



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.9.

11/7/2024

Subject:

Stickrath Developer, LLC. requests a change of zoning classification from BU-2 to AU. (24Z00026) (Tax Account 2601599) (District 4).

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 BU-2 (Retail, Warehousing and Wholesale Commercial) to AU (Agricultural Residential).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-2 (Retail Wholesale and Warehousing) to AU (Agricultural Residential) for the purpose of legitimizing a goat rescue facility located on a 2.60 acre portion of a 10.39 acre commercial site. This facility will not be open to the public and access to this portion of the property will be restricted to ensure the safety and well-being of both humans and animals.

This rezoning request is a result of Code Enforcement Case No. 24CE-00566. The owners were cited for having goats on a parcel that is not appropriately zoned for livestock. The 10.3 acre property is developed as a landscape and hardscape wholesaler/retailer (Landscape Depot of Brevard, Inc.). The rezoning request will remedy the Code Enforcement case.

The subject property is located on US Highway 1 approximately 0.5 mile north of Suntree Boulevard. The goat rescue area is located along the FEC railway corridor at the west end of the wholesale/retail operation.

There are no agricultural uses nor property zoned as AU in the area, therefore this proposed rezoning request may be considered an introduction into the surrounding area and a down-zoning. AU zoning allows for single-family residential as well as agricultural uses. The residential use would not be appropriate for the area. The property to the north of the subject is vacant land encumbered with a large borrow pit. It is zoned BU-1 and has a land use designation of Community Commercial (CC). The properties east and south, owned by the same owner, have BU-2 zoning with a CC land use designation. The FEC Railway ROW is located to the west.

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

On October 14, 2024, the Planning and Zoning Board heard the request and unanimously recommended approval with a BDP limiting the use of the property to the raising and grazing of farm animals.

Clerk to the Board Instructions:

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

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

WHEREAS, Timothy Stickrath Developer INC. (Curtis McKinney) requests a change in zoning classification from BU-2 (Retail, Warehousing and Wholesale Commercial) to AU (Agricultural Residential), on property described as Lots 1 – 9 and a portion of Lot 10, Block 45, Portions of lots 4, 6, 8, 9, 10, 12, 14, 16, and 17, Block 46, AND adjacent vacated road rights-of-way of Fourth Street, Fifth Street, and unnamed road, Town of Pineda, as recorded in ORB 3707, Page 0456, of the Public Records of Brevard County, Florida. **Section 12, Township 26, Range 36.** (2.79 acres) Located approx. 484 ft. west of US Hwy 1 and approx. 415 north of Friendship Place. (6370 S. Hwy 1, Rockledge); 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 with a BDP to limit the use to raising and grazing of farm animals; 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 BU-2 to AU, 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

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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Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

24Z00026

Curtis McKinney (Owners: Timothy Stickrath Developer, Inc.)

BU-2 (Retail, Warehousing and Wholesale Commercial) to AU (Agricultural Residential)

Tax Account Number: 2601599
Parcel I.D.: 26-36-12-DE-34-4
Location: West of Hwy. 1, approximately 485 feet and 415 feet north of
Friendship Lane
(District 4)
Acreage: 2.60 acre portion of the 10.68 acre site

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

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C).

	CURRENT	PROPOSED
Zoning	BU-2	AU
Potential*	FAR 1.0 80 Dwelling Units**	Goat rescue***
Can be Considered under the Future Land Use Map	YES CC	YES CC

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

** Development potential at 30 units per acre pursuant to F.S. 125.01055 (Live Local Act).

*** BDP to limit use of the AU zoning to goat rescue use only, may be desired.

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-2 (Retail Wholesale and Warehousing) to AU (Agricultural Residential) for the purpose of legitimizing a goat rescue facility located on a 2.60-acre portion of a 10.39 acre commercial site. This facility will not be open to the public and access to this portion of the property will be restricted to ensure the safety and well-being of both humans and animals.

The subject property is located on US Highway 1 approximately 0.5 mile north of Suntree Boulevard. The goat rescue area is located along the FEC railway corridor at the west end of the wholesale/retail operation.

This rezoning request is a result of **Code Enforcement Case No. 24CE-00566**. The owners were cited for having goats on a parcel that is not appropriately zoned for livestock. The 10.39-acre property is developed as a landscape and hardscape wholesaler/retailer (Landscape Depot of Brevard, Inc.). This rezoning request will remedy the C.E. case.

This proposed rezoning request may be considered an introduction into the surrounding area and a down-zoning.

The subject property was recorded in Plat Book 1, Page 41 as a portion of the Plan of the Town of Pineda dated September 22, 1894.

The following actions constitute the zoning history of the property:

- **Resolution Z-91** – Changed zoning from GU (General Use) to IU (Industrial Zone), December 1958.
- **Resolution AZ-55** - Changed zoning from BU-1 (General Retail Commercial), back to GU, July 1975.
- **Resolution Z-5217**- Board denied a zoning change from GU to IU (Industrial Use), March 1980.
- **Resolution Z-5666**- Changed zoning from BU-1 to GU and approved a Conditional Use Permit (CUP) for the purpose of digging a borrow pit on the site, June 1981.
- **Resolution Z-10499** – Changed zoning from GU to AGR (Agricultural) on 5.9 acres and changed zoning from GU to BU-2 (Retail, Warehousing & Wholesale Commercial) on 4 acres of the site. This approval was conditioned with a Binding Development Plan recorded in OR Book 4257 at Page 1414, December 2000.
- **Resolution Z11405B** – approved a Small-Scale Amendment to the Future Land Use designation of the property from NC (Neighborhood Commercial) to CC (Community Commercial); and a companion zoning action **Z11405A**, changing the zoning classification from AGR to BU-2 and removed the Binding Development Plan recorded in December 2000, May 2008.

The access to the proposed 2.60 acre goat farm is through the commercial site's parking lot and gravel interior driveways.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Vacant land	BU-1	CC
South	Outdoor storage	BU-2	CC
East	Vacant land	BU-2	CC
West	Florida East Coast Railroad	N/A	N/A

The property to the north of the subject is vacant land encumbered with a large borrow pit. It is zoned BU-1 and has a land use designation of Community Commercial (CC). The BU-1 zoning classification allows retail commercial uses on minimum 7,500 square foot lots. It does not permit warehousing or wholesaling like the adjacent property zoned BU-2.

The property to the south is owned by the same owner and is zoned BU-2. The BU-2 classification permits retail, wholesale and warehousing uses on minimum 7,500 square foot lots. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted such as contracting and heavy repair services. The underlying land use is CC (Community Commercial).

The property to the east is owned by the same owner. It also has BU-2 zoning with a CC land use designation. The property currently houses sheds and outdoor landscape materials for the business located on the site. A proposed site plan under **24SP00003** proposes to add a 6,400 square foot warehouse facility under the name of North Pineda Warehouse Center.

The FEC Railway ROW is located to the west and adjacent to the subject property. The character of the neighborhoods west of the FEC railway transitions from commercial, retail, and light industrial to the planned neighborhood communities of Suntree and Viera.

The proposed AU zoning classification permits single-family residential development of spacious character. The minimum house size in the AU zoning district is 750 square feet. The classification is divided into two types, AU and AU(L). AU is the standard agricultural residential classification, while the AU(L) is a low intensity sub-classification more suited to smaller lots where the neighborhood has a more residential than agricultural character.

In considering the request, it is important to note that the proposed AU zoning allows for the use called, 'agritourism'. There are no properties within a 500 ft. radius of the subject-property zoned AU. The closest AU zoning is 1,770 feet to the NW abutting the west side of the FEC Railway ROW. That property is developed with a 200' lattice wireless communications tower and does not support an agricultural exemption.

