



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.6.

10/3/2024

Subject:

Judith A. Baker Revocable Living Trust requests a Small-Scale Comprehensive Plan Amendment (24S.09) to change the Future Land Use designation from RES 1:2.5 to CC (24SS00011) (Tax Accounts 3000394, 3000395, 3000396, 3000401, 3000402, 3000403, 3000405, 3000406, 3000407, 3000408, 3000409, 3000410, 3000411, 3000412, 3000413, & 3000414) (District 5)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small-Scale Comprehensive Plan Amendment (24S.09) to change the Future Land Use designation from RES 1:2.5 (Residential 1 per 2.5 acres) to CC (Community Commercial).

Summary Explanation and Background:

The applicant is requesting a Small-Scale Comprehensive Plan Amendment (SSCPA) to change the Future Land Use Map from RES 1:2.5 on a portion 16 vacant parcels totaling approximately 14.14 acres to CC. All parcels within the subject property retain the original RES 1:2.5 FLUM and GU zoning. The current adopted FLUM is not consistent with the requested zoning.

The applicant has a companion rezoning application, 24Z00036, requesting a change from GU to BU-2 (Retail, Warehousing and Wholesale Commercial) with a Binding Development Plan (BDP) limiting the BU-2 uses to self-storage mini-warehouse and outdoor storage of recreational vehicles and boats.

Within the unincorporated surrounding area, there has been a significant transition taking place with regards to land use from an area that is rural in nature to one that is postured to become more urban. Meanwhile, there is currently limited infrastructure (roadway, sewer, and water) in place to support the development potential. The applicant will need to demonstrate there is adequate infrastructure to facilitate the development during the permitting process. The subject parcel is located on the northside of Willowbrook Street, a county-maintained roadway.

North is a 41.39 acre undeveloped parcel with PUD (Planned Unit Development) zoning; East are 2 properties 0.86 acres (undeveloped) and 14.86 acres (classified by the BCPAO as a agriculture use) with RES 1:2.5 FLU and GU zoning. West are 2 properties, 1.02 acres and 0.86 acres, both undeveloped with AU and GU zoning classifications, respectively.

South across Willowbrook St., the Board recently approved Large Scale FLUM amendment application, from RES 1:2.5 to RES 4 & CC, on approximately 1,109 acres which includes 27 acres of Community Commercial accessing off Babcock Street. Current infrastructure is not in place to support commercial development along this roadway segment.

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

On September 16, 2024, the Local Planning Agency 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.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

October 4, 2024

MEMORANDUM

TO: Tad Calkins, Planning and Development Director Attn: Jeffrey Ball

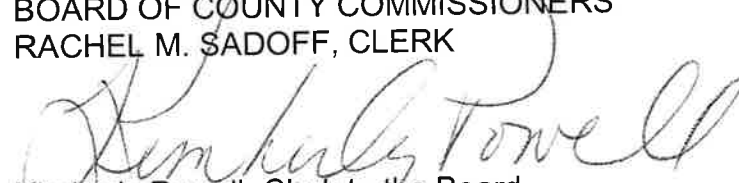
RE: Item H.6., Small Scale Comprehensive Plan Amendment (24S.09)

The Board of County Commissioners, in regular session on October 3, 2024, conducted the public hearing and adopted Ordinance No. 24-26, setting forth the thirteenth Small Scale Comprehensive Plan Amendment of 2024 (24S.09) to change the Future Land Use designation from RES 1:2.5 to CC (24SS00011). Enclosed is the fully-executed Ordinance.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK



Kimberly Powell, Clerk to the Board

Encl. (1)

cc: County Attorney

ORDINANCE NO. 24- 26

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE THIRTEENTH SMALL SCALE PLAN AMENDMENT OF 2024, 24S.09, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2024 as Plan Amendment 24S.09; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 24S.09; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and
Officially filed with the Secretary of State on October 8, 2024.

WHEREAS, on September 16, 2024, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 24S.09, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on October 3, 2024, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 24S.09; and

WHEREAS, Plan Amendment 24S.09 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 24S.09 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 24S.09 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 24S.09, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

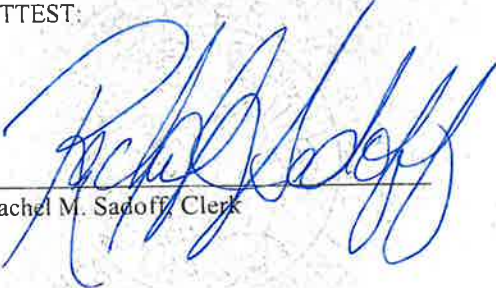
Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 3rd day of October, 2024.

ATTEST:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



By: _____
Jason Steele, Chair

As approved by the Board on October 3, 2024.

EXHIBIT A
24S.09 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

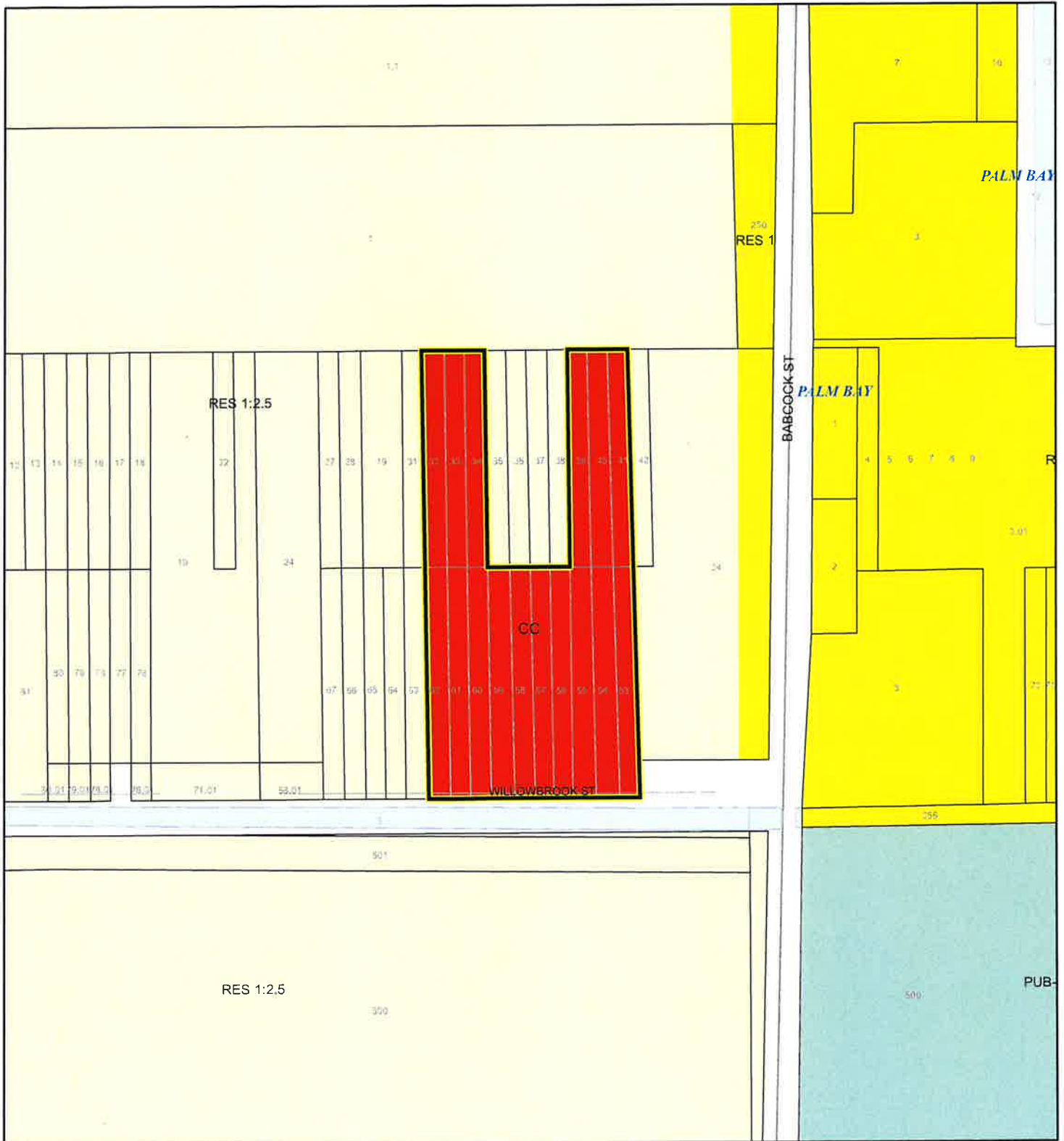
Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

JUDITH A BAKER REVOCABLE LIVING TRUST

24SS00011



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: 8/6/2024

Subject Property
Parcels

EXHIBIT B

Contents

1. Legal Description

Sunshine Grove subdivision Unit 3

Lots: 32, 33, 34, 39, 40, 41, and bts 53 through 62 recorded in Plat Book 21 pages 77 and 78 of the public records of Brevard County, Florida.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

October 8, 2024

Honorable Rachel M. Sadoff
County Clerk
Brevard County
Post Office Box 999
Titusville, FL 32781-0999

Dear Honorable Rachel Sadoff,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 24-26, which was filed in this office on October 8, 2024.

