



## **Zoning**

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

**2725 Judge Fran Jamieson Way**

**Viera, FL 32940**

**Agenda**

**Thursday, February 4, 2021**

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

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

- A. CALL TO ORDER 5:00 PM**
- B. Intentionally Omitted**
- C. PLEDGE OF ALLEGIANCE - District 1 Commissioner Rita Pritchett, Chair**
- D. MINUTES FOR APPROVAL:**
- E. RESOLUTIONS, AWARDS AND PRESENTATIONS**
- F. CONSENT AGENDA (The entire Consent Agenda will be passed in one motion to include everything under Section F.)**

### **Administrative Services Group**

**County Attorney**

#### **F.1.**

**Brevard County v. Altman - Approval of Stipulated Final Judgment for Attorney's Fees and Costs at trial for BRP Parcel 29 John M. Pinter and Jane E. Pinter, as Trustees of the John M. Pinter and Jane E. Pinter U/A/D 5/12/08**

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

- H.1.** Lazy River Investments (Laura Young) requests a change of zoning classification from RU-1-13 to AU(L). (20Z00030) (Tax Account 3008729) (District 3)
- H.2.** Brevard Tower Communications, Inc., requests Adoption of the 2020-2.1 Large Scale Plan Amendment to change the Future Land Use designation from RES 2 and NC to CC. (20PZ00072) (District 5)
- H.3.** Brevard Tower Communications, Inc. (Bruce Moia) requests a change of zoning classification from GU to BU-2. (20Z00015) (Tax Accounts 2802674 and 2802676) (District 5)
- H.4.** Ag Ventures (Chad Genoni) requests a BDP limiting density to 4 units per acre for consistency with the Residential 4 Future Land Use designation in an RU-1-7 zoning classification. (20PZ00101) (Tax Accounts 2102924, 2102925, and 2112294) (District 1)
- H.5.** Marker 24 Marina, LLC (Peter Black) requests a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a private club, in a BU-2 zoning classification. (20Z00010) (Tax Account 3018251) (District 2)
- H.6.** Tammy McCoy requests a change of zoning classification from AU to EU-1. (20Z00035) (Tax Account 2103412) (District 1)
- H.7.** Thomas R. and Rachel Darnell (Kendall Moore) requests a change of zoning classification from SEU to AU. (20Z00037) (Tax Account 2700779) (District 5)
- H.8.** 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) This request has been withdrawn by the applicant. Letter received 01/11/21.
- H.9.** Harold Kurz (Harry Perrette) requests a change of zoning classification from BU-1 to PIP. (20Z00038) (Tax Account 2316254) (District 2) This item has been withdrawn by the applicant. Letter received 01/11/21.
- H.10.** 5971 Cedar Lake Drive Revocable Land Trust and U.S. Highway No. 1 Commercial Land Trust (Kim Rezanka) requests a change of classification from RU-1-11, TR-2, and BU-1, with a BDP, to TR-1 with a BDP limited to 200 units. (20Z00036) (Tax Accounts 2310971, 2310861, and 2316173) (District 1)

**I. UNFINISHED BUSINESS**

**J. NEW BUSINESS**

**Add Ons**

**K. PUBLIC COMMENTS**



**L. BOARD REPORTS**

- L.1. Frank Abbate, County Manager
- L.2. Eden Bentley, County Attorney
- L.3. Rita Pritchett, Commissioner District 1, Chair
- L.4. Bryan Lober, Commissioner District 2
- L.5. John Tobia, Commissioner District 3
- L.6. Curt Smith, Commissioner District 4
- L.7. Kristine Zonka, Commissioner District 5, Vice Chair

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the County Manager's Office no later than 48 hours prior to the meeting at (321) 633-2010.

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

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

In accordance with Resolution 2014-219 Section VIII (8.1) the agenda shall provide a section for public comment limited to thirty (30) minutes following approval of the consent agenda during each regular County Commission meeting. The purpose of public comment is to allow individuals to comment on any topic relating to County business which is not on the meeting agenda. Individuals delivering public comment shall be restricted to a three-minute time limit on their presentation. During this thirty (30) minute segment of public comment, speakers will be heard in the order in which they turned in a speaker card asking to be heard. Any speaker not heard during the first thirty (30) minute segment will be heard during a second public comment segment held at the conclusion of business specified on the regular Commission agenda. With the exception of emergency items, the Board will take no action under the Public Comment section, but can refer the matter to another meeting agenda.

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



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.1.

2/4/2021

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### Subject:

Brevard County v. Altman - Approval of Stipulated Final Judgment for Attorney's Fees and Costs at trial for BRP Parcel 29 John M. Pinter and Jane E. Pinter, as Trustees of the John M. Pinter and Jane E. Pinter U/A/D 5/12/08

### Fiscal Impact:

\$23,053.91

### Dept/Office:

County Attorney's Office

### Requested Action:

Request the Board approve settling Defendant's attorney fees and costs at trial for \$23,053.91 and authorize the County Attorney's Office and the County Manager, or designee, to sign or file any necessary documents.

### Summary Explanation and Background:

Pursuant to section 73.092(2), Florida Statutes, the County is responsible for attorney's fees and costs incurred by property owners at the trial in this case. The law firm of Burr & Forman LLP represents the Pinters, the property owners and defendants in this case. The law firm submitted records supporting the claim of fees and costs and, after discussion, agreed to settle with a 24 percent reduction in their claims. Given the substantial reduction proposed, staff recommends settlement at \$22,000 in fees and \$1,053.91 in costs. This agenda item is to approve that offer, and authorize the County Attorney's Office and the County Manager, or designee, to sign or file any necessary documents.

### Clerk to the Board Instructions:

Return a copy of the memo to the County Attorney's Office

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO. 05-2018-CA-055386-XXXX-XX

BREVARD COUNTY, FLORIDA,  
a political subdivision of  
the State of Florida,

Petitioner,

vs.

ALEX B. ALTMAN, et al,

Parcel # BRP-29  
John M. Pinter and Jane E.  
Pinter, as Trustees of the John  
M. Pinter and Jane E. Pinter  
U/A/D 5/12/08

Respondents.


**JOINT MOTION FOR STIPULATED FINAL JUDGMENT**  
**AS TO ATTORNEY'S FEES AND COSTS AT TRIAL**

The Petitioner, BREVARD COUNTY, FLORIDA, and the Respondents, JOHN M.  
PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND  
JANE E. PINTER U/A/D 5/12/08, in the above styled case, by and through the  
undersigned counsel, respectfully move for the entry of the attached Stipulated Final  
Judgment on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Office of the County Attorney  
2725 Judge Fran Jamieson Way  
Building C-Suite #308  
Viera, FL 32940  
*Attorney for Petitioner,  
Brevard County, Florida*

Burr & Forman LLP  
200 S. Orange Avenue  
Suite 800  
Orlando, Florida 32801  
*Attorney for Respondents,  
Pinters.*

\_\_\_\_\_  
CHRISTINE SCHVERAK, ESQUIRE  
Assistant County Attorney

  
\_\_\_\_\_  
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IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO. 05-2018-CA-055386-XXXX-XX

BREVARD COUNTY, FLORIDA,  
a political subdivision of  
the State of Florida,

Petitioner,

vs.

ALEX B. ALTMAN, et al,

Parcel # BRP-29  
John M. Pinter and Jane E.  
Pinter, as Trustees of the John  
M. Pinter and Jane E. Pinter  
U/A/D 5/12/08

Respondents.

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**STIPULATED FINAL JUDGMENT AS TO  
ATTORNEY'S FEES AND COSTS AT TRIAL**

THIS CAUSE having come on upon a joint motion for the entry of a Stipulated Final Judgment made by the Petitioner, BREVARD COUNTY, FLORIDA, and Respondents, JOHN M. PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND JANE E. PINTER U/A/D 5/12/08, set forth herein below; and it appearing to the Court that the Parties are authorized to enter into such motion; the Court finds that:

1. Respondents JOHN M. PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND JANE E. PINTER U/A/D 5/12/08 timely filed a Motion for Appellate Attorneys' Fees, Expert Fees and Costs on October 2, 2020 and the Court has entered an order on those matters on December 4, 2020.

2. Claims for trial level attorney fees and costs were submitted to the County,

and subsequently, on January 19, 2021, Respondents JOHN M. PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND JANE E. PINTER U/A/D 5/12/08 agreed to settle all additional claims with Petitioner, BREVARD COUNTY, FLORIDA for an additional sum of \$1,053.91 in trial court costs and \$22,000.00 in trial court attorney fees.

3. The Parties agree that this stipulated final judgment of \$23,053.91 is to settle all outstanding claims in this case, and Respondents JOHN M. PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND JANE E. PINTER U/A/D 5/12/08 stipulate that they waive all rights to any additional compensation for claims or damages of any kind arising from CASE NO. 05-2018-CA-055386.

ADJUDGED that Respondents, JOHN M. PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND JANE E. PINTER U/A/D 5/12/08, pursuant to the sections 73.091 and 73.092, Florida Statutes, shall have and recover from the Petitioner the sum of Twenty-Three Thousand and Fifty-Three dollars and 91 cents (\$23,053.91) to settle all outstanding claims between Petitioner BREVARD COUNTY and Respondents JOHN M. PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND JANE E. PINTER U/A/D 5/12/08, related to this action. This payment constitutes final judgment of all claims in this action.

ADJUDGED that upon entry of this Stipulated Final Judgment as to all matters and claims as to JOHN M. PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND JANE E. PINTER U/A/D 5/12/08, the Petitioner shall, within thirty (30) days, pay Twenty-Three Thousand and Fifty-Three dollars and 91 cents (\$23,053.91) to Burr & Forman LLP, 200 S. Orange Avenue, Suite 800, Orlando, Florida

32801-6404 on behalf of Respondents, JOHN M. PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND JANE E. PINTER U/A/D 5/12/08.

Respondents JOHN M. PINTER AND JANE E. PINTER, AS TRUSTEES OF THE JOHN M. PINTER AND JANE E. PINTER U/A/D 5/12/08, stipulate that they waive all rights to any additional claims or damages of any kind arising from CASE NO. 05-2018-CA-055386.

It is further ADJUDGED that within five days from the date of eservice of this Order/Judgment, the Petitioner shall:

1. Furnish a copy of this Order/Judgment to each self-represented party by U.S. Mail, first class, postage paid; and
2. File a certificate signed by Petitioner's counsel that delivery of this Order/Judgment has been made as set forth herein.

(Signature Page Follows)



DONE AND ORDERED in Chambers at the Viera Courthouse in Brevard County,  
Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
DAVID DUGAN  
Circuit Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court  
this \_\_\_\_\_ date of \_\_\_\_\_, 2021, by using the Florida Courts E-Filing  
Portal System. Accordingly, a copy of the foregoing is being served on this day to all  
attorneys/interested parties identified on the ePortal Electronic Service List, via  
transmission of Notices of Electronic Filing generated by the ePortal System.

\_\_\_\_\_  
Judicial Assistant



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.1.

2/4/2021

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### Subject:

Lazy River Investments (Laura Young) requests a change of zoning classification from RU-1-13 to AU(L).  
(20Z00030) (Tax Account 3008729) (District 3)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential, Low-Intensity).

### Summary Explanation and Background:

The applicant is requesting to rezone the property from RU-1-13 to AU(L) to be consistent with the RES 1:2.5 FLU (Future Land Use) designation.

The property is located on the southwest corner of Fleming Grant Road and a private driveway, Seabird Lane, with dual frontage on Fleming Grant Road and the Sebastian River. The property is currently vacant and platted as two residential lots: Lot 10, a 10.75-acre lot and Lot 11, a 9.88-acre lot, which totals 20.39 acres.

On May 30, 2019, the Board of County Commissioners conducted a public hearing to consider a request for a Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 to RES 1, and a companion Zoning action request for a BDP (Binding Development Plan) (18PZ00167). The result of that hearing was that the Large Scale Comprehensive Plan Amendment was denied, and the applicant withdrew the companion BDP request. On December 5, 2019, the Board conducted a public hearing to consider a request for a BDP limiting the development of the property to 8 lots, with other stipulations offered to help mitigate the proposed development. The Board also denied this request. (19PZ00093)

All of the properties between Fleming Grant Road and the Sebastian River have the RES 1:2.5 Future Land Use designation. This segment of Fleming Grant Road is considered to be low density residential. The area contains a mixture of lot sizes and zoning classifications. Lots within ½ mile of the property range in size from 0.17 acres up to 4.5 acres with the majority being an acre or larger, and are zoned AG (Agricultural), GU (General Use), RR -1 (Rural Residential) and RU-1-13 (Single-Family Residential).

The Board may consider whether the proposed rezoning to AU(L) is consistent and compatible with the surrounding area. The Board may also wish to consider whether the potential of agritourism activities

adversely affect the surrounding area.

On November 9, 2020, the Planning and Zoning Board heard the request and unanimously recommended approval.

On December 3, 2020, the Board tabled the item to the February 4, 2021, meeting at the request of the applicant.

**Clerk to the Board Instructions:**

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

# **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

(c) General Standards of Review.

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

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

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



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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**20Z00030**

**Lazy River Investments, LLC**

**RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential (Low Intensity))**

Tax Account Number: 3008729  
Parcel I.D.: 30G-38-19-HP-\*-10  
Location: Southwest corner of Fleming Grant Road and Seabird Lane (District 3)  
Acreage: 20.39 acres

Planning and Zoning Board: 11/09/2020

Board of County Commissioners: 12/03/2020

**Consistency with Land Use Regulations**

- Current zoning can not 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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-13	AU (L)
<b>Potential*</b>	Two (2) single-family residential units	Eight (8) single-family residential units
<b>Can be Considered under the Future Land Use Map</b>	NO Residential 1:2.5	YES Residential 1:2.5

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

**Background and Purpose of Request**

The applicant is requesting to rezone the property from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential - Low Intensity) to be consistent with the RES 1:2.5 (Residential 1:2.5) FLU (Future Land Use) designation.

The property is located on the southwest corner of Fleming Grant Road and a private driveway, Seabird Lane. This property has dual frontage on Fleming Grant Road and the Sebastian River. The property is currently platted as two residential lots: Lot 10, a 10.75-acre lot and Lot 11, a 9.88-acre lot, which total 20.39 acres. The property is currently vacant.

On May 30, 2019, the Board of County Commissioners conducted a public hearing to consider a request for a Large Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1:2.5 to RES 1, and a companion Zoning action request for a BDP (Binding

Development Plan) for consistency with the Residential 1 FLU designation (**18PZ00167**). The result of that hearing was that the Large Scale Comprehensive Plan Amendment was denied, and the applicant withdrew the companion BDP request. On December 5, 2019, the Board conducted a public hearing to consider a request for a BDP limiting the development of the property to 8 lots, with other stipulations offered to help mitigate the proposed development. The Board also denied this request. (**19PZ00093**)

## **Land Use**

The property is currently designated RES 1:2.5 by the Future Land Use Map (FLUM). The existing zoning of RU-1-13 is inconsistent to the FLUM. The proposed zoning of AU(L) would allow consistency with the FLUM.

**FLUE Policy 1.10** The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

## **Environmental Constraints**

All references to mapped areas can be found in the GIS Maps section of this package.

The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

The southern portion of the subject parcel is located within the Special Flood Hazard Area (SFHA) as identified by Federal Emergency Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality. Development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year base flood elevation (BFE) as described below.

Portions of the site are mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. The project is not located within the Brevard County's sanitary sewer service area. Therefore, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

The entire subject property is mapped within Upland Mixed Coniferous/Hardwood trees FLUCCS code. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are found in the project area. While developing in the SFHA and CHHA to a higher elevation would provide more protection from flooding, the additional fill is detrimental to the preservation of Specimen Trees, natural function and biodiversity.

If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, between the Indian River county line and Micco Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 52.02% of capacity daily. The parcel is undeveloped. The maximum development potential from the proposed rezoning increases the proposed trip generation 0.13%. The corridor is anticipated to operate at 52.15% of capacity daily. The proposal is not anticipated to create a deficiency in LOS C.

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

The subject property is not served by potable water. The subject property would be served by well and septic. Brevard County Division 46, Article II, Division 4 establishes a nitrogen reduction overlay area (Overlay) that requires advanced OSTDS that reduces total nitrogen by at least 65%. A portion of the property lies within this Overlay and septic systems within this Overlay are subject to said regulations.

### **Applicable Land Use Policies**

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 8 of the Future Land Use Element.

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

All of the properties between Fleming Grant Road and the Sebastian River have the RES 1:2.5 Future Land Use designation. This segment of Fleming Grant Road is considered to be low density residential and rural in character. The area contains a mixture of lot sizes and zoning classifications. Lots within ½ mile of the property range in size from 0.17 acres up to 4.5 acres with the majority being an acre or larger, and are zoned AG (Agricultural), GU (General Use), RR-1 (Rural Residential) and RU-1-13 (Single-Family Residential). The AG and GU classifications may be considered consistent with RES 1:2.5; however, the RR-1 and RU-1-13 classifications are not considered to be consistent with the RES 1:2.5. The majority of these parcels were created prior to the adoption of the Comprehensive Plan in 1988.

The proposed AU(L) zoning may be considered to be consistent with RES 1:2.5 as it has a minimum required lot size of 2.5 acres. The AU (Agricultural Residential) zoning classification is generally intended to encompass lands devoted to agricultural pursuits and single-family residential

development of spacious character. The classification is divided into two types, AU and AU(L). AU is the standard agricultural residential classification, while AU(L) is a low intensity sub-classification more suited to smaller lots where the neighborhood has a more residential than agricultural character. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities. The AU(L) zoning classification requires a minimum lot size of 2 ½ acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. There are parcels in the area that have the AU zoning classification; however, the Board's approval of the request would introduce AU(L) to the area.

The properties along the eastern boundary of the subject property and most of the north side of Fleming Grant Road from the subject property are zoned RR-1. The RR-1 zoning classification is generally intended to encompass lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permits uses which are conducted in such a way as to minimize possible incompatibility with residential development. The RR-1 classification permits horses, barns, and horticulture as accessory uses to a single-family residence subject to the standards in Section 62- 2100.5(2). The minimum lot size for RR-1 is one acre, with a minimum lot width and depth of 125 feet, and a minimum house size of 1,200 square feet.

The subject property and the properties along the western property line are zoned RU-1-13. The RU-1-13 classification is generally intended to encompass lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-1-13 does not permit horses, barns, or horticulture. The minimum lot size is 7,500 square feet, with a minimum width and depth of 75 feet, and a minimum house size of 1,300 square feet.

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

The area is characterized primarily by low-density single-family zoning and rural development. As mentioned above, the area contains a mixture of lot sizes and zoning classifications (i.e., AG, GU, RR-1 and RU-1-13). The majority of the AU-zoned land is approximately 360 feet west of the subject property and has a mixture of residential and residential/agricultural. The more intense uses allowed within the AU zoning classification do not appear to be occurring in the area. The parcels to the east and north of the subject property are zoned RR-1 and are primarily developed as single family residences.

Should the Board be concerned with agriculture activity between the RU-1-13 and RR-1 zoning classifications, an alternative residential zoning classification, REU (Rural Estate Use), could be considered in lieu of the applicant's AU(L) request. The REU zoning classification is similar to AU(L) and requires a minimum lot size of 2.5 acres and may be considered consistent with the RES 1:2.5 Future Land Use, but limits agricultural uses as a conditional use. The keeping of horses or other farm animals would require a separate zoning action in order to identify and limit their usage upon the property. Additionally, REU, with minimum lot width and depth of 200 feet, would limit the number of new lots fronting Fleming Grant Road or the river, plus a small left-over area for possible flag stems accessing Fleming Grant Road, or providing access to the water. The minimum living area is 1,200 square feet, which is 450 square feet larger than the 750 square feet required in AU(L). Although REU zoning is not currently located in the surrounding area, this zoning classification could offer additional protections that the AU(L) zoning classification does not.

## **Analysis of Administrative Policy #7 – Significant Adverse Environmental Impacts**

The Environmental Constraints sect of the reports identify several environment limitations effecting the development potential of the property. The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

### **Surrounding Properties**

The surrounding area is characterized as low density with some residential lots developed at less than 1 acre prior to the adoption of the Comprehensive Plan in 1988.

The surrounding properties are zoned RR-1 to the east, RU-1-13 to the west, AU across Fleming Grant Road to the north and General Use (GU) on the islands in the San Sebastian River to the south.

There have been no approved zoning actions approved in the last three (3) years within half-mile of the subject property.

Directly to the east of the subject property lies a 30-foot unimproved right-of-way, and to the east of that lies the private drive Seabird Lane, which per AA-1581 and AA-1583, provides access to two three-acre riverfront parcels.

### **For Board Consideration**

The Board may consider whether the proposed rezoning to AU(L) is consistent and compatible with the surrounding area. The Board may also wish to consider whether the potential of agritourism activities adversely affect the surrounding area.

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

**Item # 20Z00030**

**Applicant:** Young for Bistarcky

**Zoning Request:** RU-1-13 to AU(L) for 8 units

**P&Z Hearing Date:** 11/09/20; **BCC Hearing Date:** 12/03/20

**Tax ID No:** 3008729

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

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain
- Surface Water Classification
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

All references to mapped areas can be found in the GIS Maps section of this package.

The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

The southern portion of the subject parcel is located within the Special Flood Hazard Area (SFHA) as identified by Federal Emergency Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively



impact adjacent properties or receiving water body quality. Development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year base flood elevation (BFE) as described below.

Portions of the site are mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. The project is not located within the Brevard County's sanitary sewer service area. Therefore, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

The entire subject property is mapped within Upland Mixed Coniferous/Hardwood trees FLUCCS code. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are found in the project area. While developing in the SFHA and CHHA to a higher elevation would provide more protection from flooding, the additional fill is detrimental to the preservation of Specimen Trees, natural function and biodiversity.

If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

## **Land Use Comments:**

### **Wetlands**

The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site as shown on the NWI Wetlands Map; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of 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 plan or permit submittal.

### **Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (Pomello sand and Orsino fine 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.

### **Coastal High Hazard Area**

The southern portion of the property is in the CHHA. The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area. Policy 7.6 states that existence of sewer, water, roadways or

other public infrastructure shall not be considered adequate rationale for an increase in zoning density or intensity within the CHHA. Policy 6.1 designates CHHAs to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

### **Floodplain**

The southern portion of the subject parcel is located within the SFHA as identified by FEMA in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality, and development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year BFE as described below.

The FEMA determined BFE within the SFHA for the parcel is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD, becoming effective January 29, 2021. Both the Florida Building Code and County Code require that for any structure proposed within the SFHA, the lowest floor elevation (FFE) of structures must be a minimum of 1 foot above the BFE, or 6.3 feet NAVD upon effective date. The LiDAR map provided in this package shows the 6.3 feet NAVD contour line. Elevations below 6.3 feet NAVD will either require fill, or an alternative option to slab-on-grade construction (i.e. stem wall construction), to bring the FFE up to 6.3 feet NAVD.

Construction in the SFHA of onsite septic tank and drain field with buffers, access to the primary and accessory structures, and all accessory structures such as pools, decks, detached garages, sheds, require a constructed elevation at or above the BFE (5.3 feet as of January 2021); which may likely result in fill used in conjunction with a stem wall/retaining wall.

### **Surface Water Classification**

The property is located on surface waters designated by the State as an Aquatic Preserve. A 50-foot surface water protection buffer (Buffer) is required. Except as allowable under Section 62-3668 (7), primary structures shall be located outside of the Buffer. Accessory structures such as pools, decks, sheds, cabanas, etc., are permissible within the Buffer provided that stormwater management is provided. Impervious areas shall not exceed 30% of Buffer area. Avoidance/minimization of Buffer impacts is required so that surface water quality and natural habitat is not adversely affected.

Per Section 62-3666(4), all alterations shall demonstrate avoidance and minimization of surface water protection buffer impacts, including the location of the alteration within the most landward portion of the Buffer, as practicable. The remainder of the surface water protection Buffer shall be maintained in unaltered native vegetation.

### **Indian River Lagoon Nitrogen Reduction Septic Overlay**

Portions of the site are mapped within the Indian River Lagoon septic overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. The project is not located within the Brevard County's sanitary sewer service area. Thus, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are be subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

**Heritage Specimen Trees**

The entire subject property is overlaid in a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. 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 this FLUCCS code and are 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.

While developing to a higher elevation provides more protection from flooding, the additional fill is detrimental to the preservation of Protected and Specimen Trees, especially those located at the lower elevations within the SFHA floodplain and the CHHA. If units are developed in the lower elevations of the property, closer to the shoreline, more fill will be required to satisfy Land Development Regulations relating to the FFE.

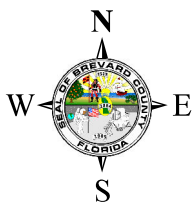
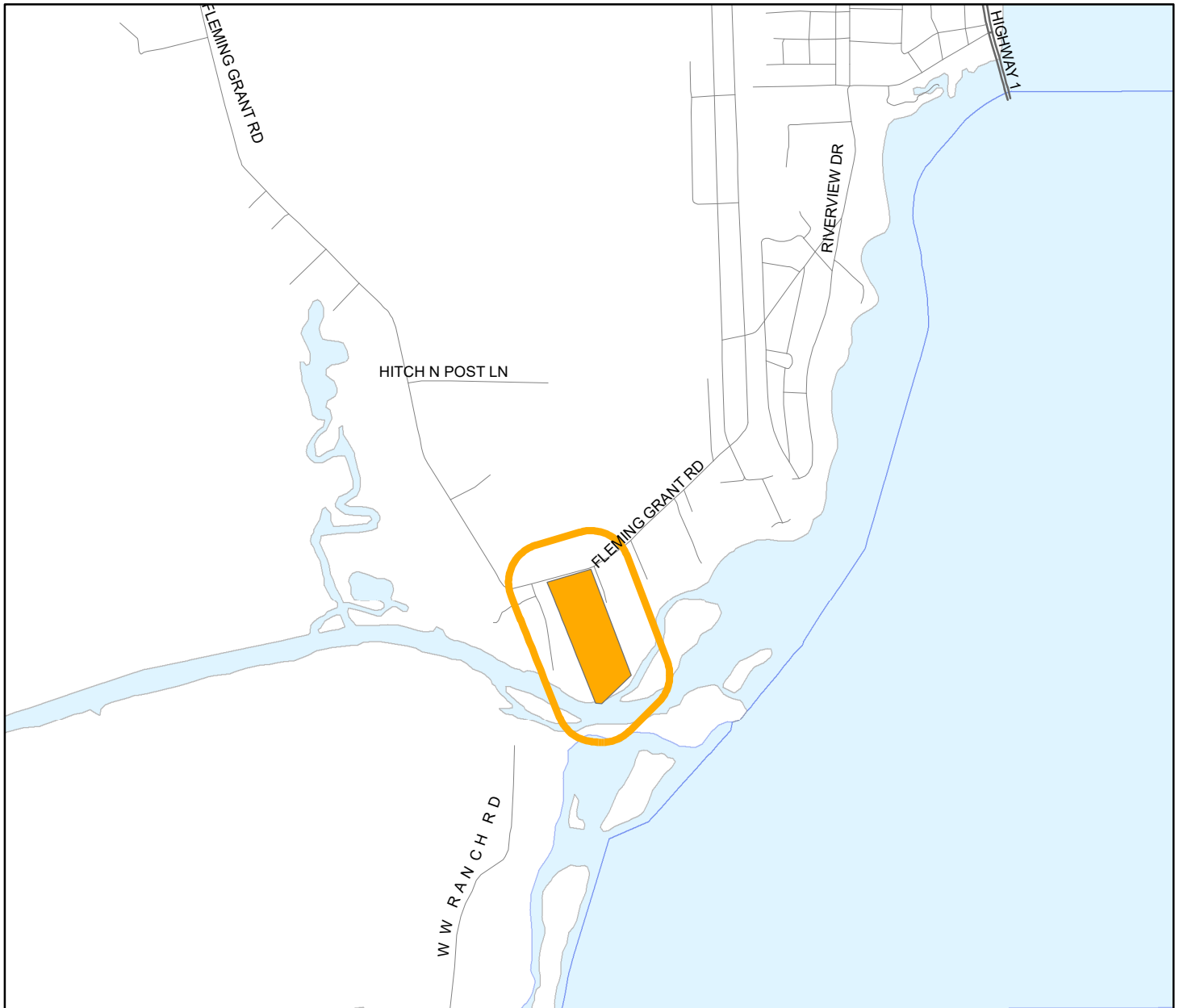
**Protected Species**

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

# LOCATION MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030





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.

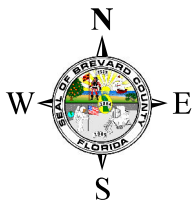
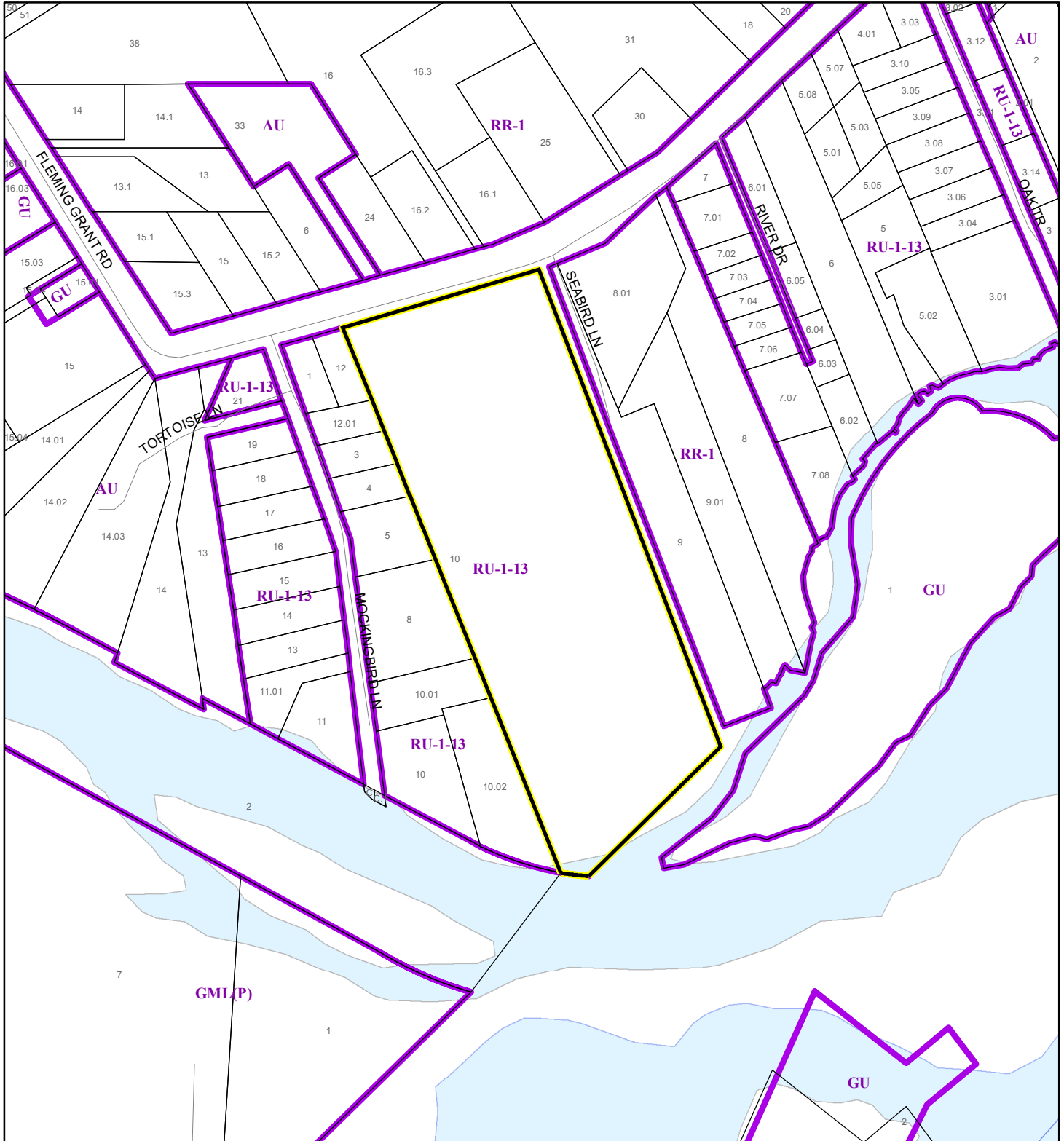
Produced by BoCC - GIS Date: 9/10/2020

 Buffer  
 Subject Property

# ZONING MAP

LAZY RIVER INVESTMENTS, LLC


20Z00030



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

 Subject Property

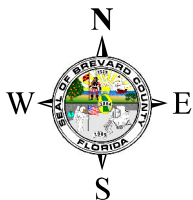
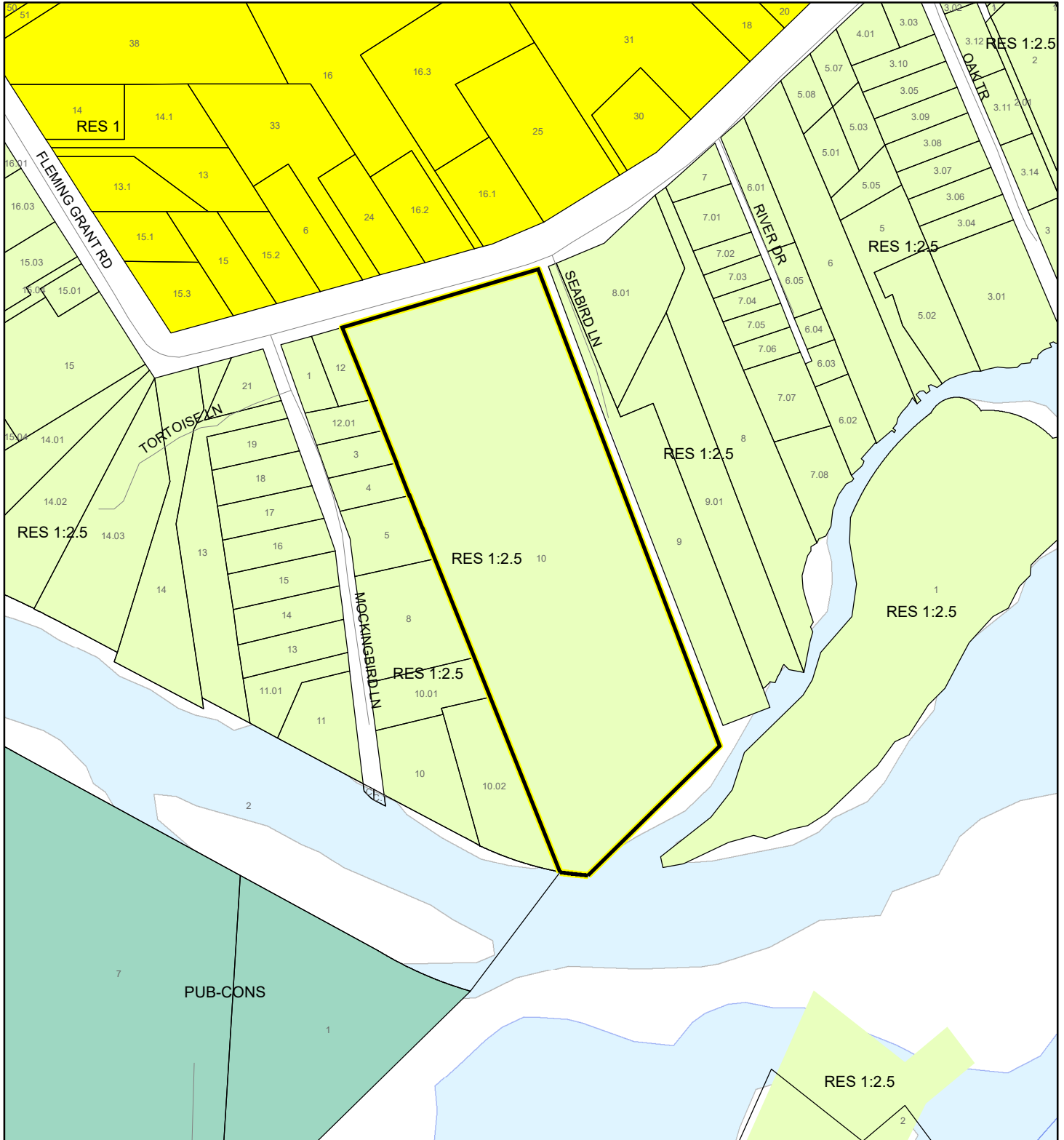
 Parcels

 Zoning

# FUTURE LAND USE MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

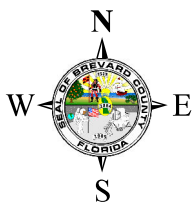
**Subject Property**  
**Parcels**

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AERIAL MAP  
LAZY RIVER INVESTMENTS, LLC  
20Z00030





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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Produced by BoCC - GIS Date: 9/10/2020

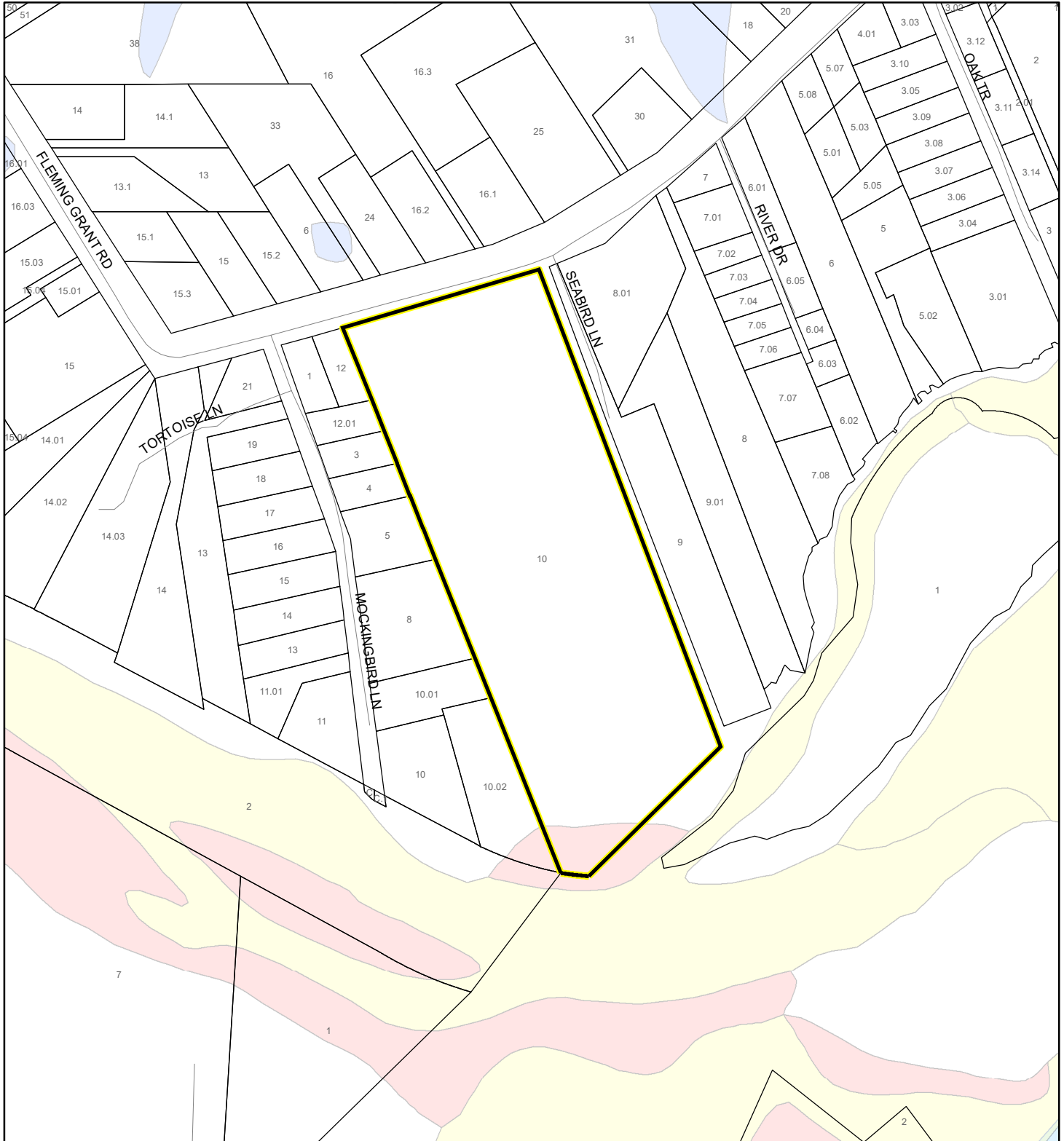
 Subject Property  
 Parcels



# NWI WETLANDS MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

## National Wetlands Inventory (NWI)

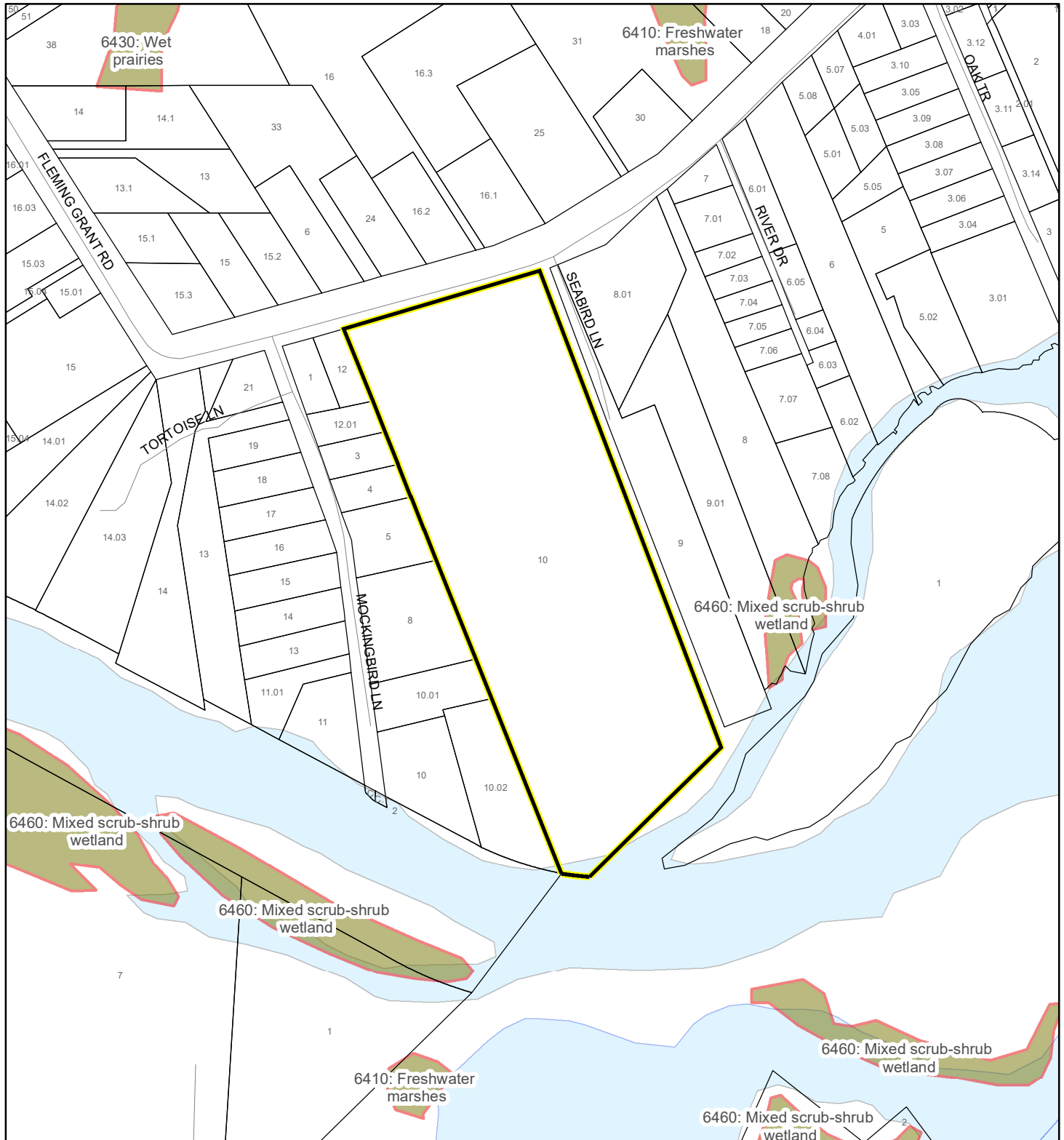
Estuarine and Marine Deepwater	Freshwater Pond
Estuarine and Marine Wetland	Lake
Freshwater Emergent Wetland	Other
Freshwater Forested/Shrub Wetland	Riverine
	Subject Property
	Parcels



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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: 9/10/2020

## 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

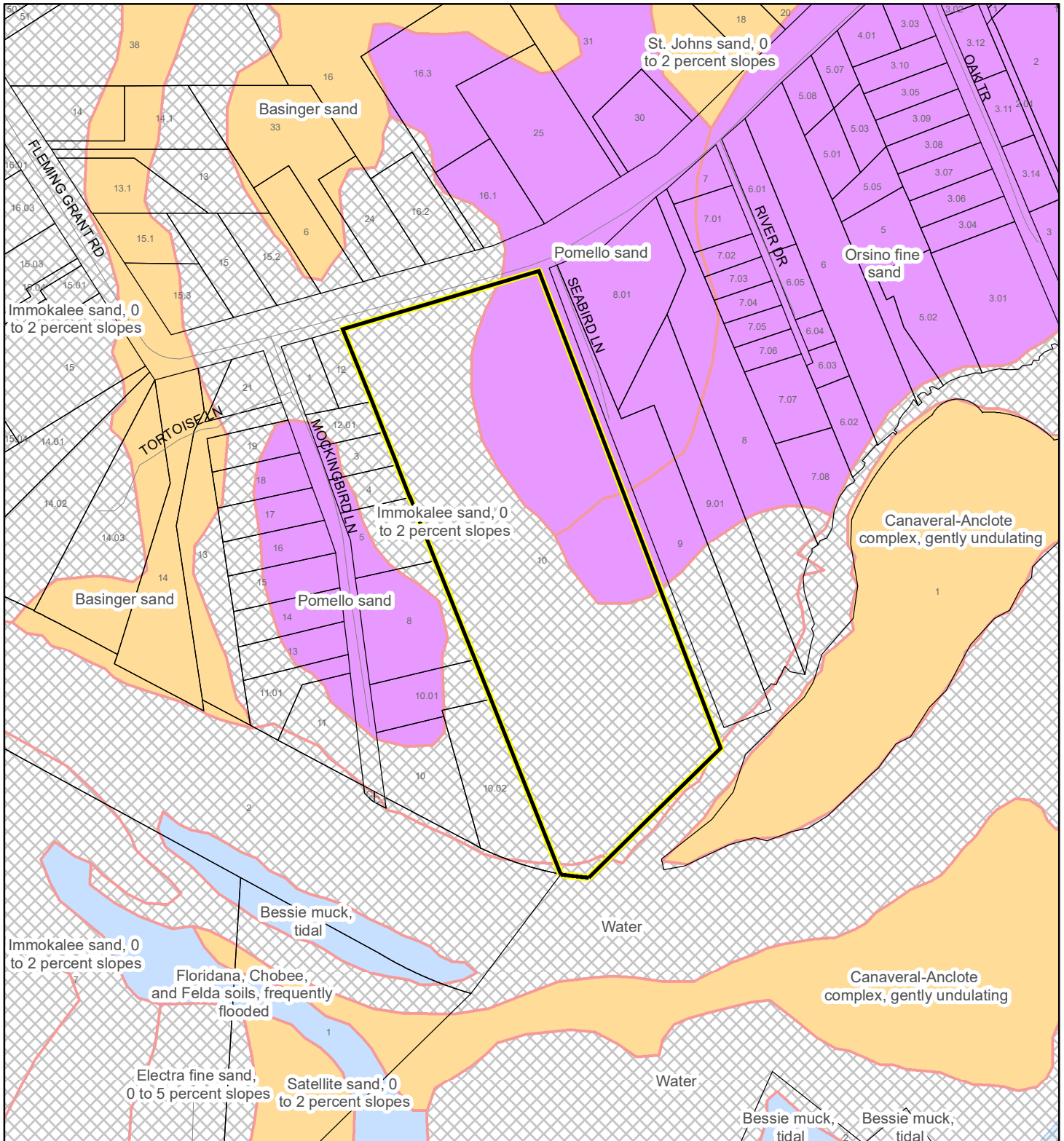
Subject Property

Parcels

# USDA SCSSS SOILS MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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: 9/10/2020

## USDA SCSSS Soils

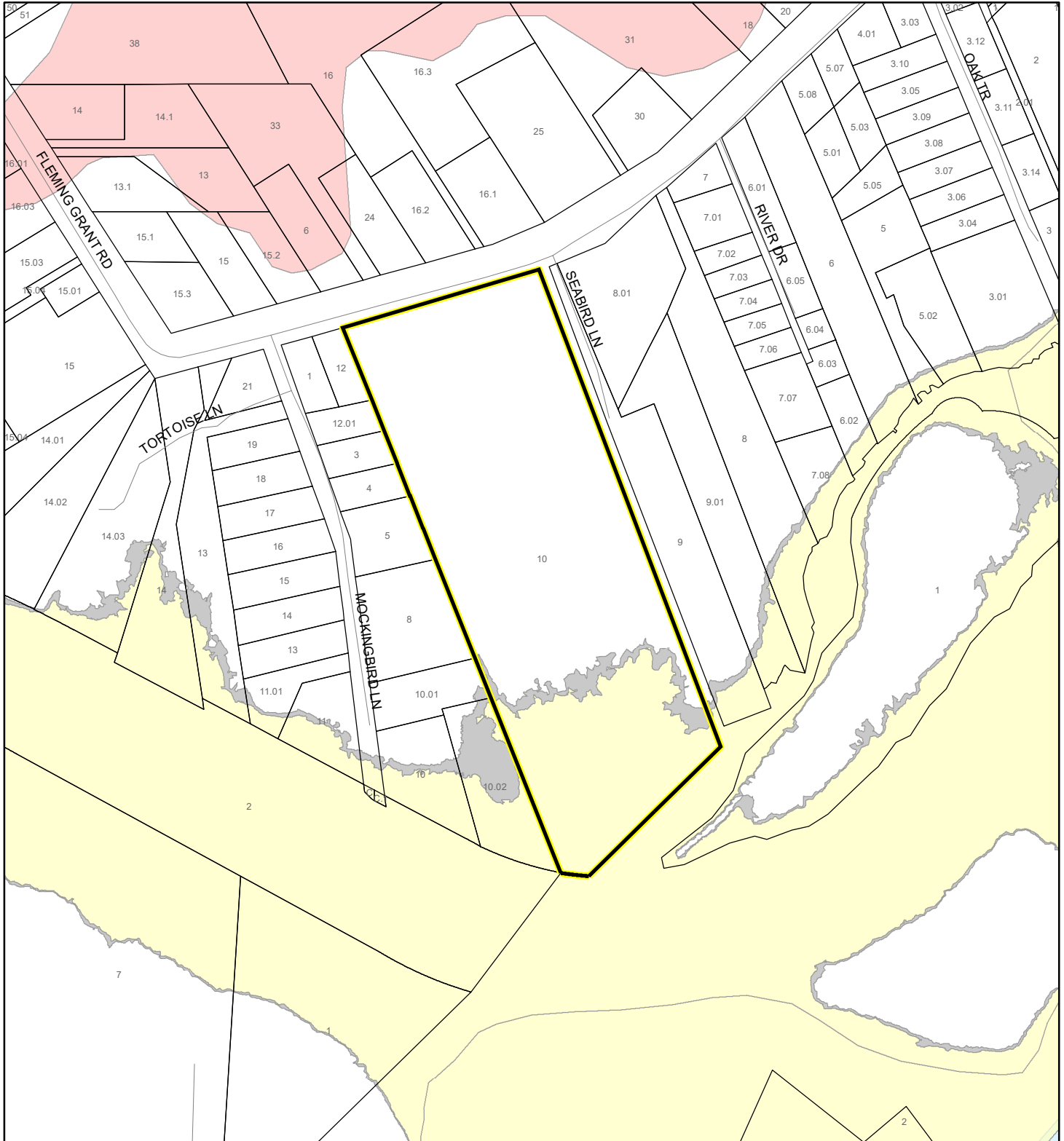
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030















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: 9/10/2020

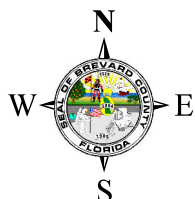
## FEMA Flood Zones

	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

LAZY RIVER INVESTMENTS, LLC


20Z00030



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 9/10/2020

 Subject Property

 Parcels

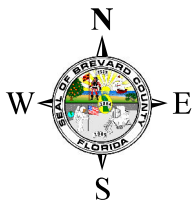
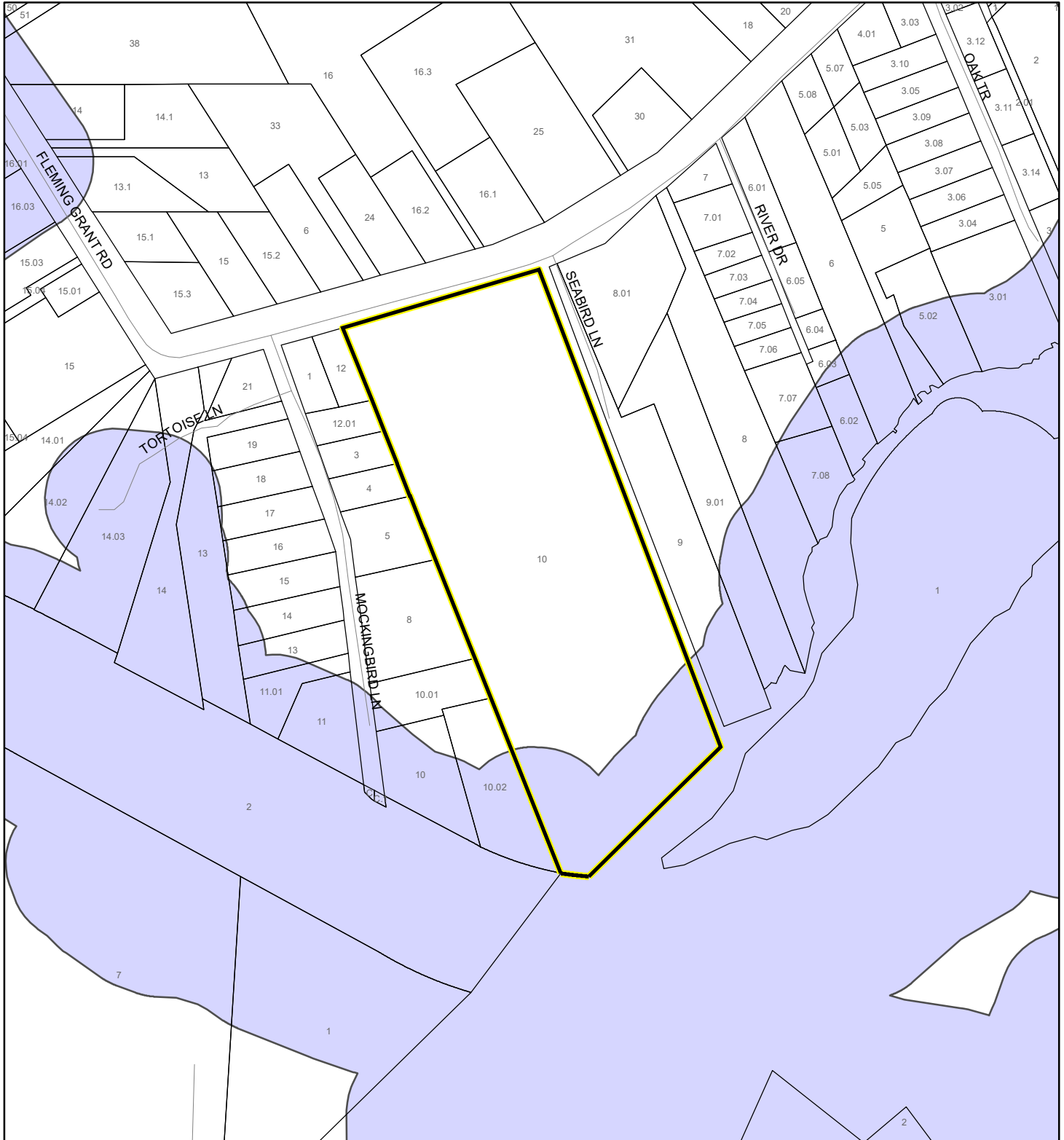
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

 60 Meters

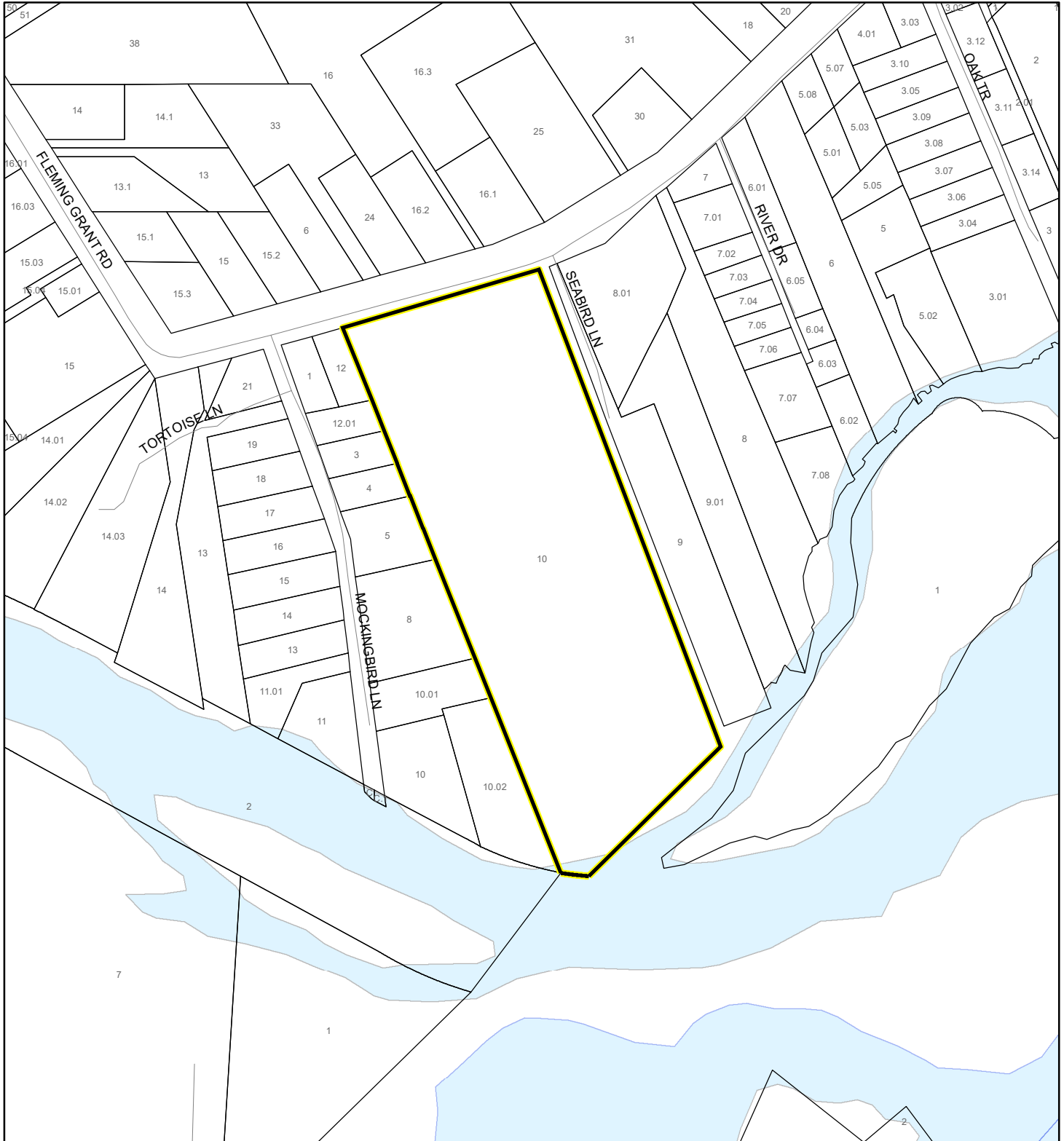
 All Distances



# EAGLE NESTS MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

 Subject Property

 Parcels

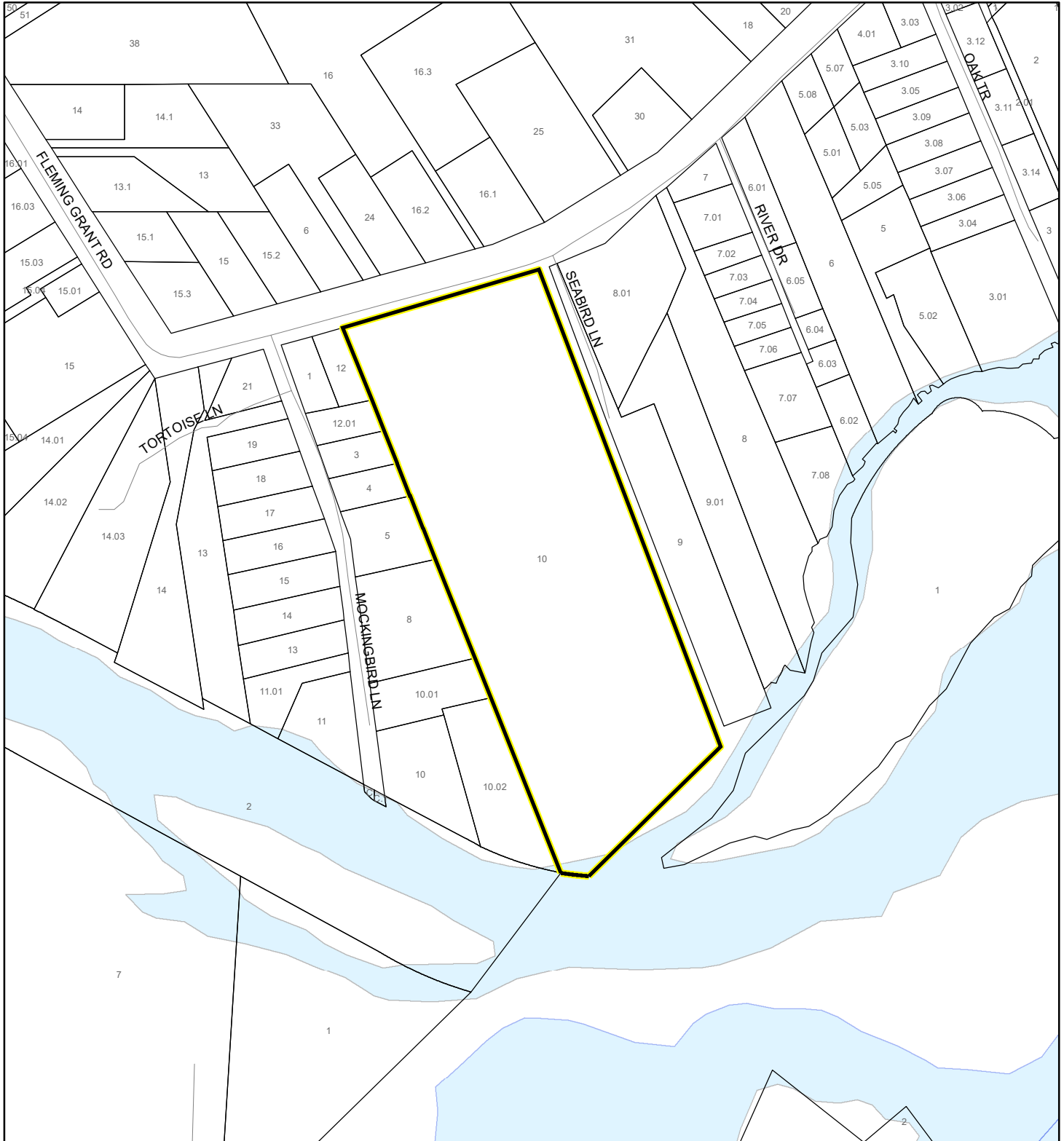


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

LAZY RIVER INVESTMENTS, LLC

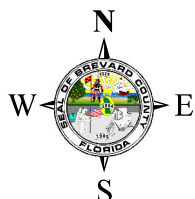
20Z00030



# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/10/2020

## 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

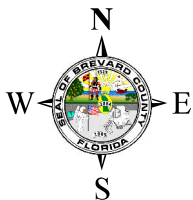
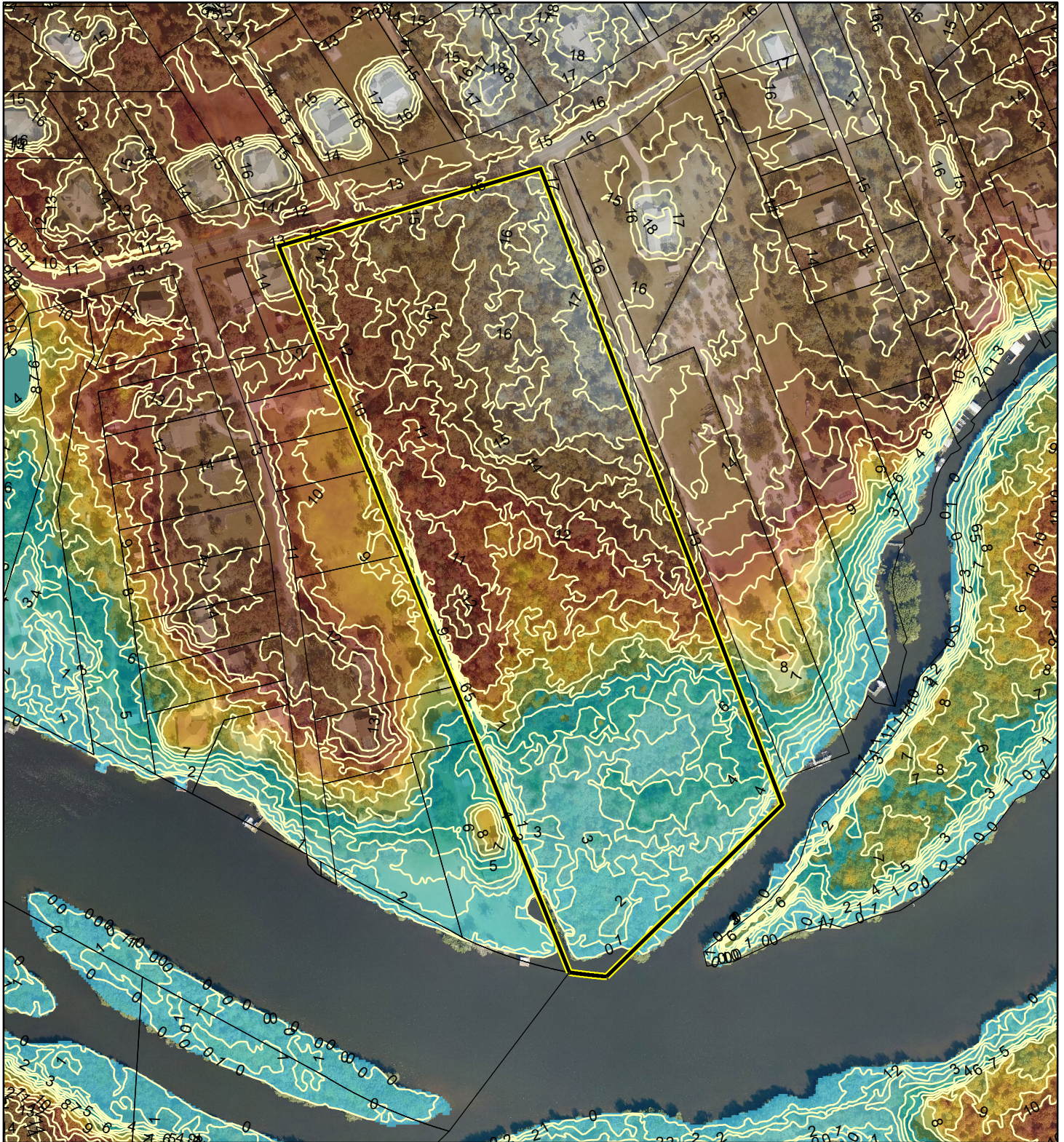
Parcels



# LiDAR and FLOOD MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



1:3,600 or 1 inch = 300 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: 10/20/2020

 Subject Property

 Parcels

 Contour - 1 Ft

 Flood @ 6.3  
NAVD '88  
-27.61497116 - 6.3





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 # 20700030

Existing FLU: Res 1:2.5 Existing Zoning: RU-1-13

Proposed FLU: No change Proposed Zoning: AU(L)

**PROPERTY OWNER INFORMATION**

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

David Bistarkey, Manager Lazy River Investments, LLC

Name(s) Company

1698 W. Hibiscus Blvd., Ste A Melbourne FL 32901

Street City State Zip Code

art.fmdc@gmail.com n/a n/a

Email Phone Cell

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☒ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

Laura Young, Esq. Dean Mead Law Firm

Name(s) Company

7380 Murrell Road, Ste. 200 Viera FL 32940

Street City State Zip Code

LYoung@deanmead.com 321-259-8900 321-751-6106

Email Phone Cell

1

## 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: 20.39

Reason for Request:

The purpose of the request is to acquire a zoning designation that is compatible with the existing future land use for the following property: Tax Account No.: 3008729/BCPAO Parcel ID No.: 30G-38-19-HP-\*-10.

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

Laura Minton Young

Date

9/3/2020

State of FLORIDA

County of BERNARD

Subscribed and sworn to me before me this 3<sup>rd</sup> day of, September, 20 20,

personally appeared LAURA YOUNG, ESQ, who is personally known to me or  
produced \_\_\_\_\_ as identification, and who did / did not take an oath.

Notary Public Signature

Brian M. Stephens

Seal



Office Use Only:

Accela No. 20200030 Fee: \$1,509.00 Date Filed: 9/3/20 District No. 3

Tax Account No. (list all that apply) 3008729

Parcel I.D. No.

30G 38 19 HP \* 10  
Twp Rng Sec Sub Block Lot/Parcel

Planner: Peter J. Martin Sign Issued by: PM Notification Radius: 500ft

MEETINGS

☒ P&Z

☐ PSJ Board

☐ NMI Board

☐ LPA

☐ BOA

☒ BCC

DATE

11/9/2020

TIME

3:00pm

Wetland survey required by Natural Resources ☐ Yes ☐ No Initials N/A

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

☐ Yes ☒ No

If yes, list N/A

Location of subject property:

On the south side of Fleming Grant Road approximate 2,820 feet south west of the intersection of Fleming Grant Road and Primrose Drive.

Description of Request:

Rezoning from Single-Family Residential (RU-1-B) to Agricultural Residential Light (AUL).



ACCELA #

20200030

## DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application	Authorization to Act Form <sup>1</sup>	Recorded Property Deeds	Legal Description of Request <sup>2</sup>	Certified Survey <sup>8</sup>	Property Appraisers Map	Concurrency	School Concurrency <sup>3</sup>	Wetland Survey <sup>4</sup>	CUP Worksheet & Sketch <sup>5</sup>	Comp Plan Information <sup>6</sup>	Notice to Applicants	Neighbors Affidavit <sup>7</sup>	Letter to Zoning Official	Variance Hardship Worksheet <sup>9</sup>	*Additional Documentation	Fees
Staff to check indicating receipt	✓		✓	✓	✓	✓		✓									
Comprehensive Plan Amendment <sup>5</sup>	1	1	1	2	2	1		1		1						*	Y
Zoning request	1	1	1	1	1 <sup>8</sup>	1	1	1			1					*	Y
Conditional Use Permit (CUP)	1	1	1	1	1 <sup>8</sup>	1				1							Y
AA – Waiver	1	1			1	1						1					Y
AA – Easement or Flag lot	1	1	1	1	1	1											Y
Variance	1	1	1	1	1	1									1	*	Y

<sup>1</sup> Authorization to Act form is required, if other than the owner of record is making the application. If the property is not owned in entirety, by the applicant, either a Form "A", or a notarized letter must accompany the application giving written consent by all property owners of the subject property.

<sup>2</sup> Legal Description must be typed on a separate sheet, if not easily described on the deed.

<sup>3</sup> School Board Concurrency application is required if the request represents an increase of more than one residential unit.

<sup>4</sup> Wetland Survey required on Commercial or Industrial property.

<sup>5</sup> CUP applications require a completed worksheet and a sketch plan with the application signed by a planner.

<sup>6</sup> Must include Comprehensive Plan Amendment supplemental form reviewed by a planner prior to submitting formal application. The supplement must include a written statement explaining the rational and the appropriate data and analysis necessary to support the proposed change.

<sup>7</sup> Administrative waivers requiring a signed affidavit from all abutting property owners indicating no objection to the requested waiver of lot size, width or depth requirement. The affidavit must state the specific request.

<sup>8</sup> Survey must be submitted if requested by staff.

<sup>9</sup> Variance Hardship Worksheet must be filled out completely, addressing the six criteria for a hardship.

**\*Additional information may be requested by staff dependent upon the requested action. These include but are not limited to impact analysis studies:**

Traffic Impact Analysis (TIA): TIA must be submitted if required by the County Traffic Engineer. Analysis methodology must be coordinated with the Traffic Engineering Office.

Environmental Impact Analysis: The analysis must be conducted by a qualified environmental professional and dated less than one year old. The analysis must document the types of habitat found on site; identify vegetation types, soils types, wetlands, floodplain, and any other environmental concerns.

Water and Sewer Demand: Identify the potable water and sanitary sewer demand for the amendment based on the current and proposed future land use designations using the per capita water and wastewater standards of the applicable service provider.

207 00030

## CALCULATION OF PUBLIC HEARING APPLICATION FEES -ZONING OFFICE

## PUBLIC HEARING APPLICATION FEES

## BASE FEE

## ACREAGE FEE

## UNIT FEE

## SUB-TOTAL

## REZONING

Environmental Area	511.00			
Residential Professional	960.00			
General Use and Agricultural Use	849.00* (	-5) x 24**		
Single-Family Residential	849.00* (	-5) x 24**		
Single-Family Mobile Home	849.00* (	-5) x 24** = 15 x 24 = 360		\$ 1209.00
Commercial/Planned Commercial	1,184.00 (	) x 24		
Tourist Commercial	1,855.00 (	) x 45		
Industrial/Planned Industrial	1,855.00 (	) x 45		
Planned Unit Development	5,661.00 (	) x 45		
Single-Family Attached Residential	960.00	( ) x 24		
Multiple-Family Residential	960.00	( ) x 24		
Recreational Vehicle Park	1,408.00	( ) x 24		
Mobile Home Park/Mobile Home Co-op	1,408.00	( ) x 24		

## CUP'S OR ROU APPLICATIONS

Fee per request (with rezoning)	447.00	
Fee per request (without rezoning)	849.00	

## OTHER APPLICATION FEES

Consultant fee Retainer per Tower Application	6,934.00	
Transfer of Development Rights	1,520.00	
Comprehensive Plan Appeals (Vested Rights)		
One (5.0 acres or less) Single-family residential	433.00	
All other Appeals	1,733.00	
Variance/Appeals of Administrative Interpretation		
Base Fee	598.00	
Fee for each additional request	182.00	
Special Hearing Fee for P & Z / LPA	3,692.00	
Special Hearing Fee for BOA	1,872.00	
All Other Unlisted Zoning Applications	849.00	
Miscellaneous		

## COMPREHENSIVE PLAN AMENDMENTS

Small Scale Amendment	919.00	
Large Scale Amendment	1,785.00	\$43 per acre
Maximum Fee on a Single Application	17,334.00	

SUB-TOTAL \*\*\*/\*\*\*\*

## FEES COLLECTED FOR ADMINISTRATIVE ACTIONS

Office of Natural Resources zoning review (if applicable)	300.00	
flag lot &/or easement review	360.00	
Land Development PUD review	100.00	
flag lot &/or easement review	150.00	
Address Assignment review of flag lot &/or easement	100.00	
Zoning fee	277.00	

## BASE FEE ADJUSTMENTS

* If area for these requests have the potential for only one more lot, the fee is	288.00	
** Maximum acreage fees for these requests shall be	2,240.00	
*** Maximum Planned Unit Development Fee shall be	13,432.00	
**** Maximum fee for all other zoning requests shall be	8,955.00	

TOTAL



Planning & Development

Central Cashier

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Melbourne, FL 32940

## RECEIPT OF PAYMENT

Payment Date: 9/4/2020  
Receipt #: 578986  
Transaction Id# 80738765

Payment Method	Payment Reference #	Amount Paid	Comments
e-Check	80738765	\$1,509.00	
		\$1,509.00	Total

FL

Zoning Rezoning \$1,509.00

**20Z00030**

Fee	Invoice #	Amount
Rezoning General Use and Agriculture Use	680893	\$1,209.00
Rezoning Natural Resources Review	680893	\$300.00

**Grand Total** \$1,509.00

Additional Fees may apply to obtain a Certificate of Completion, a Certificate of Occupancy, Pre-Power, or Final Inspection.  
To verify fees please visit the Brevard County Planning & Development Search.

[www.brevardcounty.us/PlanningDev](http://www.brevardcounty.us/PlanningDev)

P (321) 633-2068 F (321) 633-2052





**Zoning Information Worksheet**

Owner(s):

Lazy River Investments, LLC

(Does this match the warranty deed?)

Applicant(s):

Laura Young, Esq. (w/Dean Mead Law Firm)

(Does this person have authorization from everyone listed on the warranty deed?)

Parcel ID#:

30G-38-19-HP-\* -10

(If more than one parcel, they must share a property line to be on the same application.)

Present Zoning:

Single-Family Residential (RU-1-13)

Is there a BDP or a CUP on the property? Yes/No:

No

(If yes, attach BDP)

N/A

Existing BDP states:

N/A

Requested Zoning/CUP:

Agricultural Residential Light (AU(L)).

BDP Requested? Yes/No:

No

If CUP Request, do you have a CUP worksheet filled out by the applicant? Yes/No

Previously Approved Zoning Actions on lot:

Z-2980, Blanket rezoning from RU-1 to RU-1-13  
DNZ-denied rezoning 19PZ00093

Is this a non-conforming lot of record? Yes/No: Why?

Non-Conforming to: No, however, zoning is not consistent with  
Future Land Use Map (FLUM) designation of the Comprehensive  
Plan.

Is this a substandard lot? Yes/No: Why?

It meets minimum lot area and dimension  
requirements of current RU-1-13 zoning classification.

What is the FLU Designation of the property?:

Residential 1:2.5 (RES 1:2.5)

- Is the requested zoning consistent with the FLU? Yes/No (See compatibility table)
- If no, what is the requested small scale plan amendment? (Must be 10 acres or less)

N/A

Character of the Area – List the recent zoning changes in same section? (Last 3 years)

Action #, Date of action and State what changed?

Z# on subject lot 19PZ00093 Rezoning w/BDP limiting  
to 8 lots Denied on 12/5/2019.  
19PZ00008 AA for a flag lot 1,220 ft to  
north

8



If this is a CUP request, list all CUP's on adjacent properties:

N/A

Abutting property zoning: N

Road

S

River

E

W/RR-1 on  
otherside

W RU-1-13

JPA/Special Board/Special Section? Yes/No (Circle one and make a note on the application) PSJ, NMI, MIRA  
ROCKLEDGE, MELBOURNE, PALM SHORES, TITUSVILLE, PALM BAY or within 500' of PALM BAY EXTENSION

Reason for Rezoning Request:

to acquire a zoning designation  
that is compatible with the ~~current~~ future land use for the subject property.

- If proposing single-family or multi-family how many units? 8
- If proposing a CUP for alcohol, how many seats? N/A Bar or Restaurant? N/A
  - Do you have a certified survey indicating there are no churches or schools within 400'? Yes/No
  - Do you have a site plan showing the layout and parking configuration? Yes/No
  - Do you have a CUP worksheet filled out by the applicant? Yes/No
- If the request is for commercial zoning, do you have a wetland survey that includes a legal description of the wetland? Yes/No (If no, NR must have checked no on the front of the application)

Existing structures/uses on the property?

Vacant - no structures &  
No uses

Describe the character of the area based upon Administration Policy 3 of FLUE (attached):

Low density Single Family Residential

Concerns raised as part of request:

Issues

Other options discussed with applicant:

Agricultural Residential (AR);  
AUL and RRMH-S. Applicant chose AR  
for business reasons.

Did you print out the Property Appraiser's Map for this property?

Did you mark the map?

Did you stamp the deed(s)?

Planner Signature

Date

9/3/20

### **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;
- 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 an 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.

## 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:

LYOUNG@DEANMEAD.COM or ( ) or U.S. Mail \_\_\_\_\_  
e-mail address fax number

☒ Yes ☐ No

I have received a copy of this notice:

\_\_\_\_\_  
(APPLICANT SIGNATURE)

Laura Minton Young

11



Prepared by and Return to:  
PRECISE TITLE, INC  
Karen S. Solomon  
201 Sixth Avenue  
Indialantic, Florida 32903  
Our File Number: 24230  
Incidental to the issuance of a title insurance  
commitment/policy

THIS INSTRUMENT CONTAINS THE OFFICIAL  
RECORD BOOK AND PAGE NUMBERS DESCRIBING  
THE PARCELS TO BE ADVERTISED.

  
SIGNATURE

For official use by Clerk's office only

STATE OF Florida )  
 )  
COUNTY OF Brevard )

SPECIAL WARRANTY DEED

THIS INDENTURE, made this May <sup>9<sup>th</sup></sup> 2019, between Douglas Robertson and Cindy Robertson, husband and wife, whose mailing address is: 4085 Lake Washington Road, Melbourne, Florida 32934, party of the first part, and Lazy River Investments, LLC, a Florida limited liability company, whose mailing address is: 1698 W Hibiscus Blvd., Suite A, Melbourne, Florida 32901, party/parties of the second part,

WITNESSETH:

First party, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, aliens, remises, releases, conveys and confirms unto second party/parties, his/her/their heirs and assigns, the following described property, to wit:

Lot (s) 10 and 11, Frank H. Allen Subdivision of 136 Acre Tract of the Fleming Grant, according to the map or plat thereof, as recorded in Plat Book 1, Page(s) 77, of the Public Records of Brevard County, Florida.

Parcel Identification Number: 30G-38-19-HP-\*-10

Subject, however, to all covenants, conditions, restrictions, reservations, limitations, easements and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

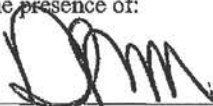
TO HAVE AND TO HOLD the same in fee simple forever.


AND the party of the first part hereby covenants with said party of the second part, that it is lawfully seized of said land in fee simple: that it has good right and lawful authority to sell and convey said land; that it hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons claiming by, through or under the party of the first part.


(12)


IN WITNESS WHEREOF, first party has signed and sealed these present the date set forth on May 9th, 2019.

Signed, sealed and delivered  
in the presence of:

  
\_\_\_\_\_  
Witness signature  
**Karen S. Solomon**  
\_\_\_\_\_  
Print witness name

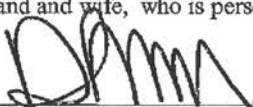
  
\_\_\_\_\_  
Witness signature  
**Deborah Benoit**  
\_\_\_\_\_  
Print witness name

  
\_\_\_\_\_  
Douglas Robertson  
4085 Lake Washington Road  
Melbourne, Florida 32934

  
\_\_\_\_\_  
Cindy Robertson  
4085 Lake Washington Road  
Melbourne, Florida 32934

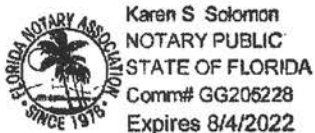
State of Florida  
County of Brevard

THE FOREGOING INSTRUMENT was acknowledged before me this May 9th, 2019 by Douglas Robertson and Cindy Robertson, husband and wife, who is personally known to me or who has produced a drivers license as identification.

  
\_\_\_\_\_  
Notary Public  
**Karen S. Solomon**  
\_\_\_\_\_  
Print Notary Name

My Commission Expires: \_\_\_\_\_

Notary Seal





BOARD OF COUNTY COMMISSIONERS

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

## AUTHORIZATION TO ACT ON BEHALF OF OWNER

I, Arthur F. Evans, III, as manager of Lazy River Investments, LLC,

authorize Laura Minton Young, Dean Mead Law Firm

to act on my behalf, which may include representing me in public hearings pertaining to the submittal of the attached application.

Choose the applicable application type. More than one may apply.

☐ Administrative Action

☐ Comprehensive Plan Amendment

☐ Development Plan

☒ Rezoning

☐ Variance

Signature Arthur F. Evans, III

Date Sept 8, 2020

State of Florida

County of Brevard

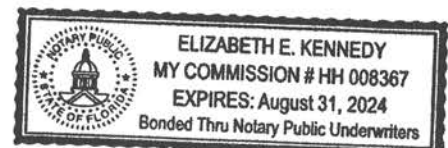
The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of Sept, 20 20

by Arthur F. Evans, III, who is personally known to me or has produced

as identification, and who did or did not take an oath.

[Signature]  
Signature of Notary

Seal:





BOARD OF COUNTY COMMISSIONERS

**Planning and Development**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940

**AUTHORIZATION TO ACT ON BEHALF OF OWNER**

I, David Bistarkey, as Manager of Lazy River Investments, LLC,

authorize Laura Minton Young (Dean Mead Law Firm)

to act on my behalf, which may include representing me in public hearings pertaining to the submittal of the attached application.

Choose the applicable application type. More than one may apply.

- |  |   |
|--|---|
| <input type="checkbox"/> Administrative Action | <input type="checkbox"/> Comprehensive Plan Amendment |
| <input type="checkbox"/> Development Plan      | <input checked="" type="checkbox"/> Rezoning          |
| <input type="checkbox"/> Variance              |   |

[Signature]  
Signature

9/2/2020  
Date

State of Florida

County of Brevard

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of September, 20 20  
by David Bistarkey, who is personally known to me or has produced  
\_\_\_\_\_ as identification, and who did or did not take an oath.

Marlaine B. Mattox  
Signature of Notary

Marlaine B. Mattox

Seal:



10



**Electronic Articles of Organization  
For  
Florida Limited Liability Company**

L19000101633  
FILED 8:00 AM  
April 12, 2019  
Sec. Of State  
jafason

**Article I**

The name of the Limited Liability Company is:

LAZY RIVER INVESTMENTS, LLC

**Article II**

The street address of the principal office of the Limited Liability Company is:

1698 W HIBISCUS BLVD  
SUITE A  
MELBOURNE, FL. 32901

The mailing address of the Limited Liability Company is:

1698 W HIBISCUS BLVD  
SUITE A  
MELBOURNE, FL. 32901

**Article III**

The name and Florida street address of the registered agent is:

ARTHUR F EVANS  
1698 W HIBISCUS BLVD  
SUITE A  
MELBOURNE, FL. 32901

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: ARTHUR F EVANS, III

#### **Article IV**

The name and address of person(s) authorized to manage LLC:

Title: MGR  
LAZE-E-J, LLC  
1698 W HIBISCUS BLVD STE A  
MELBOURNE, FL. 32901

Title: MGR  
DAVID BISTARKEY  
1698 W HIBISCUS BLVD STE A  
MELBOURNE, FL. 32901

L19000101633  
FILED 8:00 AM  
April 12, 2019  
Sec. Of State  
jafason

#### **Article V**

The effective date for this Limited Liability Company shall be:

04/08/2019

Signature of member or an authorized representative

Electronic Signature: ARTHUR F EVANS III

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

**OPERATING AGREEMENT**

**OF**

**LAZY RIVER INVESTMENTS, LLC**

**OPERATING AGREEMENT**  
**OF**  
**LAZY RIVER INVESTMENTS, LLC**

THIS OPERATING AGREEMENT OF LAZY RIVER INVESTMENTS, LLC, a Florida limited liability company, is made and entered into effective the   /   day of May, 2019, by and among LAZY-E-J, LLC a Florida limited liability Company and David Bistarkey, (each referred to individually as a “**Member**” and, collectively, as the “**Members**”).

**R E C I T A L S**

A. The Members formed LAZY RIVER INVESTMENTS, LLC, a Florida limited liability company (the “**Company**”), effective April 12, 2019 by filing Articles of Organization with the Secretary of State of Florida.

B. The Members now desire to adopt this Agreement to evidence their agreement and understanding concerning the Company, the Company’s business assets and operations, the Company’s governance, the rights of the Members upon the dissolution or liquidation of the Company and the Members’ interest in the Profits, Losses, capital and liabilities of the Company in accordance with the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed that the statements of fact contained in Paragraphs A and B of the Recitals above are true and correct and are incorporated herein and made a part hereof; and the parties further agree to the terms and conditions set forth in this Agreement.

**ARTICLE 1 - DEFINITIONS**

Section 1.1 **Definitions.** Capitalized terms that are used in this Agreement have the meanings provided in this Article 1 unless defined elsewhere herein.

“**Act**” means the Florida Revised Limited Liability Company Act, Chapter 605 of the Florida Statutes, as such Chapter may be amended or revised from time to time.

“**Affiliate**” of a Member or the Company means a Person that controls, is controlled by or is under common control with such Member or with the Company. As used in this definition, the term “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise. Ownership of more than fifty percent (50%) of the beneficial interests of a Person shall be conclusive evidence that control exists.

injunctive relief shall be in addition to any other rights or remedies available to the Company. The parties agree that the Company shall not be required to post any bond in connection with seeking such injunctive relief.

Section 8.4 Non-Competition/Non-Solicitation. Notwithstanding § 605.04091(2) of the Act, any Member or Manager may engage in or possess an interest in other business ventures of every nature and description, independently or with others, whether or not similar to or in competition with the business of the Company, and neither the Company nor the Members will have any right by virtue of this Agreement in or to such other business ventures or to the income or profits derived therefrom. Unless otherwise agreed to, no Manager will be required to devote all of that Manager's time or business efforts to the affairs of the Company, but is to devote so much of that Manager's time and attention to the Company as is reasonably necessary and advisable to manage the affairs of the Company to the best advantage of the Company.

## **ARTICLE 9 - MANAGEMENT OF THE COMPANY**

Section 9.1 Manager-Managed Company; Appointment and Tenure of Managers. The Company shall be a manager-managed limited liability company as described in § 605.0407 of the Act. The initial Managers of the Company shall be Arthur F. Evans, III and David Bistarkey. Any Manager may be replaced or removed as a Manager with or without cause by the Majority Members.

Section 9.2 Authority and Power of Managers. Except as otherwise provided by the Act or this Agreement, the Managers shall have and enjoy all the rights and powers to do all things necessary to carry out the business of the Company and shall have the sole and exclusive right to manage the business of the Company on behalf of the Company.

Section 9.3 Limitations Upon Authority of Managers. Notwithstanding anything in Section 9.2 above to the contrary, the Managers shall not do (or enter into any contracts to do) any of the following on behalf of the Company without first obtaining the consent of the Majority Members to:


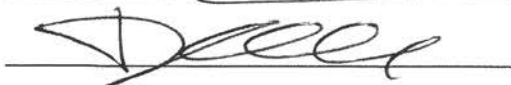

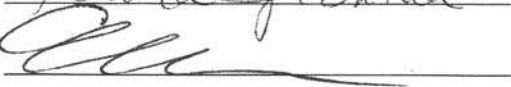
- A. cause the dissolution of the Company; or
- B. sell, lease, exchange, transfer, assign, convey, manage or otherwise dispose of the Company's assets other than in the ordinary course of the Company's business.

Section 9.4 Acts of the Manager. Except as otherwise provided in this Agreement, all management decisions shall be made by the Manager. In accordance therewith, the signature of the Manager shall be required to evidence such consent, and no contract shall be effective unless signed the Manager. If there is more than one Manager, and if the Managers are unable to come to a decision with respect to any matter, then such matter will be submitted for a vote of the Members and shall be decided by the Majority Members.

Section 9.5 Statement of Authority. As provided in § 605.0302 of the Act, the Company may file a statement of authority with the office of the Secretary of State of Florida with respect

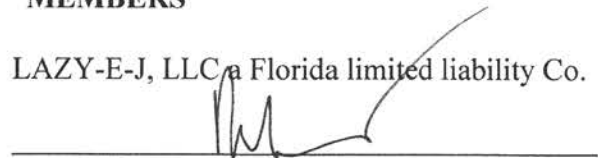
IN WITNESS WHEREOF, this Agreement has been entered into as of the day and year first above written.

WITNESSES:

**"MEMBERS"**

LAZY-E-J, LLC a Florida limited liability Co.

  
Arthur F. Evans, III, as Manager

  
David Bistarkey



Plat of the Subdivision of a part of land  
in the Fleming Grant, Florida  
Subdivided by R. B. Bousfield  
July 16-20-1891  
State was first - 1 map  
County Survey  
Florida Co. Florida

State of Connecticut  
County of New London  
Be it remembered that the following is a  
true copy of a plat of a survey of 150 acres and of a subdivision of the same  
into 100 lots of approximately 1 1/2 acres each, as appears from the  
survey made by R. B. Bousfield July 16 & 20 1891, and that being a  
part of the so called Fleming Grant, Bousfield County, Florida.  
Given under my hand and seal of office this 17th day of May 1894.  
John H. Allen  
County Clerk

For Report see pp. 75

The above plat was filed June 10 1894  
and may be seen  
at the office  
of the  
County Clerk

Witnessed & signed July 15  
J. O. Allen  
County Clerk

10 21  
5 25  
5 25  
5 71





# Brevard County Property Appraiser

Titusville • Viera • Melbourne • Palm Bay

## PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account	3008729
Owners	Lazy River Investments LLC
Mailing Address	1698 W Hibiscus Blvd, Ste A Melbourne FL 32901
Site Address	Not Assigned
Parcel ID	30G-38-19-HP-*-10
Property Use	0010 - Vacant Residential Land (Single Family, Platted)
Exemptions	None
Taxing District	3400 - Unincorp District 3
Total Acres	20.39
Subdivision	Allen Et AL Subd Of S 136 Acre Tract Grant Secs
Site Code	0130 - Canal Front
Plat Book/Page	0001/0077
Land Description	Allen Et AL Subd Of S 136 Acre Tract Grant Secs Lots 10,11

## VALUE SUMMARY

Category	2020	2019	2018
Market Value	\$633,000	\$591,890	\$732,960
Agricultural Land Value	\$0	\$0	\$0
Assessed Value Non-School	\$633,000	\$591,890	\$732,960
Assessed Value School	\$633,000	\$591,890	\$732,960
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$633,000	\$591,890	\$732,960
Taxable Value School	\$633,000	\$591,890	\$732,960

## SALES/TRANSFERS

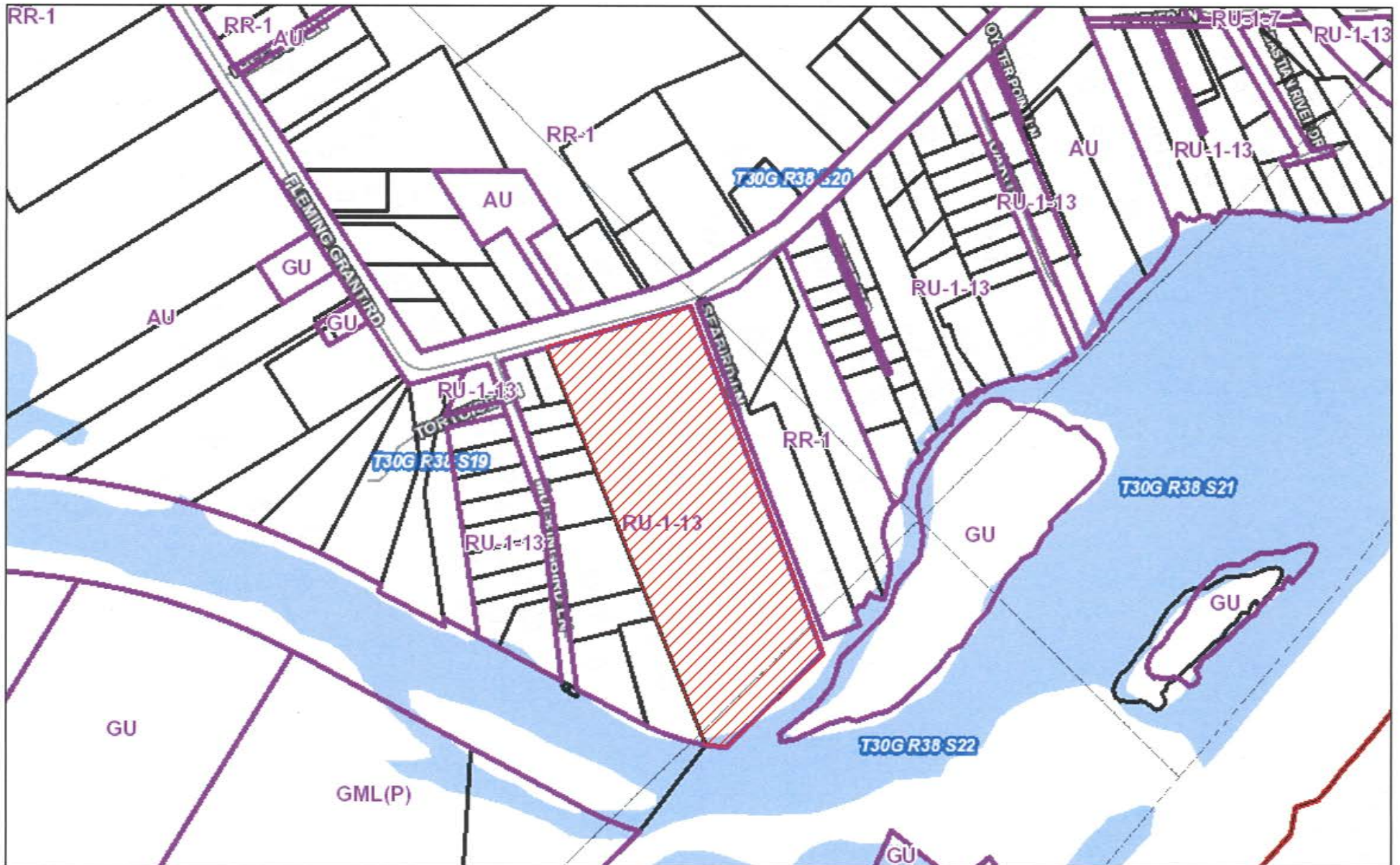
Date	Price	Type	Parcel	Deed
05/09/2019	\$700,000	WD	Vacant	8435/0416
08/30/2018	\$650,000	WD	Vacant	8258/1532
10/09/2003	--	WD	Vacant	5089/0284
08/30/1993	--	WD	Vacant	3319/0854
07/01/1982	\$210,000	WD	--	2377/0703
05/01/1981	--	PT	--	2297/1925
07/12/1979	--	QC	--	2095/2980

No Data Found





Account #: 3008729



■ Zoning

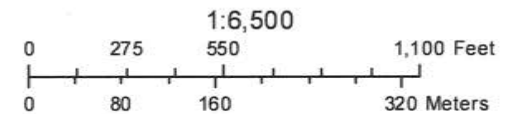
□ Section



City (Large Scale)

□ CAPE CANAVERAL

September 9, 2020



Prepared by: Brevard County BOCC GIS  
© Brevard County Board of County Commissioners

Owner's Name: Lazy River Investments

Hearing Date: November 9, 2020

202 00030

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

STATE OF FLORIDA  
COUNTY OF BREVARD

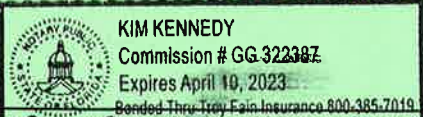
Before me, this undersigned authority, personally appeared, Brian Lock,  
to me well known and known to me to be the person described in and who executed the foregoing  
affidavit, after being first duly sworn, says:

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 19 day of October 2020.



(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.#
10/16/2020	Tax acct # 3008729A	20Z00030



Brian Lock

### COUNTY EXHIBIT

#### Composite A – Photos

Dated: \_\_\_\_\_ to \_\_\_\_\_

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 9, 2020**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher; Harry Carswell; Ben Glover; Mark Wadsworth, Chair; Ron McLellan; Joe Buchanan; and Peter Filiberto.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Lazy River Investments (Laura Young)**

A change of zoning classification from RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential, Low-Intensity). The property is 20.39 acres, located on the southwest corner of Fleming Grant Road and Seabird Lane. (No assigned address. In the Micco area.) (20Z00030) (Tax Account 3008729) (District 3)

Laura Young, with the law firm of Dean Mead, 7380 Murrell Rd., Melbourne, stated she knows the board is familiar with the property, as this is the third time the applicant has been before the board in the last 18 months seeking to zone the property properly to be consistent with the current Future Land Use. Currently, the property is zoned RU-1-13, along with most of the properties in the area that were zoned prior to the 1988 Comprehensive Plan adoption, and is now inconsistent with the current Future Land Use, which is one unit per 2.5 acres. The requested AU(L) would make the property consistent with the Future Land Use, and it would be a down-zoning of the property from RU-1-13. She said in an effort to develop the property consistent with the surrounding residential properties, the applicant came before the board on two other prior occasions with zoning applications, both of which the Planning and Zoning Board approved. The first request was for a large scale comprehensive plan amendment to amend the Future Land Use from RES 1:2.5 to RES 1, with a BDP to preserve the development to be consistent with RES 1. She said the request was denied by the Board of County Commissioners, but if it had been approved it would have yielded approximately 20 lots on the property. She stated the second application was for a BDP to limit the property to eight units, and that was in an effort to address some of the concerns from the neighbors of the number of units on the property. That request for a BDP was also denied by the Board of County Commissioners. She said in working with staff, her clients are now seeking a zoning designation compatible with the current Future Land Use that would limit the site to eight lots, or 1 per 2.5 acres. The request is the first step in the process for development. Staff recommended either AU or AU(L), as they are compatible with the Future Land Use and consistent with the surrounding residential area. She said her clients chose the AU(L) zoning classification because it limits the type of agricultural uses by permitting only those that are of a personal, non-commercial, nature, which is more consistent with the residential uses in the area. The AU(L) zoning requires a minimum of 2.5 acres per lot, which is larger than many of the lot sizes that have been developed in that area because they were developed consistent with the RU-1-13 zoning classification. The site faces other development challenges and it may be difficult to engineer the site to be able to yield eight lots, and AU(L) affords some flexibility for lot configurations.

Public comment.

Bruce Moia, MBV Engineering, 1250 W. Eau Gallie Blvd., stated he represented the property owners the last two times in front of the board. He said there are three ways to make the property buildable:

one is to change the zoning; one is to change the Future Land Use; and one is a BDP. He said they tried all three and they did not get approved. He said this request is similar to the Item H.1. on the agenda. In 1988, the County adopted a Comprehensive Plan, and whatever the existing zoning was on property, whether it was consistent or not, the Comp Plan got adopted and the County said it was going to make everybody who owns property that is not consistent come in and ask for it to be consistent. The request to AU(L) will make the zoning consistent with the Comp Plan. He said this is the last way the property can be brought into conformance and it's the simplest.

Ben Glover clarified that this request is the least-dense option for the property that the board has heard.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of zoning classification from RU-1-13 to AU(L). The motion passed unanimously.



# MHOA

MICCO HOME OWNERS ASSOCIATION, INC.

## MHOA OFFICERS

Chelle Woods,  
President

Ted Beck,  
Vice President

Anne Briggs,  
Secretary

Henriette Daulton,  
Treasurer

## DIRECTORS

Jan Black  
Jim Dunn  
Sue Olson  
Joan Legue  
Wilma Weglein

Contact Us:  
Miccohomeowners  
@aol.com

TO: Commissioner Tobia

RE: 20Z00030 – Lazy River Investments – Fleming Grant Road, Micco.

DATE: 11/20/2020

**Micco Homeowners Association is in favor of the proposed AU(L) zoning change to 1:2.5 with a maximum 8 homes on this 20 acre property.**

We do, however, have the same strong issues we had in 2019 due to the fact **there is no current BDP for this development** located directly on the St Sebastian River which flows directly into the Indian River Lagoon. **Our focus is the continued need to protect the health of the Indian River Lagoon by limiting contaminants flowing into the St Sebastian River.**

**Therefore we request that you consider:**

- **NO HOMES within the Coastal High Hazard Area.** Development within this 5-acre area is a direct threat to the River and the Indian River Lagoon due to homeowner contaminants, pesticides, drain field/septic leaks and excess storm water runoff flowing directly into the river. Comments in 2019 from DEO and ECFRPC also support this need. **Please require all 8 homes be located outside this Coastal High Hazard Area.**
- **STORM WATER needs to be captured outside of the Coastal High Hazard Area which is also an AE Flood Zone.** The new BDP needs to designate where and how Stormwater will be captured within this development.
- **ADVANCED SEPTIC must be required** for all new homes near the Coastal High Hazard Area which is also an AE flood zone and drain fields need to be kept out of this area. In 2019, SJRWMD, DEP, DEO recognized the importance of removing 65% nitrogen with Advanced Septic on this property.
- **NO FILL DIRT within AE Flood Zone.** FEMA's Base Flood Elevation is 5.3 feet NAVD for this flood zone. This means a lot of fill dirt is required to elevate or "flood proof" each home within this area. What happens to the flood waters? How do the existing specimen trees survive the fill dirt?

**To preserve the health of the IRL, please require a current BDP for this development with a maximum of 8 homes located outside the Coastal High Hazard Area.**

Sincerely,

Chelle Woods, MHOA President, 9912 Riverview Drive Micco



# COASTAL HIGH HAZARD AREA MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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: 9/10/2020

— Subject Property

□ Parcels

**Coastal High Hazard Area**

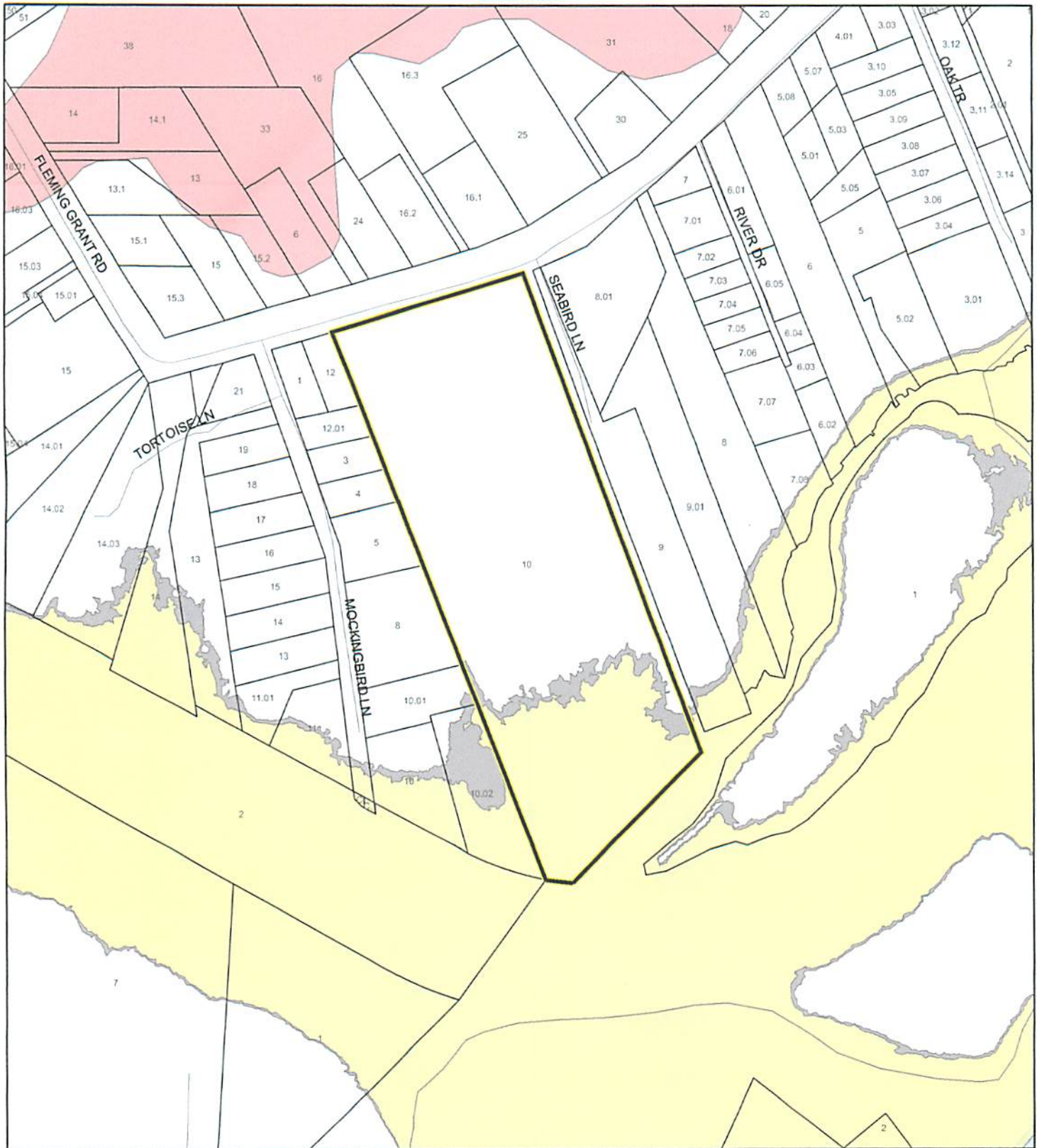
■ SurgeZoneCat1



# FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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: 9/10/2020

## FEMA Flood Zones

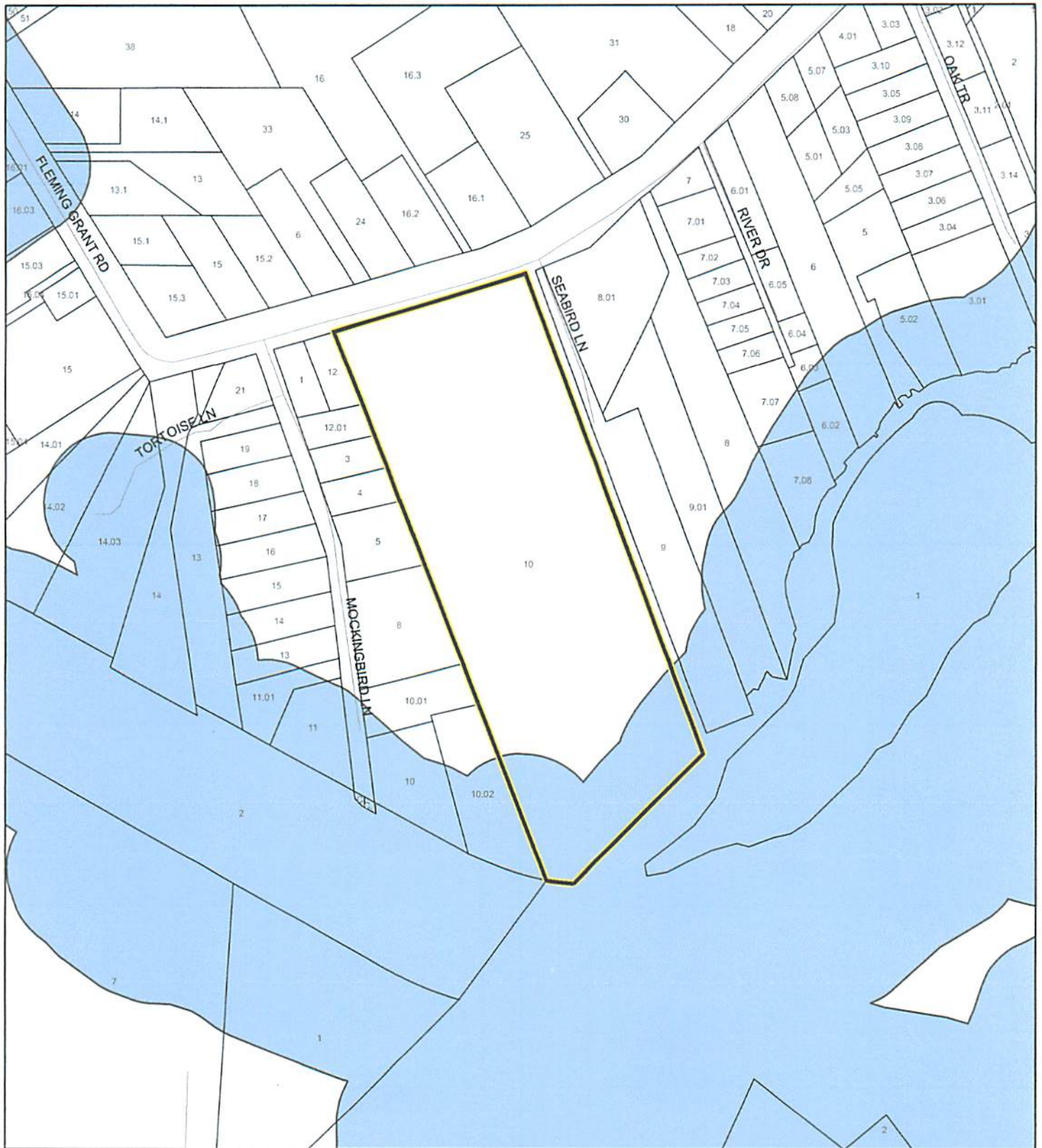
A	AO	X
AE	Open Water	X Protected By Levee
AH	VE	
0.2 Percent Annual Chance Flood Hazard		
0.2 Percent Annual Chance Flood Hazard Contained in Channel		
Subject Property		Parcels



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAZY RIVER INVESTMENTS, LLC

20Z00030



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: 9/10/2020

Subject Property

Parcels

**Septic Overlay**

40 Meters

60 Meters

All Distances

**From:** [lindyb@cfl.rr.com](mailto:lindyb@cfl.rr.com)  
**To:** [Commissioner, D3](#); [Commissioner, D3](#)  
**Subject:** Item H6 of Thursday's Zoning Meeting  
**Date:** Monday, November 30, 2020 4:02:16 PM

---

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

Dear Commissioner Tobia:

I understand that there will be a Zoning Meeting this coming Thursday, December 3, 2020, at which item H6 is a request by Lazy River Investments to change zoning for a piece of property from Fleming Grant Rd to the shoreline of the St Sebastian River, which could result in 8 homes being built in this area.

I do not object to the change per se, but there are some environmental issues that need to be addressed when this change is granted. Two of the most important among them are:

1. No homes should be built in the Coastal High Hazard Area, as this could be a further threat to the health of the Indian River Lagoon, into which the St Sebastian River flows.
1. If septic tanks are to be built for these homes, Advanced Septic must be used near the Coastal High Hazard Area. Last year SJRWMD, DEP and DEO all recognized the importance of removing 65% nitrogen with Advanced Septic on this property.

It is therefore important that this change not be granted without a Binding Development Plan that will take these, and other environmental issues into consideration!

Thank you for your time and attention to these important concerns.

Yours truly,

Linda Behret  
5960 Herons Landing Dr  
Viera, FL. 32955

**From:** [Julie Mallisturner](#)  
**To:** [Commissioner, D2](#); [Commissioner, D3](#); [d4commissioner@brevardfl.gov](mailto:d4commissioner@brevardfl.gov); [Commissioner, D1](#); [d5commissioner@brevardfl.gov](mailto:d5commissioner@brevardfl.gov)  
**Subject:** Development of Property on Sebastian River  
**Date:** Tuesday, December 1, 2020 8:33:25 AM

---

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

Dear Commissioners:

I am very concerned about yet another attempt at developing property on the Coastal High Area of the St. Sebastian River in Micco. What a beautiful-pristine area...reminiscent of Old Florida, a rarity these days... a tourist attraction that is sadly becoming obsolete. What Is needed before approving further development is a reasonable Binding Development Plan.

I understand that zoning for this property could go through without any Binding Development Plan. There should not be **approval of the zoning request without the BPD.**

There should be no homes built within the Coastal High Hazard Area. The Indian River Lagoon does not need more contaminants, pesticides, septic tanks leaks flowing into it as a result of building in this area.

This developer has been relentless. I urge you to take the high road and consider the environmental and economical impacts of approving development in this area. Please keep natural Florida and it's preservation in mind when voting!

Sincerely,

Julie Turner  
(321) 266-2786

[Sent from Yahoo Mail for iPhone](#)



**From:** [Leslie Maloney](#)  
**Subject:** Micco Property-St Sebastian River  
**Date:** Tuesday, December 1, 2020 11:40:56 AM

---

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

Greetings Commissioner,

The Micco property that came before you several times last year is back for your consideration. It still has many problems that will affect the Indian River Lagoon. **The biggest concern is that if there is a zoning change there must be a binding development plan.**

Within that plan I hope you will consider the following:

- 1) No homes should be built in the Coastal High Hazard Area. This will protect the IRL from homeowner contaminants like fertilizers, pesticides, septic leaks etc.
- 2) The homes must be required to capture stormwater outside the CHH area. There should be a specific plan of how this will be done.
- 3) Advanced Septic must be required.
- 4) No Fill Dirt should be used due to the fact that this is a flood zone and that fill dirt will eventually end up in the IRL--more nutrients. Also, fill dirt is known to kill specimen trees.

Brevard taxpayers are paying to restore the IRL, do your part as a commissioner and protect it against irresponsible development.

In summary , vote for a BDP which requires no more than 8 homes all built outside the Coastal High Hazard Area on this Micco property.

Thanks for your consideration,  
Leslie Maloney  
Melbourne Beach

**From:** [Commissioner, D3](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** FW: Lazy River Investments - Micco zoning  
**Date:** Tuesday, December 1, 2020 1:06:13 PM

---

Ms. Jones,

Please see below, our office has received another email disclosure.

Thank you,

**Katelynne Prasad**

*Constituent Affairs Director*

*County Commissioner John Tobia, District 3*

PH: (321) 633-2075 \* Fax: (321) 633-2196

2539 Palm Bay Road NE, Suite 4

Palm Bay, FL 32905

---

**From:** B D <rel\_eng@yahoo.com>  
**Sent:** Tuesday, December 1, 2020 1:02 PM  
**To:** Commissioner, D3 <d3.commissioner@brevardfl.gov>  
**Subject:** Lazy River Investments - Micco zoning

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

Dear Commissioner Tobia,

Reference 20Z00030 Lazy River Investments – Fleming Grant Road, Micco FL

I am asking that you vote against any development in the Coastal High Hazard Area of the referenced proposed development. Any building in a flood zone near a river is simply irresponsible. The citizens of Brevard County need you to protect them from any increased damage to our water quality. Continued damage to our water quality directly adds a financial burden through lost tourist based employment, and reduced home values.

Allowing further destruction of our waterways will lead to increased taxes. These taxes will be needed to mitigate fish kills and restore algae tainted waters. Every time we allow building in an environmentally sensitive area, we are destroying the very reason most people moved to this county. Please ensure this development does not endanger

our environment and add to our citizen's financial burden.

Thank you,  
Bill DeBusk

2674 Tuscarora Ct.  
West Melbourne FL 32904

**From:** [Commissioner, D3](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** FW: Fleming Grant Rd property -- Lazy River Investments  
**Date:** Tuesday, December 1, 2020 2:08:28 PM

---

Ms. Jones,

Below is another email disclosure our office has received.

Thank you,

**Katelynne Prasad**

*Constituent Affairs Director*

*County Commissioner John Tobia, District 3*

PH: (321) 633-2075 \* Fax: (321) 633-2196

2539 Palm Bay Road NE, Suite 4

Palm Bay, FL 32905

---

**From:** Douglas and Mary Sphar <canoe2@digital.net>  
**Sent:** Tuesday, December 1, 2020 1:40 PM  
**To:** Commissioner, D3 <d3.commissioner@brevardfl.gov>  
**Subject:** Fleming Grant Rd property -- Lazy River Investments

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

Dear Commissioner Tobia,

The 20-acre property on Fleming Grant Rd in Micco is on the BCC agenda again on Thursday, but I am seeing no current BDP in the agenda packet. The draft BDP in the supporting documentation is from November 2019.

As I understand the situation from the Planning and Development Department, the applicant needs to have a BDP voted on at a meeting where that document is advertised.

What worries me is that the applicant could get approval for the rezoning without the BDP, and any leverage from withholding the rezoning approval would be gone when the BDP subsequently comes up for BCC approval.

A BDP could state that any homes need to be sited outside the approximately 5 acres comprising the Coastal High Hazard Area (CHHA), which basically overlaps FEMA flood zone AE. The BDP could also specify that there should be no fill and no stormwater ponds in the CHHA. In addition, the BDP could address advanced septic and preservation of the

specimen oak trees.

Any development on this property needs to be very carefully planned. This property appears to be the most vulnerable, or at least one of the most vulnerable, to storm surge with associated flooding in the area between Fleming Grant Road and the river. Any runoff from the property has implications for the health of the Indian River Lagoon.

I have no objections to the choice of zoning category, but I don't want to see the rezoning request granted without an adequate BDP.

Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926



**From:** [B.D](#)  
**To:** [Commissioner, D4](#)  
**Subject:** Lazy River Investments - Micco zoning  
**Date:** Tuesday, December 1, 2020 1:10:59 PM

---

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

Dear Commissioner Smith,

Reference 20Z00030 Lazy River Investments – Fleming Grant Road, Micco FL

I am asking that you vote against any development in the Coastal High Hazard Area of the referenced proposed development. Any building in a flood zone near a river is simply irresponsible. The citizens of Brevard County need you to protect them from any increased damage to our water quality. Continued damage to our water quality directly adds a financial burden through lost tourist based employment, and reduced home values.

Allowing further destruction of our waterways will lead to increased taxes. These taxes will be needed to mitigate fish kills and restore algae tainted waters. Every time we allow building in an environmentally sensitive area, we are destroying the very reason most people moved to this county. Please ensure this development does not endanger our environment and add to our citizen's financial burden.

Thank you,  
Bill DeBusk

2674 Tuscarora Ct.  
West Melbourne FL 32904

**From:** [Leslie Maloney](#)  
**Subject:** Micco Property-St Sebastian River  
**Date:** Tuesday, December 1, 2020 11:40:56 AM

---

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

Greetings Commissioner,

The Micco property that came before you several times last year is back for your consideration. It still has many problems that will affect the Indian River Lagoon. **The biggest concern is that if there is a zoning change there must be a binding development plan.**

Within that plan I hope you will consider the following:

- 1) No homes should be built in the Coastal High Hazard Area. This will protect the IRL from homeowner contaminants like fertilizers, pesticides, septic leaks etc.
- 2) The homes must be required to capture stormwater outside the CHH area. There should be a specific plan of how this will be done.
- 3) Advanced Septic must be required.
- 4) No Fill Dirt should be used due to the fact that this is a flood zone and that fill dirt will eventually end up in the IRL--more nutrients. Also, fill dirt is known to kill specimen trees.

Brevard taxpayers are paying to restore the IRL, do your part as a commissioner and protect it against irresponsible development.

In summary , vote for a BDP which requires no more than 8 homes all built outside the Coastal High Hazard Area on this Micco property.

Thanks for your consideration,  
Leslie Maloney  
Melbourne Beach

**From:** [Anne Briggs](#)  
**To:** [Commissioner, D4](#)  
**Subject:** 20 Acres on Fleming Grant Road, Micco (20Z00030)  
**Date:** Friday, November 20, 2020 2:54:51 PM

---

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

Ref: 20Z00030, 19PZ00093

Dear Commissioner Smith,

As you may recall, on 5 December 2019, you and your fellow Commissioners voted unanimously to deny the request of Lazy River Investments, LLC on the matter of development and re-zoning of 20 acres on Fleming Grant Road bordering the Saint Sebastian River. (19PZ00093) Many residents of Micco and environmental groups strongly expressed their concern to you about this planned development, and State Comments pointed out several environmental considerations that needed attention.

The developer, Lazy River Investments, LLC has now requested a zoning change on this same parcel from RU1-13 to AU (L). According to Planning and Development, AU(L) restricts building to 1 house to 2.5 acres. This is in compliance with the Comprehensive Plan and Future Land Use designation for land adjacent to the St Sebastian River.

A zoning change hearing was held on 9 November 2020 with Brevard County Planning and Development, and the AU(L) classification was granted by the Board. After reviewing the documents on file for this hearing, we note that the BDP is the same one from November 2019 and has dated information which is incorrect for this current request. Because of this, again, we do not have any idea of what the Developer is actually planning to do on this property. In addition, upon review of the minutes of this meeting, it already looks like there may be some intention on the part of the developer to circumvent the 1:2.5 designation in order to fit 8 homes on the property. Ms Young, who represents the developer, stated, "The site faces other development challenges and it may be difficult to engineer the site to be able to yield 8 lots, and AU(L) affords some flexibility for lot configurations."

This matter comes before you for a vote on 3 December. My husband and I are writing you to ask that you and the other Commissioners once again ensure that the Developer is held to findings from previous hearings and current Staff Comments, particularly those that affect the health of the St Sebastian River and the Indian River Lagoon:

- No construction within the Coastal High Hazard area.
- Nitrogen reducing advanced OSTDS/anaerobic septic systems.
- Protection for mangroves and wetlands, as well as for protected and specimen trees and species.

- Adequate stormwater treatment as flooding is still an issue in this area.
- All lots have 1 house to 2.5 acres.
- Retain the rural, residential character of the neighborhood (no commercial activities on this property.)
- Provide a detailed, current, and acceptable BDP.

Thank you for your consideration and your continued interest in the wellbeing of our community and of our waterways.

Sincerely,

Anne Briggs and Henry Beck

9735 Fleming Grant Road, Micco, FL 32976

**From:** [Woodard, Patrick](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Schmadeke, Adrienne](#); [Bellak, Christine](#)  
**Subject:** FW: Lazy River Investments -- Micco property  
**Date:** Wednesday, December 2, 2020 8:04:39 AM

---

Jennifer,

Here is another email concerning Agenda Item H 6 at tomorrow's meeting.

Regards,

*Pat Woodard*



**Pat Woodard**  
**Chief Legislative Aide to Commissioner Smith**  
Brevard County, District 4  
[321.633.2044](tel:321.633.2044) | [Patrick.Woodard@brevardfl.gov](mailto:Patrick.Woodard@brevardfl.gov)  
2725 Judge Fran Jamieson Way, Bldg. C - Suite 214,  
Viera, FL 32940

***Please note:***

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

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**From:** Douglas and Mary Sphar <canoe2@digital.net>  
**Sent:** Tuesday, December 01, 2020 5:09 PM  
**To:** Commissioner, D4 <D4.Commissioner@brevardfl.gov>  
**Cc:** Woodard, Patrick <patrick.woodard@brevardfl.gov>  
**Subject:** Lazy River Investments -- Micco property

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

Dear Commissioner Smith,

The 20-acre property on Fleming Grant Rd in Micco is on the BCC agenda again on Thursday, but I am seeing no current BDP in the agenda packet. The draft BDP in the supporting documentation is from November 2019.



As I understand the situation from the Planning and Development Department, the applicant needs to have a BDP voted on at a meeting where that document is advertised.

What worries me is that the applicant could get approval for the rezoning without the BDP, and any leverage from withholding the rezoning approval would be gone when the BDP subsequently comes up for BCC approval.

A BDP could state that any homes need to be sited outside the approximately 5 acres comprising the Coastal High Hazard Area (CHHA), which basically overlaps FEMA flood zone AE. The BDP could also specify that there should be no fill and no stormwater ponds in the CHHA. In addition, the BDP could address advanced septic and preservation of the specimen oak trees.

Any development on this property needs to be very carefully planned. This property appears to be the most vulnerable, or at least one of the most vulnerable, to storm surge with associated flooding in the area between Fleming Grant Road and the river. Any runoff from the property has implications for the health of the Indian River Lagoon.

I have no objections to the choice of zoning category, but I don't want to see the rezoning request granted without an adequate BDP.

Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926

**From:** [Woodard, Patrick](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Schmadeke, Adrienne](#); [Bellak, Christine](#)  
**Subject:** FW: Lazy River Investments -- Micco property  
**Date:** Wednesday, December 2, 2020 8:04:39 AM

---

Jennifer,

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Regards,

*Pat Woodard*



**Pat Woodard**  
**Chief Legislative Aide to Commissioner Smith**  
Brevard County, District 4  
[321.633.2044](tel:321.633.2044) | [Patrick.Woodard@brevardfl.gov](mailto:Patrick.Woodard@brevardfl.gov)  
2725 Judge Fran Jamieson Way, Bldg. C - Suite 214,  
Viera, FL 32940

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**From:** Douglas and Mary Sphar <canoe2@digital.net>  
**Sent:** Tuesday, December 01, 2020 5:09 PM  
**To:** Commissioner, D4 <D4.Commissioner@brevardfl.gov>  
**Cc:** Woodard, Patrick <patrick.woodard@brevardfl.gov>  
**Subject:** Lazy River Investments -- Micco property

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Dear Commissioner Smith,

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Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926

**Commissioner, D1**

---

**From:** Douglas and Mary Sphar <canoe2@digital.net>  
**Sent:** Tuesday, December 1, 2020 5:06 PM  
**To:** Commissioner, D1  
**Cc:** Newell, Marcia  
**Subject:** Lazy River Investments -- Micco property  
  
**Categories:** NATE

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

Dear Commissioner Pritchett,

The 20-acre property on Fleming Grant Rd in Micco is on the BCC agenda again on Thursday, but I am seeing no current BDP in the agenda packet. The draft BDP in the supporting documentation is from November 2019.

As I understand the situation from the Planning and Development Department, the applicant needs to have a BDP voted on at a meeting where that document is advertised.

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Any development on this property needs to be very carefully planned. This property appears to be the most vulnerable, or at least one of the most vulnerable, to storm surge with associated flooding in the area between Fleming Grant Road and the river. Any runoff from the property has implications for the health of the Indian River Lagoon.

I have no objections to the choice of zoning category, but I don't want to see the rezoning request granted without an adequate BDP.

Thank you for considering my opinion.

Mary Sphar

825 Cliftons Cove Ct.

Cocoa, FL 32926

**Commissioner, D1**

---

**From:** B D <rel\_eng@yahoo.com>  
**Sent:** Tuesday, December 1, 2020 1:08 PM  
**To:** Commissioner, D1  
**Subject:** Lazy River Investments - Micco zoning

**Categories:** NATE

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

Dear Commissioner Pritchett,

Reference 20Z00030 Lazy River Investments – Fleming Grant Road, Micco FL

I am asking that you vote against any development in the Coastal High Hazard Area of the referenced proposed development. Any building in a flood zone near a river is simply irresponsible. The citizens of Brevard County need you to protect them from any increased damage to our water quality. Continued damage to our water quality directly adds a financial burden through lost tourist based employment, and reduced home values.

Allowing further destruction of our waterways will lead to increased taxes. These taxes will be needed to mitigate fish kills and restore algae tainted waters. Every time we allow building in an environmentally sensitive area, we are destroying the very reason most people moved to this county. Please ensure this development does not endanger our environment and add to our citizen's financial burden.

Thank you,  
Bill DeBusk

2674 Tuscarora Ct.  
West Melbourne FL 32904

---



## Commissioner, D1

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**From:** Leslie Maloney <maloneyl731@gmail.com>  
**Sent:** Tuesday, December 1, 2020 11:41 AM  
**Subject:** Micco Property-St Sebastian River

**Categories:** NATE

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

Greetings Commissioner,

The Micco property that came before you several times last year is back for your consideration. It still has many problems that will affect the Indian River Lagoon. **The biggest concern is that if there is a zoning change there must be a binding development plan.**

Within that plan I hope you will consider the following:

- 1) No homes should be built in the Coastal High Hazard Area. This will protect the IRL from homeowner contaminants like fertilizers, pesticides, septic leaks etc.
- 2) The homes must be required to capture stormwater outside the CHH area. There should be a specific plan of how this will be done.
- 3) Advanced Septic must be required.
- 4) No Fill Dirt should be used due to the fact that this is a flood zone and that fill dirt will eventually end up in the IRL-- more nutrients. Also, fill dirt is known to kill specimen trees.

Brevard taxpayers are paying to restore the IRL, do your part as a commissioner and protect it against irresponsible development.

In summary, vote for a BDP which requires no more than 8 homes all built outside the Coastal High Hazard Area on this Micco property.

Thanks for your consideration,  
Leslie Maloney  
Melbourne Beach

**Commissioner, D1**

---

**From:** lindyb@cfl.rr.com  
**Sent:** Monday, November 30, 2020 3:56 PM  
**To:** Commissioner, D1  
**Subject:** Item H6 of Thursday's Zoning Meeting  
  
**Categories:** NATE

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

Dear Commissioner Pritchett:

I understand that there will be a Zoning Meeting this coming Thursday, December 3, 2020, at which item H6 is a request by Lazy River Investments to change zoning for a piece of property from Fleming Grant Rd to the shoreline of the St Sebastian River, which could result in 8 homes being built in this area.

I do not object to the change per se, but there are some environmental issues that need to be addressed when this change is granted. Two of the most important among them are:

1. No homes should be built in the Coastal High Hazard Area, as this could be a further threat to the health of the Indian River Lagoon, into which the St Sebastian River flows.
1. If septic tanks are to be built for these homes, Advanced Septic must be used near the Coastal High Hazard Area. Last year SJRWMD, DEP and DEO all recognized the importance of removing 65% nitrogen with Advanced Septic on this property.

It is therefore important that this change not be granted without a Binding Development Plan that will take these, and other environmental issues into consideration!

Thank you for your time and attention to these important concerns.

Yours truly,

Linda Behret  
5960 Herons Landing Dr  
Viera, FL. 32955

**Commissioner, D1**

---

**From:** Linda McLain <lmclain45@yahoo.com>  
**Sent:** Friday, November 27, 2020 5:02 PM  
**To:** Commissioner, D2; Commissioner, D1; Commissioner, D3; Commissioner, D4; Commissioner, D5  
**Subject:** 20Z00030 Zoning Request- Lazy River Investments, LLC-Dec 3 meeting  
**Categories:** NATE

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

My name is Linda Brannan and I live at 9675 Fleming Grant Rd in Micco, across the street from the subject property. I was very active with my neighbors and the Micco Homeowners in opposing the original application from the owner of this property asking to develop it into small homesites under the existing RU1 13 zoning. Our goal was to see this land developed with minimum 1 home per 2.5 acres as the existing comp plan for our area requires. The zoning this owner is requesting now would provide for that goal.

I have talked to many of my neighbors now, who originally opposed his plan and they are in favor of this request for the zoning change to AU L. We understand that AU L may allow him to make his lots narrower than a higher AU zoning, but that does not bother us. We just want him to keep the density at 1 home per 2.5 acres. That limits the amount of homes that can be built there to possibly 8.

I am writing this letter to let you know that we support this request. It is not our goal to punish this new owner, but to keep the density in compliance with the comprehensive land use plan. Thank you.

Sincerely,

Linda Brannan  
9675 Fleming Grant Rd  
Micco, FL 32976  
772-664-2274

**From:** [Commissioner, D1](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Agenda item H6, December 3, 2020  
**Date:** Wednesday, December 2, 2020 1:53:06 PM  
**Attachments:** [miccolidlr2.docx](#)  
[image001.png](#)

---

Good Afternoon,

Attached and Below are public comments in regards to Item H.6 for tomorrow's meeting.

Best Regards,

***Nate Smith***

Legislative Aide to Commissioner Rita Pritchett



***District 1 Commission Office***

**2000 South Washington Avenue, Suite 2**  
**Titusville, FL 32780**  
**321-607-6901**

***Please note:***

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---

**From:** David Botto <dbotto1@cfl.rr.com>  
**Sent:** Wednesday, December 2, 2020 12:39 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>; Commissioner, D2 <D2.Commissioner@brevardfl.gov>; Commissioner, D3 <d3.commissioner@brevardfl.gov>; Commissioner, D4 <D4.Commissioner@brevardfl.gov>; Commissioner, D5 <D5.Commissioner@brevardfl.gov>  
**Subject:** Agenda item H6, Fleming Grant Road, Micco, December 3, 2020

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and

know the content is safe.

Dear Chairwoman Pritchett and Distinguished Members,

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon and we are pro-actively supporting the Save Our Lagoon Project Plan which seeks, at great cost, to correct and repair the results of past mistakes that caused great harm to the Lagoon. In addition, MRC is a property owner in this area and joins residents in expressing our concern. Please refer to our previous letter on this subject, attached.

MRC fully supports the position regarding built location and low impact development of this property as expressed by the residents in a recent E Mail to you.

We are concerned that no newly prepared Binding Development Plan (BDP) is indicated in this latest proposal. This property is literally on the bank of the Sebastian River as it empties into the Indian River Lagoon Preserve. It includes extensive wet land and high hazard flood zone within its borders. It is a classic example of land that requires intense management of development, or no development at all. A detailed BDP must be required in order for Brevard County to apply responsible management that will ensure no harm to the Lagoon.

We must look to the future.

Respectfully.

David C. Botto, Chair  
Intergovernmental Committee  
Marine Resources Council

September 26, 2019

Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, FL 32940

SUBJ: Micco Land Development 19PZ00093

Dear Chairwoman Isnardi and Distinguished Members;

The Marine Resources Council (MRC) is dedicated to the preservation and restoration of the Indian River Lagoon (IRL) and we are pro-actively supporting the Save Our Lagoon Project Plan which seeks, at great cost, to correct and repair past mistakes that caused great harm to the lagoon. We are concerned that much of the accelerated development now occurring in Brevard County poses danger to the future health of the Indian River Lagoon. Such development, even though meeting current requirements, will add to the pollution entering the lagoon in violation of federal and state mandates. In the long term, it will nullify many of the objectives of the Save Our Lagoon Project Plan.

To counter this, we have strongly encouraged the adoption of Low Impact Development (LID) that will cost effectively minimize the impact on the IRL of much needed development. Its objective is to control storm water at its source through simple actions that result in post development run-off that mimics the original. The concept is founded on the critical need to increase pervious, water storing land and to reduce the destructive run-off loss of water, an increasingly valuable resource.

We believe that the pending development of the Micco property, known as 19PZ00093, is an opportunity to showcase the many advantages of LID. The subject property is adjacent to and drains directly into the St. Sebastian River as it enters a lagoon Aquatic Preserve. At least five State agencies have emphasized the importance of this land to the water quality of the lagoon. Brevard County recently denied a density zoning change for this land. The developer now intends to develop under current zoning density of eight units. Careful site planning and execution must be applied to this sensitive land to ensure that this development does no harm. We recommend that Brevard insist on an agreement with the developer that LID Best Management Practices be applied, to the extent reasonable, for site location, design, preparation and construction. These practices are widely used and effective in minimizing storm water run-off pollution. They also reduce the need for costly stormwater infrastructure and, in some cases, have enabled increased density by eliminating the need for large water storage areas. We offer our assistance in this endeavor.

We must look to the future.

Respectfully,

Leesa Souto, Ph.D.  
Executive Director  
Marine Resources Council  
3275 Dixie Hwy, NE  
Palm Bay, FL 32905



321-725-7775

**From:** [Commissioner, D3](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Meeting Disclosure  
**Date:** Monday, November 30, 2020 11:01:22 AM

---

Ms. Jones,

In regards to the upcoming agenda item H.6 for the Planning & Zoning meeting on December 3rd, 2020, please be advised in advance that Commissioner Tobia spoke with the following parties via telephone, separately, on November 25th, 2020 at 9am.

Laura M. Young

The phone call lasted approximately 15 minutes, during which the above individuals provided information regarding the above-referenced item.

Sincerely,



John Tobia  
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

**From:** [Commissioner, D3](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Meeting Disclosure  
**Date:** Monday, November 30, 2020 3:45:48 PM

---

Ms. Jones,

In regards to the upcoming agenda item H.6 for the Planning & Zoning meeting on December 3rd, 2020, please be advised in advance that Commissioner Tobia spoke with the following parties via telephone, separately, on November 30th, 2020.

Michelle H. Woods

The phone call lasted approximately ten minutes, during which the above individuals provided information regarding the above-referenced item.

Sincerely,



John Tobia  
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way  
Building A  
Viera, Florida 32940

**Inter-Office Memo**

**TO:** Board of County Commissioners

**FROM:** Tad Calkins, Director – Planning & Development *TC*

**Cc:** Frank Abbate, County Manager  
John Denninghoff, P.E., Assistant County Manager

**DATE:** February 2, 2021

**SUBJECT:** **Item H1: Lazy River Investments Staff Comments Addendum (20Z00030) for the February 4, 2021, Meeting Agenda**

---

The purpose of this addendum is to clarify the acreage of the lots and identify them as Nonconforming Lots of Record with development potential for two lots as concurrently configured based on the Comprehensive Plan.

The subject property consists of Lot 10 and Lot 11 of Allen Et Al Subdivision, Plat Book 1 and Page 77 which was record on May 23, 1894. According to the Plat, Lot 10 contains 10.25 acres and Lot 11 has 9.88 acres totaling 20.13 acres. The Brevard County Property Appraisers Office identifies the property as 20.39 acres. Since the recording of the plat creating of these lots predates the County's Zoning Regulation (adopted in 1958) and effective date of the County's Comprehensive Plan (adopted in 1988), Lots 10 and 11 are Nonconforming Lots of Record.

Objective 15 of the Future Land Use Element of the Comprehensive Plan states, "Brevard County shall eliminate inconsistencies between the Comprehensive Plan and the zoning regulations of the Land Development Regulations, and thereafter, shall reduce the number of existing land uses which are non-conforming to the Comprehensive Plan". There are several Policies and Criteria relating to the need for rezoning properties that are not inconsistent with the Comprehensive Plan. However, Policy 15.5 specifically allows the development of non-conforming lots without the necessity of rezoning to be consistent with the Comprehensive Plan. (See attached Objective 15 and Policies.) This policy contains the following criteria:

- A. Non-conforming lots of record are those properties which meet the non-conforming provisions of the Brevard County Zoning Code but which are non-conforming to this Comprehensive Plan and/or Zoning regulations.
- B. Non-conforming lots of record may be developed to a use permitted by Chapter 62, Article VI, Division 2, Subdivision II, "Non-Conforming Uses" of the Brevard County Land

Development Regulations, provided that it is also a use permitted by the Future Land Use Map of this Comprehensive Plan.

- C. The Land Development Regulations should continue to include provisions for minimum lot dimensions and setbacks for non-conforming lots of record to ensure that these uses will be compatible with surrounding land uses.
- D. If an existing non-conforming lot does not meet the minimum lot size established by this element, relief may be obtained in accordance with the Zoning Code of Brevard County.

Furthermore, Section 62-1188, stipulates that dwellings, structures or buildings may be constructed on a Nonconforming Lot of Record in any zoning classification which allows such dwellings, structures, and buildings. This section further requires that the lot have a width of not less than 50 feet, a depth of not less than 75 feet, and an area of not less than 5,000 square feet for the construction of a single-family dwelling. Both Lots 10 and 11 exceed these requirements and would be eligible to have a single-family dwelling on each of them. (See attached Code)

The Conversation, Surface Water Protection, and Coastal Management Elements of the Comprehensive Plan have been added to the Legistar agenda item for the Board's convenience.



## Future Land Use Element

### **CONSISTENCY WITH COMPREHENSIVE PLAN, ZONING AND LAND DEVELOPMENT REGULATIONS**

#### **Objective 15**

Brevard County shall eliminate inconsistencies between the Comprehensive Plan and the zoning regulations of the Land Development Regulations, and thereafter, shall reduce the number of existing land uses which are non-conforming to the Comprehensive Plan.

#### **Authority to Initiate Administrative Actions**

##### **Policy 15.1**

Brevard County retains the authority to initiate appropriate administrative actions, such as administrative rezonings.

#### **Administrative Rezonings for Consistency with the Future Land Use Map**

##### **Policy 15.2**

County staff may initiate administrative rezonings for those properties that are found to be inconsistent with the Future Land Use Map at the time of a development permit application.

##### **Criteria:**

- A. Determination of appropriate zoning classifications for these properties shall be pursuant to the policies and criteria which govern the Future Land Use Map and future land use designations established in this element.
- B. The zoning classifications which are appropriate pursuant to the Future Land Use Element and Maps shall be presented as options to the property owner.

##### **Policy 15.3**

Brevard County shall continue to administratively rezone those properties with zoning classifications which are inconsistent with the Future Land Use Map, the acceptable levels of service, and this Comprehensive Plan.

##### **Criteria:**

- A. Administrative rezonings shall not be required for single family or duplex residential lots which meet the requirements of the Brevard County Zoning Code and which are located within Neighborhood Commercial, Community Commercial Agricultural or any residential land use designations.
- B. Prior to commencement of the administrative rezonings, small area plans shall be completed by the appropriate County staff for each area. These plans shall consider, at a minimum, compatibility issues, character of the area, environmental constraints, hurricane evacuation capabilities, and the

availability of public facilities and services. Advisory committees may be appointed by the Commission to work with staff in the development of these plans and public hearings shall be held for the adoption of these plans.

### **Provisions for Non-conforming Uses**

#### **Policy 15.4**

Brevard County shall maintain procedures that address existing land uses which are non-conforming with this Comprehensive Plan. At a minimum, the following criteria shall apply:

##### **Criteria:**

- A. Non-conforming land uses are those existing development activities which were conforming to the zoning and Comprehensive Plan regulations of Brevard County at the time of record but which are inconsistent with this Comprehensive Plan.
- B. Existing non-conforming land uses, damaged beyond 50 percent of their assessed value by natural or man-made causes, shall not be allowed to be reconstructed to a use which is non-conforming to this Comprehensive Plan, except as provided for in the Zoning Code.
- C. The addition, expansion or re-establishment of existing non-conforming land uses shall be governed by Chapter 62, Article VI, Division 2, Subdivision II, "Non Conforming Uses" of the Brevard County Land Development Regulations.

#### **Policy 15.5**

The following provisions for the development of non-conforming lots to allow for the reasonable use of such properties shall apply. At a minimum, the following criteria shall apply:

##### **Criteria:**

- A. Non-conforming lots of record are those properties which meet the non-conforming provisions of the Brevard County Zoning Code but which are non-conforming to this Comprehensive Plan and/or Zoning regulations.
- B. Non-conforming lots of record may be developed to a use permitted by Chapter 62, Article VI, Division 2, Subdivision II, "Non Conforming Uses" of the Brevard County Land Development Regulations, provided that it is also a use permitted by the Future Land Use Map of this Comprehensive Plan.
- C. The Land Development Regulations should continue to include provisions for minimum lot dimensions and setbacks for non-conforming lots of record to ensure that these uses will be compatible with surrounding land uses.
- D. If an existing non-conforming lot does not meet the minimum lot size established by this element, relief may be obtained in accordance with the Zoning Code of Brevard County.

## **Provisions for Pre-existing Uses**

### **Policy 15.6**

Brevard County should maintain and enforce criteria for Pre-existing Uses, as defined by the County's Land Development Regulations. Applications for Pre-existing Uses shall be reviewed against the requirements found in the Land Development Regulations.

## **Preclusion of Development**

### **Policy 15.7**

If a land use designation in the Comprehensive Plan is determined to preclude all development of such land and an amendment to the Comprehensive Plan is required, an amendment alleviating the preclusion of development may be considered at the next available transmittal or adoption public hearing of the Comprehensive Plan. A development order consistent with the proposed amendment, may be submitted for review; however, final approval will not be granted until a finding of compliance and after the appeal period pursuant to Chapter 163, F.S.

## **Provision for Appeals**

### **Policy 15.8**

Brevard County shall provide a method of appeals to address alleged errors in any order, requirement, decision or determination made in the enforcement of any ordinance, regulation, law, policy or procedure relative to the Land Use Regulations.

### **Sec. 62-1188. - Nonconforming lots of record.**

In any zoning classification in which dwellings, structures or buildings are permitted, notwithstanding limitations imposed by other provisions of the chapter, such dwellings, structures, buildings and customary accessory buildings as are permitted may be erected on any lot of record, provided that such lot of record met the requirements of the county comprehensive plan and zoning regulations at the time such lot was recorded or platted. Uses and buildings shall not be established on lots and parcels not qualifying as nonconforming lots of record unless relief is obtained through the board of adjustment, provided the zoning is consistent with the comprehensive plan. Nonconforming lots are subject to the following criteria:

(1) *Single family and duplex uses*: Buildings and uses may be established on such lots, provided the lot has a width of not less than 50 feet, a depth of not less than 75 feet, and an area of not less than 5,000 square feet.

(2) *All other uses*:

a. *Multifamily, commercial and industrial uses*: Unless otherwise specified in this section, buildings and uses may be established on such lots, provided unless the lot has a width of not less than 60 feet, a depth of not less than 75 feet, and a lot area of not less than 6,000 square feet.

b. *Mobile home uses (TRC-1, TR-1 and TR-2 zoning classifications)*: Buildings and uses may be established on such lots, provided the lot has a lot width of not less than 50 feet and a lot area of not less than 4,000 square feet. The setback requirements that were in existence at the time of the platting of the lot shall control for the purpose of setback requirements for the nonconforming lot.

c. *Merritt Island Redevelopment Area*: Buildings and uses may be established on such lots, provided the lot has a width of not less than 50 ft., a depth of not less than 75 ft., and an area of not less than 5,000. This paragraph shall be limited to Plat Book 2, Page 78 (Merritt Winter Home Development) north of State Road 520, Plat Book 4, Page 69 (Sunnyside Tract Map 2) east of North Tropical Trail and Plat Book 5, Page 48 (Merritt Park Place).

(3) The provisions of subsections (1) and (2) of this section shall apply even though such lot fails to meet the requirements for lot area or lot dimensions, or both, that are generally applicable in the particular zoning classification, provided that setback requirements and other requirements not involving lot area or lot dimensions, or both, of the lot shall conform to the current regulations for the zoning classification in which such lot is located, except for the setback provisions for nonconforming lots in the TRC-1, TR-1 and TR-2 zoning classifications as set forth in subsection (2) of this section.

(4) If two or more lots or a combination of lots and portions of lots with contiguous frontage in single ownership are of record, and if all or part of the lots do not meet the requirements for lot width, lot area and lot depth as established in this section, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter. Where two or more nonconforming lots of record are combined for the purpose of requesting a new zoning classification which would make the combined lots conforming as one parcel, the lots shall not be redivided subsequent to the

rezoning except where such division would create lots consistent with all other provisions of the comprehensive plan and zoning regulations.

(5) Nonconforming lots also include those lots which were consistent with the comprehensive plan and zoning regulations at the time they were established and:

- a. Are recorded in the official record books or plat books of the county;
- b. Existed pursuant to a fully executed but unrecorded deed; or
- c. Existed pursuant to a valid contract for deed or contract for purchase.

A lot, parcel or tract of land which is zoned AU, agricultural use, and is less than 2.5 acres in size may also be determined to be nonconforming if the lot, parcel or tract of land was recorded in a survey book prior to March 6, 1975. A lot, parcel or tract of land which is zoned GU, general use, and is less than five acres in size may also be determined to be nonconforming if the lot, parcel or tract of land was recorded in a survey book prior to May 20, 1975.

(6) The owner of a lot which is smaller than the minimum size required by this article or the comprehensive plan, and who cannot prove nonconforming status, may make application for a waiver of up to but not exceeding ten percent of the required lot size pursuant to section 62-1154.

(7) If a vacant lot becomes a nonconforming lot of record due to a comprehensive plan amendment which reduces its development potential, but the lot is undersized for the zoning classification necessary to bring its zoning into compliance with the comprehensive plan, then the lot may be administratively rezoned to a zoning classification with which its size complies regardless of that classification's relationship to the comprehensive plan, as long as the new classification does not permit more than one residential unit.

Where a vacant lot is administratively rezoned pursuant to this provision, such lot shall be permitted to build to the setbacks permitted by the zoning classification held prior to the administrative rezoning.

(8) Any nonconforming lot of record may be considered for rezoning to other zoning classifications consistent with the comprehensive plan.

(9) Any parcel having an existing use, pre-existing use (PEU), or an otherwise vested use that was conforming with its zoning classification at the time of a comprehensive plan adoption or amendment shall not be considered inconsistent with the future land use map series, unless so determined by the board of county commissioners pursuant to the criteria established in the future land use element of the comprehensive plan. The parcel will not be administratively rezoned and its zoning classification will be retained unless otherwise directed by the board of county commissioners pursuant to section 62-1152, or as provided below:

- a. If the existing use, pre-existing use (PEU), or an otherwise vested use is of an intensity that is consistent with a more restrictive zoning classification, then the parcel may be administratively downzoned to that more restrictive classification. Such classification shall be considered consistent with the future land use map, except as provided in subsection b. below.
- b. The property owner may make use of the retained or downzoned classification pursuant to the regulations of this chapter unless and until he chooses to request and receives an amendment to the parcel's zoning consistent with the comprehensive plan.



**CHAPTER I**  
**CONSERVATION ELEMENT**

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## **DIRECTIVES**

*Directives are principles or guidelines that provide the general philosophical outlook of Brevard County with regard to the element of the Plan in which it is stated. Directives do not necessarily require specific actions for implementation. However, they shall guide specific actions wherever possible.*

### **Air Quality**

In order to maintain its "attainment" status, Brevard County should develop a complete air monitoring program. More complete baseline data would allow better assessment of large-scale development which could degrade air quality. Areas of localized poor air quality should be identified, and a program for reduction or elimination of the pollution source should be developed in conjunction with FDEP and EPA.

Stationary air pollution sources and new transportation projects listed on the adopted Transportation Improvement Program should be evaluated for their cumulative effects on air quality. These sources should include sources adjacent to, as well as within, the county.

Alternate energy resources that do not degrade air quality should be given preference over resources which do degrade air quality. In addition, Brevard County ordinances or programs concerning clean-up and disposal of hazardous materials, mass burn facilities, and solid waste disposal shall not result in the degradation of air quality or endangerment of human health.

Conversion of power plant to coal should not cause degradation of air quality below minimum standards. Best available technology should be utilized for all new power plants.

Land use should also be compatible with the maintenance of good air quality. Development should be designed in such a way as to minimize traffic congestion. Urban land uses should be buffered from stationary and linear pollution sources (roadways). Vegetation should be utilized whenever possible to buffer air pollution sources and maintain air quality. Multi-use developments, such as Planned Unit Development, or other innovative land uses should be utilized to reduce the need to travel. Facilities that house the elderly, very young or sick should be located away from emission sources or areas of poor air quality.

## **GOALS, OBJECTIVES AND POLICIES**

### **GOAL**

PROTECT, CONSERVE, ENHANCE, MAINTAIN AND APPROPRIATELY USE NATURAL RESOURCES AND ENVIRONMENTAL SYSTEMS, MAINTAINING THEIR QUALITY AND CONTRIBUTION TO THE QUALITY OF LIFE AND ECONOMIC WELL BEING OF BREVARD COUNTY.

