



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.7.

3/13/2025

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### Subject:

The Mohan Family Trust Dated January 25<sup>th</sup>, 2023, requests a change of zoning classification from RU-1-11 to BU-1-A. (24Z00063) (Tax Account 2426731) (District 2)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-11 (Single-Family Residential) to BU-1-A (Restricted Neighborhood Retail Commercial).

### Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RU-1-11 (Single-family Residential) to BU-1-A (Restricted Neighborhood Retail Commercial) to allow for a single-family residence to be converted for commercial use allowable within the BU-1-A zoning classification. The subject property is located directly on E. Merritt Ave., a county-maintained roadway.

The BU-1-A zoning classification is established on the property abutting to the east (gift shop) and west (dog grooming and boarding). The property on the west side is bifurcated by a vacant residential common area containing less than the required width and depth of RU-1-11.

The BU-1-A zoning classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet. Conditional uses such as childcare centers and private clubs are also permitted in this classification.

North of the subject property across E. Merritt Ave., are 2 parcels, each approximately 0.25 acres, developed with single-family residences, RU-1-9 zoning and Residential 6 (RES 6) FLU designation. South of the subject property is 1 parcel, 0.87 acres of vacant land, RU-1-11 zoning and Neighborhood Commercial FLU designation. East of the subject property is 1 parcel, 0.24 acres, developed with single-family residence converted to a commercial retail business (currently a gift shop), BU-1-A zoning and NC FLU designation. West of the subject property is 1 parcel, 3.88 acres, is a lake privately owned and vacant privately owned residential common area, RU-1-11 zoning and NC FLU designation.

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

On February 17, 2025, the Planning and Zoning Board heard the request and recommended approval. The vote was 10:1.

**Clerk to the Board Instructions:**

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

**Resolution 24Z00063**

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

**WHEREAS**, The Mohan Trust Dated January 25<sup>th</sup>, 2023, requests a change in zoning classification from RU-1-11 (Single Family Residential) to BU-1-A (Restricted Neighborhood Retail Commercial), on property described as Tax Parcel 11.02, as recorded in ORB 10006, Pages 2091-2093, of the Public Records of Brevard County, Florida. **Section 35, Township 24, Range 36.** (0.34 acres) Located on the south side of E. Merritt Ave. and approx. 100 ft. west of N. Plumosa St. (375 E. Merritt Ave., Merritt Island); and

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

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

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-1-11 to BU-1-A, 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 March 13, 2025.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

  
Rob Feltner, Chair  
Brevard County Commission  
As approved by the Board on March 13, 2025.

ATTEST:

  
RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – February 17, 2025

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

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

### STAFF COMMENTS 24Z00063

#### The Mohan Trust

#### RU-1-11 (Single-Family Residential) to BU-1-A (Restricted Neighborhood Retail Commercial)

Tax Account Number: 2426731  
Parcel I.D.: 24-36-35-01-D-11.02  
Location: 375 E. Merritt Ave. (District 2)  
Acreage: 0.34 acres

MIRA: 01/23/2025  
Planning & Zoning Board: 02/17/2025  
Board of County Commissioners: 03/13/2025

#### Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
<b>Zoning</b>	RU-1-11	BU-1-A***
<b>Potential*</b>	1 Single-family residential	FAR 0.75
<b>Can be Considered under the Future Land Use Map</b>	YES NC**	YES NC

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

\*\* Yes, classification may be considered, if permitted by Policy 2.10 of the Future Land Use (FLU) Element.

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

#### Background and Purpose of Request

The applicant is requesting a change of zoning classification from RU-1-11 (Single-family Residential) to BU-1-A (Restricted Neighborhood Retail Commercial) to allow for a single-family residence to be converted for commercial use allowable within the BU-1-A zoning classification. The subject property is located directly on E. Merritt Ave., a county-maintained

roadway. BU-1-A zoning classification is established on the property abutting to the east (gift shop) and west (dog grooming and boarding). The property on the west side is bifurcated by a vacant residential common area containing less than the required width and depth of RU-1-11.

The BU-1-A zoning classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet. Conditional uses such as childcare centers and private clubs are also permitted in this classification.

An example of one of the most intense uses allowable within the BU-1-A zoning is a donut/coffee shop without a drive through and an example of a low intense use would be a medical clinic.

On May 22, 1958, Brevard County adopted the zoning code, and the subject property was established with the zoning classification of RU-1, Single-family residential. Based on the best available data from the Brevard County Property Appraiser, the lot was created on January 7, 1955 as part of Replat of Merritt Lakes Estate.

The subject property contains two parcels all within Lot 11 Block D, Replat of Merritt Lakes Estates according to Quit Claim Deed, recorded in ORB 9300, PG 368 on 10/21/2021.

On June 1, 1972, zoning action **Z-2980** administratively rezoned the subject property from RU-1 to RU-1-11.

On April 19, 2023, action **22V00021**, approved a variance to the BU-1-A front setback requirements which was needed for rezoning of the subject property to BU-1-A.

### Surrounding Area

	Existing Land Use	Zoning	Future Land Use
<b>North</b>	Northside of E. Merritt Ave. is single-family residential	RU-1-9	RES 6
<b>South</b>	Vacant Land	RU-1-11	NC
<b>East</b>	Commercial business, gift shop	BU-1-A	NC
<b>West</b>	Private lake and residential common area	RU-1-11	NC

North of the subject property across E. Merritt Ave., are 2 parcels, each approximately 0.25 acres, developed with single-family residences, RU-1-9 zoning and Residential 6 (RES 6) FLU designation.

South of the subject property is 1 parcel, 0.87 acres of vacant land, RU-1-11 zoning and Neighborhood Commercial FLU designation.

East of the subject property is 1 parcel, 0.24 acres, developed with single-family residence converted to a commercial retail business (currently a gift shop), BU-1-A zoning and NC FLU designation.

West of the subject property is 1 parcel, 3.88 acres, is a lake privately owned and vacant privately owned residential common area, RU-1-11 zoning and NC FLU designation.

The RU-1-9 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

**The RU-1-11 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.**

### **Future Land Use**

The subject property is currently designated as Neighborhood Commercial (NC) Future Land Use (FLU) designation. The current RU-1-11 zoning can be considered consistent with the existing NC FLU designation if permitted by FLUE Policy 2.10.

The proposed BU-1-A zoning designation can be considered consistent with the existing NC FLU designation under Sec. 62-1255.

### **Applicable Land Use Policies**

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

### **FLUE Policy 2.2 Role of Zoning Regulations in the Designation of Commercial Lands**

The zoning process regulates the type and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility shall include consideration of the following standards:

Criteria:

- A. Permitted/prohibited uses;  
**Permitted uses include retail shopping and personal services to serve the needs of nearby low-density residential neighborhoods. Drive through lanes are prohibited in NC designations.**

B. Existing commercial zoning trends in the area;

**Staff analysis has determined that most of the commercial development has been established since approximately 1965.**

**However, recent trends suggest the area may be undergoing redevelopment. There have been four single-family residential properties that have been rezoned to BU-1-A since the establishment of the residential area within Merritt Lakes Estates in 1955.**

**Within the 0.5 mile radius of the subject property, off E. Merritt Island Cswy., there is a hotel that has plans to be converted to 190 multi-family residences, pending a rezoning action under 24Z00066 to change from a commercial zoning BU-2 to RU-2-30, a high density multi-family zoning. A pending companion FLU amendment application under 24SS00015 request a change from CC to RES 30. Concurrently, there has been an approved Planned Unit Development (PUD), on E. Merritt Ave. and Borman Dr., from July 2022, known as the Health First PUD, 22PUD00001, for building a new hospital under application 22P.**

C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

**The proposed rezoning will have single-family residential zoning RU-1-9 to the north, across E. Merritt Ave., a 6-lane divided roadway. East of the subject property has BU-1-A zoning classification and currently has restricted neighborhood retail and services use. South and west of the subject property is vacant land, zoned RU-1-11.**

D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

**Roadway LOS for the proposed will increase the percentage of MAV utilization by 3.09% based on the most intense use in the proposed BU-1-A zoning classification. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change.**

E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and

**No impacts are anticipated as this is an existing structure with no proposed expansion to the structure.**

F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

**No other issues are anticipated to emerge. There is an existing structure on the property and no expansion has been proposed. There are multiple BU-1-A properties already established throughout the surrounding area of the subject property.**

### **FLUE Policy 2.5 Activities Permitted in Neighborhood Commercial Land Use Designations**

Neighborhood Commercial (NC) development activities are intended to be low impact in nature and serve the needs of the immediate residential area. Intrusion of these land uses into surrounding residential areas shall be limited. Existing BU-1-A uses, which were established as of the adoption date of this provision shall be considered consistent with this policy. Development activities which may be considered within Neighborhood Commercial (NC) Future Land Use designation, provided that listed criteria are met, include the following:

- a) Professional offices (no drive through lanes permitted);
- b) Personal Services (no drive through lanes permitted);
- c) Convenience stores (no drive through lanes permitted);
- d) Residential uses;
- e) Institutional uses;
- f) Recreational uses;
- g) Public facilities; and
- h) Transitional uses pursuant to Policy 2.11.

