



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

11/7/2024

Subject:

Julia Bertot requests a change of zoning classification from RU-1-9 to RU-1-7. (24Z00039) (Tax Account 2300349) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential).

Summary Explanation and Background:

The applicant is requesting to rezone the property from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential). The current lot is substandard. The requested action will correct the inconsistency between the current zoning and future land use, as the RU-1-9 zoning requires a minimum lot width of 66 ft. The subject property has a 50 ft. lot width.

When subdivided into the current configuration, the parcel was zoned RU- 1, Single Family Residential Zone. The RU-1 zoning required a minimum lot width and depth of 75 feet and minimum lot size of 7,500 sq. ft. The parcel was inadequate to the RU-1 zoning's 75 feet lot width requirement.

On June 1, 1972, the zoning classification RU-1 was revised to RU-1-9. As the parcel's lot width was inadequate when it was subdivided it would not be a nonconforming lot to the RU-1-9 lot width requirement.

North of the subject property are two lots zoned BU-1. The easterly lot is 0.4 acres and is improved with a 1,944 sq. ft. single-family residence built in 1958. The westerly lot, adjacent to Riveredge Drive, is 0.2 acres and is improved with a 1,966 sq. ft. commercial building built in 1958, now vacant, which was formerly a bar and cocktail lounge. South is a 0.71 acre river-front lot zoned RU-1-9. The property is improved with a 2,661 sq. ft. single-family residence built in 2003. To the east of the subject site is the Indian River lagoon.

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

On October 14, 2024, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 24Z00039

On motion by Commissioner Tobia, seconded by Commissioner Goodson, the following resolution was adopted by a unanimous vote:

WHEREAS, Julia Monzel Bertot requests a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential), on property described as Tax Parcel 7.01, as recorded in ORB 5182, Page 2682, of the Public Records of Brevard County, Florida. **Section 01, Township 23, Range 35.** (0.27 acres) Located on the east side of Riveredge Dr., approx. 1,039 ft. north of Golden Knights Blvd. (6825 Riveredge Dr., Titusville); and

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and the Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-1-9 to RU-1-7, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of November 07, 2024.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Vice Chair
Brevard County Commission

As approved by the Board on November 07, 2024.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – October 14, 2024

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

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

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(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

24Z00039

Julia Bertot

RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential)

Tax Account Number: 2300349
Parcel I.D.: 23-35-01-01-0000-7.01
Location: East side of Riveredge Drive, approximately 1,039 feet north of
Golden Knights Blvd. (District I)
Acreage: 0.27 acres

Planning & Zoning Board: 10/14/2024
Board of County Commissioners: 11/07/2024

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	RU-1-9	RU-1-7
Potential*	0 Single-family	1 Single-family
Can be Considered under the Future Land Use Map	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 the property from RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential). The current lot is substandard. The requested action will correct the inconsistency between the current zoning and future land use, as the RU-1-9 zoning requires a minimum lot width of 66 ft., and the subject property has a 50 ft. lot width.

The parcel is currently vacant, and the owner proposes to build a single-family residence on the site. The parcel is recorded as Bellewood Plat No. 2, a portion of Lot 7 E of Hwy, as described in ORB 166 PG 476.

The subject property was originally part of Government Lot 7 east of US Highway 1, as depicted in the Plat Map of the Bellewood Colony recorded in Plat Book 2, Page 117 in March of 1921.

When Government Lot 7 was divided into multiple parcels in 1928, the subject parcel was created with the existing 50 ft. lot width. The property is considered a nonconforming lot, as it was established before both zoning and the adoption of the Brevard County Comprehensive Plan.

The applicant's request to change the zoning from RU-1-9 to RU-1-7 will allow for this last vacant river-front residential lot in the neighborhood, to be developed as a single-family residence.

The subject property is located on the east side of East side of Riveredge Drive in Titusville, adjacent to the Indian River Lagoon.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	BU-1	RES 15
South	Single-family residence	RU-1-9	RES 15
East	Indian River Lagoon	Indian River Lagoon	Indian River Lagoon
West	Riveredge Drive & City of Titusville	General Use - City	Public/Semi-Public - City

The current RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum) with a minimum width of 66 feet and depth of 100 feet. The minimum house size is 900 square feet.

The proposed RU-1-7 classification permits single family residences on minimum 5,000 square foot lots, with a minimum width of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

North of the subject property are two lots zoned BU-1. The easterly lot is .4-acres and is improved with a 1,944 sq. ft. single-family residence built in 1958. The westerly lot, adjacent to Riveredge Drive, is 0.2 acres and is improved with a 1,966 sq. ft. commercial building built in 1958, now vacant, which was formerly a bar and cocktail lounge.

South is a .71-acre river-front lot zoned RU-1-9. The property is improved with a 2,661 sq. ft. single-family residence built in 2003.

To the east of the subject site is the Indian River Lagoon.

West of the subject property is Riveredge Drive, a two-lane local County maintained roadway. Across the ROW is a large commercial property in Titusville.

There is an active Code Enforcement related to the subject property case # **24CE-01457**. A Notice Of Violation (NOV) was issued by NRN for land clearing and working in the surface water protection buffer without a permit on September 5, 2024. This case is pending.

Future Land Use

The subject property is currently designated as Residential 15 (RES 15) FLUM designation. The current RU-1-9 zoning is consistent with the existing RES 15 FLUM designation. The proposed RU-1-7 zoning is consistent with the existing RES 15 FLUM designation.

The applicant's proposal 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;

The applicant proposes to build single-family residence on the property. The request is not anticipated to diminish the enjoyment of safety or quality of life in the existing residential area.

- 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 historical land use patterns of the surrounding development can be characterized as single-family residences on properties 0.30 acres to 0.71 acres in size.

There are five (5) FLU designations (RES 15, REC, PUB, NC and CC) within a 0.5-mile radius of the subject property. RES 15 is the prominent FLU along the eastern corridor of Riveredge Drive.

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

There has been no development within 0.5 miles in the last 3 years.

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

There has been no development approved within the past three years.

- D. 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.

The subject parcel is the last vacant, undeveloped river-front property in this south Titusville residential neighborhood that is yet to be developed.

The proposed use is consistent with the residential neighborhood along Riveredge Drive and as such will not adversely impact the area.

- 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.

The property is located in an existing riverfront residential area. There are clearly established roads and residential lot boundaries; the Indian River Lagoon provides a natural boundary to the east.

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 an existing single-family 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. Commercial development in the area is along US Highway 1 (Washington Street) in the City of Titusville.

Analysis of 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.

Per Natural Resource Management Department: A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal and meet all Natural Resource Management Department codes.

The defined CHHA and Floodplain may inhibit development potential.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1 between Kings Highway and SR 405, which has a Maximum Acceptable Volume (MAV) of 41,790, trips per day, a Level of Service (LOS) of D, and currently operates at 55.95% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by .26%. The corridor is anticipated to operate at 56.21% 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 subject property has access to the City of Titusville water and sewer.

Potential Code Enforcement

There is an active Code Enforcement case (24CE-01457) for unpermitted land clearing activities and potentially additional violations on the property in 2024. A Notice of Violation has been issued. The case is pending.

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Surface Waters of the State
- Hydric Soils
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements
- Protected Species

Land Use Comments:

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class II Water in this location. A 50-foot Surface Water Protection Buffer (Buffer) is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). **The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order.** Temporary impacts to native vegetation require in-kind restoration. **Any shoreline stabilization shall obtain Brevard County Surface Water Permit and other applicable state and federal permits prior to any clearing or grading in the Buffer.** The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at 407-897-4101. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.**

Coastal High Hazard Area

The eastern portion of this property, on the IRL shoreline, is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The parcel may be susceptible to nuisance flooding.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area and to recognize existing development trends. The Board and the owners should note the environmental condition on the subject property may limit the development potential of the property.