Sincerely,

Alexandra Leijon
Administrative Code and Register Director

AL

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.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 24S.09 (24SS00011)
Township 30, Range 37, Section 09*

Property Information

Owner / Applicant: Judith Baker

Adopted Future Land Use Map Designation: Residential 1:2.5 (RES 1:2.5)

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

Acreage: 14.14 +/- acre

Tax Account #: 3000394, 3000395, 3000396, 3000401, 3000402, 3000403, 3000405, 3000406, 3000407, 3000408, 3000409, 3000410, 3000411, 3000412, 3000413, 3000414

Site Location: North side of Willowbrook Street approximately 400 feet west of Babcock Street

Commission District: 5

Current Zoning: General Use (GU)

Requested Zoning: Retail, Warehousing and Wholesale Commercial (BU-2) (24Z00036)

Background & Purpose

The applicant is requesting a Small-Scale Comprehensive Plan Amendment (SSCPA) to change the Future Land Use Map from RES 1:2.5 on 16 vacant parcels totaling approximately 14.14 acres to CC. The applicant has a companion rezoning application, **24Z00036**, requesting a change from GU to BU-2 (Retail, Warehousing and Wholesale Commercial) with a Binding Development Plan (BDP) limiting the BU-2 uses to self-storage mini-warehouse and outdoor storage of recreational vehicles and boats. The current adopted FLUM is not consistent with the requested zoning.

Within the County limits, this area is under significant development pressures to transition from rural to urban with little or inadequate infrastructure (roadway, sewer and water) in place to handle the current development trends.

The subject parcel is located on the northside of Willowbrook Street, a County maintained roadway. The road pavement is in poor condition and needs resurfacing for it to support any commercial development. Other planned developments such as 11 residential subdivision with approximately 27,000 residential units and potential public future school, that may be accessing

off of this road. If the right-of-way width for Willowbrook is not the minimum of 50-feet, the applicant/owner will need to dedicate sufficient right-of way to make it 50 feet wide. Geometry of the subject property has limited development potential.

South of the subject property is a pending Large Scale FLUM amendment application on approximately 1,109 acres which includes 27 acres of Community Commercial accessing off of Babcock Street. Current infrastructure is not in place to support commercial development along this roadway segment.

An additional Community commercial cluster is located south of the subject property on the east side of Babcock St., with a conditional use permit that limits its use to a borrow pit. The CC cluster encompasses 9.87 acres.

Approximately 0.5 mile to the north within the City of Palm Bay, surrounding the St. Johns Heritage Parkway, are multiple commercial developments either planned or in construction. This segment of Babcock within the City of Palm Bay proposes approximately 133 acres of commercial on the westside of Babcock and another 13 acres on the eastside.

Pursuant to Chapter XI of the Brevard County Comprehensive Plan FLUE Policy 2.8, community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

All parcels within the subject property retains the original RES 1:2.5 FLUM and GU zoning.

Previous zoning actions applicable to the subject property include:

On July 3, 1989, zoning action **Z-8432** approved a Conditional use permit for a Commercial Borrow Pit (CUP) with a Binding Concept Plan in GU zoning.

On May 22, 2003, zoning action **Z-10817(24)** approved removal of the CUP for Commercial Borrow Pit.

Surrounding Land Use Analysis

	Existing Land Use	Zoning	Future Land Use
North	Undeveloped	PUD	RES 4
South	Undeveloped/ROW	GU	RES 1:2.5
East	Undeveloped	GU	RES 1:2.5
West	Undeveloped	AU, GU	RES 1:2.5

North is 41.39 acre undeveloped parcel with PUD (Planned Unit Development) zoning with a gross density cap of three (3) dwelling units per acre and RES 4 FLU designation approved under application # **23PUD00003** on July 11, 2024.

At the time of this report, the south is undeveloped with pending actions under **23LS00001 & 23PUD00005** (September 5, 2024 BOCC hearing) from RES 1:2.5 to RES 4 & CC and GU & AU to PUD zoning on approximately 1,100 acres to allow residential and commercial development.

East are 2 properties 0.86 acres (undeveloped) and 14.86 acres (classified by the BCPAO as a agriculture use) with RES 1:2.5 FLU and GU zoning.

West are 2 properties, 1.02 acres and 0.86 acres, both undeveloped with AU and GU zoning classifications, respectively.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

The subject parcel is located on the northside of Willowbrook Street

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

This request includes sixteen parcels which surrounds four parcels, owned by a different owner, which is not included with this request. The four parcels have a FLUM designation of RES 1 with GU zoning classification. A FLUM and zoning enclave would result upon approval of this request. FLUM and zoning enclaves contain parcels that are designated and zoned in a manner that is not currently compatible with the adjacent land use designations and zoning classifications which may result in disjointed development.

- C. Existing commercial development trend in the area;

Within the County limits, this area is under significant development pressures to transition from rural to urban with smaller residential lots and commercial uses.

There is no existing commercial development in this area. However, a pending application for the property located to the south with access off of Babcock Street includes over 3,200 residential units and 27 acres of commercial development with BU-1 uses permitted. Specific commercial uses were not indicated.

Additional commercial zoning of BU-1 is located south of the subject property on the east side of Babcock St., with a conditional use permit that limits its use to a borrow pit. The property is undeveloped with approximately 7 acres of the 74.86 acres having commercial zoning.

Approximately half mile to the north within the City of Palm Bay, surrounding the St. Johns Heritage Parkway, are multiple commercial developments either planned or in construction. This segment of Babcock within the City of Palm Bay proposes approximately 133 acres of commercial on the westside of Babcock and another approximate 13 acres on the eastside.

Overall, there are eleven (11) development plans, under County and City of Palm Bay, which includes a school, residential (approximately 27,000 residential units) and commercial either approved, pending approval and or in construction potential accessing Babcock Street and Willowbrook Street. Two (2) of which include a commercial component.

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

No fundamental changes in the character of the area prompted by infrastructure improvements undertaken by the County have been identified.

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

Although the preliminary concurrency analysis did not indicate that the proposed development would cause a deficiency in the transportation adopted level of service there are other factors that should be considered.

The parcels are not serviced by public sewer or within the Brevard County service area for potable water.

- F. Spacing from other commercial activities:

There is no existing commercial development in this area. However, a pending application for the property located approximately 0.50 miles to the south with access off of Babcock Street includes over 3,200 residential units and 27 acres of commercial development with BU-2 uses permitted. Specific commercial uses were not indicated.

Additional commercial zoning of BU-1 is located 1 mile south of the subject property on the east side of Babcock St., with a conditional use permit that limits its use to a borrow pit. The property is undeveloped with approximately 7 acres of the 74.86 acres having commercial zoning.

Approximately 0.5 mile to the north within the City of Palm Bay, surrounding the St. Johns Heritage Parkway, are multiple commercial developments either planned or in construction. This segment of Babcock within the City of Palm Bay proposes approximately 133 acres of commercial on the westside of Babcock and another approximate 13 acres on the eastside.

- G. Size of proposed commercial designation compared with current need for commercial lands;

A market study was not provided nor required.

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

The provisions of this Criterion will be addressed at the site plan stage.

- I. Integration of open space; and

The provisions of this Criterion will be addressed at the site plan stage.

- J. Impacts upon strip commercial development.

FLUE Policy 2.12 discourages strip commercial development. This request is not an extension of strip commercial development.

Locational and Development Criteria for Community Commercial Uses FLUE Policy 2.8

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

The proposed CC encompasses approximately 14 acres. Willowbrook Street is classified as a local road. Babcock Street SE, located approximately 400 feet to the east, is classified as a major collector roadway. The CC FLU designation locational criteria states “For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections. Neither Babcock Street SE or Willowbrook Street are classified as principal arterial/principal arterial intersections.

Babcock Street SE, located approximately 400 feet to the east, is classified as a major collector roadway. The CC FLU designation locational criteria states “For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections. Neither Babcock Street SE or Willowbrook Street are classified as principal arterial/principal arterial intersections.

South of the subject property is a pending Large Scale FLUM amendment application on approximately 1,109 acres which includes 27 acres of Community Commercial accessing off of Babcock Street. Current infrastructure is not in place to support commercial development along this roadway segment.

An additional Community commercial cluster is located south of the subject property on the east side of Babcock St., with a conditional use permit that limits its use to a borrow pit. The CC cluster encompasses 9.87 acres.

