



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.4.

10/3/2024

Subject:

Seiichi Noda & Kimberly A. Noda Joint Revocable Trust (Mitchell Goldman) request a change of zoning classification from AU to EU (Estate Use). (24Z00031) (Tax Account 2511132) (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 AU (Agricultural Residential) to EU (Estate Use).

Summary Explanation and Background:

The applicants are requesting a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use Residential) on a portion of their property to allow a garage accessory to an existing single-family residence. This property currently has two zoning classifications - AU and EU. This request removes the split zoning and substandard conditions for the AU zoned portion of the property.

The area of request is the western portion of an existing lot zoned AU. The applicants are requesting EU zoning to replace the AU portion which fails to meet zoning minimum requirements of 2.5 acres in area and minimum 150-foot lot width.

West of the subject property is vacant, zoned BU-1; East is a single-family residence zoned EU; North is commercial retail zoned BU-1 and AU; and to the south is vacant, zoned AU.

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

On September 16, 2024, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 24Z00031

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

WHEREAS, Seiichi Noda & Kimberly A. Noda Joint Revocable Trust (Mitchell Goldman) request a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use), on property described as a portion (west) of Tax Parcel 814, as recorded in ORB 10035, Page 1908, of the Public Records of Brevard County, Florida. **Section 23, Township 25, Range 36.** (0.362 acres) Located between US Hwy 1 and Rockledge Dr., approx. 310 ft south of Coquina Rd. (2001 Rockledge Dr., Rockledge); 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 AU to EU, 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 October 03, 2024.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Rita Fritchett, Vice Chair
Brevard County Commission

As approved by the Board on October 03, 2024.

ATTEST:


RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – September 16, 2024

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

24Z00031

Seiichi Noda and Kimberly A. Noda Trustees of the Joint Revocable Trust of Seiichi Noda and Kimberly A. Noda

AU (Agricultural residential) to EU (Estate use residential)

Tax Account Number: 2511132
Parcel I.D.s: 25-36-23-00-514
Location: 200 feet east of US Highway 1, Between US Highway 1 and Rockledge Drive 310 feet south of Coquina Road (District 2)
Acreage: 0.36 acres

Planning & Zoning Board: 09/16/2024

Board of County Commissioners: 10/03/2024

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	AU	EU
Potential*	0	1 Single-Family
Can be Considered under the Future Land Use Map	YES** NC	YES** NC

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

**Yes, classification may be considered, if permitted by Policy 2.10.

Background and Purpose of Request

The applicants are requesting a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use Residential) **on a portion of their property to allow** a garage accessory to an **existing** single-family residence. This property currently has two zoning classifications AU and EU. This request removes the split zoning and substandard AU zoned portion.

The area of request is the western portion of an existing lot zoned AU. The property owner also owns the abutting property to the west (parcel # 586) which has frontage on US Highway 1. The applicants

are requesting the expansion of the EU zoning area westward to replace the AU portion which fails to meet zoning minimum requirements of 2.5 acres in area and minimum 150-foot lot width criterion. The existing EU portion was zoned under Zoning Resolution **Z-1778** adopted by the Board on August 5, 1965. The AU portion is original May 22, 1958, Brevard County zoning.

Sec. 62-2116. - Parcels of land divided by public right-of-way.

For the purpose of determining building permit requirements, setback requirements and minimum lot sizes, those lots, plots, tracts or parcels of real property titled under common ownership, located within the unincorporated area of the county, that are separated or divided by a public or private right-of-way, street, road, alley or easement shall be defined as follows:

- (1) Where the land area on each side of the public or private roadway or road meets the minimum requirement for lot size in the designated zoning classification, then the landowner shall be deemed the owner of two separate lots, plots, tracts or parcels for the purposes of this chapter.
- (2) Where the land area on either side of the public or private right-of-way or road fails to meet the minimum requirements for lot size in the designated zoning classification, then the landowner shall be deemed the owner of one lot, plot, tract or parcel for the purposes of this chapter, and the principal structure or dwelling unit shall be located on the side or part having the greater land area.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Commercial retail	BU-1 and AU	CC and NC
South	Vacant	AU	NC and RES 4
East	Single-family residence	EU	RES 4
West	Vacant	BU-1	CC

AU zoning classification permits single-family residences and agricultural uses 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.

EU zoning classification is an estate single family residential zoning classification. The minimum lot size is 15,000 square feet with a minimum lot width and depth of 100 feet. The minimum living area is 2,000 square feet.

BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

Land Use

The subject property is currently designated on the FLUM as NC. Both the current AU zoning and the proposed EU zoning classifications can be considered consistent with the NC Future Land Use designation.

Applicable Land Use Policies

Policy 2.10 - Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

Criteria:

A. Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neo-traditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.

B. Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

The applicants' request can be considered consistent with the existing Future Land Use Map. The applicants are requesting the same residential zoning to the east and can be considered a logical extension of the transition from BU-1 zoning along the S. Highway 1 corridor.

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;

This request is not anticipated to significantly diminish the enjoyment or safety or quality of life for those living in the existing residential neighborhood. Development of the proposed detached garage accessory to the existing residence will 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 six (6) FLUM designations within a half-mile radius of the subject property. They include Residential 4 (RES 4), Community Commercial (CC), Neighborhood Commercial (NC), Industrial (IND), Public Facility (PUB), and Public Conservation (PUD-Cons). The subject property abuts CC, NC and Res 4 FLUM designation. This request lies interior to commercial frontage along the US Highway 1 corridor and westerly of the residential lots fronting the Indian River.

Within the past three years there have been no FLUM changes within the half-mile radius.

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

Within the half-mile radius of the subject property there has been one zoning action approved by the Board of County Commissioners which was developed.

22Z00004 changed the zoning of BU-1 and AU to BU-2 with BDP requiring 6-conditions. BDP, recorded on 07/14/22, in ORB 9560, Pages 520 - 5527, contains the following conditions: 1.) the use of the property shall be limited to self-storage only; 2.) outdoor storage shall be prohibited; 3.) any buildings on the property shall be limited to single-story; 4.) no lighting elements shall face residential properties; 5.) a 20-foot landscape buffer shall be required in accordance with code requirements; 6.) a finished 8-foot masonry wall shall be required along the edge of the improvements in accordance with code requirements. Developed under Site Plan # 22SP00038 for a mini-warehouse/self-storage facility.

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

Within the half-mile radius of the subject property there has been one zoning action approved by the Board of County Commissioners which was approved but not yet constructed.

22Z00015 changed the zoning of BU-1 and AU to RU-2-4 & RU-2-6 with BDP limited to two new duplexes, the installation of a high nutrient reduction septic system for any new residential units and a duplex height limit restricted to one story. BDP, recorded on 03/23/23, in ORB 9745, Pages 2519-2523. No building permit has been submitted as of July 01, 2024.

- 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 proposed change would have minimal impact on the overall character of the area and is not anticipated to materially and adversely impact an established residential to the east.

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

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

Staff analysis indicates that the property serves as a transition between the commercial uses along S. Highway 1 and the residential along Rockledge Dr.

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 does not allow for commercial uses. The existing commercial uses are along the eastern side of the S. Highway 1 corridor.

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.

Staff analysis indicates that the request can be considered transitional and is not primarily residential.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between Viera Blvd and Barnes Blvd which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 64.25% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to operate at 65.28% of capacity daily. The proposal is not anticipated to create a deficiency in LOS.

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

The subject property is within service boundary for potable water through the City of Cocoa. The nearest Brevard County sewer connection is approximately 2 miles south at US Highway 1 and Robles Lane.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) likely exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

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. 24Z00031

Applicant: Mitch Goldman (Owners: Seichi Noda & Kimberly A. Noda Trustee of the joint Revocable Trust)

Zoning Request: AU to EU

Note: for purposes of installing a detached garage

Zoning Hearing: 09/16/2024; **BCC Hearing:** 10/03/2024

Tax ID No.: western portion of 2511132

- 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
- Protected and Specimen Trees
- Protected Species

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) likely exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Land Use Comments:

Aquifer Recharge Soils

This property contains Candler fine sand, classified as an aquifer recharge soil. Mapped topographic elevations indicate the soils may consist of Type 3 Aquifer Recharge soils that have 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.

Protected and Specimen Trees

Protected (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) likely exist on the parcel. Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. **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.

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, September 16, 2024, 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: Henry Minneboo, Vice-Chair (D1); Ron Bartcher (D1); Robert Sullivan (D2); Brian Hodgers (D2); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Robert Brothers (D5); Ana Saunders (D5), and John Hopengarten (BPS).