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

Item No. 24Z00039

Applicant: Julia Bertot (Owner: Julia Bertot)

Zoning Request: RU-1-9 to RU-1-7

Note: to build a SF Residence on a 50' lot

Zoning Hearing: 10/14/2024; **BCC Hearing:** 11/07/2024

Tax ID No.: 2300349

- 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:

- Surface Waters of the State
- Hydric Soils
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements
- Protected Species
- Potential Code Enforcement

Land Use Comments:

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class II Water in this location. A 50-foot Surface Water Protection Buffer (Buffer) is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). **The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order.** Temporary impacts to native vegetation require in-kind restoration. **Any shoreline stabilization shall obtain Brevard County Surface Water Permit and other applicable state and federal permits prior to any clearing or grading in the Buffer.** The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at 407-897-4101. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.**

Hydric Soils

The subject parcel contains mapped hydric soils (Satellite sand, 0 to 2 percent slopes); indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing or grading 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).** 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.**

Aquifer Recharge Soils

This property contains Satellite sand, 0 to 2 percent slopes which may also function as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area

The eastern portion of this property, on the IRL shoreline, is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. The parcel may be susceptible to nuisance flooding.

Floodplain Protection

The eastern portion of this property, on the IRL shoreline, 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. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. 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."

Indian River Lagoon Nitrogen Reduction Septic Overlay

The property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

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 (≥ 10 inches in diameter) and Specimen (≥ 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.**

Protected Species

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary

permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.

Potential Code Enforcement

There is an active Code Enforcement case (24CE-01457) for unpermitted land clearing activities and potentially additional violations on the property in 2024. A Notice of Violation has been issued. The case is pending.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, October 14, 2024**, 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.

Voting Board members present were Henry Minneboo, Vice-Chair (D1); Ron Bartcher (D1); Robert Sullivan (D2); Brian Hodgers (D2); Erika Orriss (D3); Mark Wadsworth, Chair (D4); Ana Saunders (D5), and John Hopengarten (BPS).

Staff members present were John Denninghoff, Assistant County Manager; Edward Fontanin, Director (Utility Services); Ian Golden, Director (Housing and Human Services); Darcie McGee, Assistant Director (Natural Resources Management); Tad Calkins, Director (Planning and Development); Alex Esseeesse, Deputy County Attorney; Jeffrey Ball, Zoning Manager; Trina Gilliam, Planner; and Desirée Jackson, Planner.

Excerpt of complete agenda

Item H.4. Julia Bertot requests a change of zoning classification from RU-1-9 to RU-1-7. (24Z00039) (Tax Account 2300349) (District 1)

Trina Gilliam read the application into the record.

Julia Bertot spoke to this item. She stated that they own a 50' lot on the Indian River and with the current zoning they can't build a single-family home on it. They would like to have it rezoned so they can build a home and enjoy the river.

Speaker 2, husband of Mrs. Julia Bertot stated he's for the rezoning.

Cynthia Ann Petrogie lives next door to the property. Her father lives adjacent to her and her brother lives adjacent to him on about 5 acres total combined. Her father and brother have lived there over 40 years. They are adamantly opposed to the rezoning to lower the amount of square footage and the property setbacks that would be reduced. Anything they build or put in there will devalue her home because it is going to be less than what anybody has on the street. She said "they have not maintained that property over the last 20 years and it has affected her greatly financially because of the washout to her seawall."

Michael Petrogie added that he supports his wife, and they are opposed to the change. There are other concerns. There are natural waterways when storms come that are formed on our street, one of them being there. He stated "down the road, Doctor spent about \$150,000 on waterwork for him to be able to divert the water underneath where he could build his large mansion down there. If this isn't taken into account on the geological survey end of things stilts, whatever they're going to be putting there, there's a lot of considerations with this property that need to go into effect. The last storm has reduced the area of that lot by about another 12'. And I've got evidence of so much damage over the years."

End of public comment.

Ron Bartcher asked staff what could be put on that property without the rezoning.

Trina Gilliam commented that without the rezoning they wouldn't be able to develop the property. The rezoning is what helps to alleviate the issues because it doesn't meet the zoning classification that it has currently.

Ron Bartcher asked if the County has any liability or legal exposure if we do not approve the rezoning.

Alex Esseesse explained that we would have to look back historically at how the property was divided and how it came to being. He doesn't believe that research has been done at this time. "But whether or not someone can sue that's always the case" he said.

Mr. Bartcher commented that he was concerned about their property rights being taken.

Jeffrey Ball responded that when we analyze a rezoning like this, we are analyzing consistency with the comp plan and compatibility with the surrounding area. Based on our staff comments this request meets both of those criteria.

John Hopengarten asked what the setbacks requirements are for RU-1-7.

Trina Gilliam responded they are 20' in the front and 20' in the rear, with 5' on the sides. The RU-1-9 is 20' in the front, 20' in the rear and 7.5' on the sides.

John Hopengarten remarked that with this being a 50' lot it would be a might skinny house. He then asked if a garage was going to be put in.

Mrs. Bertot replied probably not. They were thinking about putting the house on stilts. They will have to look into all the environmental issues but thought it might be better on stilts so they'll be able to park underneath it.

Speaker 2, husband of Mrs. Julia Bertot, said that with the washout the plan would be to develop the riverfront with rocks or whatever to fill it in so that there wouldn't be any washout if they had a house there.

Motion to recommend approval of item H.4. by Ron Bartcher, seconded by Brian Hodggers. Motion passed unanimously.

Oct. 14, 2024

Brevard County Board of County Commissioners
Brevard County Government Center
Planning & Development
2725 Judge Fran Jamieson Way, Building A
Viera, FL 32940

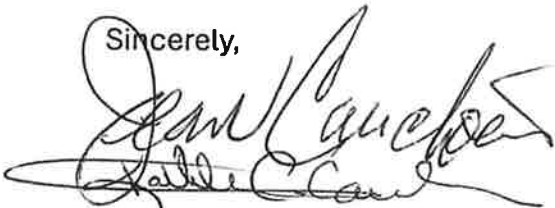
RE: Rezoning Notice 24Z00039

To Whom it May Concern:

I am a disabled senior citizen and live at 6795 Riveredge Dr., Titusville, FL. My wife and I were unable to attend the meeting on the above referenced property at 6825 Riveredge Dr., Titusville, FL on Monday, Oct. 14, 2024. However, we are very concerned and are writing to express our strong opposition to the request to change zoning from RU1-9 to RU-1-7. We feel that this change would cause our property values to drop and this change does not reflect the continuity of the other residences on our street. We feel that it should remain zoned RU 1-9 Single Family Residential. We are very against rezoning this property.

Thank you for your continued service and support of our neighborhood.

