



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.4.

2/6/2025

### Subject:

Luz Nogueroles requests a change in zoning classification from AU to RR-1. (24Z00060) (Tax Account 2509830) (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 change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential)

### Summary Explanation and Background:

The applicant is requesting to rezone 1 acre of a 5 acre parcel from AU (Agricultural Residential) to RR-1 (Rural Residential). Currently, the 5 acre parcel is developed with a single-family residence, a barn, and a stable. After rezoning, the applicant intends to split the parcel. The single-family residence would be located on the 1 acre portion. The existing barn and stable would be located on the remaining 4 acres and retain the AU zoning classification. The subject property has access to Martin Road, a county-maintained roadway.

The current AU zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character 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 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 minimum one acre lots with a minimum lot width and depth of 125 feet. Under Sec. 62-2100.5(2) the RR-1 classification permits horses, barns, and horticultural pursuits as accessory uses to a single-family residence pursuant to the following limitations. Horses, not to exceed four per acre, are permitted for the personal, noncommercial use of the occupant of the property, provided there is a minimum of 10,000 square feet of land for each animal. Agricultural pursuits shall be limited to the keeping of horses and activities of a horticultural nature. No other farm animals or fowl shall be kept on the property and no produce shall be sold from the premises. The minimum house size is 1,200 square feet. The subject property improvements meet the requirements for the RR-1 zoning classification.

North of the subject property is a single-family residence zoned AU (Agricultural Residential) built on 5 acres

with a RES 15 FLU designation. South of the subject property is a 3.92 acre parcel of vacant land. It is zoned AU and has a FLU of RES 15. East of the subject property is the Phillips Landing subdivision within the City of Rockledge boundary on the east side of Martin Rd. The zoning is LDR, Low density Residential with a R2 (5 DUA). West of the subject property is 42.2 acre site that is zoned AU within a RES 4 FLU designation.

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

On January 13, 2025, 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 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  
 24Z00060**

**Luz (Nelly) Nogueroles**

**AU (Agricultural Residential) to RR-1 (Rural Residential)**

Tax Account Number: 2509830  
 Parcel I.D.: 25-36-17-00-506  
 Location: West side of Martin Road approximately 0.50 miles west of Fiske Blvd. (District 2)  
 Acreage: 1.0 acres, a portion of 2509830  
 Planning & Zoning Board: 01/13/2025  
 Board of County Commissioners: 02/06/2025

**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>	AU	RR-1
<b>Potential*</b>	0 Single-family home	1 Single-family home
<b>Can be Considered under the Future Land Use Map</b>	YES RES 15	YES RES 15

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

**Background and Purpose of Request**

The applicant is requesting to rezone 1 acre of a 5 acre parcel from AU (Agricultural Residential) to RR-1 (Rural Residential). Currently, the 5 acre parcel is developed with a single-family residence, a barn, and a stable. After rezoning, the applicant intends to split the parcel. The single-family residence would be located on the 1 acre portion. The existing barn and stable would be located on the remaining 4 acres and retain the AU zoning classification. The subject property has access to Martin Road, a county-maintained roadway.

The applicant received two variance approvals under 23V00049 and 24V00036 for the

barn and the stable to ensure the location of those buildings meets AU setback requirements for both structures in preparation of separating the 1 acre.

The subject property was created in December 1973 and recorded in ORB 1408, Page 139. It retains its original configuration. The original zoning of the subject property is AU.

The subject property had two historical zoning actions. **Z-3097** and **Z-2675**.

- **Z-3097 SUP** is dated 11/2/1972 to allow the boarding of horses (with horse shows) in an AU zone on a 38.5 acre parcel.
- **Z-2675** Allowed for a temporary trailer while building a residence in 1970.

There are no current code enforcement complaints on the subject property.

**Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-family residence	AU	RES 15
<b>South</b>	Vacant	AU	RES 15
<b>East</b>	City of Rockledge	R2 (5 DUA)	LDR Low Density Residential
<b>West</b>	Vacant	AU	RES 4

North of the subject property is a single-family residence zoned AU (Agricultural Residential) built on 5 acres with a RES 15 FLU designation.

South of the subject property is a 3.92 acre parcel of vacant land. It is zoned AU and has a FLU of RES 15.

East of the subject property is the Phillips Landing subdivision within the City of Rockledge boundary on the east side of Martin Rd. The zoning is LDR, Low density Residential with a R2 (5 DUA).

West of the subject property is 42.2 acre site that is zoned AU within a RES 4 FLU designation.

The current AU zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character 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 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 minimum one acre lots with a minimum lot width and depth of 125 feet. Under Sec. 62-2100.5(2) the RR-1 classification permits horses, barns, and horticultural pursuits as accessory uses to a single-family residence pursuant to the following limitations. Horses, not to exceed four per acre, are permitted for the personal, noncommercial use of the occupant of the property, provided there is a minimum of 10,000 square feet of land for each animal. Agricultural pursuits shall be limited to the keeping of horses and activities of a horticultural nature. No other farm animals or fowl shall be kept on the property and no produce shall be sold from the premises. The minimum house size is 1,200 square feet. The subject property improvements meet the requirements for the RR-1 zoning classification.

### **Land Use**

The subject property has a Future Land Use designation of Residential 15 (RES 15). The current AU zoning and the proposed RR-1 zoning are consistent with the RES 15 FLU designation.

The applicant's request can be considered consistent with the existing Future Land Use. The Board should evaluate the compatibility of this application within the context of Administrative Policies 2 – 8 of the Future Land Use Element.

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

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

Criteria:

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

**Although the subject property's FLU designation is RES 15, the area is developed with parcels of three acres and up in size. Approval of this request would allow an increase in residential density in the area, thereby changing the character of the area. The applicant intends to create a one acre lot which may not be considered compatible with the existing area within the unincorporated area and may be a catalyst for future rezoning requests.**

- 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 (Master Appraiser Institute) appraisal can determine if material reduction has or will occur due to the proposed request.**

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

1. historical land use patterns;

**The east property line is bounded by smaller (7500 sq.ft.) lots within a subdivision under the City of Rockledge jurisdiction. Vacant land is scattered within the area that ranges in size from 5 to 10 acres in size west of Martin Rd. There are two properties that are vacant out of production borrow pits. One is 1,200 feet north of the subject and one is directly south of the subject.**

**There is multiple FLU designation within 0.5 miles of the subject property. They include RES 4, RES 15, and PUB-CONS. The predominant FLU designation within this area is RES 15. There have been no FLU changes within the past three years or within 0.5 miles.**

**The predominant zoning classification within 0.5 miles is AU, (Agriculture Residential). Additional zonings classifications include RR-1 (Rural Residential) and EU-2 (Estate Use) located on the south side of Martin Rd. SR (Suburban Residential), RU-1-11 and two small areas of GML (Governmental Managed Lands) are located north of the subject where Martin Rd ends. The request expands residential zoning west of Martin Rd.**

2. actual development over the immediately preceding three years;

**There has been no new development within the past three years.**

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

**There has been no new development approved but not yet constructed within the past three years.**

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

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

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

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.

**A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding residential area. Existing single-family residence would not increase the corridor's operating capacity.**

- 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 indicates this area is not an established neighborhood with clearly established boundaries but can be classified as a residential area.**

- 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 request is not for commercial use. It is located in a residential area.**

- 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 single-family residential with no commercial zoning nearby.**

Proposed use(s) shall not cause or substantially aggravate any (a) substantial drainage problem 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 the entire subject parcel as mapped hydric soils indicating that wetlands may be present. In addition, the subject property is located within a mapped FEMA Special Flood Hazard Area (SFHA) AE. Please refer to all comments provided by the Natural Resource Management Department at the end of this report. A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is S. Fiske Blvd. between I-95 and Oyster Blvd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 63.66% of capacity daily. The corridor is anticipated to operate at 63.70% of capacity daily. 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 has access to Brevard County sewer which is located on the west side of Martin Road. The parcel has access to the City of Cocoa potable water.

