



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

H.1.

5/6/2021

### Subject:

John & Terri Kroboth, and John Bradley Kroboth request a CUP for a Private Boat Dock Adjacent to a Single-Family Residence in an RU-1-13 zoning classification. (21PZ00004) (Tax Account 2953088) (District 3)

### 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 request for a CUP (Conditional Use Permit) for a Private Boat Dock Adjacent to a Single-Family Residence in an RU-1-13 (Single-Family Residential zoning classification).

### Summary Explanation and Background:

The applicants are requesting approval of a Conditional Use Permit (CUP) for a private residential boat dock in the RU-1-13 zoning classification for the purpose of legitimizing an existing boat dock on the parcel as an accessory use. Sec. 1943.3 allows a private boat dock to be considered adjacent if, any lot is within the same neighborhood.

A CUP for the existing dock was never applied for by the previous owners. The applicants also own Lot 1, Block D, located in the same Crystal Lakes subdivision approximately 1,495 feet northeast of the subject waterfront lot and both parcels retain the RU-1-13 zoning classification.

The character of the area is a mix of existing single-family homes and parcels with existing docks. Of the 13 similar parcels on the south side of Ross Avenue, all but two have existing docks. There have been nine approved CUP actions for private boat docks accessory to adjacent single-family residential lots in the immediate area of the Crystal Lakes subdivision.

The Board may wish to consider the compatibility of the proposed CUP with surrounding development. The Board may also wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the abutting properties.

On April 5, 2021, 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 to Planning and Development.

**Resolution 21PZ00004**

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

**WHEREAS, John and Terri Kroboth, and John Bradley Kroboth** has requested a CUP (Conditional Use Permit) for a Private Boat Dock Accessory to Adjacent Single-Family Residential Lot, in a RU-1-13 (Single-Family Residential) zoning classification, on property described as follows: Proposed dock: Lot 2.01, Crystal Lake 2<sup>nd</sup> Addition, as recorded in ORB 7878, Pages 534-535, of the Public Records of Brevard County, Florida. (0.10 acres) **Section 03, Township 29, Range 38.** Located on the south side of Ross Ave., approximately 475 ft. west of Lakeview Dr. (No assigned address. In the Melbourne Beach area.); Adjacent Single-Family Residential Lot: Lot D, Block D, Crystal Lakes Subdivision, as recorded in ORB 3054, Page 2810, of the Public Records of Brevard County, Florida. **Section 03, Township 29, Range 38.** (0.26 acres) Located at 225 Riggs Ave., Melbourne Beach); and

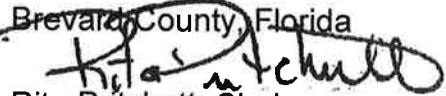
**WHEREAS,** a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

**WHEREAS,** the Board, after considering said application and Brevard County 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 CUP for a Private Boat Dock Accessory to Adjacent Single-Family Residential Lot, in a RU-1-13 zoning classification 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 May 6, 2021.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida



Rita Pritchett, Chair

Brevard County Commission

As approved by the Board on May 6, 2021.

ATTEST:



RACHEL M. SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – April 5, 2021

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 staff, 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 Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all 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 re-zoning 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:

##### **Criteria:**

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

#### **Administrative Policy 6**

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

#### **Administrative Policy 7**

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

#### **Administrative Policy 8**

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

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

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

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.
- (c) General Standards of Review.
  - (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
- b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
- c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

(2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:

- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
- b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
- c. Noise levels for a conditional use are governed by Section 62-2271.



- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

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

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.”

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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

**STAFF COMMENTS**

**21PZ00004**

**John Kroboth, Terri Kroboth and John Bradley Kroboth**

**CUP for a Private Boat Dock Adjacent to a Single-Family Residence in RU-1-13**

Tax Account Number: 2953088 (dock) / 2953228 (single-family residence)  
 Parcel I.D.: 29-38-03-HW-\*-2.01 / 29-38-03-50-D-1  
 Location: South side of Ross Avenue, approx. 475 feet west of Lakeview Drive (dock)  
 Southwest corner of Riggs Avenue and Malabar Boulevard (District 3)  
 Acreage: 0.10 acres  
 Planning & Zoning Board: 04/05/2021  
 Board of County Commissioners: 05/06/2021

**Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RU-1-13	RU-1-13 with CUP
<b>Potential*</b>	1 Single-Family Home	Private Boat Dock
<b>Can be Considered under the Future Land Use Map</b>	No** RES 2	YES** RES 2

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. \*\* The RU-1-13 zoning classification is not consistent with the Future Land Use designation of Residential 2; the parent lot is considered nonconforming to the Comprehensive Plan, therefore the CUP request can be heard.

**Background and Purpose of Request**

The applicant is requesting approval of a Conditional Use Permit (CUP) for a private residential boat dock in the RU-1-13 zoning classification for the purpose of legitimizing an existing boat dock on the parcel as an accessory use. The subject parcel was subdivided into this configuration in May, 1970 and was previously owned by the lot owners directly across Ross Avenue and was combined with that lot as one parcel until the parcel was sold to the applicant. The subject parcel was purchased by the applicant on May 01, 2017. A CUP for the existing dock was never applied for. The applicant also owns Lot 1, Block D, located in the same Crystal Lakes subdivision approximately 1,495 feet northeast of the subject waterfront lot and both parcels retain the RU-1-13 zoning classification. Of the 13 similar parcels on the south side of Ross Avenue, all but two have existing docks. There have

been nine approved CUP actions for private boat docks accessory to adjacent single-family residential lots in the immediate area of the Crystal Lakes subdivision.

## Land Use

The subject property retains the RES 2 (Residential 2) Future Land Use designation. Per section 62-1255 Exhibit "A" the RU-1-13 zoning classification is not consistent with the Residential 2 Future Land Use.

## Applicable Land Use Policies

**FLUE Policy 1.8** –The Residential 2 Future 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 the Future Land Use Element.

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.** This site is located within a large Residential 2 node. To the east, west and the parcels to the north across Ross Avenue are under the FLU designation of Residential 2. To the south of the subject parcel lies a canal waterway for the subdivision.

**Analysis of Administrative Policy #4 - Character of a neighborhood or area.** The character of the area is a mix of existing single-family homes and parcels with existing docks. Of the 13 similar parcels on the south side of Ross Avenue, all but two have existing docks. There have been nine approved CUP actions for Private boat docks accessory to adjacent single-family residential lots in the immediate area of the Crystal Lakes subdivision.

## Surrounding Area

There have been two zoning actions within a half-mile radius around this site within the last 3 years.

On May 24, 2018, application **18PZ00016** approved a CUP for a Private Boat Dock Accessory to a Single-Family Residential Lot. This site is located on the south side of Ross Avenue approximately 185 feet east of the subject parcel.

On October 03, 2019, application **19PZ00046** approved a CUP for a Private Boat Dock Accessory to a Single-Family Residential Lot. This site is located on the south side of Ross Avenue approximately 32 feet west of the subject parcel.

## Environmental Constraints

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

- Hydric Soils/Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain

- Surface Waters of the State
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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

### **Preliminary Transportation Concurrency**

The subject property is closest to the concurrency management segment of Highway A1A, between Heron Dr. and Mar-Len Dr., which has a Maximum Acceptable Volume (MAV) of 24,200 trips per day, a Level of Service (LOS) of D, and currently operates at 39.71% of capacity daily. The maximum development potential from the proposed CUP does not increase the proposed trip generation on the corridor and will not create a deficiency in LOS which operates at 39.71% of capacity daily.

### **Applicable Land Use Policies**

The applicant is requesting approval of a Conditional Use Permit (CUP) for a private residential boat dock in the RU-1-13 zoning classification for the purpose of legitimizing an existing boat dock on the parcel. The subject parcel was subdivided into this configuration in May, 1970. The parcel was previously owned by the lot owners directly across Ross Avenue and it was combined with this lot as one parcel until the parcel was sold to the applicant on May 01, 2017. A CUP for the existing dock was never applied for. The applicant also owns Lot 1, Block D, located in the same Crystal Lakes subdivision approximately 1,495 feet northeast of the waterfront lot and both parcels retain the RU-1-13 Zoning classification. The abutting parcels, north, south, east and west for both parcels are zoned RU-1-13. RU-1-13 permits single-family residences on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. The last similar CUP action occurred on October 3, 2019 under application **19PZ00046**, for a lot approximately 32 feet west of the subject parcel on the south side of Ross Ave.

