



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

7/17/2025

Subject:

John A. and Christine S. Conley (Ken Ludwa and/or Savannah Farley) request a zoning classification change from BU-2 to RU-1-11. (25Z00010) (Tax Account 3019263) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-2 (Retail, Warehousing and Wholesale Commercial) to RU-1-11 (Single-Family Residential).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-2 (Retail, Warehousing and Wholesale Commercial) to RU-1-11 (Single-family Residential) on approximately 0.28 acres. The applicant proposes to develop a single-family residential home. The subject property meets the RU-1-11 zoning criteria. The current BU-2 zoning is not consistent with the RES 4 FLU. The request will provide consistency per Sec. 62-1255 with the Future Land Use (FLU) designation.

North of the subject property is a 0.55-acre lot developed with a single-family home and zoned BU-2. South and West of the subject property is a 7.06-acre parcel developed with the Marker 24 Marina zoned BU-2 on the east side of S. Banana River Dr. and RU-1-11 on the west side of S Banana River Drive, within a single parcel. East of the subject property is the Banana River, a major waterway.

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

On June 16, 2025, the Planning and Zoning Board considered the request and voted unanimously to recommend approval. (Ana Saunders abstained)

Clerk to the Board Instructions:

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

Resolution 25Z00010

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

WHEREAS, John A. and Christine S. Conley request a zoning classification change from BU-2 (Retail, Warehousing and Wholesale Commercial) to RU-1-11 (Single-Family Residential), on property described as Tax Parcel 16.06, as recorded in OR Book 9412, Pages 2271 and 2272 of the Public Records of Brevard County, Florida. **Section 06, Township 25, Range 37.** (0.28 acres) Located on the east side of S. Banana River Drive, 1,365 feet south of Mili Ave. (1356 S. Banana River Dr., Merritt Island); and

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

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

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from BU-2 to RU-1-11, 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 July 17, 2025.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Rob Feltner, Chair
Brevard County Commission
As approved by the Board on July 17, 2025.

ATTEST:


RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – June 16, 2025

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

25Z00010

John & Christine Conley

BU-2 (Retail, Warehousing and Wholesale Commercial) to RU-1-11(Single-family Residential)

Tax Account Number: 3019263
Parcel I.D.s: 25-37-06-CX*-16.06
Location: 1356 S. Banana River Drive, Merritt Island FL 32952 (District 2)
Acreage: 0.28 acres

Planning & Zoning Board: 06/16/2025
Board of County Commissioners: 07/17/2025

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)

	CURRENT	PROPOSED
Zoning	BU-2	RU-1-11
Potential*	8 multifamily units**	1 Single-family
Can be Considered under the Future Land Use Map	NO RES 4	YES RES 4

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

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from BU-2 (Retail, Warehousing and Wholesale Commercial) to RU-1-11 (Single-family Residential) on approximately 0.28 acres. The applicant proposes to develop a single-family residential home. The subject property meets the RU-1-11 zoning criteria. The current BU-2 zoning is not consistent with the RES 4 FLU. The request will provide consistency per Sec. 62-1255 with the Future Land Use (FLU) designation.

A portion of this property is located within the Coastal High Hazard Area (CHHA) as defined by Florida Statute 163.3178(2)(h), and as shown on the CHHA Map. The Coastal Management Element of the Comprehensive Plan, Policy 6.1, designates Coastal High Hazard Areas to be those areas below the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida

Statute. Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area

The subject property was established in 1922 within Plat Book 3, Page 11 of the Banana River Drive development. The original lot 16 was a 7.73 acre parcel that has been subdivided over its history and is not a nonconforming lot of record. The subject property was owned by Marker 24 Marina and was sold to the current applicant as of February 9, 2022 via ORB 9412, Page 2271.

The subject property was included in Zoning action **Z-11219** for a rezoning of 17.25 acres from BU-2 and RU-1-11 to PUD, was denied on September 20, 2006. No other actions have been brought forward. BU-2 zoning appears to be the original zoning classification from 1958.