### **Environmental Constraints**

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

- Hydric Soils
- Floodplain Protection
- Land Clearing and Landscape Requirements
- Potential Code Enforcement

### **For Board Consideration**

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



## NATURAL RESOURCES MANAGEMENT DEPARTMENT

### Zoning Review & Summary Item No. 24Z00060

**Applicant:** Luz Nogueroles (Owner: Luz Nogueroles)

**Zoning Request:** AU to RR-1

**Note:** to split out 1 acre for SFR

**Zoning Hearing:** 01/13/2025; **BCC Hearing:** 02/06/2025

**Tax ID No.:** 2509830

- 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
- Floodplain Protection
- Land Clearing and Landscape Requirements
- Potential Code Enforcement

#### Land Use Comments:

##### **Hydric Soils**

The entire subject parcel contains mapped hydric soils (Riviera sand, 0 to 2 percent slopes); an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, 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. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(c)(6).** Except as allowable in Section 62-3694(c)(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. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Non-bona fide agricultural and forestry operations utilizing best management practices, which do not result in permanent degradation or destruction of wetlands are permitted. 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.

### **Floodplain Protection**

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

Per Section 62-3723(4), elevations of the riverine 100-year, riverine 25-year, and ten-year floodplains shall be determined utilizing the best available data, which includes FIRM maps and the Flood Insurance Study for Brevard County, Florida and Unincorporated Areas, April 3, 1989, prepared by the Federal Emergency Management Agency; and the Mean Annual, 10-Year, 25-Year and 100-Year Profiles for the Upper St. Johns River Under the Existing Conditions, prepared by Dr. Donthamesetti V. Rao, P.E., St. Johns River Water Management District (March 1985).

Within the 100-year riverine floodplain, residential density is limited to no more than two dwelling units per acre. Within the 25-year riverine floodplain, residential density is limited to not more than one dwelling unit per two and one half acres. Within the 10-year riverine floodplain, residential density is limited to not more than one dwelling unit per ten acres. Within the mean annual riverine floodplain, residential land uses shall be prohibited unless the project has a special reason or need to be there and it is in the best public interest (i.e., a public project).

Chapter 62, Article X, Division 6 states that site alteration shall adversely affect the existing surface water flow pattern and 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 ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) 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.**

**Potential Code Enforcement**

Information available to NRM indicates that unpermitted land clearing and alteration activities, potentially in wetlands, may have occurred on this parcel between 2023 and 2024. The confirmation of unpermitted land clearing and alteration activities may result in code enforcement action.

## **PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 13**, 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); Ana Saunders (D5); Erika Orriss (D3); Debbie Thomas (D4); Logan Luse (D4); Ron Bartcher (D1); Melissa Jackson (D5); and Robert Brothers (D5).

Staff members present were Tad Calkins, Director (Planning and Development); Billy Prasad, Deputy Director (Planning and Development); Alex Esseesse, Deputy County Attorney; Trina Gilliam, Interim Zoning Manager; and Alice Randall, Operations Support Specialist.

### **Excerpt of complete agenda.**

#### **Item H.4. Luz Nogueroles requests a change in zoning classification from AU to RR-1. (24Z00060) (Tax Account 2509830) (District 2)**

Trina Gilliam read the application into the record.

Luz Nelly Nogueroles spoke to the application. Currently the zoning for this particular property is AU and I am requesting to change it to RR-1. It's a 5-acre lot and one acre of the lot we want to separate from the rest of the lot, so the rest of it would be a flag lot and we need to change the zoning on that. There's already a property on it, there's a house and that house is existing and it's going to stay. We have no intention of putting any other structures on it or on the flag lot as well.

### **Public Comment**

Anastasia Vasilypow stated the lot is behind our fence. We sent a letter via email, with my significant other that we don't want a change.

### **End of public comment**

Ms. Nogueroles stated she has no idea why there is opposition. That's in a gated community that doesn't even go down my block. So, I don't understand what reasoning they have behind not wanting us to be able to split the lot or change the zoning on it. Just saying that you don't like something doesn't mean that it should happen. I'm quite shocked myself.

Motion to recommend approval of Item H.4. by Ron Bartcher, seconded by Debbie Thomas. The motion passed unanimously.

My name is John Angelillo. I reside at 1475 Martin Road, Rockledge (just to the north of 1455 Martin Road). My wife and I purchased this property many decades ago. I am writing in regards to the rezoning notice posted at 1455 Martin Road (**24Z000 60**).

I am requesting the motion to rezone into a one (1) & four (4) acre lot(s) be denied.

The entire reason for purchasing our property, in 1983, on Martin Road, was for the fact of large acre lots, not for it to be broken down into small lots that can be resold, allowing for a subdivision real in our rural area. We cherish our privacy and the peace and quiet that comes with that luxury.

Our goal is to leave our beautiful property to our children and grandchildren for them to also enjoy this less busy street and pastoral part of Rockledge, that is hard to find these days.

We feel, if this is allowed, this will start the path way for others to attempt to rezone and break the integrity of our street. We have worked hard and paid substantial amounts of money to live here and we are requesting that it stay that way.

We have large animals and we are trying to keep our street conducive to farm and horse life vs more neighbors, a busier street and smaller lots that can be sold and resold. Please help us keep our privacy sacred.

Please feel free to contact me, at any time, if I can be of any assistance.

Thank you for your consideration

John Angelillo

321 403 0580



**TO:** Whom It May Concern &/or Desiree Jackson

**From:** Tim & Alice Deakins

**Date:** December 24, 2024

**Re:** Rezoning Notice

**We are writing this letter on behalf of the request to rezone 1455 Martin Road, Rockledge. We own & reside at 1469 Martin Road (next door to above said residence). Though we both have five (5) acre lots, unfortunately our houses are extremely close to each other. We love and appreciate our rural area. We intentionally purchased our home, in this area, years ago because of the conduciveness to horses and farm animals. We purchased this property because of the integrity of large lots with few neighbors. We purposely did not buy into a subdivision because we treasured the rural living feel. We are respectfully voicing our input to deny this motion & to keep the authenticity of large acre plots in this area.**