### **Special Considerations for CUP (Conditional Use Permit)**

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that 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.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate

consistency with the standards set forth in Section 62-1901 and Section 62-1943.3, Private Boat Dock Accessory to a Single-Family Residential Lot.

This request should be evaluated in the context of Section **62-1943.3**, governing private boat docks accessory to adjacent single family residential lots, as follows:

A private boat dock, for the purposes of this section, is a boat dock that is used in connection with a waterfront lot or parcel which may be undersized for the residential zoning classification in which it is located, and is therefore associated with and considered part of an adjacent residential lot. The term "adjacent", for the purposes of this section, means any lot within the same neighborhood as described below in paragraph (1).

A conditional use for a private boat dock on a waterfront lot or parcel may be considered as an accessory use to an adjacent developed or undeveloped buildable residential lot in any residential zoning classification under the following conditions. Owners of docks established prior to November 17, 2008, as evidenced by a certified survey or other irrefutable evidence, may request a waiver of any of the below conditions as part of the conditional use permit review process.

*The applicant purchased this lot on April 27, 2017. Currently, there is an existing dock on the parcel. The subject parcel was subdivided into this configuration in May, 1970. The parcel was previously owned by the lot owners directly across Ross Avenue and it was combined with this lot as one parcel until the parcel was sold to the applicant. A CUP for the existing dock was never applied for.*

- (1) The lot or parcel upon which the dock is to be constructed must be owned and used by the owner of a residential lot or parcel (or residential tenant of said lot or parcel) located within either the same platted subdivision or within 1000' of the dock parcel. The owner of the dock lot or parcel and the residential lot shall maintain fee simple ownership to both properties at all times. ***The applicants' residential lot is in the same subdivision, Crystal Lakes, as the dock lot.***
- (2) The lot or parcel shall have at least 30 feet of water frontage, except where located on the Indian or Banana River Lagoons, where it shall have river frontage equal to or exceeding the minimum lot width requirement of the parcel's zoning classification. ***The parcel meets the minimum 30 feet of water frontage as shown on the boundary survey of subject parcel include with CUP application.***
- (3) The boat dock may contain slips for no more than two boats and shall not be used for commercial purposes. ***The existing boat dock would only permit two boats as shown on the boundary survey of subject parcel include with CUP application.***
- (4) No other accessory structures are permitted on the dock lot or parcel. ***There are no accessory structures other than the existing dock on the parcel.***
- (5) The dock lot or parcel shall not be used to store a boat trailer, nor shall it be used to launch a boat.

(6) The dock shall meet all applicable development standards described in Section 62-2118. ***The existing dock appears to meet the requirements of Section 62-2118(d) Residential Boat Docks and Piers.***

***The existing parcel and existing appears to meet conditions (1) to (6) above.***

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901. Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901. The applicant's responses are indicated in bold and staff observations are provided in italics.

Section 62-1901(c)(1)(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.

**The dock lot will be used in similar fashion as the surrounding lots. Family and friends will use the lot with no activities that will generate adverse conditions to the surrounding area.**

Section 62-1901(c)(1)(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.

**The use of the dock lot will be the same as the adjacent dock lots with regard to function, operation, traffic and other parameters.**

Section 62-1901(c)(1)(c) The proposed use will not cause a substantial diminution in value of abutting residential property.

Note: 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 value of the lot will remain the same or increase with upgrades to the existing dock.**

### **Specific Standards**

Section 62-1901(c)(2)(a) Ingress and egress to the property and proposed structures (including vehicular and pedestrian safety and convenience, traffic flow and control, and emergency response

access) shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any.

Note: Burdening adjacent and nearby uses is defined as 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 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.

**The ingress and egress to the property will not be affected. The use of the lot is for personal use and will not raise the level of traffic for the area.**

Section 62-1901(c)(2)(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.

**The use of the lot will not involve activities that will produce noise, glare, order, particulates, smoke, fumes or emissions that will interfere with the nearby properties.**

Section 62-1901(c)(2)(c) Noise levels for a conditional use shall comply with Section 62-2271 of the Code, which includes the following:

**The noise levels from the use of the lot will be well below the permissible levels stated above.**

Section 62-1901(c)(2)(d) The proposed conditional use shall not cause the adopted level of service for solid waste disposal for the property or area covered by such level of service, to be exceeded.

**There will not be a need for solid waste services at the lot.**

Section 62-1901(c)(2)(e) The proposed conditional use shall not cause the adopted level of service for potable water or wastewater for the property or the area covered by such level of service, to be exceeded by the proposed use.

**There will be no potable water or wastewater requirements on the lot.**

Section 62-1901(c)(2)(f) The proposed conditional use must have existing or proposed screening or buffering, in terms of type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.



**There will not be a need for screening or buffering on the lot due to no actions that would generate a nuisance.**

Section 62-1901(c)(2)(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.

**There are no proposed signs or unreasonable lighting.**

Section 62-1901(c)(2)(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.

**The lot will be used in the same fashion as the surrounding lots. There will be no commercial use of this lot.**

Section 62-1901(c)(2)(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 thirty-five (35) feet higher than the highest residence within 1000 feet of the property line.

Note: A survey of building heights within 1000 feet of the property lines should be furnished for applications requesting a CUP for additional building height.

**There is no proposed structure at this time.**

*There is an exist dock located at the subject parcel.*

Section 62-1901(c)(2)(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.

Note: 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.

**There are no requirements for parking or loading areas at this lot.**

### **For Board Consideration**

The Board may wish to consider the compatibility of the proposed CUP with surrounding development.

The Board may also wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the abutting properties.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Conditional Use Permit (CUP) Review & Summary**  
**Item # 21PZ00004**

**Applicant:** John, Terri & John Bradley Kroboth

**CUP Request:** Applicant wants a private boat dock accessory to their SFR parcel.

**P&Z Hearing Date:** 04/05/21; **BCC Hearing Date:** 05/06/21

**Tax ID Nos:** 2953088 & 2953228

- 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/Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain
- Surface Waters of the State
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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

**Land Use Comments:**

**Hydric Soils/Wetlands**

The subject parcel contains mapped hydric soils (Canaveral-Anclote complex) as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that wetlands may be present on the property. Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.

**Aquifer Recharge Soils**

Canaveral-Anclote complex may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

**Coastal High Hazard Area**

The parcel is within the CHHA as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates coastal high hazard areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

**Floodplain**

The parcel is located within the floodplain as identified by the Federal Emergency Management Agency as shown on the FEMA Flood Zones Map. The property is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Additional impervious area increases stormwater runoff that can adversely impact nearby properties unless addressed on-site. 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."

**Surface Waters of the State**

The parcel is located on Class III surface waters of the State. A 25-foot Surface Water Protection Buffer (Buffer) is required. Except as allowable under Section 62-3668 (7), primary structures shall be located outside the Buffer. Alteration or construction of accessory structures is allowable within the Buffer provided that stormwater management is provided, and the alteration occurs in accordance with all other applicable federal, state, and local regulations. All alterations shall demonstrate avoidance and minimization of Buffer impacts, including the location of the alteration within the most landward portion of the Buffer, as practicable. The remainder of the Buffer shall be maintained in unaltered vegetation, except for non-native invasive plants.

**Indian River Lagoon Nitrogen Reduction Overlay**

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If applicable, the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required if sewer is not available. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts. Per Section 62-3666 (14), all onsite sewage treatment and disposal systems (OSTDS) shall be set back at least 100 feet from the buffer establishment line, the safe upland line, mean high water line or ordinary high-water line.

