



North Merritt Island Dependent Special District Board

Merritt Island Service Complex
2575 N. Courtenay Parkway
2nd Floor
Merritt Island, FL 32953
Agenda
Thursday, January 7, 2021

Call To Order

Approval of Minutes - October 8, 2020

H. Public Hearings

- H.1.** Harold Kurz (Harry Perrette) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from CC to PI. (20PZ00107) (Tax Account 2316254) (District 2)
- H.2.** Harold Kurz (Harry Perrette) requests a change of zoning classification from BU-1 to PIP. (20Z00038) (Tax Account 2316254) (District 2)

Public Comment

Adjournment



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.1.

1/7/2021

Subject:

Harold Kurz (Harry Perrette) requests a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from CC to PI. (20PZ00107) (Tax Account 2316254) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the North Merritt Island Dependent Special District Board conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from CC (Community Commercial) to PI (Planned Industrial).

Summary Explanation and Background:

The applicant is seeking to amend 3.66 acres of land from the Future Land Use designation of CC (Community Commercial) to PI (Planned Industrial). Currently, the subject parcel is vacant, located on the southwest corner of N. Tropical Trail and N. Courtenay Parkway. The applicant is seeking this Future Land Use change in order to provide supplies, parts, and services to the Kennedy Space Center.

The surrounding area has a mixture of commercial, institutional, and residential Future Land Uses.

A companion rezoning application was submitted accompanying this request for a zoning change from BU-1 (General Retail Commercial) to PI (Planned Industrial Park).

The Board may wish to consider if this request is consistent and compatible with the surrounding area given that it will be introducing the PI Future Land Use in the area.

The Board may also wish to consider that a portion of the property is mapped as being within the floodplain as identified by FEMA Flood Zone maps. Objective 5 of the Conservation Element of the Comprehensive Plan seeks to preserve, protect, restore and replace wetlands to achieve no net loss of functional wetlands.

The Local Planning Agency will hear the request on **Monday, January 11, 2021, at 3:00 p.m.**, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

The Board of County Commissioners will consider the request on **Thursday, February 4, 2021, at 5:00 p.m.** at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

Clerk to the Board Instructions:

None

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development 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**

STAFF COMMENTS

Small Scale Plan Amendment 20S.11 (20PZ00107)
Township 23, Range 36, Section 22

Property Information

Owner / Applicant: Harold Kurz Trustee

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

Requested Future Land Use Map Designation: Planned Industrial (PI)

Acreage: 3.66 acres

Tax Account #: 2316254

Site Location: Southwest corner of North Tropical Trail and North Courtney Parkway

Commission District: 2

Current Zoning: General Retail Commercial (BU-1)

Requested Zoning: Planned Industrial Park (PIP)

Background & Purpose

The applicant is seeking to amend 3.66 acres of land from the Future Land Use designation of Community Commercial (CC) to Planned Industrial (PI). The subject property currently has a Future Land Use designation of CC. Prior to the CC Future Land use change in 2001 as part of an Evaluation and Appraisal Review (EAR), the subject parcel had a Future Land Use designation of Mixed Use (MU) that was in place since the County adopted the Comprehensive Plan in September of 1988.

Currently, the subject parcel is vacant. The applicant is seeking this Future Land Use change to PI, in order to provide supplies, parts and services to the Space Center.

In 2005, County staff assisted a Citizen Resource Group (CRG) in a North Courtenay Parkway Corridor Study. The Citizen Resource Group evaluated North Courtenay Parkway from the Barge Canal to Kennedy Space Center that included all properties that had frontage on North Courtenay Parkway. [The CRG, as part of its evaluation of this corridor, recognized that this is a commercial corridor with a combination of mainly CC with some Neighborhood Commercial (NC) Future Land Uses.] In addition, the CRG created guidelines for development along this corridor. The guidelines range from

uses such as outdoor storage shall not be visible from the roadway, no bay doors shall face the roadway and no portion of a building should be constructed of sheet metal not visible from the roadway. Additionally, the CRG created guidelines for signage and landscaping around the signage.

In 2018, County staff completed the North Merritt Island Small area study hosting many meetings with the appointed Citizen's Committee and community in North Merritt Island. As a result of the study, recommendations were made and prioritized. The top recommendation was for Brevard County to significantly improve the current FEMA stormwater model for North Merritt Island. As a result, Brevard County has been in the process of significantly improving the current FEMA stormwater model as requested.

A companion rezoning application was submitted accompanying this request for a Zoning change from General Retail Commercial (BU-1) to Planned Industrial Park (PIP) (20Z00078).

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Brevard County Park	GML(1)	PUB
South	Day Care Center and Vacant Brevard County owned land	BU-1	CC
East	Vacant Brevard County owned land	IN(L)	NC & CC
West	Family Dollar and (across Adams Place) a Multi-unit Retail Store	RR-1	RES 1

To the north of the subject property is a Merritt Island Volunteer Fire Department building, vacant Brevard County and School Board property, to the east is the Banana River Baptist Church, to the south is a convenience store with gas pumps and to the west there are two (2) single-family residences.

Environmental Resources

Mapped resources include hydric soils/wetlands, aquifer recharge soils, floodplain, Indian River Lagoon nitrogen reduction overlay, protected and specimen trees and protected species.

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Floodplain

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

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:

- 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 foresee ably be affected by the proposed use;

The applicant is seeking this Future Land Use change to PI, in order to provide supplies, parts and services to the Space Center. In addition, the applicant is seeking to rent out space and hire subcontractors to help facilitate the client's needs. The applicant has not indicated the hours of operation for this manufacturing use. There are existing single-family residences to the west across Kangaroo Lane that could potentially be impacted by the hours of operation, noise, lighting and traffic.

- 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 no historical or emerging industrial land use pattern in this area along North Courtenay Parkway. There are no industrial uses such as mining, manufacturing or warehousing within a five (5) mile radius.

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

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

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

There was one (1) Zoning change from Agricultural Residential (AU) to Estate Use (EU) in September of 2018 located approximately 2,622 feet northwest of the subject site. No actual development has been started as a result of this change.

Administrative Policy 4

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

Criteria:

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

The subject site is adjacent to a developed residential community with a Future Land Use designation of Residential 1 (RES 1) which allows one

dwelling unit per acre of land. This residential neighborhood began developing as early as 2004.

B. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

This is a well-established residential neighborhood with clearly established boundaries such as North Tropical Trail to the north, North Courtney Parkway to the east, West Crisafulli Road to the south and North Tropical Trail to the west which is adjacent to the east side of the Indian River Lagoon.

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.

There are no occasional neighborhood commercial uses scattered within this neighborhood west of the subject site.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

The area to the west of the subject site is residential and not considered to be transitional with multiple commercial, industrial or other non-residential uses have been applied for and approved during the past 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 service will be compromised;

According to a preliminary concurrency analysis, it is anticipated there will not be a substantial or adverse transportation impact with the change in the Future Land Use designation to PI of the subject site.

Role of the Comprehensive Plan in the Designation of Industrial Lands

Policy 3.1

The Comprehensive Plan shall impose broad criteria for consideration in evaluating proposals for new industrial designated lands within Brevard County. At a minimum, these criteria shall address the following:

Criteria:

- A. Compatibility with adjacent adopted Future Land Use designations and land uses;

The Planned Industrial (PI) Future Land Use designation may not be compatible with the surrounding residential area.

- B. Existing industrial development trend in the area;

There is not an existing industrial development trend within this North Courtenay Parkway corridor.

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

The development is not anticipated to cause a deficiency to the roadway Level of Service (LOS) on this section of North Courtenay Parkway.

The City of Cocoa provides water service to this area.

Currently the closest Brevard County sewer service is located approximately 5,622 feet south of the subject property at the intersection of North Courtenay Parkway and Church Road. Brevard County will be extending the force main and reuse main north from Church Road to North Tropical Trail in front of the subject site in the near future.

- D. Size of proposed industrial designation compared with current need for industrial lands;

The subject property is 3.66 acres. At this time, there is not a current need for additional industrial lands. At the time of the County's Evaluation and Appraisal Review (EAR) of the Comprehensive Plan in 2023, this will be re-evaluated to address future needs.

- E. Accessibility to major transportation corridors, as well as air, water and rail transportation facilities;

The subject site has access onto North Courtenay Parkway (SR 3) which is an Urban Principal Arterial Roadway.

The closest Commercial Airport is approximately nine (9) miles south on Merritt Island.

Access via the Barge canal approximately 4.5 miles south, could be available to provide access to the Indian River Lagoon for water transport.

The Florida East Coast (FEC) Railroad could be accessed approximately seven (7) miles southwest of the subject site.

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

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

- G. Accessibility to labor, raw materials and markets.

The subject site would have accessibility to labor, raw materials and markets within approximately 7miles.

Planned Industrial Land Use Designation

Policy 3.5

The Planned Industrial land use designation is intended to accommodate the clustering of light industrial and business uses in settings which provide special attention to the integration of infrastructure, such as circulation, parking, and utilities, while placing emphasis upon aesthetics of the project and compatibility with abutting properties and properties within the industrial park. These parks shall be designed to limit intrusion into residential areas. Appropriate uses are those that operate within enclosed buildings such as manufacturing, assembling, fabricating, warehousing and retailing activities. Hotel and motel accommodations that serve the travel needs of employees or clients associated with firms within the planned industrial or business parks are also appropriate. Marinas may also be considered within this land use designation. Appropriate locations for planned industrial parks shall be based upon the criteria listed below. Table 3.1 summarizes the specific development parameters listed below as well as issues that affect decision making for rezoning requests and for site plan review, as described in Policies 3.2 and 3.3.

Criteria:

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

The subject site is 3.66 acres and meets the size criteria for planned industrial park projects.

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

The subject site is located directly adjacent to State Road 3 (SR 3) which is considered to be a major transportation corridor.

For Board Consideration

The Board may wish to consider if this request is consistent and compatible with the surrounding area given that it will be introducing the PI Future Land Use in the area.

The Board may also wish to consider that a portion of the property is mapped as being within the floodplain as identified by FEMA Flood Zone maps. Objective 5 of the Conservation Element of the Comprehensive Plan seeks to preserve, protect, restore and replace wetlands to achieve no net loss of functional wetlands.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Future Land Use Review & Summary
Item # 20PZ00107**

Applicant: Perrette for Kurz
Future Land Use Request: CC to PI

Note: Applicant wants to supply the Space Center with parts and services not included in BU-1.
NMI Hearing Date: 01/07/21; **BCC Hearing Date:** 02/04/21
Tax ID No: 2316254

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

The subject parcel contains mapped hydric soils with potential for wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The parcel is subject to compensatory storage for fill required for development on North Merritt Island. A topographic survey or engineered site plan delineating floodplain limits on the property is required. The engineer shall provide a report including the hydraulic and hydrologic modelling and analysis. Please see floodplain section in NRM comments for more information.

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

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Copeland-Bradenton-Wabasso Complex) as shown on the USDA Soil Conservation Service Soils Survey map. Hydric soils are an indicator that wetlands may exist on the property. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. An environmental report was prepared by Andrew Conklin Environmental Services, LLC (ACES) on May 26, 2020. The report indicated that approximately 0.37 acres of wetlands may exist on the western boundary; however, a formal wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

Aquifer Recharge Soils

The subject parcel contains a small area of mapped aquifer recharge soils (Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Floodplain

A portion of the property is mapped as being within the floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Per Section 62-3724(4), any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. A topographic survey or engineered site plan delineating floodplain limits on the property will be required. Delineation of floodplains shall use best available pre-alteration ground elevation data. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Any modifications to the system require approval under Section 62-3724.

Indian River Lagoon Nitrogen Reduction Overlay

The property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. If sewer is not available, the property will require a septic system that provides at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV-Nitrogen Reduction Overlay.

Protected and Specimen Trees

A majority of the subject property is mapped within SJRWMD FLUCCS codes 4350-Upland Scrub, Pine and Hardwoods, and 4110 – Pine Flatwoods. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter)

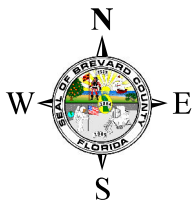
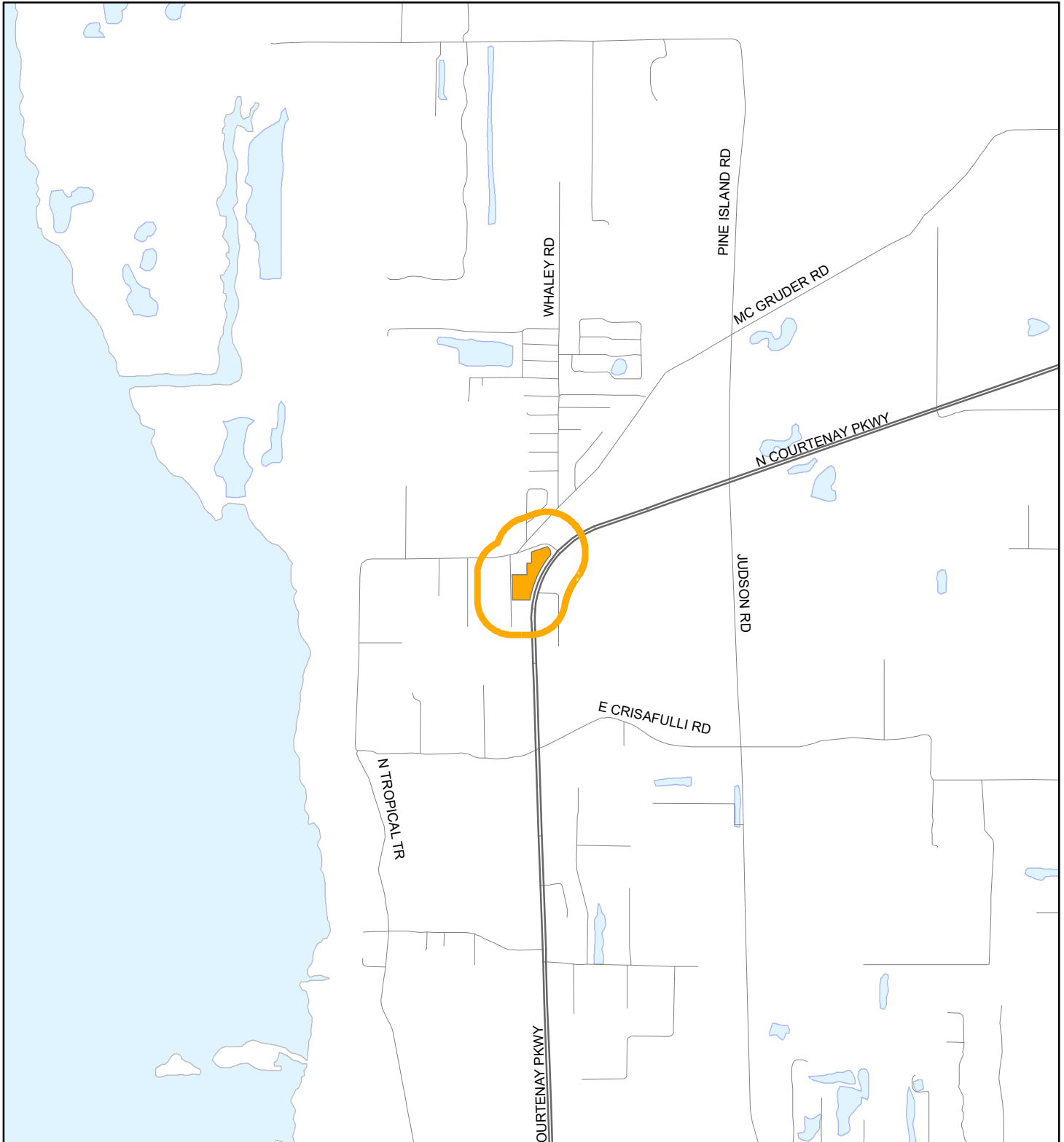
are included in these FLUCCS codes, and are likely found on the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), 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. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design in order include preservation of any robust Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

The subject property has a large mapped Florida Scrub Jay polygon over the site as shown on the Florida Scrub Jay Occupancy Map. The ACES report indicated that Florida Scrub Jays were not found onsite; however, gopher tortoises were found onsite. 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

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



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

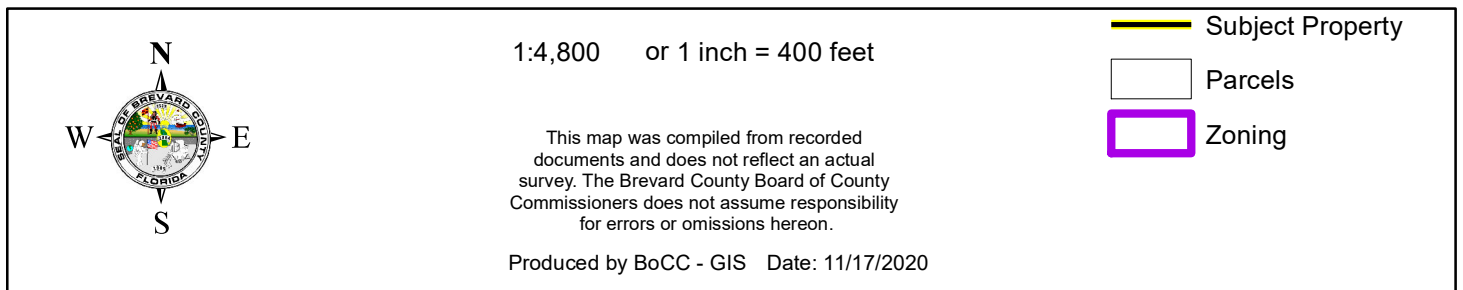
Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 11/17/2020

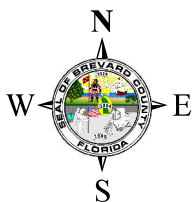
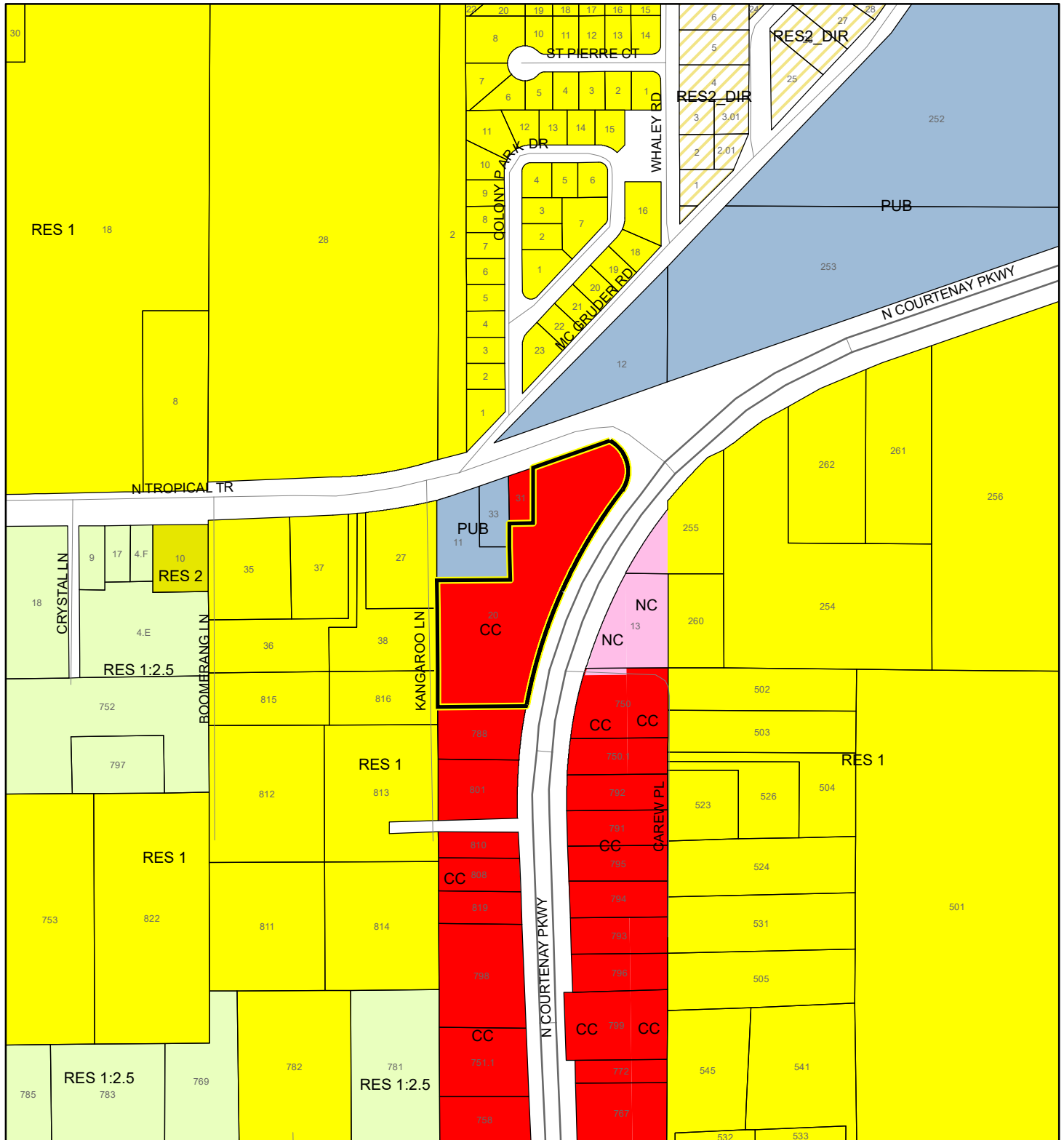
Buffer
Subject Property

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11





FUTURE LAND USE MAP

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



1:4,800 or 1 inch = 400 feet

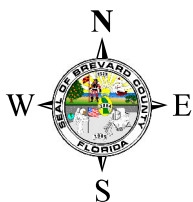
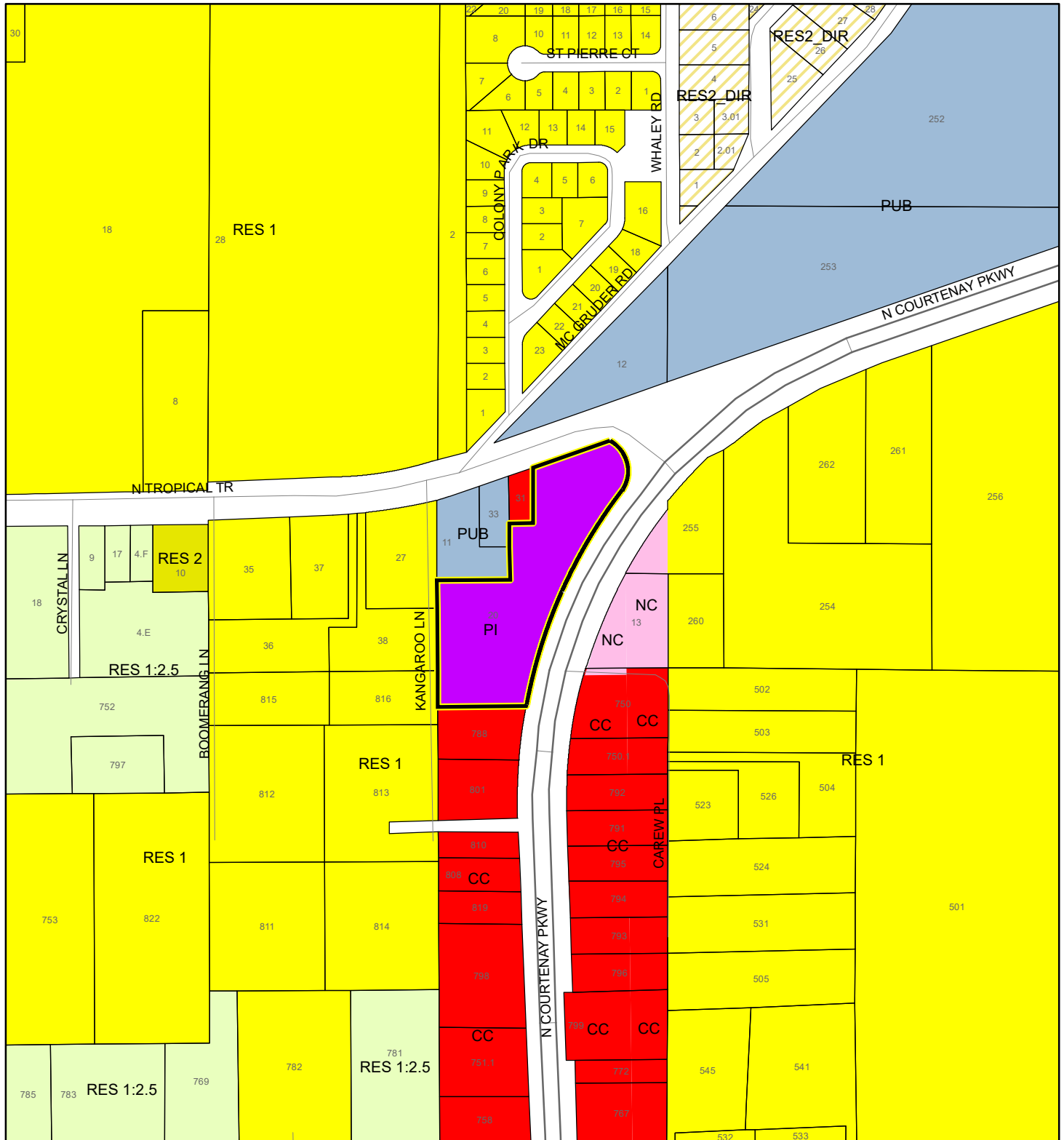
 Subject Property
 Parcels

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: 11/17/2020

PROPOSED FUTURE LAND USE MAP

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



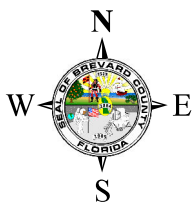
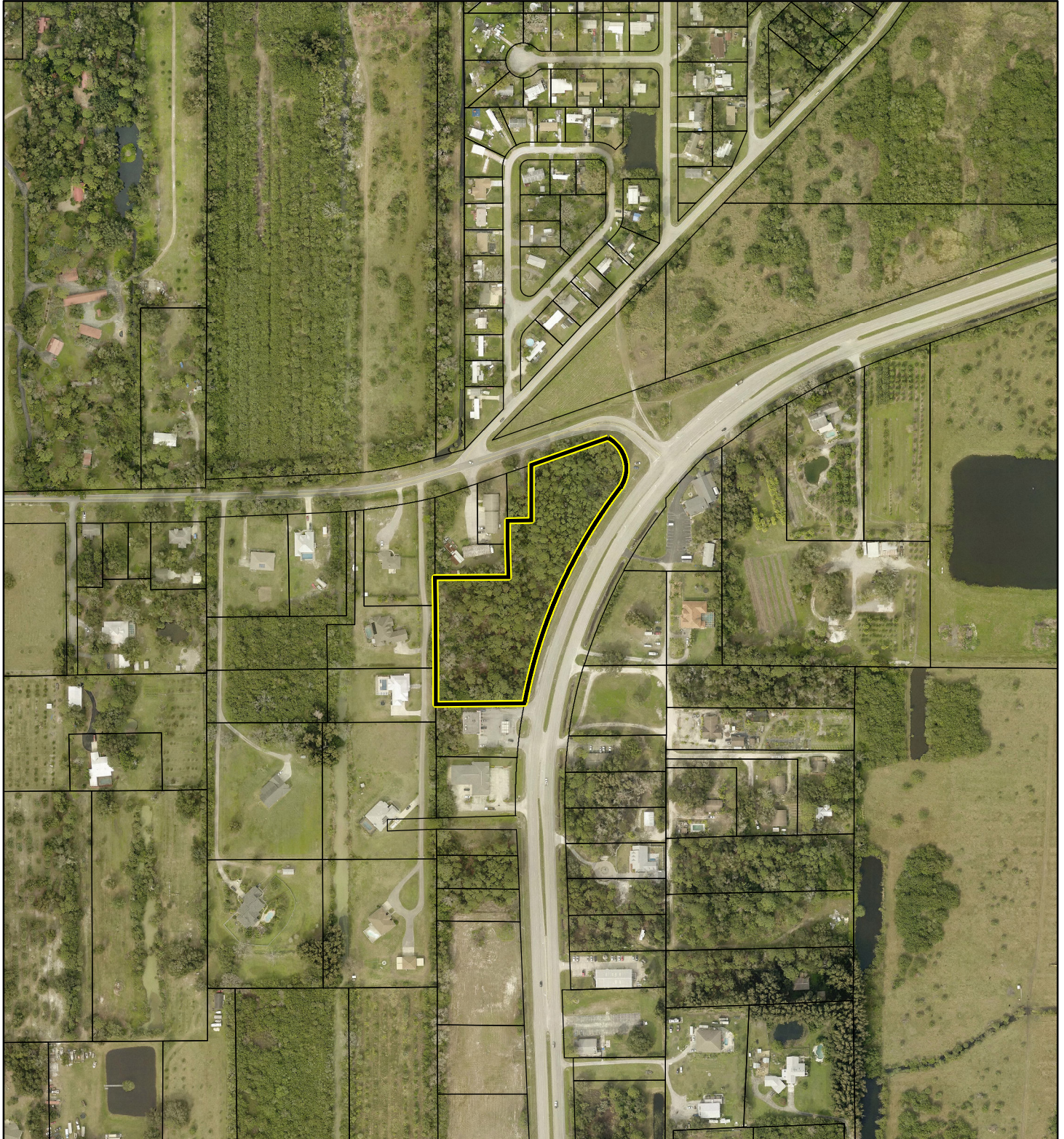
1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

