



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

12/11/2025

Subject:

Alexis Raul and Rosemary Estevez DeJesus request a zoning classification change from BU-1 with a BDP to BU-1 with removal of a BDP. (25Z00003) (Tax Account 2004581) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-1 (General Retail Commercial) with a BDP to BU-1 (General Retail Commercial) with removal of a BDP.

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from BU-1 (General Retail Commercial) with BDP (Binding Development Plan) to BU-1 on 1.18 acres (i.e. removal of the BDP). The applicant wants to have all BU-1 uses available (the applicant stated at the November 17, 2025 Planning and Zoning board meeting that this is to make the property more marketable for sale).

On July 30, 2007, the subject property received approval for a rezoning along with a Small-Scale Comprehensive Plan Amendment (SSCPA). The zoning classification changed from RU-2-10 to BU-1 with a BDP to limit the uses to only the BU-1 use of grocery store with no sales of hard liquor and all BU-1-A uses. The FLU changed from NC to CC under SSCPA 07S.9. Both actions were approved under Resolution Z-11358.

On May 9, 2008, a change of occupancy was submitted changing the use from restaurant, bar, nightclub to a convenience store, and was approved on September 17, 2008, via a Certificate of Occupancy. On July 18, 2008, a minor site plan (08AD-00602) was submitted for review to add additional parking spaces due to the change of occupancy and was approved August 4, 2008.

On February 10, 2023, the applicant request for a zoning verification letter (23Z00012) was completed, thereby notifying the applicant of the subject property's zoning and a copy of the BDP.

The current BDP on the property limits the use to that of a grocery store (as a permitted use in the BU-1 zoning classification per Section 62-1482, Brevard County Code of Ordinances) and all uses allowed in BU-1-A zoning, provided there are no sales of hard liquor, pornographic materials, or items associated with the taking of illegal drugs. Additionally, prior to Certificate of Occupancy for a commercial use, the Developer/Owner was

to install a wooden six (6) foot fence on the East and South property lines and repair the culvert located south of the subject property abutting US Highway 1.

Over the last nine (9) years there have been several code enforcement complaints on the property related to the use and other issues. The most recent code enforcement complaint (24CE-01406) related to unpermitted uses within the BU-1 zoning classification and other related ordinances, including, but not limited to, multiple auto sales businesses and a tire shop. Those uses also violated the recorded BDP on the subject property. The Code Enforcement Special Magistrate issued a Findings of Fact, Conclusions of Law and Order & Lien for Costs finding violations on April 17, 2025. The violation was complied on August 22, 2025, and fines and costs have since been paid.

The applicant is on notice that any change of occupancy may require a minor site plan. Additionally, per Section 62-3203(10), site plans within BU-1, BU-2, or industrial zoning classifications shall construct a minimum of a six-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, when the subject property abuts a residential zoning classification. The subject property abuts a residential zoning classification to the east and south.

The subject property is within the septic moratorium area. Any development to expand the current building or add additional buildings could potentially require the expansion or replacement of the existing septic system. Any changes in the current septic system could be affected by this moratorium. For further information regarding the septic moratorium, the property owner would need to reach out to environmental health, which issues septic permits.

North of the subject property is a 2.25-acre parcel, undeveloped, which has AU zoning classification with NC FLU designation. Both South and East of the subject property is a 6.74-acre parcel, developed with two (2) single-family residences with AU zoning classification and NC and RES 1 FLU designation. West of the subject property is Highway 1, a four-lane divided roadway.

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

On November 17, 2025, the Planning and Zoning Board considered the request and voted 12:1 to recommend denial.

Clerk to the Board Instructions:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

STAFF COMMENTS

25Z00003

Alexis Dejesus

BU-1 (General Retail Commercial) with BDP to BU-1 (General Retail Commercial) without BDP

Tax Account Number: 2004581
 Parcel I.D. 20G-35-17-AL-17-4
 Location: 3755 Aurantia Rd., Mims, FL 32754 (District 1)
 Acreage: 1.18 acres

Planning & Zoning Board: 11/17/2025
 Board of County Commissioners: 12/11/2025

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-1 w/ BDP	BU-1
Potential*	FAR 1.00	FAR 1.00 35 dwelling units**
Can be Considered under the Future Land Use Map	Yes CC	Yes CC

* 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-1 (General Retail Commercial) with BDP (Binding Development Plan) to BU-1 on 1.18 acres. The applicant wants to have all BU-1 uses available.

On July 30, 2007, the subject property received approval for a rezoning along with a Small-Scale Comprehensive Plan Amendment (SSCPA). The zoning classification changed from RU-

2-10 to BU-1 with a BDP to limit the uses to only the BU-1 use of grocery store with no sales of hard liquor and all BU-1-A uses. The FLU changed from NC to CC under **SSCPA 07S.9**. Both actions were approved under Resolution **Z-11358**.

On May 9, 2008, a change of occupancy was submitted changing the use from restaurant, bar, nightclub to a convenience store, and was approved on September 17, 2008, via a Certificate of Occupancy. On July 18, 2008, a minor site plan (**08AD-00602**) was submitted for review to add additional parking spaces due to the change of occupancy and was approved August 4, 2008.

On February 10, 2023, the applicant request for a zoning verification letter (**23Z00012**) was completed, thereby notifying the applicant of the subject property's zoning and a copy of the BDP.

The current BDP on the property limited the use of a grocery store (as allowed by Section 62-1482, Brevard County Code of Ordinances) and all uses allowed in BU-1-A zoning, provided there are no sales of hard liquor, pornographic materials or items associated with the taking of illegal drugs. Additionally, prior to Certificate of Occupancy for a commercial use, the Developer/Owner was to a wooden six (6) foot fence on the East and South property lines and repair the culvert located south of the subject property abutting US Highway 1.

Over the last nine (9) years there have been several code enforcement complaints on the property related to the use and other issues. The most recent code enforcement complaint (**24CE-01406**) related to unpermitted uses within the BU-1 zoning classification and other related ordinances, including, but not limited to, multiple auto sales businesses and a tire shop. Those uses also violated the recorded BDP on the subject property. The Code Enforcement Special Magistrate issued a Findings of Fact, Conclusions of Law and Order & Lien for Costs finding violations on April 17, 2025. The violation was complied on August 22, 2025, and fines and costs have since been paid.

The applicant is on notice that any change of occupancy may require a minor site plan. Additionally, per Section 62-3203(10), site plans within BU-1, BU-2, or industrial zoning classifications shall construct a minimum of a six-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, when the subject property abuts a residential zoning classification. The subject property abuts a residential zoning classification to the east and south.

The BU-1 general retail commercial zoning classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community. More specifically, this zoning classification permits uses such as automobile sales and storage, automobile tires and mufflers (new), sales and service, or automobile parts, if confined within a structure, and automobile repairs, minor. As an example of how removal of the BDP could impact the area. A grocery store would increase the percentage of MAV utilization by 21.98%. The corridor would be anticipated to operate at 43.82% daily. However, staff has determined, a coffee shop with a drive-thru would be the most intense use with

regards to traffic permitted with the BU-1 zoning. The use would potentially increase the percentage of MAV utilization by 124.83%. The corridor would be anticipated to operate at 146.67% of capacity daily.

The subject property is within the septic moratorium area. Any development to expand the current building or add additional buildings could potentially require the expansion or replacement of the existing septic system. Any changes in the current septic system could be affected by this moratorium. For further information regarding the septic moratorium, the property owner would need to reach out to environmental health, which issues septic permits.

The subject property is not located in the recommended FLUM density reduction area adopted within the 2007 Mims Small Area Study on April 10, 2007.

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 1.18 acres with approval of rezoning to BU-1, allows for development options that include either commercial use with a Floor Area Ratio (FAR) of 1.00 or 35 multi-family units as stipulated by the Live Local Act.

On August 18, 1916, the subject property was platted as a Replat of Section 17 of Indian River Park Subdivision of The Bernardo Segui Grant in Plat Book 2, Page 75.

Historical Zoning History:

May 22, 1958, the Brevard County Zoning Code was established with the subject property having the GU (General Use) zoning classification.

May 5, 1960, zoning classification from GU to BU-1 approved under zoning action **Z-0337**.

July 12, 1979, zoning classification from BU-1 to RU-2-10 (Medium-Density Multiple-family Residential) approved under zoning action **Z-4960**.

The subject property has direct access off Highway 1, a state-maintained roadway.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Undeveloped	AU	NC
South	Single-family residence	AU	NC
East	Single-family residence	AU	RES 1

West	Highway 1	N/A	N/A
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North of the subject property is a 2.25-acre parcel, undeveloped, which has AU zoning classification with NC FLU designation.

Both South and East of the subject property is a 6.74-acre parcel, developed with two (2) single-family residences with AU zoning classification and NC and RES 1 FLU designation.

West of the subject property is Highway 1, a four-lane divided roadway.

AU (Agricultural Residential) zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character on 2.5-acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl, and beekeeping.

Future Land Use

The subject property’s BU-1 zoning classification can be considered consistent with the CC 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 removal of the BDP does not affect the zoning and FLU consistency.

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

FLUE Policy 2.2 - The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility, shall include consideration of the following standards:

Criteria:

- A. Permitted/prohibited uses;

BU-1, General Retail Commercial zoning classification encompasses lands devoted to general retail shopping, offices and personal services to serve the needs of the community. BU-1 requires a minimum 7,500 square foot lot. The BU-1 classification does not permit warehousing or wholesaling. Where the property abuts a residential zoning classification, the maximum height threshold of any building or structure shall be 35 feet. Where a side lot line abuts a residential zone, such side setback shall be a minimum of 15 feet. Where a side lot line abuts a non-residential zone, such side setback shall be 5 feet.

The Board should consider ensuring the development will need to comply with buffering criteria in Section 62-4342 and 62-3203(10). The purpose of the

landscape buffers is to provide visual and physical screening and buffering between potentially incompatible uses and to reduce the effects of glare, noise, and incompatible activities, including commercial, institutional, public, and industrial uses, when they abut existing residential uses and Site plans within BU-1, BU-2, or industrial zoning classifications shall construct a minimum of a six-foot high masonry or solid wall, including, but not limited to, concrete block walls, pre-cast (solid) walls, or foam core/steel support with stucco finish, when the subject property abuts a residential zoning classification, respectively.

