



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.4.

3/13/2025

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### **Subject:**

Invest Bright, LLC. (Paulo Jimenez) requests a change in zoning classification from RU-1-7 to RU-1-13. (24Z00061) (Tax Account 2800361 & 3033552) (District 5)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-7 (Single-Family Residential) to RU-1-13 (Single-Family Residential).

### **Summary Explanation and Background:**

The applicant is requesting a change of zoning classification from RU-1-7 (Single-family Residential) to RU-1-13 (Single-family residential) on two (2) lots to provide consistency between the property's zoning and the RES 4 FLU designation. The applicant intends to construct a single-family residence on the vacant lot under building permit number 24BC17245. The building permit is in deficiency pending the outcome of this zoning request. The second lot in this request is developed with a single-family residence.

The two (2) lots were recorded in the Plat of June Park Addition No. 4 in Plat Book 4, Page 73B on June 23, 1925. The vacant lot is recorded as Block G, Lots 22, 23, and N 19 feet of Lot 24. The developed lot is recorded as the S 6 feet of Lot 24 & All lots 25 thru 27. On May 22, 1958, the subject property was established with the RU-1 (Single-Family Residential) zoning classification. On June 1, 1972, the lots were administratively rezoned by the Board of County Commissioners under zoning file Z-2980 from RU-1 to the RU-1-7 zoning classification.

North of the subject property across Miami Avenue is a vacant 8.33-acre parcel with RU-1-7 zoning. South of the subject property is a 0.62-acre parcel, developed with a single-family residence with RU-1-7 zoning. East of the subject property across Sagamore Street is a 1.01-acre parcel, developed with a church with RU-1-7 zoning. West of the subject property is a 0.56-acre parcel, vacant land with RU-1-7 zoning.

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

On February 17, 2025, the Planning and Zoning Board heard the request and unanimously recommended approval.

**Clerk to the Board Instructions:**

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

**Resolution 24Z00061**

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

**WHEREAS, Invest Bright LLC** requests a change in zoning classification from RU-1-7 (Single Family Residential) to RU-1-13 (Single Family Residential), on property described as Lots 22, 23, 24, 25, 26, 27, Block G, Plat of Addition No. 4 June Park, according to the Plat thereof, as recorded in Plat Book 4, Page 73, of the Public Records of Brevard County, Florida. **Section 01, Township 28, Range 36.** (0.5 acres) Located on the southwest corner of Sagamore St. and Miami Ave. (225 & 205 Sagamore St., 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-1-7 to RU-1-13, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of March 13, 2025.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

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

ATTEST:

  
RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – February 17, 2025

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

#### **CONDITIONAL USE PERMITS (CUPs)**

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

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

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

(c) General Standards of Review.

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



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

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

### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**24Z00061**

**Invest Bright LLC**

**RU-1-7 (Single-Family Residential) to RU-1-13 (Single-Family Residential)**

Tax Account Number: 2800361 & 3033552  
Parcel I.D. 28-36-01-50-G-22 & 28-36-01-50-G-24  
Location: 205 & 225 Sagamore St., Melbourne, FL 32904 (District 5)  
Acreage: 0.5 acres

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

**Consistency with Land Use Regulations**

- Current zoning cannot 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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-7	RU-1-13
<b>Potential*</b>	0 Single-family residence	2 Single-family residence
<b>Can be Considered under the Future Land Use Map</b>	No RES 4	Yes RES 4

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

**Background and Purpose of Request**

The applicant is requesting a change of zoning classification from RU-1-7 (Single-family Residential) to RU-1-13 (Single-family residential) on two (2) lots to provide consistency between the property's zoning and the RES 4 FLU designation. The applicant intends to construct a single-family residence on the vacant lot under building permit number **24BC17245**. The building permit is in deficiency pending the outcome of this zoning request. The second lot in this request is developed with a single-family residence.

The two (2) lots were recorded in the Plat of June Park Addition No. 4 in Plat Book 4, Page 73B on June 23, 1925. The vacant lot is recorded as Block G, Lots 22, 23, and N 19 feet of Lot 24. The developed lot is recorded as the S 6 feet of Lot 24 & All lots 25 thru 27. On May 22, 1958, the subject property was established with the RU-1 (Single-Family Residential) zoning classification.

On June 1, 1972, the lots were administratively rezoned by the Board of County Commissioners under zoning file **Z-2980** from RU-1 to the RU-1-7 zoning classification.

The subject property is located on the south side of Miami St. and the west side of Sagamore St., which are county-maintained roads.

### **Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Vacant Land across Miami Avenue	RU-1-7	RES 4
<b>South</b>	Single-family residence	RU-1-7	RES 4
<b>East</b>	Church across Sagamore Street	IN(L)	RES 4
<b>West</b>	Vacant Land	RU-1-7	RES 4

North of the subject property across Miami Avenue is a vacant 8.33 acre parcel with RU-1-7 zoning.

South of the subject property is a 0.62 acre parcel, developed with a single-family residence with RU-1-7 zoning.

East of the subject property across Sagamore Street is a 1.01 acre parcel, developed with a church with RU-1-7 zoning.

West of the subject property is a 0.56 acre parcel, vacant land with RU-1-7 zoning.

The current 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.

The proposed RU-1-13 permits encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum 7,500 square foot lots, with

minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

IN(L) is an Institutional (Light) zoning classification, intended to promote low impact private, nonprofit, or religious institutional uses to service the needs of the public for facilities of an educational religious, health or cultural nature.

The institutional use zoning classification is divided into two types, Low intensity (L) and High Intensity (H). Low intensity uses are low impact and are compatible with residential uses in residential land use designations, or neighborhood commercial uses in neighborhood commercial land use designations.

### **Future Land Use**

The subject property's current RU-1-7 zoning is not consistent with the RES 4 FLUM designation. The proposed RU-1-13 zoning is consistent with the existing RES 4 FLUM designation.