Approximately 0.5 mile to the north within the City of Palm Bay, surrounding the St. Johns Heritage Parkway, are multiple commercial developments either planned or in construction. This segment of Babcock within the City of Palm Bay proposes approximately 133 acres of commercial on the westside of Babcock and another 13 approximate acres on the eastside.

Pursuant to Chapter XI of the Brevard County Comprehensive Plan FLUE Policy 2.8, community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

The proposed amendment does not meet the locational and development criteria set forth by FLUE Policy 2.8.

- B. Community commercial complexes should not exceed 40 acres at an intersection.
The subject site is not located at an intersection and will not exceed 40 acres.
- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

Within County limits, located to the south of the subject property is an 1,109 acre large-scale FLUM amendment which includes 27 acres of community commercial cluster along Babcock Street.

An additional Community commercial cluster is located south of the subject property on the east side of Babcock St., with a conditional use permit that limits its use to a borrow pit. The CC cluster encompasses 9.87 acres.

The proposed amendment does not meet the locational and development criteria set forth by FLUE Policy 2.8.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

The subject property is greater than 10 acres, therefore the gross floor area shall not exceed 400,000 square feet.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

This application does not accompany a PUD zoning request therefore the FAR will be limited to 1.00.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

The applicant has not proposed a recreational vehicle park on the subject property.

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 develop the site with mini storage and outdoor parking/storage of boats and recreational vehicles. There is currently no commercial development in this area.

The proposed use will be evaluated pursuant to performance standards during site plan review. Specifically, performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan stage.

- 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 (Member Appraisal 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;

Historically, this area is mostly undeveloped with some residential development on large lots of 2.5 acres or greater. There are four (4) FLU

designations within 500 feet of the subject site: RES 4, RES 1, RES 1:2.5 and PUB-CONS.

Please note, this analysis only includes unincorporated areas of Brevard County.

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

There has been no new development within half mile, under County jurisdiction, of the subject property within the last three years.

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

23PUD00002 and 23SS00022, approved a request to rezone the property from GU to PUD for residential development with a companion FLUM from RES 1:2.5 and RES 1 to RES 4 approved on July 11, 2024; and

23PUD00005 and 23LS00001, a request to rezone the property from GU and AU to PUD for residential and commercial development with a companion FLUM amendment from RES 1:2.5 to RES 4 and CC pending approval, September 5, 2024 BOCC hearing.

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

FLUE Policy 2.8, Criteria A and C, regarding locational criteria for CC land uses greater than 10 acres in size; The Board shall make this determination.

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.

Staff analysis indicates the request is not located within an existing neighborhood; but rather a mostly undeveloped rural area with single family residential.

The BU-2 zoning classification is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted (i.e., major auto-repair facilities, paint and body shops, contractor storage yards restaurants, fast food restaurants and coffee shops). Off-site impacts such as noise, light, traffic, and other potential nuisance factors associated with BU-2 activities should be considered. BU-2 also permits single-family residence or a mixed use of commercial and single-family or multi-family use.

A preliminary concurrency evaluation did not indicate that the proposal has the potential to cause a deficiency in the transportation adopted level of service based on the proposed use.

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.

Located south of the subject property, the Deer Run subdivision is the only established residential neighborhood in the area. However, staff analysis indicates the subject property is not located in an established residential neighborhood.

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.

Staff analysis indicates the subject property is not located in an established residential neighborhood.

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.

There has been one (1) request for commercial use, pending approval, in this area during the previous five (5) years within the County's jurisdiction. Application 23PUD00005, a request to rezone the property from GU and AU to PUD for residential with commercial component. Pending approval, September 5, 2024 hearing. Development activity has occurred within the City of Palm Bay approximately half-mile away to the north.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Babcock Street, between Micco Road and Grant Road which has a Maximum Acceptable Volume (MAV) of 14,200 trips per day, a Level of Service (LOS) of D, and currently operates at 40.99% of capacity daily. The proposed rezoning increases the percentage of MAV utilization by 6.28%. The corridor

is anticipated to operate at 47.27% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

The concurrency analysis was only for a mini self storage facility as proposed. Any other future commercial development was not part of this analysis and will be reviewed under a separate site plan application.

No school concurrency information has been provided as the proposed project is a commercial development and not intended for residential uses.

Centralized potable water service is not available to this property. The applicant has represented that the City of Palm Bay will provide this service but the City has not yet confirmed its intention to do so. The lack of centralized potable water service also has an impact on the provision of adequate flow rates for fire protection.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands and Hydric Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject property contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils, indicators 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.**

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). However, Willowbrook Street is not a MQR at this location. An amendment to the Comprehensive Plan would be required to add this section of Willowbrook Street to the MQR map and the associated MQR table.

Additionally, if wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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. Section 62-3694(c)(3)b also provides that for a project encompassing multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted

for commercial or industrial use. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Historic Resources

There are no recorded historical or archaeological sites on the project site according to the Master Site File from the Florida Division of Historic Resources.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item No. 24SS00011

Applicant: Judith A. Baker (Owner: Judith A. Baker Revocable Living Trust)

Land Use Request: RES 1:2.5 to CC

Note: for construction of mini storage and outdoor parking

LPA Hearing: 09/16/2024; **BCC Hearing:** 10/03/2024

Tax ID No.(s): 3000394, 3000395, 3000396, 3000401, 3000402, 3000403, 3000405, 3000406, 3000407, 3000408, 3000409, 3000410, 3000411, 3000412, 3000413, 3000414

- 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:

- Wetlands and Hydric Soils
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected and Specimen Trees
- Protected Species

The subject property contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils, indicators 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.**

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). However, Willowbrook Street is not a MQR at this location. An amendment to the Comprehensive Plan would be required to add this section of Willowbrook Street to the MQR map and the associated MQR table.

Additionally, if wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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. Section 62-3694(c)(3)b also provides that for a project encompassing multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted

only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

Land Use Comments:

Wetlands and Hydric Soils

The subject property contains mapped NWI wetlands, SJRWMD wetlands, and hydric soils (EauGallie sand; and Pineda sand, 0 to 2 percent slopes), as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. All are indicators that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.**

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). However, Willowbrook Street is not a MQR at this location. MQRs are depicted and identified in a table on map 8 of the comprehensive plan conservation element. An amendment to the comprehensive plan shall be required to add a mitigation qualified roadway to map 8 and the associated table.

Section 62-3694(c)(3)b also provides that for a project encompassing multiple properties assembled under one site plan development order, wetland impacts for those properties without direct frontage on the mitigation qualified roadway may be permitted only if the properties are combined so that any proposed wetland impact is contained within a property with direct frontage on the mitigation qualified roadway. The assemblage shall be deed restricted for commercial or industrial use.

Additionally, if wetlands are found, the applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. 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.**

Indian River Lagoon Nitrogen Reduction Septic Overlay

Portions of this property are mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of 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.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. The applicant shall perform a tree survey prior to any site plan design in

order to incorporate valuable vegetative communities or robust trees into the design. Per Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements and buffer requirements. **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 properties with wetlands. There is a large area of mapped Florida Scrub Jay occupancy within a mile of the property, and there is potential for existence of Gopher Tortoises on site. 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.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, September 16, 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.

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

Staff members present were: Tad Calkins, Director (Planning and Development); Rachel Genera, Public Works Engineering Manager; Alex Esseece, Deputy County Attorney; Trina Gilliam, Planner; Paul Body, Planner; Desirée Jackson, Planner; and Kristen Champion, Special Projects Coordinator.

Mark Wadsworth stated that if any Board Member has had an ex-parte communication regarding any application, please disclose so now.

Excerpt of complete agenda.

Item H.8. Judith Baker requests a Small-Scale Comprehensive Plan Amendment from RES 1:2.5 (Residential 1 per 2.5 acres) to CC (Community Commercial), on property described as Lots 32, 33, 34, 39, 40, 41, and Lots 53 - 62, Sunshine Grove. (16 acres) Located on the north side of Willowbrook St, approx. 400 ft. west of Babcock St. (No address assigned. In the Palm Bay area.) (Tax Account 3000414, 3000394, 3000395, 3000396, 3000401, 3000402, 3000403, 3000405, 3000406, 3000407, 3000408, 3000409, 3000410, 3000411, 3000412, 3000413)(24SS00011)(District 5)

Item H.9. Judith Baker requests a change of zoning classification from GU (General Use) to BU-2 (Retail, Warehousing and Wholesale Commercial) with a BDP (Binding Development Plan), on property described as Lots 32, 33, 34, 39, 40, 41, and Lots 53 - 62, Sunshine Grove. (16 acres) Located on the north side of Willowbrook St, approx. 400 ft. west of Babcock St. (No address assigned. In the Palm Bay area.)(Tax Account 3000414, 3000394, 3000395, 3000396, 3000401, 3000402, 3000403, 3000405, 3000406, 3000407, 3000408, 3000409, 3000410, 3000411, 3000412, 3000413)(24Z00036) (District 5)

Trina Gilliam read companions items H.8. and H.9. into the record.

