



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

12/11/2025

Subject:

Jacob Foune requests a Small-Scale Comprehensive Plan Amendment (25S.14) to change the Future Land Use designation from RES-1 to RES-2. (25SS00008) (Tax Account 2000804) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small-Scale Comprehensive Plan Amendment (25S.14), to change the Future Land Use designation from RES-1 (Residential 1) to RES-2 (Residential 2).

Summary Explanation and Background:

The applicant is requesting to amend the Future Land Use Map (FLUM) designation from Residential 1 (RES 1) to Residential 2 (RES 2) on 0.54 acres to build a single-family home and provide consistency with the proposed rezoning request from SR with a BDP to SR with removal of a BDP and additional of a new BDP (companion application **25Z00037**). The subject parcel has a single-family residence under construction (**24BC21408**), which currently has a stop work order pending application approval(s). The proposed FLU designation can be considered an intensification of density and an introduction of a FLU designation to the area. The subject property retains the original FLU designation established in 1988 by the Brevard County Comprehensive Plan.

Given the unique circumstances of this application, it is staff's position that approval of this small-scale comprehensive plan amendment shall not be interpreted or construed as establishing a precedent for future land use amendments, zoning actions, or development approvals. Each application is reviewed on its own merits, based on the specific facts, circumstances, and applicable policies and regulations in effect at the time of review. Nothing in this action shall be deemed to create vested rights or to obligate the County to approve any future requests of a similar nature. In this particular case, the applicant is subject to Code Enforcement due to the actions of a predecessor in interest who improperly split the property into a substandard lot violating Section 62-2102, Brevard County Code.

The existing BDP was approved under zoning action **19PZ00098** and recorded in ORB 8662, Page 2523. Specifically, this action approved a rezoning from GU (General Use) to the SR classification on 1.34 acres. At the time, the subject property complied with the RES 1 FLU designation. However, RES 1 was, and is not, consistent with the SR zoning classification. The original BDP stipulated the developer/owner shall limit development to one single-family residence and may be further restricted by any changes to the

Comprehensive Plan or Land Development Regulations. The original BDP further stipulated that the developer/owner shall limit density to one unit per acre and may be further restricted by any changes to the Comprehensive Plan or Land Development Regulations.

One (1) single-family residence (SFR) permit, **20BC20801**, was issued for construction by Scott Minnick Construction Inc. on the 1.34 acres owned by Thomas & Barbara Tofte, on January 6, 2021. Subsequently, the property was sold to Joseph & Chelsea Minnick and split into two (2) lots of 0.54 acres and 0.89 acres on April 27, 2020, as recorded in ORB 8729, PG 2604 - 2605.

During staff review of the SFR permit, **20BC20801**, on October 15, 2020, it was noted by Zoning staff that the documents submitted did not appear to match the approved lot configuration of **19PZ00098**. After the submittal of the warranty deed and revised plot plan, Zoning staff was able to review and approve the permit on November 9, 2020.

The 0.89-acre property was sold on October 22, 2021, by Joseph & Chelsea Minnick as recorded in ORB 9302, PG 346 - 347. The 0.54-acre subject property was sold to the applicant, Jacob Foune, by Joseph & Chelsea Minnick on June 4, 2024, as recorded in ORB 10079, PG 2366 - 2367.

These actions violated the conditions of the BDP and Section 62-2102, Brevard County Code of Ordinances, "Alteration of lot," which states that "no person shall sever any lot in such a manner that a violation of any of the provisions of this chapter would be created on any new or altered lot, including their uses or structures."

Subsequent to this unlawful split, a permit for a single-family resident was issued in error (24BC21408). This permit should not have been issued because the lot is a substandard lot as a result of that split. Upon discovering the error, a Stop Work Order was issued by the Brevard County Building Official.

North of the subject property is a 1.07-acre parcel zoned RR-1 with a RES1 FLU designation. It has been improved with a single-family residence. South of the subject property, across Golden Shores Blvd., is a 1.43-acre parcel zoned RRMH-1 with a RES1 FLU designation. It has been improved with a single-family mobile home. East of the subject property is a 0.89-acre parcel zoned SR with a BDP with a RES1 FLU designation. It has been improved with a single-family residence. West of the subject property is a 1.72-acre parcel zoned RR-1 with a RES1 FLU designation. It has been improved with a single-family residence.

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

On November 17, 2025, the Local Planning Agency considered the request and voted 10:2 to recommend approval.

Clerk to the Board Instructions:

Please return a copy of the filed ordinance to Planning and Development.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

Administrative Policy 1

The Brevard County zoning official, planners and the Director of the Planning and Development, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

Upon Board request, members of the Brevard County planning and zoning staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for zoning, conditional uses, comprehensive plan amendments, vested rights, or other applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

Criteria:

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For development applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

Administrative Policy 3

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

Criteria:

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

- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:
 - 1. historical land use patterns;
 - 2. actual development over the immediately preceding three years; and
 - 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

Criteria:

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
 - 1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
 - 2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
 - 3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the

use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;
- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

Administrative Policy 6

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

Administrative Policy 7

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

Administrative Policy 8

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

CONDITIONAL USE PERMITS (CUPs)

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in

support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

(c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.
 - a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.
- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

DEFINITIONS OF CONCURRENCY TERMS

Maximum Acceptable Volume (MAV): Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

Current Volume: Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

Volume with Development (VOL W/DEV): Equals Current Volume plus trip generation projected for the proposed development.

Volume/Maximum Acceptable Volume (VOL/MAV): Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV): Ratio of volume with development to the Maximum Acceptable Volume.

Acceptable Level of Service (CURRENT LOS): The Level of Service at which a roadway is currently operating.

Level of Service with Development (LOS W/DEV): The Level of Service that a proposed development may generate on a roadway.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

Small Scale Plan Amendment 25S.14 (25SS00008)
Township 20G, Range 34, Section 03

Property Information

Owner / Applicant: **Jacob Founé**

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

Requested Future Land Use Map Designation: Residential 2 (RES 2)

Acreage: 0.54 +/- acres

Tax Account #: 2000804

Site Location: North side of Golden Shores Blvd., approx. 1,167 ft. east of International Ave.

Commission District: 1

Current Zoning: SR (Suburban Residential) with BDP (Binding Development Plan)

Requested Zoning: SR with removal of BDP and addition of a new BDP

Background & Purpose

The applicant is requesting to amend the Future Land Use Map (FLUM) designation from Residential 1 (RES 1) to Residential 2 (RES 2) on 0.54 acres to build a single-family home and provide consistency with the proposed rezoning request from SR with a BDP to SR with removal of a BDP and additional of a new BDP (companion application **25Z00037**). The subject parcel has a single-family residence under construction (**24BC21408**), which currently has a stop work order pending application approval(s). The proposed FLU designation can be considered an intensification of density and an introduction of a FLU designation to the area.

Staff would like to add the following disclaimer: Approval of this small-scale comprehensive plan amendment shall not be interpreted or construed as establishing a precedent for future land use amendments, zoning actions, or development approvals. Each application is reviewed on its own merits, based on the specific facts, circumstances, and applicable policies and regulations in effect at the time of review. Nothing in this action shall be deemed to create vested rights or to obligate the County to

approve any future requests of a similar nature. In this particular case, the applicant is subject to Code Enforcement due to the actions of a predecessor in interest who improperly split the property into a substandard lot violating Section 62-2102, Brevard County Code.

The subject property retains the original FLU designation established in 1988 by the Brevard County Comprehensive Plan.

The BDP was approved under zoning action **19PZ00098** and recorded in ORB 8662, Page 2523. Specifically, this action approved a rezoning from GU (General Use) to the SR classification on 1.34 acres. At the time, the subject property complied with the RES 1 FLU designation. However, RES 1 was, and is not, consistent with the SR zoning classification. The original BDP stipulated the developer/owner shall limit development to one single-family residence and may be further restricted by any changes to the Comprehensive Plan or Land Development Regulations. The original BDP further stipulated that the developer/owner shall limit density to one unit per acre and may be further restricted by any changes to the Comprehensive Plan or Land Development Regulations.

One (1) single-family residence (SFR) permit, **20BC20801**, was issued for construction by Scott Minnick Construction Inc. on the 1.34 acres owned by Thomas & Barbara Tofte, on January 6, 2021. Subsequently, the property was sold to Joseph & Chelsea Minnick and split into two (2) lots of 0.54 acres and 0.89 acres on April 27, 2020, as recorded in ORB 8729, PG 2604 – 2605.

During staff review of the SFR permit, **20BC20801**, on October 15, 2020, it was noted by Zoning staff that the documents submitted did not appear to match the approved lot configuration of **19PZ00098**. After the submittal of the warranty deed and revised plot plan, Zoning staff was able to review and approve the permit on November 9, 2020.

The 0.89-acre property was sold on October 22, 2021, by Joseph & Chelsea Minnick as recorded in ORB 9302, PG 346 – 347. The 0.54-acre subject property was sold to the applicant, Jacob Foune, by Joseph & Chelsea Minnick on June 4, 2024, as recorded in ORB 10079, PG 2366 – 2367.

These actions violated the conditions of the BDP and Section 62-2102, Brevard County Code of Ordinances, “Alteration of lot,” which states that “no person shall sever any lot in such a manner that a violation of any of the provisions of this chapter would be created on any new or altered lot, including their uses or structures.”

Subsequent to this unlawful split, a permit for a single-family resident was issued in error (24BC21408). This permit should not have been issued because the lot is a substandard lot as a result of that split. Upon discovering the error, a Stop Work Order was issued by the Brevard County Building Official.

The subject parcel is located on the north side of Golden Shores Blvd., a County maintained road, approximately 1,167 ft. east of International Ave.

There are no current code enforcement complaints on the property.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-family residence	RR-1	RES 1
South	Single-family mobile home across Golden Shores Blvd	RRMH-1	RES 1
East	Single-family residence	SR w/ BDP	RES 1
West	Single-family residence	RR-1	RES 1

North of the subject property is a 1.07-acre parcel zoned RR-1 with a RES1 FLU designation. It has been improved with a single-family residence.

South of the subject property, across Golden Shores Blvd., is a 1.43-acre parcel zoned RRMH-1 with a RES1 FLU designation. It has been improved with a single-family mobile home.

East of the subject property is a 0.89-acre parcel zoned SR with a BDP with a RES1 FLU designation. It has been improved with a single-family residence. This eastern property was previously connected to the subject property but was split out illegally in violation of Section 62-2102, Brevard County Code, and created two (2) substandard lots, the subject property and the eastern property.

West of the subject property is a 1.72-acre parcel zoned RR-1 with a RES1 FLU designation. It has been improved with a single-family residence.

The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element.

Future Land Use

The subject property's SR zoning classification with a BDP can be considered consistent with the RES 1 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The proposed SR zoning classification with the removal of the BDP can be considered consistent with the proposed RES 2 FLU designation.

Comprehensive Plan Policies/Comprehensive Plan Analysis

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

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

FLUE Residential 2 (maximum of 2 units per acre) Policy 1.8

The Residential 2 land use designation permits lower density residential development with a maximum density of up to two (2) units per acre, except as otherwise may be provided for within this element. The Residential 2 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan:

Criteria:

- A. Areas adjacent to existing Residential 2 land use designation; or
The subject property is not adjacent to another RES 2 land use designation.
- B. Areas which serve as a transition between existing land uses or land use designations with density greater than two (2) units per acre and areas with density of less than two (2) units per acre; or
The subject property does not serve as a transition between areas of greater density and lesser density.
- C. Unincorporated areas which are adjacent to incorporated areas and may be considered a logical transition for Residential 2.
The subject property is not adjacent to an incorporated area.
- D. Up to a 25% density bonus to permit up to 1.25 dwelling units per acre may be considered with a Planned Unit Development were deemed compatible by the County with adjacent development, provided that minimum infrastructure requirements set forth in Policy 1.2 are available. Such higher densities should be relegated to interior portions of the PUD tract, away from perimeters, to enhance blending with adjacent areas and to maximize the integration of open space within the development and promote interconnectivity with surrounding uses. This density bonus shall not be utilized by properties within the CHHA.
The companion rezoning application does not request PUD zoning.

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;

The proposed BDP removal and FLU designation amendment would allow the development of one single-family home similar to the existing developed lots in the surrounding area. The request is not anticipated to diminish the enjoyment of safety or quality of life in existing residential area. Development must meet concurrency and performance standards.

- 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.

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

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

1. historical land use patterns;

The historical land use patterns in the surrounding area can be categorized as vacant land, agricultural pursuits, or single-family residences situated on larger parcels ranging from 0.22 to 18.14 acres.

Residential 1 (RES 1) is the only FLU designation within the 0.5-mile search radius.

There have been no FLUM amendments within one-half mile of the subject property in the past three years.

There are multiple zoning classifications within a 0.5-mile radius of the subject parcel. The prominent zoning classification in the area is General Use (GU) followed by RRMH-1. Additional zonings include Rural Residential (RR-1), Single-Family Residential (RU-1-9), Suburban Residential (SR),

Single-Family Mobile Home (TR-1), and Agricultural Residential (AU) zoning classifications.

