



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.4.

12/11/2025

### Subject:

Jacob Foure requests a zoning classification change from SR with a BDP to SR with removal of the existing BDP and addition of a new BDP. (25Z00037) (Tax Account 2000804) (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 request from SR (Suburban Residential) with a BDP (Binding Development Plan) to SR (Suburban Residential) with removal of the existing BDP and addition of a new BDP.

### Summary Explanation and Background:

The applicant is requesting a rezoning from SR with a BDP to SR with removal of an existing BDP (Binding Development Plan) and replacement with a new BDP on 0.54-acre parcel to build a single-family home and provide consistency with the proposed land use amendment (companion application (25SS00008). The subject parcel has a single-family residence under construction (24BC21408), which currently has a stop work order pending application approval(s).

The BDP was approved under zoning action **19PZ00098** and recorded in ORB 8662, Page 2523. Specifically, this action approved a rezoning from GU (General Use) to the SR zoning classification on 1.34 acres. At the time, the subject property was combined with other land which allowed compliance with the RES 1 FLU designation. However, RES 1 was, and is not, consistent with the SR zoning classification. The BDP stipulated the developer/owner shall limit development to one single-family residence and may be further restricted by any changes to the Comprehensive Plan or Land Development Regulations. The BDP further stipulated that the developer/owner shall limit density to one unit per acre and may be further restricted by any changes to the Comprehensive Plan or Land Development Regulations.

One (1) single-family residence (SFR) permit, **20BC20801**, was issued for construction by Scott Minnick Construction Inc. on the 1.34 acres owned by Thomas & Barbara Tofte, on January 6, 2021. Subsequently, the property was sold to Joseph & Chelsea Minnick and split into two (2) lots of 0.54 acres and 0.89 acres on April 27, 2020, as recorded in ORB 8729, PG 2604 - 2605.

During staff review of the SFR permit, **20BC20801**, on October 15, 2020, it was noted by Zoning staff that the documents submitted did not appear to match the approved lot configuration of **19PZ00098**. After the

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submittal of the warranty deed and revised plot plan showing the property in its proper unified configuration, Zoning staff was able to review and approve the SFR permit on November 9, 2020.

Subsequent to this home being built, the 0.89-acre property was sold on October 22, 2021, by Joseph & Chelsea Minnick as recorded in ORB 9302, PG 346 - 347. The 0.54-acre subject property was sold to the applicant, Jacob Foune, by Joseph & Chelsea Minnick on June 4, 2024, as recorded in ORB 10079, PG 2366 - 2367.

**These actions violated the conditions of the BDP and Section 62-2102, Brevard County Code of Ordinances, "Alteration of lot," which states that "no person shall sever any lot in such a manner that a violation of any of the provisions of this chapter would be created on any new or altered lot, including their uses or structures."**

Subsequent to this unlawful split, a permit for a single-family residence was issued (24BC21408). This permit should not have been issued because the lot is a substandard lot as a result of that split and also violated the terms of the original BDP. Upon discovering the error, a Stop Work Order was issued by the Brevard County Building Official.

The proposed new BDP will include the following conditions: (1) the applicant agrees that this rezoning request and companion future land use amendment application was a result of an unlawful lot split by the predecessor in interest, and will stipulate to that fact in any future proceedings regarding that action; and, (2) this rezoning and companion future land use amendment application are not precedential but instead are being requested to resolve the substandard lot that have arisen as a result of the unlawful lot split and, under these particular circumstances, that it be recognized that these actions are being granted based on the unique conditions of the subject property.

North of the subject property is a 1.07-acre parcel zoned RR-1. It has been improved with a single-family residence. South of the subject property, across Golden Shores Blvd., is a 1.43-acre parcel zoned RRMH-1. It has been improved with a single-family mobile home. East of the subject property is a 0.89-acre parcel zoned SR with a BDP. It has been improved with a single-family residence. West of the subject property is a 1.72-acre parcel zoned RR-1. It has been improved with a single-family residence.

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

On November 17, 2025, the Planning and Zoning Board considered the request and voted 10:2 to recommend approval.

### **Clerk to the Board Instructions:**

Upon receipt of resolution, please execute and return a copy to Planning and Development.

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

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

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

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

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

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

(c) General Standards of Review.

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

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

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

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

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

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

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

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

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

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

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

#### DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS  
 25Z00037**

**Jacob Foune**

**SR (Suburban Residential) with a BDP (Binding Development Plan) to SR (Suburban Residential) with removal of the existing BDP (Binding Development Plan) and addition of a new BDP (Binding Development Plan).**

Tax Account: 2000804  
 Parcel I.D: 20G-34-03-AI-8-6.24  
 Location: North side of Golden Shores Blvd., approx., 1,167 ft. east of International Ave. (District 1)  
 Acreage: 0.54 acres  
 Planning & Zoning Board: 11/17/2025  
 Board of County Commissioners: 12/11/2025

**Consistency with Land Use Regulations**

- Current zoning can be considered under the current Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the proposed 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>	SR w/ BDP	SR w/ Removal of BDP and add New BDP
<b>Potential*</b>	0 Single-family home	1 Single-family home
<b>Can be Considered under the Future Land Use Map</b>	NO RES 1	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 rezoning from SR with a BDP to SR with removal of an existing BDP (Binding Development Plan) and replacement with a new BDP on 0.54-acre parcel to build a single-family home and provide consistency with the proposed land use amendment (companion application (**25SS00008**)). The subject parcel has a

single-family residence under construction (**24BC21408**), which currently has a stop work order pending application approval(s).

The subject property retains the original FLU designation established in 1988 by the Brevard County Comprehensive Plan.

The BDP was approved under zoning action **19PZ00098** and recorded in ORB 8662, Page 2523. Specifically, this action approved a rezoning from GU (General Use) to the SR zoning classification on 1.34 acres. At the time, the subject property was combined with other land which allowed compliance with the RES 1 FLU designation. However, RES 1 was, and is not, consistent with the SR zoning classification. The BDP stipulated the developer/owner shall limit development to one single-family residence and may be further restricted by any changes to the Comprehensive Plan or Land Development Regulations. The BDP further stipulated that the developer/owner shall limit density to one unit per acre and may be further restricted by any changes to the Comprehensive Plan or Land Development Regulations.

One (1) single-family residence (SFR) permit, **20BC20801**, was issued for construction by Scott Minnick Construction Inc. on the 1.34 acres owned by Thomas & Barbara Tofte, on January 6, 2021. Subsequently, the property was sold to Joseph & Chelsea Minnick and split into two (2) lots of 0.54 acres and 0.89 acres on April 27, 2020, as recorded in ORB 8729, PG 2604 – 2605.

During staff review of the SFR permit, **20BC20801**, on October 15, 2020, it was noted by Zoning staff that the documents submitted did not appear to match the approved lot configuration of **19PZ00098**. After the submittal of the warranty deed and revised plot plan, Zoning staff was able to review and approve the SFR permit on November 9, 2020.

The 0.89-acre property was sold on October 22, 2021, by Joseph & Chelsea Minnick as recorded in ORB 9302, PG 346 – 347. The 0.54-acre subject property was sold to the applicant, Jacob Foune, by Joseph & Chelsea Minnick on June 4, 2024, as recorded in ORB 10079, PG 2366 – 2367.

**These actions violated the conditions of the BDP and Section 62-2102, Brevard County Code of Ordinances, “Alteration of lot,” which states that “no person shall sever any lot in such a manner that a violation of any of the provisions of this chapter would be created on any new or altered lot, including their uses or structures.”**

Subsequent to this unlawful split, a permit for a single-family residence was issued (24BC21408). This permit should not have been issued because the lot is a substandard lot as a result of that split and also violated the terms of the original BDP. Upon discovering the error, a Stop Work Order was issued by the Brevard County Building Official.

The proposed new BDP will include the following conditions: (1) the applicant agrees that this rezoning request and companion future land use amendment application was a

result of an unlawful lot split by the predecessor in interest, and will stipulate to that fact in any future proceedings regarding that action; and, (2) this rezoning and companion future land use amendment application are not precedential but instead are being requested to resolve the substandard lot that have arisen as a result of the unlawful lot split and, under these particular circumstances, that it be recognized that these actions are being granted based on the unique conditions of the subject property.

The subject parcel is located on the north side of Golden Shores Blvd., a County maintained road, approximately 1,167 ft. east of International Ave.

There are no current code enforcement complaints on the property.