Judith Baker, the applicant, went over the history of her property. Willowbrook street is the main road. She stated "we purchased the first 16 acres. We purchased the front 10 acres in 1988 and at time Willowbrook St. was a dirt road. The road was paved sometime after 1988 but no right of way was asked or given. I'm willing to give a right of way to the County for that particular section of the road Brevard County maintains, which is 100 ft wide from swale to the swale". Ms. Baker noted that Willowbrook St. had been used very heavily by dump trucks, semi trucks, farm equipment, and etc. since they moved in. The purpose of the request is there are 11 developments with 27,000 residents to be developed surrounding her property. She wishes to services those homes by providing mini self-storage and outdoor parking for RVs and boats using a Binding Development Agreement. She believes the mini self-storage shall not have any big impact on the roads and traffic. She feels the proposal is complimentary to the surrounding needs. She noted the staff report as well mentions the proposal is complimentary to the emerging development of the surrounding area. Ms. Baker went on to explain that in the back north section of her property there are four lots that appear to be lane blocked and three lots in the middle owned by a mister Kenzie. She clarified that she has had "a

gentlemen's agreement with Mr. Kenzie since 2005 for access across his property to my property because he has property on the east of me property and on the west of me there's a dirt road running east to west on the north side of our property from Babcock Street that is not recognized by Brevard County. I'm willing to give with a mutual easement of 50 ft to the property owner Mr. Kenzie." Water and sewer is not available but she has a will serve letter from the city of Palm Bay that they will have it that available. If not they will go with whatever the state and county requires.

No public comment.

Mr. Bartcher asked staff a question regarding spaces for roads or access to these lots and wether we are creating an onclave as the staff report states.

Trina Gilliam explained "in that report we had consulted with Public Works. What they had asked for is that if the roadway is not 100 ft in width that she dedicate what was needed". The Willobrow St will also need to be repaved which will be something that will come up during site plan.

Mr. Bartcher believes this project will have little impact on that infrastructure. He states they have already approved a lot of residents in that area. He believes the self-storage will be needed for all the residential development.

Robert Sullivan addressed to staff "to get to isolated four platts there is access on Babcock St. But it does not look like it's a controlled access like the interchange. How will the County look wether you want to do a Tee intersection? Right now it goes up to the northern portion of that property to get to that access."

Ms. Baker states Mr. Kenzie owns the property that is east of her that accesses Willowbrook St. Therefore he can get to those lots from Willowbrook St. from the easement access she is proposing.

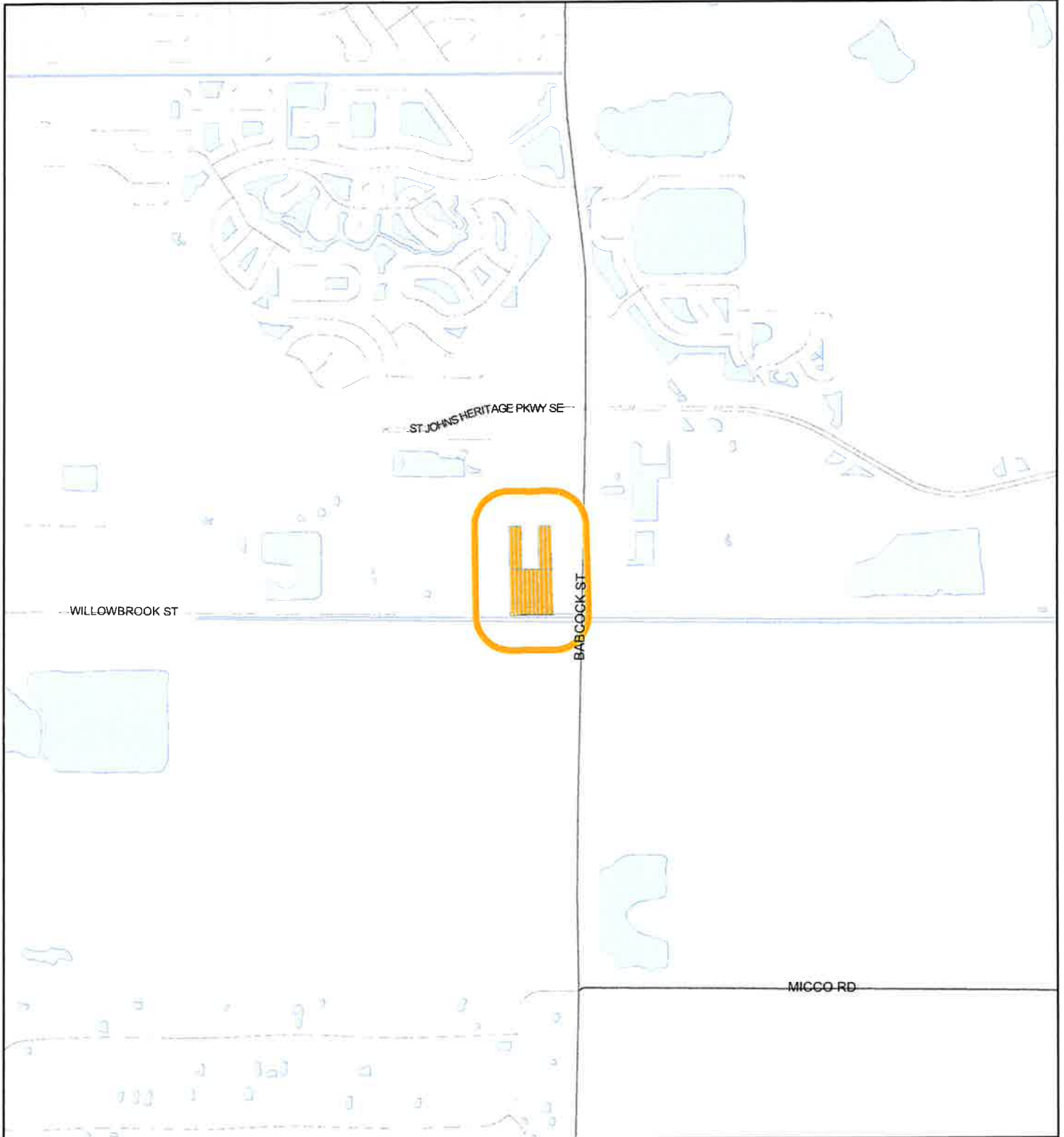
Mr. Sullivan asked if Mr. Kenzie will be putting in the road from east to west to access the road frontage on Babcock street. Ms. Baker said she was unsure. Mr. Sullivan clarified that the road is obviously going east west to access it but it curves around to the front of his frontage on Babcock Street. Mr. Sullivan was concerned about access to those remaining lots in the future.

Trina Gilliam responded that no site plan has been submitted yet but that it would be worked out during that time to ensure those four lots would continue to have access. She added that staff would not start working on it prior to her zoning being approved.

Motion to recommend approval of item H.8. by Ron Bartcher, second by Debbie Thomas. The motion passed unanimously.

Motion to recommend approval of item H.9. by Ron Bartcher, second by Debbie Thomas. The motion passed unanimously.

LOCATION MAP
JUDITH A BAKER REVOCABLE LIVING TRUST
24SS00011



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.