### **Air Quality**

#### **Objective 1**

Air quality within Brevard County shall meet or exceed the minimum air quality as adopted by the Florida Department of Environmental Protection.

#### **Policy 1.1**

Brevard County shall cooperate with the Florida Department of Environmental Protection (FDEP) in monitoring ambient air quality within the county.

#### **Policy 1.2**

Developments of Regional Impact, major transportation projects and power generation projects shall be evaluated for their impacts on air quality. Buffer areas adjacent to industrial uses, power generation projects or other stationary air pollution sources shall be utilized as required to maintain air quality within accepted standards.

#### **Policy 1.3**

The County shall reduce the potential for mobile source emissions by the following means:

##### **Criteria:**

- A. Promote appropriate Planned Unit Development and multi-use developments or use centers.
- B. Vegetative strips along major transportation corridors to buffer residential land uses.
- C. Promote alternative transportation methods such as car pooling, van pooling and mass transit.
- D. Promote bicycle and pedestrian traffic by constructing and maintaining additional bike and pedestrian paths.
- E. Roadways with adopted Levels of Service should be evaluated in order to

maintain acceptable air quality after the development is completed.

**Policy 1.4**

Brevard County shall continue to enforce the noise regulations in the land development code.

**Policy 1.5**

Brevard County shall continue to enforce regulations within the land development code that address the location of facilities that potentially generate noxious emissions.

**Policy 1.6**

Alternate energy resources that do not degrade air quality should be given preference over resources which do degrade air quality. In addition, Brevard County ordinances or programs concerning clean-up and disposal of hazardous materials, mass burn facilities, and solid waste disposal shall not result in the degradation of air quality or endangerment of human health.

**Policy 1.7**

Conversion of power plant to coal should not cause degradation of air quality below minimum standards. Best available technology should be utilized for all new power plants.

**Policy 1.8**

Land use should also be compatible with the maintenance of good area quality. Development should be designed in such a way as to minimize traffic congestion. Urban land uses should be buffered from stationary and linear pollution sources (roadways). Vegetation should be utilized whenever possible to buffer air pollution sources and maintain air quality. Multi-use developments, such as Planned Unit Development, or other innovative land uses should be utilized to reduce the need to travel. Facilities that house the elderly, very young or sick should be located away from emission sources or areas of poor air quality.

**Energy**

**Objective 2**

Reduce per capita energy consumption within Brevard County.

**Policy 2.1**

Brevard County shall address various energy saving methods including:

**Criteria:**

- A. Encouraging appropriate Planned Unit Development and multi-use developments;



- B. Regulating subdivisions to address bicycle and pedestrian pathways; and
- C. Regulating land clearing and landscaping regulations to augment passive cooling by trees.

**Policy 2.2**

Brevard County shall continue to implement the Florida Energy Efficient Code for new construction and substantially rehabilitated structures.

**Policy 2.3**

Brevard County should continue to implement waste reduction, reuse, recycling and conversion of waste to energy as part of its waste management strategies.

**Policy 2.4**

Brevard County shall consider energy conservation in the development and implementation of County ordinances.

**Policy 2.5**

Brevard County should pursue transportation options that would decrease per capita energy consumption.

**Policy 2.6**

Brevard County should coordinate with the East Central Florida Regional Planning Council, the Economic Development Commission of Florida's Space Coast, and the State to encourage development and use of energy efficient and renewable technologies to enhance economic development while conserving energy.

**Surface Water**

**Objective 3**

Improve the quality of surface waters within Brevard County and protect and enhance the natural functions of these waters.

**Policy 3.1**

Brevard County shall cooperate with the Florida Department of Environmental Protection (FDEP) to require small package treatment plants adjacent to surface waters to comply with existing federal, state, or regional rules and regulations, and to ensure that the necessary renovations to achieve compliance are completed in a timely manner.

### **Policy 3.2**

Brevard County shall continue to prevent negative impacts of development in and adjacent to Class I waters by implementing and revising, as necessary, the Surface Water Protection Ordinance including the following minimum criteria:

#### **Criteria:**

- A. Maintain a two hundred (200) foot surface water protection buffer from the ordinary high water line or mean high water line as determined or approved by the FDEP Bureau of Survey and Mapping. In lieu of an approved ordinary high water line, mean high water line, or safe upland line, an alternative buffer establishment line that approximates the land-water interface may be approved administratively as defined in ordinance. The use of the alternative buffer establishment line shall only be applied to shorelines with a clearly defined land-water interface.
- B. Acceptable uses within the surface water protection buffer are passive recreation, hunting, fish and wildlife management, open space and nature trails, and similar uses.
- C. Require discharges of any substances into Class I waters to meet or exceed applicable receiving water quality standards.
- D. Prohibit dredging and filling, except for permitted utility crossings, publicly owned recreational projects which do not degrade water quality, and necessary maintenance of existing projects.
- E. Regulate development and mining operations within the hydrologic basin of Class I waters. Prohibit mining operations within the 10-year floodplain of Class I waters.
- F. Prohibit alteration within the surface water protection buffer unless it is in the public interest and does not adversely impact water quality and natural habitat.

### **Policy 3.3**

Brevard County shall continue to make efforts to prevent negative impacts of development in and adjacent to the Indian River Lagoon and its tributaries designated as Class II waters, Aquatic Preserves and Outstanding Florida Waters by implementing and revising as necessary, the Surface Water Protection Ordinance, including the following minimum criteria:

#### **Criteria:**

- A. Maintain a fifty (50) foot surface water protection buffer from the ordinary high water line, mean high water line, or safe upland line as determined or approved by the FDEP Bureau of Survey and Mapping. In lieu of an

approved ordinary high water line, mean high water line, or safe upland line, an alternative buffer establishment line that approximates the land-water interface may be approved administratively as defined in ordinance. The use of the alternative buffer establishment line shall only be applied to shorelines with a clearly defined land-water interface.

- B. Except as allowable under Policies 3.3.C and 3.3.D, primary structures shall not be permitted within the surface water protection buffer. The County shall establish allowable uses within the surface water protection buffer. Stormwater management for all alterations associated with allowable uses shall be required to protect water quality of the receiving water body. Provisions for the alteration and/or removal of non-native invasive plants, mitigation projects, and the planting of native species shall be established by the County.
- C. For residential lots platted or established by deed on the official record books of Brevard County prior to September 8, 1988, an alternative to the fifty (50) foot surface water protection buffer described above shall be available for those lots which have insufficient lot depth to construct a primary structure. In the case where there is insufficient lot depth to construct a primary structure, this alternative shall allow the surface water protection buffer to be reduced to twenty five (25) feet if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures shall, at a minimum, prevent the first inch of stormwater runoff from entering surface waters; and may include, but not be limited to, a stormwater retention system or native shoreline revegetation. Where applicable, stormwater management measures shall be consistent with DEP 62-25, as amended and FS 373, as amended.
- D. For residential lots located along areas of the Indian River Lagoon and its tributaries added to the State's designation of Class II Waters as of February 17, 2016, and platted or established by deed on the official record books of Brevard County prior to that date, an alternative to the fifty (50) foot surface water protection buffer described above shall be available for those lots which have insufficient lot depth to construct a primary structure. In the case where there is insufficient lot depth to construct a primary structure, this alternative shall allow the surface water protection buffer to be reduced to twenty five (25) feet if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures shall, at a minimum, prevent the first inch of stormwater runoff from entering surface waters; and may include, but not be limited to, a stormwater retention system or

native shoreline revegetation. Avoidance and minimization of buffer impacts shall be required. Where applicable, stormwater management measures shall be consistent with DEP 62-25, as amended and FS 373, as amended. Lots located along areas of Aquatic Preserves and Outstanding Florida Waters shall maintain a fifty (50) foot surface water protection buffer in accordance with Policy 3.3.A, B, and C.

- E. Within the surface water protection buffer the maximum amount of impervious surface is thirty (30) percent.
- F. Prohibit shoreline alteration other than that allowed by ordinance, unless the alteration is in the public interest and does not adversely impact water quality, natural habitat, and adjacent shoreline uses.
- G. Prohibit channelization, dredging and filling, and impoundment of natural waters of the State unless the activity is clearly in the public interest and does not adversely impact water quality, natural habitat, and adjacent shoreline uses. Dredging shall not be permitted in or connected to Class II Waters, Outstanding Florida Waters (OFWs), Aquatic Preserves, areas that contain ten percent (10%) seagrass or more, and conditionally approved shellfish harvesting waters unless the activity is a federal navigation project, in the public interest, such as approved maintenance dredging of existing public or private navigational channels, or where dredging may improve water quality by removing accumulated silt or improving circulation, or for maintenance of existing structures and utility structures and utility crossings, or for shoreline hardening as allowed by this element.
- H. Prohibit discharges of any substances below ambient water quality standards.

#### **Policy 3.4**

Brevard County shall continue to prevent negative impacts of development in and adjacent to Class III waters (except Outstanding Florida Waters and Aquatic Preserves) along the St. Johns River and Indian River Lagoon and its tributaries by implementing and revising as necessary, the Surface Water Protection Ordinance including the following minimum criteria:

##### **Criteria:**

- A. A twenty five (25) foot surface water protection buffer from the ordinary high water line, mean high water line, or the safe upland line as determined or approved by the FDEP Bureau of Survey and Mapping shall be established. In lieu of an approved ordinary high water line, mean high water line, or safe upland line, an alternative buffer establishment

line that approximates the land-water interface may be approved by the director. The use of the alternative buffer establishment line shall only be applied to shorelines with a clearly defined land-water interface.

- B. Except as allowable under Policies 3.4.C and 3.4.D, primary structures shall not be permitted within the surface water protection buffer. The County shall establish allowable uses within the surface water protection buffer. Stormwater management for all alterations associated with allowable uses shall be required to protect water quality of the receiving water body. Provisions for the alteration and/or removal of non-native invasive plants, mitigation projects, and the planting of native species shall be established by the County .
- C. For residential lots platted or established by deed on the official record books of Brevard County prior to September 8, 1988, an alternative to the twenty five (25) foot surface water protection buffer described above along Class III waters shall be available for those lots which have insufficient lot depth to construct a primary structure. In the case where there is insufficient lot depth to construct a primary structure, this alternative shall allow the surface water protection buffer to be reduced to fifteen (15) feet if additional measures are taken to preserve water quality and natural habitat within the adjacent surface water body. These additional measures shall, at a minimum, prevent the first inch of stormwater runoff from entering surface waters; and may include, but not be limited to, a stormwater retention system or native shoreline revegetation. Where applicable, stormwater management measures shall be consistent with DEP 62-25, as amended and FS 373, as amended.
- D. Prohibit shoreline alteration other than that allowed by ordinance, unless it is in the public interest or prevents or repairs erosion; and does not adversely impact water quality, natural habitat and adjacent shoreline uses.
- E. Except for properties on existing residential manmade canals, the maximum amount of impervious surface within the surface water protection buffer is thirty (30) percent.
- F. Prohibit discharges of any substances below ambient water quality standards.

### **Policy 3.5**

All dredging activities must be done with effective turbidity controls. Where turbidity screens or similar devices are used, they should be secured and regularly

monitored to avoid manatee entrapment.

### **Policy 3.6**

Vertical seawalls and bulkheads shall be prohibited along the Indian River Lagoon system, excluding man-made canals. Stabilization of the estuarine shoreline may be allowed to protect structures and real property from erosion. Rip-rap material, pervious interlocking brick systems, filter mats and other similar stabilization methods combined with vegetation shall be used in lieu of vertical seawalls and bulkheads when stabilization of the shoreline is approved. Living shorelines shall be encouraged as a preferred shoreline stabilization method.

### **Policy 3.7**

New man-made canals connected to the Indian River Lagoon system are prohibited. The expansion (widening and/or deepening) of existing ditches, drainage right-of-ways, drainage easements and stormwater facilities connected to the Indian River Lagoon to accommodate navigation shall be prohibited unless the activity is in the best public interest and does not adversely impact the Indian River Lagoon. Maintenance dredging on existing navigational channels, private or public canals, or within existing marinas may be allowed upon review by the County.

### **Policy 3.8**

When deemed necessary to meet State-mandated water quality standards, Brevard County may establish setbacks from the shoreline of the Indian River Lagoon for septic tanks and drainfields. Such setbacks shall at a minimum, be in accordance with F.S. 381.0065(4), as may be amended. In those cases where there is insufficient lot depth to meet County-established setbacks more stringent than those established by State statute, septic tanks and drainfields shall be located in accordance with F.S. 381.0065(4), as may be amended.

### **Policy 3.9**

Brevard County will continue to support spoil island assessment projects to determine which islands are valuable bird rookery areas. These islands should be designated as such, and protected during nesting season. Other islands should be designated as recreational areas. Any study will be coordinated with any spoil island management plans designed and implemented by other agencies, such as the Florida Inland Navigational District.

### **Policy 3.10**

Brevard County shall continue to work with the St. Johns River Water Management District (SJRWMD), FDEP, and Indian River Lagoon Program (IRLP) and other appropriate agencies in developing appropriate water quality standards for estuarine waters within the Indian River Lagoon.

### **Policy 3.11**



Brevard County shall continue to support programs for plugging free-flowing artesian wells, with highest priority being given to those adjacent to the Lagoon.

**Policy 3.12**

Brevard County should cooperate with the SJRWMD in the District's aquatic weed program for the St. Johns River.

**Policy 3.13**

Brevard County strongly supports the designation of the Indian River Lagoon from SR 405 north to the County line as an Aquatic Preserve.

**Policy 3.14**

The creation of new spoil islands should be discouraged. Existing spoil islands should be retained in public ownership and utilized as bird rookeries and recreational areas. In addition, restoration efforts such as wetland vegetation planting, upland vegetation planting, and refuse removal that could foster biological production, control erosion and enhance the habitat, aesthetic and recreational values of the island should be undertaken.

**Policy 3.15**

By 2013, the County shall establish appropriate protective measures along conveyance systems and tributaries of the St. Johns River and Indian River Lagoon to meet State and Federal water quality standards.

**Floodplain Areas**

**Objective 4**

Reduce loss of flood storage capacity and reduce risk to life and property by continuing to apply regulations which minimize the impact of development within flood hazard areas.

**Policy 4.1**

Brevard County shall continue to protect the riverine floodplain in order to protect infrastructure and human life, conserve flood storage capacities, and to improve, where feasible, the quality of water within the watershed. The preferred land use, density and fill footprint of the riverine floodplain is in the predevelopment natural state and Brevard County supports the use of fee simple acquisition, less than fee acquisition, transfer of development rights, appropriate development standards, and other innovative measures to preserve and restore the predevelopment riverine floodplain. At a minimum, the following criteria shall be the basis for the protection of the riverine floodplain:

**Criteria:**

- A. Within the 100-year riverine floodplain (that is the area that is below the 100-year flood elevation but above the 25-year flood elevation):
1. Residential density shall be limited to no more than two dwelling units per acre.
  2. Commercial, institutional, and industrial land uses shall be limited to a filled footprint of no more than 15,000 square feet per acre, except for redevelopment as specified in Policy 4.3.
  3. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 100-year riverine floodplain, except undeveloped parcels created prior to the effective date of this policy may fill up to 1/3 acre filled footprint for development without providing compensatory storage.
  4. The following uses are not compatible with the resource requirements of the 100-year riverine floodplain and shall not be permitted. These include, but are not limited to:
    - a. Placing, depositing or dumping of solid waste except for treated municipal solid sludge.
    - b. Processing and storing of threshold amounts of hazardous materials.
    - c. Disposal of hazardous materials.
- B. Within the 25-year riverine floodplain (that is the area that is at or below the 25-year flood elevation but above the 10-year flood elevation):
1. Residential density shall be limited to not more than one dwelling unit per two and one-half acres.
  2. Commercial land uses shall be limited to a filled footprint of no more than 3,000 square feet per acre and commercial uses shall be no greater than one acre, except for redevelopment as specified in Policy 4.3.
  3. Industrial land uses shall be prohibited, unless the activity is in the best public interest, or except for mining where it does not increase the filled footprint within the 25-year floodplain.
  4. Development shall not adversely impact the drainage of adjoining

properties. There shall be no net loss of flood storage capacity of the 25-year riverine floodplain.

- C. Within the 10-year riverine floodplain (that is the area that is at or below the 10-year flood elevation but above the mean annual flood elevation):
  - 1. The 10-year riverine floodplain should be maintained in its natural state unless a project has a special reason or need to be located there. These special reasons and needs are further defined in the land development regulations. These needs may include but are not limited to agriculture and passive recreation.
  - 2. Residential density shall be limited to not more than one dwelling unit per ten acres; and
  - 3. Commercial, institutional, and industrial land uses shall be prohibited unless they are in the public interest and the location of the use is integral to its operation.
  - 4. Development shall not adversely impact the drainage of adjoining properties. There shall be no net loss of flood storage capacity of the 10-year riverine floodplain.
- D. Within the mean annual riverine floodplain (that is the area that is at or below the annual flood elevation) residential, commercial, institutional, and industrial land uses shall be prohibited unless the project has a special reason or need to locate within the annual floodplain and it is in the best public interest. The annual riverine floodplains within Brevard County should be left in their natural state, and re-established where feasible.
- E. The best available data shall be utilized to determine appropriate floodplain elevations.

#### **Policy 4.2**

The following criteria shall apply to all riverine floodplains:

##### **Criteria:**

- A. There shall be no net change in the rate and volume of floodwater discharged from the pre-development 100-year, 25-year, 10-year, or mean annual riverine floodplain.
- B. Practices shall be encouraged in development of property within the riverine floodplain in order to minimize total imperviousness and runoff within the floodplain and preserve the flood storage capacity in order to

minimize cost to life and property. Practices may include clustering of developed area, provisions for open space, low impact design features, and flood proofing.

- C. The County shall provide incentives for transfer of densities and filled footprints within the riverine floodplain to reduce risk.
- D. Brevard County will coordinate with the SJRWMD or other appropriate agencies in determining the appropriate first floor building elevation within the 25- to 100-year floodplain and shall ensure that habitable structures are constructed above base flood elevation.

#### **Policy 4.3**

To facilitate redevelopment of commercial and industrial land uses, the filled footprint restrictions may be modified if compensatory storage is provided. Non-contiguous compensatory storage, hydrologically connected to the impacted floodplain may be considered. Redevelopment means the renovation of a previously developed obsolete commercial or industrial parcel of land or building site which suffers from structural vacancy due to the expiration of its former use and requires intervention to achieve a subsequent useful function and come into compliance with all other current environmental and land development regulations.

#### **Policy 4.4**

New dikes, levees or other such structures should not be permitted below the 100-year riverine flood elevation except for temporary earthen structures that have a maximum height of less than the 10-year flood elevation and which will not restrict the flow of the 100-year storm floodwaters. The only potential exceptions to this provision are such structures which are shown to have over-riding public benefit. Replacement or repair of dikes, levees and other such structures are permitted as long as such replacement or repair does not change the status of the floodplain and will maintain the existing ability to utilize the property. Non-structural methods of floodplain management are given priority over structural methods.

#### **Policy 4.5**

Brevard County shall continue to protect the estuarine floodplains by implementing the following minimum criteria:

##### **Criteria:**

- A. Development within the one-hundred year estuarine floodplain shall not adversely impact the drainage of adjacent properties or the quality of the receiving surface water body.
- B. The following specific uses are not compatible with the resource requirements of the one-hundred year estuarine floodplain and shall not

be permitted. These include, but are not limited to:

1. Placing, depositing, or dumping of solid wastes.
2. Processing and storing of threshold amounts of hazardous materials.
3. Disposal of hazardous materials.

- C. The annual estuarine floodplains within Brevard County should be left in their natural state, and re-established where feasible.

#### **Policy 4.6**

Brevard County shall continue to ensure that alterations of isolated one-hundred year floodplains do not adversely impact the drainage of adjacent properties or public drainage facilities.

#### **Policy 4.7**

Brevard County shall continue to protect the coastal floodplain through the implementation of the following minimum criteria:

**Criteria:**

- A. Prohibit development within the annual coastal floodplain.
- B. Limit development water-ward of the Brevard County Coastal Construction Setback Line to those structures necessary to protect the natural dune system and to provide beach access.
- C. Brevard County shall continue to maintain construction standards for all development within the one-hundred year storm surge zone as established by the Florida Department of Environmental Protection, the U.S. Southern Building Code, or other applicable regulations.

#### **Policy 4.8**

Brevard County shall identify structural controls within the floodplain which degrade natural systems and make recommendations for alternatives to re-establish the natural floodplain, where feasible.

#### **Policy 4.9**

Brevard County shall continue to participate in the National Flood Insurance Program administered by the Federal Emergency Management Administration (FEMA). Amendments to the County's flood ordinance shall be adopted as necessitated by changes in FEMA regulations.

#### **Policy 4.10**

Public facilities should not be located within the 100-year riverine or estuarine floodplain unless the following apply:

**Criteria:**

- A. The facilities are water-dependent, such as mosquito control facilities; or,
- B. The facilities are water-related, such as boat ramps, docks or surface water management facilities; or,
- C. The facilities are not adversely affected by periodic flooding or standing water, such as highway bridges and some recreational facilities; or,
- D. The building structures are flood-proofed and located above the 100-year flood elevation, or removed from the floodplain by appropriately constructed dikes or levees; or,
- E. The facilities are found to be in the public interest and there is no feasible alternative.

**Wetlands****Objective 5**

Preserve, protect, restore, and replace wetlands to achieve no net loss of functional wetlands in Brevard County after September, 1990. The County shall ensure the protection of wetlands and wetland functional values by prioritizing protective activities with avoidance of impacts as the first priority, minimization of impacts as the second priority, and mitigation for impacts as the third priority.

**Policy 5.1**

Brevard County shall utilize the same methodology, soil types, hydrological requirements and vegetation types as the FDEP and the SJRWMD in delineating wetlands.

**Policy 5.2**

Brevard County shall adopt regulations which promote no net loss of functional wetlands. At a minimum, the following criteria shall be included in the land development regulations:

**Criteria:**

- A. The basis for no net loss shall be established as of the effective date of the required ordinance.
- B. Wetlands shall be considered functional unless the applicant demonstrates that the water regime has been permanently altered, either artificially or naturally, in a manner to preclude the area from maintaining surface water or hydroperiodicity necessary to sustain wetland functions.



- C. If an activity is undertaken which degrades or destroys a functional wetland, the person performing such an activity shall be responsible for repairing and maintaining the wetland. If it is not feasible or desirable for the responsible person to perform the repair and maintenance of the wetland, then the responsible person shall mitigate for the wetland loss. Mitigation can include, but not be limited to: wetland restoration, wetland replacement, wetland enhancement, monetary compensation or wetland preservation.
- D. Wetland activity conducted by a public agency may not be utilized for wetland mitigation credit by private persons unless approved by Brevard County.
- E. The following land use and density restrictions within wetlands are established as a maximum density or most intense land use that may be considered only if the other criteria established in Conservation Element Policy 5.2 are met:
  - 1. Residential land uses within wetlands, that are a part of a formal subdivision or site plan, on properties containing wetlands shall be limited to the following:
    - a. Residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Policy 5.2.E (7), for subdivisions and multi-family parcels greater than five acres in area, New Town Overlays, PUDs, and if applicable, mixed-use land development activities as specified in Policy 5.2.E (6).
    - b. For development activities on property greater than five (5) acres, density may be transferred to an upland portion of the site if consistent with all county land development regulations and compatible with adjacent uses.
    - c. Except as allowable in Policy 5.2.E(1)a, subdivided lots and multi-family parcels shall contain sufficient uplands for the

intended use and for any buffering necessary to maintain the function of the wetland(s), and shall be compatible with adjacent uses.

2. Residential land uses within wetlands and created by metes and bounds, which are not part of a formal subdivision, on properties containing wetlands shall be limited to the following:
  - a. Residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts as described in Policy 5.2.E (1)a above. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Policy 5.2.E (7).
  - b. Except as allowable in Policy 5.2.E (2)a, properties shall contain sufficient uplands for the intended use and for any buffering necessary to maintain the function of the wetland(s), and shall be compatible with adjacent uses.
  - c. In addition to impacts allowable in Policy 5.2.E (2)a, on properties where sufficient uplands for the intended use and for any buffering necessary to maintain the function of the wetland(s) exist except for access, wetland impacts may be permitted for single access to the uplands.
3. Commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands. In no instance shall a proposed land development activity result in increased flooding on adjacent properties. Where the State does not require a buffer, wetland buffers specifications shall be established in land development regulations and be based on peer-reviewed

publications to include, but not be limited to, Buffer Zones for Water, Wetlands, and Wildlife in the East Central Florida Region, (1990, Brown, M.T., Schaefer, and K. Brandt, published by the Center for Wetlands, University of Florida). Where impacts are permitted, the applicant is encouraged to propose innovative wetland preservation alternatives.

- a. Impacts to wetlands are permissible for commercial or industrial land development activities on a property that is designated as commercial or industrial on the Future Land Use map, and is located within one-half mile of the intersection of the off-ramp of the I-95 interchange with the connecting roadway. The one-half mile radius shall extend from the end of the limited access boundary of I-95. This shall not include those interchanges where I-95 intersects a limited access highway as defined by Florida Statute. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.
- b. In mitigation qualified roadways, commercial or industrial land development activities may be permitted in wetlands contained in properties designated for commercial or industrial land uses on the Future Land Use Map. Mitigation qualified roadways are depicted and identified in a table on Map 8.

An amendment to the Comprehensive Plan shall be required to add a mitigation qualified roadway to Map 8 and the associated table. Impacts to high functioning and landscape level wetlands shall be prohibited unless the proposed impacts are found to be in the public interest, or overriding public benefit. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.

- c. Commercial or industrial land development activities may be permitted in wetlands contained in properties designated for commercial or industrial land uses on the Future Land Use Map prior to February 23, 1996, if the property abuts land(s) developed as commercial or industrial as of December 31, 2010, and has sufficient infrastructure available to serve the commercial or industrial use. This shall not apply to

properties that are addressed under Policies 5.2.E.3.a, b, and d. Impacts to high functioning and landscape level wetlands shall be prohibited unless the proposed impacts are found to be in the public interest, or overriding public benefit. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.

- d. Impacts to wetlands for commercial or industrial land development activities limited solely to providing access to uplands, and for no other purpose than providing access as required by Brevard County land development regulations may be permitted in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial of February 23, 1996, only if all of the following criteria are met:
  - (i) Sufficient uplands exist for the intended use except for access to uplands.
  - (ii) The property was not subdivided from a larger property after December 31, 2010. This shall not preclude a single shared access through wetlands for properties subdivided after December 31, 2010.
  - (iii) Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Objective 5.
- 4. Institutional and Residential Professional development activities within wetlands shall be limited to the following:
  - a. Institutional or Residential Professional land development on properties which contain wetlands and which are designated on the Future Land Use Map as Neighborhood Commercial or Community Commercial shall be considered commercial as set forth in Policy 5.2.E.3. The property shall have sufficient infrastructure available to serve the use.
  - b. Institutional or Residential Professional land development on properties which contain wetlands and which are designated on the Future Land Use Map as residential shall be limited to properties of at least 5 acres unless strict application of this

policy renders a legally established parcel as of September 9, 1988, which is less than 5 acres, as unbuildable.

5. In the event that the denial of commercial or industrial development activities in wetlands results in an inordinate burden under the Bert Harris Property Rights Act or a taking under state or federal law, an affected property owner may appeal such denial to the Board of County Commissioners in the manner provided in Section 62-507(b)(2), Code of Ordinances of Brevard County, Florida.
6. Beginning on January 1, 2010, mixed-use land development activities may be permitted in wetlands only if all of the following are met:
  - a. The land development activities that impact wetlands must be part of a mixed use development that includes a minimum of three of the following land uses: residential, commercial (retail services and/or office), recreation/open space and institutional uses. Industrial land uses shall be prohibited in mixed use land development activities within wetlands. For purposes of this policy mixed use land development activities shall be consistent with the following criteria:
    - (i) The mixed use land development activity includes a variety of densities, intensities and types designed to promote walking between uses and utilizes a variety of transportation modes such as bicycles, transit and automobiles; and
    - (ii) The residential component of the land development activity is an integrated part of the project and comprises not less than 30% of the gross square footage of land uses within the development as shown on a site plan or a Sketch Plan complying with the standards set forth in Chapter 11, Policy 9.9.2.
    - (iii) The development is in conformance with an integrated site plan or commercial subdivision which includes both vertical and horizontal mix of uses within a defined area.
  - b. Impacts to wetlands from mixed-use development activities (including without limitation impacts resulting from

associated improvements such as sidewalks, parking areas and driveways) do not exceed the limitation set forth in Policy 5.2 E(7); and

- c. To the extent direct impacts to wetlands are caused by a particular building or buildings within a mixed-use development, not less than 30% of the gross square footage of such building or buildings must be for residential use; or such building or buildings shall be physically attached to a building having not less than 30% of its gross square footage permitted for residential use.
7. Impacts to wetlands from residential and mixed-use land development activities, on a cumulative basis, shall not exceed 1.8% of the non-commercial and non-industrial acreage of a DRI, PUD, parcel acreage or, if the project is within a New Town Overlay (as defined in Chapter 11, Policy 9.2), 1.8% of the non-commercial and non-industrial acreage within the applicable New Town Overlay.
8. Allowable wetland impacts shall be kept to a minimum and related to structural building area requirements, on-site disposal system requirements, the 100 year flood elevation requirement for first floor elevations, required stormwater management and parking, and required access to the on site structures. Minimization shall include application for available land development regulation waivers that would result in reduced wetland impacts.
9. Dumping of solid or liquid wastes shall be prohibited.
10. Applying or storing pesticides and herbicides should be prohibited unless such application is required for protection of the public health or removal of invasive, exotic, or nuisance plant species for management and mitigation or conservation purposes approved by Brevard County or removal of invasive, exotic, or nuisance plant species for management and mitigation or conservation purposes approved by Brevard County.
11. The County shall develop incentives to minimize impacts to highly functional wetlands.

F. Agricultural Activities

1. An exemption for agricultural pursuits, utilizing best management



practices which do not result in permanent degradation or destruction of wetlands, shall be included within the land development regulation.

2. Wetland impacts for activities listed in agricultural zoning classifications as permitted, permitted with conditions, or approved by the Board of County Commissioners as a Conditional Use on properties designated as bona fide agricultural lands per F.S. 193.461 and 823.14, may be allowed subject to the following criteria:
  - a. The property shall be classified as bona fide agricultural per F.S. 193.461 and 823.14 for not less than ten consecutive years as of the date of the proposed impact;
  - b. The property shall have Agriculture Future Land Use designation or DRI Future Land Use designation and the proposed use is consistent with the defined agricultural uses under an approved DRI Development Order.
  - c. Upon approval of the impact, no less than 50 percent of the property area shall retain bona fide agricultural use pursuant to F.2.a above;
  - d. Impacts to high functioning or landscape level wetlands shall be prohibited unless the proposed impacts are found to be in the public interest, or overriding public benefit; and
  - e. The property shall have an agricultural zoning classification or be zoned PUD and the proposed use is consistent with the defined agricultural uses in the PUD zoning resolution or approved Preliminary Development Plan.

Where the allowable use is residential, residential policies shall apply. Sufficient buffer setbacks of the activity from incompatible land uses shall be provided. Buffer setbacks shall be established through the land development regulations. The property shall meet all other State regulatory criteria.

### **Policy 5.3**

Wetland regulations adopted by Brevard County should avoid duplication of wetland regulation unless regulated activities will result in the destruction and/or degradation of functional wetlands. Where the wetland degradation or destruction has been permitted by FDEP or SJRWMD based on FDEP and SJRWMD professional staff

application of criteria and evaluation the County shall apply the land use and density requirements of Policy 5.2 and the avoidance, minimization of impacts, and mitigation priorities established by Objective 5. Any permitted wetland degradation or destruction shall provide for mitigation as designated in the Conservation Element.

#### **Policy 5.4**

Wetlands artificially created for wastewater treatment or disposal or for wetland stock nurseries shall not be subject to these regulations and shall not be used to fulfill the requirements of this objective (Objective 5).

#### **Policy 5.5**

Natural, isolated wetlands should be incorporated into water management systems where practical and appropriate, as an alternative to destruction of wetlands. Whenever wetlands are utilized within water management systems, quality of the water discharged to the wetlands, hydroperiods and stage elevations should be designed to maintain or enhance the wetland.

#### **Policy 5.6**

Wetlands policy should provide allowances to promote redevelopment, and urban and industrial infill.

### **Minerals**

#### **Objective 6**

Brevard County shall continue to implement regulations regarding mining, borrow operations and private lakes which protect environmental systems and permit appropriate utilization of the mineral resources.

#### **Policy 6.1**

Mining regulations entitled *Land Alteration* shall continue to include, at a minimum, the following provisions to prevent adverse effects on water quality and quantity.

##### **Criteria:**

- A. Mining operations are not permitted within Type 1 aquifer recharge areas, as defined by this Comprehensive Plan.
- B. Mining operations are not permitted within Type 2 aquifer recharge areas which are being used for a drinking water supply or where there is potential for private drinking water supply systems.
- C. Mining operations are not permitted within the 10-year floodplain of the St. Johns River or freshwater tributaries of the Indian River Lagoon or

wetlands as protected within this Plan.

- D. Mining operations located within the watersheds of Class I surface waters shall not have adverse impacts on water quality and quantity of potable surface water sources.

### **Policy 6.2**

The County's mining regulations shall continue to include, at a minimum, the following provisions to minimize adverse impacts to environmental resources.

#### **Criteria:**

- A. Mining operations should not adversely impact protected wetlands or other water dependent systems, and shall be set back a minimum of 100 feet from such wetlands, except as allowable per Policy 5.2.F.<sup>1</sup>
- B. Mining operations shall not cause salt water intrusion. Monitoring by the mining operator shall be required to insure this requirement.

### **Policy 6.3**

The County's mining regulations shall continue to include, at a minimum, the following provisions.

#### **Criteria:**

- A. Mining operations within any zoning classification shall require a Conditional Use Permit.
- B. Reclaimed mines shall have a minimum five (5) feet horizontally to one (1) foot vertically (5:1) side slopes to a normal water depth of at least five (5) feet below the water surface; subaqueous side slopes deeper than five (5) feet shall be no steeper than 2:1, and a littoral zone.
- C. When the borrow pit (lake) is to be utilized in conjunction with residential development, stormwater shall not be released directly into lakes with depths greater than eight (8) feet. Pretreatment of stormwater, for example via swales, shall be required.

### **Policy 6.4**

A reclamation plan and proof of financial responsibility must be submitted and approved prior to the commencement of the mining operation. The reclamation plan shall address the following concerns, at a minimum.

#### **Criteria:**

- A. Average depth;
- B. Bottom contours and littoral zones;

- C. Revegetation plan, showing plant materials;
- D. Control of stormwater runoff and drainage;
- E. Recreational amenities, if any;
- F. Stocking with fish, if any; and
- G. Maintenance plan.

#### **Policy 6.5**

A concept plan to bind the operational scope and other physical features of the operation shall be submitted and approved prior to the commencement of the mining operation. The concept plan shall address the following criteria, at a minimum.

##### **Criteria:**

- A. Size and location of operation;
- B. Location of equipment and equipment storage;
- C. Extent of buffering and setbacks;
- D. Side slopes;
- E. Points of ingress and egress; and
- F. A vicinity map depicting removal routes that trucks and other vehicles will use to haul to sites or areas external to the borrow site.
- G. The required reclamation plan shall also be included.

#### **Policy 6.6**

Brevard County shall continue to implement regulations for land excavation operations in addition to those for commercial borrow operations. These regulations are titled *Private Lakes* and shall continue to include, at a minimum, the following:

##### **Criteria:**

- A. Definition of regulated land excavation operations. The construction of a private lake will not be used or constructed as a commercial borrow operation by virtue of its intended use, and maximum size.
- B. Exemptions, including the construction of swimming pools, and water retention areas required in conjunction with an approved site plan or subdivision plat.

- C. The minimum size to be regulated.
- D. Setbacks shall continue to be established in the private lake regulations from property lines and rights-of-way lines of a publicly owned road, street, highway, drainage, or public or private utility easements, and cable TV easements.
- E. Regulated excavations shall not be permitted within:
  - 1. Type 1 aquifer recharge areas as identified within this Plan or within;
  - 2. Type 2 aquifer recharge areas being utilized as sources for public drinking water supplies.
  - 3. Below the ten-year floodplain of freshwater tributaries of the Indian River Lagoon or the St. Johns River.
- F. Limitations shall be adopted on length of time that excavations may occur and hours of operation.
- G. Requirements for side slopes of the completed excavation.
- H. Maximum permitted depths.
- I. Reclamation requirements.

## **Soil Erosion**

### **Objective 7**

Eliminate inappropriate land use practices causing soil erosion and reduce sediment accumulation in the Indian River Lagoon, St. Johns River and other large surface water bodies.

### **Policy 7.1**

Brevard County shall continue to implement its adopted land clearing, tree protection, and landscaping ordinances to address revegetation and premature land clearing.

#### **Criteria:**

- A. Require permitting prior to any land clearing.
- B. Require phased clearing in conjunction with phased construction.

- C. Require permits for the removal of trees or vegetation in conjunction with land surveying along property lines.
- D. Require areas cleared of vegetation to be revegetated with biologically appropriate vegetation, to prevent wind or water erosion, within ninety (90) days of initial land clearing activity where no approved landscape plan exists or no active development order has been issued. Native vegetation should be utilized to the maximum extent possible.
- E. Exempt single-family residential lots of two and one-half (2 1/2) acres or less in size, from the requirement of written notification to clear land, after the issuance of a Certificate of Occupancy for the single-family residential lot.
- F. Exempt land clearing in conjunction with agricultural purposes or normal silviculture utilizing best management practices.

#### **Policy 7.2**

Where localized soil erosion is noted by Code Enforcement, the Natural Resources Management Office, or other County agency, the Brevard Soil and Water Conservation District will be contacted and their recommendations shall be incorporated into a program instituted to assist the landowner to renourish and stabilize such areas.

#### **Policy 7.3**

In those cases where soil erosion is of concern, especially properties along the Atlantic Ridge, Brevard County shall request review by the Brevard Soil and Water Conservation District. Brevard County shall consider their recommendations in the design, review and development of projects. Projects should minimize impervious surfaces by using pervious surfaces where ever feasible, such as for overflow parking.

#### **Policy 7.4**

Brevard County will participate with the Brevard Soil and Water Conservation District to educate the public about the causes of soil erosion, as well as methods for preventing or repairing such erosion.

#### **Policy 7.5**

Brevard County should employ Best Management Practices for control of erosion and sedimentation for road construction and other County projects.

#### **Policy 7.6**

Brevard County shall utilize techniques in the installation of new facilities or improvement of existing facilities to minimize sediment accumulation within surface



water bodies and wetlands.

**Criteria:**

- A. Turbidity screens shall be utilized for all projects which have the potential to release sediments.
- B. All runoff shall be detained prior to release to allow pollutants, soil, particulates and organic materials to settle out.
- C. Phased projects should be cleared in conjunction with construction of each phase.
- D. Areas cleared of vegetation should be revegetated with appropriate vegetation, to prevent wind or water erosion, within ninety (90) days of initial land clearing activity where no approved landscape plan exists or no active development order has been issued.

## **Vegetation**

### **Objective 8**

Conserve, appropriately use and protect native vegetative communities, including forests as appropriate, by regulating land clearing and landscaping practices within Brevard County.

#### **Policy 8.1**

Brevard County shall continue to implement and improve the land clearing and tree protection ordinance, and the landscaping ordinance, as amended.

#### **Policy 8.2**

Brevard County shall continue to utilize information from the East Central Florida Regional Planning Council and other agencies in undertaking a program to inventory and identify vegetative communities within the County, and to determine loss rates and rarity of such communities.

#### **Policy 8.3**

Brevard County shall continue to review all development plans for compliance with vegetative protection regulations developed by ordinance and adopted in Chapter 62, Article B, Division 2 of the Land Development Regulations that meet the objectives of 9J-5.006 and 9J-5.013. Brevard County shall continue to encourage the use of community green space and clustering developments through the open space ordinance, and shall coordinate with the Building and Construction Advisory Committee, the Brevard County Home Builders Association and other appropriate groups to continuously improve environmental design incentive program.

**Policy 8.4**

Brevard County should continue to utilize scientific advisory groups to investigate preservation of vegetation, particularly of upland communities. These groups are ad hoc based upon the Board direction. The Environmentally Endangered Lands Program, Selection and Management Committee (SMC) may also be used to support these investigations when consistent with policy.

**Policy 8.5**

Brevard County shall conserve, appropriately use and protect vegetative communities, including forests, from inappropriate development through the continued implementation of the Landscaping, Land Clearing and Tree Protection ordinance. using the following minimum criteria:

**Criteria:**

- A. Heat Island Mitigation.
- B. Vegetative Buffering.
- C. Vegetative Loss Replacement.

**Policy 8.6**

Brevard County should continue to develop programs for county-wide acquisition of unique vegetative communities which have been identified for protection. This acquisition shall be voluntary, and shall not include the use of eminent domain.

**Policy 8.7**

Brevard County should contact the municipalities within the county and pursue developing a county-wide vegetation protection ordinance to standardize existing landscaping ordinances.

**Policy 8.8      Reserved****Policy 8.9**

Brevard County shall continue to incentivize continued use of agricultural and silvicultural lands which are unique to Brevard County. These programs should include, but not be limited to, regulatory incentives and assistance for agriculture landowners, voluntary agricultural or silvicultural districts, time-certain dedications, purchase or transfer of development rights, and voluntary fee simple purchase of agricultural or silvicultural lands.

**Policy 8.10**

Brevard County shall develop a county-wide program for invasive exotic removal on public lands and shall educate private property owners on reasons to remove invasive exotics from private lands. This program should emphasize replacement of invasive exotics with native vegetation where feasible.

## **Wildlife**

### **Objective 9**

Protect endangered and threatened wildlife species and species of special concern from adverse impacts due to loss of crucial habitat.

#### **Policy 9.1**

Brevard County shall continue to obtain and utilize information from the U.S. Fish and Wildlife Service, Florida Game and Freshwater Fish Commission, Florida Department of Environmental Protection, Florida Natural Areas Inventory, East Central Florida Regional Planning Council and other agencies to inventory and identify crucial habitat for endangered or threatened wildlife species and species of special concern within the County, and to determine loss rates and rarity of such habitat.

#### **Policy 9.2**

By 2002, Brevard County shall make available Natural Resources of Regional Significance maps as adopted Florida Department of Environmental Protection in 1998 and revised in 2004, and the Florida Natural Inventory (FNAI) adopted 2000, and revised in 2006 to provide crucial habitat review at the pre-application stage of all projects requiring site-plan or subdivision approval to guide future development away from crucial habitats

#### **Policy 9.3**

Brevard County should coordinate a scientific advisory group to investigate preservation of wildlife habitat, particularly of upland communities.

#### **Policy 9.4**

Brevard County shall continue the Environmentally Endangered Lands Program (EEL) as authorized by the voter-approved public referendum in September 1990. This program shall remain committed to acquiring, protecting, and maintaining environmentally endangered lands and making improvements as appropriate for passive recreation and environmental education.

#### **Policy 9.5**

Development of Brevard County owned conservation areas shall be in accordance with the intent of the original acquisition.

#### **Policy 9.6**

Prior to development of any county-owned property, an environmental assessment should be completed which would analyze the impact of the proposed development on the natural resources and wildlife habitat of the property.

**Policy 9.7**

Brevard County shall continue to rely upon the Environmentally Endangered Lands Program, Selection and Management Committee (SMC) land acquisition analysis and the Florida Fish and Wildlife Conservation Commission (FWCC) adopted in 1994, revised in 2006, wildlife corridor studies to determine the appropriateness of wildlife corridors, how extensive they should be, the location of potential corridors, Brevard County should explore what fiscal resources including the EELs program, are available for implementation and possible economic incentives for property owners to voluntarily participate in formation of a wildlife corridor program.

**Policy 9.8**

Brevard County shall delineate and protect linkages between natural systems and the open space systems.

**Policy 9.9**

On February 7, 2003, the Florida Fish and Wildlife Conservation Commission approved the Brevard County Manatee Protection Plan (MPP). The MPP includes the following major components: habitat protection, education, boat facility siting, State of Florida manatee protection boat speed zones, manatee mortality, law enforcement, and boating safety. In addition to the criteria established in the MPP and incorporated into the Coastal Element, the following criteria shall also apply:

**Criteria:**

- A. All existing and new marinas shall erect manatee education and awareness signs, which will be posted and maintained in a prominent location. Each marina operator shall establish and maintain a permanent manatee educational display at a prominent location at their marina. Brevard County shall establish and maintain a display at public boat launch facilities and license tag agencies.
- B. Those involved in the sale of boats and motors should provide manatee information to the buyer at the time of delivery of boats or motors.
- C. Brevard County shall maintain well-marked speed limit signs, in accordance with the uniform waterway marker program, for manatee protection and boating safety speed zones established by local ordinance only.
- D. Brevard County, or other appropriate agencies, shall develop standardized information packet containing information regarding manatees and regulations protecting manatees for distribution by the U.S. Fish and Wildlife Service, Florida Department of Environmental Protection, Brevard Marine Association, and other agencies or groups as appropriate. This will include information concerning the existing

manatee slow speed or idle zones, and any additional zones which may be deemed necessary within areas frequented by manatees.

- E. Brevard County shall continue to monitor manatee protection measures to determine their effectiveness.
- F. Brevard County shall identify areas containing significant manatee habitat features. Marinas with powerboat slips should not be sited within these areas.

#### **Policy 9.10**

Brevard County should continue to enforce its sea turtle protection ordinance in order to protect sea turtles along the County's beaches. Efforts shall be made to make beachfront lighting ordinances within the County uniform. This may be accomplished through interlocal agreements.

#### **Policy 9.11**

Beach renourishment and dune restoration plans shall continue to be designed and implemented so that sea turtle nesting is not disrupted.

#### **Policy 9.12**

Brevard County Office of Natural Resources Management shall continue to comply with the county-wide scrub-jay habitat management conservation agreement plan as approved by the US Fish and Wildlife Service on July 10, 2003 and revised in 2007. Management plans shall be developed for other species, as deemed necessary.

#### **Policy 9.13**

The Brevard County Office of Natural Resources Management shall make available to the development community, State prepared model management plans for other endangered and threatened species and species of special concern dependent upon habitat rarity and loss rates as described in Policies 9.2, 9.7, and 9.12, in this element.

#### **Policy 9.14**

Brevard County shall continue to assist in the application of, and compliance with, all state and federal regulations which pertain to endangered, or threatened species and species of special concern.

#### **Policy 9.15**

By 2016, the County shall develop education programs to promote the preservation of endangered and threatened species and species of special concern as well as their habitat, with the assistance of the Florida Department of Environmental Protection, the Florida Game and Fresh Water Fish Commission, and the U.S. Fish and Wildlife Service, and other agencies or groups as appropriate. Brevard County encourages the development of post-development wildlife management plans which

would enhance the wildlife potential of existing developments.

#### **Policy 9.16**

Brevard County supports the use of Turtle Excluder Devices (TEDs) or other devices to protect wildlife from shrimp and other fishing nets.

### **Aquifer Protection**

#### **Objective 10**

Maintain the surficial and Floridan aquifer systems for reasonable and beneficial uses.

#### **Policy 10.1**

By 2016, Brevard County shall undertake a surficial and Floridan aquifer protection study, including modeling of wellfield cones of influence. This study will be coordinated with other appropriate agencies and will become the basis for an aquifer management plan.

#### **Policy 10.2**

Until an aquifer management plan is adopted by Brevard, at a minimum the following criteria shall be incorporated into the land development regulations to protect the aquifer.

##### **Criteria:**

- A. In Type 1, 2, and 3 aquifer recharge areas, post-development groundwater recharge volume shall equal pre-development recharge volume. The maximum allowable impervious surfaces in these areas shall be: Type 1 - 25%; Type 2 - 35%; and Type 3 - 45% unless the developer can demonstrate that post-development recharge volume shall equal pre-development recharge volume and dependent upon additional regulations and local conditions. Citrus, improved pasture, row crop agricultural operations, and normal silvicultural operations using Best Management Practices shall be exempt.
- B. For water quality purposes, stormwater run-off in Type 1, 2, and 3 aquifer recharge areas should be directed through a vegetated stormwater management system which at a minimum has a soil depth of at least two feet above the seasonal high water table. Citrus, improved pasture, row crop agricultural operations, and normal silvicultural operations using Best Management Practices shall be exempt. If alternative methods can be shown to meet an equal or greater degree of stormwater treatment these methods may be considered.
- C. Within Type 1 aquifer recharge areas, the following are prohibited:



1. New septic tanks.
  2. New underground storage tanks.
  3. Storage of threshold amounts of hazardous materials.
  4. Disposal of hazardous materials.
- D. Within Type 2 aquifer recharge areas, the following are prohibited:
1. Storage of threshold amounts of hazardous materials.
  2. Disposal of hazardous materials.
- E. Within Type 3 aquifer recharge areas, the disposal of hazardous materials is prohibited.
- F. Groundwater withdrawals shall be managed to prevent salt water intrusion and adverse affects to existing wells. Anyone proposing a new public water supply well must own or control all areas within 500 feet of the proposed well.
- G. An applicant can show that the area does not function as a recharge area by providing additional information about hydrogeologic conditions on site which may include vertical permeability as found in the Aquifer Protection ordinance.

### **Policy 10.3**

Brevard County shall support the City of Titusville's efforts to obtain G-1 sole source aquifer designation.

### **Policy 10.4**

Brevard County shall continue cooperation with the City of Titusville ~~in~~ through the existing Interlocal Agreement and development of new pre-annexation agreements for properties within the City's Area of Critical Concern in order to carry out Titusville's aquifer protection policies and the provision of potable water.

### **Policy 10.5**

Brevard County shall develop a public education program concerning the importance and methods of protecting the County's surficial and Floridan aquifers.

### **Policy 10.6**

By 2002, Brevard County shall develop and adopt within its Land Development Regulations to regulate land uses which involve the storage, production, use and disposal of threshold amounts (to be determined) of regulated substances identified as priority pollutants by the Environmental Protection Agency in 40 CFR 122.21 within Type 1, Type 2, and Type 3 aquifer recharge areas. These regulations shall meet the state criteria for protecting wellfields.

## **Energy Conservation**

### **Objective 11**

Brevard County shall develop strategies through transportation decisions and planning to address the reduction of greenhouse gas emissions, energy conservation and energy efficient design.

#### **Policy 11.1**

Sites for new public facilities serving large numbers of people shall be close to or within population centers to minimize automobile use.

#### **Policy 11.2**

The County shall promote car pooling opportunities for commuters with the same destination.

#### **Policy 11.3**

The County shall encourage the use of transit opportunities and other alternate modes of transportation throughout the County.

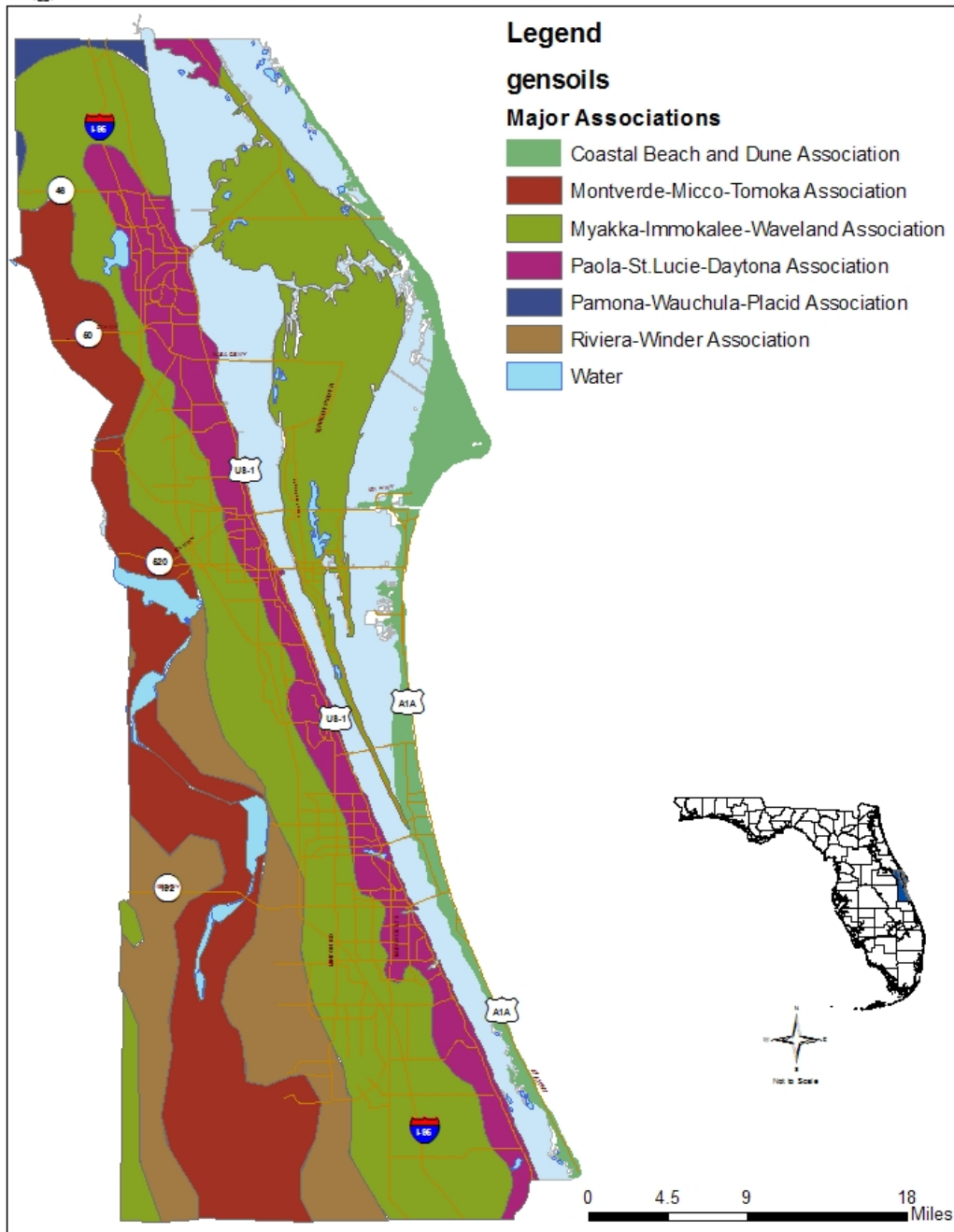
#### **Policy 11.4**

The County shall continue its education program to promote bicycle, pedestrian and other non-motorized transportation options to reduce vehicle miles traveled.

## **APPENDIX**

### **LIST OF MAPS**

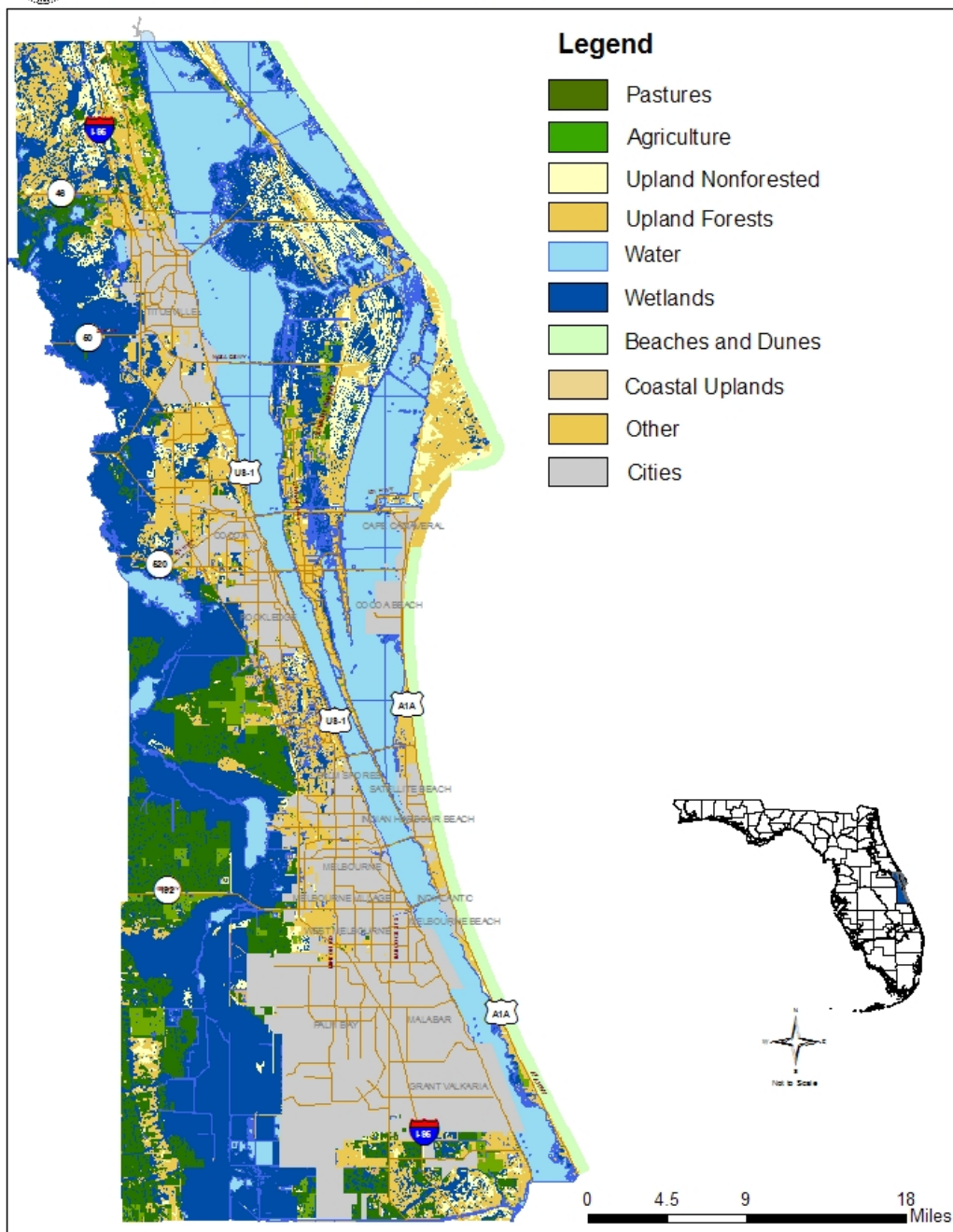
<b>Map</b>	<b>Title</b>
<b>1</b>	<b>General Soils</b>
<b>2</b>	<b>Vegetation</b>
<b>3</b>	<b>Biologically Diverse Habitat</b>
<b>4</b>	<b>Floodplains</b>
<b>5</b>	<b>Surface Water - Classification</b>
<b>6</b>	<b>Wetlands</b>
<b>7</b>	<b>Marine Facilities</b>
<b>8</b>	<b>Mitigation Qualified Roadways</b>
<b>9</b>	<b>Landscape Level Polygon</b>



**Conservation Element  
Soils**

Prepared by: Brevard County Natural Resources Management Office  
Notes: State Plane 1984, Florida East  
Soils by SJRWMD from NRCS soil surveys, which are based on aerial photography.  
General soil map produced by mapping soil series by their order classifications.

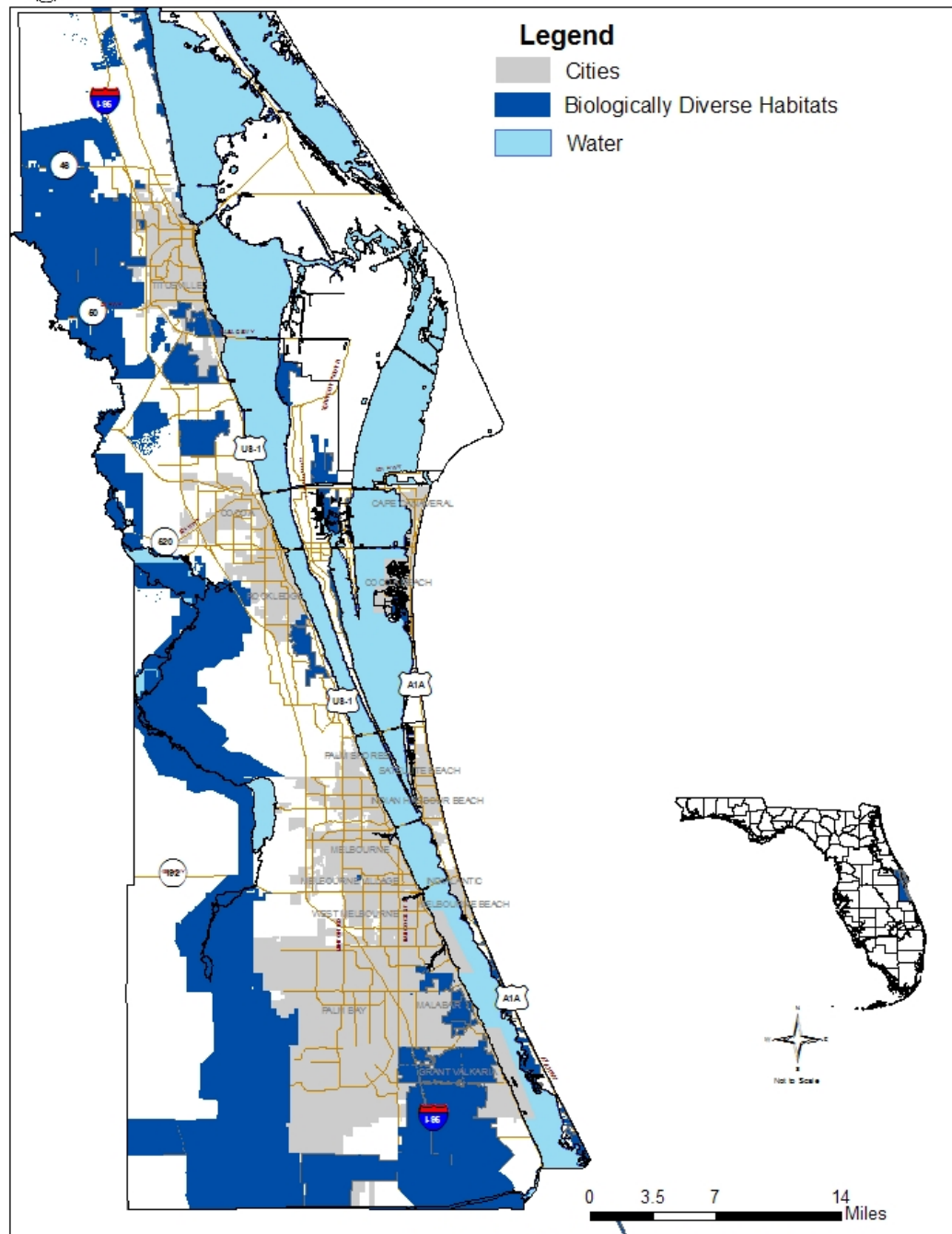
**Map 1  
Soils**



**Conservation Element  
Vegetation**

Prepared by: Brevard County Natural Resources Management Office  
Notes: State Plane 1984, Florida East  
Vegetation by SJRWMD based on aerial photography, FLUCFCS codes.  
General soil map produced by mapping soil series by their order classifications.

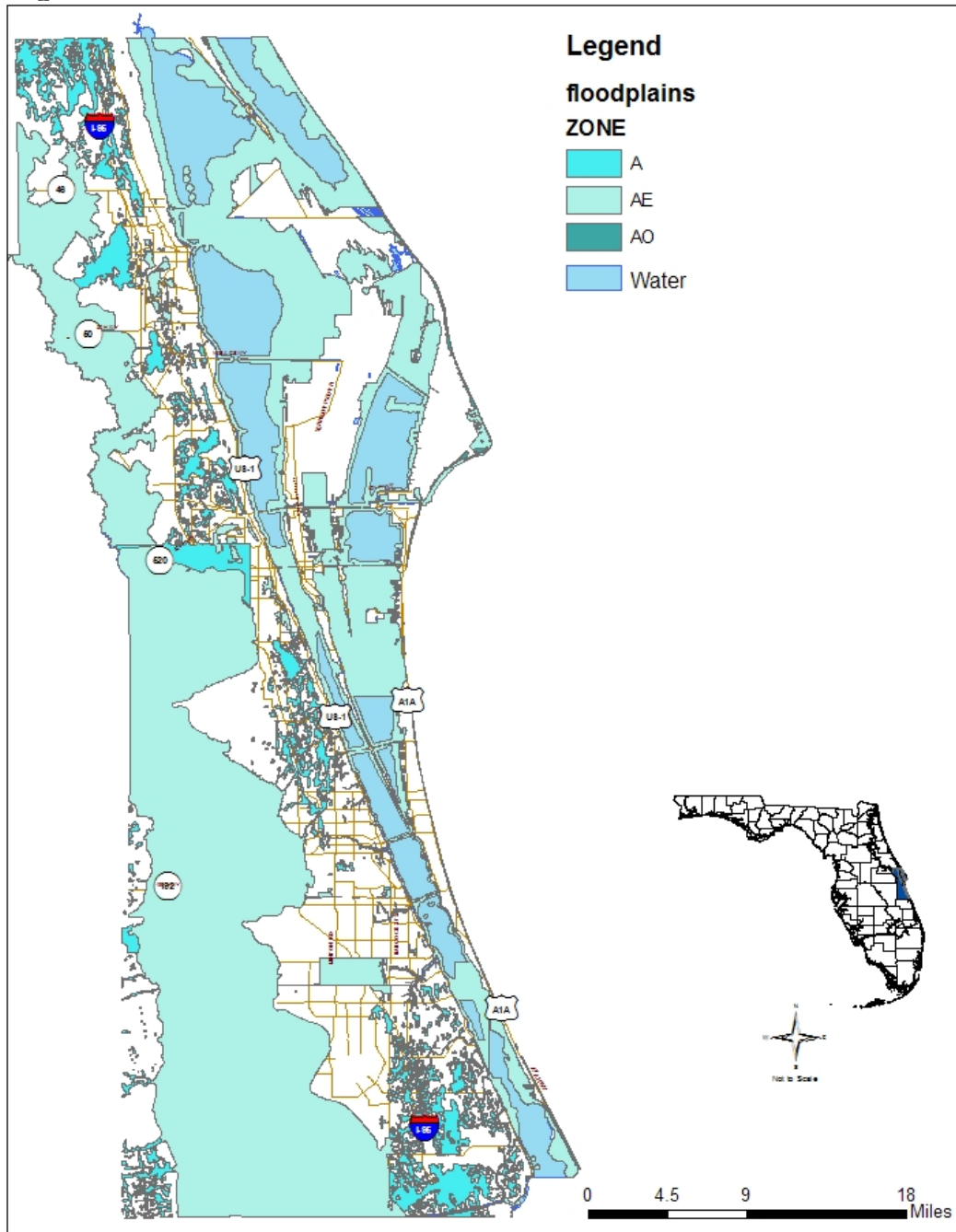
**Map 2  
Vegetation Including Wetlands**



**Conservation Element  
Biologically Diverse Habitats**

Prepared by: Brevard County Natural Resources Management Office  
Notes: State Plane 1984, Florida East  
Map data composed of Public Conservation Lands (SJRWMD, EELS, USFWS, FDEP, Florida Audubon, City of Palm Bay) and Florida Board of Trustees Environmental Land Acquisition Project, 2009

**Map 3  
Biologically Diverse Habitats**

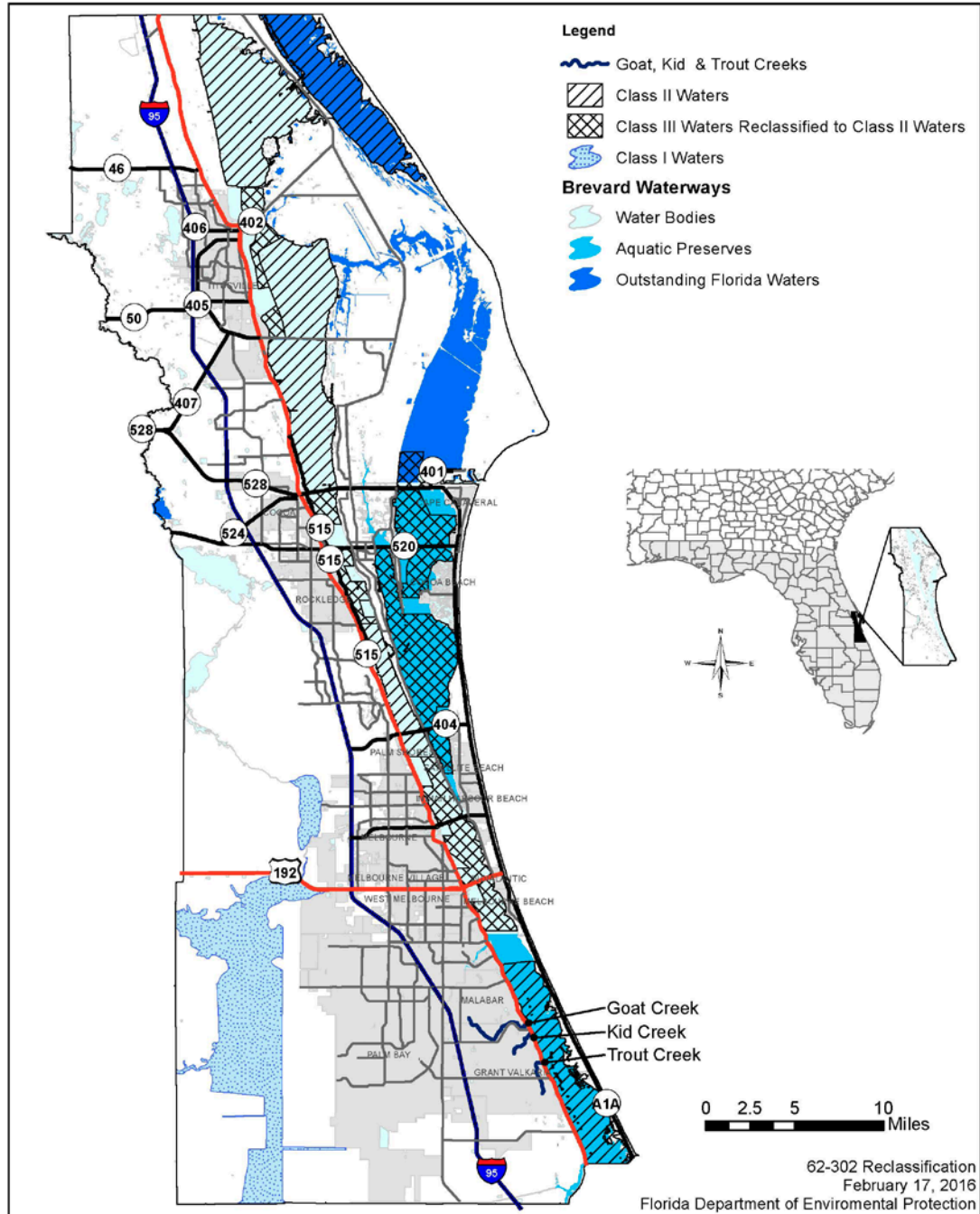


**Conservation Element  
Regulated Floodplains**

Prepared by: Brevard County Natural Resources Management Office  
Notes: State Plane 1984, Florida East  
Floodplain Mapping from FEMA, 2008

**Map 4  
Flood Plains**

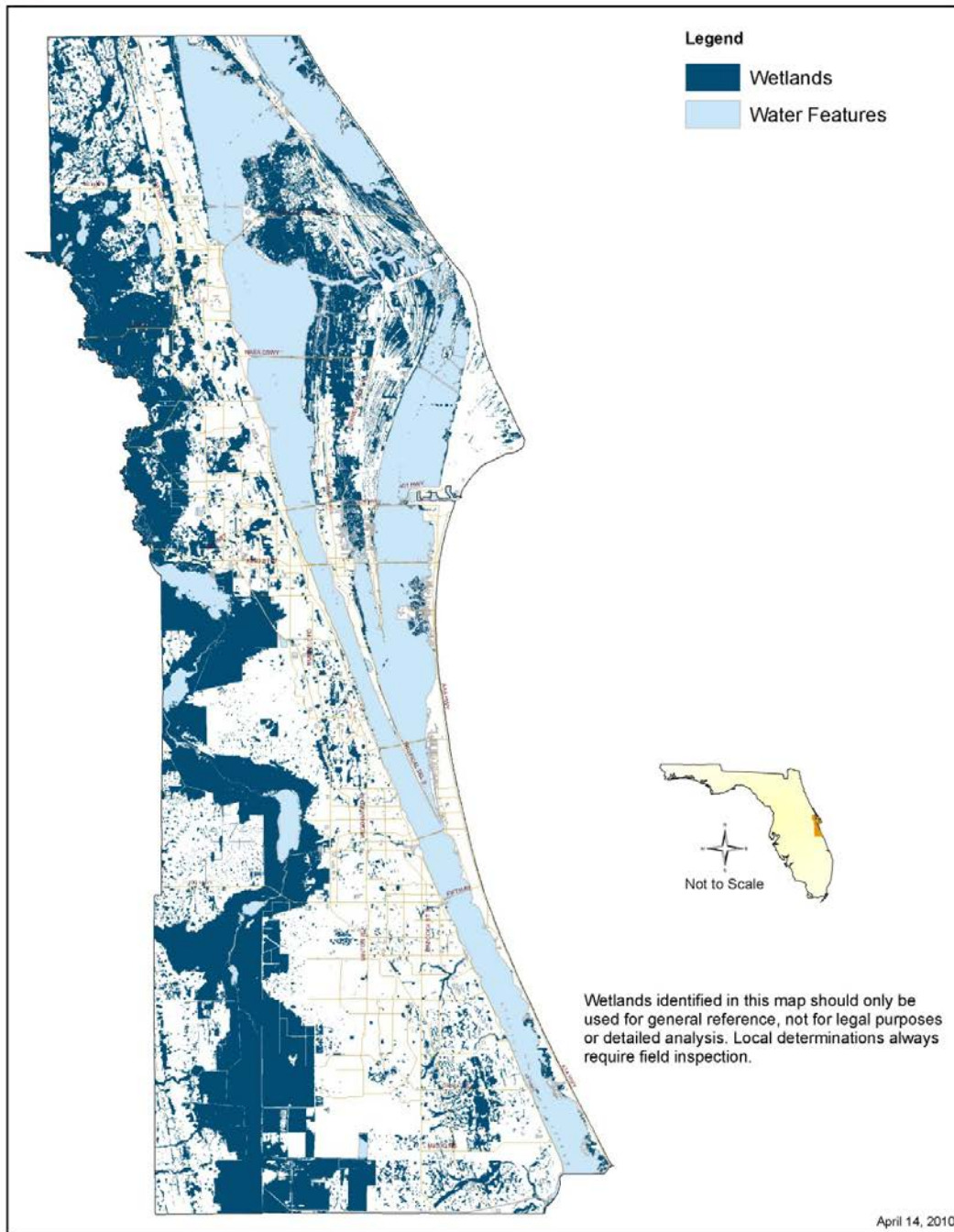




Conservation Element  
Surface Water - Classification

Map 5

Map 5  
Surface Water - Classification

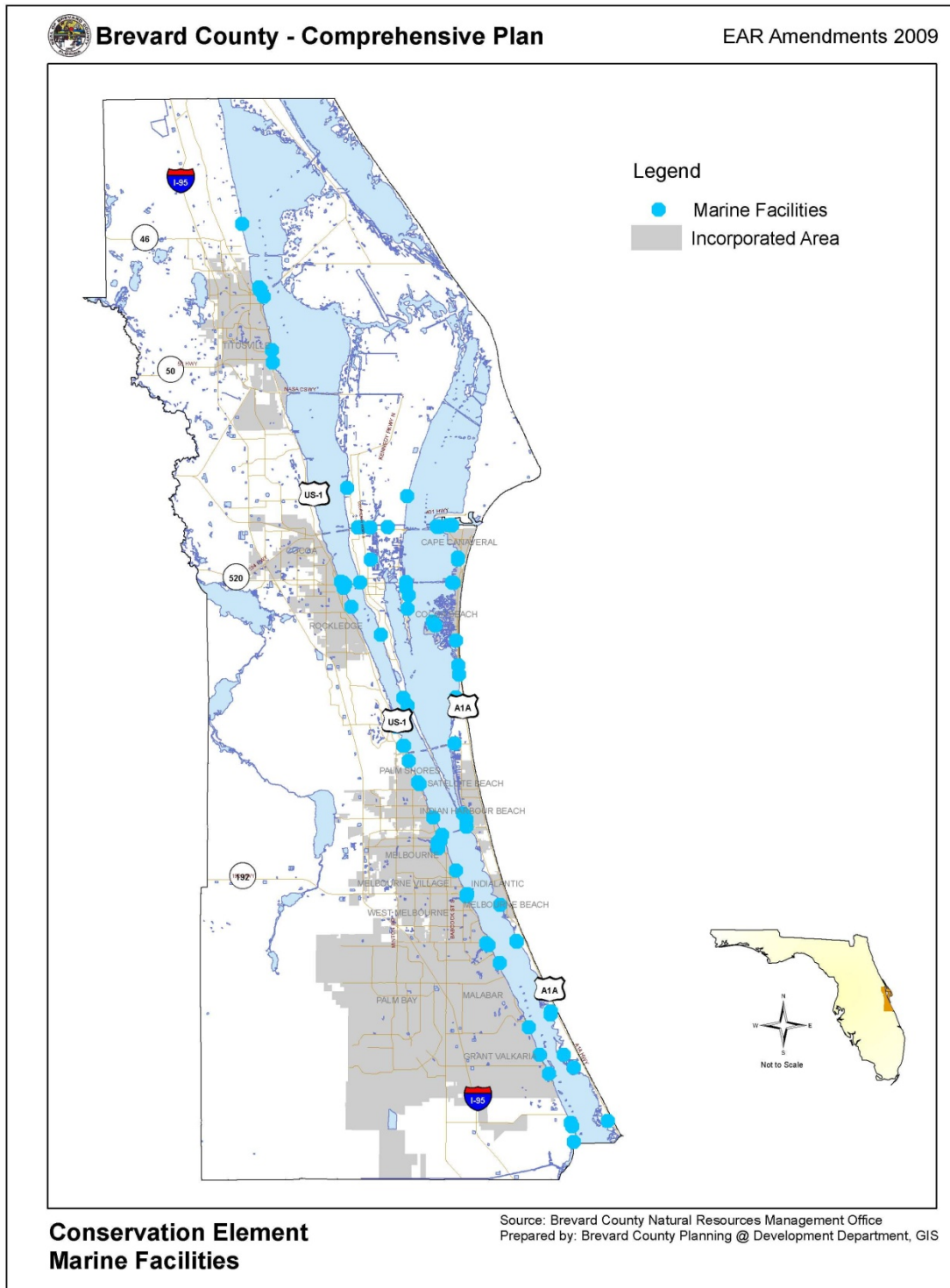


**Conservation Element  
Wetlands**

Source: St. Johns River Water Management District  
Land Use and Land Cover (2004)

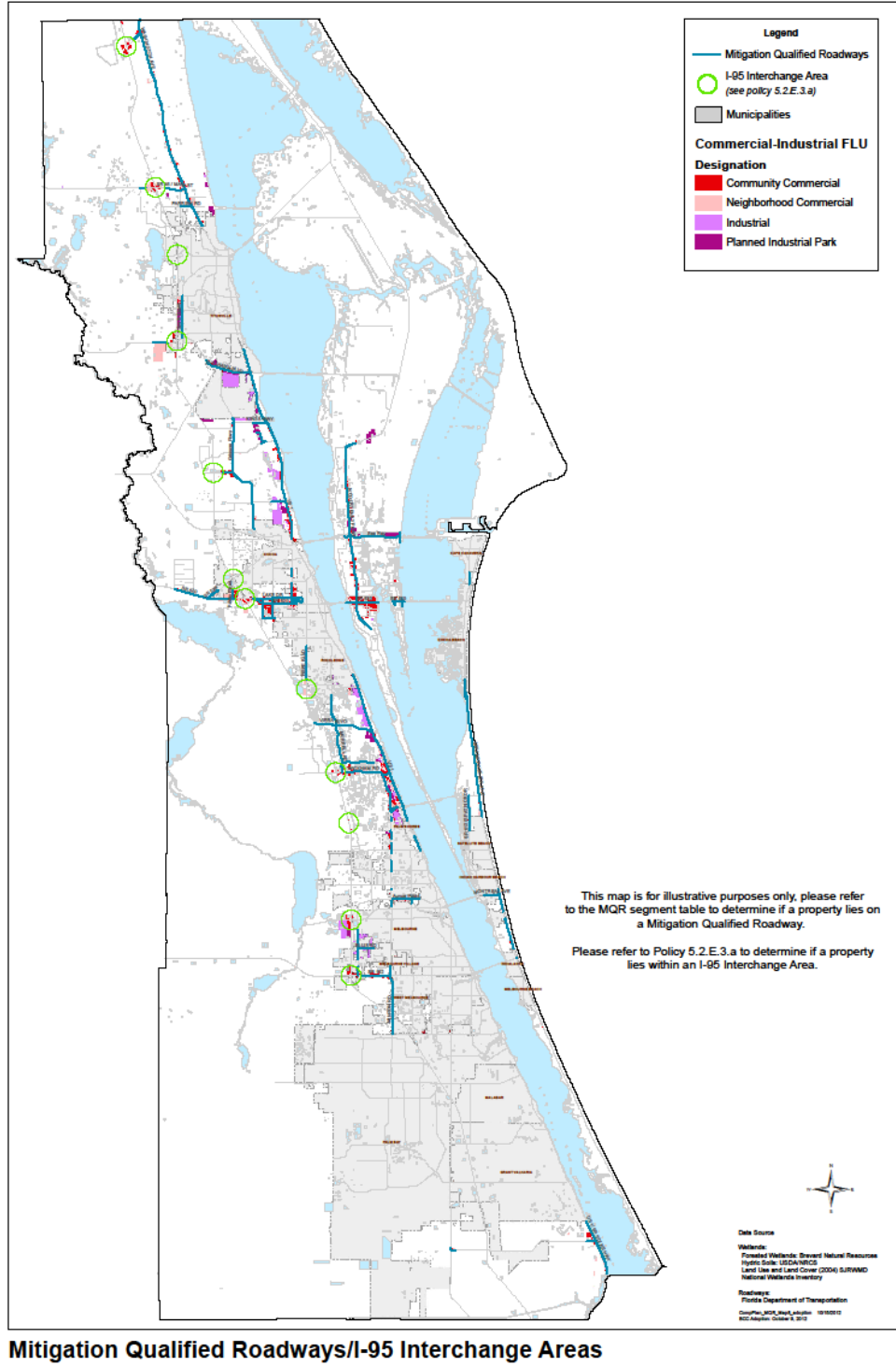
**Map 6**

## Wetlands



**Map 7**  
**Marine Facilities**

## Brevard County - Comprehensive Plan



**Map 8**  
**Mitigation Qualified Roadways**



MQR SEGMENT NAME (Segments apply ONLY in unincorporated areas of Brevard County)	FROM	TO
Stuck Way Rd (CR 5A)	I-95 interchange area*	U.S. Highway 1
U.S. Highway 1	County Line Rd	Kingman Rd (Titusville City Northern Boundary)
SR 46 / Main St	I-95 interchange area*	Approx. 300' west of Turpentine Rd
SR 46 / Main St	I-95 interchange area*	U.S. Highway 1
Parrish Rd	Singleton Ave	U.S. Highway 1
Cheney Hwy (SR 50)	I-95 interchange area*	Approx. 3,800' west of I-95 interchange area*
South Street	Cheney Hwy (SR 50)	Fox Lake Rd
Columbia Blvd (SR 405)	Woodland Hills Dr	U.S. Highway 1
U.S. Highway 1	Titusville City Boundary	Cocoa City Boundary
Grissom Pkwy	Titusville City Boundary	Cocoa City Boundary
Port St. John Pkwy	I-95 interchange area*	Grissom Pkwy
Kings Hwy	U.S. Highway 1	Approx. 325' west of Koesaw
Curtis Blvd	Fay Blvd	Approx. 210' east of Song Dr
Fay Blvd	Carole Ave	Adobe Ave
Canaveral Groves Blvd	U.S. Highway 1	Approx. 330' west of Morris Ave
SR 520	I-95 interchange area*	Penny Ln
SR 524	SR 520	Cocoa City Boundary
Friday Rd	SR 520	Cocoa City Boundary
Lake Dr	SR 520	Cocoa City Boundary
School St	Clearlake Rd	Pineda St
King St (SR 520)	I-95 interchange area*	Cocoa City Boundary
Peachtree St	Clearlake Rd	Pineda St
Pineda St	Peachtree St	School St
Burnett Rd	Lake Dr	Pluckebaum Rd
Range Rd	Lake Dr	Pluckebaum Rd
Pluckebaum Rd	Burnett Rd	Approx. 700' east of Range Rd
Clearlake Rd	SR 520	Tate St
Piske Blvd	I-95 interchange area*	Byster Blvd
U.S. Highway 1	Rockledge City Boundary	Post Rd (Melbourne City Boundary)
Murrell Rd	Wickham Rd	Rockledge City Boundary
Viera Blvd	Stadium Pkwy	U.S. Highway 1
Spyglass Hill Rd	Murrell Rd	Pinehurst Ave
Wickham Rd	I-95 interchange area*	New Haven Ave (SR 192)
Suntree Blvd	Wickham Rd	U.S. Highway 1
Pineda Cswy	Wickham Rd	RR Crossing
Aurora Rd	Citrus St	Melbourne City Boundary (Approx. 235' east of Alpha Dr)
Croton Rd	Carlton Dr	Melbourne City Boundary (Approx. 100' north of Leewood Blvd)
John Rhodes Blvd	Melbourne City Boundary (N end of Lamplighter Village)	New Haven Ave (SR 192)
Ellis Rd	John Rhodes Blvd	Distribution Dr
New Haven Ave (SR 192)	I-95 interchange area*	Minton Road
Babcock St	Micco Rd	Approx. 680' north of Micco Rd
Micco Rd	Babcock Road	Approx. 1,310' east of Babcock St
US 1/SR 5/Dixie Hwy	Serne St (Grant - Valkaria City Boundary)	Sebastian Inlet Bridge (South Brevard County Line)
Micco Rd	US 1/SR 5/Dixie Hwy	Approx. 340' west of Pine Ridge Trail
N Courtenay Pkwy	Pine Island Rd	SR 520
Courtenay Pkwy	SR 520	Approx. 470' south of Island Beach Blvd.
Sea Ray Dr	N Courtenay Parkway	Banana River Dr
Marine Harbor Dr	N Courtenay Parkway	Tropical Tr
Tropical Tr	Marine Harbor Dr	Barge Canal
N Banana River Dr	Barge Canal	Stafford Ave
Merritt Island Cswy (SR 520)	Indian River Lagoon (east shore)	New Found Harbor (west shore)
Merritt Island Cswy (SR 520)	Newfound Harbor (east shore)	Banana River (west shore)
Milford Point Dr	Merritt Island Cswy	Approx. 625' north of Merritt Island Cswy
Banana River Dr	Merritt Island Cswy	Approx. 1,200' south of Merritt Island Cswy
Newfound Harbor Dr	Merritt Island Cswy	Approx. 175' south of Kessler Dr
Atlantic Ave	Grant	Barlow
Orlando Ave (SR A1A)	11th St (Cocoa Beach City Boundary)	Atlantic Ave (SR A1A)
Atlantic Ave/SR A1A	Indian Village Trail (Cocoa Beach City Boundary)	Grosse Pointe Ave (Indianalantic City Boundary)
SR 513/S Patrick Dr	Pineda Cswy	Satellite Beach City Boundary (Approx. 185' north of Siena Ct)
Eau Gallie Blvd	Harbor City Parkway	SR A1A

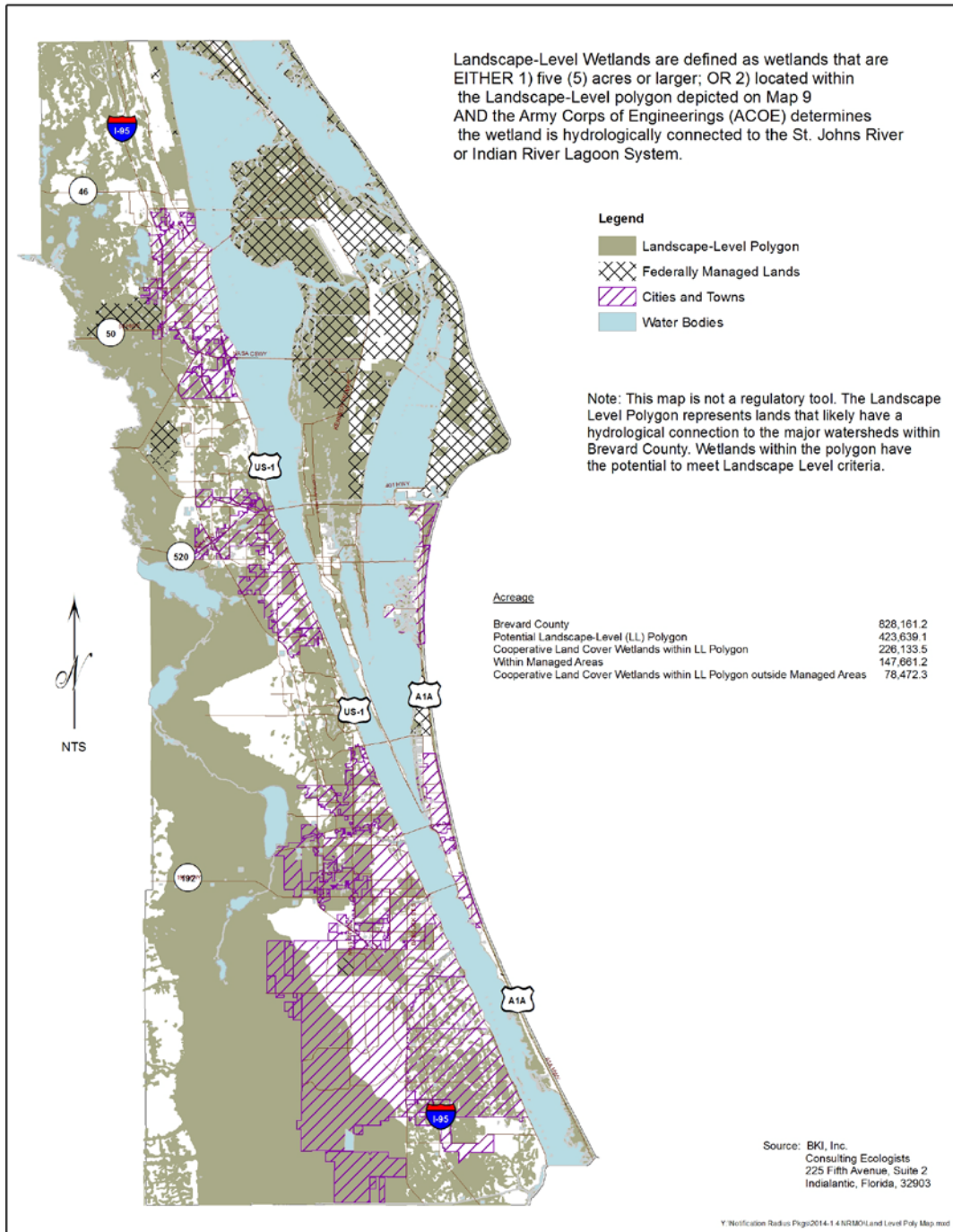
\* - Please refer to Policy 5.2.E.3.a

## Reverse Side of Map 8

December 2016



## Brevard County - Comprehensive Plan



### Conservation Element Landscape-Level Polygon Map

## Map 9 Landscape Level Polygon

December 2016

## **CHAPTER II**

### **SURFACE WATER MANAGEMENT ELEMENT**



## TABLE OF CONTENTS

Objective 1-Master Stormwater Management Plan Implementation.....	1
Objective 2- Meeting Future Needs.....	5
Objective 3- Concurrency Management .....	6
Objective 4- Natural Drainage Functions .....	8

## **GOALS, OBJECTIVES AND POLICIES**

### **GOAL**

A SAFE, EFFICIENT, ENVIRONMENTALLY SOUND AND COMPREHENSIVE SURFACE WATER MANAGEMENT SYSTEM IN BREVARD COUNTY.

### **Master Stormwater Management Plan Implementation**

#### **Objective 1**

Correct existing deficiencies to ensure preservation and improvement of surface water quality, according to priorities established within the County's Master Stormwater Management Plan.

#### **Policy 1.1**

Brevard County shall continue to implement and update a Master Stormwater Management Plan which establishes criteria and methodologies for drainage basin analysis and Level of Service standards. Drainage basins will be prioritized and analyzed based on severity of problems and available funding. The analysis shall identify the following information, at a minimum:

##### **Criteria:**

- A. Surface water drainage basins and sub-basins.
- B. Public and private stormwater treatment facilities, including detention/retention facilities, and the entity having operations responsibility.
  - 1. For shared facilities, the proportional capacity allocated to each entity shall be identified.
  - 2. The geographic service area of each facility and the predominant types of land use served by the facility.
  - 3. The design capacity of the facility.
  - 4. The current demand on the facility.
  - 5. The impact of the drainage facility on adjacent natural resources, including water quality of receiving waters.
- C. Estimated timeframe and costs of correcting deficiencies.

**Policy 1.2**

Priorities for basin analysis and retrofitting shall be established using a matrix approach and the following criteria, at a minimum:

**Criteria:**

- A. Health and safety.
- B. Flooding potential.
- C. Impact of stormwater on the water quality of the receiving water bodies.

**Policy 1.3**

The Natural Resources Management Office shall be the lead agency for the development and implementation of the Master Stormwater Management Plan and shall coordinate its efforts with the St. John's River Water Management District on the Indian River Lagoon Comprehensive Conservation and Management Plan (CCMP), Total Maximum Daily Loads (TMDL's) and the National Pollution Discharge Elimination System (NPDES) permit schedule and requirements.

**Policy 1.4**

Where an approved stormwater system has been altered, resulting in negative impacts to neighboring properties, Brevard County shall require property owners to return these systems to their original design or to an approved design which is a betterment, as appropriate. Any such improvements shall be consistent with the adopted stormwater management plan.

**Policy 1.5**

Brevard County shall address modification of existing development, which does not meet stormwater management standards within the Master Stormwater Management Plan, and should use available financial mechanisms for the modification of such development.

**Criteria:**

- A. Stormwater management facilities within existing developments should be retrofit to provide for treatment of runoff (including sediment removal where appropriate) prior to release to receiving waters. The Level of Service Standards for these facilities shall be the reduction of the pollutant loading as necessary to enhance or maintain the beneficial uses of the receiving water and to meet receiving water standards per Florida Administrative Code. All facilities should be maintained at design capacity.

- B. Properties with bulkheads or seawalls should be modified so that runoff is detained prior to release to the receiving body. This may be achieved by planting native or other appropriate vegetation along the shoreline to retain silt, sediment and nutrients so that the rate of runoff is equivalent to the pre-development state.
- C. Properties with vegetated shorelines should modify the shorelines to retain silt, sediment and nutrients by planting native vegetation or other appropriate vegetation. A detention structure, swale, and/or berm may be used to allow sediments to settle and nutrient uptake to occur only if non-native vegetation is predominant. Runoff rates should be equivalent to the pre-development state.

#### **Policy 1.6**

Brevard County's Master Stormwater Management Plan shall include a program for periodic, scheduled inspections of stormwater management facilities.

#### **Policy 1.7**

Brevard County should continue the public information program on the value of stormwater management. The County should continue to coordinate this program with Natural Resource Conservation Service (NRCS), the Indian River Lagoon National Estuary Program and other appropriate agencies.

#### **Policy 1.8**

Brevard County shall determine the feasibility of innovative methods of stormwater treatment. Innovative methods of stormwater treatment should be construed as any technique other than standard retention and detention basin, and shall include such alternatives as stormwater reuse and area wide stormwater management facilities.

#### **Policy 1.9**

Brevard County shall pursue funding from federal, state and regional sources to investigate and utilize innovative methods of stormwater treatment.

#### **Policy 1.10**

Funding sources for development and implementation of the Master Stormwater Management Plan shall include the stormwater utility which is also identified within the Capital Improvements Element.

**Policy 1.11**

Brevard County shall continue to implement the stormwater utility as a reliable long-term funding mechanism to correct existing deficiencies and to provide for future stormwater management needs. Fee structure may be related to type of development, quantity of runoff generated, impervious surface or other "user related" standard.

**Policy 1.12**

Land use decisions relating to water resources and natural drainage features should be consistent with comprehensive water basin management plans. Area wide water quality management plans should be considered during the continued development of the Stormwater Management Master Plan. During the development of the Master Stormwater Management Plan, all new development shall meet the established stormwater requirements. If during the time that the Master Stormwater Management Plan is being implemented, it becomes apparent that additional regulations are required in order to protect water quality in surface water bodies in Brevard County, the County will initiate protective regulations through the adoption or revision of land development regulations without awaiting completion of the Master Stormwater Management Plan.

**Policy 1.13**

During development of the Master Stormwater Management Plan, the County shall provide for the adoption of retention and detention standards for stormwater throughout Brevard County.

**Policy 1.14**

Brevard County should support a program to retrofit large drainage canals with water control structures or rapid infiltration basins to hold canal stages high during the dry season. This would reduce irrigation demands, conserve ground water resources and reduce degradation of water quality of the Indian River Lagoon and the St. Johns River.

**Policy 1.15**

Nonstructural methods of stormwater management that reduce the generation and accumulation of potential stormwater runoff contaminants should be utilized to the maximum extent possible. Nonstructural methods of stormwater management include pesticide and herbicide control, proper fertilizer management, erosion control, proper waste disposal, etc. In addition, the use of wetlands and floodplains should be utilized whenever feasible in such a manner as to maintain the natural function and biodiversity of the system.

**Policy 1.16**

No new structures (such as dams, weirs, locks, levees or other artificial mechanisms) designed to control the stage and/or flow of waters of the State shall be constructed, except where no practical alternative exists and where such structures are necessary to protect the public safety, safeguard existing flood control structures, habitable structures and other public investments, or restore the function of the natural water dependent ecosystem. The use of temporary structural modifications to control the stage or flow of a water body as a part of any government sanctioned program of flood control, water quality restoration, habitat restoration or exotic plant control should be designed and operated so as to minimize harm to non-target organisms or natural ecosystems.

**Policy 1.17**

The channelization, dredging or impoundment of natural waters of the State shall be prohibited, except where no practical alternative exists for those operations necessary to correct existing threats to public health or safety, allow maintenance of existing navigational waterways, or provide reasonable access to water dependent shore-based facilities. All practical steps shall be taken to minimize adverse impacts to biological attributes of the water resources and water-dependent natural systems.

Meeting Future Needs**Objective 2**

Require stormwater management facilities to meet future development requirements, consistent with the County's Master Stormwater Management Plan and this Comprehensive Plan.

**Policy 2.1**

Brevard County's Master Stormwater Management Plan shall coordinate the timing and location of stormwater management facilities to projected future needs and the future land use plan. Intensity and levels of stormwater services shall be tied to the development of an area, and consistent with level of service standards.

**Policy 2.2**

The Master Stormwater Management Plan shall also contain alternative methods of funding for the provision of projected future stormwater management needs. These may include, but are not limited to impact fees, capacity reservation fees, or hookup fees to pay for new public facilities or improvements to existing public facilities required for new development.



**Policy 2.3**

Brevard County requires that new stormwater management facilities or techniques shall not negatively impact adjacent properties.

**Policy 2.4**

Brevard County should develop a schedule for maintenance of all existing County maintained stormwater management facilities.

**Policy 2.5**

The provision of stormwater management facilities by the County shall be coordinated and consistent with the provision of other facilities, as directed by this Comprehensive Plan, including the Future Land Use, Conservation, Coastal Management, Transportation and Capital Improvements Elements.

**Policy 2.6**

The development and use of stormwater management facilities by Brevard County shall be undertaken to maximize the overall public benefit, while minimizing construction, operation and maintenance costs.

**Concurrency Management****Objective 3**

Require new development to adequately manage stormwater generated by the development.

**Policy 3.1**

Brevard County Land Development Regulations shall require all new development being site planned or subdivided to provide for stormwater management, which meets the following Level of Service Standards, at a minimum:

**Criteria:**

- A. Retention and detention requirements shall at a minimum meet St. Johns River Water Management Criteria.
- B. Retention of the first inch of runoff.
- C. Post-development rate of discharge shall not exceed pre-development rate of discharge for a 25 year - 24 hour storm event.
- D. Stormwater discharge facilities shall be designed so as to not lower receiving water quality or degrade the receiving water body below the minimum conditions necessary to assure the suitability of water

for the designated use of its classification as established in Chapter 62-302 FAC.

### **Policy 3.2**

Brevard County shall maintain Land Development Regulations consistent with the following minimum criteria:

#### **Criteria:**

- A. Land Development Regulations shall be consistent with Brevard County Subdivision and Site Plan Regulations and subsequent amendments or any subsequent stormwater land development regulation, whichever is more stringent.
- B. Land Development Regulations shall require any other design standards as may be required, including the flexibility for the use of the 2-pond retention/detention system or other innovative method of stormwater management approved by the Natural Resources Management Office.
- C. Land Development Regulations shall require performance bonds, annual operating fee or other fee structure for the maintenance of private systems which are accepted by the County for maintenance but not for ownership.
- D. If it becomes apparent that additional regulations are required in order to protect water quality in surface water bodies in Brevard County, the County will initiate protective regulations through the adoption or revision of Land Development Regulations.
- E. A plan amendment will be required to change or alter the level of service standards adopted for drainage facilities.

### **Policy 3.3**

Brevard County shall require stormwater management systems to employ the most efficient and cost-effective control techniques available, including Best Management Practices to control siltation and prevent erosion.

### **Policy 3.4**

Brevard County shall continue record keeping on stormwater management practices and monitoring of selected facilities. This information will provide a database for state, regional and local programs.

**Policy 3.5**

Brevard County shall provide stormwater treatment facilities for all roadways, which it constructs or improves for the purpose of increasing traffic flow. These facilities shall be designed, constructed, operated and maintained consistent with County and state standards.

**Policy 3.6**

Brevard County should investigate the delegation of stormwater permitting from the St. Johns River Water Management District or the Florida Department of Environmental Regulation, as appropriate. If Brevard County accepts delegation, this program shall be properly funded and adequately staffed.

**Policy 3.7**

Until the Master Stormwater Management Plan is developed, The Natural Resources Management Office shall review and comment on the impact of new development on stormwater conveyance systems. If the conveyance system is presently deficient, as determined by the Natural Resources Management Office, the developer shall be required to retain additional runoff on site, or make improvements to the conveyance system equal to the impact of the new development.

**Natural Drainage Functions****Objective 4**

Maintain the function of natural drainage features within Brevard County by reducing loss of flood storage capacity, protecting the functional value of wetlands and by reducing the interbasin diversion of waters from the St. Johns River basin into the Indian River Lagoon. Quality of waters which are diverted into the Lagoon system shall be improved.

**Policy 4.1**

Surface water interbasin diversions for new development shall be prohibited. The reduction or elimination of existing interbasin diversions to re-establish the historic St. Johns River drainage basin shall be encouraged.

**Policy 4.2**

Brevard County shall review and provide comments on all state and federal proposals for controlling or retrofitting the existing interbasin canals for consistency with this Comprehensive Plan. The County shall request compliance and consistency with this Comprehensive Plan.

**Policy 4.3**

Brevard County should support the development of a program by the St. Johns River Water Management District to coordinate surface water management data. Information should be collected, reviewed and placed on a computer model to determine cumulative effects of new development on discharge rates and volumes.

**Policy 4.4**

Brevard County should continue to coordinate and participate in a County-wide task force to coordinate stormwater management plans within the County.

**Policy 4.5**

Development within areas prone to flooding due to localized soil conditions or hydrology shall not negatively impact adjacent properties or receiving surface water body quality.

**Policy 4.6**

Brevard County shall fulfill the intent of the Conservation and Coastal Management elements of this Comprehensive Plan for the protection of the County's natural drainage features.

**Policy 4.7**

Public facilities should not be located within the 100-year floodplain or wetland areas unless the following apply:

**Criteria:**

- A. The facilities are water-dependent, such as boat ramps, docks, mosquito control facilities excluding their chemical storage areas, or other uses described as water-dependent in the glossary of this Comprehensive Plan ; or,
- B. The facilities are water-related, or surface water management facilities or other uses described as water-related in the glossary of this Comprehensive Plan ; or,
- C. The facilities are not adversely affected by periodic flooding or standing water, such as highway bridges and some recreational facilities; or,
- D. The building structures are flood proofed and located above the 100-year flood elevation or removed from the floodplain by appropriately constructed dikes or levees; or,
- E. The facilities are found to be in the public interest and there is no feasible alternative.

**Policy 4.8**

Public facilities should not be located within the 100-year floodplain or wetland areas unless the following apply:

**Criteria:**

- A. The facilities are water-dependent, such as mosquito control facilities excluding their chemical storage areas; or,
- B. The facilities are water-related, such as boat ramps, docks or surface water management facilities; or,
- C. The facilities are not adversely affected by periodic flooding or standing water, such as highway bridges and some recreational facilities; or,
- D. The building structures are flood proofed and located above the 100-year flood elevation or removed from the floodplain by appropriately constructed dikes or levees; or,
- E. The facilities are found to be in the public interest and there is no feasible alternative.

**Policy 4.9**

By 2002, Brevard County shall develop a mosquito impoundment management plan which should address the following criteria, at a minimum:

**Criteria:**

- A. Acquisition of impoundments for maintenance and operation.
- B. Appropriate water management system shall be utilized.
- C. Impoundments shall be restored or reconnected with the Indian River Lagoon when a public benefit can be demonstrated.
- D. Proposed alteration of an impoundment should be reviewed by Mosquito Control. Brevard County should compensate property owners for mosquito impoundments when this use precludes all use by the owner or when no alteration would be acceptable to Mosquito Control.
- E. Nonpermitted alteration of an impoundment shall be enforced by Brevard County.
- F. All mosquito impoundments should be evaluated and those found to be breached or non-functional should be returned to their

natural condition by the appropriate Mosquito Control District. This would include, but not be limited to, removal of existing dikes and re-establishment of historical tidal channels.

- G. Those fully functioning impoundments determined to be needed by the Mosquito Control District, should be placed under a rotational impoundment management plan as approved by the Florida Coordinating Council on Mosquito Control.
- H. Any other "source reduction" mosquito control activities that also reduce the natural habitat required by freshwater or marine organisms should be prohibited.
- I. Mosquito control impoundments shall be managed in a manner that avoids adverse impacts to the water quality of receiving water bodies.
- J. The primary use of mosquito control impoundments shall be to protect human health through the control of mosquito populations. Secondary uses may include stormwater management, habitat improvement, wildlife management, and other uses as appropriate. Brevard County shall encourage multiple uses of mosquito control impoundments.
- K. Brevard County should develop a program to acquire right-of-way or easements for drainage systems and mosquito control systems which the County maintains, if not already acquired.

#### **Policy 4.10**

Brevard County shall continue a water and sediment quality monitoring program within the Indian River Lagoon system, and shall coordinate such a program with other federal, state and local agencies. Specific methods of coordination include making data available to other agencies, and coordinating possible management strategies. A water and sediment monitoring program will be evaluated at least every 5 years to determine deficiencies or other necessary changes.

#### **Policy 4.11**

Brevard County will continue to identify and map point and nonpoint sources of pollution within the Indian River Lagoon system and watershed to identify and reduce point and nonpoint sources of pollution. This program shall be coordinated with other federal, state and local agencies.

**Policy 4.12**

Where illegal or accidental discharges of materials, or violations of water quality standards are observed, such violations will be reported to the appropriate federal, state and local regulatory agencies for further action and enforcement.

**Policy 4.13**

Brevard County shall participate in the development and implementation, as appropriate, of the Surface Water Improvement Management (SWIM) Basin Plans, as developed in coordination with the St. Johns River Water Management District, municipalities and counties and other agencies.



## **CHAPTER X**

### **COASTAL MANAGEMENT ELEMENT**

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## **GOAL, OBJECTIVES AND POLICIES**

### **GOAL**

ESTABLISH GROWTH MANAGEMENT STRATEGIES THAT WILL ALLOW GROWTH TO CONTINUE WITHIN THE COASTAL ZONE WHICH DOES NOT DAMAGE OR DESTROY THE FUNCTION OF COASTAL RESOURCES, PROTECTS HUMAN LIFE AND LIMITS PUBLIC EXPENDITURES IN AREAS SUBJECT TO DESTRUCTION BY NATURAL DISASTERS.

### **Estuarine Pollution**

#### **Objective 1**

Improve areas within the Indian River Lagoon basin with fair or poor water quality as measured by the State of Florida Department of Environmental Protection using the trophic state index, and maintain areas with good water quality.

#### **Policy 1.1**

The Brevard County Natural Resources Management Office shall coordinate with the Florida Department of Environmental Protection to develop and implement Basin Management Action Plans to comply with National Pollutant Discharge Elimination System Permits and meet the Total Maximum Daily Loads established for local surface waters.

#### **Policy 1.2**

By 2010, Brevard County shall adopt within the land development code regulations that implement standards consistent with National Pollutant Discharge Elimination System Permits and Total Maximum Daily Loads.

#### **Policy 1.3**

Brevard County shall continue to cooperate with other agencies and municipalities that perform fisheries studies and submerged aquatic vegetation mapping and use this data to assist in establishing priority areas for surface water improvement efforts. In addition, Brevard County shall coordinate the manatee protection plan with municipalities and appropriate agencies.

#### **Policy 1.4**

The Brevard County Natural Resources Management Office shall review and comment, as necessary, on dredge-and-fill applications and/or Environmental Resource Permits from the Florida Department of Environmental Protection, SJRWMD, the U.S. Army Corps of Engineers, or other appropriate agencies.

**Policy 1.5**

Brevard County shall continue to consider recommendations of Marine Resources Council and other appropriate groups in the development of estuarine studies.

**Policy 1.6**

Brevard County shall coordinate surface water management and protection efforts with the Indian River National Estuary Program (IRNEP), FDEP, SJRWMD and other appropriate agencies.

**Policy 1.7**

Brevard County supports coordinated regional fisheries management plans developed by the Atlantic States Marine Fisheries Commission.

**Water Quality/Seagrasses****Objective 2**

Improve existing water quality to enhance seagrass and other submerged aquatic vegetation quantity, health, diversity, and distribution within the Indian River Lagoon.

**Policy 2.1**

Brevard County shall support the St. Johns River Water Management District's (SJRWMD) mapping of submerged aquatic vegetation within the Indian River Lagoon system. Evaluation results shall be made available to municipalities and other agencies or programs. Areas that show decline should be targeted for increased watershed management, including non-point source pollution, and restoration. Management strategies shall be coordinated with the municipalities and other agencies.

**Policy 2.2**

Brevard County shall continue to participate in the Indian River Lagoon Advisory Committee and its associated advisory groups.

**Policy 2.3**

Brevard County shall continue to protect Submerged Aquatic Vegetation (SAV) from the impacts of local land development by implementing the Surface Water Protection Ordinance. At a minimum, the following criteria shall be addressed:

**Criteria:**

- A. Maintain upland vegetation within required setbacks to reduce runoff.
- B. Require proper use of turbidity screens during construction activities.

- C. Control discharge rates to promote on-site settlement of sediment loads and meet minimum retention requirements for runoff from storm events.
- D. Coordinate with FDEP Aquatic Preserve staff when development is within or adjacent to an aquatic preserve.

#### **Policy 2.4**

Brevard County shall address modification of existing development which does not meet stormwater management standards.

#### **Policy 2.5**

Brevard County supports the goals of the National Estuary Program's Comprehensive Conservation and Management Plan (CCMP) for recovery of the Lagoon prepared by the National Estuary Program. This support is reflected in the strategies identified in the County's Action Plan Implementation Status Report for the CCMP.

#### **Policy 2.6**

Where possible, local stormwater, as well as state and federal surface water programs should reduce or eliminate freshwater inputs to the Indian River Lagoon via interbasin diversions.

### **Fisheries**

#### **Objective 3**

Maintain fisheries in and adjacent to Brevard County through habitat production, maintenance and restoration.

#### **Policy 3.1**

Brevard County shall encourage habitat evaluation and fisheries studies. These studies should be coordinated with federal and state programs and funded through a combination of the proceeds from a saltwater fishing license and ~~county~~, state and federal grants.

#### **Policy 3.2**

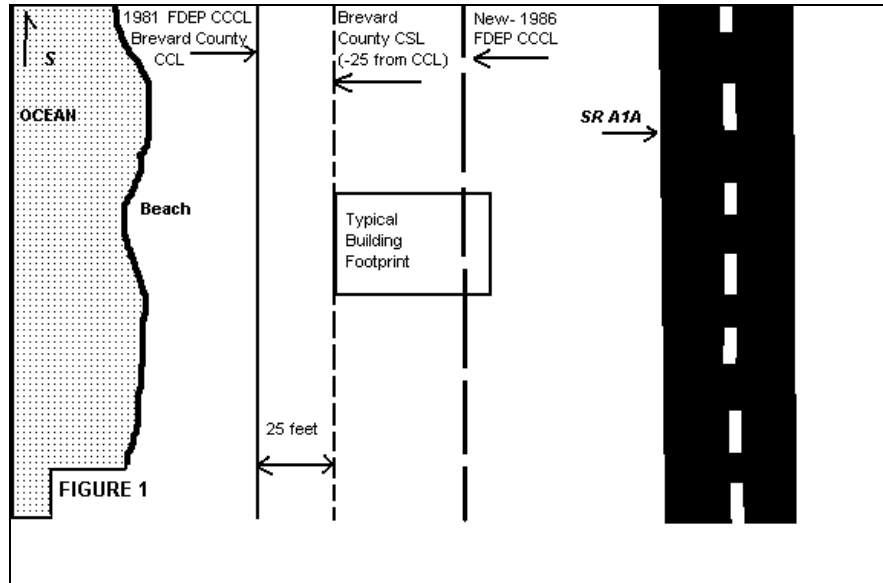
Mosquito impoundments should be reconnected to the Indian River Lagoon where benefits can be demonstrated to increase habitat value of the impoundments and benefits to the Lagoon.

## Beaches and Dunes

*The four key points of reference found within this section are:*

- *the 1981 Florida Department of Environmental Protection (FDEP) Coastal Construction Control Line (referred to as the 1981 FDEP CCCL in this document);*
- *the 1986 Florida Department of Environmental Protection (FDEP) Coastal Construction Control Line (referred to as the FDEP CCCL in this document);*
- *the Brevard County Coastal Construction Line (referred to as the CCL in this document); and,*
- *the Brevard County Coastal Setback Line (referred to as the CSL in this document).*

*For clarification, the 1981 FDEP CCCL coincides with the Brevard County CCL, as adopted by Brevard County in Ordinance 85-17. The Brevard County CSL is described as a line which is twenty five (25) feet west by perpendicular measurement from the Brevard County CCL. In 1986, the Florida Department of Environmental Protection established a new CCCL upland from the 1981 FDEP CCCL. Any construction or clearing activities seaward of this new CCCL requires FDEP approval. Figure 1 schematically depicts the spatial relationship of these four reference lines. Figure 1 is for illustrative purposes only; actual conditions may vary with regard to the location of SR A1A.*



**Figure 1**

**Note:** Figure 1 is intended for illustrative purposes only. Actual conditions may vary with regard to the location of State Road A1A.

#### **Objective 4**

Brevard County shall implement and improve as necessary a comprehensive beach and dune management program which protects, enhances and restores a naturally functioning beach system as funding is available.

#### **Policy 4.1**

The Land Development Regulations shall maintain regulations governing the location, construction and maintenance of development adjacent to the Atlantic shoreline. Development seaward of the Florida Department of Environmental Protection (FDEP) 1981 Coastal Construction Control Line (CCCL), which coincides with the Brevard County Coastal Construction Line (CCL), shall be governed by the following conditions, at a minimum:

##### **Criteria:**

- A. Oceanfront development shall be required to maintain at least 50% of the native dune vegetation on site. Native dune vegetation seaward of the FDEP 1981 Coastal Construction Control Line (CCCL) shall not be removed unless necessary for approved emergency vehicle access or coastal protection needs.
- B. In order to maintain the freshwater lens of the surficial aquifer and reduce saltwater intrusion, post-development groundwater recharge volume and rate shall equal pre-development recharge volume and rate.
- C. No new shoreline hardening structures shall be permitted in unincorporated Brevard County south of Patrick Air Force Base (PAFB) property or within the Archie Carr National Wildlife Refuge, with exception of emergency provisions as provided for in Florida Statutes Chapter 163.3187(1)(a) "Amendment of Adopted Comprehensive Plan".
- D. North of the PAFB, no new shoreline hardening structures should be permitted.
- E. Pursuant to Criteria C and D of this policy, if a shoreline hardening structure is deemed necessary, the following criteria shall apply:
  - 1. Vertical wood or concrete structures and rock revetments shall only be approved when less structural alternatives, such as beach renourishment, dune restoration and sandbag systems have been determined not to be feasible.
  - 2. All shoreline protection measures shall be designed to minimize adverse impacts to the naturally functioning beach and dune system and adjacent properties.



3. The County may require dune restoration and revegetation as a component of the shoreline hardening approval both landward and seaward of the proposed structure.
  4. All shoreline protection shall be designed and constructed so as to not impede public access to or along the shore.
- F. Setbacks or other non-structural methods of shoreline protection shall be given the highest priority. Reducing setbacks from A1A will be considered where it is necessary to maintain and maximize setback requirements from the ocean.
- G. Reconstruction of existing hard erosion control structures which are more than fifty (50) percent destroyed should be considered new construction and should be regulated as such, except for the maintenance of existing public navigational projects, such as Port Canaveral and Sebastian Inlet.
- H. Underground storage tanks or the storage of hazardous materials are not permitted.
- I. Septic tank or septic tank drainfields shall not be permitted seaward of the Brevard County Coastal Setback Line (CSL). Septic tanks shall be located landward of the most seaward portion of the habitable structure.
- J. All activities seaward of the 1986 FDEP Coastal Construction Control Line (CCCL) shall be subject to FDEP permitting requirements.

#### **Policy 4.2**

Brevard County shall enforce development restrictions associated with the Brevard Coastal Setback Line (CSL), and the Brevard County Coastal Construction Line (CCL) and re-evaluate the effectiveness of these lines from time to time as coastline changes dictate. The County shall provide FDEP with their findings and request a review of the FDEP Coastal Construction Control Line, if deemed appropriate.

#### **Policy 4.3**

Brevard County shall continue to adopt and enforce standards for maintenance or re-establishment of dune areas. These standards shall include, at a minimum, the following provisions:

##### **Criteria:**

- A. Native dune vegetation shall be maintained on site unless removal or alteration is permitted by both Brevard County and the Florida Department of Environmental Protection, or other appropriate regulatory agency.

- B. Public and private beach access shall be allowed only at designated cross-over structures or historical access sites.
- C. Erosion control strategies will be utilized at unimproved public access sites until these can be improved or alternate access provided.
- D. Dune cross-overs, boardwalks, walkways and other permissible structures seaward of the Brevard County Coastal Setback Line shall be elevated above dune vegetation and shall be designed to allow adequate light penetration.
- E. Shore-parallel boardwalks shall be prohibited seaward of the Coastal Setback Line, except as required for handicap access.
- F. Publicly owned dunes, especially those identified for beach access sites, which have been denuded or damaged by vehicular or pedestrian traffic shall be prioritized for dune renourishment and revegetation. Improvements or erosion controls shall be implemented at the time of renourishment to prevent further site degradation.
- G. Private Property owners should be encouraged to re-establish dune vegetation which has been destroyed by non-designated access activities or storm damage.
- H. Structures and impacts that are necessary for public safety or meet the best public interest shall be permitted if approved by the Board of County Commissioners.

#### **Policy 4.4**

Brevard County's beach and dune restoration program shall include an analysis of environmental, financial and social criteria.

##### **Criteria:**

- A. The first priority for beach renourishment shall be given to the protection of life and property.
- B. Priority shall also be given to environmental considerations.
- C. Public areas which are heavily utilized for recreation, including surfing, fishing or swimming, shall be considered for beach or dune renourishment or restoration, as applicable. Long-term management of these areas shall be included with all site improvements.

- D. A feasibility or benefit/costs analysis should be performed for any renourishment project. Such analyses shall include, as appropriate, present and future benefits for property protection, recreation and tourism over the life of the project.

**Policy 4.5**

The County shall continue to utilize the information and materials available from the State regarding dune maintenance and revegetation and supplement these materials, as necessary.

**Policy 4.6**

Brevard County shall maintain an ongoing program to initiate and monitor data collection projects related to beach dynamics, sand transport and coastal processes. This program should include data generated by the Florida Department of Environmental Protection, the U.S. Army Corps of Engineers, the Florida Sea Grant College, universities and other appropriate agencies.

**Policy 4.7**

Brevard County shall develop an inter-local agreement with adjacent municipalities and the State of Florida for funding of beach maintenance and restoration programs.

**Policy 4.8**

Brevard County shall prohibit motorized vehicles on the dune and beach system except for governmental vehicles (police and sheriff), fire trucks, ambulances or vehicles necessary to repair utilities, or vehicles utilized during approved renourishment programs or approved scientific investigations. Pedestrian traffic within the vegetated dune areas shall be limited to emergency operations, scientific research, maintenance, cleaning or improvements as authorized by the Natural Resources Management Office and consistent with FDEP regulations.

**Policy 4.9**

Brevard County shall continue to collect and make available to the public information related to sea level changes.

**Policy 4.10**

Outer Continental Shelf (OCS) activities such as oil and gas exploration or mining adjacent to Brevard County are discouraged for several reasons. The county's beaches are the most heavily nested beaches by sea turtles in the western Atlantic. Impacts to water quality, beach quality and fisheries could negatively impact the threatened and endangered species that nest here. Brevard County should review and

comment on all Outer Continental Shelf (OCS) and off shore drilling leases proposed for waters adjacent to the county. This policy does not discourage OCS sand and gravel mining conducted as part of Brevard County's shore protection and restoration strategy.

## **Water-Dependent Land Uses**

### **Objective 5**

By 2010, Brevard County shall develop and adopt guidelines which direct the location and management of water-dependent, water-related and water-enhanced facilities, giving highest priority to water-dependent uses along the Indian River Lagoon System in order to provide for the increased demand for these facilities.

### **Policy 5.1**

Brevard County shall continue to implement performance standards for marinas and marine-related facilities within the coastal zone which include at a minimum: setbacks, height limitations, parcel size, architectural guidelines, seagrass protection, and the protection of water quality including the maintenance and containment of stormwater runoff and wash-down water for dry storage areas. Marina performance standards shall include the following minimum criteria:

#### **Criteria:**

- A. Existing marina facilities should be allowed to continue their operation provided these facilities meet the County's adopted operational standards.
- B. While the expansion of existing facilities is preferred over construction of new facilities, the development of new marinas must remain a viable alternative as many existing marinas will not be capable of meeting adopted operational and environmental standards.
- C. Policies and incentives should encourage new and expanded marina facilities to utilize dry storage to the fullest extent possible.
- D. New marina facilities shall retain all work area runoff in a separate retention area. In addition, the first inch of stormwater runoff from a 10-year 24-hour storm shall be retained on site.
- E. Prior to operation of any new marina fueling facility, a fuel management/spill contingency plan will be developed and provided to the Office of Natural Resources Management for review. The plan shall describe methods to be used in dispensing fuel and all the procedures, methods, and materials to be used in the event of a fuel spill and shall meet Brevard County Fire Prevention Codes and Rules of the State Fire Marshall's office.

### **Policy 5.2**

Brevard County should continue to develop and implement regulations governing live-aboards within the coastal zone. The regulations shall include the following criteria at a minimum:

#### **Criteria:**

- A. Floating structures shall be considered within live-aboard regulations. Floating structures shall be defined as: A vessel with no means of operative propulsion which is inhabited for thirty (30) consecutive days or more.
- B. Motorized live-aboard vessels shall be defined as vessels which are occupied for more than seven (7) consecutive days within Brevard County. These shall not include floating structures (as defined in Criterion A).
- C. The County shall investigate designating certain areas of the Indian River Lagoon for mooring of motorized live-aboard vessels which are not docked within marinas. Live-aboard vessels moored outside of marinas shall be required to utilize pump-out facilities or a municipal sewer facility if they are moored for over three (3) days.
- D. The County shall coordinate with the Marine Patrol to eliminate live-aboards permanently anchored outside of a marina or area specially designated for live-aboards.
- E. Floating structures shall be required to moor within marinas or to privately owned riparian property, and shall be connected to pump-out facilities or a municipal sewer facility.
- F. Live-aboards shall be considered as part of the community and will be considered as residential units when assessing impacts of such development on community facilities and services.

### **Policy 5.3**

Retrofitting or modification of existing marina facilities within the coastal zone shall be required to meet the following minimum criteria:

#### **Criteria:**

- A. Stormwater retention/detention requirements established in the Stormwater Management Criteria Ordinance as adopted on August 23, 1993.
- B. Substantially expanded marina facilities shall retain all work area runoff. For those projects with combined detention areas of five (5) acres or

greater, the work area runoff shall be retained in a separate retention area. In addition, the first inch of stormwater runoff from a 10-year, 24 hour storm event shall be retained on site or shall meet the water quality standards as required by the state, whichever is more restrictive. For projects with a combined detention area of less than five (5) acres, stormwater and work area runoff may be retained in a single retention/ detention area.

- C. When ten (10) slip or ten (10) percent or more of the total number of slips whichever is greater, is added, pumpout facilities shall be required, as recommended by the Marine Sanitation Study (1990), sufficient to accommodate the pump-out requirements concurrent with the total slips.
- D. Prior to operation of any new marina fueling facility or expansion due to an existing facility, a fuel management/ spill contingency plan will be developed and provided to the Office of Natural Resources Management for review. The plan shall describe methods to be used in dispensing fuel and all the procedures, methods, and materials to be used in the event of a fuel spill.

#### **Policy 5.4**

Brevard County shall develop and adopt standards for marina siting within the coastal zone which shall address the following criteria at a minimum:

##### **Criteria:**

- A. All proposed marina siting projects in unincorporated areas of Brevard County shall come before the Board of County Commissioners for their review. Marina development may be considered within any appropriate zoning classification, if it is consistent with the performance standards developed by the County. Uplands at the marina site shall be greater than or equal to one acre. Residential marinas shall be allowed as a permitted use, subject to the boat facility siting criteria established in section B below and in the policies under Objectives 3 and 9 of the Conservation Element, in all of the current conditional use zoning classifications for residential/recreational marinas, except Recreational Vehicle Park (RVP) and Government Managed Lands (GML).
- B. At the beginning of the zoning process, all marina development proposals must submit a conceptual plan to be reviewed by the Natural Resources Management Office for compliance with the following boat facility siting criteria:

## **PRELIMINARY ASSESSMENT CRITERIA**

The following listed criteria are recommended as the preliminary test of suitability for boat facility siting.

1. Water Depth
  - a. Water depth at the proposed mooring area of the site shall be at least four (4) feet mean low water.
  - b. Water depth at the site must be adequate for the proposed vessel use such that there be a minimum of one foot clearance between the deepest draft of the vessel (including the engine) and the bottom at mean low water.
  - c. Proposed boat facilities in areas that contain seagrass shall not be approved unless water depth at the site's turning basin, access channel, and other such areas will accommodate the proposed vessel use to insure that a minimum of one (1) foot clearance is provided between the deepest draft of the vessel (including the engine) and the top of the resources at mean low water.
2. Seagrass
  - a. Marinas shall not be located in areas containing 10% or more seagrass.
  - b. Designated boat docking areas shall not be located over seagrasses.
  - c. Covered boat slips, covered walkways, or covered terminal platforms shall not be permitted in areas containing seagrass.
  - d. Boat docks using open mesh grating and pilings made from recycled materials (plastic/ wood composites for example) are preferred to pressure treated wood. Any materials or permitted construction techniques proven to allow a minimum of 75% light transmittance may be exempt from design criteria e and f below in this subsection.
  - e. For Residential Marinas, main access docks and connecting or crosswalks shall not exceed six (6) feet in width.
  - f. Access piers should be located and designed to minimize their shadowing impact on seagrass.
  - g. Reasonable alteration to these criteria may be authorized to accommodate persons with disabilities.
3. Manatee Related Best Management Practices
  - a. Dock designs shall not entrap manatees or otherwise prevent them from accessing forage areas.
  - b. Docks with exposed reinforcement structures on floating docks shall be prohibited due to their potential to entrap or entangle manatees in the structure itself or in the marine debris that commonly occurs in these areas.
4. Water Quality
  - a. New seawalls or bulkheads should be prohibited along the Indian River Lagoon except as provided in Brevard County Code Section 62-



3666 or when the project would improve the water quality by acting as a swale and reducing the amount of pollutants which would enter the Indian River Lagoon, where the placement of a seawall does not disturb existing native vegetation, prohibit the reestablishment of native vegetation, or where the reestablishment of native vegetation is not viable.

- b. All facilities shall adhere to the provisions for surface water protection per the guidelines set forth in Brevard County Code Section 62-3666. The provisions for a shoreline protection buffer established in the Code and Conservation Element (CE) policies include the following:
  - Class I waters - 200 foot buffer – Conservation Element Policy 3.2 A
  - Class II waters - 50 foot buffer - Conservation Element Policy 3.3 A
  - Class III waters - 25 foot buffer – Conservation Element Policy 3.4 A
  - On lots with unarmored shorelines the waterward extent of the buffer is the mean high water line. On bulkheaded lots, the waterward extension of the buffer is established by the bulkhead line. A maximum width of 25 feet or 20% (whichever is greater) may be cleared for access.
5. Powerboat-To-Shoreline Ratios
  - a. ***Boat Facility Siting Zone A:*** In Boat Facility Siting Zone A, powerboat siting ratios shall be limited to one powerboat slip per 100 feet of contiguous linear shoreline that is owned or legally controlled by the applicant, as applied to all new and expanding boating facilities. Boat facilities in Zone A may qualify for a variance under Section e, Variance Criteria. Also, the establishment of new boating research, design, development or manufacturing facilities whose operations include on-water testing of motorized watercraft, are prohibited from locating in uplands within Boat Facility Siting Zone A.
  - b. ***Boat Facility Siting Zone B (Barge Canal):*** In Boat Facility Siting Zone B along the Barge Canal (as defined), powerboat siting ratios shall be limited to a 1:100 powerboat-to-shoreline ratio (tied to a parcel's deed). Any boat facility, which desires to exceed the 1:100 powerboat-to-shoreline ratio, must acquire additional development rights from other properties, which have linear shoreline parallel to the Barge Canal and adjoin the Port Canaveral control easement. Any development rights transferred must be recorded on both the selling and receiving parcels deeds.
  - c. ***Boat Facility Siting Zone C (Port Canaveral Harbor):*** In Boat Facility Siting Zone C, there shall be no powerboat-to-shoreline restrictions within the Canaveral Harbor provided current slow speed regulations remain in effect.
  - d. ***Boat Facility Siting Zone D:*** The manatee habitat features described in Table 1 below are to be applied in Boat Facility Siting Zone D.

Manatee habitat feature points per Table 1 shall be determined using the map series and data update schedule identified in Appendix C of this Element and using current site surveys for seagrass. In Boat Facility Siting Zone D, Manatee habitat feature points from Table 1 shall be summed and the sum shall be used in Table 2 below to determine the applicable powerboat-to-shoreline ratio per 100 feet of contiguous owned or controlled linear shoreline.

**Table 1**

<b>Limiting Habitat Features</b>	<b><i>CRITERIA FOR EVALUATION (EACH INCREASES THE NUMBER OF HABITAT FEATURES BY 1, UNLESS OTHERWISE SPECIFIED)</i></b>
Manatee Abundance	<b>1<sup>st</sup> level:</b> 10 or more manatees observed/overflight within 5 mile radius (1 point) <b>2<sup>nd</sup> level:</b> 25 or more manatees observed/overflight within 5 mile radius (2 points)
Manatee Mortality	<b>1<sup>st</sup> level:</b> # of watercraft mortalities within a 5 mile radius/total number of watercraft mortalities in Brevard ( $\geq 0.05$ is significant) (1 point) <b>2<sup>nd</sup> level:</b> # of watercraft-related deaths within a 5 mile radius in the last 5 years/total number of watercraft mortalities in Brevard in the last 5 years ( $> 0.10$ is significant) (2 points)
Seagrass Class II, OFW, or Aquatic Preserves	5% or more present on the project site is significant  Site is located in one of these designated areas
<b>Offsetting Features</b>	<b><i>CRITERIA FOR EVALUATION (EACH DECREASES THE NUMBER OF HABITAT FEATURES BY 1)</i></b>
Speed Zones Within 3 miles of Sebastian inlet	Site is located within a year-round "Slow Speed" or "Idle Speed" Zone  Site is located within 3 mile radius of Sebastian Inlet

Table 2

# Manatee Habitat Features	Existing Facility	New Facility
0	5:100	4:100
1	5:100	4:100
2	3:100	2:100
3	2:100	1:100
4	1:100	1:100
5	1:100	1:100
6	1:100	1:100

- e. **Variance Criteria:** It is recommended that a variance may be given to the powerboat-to-shoreline ratio for those existing marina and boat launching facilities subject to the 1 powerboat slip to 100 feet of owned contiguous shoreline restriction (1:100), provided the facility meets all the variance criteria listed below and can demonstrate that it will not have an adverse impact on manatees. If an existing facility meets all of the variance criteria, it may be permitted to increase the powerboat-to-shoreline ratio by 1:100 if the waters in and adjacent to the channels leading to the facility are designated "slow speed" or "idle speed" year-round as authorized by the Florida Manatee Sanctuary Act Chapter 68C-22.003, F.A.C. or other federal regulations or local ordinances, or if the facility is within 3 miles of the Sebastian Inlet. The facility may be allowed to increase the powerboat-to-shoreline ratio by 2:100 if both are applicable. In no case shall the maximum total buildout of 3 powerboat slips per 100 feet of owned contiguous shoreline (3:100) be exceeded. However, adherence to these criteria does not automatically ensure the applicant's ability to exceed the allowable powerboat restrictions as defined above. The plan restrictions will remain in effect, if at the time of review, additional information about manatees or the proposed facility indicates threats not addressed by these criteria. Consideration can be given for additional site-specific factors or operating practices (e.g. seasonal operation, etc.) that may be proposed by either the applicant or the County that may result in improved conditions for manatees or manatee protection. Nothing in this section shall exempt any marina from obtaining the usual required permits and/or authority from all applicable reviewing agencies with proper jurisdictional authority. The criteria are:

- 1) The facility is not located within a 1<sup>st</sup> or 2<sup>nd</sup> level manatee aggregation area (using the Manatee Abundance Habitat Feature as

defined in 5 d of this Policy and in the Table above), or other area where sensitive manatee activities occur.

- 2) The facility must provide net benefit to manatees and/or their habitat. For example, facilities may include a manatee “refuge” space as part of the design, a conservation easement, restoration of adjacent wetlands such as mangrove or seagrass restoration to increase the net coverage of the nearby area, reduced nutrient input to receiving waters, requiring prop guards on any high traffic vessels such as water taxis or dive boats or rental boats, etc. The marina construction and subsequent uses will neither destroy nor negatively impact mangrove and benthic (seagrass, hard bottom, etc.) communities and the water quality.
- 3) The facility must have sufficient water depth, as stated in B. 1. a. of this Policy, in the marina basin and in any access channel, and does not require any new dredging or filling that would degrade shallow water habitat (this may exclude maintenance dredging, or pile installation). Entrance/exit channels near marinas shall be adequately marked if marina repairs or expansion are proposed.
- 4) The site shall contain appropriate signage (including vessel speed and manatee information signs), and provide educational material advising boaters of essential manatee habitats in the vicinity.
- 5) Multi-family residential docking facilities will require that all vessels moored at the site be registered to individuals residing at the site.
- 6) The marina has adequate water circulation, tidal flushing, and meets State of Florida and local water quality standards.
- 7) Before expanding and exceeding the allowable powerboat slips defined above, an existing facility must demonstrate not less than 85% occupancy over the previous 2 years of operation. New facilities should be able to demonstrate the need for additional boat slips in the vicinity based on occupancy of existing marina slips within the boater sphere of influence. The boater’s sphere of influence shall be a five (5) mile radius.

## 6. Boat Ramps

In order to minimize adverse impacts to manatees, boat ramps are best located in areas with few natural resources, with relatively low manatee abundance and relatively low watercraft-induced manatee mortalities, and with deep water access and marked navigation channels. Boat ramp

siting or expansion in Brevard County shall be evaluated using the following criteria:

- a. All sites considered by Brevard County for new or expanded boat ramp facilities shall be evaluated for site suitability prior to acquisition and development.
- b. All proposed new boat ramps or the expansion of existing boat ramps in the unincorporated areas of Brevard County shall be brought before the Board of County Commissioners for their review.
- c. The siting of new or the expansion of existing boat ramp facilities shall be limited to areas that meet the Preliminary Assessment Criteria for water depth stated in section B. 1. a. of this Policy.
- d. The siting of new or the expansion of existing boat ramp facilities shall be prohibited in areas that meet or exceed the 2<sup>nd</sup> level of manatee abundance or the 2<sup>nd</sup> level of manatee mortality as shown in Table 1 above.
- e. The siting of new or expansion of existing boat ramp facilities shall be prohibited in areas with greater than 5% seagrass coverage including all ramps, docks, access walkways, finger piers, mooring areas, turning basins, and ingress and egress pathways.
- f. The siting of new or the expansion of existing boat ramp facilities shall be required to meet the criteria included in Policy 3.3 E of the Conservation Element and Section B. of this Policy with the exception of Seagrass (5.4 B. 2.), Manatee Related Best Management Practices (5.4 B. 3.), and Water Quality (5.4 B. 4.).
- g. All sites considered for the siting of new or the expansion of existing boat ramp facilities shall be evaluated for the number of habitat features present using the Boat Ramp Feature Assessment table below and using the manatee mortality and abundance criteria as defined under Manatee Habitat Features in the glossary.
- h. Boat Facility Siting Zone A is not considered preferable for additional boat ramp siting due to the high number of habitat features present. In Boat Facility Siting Zone A, a site that has less than 2 habitat features based on the criteria in the Boat Facility Feature Assessment may be considered for a new or expanded boat ramp with up to a maximum of 15 parking spaces.
- i. In Boat Facility Siting Zone B (Barge Canal), the establishment of a new public or private boat ramp for public use shall be the same requirements as for the development of a new or expanded marina as described in Boat Facility Siting Zone B (5.4 B. 5.). For the purposes of boat ramps, one boat-trailer parking space shall be considered the equivalent of one powerboat slip. New or expanded boat ramps on the Barge Canal which are associated with a marina and which are to be used solely by the tenants of that marina for the launching of boats

stored at that marina shall not be limited in the number of parking spaces.

- j. In Boat Facility Siting Zone C (Port Canaveral Harbor), the siting of new or expansion of existing boat ramps shall be unrestricted.

**Table 3**  
**Boat Ramp Feature Assessment**

<b>LIMITING HABITAT FEATURES</b>	<b>CRITERIA FOR EVALUATION (EACH INCREASES NUMBER OF HABITAT FEATURES BY 1, UNLESS OTHERWISE SPECIFIED)</b>
Manatee Abundance	<b>1<sup>st</sup> level:</b> 10 or more manatees observed/overflight within 5 mile radius (1 point) <b>2<sup>nd</sup> level:</b> 25 or more manatees observed/overflight within 5 mile radius (2 points)
Manatee Mortality	<b>1<sup>st</sup> level:</b> # of watercraft mortalities within a 5 mile radius/total number of watercraft mortalities in Brevard ( $\geq 0.05$ is significant) (1 point) <b>2<sup>nd</sup> level:</b> # of watercraft-related deaths within a 5 mile radius in the last 5 years/total number of watercraft mortalities in Brevard in the last 5 years ( $> 0.10$ is significant) (2 points)
Class II, OFW, or Aquatic Preserves	Site is located in one of these designated areas
<b>Offsetting Features</b>	<b>Criteria for Evaluation (each decreases the number of habitat features by 1)</b>
Speed Zones Within 3 miles of an inlet	Site is located within a year-round "Slow Speed" or "Idle Speed" Zone Site is located within 3 mile radius of Sebastian Inlet

- k. In Boat Facility Siting Zone D, a site with no more than 2 habitat features shall be considered suitable for siting of a new boat ramp or the expansion of an existing boat ramp. Sites with 0 or 1 habitat feature shall be eligible for a boat ramp with up to a maximum of 40 boat trailer parking spaces. Sites with 2 habitat features shall be eligible for a boat ramp with up to a maximum of 15 boat trailer parking spaces.
- l. Boat Ramp Variance Criteria: The ability to secure additional parking slots at public ramps could be reconsidered by the FWC if additional law enforcement, additional preservation, or impact reduction along the lagoon is demonstrated.
- m. The following specific sites are identified individually to address existing boat ramp deficiencies in Brevard County and are exempted from the boat ramp siting criteria above:
  - 1) It is recommended that Brevard County's relocation of the Pineda Landing facility include 36 parking spaces.
  - 2) It is recommended that Brevard County provide 50 additional parking spaces by expanding existing public ramp facilities or by

developing a new location in the south mainland area. The expansion of an existing facility or the siting of a new facility, as provided for above shall minimize impacts to manatees and natural resources and should be evaluated by the Boat Ramp Manatee Habitat Feature Assessment as defined above. It is recommended that the evaluation result in a score of no greater than two habitat features. The County will screen sites to select the most appropriate and coordinate with FWC staff on the site selection.

- C. Commercial/industrial and commercial/recreational marina development within commercial, heavy and light industrial and planned industrial park land use designations shall require a Conditional Use Permit. Residential/recreational marinas shall be a permitted use in these land use designations.
- D. Residential/recreational marinas may be considered within residential land use designations with a Conditional Use Permit and a Binding Concept Plan.
- E. No fueling or repair facilities are permitted within residential zoning classifications.
- F. When locating new marinas or expanding existing marinas, biologically productive habitats shall be preserved to the fullest extent possible. Mitigation is the last resort for habitat destruction, and shall be of a two-to-one or greater ratio of in-kind replacement.
- G. Marina facilities shall be located where maximum physical advantage for flushing and circulation exists, where the least dredging and maintenance are required, and where marine and estuarine resources will not be significantly affected.
- H. Marina basins shall be sited where there is an existing basin and access channel with an average water depth of three (3) feet below mean low water, except at the shoreline.
- I. Marinas and docking facilities should be approved which require minimal or no dredging or filling to provide access by canal, channel or road. Preference shall be given to marina sites with existing channels. In the event that dredging is required, the mooring areas and the navigation access channels shall not be dredged to depths greater than eight (8) feet. Any required dredging operations shall utilize appropriate construction techniques and materials to comply with state water quality standards,



such as turbidity screens, hydraulic dredges, properly sized and isolated spoil deposition area to control spoil dewatering. All dredging activities must be done with effective turbidity controls. Where turbidity screens or similar devices are used, they should be secured and regularly monitored to avoid manatee entrapment.

- J. Marinas shall be located in areas with good flushing and circulation. New marina or substantially expanded facilities shall be designed to take advantage of existing water circulation and shall not adversely affect existing circulation patterns. Improvement of circulation shall be a consideration when expanding or upgrading existing facilities. However, any buffer zone established by the Florida Department of Environmental Protection Shellfish Environmental Assessment Section (FDEP-SEAS) shall be maintained.
- K. The proposed site shall be compatible with existing land use designations. Marinas shall demonstrate that they have sufficient upland areas to accommodate all needed support facilities. These standards include, but should not be limited to, adequate parking, work areas and retention areas for stormwater and work area runoff, and shoreline protection buffers.
- L. Marina facilities shall not degrade water quality below existing Florida Department of Environmental Protection water classification standards.
- M. Marinas shall not be located in approved or conditionally approved shellfish harvesting waters or Class II waters, or other environmental areas designated by the County so as to substantially and materially have a negative impact on these waters.
- N. Commercial/recreational and commercial/industrial marinas shall not be located in Aquatic Preserves, or Outstanding Florida Waters, or other environmental areas designated by the County so as to substantially and materially have a negative impact on these waters.
- O. Construction of multi-slip docking facilities and boat ramps shall be directed to locations where there is quick access to deep, open water at least eight (8) feet in depth (dredgeable), where the multi-slip docking facilities take the place of several single-slip docks and allow public access to the water, and where the associated increase in boat traffic will be outside of known manatee aggregation areas, and where seagrass beds or other wetlands supporting manatee habitat will not be disturbed.

- P. All marina facilities shall comply with manatee protection measures established in Conservation Element Policy 9.9.

**Policy 5.5**

Brevard County shall require hurricane plans to be submitted to the Emergency Management Division in conjunction with marina site plans for review.

**Policy 5.6**

Marinas within the coastal zone shall be inspected annually by Brevard County and results of these inspections shall be coordinated with other agencies. Inspections shall be coordinated with existing programs and duplication with existing inspection programs shall be avoided. It is recommended that inspection of commercial marinas occur as part of the business license renewal procedure. Items to be inspected and reviewed may include the following.

**Criteria:**

- A. Pumpout facilities/marine sanitation devices, if required.
- B. Compliance with power/sailboat mix, if required.
- C. Spill prevention, control, containment and cleanup plans.
- D. Waste collection and disposal methods.
- E. Required fire fighting equipment, if required.
- F. Monitoring of marina basin water quality for bacteriological levels to insure compliance with state and federal standards. Live-aboards at marinas shall be inspected to ensure that marine sanitation devices (MSDs) are present and operational. If a water monitoring program is required, water-dependent uses shall be assessed an annual fee adequate to fund a water quality monitoring program, if required.

**Policy 5.7**

Brevard County shall investigate the utilization of tourist taxes or boating improvement funds to develop public boat launching facilities and related amenities.

**Policy 5.8**

Brevard County should consider the acquisition of property for boat ramps in their recreational purchasing program.

**Policy 5.9**

All new boat ramps should have parking areas constructed utilizing permeable pavement where appropriate and have the proper stormwater management system in place.

**Policy 5.10**

Brevard County shall review shore-line development within the coastal zone in order to maximize opportunities for water-dependent land uses. The following criteria, at a minimum, shall be utilized.

**Criteria:**

- A. Water-related uses shall be built on uplands.
- B. Development which is feasible only through creation of land by dredging and filling of areas below the mean high water line shall not be approved. Exceptions may be considered where overriding benefit to the natural resource can be demonstrated.
- C. Water-dependent commercial and industrial uses may be considered for siting adjacent to the Indian River Lagoon.
- D. Water-related commercial and industrial uses may be considered for siting only adjacent to Class III waters of the Indian River Lagoon.

**Policy 5.11**

The Brevard County Land Development Regulations shall include a provision for water-enhanced commercial development within the coastal zone. Such uses shall be permitted as Conditional Uses within the BU-1 zoning category.

**Policy 5.12**

By 2010, Brevard County shall develop and implement a water and sediment quality monitoring program for water-dependent users, man-made canals and other selected areas with significant upland runoff within the coastal zone.

**Criteria:**

- A. Brevard County shall establish a classification program for the various water dependent uses.
- B. Brevard County shall establish a water quality monitoring program for each of the designated classes of water dependent uses.
- C. Water dependent uses shall be assessed an annual fee adequate to fund the required water quality monitoring program.

- D. The County shall require the activity to cease if adopted water quality standards are not maintained.
- E. Continued operation resulting in degradation of the water quality below accepted standards shall result in a fine, as established by Brevard County.
- F. Waiver provisions should be included for operations below an established threshold.
- G. This program shall be in coordination with the Florida Department of Natural Resources, and other appropriate agencies.

**Policy 5.13**

Brevard County shall support environmentally and economically sound development of Port Canaveral and related facilities, which is consistent with this Comprehensive Plan (Policy 5.4 of the Transportation Element).

**Policy 5.14**

Brevard County should continue to monitor boating activity and boat facility demand.

**Policy 5.15**

During rezoning and other development order approval reviews, Brevard County should give immediate shoreline use priorities (in descending order of priority) to:

**Criteria:**

- A. Water-dependent uses such as fish, shellfish and wildlife production, recreation, water dependent industry and utilities, marinas and navigation;
- B. Water-related uses such as certain utilities, commerce and industrial uses;
- C. Water-enhanced uses such as some recreation uses;
- D. Non-water dependent or related activities such as residential; and
- E. Of lowest priority are those uses which are non-water dependent, non-water enhanced and which result in an irretrievable commitment of coastal resources.

**Policy 5.16**

Brevard County should encourage the construction of marine sanitation device (MSD) pumpout facilities.

**Policy 5.17**

Brevard County shall utilize available management plans in developing standards for marina siting and other water-dependent uses. These management plans include, but are not limited to, Aquatic Preserve Management Plans, the Surface Water Improvement Management (SWIM) Plan and the IRLCCMP.

**Coastal High Hazard Areas**

**Objective 6**

Limit future public expenditures for infrastructure and service facilities which subsidize growth within the coastal high hazard areas of Brevard County. Expenditures for public land acquisition or enhancement of natural resources shall be encouraged.

**Policy 6.1**

Brevard County shall designate coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as established by a Sea, Lake and Overland Surges from Hurricanes (SLOSH) computerized storm surge model, as defined in Chapter 163, Florida Statute (see Map 7).

**Policy 6.2**

Brevard County shall not support or finance new local transportation corridors which lie within the coastal high hazard zone or areas zoned as Environmental Area, except where there are no other cost-feasible alternatives. Corresponding improvements may only be considered when the facilitation of such improvements is needed to support the densities programmed on the Future Land Use Map (FLUM) series of the Comprehensive Plan.

**Policy 6.3**

Brevard County should not locate sewer and water transmission lines within the coastal high hazard zone, except where there is no cost-feasible alternative and where practical due to engineering, safety and cost considerations, and where necessary utilizing existing rights-of-way.

**Policy 6.4**

If County utility lines are relocated for any purpose, they should be located outside of the coastal high hazard zone, except where there is no cost-feasible alternative.

**Policy 6.5**

Public facilities, except for recreational facilities, shall not be located by Brevard County within the coastal high hazard zone, except where there are no other cost-feasible alternatives. Corresponding improvements may only be considered when the facilitation of such improvements is needed to support the densities programmed on the Future Land Use Map (FLUM) series of the Comprehensive Plan.

**Coastal Residential Densities****Objective 7**

Limit densities within the coastal high hazard zone and direct development outside of this area.

**Policy 7.1**

Brevard County shall not increase residential density designations for properties located on the barrier island between the southern boundary of Melbourne Beach and the Sebastian Inlet.

**Policy 7.2**

Brevard County shall continue to implement the Transfer of Development Rights program which has been established to transfer density from transfer districts within the coastal high hazard area to receiving districts outside of the coastal high hazard area.

**Policy 7.3**

Brevard County shall continue its program of land acquisition and management for recreation and preservation contingent upon availability of funding.

**Policy 7.4**

Brevard County shall review federal and state development proposals which are to be located within the coastal high hazard areas, and shall support those projects which are consistent with this Plan.

**Policy 7.5**

Brevard County shall maintain the Brevard County Comprehensive Emergency Management Plan (BrevCEMP). This plan shall be consistent with this Comprehensive Plan, and shall be coordinated with the municipalities, the appropriate state and federal agencies, and approved by the appropriate state agency(s).

**Policy 7.6**

The existence of sewer, water, roadways or other public infrastructure shall not be considered adequate rationale for an increase in zoning density or intensity within the coastal high hazard area.

**Policy 7.7**

Once public acquisition of recreation and/or conservation lands occurs within coastal high hazard areas, the Future Land Use Map shall be amended to designate same as Recreation or Conservation lands. Such redesignation shall not serve as a basis for increasing established residential density designations in said coastal high hazard area.

**Policy 7.8**

Public facilities, such as hospitals, wastewater treatment plants or fire stations, shall not be located on causeways.

**Hurricane Evacuation****Objective 8-Hurricane Evacuation**

Reduce excessive evacuation times where they currently exist, and maintain all other evacuation times within the acceptable standard. Acceptable evacuation standards will be reviewed and updated as necessary but shall not exceed the times indicated in the current Brevard County Comprehensive Emergency Management Plan

**Policy 8.1**

Brevard County shall maintain acceptable hurricane evacuation times based upon the following criteria:

**Criteria:**

- A. The most current behavioral response scenario.
- B. The requirement to evacuate prior to sustained tropical storm force (40 mph) winds.

**Policy 8.2**

Brevard County shall coordinate with the municipalities and appropriate state agencies to develop Evacuation Zone Management Plans to reduce evacuation times above the current optimum behavioral response time. The following shall be considered, at a minimum:

**Criteria:**

- A. Roadway and other infrastructure improvements and funding mechanisms.
- B. Programs designed to improve the behavioral response to hurricane evacuation orders.
- C. Land use strategies.



**Policy 8.3**

Brevard County Emergency Management shall continue to coordinate with NASA to allow evacuation of North Merritt Island through Kennedy Space Center, if necessary.

**Policy 8.4**

Brevard County shall identify roadway and operational improvements to the hurricane evacuation network based upon the number of people who cannot be evacuated within an optimum evacuation time limit.

**Criteria:**

- A. Priority shall be given to improvements serving the zone with the highest number of people remaining after the current optimum evacuation time.
- B. The remaining improvements shall be given priority in descending order according to the number of people remaining after the optimum evacuation time.
- C. Brevard County, in cooperation with the Florida Department of Transportation, shall identify key hurricane evacuation routes that are vulnerable to flooding, erosion and critical points of congestion during the established evacuation time.
- D. Brevard County shall present recommended roadway, operational and maintenance improvements to the appropriate implementing and funding agencies.

**Policy 8.5**

In those areas where citizens cannot be evacuated within the evacuation standards in the Brevard County Emergency Management Plan adopted January 1, 2008, development orders may be deferred until such time as adequate evacuation capacity has been programmed.

**Policy 8.6**

Brevard County shall consider hurricane evacuation times, as well as other factors, in determining the timing and priority of roadway improvements which are programmed by the Board of County Commissioners.