**Surrounding Area**

	<b>Existing Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-family residence	RR-1	RES 1
<b>South</b>	Single-family mobile home across Golden Shores Blvd	RRMH-1	RES 1
<b>East</b>	Single-family residence	SR w/ BDP	RES 1
<b>West</b>	Single-family residence	RR-1	RES 1

North of the subject property is a 1.07-acre parcel zoned RR-1. It has been improved with a single-family residence.

South of the subject property, across Golden Shores Blvd., is a 1.43- acre parcel zoned RRMH-1. It has been improved with a single-family mobile home.

East of the subject property is a 0.89-acre parcel zoned SR with a BDP. It has been improved with a single-family residence. This eastern property was previously connected to the subject property but was split out illegally in violation of Section 62-2102, Brevard County Code, and created two (2) substandard lots, the subject property and the eastern property.

West of the subject property is a 1.72-acre parcel zoned RR-1. It has been improved with a single-family residence.

The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element.

The current SR classification encompasses lands devoted to single-family residential development of relatively spacious character, together with such accessory uses as

may be necessary or are normally compatible with residential surroundings on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

The RR-1 classification encompasses 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 on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet. Keeping of horses and agricultural uses are accessory to a principal residence within the RR-1 zoning district.

The RRMH-1 classification encompasses lands devoted to single-family mobile home development of spacious character, together with accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permit agricultural uses which are conducted in such a way as to minimize possible incompatibility to residential development. RRMH-1 permits single-family mobile homes and detached single-family residential land uses on minimum one acre lots, with a minimum width and depth of 125 feet. This classification permits horses, barns and horticulture as accessory uses. The minimum house size is 600 square feet.

This application is not intended for a change in zoning classification. The applicant is requesting to retain the existing SR zoning, but to remove the existing BDP.

### **Future Land Use**

The subject property's SR zoning classification with a BDP can be considered consistent with the RES 1 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The proposed SR zoning classification with the removal of the BDP can be considered consistent with the proposed RES 2 FLU designation.

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

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

**FLUE Administrative Policy 3** - Compatibility between this site and the existing or proposed land uses in the area. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

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

**The proposed BDP removal and FLU designation amendment would allow the development of one single-family home similar to the existing developed lots in the surrounding area. The request is not anticipated to diminish the enjoyment of safety or quality of life in existing residential area. Development must meet concurrency and performance standards.**

- B. Whether the proposed use(s) would cause a material reduction (five per cent or more) in the value of existing abutting lands or approved development;

**Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed use.**

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

1. historical land use patterns;

**The historical land use patterns in the surrounding area can be categorized as vacant land, agricultural pursuits, or single-family residences situated on parcels ranging from 0.22 to 18.14 acres.**

**Residential 1 (RES 1) is the only FLU designation within the search 0.5-mile search radius.**

**There are multiple zoning classifications within a 0.5-mile radius of the subject parcel. The prominent zoning classification in the area is General Use (GU) followed by RRMH-1. Additional zonings include: Rural Residential (RR-1), Single-Family Residential (RU-1-9), Suburban Residential (SR), Single-Family Mobile Home (TR-1), and Agricultural Residential (AU) zoning classifications.**

**There is one other SR zoned property, immediately abutting on the east side of the subject property.**

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

**Zoning actions within one half mile within the past three years:**

**•24Z00053: Approximately 600 ft. west of the subject property, approved on 03/13/2025, a rezoning from GU to AU and currently has a pending building permit for an addition to the existing single-family residence.**

**•23Z00064: Within 0.5 miles south of the Subject property, on April Ln., approved on 11/2/2023, a rezoning from GU to RR-1 and has been improved with a single-family residence.**

**•22Z00043: Within 0.5 miles northwest of the subject property, on Peoples St., approved on 11/03/2022, a rezoning from RRMH-1 to AU. No pending development at this time.**

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

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

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

**No material violation of relevant policies has been identified.**

**FLUE Administrative Policy 4** - Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

**Criteria:**

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

**This request is not anticipated to have a measurable impact on the area in terms of trip generation, or parking. No commercial or industrial activity is proposed.**

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.

**Staff analysis has determined that while it is not an established residential neighborhood, there are clearly established roads and residential lot boundaries.**

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

**The proposed use is not a commercial use.**

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

**The area is primarily a sparse residential area with vacant lands and no commercial zoning nearby.**

### **Analysis of Administration Policy 7**

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

**Natural Resources Management Department has identified that the subject property is located within a mapped FEMA Special Flood Hazard Area (SFHA) A. Also, the subject property may have protected species federally and/or state protected species may be present on the property. The property is mapped within a large area of Florida Scrub Jay habitat / occupancy.**

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

### **Environmental Constraints**

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

- Floodplain Protection
- Land Clearing and Landscape Requirements
- Protected Species

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1, between Burkholm Road and Volusia County, which has a Maximum Acceptable Volume (MAV) of 21,800 trips per day, a Level of Service (LOS) of C, and currently operates at 21.8% of capacity daily. The maximum development potential from the proposed rezoning does not increase the proposed trip generation. The corridor is anticipated to continue to operate at 21.8% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS Applicable Land Use Policies.

The subject property is not served by potable water or sewer and the provision of such would need to be provided by well and septic or a private sewer system.

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.

**For Board Consideration**

The Board should consider if the request is consistent and compatible with the surrounding area. In addition, the Board should consider the request based on the facts and circumstances surrounding the actions of a predecessor in interest, which resulted in the subject property being turned into a substandard lot.

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

**Item No. 25Z00037**

**Applicant:** Jacob Foune (Owner: Jacob Foune)

**Zoning Request:** Rezone from SR with BDP to SR with revised BDP

**Note:** to legitimize property to continue building home

**Zoning Hearing:** 11/17/2025; **BCC Hearing:** 12/11/2025

**Tax ID No.:** 2000804

- 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:**

- Floodplain Protection
- Land Clearing and Landscape Requirements
- Protected Species

**Land Use Comments:**

**Floodplain Protection**

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance, including compensatory storage. 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."

## **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 Protected and Specimen tree preservation. Land clearing is not permitted without prior authorization by NRM. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

