



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.9.

12/11/2025

Subject:

Paul & Cheryl Pearson (Steve Totty) request a zoning classification change from RU-1-9 to RU-2-6. (25Z00035) (Tax Account 2611660) (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 RU-1-9 (Single-Family Residential) to RU-2-6 (Low-Density Multiple-Family Residential).

Summary Explanation and Background:

The applicant is requesting to change the zoning from RU-1-9 to RU-2-6 on a 0.81-acre site. The purpose of the request is to retain improvements that were in place at the time of purchase (April 25, 2025). The improvements include a single-family home built in 1976, as well as a detached structure built in 2006. The 2006 structure includes a 792 square foot ground-level drive-through portico, and a ground-level 900 square foot garage on the west side of the portico. On the east side of the portico is rental unit one, with an area of 891 square feet. The remainder of the 2006 structure includes a second-floor area with rental units 2 and 3, each containing 660 square feet. The request for RU-2-6 low-density multi-family units is consistent with the RES 6 FLU.

Potential land development constraints include, but are not limited to, structural height standards (Section 62-1371(8)(a), Brevard County Code of Ordinances), breezeway/visual corridor requirements (Section 62-2105), and parking requirements (Section 62-3206). The subject property abuts a single-family zoned parcel to the north, which will restrict building height to 35 feet. The subject property requires a 30% breezeway corridor with its new zoning. The existing improvements impede this requirement, and a variance was submitted and approved. The site is sufficient in size to accommodate the required parking, which will be addressed in a site plan.

Variance application 25V00055 addressed required setbacks of the new RU-2-6 zoning, as well as the breezeway requirements for a multi-family use. Specifically, variances were approved as follows: 1) 6.1 feet from the south 10 ft breezeway requirements; 2) allow 1.6 ft from the required 10 ft side (north) setback for the principal structure; 3) allow 6.1 feet from the required 10 ft side (south) setback for the principal structure; and 4) allow 2.2 ft from the required 10 ft side (south) setback for a second primary structure.

The Board of Adjustment Hearing for the proposed variances occurred on October 15, 2025. The variances were granted with a vote of 4 to 0. No objections were noted.

Permitted uses within the RU-2-6 zoning classification include multifamily and single-family dwellings, duplexes, and resort dwellings (i.e. short-term rentals).

There are no active code enforcement cases on the subject property. However, there have been multiple past code enforcement complaints involving the subject property including, but not limited to, complaints regarding the operation of resort dwellings. The most recent of these cases was in 2021 (21CE-00319); the case was complied prior to hearing (advertisements were taken down).

To the North of the subject property is a single-family home on a 0.60-acre site. It was built in 1956 and is located on a site with RU-1-9 zoning and a RES 6 FLU. To the South is a vacant parcel that is 0.91 acres in size, zoned BU-1 and has a NC (neighborhood commercial) FLU designation. To the East of the subject property is the Indian River and to the West across Highway 1 is a retention pond owned by the State of Florida Department of Transportation.

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

On November 17, 2025, the Planning and Zoning Board considered the request and voted unanimously to recommend approval.

Clerk to the Board Instructions:

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

Resolution 25Z00035

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

WHEREAS, Paul & Cheryl Pearson (Steve Totty) request a zoning classification change from RU-1-9 (Single-Family Residential) to RU-2-6 (Low-Density Multiple-Family Residential), on property described as Tax Parcel 18, as recorded in OR Book 10320, Page(s) 2611 of the Public Records of Brevard County, Florida. **Section 32, Township 26, Range 37.** (0.81 acres) Located on the east side of US-1, 670 ft north of E. Elm Dr. and 630 ft south of Coquina Ridge Dr. (4295 N. Highway 1, Melbourne); and

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

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

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-1-9 to RU-2-6, 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 December 11, 2025.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida



Thad Altman, Chair

Brevard County Commission

As approved by the Board on December 11, 2025.

ATTEST:



RACHEL M. SADOEF, CLERK

(SEAL)

P&Z Board Hearing – November 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

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<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS
 25Z00035**

Paul S & Cheryl A Pearson – Steve Totty

RU-1-9 (Single Family Residential) to RU-2-6 (Low-Density Multi-Family residential)

Tax Account Number: 2611660
 Parcel I.D.: 26-38-32-52-*-18
 Location: East Side of Highway One 600 feet South of Coquina Ridge and
 670 feet north of E. Elm St. (District 4)
 Acreage: 0.81 acres
 Planning & Zoning Board: 11/17/2025
 Board of County Commissioners: 12/11/2025

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
Zoning	RU-1-9	RU-2-6
Potential*	1 Single-Family	4 Multi-Family units
Can be Considered under the Future Land Use Map	YES RES 6	YES RES 6

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

Background and Purpose of Request

The applicant is requesting to change the zoning from RU-1-9 to RU-2-6 on a 0.81 acre site. The purpose of the request is to retain improvements that were in place at the time of purchase (April 25, 2025). The improvements include a single-family home built in 1976, as well as a detached structure built in 2006. The 2006 structure includes a 792 square foot ground-level drive-through portico, and a ground-level 900 square foot garage on the west side of the portico. On the east side of the portico is a 891 square foot rental unit 1. The remainder of the 2006 structure includes a second-floor area with rental units 2 and 3, each containing 660 square feet. The request for RU-2-6 low-density multi-family units is consistent with the RES 6 FLU.

Potential land development constraints include, but are not limited to, structural height standards (Section 62-1371(8)(a), Brevard County Code of Ordinances), breezeway/visual corridor requirements (Section 62-2105), and parking requirements (Section 62-3206). The subject property abuts a single-family zoned parcel to the north, which will restrict building height to 35 feet. The subject property requires a 30% breezeway corridor with its new zoning. The existing improvements impede this requirement, and a variance has been submitted. The site is sufficient in size to accommodate the required parking, which will be addressed in a site plan.

RU-2-6 zoning classifications encompass lands devoted to low-density multifamily residential purposes, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-2-6 permits multi-family or single-family residential at a density of up to six units per acre on 7,500 square foot lots. The subject property is 0.81 acres. With an allowable density of 6 units per acre (RES 6), the site can support 4 units. Permitted uses within the RU-2-6 zoning classification include multifamily and single family dwellings, duplexes, and resort dwellings (i.e. short-term rentals).

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. Multifamily dwellings are not permitted within this zoning classification. Resort dwellings are permitted with conditions in the RU-1-9 classification, but the subject property does not currently meet the locational standards under Section 62-1841.5.5, Brevard County Code of Ordinances.