**We highly treasure our privacy and we hope you will help us keep it.**

**Thank you for your consideration.**

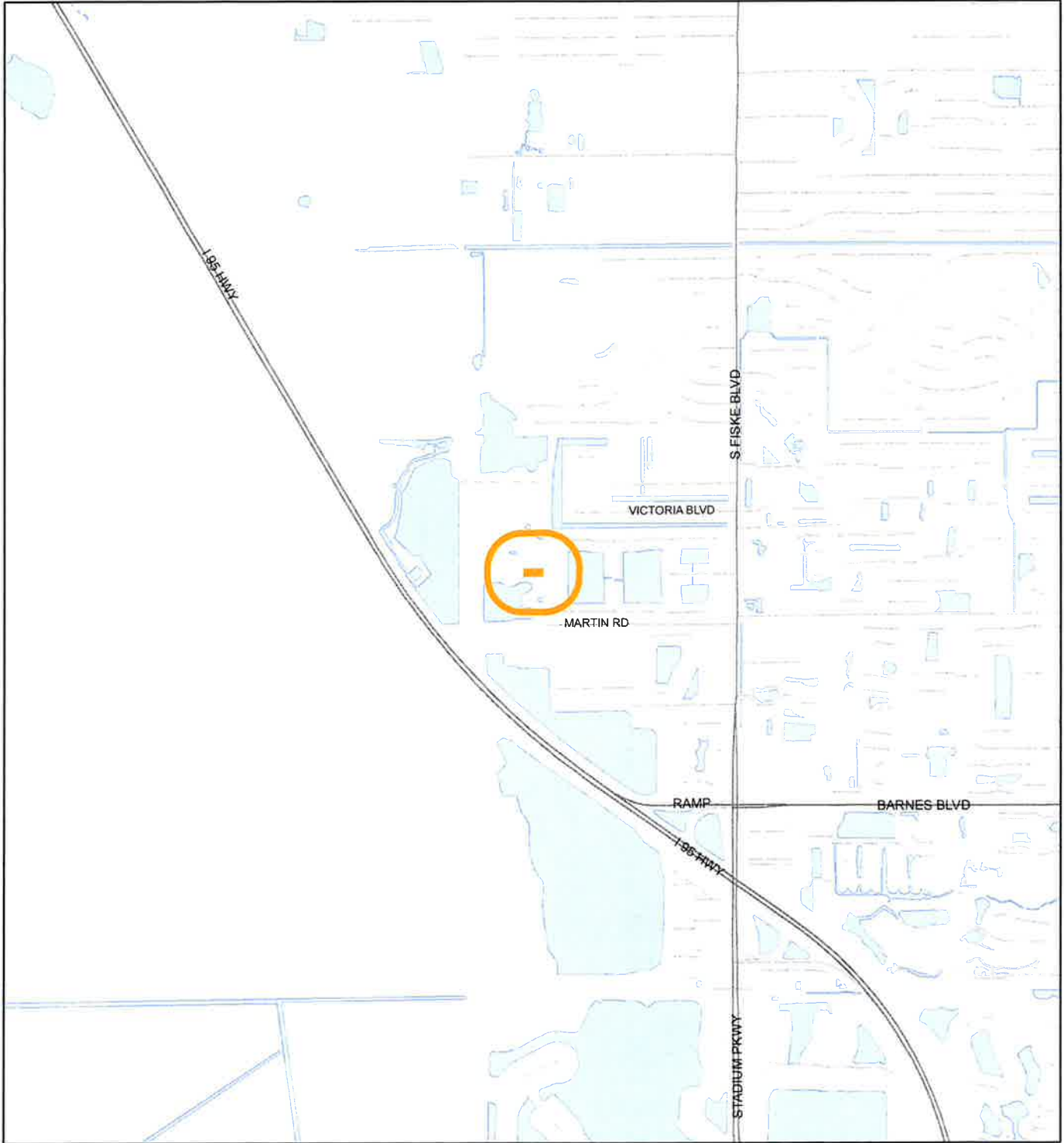
Alice D. Deakins

(321) 544 – 0399

# LOCATION MAP

NOGUEROLES, LUZ

24Z00060





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

Buffer Distance: 500 feet

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

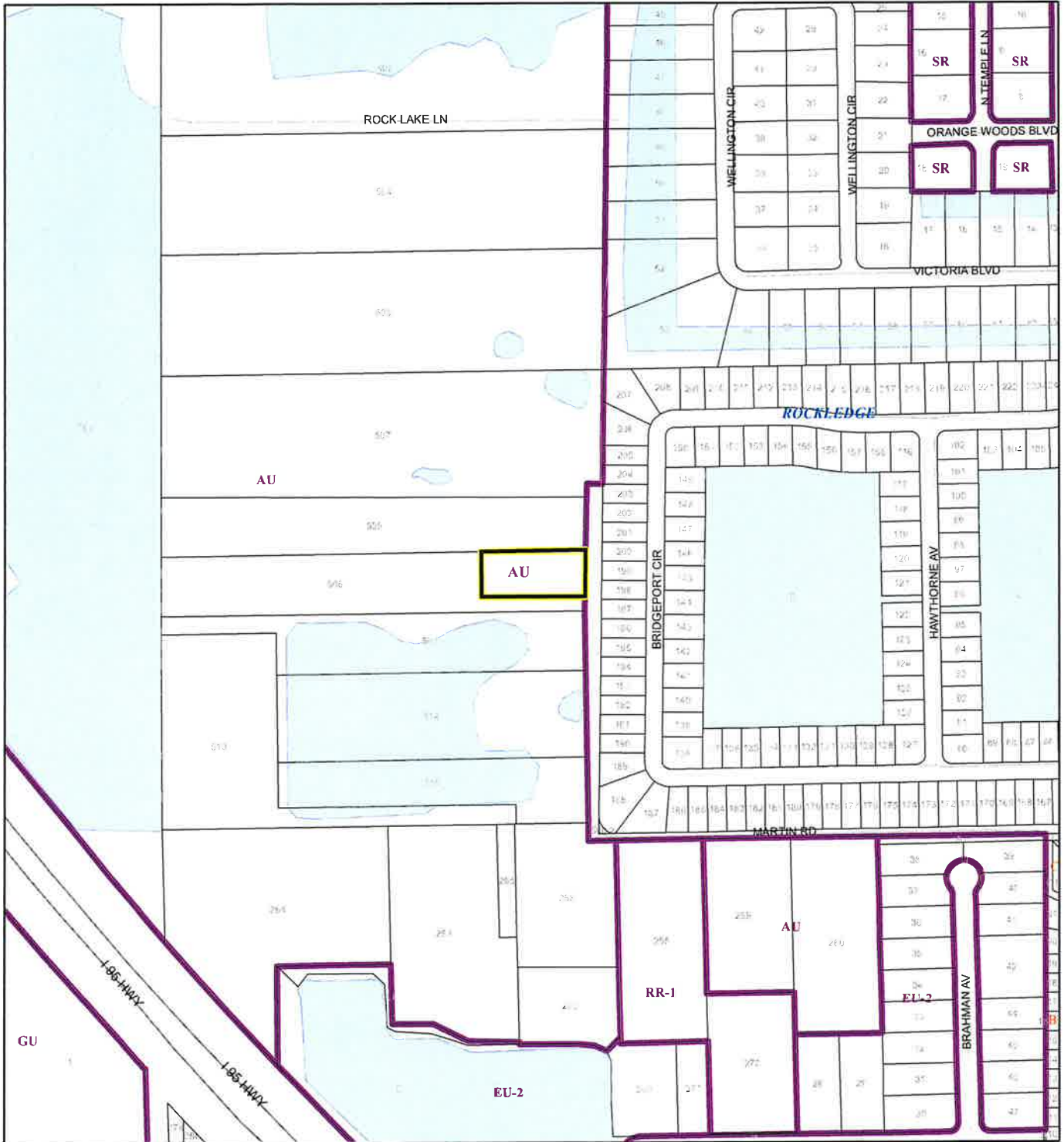
Produced by BoCC - GIS Date: 1/6/2025