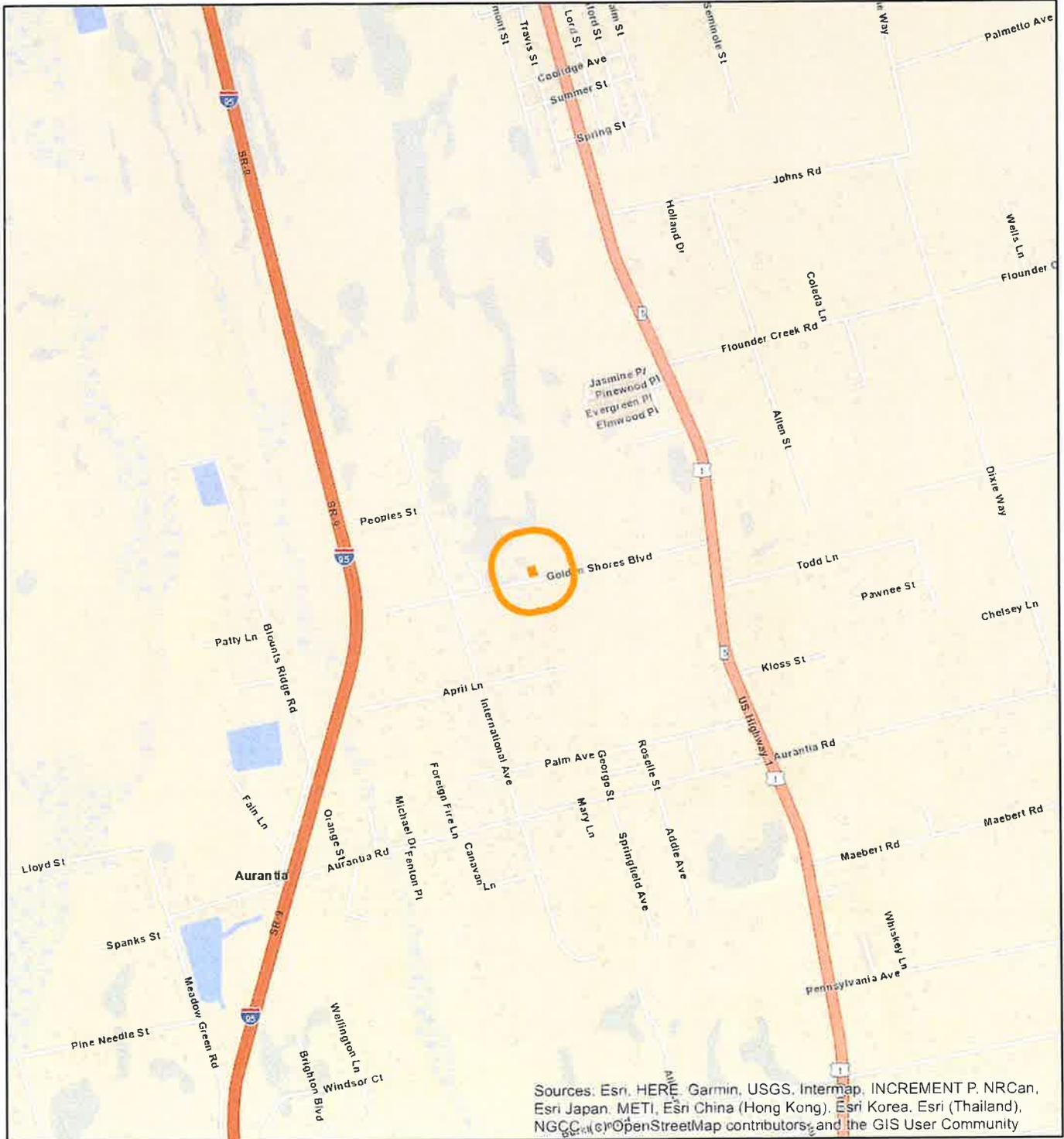
## **Protected Species**

Federally and/or state protected species may be present on the property. Specifically, the property lies within a large area of mapped Florida Scrub Jay occupancy. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the U.S. Fish and Wildlife Service (904-731-3121 or email [FW4FLESRegs@fws.gov](mailto:FW4FLESRegs@fws.gov)), as applicable.

# LOCATION MAP

FOUNE, JACOB

25Z00037



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: 9/3/2025

 Buffer

 Subject Property

# ZONING MAP

FOUNE, JACOB

25Z00037



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

 Subject Property

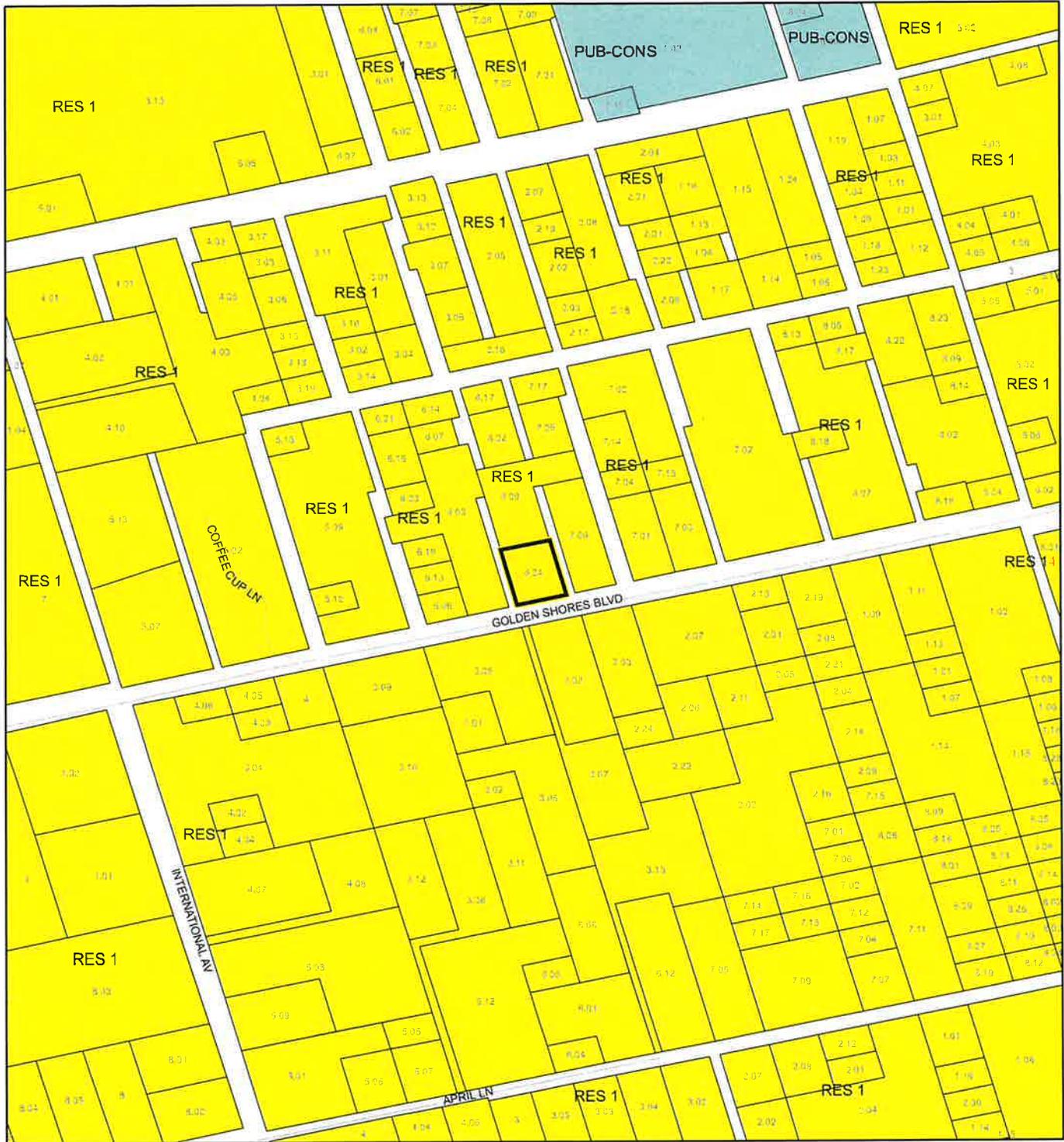
 Parcels

 Zoning

# FUTURE LAND USE MAP

FOUNE, JACOB

25Z00037



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

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Produced by BoCC - GIS Date: 9/3/2025

# AERIAL MAP

FOUNE, JACOB

25Z00037



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2025

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Produced by BoCC - GIS Date: 9/3/2025