25V00055 variance application addressed required setbacks of the new RU-2-6 zoning. The variance addresses the breezeway requirements for a multi-family use as well. Item 1) is requesting 6.1 feet from the south 10 ft breezeway requirements. Item 2) is to allow 1.6 ft from the required 10 ft side (north) setback for the principal structure; 3) is to allow 6.1 feet from the required 10 ft side (south) setback for the principal structure and 4) is to allow 2.2 ft from the required 10 ft side (south) setback for a second primary structure.

The Board of Adjustment Hearing for the proposed variances occurred on October 15, 2025. The variances were granted with a vote of 4 to 0. No objections were noted.

The subject property was created July 1, 1983, and recorded in ORB 2440, Page 53. It is located at 4295 N Highway 1, Melbourne.

Zoning History:

Z-2980. The subject property had a blanket rezoning as of June 1, 1972, that changed the RU-1-A to its current RU-1-9.

There are no active code enforcement cases on the subject property. However, there have been multiple past code enforcement complaints involving the subject property including, but not limited to, complaints regarding the operation of resort dwellings. The most recent of these cases was in 2021 (21CE-00319); the case was complied prior to hearing (advertisements were taken down).

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single Family House	RU-1-9	RES 6
South	Vacant Site	BU-1	NC
East	Class III waters	N/A	N/A
West	Retention Pond By DOT	BU-1 and RU-1-7	CC and RES 15

To the North of the subject property is a single-family home on a 0.60 acre site. It was built in 1956 and is located on a site with RU-1-9 zoning and a RES 6 FLU.

To the South is a vacant parcel that is 0.91 acres in size, zoned BU-1 and has a NC (neighborhood commercial) FLU designation.

To the East of the subject property is the Indian River and to the West across Highway 1 is a retention pond owned by the State of Florida Department of Transportation.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

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.

RU-1-7 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 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

Future Land Use

The subject property’s RU-1-9 zoning classification is considered consistent with the RES 6 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County’s Comprehensive Plan. The applicant’s request for RU-2-6 zoning classification is considered consistent under the current RES 6 FLUM designation.

FLUE Policy 1.2 - Public Facilities and Services Requirements

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.

The parcel is within the City of Melbourne utilities service area for public water and within Brevard County's service area for centralized sewer.

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

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

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

Criteria:

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

Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272 and will be reviewed at the site plan review stage should the zoning action and Future Land Use change be approved. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

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

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

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

- 1. historical land use patterns:

The subject property fronts on Highway 1 south of the Palm Shores municipality. Highway 1 is urban principal arterial roadway with a mixture of

residential, commercial and waterfront residential. The FLU designations along this section of Highway 1 vary and include RES 6, RES 15, NC (Neighborhood Commercial) and CC (Community Commercial). The subject property is located between the east side of Highway 1 and the Indian River.

25SS00007 was recently approved (October 2, 2025). It was a change from a dual classification of CC and RES 15 to all CC across from the subject property on the west side of Highway 1.

There are two parcels in proximity with multi-family zoning. Four hundred feet southwest of the subject property is an RU-2-10 parcel on the west side of Highway 1. The address of this parcel is 4246 N. Highway 1. This property is currently improved with a single-family house built in 1951; a duplex built in 1973 as well as a single wide manufactured house built in 1975.

The second parcel is vacant and located approximately 400 feet to the south on the same side of the highway. This parcel has a dual zoning of RU-2-15 on the river front portion and BU-1 on the west side.

actual development over the immediately preceding three years; and

There has not been any actual development within this area in the preceding three (3) years.

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

There has been a recent rezoning across from the subject property on the west side of Highway 1 under application 25Z00029. This action changed the zoning from RU-1-7 and BU-1 to BU-2 zoning classification. This action was approved October 2, 2025.

- D. either 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.

Based on staff analysis, the requested rezoning from RU-1-9 to RU-2-6 zoning classification is not anticipated to materially or adversely affect the surrounding developments. Traffic from the multi-family development will have a minimal impact on the surrounding area, while the corridor is anticipated to operate within the Maximum Acceptable Volume (MAV). The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.16%. The corridor is anticipated to operate at 73.50% of capacity daily. The rental units would be considered a commercial use, however, already present.

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

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

Staff analysis has determined while it is not an established residential neighborhood, there are clearly established roads and residential lot 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 for a multi-family 4-unit development. As an income producing property, the proposed use is considered a commercial 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.

This area is presumed not to be primarily residential in character. While one commercial rezoning was approved in October 2025 within the vicinity, the area is not considered transitional in nature, but rather a continuation of the established development pattern.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway 1 Post Road and Pineda Causeway which has a Maximum Acceptable Volume (MAV) of 54,100 trips per day, a Level of Service (LOS) of D, and currently operates at 73.35% of capacity daily. The

maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.16%. The corridor is anticipated to operate at 73.50% of capacity daily. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change.

The subject property is serviced by the City of Melbourne for water and Brevard County for sewer service.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

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

See full NRM comments at the end of this report.

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area. The Board may also wish to consider the impact of multifamily residential zoning, and the uses permitted in the RU-2-6 zoning classification in particular, on neighboring properties.

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

Item No. 25Z00035

Applicant: Steve Trotty (Owners: Paul and Cheryl Pearson)

Zoning Request: RU-1-9 to RU-2-6

Note: To legitimize existing improvements and retain rental 3 units

Zoning Hearing: 11/17/2025; **BCC Hearing:** 12/11/2025

Tax ID No.: 2611660

- 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 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
- Floodplain Protection
- Indian River Lagoon (IRL) Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Land Clearing and Landscape Requirements
- Protected Species

Land Use Comments:

Aquifer Recharge Soils

This property contains Candler fine sand, classified as an aquifer recharge soil. Additionally, the mapped topographic elevations show that the property falls within a Type 3 Aquifer Recharge area, which is subject to impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area

The very eastern portion of this property, on the IRL shoreline, is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute. Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area.

Floodplain Protection

The very eastern portion of this property, on the IRL shoreline is mapped within estuarine floodplain as identified by FEMA and as shown on the FEMA SFHA Map. The property 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." **The applicant is encouraged to continue communication with NRM prior to any plan or permit submittal or performing any land clearing activities.**

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.

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class III Water in this location. A 25-foot Surface Water Protection Buffer is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious. The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order. Temporary impacts to native vegetation require in-kind restoration. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at 407-897-4101. The

applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

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 and Specimen tree preservation. Land clearing is not permitted without prior authorization by NRM. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.

