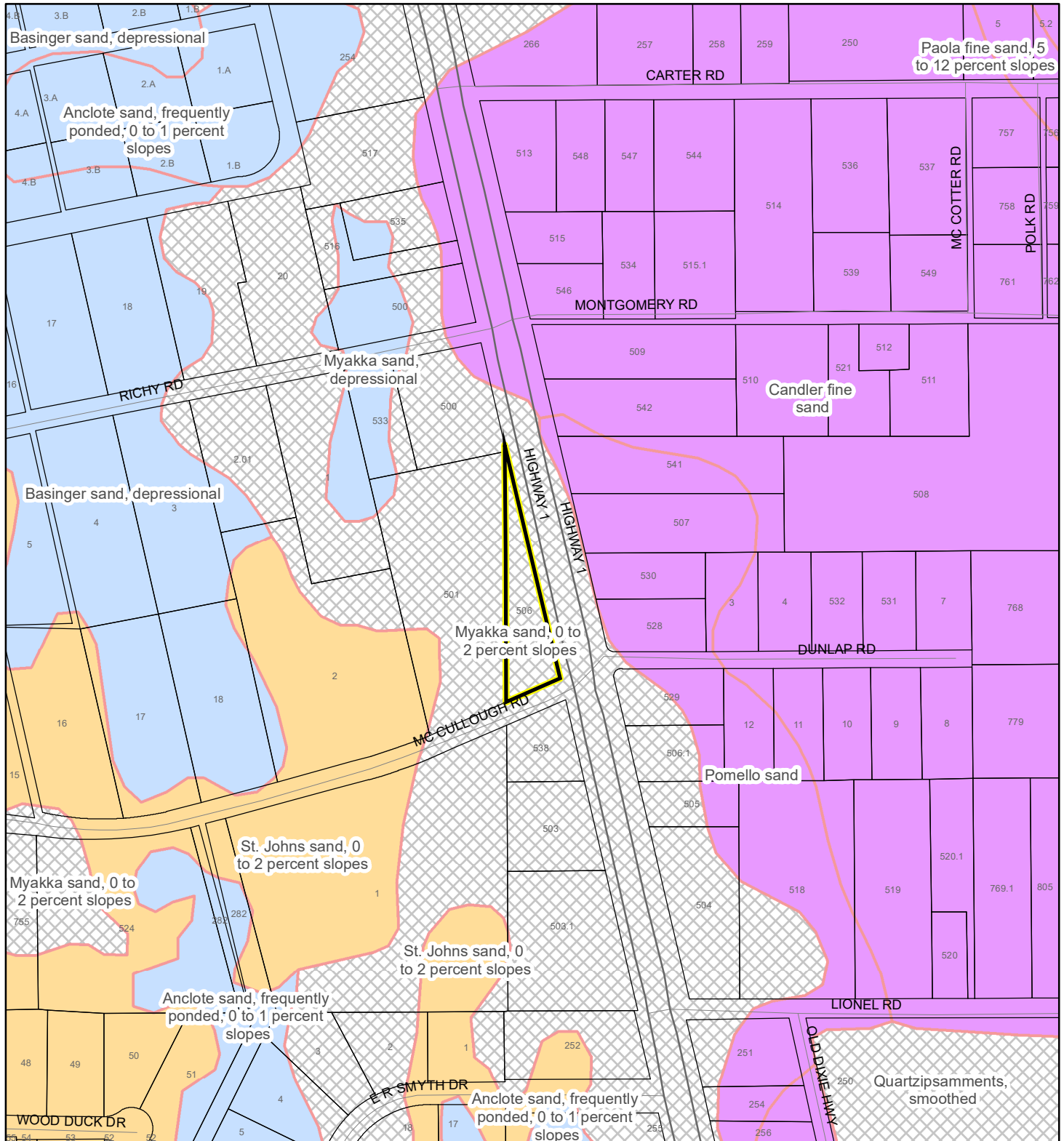
Subject Property

Parcels

USDA SCSSS SOILS MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

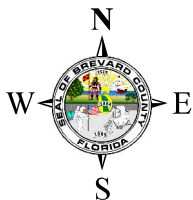
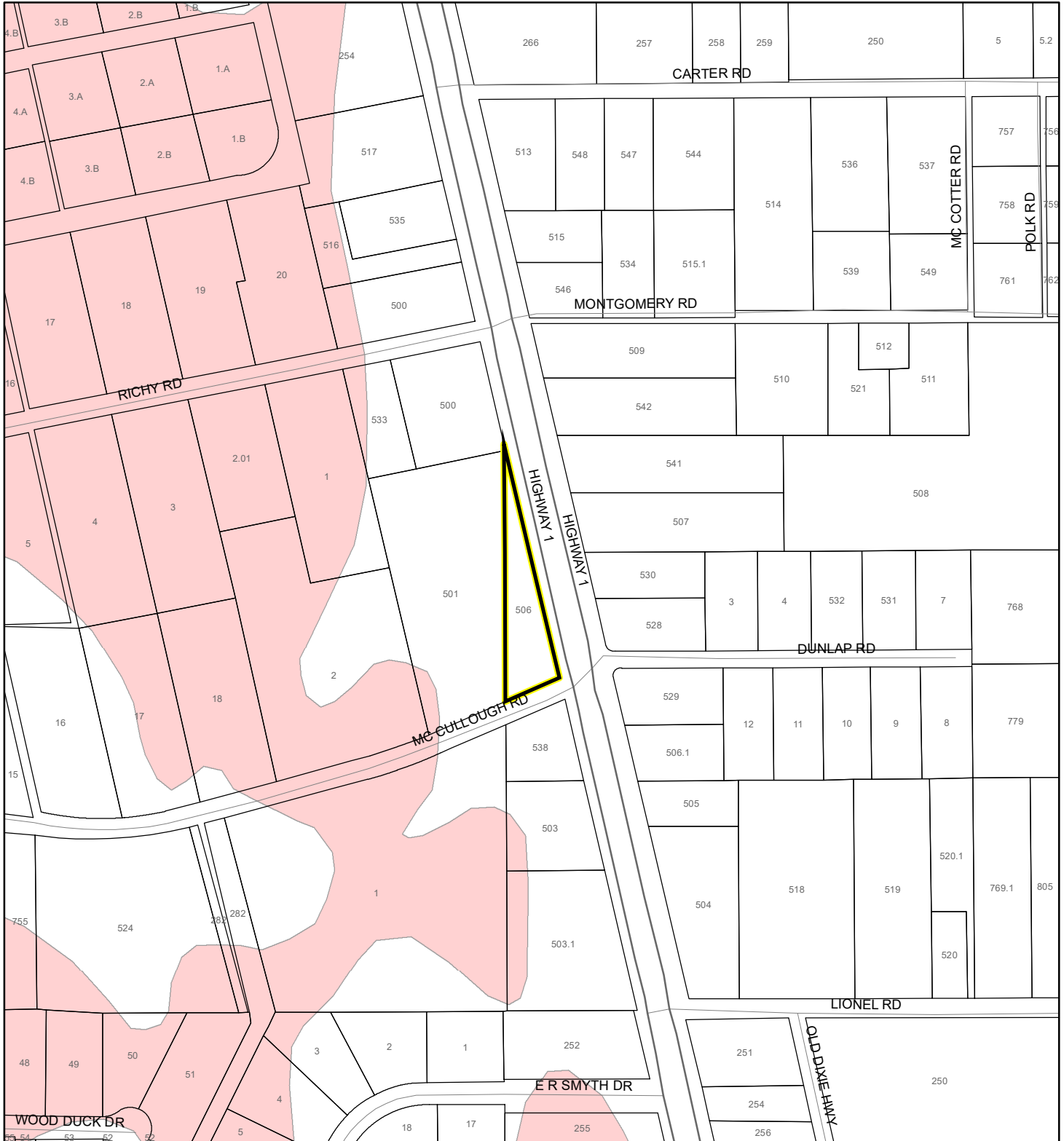
None

Subject Property

Parcels

FEMA FLOOD ZONES MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

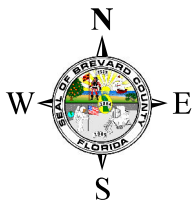
FEMA Flood Zones

- | | | |
|---|------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | | Parcels |

COASTAL HIGH HAZARD AREA MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20Z00003



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 4/30/2020

 Subject Property

 Parcels

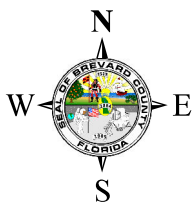
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/30/2020

 Subject Property

 Parcels

Septic Overlay

 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES
20Z00003



SCRUB JAY OCCUPANCY MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20Z00003



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.

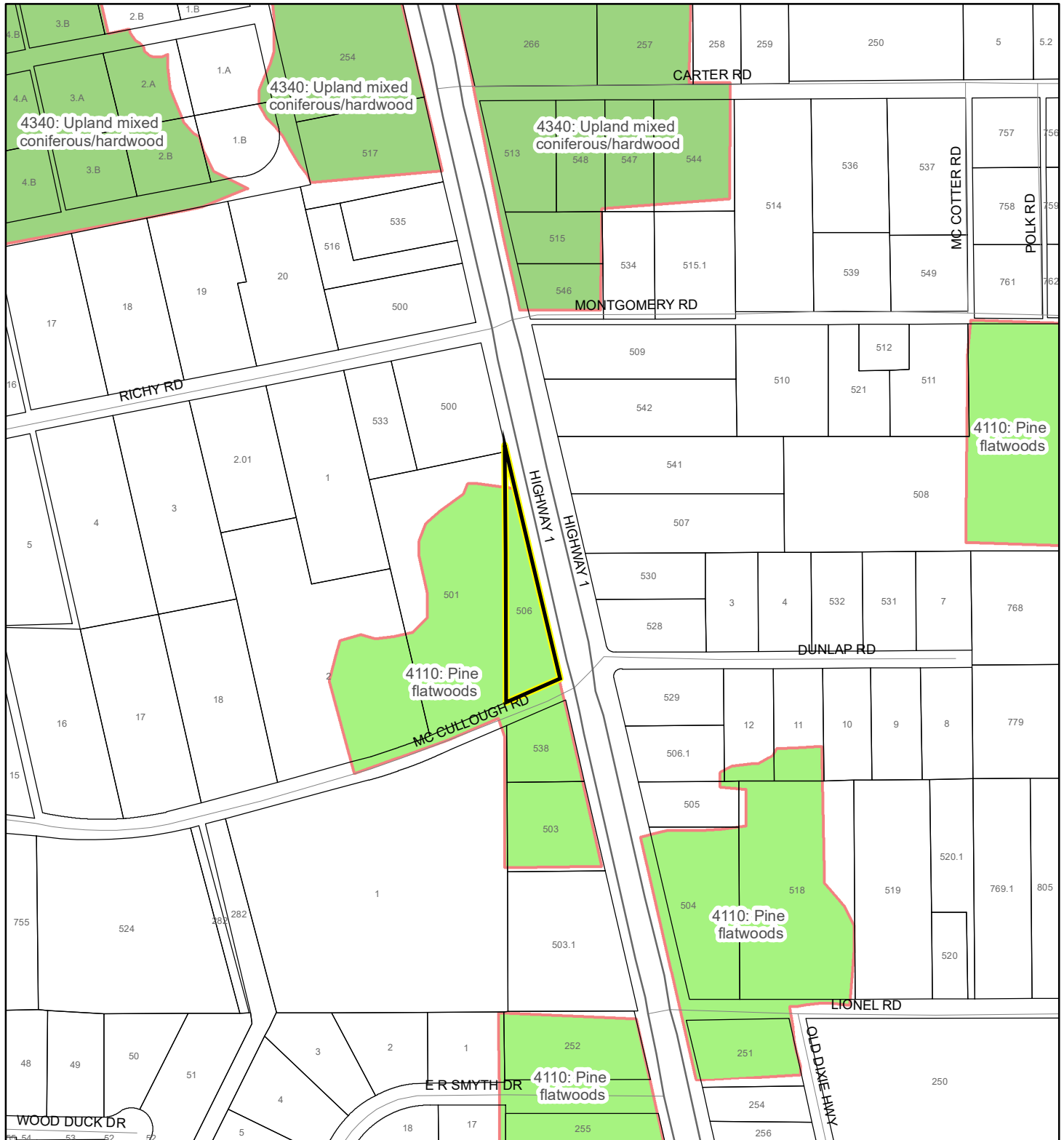
Produced by BoCC - GIS Date: 4/30/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

WRUBEL, RICHARD R., JR., AND GINA M., TRUSTEES

20Z00003



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: 4/30/2020

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

7/6/2020

Subject:

McD Family Trust, LLC, requests an amendment to an existing BDP in a BU-2 zoning classification. (20Z00004)
(Tax Account 2323791) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider an amendment to an existing BDP (Binding Development Plan) in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification.

Summary Explanation and Background:

The applicant is seeking an amendment to the existing BDP for future development of a 1,200 square-foot office building on 2.14 acres, located at 885 Plantation Drive, Unit W-H/RV, Titusville.

The developed character of the surrounding area is RVP zoning developed with various Residential Vehicle Park uses. The developed character of the surrounding properties abutting the subject parcel to north and east are zoned RVP with warehousing, distribution, and trucking terminal commercial uses. The developed character of the surrounding areas west across Plantation Drive are RVP single-family resort homes and a retention pond. The proposed amendment to the existing BDP in BU-2 zoning may be considered to be consistent with the Future Land Use designation Development Regional Impact 1 (DRI 1) Future Land Use designation.

The Board may wish to consider whether the request is consistent and compatible with the existing BDP and the RVP zoned parcels to the north, east, south and west.

The final public hearing will be held by the Board of County Commissioners on **THURSDAY, AUGUST 6, 2020 at 5:00 p.m.**, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Building C, Viera, Florida.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return 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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
2. actual development over the immediately preceding three years; and
3. development approved within the past three years but not yet constructed.

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

CONDITIONAL USE PERMITS (CUPs)

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

(b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

20Z00004

MCD Family Trust, LLC

Amendment to Existing BDP (Binding Development Plan in a BU-2 (Retail, Warehousing, Wholesale Commercial))

Tax Account Number: 2323791
Parcel I.D.: 23-35-06-00-281.3
Location: 885 Plantation Dr. Unit W-H/RV Titusville in The Great Outdoors area
(District 1)
Acreage: 2.14 acre

Planning and Zoning Board: 07/06/2020

Board of County Commissioners: 08/06/2020

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-2 with BDP	BU-2 with revision to BDP
Potential*	26,101 sq. ft.	26,101 sq. ft.
Can be Considered under the Future Land Use Map	Yes, DRI 1 (Development Regional Impact The Great Outdoors)	Yes, DRI 1 (Development Regional Impact The Great Outdoors)

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

Background and Purpose of Request

The applicant is seeking an amendment to the existing BDP (Binding Development Plan) in BU-2 for future development of a 1,200 sq. ft. office building.

On November 29, 2005, application **Z-11169** changed the zoning from RVP (Recreational Vehicle Park) to BU-2 (Retail, Warehousing and Wholesale Commercial) zoning with a BDP limited to a mini-storage facility with RV storage only.

1989, Ordinance **89-17** changed the zoning classification from TTP (Travel Trail Park) to RVP.

On December 15, 1986, application **Z-7673** changed the zoning from GU (General Use) to TTP.

Land Use

The subject property retains the DRI 1 (The Great Outdoors) FLU (Future Land Use) designation. The current zoning of BU-2 on the subject property is consistent with the DRI 1 FLU.

Environmental Constraints

No noteworthy environmental issues were identified for subject parcel. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development. Please see NRM comments at the end of this report for further details.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway 50, between Highway I-95 and Orange County, which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of D, and currently operates at 30.69% of capacity daily. The proposed development potential from the proposed amendment to the existing BDP does increase the percentage of MAV utilization by 00.03%. The corridor is anticipated to continue to operate at 30.72% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is serviced by The Great Outdoors private sewer.

The parcel is serviced by The City of Cocoa potable water.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. The subject property is currently developed with a 7,800 sq. ft. mini-storage facility along with RV storage and lies within The Great Outdoors DRI Future Land Use designation. The parcel abuts RVP zoning along its northern and eastern boundaries which are all part of The Great Outdoors DRI. The abutting parcel to the west and south is Plantation Drive and is zoned RVP and part of The Great Outdoors DRI. The parcels south across Plantation Drive are zoned RVP. The BU-2 zoning may be considered to be consistent with the Development Regional Impact 1 (DRI 1) Future Land Use designation.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area is RVP zoning developed with various Residential Vehicle Park uses. The proposed amendment to the existing Binding Development Plan in BU-2 zoning may be considered to be consistent with the Future Land Use designation Development Regional Impact 1 (DRI 1) Future Land Use designation.

Surrounding Properties

The developed character of the surrounding areas abutting the subject parcel to north and east are zoned RVP and are developed with Warehousing, Distribution and Trucking Terminal, commercial uses.

The developed character of the surrounding areas west across Plantation Drive are RVP single-family resort homes and a retention pond.

The RVP recreational vehicle park zoning classification encompasses lands devoted for recreation vehicle, tent, park trailer and cabin uses together with such ancillary structures as allowed to promote a recreational type atmosphere for both park owners and/or their guests. Minimum park size shall be five acres. Recreational vehicle sites shall have a minimum area of 2,000 square feet, and shall have a minimum width of 30 feet and minimum depth of 60 feet.

As defined, spaces or lots may be used by a recreational vehicle or equivalent facilities constructed in or on automotive vehicles, or tents, or other short-term housing devices. Cabins or park trailers used for short-term rentals may comprise no more than 20 percent of the permitted space or lots, and shall not exceed a maximum of 1,000 square feet each in size.

The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots.

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

For Board Consideration

The applicant is seeking an amendment to the existing BDP (Binding Development Plan) in BU-2 for future development of a 1,200 sq. ft. office building. The current BDP is limited to a mini-storage facility with RV storage only.

The Board may wish to consider whether the request is consistent and compatible with the existing BDP and the RVP zoned parcels to the north, east, south and west.

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

Item # 20Z00004

Applicant: Honeycutt c/o McDaniel

BDP Revision Request: BU-2 with BDP to BU-2 with revised BDP

Note: Applicant wants to revise BDP to add 1,200 SF office building in addition to existing allowance of RV storage and 20,000 SF mini warehouse.

P&Z Hearing Date: 07/06/20; **BCC Hearing date:** 08/06/20

Tax ID No: 2323791

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department 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 Species
- Protected and Specimen Trees

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

Land Use Comments:

Wetlands

The subject parcel contains 100% hydric soils (Eau Gallie sand-frequently ponded and Riviera sand), and an area of mapped SJRWMD wetlands along the northwestern property boundary as shown on the USDA SCSSs soils, and SJRWMD FLUCCS Wetlands maps, respectively. These are indicators that wetlands may be present on the property. Per Section 62-3694(c)(6), Permitted impacts to wetlands from residential and mixed-use land development activities, on a cumulative basis, shall not exceed 1.8% of the non-commercial and non-industrial acreage of a DRI, PUD, parcel acreage or, if the project is within a New Town Overlay (as defined in Chapter 11, Policy 9.2), 1.8% of the non-commercial and non-industrial acreage within the applicable New Town Overlay. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. The applicant is encouraged to call NRM at 321-633-2016 prior to any land clearing activities, plan design, or permit submittal.

Protected Species

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

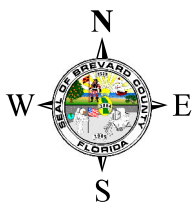
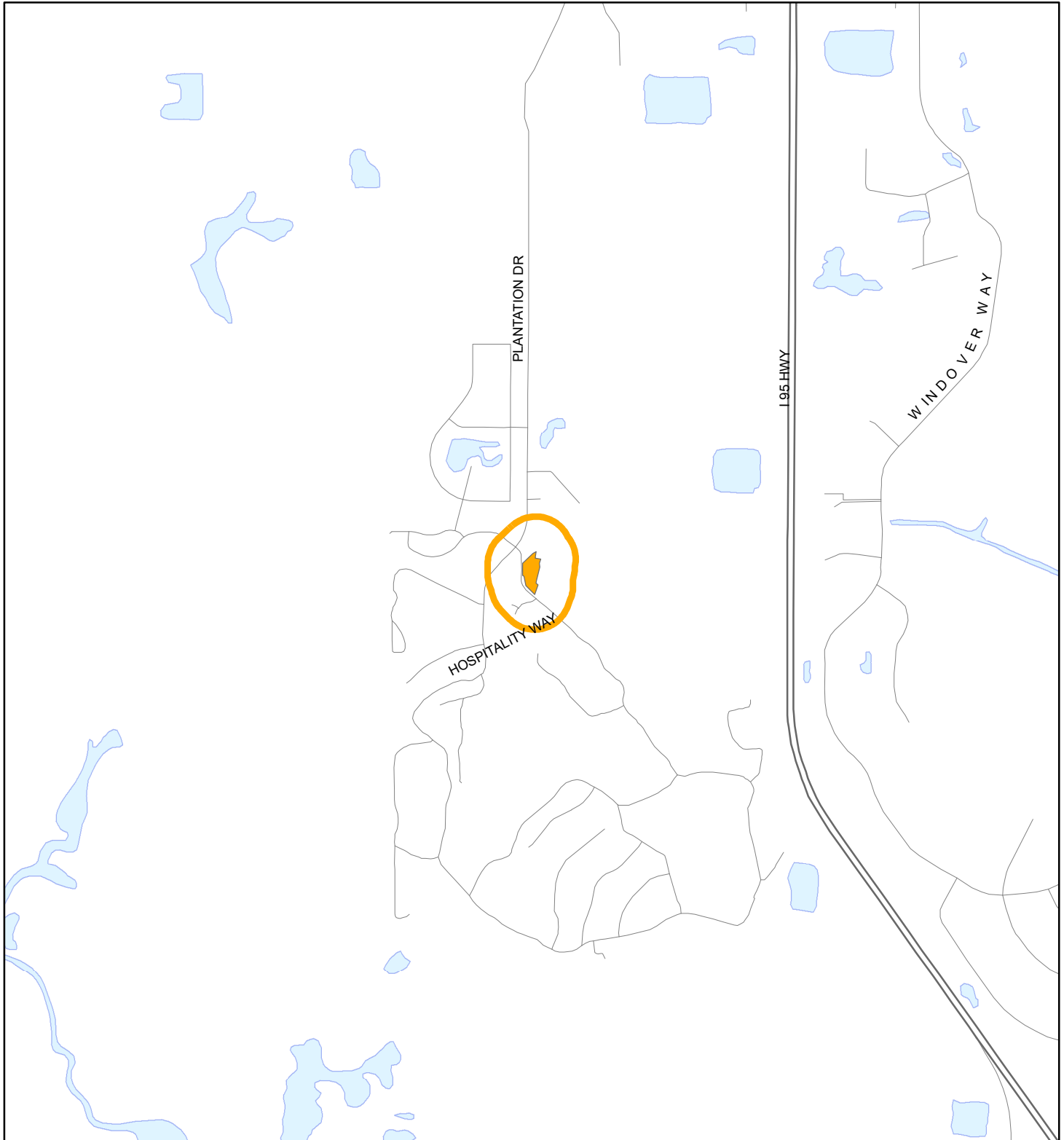
Protected and Specimen Trees

Aerials indicate that Specimen and Protected trees may exist on the subject parcel. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. A tree survey will be required at time of site plan permit application submittal. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

LOCATION MAP

McD FAMILY TRUST, LLC

20Z00004





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.