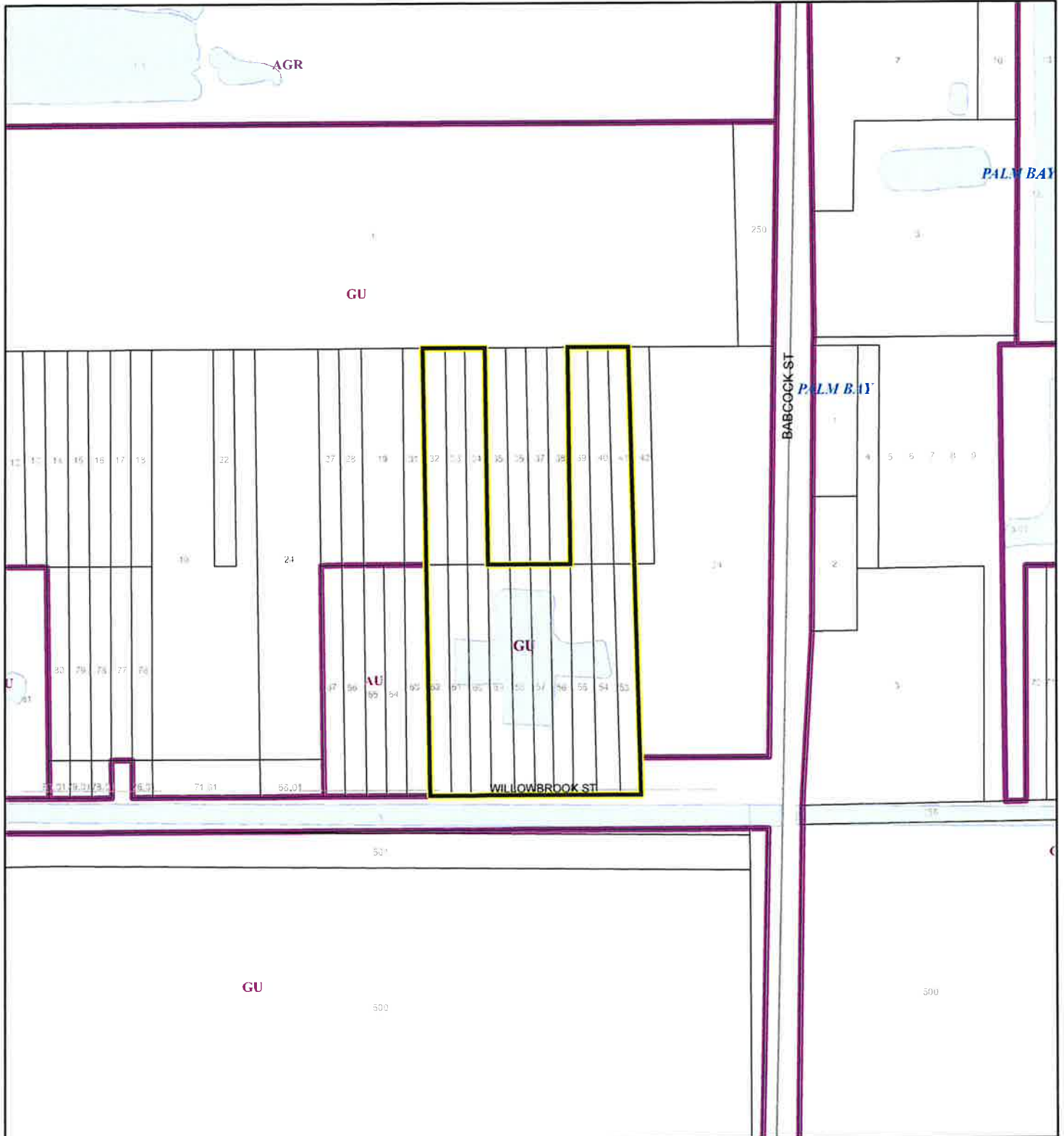
Produced by BoCC - GIS Date: 8/6/2024

Buffer
Subject Property

ZONING MAP

JUDITH A BAKER REVOCABLE LIVING TRUST

24SS00011



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: 8/6/2024

Subject Property

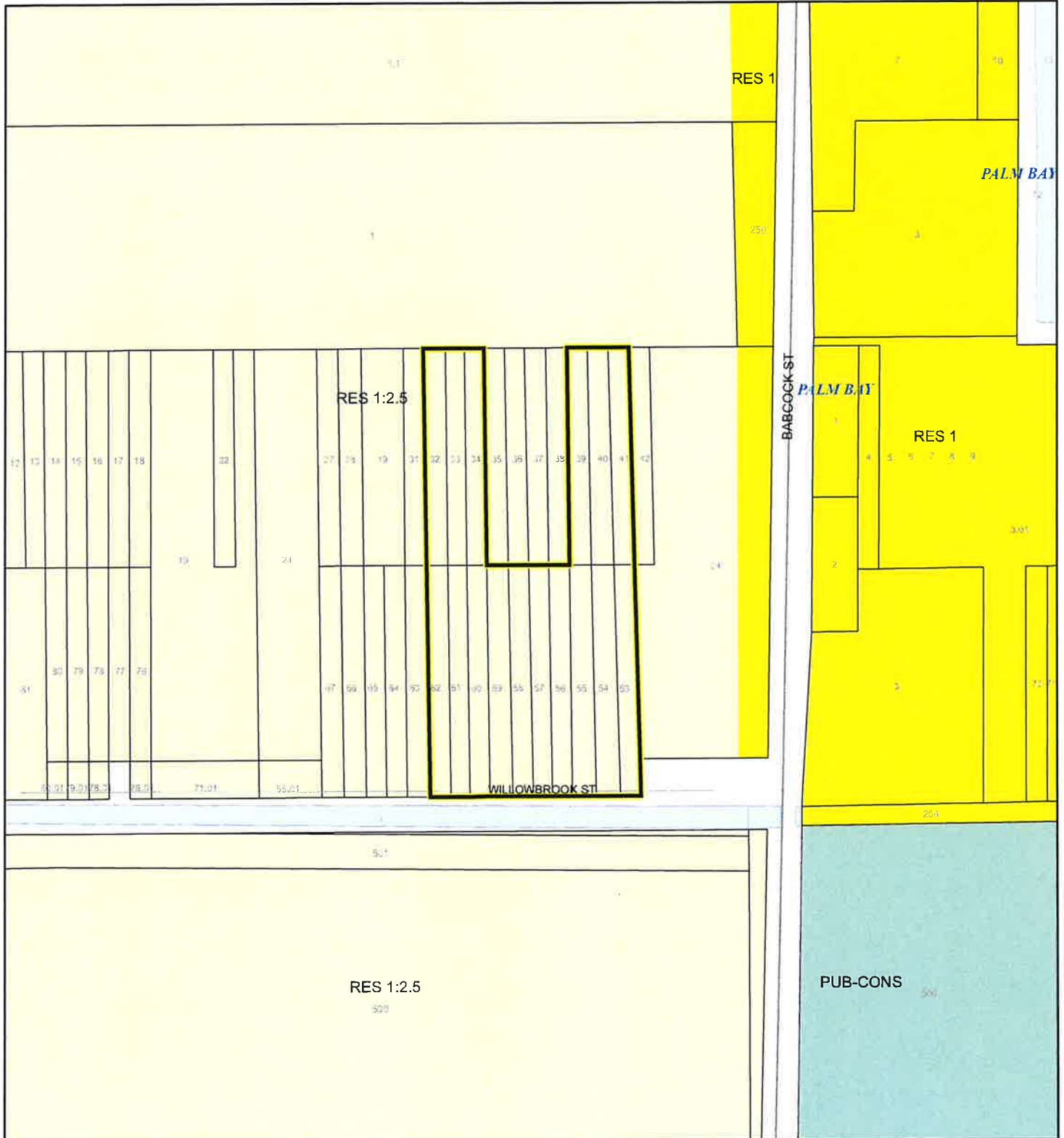
Parcels

Zoning

FUTURE LAND USE MAP

JUDITH A BAKER REVOCABLE LIVING TRUST

24SS00011



1:4,800 or 1 inch = 400 feet

Subject Property
Parcels

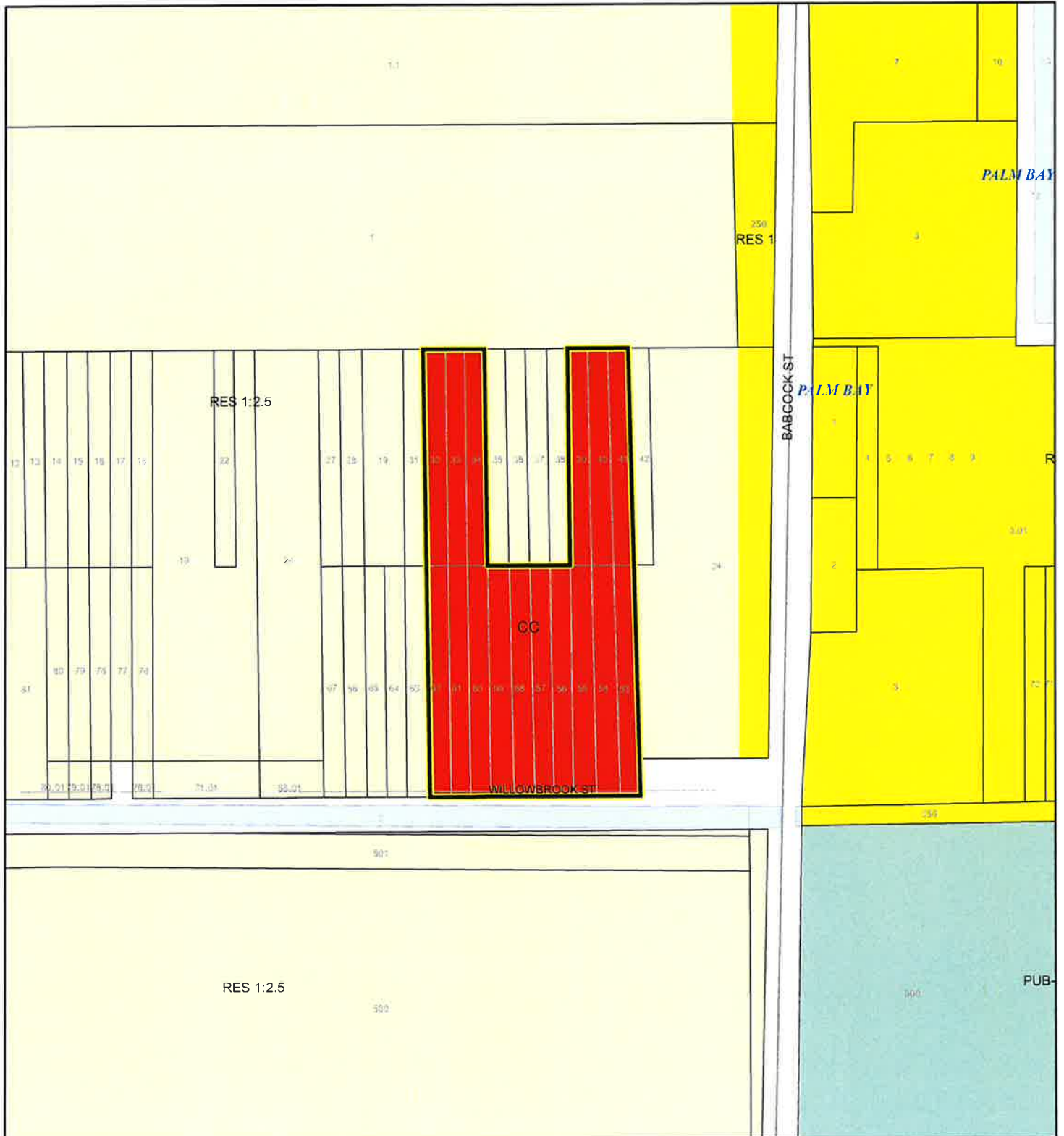
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/6/2024