B. Existing commercial zoning trends in the area;

The closest commercial zoning classification is directly west of the subject property across Highway 1 at the Aurantia and Highway 1 intersection, which has BU-1 zoning approved in 1970. Another BU-1 zoned property is also located on the west side of Highway 1, approximately 500 feet southwest of the subject property, with a retail store developed in 1976. Commercial and institutional zoned properties, within the segment of Aurantia to Burkholm, are predominantly located along the west side of Highway 1.

There was an approved rezoning in 2023 of a commercial property from BU-1 to BU-2, approximately 0.5 miles south of the subject property on the west side of Highway 1. Even though the property was rezoned, it remains undeveloped. The most recent commercial development occurred in 2020, outside the search radius, approximately 2.1 miles southwest of the subject property, just north of Richy Road and Highway 1 intersection, with the development of a flex warehouse building.

The most recent residential developments occurred in 2025 with two (2) single-family residences. In addition, in 2024, two (2) single-family residences were developed. The most recent residential rezoning occurred in 2022 for a residential property, which was approved for BU-1 and AU to all AU.

C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

Staff analysis has determined that the surrounding area north, east and south of the subject property is single-family residences mixed with agricultural pursuits and vacant lands.

The applicant has not proposed a use to for Staff to make a determination of compatibility. Staff analysis has determined the recent use would not be compatible with the area based on the existing BDP which was approved in July 2007. The Board shall consider whether any change of occupancy will be compatible with the area.

D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

Staff cannot accurately make a determination of impact to LOS for roads because the applicant has not proposed a use for the subject property. Therefore, the preliminary concurrency analysis is based on the potential use with the highest impact to the LOS standards for roads.

The subject property is currently developed with a commercial building previously site planned for a grocery store. However, removal of the BDP would allow for uses that would have greater impact to LOS standards for roads, such as a Coffee shop with a drive thru. Additionally, water and sewer will continue to be provided by the property owner, as centralized water and sewer services are not provided in this area.

- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and the following land use issues were identified:

The mapped topographic elevations show that the property falls within Type 2 and/or Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Federally and/or state-protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. Federally and/or state-protected species may be present on the property.

- F. Other issues which may emerge specific to a particular property which may be addressed through performance-based zoning criteria.

The applicant may be required to comply with submittal of a minor site plan. Additionally, compliance with regulations of Section 62-1482, 62-2251 through 62-2272 and 62-4342 of Brevard County Code is required and should be reviewed at the request for change of occupancy should the zoning change be approved.

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.

Any change of occupancy from the approved uses listed in the BDP could be

considered incompatible with existing residential land uses in the area. However, any new development or change in occupancy would need to meet Performance Standards defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity.

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

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

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

1. historical land use patterns.

The historical land use patterns of the surrounding development can be characterized as predominantly single-family residences. Properties range in size from approximately 0.5 acres to 10.44 acres. There are at least nine properties surrounding the subject property with lot sizes larger than 0.5 acres.

There are several FLU designations in the area: CC, NC, RES 1, RES 1:2.5. The predominant FLU designation is RES 1.

The predominant zoning classification is AU on the east side of Highway 1. The predominant zoning on the west side of Highway 1 is RRMH-1.

There are multiple parcels with BU-1 zoning located within a 0.5-mile radius of the subject property. The closest parcel with this zoning classification is located on the west side of Highway 1 at Aurantia Road, approximately 150 feet from the subject property.

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

There have been four developments, all single-family residences, within a 0.5-mile radius during the preceding three years.

Zoning actions during the preceding three years:

- **22Z00008 is an approved rezoning from BU-1 and AU to all AU on 05/05/2022 for a nursery.**

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

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

- **23Z00069 is an approved rezoning from BU-1 to BU-2 on 12/7/2023 to provide outdoor storage of general contractor equipment as noted in the staff comments for the zoning action.**

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

No material violation of relevant policies has been identified.

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

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

Criteria:

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

The proposed use can be considered compatible with the existing character of the area. Preliminary concurrency indicates a 21.98% increase in MAV utilization with the current BDP limit of a grocery store. However, the maximum development potential, with regards to traffic activity, from the proposed rezoning would be a coffee shop with a drive thru. For this potential use, preliminary concurrency indicates a 124.83% increase in MAV utilization.

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

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

The area should be considered a residential area with established roads. The area is not considered an established residential neighborhood with established boundaries.

2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.

The request to remove the BDP on the property will expand the uses available to the property owner. Surrounding the subject property is considered a residential area, not a residential neighborhood. The Board should determine whether the removal of the BDP would preclude the existence of the existing residential area.

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

This area is presumed to be predominantly residential. The proposed zoning would be the second commercial zoning to be approved in the area within at least the past five years.

Administrative Policy 7- Proposed use(s) shall not cause or substantially aggravate any (a) substantial drainage problem on surrounding properties; or (b) significant, adverse and unmitigable impact on significant natural wetlands, water bodies or habitat for listed species.

The subject property contains mapped topographic elevations that show that the property falls within Type 2 and/or Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. Federally and/or state-protected species may be present on the property. Specifically, Gopher Turtles can be found in areas of aquifer recharge soils.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is U.S.1 from Burkholm Rd. to Volusia County Line, which has a Maximum Acceptable Volume (MAV) of 21,800 trips per day, an Acceptable Level of Service (ALOS) of C, and currently operates at 22.0% of capacity daily. The BDP permit use would be a grocery store, which would increase the percentage of MAV utilization by 21.98%. The corridor would be anticipated to operate at 43.82% daily. Staff analysis concludes that a coffee shop with a drive-thru would be the most intense use permitted with the BU-1 zoning, which has the potential to increase the percentage of MAV utilization by 124.83%. The corridor would be anticipated to operate at 146.67% of capacity daily. The removal of the current BDP has potential for a significant increase the ALOS.

No school concurrency information has been provided, as this is a commercial property.

The property owner would have to continue to provide water and sewer service, as the

property does not have centralized water and sewer services available.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species
- Potential Code Enforcement

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

For Board Consideration

The Board should consider whether the proposed request to remove the current BDP is consistent and compatible with the surrounding area.

The Board may consider whether a new BDP would be required to mitigate potential impacts to the area due to permitted uses allowed in the BU-1 zoning classification, and to ensure the subject property will comply with buffering criteria in Section 62-4342 and 62-3203(10) to provide visual and physical screening and buffering between potentially incompatible uses and to reduce the effects of glare, noise, and incompatible activities allowed with the BU-1 commercial zoning and the existing residential use to the east and south.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 25Z00003

Applicant: Alexis Dejesus (Owners: Alexis & Rosemary Dejesus)

Zoning Request: BU-1 with BDP to BU-1 with removal of BDP

Note: to remove BDP so all BU-1 uses are available

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

Tax ID No.: 2004581

- 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:

- Aquifer Recharge Soils
- Land Clearing and Landscape Requirements
- Protected Species
- Potential Code Enforcement

Land Use Comments:

Aquifer Recharge Soils

This property contains Candler fine sand, classified as an aquifer recharge soil. Additionally, the mapped topographic elevations show that the property falls within Type 2 and/or Type 3 Aquifer Recharge areas, which are subject to impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

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 (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) tree preservation. Land clearing is not permitted without prior authorization by NRM. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

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

Potential Code Enforcement

Information available to NRM indicates that unpermitted land clearing and land alteration activities may have occurred on this parcel between 2021 and 2022. The confirmation of unpermitted land clearing or land alteration activities may result in code enforcement action.

Existing BOP

On motion by Commissioner Scarborough, seconded by Commissioner Voltz, the following resolution was adopted by a unanimous vote:

WHEREAS, MAI KRUPA, INC.

has/have applied for a Small Scale Plan Amendment (07S.9) to change the Future Land Use designation from Neighborhood Commercial to Community Commercial, and a change of classification from RU-2-10 (Medium-Density Multiple-Family Residential) to BU-1 (General Retail Commercial) on property described as Lots 4 & 5, Block 17, Sub. #AL, as recorded in ORB 5239, Pages 848 & 849, Public Records of Brevard County, Florida, Section 17, Township 20G, Range 35, on 1.18 acres. Located on the southeast corner of Aurantia Rd. and U.S. Hwy. #1

Section 17, Township 20 G, Range 35 E, 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 Planning and Zoning Board recommended that the application be denied (*see below); 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, with a Binding Development Plan, limited to grocery store use only, no hard liquor sales, owner to repair culvert on abutting property owned by Ed Skarosi, and to intall a six-foot fence against abutting property owned by Ed Skarosi; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested Small Scale Plan Amendment (07S.9) to change the Future Land Use designation from Neighborhood Commercial to Community Commercial be APPROVED, with a Binding Development Plan, recorded in ORB 5799, Pages 8385 through 8391, dated July 30, 2007, limited to grocery store use only, no hard liquor sales, owner to repair culvert on abutting property owned by Ed Skarosi, and to install a six-foot fence against abutting property owned by Ed Skarosi, and that the zoning classification relating to the above described property be changed to BU-1, and the Planning & Zoning 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 30, 2007.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida
As Approved by the Board on May 24, 2007.

Jackie Colon

by JACKIE COLON,
Chairperson

ATTEST:

SCOTT ELLIS, CLERK

(SEAL)

Scott Ellis

* LPA Recommendation – Denied Small Scale Plan Amendment

(P&Z Hearing – May 7, 2007)

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.



TAMARA J. RICARD, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972

July 31, 2007

MEMORANDUM

TO: Scott Knox, County Attorney Attn: Christine Lepore

RE: Item III.A.6, Binding Development Plan Agreement with MAI Krupa, Inc.