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Produced by BoCC - GIS Date: 11/17/2020

AERIAL MAP
KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

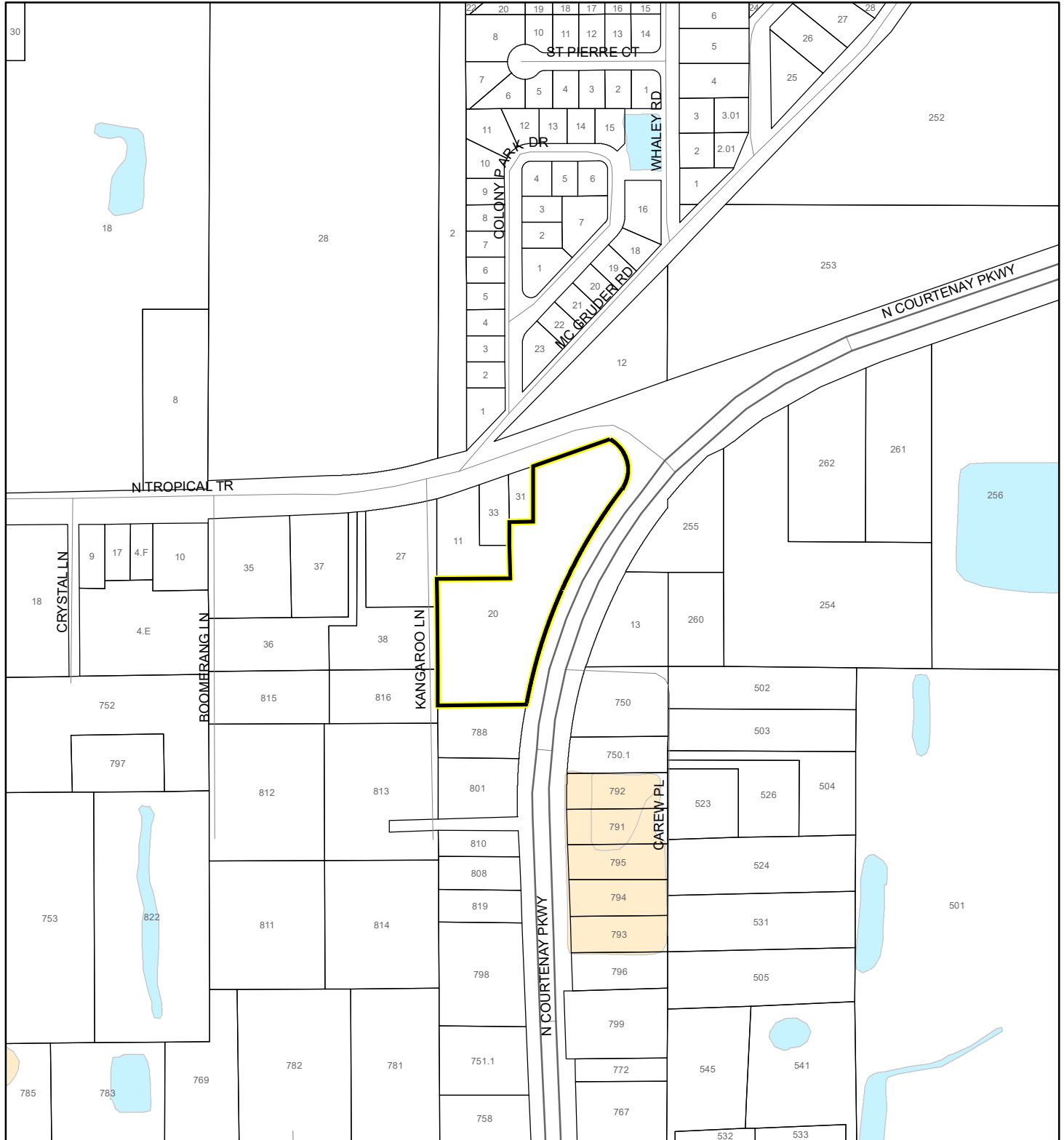
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/17/2020

 Subject Property
 Parcels

NWI WETLANDS MAP

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11













1:4,800 or 1 inch = 400 feet

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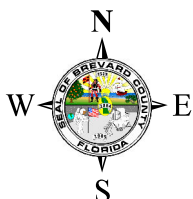
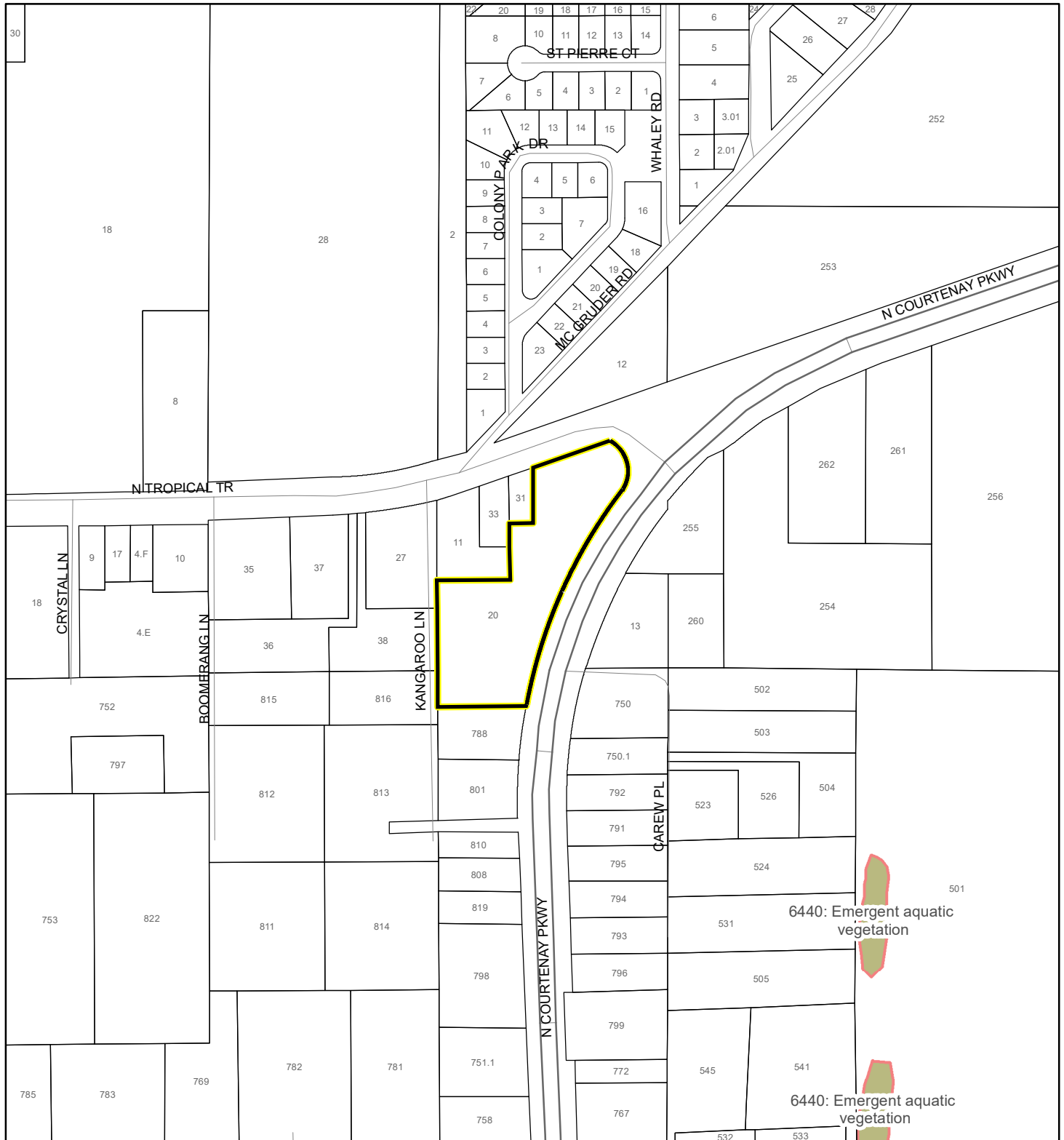
Produced by BoCC - GIS Date: 11/17/2020

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

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/17/2020

SJRWMD FLUCCS WETLANDS

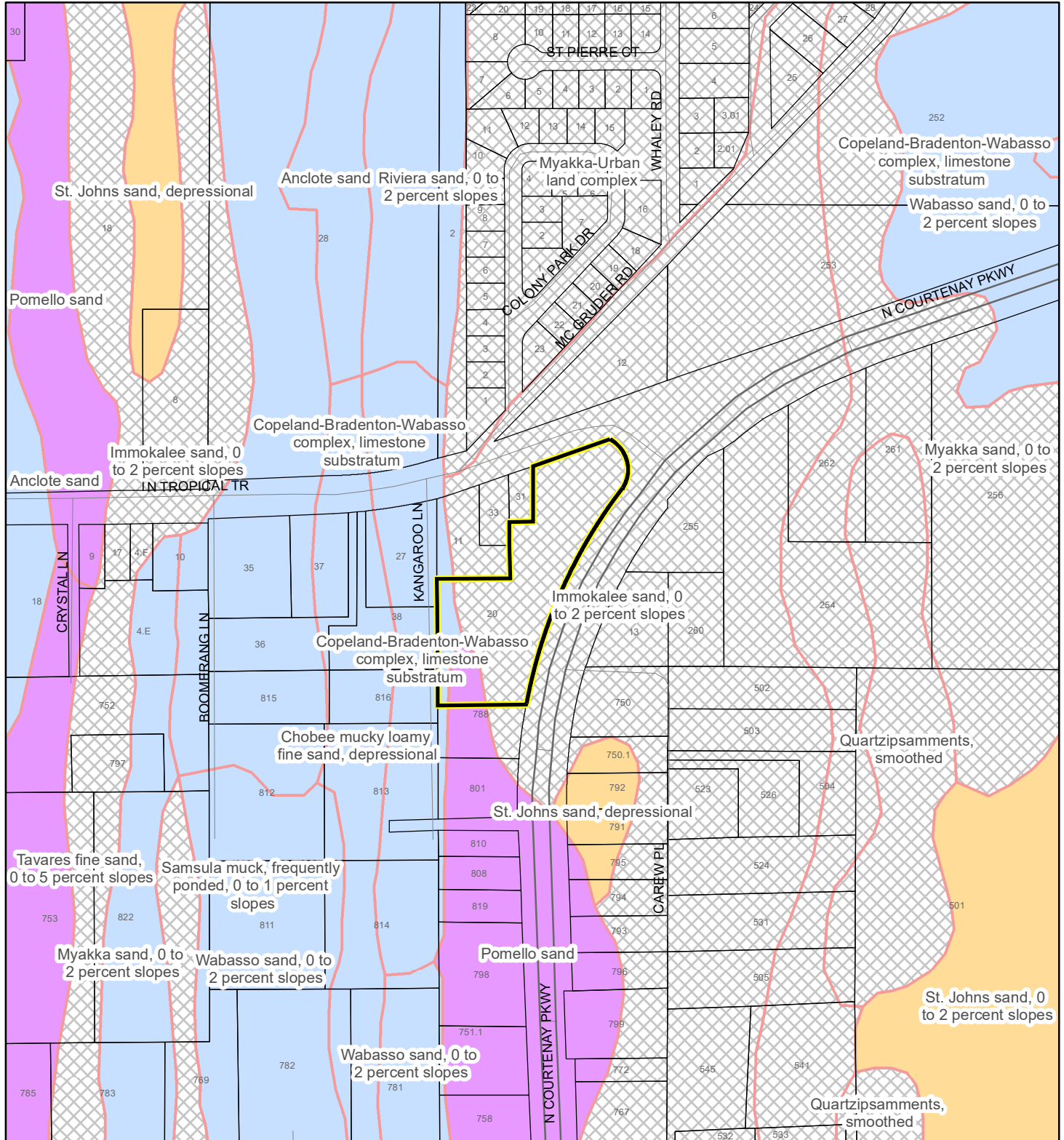
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



1:4,800 or 1 inch = 400 feet

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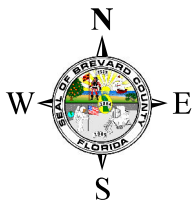
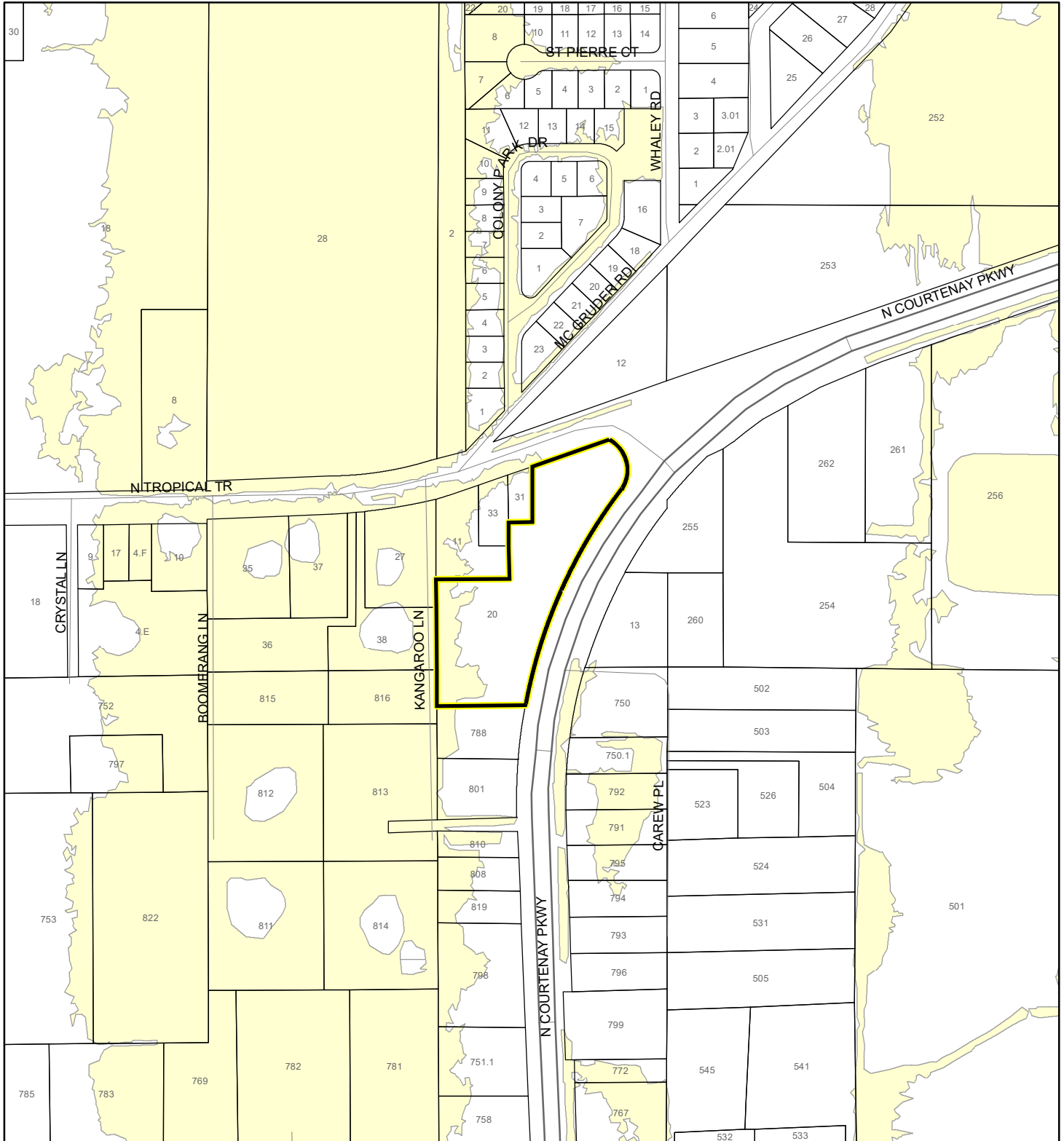
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



1:4,800 or 1 inch = 400 feet

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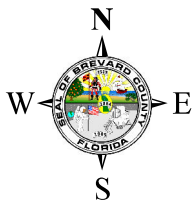
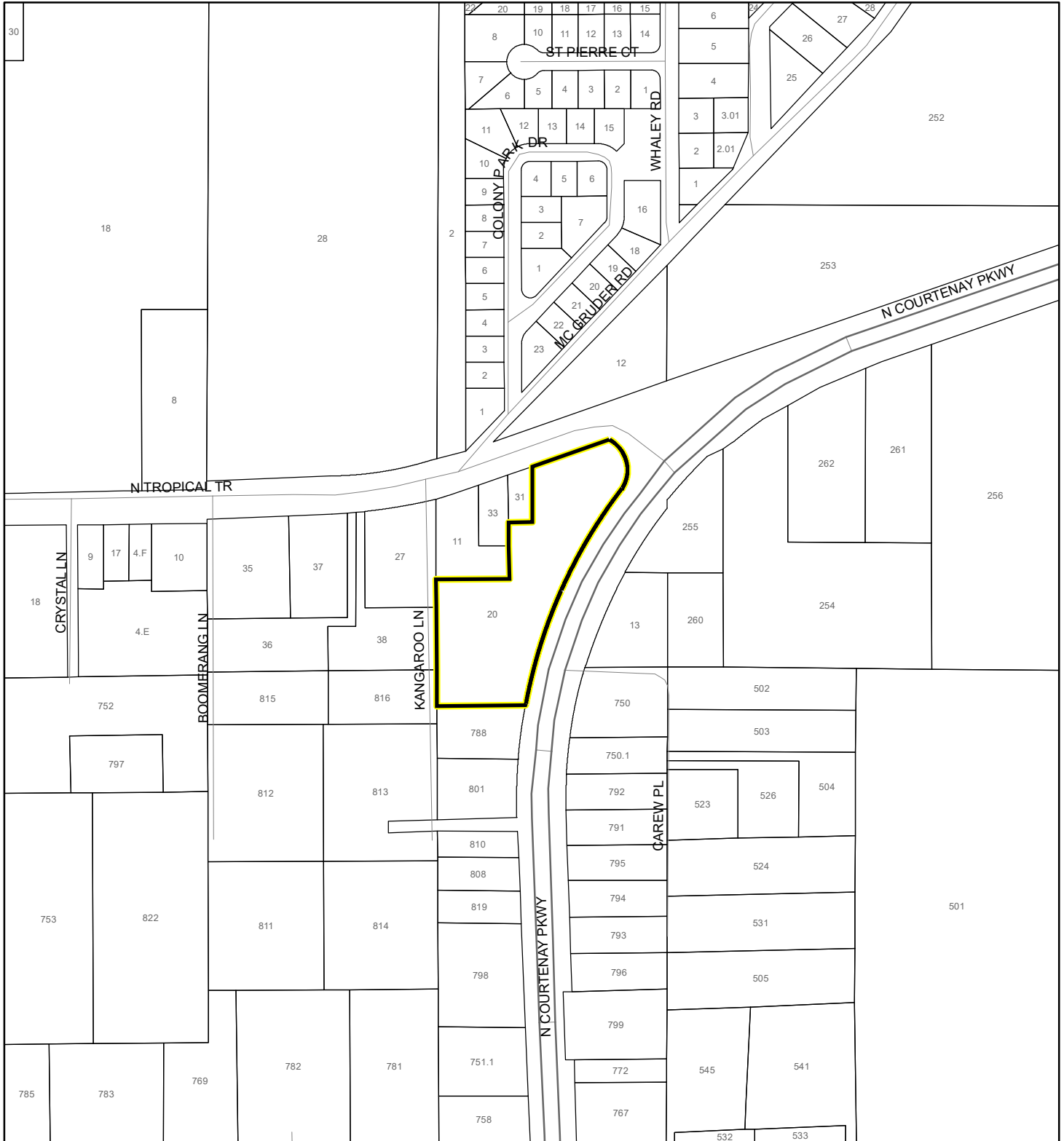
Produced by BoCC - GIS Date: 11/17/2020

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

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 11/17/2020

 Subject Property

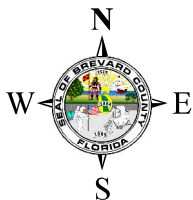
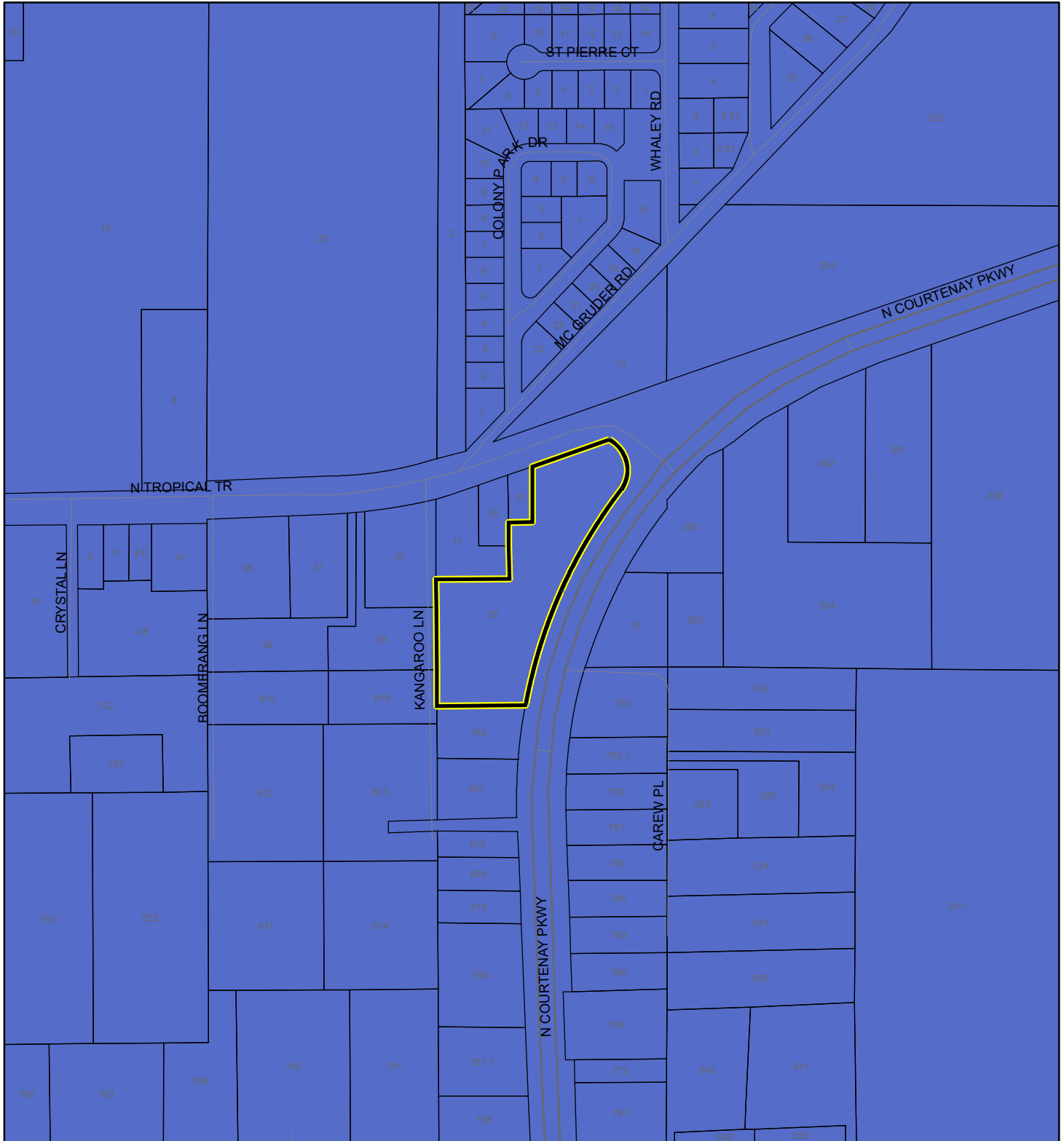
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/17/2020

 Subject Property

 Parcels

Septic Overlay

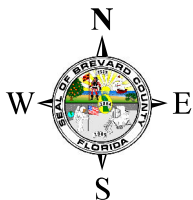
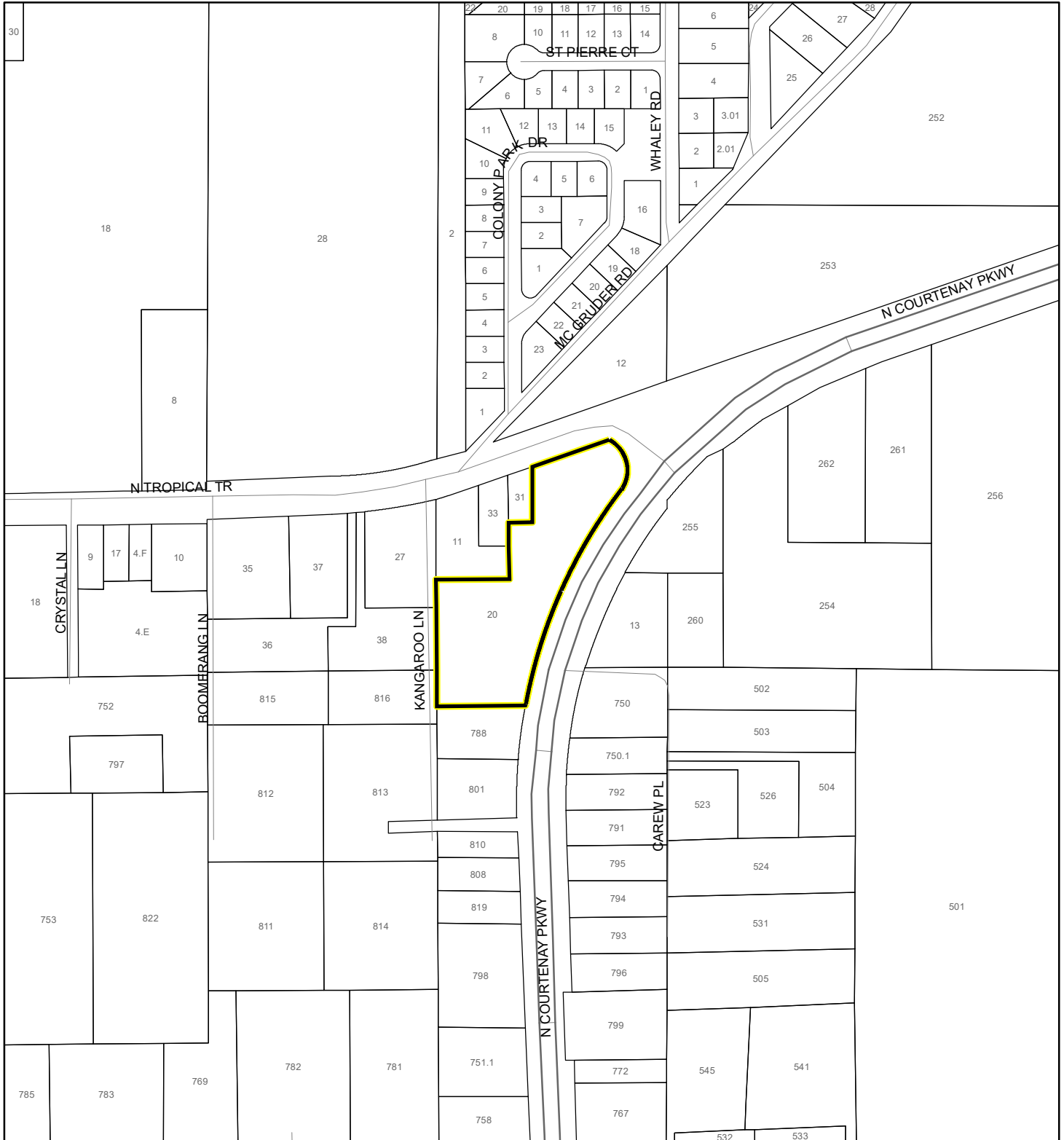
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/17/2020