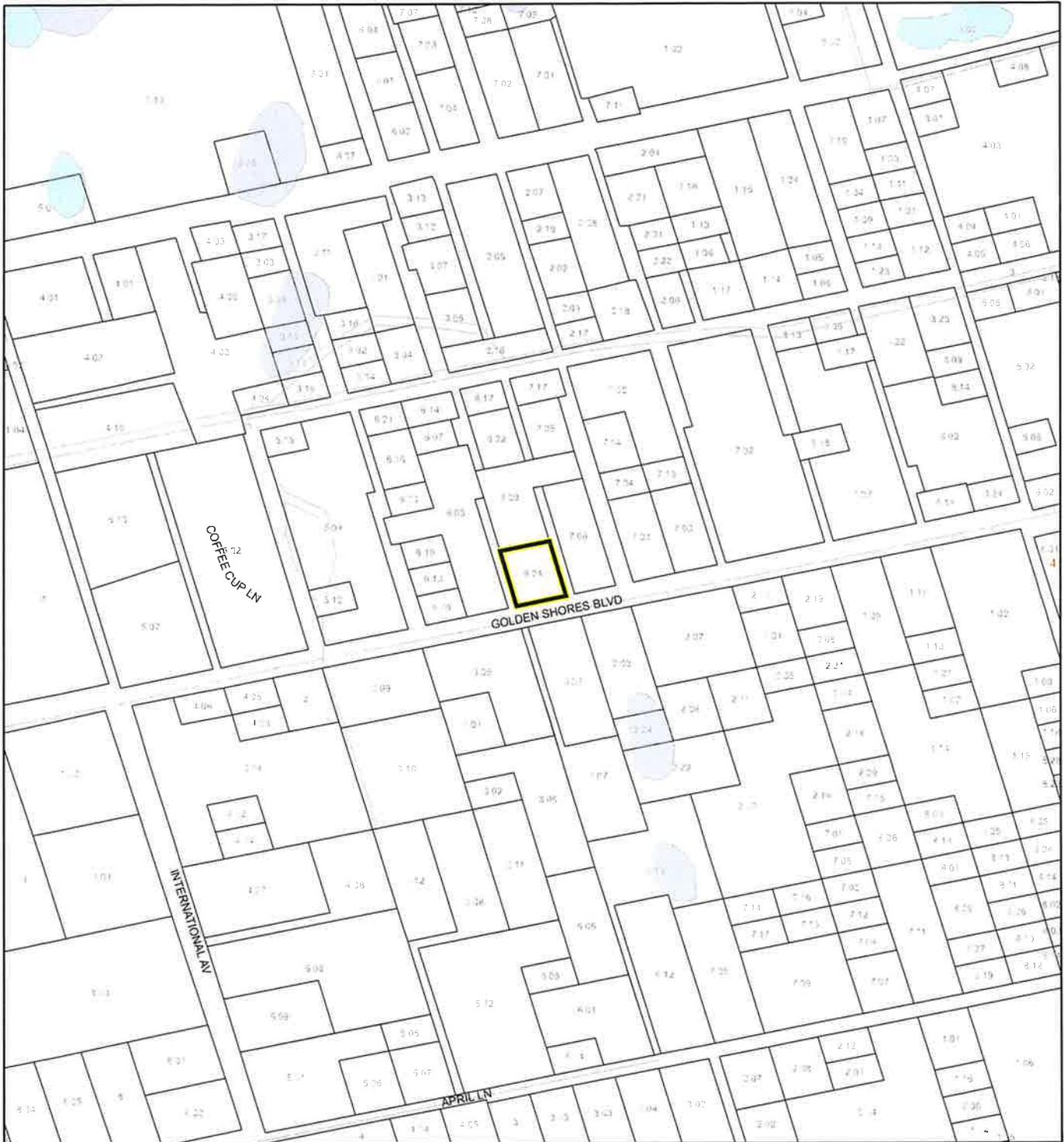
 Subject Property

 Parcels

# NWI WETLANDS MAP

FOUNE, JACOB

25Z00037



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: 9/3/2025

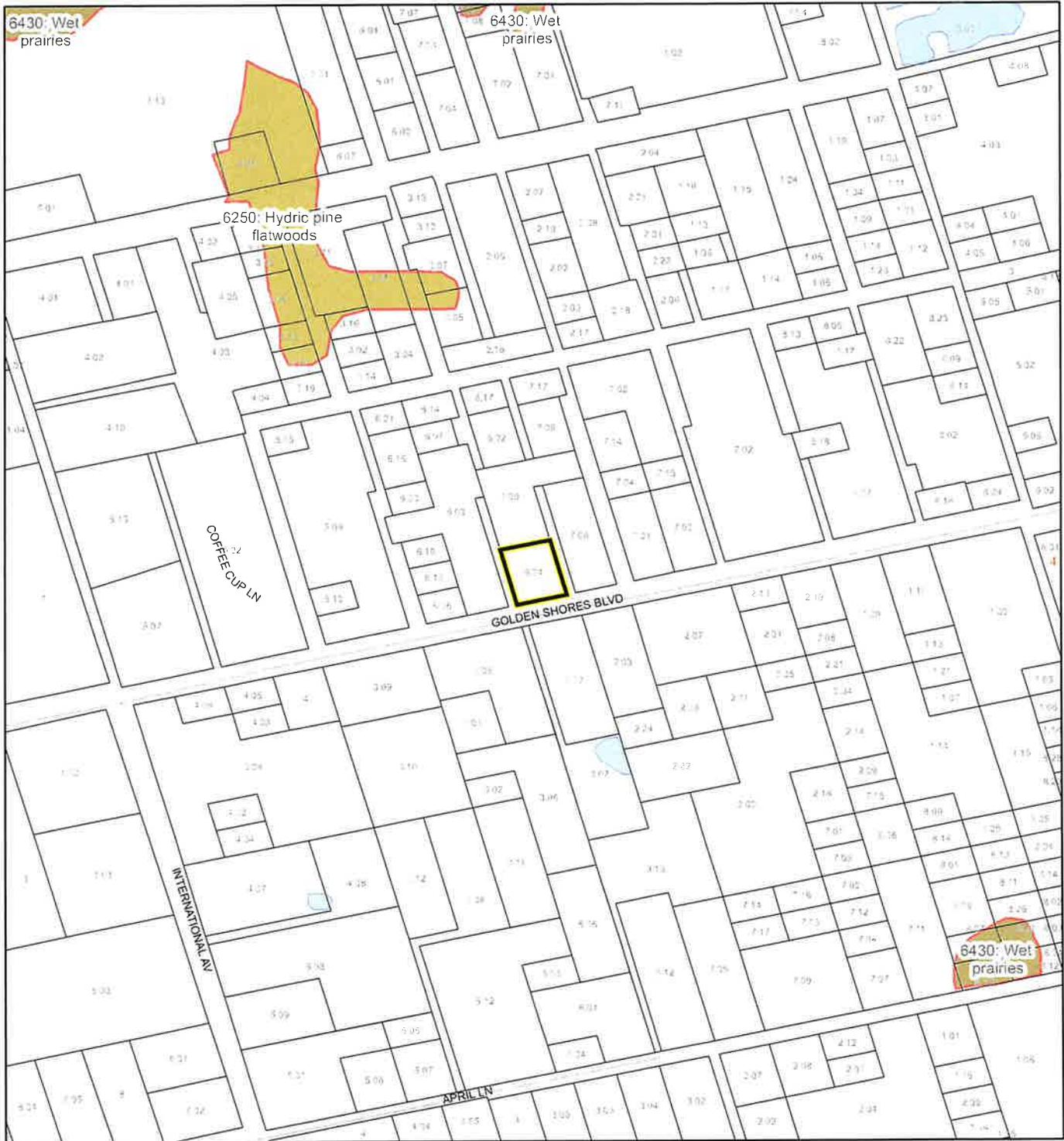
## National Wetlands Inventory (NWI)

- |   |  |
|---|--|
|  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

FOUNE, JACOB

25Z00037



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

### SJRWMD FLUCCS WETLANDS

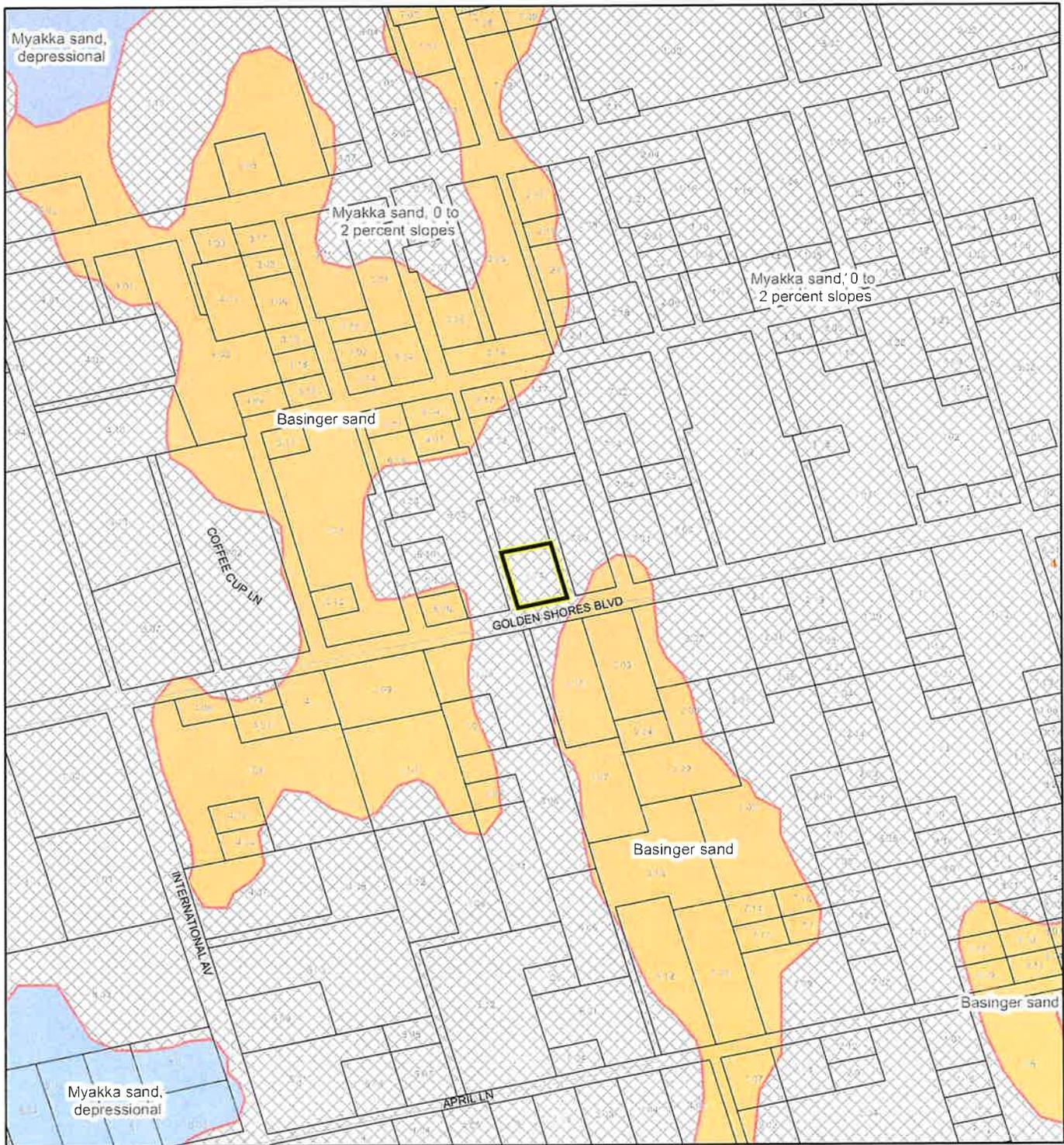
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property     Parcels