Staff members present were: Tad Calkins, Director (Planning and Development); Rachel Genera, Public Works Engineering Manager; Alex Esseeesse, Deputy County Attorney; Trina Gilliam, Planner; Paul Body, Planner; Desirée Jackson, Planner; and Kristen Champion, Special Projects Coordinator.

Mark Wadsworth stated that if any Board Member has had an ex-parte communication regarding any application, please disclose so now.

Excerpt of complete agenda.

Item H.6. Seiichi Noda & Kimberly A. Noda Joint Revocable Trust (Mitchell Goldman) request a change of zoning classification from AU (Agricultural Residential) to EU (Estate Use), on property described as a portion (west) of Tax Parcel 814. (0.362 acres) Located between US Hwy 1 and Rockledge Dr., approx. 310 ft south of Coquina Rd. (2001 Rockledge Dr., Rockledge)(Tax Account 2511132)(24Z00031)(District 2)

Mr. Body read the item into the record.

Mitchell Goldman, 96 Willow Street Suite 302, stated to be an attorney representing the applicant. He stated "the property is approximately 1.83 acres." He further noted "the parcel is really three parcel though I call it one parcel. The four tenths of an acre that starts at US 1 is zoning BU-1. The middle parcel, which is the parcel we are asking to be rezoned, is about point three-six tenths of an acre and that property is zoned AU. The bounds of the property that runs to Rockledge Dr. is residential estate use." He explained that applicant wishes to use the middle parcel that is currently zoned AU as a garage. The way the house was built the applicant wishes to build a garage behind the house for his own person use. Mr. Goldman explained that the request is compatible with the neighborhood. He said no one would ever see it because there are fences down on both sides of the propert along with vegetation in the front.

No public Comment

Henry Minobee asked "are we going to try and clean this up?"

Mr. Goldman noted a portion of the property will have be cleared and conveyed the applicant's wishes to make it aesthetically attractive.

Motion to recommend approval of this item by Robert Sullivan, second by Ron Bartcher. The motion passed unanimously.