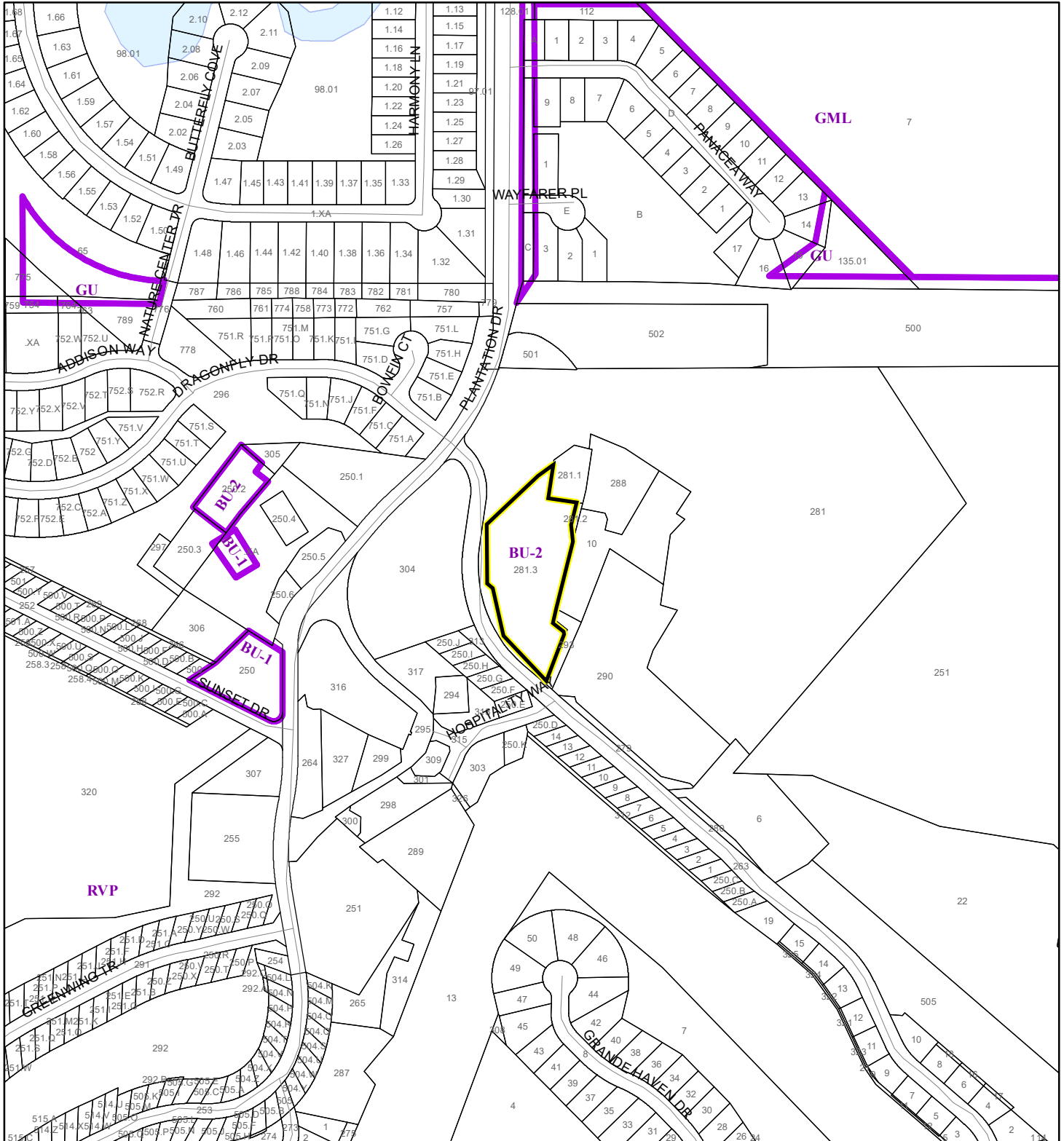
Produced by BoCC - GIS Date: 5/5/2020

 Buffer
 Subject Property

ZONING MAP

McD FAMILY TRUST, LLC

20Z00004



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: 5/5/2020

Subject Property

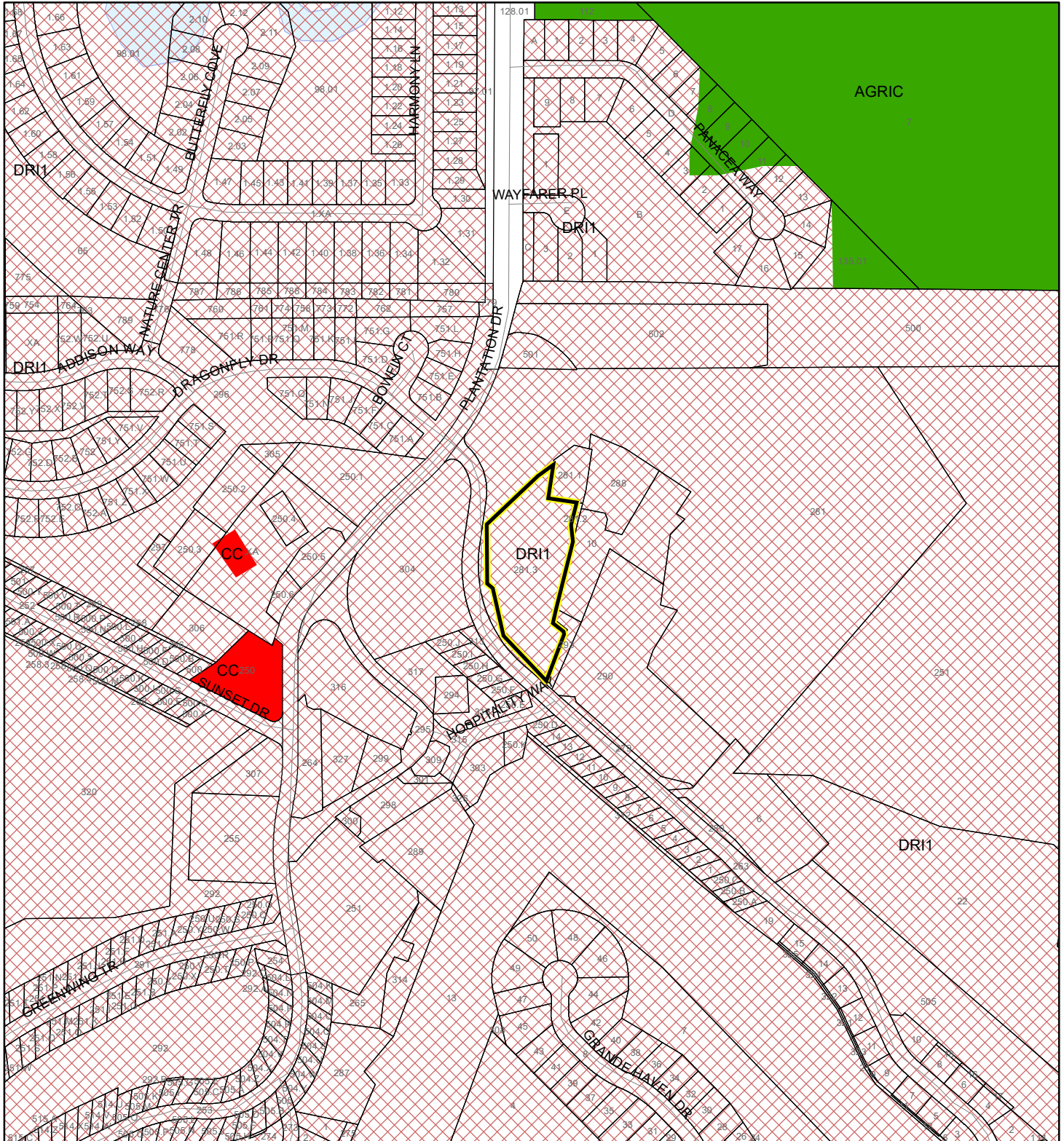
Parcels

Zoning



FUTURE LAND USE MAP

McD FAMILY TRUST, LLC

20Z00004



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

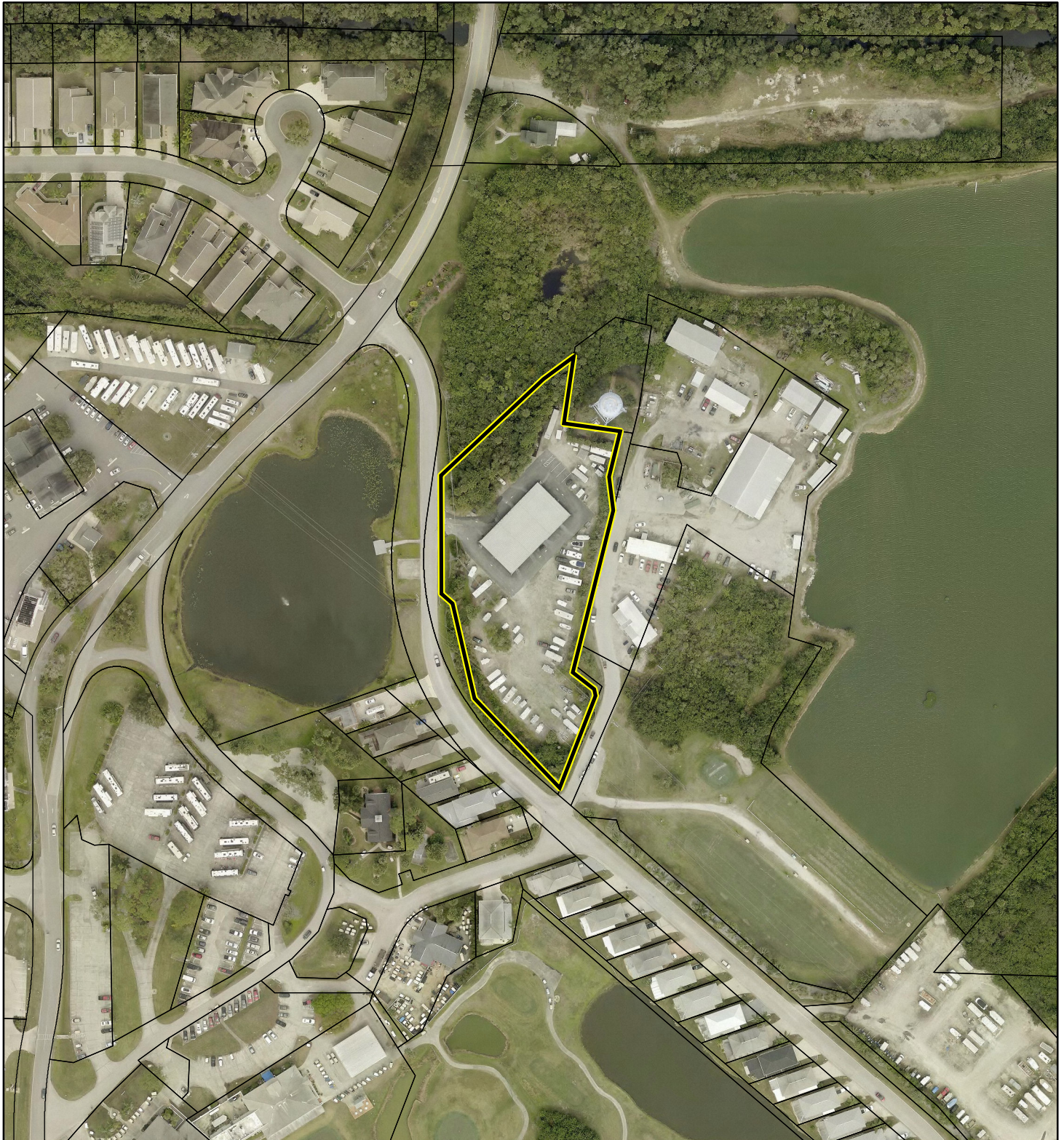
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 5/5/2020

AERIAL MAP

McD FAMILY TRUST, LLC

20Z00004




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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: 5/5/2020

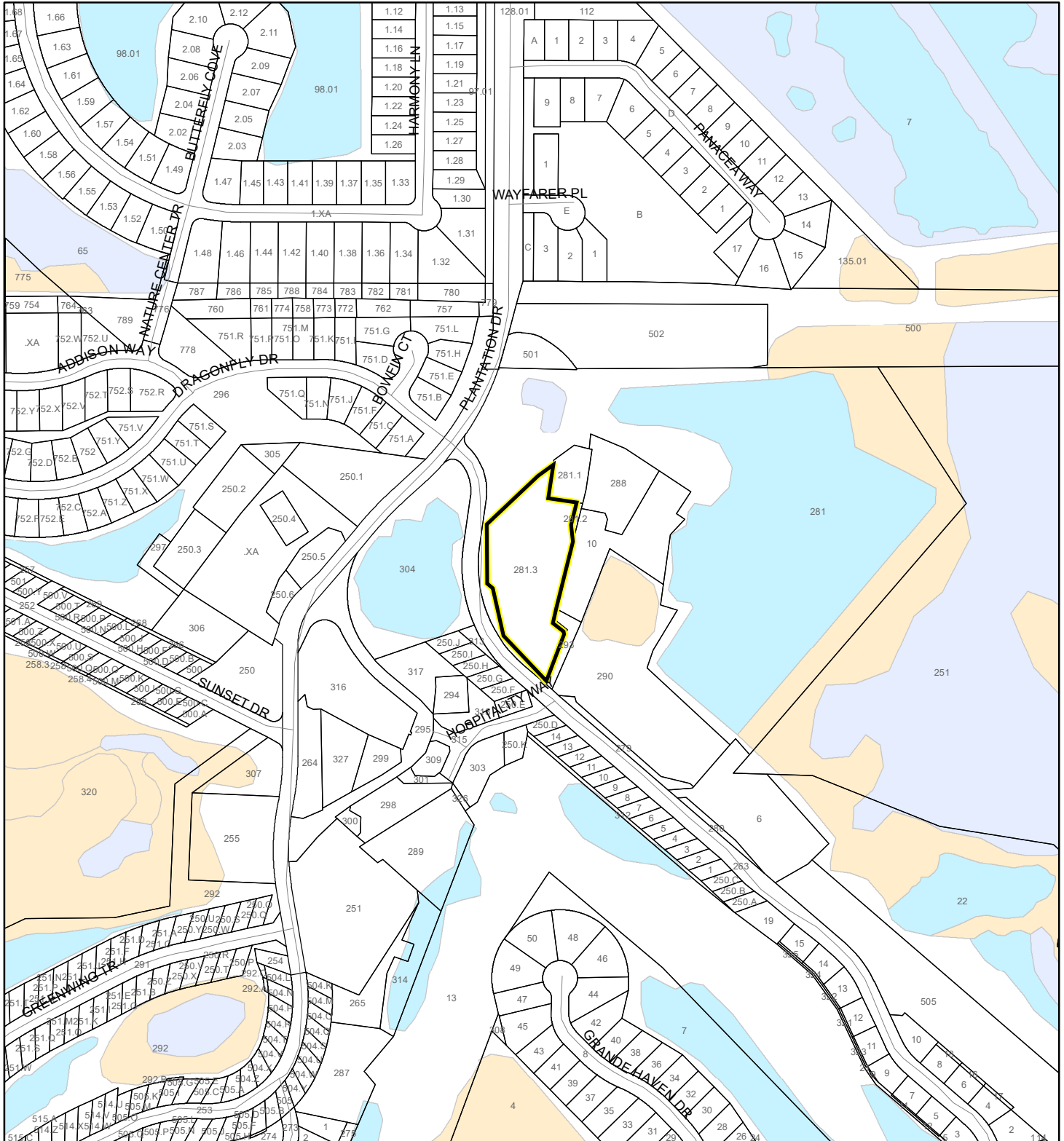
 Subject Property

 Parcels

NWI WETLANDS MAP

McD FAMILY TRUST, LLC

20Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/5/2020

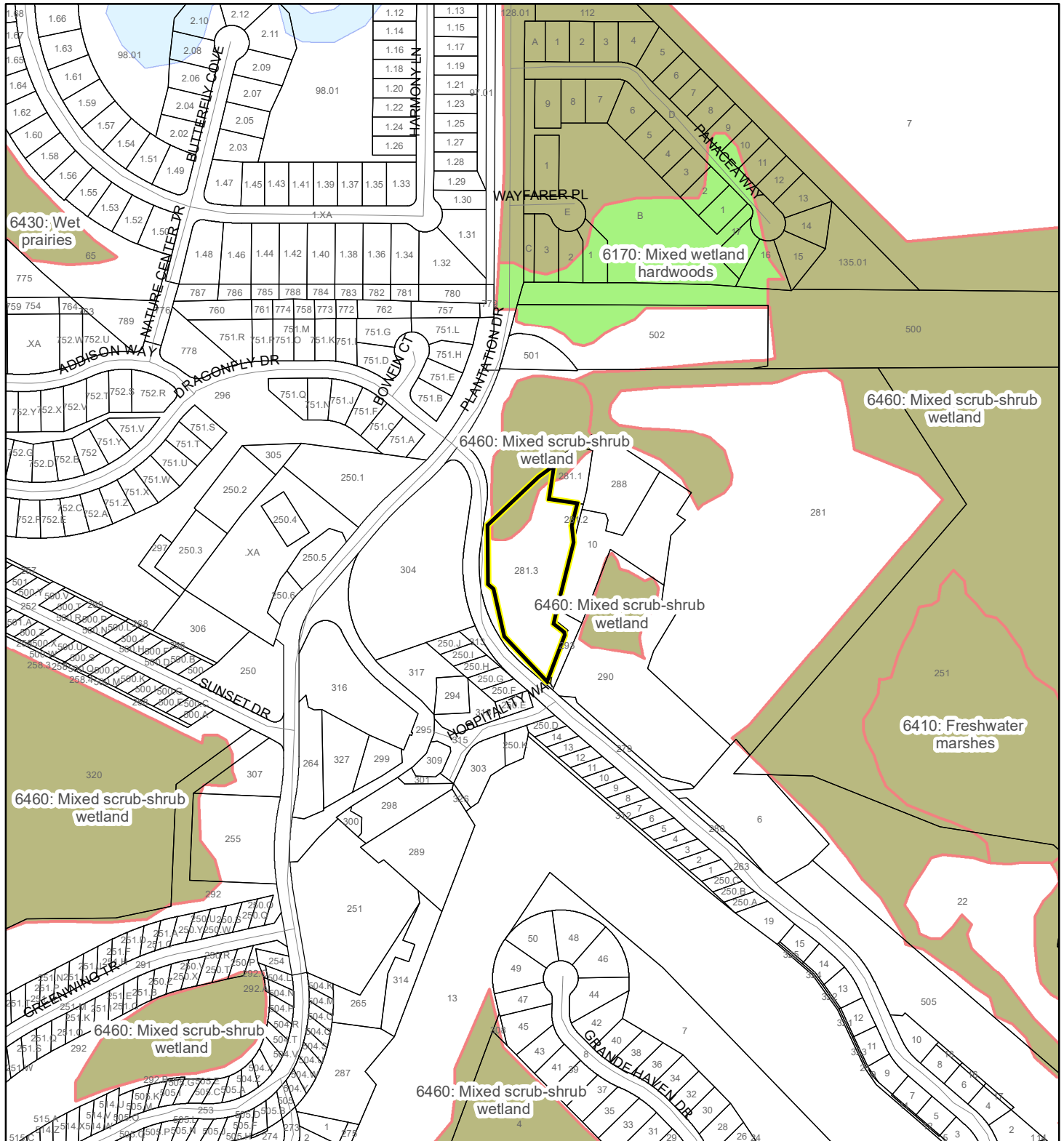
National Wetlands Inventory (NWI)