**Staff analysis have determined that the area is residential in nature, however, it is not a residential neighborhood. Within the area there are four properties that are zoned BU-1-A. The uses of those properties are related to restricted neighborhood commercial retail and personal services after conversion from a single-family residence.**

### **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:

**Any proposed commercial use shall be subject to compliance with all performance standards within Sec. 62-2251 through Sec. 62-2257.**

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



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

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

**There are six (6) FLU designations within a half mile of the subject property: NC and Community Commercial (CC) are on the southside of E. Merritt Ave. and RES 6 is north of the subject property on the northside of E. Merritt Ave. Public-Conservation (PUB-CONS) and Recreation (REC) designations are located east of the subject property on the north side of E. Merritt Ave. and Borman Dr. West of the subject property on the northside of E. Merritt Ave. is PUBLIC (PUB) designation.**

**CC is the predominant FLUM designation on the southside of E. Merritt Ave. and RES 6 is the predominant FLUM designation on the northside of E. Merritt Ave.**

**The area is highly developed, with commercial, multi-family and single-family residential properties. There are approximately four BU-1-A commercial lots already in place, the nearest of which is abutting the subject property to the east. Staff analysis indicates that there is an existing pattern of redevelopment in the vicinity. The most recent improvement in the area occurred in 2022, with approval of the Health First PUD.**

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

**Staff analysis has determined that there has been no actual development within 0.5 miles of the subject property within the past three years.**

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

**There has been no development approved and not constructed within the past three years. While there have been no FLUM amendments, there have been multiple zoning actions within one-half mile within the past three years:**

- **24Z00066: Approximately a tenth of a mile from the subject property on E. Merritt Island CSWY., is a pending rezoning from BU-1 to RU-2-30 for the development of 190 multi-family residences. Also included with the rezoning is a companion application for a FLU change from CC to RES 30 under 24SS00015.**
- **24Z00040: Southwest of the subject property on Palmetto Ave. and Lejeune Dr., is a pending rezoning request from RU-1-11 to RU-2-8.**
- **22PUD00001: On E. Merritt Ave. and Borman Dr., approved on 07/19/2022 the Health First PUD.**

- 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:**

- E. 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 located in a highly developed area of commercial properties situated along both the northside and southside of E. Merritt Ave. Multi-family properties are located south of E. Merritt Ave along Palmetto Ave. Single-family residential properties located along E. Merritt Ave at Hampton Way to the north. There are more single-family properties situated south along N. Plumosa St and Lejeune Dr.**

**Within the search radius, there are several BU-1-A properties, with the closest being the abutting property to the east and is a gift shop.**

**The request is not anticipated to impact the surrounding established area of commercial, multi-family and single-family residential uses materially or adversely as there are already multiple BU-1-A properties in the area.**

**At the time of the submitted request, the applicant has not provided a concept plan for the conversion of the property for a commercial 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. The maximum development potential from the proposed rezoning increases the percentage of MAV by 3.09%.**

- F. In determining whether an established residential neighborhood exists, the following factors must be present:

1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

**Staff analysis indicates this area is not an established neighborhood with clearly established boundaries. .**

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

**The proposed use is not located in an existing 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.

**Zoning actions within one-half mile within the past five years:**

**•24Z00066: Approximately a tenth of a mile from the subject property on E. Merritt Island CSWY., is a pending rezoning from BU-1 to RU-2-30 for the development of 190 multi-family residences. Also included with the rezoning is a companion application for a FLU change from CC to RES 30 under 24SS00015.**

**•24Z00040: Southwest of the subject property on Palmetto Ave. and Lejeune Dr., is a pending rezoning request from RU-1-11 to RU-2-8.**

**•22PUD00001: On E. Merritt Ave. and Borman Dr., approved on 07/19/2022 the Health First PUD to build a new hospital.**

**•21Z00015: Southwest of the subject property on Palmetto Ave., approved on 08/05/2021 a rezoning from BU-1 to RU-2-15 for a 13 unit townhome development.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is e. Merritt Ave. from N. Courtenay Pkwy. (S.R. 3) to Plumosa St., which has a Maximum Acceptable Volume (MAV) of 33,800 trips per day, an acceptable Level of Service (LOS) of E, and currently operates at 38.53% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 3.06%. The corridor is anticipated to operate at 41.59% of capacity daily. This is only a preliminary review and is subject to change. This concurrency is based on if the applicant were to have a donut/coffee shop without a drive through which would be the most intense use allowed within the BU-1-A zoning classification. No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The subject property has access to potable water through the City of Cocoa Utility Services. Sewer service is available in the area through Brevard County Utilities.

### **Environmental Constraints**

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

- Wetlands
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements
- Potential Code Enforcement

Refer to the complete NRM report on the following page.

### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item No. 24Z00063**

**Applicant:** Kamaldi Mohan(Owners: Mohan Family Trust)

**Zoning Request:** RU-1-11 to BU-1-A

**Note:** for commercial use (beauty/spa)

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

**Tax ID Nos.:** 2426731 (0.34 ac)

- 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
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Land Clearing and Landscape Requirements
- Potential Code Enforcement

**Land Use Comments:**

**Wetlands**

There were no mapped hydric soils or wetlands identified. A review of historical aerials indicates that there is vegetation along the shoreline of the stormwater pond that could be an indicator of wetlands. The applicant provided an environmental assessment (Andrew Conklin Environmental Services, LLC, October 21, 2024) identifying a small area of wetlands along the pond shoreline. The wetland assessment shall be verified prior to any land clearing activities, site plan design, or building permit submittal. The report indicates that there is little to no likelihood of the need to impact the wetlands. Note that the property does not meet the criteria in Section 62-3694(c)(3)b to impact and mitigate wetlands for a commercial use. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

**Floodplain Protection**

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency, and as shown on the

FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

#### **Indian River Lagoon Nitrogen Reduction Septic Overlay**

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

#### **Land Clearing and Landscape Requirements**

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) tree preservation. Land clearing is not permitted without prior authorization by NRM. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

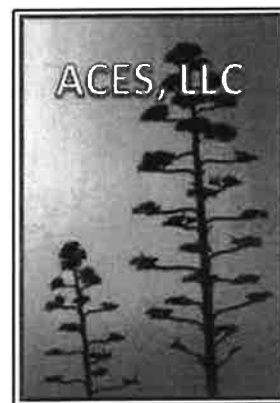
#### **Potential Code Enforcement**

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

## Andrew Conklin Environmental Services, LLC

Integrating Successful Development and Environmental Integrity

P.O. Box 500407, Malabar, Florida, 32950  
Phone: (321)848-1143 Email: [acesllc7@gmail.com](mailto:acesllc7@gmail.com)



October 21, 2024

Ms. Kamaldai Mohan  
5060 Saturday Place  
Cocoa, FL 32926

Re: 375 E. Merritt Avenue, Parcel No. 24-36-35-01-D-11.02, Merritt Island  
ACES File No. 24612

Dear Ms. Mohan,

Andrew Conklin Environmental Services, LLC (ACES) has completed a review of environmental issues associated with the above-referenced +/-0.43-acre property. Figure 1 depicts the location of the subject site and Figure 2 is a recent aerial photograph of the lot and vicinity depicting current conditions thereon. On October 8, 2024, ACES inspected the site for the presence of wetlands, surface waters, protected species, and indications of protected species habitat. To assess the presence and extent of wetlands, we implemented the jurisdictional wetland identification methodology of the Florida Department of Environmental Protection (DEP), which incorporates an analysis of on-site vegetation, soils, and hydrology to determine the presence or absence of jurisdictional wetlands. Where jurisdictional wetlands were found to exist, ACES identified their boundaries on a recent aerial photograph of the site. The likelihood of protected species habitation was determined by identifying the various vegetative communities and habitat types currently present on the site and referencing these against standards and indicators used by the Florida Fish and Wildlife Conservation Commission (FWC) and the U.S. Fish and Wildlife Service (USFWS). Following is a presentation of our findings.