**Policy 8.7**

Brevard County shall cooperate with the Red Cross and other agencies to develop an on-going public education program to notify the public as to the necessity to evacuate as quickly as possible in order to reduce or eliminate evacuation times in excess of the optimum behavioral response time.

**Policy 8.8**

Brevard County's Comprehensive Emergency Management Plan (BrevCEMP) shall be consistent with the state comprehensive emergency management plans.

**Policy 8.9**

Based upon hurricane vulnerability concerns and excessive evacuation times, new mobile home development or recreational vehicle parks shall not be permitted on the barrier island, to the extent permitted by law. Expansions to an existing mobile home development may be permitted if such development results in a decrease in land use intensity and an overall reduction in programmed residential densities and is consistent with the character of the surrounding area.

**Policy 8.10**

By 2011, Brevard County shall require a hurricane management plan which reduces excessive hurricane evacuation time for existing recreational vehicle park development within the south beaches.

**Policy 8.11**

Brevard County shall encourage the State of Florida to identify a dedicated funding source for the improvement of primary hurricane evacuation routes, such as US 192, SR 528, SR 520 and Interstate 95. The funding source should be in addition to state and federal funds already received by Brevard County for urban area roadway improvements.

**Hurricane Shelters****Objective 9**

Provide adequate, safe hurricane shelter space to meet the needs of the at risk and special needs population ("shelter space" shall be considered to include both private and public shelters).

**Policy 9.1**

Brevard County shall continue to cooperate with the Red Cross and State Emergency Management to provide an emergency shelter manager training course and encourage interested citizens of Brevard County to become shelter managers.

**Policy 9.2**

Brevard County Office of Emergency Management shall continue to cooperate with the Red Cross to develop a public education program on hurricane preparedness, including the locations of hurricane evacuation shelters and the need for emergency shelter managers.

**Policy 9.3**

Brevard County shall cooperate with the Red Cross in designating appropriate public and private structures as hurricane shelters.

**Policy 9.4**

Brevard County shall utilize the Housing and Human Services Department to provide appropriate facilities and adequate staffing for the special needs shelters.

**Policy 9.5**

Brevard County shall support the School Board in their efforts to utilize enhanced hurricane shelter protection standards for all reconstruction and new development in accordance with FS 235.26.

**Policy 9.6**

Public buildings within Brevard County should be reviewed to determine if qualified to be utilized as hurricane sheltering. Beginning in the year 2000, all newly constructed public buildings shall meet the criteria established for enhanced shelter protection in the State Requirements for Educational Facilities (SREF).

**Policy 9.7**

Brevard County shall study the feasibility of increasing residential construction standards to reduce hurricane shelter deficits and ensure the delivery of safe housing for citizens of Brevard County.

**Policy 9.8**

By 2010, Brevard County shall develop a hazard mitigation strategy in its land development regulations which prohibits the development of new recreational, mobile or manufactured housing and the expansion of existing recreational, mobile or manufactured housing unless the developer/owner has provided emergency sheltering sufficient to house a minimum of 50% of the residents of that development.

**Policy 9.9**

By 2011, Brevard County will encourage all existing recreational, mobile or manufactured housing communities to have emergency shelters and a hurricane management plan that will result in faster evacuation times for their residents.

**Post-Disaster Redevelopment****Objective 10**

Expedite post-disaster recovery and reduce or eliminate the future risk to human life, and public and private property from natural hazards via recovery and re-development strategies adopted in the BrevCEMP.

### **Policy 10.1**

Brevard County's Code Compliance Department and Public Works Department shall review all non-emergency and long-term redevelopment proposals utilizing the following criteria:

#### **Criteria:**

- A. If utility lines, including but not limited to sewer, water, gas, electric and cable TV, must be relocated after a storm event, they should be permanently located landward (west) of the 1986 FDEP Coastal Construction Control Line and underground, except for feed lines servicing individual parcels. Repair of these lines on a temporary basis to protect health and safety shall be permitted in their existing locations.
- B. Underground storage tanks which are located seaward of the Brevard County Coastal Setback Line (CSL) shall be relocated landward (west) of the 1986 FDEP Coastal Construction Control Line.
- C. Water-dependent commercial uses seaward of the 1981 FDEP Coastal Construction Control Line which are damaged by more than 50% of their assessed value or fair market value as determined by an NAI appraisal supplied by the property owner may be reconstructed seaward (east) of the 1981 FDEP CCCL consistent with the coastal zone construction requirements.
- D. Water-related commercial uses seaward (east) of the 1981 FDEP Coastal Construction Control Line which are damaged by more than 50% of their assessed value or fair market value as determined by an NAI appraisal supplied by the property owner should be relocated landward (west) of the 1981 FDEP CCCL unless the project has no feasible alternative and is found to be in the public interest.
- E. Water-enhanced commercial uses seaward (east) of the 1981 FDEP Coastal Construction Control Line which are damaged by more than 50% of their assessed value or fair market value as determined by an NAI appraisal supplied by the property owner should be relocated landward (west) of the 1981 FDEP CCCL.
- F. If non-habitable minor structures which are damaged by more than fifty (50) percent of their assessed value or fair market value as determined by an NAI appraisal supplied by the property owner are reconstructed, they shall be relocated and constructed in compliance with coastal zone construction requirements.

- G. Brevard County should develop a program for the possible relocation of residential housing, if required after a natural disaster.

### **Policy 10.2**

The replacement of infrastructure shall be constructed in conjunction with existing development or as part of an integral network of infrastructure.

### **Policy 10.3**

By 2012, Brevard County should analyze those public structures within the coastal zone which are most likely to be damaged or destroyed during a hurricane. The analysis shall be coordinated by the Planning and Zoning Office and shall consider the following criteria, at a minimum:

#### **Criteria:**

- A. The cost effectiveness of relocation versus repair shall be analyzed.
- B. Alternatives shall be considered in the light of mitigative impacts, growth management consistency, impacts to the public, timeliness, legal issues, environmental impacts and cost.
- C. The following alternatives, at a minimum, shall be analyzed:
  - 1. Repair of the structure to the pre-disaster conditions.
  - 2. Repair of the structure to the pre-disaster conditions with physical protective structures, as may be legally permissible, such as seawalls or revetments when consistent with policy 5 of this element.
  - 3. Vertical relocation of the structure, e.g. elevating roadways with bridges.
  - 4. Relocation further inland.
- D. Reconstruction or relocation of SR A1A and other roadway segments within the coastal high hazard area shall be included within this study.
- E. Analysis of County service center and other facilities shall be in conjunction with the County's Space/Needs Assessment.
- F. Those structures within the high risk vulnerability zone to be included are the Central Brevard Service Complex, District II Commission Office, District II Road and Bridge, County Sign Shop, public libraries and County fire stations.
- G. The study shall be consistent with the East Central Florida Regional

Planning Council studies. The hurricane scenarios and loss estimates shall be consistent with the Hurricane Loss Study and shall be coordinated with other appropriate agencies.

- H. The impact of sea level rise and the projected 30-year erosion line shall also be analyzed.

#### **Policy 10.4**

In the event of a disaster all infrastructure and other County owned improvements, which were not included within the above outlined study, shall be analyzed to determine the cost effectiveness of relocation versus repair.

#### **Policy 10.5**

The Brevard County Code Compliance Department shall provide copies of building permits which have been issued for storm damage repair to the County Hazard Mitigation Team for their evaluation for identification of areas susceptible to repeated damage by hurricane erosion and flooding.

#### **Policy 10.6**

Brevard County shall continue to conduct disaster related exercises at regular intervals, as determined by the Office of Emergency Management, or in conjunction with the East Central Florida Regional Planning Council, Local Emergency Planning Committee and other state or federal agencies.

#### **Policy 10.7**

As identified in the BrevCEMP, Emergency Support Function 18 (ESF 18) shall be the primary lead to conduct a post-disaster evaluation to assess property damages necessary for disaster relief and post-disaster redevelopment funds. The ESF 18 should have available a listing of property values coordinated with land use maps to facilitate such property assessment procedures. County staff, such as the Planning and Zoning Office staff, will be utilized as manpower.

#### **Policy 10.8**

The BrevCEMP shall be coordinated with other local, regional and state entities. As additional interagency hazard mitigation reports are received, they shall be reviewed and incorporated into the BrevCEMP.

**Policy 10.9**

Brevard County should require that when utility lines, including, but not limited to sewer, water, gas, electric and TV cable, are relocated for any purpose, they shall be placed underground.

**Coastal Access****Objective 11**

Provide adequate public access to the beach, estuarine and river shorelines consistent with public needs and the shoreline's natural resource requirements.

**Policy 11.1**

Brevard County shall acquire new beach access sites, improve existing sites or provide alternative access to non-designated beach access points. The following minimum criteria shall apply:

**Criteria:**

- A. Acquisition and site improvements of those areas of the beach identified as most deficient for beach access shall be given the highest priority. Efforts shall be undertaken to provide public access to all of Brevard County's beaches consistent with the FDEP's criteria for state cost-share funding for beach management.
- B. Site improvements, parking facilities and drainage shall be secondary to improvements to the naturally functioning dune system.
- C. Access shall be consistent with the standards included in the Recreation and Open Space Element of this Plan.
- D. Priority shall be given to those sites which are heavily utilized for beach recreation.
- E. Brevard County shall make efforts to balance the demand for beach access with the protection of the beach and dune habitat and species.

**Policy 11.2**

Brevard County shall complete the Beach and Riverfront Acquisition Program, contingent upon availability of funding, with priority being given to the acquisition of land to fulfill the Identified Needs, as adopted by the Brevard County Board of County Commissioners.

**Policy 11.3**

Brevard County shall prioritize future improvements to those oceanfront properties, contingent upon availability of funding, which have been purchased and are identified for additional beach access development.

**Policy 11.4**

Brevard County shall continue to coordinate with all beachfront municipalities the continued development and implementation of the Brevard County Beach Management Program. The Beach Erosion Advisory Committee, established by Chapter 70-603, Laws of Florida, should continue to function as a mechanism to communicate with the beachfront municipalities on beach-related issues and as the primary technical advisory committee to the Board of County Commissioners on the beach program.

**Policy 11.5**

Brevard County shall continue to pursue funds for dune revegetation to be used when constructing dune crossovers as replacements for unimproved dune access.

**Policy 11.6**

Brevard County shall coordinate with the Florida Department of Transportation in providing waterfront access on causeways and bridges.

**Policy 11.7**

Brevard County shall require private property owners to allow public use of beaches which are renourished with public funds. Access can be accomplished through publicly owned access points or improved dune crossovers located on easements.

**Policy 11.8**

Brevard County shall review beachfront development to ensure that it does not interfere with public access in those instances where the public has established ocean access-ways through private lands by prescription, prescriptive easement or other legal means. The developer may improve, consolidate, or relocate such public access provided it is consistent with this Plan.

**Policy 11.9**

Brevard County shall investigate the feasibility of acquiring narrow strips of land along the Indian River Lagoon, where such areas could provide visual access or provide parking for passive recreation within the Lagoon.



## **Port Canaveral Objective 12**

Brevard County will continue to identify provisions of the Port Master Plan which it considers inconsistent with the Coastal Management Element of the County Comprehensive Plan and will continue to offer to coordinate with Port Canaveral in resolving any inconsistencies. Brevard County shall continue to request copies of proposed plan amendments submitted for transmittal to the Department of Community Affairs and shall continue to review and comment on such amendments to the Port Master Plan consistent with the County's procedure for reviewing plans of other jurisdictions and Chapter 163.3177 (6) (g).

### **Policy 12.1**

Brevard County shall continue to cooperate with the Port Canaveral Authority and the Florida Inland Navigation District in the identification of suitable spoil disposal sites within unincorporated Brevard County.

## **Recreational and Commercial Working Waterfronts**

In 2005 and 2006, the Legislature recognized that there is an important state interest in facilitating boating and other recreational access to the state's navigable waters. This access is vital to recreational users and the marine industry in the state, to maintaining or enhancing the \$57 billion economic impact of tourism and the \$14 billion economic impact of boating in the state annually, and to ensuring continued access to all residents and visitors to the navigable waters of the state. The Legislature recognizes that there is an important state interest in maintaining viable water-dependent support facilities, such as public lodging establishments, boat hauling and repairing and commercial fishing facilities, and in maintaining the availability of public access to the navigable waters of the state. The Legislature further recognizes that the waterways of the state are important for engaging in commerce and the transportation of goods and people upon such waterways and that such commerce and transportation is not feasible unless there is access to and from the navigable waters of the state through recreational and commercial working waterfronts.

The purpose of the Brevard County Working Waterfront Objective is to implement the relevant and mandated provisions of Chapter 205-157, and Chapter 206-220 of the Laws of Florida. The Legislature requires that local governments, through their comprehensive plans, address development activities that diminish access to the state's navigable waters. The recreation and open space element of all local comprehensive plans now must include waterways. (F.S. § 163.3177(6)(e)) In addition, all coastal counties and municipalities in Florida now have a legislatively-mandated duty to include, in the coastal management element of their Comprehensive Plan, strategies that will be used to preserve recreational and working waterfronts. (F. S. §

163.3178(2)(g)) Further, coastal counties must amend the future land use element of their comprehensive plan to create “regulatory incentives and criteria” that encourage the preservation of recreational and commercial working waterfronts. More specifically, the purpose is to protect and promote Brevard County as a recreational and commercial working waterfront community; protect and improve public access to the shorelines and waters of Brevard County; preserve and protect the cultural heritage and physical character of the area as a working waterfront community; and enhance the aesthetic character of the area by directing development in a manner that maintains the working waterfront identity of the County.

### **Objective 13**

To establish a comprehensive program to promote and protect public access to the marine and coastal waters of the County, and to ensure the economic viability of recreational and commercial working waterfronts.

#### **Policy 13.1**

The County shall identify, inventory and characterize all existing publicly-accessible recreational and commercial working waterfronts in Brevard County on a parcel-by-parcel basis, including but not limited to parking facilities for beach and shoreline access, coastal roads, facilities providing scenic overlooks, public lodging establishments, docks, wharfs, lifts, wet and dry marinas, boat ramps, boat hauling and repair facilities, commercial fishing facilities, boat construction facilities, and other support structures over the water and shall continue to maintain this inventory.

#### **Policy 13.2**

The County shall identify, inventory and characterize all private facilities that would otherwise qualify as recreational or commercial working waterfronts because they provide access to the marine and coastal waters of the County and shall continue to maintain this inventory.

#### **Policy 13.3**

By 2013, the County shall identify, inventory and characterize all parcels suitable for future development as publicly-accessible recreational and commercial working waterfronts in Brevard County. Suitable for future development includes vacant parcels and developed parcels not currently being used for water dependent activities which, because of their proximity, biophysical nature or other factors, could become recreational and commercial working waterfronts through a change in land use.

#### **Policy 13.4**

By 2013, the County shall identify, inventory and characterize existing right-of-ways, easements and other public property interests adjacent to or capable of providing public access or enhancing public access to the shorelines and waters of Brevard County.

**Policy 13.5**

By 2013, based on data and analysis, the County shall assess the future demand for public water access to the shorelines and waters of Brevard and shall establish activity-based levels of service standards for public water access.

**Policy 13.6**

The Brevard Marine Advisory Council shall continue to review and make recommendations to the Board concerning recreational and commercial working waterfronts in Brevard County.

**Policy 13.7**

By 2012, the County shall develop strategies to ensure continued public access to navigable waters through the identification and implementation of regulatory incentives and criteria.

**Policy 13.8**

The County shall prioritize recreational and commercial working waterfronts in existing or new land acquisition programs to purchase suitable parcels or the non-water dependent development rights to suitable parcels as determined by the inventory created under the Coastal Management Element of the comprehensive plan. Current funding strategies can include tourist taxes, or boating improvement funds to develop public launching facilities and related amenities.

Criteria:

(A) Funding may come from fees, bonds, community redevelopment district financing, or other sources as approved by Board, and may be supplemented through revenue sharing with appropriate state and federal programs.

(B) The County's share of revenue collected from boating registration fees shall be spent on boating infrastructure projects pursuant to Chapter 328.72(15), F.S.

**Policy 13.9**

The County shall not vacate, diminish, or otherwise impair publicly-owned pathways, sidewalks, roads, parking areas, docks or boat launching facilities, and other access points that are currently used, or susceptible to use, by the public to access the shorelines unless specific findings are made demonstrating that the action is necessary and suitable mitigation measures are or will be in place and only after a public hearing and decision by a super majority of the Board of Commissioners. (currently in Board Policy)

**Policy 13.10**

By 2012, the County shall inventory the waters of Brevard County to determine appropriate sites for one or more managed anchorages and/or mooring fields that shall be available to the boating public on a first come, first served basis. If one or more suitable sites are found, the County may establish a publically accessible-managed

anchorage and mooring field(s), taking into account environmental protection requirements and the concerns of shore side residents.

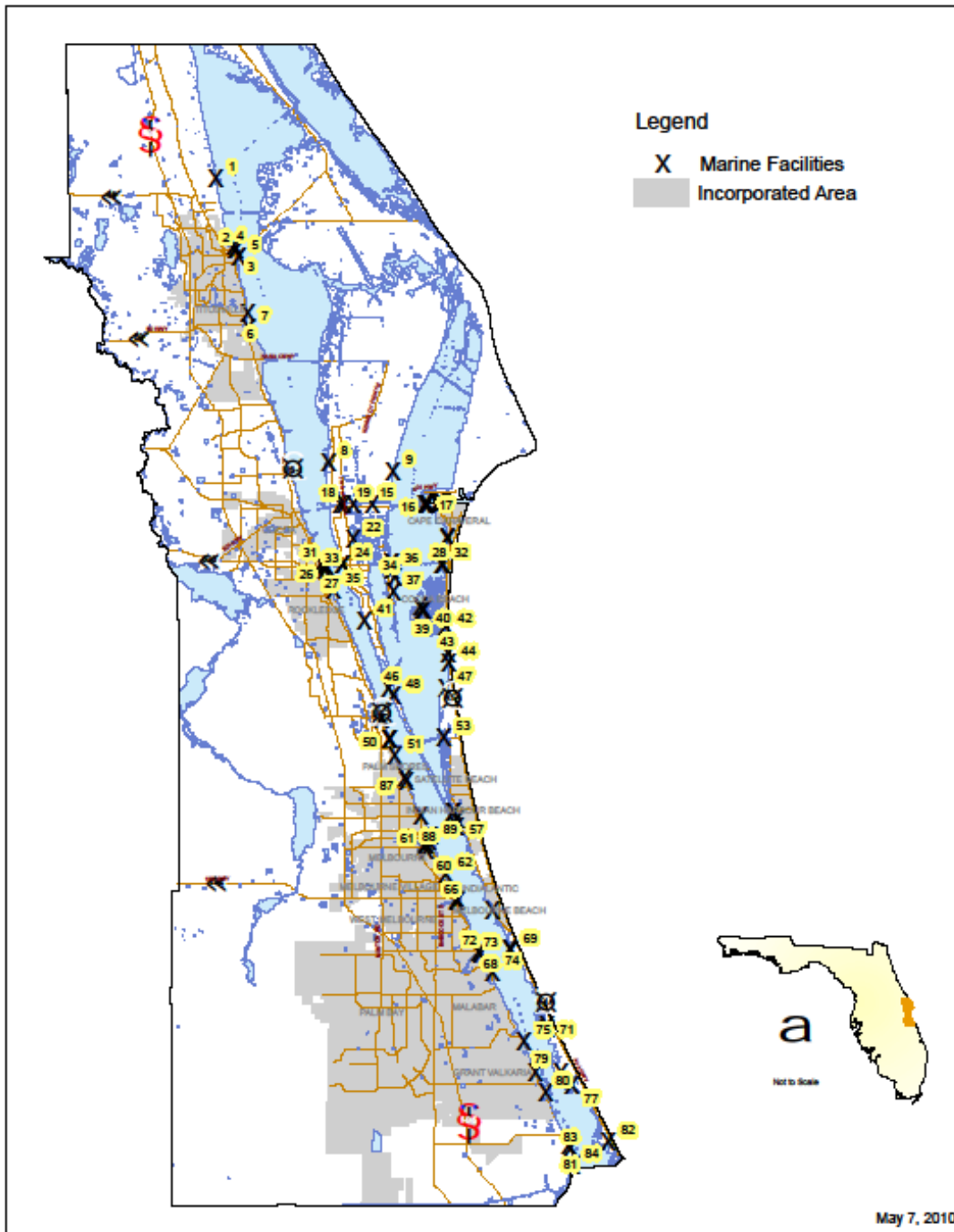
**Policy 13.11**

By 2013, the County shall develop incentives for encouraging private waterfront property owners to make their properties available for public use for purposes that are consistent with the uses permitted in recreational and commercial working waterfronts.

## **APPENDIX A**

### **LIST OF MAPS**

<b>Map</b>	<b>Title</b>
<b>1</b>	<b>Marine Facilities</b>
<b><u>2</u></b>	<b>Evacuation Routes &amp; Shelters</b>
<b><u>3</u></b>	<b>Coastal High Hazard Areas</b>



**Coastal Element  
Marine Facilities**

Source: Brevard County Natural Resources Management Office  
Prepared by: Brevard County Planning & Development Department, GIS

**Map 1  
Marine Facilities**

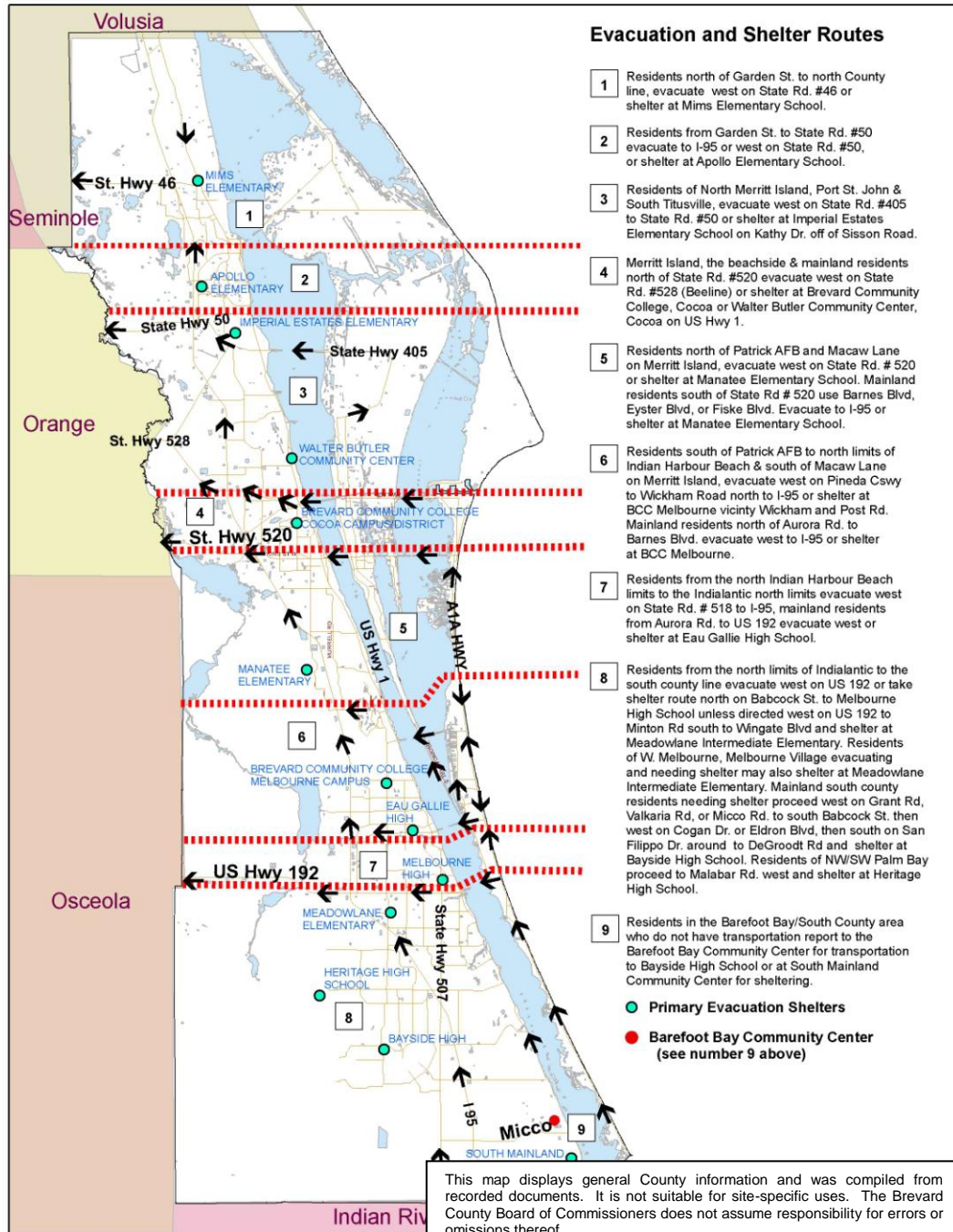
**Map 1 Legend**  
*(Webpage Note: Reverse Side of Map – Enlarged for Display Online)*

MAP REF #	STREET	CITY	WATERBODY
1	2000 Jones Av.	Mims	Indian River
2	801 Marina Road	Titusville	Indian River
3	451 Marina Road	Titusville	Indian River
4	419 N. Washington Ave.	Titusville	Indian River
5	41 N. Broad Street	Titusville	Indian River
6	S. Washington Ave. North of SR 50	Titusville	Indian River
7	4749 S. Washington Ave.	Titusville	Indian River
8	River Moorings Drive	N. Merritt Island	Indian River
9	1300 E. Hall Rd.	Merritt Island	Banana River
10	505 Glen Cheek Dr.	Port Canaveral	Port Canaveral
11	520 Glen Cheek Drive	Port Canaveral	Port Canaveral
12	628 Glen Cheek Drive	Port Canaveral	Port Canaveral
13	960 Mullet Road	Port Canaveral	Port Canaveral
14	350 SeaRay Dr.	Merritt Island	Barge Canal
15	2700 Harbortown Drive	Merritt Island	Barge Canal
16	800 Scallop Dr.	Port Canaveral	Port Canaveral
17	910 Mullet Road	Port Canaveral	Port Canaveral
18	290 Marine Harbor Drive	Merritt Island	Barge Canal
19	2750 Tingley Drive	Merritt Island	Barge Canal
20	6701 N. Atlantic Ave.	Cape Canaveral	Banana River
21	6815 N. Atlantic Ave.	Cape Canaveral	Banana River
22	Winar Drive	Merritt Island	Sykes Creek
23	20 Myrtice Ave.	Merritt Island	Indian River
24	14 Myrtice Ave.	Merritt Island	Indian River
25	P.O. Box 1886	Cocoa	Indian River
26	12 Marina Isles Blvd.	Indian Harbor Beach	Banana River
27	96 Willard St. Unit 101	Cocoa	Indian River
28	410 E. Cocoa Beach Cswy.	Cocoa Beach	Banana River
29	1872 E. 520 Cswy.	Merritt Island	Banana River
30	1872 E. 520 Cswy.	Merritt Island	Banana River
31	96 Willard St. Unit 101	Cocoa	Indian River
32	480 Cocoa Beach Cswy.	Cocoa Beach	Banana River
33	100-104 Riverside Dr.	Rockledge	Indian River
34	582 S. Banana River Dr	Merritt Island	Banana River
35	1025 Riveredge Drive	Rockledge	Indian River

36	200 S. Banana River Drive	Merritt Island	Banana River
37	1360 S. Banana River Dr.	Merritt Island	Banana River
38	1825 Minuteman Cswy.	Cocoa Beach	Banana River
39	1611 Minuteman Cswy.	Cocoa Beach	Banana River
40	1525 Minuteman Cswy.	Cocoa Beach	Banana River
41	2705 S. Tropical Trail	Merritt Island	Indian River
42	760 S. Brevard Ave.	Cocoa Beach	Banana River
43	2290 S. Hwy A1A	Cocoa Beach	Banana River
44	3360 S. Atlantic Ave.	Cocoa Beach	Banana River
45	5695 U.S. Highway 1	Viera	Indian River
46	199 Utopia Circle	Merritt Island	Indian River
47	1629 Atlas Ave.	PAFB	Banana River
48	Tequesta Harbor	Merritt Island	Indian River
49	6155 N. U.S. Hwy 1	Melbourne	Indian River
50	6175 N. Harbor City Blvd.	Melbourne	Indian River
51	5435 N. U.S. Highway 1	Melbourne	Indian River
52	4399 N. Harbor City Blvd.	Melbourne	Indian River
53	876 Marina Road	PAFB	Banana River
54	10 Palmer Road	Indian Harbor Beach	Banana River
55	1399 Banana River Drive	Indian Harbor Beach	Banana River
56	100 Datura Drive	Indian Harbor Beach	Banana River
57	96 E. Eau Gallie Cswy.	Melbourne	Indian River
58	587 Young Street	Melbourne	Eau Gallie River
59	1135 U.S. Highway 1	Melbourne	Eau Gallie River
60	911 N. Harbor City Blvd.	Melbourne	Eau Gallie River
61	729 N. Harbor City Blvd.	Melbourne	Indian River
62	705 S. Harbor City Blvd.	Melbourne	Indian River
63	2210 S. Front Street.	Melbourne	Crane Creek
64	1202 E. River Drive	Melbourne	Crane Creek
65	1208 E. River Drive	Melbourne	Crane Creek
66	1308 E. River Drive	Melbourne	Crane Creek
67	Riverside Drive	Melbourne Beach	Indian River
68	160 Versailles Drive	South Beaches	Indian River
69	Landings Road off A1A	South Beaches	Indian River
70	Solway Drive off A1A	South Beaches	Indian River
71	Ocean Way off A1A	South Beaches	Indian River
72	4220 Dixie Hwy NE	Palm Bay	Turkey Creek
73	4350 Dixie Hwy NE	Palm Bay	Indian River
74	5001 Dixie Hwy NE	Palm Bay	Indian River



75	3800 U.S. Highway 1	Valkaria	Indian River
76	750 Mullet Creek Rd.	South Beaches	Indian River
77	240 Hammock Shore Dr.	South Beaches	Mullet Creek
78	4660 U.S. Highway 1	Grant	Indian River
79	5185 U.S. Highway 1	Grant	Indian River
80	6075 U.S. Highway 1	Grant	Indian River
81	8525 U.S. Highway 1	Micco	Indian River
82	9502 S. A1A	South Beaches	Indian River
83	8685 N. U.S. Highway 1	Micco	Indian River
84	4015 Main Street	Micco	Sebastian River
85	6485 S. U.S. Highway 1	Rockledge	Indian River
86	6533 S. U.S. Highway 1	Melbourne	Indian River
87	4263 N. U.S. Highway 1	Melbourne	Indian River
88	2459 Pineapple Ave.	Melbourne	Indian River
89	1477 Pineapple Ave.	Melbourne	Indian River

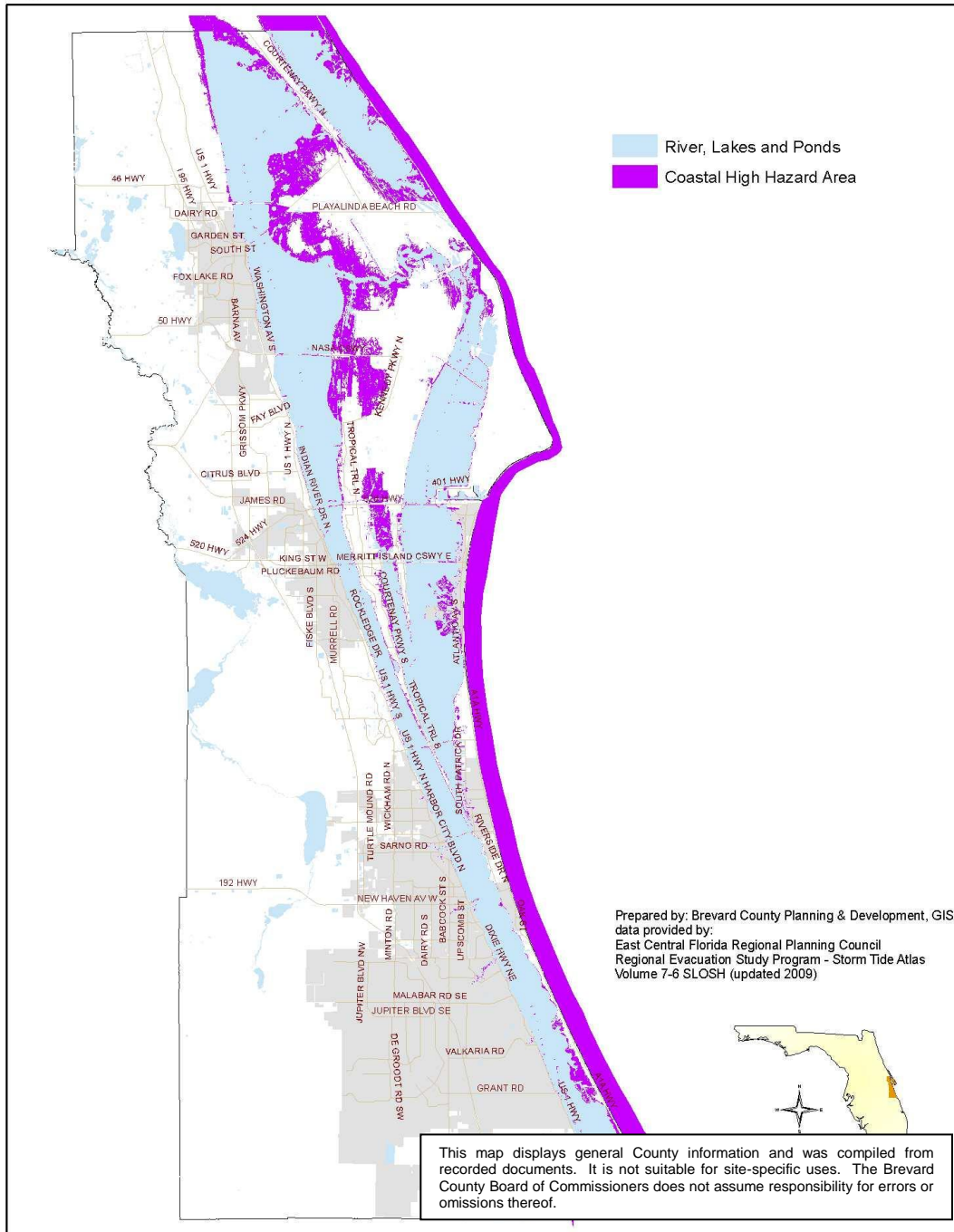


This map displays general County information and was compiled from recorded documents. It is not suitable for site-specific uses. The Brevard County Board of Commissioners does not assume responsibility for errors or omissions thereof.

Prepared by: Brevard County Planning & Zoning GIS

## Coastal Element Primary Shelters and Evacuation Routes

### Map 2 Evacuation Routes and Shelters



**Coastal Element  
Coastal High Hazard Area**

August 9, 2011

**Map 3  
Coastal High Hazard Area**

**COASTAL MANAGEMENT ELEMENT**

## **APPENDIX B**

### **LIST OF FIGURES**

<b>Figure</b>	<b>Title</b>	<b>Page</b>
<b>1</b>	<b>Diagram Reflecting the Spatial Relationship between the FDEP 1981 Coastal Construction Control Line (CCCL), the Brevard County Coastal Construction Line (CCL) and the Brevard County Coastal Setback Line (CSL)</b>	<b>6</b>

## APPENDIX C

### MANATEE HABITAT FEATURE MAP SERIES AND UPDATE SCHEDULE

#### MAPS:

1. **Submerged Aquatic Vegetation (SAV)** - 1994 coverage supplied with the draft MPP.

Source:

St. Johns River Water Management District  
(904) 329-4500

Update Schedule: As available

2. **Manatee Abundance (Aerial Surveys)** - September 1997-September 1999 map supplied with the draft MPP.

Source:

Florida Fish and Wildlife Conservation Commission  
Bureau of Protected Species Management  
(904) 922-4330

Update Schedule: As available

3. **Manatee Mortality** - Watercraft-related or Total Manatee Mortality (all causes) from 1974-2001 supplied with the draft MPP.

Source:

Florida Fish and Wildlife Conservation Commission  
Bureau of Protected Species Management  
(904) 922-4330

Update Schedule: As available

4. **Manatee Protection Boat Speed Zones** - October 2000 as provided with the draft MPP, or more recent data.

Source:

Florida Fish and Wildlife Conservation Commission  
Bureau of Protected Species Management  
(904) 922-4330

Update Schedule: As needed

5. **Manatee Freshwater Sources Map** - March 1994 as provided with the MPP.

Source:

Brevard County  
Natural Resources Management Office  
(321) 633-2016

Update Schedule: As available

6. **Class II Waterbody, Outstanding Florida Waterway (OFW), or Aquatic Preserve**  
- 2001 as provided in the MPP.

Source:

Florida Department of Environmental Protection  
Division of Surface Water Quality  
(850) 245-8427

Update Schedule: As available



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.2.

2/4/2021

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### **Subject:**

Brevard Tower Communications, Inc., requests Adoption of the 2020-2.1 Large Scale Plan Amendment to change the Future Land Use designation from RES 2 and NC to CC. (20PZ00072) (District 5)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider adoption of the 2020-2.1 Large Scale Comprehensive Plan Amendment initiated by Brevard Tower Communications to amend Part XI, the Future Land Use Element to change the Future Land Use Map Series designation from RES 2 (Residential 2) and NC (Neighborhood Commercial) to CC (Community Commercial).

### **Summary Explanation and Background:**

Brevard County Code Section 62-502(b)(3) establishes a twice a year application deadline for Large Scale Comprehensive Plan Amendments, for changes of more than 10 acres. Large scale amendments entail a two-step public hearing process, as outlined in Chapter 163, F.S.

The applicant has submitted a companion rezoning application proposing a change from GU (General Use) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and removal of a CUP (Conditional Use Permit) for Tower and Antenna. The applicant as provided a proposed BDP as acknowledged during the November 5, 2020 Transmittal hearing.

The first public hearing cycle, with the October 19, 2020, Local Planning Agency, and November 5, 2020, Board of County Commissioners meeting completed the necessary public hearings for Transmittal of this amendment to the Florida Department of Economic Opportunity, along with other local, regional, and state reviewing agencies. Florida Fish and Wildlife Commission, St. Johns River Water Management District, and Florida Department of Transportation have all submitted letters of no comment, which have been included in the Board's package.

Specific to this request, the applicant is seeking a Large-Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 2 and NC to CC on a 17.5 acre parcel of land for the purpose of developing a recreational vehicle (RV) and boat storage facility.

The subject property is located approximately 1,200 feet west of the northwest corner of Norfolk Parkway and Minton Road. The southern portion of the two parcels has two buildings, while the remainder of the property has no improvements. In the late 1980's the property was utilized as a landfill. In 1991, the County and the property owner entered into a Settlement Agreement which outlined the closure. The property currently has a Future Land Use designation of RES 2 and NC since the original Comprehensive Plan's adoption in 1988.

The proposed CC Future Land Use designation is being sought in an area where the two parcels abut the City of West Melbourne on a portion of the east and all of the south and west. To the north, within Brevard County, is an existing single-family residence and an abutting parcel with a communication tower with Future Land Use designations of RES 2. There is vacant property to the east with Brevard County FLU designations of RES 2 and NC. The parcel also abuts vacant land within the City of West Melbourne to the east. To the south, across Norfolk Parkway, there is vacant property within the City of West Melbourne. To the west is a stormwater pond for Sawgrass Lakes Community Association Inc. located within the City of West Melbourne.

The Board may wish to consider whether the request is compatible with existing land uses of the surrounding area. In addition, the Board may also wish to consider Policy 2.8A and Policy 2.8C of the Comprehensive Plan which contains criteria to guide the location and size of the Community Commercial Future Land Use designation.

On January 11, 2021, the Local Planning Agency heard the request and voted 4:2 to recommend approval.

### **Clerk to the Board Instructions:**

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



# **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

(c) General Standards of Review.

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

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

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

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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



**BOARD OF COUNTY COMMISSIONERS**

**Planning & Development Department**  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940

TO: LOCAL PLANNING AGENCY MEMBERS

FROM: Jeffrey Ball  
Planning & Zoning Manager, Planning & Development Department

DATE: January 11, 2021

SUBJECT: Adoption of the 2020 Out of Cycle Comprehensive Plan Amendment Packet

*JB*

Please find attached the 2020 Out of Cycle Large Scale Comprehensive Plan Amendment Packet. The Brevard County Zoning Code Chapter 62-502 (b)(3) establishes a twice a year application deadline. The 2020-2 Comprehensive Plan amendment is the County's second Large Scale Comprehensive Plan Amendment package of 2020 that is out of cycle from the spring and fall schedule.

There is one private application being considered for Adoption in this cycle, listed below and more fully described in the attached staff comments:

- 2020 – 2.1 submitted by Brevard Tower Communications, Inc., amending the Future Land Use Element

For additional information or questions please contact Cheryl Campbell, Planner III, Planning & Development Department Phone: 633-2070, Ext: 58271 E-mail: [Cheryl.Campbell@BrevardFL.gov](mailto:Cheryl.Campbell@BrevardFL.gov)





BOARD OF COUNTY COMMISSIONERS

**Planning & Development Department**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940

February 4, 2021

Mr. Ray Eubanks,  
Plan Processing Administrator  
Division of Community Planning  
Florida Department of Economic Opportunity  
107 East Madison Street, MSC-160  
Tallahassee, FL 32399-4120

Re: 2020-2.1 Out of Cycle Comprehensive Plan Amendment Adoption Package

Dear Mr. Eubanks,

Enclosed please find the Comprehensive Plan Amendment submittal package for the 2020-2 Out of Cycle Comprehensive Plan Amendment – Brevard County Amendment No. 20-02ESR. There is one private application for amendment being considered for adoption in this cycle more fully described in the attached staff report.

The Local Planning Agency held a public hearing regarding the adoption of the 2020-2. Plan Amendment package on January 11, 2021, recommending approval of Comprehensive Plan Amendment, 2020-2.1.

The Brevard County Board of Commissioners approved the adoption of the 2020-2.1 Plan Amendment package during a public hearing on February 4, 2021. Copies of the proposed amendment package have been sent to the St. Johns River Water Management District, the East Central Florida Regional Planning Council, the Florida Department of Environmental Protection, the Florida Department of Transportation (District 5), the Florida Department of State, the Florida Fish and Wildlife Conservation Commission, the Florida Department of Education, and the Florida Department of Agriculture and Consumer Services.

The plan amendment's "content and effect" is included in this mailing, with minor changes between transmittal and adoption called out in strikethrough/underline, as required by statute.

The proposed amendment package was adopted by Brevard County on February 4, 2020.

The proposed amendment package is not within an area of critical state concern.

The proposed amendment package is not within the Wekiva River Protection Area.

The proposed amendments are not being adopted under a joint planning agreement pursuant to Section 163.3171, Florida Statutes.

The contact person for the 2020-2.1 Plan Amendment package is:

Cheryl W. Campbell, Planner III  
Planning and Development Department  
2725 Judge Fran Jamieson Way, Building A  
Viera, FL 32940  
Cheryl.Campbell@BrevardFL.gov  
(321) 633-2069 - FAX (321) 633-2074

A local newspaper of general circulation is:

Florida Today  
1 Gannett Plaza  
Melbourne, FL 32940  
(321) 259-5555

In accordance with Florida Statutes, one paper copy and two copies in Portable Document Format (PDF) on the enclosed CD-ROM of the proposed amendment package including all proposed text, maps, and support documents are sent to your office via this transmittal. If you have any questions regarding the enclosed materials, please contact Cheryl W. Campbell at the above address.

Sincerely,

Rita Pritchett, Chair  
Brevard County Board of County Commissioners

Enclosures

cc: Board of County Commissioners (w/out encl.)  
Frank Abbate, County Manager (w/out encl.)  
Eden Bentley, County Attorney (w/out encl.)  
Tad Calkins, Director, Planning and Development Department (w/out encl.)  
Exec. Director, East Central Florida Regional Planning Council  
Director of Planning and Public Transportation Operations, FDOT District Five  
St. Johns River Water Management District  
Florida Department of Environmental Protection  
Florida Division of Agriculture and Consumer Services  
Florida Division of Historic Resources  
Florida Fish and Wildlife Conservation Commission  
Florida Department of Education

**Comprehensive Plan Amendment  
Out of Cycle Adoption 2020-2  
DEO Brevard County Amendment  
No. 20-02ESR**

**Comprehensive Plan Amendment  
Brevard Tower Communications, Inc. 2020-2.1**

**PROPOSED COMPREHENSIVE PLAN AMENDMENT 2020-2.1  
FUTURE LAND USE MAP SERIES  
FUTURE LAND USE ELEMENT**

**Request:** 2020-2.1  
Large Scale Comprehensive Plan Amendment (LSCPA) Future  
Land Use (FLU) Map Amendment (20PZ00072)

**Owner / Applicant:** Brevard Tower Communications, Inc.

**Location:** Legal Description on File  
Tax Acct Parcel a portion of # 2802674 & 2802676

**District:** Five (5)

**Acreage:** ± 17.5 acres

**Existing Land  
Use Designation:** Residential 2 (RES 2) and Neighborhood Commercial (NC)

**Proposed Land  
Use Designation:** Community Commercial (CC)

**Existing Zoning  
Classification:** General Use (GU)

**Proposed Zoning  
Classification:** Retail, Warehousing & Wholesale Commercial (BU-2)

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**FUTURE LAND USE MAP AMENDMENT**

**Description:**

The applicant is seeking a Large-Scale Comprehensive Plan Amendment to change the Future Land Use designation from Residential 2 (RES 2) and Neighborhood Commercial (NC) to Community Commercial (CC) on a 17.5 acre parcel of land for the purpose of developing a recreational vehicle (RV) and boat storage facility. The subject property is located approximately 1,200 feet west of the northwest corner of Norfolk Parkway and Minton Road. The southern portion of the two parcels is currently developed with two buildings. The property currently is developed with a Future Land Use designation of RES 2 since the original Comprehensive Plan's adoption in 1988. This request is for a CC Future Land Use designation in order to construct a RV and boat storage facility.

The applicant has submitted a companion rezoning request from GU to BU-2 which will be heard at the adoption phase of this Large-Scale Comprehensive Plan Amendment request. The stated intent of the applicant is to construct a RV and boat storage facility.

The proposed CC Future Land Use designation is being sought in an area where the two parcels abut the City of West Melbourne on a portion of the east and all of the south and west. To the north, within Brevard County, is an existing single-family residence and an abutting parcel with a communication tower with Future Land Use designations of RES 2. There is vacant property to the east with Brevard County FLU designations of RES 2 and NC. The parcel also abuts vacant land within the City of West Melbourne on the east. To the south, across Norfolk Parkway, there is vacant property within the City of West Melbourne. To the west is vacant residential common area for Sawgrass Lakes Community Association Inc. also located within the City of West Melbourne.

<b>Surrounding Uses</b>	<b>Current Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-Family Residence	GU	RES 2
<b>East</b>	Vacant	GU, West Melbourne	RES 2, NC, West Melbourne
<b>South</b>	Vacant	West Melbourne	West Melbourne
<b>West</b>	Vacant	West Melbourne	West Melbourne

**Availability of Public Facilities and Services:**

Potable Water: The closest potable water line (City of West Melbourne) is located directly south of the property across Norfolk Parkway.

Sanitary Sewer: The closest force main (City of West Melbourne) is located across Norfolk Parkway.

Solid Waste: Brevard County provides solid waste collection and disposal for this area.

Parks & Recreation: The proposed land use amendment would not exceed existing park land level of service for the Central Planning Area.

Drainage: All necessary drainage and stormwater management facilities must be provided on-site by the developer and approved during the site plan and land development review process.

**Transportation:** The subject property is located on the north side of Norfolk Parkway. Norfolk Parkway is an Urban Major Collector road that is not included in Space Coast Traffic Planning Organizations Traffic (SCTPO) Count program. The nearest traffic count data was taken from segment 210C of Minton Road from Hield Road to Eber Boulevard. The segment was identified with a non-deficiency and is not nearing maximum capacity. The Maximum Acceptable Volume (MAV) is 39,800 with an Average Daily Trips (ADT) of 32,097. The segment has a current operating volume of 80.65%. The maximum development potential from the proposed zoning (213,444 square feet) would increase the percentage of MAV utilization by 22.85%. If fully developed, the corridor is anticipated to operate at 103.50% of capacity daily.

	ADT	PM PEAK		
Trips from Existing Zoning	19	2	Segment Number	210C
Trips from Proposed Zoning	9,114	792	Segment Name	Minton Road Hield-Eber
Maximum Acceptable Volume (MAV)	39,800	3,582	Acceptable LOS	D
Current Volume	32,097	2,889	Directional Split	0.51 N
Volume With Proposed Development	41,192	3,707	ITE CODE	
Current Volume / MAV	80.65%	80.65%	820	
Volume / MAV with Proposal	103.50%	103.50%		
Current LOS	D	D		
LOS With Proposal	D	D		
<b>Findings</b>	<input type="checkbox"/> Non-Deficiency		<input checked="" type="checkbox"/> Deficiency	

**Conclusion:** The preliminary concurrency analysis at the first level of review did indicate that the proposed zoning could cause a deficiency of adopted levels of service. Pursuant to Brevard County Code Section 62-602, a concurrency evaluation will be conducted at the site plan review stage.

## **Environmental Resources:**

### **Wetlands**

The subject parcel contains mapped NWI (Freshwater emergent wetlands) as shown on the NWI Wetlands map, an indicator that wetlands may be present on the property. A wetland delineation was performed in December 2019 by Andrew Conklin Environmental Services, LLC (ACES), and found approximately 0.22 acres of wetlands in the northeast corner of the parcel.

Per Section 62-3694(3), commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands. In no instance shall a proposed land development activity result in increased flooding on adjacent properties. Where the State does not require a buffer, wetland buffers shall be established in accordance with Section 62-3694(c)(10). Where impacts are permitted, the applicant is encouraged to propose innovative wetland preservation alternatives. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Section 62-3696. 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.

### **Historic Resources:**

There are no previously recorded cultural or historic resources on this property according to the Florida Master Site File.

### **Comprehensive Plan Policies/Comprehensive Plan Analysis:**

*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 with 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.*

### **Future Land Use Element Policies**

The following policies pertain to this future land use planning activity.

#### **Administrative Policy 3**

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

#### **Criteria:**

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

*There is a historical land use pattern of residential land use to the north, west and south of the subject site. Undeveloped property is located to the*



*east with Brevard County FLU designations of RES 2 and NC. The subject parcel also abuts undeveloped land within the City of West Melbourne on the east with Low-Density Residential (LD-RES), Institutional (INST) and Commercial (COM) Future Land Use designations.*

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

*There has not been any actual development on surrounding properties within the preceding three (3) years.*

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

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

## **Role of the Comprehensive Plan in the Designation of Commercial Lands**

### **Policy 2.1**

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

#### **Criteria:**

A. Overall accessibility to the site;

*The subject parcel has frontage on Norfolk Parkway, an east west Urban Major Collector road providing access to the Sawgrass Lakes community to the west. Minton Road, an urban principal arterial road is located approximately one quarter (1/4) of a mile to the east.*

*The subject property has direct access to Norfolk Parkway which is an Urban Major Collector road.*

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

*East of the subject property is undeveloped land within the City of Melbourne. Inter-connectivity with adjacent properties in the City of West Melbourne would be addressed during the site plan review.*

C. Existing commercial development trend in the area;

*Approximately three quarters (3/4) of a mile southeast of the subject parcel at the intersection of Minton and Palm Bay Road there is a cluster of retail shops to include a large grocery store and various banks.*

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

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

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

*The subject site is not serviced by County or municipality water or sanitary sewer. The closest potable water line and sewer force main (City of West Melbourne) is located directly south of the property across Norfolk Parkway. It should be noted that the City of West Melbourne will not provide water or sewer to the site unless it is annexed into the City. Due to developmental concerns associated with this closed landfill site (see staff comments under Policy 2.1 H on page 7), annexation into the City of West Melbourne is not desired by the City.*

*There is no data available for the preliminary transportation concurrency analysis along Norfolk Parkway, an Urban Major Collector road; however, there is data for Minton Road located approximately ¼ mile east of the subject parcel. This segment indicates that Minton Road from Hield Road to Eber Boulevard has a maximum acceptable volume (MAV) of 39,800. Brevard County defers to the Space Coast Transportation Planning Organization's (TPO's) traffic count program, which indicates that in 2018 the roadway's trips were at 80.65% of the MAV. With this Future Land Use change to Community Commercial (CC) the subject parcel at its highest use, would increase the Maximum Acceptable Volume (MAV) to 103.50%. Currently, Minton Road has a Level of Service (LOS) of C. The Future Land Use change to Community Commercial (CC) would create a Level of Service (LOS) of D.*

*The applicant has submitted a companion zoning request from General Use (GU) to Retail, Warehousing & Wholesale Commercial (BU-2) to construct a Recreational Vehicle (RV) and Boat Storage Facility (20Z00015). The maximum development potential from the proposed rezoning could increase the volume (MAV) on this section of Minton Road from 80.65% to 103.50% of the daily capacity (LOS D).*

- F. Spacing from other commercial activities;

*The subject parcel is adjacent to vacant commercial land on the east side. Approximately ¾ of a mile southeast of the parcel at the intersection of Minton and Palm Bay Roads there are various commercial retail stores and businesses.*

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

*The Future Land Use designation change from RES 2 and NC to CC is proposed on 17.5 acres.*

*The subject parcel is located approximately ¼ of a mile west of Minton Road. Along Minton Road from Flanagan Avenue south to Palm Bay Road, there is an approximately one hundred thirty- eight (138) acre cluster of properties with commercial land use designations, of which approximately ninety (90) acres are undeveloped. Minton Road is an Urban Principal Arterial road which serves local, sub regional and regional communities by providing commercial services.*

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

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

*According to Florida Department of Environmental Protection (FDEP) records, the subject property was utilized as a construction and demolition debris landfill site from approximately 1984 to 1992. The applicant is advised to contact FDEP at 407-897-4313 for guidance regarding disturbing/developing old landfill sites to ensure that public health and the environment will not be harmed by the disturbance of the waste at the site.*

- I. Integration of open space; and

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

- J. Impacts upon strip commercial development.

*There is no strip commercial development along Norfolk Parkway at this location. The subject parcel is located approximately ¼ mile west of Minton Road. The subject parcel, if developed as commercial, has the potential to create strip commercial development along Norfolk Parkway.*

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

### **Policy 2.7**

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

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.12; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

*The applicant has indicated that the proposed use will include a RV and storage facility.*

## **Locational and Development Criteria for Community Commercial Uses**

### **Policy 2.8**

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

#### **Criteria:**

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

*The subject parcel is greater than ten (10) acres. Parcels with the commercial Future Land Use designation should be clustered at the intersection of Norfolk Parkway and Minton Road approximately ¼ mile to the east. Currently, there is a cluster of commercial approximately thirty*

*(30) acres in size. This cluster of over ten (10) acres is not on a principal arterial/principal arterial intersection.*

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

*The subject parcel is 17.5 total acres in size and has not exceeded 40 acres. There is approximately thirty (30) acres of undeveloped commercial properties within the City of West Melbourne located that the intersection of Norfolk Parkway and Minton Road.*

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

*The subject parcel is 17.5 acres in size. There is an existing commercial cluster approximately two and a half (2 1/2) miles north at the intersection of West New Haven Avenue and Minton Road in the City of West Melbourne. The closest commercial node to the south is at the intersection of Minton Road and Palm Bay Road, approximately 3/4 of a mile southeast of the parcel.*

- D. The gross floor area of community commercial complexes should not exceed One hundred fifty thousand (150,000) square feet (s.f.) for commercial clusters up to ten (10) acres in size and shall not exceed four hundred thousand (400,000) square feet (s.f.) for commercial clusters greater than ten (10) acres but less than forty (40) acres in size.

*Based on the estimated maximum FAR for the companion zoning (BU-2) of the subject property: two hundred thirteen thousand four hundred forty-four (213,444) square feet.*

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

*The maximum building square footage could be 213,444 square feet and will be regulated through the land development regulations, at the time of site plan review.*

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

*This criteria is for recreational vehicle parks, not recreational vehicle storage, and is not applicable to this request.*

### **For Board Consideration**

The Board may wish to consider Policy 2.8A of the Comprehensive Plan which guides clusters of community commercial development greater than 10 acres to arterial/arterial intersections. The subject property is located on an Urban Major Collector roadway.

The Board may wish to consider Policy 2.8C of the Comprehensive Plan which guides spacing of community commercial clusters up to forty (40) acres in size to be at least five (5) miles apart. The subject property is 17.5 acres in size and is located approximately  $\frac{3}{4}$  of a mile from a commercial node at the intersection of Minton Road and Palm Bay Road.

The Board may also wish to consider whether the request is compatible with existing land uses as the property abuts residential neighborhoods to the north, west and south (across Norfolk Parkway).

The Board may also wish to consider the potential deficiency in the transportation adopted level of service if the maximum development potential from the current zoning of the subject property is developed. The Board may consider requesting a BDP to limit the intensity/density potential of the property at the rezoning stage.

If you have any questions, please contact Cheryl W. Campbell, Planner III, of the Planning & Development Department at (321) 633-2070 ext. 58271 or via email to [Cheryl.Campbell@brevardfl.gov](mailto:Cheryl.Campbell@brevardfl.gov)

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Future Land Use Review & Summary**  
**Item # 19PZ00072**

**Applicant:** Andy Gardner for Jack Hunt

**Zoning Request:** NC & RES-2 to CC

**Note:** Applicant wants RV and boat storage facility.

**P&Z Hearing Date:** 10/19/20 & 01/11/21; **BCC Hearing Date:** 10/19/20 & 02/04/20

**Tax ID Nos:** 2802676 & portion of 2802674

- 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:**

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

**Land Use Comments:**

**Wetlands**

The subject parcel contains mapped NWI (Freshwater emergent wetlands) as shown on the NWI Wetlands map, an indicator that wetlands may be present on the property. A wetland delineation was performed in December 2019 by Andrew Conklin Environmental Services, LLC (ACES), and found approximately 0.22 acres of wetlands in the northeast corner of the parcel.

Per Section 62-3694(3), commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands. In no instance shall a proposed land development activity result in increased flooding on adjacent properties. Where the State does not require a buffer, wetland buffers shall be established in accordance with Section 62-3694(c)(10). Where impacts are permitted, the applicant is encouraged to propose innovative wetland preservation alternatives. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Section 62-3696. 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.

### **Aquifer Recharge Soils**

A small area of the parcel contains mapped aquifer recharge soils (Palm Beach 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.

### **Protected and Specimen Trees**

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

### **Protected Species**

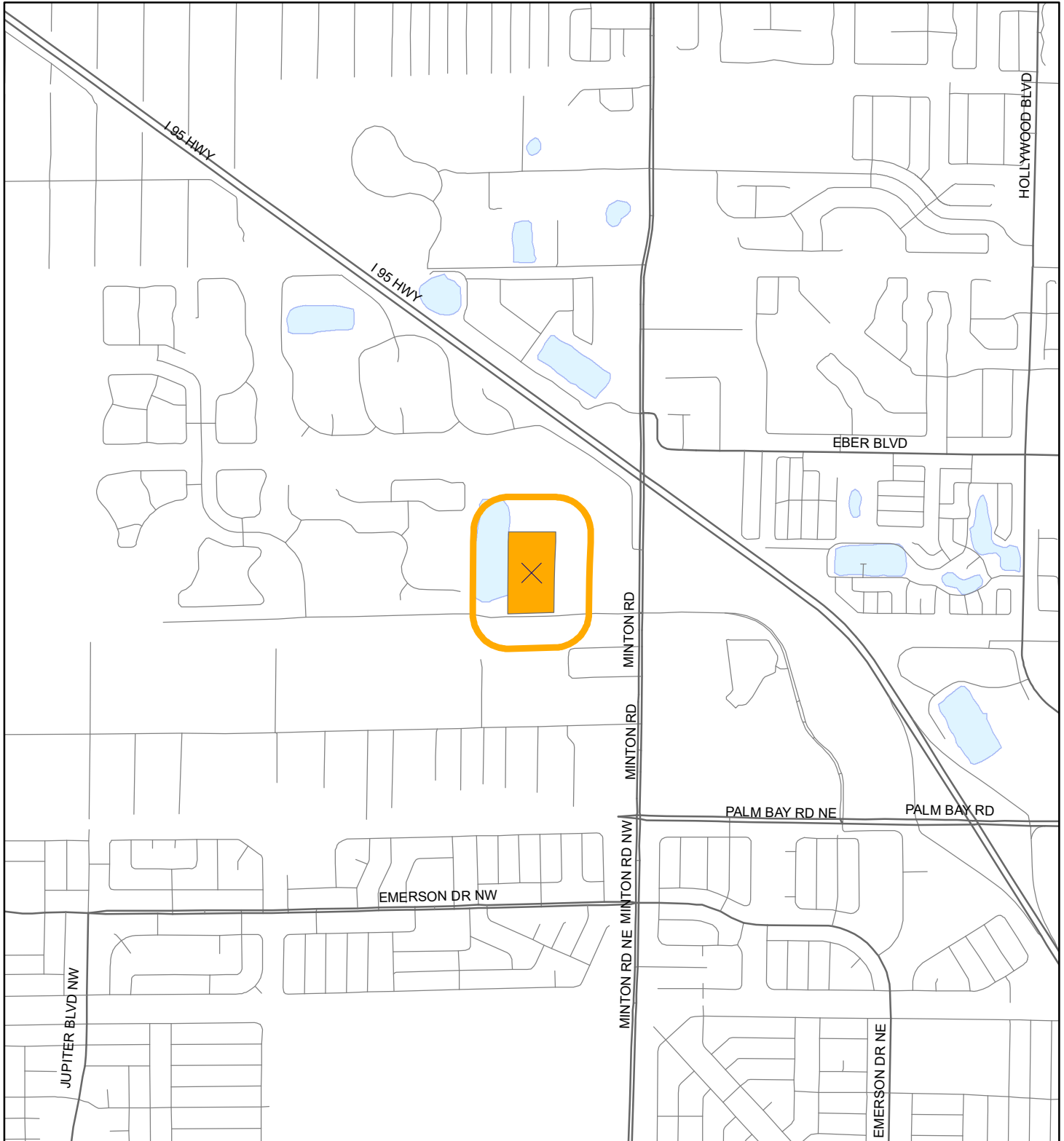
Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and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



**LSCPA**  
**Brevard Tower Communications, Inc.**  
**Out of Cycle 2020-2.1**  
**Supporting Maps**

# LOCATION MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072





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

Buffer Distance: 500 feet

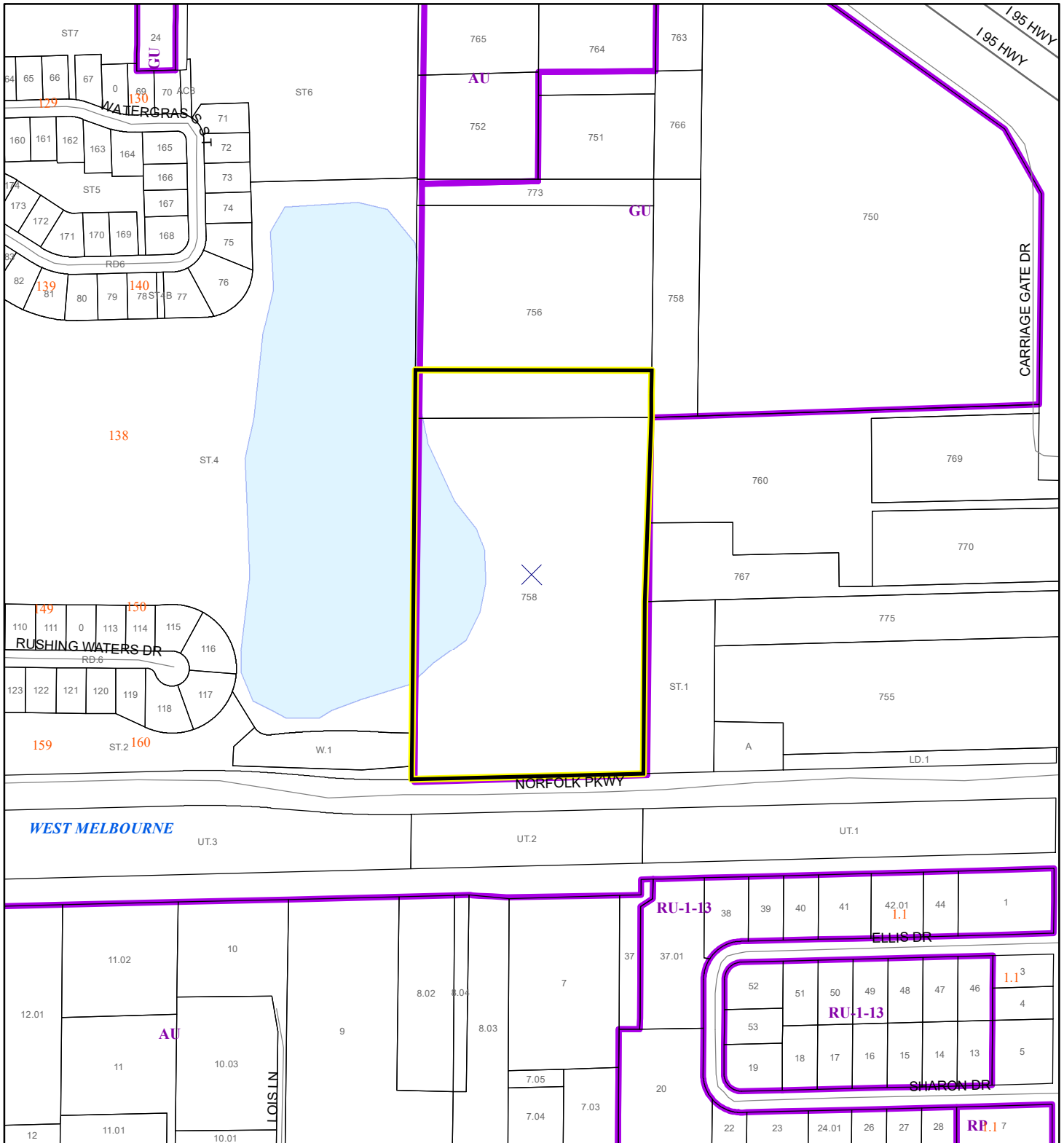
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/29/2020

 Buffer  
 Subject Property

# ZONING MAP


Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/29/2020

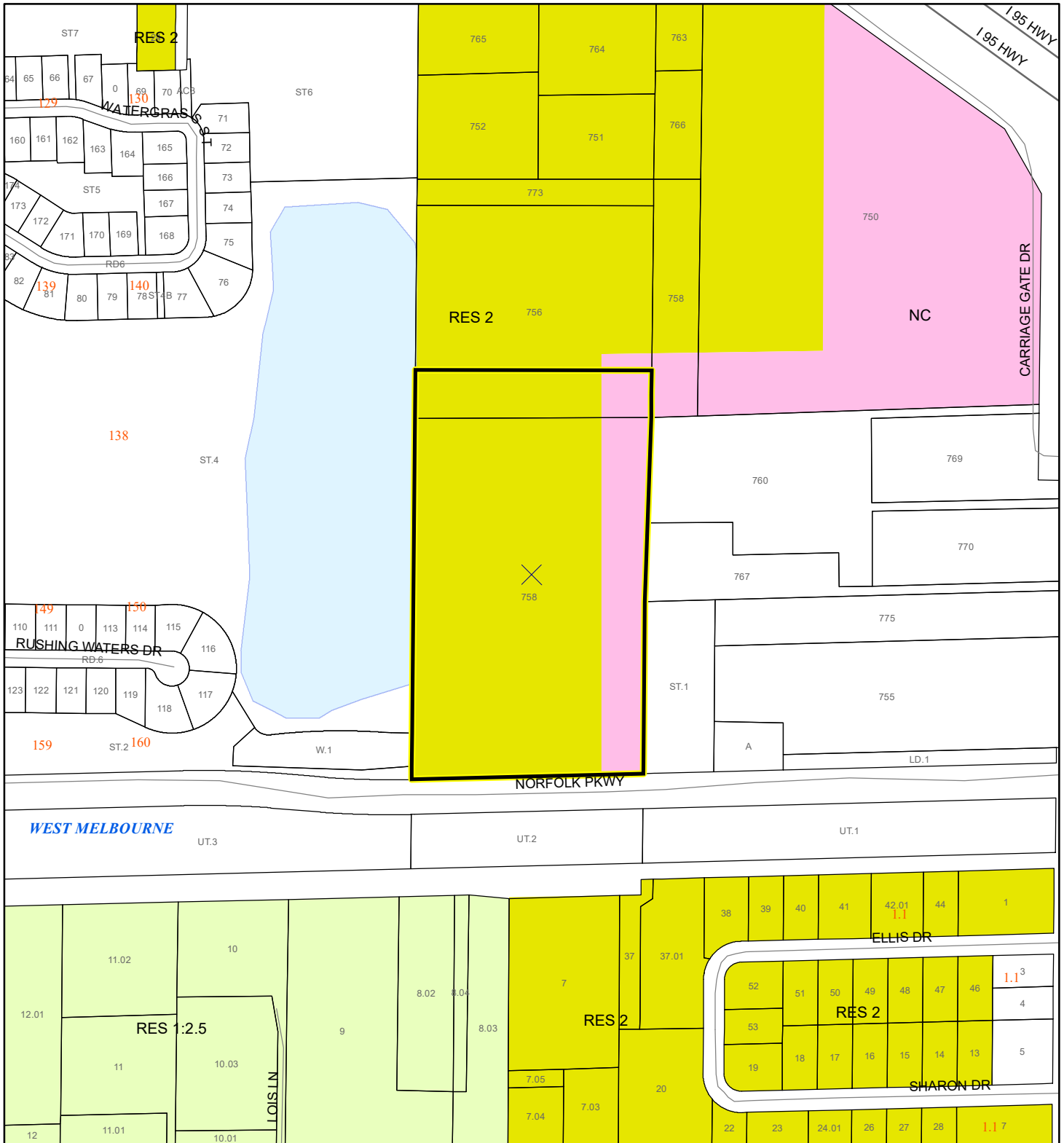
 Subject Property

 Parcels

 Zoning

# FUTURE LAND USE MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



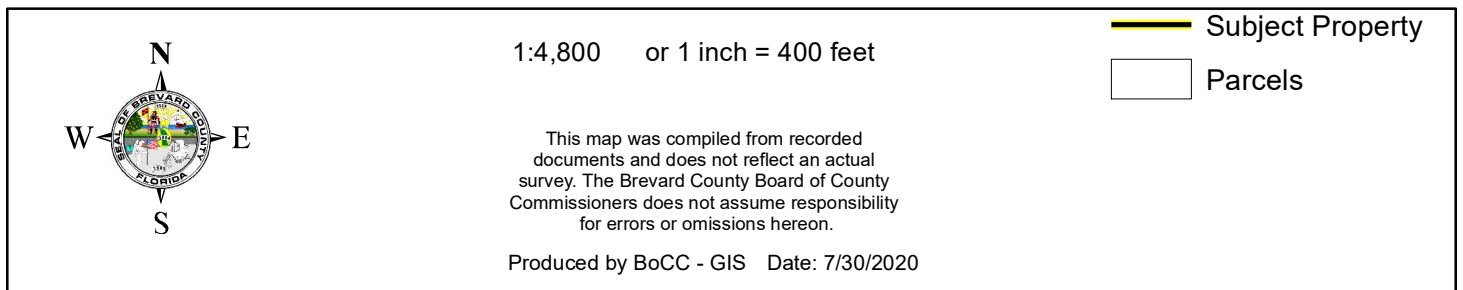
1:4,800 or 1 inch = 400 feet

**Subject Property**  
**Parcels**

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

Produced by BoCC - GIS Date: 7/29/2020

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072





# AERIAL MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072




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: 7/29/2020

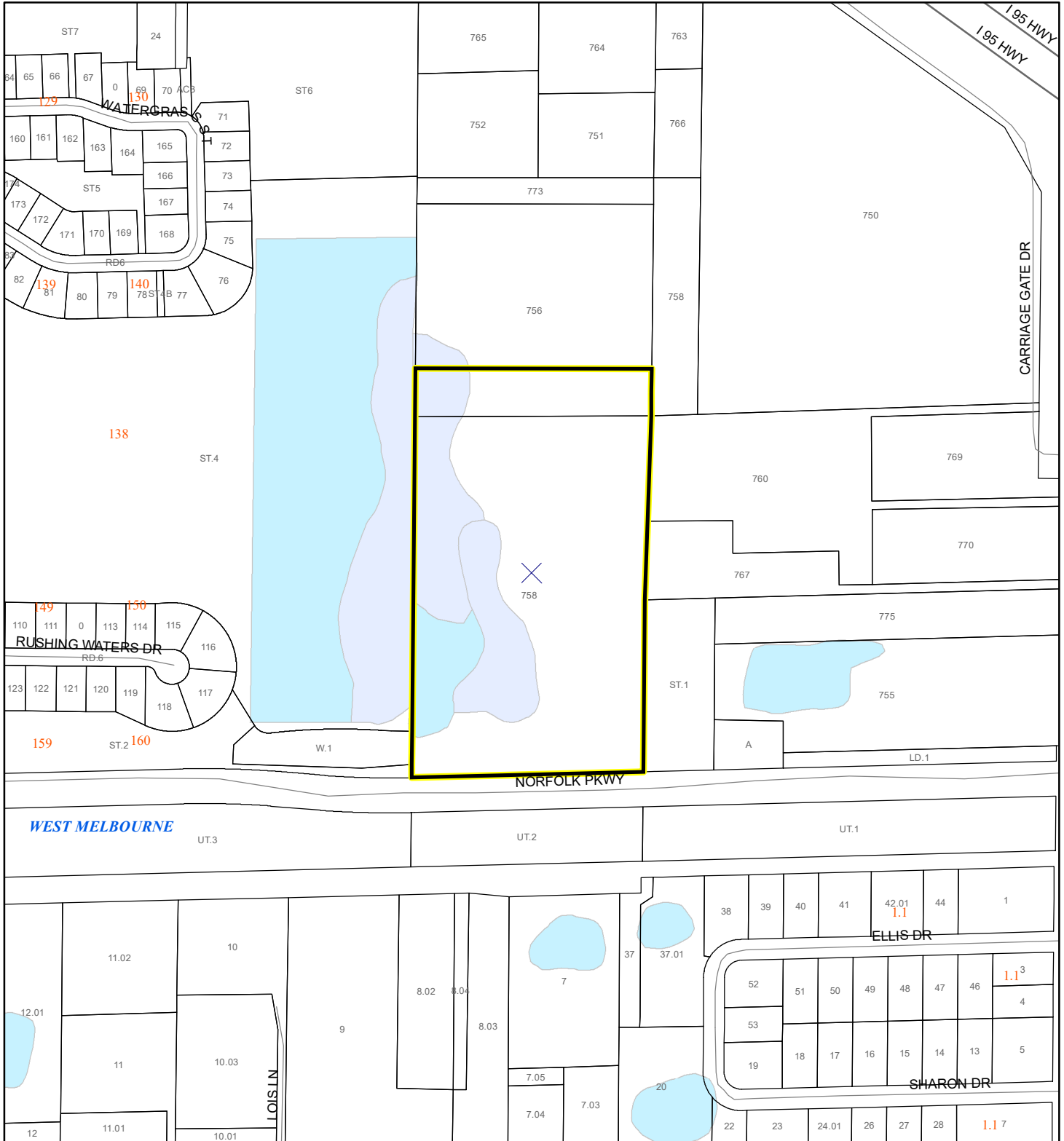
 Subject Property

 Parcels



# NWI WETLANDS MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

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

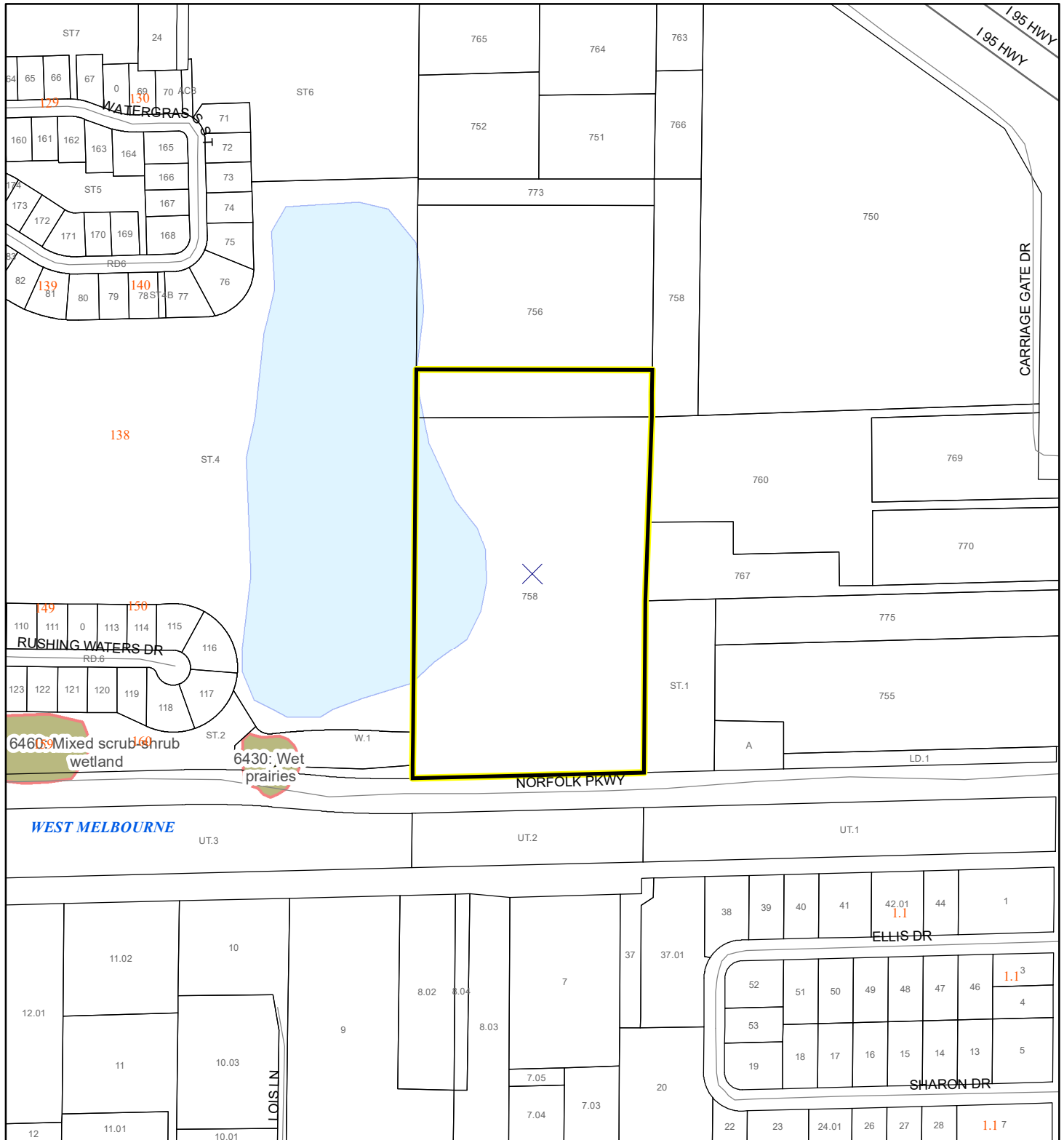
Produced by BoCC - GIS Date: 7/29/2020

## 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

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/29/2020

## 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

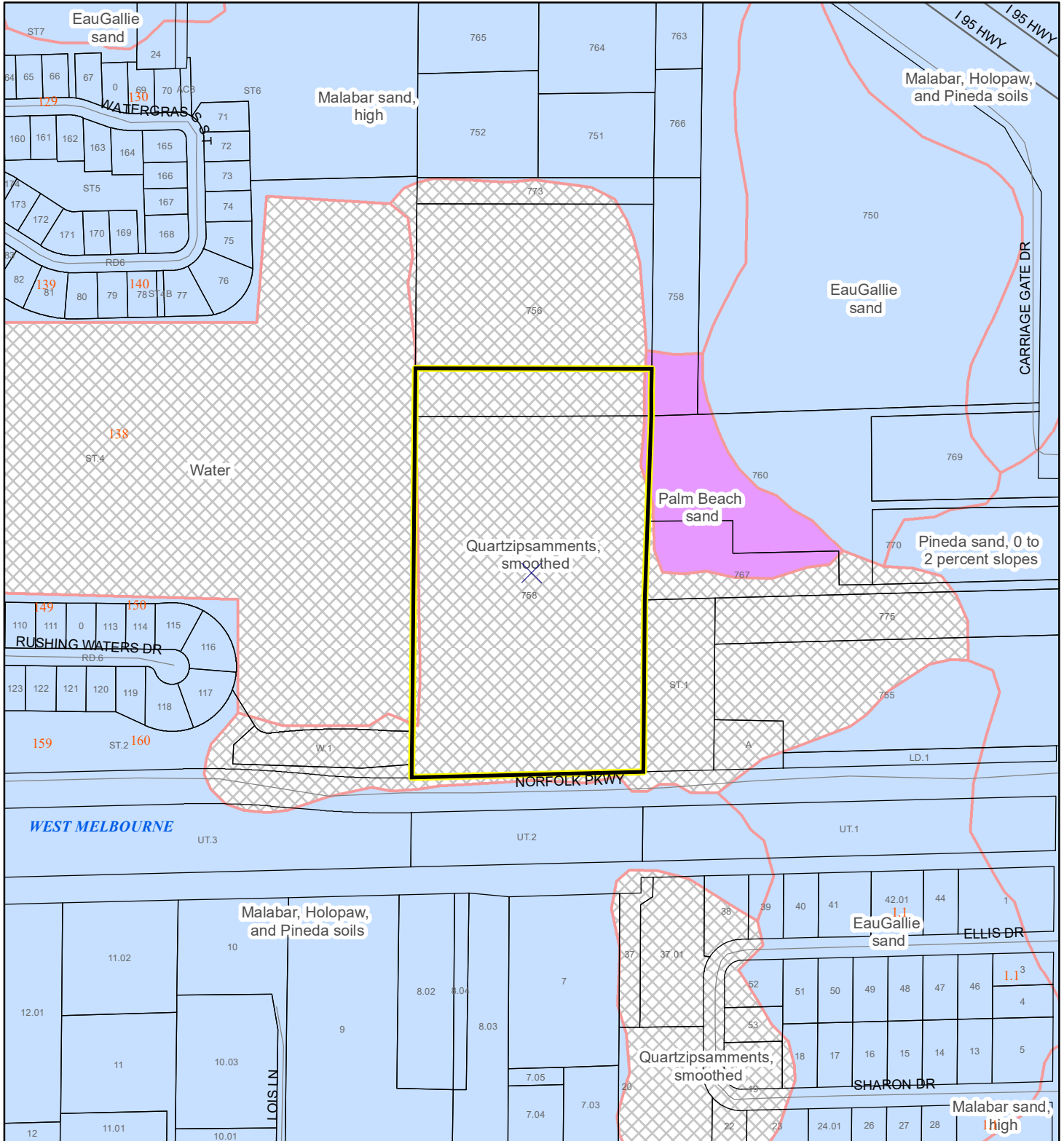
Subject Property

Parcels



# USDA SCSSS SOILS MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/29/2020

## USDA SCSSS Soils

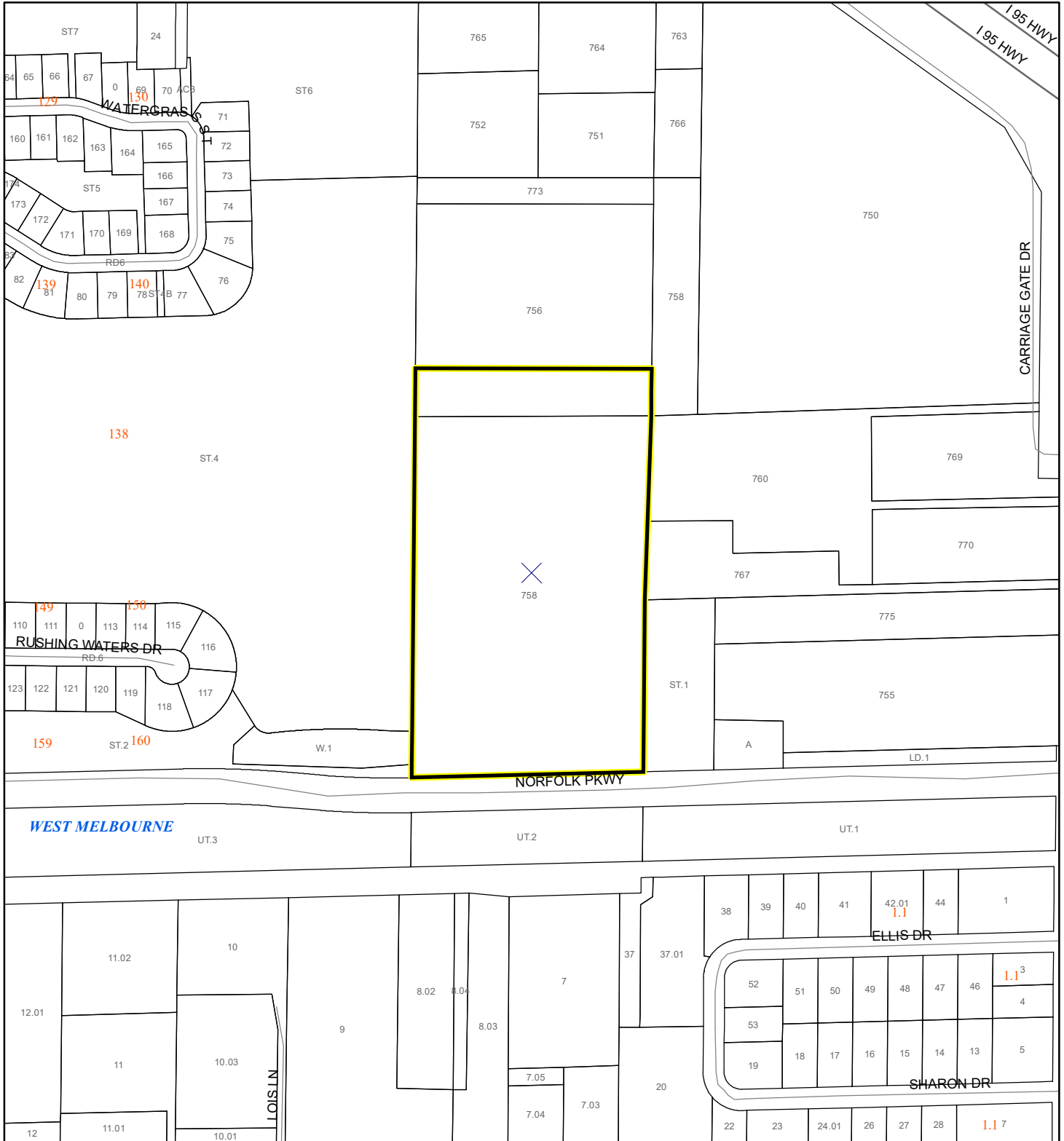
- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

# FEMA FLOOD ZONES MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

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

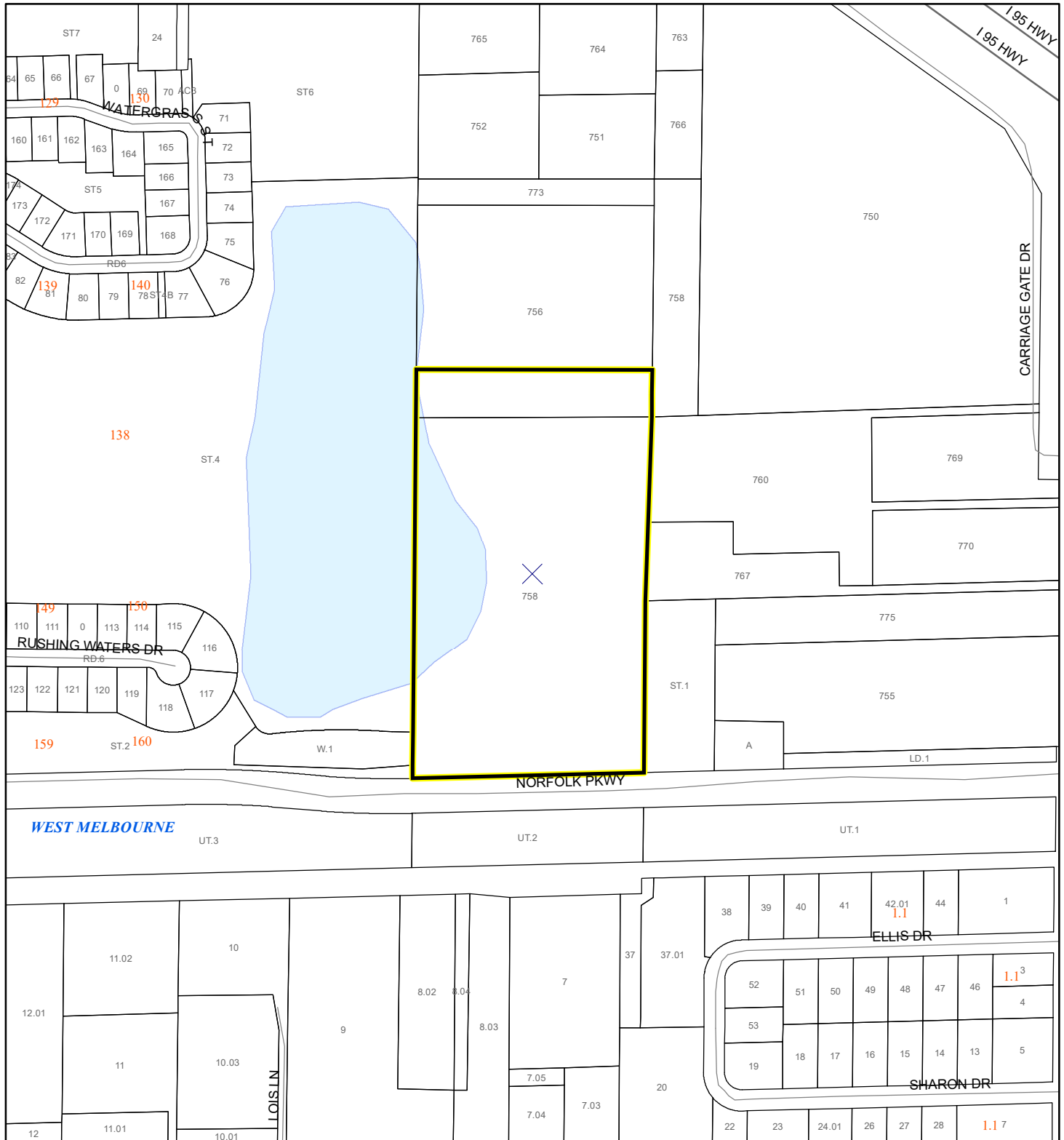
Produced by BoCC - GIS Date: 7/29/2020

## 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

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/29/2020

Subject Property

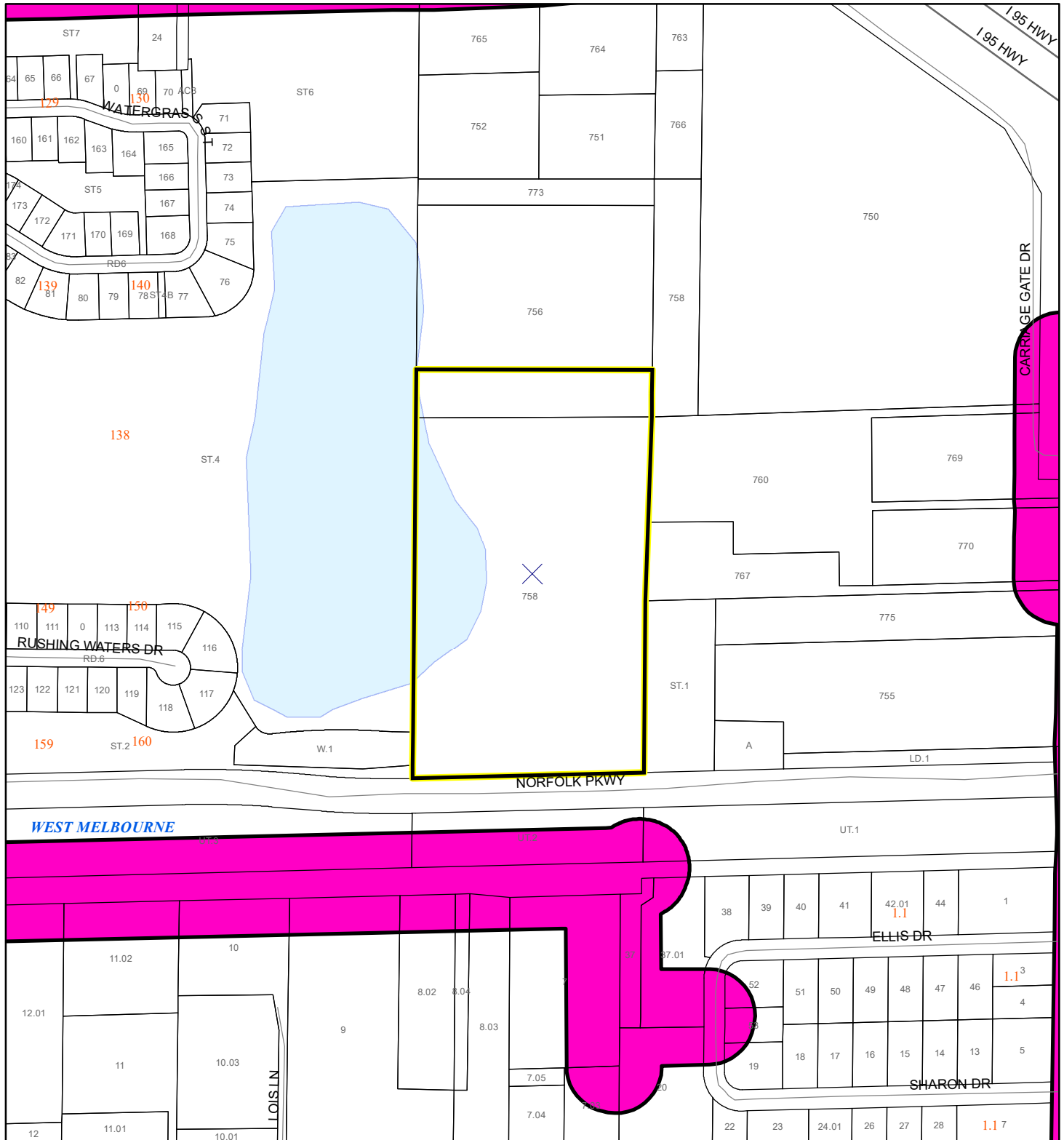
Parcels

**Coastal High Hazard Area**

SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/29/2020

Subject Property

Parcels

**Septic Overlay**

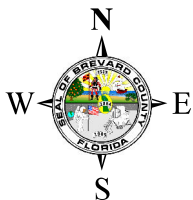
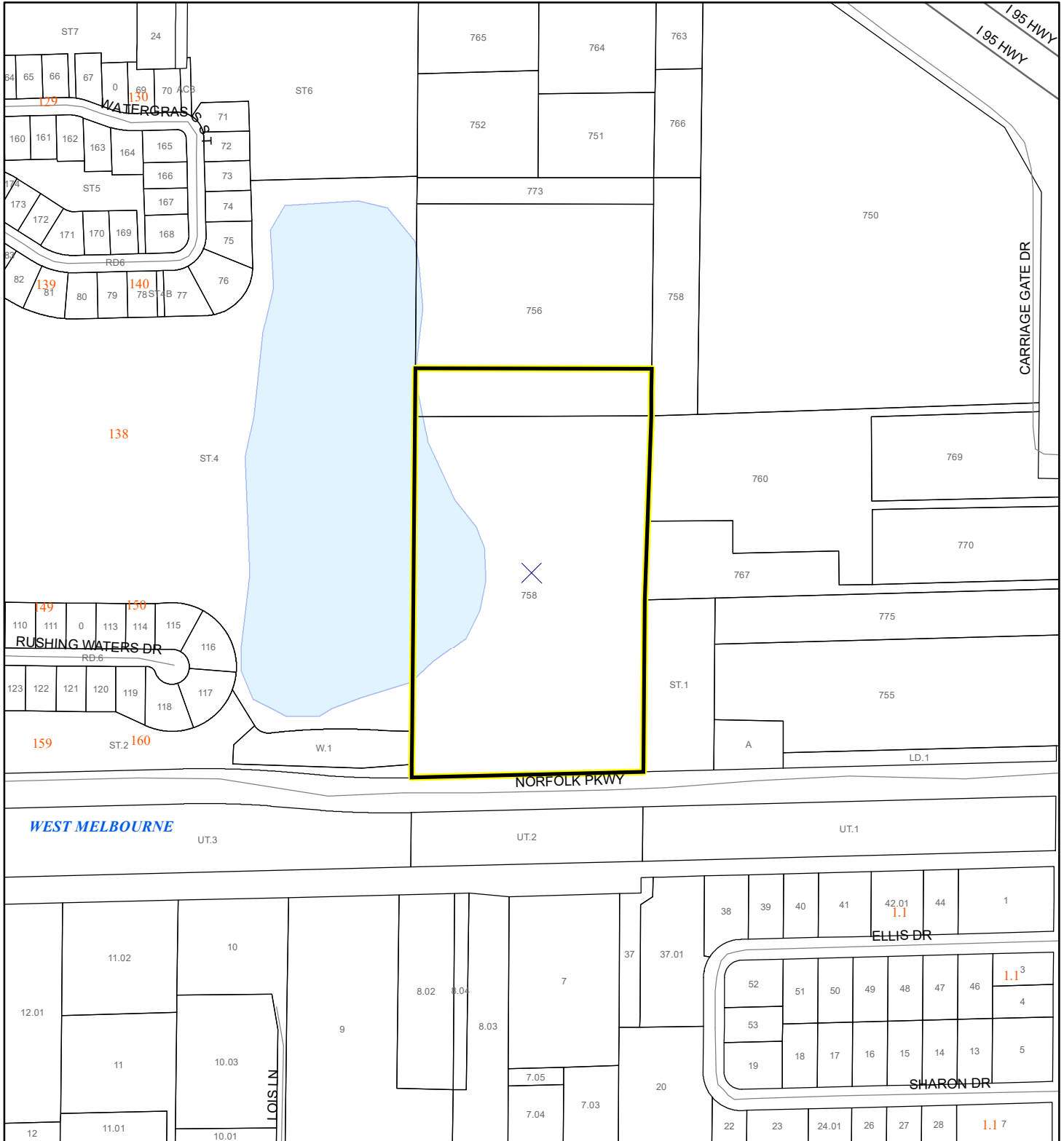
40 Meters

60 Meters

All Distances

# EAGLE NESTS MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/29/2020

 Subject Property

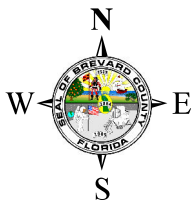
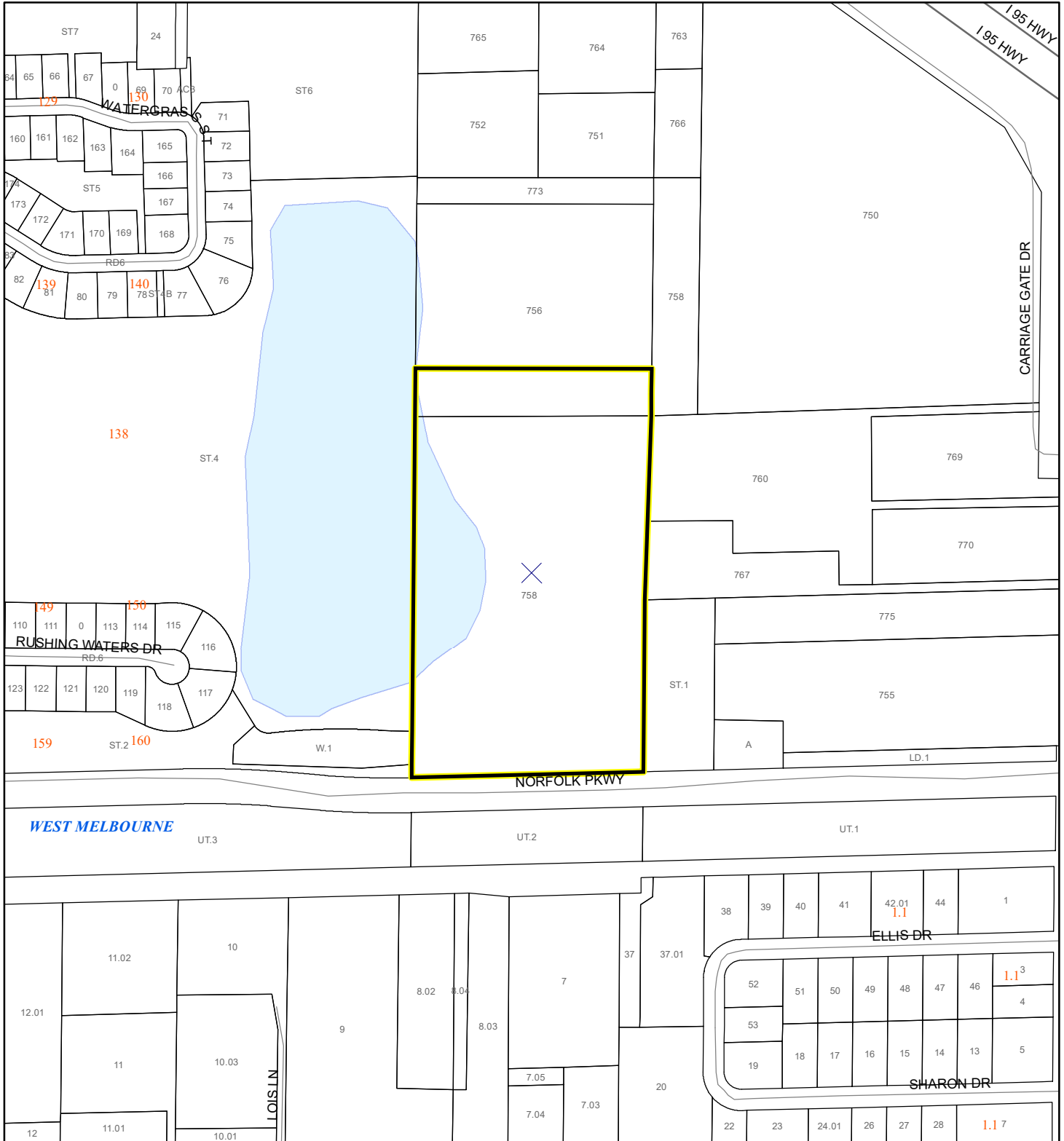
 Parcels



Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

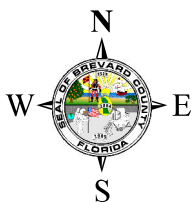
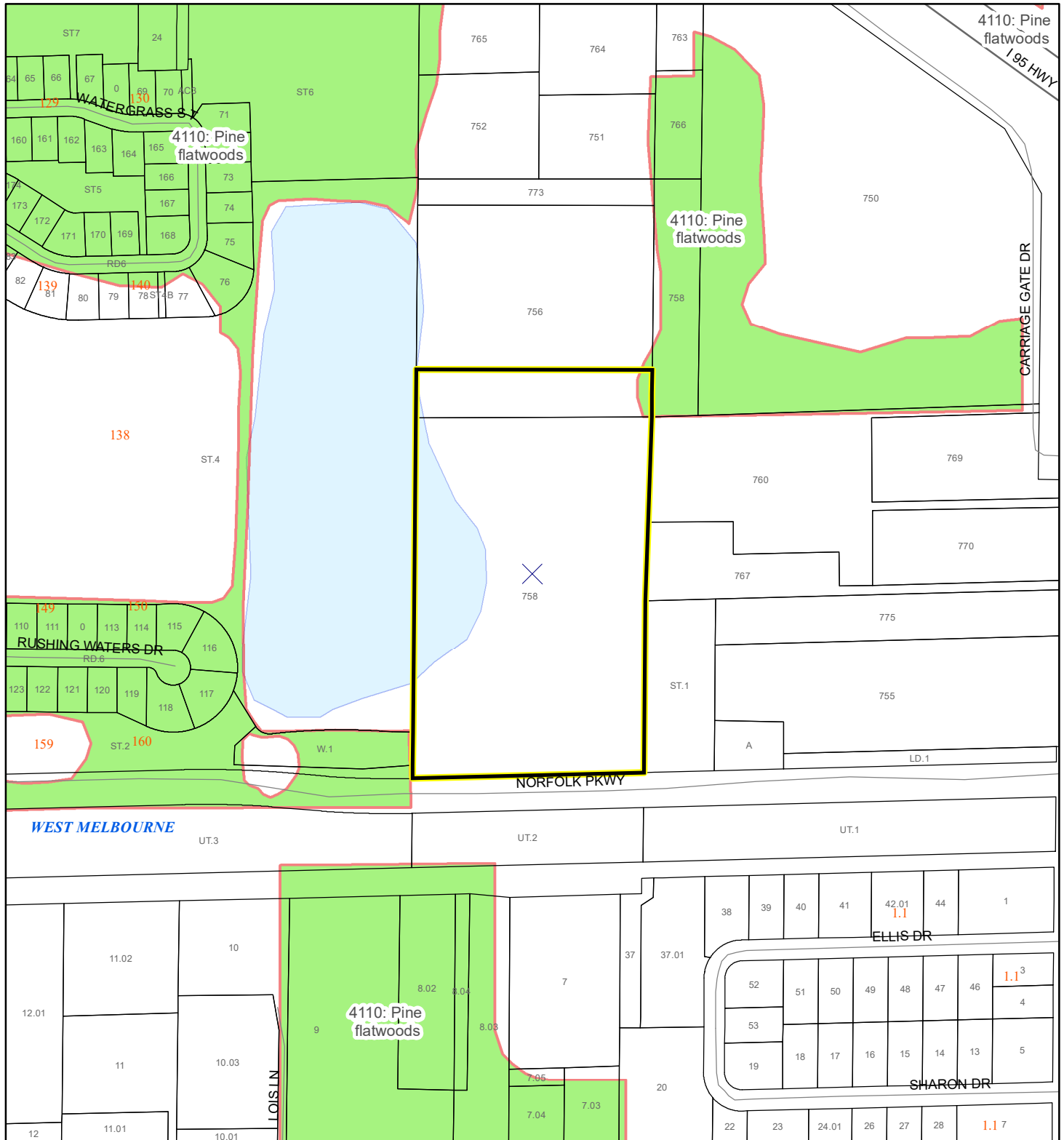
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 7/29/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/29/2020

## 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

**LSCPA**  
**Brevard Tower Communications, Inc.**  
**Out of Cycle 2020-2.1**  
**Applicant Submittals**





BOARD OF COUNTY COMMISSIONERS

Planning and Development

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

2020-2.1

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 # 20PZ00072

Existing FLU: NC & RES2 Existing Zoning: GU

Proposed FLU: CC Proposed Zoning: \_\_\_\_\_

PROPERTY OWNER INFORMATION

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

Jack Hurt	Brevard Tower Communications Inc.		
Name(s)	Company		
405 Newfound Harbor Drive	Merritt Island	FL	32952
Street	City	State	Zip Code
jhurt@cfl.rr.com	407-679-1748		
Email	Phone	Cell	

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☒ Contract Purchaser ☐ Other \_\_\_\_\_

Andy Gardner	Condev Properties, LLC		
Name(s)	Company		
921 N Pennsylvania Avenue	Winter Park	FL	32789
Street	City	State	Zip Code
andyg@condevfl.com	407-679-1748		
Email	Phone	Cell	

1

## 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: \_\_\_\_\_

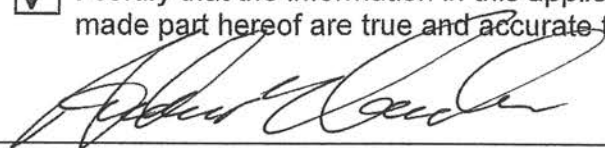
Acreage of Request: 17.5

Reason for Request:

Development for Storage Facility to include paving, stormwater, utilities and landscape.

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

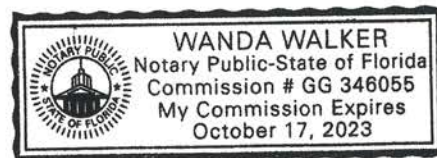
02/18/2020  
Date

State of Florida  
County of Brevard

Subscribed and sworn to me before me this 18<sup>th</sup> day of, February, 2020  
personally appeared Andrew Gardner, who is personally known to me or  
produced personally known as identification, and who did / did not take an oath.

  
\_\_\_\_\_  
Notary Public Signature

Seal



Office Use Only:

Accela No. 20P100072 Fee: 7,859.00 Date Filed: 7/24/20 District No. 3

Tax Account No. (list all that apply) part of 2802674 + 2802676

Parcel I.D. No.

28 36 13 00 756  
Twp Rng Sec Sub Block Lot/Parcel

Planner: Cheryl W. Campbell Sign Issued by: n/a Notification Radius: 500'

MEETINGS

DATE

TIME

☐

P&Z

\_\_\_\_\_

\_\_\_\_\_

☐

PSJ Board

\_\_\_\_\_

\_\_\_\_\_

☐

NMI Board

\_\_\_\_\_

\_\_\_\_\_

☒

LPA

October 19, 2020  
tentative Jan. 11, 2021

transmittal  
3:00 p.m. Adoption

☐

BOA

\_\_\_\_\_

\_\_\_\_\_

☒

BCC

Nov. 5, 2020  
tentative Feb. 4, 2020

Transmittal  
5:00 p.m. Adoption

Wetland survey required by Natural Resources ☐ Yes ☐ No Initials \_\_\_\_\_

~~Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?~~ NO

☒

Yes

☐

No

If yes, list Jeanne Allen

Location of subject property:

Description of Request:



**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:**

\_\_\_\_\_ Small-scale Comprehensive Plan Future Land Use Map Amendment

X \_\_\_\_\_ Large-scale Future Land Use Map Amendment

\_\_\_\_\_ Comprehensive Plan Text Amendment  
Plan Element(s) of Text Amendment request: \_\_\_\_\_

**2. Applicant:** Brevard Tower Communications Inc. **Staff Planner:** Cheryl W. Campbell

**3. Comprehensive Plan Amendment Information:**

Adopted Future Land Use Designation: NC & RES 2  
Requested Future Land Use Designation: CC  
Existing Zoning: GU (BU-2 requested)

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.

subject property has a GU zoning with a RES 2 & NC land use. It is proposed to construct an RV and Boat Storage Facility. This will require a BU-2 Zoning. In order to be compatible, the land use must be revised to CC.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(use additional sheets if necessary)



ACCELA # \_\_\_\_\_

## DOCUMENT SUBMITTAL REQUIREMENTS

Application type	Application	Authorization to Act Form <sup>1</sup>	Recorded Property Deeds	Legal Description of Request <sup>2</sup>	Survey 11" x 17" (max. size)	Property Appraisers Map	Concurrency	School Concurrency <sup>3</sup>	Wetland Survey <sup>4</sup>	CUP Worksheet & Sketch <sup>5</sup>	Comp Plan Information <sup>6</sup>	Notice to Applicants	Neighbors Affidavit <sup>7</sup>	Letter to Zoning Official	Variance Hardship Worksheet <sup>9</sup>	*Additional Documentation	Fees
Staff to check indicating receipt																	
Comprehensive Plan Amendment <sup>6</sup>	1	1	1	2	2	1	1	1	1	1	1					*	Y
Zoning request	1	1	1	1	1	1	1	1	1	1	1					*	Y
Conditional Use Permit (CUP)	1	1	1	1	1	1	1	1	1	1	1						Y
AA – Waiver	1	1				1	1				1			1			Y
AA – Easement	1	1	1	1	4	1											Y
Variance	1	1	1	1	1	1									1	*	Y

<sup>1</sup> Authorization to Act form is required, if other than the owner of record is making the application. If the property is not owned in entirety, by the applicant, either a Form "A", or a notarized letter must accompany the application giving written consent by all property owners of the subject property.

<sup>2</sup> Legal Description must be typed on a separate sheet, if not easily described on the deed.

<sup>3</sup> School Board Concurrency application is required if the request represents an increase of more than one residential unit.

<sup>4</sup> Wetland Survey required on Commercial or Industrial property.

<sup>5</sup> CUP applications require a completed worksheet and a sketch plan with the application signed by a planner.

<sup>6</sup> Must include Comprehensive Plan Amendment supplemental form reviewed by a planner prior to submitting formal application. The supplement must include a written statement explaining the rational and the appropriate data and analysis necessary to support the proposed change.

<sup>7</sup> Administrative waivers requiring a signed affidavit from all abutting property owners indicating no objection to the requested waiver of lot size, width or depth requirement. The affidavit must state the specific request.

<sup>8</sup> Survey must be submitted if requested by staff.

<sup>9</sup> Variance Hardship Worksheet must be filled out completely, addressing the six criteria for a hardship.

\* Additional information may be requested by staff dependent upon the requested action. These include but are not limited to impact analysis studies:

Traffic Impact Analysis (TIA): TIA must be submitted if required by the County Traffic Engineer. Analysis methodology must be coordinated with the Traffic Engineering Office.

Environmental Impact Analysis: The analysis must be conducted by a qualified environmental professional and dated less than one year old. The analysis must document the types of habitat found on site; identify vegetation types, soils types, wetlands, floodplain; and any other environmental concerns.

Water and Sewer Demand: Identify the potable water and sanitary sewer demand for the amendment based on the current and proposed future land use designations using the per capita water and wastewater standards of the applicable service provider.



# CALCULATION OF PUBLIC HEARING APPLICATION FEES -ZONING OFFICE

PUBLIC HEARING APPLICATION FEES	BASE FEE	ACREAGE FEE	UNIT FEE	SUB-TOTAL
<b>REZONING</b>				
Environmental Area	511.00			
Residential Professional	960.00			
General Use and Agricultural Use	849.00*	( -5) x 24**		
Single-Family Residential	849.00*	( -5) x 24**		
Single-Family Mobile Home	849.00*	( -5) x 24**		
Commercial/Planned Commercial	1,184.00	( ) x 24		
Tourist Commercial	1,855.00	( ) x 45		
Industrial/Planned Industrial	1,855.00	( ) x 45		
Planned Unit Development	5,661.00	( ) x 45		
Single-Family Attached Residential	960.00	( ) x 24		
Multiple-Family Residential	960.00	( ) x 24		
Recreational Vehicle Park	1,408.00	( ) x 24		
Mobile Home Park/Mobile Home Co-op	1,408.00	( ) x 24		
<b>CUP'S OR ROU APPLICATIONS</b>				
Fee per request (with rezoning)	447.00			
Fee per request (without rezoning)	849.00			
<b>OTHER APPLICATION FEES</b>				
Consultant fee Retainer per Tower Application	6,934.00			
Transfer of Development Rights	1,520.00			
Comprehensive Plan Appeals (Vested Rights)				
One (5.0 acres or less) Single-family residential	433.00			
All other Appeals	1,733.00			
Variance/Appeals of Administrative Interpretation				
Base Fee	598.00			
Fee for each additional request	182.00			
Special Hearing Fee for P & Z / LPA	3,692.00			
Special Hearing Fee for BOA	1,872.00			
All Other Unlisted Zoning Applications	849.00			
Miscellaneous				
<b>COMPREHENSIVE PLAN AMENDMENTS</b>				
Small Scale Amendment	919.00			
Large Scale Amendment	1,785.00			
Maximum Fee on a Single Application	17,334.00			
		<i>out of Cycle</i>	<i>5000.00</i>	
		<i>\$43 per acre</i>	<i>1,785.00</i>	
		<i>(18 acres)</i>	<i>774.00</i>	
		<b>SUB-TOTAL ****</b>		
<b>FEES COLLECTED FOR ADMINISTRATIVE ACTIONS</b>				
Office of Natural Resources zoning review (if applicable)	300.00			
flag lot &/or easement review	360.00			
Land Development PUD review	100.00			
flag lot &/or easement review	150.00			
Address Assignment review of flag lot &/or easement	100.00			
Zoning fee	277.00			
<b>BASE FEE ADJUSTMENTS</b>				
* If area for these requests have the potential for only one more lot, the fee is	288.00			
** Maximum acreage fees for these requests shall be	2,240.00			
*** Maximum Planned Unit Development Fee shall be	13,432.00			
**** Maximum fee for all other zoning requests shall be	8,955.00			
			<i>7,059</i>	
		<b>TOTAL</b>		

②



Planning & Development

Central Cashier

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Melbourne, FL 32940

## RECEIPT OF PAYMENT

Payment Date: 7/24/2020

Receipt #: 572309

Transaction Id# 236

Payment Method	Payment Reference #	Amount Paid	Comments
Check	236	\$7,859.00	
		\$7,859.00	Total

FL

PZ Miscellaneous Fees

\$7,859.00

**20PZ00072**

Fee	Invoice #	Amount
Comprehensive Plan	671795	\$7,559.00
NRMO	671795	\$300.00

**Grand Total** \$7,859.00

Additional Fees may apply to obtain a Certificate of Completion, a Certificate of Occupancy, Pre-Power, or Final Inspection.  
To verify fees please visit the Brevard County Planning & Development Search.

[www.brevardcounty.us/PlanningDev](http://www.brevardcounty.us/PlanningDev)

P (321) 633-2068 F (321) 633-2052





ET050

IN THE CIRCUIT COURT OF THE  
EIGHTEENTH JUDICIAL CIRCUIT IN  
AND FOR BREVARD COUNTY, FLORIDA

CASE NO. 92-06951-CA-C

MELBOURNE FILL & MATERIAL, INC.  
a Florida Corporation,

Plaintiff/s,

vs.

GCOM, INC., a Florida Corporation,  
CELLCOMM, INC., a Florida Corporation,  
a/k/a CELLCOM, INC., a Florida Corporation,  
JAY B. STAGGS, a/k/a J. B. STAGGS,  
and PEGGY STAGGS, Jointly and Severally,

Defendant/s.

*Sandy Crawford* Clerk Circuit Court  
Recorded and Verified Brevard County, FL  
# Pgs. \_\_\_\_\_ # Names \_\_\_\_\_  
Trust Fund \_\_\_\_\_ Rec Fee \_\_\_\_\_  
Stamp-Deed 5.60 Excise 12  
Stamp-Mtg \_\_\_\_\_ Int Tx \_\_\_\_\_  
Service Chg \_\_\_\_\_ Refund \_\_\_\_\_

RECORDED  
BY CIR. CL.  
AND CO. FLA.

352448

93 MAR 26 PM 4:33

CERTIFICATE OF TITLE

The undersigned Clerk of the Court does hereby certify  
that she executed and filed a Certificate of Sale in this action  
on MARCH 3, 1993, for the real property described herein,  
and that no objections to the sale have been filed within the time  
allowed for filing objections.

The following property located in Brevard County, Florida  
and legally described as follows:

Parcel #1

The South 1/2 of East 1/2 of Northwest 1/4 of the Southeast  
1/4, Section 13, Township 28 South, Range 36 East, consisting of  
10 acres more or less; and a 20 foot easement running North/South  
along the East line of the Northwest 1/4 of the Southeast 1/4 of  
Section 13, Township 28 South, Range 36 East, commencing from the  
Northeast corner of the Northwest 1/4 of the Southeast 1/4 of  
Section 13, Township 28 South, Range 36 East and running South to  
the South 1/2 of the East 1/2 of the Northwest 1/4 of the Southeast  
1/4 of Section 13, Township 28, Range 36 East.

TW28 RG36 SC13 SD00 Blck 756

103

65 @

RETURN TO  
BANK OF AMERICA

BK3277PG0924

Parcel #2

The East Half of the SW 1/4 of the SE 1/4 of Section 13, and West 132 feet of the Northeast 1/4 of the Southeast 1/4 of Section 13, all in Township 28 South, Range 36 East, lying and being in Brevard County, Florida, less and except canal #65 right of way described in ORB 1328, Page 84.

TW28 RG36 SC13 SD00 Blck 758 and 758.1

Parcel #3

The South one-half of the North one-half of the West 132 feet of the northeast quarter of the southeast quarter of Section 13, Township 28 South, Range 36 East, Brevard County, Florida.

TW28 RG36 SC13 SD00 Blck 766

Also an easement over the East 60 feet of West 192 feet of NE 1/4 of SE 1/4 of Section 13, Township 28 South, Range 36 East as recorded in ORB 2028, Page 716, Public Records of Brevard County, Florida.

TOGETHER with all improvements now or hereafter erected on the property, and all easements, rights, appurtenances, rents, and all fixtures now or hereafter attached to the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this mortgage.

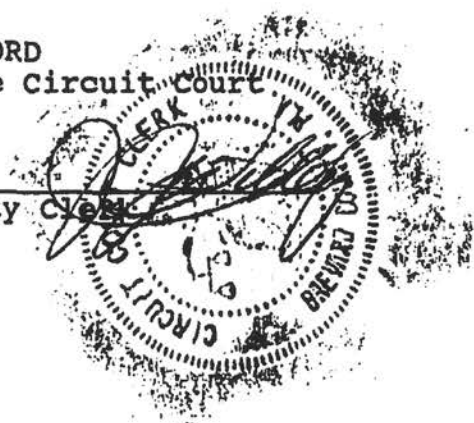
was sold to BREVARD TOWER COMMUNICATIONS, INC., a Florida corporation,

whose address is 2198 West King Street, Cocoa, Florida 32926.

WITNESS my hand and the seal of the Court this 25 day  
of MARCH 1993.

SANDY CRAWFORD  
Clerk of the Circuit Court

By \_\_\_\_\_  
Deputy Clerk



BK3277PG0925

(10)

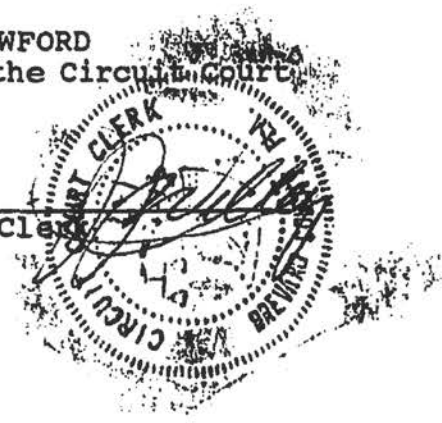
I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed to all parties as follows:

THOMAS E. SHINE, ATTORNEY AT LAW  
905 Sarno Road - Suite A  
Melbourne, Florida 32935

ALBERT S. LAGANO, ATTORNEY AT LAW  
1900 Palm Bay Road, NE - Suite G  
Palm Bay, Florida 32905-7538

SANDY CRAWFORD  
Clerk of the Circuit Court

By \_\_\_\_\_  
Deputy Clerk



BK0277PG0926



# AUTHORIZATION TO ACT ON BEHALF OF OWNER

## BREVARD COUNTY LAND DEVELOPMENT REVIEW SECTION

I, Jack Hurt - Brevard Tower Communications being the owner of Norfolk Warehouses  
(Print Name) (Project Name)

authorize Andy Gardner - Condev Properties, LLC. to act on my  
(Person and Company Name)

behalf in the submittal of the attached development plan.

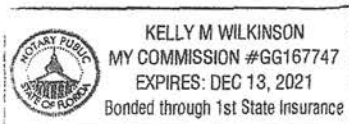
Jack Hurt  
Signature

Vice President  
Title

STATE OF FL.

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of FEB, 20 20,  
by Jack Hurt who is personally known to me or has produced  
as identification and who did (did not) take an oath.



Kelly M. Wilkinson  
Signature of Notary Public  
Dec. 13, 2021  
Commission Expires

Please place Notary Seal in above box.

# AUTHORIZATION TO ACT ON BEHALF OF OWNER



## BREVARD COUNTY LAND DEVELOPMENT REVIEW SECTION

I, Jack Hurt - Brevard Tower Communications being the owner of Norfolk Warehouses  
(Print Name) (Project Name)

authorize Bruce A. Moia - MBV Engineering, Inc. to act on my  
(Person and Company Name)

behalf in the submittal of the attached development plan.

Jack Hurt  
Signature

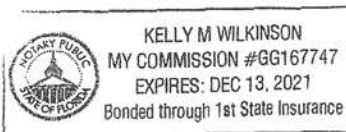
Vice President  
Title

STATE OF FL.

COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 6th day of FEB., 20 20,

by Jack Hurt who is personally known to me or has produced  
as identification and who did (did not) take an oath.



Kelly M Wilkinson  
Signature of Notary Public  
Dec. 13, 2021  
Commission Expires

Please place Notary Seal in above box.

## PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (this "Agreement") is made and entered into by and between BREVARD TOWER COMMUNICATIONS, INC., a Florida corporation ("Seller") and CONDEV PROPERTIES, LLC, a Florida limited liability company, its successors and/or assigns ("Purchaser") as of October 24<sup>th</sup>, 2019 (the "Agreement Date").

### RECITALS:

A. Defined terms are indicated by initial capital letters. Defined terms shall have the meaning set forth herein, whether or not such terms are used before or after the definitions are set forth.

B. Purchaser desires to purchase the Property and Seller desires to sell the Property, all upon the terms and conditions set forth in this Agreement.

### AGREEMENTS:

NOW, THEREFORE, in consideration of the mutual terms, provisions, covenants and agreements set forth herein, as well as the sums to be paid by Purchaser to Seller, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Purchaser and Seller agree as follows:

## ARTICLE 1 BASIC INFORMATION

Section 1.1 Certain Basic Terms. The following defined terms shall have the meanings set forth below:

- (a) Brokers: Jeff Robison of Lightle, Beckner & Robison.
- (b) Closing Date: The date that is thirty (30) days after Purchaser's receipt of Permits and Approvals.
- (c) Earnest Money: (such amount, together with interest thereon, if any, is hereinafter sometimes called the "Initial Earnest Money"), to be deposited in accordance with Section 3.1, to be increased by such amount, together with interest thereon, is hereinafter sometimes called the "Additional Earnest Money") to Section 3.1. The Initial Earnest Money and the Additional Earnest Money are hereinafter sometimes collectively called the "Earnest Money."



- (d) Effective Date: The date on which this Agreement is executed by the latter to sign of Purchaser or Seller, as indicated on the signature page of this Agreement, and written evidence of such execution is delivered to the other party.
- (e) Escrow Agent: Swann Hadley Stump Dietrich & Spears, P.A.  
200 E. New England Avenue, Suite 300  
Winter Park, Florida 32789  
Attn: D. Paul Dietrich II, Esq.  
Phone: (407) 647-2777  
Fax: (407) 647-2157  
Email: pdietrich@swannhadlcom
- (f) Property Information Delivery Date: The date which is five (5) days after the Effective Date.
- (g) Inspection Period: The period beginning on the Effective Date and ending at 5:00 p.m. eastern standard time on that date which is ninety (90) days after the Effective Date.
- (h) Purchase Price:
- (i) Title and Survey Review Period: The period ending ten (10) days after Purchaser's receipt of the initial Title Commitment and the initial Survey, but in any event not later than five (5) Business Days prior to the expiration of the Inspection Period.
- (j) Title Company: Fidelity National Title Insurance Company

Section 1.2 Notice Addresses:

Purchaser:

CONDEV PROPERTIES LLC  
1353 Palmetto Ave., Suite 200  
Winter Park, Florida 32789  
Attn: Mr. Peter Gardner  
Telephone: 407-679-1748  
Facsimile: 407-679-3120  
Email: peterg@condevfl.com  
bobbyg@condevfl.com

Copy to:

Swann Hadley Stump Dietrich & Spears, P.A.  
200 E. New England Avenue, Suite 300  
Winter Park, Florida 32789  
Attn: D. Paul Dietrich II, Esq.  
Phone: (407) 647-2777  
Fax: (407) 647-2157  
Email: pdietrich@swannhadley.com

Seller:

BREVARD TOWER  
COMMUNICATIONS, INC.  
405 Newfound Harbor Drive  
Merritt Island, Florida 32952  
Attention: P. Rodney Jackson

Copy to:

Attn: P. Rodney Jackson  
700 Virginia Street, East  
Suite 400  
Charleston, West Virginia 25301  
Telephone: 843-870-6879  
Facsimile: 304-344-9566  
E-mail: prodjackson27@yahoo.com

ARTICLE 2  
PROPERTY

Section 2.1 Property. Subject to the terms and conditions of this Agreement, Seller agrees to sell, convey and assign to Purchaser, and Purchaser agrees to purchase and accept from Seller, the following property (collectively, the "Property"):

(a) Real Property. The approximately 18.11 gross acres of land located along Norfolk Parkway, situated in Brevard County, Florida, described in Exhibit A hereto (the "Land"), together with (1) all improvements located thereon (the "Improvements"), (2) all and singular the rights, interests, benefits, privileges, easements, rights of way, licenses, appurtenances and any other rights, privileges, benefits tenements, hereditaments, and appurtenances thereon or in any way appertaining or running with title to, or in any way related to, the Land; (3) all land use or other consents, authorizations, variances, waivers, warranties, licenses, permits, approvals, impact fee credits, pre-paid impact fees, utility commitments or hook-up rights, drainage and detention rights, development orders, vested rights agreements or any other entitlements issued or granted by or from any governmental authority with respect to the Land, and all other intangible rights which are appurtenant to the Land; and (4) all right, title, and interest of Seller, if any, in and to all strips and gores and any land lying in the bed of any street, right-of-way, road or alley, open or proposed, adjoining such Land (collectively, the "Real Property").

(b) Intangible Personal Property. All of Seller's intangible personal property related to the Real Property and the Improvements, including: (1) active warranties and guaranties (if any and to the extent assignable); (2) contract rights related to the operation or ownership of the Real Property, if any (but only to the extent assignable and only to the extent Seller's obligations thereunder are expressly assumed by Purchaser pursuant to this Agreement); (3) governmental permits, approvals, licenses, or similar documents, if any (to the extent assignable and only to the extent applicable to the Land); and (4) all utility deposits, if any, to the extent assignable (collectively the "Intangible Personal Property").

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### ARTICLE 3 EARNEST MONEY

Section 3.1 **Deposit and Investment of Earnest Money.** Within three (3) days after the Effective Date, Purchaser shall deposit the Initial Earnest Money with Escrow Agent. If upon the expiration of the Inspection Period, this Agreement is still in force and effect, Purchaser shall be required within three (3) days from the expiration of the Inspection Period to deposit the Additional Earnest Money as specified in Section 1.1(c) with Escrow Agent. At the subsequent written direction of both parties, Escrow Agent shall invest the Earnest Money in an interest-bearing account. Such account shall have no penalty for early withdrawal. Except as expressly set forth herein to the contrary, the Initial Earnest Money shall become nonrefundable upon the expiration of the Inspection Period if Purchaser does not notify Seller in writing on or before the expiration of the Inspection Period that Purchaser elects to terminate this Agreement. Except as expressly set forth herein to the contrary, the Earnest Money shall become nonrefundable upon Purchaser obtaining the Permits and Approvals (as defined in Section 6.1). Notwithstanding the prior sentence, if the transaction fails to close because of Seller's default under this Agreement or failure of a condition precedent to Purchaser's obligations to close other than due to a default or breach by Purchaser, the Earnest Money shall be disbursed to Purchaser as otherwise provided in this Agreement. If the transaction fails to close for any other reason, the Earnest Money shall be disbursed to Seller or Purchaser, as the case may be, as otherwise provided in this Agreement. If the transaction closes in accordance with the terms of this Agreement, then Escrow Agent shall deliver the Earnest Money to Seller at Closing as payment towards the Purchase Price.

Section 3.2 **Independent Consideration.** Seller and Purchaser acknowledge and agree that Purchaser's agreement to perform its obligations under this Agreement, including the obligation to deposit any portion of the Earnest Money, is adequate and sufficient consideration to support this Agreement, notwithstanding Purchaser's termination rights hereunder.

Section 3.3 **Form; Failure to Deposit.** The Earnest Money shall be in the form of a wire transfer to Escrow Agent of immediately available U.S. federal funds. If Purchaser fails to timely deposit any portion of the Earnest Money within the time periods required, Seller may terminate this Agreement upon three (3) days' advance written notice to Purchaser at any time prior to the date on which Purchaser deposits such portion of the Earnest Money, in which event all Earnest Money previously paid by Purchaser shall be disbursed to Seller and the parties hereto shall have no further rights or obligations hereunder, except for rights and obligations which, by their terms, survive the termination hereof.

Section 3.4 **Disposition of Earnest Money.** The Earnest Money shall be applied as a credit to the Purchase Price at Closing and otherwise held and disbursed as specifically set forth in this Agreement. In the event of a dispute among the parties regarding the disposition of the Earnest Money, Escrow Agent may interplead the Earnest Money into a court of competent jurisdiction in the county in which the Earnest Money has been deposited. All attorneys' fees and costs and Escrow Agent's costs and expenses incurred in connection with such interpleader shall be assessed against the party that is not awarded the Earnest Money, or if the Earnest Money is distributed in part to both parties, then in the inverse proportion of such distribution.

### ARTICLE 4 DUE DILIGENCE

Section 4.1 **Due Diligence Materials To Be Delivered.** To the extent in Seller's possession, Seller shall deliver, or cause to be delivered, or has delivered, or provided on a data site established by the Seller (the "Data Site"), to Purchaser the documents and information listed on Exhibit "B" attached hereto (collectively, the "Property Information") on or before the Property Information Delivery Date.



**Section 4.2 Physical Due Diligence.** Commencing on the Effective Date and continuing until the Closing, subject to the rights of Tenants, if any, Purchaser and its agents and representatives shall have reasonable access to the Property at all reasonable times during normal business hours, after reasonable advance notice to Seller, for the purpose of conducting inspections and tests, including surveys, engineering, geotechnical and environmental inspections and other tests; provided, Seller shall have the right to accompany Purchaser (or have a representative of Seller accompany Purchaser) on any of such inspections.

**Section 4.3 Due Diligence/Termination Right.** Purchaser shall have until 5:00 p.m. eastern standard time on the last day of the Inspection Period in which to examine, inspect, and investigate the Property Information and the Property and, in Purchaser's sole and absolute judgment and discretion, determine whether the Property is acceptable to Purchaser. Purchaser may terminate this Agreement for any reason or no reason at all by sending written notice thereof to Seller on or before the 5:00 p.m. eastern standard time on the last day of the Inspection Period. In addition, Purchaser shall be deemed to have accepted the Property and elected to proceed to Closing under this Agreement, subject to the conditions precedent thereto as set forth in Article 6, unless Purchaser delivers to Seller written notice of Purchaser's election to terminate this Agreement (the "**Due Diligence Termination Notice**") on or before 5:00 p.m. eastern standard time on the last day of the Inspection Period. Unless Purchaser timely delivers a Due Diligence Termination Notice pursuant to this Section 4.3, then upon expiration of the Inspection Period, this Agreement shall continue in full force and effect, and Purchaser shall be deemed to have waived its right to terminate this Agreement pursuant to this Section 4.3. In the event Purchaser timely delivers a Due Diligence Termination Notice pursuant to this Section 4.3, the Earnest Money shall be returned to Purchaser.

**Section 4.4 Purchaser's Responsibilities.** In conducting any inspections, investigations or tests of the Property and/or the Property Information, Purchaser and its agents and representatives shall: (a) not unreasonably interfere with the operation and maintenance of the Property; (b) not damage any part of the Property or any personal property owned or held by any Tenant or any third party; (c) not injure or otherwise cause bodily harm to Seller or its agents, guests, invitees, contractors and employees or any tenants or their guests or invitees; (d) comply with all applicable laws; (e) promptly pay when due the costs of all tests, investigations, and examinations done with regard to the Property; (f) not permit any liens to attach to the Real Property by reason of the exercise of its rights hereunder; and (g) repair any damage to the Real Property resulting directly from any such inspection or tests.

**Section 4.5 Purchaser's Agreement to Indemnify.** Purchaser indemnifies and holds Seller harmless from and against any and all liens, claims, causes of action, damages, liabilities and expenses (including reasonable attorneys' fees) arising out of Purchaser's inspections or tests permitted under this Agreement or any violation of the provisions of Section 4.2 and Section 4.4. Purchaser's obligations under this Section 4.5 shall survive the termination of this Agreement and shall survive the Closing for a period of six (6) months.

## ARTICLE 5 TITLE AND SURVEY

**Section 5.1 Title Commitment.** Within ten (10) business days after the Effective Date, Seller shall deliver to Purchaser, at Seller's cost, a standard owner's preliminary title commitment (the "**Title Commitment**") issued by the Title Company, in the amount of the Purchase Price, describing the Land, showing the Purchaser as the proposed insured, contain the commitment of the Title Company to insure Purchaser's fee simple interest in the Property upon the Closing, and show that title to the Property is good and marketable and insurable subject only to those liens, encumbrances, exceptions or qualifications which are permitted as set forth in this Agreement; and which shall have legible copies of all documents of record referred to in the Title Commitment as exceptions to title to the Property.

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Section 5.2 **Survey.** Seller shall provide Purchaser with a copy of an existing survey of the Land, if any. At Purchaser's sole cost and expense, Purchaser may obtain a new survey from a surveyor of Purchaser's choice (the "**Survey**") prepared and certified as to all matters shown thereon by a surveyor licensed in the state where the Land is located and otherwise acceptable to Purchaser. Purchaser shall deliver a copy of the Survey to Seller promptly upon Purchaser's receipt of same.

Section 5.3 **Title Review.** At any time and from time to time during the Title and Survey Review Period, Purchaser may object in writing ("**Purchaser's Objection Notice**") to any liens, encumbrances, and other matters reflected by the Title Commitment or Survey. All such matters to which Purchaser so objects shall be "**Non-Permitted Exceptions**"; if no such objection notice is given during the Title and Survey Review Period, except as otherwise provided below, all matters reflected by the Survey and Title Commitment shall be "**Permitted Exceptions**". Seller may, but shall not be obligated to, at its sole cost and expense, cure, or remove or have the Title Company insure around (or commit in writing to do so by Closing), in a manner reasonably acceptable to Purchaser, some or all Non-Permitted Exceptions, and give Purchaser written notice thereof ("**Seller's Cure Notice**") within five (5) Business Days after Seller receives the Purchaser's Objection Letter; provided, however, Seller, at its sole cost and expense, shall be obligated to cure, remove or, if approved by Purchaser in its sole discretion, insure around by Closing all mortgages, deeds of trust, judgment liens, mechanic's and materialmen's liens, and other monetary liens and encumbrances against the Property arising by, through or under Seller (other than the liens for taxes and assessments which are not delinquent) which either secure indebtedness or can be removed by payment of a liquidated sum of money, whether or not Purchaser objects thereto during the Title and Survey Review Period (the "**Monetary Liens**"), and all such matters shall be deemed Non-Permitted Exceptions. In the event that Seller does not deliver a Seller's Cure Notice within the aforesaid required time period, then Seller shall be deemed to have elected not to cure all matters set forth in Purchaser's Objection Notice. If Purchaser is not satisfied with the matters that Seller has agreed and not agreed to cure in Seller's Cure Notice or if Seller does not deliver a Seller's Cure Notice within the required time period, then Purchaser may, as its sole and exclusive remedy elect, on or before the end of the Inspection Period, to either (a) terminate this Agreement and recover the Earnest Money by providing written notice of termination to Seller, and neither Purchaser nor Seller shall thereafter have any obligations under this Agreement except those that expressly survive the termination of this Agreement, or (b) purchase the Property subject to the Non-Permitted Exceptions (other than Monetary Liens), in which event such Non-Permitted Exceptions (other than Monetary Liens) shall thereafter be Permitted Exceptions. If Purchaser fails to terminate this Agreement on or before the end of the Inspection Period, Purchaser shall be deemed to have accepted the Title Commitment and Survey in their then current conditions, subject to Seller's commitment to resolve the matters raised in Purchaser's Objection Notice that Seller agreed to cure in the Seller's Cure Notice, and all exceptions remaining in the Title Commitment shall be Permitted Exceptions (other than Monetary Liens).

Purchaser shall have the right to have the Title Commitment and Survey updated until the date of Closing and if, between the end of the Title and Survey Review Period and Closing, Purchaser receives notice of additional liens, encumbrances or other matters not reflected in the initial Title Commitment or Survey or otherwise becomes aware of such matters, Purchaser may submit an additional Purchaser's Objection Notice ("**Additional Purchaser's Objection Notice**") regarding such additional Non-Permitted Exceptions, provided that Purchaser must deliver said Additional Purchaser's Objection Notice within five (5) Business Days of receiving notice about or becoming aware of such additional matter and, in the absence of the provision of any such Additional Purchaser's Objection Notice within such time period, such additional matter shall be deemed to be a Permitted Exception (unless such exception is a Monetary Lien). Seller may, but shall not be obligated to, at its sole cost and expense, commit to cure, remove or insure around by Closing, in a manner reasonably acceptable to Purchaser, any or all Non-Permitted Exceptions raised in the Additional Purchaser's Objection Notice and give Purchaser written notice thereof by way of an additional Seller's Cure Notice ("**Additional Seller's Cure Notice**") delivered within five (5) Business Days after its receipt of Purchaser's Additional Purchaser's Objection Notice with respect to such additional



matter. If Purchaser is not satisfied with the matters that Seller has agreed and not agreed to cure in the Additional Seller's Cure Notice or if Seller does not deliver an Additional Seller's Cure Notice within the required time period (in which event Seller shall be deemed to have elected to cure none of the matters contained within the Additional Purchaser's Objection Notice) and such additional matters arose by, through or under Seller and would adversely affect the title to the Property, then Purchaser may, on or before the date which is two (2) Business Days after receipt of Seller's Additional Cure Notice (or if no notice is given, then within two (2) Business Days after the expiration of the period within which Seller was to deliver an Additional Seller's Cure Notice) but in no event later than the Closing Date, as its sole and exclusive remedy elect to either (a) terminate this Agreement and recover the Earnest Money by providing written notice of termination to Seller, and neither Purchaser nor Seller shall have thereafter any obligations under this Agreement except those that expressly survive the termination of this Agreement, or (b) purchase the Property subject to the Non-Permitted Exceptions (other than Monetary Liens), in which event such Non-Permitted Exceptions (other than Monetary Liens) shall thereafter be Permitted Exceptions.

**Section 5.4 Delivery of Title Policy at Closing.** In the event that the Title Company does not issue at Closing, or unconditionally commit at Closing, to issue, to Purchaser, due to no fault of Purchaser, an owner's title policy in accordance with the Title Commitment, insuring Purchaser's title to the Property in the amount of the Purchase Price, subject only to the standard exceptions and exclusions from coverage contained in such policy and the Permitted Exceptions (the "Title Policy"), Purchaser shall notify Seller as soon as possible prior to Closing, and Seller may at its option adjourn the Closing for up to but not more than fifteen (15) days to try to resolve such issues with the Title Company. If at Closing, as such Closing may have been adjourned by Seller as provided herein, Title Company still shall not issue, or unconditionally commit to issue to Purchaser such title policy due to no fault of Purchaser, then Purchaser shall have the right to terminate this Agreement, in which case Earnest Money shall be immediately returned to Purchaser and the parties hereto shall thereafter have no further rights or obligations, other than those that by their terms survive the termination of this Agreement.

## ARTICLE 6 PURCHASER'S CONDITIONS PRECEDENT

**Section 6.1 Permits and Approvals.** Purchaser's obligation to proceed with the transaction contemplated by this Agreement is contingent upon Purchaser obtaining from Brevard County the final, non-appealable, permits and approvals which are necessary for Purchaser's development of the Property for Purchaser's Intended Use, and shall include without limitation, land use amendment, rezoning, site plan and engineering approvals (collectively, the "Permits and Approvals"). The Purchaser's intended use for the property is as a storage facility (the "Intended Use"). The Purchaser shall commence application for the Permits and Approvals within sixty (60) days of the Effective Date and shall have two hundred and seventy (270) days after the Inspection Period in which to obtain the Permits and Approvals (the "Permits and Approvals Period"). If the Purchaser shall fail to obtain the Permits and Approvals on or before the end of the Permits and Approvals Period, then Purchaser shall have the right and option to either (i) waive the condition and proceed with Closing by delivering written notification of such waiver and election to Seller within one (1) business day after expiration of the Permits and Approvals Period or (ii) terminate this Agreement by delivering written notification of such termination to Seller, in which event, and provided there is no default by Purchaser hereunder, the Earnest Money shall be refunded to Purchaser, and this Agreement shall be deemed terminated and shall be null and void without recourse to either party hereto, except for those obligations which expressly survive the termination of this Agreement.

**Section 6.2 Cooperation.** Purchaser and Seller recognize that the ability to perform under this Agreement will require cooperation among them. Accordingly Purchaser and Seller shall reasonably cooperate with each other and with the governmental authorities in an effort to obtain the Permits and Approvals as quickly as possible. To the extent required by the applicable governmental authorities, Seller agrees to join in on the execution of any application required in order to apply for the Permits and Approvals



or any other approvals (or file such application individually if the relevant governmental authority shall so require). For purposes of this Agreement, Seller agrees, subject to Seller's approval, which approval shall not be unreasonably withheld, to execute and join in (or cause such other necessary party to execute and join in) on any applications within five (5) Business Days from written request for same by Purchaser. Seller further agrees to cooperate as reasonably necessary with Purchaser in all respects, including without limitation, attending and giving favorable testimony at any hearings on the petitions or applications, meeting with, and providing information to, public and private utilities and governmental and quasi-governmental entities and otherwise cooperating with the efforts of Purchaser to obtain the agreements, assurances, approvals and permits required by Purchaser without additional cost or obligation to Purchaser. Purchaser shall be obligated to pay the cost and expense of obtaining the Permits and Approvals and Seller shall have absolutely no obligation or liability with regard to same, except to cooperate with the efforts of Purchaser to obtain the agreements, assurances, approvals and permits required by Purchaser as set forth above. Furthermore, after the Effective Date hereof and prior to Closing, Seller agrees not to record any documents affecting title to the Property without first providing Purchaser with the opportunity to review and approve same, with such approval not to be unreasonably withheld, conditioned or delayed by Purchaser; however, such review and approval rights of Purchaser shall not be applicable to any documents to be recorded which are expressly contemplated by this Agreement.

## ARTICLE 7 OPERATIONS AND CONDEMNATION

### Section 7.1 Ongoing Operations. From the Effective Date through Closing:

(a) New Contracts. Seller will not enter into any contract that could be an obligation affecting the Property subsequent to the Closing, unless (1) Seller obtains Purchaser's prior written approval (which approval may be withheld in Purchaser's sole and absolute discretion) or (2) such contract is of the type that is entered into in the ordinary course of business and is terminable without cause and without the payment of any termination penalty on not more than thirty (30) days' prior notice.

(b) No New Encumbrances. Except as contemplated and required by this Agreement, after the Effective Date, Seller shall not, without the prior written consent of Purchaser (which consent may be withheld in Purchaser's sole and absolute discretion), grant, permit or otherwise create or consent to the creation of any easement, subdivision plat, restriction, restrictive covenant, lien, assessment, or encumbrance affecting any portion of the Property which would survive the Closing contemplated hereunder.

(c) Preservation Of Representations And Warranties. Seller shall take no affirmative action, nor shall it neglect to take some action in the reasonable course of business, that would cause any of its Representations And Warranties to become untrue in the course of this Agreement.

Section 7.2 Condemnation. If proceedings in eminent domain are instituted with respect to the Property or any portion thereof, Seller shall promptly give Purchaser written notice thereof (including a reasonably detailed description of the portion of the Property affected thereby), and if (and only if) such condemnation would (i) materially adversely affect the ability of Purchaser to use the Property in the manner and for the purpose as required by the Intended Use, (ii) would permanently block access between the Property and a public right of way, or (iii) would materially adversely affect the value of the Property, Purchaser may, at its option, by written notice to Seller given within fifteen (15) days after Seller notifies Purchaser of such proceedings (but in all events prior to the Closing Date), either: (a) terminate this Agreement, in which case the Earnest Money shall be returned to Purchaser and the parties hereto shall have no further rights or obligations, other than those that by their terms survive the termination of this Agreement, or (b) proceed under this Agreement, in which event (and in the event that there is a condemnation that does not permit Purchaser to terminate this Agreement) Seller shall, at the Closing,



assign to Purchaser its entire right, title and interest in and to any condemnation award and shall credit Purchaser for any such award received by Seller after the Effective Date, and Purchaser shall have the sole right after the Closing to negotiate and otherwise deal with the condemning authority in respect of such matter. If Purchaser does not give Seller written notice of its election within the time required above, then Purchaser shall be deemed to have elected option (b) above.

## ARTICLE 8 CLOSING

Section 8.1 Closing. The consummation of the transaction contemplated herein ("Closing") shall occur either through mail or in person on the Closing Date through an escrow with Escrow Agent. Funds shall be deposited into and held by Escrow Agent in a closing escrow account. Upon satisfaction or completion of all closing conditions and deliveries, the parties shall direct Escrow Agent to immediately record and deliver the closing documents to the appropriate parties and make disbursements according to the closing statements executed by Seller and Purchaser.

Section 8.2 Conditions to Purchaser's Obligation to Close. In addition to all other conditions set forth herein, the obligation of Purchaser to consummate the transactions contemplated hereunder is conditioned upon the following:

(a) Representations and Warranties. Except as set forth on the Exhibits to this Agreement, information provided on the Data Site, delivered to Purchaser, or otherwise expressly provided herein, Seller's representations and warranties contained herein shall be true and correct in all material respects as of the Effective Date and the Closing Date, as modified by any Pre-Closing Disclosures (hereinafter defined). Seller agrees that, should Seller become aware of any fact, matter or circumstance that would make any of Seller's representations or warranties contained herein untrue or incorrect in any material respect, then Seller will provide written notice thereof to Purchaser prior to Closing (any such disclosure being referred to as a "Pre-Closing Disclosure"). If Seller makes any material adverse Pre-Closing Disclosure to Purchaser, or if Purchaser otherwise gains knowledge that one of Seller's representations or warranties becomes untrue or incorrect and same has a material adverse effect on the Property, then within five (5) days after Purchaser's receipt of such Pre-Closing Disclosure or Purchaser's notice of such untrue or incorrect representation or warranty (but in no event later than Closing), Purchaser may, as its sole and exclusive option, either (a) terminate this Agreement, in which event the Earnest Money shall be returned to Purchaser and the parties will be released and relieved from all obligations hereunder, except those which expressly survive a termination of this Agreement, or (b) proceed towards Closing. Purchaser's knowledge shall be deemed to include the information provided (i) on the Exhibits to this Agreement or otherwise set forth in this Agreement and (ii) the documents and instruments applicable to the Property posted to the Data Site or otherwise delivered to Purchaser prior to the Closing Date.

(b) Obligations Performed. As of the Closing Date, Seller shall have performed all of its obligations under this Agreement.

Section 8.3 Seller's Deliveries in Escrow. No later than the Closing Date, Seller, at its sole cost and expense, shall deliver in escrow to Escrow Agent the following:

(a) Deed. A special warranty deed in the form reasonably approved by Seller and Purchaser (the "Deed") acceptable for recordation under the law of the state where the Property is located, including a list of Permitted Exceptions to which the conveyance shall be subject, executed and acknowledged by Seller, conveying to Purchaser Seller's interest in the Real Property.

(b) Bill of Sale, Assignment and Assumption. A Bill of Sale, Assignment and Assumption in a form reasonably approved by Seller and Purchaser (the "Assignment"), executed and

acknowledged by Seller, assigning, conveying and transferring to and vesting in Purchaser all of the Property (other than the Land and Improvements) without warranty. At Purchaser's request, Seller shall also deliver a separate Assignment of Development Rights and/or Intangible Personal Property, applicable to the real property, in accordance with the terms of this Agreement.

(c) **Title Affidavit.** A title affidavit in a form reasonably approved by Seller and Purchaser, or as otherwise reasonably required by the Title Company, hereto executed and acknowledged by Seller.

(d) **FIRPTA.** A Foreign Investment in Real Property Tax Act affidavit in the form reasonably approved by Seller and Purchaser and executed by Seller.

(e) **Authority.** Evidence of the existence, organization and authority of Seller and of the authority of the persons executing documents on behalf of Seller reasonably satisfactory to the Title Company and the underwriter for the Title Policy.

(f) **Additional Documents.** Any additional documents that Purchaser, Escrow Agent, or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

Section 8.4 **Purchaser's Deliveries in Escrow.** No later than the Closing Date, Purchaser shall deliver in escrow to Escrow Agent the following:

(a) **Bill of Sale, Assignment and Assumption.** The Assignment, executed and acknowledged by Purchaser.

(b) **Additional Documents.** Any additional documents that Seller, Escrow Agent or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement.

Section 8.5 **Closing Statements.** As soon as reasonably practicable on the Closing Date, Seller and Purchaser shall deposit (with the parties agreeing that facsimile or emailed signatures are acceptable) with Escrow Agent executed closing statements consistent with this Agreement.

Section 8.6 **Purchase Price.** At or before 2:00 p.m., eastern standard time, on the Closing Date, Purchaser shall deliver, or caused to be delivered, to Escrow Agent the Purchase Price, plus or minus applicable prorations or adjustments, including, but not limited to, at the Closing, (a) the Earnest Money being credited against the Purchase Price and paid by the Escrow Agent to Seller in immediately available funds, (b) prorations as set forth in Section 9.1, (c) closing costs as allocated in Section 9.2, and (d) adjustments as provided in Section 9.3.

Section 8.7 **Possession.** Seller shall deliver possession of the Property to Purchaser at the Closing subject only to the Permitted Exceptions and the rights of the Tenants in possession of the Property.

## ARTICLE 9

### PRORATIONS, COMMISSIONS, IMPACT FEE CREDITS

Section 9.1 **Prorations.** At Closing, the following items shall be prorated (based upon the actual number of days in the month of Closing) as of the date of Closing with all items of income and expense for the Property being borne by Purchaser from and after (but including) the date of Closing: tenant receivables and other income and rents; fees and assessments; prepaid expenses and obligations under service contracts; accrued operating expenses; real and personal ad valorem taxes ("Taxes"); and any

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assessments by private covenant for the then-current calendar year of Closing. Specifically, the following shall apply to such prorations:

(a) **Taxes.** If Taxes for the year of Closing are not known or cannot be reasonably estimated, Taxes shall be prorated based on Taxes for the year prior to Closing (at the maximum discount allowable) which taxes, notwithstanding anything to the contrary contained in this Agreement, and when actual figures are available, an adjustment will be made after Closing as required by this Agreement.