PROPOSED FUTURE LAND USE MAP

JUDITH A BAKER REVOCABLE LIVING TRUST

24SS00011



1:4,800 or 1 inch = 400 feet

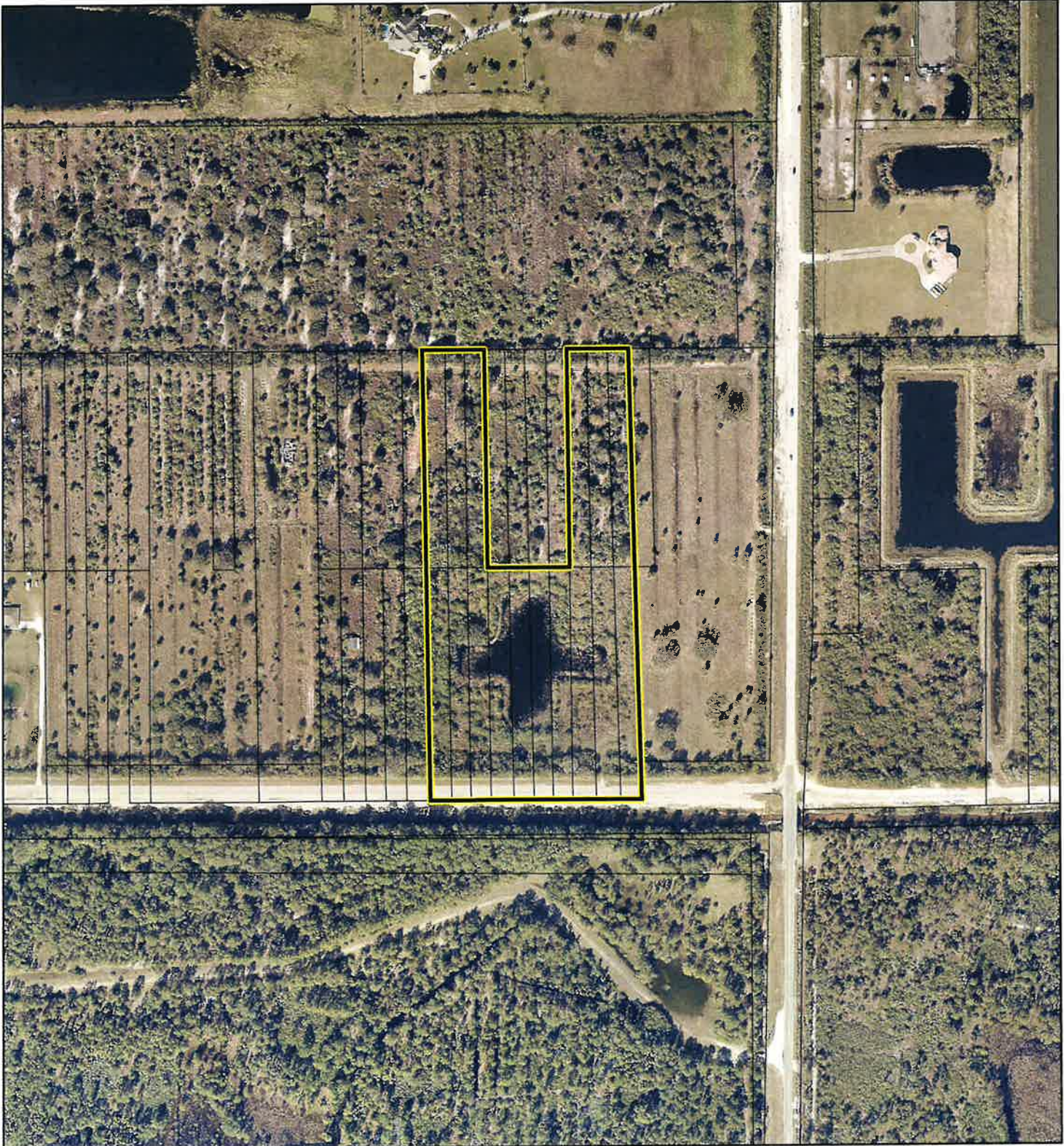
Subject Property
Parcels

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: 8/6/2024

AERIAL MAP

JUDITH A BAKER REVOCABLE LIVING TRUST
24SS00011



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2024

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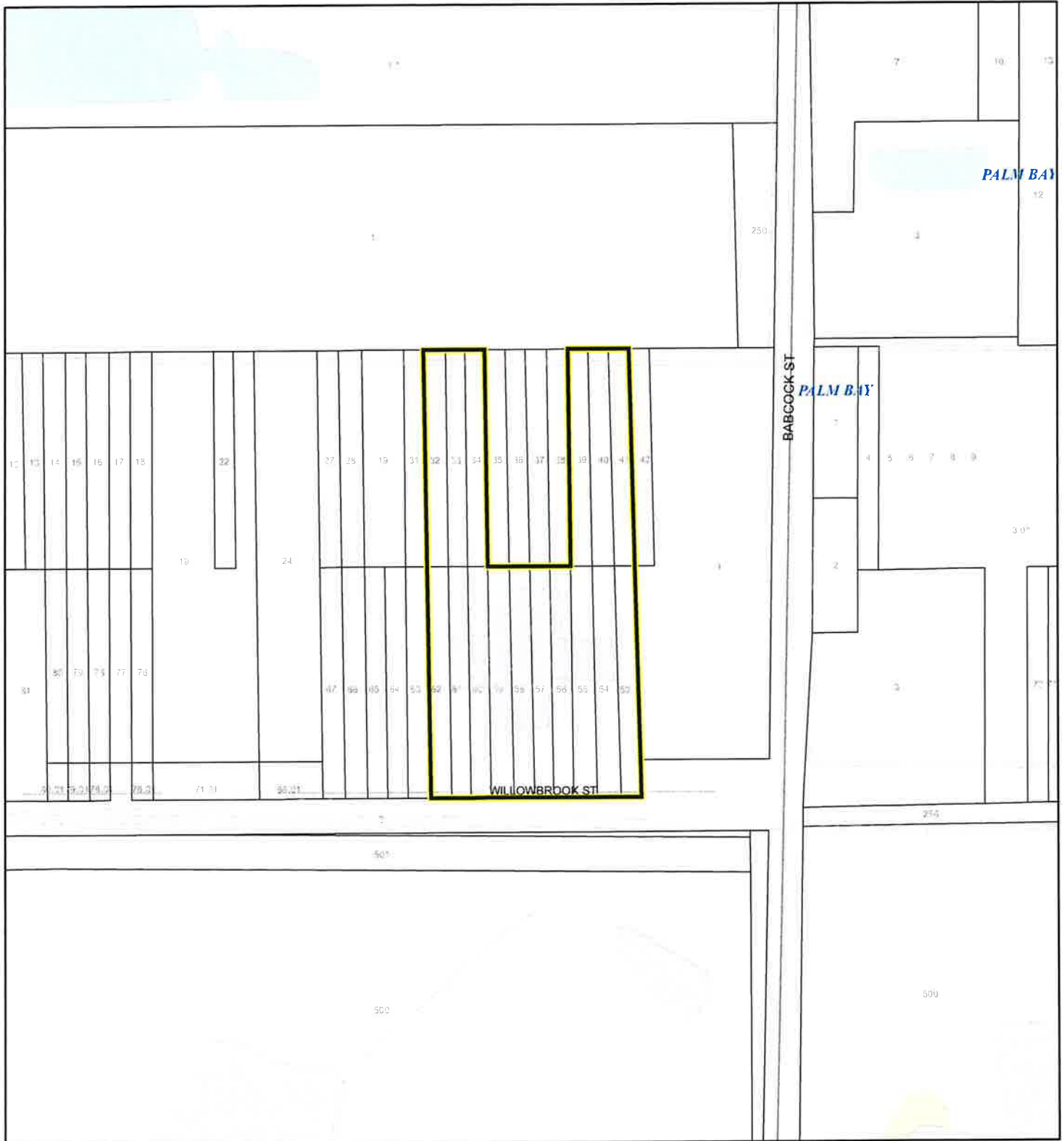
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— Subject Property
□ Parcels