The Board of County Commissioners, in regular session on July 24, 2007, executed Binding Development Plan with MAI Krupa, Inc. for property located on the southeast corner of Aurantia Road and U.S.1. Said Agreement was recorded in ORB 5799, PGs 8385 through 8391. Enclosed for your necessary action are two certified copies of the recorded document.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Rusan Life

for Tamara Ricard, Deputy Clerk

/dms

Encls. (2)

cc: - Zoning – Rick Enos
Contracts Administration

Z11558

RETURN: Clerk to the Board #27

THIS INSTRUMENT PREPARED BY
JOHN H. EVANS, ESQUIRE
1702 South Washington Avenue
Titusville, Florida 32780

CFN 2007185184, OR BK 5799 Page 8385,
Recorded 07/30/2007 at 11:59 AM, Scott Ellis, Clerk of
Courts, Brevard County
Pgs:7

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 24 day of July, 2007, between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and MAI KRUPA, INC., a Florida corporation, (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

211358

2. The condition of use of the property shall be as follows:

(a) The use of the property shall be limited to a grocery store as allowed by Brevard Zoning Code 62.1482 and all uses allowed by ~~BV-1~~ ^{BV-1-A} zoning as set forth in Brevard Zoning Code 62-1481.

(b) There shall be no sales of Hard Liquor, pornographic materials or items associated with the taking of illegal drugs.

(c) Prior to a Certificate of Occupancy for a commercial use being issued by Brevard County, the Developer/Owner shall install a wooden 6-foot fence on the East and South property lines. In addition, the Developer/Owner shall repair the culvert located on the map on Exhibit "B".

3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the property. This agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this property.

4. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject property.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

Z11358

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940



Scott Ellis, Clerk
(SEAL)

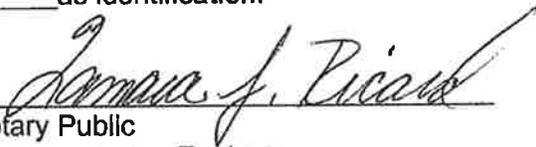
By: Jackie Colon
Jackie Colon, Chairperson

As approved by the Board on 7-24-07.

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 24 day of
July 2007, by, Jackie Colon, as Chairman of the Board of
County Commissioners of Brevard County, Florida, who is personally known to me or
who has produced _____ as identification.





Notary Public
My Commission Expires: _____

Tamara J. Ricard
(Name typed, printed or stamped)

211358

WITNESSES:

Kathryn M Miles
Kathryn M Miles
(Witness Name typed or printed)

John H Evans
(Witness Name typed or printed)

DEVELOPER/OWNER:

MAI KRUPA, INC., a Florida corporation

By: Dilip G. Patel
Dilip G. Pate as Vice President
Address: 4795 US Highway 1
Mims, Florida 32754

STATE OF FLORIDA §
COUNTY OF BREVARD §

The foregoing instrument was acknowledged before me this 29 day of May 2007, by Dilip G. Patel as Vice President of Mai Krupa, Inc., a Florida corporation, who is personally known to me or who has produced Fla Drivers License as identification.

SEAL  Kathryn M. Miles
Commission # DD537371
Expires May 1, 2008
Bonded Troy Pan - Insurance, Inc 800-365-7019

Kathryn M Miles
Notary Public
My Commission Expires: _____

Kathryn M Miles
(Name typed, printed or stamped)

staciedocs/DilipPatel/9585/BindingPlan/ 5-25-07-k

711358

RETURN: Clerk to the Board #27.

EXHIBIT "A"

Lots 4 and 5 of Block 17, according to Replat of Section 17, INDIAN RIVER PARK recorded in Plat Book 2, Page 75, Public Records of Brevard County, Florida.

Z11358

RETURN: Clerk to the Board #27



20G-35-17-AL-00017.0-0004 & 5
4795 HIGHWAY 1, MIMS, FL 32754

Scale: 1"=191.90'
 Created: 2/7/2007

LEGEND

Parcel Annotation	County Future LU
Address Numbers	Roads
Parcels	Sections
Subdivisions	
County Zoning	

DISCLAIMER: Due to the nature of map scale, accuracy, precision, and spatial and non-spatial data integration, this map may not reflect current and/or accurate conditions. This map was produced from the records of the Brevard County Property Appraiser and/or other government agencies and is intended for the sole and express purpose and use by the Office of the Property Appraiser for property evaluation and assessment. No warranties, expressed or implied, are provided for the property records and mapping data herein, or for their use or interpretation by the User. The Brevard County Property Appraiser assumes no liability for any damages, losses, costs or expenses, including but not limited to attorney's fees, arising from any User's use or misuse of the property records or mapping data provided herein. For more information, please contact the Brevard County Property Appraiser's Geographic Information and Cadastral Services Section at 321-264-6707.



EXHIBIT
 B

211358

RETURN: Clerk to the Board #27

CONSENT TO BINDING DEVELOPMENT PLAN

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, being the authorized agent and signatory for the owner and holder of that certain Mortgage dated April 26, 2007 given by MAI KRUPA, INC., a Florida Corporation, as mortgagor, in favor of the undersigned, WACHOVIA BANK, NATIONAL ASSOCIATION, as mortgagee, recorded in Official Records Book 5773, page 109, Public Records of Brevard County, Florida, and encumbering lands described in said Mortgage, does hereby consent to the Binding Development Plan attached hereto as Exhibit "A" for the purpose of subordinating the lien of the undersigned's Mortgage to said Binding Development Plan.

WACHOVIA BANK,
NATIONAL ASSOCIATION
8740 Research Dr.
Charlotte, NC 28262
(Address)

WITNESSES:

Patricia Cray
Patricia Cray
Witness Name Typed or Printed

By: [Signature]
Authorized Agent's Signature

By: JOHN CARROLL - VP
Authorized Agent

Tom Hager
Tom Hager
Witness name typed or printed



STATE OF ~~FLORIDA~~ NORTH CAROLINA
COUNTY OF ~~DUVAL~~ CABARRUS

The foregoing instrument was acknowledged before me this 28th day of June, 2007 by John Carroll as vice President of Wachovia Bank, National Association, who is personally known to me or who has produced _____ as _____ identification.

My Commission Expires: Aug. 23, 2010

Ginger A. Solomon
Notary Public
GINGER SOLOMON
Name typed, printed or stamped

SEAL

Stnoicdoca/Patcl,Dilip/9585/Jginder/5-25-07-ka

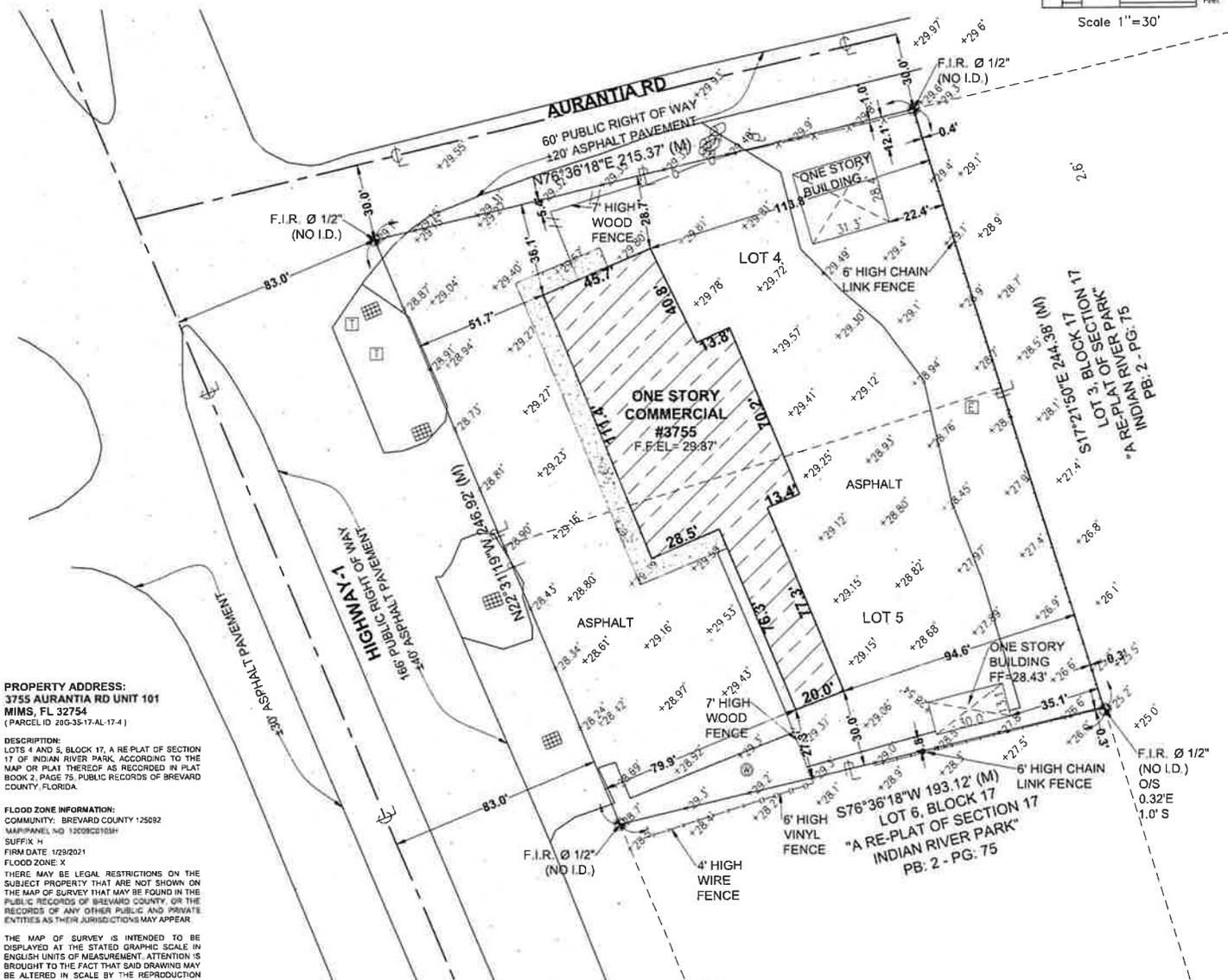
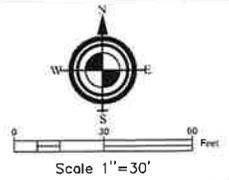


211358

VIZCAYA SURVEYING AND MAPPING INC.