LOCATION MAP

Paul & Cheryl Pearson
25Z00035



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), SwNGCC, (c) OpenStreetMap contributors, and the GIS User Community



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

Buffer Distance: 500 feet

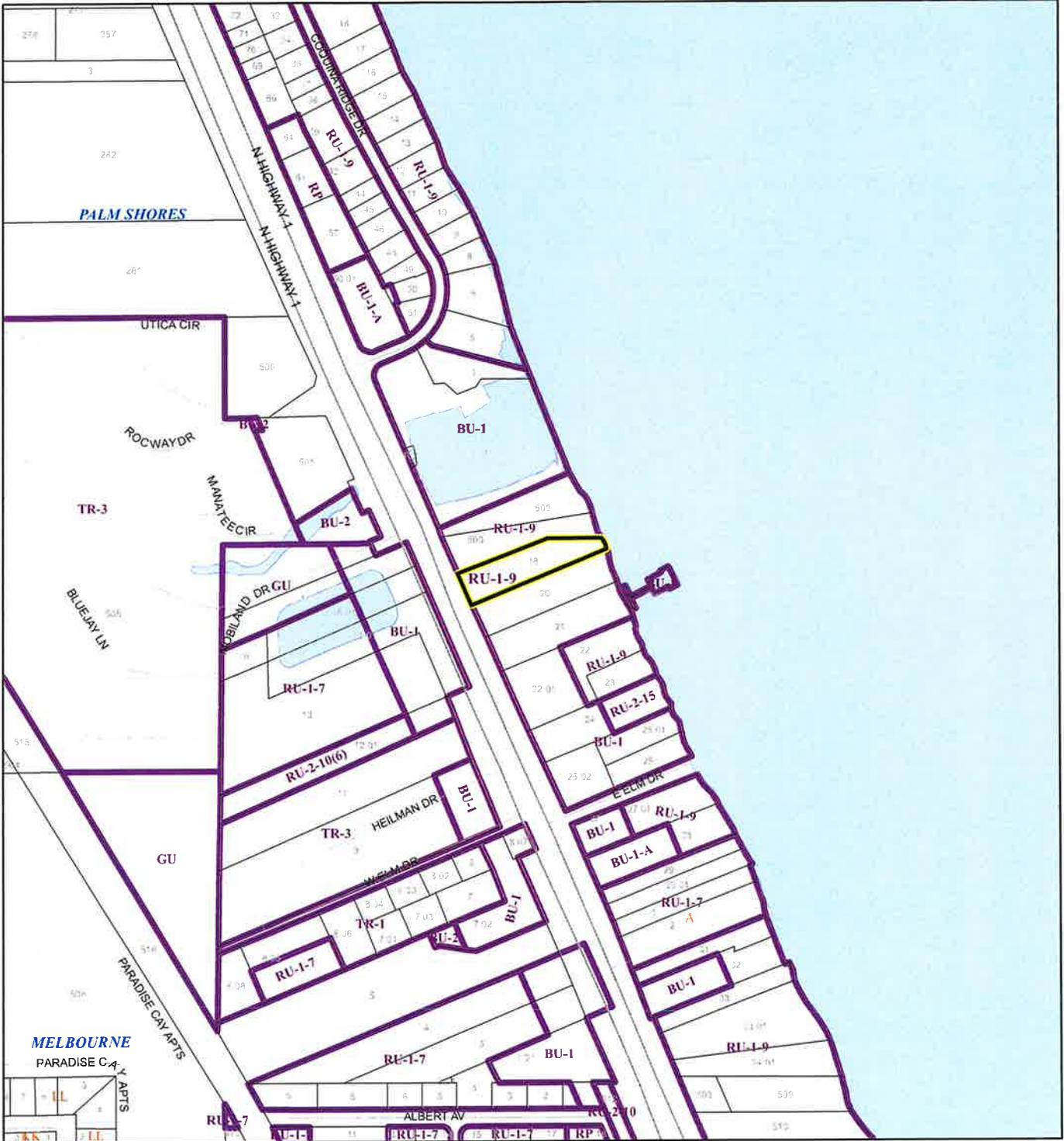
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/30/2025

-  Buffer
-  Subject Property

ZONING MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

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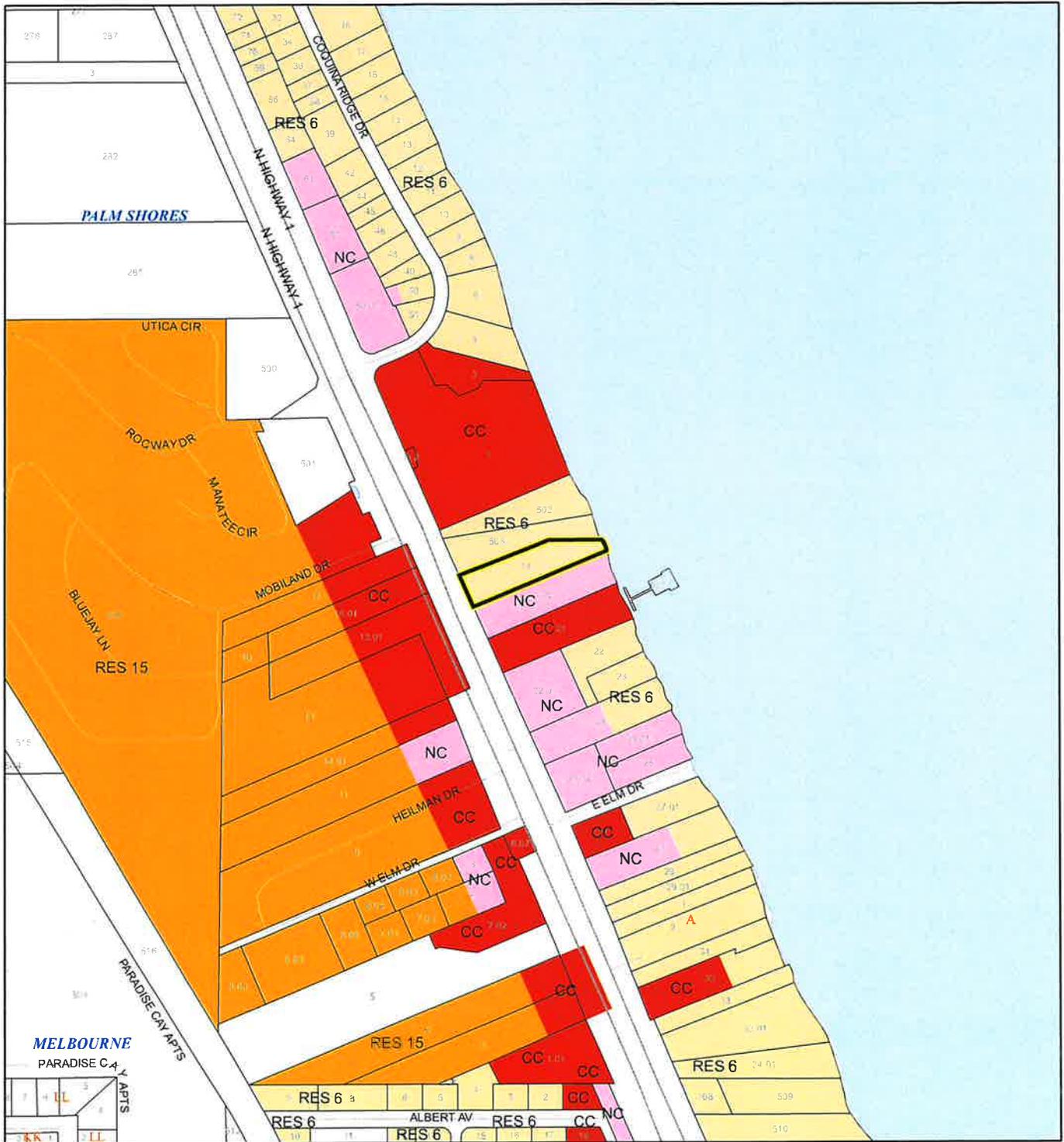
 Subject Property