Section 9.2 **Closing Costs.** Closing costs shall be allocated between Seller and Purchaser and paid as follows:

COST	RESPONSIBLE PARTY
Title Commitment or updates required to be delivered pursuant to <u>Section 5.1</u>	Seller
Premium for ALTA Title Policy required to be delivered pursuant to <u>Section 5.4</u>	Seller
Premium for any extended coverage upgrade of Title Policy and for any additional endorsements desired by Purchaser and the premium for mortgagee title policy and any lender requested endorsements, the foregoing to be issued at the Simultaneous Issue rate or Florida promulgated rate, as applicable.	Purchaser
Any title search or inspection fee charged by the Title Company, tax certificates, municipal and utility lien certificates, and any other Title Company charges	Seller
Costs of survey and/or any revisions, modifications or re-certifications thereto	Purchaser
Deed recording fees	Purchaser
Any deed taxes, documentary stamps, transfer taxes, intangible taxes or other similar taxes, fees or assessments	Seller
Any mortgage taxes, documentary stamps or intangible taxes for any financing of Purchaser	Purchaser
Any fees and costs charged by Escrow Agent for conducting the Closing	The party choosing the Escrow Agent conducting the Closing
All other closing costs, expenses, charges and fees	The party incurring the same
Fees and costs related to financing	Purchaser

Section 9.3 **Adjustment After Closing.** If final bills are not available or cannot be issued prior to Closing for any item being prorated under Section 9.1, then Purchaser and Seller agree to allocate such items on a fair and equitable basis as soon as such bills are available, and an adjustment shall be made as soon as reasonably possible after the Closing, but in any event within ninety (90) days after Closing (other than for Taxes and tenant receivables), at which time all prorations shall be deemed final. Payments in connection with any adjustment shall be due within thirty (30) days of written notice. All such rights and obligations shall survive the Closing. Seller and Purchaser acknowledge and agree that this Section 9.3 does not limit the requirements of the Seller and Purchaser to reallocate Taxes pursuant to Section 9.1(a) or remit tenant receivables pursuant to Section 9.1.



Section 9.4 Sales Commissions. Seller shall be responsible to Broker for a real estate sales commission at Closing (but only in the event of a Closing in strict accordance with this Agreement) in accordance with a separate agreement between Seller and Broker. Other than as stated above in this Section 9.4, Seller and Purchaser each represent and warrant to the other that no real estate brokerage commission is payable to any person or entity in connection with the transaction contemplated hereby, and each agrees to and does hereby indemnify and hold the other harmless against the payment of any commission to any other person or entity claiming by, through or under the indemnifying party. This indemnification shall extend to any and all claims, liabilities, costs and expenses (including reasonable attorneys' fees and litigation costs) arising as a result of such claims and shall survive the Closing.

## ARTICLE 10 REPRESENTATIONS AND WARRANTIES

Section 10.1 Seller's Representations and Warranties. Seller represents and warrants to Purchaser that:

(a) Organization and Authority. Seller is a corporation, has been duly organized, is validly existing, is in good standing in the state in which it was formed, and is qualified to do business in the state in which the Real Property is located. Seller has the full right, power and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Seller at the Closing (collectively, the "Closing Documents") will be, authorized and duly executed and delivered by Seller and constitute, or will constitute, as appropriate, the legal, valid and binding obligation of Seller, enforceable in accordance with their terms.

(b) Conflicts and Pending Actions. To Seller's Knowledge, there is no agreement to which Seller is a party or that is binding on Seller which is in conflict with this Agreement. Seller has received no written notice of action or proceeding pending or threatened against Seller or relating to the Property, which challenges or impairs Seller's ability to execute or perform its obligations under this Agreement or with respect to the Property. Seller has not committed or obligated itself in any manner whatsoever to sell the Property or any interest therein to any other party. To Seller's Knowledge, no rights of first offer or rights of first refusal regarding the purchase of the Property exist under the organizational documents of Seller or under any agreement by which Seller or the Property is or may be bound or affected. To Seller's Knowledge, Seller is not in default or violation of any law, rule, regulation, order, judgment or decree which would have a material adverse effect on the Property.

(c) Due Authority. Seller has all requisite power and authority to own and operate the Property in accordance with its current operations, to execute and deliver this Agreement, and to carry out its obligations hereunder and the transactions contemplated hereby. To Seller's Knowledge, the consummation by Seller of the sale of the Property is not in violation of, or in conflict with, nor does it constitute a default under, any term or provision of the organizational documents of Seller, or any of the terms of any agreement or instrument to which Seller is or may be bound, or of any applicable Legal Requirement or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

(d) Notices. Seller has not received any written notices from any governmental agencies or authorities (1) with respect to any violation of any applicable zoning, building, health, environmental, traffic, flood control, fire safety, handicap or other law, code, ordinance, rule or regulation (collectively, the "Legal Requirements") or (2) of any pending or threatened condemnation proceeding with respect to the Property.

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(e) **No Foreign Person.** Seller is neither a "foreign person" nor a "foreign corporation" as those terms are defined in Section 1445 of the Internal Revenue Code of 1986, as amended.

(f) **Litigation.** Seller has received no written notice of any pending or threatened, judicial, municipal or administrative proceedings with respect to, or in any manner affecting the Property.

(g) **No Representation or Warranty Regarding Physical Condition of the Property and Improvements.** Purchaser acknowledges that Purchaser will have independently and personally inspected the Property and that Purchaser has entered into this Agreement based upon its ability to make such examination and inspection and the representations and warranties contained herein. **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND TO PURCHASER, INCLUDING AS TO THE PHYSICAL CONDITION OF THE PROPERTY AND ANY IMPROVEMENTS LOCATED THEREON, OR THEIR SUITABILITY FOR ANY PARTICULAR PURPOSE.**

(h) **Environmental.** Neither Seller, nor to the best of Seller's actual knowledge without any independent investigation or inquiry (i) any person during Seller's ownership of the Property, and (ii) any previous owner of the Property or any other person or entity, has ever used, generated, processed, stored, disposed of, released or discharged any Hazardous Substance on, under, or about the Property or transported it to or from the Property, nor, to the best of Seller's actual knowledge without any independent investigation or inquiry, has any party ever alleged that any such activities have occurred. To the best of Seller's actual knowledge without any independent investigation or inquiry, no Hazardous Substances are, will be, or have been present on or around the Property in violation of any applicable statutes, ordinances or regulations; and Seller has no notice of any pending or, to the best of Seller's actual knowledge without any independent investigation or inquiry, threatened action or proceeding arising out of the condition of the Property or the Land, or any alleged violation of environmental, health or safety statutes, ordinances or regulations.

When used herein, the phrase "to Seller's Knowledge" or derivations thereof shall mean the current actual knowledge, without investigation or inquiry, of P. Rodney Jackson (the "**Seller Representative**").

Section 10.2 **Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller that:

(a) **Organization and Authority.** Purchaser has been duly organized and is validly existing in good standing in the state in which it was formed. Purchaser has the full right, power and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Purchaser at the Closing will be, authorized and properly executed and constitute, or will constitute, as appropriate, the legal, valid and binding obligation of Purchaser, enforceable in accordance with their terms. The Seller acknowledges that the Purchaser intends to assign its rights hereunder to a to-be-formed special purpose entity affiliated with Purchaser which, upon consummation of the Closing, acquire title to the Property.

(b) **Conflicts and Pending Action.** There is no agreement to which Purchaser is a party or to Purchaser's knowledge binding on Purchaser which is in conflict with this Agreement. There is no action or proceeding pending or, to Purchaser's knowledge, threatened against Purchaser which challenges or impairs Purchaser's ability to execute or perform its obligations under this Agreement.

Section 10.3 **Survival of Representations and Warranties.** The representations and warranties set forth in this Article 10 are made as of the date of this Agreement, (b) are remade as of the Closing Date, subject to modification by any Pre-Closing Disclosures, and (c) shall not be deemed to be



merged into or waived by the instruments of Closing, but shall survive the Closing or termination of this Agreement for a period of six (6) months (the "Survival Period"). Each party shall have the right to bring an action against the other on the breach of a representation or warranty hereunder discovered before the end of the Survival Period so long as the party bringing the action for breach files such action within the Survival Period. The provisions of this Section 10.3 shall survive the Closing.

## ARTICLE 11 DEFAULT AND REMEDIES

Section 11.1 Seller's Remedies. If Purchaser fails to perform its material obligations pursuant to this Agreement at or prior to Closing for any reason except for the failure of Seller to perform hereunder or termination of this Agreement as provided herein, or if prior to Closing any one or more of Purchaser's representations or warranties are breached or untrue in any material respect, Seller shall be entitled, as its sole remedy, to terminate this Agreement by giving Purchaser and the Escrow Agent written notice thereof prior to or at Closing and recover the Earnest Money as liquidated damages and not as penalty, in full satisfaction of claims against Purchaser hereunder, in which case neither Purchaser nor Seller shall have any further rights or obligations hereunder, except those that expressly survive the termination of this Agreement. Seller and Purchaser agree that Seller's damages resulting from Purchaser's default are difficult, if not impossible, to determine and the Earnest Money is a fair estimate of those damages which has been agreed to in an effort to cause the amount of such damages to be certain.

Section 11.2 Purchaser's Remedies. If Seller fails to perform its material obligations pursuant to this Agreement for any reason except for the failure of Purchaser to perform hereunder or termination of this Agreement as provided herein, or if prior to Closing any one or more of Seller's representations or warranties are breached or untrue in any material respect and which adversely affect the ability of Purchaser to use the Property for the purpose for which it is currently used or adversely affect the value of the Property, Purchaser shall elect, as its sole remedy, either to (a) terminate this Agreement and recover the Earnest Money by giving Seller and the Escrow Agent timely written notice of such election prior to or at Closing, in which case neither Purchaser nor Seller shall have any further rights or obligations hereunder except those that expressly survive the termination of this Agreement, (b) enforce specific performance of this Agreement (provided that any action for specific performance must be filed no later than thirty (30) days after the occurrence of such breach or default), or (c) proceed to Closing. Purchaser's sole and exclusive remedies shall be limited to those described in Section 10.3, Section 11.2 and Section 11.3.

Section 11.3 Attorneys' Fees. In the event either party hereto employs an attorney in connection with claims by one party against the other arising from the operation of this Agreement, the non-prevailing party shall pay the prevailing party all reasonable fees and expenses, including reasonable attorneys' fees, incurred in connection with such transaction.

Section 11.4 Notice of Default and Cure. No party shall declare a default unless and until the non-defaulting party has delivered written notice specifying the default, to the defaulting party, and the defaulting party has failed or refused to cure any such default within ten (10) days of the receipt of any such notice.

## ARTICLE 12 MISCELLANEOUS

Section 12.1 No Assumption of Liabilities. Notwithstanding any provision contained in this Agreement to the contrary, this Agreement is intended as and shall be deemed to be an agreement for the sale of assets and none of the provisions hereof shall be deemed to create any obligation or liability of any party to any person or entity that is not a party to this Agreement, whether under a third-party beneficiary theory, laws relating to transferee liabilities or otherwise.



Section 12.2 Parties Bound; Assignment. This Agreement, and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties hereto. Purchaser may (but no more than one time) assign its rights and obligations under this Agreement without Seller's consent to any entity affiliated with Purchaser, but not otherwise. In the event of such an assignment, Purchaser shall provide written notice to Seller of such assignment and, notwithstanding such assignment, Purchaser shall remain liable under this Agreement. This Agreement is for the sole benefit of Seller and Purchaser, and no third party is intended to be a beneficiary of this Agreement.

Section 12.3 Headings. The article, section, subsection, paragraph and/or other headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

Section 12.4 Invalidity and Waiver. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible the remainder of this Agreement shall be deemed valid and operative, and, to the greatest extent legally possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party's right to enforce against the other party the same or any other such term or provision in the future.

Section 12.5 Governing Law. This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the law of the state in which the Real Property is located without giving effect to its choice of law provisions.

Section 12.6 Survival. The provisions of this Agreement shall not survive the Closing, except for those specific provisions that are specifically stated herein to survive the Closing. Those provisions which are specifically stated herein to survive the Closing shall not be deemed to be merged into or waived by the instruments of Closing.

Section 12.7 Entirety and Amendments. This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Property. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought. All exhibits and schedules attached hereto are incorporated herein by this reference for all purposes.

Section 12.8 Time. Time is of the essence in the performance of this Agreement.

Section 12.9 Notices. All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth in 1.2. Any such notices shall, unless otherwise provided herein, be given or served (a) by depositing the same in the United States mail, postage paid, certified and addressed to the party to be notified, with return receipt requested, (b) by overnight delivery using a nationally recognized overnight courier, (c) by personal delivery, (d) by facsimile transmission with a confirmation copy delivered by another method permitted under this Section 12.9, or (e) by electronic mail addressed to the electronic mail address set forth in Section 1.2 for the party to be notified with a confirmation copy delivered by another method permitted under this Section 12.9. Notice given in accordance herewith for all permitted forms of notice other than by electronic mail, shall be effective upon the earlier to occur of actual delivery to the address of the addressee or refusal of receipt by the addressee. Notice given by electronic mail in accordance herewith shall be effective upon the entrance of such electronic mail into the information processing system designated by the recipient's electronic mail address. Except for facsimile and electronic mail notices as described above, no notice hereunder shall be effective if sent or delivered by electronic means. In no event shall this Agreement be altered, amended or modified by electronic mail or electronic record. A party's address may be changed by written notice to the other



party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to the Purchaser shall be deemed given by Purchaser and notices given by counsel to the Seller shall be deemed given by Seller.

**Section 12.10 Construction; Waiver.** The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and agree that the normal rule of construction - to the effect that any ambiguities are to be resolved against the drafting party - shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto. Unless otherwise set forth herein, the word "including" and any derivation thereof shall mean "including, without limitation." No provision of this Agreement shall be deemed to be waived by either party unless the waiver is in writing and signed by that party. Unless otherwise expressly provided herein, no consent or approval by either party shall be deemed to be given unless the consent or approval is in writing and signed by that party. No custom or practice that may evolve between Purchaser and Seller during the term of this Agreement shall be deemed or construed to waive or lessen the right of either of the parties hereto to insist upon strict compliance with the terms of this Agreement.

**Section 12.11 Calculation of Time Periods.** Unless otherwise specified, in computing any period of time described herein, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a Business Day, in which event the period shall run until the end of the next day which is a Business Day. The last day of any period of time described herein shall be deemed to end at 5:00 p.m. eastern standard time in the state in which the Real Property is located unless otherwise expressly provided herein. As used herein, the term "Business Day" means any day that is not a Saturday, Sunday or legal holiday for national banks in the city in which the Real Property is located.

**Section 12.12 Execution in Counterparts; Offer and Acceptance.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by telephone facsimile or electronic mail counterparts of the signature pages, provided that executed originals thereof are forwarded to the other party on the same day by any of the delivery methods set forth in Section 12.9 other than facsimile or electronic mail.

**Section 12.13 Further Assurances.** In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by either party at Closing, each party agrees to perform, execute and deliver, but without any obligation to incur any additional liability or expense, on or after the Closing any further deliveries and assurances as may be reasonably necessary to consummate the transactions contemplated hereby or to further perfect the conveyance, transfer and assignment of the Property to Purchaser.

**Section 12.14 No Marketing.** Seller agrees not to market any portion of the Property for sale from the Effective Date until the earlier of (a) the Closing or (b) a termination of this Agreement.

**Section 12.15 Joint and Several Liability.** Each of the parties executing this Agreement as a "Seller" are jointly and severally liable for all obligations of Seller under this Agreement.

**Section 12.16 Recordation.** Neither this Agreement, nor any short form, memorandum or notice thereof shall be recorded in any public records. The recording of this Agreement, or any short form, memorandum or notice thereof in any public records by or at the instance of Purchaser shall, at Seller's election, constitute an event of default under this Agreement by Purchaser, which shall immediately give Seller the right, at its election, to terminate this Agreement and to receive the Earnest Money.

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SECTION 12.17 1031 Exchange. Seller's sale of the Property may be the sale of relinquished property and Purchaser's acquisition of the Property may be the acquisition of replacement property in a qualifying exchange of like-kind property under Section 1031 of the Internal Revenue Code, as amended ("Exchange"), pursuant to separate Exchange Agreements with a qualified intermediary (the "Intermediary"). The parties agree to cooperate with each other (without liability or cost to the other party) in the completion of each other's Exchange. Such cooperation shall include (i) the assignment of this Agreement by a party to the Intermediary, and the acknowledgment of such assignment by the other party, (ii) the acceptance of the Purchase Price from or by the Intermediary, (iii) the conveyance of the Property to Purchaser pursuant to a written direction of the Intermediary, and (iv) the reassignment of this Agreement to the exchanging party from the Intermediary immediately following the completion of Exchange, and the acknowledgment by the other party of such reassignment. The exchanging party shall in all events be responsible for all costs and expenses related to Exchange and shall fully indemnify, defend and hold the other party harmless for, from and against any and all liability, claims, damages, expenses (including, without limitation, reasonable attorneys' and paralegal fees), taxes, fees, proceedings and causes of action of any kind or nature whatsoever arising out of, connected with or in any manner related to such party's Exchange that would not have been incurred by the other party if the transaction did not involve Exchange. EACH EXCHANGING PARTY HEREBY ACKNOWLEDGES THAT THE EXCHANGING PARTY IS AND SHALL BE SOLELY RESPONSIBLE FOR COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS RELATED TO THE ITS EXCHANGE. FURTHER, THE EXCHANGING PARTY ACKNOWLEDGES THAT NEITHER THE OTHER PARTY NOR ANY OF ITS AGENTS, REPRESENTATIVES OR AFFILIATES HAS ADVISED THE EXCHANGING PARTY, AND NO SUCH PERSON OR ENTITY HAS ANY OBLIGATION OR DUTY TO ADVISE THE EXCHANGING PARTY, WITH RESPECT TO WHETHER THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT COMPLIES WITH THE LAWS, RULES AND REGULATIONS APPLICABLE TO SUCH EXCHANGING PARTY'S EXCHANGE. FURTHER, THE EXCHANGING PARTY REPRESENTS, WARRANTS AND ACKNOWLEDGES TO THE OTHER PARTY THAT IT HAS RELIED UPON ITS OWN TAX AND LEGAL COUNSEL IN DETERMINING COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS APPLICABLE TO ITS EXCHANGE. THE PROVISIONS OF THIS SECTION 12.17 SHALL SURVIVE THE CLOSING OR TERMINATION OF THIS AGREEMENT.

Section 12.18 Non-Disclosure. Neither party shall make public disclosure with respect to this transaction before the Closing except:

- (a) as may be required by law; and
- (b) to such tenants or prospective tenants of the Property, local authorities, attorneys, accountants, present or prospective sources of financing, partners, directors, officers, employees and representatives of either party or of such party's advisors who need to know such information for the purpose of evaluating and consummating the transaction, including the financing of the transaction; and
- (c) the foregoing notwithstanding, upon the end of the Inspection Period, Purchaser will be permitted to erect a sign announcing the pending development of its Intended Use.

Section 12.19 as may be permitted specifically by the terms of this Agreement.

### ARTICLE 13

#### "AS IS" CONDITION; LIMITATION OF LIABILITY

Section 13.1 DISCLAIMER AND RELEASE. ACKNOWLEDGING THE PRIOR USE OF THE PROPERTY AND PURCHASER'S OPPORTUNITY TO INSPECT THE PROPERTY, PURCHASER AGREES TO TAKE THE PROPERTY "AS IS", "WHERE IS", WITH ALL FAULTS





AND CONDITIONS THEREON. ANY INFORMATION, REPORTS, STATEMENTS, DOCUMENTS OR RECORDS ("DISCLOSURES") PROVIDED OR MADE TO PURCHASER OR ITS CONSTITUENTS BY SELLER, ITS AGENTS OR EMPLOYEES CONCERNING THE CONDITION (INCLUDING, BUT NOT LIMITED TO, THE ENVIRONMENTAL CONDITION) OF THE PROPERTY SHALL NOT BE REPRESENTATIONS OR WARRANTIES, UNLESS SPECIFICALLY SET FORTH IN THIS AGREEMENT, OR IN ANY DOCUMENTS DELIVERED AT CLOSING. EXCEPT AS MAY OTHERWISE BE SPECIFICALLY SET FORTH IN THIS AGREEMENT, PURCHASER SHALL NOT RELY ON SUCH DISCLOSURES, BUT RATHER, PURCHASER SHALL RELY ONLY ON ITS OWN INSPECTION OF THE PROPERTY. PURCHASER ACKNOWLEDGES THAT THE PURCHASE PRICE REFLECTS AND TAKES INTO ACCOUNT THAT THE PROPERTY IS BEING SOLD "AS IS".

PURCHASER ACKNOWLEDGES AND AGREES THAT EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT OR IN ANY DOCUMENTS DELIVERED AT CLOSING, SELLER HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, OR (F) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING TERMITES OR WASTES, AS DEFINED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., OR ANY HAZARDOUS SUBSTANCE, AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980 ("CERCLA"), AS AMENDED, AND REGULATIONS PROMULGATED THEREUNDER EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN. PURCHASER, ITS SUCCESSORS AND ASSIGNS, HEREBY WAIVE, RELEASE AND AGREE NOT TO MAKE ANY CLAIM OR BRING ANY COST RECOVERY ACTION OR CLAIM FOR CONTRIBUTION OR OTHER ACTION OR CLAIM AGAINST SELLER OR ITS AFFILIATES, MEMBERS, PARTNERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, ATTORNEYS, OR ASSIGNS (COLLECTIVELY, "SELLER AND ITS AFFILIATES") BASED ON (A) ANY FEDERAL, STATE, OR LOCAL ENVIRONMENTAL OR HEALTH AND SAFETY LAW OR REGULATION, INCLUDING CERCLA OR ANY STATE EQUIVALENT, OR ANY SIMILAR LAW NOW EXISTING OR HEREAFTER ENACTED, (B) ANY DISCHARGE, DISPOSAL, RELEASE, OR ESCAPE OF ANY CHEMICAL, OR ANY MATERIAL WHATSOEVER, ON, AT, TO, OR FROM THE PROPERTY; OR (C) ANY ENVIRONMENTAL CONDITIONS WHATSOEVER ON, UNDER, OR IN THE VICINITY OF THE PROPERTY. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS SECTION 13.1 SHALL BE DEEMED TO BE A WAIVER, RELEASE OR AGREEMENT NOT TO MAKE A CLAIM OR BRING AN ACTION FOR ANY VIOLATION BY SELLER OF ITS EXPRESS REPRESENTATIONS AND WARRANTIES MADE IN THIS AGREEMENT.

PURCHASER REPRESENTS TO SELLER THAT PURCHASER HAS CONDUCTED, OR WILL CONDUCT PRIOR TO CLOSING, SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS PURCHASER DEEMS NECESSARY OR DESIRABLE TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND THE EXISTENCE OR NONEXISTENCE OR



CURATIVE ACTION TO BE TAKEN WITH RESPECT TO ANY HAZARDOUS OR TOXIC SUBSTANCES ON OR DISCHARGED FROM THE PROPERTY, AND WILL RELY SOLELY UPON SAME (IN ADDITION TO THE REPRESENTATIONS AND WARRANTIES MADE BY SELLER HEREIN) AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER OR ITS AGENTS OR EMPLOYEES WITH RESPECT THERETO EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES MADE BY SELLER IN THIS AGREEMENT. UPON CLOSING, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, PURCHASER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY PURCHASER'S INVESTIGATIONS, AND PURCHASER, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED SELLER (AND SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH PURCHASER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER (AND SELLER'S OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS) AT ANY TIME BY REASON OF OR ARISING OUT OF ANY LATENT OR PATENT CONSTRUCTION DEFECTS OR PHYSICAL CONDITIONS, VIOLATIONS OF ANY APPLICABLE LAWS AND ANY AND ALL OTHER ACTS, OMISSIONS, EVENTS, CIRCUMSTANCES OR MATTERS REGARDING THE PROPERTY.

**THE PROVISIONS OF THIS SECTION 13.1 SHALL SURVIVE THE CLOSING OR ANY TERMINATION OF THIS AGREEMENT AND SHALL NOT BE MERGED THEREIN.**

Section 13.2 Radon Gas. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State Guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your County Health Unit.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement on the day and year written below.

PURCHASER

CONDEV PROPERTIES, LLC, a Florida limited liability company

By: 

NAME PRINTED: PETER V. GARDNER

AS ITS: MANAGER

DATE

EXECUTED: 10/29/19

[REMAINING SIGNATURE ON FOLLOWING PAGE]

[SELLER SIGNATURE PAGE TO PURCHASE AND SALE AGREEMENT]

SELLER

**BREVARD TOWER COMMUNICATIONS, INC.,**  
a Florida corporation

By: P. Rodney JACKSON

NAME PRINTED: P. RODNEY JACKSON

AS ITS: PRESIDENT

DATE

EXECUTED: 10-24-2019

LIST OF EXHIBITS

- Exhibit A- Legal Description of Real Property  
Exhibit B - Property Information

EXHIBIT A

LEGAL DESCRIPTION OF REAL PROPERTY

E 1/2 Of SW 1/4 Of SE 1/4 & W 132 Ft Of NE 1/4 Of Se 1/4 Ex\_n 260' Of 5300' Of E 1/2 Of Sw 1/4 Of Of Se 1/4, Canal No 65, Orb 1328 Pg 84 Par 758.1 , Public Records of Brevard, County, FL. The foregoing may be further described by a survey of the Land.

Parcel ID: 28-26-12-00-758

36

EXHIBIT B

PROPERTY INFORMATION

[TBD]

LEGAL DESCRIPTION:

(Per Old Republic National Title Insurance Company File No.: 19129417 LLC)

A portion of the lands described in Official Records Book 3277, Page 924, of the Public Records of Brevard County, Florida, said lands lying in Section 13, Township 28 South, Range 36 East and being more particularly described as follows:

Beginning at the Southwest Corner of Tract ST-1, Sawgrass Lakes Phase One, according to the plat thereof, as recorded in Plat Book 60, Pages 52 through 63 of the said public records, said point being the POINT OF BEGINNING; thence South 89 degrees 32 minutes 31 seconds West, along the North right-of-way line to Norfolk Parkway, per said Sawgrass Lakes Phase One, a distance of 662.33 feet to the Easterly line of said Sawgrass Lakes Phase One, thence North 01 degrees 30 minutes 06 seconds East, along said East line, a distance of 1,151.77 feet; thence leaving said line, North 89 degrees 32 minutes 54 seconds East, a distance of 662.19 feet to the East line of Parcel 1 of said Official Records Book 3277, Page 924; thence South 01 degrees 29 minutes 41 seconds West, along the East line of said Parcel 1 and the East line of Parcel 2 of the Official Records Book 3277, Page 924, a distance of 1,151.69 feet to the POINT OF BEGINNING.







# Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

## PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 2802674  
Owners Brevard Tower Communications Inc  
Mailing Address 405 Newfound Harbor Dr Merritt Island FL 32952  
Site Address 3545 Carriage Gate Dr Unit Tower Melbourne FL 32904  
Parcel ID 28-36-13-00-756  
Property Use 9900 - Acreage - Vacant, 5 Acres OR More  
Exemptions None  
Taxing District 5300 - Unincorp District 5  
Total Acres 8.87  
Subdivision --  
Site Code 0143 - Lake(Borrowpit) Frtg  
Plat Book/Page --  
Land Description S 1/2 Of E 1/2 Of NW 1/4 Of SE 1/4 As Desc IN Orb 586  
Pg 439 Exc Orb 3446 Pg 653



## VALUE SUMMARY

Category	2019	2018	2017
Market Value	\$147,680	\$124,900	\$124,900
Agricultural Land Value	\$0	\$0	\$0
Assessed Value Non-School	\$137,390	\$124,900	\$124,900
Assessed Value School	\$147,680	\$124,900	\$124,900
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$137,390	\$124,900	\$124,900
Taxable Value School	\$147,680	\$124,900	\$124,900

## SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
03/01/1993	\$800	PT	Improved	3277/0924
01/01/1989	\$175,000	PT	--	3051/0457
12/30/1983	\$70,000	WD	--	2487/1312
05/08/1963	\$10,000	WD	Improved	0586/0439

No Data Found



# Brevard County Property Appraiser

Titusville • Merritt Island • Viera • Melbourne • Palm Bay

## PROPERTY DETAILS

Phone: (321) 264-6700

<https://www.bcpao.us>

Account 2802676  
Owners Brevard Tower Communications Inc  
Mailing Address 405 Newfound Harbor Dr Merritt Island FL 32952  
Site Address Not Assigned  
Parcel ID 28-36-13-00-758  
Property Use 9900 - Acreage - Vacant, 5 Acres OR More  
Exemptions None  
Taxing District 5300 - Unincorp District 5  
Total Acres 18.11  
Subdivision --  
Site Code 0143 - Lake(Borrowpit) Frtg  
Plat Book/Page --  
Land Description E 1/2 Of SW 1/4 Of SE 1/4 & W 132 Ft Of NE 1/4 Of SE 1/4 Ex\_N 260' Of 5300' Of E 1/2 Of SW 1/4 Of Of SE 1/4, Canal No 65, Orb 1328 Pg 84 Par 758.1

## VALUE SUMMARY

Category	2019	2018	2017
Market Value	\$271,650	\$27,170	\$27,170
Agricultural Land Value	\$0	\$0	\$0
Assessed Value Non-School	\$29,880	\$27,170	\$27,170
Assessed Value School	\$271,650	\$27,170	\$27,170
Homestead Exemption	\$0	\$0	\$0
Additional Homestead	\$0	\$0	\$0
Other Exemptions	\$0	\$0	\$0
Taxable Value Non-School	\$29,880	\$27,170	\$27,170
Taxable Value School	\$271,650	\$27,170	\$27,170

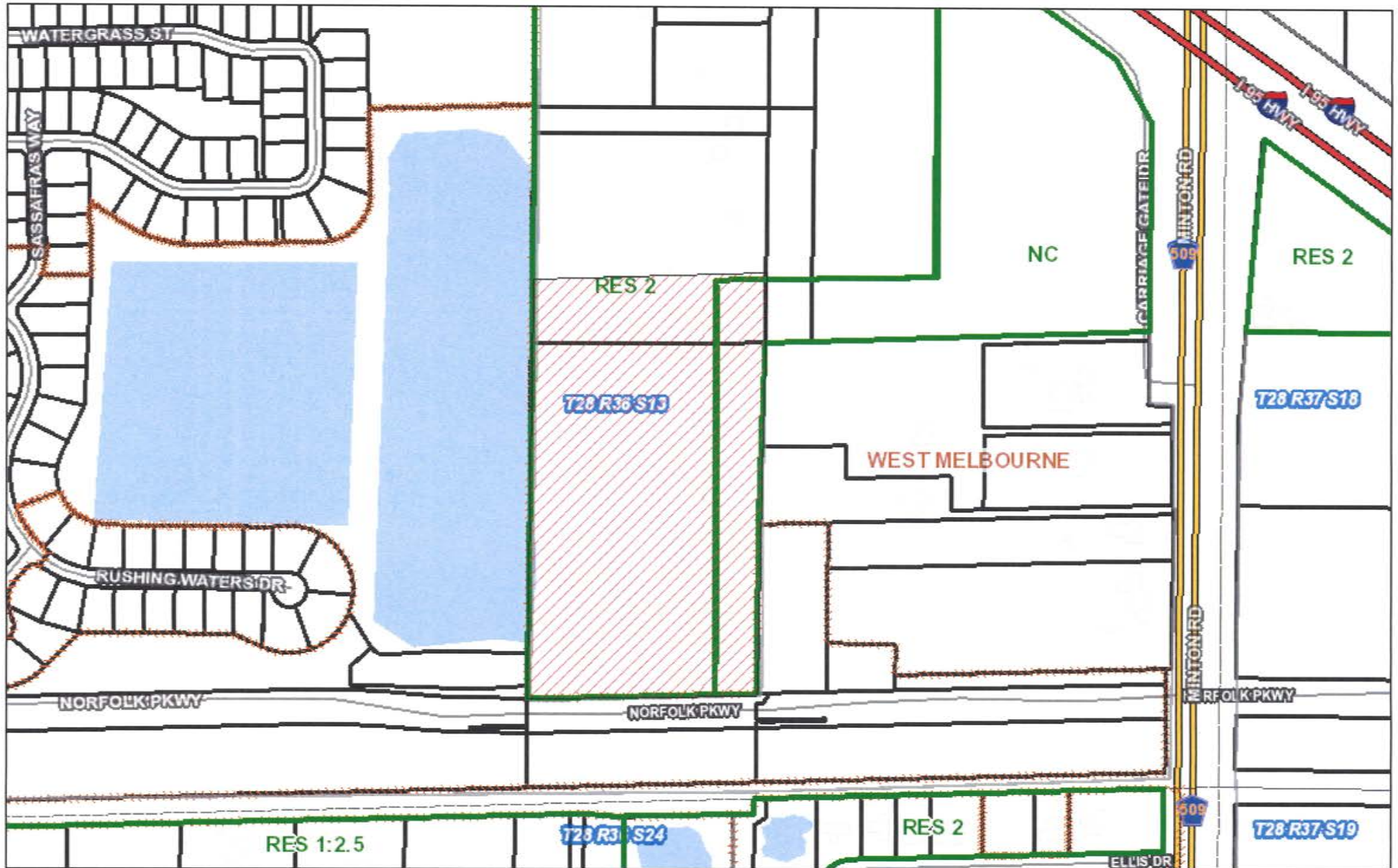
## SALES/TRANSFERS

Date	Price	Type	Parcel	Deed
03/01/1993	\$800	PT	Improved	3277/0924
02/01/1989	\$175,000	PT	--	3051/0457
12/30/1983	\$70,000	WD	--	2487/1312
08/01/1967	\$24,000	--	--	0970/0343

No Data Found

44

# Part of Account #s: 2802676 and 2802674



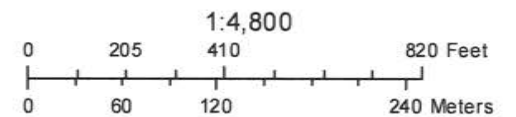
Future Landuse

Section

City (Large Scale)

CAPE CANAVERAL

March 4, 2020



**LSCPA**  
**Brevard Tower Communications, Inc.**  
**Out of Cycle 2020-2.1**  
**Ordinance**



**ORDINANCE NO. 20\_\_**

**ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY; ENTITLED "THE COMPREHENSIVE PLAN", SETTING FORTH PLAN AMENDMENT 2020-2.1; AMENDING SECTION 62-501, ENTITLED "CONTENTS OF THE PLAN"; SPECIFICALLY AMENDING SECTION 62-501, PART XI, ENTITLED FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP SERIES; PROVIDING FOR INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

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

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

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

**WHEREAS**, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

**WHEREAS**, Brevard County initiated amendments and accepted application for amendments to the Comprehensive Plan on July 24, 2020, for adoption as an Out of Cycle Large Scale Comprehensive Plan Amendment 2020-2.1; and

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

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



**WHEREAS,** on January 11, 2021, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 2020-2.1, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

**WHEREAS,** on February 4, 2021, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved the adoption of Plan Amendment 2020-2.1; and

**WHEREAS,** Plan Amendment 2020-2.1 adopted by this Ordinance complies with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

**WHEREAS,** Plan Amendment 2020-2.1 adopted by this Ordinance is based upon findings of fact as included in the data and analysis.

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

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

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

**Section 3. Adoption of Comprehensive Plan Amendments.** Pursuant to Plan Amendment 2020-2.1 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended as specifically shown in Exhibit A. Exhibit A is hereby incorporated into and made part of this Ordinance.

**Section 4. Legal Status of the Plan Amendments.** After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 2020-2.1, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

**Section 5. Severability.** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

**Section 6. Effective Date.** The plan amendment shall become effective once the state land planning agency issues a final order determining the adopted amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(9), or until the Administration Commission issues a final order determining the amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(10). A certified copy of the ordinance shall be filed with the Office of the Secretary of the State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this \_\_\_\_ day of \_\_\_\_\_, 2020.

**ATTEST**

**BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA**

\_\_\_\_\_

By: \_\_\_\_\_

Rachel Sadoff, Clerk

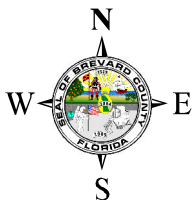
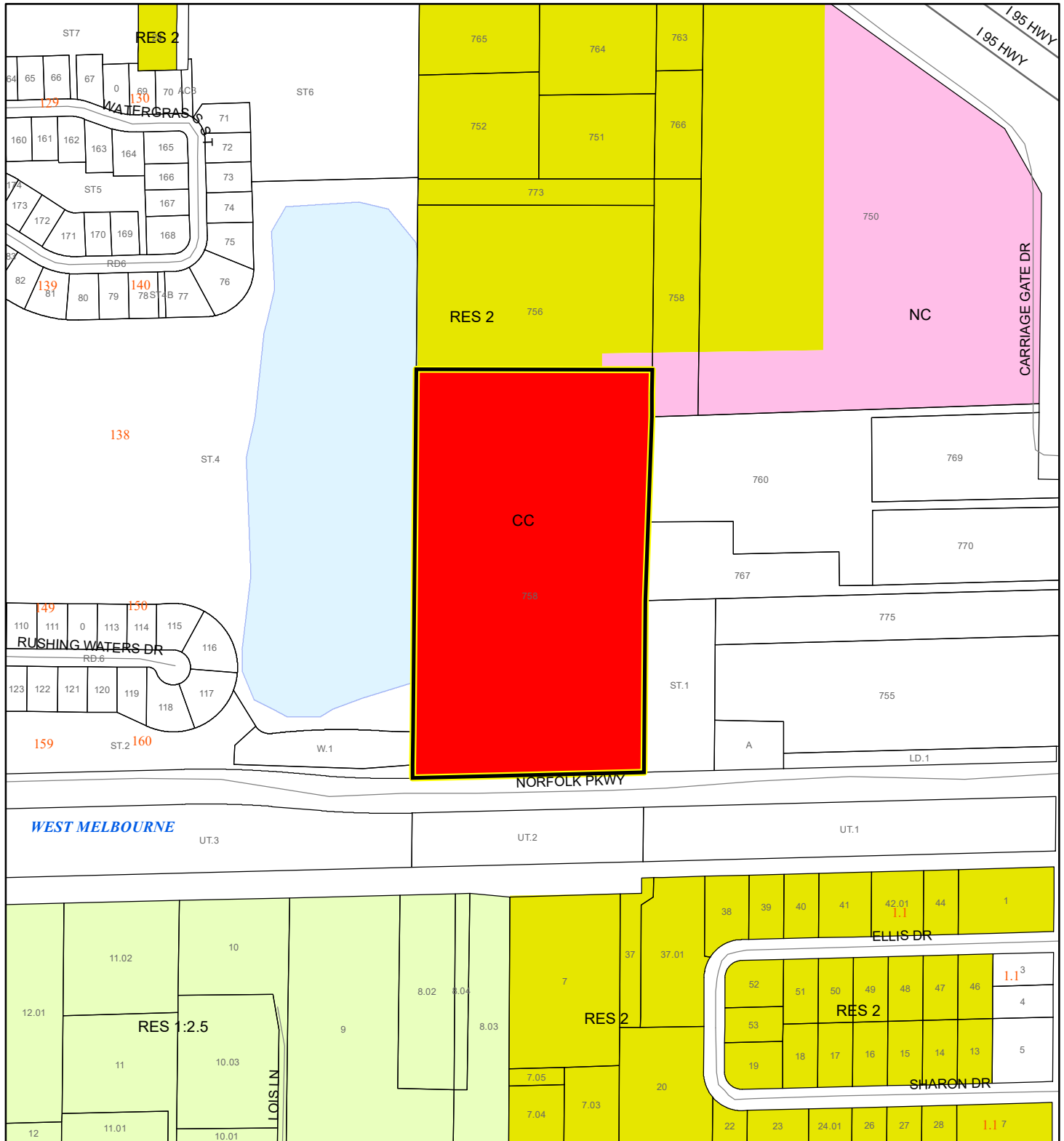
Rita Pritchett, Chair

Approved by the Board on \_\_\_\_\_, 2020.

**LSCPA**  
**Brevard Tower Communications, Inc.**  
**Out of Cycle 2020-2.1**  
**Exhibit A**

# PROPOSED FUTURE LAND USE MAP

Comprehensive Plan Amendment 2020-2.1  
Brevard Tower Communications 20PZ00072



1:4,800 or 1 inch = 400 feet

Subject Property  
 Parcels

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

Produced by BoCC - GIS Date: 7/30/2020

**LSCPA**  
**Brevard Tower Communications, Inc.**  
**Adoption 2020-2.1**  
**State Agency Comments**

**Ron DeSantis**  
GOVERNOR



**Dane Eagle**  
EXECUTIVE DIRECTOR

November 23, 2020

Ms. Cheryl Campbell, Planner III  
Brevard County  
Planning & Development Department  
2725 Judge Fran Jamieson Way, Suite A-114  
Viera, Florida 32940

Dear Ms. Campbell:

Thank you for submitting **Brevard County's** proposed comprehensive plan amendment submitted for our review pursuant to the Expedited State Review process. The reference number for this amendment package is **20-02ESR**.

The proposed submission package will be reviewed pursuant to Section 163.3184(3), Florida Statutes. Once the review is underway, you may be asked to provide additional supporting documentation by the review team to ensure a thorough review. You will receive the Department's Comment Letter no later than December 23, 2020.

If you have any questions please contact Terri Stoutamire, Plan Processor at (850) 717-8513 or Kelly Corvin, Regional Planning Administrator, whom will be overseeing the review of the amendments, at (850)717-8503.

Sincerely,

D. Ray Eubanks, Administrator  
Plan Review and Processing

DRE/ts

cc: The Honorable Bryan Lober, Chair, Brevard County

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399  
850.245.7105 | [www.FloridaJobs.org](http://www.FloridaJobs.org)  
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**Ron DeSantis**  
GOVERNOR



**Dane Eagle**  
EXECUTIVE DIRECTOR

November 23, 2020

Ms. Cheryl Campbell, Planner III  
Brevard County  
Planning & Development Department  
2725 Judge Fran Jamieson Way, Suite A-114  
Viera, Florida 32940

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Sincerely,

D. Ray Eubanks, Administrator  
Plan Review and Processing

DRE/ts

cc: The Honorable Bryan Lober, Chair, Brevard County

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

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

November 6, 2020

**MEMORANDUM**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item H.7., Transmittal Letter for 2020-2.1 Large Scale Comprehensive Plan Amendment Package

The Board of County Commissioners, in regular session on November 5, 2020, conducted the public hearing, executed, and approved the Transmittal Letter for the 2020-2.1 Large Scale Comprehensive Plan Amendment initiated by Brevard Tower Communications, Inc. to amend Part XI, the Future Land Use Element to change the Future Land Use Map Series designation from Residential 2 and Neighborhood Commercial to Community Commercial. Enclosed is the executed Transmittal Letter.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*for Donna Scott*  
Kimberly Powell, Clerk to the Board

Encl. (1)



BOARD OF COUNTY COMMISSIONERS

**Planning & Development Department**

2725 Judge Fran Jamieson Way

Suite A-114

Viera, FL 32940

**Phone:** (321)633-2070

November 5, 2020

Mr. Ray Eubanks  
Plan Processing Administrator Division of Community Planning  
Florida Department of Economic Opportunity  
107 East Madison Street, MSC-160  
Tallahassee, FL 32399-4120

Re: 2020-2 Out of Cycle Large Scale Comprehensive Plan Amendment Transmittal Package

Dear Mr. Eubanks,

Enclosed please find the Transmittal package for the 2020-2 Out of Cycle Large Scale Comprehensive Plan Amendment. There is one private application for amendment being considered for Transmittal: 2020-2.1 submitted by Brevard Tower Communications Inc., more fully described in the attached staff comments for 20PZ00072.

The Local Planning Agency held a public hearing regarding the Transmittal of the 2020-2.1 Comprehensive Plan Amendment on October 19, 2020. The Brevard County Board of County Commissioners approved the Transmittal of the 2020-2.1 Comprehensive Plan Amendment package during a public hearing on November 5, 2020.

Copies of the proposed amendment Transmittal package have been sent to the St. Johns River Water Management District, the East Central Florida Regional Planning Council, the Florida Department of Environmental Protection, the Florida Department of Transportation (District 5), the Florida Department of State, the Florida Game and Freshwater Fish Commission, the Florida Department of Education, the Florida Department of Agriculture and Consumer Services, and the Patrick Air Force Base Military Installation.

The plan amendment's "content and effect" is included in this mailing. Brevard County is submitting the proposed LSCPA under the expedited state review process.

The proposed amendment package is anticipated to be adopted by Brevard County on February 5, 2021.

The proposed amendment package is not within an area of critical state concern.

The proposed amendment package is not within the Wekiva River Protection Area.



The proposed amendments are not being adopted under a joint planning agreement pursuant to Section 163.3171, Florida Statutes.

The contact person for the 2020-2 Plan Amendment package is:

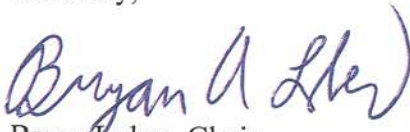
Cheryl Campbell, Planner III  
Cheryl.Campbell@brevardfl.gov  
Planning and Development Department  
2725 Judge Fran Jamieson Way, Building A Viera, FL 32940  
PHONE (321) 633-2070 - FAX (321) 633-2074

A local newspaper of general circulation is:

Florida Today 1 Gannett Plaza  
Melbourne, FL 32940  
(321) 259-5555

In accordance with Florida Statutes, one paper copy and two copies in Portable Document Format (PDF) on the enclosed CD-ROM of the proposed amendment package including all proposed text, maps, and support documents are sent to your office via this transmittal. If you have any questions regarding the enclosed materials, please contact Cheryl Campbell at the above address.

Sincerely,



Bryan Lober, Chair

cc:

Brevard County Board of County Commissioners  
Frank Abbate, County Manager  
Eden Bentley, County Attorney  
Tad Calkins, Director, Planning and Development Department  
East Central Florida Regional Planning Council  
St. Johns River Water Management District  
FDOT District Five Florida Department of Environmental Protection  
Florida Division of Historic Resources  
Florida Fish and Wildlife Conservation Commission  
Florida Division of Agriculture and Consumer Services  
Florida Department of Education  
Patrick Air Force Base Military Installation

## Campbell, Cheryl

---

**From:** Hight, Jason <Jason.Hight@MyFWC.com>  
**Sent:** Thursday, December 3, 2020 9:22 AM  
**To:** Campbell, Cheryl  
**Cc:** DCPexternalagencycomments@deo.myflorida.com; Conservation Planning Services; DiGruttolo, Laura; Cucinella, Josh  
**Subject:** Brevard County Comprehensive Plan Amendment 20-02ESR (2020-2.1)

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

Dear Ms. Campbell:

Florida Fish and Wildlife Conservation Commission (FWC) staff reviewed the proposed comprehensive plan amendment in accordance with Chapter 163.3184(3), Florida Statutes. We have no comments, recommendations, or objections related to listed species and their habitat or other fish and wildlife resources to offer on this amendment.

If you have specific technical questions, please contact Laura DiGruttolo at (352) 433-5499 or [Laura.DiGruttolo@myfwc.com](mailto:Laura.DiGruttolo@myfwc.com). All other inquiries may be directed to our office by email at [ConservationPlanningServices@MyFWC.com](mailto:ConservationPlanningServices@MyFWC.com).

Sincerely,

Jason Hight  
Land Use Planning Program Administrator  
Florida Fish and Wildlife  
Conservation Commission  
620 S. Meridian Street, MS5B5  
Tallahassee, FL 32399  
850-413-6966

Brevard County 20-02ESR\_42907

## Campbell, Cheryl

---

**From:** Steve Fitzgibbons <SFitzgibbons@sjrwmd.com>  
**Sent:** Wednesday, December 16, 2020 8:27 AM  
**To:** Campbell, Cheryl  
**Cc:** 'DCPexternalagencycomments@deo.myflorida.com'  
**Subject:** Brevard County proposed comprehensive plan amendment 20-2ESR

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

Dear Ms. Campbell,

St. Johns River Water Management District (District) staff have reviewed Brevard County proposed comprehensive plan amendment 20-2ESR in accordance with the provisions of Chapter 163, *Florida Statutes*. Based on review of the submitted materials, District staff have no comments on the proposed amendment.

If you have any questions or need additional information, please contact me.

Please note that all proposed and adopted comprehensive plan amendments can be submitted to the District by email at [sfitzgibbons@sjrwmd.com](mailto:sfitzgibbons@sjrwmd.com).

Sincerely,  
Steve Fitzgibbons

Steven Fitzgibbons, AICP  
Intergovernmental Planner  
Division of Strategic Planning and Initiatives  
St. Johns River Water Management District  
7775 Baymeadows Way, Suite 102  
Jacksonville, FL 32256  
Office (386) 312-2369  
E-mail: [sfitzgibbons@sjrwmd.com](mailto:sfitzgibbons@sjrwmd.com)  
Website: [www.sjrwmd.com](http://www.sjrwmd.com)  
Connect with us: [Newsletter](#), [Facebook](#), [Twitter](#), [Instagram](#), [YouTube](#), [Pinterest](#)



[www.sjrwmd.com/epermitting](http://www.sjrwmd.com/epermitting)

We value your opinion. Please take a few minutes to share your comments on the service you received from the District by clicking this [link](#)

### Notices

- Emails to and from the St. Johns River Water Management District are archived and, unless exempt or confidential by law, are subject to being made available to the public upon request. Users should not have an expectation of confidentiality or privacy.
- Individuals lobbying the District must be registered as lobbyists (§112.3261, Florida Statutes). Details, applicability and the registration form are available at <http://www.sjrwmd.com/lobbyist/>





*Florida Department of Transportation*

RON DESANTIS  
GOVERNOR

719 S. Woodland Boulevard  
DeLand, Florida 32720

KEVIN J. THIBAUT, P.E.  
SECRETARY

December 1, 2020

Cheryl Campbell  
Planner III  
Brevard County Planning and Development Department  
2725 Judge Fran Jamieson Way, Building A  
Viera, FL 32940

**SUBJECT: PROPOSED COMPREHENSIVE PLAN AMENDMENT REVIEW**  
**LOCAL GOVERNMENT: BREVARD COUNTY**  
**DEO #: 20-02ESR**

Dear Ms. Campbell,

The Department of Transportation has completed its review of the above Proposed Comprehensive Plan Amendment, as requested in the County's transmittal letter dated November 5, 2020.

We appreciate the opportunity to participate in this review process. The proposed amendment is not anticipated to result in significant adverse impacts to the State Highway System or the Strategic Intermodal System; therefore, The Department does not have any technical assistance comments.

If you have any questions, you may contact me at 386-943-5150 or by e-mail at [Tina.Williamson@dot.state.fl.us](mailto:Tina.Williamson@dot.state.fl.us).

Sincerely,

Tina Williamson, AICP  
Growth Management Coordinator

C: Fred Milch, ECFRPC  
Kellie Smith, FDOT  
Jennifer Carver, FDOT  
Heather Garcia, FDOT

D. Ray Eubanks, FDEO  
Kelly Corvin, FDEO  
Steve Shams, FDOT

**LSCPA**  
**Brevard Tower Communications, Inc.**  
**Out of Cycle 2020-2.1**  
**Adoption Public Comments**

**Legal Advertisements**  
**Citizen Courtesy Sheets, Misc.**

## Comprehensive Plan Citizen Courtesy Information List

**Local Government: Local Planning Agency**

Hearing Date: January 11, 2021

Type Hearing: Adoption RE: 2020-2.1 Out of Cycle Adoption

DCA Amendment Number: 20-02ESR (DEO' Official Use)

**Please Print Clearly**

By providing your name and address you will receive information concerning the date of publication of the Notice of Intent by the Department of Community Affairs.

[illegible]

## Comprehensive Plan Amendment Citizen Courtesy Information List

Local Government: Board of County Commissioners

Hearing Date: February 4, 2021

Type Hearing: Adoption RE: 2020-2.1 Out of Cycle Adoption

DEO Amendment No: 20-02ESR (DEO Official Use)

**Please Print Clearly**

By providing your name and address you will receive information concerning the date of publication of the Notice of Intent by the Department of Economic Opportunity.

[illegible]

**ORDINANCE NO. 20\_\_**

**ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY; ENTITLED "THE COMPREHENSIVE PLAN", SETTING FORTH PLAN AMENDMENT 2020-2.1; AMENDING SECTION 62-501, ENTITLED "CONTENTS OF THE PLAN"; SPECIFICALLY AMENDING SECTION 62-501, PART XI, ENTITLED FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP SERIES; PROVIDING FOR INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

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

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

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

**WHEREAS**, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

**WHEREAS**, Brevard County initiated amendments and accepted application for amendments to the Comprehensive Plan on July 24, 2020, for adoption as an Out of Cycle Large Scale Comprehensive Plan Amendment 2020-2.1; and

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

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



**WHEREAS,** on January 11, 2021, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 2020-2.1, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

**WHEREAS,** on February 4, 2021, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved the adoption of Plan Amendment 2020-2.1; and

**WHEREAS,** Plan Amendment 2020-2.1 adopted by this Ordinance complies with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

**WHEREAS,** Plan Amendment 2020-2.1 adopted by this Ordinance is based upon findings of fact as included in the data and analysis.

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

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

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

**Section 3. Adoption of Comprehensive Plan Amendments.** Pursuant to Plan Amendment 2020-2.1 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended as specifically shown in Exhibit A. Exhibit A is hereby incorporated into and made part of this Ordinance.

**Section 4. Legal Status of the Plan Amendments.** After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 2020-2.1, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

**Section 5. Severability.** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

**Section 6. Effective Date.** The plan amendment shall become effective once the state land planning agency issues a final order determining the adopted amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(9), or until the Administration Commission issues a final order determining the amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(10). A certified copy of the ordinance shall be filed with the Office of the Secretary of the State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this \_\_\_\_ day of \_\_\_\_\_, 2020.

**ATTEST**

**BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA**

\_\_\_\_\_

By: \_\_\_\_\_

Rachel Sadoff, Clerk

Rita Pritchett, Chair

Approved by the Board on \_\_\_\_\_, 2020.



BOARD OF COUNTY COMMISSIONERS

Application Pages  
20PZ00072  
Brevard Tower

**Planning and Development**

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

2020-2.1

**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 # 20PZ00072

Existing FLU: NC & RES2 Existing Zoning: GU

Proposed FLU: CC Proposed Zoning: \_\_\_\_\_

**PROPERTY OWNER INFORMATION**

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

<u>Jack Hurt</u>	<u>Brevard Tower Communications Inc.</u>		
Name(s)	Company		
<u>405 Newfound Harbor Drive</u>	<u>Merritt Island</u>	<u>FL</u>	<u>32952</u>
Street	City	State	Zip Code
<u>jhurt@cfl.rr.com</u>	<u>407-679-1748</u>		
Email	Phone	Cell	

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☒ Contract Purchaser ☐ Other \_\_\_\_\_

<u>Andy Gardner</u>	<u>Condev Properties, LLC</u>		
Name(s)	Company		
<u>921 N Pennsylvania Avenue</u>	<u>Winter Park</u>	<u>FL</u>	<u>32789</u>
Street	City	State	Zip Code
<u>andyg@condevfl.com</u>	<u>407-679-1748</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: \_\_\_\_\_

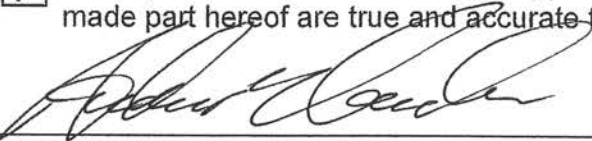
Acreage of Request: 17.5

Reason for Request:

Development for Storage Facility to include paving, stormwater, utilities and landscape.

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

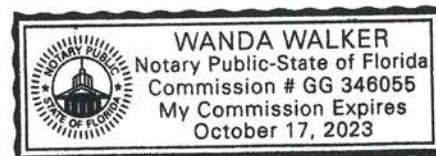
02/18/2020  
\_\_\_\_\_  
Date

State of Florida  
County of Brevard

Subscribed and sworn to me before me this 18<sup>th</sup> day of, February, 2020  
personally appeared Andrew Gardner, who is personally known to me or  
produced personally known as identification, and who did / did not take an oath.

  
\_\_\_\_\_  
Notary Public Signature

Seal



**Office Use Only:**

Accela No. 20P100072 Fee: 7,859.00 Date Filed: 7/24/20 District No. 3

Tax Account No. (list all that apply) part of 2802674 + 2802676

Parcel I.D. No.

28 36 13 00 756  
Twp Rng Sec Sub Block Lot/Parcel

Planner: Cheryl W. Campbell Sign Issued by: n/a Notification Radius: 500'

**MEETINGS**

**DATE**

**TIME**

☐

P&Z

\_\_\_\_\_

\_\_\_\_\_

☐

PSJ Board

\_\_\_\_\_

\_\_\_\_\_

☐

NMI Board

\_\_\_\_\_

\_\_\_\_\_

☒

LPA

October 19, 2020  
tentative Jan. 11, 2021

transmittal  
3:00 p.m. Adoption

☐

BOA

\_\_\_\_\_

\_\_\_\_\_

☒

BCC

Nov. 5, 2020  
tentative Feb. 4, 2020

Transmittal  
5:00 p.m. Adoption

Wetland survey required by Natural Resources ☐ Yes ☐ No Initials \_\_\_\_\_

~~Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?~~ NO

☒

Yes

☐

No

If yes, list Jeanne Allen

Location of subject property:

Description of Request:



**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:**

\_\_\_\_\_ Small-scale Comprehensive Plan Future Land Use Map Amendment

X \_\_\_\_\_ Large-scale Future Land Use Map Amendment

\_\_\_\_\_ Comprehensive Plan Text Amendment  
Plan Element(s) of Text Amendment request: \_\_\_\_\_

**2. Applicant:** Brevard Tower Communications Inc. **Staff Planner:** Cheryl W. Campbell

**3. Comprehensive Plan Amendment Information:**

Adopted Future Land Use Designation: NC & RES 2  
Requested Future Land Use Designation: CC  
Existing Zoning: GU (BU-2 requested)

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.

subject property has a GU zoning with a RES 2 & NC land use. It is proposed to construct an RV and Boat Storage Facility. This will require a BU-2 Zoning. In order to be compatible, the land use must be revised to CC.

(use additional sheets if necessary)



SCHEDULE B - II

Old Republic National Title Insurance Company  
FILE NO. 19129417 LLC

Exceptions

Items 1 through 6 are standard exceptions

7. Subject property lies within the boundaries of the Melbourne-Tillman Drainage District and is subject to the rules and regulations thereof, and may be subject to future assessments by same, including, but not limited to those matters filed of public record as set forth in O.R. Book 3074, Page 2296, and O.R. Book 3074, Page 2312, Public Records of Brevard County, Florida.

*The surveyed property is located with the boundaries of the Melbourne-Tillman Drainage District.*

8. Terms, covenants, conditions, permanent easements, and other matters contained in Easement and Right of Way for Ingress, Egress and Use of Transmitter for Radio and Television Tower and Towers from GCOM, Inc. to CellCom, Inc. recorded in O.R. Book 3103, Page 1100, Public Records of Brevard County, Florida.

*This is a blanket Easement over the entire lands surveyed.*

9. Pipeline Easement in favor of Florida Gas Transmission Company recorded in O.R. Book 3337, Page 2717, Public Records of Brevard County, Florida.

*This easement is located 20' each side of the gas main. The surveyor did not observe any evidence of the gas main and believes that it is located south of the Norfolk Parkway and outside of the boundary of the lands surveyed.*

10. Terms, covenants, conditions, and other matters contained in Settlement Agreement by and between Bertram Schild, individually and as Trustee, Frederick Zacharias, individually and as Trustee, Brevard Tower Communications, Inc., Jack D. Hurt and Jackie D. Hurt, and Melbourne Fill and Material, Inc., under Case No. 05-1990-CA-010440 in the Circuit Court for Brevard County, Florida, as recorded in O.R. Book 5224, Page 1563, and re-recorded in O.R. Book 5524, Page 1591, Public Records of Brevard County, Florida.

*The property is subject to this Settlement Agreement but does not contain any easements or encumbrances.*

11. Intentionally deleted.

12. Terms, covenants, conditions, easements, and other matters contained in Communications Site Lease Agreement dated December 1, 2005 by and between Brevard Tower Communications, Inc. and Nextel South Corp. as evidenced by Memorandum of Agreement recorded in O.R. Book 5832, Page 2929, Public Records of Brevard County, Florida.

*This agreement is over those lands surveyed and shown hereon as "PART OF PARCEL 1 PER O.R. BOOK 3277, PAGE 0924". Under the terms and condition, it was only valid for 5 years from June 1, 2007. The surveyor has no knowledge if the agreement has been extended and is still valid.*

13. Terms, covenants, conditions and other matters contained in any unrecorded Lease(s) and all rights thereunder of the Lessee(s) and of any person claiming by through or under the Lessee(s).

*Standard agreement. The surveyor did observe that the existing building on the property was being utilized, but has no knowledge of by whom or by what authority.*

14. Riparian and littoral rights are not insured.

*Standard exception*

15. Intentionally deleted.

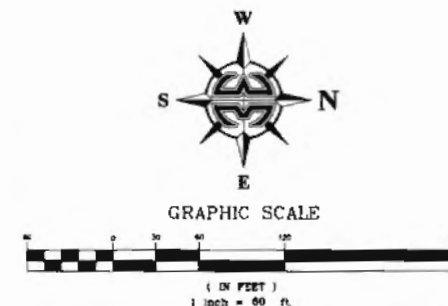
16. Intentionally deleted.

## Legal Description:

(Per Old Republic National Title Insurance Company File No.: 19129417 LLC)

A portion of the lands described in Official Records Book 3277, Page 924, of the Public Records of Brevard County, Florida, said lands lying in Section 13, Township 28 South, Range 36 East and being more particularly described as follows:

Beginning at the Southwest Corner of Tract ST-1, Sawgrass Lakes Phase One, according to the plat thereof, as recorded in Plat Book 60, Pages 52 through 63 of the said public records, said point being the POINT OF BEGINNING; thence South 89 degrees 32 minutes 31 seconds West, along the North right-of-way line of Norfolk Parkway, per said Sawgrass Lakes Phase One, a distance of 662.33 feet to the Easterly line of said Sawgrass Lakes Phase One; thence North 01 degrees 30 minutes 06 seconds East, along said East line, a distance of 1,151.77 feet; thence leaving said line, North 89 degrees 32 minutes 54 seconds East, a distance of 662.19 feet to the East line of Parcel 1 of said Official Records Book 3277, Page 924; thence South 01 degrees 29 minutes 41 seconds West, along the East line of said Parcel 1 and the East line of Parcel 2 of Official Records Book 3277, Page 924, a distance of 1,151.69 feet to the POINT OF BEGINNING.

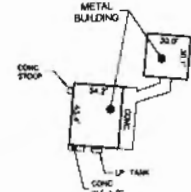


TRACT ST-4  
SAWGRASS LAKES PHASE ONE  
P.B. 60, PG. 52-63

N 01°30'06" E 1151.77'

SUBJECT PROPERTY  
17.50 ACRES

PARCEL 2  
PER O.R. BOOK 3277, PAGE 0924



P.O.B.  
SW CORNER OF TRACT ST-1

TRACT ST-1  
SAWGRASS LAKES PHASE ONE  
P.B. 60, PG. 52-63

LANDS DESCRIBED IN  
PER O.R. BOOK 5746, PAGE 0279

LANDS DESCRIBED IN  
PER O.R. BOOK 5739, PAGE 3388

PARCEL 2  
PER O.R. BOOK 3277, PAGE 0924

LEGEND:	SYMBOL	DESCRIPTION
ADJACENT PROPERTY	---	ADJACENT PROPERTY
POINT OF BEGINNING	●	POINT OF BEGINNING
POINT OF TANGENCY	○	POINT OF TANGENCY
POINT OF INTERSECTION	+	POINT OF INTERSECTION
POINT OF REVERSE CURVATURE	⊙	POINT OF REVERSE CURVATURE
ADJACENT PROPERTY	---	ADJACENT PROPERTY
POINT-OF-BEGINNING	●	POINT-OF-BEGINNING
POINT-OF-TANGENCY	○	POINT-OF-TANGENCY
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POINT-OF-TANGENCY	○	POINT-OF-TANGENCY
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## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 11, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Joe Buchanan; and Peter Filiberto, Vice Chair.

Staff members present were: Tad Calkins, Planning and Development Director; George Ritchie, Planner III; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Large Scale Plan Amendment 2020-2.1**

A proposal by Brevard Tower Communications, Inc., to amend Part XI, the Future Land Use Element to change the Future Land Use Map Series designation from RES 2 (Residential 2) and NC (Neighborhood Commercial) to CC (Community Commercial). The property is 17.5 acres, located on the north side of Norfolk Pkwy., approx. 0.23 mile west of Minton Rd. (No assigned address. In the Melbourne area.)

#### **Brevard Tower Communications, Inc. (Bruce Moia)**

A change of zoning classification from GU (General Use) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and removal of a CUP (Conditional Use Permit) for Tower and Antenna. The property is 17.5 acres, located on the north side of Norfolk Pkwy., approx. 1,200 ft. west of Minton Road. (Parcel 756 = 3545 Carriage Gate Dr. Unit Tower, Melbourne; Parcel 758 (part) = No assigned address. In the Melbourne area.) (20Z00015) (Tax Accounts 2802674 and 2802676) (District 5)

Bruce Moia stated in October the board recommended transmittal of the land use request to the State, and there have not been any objections from any of the State agencies. He stated he held a meeting with the Sawgrass Lakes subdivision residents, and as a result of that meeting, he has provided the board with a draft BDP (Binding Development Plan) that he feels addresses most of the concerns. He said boat and RV storage is in high demand in the area and he feels it is the best use for the property because it's the least impactful and lowest intense use, especially with traffic. He handed the board a comparison of what could be developed on the property currently and what is actually being proposed. [The document Mr. Moia handed out can be found in file 20Z00015, located in the Planning and Development Department] He stated the proposed project would be five times less traffic than single-family residential development. Boat and RV storage is rarely accessed because when people take the boats out it is early in the morning and they do not come back until the evening. He said it will be a nice facility with paved drives and covered storage spaces; it will be well run and secure; it will be lit appropriately for safety; and there will be rules in place so people don't do things they aren't supposed to do. He said with the conditions in the BDP, he feels it's a good project and he hopes to have the board's support.

Ben Glover stated the applicant has agreed to do a 50-foot buffer along the west and north boundaries, and asked if a six-foot wall is facing the community. Mr. Moia replied yes, there is low-density residential to the north, and very high-density residential to the west. The site is very wooded along those borders and he would rather keep the natural, 30 to 40-foot opaque buffer, and maintain it instead of removing a lot of it just to put up a six-foot wall, which really won't do anything because the site is on a hill.

Mr. Glover asked if there were any other items that came from the meeting with the neighbors that he felt was a compromise. Mr. Moia replied he put a cap on the number of units, and agreed to do any necessary traffic improvements to the road to make sure it met any warranted improvements for safety, things like turn lanes. He noted it is a public road maintained by the City, and even though the property is in the County, they would have to get City permission to do any improvements, but they're willing to do anything that would be warranted, and maybe even some things that aren't warranted. He stated the only thing there was some discussion on that they couldn't come to some kind of consensus was what is to prevent the property from contaminating the groundwater that would end up going to the lake that's on the border of the west property, which belongs to the homeowner's association. He said he felt that's not an issue because there will be dry retention, so anything that goes on the ground will get trapped in a dry retention pond and filter through the soil, and there will be a lot less vehicles on the subject property than the subdivision itself has that they use on a regular basis. He said he doesn't think that would happen because most of the vehicles don't even have fuel in them, such as fifth-wheels and travel trailers. The property will be secured and monitored with cameras, so if anything like that happens it will be addressed right away.

Joe Buchanan stated storage is an obligation in that area because there are very few places to keep boats and RV's. With 17 acres and 350 boats, it is only movement of 20 to 30 in a day, so it's not going to be a great impedance to Minton Road. He said the applicant did the homework and answered most of the objections from the neighbors.

Mr. Moia stated the lighting was something that was also discussed because there is a very strict code requirement that light cannot spill outside of a property, so photometric plans will be provided.

Mr. Buchanan stated if there's no sewage dump permitted in that area, unless it was a sewer connection, there isn't a problem other than rainwater. Mr. Moia said that is correct, but they would like to reserve the ability to have a dump station if the City of West Melbourne gives them connection to sewer.

Peter Filiberto stated during the last meeting, Mr. Bartcher mentioned the septic on the property and it being a previous landfill, but Mr. Moia had said there would be an aboveground septic system. Mr. Moia replied it would probably be a mounded and pumped system, but it would have to meet the Environmental Health requirements. It would hardly be used; it would just be for the security guard.

Mr. Buchanan noted the BDP stipulates no overnight stays. Mr. Moia replied that is correct, the storage will be on a contract basis.

[Mr. Carswell's presence was noted]

Ron Bartcher asked if the State agencies knew the property was an illegal dump site when they made their evaluations.

Tad Calkins stated staff sent the request to all of the State agencies, and in regard to the dump site, the FDEP (Florida Department of Environmental Protection) website has the site identified, and they are one of the reviewing agencies, and there were no comments from them. The FDEP does have guidelines for developing properties that have landfills on them, and that may be something the board may want to consider as part of the BDP if Mr. Moia is agreeable.

Mr. Bartcher asked Mr. Moia if he has looked at those guidelines. Mr. Moia replied he has not, but he would agree to read the guidelines and add it to the BDP.

Mr. Bartcher stated he is concerned about the fact that it's an old dump site, especially with construction debris, because no one knows what's in it, if it is treated wood, if it has arsenic, or if it's asbestos shingles, so there should not be any disturbance.

Mr. Moia stated they don't want to disturb it; it would probably be similar to when the road was built over top of it, they didn't want to disturb it either because it's very costly and hard to do. He said it is not part of the proposal to un-earth anything.

Mr. Bartcher asked if the 50-foot natural vegetative buffer is already there. Mr. Moia replied yes, it is already there and in order to develop the property to make it viable they would leave 50 feet on the west side and 50 feet on the north side.

Public comment.

Don Curry, 3461 Watergrass Street, West Melbourne, asked if Mr. Moia is a member of the Planning and Zoning Board and if so, how does the board handle an applicant that is also a board member.

Peter Filiberto confirmed Mr. Moia is a member of the board, but the board judges fairly what comes before it, and just because Mr. Moia is a member of this board doesn't mean he will be shown favoritism.

Stephen Phrampus, 3401 Watergrass Street, West Melbourne, stated he is one of the directors of the Sawgrass Lakes Master Association and the representative of over 800 property owners, soon to be 933 upon completion. He said he is also a West Melbourne Councilman and he understands that boards need to hear and review requests without pre-determined opinions, and need to consider the facts presented by staff, the requestee, and the opposition. He stated the developer will say the research indicates that boat and RV storage is needed and is a good fit for the surrounding communities, and they will also say they met with the residents and made concessions based on those meetings. He said the meeting with the developer was requested on short notice and held on December 26<sup>th</sup>, at the Sawgrass Lakes clubhouse. The overall resident opinion was that the developer was checking off a box to present to the County Commissioners and this board, and any so-called concessions were pre-conceived and presented, not objectively discussed. They implemented an offensive strong-armed reasoning tactic of saying they could build a concrete block wall instead of a tree buffer, and the residents found that very offensive. He noted that would be in lieu of the hundreds of feet of tree buffer that is currently there and could be lost. He stated the developer's environmental report dated December 2019 indicates no eagles nest within one mile and the occasional presence of wading birds. This information is factually not true; there is an eagle's nest within a mile on Sawgrass Lakes property, along with the daily occurrence of a wading bird and a roosting sanctuary on the shoreline of the subject property, and if all of those trees are removed all of that is going to go away. He said the developer will say that only concrete and road construction waste have been buried on this site; however, the Universal Science Phase One Environmental Site Assessment report dated December 2004 indicates that during operational periods of the landfill, solid waste items such as paint cans, tires, automobile engine parts, and household trash were accepted by the site. The developer's report from KSM Engineering indicates the sub-surface investigation was terminated after three to five feet in multiple locations because of debris, and

recommends either the debris be removed or an adjacent site be utilized. As a recap of what County Commissioners have already invested in this property in 1992, the County closed the landfill at a cost of \$400,000 to meet EPA regulations and paid the current property owner for the lost services, which is why it is currently a sanctuary-type property, no thanks to the property owner. The property also provides a sound barrier to the traffic noise of I-95, which would be lost with the removal of hundreds of feet of trees. He noted the property was denied support from the City of West Melbourne when asked to supply water and sewer, along with the possibility of annexation, which was prior to his tenure on the Council. This proposal has become known as the great lighted parking lot on the hill, as it is 30 – 40 feet above the surrounding residential area. When residents purchased their homes, they did so with the understanding that the zoning of the landfill area was extremely limited. A parking lot abutting the subdivision was not a consideration. As stated by a board member at the October Planning and Zoning meeting for the transmittal of the property, there is already a traffic problem on Minton Road, the applicant is not using available commercial property already in the area, and it's not a project recommended by the Comprehensive Plan. A large scale comprehensive plan amendment requires a property of this size to be located on a principal artery intersection; however, it is located at the top of a hill at a dead end and urban street with a blind driveway. Even though the transmittal report states there is no traffic data available, the Minton Road feasibility study rates the current intersection at Minton and Norfolk as an 'F' during the morning traffic hours. Sawgrass Lakes residents have nothing to gain and only to lose if the proposal goes through.

End of public comment.

Ron Bartcher stated in one of the emails sent by a Sawgrass Lakes resident it was noted that an inspector conducted a survey on the site. He asked if the inspector provided a report. Mr. Phrampus replied that was in reference to some of the reports presented by the developer. KSM Engineering did an environmental study that he mentioned some of the facts from, but it wasn't brought out by the developer because it didn't favor the proposal.

[Ian Golden's absence was noted]

Mr. Moia stated he thought the neighborhood meeting was productive and thought they discussed every issue that was possible to discuss, and the meeting was very well attended by the residents. He agreed the meeting was held around the holidays with short notice, but he appreciated the residents attending on short notice. He stated the intent is not to disturb the landfill; a road was built over the landfill and anything that is there has been there for a long time. He said he feels the proposed development limits disturbing it more so than any other possible use, and it would be a different story if houses were built on the property and in 30 years the residents would have issues. He went on to say people will access the property outside of peak hours; the road does not have issues off of peak hours, only during peak hours. He said he believes he has addressed all of the issues; the property will be disturbed as little as possible, and nothing will be un-earthed that will cause a problem because it's not in their best interest, so as much as possible will be preserved.

Ben Glover asked how the stormwater will be managed. Mr. Moia stated they are going to work within the topsoil, filling on top of it, but not get into anything within any reasonable distance of the material that would cause an issue with the DEP or any other agency.

Mr. Filiberto asked if the material is three to four feet beneath the ground. Mr. Moia replied it is three to five feet beneath the ground.



Mr. Filiberto noted the Florida Fish and Wildlife Commission reviewed the request and had no objections, comments, or recommendations toward this project, nor did the St. Johns River Water Management District, Florida Department of Transportation, and the Florida Department of Environmental Protection.

Brian Hodggers stated Mr. Moia mentioned many times that the proposed project is the lowest impact, and asked if there have been other potential uses proposed by the seller that could be less impactful than what he's trying to do. Mr. Moia replied the only other use he knows of that could be done is single-family residential or a private golf course, and maybe one or two other uses that are not really development.

Mr. Hodggers asked staff to confirm that the property has a RES 2 Future Land Use designation.

Tad Calkins replied the land use is RES 2 and CC (Community Commercial), the largest portion of the property is the RES 2, it's just the eastern piece along the property line that is CC. The current zoning classification is GU (General Use) and allows one unit per five acres. Under the current zoning, they would be allowed to have three homes on the property. They could change the zoning to be something that would be compatible with RES 2 without going through the large scale amendment, and then have up to two units per acre.

Mr. Bartcher stated he can't imagine any builder building a house or any buyer who would be willing to buy a house on an old dump site, so comparing it to what residential impacts would be is facetious because it's not going to happen.

Mr. Glover asked if the property should sit vacant forever. Mr. Bartcher replied he doesn't see that as a bad thing. In reality, it's almost like having a park that's not used by anybody. Environmentally, it's a nice place with a lot of trees. He said in terms of what else can be done, Mr. Moia has made some serious commitments to avoid potential problems, and if he's willing to go ahead and follow the DEP guidelines for building on top of a site, that would be very helpful. He said his concern is how deep is the debris; and noted that Mr. Moia said it's three to five feet, but erosion over the years could have deteriorated the ground cover down 18 inches or a foot. He asked if the septic tank already existing on this property. Mr. Moia replied no. Mr. Bartcher stated a mounded septic wouldn't disturb the soil. Mr. Moia agreed.

Mr. Bartcher stated by taking the mounded septic into account, plus the DEP's guidelines, if Mr. Moia is willing to put that in the BDP, there could be a potential use for the property. He said he still has concerns about the fact that there is a traffic problem, but if the hours could be limited to non-peak hours, that would help alleviate the problem.

Harry Carswell asked what will be built on the site. Mr. Moia replied there will be paved driveways and probably gravel or stabilized parking spaces.

Joe Buchanan stated he was raised in a house that was on top of a garbage dump; the community is still there today and it's a nice place to live. He said there are a lot of things that can be done with land, but with this particular property it looks like the developer has chosen the best use.

Mr. Filiberto stated as far as traffic, a storage facility would only increase to 81.94% capacity, so the traffic increase would only be 1.29% from where it is currently.

Mr. Hodgers stated with regards to the traffic impact, Mr. Bartcher mentioned is that he's concerned about that, and one of the statistics the gentleman brought up was there are another 100 or so homes that are going to be built in that area, so they are already living there, but they are concerned about the traffic impact, but more homes will raise that traffic impact more than a storage facility.

Mr. Glover asked if Mr. Moia would agree to add the FDEP regulations to the BDP. Mr. Moia replied yes.

Mr. Carswell stated he is a firm believer in property rights and he doesn't see any reason to take away the subject property owner's rights. He said the proposed project is a perfect fit for the neighborhood.

Motion by Harry Carswell, seconded by Joe Buchanan, to approve the adoption of the Large Scale Plan Amendment proposed by Brevard Tower Communications, Inc., to change the Future Land Use Map Series designation from RES 2 and NC to CC. The motion passed 4:2, with Bartcher and Glover voting nay.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of zoning classification from GU to BU-2, and removal of a CUP for Tower and Antenna, with a BDP (Binding Development Plan) submitted by the applicant stipulating the following: 1.) to develop the property as a boat and RV storage facility and related ancillary services and facilities; 2.) to provide a 50-foot buffer along the west and north boundaries of the property, in lieu of a six-foot wall; 3.) to limit the number of outdoor storage spaces to 350; 4.) to limit ingress and egress to Norfolk Parkway; 5.) to prohibit a sewage dump station unless public sewer connection is obtained; 6.) to limit outdoor lighting to 17 feet in height from grade to bottom of fixture; 7.) to provide a westbound turn lane if warranted and approved by the City of West Melbourne; 8.) to prohibit overnight stays within the stored vehicles. The board further stipulated the BDP to include that the developer/owner shall comply with the FDEP Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida. The motion passed unanimously.



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.3.

2/4/2021

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### **Subject:**

Brevard Tower Communications, Inc. (Bruce Moia) requests a change of zoning classification from GU to BU-2. (20Z00015) (Tax Accounts 2802674 and 2802676) (District 5)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from GU (General Use) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

### **Summary Explanation and Background:**

The applicant is requesting a change of zoning classification from GU (General Use) with a Conditional Use Permit (CUP) for Towers and Antenna to BU-2 (Retail, Warehousing and Wholesale Commercial) and the removal of the CUP for Towers and Antenna. The applicant's request is for the development of a storage facility which could be performed under the BU-2 request pursuant to Section 62-1833.5 Contractors' offices, plants and storage yards.

The existing tower is located to the north and outside of this zoning action's legal description. The applicant does not wish to retain the CUP over this property description. The property is also known to contain an unlicensed landfill. Brevard County entered into a Settlement Agreement on March 25, 1991 to close the site. The landfill operation ran from January 1984 through December 1991.

The subject property contains the NC (Neighborhood Commercial) and RES 2 (Residential 2) FLU (Future Land Use) designations. Although the existing GU zoning is consistent with both FLU designations, the proposed BU-2 zoning requires the CC (Community Commercial) FLU designation. A companion LSCPA request proposed under 20PZ00072 has been submitted to amend the current FLU designations to CC. If that request is approved, this request can be heard.

The developed character of the surrounding area is mostly vacant/unimproved land. To the north is a developed single-family lot zoned AU (Agricultural Residential). There is also a developed communication tower on GU zoning. To the east is a vacant GU zoned parcel and city zoned parcels which are vacant/unimproved. To the south is the Norfolk Parkway road right-of-way. To the west is a large retention tract/lake for the Sawgrass Lakes community. The four adjacent city zonings abutting this area allow for residential, intuitional and commercial use.

On January 11, 2021, the applicant submitted a BDP with the following stipulations: 1.) to develop the property as a boat and RV storage facility and related ancillary services and facilities; 2.) to provide a 50-foot buffer along the west and north boundaries of the property, in lieu of a 6-foot wall; 3.) to limit the number of outdoor storage spaces to 350; 4.) to limit ingress and egress to Norfolk Parkway; 5.) the site shall be developed as a Boat & RV storage facility and related ancillary service and facilities; 6.) to prohibit a sewage dump station unless public sewer connection is obtained; 7.) to limit outdoor lighting to 17 feet in height from grade to bottom of light fixture; 8.) to provide a traffic study detailing any required roadway improvements including, but not limited to a right turn lane, at the time of site plan submittal. If an improvement is warranted, and approved by the City of West Melbourne, it shall be constructed accordingly; 9.) to prohibit residing and overnight stays within the stored vehicles.

On January 11, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval with a BDP as presented, and further stipulated that the developer/owner comply with the FDEP Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida.

The Board may wish to consider whether this request is consistent and compatible with the surrounding area and the whether the proposed BDP limitations mitigate potential impact.

### **Clerk to the Board Instructions:**

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

# **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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



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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

- (c) General Standards of Review.

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

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

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

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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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

### STAFF COMMENTS

20Z00015

**Brevard Tower Communications Inc.**

**GU to BU-2 with removal of CUP for Towers and Antenna**

Tax Account Number: 2802674 & 2802676  
Parcel I.D.: 28-36-13-00-756 and 758  
Location: North side of Norfolk Parkway, 1,200 feet west of Minton Road (District 5)  
Acreage: 17.5 acres

Planning and Zoning Board: 01/11/2021  
Board of County Commissioners: 02/04/2021

### Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
<b>Zoning</b>	GU with CUP for towers and antenna	BU-2 with removal of CUP
<b>Potential*</b>	Two single-family lots	213,444 square feet
<b>Can be Considered under the Future Land Use Map</b>	Yes NC & RES 2	No NC & RES 2 Yes** Community Commercial

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*There is a Large-Scale Future Land Use Map (FLUM) amendment companion application under **20PZ00072** which proposes to change the NC and RES 2 Future Land Use (FLU) designations to Community Commercial FLU.

### Background and Purpose of Request

The applicant is requesting a change of zoning classification from GU (General Use) with a Conditional Use Permit (CUP) for Towers and Antenna to BU-2 (Retail, Warehousing and Wholesale Commercial) and the removal of the CUP for Towers and Antenna.

The CUP for towers and antenna approved under **Z-6769** was adopted on July 12, 1984. The existing tower (480-foot tall) is located to the north and outside of this zoning action's legal description. The applicant does not wish to retain the CUP over this property description. The GU zoning is original zoning dating back to May 22, 1958. The property is also known to have had an



unlicensed landfill at this location. Brevard County entered into a settlement Agreement on March 25, 1991 to close the site. The landfill operation activity started in January, 1984 and was terminated on December 31, 1991.

## **Land Use**

The subject property contains the Neighborhood Commercial (NC) and Residential 2 (RES 2) FLU designations. Although the existing GU zoning is consistent with both FLU designations, the proposed BU-2 zoning requires the Community Commercial (CC) FLU designation. A companion request proposed under **20PZ00072** will attempt to amend the current FLU designations to the CC FLU. If that request is approved, this request can be heard. If the FLUM request is denied, this action should be withdrawn by the applicant or denied by the Board.

## **Environmental Constraints**

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

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Minton Road, between Hield Road to Eber Boulevard, which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, a Level of Service (LOS) of D, and currently operates at 80.65% of capacity daily. The maximum development potential from a proposed shopping center use would increase the percentage of MAV utilization by 22.85%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 103.5% of capacity daily (LOS F). The proposal is anticipated to create a deficiency in LOS. If the applicant binds the property under a Binding Development Plan to mini-storage use only, the traffic potential would increase only 1.29% thereby reducing potential traffic demand to 81.94% capacity (LOS C).

No school concurrency information has been provided as the project is not intended for residential uses.

The parcels currently do not have access to either potable water or sanitary sewer. In the future, the parcels may be able to obtain potable water from the City of West Melbourne. If they can connect to the main located on the south side of the Norfolk Parkway.

## **Applicable Land Use Policies**

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

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.** This site contains the RES 2 (3.5 acres) and NC (14.0 acres) FLU designations from Brevard County. If the accompanying request under **20PZ00072** which proposes to change the NC and RES 2 Future Land Use (FLU) designations to Community Commercial FLU is approved, the BU-2 zoning classification would become a potential option for Board approval.

The BU-2 retail, warehousing and wholesale commercial zoning classification encompasses lands devoted to general retail and wholesale business, contracting and heavy repair services and warehousing activities. The adjacent county zoning is residential, AU and GU zoned parcels.

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

The GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

Adjacent city zoning is a mixture of RLS, R-1A, P-1 and C-1. RLS use allows single-family dwellings and may include duplexes, townhomes, garden apartments and similar low to medium density residential dwelling units. The principal use in the R-1A single-family residential district are single-family dwellings. The principal uses in the P-1 institutional district are as follows: (1) Public and semipublic buildings and activities. (2) Public elementary, junior, middle, and high schools and learning centers. (3) Health institutions, including hospitals, clinics, nursing and convalescent homes, homes for the elderly, children's homes and adult congregate living facilities. (4) Cultural institutions. The C-1 low density commercial district allows the following uses: (1) Retail stores, sales and display rooms, except automotive and similar uses, including places in which goods are produced and sold at retail upon the premises. (2) Personal service establishments such as beauty shops and barbershops, laundry and dry cleaning pickup stations, tailor shops and similar uses. (3) Professional offices, studios, clinics, laboratories, general offices, business schools and similar uses. (4) Hotels, motels and guest cottages. (5) Eating and drinking establishments. (6) Vocational and trade schools not involving operations of an industrial nature. (7) Banks and financial institutions. (8) Public and private parking lots and garages. (9) Telephone switching stations, electrical substations, and similar operational equipment used by public utilities.

There does not appear to be any emerging development trends in the existing area located north or east of this site.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The subject parcel abuts a large retention tract/lake to the west. A developed single-family residence is located to the north together with an abutting site developed with a communication tower. To the east are multiple properties that are/may be used as a private school/learning center.

Buffering the proposed development from adjacent residential sites, a site plan condition, can be performed by providing a six-foot high masonry wall. The Board can request additional buffers and/or setbacks to assist in buffering existing development from any negative effects of this site's development.

### **Surrounding Properties**

The developed character of the surrounding area is mostly vacant/unimproved land. To the north is a developed single-family lot zoned Agricultural Residential (AU). There is also a developed communication tower on General Use (GU) zoning. To the east is a vacant GU zoned parcel and city zoned parcels which mostly seem to be vacant/unimproved. To the south is the Norfolk Parkway road right-of-way. To the west is a large retention tract/lake for the Sawgrass Lakes community.

The applicant's request is for the development of a storage facility which could be performed under the BU-2 request pursuant to Section 62-1833.5 Contractors' offices, plants and storage yards. This use identified under subsection (a) requires: Storage yards to be enclosed with a six-foot wall, louvered fence or chain-link fence (outside of structures).

The four adjacent city zonings abutting this area allow for residential, institutional and commercial use. The 2016-2020 aerials do not reflect any current development pattern except for the residential subdivision buildout (west) of this parcel in the immediate neighborhood.

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

### **For Board Consideration**

The Board may wish to consider whether this request is consistent and compatible with the surrounding area and the history of the property.

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

**Item # 20Z00015**

**Applicant:** Andy Gardner for Jack Hunt

**Zoning Request:** GU to BU-2; Removal of CUP for Tower & Antenna

**Note:** Applicant wants RV and boat storage facility.

**P&Z Hearing Date:** 01/11/21; **BCC Hearing Date:** 02/04/20

**Tax ID Nos:** 2802676 & portion of 2802674

- 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:**

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

**Land Use Comments:**

**Wetlands**

The subject parcel contains mapped NWI (Freshwater emergent wetlands) as shown on the NWI Wetlands map, an indicator that wetlands may be present on the property. A wetland delineation was performed in December 2019 by Andrew Conklin Environmental Services, LLC (ACES), and found approximately 0.22 acres of wetlands in the northeast corner of the parcel.

Per Section 62-3694(3), commercial and industrial land development activities shall be prohibited in wetlands contained in properties designated on the Future Land Use Map as commercial or industrial, and in surrounding upland buffers for such wetlands, except as provided below for I-95 interchanges, mitigation qualified roadways, abutting properties, and access to uplands. In no instance shall a proposed land development activity result in increased flooding on adjacent properties. Where the State does not require a buffer, wetland buffers shall be established in accordance with Section 62-3694(c)(10). Where impacts are permitted, the applicant is encouraged to propose innovative wetland preservation alternatives. Where the State does not require mitigation for any wetland impact, mitigation shall be provided to meet the County's no net loss policy as defined in Section 62-3696. 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.

### **Aquifer Recharge Soils**

A small area of the parcel contains mapped aquifer recharge soils (Palm Beach 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.

### **Protected and Specimen Trees**

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may reside on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

### **Protected Species**

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

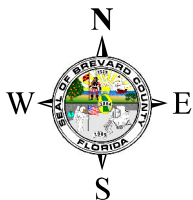
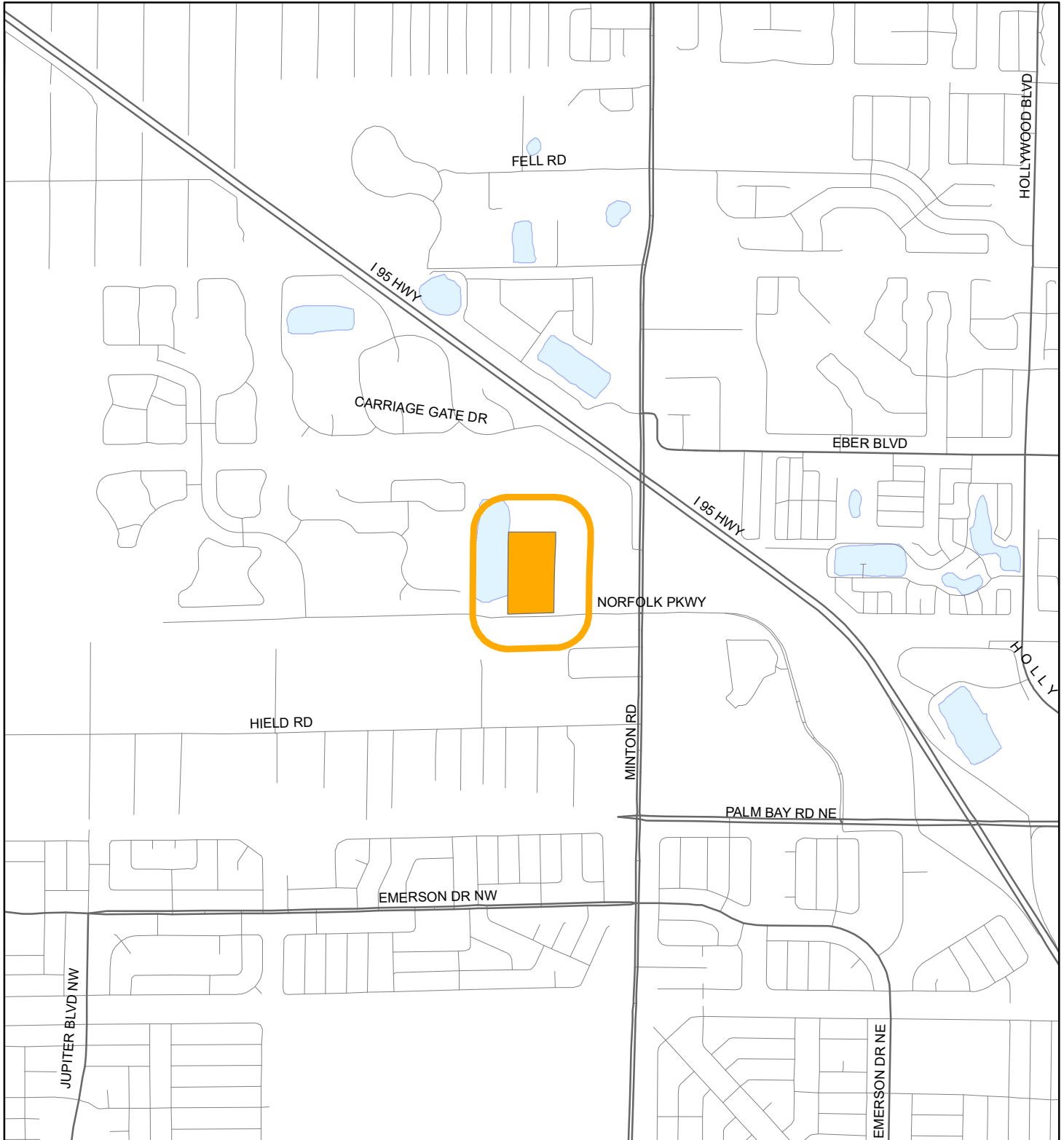
### **Other**

According to Florida Department of Environmental Protection (FDEP) records, the subject property was utilized as a construction and demolition debris landfill site from approximately 1984 to 1992. The applicant should contact FDEP at (407) 897-4313 for guidance regarding disturbing/developing old landfill sites to ensure that public health and the environment will not be harmed by the disturbance of the waste at the site.

# LOCATION MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015





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: 10/26/2020

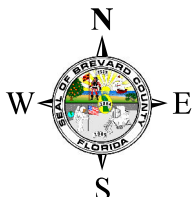
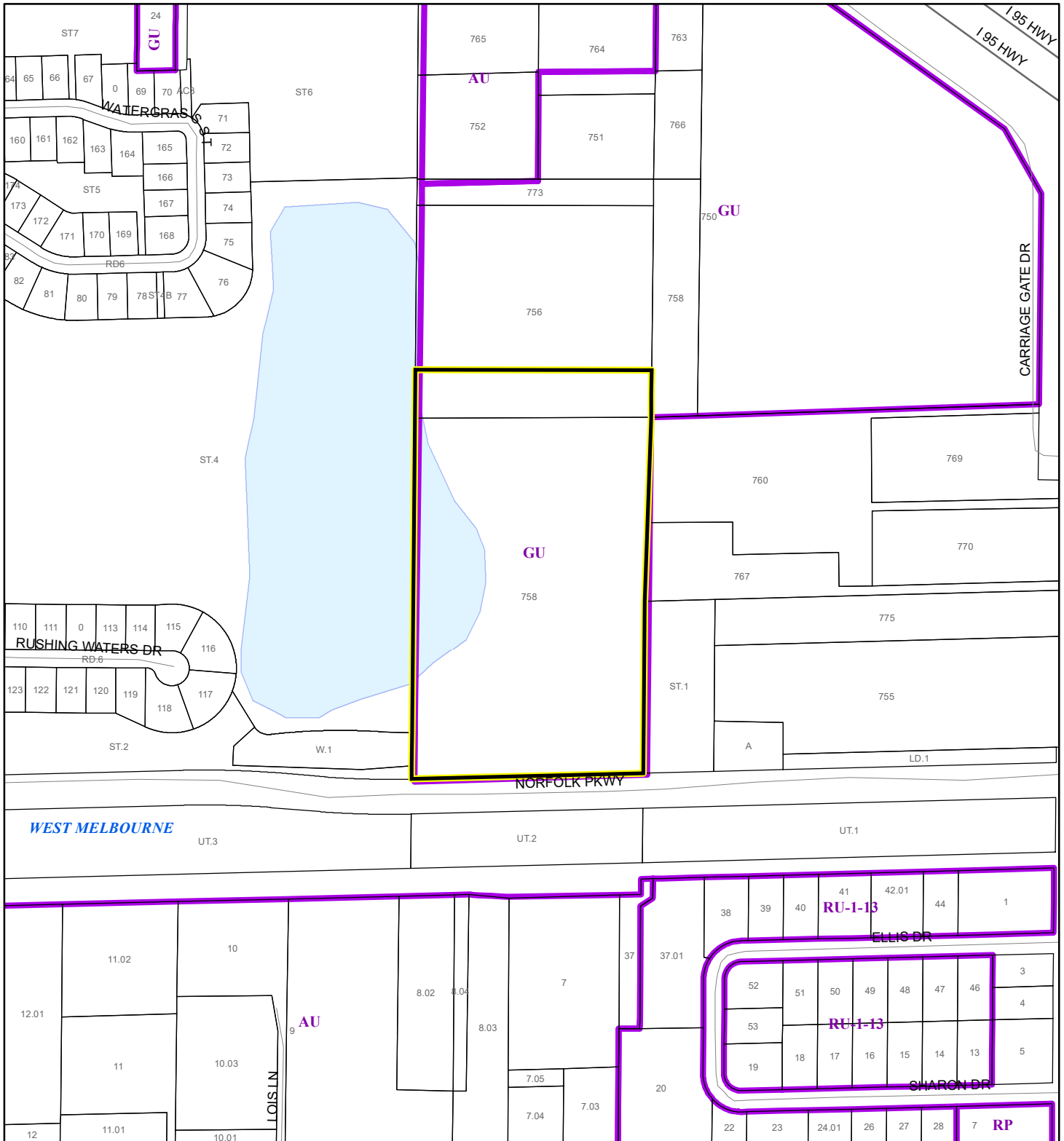
 Buffer  
 Subject Property



# ZONING MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015



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: 10/26/2020

Subject Property

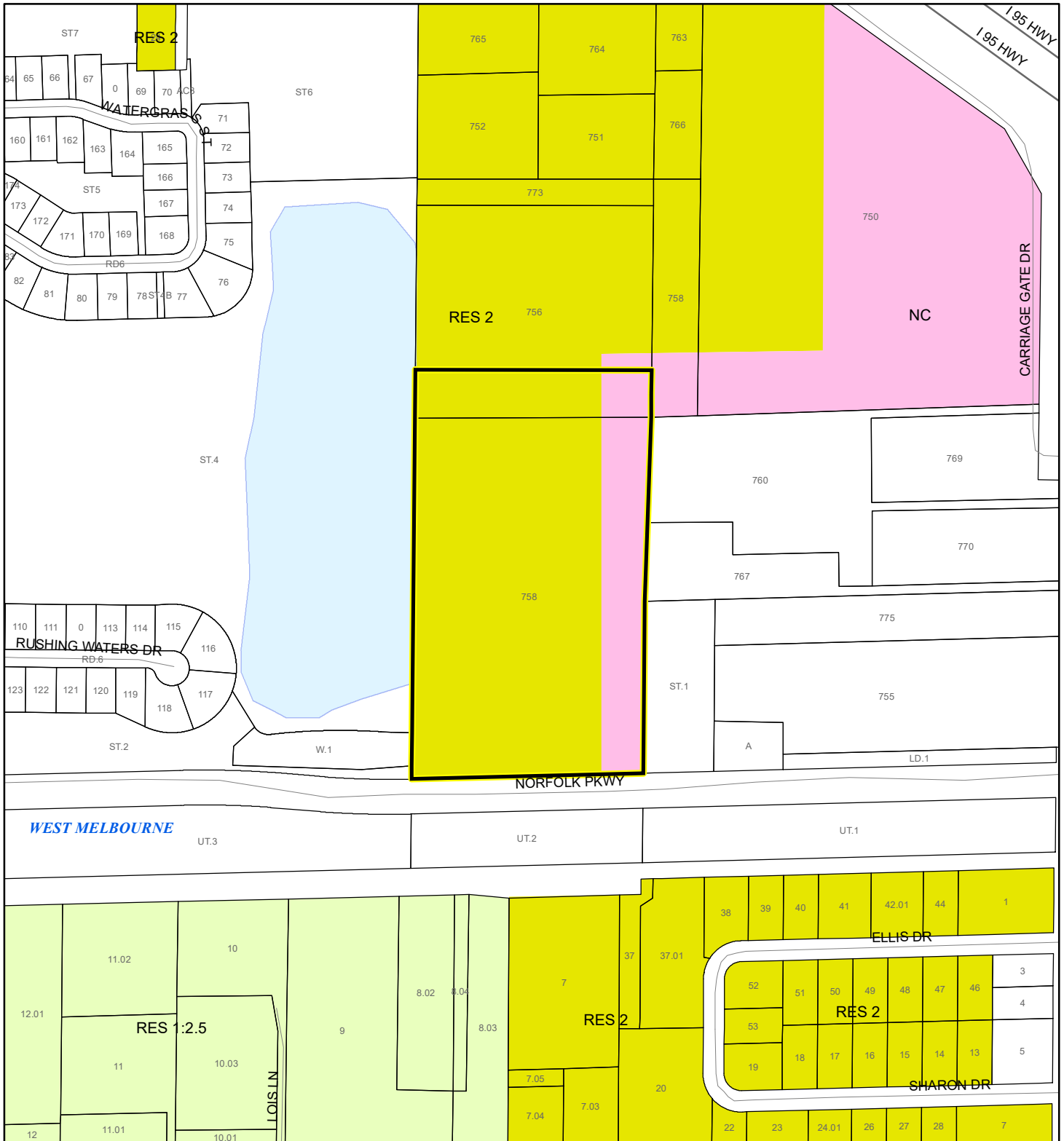
Parcels

Zoning

# FUTURE LAND USE MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015



1:4,800 or 1 inch = 400 feet

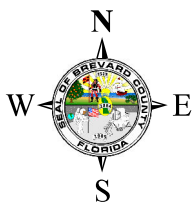
**Subject Property**  
**Parcels**

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Produced by BoCC - GIS Date: 10/26/2020



AERIAL MAP  
BREVARD TOWER COMMUNICATIONS, INC.  
20Z00015





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: 10/26/2020

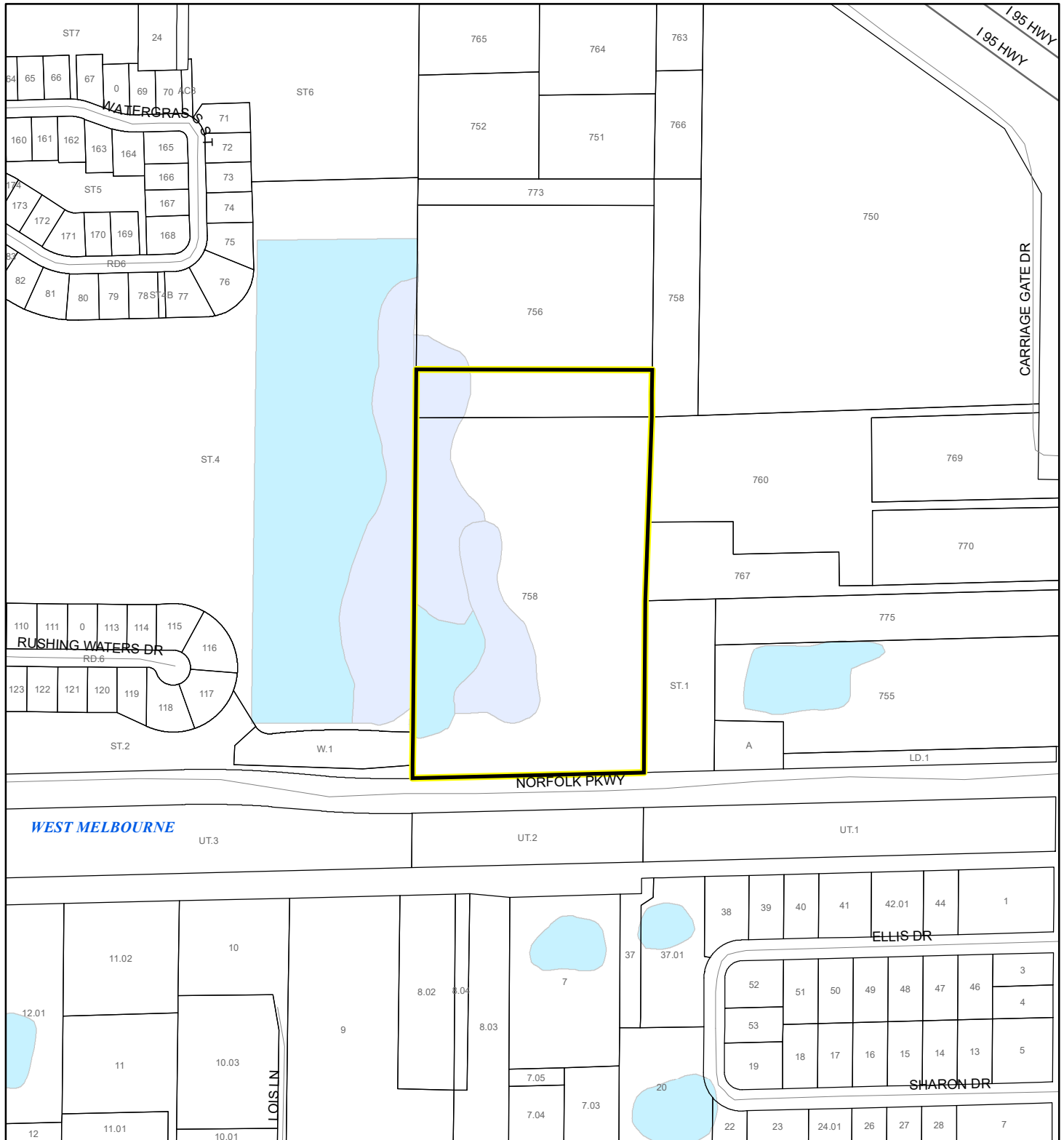
 Subject Property  
 Parcels



# NWI WETLANDS MAP

## BREVARD TOWER COMMUNICATIONS, INC.

### 20Z00015



1:4,800    or 1 inch = 400 feet

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Produced by BoCC - GIS    Date: 10/26/2020

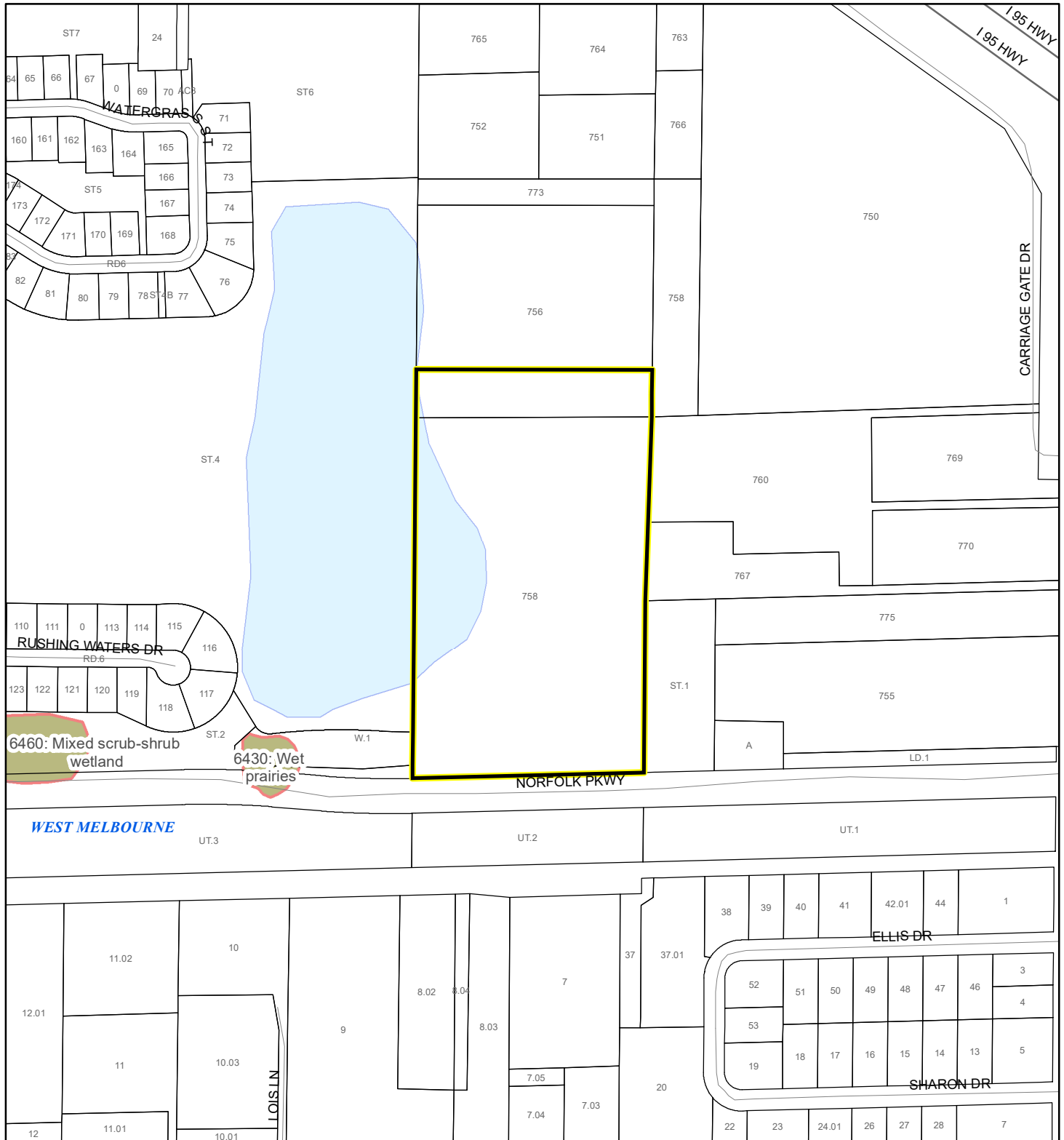
**National Wetlands Inventory (NWI)**

<span style="display: inline-block; width: 15px; height: 10px; background-color: yellow; border: 1px solid black;"></span> Estuarine and Marine Deepwater	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; border: 1px solid black;"></span> Freshwater Pond
<span style="display: inline-block; width: 15px; height: 10px; background-color: pink; border: 1px solid black;"></span> Estuarine and Marine Wetland	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightgreen; border: 1px solid black;"></span> Lake
<span style="display: inline-block; width: 15px; height: 10px; background-color: lightblue; border: 1px solid black;"></span> Freshwater Emergent Wetland	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightgreen; border: 1px solid black;"></span> Other
<span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> Freshwater Forested/Shrub Wetland	<span style="display: inline-block; width: 15px; height: 10px; background-color: lightgrey; border: 1px solid black;"></span> Riverine
<span style="display: inline-block; width: 15px; height: 10px; border: 2px solid yellow;"></span> Subject Property	
<span style="display: inline-block; width: 15px; height: 10px; border: 1px solid black;"></span> Parcels	

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015



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: 10/26/2020

## 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

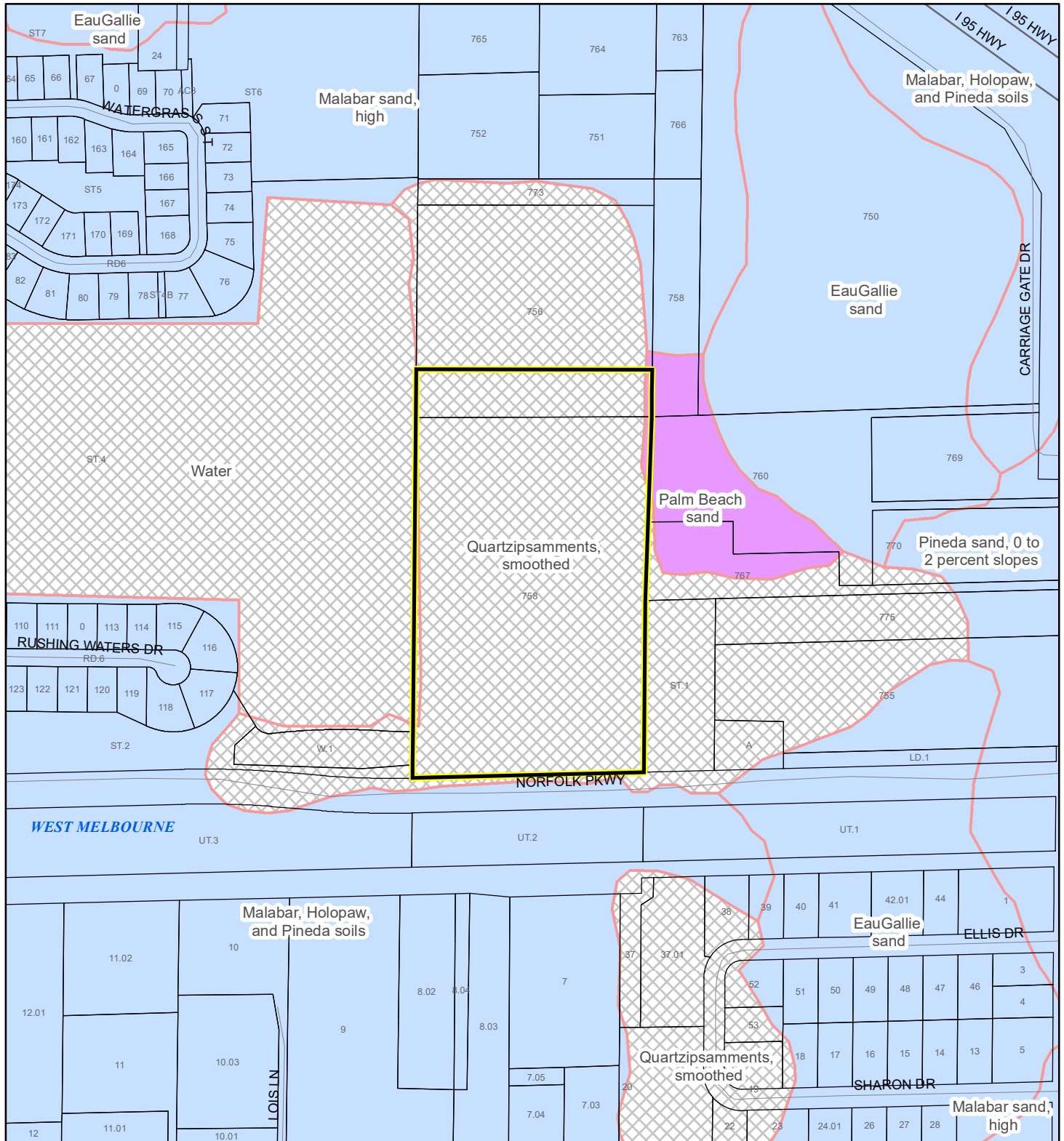
Subject Property

Parcels

# USDA SCSSS SOILS MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/26/2020

## USDA SCSSS Soils

Aquifer and Hydric

Aquifer

Hydric

None

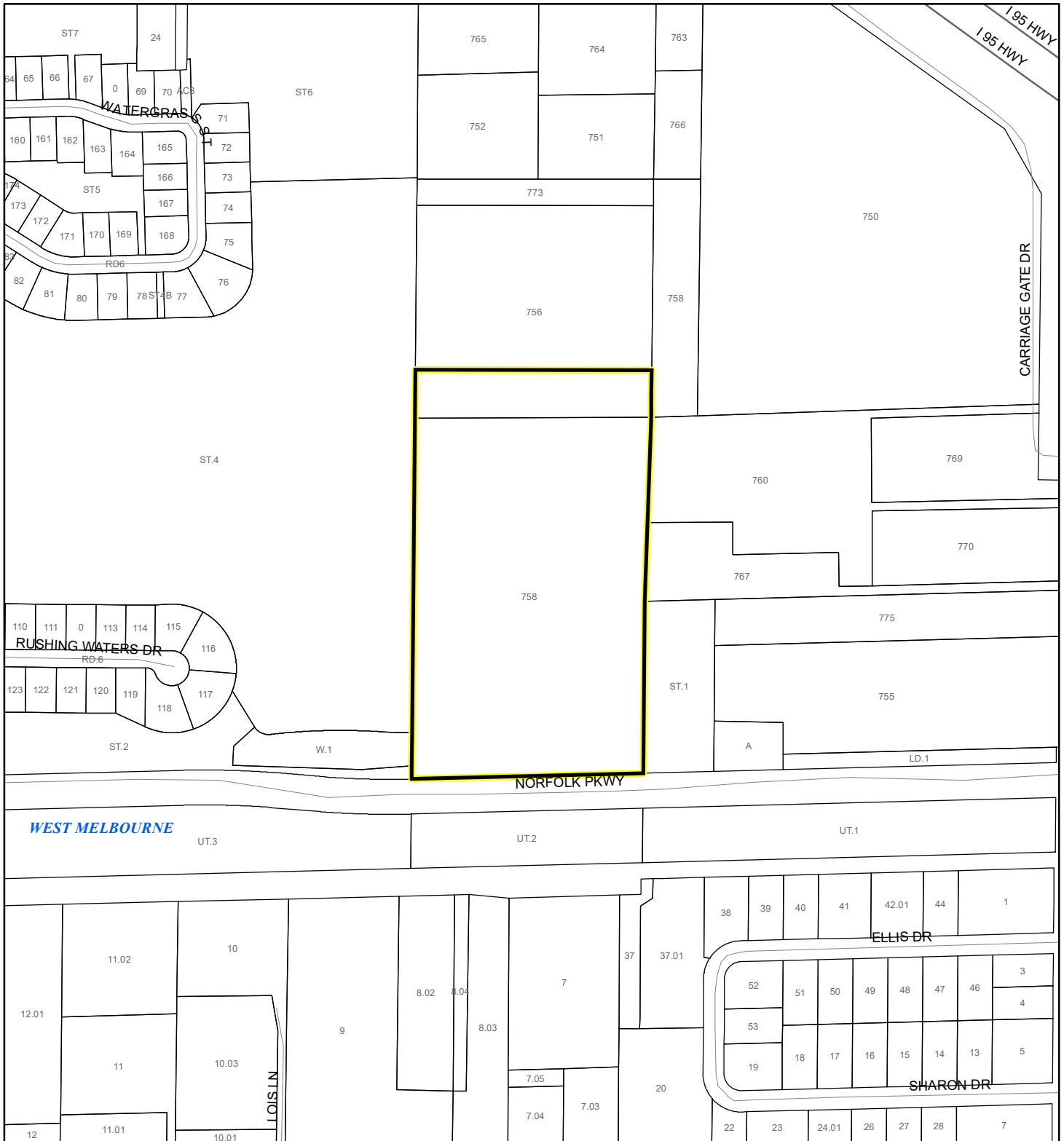
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/26/2020

## FEMA Flood Zones

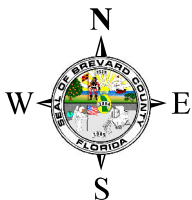
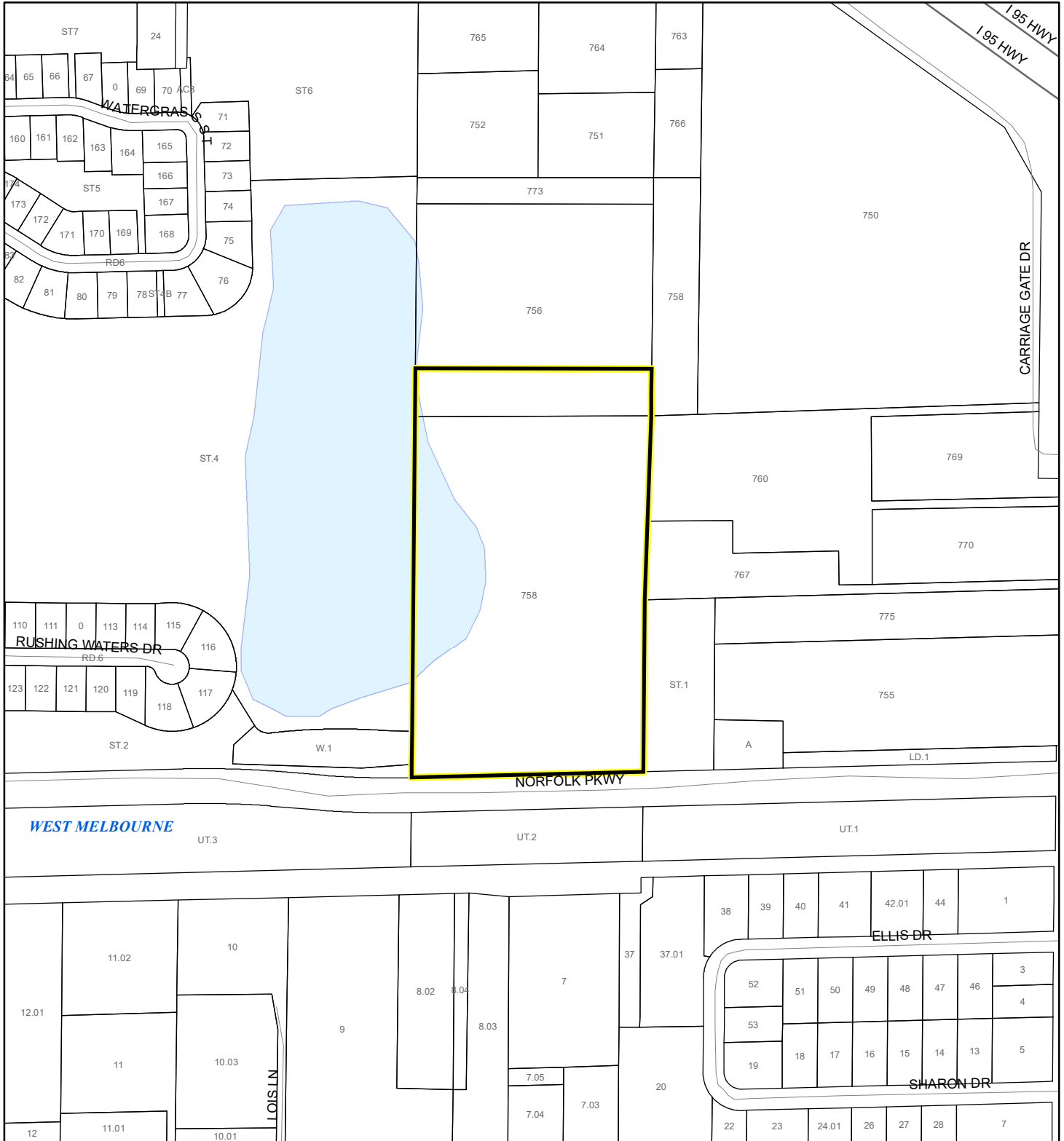
- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |      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



# COASTAL HIGH HAZARD AREA MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 10/26/2020

 Subject Property

 Parcels

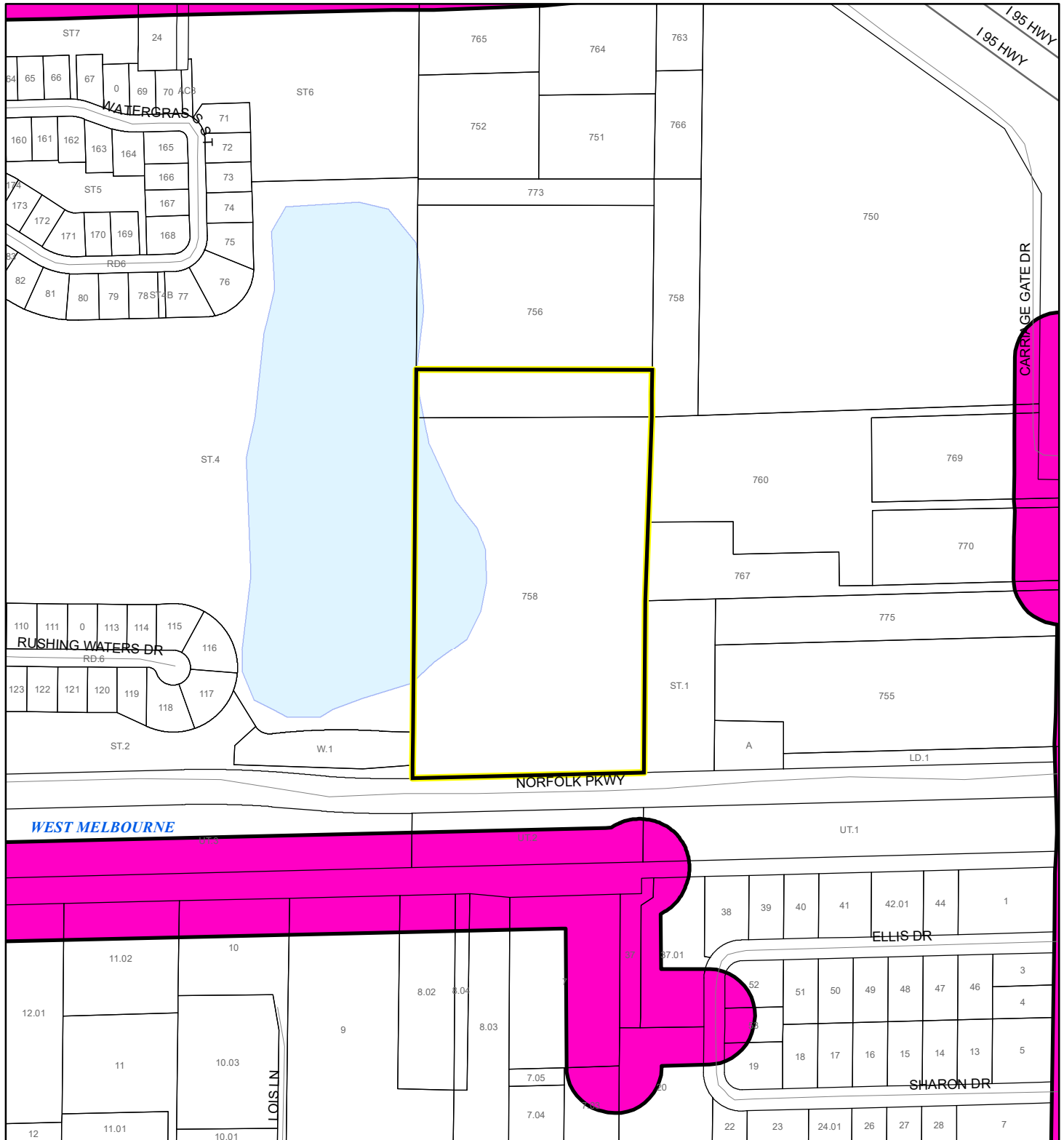
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/26/2020

Subject Property

Parcels

Septic Overlay

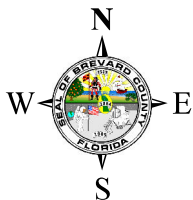
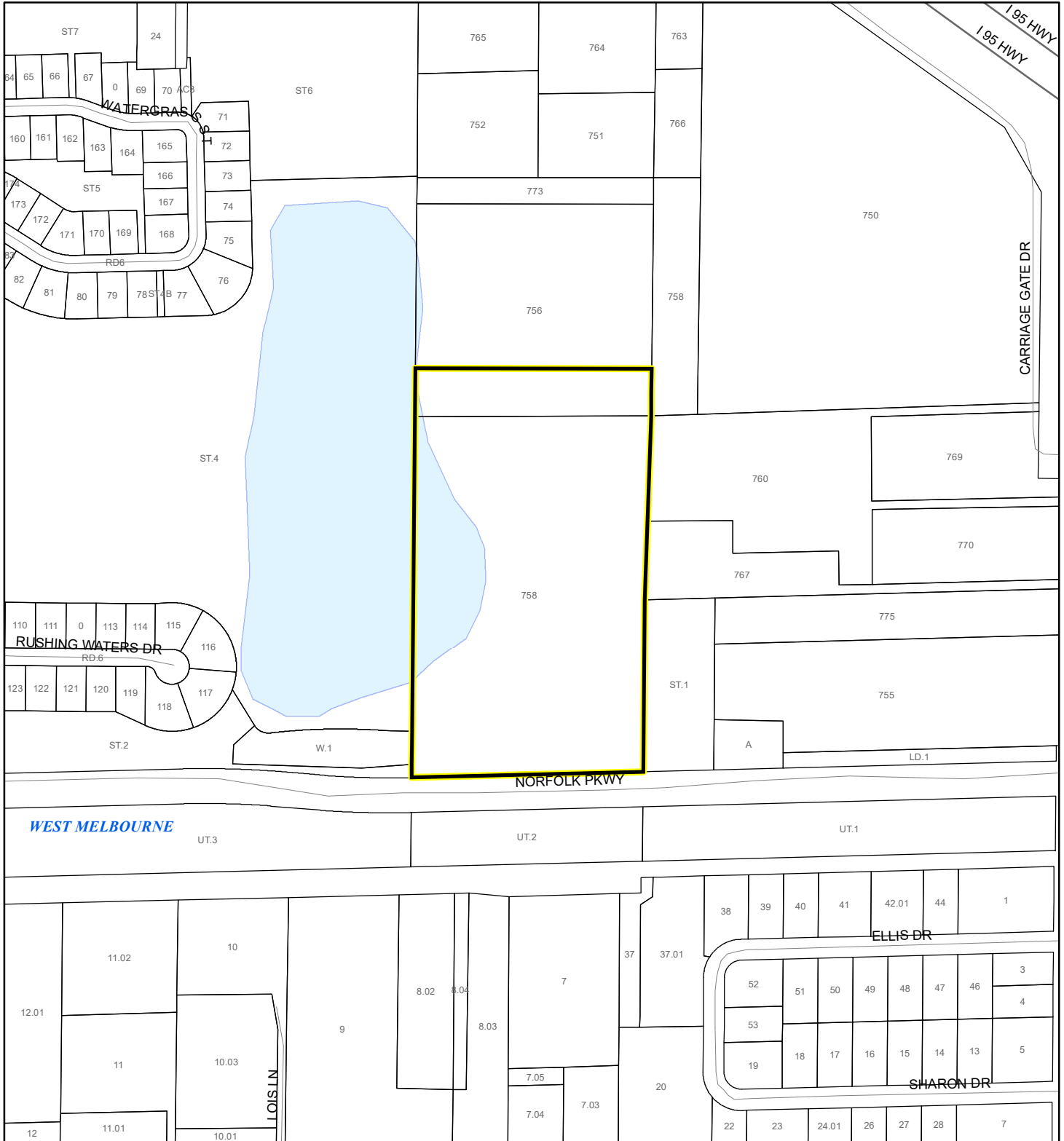
40 Meters

60 Meters

All Distances

# EAGLE NESTS MAP

BREVARD TOWER COMMUNICATIONS, INC.  
20Z00015



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/26/2020

Subject Property

Parcels

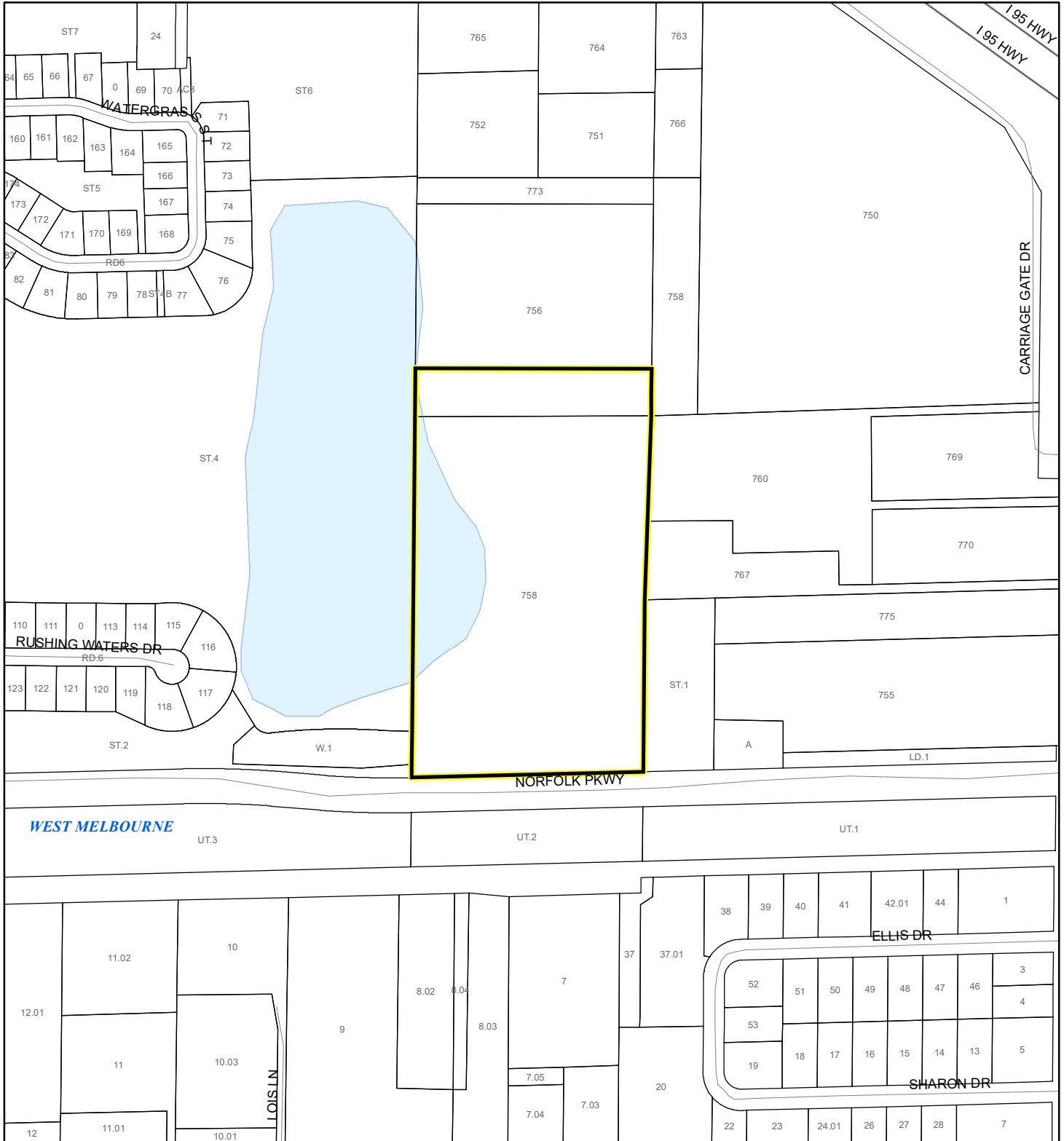


**Eagle Nests  
FWS 2010**

# SCRUB JAY OCCUPANCY MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015



1:4,800 or 1 inch = 400 feet

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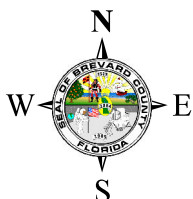
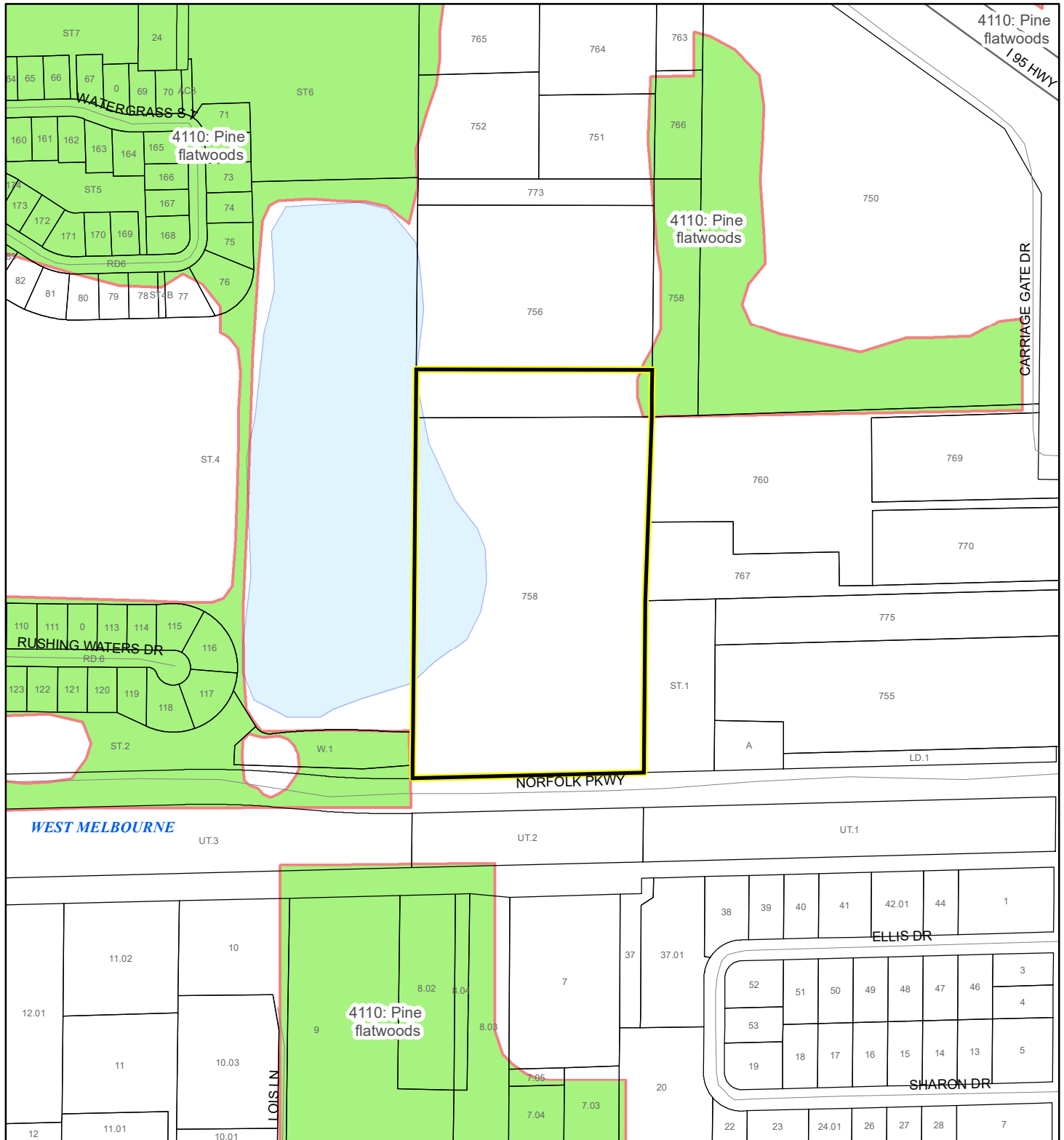
Produced by BoCC - GIS Date: 10/26/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

BREVARD TOWER COMMUNICATIONS, INC.

20Z00015



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: 10/26/2020

## 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 # 20200015

Existing FLU: NC & RES2 Existing Zoning: GU

Proposed FLU: \_\_\_\_\_ Proposed Zoning: BU-2 - Removal of CUP for  
Tower and Antenna.

**PROPERTY OWNER INFORMATION**

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

Jack Hurt

Brevard Tower Communications Inc.

Name(s) \_\_\_\_\_ Company \_\_\_\_\_  
405 Newfound Harbor Drive Merritt Island FL 32952  
Street City State Zip Code  
jhurt@cfl.rr.com 407-679-1748  
Email Phone Cell

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☒ Contract Purchaser ☐ Other \_\_\_\_\_

Andy Gardner

Condev Properties, LLC

Name(s) \_\_\_\_\_ Company \_\_\_\_\_  
921 N Pennsylvania Avenue Winter Park FL 32789  
Street City State Zip Code  
andyg@condevfl.com 407-679-1748  
Email Phone Cell

(1)

## 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: Remove CUP for Communication Tower

Acreage of Request: 17.5

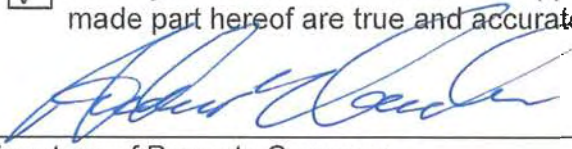
Reason for Request:

Development for Storage Facility to include paving, stormwater, utilities and landscape.



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

02/18/2020

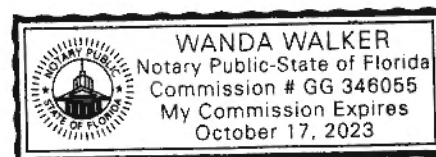
\_\_\_\_\_  
Date

State of Florida  
County of Brevard

Subscribed and sworn to me before me this 18th day of February, 20 20  
personally appeared Andrew Gardner, who is personally known to me or  
produced personally known as identification, and who did / did not take an oath.

  
\_\_\_\_\_  
Notary Public Signature

Seal



Office Use Only:

Accela No. 20200015 Fee: 1916.00 Date Filed: 7/24/20 District No. 5

Tax Account No. (list all that apply) part of 2802674 & 2802676

Parcel I.D. No.

28 36 13 00 756 758  
Twp Rng Sec Sub Block Lot/Parcel

Planner: GCM Sign Issued by: GCR Notification Radius: 500'

MEETINGS

DATE

TIME



P&Z

4/11/21

3pm



PSJ Board



NMI Board



LPA



BOA



BCC

4/15/21  
2/4/21

5pm

Wetland survey required by Natural Resources ☐ Yes ☐ No Initials \_\_\_\_\_

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension? - NO



Yes



No

If yes, list

James Allen

Location of subject property:

ON north side of Norfolk Pkwy 1,200 feet  
West of Minton Road

Description of Request:

Remove from GU to BL2  
Remove CUP for communication tower  
2-6769

## 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:

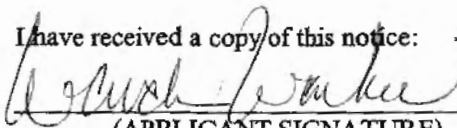
- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with 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:

bruceem@mbveng.com or ( ) or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes/No

I have received a copy of this notice:

  
(APPLICANT SIGNATURE)



01/15/91

IN THE CIRCUIT COURT OF THE  
EIGHTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BREVARD COUNTY,  
FLORIDA

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA, a  
political subdivision of the  
State of Florida,

Plaintiff,

vs.

JACKIE D. HURT, individually,  
BREVARD FILL, INC., a Florida  
corporation, and GCOM, INC., a  
Florida corporation,

Defendants.

SETTLEMENT STIPULATION

Plaintiff, BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY,  
FLORIDA, and Defendants, JACKIE D. HURT, BREVARD FILL, INC.,  
GCOM, INC., and MELBOURNE FILL AND MATERIAL, INC., by and through  
their undersigned attorneys, have reached a settlement agreement  
in the above-styled action and desire to set forth the terms and  
conditions of the settlement in this Settlement Stipulation.  
Plaintiff and Defendants agree and stipulate as follows:

1. Defendants shall cease and desist from operating on the  
real property which is located on Minton Road and which is the  
subject of this lawsuit, a landfill operation, on December 31,  
1991. Up to and including December 31, 1991, Plaintiff shall not  
interfere or attempt to interfere with the operation of the  
landfill on the property through any means and shall not take any  
action to dissuade or discourage customers from using the  
commercial landfill on the subject site through Code Enforcement

RETURN TO:  
CIVIL LAW DIVISION

DK3110P34265

16

RECORDED & VERIFIED  
9893672

91/11/91 10:01:15  
[Signature]

43

intent of this provision is to allow and permit the unimpeded and uninterrupted operation of the commercial landfill on the site without any interference by Plaintiff whatsoever, up to and including December 31, 1991. On December 31, 1991, Defendants shall shut down and cease operation of the landfill and the landfill shall be closed.

2. Plaintiff shall within ten (10) days from the date of this Stipulation pay the sum of \$100,000.00 (ONE HUNDRED THOUSAND DOLLARS) to MELBOURNE FILL AND MATERIAL, INC., as a contribution toward loss of business income and business revenue. Said \$100,000.00 shall be paid to the attorneys for MELBOURNE FILL AND MATERIAL, INC., for disposition. The \$100,000.00 check shall be made payable to Broad and Cassel Trust Account.

3. After the landfill is closed on December 31, 1991, Plaintiff shall forthwith take such action to complete the closure of the landfill so that the closure meets all requirements, laws, ordinances and regulations of the Department of Environmental Regulation, Environmental Protection Agency, Brevard County and all other governmental and environmental agencies applicable. The cost, if any, of finalizing closure after December 31, 1991, shall be borne by Plaintiff. Defendants shall permit Plaintiff reasonable access to the property to permit this required closure.

4. Plaintiff shall take no action on the property which will damage or interfere with the telecommunications, radio tower

INC., on the subject site, and Plaintiff shall not damage any of the communication or telecommunications equipment, buildings, or facilities on the site.

5. Other than as provided for herein, each party shall bear its own attorneys fees and costs.

6. Defendants agree to operate the aforesaid landfill up to and including December 31, 1991, in accordance with, and in compliance with, the existing DER permit issued for the site and applicable DER regulations.

7. After the landfill operation ceases on December 31, 1991, and the aforesaid sums of money are paid as described in Paragraph 2 above, and the County has completed closure of the landfill as described in Paragraph 3 above, this action shall be dismissed.

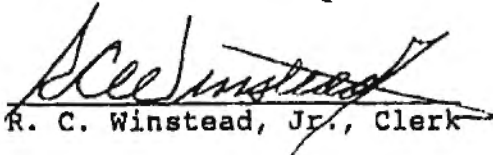
8. In the event any party to this Stipulation should breach same, this Stipulation shall be enforceable by the Court by the granting of preliminary and/or permanent injunctive relief, or otherwise, upon application by another party to this Stipulation.

9. Upon the completion of the landfill operation on December 31, 1991, and payment of the aforesaid \$100,000.00 by Plaintiff, and completion of the aforesaid closure by Plaintiff, the parties hereto shall exchange limited general releases which shall provide that each party releases the other from any and all claims and causes of action from the beginning of time to the date of this Stipulation arising out of the subject matter of

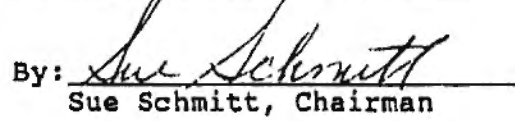
this action.

DATED this 25th day of March, 1991.

ATTEST:

  
R. C. Winstead, Jr., Clerk

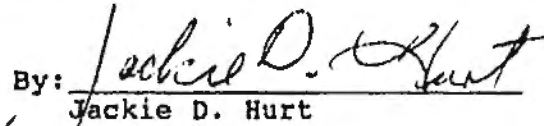
BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:   
Sue Schmitt, Chairman

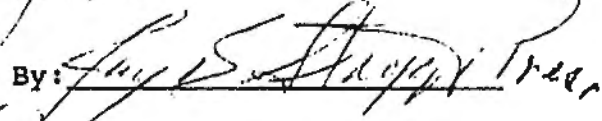
BROAD AND CASSEL  
By: ROBERT D. GATTON, P.A.  
PARTNER

By:   
Robert D. Gatton, Esquire

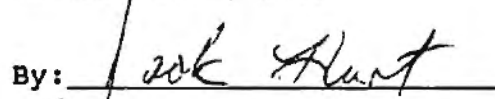
JACKIE D. HURT

By:   
Jackie D. Hurt

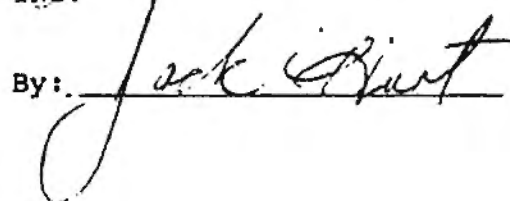
GCOM, INC.

By:   
Guy E. Stapp, President

BREVARD FILL, INC.

By:   
Jack Hurt

MELBOURNE FILL AND MATERIAL,  
INC.

By:   
Jack Hurt



THIS IS THE LEGAL DESCRIPTION TO BE  
USED FOR ADVERTISING PURPOSES

*Wanda Baker*  
Signature

SCHEDULE B - II

Old Republic National Title Insurance Company  
FILE NO. 19129417 LLC

Exceptions

Survey  
20Z00015  
Brevard Tower

Items 1 through 6 are standard exceptions

7. Subject property lies within the boundaries of the Melbourne-Tillman Drainage District and is subject to the rules and regulations thereof, and may be subject to future assessments by same, including, but not limited to those matters filed of public record as set forth in O.R. Book 3074, Page 2296, and O.R. Book 3074, Page 2312, Public Records of Brevard County, Florida.

The surveyed property is located with the boundaries of the Melbourne-Tillman Drainage District.

8. Terms, covenants, conditions, permanent easements, and other matters contained in Easement and Right of Way for Ingress, Egress and Use of Transmitter for Radio and Television Tower and Towers from GCOM, Inc. to CellCom, Inc. recorded in O.R. Book 3103, Page 1100, Public Records of Brevard County, Florida.

This is a blanket Easement over the entire lands surveyed.

9. Pipeline Easement in favor of Florida Gas Transmission Company recorded in O.R. Book 3337, Page 2717, Public Records of Brevard County, Florida.

This easement is located 20' each side of the gas main. The surveyor did not observe any evidence of the gas main and believes that it is located south of the Norfolk Parkway and outside of the boundary of the lands surveyed.

10. Terms, covenants, conditions, and other matters contained in Settlement Agreement by and between Bertram Schild, individually and as Trustee; Frederick Zacharias, individually and as Trustee; Brevard Tower Communications, Inc.; Jack D. Hurt a/k/a Jackie D. Hurt; and Melbourne Fill and Material, Inc., under Case No. 05-1990-CA-010440 in the Circuit Court for Brevard County, Florida, as recorded in O.R. Book 5224, Page 1563, and re-recorded in O.R. Book 5524, Page 1591, Public Records of Brevard County, Florida.

The property is subject to this Settlement Agreement but does not contain any easements or encumbrances.

11. Intentionally deleted.

12. Terms, covenants, conditions, easements, and other matters contained in Communications Site Lease Agreement dated December 1, 2005 by and between Brevard Tower Communications, Inc. and Nextel South Corp. as evidenced by Memorandum of Agreement recorded in O.R. Book 5832, Page 2929, Public Records of Brevard County, Florida.

This agreement is over those lands surveyed and shown hereon as "PART OF PACEL 1 PER O.R. BOOK 3277, PAGE 0924". Under the terms and condition, it was only valid for 5 years from June 1, 2007. The surveyor has no knowledge if the agreement has been extended and is still valid.

13. Terms, covenants, conditions and other matters contained in any unrecorded Lease(s) and all rights thereunder of the Lessee(s) and of any person claiming by, through or under the Lessee(s).

Standard agreement. The surveyor did observe that the existing building on the property was being utilized, but has no knowledge of by whom or by what authority.

14. Riparian and littoral rights are not insured.

Standard exception.

15. Intentionally deleted.

16. Intentionally deleted.

## Legal Description:

(Per Old Republic National Title Insurance Company File No.: 19129417 LLC)

A portion of the lands described in Official Records Book 3277, Page 924, of the Public Records of Brevard County, Florida, said lands lying in Section 13, Township 28 South, Range 36 East and being more particularly described as follows:

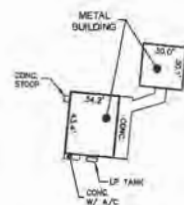
Beginning at the Southwest Corner of Tract ST-1, Sawgrass Lakes Phase One, according to the plat thereof, as recorded in Plat Book 60, Pages 52 through 63 of the said public records, said point being the POINT OF BEGINNING; thence South 89 degrees 32 minutes 31 seconds West, along the North right-of-way line of Norfolk Parkway, per said Sawgrass Lakes Phase One, a distance of 662.33 feet to the Easterly line of said Sawgrass Lakes Phase One; thence North 01 degrees 30 minutes 06 seconds East, along said East line, a distance of 1,151.77 feet; thence leaving said line, North 89 degrees 32 minutes 54 seconds East, a distance of 662.19 feet to the East line of Parcel 1 of said Official Records Book 3277, Page 924; thence South 01 degrees 29 minutes 41 seconds West, along the East line of said Parcel 1 and the East line of Parcel 2 of Official Records Book 3277, Page 924, a distance of 1,151.89 feet to the POINT OF BEGINNING.