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

McD FAMILY TRUST, LLC

20Z00004



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: 5/5/2020

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

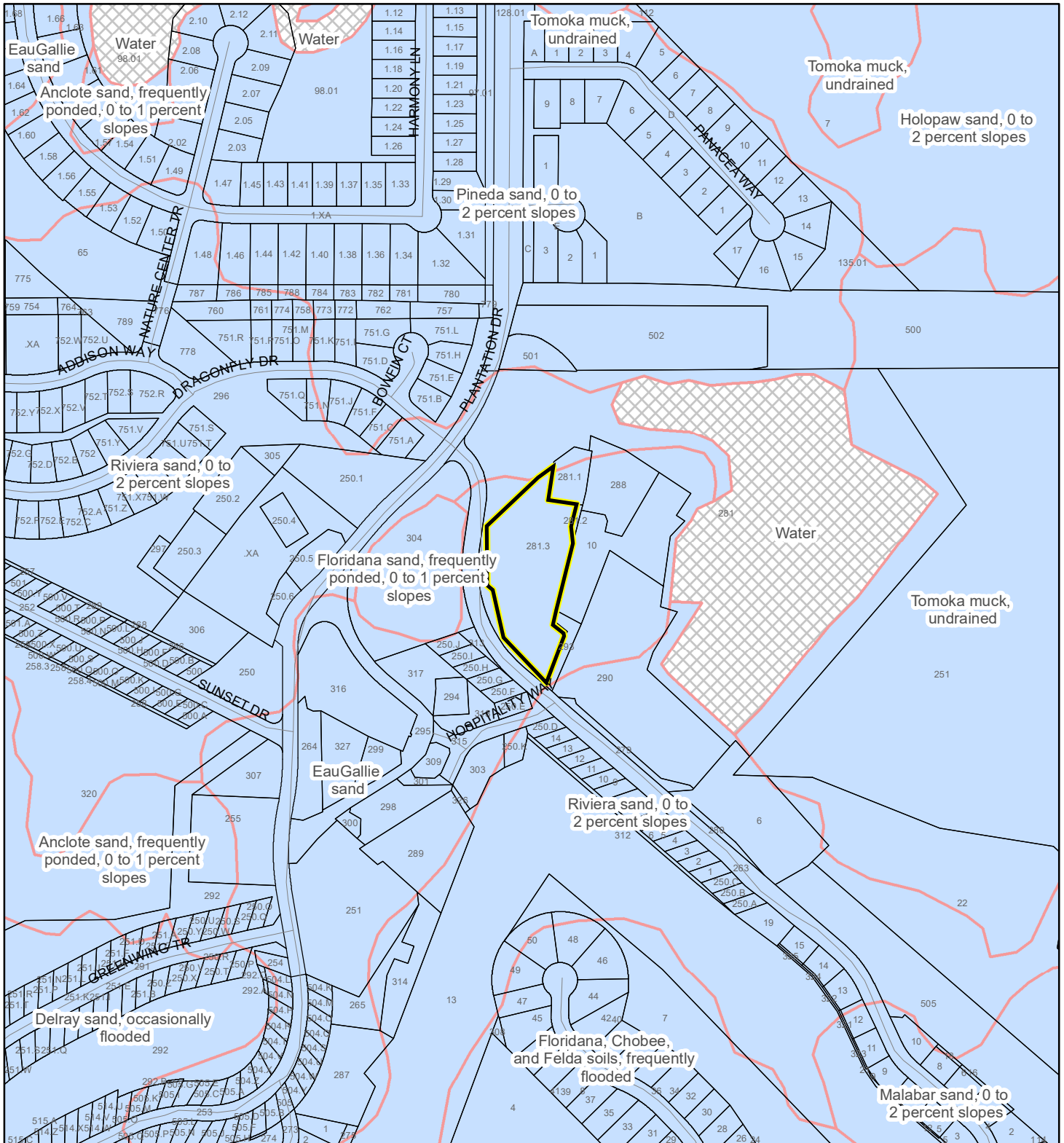
Subject Property

Parcels

USDA SCSSS SOILS MAP

McD FAMILY TRUST, LLC

20Z00004



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: 5/5/2020

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

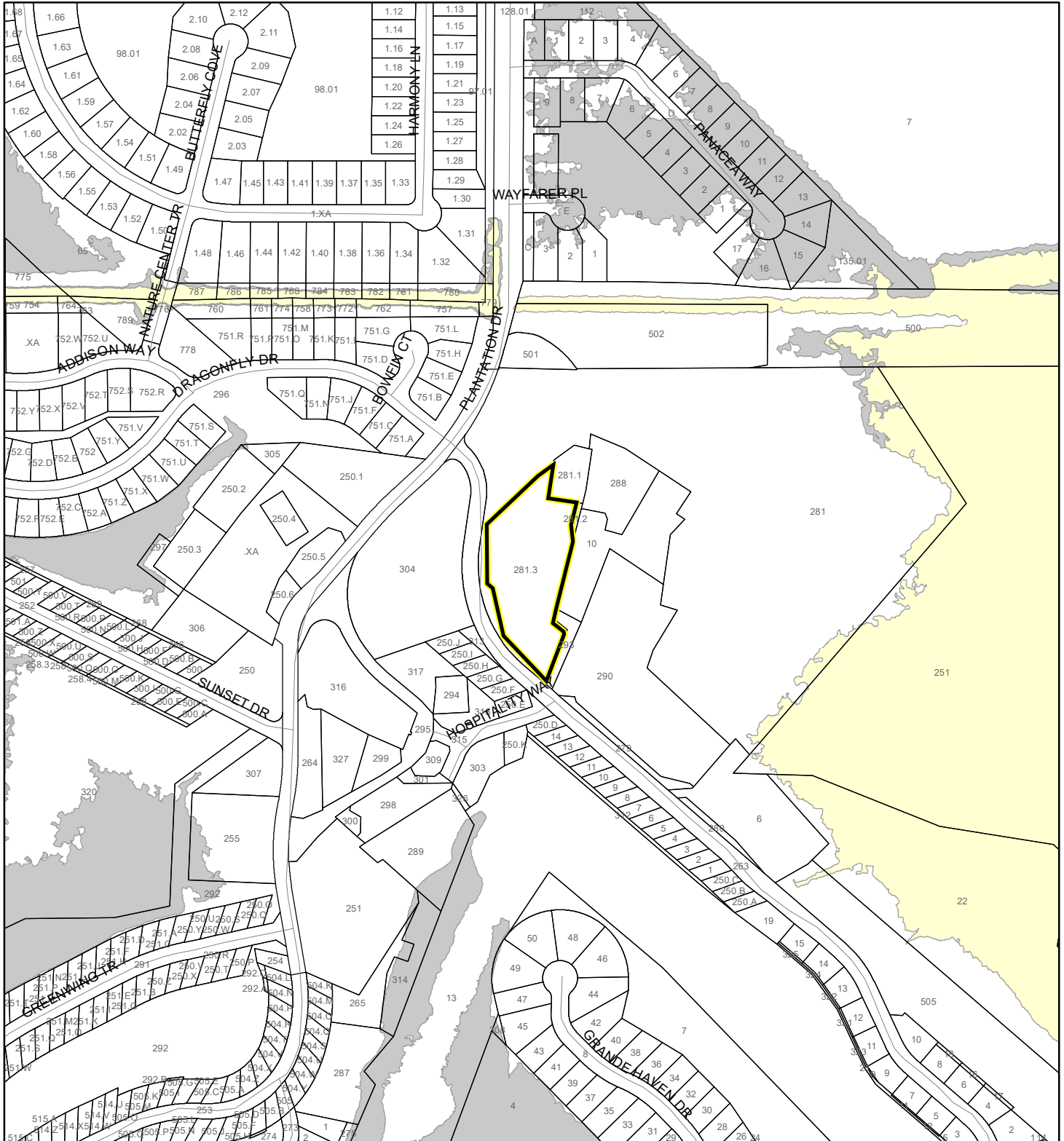
Subject Property

Parcels

FEMA FLOOD ZONES MAP

McD FAMILY TRUST, LLC

20Z00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/5/2020

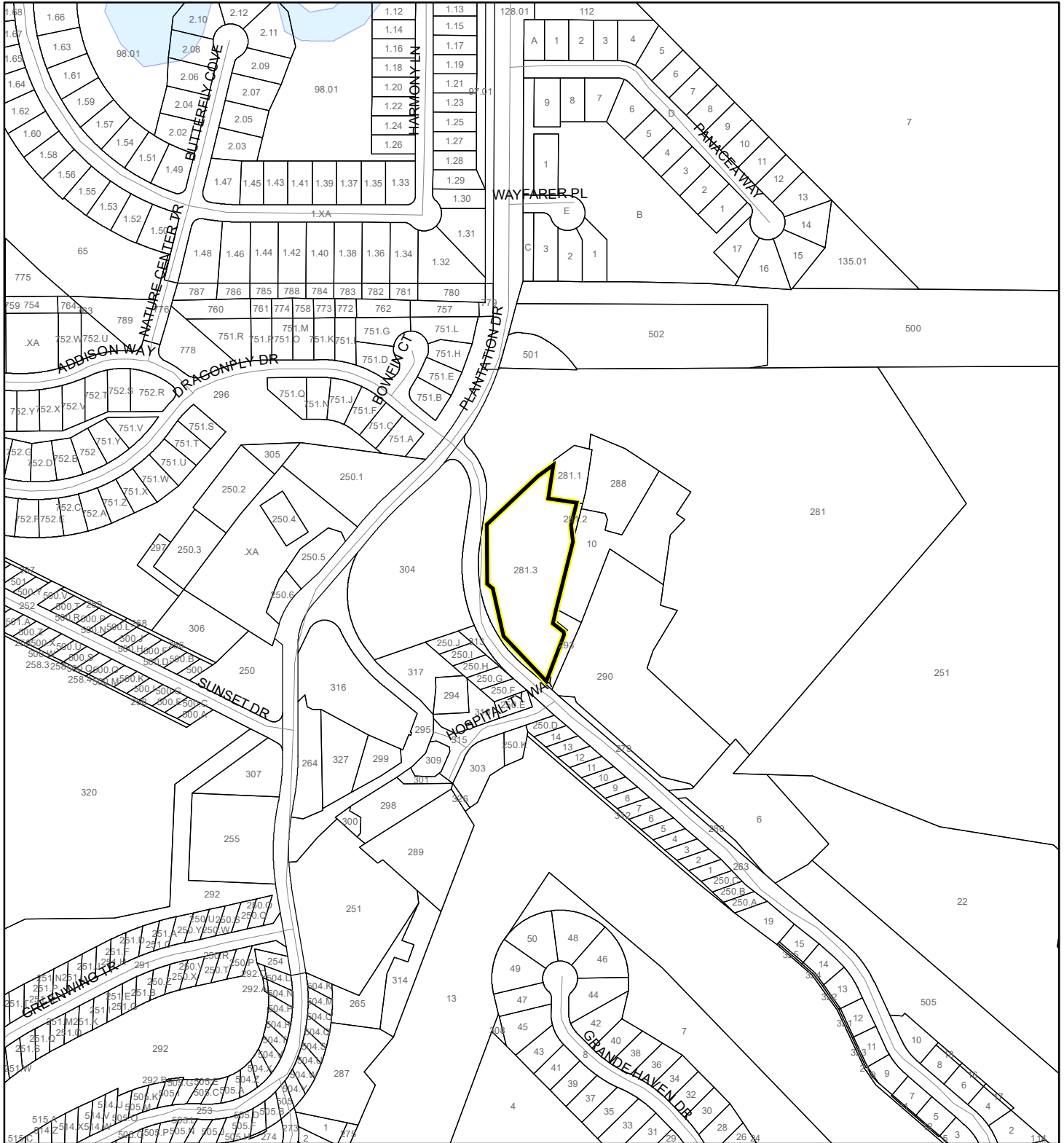
FEMA Flood Zones

- | | | |
|---|------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | | Parcels |

COASTAL HIGH HAZARD AREA MAP

McD FAMILY TRUST, LLC

20Z00004



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: 5/5/2020

 Subject Property

 Parcels

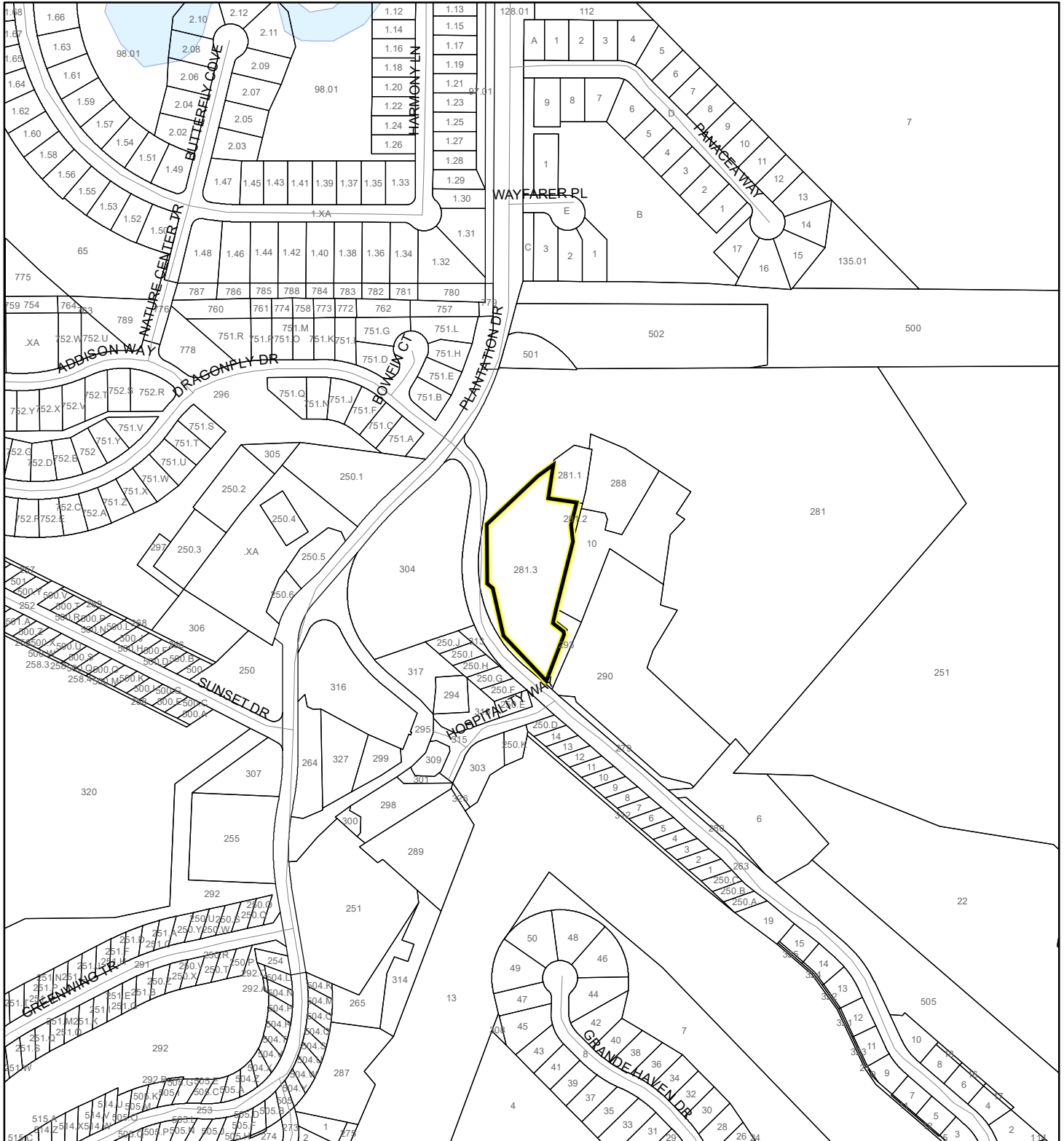
Coastal High Hazard Area

 SurgeZoneCat1

EAGLE NESTS MAP

McD FAMILY TRUST, LLC

20Z00004




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/5/2020

 Subject Property

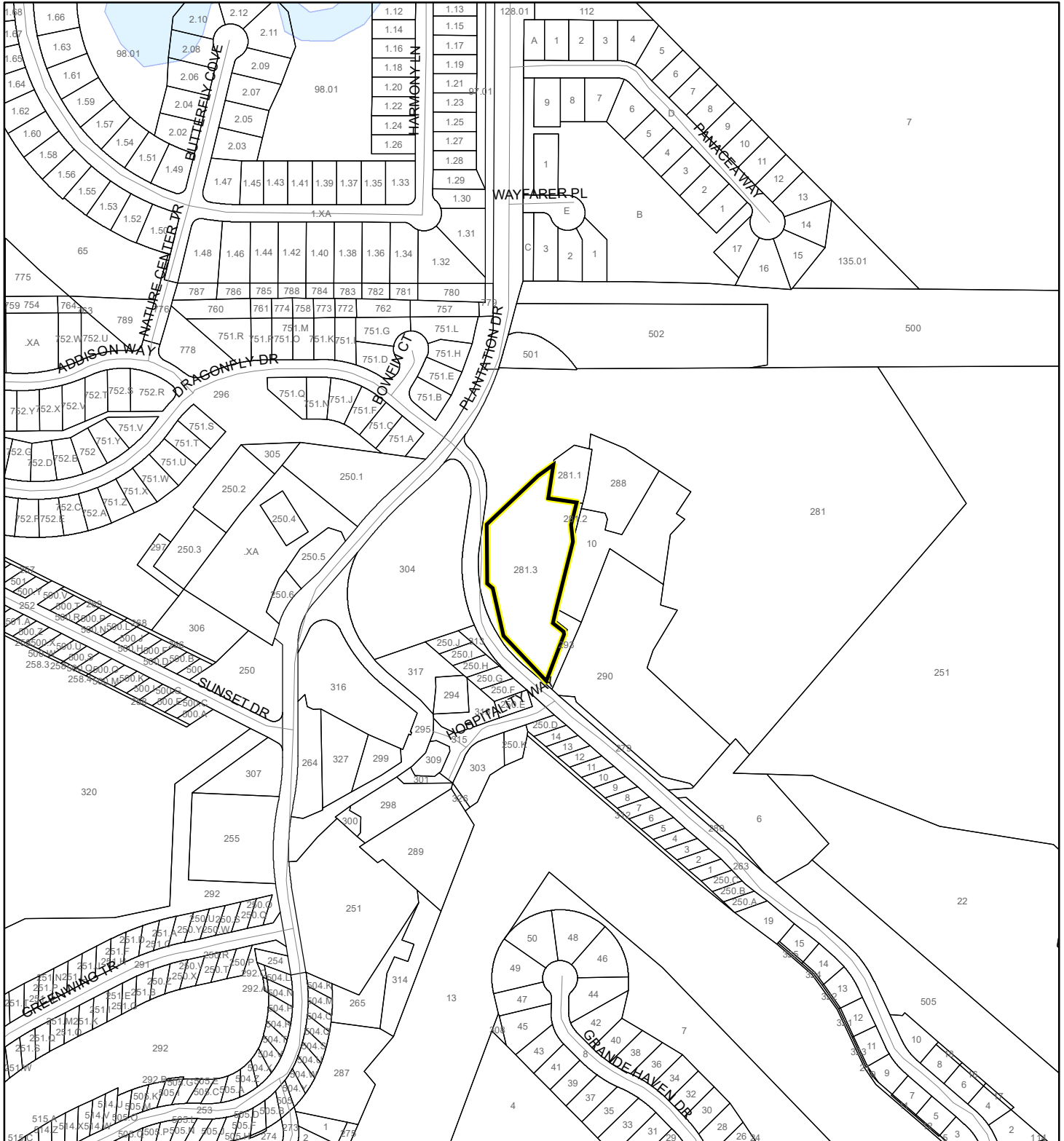
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

McD FAMILY TRUST, LLC

20Z00004



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.

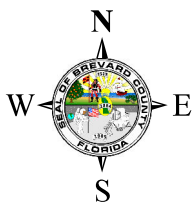
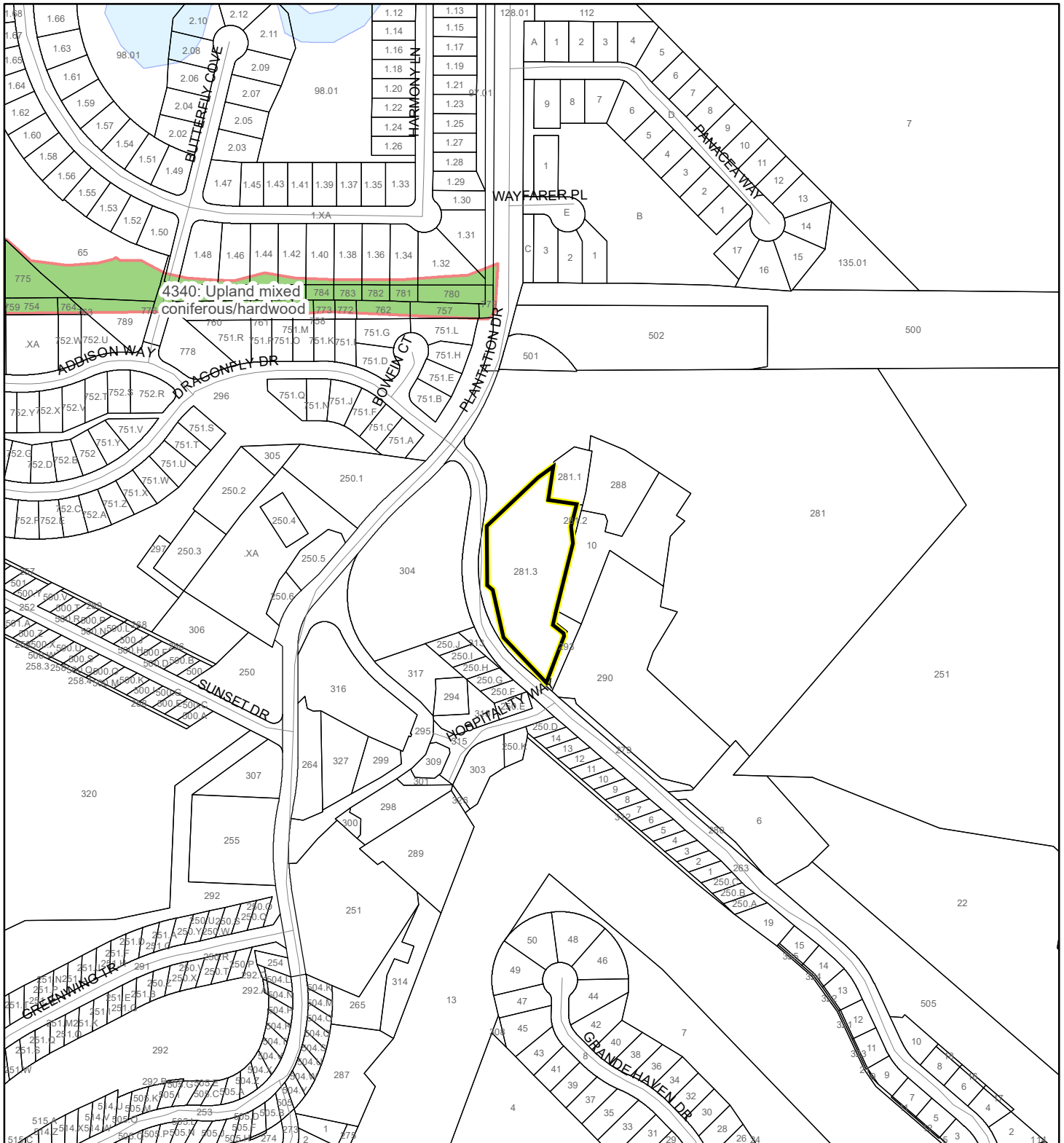
Produced by BoCC - GIS Date: 5/5/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

McD FAMILY TRUST, LLC

20Z00004



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: 5/5/2020

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

Prepared By: Honeycutt & Associates, Inc.
Address: 5195 South Washington Avenue
Titusville, FL 32780

Scott Ellis
Clerk Of Courts, Brevard County
#Pgs: 6 #Names: 3
Trust: 3.50 Rec: 49.00 Serv: 0.00
Excise: 0.00
Mitg: 0.00 nt Tax: 0.00

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 22 day of Nov, 2005, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and EKS, Inc., and THE GREAT OUTDOORS PREMIER RV/GOLF RESORT, INC. (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 Mini Warehouse & RV Storage pursuant to the Brevard County Code, Section 62-1483(1)(c) & 62-1845; 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 an/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit the use of said property for mini warehouse not to exceed 20,000 square feet & RV storage only, additional uses will require an application by the Developer/Owner.
3. The Developer/Owner shall restrict patrons of mini warehouse & RV storage units to those parties leasing/owning units within the Great Outdoor Resort. The Developer/Owner shall not lease any unit to parties not owning/leasing property within the Great Outdoors.

4. The 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.
5. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in 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 modified with consent of the County and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property.

RETURN CHECK TO BOARD 457

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

Helen Voltz, Chair

As approved by the Board on 11-22-05.

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 22 day of November 2005, by Helen Voltz, Chair of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced as identification.

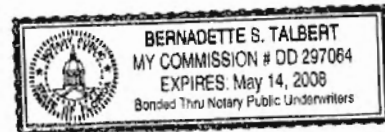
My Commission Expires:

Notary Public

SEAL

Commission No:

(Name typed, printed or stamped)



RETURN: Clerk to the Board #27

WITNESSES:

Bobbie F. Weekley

Bobbie F. Weekley
Witness name typed or printed

Cynthia S. Canada

Cynthia S. Canada

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 22 day of September 2005, by LYNN R. HANSEL who is personally known to me or who has produced _____ as identification.

My Commission Expires: March 2, 07
Commission No.: DD 162739

Tamara M. Devries
Notary Public

SEAL



OWNER/DEVELOPER

THE GREAT OUTDOORS PREMIER
RV/GOLF RESORT, INC.

P.O. BOX 3767

COCOA, FLORIDA 32924

Lynn R. Hansel Vice President
THE GREAT OUTDOORS PREMIER
LYNN HANSEL V.P.

RV/GOLF RESORT, INC.

RETURN: Clerk to the Board #27

WITNESSES:

Kathleen R. Johnson
Kathleen R. Johnson

Witness name typed or printed

Larry McDaniel
LARRY MCDANIEL

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 23rd day of September 2005, by Malcolm Kirschbaum who is personally known to me or who has produced _____ as identification.

My Commission Expires:
Commission No.:

Kathleen R. Johnson
Notary Public

SEAL



(Name typed, printed or stamped)

OWNER/DEVELOPER

EKS, Inc.
P.O. Box 3767
Cocoa, FL 32924

EKS, Inc.

President

EXHIBIT 'A'

LEGAL DESCRIPTION

MAP AND LEGAL DESCRIPTION OF:

PARCEL CO-7B:

A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 23 SOUTH, RANGE 35 EAST, BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 6, THENCE N.89°30'44"E., ALONG THE NORTH LINE OF SAID SECTION 6, A DISTANCE OF 1350.30 FEET TO THE INTERSECTION WITH THE NORTHEASTERLY LINE OF A 170.00 FOOT WIDE FLORIDA POWER AND LIGHT COMPANY RIGHT OF WAY AS DESCRIBED IN OFFICIAL RECORDS BOOK 730, PAGE 237 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE S.49°10'00"E., ALONG SAID LINE, 908.29 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S.49°10'00"E., ALONG SAID LINE 25.00 FEET; THENCE S.12°52'22"E., 139.38 FEET; THENCE S.43°34'37"E., 177.23 FEET; THENCE N.21°17'06"E., 142.17 FEET; THENCE N.12°54'02"W., 9.24 FEET; THENCE N.52°30'23"W., 39.24 FEET; THENCE N.14°07'26"E., 342.17 FEET; THENCE N.81°44'22"W., 95.95 FEET; THENCE N.08°15'38"E., 100.00 FEET; THENCE S.53°34'00"W., 59.10 FEET; THENCE S.46°39'46"W., 201.53 FEET; THENCE S.00°14'54"E., 155.92 FEET TO THE POINT OF BEGINNING. CONTAINING 2.22 ACRES MORE OR LESS.

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 2020 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred as "County") and McD FAMILY TRUST, LLC (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property in Brevard County, Florida, (hereinafter referred to as the "Property") 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 Mini Warehouse, Office Building & RV Storage pursuant to the Brevard County Code, Section 62-1483(1)(c) & 62-1845; and

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

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in

interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. The Developer/Owner shall limit the use of said property for mini warehouse not to exceed 20,000 square feet, office building not the exceed 1,200 square feet & RV storage only, additional uses will require an application by the Developer/Owner.
3. The Developer/Owner shall restrict patrons of mini warehouse, office building & RV storage units to those parties leasing/owning units within the Great Outdoor Resort. The Developers/Owners shall not lease any unit to parties not owning/leasing property within the Great Outdoors.
4. The 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.
5. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.
6. This Agreement shall be binding and shall insure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until modified with consent of the County and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property.

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

ATTEST:

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

Scott Ellis, Clerk
(SEAL)

Brian Lober, Chair
As approved by the Board on _____

STATE OF _____ §
COUNTY OF _____ §

The foregoing instrument was acknowledged before me this _____ day of _____,
2020, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires: _____

Notary Public _____

SEAL _____

Commission No.: _____ (Name typed, printed or stamped)

WITNESSES:

DEVELOPER/OWNER

(Witness Name typed or printed)

(Address)

WITNESSES:

OWNER

(Witness Name typed or printed)

McD FAMILY TRUST, LLC

(Address)

STATE OF _____ §

COUNTY OF _____ §

The foregoing instrument was acknowledged before me this ____ day of _____,
2020, by _____, President of _____, who is personally
known to me or who has produced _____ as identification.

My commission expires:

Notary Public

SEAL

Commission No.:

(Name typed, printed or stamped)

**Honeycutt &
Associates, Inc.**
ENGINEERS-SURVEYORS-PLANNERS
3700 South Washington Avenue
Titusville, Florida 32780
(321) 267-6233 Fax (321) 269-7847
Certificate of Authorization EB-0007623

CONCEPT PLAN
PROPOSED OFFICE BUILDING

**MCD FAMILY TRUST
BREVARD COUNTY**

1

APPROVED BY: _____ DATE: _____

[illegible]

SHEET NO:
CARD FILE:
FILE NO:

38



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

7/6/2020

Subject:

Canaveral Landing, LLC, requests a change of zoning classification from TR-1 to TRC-1 with a CUP for the Cluster Development of Mobile Homes and a BDP limiting residential development to 100 units. (20Z00006) (Tax Account 2314846) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a change of zoning classification from TR-1 (Single-Family Mobile Home) to TRC-1 (Single-Family Mobile Home Cooperative) with a CUP (Conditional Use Permit) for the Cluster Development of Mobile Homes and a BDP limiting residential development to 100 units.

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from TR-1 (Single-Family Mobile Home) to TRC-1 (Single-Family Mobile Home Cooperative) with a CUP (Conditional Use Permit) for the Cluster Development of Mobile Homes and a BDP limiting residential development to 100 units. The property is 33.8 acres, located on the north side of Canaveral Groves Boulevard, approximately 675 feet east of Grissom Parkway.

The TRC-1 zoning classification is not consistent with the RES 4 Future Land Use and requires the submittal of a Binding Development Plan to limit density in order to be consistent. The applicant has submitted a BDP to limit development to 100-units which would make the request for TRC-1 and CUP consistent with the Residential 4 FLU designation.

The character of the area is residential, consisting of mobile home zoning classifications on lots ranging in size from 0.25-acre to 1 acre. The applicant is proposing a maximum lot size of 43-feet wide by 87.5-feet deep for an estimated maximum lot area of 3,762.5 square feet, or 0.08-acre.

Previous zoning history shows that the site had previously held this type of zoning under **Z-8387** for TRC-1 with CUP for cluster development of modular coaches under a BSP (Binding Site Plan) limiting residential density to 137 units, approved in April 1989.

The Board may wish consider whether the proposed development is consistent and compatible with the surrounding area. The Board may also wish to consider if the proposed BDP limiting development to 100-units,

and the conditions of Section 62-1920, adequately mitigate the proposed development. Since this is a CUP, the Board may wish to consider additional stipulations to lessen the traffic impacts through the existing neighborhood.