NWI WETLANDS MAP

JUDITH A BAKER REVOCABLE LIVING TRUST

24SS00011



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National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

JUDITH A BAKER REVOCABLE LIVING TRUST

24SS00011



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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

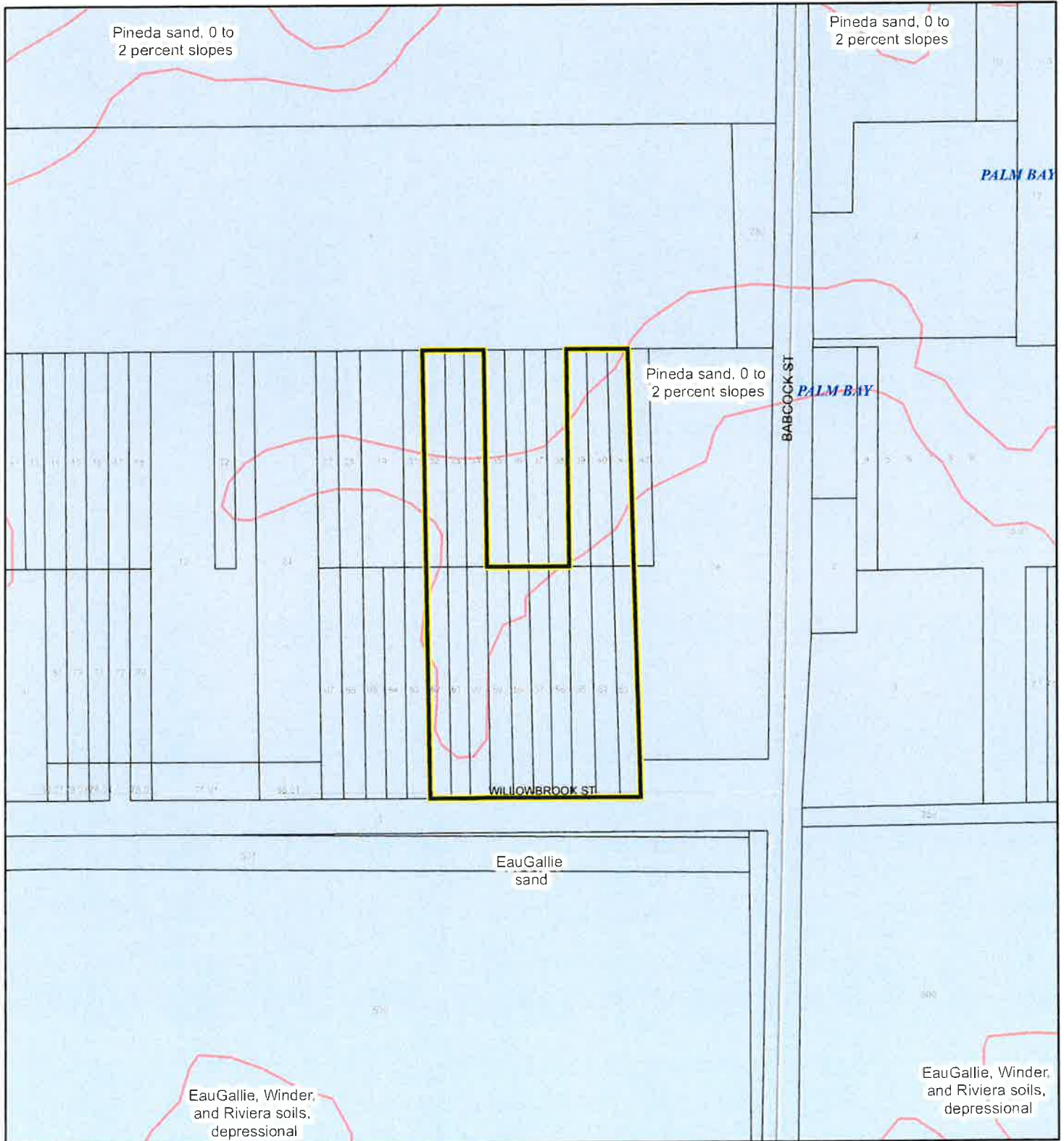
Subject Property

Parcels

USDA SCSSS SOILS MAP

JUDITH A BAKER REVOCABLE LIVING TRUST

24SS00011



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USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

Parcels

FEMA FLOOD ZONES MAP

JUDITH A BAKER REVOCABLE LIVING TRUST

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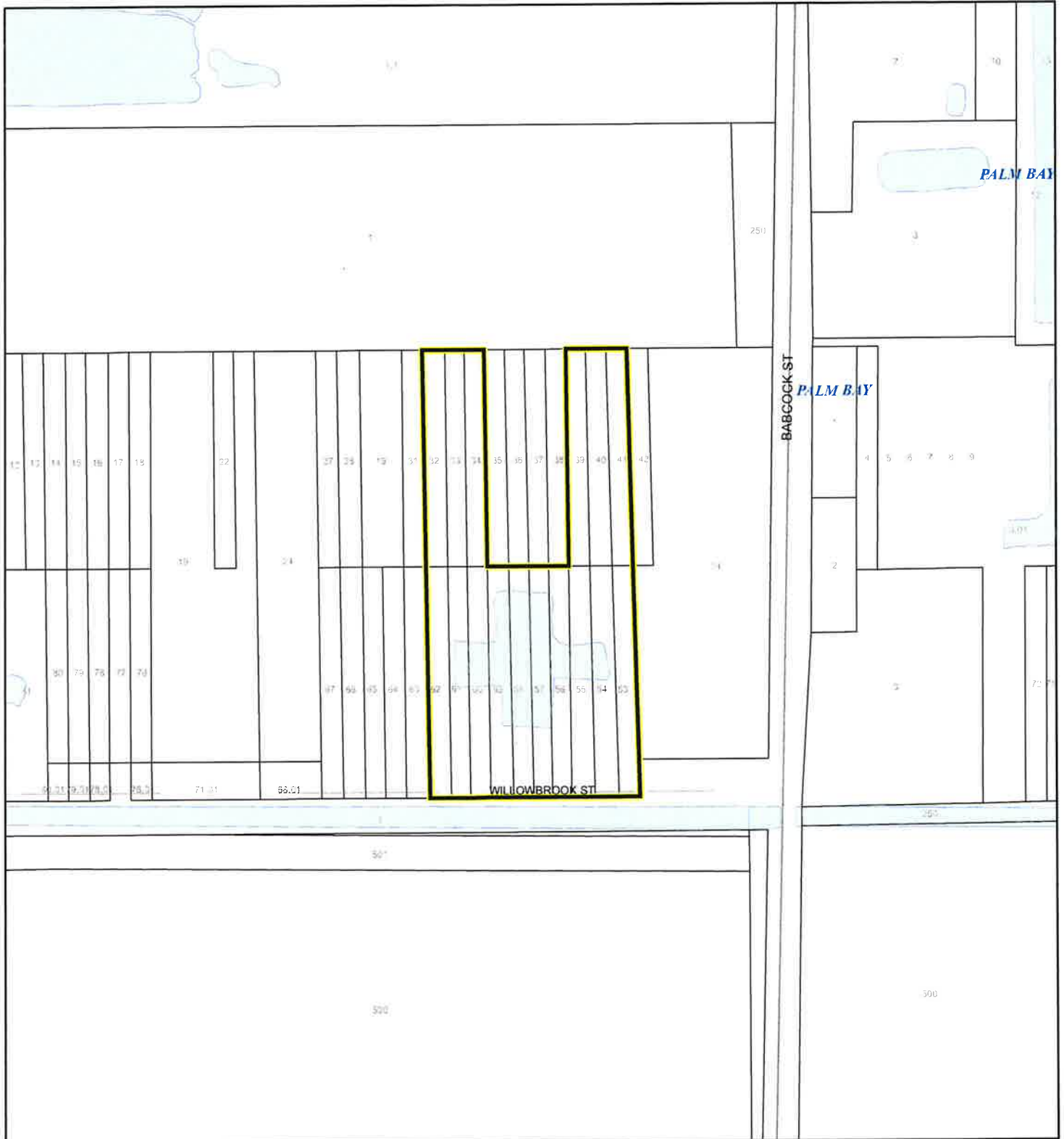
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