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;

**The development of one additional single-family residence is not anticipated to diminish the enjoyment of, safety or quality of life in the existing residential area. The proposed is compatible with the established residential character in the area. Any new development would need to meet Performance Standards defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity.**

- 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 historical land use patterns of the surrounding development can be characterized as predominantly single-family residences with properties ranging in size from 0.25 acres to 8.33 acres in size.**

**Residential 4 (RES 4) is the prominent FLU in this area. The predominant zoning classification is Single-Family Residential (RU-1-7). There is one property east of the subject parcel across Sagamore St. zoned Institutional Use (IN(L)), developed as a church.**

**There are multiple parcels with RU-1-11 zoning located within the 0.5 mile radius of the subject property. The closest parcel with this zoning classification is located south of the subject property, approximately 0.25 mile, at the intersection of Henry Ave. and Commodore Blvd.**

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

**There have been multiple developments within the 0.5 mile radius during the preceding three years. There have been 6 single family residences and one self-storage facility. The commercial facility is approximately 0.25 mile to the northwest located on the north side of W. New Haven Avenue.**

**Zoning Actions within one-half mile within the past three years:**

- **21Z00040 rezoned from BU-1 (General Retail Commercial) & BU-2 (Retail, warehousing, and wholesale commercial) to all BU-2 on 02/03/2022 and is developed with a self-storage facility. It is located approximately 0.35 mile northwest of the subject property on the north side of W. New Haven Avenue lying 1,500 feet west of Katherine Boulevard.**
- **22Z00044 rezoned from RU-1-7 to RU-1-11 (Single-Family Residential) on 11/03/2022 and is developed with five single-family residences. It is located less than a 0.25 mile southwest of the subject property on the southeast corner of Henry Avenue and Commodore Boulevard.**
- **22Z00055 rezoned from RR-1 (Rural Residential) to AU (Agricultural Residential) on 02/02/2023 and is developed with a single-family residence and has farm animals. It is located approximately 0.35 mile southeast of the subject property lying east of the easterly end of Illinois Avenue abutting Maple Street.**

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

**There has been one development approved within the past three years that has not been constructed.**

- **24Z00050 rezoned from RU-1-7 to RU-1-11 (Single-Family Residential) on 12/12/2024 remains undeveloped as the building permit 24BC11799 was withdrawn. It is located less than 0.25 mile west of the subject property lying on the north side of Miami Avenue due east of Elm Street.**

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

**No material violation of relevant policies has been identified.**

#### **Analysis of Administrative Policy #4 - Character of a neighborhood or area.**

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

##### **Criteria:**

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

**The proposed use can be considered compatible with the existing character of the area. Preliminary concurrency indicates a 0.03% increase in MAV utilization. The addition of one single-family dwelling unit will have a minimal impact on the level of service.**

- 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.

**The property is located in an existing platted residential neighborhood. There are clearly established roads and residential lot boundaries. The road boundaries are Miami Ave. to the North and Sagamore St. to the East.**

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 request is not for commercial use. It is located in a residential area.**

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 single-family residential with commercial zoning located exclusively along the W. New Haven Ave. corridor to the north.**

**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.

#### **Hydric Soils**

**A majority of the subject parcel contains mapped hydric soils (Malabar, Holopaw and Pineda soils); an indicator that wetlands may be present on the property. A wetland delineation may be required prior to any land clearing activities, site plan design, or building permit submittal. The applicant has submitted a building permit. The building permit # 24BC17245 is being reviewed by applicable agencies.**

#### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US 192 from S. John Rodes Blvd. to S. Wickham Rd., which has a Maximum Acceptable Volume (MAV) of 39,800 trips per day, an Acceptable Level of Service (ALOS) of D, and currently operates at 76.36% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 76.39% of capacity daily. The addition of one single family dwelling unit will have a minimal impact on level of service. This is only a preliminary review and is subject to change.

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.

There are no County or City sewer or water utilities in the area. The property would need to provide its own service for well water and septic.

#### **Environmental Constraints**

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

- Hydric Soils
- Land Clearing and Landscape Requirements

**For Board Consideration**

The Board should consider whether the proposed zoning request is consistent and compatible with the surrounding area.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT  
Zoning Review & Summary  
Item No. 24Z00061**

**Applicant:** Paulo Jimenez (Owner: Invest Bright LLC)

**Zoning Request:** RU-1-7 to RU-1-13

**Note:** for consistency with RES 4 FLUM

**Zoning Hearing:** 02/17/2025; **BCC Hearing:** 03/13/2025

**Tax ID No.:** 2800361

- 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:**

- Hydric Soils
- Land Clearing and Landscape Requirements

**Land Use Comments:**

**Hydric Soils**

A majority of the subject parcel contains mapped hydric soils (Malabar, Holopaw, and Pineda soils); an indicator that wetlands may be present on the property. **A wetland delineation may be required prior to any land clearing activities, site plan design, or building permit submittal.**

**Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres** unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. Note that this property was split in 2024. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 62-3694(c)(6).** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.**

**Land Clearing and Landscape Requirements**

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

**DESCRIPTION:**

LOTS 22, 23 AND THE NORTH 19' OF LOT 24, BLOCK G  
JUNE PARK ADDITION NO. 4  
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 4, PAGE 73  
OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



## SURVEYORS NOTES:

1. This property is located in Flood Zone(s) X. The Structure is in Flood Zone(s) X. Flood Insurance Premium: \$33, Suffix: C, Community No.: 125092, Effective Date: March 17, 2014.
2. The bearings shown are based on an Assumed North Street, Being S 01° 08' 29" W along the West line of Sagamore Meridian.
3. This is Real Property being situated in Section 01, Township 28S, Range 35E.
4. The Surveyor has not abstracted the property. Only plotted or furnished easements or encumbrances that may affect the property are shown.
5. This map of survey is for the sole use of the named parties as certified hereon and is non-transferable is not to be relied upon by any other entity or individuals other than the certified entity.
6. Underground improvements are not located unless requested.
7. Elevations if shown hereon based on NAVD83.

LEGEND & ABBREVIATIONS: Q = Set 5/8" iron rod with plastic cap

$\Delta$  = Set nail with metal disc  $\square$  = Set concrete monument with disc  
 — = 4 C.L.F. — = Center Line  
 — = 5 W.F. — = 6 VINYL FENCE  
 — = OHPL — = OHPL

**CERTIFIED TO:** PAULO JIMENEZ

Eric Nielsen

Digitally signed by Eric Nielsen

Certified By: Eric Nielsen Professional Surveyor & Mapper, No. 5385, L.B. 6945, State of Florida  
 I certify this map of survey meets the standards set per Florida Administrative Code  
 61-15.051 pursuant to Chapter 472.027, per Florida Statutes.

Signature Date: 1/3/2003 03:00

Eric Nielson Land Surveying, Inc.

Revisions:

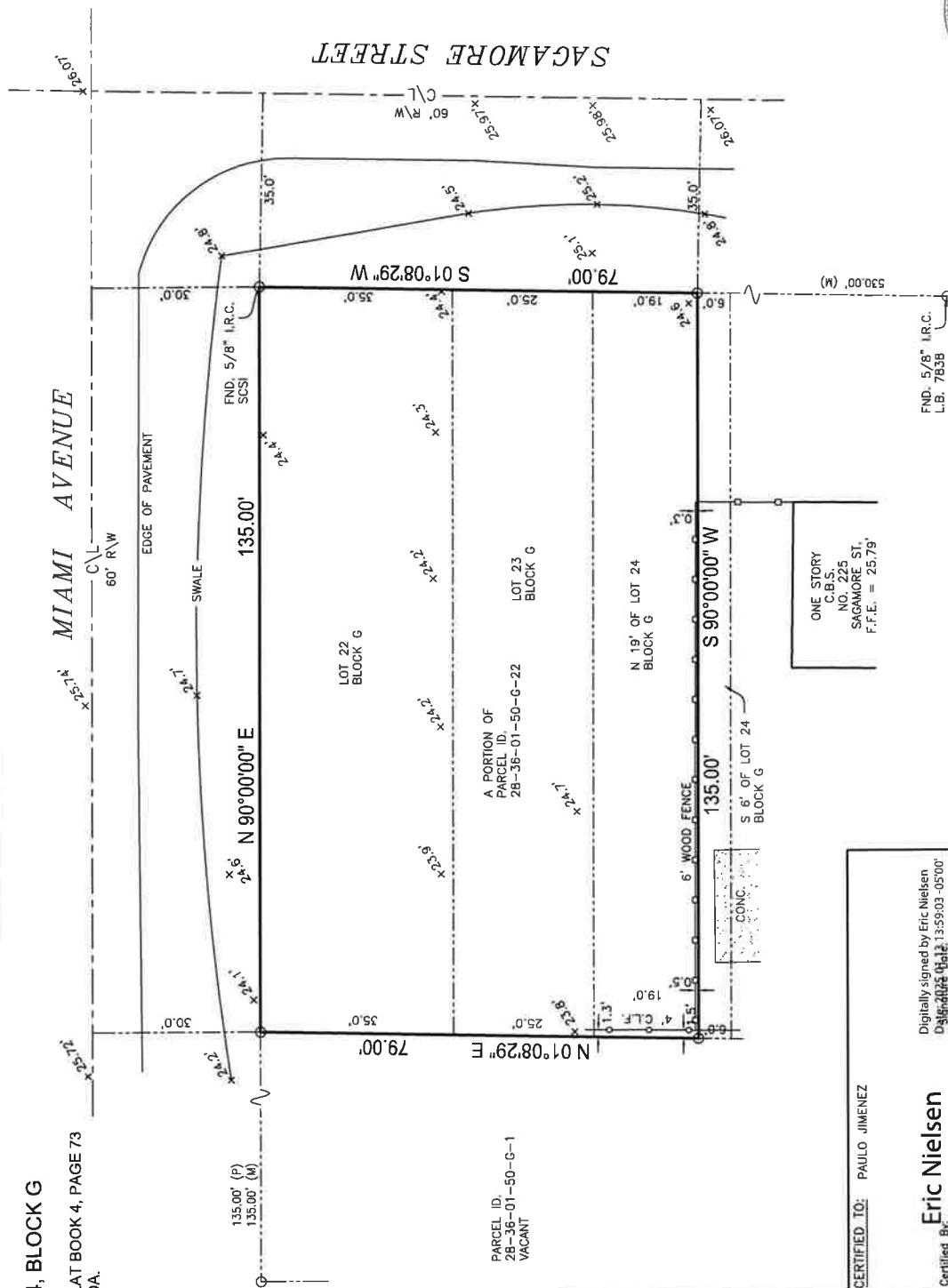
RECERT 01-08-2025

email: [nielsenurveying@bellsouth.net](mailto:nielsenurveying@bellsouth.net)

SCALE:	DATE:	JOB NO.
1" = 20'	04-08-2004	04-150-07

1 = 20	04-08-2024	Z4-119-03
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## MAP OF BOUNDARY SURVEY



UNLESS IT BEARS THE SEAL & SIGNATURE OF A FLORIDA LICENSED SURVEYOR THIS SURVEY IS FOR INFORMATIONAL PURPOSES ONLY.

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

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

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

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

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

### **Excerpt of complete agenda**

**Item H.4. Invest Bright, LLC. (Paulo Jimenez) requests a change in zoning classification from RU-1-7 to RU-1-13. (24Z00061) (Tax Account 2800361 & 3033552) (District 5)**

Trina Gilliam read the application into the record.

Paulo Jimenez spoke to the application. We would like to do a single-family home. I have split the property already and submitted my paperwork. I have approval for the septic but when I went to zoning, they sent me a letter that I must rezone the property.

There was no public comment.

John Hopengarten inquired as to why he was being made to change the zoning.

Mr. Jimenez responded that right now it is nonconforming, he cannot split it, so he must do the rezoning to do a single-family home.

John Hopengarten commented you're going to do it on the whole lot.

Mr. Jimenez responded "no". He is going to split it.

John Hopengarten asked, "you want to split that lot?"

Mr. Jimenez responded "yes, that lot's already split into 2 parcels. It's a half-acre."

John Hopengarten commented that the appraisal says it a quarter acre.

Mr. Jimenez stated because it's already split.

John Hopengarten commented that he could put 2 houses on it.

Mr. Jimenez responded with no, just one. I already have 1 next door, and I want to split it to do a single-family house.

Jerrad Atkins commented that it looks like it's this lot just to the south.

John Hopengarten inquired of staff, this ¼ acre lot is 10,500 sq. ft. is zoned as RU-1-7 zoning.

Trina Gilliam responded with yes, that's correct.

John Hopengarten continued with for an RU-1-7, can't he build on that without changing it?

Trina Gilliam replied that it is not consistent with the future land use. One of the lots is already developed with a single-family residence and the other one is vacant.

John Hopengarten stated he wants to build on the vacant lot, but the vacant lot is standing on its' own and it's a quarter of an acre. So why can't he build a house on that quarter of an acre?

Trina Gilliam responded because currently it's not consistent, so he must do the rezoning to make the property consistent with the future land use. This is a rezoning.

John Hopengarten stated that it is a rezoning to suit the future land use. And the lot to the south that he also owns was that a change before?

Trina Gilliam responded that it is included in this request. There are 2 tax account numbers, 2800361 and 3033552, and both are included in this request. Each are a quarter acre lot, and the land use is RES 4.

Ana Saunders asked to try and rephrase the question. The future land use is consistent and RU-1-7 zoning, everything around it is RU-1-7. Why is he being asked to rezone the property to RU-1-13?

Trina Gilliam responded because RU-1-7 and RES 4 are not consistent with each other. RU-1-13 is consistent with RES 4.

Ana Saunders stated so the current zoning is not consistent with the underlying land use and for him to build a home he must have a zoning category that is consistent with the RES 4 land use which is RU-1-13.

Trina Gilliam responded with "Yes".

John Hopengarten stated that he now has the reason but...