The final public hearing will be held by the Board of County Commissioners on **THURSDAY, AUGUST 6, 2020 at 5:00 p.m.**, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Building C, Viera, Florida.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return 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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

CONDITIONAL USE PERMITS (CUPs)

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

(b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS 20Z00006 CANAVERAL LANDING LLC

TR-1 to TRC-1 with a CUP (Conditional Use Permit) for the cluster development of mobile homes and a BDP (Binding Development Plan) to limit residential development to 100-units

Tax Account Number: 2314846
Parcel I.D.: 23-35-36-00-501
Location: North side of Canaveral Groves Boulevard 675 feet east of Grissom Parkway (District 1)
Acreage: 33.8 acre

Planning and Zoning Board: 07/06/20

Board of County Commissioners: 08/06/20

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	TR-1	TRC-1, CUP and BDP
Potential*	135 mobile home lots	100 mobile home sites
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. ** Approvable when limited by BDP to 100 units.

Background and Purpose of Request

The applicant is seeking a zoning change from Single-family mobile home (TR-1) to Single-family mobile home cooperative (TRC-1) in conjunction with a Conditional Use Permit (CUP) for mobile home cluster development and a Binding Development Plan (BDP). The BDP limits development to 100-units.

This site has been zoned TR-1 since the adoption of Zoning Resolution **Z-10520** on March 1, 2001. Previous zoning history shows that the site had previously held this type of zoning under **Z-8387** for TRC-1 with CUP for cluster development of modular coaches under a Binding Site Plan (BSP) limiting residential density to 137 units, approved on April 24, 1989.

Land Use

The TRC-1 zoning classification is not consistent with the RES 4 Future Land Use and requires the submittal of a Binding Development Plan to limit density in order to be consistent. The applicant has submitted a BDP to limit development to 100-units which would make the request for TRC-1 and CUP consistent with the Residential 4 FLU designation.

Environmental Constraints

The subject parcel contains a large wetland area, and several small wetland areas as confirmed by Andrew Conklin Environmental Services, LLC (ACES). A majority of the property is also located in an isolated floodplain requiring compensatory storage, and offsite fill to elevate structures above the 100-year base flood elevation (BFE). As a result of fill brought onsite and compensatory storage requirements, it shall be demonstrated that unimpacted, isolated wetlands remain viable. The wetland impact for the proposed development shall not exceed .608 acre, which is 1.8% of the total acreage of the property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Canaveral Groves Boulevard, between Grissom Parkway and US Highway 1, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 34.68% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 3.2%. The corridor is anticipated to continue to operate at 37.88% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the proposed residential development potential of this site is less than the current residential development potential (100 units versus 135 units).

The subject property can be served by potable water by the City of Cocoa. Sewer is currently not extended to this site but may be extended from the Grissom Parkway force main provided by the City of Cocoa.

Applicable Land Use Policies

FLUE 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:

- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.
- E. Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system.

Staff analysis: Applicant is limiting development to 100-units which is less than 4-units per acre required by the RES 4 FLUM. Actual proposed density is 2.959 units per acre.

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.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. This site is surrounded by residential uses/lots. The entire area is under the FLUM designation of Residential 4. Lots sizes and zoning differ when viewed in comparison of westly or eastly development. To the west lies quarter-acre platted lots; whereas to the east lies 1.0-acre lots. There is half-acre lots to the north and a public roadway to the south. It appears that the applicant is proposing a maximum lot size of 43-feet wide by 87.5-feet deep for an estimated maximum lot area of 3,762.5 square feet or 0.08 of an acre.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The character of the area is residential. This site is an unimproved site zoned TR-1 with a FLUM of Residential 4. The parcels to the north are developed as single-family mobile home lots and each lot contains a minimum lot area of 0.56-acres. The abutting parcels to the east are developed as low-density residential lots under the Rural Residential Mobile Home, RRMH-1 and Single-family mobile home, TR-2 zoning classifications. Those lots all carry a minimum lot area of 1.0-acre. The parcel to the south across the Canaveral Groves right-of-way is zoned RRMH-1 and each lot carries at least 1.0-acre of land area. The parcels to the west are currently developed as TR-1 mobile home lots and carry a minimum of 0.25-acres for each of the residential lots.

Analysis of Administrative Policy #5 - Transportation facilities.

The proposed concept plan shows the project's sole access to Ann Way through an existing subdivision containing 1.0-acre lots. It is anticipated that this development will generate 499 Average Daily Trips (ADT's); 44 AM peak hr trips and 59 PM peak hr trips through the existing roadway network (i.e., Ann Way, Hess Aveune, & Philis Way).

Surrounding Area

There have been two zoning approvals within a half-mile radius around this site within the last 3 years. Zoning item (**17PZ00110**) adopted on December 7, 2017 rezoned a combined property of 5-lots into a single lot of 5.91-acres from the RRMH-1 and GU zonings to the Agriculture, AGR classification. The property is located in a SE direction a distance of 1,450 feet. It abuts the powerlines located to its eastern border. The second action, Zoning item (**19PZ00054**) adopted on August 1, 2019 rezoned a 1.01-acre parcel from General Use, GU to the Agricultural residential, AU(L) designation. This property lies 2,330 feet in a SW direction. It is located on the south side of Blair Street lying 500 feet west of Knoxville Avenue.

There is an existing TRC-1 development located 1,670 feet east called Sun Lake Estates. A portion of that development was created without benefit of the cluster development. It is located on the south side of Canaveral Groves. However, should you continue south on Sharpes Lake Avenue, Phases II

& III were developed utilizing the CUP for cluster development. It received zoning approval under **Z-8325** adopted on February 27, 1989.

Special Considerations for CUP (Conditional Use Permit)

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

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

This request should be evaluated in the context of **Section 62-1920** which governs the cluster development of mobile homes which states in, specifically 62-1920 (1-9):

Sec. 62-1920. Cluster development of mobile homes.

Cluster development of mobile homes is a conditional use in the TRC-1 zoning classification. The cluster concept may be used for cooperative mobile home development, in which mobile homes may be oriented around a common nonvehicular plaza, park or vegetated open space, under the following conditions:

- (1) In no case shall density exceed six units per gross acre.

Staff analysis: Applicant is limiting development to 100-units which is less than 4-units per acre required by the RES 4 FLUM.

- (2) No minimum lot size shall be required with the cluster concept.

Staff analysis: Based upon the maximum size of units identified on the concept plan together with the setbacks and separation distances designated in subsection #4, it appears the maximum lot size will be 43-feet wide by 87.5-feet deep for an estimated maximum lot area of 3,762.5 square feet or 0.08 of an acre.

- (3) No individual sites or lots shall be platted or sold in a cluster development.

Staff analysis: No lot lines or method of ownership has been designated on the concept plan.

With these staff comments, the applicant is aware of this requirement.

- (4) Principal and accessory uses must be set back not less than 20 feet from the edge of any public right-of-way or private street. A minimum distance of 15 feet must be maintained between all principal and detached accessory structures.

Staff analysis: Applicant states compliance with setbacks and separation distances on the concept plan. No accessory building information has been provided. With these staff comments, the applicant is aware of this requirement.

- (5) The required site plan shall contain the precise location of all mobile homes and the exact maximum dimensions of each mobile home for its respective site.

Staff analysis: Applicant has submitted a concept plan which identifies the unit locations and maximum dimensions of each mobile home.

- (6) Twenty-five percent of the parking requirement may be provided in one or more common parking areas that will serve as overflow parking and recreational vehicle parking. Overflow parking may be exempted from the paving requirement and be provided in a stabilized surface.

Staff analysis: Applicant proposes two parking spaces at the front of each residence. The concept plan also shows bicycle and golf cart parking at the amenity area. Code will require vehicle parking in accordance with Section 62-3206 (d).

- (7) Design requirements with respect to streets, sidewalks and drainage may be waived by the board of county commissioners upon the recommendation of the county manager or designee.

Staff analysis: The Conditional Use Permit Application Worksheet, the applicant requests waivers to sidewalk and drainage, however the concept plan does not identify nor provide details supporting the waivers. The drainage waiver relates to proposing inverted crown in the street to allow drainage to the center of the private street and the removal of sidewalks. Since there is insufficient information supporting the waiver, the Board should not consider taking action on the waiver as part of this application. The applicant may request the waivers during site plan or subdivision process. The Applicant has been provided engineering comments in a separate cover.

- (8) Twenty-five percent of the development must be provided in the form of usable common recreation and open space.**

Staff analysis: The concept plan identifies sufficient area to comply with both active and passive useable common recreation and open space. The applicant is providing 1.53 acres of active recreation areas as well as a total active/passive/wetland area of 734,628 square feet of

area (equating to 49.8 percent of the site area).

- (9) Each dwelling unit or other permitted use shall have access to a public street, either directly or indirectly, via an approach private road, pedestrian way, court or other area dedicated to public or private use or common easement guaranteeing access. Permitted uses are not required to front on a public dedicated road. The county shall be allowed access on privately owned roads, easements and common open space to ensure the police and fire protection of the area to meet emergency needs, to conduct county services and to generally ensure the health and safety of the residents of the development.

Staff analysis: The concept plan states that internal roadways are private and provides for a connection to Ann Way.

General Standards of Review

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

Applicant's Response: This use will not result in any adverse impacts to adjacent or nearby properties as the use of mobile home units and the potential number of units remains unchanged by the CUP. The existing zoning of TR-1 allows for mobile home units, as does the proposed zoning of TRC-1.

Staff analysis: The concept plan and BDP both propose to limit the development to 100-units; whereas, the RES 4 FLUM would have allowed up to 135 units. The percentage of wetlands covering this site, may have had an impact on this site's development pattern. It is anticipated that all of the traffic generated from this proposed development (499 ADT's) will impact Ann Way.

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: The proposed use and potential number of units will remain unchanged by this CUP. There will be sufficient parking provided at each mobile home site, with additional parking near the Cooperative's common recreation areas and amenities.

Staff analysis: The concept plan proposes two vehicle parking spaces at the front of each residential unit. Additional golf-cart and bicycle parking has been identified at the common area; however, site plan code will require additional vehicle parking and ADA compliance.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of

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

Applicant's Response: There is no reason that this requested CUP will cause any diminution of value of abutting residential property.

Staff analysis: Competent and substantial evidence by a MAI certified appraiser has not been provided by the applicant.

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

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

Applicant's Response: Ingress/egress to the Cooperative will be by Ann Way, with many different routes to get to Ann Way from Canaveral Groves Boulevard and Grissom Parkway. As the existing zoning and the proposed zoning with CUP both allow for mobile homes, this ingress/egress must be presumed to be adequate to serve the proposed use without burdening the adjacent and nearby uses. The internal roads will meet required county standards, unless waived by the Board of County Commissioners.

Staff analysis: Based upon the project size of 100-units, the proposed access to Ann Way will introduce 499 Average Daily Trips (ADT's) through the adjacent neighborhood.

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: The requested CUP merely allows clustering of the mobile homes, so this use will not create any additional noise, glare, odor, particulates, smoke, fumes or emissions from the existing mobile home zoning. The Cooperative will abide by County noise and light emissions ordinances.

Staff analysis: The concept plan's "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: The Cooperative will abide by the stated residential noise levels, unless excepted in the County Ordinances.

Staff analysis: The concept plan's "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: The proposed use and potential number of units will remain unchanged by this CUP, and shall not cause the adopted level of service for solid waste disposal to be exceeded.

Staff analysis: The adopted level of service for solid waste disposal will be reviewed as part of the site plan review process.

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

Applicant's Response: The proposed use and potential number of units will remain unchanged by this CUP, and shall not cause the adopted level of service for potable water or wastewater to be exceeded.

Staff analysis: The adopted level of service for potable water or wastewater will be reviewed as part of the site plan review process.

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: The mobile home sites will meet the setback requirements of the TRC-1 zoning category requirements for buffering, and will meet the County landscape code as applied to this property. The adjacent and nearby properties are mobile homes. There will be a recorded cooperative agreement with deed restrictions that will be enforced by the Cooperative Board and/or a property manager to ensure that the mobile home units do not cause negative impacts on others in the cooperative or to adjacent and nearby properties and properties' owners.

Staff analysis: The screening or buffering aspects have 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)(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: The signage and exterior lighting in the cooperative will not cause unreasonable glare, hazards to traffic safety or interference with neighbors use or enjoyment of their properties as all county codes regarding signage and lighting will be followed. Additionally, there will be a cooperative agreement with deed restrictions that will be enforced by the Cooperative Board and/or a property manager to ensure that lighting does not cause negative impacts to adjacent and nearby properties and properties' owners.

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: The common recreation areas and amenities will have hours of operation such that no use of the areas and amenities will adversely affect the use and enjoyment of the residential character of the area.

Staff analysis: The hours of operation of the recreational amenities has only been identified as a comment within the conditional use permit application worksheet and has not been noted 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)(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: The height of the mobile home units and amenities in the Cooperative will be compatible with the character of the existing mobile home character of the area.

Staff analysis: The height limitation of 35 feet has been identified on the concept plan. Code section 62-1405 (9) states: Maximum height of structures. Maximum height of structures is 35 feet. No accessory structure or addition to a mobile home shall exceed a height of 20 feet, measured from the final grade. Although the current concept plan does not designate any accessory buildings or additions, should they be proposed in the future, they will need to be limited to 20 feet in height, measured from the final grade.

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: Any off-street parking or loading areas will be within the common recreation areas as permitted by Section 62-1920 (6), and will be maintained by the Cooperative Board and/or property manager in such a manner that parking and loading areas will not adversely impact or impair the use and enjoyment of adjacent and nearby properties.

Staff analysis: The concept plan only provides for 200 vehicle parking spaces adjacent to the home sites. Site plan review for clubhouse parking may require additional parking and American Disability Act (ADA) parking over what has been depicted for golf-cart and bicycle parking.

For Board Consideration

The applicant is seeking a zoning change from Single-family mobile home, TR-1 to Single-family mobile home cooperative TRC-1 together with a Conditional Use Permit (CUP) for mobile home cluster development and a Binding Development Plan (BDP) to limit development to 100-units.

The Board may wish consider whether the proposed development is consistent and compatible with the surrounding area. Additionally, does the proposed Binding Development Plan limiting development to 100-units and the conditions of Section 62-1920 adequately mitigate the proposed development. Since this is a CUP, the Board may wish to consider additional stipulations to lessen the traffic impacts through the existing neighborhood.

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

Item # 20Z00006

Applicant: Rezanka for Nick Dottore

Zoning Request: TR-1 to TRC-1

Note: Applicant wants a 100-unit mobile home cooperative with cluster development.

P&Z Hearing Date: 07/06/20; **BCC Hearing date:** 08/06/20

Tax ID No: 2314846

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department 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.**
- If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to any design of plans and land clearing/filling activities.

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Floodplain
- Scrub Jay Habitat Polygon
- Heritage Specimen Trees

The subject parcel contains a large wetland area, and several small wetland areas as confirmed by Andrew Conklin Environmental Services, LLC (ACES). A majority of the property is also located in an isolated floodplain requiring compensatory storage, and offsite fill to elevate structures above the 100-year base flood elevation (BFE). As a result of fill brought onsite and compensatory storage requirements, it shall be demonstrated that unimpacted, isolated wetlands remain viable.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains large areas of mapped National Wetland Inventory (NWI) wetlands, SJRWMD wetlands, and hydric soils (Tomoka muck, Myakka sand depressional, and Anclote sand) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and United States Department of Agriculture (USDA) Soil Conservation Service Soils Survey maps, respectively. A wetland delineation was completed on December 7, 2017, by Andrew Conklin Environmental Services, LLC (ACES) and confirmed the presence of several areas of wetlands as shown in the attached site assessment report. Per Section 62-3694(c)(1), Residential land uses that are a part of a site plan, on properties containing 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. 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 Sec. 62-3694(c)(6), for multi-family parcels greater than five acres in area. Per Section 62-3694(e), Any allowed wetland impacts shall ensure the protection of wetlands and wetland functional values by prioritizing protective activities with avoidance of impacts as the first priority, minimization of impacts as the second priority, and mitigation for impacts as the third priority. Any authorized wetland impact, for residential use shall be limited to the structural building area requirements for the primary use as defined by the zoning code, on-site disposal system requirements, and the 100-year flood elevation requirement for first floor elevations, and necessary ingress and egress. The amount and extent of wetland impact shall be the minimum required to accomplish these purposes. Any wetland impacts shall meet Section 62-3696. As a result of fill brought onsite, it shall be demonstrated that unimpacted, isolated wetlands remain viable. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan design, land clearing or permit submittal.

Aquifer Recharge Soils

As shown on the USDA Soil Conservation Service Soils Survey map, the subject parcel contains mapped aquifer recharge soils (St Lucie fine sand). The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Floodplain

A majority of the property is located within an isolated floodplain as identified by FEMA, and as shown on the FEMA Flood Map. The portion of the property located within the floodplain is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Objective 4, Policy 4.6, Brevard County shall continue to ensure that alterations of isolated 100-year floodplains do not adversely impact the drainage of adjacent properties or public drainage facilities.

Per Section 62-3724(3)(b) & (d), Development of a lot or parcel within an isolated floodplain shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, access to the primary and accessory structure. These areas shall be elevated to or above the 100-year base flood elevation.

Compensatory storage shall be required for fill in excess of that which will provide an upland buildable area within an isolated floodplain greater than one third (1/3) acre in size. Compensatory storage for lots within a platted subdivision created after the effective date of this ordinance shall be provided. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Per Chapter 62, Article X, Division 6, no site alteration shall adversely affect the existing surface water flow pattern. Per Chapter 62, Article X, Division 5, Section 62-3723 (2), development within floodplain areas shall not have adverse impacts upon adjoining properties. Per Section 62-3723(5), development in isolated floodplain areas shall ensure that off-site post development stormwater discharge rates shall not exceed off-site predevelopment discharge rates. All site plans, subdivision plats, building permits, and other active development orders shall meet the criteria in Chapter 62, Division 6, Stormwater Criteria, and Article XI, Division 3, Standards for Flood Hazard Reduction, Section 62-3724(e)(4) as it relates to isolated floodplains.

Protected Species – Florida Scrub Jay

Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. In addition, a large Florida Scrub Jay polygon is mapped over the northern half of the parcel. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

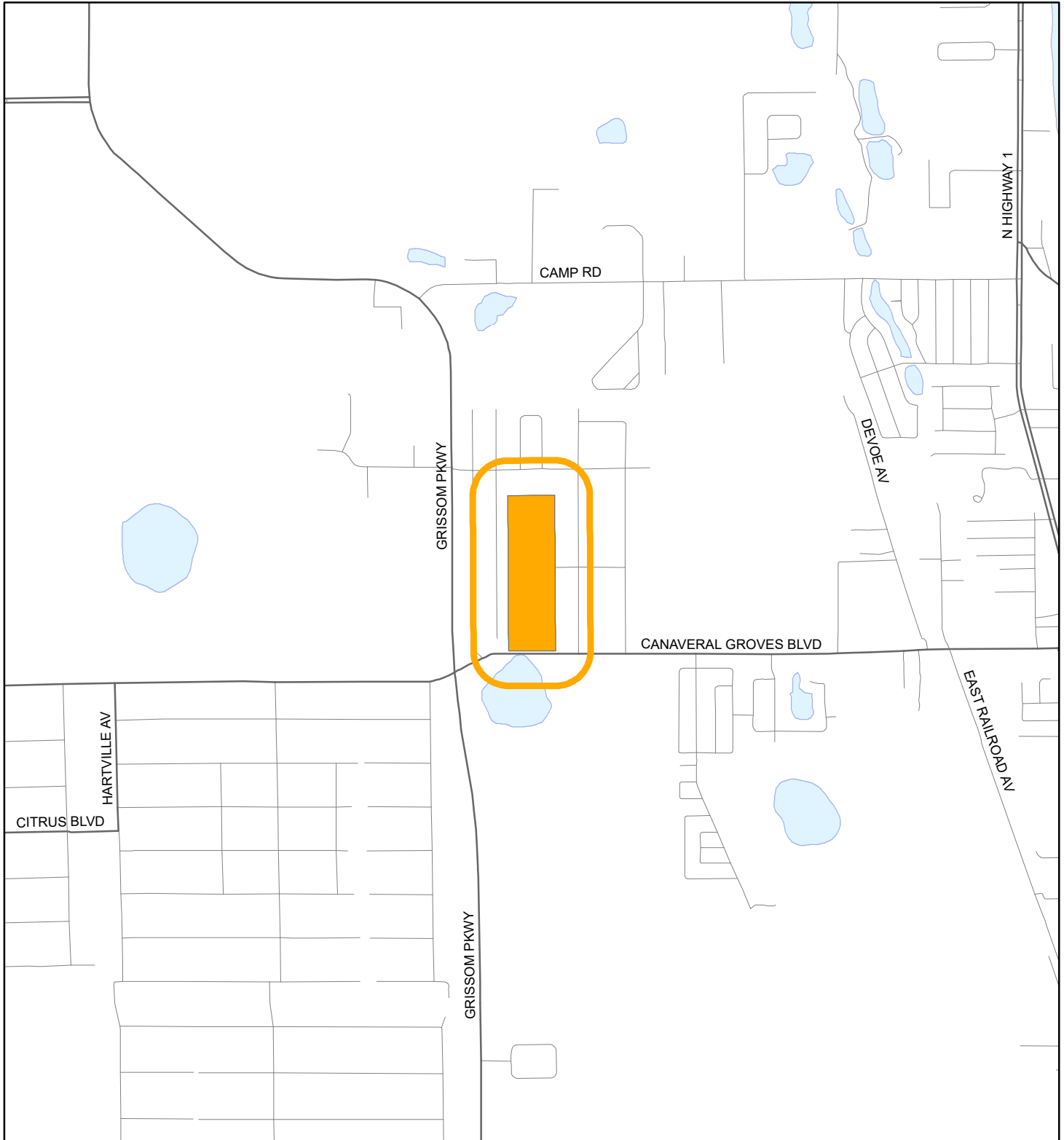
Heritage Specimen Trees

The applicant should contact NRM at 321-633-1016 prior to any land clearing activities. The parcel contains a mapped polygon of SJRWMD Florida Land Use and Cover Classification System (FLUCCS) code 4110 – Pine Flatwoods. Heritage Specimen trees (greater than or equal to 24 inches in diameter) and Protected Trees (greater than or equal to 14 inches in diameter) are included in this FLUCCS code, and likely reside in the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of heritage Specimen Trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements.