 Parcels

 Zoning

FUTURE LAND USE MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

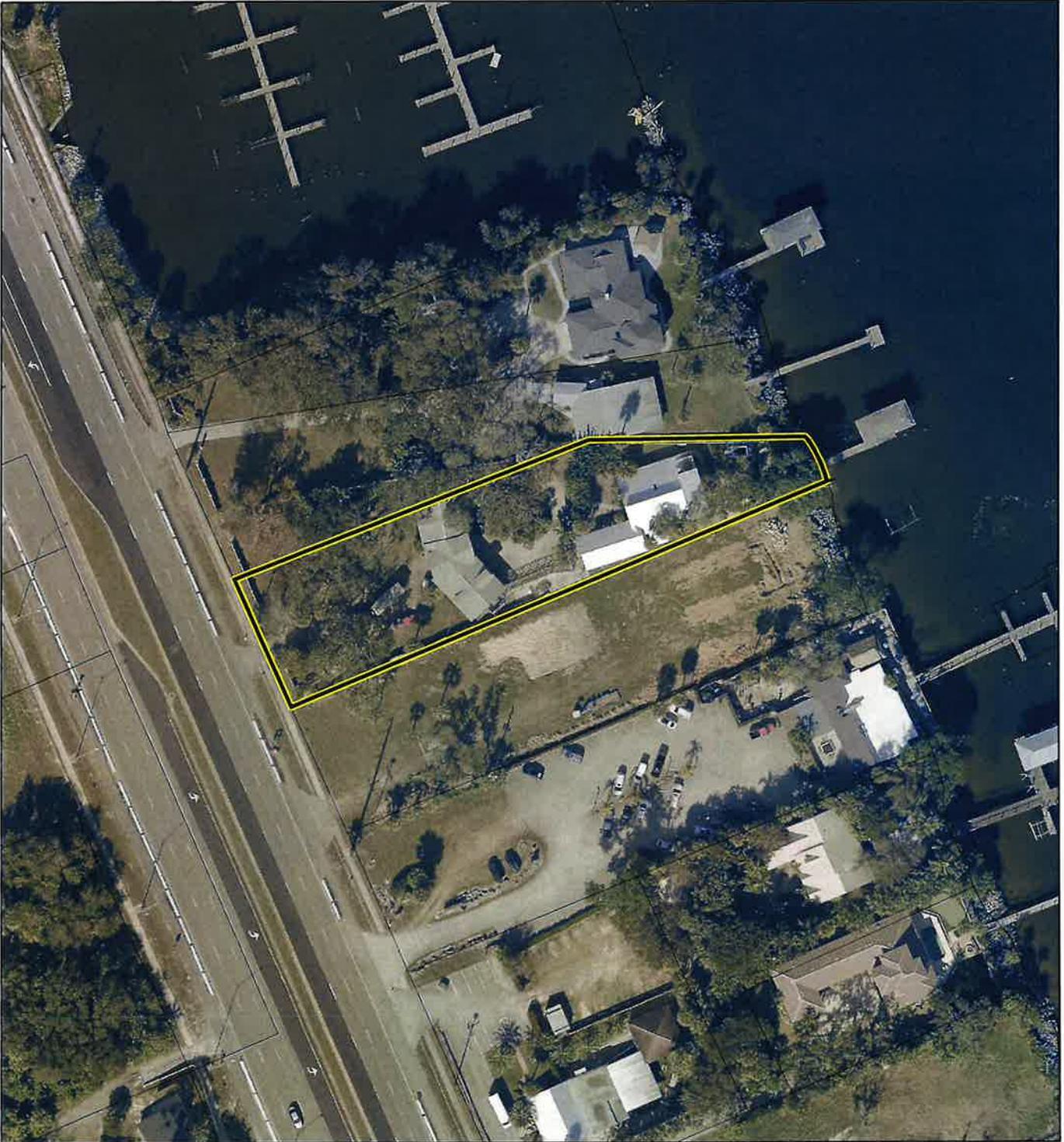
-  Subject Property
-  Parcels

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AERIAL MAP

Paul & Cheryl Pearson
25Z00035



1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2025

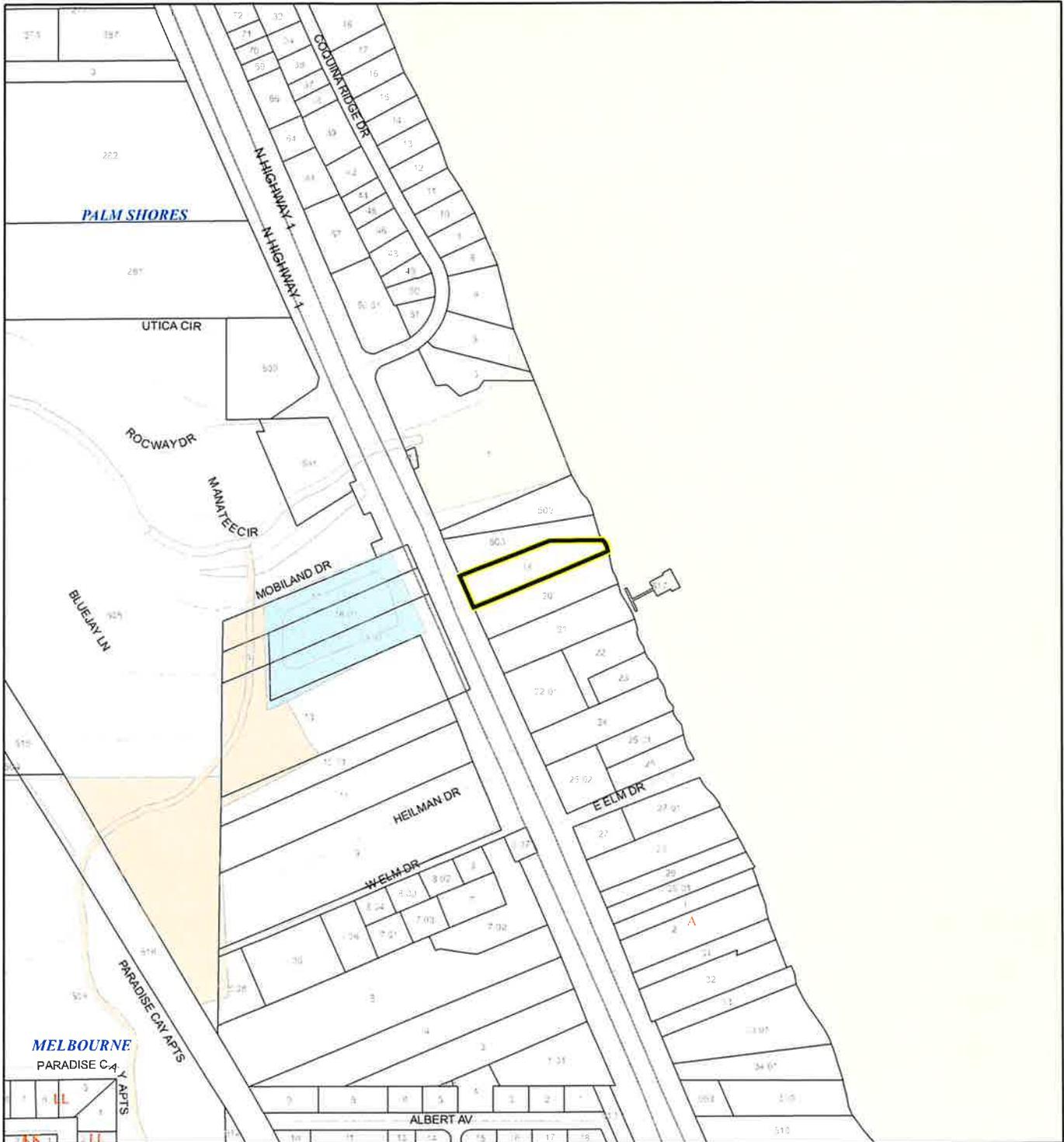