There have been three zoning actions within a half-mile radius of the subject property within the last three (3) years.

- **23Z00009 approved on August 30, 2023, amending an existing BDP for property buffers and design standards for a RV-Boat storage facility located approximately 1,000 feet SW of Freeman Lane. A formal site plan has been submitted for approval on this parcel, but no permits have been issued (23SP00017).**
- **21PZ00012 was approved May 8, 2021, for a CUP (Conditional Use Permit) to allow alcoholic beverages (beer & wine only) in connection with a pet kennel located on Suntree Boulevard.**
- **There is a pending zoning action (24Z00024) to rezone a parcel from RU-2-10 to BU-2. The property, 7235 Waelti Drive, is located just west of the subject site in the largely heavy commercial-light industrial corridor between US Highway 1 and the FEC Railway corridor.**

Future Land Use

The subject property has a Future Land Use designation of CC (Community Commercial). Both the current BU-2 and proposed AU zoning can be considered compatible with the CC Future Land Use Designation pursuant to Section 62-1255.

Applicable Land Use Policies

Per **FLUM Policy 2.10** residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial (NC) and Community Commercial (CC) land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the FLUM. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the FLUM which is on the same side of the street.

Criteria:

- A.** Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.

This application is a request to re-zone a 2.60 acre portion of the most northwestern area of the 10.68 acre property for an agricultural, not residential use. The FLU remains CC and is bounded by commercial zonings BU-1 and BU-2. The surrounding area is not appropriate for residential use.

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 proposed use is in an area with heavy commercial use. Therefore, the request is not anticipated to diminish the enjoyment of safety or quality of life in the surrounding 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 a 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 area is commercial in character on the west side of US Highway 1. The uses east of Highway 1 along the Indian River corridor in the proximate area are residential and recreational uses.

There are no agricultural uses nor property zoned as AU in the area.

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

There has been no new development within 0.5 miles of the subject-property within the last three years.

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

There are two projects undergoing site plan review currently. The first is a site plan for Ranger Storage, located approximately 1,000 feet to the south of the subject parcel, on the south side of Freeman Lane under 23SP00017.

This project proposes three (3) buildings with a total of 32 units and 26,168 square feet of internal storage. The second project for North Pineda Warehouse Center, located directly east of this zoning request, proposes to develop two (2) 3,200 square foot buildings which totals 6,400 square foot of internal warehouse facility use under site plan under 24SP00003.

- 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.**

This location is not within an established residential neighborhood or area. The site under consideration is more than 600 linear ft. from any residential zoned property and can be considered an introduction of AU into the area. While AU zoning does allow residential, the applicant is proposing a goat rescue to remedy a Code Enforcement action. Staff analysis indicates that the residential use is incompatible with the surrounding 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.**

This subject area is clearly defined by US Highway 1 to the east, and the Florida East Coast Railway ROW corridor to the west. This request is within an established commercial corridor bounded by commercial and industrial zoning in all directions. There is not an established residential neighborhood adjacent to this request across the railroad.

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 adjacent area is commercial in nature not residential.

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 commercial in nature. Residential development is east of US Highway 1 adjacent to the Indian River to the east, and west of US Highway 1 in the planned community of Suntree.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1 between Suntree Boulevard and Viera Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 60.64% of capacity daily. The maximum development potential from the proposed rezoning does not increase the percentage of MAV utilization.

No school concurrency information has been provided as the development potential of this site (1 residential unit/2.5 acres) falls below the minimum number of new residential lots that would require a formal review.

The parcel is within the City of Cocoa limits for potable water. The property does not have access to Brevard County sanitary sewer.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

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

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

Item No. 24Z00026

Applicant: Curtis McKinney (Owners: Timothy Stickrath Developer, Inc.)

Zoning Request: BU-2 to AU

Note: for agricultural use (goat sanctuary)

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

Tax ID No.: 2601599 (portion of)

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Coastal High Hazard Area
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Aquifer Recharge Soils

The entire property contains St. Lucie fine sand, 0 to 5 percent slopes; and Pomello sand, classified as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 and/or 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

A few small, spotty areas adjacent to the existing pond are mapped as 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. However, these areas appear to be associated with the pond edges and the connection of the pond to the Indian River Lagoon (IRL) through the culvert under U.S. 1, and not in the property uplands.

Indian River Lagoon Nitrogen Reduction Septic Overlay

A portion of this 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.

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.

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

H.8. Stickrath Developer, LLC. requests a change of zoning classification from BU-2 to AU. (24Z00026) (Tax Account 2601599) (District 4). This item was continued from the September 16, 2024, P&Z/LPA meeting for re-advertisement.

Trina Gilliam read the application into the record.

Kurtis McKinney, on behalf of the applicant, stated the owner is turning the property into a goat rescue. He's been saving the rescued goats for some years and code enforcement came down there just doing a regular inspection and saw that, and said something about it to him, so he's just taking one acre of property out of there and just cut it out as the goat rescue. He just does it for the community and he's probably spent about \$100,000.00 at this point rescuing goats. Mr. McKinney said he doesn't necessarily have anything other than that to put toward it. They advertise them on Facebook and places like that if they want to take them and rescue them and put them to a good home. It's one of those things he does in his spare time.

No public comment.

Ron Bartcher asked if the property has a grassy field for the goats.

Mr. McKinney said yes. They're fed pretty good.

Mr. Bartcher then asked if the area was fenced so the goats would be contained.

Mr. McKinney stated it is and has shelter with a birthing station.

Mr. Bartcher asked if the owner would be willing to add a BDP to limit the use of the AU zoning to a goat rescue only.

Mr. McKinney stated he was sure he would but couldn't just sign up for that right now based on what happens if he gets an alpaca or maybe another goat. It's just a little tiny rescue on one acre. They've never had more than 7 or 9 animals there at any one time. He's known about it for maybe 10 or 8 years. He started it in Okeechobee, Florida and now he's brought it up here. This is his second location. It's tucked in the back behind Welty Lake. They can't swim. Behind them is the junkyard with a 40' hill to climb. So, I don't want to say that he would be or wouldn't be.

Mr. Bartcher wants a BDP to restrict the AU.

Jeffrey Ball suggested to have a BDP to limit the use to raising and grazing of farm animals.

John Hopengarten asked about the adjoining property to the south.

Mr. McKinney stated that it is a cemetery.

Mr. Hopengarten then asked about the ownership of the property to the south and if there really was grass because there's nothing there but a pond on that little section.

Mr. McKinney said that it is Landscape Depot, full of rocks. There's a lot more vegetation than what you're seeing there and that they're fed daily.

Mr. Hopengarten further inquired on which portion of the site was to be rezoned to AU.

Jeffrey Ball responded to questions about what part of the site will be AU. Only the box that's highlighted in the yellow on the map will be AU. So, it would only be the 2.5-acre piece that you're looking at on the map.

Mr. McKinney further explained that they only needed three quarters of an acre for 6 or 8 goats. They made him go to 2.5 acres and that's why they encompassed the lake into it. Really don't need that much property because they aren't rescuing that many goats or farm animals.

Mr. Hopengarten then stated that the lake drains onto the highway.

Mr. McKinney stated the lake illegally drains onto his owner's property. It's an issue with the County right now because the County is in the middle of a lawsuit with Mr. Welty.

Motion to recommend approval of item H.8. with a BDP to limit the use to raising and grazing of farm animals, by Ron Bartcher, seconded by John Hopengarten. The motion passed unanimously.