There is one other SR zoned property, immediately abutting on the east side of the subject property.

2. actual development over the immediately preceding three years; and
Zoning actions within one half mile within the past three years:

•24Z00053: Approximately 600 ft. west of the subject property, approved on 03/13/2025, a rezoning from GU to AU and currently has a pending building permit for an addition to the existing single-family residence.

•23Z00064: Within 0.5 miles south of the subject property, on April Ln., approved on 11/2/2023, a rezoning from GU to RR-1 and has been improved with a single-family residence.

•22Z00043: Within 0.5 miles northwest of the subject property, on Peoples St., approved on 11/03/2022, a rezoning from RRMH-1 to AU. No pending development currently.

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

There has not been any development approved but not yet constructed within this area in the preceding three (3) years.

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

No material violation of relevant policies has been identified.

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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

This request is not anticipated to have a measurable impact on the area in terms of trip generation, or parking. No commercial or industrial activity is proposed.

- 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 that 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 is not 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.

The area is primarily a sparse residential area with vacant lands and no commercial zoning nearby.

Analysis of Administrative Policy #7

Proposed use(s) shall not cause or substantially aggravate any (a) Substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

Environmental Constraints

Natural Resources Management Department has identified that the subject property is located within a mapped FEMA Special Flood Hazard Area (SFHA) A. Also, the subject property may have federally protected species and/or state

protected species may be present on the property. The property is mapped within a large area of Florida Scrub Jay habitat / occupancy.

Please refer to all comments provided by the Natural Resource Management Department at the end of this report.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Floodplain Protection
- Land Clearing and Landscape Requirements
- Protected Species

See the full NRM comments at the end of this report.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Burkholm Road and Volusia County, which has a Maximum Acceptable Volume (MAV) of 21,800 trips per day, a Level of Service (LOS) of C, and currently operates at 21.8% of capacity daily. The maximum development potential from the proposed rezoning does not increase the proposed trip generation. The corridor is anticipated to continue to operate at 21.8% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS Applicable Land Use Policies.

The subject property is not served by potable water or sewer and the provision of such would need to be provided by well and septic or a private sewer system.

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

Historic Resources

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

For Board Consideration

The Board may wish to consider if the request is consistent with the Comprehensive Plan and compatible with the surrounding area. In addition, the Board should consider the request based on the facts and circumstances surrounding the actions of a predecessor in interest, which resulted in the subject property being turned into a substandard lot

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Land Use Review & Summary
Item No. 25SS00008

Applicant: Jacob Foune (Owner: Jacob Foune)

Land Use Request: Amend FLUM from RES 1 to RES 2

Note: to legitimize property to continue building home

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

Tax ID No.: 2000804

- 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:

- Floodplain Protection
- Land Clearing and Landscape Requirements
- Protected Species

Land Use Comments:

Floodplain Protection

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) A, 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, including compensatory storage. 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."

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, the property lies within a large area of mapped Florida Scrub Jay occupancy. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the U.S. Fish and Wildlife Service (904-731-3121 or email FW4FLESRegs@fws.gov), as applicable.

J.O. # 37425

NOTE:

1. BEARINGS ARE FROM DEED, THE SOUTH LINE OF SECTION 3 BEING S. 79°01'04" W.
2. THE ACCURACY OF FIELD MEASUREMENTS FOR THIS SURVEY MEETS OR EXCEEDS 1 FT. IN 7,500 FT.
3. FLOOD ZONE -- "X" & "A" -- MAP # 12009C0100G
4. SEE REVERSE
5. SPOT ELEVATIONS TO "N.A.V.D.M.S." SHOWN THUS --- 25.0' BASED ON U.S.C.&G.S. BM "G 227" ELEVATION 29.03 FT.

BOUNDARY SURVEY OF: (DESCRIPTION AS FURNISHED)
 LOTS 16 AND 17, BLOCK 5, GOLDEN SHORES ESTATES, UNRECORDED PLAT MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE SOUTH 1/4 CORNER OF SECTION 3, INDIAN RIVER PARK, PLAT BOOK 2, PAGE 31 OF THE OFFICIAL RECORDS OF BREVARD COUNTY, FLORIDA, RUN ON AN ASSUMED BEARING OF N. 79°01'04" E. A DISTANCE OF 1160 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE N. 79°01'04" E. A DISTANCE OF 145 FEET TO A POINT; THENCE RUN N. 79°00'00" W. A DISTANCE OF 190 FEET TO A POINT; THENCE RUN S. 79°01'04" W. A DISTANCE OF 145 FEET TO A POINT; THENCE RUN S. 17°00'00" E. A DISTANCE OF 190 FEET TO THE POINT OF BEGINNING OF ADJACENT PROPERTY; THEREFROM THE SOUTHERLY AND WESTERLY 25 FEET FOR ROAD R/W.

19, JULY, 2024

HOLLEY & ASSOCIATES, INC., L.R. #4595
 REGISTERED LAND SURVEYORS
 P.O. BOX 1975, TITUSVILLE, FL. 32781
 1846 ROBIN HOOD AV.
 321-267-6113

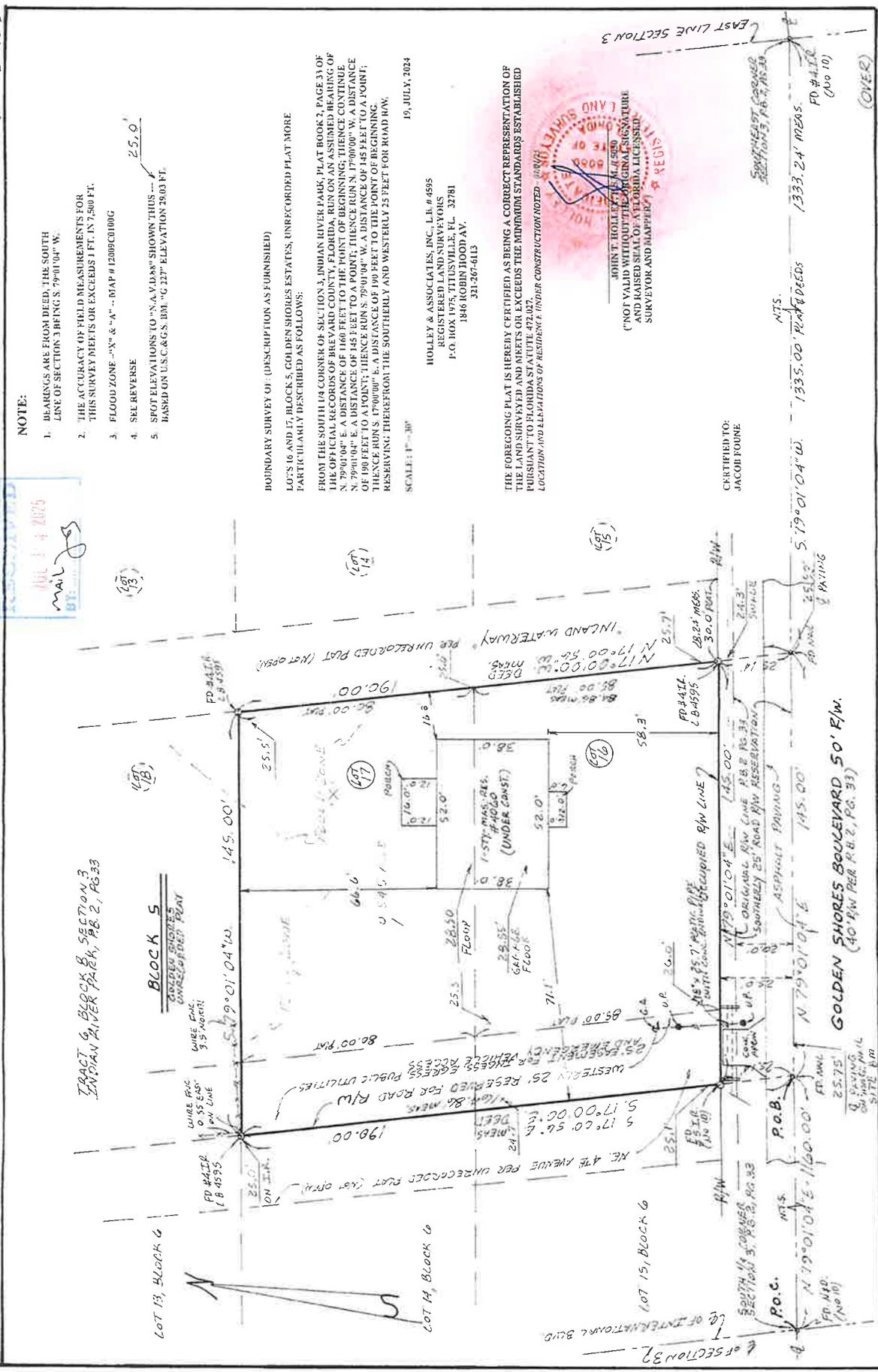
THE FOREGOING PLAT IS HEREBY CERTIFIED AS BEING A CORRECT REPRESENTATION OF THE LAND SURVEYED AND MEETS OR EXCEEDS THE MINIMUM STANDARDS ESTABLISHED PURSUANT TO FLORIDA STATUTES AND REGULATIONS AND THE LOCATION, LOCATION AND ELEVATIONS OF RESIDENCE UNDER CONSTRUCTION NOTED - 000001



CERTIFIED TO:
 JACOB FOUNE

1333.00' ROAD DEEDS
 1333.24' MEAS.
 PD #4128 (No 10)
 (OVER)

JUL 14 2025
 MAIL BY: [Signature]



LEGEND:

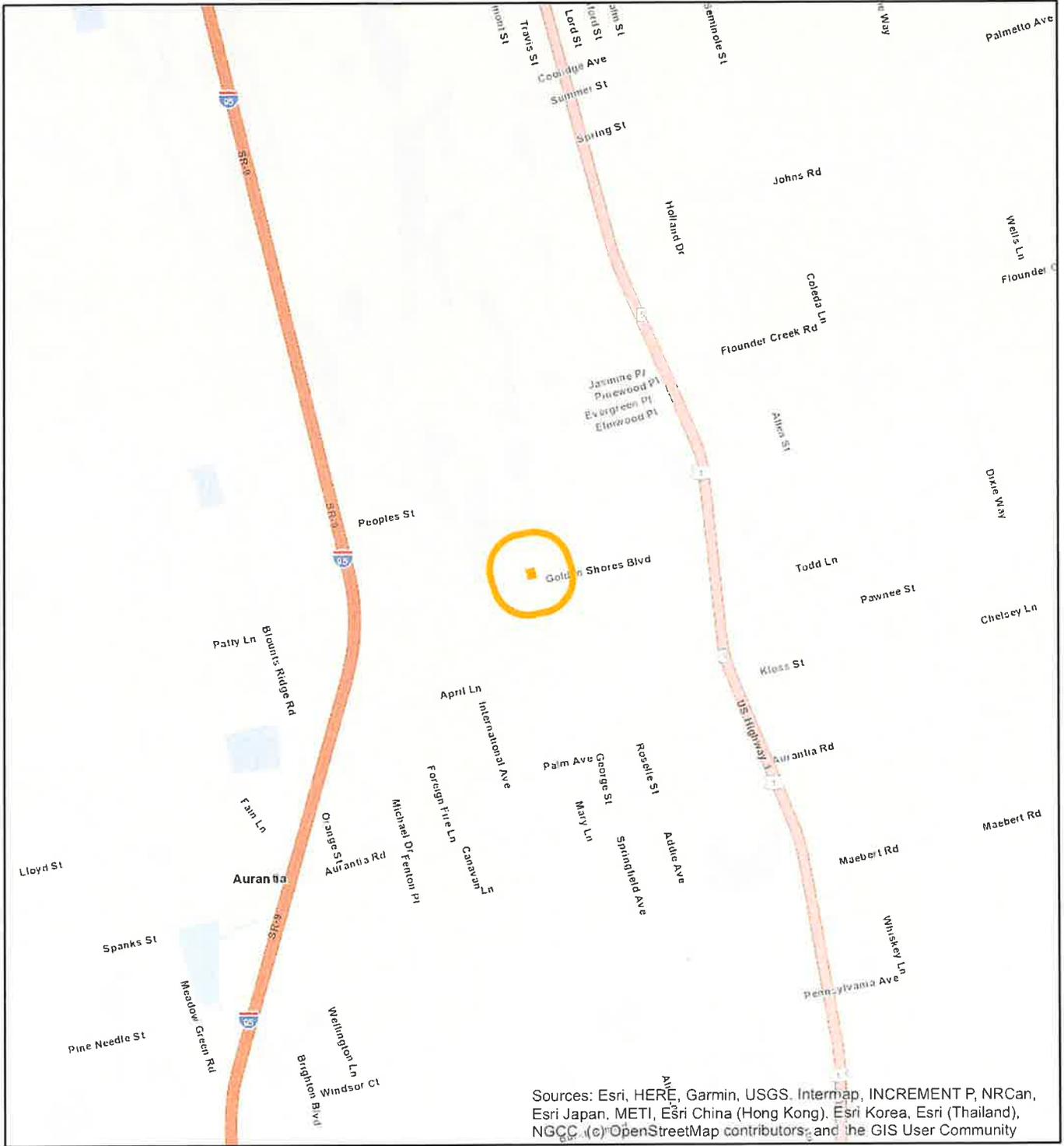
N = NORTH
 S = SOUTH
 E = EAST
 W = WEST
 I.R. = IRON ROD
 N & D = NAIL & DISK
 I.P. = IRON PIPE
 R/W = RIGHT OF WAY
 C.L. = CENTER LINE
 O/S = OFFSET
 CH = CHORD
 R = RADIUS
 Δ = DELTA
 T = TANGENT
 A = ARC DISTANCE
 ENCR = ENCROACH
 SCR.N. = SCREENED
 ENCL. = ENCLOSURE
 DECOR. = DECORATIVE
 MEAS. = MEASURE
 COMM. = COMMERCIAL
 I.D. = IDENTIFYING NAME
 OR NUMBER
 L.S. = LICENSED SURVEYOR
 U.S.P. = UTILITY SERVICE
 P.O.L. = POLE
 U.P. = UTILITY POLE
 W.S. = WATER SERVICE
 T.J.B. = TELEPHONE
 JUNCTION BOX
 W.F. = WETLAND FLAG
 C.M. = CONCRETE MONUMENT
 A/C = AIR CONDITIONING
 COMPRESSOR
 F.N.C. = FENCE
 C & G = CURB & GUTTER
 B.M. = BENCHMARK
 ELEV. = ELEVATION
 P.H. = PLAIN BOOK
 O.R.B. = OFFICIAL RECORDS BOOK
 D.B. = DEAD BOOK
 P.I. = POINT OF INTERSECTION
 P.C. = POINT OF CURVATURE
 P.T. = POINT OF TANGENCY
 P.K.M. = PERMANENT REFERENCE
 MONUMENT
 P.U. & D.E. = PUBLIC UTILITIES &
 DRAINAGE EASEMENT
 L.B. = LICENSED BUSINESS
 N.T.S. = NOT TO SCALE
 R.C.P. = REINFORCED CONCRETE PIPE
 P.O.B. = POINT OF BEGINNING
 P.O.C. = POINT OF COMMENCEMENT
 C.M.P. = CORRUGATED METAL PIPE
 N.G.V.D.29 = NATIONAL GEODETIC
 VERTICAL DATUM 1929
 N.A.V.D.88 = NORTH AMERICAN
 VERTICAL DATUM 1988
 E.S.H. = ELECTRIC SERVICE HAND HOLE
 C.T.V.J.B. = CABLE T.V. JUNCTION BOX
 L.P. = LIGHT POLE
 P.G. = PAGE
 BLVD. = BOULEVARD
 ST. = STREET
 AV. = AVENUE
 RD. = ROAD
 LN. = LANE
 TERR. = TERRACE
 S.V. = STOBY
 RES. = RESIDENCE
 MAS. = MASONRY
 FRM. = FRAME
 CONC. = CONCRETE
 DRAIN = DRAINAGE
 UTIL. = UTILITY
 ADD.T. = ADDITION
 BRNG. = BEARING
 STOR. = STORAGE
 ENT. = ENTRY
 COMP. = COMPUTED
 RET. = RETAINING
 G.A. = GUY ANCHOR
 G.S. = GAS SERVICE
 G.M. = GAS METER
 FD. = FOUND
 MTL. = METAL
 MH. = MANHOLE
 E.L. = ELECTRIC
 TRANSFORMER
 E.M. = ELECTRIC
 METER
 C.M. = CONCRETE MONUMENT
 A/C = AIR CONDITIONING
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 F.N.C. = FENCE
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 C.T.V.J.B. = CABLE T.V. JUNCTION BOX
 L.P. = LIGHT POLE

NOTE:

1. ALL IRON RODS SET ARE 18" #4 (1/2") REBAR WITH CAP MARKED HOLLEY & ASSOC. L.B. #4595.
2. THE SURVEYOR HAS NOT ABSTRACTED THE LANDS SHOWN HEREON FOR EASEMENTS AND/OR RIGHTS OF WAY OF RECORD, ONLY THOSE RIGHTS OF WAY AND EASEMENTS SHOWN OR NOTED ON THE RECORD PLAT AND ANY OPEN AND NOTORIOUS EVIDENCE ON OR ACROSS THE LAND SURVEYED IS SHOWN.
3. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS NOTED.
4. DATE SHOWN IS DATE OF FIELD SURVEY, UNLESS OTHERWISE STATED.
5. BEARINGS & DISTANCES MEASURED ARE THE SAME AS PLAT OR DEED CALL UNLESS OTHERWISE SHOWN.
6. ALL LOTS LIE WITHIN THE SAME BLOCK, UNLESS OTHERWISE SHOWN.

LOCATION MAP

FOUNE, JACOB
25SS00008



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (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: 9/3/2025

-  Buffer
-  Subject Property

ZONING MAP

FOUNE, JACOB

25SS00008



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

 Subject Property

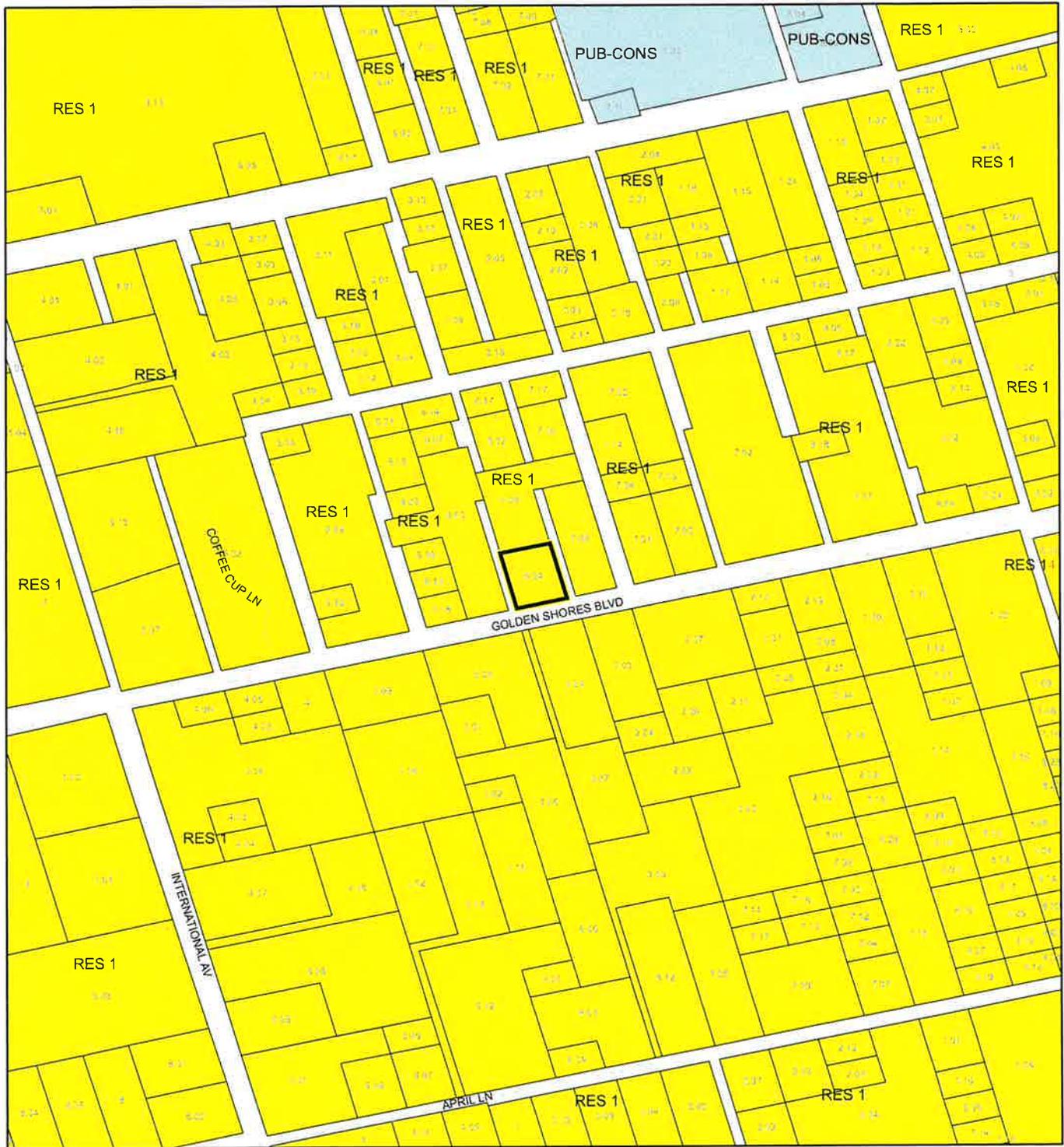
 Parcels

 Zoning

FUTURE LAND USE MAP

FOUNE, JACOB

25SS00008



1:4,800 or 1 inch = 400 feet

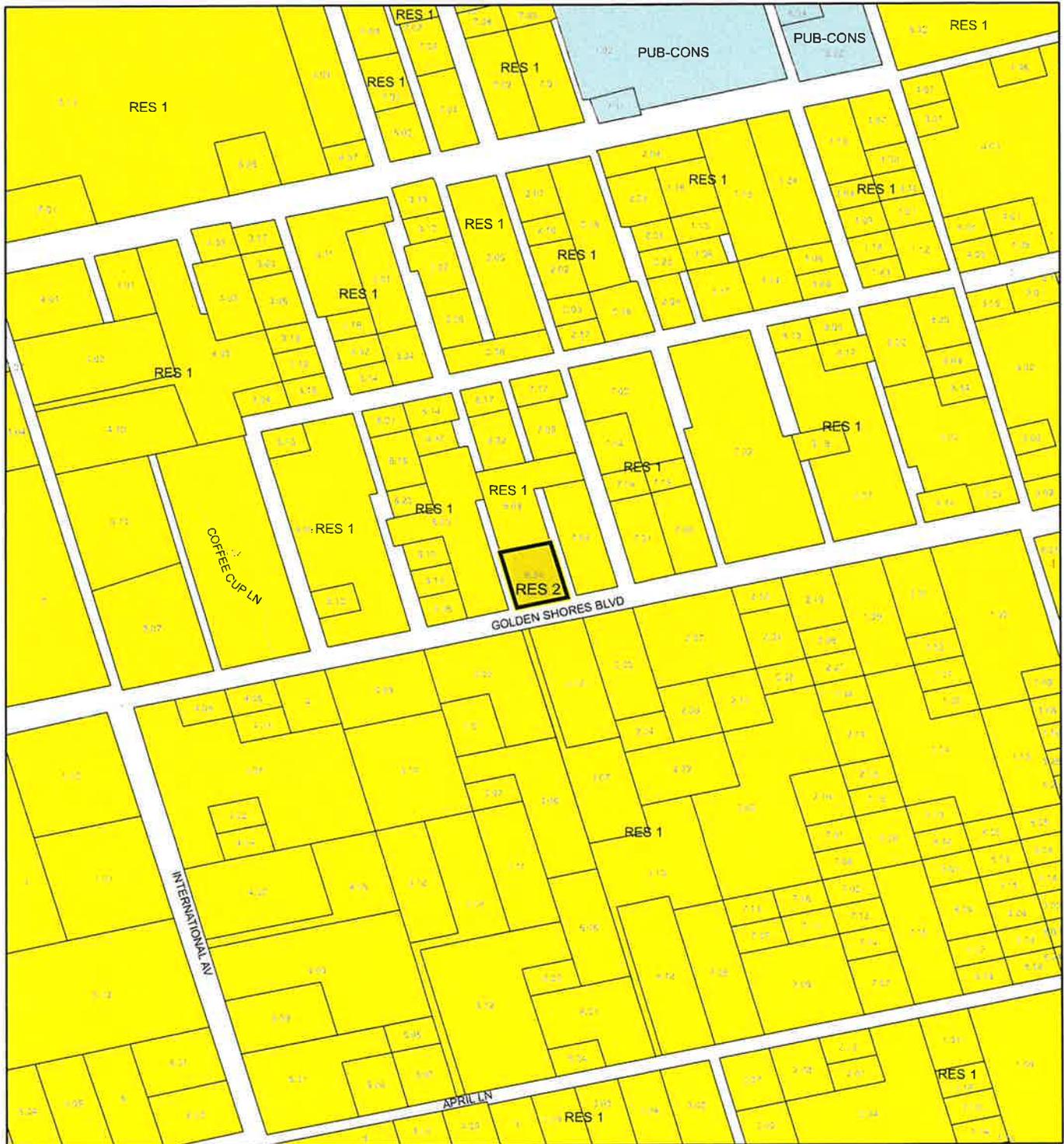
-  Subject Property
-  Parcels

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Produced by BoCC - GIS Date: 9/3/2025