Sincerely,

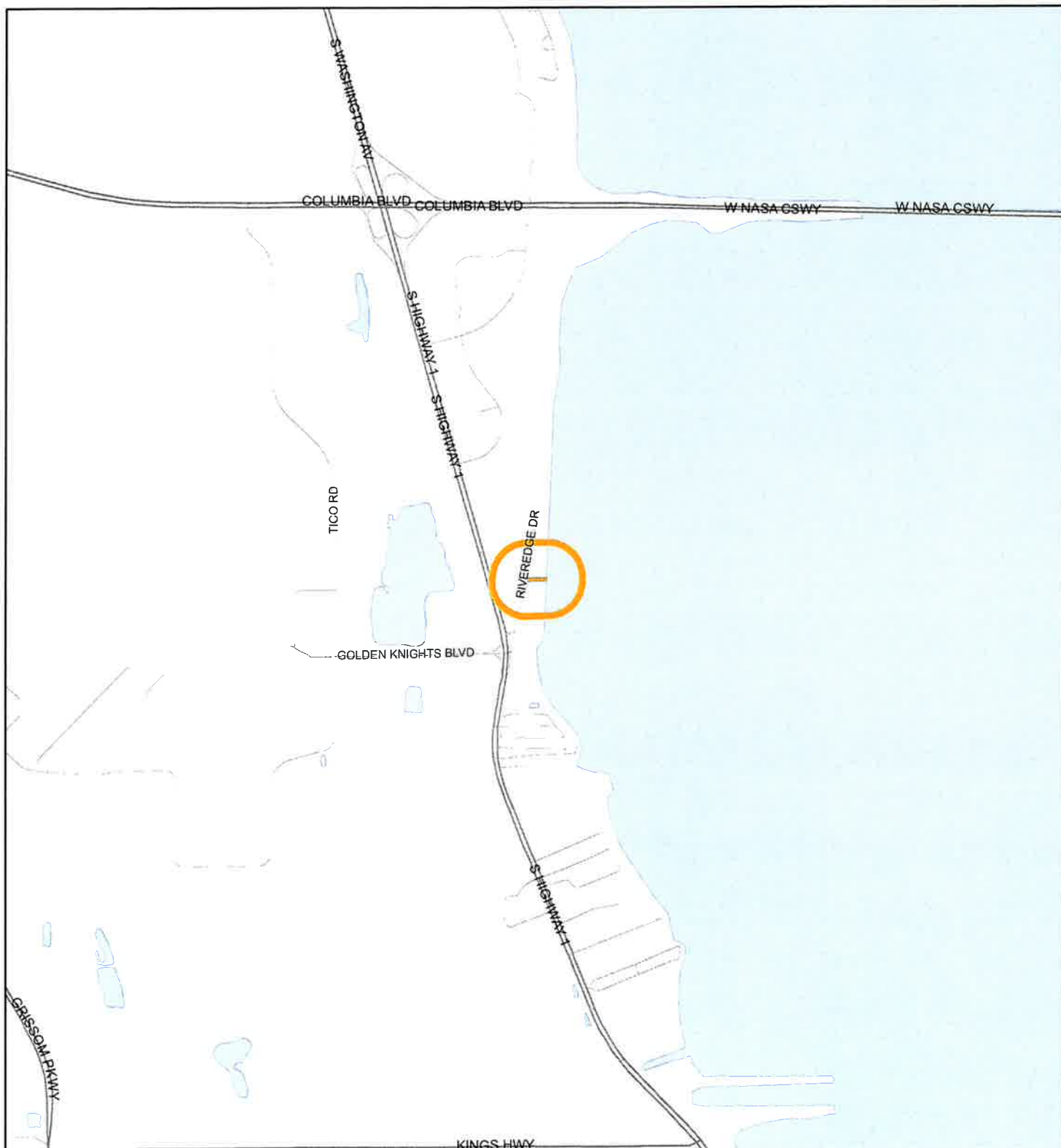
A handwritten signature in black ink, appearing to read 'Jean Cauchois III', with a large, stylized flourish extending from the end of the signature.

Jean Cauchois III
Kathleen C. Cauchois
6795 Riveredge Dr.
Titusville, FL 32780
JCauchois49@gmail.com

LOCATION MAP

BERTOT, JULIA MONZEL

24Z00039





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.