In 2023, the Live Local Act was enacted and was revised in 2024. The Act is intended to address the state's growing housing affordability crisis through significant land use, zoning, and tax benefits. Pursuant to **Florida Statute 125.01055**, a county must authorize multifamily and mixed-use as allowable uses in any area zoned for commercial, industrial, or mixed use if at least 40 percent of the residential units in a proposed multifamily rental development. In unincorporated Brevard County, the Live Local Act effectively allows for the development of up to 30 dwelling units per acre. The subject property, encompassing 0.28 acres zoned BU-1, allows for development options that include either commercial use with a Floor Area Ratio (FAR) of 1.0 or 8 multi-family units as stipulated by the Live Local Act.

Potential Code Enforcement

Information available to NRM indicates that unpermitted land alteration activities may have occurred on this parcel between 2021 and 2023. The confirmation of unpermitted land alteration activities may result in code enforcement action.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	1 Single Family Unit	BU-2	RES 4
South	Marker 24 Marina E of Banana River Dr	BU-2	RES 4
East	Banana River	N/A	N/A
West	Marker 24 Marina W of Banana River Dr	RU-1-11	RES 4

North of the subject property is a 0.55 acre lot developed with a single-family home and zoned BU-2.

South and West of the subject property is a 7.06 acre parcel developed with the Marker 24 Marina zoned BU-2 on the east side of S. Banana River Dr. and RU-1-11 on the west side of S Banana River Drive. Both within a single parcel.

East of the subject property is the Banana River, a major waterway.

The BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. BU-2 zoning is the county's most intense commercial zoning classification due to the intensive nature of commercial activities permitted. Off-site impacts such as noise, light, traffic and other potential nuisance factors associated with BU-2 activities should be considered. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

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

Land Use

The subject property's BU-2 zoning classification cannot be considered consistent with the RES 4 Future Land Use designation provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County's Comprehensive Plan. The proposed RU-1-11 zoning classifications can be considered consistent with RES 4.

Applicable Land Use Policies

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

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 applicant intends to construct a single-family residence on this vacant property. This request is not anticipated to significantly diminish the enjoyment of, safety or quality of life in the existing neighborhood.

Development would need to meet Brevard County's 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 Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

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

1. historical land use patterns;

There are two (2) FLUM designations (RES 4 and RES 6) within a half-mile radius of the subject property. The subject property is within the RES 4 classification.

The character of the area is mostly single-family residential use, with a marina on the south and west side of the subject property.

Staff analysis has determined that the proposed residential use would be consistent with land use trends along S. Banana River Drive.

Within the past three years, there have been no FLUM changes within the defined radius.

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

No new development has been noted.

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

It appears there has been no development approved within the past three years that has not yet been constructed.

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 of the Comprehensive Plan 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 maximum development potential from the proposed RU-1-11 rezoning increases the percentage of MAV utilization by 0.12%. The corridor is anticipated to operate at 15.48% of capacity daily. The proposal would not create a deficiency in LOS. Specific concurrency issues will be addressed at the time of site plan review. This is only a preliminary review and is subject to change. No commercial or industrial activity is proposed with this application.

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.

There are two primary waterways bracketing the area to the east and west. The majority of the area is an established residential area with clearly established roads, open spaces, or similar land uses.

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 neighborhood commercial use.

3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

There have been no commercial, industrial or other non-residential uses applied for and approved during the previous five years.

Admin 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.

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

- The subject property is situated on the Indian River Lagoon, classified as Class II Water, Outstanding FL Water, and an Aquatic Preserve. A 50-foot Surface Water Protection Buffer is mandatory. Primary structures must be placed outside the Buffer. Accessory structures are permitted within the Buffer under certain conditions (e.g., provision of storm water management, avoidance and minimization of impacts, and a maximum of 30% impervious surface). Removal of native vegetation within the Buffer is prohibited unless authorized by an active development order. Temporary impacts to native vegetation require in-kind restoration.