**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 tree preservation and canopy coverage requirements. Land clearing or tree removal in the Buffer is not permitted without prior authorization by NRM.

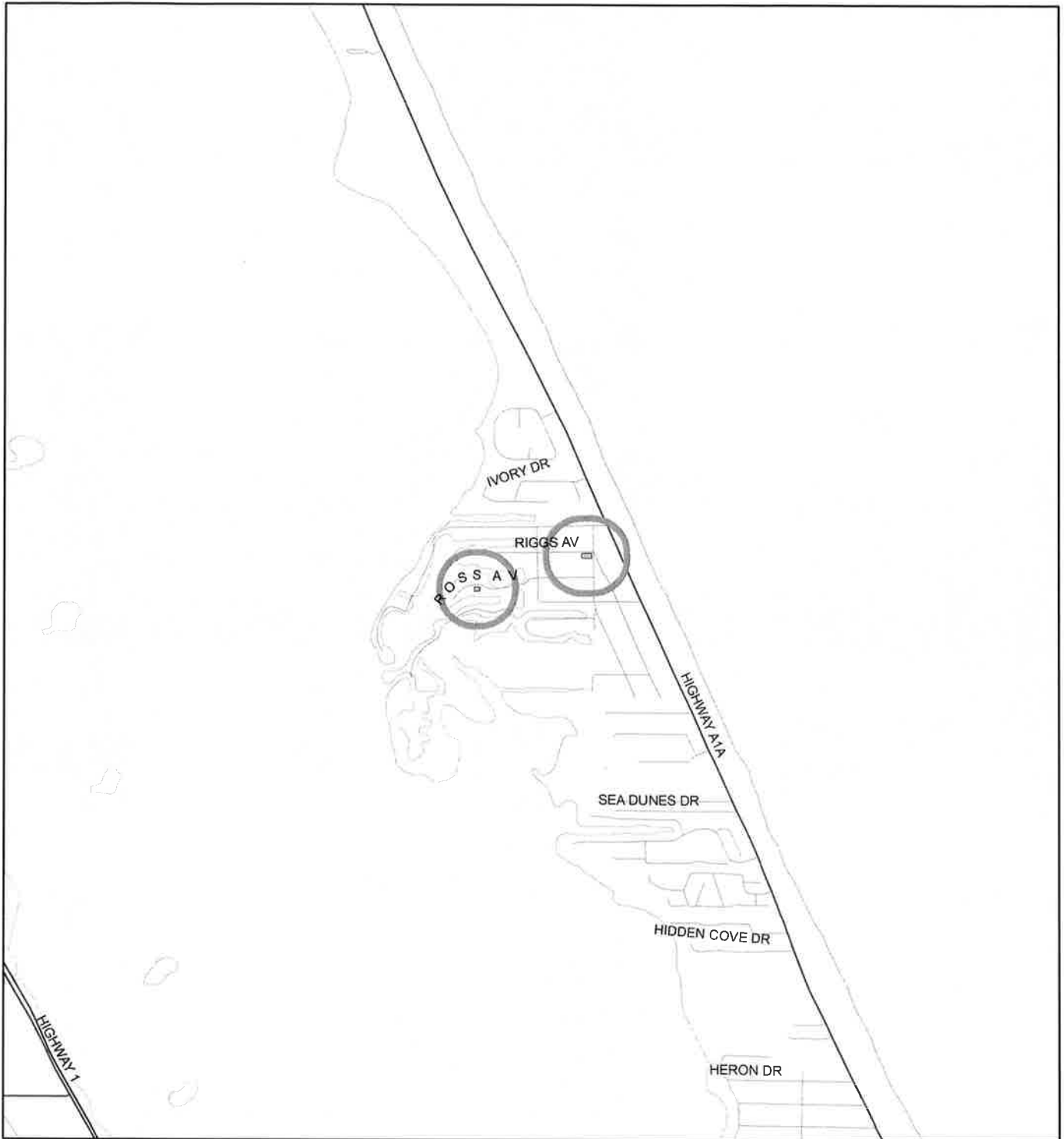
**Protected Species**

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

# LOCATION MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



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.

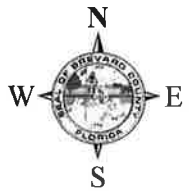
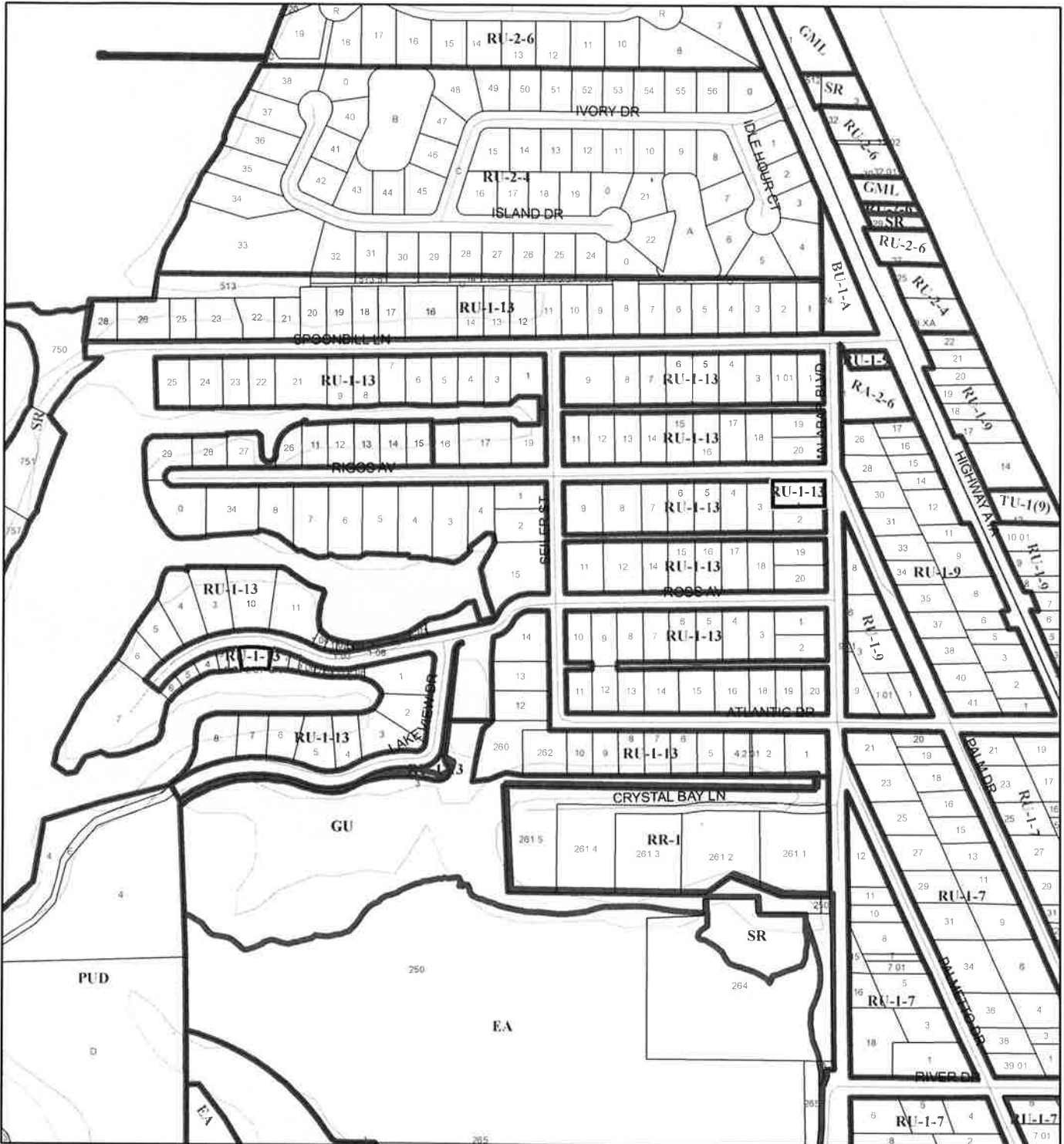
Produced by BoCC - GIS Date: 1/27/2021