LOCATION MAP

CANAVERAL LANDING, LLC

20Z00006



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: 5/11/2020

— Buffer
— Subject Property

ZONING MAP

CANAVERAL LANDING, LLC

20Z00006



1:4,800 or 1 inch = 400 feet

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Subject Property

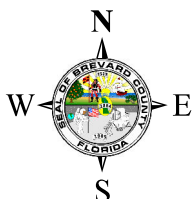
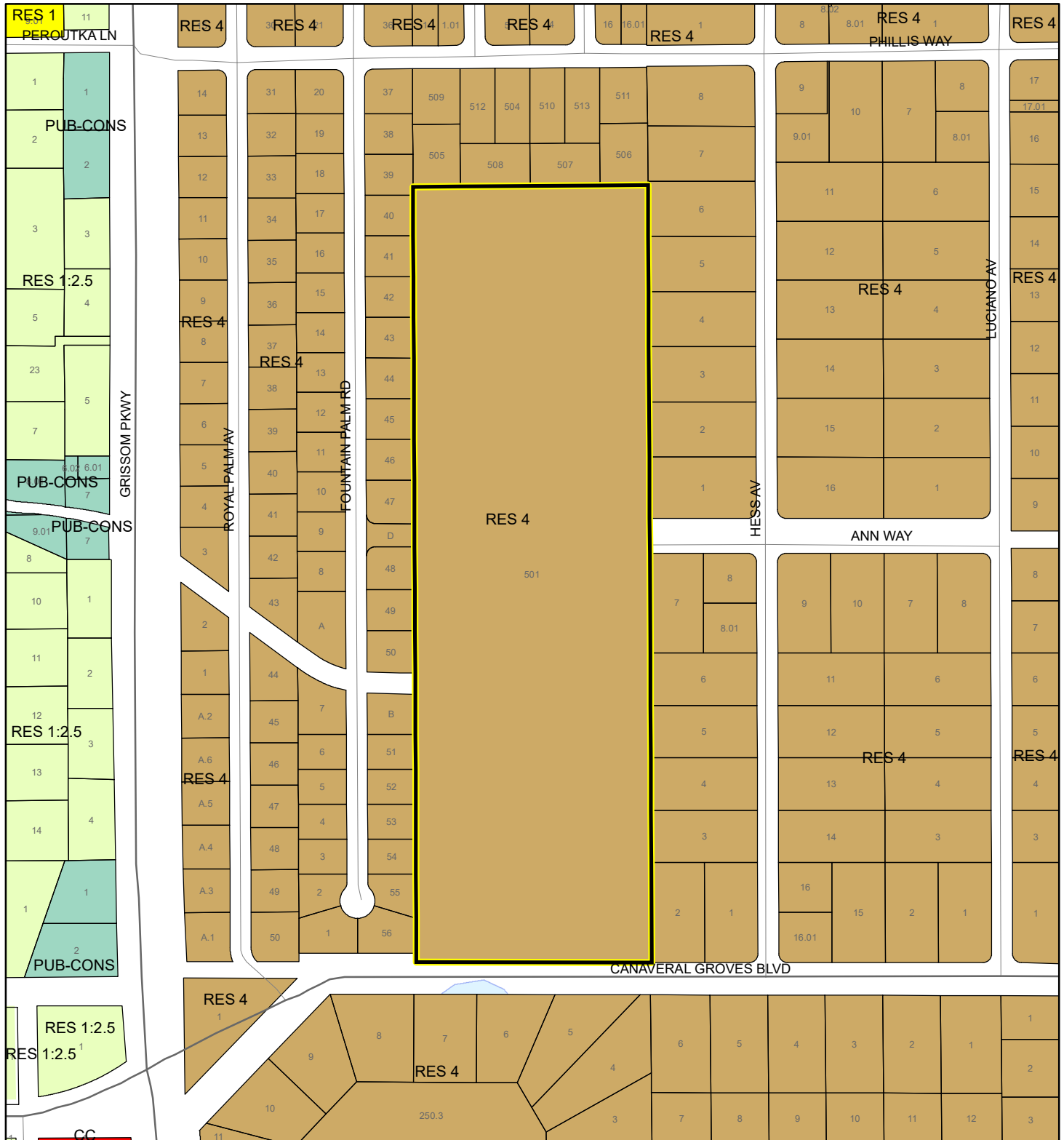
Parcels

Zoning

FUTURE LAND USE MAP

CANAVERAL LANDING, LLC

20Z00006



1:4,800 or 1 inch = 400 feet

Subject Property
 Parcels

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AERIAL MAP

CANAVERAL LANDING, LLC

20Z00006





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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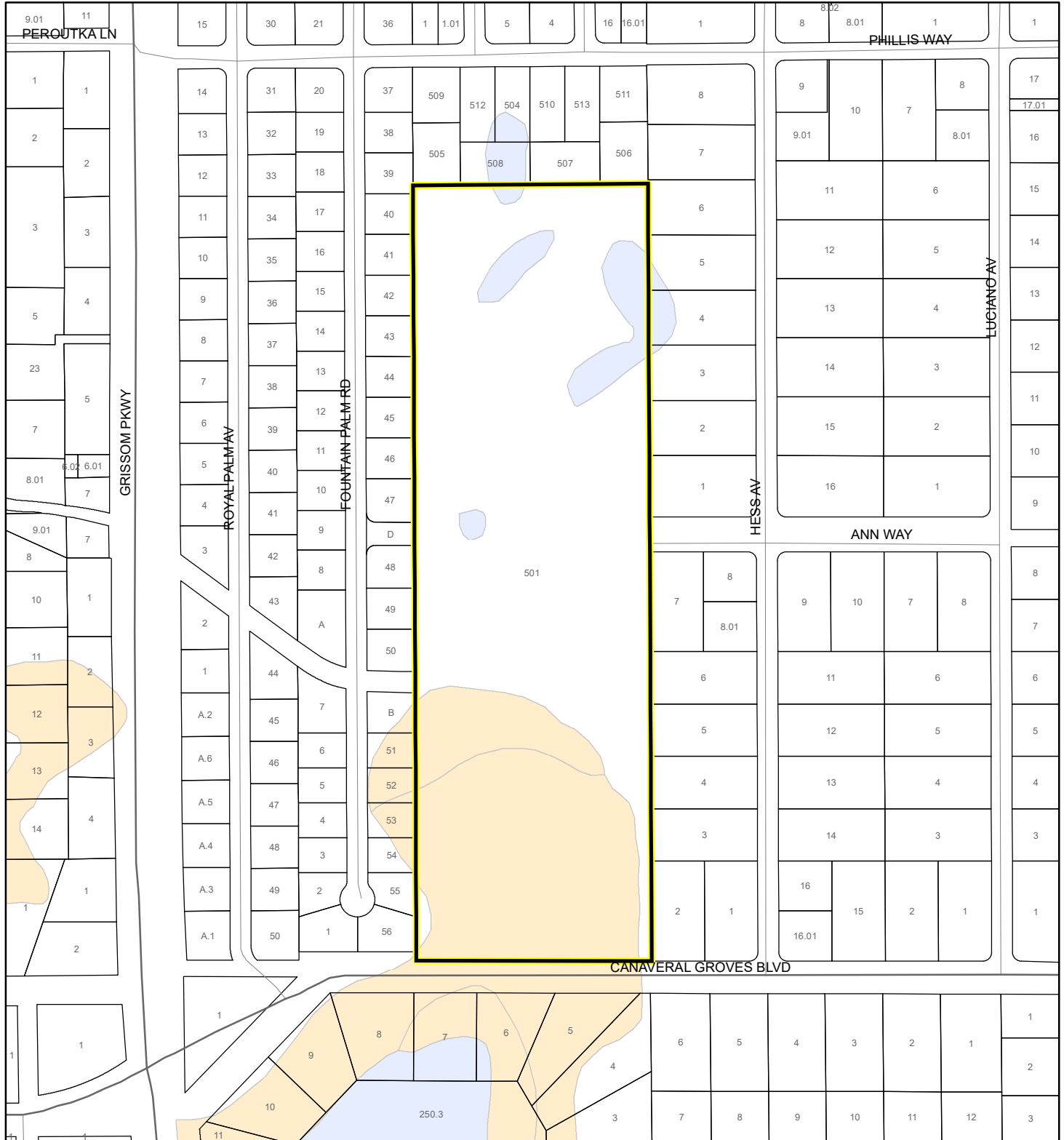
Produced by BoCC - GIS Date: 5/11/2020

 Subject Property
 Parcels

NWI WETLANDS MAP

CANAVERAL LANDING, LLC

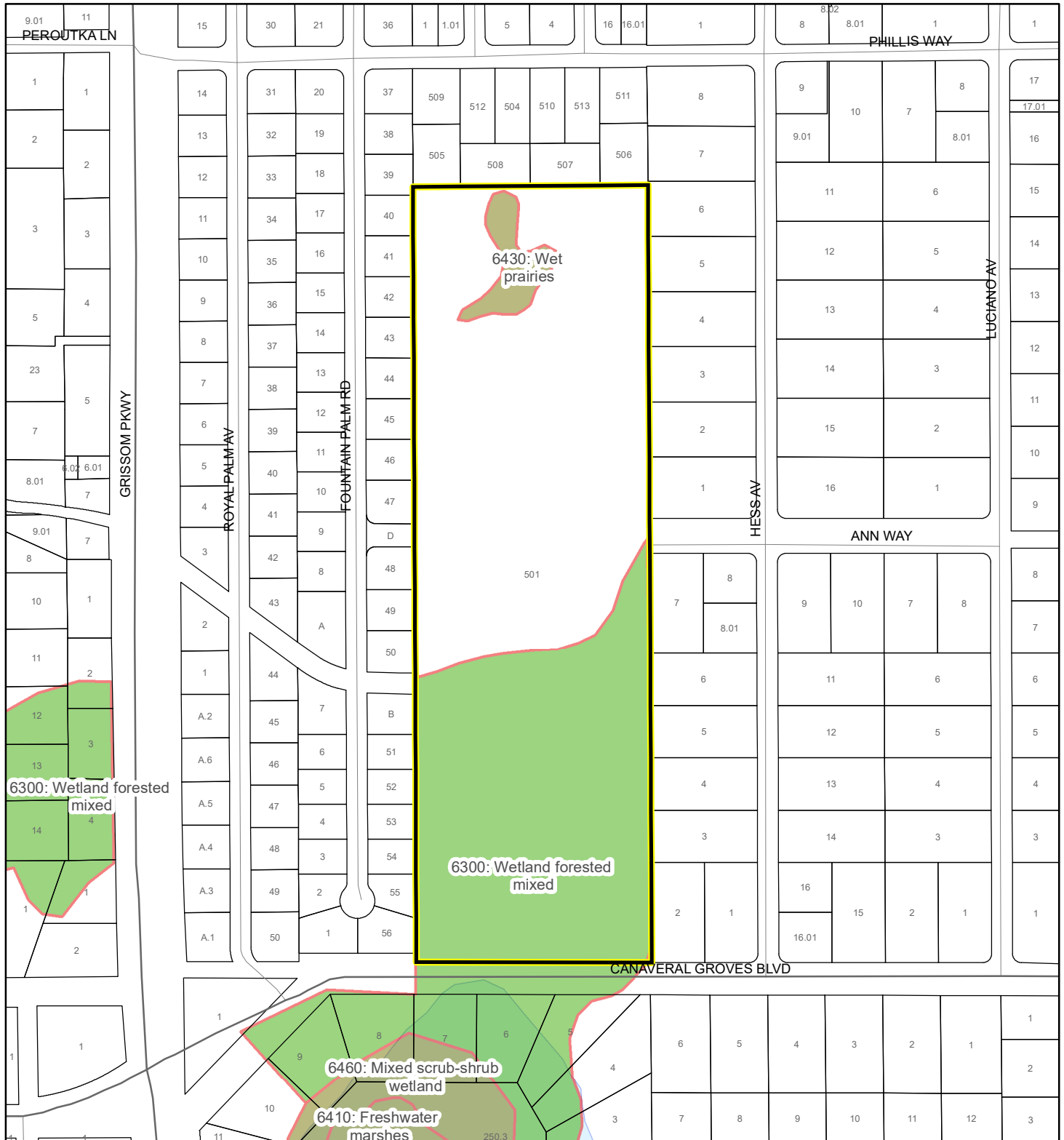
20Z00006



SJRWMD FLUCCS WETLANDS - 6000 Series MAP

CANAVERAL LANDING, LLC

20Z00006



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

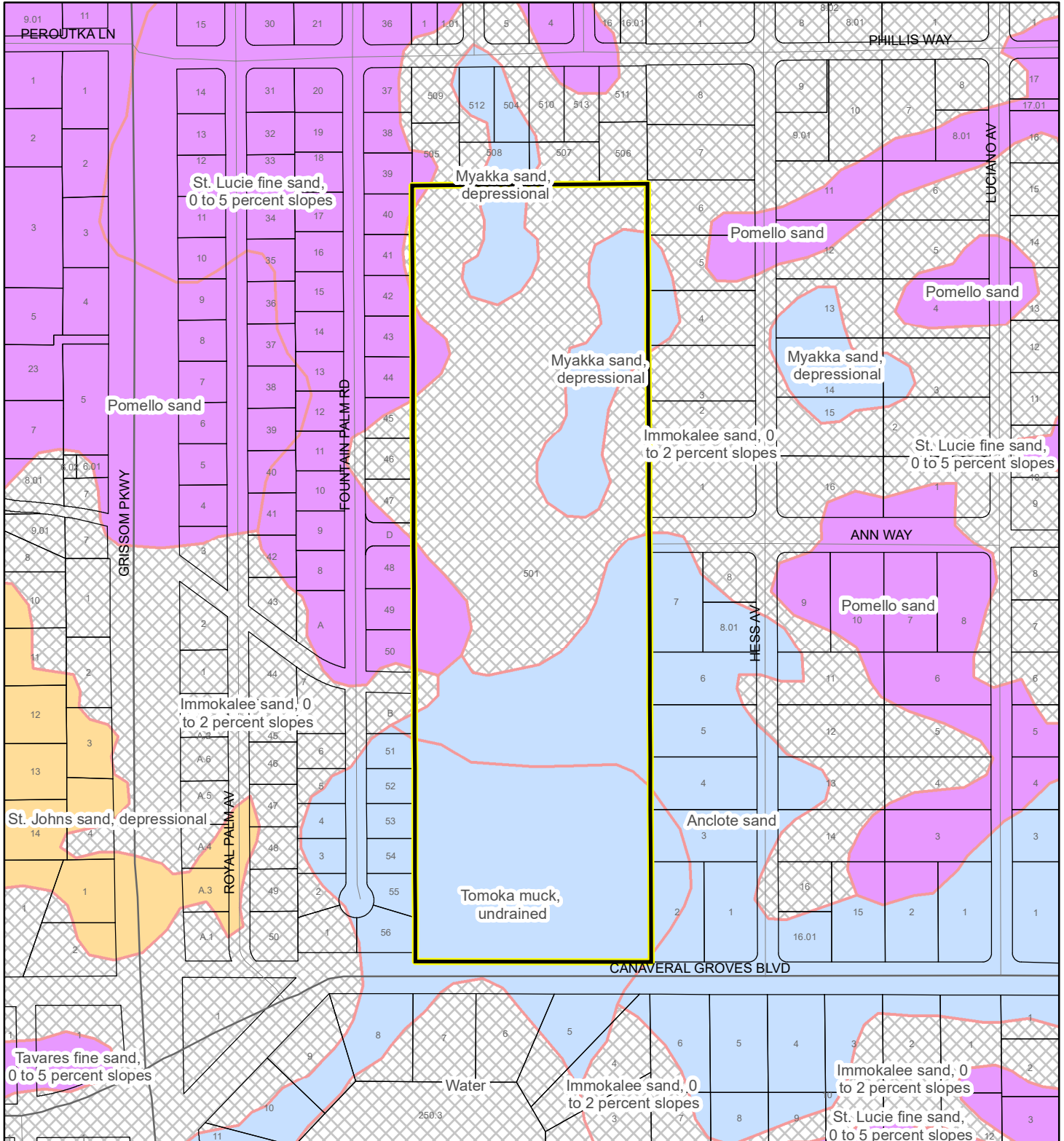
Subject Property

Parcels

USDA SCSSS SOILS MAP

CANAVERAL LANDING, LLC

20Z00006



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/11/2020

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

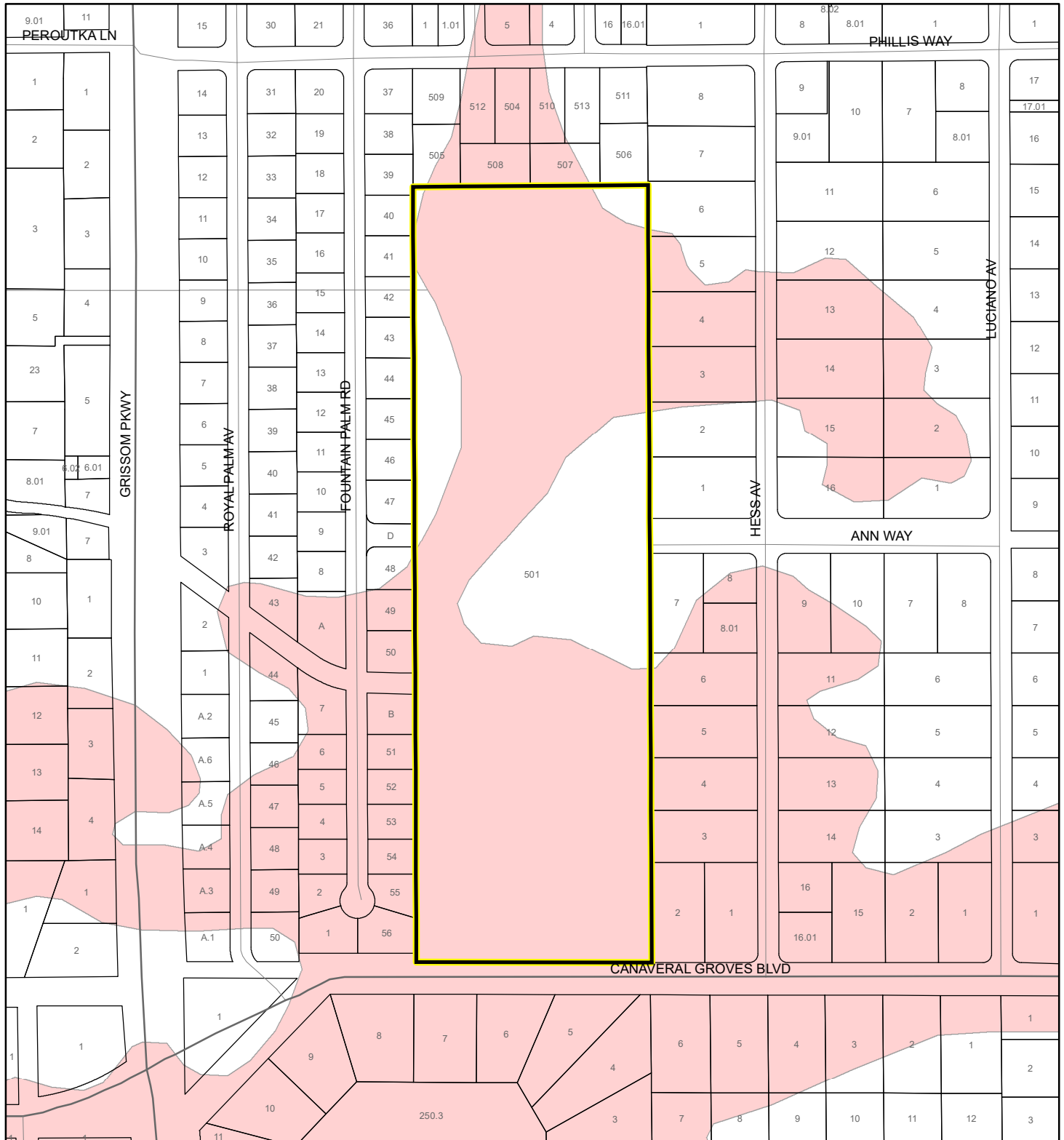
Subject Property

Parcels

FEMA FLOOD ZONES MAP

CANAVERAL LANDING, LLC

20Z00006



1:4,800 or 1 inch = 400 feet

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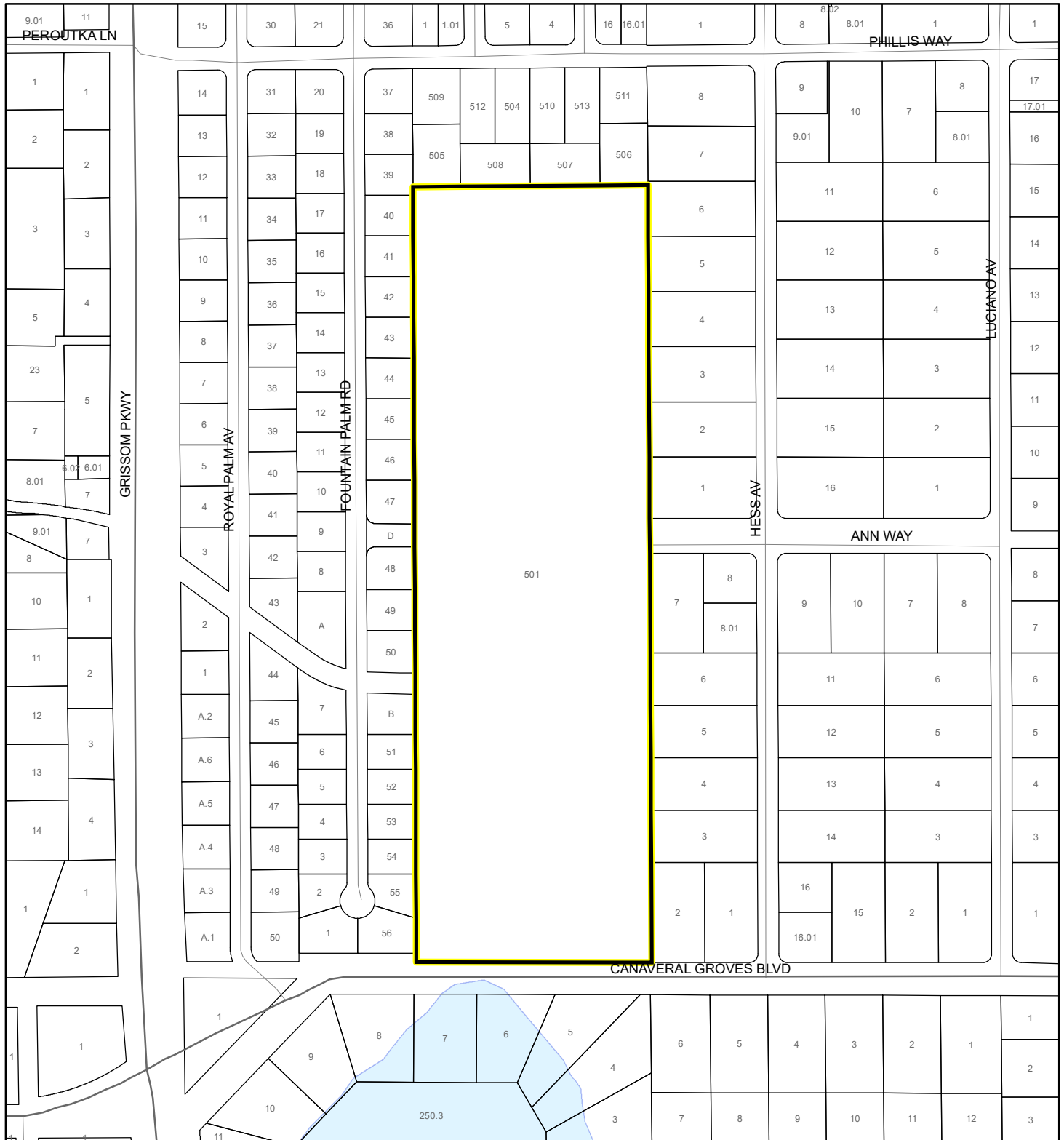
FEMA Flood Zones

- | | | |
|--|--|--|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | | |
| Parcels | | |

COASTAL HIGH HAZARD AREA MAP

CANAVERAL LANDING, LLC

20Z00006



1:4,800 or 1 inch = 400 feet


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 Subject Property

 Parcels

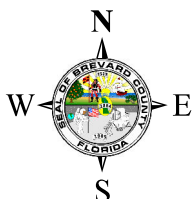
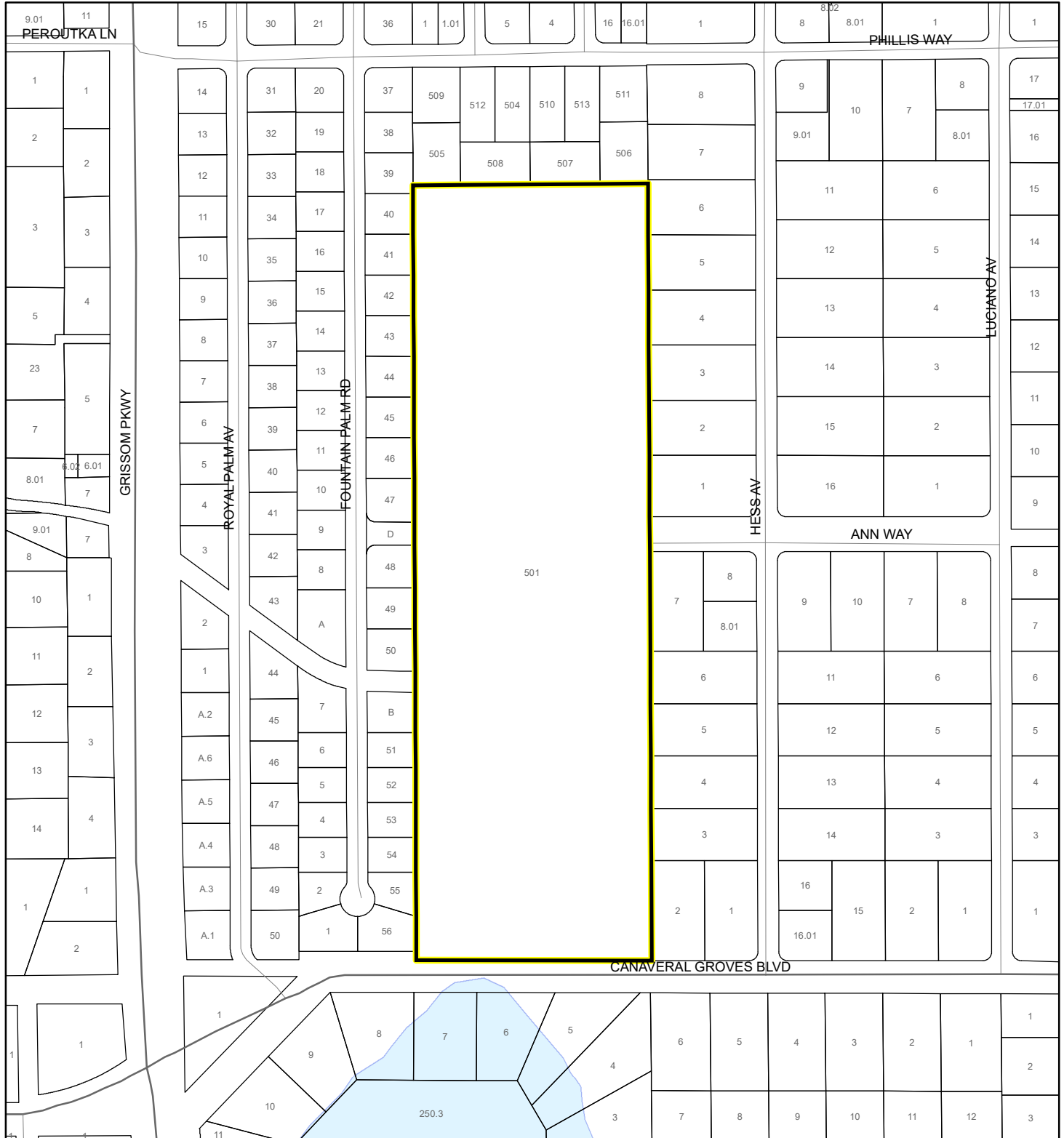
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CANAVERAL LANDING, LLC