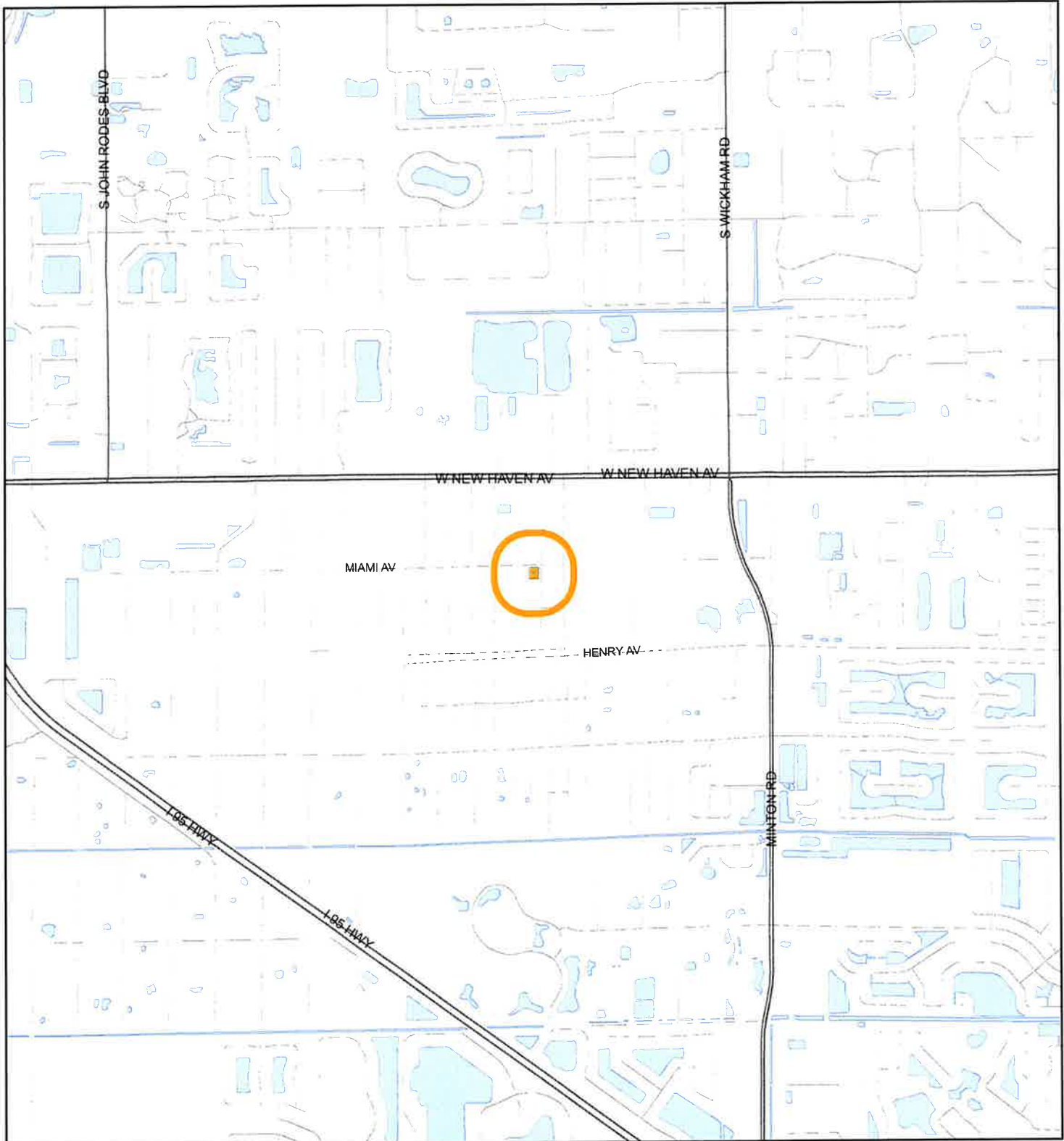
Motion to recommend approval of Item H.4. by Robert Brothers, seconded by Logan Luse. The motion passed unanimously.

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

# LOCATION MAP

INVEST BRIGHT LLC

24Z00061





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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 11/7/2024

-  Buffer
-  Subject Property



# ZONING MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 11/7/2024

Subject Property

Parcels

Zoning

# FUTURE LAND USE MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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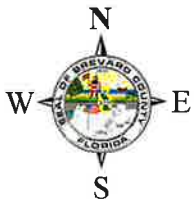
Produced by BoCC - GIS Date: 11/7/2024