Preliminary Concurrency

The closest concurrency management segment to the subject property is South Banana River Drive, between SR 520 and the southern end of South Banana River Drive which has a Maximum Acceptable Volume (MAV) of 12,480 trips per day, a Level of Service (LOS) of E, and currently operates at 15.36% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.12%. The corridor is anticipated to operate at 15.48% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

The subject property has access to potable water from the City of Cocoa and access to Brevard County's sanitary sewer.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Protected and Specimen Trees
- Potential Code Enforcement

For Board Consideration

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

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

Item No. 25Z00010

Applicant: Savannah Farley, P.E. (Owners: John and Christine Conley)

Zoning Request: BU-2 to RU-1-11

Note: for consistency with FLU to build SFR (23BC15251)

Zoning Hearing: 06/16/2025; **BCC Hearing:** 07/17/2025

Tax ID No.: 3019263 (0.28 acres)

- 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
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Land Clearing and Landscape Requirements
- Potential Code Enforcement

Land Use Comments:

Hydric Soils

A majority of the subject parcel contains mapped hydric soils (Wabasso sand, 0 to 2 percent slopes); 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. 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.**

Coastal High Hazard Area

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

Floodplain Protection

This property is located within an area mapped as FEMA Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency, and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X, Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

Indian River Lagoon Nitrogen Reduction Septic Overlay

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

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as a Class II Water and Aquatic Preserve in this location. A 50-foot Surface Water Protection Buffer is required. Primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order. Temporary impacts to native vegetation require in-kind restoration. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at 407-897-4101. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

Land Clearing and Landscape Requirements

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

Potential Code Enforcement

Information available to NRM indicates that unpermitted land alteration activities may have occurred on this parcel between 2021 and 2023. The confirmation of unpermitted land alteration activities may result in code enforcement action.