20Z00006



1:4,800 or 1 inch = 400 feet

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Subject Property

Parcels

Septic Overlay

40 Meters

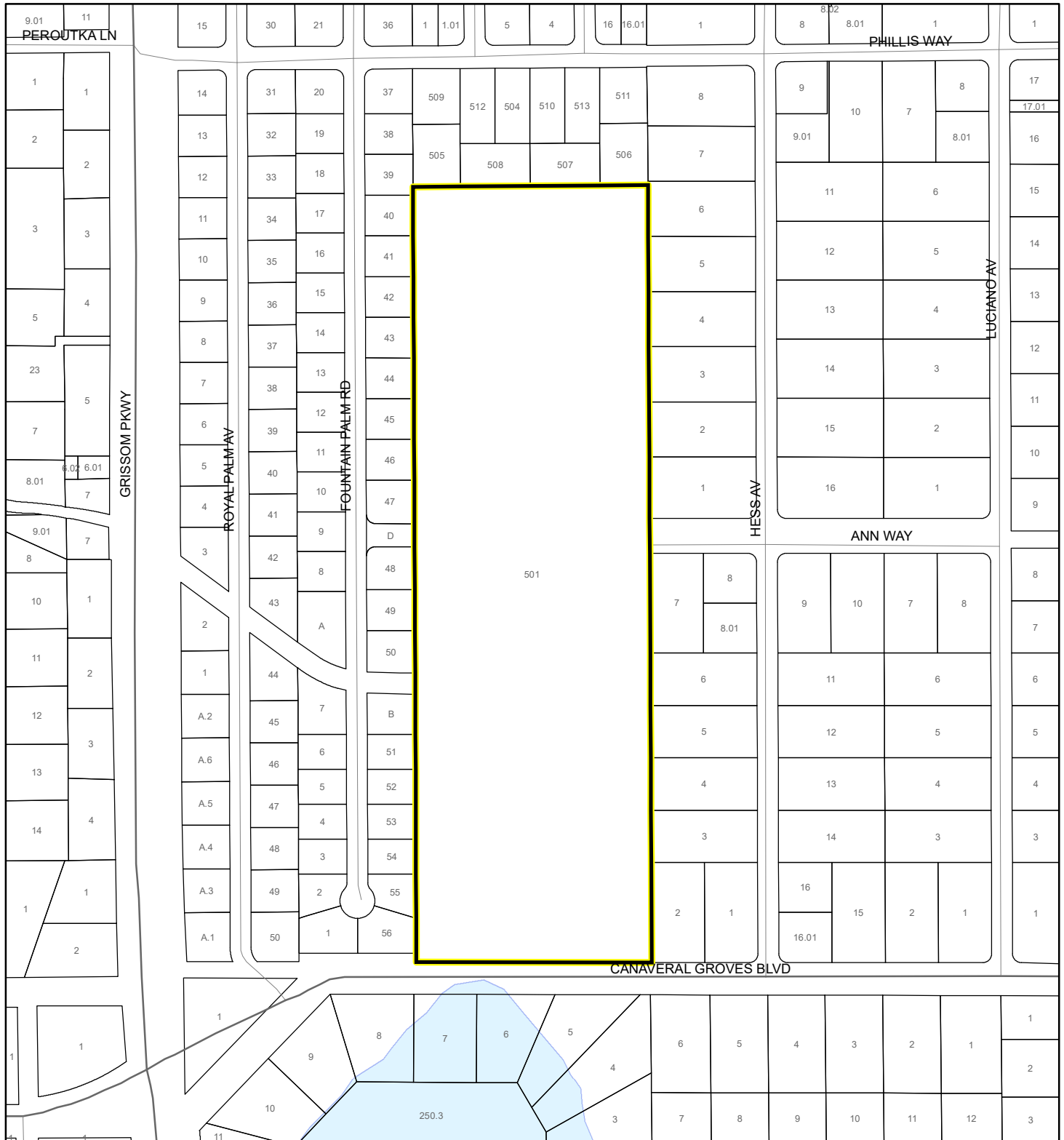
60 Meters

All Distances

EAGLE NESTS MAP

CANAVERAL LANDING, LLC

20Z00006



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

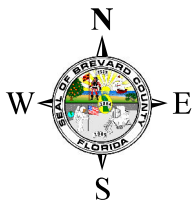
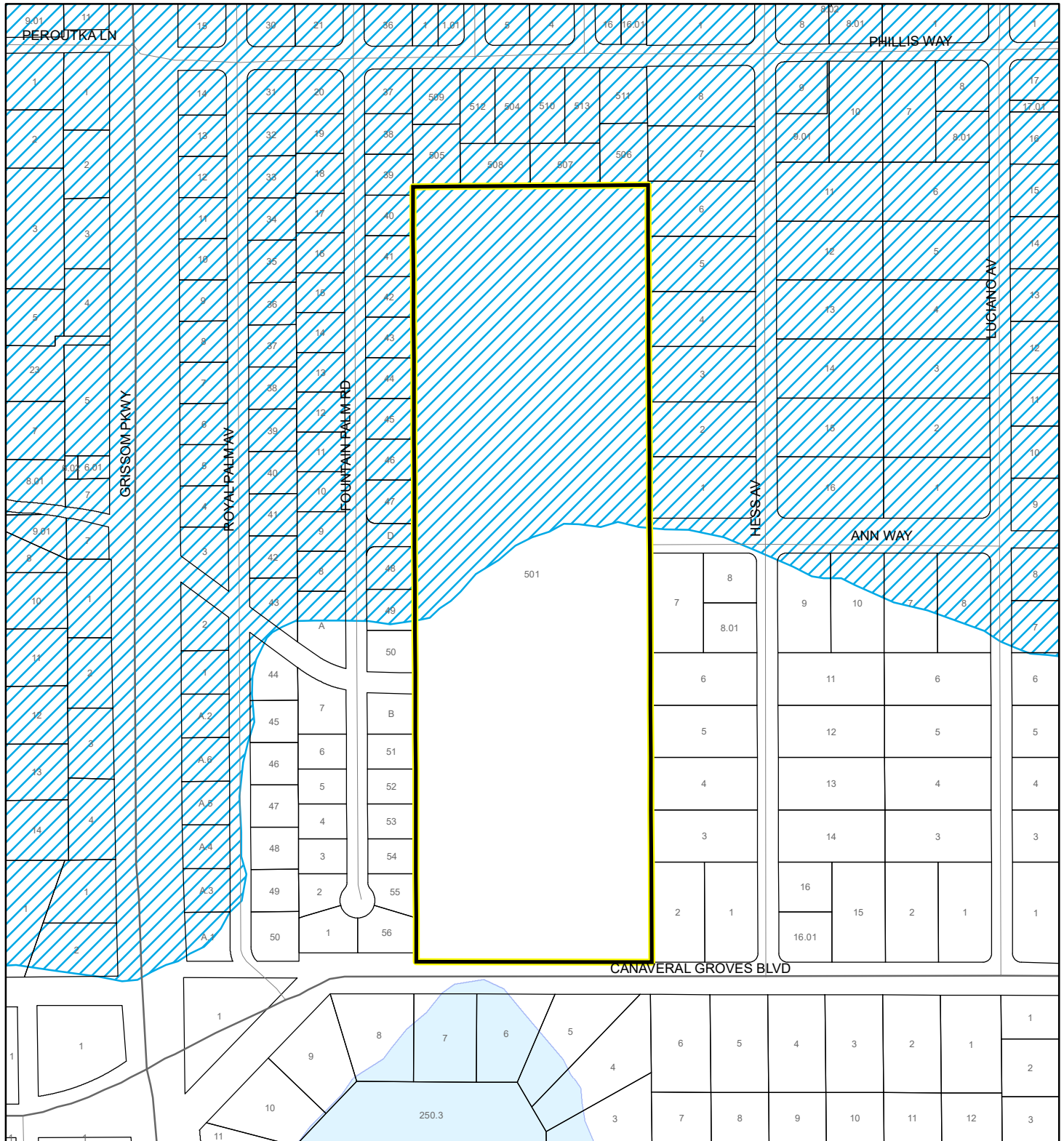


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CANAVERAL LANDING, LLC

20Z00006



1:4,800 or 1 inch = 400 feet

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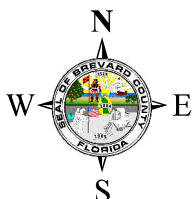
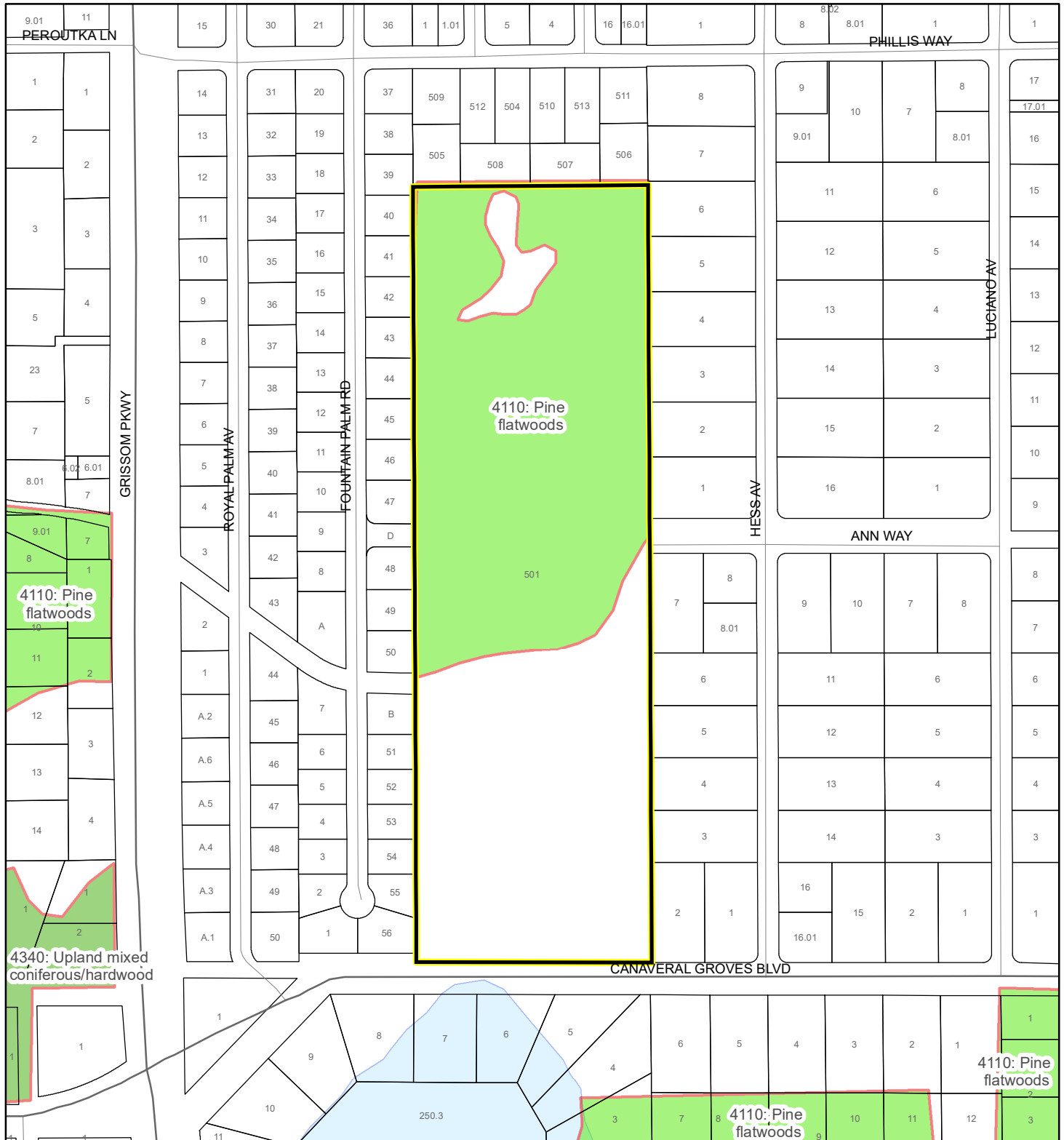
Produced by BoCC - GIS Date: 5/11/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CANAVERAL LANDING, LLC

20Z00006



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/11/2020

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

Prepared by: Kimberly B. Rezanka
Cantwell & Goldman, P.A.
96 Willard Street, Suite 302
Cocoa, FL 32922

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 2020, between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as "County") and **CANAVERAL LANDING, LLC**, a Wyoming 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 has requested the TRC-1 zoning classification(s) and desires to develop the Property as a mobile home cooperative with a cluster development of mobile homes, 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 100 units, consistent with the RES4 future land use designation, 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. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property.
4. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court the cost of recording this Agreement in the Public Records of 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 _____, 2020. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
6. Violation of this Agreement will also constitute a violation of the Zoning Classification and this Agreement may be enforced by Sections 1.7 and 62-5, Code of Ordinances of Brevard County, Florida, as may be amended.
7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and must be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any mandatory condition is a violation of this Agreement, constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 6, above.

45

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)

Bryan Lober, 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:

CANAVERAL LANDING, LLC, a Wyoming limited liability co.
as DEVELOPER/OWNER

(Witness Name typed or printed)

1712 Pioneer Avenue, Suite 285
Cheyenne, WY 82001

(Witness Name typed or printed)

NICHOLAS J. DOTTORE
President of Wyoming American Holdings, LLC,
the Preferred Member and Manager of Canaveral
Landing, LLC

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2020, by Nicholas J. Dottore, President of Wyoming American Holdings, LLC, the Preferred Member and Manager of CANAVERAL LANDING, LLC, a Wyoming limited liability company, who is personally known to me or who has produced as identification.

My commission expires
SEAL
Commission No.:

Notary Public
(Name typed, printed or stamped)

EXHIBIT "A"

A part of the East 1/2 of the West 1/2 of the SW 1/4 of Section 36, Township 23 South, Range 35 East, Brevard County, Florida, being more particularly described as follows: For a point of reference, commence at the SW corner of said Section 36, thence East along the South line of said Section 36 a distance of 669.58 feet; thence N. 0 degrees 20' 47" W., 50 feet to the Point of Beginning; said point being on the Northerly R/W of Canaveral Groves Blvd.; thence N. 0 degrees 20' 47" W., 2218.02 feet; thence N. 89 degrees 32' 10" E., 671.18 feet; thence SO degrees 18' 07" E., 2222.93 feet to the Northerly right of way line of Canaveral Groves Blvd.; thence West 669.46 feet to the Point of Beginning.

JOINDER IN BINDING DEVELOPMENT AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Purchase-Money First Mortgage dated December 16, 2019, given by Canaveral Landing, LLC, a Wyoming Limited Liability Company as mortgagor, in favor of the undersigned, Hammocks Brevard, LLC, as mortgagee, recorded in Official Records Book 8619, Page 2358, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Agreement for the purpose of consenting to the change of property use and development requirements as set forth therein.

MORTGAGEE: Hammocks Brevard, LLC, 1835 S Atlantic Ave., 704, Cocoa Beach, FL 32931

Hammocks Brevard, LLC,
a Florida limited liability company

WITNESSES:

By: _____

(Print Name)

Its: _____

(Print Name)

(Print Name)

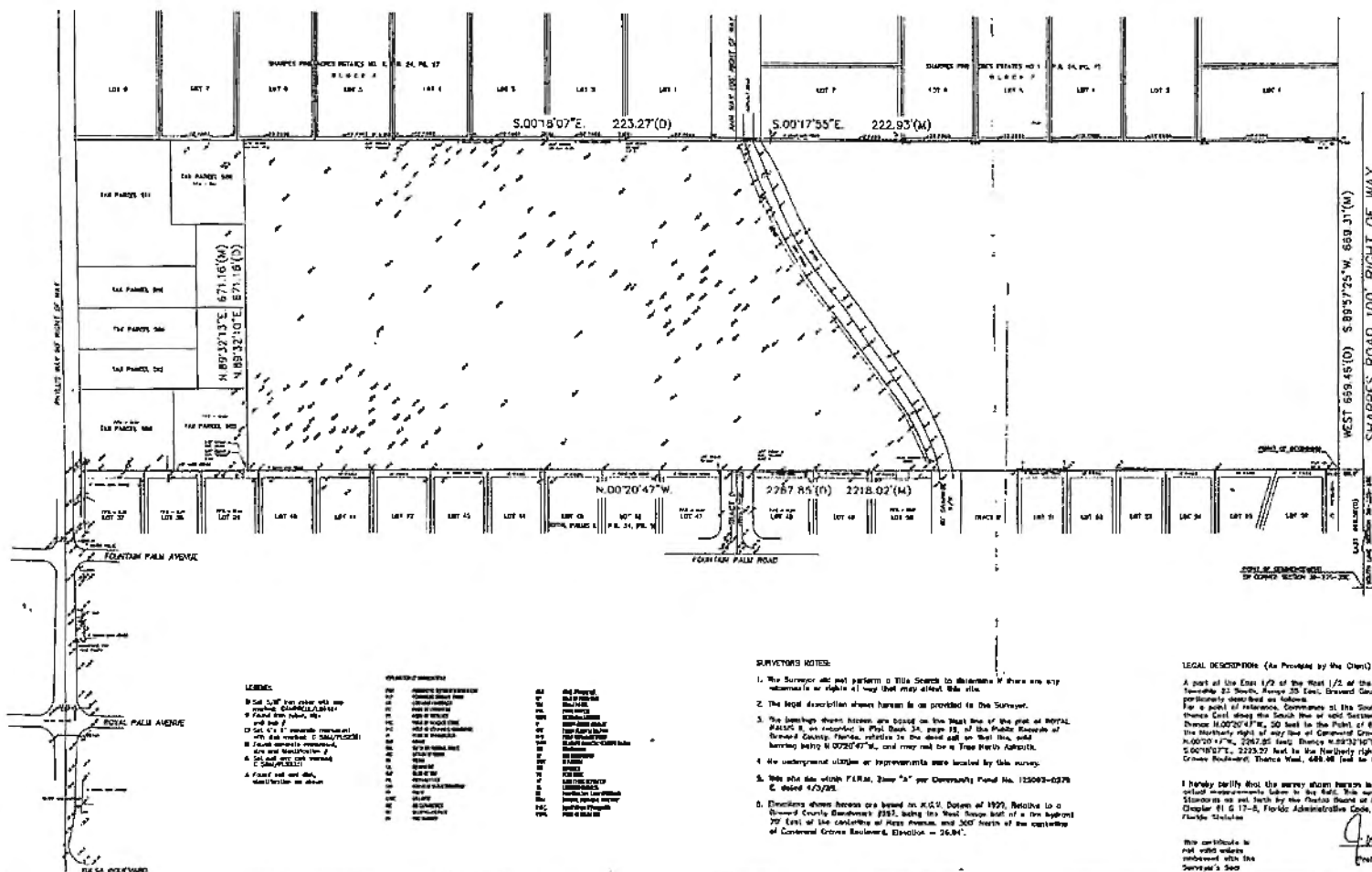
STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by ☐ physical presence or ☐ online notarization this ____ day of _____, 2020, by _____, as _____ of Hammocks Brevard, LLC, a Florida limited liability company, who (check one) ☐ is personally known to me, ☐ produced a driver's license (issued by a state of the United States within the last five (5) years) as identification, or ☐ produced other identification, to wit: _____.

Print Name: _____
Notary Public, State of Florida

12b

SKETCH OF SURVEY



LEGEND:

1. All 1/2" and 1/4" lines are shown with the same line weight. Dashed lines are shown with a lighter line weight.
2. All 1/2" and 1/4" lines are shown with the same line weight. Dashed lines are shown with a lighter line weight.
3. All 1/2" and 1/4" lines are shown with the same line weight. Dashed lines are shown with a lighter line weight.
4. All 1/2" and 1/4" lines are shown with the same line weight. Dashed lines are shown with a lighter line weight.
5. All 1/2" and 1/4" lines are shown with the same line weight. Dashed lines are shown with a lighter line weight.

SYMBOLS:

1. All 1/2" and 1/4" lines are shown with the same line weight. Dashed lines are shown with a lighter line weight.
2. All 1/2" and 1/4" lines are shown with the same line weight. Dashed lines are shown with a lighter line weight.
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5. All 1/2" and 1/4" lines are shown with the same line weight. Dashed lines are shown with a lighter line weight.

SURVEYOR'S NOTES:

1. The Surveyor did not perform a Title Search to determine if there are any encumbrances or rights of way that may affect this site.
2. The legal description shown herein is as provided to the Surveyor.
3. The bearings shown herein are based on the North line of the plat of ROYAL PALM RD. as recorded in Plat Book 34, page 18, of the Public Records of Brevard County, Florida, relative to the closed end on that line, said bearing being N.00°20'47"W. and may not be a True North Azimuth.
4. No underground utilities or improvements were located by this survey.
5. This site was within P.L.R.M. Zone "A" per Community Panel No. 135093-0378, dated 1/2/98.
6. Bearings shown herein are based on N.T.M. Datum of 1929, relative to a Brevard County Benchmark (2183, being the West Range Rod of a 100' height) 70' East of the centerline of West Avenue, and 300' North of the centerline of Canaveral Groves Boulevard, Elevation = 26.84'.

LEGAL DESCRIPTION: (As Provided by the Owner)

A part of the East 1/2 of the West 1/2 of the Southwest 1/4 of Section 36, Township 23 South, Range 35 East, Brevard County, Florida, being more particularly described as follows:
For a point of reference, Commence at the Southwest corner of said Section 36, thence East along the South line of said Section 36 a distance of 650.58 feet, thence N.00°20'47"W. 50 feet to the right of beginning, said point being on the boundary right of way line of Canaveral Groves Boulevard, thence N.00°20'47"W. 2042.85 feet, thence S.00°17'55"E. 871.18 feet, thence S.00°18'07"E. 223.27 feet to the North line of right of way line of Canaveral Groves Boulevard, thence West, 688.98 feet to the point of beginning.

I hereby certify that the survey shown herein is true and correct based on actual measurements taken by the S.D. This survey meets minimum Technical Standards as set forth by the Florida Board of Professional Land Surveyors in Chapter 61 F.S. 17-8, Florida Administrative Code, pursuant to Section 472.027, Florida Statute.

This certificate is not valid unless combined with the Surveyor's Seal.

John R. Campbell
John R. Campbell
Professional Surveyor No. 235
State of Florida

PROJECT NO.	02-38
SHEET	1 OF 1
BOUNDARY SURVEY	
SECTION 36, TOWNSHIP 23 SOUTH, RANGE 35 EAST	
BREVARD COUNTY, FLORIDA	
DATE	7/25/02
SCALE	1"=100'
BY	J.R.C.
CHECKED BY	J.R.C.
APPROVED BY	J.R.C.

[illegible]

From: [Commissioner, D1](#)
To: [Jones, Jennifer](#)
Cc: [Calkins, Tad](#); [Mascellino, Carol](#); [Pritchett, Rita](#); [Smith, Nathan](#)
Subject: FW: Canaveral Landing Development
Date: Wednesday, June 17, 2020 2:21:01 PM
Attachments: [image001.png](#)

Jennifer,

On behalf of Commissioner Pritchett we are forwarding the below email regarding item 20PZ00006.

Thanks,

Marcia Newell

Chief Legislative Aide to Commissioner Rita Pritchett

Marcia.newell@brevardfl.gov



District 1 Commission Office

2000 S. Washington Avenue, Suite 2
Titusville, Florida 32780
321-607-6901

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may therefore be subject to public disclosure.

From: D Hunter <ecobrevard@yahoo.com>
Sent: Tuesday, June 16, 2020 4:40 PM
To: Commissioner, D1 <D1.Commissioner@brevardfl.gov>
Subject: Fw: Canaveral Landing Development

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

Subject: Canaveral Landing Development

From:....Danno.....ecobrevard@yahoo.com

To: d1.commissioner@brevardfl.gov.

Dear Rita Pritchett

I'm writing to you to reach out asking for some advice and direction concerning an issue that we are facing.

I'm sure you have heard of the Low Income Trailer Park development project in the works here in Canaveral Groves. (Canaveral Landing) <https://canaverallanding.com/>

Those of us that live near and abut this property have grown to love and respect the vast wildlife and native vegetation that inhabit this little 34 acre parcel. On any given day neighbors can enjoy the scrub jays, gopher tortoise, screech owls, hawks, eagles, woodpeckers, seasonal birds and many more florida game that reside on this little spot of land.