 Subject Property

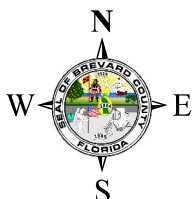
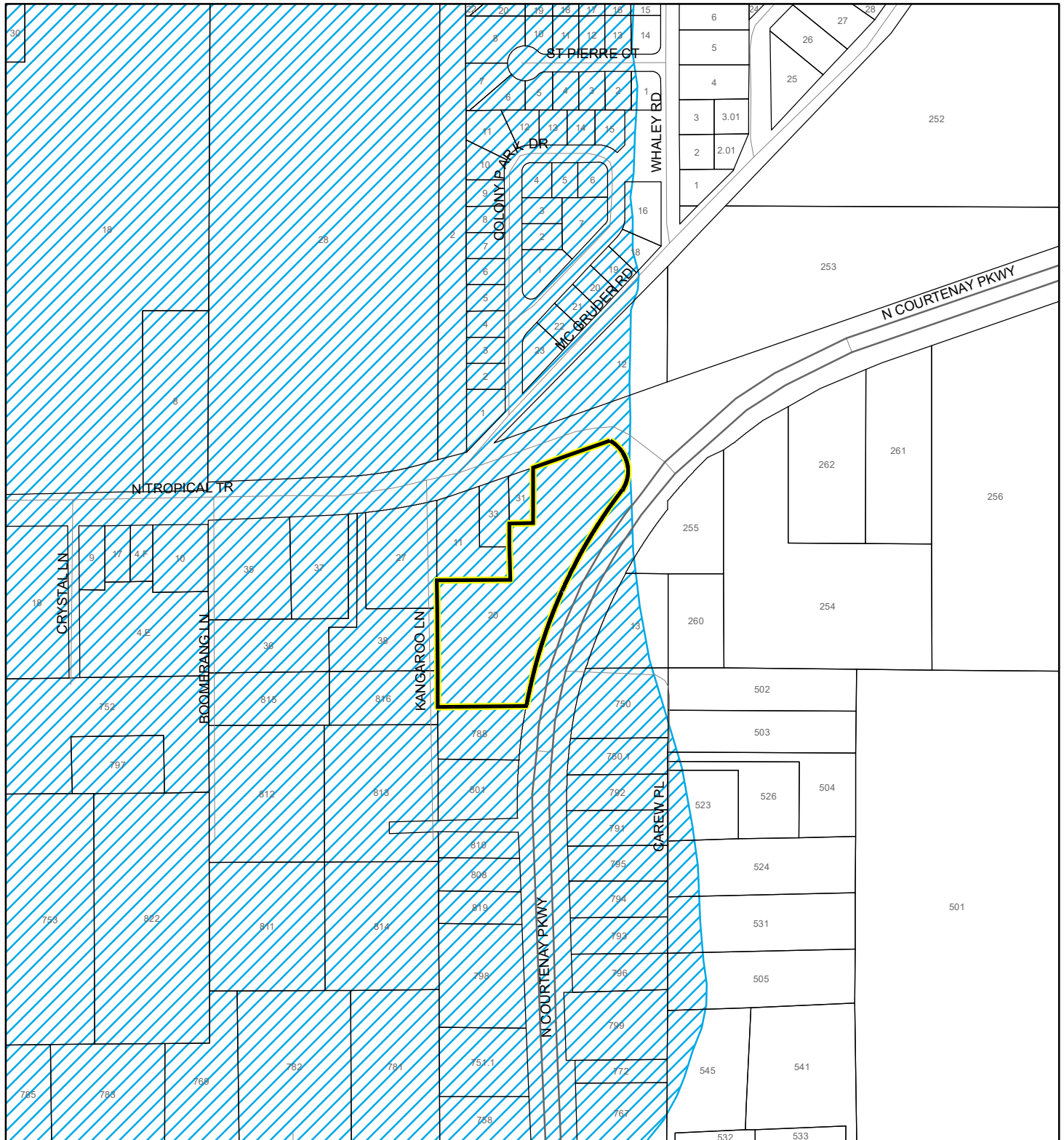
 Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



1:4,800 or 1 inch = 400 feet

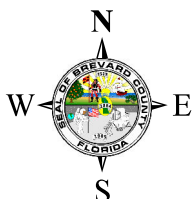
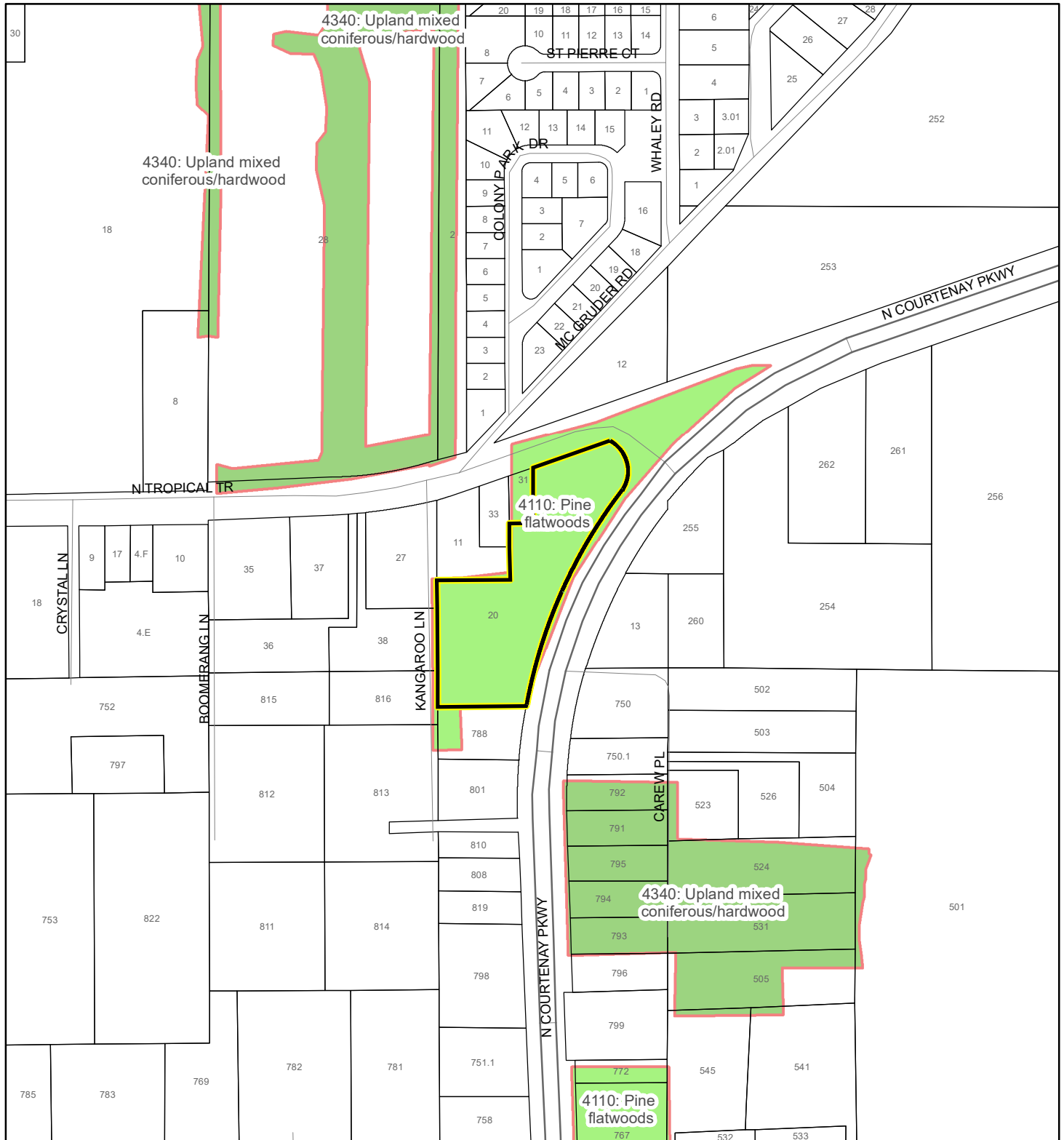
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/17/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KURZ, HAROLD, TRUSTEE
20PZ00107 SMALL SCALE AMENDMENT 20S.11



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/17/2020

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

205.11

Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 20PZ00107

Existing FLU: CC - Community Commercial Existing Zoning: BU-1

Proposed FLU: PI - Planned Industrial Proposed Zoning: _____

PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

Harold Kurz Tr

Name(s)	Company		
<u>1623 Shore Dr.</u>	<u>Merritt Island</u>	<u>FL</u>	<u>32953</u>
Street	City	State	Zip Code
<u>hobbsrx@msn.com</u>		<u>321-543-5784</u>	
Email	Phone	Cell	

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☒ Contract Purchaser ☐ Other _____

Harry Perrette

Name(s)	Company		
<u>2075 S. Courtenay Pkwy</u>	<u>Merritt Island</u>	<u>FL</u>	<u>32952</u>
Street	City	State	Zip Code
<u>Harry.Perrette@Gmail.com</u>		<u>3217497378</u>	
Email	Phone	Cell	

APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☒ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element _____
- ☐ Other Amendment (CP): _____
- ☐ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Other Action: _____

Acreage of Request: 3.6

Reason for Request:

CC to P-1 w/ companion zoning application 20200038

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☐ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☒ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☒ An approval of this application does not entitle the owner to a development permit.
- ☒ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.



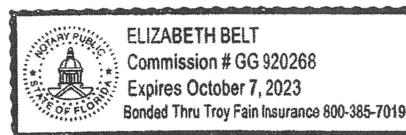
Signature of Property Owner or
Authorized Representative

04/28/2020

Date

State of Florida

County of Brevard



Subscribed and sworn to me before me this 28 day of, April, 20 20,
personally appeared Harry Perrette, who is personally known to me or
produced FLDL as identification, and who did / did not take an oath.



Notary Public Signature

Seal

Office Use Only:

Accela No. 20P200107 Fee: \$1,219 Date Filed: 11/06 District No. 2

Tax Account No. (list all that apply) 231 6254

Parcel I.D. No.

23 36 22 00 20
Twp Rng Sec Sub Block Lot/Parcel

Planner: KH Sign Issued by: NA Notification Radius: 500'

MEETINGS

DATE

TIME

<input type="checkbox"/> P&Z	_____	_____
<input type="checkbox"/> PSJ Board	_____	_____
<input checked="" type="checkbox"/> NMI Board	<u>1/7/2020</u>	<u>6:00 p.m.</u>
<input type="checkbox"/> LPA	_____	_____
<input type="checkbox"/> BOA	_____	_____
<input checked="" type="checkbox"/> BCC	<u>2/4/2021</u>	<u>5:00 p.m.</u>

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials KH

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☐ Yes ☒ No If yes, list NMI

Location of subject property:

SW intersection of N. Tropical Tr and N Courtenay Pkwy

Description of Request:

Changing FLU from CC to P1 w/ companion rezoning application taking property from BU-1 to P1P.

Brevard County
Supplement to Comprehensive Plan Amendment Application
Planning and Zoning Office, 2725 Judge Fran Jamieson Way, Viera, FL 32940
(321) 633-2069



1. Type of Application:

- X Small-scale Comprehensive Plan Future Land Use Map Amendment
- Large-scale Future Land Use Map Amendment
- Comprehensive Plan Text Amendment
- Plan Element(s) of Text Amendment request: _____

2. Applicant: Harry Perrette **Staff Planner :** Kyle Harris

3. Comprehensive Plan Amendment Information:

Adopted Future Land Use Designation: CC - Community Commercial

Requested Future Land Use Designation: PI - Planned Industrial

Existing Zoning: BU-1

Proposed Text Amendment (if applicable): Attach the proposed text amendment in a strike-thru/underlined format along with one copy on a CD in Microsoft Word, rtf or text format.

4. Description of Request/Justification: Must include a written statement explaining the rational and the appropriate data and analysis necessary to support the proposed change.

Text amendment supplemental information shall include any goal, objective, policy, implementation strategy, directive and any supporting data and analysis, including maps, figures and tables, and; (1) Identification of the particular element of the plan on which the request is based; and, (2) Citation of the existing language which is proposed to be changed; and, (3) Proposed rewording of the existing language or the wording of proposed new test.

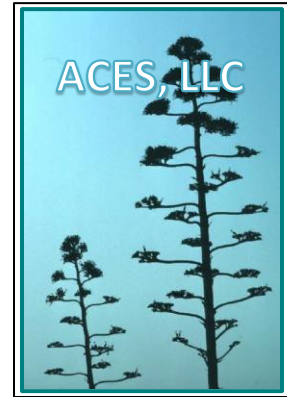
Twisted Industries is a small company with big dreams. Our current business structure fits into the BU-1 Zoning per approved zoning verification. As our company grows into other areas of expertise, we plan to add new and exciting portions of our business. With the current zoning, our business is somewhat limited in what we are able to do. Our main goal for this property is to supply the Space Center with needed parts and services. This is why we chose a property close to the KSC gate. These technical parts may require certain aspects that may not fit in the BU-1 zoning. This may include welding. Any additional processes, such as the welding, would be 100% contained within the walls of the building.

In addition to this goal, we would also like the ability to possibly lease a portion of the building to sub-contractors while working on these projects. For example, if Twisted Industries were awarded a contract which required welding, painting, or a separate process we do not preform, we would like to have the ability to lease a portion for a subcontractor to help us fulfill the needs of the customer. With BU-1 Zoning, the type of work we can complete under the same roof will be limited. With Planned Industrial zoning, the scale of projects we are able to complete on site will be much expanded. This will help us get our customers what they need faster.

Andrew Conklin Environmental Services, LLC

Integrating Successful Development and Environmental Integrity

P.O. Box 500407, Malabar, Florida, 32950
Phone: (321)848-1143 Email: acesllc7@gmail.com



May 26, 2020

Mr. Harry Perrette
225 Manor Drive
Merritt Island, Florida 32952

Re: Parcel No. 23-36-22-00-20, N. Courtenay Parkway, Merritt Island
ACES File No. 2049

Dear Mr. Perrette,

Andrew Conklin Environmental Services, LLC (ACES) has completed a review of environmental issues associated with the above-referenced ± 3.66 -acre property, located in Section 22, Township 23 South, Range 36 East, Brevard County, Florida. Figure 1 depicts the location of the subject site, and Figure 2 is a recent aerial photograph of the site depicting current conditions thereon.

On May 15, 2020, ACES inspected the property for the presence of wetlands, surface waters, protected species, and indications of protected species habitat. The purpose of our study was to estimate the current extent of wetlands and protected species habitat on the site. To assess the presence and extent of wetlands, we implemented the jurisdictional wetland identification methodologies of the St. Johns River Water Management District (SJRWMD) and the U.S. Army Corps of Engineers (ACOE), which incorporate an analysis of on-site vegetation, soils, and hydrology to determine the presence or absence of state-jurisdictional wetlands. Where jurisdictional wetlands were found to exist, ACES identified their boundaries on a recent aerial photograph of the site. The likelihood of protected species habitation was determined by identifying the various vegetative communities, habitat types, and species indicators currently present on the site, and referencing these against standards and indicators used by the Florida Fish and Wildlife Conservation Commission (FWC) and the U.S. Fish and Wildlife Service (USFWS). Following is a presentation of our findings.

Soil Types

The USDA Natural Resource Conservation Service (NRCS) identifies three different soil types on the property (see Figure 3). Soil maps are used by the environmental regulatory agencies as a general guideline to determine the likelihood of wetland and upland conditions on reviewed properties; soils more commonly associated with wetland conditions potentially indicate areas of lower elevation and greater surface hydrology, whereas soil types that are more commonly associated with uplands are expected to exhibit fewer or no wetland characteristics. Potentially hydric (i.e., wetland) soil types are listed in the *Hydric Soils of Florida Handbook* (Victor W. Carlisle, et al., 2000). It should be noted that the soil types listed by NRCS are based on a 1974 soil survey of Brevard County by the USDA Soil Conservation Service, and no comprehensive soil survey of the county has been completed since 1974. As such, it is not uncommon for there to be some inconsistencies between historically-mapped soil types and current on-site soil conditions. ACES sampled soil types throughout the subject property by

excavating 6-inch diameter, 12-inch deep cylindrical plugs from the surface, and assessing the soil profiles and characteristics of each plug. Following are brief descriptions of the soil types that are mapped on the subject site, compared to our observations of current soil conditions.

Copeland-Bradenton-Wabasso Complex, Limestone Substratum – NRCS Code No. 16: This complex consists of several nearly level, very poorly drained soils on low flats. In most years, the water table is within a depth of 10 inches for more than six months. In dry seasons it is between 10 and 30 inches. This soil is flooded for seven days to a month once in five to 20 years. According to the *Hydric Soils of Florida Handbook*, this soil is hydric in about 78 percent of the areas in which it is mapped.

This variable soil type is mapped along the western boundary of the site, nearest Kangaroo Lane. Soils in this area are hydric, being composed of muck and mucky-textured sand associated with a ditch and adjacent wetlands.

Immokalee Sand, 0 to 2 Percent Slopes – NRCS Code No. 28: This is a nearly level, poorly drained sandy soil in broad areas in the flatwoods, on low ridges between sloughs, and in low, narrow areas between sand ridges and lakes/ponds. In most years the water table is within a depth of 10 inches for 1 to 2 months. It is between 10 and 40 inches more than half the time, and during short, dry periods it is below 40 inches. It is not listed as a hydric soil by the *Hydric Soils of Florida Handbook*.

This upland soil type dominates the site, being mapped across all but the western site boundary and the southwest property corner. Soils tested throughout the mapped polygon are composed of non-hydric loamy fine sand imbedded with small sandy organic bodies.

Pomello Sand – NRCS Code No. 49: This is a nearly level, moderately well drained sandy soil on broad low ridges and low knolls. The water table is 30 to 40 inches below the surface for 2 to 4 months in most years and between 40 and 60 inches for more than 6 months. During dry periods, it is below 60 inches for short periods. This soil type is not listed in the *Hydric Soils of Florida Handbook*.

This upland soil type is mapped in a lobe that extends onto the site from the south, occupying most of the southwest site corner. Soils in this area were observed to be slightly elevated and non-hydric, which is consistent with the mapped soil type.

It is our professional assessment that the NRCS-mapped soils show reasonable correspondence with current site conditions, with non-hydric soils dominating the property and hydric soils being present only along the western site boundary.

Community Types

Using the Florida Land Use, Cover and Forms Classification System (FLUCFCS) as a guideline, ACES categorized the different natural communities and land uses on the subject site according to FLUCFCS designations and code numbers. Figure 4 depicts the different FLUCFCS communities on the property. The major FLUCFCS categories on the site are:

Pine Flatwoods – FLUCFCS Code No 411: This forested upland community exists over most of the site, occupying approximately 2.96 acres. It consists of a canopy of slash pine, with

components of Darlington's oak, cabbage palm, and Brazilian pepper. The midstory is dominated by saw palmetto, which is patchy in the north, becoming more consolidated in broad swaths as one progresses southward. Other midstory species include deerberry, rusty lyonia, and wax myrtle. The ground cover includes southern fox grape, catbriar, shiny blueberry, and brackenfern. Underlying soils consist of non-hydric loamy fine sand imbedded with small sandy organic bodies. No wetland hydrologic indicators were observed.

Upland Scrub, Pine and Hardwoods – FLUCFCS Code No. 435: This partially-forested upland community along most of the eastern site boundary in a very narrow strip that occupies a total of approximately 0.33 acres. Vegetation consists of some slash pines along the eastern boundary of the community, a midstory of myrtle oak, sand live oak, hog plum, winged sumac, saw palmetto, and wax myrtle, and a ground cover of southern fox grape, Johnson grass, catbriar, and broomsedge. Underlying soils consist of non-hydric fine sand, and no wetland hydrologic indicators are present.

Streams and Waterways – FLUCFCS Code No. 510: This category is applied to the man-made north/south ditch that exists along the western property line, immediately east of the Kangaroo Lane right-of-way. The ditch is approximately 15 feet wide and two to three feet deep, with at least a foot of standing water present on the date of our inspection. It is vegetated by red maple, primrose willow, Brazilian pepper, and cabbage palm. Where it is flanked by wetlands, the ditch is considered part of the wetland system through which it runs; where it is cut through uplands, it is categorized as "surface waters," not wetlands.

Wetland Hardwood Forests – FLUCFCS Code No. 610: This wetland community extends along most of the western property line, covering about 0.37 acres (which includes the area occupied by the ditch). It contains a canopy of red maple, Brazilian pepper, and cabbage palm over a midstory of wax myrtle and Florida dogwood, and a ground cover of swamp fern, royal fern, Virginia chain fern, southern fox grape, and climbing hempweed. Soils are hydric, being composed of mucky-textured sand. High-water marks indicate that standing water of up to 18 inches above grade is present in this community on a seasonal basis.

Thus, the site contains a total of approximately 3.29 acres of uplands and 0.37 acres of wetlands. The wetlands fall under the jurisdiction of SJRWMD, ACOE, and the Brevard County Natural Resources Management Office (NRMO). If impacts are proposed to wetlands, the appropriate permits must be obtained from these agencies. Following is a discussion of potential wetland permitting and mitigation issues for this site.

Wetland Considerations

All topographical alteration or construction within wetlands is prohibited without the appropriate permits from SJRWMD, ACOE, and NRMO. Any time an applicant proposes to conduct work within wetlands, it must first be demonstrated that there is no way to accomplish the development goals without impacting wetlands. Because on-site wetlands are at the rear of the property, do not conflict with site access, and constitute only about 10 percent of the site, the wetland regulatory agencies will require that site improvements utilize on-site uplands as much as possible before they will be receptive to any plans to impact on-site wetlands.

SJRWMD and ACOE both require that all proposed wetland impacts be justified by the permittee, who is responsible for demonstrating that all reasonable efforts have been made to design the project in a

way that avoids or minimizes wetland impacts. Simply put, all proposed wetland impacts must clearly be demonstrated as unavoidable. Although SJRWMD's rules allow applicants to impact all wetlands provided they conduct mitigation that is "regionally significant" (i.e., the purchasing of mitigation bank credits), ACOE does not provide that flexibility. Furthermore, ACOE does not accept any mitigation that does not meet the strict standards of a wetland mitigation bank, essentially forcing all applicants to purchase credit at a federally approved mitigation bank for any wetland impacts the Corps deems acceptable. Finally, ACOE requires that all applicants proposing more than 0.10 acre of impacts to ACOE wetlands provide an "alternatives analysis", which is a documented analysis of all potential properties in the area that could accommodate the proposed project without incurring wetland impacts, along with an explanation of why the particular site chosen was the only alternative that was practical for the project.

If commercial or industrial development is being considered, NRMO may also impose certain restrictions on wetland permitting. On commercial or industrial sites, wetland impacts can only occur if justifiable (as described above), and usually only if the project site is on a "Mitigation Qualified Roadway" (MQR), which is any road in the county that is recognized as an established or critical commercial thoroughfare. North Courtenay Parkway is flanked by a wide range of land uses (residential, commercial, institutional, agricultural, etc.), but its long-term utilization as the only commercial corridor in north Merritt Island is expected to qualify it as an MQR.

In addition to direct wetland impacts (dredging or filling within wetlands), an applicant must also consider the extent of secondary wetland impacts, which are assessed by SJRWMD. Secondary wetland impacts are those potentially adverse effects to wetlands that occur due to the proximity of human activities (i.e., noise, traffic, pollution, lighting, human intrusion, pets, yard waste, etc.). To protect against secondary impacts, SJRWMD encourages applicants to preserve a naturally vegetated upland buffer around all portions of wetlands that are to remain undisturbed. The buffer must be at least 15 feet wide, with a minimum average width of at least 25 feet. In all areas where the minimum buffer cannot be provided, SJRWMD will assess secondary impacts extending into the adjacent wetlands. The extent of secondary impacts is determined on a case-by-case basis; for forested wetlands, it is typically determined by extending a 100-foot radius into the affected wetland from each point where an adequate upland buffer cannot be provided. Although this may result in a large area of assessed secondary wetland impacts, such impacts are considered to be significantly less adverse than direct impacts. Thus, although secondary wetland impacts do add to the amount of mitigation that an applicant must provide to satisfy SJRWMD, they are typically only a small percentage of the whole.

Wetland impacts and wetland mitigation are evaluated using the Uniform Mitigation Assessment Method (UMAM). UMAM is a method of assessing and calculating environmental losses (Functional Loss, or FL) and environmental gains (Functional Gain, or FG). Wetlands proposed for impact are assigned a specific FL via a set of standardized evaluations and calculations; whatever the total FL is for a particular project, the proposed mitigation (assessed in units of FG) must be equal or greater than the FL. For this site, the wetlands are of low quality, mainly due to surrounding land uses, fragmentation of natural habitat, and drainage of the wetland by the adjacent ditch. We expect on-site wetlands to be assigned an FL of about 0.50. When applied to the area of wetlands (+/-0.37 acres), the total potential FL for this site is estimated at 0.185.

Currently, the subject site falls into the service area of only one mitigation bank, NeoVerde Mitigation Bank. NeoVerde also is located within the same SJRWMD drainage basin as the subject site (Basin No. 21), which is important because SJRWMD requires applicants to provide wetland mitigation within the

same basin as their projects are located in. Currently, NeoVerde is charging \$200,000 for each unit of FG to satisfy SJRWMD. NeoVerde does not sell in units of less than 0.10 FG. Therefore, based on the above estimate of 0.185 units of FL for this site, 0.20 units of FG would need to be purchased at NeoVerde to satisfy SJRWMD, at a cost of approximately \$40,000.

Unfortunately, NeoVerde is currently sold out of their federal wetland credits. This means that there are currently no mitigation bank credits available to satisfy ACOE's permitting requirements; until there are, alternative means of wetland mitigation would need to be explored to address federal wetland regulatory concerns.

In addition to the cost of wetland mitigation, there are other consulting costs associated with the quantification and qualification of wetlands on the site. Delineation and flagging of wetlands, pre-application consultation with agency representatives, wetland permit application development, on-site jurisdictional confirmation with SJRWMD and ACOE staff, and other ancillary costs and fees are expected to amount to between \$6,000 and \$7,000.

The time associated with wetland permitting is expected to be between three to four months for SJRWMD. Permitting through ACOE occurs concurrently, but can take longer to complete than state permitting, since ACOE requires more documentation, is not subject to minimum time frames in their review process, and will have to review mitigation alternatives that are not as streamlined as a mitigation bank credit purchase. Furthermore, ACOE requires that SJRWMD permit the project first before ACOE can issue its own permit (the SJRWMD permit serves to certify to ACOE that water quality issues have been properly addressed). The county permitting process can be initiated concurrently with the state and federal processes but will not be completed until both SJRWMD and ACOE permits are acquired.