-  Buffer
-  Subject Property

# ZONING MAP

NOGUEROLES, LUZ

24Z00060



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2025

 Subject Property

 Parcels

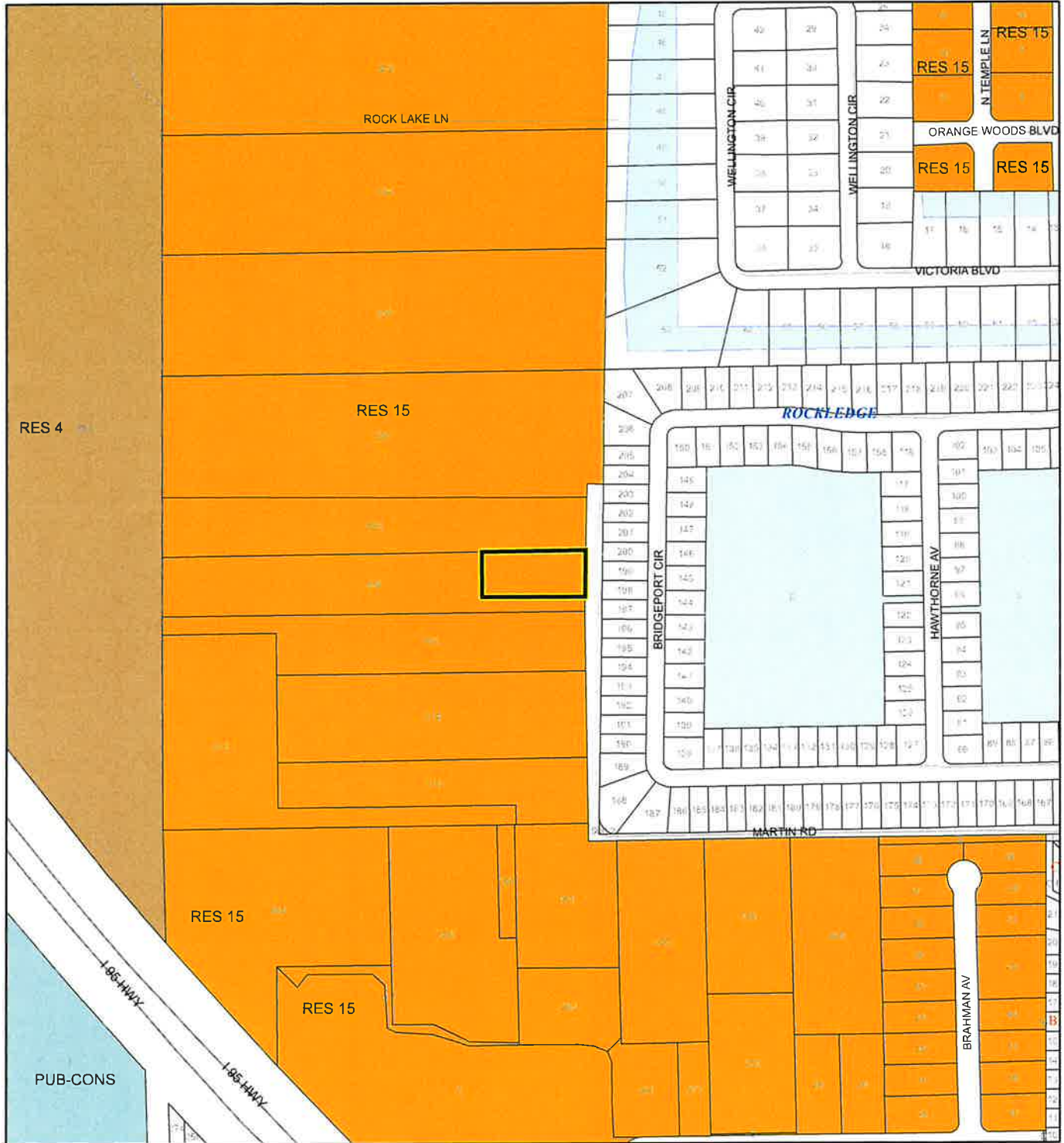
 Zoning



# FUTURE LAND USE MAP

NOGUEROLES, LUZ

24Z00060



1:4,800 or 1 inch = 400 feet

- Subject Property
- Parcels

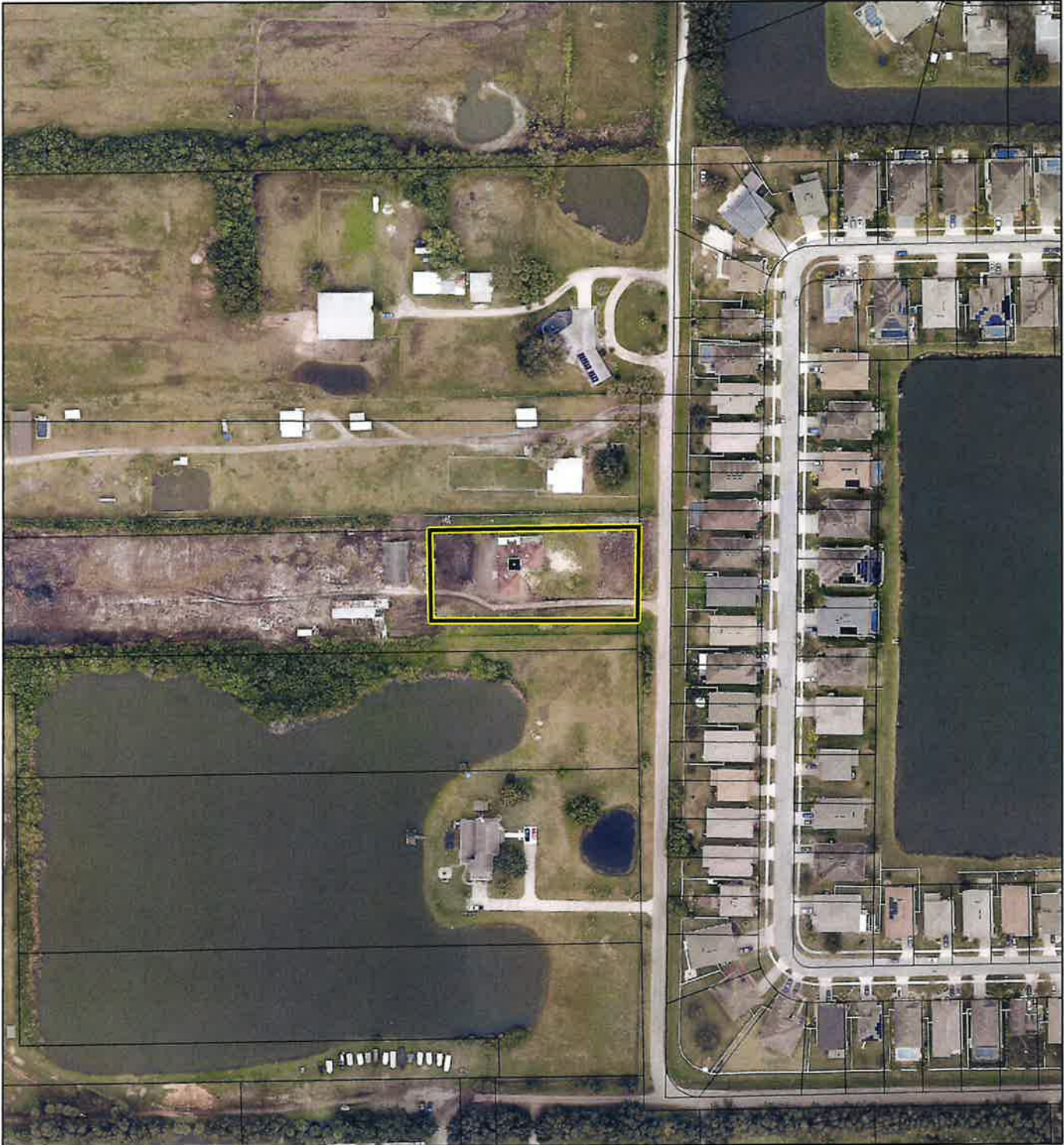
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/6/2025