PROPOSED FUTURE LAND USE MAP

FOUNE, JACOB
25SS00008



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

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AERIAL MAP

FOUNE, JACOB

25SS00008



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2025

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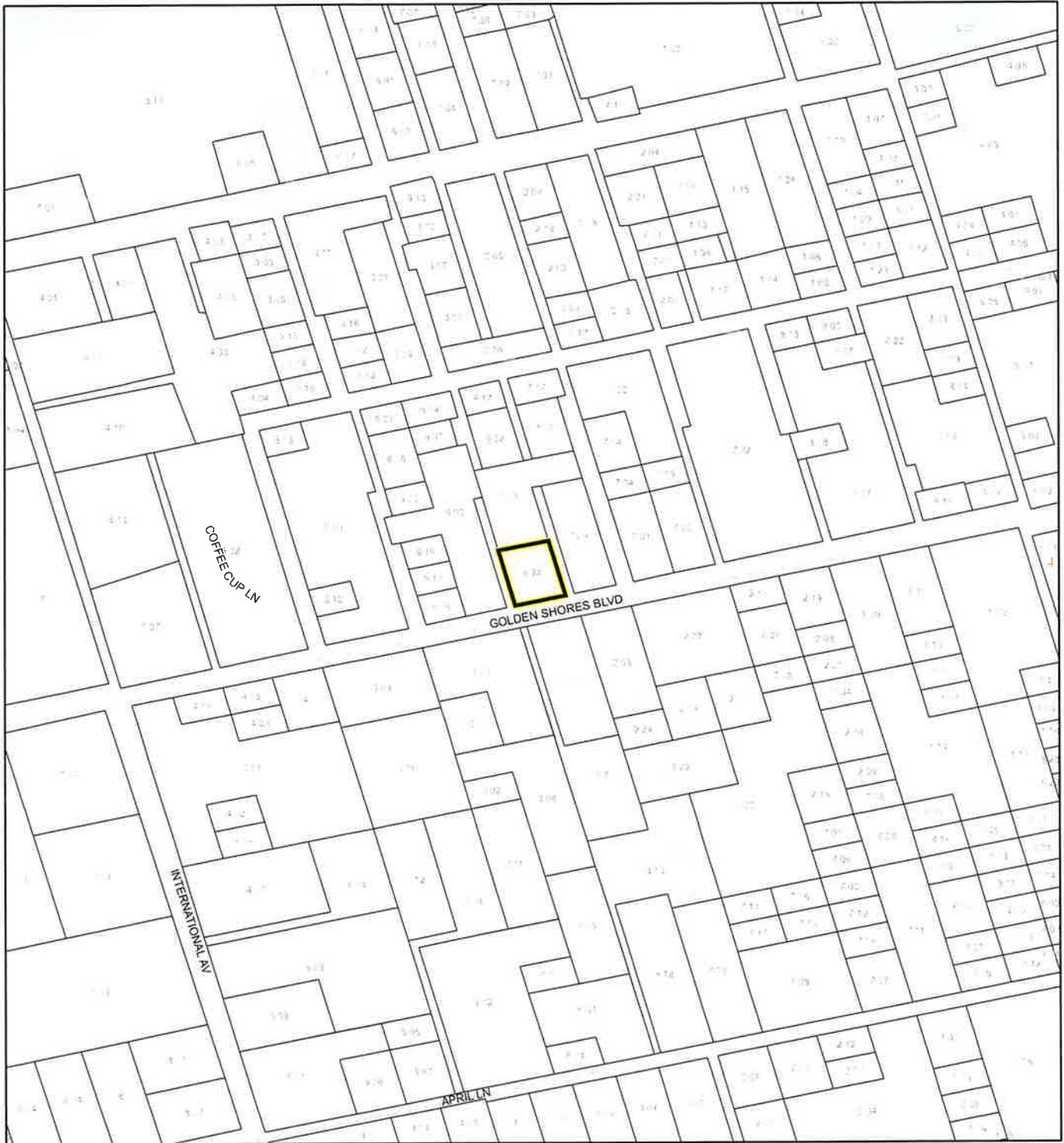
Produced by BoCC - GIS Date: 9/3/2025

 Subject Property

 Parcels

NWI WETLANDS MAP

FOUNE, JACOB
25SS00008



1:4,800 or 1 inch = 400 feet

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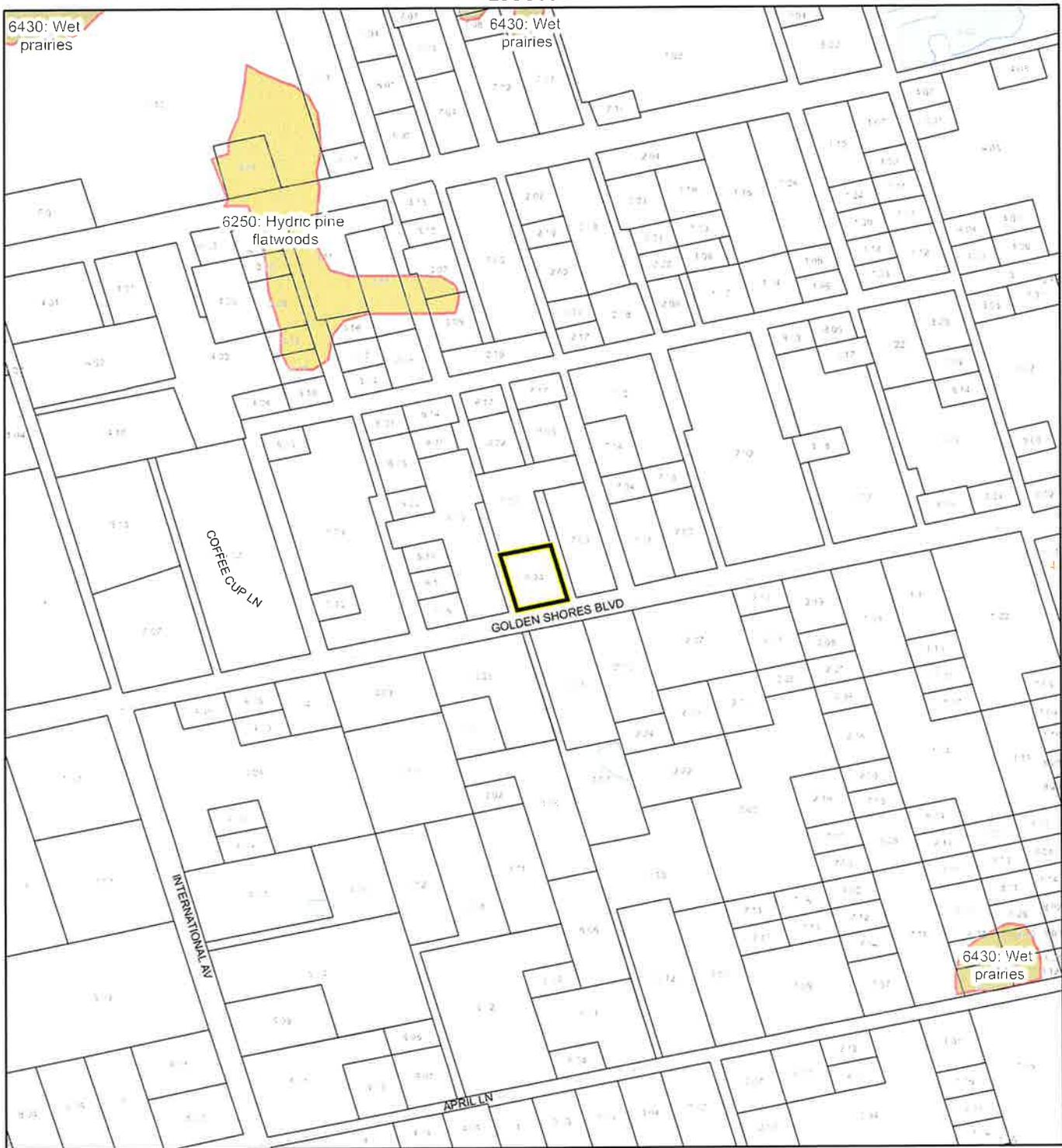
Produced by BoCC - GIS Date: 9/3/2025

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

FOUNE, JACOB
25SS00008



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

SJRWMD FLUCCS WETLANDS

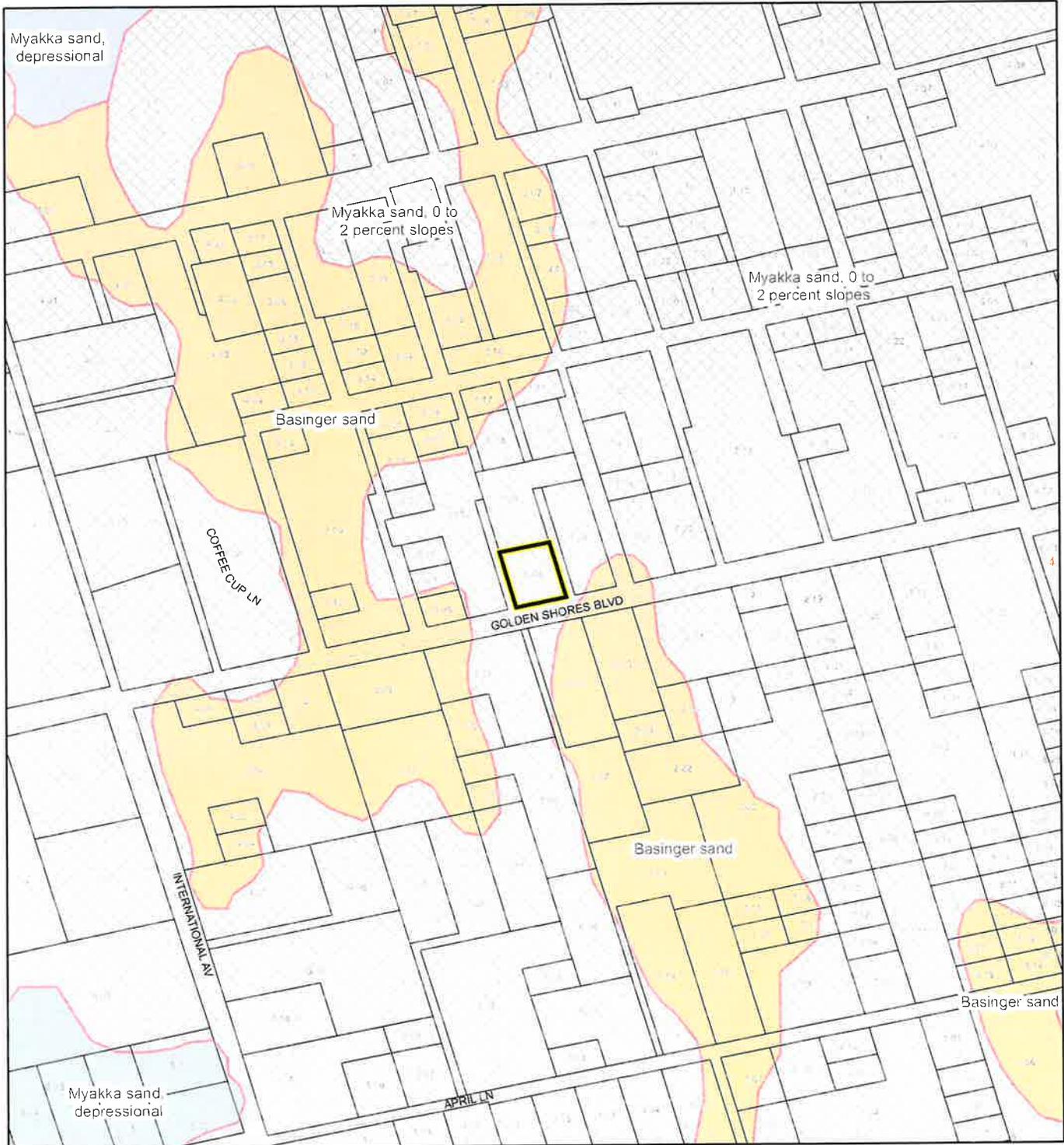
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property Parcels