BOUNDARY AND TOPOGRAPHIC SURVEY

SECTION 38, TOWNSHIP 20S, RANGE 34E. BREVARD COUNTY



PROPERTY ADDRESS:
 3755 AURANTIA RD UNIT 101
 MIMS, FL 32754
 (PARCEL ID 205-35-17-AL-17-4)

DESCRIPTION:
 LOTS 4 AND 5, BLOCK 17, A RE-PLAT OF SECTION 17 OF INDIAN RIVER PARK, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 75, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

FLOOD ZONE INFORMATION:
 COMMUNITY: BREVARD COUNTY 125092
 MAP PANEL NO: 13009201538
 SUFFIX: H
 FIRM DATE: 1/29/2021
 FLOOD ZONE: X

THERE MAY BE LEGAL RESTRICTIONS ON THE SUBJECT PROPERTY THAT ARE NOT SHOWN ON THE MAP OF SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF BREVARD COUNTY, OR THE RECORDS OF ANY OTHER PUBLIC AND PRIVATE ENTITIES AS THEIR JURISDICTIONS MAY APPEAR.

THE MAP OF SURVEY IS INTENDED TO BE DISPLAYED AT THE STATED GRAPHIC SCALE IN ENGLISH UNITS OF MEASUREMENT. ATTENTION IS BROUGHT TO THE FACT THAT SAID DRAWING MAY BE ALTERED IN SCALE BY THE REPRODUCTION PROCESS.

THIS SURVEY WAS CONDUCTED FOR THE PURPOSE OF A TOPOGRAPHIC SURVEY ONLY AND IS NOT INTENDED TO DELINEATE THE REGULATORY JURISDICTION OF ANY FEDERAL, STATE, REGIONAL, OR LOCAL AGENCY BOARD, COMMISSION OR OTHER ENTITY.

BENCH MARK: A5231 ELEVATION: 54.41 FEET (NAVD-88)

LEGAL DESCRIPTION WAS FURNISHED BY THE CLIENT.

WELL-IDENTIFIED FEATURES AS DEPICTED ON THIS SURVEY AND MAP WERE MEASURED TO AN ESTIMATED HORIZONTAL POSITIONAL ACCURACY OF 1/10 FOOT UNLESS OTHERWISE SHOWN.

BEARINGS AS SHOWN HEREON ARE BASED UPON AN ASSUMED VALUE OF 91°32'31" FOR THE SOUTHEAST RIGHT OF WAY LINE OF AURANTIA ROAD UNIT 101 AS DEPICTED ON THE MAP OF SURVEY.

LEGAL DESCRIPTION SUBJECT TO ANY DEDICATIONS, LIMITATIONS, RESTRICTIONS, RESERVATIONS OR RECORDED EASEMENTS.

THE SURVEYOR MAKES NO REPRESENTATION AS TO OWNERSHIP, POSSESSION OR OCCUPATION OF THE SUBJECT PROPERTY BY ANY ENTITY OR INDIVIDUAL.

SUBSURFACE IMPROVEMENTS AND/OR ENCROACHMENTS WITHIN, UPON, ACROSS, ABUTTING OR ADJACENT TO THE SUBJECT PROPERTY WERE NOT LOCATED AND ARE NOT SHOWN.

THIS MAP OF SURVEY HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREIN AND THE CERTIFICATION DOES NOT EXTEND TO ANY UNNAMED PARTY.

CERTIFY TO:

ALEXIS RAUL DEJESUS
ROSEMARY ESTEVEZ DEJESUS

SURVEYOR'S CERTIFICATION:

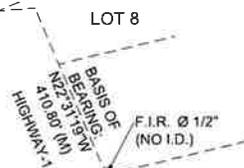
I HEREBY CERTIFY THAT THIS "TOPOGRAPHIC SURVEY" AND THE MAP OF SURVEY RESULTING THEREFROM WAS PERFORMED UNDER MY DIRECTION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AND FURTHER THAT SAID "TOPOGRAPHIC SURVEY" MEETS THE INTENT OF THE "MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA" PURSUANT TO RULE 5J-17 OF THE FLORIDA ADMINISTRATIVE CODE AND ITS IMPLEMENTING RULE CHAPTER 472.027 OF THE FLORIDA STATUTES.

Arturo R Toirac
 Digitally signed by Arturo R Toirac
 Date: 2024.04.03 12:08:40 -0400 04-02-2024

ARTURO TOIRAC
 PROFESSIONAL LAND SURVEYOR No. 3102
 STATE OF FLORIDA



AERIAL MAP (NOT TO SCALE)



LOCATION MAP (NOT TO SCALE)



Vizcaya Surveying & Mapping Inc
 13217 SW 41 Lane
 MIAMI, FL 33175
 TEL: 305-223-0060



742

DRAWING BY:
 240ENGINEERING & DESIGN INC
 240engineeringanddesign@gmail.com

JOB No.:
 24284

ESCALE:
 1"=30'

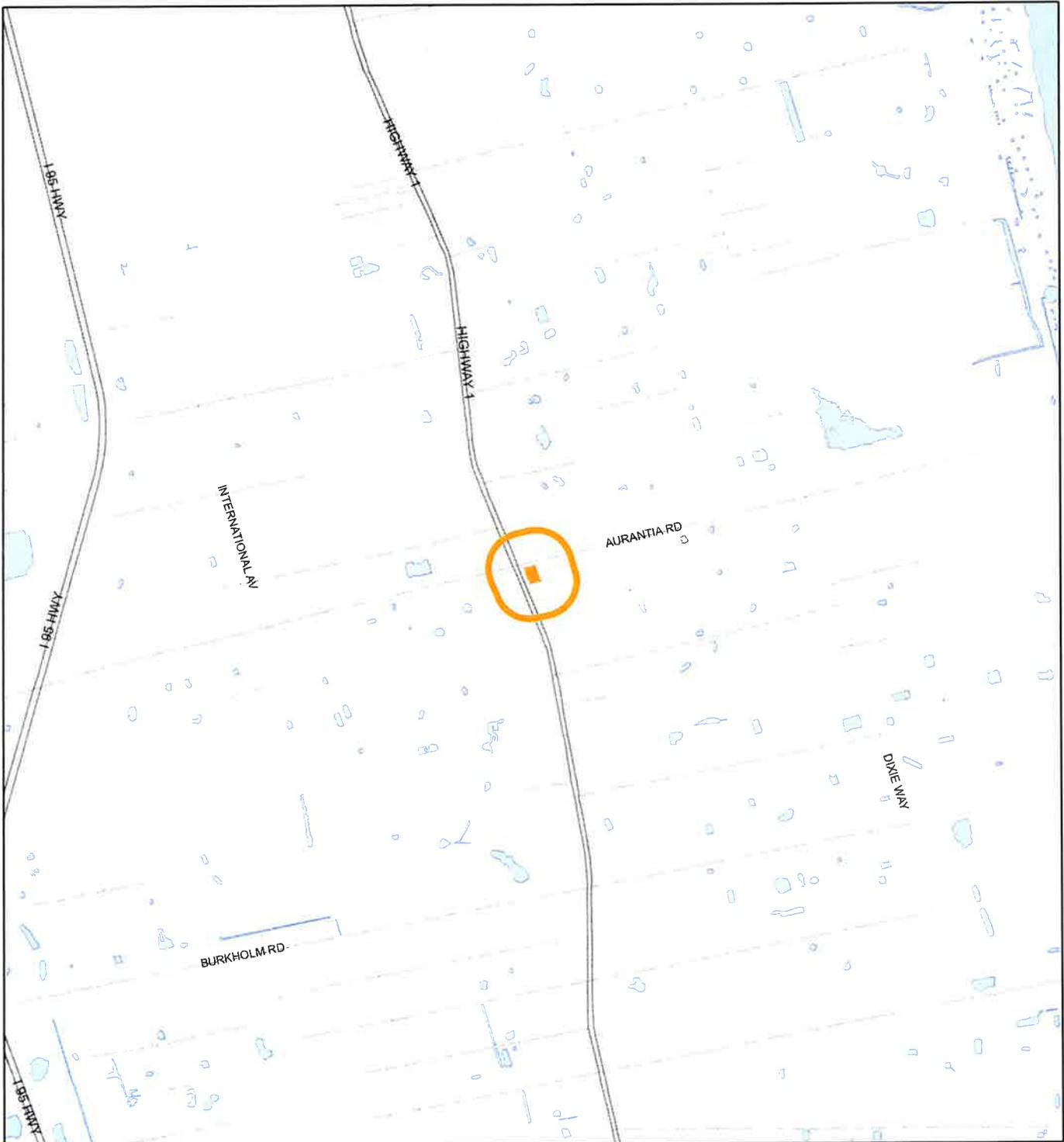
CONTENT:
 TOPOGRAPHIC SURVEY

Survey is not covered by Professional Liability Insurance		LEGEND OF SURVEY ABBREVIATIONS	
A = ARC LENGTH	CLP = CONC. LIGHT POLE	F.N. = FOUND NAIL	P.R.M. = PERMANENT REFERENCE MONUMENT
A/C = AIR CONDITIONING PAD	CONC. = CONCRETE	G = GAS METER	P.L. = PROPERTY LINE
Alu/F. = ALUMINUM FENCE	D.E. = DRAINAGE EASEMENT	L.P. = LIGHT POLE	R(L) = RECORDED
BLDG = BUILDING	E = ELECTRIC SERVICE BOX	MH = MAN HOLE	R = RADIUS
B/C = BLOCK CORNER	EM = ELECTRIC METER (CAN)	M/L = MEASURED	RAO = RADIAL
(C) = CALCULATED	F.D.H. = FOUND DRILL HOLE	M/L = MONUMENT LINE	RES. = RESIDENCE
C.B.S. = CATCH BASIN	F.H. = FIRE HYDRANT	N.E.V.D. = NATIONAL GEODETIC VERTICAL DATUM	R/W = RIGHT OF WAY
C.B.S. = CONCRETE BLOCK	F.I.P. = FOUND IRON PIPE	N.I.S. = NOT TO SCALE	S = SEWER MANHOLE
STR. = STRUCTURE	F.R. = FOUND REBAR	OE = OVERHEAD ELECTRIC LINES	SEC. = SECTION
CH. = CHORD DISTANCE		P.B. = PLAT BOOK	S.I.P. = SET IRON PIPE NO.
CL. = CLEAR		P.C.P. = PERMANENT CONTROL POINT	S/L = SET BACK LINE
C/L = CENTER LINE		P.G. = PAGE	STY. = STORY
CLF = CHAIN LINK FENCE			TRF. = TRANSFORMER
			SWK. = SIDEWALK
			T. = TELEPHONE SERVICE BOX
			TV. = TV CABLE SERVICE BOX
			U.D.E. = UTILITY & DRAINAGE EASEMENT
			U.E. = UTILITY EASEMENT
			U.M.E. = UTILITY & MAINTENANCE EASEMENT
			U.P. = UTILITY POLE
			W. = WATER WELL
			W/M. = WATER METER