# AERIAL MAP

INVEST BRIGHT LLC

24Z00061




1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2024

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

Produced by BoCC - GIS Date: 11/7/2024

 Subject Property

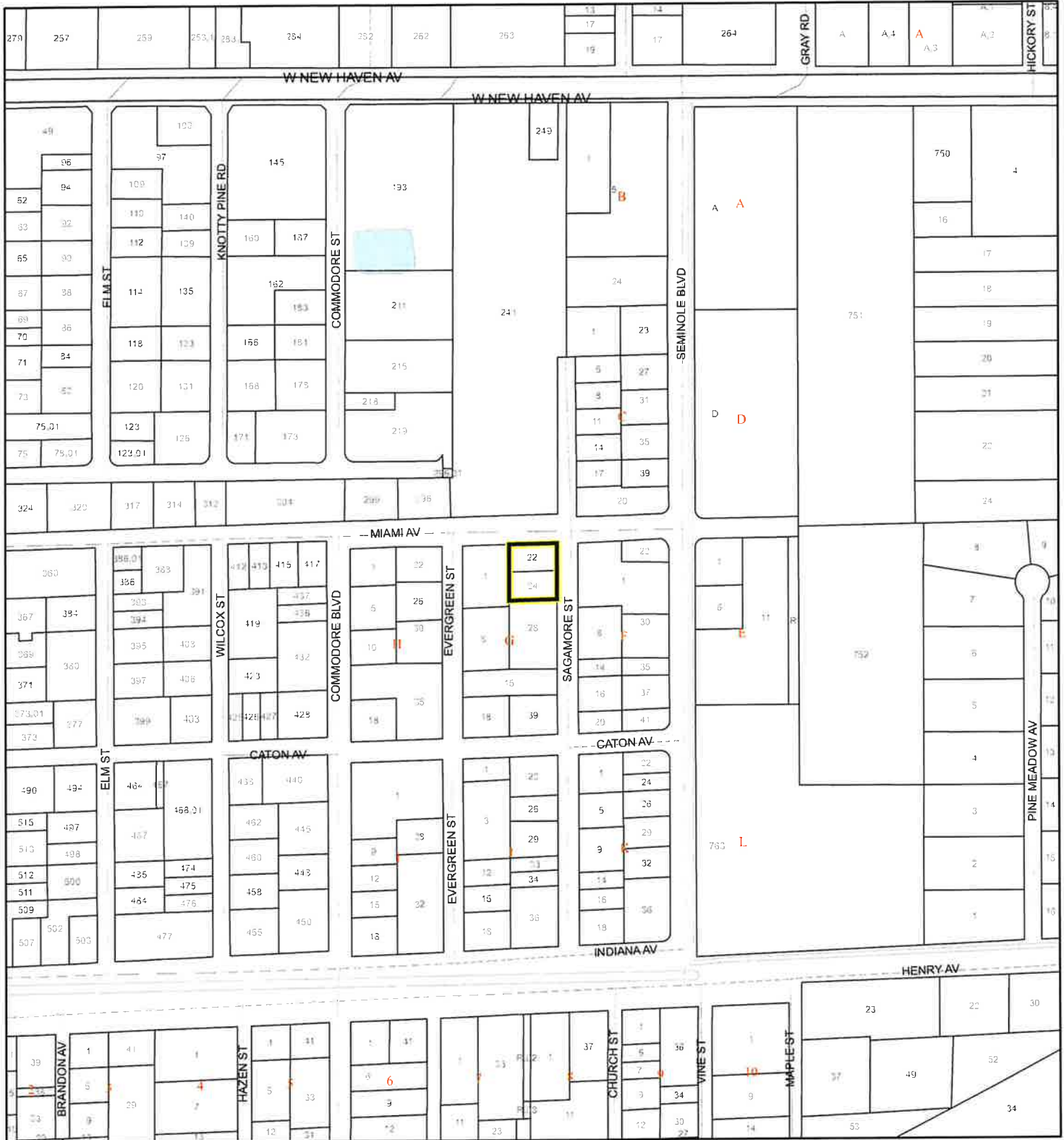
 Parcels



# NWI WETLANDS MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/7/2024

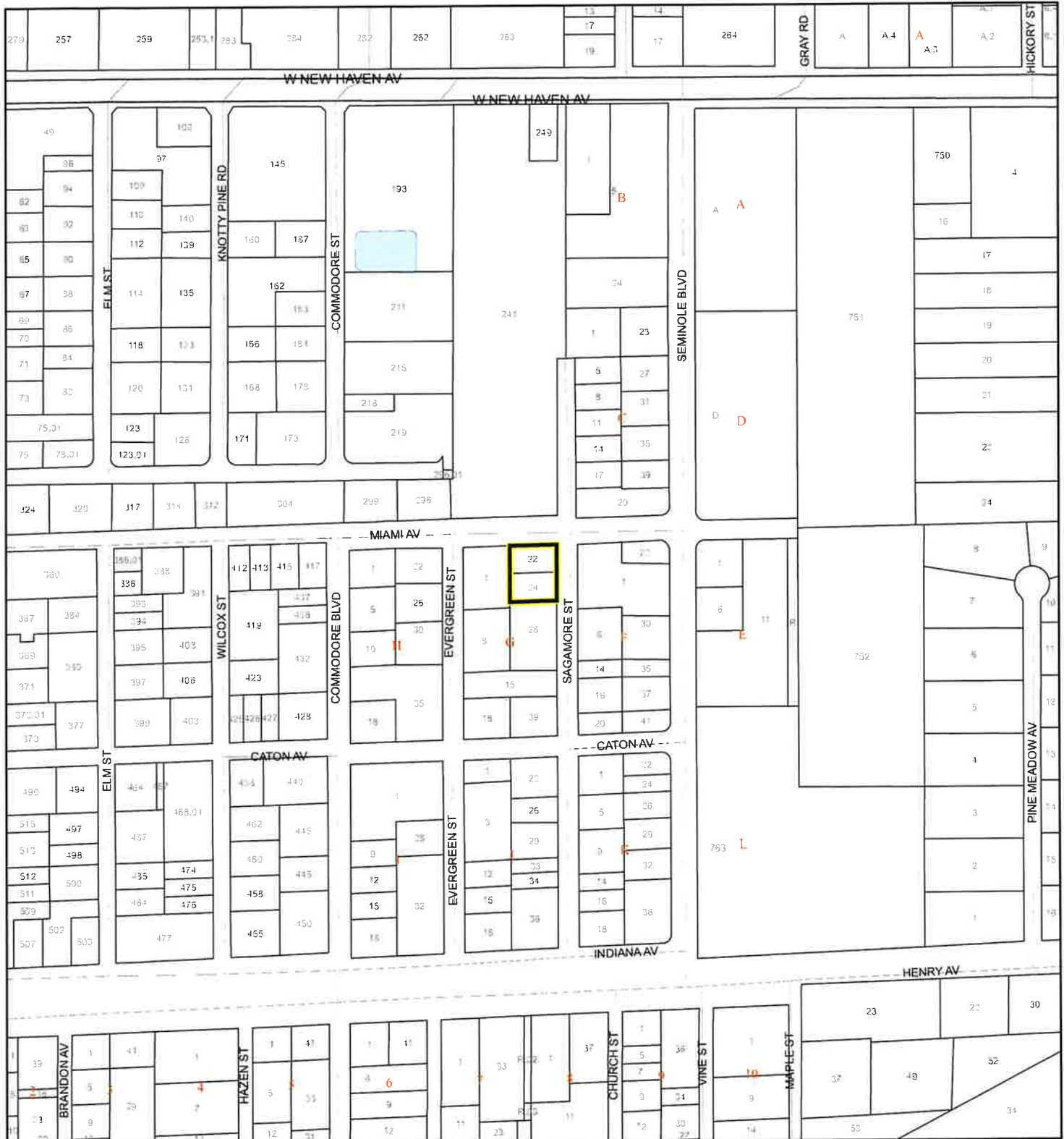
## National Wetlands Inventory (NWI)