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-  Subject Property
-  Parcels

NWI WETLANDS MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

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National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

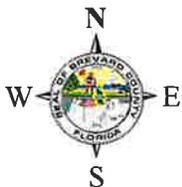
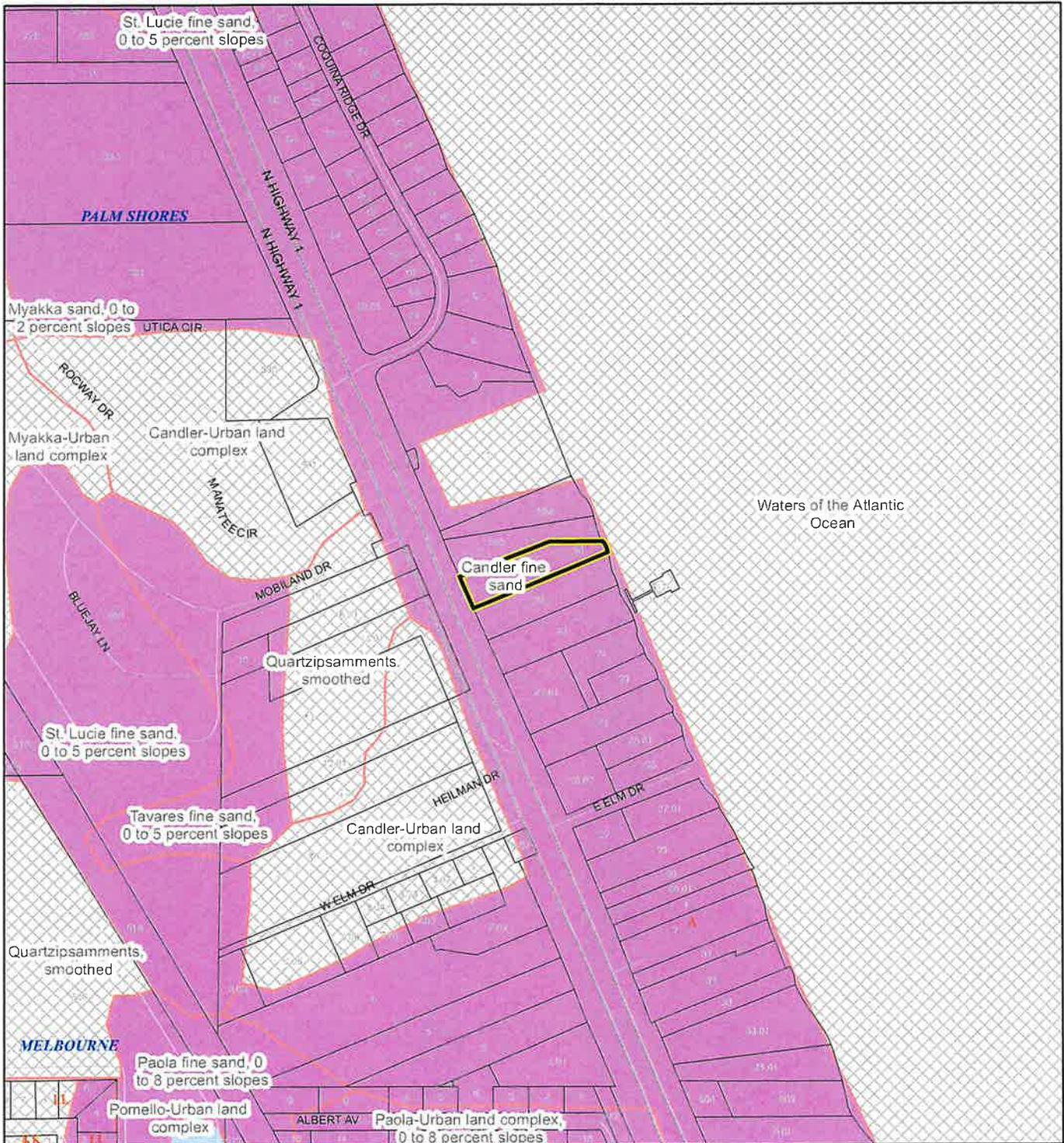
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/30/2025