LOCATION MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



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

Buffer Distance: 500 feet

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Produced by BoCC - GIS Date: 2/7/2025

-  Buffer
-  Subject Property

ZONING MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ
25Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/7/2025

Subject Property

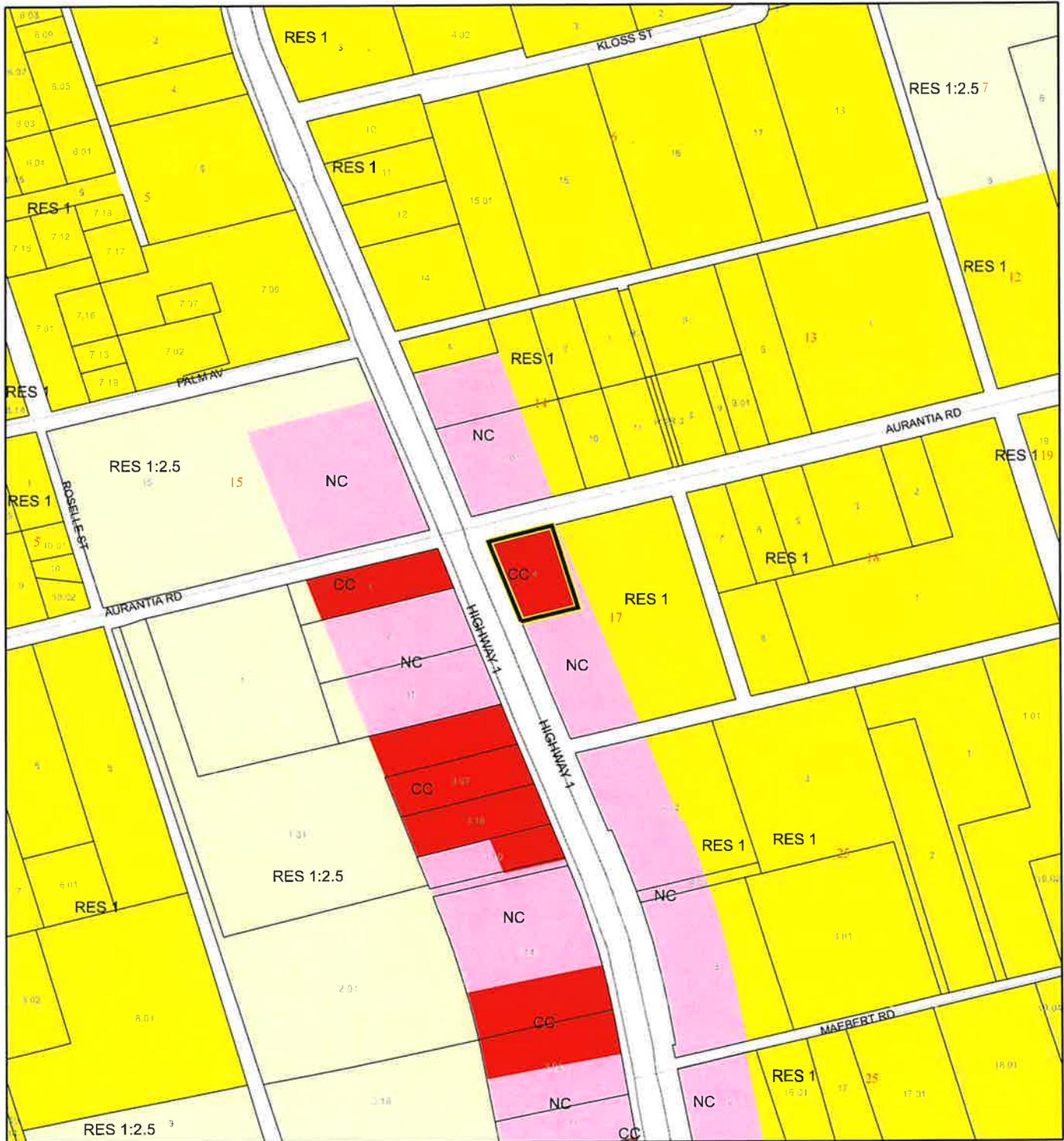
Parcels

Zoning

FUTURE LAND USE MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



1:4,800 or 1 inch = 400 feet

— Subject Property
□ Parcels

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AERIAL MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2024

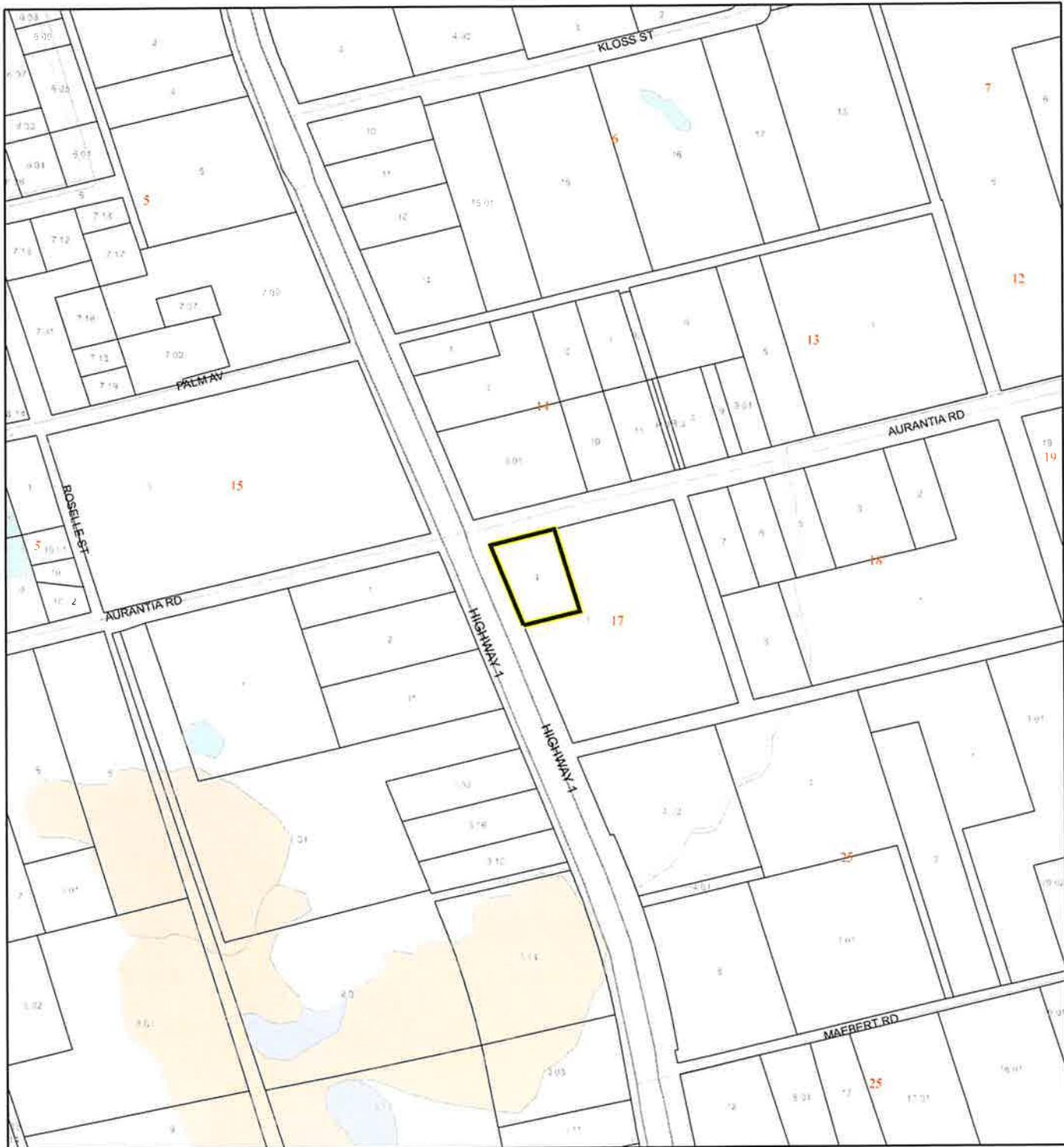
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/7/2025