Considering all the above concerns (particularly the current lack of federal wetland mitigation bank credits serving Merritt Island), we recommend considering site plans that will avoid all direct wetland impacts. If a 25-foot wide naturally-vegetated upland buffer can be maintained between the wetland and the edge of the development footprint, then SJRWMD will not assess secondary wetland impacts. If the site development requirements must encroach into the upland buffer, only SJRWMD will assess secondary wetland impacts (NRMO and ACOE will not); if this occurs, the purchase of 0.10 credit (the minimum amount allowed for purchase, at a cost of \$20,000) at NeoVerde Mitigation Bank will be enough to offset secondary wetland impacts.

Protected Species

On the date of our site assessment, ACES examined the property for any indications of habitation by protected wildlife species. This included inspecting the property for direct visual and auditory evidence of protected species themselves, as well as assessing the site for the presence of secondary indicators, such as burrows, nests, nesting cavities, scat, tracks, trails, rookeries, etc. We also used on-line mapping resources from Brevard County, USFWS, and FWC to identify the known location of certain protected species populations, such as Florida scrub-jays and bald eagles. Following is a discussion identifying the extent to which protected species are thought to be using the site, and the procedures by which such concerns can be addressed during the project permitting process.

Gopher Tortoises: Gopher tortoises are protected as a Threatened species by the Florida Fish and Wildlife Conservation Commission (FWC). Gopher tortoises require habitat that includes well-drained sandy soils for burrowing, open sunlit areas for nesting, and adequate herbaceous

forage. On this property, portions of the upland communities exhibit these characteristics to some degree, although open sunlit areas and sufficient herbaceous forage are minimal.

Although we did not conduct a formal gopher tortoise survey, ACES observed some evidence of gopher tortoise occupation during our site inspection. The location of one potentially-occupied tortoise burrow and one abandoned gopher tortoise burrow that we happened to observe on our survey date is shown on Figure 4. Based on the habitat conditions we observed within on-site uplands, our preliminary estimate is that there are probably between 2 and 4 gopher tortoises on the site, using fewer than 10 burrows.

FWC requires that all tortoises that are likely to be displaced by proposed development be identified through a formal survey, and safely relocated under an off-site gopher tortoise conservation permit from FWC prior to site clearing. In order to determine the number of tortoises that will be affected by site development, it will be necessary to complete a formal tortoise survey over all potentially suitable habitat that is proposed for development on this site. Costs associated with tortoise permitting include the 100% survey and mapping of all tortoise habitat (approx. \$1,600), developing and submitting the tortoise relocation application to FWC (\$500.00), and excavating all potentially-occupied burrows on the site with a backhoe (assuming 8 burrows, the projected cost is \$2,850). In addition, FWC will charge an application fee based on the estimated number of tortoises to be moved (assuming 4 tortoises, the fee will be \$217), and the property receiving the relocated tortoises (which must be permitted by FWC to do so) charges \$1,400 per tortoise to cover long-term management costs (again, assuming 4 tortoises, that cost would be \$5,600). So, under a hypothetical 8 burrows excavated and 4 tortoises relocated, the total cost would be approximately \$10,767 (actual cost could be more or less depending on the results of the tortoise survey and relocation).

Timing of the tortoise permitting process is linked to the expected project start date. FWC requires that the survey data be no more than 90 days old prior to excavating tortoises under the authority of a permit. Furthermore, FWC requires that an applicant provide documentation from local government confirming that the proposed project that will necessitate tortoise relocation is imminent; without this documentation, the permit is unlikely to be issued. Therefore, the tortoise survey is recommended to take place no more than two months prior to the anticipated project start date. Once application is made, most tortoise permits can be acquired within two to three weeks (assuming all required documentation is provided). After the permit is issued, relocation can occur as long as predicted weather temperatures do not drop below 50 degrees Fahrenheit for 72 hours after the relocation is completed.

Eastern Indigo Snake (*Drymarchon corais couperi*): This federally-listed threatened species can occupy virtually all native Florida habitats, including flatwoods, upland scrub, and wetlands, typically ranging over very large areas and frequently utilizing gopher tortoise burrows for shelter. No signs of this species were observed during our site inspection. Barring the direct sighting of this species, no special permit for potential impacts to it is expected to be necessary to acquire.

Wading Birds: Some protected wading birds may occasionally be present within the wetlands for foraging purposes. These currently include the tricolored heron and greenback heron. There is no rookery habitat on the site to support nesting of any of these species, and neither

of these species were observed on the site during our inspection. Although it is possible that these species may be present from time to time in the wetland on a transitory foraging basis, such behavior is opportunistic, and not indicative of critical reliance on any on-site natural resources. Therefore, no special permits for potential impacts to these species are expected to be required.

Wood Stork (*Mycteria americana*): Wood stork nesting habitat is not present on the site. However, the on-site wetlands do provide some foraging habitat for this federally-listed endangered species. Federal rules require that when a project falls under federal jurisdiction, the potential for federally-endangered species must be assessed. In the case of the wood stork, the mere potential of wood stork foraging behavior within affected wetlands is enough to impose regulatory oversight, as long as: a) the affected wetland contains Suitable Foraging Habitat (SFH) for wood storks (the on-site wetlands do); b) the affected wetlands falls within the Core Foraging Area (CFA) of at least one known wood stork rookery (on-site wetlands fall within the CFA of several wood stork rookeries); and c) more than 0.5 acres of CFA are proposed for impact (this is NOT the case for this project). Since less than 0.5 acres of CFA are present on the site, we do not expect that any special permitting or mitigation requirements for wood storks will apply for this project.

Bald Eagle (*Haliaeetus leucocephalus*): No recorded bald eagle nests exist within at least 0.6 miles of the subject site, and no eagle nests or eagle activity were observed on the site. Therefore, it is not expected that potential impacts to this species will need to be addressed prior to site development.

Florida Scrub-Jay (*Aphelocoma coerulescens*): Florida scrub-jays are protected as Threatened by USFWS and FWC. Scrub-jays prefer upland scrub habitat (a minimum of 12 acres per scrub-jay family) characterized by oak scrub with at least 10 percent cover of scrub oak species, open sandy areas for caching of acorns, and areas which are predominantly free of tall trees, which hawks typically use as cover prior to preying on scrub-jays. The subject site does not have a sufficient area of scrub oak habitat, is very densely vegetated with very few open sandy areas, and contains numerous tall pines. As such, the suitability of scrub-jay habitat on the site is exceedingly low. During our site inspection, we neither saw nor heard any evidence of scrub-jays on the site. At this time of year, scrub-jays tend to be quite active and vocal, since they are typically breeding or raising young; the lack of evidence of scrub-jays on the site is therefore consistent with the poor habitat suitability that this site provides for the species.

As an additional record source, we looked at scrub-jay territorial maps available on the Brevard County Natural Resources Management Office (NRMO) website. These maps include data provided by FWS showing the estimated historical extent of scrub-jays in the area. The site and vicinity are mapped within a +/-330-acre historical scrub-jay territorial polygon, which was mapped circa 1984, when there was far less developed land in the area. Currently, the area within the mapped polygon is dominated by streets, single-family homes, fallow groves, cleared land, and Brazilian pepper forest. Our analysis of aerial photos of the site and vicinity shows the nearest potential scrub-jay habitat approximately 0.5 miles to the northwest of the site. Based on our on-site observations, the poor suitability of scrub-jay habitat on the property, the exceedingly outdated nature of the NRMO scrub-jay territorial maps, and our physical and aerial review of vicinity conditions, it is our professional opinion that scrub-jays are not present on the site. As such, permits and mitigation for potential impacts to this

species are not expected to be required.

Osprey (*Pandion haliaetus*): Ospreys are protected as a Species of Special Concern by FWC. Ospreys nest in dead pine trees, light poles, or artificial nesting platforms, usually within a few miles of open water. Ospreys can breed any time of year in Florida, but in central Florida the breeding season typically begins in February or March and can run through May or June.

An active osprey nest is present just east of the northeast corner of the property, atop a power pole on a man-made nest platform (see Figure 4). Two adult ospreys were observed to be using the nest at the time of our survey, and were exhibiting breeding behavior (at least one bird always in the nest, and both birds persistently vocalizing while humans were in the vicinity).

Relocation of the osprey nest is not a likely option, mainly since it is off-site, but also because the work would have to be done entirely by FPL, since it is atop an active power pole. For this project, clearing and construction should be timed outside of breeding season (February through June, typically). Since ospreys do not have a strict breeding season, the status of the nest must be assessed prior to the start of clearing and construction. If breeding behavior is not noted, clearing and construction can proceed. If breeding behavior is noted, clearing and construction will either need to wait until the young have fledged, or the nest will need to be monitored daily to make sure construction activities do not disturb or interrupt normal breeding behavior.

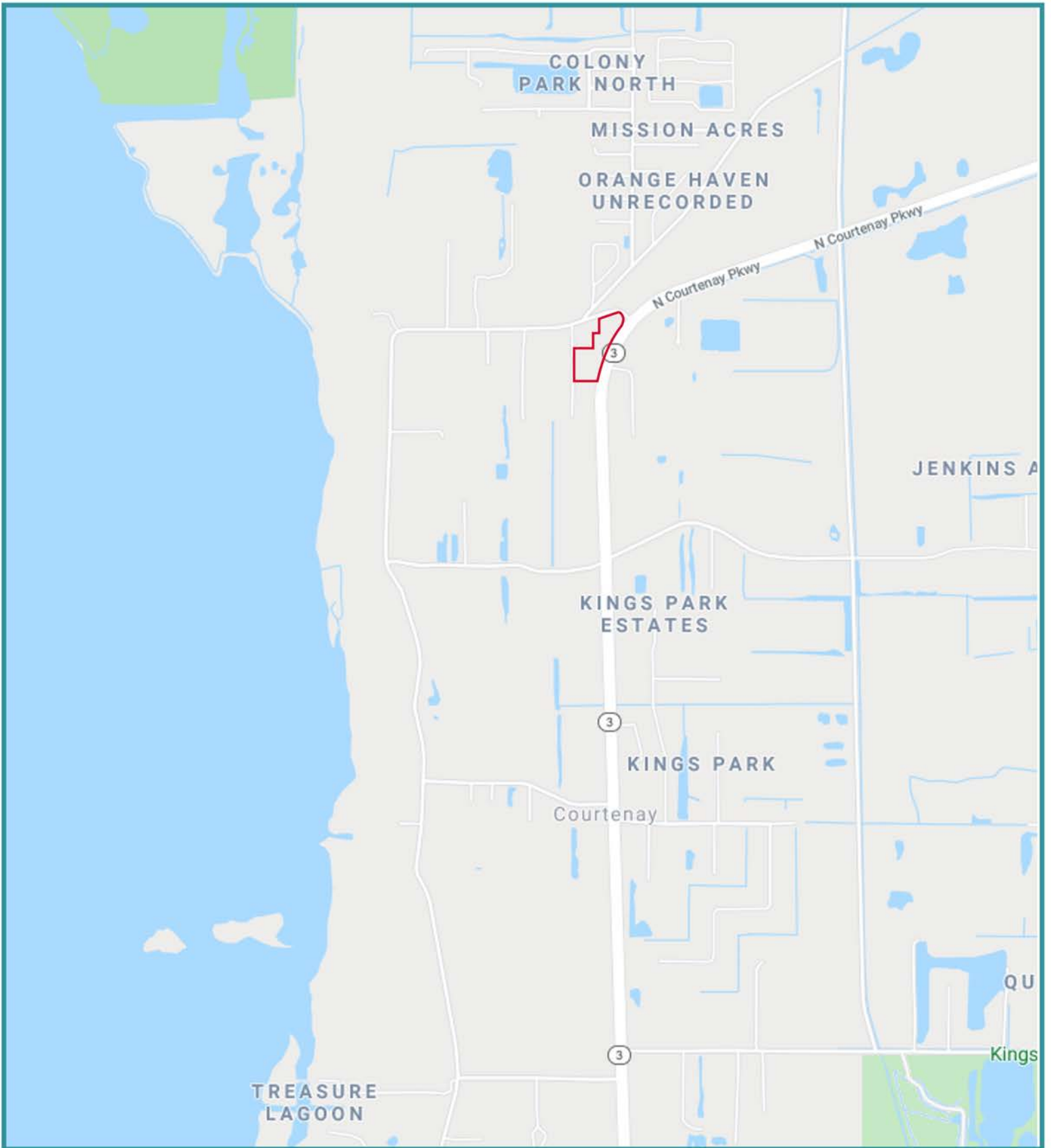
Summary and Conclusion

ACES has completed an environmental assessment of Parcel 23-36-22-00-20 on North Courtenay Parkway, Merritt Island. It is our determination that approximately 3.29 acres of uplands and 0.37 acres of wetlands are present on the site. Because there are currently no federal wetland mitigation bank credits available for Merritt Island, we recommend assessing site designs that avoid direct wetland impacts, if possible. If a 25-foot upland buffer cannot be sustained around the wetland, SJRWMD will assess secondary wetland impacts, which can be offset via the purchase of 0.10 SJRWMD credit at NeoVerde Mitigation Bank for \$20,000. In addition, we recommend conducting a formal gopher tortoise survey of the property to determine the extent to which this species occupies the site. Our preliminary estimate is that probably no more than 4 tortoises currently reside on the property, using up to 8 burrows. If this is the case, the estimated total cost to relocate tortoises off-site is about \$10,800 (a tortoise survey will confirm the number of burrows on the site and allow us to more specifically estimate total permitting costs). An active osprey nest is located just off-site to the northeast, and will need to be assessed and/or monitored if site development activities coincide with osprey breeding behavior. ACES is committed to working with you through all aspects of the environmental permitting and mitigation processes for this project, and will provide a proposal for all remaining environmental services upon request. Upon your review of this report, should you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Conklin', is written over a light blue horizontal line.

Andrew Conklin – President, ACES, LLC

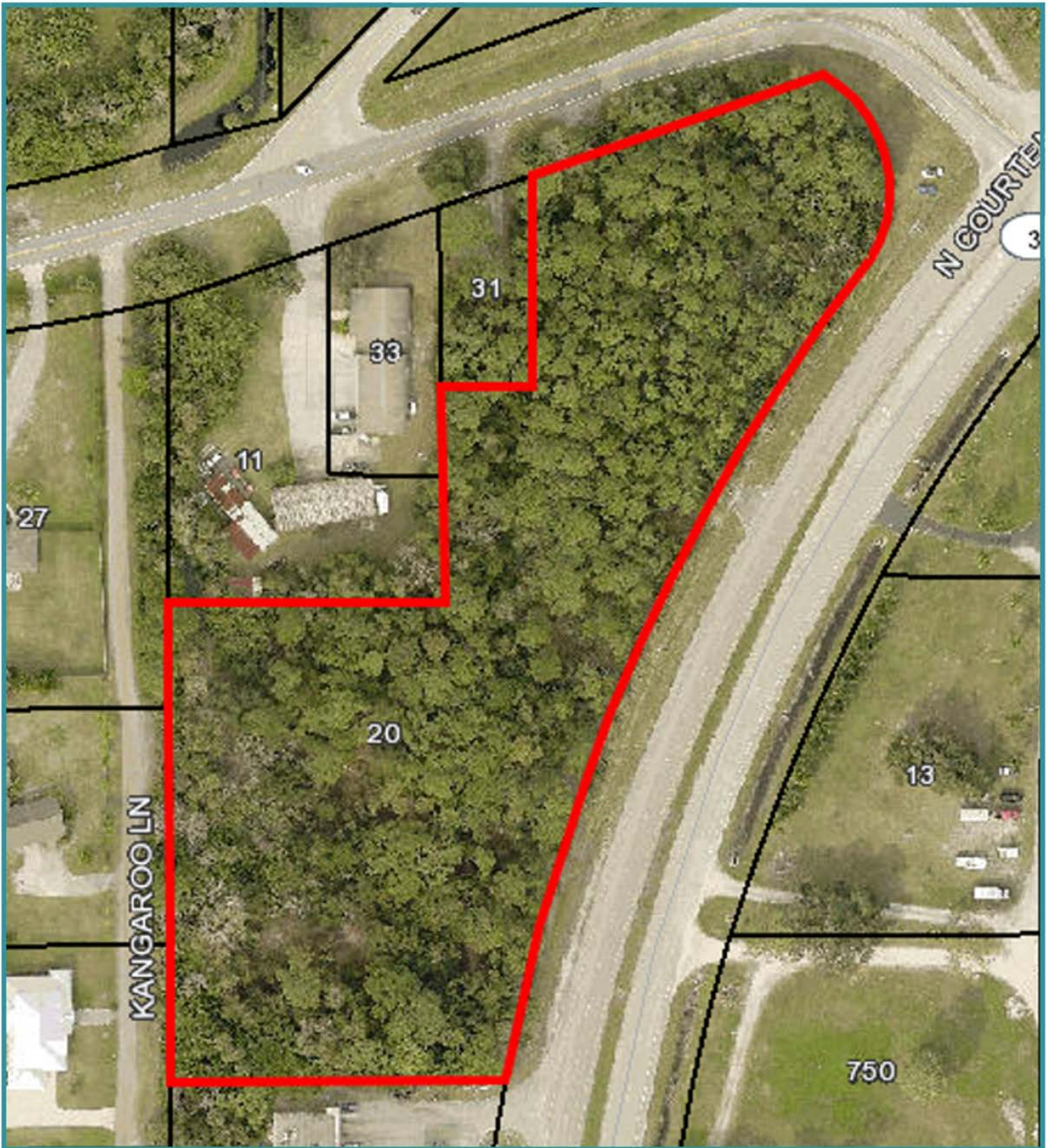


Source - Google Maps



Figure 1 - Location Map
ACES File No. 2049 - Parcel 20, N. Courtenay Pkwy.


 - Property Boundary

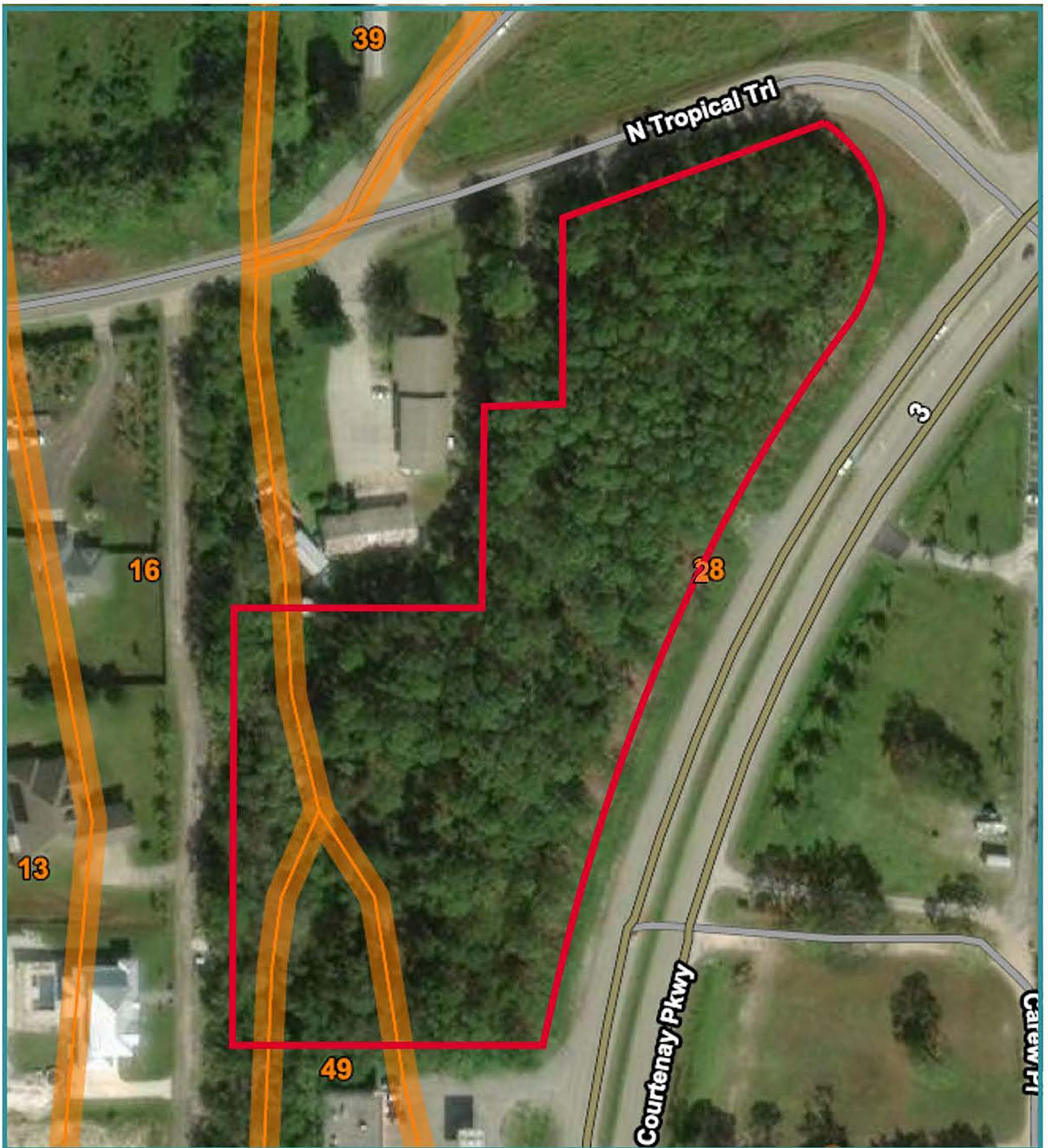


Source - Brevard County Property Appraiser



Figure 2 - Aerial Site Photograph
ACES File No. 2049 - Parcel 20, N. Courtenay Pkwy.

 - Property Boundary



Source - USDA Natural Resources Conservation Service (NRCS)

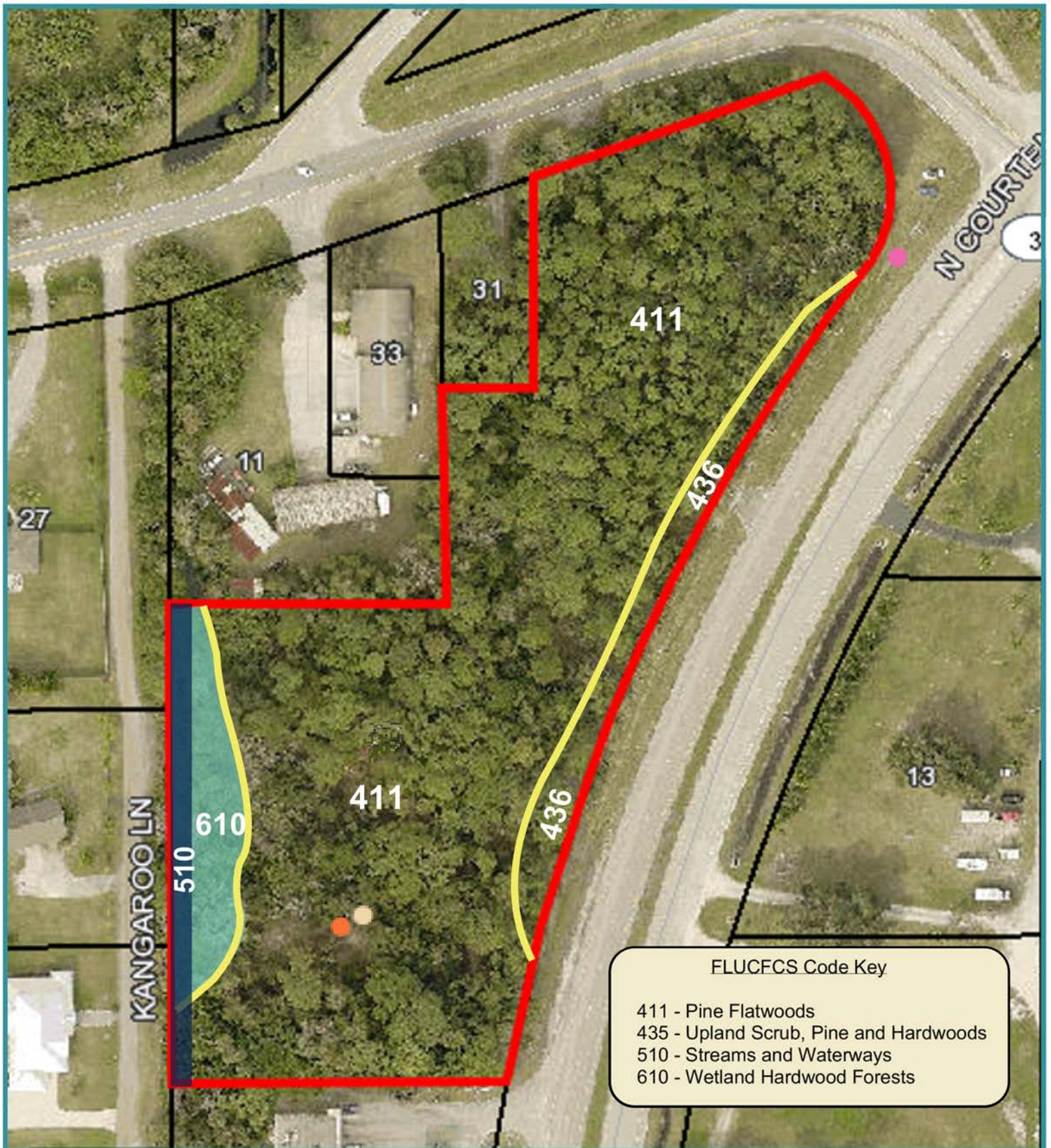


Figure 3 - NRCS Soils Map
ACES File No. 2049 - Parcel 20, N. Courtenay Pkwy.

- Property Boundary

~ - NRCS Soil Type Boundaries

16 - Copeland-Bradenton-Wabasso Complex, Limestone Substratum
 28 - Immokalee Sand, 0 to 2 Percent Slopes
 49 - Pomello Sand, 0 to 5 Percent Slopes



Source - Brevard County Property Appraiser

Codes referenced to the Florida Land Use Cover and Forms Classification System (FLUCFCS)



Figure 4 - Environmental Survey Map
ACES File No. 2049 - Parcel 20, N. Courtenay Pkwy.

Property Boundary

FLUCFCS Community Boundaries

On-Site Wetlands, +/-0.37 Acres

Ditch

Potentially-Occupied Gopher Tortoise Burrow
 Abandoned Gopher Tortoise Burrow
 Active Osprey Nest



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

1/7/2021

Subject:

Harold Kurz (Harry Perrette) requests a change of zoning classification from BU-1 to PIP. (20Z00038) (Tax Account 2316254) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the North Merritt Island Dependent Special District Board conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) to PIP (Planned Industrial Park).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) to PIP (Planned Industrial Park) for the purpose of constructing a building for use in manufacturing that would serve multiple tenants. This location, at the southwest intersection of N. Tropical Trail and N. Courtenay Parkway, was chosen by the applicant due to its proximity to Kennedy Space Center.

The applicant wishes to assemble small technical parts, and also allow manufacturing beyond what is permitted in BU-1. The PIP zoning classification allows all uses permitted in the BU-1 and BU-2 zoning classifications, in addition to manufacturing activities that can be carried on in a relatively unobtrusive manner. These uses may include sharpening and grinding shops; testing laboratories; wholesale salesroom and storage rooms; welding repairs; and major and minor automobile repair.

The FLU (Future Land Use) on the property is CC (Community Commercial). BU-1 is consistent with CC; however, PIP is not consistent. The applicant has submitted a Small Scale Comprehensive Plan Amendment application to change the FLU from CC to PI (Planned Industrial). Should the proposed FLU designation of PI be approved, then this request to PIP can be considered.

The Board may wish to consider whether the request is consistent and compatible with the surrounding neighborhood, consisting of a mix of single-family, commercial, and institutional.

The Board of County Commissioners will consider the request on **Thursday, February 4, 2021, at 5:00 p.m.** at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Building C, 1st Floor, Viera, Florida.