TRACT ST-4  
SAWGRASS LAKES PHASE ONE  
P.B. 60, PG. 52-63

N 01°30'06" E 1151.77'

SUBJECT PROPERTY  
17.50 ACRES

PARCEL 2  
PER O.R. BOOK 3277, PAGE 0924



P.O.B.  
SW CORNER OF TRACT ST-1

TRACT ST-1  
SAWGRASS LAKES PHASE ONE  
P.B. 60, PG. 52-63

S 01°29'41" W 1151.69'

LANDS DESCRIBED IN  
PER O.R. BOOK 5746, PAGE 0279

LANDS DESCRIBED IN  
PER O.R. BOOK 5739, PAGE 3388

PARCEL 2  
PER O.R. BOOK 3277, PAGE 0924

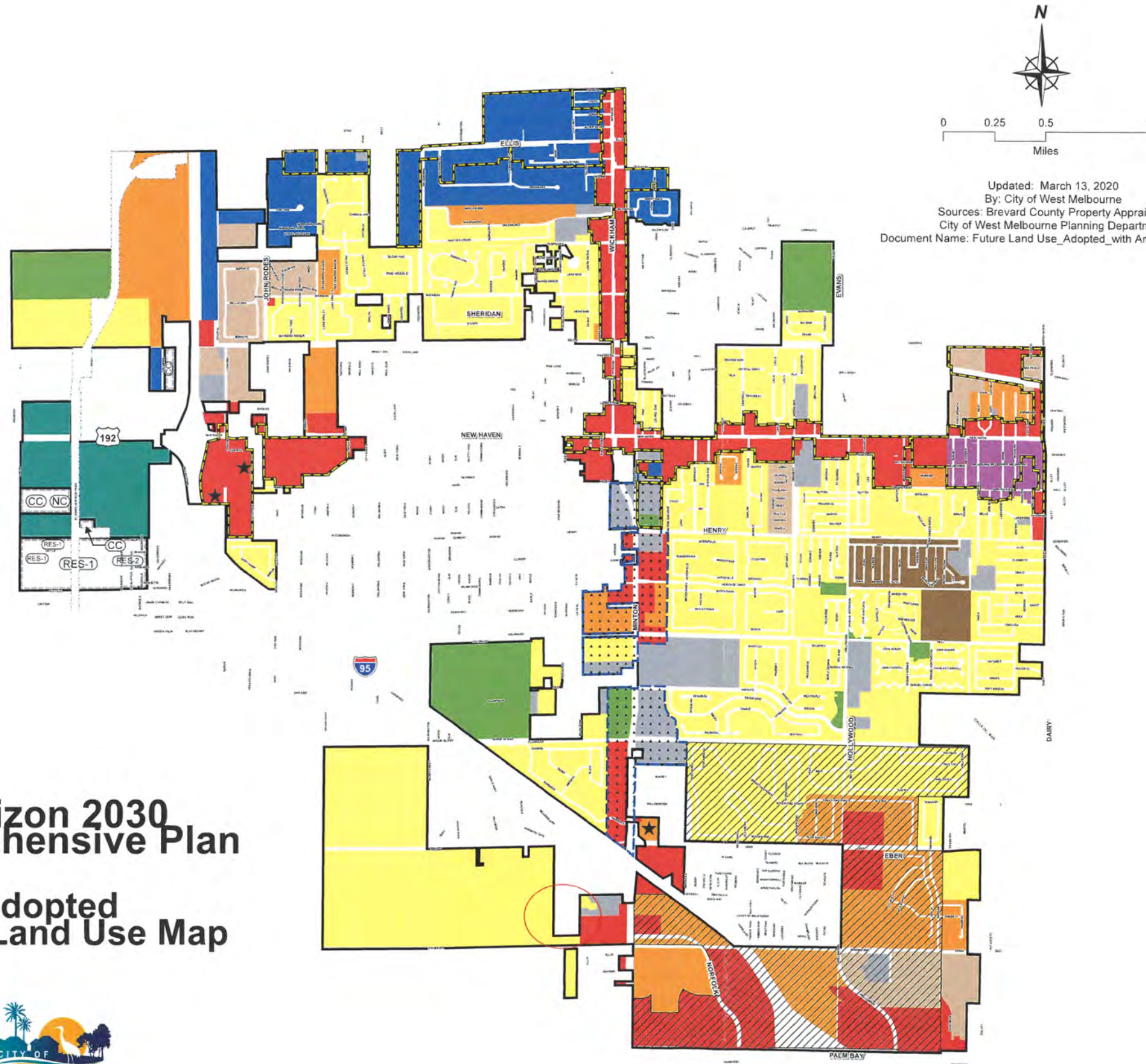
LEGEND:	
CCO = COVERED	AT&T HOLE
PC = POINT OF CURVATURE	N.A.S.D. (1983) = NORTH AMERICAN DATUM (1983)
PT = POINT OF TANGENCY	N.A.S.D. (1983) = NORTH AMERICAN DATUM (1983)
PI = POINT OF INTERSECTION	N.A.S.D. (1983) = NORTH AMERICAN DATUM (1983)
PRC = POINT OF REVERSE CURVATURE	N.A.S.D. (1983) = NORTH AMERICAN DATUM (1983)
RP = RIGHT-OF-WAY	N.A.S.D. (1983) = NORTH AMERICAN DATUM (1983)
R/W = RIGHT-OF-WAY	N.A.S.D. (1983) = NORTH AMERICAN DATUM (1983)
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POC = POINT OF COMMENCEMENT	N.A



Horizon 2030  
Comprehensive Plan  
Adopted  
Future Land Use Map



DISCLAIMER:  
This map is not a survey and should not be used  
as a survey. Road right-of-ways are approximate.



Updated: March 13, 2020  
By: City of West Melbourne  
Sources: Brevard County Property Appraiser,  
City of West Melbourne Planning Department  
Document Name: Future Land Use\_Adopted\_with Amendments.mxd

### Legend

- City Limits
- CRA Overlay
- Palm Bay Road Overlay
- Town Center Overlay
- COM Commercial
- CON-REC Conservation-Recreation
- IB Integrated Business
- IND Industrial
- INST Institutional
- LD-RES Low-Density Residential
- MD-RES Medium-Density Residential
- UD-RES Urban-Density Residential
- MH-RES Manufactured Home Residential
- PI Parkway Interchange
- County FLU Designations Still Apply As Noted

#### Brevard County Future Land Uses

CC Community Commercial	RES-1 Residential 1 (1 DUPA)
NC Neighborhood Commercial	RES-2 Residential 2 (2 DUPA)
	RES-4 Residential 4 (4 DUPA)

#### Designations not shown on map

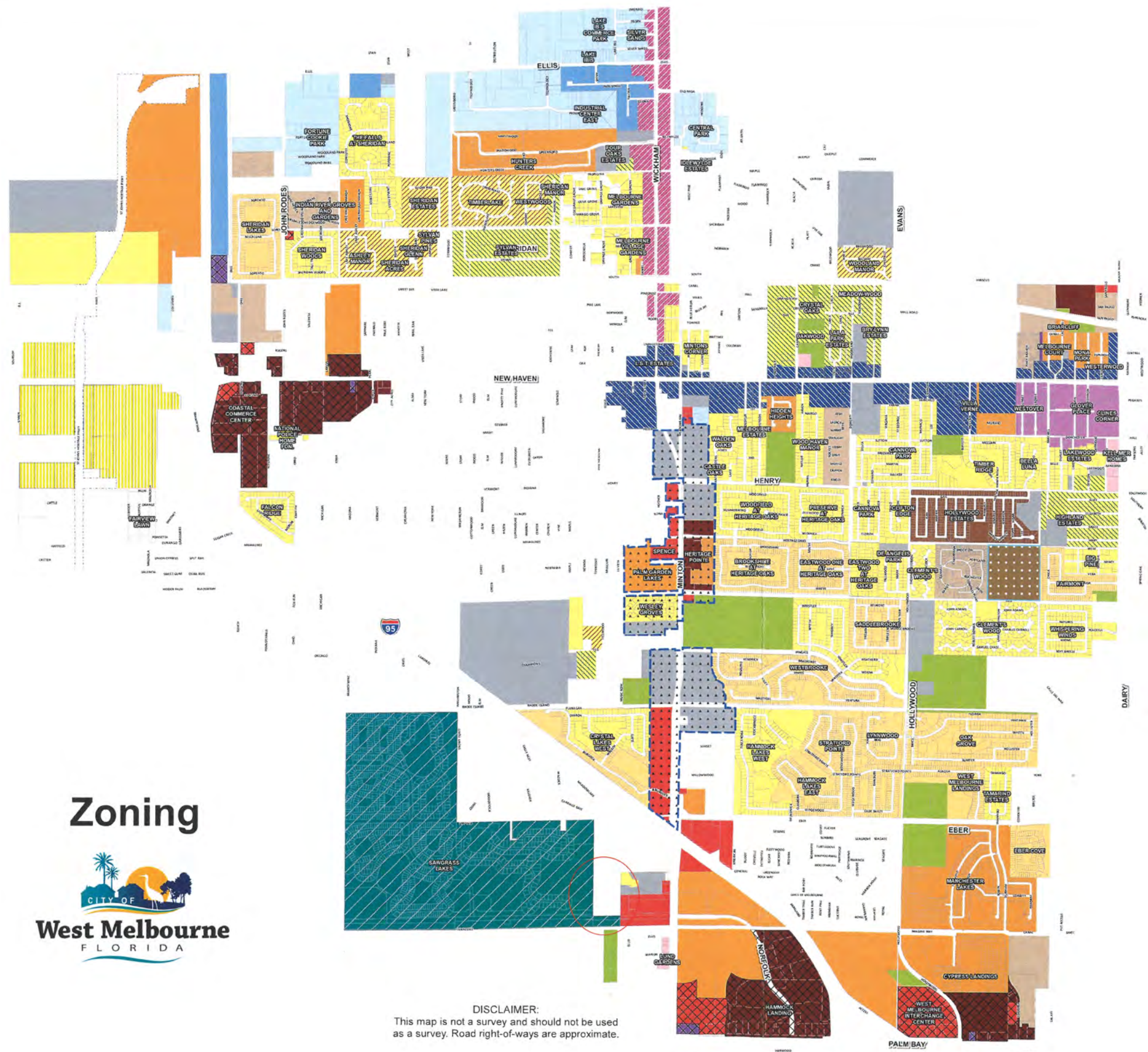
GU General Use
NAC Neighborhood Activity Center
UMU Urban Mixed Use

★ These properties have additional density and intensity restrictions.  
Please refer to the Future Land Use Element of the Comprehensive Plan.

Horizon 2030 Comprehensive Plan Amendments			
Amendment No.	Ordinance No.	Amendment No.	Ordinance No.
LSA 2012-01	2012-22	LSA 2016-01	2016-01
SSA 2012-01	2012-09	LSA 2016-02	2016-09
LSA 2012-02	2013-05	LSA 2016-04	2016-24
SSA 2012-02	2012-09	SSA 2016-04	2016-21
SSA 2012-03	2012-09	LSA 2017-03	2018-03
SSA 2012-04	2012-09	SSA 2018-01	2018-05
SSA 2012-05	2012-10	SSA 2018-04	2019-04
SSA 2013-01	2013-03	SSA 2018-05	2019-02
SSA 2013-02	2013-17	LSA 2018-01	2018-10
SSA 2013-03	2013-16	SSA 2019-01	2019-12
SSA 2013-04	2013-18	SSA 2019-02	2019-14
SSA 2013-05	2013-25	LSA 2019-03	2019-22
SSA 2014-01	2014-02	SSA 2019-03	2019-27
SSA 2014-02	2014-04	SSA 2019-04	2019-25
SSA 2014-03	2014-25		
SSA 2014-04	2014-25		
SSA 2014-05	2014-27		
SSA 2014-07	2015-03		
LSA 2015-01	2015-09		
SSA 2015-01	2015-07		
SSA 2015-02	2015-19		

48





## Legend

- West Melbourne City Limits
- Interchange Commercial Overlay
- Town Center Overlay
- R-A Residential Agricultural
- R-1AAA Single-Family Residential
- R-1AA Single-Family Residential
- R-1A Single-Family Residential
- R-1B Single-Family Residential
- R-2 One-, Two- and Multi-Family Dwelling
- RLS Residential Large Scale
- R-3 Multiple-Family Dwelling
- TR-1 Planned Development for Mobile Home Parks
- TRC-1 Single-Family Mobile Home Cooperative
- C-P Commercial Parkway
- C-1A Professional Offices and Services
- C-1 Low Density Commercial
- C-2 General Commercial
- C-W Commercial Wickham
- C-NH Commercial New Haven
- M-1 Light Industrial and Warehousing
- M-2 General Industrial
- P-1 Institutional
- IB Integrated Business
- GTWY-1 Gateway Interchange District

0 0.25 0.5 1  
Miles



Updated: March 12, 2020  
By: City of West Melbourne  
Document Name: Zoning.mxd  
Sources:  
Brevard County Property Appraiser,  
City of West Melbourne Planning Department

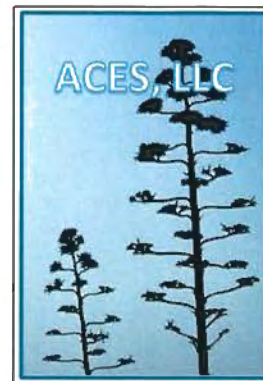
DISCLAIMER:  
This map is not a survey and should not be used  
as a survey. Road right-of-ways are approximate.





**ANDREW CONKLIN ENVIRONMENTAL SERVICES, LLC**  
INTEGRATING SUCCESSFUL DEVELOPMENT AND ENVIRONMENTAL INTEGRITY

P.O. Box 500407, MALABAR, FLORIDA, 32950  
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December 19, 2019

Mr. Andrew Gardner  
Condev Properties, LLC  
PO Box 1748  
Winter Park, Florida 32790

Re: Parcel No. 28-36-13-00-758, Norfolk Parkway, West Melbourne, Florida  
ACES File No. 1993

Dear Mr. Gardner,

Andrew Conklin Environmental Services, LLC (ACES) has completed a review of environmental issues associated with the above-referenced  $\pm 18.11$ -acre property, located in Section 13, Township 28 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 December 16, 2019, 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 one soil type 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 is a brief description of the soil type that is mapped on the subject site, compared to our observations of current soil conditions.

Quartzipsammments, Smoothed – NRCS Code No. 52: These are nearly level to steep sandy soils that have been reworked and shaped by earthmoving equipment. They are commonly near urban centers or along major highways on the mainland. Many areas are former sloughs, marshes, or shallow ponds that have been filled with various soil material to surrounding ground level or to elevations above natural ground level. Drainage is variable. Most excavated areas are well drained, but the water table is generally within a depth of 50 inches in filled areas. This soil type is not listed in the *Hydric Soils of Florida Handbook*.

This upland soil type is mapped over the entire site, except for a very narrow strip along the west site boundary, which consists of the open waters of a large pond. Soils on the property consist of an amalgam of materials, including sand, shell, gravel, marl, clay, crushed asphalt, and crushed concrete. In some areas (such as the dirt road that meanders through the site), soils have been so compacted that they are very difficult to penetrate with hand tools. Elsewhere, soils exhibit non-hydric characteristics, being composed of loamy sand over a gravel and sand mixture.

Soils examined within an upland-cut ditch that parallels the eastern site boundary exhibit mucky-textured sand, a hydric soil characteristic. Further north along the ditch, soils become more hydric, and are associated with a small on-site wetland (see Figure 4), where they are composed of mucky-textured sand and muck.

Thus, except for a narrow strip of open water along the west property boundary and a linear path of upland cut ditch and wetland along the eastern site boundary, the site appears to be underlain entirely by non-hydric soils.

#### **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:

Industrial – FLUCFCS Code No. 150: This category refers to two buildings near the south end of the site. Their use is unclear, but their size and appearance seem consistent with light industrial use and/or storage. The area occupied by these structures is estimated at 0.17 acres.

Herbaceous – FLUCFCS Code No. 310: This non-forested upland community exists mainly as a grassy expanse extending south from near the middle of the property, then narrowing into a cleared access drive that meanders back north through the site. The total area occupied by this community on the site is estimated at 3.70 acres. It is dominated by grasses, low shrubs, and herbaceous species, including cogongrass, Johnson grass, smutgrass, Bahia grass, Bermuda grass, lantana, Mexican clover, Spanish needles, and rattlebox. Underlying soils are composed of non-hydric loamy sand; along the access drive, soils also contain compacted gravel, crushed concrete, crushed asphalt, shell, and other foreign materials. No wetland hydrologic indicators are present in this community.

Brazilian Pepper – FLUCFCS Code No. 422: This forested upland community dominates the site, covering approximately 13.47 acres. It consists of a dense cover of Brazilian pepper, and invasive exotic species. A few slash pines, cabbage palm, Chinese tallow, strangler fig, and air potato vines are scattered throughout. Underlying soils are composed of non-hydric loamy sand mixed with gravel, shell, and marl. No wetland hydrologic indicators were observed in this community.

Water – FLUCFCS Code No. 500: This category refers to the man-made pond (surface waters, not wetlands) that extends westward from the site. The eastern  $\pm 0.42$  acres of the pond extends slightly onto the western boundary of the site. The pond has no littoral shelf, but falls off into deep water almost immediately; as such, no wetland plants are present, and no wetland fringe exists along the edge of the pond.

Streams and Waterways – FLUCFCS Code No 510: This category refers to the north/south drainage ditch that runs along the eastern property boundary. Like the pond, the ditch is considered surface waters, not wetlands, where it is cut through uplands. The area occupied by the ditch is estimated at 0.12 acres.

Exotic Wetland Hardwoods – FLUCFCS Code No. 619: This degraded wetland community is covered with a monoculture of dense Brazilian pepper growing over mucky-textured sand. Although once just a northern extension of the ditch, this area appears to have broadened over time and now is perennially hydrologically connected to the Wetland Shrub community (see below). The presence of hydric soils and wetland hydrology (high water marks, saturated soil) allows this small area ( $\pm 0.10$  acre) to be claimed as degraded low-quality wetlands.

Wetland Shrub – FLUCFCS Code No. 631: This wetland community is present in the northeast corner of the site, where it occupies approximately 0.12 acre of the property. It contains a fringe of Carolina willow, saltbush, creeping oxeye and cattails around a deep-water depression. Soils are composed of mucky-textured sand and muck, and hydrologic indicators show that this area is inundated virtually year-round.

Thus, the entire site contains a total of approximately 17.34 acres of uplands, 0.55 acres of surface waters (the pond and ditch), and 0.22 acres of low-quality wetlands. The surface waters and wetlands fall under the jurisdiction of SJRWMD and ACOE. If impacts are proposed to any of the hydrologic resources (wetlands and/or surface waters), the appropriate permits must be obtained from the applicable regulatory agencies. Following is a discussion of potential wetland permitting and mitigation issues for this site.

#### **Wetland Considerations**

SJRWMD and ACOE have jurisdiction over the small wetland area. Both agencies 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 site development project in a way that avoids or minimizes wetland impacts. Simply put, the onus is on the applicant to show that proposed wetland impacts are essentially unavoidable. Although SJRWMD's rules have a caveat that allows applicants to impact any wetlands if mitigation is provided 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 very strict standards of a wetland mitigation bank, essentially





obligating all applicants to purchase credit at a federally approved mitigation bank for any wetland impacts the Corps deems acceptable.

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, but is typically determined by extending a 100 to 200-foot radius into the affected wetland from each point where an adequate upland buffer cannot be provided. Secondary impacts are considered to be significantly less adverse than direct impacts. Thus, although secondary wetland impacts (if assessed) add to the amount of mitigation that an applicant must provide to satisfy SJRWMD, they are typically only a small percentage of the whole. Since SJRWMD (unlike ACOE) recognizes the long-term value of on-site wetland preservation and enhancement, the secondary wetland impact issue can frequently be addressed by the placement of a conservation easement over remaining on-site wetlands and their adjacent upland buffers. If all on-site wetlands are proposed for direct impacts (dredging and/or filling), then secondary wetland impact issues will not apply.

For this site, as long as development plans do not encroach within 25 feet of the small wetland area, no wetland permitting or mitigation will be required by SJRWMD or ACOE. It seems reasonable to assume that most site planning will be able to accomplish this. However, in the event that wetland impacts are proposed, some form of wetland mitigation must be provided to offset those impacts.

As mentioned, due to the restrictions of ACOE wetland mitigation standards, the purchase of wetland mitigation bank credits will be the only means of addressing direct wetland impacts for this site. Currently, the subject site falls into the service areas of two wetland mitigation banks: Mary A Mitigation Bank and Lake Washington Mitigation Bank. Both have herbaceous wetland mitigation credits available, and both are within the same SJRWMD drainage basin as the subject site. The two banks use different methods of assessing how many mitigation credits are necessary to offset proposed impacts; currently, the most affordable option is Lake Washington Mitigation Bank, which calculates mitigation credits according to 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. In general, the calculated FL is a measure of the current quality (value and function) of the wetlands that are proposed for impact. As stated previously, the quality of wetlands on the subject site is low; we do not expect that on-site wetlands will rate an FL of more than 0.5 per acre of impact. Therefore, if all  $\pm 0.22$  acres of wetlands on this site are proposed for impact, the total calculated FL is expected to be no more than 0.11 ( $0.22 \times 0.50 = 0.11$ ). To offset this, at least 0.11 units of FG would need to be provided. Lake Washington Mitigation Bank charges \$99,000 for each unit of FG. Therefore, the maximum anticipated wetland mitigation cost if this project (assuming all on-site wetlands are proposed for impact) would be about \$10,890 ( $0.11 \times 99,000 = 10,890$ ).

If wetland permitting is necessary, the time associated with it is expected to be between two and three months for SJRWMD. Permitting through ACOE occurs concurrently, but typically takes a bit longer to complete than state permitting, since ACOE requires more documentation and is not subject to minimum time frames in their review process.

#### **Surface Waters**

A SJRWMD permit is required for any impacts to surface waters, to ensure that such impacts do not adversely affect the existing hydrologic regime of the site, or any properties that are upstream or downstream from the site. Surface waters that are greater than 1.0 acres in size are assumed by SJRWMD to provide aquatic habitat that is beneficial to fish and wildlife; as such, if impacts are proposed to surface waters that are greater than 1.0 acre in size, such impacts must be offset by mitigation, which is typically accomplished on a 1:1 basis on-site. For example, if 0.25 acres along the eastern shore of the pond were proposed to be filled to accommodate the size and configuration of a proposed project, an acceptable form of mitigation would be to excavate 0.50 acres of the Brazilian Pepper community on the western boundary of the site down to the pond elevation, thereby resulting in no net decrease in the size, volume, and habitat potential of the pond.

#### **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 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. Although adequate herbaceous cover, open sunlit areas, and sufficiently drained soil appear to be present within the Herbaceous community, we found no evidence of gopher tortoises (no burrows, scat, tracks, trails, etc.). The disturbances associated with the historical land uses on the site are likely to have precluded its habitation by this species. It is our professional opinion that gopher tortoises are not present on the property, and no gopher tortoise permitting or mitigation will be required prior to site development.

American Alligator: Alligators are protected by USFWS due to their similarity in appearance to the American crocodile. It is illegal to kill, harm, or feed alligators, or to destroy their nests. Nuisance alligators can only be relocated or killed by licensed and permitted professionals. Mature alligators may be present in the pond. However, due to the lack of littoral zones or lateral upland banks adjacent to the pond, no alligator nesting habitat is expected to exist on the site. As such, no nest surveys are expected to be required during nesting season (June through September), and site development is not expected to have any adverse impacts to this species.

Wading Birds: A variety of protected wading birds may occasionally be present within the Wetland Shrub community and the edge of the pond for foraging purposes. These include the tricolored heron, great egret, white ibis, snowy egret, sandhill crane, and greenback heron. There is no rookery habitat on the site to support nesting of any of these species, and none of these species were observed on the site during our inspection. Although it is possible that some or all of these species may be present from time to time in the wetland areas 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 Wetland Shrub community does provide 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 Wetland Shrub community does); b) the affected wetland 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 the site). Since wetlands are less than 0.50 acres, no adverse impacts to wood storks are expected to be assessed for this site.

Bald Eagle (*Haliaeetus leucocephalus*): No recorded bald eagle nests exist within at least 1.0 miles of the subject site, and no eagle nests, eagle activity, or potential nest trees 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.

### Summary and Conclusion

ACES has completed an environmental assessment of Parcel No. 28-36-13-00-758, Norfolk Parkway, West Melbourne, Florida. It is our determination that approximately 17.34 acres of uplands, 0.55 acres of surface waters (the pond and ditch), and 0.22 acres of low-quality wetlands are present on the site. If impacts are proposed to wetlands, then permits will be needed from SJRWMD and ACOE, and mitigation will be required. If impacts are proposed to the ditch, a permit will be needed from SJRWMD, and the project design must show that the current volume and rate of flow within the ditch will be sustained in the post-development condition. If impacts are proposed to the pond, a permit will be needed from SJRWMD, and 1:1 compensation will be required. No evidence of listed species occupation of the site was found during our inspection; as such, no permits or mitigation for potential impacts to listed species are expected to be required prior to site development. Upon your review of this report, should you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,



Andrew Conklin – President, ACES, LLC



Source -Google Maps



### Figure 1 - Location Map

ACES File No. 1993 - Parcel 758, Norfolk Parkway

- Property Boundary

PO Box 500407, Malabar, FL 32950 Phone: (321) 848-1143 Email: [acesllc7@gmail.com](mailto:acesllc7@gmail.com)







Source -Brevard County Property Appraiser



**Figure 2 - Aerial Site Photograph**  
**ACES File No. 1993 - Parcel 758, Norfolk Parkway**

 - Property Boundary

PO Box 500407 Malabar, FL 32950 Phone (321) 848-1143 Email [acesllc7@gmail.com](mailto:acesllc7@gmail.com)







Source -USDA Natural Resources Conservation Service (NRCS)



**Figure 3 - NRCS Soils Map**  
**ACES File No. 1993 - Parcel 758, Norfolk Parkway**

- Property Boundary

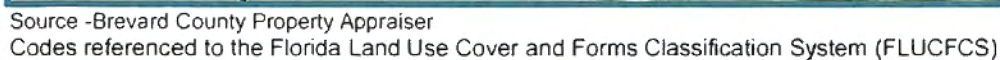
- NRCS Soil Type Boundaries

52 - Quartzipsamments, Smoothed  
 99 - Water


PO Box 500407 Malabar, FL 32950 Phone (321) 848-1143 Email [acesllc7@gmail.com](mailto:acesllc7@gmail.com)







**ACES File No. 1993 - Parcel 758, Norfolk Parkway**

-  - Property Boundary

FLUCFCS Community Boundaries

 - Ditch

- On-site wetlands, +0.22 acres

PO Box 500407, Malabar FL 32950 Phone: (321) 848-1143 Email: [acesllc7@gmail.com](mailto:acesllc7@gmail.com)





Owner's Name: Brevard Tower Comm.

Hearing Date: January 11, 2021

20200015

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

STATE OF FLORIDA  
COUNTY OF BREVARD

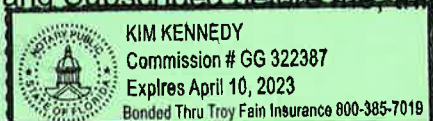
Before me, this undersigned authority, personally appeared, Brian Lock,  
to me well known and known to me to be the person described in and who executed the foregoing  
affidavit, after being first duly sworn, says:

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.

Brian Lock

Signature

Sworn and Subscribed before me, this 21<sup>st</sup> day of December.



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

K. Kennedy

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.#
12/21/2020	21-35-08-00-503	20Z200101



**Brian Lock**

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 11, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Joe Buchanan; and Peter Filiberto, Vice Chair.

Staff members present were: Tad Calkins, Planning and Development Director; George Ritchie, Planner III; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Large Scale Plan Amendment 2020-2.1**

A proposal by Brevard Tower Communications, Inc., to amend Part XI, the Future Land Use Element to change the Future Land Use Map Series designation from RES 2 (Residential 2) and NC (Neighborhood Commercial) to CC (Community Commercial). The property is 17.5 acres, located on the north side of Norfolk Pkwy., approx. 0.23 mile west of Minton Rd. (No assigned address. In the Melbourne area.)

#### **Brevard Tower Communications, Inc. (Bruce Moia)**

A change of zoning classification from GU (General Use) to BU-2 (Retail, Warehousing, and Wholesale Commercial), and removal of a CUP (Conditional Use Permit) for Tower and Antenna. The property is 17.5 acres, located on the north side of Norfolk Pkwy., approx. 1,200 ft. west of Minton Road. (Parcel 756 = 3545 Carriage Gate Dr. Unit Tower, Melbourne; Parcel 758 (part) = No assigned address. In the Melbourne area.) (20Z00015) (Tax Accounts 2802674 and 2802676) (District 5)

Bruce Moia stated in October the board recommended transmittal of the land use request to the State, and there have not been any objections from any of the State agencies. He stated he held a meeting with the Sawgrass Lakes subdivision residents, and as a result of that meeting, he has provided the board with a draft BDP (Binding Development Plan) that he feels addresses most of the concerns. He said boat and RV storage is in high demand in the area and he feels it is the best use for the property because it's the least impactful and lowest intense use, especially with traffic. He handed the board a comparison of what could be developed on the property currently and what is actually being proposed. [The document Mr. Moia handed out can be found in file 20Z00015, located in the Planning and Development Department] He stated the proposed project would be five times less traffic than single-family residential development. Boat and RV storage is rarely accessed because when people take the boats out it is early in the morning and they do not come back until the evening. He said it will be a nice facility with paved drives and covered storage spaces; it will be well run and secure; it will be lit appropriately for safety; and there will be rules in place so people don't do things they aren't supposed to do. He said with the conditions in the BDP, he feels it's a good project and he hopes to have the board's support.

Ben Glover stated the applicant has agreed to do a 50-foot buffer along the west and north boundaries, and asked if a six-foot wall is facing the community. Mr. Moia replied yes, there is low-density residential to the north, and very high-density residential to the west. The site is very wooded along those borders and he would rather keep the natural, 30 to 40-foot opaque buffer, and maintain it instead of removing a lot of it just to put up a six-foot wall, which really won't do anything because the site is on a hill.

Mr. Glover asked if there were any other items that came from the meeting with the neighbors that he felt was a compromise. Mr. Moia replied he put a cap on the number of units, and agreed to do any necessary traffic improvements to the road to make sure it met any warranted improvements for safety, things like turn lanes. He noted it is a public road maintained by the City, and even though the property is in the County, they would have to get City permission to do any improvements, but they're willing to do anything that would be warranted, and maybe even some things that aren't warranted. He stated the only thing there was some discussion on that they couldn't come to some kind of consensus was what is to prevent the property from contaminating the groundwater that would end up going to the lake that's on the border of the west property, which belongs to the homeowner's association. He said he felt that's not an issue because there will be dry retention, so anything that goes on the ground will get trapped in a dry retention pond and filter through the soil, and there will be a lot less vehicles on the subject property than the subdivision itself has that they use on a regular basis. He said he doesn't think that would happen because most of the vehicles don't even have fuel in them, such as fifth-wheels and travel trailers. The property will be secured and monitored with cameras, so if anything like that happens it will be addressed right away.

Joe Buchanan stated storage is an obligation in that area because there are very few places to keep boats and RV's. With 17 acres and 350 boats, it is only movement of 20 to 30 in a day, so it's not going to be a great impedance to Minton Road. He said the applicant did the homework and answered most of the objections from the neighbors.

Mr. Moia stated the lighting was something that was also discussed because there is a very strict code requirement that light cannot spill outside of a property, so photometric plans will be provided.

Mr. Buchanan stated if there's no sewage dump permitted in that area, unless it was a sewer connection, there isn't a problem other than rainwater. Mr. Moia said that is correct, but they would like to reserve the ability to have a dump station if the City of West Melbourne gives them connection to sewer.

Peter Filiberto stated during the last meeting, Mr. Bartcher mentioned the septic on the property and it being a previous landfill, but Mr. Moia had said there would be an aboveground septic system. Mr. Moia replied it would probably be a mounded and pumped system, but it would have to meet the Environmental Health requirements. It would hardly be used; it would just be for the security guard.

Mr. Buchanan noted the BDP stipulates no overnight stays. Mr. Moia replied that is correct, the storage will be on a contract basis.

[Mr. Carswell's presence was noted]

Ron Bartcher asked if the State agencies knew the property was an illegal dump site when they made their evaluations.

Tad Calkins stated staff sent the request to all of the State agencies, and in regard to the dump site, the FDEP (Florida Department of Environmental Protection) website has the site identified, and they are one of the reviewing agencies, and there were no comments from them. The FDEP does have guidelines for developing properties that have landfills on them, and that may be something the board may want to consider as part of the BDP if Mr. Moia is agreeable.

Mr. Bartcher asked Mr. Moia if he has looked at those guidelines. Mr. Moia replied he has not, but he would agree to read the guidelines and add it to the BDP.

Mr. Bartcher stated he is concerned about the fact that it's an old dump site, especially with construction debris, because no one knows what's in it, if it is treated wood, if it has arsenic, or if it's asbestos shingles, so there should not be any disturbance.

Mr. Moia stated they don't want to disturb it; it would probably be similar to when the road was built over top of it, they didn't want to disturb it either because it's very costly and hard to do. He said it is not part of the proposal to un-earth anything.

Mr. Bartcher asked if the 50-foot natural vegetative buffer is already there. Mr. Moia replied yes, it is already there and in order to develop the property to make it viable they would leave 50 feet on the west side and 50 feet on the north side.

Public comment.

Don Curry, 3461 Watergrass Street, West Melbourne, asked if Mr. Moia is a member of the Planning and Zoning Board and if so, how does the board handle an applicant that is also a board member.

Peter Filiberto confirmed Mr. Moia is a member of the board, but the board judges fairly what comes before it, and just because Mr. Moia is a member of this board doesn't mean he will be shown favoritism.

Stephen Phrampus, 3401 Watergrass Street, West Melbourne, stated he is one of the directors of the Sawgrass Lakes Master Association and the representative of over 800 property owners, soon to be 933 upon completion. He said he is also a West Melbourne Councilman and he understands that boards need to hear and review requests without pre-determined opinions, and need to consider the facts presented by staff, the requestee, and the opposition. He stated the developer will say the research indicates that boat and RV storage is needed and is a good fit for the surrounding communities, and they will also say they met with the residents and made concessions based on those meetings. He said the meeting with the developer was requested on short notice and held on December 26<sup>th</sup>, at the Sawgrass Lakes clubhouse. The overall resident opinion was that the developer was checking off a box to present to the County Commissioners and this board, and any so-called concessions were pre-conceived and presented, not objectively discussed. They implemented an offensive strong-armed reasoning tactic of saying they could build a concrete block wall instead of a tree buffer, and the residents found that very offensive. He noted that would be in lieu of the hundreds of feet of tree buffer that is currently there and could be lost. He stated the developer's environmental report dated December 2019 indicates no eagles nest within one mile and the occasional presence of wading birds. This information is factually not true; there is an eagle's nest within a mile on Sawgrass Lakes property, along with the daily occurrence of a wading bird and a roosting sanctuary on the shoreline of the subject property, and if all of those trees are removed all of that is going to go away. He said the developer will say that only concrete and road construction waste have been buried on this site; however, the Universal Science Phase One Environmental Site Assessment report dated December 2004 indicates that during operational periods of the landfill, solid waste items such as paint cans, tires, automobile engine parts, and household trash were accepted by the site. The developer's report from KSM Engineering indicates the sub-surface investigation was terminated after three to five feet in multiple locations because of debris, and



recommends either the debris be removed or an adjacent site be utilized. As a recap of what County Commissioners have already invested in this property in 1992, the County closed the landfill at a cost of \$400,000 to meet EPA regulations and paid the current property owner for the lost services, which is why it is currently a sanctuary-type property, no thanks to the property owner. The property also provides a sound barrier to the traffic noise of I-95, which would be lost with the removal of hundreds of feet of trees. He noted the property was denied support from the City of West Melbourne when asked to supply water and sewer, along with the possibility of annexation, which was prior to his tenure on the Council. This proposal has become known as the great lighted parking lot on the hill, as it is 30 – 40 feet above the surrounding residential area. When residents purchased their homes, they did so with the understanding that the zoning of the landfill area was extremely limited. A parking lot abutting the subdivision was not a consideration. As stated by a board member at the October Planning and Zoning meeting for the transmittal of the property, there is already a traffic problem on Minton Road, the applicant is not using available commercial property already in the area, and it's not a project recommended by the Comprehensive Plan. A large scale comprehensive plan amendment requires a property of this size to be located on a principal artery intersection; however, it is located at the top of a hill at a dead end and urban street with a blind driveway. Even though the transmittal report states there is no traffic data available, the Minton Road feasibility study rates the current intersection at Minton and Norfolk as an 'F' during the morning traffic hours. Sawgrass Lakes residents have nothing to gain and only to lose if the proposal goes through.

End of public comment.

Ron Bartcher stated in one of the emails sent by a Sawgrass Lakes resident it was noted that an inspector conducted a survey on the site. He asked if the inspector provided a report. Mr. Phrampus replied that was in reference to some of the reports presented by the developer. KSM Engineering did an environmental study that he mentioned some of the facts from, but it wasn't brought out by the developer because it didn't favor the proposal.

[Ian Golden's absence was noted]

Mr. Moia stated he thought the neighborhood meeting was productive and thought they discussed every issue that was possible to discuss, and the meeting was very well attended by the residents. He agreed the meeting was held around the holidays with short notice, but he appreciated the residents attending on short notice. He stated the intent is not to disturb the landfill; a road was built over the landfill and anything that is there has been there for a long time. He said he feels the proposed development limits disturbing it more so than any other possible use, and it would be a different story if houses were built on the property and in 30 years the residents would have issues. He went on to say people will access the property outside of peak hours; the road does not have issues off of peak hours, only during peak hours. He said he believes he has addressed all of the issues; the property will be disturbed as little as possible, and nothing will be un-earthed that will cause a problem because it's not in their best interest, so as much as possible will be preserved.

Ben Glover asked how the stormwater will be managed. Mr. Moia stated they are going to work within the topsoil, filling on top of it, but not get into anything within any reasonable distance of the material that would cause an issue with the DEP or any other agency.

Mr. Filiberto asked if the material is three to four feet beneath the ground. Mr. Moia replied it is three to five feet beneath the ground.

Mr. Filiberto noted the Florida Fish and Wildlife Commission reviewed the request and had no objections, comments, or recommendations toward this project, nor did the St. Johns River Water Management District, Florida Department of Transportation, and the Florida Department of Environmental Protection.

Brian Hodgers stated Mr. Moia mentioned many times that the proposed project is the lowest impact, and asked if there have been other potential uses proposed by the seller that could be less impactful than what he's trying to do. Mr. Moia replied the only other use he knows of that could be done is single-family residential or a private golf course, and maybe one or two other uses that are not really development.

Mr. Hodgers asked staff to confirm that the property has a RES 2 Future Land Use designation.

Tad Calkins replied the land use is RES 2 and CC (Community Commercial), the largest portion of the property is the RES 2, it's just the eastern piece along the property line that is CC. The current zoning classification is GU (General Use) and allows one unit per five acres. Under the current zoning, they would be allowed to have three homes on the property. They could change the zoning to be something that would be compatible with RES 2 without going through the large scale amendment, and then have up to two units per acre.

Mr. Bartcher stated he can't imagine any builder building a house or any buyer who would be willing to buy a house on an old dump site, so comparing it to what residential impacts would be is facetious because it's not going to happen.

Mr. Glover asked if the property should sit vacant forever. Mr. Bartcher replied he doesn't see that as a bad thing. In reality, it's almost like having a park that's not used by anybody. Environmentally, it's a nice place with a lot of trees. He said in terms of what else can be done, Mr. Moia has made some serious commitments to avoid potential problems, and if he's willing to go ahead and follow the DEP guidelines for building on top of a site, that would be very helpful. He said his concern is how deep is the debris; and noted that Mr. Moia said it's three to five feet, but erosion over the years could have deteriorated the ground cover down 18 inches or a foot. He asked if the septic tank already existing on this property. Mr. Moia replied no. Mr. Bartcher stated a mounded septic wouldn't disturb the soil. Mr. Moia agreed.

Mr. Bartcher stated by taking the mounded septic into account, plus the DEP's guidelines, if Mr. Moia is willing to put that in the BDP, there could be a potential use for the property. He said he still has concerns about the fact that there is a traffic problem, but if the hours could be limited to non-peak hours, that would help alleviate the problem.

Harry Carswell asked what will be built on the site. Mr. Moia replied there will be paved driveways and probably gravel or stabilized parking spaces.

Joe Buchanan stated he was raised in a house that was on top of a garbage dump; the community is still there today and it's a nice place to live. He said there are a lot of things that can be done with land, but with this particular property it looks like the developer has chosen the best use.

Mr. Filiberto stated as far as traffic, a storage facility would only increase to 81.94% capacity, so the traffic increase would only be 1.29% from where it is currently.

Mr. Hodgers stated with regards to the traffic impact, Mr. Bartcher mentioned is that he's concerned about that, and one of the statistics the gentleman brought up was there are another 100 or so homes that are going to be built in that area, so they are already living there, but they are concerned about the traffic impact, but more homes will raise that traffic impact more than a storage facility.

Mr. Glover asked if Mr. Moia would agree to add the FDEP regulations to the BDP. Mr. Moia replied yes.

Mr. Carswell stated he is a firm believer in property rights and he doesn't see any reason to take away the subject property owner's rights. He said the proposed project is a perfect fit for the neighborhood.

Motion by Harry Carswell, seconded by Joe Buchanan, to approve the adoption of the Large Scale Plan Amendment proposed by Brevard Tower Communications, Inc., to change the Future Land Use Map Series designation from RES 2 and NC to CC. The motion passed 4:2, with Bartcher and Glover voting nay.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the change of zoning classification from GU to BU-2, and removal of a CUP for Tower and Antenna, with a BDP (Binding Development Plan) submitted by the applicant stipulating the following: 1.) to develop the property as a boat and RV storage facility and related ancillary services and facilities; 2.) to provide a 50-foot buffer along the west and north boundaries of the property, in lieu of a six-foot wall; 3.) to limit the number of outdoor storage spaces to 350; 4.) to limit ingress and egress to Norfolk Parkway; 5.) to prohibit a sewage dump station unless public sewer connection is obtained; 6.) to limit outdoor lighting to 17 feet in height from grade to bottom of fixture; 7.) to provide a westbound turn lane if warranted and approved by the City of West Melbourne; 8.) to prohibit overnight stays within the stored vehicles. The board further stipulated the BDP to include that the developer/owner shall comply with the FDEP Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida. The motion passed unanimously.

Traffic Generation Comparison					Norfolk Boat & RV Storage Facility						
ITE Manual Data					Calculated Rates						
Use	Unit	Avg. Daily Weekday	Peak		Property Area (ac)	Units Allowable/ Proposed	Unit	Total	Avg. Daily Weekday	Peak	
			AM	PM						AM	PM
Single Family Homes 210	DU	9.52	0.75	1.00	17.5	2	per acre	35	333	26	35
Mini Warehouse 151	Storage Units	0.25	0.02	0.02	17.5	350	ea.	350	88	7	7

## Condev RV & Boat Storage @ Palm Bay



Prepared for:  
Surrounding Neighbors



Images Below: Shows the height of the natural landscape buffer.







Image Above: View from the east showing the natural buffer in place.

**Image Below: Current view from the west (what residents see now). You cannot see the building. The planned parking canopies are shorter than the existing building.**





Image Below: View of the property from the south. Please note the natural landscape buffer surrounds nearly the entire property.



Prepared by: MBV Engineering, Inc.  
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL

## **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and \_\_\_\_\_, a Florida corporation (hereinafter referred to as "Developer/Owner").

### **RECITALS**

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

WHEREAS, Developer/Owner has requested the BU-2 zoning classification(s) and desires to develop the Property as a Boat & RV Storage Facility, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. Developer/Owner shall provide a 50 foot buffer along the west and north boundaries of the Property, in lieu of a 6' solid wall.

3. The Developer/Owner shall limit number of outdoor storage spaces to 350 and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

4. The Developer/Owner shall limit ingress and egress to Norfolk Parkway.

5. The site shall be developed as a Boat & RV storage facility and related ancillary services and facilities.

6. No sewage dump station shall be allowed, unless public sewer connection is obtained.

7. Outdoor lighting is limited to 17 feet in height from grade to bottom of light fixture.

8. Westbound right turn lane will be provided, if warranted and approved by the City of West Melbourne.

9. No residing or overnight stays within the stored vehicles shall be allowed.

10. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property prior to issuance of an approved development order.

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

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

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

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

ATTEST:

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

\_\_\_\_\_  
Rachel Sadoff, Clerk  
(SEAL)

\_\_\_\_\_  
Rita Pritchett  
Chairman  
As approved by the Board on \_\_\_\_\_

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

WITNESSES:

DEVELOPER/OWNER

\_\_\_\_\_  
\_\_\_\_\_  
(Witness Name typed or printed)

\_\_\_\_\_  
\_\_\_\_\_  
(Address)

\_\_\_\_\_  
\_\_\_\_\_  
(Witness Name typed or printed)

\_\_\_\_\_  
(President)  
\_\_\_\_\_  
(Name typed, printed or stamped)

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, President of \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires  
SEAL  
Commission No.:

\_\_\_\_\_  
Notary Public  
\_\_\_\_\_  
(Name typed, printed or stamped)

**JOINDER IN BINDING DEVELOPMENT PLAN**

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated \_\_\_\_\_, given by \_\_\_\_\_, as mortgagor, in favor of the undersigned, \_\_\_\_\_, as mortgagee, recorded in Official Records Book \_\_\_\_\_, page \_\_\_\_\_, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby join in the foregoing Binding Development Plan for the purpose of consenting to the change of property use and development requirements as set forth therein.

WITNESSES:

MORTGAGEE NAME/ADDRESS

\_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_

\_\_\_\_\_  
Authorized Agent Signature

\_\_\_\_\_  
(Witness name typed or printed)

\_\_\_\_\_  
(Name/title typed, printed or stamped)

\_\_\_\_\_

\_\_\_\_\_  
(Witness name typed or printed)

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires

\_\_\_\_\_  
Notary Public

SEAL

Commission No.:

\_\_\_\_\_  
(Name typed, printed or stamped)



Prepared by: MBV Engineering, Inc.  
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

## **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Brevard Tower communications (hereinafter referred to as "Developer/Owner").

### **RECITALS**

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

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

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

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

NOW, THEREFORE, the parties agree as follows:

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

2. Developer/Owner shall provide a 50 foot undisturbed vegetated buffer along the west and north boundaries of the Property, in lieu of a 6 foot solid wall. No improvements shall be allowed within the said buffer.
3. The Developer/Owner shall limit the number of outdoor storage spaces to 350.
4. The Developer/Owner shall limit ingress and egress to Norfolk Parkway.
5. The site shall be developed as a Boat & RV storage facility and related ancillary services and facilities.
6. No sewage dump station shall be allowed, unless public sewer connection is obtained.
7. Outdoor lighting is limited to 17 feet in height from grade to bottom of light fixture.
8. The applicant shall provide a traffic study detailing any required roadway improvements including, but not limited to a right turn lane, at the time of site plan submittal. If an improvement is warranted, and approved by the City of West Melbourne, it shall be constructed accordingly.
9. No residing or overnight stays within the stored vehicles shall be allowed.
10. The Developer/Owner comply with the applicable requirements of the FDEP Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida.
11. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property prior to issuance of an approved development order.
12. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
13. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on \_\_\_\_\_. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.

14. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
15. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 14 above.
16. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

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

ATTEST:

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

\_\_\_\_\_  
Rachel Sadoff, Clerk of Court  
(SEAL)

\_\_\_\_\_  
Rita Pritchett, Chair  
As approved by the Board on \_\_\_\_\_

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

WITNESSES: (INSERT BUSINESS NAME or INDIVIDUAL NAME(s))  
as DEVELOPER/OWNER

\_\_\_\_\_

\_\_\_\_\_

(Witness Name typed or printed)

(Address)

\_\_\_\_\_

\_\_\_\_\_

(President)

(Witness Name typed or printed)

(Name typed, printed or stamped)

STATE OF \_\_\_\_\_ §

COUNTY OF \_\_\_\_\_ §

The foregoing instrument was acknowledged before me, by means of \_\_\_\_ physical presence or  
\_\_\_\_ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_, President of \_\_\_\_\_, who is  
personally known to me or who has produced \_\_\_\_\_ as identification.

My commission expires  
SEAL  
Commission No.:


\_\_\_\_\_  
Notary Public  
(Name typed, printed or stamped)



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

**TO:** Board of County Commissioners

**FROM:** Tad Calkins, Director – Planning & Development 

**CC:** Frank Abbate, County Manager  
John Denninghoff, P.E., Assistant County Manager

**DATE:** January 26, 2021

**SUBJECT:** **Addendum to Staff Comments, Re: Brevard Tower Communications Inc. Binding Development Plan Submittal (20PZ00015) for the February 4, 2021, Meeting Agenda**

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On January 25, 2021, the Applicant provided staff with draft BDP for the February 4, 2021, Board of County Commissioner's meeting in reference to the Brevard Tower Communications Inc. (20PZ00015) rezoning application from General Use (GU) to Retail, Warehousing and Wholesale Commercial (BU-2) with the removal of a CUP for a communication tower. A companion Large-Scale Comprehensive Plan Amendment (20PZ00072) has also been submitted changing the Future Land Use from Res 2 and Neighborhood Commercial (NC) to Community Commercial (CC). During the November 5, 2020 Board of County Commissioners (BOCC) (Transmittal hearing) meeting, the applicant stated that a BDP will be provided for the Board's consideration, to help mitigate off-site impacts. Both applications will be heard at the February 4, 2021, BOCC meeting. The proposed draft BDP conditions are as follows:

**Staff's responses are in bold.**

2. Developer/Owner shall provide a 50 foot undisturbed vegetative buffer along the west and north boundaries of the Property, in lieu of a 6-foot solid wall. No improvements shall be allowed within said buffer. **The code requires a 6-foot masonry wall and a vegetative buffer between residential and commercial uses. Brevard County Code, Sec. #62-1157(f) states, "Any restrictions stipulated in the binding development plan shall not be less restrictive than the requirements of existing codes and regulations". The BDP is not the mechanism to deviate from the code requirements, the applicant will need to obtain a waiver to omit the 6-foot wall requirement.**
3. The Developer/Owner shall limit number of outdoor storage spaces to 350 and may be further restricted by changes to the Comprehensive Plan or the Land Development Regulations. **The Zoning Code does not limit the number of storage spaces.**
4. The Developer/Owner shall limit ingress/egress to Norfolk Parkway. **Currently, Norfolk Parkway is the only access with road frontage to provide access to the site.**

5. The site shall be developed as a Boat and RV storage facility and ancillary services and facilities. **This is already allowed by the Zoning Code. The proposed condition does not offer to prohibit other uses allowed within the BU-2 zoning classification.**
6. No sewage dump station shall be allowed, unless public sewer connection is obtained. **A sewage dump station is not allowed in a BU-2 zoning classification.**
7. Outdoor lighting is limited to 17 feet in height from the grade to the bottom of the light fixture. **The code does not limit the height of a light fixture. Lighting shall be provided in accordance with Brevard County Code Sec. #62-2257.**
8. The applicant shall provide a traffic study detailing any required roadway improvements including, but not limited to a right turn lane, at the time of site plan submittal. If an improvement is warranted, and approved by the City of West Melbourne, it shall be constructed accordingly. **Roadway improvements will be approved at the sole discretion of the City of West Melbourne.**
9. No residing or overnight stays within the stored vehicles shall be allowed. **The proposed BU-2 zoning classification prohibits the overnight stays within the vehicles.**
10. Developer/Owner comply with the applicable requirements of the FDEP Guidance for Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida. **These guidelines are in addition to what Brevard County requires.**
11. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property prior to issuance of an approved development order. **The non-underlined language is part of the standard BDP template. The underlined portion was added by the applicant. The County Attorney's Office does not agree to this addition. It appears what they are attempting to say is that they have no vested rights up until the issuance of an approved development order but, then, upon issuance of a development order, there would be a blanket agreement to vested rights for the property. This would not be in the best interest of the County; moreover, the County has a procedure in place for vested rights claims (Sec. 62-507) which would be the avenue to determine vested rights, if any. In sum, it is broad and speculative as to what vested rights they are entitled.**

The Board may wish to consider these additional conditions and determine if they help address any off-site impacts to the surrounding area.

Attachment: Binding Development Plan, submitted January 25, 2020.



**From:** [Josh Post](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Proposed RV/Boat/Storage facility West Melbourne  
**Date:** Tuesday, December 29, 2020 5:43:59 PM

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

Mrs. Jones,

Please take into consideration my email when deciding to approve or deny the planing and zoning for this establishment off of Norfolk RD in West Melbourne.

My family and I picked this development for is semi seclusion which is rare to find in Brevard County. We are somewhat off the beaten path and allowing this storage facility to happen on the one way in our out of our neighborhood will detract from this seclusion, as anyone who misses their turn to the facility will have absolutely no where to turn around except our neighborhood.

Adding this facility will also increase the amount of traffic on this heavily traveled residential road

The turning area and lines of sight to enter this facility are very limited and will cause more accidents which is already a major issue in this area, mainly Minton and Norfolk BLVd. if approved, larger vehicles will be coming into and out of the area which will increase the accident risks tremendously. Which will then task West Melbourne PD, Florida State Police, and Brevard County Fire Rescue to have a larger burden.

I am sure you will hear many more responses to this,I just wanted to make sure my voice was heard.

Josh Post  
4061 Dragonfly Dr  
West Melbourne, Fl 32904  
757-947-5569

**From:** [Doug St John](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Re-zoning of parcel of land east of Sawgrass Lakes  
**Date:** Thursday, January 7, 2021 7:01:52 PM

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

Greetings,

I am a resident of Sawgrass Lakes in West Melbourne, FL. There is currently a request before Bevard County from a company named Condev to have a parcel of land adjacent to our Sawgrass Lakes re-zoned for an RV and boat storage parking lot. I and many others in the community are concerned about this. As of right now, we have a petition in opposition to this RV/Boat parking lot with over 520 signatures.

In a rather insulting display of salesmanship, representatives from Condev called for a meeting with our community with 48 hours' notice, three days before Christmas. To "appease our concerns." What they did was dismiss every concern we had. Claiming we would never see them, hear them, or be inconvenienced by their presence what so ever. According to them, it would be a blessing for us to live next door to such a fantastic business. I then went home to watch The Muppets version of the Charles Dickens classic "A Christmas Carol." I honestly found the movie to be a more realistic version of reality than the fantasy of a parking lot with 300 LARGE vehicles that would somehow exist in a vacuum of time and space.

The first and most important issue for me is the location of the proposed storage lot. Sawgrass Lakes will soon be a community of over 900 homes. In addition to Pine Apple Cove, which will soon be adding a high school. All 900 houses and the school share one single lane road, Norfolk Parkway, in and out of Sawgrass Lakes. This is already something of a disaster at peak driving hours. The proposed RV/Boat storage lot is at a horrible spot, atop a hill, where several accidents have occurred. And it is in the front portion of our community. Meaning everyone will have to drive past it every single day. If Condev were interested in developing land at the end of Norfolk, it wouldn't be in everyone's face every day, and I doubt they would be getting this much resistance from the community. We are also worried about pollution from the parking lot as all cleaning chemicals and motor fluids from the 300 plus large vehicles will undoubtedly find their way into our lake.

These are my primary issues with the proposed RV/Boat Storage on Norfolk Parkway. Others in the community have different concerns, and I hope they reach out to you to express them. Thank you very much for your time. I wish you a Happy New Year.

Sincerely,

Doug St John

**From:** [Kelly Therrien](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Deny Rezoning  
**Date:** Friday, January 8, 2021 7:16:02 AM

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

Hello Ms. Jones,

I am contacting you in regards to the upcoming zoning meeting set for January 11. I am asking that you vote no to rezoning. The proposed plan for a storage unit at the top of the hill on Norfolk Parkway would be disruptive to all residents of Sawgrass as well as the Pineapple Cove school. As it is, there have been traffic accidents on this ride which has one lane in each direction. To get recreational vehicles and trailers into the narrow driveway at the top of the hill will result in drivers crossing into oncoming traffic to make the turn necessary for large vehicles and trailers. Not the mention if the driveway is missed there is no place for a large vehicle to make a u-turn the street dead ends at the school.

Please consider the negative impact on the families that live in Sawgrass to this proposed change and say no to rezoning.

Thank you,  
Kelly

Kelly Therrien  
Resident of Sawgrass Lakes since 2017

Sent from my iPhone

**From:** [Elbert Schaffert](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Zoning meeting for the RV/Boat storage  
**Date:** Friday, January 8, 2021 9:22:02 AM

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

Hello Jennifer -

I'm very concerned with the proposed RV/Boat storage that is planned on Norfolk parkway.

That will bring so much undesirable elements and issues to all the residents here in Sawgrass. This is a prime location and it should be used for things that would bring value to our properties, and I feel a storage unit will only bring values down.

Please help us, all the residents at Sawgrass, maintain our property values and keep this a desirable family neighborhood.

Thanks,  
Elbert  
321-501-9686

**From:** [Julie Arthur](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Re-zoning of the property located at the entrance of the Sawgrass Lakes community  
**Date:** Friday, January 8, 2021 10:13:53 AM

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

Ms. Jones,

I am currently a resident of the Sawgrass Lakes community in West Melbourne. I am opposed to the re zoning of the property at the entrance of our neighborhood. There are a variety of reasons for my position.

The traffic leaving Sawgrass Lakes has been a major safety issue for quite a while. A few years ago there were fires near the entrance and no way for the residents to get out of the neighborhood. It is one lane each way for approximately 1000 homes which has already proved to be a major issue. I can't imagine it would be any better with people coming in and out of a storage facility with large RV's and boats. If the entrance would be on Minton Rd the traffic at the intersection is very congested and there are traffic issues there as well which the city is aware of.

There is also a property value issue. Our homes that face the proposed RV/boat storage facility are \$400,000-\$600,000. Would you pay for a home like that to look at an RV/boat storage facility? I'm sure it will devalue our homes. Would you like to have a commercial property in the entrance of your neighborhood? Being close to a commercial facility can make you ineligible for insurance with some homeowners insurance carriers.

We are also concerned about the environmental issues being that this was a prior landfill that will now be disturbed. The potential buyer does not plan on doing anything to address the potential issues.

Many of our residents including children walk and ride their bikes home from school along this sidewalk on Norfolk Parkway because it is part of the entrance to our neighborhood.

The residents of our neighborhood are also concerned with the potential for crime in these types of facilities.

Please reconsider the re zoning of this property as it is unfair the the homeowners of Sawgrass Lakes. Thank you for your time.  
Sent from my iPhone

Julie Arthur  
3780 Watergrass St  
West Melbourne, FL 32904  
321-213-3308

**From:** [D.Y Braithwaite](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Re: Rezoning of property at 3851 Norfolk ParkWay 32904  
**Date:** Friday, January 8, 2021 10:32:55 AM

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

Correction on property address .  
Please note file accordingly.  
Thank you

Sent from my iPad

On Jan 8, 2021, at 10:28 AM, D.Y Braithwaite <[dybraithwaite@gmail.com](mailto:dybraithwaite@gmail.com)> wrote:

My name is Ysmin Braithwaite of 3402 Rushing Waters Dr 32904. I am a resident of the Sawgrass Lakes community, a 900+ houses development directly west of the property that is seeking re-zoning. My family and numerous others oppose the building of a commercial RV/Boat storage facility for many reasons, including, but not limited to:

Landfill disturbance could result in health issues for families located in close proximity to this property. The disturbance of unknown and possibly toxic content of the former, illegal landfill that makes up the parcel. The county should be fully conversant of this situation and should have adequate data to support this concern. We do not want to become another negative situation as captured in numerous studies being conducted regarding poor environmental conditions which resulted from dumping legal or illegal matter affecting the residents of Brevard County.

Traffic and added undue pressure to the already strained traffic situation on Norfolk Parkway, which is where the only ingress/egress point for the storage facility has been proposed. This despite data indicating that the property had an entrance off Carriage gate when dump was in effect. This property is located on the rise of the parkway resulting in blind spots for those going both east and west. This area of the roadway cannot be expanded unless substantial cost is injected into the needs of this proposed commercial venture which developers do not appear to want to finance. Also this location is very close to the lights leading on to Minton Road and would be detrimental to the usage of Norfolk Parkway. I might add that Pine Cove Academy is located at the west end of Norfolk Parkway and adds safety and congestion issues to this venture location.

Crime. The almost certain attraction of crime (break-ins), and the homeless seeking shelter as experienced by many such storage facilities.

Property values. The likely devaluation in property values for adjacent communities due to the above mentioned grievances. This is not what was "sold" to us at purchase. I can only assume that the County and West Melbourne took this past issue of the dump into consideration prior to approving the application of



DrHorton to built the SawGrass development.DrHorton as a responsible corporate member ensuring that this community would not have to be affected by any adverse issues which could affect health ,value or enjoyment of the homes sold to the homeowners.

Thank you for your time and looking forward to our concerns being considered in this re zoning request.

Respectfully,

Ysmin Braithwaite

Sent from my iPad

**From:** [Maxwell J Perez](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** No zoning change near Sawgrass Lakes  
**Date:** Friday, January 8, 2021 10:39:29 AM

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

Good morning Jennifer,

I am a resident of Sawgrass Lakes in West Melbourne, FL. I am a software engineer who moved to Florida several years ago for several reasons. The primary reason for moving to Brevard County is because of the opportunities that are available to engineers in the aerospace industry. Secondly, Brevard is one of the few places in the country where engineers like me can live and raise a family far away from urban blight, yet still have great amenities at the same time. There is plenty of nature here, and that is one of the attractive features about Brevard, and especially here in Sawgrass Lakes. We are surrounded by forests, lakes and wildlife. I could not imagine living anywhere else. These are the things that many potential new residents look for when moving from other parts of the country, and doing their home search in Brevard county.

There is a property directly adjacent to the east of the Sawgrass community. This property was a former landfill that was later capped in the 1990s, and rezoned to ensure that it does not cause additional environmental impacts. Currently, this landfill has construction debris like concrete and lumber buried below the surface soil. However, this landfill has had a shady history, and was previously cited for dumping illegal substances, which could potentially cause environmental concerns if disturbed. Brevard County took the correct action in closing this landfill in the 1990s, and designating it as a zone to prevent development on this site. It needs to stay this way.

I am not a very happy resident at the moment, and many in my community are not either. A business owner with the company Condev wants Brevard County to change the zoning of this property in order to build an RV and Boat storage facility. However, we residents do not want this changed. There are many reasons why Sawgrass residents oppose this request. Despite meeting with the owner in our Sawgrass Lakes community center, the owner who wants to build his business on a landfill directly adjacent to our neighborhood did not seem to be very accepting of our concerns.

I'd like to state a few concerns that I have as a resident, and these were shared with the owner as well when we spoke to him. First of all, the landfill where the RV and Boat storage would be built is directly adjacent to the major lake that is owned by the Sawgrass Community HOA. This lake provides waterfront property to many homes, which is a feature that helps our home values. The RV and Boat storage facility, if built, would sit on a higher elevation adjacent to our neighborhood because of the landfill. We at Sawgrass Lakes do our very best to keep our neighborhood clean and safe for our community. Despite the RV and Boat storage owner's efforts to help prevent contaminants and pollutants from spilling into our lake, this is largely the responsibly that belongs to patrons that will use his business. Unfortunately, there would be little for him or his employees to control oil leaks and spillage of fuel, raw sewage

and cleaning products on his site. There could be up to 300 boats and RVs on this facility. Sawgrass residents would be at the mercy and will of RV and boat owners that do not even live in our community. RVs and boats tend to leak oil and fuels if not properly maintained by the owner, especially if these RVs and boats are sitting on the property for weeks or months without being used. The contaminants spill onto the surface of the RV and boat site, and are carried away by rainwater. Some of these pollutants are absorbed into the soil, and carried into groundwater, which we use to water our lawns with. Since the landfill has slopes on all four sides, the western slope goes directly into our lake. The oils and contaminants over time will eventually runoff of the RV and Boat storage facility through rainwater, and collect into the Sawgrass community lake. Directly to the east and adjacent of the proposed RV and Boat storage facility is a retaining pond that is owned by the Sawgrass Community residents, and it too is susceptible to rainwater runoff from the RV and Boat site. There are plenty of reasons why residents are opposed to this. Contaminants and pollutants, especially from cleaning products, oils and fuels cause environmental issues with lakes. They also potentially cause cancer if the contaminated water is absorbed by the lake, and carried to our homes via groundwater. There are plenty of fish and wildlife that live in or near this lake, and are part of our community as well.

We brought this up to the engineer that was representing the owner for the Boat and RV storage facility. His argument is that residents of Sawgrass have vehicles that sometimes are parked on home driveways, and these can also leak oil. This may be true, but residents that live within the community are a lot more careful of our vehicles and our property, and take care of these vehicles because we live here. The rainwater from driveways get carried into storm drains and moved through storm drain systems. They are not draining into our lakes. The owner simply did not show any sympathy or remorse to this fact, as we voiced our concerns about this several times. Instead, he kept making excuses for his business.

The second issue is crime and security. Historically, RV and Boat storage facilities tend to attract crime. Despite having high-tech security cameras or lighting, these are places still increase the rate of theft and other suspicious activity. These are also places where people tend to live in their RVs, potentially using drugs and other criminal behavior. We do not want that here next to our community. Sawgrass Lakes is already having a wave of car thefts and break-ins, and we do not need more of that here. There is a school, Pineapple Cove, which is less than a mile away from where the proposed RV and Boat storage facility would be, and this creates problems for children and families.

Light pollution is another issue that was brought up. Being that are community is somewhat distanced from the main road of Minton and other areas, we enjoy have limited light pollution in the area. As stated before, the RV and Boat storage adjacent to our neighborhood, and sits on top of a landfill at higher elevation than the homes below. The glow of the security lighting, even if pointed downward, will still be visible from the night sky being that it is so close to our homes. The owner made the argument that the lights are shorter than the canopy level of the trees. However, lighting depending on output power and how many light fixtures there are still give a glow into the night sky, which is easily apparent. Residents enjoy the darker night sky being somewhat on the western edge of the city, and not too close to nearby businesses.

Traffic and safety is another concern. Norfolk Parkway is just a two lane road, and is the only egress point in and out of Sawgrass Lakes. We had an accident last year, where a vehicle crashed into the side of the guardrail during rush hour. This blocked traffic completely as

there was no way in or out for residents. There have also been numerous accidents at the intersection of Minton and Norfolk, which also blocks access for residents. Congestion is also increasing due to the Pineapple Cove school, and is expected to increase as more homes are being built, and potentially a new high school on Norfolk. Commute times for us Sawgrass Lakes residents is increasing due to having the one and only egress point with two lanes. Adding another business to Norfolk Parkway not only would increase traffic, this increases hazards as well. The RV and Boat storage site would sit on top of a hill, which means that large vehicles like RVs and trucks towing boats take longer to climb. This slows down traffic behind it. Also, due to the size of RVs and boat trailers, they need a larger turning radius. There could potentially be plans for an additional turning lane. However, I would argue that this still would cause problems unless Norfolk were to be expanded to a four lane road. Any accident involving an RV or Boat coming into our out of the RV/Boat storage site potentially blocks Sawgrass residents from getting in or out of our community. Several years ago, there was a forest fire between our neighborhood and Minton/I-95. Had this fire approach Norfolk, we would be completely blocked off. We do not need to increase other chances or opportunities to be blocked in our own community, and I can only see an accident with an RV or boat creating a menacing situation for us.

There is also the questionable practice of building anything on top of a landfill in the first place. An inspector who conducted a survey on the site dug bore holes with a hand auger at several place at the proposed site to test the soil compaction, and concluded that the soil was not sufficient for construction. There is only several inches of soil at the top layer before reaching the debris of concrete and lumber materials from the landfill. Since his hand augers were not able to breach the concrete and lumber debris of the landfill, he was not able to determine soil compaction down to 5 feet, and concluded this is not safe. Furthermore, the inspector suggested the landfill be excavated. I agree with him. Even there were limited development on the site for fencing, light poles and canopies, there would still be the weight of 300 RVs and boats in which I cannot imagine the landfill would be compact enough or structurally sound to support. There will be settling issues on the landfill site if the RV and Boat storage facility were approved.

We asked the owner why this site location was important to him as opposed to building an RV and Boat storage at other sites in Brevard. He explained that he expects this site to serve customers within a 10 mile radius, but that the reason this site was special was because it already has a building on it. This owner has several site locations for his business, and does not live at those businesses. We live here. I am not an expert on real estate, so having a building already built perhaps serves the RV and Boat storage well. But to me, this is still a disadvantage for residents. We do not want a RV and Boat storage facility next to our community. This will lower our home values due to the things mentioned above. A very small portion of residents do have RV and boats, but the mass majority do not. Therefore, it is not a benefit to us to have this zoning change. We'd prefer that the zoning of this property be left as is, and potentially be developed into a park or a community area for residents around the area. This would serve the community a lot better.

If this RV and Boat facility were built 4 years ago, I would not have purchased a home in Sawgrass Lakes. I would have looked elsewhere. I think many of my fellow residents would agree. Sawgrass Lakes is a smaller version of Viera, but in West Melbourne. This is great because it is so close to all of the aerospace companies. As an engineer moving from other parts of the country, I would want a place to live far from businesses like an RV and Boat storage, and this site would have been a turn-off for me as a potential home buyer. I do not

see how this zoning change benefits anyone except the buyer of the property.

I am asking that the Brevard County zoning commission listen to the residents of Sawgrass and nearby communities as we express our dislike for an RV and Boat storage facility next to us, or for a zoning change in general. We'd prefer that the zoning be left as is, and the landfill property utilized as green space or a park that serves the community and residents nearby. Doing this would show that the county cares more about its residents, instead of a single business owner.

Thank you.

Sincerely,  
Max Perez

**From:** [Pam Evanskey](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** RV/Boat Storage Proposal  
**Date:** Friday, January 8, 2021 10:59:17 AM  
**Attachments:** [image.png](#)

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

Dear Ms. Jones,

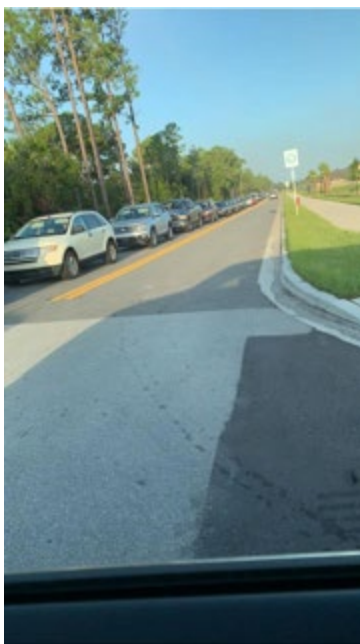
I am requesting respectfully that you help our Sawgrass Lakes community stay “toxic free” by not allowing any type of development of this toxic waste dump.

I know money talks but so does cancer! Exposing the citizens of this large community to toxic waste disturbances that could cause health issues is not a good idea. No matter what the developer tells you or plans you must know that doing any kind of digging here is going to result in release of those toxins into our lakes and the air we breathe.

There is plenty of undeveloped land in Brevard away from large communities that do not sit on toxic waste dumps available for development. Please ensure that this developer goes there and stays away from our family oriented community.

Not only will this development cause health issues it may also devalue our homes. This too is a major concern.

Maybe if I have not yet convinced you, Brevard County officials should visit our community and the road situation that involves a school full of children that would also be impacted negatively. It is already a traffic nightmare during school hours when everyone is back at work and in school. People that live here have to add at least 30 minutes to their commute just to get out of our community to go to work. Imagine adding a storage area that requires large boats and RV's access to that same road?



Altogether, this is just not a good idea for our community and will most likely result in bad press for



Brevard County when the EPA is called in to assess this situation and the impact to our great community.

We appreciate your help and support with voting against this development.

Sincerely,  
Pamela Evanskey  
3241 Watergrass Street  
West Melbourne, FL 32904

Sent from my iPhone

**From:** [Kelley Maynard](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Zoning for RV storage on Norfolk Parkway  
**Date:** Friday, January 8, 2021 1:21:24 PM

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

Good afternoon, Ms. Jones. I am writing to voice my concerns regarding the rezoning of the property on Norfolk Parkway. I am against this rezoning because it will allow for a large RV/boat storage facility at the beginning of the Sawgrass Lakes neighborhood where my family lives. This property is not conducive to an RV storage for multiple reasons including the following:

1. It is located at the top of a hill that has limited visibility and turn radius which will be very dangerous for large RVs and boats to turn out of and potentially deadly for our neighbors.
2. Sawgrass is a large residential neighborhood with over 900 families. The sidewalks on Norfolk Parkway are heavily used by neighbors with many walking, running and biking. An RV storage entrance would be a danger to people using sidewalks for exercise.
3. Norfolk Road is already overused due to the school also located at the end of Norfolk. This is a one way in/one way out road and cannot handle a 300+ RV storage to be added to our already heavy traffic.
4. This property is the home of an illegal landfill and the earth should not be disturbed to let potential toxins into our neighborhood. It should be left alone as is.
5. The storage facility has the potential of bringing unwanted crime to the area.
6. Light pollution from the storage facility would ruin the neighborhood at night affecting many people's property. This should remain a residential area and not a commercial zone.

Thank you for your attention to this matter,  
Sincerely,  
Kelley and Ryan Maynard  
3840 Watergrass Street  
West Melbourne, FL 32904

Sent from my iPhone

**From:** [Bob and Pam Rutherford](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** RV-Boat Norfolk Storage Facility  
**Date:** Sunday, January 10, 2021 12:59:42 PM

---

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

To the Planning and Zoning Board,

I oppose the advancement of the proposed RV-Boat Norfolk Storage Facility on Norfolk Parkway in West Melbourne, Florida. While I have many concerns that are listed on the petition I signed, including any movement or disturbance to the ground at the old landfill, I have traffic concerns in the event of an emergency in my neighborhood (Sawgrass Lakes) or at the school (Pineapple Cove Classical Academy at West Melbourne).

My home in Sawgrass Lakes backs up to Norfolk Parkway. I see emergency vehicles come down Norfolk Parkway heading toward my neighborhood entrance or the school several times a week with their sirens on. Having a RV-boat storage facility off of Norfolk Parkway will not only add to the traffic issue that already exists, it could add precious time to an emergency response. The proposed entrance to the RV-boat storage facility is at the top of a hill on a two lane road that already has traffic backups. Adding additional traffic or the possibility of an RV or boat trailer crossing and potentially blocking the path of an incoming emergency response vehicle(s) should be considered important and not allowed. Seconds count in the event of an emergency.

Regards,

Pam Rutherford

**From:** [catigbeletha@gmail.com](mailto:catigbeletha@gmail.com)  
**To:** [Jones, Jennifer](#)  
**Subject:** Landfill development  
**Date:** Sunday, January 10, 2021 2:23:54 PM

---

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

Dear Ms. Jones,

Please don't permit the landfill property at Sawgrass Lakes to be developed into a boat/rev storage. The road will not accommodate the size of the vehicles and the development is going to be massive. We already have traffic problems due to the school which will be adding a high school. There is only one way in and out and if there would be any type of accident we would be locked in. In addition, that landfill was illegal and the contents are unknown. They say they won't dig, but mentioned bringing in backhoes. They were changing their story every five minutes. They also want to put in a detailing area, but said they won't be using chemicals. This won't be a good addition to our residential area. Please consider how well West Melbourne has been growing. We have many young families with children to take care of. This would be a detriment to our community and town. Thank you for your kind consideration and stay healthy and safe in the new year.

Letha Catigbe, Arturo Catigbe, Arthur Catigbe

**From:** [Christel Reaves](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Norfolk Parkway Rezone Concerns  
**Date:** Sunday, January 10, 2021 4:45:22 PM  
**Attachments:** [image.png](#)  
[image.png](#)  
[RV-Boat KSM-Hand Augers 08-05-2020.pdf](#)

---

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

Ms. Jones,

Thank you for the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility can be built on the property. We believe the location should not be rezoned for several reasons. We live at 3491 Watergrass Street West Melbourne, FL. Our backyard has a direct view of the property. Our concerns extend further than aesthetic reasons.

1. Our greatest concern is the pandora's box that will be opened due to preparing the property for the structure they want to build and the honesty of the company. During the community meeting my husband attended, the company said they planned on adding fill dirt to increase the height of the property to prevent the need for excavation. The KSM Engineering and Test Report recommended the company excavate the soil and replace it or the structure will settle. I hope each board member took the time to read the KSM Engineering and Test Report. Here is a snapshot of KSM Engineering's recommendation. I attached the full report to this email if others have not viewed it.

**Engineering Evaluation and Conclusions:**

Based on the information obtained from this site investigation we are pleased to offer the following evaluation:

The boring logs indicate the subsurface soils from the surface to a depth of approximately 2 feet consist mostly of fine-grained sand. Below a depth of 2 feet, we found a layer of fine-grained sand with pieces of wood and concrete. After this layer, the debris was so dense that we could not penetrate it. Please refer to the soil boring logs for specific information relative to the soil description.

The debris layer of fine-grained sand with wood and concrete would cause settlement to the planned structure. This settlement, in our opinion, would be too excessive and beyond the general accepted safe limits for the structure. Therefore, our recommendations are concerned with removing the debris and replacing it with compacted sand.

The following sections provide recommendations for the site preparation and foundation design.

**Site Preparation:**

Excavate the debris layer from within the proposed foundation pad. Excavated fine sand may be stockpiled and re-used provided that it is not mixed with construction debris or other unsuitable material. All over-excavation of unsuitable soils, replacement, and compaction of suitable clean fine sand backfill material should take place in the "dry". It is important on this project to have the removal of the debris layer inspected to ensure all unsuitable material is removed. After the unsuitable soils have been removed, the site may be prepared.

Structural fill shall consist of clean granular sand containing less than 5% material passing the U.S. Standard No. 200 mesh sieve. Fill should be placed in layers of 12 inches in thickness. Compact each lift to at least 95 percent of its modified Proctor value (ASTM D 1557).

For any over excavation, the disturbed footing subgrade should be recompacted to 95 percent (minimum) of its modified dry Proctor value. This can be best achieved by making several passes with a relatively light-weight walk-behind vibratory sled jumping jack.

We recommend field density tests be performed at appropriate times during the earth work operations in order to verify that the site has been properly constructed.

Temporary dewatering may be necessary in order to achieve excavation and compaction specifications. The actual method of dewatering should be determined by the contractor. We suggest drawing down the water table below the bottom of excavations to avoid compaction related problems.

Due to the debris, we were not able to provide an exact bearing capacity. We recommend that after removal of debris you contact our office for additional deeper soil borings in order to provide a bearing capacity and settlement calculations.

The property has not been purchased and the company has already been untruthful to the residents of Sawgrass Lakes. They lied straight-faced to residents when asked about the excavation.

- Is the county ready for possible consequences from excavation?
- What if material not properly handled causes health issues for residents and children?
- Will the company stand by and cover the costs of medical, lost property values, and proper clean-up?
- What about the tax revenue that will be lost when property values plummet?
- How can you trust them?
- What real benefit does the county receive by approving this change? Is it worth the risk of what might be found at the site?
- If one structure could cause settling, what about the weight of hundreds of RV's and Boats?

I know this property is classified as a class 4 landfill. Our family has lived in this area for generations. My father-in-law, a pastor of a local church, shared with me how as a young child they could bring whatever they wanted to this landfill. All kinds of chemicals. They never turned anyone away. This was over 60 years ago. Do we trust this classification? There were a lot fewer regulations years ago.

2. Another concern is the risk of being landlocked as a result of an overturned boat or RV. We will not be able to come in or out of the neighborhood until the situation is cleaned up. Emergency responders would not be able to respond to residents or the school if there was another emergency. The entrance is at the top of the hill with blind spots. Some residents already do not drive the speed limit in this area causing accidents. There is no plan to extend Norfolk to John Heritage Parkway; therefore, we will be dealing with this risk for an unknown time period.



3. We are concerned with an increase in crime. Just this week alone, a car was stolen in this neighborhood and others were broken into. This facility will attract higher-end RV's and boats which could draw even more attention from would-be thieves.

Sawgrass Lakes consists of numerous educated professionals and business owners that have invested in homes well above the median home value in this county. If their home prices go down, or even worse, there is physical injury/death as the result of this facility, then the county will be held responsible.

Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above.

Thank you,  
Christel Reaves

Headquarters  
11345 U.S. Highway 1  
Sebastian, FL. 32958  
Orlando  
723 Progress Way  
Sanford, FL. 32771



Mailing  
P.O. Box 78-1377  
Sebastian, FL. 32978  
Phone: 772-589-0712  
C.A. # 5693  
KSMengineering.net

July 28, 2020

Condev  
Andy Gardner  
921 N. Pennsylvania Avenue  
Winter Park, FL 32789

**Re: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
KSM Project #: 203434-ha**

Dear Mr. Gardner:

As requested, KSM Engineering & Testing has performed a subsurface investigation at the referenced site. Presentation of the data gathered during the investigation, together with our geotechnical related opinions, are included in this report.

At the time of drilling, the site was flat with light surface vegetation (grass).

### **Project Description:**

An aluminum canopy for the storage of recreational vehicles is planned to be constructed on the site. Loads from the structure will be transferred to the ground by either pad foundations or helical piles. We anticipate the maximum individual column loads will be less than 20 kips per individual column load.

### **Site Investigation:**

The site investigation program consisted of performing seven (7) hand-auger borings on the site. The borings were terminated at depths of 3 to 5 feet below existing grade. The borings were terminated at the shallower depth due to debris. The locations of the borings are shown on the attached location plan.

During the hand-auger borings, a shaft with a conical point is pushed through the soil and the thrust required to push the cone tip is measured on an attached calibrated gauge. The value of the bearing pressure exerted by the cone point allows the operator to estimate the existing soil density. After the thrust was measured, the hole was advanced with a hand-auger in 1-foot increments to permit a continuation of measurement of relative density versus depth.

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11345 U.S. Highway 1  
Sebastian, FL. 32958  
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723 Progress Way  
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C.A. # 5693  
KSMengineering.net

Norfolk Storage  
Brevard County, Florida

-2-

July 28, 2020

The records of the soils encountered, the penetration resistances and groundwater level are shown on the attached logs.

### **PEN Table:**

The relationship of the static cone penetrometer reading to the relative density is listed below:

Relative Density	Static Penetrometer Reading
Very Loose or Soft	<15
Loose	15 – 40
Medium Dense	40 – 70
Dense	70+

The static cone penetrometer readings are indicated on the attached boring logs.

### **Engineering Evaluation and Conclusions:**

Based on the information obtained from this site investigation we are pleased to offer the following evaluation:

The boring logs indicate the subsurface soils from the surface to a depth of approximately 2 feet consist mostly of fine-grained sand. Below a depth of 2 feet, we found a layer of fine-grained sand with pieces of wood and concrete. After this layer, the debris was so dense that we could not penetrate it. Please refer to the soil boring logs for specific information relative to the soil description.

The debris layer of fine-grained sand with wood and concrete would cause settlement to the planned structure. This settlement, in our opinion, would be too excessive and beyond the general accepted safe limits for the structure. Therefore, our recommendations are concerned with removing the debris and replacing it with compacted sand.

The following sections provide recommendations for the site preparation and foundation design.



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Norfolk Storage  
Brevard County, Florida

-3-

July 28, 2020

### **Site Preparation:**

Excavate the debris layer from within the proposed foundation pad. Excavated fine sand may be stockpiled and re-used provided that it is not mixed with construction debris or other unsuitable material. All over-excavation of unsuitable soils, replacement, and compaction of suitable clean fine sand backfill material should take place in the "dry". It is important on this project to have the removal of the debris layer inspected to ensure all unsuitable material is removed. After the unsuitable soils have been removed, the site may be prepared.

Structural fill shall consist of clean granular sand containing less than 5% material passing the U.S. Standard No. 200 mesh sieve. Fill should be placed in layers of 12 inches in thickness. Compact each lift to at least 95 percent of its modified Proctor value (ASTM D 1557).

For any over excavation, the disturbed footing subgrade should be recompact to 95 percent (minimum) of its modified dry Proctor value. This can be best achieved by making several passes with a relatively light-weight walk-behind vibratory sled jumping jack.

We recommend field density tests be performed at appropriate times during the earth work operations in order to verify that the site has been properly constructed.

Temporary dewatering may be necessary in order to achieve excavation and compaction specifications. The actual method of dewatering should be determined by the contractor. We suggest drawing down the water table below the bottom of excavations to avoid compaction related problems.

Due to the debris, we were not able to provide an exact bearing capacity. We recommend that after removal of debris you contact our office for additional deeper soil borings in order to provide a bearing capacity and settlement calculations.

### **Helical Piles:**

In order for a shallow foundation to perform satisfactorily, it must be able to support the structural loads with an acceptable factor of safety against excessive settlements; both total and differential. Due to the settlement potential of the soft layers found on the site, we do not recommend supporting the proposed residence on conventional shallow footings. The anticipated settlement, in our opinion, would be too excessive and beyond the general accepted safe limits for the structure.

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Sebastian, FL. 32958  
Orlando  
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Sanford, FL. 32771



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Norfolk Storage  
Brevard County, Florida

-4-

July 28, 2020

In order to avoid any damaging structural distress due to settlements, a more appropriate foundation system would be an engineered concrete steel reinforced "waffle type" structural slab supported by Helical piles.

We recommend the contractor to consult with the Helical manufacturer to design the Helical piles, recommended depth, diameter and torque of the Helical piles for the design load based on our test borings. The Helical piles shall be installed in accordance to the manufacturers' installation specifications. The depth, spacing and termination torque shall be documented to verify that the helical piles were properly installed.

#### Closure:

This report has been prepared in accordance with generally accepted soil and foundation engineering practice based on the results of the test borings and assumed loading conditions. This report does not reflect any variations which may occur between the borings. If variations appear evident during the course of construction, it would be necessary to re-evaluate the recommendations of this project.

We are pleased to be of assistance to you on this phase of your project. When we may be of further service to you or should you have any questions, please feel free to contact the office.

Respectfully,



Julie E. Keller, P.E.  
President, P.E. # 68366  
JEK/cv

E-mail to: andyg@condevfl.com; brucem@mbveng.com

Headquarters:  
11345 U.S. Highway 1  
Sebastian, FL. 32958  
Orlando:  
723 Progress Way  
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Mailing:  
P.O. Box 78-1377  
Sebastian, FL. 32978  
Phone: 772-589-0712  
C.A. # 5693  
KSMengineering.net

Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-1**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 30"		Brown Sand with Some Clay and Shell
-1-		56	
-2-		51	
-3-	30" – 40"	43	Dark Gray Sand with Pieces of Wood and Concrete
	40"	70+	Refusal

Water Table: 40"+ Below Existing Grade  
Job #: KSM 203434-1ha



Headquarters:  
11345 U.S. Highway 1  
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Sebastian, FL. 32978  
Phone: 772-589-0712  
C.A. # 5693  
KSMengineering.net

Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-2**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 24"		Brown Sand with Some Clay and Shell
-1-		52	
-2-	24" – 60"	50	Dark Gray Sand with Pieces of Wood
-3-		30	
-4-		12	
-5-	60"	70+	Refusal

Water Table: 60"+ Below Existing Grade  
Job #: KSM 203434-2ha

Headquarters:  
11345 U.S. Highway 1  
Sebastian, FL. 32958  
Orlando:  
723 Progress Way  
Sanford, FL. 32771



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Phone: 772-589-0712  
C.A. # 5693  
KSMengineering.net

Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-3**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 30"		Light Brown Sand with Some Clay and Shell with Pieces of Rock
-1-		60	
-2-		55	
-3-	30" – 40"	40	Dark Gray Sand with Pieces of Wood
	40"	70+	Refusal

Water Table: 40"+ Below Existing Grade  
Job #: KSM 203434-3ha

Headquarters:  
11345 U.S. Highway 1  
Sebastian, FL. 32958  
Orlando:  
723 Progress Way  
Sanford, FL. 32771



Mailing:  
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Sebastian, FL. 32978  
Phone: 772-589-0712  
C.A. # 5693  
KSMengineering.net

Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-4**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 30"		Brown Sand with Some Clay and Shell
-1-		50	
-2-		51	
-3-	30" – 40"	48	Dark Gray Sand with Pieces of Wood
	40"	70+	Refusal

Water Table: 40"+ Below Existing Grade  
Job #: KSM 203434-4ha

Headquarters:  
11345 U.S. Highway 1  
Sebastian, FL. 32958  
Orlando:  
723 Progress Way  
Sanford, FL. 32771



Mailing:  
P.O. Box 78-1377  
Sebastian, FL. 32978  
Phone: 772-589-0712  
C.A. # 5693  
KSMengineering.net

Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-5**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 36"		Brown Sand with Some Clay and Shell
-1-		50	
-2-		50	
-3-	36"	70+	Refusal

Water Table: 36"+ Below Existing Grade  
Job #: KSM 203434-5ha

Headquarters:  
11345 U.S. Highway 1  
Sebastian, FL. 32958  
Orlando:  
723 Progress Way  
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Mailing:  
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Phone: 772-589-0712  
C.A. # 5693  
KSMengineering.net

Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-6**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 20"		Grayish Brown Sand with Some Clay and Shell
-1-		53	
-2-	20" – 48"	56	Gray and Brown Sand with Some Shell and Pieces of Rock
-3-		50	
-4-	48"	70+	Refusal (Pieces of Concrete)

Water Table: 48"+ Below Existing Grade  
Job #: KSM 203434-6ha



Headquarters:  
11345 U.S. Highway 1  
Sebastian, FL. 32958  
Orlando:  
723 Progress Way  
Sanford, FL. 32771



Mailing:  
P.O. Box 78-1377  
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C.A. # 5693  
KSMengineering.net

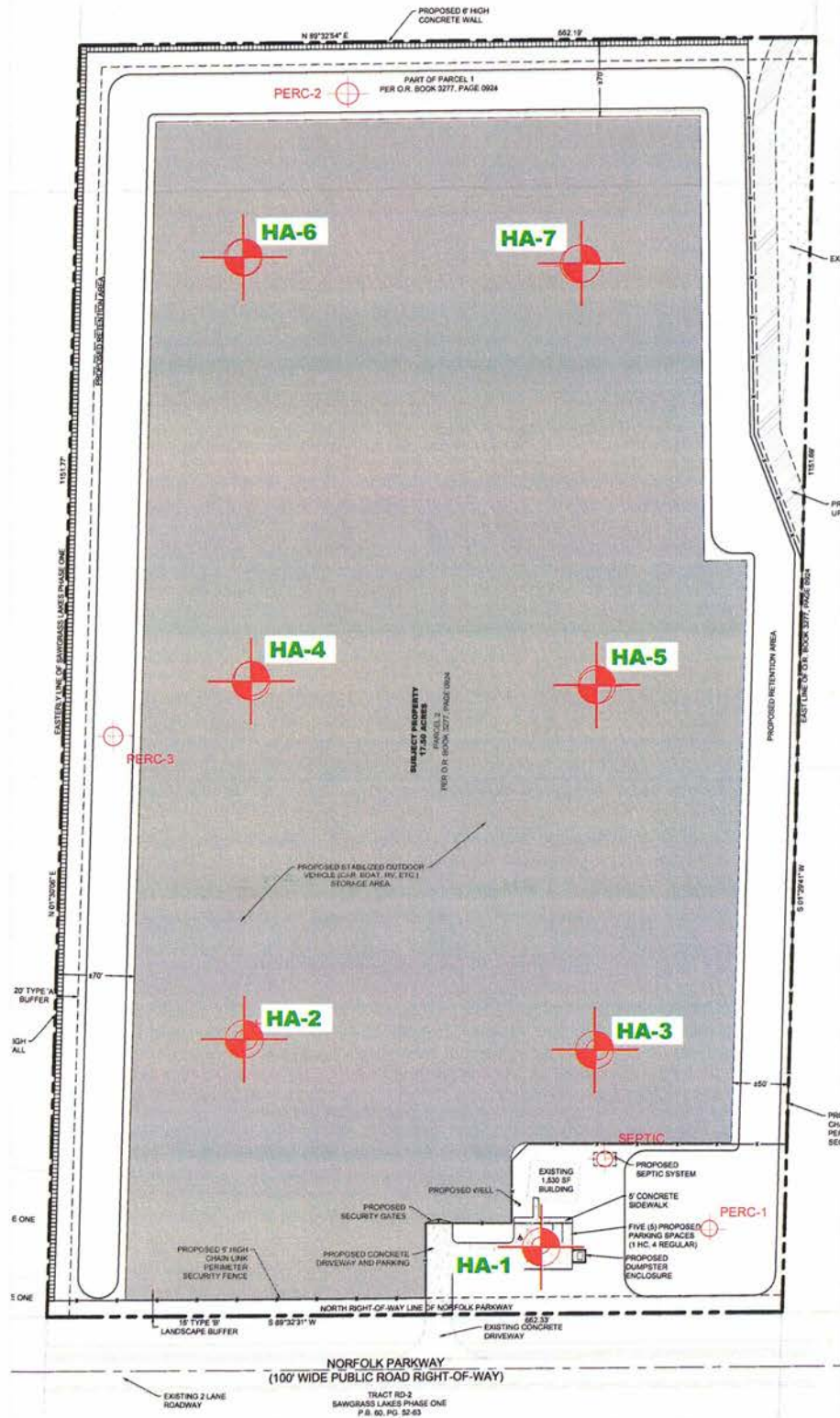
Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-7**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 16"		Brown Sand with Shell and Pieces of Rock
-1-		46	
	16" – 30"		Dark Gray Sand with Pieces of Concrete
-2-		40	
	30"	70+	Refusal
-3-			

Water Table: 30"+ Below Existing Grade  
Job #: KSM 203434-7ha





## LOCATION OF TESTS

PROJECT: Norfolk Storage, Norfolk Parkway, Brevard County, Florida

SHEET 1 OF 1

PERMIT #:

PROJECT #: 203434-ha

**KSM** ENGINEERING  
AND TESTING

DRAWN BY: C.V.  
DESIGNED BY: J.K.  
DATE: 20200729  
SCALE: NONE

**From:** [Tracy LaMonica](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Sawgrass Lakes/Stop rezoning!  
**Date:** Sunday, January 10, 2021 5:20:26 PM

---

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

Ms. Jones,

Thank you for the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility can be built on the property. We believe the location should not be rezoned for several reasons. We live at 4188 Alligator flag circle West Melbourne, FL. Our concerns extend further than aesthetic reasons.

1) Our greatest concern is the pandora's box that will be opened due to preparing the property for the structure they want to build and the honesty of the company. During the community meeting my husband attended, the company said they planned on adding fill dirt to increase the height of the property to prevent the need for excavation. The KSM Engineering and Test Report recommended the company excavate the soil and replace it or the structure will settle. I hope each board member took the time to read the KSM Engineering and Test Report. Here is a snapshot of KSM Engineering's recommendation. I attached the full report to this email if others have not viewed it.

image.png (Picture attached)

image.png (Picture attached)

The property has not been purchased and the company has already been untruthful to the residents of Sawgrass Lakes. They lied straight-faced to residents when asked about the excavation.

I know this property is classified as a class 4 landfill. Our family has lived in this area for generations. My father-in-law, a pastor of a local church, shared with me how as a young child they could bring whatever they wanted to this landfill. All kinds of chemicals. They never turned anyone away. This was over 60 years ago. Do we trust this classification? There were a lot fewer regulations years ago. Is the county ready for possible consequences from excavation?

What if material not properly handled causes health issues for residents and children?

Will the company stand by and cover the costs of medical, lost property values, and proper clean-up?

What about the tax revenue that will be lost when property values plummet?

How can you trust them?

What real benefit does the county receive by approving this change? Is it worth the risk of what might be found at the site?

If one structure could cause settling, what about the weight of hundreds of RV's and Boats?

2. Another concern is the risk of being landlocked as a result of an overturned boat or RV. We will not be able to come in or out of the neighborhood until the situation is cleaned up. Emergency responders would not be able to respond to residents or the school if there was another emergency. The entrance is at the top of the hill with blind spots. Some residents already do not drive the speed limit in this area causing accidents. There is no plan to extend Norfolk to John Heritage Parkway; therefore, we will be dealing with this risk for an unknown time period.

3. We are concerned with an increase in crime. Just this week alone, a car was stolen in this neighborhood and others were broken into. This facility will attract higher-end RV's and boats which could draw even more attention from would-be thieves.

Sawgrass Lakes consists of numerous educated professionals and business owners that have invested in homes well

above the median home value in this county. If their home prices go down, or even worse, there is physical injury/death as the result of this facility, then the county will be held responsible.

Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above.

Thank you,

Tracy LaMonica

Sent from my iPhone

**From:** [stephanie freilich](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Rezoning of property off of Norfolk Parkway  
**Date:** Sunday, January 10, 2021 5:33:28 PM

---

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

Ms. Jones,

Thank you for the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility can be built on the property. We believe the location should not be rezoned for several reasons. We live at 3491 Watergrass Street West Melbourne, FL. Our backyard has a direct view of the property. Our concerns extend further than aesthetic reasons.

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Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above.

Thank you,

Stephanie Freilich

Sent from my iPhone

From: [Christy Tardy](#)  
To: [Jones, Jennifer](#)  
Cc: [Christy Tardy](#); [jmtardy@gmail.com](mailto:jmtardy@gmail.com)  
Subject: Rezoning Concern in West Melbourne  
Date: Sunday, January 10, 2021 5:45:28 PM

---

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

Ms. Jones,

Thank you for the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility can be built on the property.

We believe the location should not be rezoned for several reasons. We live at 3420 Salt Marsh Circle, West Melbourne, FL.

Our greatest concern is the toxic risk associated with preparing the property for the structure they want to build and the honesty of the company. During the community meeting the company said they planned on adding fill dirt to increase the height of the property to prevent the need for excavation. The KSM Engineering and Test Report recommended the company excavate the soil and replace it or the structure will settle. I hope each board member took the time to read the KSM Engineering and Test Report. The property has not been purchased and the company has already been untruthful to the residents of Sawgrass Lakes. They lied straight-faced to residents when asked about the excavation. This property is classified as a class 4 landfill, with locals reporting that the landfill turned away no one. This was over 60 years ago. Do we trust this classification? There were a lot fewer regulations years ago. Is the county ready for possible consequences from excavation?

What if material not properly handled causes health issues for residents and children?

Will the company stand by and cover the costs of medical, lost property values, and proper clean-up? What about the tax revenue that will be lost when property values plummet? How can you trust them? What real benefit does the county receive by approving this change? Is it worth the risk of what might be found at the site? If one structure could cause settling, what about the weight of hundreds of RV's and Boats?

2. Another concern is the risk of being landlocked as a result of an overturned boat or RV. We will not be able to come in or out of the neighborhood until the situation is cleaned up. Emergency responders would not be able to respond to residents or the Pineapple Cove school if there was another emergency. The entrance is at the top of the hill with blind spots. Some residents already do not drive the speed limit in this area causing accidents. There is no plan to extend Norfolk to John Heritage Parkway; therefore, we will be dealing with this risk for an unknown time period.

3. We are concerned with an increase in crime. Just this week alone, a car was stolen in this neighborhood and others were broken into. This facility will attract higher-end RV's and boats which could draw even more attention from would-be thieves.



Sawgrass Lakes consists of numerous educated professionals and business owners that have invested in homes well above the median home value in this county. If their home prices go down, or even worse, there is physical injury/death as the result of this facility, then the county may be held responsible.

Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above and put the health and safety of my family (and 902 other families in Sawgrass Lakes) above the interests of a storage facility buyer with questionable intentions that go against the engineering recommendations.

Thank you,  
Christy Tardy

**From:** [Erica Stacey](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Rezoning Concerns, Norfolk Parkway  
**Date:** Sunday, January 10, 2021 5:52:18 PM

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

Ms. Jones,

Thank you for the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility can be built on the property. We believe the location should not be rezoned for several reasons. We live in The Sanctuary subdivision of Sawgrass Lakes at 3279 Salt Marsh Circle, West Melbourne, FL.

1) Our greatest concern is the pandora's box that will be opened due to preparing the property for the structure they want to build and the honesty of the company. During the community meeting, the company said they planned on adding fill dirt to increase the height of the property to prevent the need for excavation. The KSM Engineering and Test Report recommended the company excavate the soil and replace it or the structure will settle. I hope each board member took the time to read the KSM Engineering and Test Report.

The property has not been purchased and the company has already been untruthful to the residents of Sawgrass Lakes. They lied straight-faced to residents when asked about the excavation.

I know this property is classified as a class 4 landfill. All kinds of chemicals. Do we trust this classification? There were a lot fewer regulations years ago. Is the county ready for possible consequences from excavation? What if material not properly handled causes health issues for residents and children? Will the company stand by and cover the costs of medical, lost property values, and proper clean-up? What about the tax revenue that will be lost when property values plummet? How can you trust them? What real benefit does the county receive by approving this change? Is it worth the risk of what might be found at the site? If one structure could cause settling, what about the weight of hundreds of RV's and Boats?

2. Another concern is the risk of being landlocked as a result of an overturned boat or RV. We will not be able to come in or out of the neighborhood until the situation is cleaned up. Emergency responders would not be able to respond to residents or the school if there was another emergency. The entrance is at the top of the hill with blind spots. Some residents already do not drive the speed limit in this area causing accidents. There is no plan to extend Norfolk to John Heritage Parkway; therefore, we will be dealing with this risk for an unknown time period.

3. We are concerned with an increase in crime. Just this week alone, a car was stolen in my subdivision and others were broken into. This facility will attract higher-end RV's and boats which could draw even more attention from would-be thieves.

Sawgrass Lakes consists of numerous educated professionals and business owners that have invested in homes well above the median home value in this county. If their home prices go down, or even worse, there is physical injury/death as the result of this facility, then the county will be held responsible.

Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above.

Thank you,

Erica L Stacey

**From:** [Dan Rodriguez](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Sawgrass lakes rezoning  
**Date:** Sunday, January 10, 2021 5:56:21 PM

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

Ms. Jones,

Thank you for the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility can be built on the property. We believe the location should not be rezoned for several reasons. We live at 3530 Saltmarsh circle West Melbourne, FL. Our concerns extend further than aesthetic reasons.

1) Our greatest concern is the Pandora's box that will be opened due to preparing the property for the structure they want to build and the honesty of the company. During the community meeting my husband attended, the company said they planned on adding fill dirt to increase the height of the property to prevent the need for excavation. The KSM Engineering and Test Report recommended the company excavate the soil and replace it or the structure will settle. I hope each board member took the time to read the KSM Engineering and Test Report. Here is a snapshot of KSM Engineering's recommendation. I attached the full report to this email if others have not viewed it.

image.png (Picture attached)

image.png (Picture attached)

The property has not been purchased and the company has already been untruthful to the residents of Sawgrass Lakes. They lied straight-faced to residents when asked about the excavation.

I know this property is classified as a class 4 landfill. Our family has lived in this area for generations. My father-in-law, a pastor of a local church, shared with me how as a young child they could bring whatever they wanted to this landfill. All kinds of chemicals. They never turned anyone away. This was over 60 years ago. Do we trust this classification? There were a lot fewer regulations years ago. Is the county ready for possible consequences from excavation?

What if material not properly handled causes health issues for residents and children?

Will the company stand by and cover the costs of medical, lost property values, and proper clean-up?

What about the tax revenue that will be lost when property values plummet?

How can you trust them?

What real benefit does the county receive by approving this change? Is it worth the risk of what might be found at the site?

If one structure could cause settling, what about the weight of hundreds of RV's and Boats?

2. Another concern is the risk of being landlocked as a result of an overturned boat or RV. We will not be able to come in or out of the neighborhood until the situation is cleaned up. Emergency responders would not be able to respond to residents or the school if there was another emergency. The entrance is at the top of the hill with blind spots. Some residents already do not drive the speed limit in this area causing accidents. There is no plan to extend Norfolk to John Heritage Parkway; therefore, we will be dealing with this risk for an unknown time period.

3. We are concerned with an increase in crime. Just this week alone, a car was stolen in this neighborhood and others were broken into. This facility will attract higher-end RV's and boats which could draw even more attention from would-be thieves.

Sawgrass Lakes consists of numerous educated professionals and business owners that have invested in homes well

above the median home value in this county. If their home prices go down, or even worse, there is physical injury/death as the result of this facility, then the county will be held responsible.

Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above.

Thank you,

Christel Reaves

From: [Lena Dixon](#)  
To: [Jones, Jennifer](#)  
Subject: Re-zone hearing Norfolk Pkwy Property  
Date: Sunday, January 10, 2021 6:13:02 PM

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

Ms. Jones,

Thank you for the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility can be built on the property. We believe the location should not be rezoned for several reasons. We live at 3705 Salt Marsh Cir West Melbourne, FL. In Sawgrass Lakes and will be impacted if this property is re-zoned.

1) One of our greatest concern is the pandora's box that will be opened due to preparing the property for the structure they want to build and the honesty of the company. During the community meeting, the company said they planned on adding fill dirt to increase the height of the property to prevent the need for excavation. The KSM Engineering and Test Report recommended the company excavate the soil and replace it or the structure will settle. I hope each board member took the time to read the KSM Engineering and Test Report.

The property has not been purchased and the company has already been untruthful to the residents of Sawgrass Lakes. They lied to residents when asked about the excavation.

I know this property is classified as a class 4 landfill and I understand from residents that anyone could bring whatever they wanted to that landfill. All kinds of chemicals. They never turned anyone away and there were fewer regulations years ago. Is the county ready for possible consequences from excavation?

What if material not properly handled causes health issues for residents and children?

Will the company stand by and cover the costs of medical, lost property values, and proper clean-up?

What about the tax revenue that will be lost when property values plummet?

What real benefit does the county receive by approving this change? Is it worth the risk of what might be found at the site?

If one structure could cause settling, what about the weight of hundreds of RV's and Boats?

2. Another concern is the risk of being landlocked as a result of an overturned boat or RV. We will not be able to come in or out of the neighborhood until the situation is cleaned up.

Emergency responders would not be able to respond to residents or the school if there was another emergency. The entrance is at the top of the hill with blind spots. There is no plan to extend Norfolk to John Heritage Parkway; therefore, we will be dealing with this risk for an unknown time period.

3. We are concerned with an increase in crime. This facility will attract higher-end RV's and

boats which could draw even more attention from would-be thieves.

Sawgrass Lakes consists of numerous educated professionals and business owners that have invested in homes well above the median home value in this county.

Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above.

Thank you,

Elena Dixon



**From:** [R Willwerth](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** property rezoning - West Melbourne Norfolk Parkway  
**Date:** Sunday, January 10, 2021 6:36:45 PM

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

Hello Ms. Jones

I hope that your year is off to a great start.

I am writing to you about the land that is being proposed to be rezoned in order to accommodate an RV/Boat storage facility on Norfolk Parkway.

I am a resident of Sawgrass Lakes at 864 Musgrass Circle.

After an open forum with the potential land purchaser and some independent research of the land, rezoning and/or building on this area is not a good choice at this time.

The surrounding infrastructure is not suitable for the increase in traffic during the construction phase and also at completion. The fact that a K-12 school is at the end of this one way in and way-out road, should in itself be enough of a concern to prohibit a zoning change and any business from being developed at this point. My concern for emergency vehicles to be able to get to and from our neighborhood or the school is significant. At peak times, this roadway is not passable. I have seen an emergency vehicle that was forced to drive on the sidewalk when our two lane road to over 800 homes and a school was filled with the normal school and resident traffic. This rezoning will increase this burden.

In addition to this concern, the environmental impact during and after construction would be significant. This land is surrounded by wetland and until further study of the soil and the buried contents is done, there should be no significant moving of soil or land contents. Since this was used as a landfill (of unknown chemical and solid waste), there will be a need for remediation when investigating or building on this land. This is necessary in order to reduce the impact of runoff that will negatively affect the wild life, surrounding fauna and our waterways.

Along with my concern of safe access to the school and potential negative effects to the water and wildlife, the rezoning for this business will have a negative result on property value and therefore tax revenue.

It is in the best of interest of the surrounding residents, staff and students of the area school and the county to keep the zoning as is. This land should not be rezoned or developed until the safety, financial and environmental impacts can be studied and proven to be safe and in the

best interest of the local community.

Thank you for your time and for your consideration of this matter.

Ronnica and Marc Willwerth  
864 Musgrass Circle  
West Melbourne, FL 32903  
321-536-2093

**From:** [Leslie Kelsheimer](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Todd Kelsheimer](#)  
**Subject:** Property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility  
**Date:** Sunday, January 10, 2021 6:52:16 PM

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

Ms. Jones,

Thank you for the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility can be built on the property. We believe the location should not be rezoned for several reasons. We live at 850 Fiddleleaf Circle West Melbourne, FL.

Our greatest concern is the Pandora's box that will be opened due to preparing the property for the structure they want to build and the honesty of the company. During the community meeting, the company said they planned on adding fill dirt to increase the height of the property to prevent the need for excavation. The KSM Engineering and Test Report recommended the company excavate the soil and replace it or the structure will settle. I hope each board member took the time to read the KSM Engineering and Test Report.

The property has not been purchased and the company has already been untruthful to the residents of Sawgrass Lakes. They lied straight-faced to residents when asked about the excavation.

We know this property is classified as a class 4 landfill. Do we trust this classification? There were a lot fewer regulations years ago. Is the county ready for possible consequences from excavation?

What if material not properly handled causes health issues for residents and children?

Will the company stand by and cover the costs of medical, lost property values, and proper clean-up?

What about the tax revenue that will be lost when property values plummet?

How can you trust them?

What real benefit does the county receive by approving this change? Is it worth the risk of what might be found at the site?

If one structure could cause settling, what about the weight of hundreds of RV's and Boats?

2. Another concern is the risk of being landlocked as a result of an overturned boat or RV. We will not be able to come in or out of the neighborhood until the situation is cleaned up. Emergency responders would not be able to respond to residents or the school if there was another emergency. The entrance is at the top of the hill with blind spots. Some residents already do not drive the speed limit in this area causing accidents. There is no plan to extend Norfolk to John Heritage Parkway; therefore, we will be dealing with this risk for an unknown time period.

3. We are concerned with an increase in crime. Just this week alone, a car was stolen in this neighborhood and others were broken into. This facility will attract higher-end RV's and boats which could draw even more attention from would-be thieves.

Sawgrass Lakes consists of numerous educated professionals and business owners that have invested in homes well above the median home value in this county. If their home prices go down, or even worse, there is physical injury/death as the result of this facility, then the county

will be held responsible.

Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above.

Best Regards,

Todd & Leslie Kelsheimer

From: [Deon Harkey](#)  
To: [Jones, Jennifer](#)  
Subject: Re-zoning petition of the parcel of land immediately East of Sawgrass Lakes  
Date: Sunday, January 10, 2021 6:57:14 PM

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

Dear Zoning Commission,  
C/O Ms Jones,

I would like to share my family's concerns about the property on Norfolk Parkway that is being considered to be rezoned to commercial so that an RV/Boat storage facility can be built.

We STRONGLY disapprove of this action, for a multitude of reasons.

- \* We live at 3421 Watergrass and we have a direct view of the property. Since we do have that view, there was a premium lot charge. We do not want to be looking at a RV/Boat facility with its lighting, tops of vehicles being seen, etc.

Aesthetics are NOT by means the only concern we have, which include

- \* digging and disturbing the land in which is in question. From the KSM Engineering and test report a variety of work to do on this property that one would consider no feasible and inappropriate, such as excavation. This was a land field! With who knows what was deposited into it! Chemicals of all kinds, hazardous materials that have decomposed of leaked! This would become very dangerous to all that live around it. I'm sure YOU would not want intrusion into YOUR water or the land being disturbed to cause other issues!!!!

In good conscious, can you allow this???? In my view THERE IS A REASON WHY THIS PROPERTY HAS NEVER BEEN DEVELOPED.....there are just TOO MANY questions about the dangers it might open the community, the city, and the county up to as far as lawsuits...is the county willing to take that on??

- \* The company pursuing this has not been truthful or forthcoming with information to Sawgrass Lakes residents.

- \* The real likelihood of property values being impacted negatively is a real concern.....not only to the residents, but also as a tax revenue

- \* Traffic!! It is a huge concern now and would be even more! There is one way in....one way out. Think of emergency responders, school, and just every day traffic

- \* Increase in crime

I did want to express our concerns. Please reference the email from Christel Leahy Reaves as she makes very strong points that we agree with.

Lastly, I ask the board....

YOU put YOURSELF in OUR POSITION.... IS IT WORTH THE RISK TO YOUR FAMILY??? IT IS NOT TO OURS AND WE ASK THAT YOU DO NOT APPROVE OF THIS REZONING

Thank you for you time and hearing the concerns of the "Sawgrass family"

Deon Harkey  
Marilyn Harkey



**From:** [Lauren Degory](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Plans for RV and boat storage west melbourne  
**Date:** Sunday, January 10, 2021 7:54:35 PM

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

To whom it may concern,

My family and I have been residents in Sawgrass Lakes in west melbourne since early 2017. We have worked hard to maintain beauty throughout the neighborhood. I am writing you this with my concern for the rezoning of the property at the top of the hill on Norfolk parkway. The loss of tree line that provides a sound barrier to a residential area is important to us. The future plans would eliminate much of that, making where we live to noisy for a normal residential neighborhood.

The limited access and road width at the top of the hill is a major concern. There is a blind spot at the top which would certainly increase accidents. Furthermore there is a single lane into our community and no emergency vehicles could access our homes or school in a reasonable time frame.

The residents who live in this area highly apposed the change in zoning in the past.

The land fill is not stable to support the structure let alone hundreds of RVs and boats per the report published by the research group.

This matter is pressing and it is the responsibility of the county to listen to the current residents. I would love to be present at the meeting tomorrow but my work schedule does not permit. Please take this letter as my objection to the above matter of rezoning.

Lauren Degory  
Sawgrass Lakes resident

**From:** [Jennifer Rutherford](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Norfolk RV Storage Unit  
**Date:** Sunday, January 10, 2021 8:14:38 PM

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

Dear Mrs. Jones,

I am a resident in the Sawgrass Lakes community. I drive daily on Norfolk and am very concerned about the traffic it will cause having an RV and boat storage on the top of the hill. This is the only way in and out. If an RV or a Boat were to overturn, we would be stuck in our community with no where to go. What will happen if emergency crews are trying to get in or someone is in an emergency to get out?

Also, I am very concerned with it being a former landfill. While they are preparing for the structure they want to build, they will have to dig up land, and that can be toxic, as this landfill was allowed to have anything dumped there, including chemicals. This land could be toxic and cause major health issues for the residents and children. Who is going to cover the costs of medical, loss of property values, and proper clean up?

The property values of these homes will plummet. Many of these homes will have a view of this structure and it will be an eyesore. We have all invested our hard earned money into our homes and to have the value fall because of a storage unit is crazy.

I thank you for taking the time to hear my concerns and I ask that you do not approve the rezoning for this property for the stated reasons above.

Thank you,

Jennifer Rutherford

**From:** [Michelle St. John](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Refining of Norfolk Property  
**Date:** Sunday, January 10, 2021 8:35:11 PM

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

Ms. Jones,

As a resident of Sawgrass Lakes, I wanted to take a moment to express my concern over the proposed rezoning of the parcel from large estate homes to an RV/Boat Storage property. I live at 3302 Rushing Waters Dr and our property backs the lake that the subject property is on. I'm concerned that our view, which we paid a large premium to have will be destroyed by the removal of trees, security lighting and 300+ RVs/boats. I fear it will be worse than what happened to the houses that back to Eber Rd, where an outdoor boat/RV storage was added because this one will have "high def" security, ample lighting and a gate. Another concern is what will seeing an open air storage facility as you enter Sawgrass Lakes do to property value? I honestly don't know if we would have purchased here if we were passing a storage facility as the first impression after turning off of Minton.

After listening to the builder on 12/22, they will allow "special access" early in the morning/late at night for people to get their items, which could cause more noise than we already get from Norfolk with walkers and cars. In addition to view, this facility and a newly planned high school will bring additional traffic to Norfolk Parkway, which already cannot handle the amount of residents and non-residents traveling down it each day. On top of added cars, the builder has mentioned up to 45 ft boats and trailers could rent space at this facility. With how narrow Norfolk is at that drive, I worry that instead of turning left out of the subdivision vehicles will end up turning right and try to turn around in Sawgrass Lakes. We only have one way in and out of our subdivision- any accident or stuck vehicle traps us in/out of our homes.

At the 12/22 meeting, the builder mentioned the facility would offer cleaning of the RVs/boats and dent/chip repair. Having had a car painted recently, there are all kinds of environmental concerns that a body shop usually addresses. The builder mentioned it would be minimal impact, not hazardous to the environment/not need special consideration and when questioned on it implied "sand and gravel" in a dry water reservoir would filter any contaminated water from the repair process. With the wildlife currently calling the lake home - sandhill cranes, osprey, eagles, alligators, turtles, fish, etc; it is a worry that would be destroyed by this proposed business's cleaning and finish repair on top of the oil and other fluids leaking out that will be rolling/flowing downhill into the lake.

Another concern that has come up is the illegal dump that the parcel of land sits on. What will their excavation to make the property useable stir up? What harm could this cause to the families of Sawgrass, Carriage Gate and the other neighborhood backing to Norfolk?

Overall I was not impressed with the builders response to any concerns residents raised at the meeting called a few days before Christmas. When asked why the meeting was requested with 48 hrs noticed, it was said that they had plans the week following the holiday and had to "get the meeting done". It felt like they were more than happy to inconvenience residents and give short notice to decrease the chance of turn out. Every environmental concern, lighting, security and traffic concern was answered by downplaying our concerns. When asked about traffic, they acknowledged the traffic on Norfolk is horrendous due to the school already (from experience of driving a child to the school).

Thank you for taking the time to listen to my concerns regarding this rezoning.

Sincerely,  
Michelle St John

Sent from my iPhone

**From:** [Faith Tatum](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Rezoning West Melbourne-Boat RV Storage Norfolk Pkwy-Sawgrass Lakes  
**Date:** Sunday, January 10, 2021 8:49:45 PM

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

Ms. Jones,

Please allow the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial, for the building of an RV/Boat storage facility. We believe the location should not be rezoned for several reasons. We live at 4050 Dragonfly Dr. West Melbourne, FL.

Our first concern is the preparing of the property for the structure they want to build. During the community meeting, the company said they planned on adding fill dirt to increase the height of the property to prevent the need for excavation. The KSM Engineering and Test Report recommended the company excavate the soil and replace it or the structure will settle. I hope each board member took the time to read the KSM Engineering and Test Report.

The property has not been purchased and the company has already been untruthful to the residents of Sawgrass Lakes. They lied straight-faced to residents when asked about the excavation.

I understand this property is classified as a class 4 landfill. I understand that previous generations were allowed to bring whatever they wanted to this landfill, including chemicals. This was over 60 years ago. Do we trust this classification? There were much fewer regulations years ago. Is the county ready for possible consequences from excavation?

What if material not properly handled causes health issues for residents and children?  
Will the company and/or the county stand by and cover the costs of medical, lost property values, and proper clean-up?

What about the tax revenue that will be lost when property values plummet?

What real benefit does the county receive by approving this change? Is it worth the risk of what might be found at the site?

If one structure could cause settling, what about the weight of hundreds of RVs and boats?

Another concern is the risk of being landlocked as a result of an overturned boat or RV. We will not be able to come in or out of the neighborhood until the situation is cleaned up. Emergency responders would not be able to respond to residents or the school if there was another emergency. The entrance is at the top of the hill with blind spots.

We are also concerned with an increase in crime. This facility will reportedly attract higher-end RVs and boats which could draw more attention from would-be thieves.

Sawgrass Lakes residents have invested in homes well above the median home value in this county. If our home prices go down, or even worse, there is physical injury/death as the result of this facility, then the county could be held responsible.

Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above.

Faith Tatum

Jones, Jennifer

**From:** Rachel V <rachevanburen@gmail.com>  
**Sent:** Sunday, January 10, 2021 10:11 PM  
**To:** Jones, Jennifer  
**Cc:** Rachel V  
**Subject:** Attn Zoning Commission | Norfolk Parkway property

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

Hi, Jennifer.

I, along with hundreds of my Sawgrass Lakes neighbors, are troubled and concerned over the proposed re-zoning efforts for land located on Norfolk Parkway. So many desirable and wonderful reasons brought to decide to build our home here in The Estates at Sawgrass—the #1 was the peaceful, wooded view along our gorgeous 30-acre lake. We gladly paid a premium for this lot in order to preserve our tranquil backyard view: the sunrise quietly peeps over the trees and plenty of wildlife nestles in the trees and woodland against the water. When evening comes, the still darkness paired with our fire pit makes for lovely family memories.

All of us Sawgrass Lakes owners have a variety of top concerns, and I do hope that each email/letter is met with genuine objective understanding. My family has discussed the following top reasons why we will continue to support the STOP of this re-zoning, or any future rezoning for development, of the property in question. Keeping the property as General Use is in our best interest.

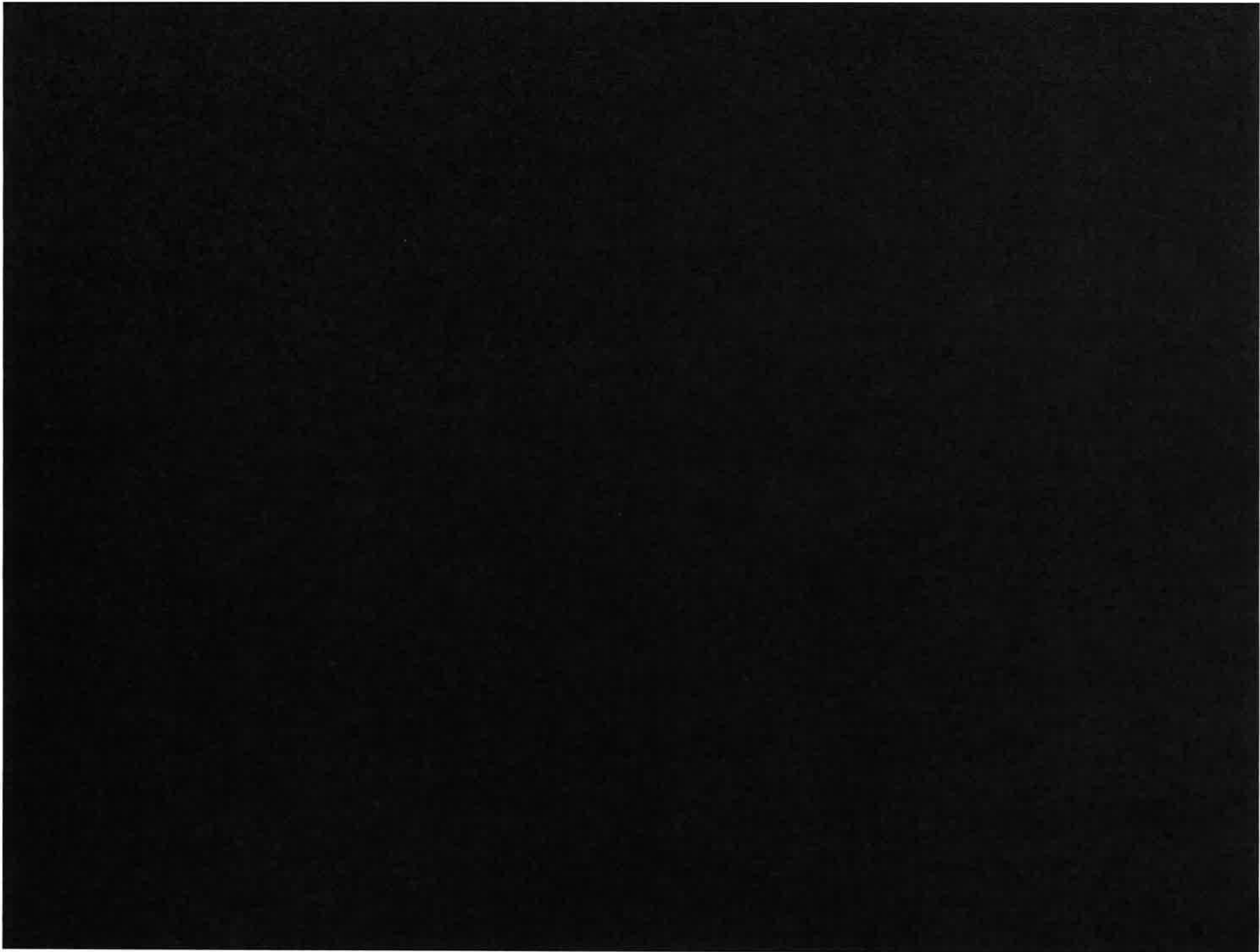
1) Light pollution. Though it is outlined that 15' box lights would be erected, any light source in the pitch of night as it currently rests would be most undesirable. I have attached a picture taken just tonight; as you can see, just the glow from the Hammock Landing plaza is bright enough on a dark evening.

2) Noise pollution. Somewhere I may have read that 'some' repair/service work would be offered/available to lot clients. I do not wish to hear engines revving/throttling. And the projected open time is 5am -10p—not ideal for any early morning or late night servicing.

3) Traffic. I find it foolish to believe that the developer projects '3' trips for RV/Boat clients per day average. This seems quite low for a 300 space facility. What goes out, must come back, right? so, if 3 vehicles leave the premise, at least 1-2 will be back, thus more like 4.5 'trips'. I understand that RV's have longer length of use time, i.e. week(s) at a time, however boats usually come back within the day. My understanding is that's what the client is using the lot for.

4) Sight pollution. A drone shot was shown to depict that the building is "already seen" to us here on the lower level. However, the tree canopy that is already in place hides any view of any building. From my home, or any other on this lake adjoining the property in question, all we see is beautiful foliage and preserved trees. Would like to keep it that way.

5) Trespassers. The answer "it just won't happen" is completely insufficient, and as a resident of Sawgrass, we have already experienced theft and lurking/questionable folks. Many residents here have security cameras, and we still deal with trespassing issues. Adding a lot full of empty vessels is just an attraction for more of these type of incidents.







You have, no doubt, received many emails like this. Please hear our cry for keeping our properties at the highest value while also maintaining our current (and expected) panoramic views.

Rachel Van Buren  
3481 Watergrass St  
West Melbourne, FL 32904

From: [pjbac87@aol.com](mailto:pjbac87@aol.com)  
To: [Jones, Jennifer](#)  
Subject: RE: Zoning for RV & Boat Storage on Norfolk Parkway  
Date: Sunday, January 10, 2021 10:20:54 PM

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

Ms. Jones,

Thank you for taking the time to review my comments regarding the re-zoning for the Proposed RV-Boat Storage Facility.

I'm a two (2) year new resident in the Savannahs Section (over 55 Community) of the Sawgrass Lakes area, having purchased because I liked the area for my retirement with my wife, both over 80 yrs old. Sawgrass Lakes is an ideal area for retirement after being in a Port St. Lucie manufactured home for some 15 years.

Our only disappointment is the "ONLY one way IN and OUT", which could be a major problem at times with the School at the end of Norfolk, but we are hoping that with the continued construction in the area, that the City will see through with an additional Entrance- Exit.

Anyway, I have commented prior, **AGAINST the RE-ZONING** of the parcel in question for the RV-BOAT Storage area. Having been a construction project manager and Senior estimator registered in Rhode Island as a Professional Engineer and supervising construction for over 30 years I have experience with construction on weak sites with unsuitable soils. The company was involved in 3 major sites that required OVER EXCAVATION and replacement with suitable gravel soils prior to construction. Site borings were taken on all sites, but on one site the borings MISSED a major pocket of "PEAT" at a lower elevation.

Well some 8-10 years later the building of the trucking transportation company started to settle in one end of the structure where the floors were settling, due to the "peat" moving below with the trucking movements and vibrations. The floors in the area had to be supported on a pile system and releveled over the bad soil area, which THEN could NOT BE REMOVED.

The second construction site of a major market location in Massachusetts had a "PEAT" pocket also, and required over thousands of cubic yards of fill to replace the peat at a substantial cost.

Thus, my opinion is that this local site in question, being known as a "dump" site probably has unsuitable soils and if it has "tree stumps" dumped as fill, which "rot" over time, these will cause major settlements. My opinion is that usually "not

**enough" soil borings can be taken to "be sure".**

Additionally, having been in a Volunteer and Callmen Fire Department for over 30 years, I have witnessed many traffic accidents, and I am extremely **CONCERNED** with the **ENTRANCE - EXIT** at the top of an incline into the Storage Facility. These longer vehicles need a larger turning radius and will no doubt **USE BOTH LANES** of Norfolk Parkway at times ---- and with Sawgrass Lakes having **ONLY one Entrance - Exit** and, the school at the end of Norfolk, with the bus traffic and auto pick up of students at times, I see a traffic problem which only will cause accidents and grief.

If an accident does happen and requires some time to **CLEAR THE ROAWAY**, this is then a major problem to all, including Police and Fire Department..

Based on the possible soil problems and the settlements that could - would happen and the traffic at **ONE ENTRANCE-EXIT** to the storage area, and the compounding **ONE ENTRANCE- EXIT FOR THE SAWGRASS COMMUNITY**, I do not see any positive points to approve the re-zoning for this RV-BOAT STORAGE FACILITY.

There are more problems here for the community and the Sawgrass Lakes Residents!!!

Thanking you for allowing my comments to be made.

Concerned Resident,

Pasquale J Zarlenga  
4484 Caladium Circle  
West Melbourne, FL 32904  
Mobile - 401-999-0047  
Email - pjbac87@aol.com

From: [James Stephens](#)  
To: [Jones, Jennifer](#)  
Subject: Re: Zoning for RV & Boat Storage on Norfolk Parkway  
Date: Sunday, January 10, 2021 11:13:22 PM

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

Ms. Jones,

Thank you for taking the time to review my comments regarding the re-zoning for the Proposed RV-Boat Storage Facility.

I'm a 3 year new resident in the Savannahs Section (over 55 Community) of Sawgrass Lakes. It is an ideal area for retirement unless the City again allows the wrong zoning applications; such as the proposed RV storage on a poor soil dump site.

Our disappointment and one of the reasons for disapproval is in the "ONLY one way IN and OUT", which is a major problem at times with the School at the end of Norfolk. Hopefully with the continued construction in the area the City and County will see through with adding an additional Entrance- Exit.

I am **AGAINST the RE-ZONING** of the parcel in question for the RV-BOAT Storage.

This company is trying to do it on the cheap and has zero regard for the Sawgrass community and its 944 homes.

Thus, my opinion is that this local site in question, being known as a "dump" site probably has unsuitable soils based on engineering reports.

Please DO NOT rezone this property and allow the RV parking.

I am extremely CONCERNED with the ENTRANCE - EXIT at the main intersection entrance of Norfolk as well as the top of an incline into the Storage Facility.

These longer RV vehicles with or without trailers or truck with trailers need a larger turning radius and will no doubt USE BOTH LANES of Norfolk Parkway.

This will at certain times, with Sawgrass Lakes having **ONLY one Entrance - Exit** and, the school at the end of Norfolk, with the bus traffic and auto pick up of students at times, it becomes a tremendous dangerous traffic problem which only will cause accidents and grief.

The Norfolk traffic problems are already a joke and extremely dangerous due to poor City and County planning and pandering to contractors/builders.

When an accident happens and it will and requires extensive time to **CLEAR THE ROADWAY**, this is then a major problem to all, including Police and Fire Departments.

Based on the many possible problems and what will happen and the increase in traffic at **ONE ENTRANCE-EXIT** to the storage area, and the compounding **ONE ENTRANCE- EXIT FOR THE SAWGRASS COMMUNITY**, the City is creating more issues and compounding an already bad situation.

I do not see any positive points for reasons to approve the re-zoning for this RV-BOAT STORAGE FACILITY.

There are only more problems here for the City, the community and the Sawgrass Lakes Residents!!!

Thanking you for allowing my comments to be made.

Concerned Resident,

James M. Stephens  
4474 Caladium Circle



West Melbourne, FL 32904  
Mobile -618-731-0442

**From:** [Kiran Patel](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Please don't give permission to re zone.  
**Date:** Monday, January 11, 2021 6:36:12 AM

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

Ms. Jones,

Thank you for the opportunity to share my family's concern about the property on Norfolk Parkway being rezoned to commercial so an RV/Boat storage facility can be built on the property. We believe the location should not be rezoned for several reasons. We live at 832 Cattail Court, West Melbourne, FL 32904.

1) Our greatest concern is the Pandora's box that will be opened due to preparing the property for the structure they want to build and the honesty of the company. During the community meeting the company said they planned on adding fill dirt to increase the height of the property to prevent the need for excavation. The KSM Engineering and Test Report recommended the company excavate the soil and replace it or the structure will settle. I hope each board member took the time to read the KSM Engineering and Test Report.

The property has not been purchased and the company has already been untruthful to the residents of Sawgrass Lakes. They lied straight-faced to residents when asked about the excavation.

I know this property is classified as class 4. They brought whatever they wanted to this landfill. All kinds of chemicals. This was over 60 years ago. Do we trust this classification? There were a lot fewer regulations years ago. Is the county ready for possible consequences from excavation?

What if material not properly handled causes health issues for residents and children?

Will the company stand by and cover the costs of medical, lost property values, and proper clean-up?

What about the tax revenue that will be lost when property values plummet?

How can you trust them?

What real benefit does the county receive by approving this change? Is it worth the risk of what might be found at the site?

If one structure could cause settling, what about the weight of hundreds of RV's and Boats?

2. Another concern is the risk of being landlocked as a result of an overturned boat or RV. We will not be able to come in or out of the neighborhood until the situation is cleaned up. Emergency responders would not be able to respond to residents or the school if there was another emergency. The entrance is at the top of the hill with blind spots. Some residents already do not drive the speed limit in this area causing accidents. There is no plan to extend Norfolk to John Heritage Parkway; therefore, we will be dealing with this risk for an unknown time period.

3. We are concerned with an increase in crime. Just this week alone, a car was stolen in this neighborhood and others were broken into. This facility will attract higher-end RV's and boats which could draw even more attention from would-be thieves.

Sawgrass Lakes consists of numerous educated professionals and business owners that have invested in homes well above the median home value in this county. If their home prices go down, or even worse, there is physical injury/death as the result of this facility, then the county will be held responsible.

Thank you for your time and I ask that you do not approve the rezoning for this property for the stated reasons above.

Thank you,  
Kiran and Jignya Patel  
832 Cattail Court

West Melbourne  
Fl 32904.  
2563944878.

Sent from my iPhone

**From:** [Stephen Phrampus](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Brevard Tower Communications 2020-2.1 Large Scale Comprehensive Plan Amendment and zoning change request  
**Date:** Sunday, January 10, 2021 10:27:58 PM  
**Attachments:** [2021-01-11 petition2 signatures.pdf](#)  
[Block wall doc.pdf](#)  
[2004 Environmental Site Assessment excerpt.pdf](#)  
[KSM-Perc Tests 08-05-2020\[157416\].pdf](#)  
[KSM-Hand Augers 08-05-2020\[157417\].pdf](#)

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

Good Morning Ms. Jones,

Please included my letter of opposition below and attachments to the Zoning Board for review at their January 11<sup>th</sup> meeting.

Thanks.

My name is Stephen Phrampus of 3401 Watergrass Street located in the City of West Melbourne, County of Brevard.

I am one of the Directors of Sawgrass Lakes Master Association and the Owner Representative for over 800 property owners, soon to be 933 upon completion. Our Sawgrass Lakes Plat borders the Brevard Tower Communications property on three sides (*100% on the West and South, which is across the road of Norfolk parkway and approx. 500' to the East*).

I am also a West Melbourne City Councilman and understand that Boards need to hear and review these requests without a predetermined opinion, considering the facts presented by staff, the requestee and any opposition.

I represent a large part of the opposition to this zoning change.

The developer will tell you that their research indicates that this RV/Boat Storage is needed and a good fit for the surrounding community. They will also say they met with residents and made concessions based on those meetings. A second petition was taken to evaluate the community's post meeting position and once again the rezoning is overwhelmingly opposed by residents with well over 500 names signed (*please see the attached second petition dated*).

The meeting was requested on short notice and held on December 22, 2020 at Sawgrass Lakes Clubhouse. The overall resident opinion was that the developer was checking off a box to present to the County Commissioner's. Any so-called concessions were preconceived and presented, not objectively discussed. They

implemented an offensive, strong arm reasoning tactic of saying we could build this concrete block wall, instead of this nice 50' tree buffer if we wanted to (please see attached document). Granted, this is in lieu of the hundreds of feet of tree buffer that is currently there and could be lost. We felt this meeting was a failure.

The developer's environmental report by ACES, LLC dated 12/19/2019, indicates no Eagle's nests within 1 mile and an occasional presents of Wading birds. This information is factually not true, as there is an Eagle's nest within a mile, as the crow flies, on our sawgrass Lakes property (*since before construction of Sawgrass Lakes - see attached photo taken 1/10/21*). Along with the daily occurrence of a Wading Bird and roosting sanctuary consisting of snowy egrets (*which has also been present pre-construction of Sawgrass Lakes*) on the shorelines of the proposed rezoning property (*see attached photos*). Both of which could be affected by this development.

The developer would have you believe that only concrete and road construction waste have been buried on the site. However, the Universal Engineering Sciences (UES) phase 1 Environmental Site Assessment (EAS) report, dated 12/2004 section 1.3, indicates during the operational period of the landfill, solid waste items such as paint cans, tires, automobile engine parts and household trash were accepted at the site (*Documents are on file with FDEPA*). The developer's reports from KSM Engineering and testing (*project #203434-p & #203434-ha*) indicate that its subsurface investigation was terminated after 3 to 5 feet in its multiple locations because of debris, and states, "We recommend either the debris be removed, or adjacent sites be utilized..." (*page 2 and similarly page 3 of the latter report see attached*). Do we really want to disrupt 3 to 5 feet of this landfill property?

As a recap of what the County Commissioner's have already invested for this property: In 1992 the County closed the landfill at a cost of \$400,000 tax dollars to meet EPA regulations and paid \$100,000 to the property owner for loss of services. Which is why we currently have this sanctuary type property, no thanks to the actual property owner. The property also provides a sound barrier to the traffic noise of interstates 95, which would be lost with the removal of hundreds of feet of trees.

This property was also denied support from the City of West Melbourne, when asked to supply water and sewer, along with the possibility of annexation, which was prior to my tenure with the City.

This proposal has become known as the large lighted parking lot on the hill, as it is 30 to 40 feet above the surrounding residential areas. When residents purchased their homes, some costing over \$500,000 dollars, they did so with the understanding that the zoning for this landfill area was extremely limited. A large parking lot abutting our property was not one of those considerations.

As stated by a board member at the zoning meeting for transmittal of this property; there is already a traffic problem on Minton Road; the applicant is not using the available commercial property already in the area and it is not a project that is recommended by the Comprehensive Plan.

The large-scale comprehensive plan amendment requires a property of this size to be located on a principal arterial/principal arterial intersection, however it is located at the top of a hill of a dead-end urban street with a blind driveway.

Even though the transmittal report states there is no traffic data available (*page 6 item E*), the Minton Road Feasibility study rates the current intersection at Minton and Norfolk as a “F” during morning traffic hours based on the “Level of Service” metric of A-F. The Developer has acknowledged that Norfolk Parkway is not the easiest road to get in and out of.

Thank you for listening to these contraindications for this zoning change and I appreciate your time.