 Subject Property

 Parcels

NWI WETLANDS MAP
 DEJESUS, ALEXIS & ROSEMARY ESTEVEZ
 25Z00003



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

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



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

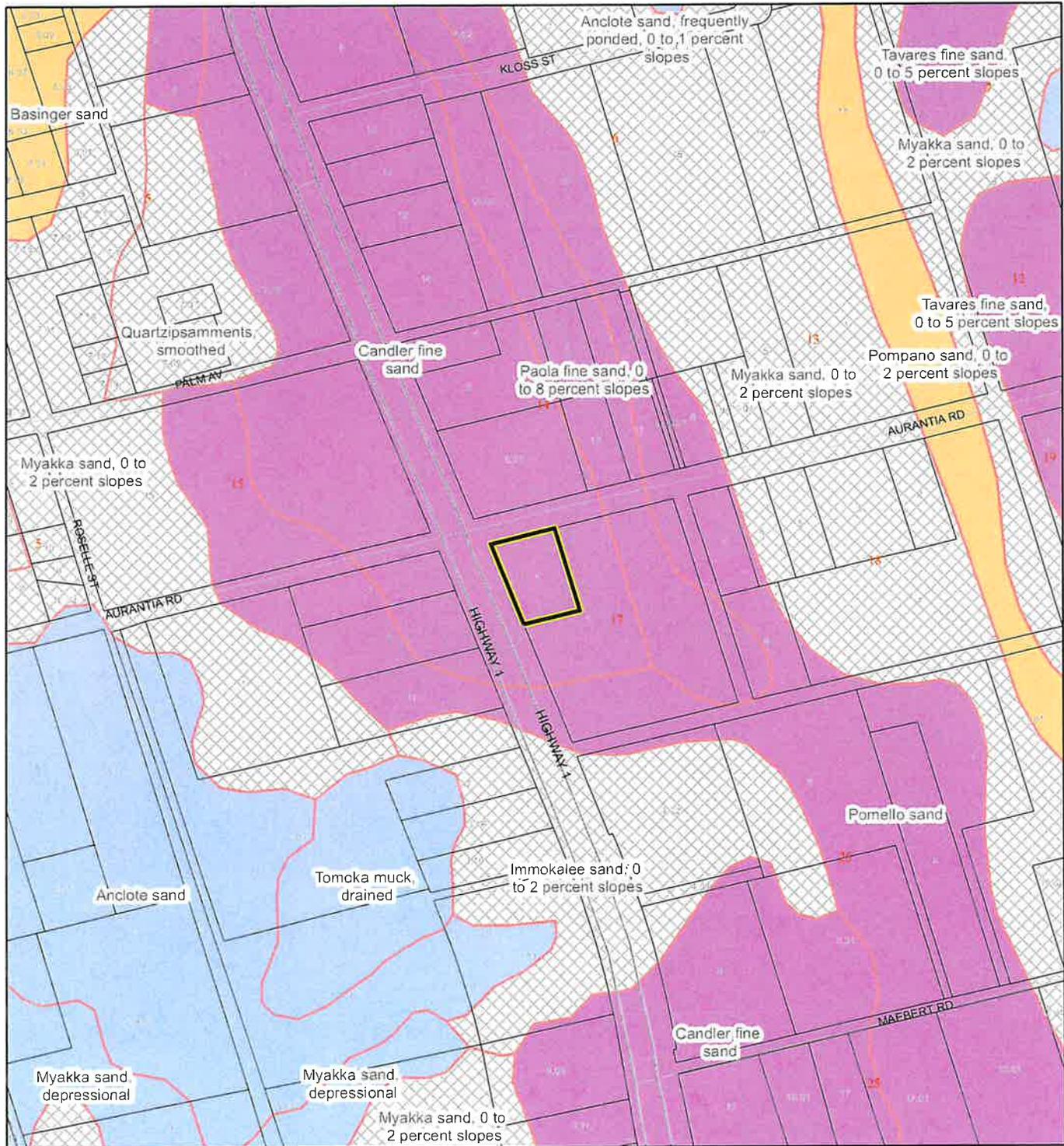
Subject Property

Parcels

USDA SCSSS SOILS MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/7/2025

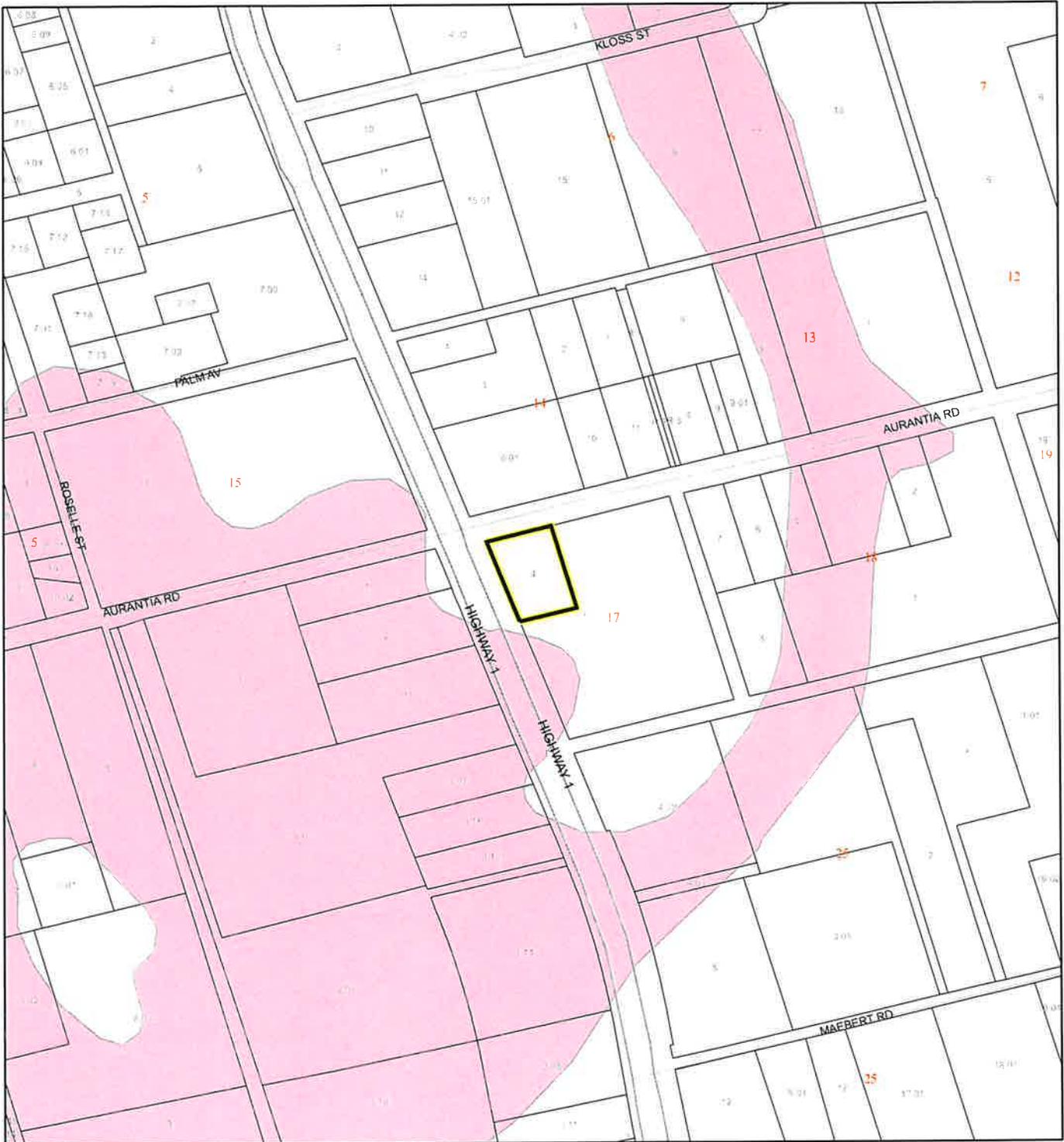
USDA SCSSS Soils

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

FEMA FLOOD ZONES MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



1:4,800 or 1 inch = 400 feet

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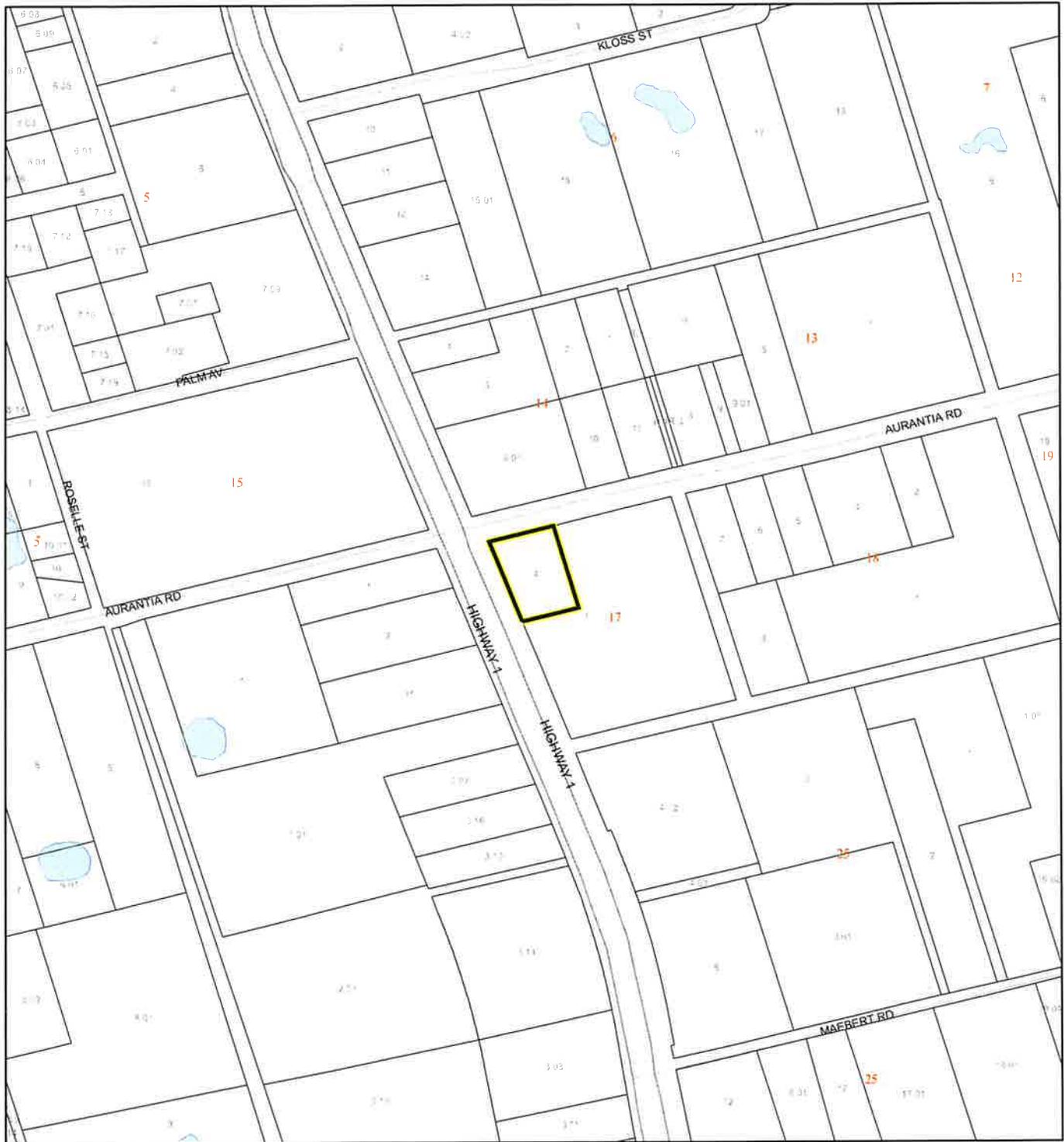
Produced by BoCC - GIS Date: 2/7/2025