# USDA SCSSS SOILS MAP

FOUNE, JACOB

25Z00037



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

## USDA SCSSS Soils

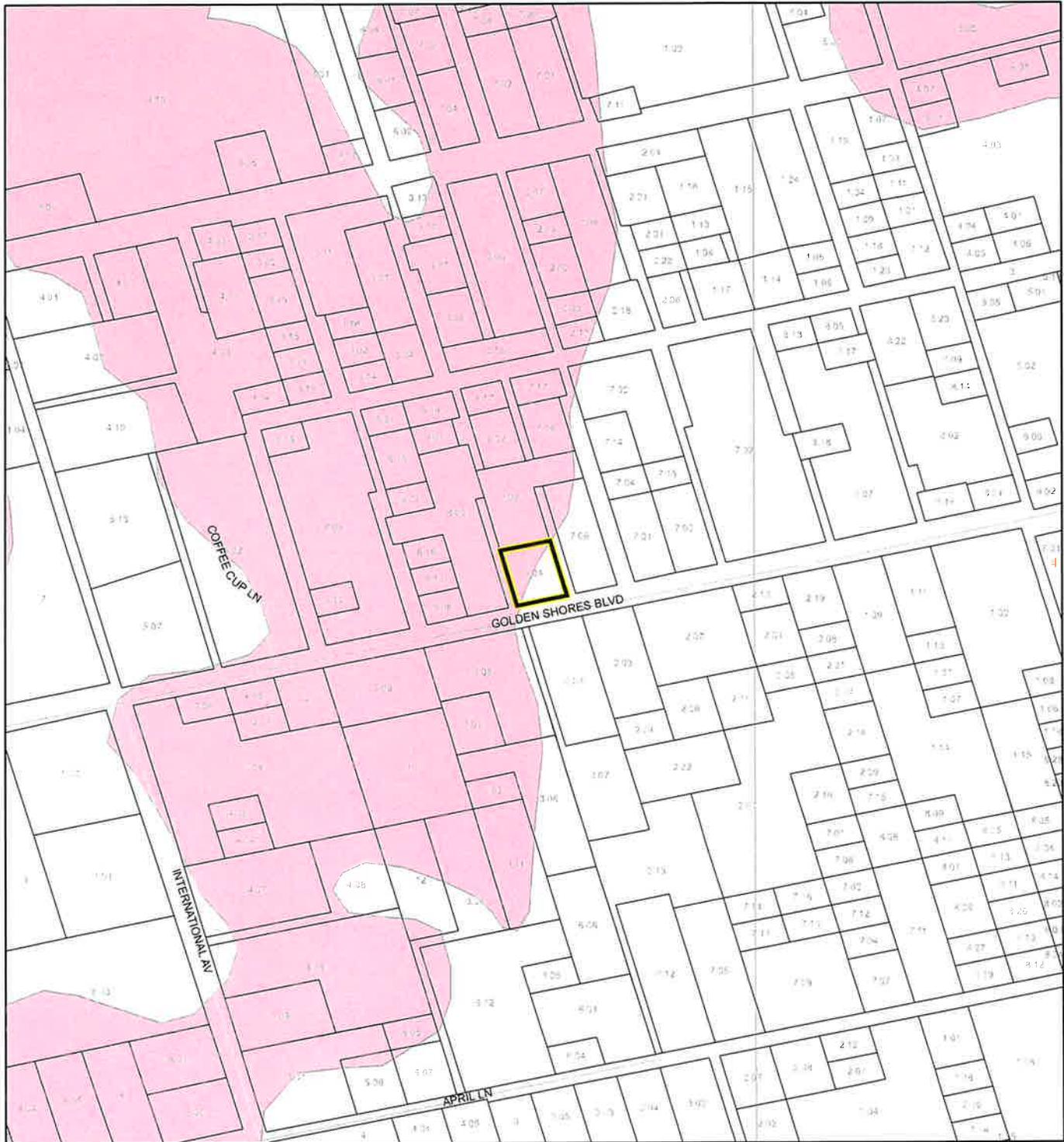
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