EAST COAST RAILROAD

CERTIFICATION:

I HEREBY CERTIFY: THAT THE ATTACHED SURVEY WAS DONE UNDER MY
DIRECTION AND MEETS THE STANDARDS AND PRACTICE SET FORTH BY THE
FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17
FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 FLORIDA
STATUTES.

Digitally signed by Joel A

Joel A Seymour

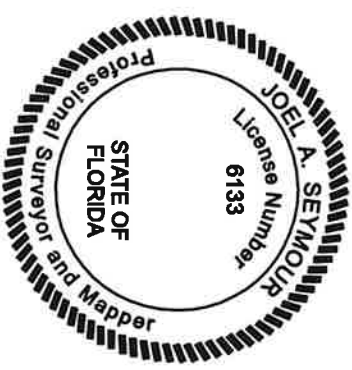
Seymour

Date: 2024.06.25 09:31:23 -04'00'

JOEL A. SEYMOUR PROFESSIONAL LAND SURVEYOR AND MAPPER
STATE OF FLORIDA NO. LS 6133

DRAWN BY: JED

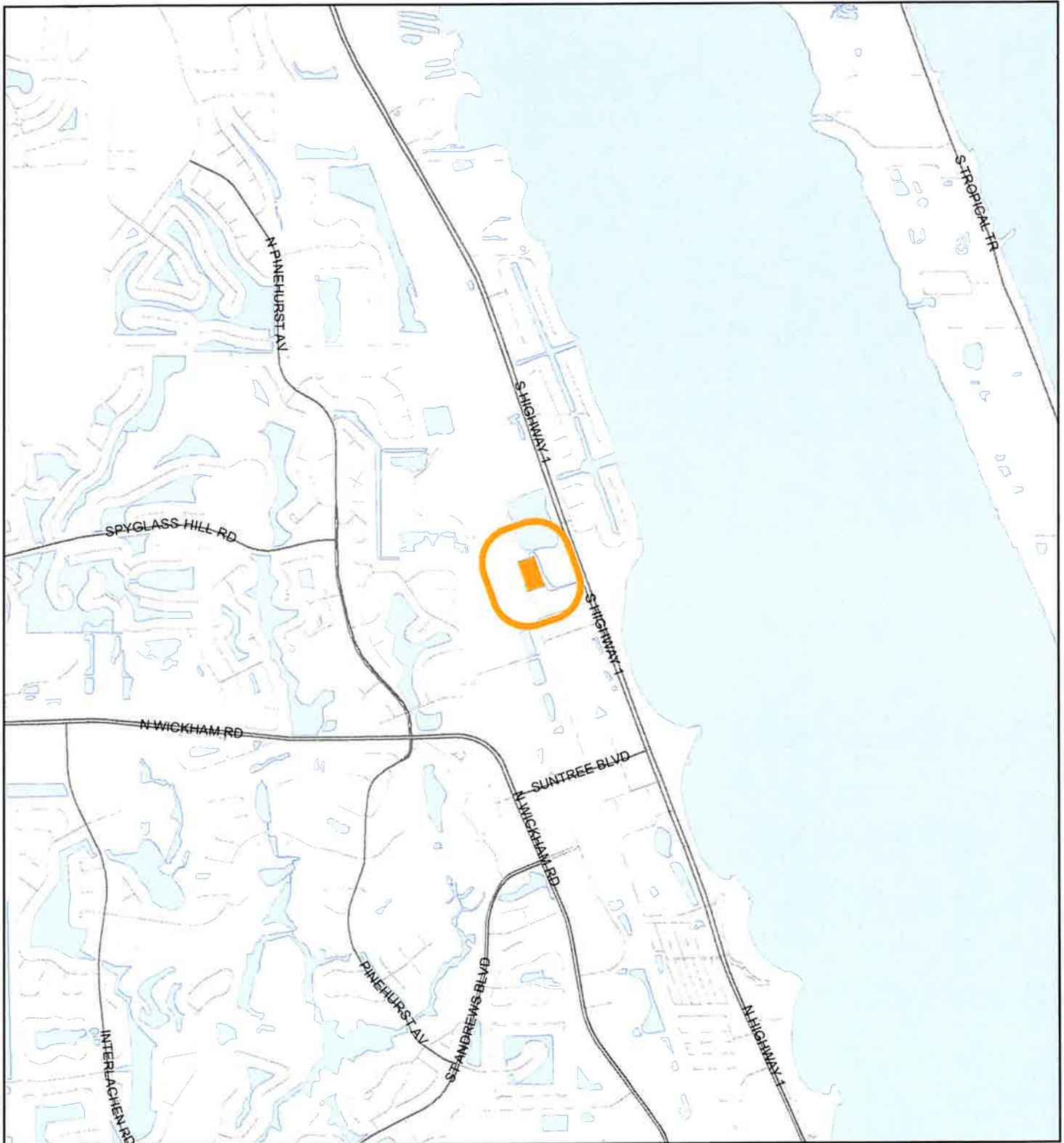
SCALE 1 INCH = 60 FEET



LOCATION MAP

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



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

Buffer Distance: 500 feet

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

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

- Buffer
- Subject Property



ZONING MAP
TIMOTHY STICKRATH DEVELOPER INC
24Z00026



1:4,800 or 1 inch = 400 feet

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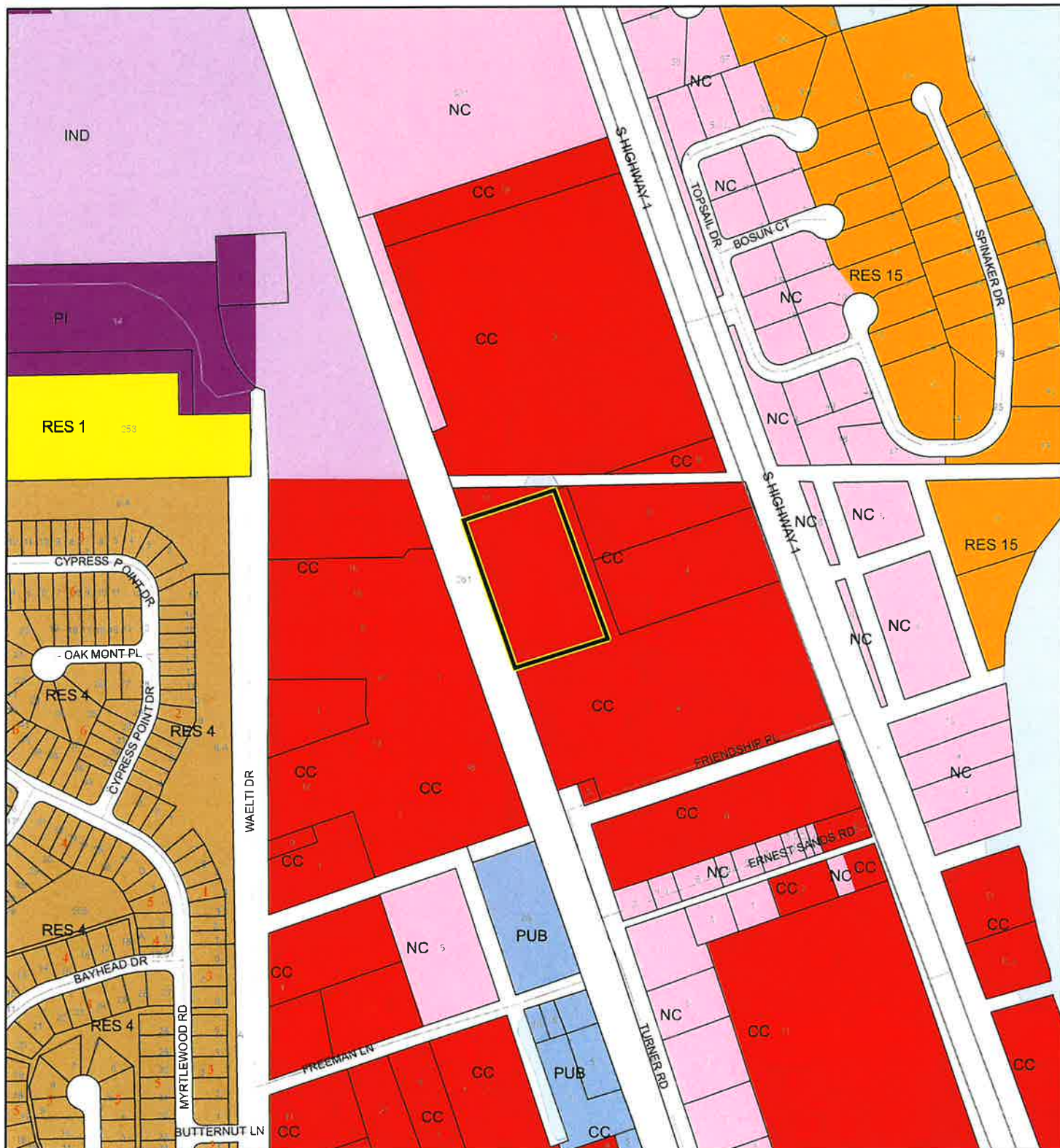
Produced by BoCC - GIS Date: 7/8/2024