# AERIAL MAP

NOGUEROLES, LUZ

24Z00060



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2024

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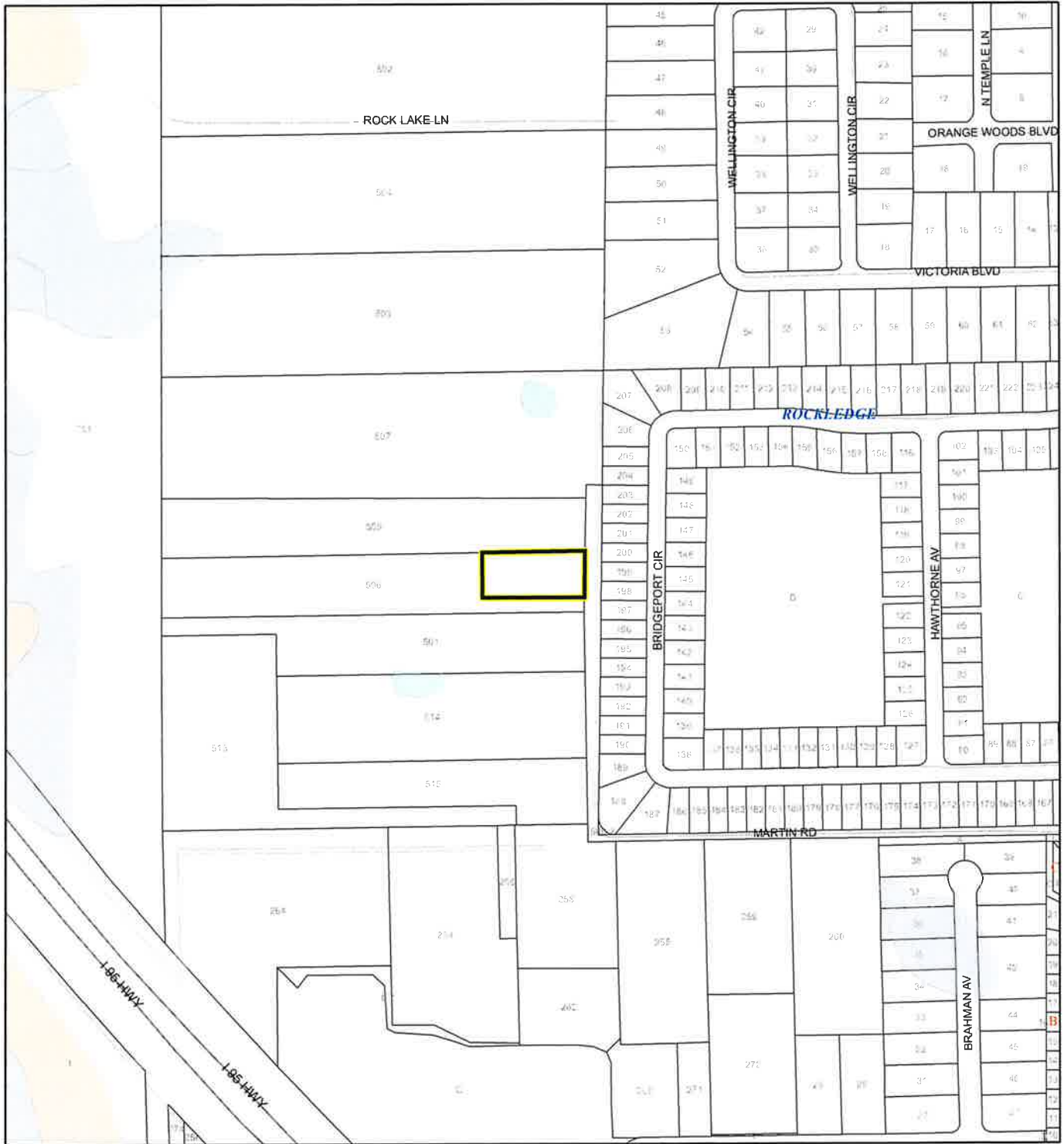
 Subject Property

 Parcels

# NWI WETLANDS MAP

NOGUEROLES, LUZ

24Z00060













1:4,800 or 1 inch = 400 feet

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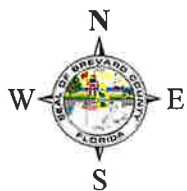
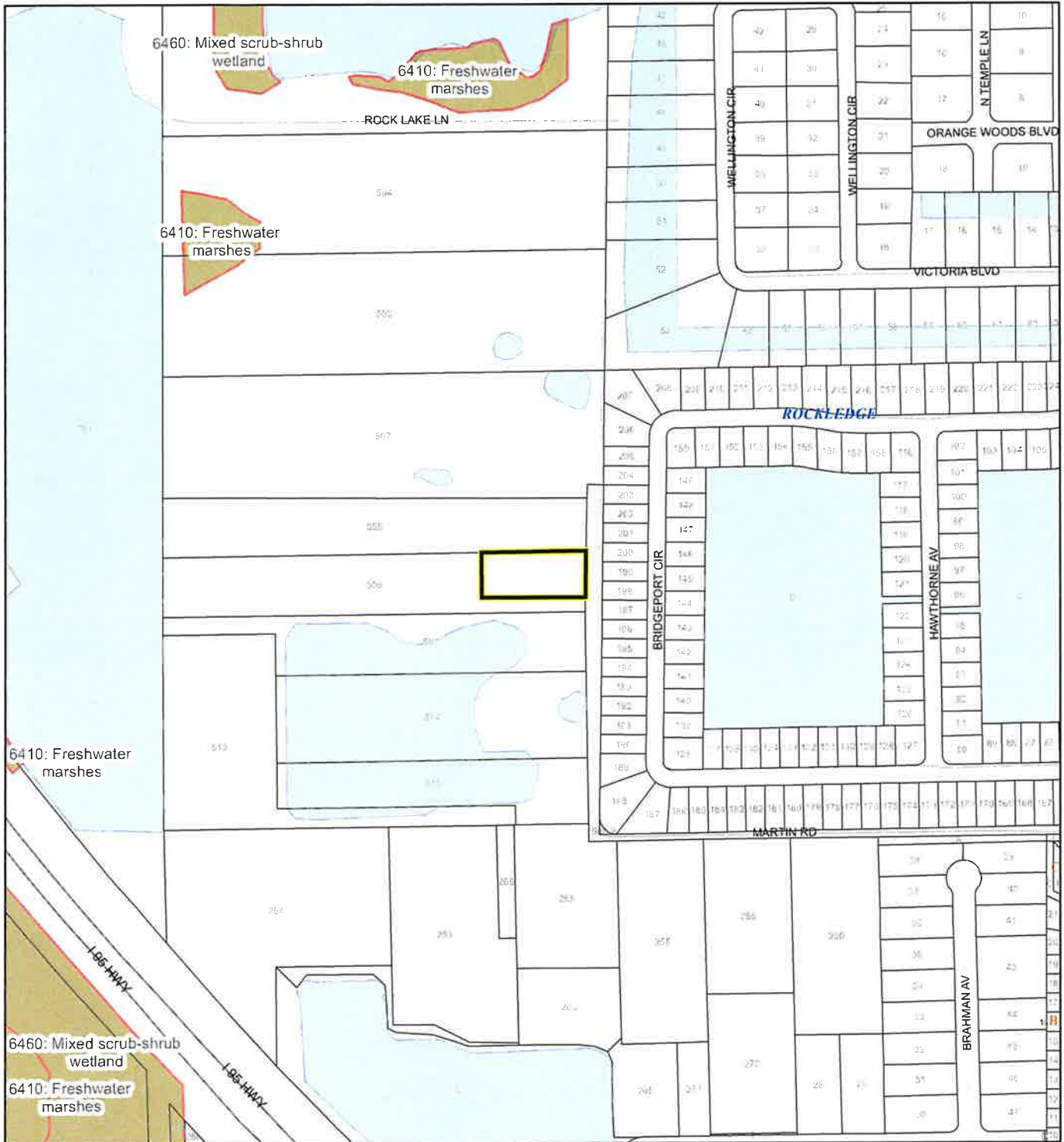
Produced by BoCC - GIS Date: 1/6/2025