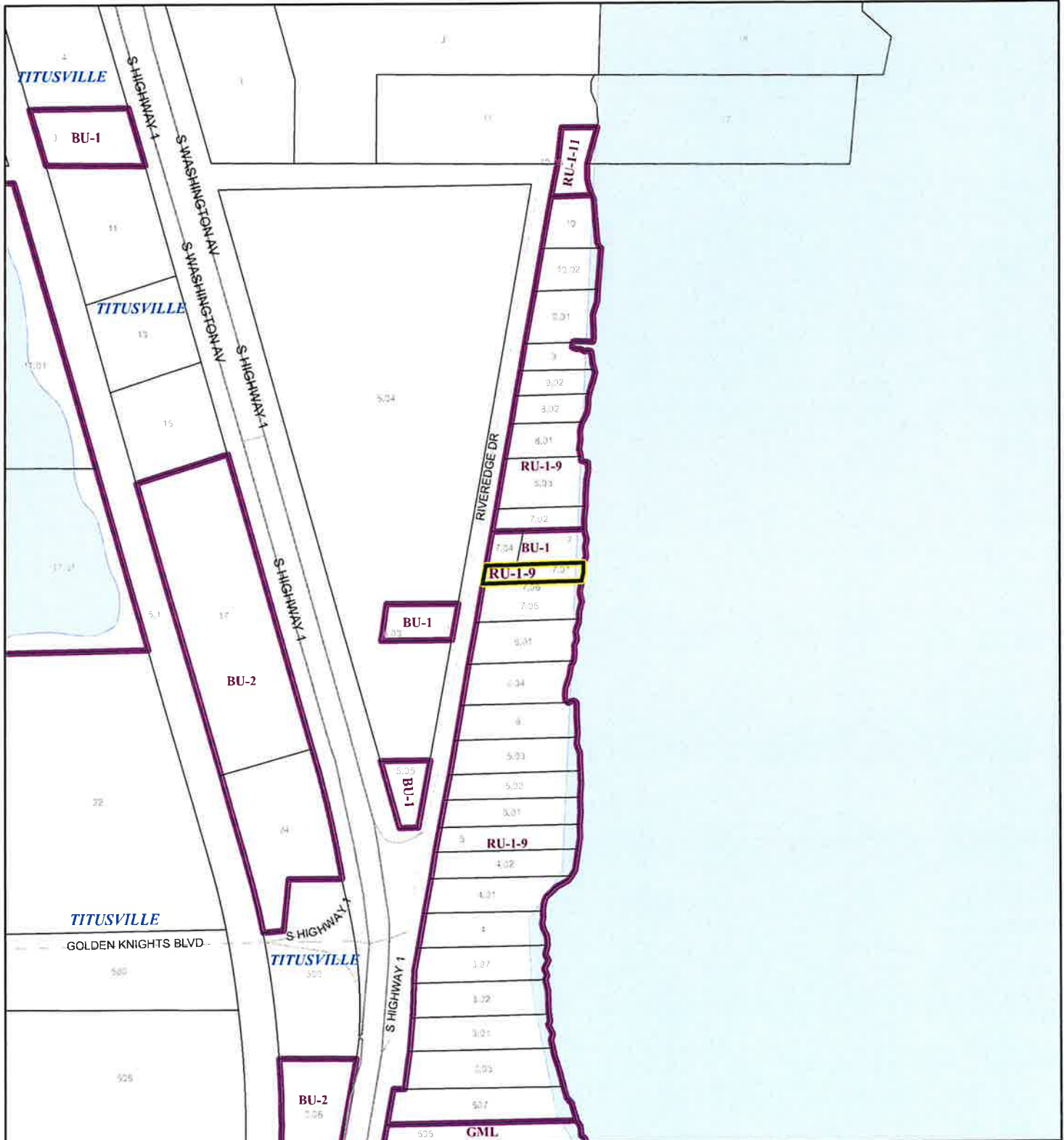
Produced by BoCC - GIS Date: 8/7/2024

-  Buffer
-  Subject Property

ZONING MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2024

 Subject Property

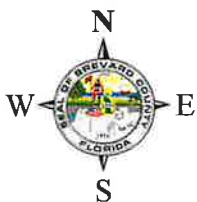
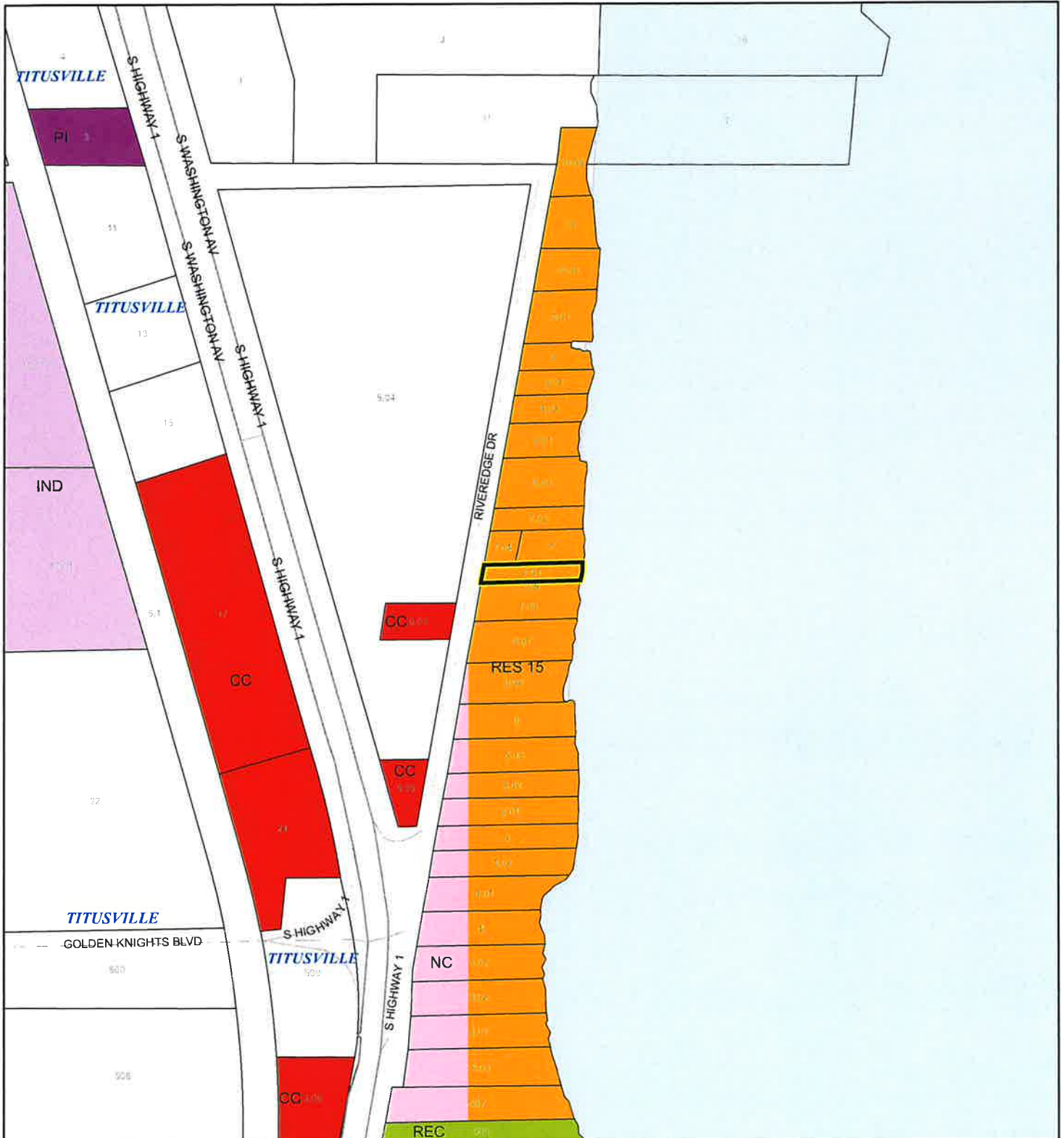
 Parcels

 Zoning

FUTURE LAND USE MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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Produced by BoCC - GIS Date: 8/7/2024

AERIAL MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2024

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Produced by BoCC - GIS Date: 8/7/2024