### Soil Types

The USDA Natural Resource Conservation Service (NRCS) identifies one soil type on the site (see Figure 3). Soil maps are used by the environmental regulatory agencies as a general guideline to determine the likelihood of wetland and upland conditions on reviewed properties; soils more commonly associated with wetland conditions potentially indicate areas of lower elevation and greater surface hydrology, whereas soil types that are more commonly associated with uplands are expected to exhibit fewer or no wetland characteristics. Potentially hydric (i.e., wetland) soil types are listed in the *Hydric Soils of Florida Handbook* (Victor W. Carlisle, et al., 2007).

It should be noted that the original USDA soil survey of Brevard County was completed in 1974, and still remains the basis of the existing NRCS soils data; no new comprehensive field data has been generated for Brevard County since 1974. Due to this data gap, it is not uncommon for historical land uses, adjacent development, and drainage alterations to affect surface soils to the point where they might no longer reflect the conditions that were mapped in 1974.

ACES sampled soil types on the subject property by excavating cylindrical soil plugs from the surface, and assessing the soil profiles and characteristics of each plug. Following is a brief description of the soil type that is mapped on the subject site, compared to our observations of current soil conditions.

Myakka-Urban Land Complex – NRCS Code No. 39: This is a nearly level, poorly drained sandy soil found in urban areas that have been altered by historical land clearing, grading, and filling activities. It is not listed as a hydric soil by the *Hydric Soils of Florida Handbook*.

This non-hydric soil type is mapped over the entire site. With the exception of the southwest boundary, on-site soils are composed of non-hydric sand, with crushed concrete spread over the surface of the area west of the residential structure. The southwest boundary of the site includes submerged land and a narrow wetland fringe along the interface of uplands and open water. In this area, soils are perennially inundated or saturated to the surface.

Thus, our observations of soils on the site correspond fairly with the NRCS map. The current location of hydric soils on the property is roughly the same as the location of wetlands, as shown on Figure 4.

### **Community Types**

Using the Florida Land Use, Cover and Forms Classification System (FLUCFCS) as a guideline, ACES categorized the natural communities and land uses on the subject parcel according to FLUCFCS designations and code numbers. Figure 4 depicts the FLUCFCS communities that are present on the property. These are:

Residential, Low Density – FLUCFCS Code No. 110: This upland land use includes the existing residential structure and driveway connecting it to East Merritt Avenue, an area of approximately 0.09 acres.

Herbaceous – FLUCFCS Code No. 310: This non-forested upland community exists south and east of the structure, occupying +/-0.08 acres. It is vegetated with a maintained cover of low-growing herbaceous species, including Bahia grass, tasselflower, Mexican clover, and flat sedge. A few live oaks and cabbage palms are also present. Underlying soils are composed of non-hydric sand imbedded with sandy organic bodies. No wetland hydrologic indicators are present.

Water – FLUCFCS Code No. 500: This category refers to waters of the perennially-inundated pond southwest of the property, the northeast limit of which runs along the southwest property line. Approximately 0.01 acres of open water are located on the site.

Wetland Shrub – FLUCFCS Code No. 631: This non-forested wetland category refers to a narrow +/-0.01-acre strip of wetlands that extends along the boundary between open water and uplands. It is vegetated with flat sedge, water primrose, marsh pennywort, and cattails. The underlying soil is composed of hydric mucky-textured sand.

Auto Parking – FLUCFCS Code No. 818: This upland land use occupies about 0.24 acres west of the house. It currently consists of a graded surface of crushed concrete over non-hydric sand. Although no vegetation is present, the aerial photo (Figure 2) indicates it was previously vegetated with low-growing species similar to those in the Herbaceous community. No wetland hydrologic indicators were observed.



Thus, the site contains a total of approximately 0.41 acres of uplands, with about 0.02 acres of wetlands and inundated land along the southwest site boundary.

### **Wetland Considerations**

All topographical alteration or construction within wetlands is prohibited without the appropriate permits from DEP and Brevard County. Any time an applicant proposes to conduct work within wetlands, it must first be demonstrated that there is no way to accomplish the development goals without impacting wetlands. Because there already are sufficient uplands present to accommodate a single-family home, garage, driveway, septic system, yard space, etc., and since on-site uplands are directly accessible from E. Merritt Avenue, DEP and Brevard County are not expected to entertain any proposals to impact on-site wetlands. As such, wetland permitting and mitigation are not expected to be an issue on this site.

### **Protected Species**

On the date of our site assessment, ACES assessed the property for any indications of habitation by protected wildlife species. This included examining the property for direct visual and auditory evidence of protected species themselves, as well as assessing the site for the presence of secondary indicators, such as burrows, nests, nesting cavities, scat, tracks, trails, bird rookeries, etc. Following is a presentation of our findings.

Wading Birds: A variety of protected wading birds may occasionally be present within the Wetland Shrub and Water communities for foraging purposes. These include the tricolored heron, sandhill crane, and wood stork. There is no rookery habitat on the site to support nesting of any of these species, and none of these species were observed on the site during our inspection. Although it is possible that some or all of these species may be present from time to time along the southwest boundary of the site, such behavior is opportunistic, and not indicative of critical reliance on any on-site natural resources. Therefore, no special permits for potential impacts to these species are expected to be required.

No other protected species or protected species habitat were observed on the property that might be affected by site development. Therefore, it is our determination that protected species are not likely be adversely affected by site development and/or management.