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

COASTAL HIGH HAZARD AREA MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/7/2025

— Subject Property

□ Parcels

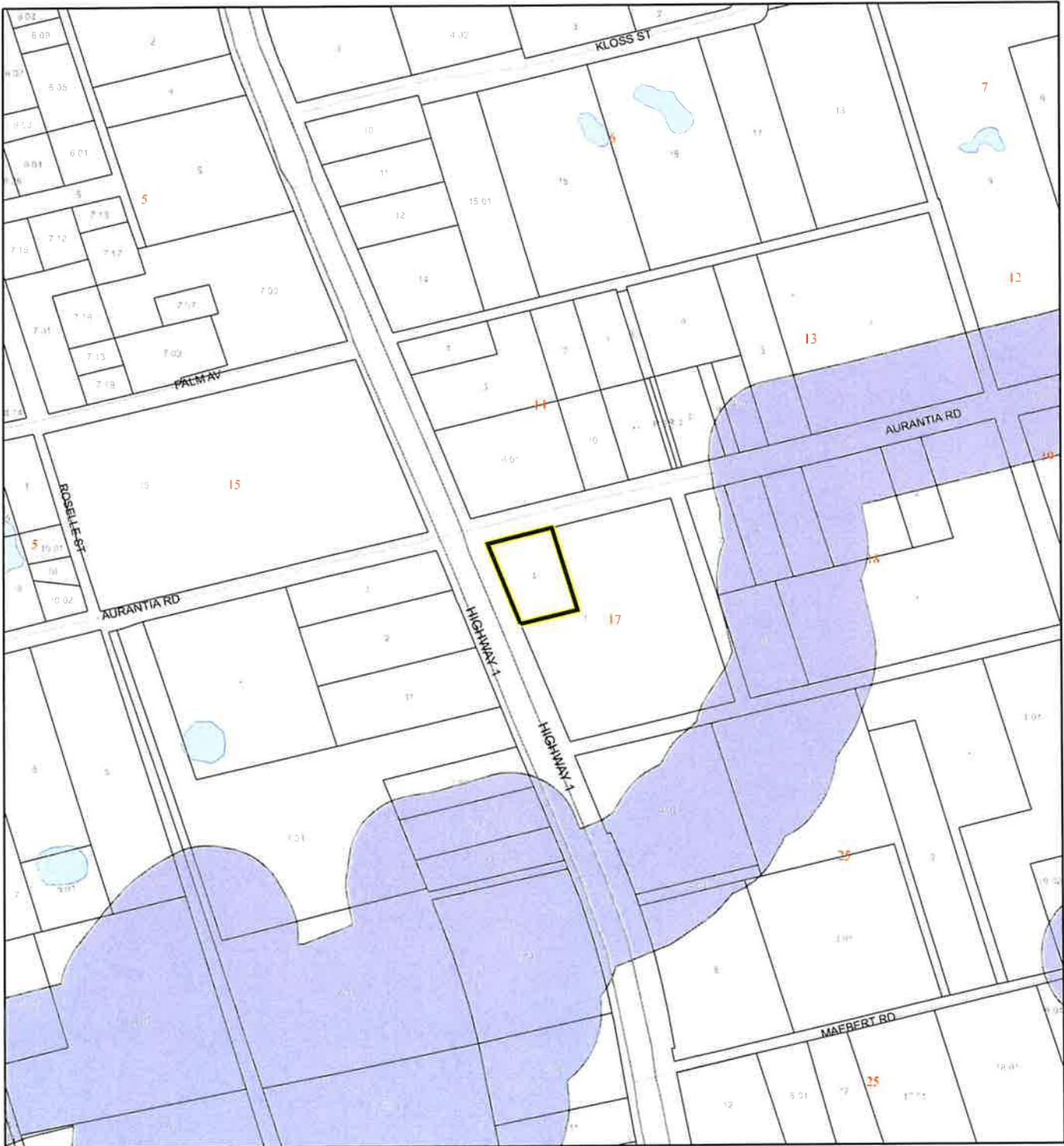
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/7/2025

 Subject Property

 Parcels

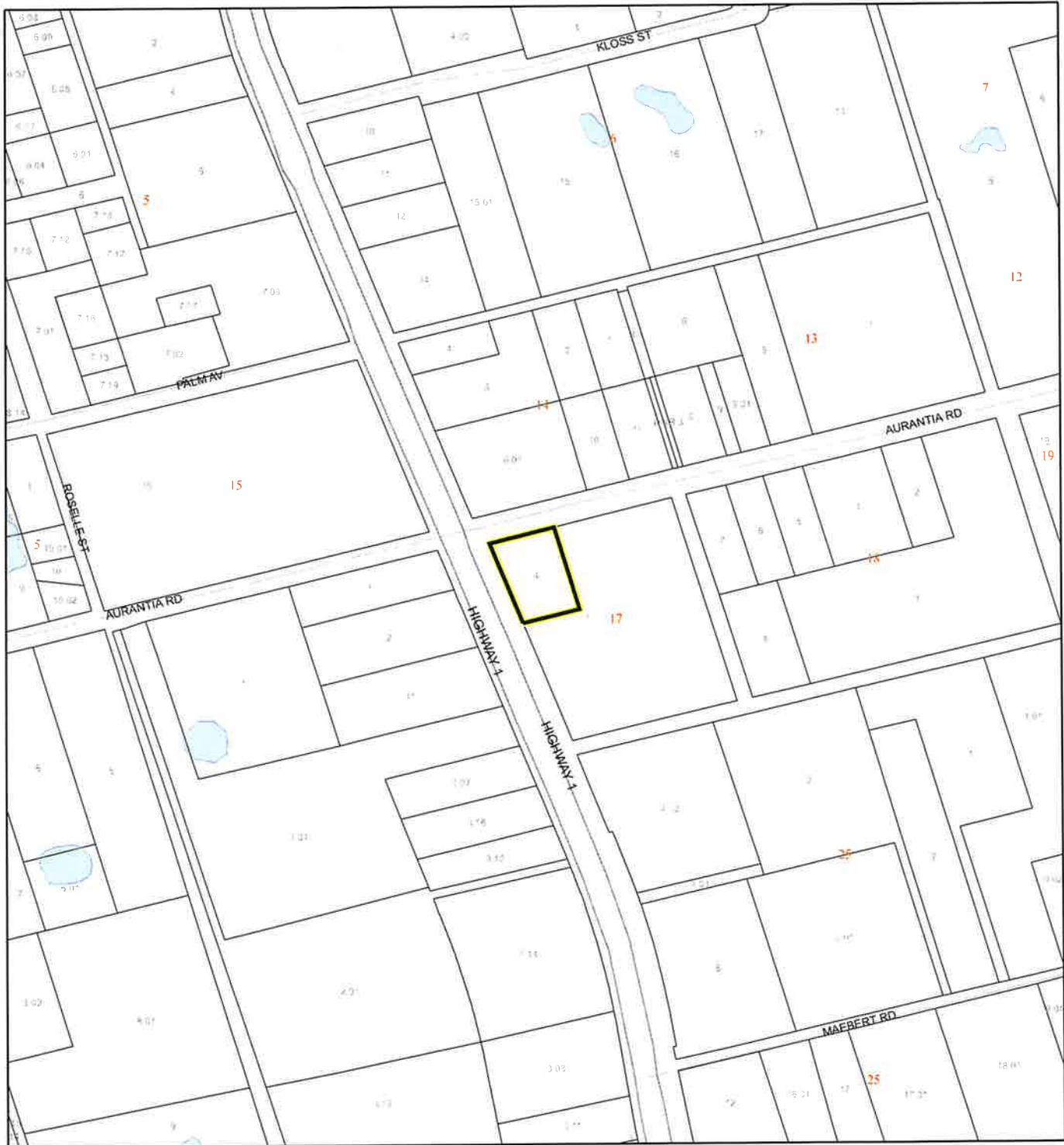
Septic Overlay

 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP
DEJESUS, ALEXIS & ROSEMARY ESTEVEZ
25Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 2/7/2025

-  Subject Property
-  Parcels
-  Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