Stephen M. Phrampus  
3401 Watergrass Street  
West Melbourne, FL 32904  
856-265-1271  
stephenphrampus@gmail.com



Recipient: Brevard County Commission

Letter: Greetings,

A petition to oppose re-zoning the parcel of land immediately East of  
Sawgrass Lakes

# Signatures

Name	Location	Date
Paul Claessen	W Melbourne, FL	2021-01-01
Faith Tatum	West Melbourne, FL	2021-01-01
Rachael Howard	West Melbourne, FL	2021-01-01
Marcia Post	Melbourne, FL	2021-01-01
Matthew Howard	West Melbourne, FL	2021-01-01
Julie Arthur	West Melbourne, FL	2021-01-01
Amanda Maidhof	Palm Bay, FL	2021-01-01
Oliver Ray-Wever	Orlando, FL	2021-01-01
Stephanie Bryant	West Melbourne, FL	2021-01-01
Christine Lewis	Melbourne, FL	2021-01-01
Dana Suggs	Palm Bay, FL	2021-01-01
Stephen Phrampus	West Melbourne, FL	2021-01-01
Ashley Phrampus	West Melbourne, FL	2021-01-01
christy tardy	West Melbourne, FL	2021-01-01
K Dev	Melbourne, FL	2021-01-01
Lori Stuart	West Melbourne, FL	2021-01-01
Lance Lester	West Melbourne, FL	2021-01-01
Manasaa D L	Melbourne, FL	2021-01-01
Adalberto De la Rosa	Palm Bay, FL	2021-01-01
John Martiney	West Melbourne, FL	2021-01-01

Name	Location	Date
Waleska Perez	Melbourne, FL	2021-01-01
Sarah McCall	West Melbourne, FL	2021-01-01
William Heineman	West Melbourne, FL	2021-01-01
Kristy McGhee	Melbourne, FL	2021-01-01
Deborah Braithwaite	Melbourne, FL	2021-01-01
Dona Dmitrovic	Orlando, FL	2021-01-01
Rebecca Ciarcia	West Melbourne, FL	2021-01-01
Maxwell Perez	Melbourne, FL	2021-01-01
Elizabeth Short	West Melbourne, FL	2021-01-01
Lauren Degory	Palm Bay, FL	2021-01-01
John Burke	West Melbourne, FL	2021-01-01
Cindy Lonza	West Melbourne, FL	2021-01-01
Jack Samowitz	W Melbourne, US	2021-01-01
Erica Stacey	Palm Bay, FL	2021-01-01
Stephanie Sorensen	Palm Bay, FL	2021-01-01
Tara McNab	Melbourne, FL	2021-01-01
Gary Simpson	West Melbourne, FL	2021-01-01
Constance Cook	Melbourne, FL	2021-01-01
Ashley Werth	Greenwood, IN	2021-01-01
Fady Isaac	West Melbourne, FL	2021-01-01
Yashira Santos	Melbourne, FL	2021-01-01
Kim eddleman	Melbourne, FL	2021-01-01

Name	Location	Date
Jonathan Mason	West Melbourne, FL	2021-01-01
Vanessa Manning	Melbourne, FL	2021-01-01
Steven Brightwell	West Melbourne, FL	2021-01-01
Amanda Kassabian	West Melbourne, FL	2021-01-01
Richard Waggoner	Florissant, US	2021-01-01
Usha Tirur	Melbourne, FL	2021-01-01
Jessica LaFontaine	Melbourne, FL	2021-01-01
Jackie Kirner	West Melbourne, FL	2021-01-01
Jessica Yourek	Melbourne, FL	2021-01-01
Ryan LaFontaine	Melbourne, FL	2021-01-01
Jason Grucza	West Melbourne, FL	2021-01-01
Debbie Gibbs	Florence, US	2021-01-01
Praveen Kumar	Melbourne, FL	2021-01-01
Lian Szeto	West Melbourne, FL	2021-01-01
Shakayla Thomas	Compton, US	2021-01-01
Ebony Daniels	West Melbourne, FL	2021-01-01
Rita Devlin	West Melbourne, FL	2021-01-01
Bridgett Williams-Cooper	Melbourne, FL	2021-01-01
Amber Swan	Melbourne, FL	2021-01-01
Jean Rivera	West Melbourne, FL	2021-01-01
Kelly Therrien	Melbourne, FL	2021-01-01
Dawnell Claessen	Palm Bay, FL	2021-01-01

Name	Location	Date
Tiffany Smith	Palm Bay, FL	2021-01-01
Josh Post	Melbourne, FL	2021-01-01
Tara Chafin	Melbourne, FL	2021-01-01
Daniel Rodriguez	Palm Bay, FL	2021-01-01
Jane Muhr	W Melbourne, FL	2021-01-01
Chris Chafin	Tampa, FL	2021-01-01
Randy Rodriguez	West Melbourne, FL	2021-01-01
Stephen Lee	Palm Bay, FL	2021-01-01
Dan Tesenair	West Melbourne, FL	2021-01-01
Pearl Hann	Melbourne, FL	2021-01-01
Jutta Emerald	Melbourne, FL	2021-01-01
Leslie Kelsheimer	West Melbourne, FL	2021-01-01
Heather Hallett	West Melbourne, FL	2021-01-01
Eric Tizol	Melbourne, FL	2021-01-01
Jen Rutherford	Palm Bay, FL	2021-01-01
Mary Heineman	WEST MELBOURNE, FL	2021-01-01
Yi Qiao Zheng	West Melbourne, FL	2021-01-01
Lucy Swing	Palm Bay, FL	2021-01-01
Reddappa Nadella	Altamonte Springs, FL	2021-01-01
Tonya Musskopf	Palm Bay, FL	2021-01-01
Tho Pham	West Melbourne, FL	2021-01-01
Alyshia Gillham	Melbourne, FL	2021-01-01

Name	Location	Date
Venkat Kotha	Palm Bay, FL	2021-01-01
Marilyn Harkey	West Melbourne, FL	2021-01-01
Zach Colby	Orlando, FL	2021-01-01
Kanikesh Yedla	Melbourne, FL	2021-01-01
Kim Bower	Melbourne, FL	2021-01-01
Ravi Rama	Palm Bay, FL	2021-01-01
Frank Greaves	West Melbourne, FL	2021-01-01
Tarra Scott Rondeau	West Melbourne, FL	2021-01-01
Melanie Fox	Melbourne, FL	2021-01-01
Susana Muñoz	Madrid, Spain	2021-01-01
LISA Young	Melbourne, FL	2021-01-01
yolanda schultes	Wittenbach, Switzerland	2021-01-01
Niina Anttinen	Espoo, Finland	2021-01-01
Julia Jaggars	Melbourne, FL	2021-01-01
dominique benoit	Villiers-en-Désœuvre, France	2021-01-01
Stephanie Nesius	West Melbourne, FL	2021-01-01
isabel esteve	Castelloli, Spain	2021-01-01
Leeanne Evans	New Quay, Wales; Cymru, UK	2021-01-01
Djamila grouci	Paris, France	2021-01-01
wendy smith	Nelson, UK	2021-01-01
Theresia Maria	Deutschland, Germany	2021-01-01
Eva Maria Genovese	Muttenz, Switzerland	2021-01-01



Name	Location	Date
James Stephenson	Melbourne, FL	2021-01-01
Debra Barr	Anaheim, CA	2021-01-01
Anne Montarou	Plaisir, France	2021-01-01
Marites Reimann	Oslo, Norway	2021-01-01
Pam Rutherford	West Melbourne, FL	2021-01-01
Barbaralynn Bauder	West Melbourne, FL	2021-01-01
Sylvie Lemaire	Féternes, India	2021-01-01
Navjyoth banala	Melbourne, FL	2021-01-01
James Teichert	Melbourne, FL	2021-01-01
Denise Holden	West Melbourne, FL	2021-01-01
Sabine Mayr	Innsbruck, Austria	2021-01-01
Maria Van Geel	Zdroisko, Poland	2021-01-01
Donna Marcinkowski	West Melbourne, FL	2021-01-01
Erin White	West Melbourne, FL	2021-01-01
Kathryn McQuaide	West Melbourne, FL	2021-01-01
Renata Puppín	Italy	2021-01-01
Silvia Steinbrecher	Germany	2021-01-01
Stephan Kreiser	Harrisburg, PA	2021-01-01
Ana Gruber	Wolfratshausen, Germany	2021-01-01
Christine Burke	Melbourne, FL	2021-01-01
Liliana Fiorini	Cordoba, Argentina	2021-01-01
Paul Barr	West Melbourne, FL	2021-01-01

Name	Location	Date
Rosemary Opalka	Mebane, US	2021-01-01
Joseph DaRosa	Palm Bay, FL	2021-01-01
Bret McLean	Melbourne, FL	2021-01-01
Lou Ann Parr	Melbourne, FL	2021-01-01
Jason Buenaventura	Palm Bay, FL	2021-01-01
Sally Suber	Melbourne, FL	2021-01-01
Tabitha Martiney	Palm Bay, FL	2021-01-01
James LaRubio	W. Melbourne, FL	2021-01-01
D S	Melbourne, FL	2021-01-01
Ryan Westervelt	Melbourne, FL	2021-01-01
Edward London Jr	West Melbourne, FL	2021-01-01
John Tardy	Melbourne, FL	2021-01-01
Gregory Hitt	Taylor Mill, KY	2021-01-01
Tiziana Dordoni	via xx settembre 11 Corsico milano, Italy	2021-01-01
Shayna Tyler	Vallentigny, France	2021-01-01
William Martin	Melbourne, FL	2021-01-01
Alicia Riggs	Palm Bay, FL	2021-01-01
catherine cheneval	LYON, Spain	2021-01-01
Doug St John	Melbourne, FL	2021-01-01
Stephanie Gilbert	Sewell, NJ	2021-01-01
Michelle St John	West Melbourne, FL	2021-01-01
Angélique Sebban	Saint-Maur, France	2021-01-01

Name	Location	Date
Robert zifer	Melbourne, FL	2021-01-01
jocelyne lapointe	Terrebonne, CA	2021-01-01
Anil Geddam	Melbourne, FL	2021-01-01
tom risken	Heide, Germany	2021-01-01
Frutuoso Christina	Esch, Luxembourg	2021-01-01
Susan Horn	West Melbourne, FL	2021-01-01
Hanneke Mol	Poortvliet, NE	2021-01-01
Carrie Friday	West Melbourne, FL	2021-01-01
Mirjam Talma	Buitenpost, Netherlands	2021-01-01
Leland Horn	Palm Bay, FL	2021-01-01
Jonathan Harris	Palm Bay, FL	2021-01-01
Sabine Möhler	sabine.stiker@web.de, Germany	2021-01-01
Mithun Singh	W Melbourne, FL	2021-01-01
Lena Dixon	West Melbourne, FL	2021-01-01
Billie Mayes	West Melbourne, FL	2021-01-01
John Ringleb	West Melbourne, FL	2021-01-01
Αναστασία Χλωρού	EYΟΣΜΟΣ, Greece	2021-01-01
Mihaela mares	Lake Dallas, TX	2021-01-01
Sarah Caduff	Melbourne, FL	2021-01-01
Astrid V.d. Geest	Stadskanaal, Netherlands	2021-01-01
Tiemi Saito	Shimizu ku 339, Burundi	2021-01-01
Patricia LaRouche	1755 Litchfield Drive, FL	2021-01-01

Name	Location	Date
Michael Carter	West Melbourne, FL	2021-01-01
Sylvia Breuer	Canby, MN	2021-01-01
Anke Otto	Auerbach, Germany	2021-01-01
Irene Nawo-Eichner	Lensahn, Germany	2021-01-01
Andressa Trevisiol	Melbourne, FL	2021-01-01
Ramki Tirur	Melbourne, FL	2021-01-01
sylviane lambert - husin	Benon, France	2021-01-01
Debbie Macmillan	Balloch, Scotland, UK	2021-01-01
PRAMOD Reddy	West Melbourne, FL	2021-01-01
Claudia Neuhaufen	Germany	2021-01-01
Graham Duncan	Dublin, Ireland	2021-01-01
Abby Kamunge	Melbourne, FL	2021-01-01
Rosi Zang	Aschaffenburg, Germany	2021-01-01
laurence vanham	5310 leuze, Belgium	2021-01-01
Mardie Robbins	West Melbourne, FL	2021-01-01
Chardonnens Sonja	Mannens, Switzerland	2021-01-01
Ronnica Willwerth	Melbourne, FL	2021-01-01
Jean Chagnon	Montréal, Canada	2021-01-01
Debbie Brent	Columbia, MD	2021-01-01
Aruna Subbareddy	West Melbourne, FL	2021-01-01
Anneke v. Brussel Andries	Raamsdonksveer, Netherlands	2021-01-01
Elbert Schaffert	West Melbourne, FL	2021-01-01

Name	Location	Date
Ivan Braithwaite	Palm Bay, FL	2021-01-01
jade ALF	Blois, France	2021-01-01
Jasmin Porschen	München, Germany	2021-01-01
Mike Casey	Melbourne, FL	2021-01-01
Joyce Brown	longueuil, Canada	2021-01-01
Andre Schaffert	Palm Bay, FL	2021-01-01
Dominique LANG	Vaison-la-Romaine, France	2021-01-01
Lisa Salazar	Shasta Lake, CA	2021-01-01
Anna Carolina Sousa	Melbourne, FL	2021-01-01
Michelle Araujo	Satellite Beach, FL	2021-01-01
Rogério Ciofi	Melbourne, FL	2021-01-01
Priscila Schaffert	Melbourne, FL	2021-01-01
Gabriela Murner	Eggstätt, Germany	2021-01-01
Sasan Rastegarları	Orlando, FL	2021-01-01
Ana Schaffert	West Melbourne, FL	2021-01-01
Scott Eddleman	Melbourne, FL	2021-01-01
Christie Urban-Santillan	Melbourne, FL	2021-01-01
Ana Beckner	West Melbourne, FL	2021-01-01
Andressa Trevisiol	Fl, FL	2021-01-01
Bob Sheladia	The Villages, FL	2021-01-01
Ellen Conderman	Palm Bay, FL	2021-01-01
Jennifer Gress	West Melbourne, FL	2021-01-01

Name	Location	Date
Rebecca Lew	Florida	2021-01-01
Thomas McCormack JR	West Melbourne, FL	2021-01-01
Kelley Maynard	Melbourne, FL	2021-01-01
Sandra Pfeiler	Tustin, CA	2021-01-01
Myra and Michael Burris	Melbourne, FL	2021-01-01
Jessica Ford	West Melbourne, FL	2021-01-01
Beatrix Wassermann-Otto	Warstein, Germany	2021-01-01
Steve Paff	Melbourne, FL	2021-01-01
Michele McCormack	US	2021-01-01
Kiran Babu Bireddi	Palm Bay, FL	2021-01-01
Tim Eaton	East Hampton, CT	2021-01-01
Beth Schrader	Melbourne, FL	2021-01-01
Vasanthakumar Kungarupalayam Sellamuthu	Melbourne, FL	2021-01-01
Paromeeta N	Palm Bay, FL	2021-01-01
Margaret Griesmer	Babylon, NY	2021-01-01
Cari France	West Melboure, FL	2021-01-01
Amanda Black	Palm Bay, FL	2021-01-01
Michel Furtado	West Melbourne, FL	2021-01-01
Nora Isaac	West Melbourne, FL	2021-01-01
Fernando Mendez	US	2021-01-01
Achol Deng	Lexington, US	2021-01-01



Name	Location	Date
Elango A	Melbourne, FL	2021-01-01
Kleiah Cross	Merced, US	2021-01-01
meghan sheppard	Selden, US	2021-01-01
Em Acos	Eugene, US	2021-01-01
Brenda Banaszak	Palm Bay, FL	2021-01-01
Benjamin Tarkenton	Charlotte, US	2021-01-01
Anne Kelly	Gorham, US	2021-01-01
valarie dobromirescu	Newark, US	2021-01-01
Bert Sabo	Ventnor City, NJ	2021-01-01
Gregory Barnes	Melbourne, FL	2021-01-01
Lalita Creighton	West Melbourne, FL	2021-01-01
Kenny Girard	Exeter, NH	2021-01-01
Charles Dickens	West Melbourne, FL	2021-01-01
sara sang	los angeles, CA	2021-01-01
Fernande Fournier	Luxembourg, Luxembourg	2021-01-01
Reita Curry	Palm Bay, FL	2021-01-01
Tarryn Mapp	Felton, DE	2021-01-01
Gina Farrington	West Melbourne, FL	2021-01-01
Roger Beckner	West Melbourne, FL	2021-01-02
Rhonda Lackey	West Melbourne, FL	2021-01-02
David Hasker	Melbourne, FL	2021-01-02
Cynthia MCGuire	Melbourne, FL	2021-01-02

Name	Location	Date
Caitlin Pelletier	West Melbourne, FL	2021-01-02
f original user	New York, US	2021-01-02
Ericka Hoskin	Sharon, US	2021-01-02
Astrid Munoz	NJ, US	2021-01-02
Kene Have r.	Placentia, US	2021-01-02
Nyla Johnson	Blackwood, US	2021-01-02
Yanell Perez	Laredo, US	2021-01-02
Nicole Cook	Melbourne, FL	2021-01-02
Dean Kuennen	Melbourne, FL	2021-01-02
Fei Liang	Palm Bay, FL	2021-01-02
Christeen Anderson	Crestview, FL	2021-01-02
Lirong Zheng	Palm Bay, FL	2021-01-02
Francisco Chavez	Melbourne, FL	2021-01-02
Eddie Cruz	West Melbourne, FL	2021-01-02
Stuart Sheinman	West Melbourne, FL	2021-01-02
Lorelei Vitulli	Palm Bay, FL	2021-01-02
Auvese Pasha	Melbourne, FL	2021-01-02
Gerlinde Holzer	Guntersdorf, Austria	2021-01-02
Annette DaRosa	Palm Bay, FL	2021-01-02
Cynthia Nemec	Melbourne, FL	2021-01-02
Carrie DiSebastian	Melbourne, FL	2021-01-02
Peggy Lin	Melbourne, FL	2021-01-02

Name	Location	Date
yoshino trudie	Ota-ku, Japan	2021-01-02
cathala corine	Pierrelatte, France	2021-01-02
Pam Miller	Tolar, TX	2021-01-02
Meike Schmedt	Osnabruck, Germany	2021-01-02
Andrew Vallender	Ventnor, England, UK	2021-01-02
Sharifah Farah Debah Syed Mohammad	Kuala Lumpur, Malaysia	2021-01-02
Judy Rees	Glenalta, Australia	2021-01-02
Gaïa Shepered	Gennevilliers, France	2021-01-02
Sinclair Petra	Erlensee, Germany	2021-01-02
Sue Cone	Hessle, ENG	2021-01-02
Christel Reaves	Melbourne, FL	2021-01-02
Mark Hann	West Melbourne, FL	2021-01-02
Caroline Sévilla	Paris, France	2021-01-02
bellinda rolf-jansen	Wijk Bij Duurstede, US	2021-01-02
Jeff Reaves	Melbourne, FL	2021-01-02
Gerardo Capote	Cancun, Mexico	2021-01-02
Chantal Martin	Koné, New Caledonia	2021-01-02
Megan Pantuso	Melbourne, FL	2021-01-02
Marc van de Waarsenburg	Middelburg, Netherlands	2021-01-02
Danielle Schukoske	West Melbourne, FL	2021-01-02
Hariana V Días	Bogota, Colombia	2021-01-02

Name	Location	Date
Konrad Dixon	Palm Bay, FL	2021-01-02
nancy hristodoulou	deer park, NY	2021-01-02
Raphaël PONCE	Aucamville, France	2021-01-02
Kate Kenner	Guilford, VT	2021-01-02
Luciana Marques de Paula	West Melbourne, FL	2021-01-02
Jusandra Passos	Sao Paulo, Brazil	2021-01-02
Terri Leverich	West Melbourne, FL	2021-01-02
Joyce Alexander	Edinburgh, Scotland, UK	2021-01-02
Kiran Patel	Melbourne, FL	2021-01-02
Pamela Hill	High River, Canada	2021-01-02
Julie Port	Slough, UK	2021-01-02
Mags Roy Mein	Newcastle, England, UK	2021-01-02
Sandra Snelders	Lowell, MA	2021-01-02
Carol Beaulieu	London, Canada	2021-01-02
Kristian Damkjer	West Melbourne, FL	2021-01-02
Alberto Rey	West Melbourne, FL	2021-01-02
Joanne Napier	Berwyn, IL	2021-01-02
Heidi Dotson	West Melbourne, FL	2021-01-02
ursula schilg	Mayen, Germany	2021-01-02
Nadia gauvin gauvin	France	2021-01-02
Braice Bastet	Japan	2021-01-02
Marie Steele	Palm Bay, FL	2021-01-02

Name	Location	Date
Erika Houck	West Melbourne, FL	2021-01-02
Stacey Lang	Melbourne, FL	2021-01-02
Nick Wills	Melbourne, FL	2021-01-02
Jessie southan	Dudley, England, UK	2021-01-02
Michael Clements	West Melbourne, FL	2021-01-02
John Roberts	Birmingham, England, UK	2021-01-02
R S	Koln, Germany	2021-01-02
Ann Wade	Melbourne, FL	2021-01-02
Ted Walkey	W Melbourne, FL	2021-01-02
Jodi Igard	Studio City, CA	2021-01-02
Elisabeth Bechmann	Polten, Austria	2021-01-02
stan nicollette	Bucharest, Romania	2021-01-02
Johanna Sheinman	Palm Bay, FL	2021-01-02
Peter Klein	Wien, Austria	2021-01-02
Russell Griesmer	West melbourne, FL	2021-01-02
Maryann Staron	Evergreen Park, IL	2021-01-02
Iris Watson	Palm bay, FL	2021-01-03
Rebecca Shore	West Melbourne, FL	2021-01-03
Jim Takahashi	Christchurch, New Zealand	2021-01-03
Stephanie Freilich	Melbourne, FL	2021-01-03
Jennifer Mason	West Melbourne, FL	2021-01-03
Davinia Hernández Gómez	Spain	2021-01-03

Name	Location	Date
Andréa Branco	Sao Paulo, Brazil	2021-01-03
John Buenaventura	La Mirada, CA	2021-01-03
Inge Stadler	Hilpoltstein, Germany	2021-01-03
Rolf Mense	Puerto Lumbreras, Spain	2021-01-03
Wendy Forster	UK	2021-01-03
Alvaro Montoya	Melbourne, FL	2021-01-03
Letha Catigbe	West Melbourne, FL	2021-01-03
Nicholas Ciarcia	West melbourne, FL	2021-01-03
Bethany Falls	Melbourne, FL	2021-01-03
Anahi Falcon	Argentina	2021-01-03
Amanda Naylor	Melbourne, FL	2021-01-03
Jennifer Evans	Ohio	2021-01-03
Elias Master	Wellington, FL	2021-01-03
Sean Cedar	Melbourne, FL	2021-01-03
Chantal Gacond	Noirigue, Switzerland	2021-01-03
Frédéric Jaubert	Pont de Chérucy, France	2021-01-03
Thomas Baize	Melbourne, FL	2021-01-03
Linda Phrampus	Melbourne, FL	2021-01-03
Brigitte Hermanns	Düsseldorf, Germany	2021-01-03
Nicole Laenen	gingelom, Belgium	2021-01-03
Donna Hasker	Melbourne, FL	2021-01-03
Eliezer Ramos	West Melbourne, FL	2021-01-03



Name	Location	Date
Andrea Fleck	Heidelberg, Germany	2021-01-03
Kristina Sedic	Zagreb, Croatia	2021-01-03
Michelle Curtiss	Melbourne, FL	2021-01-03
Didier Lallemand	Liège, US	2021-01-03
Clayton Truelove	West Melbourne, FL	2021-01-03
Caroline Siacot	Poligny, France	2021-01-03
Tim Pelletier	West Melbourne, FL	2021-01-03
Heather Tyler	West Melbourne, FL	2021-01-03
Robert Rondeau	Melbourne, FL	2021-01-03
Cynthia Stephenson	Melbourne, FL	2021-01-03
Lineska Rodríguez	Melbourne, FL	2021-01-03
Dondi Kuennen	West Melbourne, FL	2021-01-03
MeiLing Wang	Melbourne, FL	2021-01-03
Neil Ganey	Melbourne, FL	2021-01-03
Maryellen Magness	West Melbourne, FL	2021-01-03
Sajju Elangovan	Melbourne, FL	2021-01-03
Tito Baez	West Melbourne, FL	2021-01-03
Alfred Wilkes	Melbourne, FL	2021-01-03
Stephanie Alberts	Melbourne, FL	2021-01-03
Lionel Cox	Melbourne, FL	2021-01-03
Stephani Ahmad	West melbourne, FL	2021-01-03
Kathryn Ganey	Melbourne, FL	2021-01-03

Name	Location	Date
Katie Jordan	West Melbourne, FL	2021-01-03
Donald Curry	West Melbourne, FL	2021-01-03
Ayaz Nemat	Melbourne, FL	2021-01-04
Megan Beck	Melbourne, FL	2021-01-04
Gretchen Rodríguez	West Melbourne, FL	2021-01-04
Marla Connick	West Melbourne, FL	2021-01-04
Lucy Alvarez	Palm Bay, FL	2021-01-04
Giusi Nigro	West Melbourne, FL	2021-01-04
Nathan Thomas	West Melbourne, FL	2021-01-04
Mary Lou Fair	Palm Bay, FL	2021-01-04
Ellen Evans	West Melbourne, FL	2021-01-04
Kristie Ryan	Palm Bay, FL	2021-01-04
Gina Sama	West Melbourne, FL	2021-01-04
Osvaldo Agrait	Palm Bay, FL	2021-01-04
Kate Fine	West Melbourne, FL	2021-01-04
Kerrie Hernandez	Melbourne, FL	2021-01-04
Shashank Cukkemane Muralidhara	West Melbourne, FL	2021-01-04
Jacqueline Williams	West Melbourne, FL	2021-01-04
Marion Schiffers	Brussels, Belgium	2021-01-04
John Beck	West Melbourne, FL	2021-01-04
aiken chua	cebu, Philippines	2021-01-04

Name	Location	Date
Ashley Huser	Melbourne, FL	2021-01-04
Janina Grage	Germany	2021-01-04
r van buren	Palm Bay, FL	2021-01-04
Michael McGuire	West Melbourne, FL	2021-01-04
Daniel Berry	Melbourne, FL	2021-01-04
Christian Karch	West Melbourne, FL	2021-01-04
Rebecca Holly	Melbourne, FL	2021-01-04
Beverly McLean	West Melbourne, FL	2021-01-04
Tessa Hurt	Melbourne, FL	2021-01-04
Alicia Niles	Melbourne, FL	2021-01-04
Amy Dutra	Melbourne, FL	2021-01-04
Tammy Finnell	Melbourne, FL	2021-01-04
Tara Densler	Melbourne, FL	2021-01-04
Michelle Cederquist	Mount Dora, FL	2021-01-04
Andrea Lewark	Palm Bay, FL	2021-01-04
Ambber Harms	Melbourne, FL	2021-01-04
Melinda Harris	Palm Bay, FL	2021-01-04
Vien Nguyen	Bel Aire, KS	2021-01-04
Elizabeth Richardson	Palm Bay, FL	2021-01-04
Steve Dutra	West Melbourne, FL	2021-01-04
Shira Langsm	Valley Stream, US	2021-01-04
Jasmine Walker	Detroit, US	2021-01-04

Name	Location	Date
Billy Reinschmidt	Ledyard, US	2021-01-04
Melissa Heithaus	Mckinney, US	2021-01-04
Alanna Amado	Duxbury, US	2021-01-04
Ethan Uecker	Portland, US	2021-01-04
Stephan Benecke	Irving, US	2021-01-04
A Person	ejkwfnkjewnf, US	2021-01-04
Kelly Hoylman	Palmer, US	2021-01-04
molly l	Pittsburgh, US	2021-01-04
Virginia Graham	Sugar Land, TX	2021-01-04
KARLA GARCIA-LOPEZ	Vancouver, US	2021-01-04
Jennavy Garcia	Wake Forest, US	2021-01-04
Tami Brody	Oklahoma City, US	2021-01-04
Andrea Gaonag	Norristown, US	2021-01-04
Devster 📍	Brooklyn, US	2021-01-04
Sage Daniel Neale	US	2021-01-04
carol DeBlasis	Melbourne, FL	2021-01-04
Ava French	Melbourne, FL	2021-01-04
Louise Husband	US	2021-01-04
Don Lilly	Orlando, FL	2021-01-04
Marion Bistarkey	Hollywood, FL	2021-01-04
Danielle Silfort	Palm Bay, FL	2021-01-04
Marilyn Baran	Melbourne, FL	2021-01-04

Name	Location	Date
tania kurman	palm bay, FL	2021-01-04
Janice Tannehill	Melbourne, FL	2021-01-04
Christopher Evans	Shobdon, UK	2021-01-04
Chris Wicht	Melbourne, US	2021-01-04
helga salvetti	Melbourne, FL	2021-01-04
Michael Doherty	Melbourne, FL	2021-01-04
Linda Coon	Utica, NY	2021-01-04
p parrella	viera, FL	2021-01-05
Maria Uhler	Melbourne Beach, FL	2021-01-05
Danny Stala	Palm Bay, FL	2021-01-05
Thomas Piermarini	West Melbourne, FL	2021-01-05
Alison Pratt	West Melbourne, FL	2021-01-05
Karen Sadoff	West Melbourne, FL	2021-01-05
Brian Hartling	Melbourne, FL	2021-01-05
Sangita Chovatia	Palm Bay, FL	2021-01-05
Paresh Patel	Palm Bay, FL	2021-01-05
Donald Baldrige	West Melbourne, FL	2021-01-05
Dianne Errichetti	Long Branch, NJ	2021-01-05
Marianne Beames	Spain	2021-01-05
Kathy Torres	Melbourne, FL	2021-01-05
Amanda Figueredo	Palm Bay, FL	2021-01-05
Michael Falls	Melbourne, FL	2021-01-05

Name	Location	Date
Eddy Celis	Melbourne, FL	2021-01-05
Zac Daniels	Florida	2021-01-05
Summer Daniels	Saint Albans, WV	2021-01-05
Harold Daniels	Palm Bay, FL	2021-01-05
NARESHKUMAR Savani	West Melbourn, FL	2021-01-05
daniel mcdonough	Melbourne, FL	2021-01-05
Steve Hipsley	Melbourne, FL	2021-01-05
Danii F. Paolucci	Perugia, Italy	2021-01-05
Shannon Finnell	West Melbourne, FL	2021-01-05
Deepti V	Melbourne, FL	2021-01-05
Deon Harkey	West Melbourne, FL	2021-01-05
Reita Curry	West Melbourne, FL	2021-01-05
Stephen Canuel	Kissimmee, FL	2021-01-05
Charles Fenno	Palm Bay, FL	2021-01-05
Mayela Langer	Miami, FL	2021-01-05
Terry Mathews	Melbourne, FL	2021-01-05
marielaure vignaud	France	2021-01-05
Alex Niles	Melbourne, FL	2021-01-05
Dwayne Davis	Palm Bay, FL	2021-01-06
Robyn Pastirik	Melbourne, FL	2021-01-06
Eric Wills	Melbourne, FL	2021-01-06
Luciano Ribeiro De Paula	Melbourne, FL	2021-01-06



Name	Location	Date
Colin McAllister	Melbourne, FL	2021-01-06
ramon hernandez	Melbourne, FL	2021-01-06
Donald Cockayne	Melbourne, FL	2021-01-06
Teresa Milburn	W Melbourne, FL	2021-01-06
Deb Perry	Rockledge, FL	2021-01-06
Sandra Stefanko	Melbourne, FL	2021-01-06
sandra carchidi	capaccio, Italy	2021-01-06
Cassandra Holder	Melbourne, FL	2021-01-06
Sheryl Opsahl	Palm Bay, FL	2021-01-06
Daniel Faria	Melbourne, FL	2021-01-06
Michael Casey	Melbourne, FL	2021-01-06
Tina Casey	Melbourne, FL	2021-01-06
Nesreen Alanssary Alanssary	Palm Bay, FL	2021-01-07
Wendy Canuel	Melbourne, FL	2021-01-07
Sadhasivam Komaragiri Varadaraj	Melbourne, FL	2021-01-07
Jenivieve Prezas	Melbourne, FL	2021-01-07
Irma Soto	Palm Bay, FL	2021-01-07
Dinosaur Chicken-Nuggets	Hinesville, US	2021-01-07
Nomis Roberts	Conway, US	2021-01-07
Carlos Ortega	Rochester, US	2021-01-07
hunter thomas	Pittsburgh, US	2021-01-07

Name	Location	Date
Kay Heckathorn	Gentry, AR	2021-01-07
Otto Braithwaite	West Melbourne, FL	2021-01-08
Brenda Regis	Sugar Grove, US	2021-01-08
David Grygo	Langhorne, US	2021-01-08
Brianna Mercado	Brandon, US	2021-01-08
Betty Coslett	Tucumcari, US	2021-01-08
Your Mom	Huntsville, US	2021-01-08
Nicholas Cartaya	Collierville, US	2021-01-08
Chase Anderson	Temecula, US	2021-01-08
Antony Wannappa	Pasadena, US	2021-01-08
Daphne Woodward	Tulsa, US	2021-01-08
Indigo Johnson	Bloomfield Hills, US	2021-01-08
Daniel Lizarraga	Phoenix, US	2021-01-08
Valeria Silvestre	Salina, US	2021-01-08
Fernando Camargo Juarez	San Diego, US	2021-01-08
Johana delgado	Tallahassee, US	2021-01-08
sadie al	South Jakarta, Indonesia	2021-01-08
Delana Cooper	Melbourne, FL	2021-01-08
Kaci Campbell	West Melbourne, FL	2021-01-08
Russea Barefield	Joliet, US	2021-01-08
Beth Dickinson	Melbourne, FL	2021-01-09
Nicole Sullivan	Melbourne, FL	2021-01-09

Name	Location	Date
Naomi Yowell	Palm Bay, FL	2021-01-09
Patrick Doyle	Manhattan, US	2021-01-09
Gretchen Zeiger-May	Flagstaff, US	2021-01-09
Agim Demirovski	US	2021-01-09
Madilyn D	Cape Girardeau, US	2021-01-09
nathan n	Staunton, US	2021-01-09
Eva Pina	Memphis, US	2021-01-09
Arley Bloom	Hialeah, US	2021-01-09
Maria Arganda	Fontana, US	2021-01-09
Austin Mondì	Boone, US	2021-01-09
Victoria Saucedo	Muncy, US	2021-01-09
Abigail Elliston	Sugar Hill, US	2021-01-09
Sofia Heaps	Pittsburgh, US	2021-01-09
Andrew Murtha	Guilford, US	2021-01-09
Daniel Jackson	US	2021-01-09
Kenta Leung	Redmond, US	2021-01-09
Adam Kaluba	Burleson, US	2021-01-09
Ayida Ali	Washington, US	2021-01-09
Kylee Rose	Hartford, US	2021-01-09
Levi Ackerman	Cleveland, US	2021-01-09
Jake Small	Huntington Station, US	2021-01-09
Yasameen Gobar	San Diego, US	2021-01-09

Name	Location	Date
Etienne Ivey	Deland, US	2021-01-09
Caren Perez	Elk Grove, US	2021-01-09
Azzaria Kelly	Jamaica, US	2021-01-09
Rebecca Wynter	Palm Bay, US	2021-01-09
Kenya Terr	Greeley, US	2021-01-09
Robin Parker	Seattle, US	2021-01-09
Lesly Reyes	Washington, US	2021-01-09
Walter Luigi	US	2021-01-09
Althea Hope	Oakland, US	2021-01-09
Val Lopez	Brooklyn, US	2021-01-09
damin laughon	Tacoma, US	2021-01-09
Elcira Bermudez	Melbourne, FL	2021-01-09



# Universal Engineering Sciences

## Limited Phase II Environmental Site Assessment

The Villages  
Southwest Quadrant of Minton Road and Interstate 95  
Melbourne, Brevard County, Florida  
Universal Project No. 34052-001-03

December 2004

*Prepared For:*

RDR Communities  
300 East New Haven Avenue  
Melbourne, Florida 32901

*Prepared by:*

Universal Engineering Sciences, Inc.  
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Rockledge, Florida 32955  
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Consultants in: Geotechnical Engineering \* Environmental Sciences \* Construction Material  
Testing Offices in: Rockledge \* Daytona \* St. Augustine \* Debary \* Orlando \* Gainesville \*  
Fort Myers \* Lake Worth \* West Palm Beach \* Jacksonville \* Palm Coast \* Atlanta \*  
Ocala \* Clermont \* Sarasota \* Tampa \*



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## **1.0 INTRODUCTION**

### **1.1 PURPOSE**

Universal Engineering Sciences, Inc. (Universal) was retained by RDR Communities to conduct a Limited Phase II Environmental Site Assessment (ESA) of The Villages hereafter referred to as the "subject property." This Limited Phase II ESA was performed in general accordance with the American Society for Testing and Materials (ASTM) designation E1903-97 "*Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process*," guidelines. In addition, Universal performed the Limited Phase II ESA according to the scope of work provided in Universal's Proposal Number P04-2343.

The purpose of this assessment was to evaluate recognized environmental conditions (RECs) identified in The Villages Phase I ESA report (Project No. 34052-001-02) completed on December 16, 2004. This Limited Phase II ESA is intended to conclude at a minimum, the confirmation of, or lack of a reasonable basis, to suspect that conditions representing a release of petroleum products and/or hazardous substances exist at the subject property.

### **1.2 PROPERTY DESCRIPTION**

The subject property is located in the Southwest Quadrant of Minton Road and Interstate I-95 within Sections 13 and 14, Township 28 South, Range 36 East in Palm Bay, Brevard County, Florida as shown in the Property Location Map provided in Figure 1, Appendix A.

At the time of the site assessment, the subject property was an irregular-shaped primarily undeveloped parcel comprising approximately 500 acres and containing three borrow pit lakes. Improvements on the subject property were identified on the 7-acre portion west of Minton Road that contains a single-story building occupied by an animal feed store. The subject property vicinity generally consists of mixed commercial and residential development.

### **1.3 BACKGROUND**

Based on the results of the Phase I ESA conducted at the subject property in November / December 2004, the following unresolved REC was identified:

1. The adjoining property to the east was utilized as a construction and demolition debris landfill site from approximately 1984 to 1992. During the operational period of the landfill, solid waste items such as paint cans, tires, automobile engine parts, and household trash were accepted. Documentation is on file with photographic information at the Florida Department of Environmental Protection's (FDEP's) Central District. Prior investigations conducted by Geraghty and Miller,





Inc. in January 1991 that evaluated ground water in the vicinity of the landfill identified exceedances of Florida Primary Drinking Water Standards for radium-266 and radium-228, and exceedances of Florida Secondary Drinking Water Standards for color, corrosivity, iron, and chlorides. No contaminants commonly associated with landfill operations were detected as part of the previous ground water investigations at the subject property. The previous studies could not conclusively eliminate the landfill as a potential source of contamination.

Ground water flow, according to the Geraghty and Miller study, was determined to be west-southwest, toward the subject property. The landfill itself is situated at a higher elevation (approximately 30 to 40 feet above land surface) than the surrounding boundaries of the subject property and rainfall interception at the landfill is likely to percolate from the landfill toward the subject site boundaries. Based on the proximity of the landfill, encroachment of the subject property boundaries by construction and demolition debris likely containing solid waste items, and failure of previous groundwater investigations to eliminate the landfill as a potential source of contamination for the subject property, Universal recommended that a Limited Phase II ESA investigation be undertaken.

Based on the above, Universal recommended that a Limited Phase II ESA be conducted to evaluate potential impacts to the surface water and lake bottom sediments, of the 14-acre rectangular lake, and groundwater quality along the eastern portion of the subject property. The remainder of this report summarizes the Limited Phase II ESA assessment methodology, test results, conclusions and recommendations.

## **2.0 ASSESSMENT METHODOLOGY**

The Limited Phase II ESA was conducted in general accordance with ASTM E1903-97 guidelines and appropriate Florida Administrative Code (FAC) guidelines. Quality control for the Limited Phase II ESA was maintained by conducting field activities in accordance with Florida Department of Environmental Protection (FDEP) Standard Operating Procedures (SOP) (DEP-SOP-00-01). Quality Control/Quality Assurance (QA/QC) samples (such as equipment blanks and trip blanks) were not collected as part of the Limited Phase II ESA, because the investigation was intended for preliminary site screening purposes only.

## **3.0 LIMITATIONS**

The findings of this report represent Universal's professional judgment; no warranty is expressed or implied. These findings are relevant to the dates of our activity and the information cited herein. This report should not be relied upon to represent the site conditions on other dates or at locations other than those specifically cited within the report. Universal can accept no responsibility for interpretations of these data made by other parties.



**Image 9:** What the buffer could look like with a block wall. The trees behind it would also need to be removed to construct the wall.



To see the videos of the property, please visit: [www.condevfl.com/norfolk](http://www.condevfl.com/norfolk)



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C.A. # 5693  
KSMengineering.net

July 28, 2020

Condev  
Andy Gardner  
921 N. Pennsylvania Avenue  
Winter Park, FL 32789

**Re: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
KSM Project #: 203434-p**

Dear Mr. Gardner:

Enclosed are the permeability test results and soil profiles for the referenced project.

Three (3) Hydraulic Conductivity Tests were performed in the field by the 'Usual Open-Hole Test' method.

The horizontal and vertical permeability flow rates were determined by excavating a test pit adjacent to the soil profiles and obtaining undisturbed shelly tube samples. We then performed a permeability test on the field samples in our laboratory.

All these tests were performed to evaluate the drainage characteristics of the soils for these particular test locations.

The following table indicates the usual Open Hole Hydraulic Conductivity test results for each test location:

TEST LOCATION (See Location Plan)	HYDRAULIC CONDUCTIVITY (CFS/Sq. Ft. – Ft. Head)
P-1	$2.4 \times 10^{-4}$
P-2	$9.5 \times 10^{-4}$
P-3	$1.3 \times 10^{-4}$

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Brevard County, Florida

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July 28, 2020

The following table indicates the horizontal and vertical flow rates for each test location:

TEST LOCATION (See Location Plan)	HORIZONTAL FLOW RATE	VERTICAL FLOW RATE
P-1	4.2 Ft/Day @ (0"-36") Depth	2.0 Ft/Day @ (0"-36") Depth
P-1		2.3 Ft/Day @ (36"-60") Depth
P-2	3.3 Ft/Day @ (0"-16") Depth	1.7 Ft/Day @ (0"-16") Depth
P-2	10.5 Ft/Day @ (16"-60") Depth	9.2 Ft/Day @ (16"-60") Depth
P-3	2.7 Ft/Day @ (0"-18") Depth	1.5 Ft/Day @ (0"-18") Depth
P-3	8.3 Ft/Day @ (18"-40") Depth	5.3 Ft/Day @ (18"-40") Depth
P-3		3.3 Ft/Day @ (40"-60") Depth

The following table indicates the measured water table along with our estimated normal wet season water table and normal dry season water table for each test location:

TEST LOCATION (See Location Plan)	MEASURED WATER TABLE	ESTIMATED WET SEASON WATER TABLE	ESTIMATED DRY SEASON WATER TABLE
P-1, PB-1	60"+ Below Grade	60"+ Below Grade	96" Below Grade
P-2, PB-2	60"+ Below Grade	60"+ Below Grade	96" Below Grade
P-3, PB-3	60"+ Below Grade	60"+ Below Grade	96" Below Grade

Due to the debris located on this site, we were not able to penetrate it in order to obtain an accurate high season water table. We recommend that either the debris be removed, or adjacent sites be utilized to set the high season elevations.

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July 28, 2020

This estimate is based upon our interpretation of existing site conditions and a review of the USDA Soil Survey for Brevard County, Florida. The project soils are mapped as (42) Palm Beach sand and (52) Quartzipsamments, smoothed, according to the Soil Survey Map of Brevard County, Florida.

If you have any questions, please feel free to contact the office.

Respectfully,



Julie E. Keller, P.E.  
President  
P.E. # 68366

JEK/cv

E-mail to: andyg@condevfl.com; brucem@mbveng.com



**KSM**

KSM Engineering & Testing  
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Sebastian, FL 32978  
Tel: (772)-589-0712  
Fax: (772)-589-6469

**BORING NUMBER PB-1**

PAGE 1 OF 1

CLIENT CondevPROJECT NAME Norfolk Storage, Norfolk ParkwayPROJECT NUMBER 203434-pPROJECT LOCATION Brevard County, FloridaDATE STARTED 7/23/20 COMPLETED 7/23/20

GROUND ELEVATION \_\_\_\_\_ HOLE SIZE \_\_\_\_\_ inches

DRILLING CONTRACTOR \_\_\_\_\_

GROUND WATER LEVELS:

DRILLING METHOD Split Spoon Sample▽ AT TIME OF DRILLING 5.00 ftLOGGED BY DP/CF CHECKED BY JEKAT END OF DRILLING ---NOTES See Attached Location PlanAFTER DRILLING ---

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	RECOVERY % (RQD)	BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	▲ SPT N VALUE ▲			
								20	40	60	80
0								PL	MC	LL	
								20	40	60	80
								□ FINES CONTENT (%) □			
								20	40	60	80
		Gray and Brown Sand with Some Clay, Shell and Roots	SS		5-6-6 (12)						
		Dark Gray Sand with Pieces of Wood	SS		5-4-5 (9)						
5			SS		4-4-15 (19)						

Bottom of borehole at 6.0 feet.

CLIENT <u>Condev</u>	PROJECT NAME <u>Norfolk Storage, Norfolk Parkway</u>
PROJECT NUMBER <u>203434-p</u>	PROJECT LOCATION <u>Brevard County, Florida</u>
DATE STARTED <u>7/23/20</u> COMPLETED <u>7/23/20</u>	GROUND ELEVATION _____ HOLE SIZE <u>inches</u>
DRILLING CONTRACTOR _____	GROUND WATER LEVELS:
DRILLING METHOD <u>Split Spoon Sample</u>	▽ AT TIME OF DRILLING <u>5.00 ft</u>
LOGGED BY <u>DP/CF</u> CHECKED BY <u>JEK</u>	AT END OF DRILLING <u>---</u>
NOTES <u>See Attached Location Plan</u>	AFTER DRILLING <u>---</u>

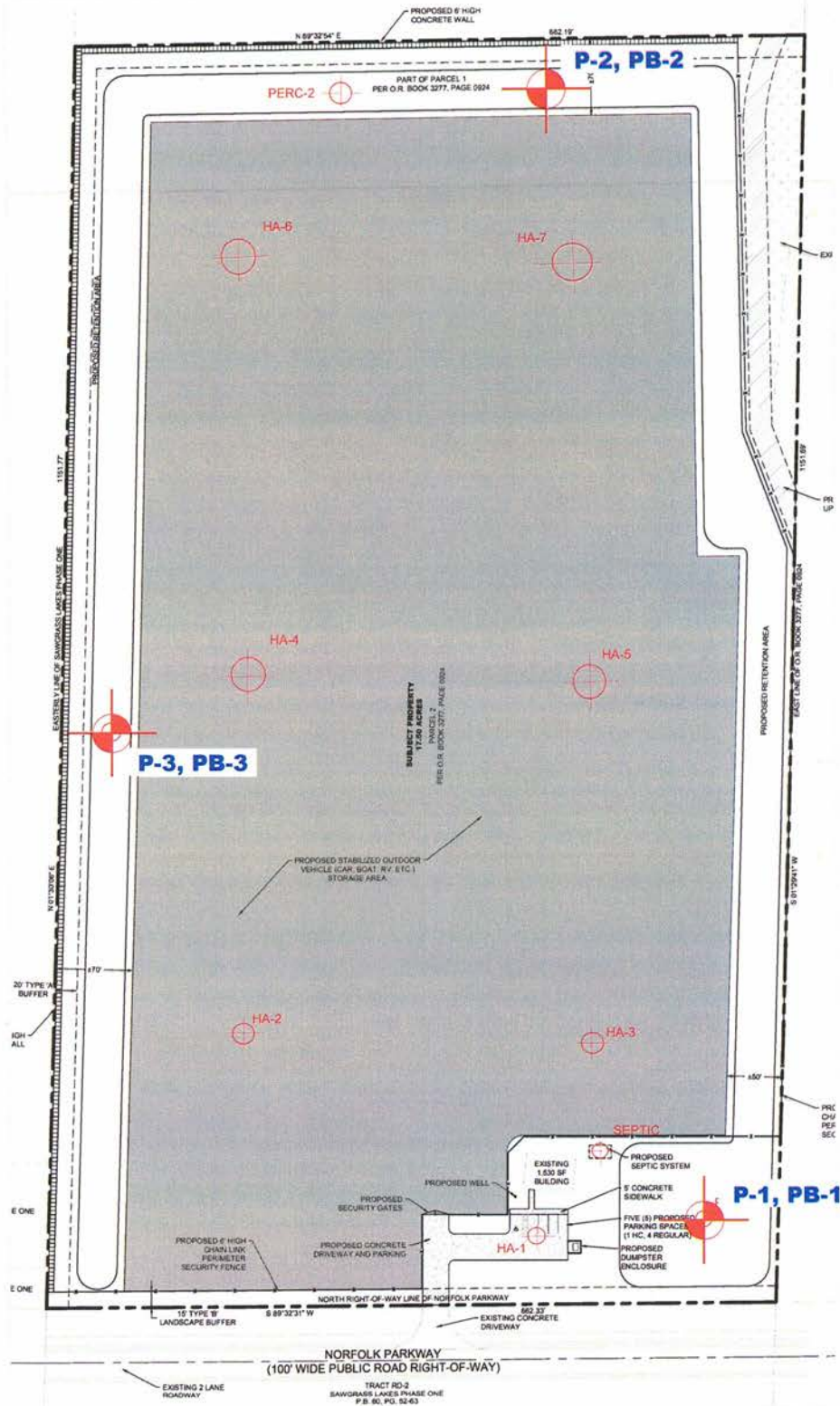
DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	RECOVERY % (RQD)	BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	▲ SPT N VALUE ▲
								20 40 60 80
								PL MC LL
0								20 40 60 80
		Light Brown Sand with Some Clay and Shell						□ FINES CONTENT (%) □
		Gray and Brown Sand with Some Shell and Pieces of Concrete	X SS		8-8-10 (18)			20 40 60 80
			X SS		7-8-8 (16)			
5			X SS		10-12-15 (27)			

Bottom of borehole at 6.0 feet.

CLIENT Condev PROJECT NAME Norfolk Storage, Norfolk Parkway  
PROJECT NUMBER 203434-p PROJECT LOCATION Brevard County, Florida  
DATE STARTED 7/23/20 COMPLETED 7/23/20 GROUND ELEVATION \_\_\_\_\_ HOLE SIZE inches  
DRILLING CONTRACTOR \_\_\_\_\_ GROUND WATER LEVELS:  
DRILLING METHOD Split Spoon Sample ☒ AT TIME OF DRILLING 5.00 ft  
LOGGED BY DP/CF CHECKED BY JEK AT END OF DRILLING ---  
NOTES See Attached Location Plan AFTER DRILLING ---

DEPTH (ft)	GRAPHIC LOG	MATERIAL DESCRIPTION	SAMPLE TYPE NUMBER	RECOVERY % (RQD)	BLOW COUNTS (N VALUE)	POCKET PEN. (tsf)	DRY UNIT WT. (pcf)	▲ SPT N VALUE ▲
								20 40 60 80
0								PL MC LL
		Light Brown Sand with Some Clay and Shell						20 40 60 80
		Yellow Sand, Slightly Silty	X SS		5-5-7 (12)			<input type="checkbox"/> FINES CONTENT (%) <input type="checkbox"/>
		Dark Gray Sand with Pieces of Wood	X SS		8-10-8 (18)			20 40 60 80
5			X SS		12-15-20 (35)			

Bottom of borehole at 6.0 feet.



## **LOCATION OF TESTS**

**PROJECT:** Norfolk Storage, Norfolk Parkway, Brevard County, Florida

SHEET 1 OF 2

PERMIT #:

PROJECT #: 203434-p

KSM

ENGINEERING  
AND TESTING

DRAWN BY: C.V.

DESIGNED BY: J.K.

DATE: 20200729

SCALE: NONE





**USDA SOILS SURVEY**  
**42-Palm Beach Sand**  
**52-Quartzipsamments, Smoothed**

PROJECT: Norfolk Storage, Norfolk Parkway, Brevard County, Florida

SHEET 2 OF 2

PERMIT #:

PROJECT #: 203434-soils

**KSM** ENGINEERING  
AND TESTING

DRAWN BY: C.V.  
DESIGNED BY: J.K.  
DATE: 20200729  
SCALE: NONE

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July 28, 2020

Condev  
Andy Gardner  
921 N. Pennsylvania Avenue  
Winter Park, FL 32789

**Re: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
KSM Project #: 203434-ha**

Dear Mr. Gardner:

As requested, KSM Engineering & Testing has performed a subsurface investigation at the referenced site. Presentation of the data gathered during the investigation, together with our geotechnical related opinions, are included in this report.

At the time of drilling, the site was flat with light surface vegetation (grass).

### **Project Description:**

An aluminum canopy for the storage of recreational vehicles is planned to be constructed on the site. Loads from the structure will be transferred to the ground by either pad foundations or helical piles. We anticipate the maximum individual column loads will be less than 20 kips per individual column load.

### **Site Investigation:**

The site investigation program consisted of performing seven (7) hand-auger borings on the site. The borings were terminated at depths of 3 to 5 feet below existing grade. The borings were terminated at the shallower depth due to debris. The locations of the borings are shown on the attached location plan.

During the hand-auger borings, a shaft with a conical point is pushed through the soil and the thrust required to push the cone tip is measured on an attached calibrated gauge. The value of the bearing pressure exerted by the cone point allows the operator to estimate the existing soil density. After the thrust was measured, the hole was advanced with a hand-auger in 1-foot increments to permit a continuation of measurement of relative density versus depth.



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Brevard County, Florida

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July 28, 2020

The records of the soils encountered, the penetration resistances and groundwater level are shown on the attached logs.

### **PEN Table:**

The relationship of the static cone penetrometer reading to the relative density is listed below:

Relative Density	Static Penetrometer Reading
Very Loose or Soft	<15
Loose	15 – 40
Medium Dense	40 – 70
Dense	70+

The static cone penetrometer readings are indicated on the attached boring logs.

### **Engineering Evaluation and Conclusions:**

Based on the information obtained from this site investigation we are pleased to offer the following evaluation:

The boring logs indicate the subsurface soils from the surface to a depth of approximately 2 feet consist mostly of fine-grained sand. Below a depth of 2 feet, we found a layer of fine-grained sand with pieces of wood and concrete. After this layer, the debris was so dense that we could not penetrate it. Please refer to the soil boring logs for specific information relative to the soil description.

The debris layer of fine-grained sand with wood and concrete would cause settlement to the planned structure. This settlement, in our opinion, would be too excessive and beyond the general accepted safe limits for the structure. Therefore, our recommendations are concerned with removing the debris and replacing it with compacted sand.

The following sections provide recommendations for the site preparation and foundation design.

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Brevard County, Florida

-3-

July 28, 2020

### **Site Preparation:**

Excavate the debris layer from within the proposed foundation pad. Excavated fine sand may be stockpiled and re-used provided that it is not mixed with construction debris or other unsuitable material. All over-excavation of unsuitable soils, replacement, and compaction of suitable clean fine sand backfill material should take place in the "dry". It is important on this project to have the removal of the debris layer inspected to ensure all unsuitable material is removed. After the unsuitable soils have been removed, the site may be prepared.

Structural fill shall consist of clean granular sand containing less than 5% material passing the U.S. Standard No. 200 mesh sieve. Fill should be placed in layers of 12 inches in thickness. Compact each lift to at least 95 percent of its modified Proctor value (ASTM D 1557).

For any over excavation, the disturbed footing subgrade should be recompact to 95 percent (minimum) of its modified dry Proctor value. This can be best achieved by making several passes with a relatively light-weight walk-behind vibratory sled jumping jack.

We recommend field density tests be performed at appropriate times during the earth work operations in order to verify that the site has been properly constructed.

Temporary dewatering may be necessary in order to achieve excavation and compaction specifications. The actual method of dewatering should be determined by the contractor. We suggest drawing down the water table below the bottom of excavations to avoid compaction related problems.

Due to the debris, we were not able to provide an exact bearing capacity. We recommend that after removal of debris you contact our office for additional deeper soil borings in order to provide a bearing capacity and settlement calculations.

### **Helical Piles:**

In order for a shallow foundation to perform satisfactorily, it must be able to support the structural loads with an acceptable factor of safety against excessive settlements; both total and differential. Due to the settlement potential of the soft layers found on the site, we do not recommend supporting the proposed residence on conventional shallow footings. The anticipated settlement, in our opinion, would be too excessive and beyond the general accepted safe limits for the structure.



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Norfolk Storage  
Brevard County, Florida

-4-

July 28, 2020

In order to avoid any damaging structural distress due to settlements, a more appropriate foundation system would be an engineered concrete steel reinforced "waffle type" structural slab supported by Helical piles.

We recommend the contractor to consult with the Helical manufacturer to design the Helical piles, recommended depth, diameter and torque of the Helical piles for the design load based on our test borings. The Helical piles shall be installed in accordance to the manufacturers' installation specifications. The depth, spacing and termination torque shall be documented to verify that the helical piles were properly installed.

#### Closure:

This report has been prepared in accordance with generally accepted soil and foundation engineering practice based on the results of the test borings and assumed loading conditions. This report does not reflect any variations which may occur between the borings. If variations appear evident during the course of construction, it would be necessary to re-evaluate the recommendations of this project.

We are pleased to be of assistance to you on this phase of your project. When we may be of further service to you or should you have any questions, please feel free to contact the office.

Respectfully,

A circular blue ink stamp is placed over the signature. The text within the stamp reads 'JULIE E. KELLER, P.E.' around the top inner edge, 'No. 68366' in the center, and 'STATE OF FLORIDA' around the bottom inner edge. The word 'PROFESSIONAL ENGINEER' is written along the bottom outer edge of the circle.

Julie E. Keller, P.E.  
President, P.E. # 68366  
JEK/cv

E-mail to: andyg@condevfl.com; brucem@mbveng.com

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Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-1**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 30"		Brown Sand with Some Clay and Shell
-1-		56	
-2-		51	
-3-	30" – 40"	43	Dark Gray Sand with Pieces of Wood and Concrete
	40"	70+	Refusal

Water Table: 40"+ Below Existing Grade  
Job #: KSM 203434-1ha

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Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-2**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 24"		Brown Sand with Some Clay and Shell
-1-		52	
-2-	24" – 60"	50	Dark Gray Sand with Pieces of Wood
-3-		30	
-4-		12	
-5-	60"	70+	Refusal

Water Table: 60"+ Below Existing Grade  
Job #: KSM 203434-2ha

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Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-3**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 30"		Light Brown Sand with Some Clay and Shell with Pieces of Rock
-1-		60	
-2-		55	
-3-	30" – 40"	40	Dark Gray Sand with Pieces of Wood
	40"	70+	Refusal

Water Table: 40"+ Below Existing Grade  
Job #: KSM 203434-3ha



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Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-4**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 30"		Brown Sand with Some Clay and Shell
-1-		50	
-2-		51	
-3-	30" – 40"	48	Dark Gray Sand with Pieces of Wood
	40"	70+	Refusal

Water Table: 40"+ Below Existing Grade  
Job #: KSM 203434-4ha

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Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-5**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 36"		Brown Sand with Some Clay and Shell
-1-		50	
-2-		50	
-3-	36"	70+	Refusal

Water Table: 36"+ Below Existing Grade  
Job #: KSM 203434-5ha

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Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-6**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 20"		Grayish Brown Sand with Some Clay and Shell
-1-		53	
-2-	20" – 48"	56	Gray and Brown Sand with Some Shell and Pieces of Rock
-3-		50	
-4-	48"	70+	Refusal (Pieces of Concrete)

Water Table: 48"+ Below Existing Grade  
Job #: KSM 203434-6ha

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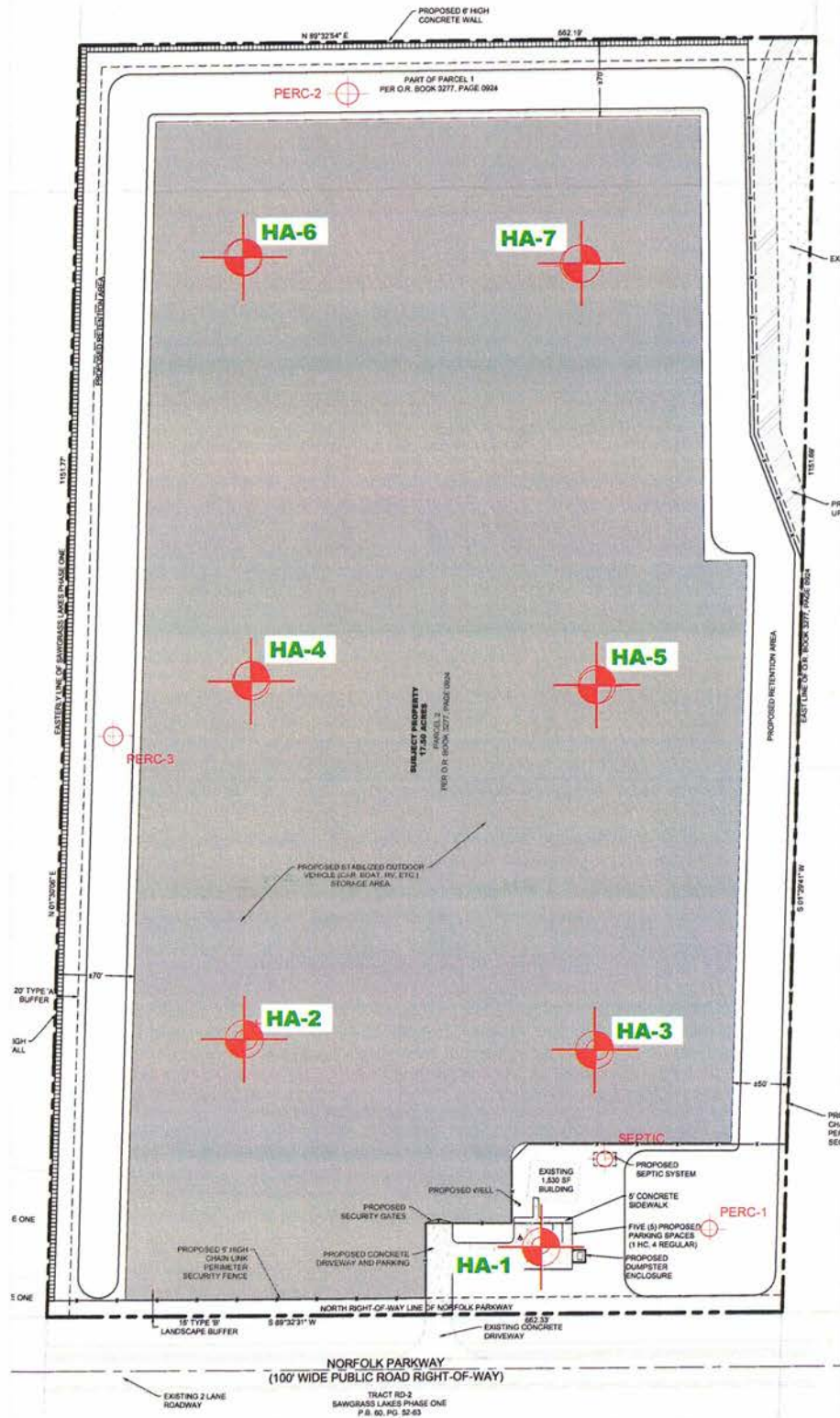
Date : July 23, 2020

Location: Norfolk Storage  
Norfolk Parkway  
Brevard County, Florida  
**HA-7**, See Attached Location Plan

DEPTH IN FEET	STRATA FROM-TO	PEN READINGS	DESCRIPTION OF SOILS
-0-	0" – 16"		Brown Sand with Shell and Pieces of Rock
-1-		46	
	16" – 30"		Dark Gray Sand with Pieces of Concrete
-2-		40	
	30"	70+	Refusal
-3-			

Water Table: 30"+ Below Existing Grade  
Job #: KSM 203434-7ha





## LOCATION OF TESTS

PROJECT: Norfolk Storage, Norfolk Parkway, Brevard County, Florida

SHEET 1 OF 1

PERMIT #:

PROJECT #: 203434-ha

**KSM** ENGINEERING  
AND TESTING

DRAWN BY: C.V.  
DESIGNED BY: J.K.  
DATE: 20200729  
SCALE: NONE















**From:** [Caitlin Harkey](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Tim Pelletier](#)  
**Subject:** Rezoning of Norfolk Parkway Property  
**Date:** Monday, January 11, 2021 10:36:26 AM

---

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

Jennifer,

I, Caitlin Pelletier, alongside of my spouse, Tim Pelletier, strongly oppose the approval of rezoning the property on Norfolk parkway East off sawgrass lakes development. As a concerned resident of sawgrass lakes I believe the long term effects of disrupting a landfill will be hazardous to our community, specifically my small children (2 and 2 months).

My husband and I are only one house of many in Sawgrass; however hoping you will consider this email, along with others you may of received, as rationale to reject the rezoning.

Sincerely,

Caitlin and Tim Pelletier

homeowners of 3773 Rushing Waters Dr., West Melbourne, FL 32904

**From:** [Jonathan Harris](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Rezoning of Landfill Property on Norfolk Road  
**Date:** Monday, January 11, 2021 11:27:58 AM

---

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

Hi Mrs. Jones,

I am unfortunately unavailable for the meeting this afternoon due to work obligations. I'd be remiss as a member of the HOA board for the Estates at Sawgrass Lakes if I did not voice the concerns of our community about the proposed rezoning of the property on Norfolk Road leading into the Sawgrass Lakes community. Several of my neighbors have emailed you and we have signed a petition to keep this property from being rezoned and used as a boat/RV storage facility. The community overwhelmingly feels like this would be a detriment to the area in multiple ways from property values to traffic concerns to crime concerns, etc. I would like to strongly encourage you to keep the property zoning as it is currently and not approve the change for a boat/RV storage facility or any other similar facility for that matter.

Thank you for your time and consideration,

Jonathan Harris  
Estates at Sawgrass Lakes HOA Secretary  
3460 Watergrass Street  
West Melbourne, FL 32904

Sent from my iPhone

**From:** [Caitlin Harkey](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Tim Pelletier](#)  
**Subject:** Rezoning of Norfolk Parkway Property  
**Date:** Monday, January 11, 2021 10:36:26 AM

---

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

Jennifer,

I, Caitlin Pelletier, alongside of my spouse, Tim Pelletier, strongly oppose the approval of rezoning the property on Norfolk parkway East off sawgrass lakes development. As a concerned resident of sawgrass lakes I believe the long term effects of disrupting a landfill will be hazardous to our community, specifically my small children (2 and 2 months).

My husband and I are only one house of many in Sawgrass; however hoping you will consider this email, along with others you may of received, as rationale to reject the rezoning.

Sincerely,

Caitlin and Tim Pelletier

homeowners of 3773 Rushing Waters Dr., West Melbourne, FL 32904

**From:** [Jonathan Harris](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Rezoning of Landfill Property on Norfolk Road  
**Date:** Monday, January 11, 2021 11:27:58 AM

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

Hi Mrs. Jones,

I am unfortunately unavailable for the meeting this afternoon due to work obligations. I'd be remiss as a member of the HOA board for the Estates at Sawgrass Lakes if I did not voice the concerns of our community about the proposed rezoning of the property on Norfolk Road leading into the Sawgrass Lakes community. Several of my neighbors have emailed you and we have signed a petition to keep this property from being rezoned and used as a boat/RV storage facility. The community overwhelmingly feels like this would be a detriment to the area in multiple ways from property values to traffic concerns to crime concerns, etc. I would like to strongly encourage you to keep the property zoning as it is currently and not approve the change for a boat/RV storage facility or any other similar facility for that matter.

Thank you for your time and consideration,

Jonathan Harris  
Estates at Sawgrass Lakes HOA Secretary  
3460 Watergrass Street  
West Melbourne, FL 32904

Sent from my iPhone



**From:** [dybraithwaite@gmail.com](mailto:dybraithwaite@gmail.com)  
**To:** [Jones, Jennifer](#)  
**Subject:** Fwd: Rezoning of 3851 Norfolk Parkway 32904  
**Date:** Monday, February 1, 2021 8:22:40 PM

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

Please circulate to all other commissioners as required.

Thank you.

Respectfully,  
Ysmin Braithwaite

Sent from my iPhone

Begin forwarded message:

**From:** "D.Y Braithwaite" <[dybraithwaite@gmail.com](mailto:dybraithwaite@gmail.com)>  
**Date:** January 28, 2021 at 7:48:14 PM EST  
**To:** [kristine.zonka@brevardfl.gov](mailto:kristine.zonka@brevardfl.gov)  
**Cc:** [CorporateCustomerCare@drhorton.com](mailto:CorporateCustomerCare@drhorton.com)  
**Subject:** Rezoning of 3851 Norfolk Parkway 32904

Good evening Mrs Zonka.

My name is Ysmin Braithwaite of [3402 Rushing Waters Dr](#) 32904. I am a resident of the Sawgrass Lakes community, a 900+ houses development directly west of the property at 3851 Norfolk Parkway which may also have the address of 3545 Carriage Gate 32904. My family and numerous others oppose the building of a commercial RV/Boat storage facility for many reasons, including, but not limited to:

- Landfill disturbance could result in health issues for families located in close proximity to this property. The disturbance of unknown and possibly toxic content of the former, illegal landfill that makes up the underlying soil of this parcel of land. The county should be fully conversant of this situation from prior matters on record and should have adequate data to confirm this concern. We do not want to become another negative situation as captured in numerous studies being conducted regarding poor environmental conditions which resulted from dumping legal or illegal matter affecting the residents of Brevard County. The developer of this proposed storage facility talks about not disturbing the land but also of clearing numerous trees which would actually be a disturbance, if he cuts down trees the roots would eventually disintegrate and cause sink holes releasing the underlying debris or if he uproots trees this disturbance would go to extreme depths in the soil.
- Traffic and added undue pressure to the already strained traffic situation on

Norfolk Parkway, which is where the only ingress/egress point for the storage facility has been proposed. This despite data indicating that this property had an entrance off Carriage gate when dump was in effect. This property is located on the rise of the parkway resulting in blind spots for those going both east and west. These blind spots also affect those utilizing the sidewalks safely. This area of the roadway cannot be expanded unless substantial cost is injected into the needs of this proposed commercial venture which developers do not appear to want to finance. Also this location is very close to the lights leading on to Minton Road and would be detrimental to the usage of Norfolk Parkway. I might add that Pine Cove Academy is located at the west end of Norfolk Parkway and adds safety and congestion issues to this venture's location. I strongly suggest that the County Commissioners conduct a site visit to judge for themselves the risk this location has to the school, homeowners and visitors to Saw grass lakes development. This sidewalk is frequently used by young children commuting to school or exercising. Should a trailer or large rv try to exit this lot there are many factors that will make this situation impossible, 1- There is no left turn allowed due to blind spot of traffic processing either east or west direction 2-The road is extremely narrow and 3 the side walk frequently used by children. Should there be an accident or a trailer turns entering or exiting this property at 3851 Norfolk SawGrass Lakes and Pine Cove Academy would be land locked. While the developer has indicated that traffic for this proposed storage will be in the early morning or late night he has no ability to enforce this statement. I have also copied DrHorton, the developer of this SawGrass community as I am sure the status of this property at 3851 Norfolk as residential would have been a factor in their Land development application. I must add that at purchase of our home the disclosure of this property at 3851 Norfolk being a prior landfill was never made to us.

-Crime. The almost certain attraction of crime (break-ins) not only with additional unknowns in the area but also the attraction of these stored boats and rvs etc as a break in target. The developer talks about a night guard but this development is looking at a large capacity of stored boats and rvs. This is a business venture so profit making is the underlying fact which equates to minimal operational cost.

- Property values. The likely devaluation in property values due to the above mentioned concerns. This is not what was "sold" to us at purchase. I can only assume that the County and West Melbourne took this past issue of the dump into consideration prior to approving the application of DrHorton to build the SawGrass development. DrHorton as a responsible corporate member ensuring that this community would not have to be affected by any adverse issues which could affect health, value or enjoyment of the homes sold to the homeowners.

- Environmental impact. This property is already approved for a golf course which would result in limited destruction of the nesting birds, no need for uprooting trees, acceptable traffic and support the communities instead of adding negative factors.

Thank you for your time and hope at this level of the request for rezoning of this property our concerns would be seriously considered in line with our rights of ownership, history of this property and being part of this county.

Respectfully,

Ysmin Braithwaite

**From:** [Steven Farris](#)  
**To:** [Zonka, Kristine](#)  
**Cc:** [Jones, Jennifer](#)  
**Subject:** RV/Boat storage facility in Sawgrass Lakes  
**Date:** Monday, February 1, 2021 8:41:03 PM

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

Good evening Commissioner Zonka,

Recently moved from California to this lovely place. My son and I frequently ride our bikes up and down Norfolk Parkway daily.

The entrance to this proposed RV/Boat storage is incredibly narrow and I foresee difficulties for larger vehicles making into the premises without crossing the yellow lines of on-coming traffic.

To be openly honest, my fear is that this zoning gets passed and they start construction, and down the line they sale the property off for something else entirely.

Many families have moved from all parts of the country and just want a family oriented not intrusive place to live. Creating more traffic, eye sores, and potential traffic violations kind of goes against many of the residents desires to move here.

Please don't approve this zoning.

Respectfully,  
Steven

--

Steven Farris  
Northrop Grumman  
Principal Electronics Engineer  
(O) 321-586-8384 (C)949-547-7163

"Success is walking from failure to failure with no loss of enthusiasm." - Winston Churchill

**From:** [Steve Brightwell](#)  
**To:** [Zonka, Kristine](#); [Jones, Jennifer](#)  
**Subject:** RV/Boat Storage near Sawgrass Lakes  
**Date:** Tuesday, February 2, 2021 6:40:32 AM

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

Ladies,

Good morning! It has come to our attention in recent week's that there are plans for an RV storage facility near the entrance of our neighborhood. We are opposed to this construction!

There are several reasons that we and all of the residents of Sawgrass Lakes are opposed to such an undertaking:

- Please consider the environmental implications from disturbing a capped illegal landfill. There is no way to know what may be disturbed during construction. What construction project that you know of has gone completely as planned?

- The traffic in the vicinity, especially at the location of this proposed facility is horrendous! Any type of commercial facility at that location would not only make traffic more of an issue, it is a safety issue. There is currently only one way in and out of this community. That alone should be investigated, but when you add any type of commercial congestion along with residential congestion, you would be exacerbating an already challenging situation.

- The residents of this community chose this community and location for the perceived qualities of the community, the least of which was the natural beauty of what is here. This project would severely diminish that quality.

Please consider these facts when the time comes to vote on this measure.

Thank you for your consideration in this matter.

Regards,

Steve & Christina Brightwell  
820 Fiddleleaf Circle  
West Melbourne, FL 32904

**From:** [Elizabeth Schneider](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** RV/Boat Storage Facility at Sawgrass Lakes  
**Date:** Tuesday, February 2, 2021 10:45:48 AM

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

## Commissioner ,

I am writing to you today as a very concerned resident of Sawgrass Lakes in West Melbourne. As you are aware , a RV /Boat storage facility wants to build on top of a hill that's a known dump right at our entrance. Besides the RV/Boat storage facility ruining the scenic nature and beauty , the repercussions of building on top of an

Illegal landfill is just too much to be remotely comfortable with. Who knows what is actually buried there ? What if poison containment's gets into our drinking water ? What if all this caused cancer to the residents ?

I am informing you that I am very much against the RV/Boat Storage facility .

Thank you for your attention in this matter

Elizabeth Schneider

Sawgrass Lakes resident

**From:** [Kelley Maynard](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Opposed to zoning change on Norfolk Pkwy  
**Date:** Tuesday, February 2, 2021 11:05:22 AM

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

Good afternoon, Ms. Jones. I am writing to voice my concerns regarding the rezoning of the property on Norfolk Parkway. I am against this rezoning because it will allow for a large RV/boat storage facility at the beginning of the Sawgrass Lakes neighborhood where my family lives. This property is not conducive to an RV storage for multiple reasons including the following:

1. It is located at the top of a hill that has limited visibility and turn radius which will be very dangerous for large RVs and boats to turn out of and potentially deadly for our neighbors.
2. Sawgrass is a large residential neighborhood with over 900 families. The sidewalks on Norfolk Parkway are heavily used by neighbors with many walking, running and biking. An RV storage entrance would be a danger to people using sidewalks for exercise.
3. Norfolk Road is already overused due to the school also located at the end of Norfolk. This is a one way in/one way out road and cannot handle a 300+ RV storage to be added to our already heavy traffic.
4. This property is the home of an illegal landfill and the earth should not be disturbed to let potential toxins into our neighborhood. It should be left alone as is.
5. The storage facility has the potential of bringing unwanted crime to the area.
6. Light pollution from the storage facility would ruin the neighborhood at night affecting many people's property. This should remain a residential area and not a commercial zone.

Unfortunately my family will not be able to attend the meeting in person due to covid quarantine.

Please do not change the zoning on this property.

Thank you for your attention to this matter,  
Sincerely,  
Kelley and Ryan Maynard  
[3840 Watergrass Street](#)  
[West Melbourne, FL 32904](#)



**From:** [Daniela Farris](#)  
**To:** [Zonka, Kristine](#); [Jones, Jennifer](#)  
**Subject:** RV/Boat Storage Facility in front of Sawgrass Lakes  
**Date:** Tuesday, February 2, 2021 5:26:58 PM

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

Hello,

My name is Daniela Farris and my family and I reside in the neighborhood of Sawgrass Lakes. I strongly believe that re-zoning the area in front of our community to allow a boat storage facility is a very poor choice. I have many concerns regarding this development.

One obvious concern is how it may affect our property values. The property values in Sawgrass Lakes are quite a bit above the average for 32904. I do believe that having an unattractive boat storage facility located directly in front of our homes may lower our values. This facility would be directly across a pond from some of the homes with the highest values within our community. This could lead to foreclosures, short sales and of course, lower taxes being paid to the city if our values depreciate. While you may see this facility as a potential source of tax revenue, will it even be worth it if ALL of the homes in our large community have lower taxes??

I also worry about this storage facility bringing trespassers and unsavory people into our quiet, family friendly neighborhood. As of now, you do not have any reason to head down Norfolk Pkwy unless you're going to Sawgrass Lakes or to Pineapple Cove Academy. I am again concerned about an increase in criminal activity in this community. Please consider the safety of residents and how this would be a burden on our police department and once again may cause a decrease in our property values.

Another huge concern I have is the entrance to said storage facility. Norfolk Pkwy leading to Shallow Creek is the ONLY way to enter or exit our community. As it is, there is already too much congestion on these roads. The current entrance to the property in question is very narrow and not ideal for boats and RVs. Should there be an accident entering the storage facility blocking Norfolk Pkwy you would be leaving a huge number of residents locked in and emergency vehicles locked out. This would be incredibly frustrating and potentially very dangerous.

I am also extremely concerned about the potential health hazard of building on this land. As a known dumping site, I am HIGHLY concerned about potential excavation and building on this land. Do you want an environmental hazard on your hands?? We live in a neighborhood filled with families, pregnant mothers, children and elderly, does it seem like a good idea to dig on a hazardous waste site SO close to our homes??

Please consider what I, and many other residents have shared with you. The benefits DO NOT outweigh the risks in allowing this re-zoning.

Thank you for your time,

Daniela Farris

**From:** [Ramki Tirur](#)  
**To:** [Zonka, Kristine](#); [Jones, Jennifer](#)  
**Subject:** Letter to address Sawgrass residents complaints on RV storage development near Sawgrass community off of Minton street  
**Date:** Tuesday, February 2, 2021 5:30:56 PM

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

Date: 3<sup>rd</sup> February 2021

► **Ms. Kristine Zonka**  
**Ms. Jennifer Jones**

Email address: [Kristine.zonka@brevardfl.gov](mailto:Kristine.zonka@brevardfl.gov)  
[Jennifer.jones@brevardfl.gov](mailto:Jennifer.jones@brevardfl.gov)

4524 Caladium Circle  
West Melbourne, FL-32904  
Phone: 508-904-5614  
508-308-4561

Email address: [rtirur@gmail.com](mailto:rtirur@gmail.com)  
[utirur@yahoo.com](mailto:utirur@yahoo.com)

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My name is Ramki Tirur and myself and my wife Usha Tirur are residents of Savannah's, a 55+ community located within the Sawgrass development in the city of West Melbourne. Both of us retired from our respective jobs in 2017 from the Boston area where we spent all our career lives and moved to the beautiful Brevard county in the sunny Florida in April of 2017. I am a Mechanical engineer with a master's degree in Mechanical engineering from Villanova University and have worked and retired from my management position from a Biotechnological company in the greater Boston area. Likewise, my wife retired from the IT industry after holding senior management positions in IT departments in the greater Boston area.

The recent news of a developer purchasing the piece of land that is located adjacent to our community to build an RV storage facility is extremely disheartening. As we know, a piece of commercial land used to conduct this type of business next to a beautifully developed residential property will certainly bring down the value of our community. At the same time this will bring in undesirable elements around that area which will not only change the aesthetic beauty of the community and surroundings areas but also will create an unsafe and potentially dangerous atmosphere to the residents living around that area.

Additionally, I strongly believe that, as this area has several water ponds that are connected underground, any type of dump area from the RV storage facility is sure to destroy the quality of water posing potential health hazards.

We are aware that there is a meeting scheduled on the 4<sup>th</sup> of February 2021 with the town to discuss these issues with the county officials and the residents. As both myself and my wife are not able to attend this meeting as we are travelling, we kindly request you to treat this letter as our grievance on this issue and help us residents to maintain our community a pleasant place for our living by rejecting this rezoning effort.

Your help and co-operation on this will be greatly appreciated.

Yours' sincerely

Signed RT & UT

Mr. Ramki R. Tirur

Mrs. Usha R. Tirur

**From:** [Elbert Schaffert](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** RV/Boat storage  
**Date:** Wednesday, February 3, 2021 9:50:27 AM

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

Hello Jennifer -

I'm very concerned with the proposed RV/Boat storage that is planned on Norfolk parkway.

That will bring so much undesirable elements and issues to all the residents here in Sawgrass. This is a prime location and it should be used for things that would bring value to our properties, and I feel a storage unit will only bring values down.

Please help us, all the residents at Sawgrass, maintain our property values and keep this a desirable family neighborhood.

Thanks,  
Elbert  
321-501-9686

From: [Deon Harkey](#)  
To: [Jones, Jennifer](#)  
Subject: Against the rezoning of property east of Sawgrass Lakes Community  
Date: Wednesday, February 3, 2021 12:48:24 PM

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

Dear Ms Jones

My husband and I, my daughter, her husband and young boys are all residents of Sawgrass Lakes Community. **YOU** are our representative, **OUR VOICE**, for this issue that is before the county commissioners at the Feb 4th meeting.

I am very fearful of the potential dangers of having this "illegal" landfill being built upon and exposing this community to who knows what. ANY disruption to this landfill is problematic! I keep hearing people say..."oh something worse could be built there" or "they have every right to do with the land what they want".

I agree, those that own land should be able to do that. I feel this is a circumstance that needs some very serious consideration since it is land that has been a landfill and many dangerous chemicals, batteries, tires, who knows what have been deposited into it can be very dangerous if disturbed and used.

Who is to say in 15-20 years our young children who live here are sick with some sort of cancer or worse....all coming from this property! **ARE YOU WILLING TO LIVE WITH THAT ???** It has happened here in Brevard before. I understand that the county has spent at least \$500,000 to this owner for loss of services and to meet EPA requirements for clean up, but we as the residents of Sawgrass have not seen this. When was it done? It has yet to be proven that this site is safe!!

This danger is our most concerning.

We also are concerned about our property values....therefore the county tax revenue...of our homes in this community. We personally back up to this property on the other side of the lake. Taking away most of the trees....and the birds that nest there every night...is shameful! So much land and trees should not be taken if this unfortunately moves forward.

i know you have received multiple emails on this issue. As a mother, grandmother, citizen of this county, and proud owner of a residence in Sawgrass Lakes I implore you to take our concerns very seriously and have us feel like **WE** have **A VOICE** to consider in this issue.

PUT YOURSELF IN OUR SITUATION AND WHAT WOULD YOU WANT FOR YOUR FAMILY?

Thank you for your service to our county and hearing us out.

Sincerely,  
Marilyn and Deon Harkey  
3421 Watergrass Street



**From:** [dybraithwaite@gmail.com](mailto:dybraithwaite@gmail.com)  
**To:** [Zonka, Kristine](#); [Jones, Jennifer](#)  
**Subject:** Rezoning of 3851 Norfolk Parkway 32904  
**Date:** Wednesday, February 3, 2021 3:21:08 PM

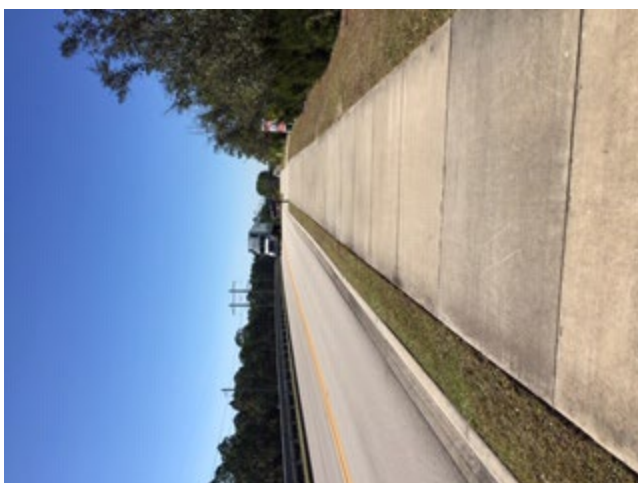
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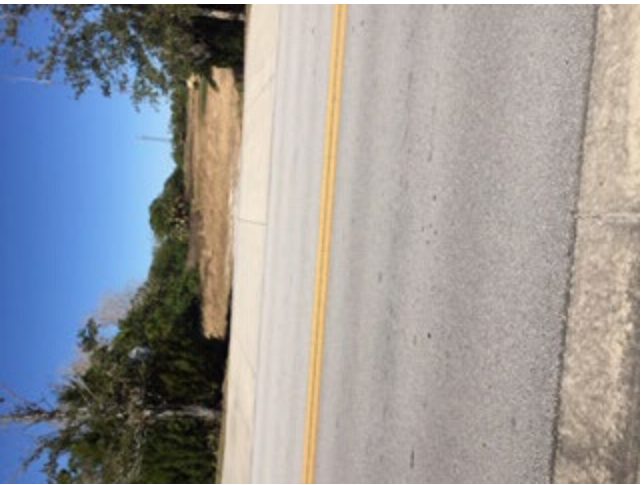
[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good day ladies,

Reference is made to my email of January 28th 2021 also forwarded to Ms. Jones on February 1st 2021 in which I listed serious concerns with the proposed Boat/ RV Storage facility at the location utilizing Norfolk Parkway as the official entry for this facility.

In this regard I took some photos to highlight the risk and limited roadway to accommodate this venture. Also note the double yellow line restricting a left turn out of this property. The picture with white truck is in front of entrance to proposed storage, please note how limited the roadway is to accommodate a trailer if they illegally try to do a left turn, such an action could cause an accident or overturned vehicle and land lock the Pine Cove Academy and 900 residents of SawGrass Lakes. I also took photos to reflect the inability to expand roadway due to drop offs on both sides.







We trust that these concerns will be seriously considered by the County Commissioners.

Respectfully,

Ysmin Braithwaite

Sent from my iPhone



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.4.

2/4/2021

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### Subject:

Ag Ventures (Chad Genoni) requests a BDP limiting density to 4 units per acre for consistency with the Residential 4 Future Land Use designation in an RU-1-7 zoning classification. (20PZ00101) (Tax Accounts 2102924, 2102925, and 2112294) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a BDP (Binding Development Plan) limiting density to 4 units per acre for consistency with the RES 4 (Residential 4) Future Land Use designation in an RU-1-7 (Single-Family Residential) zoning classification.

### Summary Explanation and Background:

The applicant is requesting a BDP (Binding Development Plan) for the purpose of developing a single-family subdivision, Hamlin Grove, which will limit the density on the parcels to four units per acre, 440 units on 110 acres, for the zoning classification to be consistent with the RES 4 FLU designation. The property is located on the north side of Wiley Avenue and the east side of Old Dixie Highway, approximately 0.047 mile east of U.S. Highway 1.

On December 4, 2014, the Board changed the zoning from RU-1-11 to RU-1-7. However, the companion BDP which limited the development to 370 residential units was not recorded. RU-1-7 is not considered to be consistent with the RES 4, since the lot standards will allow for more than 4 units per acre. The current RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet, and a minimum house size of 700 square feet. Pursuant to Section 62-1157(b)(2), the Board may approve an application if the applicant limits the project to a density equal to or less than the maximum density threshold for the subject property.

The parcels and proposed subdivision will be serviced by Brevard County water and sewer.

The character of the surrounding area is a mixture of single-family residential, agricultural residential, commercial, industrial, and government managed lands. The parcel to the west directly across Old Dixie Highway has BU-1 (General Retail Commercial) zoning, RU-1-11 and RU-1-7 zoning. This parcel is also owned by the applicant and the BU-1 and RU-1-7 portions will be used for ingress to the proposed Hamlin Grove subdivision along with stormwater retention for the subdivision and future commercial uses on the remainder

of the BU-1. The abutting parcels to the north are an undeveloped 2.12 acre parcel with GML (Government Managed Lands) and an undeveloped 10 acre parcel with RU-1-11 (Single-Family Residential) zoning.

The Board may wish to consider whether this request is consistent and compatible with the surrounding area and whether the proposed Binding Development Plan mitigates the potential impacts of the request.

The applicant has provided a conceptual plan showing the anticipated location, lot configuration, ingress/egress access, and stormwater tracts for the proposed new subdivision and plat. Please note the concept plan does not meet the minimum requirements of the County's subdivision code and cannot be used to satisfy that requirement. Also, interdepartmental departmental reviews have not been conducted, and feasibility of the layout cannot be confirmed without a formal subdivision review.

On January 11, 2021, the Planning and Zoning Board heard the request and voted 4:2 to recommend denial.

**Clerk to the Board Instructions:**

Once resolution is received, please execute and return Planning and Development.

# **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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



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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

(c) General Standards of Review.

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

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

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

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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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





BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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

### STAFF COMMENTS 20Z00101 Ag Ventures, LLC RU-1-7 to RU-1-7 with BDP

Tax Account Number: 2102924, 2112294 and 2102925  
Parcel I.D.: 21-35-08-00-501, 21-35-08-00-569 and 21-35-08-00-503  
Location: On the northeast corner of Wiley Avenue and Old Dixie Highway,  
in the Mims area (District 1)  
Acreage: 110 acres

Planning & Zoning Board: 01/11/2021  
Board of County Commissioners: 02/04/2021

#### Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
<b>Zoning</b>	RU-1-7	RU-1-7 with BDP**
<b>Potential*</b>	0 units	440 units
<b>Can be Considered under the Future Land Use Map</b>	No, RU-1-7 requires RES 6 (Residential 6)	Yes, BDP** (Binding Development Plan) proposes to limit density to 4 units per acre, 440 units

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

\*\* The applicant has submitted a BDP (Binding Development Plan) to limit density to 4 units per acre to be consistent with the density requirement of RES 4 Future Land Use (FLU).

#### Background and Purpose of Request

The applicant is requesting a BDP (Binding Development Plan) for the purpose of developing a single-family subdivision, Hamlin Grove, which will limit the density on the parcels to four units per acre, 440 units on 110 acres, for the zoning classification to be consistent with the RES 4 FLU designation.

The applicant has provided a conceptual plan showing the anticipated location, the lot configuration, ingress/egress access and stormwater tracts for the proposed new subdivision and plat, Hamlin

Grove. Please note the concept plan does not meet the minimum requirements of the County's subdivision code and cannot be used to satisfy that requirement. Also, Interdepartmental Departments have not been conducted review and feasibility of the layout cannot be confirmed without a formal subdivision application review. The applicant has submitted a site plan (20SD00018) for subdivision and plat review.

March 01, 2005, Zoning action **Z-11036** changed the zoning from AU (Agricultural Residential) and RU-1-7 to RU-1-11 with a BDP limiting development of the property to a density of 3 units per acre, with a maximum of 300 units.

December 04, 2014, Zoning action **14PZ-00091** changed the zoning from RU-1-11 to RU-1-7 and removed the BDP. This Zoning action **14PZ-00091** also was to include a revised BDP to limit the density to 370 units. This revised BDP was overlooked at the Planning & Zoning and Brevard County Commission meeting and the revised BDP was never approved or recorded with this zoning action.

## **Land Use**

The subject property retains the RES 4 (Residential 4) FLU (Future Land Use) designation. The current RU-1-7 zoning is not consistent with the RES 4 Future Land Use designation per 62-1255 (2). The proposed BDP (Binding Development Plan) limiting the density to 4 units per acres, 440 units on 110 acres, is for the RU-1-7 zoning to be consistent with the RES 4 FLU designation density.

## **Environmental Constraints**

### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- National Wetland Inventory (NWI) Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI wetlands, SJRWMD wetlands, and hydric soils. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and 62-3696. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

Please see NRMD comments at the end of this report for further details.

## **Preliminary Concurrence**

The closest concurrency management segment to the subject property is Highway US 1, between State Highway 46 and Lionel Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 26.35% of capacity daily. The maximum development potential from the proposed BDP, limiting the development to 440 units, increases the percentage of MAV utilization by 10.02%. With the maximum development potential for the proposed BDP, the corridor is anticipated to operate at 36.37% of capacity daily (LOS D). The maximum development potential of the proposed BDP would not create a deficiency in LOS.

According to the School Impact Analysis Capacity Determination Letter (SCADL-2020-17) dated October 20, 2020, the proposed development for the subject property is projected to generate 123 elementary students, 35 middle school students, and 70 high school students. SCADL-2020-17 concludes: "At this time, Pinewood Elementary School is not projected to have enough capacity for the total of the projected and potential student from the Hamlin Grove development. Because there is a shortfall of available capacity in the concurrency service areas of the Hamlin Grove development, the capacity of adjacent concurrency service areas must be considered. The adjacent elementary school concurrency service area is Mims Elementary School. Considering the adjacent elementary school concurrency service area, there is sufficient capacity for the total projected student membership to accommodate the Hamlin Grove development.

The parcels and proposed subdivision will be serviced by Brevard County sewer.

The parcels and proposed subdivision will be serviced by Brevard County water.

Land Use Policy 1.2 addresses residential density requirements for sewer and potable water.

### **Applicable Land Use Policies**

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

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

The abutting parcels to the north have FLU designations of RES 4 (Residential 4) and REC (Recreation). The abutting parcels to the east and south have FLU designation of RES 4 (Residential 4). The parcels to the west, west of Old Dixie Way, have a FLU designation of CC (Community Commercial). The RU-1-7 zoning classification is not consistent with RES 4 FLU.

The current RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet.

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

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The subject parcels are currently zoned RU-1-7 and are currently undeveloped vacant land. There is a neighborhood of RU-1-7 zoning abutting the south of the subject parcel and along the north side of Wiley Avenue that is developed with single-family homes along with undeveloped lots.

The surrounding area of the subject parcel has FLU designations RES 4 and REC which are not consistent with the current RU-1-7 zoning classification.

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

On October 13, 2016, application **16PZ00070**, changed the zoning from AU to SR on a 0.55 acre parcel, located on the west side of Folsom Road, approximately 1,795 feet southwest of the subject property.

On August 24, 2017, application **17PZ00009** changed the zoning from BU-1 to BU-2 with a Binding Development Plan (BDP) limiting development to include mini-warehouse, trailer, truck and boat storage, located on the west side of Highway US 1, approximately 714 feet southwest of the subject property.

### **Surrounding Properties**

The abutting parcels to the north are an undeveloped 2.12 acre parcel with GML (Government Managed Lands) and an undeveloped 10 acre parcel with RU-1-11 (Single-Family Residential) zoning.

The abutting parcels to the east are an undeveloped 30 acre parcel with RR-1 (Rural Residential) and an undeveloped 58.95 acre parcel with RU-1-11 zoning. Also, to the east is a 16.07 parcel with IU (Light Industrial) zoning which is developed with commercial buildings and being used as a storage yard. This IU zoned parcel also has a RES 4 FLU which is not consistent with IU zoning. However, this parcel was rezoned from AU to IU on July 3, 1969 per zoning action **Z-2466** and the buildings were built before the Future Land Use of the Comprehensive plan was adopted in 1988.

The abutting parcels to the south have IN(L) (Institutional Use Low Intensity) zoning which is developed with a church; RU-1-7 (Single-Family Residential) parcels which are developed with single-family residences and a vacant 0.5 acre parcel with RU-1-11 zoning. Also, to the south is a 1.01 acre parcel with AU (Agricultural Residential) zoning which is developed with multi-family units for the Housing Authority of Brevard County. The AU zoning on this parcel is the original zoning and the multi-family units were built before zoning was adopted by Brevard County in 1958.

The parcel to the west directly across Old Dixie Highway has BU-1 (General Retail Commercial) zoning, RU-1-11 and RU-1-7 zoning. This parcel is also owned by the applicant and the BU-1 and RU-1-7 portions will be used for ingress to the proposed Hamlin Grove subdivision along with retention for the subdivision and future commercial uses on the remainder of the BU-1.

The IN(L) Institutional (Light) classification is intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature. Minimum lot size shall be at least 7,500 square feet, with a minimum width

and depth of at least 75 feet. Where listed as a permitted use with conditions in the low intensity designation, institutional uses must be at least one (1.0) acre in size.

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

The GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities. GML required a minimum lot size and area of not less than 7,500 square feet is required, having a width and depth of at least 75 feet.

The IU zoning classification permits light industrial land uses within enclosed structures. The minimum lot size is 20,000 square feet, with a minimum width of 100 feet and a minimum depth of 200 feet.

### **For Board Consideration**

The Board may wish to consider whether this request is consistent and compatible with the surrounding area and whether the proposed Binding Development Plan mitigates the potential impacts of the request.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item # 20PZ00101**

**Applicant:** Chad Genoni

**Zoning Request:** BDP to limit density to four units per acre to be consistent with FLU.

**Note:** Applicant wants to develop subdivision with approximately 440 units.

**P&Z Hearing Date:** 01/11/2021; **BCC Hearing Date:** 02/04/2021

**Tax ID Nos:** 2102924, 2112294, 2102925

- 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:**

- National Wetland Inventory (NWI) Wetlands
- SJRWMD Wetlands
- Hydric Soils
- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI wetlands, SJRWMD wetlands, and hydric soils. Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e), including avoidance of impacts, and 62-3696. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The subject property may contain mapped Type 2 aquifer recharge soils that are found within aquifer recharge areas with elevations greater than or equal to 30 feet mean sea level (NGVD 1929). Per Section 62-3636, within Type 2 aquifer recharge soils, the maximum impervious surface shall be 35 percent, private lakes shall be prohibited, and land alteration shall not alter the recharge or storage characteristics of the area. A topographic survey will be required to at time of site plan review to



determine elevations in aquifer recharge areas. Information available to NRM indicates that recent, unpermitted land clearing activities may have occurred. The discovery of unpermitted land clearing activities may result in enforcement action.

Portions of the property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

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

### **Land Use Comments:**

#### **Wetlands**

The subject parcel contains mapped NWI wetlands, SJRWMD (Mixed scrub-shrub wetlands and mixed wetland hardwoods), and hydric soils (Anclote sand – depressional, and St. Johns sand - depressional) as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. A wetland delineation will be required prior to any land clearing activities.

Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. For subdivisions greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis as set forth in Section 65-3694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696.

#### **Aquifer Recharge Soils**

A large area of the subject parcel contains mapped aquifer recharge soils (Paola fine sand, Orsino fine sand, and Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. Topographic maps available to NRM indicate elevations greater than or equal to 30 feet mean sea level (NGVD 1929) in portions of the aquifer recharge areas. Per Section 62-3636, Type 2 aquifer recharge areas, the maximum impervious surface shall be 35 percent of the Type 2 aquifer recharge area on the site. Private lakes as described in article XIII, division 5, of this chapter shall be prohibited. Land alteration shall not alter the recharge or storage characteristics of the area. This includes the removal high permeability soils or replacement with lower-permeability soils. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance. Information available to NRM indicates that recent, unpermitted land clearing activities may have occurred. The discovery of unpermitted land clearing activities may result in enforcement action.

### **Indian River Lagoon Nitrogen Reduction Overlay**

Portions of the subject property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. This could amount to over 100 new septic systems within the 60-meter Nitrogen Reduction Overlay area.

### **Protected and Specimen Trees**

Aerials indicate that Protected (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) may exist on subject property. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4341(18), Protected and Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

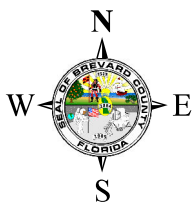
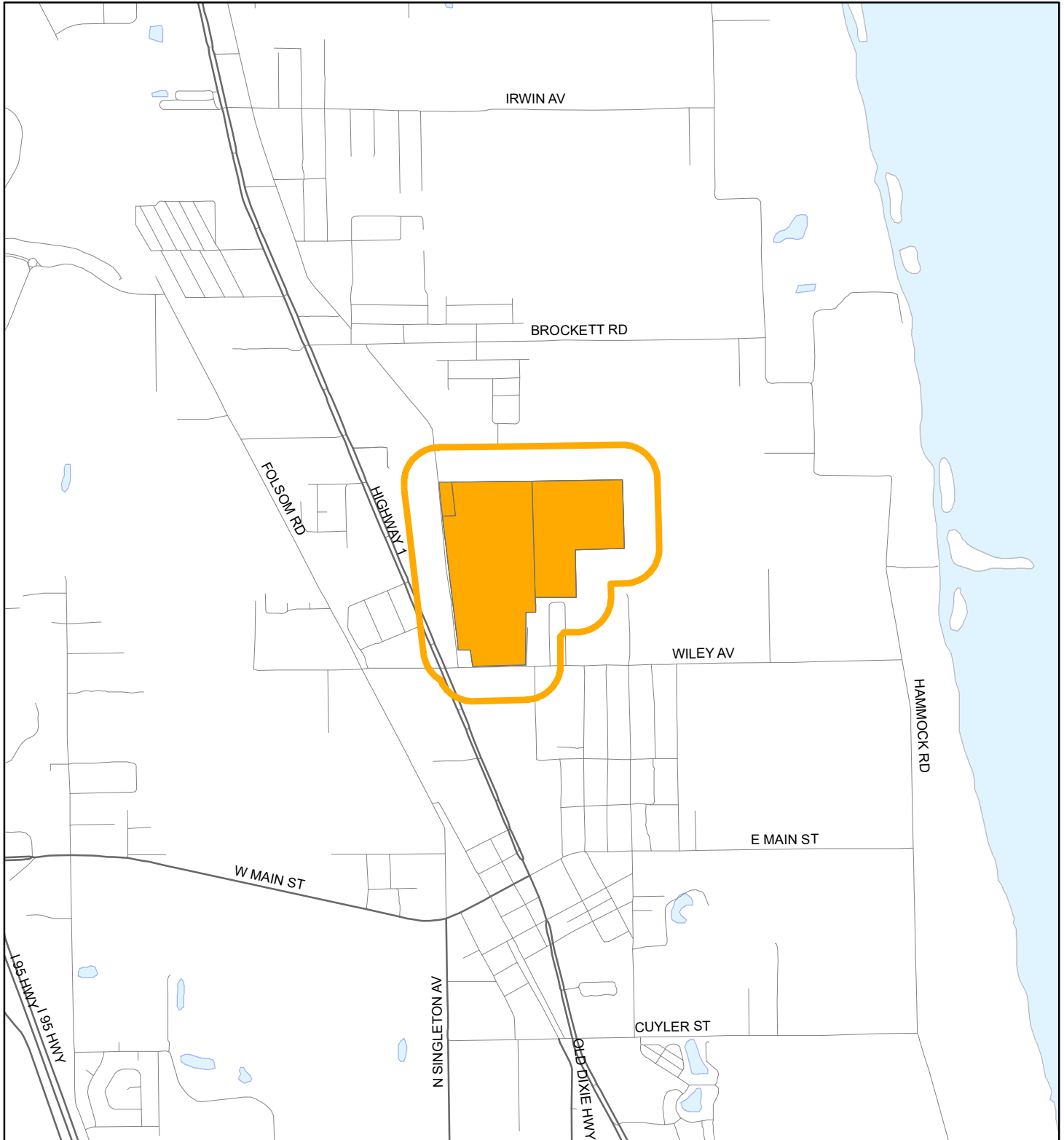
### **Protected Species**

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

# LOCATION MAP

AG VENTURES, LLC

20PZ00101





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.

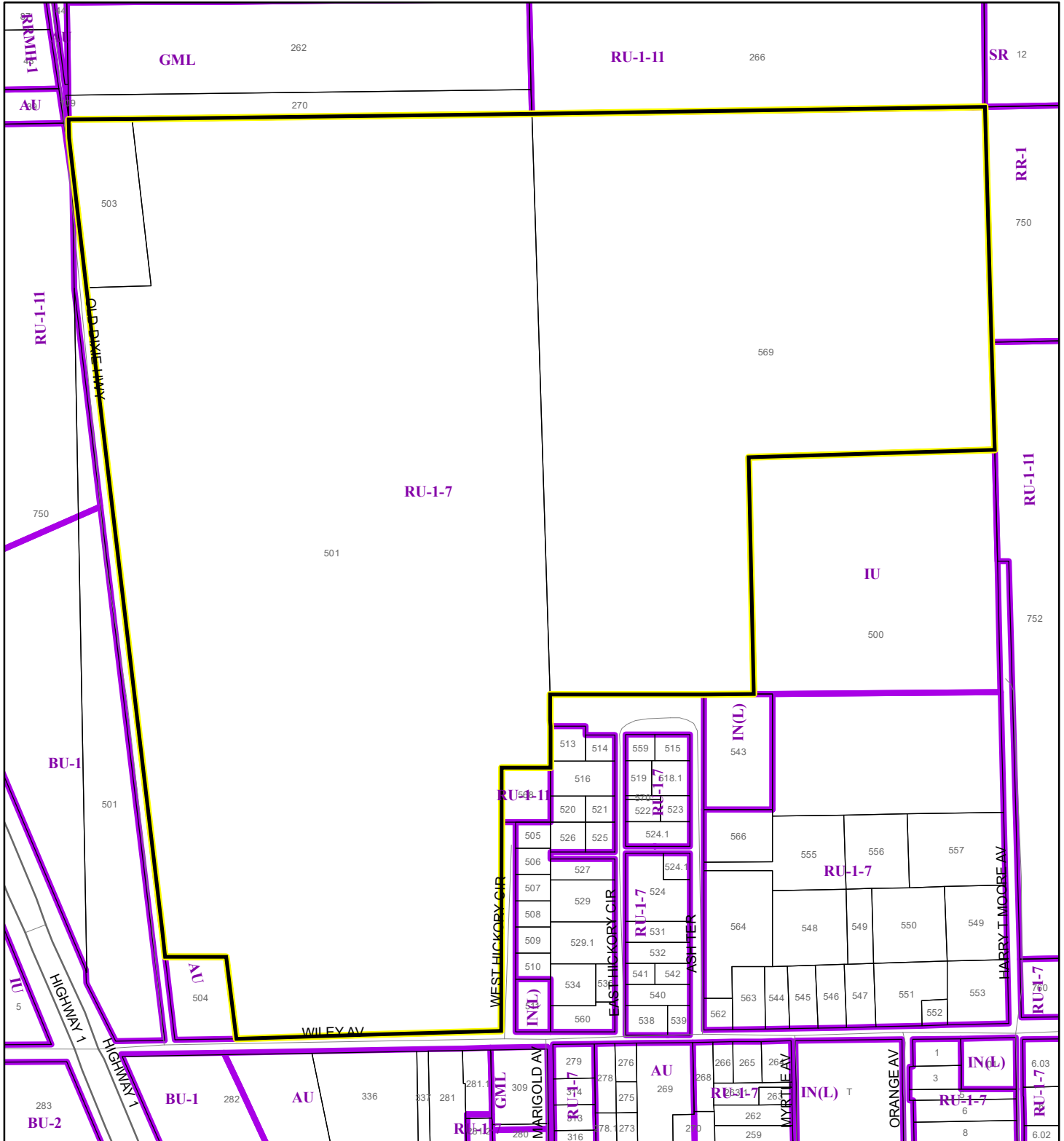
Produced by BoCC - GIS Date: 10/28/2020

 Buffer  
 Subject Property

# ZONING MAP

AG VENTURES, LLC

20PZ00101



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: 10/28/2020

Subject Property

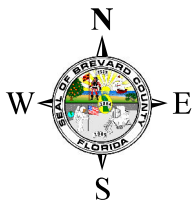
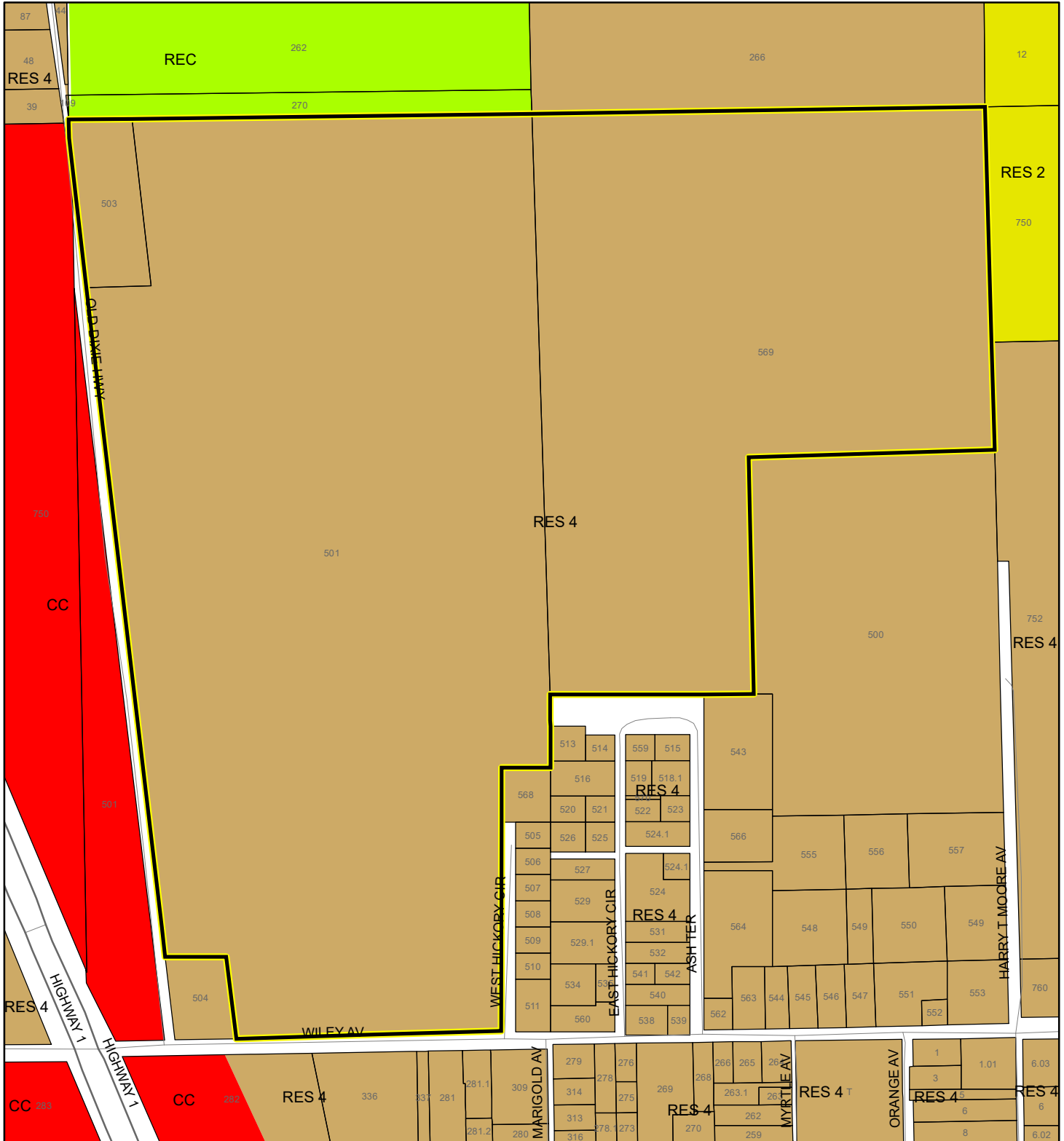
Parcels

Zoning

# FUTURE LAND USE MAP

AG VENTURES, LLC

20PZ00101



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.

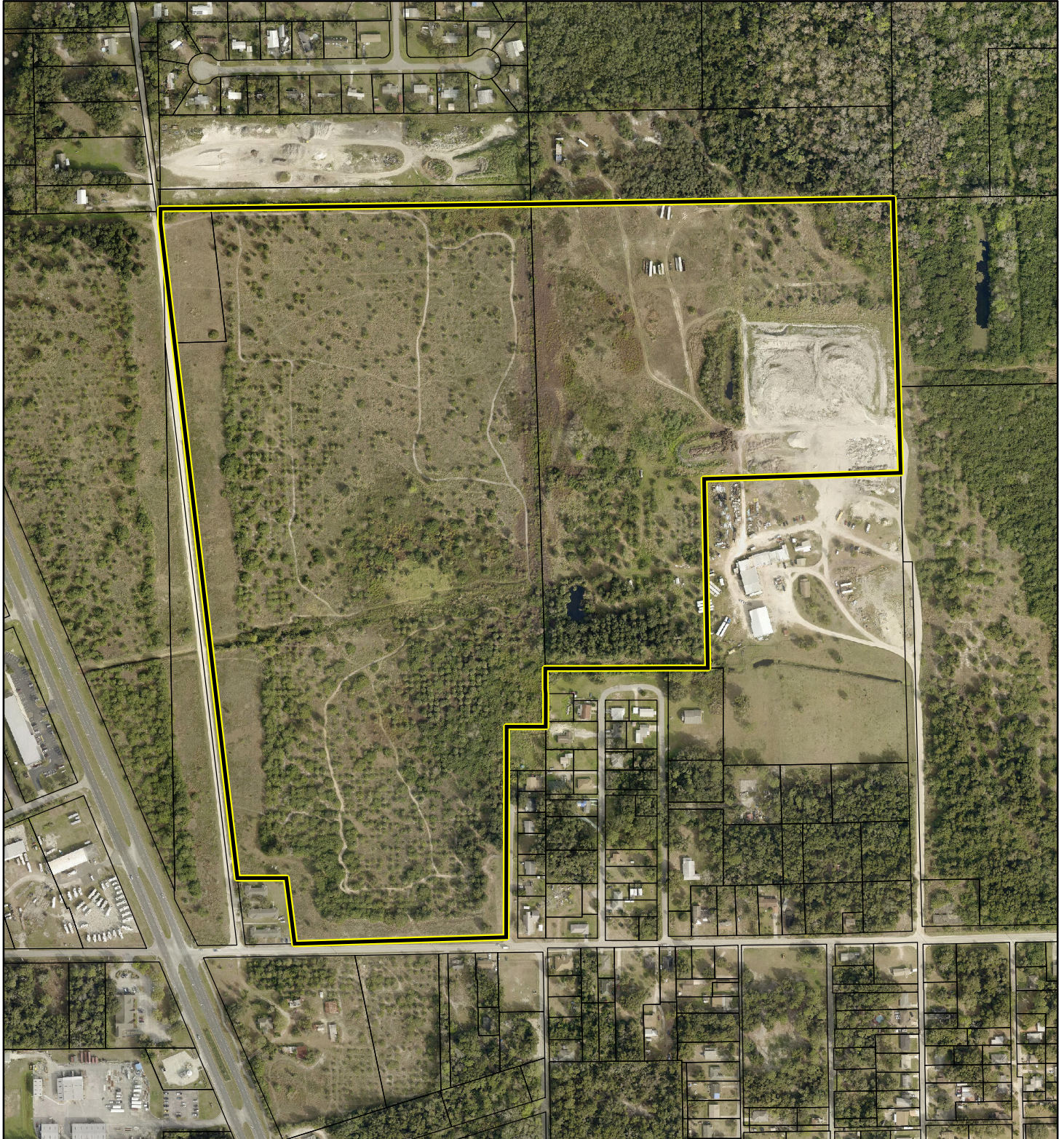
Produced by BoCC - GIS Date: 10/28/2020



# AERIAL MAP

AG VENTURES, LLC

20PZ00101




1:6,000 or 1 inch = 500 feet

PHOTO YEAR: 2020

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Produced by BoCC - GIS Date: 10/28/2020

 Subject Property

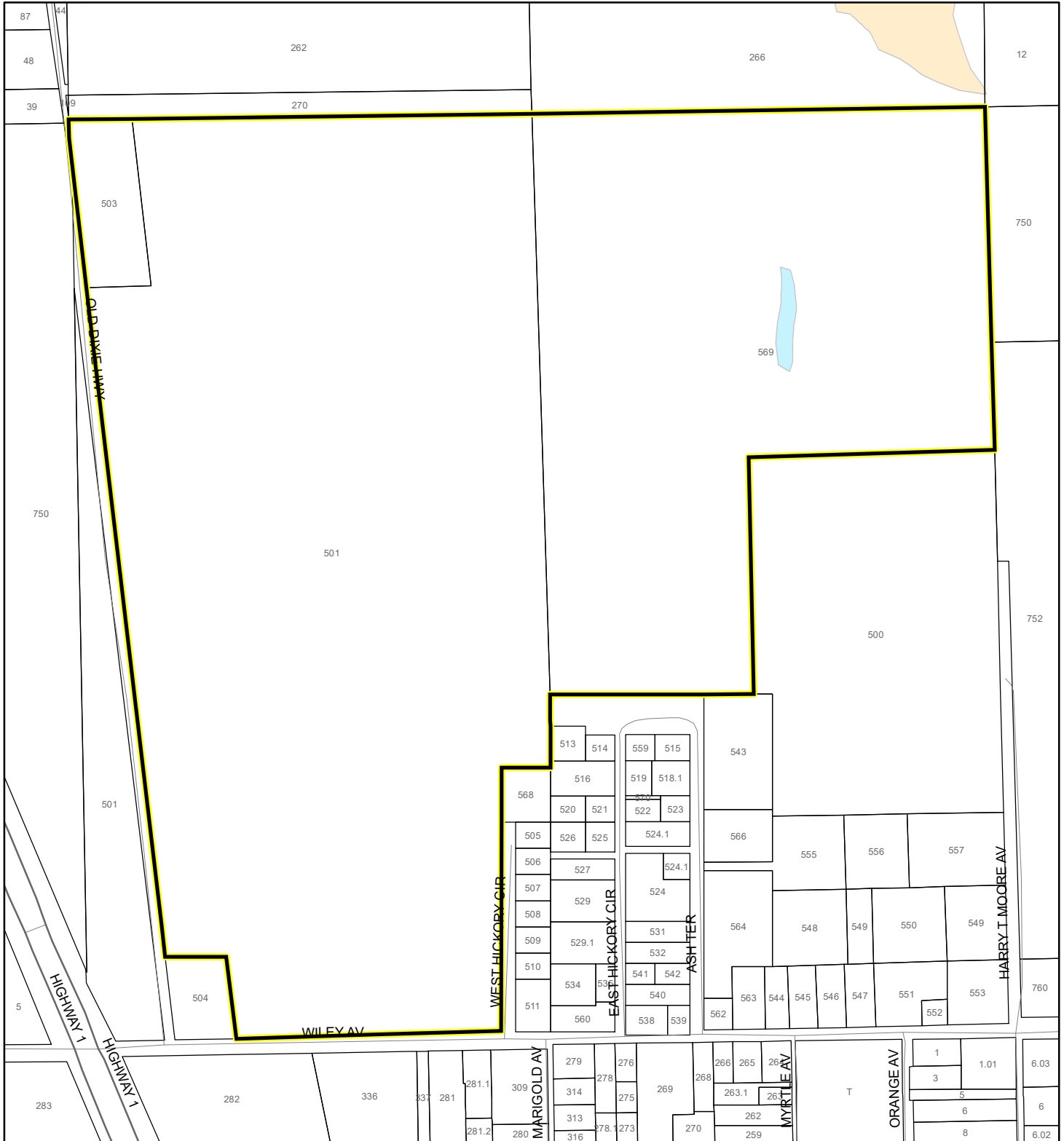
 Parcels



# NWI WETLANDS MAP

AG VENTURES, LLC

20PZ00101













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/28/2020

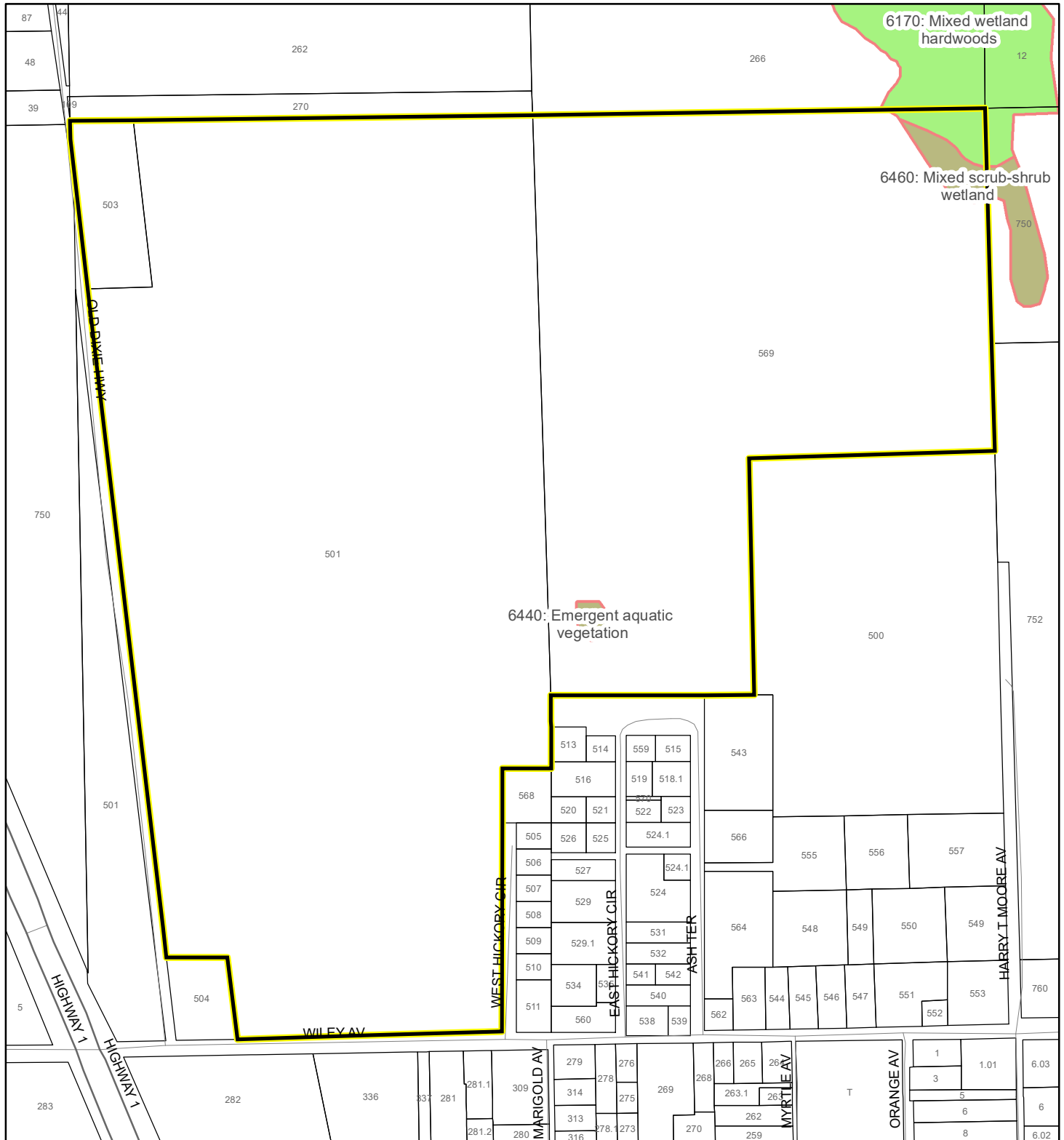
## National Wetlands Inventory (NWI)

 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

AG VENTURES, LLC

20PZ00101



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: 10/28/2020

## 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

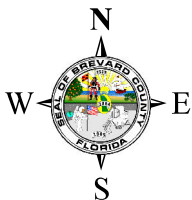
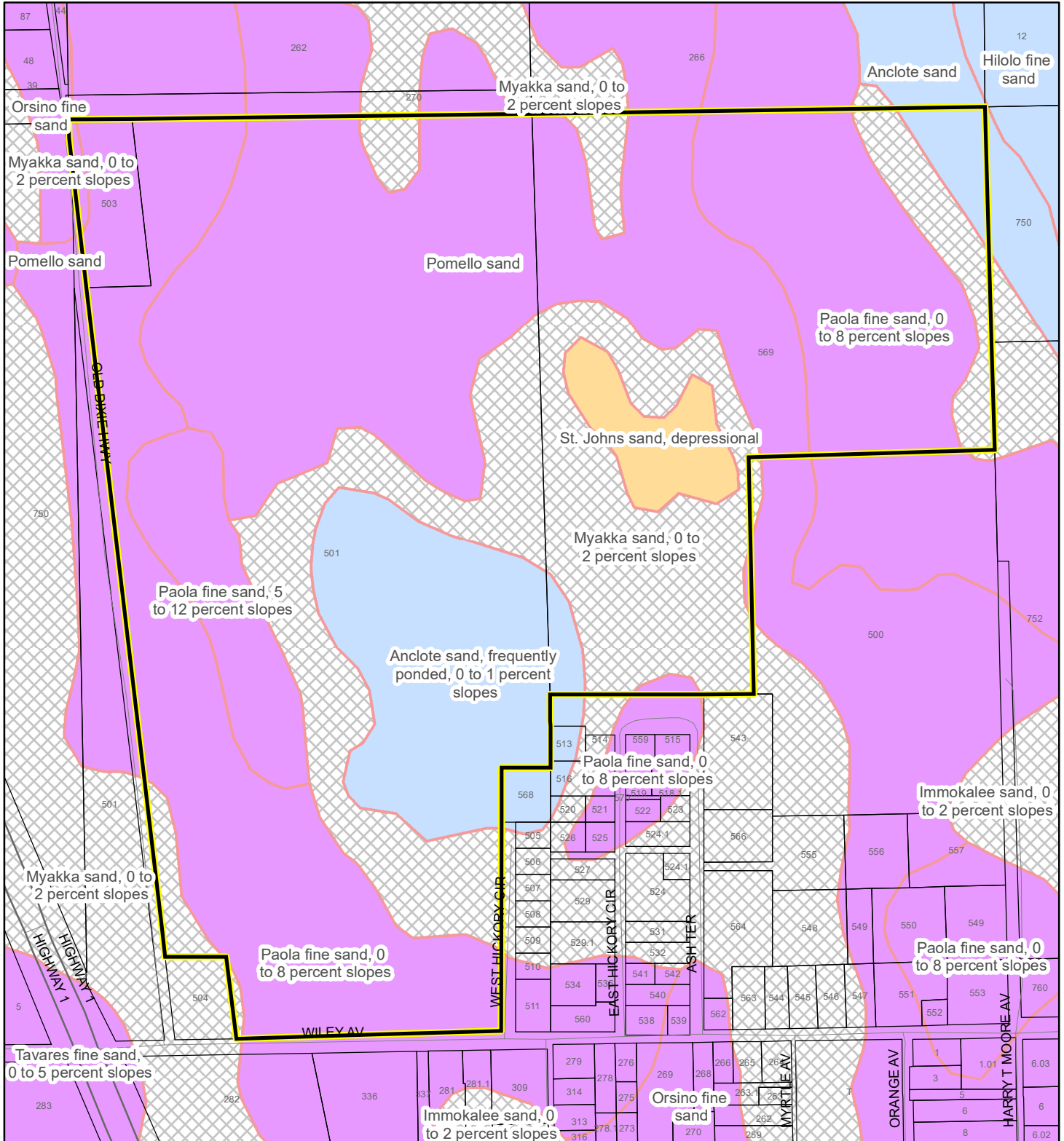
Subject Property

Parcels

# USDA SCSSS SOILS MAP

AG VENTURES, LLC

20PZ00101



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/28/2020

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

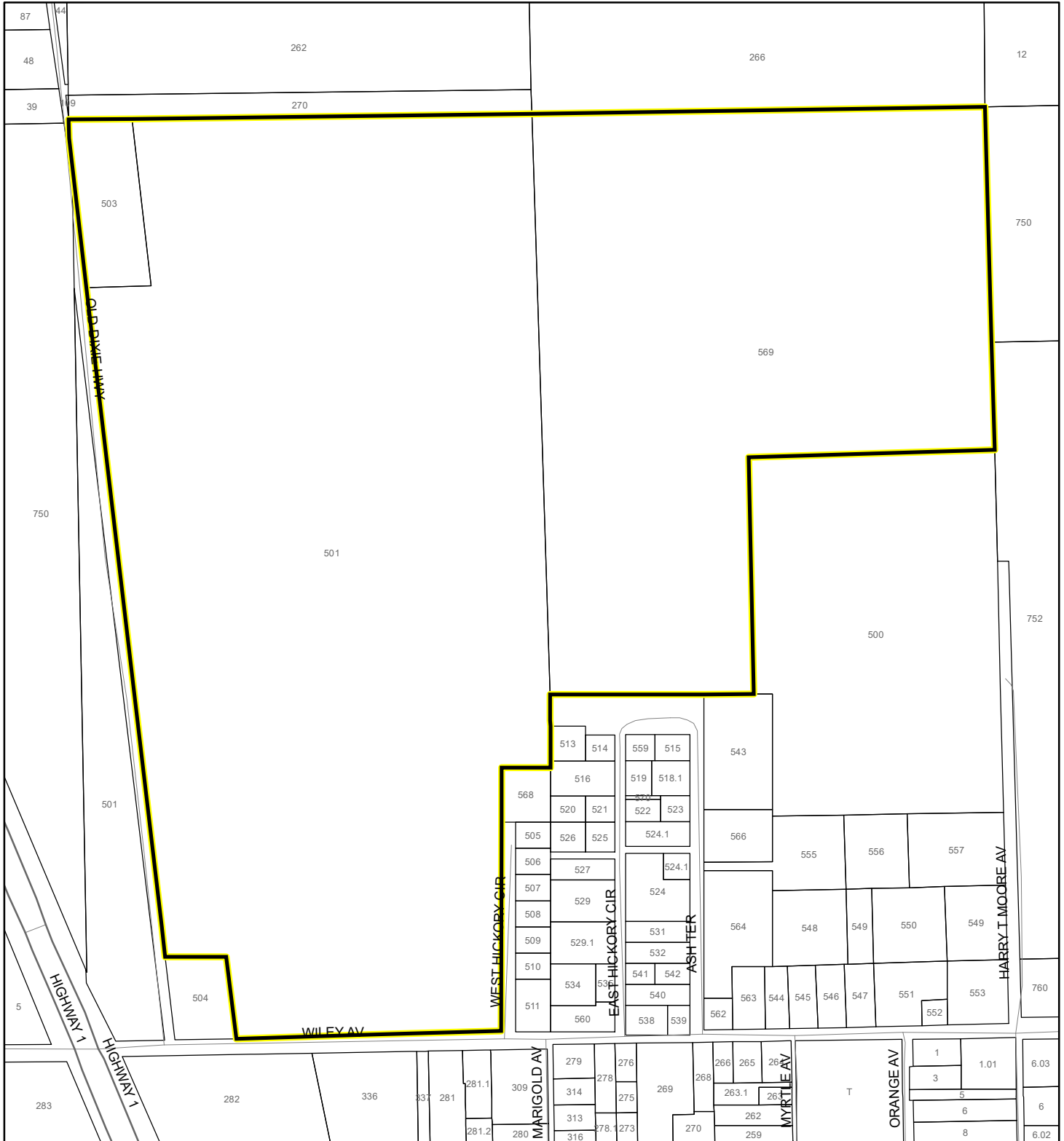
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

AG VENTURES, LLC

20PZ00101



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: 10/28/2020

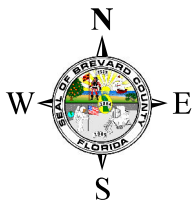
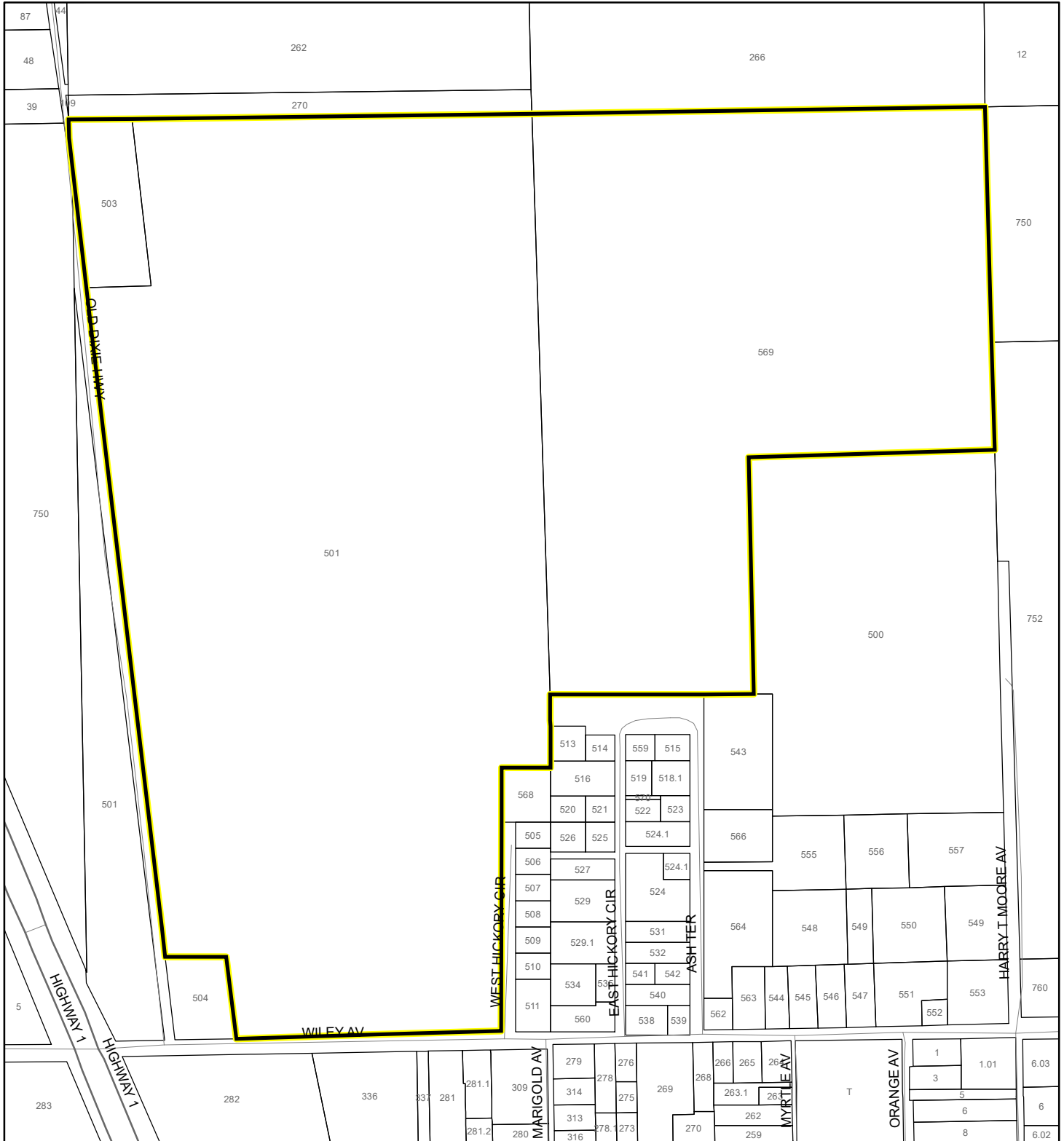
## FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| 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

AG VENTURES, LLC

20PZ00101



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 10/28/2020

 Subject Property

 Parcels

**Coastal High Hazard Area**

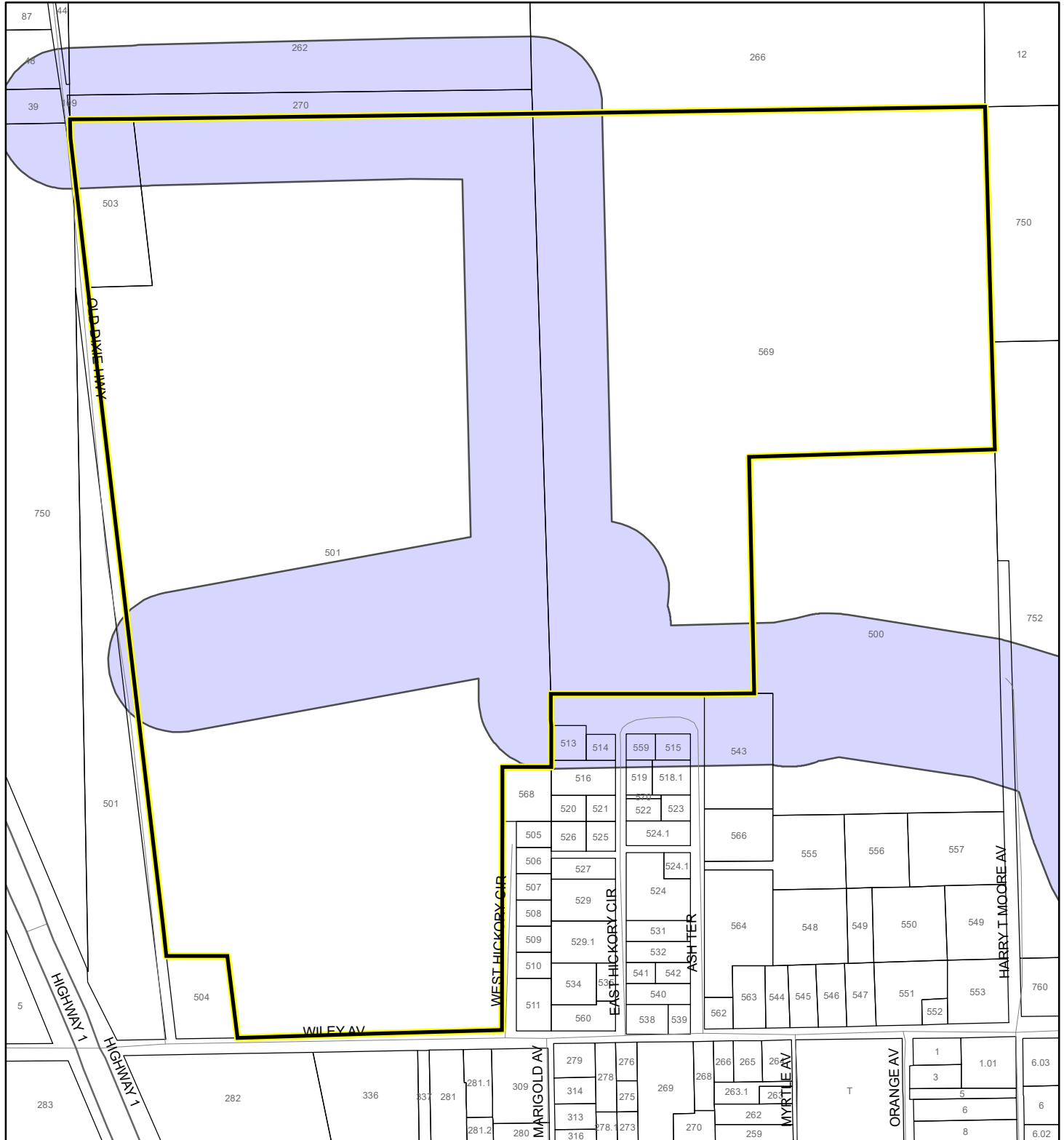
 SurgeZoneCat1



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

AG VENTURES, LLC

20PZ00101



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/28/2020

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

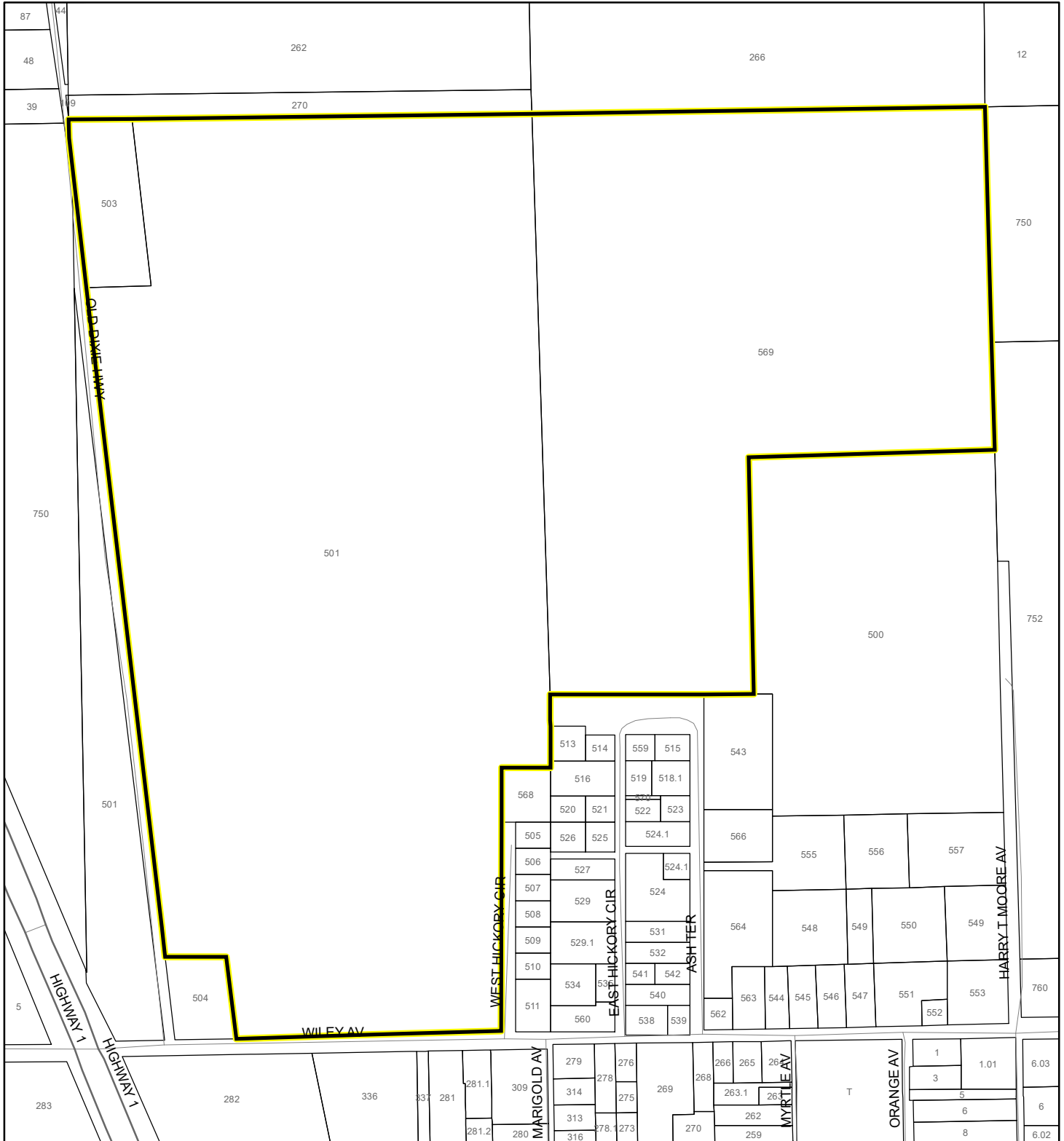
 60 Meters

 All Distances

# EAGLE NESTS MAP

AG VENTURES, LLC

20PZ00101



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/28/2020

 Subject Property

 Parcels

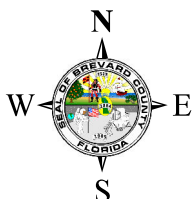
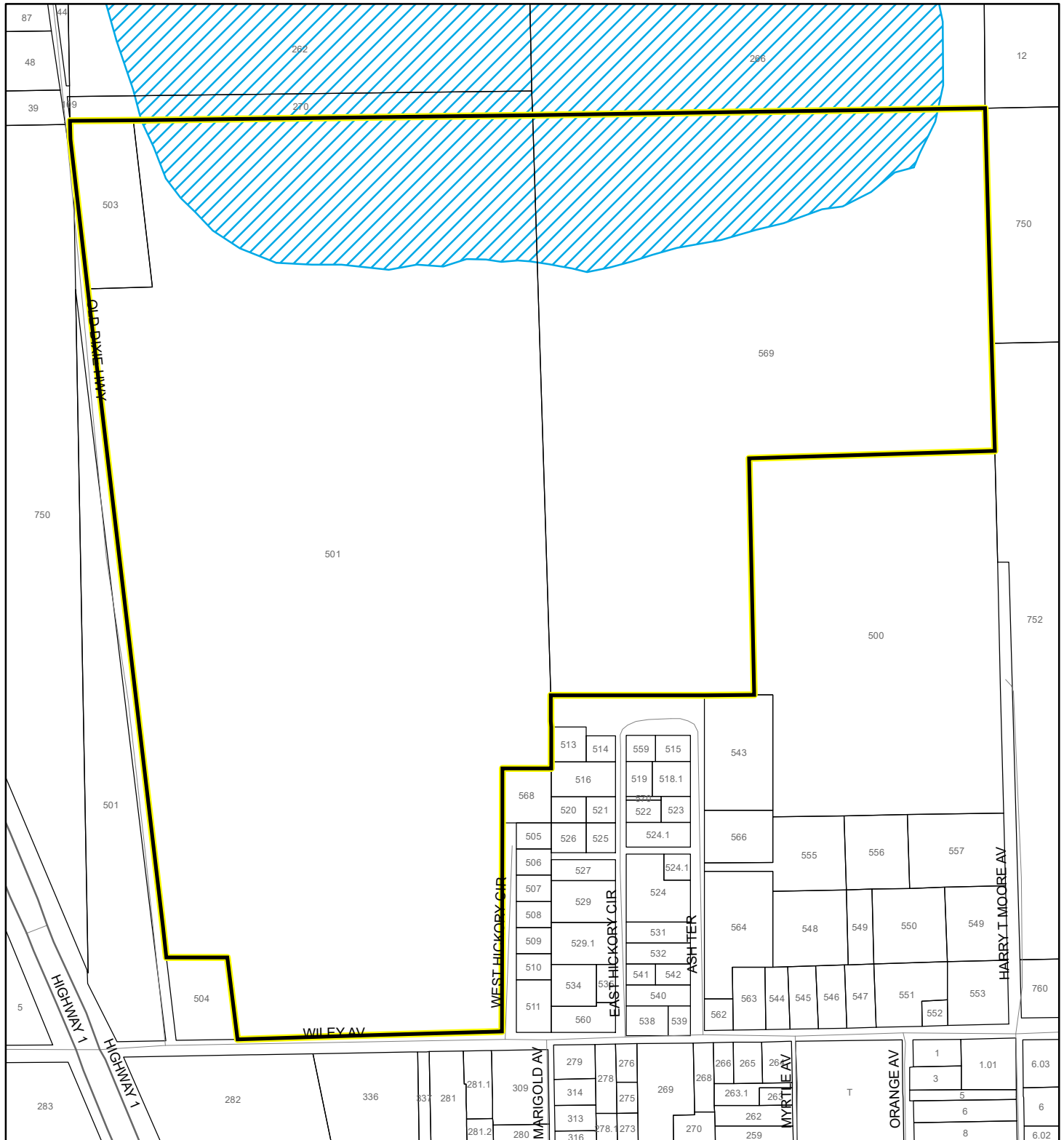


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

AG VENTURES, LLC

20PZ00101



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.

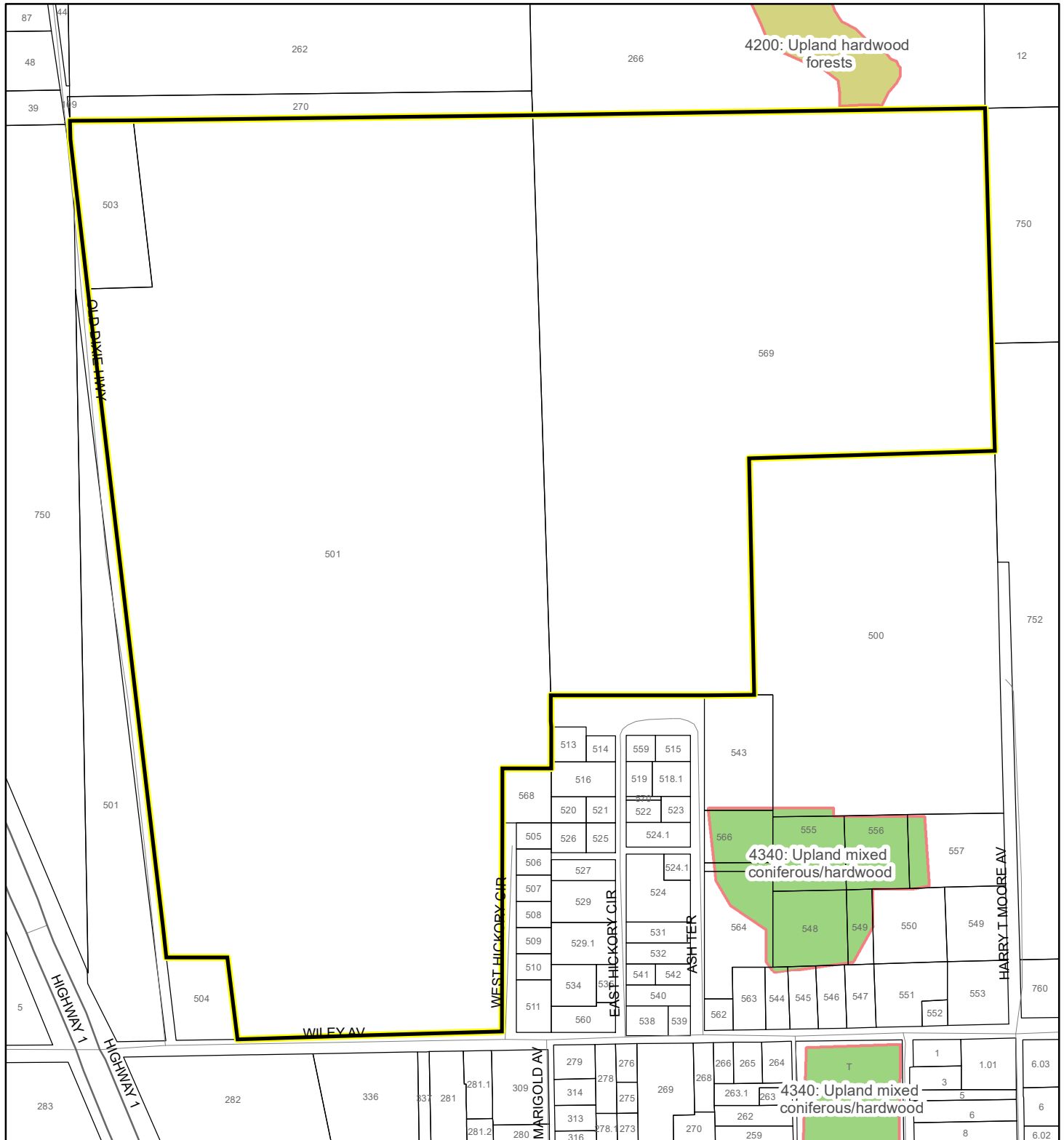
Produced by BoCC - GIS Date: 10/28/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

AG VENTURES, LLC

20PZ00101



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: 10/28/2020

## 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 # 20PZ 00101

Existing FLU: RES 4 Existing Zoning: RU 1-7

Proposed FLU: RES 4 Proposed Zoning: RU 1-7

**PROPERTY OWNER INFORMATION**

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

Chad Genoni

Name(s)

Ag Ventures, LLC

Company

4760 N US1 #201

Street

Melbourne

City

FL

State

32935

Zip Code

chad@gendev.us

Email

321-508-5052

Phone

Cell

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐

Attorney

☐

Agent

☐

Contract Purchaser

☐

Other

Name(s)

Company

Street

City

State

Zip Code

Email

Phone

Cell

1



## 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) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: 110

Reason for Request:

To allow the zoning to be consistent with the future Land Use designation. The property was previously rezoned without a BDP.

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.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☐ 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

10/22/2020  
\_\_\_\_\_  
Date

State of Florida

County of Brevard

Subscribed and sworn before me, by X physical presence or \_\_\_\_\_ online notarization,

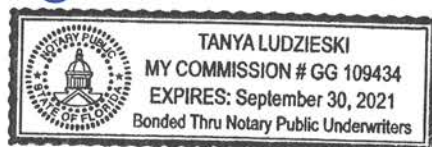
this 22 day of, October, 20 20, personally appeared

Charles Grenoni, who is personally known to me or produced

\_\_\_\_\_ as identification, and who did / did not take an oath.

  
\_\_\_\_\_  
Notary Public Signature

Seal



**Office Use Only:**

Accela No. 20P200101 Fee: Waived Date Filed: 10-23-2020 District No. 1

Tax Account No. (list all that apply) 2102924, 2112294, 2102925

Parcel I.D. No. 21-35-08-00-501  
21-35-08-00-503  
21 35 08 00 569  
Twp Rng Sec Sub Block Lot/Parcel

Planner: PB Sign Issued by: \_\_\_\_\_ Notification Radius: 500ft

**MEETINGS**

**DATE**

**TIME**



P&Z

January 11, 2021

3:00 p.m.



PSJ Board



NMI Board



LPA



BOA



BCC

February 4, 2021

5:00 p.m.

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

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



Yes



No

If yes, list \_\_\_\_\_

Location of subject property: Northside of Wiley Ave.  
350 feet East of Highway US-1

Description of Request: Binding Development plan  
Limiting Density to 4 unit per acre  
For R4-1-7 zoning to be consistent with  
Res 4 FLU

## 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:

TanyaL106@outlook.com or ( ) or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes/No

I have received a copy of this notice:

Tanya Sedeski  
(APPLICANT SIGNATURE)

**OPERATING AGREEMENT**

**OF**

**AG VENTURES, LLC**

THE MEMBERSHIP INTERESTS PRESENTED BY THIS OPERATING AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH INTERESTS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER SUBSTANTIAL RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.



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**OPERATING AGREEMENT  
OF  
AG VENTURES, LLC  
a Florida Limited Liability Company**

**ARTICLE I  
DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings set forth below, unless the context clearly requires otherwise:

**"Act"** means the Florida Limited Liability Company Act, as amended from time to time.

**"Agreement"** means this Operating Agreement as the same from time to time may be amended, modified, supplemented or restated in accordance with the provisions of this Agreement.

**"Articles"** means the Articles of Organization filed in the office of the Department of State of Florida in Tallahassee, as the same may be from time to time amended, modified or supplemented in accordance with the provisions of this Agreement.

**"Capital Account"** when used in respect of any Member means the account established and maintained pursuant to Section 5.5 of this Agreement.

**"Capital Transactions"** means the refinancing, sale or other disposition of any assets of the Company.

**"Company"** means **AG VENTURES, LLC**.

**"Contributions of the Members"** means all of the Members' Contributions.

**"Dispose," "Disposing" or "Disposition"** means a sale, assignment, transfer, exchange, mortgage, pledge, grant of a security interest, or other disposition or encumbrance (including, without limitation, by operation of law), or acts thereof.

**"Managers"** means the Managers named in the Articles and any persons who may succeed them as Managers of the Company pursuant to this Agreement, and any person who may be admitted as an additional Manager of the Company pursuant to this Operating Agreement.

**"Members"** means the Members named herein and any additional Members admitted to the Company pursuant to the provisions of this Agreement.

**"Membership Interest"** means the interest of a Member in the Company, including, without limitation, rights to distributions (liquidating or otherwise), allocations, information, and to consent or approve.

**"Net Cash Flow"** means for any year or fraction thereof, all cash receipts of the Company excluding (i) Contributions of the Members; (ii) funds received by the Company from indebtedness incurred by the Company; and (iii) net proceeds from Capital Transactions less the sum of (iv) all cash expenses or other debts of the Company paid during such period; and (v) such working capital or reserves or other amounts as the Managers reasonably determine to be necessary or appropriate for the proper operation of the Company's business.

**"Permitted Transferee"** means a person licensed as a Registered Investment Advisor with the United States Securities and Exchange Commission.

**"Person"** includes an individual, partnership, limited partnership, limited liability company, foreign limited liability company, trust, estate, corporation, custodian, trustee, executor, administrator, nominee or entity in a representative capacity.

**"Recoupment"** means capital distributions to a Member equal to the Contributions of the Member.

**"Required Interest"** means one or more Members owning among them more than sixty (60) of all Membership Interests.

**"State"** means the State of Florida.

## **ARTICLE II OFFICES**

**2.1 PRINCIPAL OFFICES.** The principal office of the Company shall be located at 4760 N. US1 #201, Melbourne, Florida 32935, or such other location as the Managers may from time to time determine.

**2.2 REGISTERED OFFICE.** The registered office of the Company required by the Act to be maintained in the State of Florida, may be, but need not be, identical with the principal office.

**2.3 OTHER OFFICES.** The Company may have offices at such other places, either within or without the State of Florida, as the Managers from time to time may determine, or as the affairs of the Company may require.



**ARTICLE III**  
**ADMISSION OF MEMBERS; TRANSFER OF INTERESTS**

**3.1 ADMISSION OF MEMBERS**

(a) The initial Members of the Company are the Persons named in this Operating Agreement as Members, each of which is admitted to the Company as a Member effective as of the date of execution of this Operating Agreement.

(b) After the formation of this Company, a Person becomes a new Member:

(1) in the case of a Person acquiring a Membership Interest directly from this Company, on compliance with the provisions of this Operating Agreement governing admission of new Members; and

(2) in the case of an assignee of a Membership Interest, as provided by this Operating Agreement and the Act.

**3.2 RESTRICTIONS ON THE DISPOSITION OF AN INTEREST.**

(a) Except as specifically provided in this Operating Agreement, a Disposition of Membership Interest may not be effected without the consent of all Members. Any attempted Disposition by a Person of an interest or right, or any part thereof, in or in respect of the Company other than in accordance with this Operating Agreement shall be, and is hereby declared, null and void *ab initio*.

(b) An assignee who becomes a Member has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of a Member under this Operating Agreement and the Act. Unless otherwise provided by this Operating Agreement, an assignee who becomes a Member also is liable for the obligations of the assignor to make contributions but is not obligated for liabilities unknown to the assignee at the time the assignee became a Member and which could not be ascertained from this Operating Agreement. Whether or not an assignee of a Membership Interest becomes a Member, the assignor is not released from the assignor's liability to this Company.

**3.3 ADDITIONAL MEMBERS.** Additional Persons may be admitted to the Company and Members and Membership Interests may be created and issued to those Persons and to existing Members at the direction of a Required Interest, on such terms and conditions as a Required Interest may determine at the time of admission. Any such admission also must comply with the requirements described elsewhere in this Operating Agreement and is effective only after the new Member has executed and delivered to a Required Interest a document including the new Member's notice address and its agreement to be bound by this Operating Agreement. The provisions of this Section shall not apply to Dispositions of Membership Interests.

**3.4 ADDITIONAL RESTRICTIONS AND OPTION TO PURCHASE A MEMBERSHIP INTEREST.** Notwithstanding anything herein to the contrary, no Member shall voluntarily or involuntarily sell or assign a Membership Interest in the Company to any Person or Persons, firms, or other limited liability company not a Member, or pledge the same or any part thereof by endorsement resulting in delivery to a transferee who is not a Member without first offering such Membership Interest for sale to the remaining Members in the same proportion as their respective Membership Interests, in the following manner:

(a) If a Member, at any time, desires to dispose of its Membership Interest, and if the Disposing Member has received a bona fide written offer to purchase its Membership Interest from a Permitted Transferee which the Member desires to accept, such Member shall give written notice to each of the other Members of record, stating the percentage of Membership Interest offered for sale, the price and terms upon which the sale is being made, and the name and address of the prospective third party Permitted Transferee. Such notice shall be sent by certified or registered mail addressed to each Member at its last address as it appears on the books of the Company. For a period of thirty (30) days after receipt of such written offer, each such Member shall have the option to purchase, in the same proportion as its Membership Interest bears to the total Membership Interests of all Members (excluding the Disposing Member) all or any portion of the Membership Interest so offered for the same price and on the same terms as contained in the written offer. Within thirty (30) days after the mailing of said notices, any Member desiring to purchase part or all of such Membership Interest shall deliver by mail or otherwise to the Managers of the Company, a written notice specifying the portion of Membership Interest desired to be purchased by it.

(b) In the event that the proportion of said Membership Interest which any Member would be entitled to purchase is more than the portion of Membership Interest it desires to purchase, each remaining Member desiring to purchase additional Membership Interests shall be entitled to purchase such proportion of the excess as the percentage of Membership Interests which it holds bears to the total percentage of Membership Interests held by all Members desiring to participate in such purchase. The date of closing of all such purchases shall be thirty (30) days after the date of the last notice by a Member of the exercise the option granted in Paragraph (a) above.

(c) If none or only a part of the Membership Interest offered for sale is purchased by the Members, then the Member who offered the same for sale shall have thereafter the right, at any time during the period of sixty (60) days after the expiration of the thirty (30) day period referred to in Paragraph (a) above, to sell said Membership Interest not so purchased to such Permitted Transferee, provided however, that it shall not sell such Membership Interest at a lower price or on terms more favorable to the purchaser than those specified in the written notice it gave to the other Members, nor shall it sell such Membership Interest after the expiration of the said sixty (60) day period without again giving written notice as hereinabove required.

(d) No Membership Interest shall be sold or transferred on the books of the Company until the provisions of this Section have been complied with.

### 3.5 **UNAUTHORIZED TRANSFERS.**

(a) The Company will not be required to recognize the interest of any transferee who has obtained a Membership Interest as the result of a transfer of ownership which does not comply with the terms and conditions of this Operating Agreement. If the Membership Interest is in doubt, or if there is reasonable doubt as to who is entitled to a distribution of the income realized from a Membership Interest, the Company may accumulate the income until this issue is finally determined and resolved. Accumulated income will be credited to the Capital Account of the Member whose Membership Interest is in question.

(b) If any Person or agency should acquire the interest of a Member as the result of an order of a court of competent jurisdiction which the Company is required to recognize, or if a Member makes an unauthorized transfer of a Membership Interest which the Company is required to recognize, the interest of the transferee may then be acquired by the Company upon the following terms and conditions:

(1) The Company will have the option to acquire the Membership Interest by giving written notice to the transferee of its intent to purchase within ninety (90) days from the date it is finally determined that the Company is required to recognize the transfer.

(2) The Company will have one hundred eighty (180) days from the first day of the month following the month in which it delivers notice exercising its option to purchase the Membership Interest. The valuation date for the Membership Interest will be the first day of the month following the month in which notice is delivered.

(3) Unless the Company and the transferee mutually agree otherwise, the purchase price of a Membership Interest pursuant to this Section shall be its fair market value as shall be determined by an independent appraiser who shall be selected by the Company, and this determination, when made, shall be final and binding on the Company and all of the Members.

(4) Closing of the sale will occur at the registered office of the Company at 10 o'clock A.M. on the first Tuesday of the month following the month in which the purchase price is determined (called the "closing date"). The transferee will be considered a non-voting owner of the Membership Interest, and entitled to all items of income, deduction, gain or loss from the Membership Interest, plus any additions or subtractions therefrom until closing.

(5) In order to reduce the burden upon the resources of the Company, the Company will have the option, to be exercised in writing delivered at closing, to pay its purchase money obligation in ten (10) equal annual installments (or the remaining term of the Company if less than ten (10) years) with interest thereon at market rates, adjusted annually as of the first day of each calendar year at the option of the

Members. The term "market rates" will mean the rate of interest prescribed as the "prime rate" as quoted in the money rates section of the Wall Street Journal which is also the base rate on corporate loans at large United States money center commercial banks, as of the first day of the calendar year. If Sections 483 and 1274A of the Code apply to this transaction, the rate of interest of the purchase money obligation will be fixed at the rate of interest then required by law. The first installment of principal, with interest due thereon, will be due and payable on the first day of the calendar year following closing, and subsequent annual installments, with interest due thereon, will be due and payable, in order, on the first day of each calendar year which follows until the entire amount of the obligation, principal and interest, is fully paid. The Company will have the right to prepay all or any part of the purchase money obligation at any time without premium or penalty.

(6) A Required Interest may assign the Company's option to purchase to one or more of the Members (excluding the interest of the Member or transferee whose interest is to be acquired), and when done, any rights or obligations imposed upon the Company will instead become, by substitution, the rights and obligations of the Members who are assignees.

(7) Neither the transferee of an unauthorized transfer or the Member causing the transfer will have the right to vote during the prescribed option period, or if the option to purchase is timely exercised, until the sale is actually closed.

3.6 **WITHDRAWAL.** A Member does not have the right or power to withdraw from the Company as a Member.

#### **ARTICLE IV MEETINGS OF MEMBERS**

**4.1 PLACE OF MEETING.** All meetings of the Members shall be held at the principal office of the Company, or at such other place within or without the State of Florida as the Managers of the Company may designate in the notice of the meeting.

**4.2 ANNUAL MEETINGS.** An annual meeting of the Members shall be held on any business day during each year, such day to be determined by the Managers, for the purpose of electing the Managers of the Company and for the transaction of such other business as may be properly brought before the meeting.

**4.3 SPECIAL MEETINGS.** Special meetings of the Members may be called at any time by the Managers or whenever requested in writing by Members holding more than ten percent (10%) of Membership Interests in the Company.

**4.4 NOTICE.** The Managers shall cause notice of all Member meetings, whether annual or special, to be mailed to each Member of record entitled to vote at such meeting not less than ten (10) days nor more than sixty (60) days before such meeting, at its post

office address as it appears in the records of the Company. Notice shall be deemed delivered when deposited in the United States Mail, with postage prepaid, addressed to the Members as their addresses appear on the books of the Company.

**4.5 QUORM.** The presence of a Required Interest represented in person or by proxy, shall constitute a quorum at meetings of Members. If there is no quorum at the opening of the meeting of Members, such meeting may be adjourned from time to time with the vote of a majority of the Members voting on the motion to adjourn; and, at any adjourned meeting at which a quorum (as defined above) is present, the meeting may be reconvened and any business may be transacted which might have been transacted at the original meeting. At any meeting at which a quorum is present, should enough Members withdraw to leave less than a quorum, the remaining Members may continue to transact business until adjournment.

**4.6 VOTING.** Each Member shall be entitled to vote on each matter submitted to a vote at a meeting of Members. Each Member's right to vote shall be in proportion to its Membership Interest in the Company. A vote of a Required Interest on any matter at a meeting of the Members at which a quorum is present, shall be the act of the Members on that matter, unless the vote of a greater number is required by this Agreement, the Act or by the Articles of the Company, or by any contemporaneous agreements of the Members.

**4.7 ACTION WITHOUT A MEETING.** Any action required by the Act or the Articles to be taken at any annual or special meeting of the Members or any action which may be taken at annual or special meetings of the Members may be taken without a meeting, without prior notice and without a vote pursuant to a consent in writing, which sets forth the action so taken, which is signed by the Members that would otherwise be enough to carry such question if the requisite Members' meeting was duly held. Within ten (10) days after obtaining such authorization by written consent, notice shall be given to those Members who have not joined in the written consent. The notice shall fairly summarize the material features of the authorized action.

## **ARTICLE V CAPITAL CONTRIBUTIONS**

**5.1 AGREEMENT TO CONTRIBUTE.** Each Member shall contribute to the capital of the Company at the time and in the manner hereinafter in this Article provided.

**5.2 INITIAL CONTRIBUTION OF THE MEMBERS.** Contemporaneously with the execution by such Member of this Operating Agreement, each Member shall make the capital contribution described for that Member in Exhibit "A" attached hereto in exchange for the Membership Interest specified therein.



**5.3 ADDITIONAL CONTRIBUTIONS.** Whenever deemed necessary by the Managers, each Member shall contribute additional capital in amount or amounts pro rata to each Member's Membership Interest in the Company. If any Member shall fail or be unwilling to make its pro rata additional capital contribution, the other Members may contribute the needed additional capital and thereby at the option of the contributor increase its pro rata share in the Company or consider such contribution a loan to the failing Member bearing interest at the highest rate allowed by law which shall be payable in full, principal and interest, one year from the date of contribution.

**5.4 TREATMENT OF ADVANCES: INTEREST AND WITHDRAWALS.**

(a) If any Member shall advance any funds to the Company other than as provided in Sections 5.2 and 5.3, the amount of any such advance shall not be an additional capital contribution to such Member, but shall be a debt due from the Company to such Member to be repaid at such times and with such interest as shall be expressly agreed upon or, in the absence of such agreement, upon the dissolution and liquidation of the Company and without interest.

(b) No interest shall be paid on any capital contributions. Except as otherwise provided herein, no Member shall be entitled to withdraw any part of its capital contributions until the dissolution and liquidation of the Company.

**5.5 CAPITAL ACCOUNTS.** A Capital Account for each Member shall be established and maintained for the Member for federal income tax purposes in accordance with the rules of Treasury Regulation Section 1.704-1(b)(2)(iv). Except as otherwise provided in such Regulations, each Member's Capital Account shall initially consist of the Member's cash contribution to the capital of the Company, and the fair market value of property contributed to the Company (as of the date of contribution and net of liabilities assumed by the Company or otherwise secured by such contributed property and with respect to which the Company is considered to assume, or to take subject to, under Code Section 752 of the Internal Revenue Code of 1986, as amended). Each Member's Capital Account shall be further credited with the Member's allocable share of the Company's net profits, and shall be debited by all distributions made by the Company to the Member, together with the Member's allocable share of the Company's net losses.

**ARTICLE VI**  
**RIGHTS, POWERS AND OBLIGATIONS OF THE MANAGERS**

**6.1 MANAGEMENT OF COMPANY BUSINESS.** The Managers shall be solely responsible for and shall be fully vested with the power of the management of the Company's business, with all rights and powers to make all decisions affecting the business of the Company using their best efforts to protect the interests of the Members and the Company. Any person entering into any agreement or contract with the Company or otherwise dealing with the Company shall not be required, except for review of the

Company's Certificate of Organization, to inquire as to the authority of the Managers to act for and on behalf of the Company and, except as hereinabove set forth, such person may conclusively rely upon the act or acts of either Manager as being the act or acts of the Company and binding upon and enforceable against the Company.