-  Subject Property
-  Parcels
-  Zoning

FUTURE LAND USE MAP

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels

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

AERIAL MAP
TIMOTHY STICKRATH DEVELOPER INC
24Z00026





1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2024

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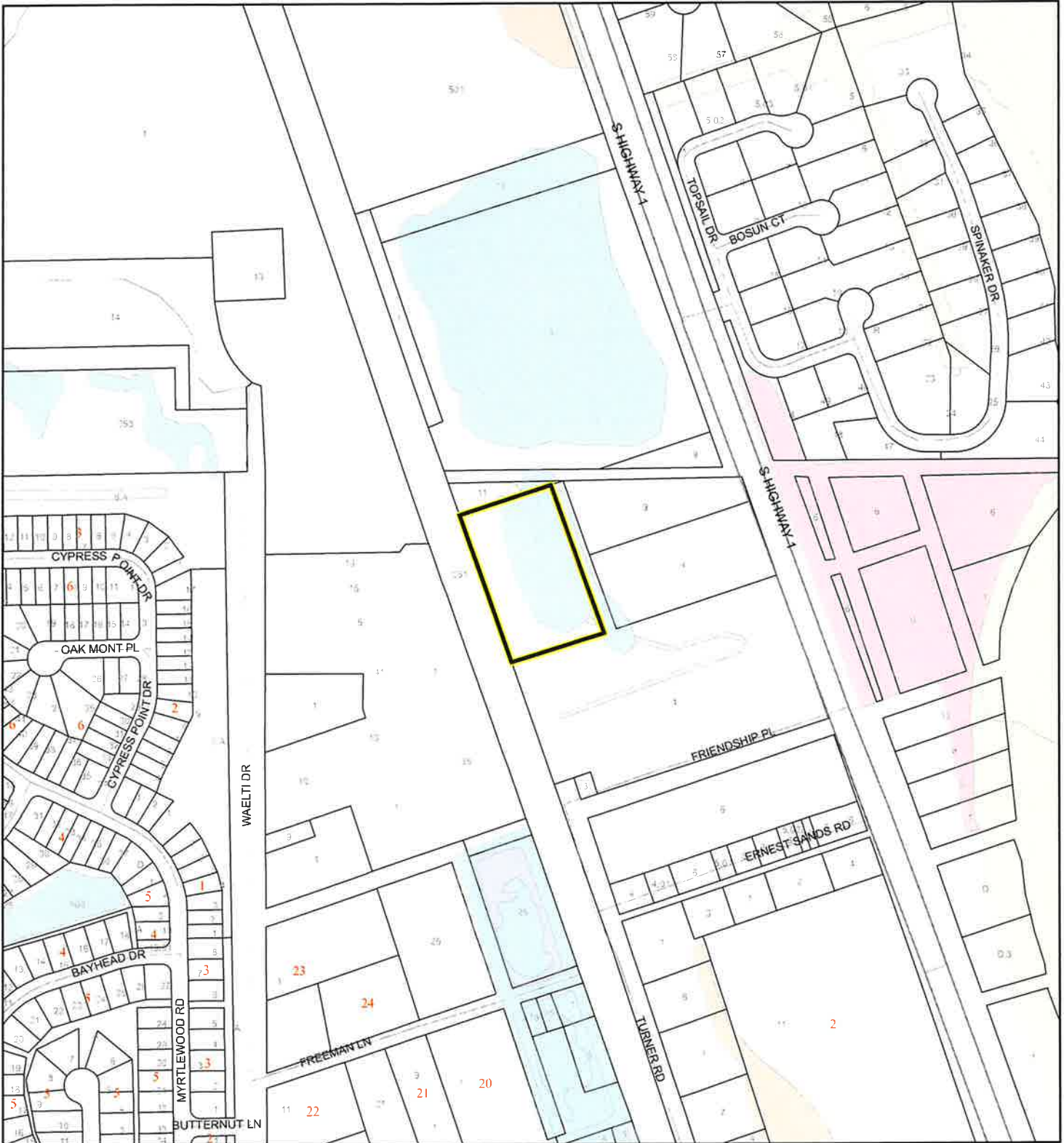
Produced by BoCC - GIS Date: 7/8/2024