LOCATION MAP

Ken Luda & Savannah Farley
25Z00010





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: 3/21/2025

-  Buffer
-  Subject Property

ZONING MAP

Ken Luda & Savannah Farley

25Z00010



1:4,800 or 1 inch = 400 feet

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Subject Property

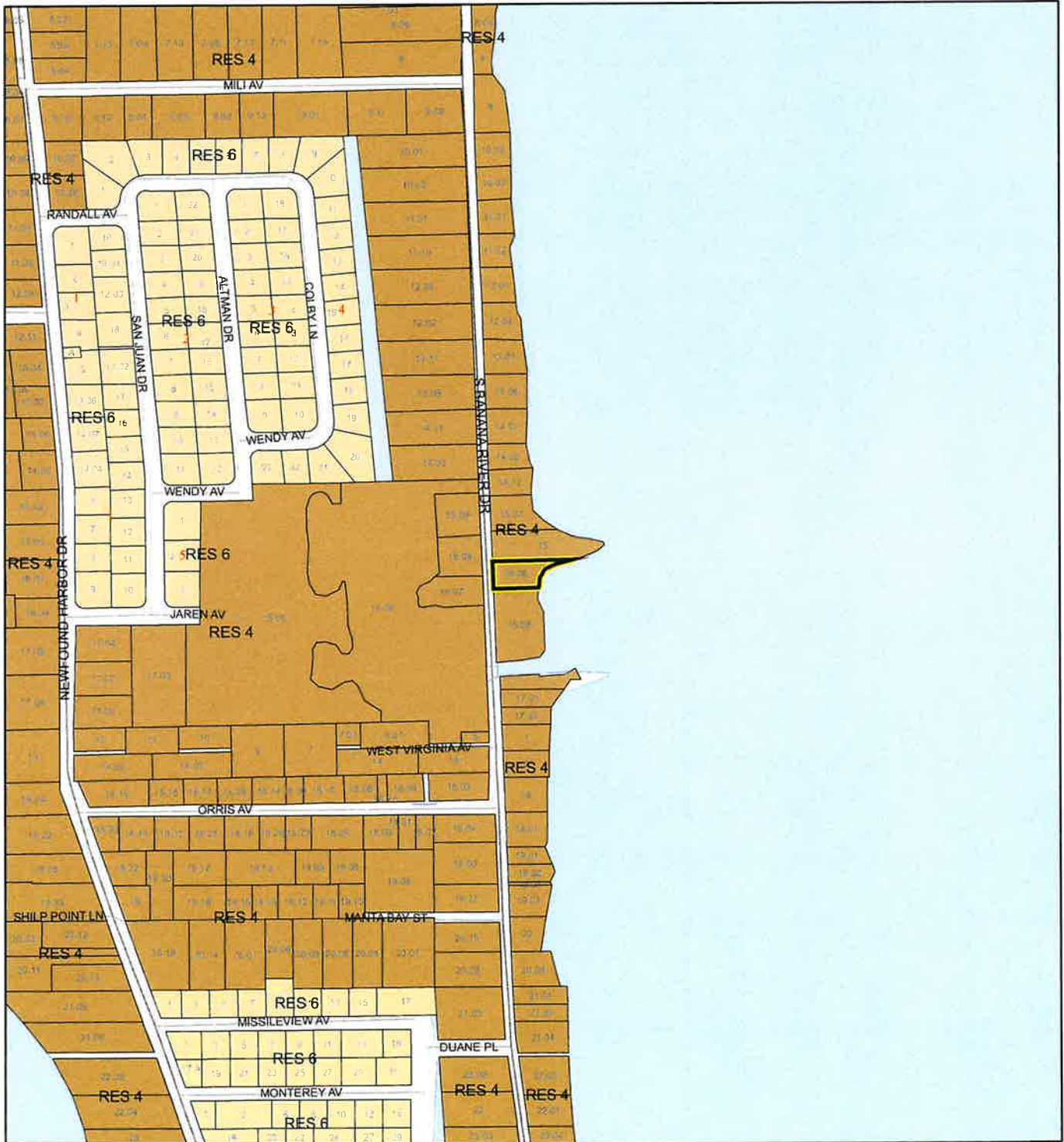
Parcels

Zoning

FUTURE LAND USE MAP

Ken Luda & Savannah Farley

25Z00010



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