Clerk to the Board Instructions:

None

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development 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

20Z00038

Harold Kurz Trustee

BU-1 (General Retail Commercial) to PIP (Planned Industrial Park)

Tax Account Number: 2316254
Parcel I.D.: 23-36-22-00-20
Location: Southwest intersection of N. Tropical Tr. And N. Courtenay Pkwy.
(District 2)
Acreage: 3.66 acres

North Merritt Island Board: 1/07/2021
Board of County Commissioners: 2/04/2021

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	PIP
Potential*	159,430 sq. ft. commercial building(s)	57,395 sf commercial/industrial building
Can be Considered under the Future Land Use Map	YES Community Commercial	YES Planned Industrial**

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **A companion application, **20PZ00107**, if approved would change the Future Land Use designation from CC to PI.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from General Retail Commercial (BU-1) to Planned Industrial Park (PIP) for the purpose of constructing a building for use in manufacturing that would serve multiple tenants. This location was chosen by the applicant due to its proximity to Kennedy Space Center.

The site is currently vacant and the applicant would be required to undergo the site plan process. The site would be used to assemble small technical parts on computer numerical control (CNC) equipment. This use is permitted in the current zoning under the conditions of Section 62-1837.4. However, the applicant is requesting PIP zoning in order to permit more uses to allow additional tenants sharing the building. Under PIP zoning, all uses permitted in the BU-1 and BU-2 zoning

classifications are permitted in addition to manufacturing activities that can be carried on in a relatively unobtrusive manner.

The original zoning of the lot was Agricultural Residential (AU), adopted May 22, 1958. On November 10, 1966, the southern half acre of the property was rezoned from AU to BU-1 by zoning action **Z-2015**. On June 26, 1978, the remaining approximately 3.16 acres was rezoned from AU to BU-1 by zoning action **Z-4561**.

Land Use

The property retains the Community Commercial (CC) Future Land Use (FLU) designation. The existing zoning classification BU-1 is consistent with the CC FLU designation. The proposed zoning classification, PIP, is not consistent with the current FLU designation, but is consistent with the proposed FLU designation of PI being requested concurrently with this application (**20PZ00107**).

Environmental Constraints

The subject parcel contains mapped hydric soils with potential for wetlands. Section 62 3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The parcel is subject to compensatory storage for fill required for development on North Merritt Island. A topographic survey or engineered site plan delineating floodplain limits on the property is required. The engineer shall provide a report including the hydraulic and hydrologic modelling and analysis. Please see floodplain section in NRM comments for more information.

The property is mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. If sewer is not available, the property will require a septic system that provides 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 N. Courtenay Pkwy., between Hall Road and N. Tropical Trail, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 34.28% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.93%. The corridor is anticipated to continue to operate at 35.21% of capacity daily. The proposal is not anticipated to create a deficiency in LOS D.

The parcel has access to potable water through the City of Cocoa. The parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is approximately 5,622 feet south of the subject property at the intersection of N. Courtenay Pkwy. and Church Rd. According to Utilities, "We will be extending the force main and reuse main north from Church to N. Tropical Trail. Construction will be starting soon and is anticipated to be completed within a year."

Applicable Land Use Policies

The applicant has submitted a Small Scale Comprehensive Plan Amendment application to change the FLUM from CC to PI under **20PZ00107**. Should the proposed FLU designation of PI be approved, then this request to PIP can be considered.

FLUE Policy 3.5 - The Planned Industrial land use designation is intended to accommodate the clustering of light industrial and business uses in settings which provide special attention to the integration of infrastructure, such as circulation, parking, and utilities, while placing emphasis upon aesthetics of the project and compatibility with abutting properties and properties within the industrial park. These parks shall be designed to limit intrusion into residential areas. Appropriate uses are those that operate within enclosed buildings such as manufacturing, assembling, fabricating, warehousing and retailing activities. Hotel and motel accommodations that serve the travel needs of employees or clients associated with firms within the planned industrial or business parks are also appropriate. Marinas may also be considered within this land use designation.

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

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. The parcel is bounded by roads on its north (N. Tropical Trail) and east (N. Courtenay Pkwy.) sides. The 0.22 acre parcel to the northwest of the subject property containing telecommunication facilities has a FLUM of CC. The parcel to the south containing a gas station also has a FLUM of CC. There are two parcels to the west owned by the County containing Brevard County Fire Station 40 with a FLUM of Public Facilities (PUB). The closest industrial FLUM is located approximately 5,890 feet northeast of the subject property, on the south side of N. Courtenay Pkwy. This property is currently vacant. The closest developed parcel with an industrial FLUM is a parcel with the IND FLUM located approximately 1.38 miles northeast of the subject property. The closest developed parcel with a FLUM of PI is located approximately 4 miles south of the subject property at the intersection of N. Courtenay Pkwy. and Smith Rd.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The subject property is currently vacant. The west side of the property is bordered by single-family residential homes and a fire station. Across N. Tropical Trail there is a single-family residential neighborhood. To the south of the property along N. Courtenay Pkwy. on both sides are commercial properties, both developed and vacant. As N. Courtenay Pkwy. begins to bend to the northeast, there are mostly vacant parcels with public, institutional, and residential zonings.

As an alternative to the requested PIP, the Board may consider the provision within Section 62-1837.4., which allows manufacturing, compounding, processing, packaging, storage, treatment or assembly of certain products is permitted in BU-1 subject to the following conditions:

- (1) All uses shall be conducted on a lot with a minimum size of 20,000 square feet.
- (2) All uses shall be conducted and confined within completely enclosed buildings with walls and a roof.
- (3) The operation within the building shall be conducted so as to prevent the emission of smoke and odors from the structure.
- (4) There shall be no outside storage for the facility, beyond that permitted by the applicable classification.
- (5) All other requirements and specifications for minimum setbacks, minimum floor area, maximum height of structures, off-street parking, signs and fencing for the BU-1 or BU-2 zoning classification as provided in this chapter shall be requirements for this use and are hereby incorporated into and made a part of this section by reference.
- (6) This use shall not include the rendering or refining of fats and oils, poultry and animal slaughtering or dressing, or fish canning. Uses that are permitted with conditions include boatbuilding facilities and recovered materials processing facilities.

The applicant wishes to allow manufacturing beyond what is permitted in BU-1. PIP zoning permits all uses that are permitted in the BU-1 and BU-2 zoning classifications in addition to manufacturing activities that can be carried on in a relatively unobtrusive manner. These uses may include sharpening and grinding shops; testing laboratories; wholesale salesroom and storage rooms; welding repairs; and major and minor automobile repair.

PIP zoning requires larger front, rear, and side setbacks than the current BU-1 zoning. Sec. 62-1542(5) requires all buildings to be set back from all street right-of-way lines at least 50 feet and that no building or wall shall be located closer than 50 feet to a side yard lot line. No structures or truck parking and loading shall be located closer than 25 feet to the rear lot line.

Surrounding Area

This lot abuts a roadway on its east and north perimeters. To the northwest is a 0.22 acre BU-1 lot with a telecommunication facility. To the west are two lots zoned GML containing Brevard County Fire Station 40. Also to the west are two RR-1 zoned residential lots. To the south is a 0.85 acre lot used as gas station zoned BU-1. Zonings in the immediate area are: BU-1, GML(I), and RR-1.

The BU-1 zoning classification permits uses devoted to general retail shopping, offices and personal services to serve the needs of the community on 7,500 sq. ft. lots, with a minimum lot width and depth of 75 feet. The minimum floor area of all structures in BU-1 is 300 sq. ft.

The GML(I) zoning classification permits lands and institutional facilities managed by federal, state and local government on 2.5 acre lots, with a minimum lot width and depth of 150 feet.

The RR-1 zoning classification permits single-family detached dwellings on lots of one acre with a minimum width and depth of 125 feet.

There has been one zoning action within a half-mile radius of the subject property within the last three years.

On September 18, 2018, zoning action **18PZ00054** changed the zoning from AU (Agricultural Residential) to EU (Estate Use Residential) with a BDP limited to one unit per acre, and ingress and

egress limited to one access on N, Tropical Trail on 163.3 acres located approximately 2,622 feet northwest of the subject property.

For Board Consideration

The Board may wish to consider whether the request is consistent and compatible with the surrounding neighborhood, consisting of a mix of single-family, commercial, and institutional.

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

Item # 20Z00038

Applicant: Perrette for Kurz

Zoning Request: BU-1 to PIP

Note: Applicant wants to supply the Space Center with parts and services not included in BU-1.

NMI Hearing Date: 01/07/21; **BCC Hearing Date:** 02/04/21

Tax ID No: 2316254

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

The subject parcel contains mapped hydric soils with potential for wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or

permit submittal. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The parcel is subject to compensatory storage for fill required for development on North Merritt Island. A topographic survey or engineered site plan delineating floodplain limits on the property is required. The engineer shall provide a report including the hydraulic and hydrologic modelling and analysis. Please see floodplain section in NRM comments for more information.

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

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped hydric soils (Copeland-Bradenton-Wabasso Complex) as shown on the USDA Soil Conservation Service Soils Survey map. Hydric soils are an indicator that wetlands may exist on the property. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial or industrial land development activities along Mitigation Qualified Roadways (MQRs). North Courtenay Parkway is an MQR at this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Board approval may be required for impacts. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. An environmental report was prepared by Andrew Conklin Environmental Services, LLC (ACES) on May 26, 2020. The report indicated that approximately 0.37 acres of wetlands may exist on the western boundary; however, a formal wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

Aquifer Recharge Soils

The subject parcel contains a small area of mapped aquifer recharge soils (Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Floodplain

A portion of the property is mapped as being within the floodplain as identified by the Federal Emergency Management Agency (FEMA) and as shown on the FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X,

Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Per Section 62-3724(4), any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. A topographic survey or engineered site plan delineating floodplain limits on the property will be required. Delineation of floodplains shall use best available pre-alteration ground elevation data. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Any modifications to the system require approval under Section 62-3724.

Indian River Lagoon Nitrogen Reduction Overlay

The property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. If sewer is not available, the property will require a septic system that provides at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV-Nitrogen Reduction Overlay.

Protected and Specimen Trees

A majority of the subject property is mapped within SJRWMD FLUCCS codes 4350-Upland Scrub, Pine and Hardwoods, and 4110 – Pine Flatwoods. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in these FLUCCS codes, and are likely found on 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. A tree survey will be required at time of site plan submittal, and is recommended prior to any site plan design in order include preservation of any robust Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

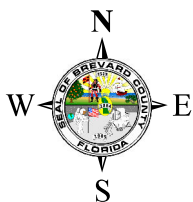
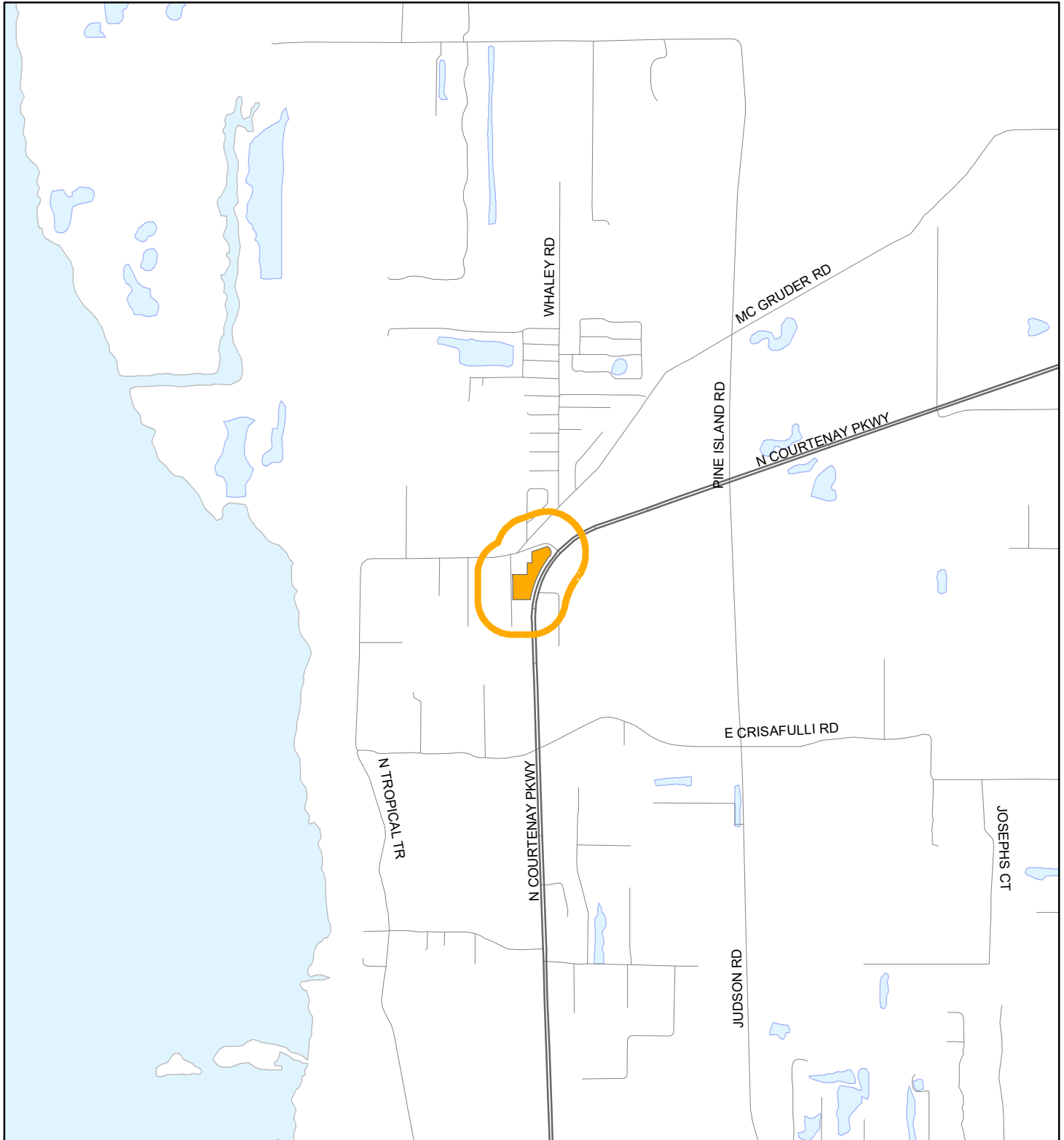
Protected Species

The subject property has a large mapped Florida Scrub Jay polygon over the site as shown on the Florida Scrub Jay Occupancy Map. The ACES report indicated that Florida Scrub Jays were not found onsite; however, gopher tortoises were found onsite. 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

KURZ, HAROLD, TRUSTEE

20Z00038





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

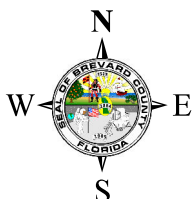
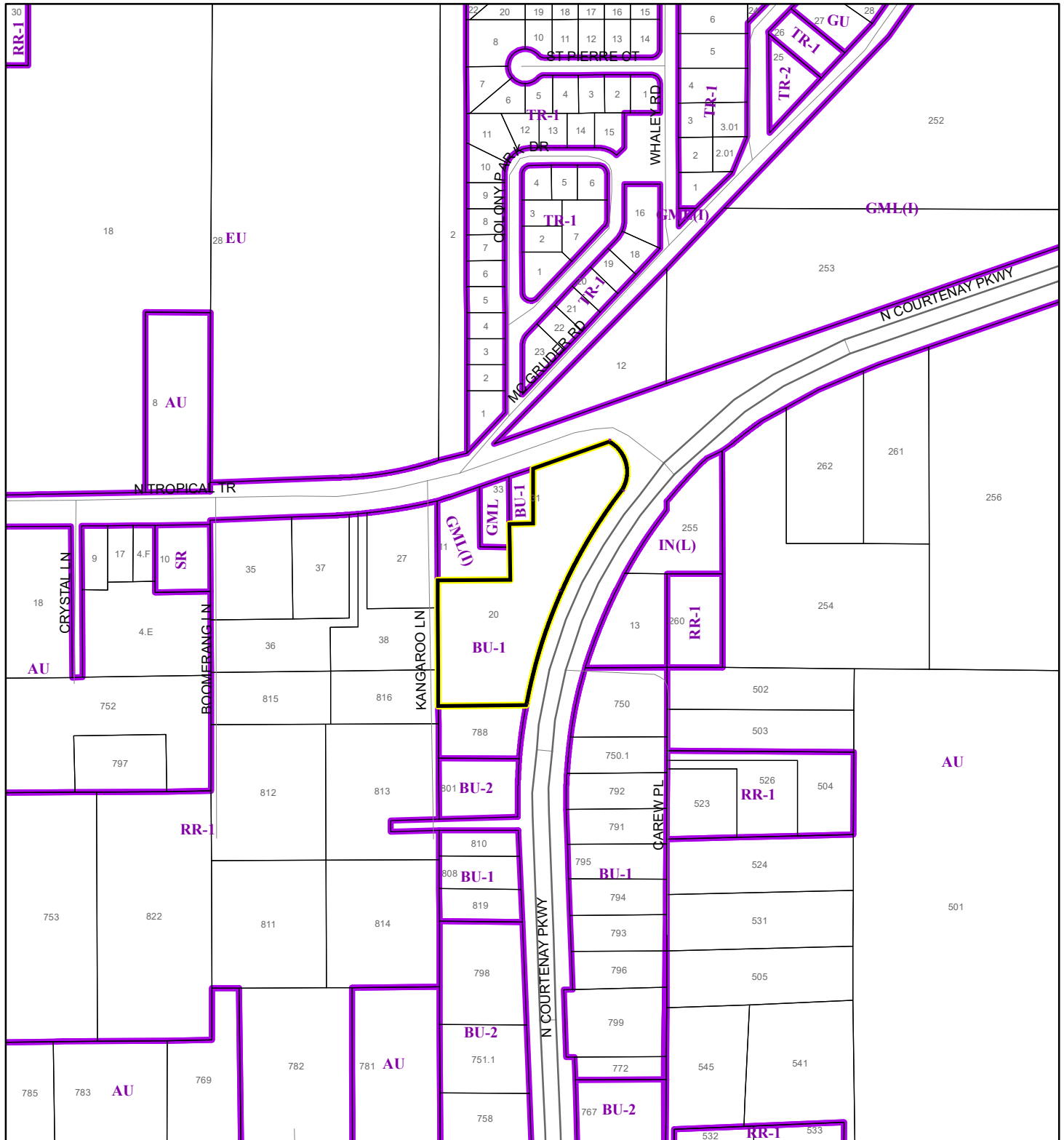
Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 11/16/2020

 Buffer
 Subject Property




20Z00038



1:4,800 or 1 inch = 400 feet

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

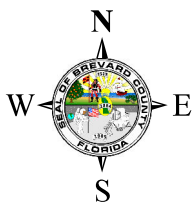
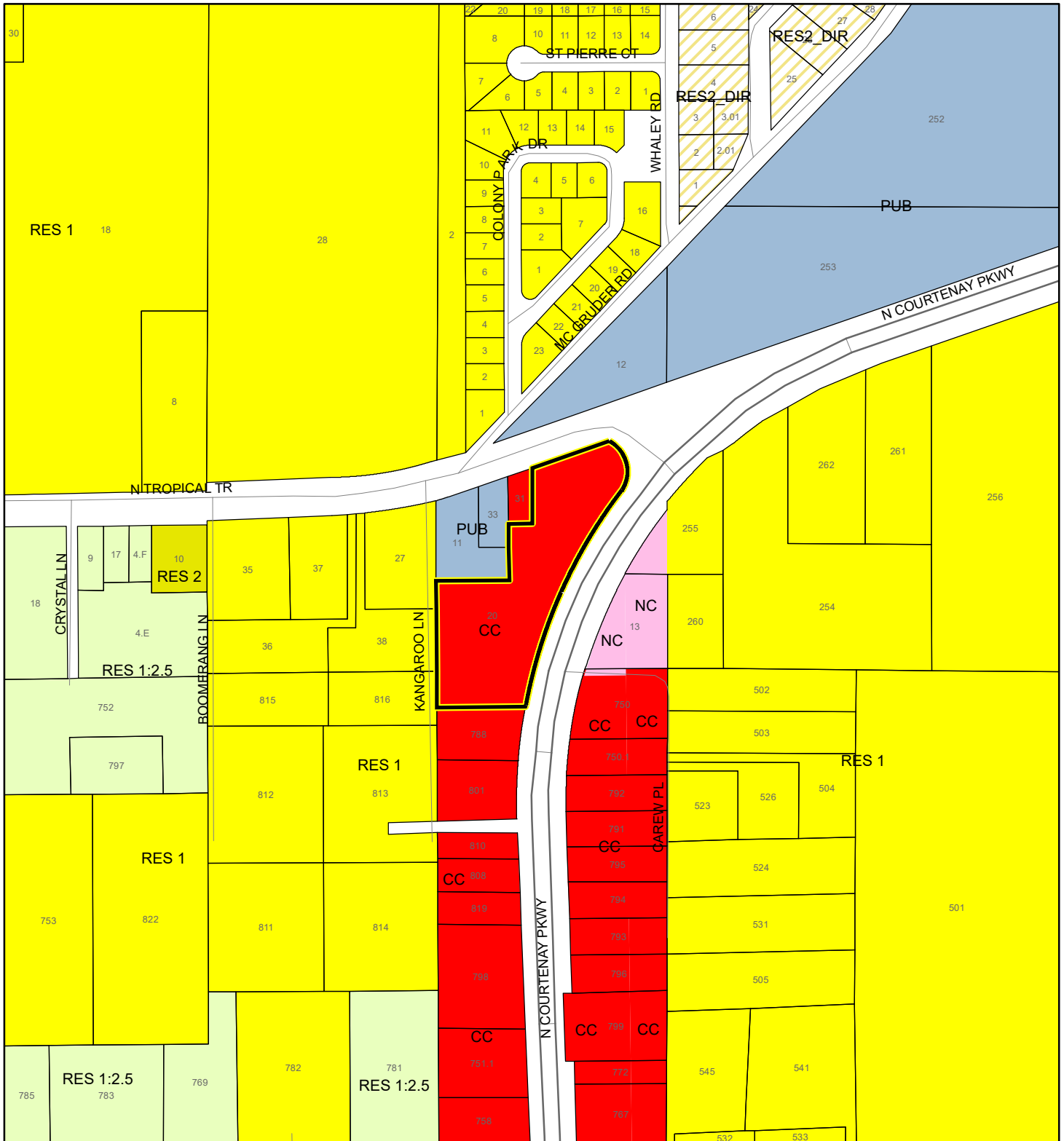
Produced by BoCC - GIS Date: 11/16/2020

-  Subject Property
 Parcels
 Zoning

FUTURE LAND USE MAP

KURZ, HAROLD, TRUSTEE

20Z00038



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: 11/16/2020

AERIAL MAP

KURZ, HAROLD, TRUSTEE

20Z00038




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

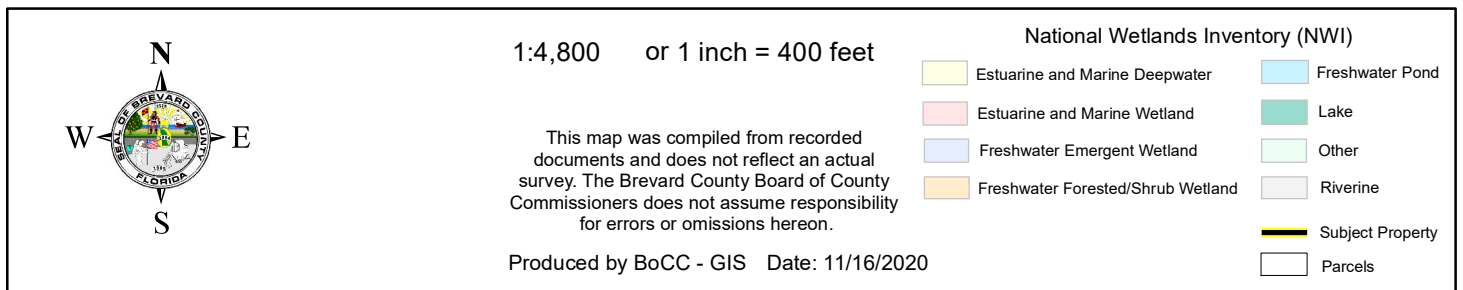
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/16/2020