USDA SCSSS SOILS MAP

FOUNE, JACOB

25SS00008



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

USDA SCSSS Soils

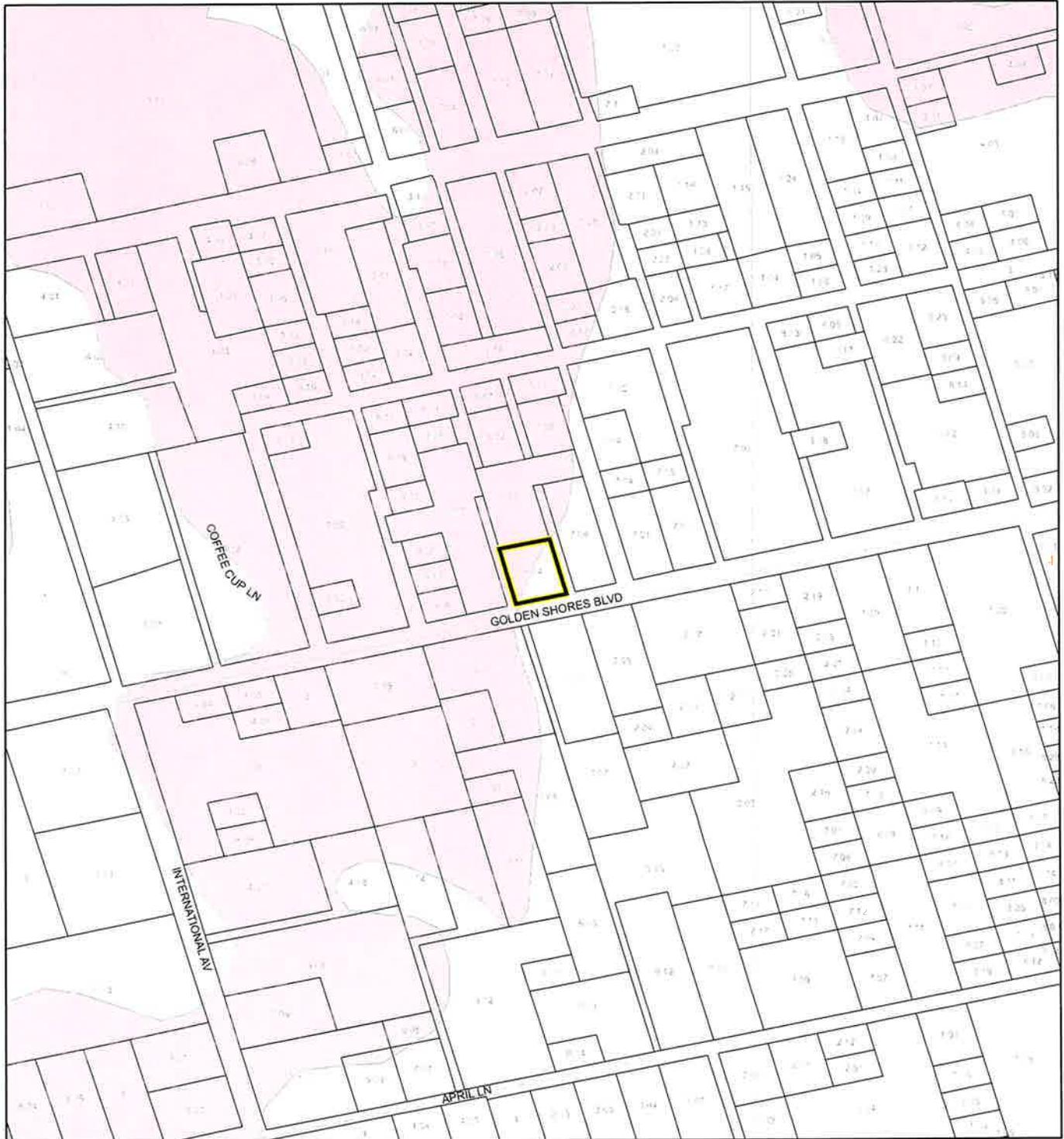
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

FOUNE, JACOB

25SS00008



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

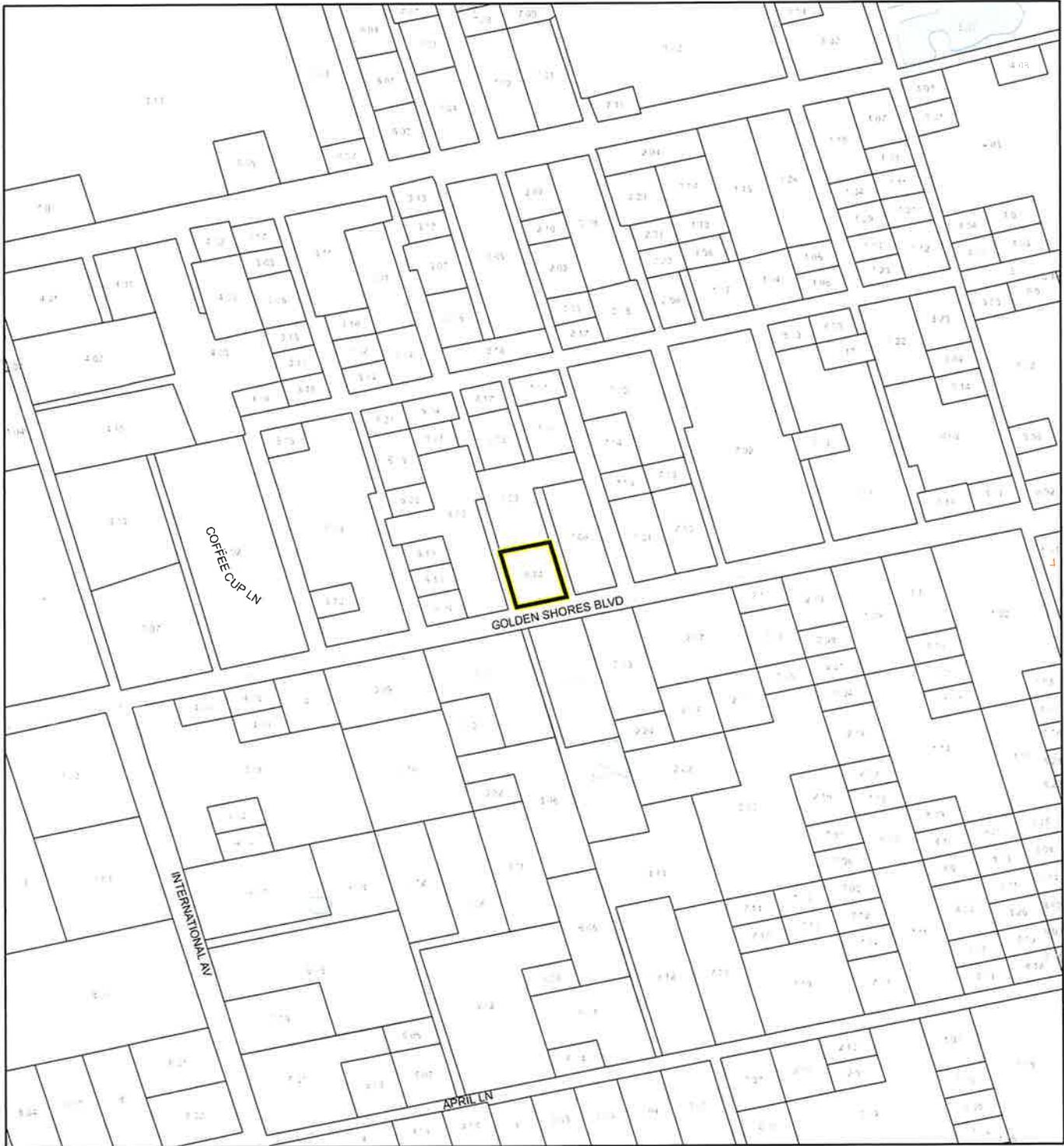
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

FOUNE, JACOB

25SS00008



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

 Subject Property

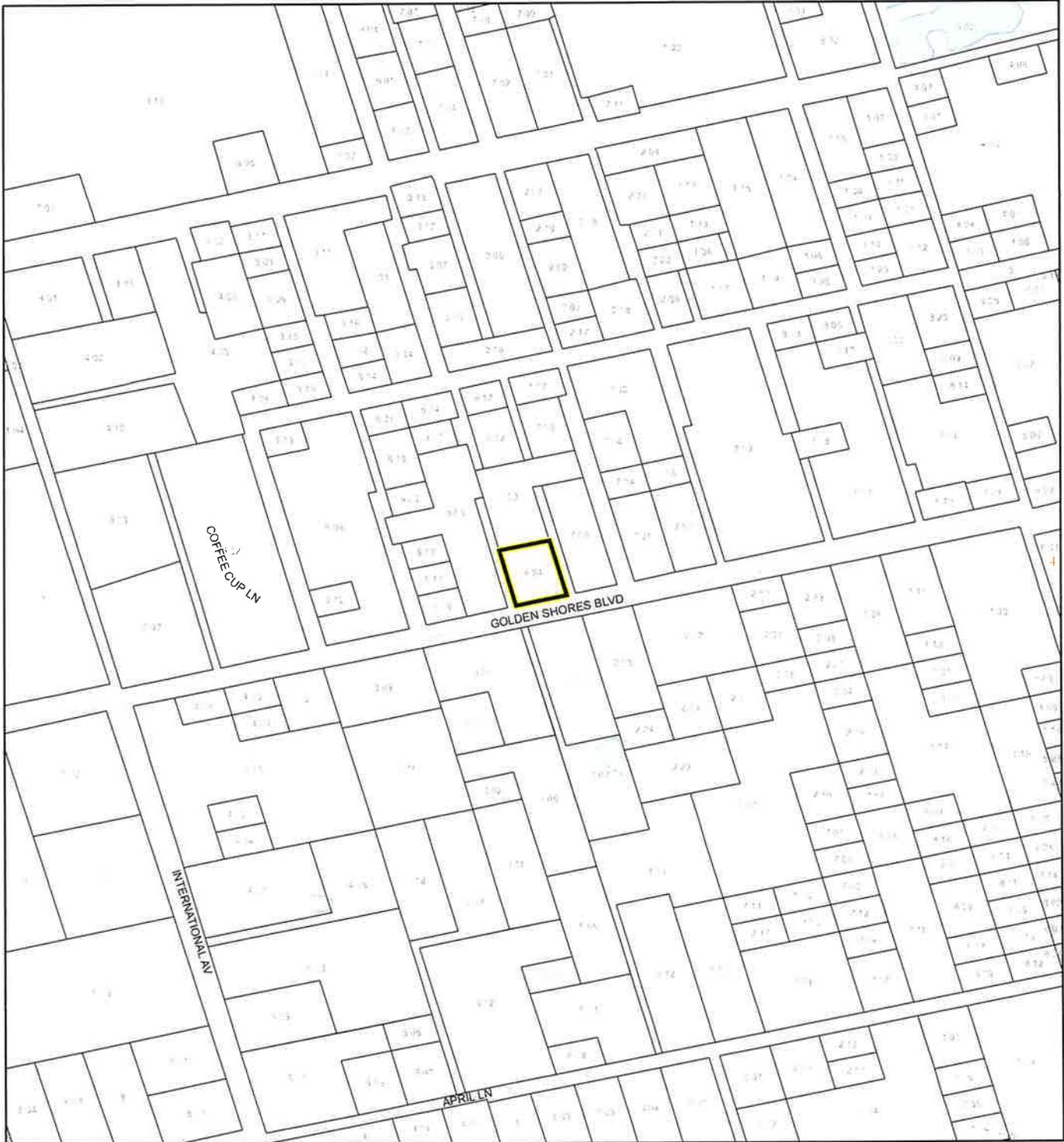
 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