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

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/7/2024

## SJRWMD FLUCCS WETLANDS

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

Subject Property

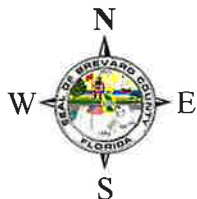
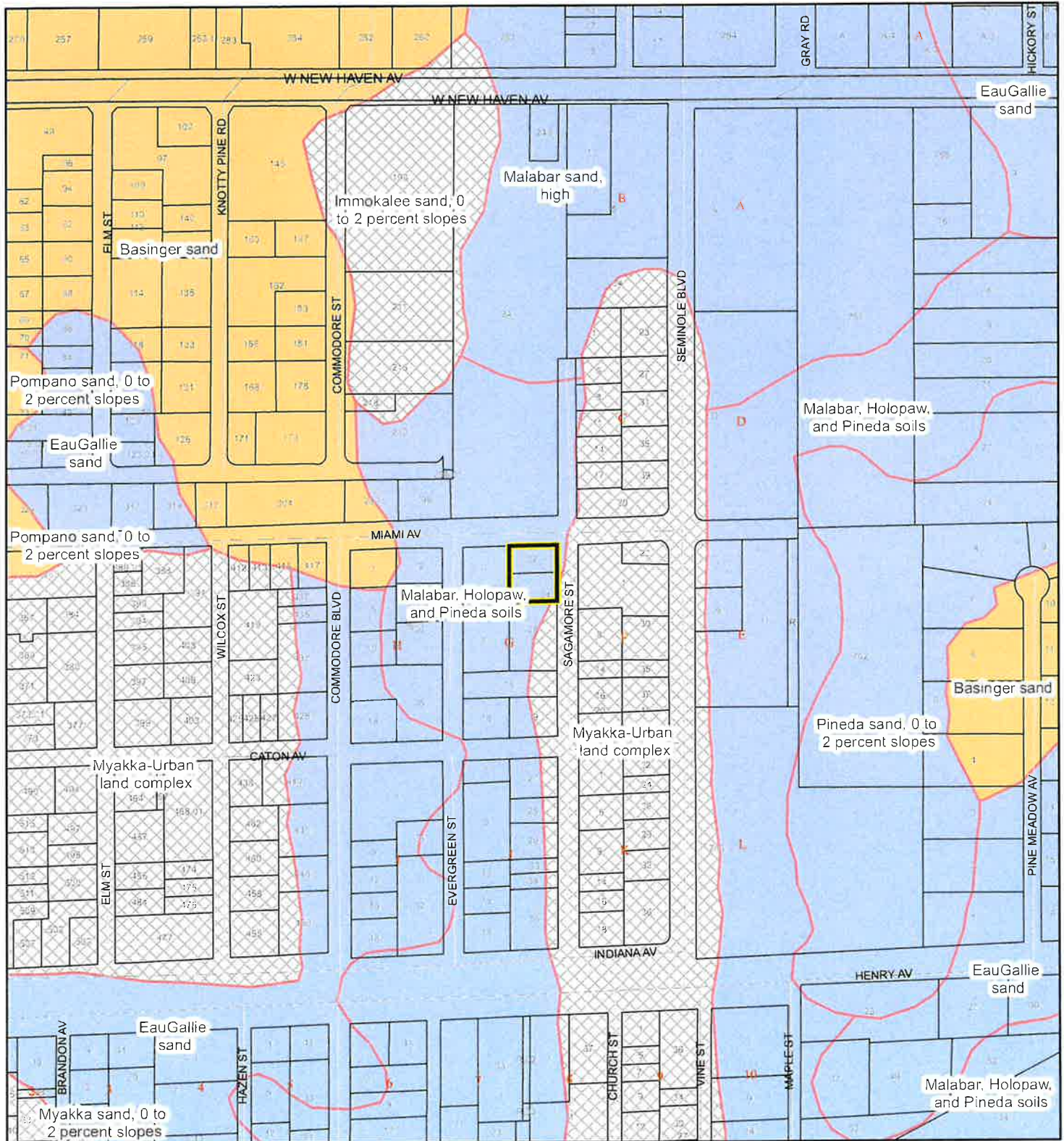
Parcels



# USDA SCSSS SOILS MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/7/2024

## USDA SCSSS Soils

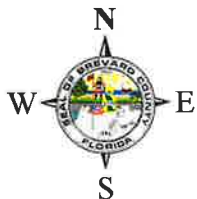
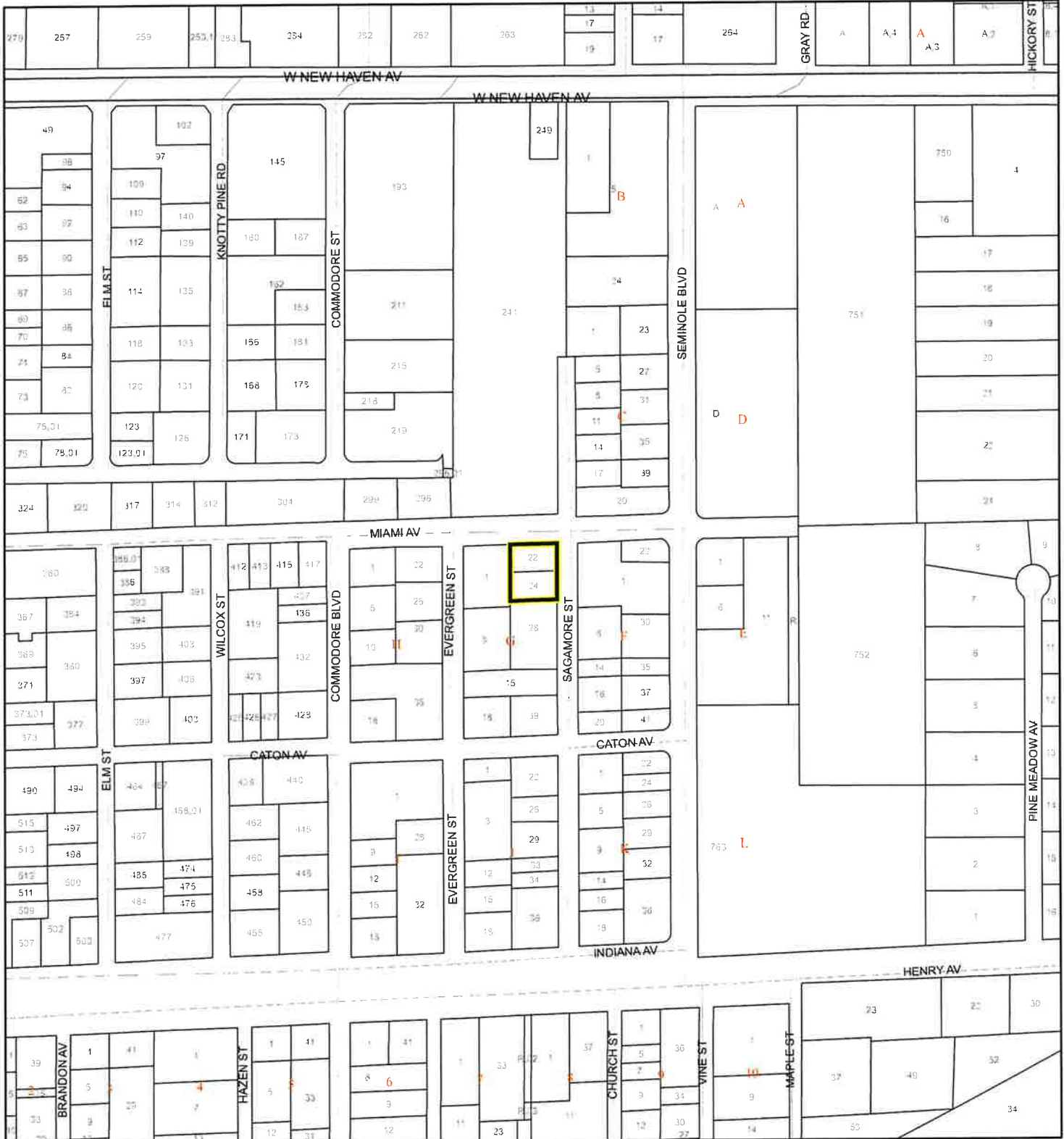
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