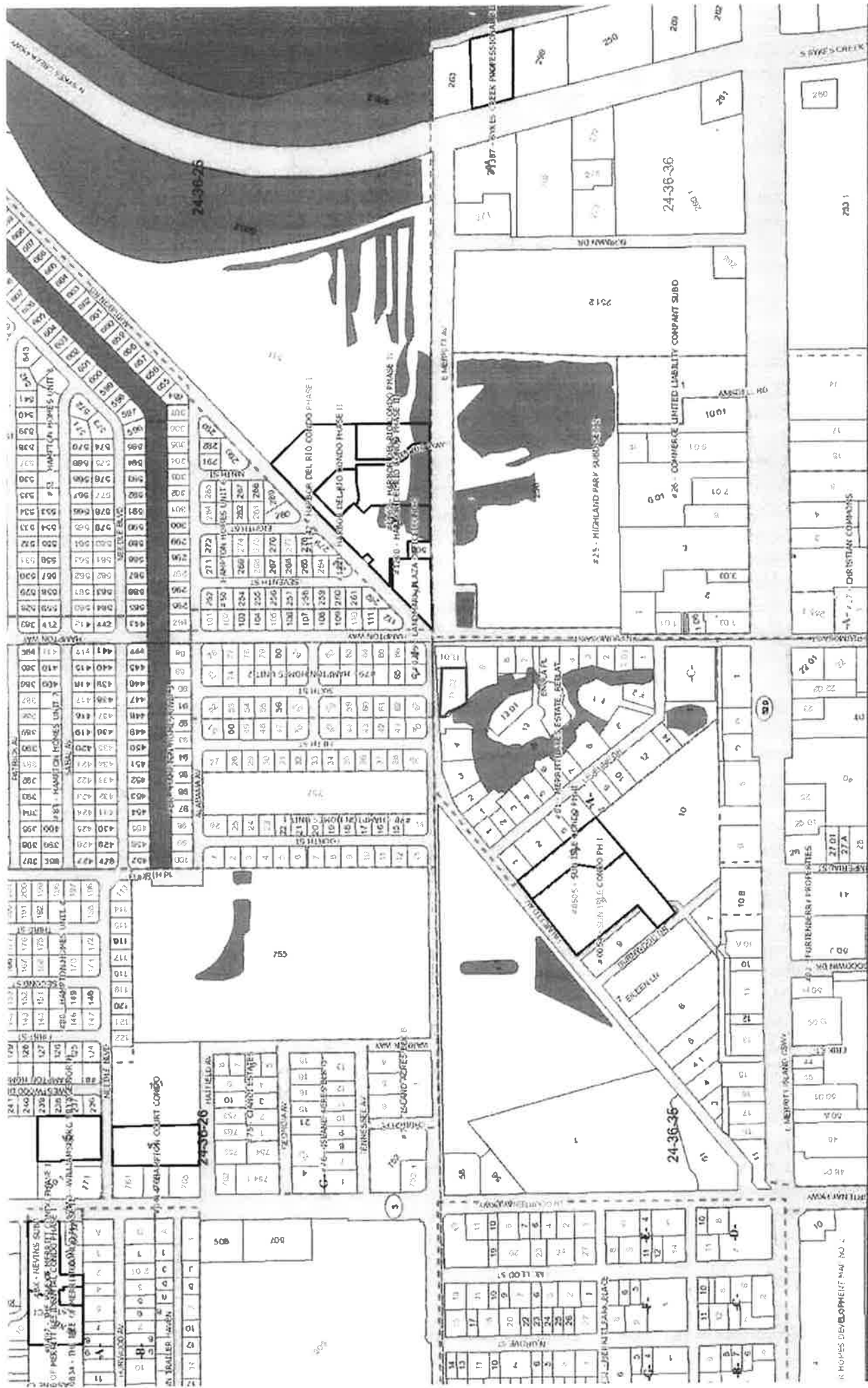
### **Summary and Conclusion**

ACES has completed an environmental assessment of 375 E. Merritt Avenue in Merritt Island. It is our determination that the parcel consists of approximately 0.41 acres of uplands and approximately 0.02 acres of wetlands. The wetlands do not impede access to the on-site developable uplands, and there are more than sufficient uplands to support a single-family home, garage, septic system, and other amenities. As such, the wetland regulatory agencies are not expected to permit impacts to any wetlands on the site. No evidence of listed species was found on the property; we therefore do not expect that permits or mitigation for potential impacts to listed species will be required prior to site development. If you have any questions or need any further information, please do not hesitate to contact our office.

Sincerely,



Andrew Conklin – President, ACES, LLC





Source: Brevard County Property Appraiser



ACES File No. 24612 – 375 E. Merritt Ave.  
**Figure 2 – Aerial Site Photograph**

☐ -Property  
☐ Boundary



Source: USDA Natural Resources Conservation Service (NRCS)

ACES File No. 24612 – 375 E. Merritt Ave.

### Figure 3 – NRCS Soils Map

 -Property  
 Boundary

3 – Myakka-Urban Land Complex  
(entire site)





Source: Brevard County Property Appraiser  
 Codes referenced to the Florida Land Use Cover and Forms Classification System (FLUCFCS)

ACES File No. 24612 – 375 E. Merritt Ave.

## Figure 4 – Environmental Survey Map

☐ -Property Boundary  
☐ -FLUCFCS Community and Land Use Boundaries

☐ -On-Site Wetlands, +/- 0.02 Acres

110 – Residential, Low Density  
 310 – Herbaceous  
 500 – Water  
 631 – Wetland Shrub 22



**MERRITT ISLAND REDEVELOPMENT AGENCY**  
**INTER-OFFICE MEMORANDUM**

**DATE:** December 13, 2024

**TO:** Jeffrey Ball, Planning & Zoning Manager  
Desiree Jackson, Associate Planner  
Kristen Champion, Special Projects Coordinator III

**FROM:** Lisa Nicholas, Community Development Manager, on behalf of the  
Merritt Island Redevelopment Agency Board of Directors

**RE:** **MIRA Board of Directors Rezoning Review – Application #24Z00063**  
**375 East Merritt Avenue, Merritt Island**  
**Request to Rezone the Property from RU-1-11 to BU-1-A**

As set forth in Sec. 62-2114 of the Brevard County Code, when an application is made to the Planning and Zoning Board for a change in zoning that pertains to property located in the Merritt Island Redevelopment Area, the application shall be forwarded to the Merritt Island Redevelopment Agency for review prior to the applicable public hearing before the Planning and Zoning Board.

At its regular meeting on December 12, 2024, the MIRA Board of Directors reviewed the proposed application, which would rezone the property from RU-1-11 to BU-1-A for the purpose of converting a residential single-family home to a hair salon and spa. Although the surrounding properties are comprised primarily of parcels zoned BU-1-A, the Board expressed concern regarding:

- Location of adequate parking for a future business use;
- The property being subsequently improved and then resold for a more intense use, resulting in increased traffic and congestion on Merritt Avenue; and
- Insufficient information provided on the current proposed use.

The Board therefore voted to deny the rezoning and requested a presentation by the property owner detailing the current proposed use and the property owner's future intent for the parcel, along with a Binding Development Plan to address parking and potential transportation, traffic, and resulting congestion issues along Merritt Avenue.

IN A PORTION OF SECTION 35,  
TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA



- [illegible]

[illegible]

Authors' disclosures of potential conflicts of interest and author contributions are found at the end of this article.

Q. R. Angel  
President

WILLIAM L. BROWN, JR.  
WILLIAM L. BROWN, JR.  
WILLIAM L. BROWN, JR.



**Campbell  
Surveying, Inc.**

LICENSED Business #7978

at Blvd. Suite 107 / Mailing Address: P.O. Box 5418  
Tallahassee, FL 32306 Phone (904) 507-4011

## Boundary Survey

ON THE LEFT SIDE

I HERCH &amp; CLAUDIA VOLAND

100



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

The Brevard County Planning & Zoning Board met in regular session on **Monday, February 17, 2025, at 3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were Mark Wadsworth, Chair (D4); Henry Minneboo, Vice-Chair (D1); Ana Saunders (D5); Erika Orriss (D3); Debbie Thomas (D4); Logan Luse (D4); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); Melissa Jackson (D5); and Robert Brothers (D5).

Staff members present were Trina Gilliam, Interim Zoning Manager; Paul Body, Planner; Darcie McGee, Assistant Director, (Natural Resources Management); Alex Esseeesse, Deputy County Attorney; and Alice Randall, Operations Support Specialist.

### **Excerpt of complete agenda**

#### **Item H.7. The Mohan Family Trust Dated January 25th, 2023, requests a change of zoning classification from RU-1-11 to BU-1-A. (24Z00063) (Tax Account 2426731) (District 2)**

Trina Gilliam read the application into the record. She noted that the requested had gone before MIRA and they had recommended denial, based on their concerns with adequate parking, increased traffic and congestion, and insufficient information provided for the proposed use.

Kamal dai Mohan spoke to the application. Originally purchased the property for her daughter to start a spa business, massage therapist.

Henry Minneboo inquired if that is the Gainer estate.

Ms. Mohan responded I'm not sure. We purchased it after.

Henry Minneboo asked you purchased the house and the property to the west as well.

Ms. Mohan responded no.

Henry Minneboo stated you just purchased the house.

Ms. Mohan replied yes.

Henry Minneboo asked if that is being used now for commercial or something.

Ms. Mohan responded no. Right now, I have it as residential. I think the original owner tried to rezone it to sell it as commercial use, but they didn't move forward with it.

Henry Minneboo commented that the property backs up to the lake.

Ms. Mohan stated she did see something on the survey.

There was no public comment

John Hopengarten asked do you have any knowledge that it was a business before.

Ms. Mohan responded no.



John Hopengarten commented he drives by there often and he thought it was an accounting office.

Ms. Mohan responded no, never.

John Hopengarten asked if her daughter anticipates subleasing.

Ms. Mohan responded no.

John Hopengarten continued that makes in questionable, because a sign was up, and it looked like you were trying to rent it out. Now you're talking about putting your daughter in there and not renting it out. It's a house, but it has a large parking area.

Ms. Mohan responded yes. Originally it was purchased for her and things didn't work out and I did it back to residential. It was going to go into commercial zoning.

John Hopengarten said, "you were going to have it rezoned."

Ms. Mohan replied yes, and then it didn't work out. So, I did it back to residential, so when she's ready to come back I'll have it ready again for her, but this time officially commercial.

John Hopengarten asked what AKM gratitude for prosperity is.

Ms. Mohan said it's the initials of my kids' names. Alex, Anthony, Alena, middle initial is for their father's name, and the last is my last name, Mohan.

Henry Minneboo asked if it has a Mirror Avenue address.

Ms. Mohan responded yes.

Erika Orriss asked about the parking and MIRA's complaint.

Ms. Mohan responded she's hoping to get this property back to her daughter. And it's only going to be her, with her spa.

Erika Orriss asked how many parking spots are there.

Ms. Mohan responded right now there is the garage and 2 in front of the garage.

Erika Orriss asked if she was planning on putting in a parking lot.

Ms. Mohan responded eventually, when that time comes. In the future, yes.

John Hopengarten inquired about the large area to the west. That will accommodate large parking. Just down the street from you is a dog grooming business. And on the corner across from BJ's there's that flag place.

Ms. Mohan replied yes. And on that same street there's another hair stylist spa.