— Buffer  
■ Subject Property

# ZONING MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY




21PZ00004



1:4,800 or 1 inch = 400 feet

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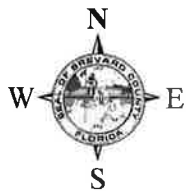
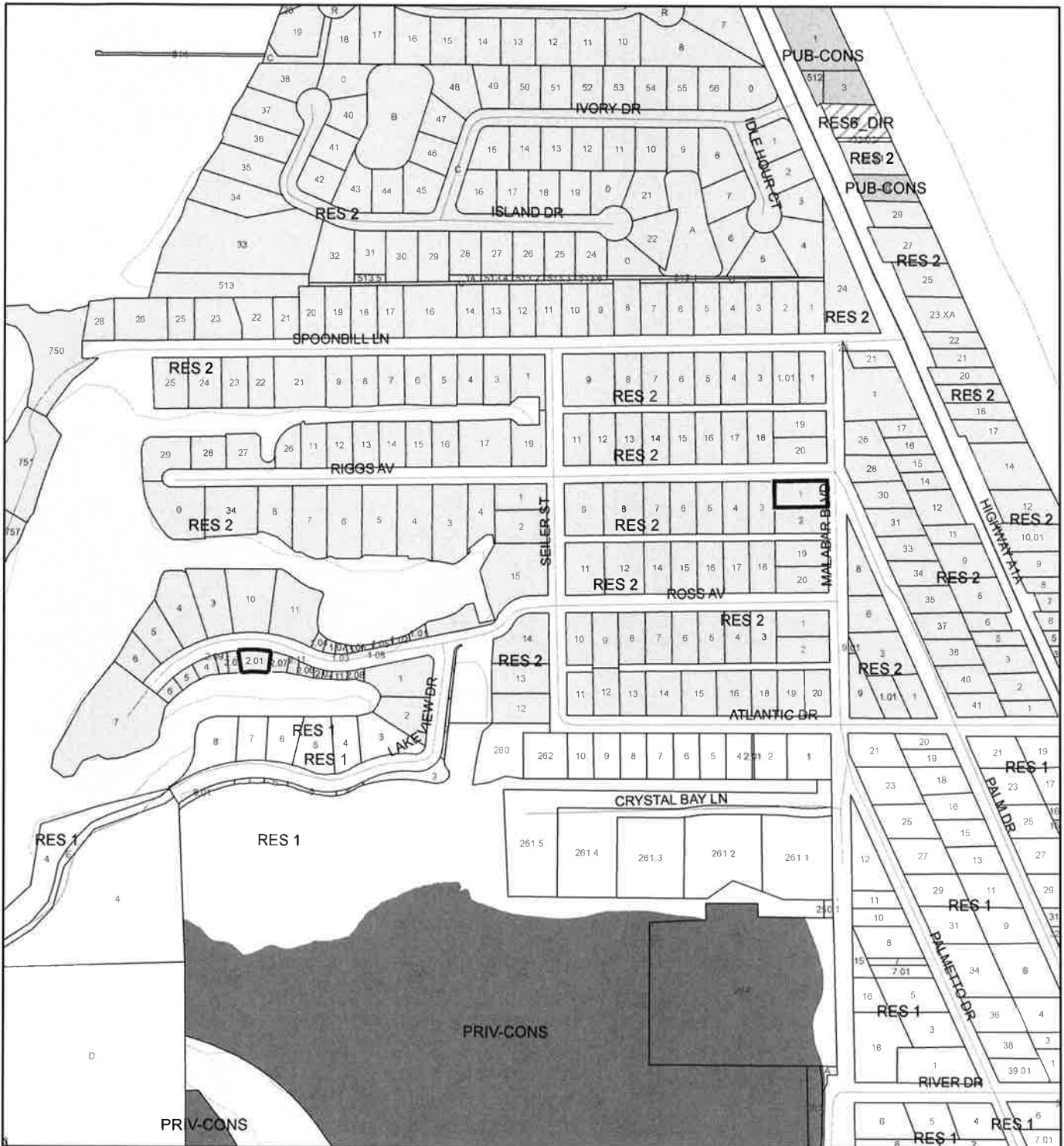
Produced by BoCC - GIS Date: 1/27/2021

-  Subject Property
-  Parcels
-  Zoning


# FUTURE LAND USE MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

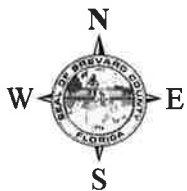
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/27/2021

# AERIAL MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2020

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: 1/27/2021

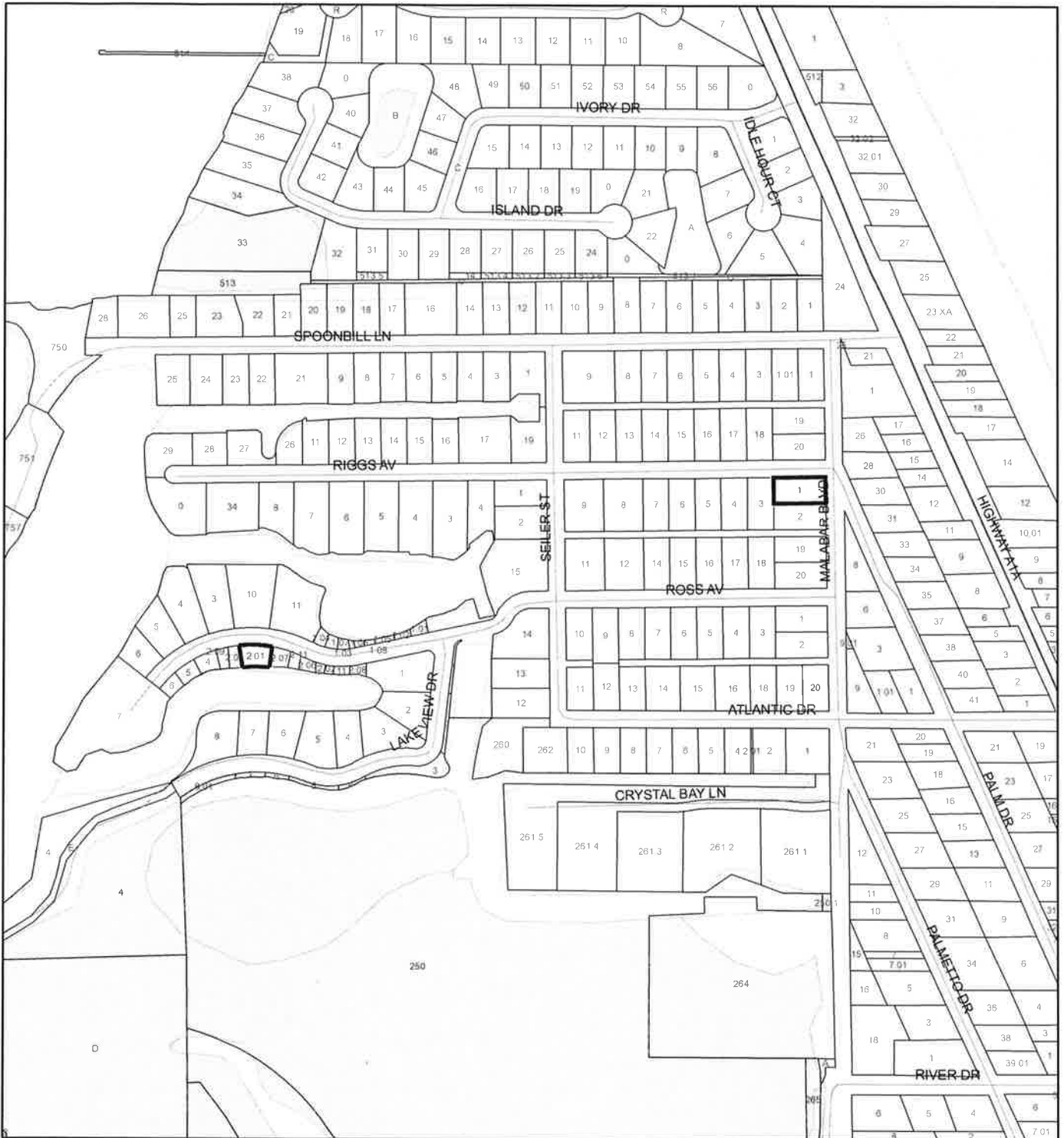
-  Subject Property
-  Parcels



# NWI WETLANDS MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/27/2021

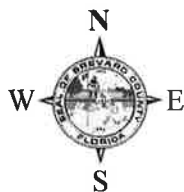
### National Wetlands Inventory (NWI)

- |  |                                   |  |                 |
|--|-----------------------------------|--|-----------------|
|  | 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

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY  
21PZ00004



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 herein.