 Subject Property
 Parcels

NWI WETLANDS MAP

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



1:4,800 or 1 inch = 400 feet

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

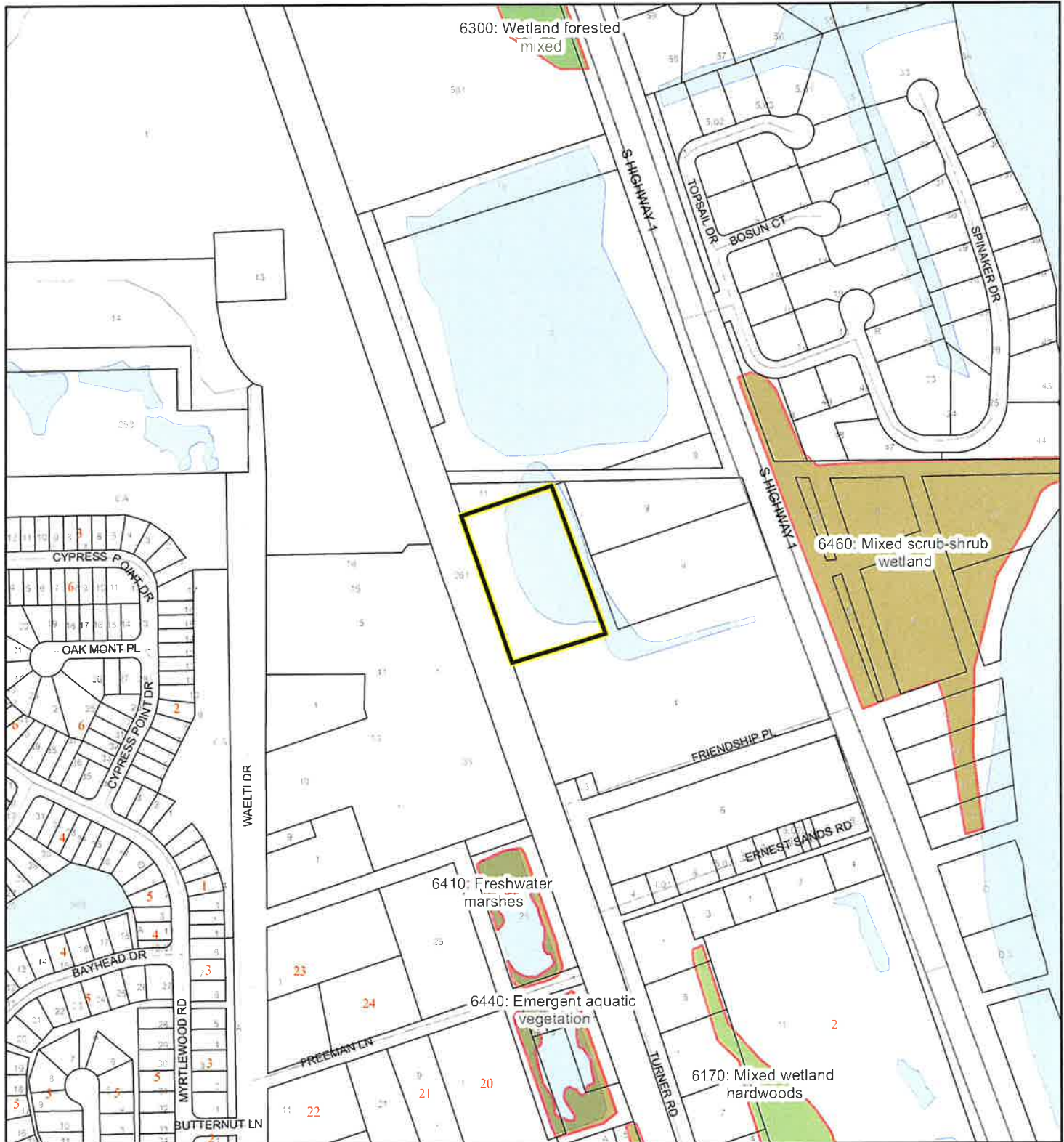
National Wetlands Inventory (NWI)

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

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



1:4,800 or 1 inch = 400 feet

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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