 Subject Property

 Parcels

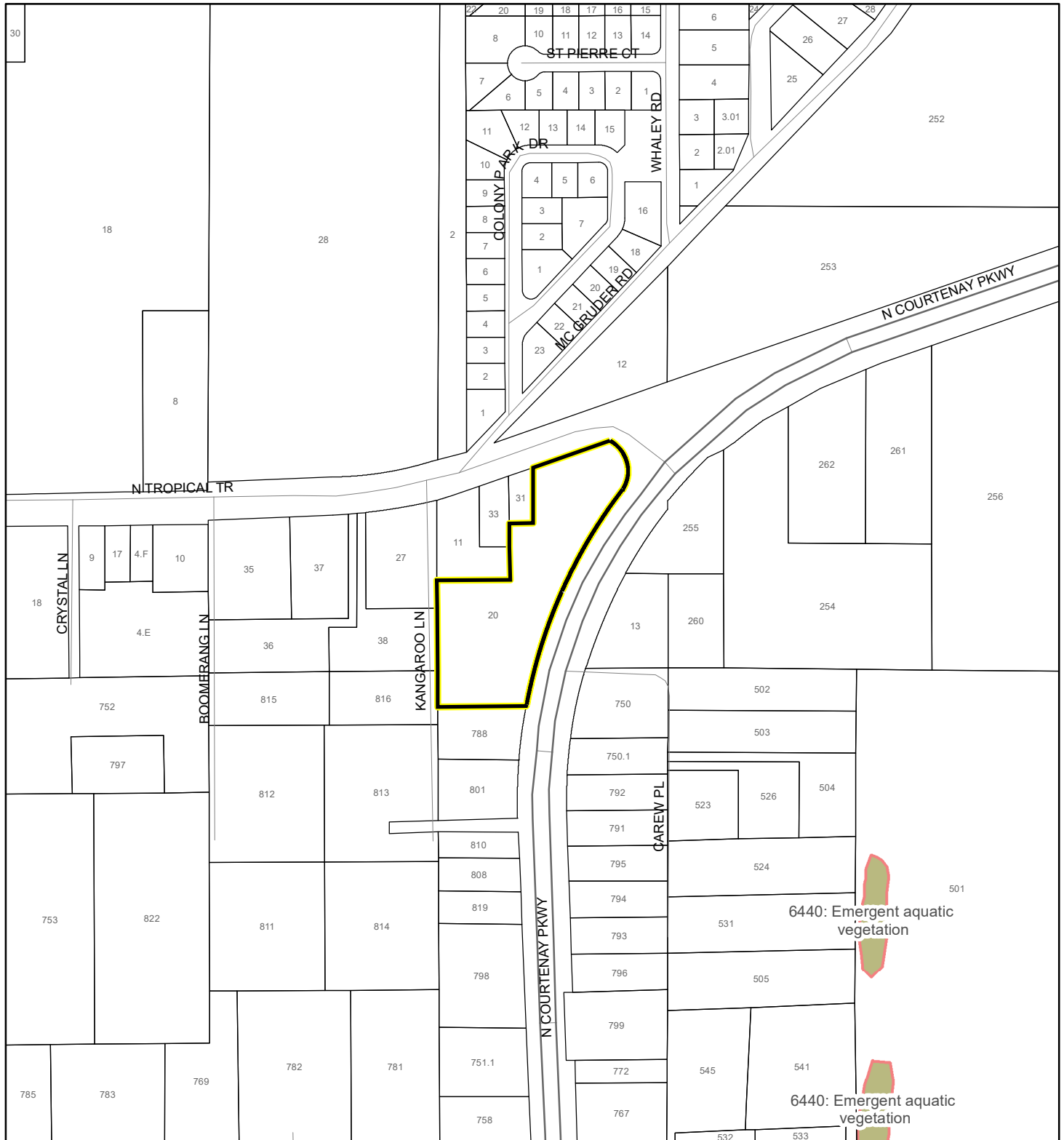
20Z00038



SJRWMD FLUCCS WETLANDS - 6000 Series MAP

KURZ, HAROLD, TRUSTEE

20Z00038



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 11/16/2020

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

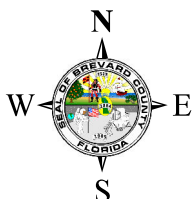
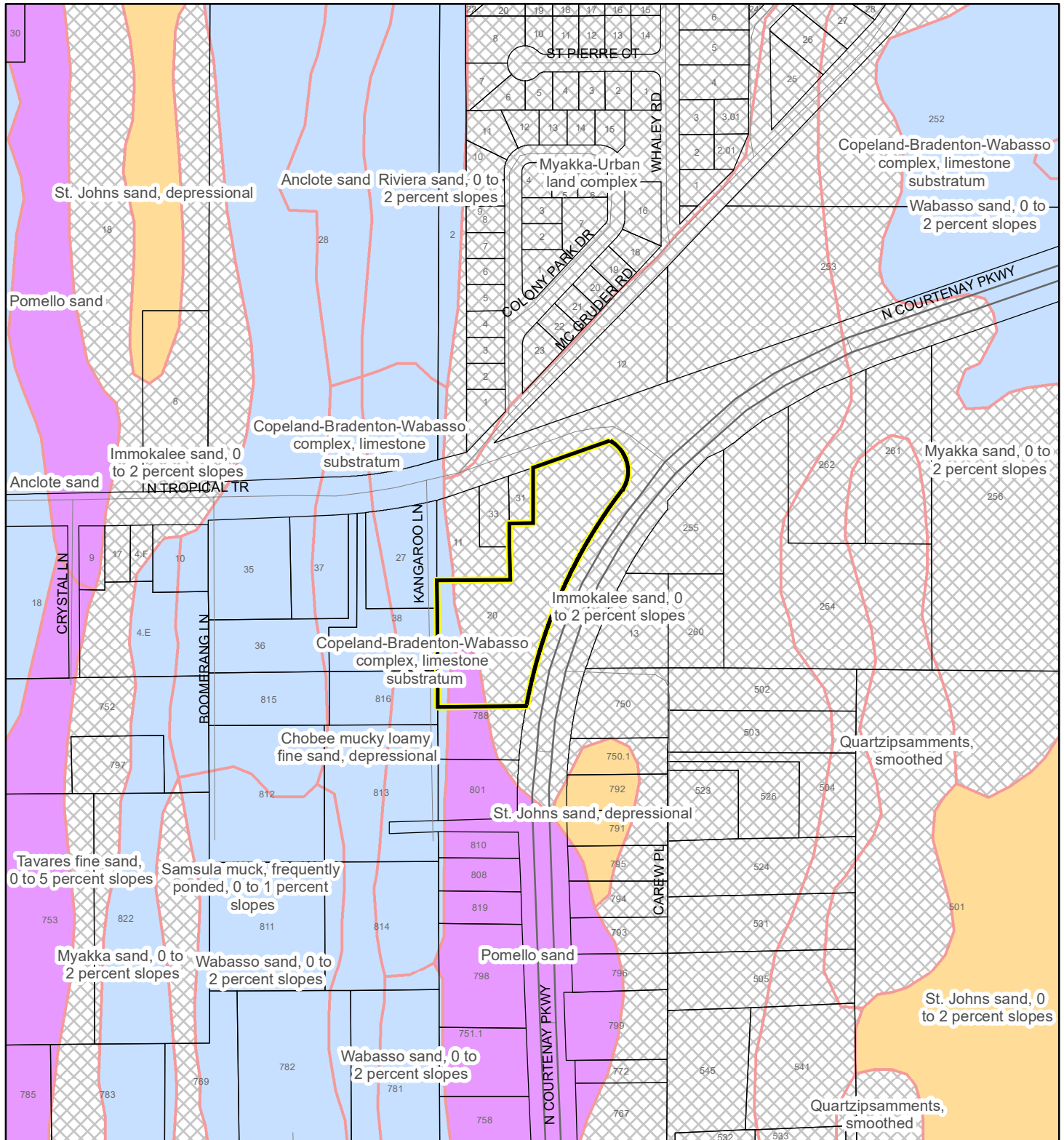
Subject Property

Parcels

USDA SCSSS SOILS MAP

KURZ, HAROLD, TRUSTEE

20Z00038



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/16/2020

USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

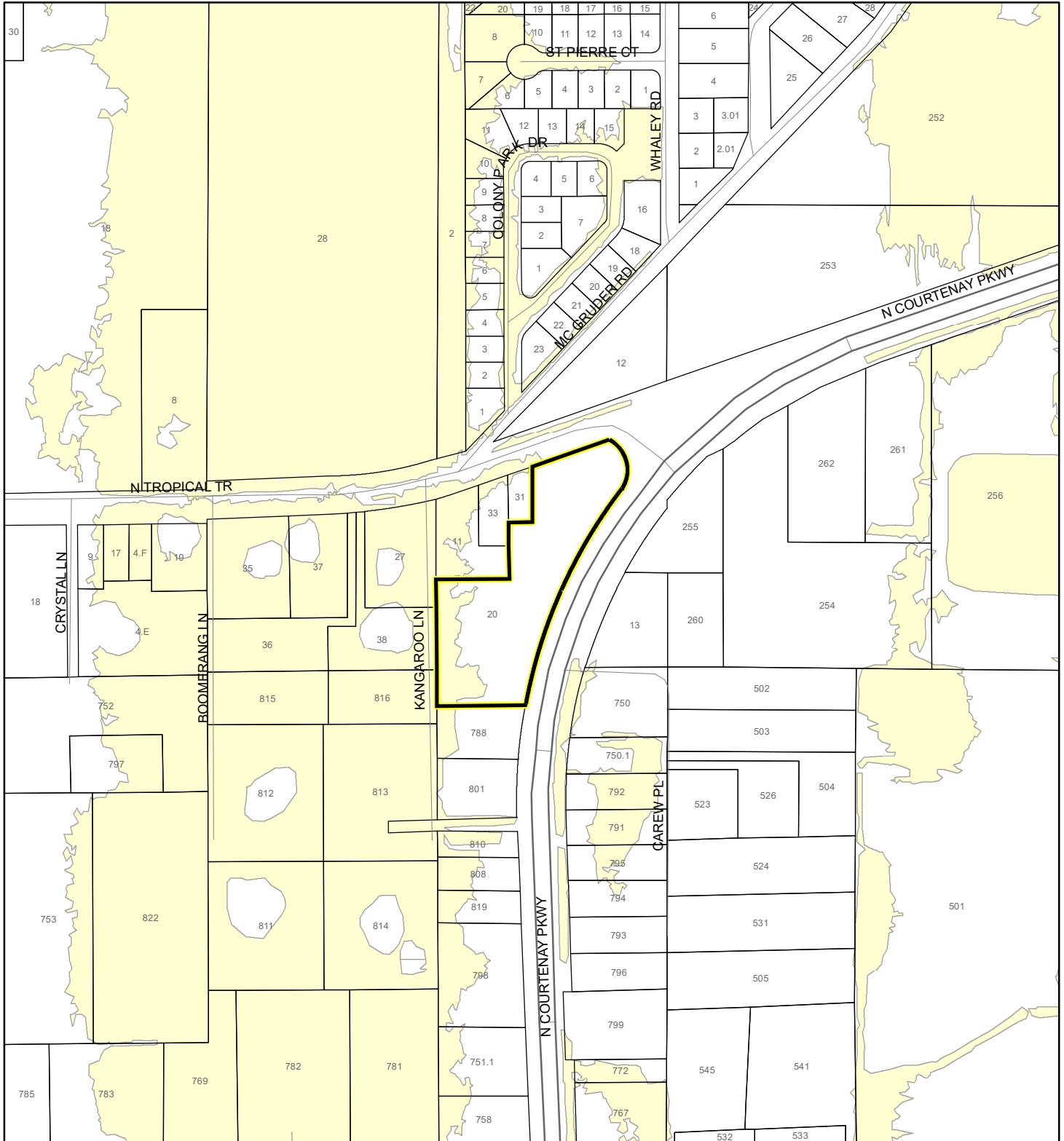
Subject Property

Parcels

FEMA FLOOD ZONES MAP

KURZ, HAROLD, TRUSTEE

20Z00038



1:4,800 or 1 inch = 400 feet

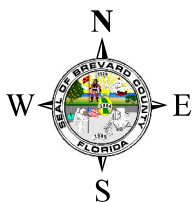
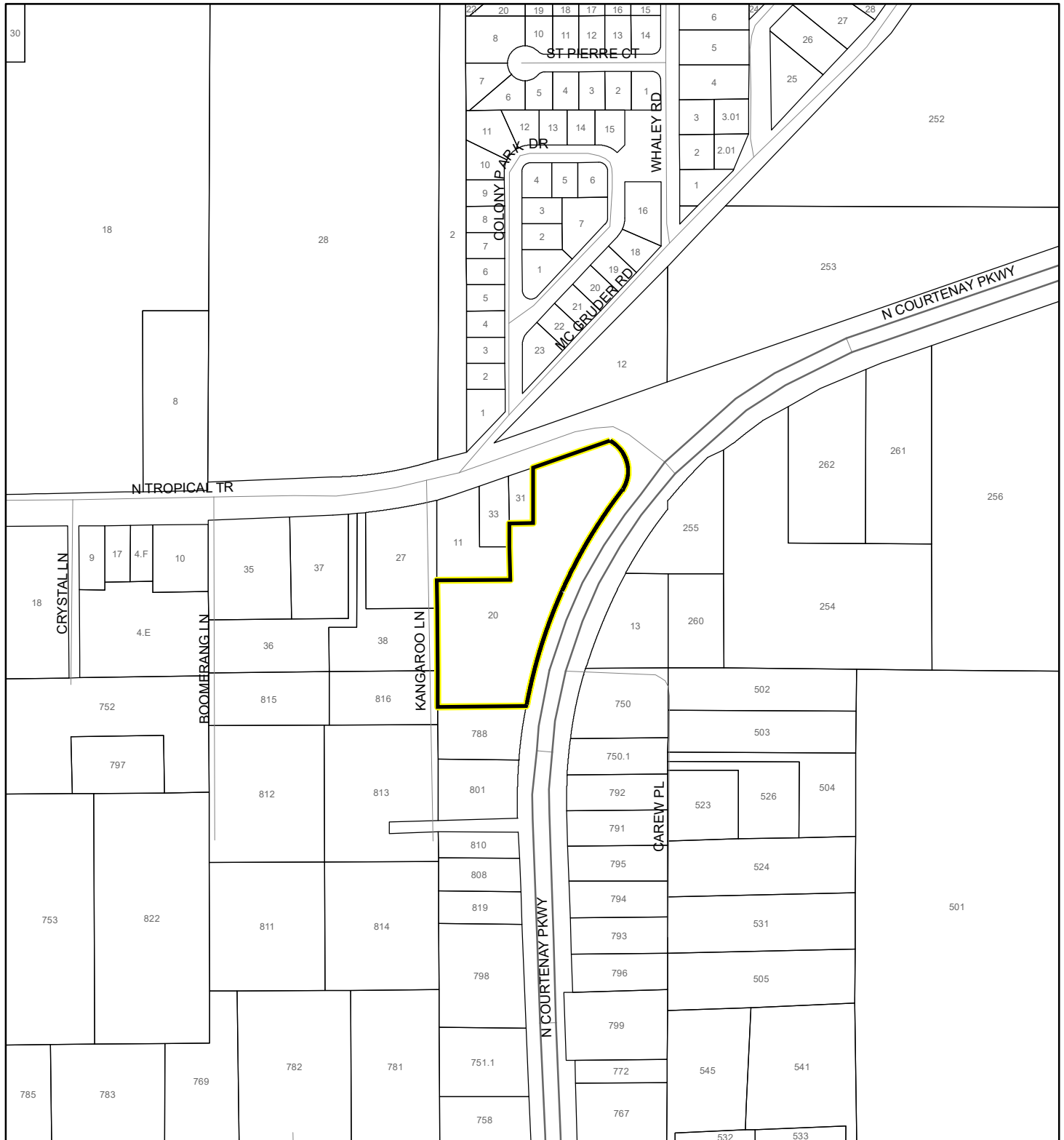
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/16/2020

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 |

20Z00038



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 11/16/2020

Subject Property

Parcels

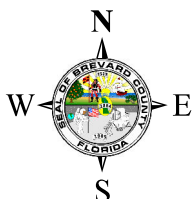
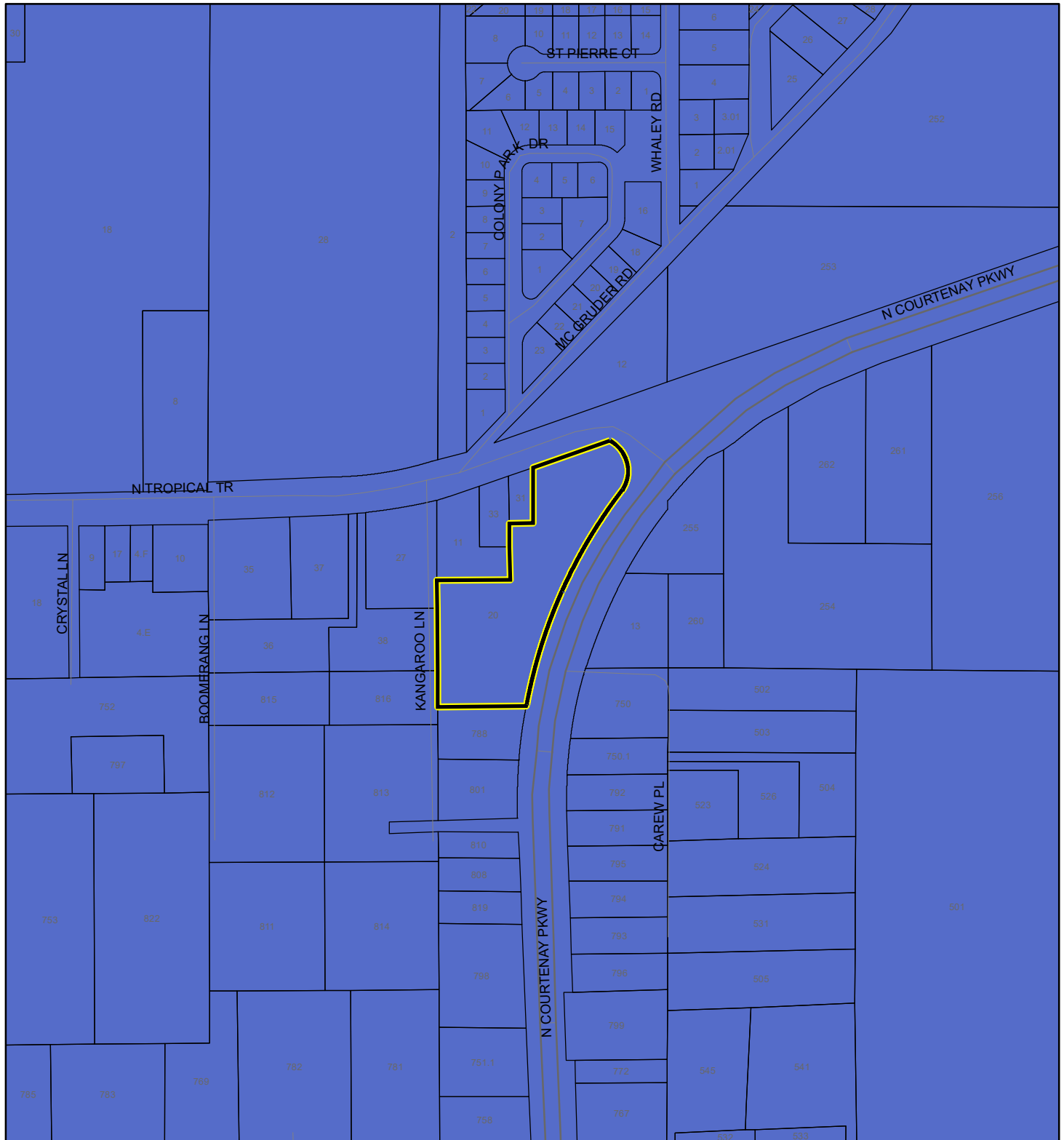
Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KURZ, HAROLD, TRUSTEE

20Z00038



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/16/2020

 Subject Property

 Parcels

Septic Overlay

 40 Meters

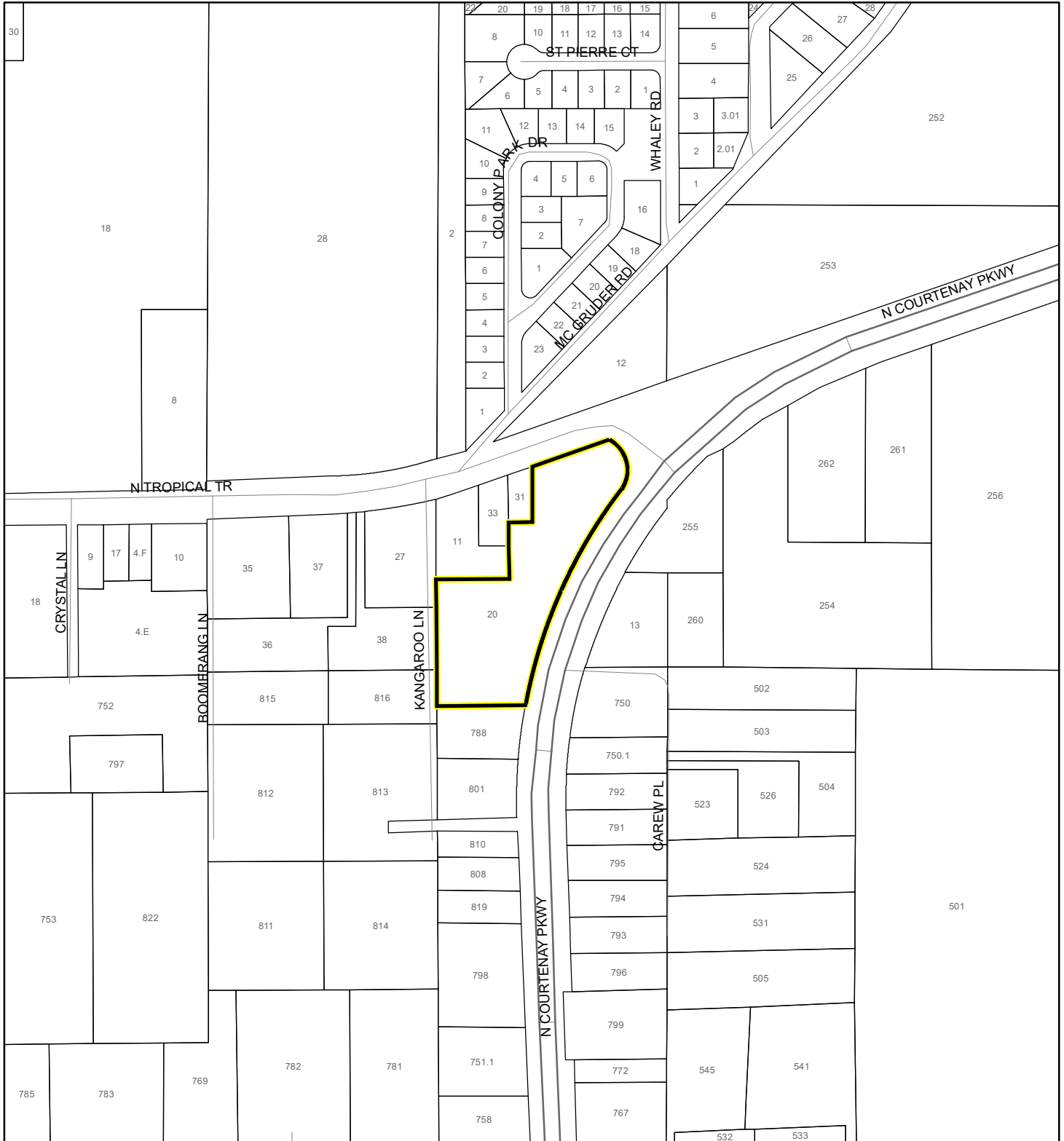
 60 Meters

 All Distances

EAGLE NESTS MAP

KURZ, HAROLD, TRUSTEE

20Z00038



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/16/2020

 Subject Property

 Parcels

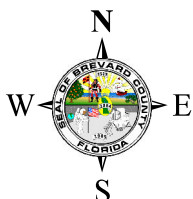
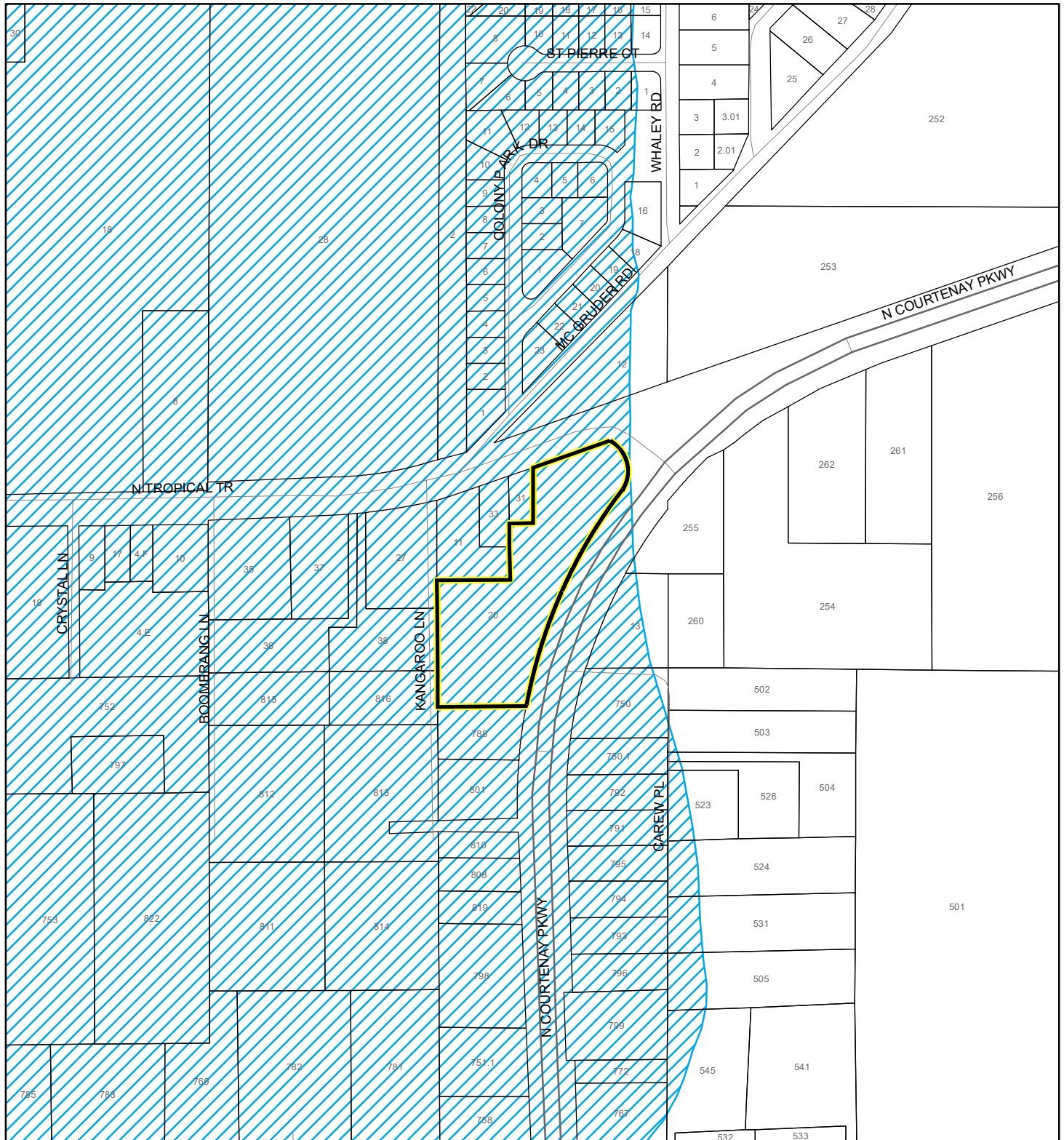


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

KURZ, HAROLD, TRUSTEE

20Z00038



1:4,800 or 1 inch = 400 feet

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

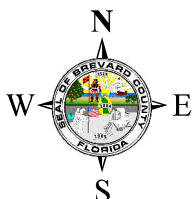
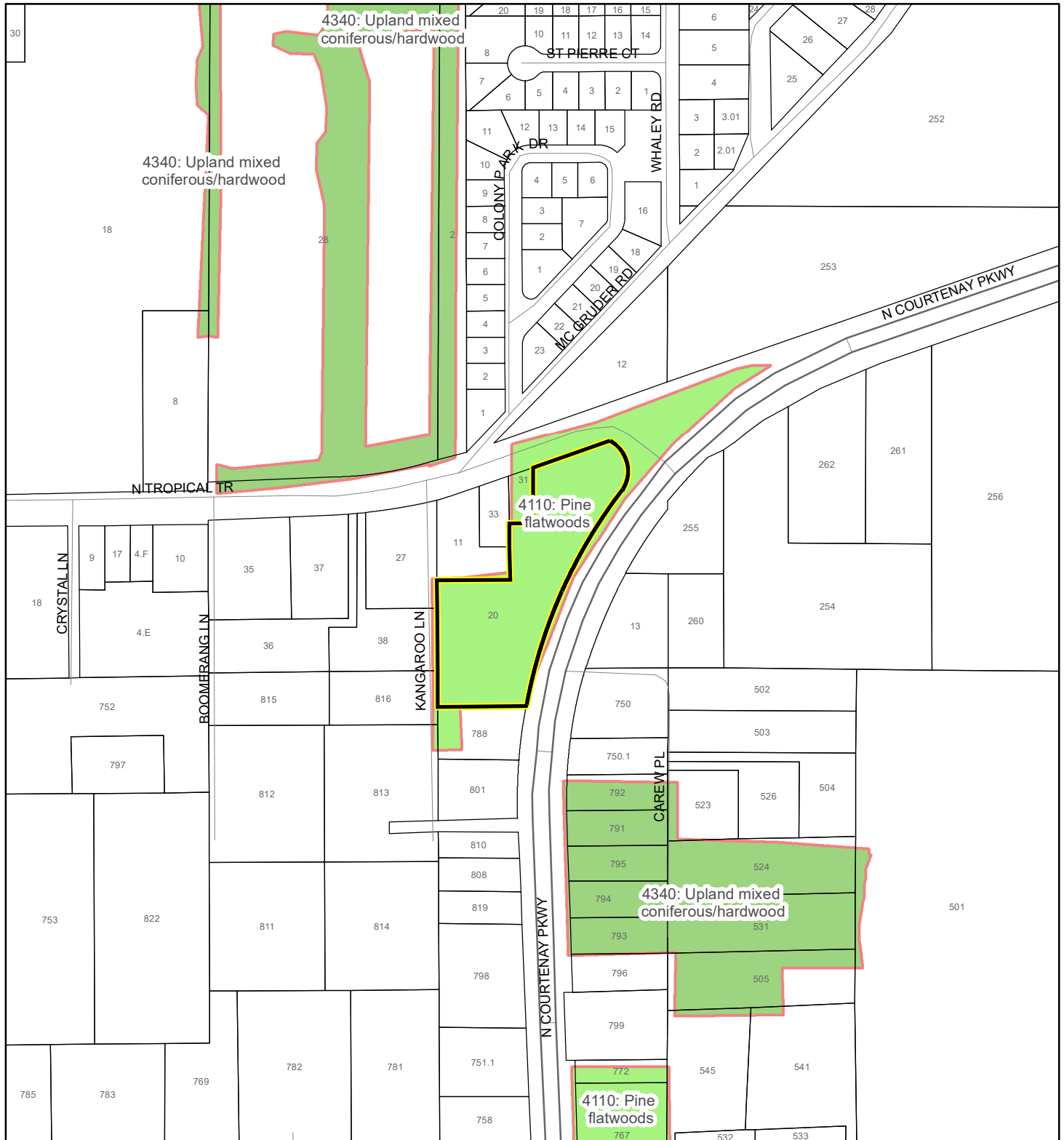
Produced by BoCC - GIS Date: 11/16/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KURZ, HAROLD, TRUSTEE

20Z00038



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 11/16/2020

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development
2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 20Z00038

Existing FLU: CC - Community Commercial Existing Zoning: BU-1

Proposed FLU: _____ Proposed Zoning: PIP

PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

Harold Kurz Tr

Name(s)		Company	
<u>1623 Shore Dr.</u>	<u>Merritt Island</u>	<u>FL</u>	<u>32953</u>
Street	City	State	Zip Code
<u>hobbsrx@msn.com</u>		<u>321-543-5784</u>	
Email	Phone	Cell	

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☒ Contract Purchaser ☐ Other _____

Harry Perrette

Name(s)		Company	
<u>2075 S. Courtenay Pkwy</u>	<u>Merritt Island</u>	<u>FL</u>	<u>32952</u>
Street	City	State	Zip Code
<u>Harry.Perrette@Gmail.com</u>		<u>3217497378</u>	
Email	Phone	Cell	

APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element _____
- ☐ Other Amendment (CP): _____
- ☒ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Other Action: _____

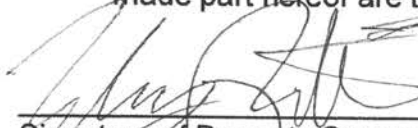
Acreage of Request: 3.6

Reason for Request:

*Rezone from BU-1 to PIP w/ companion application
ZOP200107 changing FLU from CC to P1.*

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☐ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☒ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☒ An approval of this application does not entitle the owner to a development permit.
- ☒ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.