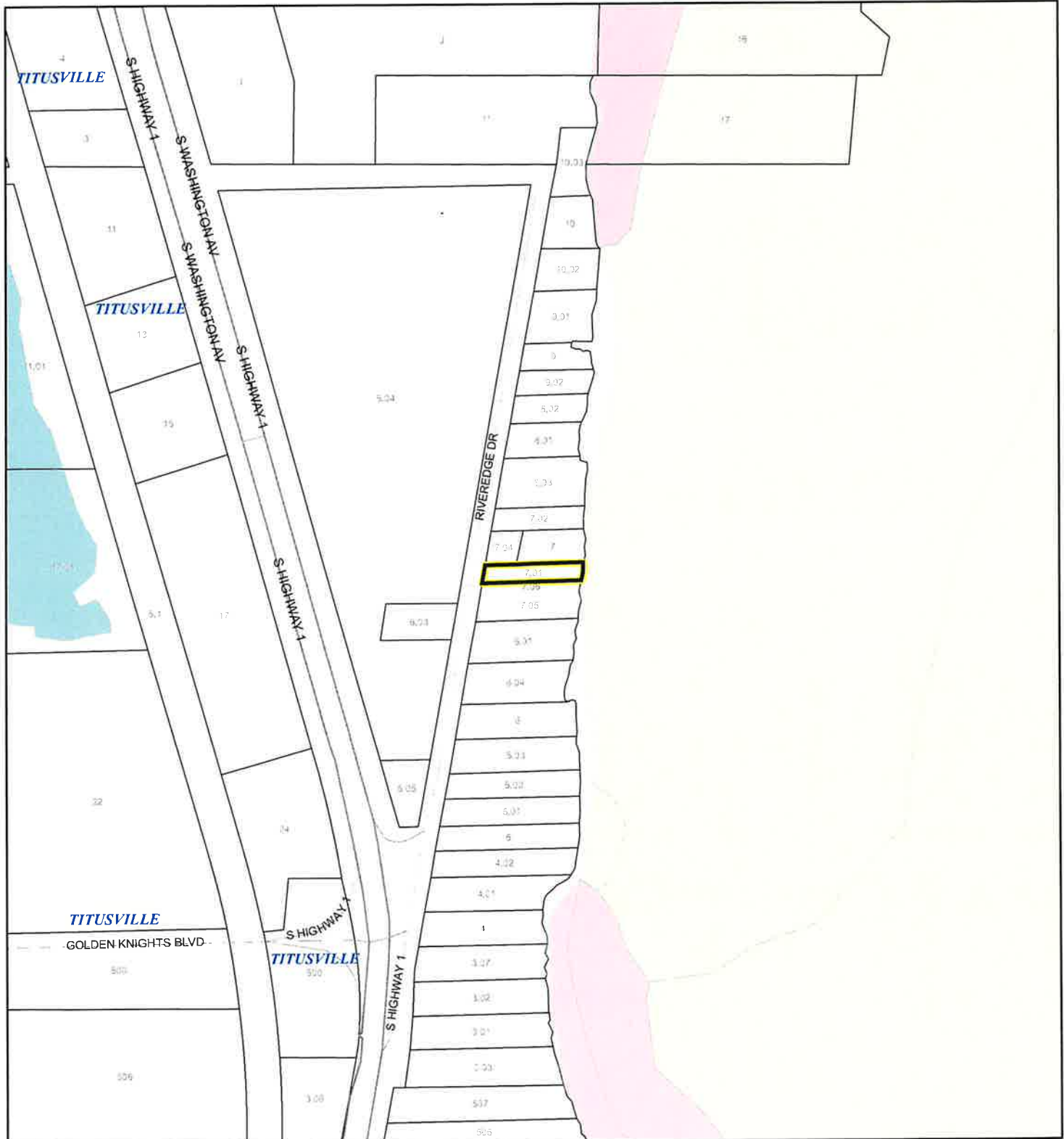
 Subject Property

 Parcels

NWI WETLANDS MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2024

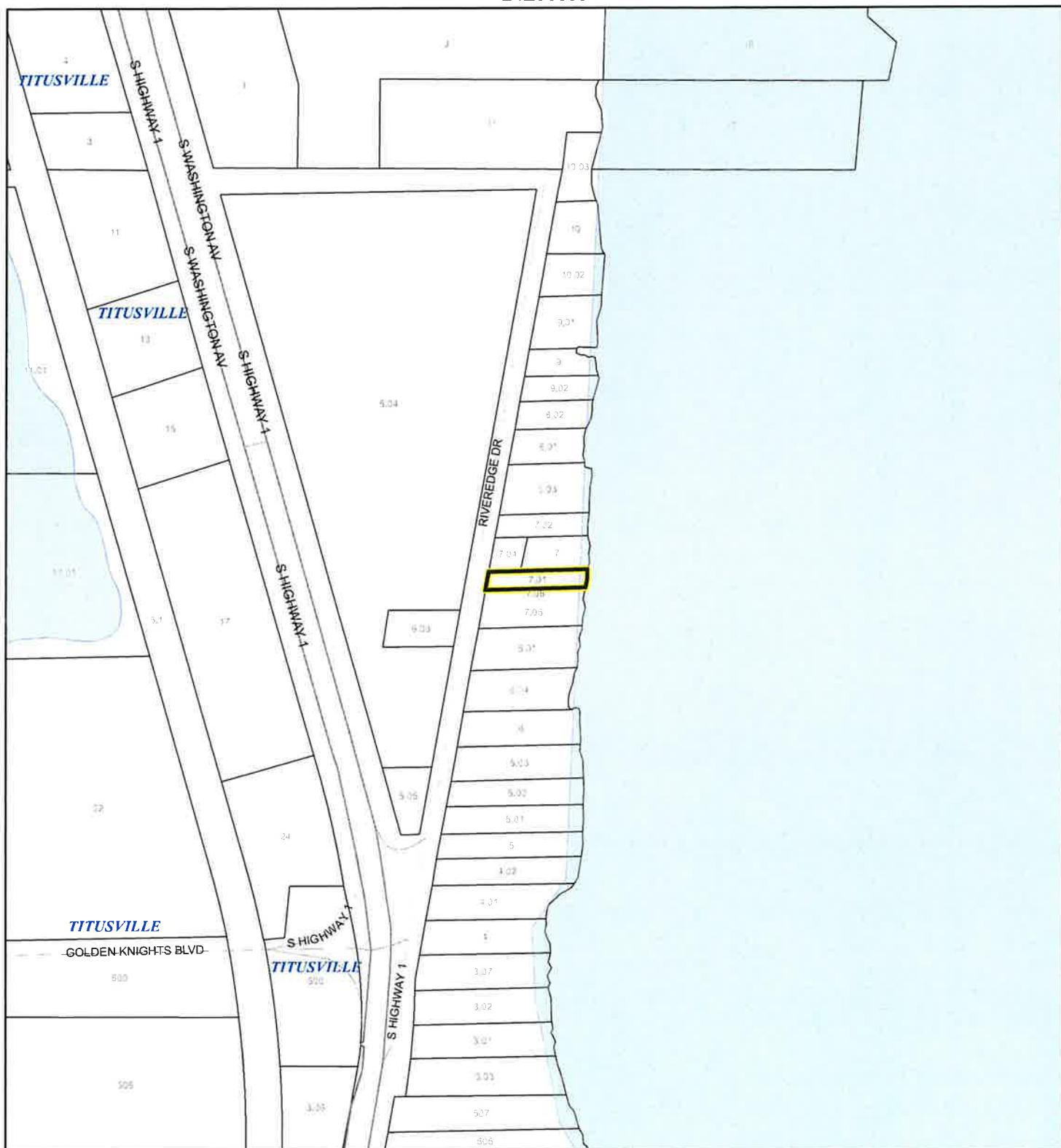
National Wetlands Inventory (NWI)