The Impact of a 100 unit trailer park to be located in the middle of our housing development would be devastating for so many reasons.

The majority of the properties surrounding this development are 1+ acre home sites. While we all understand there may be a need for low income projects and that a developer has a right to make money, there are appropriate places for both. This Trailer Park of 100 homes crammed on to approx twenty acres is not homogenous with surrounding homesteads, nor is it the desires of surrounding homeowners. This rural neighborhood is now on the mend and is attempting to make a comeback. Older homes are being refurbished and new homes are being brought in..... Why?? Because the residents like the peace and quiet and surrounding natural settings. They like the distance between homes. This is why people choose to live here. No one should have the right to take that from them.

This is what we know as of now

Application has been made for rezoning from TR-1 into TRC-1 with CUP Cluster Development Mobile homes and BDP to limit development to 100 units

- There is a Planning and Zoning board meeting scheduled on **7/6/2020 @3:00**
- There is a Brevard County Board of County Commissioners meeting scheduled for **8/6/2020 @ 5:00 PM.**

Neighboring Impacts if this Trailer Park is developed

1. **A 4 unit per acre Trailer Park is NOT homogenous with surrounding homesteads.**
2. **Each home averages 2 vehicles.** (proposed 4 homes per acre)
 - Then add friends coming and going, that is 200+ more cars per day commuting through a quiet rural neighborhood.
 - **More noise**
 - **Increased Danger** to neighborhood family activity (no existing sidewalks for Family Walking, Bicycling etc),
 - **Wear and tear on roadways,**
 - **Greater use as a thoroughfare** between Grissom Pkwy and Canaveral Groves Blvd.. (This is already an issue)
3. **Noise levels will increase tremendously.**
 - Trees and vegetation now blocking road noise from grissom and I-95 will be removed, not to mention the everyday noise of 300-400 more people. (each home averaging 3-4 persons)
4. **Wildlife/environmental habitat will be impacted.**
 - The present land to be developed contains a thriving ecosystem with a variety of plants and animals that will be impacted. Protected native wetland plants, protected scrub jay habitat, protected gopher tortoise, wild boar, many year around and seasonal birds.rabbits, squirrels, hawks, owls, opossum, racoons,box turtles, etc..
 - More yard chemicals/fertilizers washed into the canals, rivers and ponds.
5. **Low income housing brings higher crime rates.**
6. **Depreciation of existing neighboring property values.** (Due to lower valued homes on rental lots)

Other concerns

7. **Sewage...** Will this require other Canaveral Groves residents to be forced to utilize the city sewer grid? Septic tanks can not be utilized at four homes per acre so will city sewage be imposed? (The county has attempted to implement this in the past at the homeowners expense.)
8. **Drainage....** How will this impact rainwater runoff during hurricanes and high rain downfall? (During heavy rains there is already flooding on the proposed entrance of the trailer park). Hess Ave.

In conclusion... It would be nice to see the Hard Working, peace loving citizens get to keep what they have worked so hard for. Any advice or assistance you could offer would be greatly appreciated.

I have attached a location pic of the proposed development.

Brevard

this.

Sincere Thanks Danno @ ECO

And all others impacted by

GRISSOM PKWY GRISSOM PK

ROYAL-PALM-AV

FOUNTAIN-PALM-RD

HARVEY-WAY

PHILLIS-WAY

HESS AV

LUCIANO AV

ANN WAY



wetlands

← Proposed Entrance

185

ANNAVERAL GROVES BLVD



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

7/6/2020

Subject:

3101 Gannett Plaza, LLC (Kevin Saltman) requests a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with an Indoor Family Entertainment Center, in the BU-1 and BU-2 Zoning Classifications. (20Z00007) (Tax Accounts 2602422 & 2602423)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Planning and Zoning Board conduct a public hearing to consider a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with an Indoor Family Entertainment Center, in the BU-1 (General Retail Commercial) and BU-2 (Retail, Warehousing, and Wholesale Commercial) Zoning Classifications.

Summary Explanation and Background:

The applicant is seeking a Conditional Use Permit (CUP) for alcoholic beverages for on-premises consumption of beer and wine accessory to an indoor family entertainment center. An outdoor patio for dining is also proposed. The property is 28.23 acres, located on the southwest corner of Gannett Plaza Avenue and U.S. Highway 1, and is the former Florida Today newspaper facility.

The character of the surrounding area is mostly residential. North of this property is a mixture of developed residential lots, with the easternmost lot providing commercial frontage to U.S. 1. To the east of U.S. 1 are single-family residential uses; to the south is a recreational vehicle park; and to the west remains several undeveloped tracts zoned BU-2 or PUD. Additionally, several commercial buildings have been developed within parcels zoned BU-2 or Light Industrial.

The Board may wish to require the applicant buffer and/or acoustically screen the outdoor patio area from the nearby residential lots. The Board may also wish to limit alcoholic beverage to indoor areas only and/or require the applicant to increase the parking requirement to 577 total parking spaces, which is 4 spaces over the concept plan's depicted 573 parking space count.

The Board should consider the compatibility of the proposed CUP with the surrounding development. Because this is a request for CUP, the Board may consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the abutting properties.

The final public hearing will be held by the Board of County Commissioners on **THURSDAY, AUGUST 6, 2020 at 5:00 p.m.**, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Building C, Viera, Florida.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return 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 staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
2. actual development over the immediately preceding three years; and
3. development approved within the past three years but not yet constructed.

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

CONDITIONAL USE PERMITS (CUPs)

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

(b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS 20Z00007 3101 GANNETT PLAZA AVE LLC

Conditional Use Permit (CUP) for Alcoholic beverages for on-premises consumption; beer and wine accessory to an indoor family entertainment center

Tax Account Number: 2602422 & 2602423
Parcel I.D.: 26-36-13-DE-M-6 & 7
Location: SW corner of Gannett Plaza Avenue and US Highway 1 (District 4)
Acreage: 28.23 acres

Planning and Zoning Board: 07/06/2020
Board of County Commissioners: 08/06/2020

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-1 & BU-2	BU-1 & BU-2 with CUP for alcoholic beverages
Potential*	314,311 square feet	314,311 square feet
Can be Considered under the Future Land Use Map	YES Community Commercial	YES Community Commercial

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

Background and Purpose of Request

The applicant is seeking a Conditional Use Permit (CUP) for alcoholic beverages for on-premises consumption; beer and wine accessory to an indoor family entertainment center. An outdoor patio is also proposed.

This site has been zoned BU-1 and BU-2 under Use on Review (UOR) for printing, engraving and related reproduction processes as well as publishing and distribution of newspapers and printed material since adoption of Zoning Resolution **Z-6913** on November 8, 1984. The BU-1 portion is the easterly 250-foot depth of the lot with BU-2 zoning over the remainder.

Land Use

The BU-1 and BU-2 zoning classifications are both consistent with the Community Commercial (CC) Future Land Use designation. The CUP request is also consistent with the CC FLU designation.

Environmental Constraints

No formal review by the Natural Resources Management Department is required for a CUP for on-premises consumption of alcoholic beverages. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

Preliminary Concurrency

The closest concurrency management segment to the subject property is U.S. Highway 1, between Pineda Causeway and Suntree Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 92.67% of capacity daily. The development potential from the proposed CUP request on the existing building mass of 170,000 square feet does increase the percentage of MAV utilization by 2.36%. The corridor is anticipated to operate at 95.03% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

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

The subject property is served by potable water by the City of Cocoa. Sewer is provided by the County.

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;

Staff analysis: The alcoholic beverage use is identified as a conditional use which means should the Board allow said use, it would be permitted on the property. If the Board denied the request, it would not be allowed on the property.

B. Existing commercial zoning trends in the area;

Staff analysis: There have been multiple commercial requests within the area which are further identified in the Surrounding Area analysis.

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

Staff analysis: This CUP request, if approved, is compatible with the proposed recreation activity. The outdoor patio area proposed will be used for dining.

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

Staff analysis: It appears no LOS has been exceeded for road capacity. Other LOS criteria will be reviewed at the site plan review stage.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. This site is surrounded by right-of-way upon all four sides. To its north is Gannett Plaza Avenue. To its east is U.S. Highway 1. To its south is Aar Way. To the west is the F.E.C. railroad right-of-way. The neighboring area is under the FLUM designations of Community Commercial and Neighborhood Commercial. The commercial zoning is pre-existing; the applicant wishes to add alcoholic beverage use in conjunction to their proposed indoor recreation facility.

The applicant is proposing alcohol consumption on the northern 57,158 square feet of the existing 153,135 square foot building. The remaining area identified on the concept plan identifies a 75,858 square foot office component and a 20,119 square foot warehouse component. A use for the outbuilding has not been identified. The plan doesn't identify the size of the outdoor patio for patron use. It appears to be 1,744 square feet in area.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The character of the area is mostly residential. North of this property is a mixture of developed residential lots, with the eastern most lot zoned BU-1, providing commercial frontage to Highway 1. To the east of Highway 1 are single-family residential uses developed in the RU-1-7, BU-2 and RU-1-13 zoning districts. The GU and RU-2-10 zoned lots are currently unimproved. To the south is a recreational vehicle park under the zoning designation of RVP. To the west remains several undeveloped tracts zoned BU-2 or PUD; additionally, several commercial buildings have been developed within parcels zoned BU-2 or Light Industrial, IU.

Surrounding Area

There have been numerous zoning actions within a half-mile radius around this site within the last 3 years. The three zoning changes include:

- Zoning item (**17PZ00109**) adopted on April 25, 2018, rezoned 30.7 acres from PIP to RU-2-15 to allow for a 450-unit multi-family development under a Binding Development Plan recorded in ORB 8148, Pages 974-982, dated April 25, 2018; This site is located on the east side of Wickham Road about 350 feet south of Jordan Blass Drive.
- Zoning Item (**18PZ00059**) adopted on January 9, 2019, rezoned 3.43 acres (western portion of 17PZ00109) from RU-2-15 to BU-1 to allow for commercial development under a Binding Development Plan recorded in ORB 8345, Pages 662-666, dated January 9, 2019; This site is also located on the east side of Wickham Road about 350 feet south of Jordan Blass Drive.
- Zoning item (**18PZ00104**) adopted on December 6, 2018, rezoned 3.33 acres from BU-1 and IU to BU-2; This site is located on the east side of Wickham Road at the NE corner of Waelti Drive and Wickham Road.

This area has also received multiple CUP requests under the following items:

- **17PZ00104** adopted on November 2, 2017, allowed beer/wine accessory to a restaurant.
- **18PZ00113** adopted on December 6, 2018, allowed beer/wine accessory to a vape store.
- **19PZ00004** adopted on April 4, 2019, allowed full liquor accessory to an assisted living facility – limited to the dining areas, lounge, courtyard and residences.
- **19PZ00064** adopted on August 1, 2019, allowed mitigation for a mobile home park to replace mobile home sites with recreational vehicles.

Special Considerations for CUP (Conditional Use Permit)

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

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

This request should be evaluated in the context of **Section 62-1906** which governs alcoholic beverages for on-premises consumption which states in, specifically 62-1906 (3) and (5):

- 3) Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes.

Staff analysis: A survey has been provided which states that there are no churches or schools within 400 feet of the area within this CUP request.

- 5) Imposition of additional operational requirements. When deemed appropriate, as based upon circumstances revealed through the general and specific standards of review set forth in this division, the Board shall have the option of imposing operational requirements upon an establishment approved for a conditional use for alcoholic beverages for on-premises consumption. Requirements may include, but are not limited to, the following: maximum number

of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations. Additional requirements shall not exceed the limits of regulatory authority granted to local governments in the State Beverage Law, F.S. § 562.45.

Staff analysis: Serving and consumption of food and beverages, alcohol or otherwise, shall be strictly prohibited outside of the existing buildings except as has been identified on the outdoor patio pursuant to Section 62-1837.9 (Outdoor restaurant seating) of Brevard County Code.

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: The premises is a family-oriented entertainment destination all under roof (i.e. arcades, video games and go-karts, ninja course and mini-bowling). The establishment will only be offering beer and wine for guests.

Staff analysis: The concept plan identifies the location of the proposed amusement uses within the primary building, as well as noting that the remainder of the primary building is supporting warehouse and office uses. The site does not identify what is occurring within the small outbuilding.

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: The location lies within the BU-2/BU-1 Zoning district with the rear of the building facing US-1. Recreation is a prioritized use in these zoning districts. The conditional use to allow for onsite consumption of beer and wine with the permitted indoor recreational development is compatible with the character of adjacent and nearby properties.

Staff analysis: The parcel is a developed commercial property that is bounded by right-of-way (not adjacent to residential development). Indoor recreation use should be compatible; however, the proposed activity has the potential for higher traffic generation than standard office or warehouse use drawing more of the public to this site. During site plan review, the proposed outdoor patio will need to comply with the noise ordinance.

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

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

Applicant's Response: The proposed use as a family-oriented entertainment destination all under roof, is a permissible use in the current zoning district and will be operated out of an existing warehouse building. Only interior modifications to the existing building are proposed other than conforming signing and painting to the exterior. The conditional use for the onsite consumption of beer and wine only to these families patronizing the family-oriented entertainment destination.

Staff analysis: Competent and substantial evidence by a MAI certified appraiser has not been provided by the applicant.

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

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

Applicant's Response: The property is currently developed as a warehouse and office building which has ample parking and convenient flow as well as adequate ingress and egress. No new construction is being proposed. The indoor family entertainment destination will be using 57,158 square feet of an existing warehouse building. The on-site consumption of beer and wine will be limited to the same.

Staff analysis: This project has two access points identified on the concept plan. The change of use will substantially increase parking and traffic needs for this site. If needed, additional improvements will be addressed at the site plan review stage.

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 new construction is proposed. The entertainment facility will be using 57,158 square feet of existing WHH1 (northern 428 feet of main building). There will be no audible noise from the premises. The use is totally enclosed except for an outdoor patio to be used for eating by attendees. We will utilize an outdoor patio for eating. Beer and wine consumption are not the primary use of the proposed building.

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

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

Applicant's Response: Noise levels will be within the permissible ranges as set forth in the applicable county code.

Staff analysis: The concept plan's "noise standards" will be reviewed as part of the site plan review process. Proposed outside seating must comply with noise ordinance.

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: The proposed conditional use will not cause the level of solid waste service for the property or the area to be exceeded.

Staff analysis: The adopted level of service for solid waste disposal will be reviewed as part of the site plan review process.

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

Applicant's Response: The proposed conditional use will not cause the level of potable water service for the property or the area to be exceeded.

Staff analysis: The adopted level of service for potable water or wastewater will be reviewed by utilities as part of the site plan review process.

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: The conditional use being requested for on-site sales and consumption of beer and wine only for patrons coming to the fully enclosed family-oriented entertainment destination. An outdoor patio, as depicted on the sketch enclosed is located approximately 417 feet from the nearest neighboring property and is currently buffered/screened by trees and Aar Way then additional trees. All activities for the family-oriented entertainment destination with the exception of the patio, which due to distance (i.e. 417 feet) is adequately buffered from neighboring properties to prevent adverse nuisance, sight or noise impacts.

Staff analysis: As the project is buffered by right-of-way, no screening or buffering 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)(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: Proposed signs and exterior lighting will not cause unreasonable glare, hazard to traffic safety or interference with the use or enjoyment of adjacent or nearby properties.

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: The proposed hours of operation are Monday – Thursday 11AM – 9PM; Friday – 10AM – 11PM; Saturday – 9AM – 11PM; Sunday – 10AM – 6PM, which is consistent with use and enjoyment of the properties in the surrounding areas.

Staff analysis: The hours of operation of the commercial indoor recreational uses appear to be consistent with normal commercial operations. 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)(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: The height of the building is within the stated limits.

Staff analysis: The applicant states that no new buildings are proposed; existing buildings appear to be in compliance with county height standards which would allow up to a 60-foot tall building. No roof has been identified to cover the outside patio area.

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: The CUP for the on-site sales and consumption of beer and wine is within the 57,158 square foot existing warehouse building. There are currently 200 on-site spaces provided on property for the current warehouse (331 spaces are provided for the overall business center). The

commercial use of 57,158 square feet requires a minimum of 149 on-site parking spaces. There is and will continue to be sufficient on-site parking with the requested CUP.

Staff analysis: It appears the applicant has submitted different parking data in two different places within the application. Within the CUP worksheet in response to item (Section 62-1901 (c)(2)(j)), the applicant states there are 331 on-site parking spaces provided for the overall business center; however, the CUP concept plan identifies 358 existing parking spaces. Staff has reviewed the parking calculations and has ascertained that the number of parking spaces has not included the out-building and the exterior patio seating parking allotment. In order to be in compliance with county code, a total of 577 parking spaces will need to be provided. The applicant only proposes a total of 573 parking spaces (4-spaces short of what is required by Code).

For Board Consideration

The applicant is seeking a Conditional Use Permit (CUP) for alcoholic beverages for on-premises consumption; beer and wine accessory to an indoor family entertainment center. An outdoor patio is also proposed.

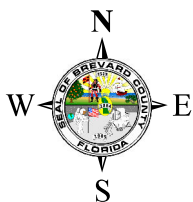
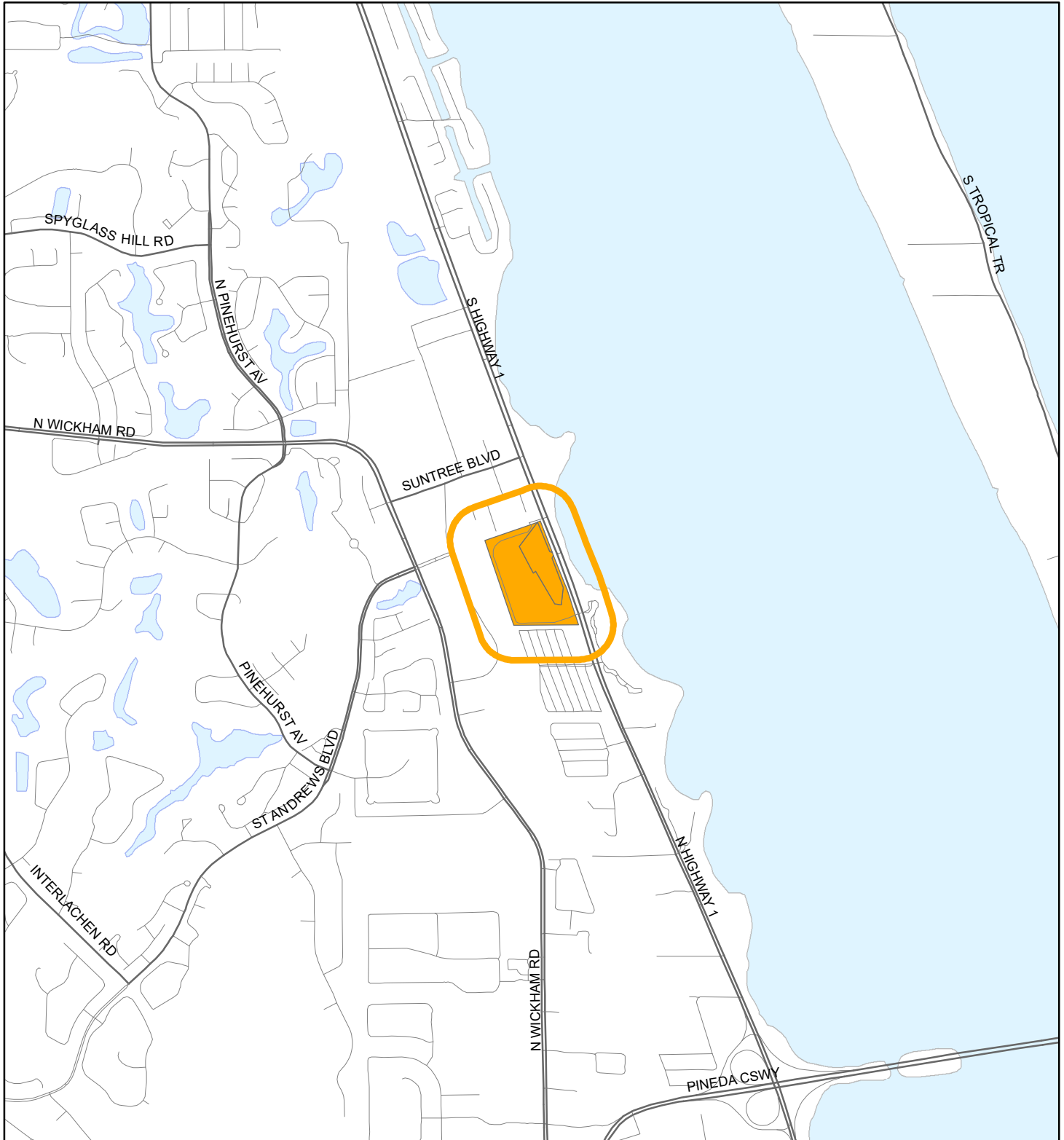
The Board may wish that the applicant visually buffer and/or acoustically screen the outdoor patio area from the nearby residential lots. The Board may also wish to limit alcoholic beverage to indoor areas only and/or require the applicant to increase the parking requirement to 577 total parking spaces; which is 4 additional spaces over the concept plans depicted 573 parking count. Applicant states that there are 358 existing parking spaces currently provided.

The Board should consider the compatibility of the proposed CUP with surrounding development. This is a request for CUP, the Board may consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the abutting properties.

LOCATION MAP

3101 GANNETT PLAZA AVE., LLC

20Z00007



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.