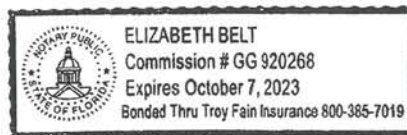
Signature of Property Owner or
Authorized Representative

04/28/2020

Date

State of Florida

County of Brevard



Subscribed and sworn to me before me this 28 day of, April, 20 20,
personally appeared Harry Perrette, who is personally known to me or
produced FLDL as identification, and who did / did not take an oath.



Notary Public Signature

Seal

Office Use Only:

Accela No. 20200038 Fee: \$1,219.00 Date Filed: 11/06/20 District No. 2

Tax Account No. (list all that apply) 2316254

Parcel I.D. No.

23 36 22 00 20
Twp Rng Sec Sub Block Lot/Parcel

Planner: KH Sign Issued by: KH Notification Radius: 500'

MEETINGS

DATE

TIME

<input type="checkbox"/> P&Z	_____	_____
<input type="checkbox"/> PSJ Board	_____	_____
<input checked="" type="checkbox"/> NMI Board	<u>1/7/2021</u>	<u>6:00 p.m.</u>
<input type="checkbox"/> LPA	_____	_____
<input type="checkbox"/> BOA	_____	_____
<input checked="" type="checkbox"/> BCC	<u>2/4/2021</u>	<u>5:00 p.m.</u>

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials KH

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☐ Yes ☒ No If yes, list _____
NMI

Location of subject property:

Southwest intersection of N Tropical Tr and N Courtenay Pkwy.

Description of Request:

Rezone from BU-1 to PIP w/ companion app. 20200107
changing FLU from CC to PI

Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

NOTES:

- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ☐ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

Harry.Perrette@gmail.com or () _____ or U.S. Mail _____
e-mail address fax number

Yes/No

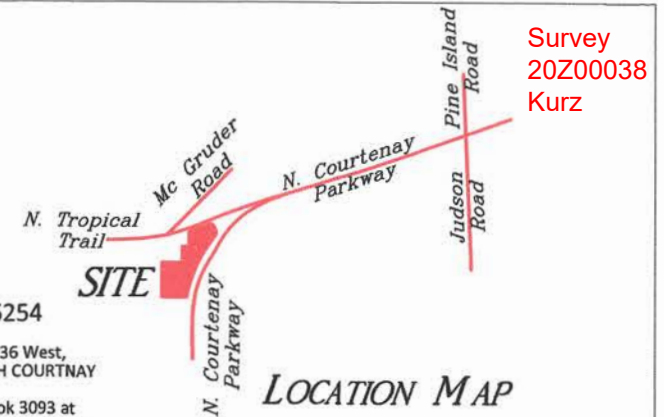
I have received a copy of this notice.


(APPLICANT SIGNATURE)

Specific Purpose SURVEY

IN A PORTION OF SECTION 22, TOWNSHIP 23 SOUTH,
RANGE 36 EAST, BREVARD COUNTY, FLORIDA

LINE	ARC	RADIUS	DELTA	CHORD BEARING	CHORD
C1	182.11'	100.00'	104° 20' 19"	S15° 25' 04" E	157.97'
C2	660.91'	1482.69'	25° 32' 22"	S23° 58' 55" W	655.45'
C3	214.10'	1482.69'	8° 16' 24"	N40° 53' 18" E	213.91'
C4	875.00'	1482.69'	33° 48' 46"	S28° 07' 07" W	862.36'



Legal Description by Surveyor for Tax Account #2316254

A parcel of land lying in the NE 1/4 of Section 22, Township 23 South, Range 36 West, Brevard County Florida, said parcel lies West of STATE ROAD 3 AKA "NORTH COURTNAY PARKWAY" and is more particularly described as follows:
Begin at the Northeast corner of the lands described in Official Records Book 3093 at Page 2176 of the Public Records of Brevard County, Florida, said point lies on a circular curve that is concave to the Southeast and is a point on the Westerly right of way of STATE ROAD 3, said point bears on a radial bearing of N 78° 47' 16" W from the center of said curve; thence leaving said Westerly Right of way line of STATE ROAD 3; thence run N 89° 41' 12" W along the North line of lands described in Official Records Book 3093 at Page 2176 for 257.58 feet to a point on the East line of the lands described in Official Records Book 7268 at Page 2200 of the Public Records of Brevard County, Florida; thence run N 00° 18' 48" E along said East line for 88.81 feet to the Southeast corner of the lands described in Official Records Book 6410 at Page 2223; thence run N 00° 19' 41" E along the East line of lands described in Official Records Book 8625 at Page 2480 for 270.00 feet to the Southwest corner of the lands described in Official Records Book 2519 at Page 1914; thence run N 89° 37' 09" E along the South line of Official Records Book 2519 at Page 1914 for 205.00 feet to the Southeast corner thereof; thence run N 89° 40' 19" W along the East line thereof for 170.42 feet to the Southwest corner of the lands described in Official Records book 2362 at Page 2384; thence run N 89° 40' 19" E along the South line thereof for 61.34 feet to the Southeast corner thereof; thence run N 00° 19' 41" E along the East line thereof for 200.00 feet to the centerline of NORTH TROPICAL TRAIL; thence run N 71° 03' 15" E along the centerline of NORTH TROPICAL TRAIL FOR 416.65 feet to the intersection of the East line of the NE 1/4 of the aforementioned Section 22; thence run S 00° 18' 31" W along the East line of the NE 1/4 of said Section 22 for 106.34 feet to the intersection with the aforementioned Westerly right of way line of STATE ROAD 3; said point of intersection is on the arc of a circular curve that is concave to the Southeast, said point lies on a radial bearing of N 44° 58' 30" W from the center of said curve; thence run Southwesterly along the arc of said curve and the Westerly right STATE ROAD 3 having a radius of 1482.69 feet and through a central angle of 33° 48' 36" for an arc distance of 875.00 feet to the Point of Beginning. SUBJECT TO any Public interest in the maintained limits of NORTH TROPICAL TRAIL

<< SURVEYOR'S REPORT >>

1. The intended purpose of this survey is for boundary information only, as shown hereon.
2. The undersigned surveyor has been provided a current title opinion or abstract of matters affecting title or boundary to the subject property.
3. This survey does not reflect or determine ownership.
4. This survey meets or exceeds the minimal horizontal control accuracy of 1:7500 for a Suburban survey.
5. Measurements shown hereon are expressed in feet and decimal parts thereof.
6. Dimensions shown are taken at the exposed areas of improvements, underground footers, foundations, utilities or other subsurface structures are not located for the purpose of this survey.
7. Elevations shown hereon are based on elevations of NAVD 88.
8. Bearings are assumed, referenced to the South Right of Way line of N. Tropical Trail per Deed.
9. This drawing is not valid unless bearing an original signature and embossed land surveyors seal.

<< LEGEND SYMBOLS >>

- Set 5/8" iron rebar with cap marked: PLS 2351 / LB 7978
- Found iron rebar, information as noted
- G.T.P. Found Open Top Pipe
- Found 1" Iron Pipe
- Nail & Disk Control Point: PLS 2351 / LB 7978
- Set 4"x4" concrete monument with disk marked: PRM PLS 2351 / LB 7978
- Found 4"x4" concrete monument with brass disk marked with Surveyors number Per Plat as shown hereon
- Found concrete monument, size and no identification
- Found Round concrete monument, size and no identification
- Set nail and disk marked: PLS 2351 / LB 7978
- Found nail and disk, information as noted
- Sanitary Manhole
- Storm Manhole
- Telephone Manhole
- Telephone Box
- Water Meter
- Water Valve
- Fire Hydrant
- Wood Power Pole
- Concrete Power Pole
- Light Pole
- Transformer Box
- Guy Wire
- Gas Line
- Filter Cyclic Line
- Electrical Meter
- Mail Box
- Wellhead Flag
- Wellhead
- Wellhead Hardware Forests per Environmental Survey Map ACS File No. 2049
- Elevations

LESS AND EXCEPT

The land described in Official Record Book 3096 at Page 1374 of the Public Records of Brevard County, Florida, conveyed by Harold Kurz to Brevard County Board of County Commissioners for Road Right of Way by Warranty Deed, described as follows:

Commence at the intersection of the East line of (Tax Parcel 31) as described in Official Records Book 2362 at Page 2384 of the Public Records of Brevard County, Florida and the South right of way line of NORTH TROPICAL TRAIL (R/W varies) as presently located; thence N 70° 52' 42" E along said right of way line for 238.61 feet to the Point of Beginning; thence continue along said right of way line the next two courses; N 70° 52' 42" E for 183.15 feet; thence S 87° 59' 27" E for 9.04 feet to the East line of Section 22 Township 23 South, Range 36 E and the East line of Official Records Book 1914 at Page 506; thence S 00° 08' 02" W along said East Line for 49.88 feet to the point of curvature of a curve concave to the Southeast having a radius of 1482.19 feet and a point on the Westerly right of way line of NORTH COURTNAY PARKWAY; thence Southwesterly along the arc of said curve and right of way line through a central angle of 08° 16' 24" for an arc distance of 214.05 feet to a point of cusp of a curve concave to the Southwest having a radius of 100.00 feet thence; Northwesterly along the arc of said curve through a central angle of 104° 20' 19" for an arc distance of 182.11 feet to the Point of Beginning.

THE SPECIFIC PURPOSE OF THE SURVEY WAS TO DETERMINE THE BOUNDARY LOCATIONS FOR THE SUBJECT PARCEL. THE SURVEYOR WAS NOT SUPPLIED WITH AN OPINION OF TITLE AND RELIED ON INFORMATION TAKEN FROM THE PUBLIC RECORDS IN THE BREVARD COUNTY CLERK'S OFFICE AND PROPERTY DATA TAKEN FROM OLDER SURVEYS PROVIDED TO THE SURVEYOR BY THE OWNER. WHILE THE SURVEYOR DID SEARCH OLDER DEEDS HE DID NOT ABSTRACT ALL RECORDS. THIS SURVEY DOES NOT ESTABLISH OWNERSHIP. THERE MAY BE ADDITIONAL DEEDS OF RECORD NOT FOUND THAT MAY REFLECT ADDITIONAL INFORMATION.

THE LEGAL DESCRIPTION WAS PREPARED BY THIS SURVEYOR WHO STRICTLY FOLLOWED THE ABBREVIATED PROPERTY APPRAISER TAX RECORDS. THE SURVEYOR MAKES NO GUARANTEE ON HOW MUCH OF NORTH TROPICAL TRAIL THE PUBLIC HAS ESTABLISHED BY PRESCRIPTIVE INTEREST IN THIS ROADWAY.

SCALE 1"=60'
60' 0' 30' 60' 120' 240'



THE UNDERGROUND UTILITY INFORMATION:

As shown hereon is based, in part, upon information furnished by utility companies and the local municipality, while this information is believed to be reliable, its accuracy and completeness cannot be guaranteed nor certified to.
(P) indicates pipe sizes per record plans. other pipe sizes are estimated. no pipe sizes should be relied upon without further verification.

<< EXPLANATION OF ABBREVIATIONS >>

PBC	Point of Beginning	P.B.	Point of Beginning	A/C	Air Conditioner	N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM	L	ARC LENGTH
PGB	Point of Beginning	D.B.	Deed Book	R	RADIUS	CLT.	CHORD LINE	R	RADIUS
MB	Measured Distance	LB	Licensed Business	N&D	NAIL AND DISK	CLT.	CHORD LINE	HP	HIGH POINT (TYPICAL)
MB	Measurement On Plat	LS	Licensed Surveyor	A.C.A.	ALSO KNOWN AS	CLT.	CHORD LINE	HP	HIGH POINT (TYPICAL)
MB	Measurement from Deed	PU/E	Public Utility Easement	F.T.E.	FURNITURE	CLT.	CHORD LINE	HP	HIGH POINT (TYPICAL)
MB	Measurement Calculated	PU/E	Public Utility Easement	F.T.E.	FURNITURE	CLT.	CHORD LINE	HP	HIGH POINT (TYPICAL)
MB	Bearing Base	INT.	Intersection	C.B.	CHORD BEARING	CLT.	CHORD LINE	HP	HIGH POINT (TYPICAL)
MB	Official Record Book	E.O.P.	Edge of Pavement	C.B.	CHORD BEARING	CLT.	CHORD LINE	HP	HIGH POINT (TYPICAL)

FEMA FLOOD ZONE FOR INFORMATION ONLY

This surveyor is not a licensed engineer and does not provide engineering services. The surveyor is not responsible for the accuracy of the FEMA Flood Zone information shown hereon. The surveyor is not responsible for the accuracy of the FEMA Flood Zone information shown hereon. The surveyor is not responsible for the accuracy of the FEMA Flood Zone information shown hereon.

I hereby certify that the survey shown hereon is true and correct based on actual measurements taken in the field. This survey meets the Standards of Practice as set forth by the Florida Board of Professional Land Surveyors found in Chapter 47-17.002, Florida Administrative Code, pursuant to Section 472.007, Florida Statutes.
Unless it bears the Signature and Original Raised Seal of a Florida Licensed Surveyor and Mapper this Drawing, Sketch, Plat or Map is for informational purposes only and is not valid.
JOHN R. CAMPBELL
PROFESSIONAL SURVEYOR & MAPPER # 2351
STATE OF FLORIDA

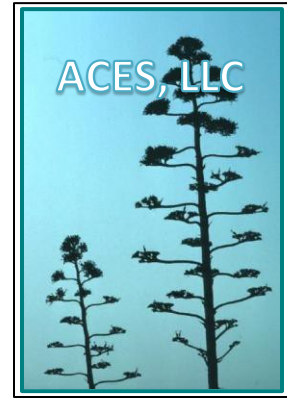
Specific Purpose Survey

PREPARED FOR AND CERTIFIED TO:
Twisted Industries, Inc.
Harold Tr Kurz

DATE	6/29/2020	TOWNSHIP	23 SOUTH
DATE	6/29/2020	RANGE	36 EAST
DATE	6/29/2020	SECTION	22
DATE	6/29/2020	PARCEL	2316254
DATE	6/29/2020	REVISIONS	
DATE	6/29/2020	DESCRIPTION	

Andrew Conklin Environmental Services, LLC
Integrating Successful Development and Environmental Integrity

P.O. Box 500407, Malabar, Florida, 32950
Phone: (321)848-1143 Email: acesllc7@gmail.com



May 26, 2020

Mr. Harry Perrette
225 Manor Drive
Merritt Island, Florida 32952

Re: Parcel No. 23-36-22-00-20, N. Courtenay Parkway, Merritt Island
ACES File No. 2049

Dear Mr. Perrette,

Andrew Conklin Environmental Services, LLC (ACES) has completed a review of environmental issues associated with the above-referenced ± 3.66 -acre property, located in Section 22, Township 23 South, Range 36 East, Brevard County, Florida. Figure 1 depicts the location of the subject site, and Figure 2 is a recent aerial photograph of the site depicting current conditions thereon.

On May 15, 2020, ACES inspected the property for the presence of wetlands, surface waters, protected species, and indications of protected species habitat. The purpose of our study was to estimate the current extent of wetlands and protected species habitat on the site. To assess the presence and extent of wetlands, we implemented the jurisdictional wetland identification methodologies of the St. Johns River Water Management District (SJRWMD) and the U.S. Army Corps of Engineers (ACOE), which incorporate an analysis of on-site vegetation, soils, and hydrology to determine the presence or absence of state-jurisdictional wetlands. Where jurisdictional wetlands were found to exist, ACES identified their boundaries on a recent aerial photograph of the site. The likelihood of protected species habitation was determined by identifying the various vegetative communities, habitat types, and species indicators currently present on the site, and referencing these against standards and indicators used by the Florida Fish and Wildlife Conservation Commission (FWC) and the U.S. Fish and Wildlife Service (USFWS). Following is a presentation of our findings.

Soil Types

The USDA Natural Resource Conservation Service (NRCS) identifies three different soil types on the property (see Figure 3). Soil maps are used by the environmental regulatory agencies as a general guideline to determine the likelihood of wetland and upland conditions on reviewed properties; soils more commonly associated with wetland conditions potentially indicate areas of lower elevation and greater surface hydrology, whereas soil types that are more commonly associated with uplands are expected to exhibit fewer or no wetland characteristics. Potentially hydric (i.e., wetland) soil types are listed in the *Hydric Soils of Florida Handbook* (Victor W. Carlisle, et al., 2000). It should be noted that the soil types listed by NRCS are based on a 1974 soil survey of Brevard County by the USDA Soil Conservation Service, and no comprehensive soil survey of the county has been completed since 1974. As such, it is not uncommon for there to be some inconsistencies between historically-mapped soil types and current on-site soil conditions. ACES sampled soil types throughout the subject property by

excavating 6-inch diameter, 12-inch deep cylindrical plugs from the surface, and assessing the soil profiles and characteristics of each plug. Following are brief descriptions of the soil types that are mapped on the subject site, compared to our observations of current soil conditions.

Copeland-Bradenton-Wabasso Complex, Limestone Substratum – NRCS Code No. 16: This complex consists of several nearly level, very poorly drained soils on low flats. In most years, the water table is within a depth of 10 inches for more than six months. In dry seasons it is between 10 and 30 inches. This soil is flooded for seven days to a month once in five to 20 years. According to the *Hydric Soils of Florida Handbook*, this soil is hydric in about 78 percent of the areas in which it is mapped.

This variable soil type is mapped along the western boundary of the site, nearest Kangaroo Lane. Soils in this area are hydric, being composed of muck and mucky-textured sand associated with a ditch and adjacent wetlands.

Immokalee Sand, 0 to 2 Percent Slopes – NRCS Code No. 28: This is a nearly level, poorly drained sandy soil in broad areas in the flatwoods, on low ridges between sloughs, and in low, narrow areas between sand ridges and lakes/ponds. In most years the water table is within a depth of 10 inches for 1 to 2 months. It is between 10 and 40 inches more than half the time, and during short, dry periods it is below 40 inches. It is not listed as a hydric soil by the *Hydric Soils of Florida Handbook*.

This upland soil type dominates the site, being mapped across all but the western site boundary and the southwest property corner. Soils tested throughout the mapped polygon are composed of non-hydric loamy fine sand imbedded with small sandy organic bodies.

Pomello Sand – NRCS Code No. 49: This is a nearly level, moderately well drained sandy soil on broad low ridges and low knolls. The water table is 30 to 40 inches below the surface for 2 to 4 months in most years and between 40 and 60 inches for more than 6 months. During dry periods, it is below 60 inches for short periods. This soil type is not listed in the *Hydric Soils of Florida Handbook*.

This upland soil type is mapped in a lobe that extends onto the site from the south, occupying most of the southwest site corner. Soils in this area were observed to be slightly elevated and non-hydric, which is consistent with the mapped soil type.

It is our professional assessment that the NRCS-mapped soils show reasonable correspondence with current site conditions, with non-hydric soils dominating the property and hydric soils being present only along the western site boundary.

Community Types

Using the Florida Land Use, Cover and Forms Classification System (FLUCFCS) as a guideline, ACES categorized the different natural communities and land uses on the subject site according to FLUCFCS designations and code numbers. Figure 4 depicts the different FLUCFCS communities on the property. The major FLUCFCS categories on the site are:

Pine Flatwoods – FLUCFCS Code No 411: This forested upland community exists over most of the site, occupying approximately 2.96 acres. It consists of a canopy of slash pine, with

components of Darlington's oak, cabbage palm, and Brazilian pepper. The midstory is dominated by saw palmetto, which is patchy in the north, becoming more consolidated in broad swaths as one progresses southward. Other midstory species include deerberry, rusty lyonia, and wax myrtle. The ground cover includes southern fox grape, catbriar, shiny blueberry, and brackenfern. Underlying soils consist of non-hydric loamy fine sand imbedded with small sandy organic bodies. No wetland hydrologic indicators were observed.

Upland Scrub, Pine and Hardwoods – FLUCFCS Code No. 435: This partially-forested upland community along most of the eastern site boundary in a very narrow strip that occupies a total of approximately 0.33 acres. Vegetation consists of some slash pines along the eastern boundary of the community, a midstory of myrtle oak, sand live oak, hog plum, winged sumac, saw palmetto, and wax myrtle, and a ground cover of southern fox grape, Johnson grass, catbriar, and broomsedge. Underlying soils consist of non-hydric fine sand, and no wetland hydrologic indicators are present.

Streams and Waterways – FLUCFCS Code No. 510: This category is applied to the man-made north/south ditch that exists along the western property line, immediately east of the Kangaroo Lane right-of-way. The ditch is approximately 15 feet wide and two to three feet deep, with at least a foot of standing water present on the date of our inspection. It is vegetated by red maple, primrose willow, Brazilian pepper, and cabbage palm. Where it is flanked by wetlands, the ditch is considered part of the wetland system through which it runs; where it is cut through uplands, it is categorized as "surface waters," not wetlands.

Wetland Hardwood Forests – FLUCFCS Code No. 610: This wetland community extends along most of the western property line, covering about 0.37 acres (which includes the area occupied by the ditch). It contains a canopy of red maple, Brazilian pepper, and cabbage palm over a midstory of wax myrtle and Florida dogwood, and a ground cover of swamp fern, royal fern, Virginia chain fern, southern fox grape, and climbing hempweed. Soils are hydric, being composed of mucky-textured sand. High-water marks indicate that standing water of up to 18 inches above grade is present in this community on a seasonal basis.

Thus, the site contains a total of approximately 3.29 acres of uplands and 0.37 acres of wetlands. The wetlands fall under the jurisdiction of SJRWMD, ACOE, and the Brevard County Natural Resources Management Office (NRMO). If impacts are proposed to wetlands, the appropriate permits must be obtained from these agencies. Following is a discussion of potential wetland permitting and mitigation issues for this site.

Wetland Considerations

All topographical alteration or construction within wetlands is prohibited without the appropriate permits from SJRWMD, ACOE, and NRMO. Any time an applicant proposes to conduct work within wetlands, it must first be demonstrated that there is no way to accomplish the development goals without impacting wetlands. Because on-site wetlands are at the rear of the property, do not conflict with site access, and constitute only about 10 percent of the site, the wetland regulatory agencies will require that site improvements utilize on-site uplands as much as possible before they will be receptive to any plans to impact on-site wetlands.

SJRWMD and ACOE both require that all proposed wetland impacts be justified by the permittee, who is responsible for demonstrating that all reasonable efforts have been made to design the project in a

way that avoids or minimizes wetland impacts. Simply put, all proposed wetland impacts must clearly be demonstrated as unavoidable. Although SJRWMD's rules allow applicants to impact all wetlands provided they conduct mitigation that is "regionally significant" (i.e., the purchasing of mitigation bank credits), ACOE does not provide that flexibility. Furthermore, ACOE does not accept any mitigation that does not meet the strict standards of a wetland mitigation bank, essentially forcing all applicants to purchase credit at a federally approved mitigation bank for any wetland impacts the Corps deems acceptable. Finally, ACOE requires that all applicants proposing more than 0.10 acre of impacts to ACOE wetlands provide an "alternatives analysis", which is a documented analysis of all potential properties in the area that could accommodate the proposed project without incurring wetland impacts, along with an explanation of why the particular site chosen was the only alternative that was practical for the project.

If commercial or industrial development is being considered, NRMO may also impose certain restrictions on wetland permitting. On commercial or industrial sites, wetland impacts can only occur if justifiable (as described above), and usually only if the project site is on a "Mitigation Qualified Roadway" (MQR), which is any road in the county that is recognized as an established or critical commercial thoroughfare. North Courtenay Parkway is flanked by a wide range of land uses (residential, commercial, institutional, agricultural, etc.), but its long-term utilization as the only commercial corridor in north Merritt Island is expected to qualify it as an MQR.

In addition to direct wetland impacts (dredging or filling within wetlands), an applicant must also consider the extent of secondary wetland impacts, which are assessed by SJRWMD. Secondary wetland impacts are those potentially adverse effects to wetlands that occur due to the proximity of human activities (i.e., noise, traffic, pollution, lighting, human intrusion, pets, yard waste, etc.). To protect against secondary impacts, SJRWMD encourages applicants to preserve a naturally vegetated upland buffer around all portions of wetlands that are to remain undisturbed. The buffer must be at least 15 feet wide, with a minimum average width of at least 25 feet. In all areas where the minimum buffer cannot be provided, SJRWMD will assess secondary impacts extending into the adjacent wetlands. The extent of secondary impacts is determined on a case-by-case basis; for forested wetlands, it is typically determined by extending a 100-foot radius into the affected wetland from each point where an adequate upland buffer cannot be provided. Although this may result in a large area of assessed secondary wetland impacts, such impacts are considered to be significantly less adverse than direct impacts. Thus, although secondary wetland impacts do add to the amount of mitigation that an applicant must provide to satisfy SJRWMD, they are typically only a small percentage of the whole.

Wetland impacts and wetland mitigation are evaluated using the Uniform Mitigation Assessment Method (UMAM). UMAM is a method of assessing and calculating environmental losses (Functional Loss, or FL) and environmental gains (Functional Gain, or FG). Wetlands proposed for impact are assigned a specific FL via a set of standardized evaluations and calculations; whatever the total FL is for a particular project, the proposed mitigation (assessed in units of FG) must be equal or greater than the FL. For this site, the wetlands are of low quality, mainly due to surrounding land uses, fragmentation of natural habitat, and drainage of the wetland by the adjacent ditch. We expect on-site wetlands to be assigned an FL of about 0.50. When applied to the area of wetlands (+/-0.37 acres), the total potential FL for this site is estimated at 0.185.

Currently, the subject site falls into the service area of only one mitigation bank, NeoVerde Mitigation Bank. NeoVerde also is located within the same SJRWMD drainage basin as the subject site (Basin No. 21), which is important because SJRWMD requires applicants to provide wetland mitigation within the

same basin as their projects are located in. Currently, NeoVerde is charging \$200,000 for each unit of FG to satisfy SJRWMD. NeoVerde does not sell in units of less than 0.10 FG. Therefore, based on the above estimate of 0.185 units of FL for this site, 0.20 units of FG would need to be purchased at NeoVerde to satisfy SJRWMD, at a cost of approximately \$40,000.

Unfortunately, NeoVerde is currently sold out of their federal wetland credits. This means that there are currently no mitigation bank credits available to satisfy ACOE's permitting requirements; until there are, alternative means of wetland mitigation would need to be explored to address federal wetland regulatory concerns.