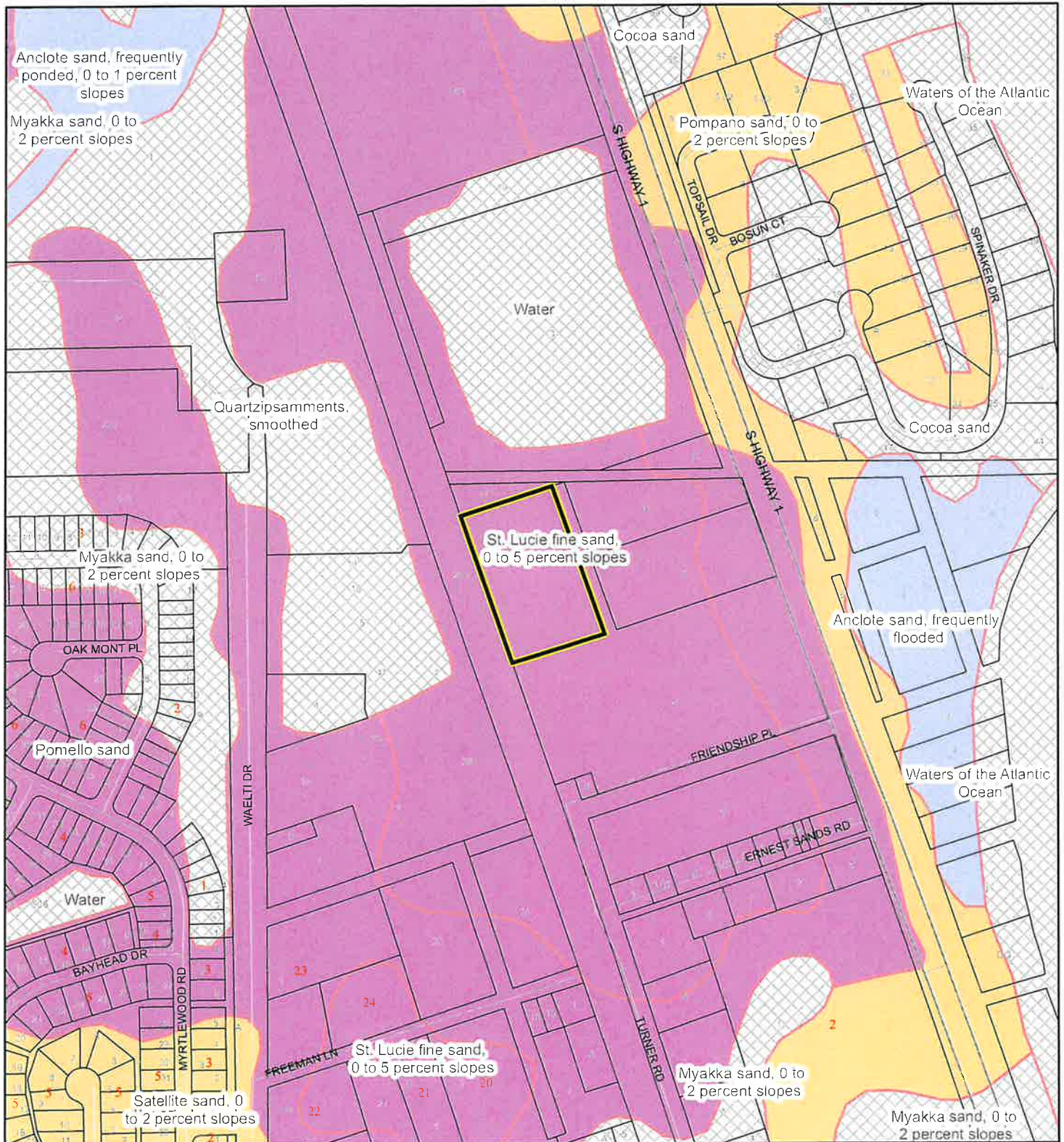
Subject Property

Parcels

USDA SCSSS SOILS MAP

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



1:4,800 or 1 inch = 400 feet

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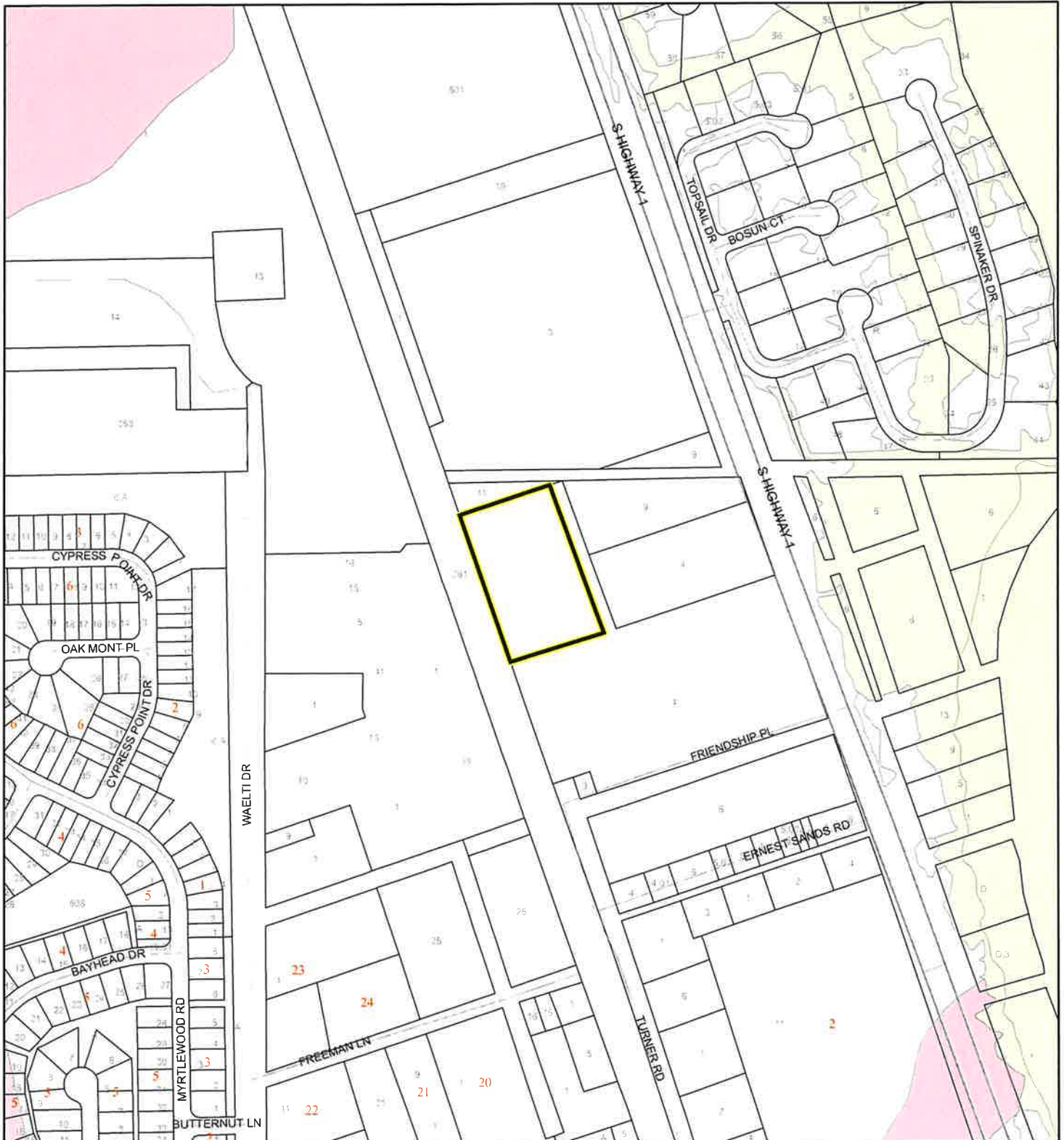
USDA SCSSS Soils

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

FEMA FLOOD ZONES MAP

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



1:4,800 or 1 inch = 400 feet

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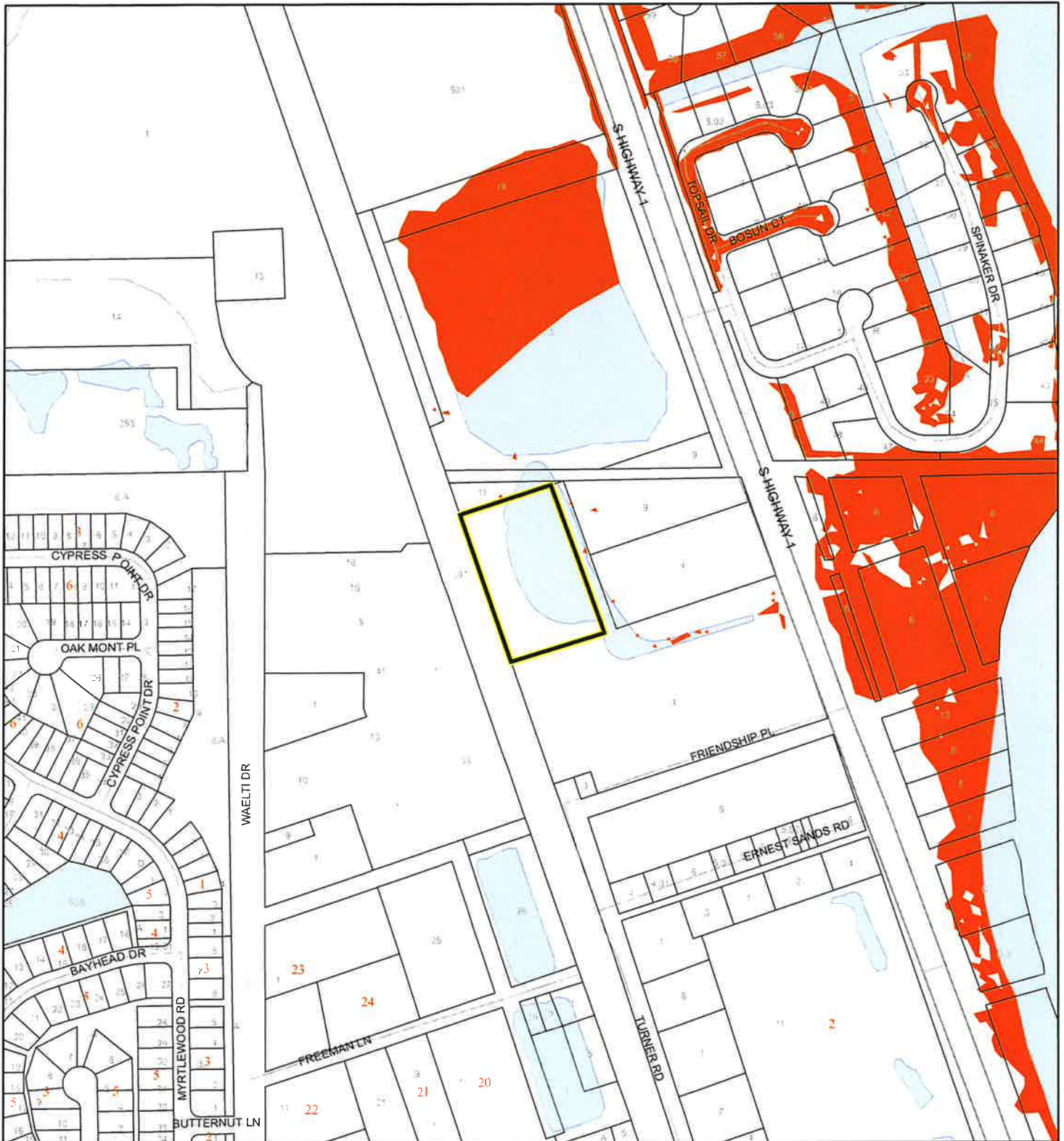
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