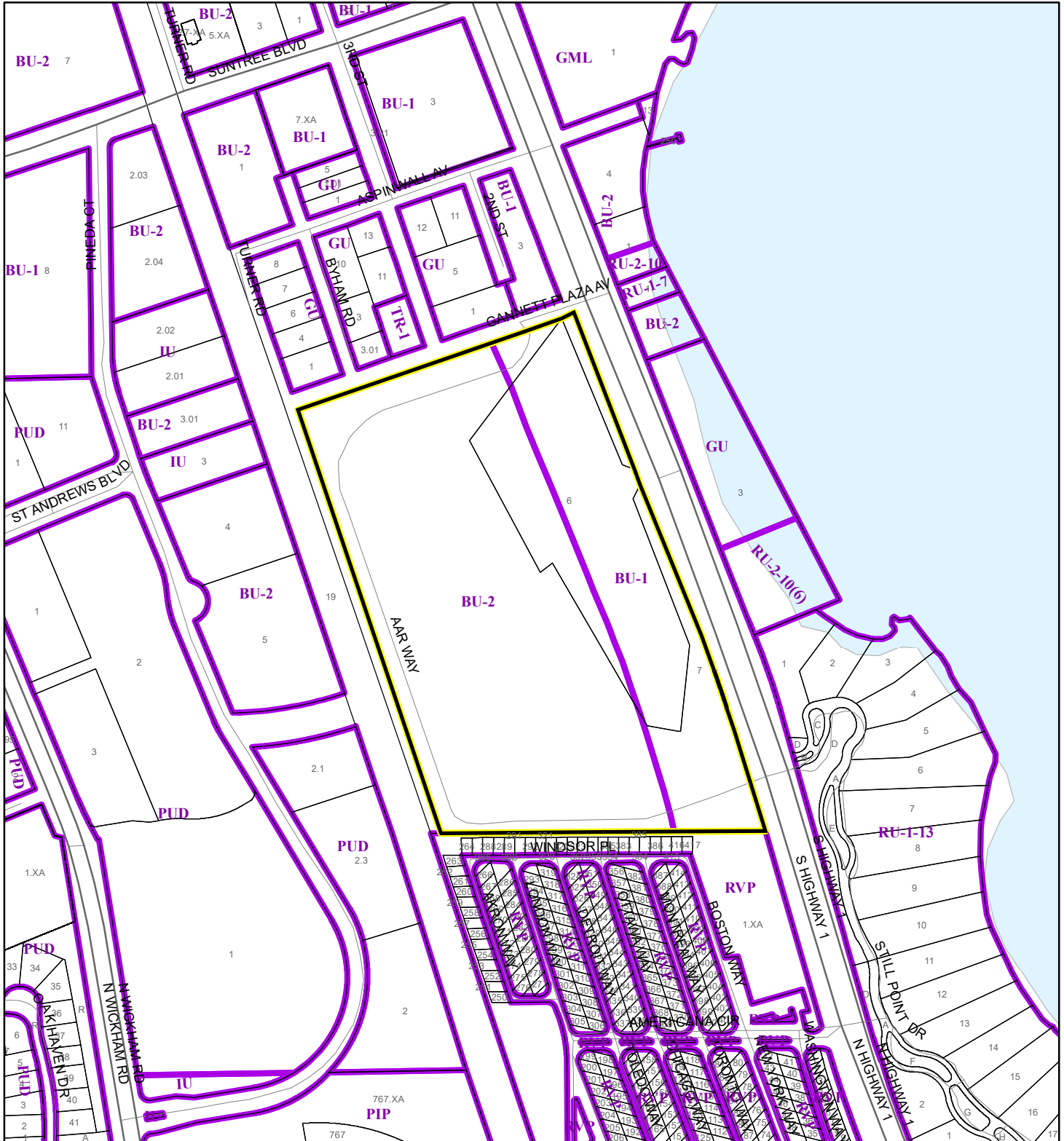
Produced by BoCC - GIS Date: 5/12/2020

— Buffer
— Subject Property

ZONING MAP

3101 GANNETT PLAZA AVE., LLC

20Z00007



1:4,800 or 1 inch = 400 feet

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 Subject Property

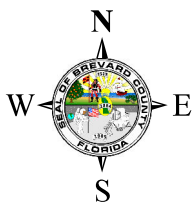
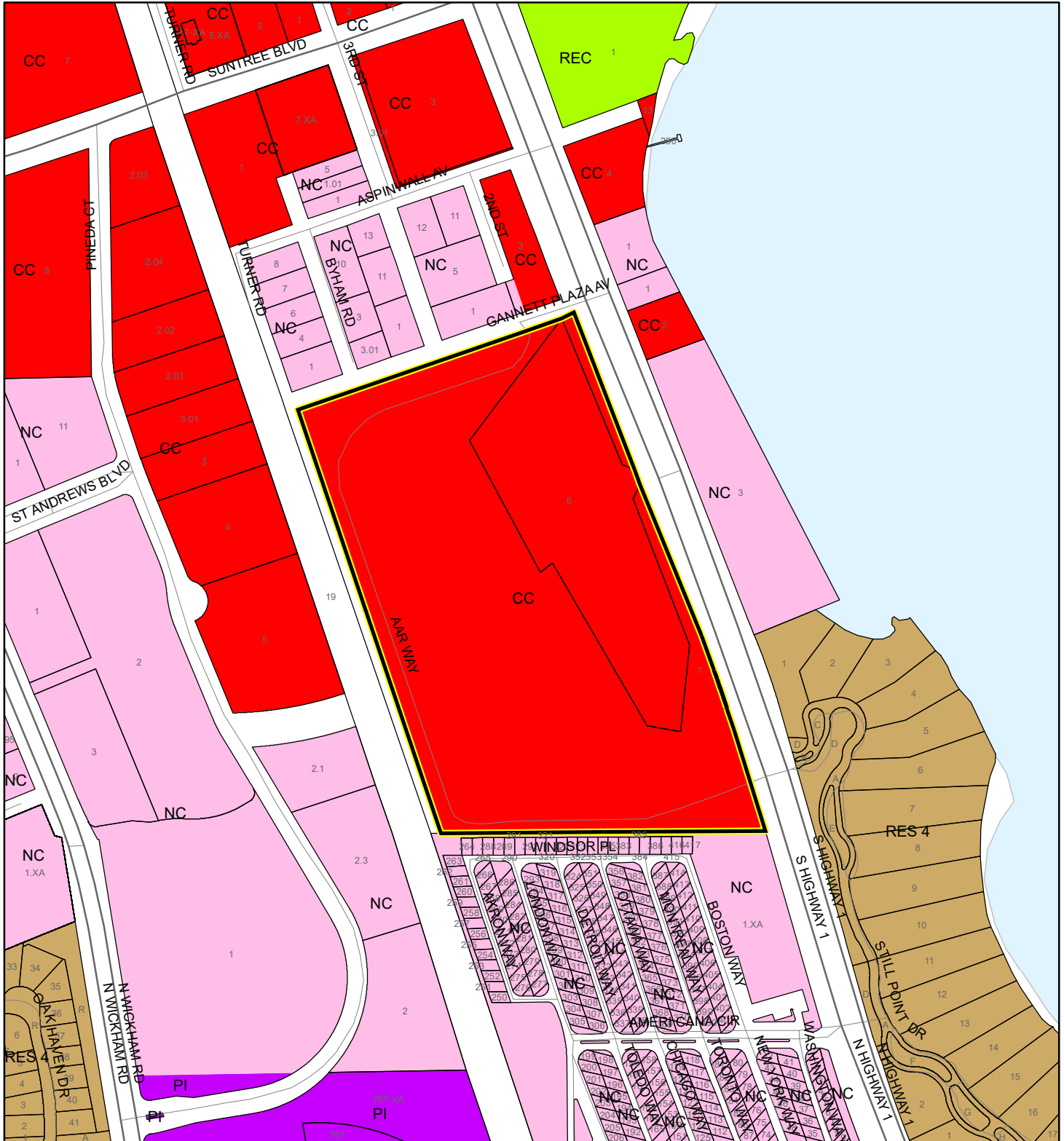
Parcels

Zoning

FUTURE LAND USE MAP

3101 GANNETT PLAZA AVE., LLC

20Z00007



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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AERIAL MAP

3101 GANNETT PLAZA AVE., LLC
20Z00007




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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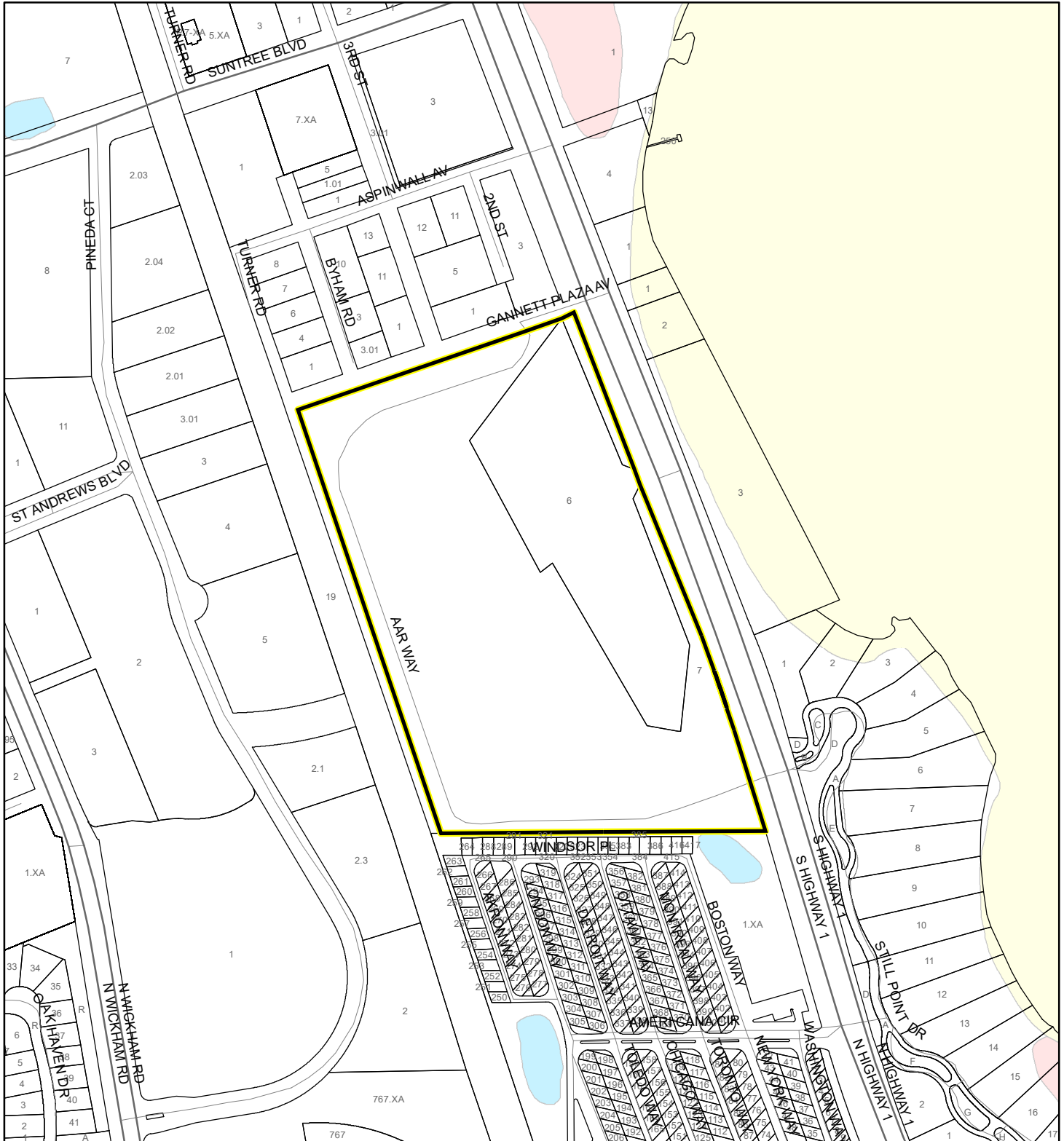
 Subject Property

 Parcels

NWI WETLANDS MAP

3101 GANNETT PLAZA AVE., LLC

20Z00007













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

3101 GANNETT PLAZA AVE., LLC

20Z00007



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

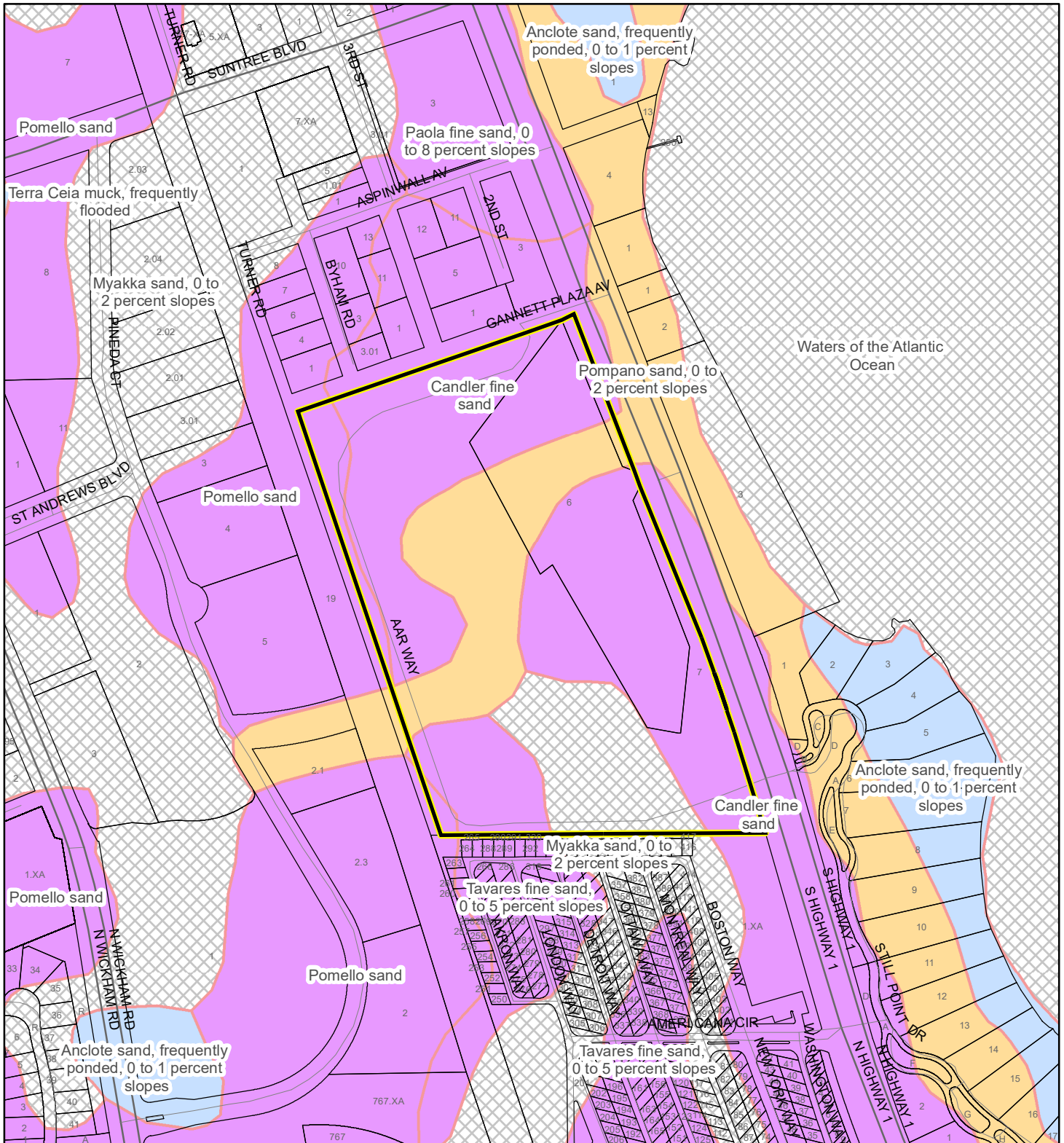
Subject Property

Parcels

USDA SCSSS SOILS MAP

3101 GANNETT PLAZA AVE., LLC

20Z00007



1:4,800 or 1 inch = 400 feet

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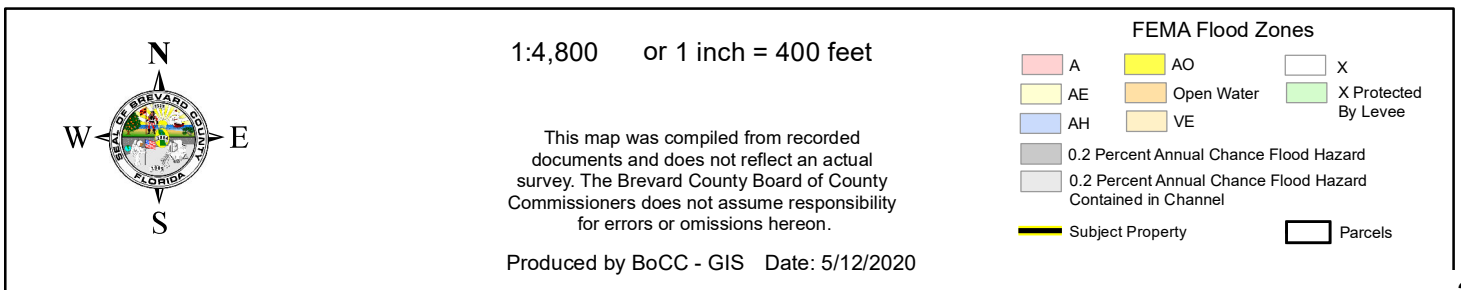
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

20Z00007



COASTAL HIGH HAZARD AREA MAP

3101 GANNETT PLAZA AVE., LLC

20Z00007



1:4,800 or 1 inch = 400 feet

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Subject Property

Parcels

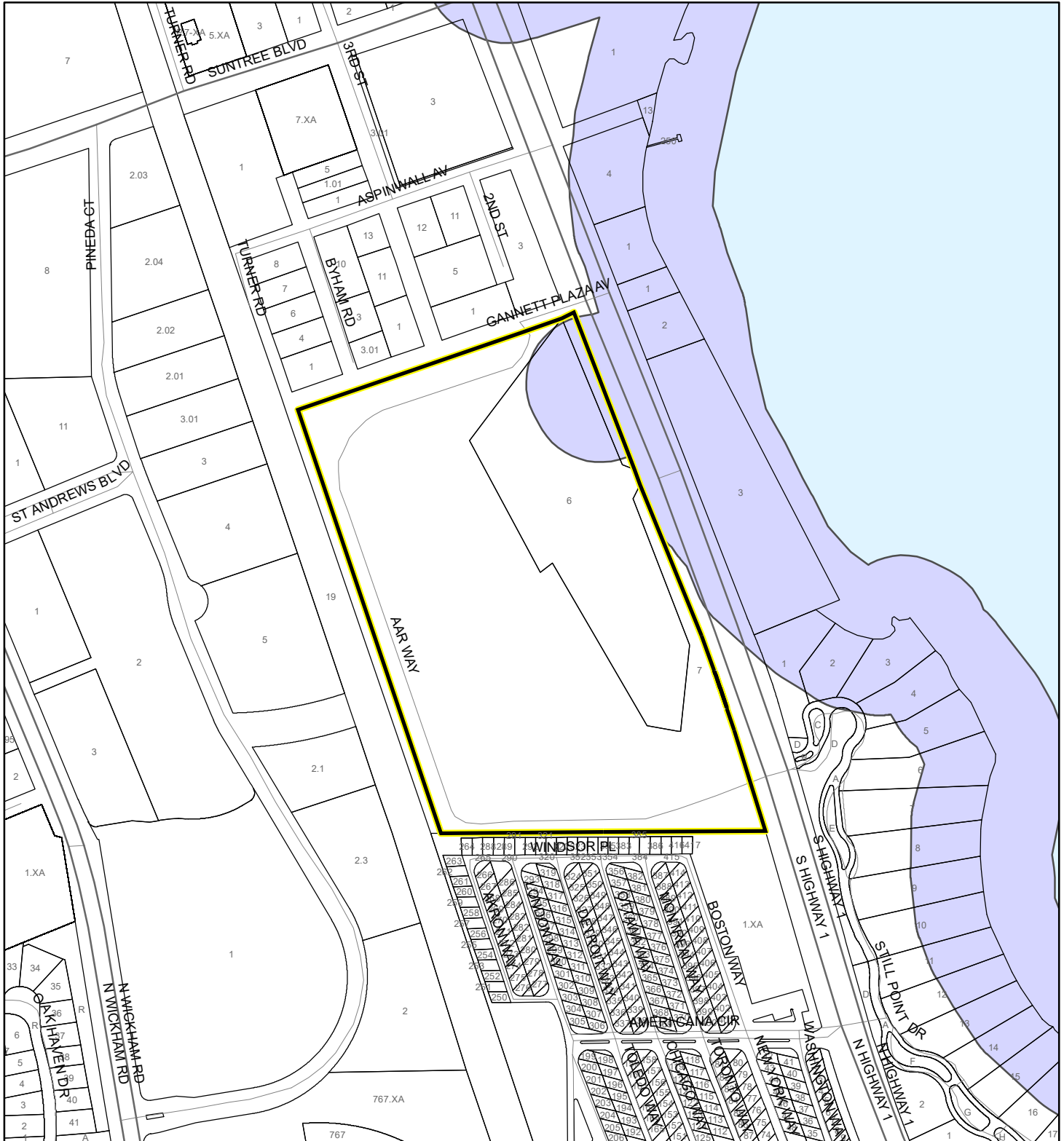
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

3101 GANNETT PLAZA AVE., LLC

20Z00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/12/2020

Subject Property

Parcels

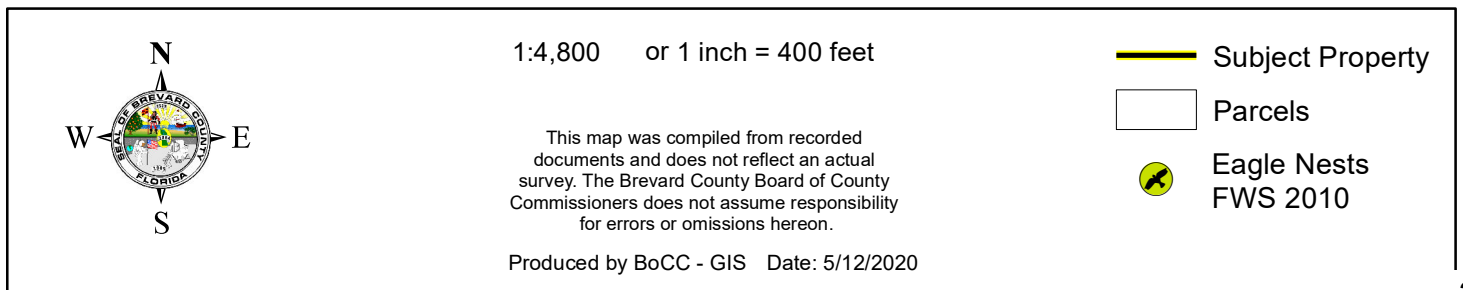
Septic Overlay

40 Meters

60 Meters

All Distances

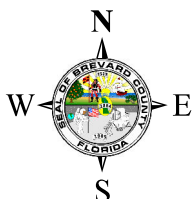
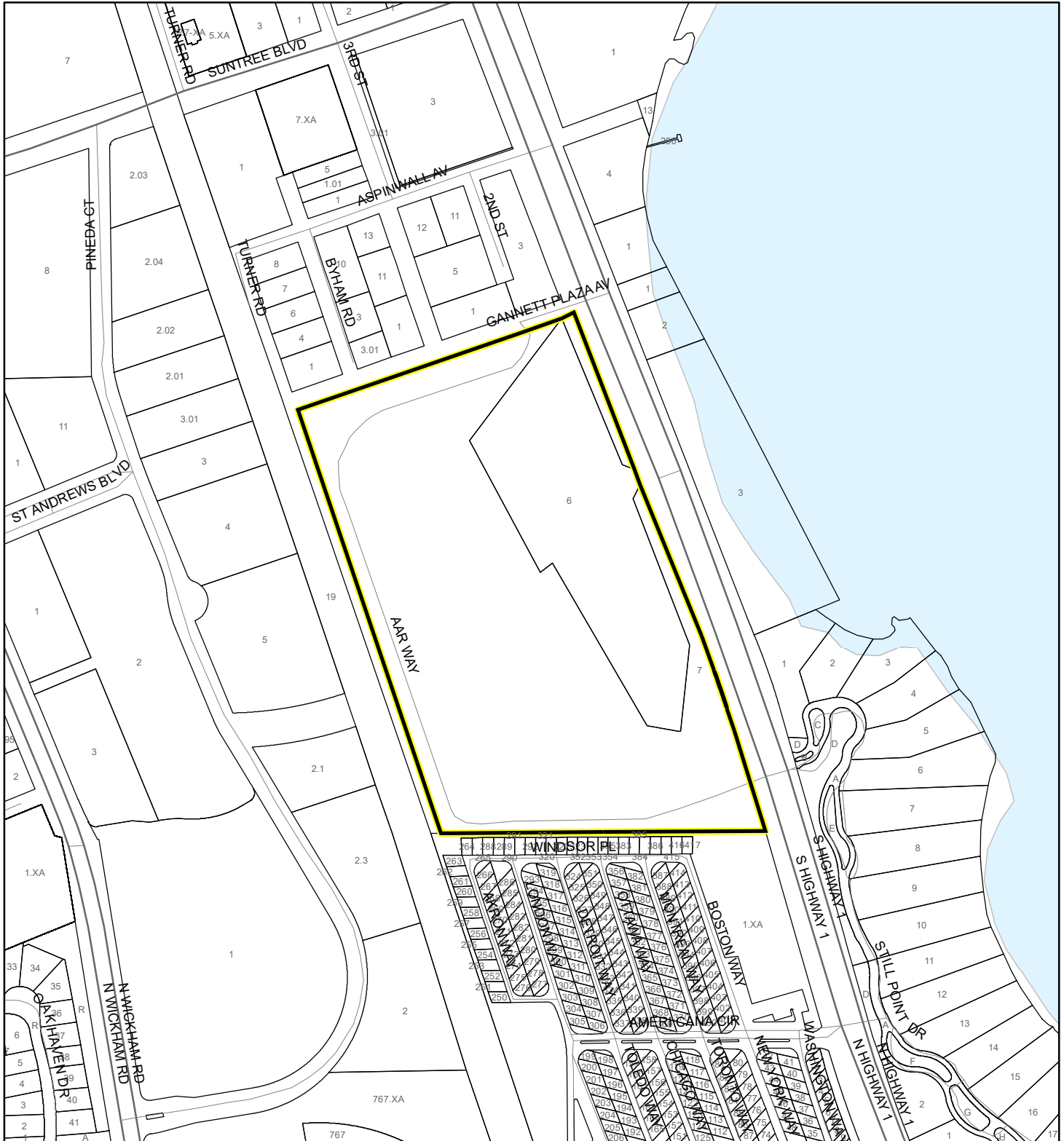
3101 GANNETT PLAZA AVE., LLC
20Z00007



SCRUB JAY OCCUPANCY MAP

3101 GANNETT PLAZA AVE., LLC

20Z00007



1:4,800 or 1 inch = 400 feet

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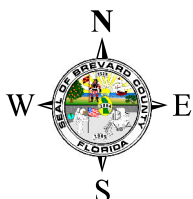
Produced by BoCC - GIS Date: 5/12/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

3101 GANNETT PLAZA AVE., LLC

20Z00007



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/12/2020

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

47



BY:

issued for:

- ☒ preliminary
4/24/20
- ☐ client approval
- ☐ landlord approval
- ☐ bidding
- ☐ permit
- ☐ construction
- ☐ revision

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use figured dimensions only

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FLOOR PLAN

ROCKLEDGE
F.E.C.

3101 Gannett Plaza Ave
Rockledge, FL 32955

DYNAMIC DESIGNS

DYNAMIC DESIGNS, P.C.
1559 East Frank St., Birmingham, MI 48009
866.644.5392

seal date:	license no.:
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seal name:	

seal signature:

project no.	
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sheet no.

D-1

DESIGN DISCLAIMER
DRAWINGS ARE MEANT TO CONVEY DESIGN
INTENT ONLY. ARCHITECT AND ENGINEERS
ARE RESPONSIBLE FOR INSTILLING DESIGN
INTENT INTO WORKABLE CONSTRUCTION
DOCUMENTS THAT WILL PROVIDE A SAFE
AND EFFICIENT BUILDING.

[illegible]

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FLOOR PLAN

SCALE: 1/16"=1'0"