# FEMA FLOOD ZONES MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/7/2024

## FEMA Flood Zones

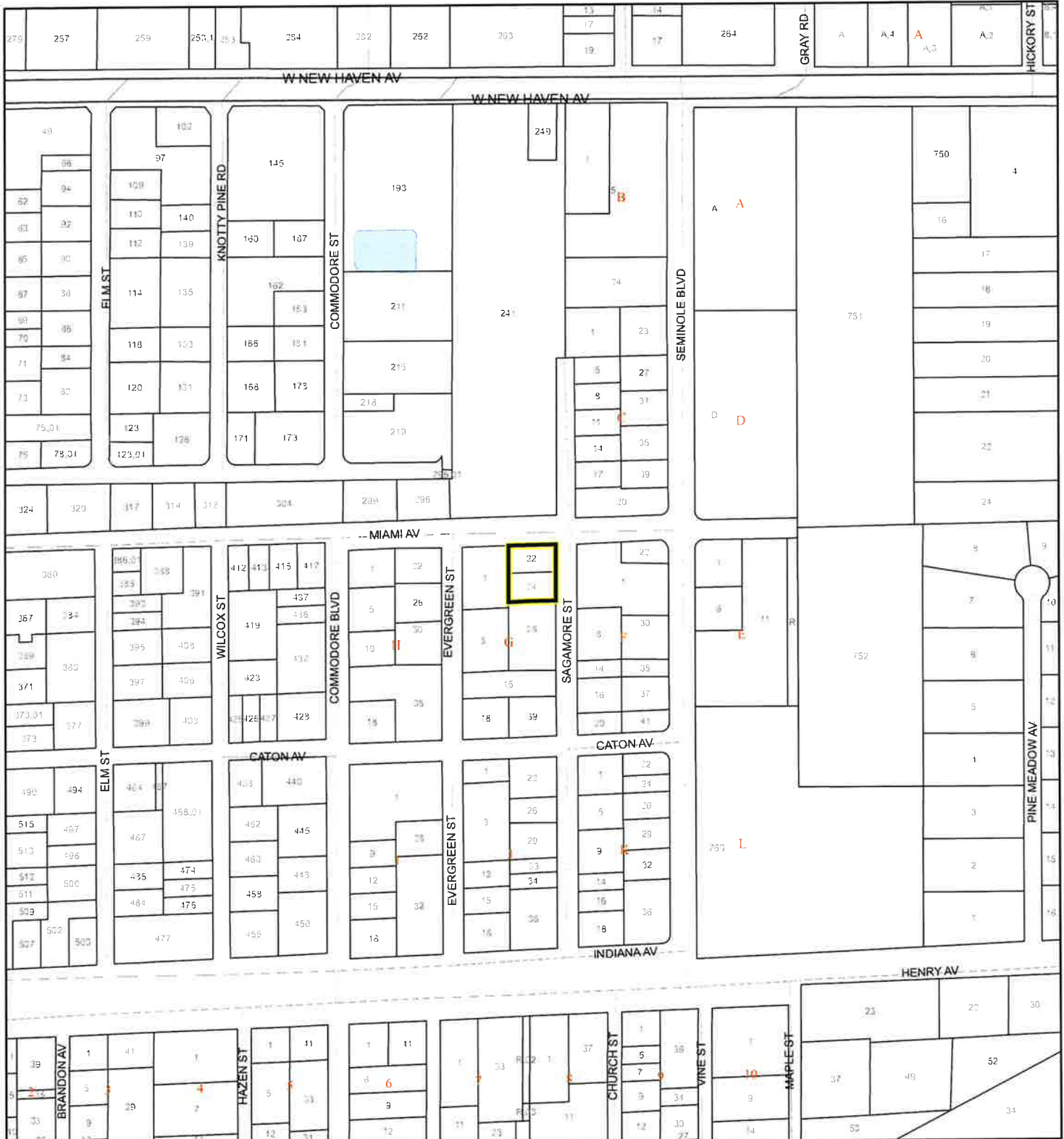
- |                  |            |   |
|------------------|------------|---|
| A                | AO         | X |
| AE               | Open Water |   |
| AH               | VE         |   |
| Subject Property | Parcels    |   |