1:4,800 or 1 inch = 400 feet



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

Subject Property

Parcels

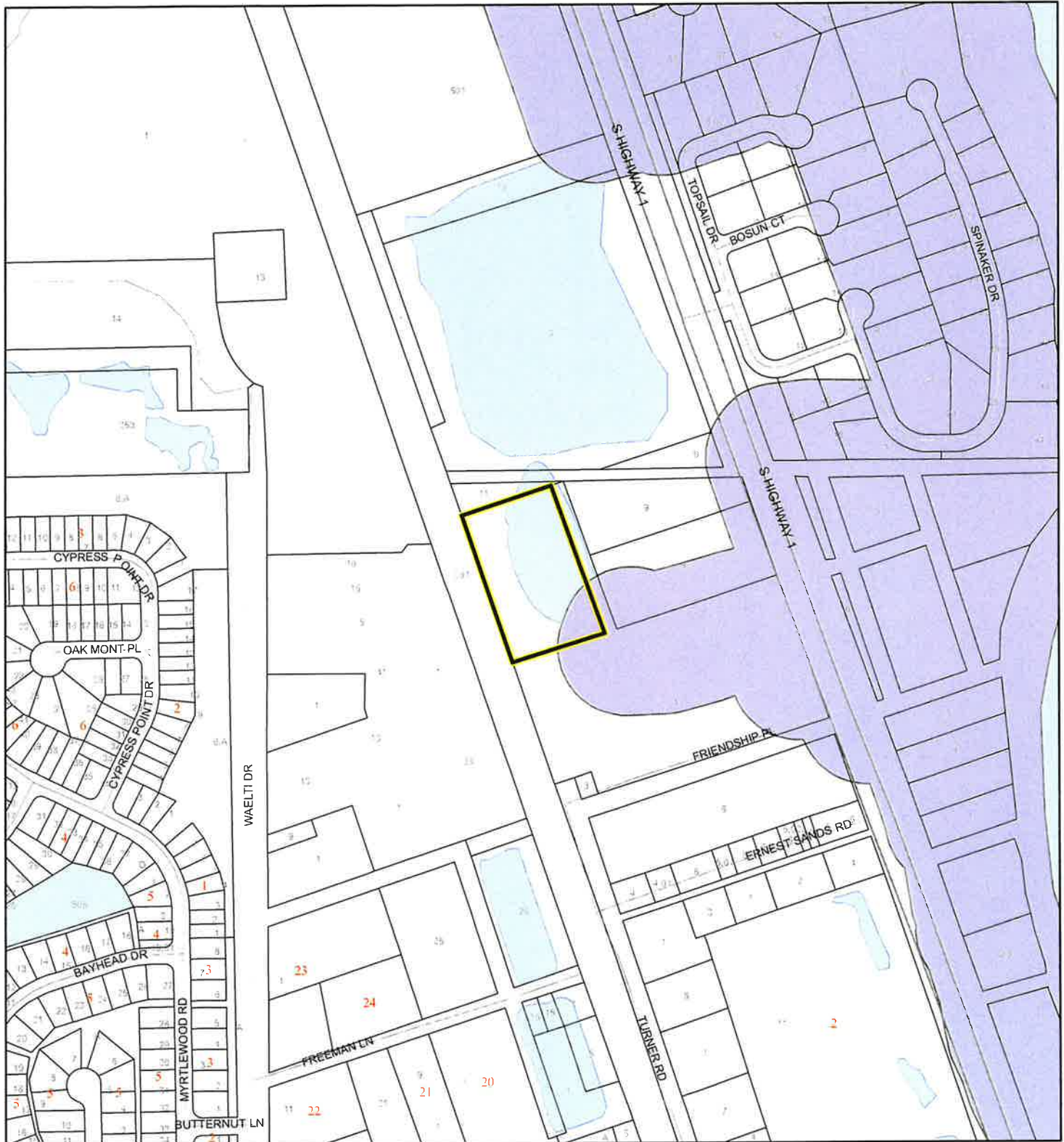
Coastal High Hazard Area

SurgeZoneCat1

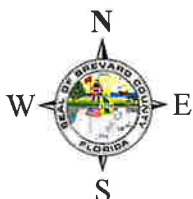
INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



1:4,800 or 1 inch = 400 feet



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

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

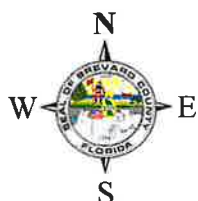
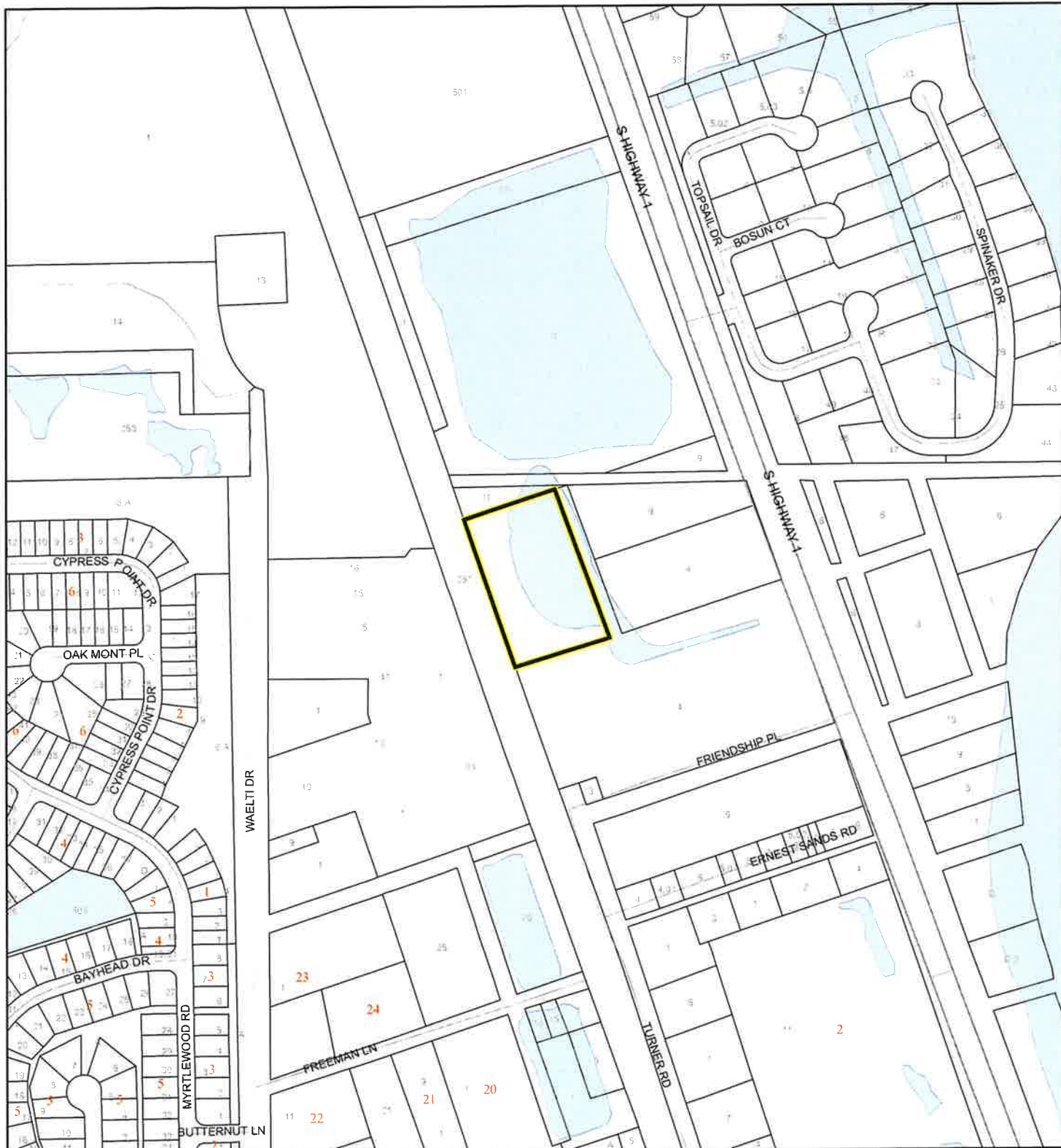
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