FOUNE, JACOB

25Z00037



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

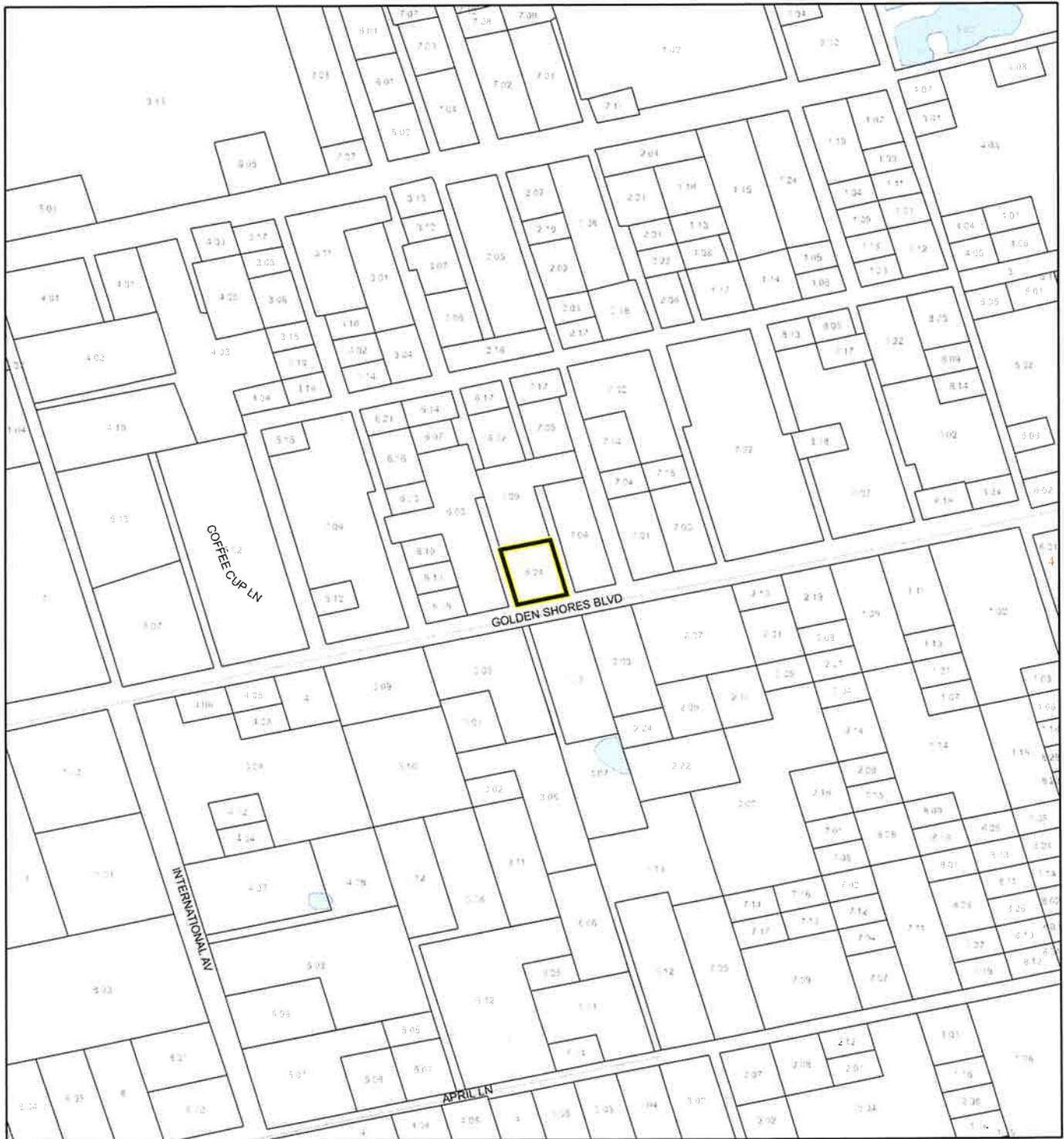
### FEMA Flood Zones

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

# COASTAL HIGH HAZARD AREA MAP

FOUNE, JACOB

25Z00037



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

 Subject Property

 Parcels

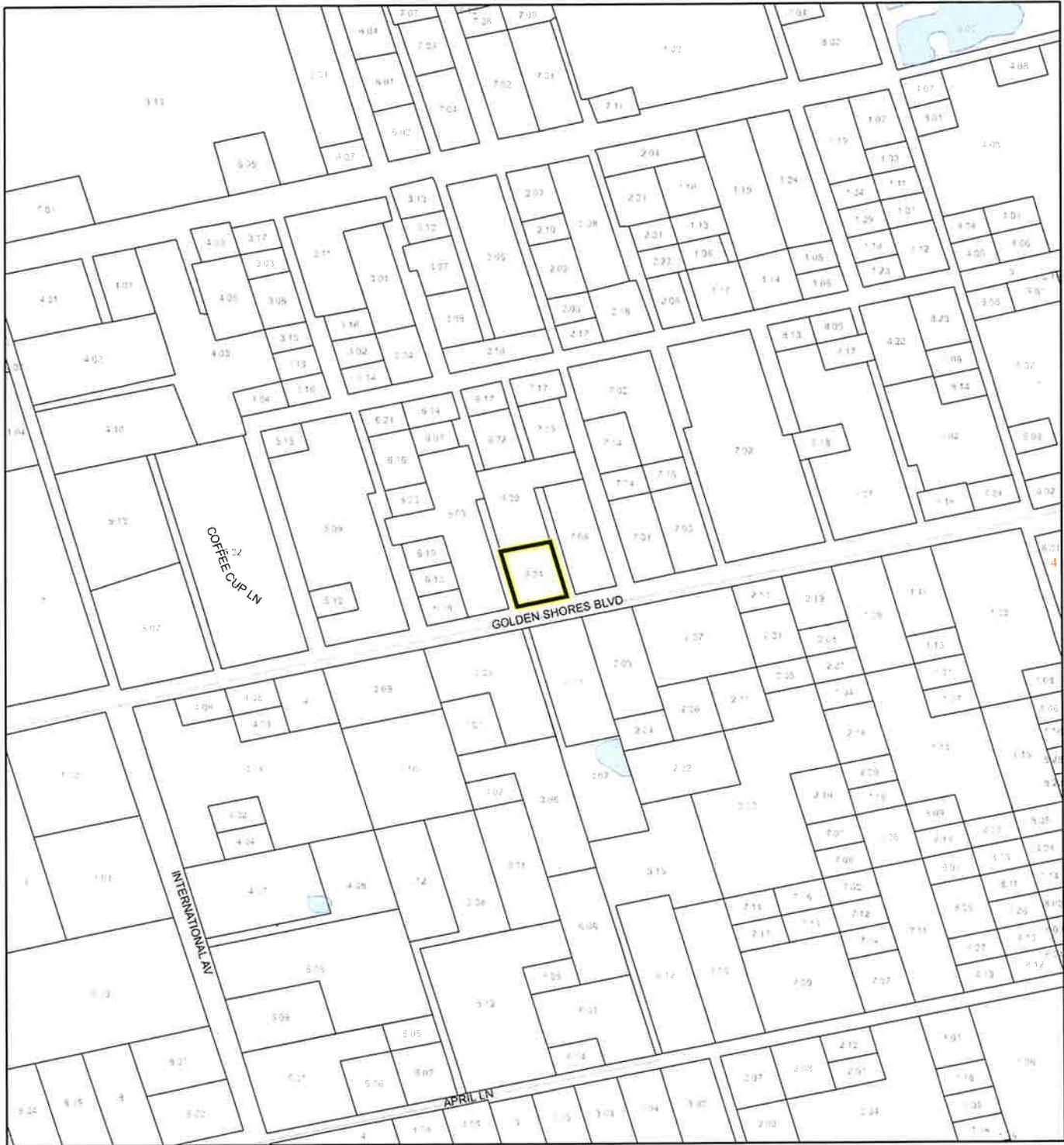
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