# COASTAL HIGH HAZARD AREA MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/7/2024

Subject Property

Parcels

**Coastal High Hazard Area**

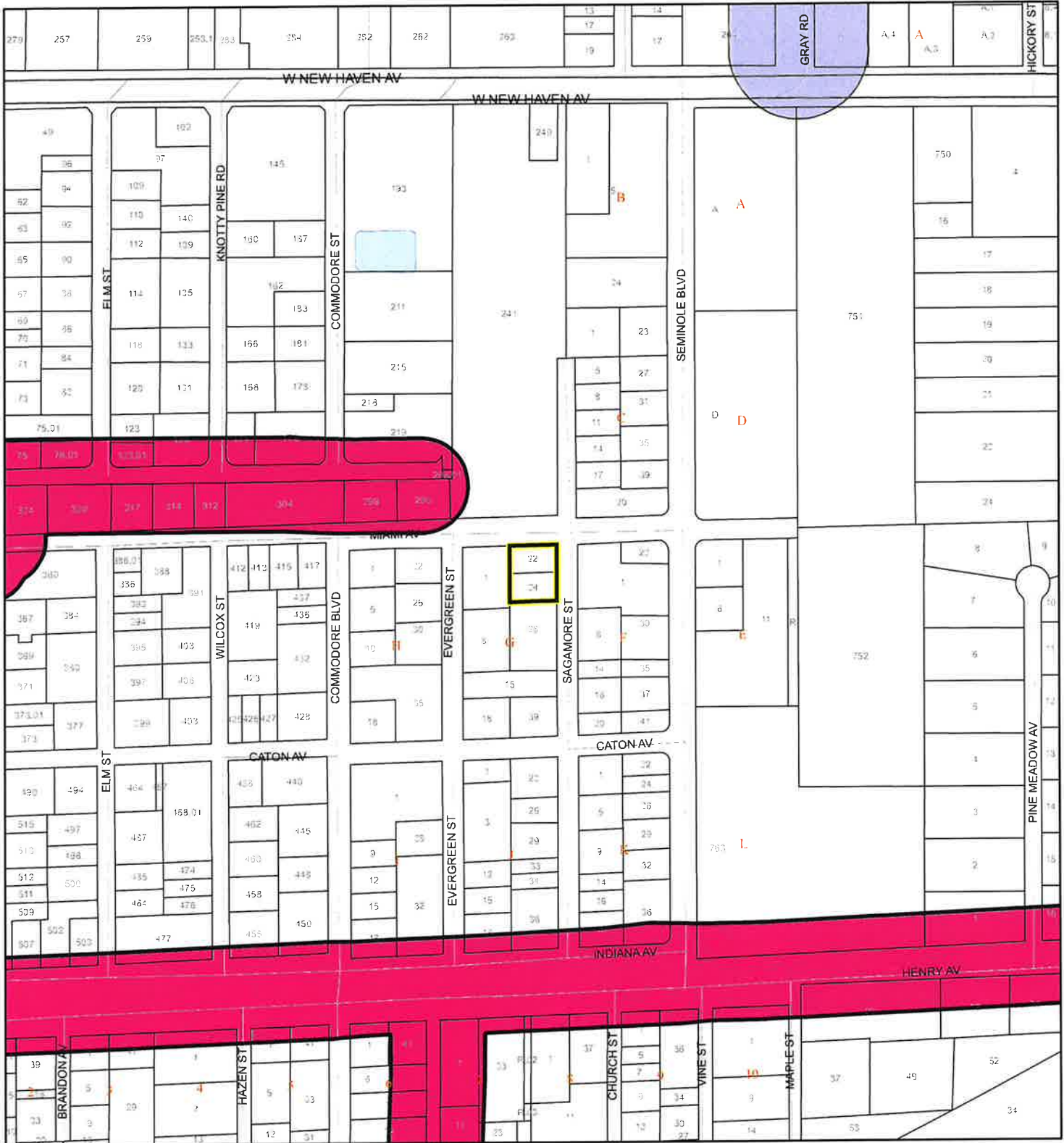
SurgeZoneCat1



# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/7/2024

Subject Property

Parcels

**Septic Overlay**

40 Meters

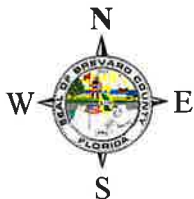
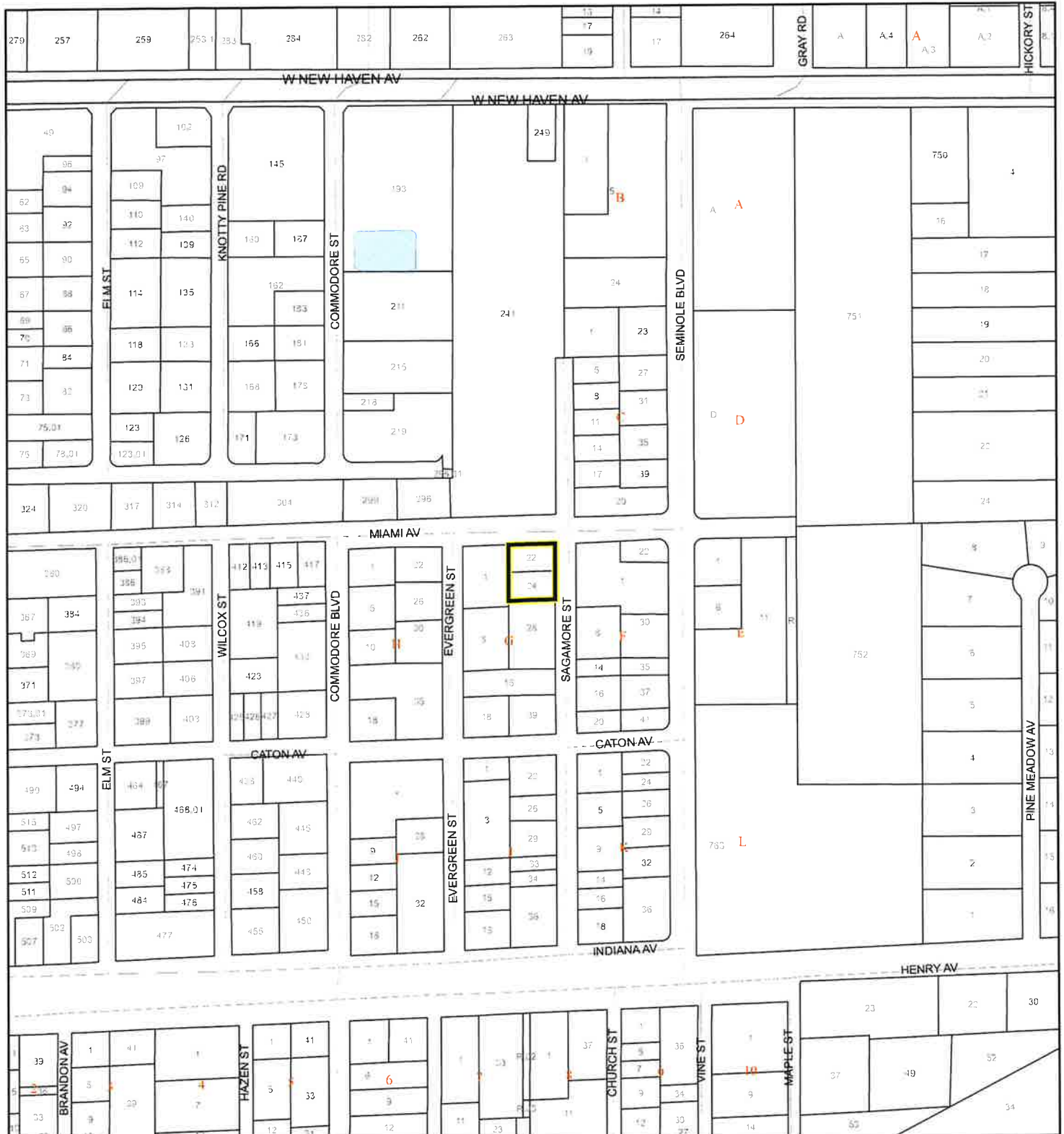
60 Meters

All Distances

# EAGLE NESTS MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/7/2024

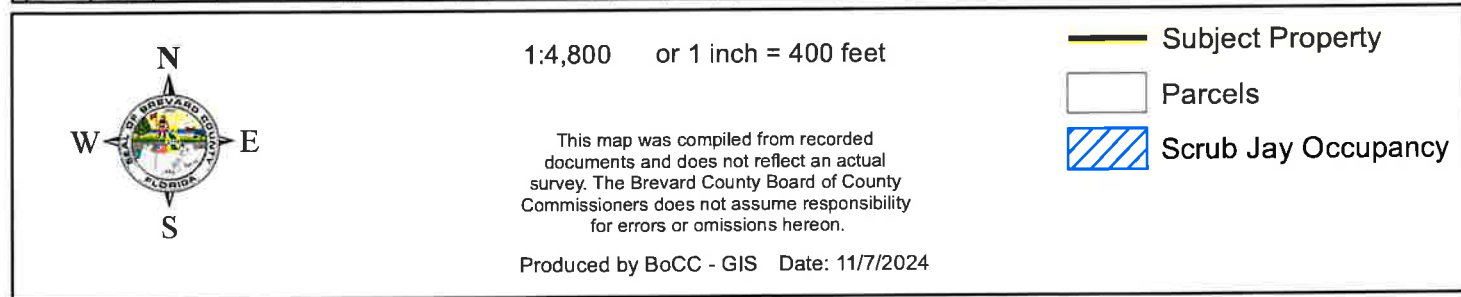
 Subject Property

 Parcels



Eagle Nests  
FWS

24Z00061

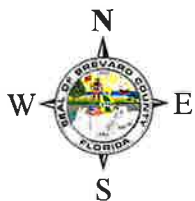




# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

INVEST BRIGHT LLC

24Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/7/2024

## SJRWMD FLUCCS Upland Forests

- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property  Parcels

**Board Meeting Date**

March 13, 2025

Item Number: H, 4

Motion By: TA

Second By: KA

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

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