1:4,800 or 1 inch = 400 feet

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

 Subject Property

 Parcels

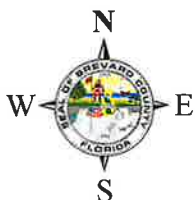
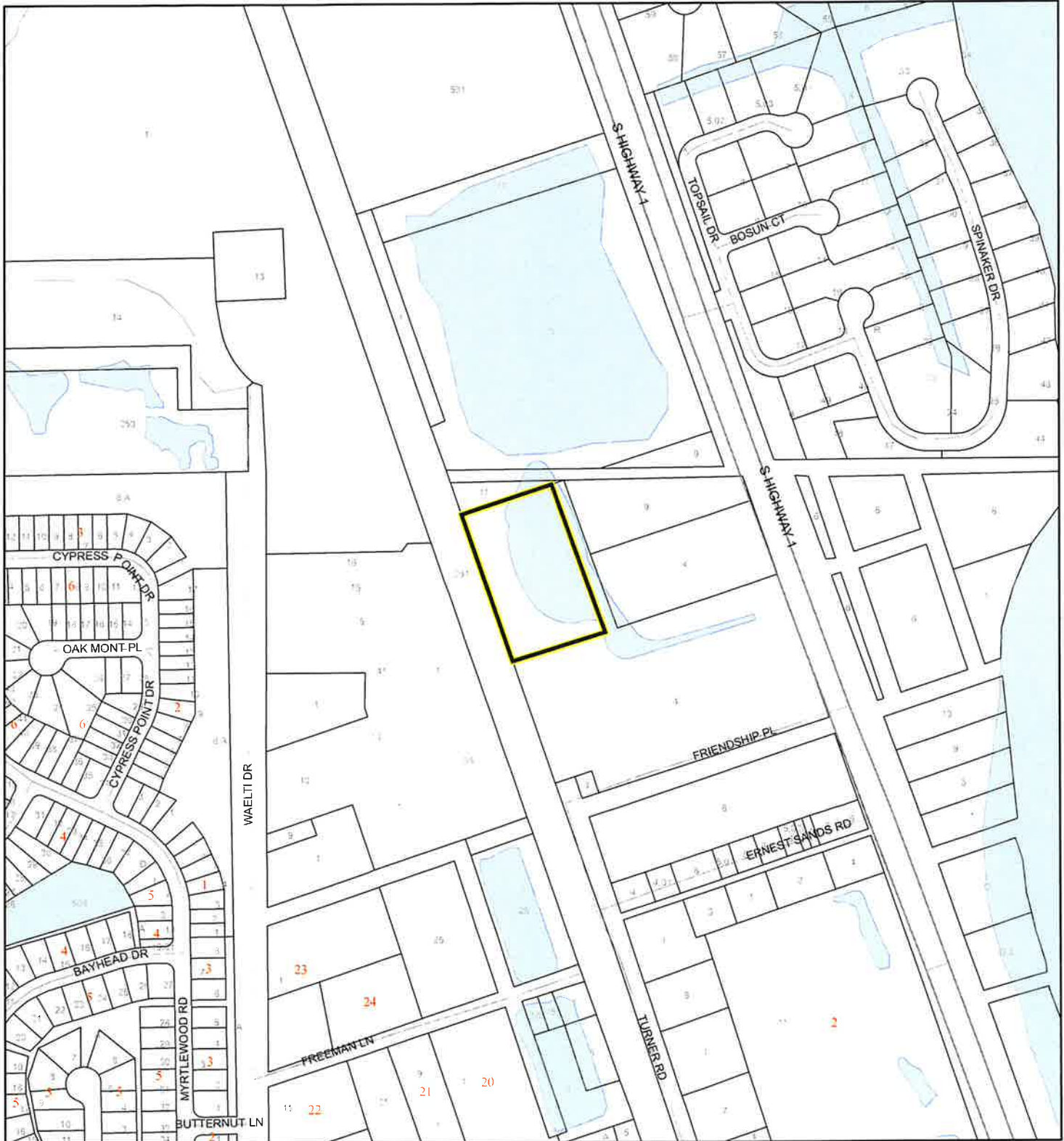


Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

TIMOTHY STICKRATH DEVELOPER INC




24Z00026



1:4,800 or 1 inch = 400 feet

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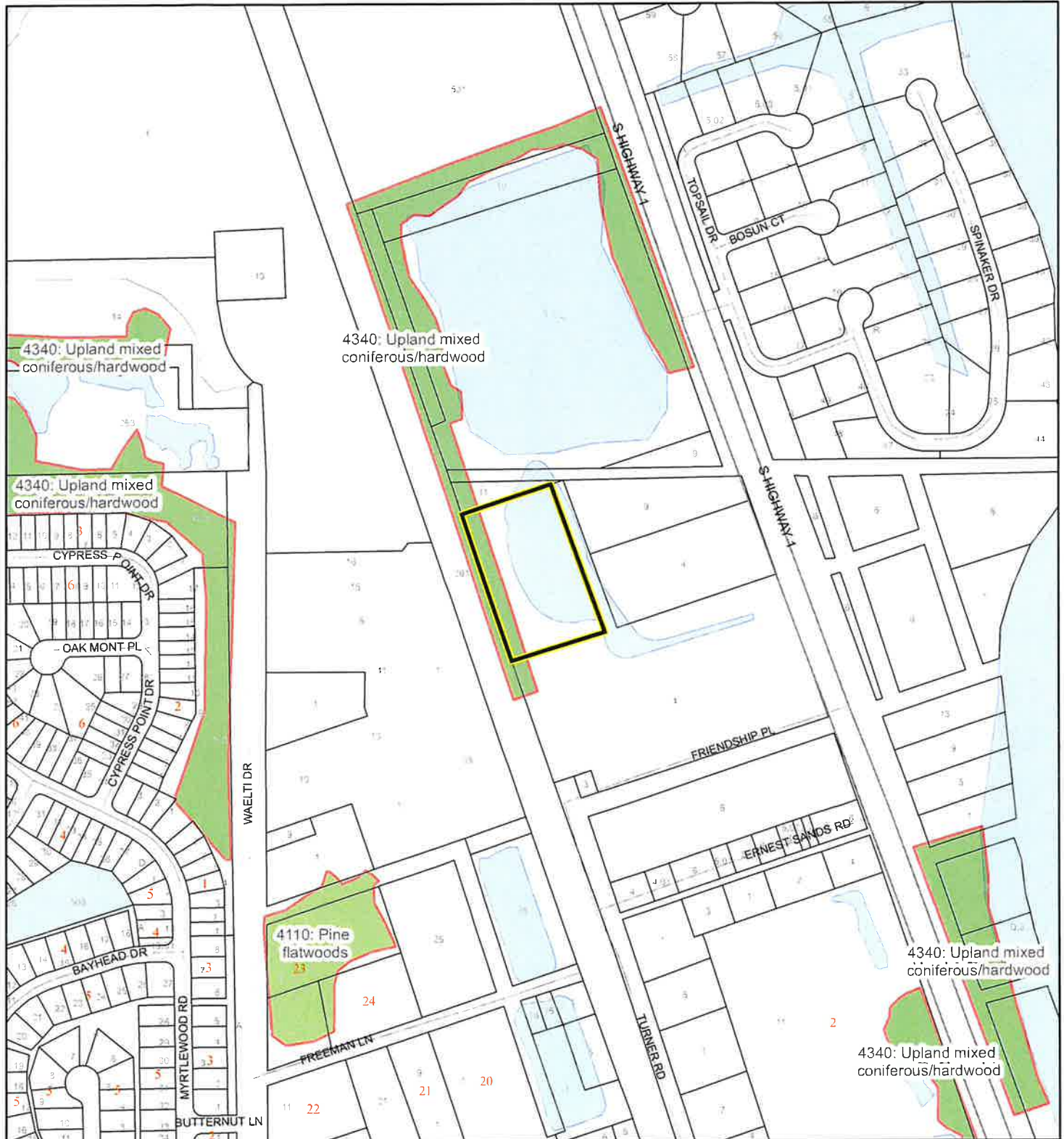
Produced by BoCC - GIS Date: 7/8/2024

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

TIMOTHY STICKRATH DEVELOPER INC

24Z00026



1:4,800 or 1 inch = 400 feet

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

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