In addition to the cost of wetland mitigation, there are other consulting costs associated with the quantification and qualification of wetlands on the site. Delineation and flagging of wetlands, pre-application consultation with agency representatives, wetland permit application development, on-site jurisdictional confirmation with SJRWMD and ACOE staff, and other ancillary costs and fees are expected to amount to between \$6,000 and \$7,000.

The time associated with wetland permitting is expected to be between three to four months for SJRWMD. Permitting through ACOE occurs concurrently, but can take longer to complete than state permitting, since ACOE requires more documentation, is not subject to minimum time frames in their review process, and will have to review mitigation alternatives that are not as streamlined as a mitigation bank credit purchase. Furthermore, ACOE requires that SJRWMD permit the project first before ACOE can issue its own permit (the SJRWMD permit serves to certify to ACOE that water quality issues have been properly addressed). The county permitting process can be initiated concurrently with the state and federal processes but will not be completed until both SJRWMD and ACOE permits are acquired.

Considering all the above concerns (particularly the current lack of federal wetland mitigation bank credits serving Merritt Island), we recommend considering site plans that will avoid all direct wetland impacts. If a 25-foot wide naturally-vegetated upland buffer can be maintained between the wetland and the edge of the development footprint, then SJRWMD will not assess secondary wetland impacts. If the site development requirements must encroach into the upland buffer, only SJRWMD will assess secondary wetland impacts (NRMO and ACOE will not); if this occurs, the purchase of 0.10 credit (the minimum amount allowed for purchase, at a cost of \$20,000) at NeoVerde Mitigation Bank will be enough to offset secondary wetland impacts.

Protected Species

On the date of our site assessment, ACES examined the property for any indications of habitation by protected wildlife species. This included inspecting the property for direct visual and auditory evidence of protected species themselves, as well as assessing the site for the presence of secondary indicators, such as burrows, nests, nesting cavities, scat, tracks, trails, rookeries, etc. We also used on-line mapping resources from Brevard County, USFWS, and FWC to identify the known location of certain protected species populations, such as Florida scrub-jays and bald eagles. Following is a discussion identifying the extent to which protected species are thought to be using the site, and the procedures by which such concerns can be addressed during the project permitting process.

Gopher Tortoises: Gopher tortoises are protected as a Threatened species by the Florida Fish and Wildlife Conservation Commission (FWC). Gopher tortoises require habitat that includes well-drained sandy soils for burrowing, open sunlit areas for nesting, and adequate herbaceous

forage. On this property, portions of the upland communities exhibit these characteristics to some degree, although open sunlit areas and sufficient herbaceous forage are minimal.

Although we did not conduct a formal gopher tortoise survey, ACES observed some evidence of gopher tortoise occupation during our site inspection. The location of one potentially-occupied tortoise burrow and one abandoned gopher tortoise burrow that we happened to observe on our survey date is shown on Figure 4. Based on the habitat conditions we observed within on-site uplands, our preliminary estimate is that there are probably between 2 and 4 gopher tortoises on the site, using fewer than 10 burrows.

FWC requires that all tortoises that are likely to be displaced by proposed development be identified through a formal survey, and safely relocated under an off-site gopher tortoise conservation permit from FWC prior to site clearing. In order to determine the number of tortoises that will be affected by site development, it will be necessary to complete a formal tortoise survey over all potentially suitable habitat that is proposed for development on this site. Costs associated with tortoise permitting include the 100% survey and mapping of all tortoise habitat (approx. \$1,600), developing and submitting the tortoise relocation application to FWC (\$500.00), and excavating all potentially-occupied burrows on the site with a backhoe (assuming 8 burrows, the projected cost is \$2,850). In addition, FWC will charge an application fee based on the estimated number of tortoises to be moved (assuming 4 tortoises, the fee will be \$217), and the property receiving the relocated tortoises (which must be permitted by FWC to do so) charges \$1,400 per tortoise to cover long-term management costs (again, assuming 4 tortoises, that cost would be \$5,600). So, under a hypothetical 8 burrows excavated and 4 tortoises relocated, the total cost would be approximately \$10,767 (actual cost could be more or less depending on the results of the tortoise survey and relocation).

Timing of the tortoise permitting process is linked to the expected project start date. FWC requires that the survey data be no more than 90 days old prior to excavating tortoises under the authority of a permit. Furthermore, FWC requires that an applicant provide documentation from local government confirming that the proposed project that will necessitate tortoise relocation is imminent; without this documentation, the permit is unlikely to be issued. Therefore, the tortoise survey is recommended to take place no more than two months prior to the anticipated project start date. Once application is made, most tortoise permits can be acquired within two to three weeks (assuming all required documentation is provided). After the permit is issued, relocation can occur as long as predicted weather temperatures do not drop below 50 degrees Fahrenheit for 72 hours after the relocation is completed.

Eastern Indigo Snake (*Drymarchon corais couperi*): This federally-listed threatened species can occupy virtually all native Florida habitats, including flatwoods, upland scrub, and wetlands, typically ranging over very large areas and frequently utilizing gopher tortoise burrows for shelter. No signs of this species were observed during our site inspection. Barring the direct sighting of this species, no special permit for potential impacts to it is expected to be necessary to acquire.

Wading Birds: Some protected wading birds may occasionally be present within the wetlands for foraging purposes. These currently include the tricolored heron and greenback heron. There is no rookery habitat on the site to support nesting of any of these species, and neither

of these species were observed on the site during our inspection. Although it is possible that these species may be present from time to time in the wetland on a transitory foraging basis, such behavior is opportunistic, and not indicative of critical reliance on any on-site natural resources. Therefore, no special permits for potential impacts to these species are expected to be required.

Wood Stork (*Mycteria americana*): Wood stork nesting habitat is not present on the site. However, the on-site wetlands do provide some foraging habitat for this federally-listed endangered species. Federal rules require that when a project falls under federal jurisdiction, the potential for federally-endangered species must be assessed. In the case of the wood stork, the mere potential of wood stork foraging behavior within affected wetlands is enough to impose regulatory oversight, as long as: a) the affected wetland contains Suitable Foraging Habitat (SFH) for wood storks (the on-site wetlands do); b) the affected wetlands falls within the Core Foraging Area (CFA) of at least one known wood stork rookery (on-site wetlands fall within the CFA of several wood stork rookeries); and c) more than 0.5 acres of CFA are proposed for impact (this is NOT the case for this project). Since less than 0.5 acres of CFA are present on the site, we do not expect that any special permitting or mitigation requirements for wood storks will apply for this project.

Bald Eagle (*Haliaeetus leucocephalus*): No recorded bald eagle nests exist within at least 0.6 miles of the subject site, and no eagle nests or eagle activity were observed on the site. Therefore, it is not expected that potential impacts to this species will need to be addressed prior to site development.

Florida Scrub-Jay (*Aphelocoma coerulescens*): Florida scrub-jays are protected as Threatened by USFWS and FWC. Scrub-jays prefer upland scrub habitat (a minimum of 12 acres per scrub-jay family) characterized by oak scrub with at least 10 percent cover of scrub oak species, open sandy areas for caching of acorns, and areas which are predominantly free of tall trees, which hawks typically use as cover prior to preying on scrub-jays. The subject site does not have a sufficient area of scrub oak habitat, is very densely vegetated with very few open sandy areas, and contains numerous tall pines. As such, the suitability of scrub-jay habitat on the site is exceedingly low. During our site inspection, we neither saw nor heard any evidence of scrub-jays on the site. At this time of year, scrub-jays tend to be quite active and vocal, since they are typically breeding or raising young; the lack of evidence of scrub-jays on the site is therefore consistent with the poor habitat suitability that this site provides for the species.

As an additional record source, we looked at scrub-jay territorial maps available on the Brevard County Natural Resources Management Office (NRMO) website. These maps include data provided by FWS showing the estimated historical extent of scrub-jays in the area. The site and vicinity are mapped within a +/-330-acre historical scrub-jay territorial polygon, which was mapped circa 1984, when there was far less developed land in the area. Currently, the area within the mapped polygon is dominated by streets, single-family homes, fallow groves, cleared land, and Brazilian pepper forest. Our analysis of aerial photos of the site and vicinity shows the nearest potential scrub-jay habitat approximately 0.5 miles to the northwest of the site. Based on our on-site observations, the poor suitability of scrub-jay habitat on the property, the exceedingly outdated nature of the NRMO scrub-jay territorial maps, and our physical and aerial review of vicinity conditions, it is our professional opinion that scrub-jays are not present on the site. As such, permits and mitigation for potential impacts to this

species are not expected to be required.

Osprey (*Pandion haliaetus*): Ospreys are protected as a Species of Special Concern by FWC. Ospreys nest in dead pine trees, light poles, or artificial nesting platforms, usually within a few miles of open water. Ospreys can breed any time of year in Florida, but in central Florida the breeding season typically begins in February or March and can run through May or June.

An active osprey nest is present just east of the northeast corner of the property, atop a power pole on a man-made nest platform (see Figure 4). Two adult ospreys were observed to be using the nest at the time of our survey, and were exhibiting breeding behavior (at least one bird always in the nest, and both birds persistently vocalizing while humans were in the vicinity).

Relocation of the osprey nest is not a likely option, mainly since it is off-site, but also because the work would have to be done entirely by FPL, since it is atop an active power pole. For this project, clearing and construction should be timed outside of breeding season (February through June, typically). Since ospreys do not have a strict breeding season, the status of the nest must be assessed prior to the start of clearing and construction. If breeding behavior is not noted, clearing and construction can proceed. If breeding behavior is noted, clearing and construction will either need to wait until the young have fledged, or the nest will need to be monitored daily to make sure construction activities do not disturb or interrupt normal breeding behavior.

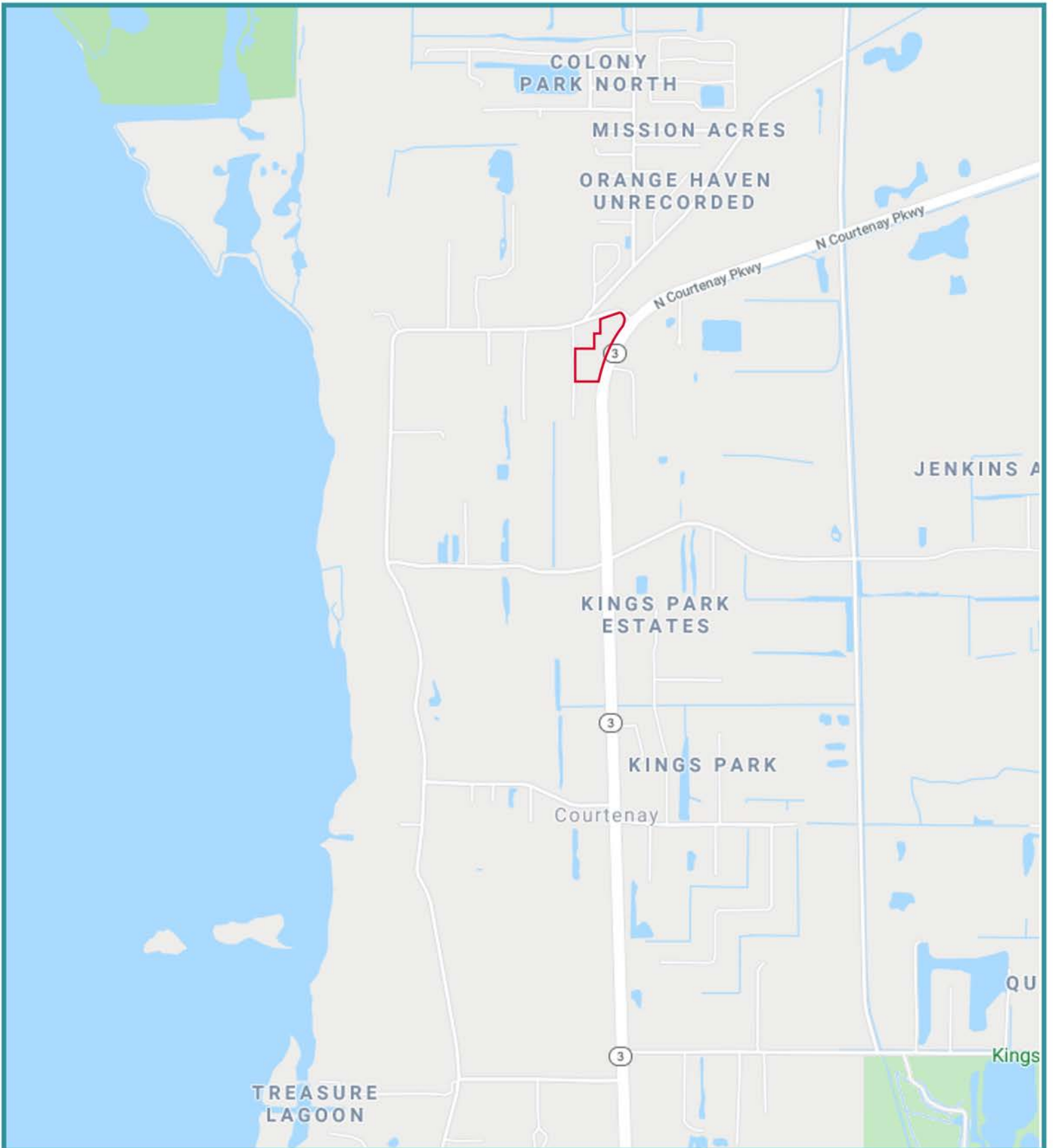
Summary and Conclusion

ACES has completed an environmental assessment of Parcel 23-36-22-00-20 on North Courtenay Parkway, Merritt Island. It is our determination that approximately 3.29 acres of uplands and 0.37 acres of wetlands are present on the site. Because there are currently no federal wetland mitigation bank credits available for Merritt Island, we recommend assessing site designs that avoid direct wetland impacts, if possible. If a 25-foot upland buffer cannot be sustained around the wetland, SJRWMD will assess secondary wetland impacts, which can be offset via the purchase of 0.10 SJRWMD credit at NeoVerde Mitigation Bank for \$20,000. In addition, we recommend conducting a formal gopher tortoise survey of the property to determine the extent to which this species occupies the site. Our preliminary estimate is that probably no more than 4 tortoises currently reside on the property, using up to 8 burrows. If this is the case, the estimated total cost to relocate tortoises off-site is about \$10,800 (a tortoise survey will confirm the number of burrows on the site and allow us to more specifically estimate total permitting costs). An active osprey nest is located just off-site to the northeast, and will need to be assessed and/or monitored if site development activities coincide with osprey breeding behavior. ACES is committed to working with you through all aspects of the environmental permitting and mitigation processes for this project, and will provide a proposal for all remaining environmental services upon request. Upon your review of this report, should you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'A. Conklin', is written over a light blue horizontal line.

Andrew Conklin – President, ACES, LLC

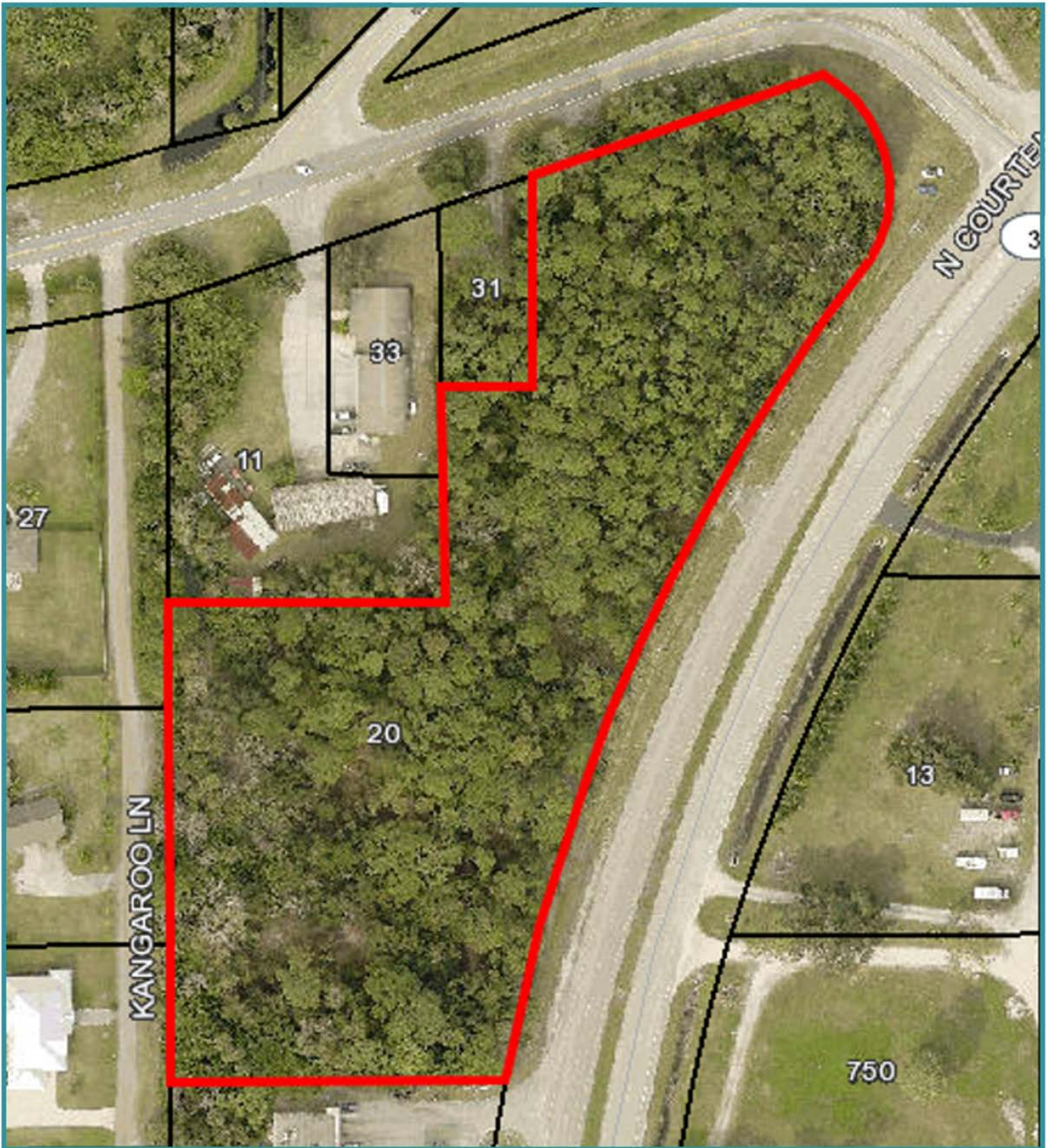


Source - Google Maps



Figure 1 - Location Map
ACES File No. 2049 - Parcel 20, N. Courtenay Pkwy.


 - Property Boundary

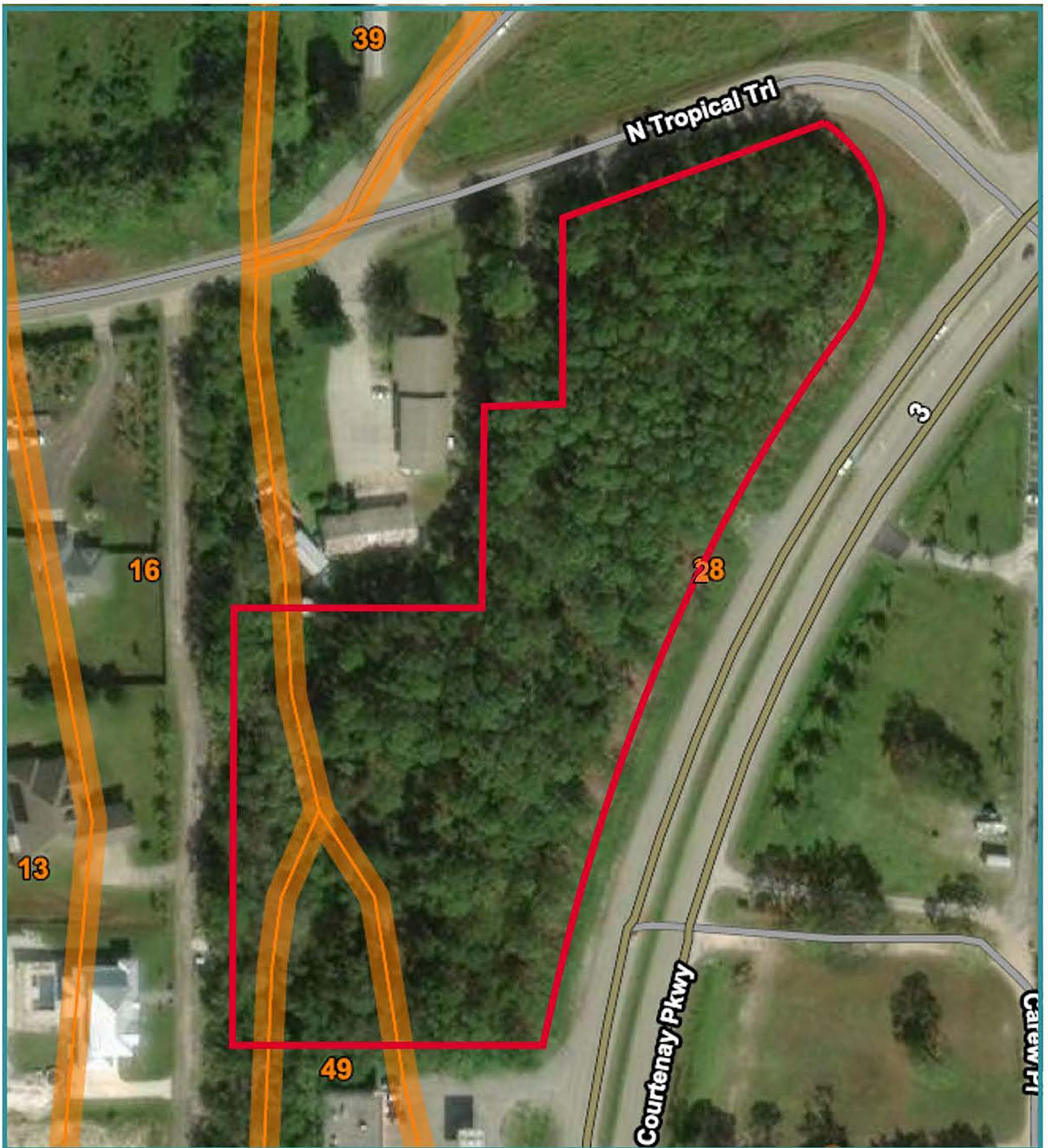


Source - Brevard County Property Appraiser



Figure 2 - Aerial Site Photograph
ACES File No. 2049 - Parcel 20, N. Courtenay Pkwy.

 - Property Boundary



Source - USDA Natural Resources Conservation Service (NRCS)

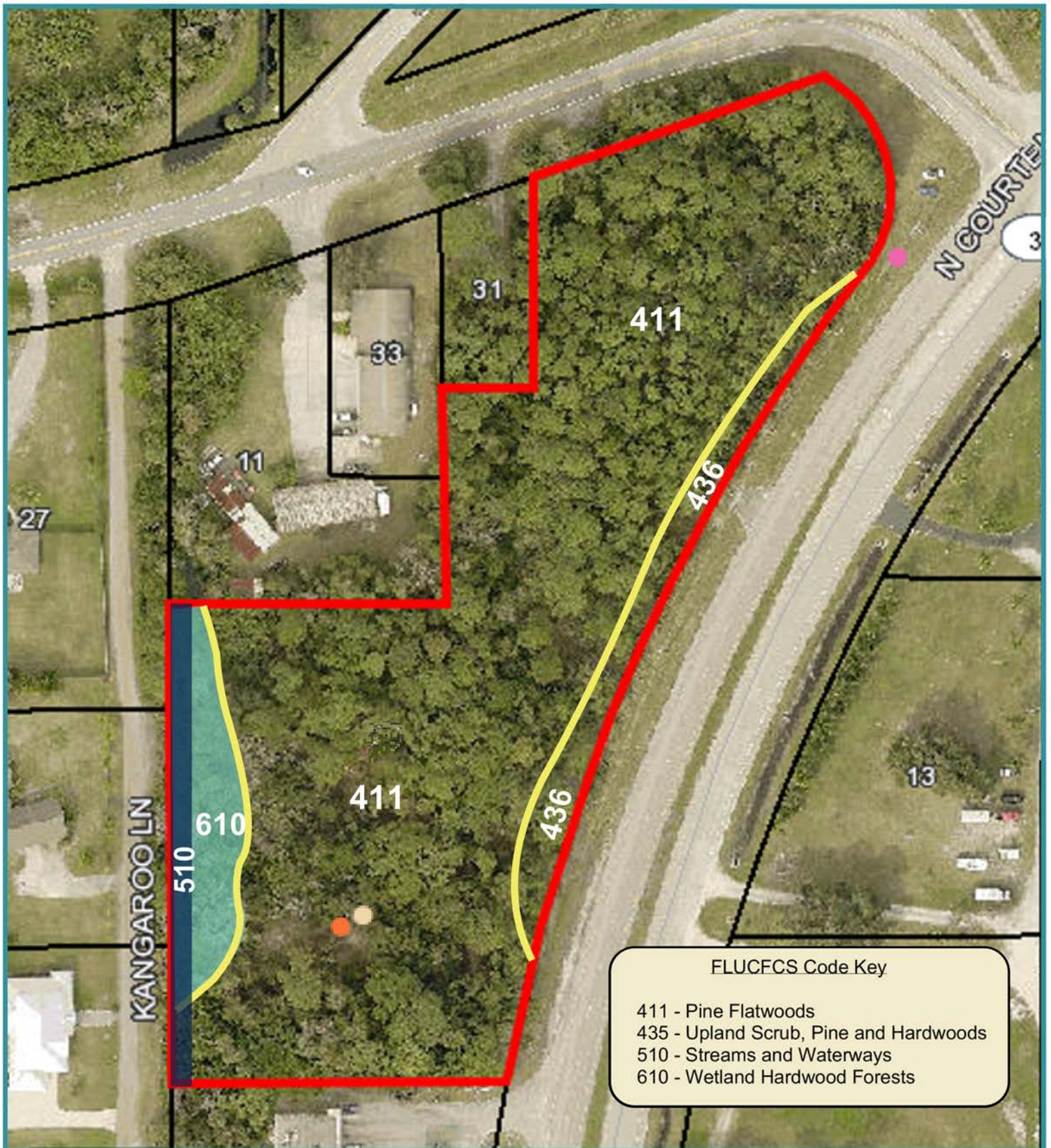


Figure 3 - NRCS Soils Map
ACES File No. 2049 - Parcel 20, N. Courtenay Pkwy.

- Property Boundary

~ - NRCS Soil Type Boundaries

16 - Copeland-Bradenton-Wabasso Complex, Limestone Substratum
 28 - Immokalee Sand, 0 to 2 Percent Slopes
 49 - Pomello Sand, 0 to 5 Percent Slopes



Source - Brevard County Property Appraiser
Codes referenced to the Florida Land Use Cover and Forms Classification System (FLUCFCS)



Figure 4 - Environmental Survey Map

ACES File No. 2049 - Parcel 20, N. Courtenay Pkwy.

- Property Boundary
- ~ - FLUCFCS Community Boundaries
- On-Site Wetlands, +/-0.37 Acres
- Ditch
- - Potentially-Occupied Gopher Tortoise Burrow
- - Abandoned Gopher Tortoise Burrow
- - Active Osprey Nest

Owner's Name: Harold Kurz, Trustee

Hearing Date: January 7, 2021

20200038

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF BREVARD

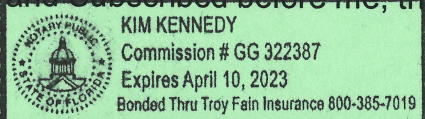
Before me, this undersigned authority, personally appeared, BRIAN Look,
to me well known and known to me to be the person described in and who executed the foregoing
affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

[Signature]

Signature

Sworn, and Subscribed before me, this 15th day of December.



(Print, Type, or Stamp Commissioned Name of Notary Public)

[Signature]

Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: _____

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

PHOTOGRAPHS



BREVARD COUNTY CODE ENFORCEMENT



Mo./Day/Year	Address	Zng App.#
12/14/2020	23-36-22-00-20	20200038



Brian Lock