FOUNE, JACOB

25Z00037



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

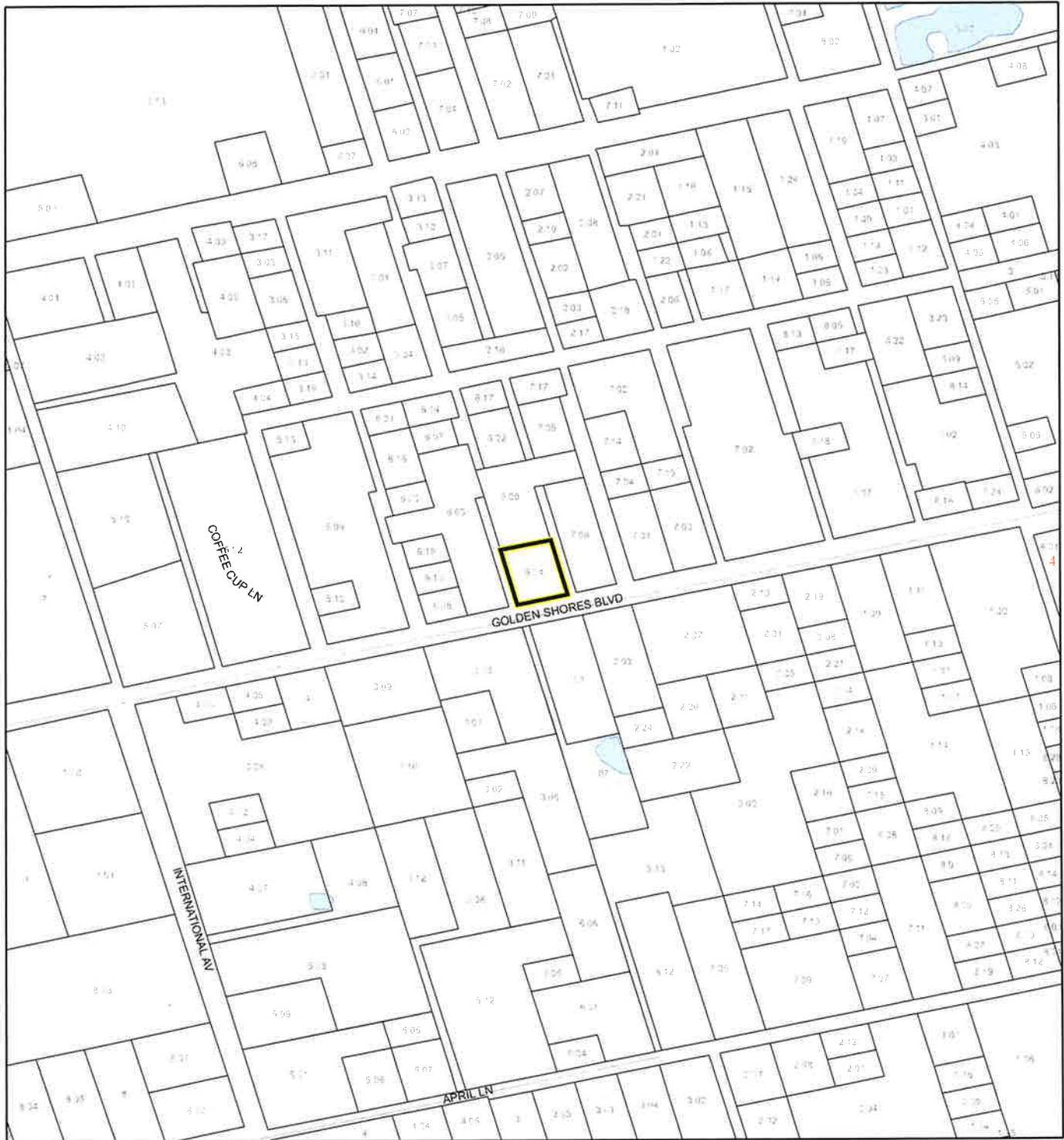
 60 Meters

 All Distances

# EAGLE NESTS MAP

FOUNE, JACOB

25Z00037



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

 Subject Property

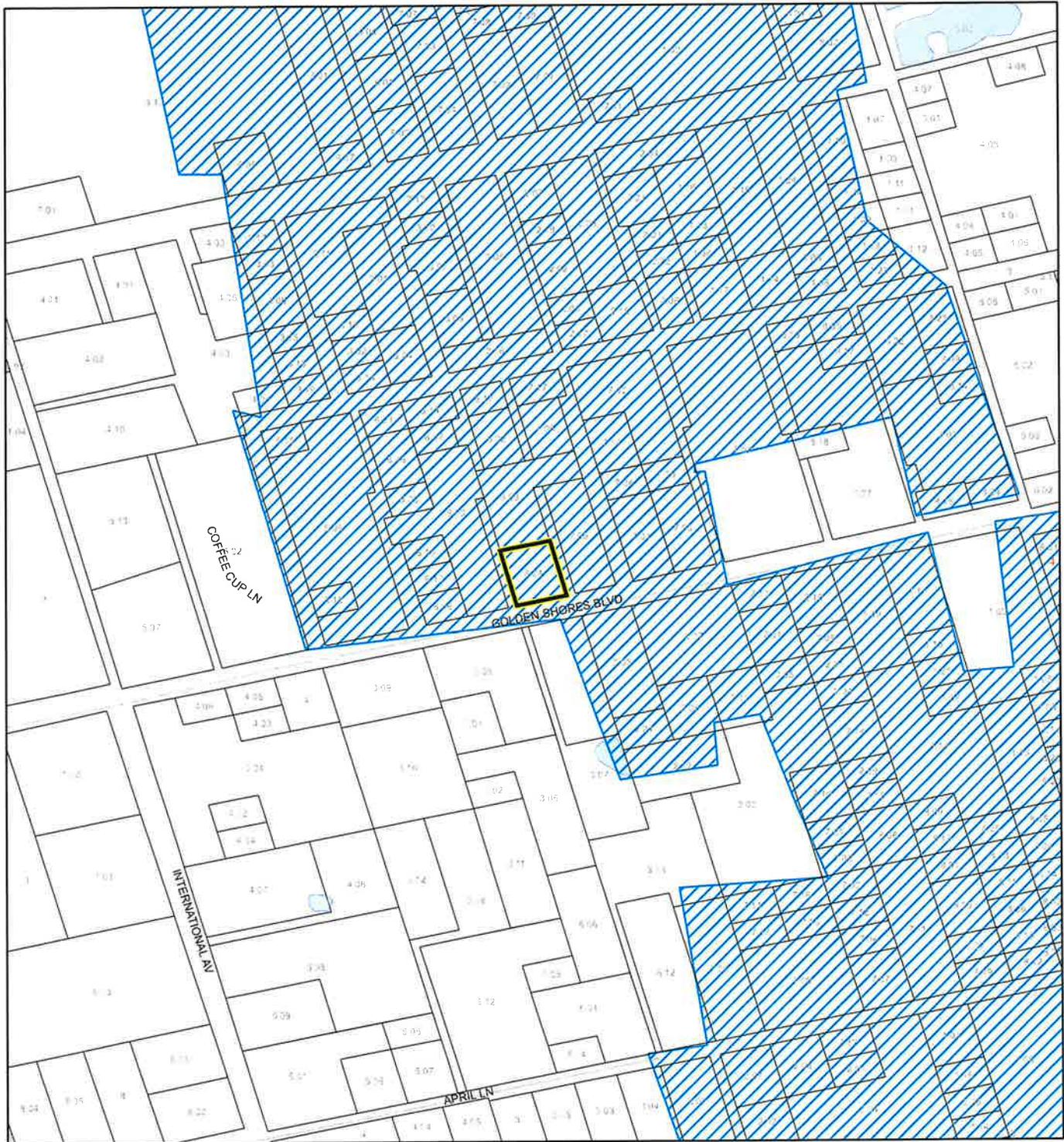
 Parcels

 Eagle Nests FWS

# SCRUB JAY OCCUPANCY MAP

FOUNE, JACOB

25Z00037



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

FOUNE, JACOB  
25Z00037



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

## SJRWMD FLUCCS Upland Forests

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

Subject Property  Parcels

## PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 17, 2025**, 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 Mark Wadsworth, Chair (D4); Henry Minneboo, Vice-Chair (D1); Ron Bartcher (D2); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); Robert Brothers (D5); Melissa Jackson (D5); Neal Johnson (D4); Ana Saunders (D5); Greg Nicklas (D3); Erika Orriss (D3); and Debbie Thomas (D4).

Staff members present were Trina Gilliam, Planning and Zoning Manager; Paul Body, Planner; George Ritchie, Planner; Derrick Hughey, Planner; Tim Craven, Planner; Alex Esseesse, Deputy County Attorney; and Jordan Sagosz, Operations Support Specialist.

**H.6. Jacob Founé requests a Small-Scale Comprehensive Plan Amendment (25S.14) to change the Future Land Use designation from RES-1 (Residential 1) to RES-2 (Residential 2). (25SS00008) (Tax Account 2000804) (District 1)**

**H.7. Jacob Founé requests a zoning classification change from SR (Suburban Residential) with a BDP to SR (Suburban Residential) with removal of the existing BDP and addition of a new BDP. (25SS00008) (Tax Account 2000804) (District 1)**

Paul Body read both item H.6. and H.7. into the record as they are companion applications but will need separate recommendations.

Jacob Founé spoke to the applications. He stated he initially bought the property not aware of any issues to build on it. I turned in all my permits, got everything accepted, started construction. I currently already have my concrete slab done, my block. I have trusses sitting in the dirt for almost five or six months now. Now I'm just waiting to get it approved to continue my construction.

### Public Comment

Clifford McKnight stated currently the rezoning, I don't know what happened to get this approved. Where you're supposed to get rezoned, you can rezone down to one acre. This is going to rezone it down to a half an acre, setting a precedence for future building in the area. According to the property appraiser website, this property is listed at .45 acres. It is now with the current survey listed as .51. So, I have a discrepancy there. I don't know what happened to get this thing rubber stamped to where he could start building. I feel sorry for him. But also with this property, the house directly behind it that just got built, 4070, their driveway runs directly through this piece of land also. So, by building this, approving it and building this house, you're cutting off their flag lot. They don't have direct access. The current BDP, I'm not sure what is going to entail with that being changed, but I'm not in favor of this.

### End Public Comment

Mr. Hopengarten asked how did you buy this? Did you go through a realtor?

Mr. Founé replied no, no realtor. Nope. Just bought it. I work construction, so I just work in the area all the time and work with people that sell lots. I was told of the lot and made a deal and closed on it and turned everything in.

Mr. Hopengarten asked who did the survey for you. Did you pay for the survey?

Mr. Founé replied yes, sir.

Mr. Hopengarten asked so, your surveyor didn't notify you that this was an illegal lot.

Mr. Founé replied no, sir.

Mr. Hopengarten stated might be a lawsuit there for you. Also, it seems that the county mis-stepped on this too when they issued you a building permit, which is sad. Also, the last gentleman that spoke said that there's another lot that's supposed to be flagged through yours.

Mr. Founé replied correct. So, they have an easement, a 25 ft easement to the left.

Mr. Hopengarten asked is that what's showing on the survey? On the I guess it's the west side.

Mr. Founé replied yes, correct.

Mr. Body stated the parcel that's to the rear does have an approved easement to get to their lot.

Mr. Hopengarten stated that's not the west, that's the east side. I'm looking at the survey just to see where that is. But you're aware of that.

Mr. Founé replied correct.

Mr. Hopengarten stated I'm looking at this wrong. You're saying on the east side there's the flag lot.

Mr. Founé replied on the west side there is an easement for them. The other side there's like a piece of property. I think it's like a something the county owns. I think it's 25 ft wide as well.

Mr. Hopengarten replied okay, but it doesn't affect the house that you wanted to build.

Mr. Founé replied no, the slab's already done.

Mr. Hopengarten stated I really feel bad about this. The county let you down, the surveyor let you down. The seller let you down and you're paying money on construction that's not being completed. I think number one that they shouldn't charge you any fee for this change that you want and that they should let you proceed. That's sad.

Mr. Atkins asked who sold you the lot? And who is building the house?