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AERIAL MAP

Ken Luda & Savannah Farley
25Z00010



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2024

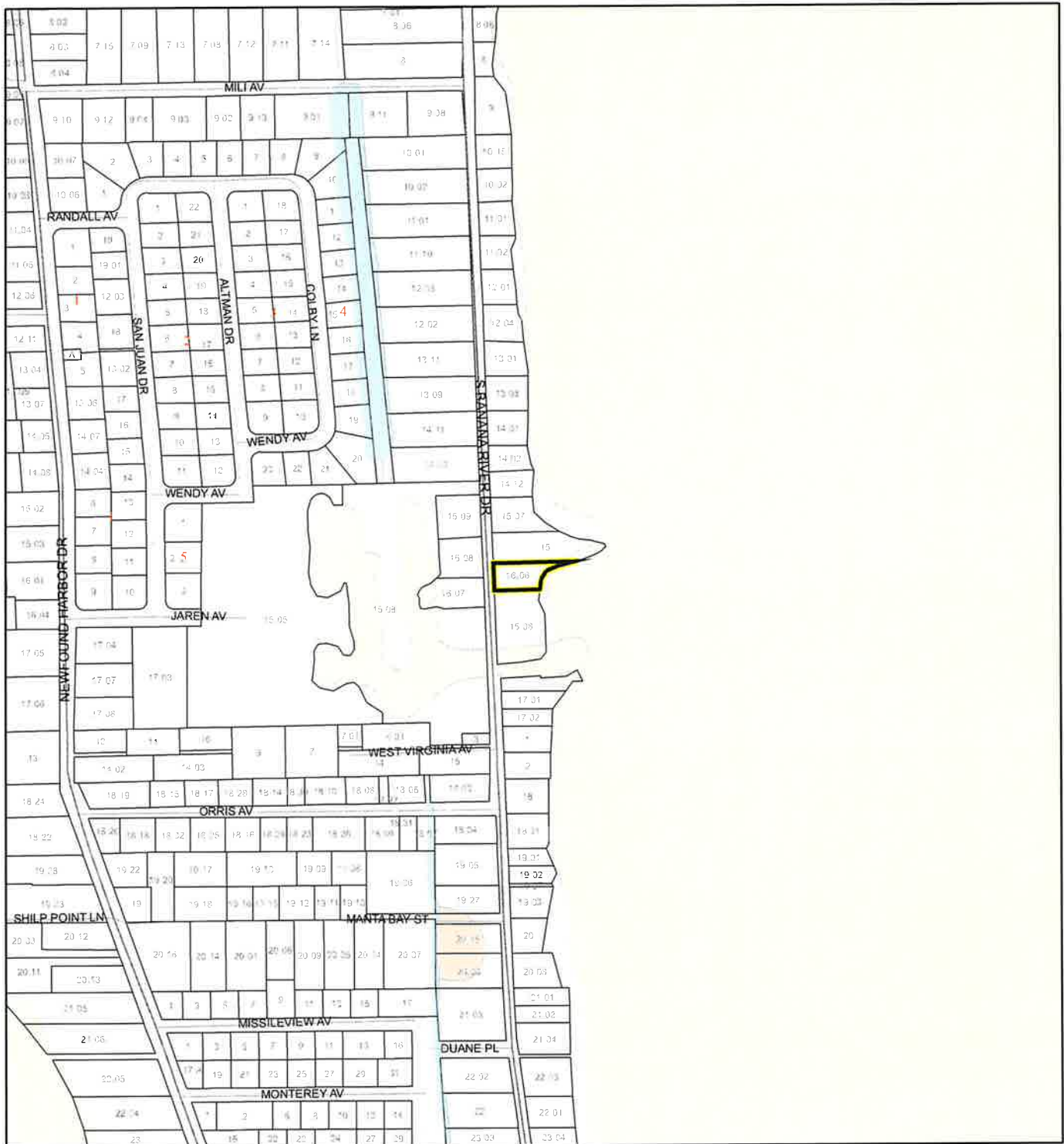
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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— Subject Property
□ Parcels

NWI WETLANDS MAP

Ken Luda & Savannah Farley
25Z00010



1:4,800 or 1 inch = 400 feet

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National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