### 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

NOGUEROLES, LUZ  
24Z00060



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2025

### 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

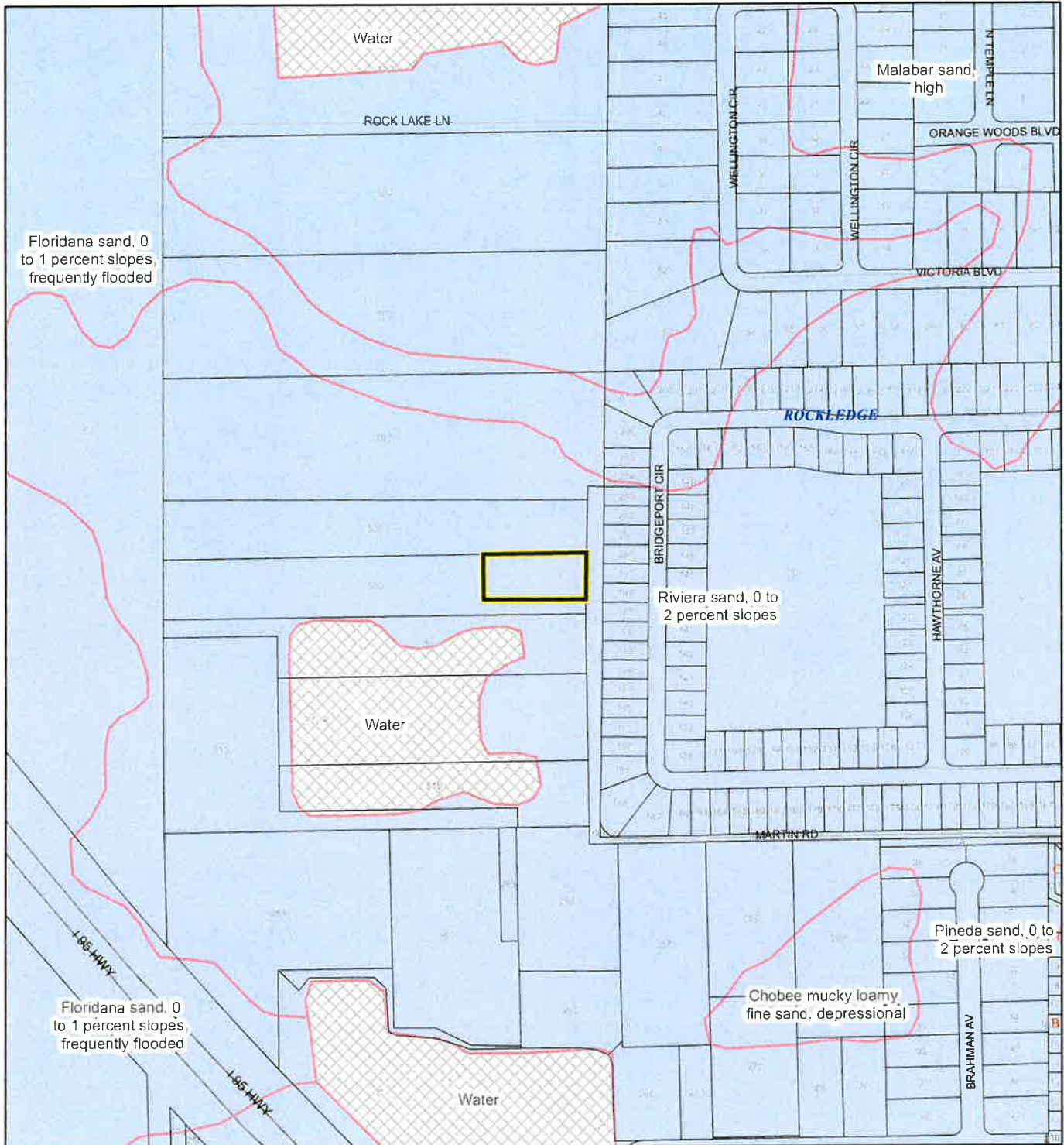
Subject Property

Parcels

# USDA SCSSS SOILS MAP

NOGUEROLES, LUZ

24Z00060



1:4,800 or 1 inch = 400 feet

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## USDA SCSSS Soils

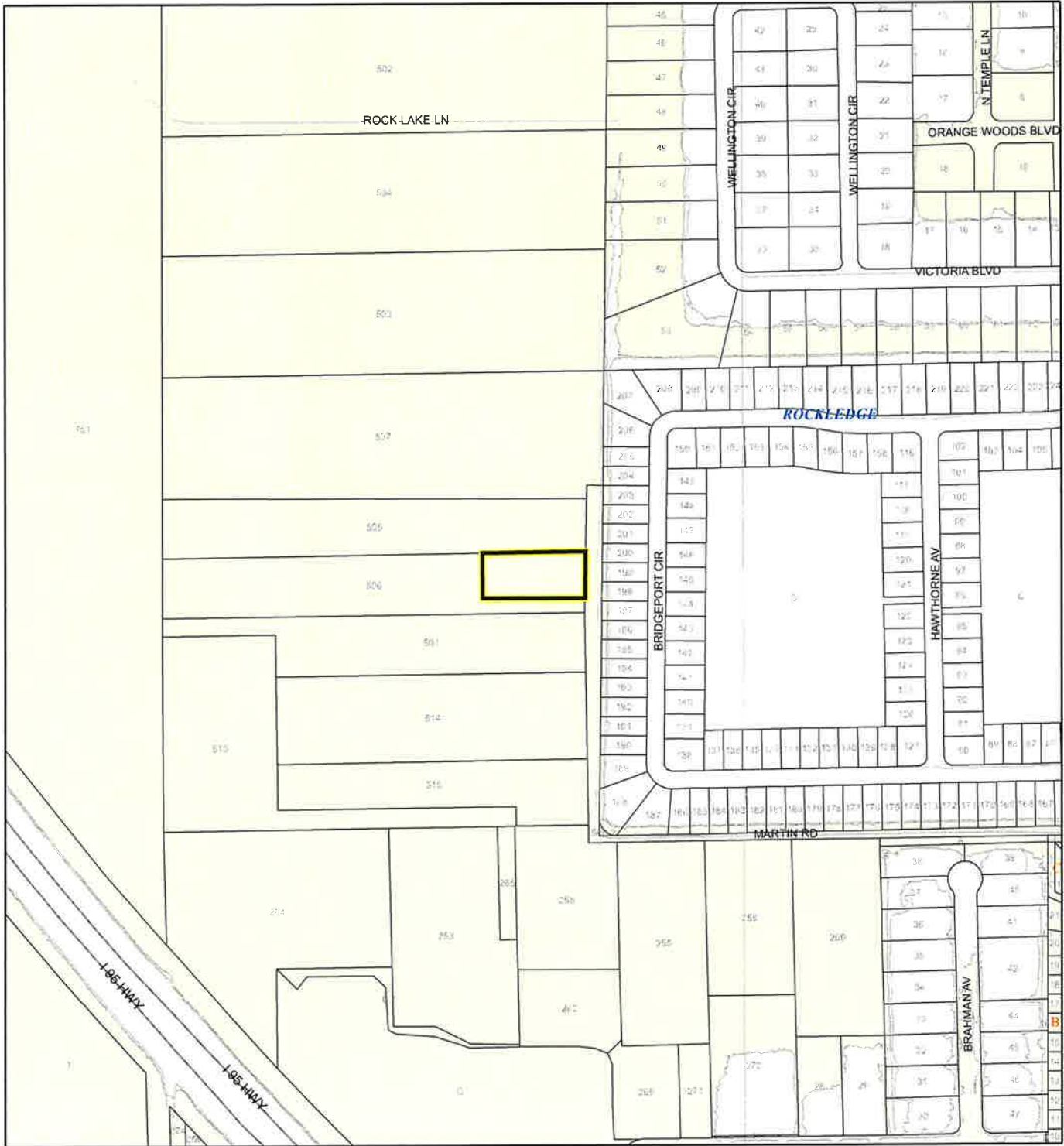
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

NOGUEROLES, LUZ

24Z00060



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.