JUDITH A BAKER REVOCABLE LIVING TRUST

24SS00011



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— Subject Property

□ Parcels

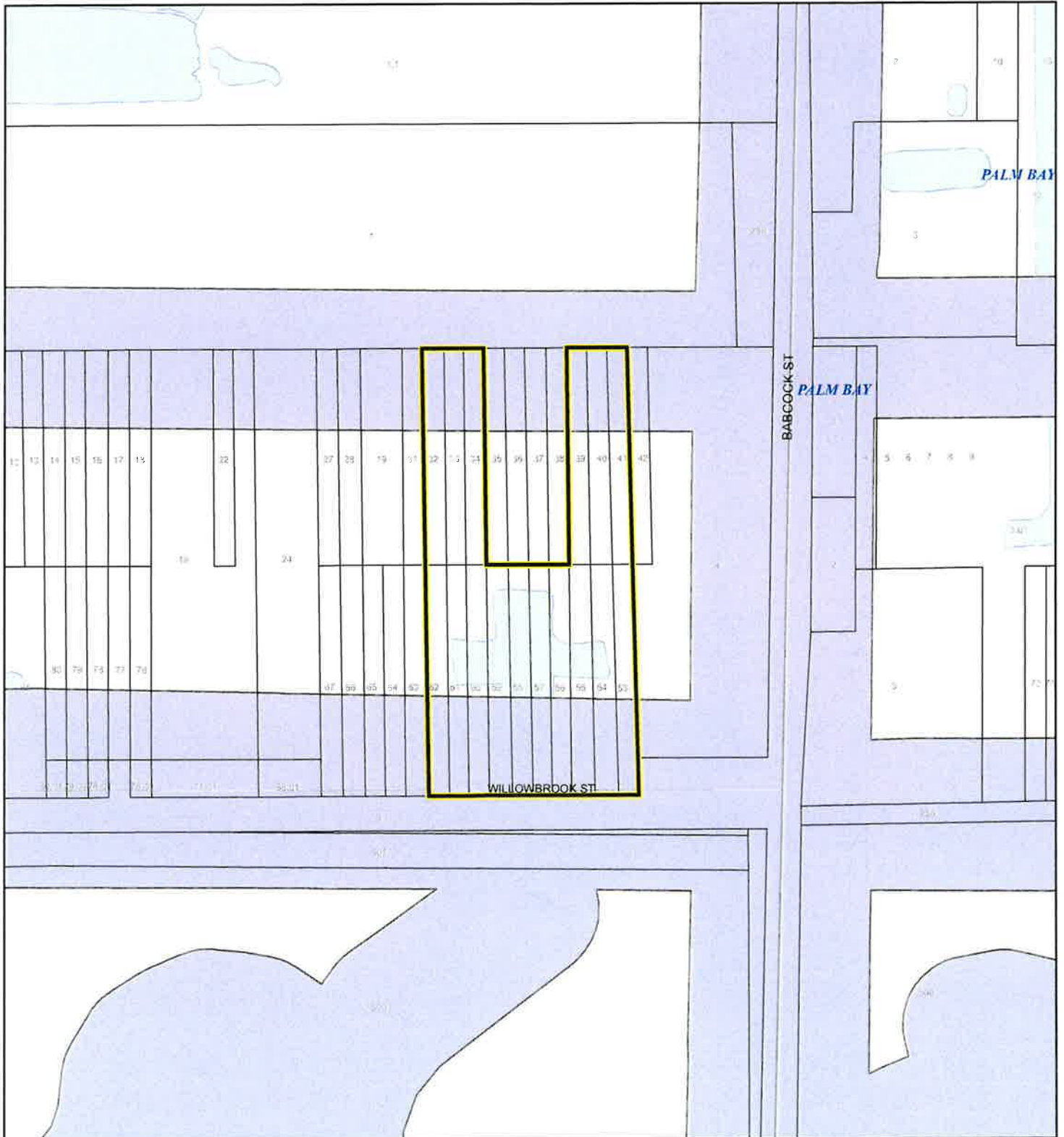
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

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24SS00011



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Subject Property

Parcels

Septic Overlay

40 Meters

60 Meters

All Distances

EAGLE NESTS MAP

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24SS00011



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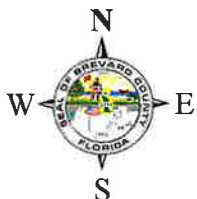
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- Subject Property
- Parcels
- Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

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24SS00011



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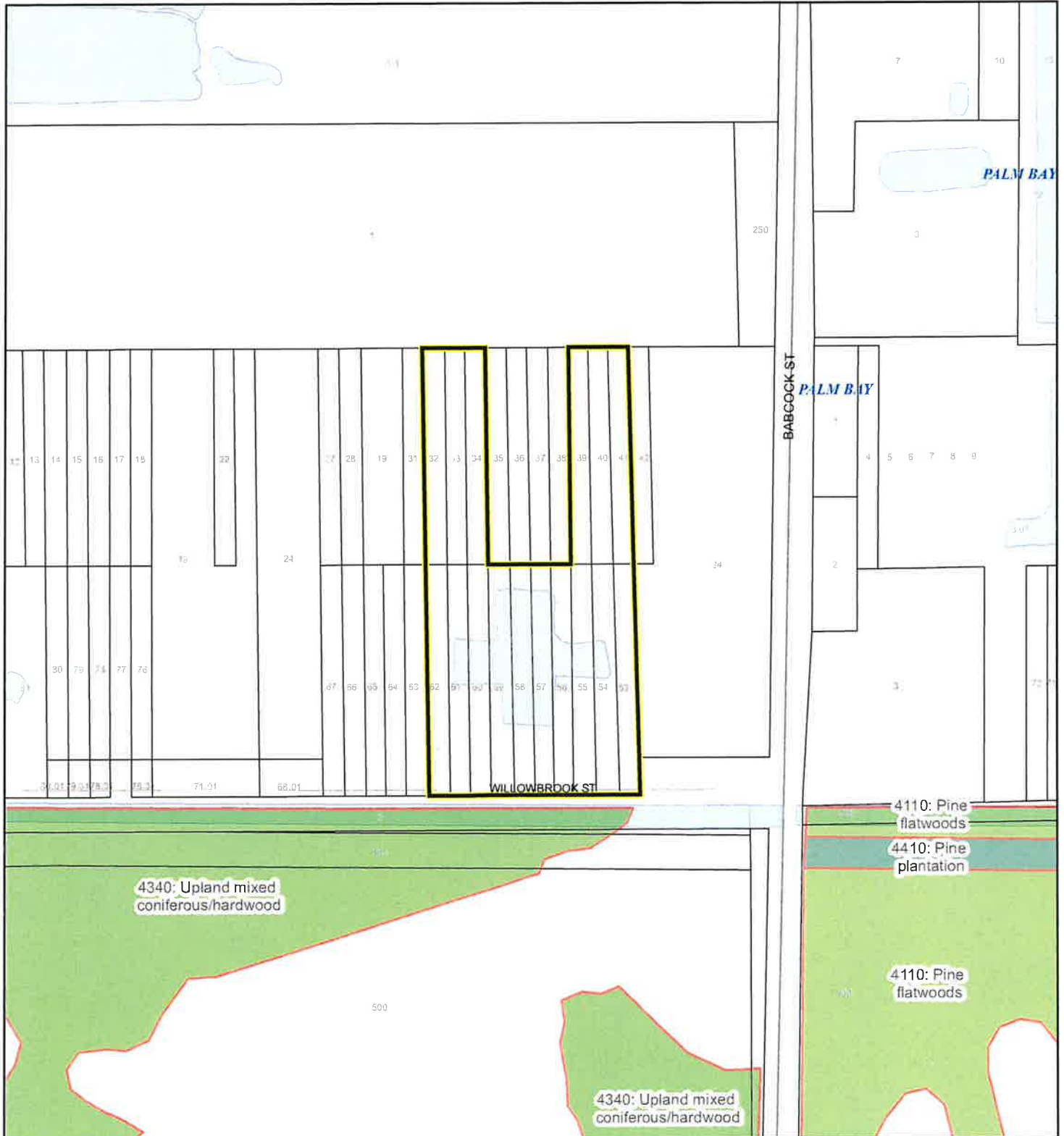
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- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

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24SS00011



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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