	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

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2024

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

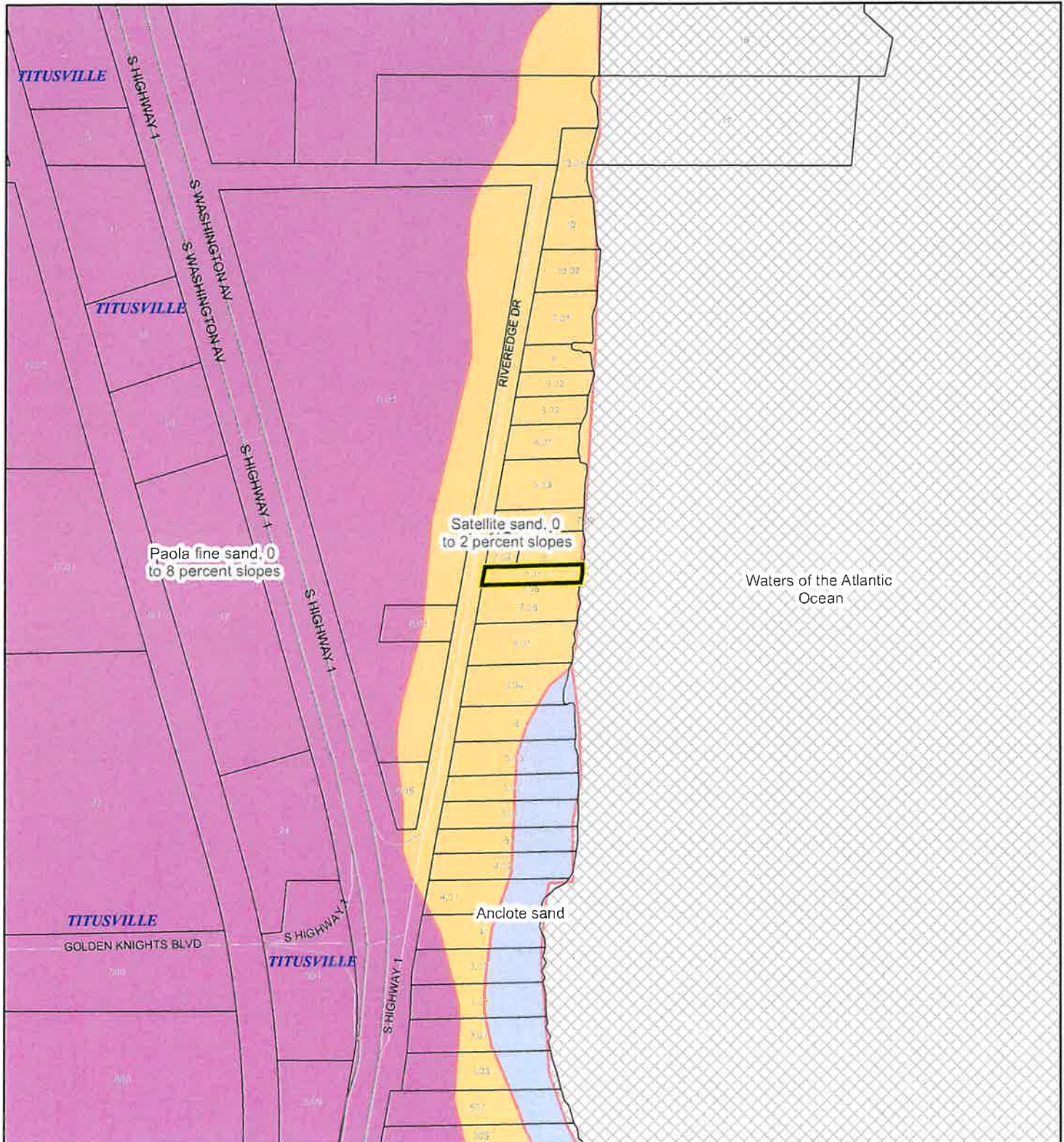
Subject Property

Parcels

USDA SCSSS SOILS MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

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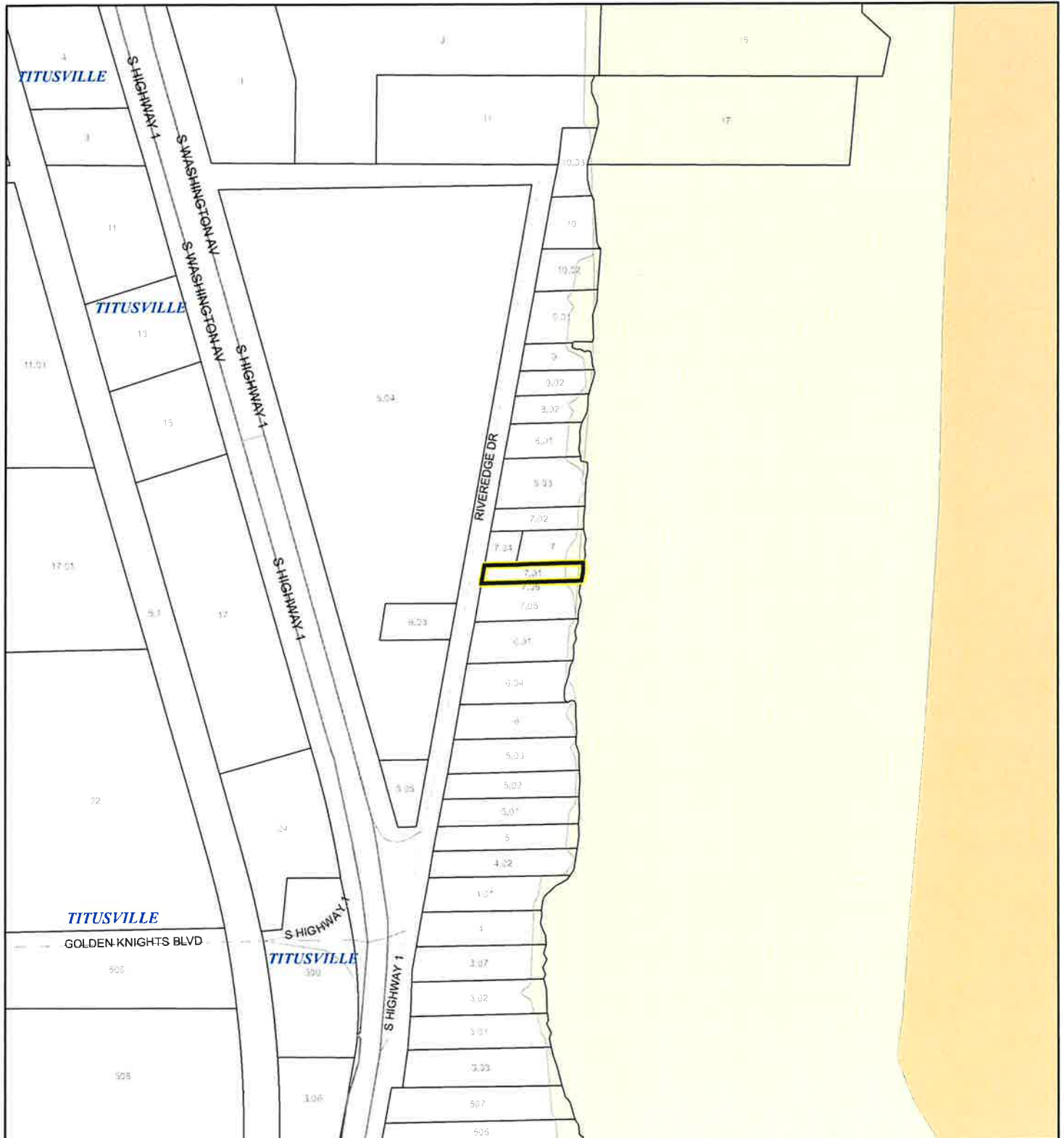
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2024

FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2024

Subject Property

Parcels

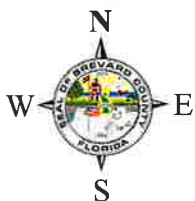
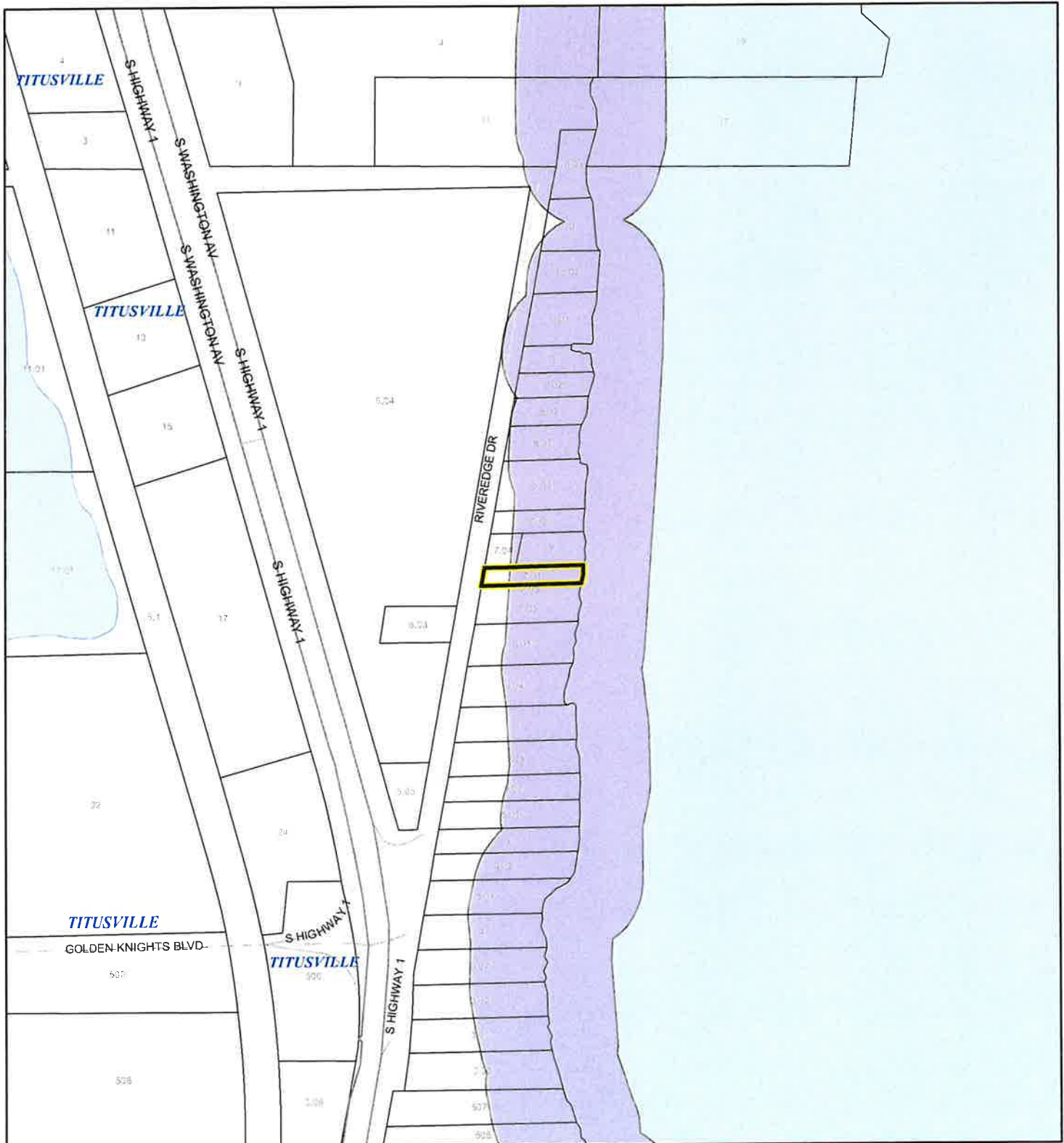
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2024