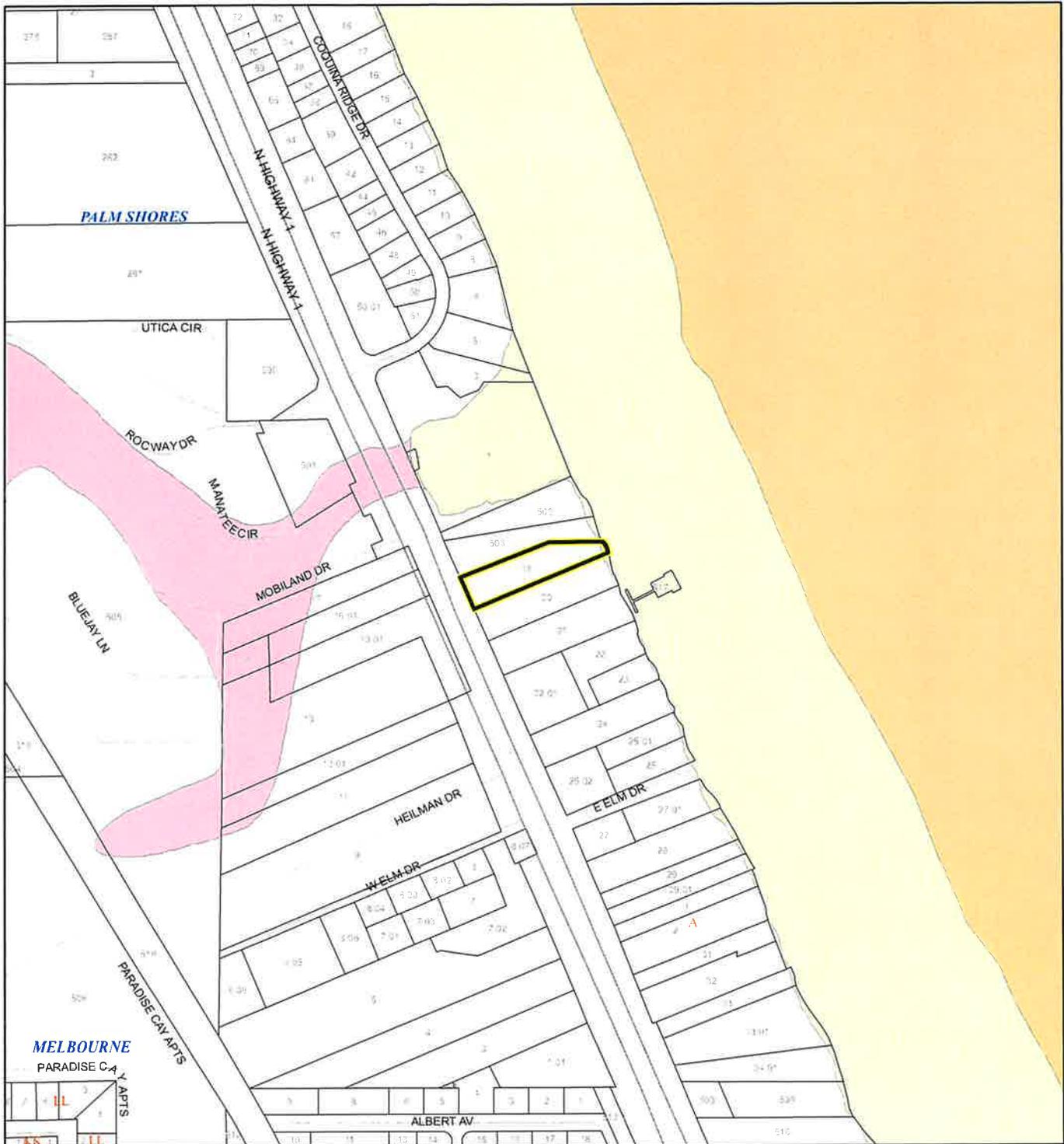
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