1:4,800 or 1 inch = 400 feet

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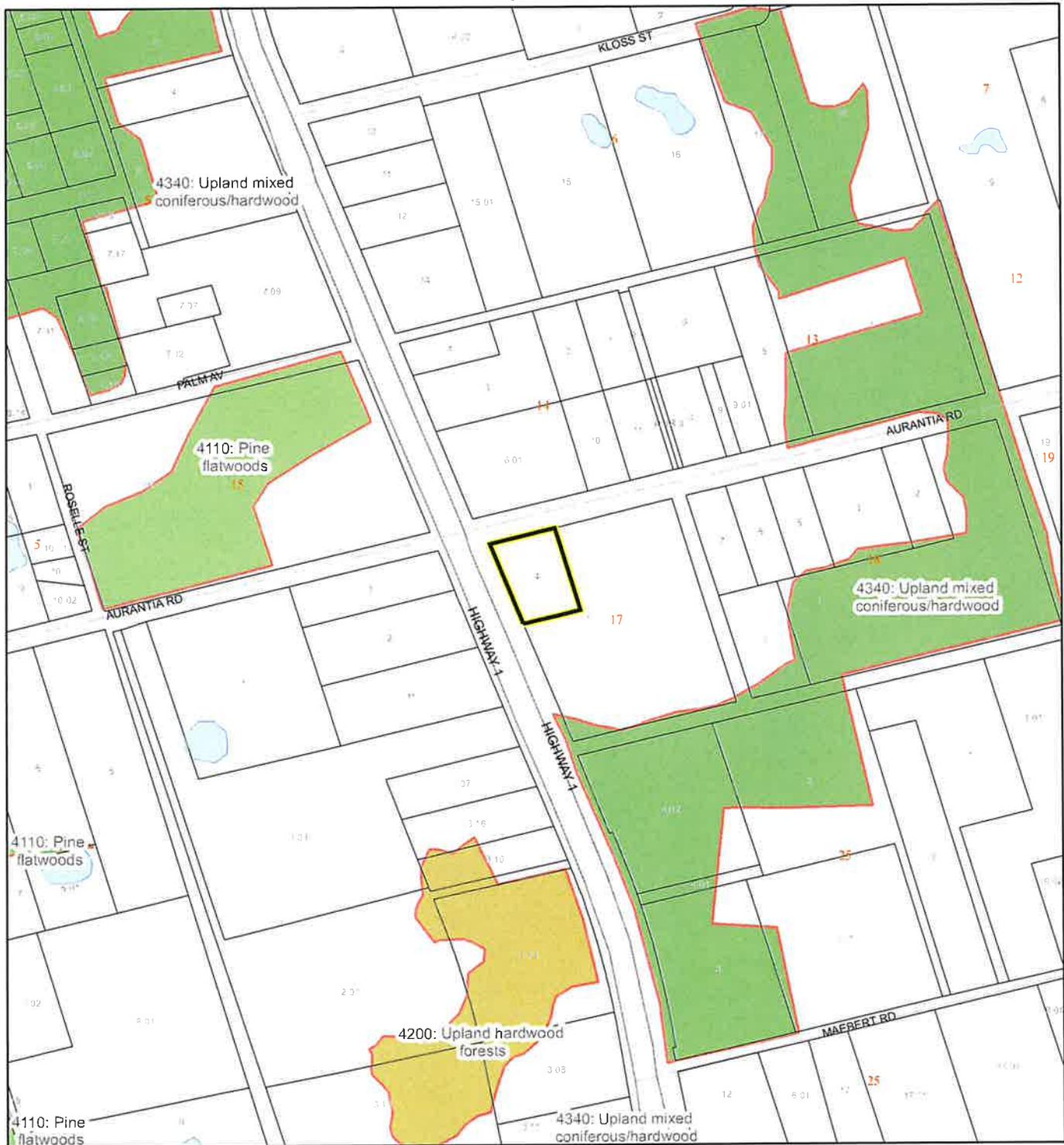
Produced by BoCC - GIS Date: 2/7/2025

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DEJESUS, ALEXIS & ROSEMARY ESTEVEZ

25Z00003



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: 2/7/2025

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

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

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

Board members present were Mark Wadsworth, Chair (D4); Henry Minneboo, Vice-Chair (D1); Ron Bartcher (D2); Ruth Amato (D1); John Hopengarten (D1); Jerrad Atkins (D1); Robert Brothers (D5); Melissa Jackson (D5); Neal Johnson (D4); Ana Saunders (D5); Greg Nicklas (D3); Erika Orriss (D3); and Debbie Thomas (D4).

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

H.1. Alexis Raul and Rosemary Estevez DeJesus request a zoning classification change from BU-1 (General Retail Commercial) with a BDP to BU-1 (General Retail Commercial) with removal of a BDP. (25Z00003) (Tax Account 2004581) (District 1)

Paul Body read the item into the record.

Alexis DeJesus spoke to the application. He stated he would like to remove the binding development plan, the BDP, and leave it as B1.

Mark Wadsworth asked, "with removal of the BDP?"

Mr. DeJesus responded yes, please.

Public Comment

Ed Scarosce stated his property is directly south and east of the applicants business and he does not at the moment oppose it. They've been great. I didn't know they moved until I saw the rezoning thing. My question would be on the binding development plan. If with the removal of that, is it possible to amend the binding development plan for future, if his request gets approved, if the binding development plan can be amended?

Alex Esseesse responded I believe the request is to remove the BDP. So that's the request before this board. If the board decides to add additional restrictions, then that will be done through a BDP.

Mr. Scarosce inquired if he would do that at the County Commission meeting.

Mr. Wadsworth replied we're just a recommendation board. The county commissioners are going to make the final decision on this.

Mr. Scarosce responded when it was rezoned, I think in 2007, I wrote that binding development plan and it was in place for a convenience store, and I believe that was my main thing is if it's changed to business can it be changed back to convenience store or is it just the current business model.

Mr. Wadsworth stated he's asking to remove the BDP entirely.

Erika Orriss stated he could do with the property all the zoning that goes along with that. So, whatever he wants to use it for within that zoning, he could use that with the removal of the binding

development plan.

Mr. Scarosce asked if it's possible to amend it or make a new binding development plan.

Ms. Orriss responded that could be a suggestion by the board.

Paul Bross stated that he is in support of removing the BDP and allowing this to be a BU1 property.

End Public Comment

John Hopengarten inquired what's the current use of that facility now.

Mr. DeJesus responded currently is for a grocery store, but there's a gas station across the street. I don't think it makes any sense putting...

Mr. Hopengarten asked, "what is that building being used for right now?"

Mr. DeJesus responded it's completely vacant right now at the time.

Mr. Hopengarten stated it's vacant. What do you want to put in there?

Mr. DeJesus responded whatever the BU1 allows. I want to sell it to be honest. And it's limiting my buyers because of the BDP, because a grocery store is, there's not many people in Mims, there's a circle K across the street, I mean it doesn't make any sense.

Mr. Hopengarten responded so you are going to sell it, so you don't know what it's going to be.

Mr. DeJesus replied exactly correct.

Mr. Hopengarten continued okay because the BDP that evidently this gentleman wrote didn't allow any alcohol to be sold or any drug paraphernalia. That's what it says. The existing BDP says that it restricts it. So, they cannot sell alcoholic beverages or have any drug paraphernalia sold at that premises.

Mr. DeJesus replied we're not going to sell any of that kind of stuff.

Mr. Hopengarten continued but you don't know what it's going to be. You said you're going to sell it.

Mr. DeJesus replied well it doesn't make any sense to sell alcohol when there's a gas station across the street that sells alcohol and beer and wine.

Mr. Hopengarten continued but that particular property had been restricted in the last application back in 2007.

Mr. DeJesus replied I sell cars for a living, sir. I don't sell alcohol or drugs.

Mr. Hopengarten responded but you're not going to run the place. You're telling me that you're going to sell it.

Mr. DeJesus replied That's the plans, God willing.

Ruth Amato asked staff if you took away the BDP, does that mean it could be a bar, ABC liquor, coin laundry, dry cleaners, car wash, or any of those things? Is that what fits a BU1?

Trina Gilliam stated currently the BDP only allows uses in BU1A, which are neighborhood retail type uses. So, by removing the BDP, you would be allowing everything BU1 would allow such as automobile parts, automobile repairs, automobile sales and storage, automobile tires and mufflers, new and sales and service, contractor's offices, convenience stores with or without gas stations. You could sell package alcohol also in BU1 along with grocery stores, drug and sundry stores.

Ms. Amato inquired with the package stores, could it also be like an open bar like an establishment of a bar.

Ms. Gilliam replied, you can do restaurants in BU1 and of course, like I said, the sales of alcohol beverages packages only, but you could have a restaurant there or a bar.

Ms. Orriss stated it says in the notes that the corridor would be anticipated to operate at 43.82% daily. However, staff has determined if they put a coffee shop in that would be something that would be acceptable with the removal of the BDP and that would increase the corridor to operate at 146% of capacity daily. So that's significant. I have that there was some code enforcement issues with this property.

Mr. DeJesus responded they're all satisfied, ma'am.

Ms. Orriss stated they've all been satisfied.

Mr. DeJesus, replied yes, ma'am. That's why we're here.

Jerrad Atkins stated so, what I'm hearing is we've got a BDP on the property that the gentleman that owns the neighboring property sort of penned or authored and is okay with the way that it's operating now, but the whole spirit of it was in case that business type changes. And that's exactly what we might expect when the property sells. So, I don't know if that's a good idea. When that's what was agreed to when you bought the property 2022 and then agreed to the BDP in 23. Is that the timeline?

Mr. DeJesus replied I didn't agree to anything. It was already there.

Mr. Atkins responded oh, it was already on the property. Okay. I thought I read something about 2023.

Ms. Gilliam responded the BDP was approved in 2007. But he did do a zoning verification letter where he was notified of the BDP and the uses that were permitted on the property.

Mr. Atkins stated okay, understood. There are some landscape barriers and such that are spelled out in that BDP that the neighbor might like to keep in place if a different type of business is opened there in that location. So, that's what I'm reading. I would be in favor of it staying in place.

Mr. DeJesus asked, "for a grocery store?" There's a Circle K across the street and Mims has 30 people in it. It doesn't make no sense.

Mr. Atkins stated it's got a lot more than 30 people in it. And it's not just a grocery store because for

the last couple years there's been how many businesses? 20 30 businesses operating out of that building. The parking lot is full of destroyed cars, right? So, I don't think it's been groceries.

Mr. DeJesus responded well, that's what it's for there. The BDP is just for a grocery store. The gentleman who was previous owner had a bunch of junk and cars and boats and that was all moved out. Nobody said anything about that. But since I go there and clean the place now, I get hammered.

Mr. Atkins inquired how many businesses were running out of that location.

Mr. DeJesus replied, a couple.

Mr. Atkins inquired how many is a couple? More than 20. Car dealerships and auto repair body shops.

Mr. DeJesus responded they didn't get approved, sir. No, sir.

Mr. Atkins stated I never saw that parking lot empty in the last couple years. Maybe since code enforcement.

Mr. DeJesus responded isn't that good? I mean, through business.

Mr. Atkins replied when I say empty, it was full of wrecked vehicles. So, I don't think it was a grocery store. Somebody was doing something out of there. It wasn't a grocery store. That's all I'm saying.

Motion to recommend denial of Item H.1. by John Hopengarten, seconded by Ruth Amato. Motion passed with a vote of 12:1.

Meeting adjourned at 4:27 p.m.