Ken Luda & Savannah Farley
25Z00010



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

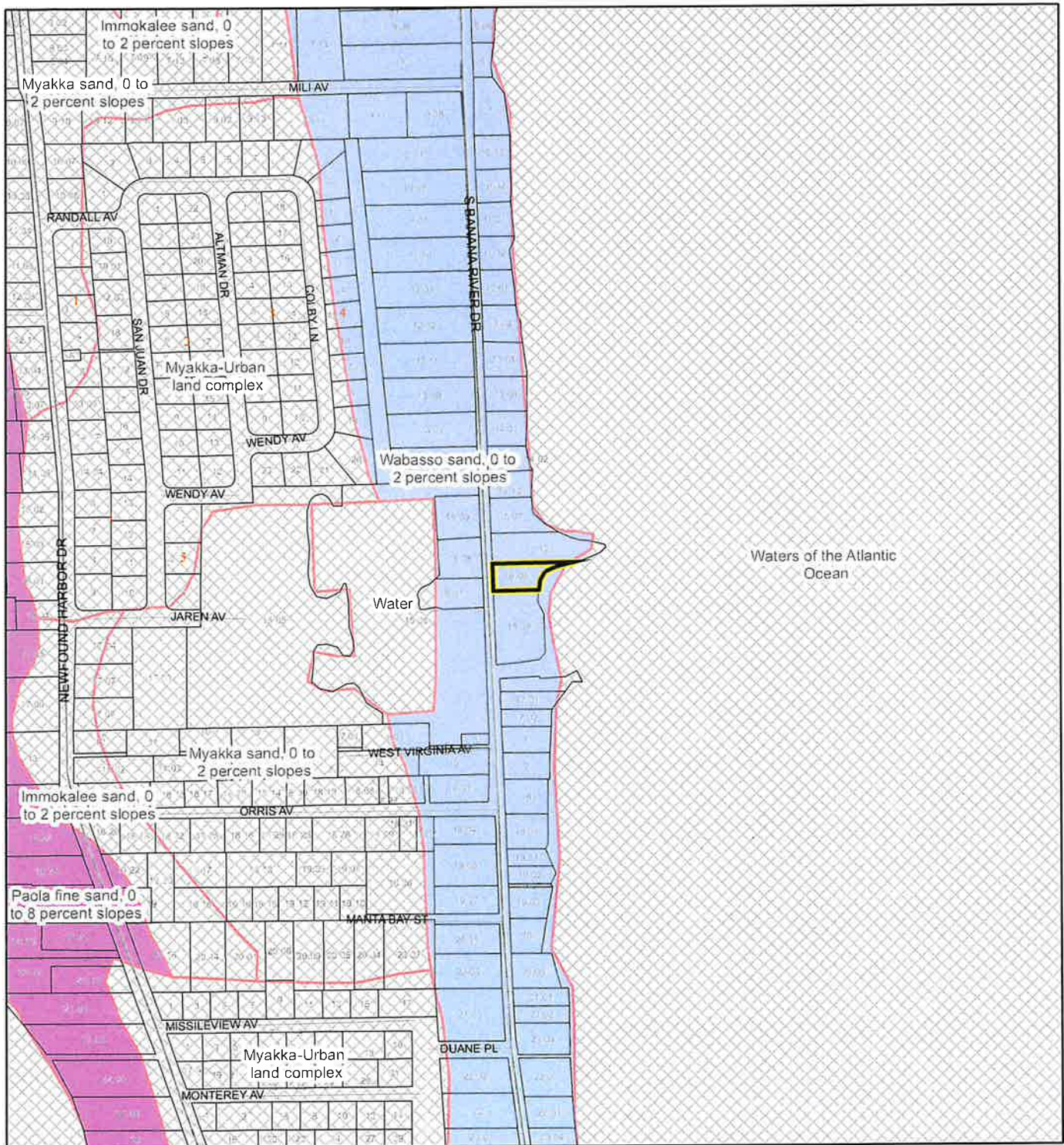
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

Ken Luda & Savannah Farley
25Z00010



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

Ken Luda & Savannah Farley

25Z00010



1:4,800 or 1 inch = 400 feet

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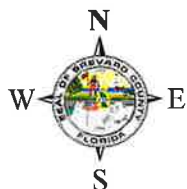
Produced by BoCC - GIS Date: 3/21/2025

FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property		Parcels

COASTAL HIGH HAZARD AREA MAP

Ken Luda & Savannah Farley
25Z00010



1:4,800 or 1 inch = 400 feet

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— Subject Property

□ Parcels

Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Ken Luda & Savannah Farley

25Z00010



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

Ken Luda & Savannah Farley

25Z00010



1:4,800 or 1 inch = 400 feet

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 Subject Property

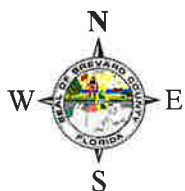
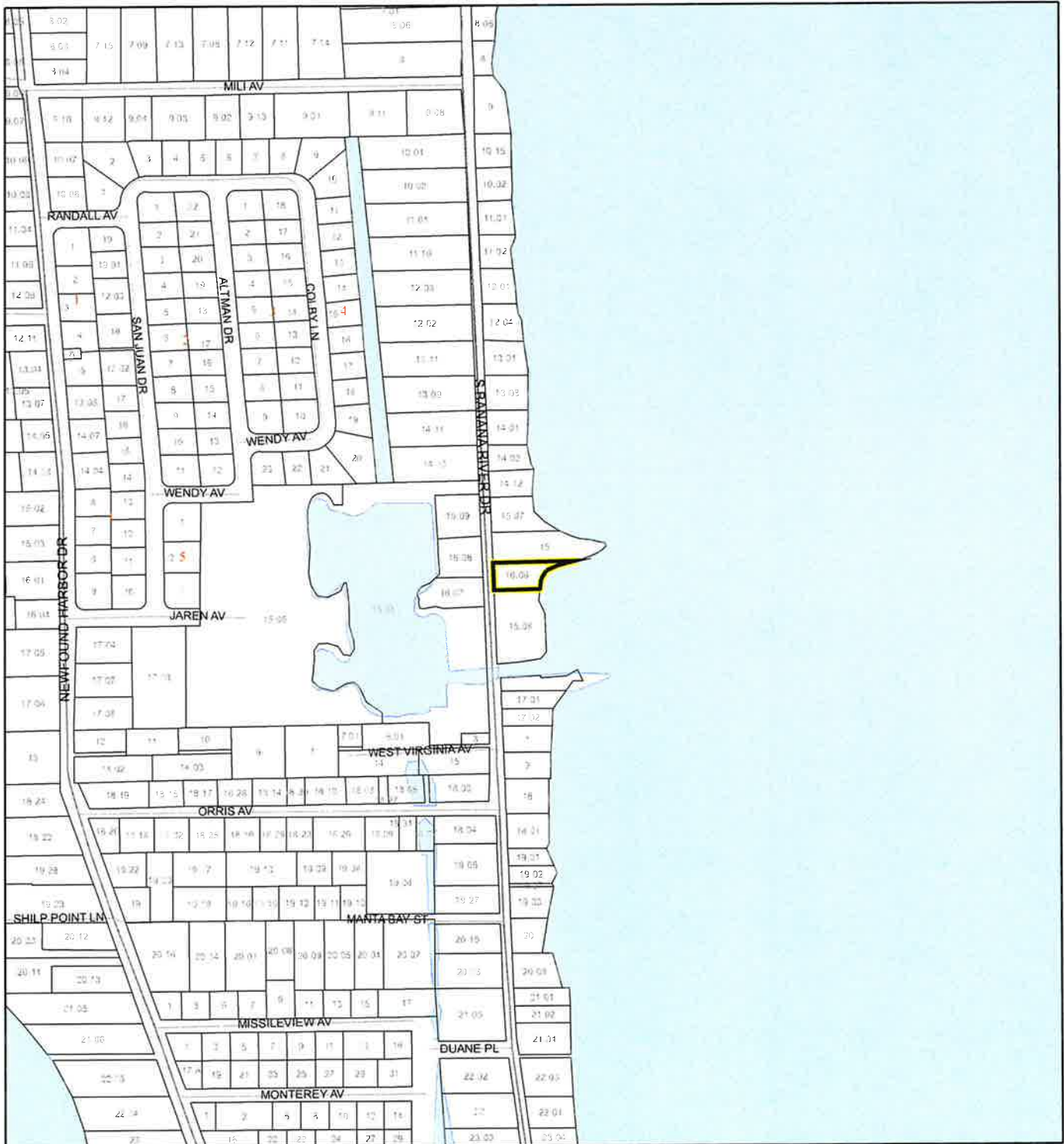
 Parcels

 Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

Ken Luda & Savannah Farley

25Z00010



1:4,800 or 1 inch = 400 feet

— Subject Property

□ Parcels

▨ Scrub Jay Occupancy

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SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Ken Luda & Savannah Farley

25Z00010



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/21/2025

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

From: [Damon Liever](#)
To: [AdministrativeServices](#)
Subject: ID# 25Z00010 Request for a zoning change
Date: Wednesday, June 11, 2025 3:14:23 PM

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

I received a note from you that the owners of the property on 1356 S. Banana River Drive were requesting a change in the zoning. We live within 500 feet of them at 1300 S. Banana River.