FOUNE, JACOB
25SS00008



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

 Subject Property

 Parcels

Septic Overlay

 40 Meters

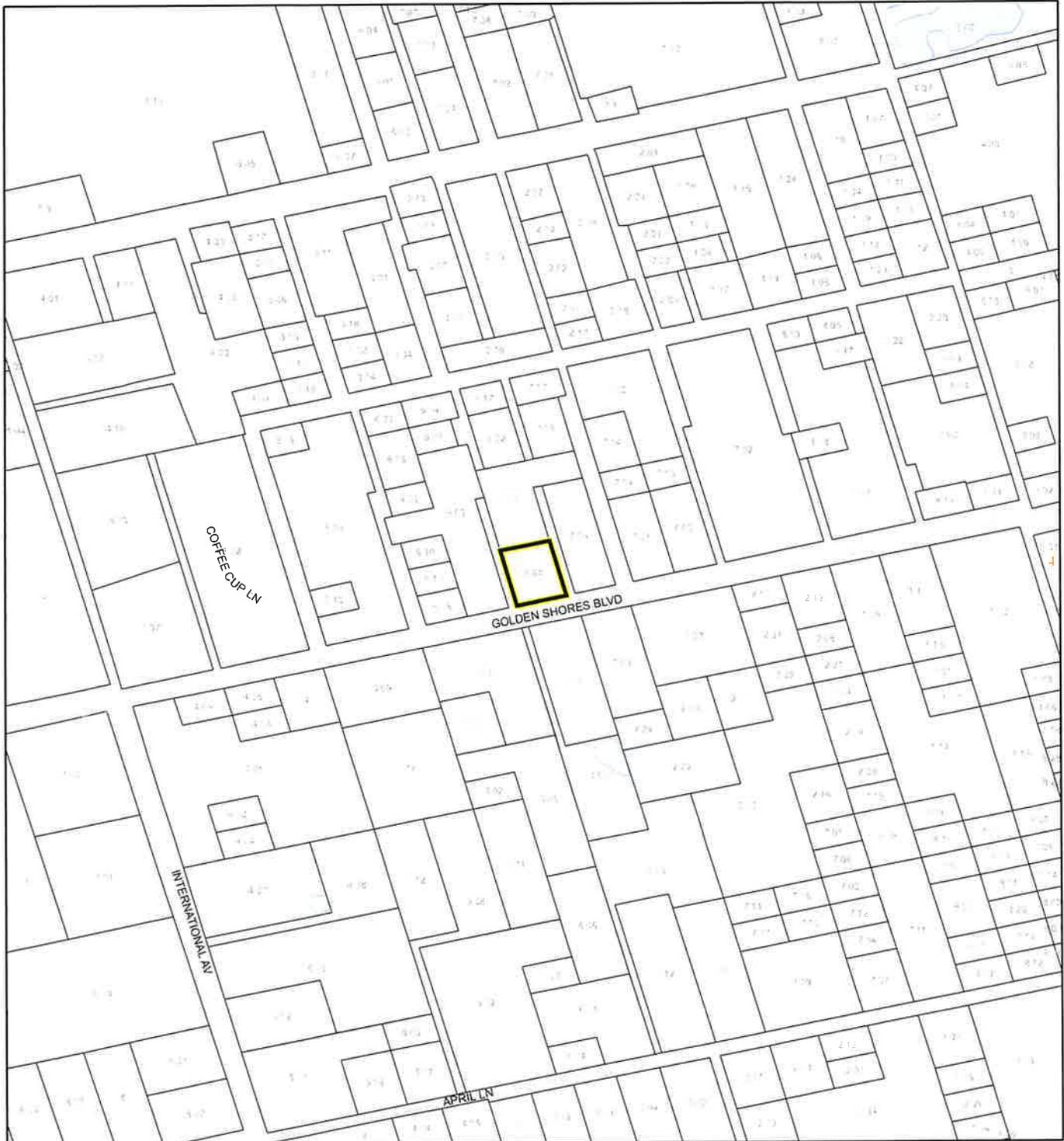
 60 Meters

 All Distances

EAGLE NESTS MAP

FOUNE, JACOB

25SS00008



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

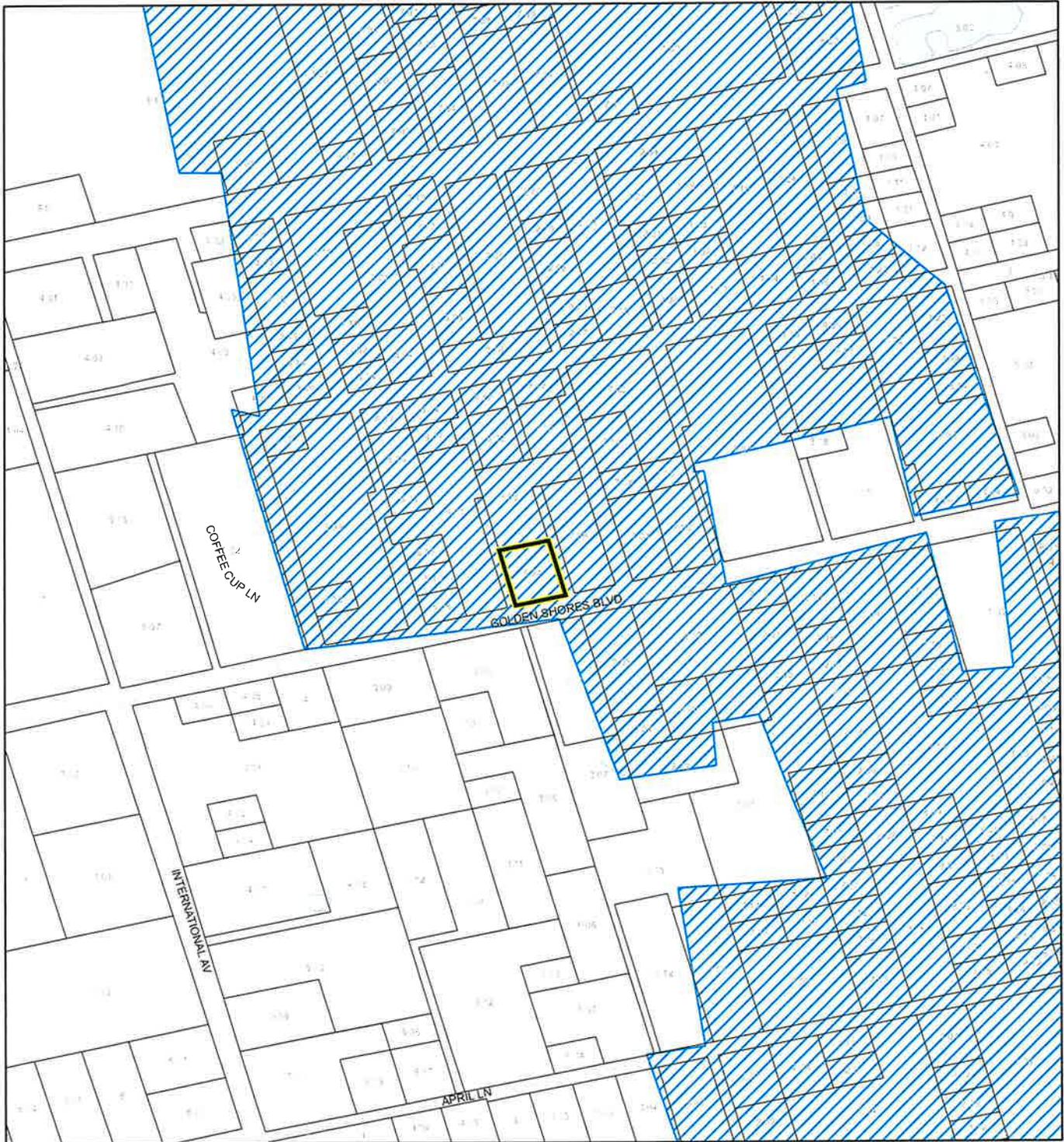
 Subject Property

 Parcels

 Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

FOUNE, JACOB
25SS00008



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

FOUNE, JACOB
25SS00008



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 9/3/2025

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 Esseesse, Deputy County Attorney; and Jordan Sagosz, Operations Support Specialist.

H.6. Jacob Foune requests a Small-Scale Comprehensive Plan Amendment (25S.14) to change the Future Land Use designation from RES-1 (Residential 1) to RES-2 (Residential 2). (25SS00008) (Tax Account 2000804) (District 1)

H.7. Jacob Foune requests a zoning classification change from SR (Suburban Residential) with a BDP to SR (Suburban Residential) with removal of the existing BDP and addition of a new BDP. (25SS00008) (Tax Account 2000804) (District 1)

Paul Body read both item H.6. and H.7. into the record as they are companion applications but will need separate recommendations.

Jacob Foune spoke to the applications. He stated he initially bought the property not aware of any issues to build on it. I turned in all my permits, got everything accepted, started construction. I currently already have my concrete slab done, my block. I have trusses sitting in the dirt for almost five or six months now. Now I'm just waiting to get it approved to continue my construction.

Public Comment

Clifford McKnight stated currently the rezoning, I don't know what happened to get this approved. Where you're supposed to get rezoned, you can rezone down to one acre. This is going to rezone it down to a half an acre, setting a precedence for future building in the area. According to the property appraiser website, this property is listed at .45 acres. It is now with the current survey listed as .51. So, I have a discrepancy there. I don't know what happened to get this thing rubber stamped to where he could start building. I feel sorry for him. But also with this property, the house directly behind it that just got built, 4070, their driveway runs directly through this piece of land also. So, by building this, approving it and building this house, you're cutting off their flag lot. They don't have direct access. The current BDP, I'm not sure what is going to entail with that being changed, but I'm not in favor of this.

End Public Comment

Mr. Hopengarten asked how did you buy this? Did you go through a realtor?

Mr. Foune replied no, no realtor. Nope. Just bought it. I work construction, so I just work in the area all the time and work with people that sell lots. I was told of the lot and made a deal and closed on it and turned everything in.

Mr. Hopengarten asked who did the survey for you. Did you pay for the survey?

Mr. Founé replied yes, sir.

Mr. Hopengarten asked so, your surveyor didn't notify you that this was an illegal lot.

Mr. Founé replied no, sir.

Mr. Hopengarten stated might be a lawsuit there for you. Also, it seems that the county mis-stepped on this too when they issued you a building permit, which is sad. Also, the last gentleman that spoke said that there's another lot that's supposed to be flagged through yours.

Mr. Founé replied correct. So, they have an easement, a 25 ft easement to the left.

Mr. Hopengarten asked is that what's showing on the survey? On the I guess it's the west side.

Mr. Founé replied yes, correct.

Mr. Body stated the parcel that's to the rear does have an approved easement to get to their lot.

Mr. Hopengarten stated that's not the west, that's the east side. I'm looking at the survey just to see where that is. But you're aware of that.

Mr. Founé replied correct.

Mr. Hopengarten stated I'm looking at this wrong. You're saying on the east side there's the flag lot.

Mr. Founé replied on the west side there is an easement for them. The other side there's like a piece of property. I think it's like a something the county owns. I think it's 25 ft wide as well.

Mr. Hopengarten replied okay, but it doesn't affect the house that you wanted to build.

Mr. Founé replied no, the slab's already done.

Mr. Hopengarten stated I really feel bad about this. The county let you down, the surveyor let you down. The seller let you down and you're paying money on construction that's not being completed. I think number one that they shouldn't charge you any fee for this change that you want and that they should let you proceed. That's sad.

Mr. Atkins asked who sold you the lot? And who is building the house?

Mr. Founé replied, Scotty Minnick. I'm owner builder.

Ms. Amato stated in the packet, it says that if the zoning request is approved that it will not be introducing a new zoning into the area, that it won't like RES2, can't be used in the future to build on the intensity and density in the area. How do we guarantee that? Because we got here there was a BDP to prevent this and multiple steps were missed. So, if we put another barrier in place, what guarantee is there that we're not going to be sitting here in another 6 months or so? There seems to

be quite a few mistakes happening up in the Scottsmeer area and it's repeated up against this board. And how do we stop, what does that guarantee?

Ms. Gilliam replied that the technicians that reviewed the building permit originally went through additional 8 weeks training. So, we have corrected that and tightened it up, so their reviews are more focused, and they know what to look for in the future. Additionally, we have cited in the staff report that this action if it is approved would not be precedential in nature. So, by stating that we feel that that would not allow for other people to do the same thing because this is a unique situation. Staff did make an error in originally approving the building permit and we're doing what we can for Mr. Founé to correct our errors.

Ms. Amato replied when we get these reports it'll give us a range sometimes like there's 0.2 2 acres to 5-acre properties in the area. Is there going to be a note attached to any rezoning in the area that this one will not be considered when we get those reports before a planning and zoning board. So that way in the future everybody who's considering a rezoning in that area will have a note to that effect.

Ms. Gilliam responded as you know when we do our staff reports, we do a search radius of a thousand square feet. So, any zonings, rezonings or small scales that have happened within that thousand square feet is noted in the staff report. That's how we would protect this from not happening again, from moving forward, is by doing that search.

Ms. Amato stated and in that staff report, it would let us know that this property shouldn't be considered.

Ms. Gilliam replied we would do what we can to work with the applicant before even bringing it forward. But of course, it is still up to the applicant in the end.

Ms. Amato responded it kind of feels like we're stuck between a rock and a hard place. People moved up that way and they have larger lots. They did that on purpose. They didn't stumble into larger lots. And now we have somebody who's going to lose an immense amount of money because somebody who sold him the lot dropped the ball, his surveyor dropped the ball, and someone in staff dropped the ball. And now there's no RES2 anywhere near that. And now we're going to introduce a new zoning into the area all to make everybody else's missteps correct. And the problem I have with that is considering everybody who lives there that moved there not to have that zoning. And that's quite a conundrum.

Mr. Johnson asked when you bought the property, did you close with a title company?

Mr. Founé replied yes, I did.

Mr. Johnson then asked, have you spoken to them about this? You should.

Mr. Founé replied I have not yet. No.

Mr. Bartcher stated relating to what Ruth was saying, when this lot was split back in 2020, who should have recognized that this was illegal. Would it be the property appraisers office, the buyer's lawyer, the county clerk, zoning staff, who would you expect to have found this error?

Ms. Gilliam responded zoning staff are not involved with properties when they're split. That is done through the clerk of courts. They also take it over to the property appraiser, but it must be recorded with the clerk of courts. Clerk of court staff does not look at zoning or BDPs or anything else. So, we don't know about it until it gets mapped.

Mr. Bartcher responded so in essence, what the situation that we have here is that until he pulls a building permit, he would never have known he had a problem.

Ms. Gilliam replied that is correct.

Mr. Bartcher stated and in this case, he actually got a building permit.

Ms. Gilliam replied yes, sir.