Erika Orriss stated she doesn't personally have a problem with this, but because MIRA had unanimously said no, this is their jurisdiction. They know the area better than I do, so I would have to defer to people who live closer to it.

John Hopengarten commented he couldn't see any rationale behind MIRA's objection. I read their report, I didn't attend their meeting. Their comments were location of adequate parking for future use. They've got plenty. Increased traffic, I didn't see any of that.

Motion to recommend approval of Item H.7. by John Hopengarten, seconded by Erika Orriss. Motion passed 10 to 1.

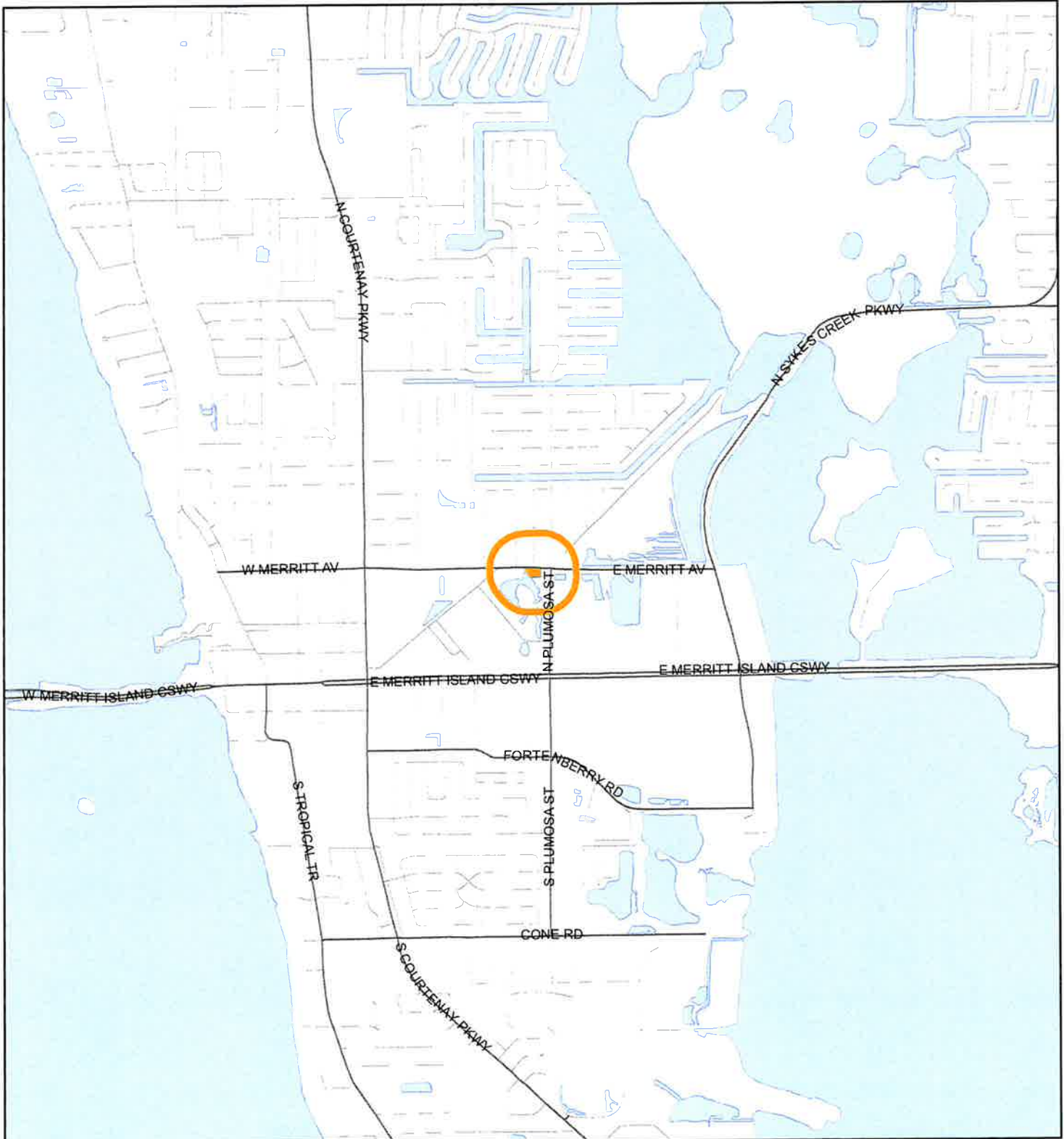
The meeting was adjourned at 4:09 p.m.