I absolutely support this request and hope that you approve it. I'm a bit surprised it hasn't been done already given that this property was presented to me about five years ago as an option for a residential property. I was under the impression that it was already zoned for residential use at that time.

Thank you for reaching out to us, and we wish John and Christine Conley the best of luck with this change and the construction of their home....Damon Liever

*Damon M. Liever, Broker/Co-Owner/MBA
Real Property Management – Brevard
1600 Sarno Road, Ste. 117, Melbourne FL 32935
661 Brevard Avenue, Cocoa Village FL 32922 (By Appt. only)
Cell Phone 321-749-6196
www.RPMBrevard.com*

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, June 16, 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); Eric Michajlowicz (D3); Greg Nicklas (D3); Ron Bartcher (D2); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); and Robert Brothers (D5).

Staff members present were Trina Gilliam, Zoning Manager; Paul Body, Planner; Alex Esseeesse, Deputy County Attorney; Billy Prasad, Planning and Development Director; Darcie McGee, Natural Resources; Rachel Gerena, Public Works; John Scott, Emergency Management Office; Edward Fontanin, Utility Service Director; Lucas Siegreid, Utility Services; Alice Randall, Operations Support Specialist; and Jordan Sagosz, Operations Support Specialist.

Excerpt of complete agenda

H.5. John A. and Christine S. Conley (Ken Ludwa and/or Savannah Farley) request a zoning classification change from BU-2 to RU-1-11. (25Z00010) (Tax Account 3019263) (District 2)

Trina Gilliam read Item H.5. into the record.

Savannah Farley spoke to the application. She stated they are looking to rezone this project property from BU-2 to RU-1-11. The owner wishes to build a single-family residence. The current zoning of BU-2 is not allowed under the existing future land use designation. So, by rezoning this property we'd bring it into compliance with that land use designation.

No Public Comment

Mr. Minneboo asked if this was the last of the Jaren piece? Didn't Jaren own that whole piece, going down to Marker 24, on the east side.

Ana Saunders stated she didn't know. Her office is representing this application, and Savannah is doing a great job. I'll recuse myself from voting on this. We took this project before I was asked to be on the board. But I don't believe so. But it is the parking lot piece just north of Market 24. It's on the north side.

Mr. Minneboo inquired the east side of South Banana.

Ms. Saunders responded yes sir.

Mr. Hopengarten asked what is to the north. What's that another BU-2 right to the north.

Ms. Saunders stated there's residential there.

Mr. Minneboo stated there are two residential there.

Mr. Hopengarten stated it's still BU-2.

Ms. Saunders add it is BU-2. What's happening is as folks come in for building permits, they're having to go through the rezoning process to align the zoning with the underlying land use.

Mr. Hopengarten stated he didn't hear that.

Ms. Saunders stated that there are homes along that side and what's happening is folks come in for building permits, putting on a porch, remodeling, that sort of thing and they're having to correct their zoning to get into alignment with the underlying land use.

Mr. Hopengarten asked if there will be any more BU-2.

Ms. Saunders responded eventually there will be no more BU-2. There's still a few to the north but one at a time they're being taken down.

Mr. Minneboo stated that used to be where everybody lived in the trailer. Those days are gone.

Motion to recommend approval of Item H.5. by Debbie Thomas, seconded by Robert Brothers.
Motion passed unanimously. (Ana Saunders abstained)

Board Meeting Date

7-17-25

Item Number: H.5

Motion By: TG

Second By: KD

Nay By: _____

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