Subject Property

Parcels

Septic Overlay

40 Meters

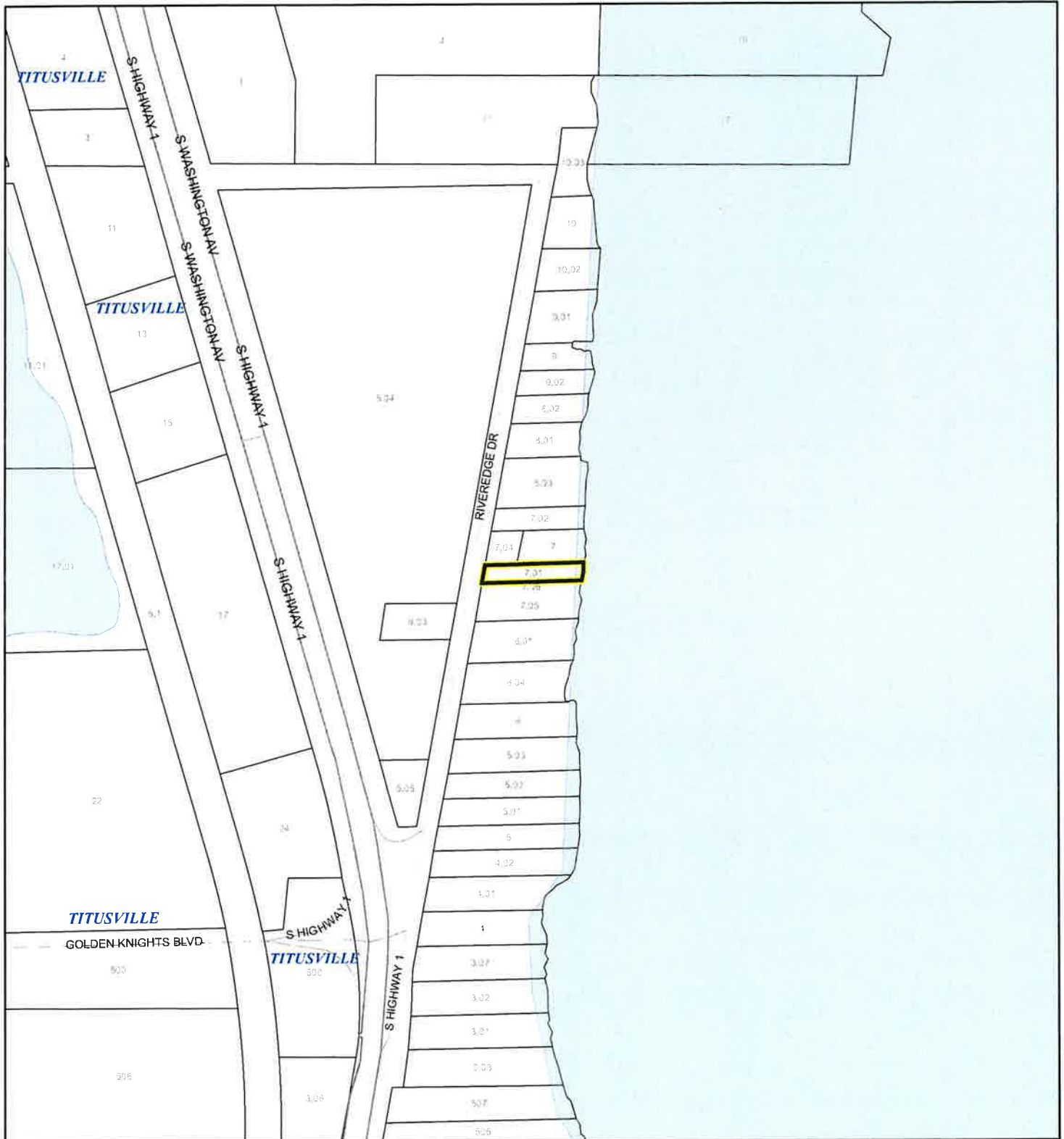
60 Meters

All Distances

EAGLE NESTS MAP

BERTOT, JULIA MONZEL

24Z00039



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Produced by BoCC - GIS Date: 8/7/2024

 Subject Property

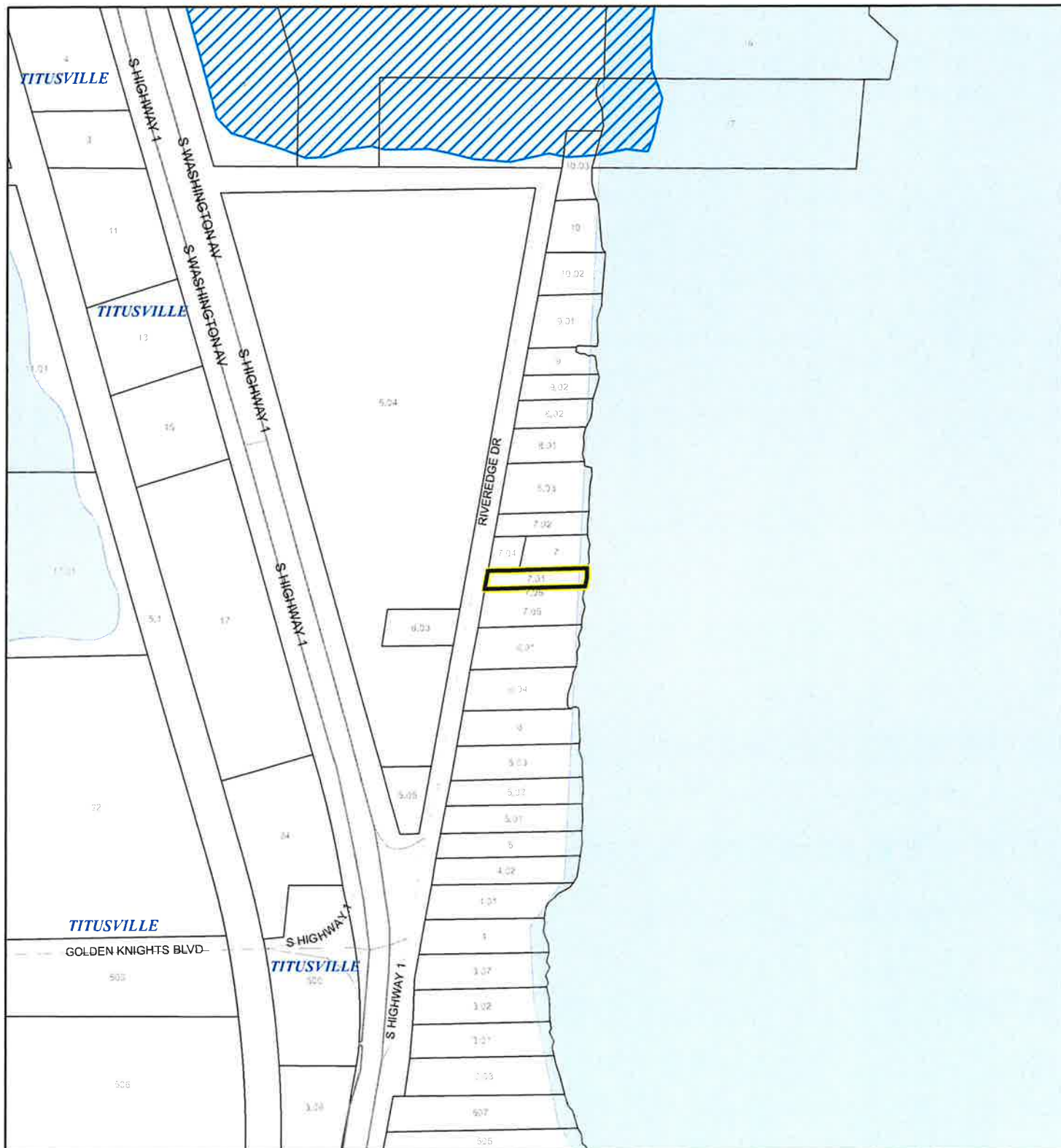
 Parcels

 Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

BERTOT, JULIA MONZEL

24Z00039




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Produced by BoCC - GIS Date: 8/7/2024