DRAFT

# LOCATION MAP

MOHAN FAMILY TRUST

24Z00063





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: 11/18/2024

-  Buffer
-  Subject Property

# ZONING MAP

MOHAN FAMILY TRUST

24Z00063



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: 11/18/2024

Subject Property

Parcels

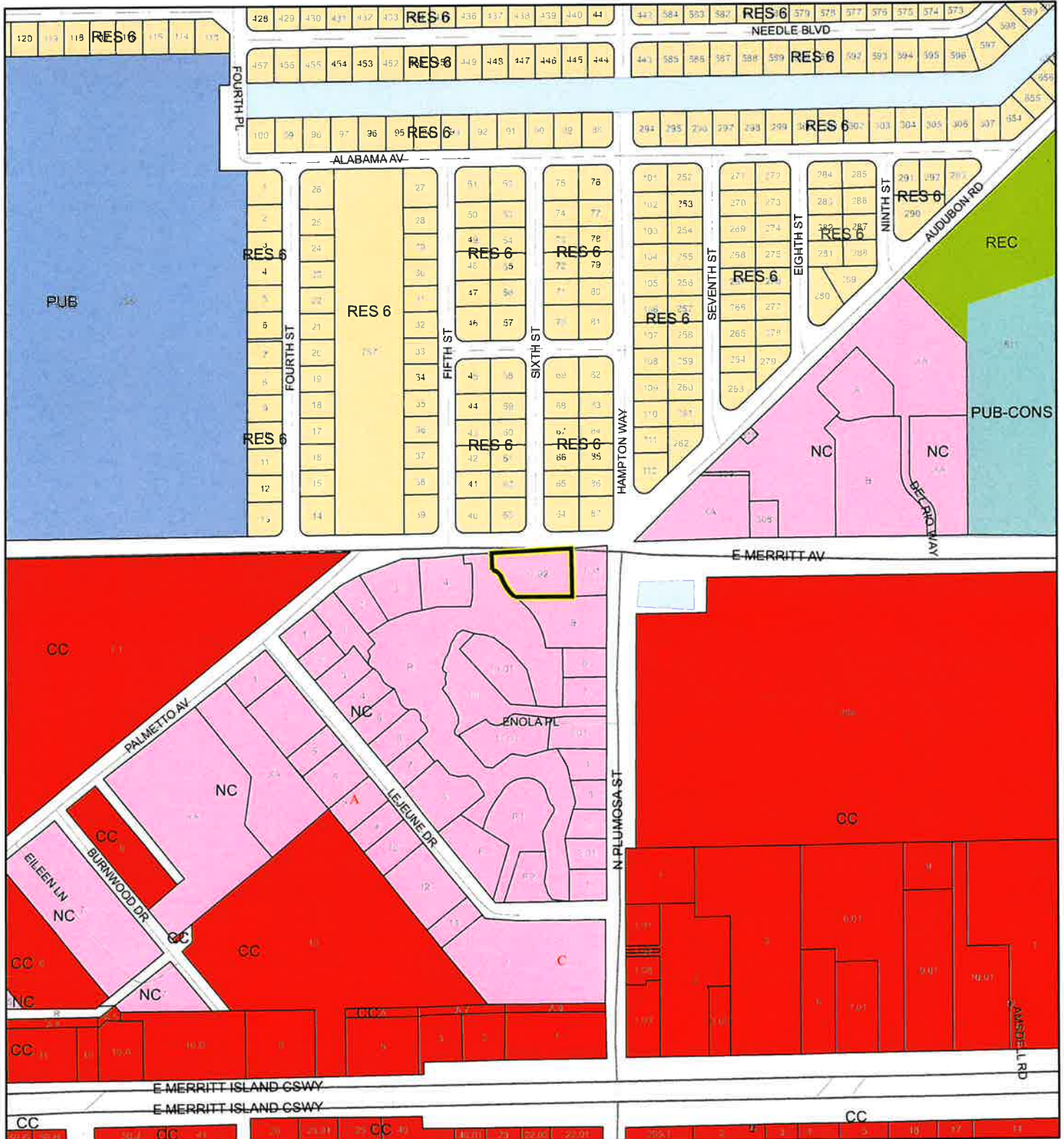
Zoning



# FUTURE LAND USE MAP

MOHAN FAMILY TRUST

24Z00063



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: 11/18/2024



# AERIAL MAP

MOHAN FAMILY TRUST

24Z00063



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2024

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: 11/18/2024

 Subject Property

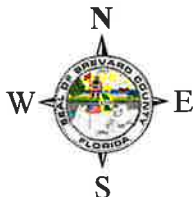
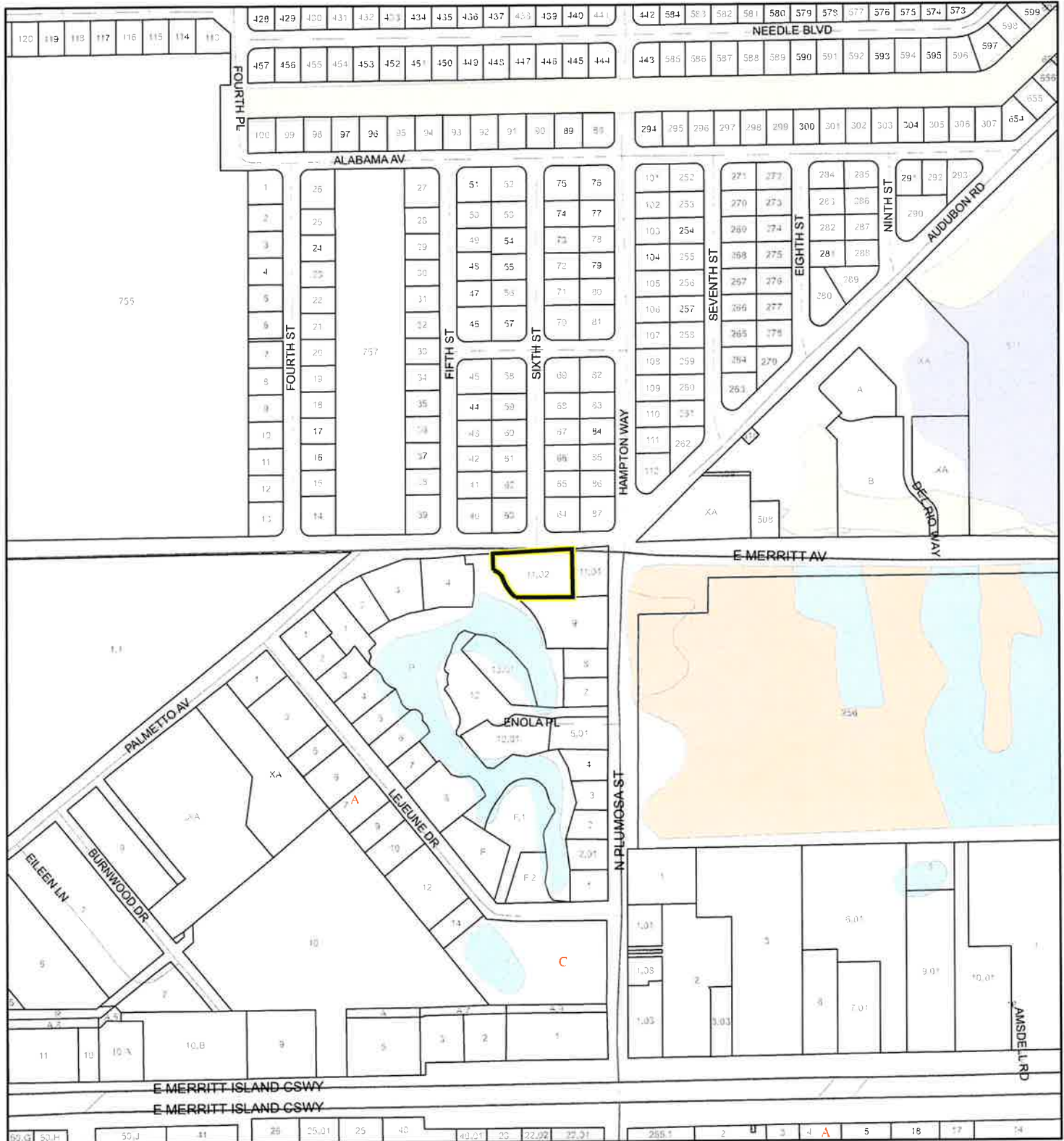
 Parcels



# NWI WETLANDS MAP

MOHAN FAMILY TRUST

24Z00063



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: 11/18/2024

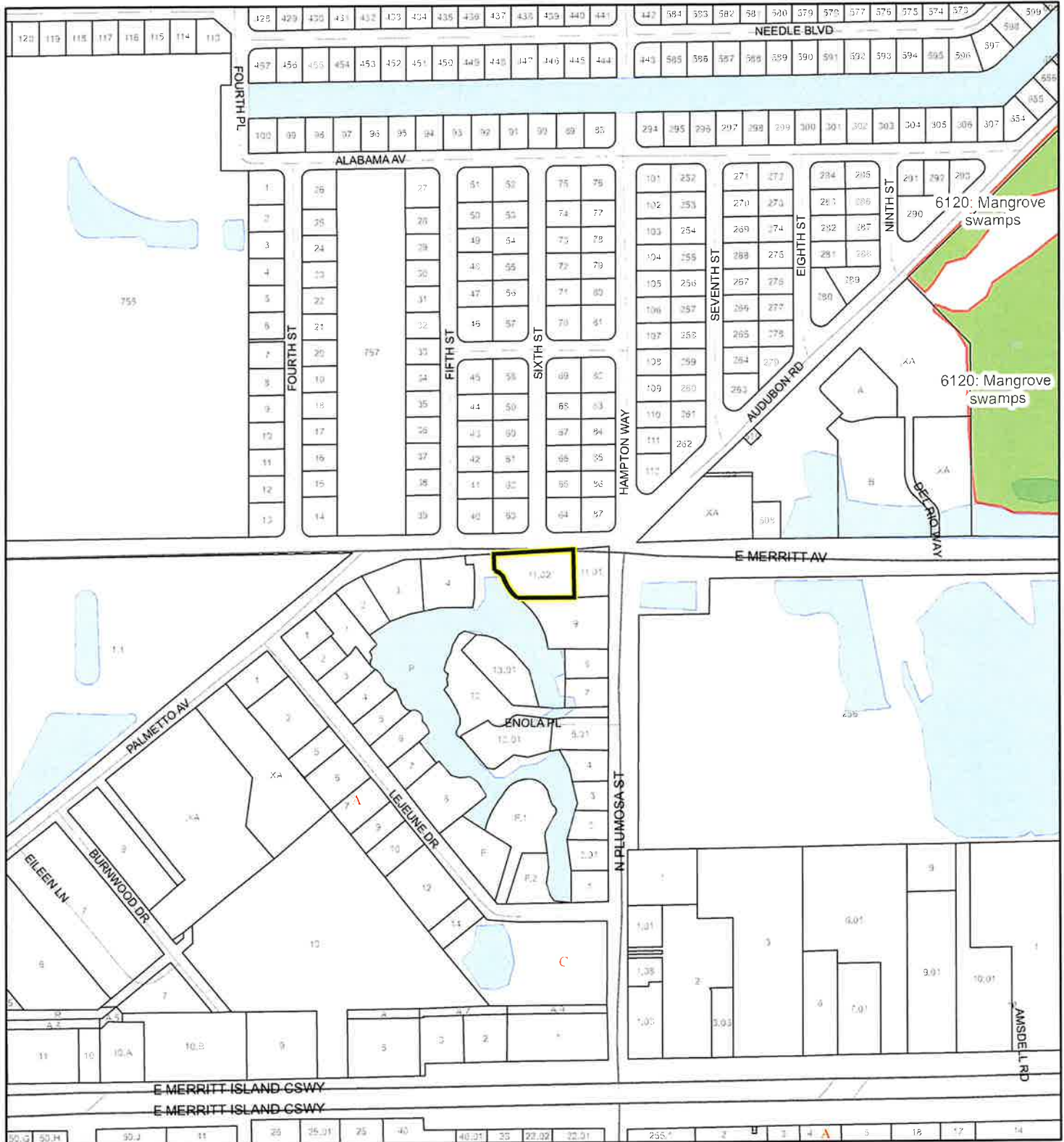
## National Wetlands Inventory (NWI)