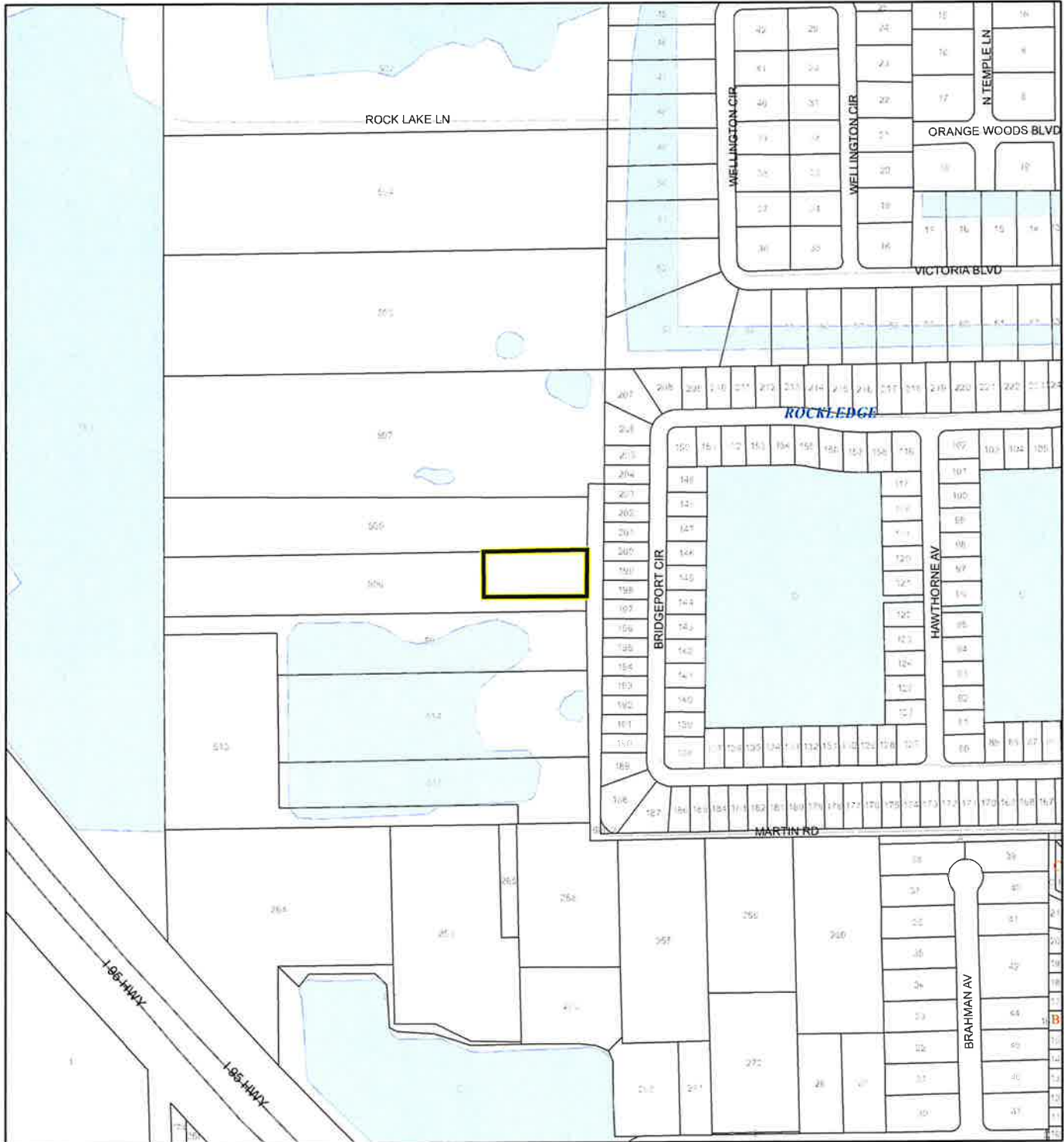
Produced by BoCC - GIS Date: 1/6/2025

- FEMA Flood Zones**
- A
  - AO
  - AE
  - AH
  - Subject Property
  - Open Water
  - VE
  - X
  - Parcels

# COASTAL HIGH HAZARD AREA MAP

NOGUEROLES, LUZ

24Z00060



1:4,800 or 1 inch = 400 feet


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Produced by BoCC - GIS Date: 1/6/2025

 Subject Property

 Parcels

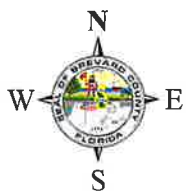
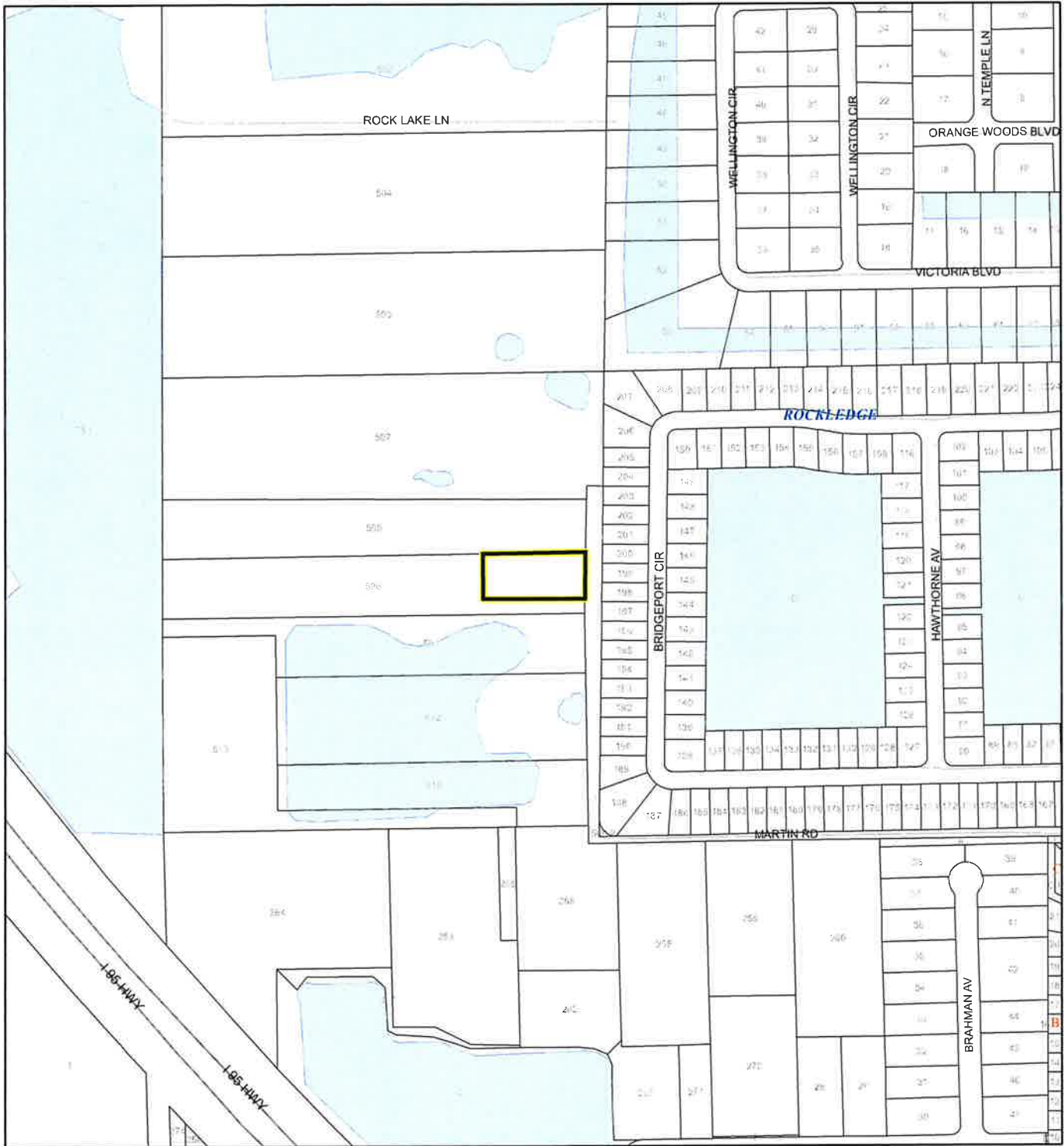
**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