Mr. Body stated a lot of times the property appraisers will call zoning if they're trying to get a mortgage on it and make sure that it's properly done, and we'll tell them when something like this has been recorded that it's done without meeting the requirements for the zoning classification. The surveyors don't usually look at stuff like that. All they do is get a legal description and they go out and survey the property by that. The title company is the one that should be looking at that.

Mr. Bartcher stated I was thinking the title company ought to have found that and advised him that there was a problem. Because of all these failures, I'm going to recommend that we approve this with the disclaimer. But before we get to that, how are we going to put this disclaimer in effect? Are we going to ask him to put a BDP on the property or how's that known? How's it made known?

Ms. Gilliam responded yes, sir. We are requesting a BDP with this action. What we're proposing is two things. The applicant agrees that this rezoning request and companion future land use amendment application was the result of an unlawful split by the predecessor and interest and will stipulate to the fact in any future proceedings regarding that action. And number two, that this rezoning and companion future land use amendment application are not precedential but instead are being requested to resolve the substandard lot that has arisen as a result of the unlawful lot split. And under these particular circumstances, that it be recognized that these actions are being granted based upon the unique conditions of the subject property.

Mr. Bartcher stated I recommend approval with that disclaimer.

Ms. Orriss stated I've done a lot of real estate transactions in my lifetime, but I've always used a realtor and it's been brought to my attention, Erica this is zoned this way. And so, then the onus always is.... you know for sale by owner then you know a lot of things get hidden and so just recommendation for the future. And I don't want to see this set a precedent, so I do want to make sure that we've got this BDP, and it is we know not to use it. So along with that I guess I'll go along with everyone else.

Mr. Atkins asked out of curiosity, what kind of construction do you do?

Mr. Founé responded HVAC.

Mr. Atkins asked do you work for the gentleman that sold you the property at all?

Mr. Founé responded yes, I do. I work for a lot of the small builders in Titusville, Mims area.

Mr. Minneboo asked if this falls under the auspices of the septic tank moratorium.

Ms. Gilliam responded no it does not.

Mr. Minneboo asked who said that? The area is not.

Ms. Gilliam responded it is not in the septic tank moratorium.

Mr. Hopengarten asked do you still work for Minnick.

Mr. Founé replied yes, I do.

Mr. Hopengarten asked does he know the troubles he's put you in?

Mr. Founé replied yep.

Mr. Hopengarten asked if he's helping you out in any way?

Mr. Founé replied we'll see. Hopefully.

Mr. Hopengarten stated this is an expense that... Do you have a mortgage on this?

Mr. Founé replied I don't.

Mr. Hopengarten stated you're paying cash for everything. I'll second his motion.

Motion to recommend approval of Item H.6. by Ron Bartcher, seconded by John Hopengarten.
Motion passed with a vote of 10:2.

Motion to recommend approval of Item H.7. by Ron Bartcher, seconded by Neal Johnson. Motion passed with a vote of 10:2.

Meeting adjourned at 4:27 p.m.

ORDINANCE 25-__

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE THIRTEENTH SMALL SCALE PLAN AMENDMENT OF 2025, 25S.14 TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62- 501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI(E), THE FUTURE LAND USE APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2025 as Small Scale Plan Amendment 25S.14; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these

Technical Advisory Groups have provided technical expertise for the Amendment 25S.13; and

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

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

WHEREAS, on November 17, 2025, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 25S.14, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on December 11, 2025, the Brevard County Board of County Commissioners held a duly noticed public hearing and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 25S.14; and

WHEREAS, Small Scale Plan Amendment 25S.14 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 25S.14 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

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

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

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

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 25S.14 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 25S.14, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged

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

DONE AND ADOPTED in regular session, this ____ day of _____, 2025.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Rachel M. Sadoff, Clerk

By: _____
Thad Altman, Chairman

As approved by the Board on _____, 2025.

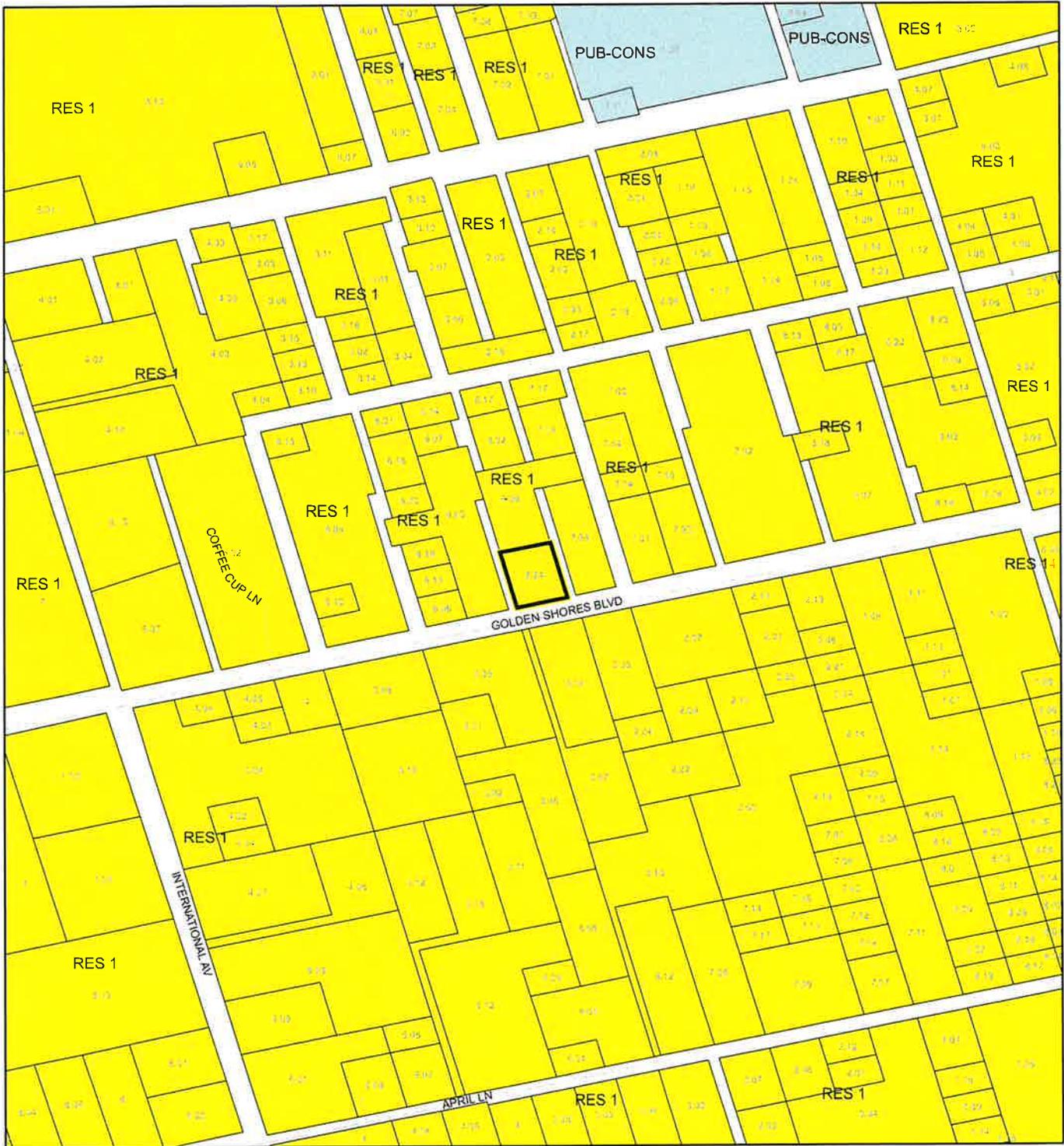
**EXHIBIT A
25S.14 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT**

Contents

1. Proposed Future Land Use Map

FUTURE LAND USE MAP

FOUNE, JACOB
25SS00008



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: 9/3/2025

EXHIBIT B

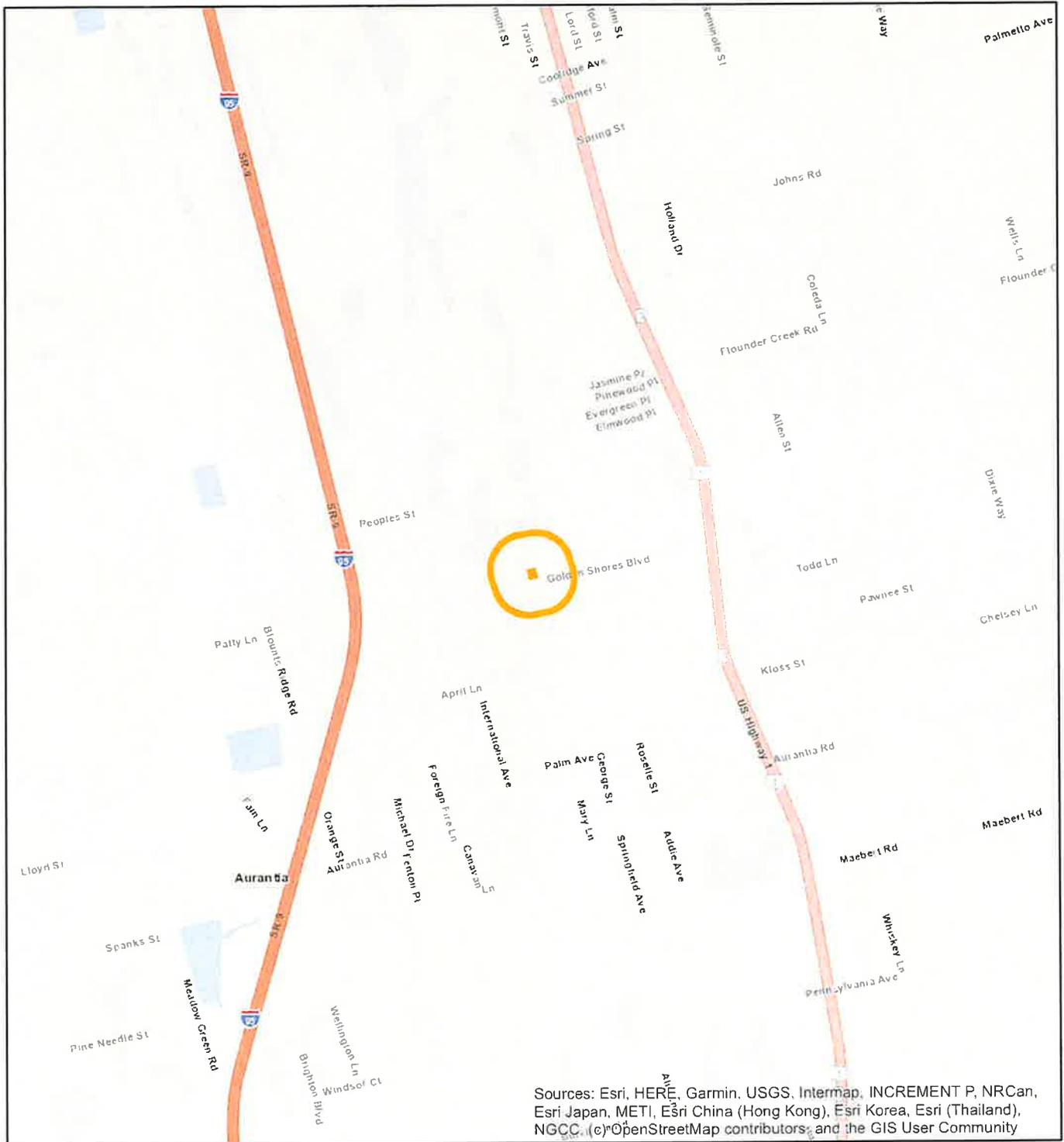
Contents

1. Legal Description

Lots 16 and 17, Block 5, Golden Shores Estates, unrecorded plat, more particularly described as follows: From the Southeast corner of Section 3, Indian River Park Subdivision as recorded in Plat Book 2, Page 33, of the Public Records of Brevard County, Florida, run Westerly along the South line of said Section 3 and on a relative bearing of North 79°01'04" East, for a distance of 1160.00 feet to the Point of Beginning; thence continue North 79°01'04" East, a distance of 145.00 feet to a point; thence run North 17°00'00" West, a distance of 190.00 feet to a point; thence run South 79°01'04" West, a distance of 145.00 feet to a point; thence run South 17°00'00" East, a distance of 190.00 feet to the Point of Beginning. Reserving therefrom the Southerly and Westerly 25 feet for road Right of Way. Said lands situate, lying and being in Brevard County, Florida.