Produced by BoCC - GIS Date: 1/27/2021

### SJRWMD FLUCCS WETLANDS

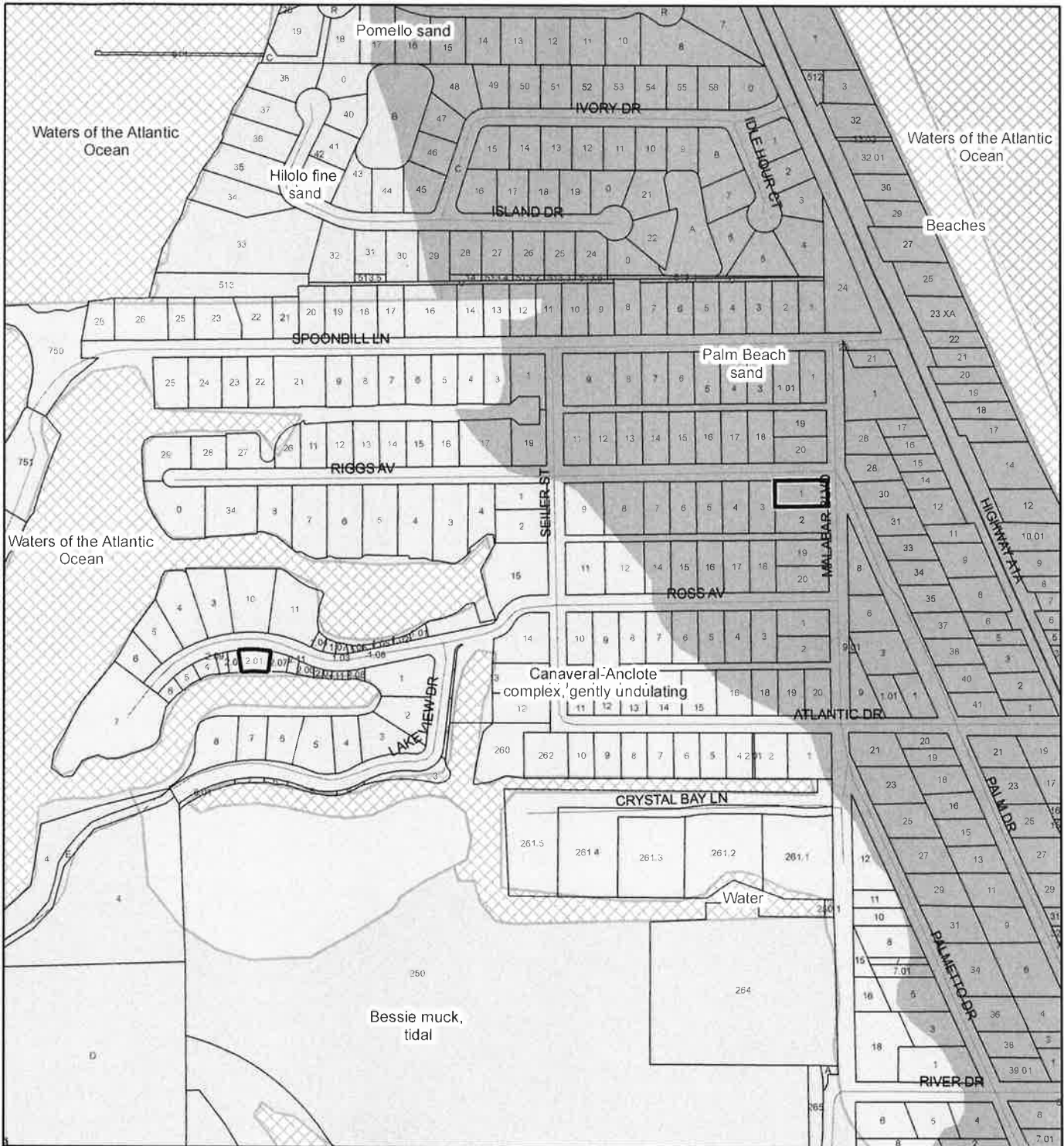
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property  Parcels

# USDA SCSSS SOILS MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004









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: 1/27/2021

## USDA SCSSS Soils

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

# FEMA FLOOD ZONES MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/27/2021

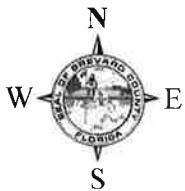
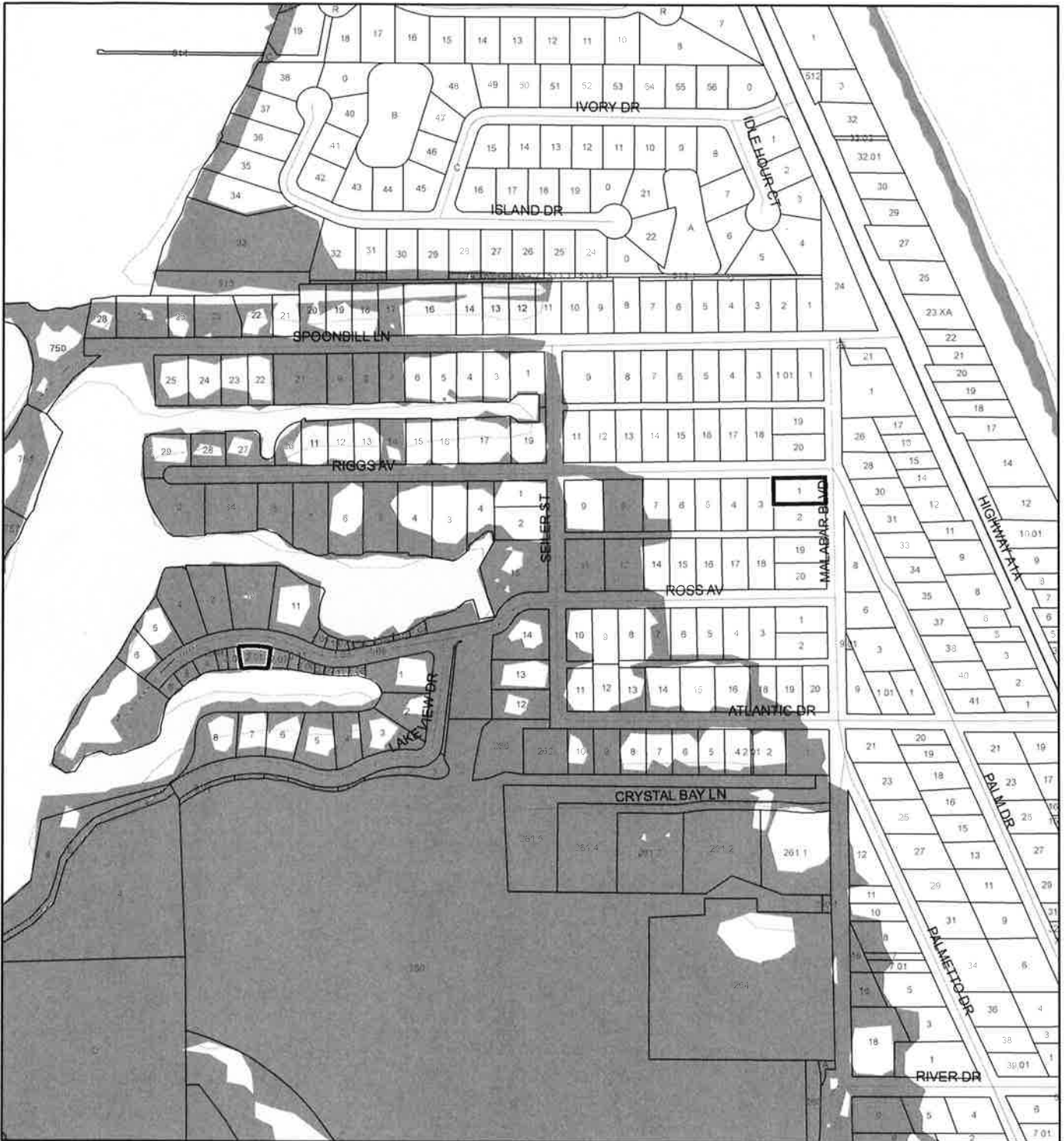
### FEMA Flood Zones

- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  | Parcels    |                      |

# COASTAL HIGH HAZARD AREA MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/27/2021

— Subject Property

□ Parcels

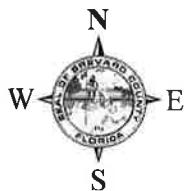
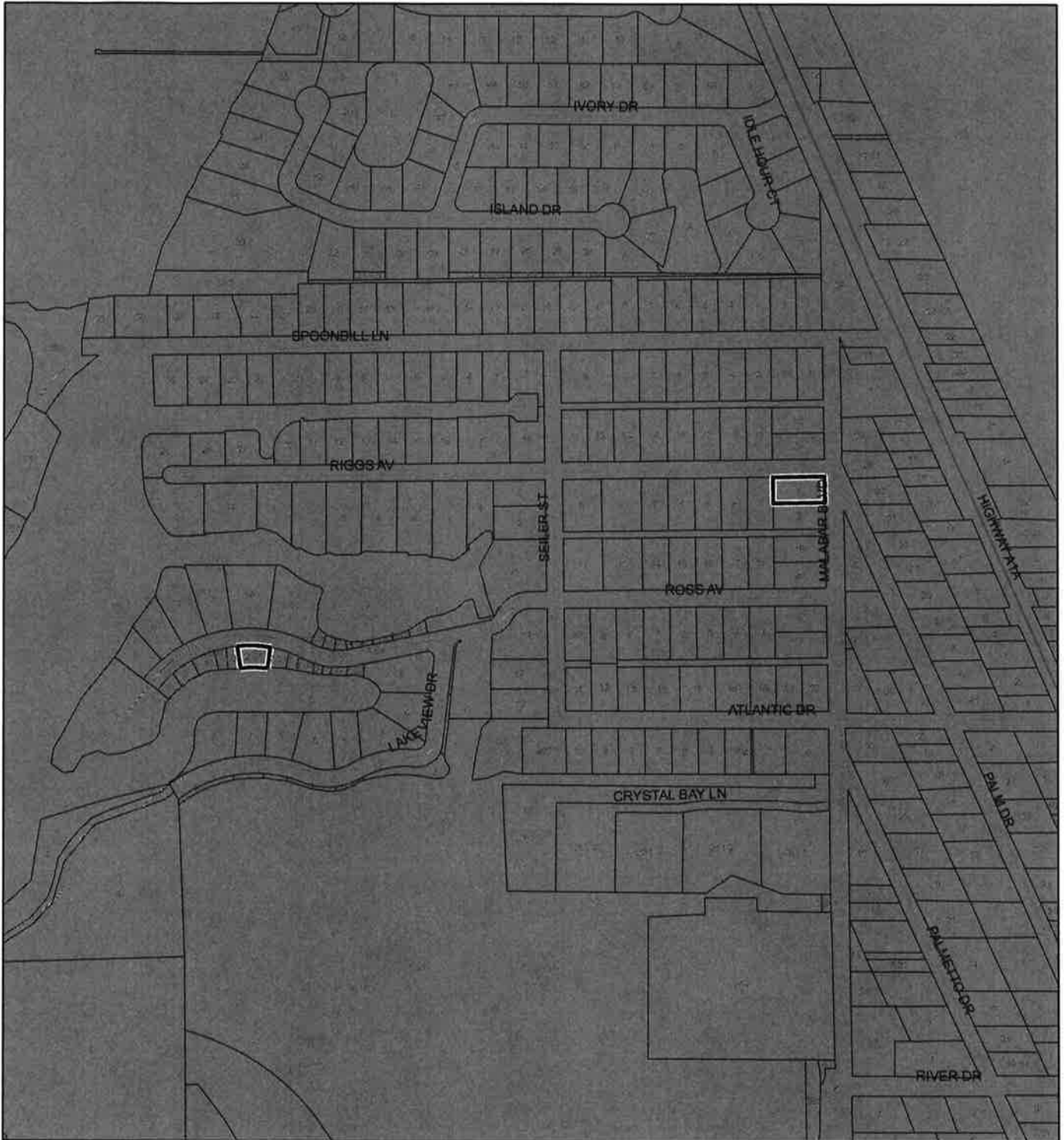
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/27/2021

— Subject Property

□ Parcels

**Septic Overlay**

■ 40 Meters

■ 60 Meters

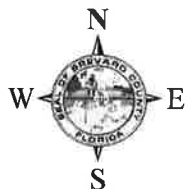
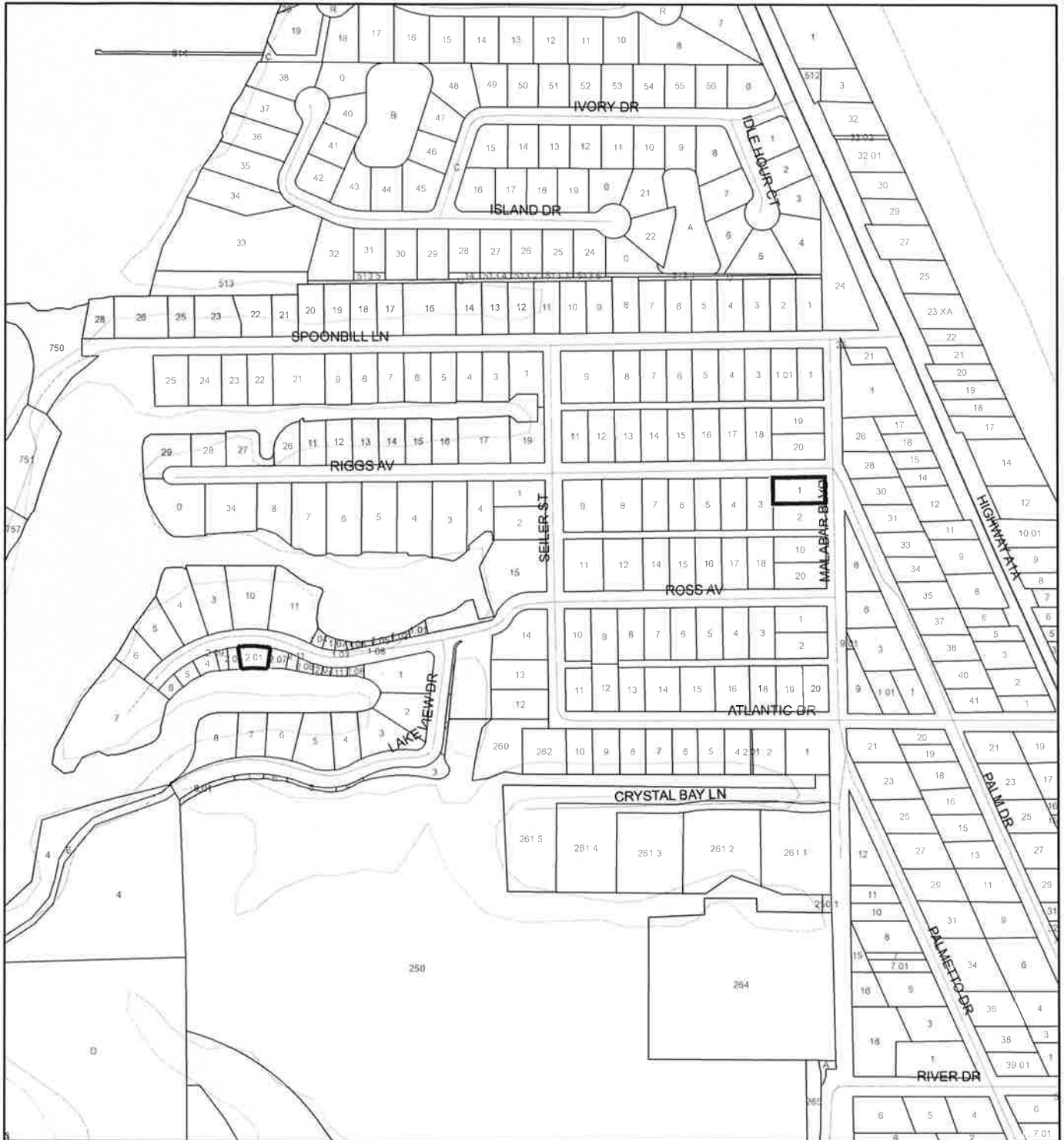
■ All Distances