6.2 **NUMBER. TERM OF OFFICE AND QUALIFICATIONS.** The number of Managers shall be set at two, **JOHN M. GENONI AND CHARLES B. GENONI**. They shall hold office until their death or resignation. If they is unable or willing to serve as Manager, a Successor Manager shall be appointed by a unanimous vote of the Members of the Company.

6.3 **REMOVAL.** Removal of a Manager shall require unanimous vote of all Members.

6.4 **AUTHORITY OF THE MANAGERS.**

(a) In addition to any other rights and powers which the Managers may possess under law or other sections of this Agreement, each Manager shall have all specific rights and powers required for or appropriate to the management of the Company's business which, byway of illustration but not by way of limitation, shall include the following rights and powers:

(i) To purchase, lease, rent or otherwise acquire, and sell, lease, rent, exchange or otherwise dispose of, any real or personal property necessary or convenient to the operation of the Company or its investments;

(ii) To cause the Company to employ persons in the operation and management of the Company's business, including, but not limited to, appraisers, attorneys, accountants and insurance brokers;

(iii) To expend the Company's capital and revenue in furtherance of the Company's business;

(iv) To manage, operate, advertise and improve any Company property or investment and enter into operating agreements with others with respect to properties and investments acquired by the Company containing such terms, provisions and conditions as they shall approve;

(v) To enter into and execute: (i) agreements and any and all documents and instruments customarily employed in connection with the Company's business; and (ii) all other instruments deemed by them to be necessary or appropriate to the proper operations of such properties and investments or in order to perform effectively and properly their duties or exercise their powers hereunder;

(vi) To borrow money from banks, other lending institutions and other lenders for any Company purpose, and in connection therewith, issue notes and other debt securities; hypothecate the Company's assets to secure repayment of the borrowed sums; no bank, other lending institutions or other lender to which application is made for a loan shall be required to inquire as to the purpose for which such loan is sought; and, as between this Company and such bank, other lending institution or other lender, it shall be conclusively presumed that the proceeds of such loan are to and will be used for the purposes authorized hereunder;

(vii) To invest Company assets in certificates of deposit, time or demand deposits in commercial banks or savings and loan associations, or money market instruments, or United States Treasury obligations;

(viii) To obtain replacements of any mortgage or mortgages related in any way to Company property, and repay in whole or in part (whether due or not), refinance, recast, modify, consolidate, or extend any mortgages affecting any such property;

(ix) To enter into agreements and contracts with parties and to give receipts, releases and discharges, with respect to all of the foregoing and any matters incident thereto as they may deem advisable or appropriate;

(x) To maintain, at the expense of the Company, records and accounts of all operations and expenditures;

(xi) To purchase from or through others policies of liability, casualty and other insurance which the Managers deem advisable, appropriate or convenient for the protection of any Company property or affairs of the Company or for any purpose convenient or beneficial to the Company;

(xii) To make such elections under the tax laws of the United States, the State of Florida and other relevant jurisdictions with regard to the treatment of items of Company income, gain, loss, deduction or credit, and with regard to all other relevant matters (including, without limitation, election under Sections 751-755 of the Internal Revenue Code, as amended) as they believe necessary or desirable;

(xiii) To arrange for the preparation of any required Federal, state or local tax returns, and the payment from Company funds of any tax due from the Company;

(xiv) To reinvest any cash from initial financing;

(xv) To appoint the Officers of the Company; and

(xvi) To do any other act deemed necessary for the day-to-day operations of the Company.

(b) The Officers of the Company, when named by the Managers, shall serve until their death, resignation, or removal by the Managers. Each Officer shall have the authority normally associated with such title unless modified in writing by the Managers.

**6.5 MAJOR REVISIONS.** Notwithstanding the provisions of Section 6.6, the Managers may not cause the Company to do any of the following without approval of Members having a Required Interest:

(a) Sell, lease, exchange, or otherwise dispose of (other than by way of a pledge, mortgage, deed of trust or trust indenture) all or substantially all of the Company's property and assets (with or without good will), other than in the usual and regular course of the Company's business; and

(b) Be a party to (i) a merger, or (ii) an exchange of interests.

**6.6 COMPENSATION.** The Managers shall receive no compensation. The Managers shall be entitled to be reimbursed for out-of-pocket costs and expenses incurred in the course of their services hereunder, including the portion of their overhead reasonably applicable to Company activities.

**6.7 CONFLICTS OF INTEREST.** Subject to the other provisions of this Agreement, each Manager and Member of the Company at any time and from time to time may engage in and possess interests in other business ventures of any and every type and description, independently or with others, including ones in competition with the Company, with no obligation to offer to the Company or any other Member or Manager the right to participate therein. The Company may transact business with any Manager, Member or affiliate thereof, provided the terms of those transactions are no less favorable than those the Company could obtain from unrelated third parties.

## **ARTICLE VII** **RIGHTS AND OBLIGATIONS OF THE MEMBERS**

**7.1 MANAGEMENT OF THE BUSINESS.** No Member who is not a Manager shall take part in the management or control of the business of the Company or transact any business for or in the name of the Company, nor shall any Member who is not a Manager have the power to sign for or bind the Company. In addition, no Member who is not a Manager shall have any power or authority with regard to the Company's decisions except those expressly delineated in this Agreement.

## **ARTICLE VIII** **PROFITS, LOSSES AND DISTRIBUTIONS**

**8.1 PROFITS AND LOSSES.** For purposes of this Agreement, the term "profits" and "losses" shall mean respectively the profits or losses of the Company for federal income tax purposes, as determined by the Company's accountants annually, and not cumulatively, for each year of the Company.

**8.2 ALLOCATION OF PROFITS AND LOSSES.** Except as may be required by section 704(c) of the Code and Treas. Reg. § 1.704-1(b)(2)(iv)(f)(4), all profits and losses of the Company and all items of income, gain, loss, deduction or credit which enter into the computation thereof shall be allocated to the Members in proportion to each Member's Membership Interest.

**8.3 DETERMINATION AND DISTRIBUTION OF NET CASH FLOW.** From time to time (but at least once each calendar year), the Managers shall determine the amount of Net Cash Flow available for distribution. In determining the amount of Net Cash Flow, the Managers in their sole discretion may create and maintain reserves in any case where the Managers deem it necessary or appropriate. Such Net Cash Flow shall be distributed to the Members in proportion to each Member's Membership Interest.

The Net Cash Flow shall be distributed within thirty (30) days after the determination of Net Cash Flow is made. In the event of dissolution, Net Cash Flow shall be determined within sixty (60) days after the event causing dissolution.

## **ARTICLE IX** **RECORDS, REPORTS AND TAXES**

**9.1 FISCAL YEAR.** The fiscal year of the Company for both accounting and Federal income tax purposes shall end on December 31 of each year.

**9.2 BOOKS AND RECORDS.** At all times during the continuance of the Company, the Managers shall keep or cause to be kept full and faithful books of account in which shall be entered fully and accurately each transaction of the Company. All of the books of account shall at all times be maintained at the principal office of the Company or at such other place as the Managers shall determine and shall be open to inspection and examination by the Members or their representatives, by appointment, during normal business hours. The method of accounting shall be determined by the Managers.

**9.3 TAX RETURNS; ELECTIONS.**

(a) The Managers shall cause all income tax and information returns for the Company to be prepared by the Company's accountant, and shall cause such tax returns to be timely filed with the appropriate authorities.

(b) The Managers on behalf of the Company shall make elections for Federal income tax purposes.

**9.4 TAX MATTERS PARTNER.** **Charles B. Genoni** shall be the "Tax Matters Partner," as such term is defined in Section 6231(a) of the Internal Revenue Code.



**9.5 BANK ACCOUNTS.** The funds of the Company shall be deposited in the name of the Company in such bank accounts as shall be designated by the Managers and withdrawals therefrom shall be made by such persons as the Managers may designate.

**ARTICLE X**  
**DISSOLUTION, LIQUIDATION AND TERMINATION OF THE COMPANY**

**10.1 DISSOLUTION.**

(a) Except as herein otherwise expressly provided, the Company shall be dissolved upon the occurrence of any of the following events, unless within sixty (60) days after the occurrence of such an event, the remaining Members elect to continue the business and affairs of the Company in accordance with the provisions of this Agreement and the Act:

(1) Bankruptcy of a Member or filing of voluntary bankruptcy by a Member;

(2) Assignment for the benefit of creditors of a Member;

(3) Appointment of trustee or receiver for substantially all assets of a Member;

(4) Death, disability or adjudicated incompetency of a Member;

(5) The vote of Members holding at least two-thirds (2/3) of the Membership Interests in the Company; or

(6) Any other event, which, under the Act, would cause the dissolution of a limited liability company.

(b) Dissolution shall be effective on the date of the event giving rise to the dissolution, but the Company shall not terminate until the assets thereof have been distributed in accordance with the provisions hereinafter set forth.

**10.2 LIQUIDATION.**

(a) Upon the occurrence of dissolution, the Managers shall wind up all Company affairs, and proceed to liquidate all Company assets as promptly as is consistent with obtaining their fair value, and shall apply and distribute the proceeds in the following order:

(1) Those liabilities to creditors, in the order of priorities as provided

by law, except those liabilities to Members on account of their contribution;

(2) Those liabilities to Members in respect of their shares of the profits and other compensation by way of income on their contributions as provided in Section 8.2; and

(3) Those liabilities to Members in respect of their contributions to capital.

(b) Members shall share in the Company's assets in respect to their claims for capital and in respect to their claims for profits or for compensation by way of income on their contributions, respectively, in proportion to the respective amounts of the claims.

**10.3 TERMINATION.** The Company shall be terminated when (a) all property owned by the Company shall have been disposed of and (b) the net proceeds, if any, after satisfaction of liabilities to creditors, shall have been distributed among the Members. If there are insufficient proceeds to satisfy all liabilities to creditors, the Company shall be terminated when all assets are disposed of. The Managers may establish such reserves as he shall deem reasonably necessary to provide for any contingent or unforeseen liabilities or obligations of the Company; provided, however, that the establishment of any reserves shall not extend the term of the Company. To effect termination of the Company, the Managers or authorized Member shall file Articles of Dissolution with the Secretary of State of Florida and take such other actions as may be necessary to terminate the Company. An "authorized Member" shall be a Member or Members appointed by the Managers.

**10.4 DEFICIT CAPITAL ACCOUNTS.** Notwithstanding anything to the contrary contained in this Operating Agreement, and notwithstanding any customary rule of law to the contrary, to the extent that the deficit, if any, in the Capital Account of any Member results from or is attributable to deductions and losses of the Company (including non-cash items such as depreciation), or distributions of money to Members pursuant to the provisions of Section 8.3, upon dissolution of the Company, such deficit shall not be an asset of the Company and such Member shall not be obligated to contribute such amount to the Company to bring the balance of such Member's Capital Account to zero.

## **ARTICLE XI** **INDEMNIFICATION**

**11.1 LIABILITY OF MANAGERS.** No Manager shall be liable or accountable, in damages or otherwise, to the Company, any Member or to any other Manager for any error of judgment, for any mistakes of fact or law, for any act or omission performed or omitted by any Manager in good faith and in a manner reasonably believed by it to be within the scope of the authority granted it by this Operating Agreement and in, or not opposed to, the best interests of the Company, or for anything which it may do or refrain from doing hereafter in connection with the business and affairs of the Company, except in the case of fraud, willful misconduct, gross negligence, or for professional malpractice (negligent or otherwise).

**11.2 INDEMNITY.** The Company shall indemnify and shall hold each Manager harmless from any loss or damage, including without limitation, reasonable legal fees and court costs, incurred by it by reason of anything it may do or refrain from doing hereafter for and on behalf of the Company or in connection with its business or affairs; provided, however, that the Company shall not be required to indemnify such Manager for any loss or damage which it might incur as a result of such Manager's fraud, willful misconduct or gross negligence in the performance of its duties hereunder. The right of indemnification set forth in this Section shall be in addition to any rights to which a person or entity seeking indemnification may otherwise be entitled and shall inure to the benefit of the successors, assigns and heirs of any such person or entity. No Member shall be personally liable with respect to any claim for indemnification pursuant to this Section, but such claim shall be satisfied solely out of assets of the Company. The termination of any action, suit or proceeding shall not, of itself, create a presumption that the Manager did not act in good faith and in a manner that is reasonably believed to be in or not opposed to the best interests of the Company. Any indemnification under this Section, unless ordered by a court, shall be made by the Company only as authorized in the specific case and only upon a determination by independent legal counsel, in a written opinion, that indemnification of the Manager is proper in the circumstances because it has met the applicable standard of conduct set forth in this Section and the Act.

## **ARTICLE XII**

### **CERTIFICATES AND MEMBERS**

**12.1 CERTIFICATES.** Every Member shall be entitled to have a certificate, signed by all Managers, certifying the Membership Interest owned by it.

**12.2 REPLACEMENT CERTIFICATES.** The Managers may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Company alleged to have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Member claiming the certificates to be lost, stolen or destroyed. When authorizing such issue of a new certificate or certificates, the Managers may, in their discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or certificates, or its legal representative, to advertise the same in such manner as they shall require and/or to give the Company a bond in such sum as they may direct as indemnity against any claim that may be made against the Company with respect to the certificates alleged to have been lost, stolen or destroyed.

**12.3 TRANSFERS.** Upon surrender to the Company or the transfer agent of the Company of a certificate for a Membership Interest duly endorsed or accompanied by proper evidence of succession, assignation or authority to transfer, it shall be the duty of the Company, provided that the transfer is in compliance with the terms of this Operating Agreement, to issue a new certificate to the person entitled thereto, cancel the old certificates and record the transaction upon its books.



## **ARTICLE XIII GENERAL**

**13.1 ARBITRATION.** In the event of any controversy or claim arising out of or relating to this Agreement, the parties specifically and irrevocably agree to submit such controversy or dispute to resolution by arbitration to be conducted in Brevard County, Florida in accordance with the arbitration rules of the American Arbitration Association. A judgment upon any award or decision rendered by the arbitrator shall be entered by a court having subject matter jurisdiction therein and all parties expressly waive any challenge to the use of arbitration in accordance with this paragraph. The parties hereto agree that jurisdiction and venue for the entry of a judgment upon said arbitration award or decision shall be in Brevard County, Florida. The arbitrators are directed to award the expenses of the arbitration, including required travel and other expenses of the arbitrators and any representatives of the arbitrators, the costs and charges of the American Arbitration Association and all reasonable attorney's fees and costs to the prevailing party in the arbitration.

**13.2 APPLICABLE LAW AND LITIGATION.** This Agreement shall be construed and enforced under the laws of the State of Florida. If it becomes necessary for any party to this Agreement to institute litigation to enforce or construe any of its terms, then the prevailing party in such action shall be entitled to an award of reasonable attorney's fees and costs. Any aggrieved party may proceed to enforce its rights in the appropriate action at law or in equity. Venue for all suits arising out of this Agreement shall lie exclusively in the courts of Brevard County, Florida.

**13.3 ENTIRE AGREEMENT.** This instrument incorporates the entire agreement among the parties hereto, regardless of anything to the contrary contained in the Article or other instrument, memorandum or notice purporting to summarize the terms hereof, whether or not the same shall be recorded or published.

**13.4 AMENDMENTS.** This Agreement may not be modified or amended except as otherwise provided herein and with the unanimous consent of the Members.

**13.5 BENEFIT.** This Agreement is binding upon and shall inure to the benefit of the parties hereunder, and their respective heirs, legal representatives, successors and permitted assigns.

**13.6 CAPTIONS.** Captions are inserted for convenience only and shall not be given any legal effect.

**13.7 SEVERABILITY OF PROVISIONS.** Each provision of this Agreement shall be considered severable and if for any reason any provision which is not essential to the effectuation of the basic purposes of the Agreement is determined to be invalid and contrary to any then existing law, such invalidity shall not impair the operation of or affect those provisions of this Agreement that are valid.

**13.8 EXECUTION.** This Agreement may be executed in any number of counterparts, and each such counterpart will, for all purposes, be deemed an original instrument, but all such counterparts together with this document constitute but one and the same Agreement.

**IN WITNESS WHEREOF**, the parties have hereunto executed this Agreement or a counterpart as of the 30 day of October, 2015.

  
\_\_\_\_\_  
**CHARLES B. GENONI**  
\_\_\_\_\_  
**JOHN M. GENONI**

**EXHIBIT "A"**

Member	<u>Capital Contribution</u>	<u>Membership Interest</u>
John M. Genoni		50%
Charles B. Genoni		50%



LOT YIELD	
VILLAGE A	154 LOTS
VILLAGE B	114 LOTS
VILLAGE C	172 LOTS
VILLAGE C	440 TOTAL LOTS
TYPICAL LOT SIZE: 50' X 115'	

ZONING: RU-1-7

MAX DENSITY ALLOWED: 4 UNITS PER ACRE  
MAX LOTS ALLOWED: 110.22 AC X 4 /AC = 440 LOTS

PROJECT AREA	
110.22 AC	RU-1-7
6.53 AC	BU-1
116.75 AC	

DRAWN: R. KERN DESIGN: R. KERN CHECKED: R. KERN APPROVED: _____ D.C. _____		R.K. ENGINEERING AND ASSOCIATES OF BREVARD, INC. CONSULTING ENGINEERING AND LAND PLANNING 3206 S. HOPKINS AVE., UNIT 70 TITUSVILLE, FLORIDA 32780 CA #27334 PHONE: (321) 544-7466 EMAIL: rick@rkcvilddesign.com		HAMLIN GROVE MIMS, FLORIDA		CONCEPTUAL SUBDIVISION PLAN D 440 LOTS		NO. DATE REVISIONS APPROVED BY		SHT. 1 OF 1	
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# School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699

Mark W. Mullins, Ed.D., Superintendent

School Concurrency  
20PZ00101  
Ag Ventures



October 20, 2020

Mr. Paul Body  
Planning & Development Department  
Brevard County Board of County Commissioners  
2725 Judge Fran Jamieson Way  
Viera, Florida 32940

**RE: Proposed Hamlin Grove Development  
School Capacity Availability Determination Letter SCADL-2020-17**

Dear Mr. Paul Body,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property consists of Tax Account 2102925 (Parcel ID: 21-35-08-00-503), Tax Account 2112294 (Parcel ID: 21-35-08-00-569), a portion of Tax Account 2102924 (Parcel ID: 21-35-08-00-501) and a portion of Tax Account 2102649 (Parcel ID: 21-35-07-00-750) containing approximately 117.84 acres in District 1 Brevard County, Florida. Four Hundred Forty (440) single family dwelling units are planned for completion. The School Concurrency Determination of this proposed development has been undertaken and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in the *Brevard County Public Schools Financially Feasible Plan for 2019-20 to 2024-25* which is attached for reference.

Single Family Homes	440		
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students Generated
Elementary	0.28	123.2	123
Middle	0.08	35.2	35
High	0.16	70.4	70
<b>Total</b>	<b>0.52</b>		<b>228</b>

Planning & Project Management  
Facilities Services  
Phone: (321) 633-1000 x11418 • FAX: (321) 633-4646



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**FISH Capacity (including relocatables) from the  
Financially Feasible Plan Data and Analysis for School Years 2019-20 to 2024-25**

School	2020-21	2021-22	2022-23	2023-24	2024-25
Pinewood	569	569	569	569	569
Madison	743	743	743	743	743
Astronaut	1,446	1,446	1,446	1,446	1,446

**Projected Student Membership**

School	2020-21	2021-22	2022-23	2023-24	2024-25
Pinewood	501	517	533	546	552
Madison	518	494	474	480	527
Astronaut	1,111	1,153	1,143	1,105	1,091

**Students Generated by Previously Issued SCADL Reservations**

School	2020-21	2021-22	2022-23	2023-24	2024-25
Pinewood	90	109	109	109	109
Madison	22	22	24	27	27
Astronaut	79	93	110	110	110

**Cumulative Students Generated by  
Proposed Development**

School	2020-21	2021-22	2022-23	2023-24	2024-25
Pinewood	-	22	45	67	123
Madison	-	6	13	19	35
Astronaut	-	13	26	38	70

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

School	2020-21	2021-22	2022-23	2023-24	2024-25
Pinewood	591	648	687	722	784
Madison	540	522	511	526	589
Astronaut	1,190	1,259	1,279	1,253	1,271

**Projected Available Capacity =  
FISH Capacity - Total Projected Student Membership**

School	2020-21	2021-22	2022-23	2023-24	2024-25
Pinewood	(22)	(79)	(118)	(153)	(215)
Madison	203	221	232	217	154
Astronaut	256	187	167	193	175

At this time Pinewood Elementary School is not projected to have enough capacity for the total of projected and potential students from the Hamlin Grove development. Because there is a shortfall of available capacity in the concurrency service areas of the Hamlin Grove development, the capacity of adjacent concurrency service areas must be considered. The adjacent elementary school concurrency service area is Mims Elementary School. A table of capacities of the *Adjacent Schools Concurrency Service Area* that could accommodate the impacts of the Hamlin Grove development is shown:

<b>FISH Capacity (including relocatables) from the Financially Feasible Plan Data and Analysis for School Years 2019-20 to 2024-25</b>					
School	2020-21	2021-22	2022-23	2023-24	2024-25
Mims	725	725	725	725	725

<b>Projected Student Membership</b>					
School	2020-21	2021-22	2022-23	2023-24	2024-25
Mims	483	500	523	538	550

<b>Students Generated by Previously Issued SCADL Reservations</b>					
School	2020-21	2021-22	2022-23	2023-24	2024-25
Mims	6	6	6	14	23

<b>Cumulative Students Generated by Proposed Development</b>					
School	2020-21	2021-22	2022-23	2023-24	2024-25
Mims	-	22	45	67	123

<b>Total Projected Student Membership (includes Cumulative Impact of Proposed Development)</b>					
School	2020-21	2021-22	2022-23	2023-24	2024-25
Mims	489	528	574	619	696

<b>Projected Available Capacity = FISH Capacity - Total Projected Student Membership</b>					
School	2020-21	2021-22	2022-23	2023-24	2024-25
Mims	236	197	151	106	29

Considering the adjacent elementary school concurrency service area, there is sufficient capacity for the total projected student membership to accommodate the Hamlin Grove development. This letter is the official ***School Concurrency Availability Determination Letter (SCADL)*** for the Hamlin Grove development in accordance with Section 13.2(e) of the *Interlocal Agreement for Public School Facility Planning and School Concurrency (ILA)*.

This letter will become binding and capacity will be reserved in Brevard Public Schools for the projected student membership impact of this development when Brevard County determines final concurrency.

The School Capacity Reservation at the above schools is valid for 24 months from the date of this letter. At that time, if the project has not received approval from Brevard County, a Time Extension application can be submitted to the School Board through Brevard County. A maximum of 2 additional years can be requested. If the final plat approval has not been completed after the 2-year Time Extension is granted, a new application for School Concurrency must be submitted.

Also, in accordance with Section 13.2(f) of the ILA, so that the school district can track capacity reservations, please provide notification:

1. When this residential development has received a Concurrency Evaluation Finding of Nondeficiency or functional equivalent.
2. The date the development order expires, is extended, or is revoked.
3. When the concurrency reservations become vested.
4. When the school impact fees have been paid.

We appreciate the opportunity to review this proposed project. Please let us know if you require additional information.

Sincerely,



Karen M. Black, AICP Candidate  
Manager – Facilities Planning & Intergovernmental Coordination  
Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for 2019-20 to 2024-25*

Copy: Susan Hann, Assistant Superintendent of Facilities Services  
File SCADL-2020-17

David G. Lindemann, AICP, Director of Planning & Project Management, Facilities Services  
File SCADL-2020-17



# Brevard County Public Schools

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

### Data and Analysis for School Years 2019-20 to 2024-25



Summary				2019-20		2020-21		2021-22		2022-23		2023-24		2024-25	
Highest Utilization Elementary Schools:				104%		99%		100%		99%		100%		100%	
Highest Utilization Middle Schools:				90%		93%		93%		92%		90%		94%	
Highest Utilization Jr / Sr High Schools:				85%		85%		86%		88%		89%		93%	
Highest Utilization High Schools:				95%		98%		99%		96%		97%		100%	

School	Type	Grades	Utilization Factor	School Year 2019-20			School Year 2020-21			School Year 2021-22			School Year 2022-23			School Year 2023-24			School Year 2024-25		
				FISH Capacity	10/11/19 Membership	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization
Elementary School Concurrency Service Areas																					
New Viera	Elementary	K-6	100%	-	-	0%	970	400	41%	970	440	46%	970	479	49%	970	516	53%	970	547	56%
Allen	Elementary	PK-6	100%	751	733	98%	751	741	99%	773	760	98%	795	786	99%	817	815	100%	839	835	100%
Andersen	Elementary	K-6	100%	884	718	81%	884	867	75%	884	889	73%	884	863	75%	884	857	74%	884	844	73%
Apollo	Elementary	K-6	100%	902	836	93%	902	876	97%	926	920	100%	946	936	99%	968	955	99%	990	989	100%
Atlantis	Elementary	PK-6	100%	739	670	91%	739	691	94%	739	720	97%	739	722	98%	739	733	99%	739	735	99%
Audubon	Elementary	PK-6	100%	761	533	70%	761	489	64%	761	477	63%	761	475	62%	761	465	61%	761	456	60%
Cambridge	Elementary	PK-6	100%	765	632	83%	765	601	79%	765	588	77%	765	581	77%	765	597	78%	765	598	78%
Cape View	Elementary	PK-6	100%	570	360	63%	570	343	60%	570	334	59%	570	347	61%	570	344	60%	570	349	61%
Carroll	Elementary	K-6	100%	751	670	89%	751	710	95%	751	685	92%	751	707	94%	751	727	97%	773	771	100%
Challenger 7	Elementary	PK-6	100%	573	543	95%	573	544	95%	573	565	99%	573	566	99%	595	576	97%	595	586	98%
Columbia	Elementary	PK-6	100%	751	432	58%	751	407	54%	751	430	57%	751	453	60%	751	466	62%	751	476	63%
Coquina	Elementary	K-6	100%	711	520	73%	711	564	79%	711	571	80%	711	576	81%	711	581	82%	711	580	82%
Creel	Elementary	PK-6	100%	1,154	825	71%	1,154	843	73%	1,154	829	72%	1,154	831	72%	1,154	813	70%	1,154	815	71%
Croton	Elementary	PK-6	100%	795	523	66%	795	494	62%	795	505	64%	795	519	65%	795	524	66%	795	532	67%
Discovery	Elementary	PK-6	100%	980	646	66%	982	639	72%	980	647	73%	982	652	73%	982	662	73%	982	660	74%
Endeavour	Elementary	PK-6	100%	990	652	66%	990	640	65%	990	637	64%	990	602	61%	990	585	59%	990	547	55%
Enterprise	Elementary	K-6	100%	729	607	83%	729	598	82%	729	611	84%	729	609	84%	729	614	84%	729	615	84%
Fairglens	Elementary	PK-6	100%	789	667	85%	789	625	79%	789	655	83%	789	675	86%	789	671	85%	789	694	88%
Gemini	Elementary	K-6	100%	711	475	67%	711	502	71%	711	481	68%	711	488	69%	711	497	70%	711	510	72%
Golfview	Elementary	PK-6	100%	777	508	65%	777	472	61%	777	470	60%	777	548	71%	777	542	70%	777	554	71%
Harbor City	Elementary	PK-6	100%	629	366	58%	629	361	57%	629	378	60%	629	403	64%	629	405	64%	629	398	63%
Holland	Elementary	PK-6	100%	605	502	83%	605	502	83%	605	501	83%	605	495	82%	605	484	80%	605	462	76%
Imperial Estates	Elementary	K-6	100%	729	629	86%	729	610	84%	729	604	83%	729	618	85%	729	625	86%	729	638	88%
Indiantan	Elementary	K-6	100%	798	732	92%	798	729	91%	798	714	89%	798	709	89%	798	702	88%	798	694	87%
Jupiter	Elementary	PK-6	100%	930	722	78%	930	699	75%	930	705	76%	930	721	78%	930	725	78%	930	732	79%
Lookmar	Elementary	PK-6	100%	892	682	76%	892	672	75%	892	665	74%	892	652	73%	892	598	67%	892	589	66%
Longleaf	Elementary	PK-6	100%	790	646	82%	790	582	74%	790	588	74%	790	576	73%	790	581	74%	790	581	74%
Manatee	Elementary	K-6	100%	998	995	100%	998	995	100%	998	995	100%	998	997	100%	998	990	99%	998	978	98%
McAuliffe	Elementary	PK-6	100%	918	740	81%	918	719	78%	918	731	80%	918	709	77%	918	710	77%	918	698	76%
Meadowlane Intermediate	Elementary	3-5	100%	1,114	836	75%	1,114	834	75%	1,114	810	73%	1,114	966	87%	1,136	1,070	94%	1,180	1,185	99%
Meadowlane Primary	Elementary	K-6	100%	824	680	83%	824	739	90%	824	736	90%	824	767	93%	846	812	96%	868	850	98%
Mila	Elementary	PK-6	100%	707	463	65%	707	469	66%	707	489	69%	707	487	69%	707	500	71%	707	509	72%
Mims	Elementary	PK-6	100%	725	452	62%	725	489	67%	725	490	67%	725	523	72%	725	538	74%	725	550	76%
Oak Park	Elementary	PK-6	100%	968	642	66%	968	637	66%	968	602	62%	968	586	61%	968	561	58%	968	521	54%
Ocean Breeze	Elementary	PK-6	100%	654	559	85%	654	586	90%	654	578	88%	654	585	89%	654	595	91%	654	600	92%
Palm Bay	Elementary	PK-6	100%	983	641	65%	983	627	64%	983	644	66%	983	658	67%	983	741	75%	983	766	78%
Pinewood	Elementary	PK-6	100%	569	496	87%	569	501	88%	569	517	91%	569	533	94%	569	546	96%	569	552	97%
Port Malabar	Elementary	PK-6	100%	852	713	84%	852	680	80%	852	684	80%	852	666	79%	852	777	91%	852	802	94%
Quest	Elementary	PK-6	100%	1,152	1,196	104%	1,152	969	84%	1,152	960	83%	1,152	945	82%	1,152	1,021	89%	1,152	1,037	90%
Riviera	Elementary	PK-6	100%	777	699	90%	777	707	91%	777	739	95%	777	765	94%	777	1,014	100%	777	1,000	92%
Roosevelt	Elementary	K-6	100%	599	346	58%	599	317	53%	599	311	52%	599	287	48%	599	276	46%	599	252	42%
Sabal	Elementary	PK-6	100%	785	563	72%	785	567	71%	785	560	71%	785	584	74%	785	592	75%	785	591	75%
Satum	Elementary	PK-6	100%	976	845	87%	976	845	87%	976	858	88%	976	857	88%	976	805	83%	976	976	100%
Sea Park	Elementary	PK-6	100%	461	338	73%	461	308	67%	461	319	69%	461	341	74%	461	342	74%	461	317	69%
Sherwood	Elementary	PK-6	100%	609	461	76%	609	488	72%	609	488	72%	609	421	69%	609	427	70%	609	435	71%
South Lake	Elementary	K-6	100%	481	351	73%	481	372	77%	481	372	77%	481	372	77%	481	372	77%	481	372	77%
Sunrise	Elementary	PK-6	100%	913	798	87%	913	746	82%	913	733	80%	913	791	87%	913	817	89%	913	835	91%
Suntree	Elementary	K-6	100%	755	675	89%	755	619	82%	755	608	81%	755	562	74%	755	596	79%	755	607	80%
Surfside	Elementary	K-6	100%	541	481	89%	541	460	85%	541	460	85%	541	450	83%	541	436	81%	541	424	78%
Tropical	Elementary	K-6	100%	910	804	88%	910	803	88%	910	799	87%	910	757	83%	910	745	82%	910	708	78%
Turner	Elementary	PK-6	100%	874	595	68%	874	577	66%	874	558	64%	874	538	62%	874	528	60%	874	543	62%
University Park	Elementary	PK-6	100%	811	479	59%	811	454	56%	811	455	56%	811	636	78%	811	644	79%	811	661	82%
Westside	Elementary	K-6	100%	857	773	90%	857	734	86%	857	695	81%	857	702	82%	857	709	83%	857	750	88%
Williams	Elementary	PK-6	100%	715	574	80%	715	499	70%	715	495	69%	715	494	69%	715	480	67%	715	474	66%
Elementary Totals				41,984	33,013		42,866	32,576		43,954	32,793		43,108	33,238		43,306	34,093		43,604	34,560	



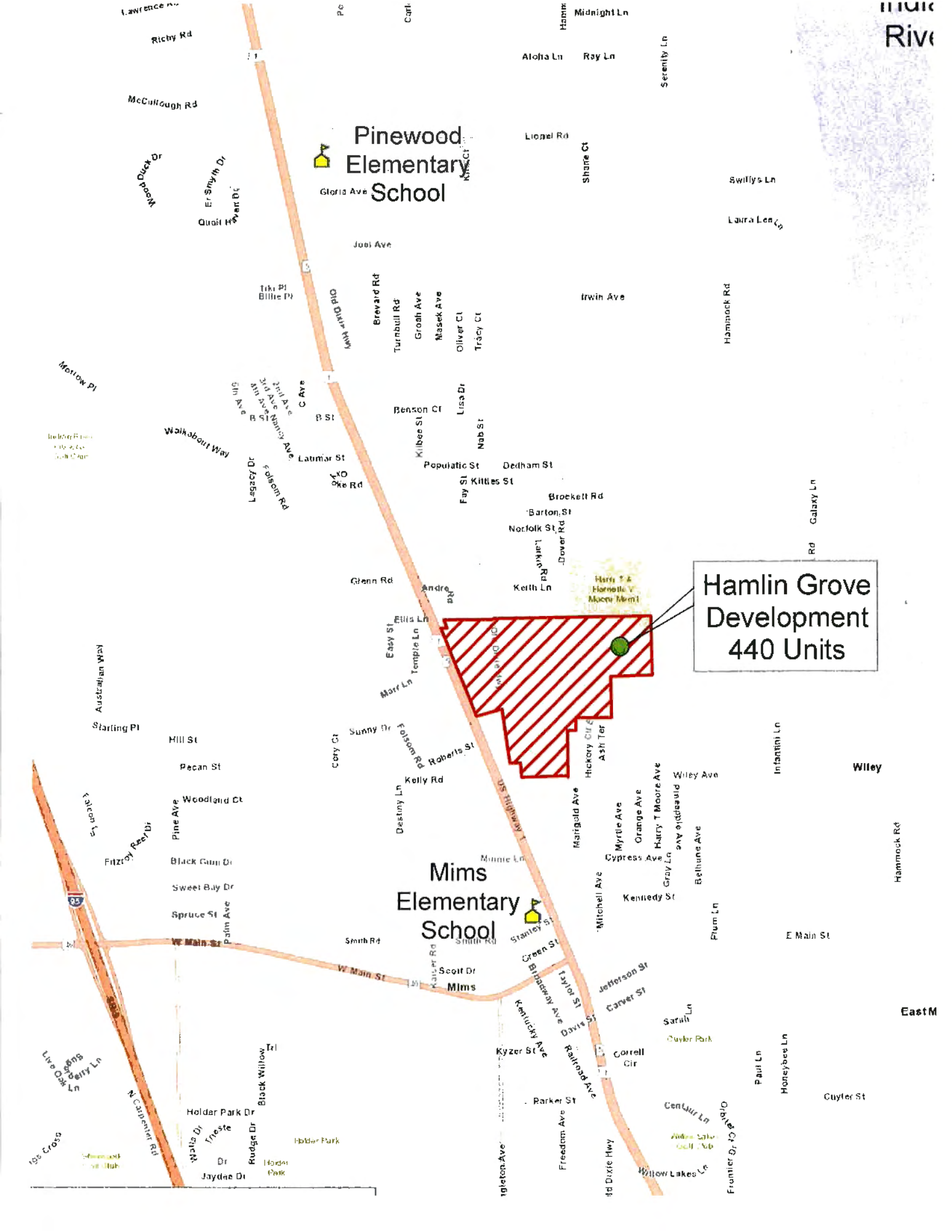
Middle School Concurrency Service Areas																					
Central	Middle	7-8	90%	1,505	1,181	78%	1,505	1,184	78%	1,505	1,075	71%	1,505	1,042	69%	1,505	1,138	76%	1,505	1,170	78%
DeLaura	Middle	7-8	90%	939	844	90%	939	872	93%	939	873	93%	939	862	92%	939	816	87%	939	884	94%
Hoover	Middle	7-8	90%	659	494	75%	659	500	76%	659	509	77%	659	504	76%	659	475	72%	659	500	76%
Jackson	Middle	7-8	90%	654	537	82%	654	570	87%	654	571	87%	654	558	85%	654	588	90%	654	594	91%
Jefferson	Middle	7-8	90%	854	689	81%	854	664	78%	854	680	79%	854	616	72%	854	576	67%	854	580	68%
Johnson	Middle	7-8	90%	997	744	75%	997	747	75%	997	728	73%	997	660	66%	997	684	69%	997	714	72%
Kennedy	Middle	7-8	90%	813	657	81%	813	713	88%	813	695	86%	813	709	87%	813	684	84%	813	683	84%
Madison	Middle	7-8	90%	743	528	71%	743	518	70%	743	484	65%	743	474	64%	743	480	65%	743	527	71%
McNair	Middle	7-8	90%	611	489	80%	611	481	79%	611	479	78%	611	514	84%	611	545	89%	611	533	87%
Southwest	Middle	7-8	90%	1,177	898	76%	1,177	900	76%	1,177	895	76%	1,177	800	68%	1,177	780	66%	1,177	781	66%
Stone	Middle	7-8	90%	1,024	769	75%	1,024	792	77%	1,024	858	84%	1,024	760	74%	1,024	813	79%	1,024	898	88%
Middle Totals				9,976	7,830		9,976	7,941		9,976	7,797		9,976	7,499		9,976	7,579		9,976	7,864	
Junior / Senior High School Concurrency Service Areas																					
Cocoa	Jr / Sr High	PK, 7-12	90%	2,067	1,610	78%	2,067	1,632	78%	2,067	1,763	85%	2,067	1,822	88%	2,067	1,841	89%	2,067	1,913	93%
Cocoa Beach	Jr / Sr High	7-12	90%	1,466	1,003	68%	1,466	1,002	68%	1,466	988	67%	1,466	951	65%	1,466	921	63%	1,466	885	60%
Space Coast	Jr / Sr High	7-12	90%	1,857	1,584	85%	1,857	1,577	85%	1,857	1,598	86%	1,857	1,552	84%	1,857	1,503	81%	1,857	1,513	81%
Jr / Sr High Totals				5,390	4,197		5,390	4,211		5,390	4,347		5,390	4,325		5,390	4,265		5,390	4,311	
Senior High School Concurrency Service Areas																					
Astronaut	High	9-12	95%	1,446	1,055	73%	1,446	1,111	77%	1,446	1,163	80%	1,446	1,143	79%	1,446	1,105	76%	1,446	1,091	75%
Bayside	High	9-12	95%	2,257	1,646	73%	2,257	1,654	74%	2,257	1,755	78%	2,257	1,765	78%	2,257	1,789	79%	2,257	1,778	79%
Eau Gallie	High	PK, 9-12	95%	2,232	1,689	76%	2,232	1,690	74%	2,232	1,716	77%	2,232	1,688	75%	2,232	1,688	76%	2,232	1,723	77%
Heritage	High	9-12	95%	2,314	1,889	82%	2,314	1,927	83%	2,314	1,998	86%	2,314	1,955	84%	2,314	1,957	85%	2,314	2,005	87%
Melbourne	High	9-12	95%	2,356	2,140	91%	2,356	2,112	90%	2,356	2,237	95%	2,356	2,263	96%	2,356	2,291	97%	2,356	2,348	100%
Meritt Island	High	PK, 9-12	95%	1,915	1,527	80%	1,915	1,567	82%	1,915	1,593	83%	1,915	1,499	78%	1,915	1,437	75%	1,915	1,388	72%
Palm Bay	High	PK, 9-12	95%	2,602	1,413	54%	2,602	1,389	53%	2,602	1,537	59%	2,602	1,629	63%	2,602	1,771	68%	2,602	1,838	71%
Rockledge	High	9-12	95%	1,701	1,518	89%	1,701	1,540	91%	1,701	1,565	92%	1,701	1,530	90%	1,701	1,543	91%	1,701	1,600	94%
Satellite	High	PK, 9-12	95%	1,516	1,422	94%	1,516	1,489	98%	1,516	1,520	100%	1,516	1,484	97%	1,516	1,475	96%	1,516	1,390	91%
Titusville	High	9-12	95%	1,848	1,310	71%	1,848	1,285	70%	1,848	1,289	70%	1,848	1,321	71%	1,848	1,300	70%	1,848	1,329	72%
Viera	High	PK, 9-12	95%	2,277	2,154	95%	2,277	2,136	94%	2,277	2,187	96%	2,277	2,195	96%	2,277	2,231	98%	2,277	2,395	100%
High Totals				22,464	17,763		22,464	17,860		22,468	18,504		22,488	18,466		22,559	18,587		22,606	18,885	
Schools of Choice (Not Concurrency Service Areas)																					
Freedom 7	Elementary	K-6	100%	475	404	85%	475	414	87%	475	414	87%	475	414	87%	475	414	87%	475	414	87%
Stevenson	Elementary	K-6	100%	569	504	89%	569	508	89%	569	508	89%	569	506	89%	569	508	89%	569	508	89%
West Melbourne	Elementary	K-6	100%	618	548	89%	618	552	89%	618	552	89%	618	552	89%	618	552	89%	618	552	89%
Edgewood	Jr / Sr High	7-12	90%	1,072	942	88%	1,072	950	89%	1,072	950	89%	1,072	950	89%	1,072	950	89%	1,072	950	89%
West Shore	Jr / Sr High	7-12	90%	1,264	951	75%	1,264	956	76%	1,264	956	76%	1,264	956	76%	1,264	956	76%	1,264	956	76%
Schools of Choice				3,998	3,348		3,998	3,360		3,998	3,360		3,998	3,360		3,998	3,360		3,998	3,360	
Brevard Totals				83,812	66,152		84,694	65,968		84,908	66,821		84,960	66,908		85,229	67,904		85,474	69,000	

- Notes**
1. FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2019-20 are reported from the FISH database as of October 9, 2019.
  2. Student Membership is reported from the Fall Final Membership Count (10/11/19).
  3. Davis Demographics SchoolSite Enrollment Forecasting Extension for ArcGIS estimates future student populations by analyzing the following data:
    - Development: Projections from Brevard County Local Government Jurisdictions
    - Brevard County School Concurrency Student Generation Multipliers (SGM)
    - Fall Membership student addresses and corresponding concurrency service areas
    - Student Mobility Rates / Cohort Survival Rates
    - Brevard County Birth rates by zip code
  4. Davis Demographics estimates are then adjusted using the following factors:
    - PK (Pre-Kindergarten) and AH (daycare for students with infants) enrollment number are assumed to be constant
    - Current From/To attendance patterns are assumed to remain constant
    - Noncoded student addresses are assumed to continue in their attendance schools.
    - Charter School Growth
  5. In order to maintain utilization rates lower than the 100% Level of Service, Permanent Capacity and Relocatable Classrooms are assumed to add future student stations as necessary.
  6. Relocatable Classrooms are assumed to add future student stations as listed below:
    - Primary relocatable classrooms (Grades K-3) = 18 student stations. Intermediate (Grades 4-8) relocatable classrooms = 22 student stations, and High School (Grades 9-12) relocatable classrooms = 25 student stations
    - Intermediate relocatable classrooms are proposed to be added at Apollo Elementary, Challenger 7 Elementary, Coquina Elementary, Imperial Estates Elementary, Pinewood Elementary, Quest Elementary, Saturn Elementary, Sunrise Elementary, DeLaura Middle School, Jackson Middle School and Kennedy Middle (Total of 42 Classrooms).
    - High school relocatable classrooms are proposed to be added at Viera High (Total of 8 Classrooms)
  7. Redistricting was approved for the 2020-21 school year and the projected enrollment for 2020-21 is adjusted for those areas. Future redistricting is planned for a new central area elementary school in 2020-21
  8. The following proposals for additional permanent capacity are included in this analysis.
    - A new central area elementary is assumed to add 970 student stations starting in 2020-21. Student enrollment projections were adjusted for the 2020-21 school year.

Pinewood  
Elementary  
School

Hamlin Grove  
Development  
440 Units

Mims  
Elementary  
School





Owner's Name: Ag Ventures, LLC  
Hearing Date: January 11, 2021

20P200101

**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 Lock,  
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.

B. Lock  
Signature

Sworn and Subscribed before me, this 21<sup>st</sup> day of December.

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

K. Kennedy  
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.#
12/21/2020	21-35-08-00-503	20Z200101



Brian Lock

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 11, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodggers; Ben Glover; Joe Buchanan; and Peter Filiberto, Vice Chair.

Staff members present were: Tad Calkins, Planning and Development Director; George Ritchie, Planner III; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Ag Ventures (Chad Genoni)**

A BDP (Binding Development Plan) limiting density to 4 units per acre for consistency with the RES 4 (Residential 4) Future Land Use designation, in an RU-1-7 (Single-Family Residential) zoning classification. The property is 110 acres +/-, located on the north side of Wiley Ave., and the east side of Old Dixie Hwy., approx. 0.047 mile east of U.S. Hwy 1 (No assigned address. In the Mims area.) (20PZ00101) (Tax Accounts 2102924, 2102925, and 2112294) (District 1)

Chad Genoni stated he is available to answer any questions.

No public comment.

Ron Bartcher stated the request is to essentially change the residential density from 4 units per acre to 8 units per acre, almost more than that; lots of 5,000 square feet, house sizes of 700 square feet. He said the area is designated as RES 4, which is 4 units per acre and ¼ acre lots at 10,000 square feet, and the proposed lots are half that size. He said that kind of development is extremely dense for a rural area. He noted the board approved a development similar to this at the south end of Mims, right next to Titusville, and he knows Mr. Genoni tried to get his property annexed into the City and the City decided to not annex it. He stated Mr. Genoni then came to the Planning and Zoning Board with essentially the same development plan and now he's bringing that same development plan into the center of Mims. He said he is strongly opposed to it, as it doesn't go along with the Mims Small Area Study that was passed several years ago.

Peter Filiberto noted there would be a deficiency in schools, for Pinewood Elementary, which means the students who would move into the proposed development would have to go to Mims Elementary. He said he didn't see anything in the staff comments in regards to transportation or public safety.

Tad Calkins stated there were no issues with concurrency and there was nothing from Fire Rescue or Public Safety related to the project. He said the rezoning of the property was approved in 2014 with a proposed limitation of 370 units, so the applicant is coming back today and asking for 400 units.

Ben Glover asked if he can build 370 units on the property as of right now. Mr. Calkins stated the applicant needs a BDP for the 370 units. With the application for the zoning, it is inconsistent with the land use, so he needs to have the cap with the BDP to limit the density of the property to match, which is what Mr. Bartcher is indicating as his concern because with the zoning he can have a smaller lot, yet he's maintaining the density of the land use. It allows for a type of cluster development

where there can be smaller lots and greater open space but the whole area is not taken up in the lot size.

Joe Buchanan asked if the proposed subdivision will be serviced by Brevard County sewer and water. Mr. Calkins replied the applicant has indicated he will have sewer and water on the site.

Mr. Filiberto stated with the property's proximity to the Lagoon, it is an advantage to hook up to water and sewer.

Mr. Glover stated it is a lot of units per acre, but he likes the fact that there will not be septic tanks.

Mr. Bartcher stated he is split because he likes the idea of cluster development, and that's exactly what he's doing, but it's a rural area and those kinds of developments don't fit in a rural area. He said he is fine with the RES 4, it's the RU-1-7 zoning that is the problem for him.

Mr. Calkins noted if the board is concerned about the number of units, lot size could be something to discuss with the applicant.

Mr. Genoni stated the zoning was approved in 2014 as RU-1-7, and with that he could have 6 units per acre. He said he was asked by staff to file this request to limit it to four units per acre, and that's his understanding of why he is here. He said he has RU-1-7 zoning and he is here today as a formality to be consistent. He said he worked everything out with the community in 2014, and without the BDP he could have up to 6 units per acre in that zoning.

Mr. Calkins stated he believes Mr. Genoni would not be allowed to have that zoning classification with the land use limit without a BDP, and records indicate there was a proposed BDP in 2014 limited to 370 units.

Mr. Genoni stated that is not his recollection. He said he had an additional 20 acres that he was trying to rezone and he took that off the table, and that was his understanding of why the BDP was not required, because he took that land off the table. He said the property was rezoned and he has been proceeding the whole time as if he had RU-1-7 zoning, but when he came in with the site plan he was told he needed a BDP.

George Ritchie stated he thought there was a commercial component as well, as part of the applicant's request, so there was a lot of information going back and forth and the BDP was to make the zoning consistent. He said RU-1-7 is consistent with RES 6 in the higher Future Land Use designations, but it's not consistent with RES 4.

Mr. Bartcher stated in 2014 he was the President of the Mims Community Group and they followed the development very closely. There was some land that was going to be taken out of residential and put into commercial; that was part of the entire package, but as far as the 110 acres, that was going to be 370 houses. He said he remembers somebody saying there needed to be a BDP, but it's obvious there was a lot of other discussion at the same time and it fell through the cracks.

Motion by Ben Glover, seconded by Ron Bartcher, to deny the request for a BDP limiting density to 4 units per acre for consistency with the RES 4 Future Land Use designation, in an RU-1-7 zoning classification. The motion passed 4:2, with Hodgers and Buchanan voting nay.

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

## **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ between the BOARD OF COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and Ag Ventures, LLC (hereinafter referred to as Owner").

### **RECITALS**

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

WHEREAS, Developer/Owner has rezoned the property to RU 1-7 zoning classification and desires to develop the Property as a Single-Family Subdivision, and pursuant to the Brevard County Code, Section 62-1157; and

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

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

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall limit the project density to 4 units per acre to be consistent with the Future Land Use designation of RES 4
3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against





changes to the Comprehensive Plan or land development regulations as they may apply to this Property.

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

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

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

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

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

ATTEST:

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

\_\_\_\_\_  
Scott Ellis, Clerk  
(SEAL)

\_\_\_\_\_  
\_\_\_\_\_  
As approved by the Board on \_\_\_\_\_ Chair

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

WITNESSES:

Tanya Ludzieski  
Tanya Ludzieski

(Witness Name typed or printed)

Louise Boivin

Louise Boivin  
(Witness Name typed or Printed)

OWNER

Ag Ventures, LLC

Charles B. Geroni as Manager Member  
4760 N. US1 #201 Melbourne FL 32935

STATE OF Florida

COUNTY OF Brevard

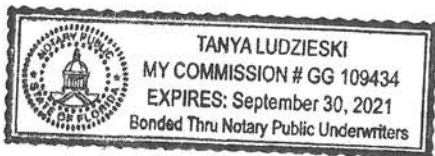
The foregoing instrument was acknowledged before me this 22 day of Oct, 2020

by Charles Geroni, as MG/CM of AG Ventures, LLC

who is personally known or produced \_\_\_\_\_ as identification.

My commission expires 9/30/21  
Commission no. GG 109434  
SEAL

Tanya Ludzieski  
Notary Public  
(Name typed, printed or stamped)



**Exhibit "A"**

1. W 1/2 OF SW 1/4 EX DB 357 PG 121, E 140 FT OF S 756 OF SW 1/4 OF SW 1/4 & RD R/W PAR 502 (EXCEPT PARTS THEREFROM DEEDED TO HOUSING AUTHORITY OF BREVARD COUNTY, FLORIDA, AS DESCRIBED IN DEED BOOK 356, PAGE 121; ALSO EXCEPT SOUTH 620 FEET OF THE EAST 100 FEET OF SOUTHWEST ONE-QUARTER OF SOUTHWEST ONE-QUARTER OF SAID SECTION 8).

**Tax ID 2102924 (68 acres)**

EXCEPTING RIGHT-OF-WAY FOR PUBLIC ROADS AND ALL LANDS DESCRIBED ABOVE LYING WEST OF OLD DIXE HWY.

2. TOGETHER WITH:

PART OF E 1/2 OF SW 1/4 AS DESC IN ORB 5424 PG 5046

**Tax ID 2112294 (40 acres)**

3. TOGETHER WITH:

PART OF NW 1/4 OF SW 1/4 AS DES IN DB 357 PG 121

**Tax ID 2102925 (2 acres)**

**From:** [Woodard, Patrick](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Schmadeke, Adrienne](#); [Bellak, Christine](#)  
**Subject:** FW: Concerns regarding proposed BDP in Mims  
**Date:** Monday, February 1, 2021 4:54:47 PM

---

Jennifer,

Please see that this public comment was sent to our office.

Regards,

*Pat Woodard*



**Pat Woodard**  
**Chief Legislative Aide to Commissioner Smith**  
Brevard County, District 4  
[321.633.2044](tel:321.633.2044) | [Patrick.Woodard@brevardfl.gov](mailto:Patrick.Woodard@brevardfl.gov)  
2725 Judge Fran Jamieson Way, Bldg. C - Suite 214,  
Viera, FL 32940

***Please note:***

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

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**From:** Gabriel Quintas <laustibichriste94@gmail.com>  
**Sent:** Monday, February 01, 2021 3:38 PM  
**To:** Commissioner, D4 <D4.Commissioner@brevardfl.gov>  
**Subject:** Concerns regarding proposed BDP in Mims

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

Dear Commissioner Smith,

My family and I are proud residents of Mims. We intentionally moved to an area of the County known for its rural and agricultural lifestyle where highly-dense urban-type developments would not be present. As a professional planner employed by a local municipality, I am well acquainted with planning theory and best planning practices as well as land-use trends and developments in the North Brevard area. I am not presenting an opinion on behalf of the municipality for which I work,



but I do wish to express my professional planning opinion on the binding development plan presented by AG Ventures for allowance of a 440-lot residential subdivision just north of Wiley Avenue in Mims which will be considered by the Commission this Thursday afternoon. It is my firm belief that approval of the binding development plan as submitted by the developer would defy the goals and objectives of the Comprehensive Plan and introduce a highly-dense, incompatible development pattern into an area where residents value low-density development patterns and a rural way of life.

I recognize that the existing zoning is incompatible with the underlying future land use designation per Section 62-1255 (b)(2) of the Land Development Regulations. With good reason, the most intense single-family detached residential zoning district permissible by the land development regulations in the Residential-4 land use category is RU-1-11 which requires a minimum lot size of 7,500 square feet and a minimum home size of 1,100 square feet. The RES4 land use category was not intended to allow high-density developments as proposed by the binding development plan. The character of the surrounding area consists mainly of single-family residential lots ranging between 7,500 - 11,000 square feet. The smallest lots in the immediate vicinity, located directly east of the subject site, are approximately 7,405 square feet. Furthermore, while a very small number of homes containing a living area of approximately 800 square feet exist east of the site, a review of the home sizes of single-family residences in the general vicinity of the site reveals that a majority of the homes in this area contain a minimum living area of approximately 1,000 square feet.

Additionally, the Comprehensive Plan prioritizes "the development of residential neighborhoods that offer *the highest quality of life to the citizenry*" by prioritizing "the compatibility of the new development with its surroundings" and the creation of "neighborhoods that complement adjacent land uses." The binding development plan and associated conceptual plan that will be considered Thursday would allow 5,000 square-foot lots and a minimum of 700 square-foot homes which presents a development that is completely out of character with the existing residential development in this of Mims. It is for this reason that I am urging you to vote to deny the development plan as presented and recommend a rezoning to, at a minimum, RU-1-11 to ensure consistency of the zoning district with the Future Land Use Map and with the established character and density of the area surrounding the development.

If the Commission deems it more practical to place conditions of approval on the binding development plan, rather than rezone the site as recommend above, then my recommendation to maintain consistency with the Comprehensive Plan and the prevailing character of the area is that the development be required to maintain a minimum lot size of 7,500 square feet with a minimum lot width of 75 feet and that the minimum home size be required to be 1,100 square feet as required for single-family lots in the RU-1-11 zoning district (LDR Section 62-1340). I would further encourage that any development on the site be required, at the developer's expense, to connect to County potable water and sanitary sewer facilities due to the proximity of the area to the Indian River and the continued detriment that the proliferation of septic tank systems could pose to the water quality in the Indian River Lagoon. Additional recommendations based on the conceptual plan submitted include the following: that the entire perimeter of the development, including subject development bordering US Highway 1, Wiley Avenue, and Old Dixie Highway, be required to incorporate 15-foot vegetative buffers with the exception of the perimeter buffer along the adjacent

parcel zoned IU, which should increase to 30 feet wide as proposed on the conceptual plan, with plantings meeting the minimum requirements of Appendix B referenced in Section 62-4342 of the Land Development Regulations; a requirement for a system of paved walking trails connecting the various proposed parks throughout the development as an amenity for the residents; that the entire length of Old Dixie Highway adjacent to the development be surfaced and improved to County standards including any necessary right-of-way dedication to the County by the development to arrive at the minimum right-of-way width required for the designated road classification; and that any dead-end roads within the development be required to terminate in a cul-de-sac to facilitate access and circulation of emergency vehicles.

Thank you for your consideration and for your dedication to our County.

Sincerely,

Gabriel Quintas  
Mims, Florida

**From:** [Commissioner, D1](#)  
**To:** [Jones, Jennifer](#)  
**Cc:** [Mascellino, Carol](#)  
**Subject:** Public Comment on Item H.4 for Zoning Meeting on Feb. 4th  
**Date:** Tuesday, February 2, 2021 3:08:16 PM  
**Attachments:** [image001.png](#)

---

Hi Jennifer,

Please include the below email as public comment on Item H.4 for Zoning Meeting on Feb. 4<sup>th</sup>

Best Regards,

***Nate Smith***

Legislative Aide to Commissioner Rita Pritchett



***District 1 Commission Office***  
**2000 South Washington Avenue, Suite 2**  
**Titusville, FL 32780**  
**321-607-6901**

***Please note:***

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**From:** Gabriel Quintas <laustibichriste94@gmail.com>  
**Sent:** Monday, February 1, 2021 3:31 PM  
**To:** Commissioner, D1 <D1.Commissioner@brevardfl.gov>  
**Subject:** Concerns regarding proposed BDP in Mims

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

Dear Commissioner Pritchett,

I would like to congratulate you on your re-election to serve District 1. My family and I were eager to cast our votes for you back in November.

My family and I are proud residents of Mims. We intentionally moved to an area of the County known for its rural and agricultural lifestyle where highly-dense urban-type developments would not be present. As a professional planner employed by a local municipality, I am well acquainted with planning theory and best planning practices as well as land-use trends and developments in the North Brevard area. I am not presenting an opinion on behalf of the municipality for which I work, but I do wish to express my professional planning opinion on the binding development plan presented by AG Ventures for allowance of a 440-lot residential subdivision just north of Wiley Avenue in Mims which will be considered by the Commission this Thursday afternoon. It is my firm belief that approval of the binding development plan as submitted by the developer would defy the goals and objectives of the Comprehensive Plan and introduce a highly-dense, incompatible development pattern into an area where residents value low-density development patterns and a rural way of life.

I recognize that the existing zoning is incompatible with the underlying future land use designation per Section 62-1255 (b)(2) of the Land Development Regulations. With good reason, the most intense single-family detached residential zoning district permissible by the land development regulations in the Residential-4 land use category is RU-1-11 which requires a minimum lot size of 7,500 square feet and a minimum home size of 1,100 square feet. The RES4 land use category was not intended to allow high-density developments as proposed by the binding development plan. The character of the surrounding area consists mainly of single-family residential lots ranging between 7,500 - 11,000 square feet. The smallest lots in the immediate vicinity, located directly east of the subject site, are approximately 7,405 square feet. Furthermore, while a very small number of homes containing a living area of approximately 800 square feet exist east of the site, a review of the home sizes of single-family residences in the general vicinity of the site reveals that a majority of the homes in this area contain a minimum living area of approximately 1,000 square feet.

Additionally, the Comprehensive Plan prioritizes "the development of residential neighborhoods that offer *the highest quality of life to the citizenry*" by prioritizing "the compatibility of the new development with its surroundings" and the creation of "neighborhoods that complement adjacent land uses." The binding development plan and associated conceptual plan that will be considered Thursday would allow 5,000 square-foot lots and a minimum of 700 square-foot homes which presents a development that is completely out of character with the existing residential development in this of Mims. It is for this reason that I am urging you to vote to deny the development plan as presented and recommend a rezoning to, at a minimum, RU-1-11 to ensure consistency of the zoning district with the Future Land Use Map and with the established character and density of the area surrounding the development.

If the Commission deems it more practical to place conditions of approval on the binding development plan, rather than rezone the site as recommend above, then my recommendation to maintain consistency with the Comprehensive Plan and the prevailing character of the area is that



the development be required to maintain a minimum lot size of 7,500 square feet with a minimum lot width of 75 feet and that the minimum home size be required to be 1,100 square feet as required for single-family lots in the RU-1-11 zoning district (LDR Section 62-1340). I would further encourage that any development on the site be required, at the developer's expense, to connect to County potable water and sanitary sewer facilities due to the proximity of the area to the Indian River and the continued detriment that the proliferation of septic tank systems could pose to the water quality in the Indian River Lagoon. Additional recommendations based on the conceptual plan submitted include the following: that the entire perimeter of the development, including subject development bordering US Highway 1, Wiley Avenue, and Old Dixie Highway, be required to incorporate 15-foot vegetative buffers with the exception of the perimeter buffer along the adjacent parcel zoned IU, which should increase to 30 feet wide as proposed on the conceptual plan, with plantings meeting the minimum requirements of Appendix B referenced in Section 62-4342 of the Land Development Regulations; a requirement for a system of paved walking trails connecting the various proposed parks throughout the development as an amenity for the residents; that the entire length of Old Dixie Highway adjacent to the development be surfaced and improved to County standards including any necessary right-of-way dedication to the County by the development to arrive at the minimum right-of-way width required for the designated road classification; and that any dead-end roads within the development be required to terminate in a cul-de-sac to facilitate access and circulation of emergency vehicles.

Thank you for your consideration and for your dedication to our County.

Sincerely,

Gabriel Quintas  
Mims, Florida

**From:** [Prasad, Katelynne](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** Meeting Disclosures  
**Date:** Wednesday, February 3, 2021 9:40:50 AM

---

Ms. Jones,

In regards to the upcoming agenda item H.4 for the Planning & Zoning meeting on January 4, 2021, please be advised in advance that Commissioner Tobia spoke with the following parties via telephone, separately, on January 1, 2021 & January 2, 2021

Chad Genani- 02/01/2021

Kim Rezanka- 02/02/2021

Each phone call lasted approximately ten minutes, during which the above individuals provided information regarding the above-referenced item.

Sincerely,

**Katelynne Prasad**

*Constituent Affairs Director*

*County Commissioner John Tobia, District 3*

PH: (321) 633-2075 \* Fax: (321) 633-2196

2539 Palm Bay Road NE, Suite 4

Palm Bay, FL 32905



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.5.

2/4/2021

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### **Subject:**

Marker 24 Marina, LLC (Peter Black) requests a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a private club, in a BU-2 zoning classification. (20Z00010) (Tax Account 3018251) (District 2)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a private club, in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification.

### **Summary Explanation and Background:**

The applicant is requesting a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) in conjunction with a private club located on the east side of S. Banana River Drive. According to the applicant's proposal and depicted upon the CUP's concept plan, the request will allow the guests of the marina to enjoy alcoholic beverages from within the areas designated as the private club and deck.

Zoning Resolution 20Z00009 adopted on August 6, 2020, relocated 17-slips of the approved 104-slip marina to that portion of the site lying east of S. Banana River Drive. Additionally, the applicant identified the following uses to be performed from this location east of S. Banana River Drive: ship store, power boat: repair, washing, detailing and rentals; 17-wet power boat slips; 4-parking spaces for transient (trailered) boats; fuel (gas and diesel) sales at designated fuel dock; live bait sales; wholesale and retail seafood sales; short-term rentals; and, a private club with tiki bar/grille with pool. The current concept plan submitted for this Alcoholic Beverage CUP review replaces the pool area with a deck.

The recent code change to allow Administrative Approval for on-premise consumption only applies to restaurants serving more than 51% in food sales.

The surrounding properties are zoned RU-1-11 (Single-Family Residential) to the south and west. To the north, BU-2 (Retail, Warehousing, and Wholesale Commercial).

The Board may wish to consider the compatibility of the proposed CUP with the surrounding development. The Board may consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to

mitigate potential impacts to the abutting properties.

On January 11, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval.

**Clerk to the Board Instructions:**

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



# **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

(c) General Standards of Review.

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



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

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

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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**  
**20Z00010**  
**Marker 24 Marina, LLC**

**Conditional Use Permit (CUP) for Alcoholic Beverages (Full Liquor) for On-premises Consumption in Conjunction with a Private Club in a BU-2 zoning classification**

Tax Account Number: 3018251  
Parcel I.D.: 25-37-06-CX-00-15.08  
Location: 1360 South Banana River Drive, Merritt Island (District 2); East side of roadway  
Acreage: 1.04 acres

Planning and Zoning Board: 01/11/2021  
Board of County Commissioners: 02/04/2021

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-2 with a CUP for a marina	BU-2 retaining CUP for Commercial/recreational and Commercial/industrial marina and adding a CUP for Alcoholic Beverage (full liquor) in conjunction with a private club
<b>Potential*</b>	9,600 square foot existing building	9,600 square foot existing building
<b>Can be Considered under the Future Land Use Map</b>	Yes** Residential 4	Yes** Residential 4

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\*BU-2 zoning is an existing use pursuant to Section 62-1188 (9) of Brevard County Code and vested against the Comprehensive Plan.

**Background and Purpose of Request**

The applicant is requesting a Conditional Use Permit (CUP) for Alcoholic Beverage (full liquor) in conjunction with a private club located on the east side of S. Banana River Drive. According to the applicant's proposal and depicted upon the CUP's concept plan, the request will allow the guests of



the marina to enjoy alcoholic beverages from within the areas designated as the private club (covered tiki deck) and deck.

Regarding the existing development, the Property Appraiser's Office states the site was developed in 1949. On May 22, 1958, Brevard County adopted its first Zoning Code. At that time, the property east of S. Banana River Drive was zoned BU-2. The 1958 aerials identified the lot as Jaren Boat Works.

Zoning Resolution **20Z00009** adopted on August 6, 2020, relocated 17-slips of the approved 104-slip marina - approved under Zoning Resolution **19PZ00080** to that portion of the site lying east of S. Banana River Drive. Additionally, the applicant's intent of **20Z00009** as stated in the application identified the following uses to be performed from this location east of S. Banana River Drive. Those uses are: ship store, power boat: repair, washing, detailing and rentals; 17-wet power boat slips; 4-parking spaces for transient (trailered) boats; fuel (gas and diesel) sales at designated fuel dock; live bait sales; wholesale and retail seafood sales; short-term rentals; and, a private club with tiki bar/grille with pool. The current concept plan submitted for this Alcoholic Beverage CUP review replaces the pool area with a deck.

### **Land Use**

The subject property retains the RES 4 (Residential 4) FLU (Future Land Use) designation. The Retail, warehousing and wholesale commercial, BU-2 zoning is non-conforming to the RES 4 FLU designation as this use predates the adoption of the 1988 Brevard County Comprehensive Plan. Previous zoning action **20Z00009** mitigated the nonconforming use of the marina.

### **Environmental Constraints**

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

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is S. Banana River Drive which lies to the south of Highway 520, which has a Maximum Acceptable Volume (MAV) of 12,480 trips per day, a Level of Service (LOS) of E, and currently operates at 20.16% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization. The corridor is anticipated to continue to operate at 20.16% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the proposed marina development does not create any residential development.

The subject property is served by potable water by the City of Cocoa. No sewer service has been extended to the portion lying east of S. Banana River Drive. The owner intends to remain on septic.

## Applicable Land Use Policies

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

**Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.** The entire area is under the FLUM designation of Residential 4. To the south, this site is boarded by a developed single-family residential lot zoned Single-family residential (RU-1-11). To the west, lies an established marina with 87-slips. To the north, is an undeveloped commercial lot zoned BU-2.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The character of the area is residential. The marina use, west-side of S. Banana River Drive established under Zoning Resolution **Z-2398**, was adopted February 27, 1969 and has possibly been in operation for over 50 years. The previous zoning actions since adoption of **20Z00009** were **19PZ00080** adopted on September 5, 2019 and **13PZ-00008** adopted on September 12, 2013. The marina (west side of S. Banana River Drive) encompassed an area of 8.88 +/- acres. The site had a prior SUP (Special Use Permit) approved under **Z-2398** that allowed a marina to include sales of gasoline, groceries, bait, tackle, and sundries provided that an approved fence was erected on the north line and on the west line south to Jaren Avenue.

## Surrounding Area

The surrounding properties are zoned RU-1-11 (Single-Family Residential) to the south and west. To the north, BU-2 (Retail, Warehousing, and Wholesale Commercial). The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet, and a 1,100 square-foot minimum house size.

The BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. This area of Merritt Island is characterized by detached single-family residential uses and an existing commercial marina located east of South Banana River Drive.

Except for the recent zoning approval for the Marina CUP approved under **20Z00009** adopted on August 6, 2020, and **19PZ00080** adopted on September 5, 2019 and **13PZ-00008** adopted on September 12, 2013, there have not been any zoning changes in the last 5 years within a half-mile radius of the subject property.

## Special Considerations for CUP (Conditional Use Permit)

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

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

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

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

*Staff analysis: The owner/applicant has provided a survey which states that there are no churches or schools within 400 feet of the area within this CUP request.*

- 5) Imposition of additional operational requirements. When deemed appropriate, as based upon circumstances revealed through the general and specific standards of review set forth in this division, the Board shall have the option of imposing operational requirements upon an establishment approved for a conditional use for alcoholic beverages for on-premises consumption. Requirements may include, but are not limited to, the following: maximum number of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations. Additional requirements shall not exceed the limits of regulatory authority granted to local governments in the State Beverage Law, F.S. § 562.45.

*Staff analysis: Serving and consumption of food and beverages, alcohol or otherwise, shall be strictly prohibited outside of the existing building until depicted upon the CUP concept plan and reviewed as part of a site plan submittal. The proposed concept plan limits the alcohol consumption to the tiki deck and deck areas.*

## **General Standards of Review**

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

Applicant's Response: The proposed conditional use will not adversely impact neighboring properties.

*Staff analysis: The owner/applicant has not addressed the adverse impacts such as noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use nor has the number of patrons been identified nor has the traffic parameters been addressed.*

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

Applicant's Response: Compatible with marina operations.

*Staff analysis: This parcel is a developed commercial property that is bounded by S. Banana River Drive right-of-way to the west, a canal to the south and the river along its eastern edge. The northern boundary is adjacent to an unimproved lot. The proposed alcoholic beverage consumption will occur within the building envelope.*

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

Applicant's Response: Improvements to current marina operations will only help the value of abutting properties.

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

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

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

means as required by the Board of County Commissioners.

Applicant's Response: Will be adequate and consistent with marina operations.

*Staff analysis: The property has both car and boat access points identified on the concept plan. The proposed use will not substantially increase parking and traffic needs for this site.*

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

Applicant's Response: Will not interfere.

*Staff analysis: This project must be compliance with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Any proposed outdoor lighting and noise standards should remain within code parameters or a violation will be created.*

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

Applicant's Response: Will comply.

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

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

Applicant's Response: Current dumpster will be sufficient and will not exceed.

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

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

Applicant's Response: Existing potable water and wastewater system on site is sufficient and will not be exceeded.

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

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



Applicant's Response: Additional landscaping will be installed.

*Staff analysis: As the project is buffered by right-of-way (roadway/canal), minimal screening or buffering has been identified on the concept plan. Should the Board determine that additional measures become necessary, the Board may wish to request additional conditions for approval.*

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

Applicant's Response: Will not.

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

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

Applicant's Response: Will not be open past 10:00 pm.

*Staff analysis: Should the Board determine that additional measures become necessary, the Board may wish to request additional conditions for approval.*

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

Applicant's Response: Will not be greater than 35 feet.

*Staff analysis: The existing building appears to be constructed as a single-floored structure with a high bay work/storage area.*

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

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

Applicant's Response: Parking shown on CUP exhibit.

*Staff analysis: The CUP concept plan currently depicts 24 standard parking spaces (5-uncreditable due to being grassed) and 17 boat slips totaling 36 spaces. The existing 9,600 square foot building requires 32 parking spaces based upon current parking criteria.*

### **For Board Consideration**

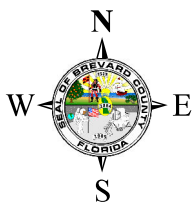
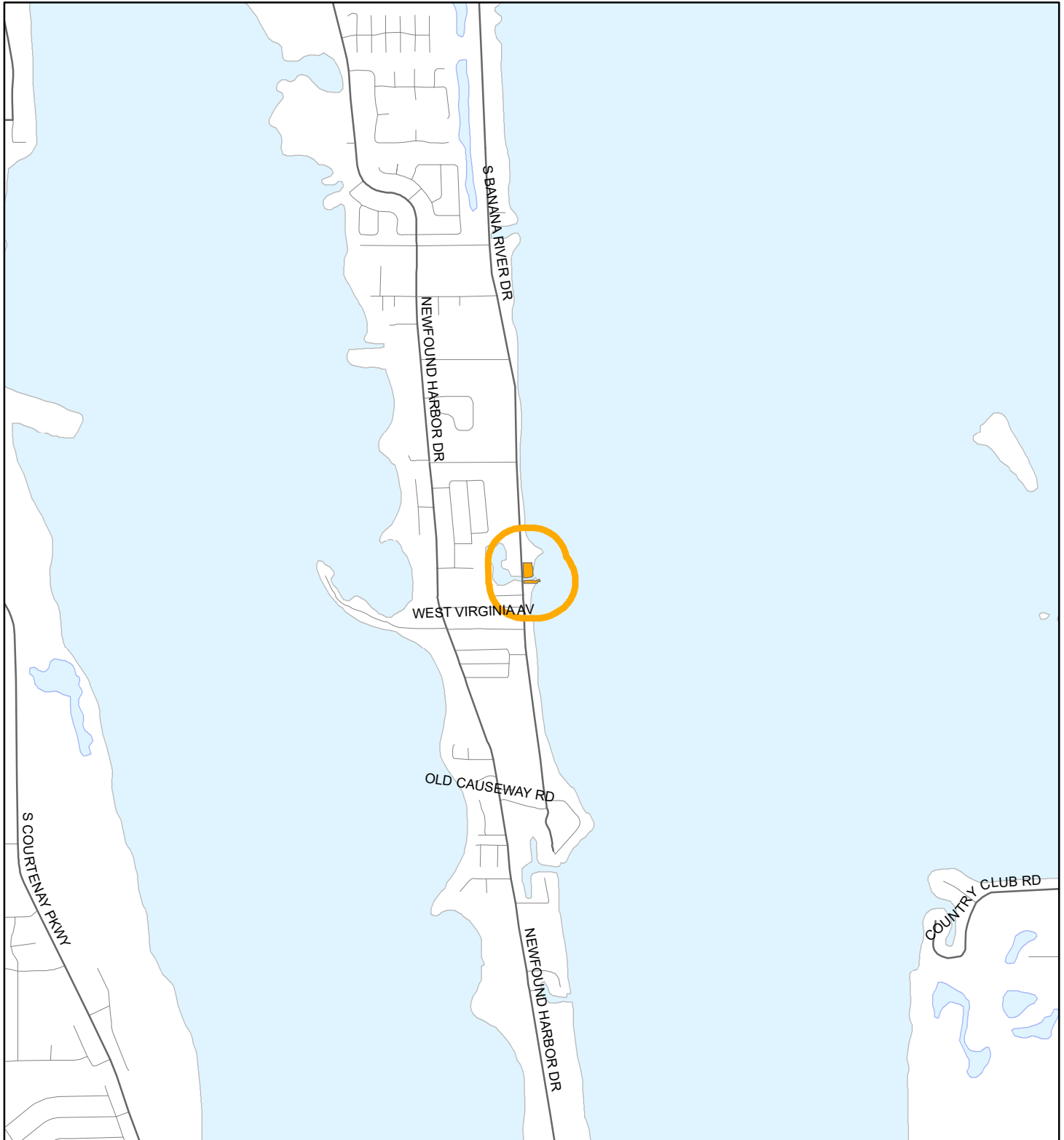
The Board may wish to consider the compatibility of the proposed CUP with the surrounding development. The Board may consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the abutting properties such as:

- Additional visual buffering and/or acoustically screen to adjacent residential lot.
- Limit the hours of operation for the alcoholic consumption.
- Prohibit or limit outdoor music or sound systems.
- Limit the number of patrons based on available parking (boats and cars).

# LOCATION MAP

MARKER 24 MARINA, LLC

20Z00010





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.

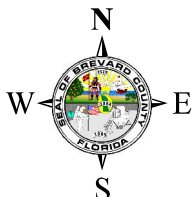
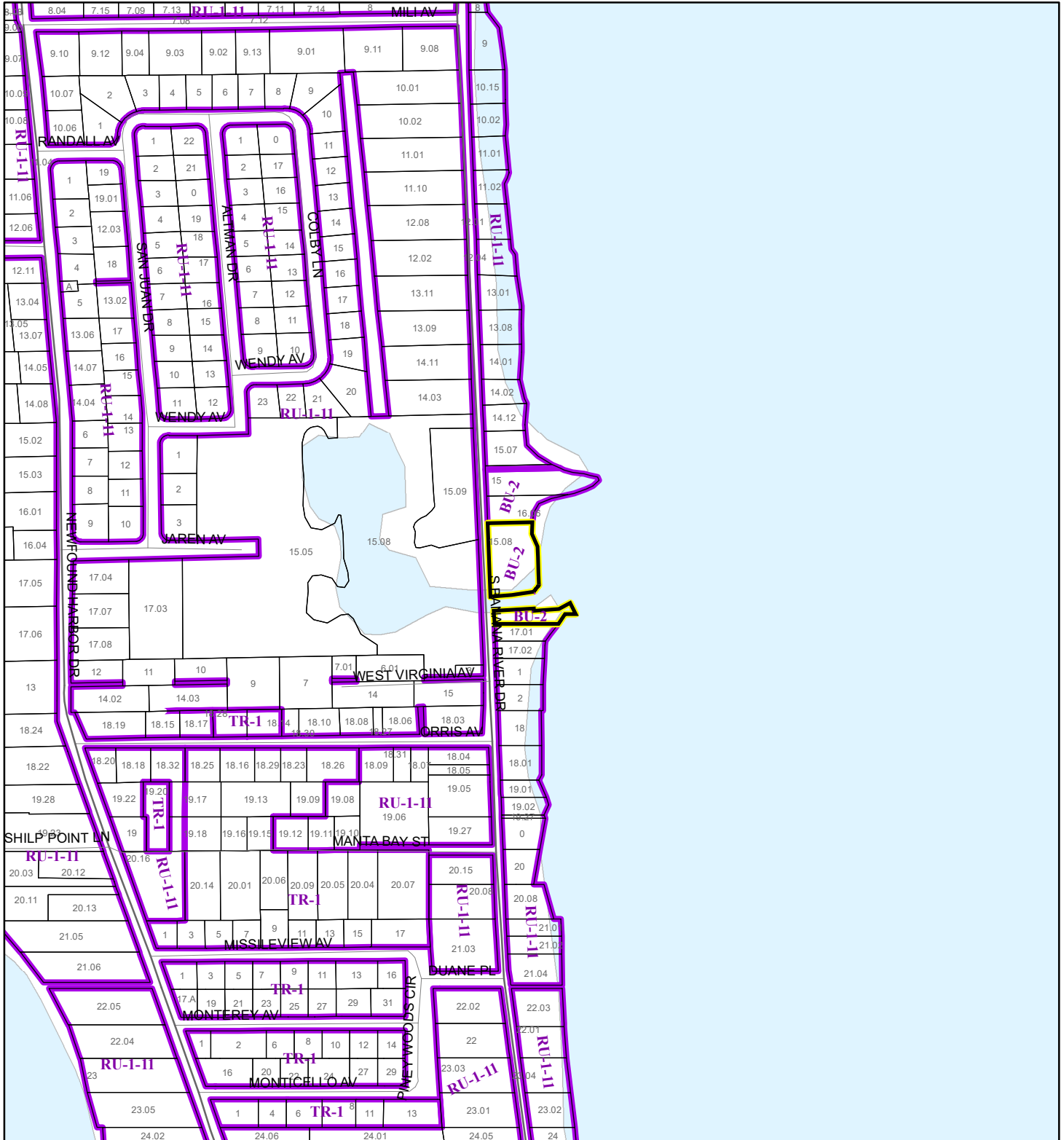
Produced by BoCC - GIS Date: 11/16/2020

 Buffer  
 Subject Property

# ZONING MAP

MARKER 24 MARINA, LLC


20Z00010



1:4,800 or 1 inch = 400 feet

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

 Subject Property

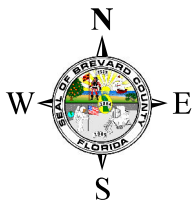
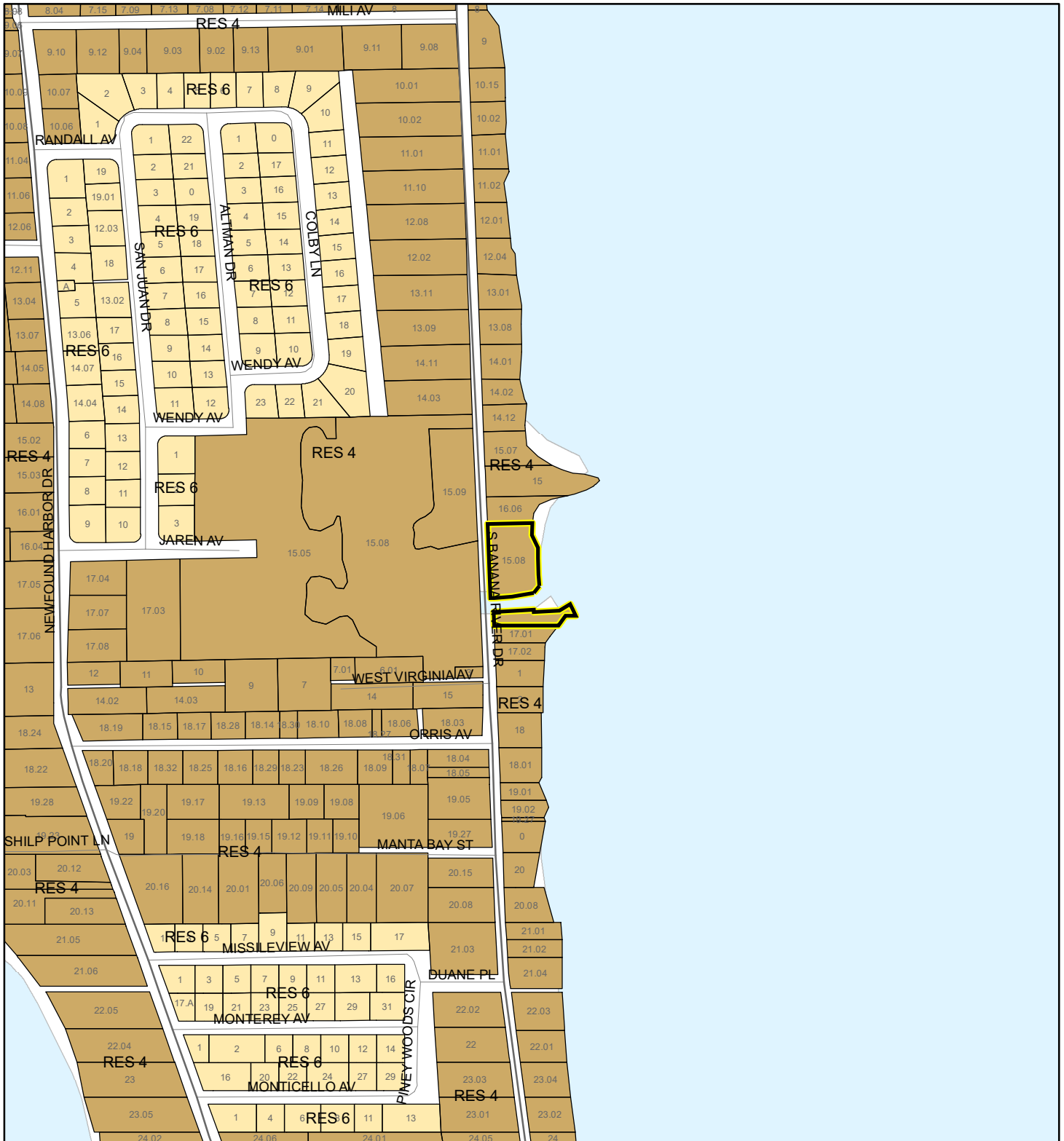
 Parcels

 Zoning



# FUTURE LAND USE MAP

MARKER 24 MARINA, LLC

20Z00010



1:4,800 or 1 inch = 400 feet

 Subject Property  
 Parcels

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# AERIAL MAP

MARKER 24 MARINA, LLC

20Z00010




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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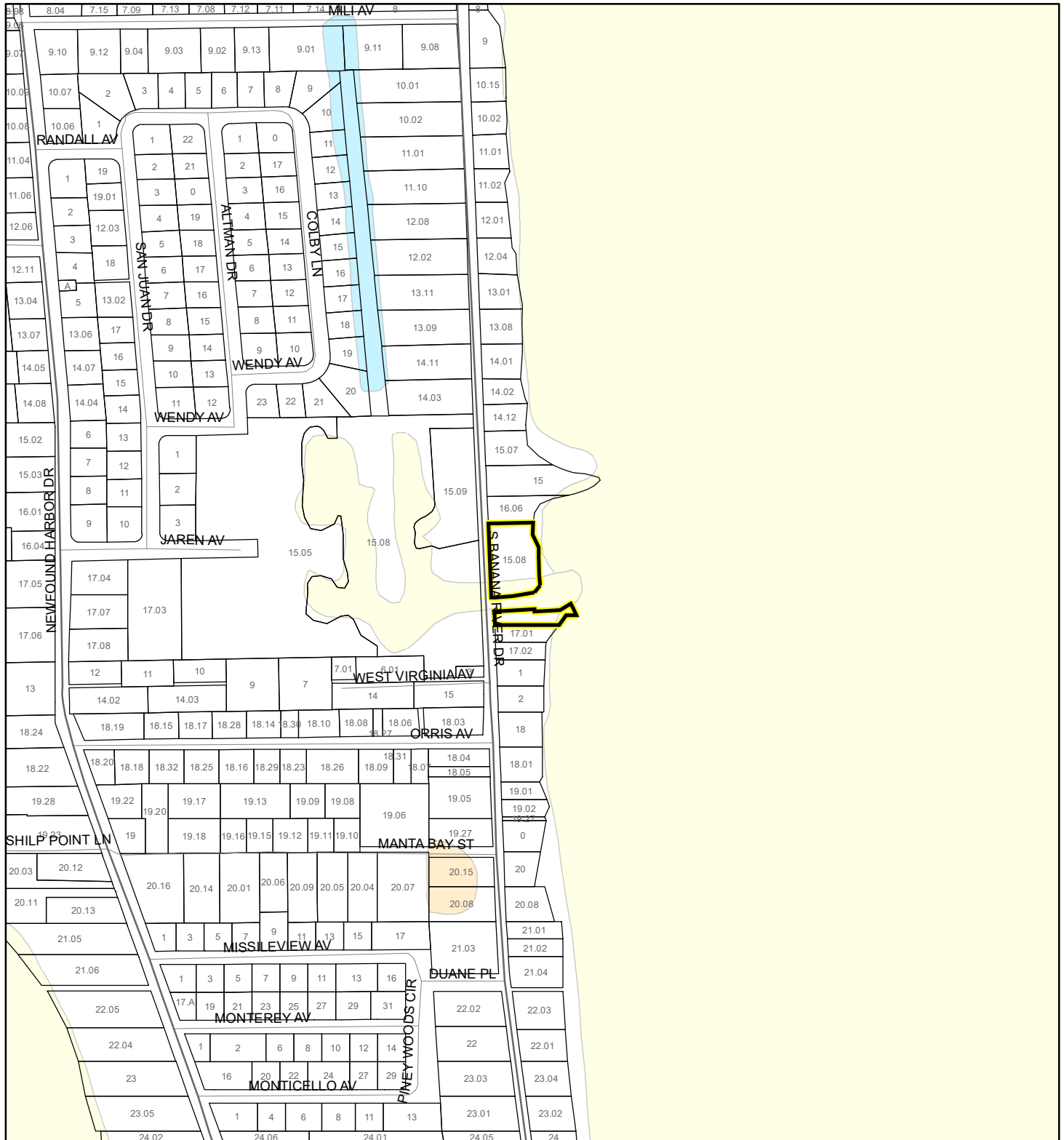
 Subject Property

 Parcels

# NWI WETLANDS MAP

MARKER 24 MARINA, LLC

20Z00010



1:4,800 or 1 inch = 400 feet

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## National Wetlands Inventory (NWI)

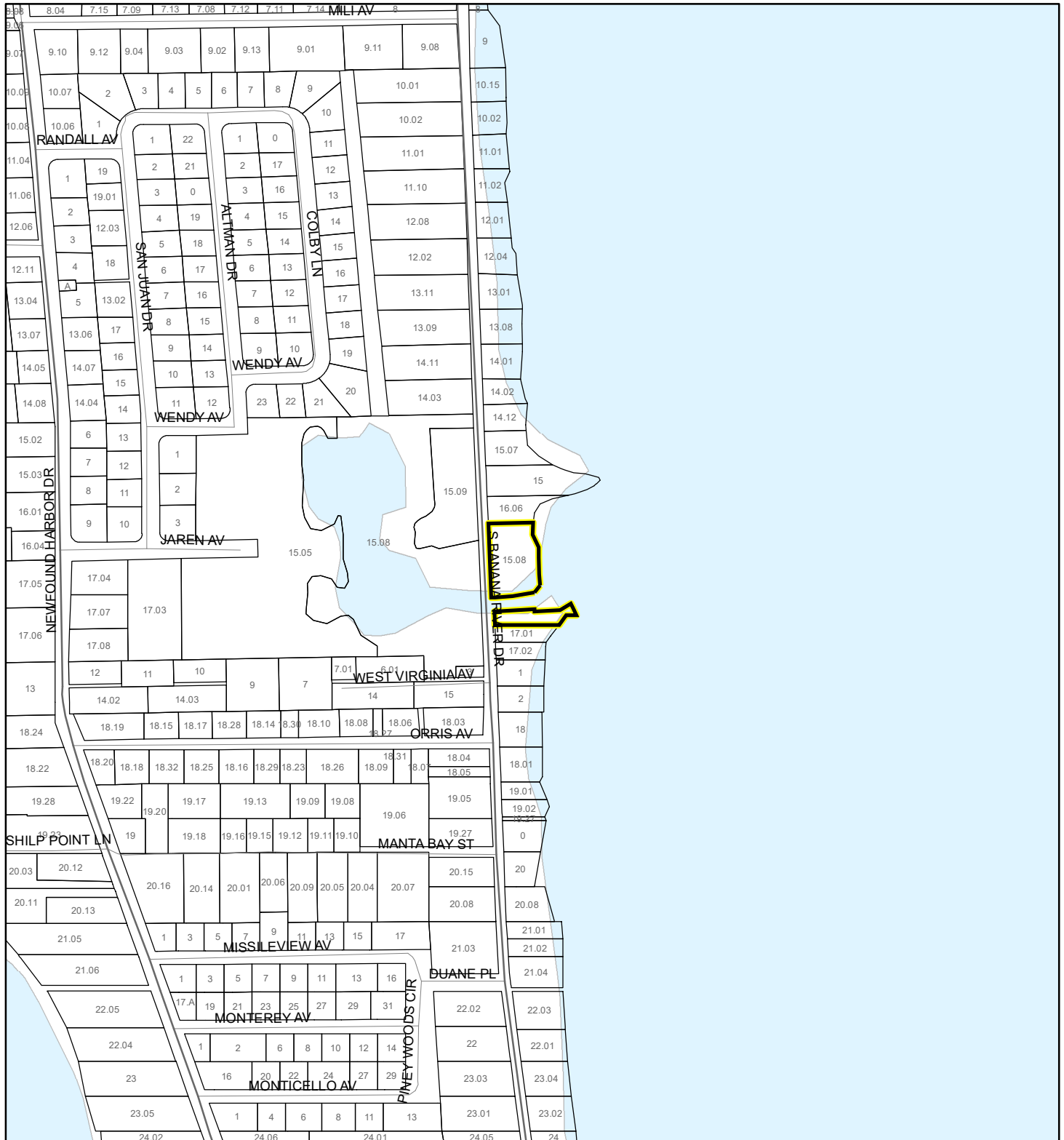
Estuarine and Marine Deepwater	Freshwater Pond
Estuarine and Marine Wetland	Lake
Freshwater Emergent Wetland	Other
Freshwater Forested/Shrub Wetland	Riverine
	Subject Property
	Parcels



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

MARKER 24 MARINA, LLC

20Z00010



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

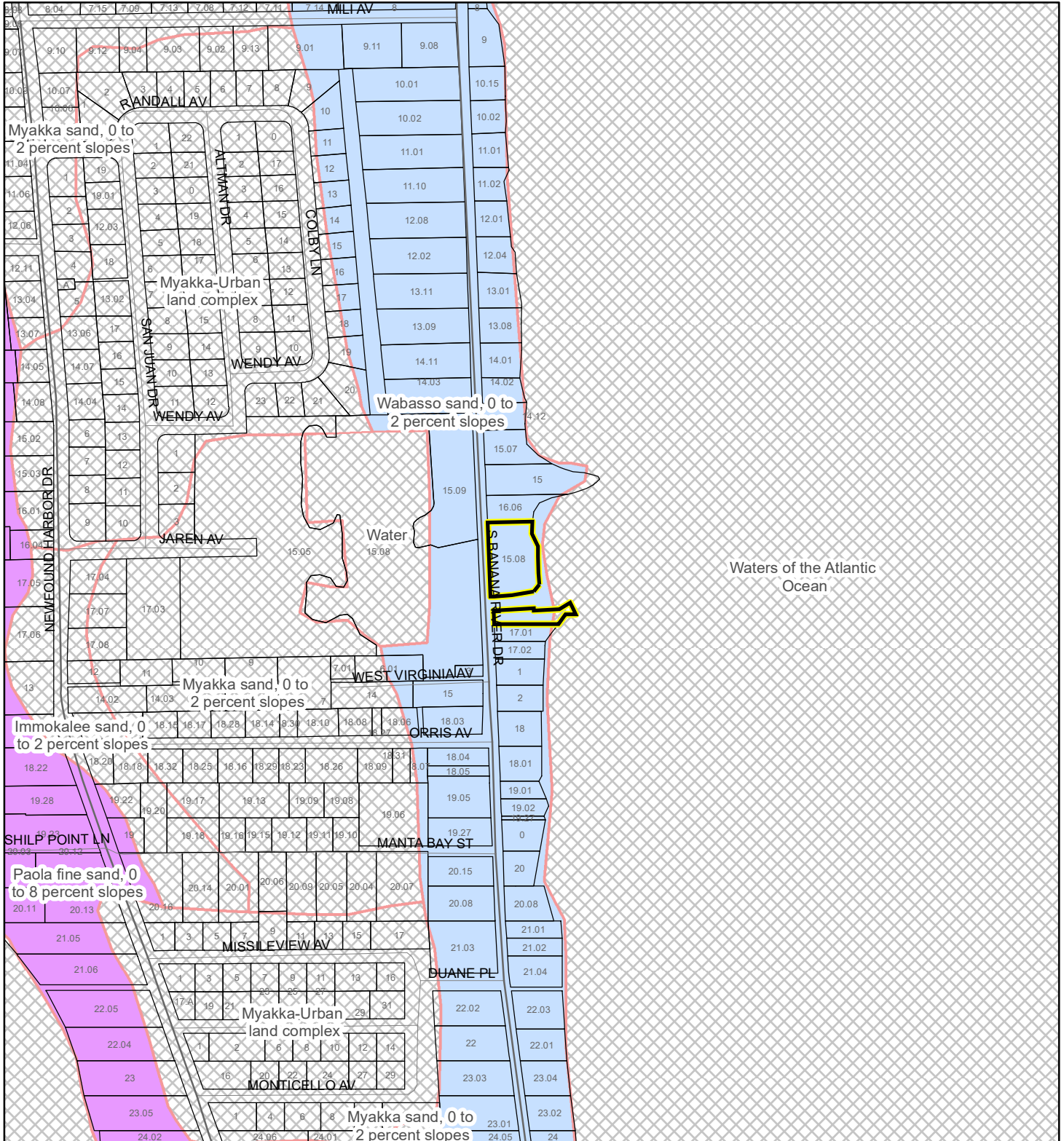
Subject Property

Parcels

# USDA SCSSS SOILS MAP

MARKER 24 MARINA, LLC

20Z00010



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

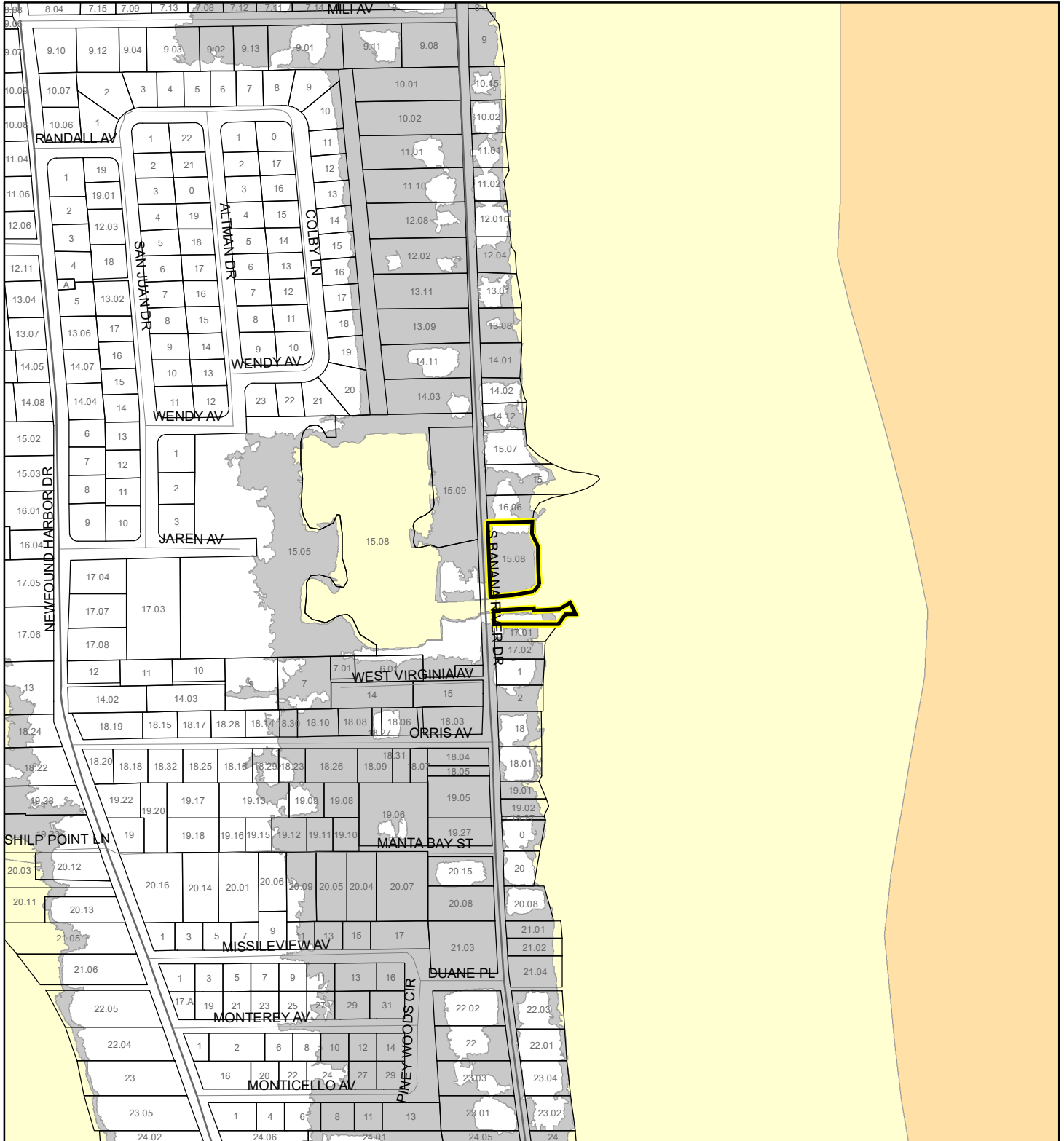
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

MARKER 24 MARINA, LLC

20Z00010



1:4,800 or 1 inch = 400 feet

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## FEMA Flood Zones

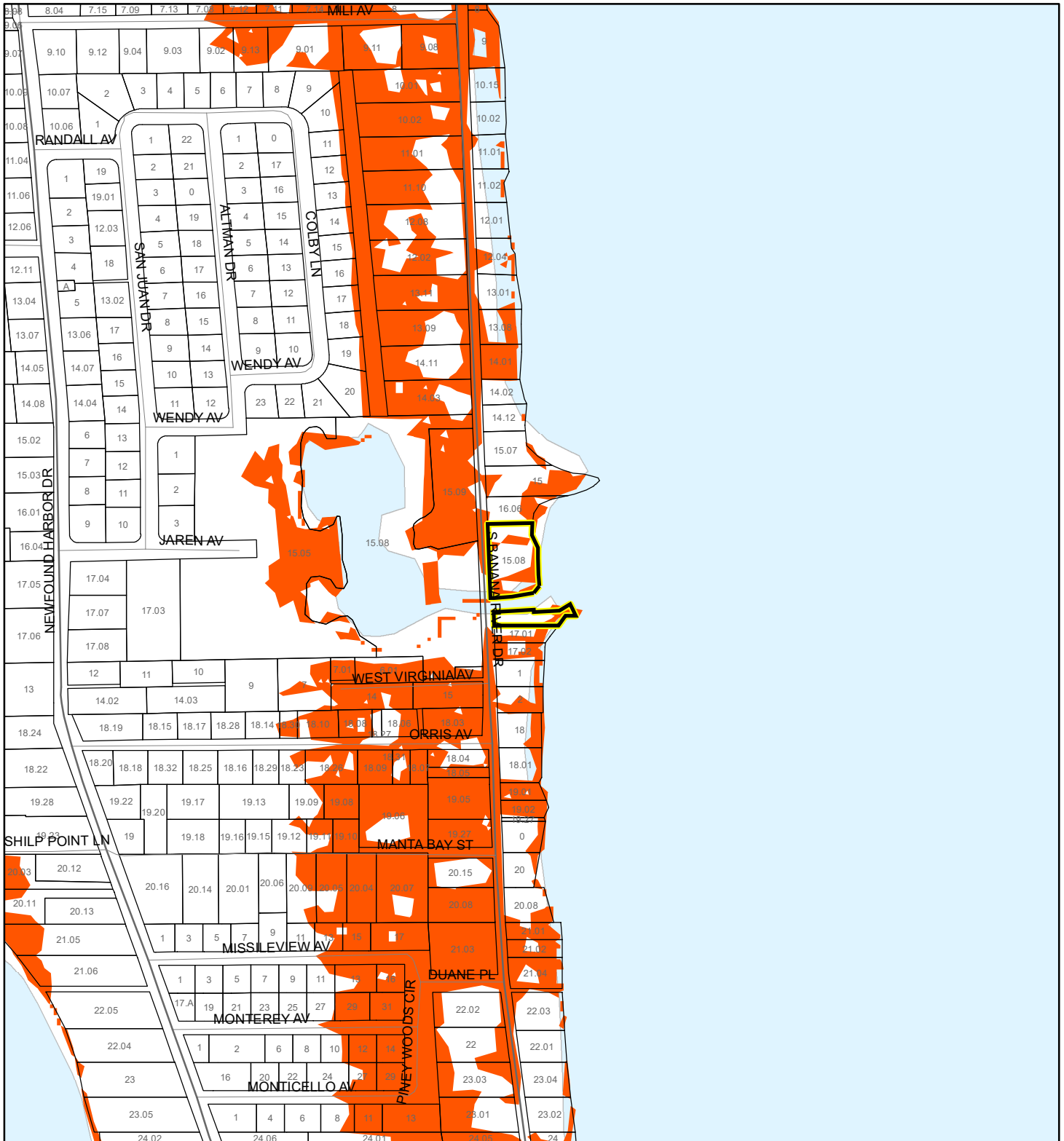
- |   |  |  |
|---|--|--|
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFC0CB; border: 1px solid black;"></span> A   | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFFF00; border: 1px solid black;"></span> AO         | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFFFFF; border: 1px solid black;"></span> X                    |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFFF00; border: 1px solid black;"></span> AE  | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFDAB9; border: 1px solid black;"></span> Open Water | <span style="display: inline-block; width: 15px; height: 15px; background-color: #90EE90; border: 1px solid black;"></span> X Protected By Levee |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #ADD8E6; border: 1px solid black;"></span> AH  | <span style="display: inline-block; width: 15px; height: 15px; background-color: #FFDAB9; border: 1px solid black;"></span> VE         |  |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #808080; border: 1px solid black;"></span> 0.2 Percent Annual Chance Flood Hazard                      |  |  |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #A9A9A9; border: 1px solid black;"></span> 0.2 Percent Annual Chance Flood Hazard Contained in Channel |  |  |
| <span style="display: inline-block; width: 15px; height: 15px; background-color: #FF0000; border: 1px solid black;"></span> Subject Property  |  | <span style="display: inline-block; width: 15px; height: 15px; border: 1px solid black;"></span> Parcels   |



# COASTAL HIGH HAZARD AREA MAP

MARKER 24 MARINA, LLC

20Z00010



1:4,800 or 1 inch = 400 feet


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

 Subject Property

 Parcels

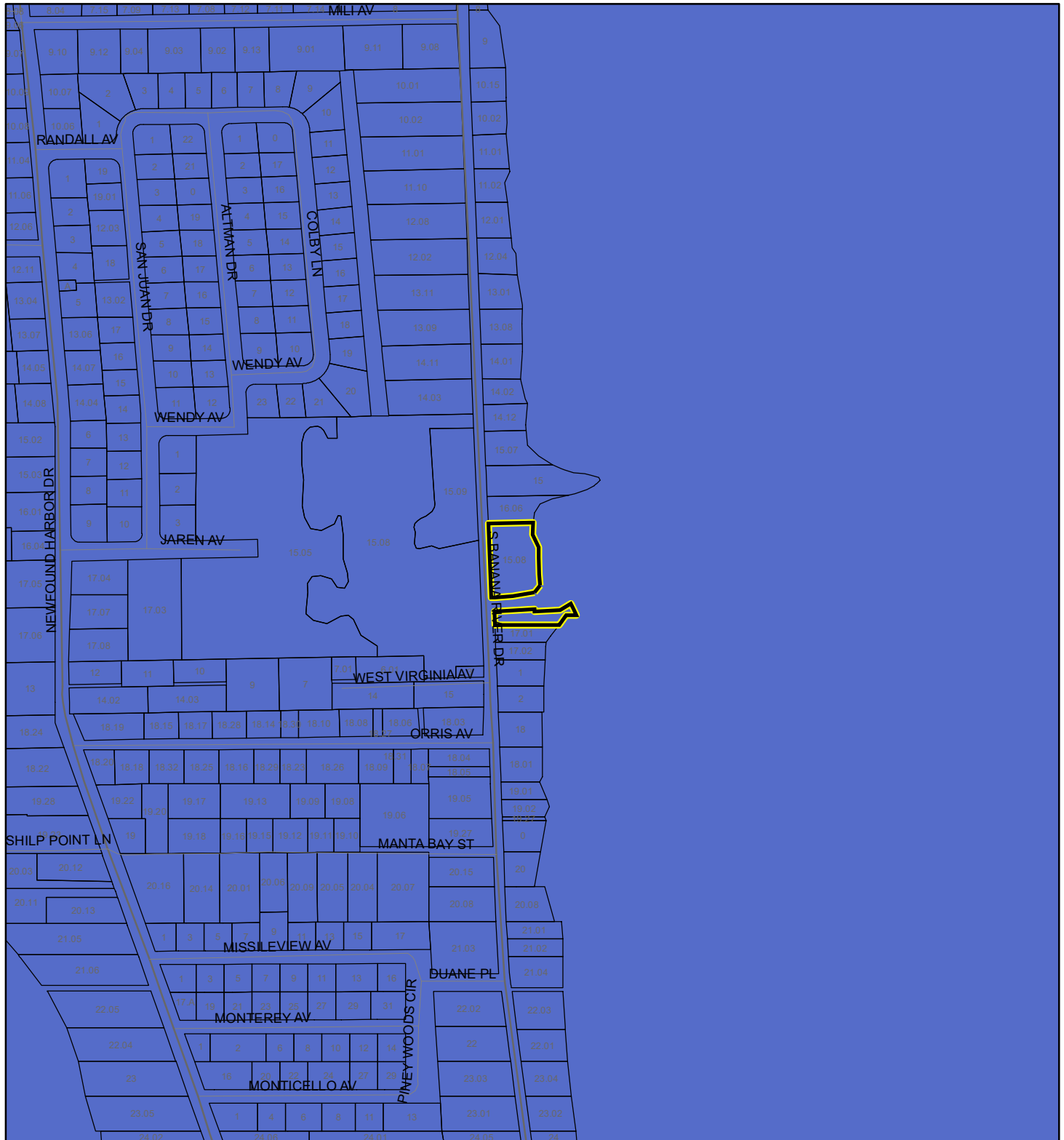
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MARKER 24 MARINA, LLC

20Z00010



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

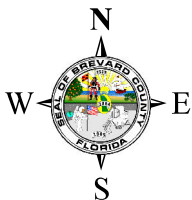
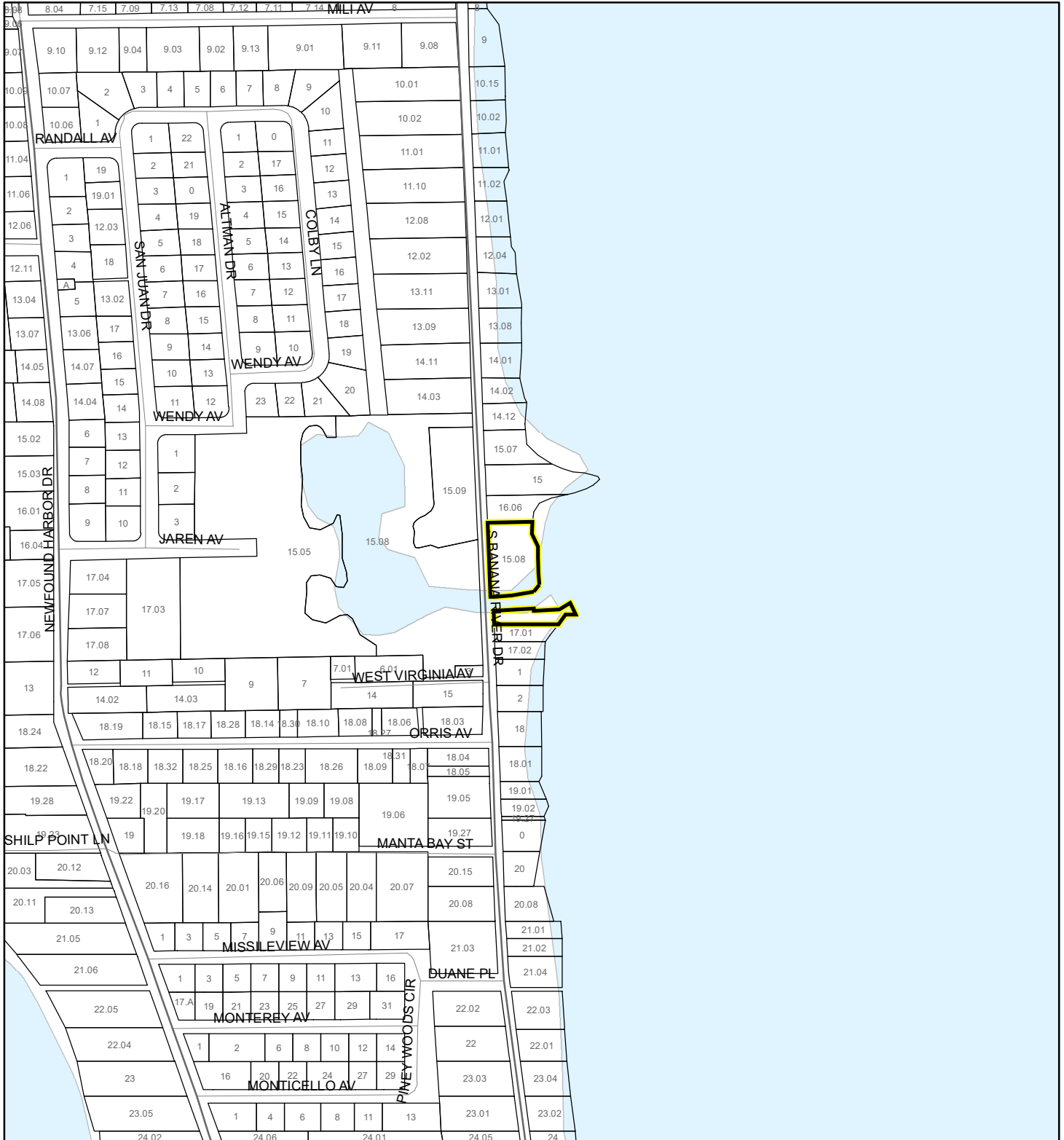
 60 Meters

 All Distances

# EAGLE NESTS MAP

MARKER 24 MARINA, LLC

20Z00010



1:4,800 or 1 inch = 400 feet

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

 Subject Property

 Parcels

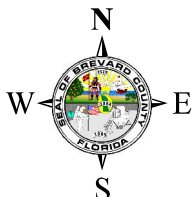
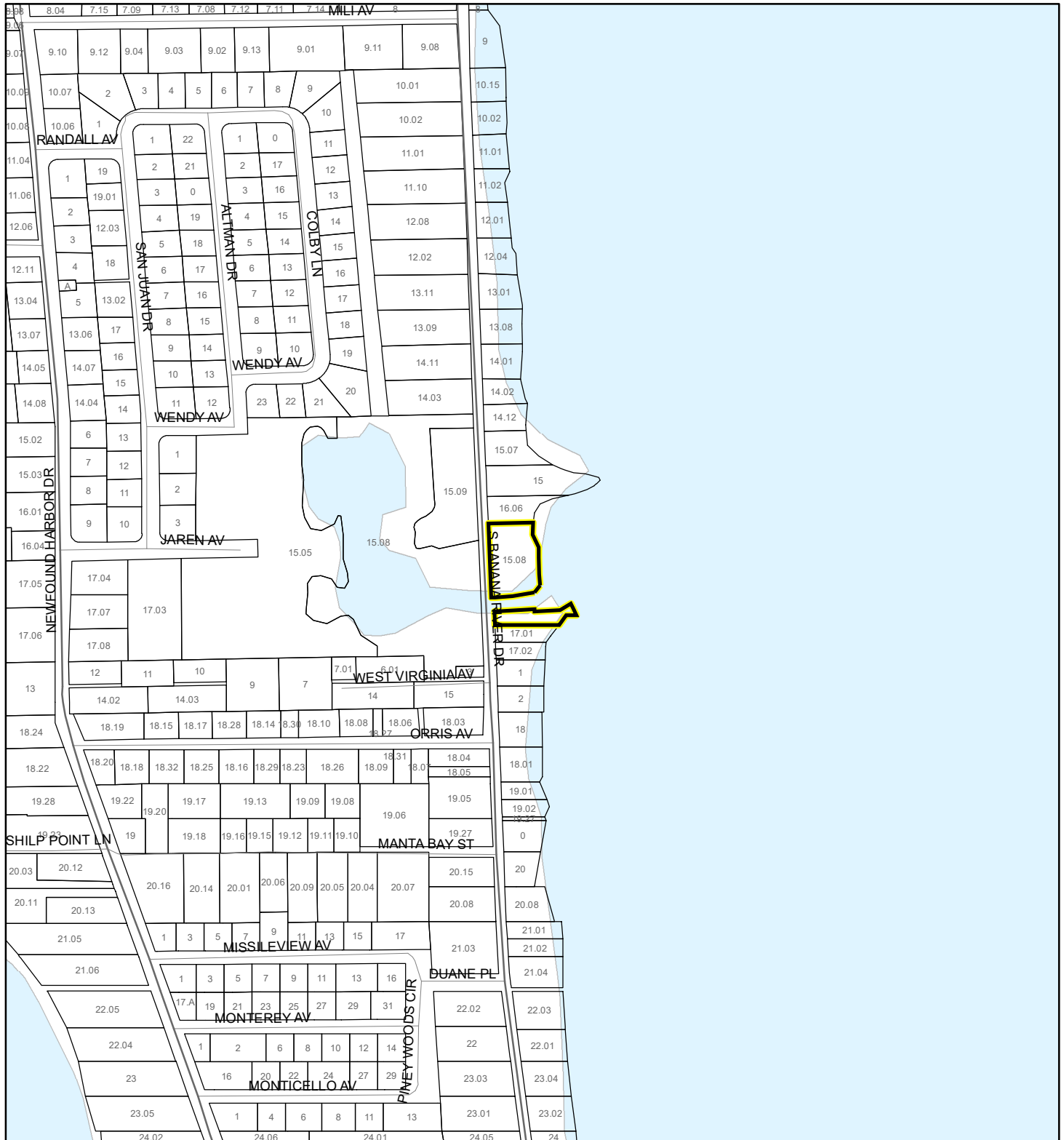


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

MARKER 24 MARINA, LLC




20Z00010



1:4,800 or 1 inch = 400 feet

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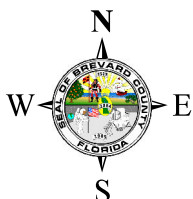
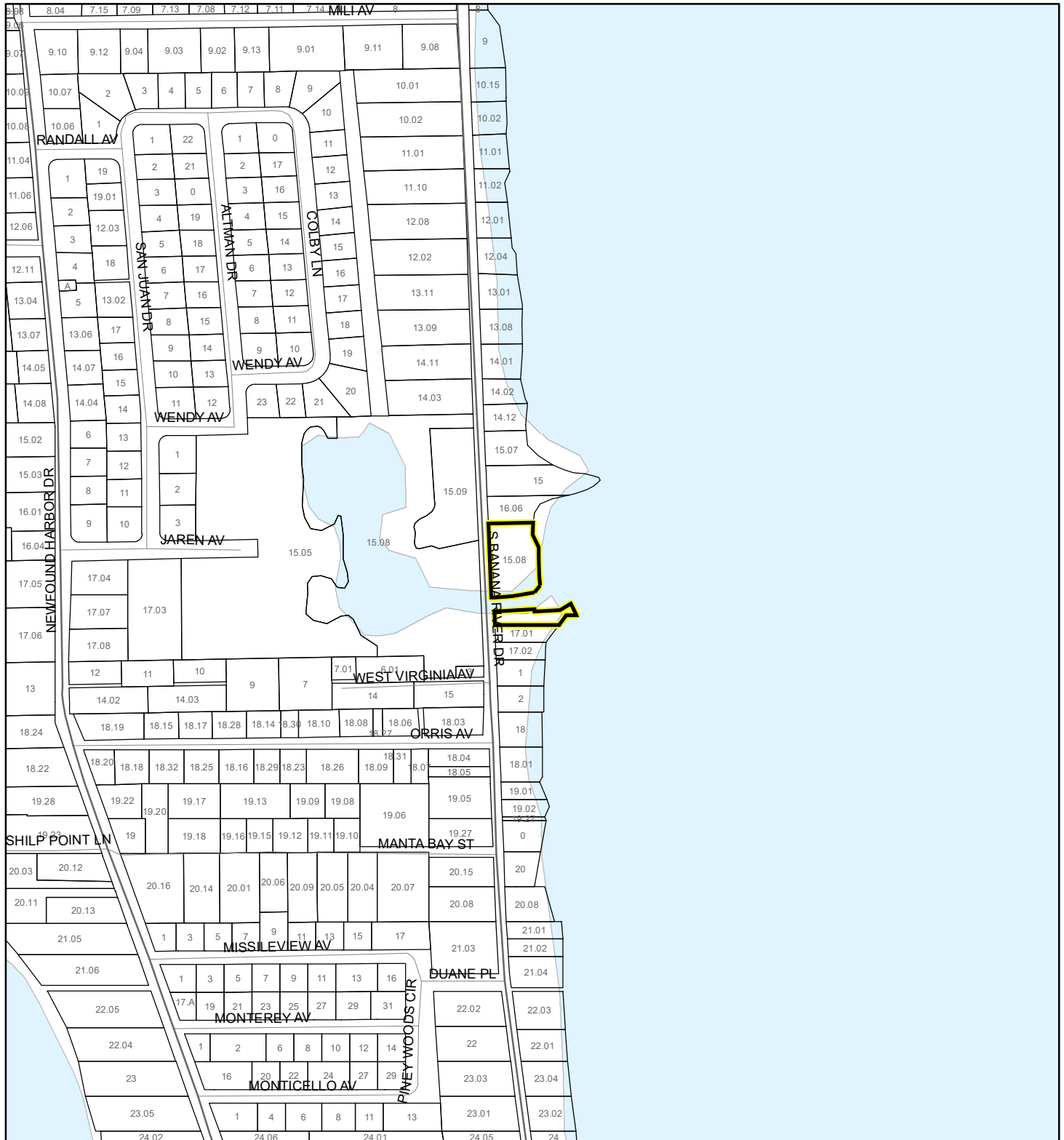
Produced by BoCC - GIS Date: 11/16/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MARKER 24 MARINA, LLC

20Z00010



1:4,800 or 1 inch = 400 feet

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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



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

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: 1.04

Reason for Request:

*full liquor*

Consumption/Sales of Alcohol on site at Marker 24 Marina LLC. river front parcel.

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]  
Signature of Property Owner or  
Authorized Representative

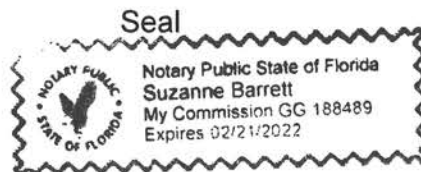
5/29/2020  
Date

State of Florida

County of Brevard

Subscribed and sworn to me before me this 29 day of May, 2020,  
personally appeared Peter Black, who is personally known to me or  
produced \_\_\_\_\_ as identification, and who did / did not take an oath.

[Signature]  
Notary Public Signature



**Office Use Only:**

Accela No. 20200010 Fee: 447.00 Date Filed: 6/13/2020 District No. 2

Tax Account No. (list all that apply) 3018251

Parcel I.D. No.

25 37 06 CX 15.08  
Twp Rng Sec Sub Block Lot/Parcel

Planner: GER Sign Issued by: SM Notification Radius: 500'

**MEETINGS**

**DATE**

**TIME**

<input checked="" type="checkbox"/> P&Z	<u>11/11/2021</u>	<u>3:00 pm</u>
<input type="checkbox"/> PSJ Board	_____	_____
<input type="checkbox"/> NMI Board	_____	_____
<input type="checkbox"/> LPA	_____	_____
<input type="checkbox"/> BOA	_____	_____
<input checked="" type="checkbox"/> BCC	<u>2/04/2021</u>	<u>5:00 pm</u>

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials \_\_\_\_\_

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

☐ Yes ☒ No If yes, list \_\_\_\_\_

Location of subject property: River side (east) of S. Barona  
River Drive 160 feet north of  
West Virginia Ave.

Description of Request:

CUB organize alcoholic beverage consumption  
asking for beer/wine/liquor in conjunction  
with a private club



## 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:

Marker 24 marina or 321 458-2120 or U.S. Mail \_\_\_\_\_  
e-mail address @gmail.com fax number

Yes (No)

I have received a copy of this notice:

  
(APPLICANT SIGNATURE)

(11)



ID # 20200010

### Conditional Use Permit (CUP) Application Worksheet

- 1) Owner(s): Marker 24 Marina LLC  
Applicant(s): \_\_\_\_\_
- 2) Property Location: 1360 South Banana River Dr
- 3) Type of CUP requested: Consumption on Premise
- 4) If CUP is for Alcoholic Beverages for On-Premises Consumption, is it in conjunction with a restaurant? No
- 5) Type of Plan Required by Section 62-1901[b] (refer to attached CUP Checklist):  
☐ Reproducible Site Plan signed by a registered engineer, land surveyor or architect  
☒ Scaled Dimensional Sketch Plan

**NOTE: IF FULL SIZE DRAWINGS ARE SUBMITTED, PLEASE SUBMIT ONE COPY OF A REDUCED SIZE VERSION OF THE PLANS (8 ½" X 11", 8 ½" X 14" OR 11" X 17").**

Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable: 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.** Prepare responses to address how the requested CUP will meet these standards and submit this completed worksheet along with your application for public hearing for a CUP. You may attach additional pages or documentation, if needed.

#### General Standards of Review

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

The proposed Conditional Use will not adversely impact neighboring properties

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

Compatible with Marina operations

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

Note: 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.

Improvements to current marina operations will only help the value of abutting properties

### Specific Standards

Section 62-1901(c)(2)(a) Ingress and egress to the property and proposed structures (including vehicular and pedestrian safety and convenience, traffic flow and control, and emergency response access) shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any.

Note: Burdening adjacent and nearby uses is defined as 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 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.

Will be adequate and consistent with marina operation



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

Will not interfere

Section 62-1901(c)(2)(c) Noise levels for a conditional use shall comply with Section 62-2271 of the Code, which includes the following:

Maximum Permissible Time Averaged (Leq)  
A-Weighted Sound Pressure Limits for Receiving Uses

Type of Use	Time Period	Maximum Allowable Sound Pressure Level
Residential	7:00 a.m. to 10:00 p.m.	60 dB(A)
	10:00 p.m. to 7:00 a.m.	55 dB(A)
Commercial	7:00 a.m. to 10:00 p.m.	65 dB(A)
	10:00 p.m. to 7:00 a.m.	55 dB(A)
Industrial	7:00 a.m. to 10:00 p.m.	75 dB(A)
	10:00 p.m. to 7:00 a.m.	65 dB(A)

**Note: Additional requirements may apply. Refer to Section 62-2271 for full noise specifications.**

Will comply

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

Current dumpster will be sufficient and will not exceed

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

Existing potable water and wastewater system on site is sufficient and will not be exceeded

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

Additional landscaping will be installed



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

Will not

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

Will not be open past 10:00pm

Section 62-1901(c)(2)(i) The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than thirty-five (35) feet higher than the highest residence within 1000 feet of the property line.

Note: A survey of building heights within 1000 feet of the property lines should be furnished for applications requesting a CUP for additional building height.

Will not be greater than 35 feet

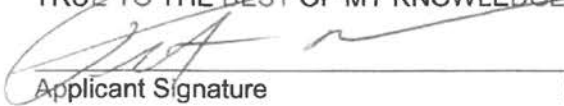
Section 62-1901(c)(2)(j) Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties.

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


Parking shown on CUP exhibit

**Note to Applicant:** Per Section 62-1901(f), *Expiration*, Conditional use permits approved after the effective date of Ordinance No. 99-43 (8/3/99) shall expire within three years from the date of approval if the approved use is not constructed or under substantial and continuous construction.

I HAVE READ THE ABOVE NOTE TO APPLICANT. ALL THE ANSWERS TO THE STANDARDS ADDRESSED BY THIS WORKSHEET AND ALL ACCOMPANYING PLANS AND DOCUMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE.

  
Applicant Signature

11/6/2020  
Date

Submittal checked by: 

# LIMITED LIABILITY COMPANY OPERATING AGREEMENT FOR

Marker 24 Marina

*A Single Member-Managed Limited Liability Company*

## **ARTICLE I** **Company Formation**

1.1 **FORMATION.** The Member hereby does form a Limited Liability Company ("Company") subject to the provisions of the Limited Liability Company Act as currently in effect as of this date. Articles of Organization shall be filed with the Secretary of State.

1.2 **NAME.** The name of the Company shall be: Marker 24 Marina.

1.3 **REGISTERED AGENT.** The name and location of the registered agent of the Company shall be:

Peter Black

1205 S. Banana River Drive

Merritt Island, Florida 32952

1.4 **TERM.** The Company shall continue for a perpetual period unless,

(a) The Member votes for dissolution; or

(b) Any event which makes it unlawful for the business of the Company to be carried on by the Member; or

(c) Any other event causing dissolution of this Limited Liability Company under the laws of the State of Florida.

1.5 **CONTINUANCE OF COMPANY.** Notwithstanding the provisions of ARTICLE 1.4, in the event of an occurrence described in ARTICLE 1.4(c), if there is at least one remaining Member, said remaining Member shall have the right to continue the business of the Company. Such right can be exercised by the written vote of the remaining Member within ninety (90) days after the occurrence of an event described in ARTICLE 1.4(c). If not so exercised, the right of the Member to continue the business of the Company may expire if that member desires.



1.6 **BUSINESS PURPOSE.** The purpose of the Company is to operate Marker 24 Marina

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1.7 **PRINCIPAL PLACE OF BUSINESS.** The location of the principal place of business of the Company shall be:

1360 & 1357 S. Banana River Drive  
Merritt Island, Florida 32952

---

The principal place of business may be changed to a location the Member may select. The Member may also choose to store company documents at any address the Member chooses.

1.8 **MEMBER.** The name and place of residence of the member are contained in Exhibit 1 attached to this Agreement.

1.9 **ADMISSION OF ADDITIONAL MEMBERS.** Except as otherwise expressly provided in the Agreement, additional members may be admitted to the Company through issuance by the company of a new interest in the Company or a sale of current a percent of current Member's interest.

## **ARTICLE II**

### **Capital Contributions**

2.1 **INITIAL CONTRIBUTIONS.** The Member initially shall contribute to the Company capital as described in Exhibit 2 attached to this Agreement. The total value of such property and cash is \$1,500,000.00.

2.2 **ADDITIONAL CONTRIBUTIONS.** Except as provided in ARTICLE 6.2, no Member shall be obligated to make any additional contribution to the Company's capital.

## **ARTICLE III**

### **Profits, Losses and Distributions**

3.1 **PROFITS/LOSSES.** For financial accounting and tax purposes the Company's net profits or net losses shall be determined on an annual basis and shall be allocated to the Members in proportion to each Member's relative capital interest in the Company as set forth in Exhibit 2 as amended from time to time in accordance with Treasury Regulation 1.704-1.

- 3.2 **DISTRIBUTIONS.** The Member shall determine and distribute available funds annually or at more frequent intervals as the Member sees fit. Available funds, as referred to herein, shall mean the net cash of the Company available after appropriate provision for expenses and liabilities, as determined by the Member. Distributions in liquidation of the Company or in liquidation of a Member's interest shall be made in accordance with the positive capital account balances pursuant to Treasury Regulation 1.704-1(b)(2)(ii)(b)(2). To the extent a Member shall have a negative capital account balance, there shall be a qualified income offset, as set forth in Treasury Regulation 1.704-1(b)(2)(ii)(d).
- 3.3 **C CORPORATION ELECTION.** The Member may elect to be treated as a C corporation at any time to keep the profits of the LLC at the company level and not be forced to distribute profits to the Member.

#### **ARTICLE IV**

#### **Management**

- 4.1 **MANAGEMENT OF THE BUSINESS.** The management of the business is invested in the Member.
- 4.2 **MEMBER.** The liability of the Member shall be limited as provided pursuant to applicable law. The Member is in control, management, direction, and operation of the Company's affairs and shall have powers to bind the Company with any legally binding agreement, including setting up and operating a LLC company bank account.
- 4.3 **POWERS OF THE MEMBER.** The Member is authorized on the Company's behalf to make all decisions in accordance with ARTICLE 4.2 as to (a) the sale, development lease or other disposition of the Company's assets; (b) the purchase or other acquisition of other assets of all kinds; (c) the management of all or any part of the Company's assets; (d) the borrowing of money and the granting of security interests in the Company's assets; (e) the pre-payment, refinancing or extension of any loan affecting the Company's assets; (f) the compromise or release of any of the Company's claims or debts; and, (g) the employment of persons, firms or corporations for the operation and management of the company's business. In the exercise of its management powers, the Member is authorized to execute and deliver (a) all contracts, conveyances, assignments leases, sub-leases, franchise agreements, licensing agreements, management contracts and maintenance contracts covering or affecting the Company's assets; (b) all checks, drafts and other orders for the payment of the Company's funds; (c) all promissory notes, loans, security agreements and other similar documents; and, (d) all other instruments of any other kind relating to the Company's affairs, whether like or unlike the foregoing.
- 4.7 **NOMINEE.** Title to the Company's assets shall be held in the Company's name or in the name of any nominee that the Member may designate. The Member shall have power to enter into a nominee agreement with any such person, and such agreement may contain provisions indemnifying the nominee, except for his willful misconduct.

- 4.8 **COMPANY INFORMATION.** Upon request, the Chief Executive Member shall supply to any member information regarding the Company or its activities. Each Member or his authorized representative shall have access to and may inspect and copy all books, records and materials in the Chief Executive Member's possession regarding the Company or its activities.
- 4.9 **EXCULPATION.** Any act or omission of the Member, the effect of which may cause or result in loss or damage to the Company or the Member if done in good faith to promote the best interests of the Company, shall not subject the Member to any liability to the Member.
- 4.10 **INDEMNIFICATION.** The Company shall indemnify any person who was or is a party defendant or is threatened to be made a party defendant, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Company) by reason of the fact that he is or was a Member of the Company, Manager, employee or agent of the Company, or is or was serving at the request of the Company, for instant expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred in connection with such action, suit or proceeding if the Member acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interest of the Company, and with respect to any criminal action proceeding, has no reasonable cause to believe his/her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of "no lo Contendere" or its equivalent, shall not in itself create a presumption that the person did or did not act in good faith and in a manner which he/she reasonably believed to be in the best interest of the Company, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his/her conduct was lawful.
- 4.11 **RECORDS.** The Member shall cause the Company to keep at its principal place of business or other location the following:
- (a) A copy of the Certificate of Formation and the Company Operating Agreement and all amendments;
  - (b) Copies of the Company's federal, state and local income tax returns and reports, if any, for the three most recent years;
  - (c) Copies of any financial statements of the limited liability company for the three most recent years.

**ARTICLE V**  
**Compensation**

- 5.1 **MEMBER MANAGEMENT FEE.** Any Member rendering services to the Company shall be entitled to compensation commensurate with the value of such services.
- 5.2 **REIMBURSEMENT.** The Company shall reimburse the Member for all direct out-of-pocket expenses incurred by the Member in managing the Company.

**ARTICLE VI**  
**Bookkeeping**

- 6.1 **BOOKS.** The Member shall maintain complete and accurate books of account of the Company's affairs at the Company's principal place of business or other agreed location. Such books shall be kept on such method of accounting as the Member shall select. The company's accounting period shall be the calendar year.
- 6.2 **MEMBER'S ACCOUNTS.** The Member shall maintain separate capital and distribution accounts for each member. Each member's capital account shall be determined and maintained in the manner set forth in Treasury Regulation 1.704-1(b)(2)(iv) and shall consist of his initial capital contribution increased by:
- (a) Any additional capital contribution made by him/her;
  - (b) Credit balances transferred from his distribution account to his capital account; and decreased by:
    - (a) Distributions to him/her in reduction of Company capital;
    - (b) The Member's share of Company losses if charged to his/her capital account.
- 6.3 **REPORTS.** The Member shall close the books of account after the close of each calendar year, and shall prepare and send to each member a statement of such Member's distributive share of income and expense for income tax reporting purposes.



## **ARTICLE VII**

### **Transfers**

- 7.1 **ASSIGNMENT.** According to the appropriate Court, should the Member have a creditor with a judgment that was issued an assignment of the membership interest, the creditor shall only obtain an assignment of the membership interest, not the actual transfer of Membership in the LLC. The new assignee does not have any rights of the Member or have the ability to be involved in management of the LLC or the right to dissolve the LLC. The new assignee is only granted rights of the distributions of the Member's interests, if the Member decides to distribute at all, not the rights of membership. The assignee must release the Member's interests back to Member upon payment of the judgment in accordance with the appropriate Court.

## **ARTICLE VIII**

### **Dissolution**

- 8.1 **DISSOLUTION.** The Member may dissolve the LLC at any time. The Member may NOT dissolve the LLC for a loss of membership interests. Upon dissolution the LLC must pay its debts first before distributing cash, assets, and/or initial capital to the Member or the Members interests. The dissolution may only be ordered by the Member, not by the owner of the Members interests.



## CERTIFICATE OF FORMATION

This Company Operating Agreement is entered into and shall become effective as of the Effective Date by and among the Company and the person executing this Agreement as Member. It is the Member's express intention to create a limited liability company in accordance with applicable law, as currently written or subsequently amended or redrafted.

The undersigned hereby agree, acknowledge, and certify that the foregoing operating agreement is adopted and approved by each member, the agreement consisting of \_\_\_\_ pages, constitutes, together with Exhibit 1, Exhibit 2 and Exhibit 3 (if any), the Operating Agreement of Marker 24 Marina, LLC \_\_\_\_\_, adopted by the member as of June \_\_\_\_\_, 4 \_\_\_\_\_ 2020.

Member:

  
\_\_\_\_\_  
Signature


Printed Name Peter T. Black

Percent: 100 %

**EXHIBIT 1**

**LISTING OF MEMBERS**

As of the 4th day of June, 2020 the following is a list of Members  
of the Company:

Name  Percent 100 %  
Address 1200 S. Banana River Drive Merritt Island Florida 32952

## EXHIBIT 2

### CAPITAL CONTRIBUTIONS

Pursuant to ARTICLE 2, the Member's initial contribution to the Company capital is stated to be \$1,500,000.00. The description and each individual portion of this initial contribution are as follows:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

SIGNED AND AGREED this 4th day of June, 2020.

  
\_\_\_\_\_  
Member

MARKER 24 MARINA  
SECTION 6, TOWNSHIP 25 SOUTH, RANGE 37 EAST  
BREVARD COUNTY, FLORIDA

Concept Plan  
20200010  
Marker 24  
(Submitted 6/14/20)

DESCRIPTION OFFICIAL RECORDS BOOK 8217, PAGE 2464:  
RIVER PARCEL:

THAT PORTION OF THE SOUTH 85 FEET TRACT 16 THAT LIES EAST OF THE EAST RIGHT-OF-WAY LINE OF SOUTH BANANA RIVER DRIVE AND THAT PORTION OF NORTH 194.99 FEET OF THE SOUTH 294.99 FEET OF TRACT 17 THAT LIES EAST OF THE EAST RIGHT-OF-WAY LINE OF SOUTH BANANA RIVER DRIVE, ALL LYING AND BEING IN BANANA RIVER DRIVE SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3 AT PAGE 11 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

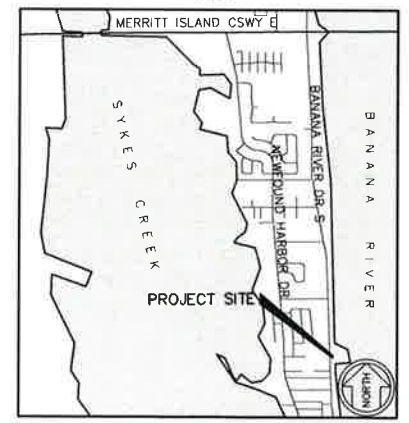
LEGEND & ABBREVIATIONS:

BMEG	BUSSEN-MAYER ENGINEERING	WOODEN POWER POLE
POR	POINT-OF-BEGINNING	LIGHT POLE
R/W	RIGHT-OF-WAY	ELECTRIC BOX
ORB	OFFICIAL RECORDS BOOK	PILING
PR	PLAT BOOK	CLEANOUT
PG	PAGE	GUYWIRE
FND	FOUND	OVERHEAD WIRES
RB/C	RE BAR WITH SURVEYOR'S CAP	TOB OF BANK
CM	CONCRETE MONUMENT	WOOD FENCE
PVC	POLYVINYL CHLORIDE PIPE	CHAIN LINK FENCE
RCP	REINFORCED CONCRETE PIPE	TOE OF DITCH
A/C	AIR CONDITIONER	WATER LINE
W/	WITH	FLOOD LINE
EL	ELEVATION	CONCRETE
INV	INVERT	DRAINAGE MANHOLE
CONC	CONCRETE	SEWER MANHOLE
CLF	CHAIN LINK FENCE	TELECOMMUNICATION BOX
DDCV	DOUBLE DETECTOR CHECK VALVE	FIRE HYDRANT
FF	FINISH FLOOR	GROUND ELEVATION
BLDG	BUILDING	GATE VALVE
(TYP)	TYPICAL	
HDPE	HIGH DENSITY POLYETHYLENE	
DI	DUCTILE IRON	
CMP	CORRUGATED METAL PIPE	
O	SET 5/8" REBAR AND CAP	
Δ	SET NAIL AND DISK	
■	FOUND CONCRETE MONUMENT	
●	FOUND REBAR	
▲	FOUND NAIL AND DISK	

TREE LEGEND:

PALM TREE	★
BUSH	●
OAK TREE	⊙

VICINITY MAP  
N.T.S.

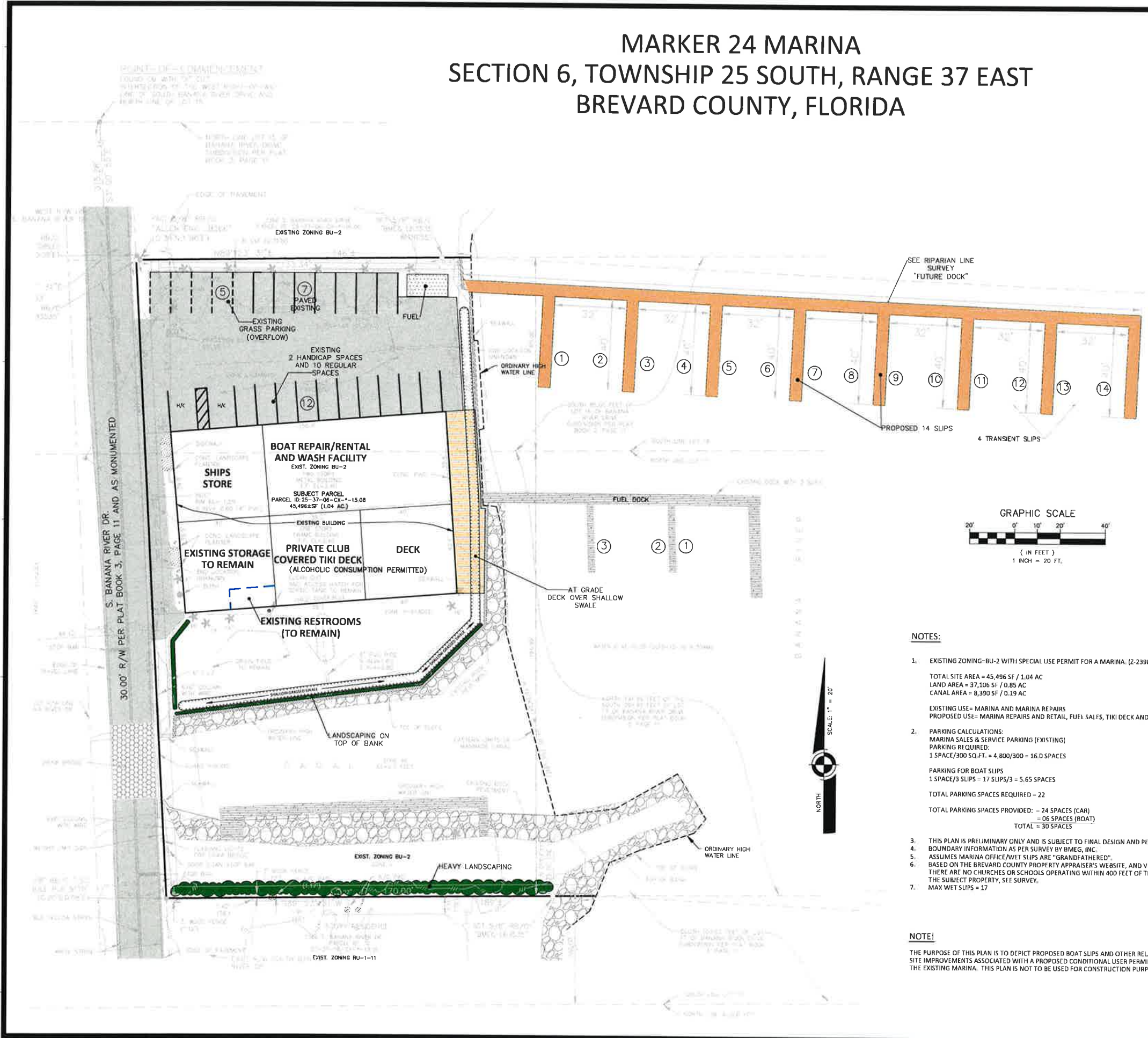


NOTES:

- EXISTING ZONING=BU-2 WITH SPECIAL USE PERMIT FOR A MARINA. (2-2398 BEVARD COUNTY)  
TOTAL SITE AREA = 45,496 SF / 1.04 AC  
LAND AREA = 37,106 SF / 0.85 AC  
CANAL AREA = 8,390 SF / 0.19 AC  
EXISTING USE= MARINA AND MARINA REPAIRS  
PROPOSED USE= MARINA REPAIRS AND RETAIL, FUEL SALES, TIKI DECK AND POOL
- PARKING CALCULATIONS:  
MARINA SALES & SERVICE PARKING (EXISTING)  
PARKING REQUIRED:  
1 SPACE/300 SQ.FT. = 4,800/300 = 16.0 SPACES  
PARKING FOR BOAT SLIPS  
1 SPACE/3 SLIPS = 17 SLIPS/3 = 5.65 SPACES  
TOTAL PARKING SPACES REQUIRED = 22  
TOTAL PARKING SPACES PROVIDED: = 24 SPACES (CAR)  
= 06 SPACES (BOAT)  
TOTAL = 30 SPACES
- THIS PLAN IS PRELIMINARY ONLY AND IS SUBJECT TO FINAL DESIGN AND PERMITTING.
- BOUNDARY INFORMATION AS PER SURVEY BY BMEG, INC.
- ASSUMES MARINA OFFICE/WET SLIPS ARE "GRANDFATHERED".
- BASED ON THE BREVARD COUNTY PROPERTY APPRAISER'S WEBSITE, AND VISUAL INSPECTION THERE ARE NO CHURCHES OR SCHOOLS OPERATING WITHIN 400 FEET OF THE FRONT DOOR OF THE SUBJECT PROPERTY, SEE SURVEY.
- MAX WET SLIPS = 17

NOTE:

THE PURPOSE OF THIS PLAN IS TO DEPICT PROPOSED BOAT SLIPS AND OTHER RELATED SITE IMPROVEMENTS ASSOCIATED WITH A PROPOSED CONDITIONAL USER PERMIT FOR THE EXISTING MARINA. THIS PLAN IS NOT TO BE USED FOR CONSTRUCTION PURPOSES.



Sec. 6  
Twp. 25 South  
Rng. 37 East

JOSEPH W. MAYER  
LICENSE  
No. 36836  
STATE OF  
FLORIDA  
PROFESSIONAL ENGINEER

Digitally signed by Joseph W. Mayer  
Reason: This item has been digitally signed and sealed by Joseph W. Mayer, P.E., on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.  
Date: 2020.12.15 11:39:10 -0500  
JOSEPH W. MAYER, P.E.  
LICENSE NO. 36836

C.U.P. EXHIBIT  
PREPARED FOR:  
MARKER 24 MARINA LLC

Florida

Brevard County

**Bussen - Mayer Engineering Group, Inc.**  
100 PARNELL STREET • MERRITT ISLAND, FLORIDA 32953  
PH. NO.: (321) 453-0010 • CERTIFICATE NO. 3535

Date: JUNE 2020  
Scale: 1" = 20'  
Proj. No. 410101  
Sheet Name:  
**C.U.P. EXHIBIT**  
Sheet: **1** of 1

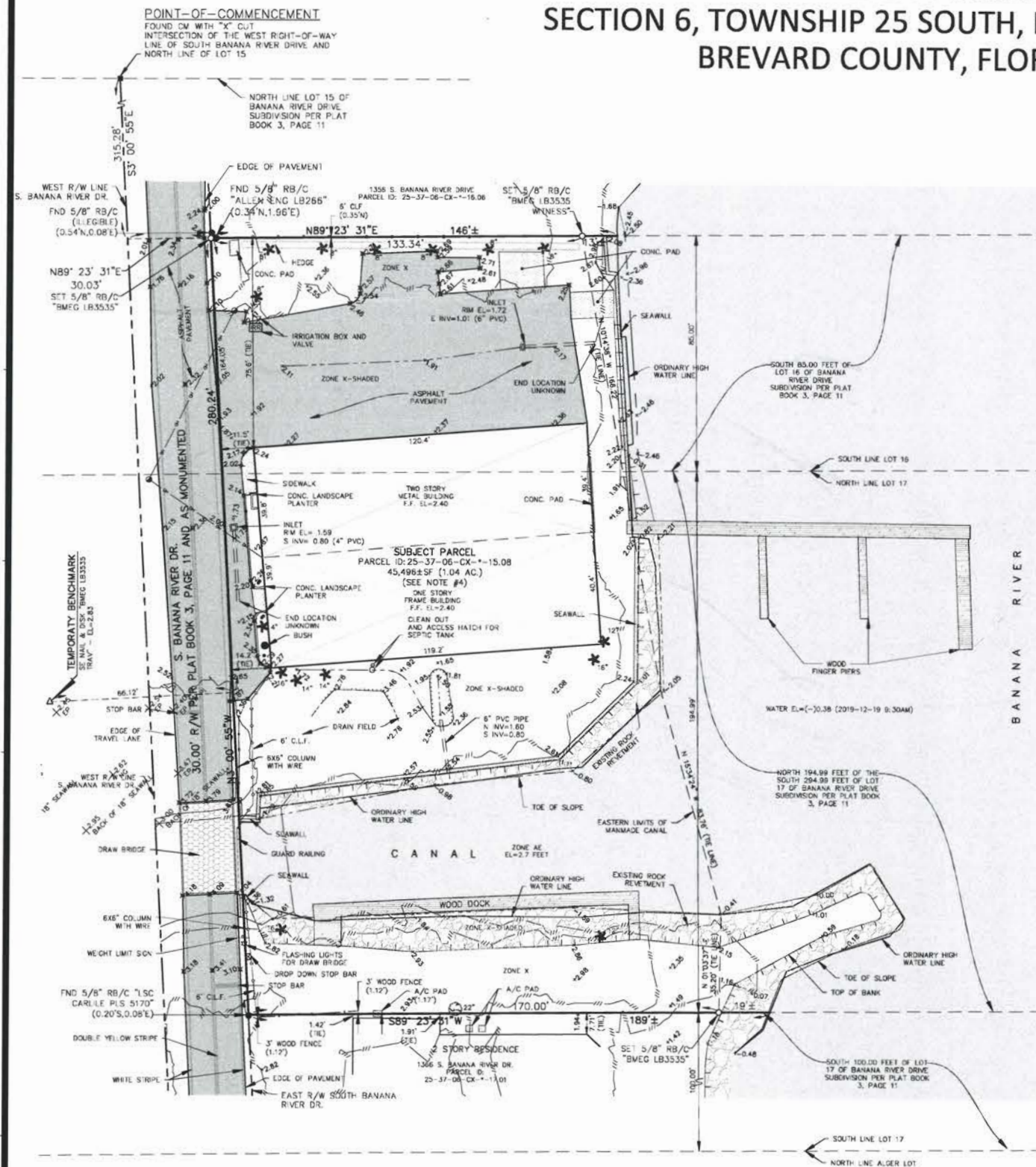
SURVEY DEPT.