LOCATION MAP

FOUNE, JACOB
25SS00008



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



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

Buffer Distance: 500 feet

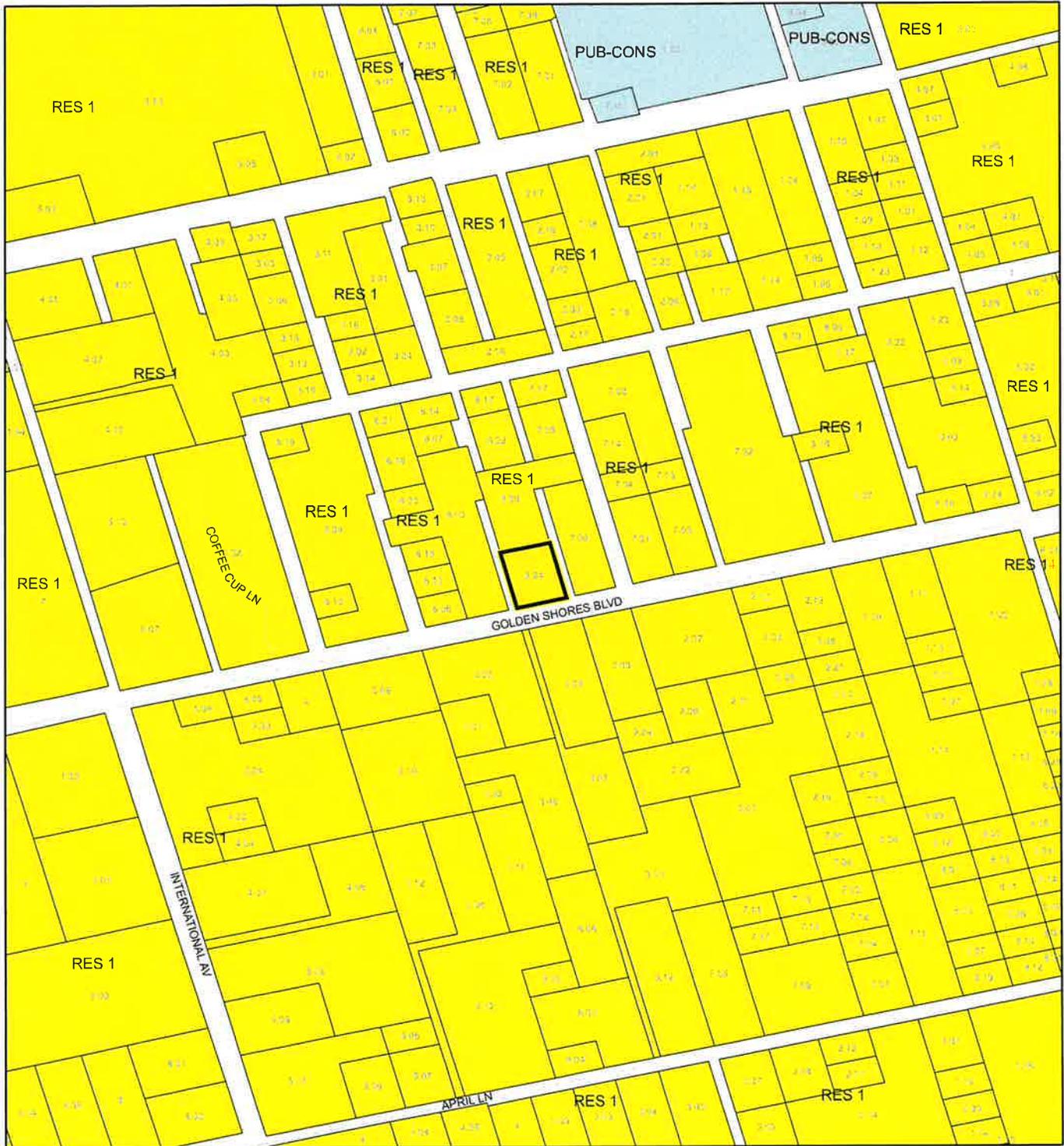
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 9/3/2025

-  Buffer
-  Subject Property

FUTURE LAND USE MAP

FOUNE, JACOB
25SS00008



1:4,800 or 1 inch = 400 feet

 Subject Property
 Parcels

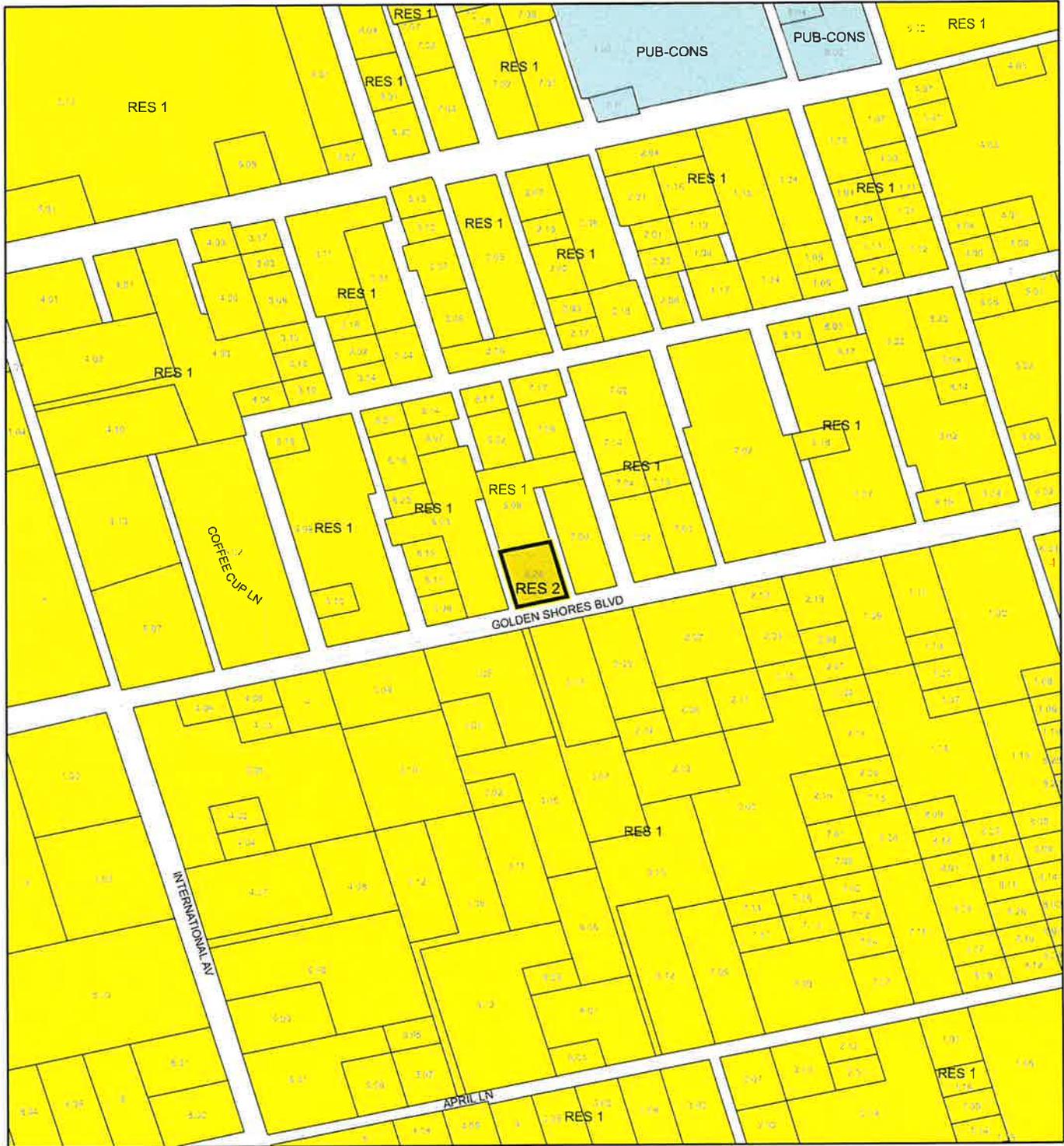
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Produced by BoCC - GIS Date: 9/3/2025

PROPOSED FUTURE LAND USE MAP

FOUNE, JACOB

25SS00008



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: 9/3/2025

ZONING MAP

FOUNE, JACOB

25SS00008



1:4,800 or 1 inch = 400 feet

- Subject Property
- Parcels
- Zoning

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: 9/3/2025

AERIAL MAP

FOUNE, JACOB

25SS00008



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2025

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: 9/3/2025

 Subject Property

 Parcels

From: [Cliff McKnight](#)
To: [Commissioner, D4](#)
Subject: ID # 25SS00008 and ID # 25Z00037
Date: Sunday, December 7, 2025 4:19:22 PM

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Clifford McKnight
3900 Golden Shores Blvd, Mims
321-432-7928

Dear Commissioner Feltner,

I am writing on behalf of numerous residents of Golden Shores Blvd in Mims regarding the proposed rezoning and the removal of the existing Binding Development Plan (BDP) for the property at 4060 Golden Shores Blvd. We wish to express our strong disapproval of this rezoning initiative.

This is to be heard at the meeting on December 11, 2025. ID # 25SS00008 and ID # 25Z00037.

Current zoning: SR with a BDP

Requested Zoning: SR with removal of the existing BDP

Current future land use: RES-1

Requested future land use: Res-2

The removal of the existing BDP, along with the new land use request, is inconsistent with the current development plan and undermines the character of our community. This change sets a concerning precedent that could transform our area into a disorganized urban landscape—something many of us sought to avoid when we chose to live here.

Even with the proposed half-acre variance, this rezoning should not proceed. The Brevard County property website lists this parcel at 0.45 acres, contrary to the 0.51 acres indicated by the new survey. Additionally, the house directly behind this parcel, located at 4070 Golden Shores Blvd, has its driveway running through the proposed property, not on an easement. This situation raises significant concerns about access and impacts the actual usable acreage of the lot.

We emphasize that current zoning regulations should not be adjusted to accommodate negligence or oversight. This discussion is occurring after construction has progressed to a quarter completion due to a breakdown in the planning process. It is crucial that accountability is enforced rather than granting variances that would complicate the situation and set an undesirable precedent for other properties and builders. Notably, the contractor responsible for the construction is also the seller of the property. Given his experience building homes in the area, he should be fully aware of the zoning regulations and BDP.

Furthermore, it is important to note that alongside this property, there is another change in future land use affecting an additional 6.24 acres linked to this petition, potentially allowing

for up to 12 more homes in our area. Our community cannot support such extensive changes and strongly implores that the current BDP remains intact.

Thank you for your attention to this matter. We hope you will consider our concerns seriously and prioritize the integrity of our community.

Sincerely,
Clifford McKnight
3900 Golden Shores Blvd. Mims
cliff.mcknight@att.net
321-432-7028

Chad Trexler
4075 Golden Shores Blvd. Mims
321-505-9181

Randy and Susan Trexler
4085 Golden Shores Blvd. Mims
321-432-7420

Chase McKnight
4095 Golden Shores Blvd. Mims
321-291-1077

Justin Duncan
4045 Golden Shores Blvd. Mims
321-863-8603

Jamie McKnight
3900 Golden Shores Blvd. Mims
321-432-7608

Phillip Smith
4118 Golden Shores Blvd. Mims
321-417-9350

Cole McKnight
3900 Golden Shores Blvd
321-291-1078

Susan Koon
3855 Golden Shores Blvd. Mims

Sent from my iPhone

H.3,

The proposed change alters the established character of our neighborhood, where every residential lot is one acre or more. I intentionally chose to build in a low-density area, relying on the zoning regulations that were put in place to preserve this area for my kids and I. Those standards should be upheld by the Board and all employees at Brevard County Zoning, Brevard County Property Appraisers, and Building Permits.

Allowing permits for substandard lot sizes is not only inconsistent with our zoning requirements but raises serious concerns about accountability within the permitting process. When unlawful or improper permits are approved—especially using taxpayer resources—it enables and reinforces the very practices that created the issue. Each time commissioners vote in favor of these applications, it further empowers departments to continue issuing permits that do not comply with the law.

This request is incompatible with our current development plan and undermines the long-standing character of our community. Approving it would set a troubling precedent, opening the door to further exceptions that could gradually transform our area into a disorganized, higher-density landscape—precisely what many residents sought to avoid.

Zoning regulations should not be modified to accommodate negligence or oversight. Instead, enforcement and accountability must be prioritized. Granting variances under these circumstances only complicates matters and signals to other builders and property owners that noncompliance will be excused.

It is also important to note that the contractor responsible for the construction is the same individual selling the property. Given his extensive experience building in this area, he is fully aware of the zoning regulations and the Binding Development Plan, and should be held to those standards.

This seems to be a problem within specific departments and they need to be addressed and corrected so this doesn't keep happening. I'm confident that if the departments were audited you would find multiple unlawful permits.

Just a couple recent examples:

Subsequently found out after the fact.

3680 Todd Lane

3690 Todd Lane

4060 Golden Shores Blvd

Brevard county property appraisers:

4515 Aurantia: 1 Acre lot that squatters filed and received illegal approval for adverse possession allowing the to stay on property dumping raw sewage after being reported to code enforcement continued to dump raw sewage, until the were reported and required to leave the premises.

4505 Aurantia, 26.19 acres Brevard County Property Appraisers gave illegal adverse possession and it remained that way until the out of state property owner became aware, who then had to get it removed from the property appraisers office at his cost correcting all the problems left behind. Anyone in the property appraisers should know that adverse possession should not be approved unless they have been on the property for 7 years, however he had only been there for 2 months.