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

COASTAL HIGH HAZARD AREA MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

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 Subject Property

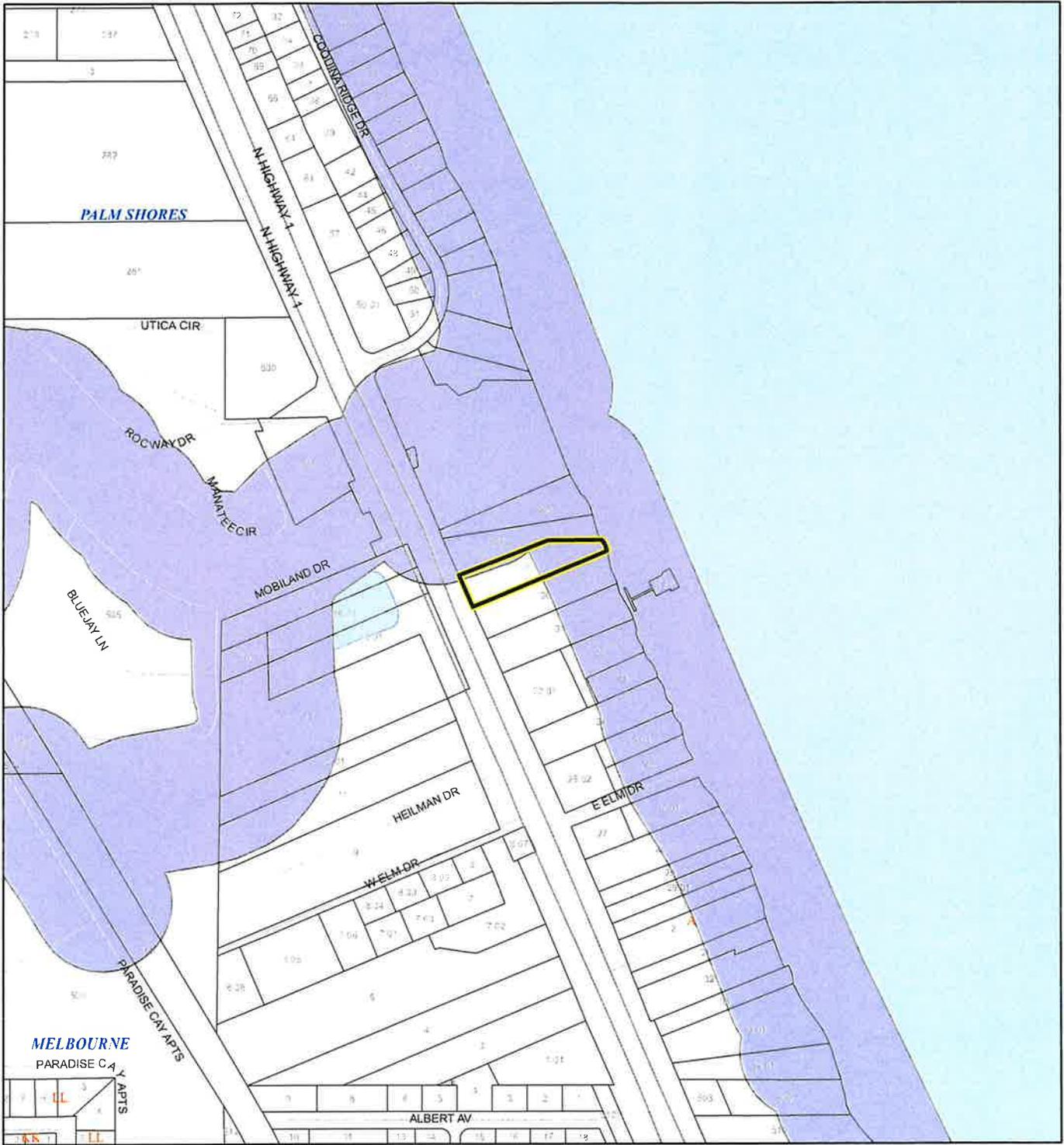
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

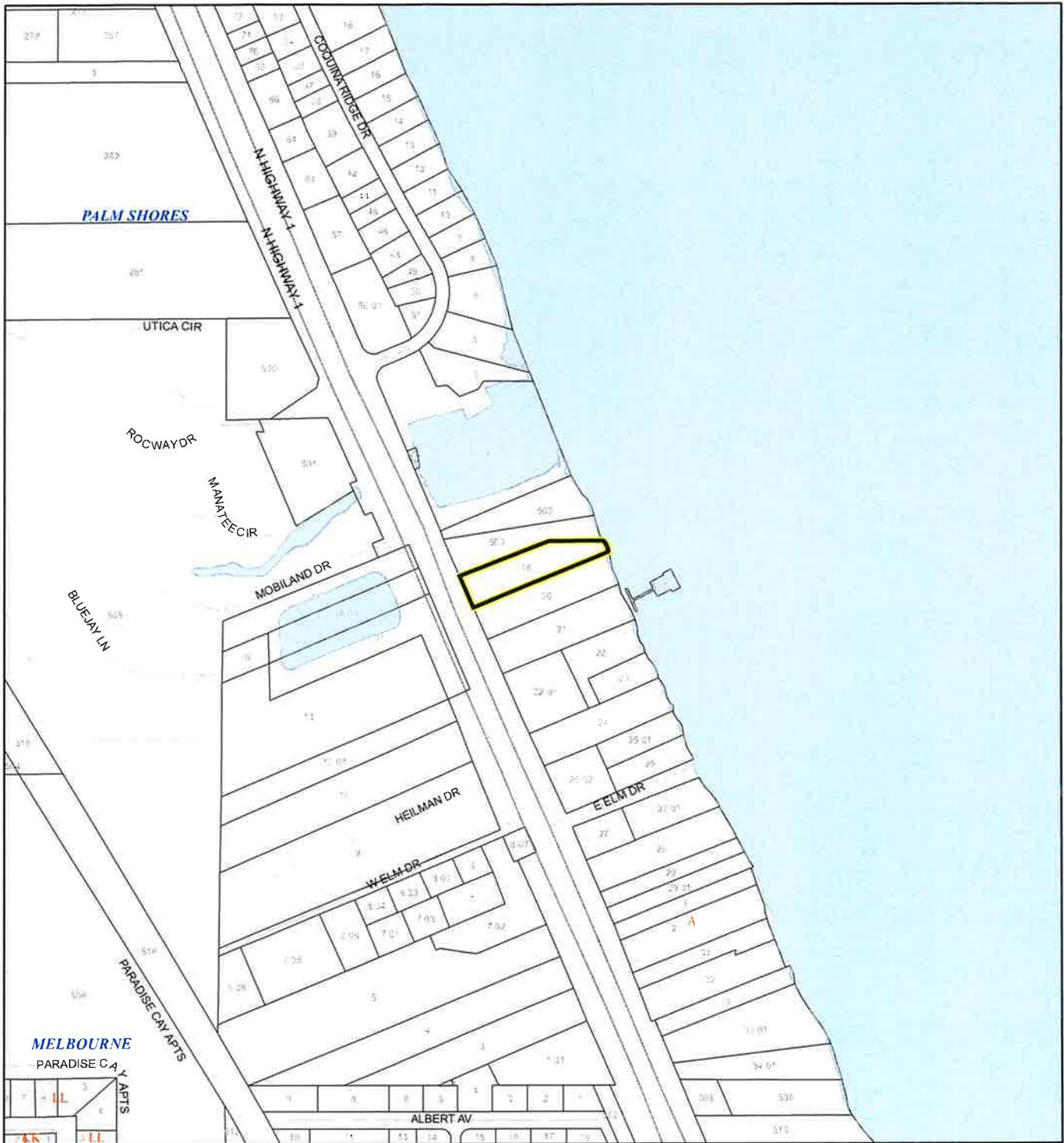
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