RECEIVED  
JUN 03 2020  
BY: [Signature]

Survey  
20200010  
Marker 24

# MARKER 24 MARINA SECTION 6, TOWNSHIP 25 SOUTH, RANGE 37 EAST BREVARD COUNTY, FLORIDA



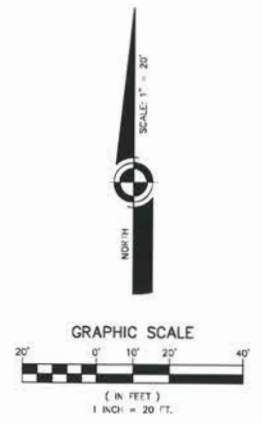
## LEGEND & ABBREVIATIONS:

BMEG	BUSSEN-MAYER ENGINEERING	WOODEN POWER POLE
POB	POINT-OF-BEGINNING	ELECTRIC BOX
R/W	RIGHT-OF-WAY	PIPING
ORA	OFFICIAL RECORDS BOOK	CLEANOUT
PL	PLAT BOOK	GLYWIRE
PG	PAGE	OVERHEAD WIRES
FND	FOUND	TOE OF BANK
NWC	REBAR WITH SURVEYOR'S CAP	WOOD FENCE
CM	CONCRETE MONUMENT	CHAIN-LINK FENCE
PVC	POLYVINYL CHLORIDE PIPE	TOE OF DITCH
RCP	REINFORCED CONCRETE PIPE	WATER LINE
A/C	AIR CONDITIONER	FLOOD LINE
W/	WITH	CONCRETE
EL	ELEVATION	DRAINAGE MANHOLE
INV	INVERT	SEWER MANHOLE
CONC.	CONCRETE	TELECOMMUNICATION BOX
CLF	CHAIN LINK FENCE	FIRE HYDRANT
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FF	FINISH FLOOR	GATE VALVE
BUDG	BUILDING	
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DI	DUCTILE IRON	
CMP	CORRUGATED METAL PIPE	
O	SET 5/8" REBAR AND CAP	
Δ	SET NAIL AND DISK	
■	FOUND CONCRETE MONUMENT	
●	FOUND REBAR	
▲	FOUND NAIL AND DISK	

## TREE LEGEND:

PALM TREE	★
BUSH	●
OAK TREE	⊙

*Alcohol note* →



## DESCRIPTION OFFICIAL RECORDS BOOK 8217, PAGE 2464:

### RIVER PARCEL:

THAT PORTION OF THE SOUTH 85 FEET TRACT 16 THAT LIES EAST OF THE EAST RIGHT-OF-WAY LINE OF SOUTH BANANA RIVER DRIVE AND THAT PORTION OF NORTH 194.99 FEET OF THE SOUTH 294.99 FEET OF TRACT 17 THAT LIES EAST OF THE EAST RIGHT-OF-WAY LINE OF SOUTH BANANA RIVER DRIVE, ALL LYING AND BEING IN BANANA RIVER DRIVE SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 3 AT PAGE 11 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

## NOTES:

- BEARINGS SHOWN HEREON ARE BASED ON THE EAST RIGHT-OF-WAY LINE OF SOUTH BANANA RIVER DRIVE BEING N 07°00'55" W BASED ON STATE PLANE COORDINATE SYSTEM FOR FLORIDA EAST ZONE, NORTH AMERICAN DATUM OF 1983 AS ADJUSTED IN 2009 (N.A.D. 83/09).
- DATE OF FIELD SURVEY: DECEMBER 1, 2019.
- ELEVATIONS SHOWN HEREON ARE BASED ON NORTH AMERICAN VERTICAL DATUM 1988 (NAV88), PRIMARY BENCHMARK-BREVARD COUNTY 467-66 2018. TEMPORARY BENCHMARK AS SHOWN.
- TOTAL PARCEL AREA = 45,496 SF / 1.04 AC  
LAND AREA = 37,126 SF / 0.85 AC  
CANAL AREA = 8,370 SF / 0.19 AC  
THIS PROPERTY LIES IN ZONE "X" (AREAS OUTSIDE 0.2% ANNUAL CHANCE FLOODPLAIN); ZONE "X" (SHADED - AREAS OF 0.2% ANNUAL CHANCE FLOOD); AND ZONE "AT" (AREAS OF SPECIAL FLOOD HAZARD; BASE FLOOD ELEVATION 2.7 FT., NAV88) AS DETERMINED FROM FLOOD INSURANCE RATE MAP 12000C0350, MAP DATED MARCH 17, 2014 AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
- UNDERGROUND IMPROVEMENTS (SEPTIC TANKS, FOUNDATIONS, DRAINFIELDS, ETC.) AND UNDERGROUND UTILITIES, IF ANY, WERE NOT LOCATED.
- THE SURVEYOR HAS NOT INSPECTED THE SUBJECT PARCEL FOR THE POSSIBILITY OF WETLANDS, HAZARDOUS WASTE, ENDANGERED SPECIES HABITAT, NOR ANY OTHER POSSIBLE ENVIRONMENTAL ITEMS.
- THE COORDINATES SHOWN HEREON ARE BASED ON THE STATE PLANE COORDINATE SYSTEM OF FLORIDA EAST ZONE, NORTH AMERICAN DATUM OF 1983 AS ADJUSTED IN 2009 (N.A.D. 83/09). ALL DISTANCES DEPICTED HEREON ARE GROUND DISTANCES.
- THE FOLLOWING HORIZONTAL CONTROL STATIONS WERE UTILIZED TO ESTABLISH THE STATE PLANE COORDINATES SHOWN HEREON:  
STATION NAME: BREVARD GPS 5013 (PID: DG8719);  
NORTHINGS: 1,453,296.66; EASTINGS: 758,151.38  
LATITUDE: 28°19'52.76767" (N); LONGITUDE: 080°40'58.72937" (W)  
COMBINED SCALE FACTOR: 0.99995310 CONVERGENCE: 00°09'01.6"
- STATION NAME: BREVARD GPS 5014 (PID: DG8720);  
NORTHINGS: 1,450,597.13; EASTINGS: 758,190.58  
LATITUDE: 28°19'26.03728" (N); LONGITUDE: 080°40'58.37008" (W)  
COMBINED SCALE FACTOR: 0.99995311 CONVERGENCE: 00°09'01.7"
- STATION NAME: BREVARD GPS 5060 DAVIS (PID: DG8756);  
NORTHINGS: 1,459,654.76; EASTINGS: 743,925.62  
LATITUDE: 28°20'56.06648" (N); LONGITUDE: 080°43'17.76180" (W)  
COMBINED SCALE FACTOR: 0.99995358 CONVERGENCE: 00°07'46.4"
- BASED ON THE BREVARD COUNTY PROPERTY APPRAISER'S WEBSITE, AND VISUAL INSPECTION THERE ARE NO CHURCHES OR SCHOOLS OPERATING WITHIN 400 FEET OF THE FRONT DOOR OF THE SUBJECT PROPERTY, AS OF THE DATE OF THIS SURVEY.
- I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AS PERFORMED UNDER MY DIRECTION AND SUPERVISION, AND THAT IT MEETS OR EXCEEDS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 51-17 OF FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES. SEE TITLE BLOCK FOR SIGNATURE AND SEAL.
- THIS SURVEY WAS PREPARED FOR THE EXCLUSIVE USE OF THE PARTIES LISTED BELOW. COPIES ARE VALID ONLY WHEN BEARING THE SURVEYOR'S ORIGINAL SIGNATURE AND SEAL OR VERIFIED ELECTRONIC SIGNATURE AND SEAL.
- CERTIFIED CORRECT TO:  
MARKER 24 MARINA, LLC

## VICINITY MAP



Sec. 6  
Twp. 25 South  
Rng. 37 East

JOSEPH BARRY CABANISS  
No. 4524  
STATE OF FLORIDA  
REGISTERED LAND SURVEYOR

Digitally signed by Joseph Barry Cabaniss  
Date: 2020.06.02 15:48:30 -0400

J. BARRY CABANISS, P.L.S.  
LICENSE NO. 4524

Florida  
BOUNDARY AND TOPOGRAPHIC SURVEY  
PREPARED FOR:  
MARKER 24 MARINA LLC  
Bussen-Mayer Engineering Group, Inc.  
100 PARNELL STREET • MERRITT ISLAND, FLORIDA 32953  
PH. NO. (321) 453-0010 • CERTIFICATE NO. 3005

Date: NOV. 21, 2019  
Scale: 1" = 20'  
Proj. No.: 410101  
Sheet Name:  
BOUNDARY AND TOPOGRAPHIC SURVEY  
Sheet: 1 of 1  
SURVEY DEPT.



**Ritchie, George C**

---

**From:** Craven, Tim  
**Sent:** Thursday, November 12, 2020 11:43 AM  
**To:** marker24marina@gmail.com; Ritchie, George C  
**Cc:** 'Peter Black'; Ball, Jeffrey; Calkins, Tad  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

Good morning:

The code for marina parking is located in Section 62-3206(d)(19):

*Marinas: Marinas and boat ramps:*

- a. Wet slips: One parking space per three wet slips.*
  - b. Dry slips and moorings: One parking space per four dry slips or moorings for facilities up to 50 dry slips or moorings, or one parking space per five dry slips or moorings for facilities with over 50 dry slips or moorings.*
  - c. Live-aboard: One parking space per boat slip.*
  - d. Boat ramps: 25 parking spaces per boat ramp or hoist available to the general public.*
- In addition to the aforementioned requirements, one parking space per each 300 square feet devoted to sales and service shall be provided. The county manager or designee may require that the applicant submit a parking study, signed and sealed by a professional engineer, to determine the number of additional parking spaces necessary to support ancillary uses, including, but not limited to, charter boats, ecotourism vessels, boat-yards and party-boats.*

I was using the 1/300 s.f. calculation shown on your exhibit for the entire building. Breaking down the square footage of each use in the building and applying the parking requirement per use could potentially lower the number of required spaces (or raise them). Restaurants and seating (including decks) are 1/100 s.f. Warehouses are 1/500. Retail is 1/200.

I also did not include the required 1 space for each 4 slips for mooring, which is what those 14 slips would be if they are rented to tenants.

But a CUP application is not the mechanism to evaluate or address parking issues. That would be done with a site plan submittal and review.

I apologize, I thought I had previously addressed your questions from the earlier email, but I will respond to them directly now:

The 6 boat slips on the fuel dock will not be rented to a tenant, so we can use those towards our parking calculations as shown on CUP exhibit. There are only 3 slips shown at the fuel dock on the exhibit. Those 3 can be counted.

The new dock with 17 slips will be rented to a tenant, and we have not included these in our parking calculation. The exhibit shows 14 slips, with 4 of those being 'Transient.' 14 mooring slips (rented) require 4 parking spaces.

It looks like your site is deficient in parking. You will need to submit a site plan if you wish to add parking to your site in order to comply with the Code.

Thank you,

*Tim*

Tim Craven, Planner I  
Land Development Section  
Brevard County Planning & Development Department  
(321) 350-8266  
[Tim.Craven@brevardfl.gov](mailto:Tim.Craven@brevardfl.gov)

This office can only provide information regarding the Site Plan Section (Chapter 62, Article VIII) of the Brevard County Code of Ordinances. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

**From:** marker24marina@gmail.com <marker24marina@gmail.com>  
**Sent:** Tuesday, November 10, 2020 5:07 PM  
**To:** Craven, Tim <Tim.Craven@brevardfl.gov>; Ritchie, George C <George.Ritchie@brevardfl.gov>  
**Cc:** 'Peter Black' <Peter@bluebelllandscaping.com>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Calkins, Tad <tad.calkins@brevardfl.gov>  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

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

Tim,

I see the section you're referring to regarding the parking spaces Except for single-family residences and duplexes, all off-street parking, loading areas and maneuvering space and associated driveway aisles, shall be paved (i.e., asphalt, concrete, or paver blocks).

Can you please site the code that refers to the 1/300, and does this apply to a marina.

Please answer the questions from the previous email and the provide above code.

Thank you for your continued help with this,

*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424

**From:** Craven, Tim <Tim.Craven@brevardfl.gov>  
**Sent:** Tuesday, November 10, 2020 3:56 PM

**To:** marker24marina@gmail.com; Ritchie, George C <George.Ritchie@brevardfl.gov>

**Cc:** 'Peter Black' <Peter@bluebelllandscaping.com>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>; Calkins, Tad <tad.calkins@brevardfl.gov>

**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

Good afternoon:

The parking calculations shown on the attached CUP exhibit only account for 4800 of a 9600 square-foot building. You are required to provide parking for the entire building. A 9600 s.f. building at 1/300 will require 32 spaces. The 5 spaces of grass parking cannot be included in the number of spaces provided per Sec. 62-3206(b)(5). Please remove those spaces from the calculation.

Your previous email indicates 6 slips on the fuel dock, but only three are shown on the exhibit. The email also states 17 spaces on the new dock will be rented, but the exhibit shows 14 spaces on the dock, and 4 of those are labeled 'Transient Slips'. Please rectify.

I count 19 parking spaces in the parking lot, plus three slips on the fuel dock, which leaves the property 10 spaces short of the required parking.

Thank you,

*Tim*

Tim Craven, Planner I  
Land Development Section  
Brevard County Planning & Development Department  
(321) 350-8266  
[Tim.Craven@brevardfl.gov](mailto:Tim.Craven@brevardfl.gov)

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**From:** marker24marina@gmail.com <marker24marina@gmail.com>

**Sent:** Tuesday, November 10, 2020 12:30 PM

**To:** Craven, Tim <Tim.Craven@brevardfl.gov>; Ritchie, George C <George.Ritchie@brevardfl.gov>

**Cc:** 'Peter Black' <Peter@bluebelllandscaping.com>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>

**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

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

Tim and George,

The 6 boat slips on the fuel dock will not be rented to a tenant, so we can use those towards our parking calculations as shown on CUP exhibit.

The new dock with 17 slips will be rented to a tenant, and we have not included these in our parking calculation. Just want to make sure that we're all in agreement with this item.

Regarding my previous email, yesterday at 4:42, are we in agreement with the code and that parking has been met?

Thank you,

*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424

**From:** Craven, Tim <Tim.Craven@brevardfl.gov>

**Sent:** Monday, November 9, 2020 5:04 PM

**To:** marker24marina@gmail.com; Ritchie, George C <George.Ritchie@brevardfl.gov>

**Cc:** 'Peter Black' <Peter@bluebelllandscaping.com>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>

**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

I was asked by Mr. Ritchie to look at the attached exhibit and evaluate the parking, and whether wet slips could count for credit towards the overall parking requirement of a marina. I stated that it could if the slips were for the use of the general public and not rented to a tenant. So in this situation, if they are for private use, they cannot be counted towards parking credit.

Thank you,

*Tim*

Tim Craven, Planner I  
Land Development Section  
Brevard County Planning & Development Department  
(321) 350-8266  
[Tim.Craven@brevardfl.gov](mailto:Tim.Craven@brevardfl.gov)

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**From:** marker24marina@gmail.com <marker24marina@gmail.com>

**Sent:** Monday, November 9, 2020 4:42 PM

**To:** Craven, Tim <Tim.Craven@brevardfl.gov>; Ritchie, George C <George.Ritchie@brevardfl.gov>

Cc: 'Peter Black' <Peter@bluebelllandscaping.com>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>

Subject: RE: Consumption on Premise for 1360 South Banana River Dr

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

Good Afternoon, George and Tim,

I have a few questions regarding parking based on the codes attached below. It was always my understanding that parking requirements for a non liveaboard marina was 1 space per 3 slips. I thought the parking requirements were met and satisfied during the last CUP hearing. The private club area is for people who keep a boat in a slip at our marina.

#### **Sec. 62-3661. - Definitions.**

Marina means all boating facilities with three or more wet and/or dry slips (consistent with current County definition). A marina is a facility or structure, which provides mooring, docking, anchorage, fueling, repairs, launching, or other related services for watercraft. Private boat docks associated with single-family lots are exempt from this category.

*Commercial/recreational marina* means public or private facilities which provide dockage and other related amenities not exclusively associated with a subdivision, condominium, duplex or other multifamily development.

#### **Sec. 62-3206. – Parking and loading requirements.**

(19) Marinas: Marinas and boat ramps:

(a) Wet slips: One parking space per three wet slips.

Thank you,

*Jordon Rogers*

General Manager

Marker 24 Marina

(W) 321.453.7888

(C) 321.750.2424

From: Craven, Tim <Tim.Craven@brevardfl.gov>

Sent: Friday, November 6, 2020 4:22 PM

To: marker24marina@gmail.com; Ritchie, George C <George.Ritchie@brevardfl.gov>

Cc: 'Peter Black' <Peter@bluebelllandscaping.com>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>

Subject: RE: Consumption on Premise for 1360 South Banana River Dr



Good afternoon:

The parking calculations shown on the CUP exhibit only account for 4800 of a roughly 9600 square-foot building. Also, the 5 spaces of grass parking cannot be included per Sec. 62-3206(b)(5). Please remove those spaces.

We could consider the slip spaces at a one-to-one ratio based on Section 62-2956(b)(3) allowing for parking reduction for sites that incorporate multi-modal transportation. However, those would have to be slips that are used on a strictly temporary basis for customers of the marina, not rented out to a tenant for storing boats long-term.

Please reconfigure the parking calculation for the entire building. If you intend to use the 17 wet slip spaces in your calculation, that is acceptable, but please make a note on the plan that the slip spaces are for temporary boat parking only, and that no spaces shall be rented. If you intend to rent a space to a boat owner, you cannot include that space in the parking calculation.

Thank you,

*Tim*

Tim Craven, Planner I  
Land Development Section  
Brevard County Planning & Development Department  
(321) 350-8266  
[Tim.Craven@brevardfl.gov](mailto:Tim.Craven@brevardfl.gov)

This office can only provide information regarding the Site Plan Section (Chapter 62, Article VIII) of the Brevard County Code of Ordinances. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

**From:** marker24marina@gmail.com <marker24marina@gmail.com>  
**Sent:** Friday, November 6, 2020 3:41 PM  
**To:** Ritchie, George C <George.Ritchie@brevardfl.gov>  
**Cc:** 'Peter Black' <Peter@bluebelllandscaping.com>; Craven, Tim <Tim.Craven@brevardfl.gov>; Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

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

George and Tim,

This area is for tenants of the marina. Would that still cause parking insufficiencies?

Thank you,



*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424

**From:** Ritchie, George C <[George.Ritchie@brevardfl.gov](mailto:George.Ritchie@brevardfl.gov)>

**Sent:** Friday, November 6, 2020 3:37 PM

**To:** [marker24marina@gmail.com](mailto:marker24marina@gmail.com)

**Cc:** 'Peter Black' <[Peter@bluebelllandscaping.com](mailto:Peter@bluebelllandscaping.com)>; Craven, Tim <[Tim.Craven@brevardfl.gov](mailto:Tim.Craven@brevardfl.gov)>; Ball, Jeffrey <[Jeffrey.Ball@brevardfl.gov](mailto:Jeffrey.Ball@brevardfl.gov)>

**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

There may be a problem with sufficient parking. Please contact Tim Craven for possible remedies.

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

George C. Ritchie, Planner III, Zoning Office  
Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**From:** Ritchie, George C

**Sent:** Friday, November 6, 2020 3:16 PM

**To:** [marker24marina@gmail.com](mailto:marker24marina@gmail.com)

**Cc:** 'Peter Black' <[Peter@bluebelllandscaping.com](mailto:Peter@bluebelllandscaping.com)>; Craven, Tim <[Tim.Craven@brevardfl.gov](mailto:Tim.Craven@brevardfl.gov)>

**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

I've asked Tim Craven to verify sufficient parking is available. Will advise once I receive a response.

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

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Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**From:** marker24marina@gmail.com <marker24marina@gmail.com>  
**Sent:** Friday, November 6, 2020 2:59 PM  
**To:** Ritchie, George C <George.Ritchie@brevardfl.gov>  
**Cc:** 'Peter Black' <Peter@bluebelllandscaping.com>  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

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

Good Afternoon,

Attached you will find

1. A signed and sealed survey describing tract with legal description. You will also see on Note 10 the 400 foot certified alcohol suurvey
2. CUP Worksheet
3. CUP Exhibit showing parking, landscaping, etc.
4. Listing of Locations of Consumption.

Please let me know if you need any additional information for the Consumption on Premise CUP

*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424

**From:** Ritchie, George C <George.Ritchie@brevardfl.gov>  
**Sent:** Thursday, November 5, 2020 10:33 AM  
**To:** marker24marina@gmail.com  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

See attached forms and code section for alcoholic beverages..

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

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Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**From:** marker24marina@gmail.com <marker24marina@gmail.com>  
**Sent:** Thursday, November 5, 2020 10:06 AM  
**To:** Ritchie, George C <George.Ritchie@brevardfl.gov>  
**Cc:** Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

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

Good Afternoon,

Can you please send over the CUP application for the consumption on premise. We will have this filled out and sent back to you on Friday, along with the Alcohol Survey from Bussen-Mayer.  
Do we need a CUP Exhibit/Site plan for this as well?

Thank you,

*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424

**From:** Ritchie, George C <George.Ritchie@brevardfl.gov>  
**Sent:** Monday, November 2, 2020 9:50 AM  
**To:** marker24marina@gmail.com  
**Cc:** Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

Application deadline is Friday November 6<sup>th</sup> at 4pm. Will you have an application complete for this application cycle? Please call and setup a meeting for application submittal. Will need alcohol survey, CUP paperwork, notarized and signed forms.

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

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Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**From:** Ritchie, George C  
**Sent:** Thursday, October 22, 2020 2:17 PM  
**To:** [marker24marina@gmail.com](mailto:marker24marina@gmail.com)  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

I'll be back in the office Tuesday. Will need full application same as previous request with CUP paperwork as well.

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

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Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**From:** [marker24marina@gmail.com](mailto:marker24marina@gmail.com) <[marker24marina@gmail.com](mailto:marker24marina@gmail.com)>  
**Sent:** Thursday, October 22, 2020 1:14 PM  
**To:** Ritchie, George C <[George.Ritchie@brevardfl.gov](mailto:George.Ritchie@brevardfl.gov)>  
**Cc:** 'Peter Black' <[peter@bluebelllandscaping.com](mailto:peter@bluebelllandscaping.com)>  
**Subject:** Consumption on Premise for 1360 South Banana River Dr

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

George,

Hope all is well, I know you have partial information on the consumption on premise CUP Application along with payment. We are ready to move forward with that, please let us know what our next steps are and timeline.



Thank you for your help,

*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424

**Ritchie, George C**

---

**From:** marker24marina@gmail.com  
**Sent:** Friday, November 6, 2020 3:25 PM  
**To:** Ritchie, George C  
**Cc:** 'Peter Black'  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

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

Full Liquor please

Thank you,

*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424

---

**From:** Ritchie, George C <George.Ritchie@brevardfl.gov>  
**Sent:** Friday, November 6, 2020 3:19 PM  
**To:** marker24marina@gmail.com  
**Cc:** 'Peter Black' <Peter@bluebelllandscaping.com>  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

Was this for full liquor or just beer and wine? Please advise.

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Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

---

**From:** marker24marina@gmail.com <marker24marina@gmail.com>  
**Sent:** Friday, November 6, 2020 2:59 PM



**From:** marker24marina@gmail.com <marker24marina@gmail.com>  
**Sent:** Thursday, November 5, 2020 10:06 AM  
**To:** Ritchie, George C <George.Ritchie@brevardfl.gov>  
**Cc:** Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

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Good Afternoon,

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Do we need a CUP Exhibit/Site plan for this as well?

Thank you,

*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424

**From:** Ritchie, George C <George.Ritchie@brevardfl.gov>  
**Sent:** Monday, November 2, 2020 9:50 AM  
**To:** marker24marina@gmail.com  
**Cc:** Ball, Jeffrey <Jeffrey.Ball@brevardfl.gov>  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

Application deadline is Friday November 6<sup>th</sup> at 4pm. Will you have an application complete for this application cycle? Please call and setup a meeting for application submittal. Will need alcohol survey, CUP paperwork, notarized and signed forms.

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Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**To:** Ritchie, George C <[George.Ritchie@brevardfl.gov](mailto:George.Ritchie@brevardfl.gov)>  
**Cc:** 'Peter Black' <[Peter@bluebelllandscaping.com](mailto:Peter@bluebelllandscaping.com)>  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

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Good Afternoon,

Attached you will find

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2. CUP Worksheet
3. CUP Exhibit showing parking, landscaping, etc.
4. Listing of Locations of Consumption.

Please let me know if you need any additional information for the Consumption on Premise CUP

*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424

**From:** Ritchie, George C <[George.Ritchie@brevardfl.gov](mailto:George.Ritchie@brevardfl.gov)>  
**Sent:** Thursday, November 5, 2020 10:33 AM  
**To:** [marker24marina@gmail.com](mailto:marker24marina@gmail.com)  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

See attached forms and code section for alcoholic beverages..

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Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**From:** Ritchie, George C  
**Sent:** Thursday, October 22, 2020 2:17 PM  
**To:** [marker24marina@gmail.com](mailto:marker24marina@gmail.com)  
**Subject:** RE: Consumption on Premise for 1360 South Banana River Dr

I'll be back in the office Tuesday. Will need full application same as previous request with CUP paperwork as well.

This office can only provide zoning and comprehensive plan information. You may wish to contact other County agencies to fully determine the development potential of this property. This letter does not establish a right to develop or redevelop the property and does not constitute a waiver to any other applicable land development regulations. At the time of development, this property will be subject to all such regulations. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

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Brevard County Planning & Development Department  
2725 Judge Fran Jamieson Way Bldg. A-114  
Viera, FL 32940

Phone # (321-350-8272)

**From:** [marker24marina@gmail.com](mailto:marker24marina@gmail.com) <[marker24marina@gmail.com](mailto:marker24marina@gmail.com)>  
**Sent:** Thursday, October 22, 2020 1:14 PM  
**To:** Ritchie, George C <[George.Ritchie@brevardfl.gov](mailto:George.Ritchie@brevardfl.gov)>  
**Cc:** 'Peter Black' <[peter@bluebelllandscaping.com](mailto:peter@bluebelllandscaping.com)>  
**Subject:** Consumption on Premise for 1360 South Banana River Dr

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

George,

Hope all is well, I know you have partial information on the consumption on premise CUP Application along with payment. We are ready to move forward with that, please let us know what our next steps are and timeline.

Thank you for your help,

*Jordon Rogers*

General Manager  
Marker 24 Marina  
(W) 321.453.7888  
(C) 321.750.2424



20200010

Owner's Name: Marker 24 Marina LLC

Hearing Date: 11/11/2021

THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING

AFFIDAVIT

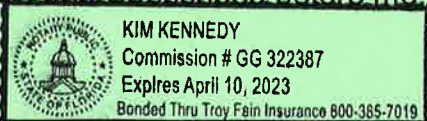
STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Brian Lat, 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.

Brian Lat  
Signature

Sworn and Subscribed before me, this 27<sup>th</sup> 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









## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 11, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Joe Buchanan; and Peter Filiberto, Vice Chair.

Staff members present were: Tad Calkins, Planning and Development Director; George Ritchie, Planner III; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Marker 24 Marina, LLC (Peter Black)**

A CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a private club, in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification. The property is 1.04 acres +/-, located on the east side of S. Banana River Dr., approx. 160 ft. north of West Virginia Ave. (1360 S. Banana River Dr., Merritt Island) (20Z00010) (Tax Account 3018251) (District 2)

Peter Black stated he is requesting the CUP to add to the many improvements he's done to the marina to create an atmosphere that's consistent with a marina, which is giving tenants of the marina, along with homeowners in the Marker 24 HOA, a place to gather and enjoy a drink on the river.

Peter Filiberto asked if people need memberships to be in the private club. Mr. Black replied yes, members would have to have a boat in the marina or live in the community. He noted there are 20 houses in the community and 124 boat slips.

Ron Bartcher asked if there will be an outdoor deck. Mr. Black replied, yes, there will be a deck and covered tiki bar. Mr. Bartcher asked if the bar would close at 10:00 p.m. Mr. Black replied it will probably close before 10:00 p.m. Mr. Bartcher asked if there will be outdoor music. Mr. Black replied he would like to have some ambiance music, but he does not need to have loud music. Mr. Bartcher asked if the music could be limited to inside the building and not have speakers outside. Mr. Black replied yes. Mr. Bartcher asked about the additional landscaping that is proposed. Mr. Black replied he is working with a landscape architect to incorporate some silver buttonwood trees, natives, coconut palms, and others.

Mr. Filiberto stated there are a total of 24 parking spaces, but with it being only open to the HOA members and tenants it shouldn't be a problem. Mr. Black said he understands there is a parking situation, so he wanted to limit it to people who would already be at the marina or in the surrounding community.

Public comment.

John McDonald, 950 S. Banana River Drive, stated he does not have a problem with the proposed bar, but his major concern is traffic. He said S. Banana River Drive needs more speed bumps and a lot more lights because it gets dark there.

Mr. Filiberto stated he had the same concern which is why he wanted to know about the private club and who will be part of it, and since it's the HOA members he imagines people will be walking to it, or get there by boat.

Mr. McDonald pointed out that not every household has just one car, and there are no sidewalks either, so people walk in the road and it could be a dangerous situation.

End of public comment.

Motion by Brian Hodgers, seconded by Joe Buchanan, to approve the request for a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a private club, in a BU-2 zoning classification. The motion passed unanimously.





# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.6.

2/4/2021

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### **Subject:**

Tammy McCoy requests a change of zoning classification from AU to EU-1. (20Z00035) (Tax Account 2103412) (District 1)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from AU (Agricultural Residential) to EU-1 (Estate Use Residential).

### **Summary Explanation and Background:**

The applicant is requesting a change of zoning classification from AU (Agricultural Residential) to EU-1 (Estate Use Residential) on 0.50 acres for the purpose of legitimizing the parcel and to build a single-family home on the parcel. The proposed EU-1 zoning classification requires a minimum lot size of 12,000 square feet with a minimum lot width and depth of 100 feet, and a minimum living area of 1,800 square feet. The property is located on the south side of E. Main Street, approximately 795 ft. east of Harry T. Moore Avenue, in Mims.

The EU-1 zoning classification is consistent with the current Residential 4 Future Land Use designation. The character of the area is a mixture of single-family residential, agricultural residential, multi-family residential, and general retail commercial.

The Board may wish to consider whether this request for EU-1 is consistent and compatible with the surrounding area.

On January 11, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval.

### **Clerk to the Board Instructions:**

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

# **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

(c) General Standards of Review.

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



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

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

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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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

### STAFF COMMENTS

20Z00035

Tammy McCoy

#### AU (Single-Family Agricultural) to EU-1 (Estate Use Residential)

Tax Account Number: 2103412  
Parcel I.D.: 21-35-17-00-763  
Location: No address assigned, on the south side of E. Main Street 795 feet east of Harry T. Moore Avenue, in the Mims area (District 1)  
Acreage: 0.50 acre  
  
Planning and Zoning Board: 01/11/2021  
Board of County Commissioners: 02/04/2021

#### 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
<b>Zoning</b>	AU	EU-1
<b>Potential*</b>	0 units, requires 2.5 acres	1 single-family unit
<b>Can be Considered under the Future Land Use Map</b>	Yes, RES 4	Yes, RES 4

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

#### Background and Purpose of Request

The applicant is requesting a change of zoning classification from AU (Agricultural Residential) to EU-1 (Estate Use Residential) on 0.50 acres for the purpose of legitimizing the parcel and to build a single-family home on the parcel.

The applicant has not provided a site plan showing the location and size of a future home.

The AU zoning is the original zoning for the parcel as established by Brevard County in 1958. The parent parcel was subdivided into two parcels on March 13, 1963 per Official Records Book 574, Page 860 which created two 0.50 acres parcels including the abutting parcel to the south. The parent parcel had a single-family home that was built in 1962 before the parcel was subdivided. In 1963, AU zoning required a minimum lot size of one acre with a minimum lot width and lot depth of 125 feet. This subdivision of the lot in 1963 created two lots that are substandard to the AU minimum lot size



requirement. The subject parcel has a 25 feet wide ingress/egress access easement across the west 25 feet of the parcel for accessing the abutting developed parcel to the south.

## **Land Use**

The subject property retains the RES 4 (Residential 4) FLU designation. The current zoning of AU on the subject property is consistent with the RES 4 FLU per 62-1255 (2). The proposed zoning of EU-1 is consistent with the RES 4 FLU per 62-1255 (2).

## **Environmental Constraints**

### **Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

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

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Highway US-1, between Dairy Road and State Road 46, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 40.58% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. With the maximum development potential from the proposed rezoning, the corridor is anticipated to operate at 40.61% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located along the east side of Highway US-1 approximately 2,315 feet west of the westerly property line of the subject parcel as measured along Main Street.

The parcel can be serviced by Brevard County water. The closest available Brevard County water line is located across from the parcel along the north side of E. Main Street.

## **Applicable Land Use Policies**

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

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

The abutting parcels to the east, south and west all have FLU designation of RES 4 (Residential 4). The proposed zoning change from AU to EU-1 is consistent with the RES 4 FLU designation.

Policy #3C Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development approved within the past three year, but not yet constructed.

There has not been any approved development in the surrounding area within the last three years. Although there is no EU-1 zoning in the immediate area it appears the developing trend in this area is moving away from Agricultural uses to single-family residential use.

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

The subject parcel is currently undeveloped with AU zoning that abuts E. Main Street to the north.

The abutting parcel to the east is zoned AU and is undeveloped. The abutting parcel to the south is zoned AU and is developed with a 2,476 sq. ft. single-family home. The parcels to the west along the south side of E. Main Street are substandard AU zoned parcels that are developed with single-family homes along with undeveloped substandard AU zoned parcels. The parcel 390 feet west of the subject parcel is zoned RU-2-30 (High-Density Multi Family Residential) and is a multi-family residential development.

All the area around the subject parcel has a FLU (Future Land Use) designation of RES 4 which is consistent with the AU and proposed EU-1 zoning classifications. The surrounding developed and undeveloped AU zoned parcels are not being used for agricultural pursuit.

### **Surrounding Properties**

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

On November 05, 2020, application **20Z00023** requests were heard by the County Commission to a change of zoning classification from RU-1-9 and BU-1 to BU-1-A on 0.98 acres; and a BDP limited to 4 units per acre on 2.29 acres on the RU-1-9 portion. This parcel is located on the south side of E. Main Street, approximately 843 feet west of the subject property.

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

The proposed EU-1 zoning classification is an estate single family residential zoning classification. The minimum lot size is 12,000 square feet with minimum lot width and lot depth of 100'. The minimum living area is 1,800 square feet.

### **For Board Consideration**

The Board may wish to consider whether this request for EU-1 is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item # 20Z00035**

**Applicant:** Tammy McCoy

**Zoning Request:** AU to EU-1

**Note:** Applicant wants to legitimize lot size.

**P&Z Hearing Date:** 01/11/21; **BCC Hearing Date:** 02/04/21

**Tax ID No:** 2103412

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

**Summary of Mapped Resources and Noteworthy Land Use Issues:**

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species

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

**Land Use Comments:**

**Aquifer Recharge Soils**

The subject parcel contains mapped aquifer recharge soils (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.

**Land Clearing and Landscape Requirements**

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

**Protected Species**

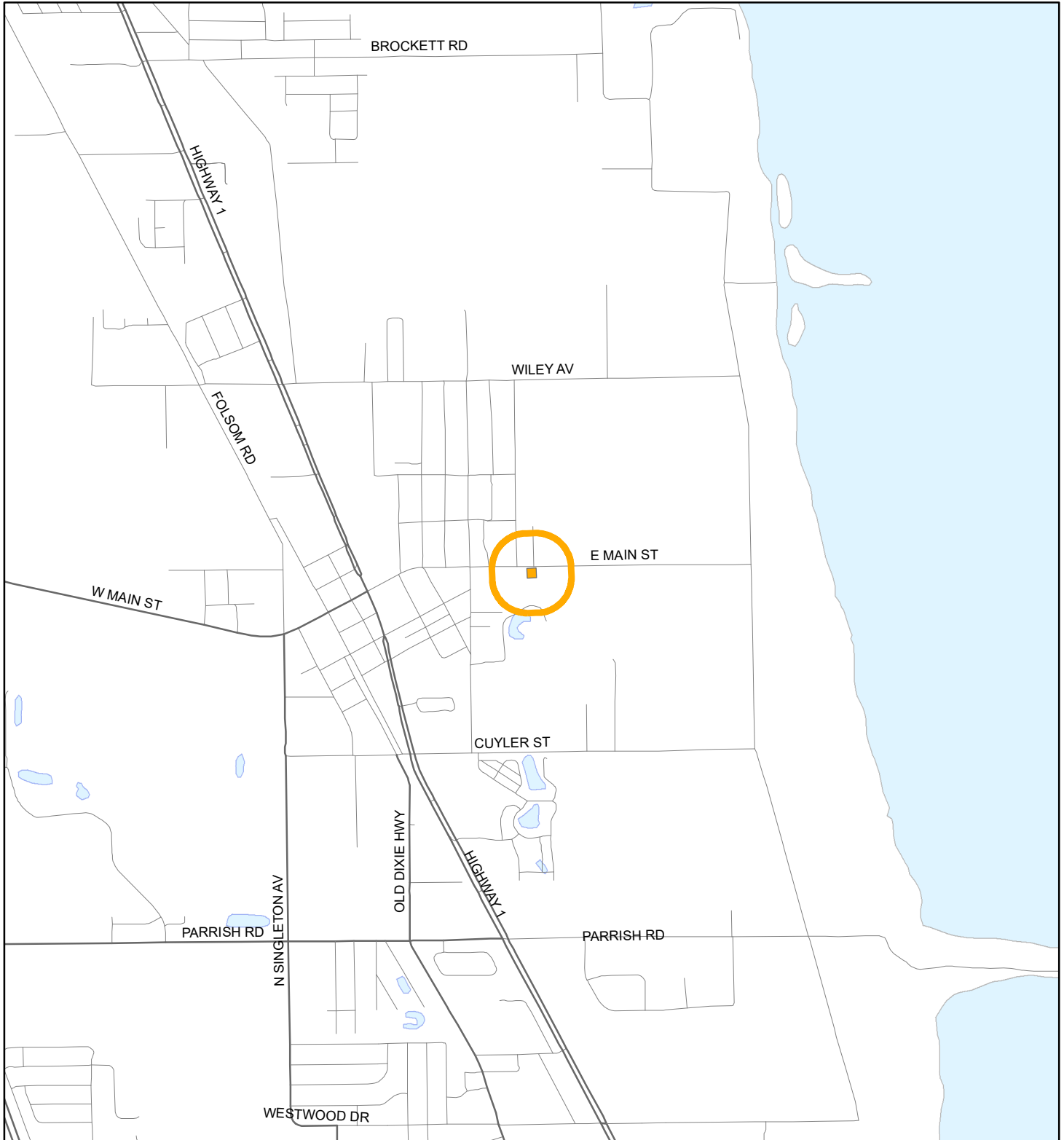
Information available to NRM indicates that federally and/or state protected species may be present on the property. Specifically, gopher tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land

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

McCOY, TAMMY  
20Z00035



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

Buffer Distance: 500 feet

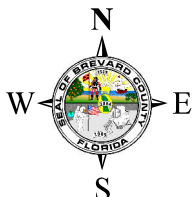
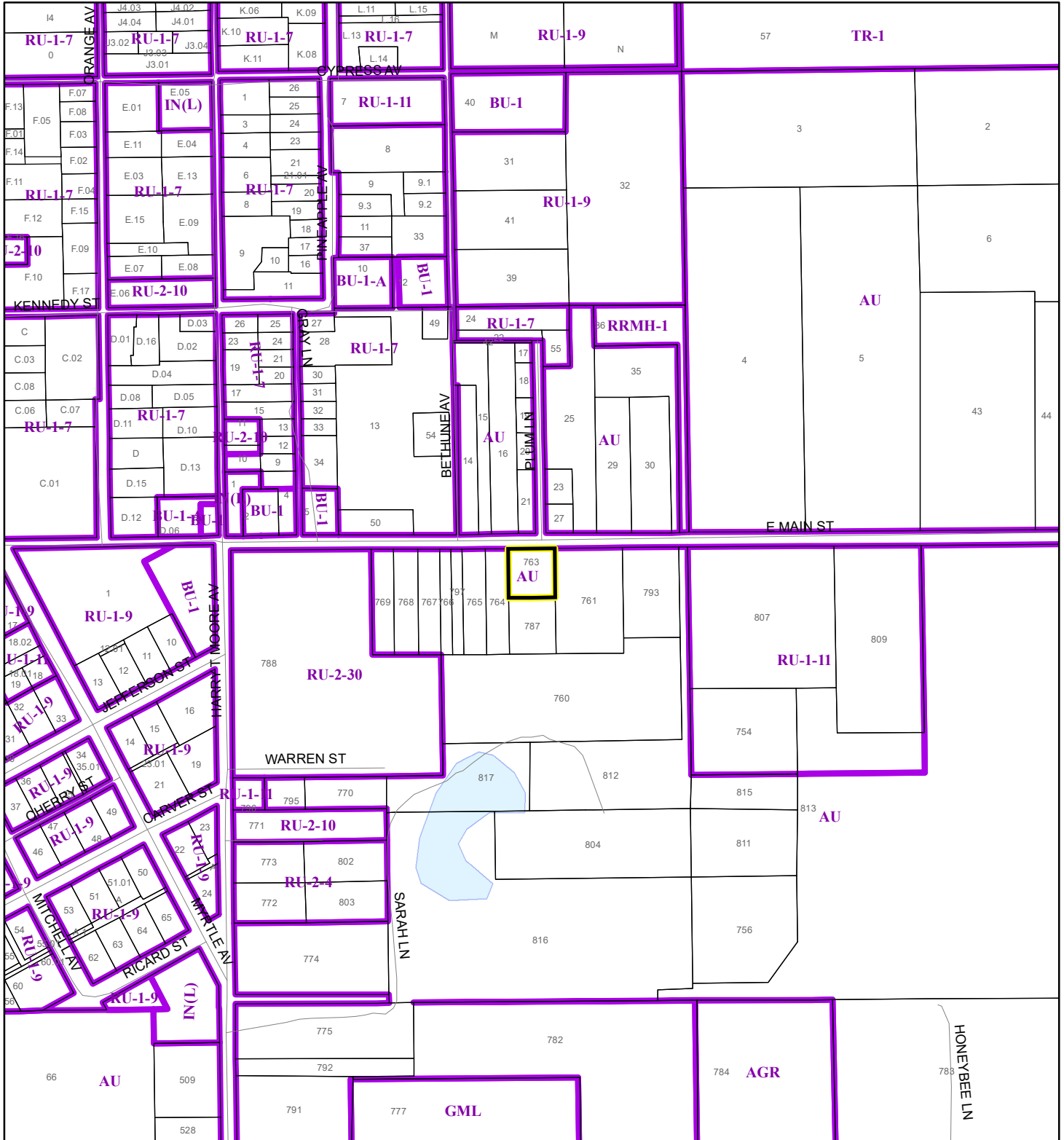
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/9/2020

Buffer  
Subject Property

# ZONING MAP

McCOY, TAMMY  
20Z00035



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: 11/9/2020

Subject Property

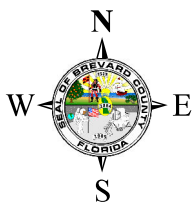
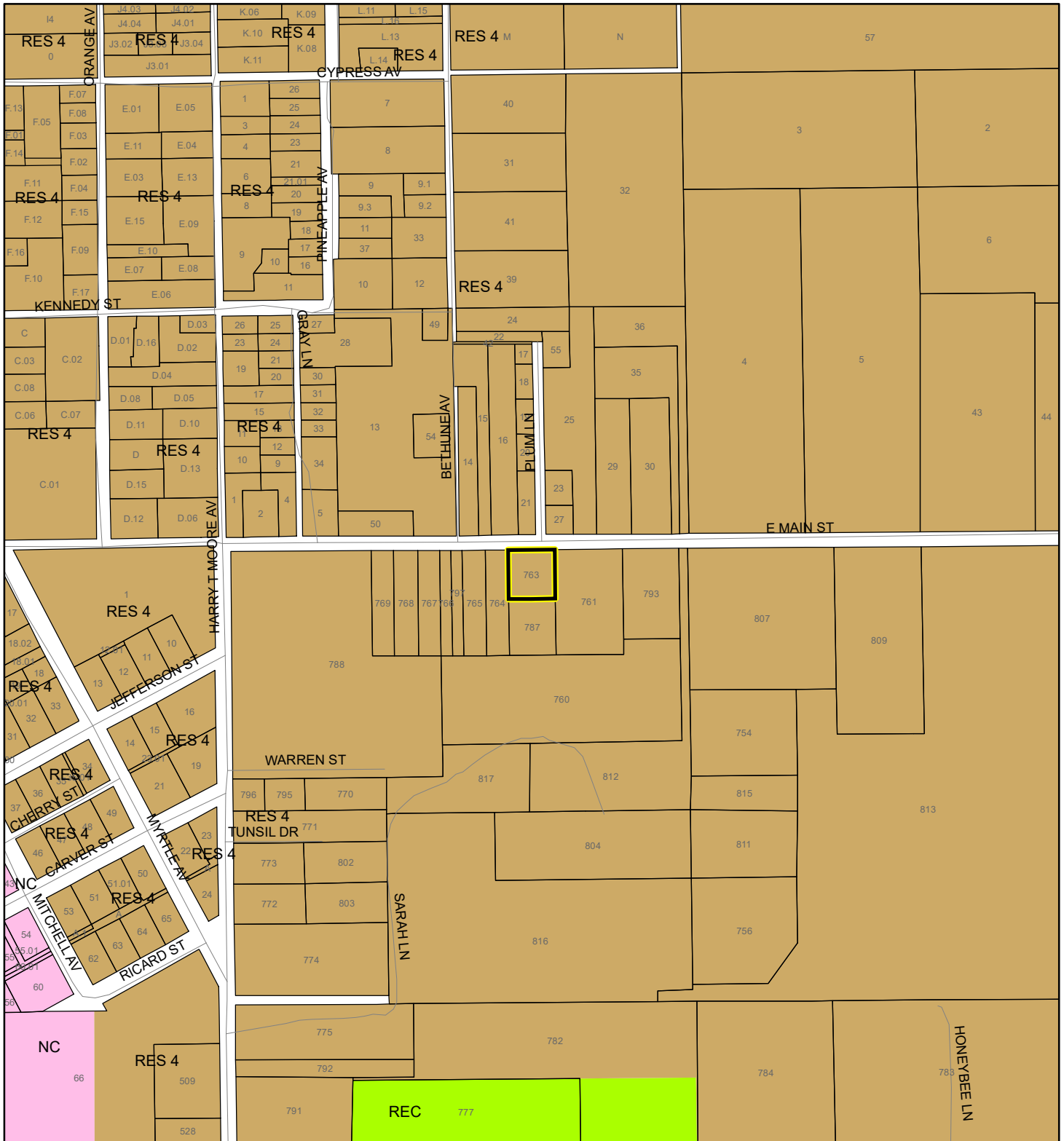
Parcels

Zoning

# FUTURE LAND USE MAP

McCOY, TAMMY

20Z00035



1:4,800 or 1 inch = 400 feet

**Subject Property**  
**Parcels**

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Produced by BoCC - GIS Date: 11/9/2020



# AERIAL MAP

McCOY, TAMMY

20Z00035




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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

Produced by BoCC - GIS Date: 11/9/2020

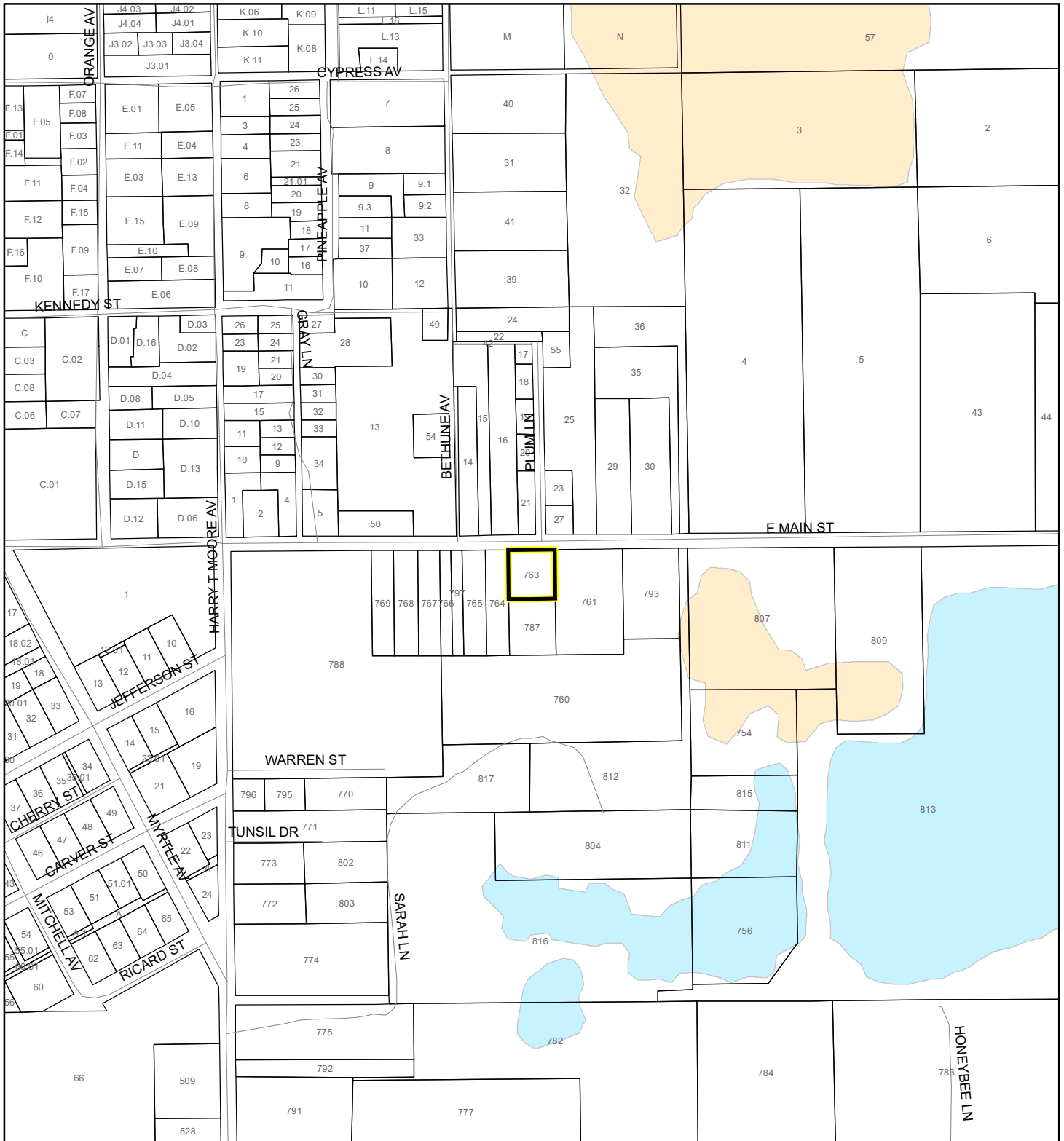
 Subject Property

 Parcels



# NWI WETLANDS MAP

McCOY, TAMMY  
20Z00035













1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/9/2020

## National Wetlands Inventory (NWI)

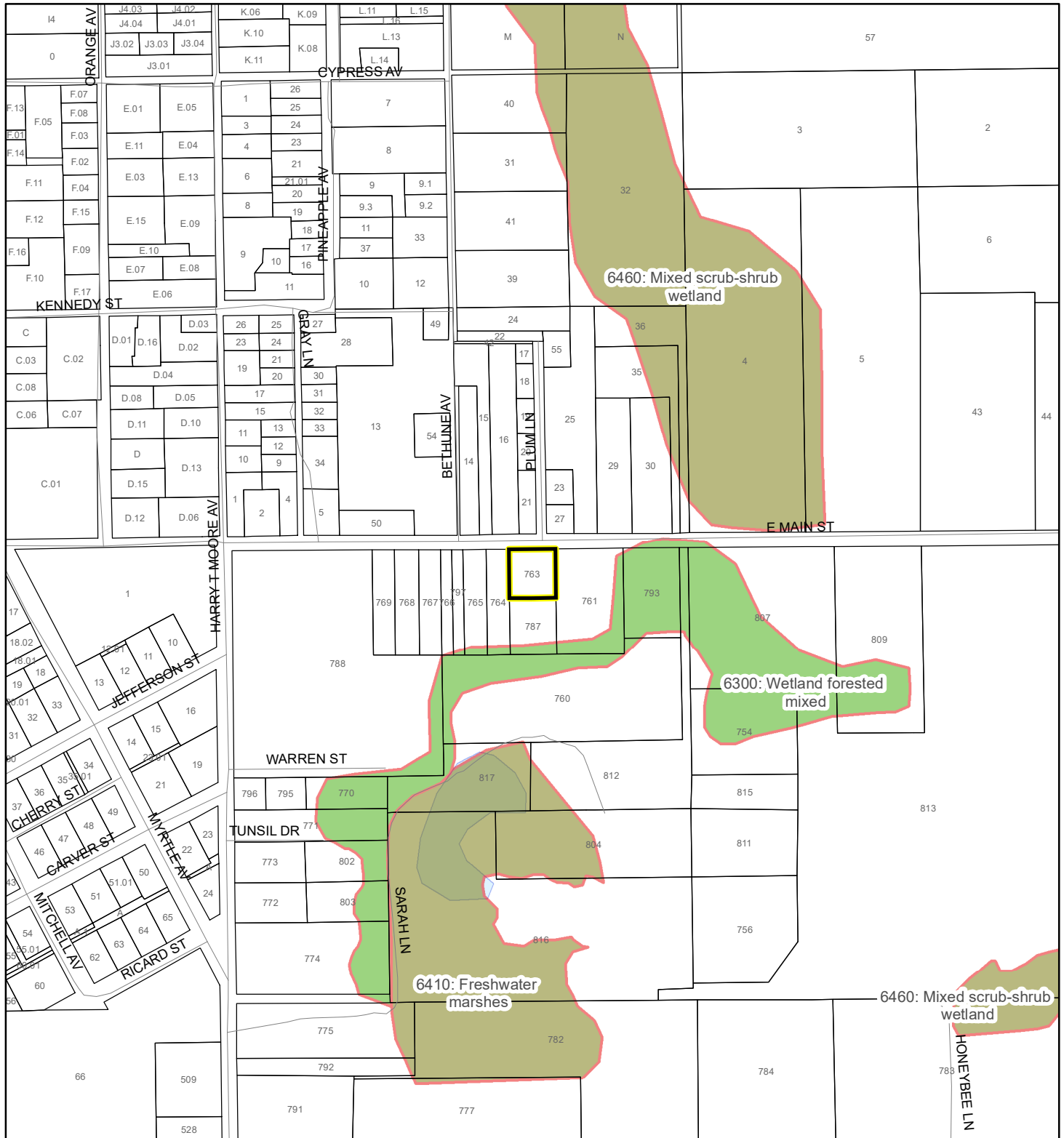
 Estuarine and Marine Deepwater	 Freshwater Pond
 Estuarine and Marine Wetland	 Lake
 Freshwater Emergent Wetland	 Other
 Freshwater Forested/Shrub Wetland	 Riverine
 Subject Property	
 Parcels	



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

McCOY, TAMMY

20Z00035



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: 11/9/2020

## 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

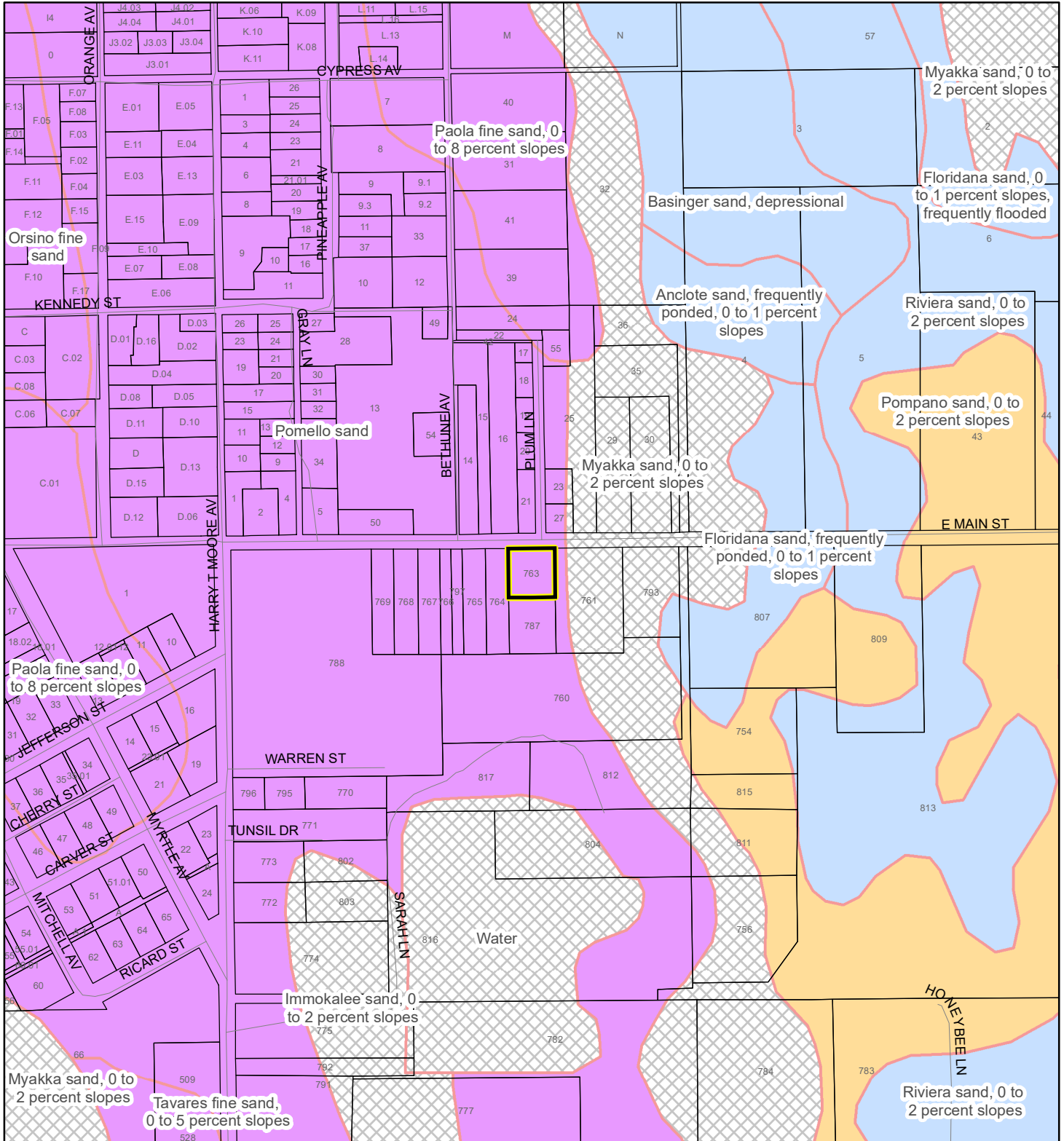
Subject Property

Parcels

# USDA SCSSS SOILS MAP

McCOY, TAMMY

20Z00035



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: 11/9/2020

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

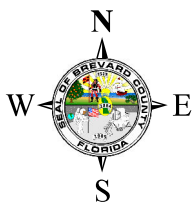
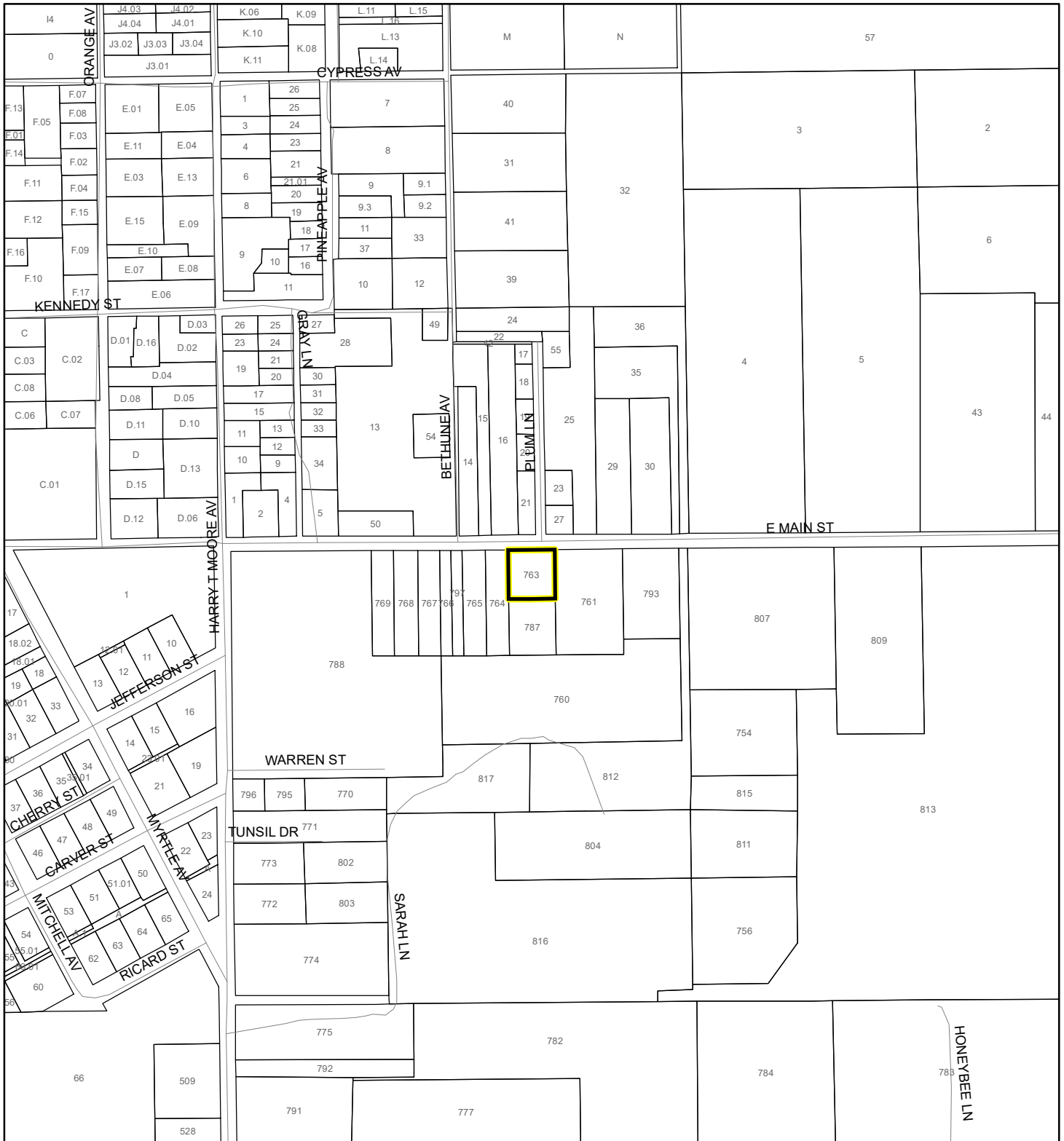
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

McCOY, TAMMY

20Z00035



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: 11/9/2020

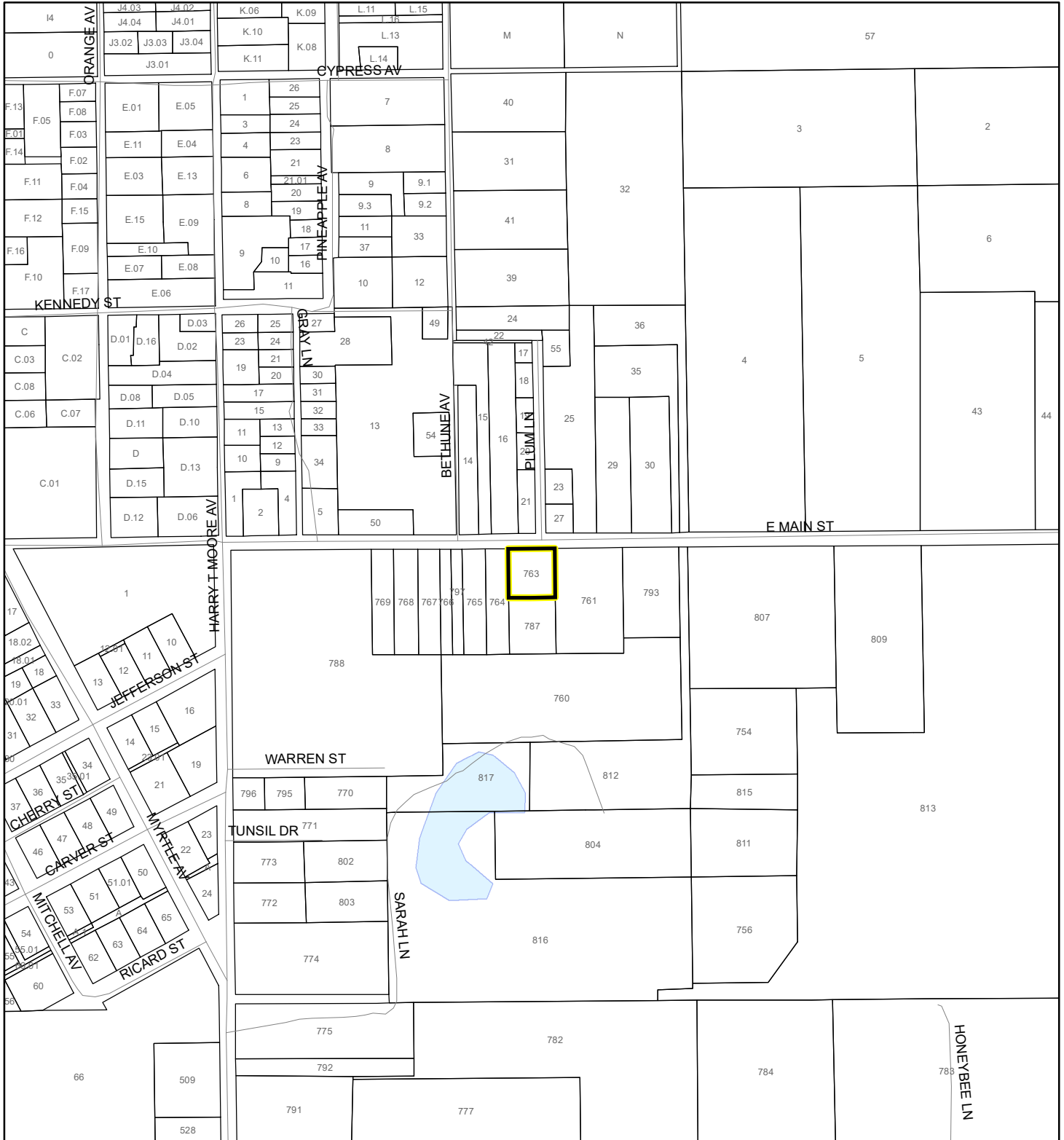
## FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| 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

McCOY, TAMMY

20Z00035



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 11/9/2020

 Subject Property

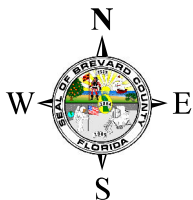
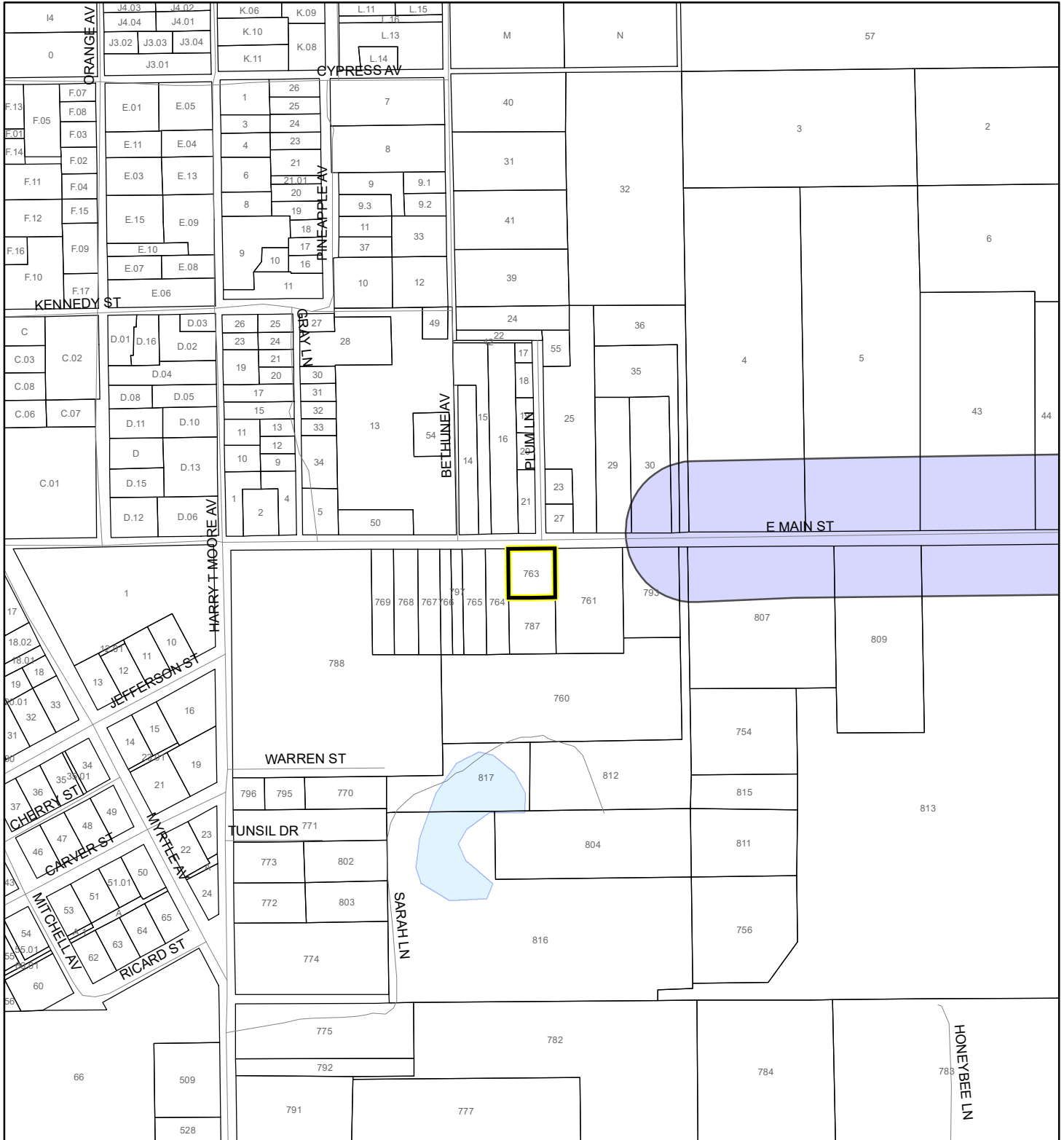
 Parcels

**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

McCOY, TAMMY  
20Z00035



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/9/2020

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

 60 Meters

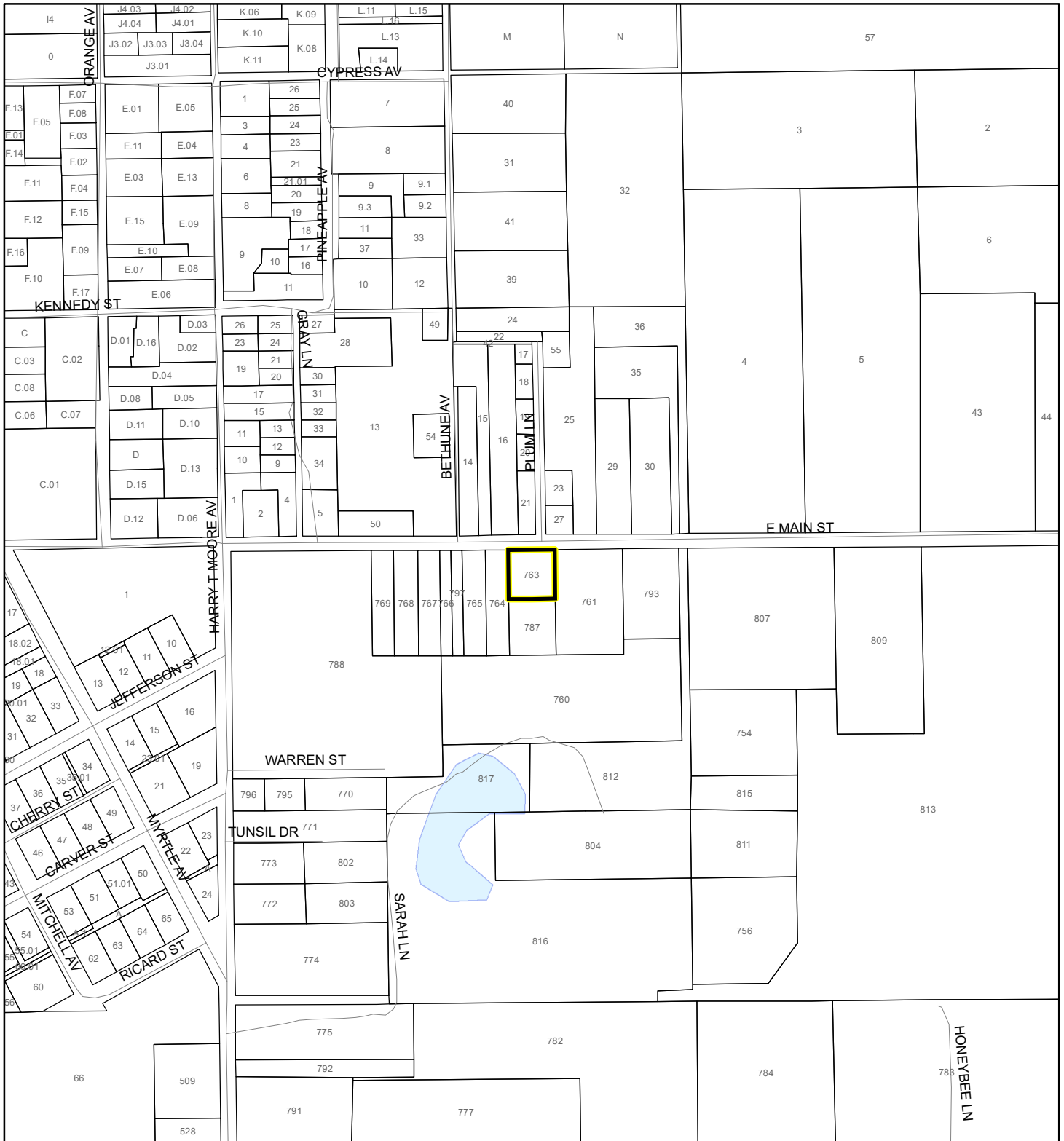
 All Distances



# EAGLE NESTS MAP

McCOY, TAMMY

20Z00035




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/9/2020

 Subject Property

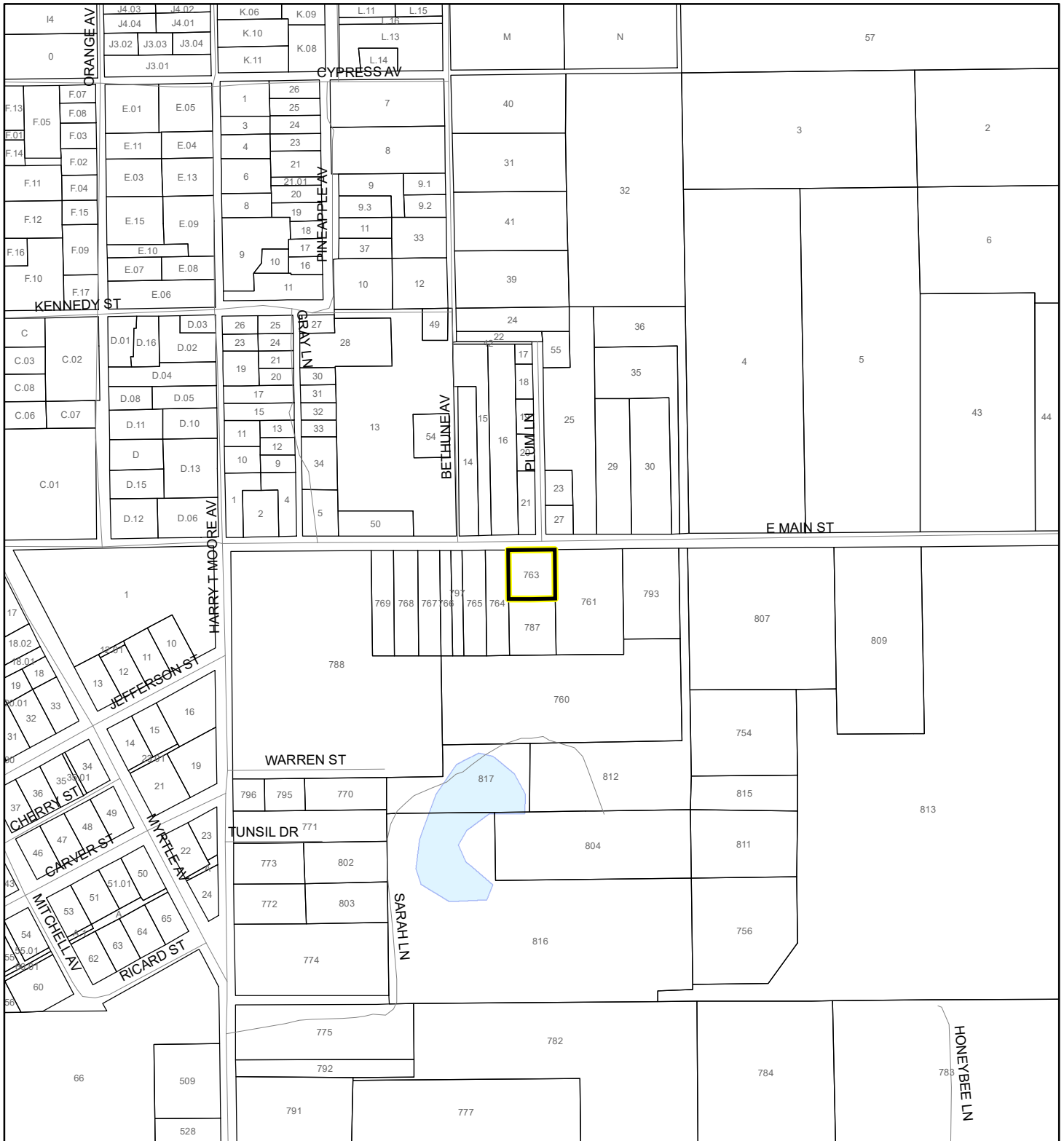
 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

McCOY, TAMMY

20Z00035



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.

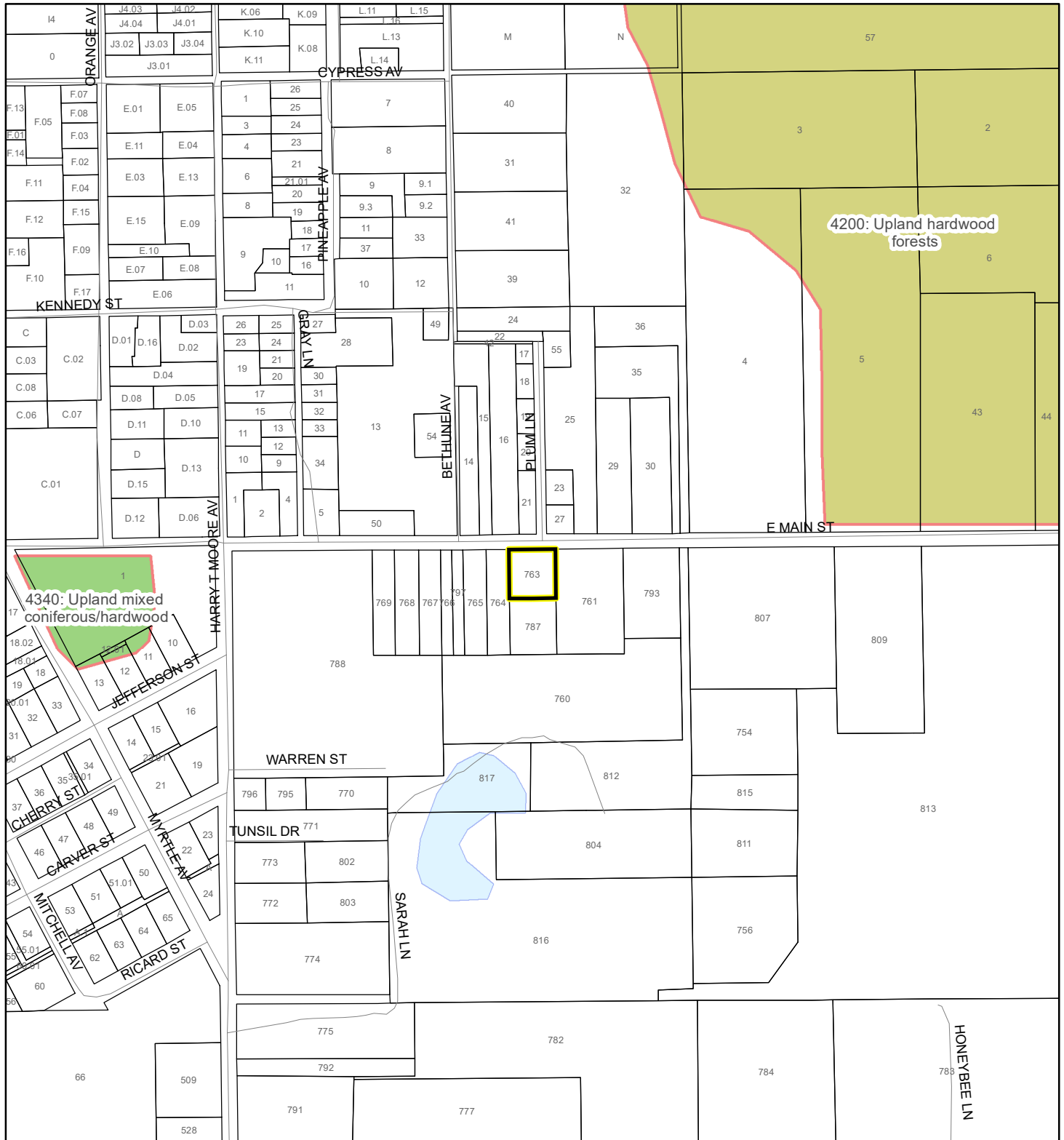
Produced by BoCC - GIS Date: 11/9/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

McCOY, TAMMY

20Z00035



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: 11/9/2020

## 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 # 20Z00035

Existing FLU: Res 4 Existing Zoning: AU

Proposed FLU: N/A Proposed Zoning: EU-1

**PROPERTY OWNER INFORMATION**

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

Tammy McCoy  
Name(s) Company  
801 Carolina Ave Rockledge FL 32955  
Street City State Zip Code  
Email Phone Cell 321-258-9794

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☐ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

\_\_\_\_\_  
Name(s) Company  
\_\_\_\_\_  
Street City State Zip Code  
\_\_\_\_\_  
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) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: \_\_\_\_\_

Acreage of Request: .50

Reason for Request:

Legitimize lot size



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.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☐ 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.

Tammy McCoy  
Signature of Property Owner or  
Authorized Representative

11-5-20  
Date

State of Florida

County of Brevard

Subscribed and sworn before me, by ☒ physical presence or \_\_\_\_\_ online notarization,

this 5<sup>th</sup> day of, November, 20 20, personally appeared

Tammy McCoy, who is personally known to me or produced

FLDL as identification, and who did / did not take an oath.

Kristen Champion  
Notary Public Signature

Seal



**Office Use Only:**

Accela No. 20200035 Fee: 588.00 Date Filed: 11-5-2020 District No. 2

Tax Account No. (list all that apply) 2103412

Parcel I.D. No.

21 35 17 00 763  
Twp Rng Sec Sub Block Lot/Parcel

Planner: PB Sign Issued by: PB Notification Radius: 500 ft.

**MEETINGS**

**DATE**

**TIME**

☒ P&Z

January 11, 2021

3:00 pm

☐ PSJ Board

☐ NMI Board

☐ LPA

☐ BOA

☒ BCC

February 4, 2021

5:00 pm

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

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

☐ Yes ☒ No

If yes, list \_\_\_\_\_

Location of subject property: South side of E. Main Street  
1795 feet East of Harry T. Moore Ave.

Description of Request: Rezone from AU to EU-1

## 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.

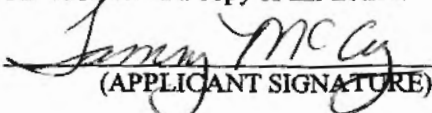
### NOTES:

- ☐ 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:

McCoy.Tammy@brevardschools.org ( ) or U.S. Mail \_\_\_\_\_  
e-mail address fax number Yes/No

McCoy.Tammy@brevardschools.org  
I have received a copy of this notice:

  
(APPLICANT SIGNATURE)



Owner's Name: Tammy McCoy  
Hearing Date: January 11, 2021

20200035

**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 Lat,  
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.

Brian Lat  
Signature

Sworn and Subscribed before me, this 21<sup>st</sup> day of December.



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

Kim Kennedy  
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.#
12/21/2020	21-35-17-00-763	20Z200035



**Brian Lock**



## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 11, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Joe Buchanan; and Peter Filiberto, Vice Chair.

Staff members present were: Tad Calkins, Planning and Development Director; George Ritchie, Planner III; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Tammy McCoy**

A change of zoning classification from AU (Agricultural Residential) to EU-1 (Estate Use Residential). The property is .50 acres, located on the south side of E. Main St., approx. 795 ft. east of Harry T. Moore Ave. (No assigned address. In the Mims area.) (20Z00035) (Tax Account 2103412) (District 1)

Tammy McCoy, 1373 Middleburg Street, Apt. 102, Rockledge, stated the property has been in her family for her entire life, until her mom's passing in 2015. Her family owned the property to west and to the south and there wasn't an issue because they all lived there, but now she needs to make the lot comply with the current zoning in order to sell it.

No public comment.

Motion by Ron Bartcher, seconded by Joe Buchanan, to approve the change of zoning classification from AU to EU-1. The motion passed unanimously.



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.7.

2/4/2021

---

### Subject:

Thomas R. and Rachel Darnell (Kendall Moore) requests a change of zoning classification from SEU to AU. (20Z00037) (Tax Account 2700779) (District 5)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from SEU (Suburban Estate Use) to AU (Agricultural Residential).

### Summary Explanation and Background:

The applicant is requesting a change of zoning classification from SEU (Suburban Estate Use Residential) to AU (Agricultural Residential) for the purpose of having more horses than are allowed through a conditional use permit in SEU, as well as 4 to 5 goats. The animals will be for the personal use of the property owner. The parcel is located at 5685 Lake Washington Road, and currently contains a single-family residence and a pole barn. SEU is the original zoning of the parcel. The SEU zoning classification permits single-family detached dwellings on one acre lots, with a minimum width of 125 feet and depth of 200 feet.

The property retains Residential 2 Future Land Use designation, which may be considered to be consistent with the current zoning of SEU and the requested AU zoning.

The majority of lots in the area are zoned SEU, with the exception of two 12.69-acre lots zoned AU approximately 1,200 feet to the west. There is a subdivision on the opposite side of Lake Washington Road within the jurisdiction of the City of Melbourne. There are several large parcels owned by the City of Melbourne consisting of a water treatment facility located approximately 2,000 feet to the west.

The Board may wish to consider whether the introduction of the AU zoning classification is consistent and compatible with the surrounding neighborhood, given the surrounding area is primarily SEU. In addition, the Board may wish to consider the potential effects of agritourism in the surrounding area.

On January 11, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval with a BDP (Binding Development Plan) prohibiting agritourism, and agricultural related packing, processing and sales of commodities raised on the premises.

**Clerk to the Board Instructions:**

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

# **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

## **Administrative Policy 1**

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

## **Administrative Policy 2**

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

### **Criteria:**

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

## **Administrative Policy 3**

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

### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

##### **Criteria:**

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



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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

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

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

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

### **CONDITIONAL USE PERMITS (CUPs)**

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

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

(c) General Standards of Review.

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

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

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

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

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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





BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**20Z00037**

**Thomas and Rachel Darnell**

**SEU (Suburban Estate Use Residential) to AU (Agricultural Residential)**

Tax Account Number: 2700779  
Parcel I.D.: 27-36-09-00-758  
Location: South side of Lake Washington Rd., approximately 550 feet west of McGraw Ave. (District 5)  
Acreage: 5.45 acres

Planning and Zoning Board: 1/11/2021  
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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	SEU	AU
<b>Potential*</b>	1 SFR lot	1 SFR lot
<b>Can be Considered under the Future Land Use Map</b>	YES RES 2	YES RES 2

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

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from Suburban Estate Use Residential (SEU) to Agricultural Residential (AU) for the purpose of having more horses than are allowed through a conditional use permit in SEU, which limits the total to six, as well as 4 to 5 goats. The lot currently contains a single-family residence as well as a pole barn. These animals will be for personal use of the owner.

SEU is the original zoning of the lot. The flag lot was created December 8, 1994 by **AA-966**.

**Land Use**

The property retains Residential 2 (RES 2) Future Land Use (FLU) designation. The existing zoning classification SEU is consistent with the RES 2 FLU designation. The proposed zoning classification, AU, is also consistent with the current FLU designation.

## **Environmental Constraints**

The subject parcel contains mapped hydric soils with potential for wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification and should be contacted at 321-264-5393 for classification requirements. Section 62 3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.

Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable.

Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing, site plan design or building permit submittal.

## **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Lake Washington Road, between the lake and Harlock Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 29.59% of capacity daily. The maximum development potential from the proposed rezoning not does increase the percentage of MAV utilization. The corridor is anticipated to continue to operate at 29.59% of capacity daily. The proposal is not anticipated to create a deficiency in LOS D.

The parcel has water access through the City of Melbourne. The parcel is not serviced by Brevard County sewer. The closest available Brevard County sewer line is located approximately 4.4 miles northeast of the subject property on the south side of Post Road.

## **Applicable Land Use Policies**

**FLUE Policy 1.8** - The Residential 2 land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within this element. The Residential 2 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

The 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 a flag lot with frontage along Lake Washington Road. The parcels to the north, east, and south are vacant lots zoned SEU with a FLUM of RES 2. The parcel to the west is a lot developed with a single-family home zoned SEU with a FLUM of RES 2. The majority of lots in the area hold this SEU and RES 2 pattern, with the exception of two 12.69 acre lots zoned AU with a FLUM of RES 2 approximately 1,200 feet to the west.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The subject property is currently developed with a single-family home and a pole barn. The area is primarily single-family homes on lots larger than an acre, with some lots containing pole barns or other structures accessory to agricultural uses. There is a subdivision on the opposite side of Lake Washington Road that lies within the jurisdiction of the City of Melbourne. There are several large parcels owned by the City of Melbourne consisting of a water treatment facility along the waterfront of Lake Washington located approximately 2,000 feet to the west.

The AU zoning classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification permits all agricultural pursuits, including the packing, processing, and sales of commodities raised on the premises. The AU classification also permits the raising/grazing of animals, fowl, beekeeping and plant nurseries. Additionally, the AU zoning classifications allows exceptions to the number and size of accessory buildings.

The SEU zoning classification permits single-family detached dwellings on one acre lots, with a minimum width of 125 feet and depth of 200 feet.

### **Surrounding Area**

The parcel is a flag lot with frontage along Lake Washington Road. The parcels to the north, east, and south are vacant lots zoned SEU with a FLUM of RES 2. The parcel to the west is a lot developed with a single-family home zoned SEU with a FLUM of RES 2. The majority of lots in the area hold this SEU and RES 2 pattern, with the exception of two 12.69 acre lots zoned AU with a FLUM of RES 2 approximately 1,200 feet to the west. The majority of lots in the area hold this SEU and RES 2 pattern, with the exception of two 12.69 acre lots zoned AU with a FLUM of RES 2 approximately 1,200 feet to the west.

Zonings in the surrounding area are: SEU and AU.

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

### **For Board Consideration**

The Board may wish to consider whether the introduction of the AU zoning classification is consistent and compatible with the surrounding neighborhood, given the surrounding area is primarily SEU. In addition, the Board may wish to consider the potential effects of agritourism in the surrounding area.

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

**Item # 20Z00037**

**Applicant:** Moore for Darnell

**Zoning Request:** SEU to AU

**Note:** Applicant wants to have more horses and goats than current zoning allows.

**P&Z Hearing Date:** 01/11/21; **BCC Hearing Date:** 02/04/21

**Tax ID No:** 2700779

- 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
- Floodplain
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped hydric soils with potential for wetlands. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification and should be contacted at 321-264-5393 for classification requirements. Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.

Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable.

Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any land clearing, site plan design or building permit submittal.

### **Land Use Comments:**

#### **Hydric Soils/Wetlands**

The subject parcel contains 100% mapped hydric soils (Malabar-Holopaw-Pineda soils and Riviera sand) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification and should be contacted at 321-264-5393 for classification requirements. If Bona Fide Agriculture classification is not established, then land clearing and construction of accessory structures, including barns, are not permitted in wetlands. A wetland delineation will be required prior to any land clearing activities.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.

Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy would render a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts as described in Section 65-3694(c)(1)a of wetland ordinance. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Section 65-694(c)(6).



Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and Section 62-3696.

## **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 parcel is within the riverine floodplain defined as lands which have a surface water connection to a major freshwater surface water body during a 100-year flood. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Per Section 62-3723(1)(a), Agricultural pursuits, including forestry silviculture operations, utilizing best management practices, and agricultural structures which will not restrict the flow of floodwaters above the ten-year floodplain elevation are permitted uses within the riverine 100-year, riverine 25-year, riverine ten-year floodplains of the county. Any applications for a building permit will require determining elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains utilizing the best available data. Per Section 62-3724, development shall not result in a net change in the rate and volume of floodwater discharged from the pre-development riverine floodplain, and compensatory storage requirements shall apply. 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." The applicant is encouraged to contact NRM at 321-633-2016 prior to any building permit submittal.

## **Protected and Specimen Trees**

A majority of the subject property is mapped within SJRWMD FLUCCS codes 4340-Upland mixed coniferous and hardwoods. 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 subject parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

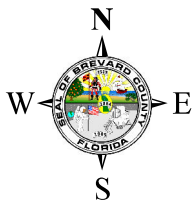
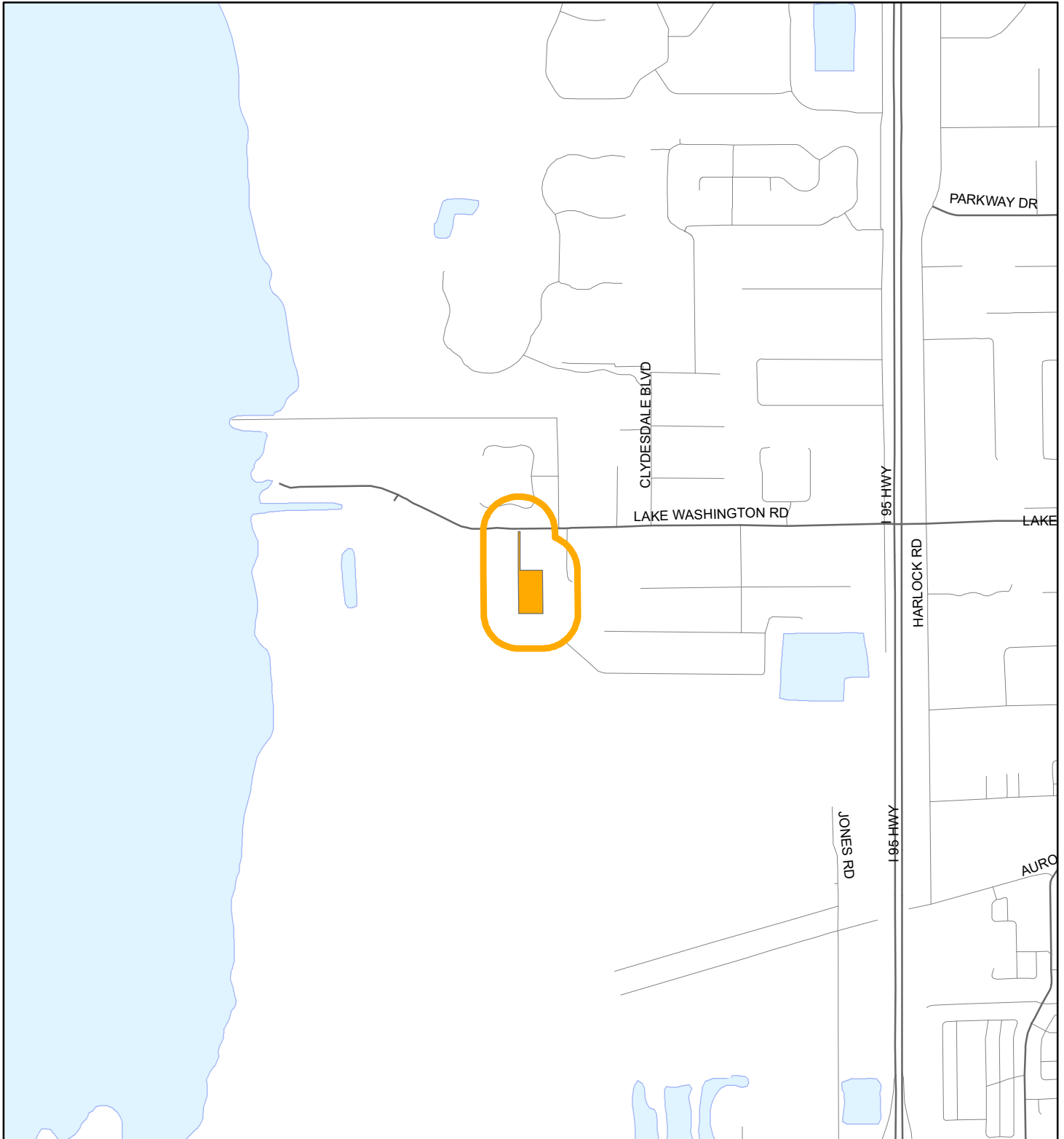
## **Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the

applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

# LOCATION MAP

DARNELL, THOMAS R. AND RACHEL  
20Z00037





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.

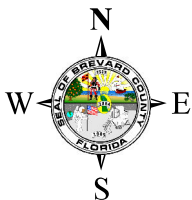
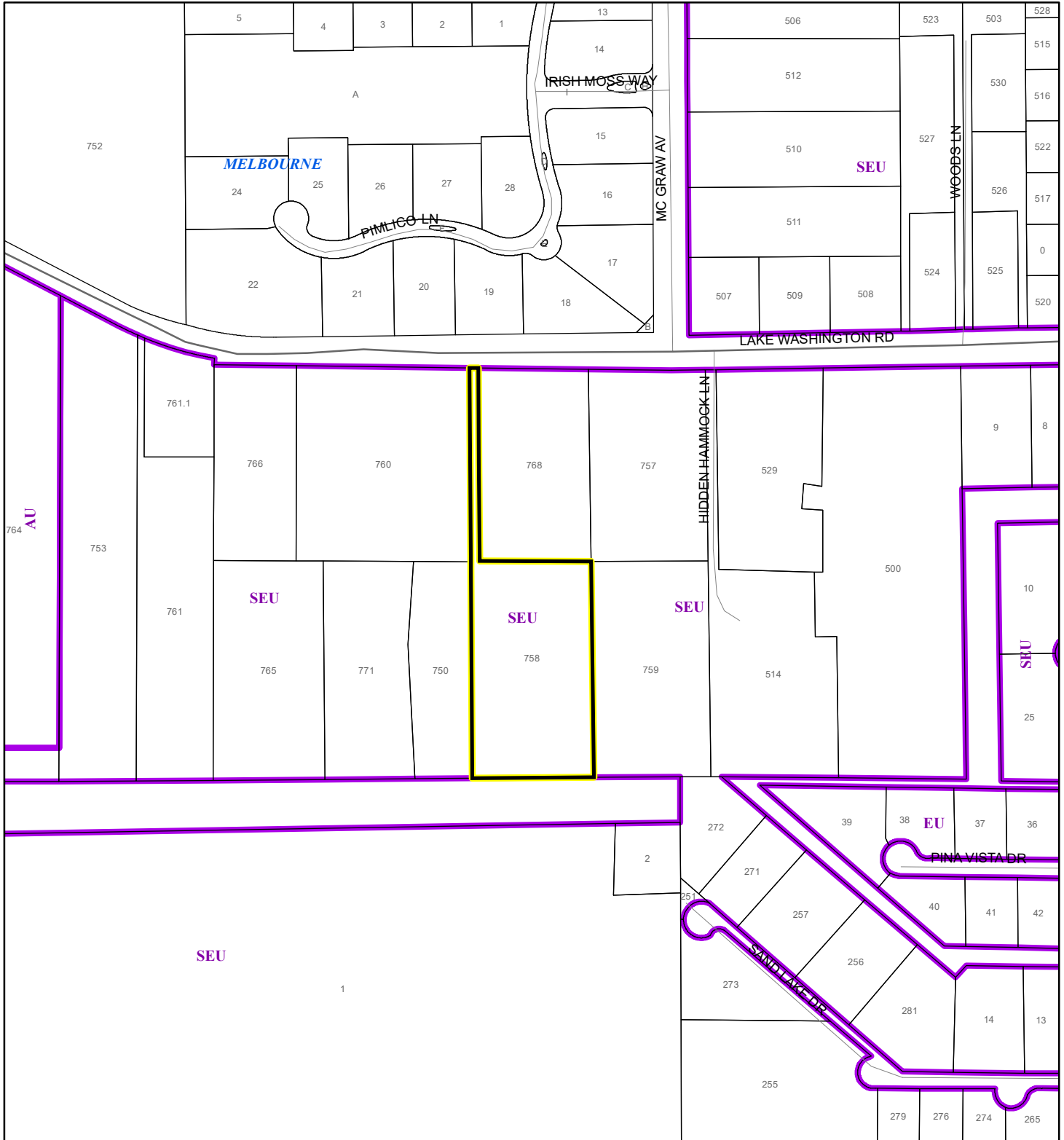
Produced by BoCC - GIS Date: 11/16/2020

 Buffer  
 Subject Property

# ZONING MAP

DARNELL, THOMAS R. AND RACHEL


20Z00037



1:4,800 or 1 inch = 400 feet

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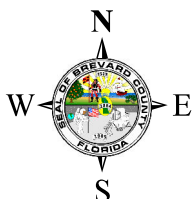
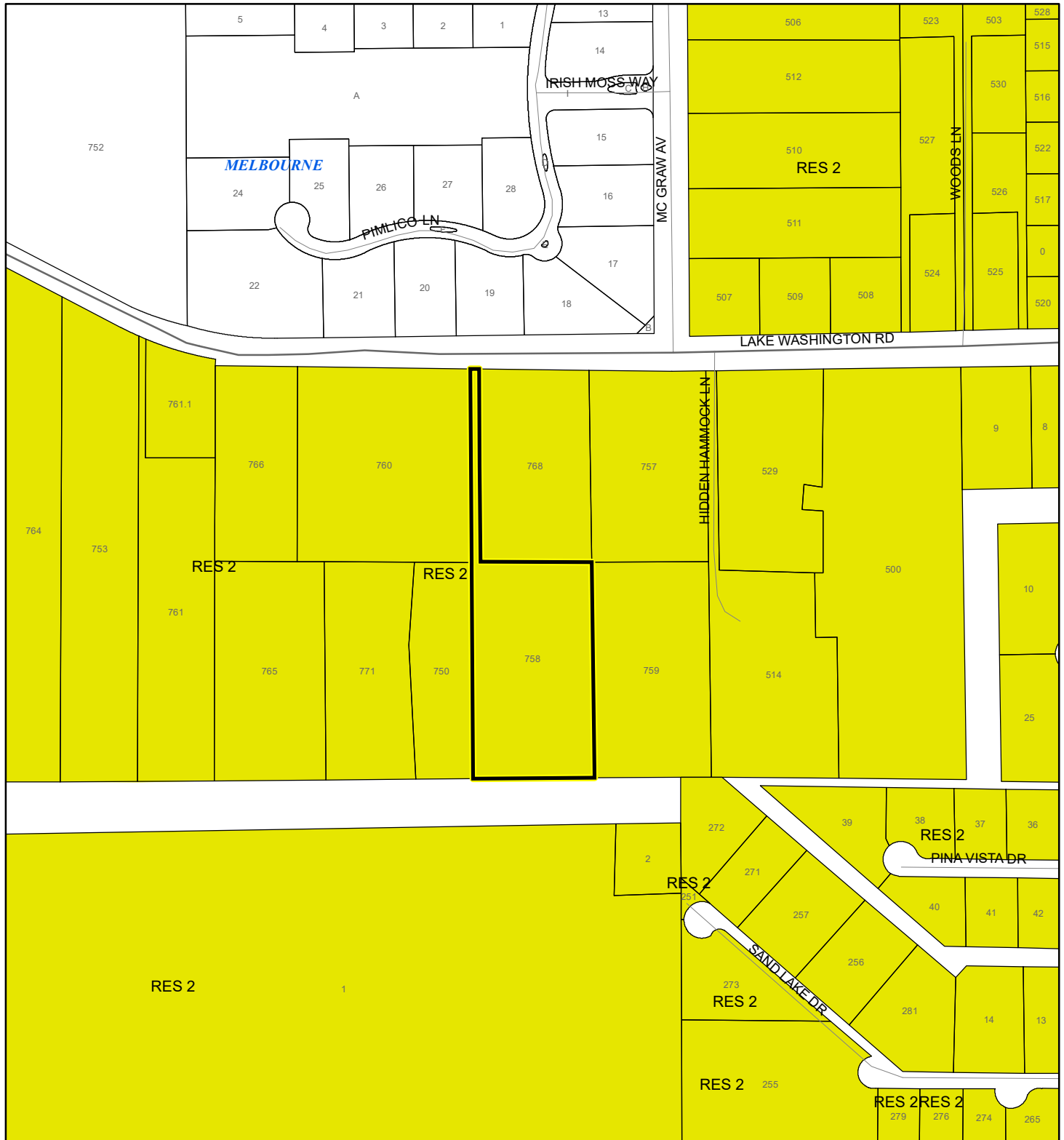
Produced by BoCC - GIS Date: 11/16/2020

 Subject Property

 Parcels

 Zoning

20Z00037



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



# AERIAL MAP

DARNELL, THOMAS R. AND RACHEL

20Z00037




1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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

 Subject Property

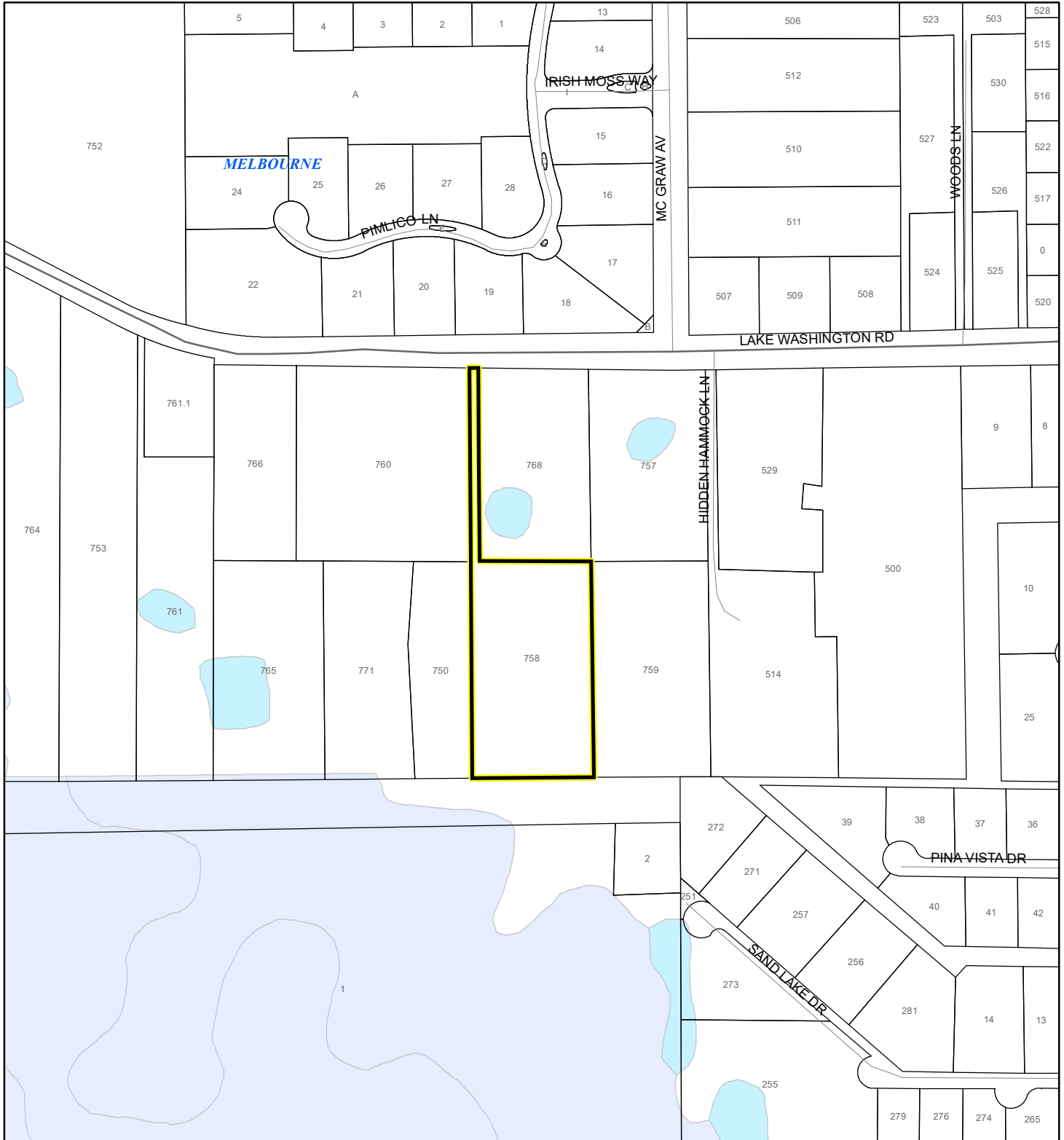
 Parcels



# NWI WETLANDS MAP

DARNELL, THOMAS R. AND RACHEL

20Z00037













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

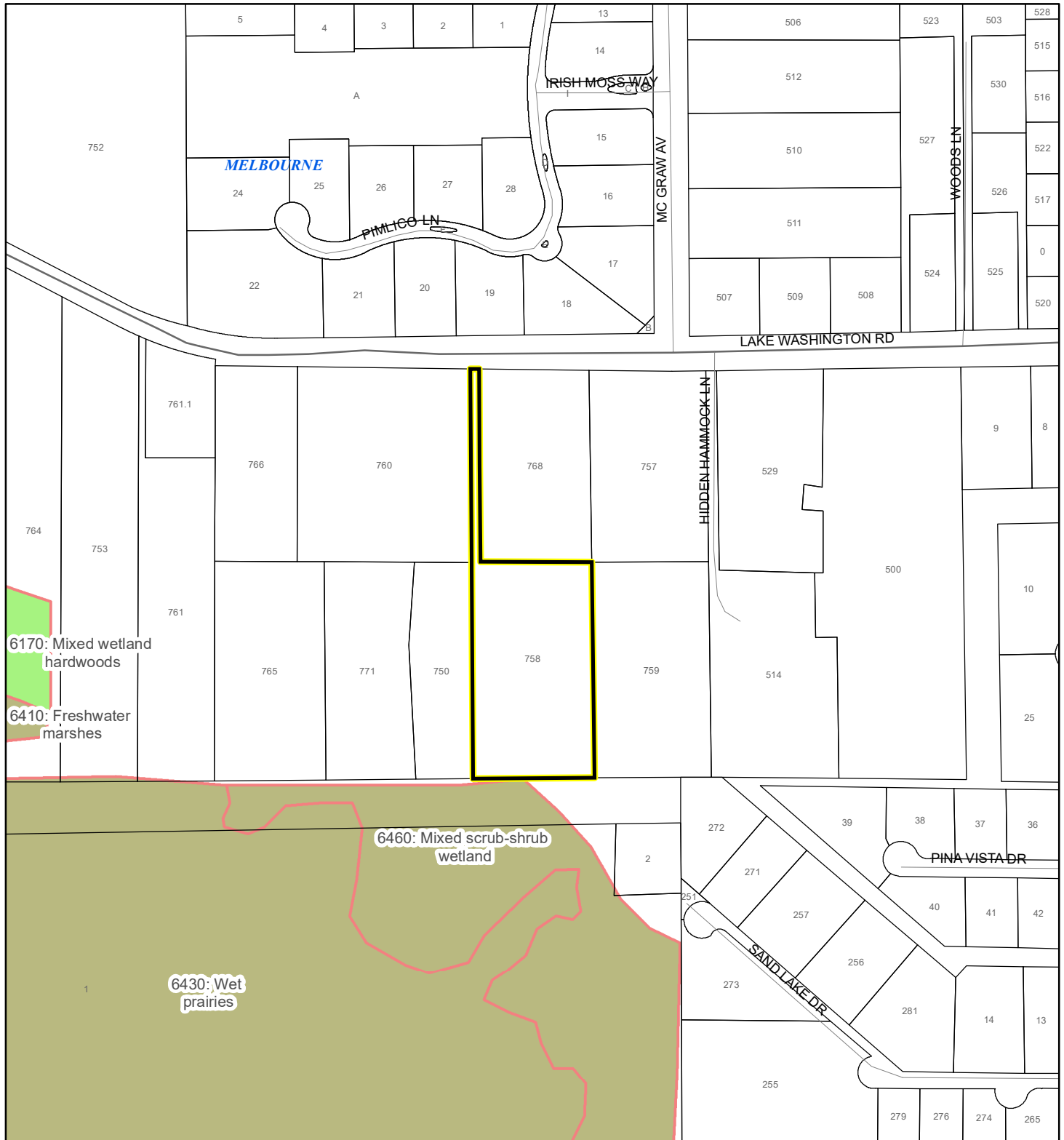
## National Wetlands Inventory (NWI)

	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

DARNELL, THOMAS R. AND RACHEL

20Z00037



1:4,800 or 1 inch = 400 feet

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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

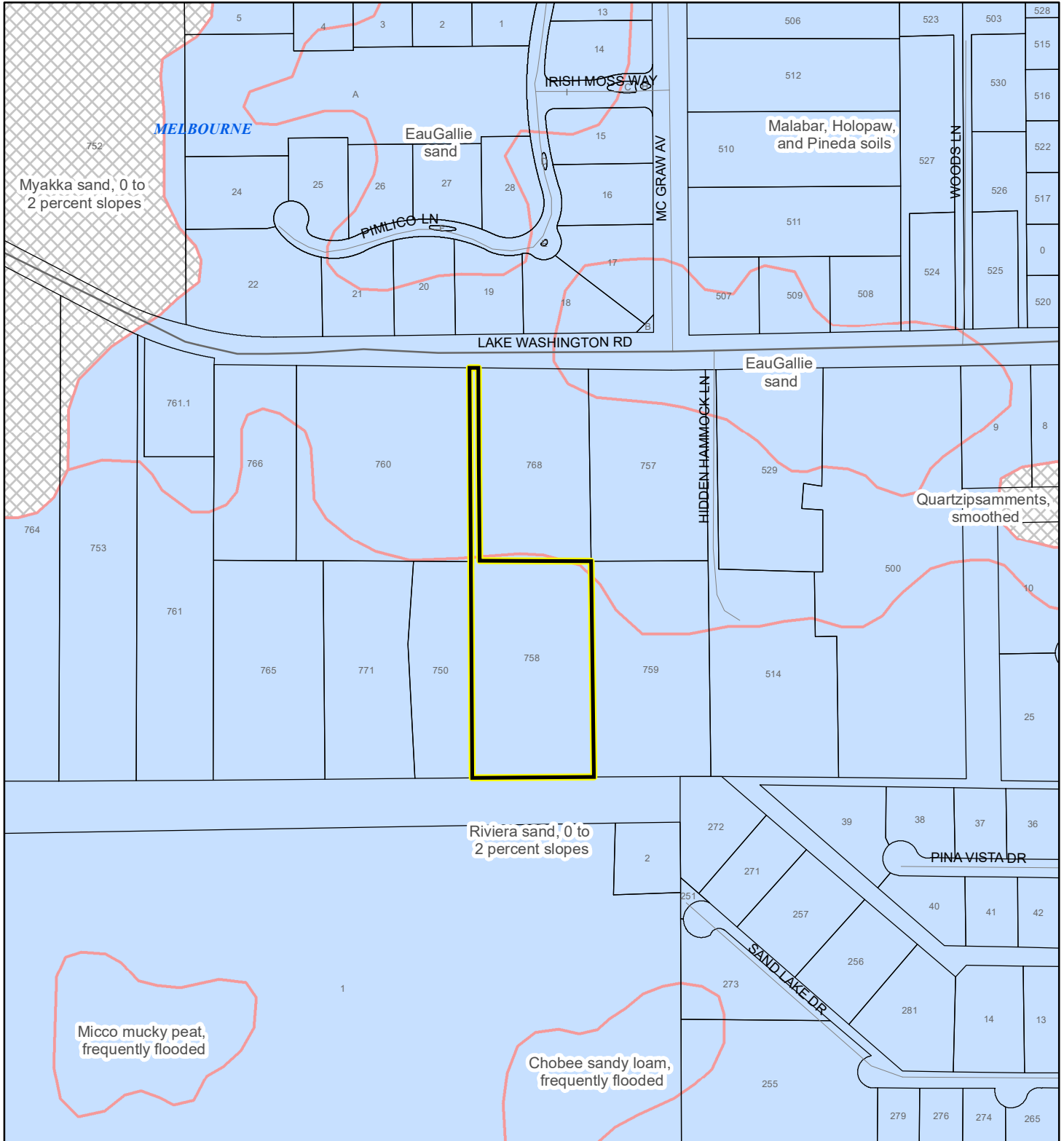
Subject Property

Parcels

# USDA SCSSS SOILS MAP

DARNELL, THOMAS R. AND RACHEL

20Z00037



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

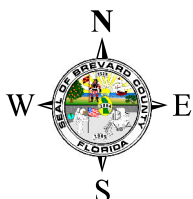
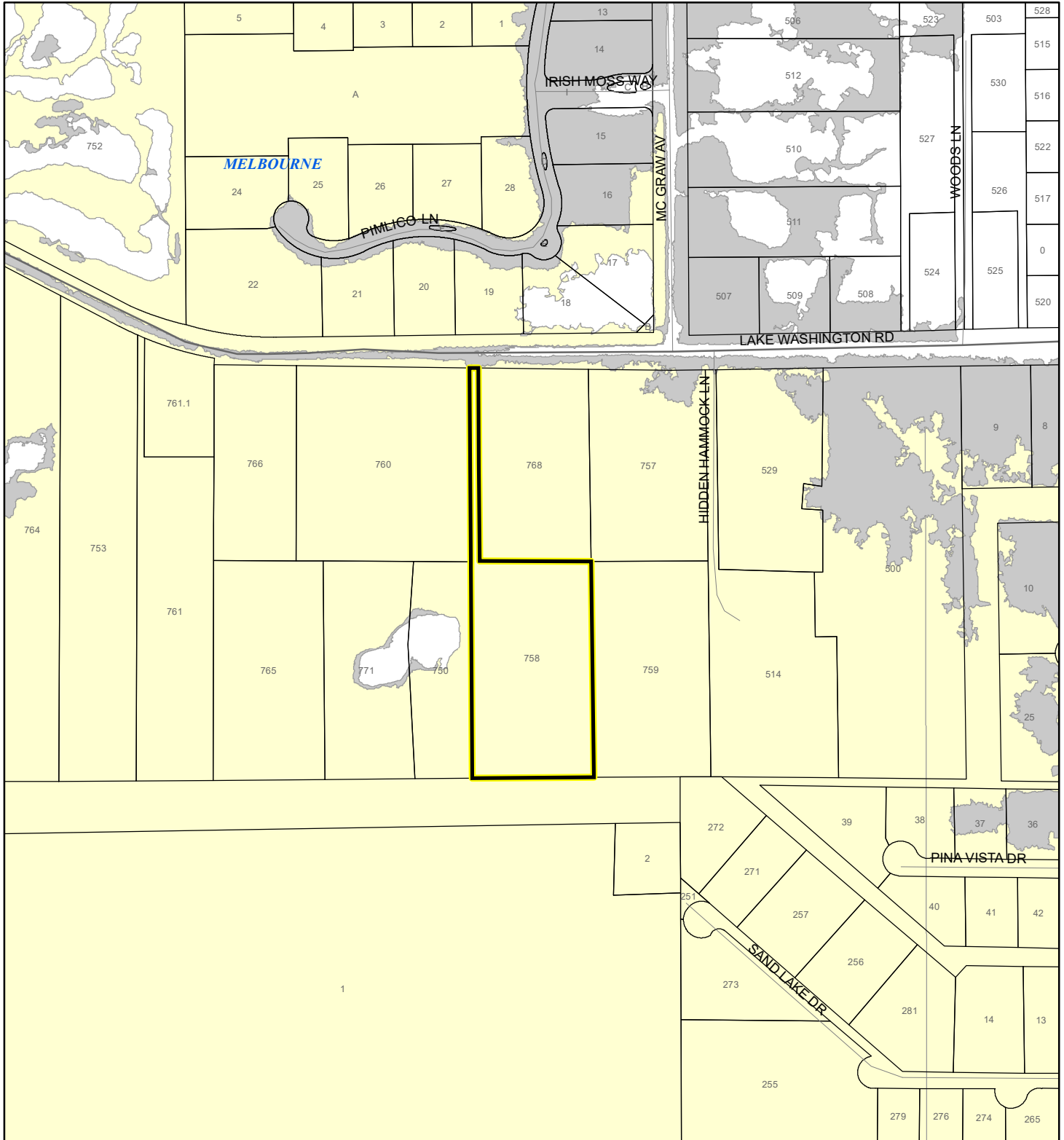
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

DARNELL, THOMAS R. AND RACHEL

20Z00037



1:4,800 or 1 inch = 400 feet

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

## FEMA Flood Zones

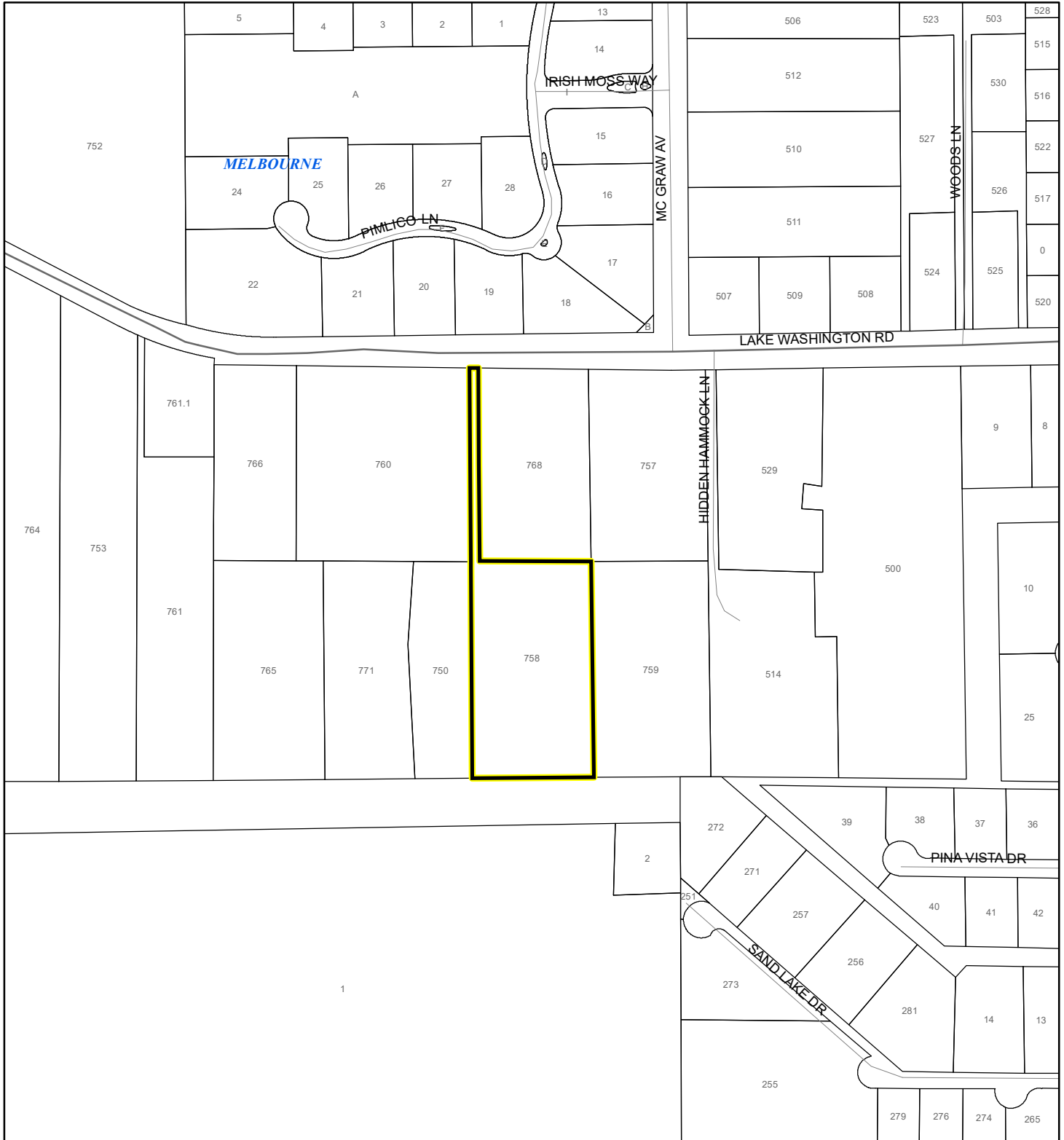
- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |      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



# COASTAL HIGH HAZARD AREA MAP

DARNELL, THOMAS R. AND RACHEL

20Z00037



1:4,800 or 1 inch = 400 feet


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

 Subject Property

 Parcels

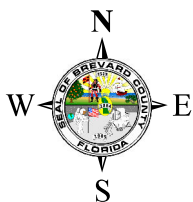
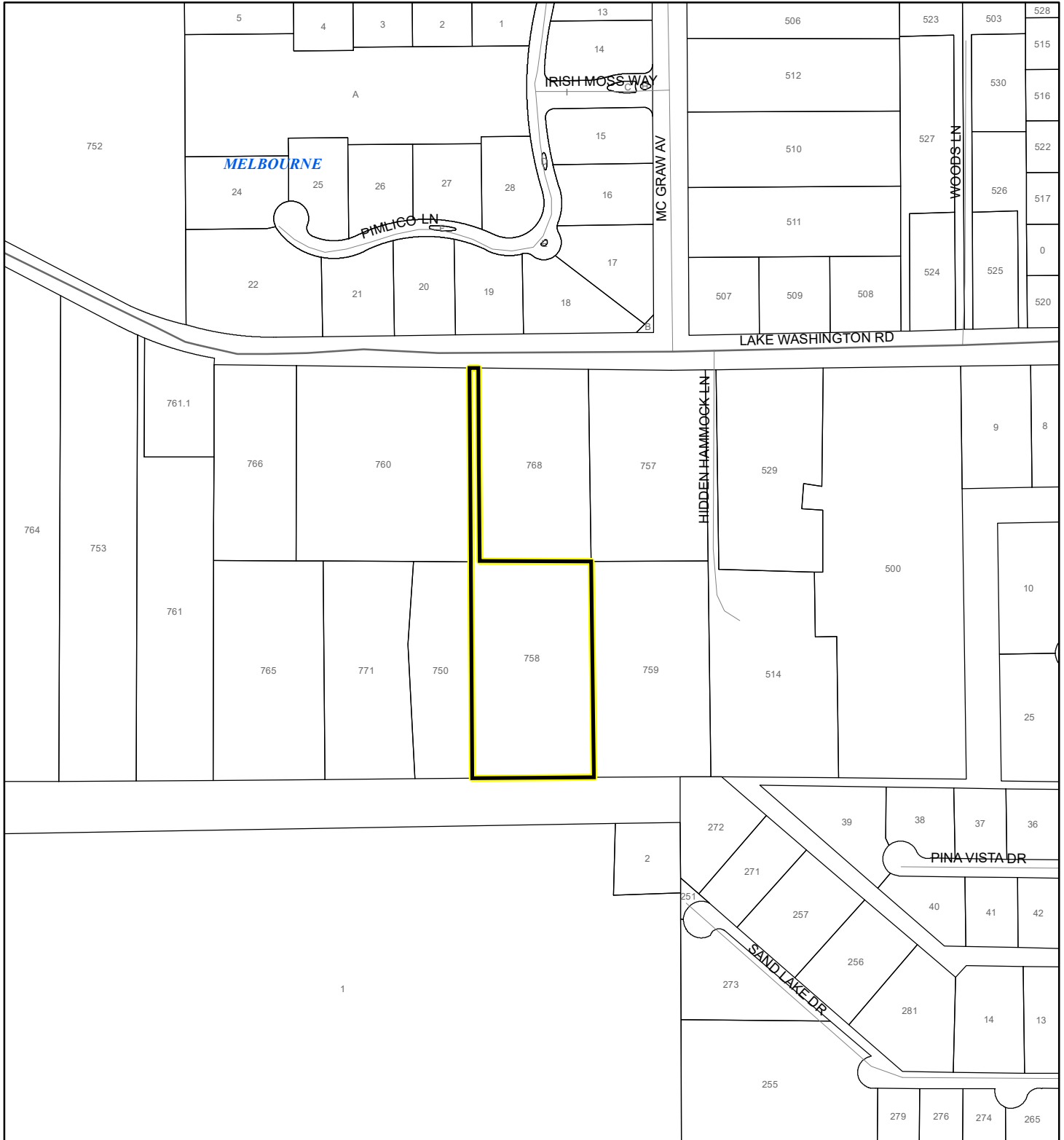
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DARNELL, THOMAS R. AND RACHEL

20Z00037



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

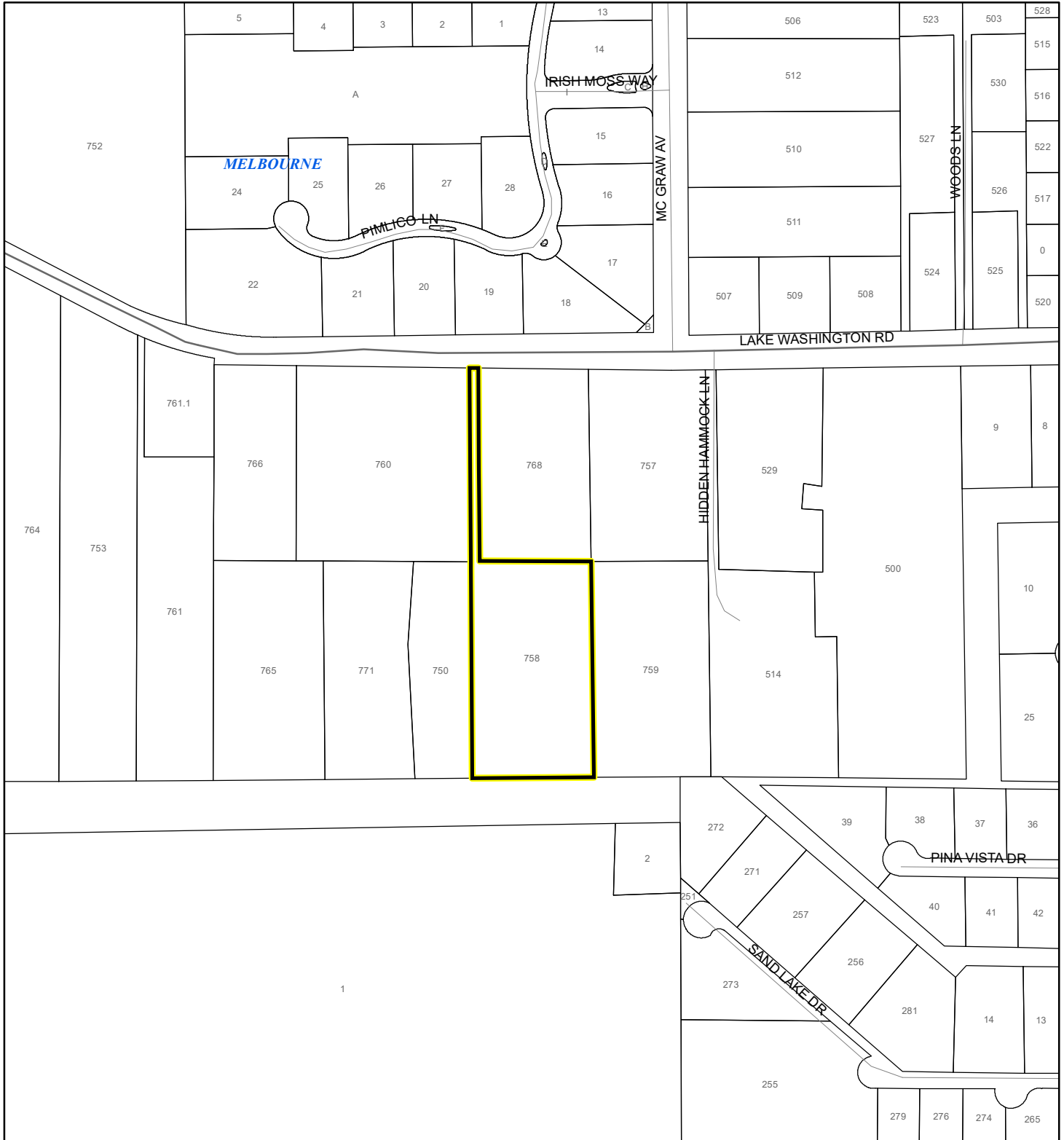
60 Meters

All Distances

# EAGLE NESTS MAP

DARNELL, THOMAS R. AND RACHEL

20Z00037



1:4,800 or 1 inch = 400 feet

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

 Subject Property

 Parcels

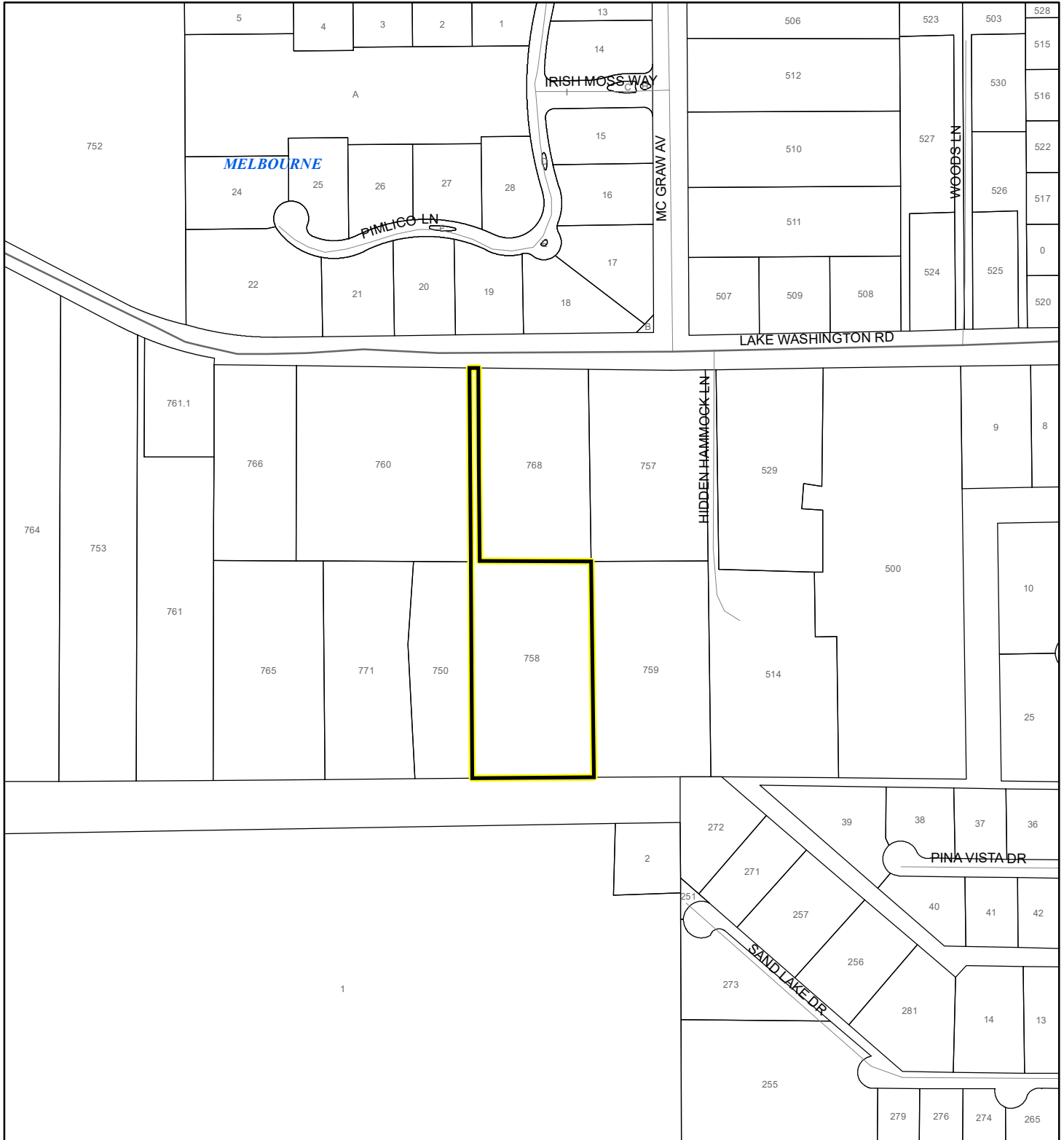


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

DARNELL, THOMAS R. AND RACHEL

20Z00037



1:4,800 or 1 inch = 400 feet

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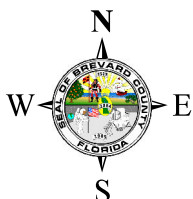
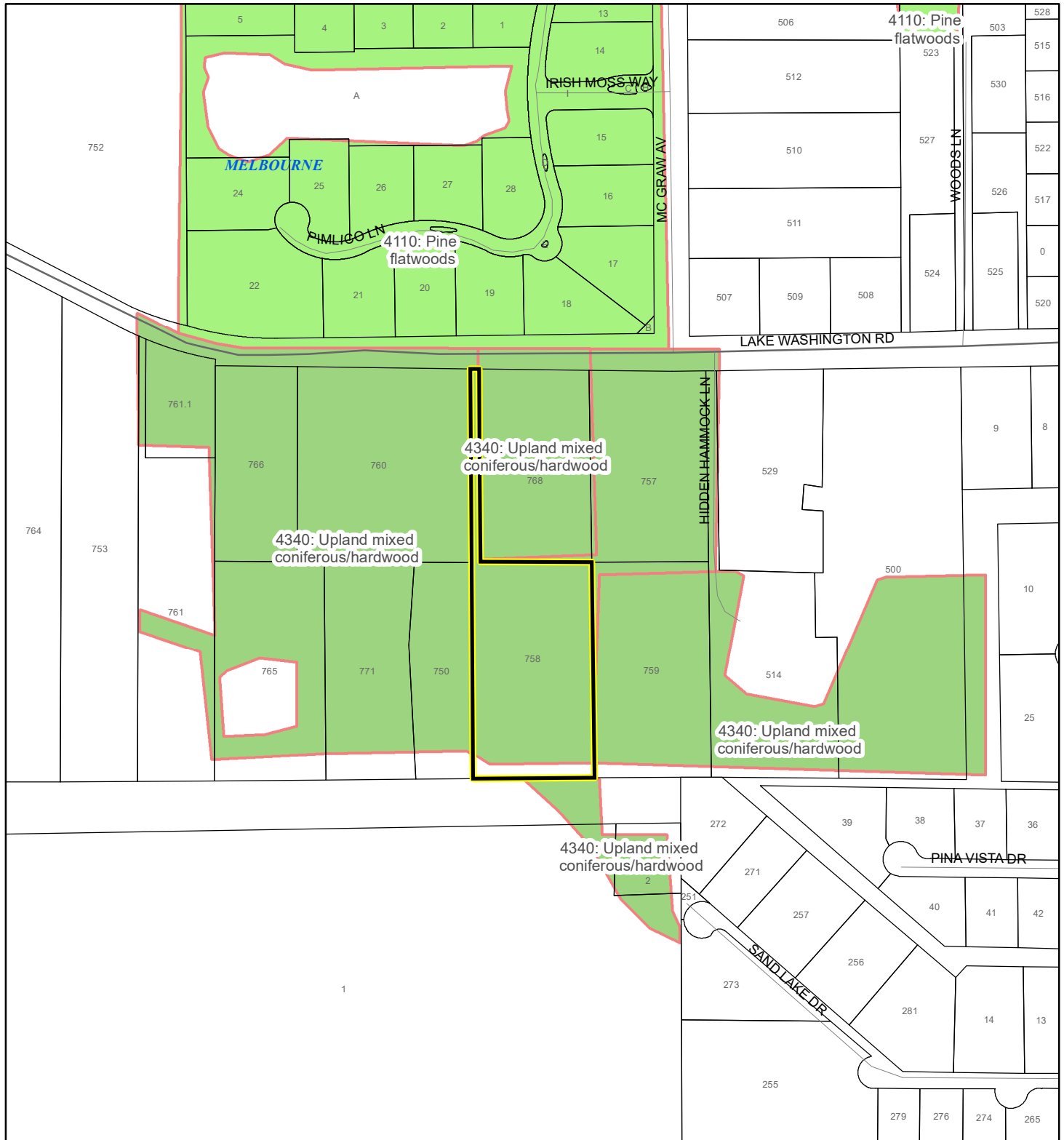
Produced by BoCC - GIS Date: 11/16/2020

- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DARNELL, THOMAS R. AND RACHEL

20Z00037



1:4,800 or 1 inch = 400 feet

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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

Application Pages  
20200037  
Darnell

**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 # 20200037

Existing FLU: RES 2 Existing Zoning: SEU

Proposed FLU: RES 2 Proposed Zoning: AU

**PROPERTY OWNER INFORMATION**

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

Thomas & Rachel Darnell N/A  
Name(s) Company  
5685 Lake Washington Rd Melbourne FL 32934  
Street City State Zip Code  
aeguru@gmail.com 321-508-0992  
Email Phone Cell

**APPLICANT INFORMATION IF DIFFERENT FROM OWNER:**

☒ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other \_\_\_\_\_

Kendall T. Moore The Moore Law Group, PLLC  
Name(s) Company  
895 Barton Blvd., Ste B Rockledge FL 32955  
Street City State Zip Code  
Kendall@meblawfirm.com 321-636-2221  
Email Phone Cell

11

## 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) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: \_\_\_\_\_

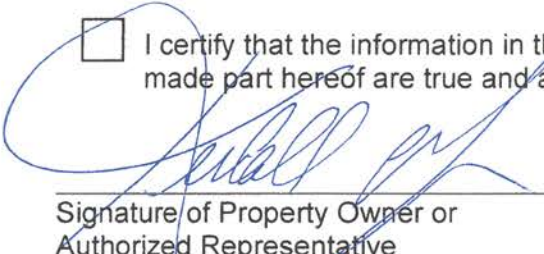
Acreage of Request: 5.45

### Reason for Request:

The raising and grazing of animals is a permitted use in the AU zoning classification. The client desires to keep more than 3 horses and 4 to 5 goats on their property for personal use which exceeds the amount of horses/goats allowed with a conditional use permit in the SEU zoning classification. The clients also have a stockade fence abutting the property to the west and are willing to install any additional fences as required.

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.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☐ 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

11/12/2020  
Date

State of FLORIDA

County of BREVARD

Subscribed and sworn before me, by ✓ physical presence or \_\_\_\_\_ online notarization,

this 12<sup>th</sup> day of, November, 20 20, personally appeared

Kendall T. Moore, who is personally known to me or produced

\_\_\_\_\_ as identification, and who did / ~~did not~~ take an oath.

  
Notary Public Signature

Seal



**Office Use Only:**

Accela No. 20200037 Fee: 588.00 Date Filed: 11/6/2020 District No. 5

Tax Account No. (list all that apply) 2700779

Parcel I.D. No.

27 36 09 00 758  
Twp Rng Sec Sub Block Lot/Parcel

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

**MEETINGS**

**DATE**

**TIME**

<input checked="" type="checkbox"/> P&Z	<u>1/11/2021</u>	<u>3:00 pm</u>
<input type="checkbox"/> PSJ Board	_____	_____
<input type="checkbox"/> NMI Board	_____	_____
<input type="checkbox"/> LPA	_____	_____
<input type="checkbox"/> BOA	_____	_____
<input checked="" type="checkbox"/> BCC	<u>2/4/2021</u>	<u>5:00 pm</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 \_\_\_\_\_

Location of subject property:

South side of Lake Washington Rd., approx. 550 feet west of McGraw Avenue

Description of Request:

Rezone from SEU to AV



## 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:

Donna@meblawfirm.com or (321) 636-2224 or U.S. Mail \_\_\_\_\_  
e-mail address fax number

Yes No

I have received a copy of this notice:

S. Spalman  
(APPLICANT SIGNATURE)



Owner's Name: Thomas & Rachel Darnell  
Hearing Date: January 11, 2021

202 00037

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

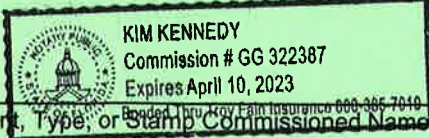
STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Brian Lock,  
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.

Brian Lock  
Signature

Sworn and Subscribed before me, this 21<sup>st</sup> day of December.



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

Kim Kennedy  
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.#
12/21/2020	5685 Lake Washington Road	20Z200037



**Brian Lock**

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 11, 2021**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Ron Bartcher; Harry Carswell; Brian Hodgers; Ben Glover; Joe Buchanan; and Peter Filiberto, Vice Chair.

Staff members present were: Tad Calkins, Planning and Development Director; George Ritchie, Planner III; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### **Excerpt of Complete Minutes**

#### **Thomas R. and Rachel Darnell (Kendall Moore)**

A change of zoning classification from SEU (Suburban Estate Use Residential) to AU (Agricultural Residential). The property is 5.45 acres, located on the south side of Lake Washington Rd., approx. 550 ft. west of McGraw Ave. (5685 Lake Washington Rd., Melbourne) (20Z00037) (Tax Account 2700779) (District 5)

Kendall Moore, 895 Barton Boulevard, Rockledge, stated his clients are requesting a zoning change from SEU to AU, because they would like to have more horses for personal use. Potentially, there was an option to get a CUP under SEU, but that would have only allowed six animals in total. The staff comments state that the current zoning proposal would be proper to consider under the existing Future Land Use. The use will remain residential, along with an ancillary use that many in the area already enjoy, which is a pole barn or other structure used in conjunction with an agricultural use. He noted the horses will be for personal use only; there is no business intent of any kind, so there will not be any changes in traffic generation, concurrency or other issues. He said he believes there has been some precedent that goes back to the late 1980's where a neighboring property was changed from SEU to AU for a similar purpose, and at that time there was also a limitation, or condition, that there not be any kind of agricultural commercial use at that time, so he would not have a problem stipulating to the same, because it is strictly intended for his clients to have additional horses for personal use.

Ben Glover asked if there a specific number of horses his clients would like to have and if they would be willing to cap the number of horses. Mr. Moore replied his clients would like to have the maximum number available to them. He noted on the property that was rezoned in the 1980's the number of horses was capped at 16, and that was on 12 acres. He said his clients would like to have as many as they can, and that number may be in the range of 10. He pointed out that the code is structured to include horses, mules, goats, and barns, so ultimately their goats would count toward the total number, so it would be a collective number of total animals. He said the horses would be for personal use, but he is hesitant to limit all commercial uses because they do have other businesses, some of which may be located at the property, but wholly unrelated to agriculture.

Mr. Bartcher asked if Mr. Moore's clients would be willing to enter into a BDP (Binding Development Plan) that stipulates there will be no packing, processing, or sales of commodities raised on the premises. Mr. Moore replied if it is limited to agriculture, yes. He elaborated that his clients own a food truck, so limiting the commercial components, anything that would be normally available to them today under that zoning category, he would want them to be able to do that, but he would agree to restrict anything that is agricultural, animal, or any related purposes.

Mr. Bartcher stated he is concerned if they have agricultural products that they are using and then selling at that location, it could create a traffic situation. Mr. Moore replied the horses and goats do not have anything to do with any their commercial operations, he just wants to be careful their other businesses are not impacted.

Mr. Bartcher stated he's also concerned that without a BDP to restrict it, if they sell the property in the future, there could be packing, processing, and sales of commodities that could create a problem. Mr. Moore stated his clients would agree to a BDP to limit those agricultural uses.

Mr. Hodgers asked if any of the business activities include riding lessons, or the boarding of horses. Mr. Moore replied there will be no horse-related business whatsoever.

No public comment.

Motion by Brian Hodgers, seconded by Joe Buchanan, to approve a change of zoning classification from SEU to AU, with a BDP (Binding Development Plan) prohibiting agritourism, and agricultural related packing, processing, and sales of commodities raised on the premises. The motion passed unanimously.

Prepared by:  
The Moore Law Group, PLLC  
895 Barton Blvd., Suite B  
Rockledge, Florida 32955

### **BINDING DEVELOPMENT PLAN**

THIS AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 2021 between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as “County”) and THOMAS AND RACHEL DARNELL (hereinafter referred to as “Owner”).

#### **RECITALS**

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

WHEREAS, Owner has requested the AU zoning classification pursuant to the Brevard County Code, Section 62-1157; and

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

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

NOW, THEREFORE, the parties agree as follows:

1. The Owner and County stipulate and agree that upon successful granting and approval of the requested zoning change to AU by the County, the Owner agrees



that no agricultural tourism, no agricultural packing, processing or sales of any agricultural commodities located on the Property will occur.

2. The Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Owner's agreement to meet additional standards or restrictions on the Property. This agreement provides no vested rights against changes to the Brevard County Comprehensive Plan or land development regulations as they may apply to this Property.
3. Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
4. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on \_\_\_\_\_. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
5. Violation of this Agreement shall constitute a violation of the zoning classification and this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
6. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Owner may

implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 5 above.

7. Severability clause. If any provision of this BDP is held by a Court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

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

**ATTEST:**

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

\_\_\_\_\_  
Rachel Sadoff, Clerk of Court

\_\_\_\_\_  
Rita Pritchett, Chair  
As approved by the Board on \_\_\_\_\_

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

WITNESSES:

**THOMAS DARNELL:**

\_\_\_\_\_  
WITNESS SIGNATURE

\_\_\_\_\_  
Address: 5685 Lake Washington Road  
Melbourne, Florida 32934

\_\_\_\_\_  
WITNESS PRINTED NAME

\_\_\_\_\_  
WITNESS SIGNATURE

\_\_\_\_\_  
WITNESS PRINTED NAME

STATE OF \_\_\_\_\_§

COUNTY OF \_\_\_\_\_§

The foregoing instrument was acknowledged before me, by means of \_\_\_\_\_  
physical presence or \_\_\_ online notarization, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by  
THOMAS DARNELL, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.

SEAL

\_\_\_\_\_  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: \_\_\_\_\_

\_\_\_\_\_  
(Name typed, printed or stamped)

**RACHEL DARNELL:**

\_\_\_\_\_  
WITNESS SIGNATURE

\_\_\_\_\_  
Address: 5685 Lake Washington Road  
Melbourne, Florida 32934

\_\_\_\_\_  
WITNESS PRINTED NAME

\_\_\_\_\_  
WITNESS SIGNATURE

\_\_\_\_\_  
WITNESS PRINTED NAME

STATE OF \_\_\_\_\_§

COUNTY OF \_\_\_\_\_§

The foregoing instrument was acknowledged before me, by means of \_\_\_\_\_  
physical presence or \_\_\_ online notarization, this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by  
RACHEL DARNELL, who is personally known to me or who has produced  
\_\_\_\_\_ as identification.

SEAL

\_\_\_\_\_  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: \_\_\_\_\_

\_\_\_\_\_  
(Name typed, printed or stamped)

## EXHIBIT "A"

Parcel ID: 27-36-09-00-758

5685 Lake Washington Road, Melbourne, Florida 32934

### Legal Description:

A portion of those lands described in Official Records Book 1089, Page 773, as recorded in the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at the intersection of the East line of Section 9, Township 27 South, Range 36 East and the South right of way of Lake Washington Road, as presently occupied; thence S.89°54'31"W., along said South right of way 549.29 feet to the Point of Beginning; thence continue S.89°54'31"W., 25.00 feet; thence S.00°23'12"E., parallel with the West line of the Southeast one-quarter of the Southeast one-quarter of Section 9, a distance of 1170.68 feet to the South line of Section 9; thence N.89°31'29"E., along the South line of Section 9, a distance of 345.00 feet; thence N.00°46'54"W., 633.45 feet **thence S.89°54'10"W., 315.64 feet; thence N.00°23'12"W., 535.00 feet to the Point of Beginning.**





# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.8.

2/4/2021

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### **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) This request has been withdrawn by the applicant. Letter received 01/11/21.

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

Not applicable.

### **Summary Explanation and Background:**

Not applicable.

### **Clerk to the Board Instructions:**

Not applicable.

Withdraw Request  
20PZ00107  
20Z00038  
Harold Kurz

**From:** [Harris, Kyle](#)  
**To:** [Jones, Jennifer](#)  
**Subject:** FW: NMI Update  
**Date:** Monday, January 11, 2021 11:29:40 AM

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-----Original Message-----

From: Harry at Twisted Industries <Harry@twisted-industries.com>  
Sent: Monday, January 11, 2021 11:14 AM  
To: Harris, Kyle <Kyle.Harris@brevardfl.gov>  
Subject: Re: NMI Update

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

I'd like to withdraw my small scale application (20PZ00107) and zoning application (20Z00038).

Thank you for all of the help.

Harry Perrette  
Twisted Industries, Inc.  
Twisted-Industries.com  
Office: 321-631-6133  
Mobile: 321-323-9449  
Cage:6JZ34

NDIA Member

\*Ti Till I Die\*

On 1/11/2021 9:57 AM, Harris, Kyle wrote:

> "I'd like to withdraw my small scale application (20PZ00107) and zoning application (20Z00038).



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.9.

2/4/2021

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### **Subject:**

Harold Kurz (Harry Perrette) requests a change of zoning classification from BU-1 to PIP. (20Z00038) (Tax Account 2316254) (District 2) This item has been withdrawn by the applicant. Letter received 01/11/21.

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

Not applicable.

### **Summary Explanation and Background:**

Not applicable.

### **Clerk to the Board Instructions:**

Not applicable.

Withdraw Request  
20PZ00107  
20Z00038  
Harold Kurz

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# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.10.

2/4/2021

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### Subject:

5971 Cedar Lake Drive Revocable Land Trust and U.S. Highway No. 1 Commercial Land Trust (Kim Rezanka) requests a change of classification from RU-1-11, TR-2, and BU-1, with a BDP, to TR-1 with a BDP limited to 200 units. (20Z00036) (Tax Accounts 2310971, 2310861, and 2316173) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners table the public hearing to consider a change of zoning classification from RU-1-11 (Single-Family Residential), TR-2 (Single-Family Mobile Home), and BU-1 (General Retail Commercial), with a BDP (Binding Development Plan), to TR-1 (Single-Family Mobile Home) with a BDP limited to 200 units, to the March 4, 2021, County Commission meeting.

### Summary Explanation and Background:

On January 6, 2021, the Port St. John Dependent Special District Board met to hear the request. Unexpectedly, approximately 30 members of the public attended the meeting. The PSJ Board meetings are held at the PSJ Library in a small conference room. This room could not safely accommodate this large crowd. Due to safety concerns raised by the board, the item was tabled to February 10th meeting date in order to hold the meeting in a location better equipped to accommodate a large crowd with appropriate social distancing.

In coordination with the District 1 Commission Office and County Management, and in order to maintain the recommended CDC precautions wherein providing a safe environment for our customers, board members, and staff, all future meetings of the PSJ board will temporarily be held at the Government Center, 2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida. The temporary location change to the Viera Government Center provides opportunity to facilitate the public meetings with a larger meeting room and more resources to allow attendees to follow safe distancing measures and other safety recommendations of the CDC. Staff is also arranging for the meetings to be televised and/or streamed online to give those interested a chance to watch the meeting but who do not feel comfortable attending in person.

Language about the temporary change of location will be added to the advertisements, courtesy notices, and calendar on the County's webpage.

Accordingly, on January 11, 2021, the Planning and Zoning Board tabled the request to its February 22, 2021, meeting.



**Clerk to the Board Instructions:**

None