Mr. Founé replied, Scotty Minnick. I'm owner builder.

Ms. Amato stated in the packet, it says that if the zoning request is approved that it will not be introducing a new zoning into the area, that it won't like RES2, can't be used in the future to build on the intensity and density in the area. How do we guarantee that? Because we got here there was a BDP to prevent this and multiple steps were missed. So, if we put another barrier in place, what guarantee is there that we're not going to be sitting here in another 6 months or so? There seems to

be quite a few mistakes happening up in the Scottsmeer area and it's repeated up against this board. And how do we stop, what does that guarantee?

Ms. Gilliam replied that the technicians that reviewed the building permit originally went through additional 8 weeks training. So, we have corrected that and tightened it up, so their reviews are more focused, and they know what to look for in the future. Additionally, we have cited in the staff report that this action if it is approved would not be precedential in nature. So, by stating that we feel that that would not allow for other people to do the same thing because this is a unique situation. Staff did make an error in originally approving the building permit and we're doing what we can for Mr. Founé to correct our errors.

Ms. Amato replied when we get these reports it'll give us a range sometimes like there's 0.2 2 acres to 5-acre properties in the area. Is there going to be a note attached to any rezoning in the area that this one will not be considered when we get those reports before a planning and zoning board. So that way in the future everybody who's considering a rezoning in that area will have a note to that effect.

Ms. Gilliam responded as you know when we do our staff reports, we do a search radius of a thousand square feet. So, any zonings, rezonings or small scales that have happened within that thousand square feet is noted in the staff report. That's how we would protect this from not happening again, from moving forward, is by doing that search.

Ms. Amato stated and in that staff report, it would let us know that this property shouldn't be considered.

Ms. Gilliam replied we would do what we can to work with the applicant before even bringing it forward. But of course, it is still up to the applicant in the end.

Ms. Amato responded it kind of feels like we're stuck between a rock and a hard place. People moved up that way and they have larger lots. They did that on purpose. They didn't stumble into larger lots. And now we have somebody who's going to lose an immense amount of money because somebody who sold him the lot dropped the ball, his surveyor dropped the ball, and someone in staff dropped the ball. And now there's no RES2 anywhere near that. And now we're going to introduce a new zoning into the area all to make everybody else's missteps correct. And the problem I have with that is considering everybody who lives there that moved there not to have that zoning. And that's quite a conundrum.

Mr. Johnson asked when you bought the property, did you close with a title company?

Mr. Founé replied yes, I did.

Mr. Johnson then asked, have you spoken to them about this? You should.

Mr. Founé replied I have not yet. No.

Mr. Bartcher stated relating to what Ruth was saying, when this lot was split back in 2020, who should have recognized that this was illegal. Would it be the property appraisers office, the buyer's lawyer, the county clerk, zoning staff, who would you expect to have found this error?

Ms. Gilliam responded zoning staff are not involved with properties when they're split. That is done through the clerk of courts. They also take it over to the property appraiser, but it must be recorded with the clerk of courts. Clerk of court staff does not look at zoning or BDPs or anything else. So, we don't know about it until it gets mapped.

Mr. Bartcher responded so in essence, what the situation that we have here is that until he pulls a building permit, he would never have known he had a problem.

Ms. Gilliam replied that is correct.

Mr. Bartcher stated and in this case, he actually got a building permit.

Ms. Gilliam replied yes, sir.

Mr. Body stated a lot of times the property appraisers will call zoning if they're trying to get a mortgage on it and make sure that it's properly done, and we'll tell them when something like this has been recorded that it's done without meeting the requirements for the zoning classification. The surveyors don't usually look at stuff like that. All they do is get a legal description and they go out and survey the property by that. The title company is the one that should be looking at that.

Mr. Bartcher stated I was thinking the title company ought to have found that and advised him that there was a problem. Because of all these failures, I'm going to recommend that we approve this with the disclaimer. But before we get to that, how are we going to put this disclaimer in effect? Are we going to ask him to put a BDP on the property or how's that known? How's it made known?

Ms. Gilliam responded yes, sir. We are requesting a BDP with this action. What we're proposing is two things. The applicant agrees that this rezoning request and companion future land use amendment application was the result of an unlawful split by the predecessor and interest and will stipulate to the fact in any future proceedings regarding that action. And number two, that this rezoning and companion future land use amendment application are not precedential but instead are being requested to resolve the substandard lot that has arisen as a result of the unlawful lot split. And under these particular circumstances, that it be recognized that these actions are being granted based upon the unique conditions of the subject property.

Mr. Bartcher stated I recommend approval with that disclaimer.

Ms. Orriss stated I've done a lot of real estate transactions in my lifetime, but I've always used a realtor and it's been brought to my attention, Erica this is zoned this way. And so, then the onus always is.... you know for sale by owner then you know a lot of things get hidden and so just recommendation for the future. And I don't want to see this set a precedent, so I do want to make sure that we've got this BDP, and it is we know not to use it. So along with that I guess I'll go along with everyone else.

Mr. Atkins asked out of curiosity, what kind of construction do you do?

Mr. Founé responded HVAC.

Mr. Atkins asked do you work for the gentleman that sold you the property at all?

Mr. Foune responded yes, I do. I work for a lot of the small builders in Titusville, Mims area.

Mr. Minneboo asked if this falls under the auspices of the septic tank moratorium.

Ms. Gilliam responded no it does not.

Mr. Minneboo asked who said that? The area is not.

Ms. Gilliam responded it is not in the septic tank moratorium.

Mr. Hopengarten asked do you still work for Minnick.

Mr. Foune replied yes, I do.

Mr. Hopengarten asked does he know the troubles he's put you in?

Mr. Foune replied yep.

Mr. Hopengarten asked if he's helping you out in any way?

Mr. Foune replied we'll see. Hopefully.

Mr. Hopengarten stated this is an expense that... Do you have a mortgage on this?

Mr. Foune replied I don't.

Mr. Hopengarten stated you're paying cash for everything. I'll second his motion.

Motion to recommend approval of Item H.6. by Ron Bartcher, seconded by John Hopengarten.  
Motion passed with a vote of 10:2.

Motion to recommend approval of Item H.7. by Ron Bartcher, seconded by Neal Johnson. Motion passed with a vote of 10:2.

Meeting adjourned at 4:27 p.m.

**From:** [Cliff McKnight](#)  
**To:** [Commissioner, D4](#)  
**Subject:** ID # 25SS00008 and ID # 25Z00037  
**Date:** Sunday, December 7, 2025 4:19:22 PM

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

Clifford McKnight  
3900 Golden Shores Blvd, Mims  
321-432-7928

Dear Commissioner Feltner,

I am writing on behalf of numerous residents of Golden Shores Blvd in Mims regarding the proposed rezoning and the removal of the existing Binding Development Plan (BDP) for the property at 4060 Golden Shores Blvd. We wish to express our strong disapproval of this rezoning initiative.

This is to be heard at the meeting on December 11, 2025. ID # 25SS00008 and ID # 25Z00037.

Current zoning: SR with a BDP

Requested Zoning: SR with removal of the existing BDP

Current future land use: RES-1

Requested future land use: Res-2

The removal of the existing BDP, along with the new land use request, is inconsistent with the current development plan and undermines the character of our community. This change sets a concerning precedent that could transform our area into a disorganized urban landscape—something many of us sought to avoid when we chose to live here.

Even with the proposed half-acre variance, this rezoning should not proceed. The Brevard County property website lists this parcel at 0.45 acres, contrary to the 0.51 acres indicated by the new survey. Additionally, the house directly behind this parcel, located at 4070 Golden Shores Blvd, has its driveway running through the proposed property, not on an easement. This situation raises significant concerns about access and impacts the actual usable acreage of the lot.

We emphasize that current zoning regulations should not be adjusted to accommodate negligence or oversight. This discussion is occurring after construction has progressed to a quarter completion due to a breakdown in the planning process. It is crucial that accountability is enforced rather than granting variances that would complicate the situation and set an undesirable precedent for other properties and builders. Notably, the contractor responsible for the construction is also the seller of the property. Given his experience building homes in the area, he should be fully aware of the zoning regulations and BDP.

Furthermore, it is important to note that alongside this property, there is another change in future land use affecting an additional 6.24 acres linked to this petition, potentially allowing

for up to 12 more homes in our area. Our community cannot support such extensive changes and strongly implores that the current BDP remains intact.

Thank you for your attention to this matter. We hope you will consider our concerns seriously and prioritize the integrity of our community.

Sincerely,  
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