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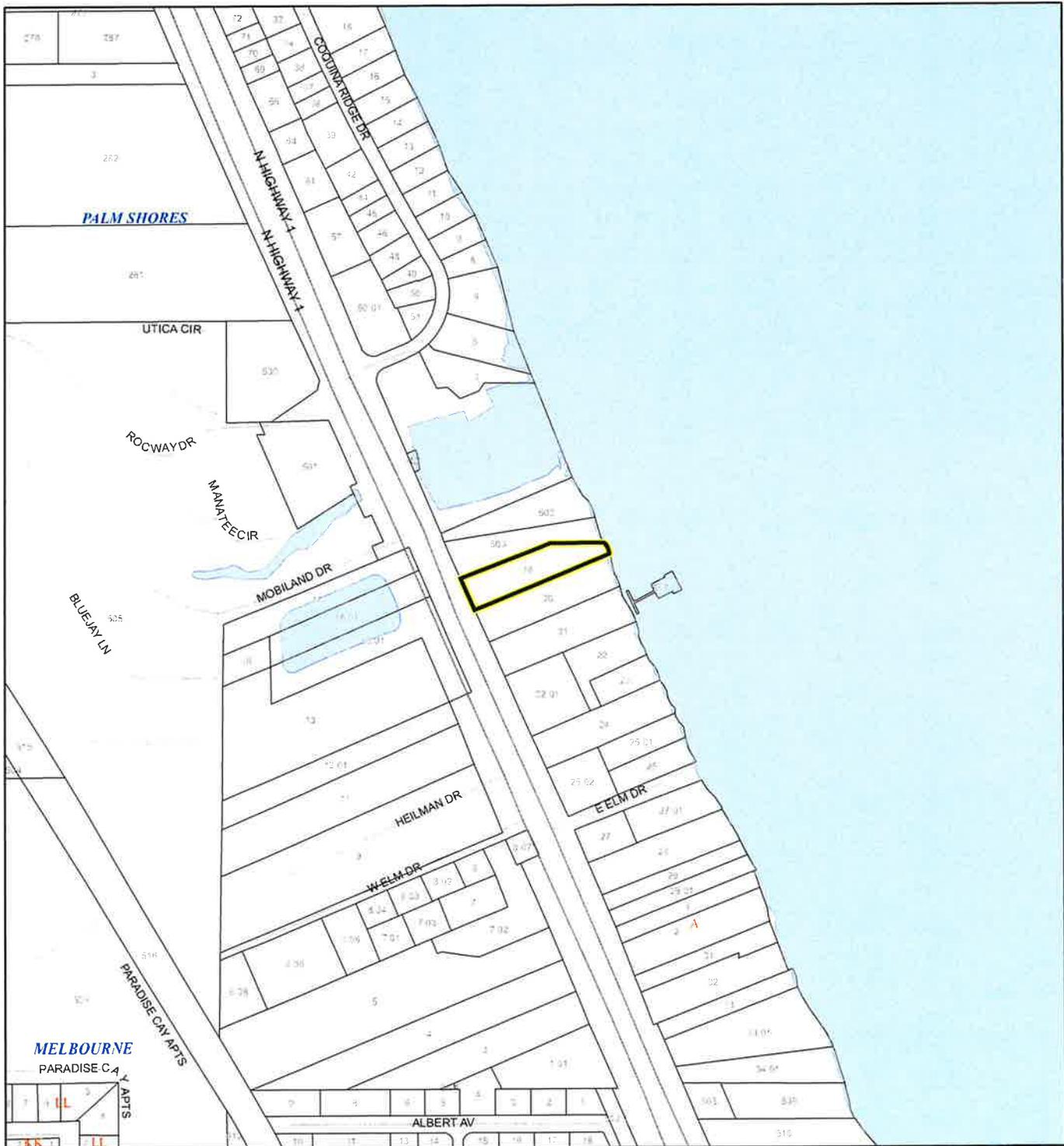
 Subject Property

 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

Paul & Cheryl Pearson
25Z00035



1:4,800 or 1 inch = 400 feet

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-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Paul & Cheryl Pearson
25Z00035



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

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 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); Ron Bartcher (D2); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); Robert Brothers (D5); Melissa Jackson (D5); Neal Johnson (D4); Ana Saunders (D5); Greg Nicklas (D3); Erika Orriss (D3); and Debbie Thomas (D4).

Staff members present were Trina Gilliam, Planning and Zoning Manager; Paul Body, Planner; George Ritchie, Planner; Derrick Hughey, Planner; Tim Craven, Planner; Alex Esseeesse, Deputy County Attorney; and Jordan Sagosz, Operations Support Specialist.

H.9. Paul & Cheryl Pearson (Steve Totty) request a zoning classification change from RU-1-9 (Single-Family Residential) to RU-2-6 (Low-Density Multiple-Family Residential). (25Z00035) (Tax Account 2611260) (District 4)

Paul Body read the item into the record.

Paul Pearson spoke to the application. We're looking to go from R1 to R6 to increase the usage of the property. We originally bought the property that was being used that way from the previous owner, which we found out the previous owner has had multiple problems with zoning, health department issues, and which we've all tried to resolve. Steve Totty, the contractor, has been working with staff. He was unable to make it. He had an emergency today. So, I'm standing up for him and I have some knowledge of what he's done and some of what he hasn't done. But I'm able to answer probably a lot of the questions that you may have.

No Public Comment

Mr. Bartcher asked was there a variance requested?

Mr. Pearson responded there have been multiple variances because of the way the property was originally built and then there were additions added on by two previous owners in which the setbacks are short of the original county zoning.

Mr. Bartcher asked staff if there was a variance request to vary from the 30% breezeway corridor.

Mr. Body replied yes there were I think three different variances for setbacks because they're changing them from the single family into multifamily and then being on the river. There's also a breezeway requirement for the 200 feet off the river of 30%. They had a variance that was approved for it, too.

Mr. Bartcher asked staff it's been this way for 19 years; how did they get a building permit for three rental units in an R1 zoning classification?

Mr. Body replied the property was built with permits for garages in the front. They were connected with a breezeway. That was how it was originally done back in the early 2000s. So later the breezeway slowly disappeared through weather and such. The previous owners had changed the garages into living areas for apartments. It's like the gentleman here said, there are multiple issues with code enforcement for doing that.

Mr. Pearson added we've worked with Zach Frame from the health department, and we've already fixed all the issues and then the new septic system that's going in will fix the other issues that were there. They had put in temporary septic systems on the property.

Mr. Bartcher stated sounds to me like we ought to support this new buyer who's taking property that's been creating a lot of problems for us and he's fixing the problems and making it all legal again. I think you know I'm going to recommend approval.

Mr. Pearson added and just so you know the owners around, I've spoken to all of them and they're all in favor of it. So just to give you an indication.

Motion to recommend of Item H.9. by Ron Bartcher, seconded by Jerrad Atkins. Motion passed unanimously.

Meeting adjourned at 4:27 p.m.