 Subject Property

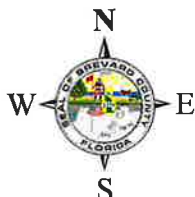
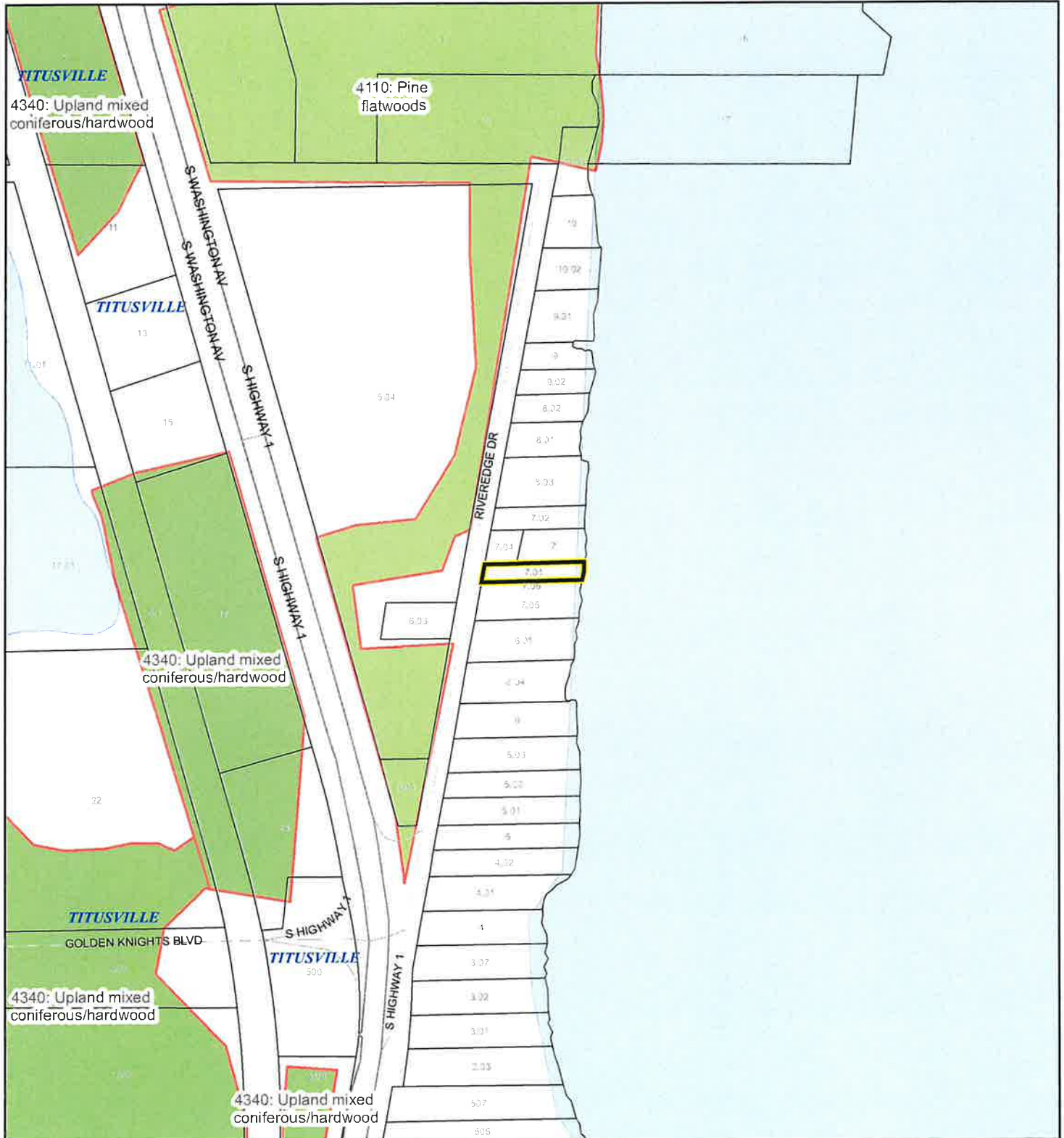
 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/7/2024

SJRWMD FLUCCS Upland Forests

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

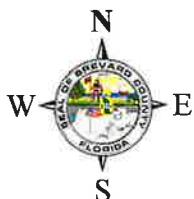
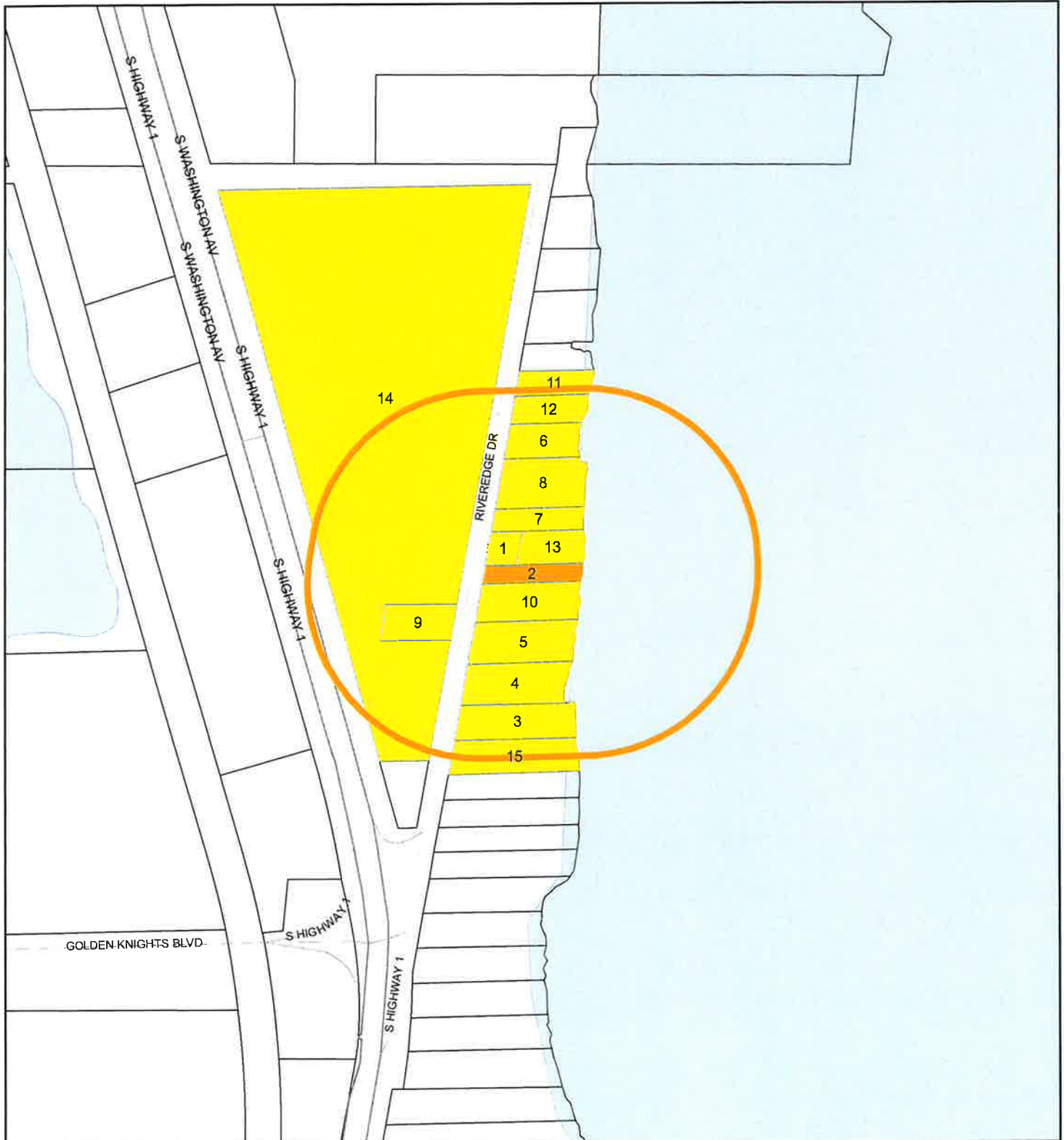
Subject Property

Parcels

RADIUS MAP

BERTOT, JULIA MONZEL

24Z00039



1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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Produced by BoCC - GIS Date: 8/7/2024

- Buffer
- Subject Property
- Notify Property
- Parcels