NOGUEROLES, LUZ

24Z00060



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2025

 Subject Property

 Parcels

**Septic Overlay**

 40 Meters

 60 Meters

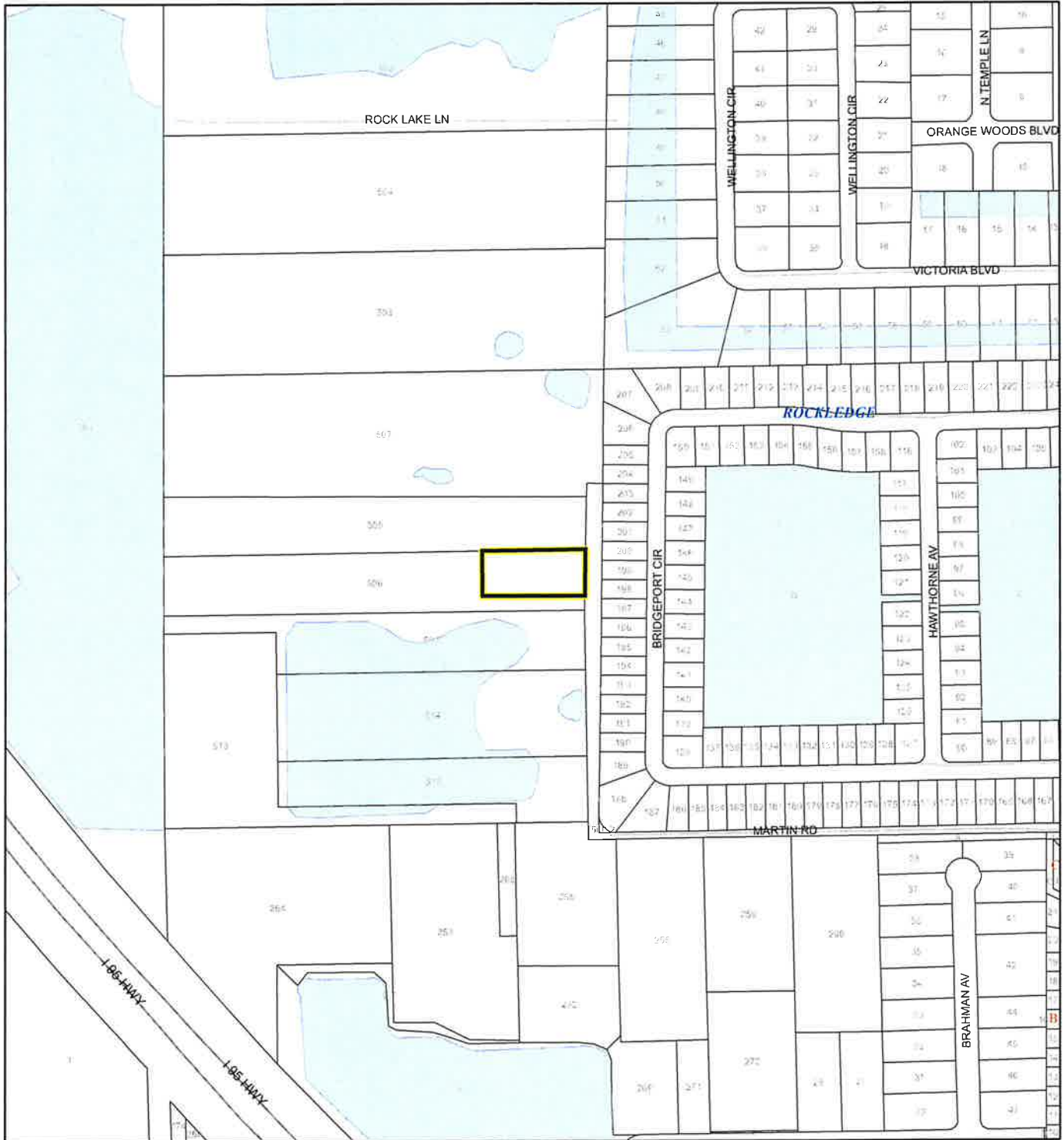
 All Distances



# EAGLE NESTS MAP

NOGUEROLES, LUZ

24Z00060



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2025

 Subject Property

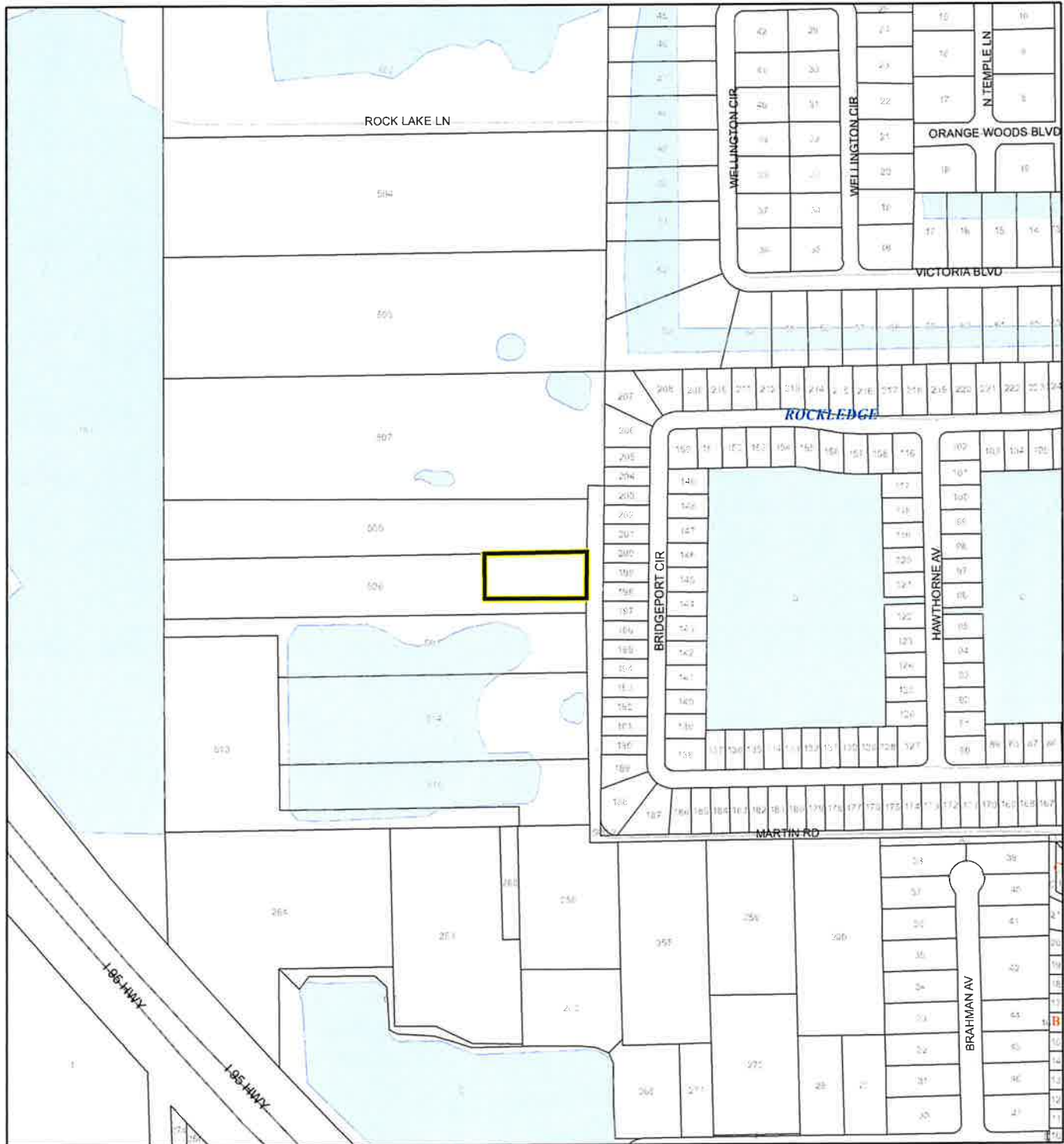
 Parcels

 Eagle Nests FWS

# SCRUB JAY OCCUPANCY MAP

NOGUEROLES, LUZ




24Z00060



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/6/2025

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy



Meeting

Item: 17.4 Rescind

Motion By: Goodson

2<sup>nd</sup> By: Adkinson

*ReVoted*

*Comm*

*Com*

Commissioner	District	Yes	No
Delaney	1	✓	
Vice Chair Goodson	2	✓	
Adkinson	3	✓	
Altman	5		
Chair Feltner	4	✓	

*Absent*