# EAGLE NESTS MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/27/2021

 Subject Property

 Parcels

 Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY




21PZ00004



1:4,800 or 1 inch = 400 feet

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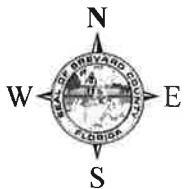
Produced by BoCC - GIS Date: 1/27/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KROBOTH, JOHN AND TERRI, AND JOHN BRADLEY

21PZ00004







1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/27/2021

### 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 Development**  
2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
321-633-2070

BOARD OF COUNTY COMMISSIONERS

### Application for Zoning Action, Comprehensive Plan Amendment, or Variance

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21PZ00004

Existing FLU: RES2 Existing Zoning: RU-1-13

Proposed FLU: NA Proposed Zoning: NA

#### PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

John, Terri, John Bradley Kroboth

Name(s)	Company		
<u>225 Riggs Ave.</u>	<u>Melbourne Beach</u>	<u>FL</u>	<u>32951</u>
Street	City	State	Zip Code
<u>kroboth321@gmail.com</u>	<u>321-266-1332</u>	<u>321-266-1625</u>	
Email	Phone	Cell	

#### APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

Attorney  Agent  Contract Purchaser  Other \_\_\_\_\_

\_\_\_\_\_  
Name(s) Company

\_\_\_\_\_  
Street City State Zip Code

\_\_\_\_\_  
Email Phone Cell



**APPLICATION NAME**

- Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- Text Amendment (CP): Element \_\_\_\_\_
- Other Amendment (CP): \_\_\_\_\_
- Rezoning Without CUP (RWOC)
- Combination Rezoning and CUP (CORC)
- Conditional Use Permit (CUP)
- Binding Development Plan (BDP)
- Binding Development Plan (BDP) (Amendment)
- Binding Development Plan (BDP) (Removal)
- Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- Administrative Approval of Flag Lot or Easement
- Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- Other Action: \_\_\_\_\_

Acreage of Request: 0.1 :

Reason for Request: CUP for  
Private Dock Accessories to Adjacent Residential Lot

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- An approval of this application does not entitle the owner to a development permit.
- For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

Terri Kroboth  
John Kroboth  
 Signature of Property Owner or  
 Authorized Representative

1-26-21  
 Date

State of Florida

County of Brevard

Subscribed and sworn before me, by  physical presence or \_\_\_\_\_ online notarization,

this 26<sup>th</sup> day of, January, 20 21, personally appeared

Terri Kroboth & John Kroboth, who is personally known to me or produced

FLDL as identification, and who did / did not take an oath.

Kristen Champion  
 Notary Public Signature

Seal



Office Use Only:

Accela No. 21PZ00004 Fee: 1,149.00 Date Filed: 1-26-21 District No. 3

Tax Account No. (list all that apply) 2953088, 2953228

Parcel I.D. No.

<u>29</u>	<u>38</u>	<u>03</u>	<u>HW</u>	<u>*</u>	<u>2.01</u>
<u>29</u>	<u>38</u>	<u>03</u>	<u>50</u>	<u>D</u>	<u>1</u>
Twp	Rng	Sec	Sub	Block	Lot/Parcel

Planner: PB Sign Issued by: Code Ext. Notification Radius: 500

MEETINGS

	DATE	TIME
<input checked="" type="checkbox"/> P&Z	<u>April 5, 2021</u>	<u>3:00 pm</u>
<input type="checkbox"/> PSJ Board	_____	_____
<input type="checkbox"/> NMI Board	_____	_____
<input type="checkbox"/> LPA	_____	_____
<input type="checkbox"/> BOA	_____	_____
<input checked="" type="checkbox"/> BCC	<u>May 6, 2021</u>	<u>5:00 pm</u>

Wetland survey required by Natural Resources  Yes  No Initials PB

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?  
 Yes  No If yes, list \_\_\_\_\_

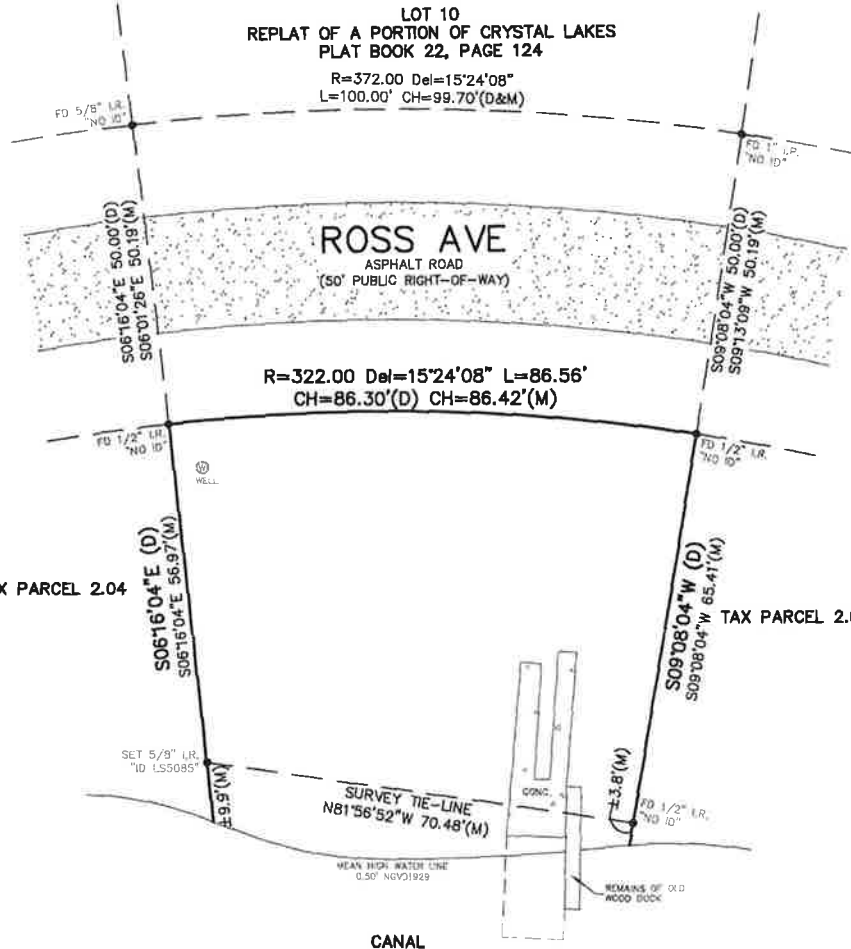
Location of subject property: South side of Ross Ave., 475 ft west of Lakeview Dr.