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

MOHAN FAMILY TRUST

24Z00063



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: 11/18/2024

## SJRWMD FLUCCS WETLANDS

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

Subject Property

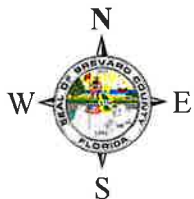
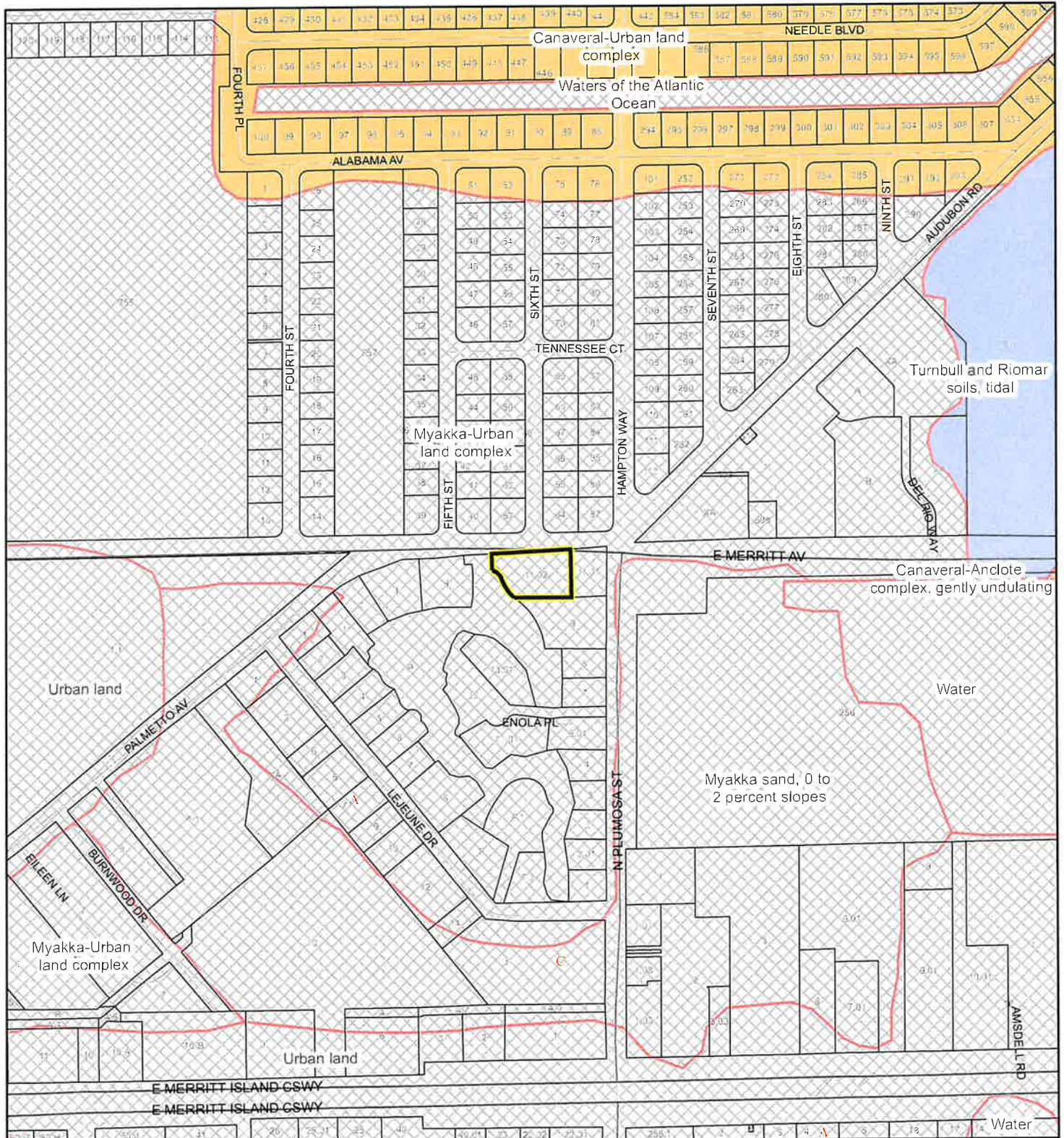
Parcels



# USDA SCSSS SOILS MAP

MOHAN FAMILY TRUST

24Z00063



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Produced by BoCC - GIS Date: 11/18/2024