Description of Request: CUP: Private boat dock accessory to adjacent single-family residential lots

### BOUNDARY SURVEY

**LEGAL:**

— A PART OF TRACT NO. 2, BLOCK J, CRYSTAL LAKES, SECOND ADDITION, AS RECORDED IN PLAT BOOK 17, PAGE 57, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND BEING THAT PORTION OF SAID TRACT NO. 2 LYING SOUTHERLY OF ROSS AVENUE AND EXTENDING TO THE ORDINARY HIGH WATER LINE OF THE EXISTING CANAL AND BOUNDED BY SOUTHERLY PROLONGATIONS OF THE SIDE BOUNDARY LINES OF LOT 10, REPLAT OF A PORTION OF CRYSTAL LAKES, AS RECORDED IN PLAT BOOK 22, PAGE 124, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.



*Myron E. Barker*  
PROFESSIONAL SURVEYOR & MAPPER IN RESPONSIBLE CHARGE  
MYRON E. BARKER - FLORIDA CERTIFICATE NO. 5085  
CERTIFICATE OF AUTHORIZATION LB. 6586

**LEGEND**

(ASA)	= ALSO KNOWN AS
C	= CENTERLINE
CB	= CONCRETE BLOCK STRUCTURE
CLF	= CHAIN LINK FENCE
CLR	= CLEAR
CH	= CHORD
CM	= CONCRETE MONUMENT
CONC.	= CONCRETE
CONC.	= CONCRETE
CONC.	= CONCRETE
(C)	= CIRCULAR
(D)	= DEELED
(E)	= DELTA
(F)	= FOUND
(I)	= IDENTIFICATION
(IR)	= IRON PIPE
(IR)	= IRON ROD
(L)	= LENGTH
(LS)	= LICENSE SURVEYOR
(M)	= MEASURED
(ND)	= NAIL & DISK
(S)	= RELATED
(P)	= POINT OF CURVATURE
(P)	= POINT OF TANGENCY
(PL)	= PROPERTY LINE
(P.S.M.)	= PROFESSIONAL SURVEYOR & MAPPER
(PR)	= POINT OF REVERSE CURVE
(P.U.)	= PUBLIC UTILITY & DRAINAGE
(R)	= RADIUS
(R/W)	= RIGHT-OF-WAY
(TYP.)	= TYPICAL
(W)	= WOOD FENCE

- SURVEYOR'S NOTES:**
- 1) THE BEARING SYSTEM SHOWN HEREON IS BASED ON A ASSUMED BEARING OF S.06°16'04"E, ALONG THE EAST RIGHT-OF-WAY LINE OF PARCEL 2.01.
  - 2) AS PER FLOOD INSURANCE RATE MAP NO.12009C 682 G, INDEX DATED 03-17-2014, THE ABOVE DESCRIBED PROPERTY LIES IN ZONE AE.
  - 3) THIS SURVEY WAS PREPARED FROM TITLE INFORMATION PROVIDED TO THE SURVEYOR; THERE MAY BE ADDITIONAL RESTRICTIONS OR EASEMENTS THAT AFFECT THE PROPERTY.
  - 4) UNDERGROUND UTILITIES AND FOUNDATIONS HAVE NOT BEEN SHOWN.
  - 5) LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY, RESERVATION, AGREEMENT AND/OR EASEMENTS OF RECORD, SUCH INFORMATION IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY OTHER THROUGH APPROPRIATE TITLE VERIFICATION.
  - 6) NOT VALID WITHOUT SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

**TYPE OF SURVEY:**  
**BOUNDARY SURVEY**

**PROJECT:**  
**20-1192**

**SCALE:** 1" = 20'

**DATE:** 02/27/2020

**CAD FILE:** 20-1192.DWG

**F.B. NUMBER:** \_\_\_\_\_

**REVISION:** \_\_\_\_\_

**PRECISION**  
**LAND SURVEYING, INC.**  
2900 LAKE WASHINGTON ROAD, SUITE 1  
MELBOURNE, FLORIDA 32935  
PHONE: 321-259-4600  
EMAIL: PRECISIONSURVEYING1993@GMAIL.COM

**CERTIFIED TO:**  
**JOHN AND TERRI KROBOTH**



Owner's Name: John, Terri and John Bradley Kroboth  
Hearing Date: April 5, 2021

21PZ 00004

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

**AFFIDAVIT**

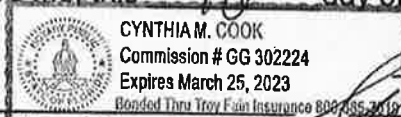
STATE OF FLORIDA  
COUNTY OF BREVARD

Before me, this undersigned authority, personally appeared, Stephen Novak, to me well known and known to me to be the person described in and who executed the foregoing affidavit, after being first duly sworn, says:

1. That the affiant posted the notice provided by the Brevard County Planning & Zoning Office, which contains the time(s) and date(s) of the Public Hearing(s) involved.
2. Said posted notice contains the name of the applicant, the total acreage of the property in question, the existing land use classification, special use classification or conditional use designation, and the requested amendment to the official zoning maps. Said notice also contains the time and place of the public hearing on the consideration of said application by the Board of County Commissioners of Brevard County, if applicable.
3. The said notice has been posted in a conspicuous place on the subject property not more than twenty-five (25) days, nor less than fifteen (15) days prior to the first public hearing before the applicable board (as indicated on notice). If the property abuts a public road right-of-way, the notice has been posted within ten (10) feet of the road right-of-way in such a manner as to be visible from the road right-of-way.
4. The affiant understands that this affidavit is intended to be submitted as a requirement for a public hearing, and as such, will be officially filed with the Government of Brevard County, Florida.

Stephen Novak  
Signature

Sworn and Subscribed before me, this 16th day of March, 2021.



(Print, Type, or Stamp Commissioned Name of Notary Public)

Cynthia M. Cook  
Notary Public, State of Florida

Personally known OR Produced Identification

Type of I.D. Produced: None

**THIS AFFIDAVIT IS TO BE PRESENTED AT THE PUBLIC HEARING**

# REZONING NOTICE

Z1PZ00004

The Brevard County Planning and Zoning Board will hold a public hearing at 3:00 P.M. on April 5, 2021, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL, to consider the proposed zoning action on this property as indicated below:

Owner: John Terri and John Bradley Kriebeth

Present Zoning: RU-1-B Acreage: 0.1

Requested Action(s): CUP: Private boat Dock accessory to adjacent single Family Residential lots

The recommendations from the aforementioned public hearing will be presented to the County Commission at 5:00 P.M. on May 6, 2021, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera. All interested parties are invited to appear and be heard. Written comments filed with the Brevard County Zoning Official, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, FL 32940 will be considered. Removal of this sign prior to May 6, 2021 is illegal and subject to prosecution.

Printed 10/20/18



## PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 5, 2021**, 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: Ron Bartcher; Harry Carswell; Brian Hodgers; Bruce Moia; Mark Wadsworth, Chair; William Capote; and Joe Buchanan.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Kyle Harris, Planner I; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

### Excerpt of Complete Minutes

#### **John and Terri Kroboth, and John Bradley Kroboth**

A CUP (Conditional Use Permit) for a Private Boat Dock Accessory to Adjacent Single-Family Residential Lot, in an RU-1-13 (Single-Family Residential) zoning classification. The property is .10 acres, located on the south side of Ross Avenue, approximately 475 feet west of Lakeview Drive. (No assigned address. In the Melbourne Beach area) (21PZ00004) (Tax Account 2953088) (District 3)

John Kroboth, 225 Riggs Avenue, Melbourne Beach, stated they bought the lot from the previous owner who had it for 35 years. He stated he lives in the same neighborhood but not right across from the subject lot. He said he found out later that he had to have a conditional use permit in order to make it legal. He noted there is a small dock on the lot now and eventually he would like to improve it, similar to the other docks in the area, which are covered.

No public comment.

Motion by William Capote, seconded by Bruce Moia, to approve the CUP for a Private Boat Dock Accessory to Adjacent Single-Family Residential Lot, in an RU-1-13 (Single-Family Residential) zoning classification. The motion passed unanimously.