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

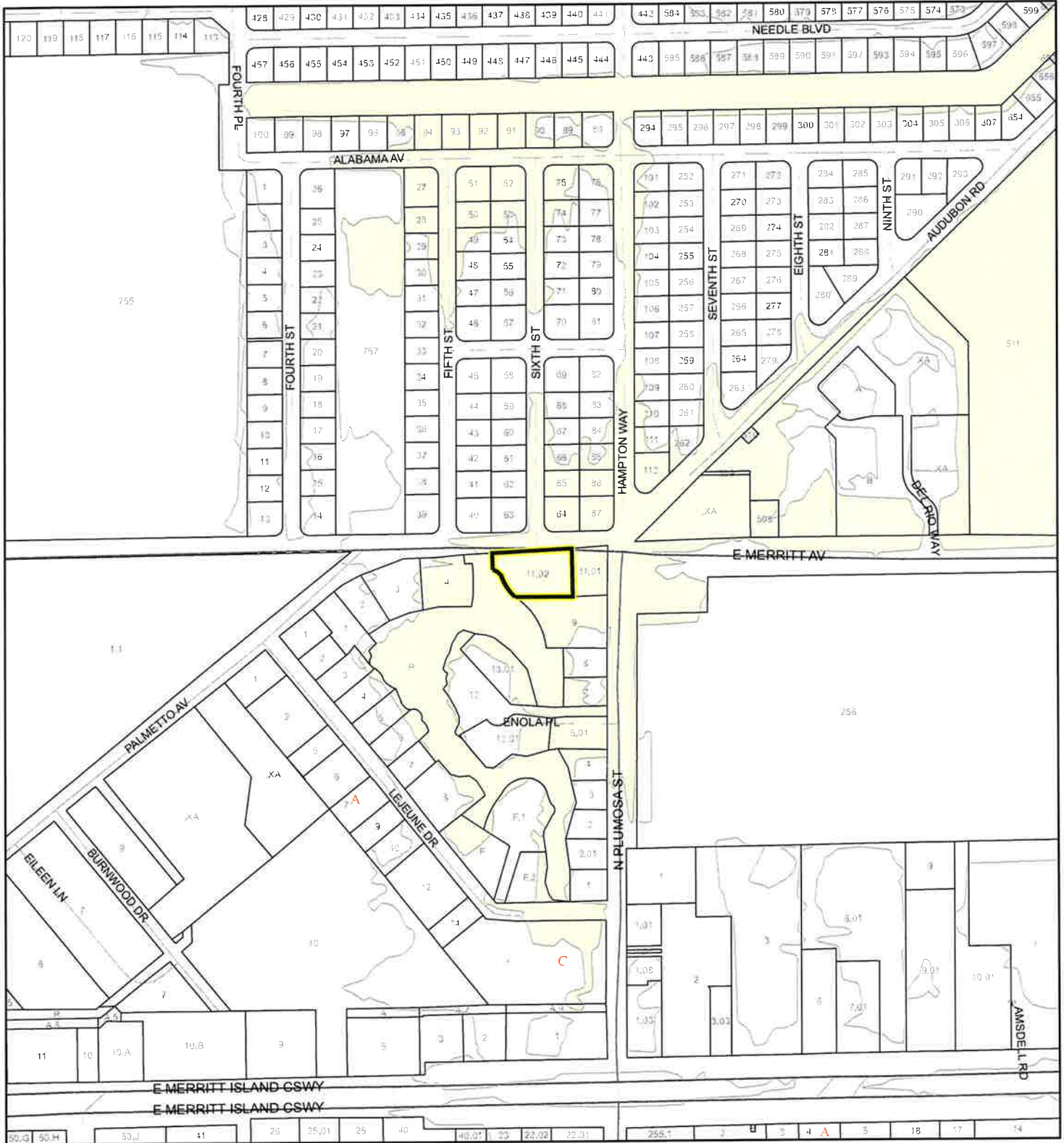
Parcels



# FEMA FLOOD ZONES MAP

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## FEMA Flood Zones

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

# COASTAL HIGH HAZARD AREA MAP

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24Z00063



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— Subject Property

□ Parcels

**Coastal High Hazard Area**

■ SurgeZoneCat1



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

MOHAN FAMILY TRUST

24Z00063



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— Subject Property

□ Parcels

## Septic Overlay

■ 40 Meters

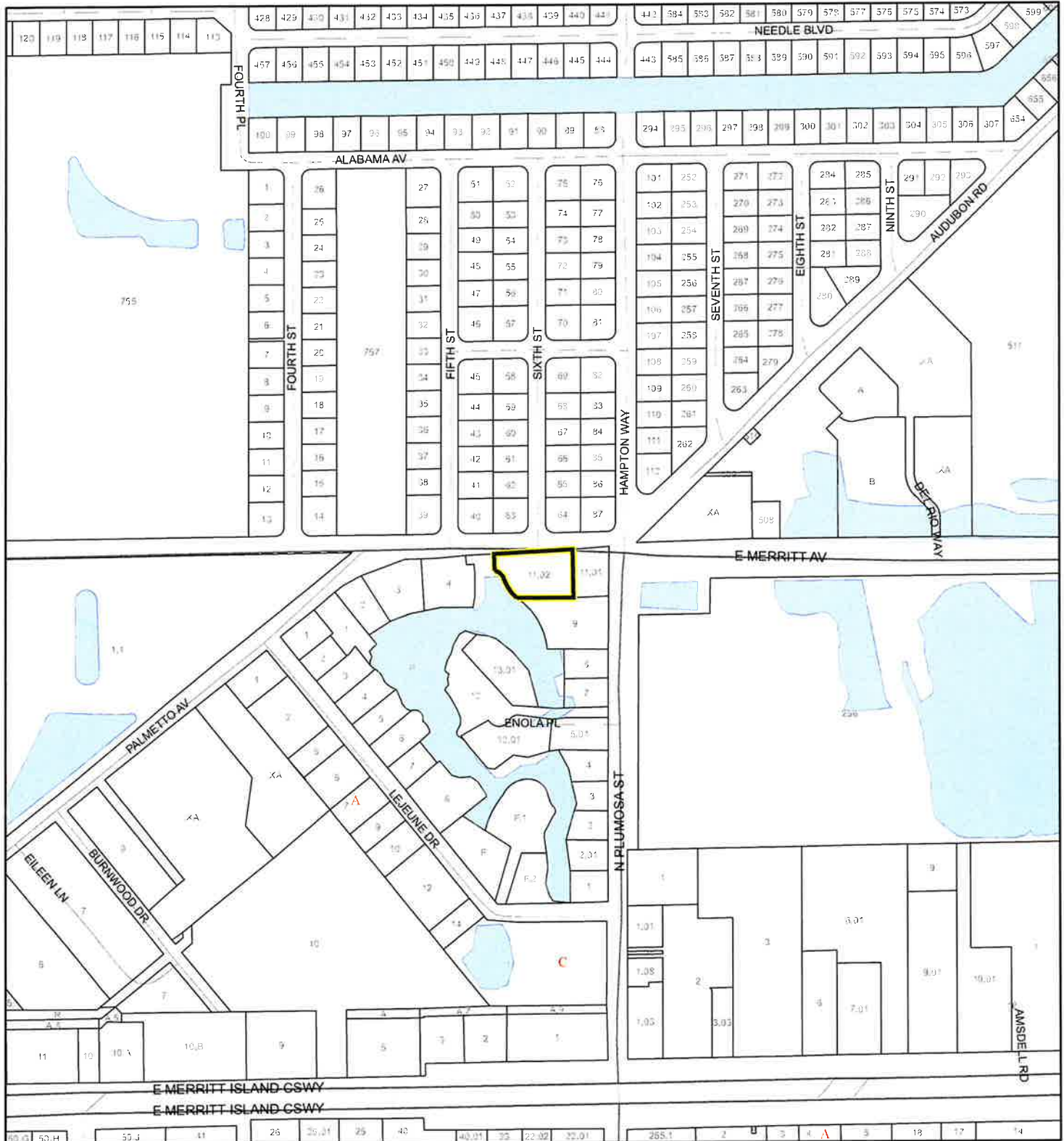
■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

MOHAN FAMILY TRUST

24Z00063



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/18/2024

 Subject Property

 Parcels



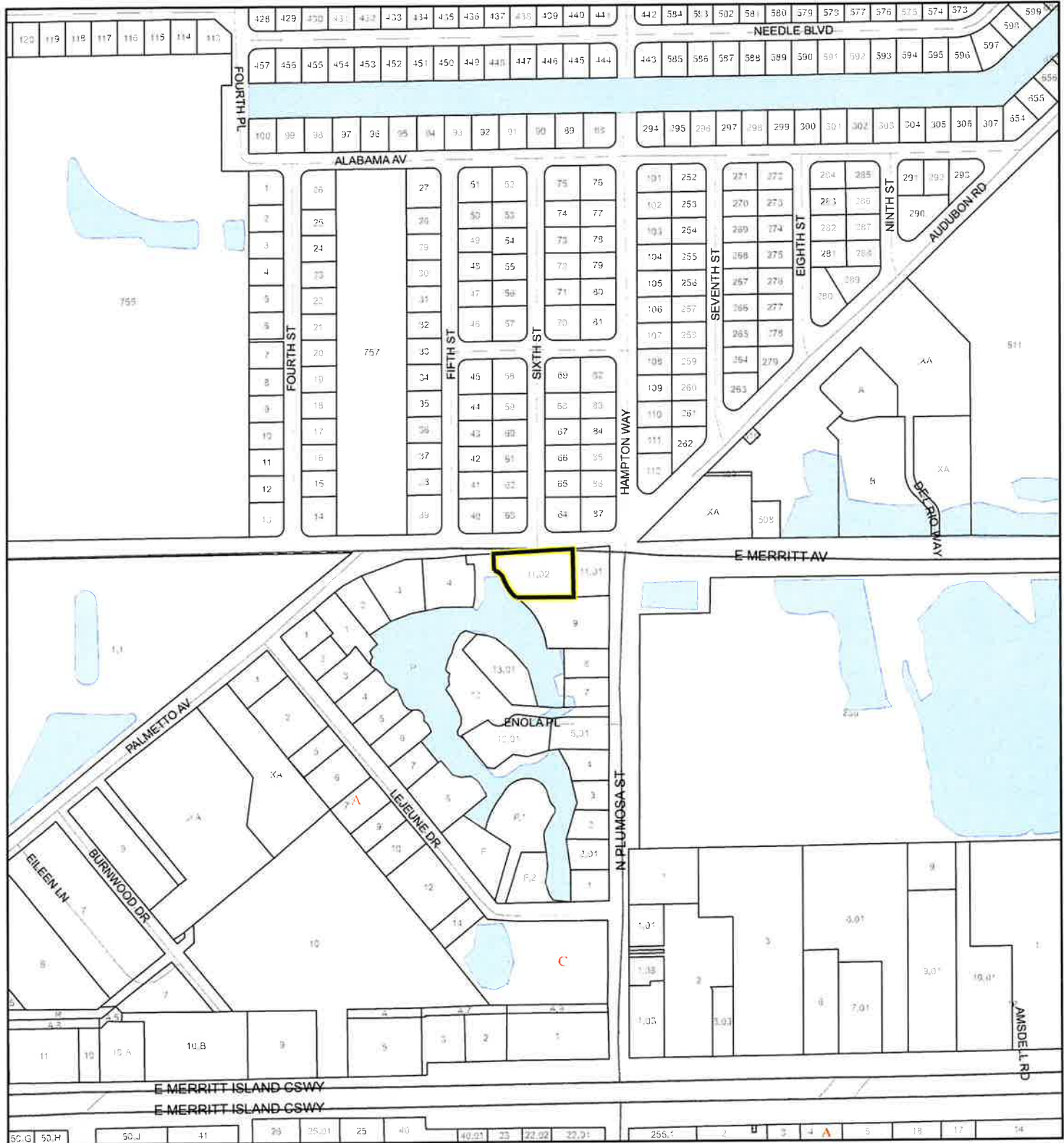
Eagle Nests  
FWS



# SCRUB JAY OCCUPANCY MAP

MOHAN FAMILY TRUST

24Z00063



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- Subject Property
- Parcels
- Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

MOHAN FAMILY TRUST

24Z00063



1:4,800 or 1 inch = 400 feet

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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

**Board Meeting Date**

March 13, 2025

Item Number: H.7

Motion By: TG

Second By: KA

Nay By: \_\_\_\_\_

Commissioner	DISTRICT	AYE	NAY
Commissioner Delaney	1	✓	
Vice Chair Goodson	2	/	
Commissioner Adkinson	3	/	
Commissioner Altman	5	✓	
Chairman Feltner	4	/	