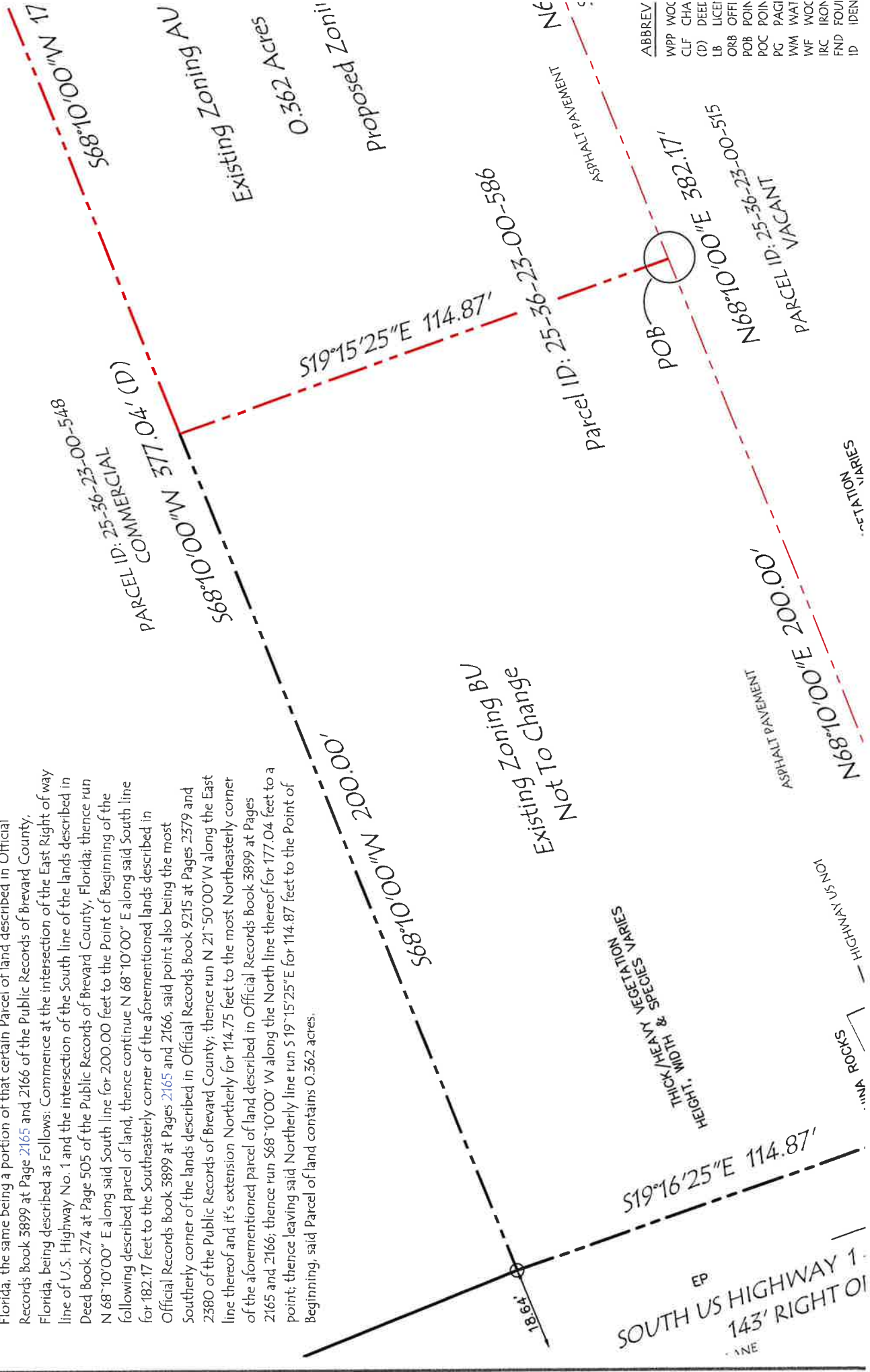
SKETCH OF DESCRIPTION

IN A PORTION OF SECTION 23, TOWNSHIP 25 SOUTH,
RANGE 36 EAST, BREVARD COUNTY, FLORIDA

LEGAL DESCRIPTION FOR PARCEL TO BE REZONED FROM AU TO EU

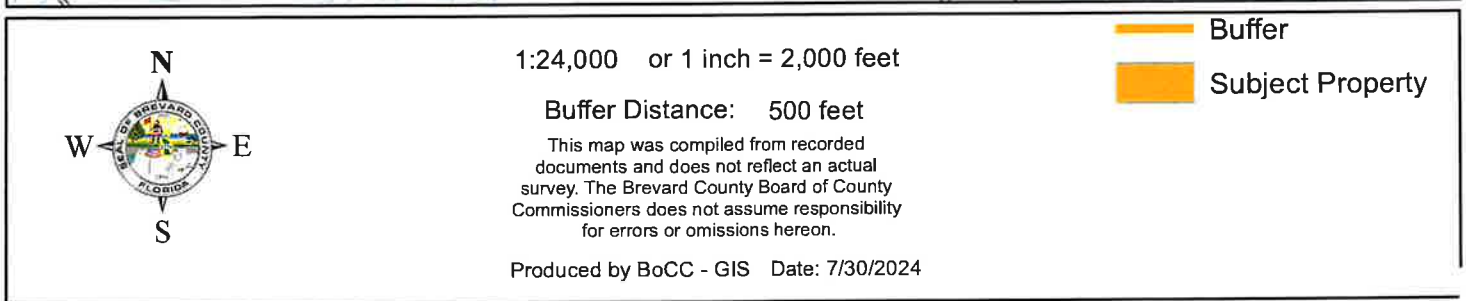
A portion of Tax Parcel ID: 25-36-23-00-586 Tax Account Number: 2524601

A parcel of land lying in Section 23 in Township 25 South, Range 36 East, Brevard County, Florida, the same being a portion of that certain Parcel of land described in Official Records Book 3899 at Page 2165 and 2166 of the Public Records of Brevard County, Florida, being described as Follows: Commence at the intersection of the East Right of way line of U.S. Highway No. 1 and the intersection of the South line of the lands described in Deed Book 274 at Page 505 of the Public Records of Brevard County, Florida; thence run N 68°10'00" E along said South line for 200.00 feet to the Point of Beginning of the following described parcel of land, thence continue N 68°10'00" E along said South line for 182.17 feet to the Southeastern corner of the aforementioned lands described in Official Records Book 3899 at Pages 2165 and 2166, said point also being the most Southerly corner of the lands described in Official Records Book 9215 at Pages 2379 and 2380 of the Public Records of Brevard County; thence run N 21°50'00"W along the East line thereof and it's extension Northerly for 114.75 feet to the most Northeasterly corner of the aforementioned parcel of land described in Official Records Book 3899 at Pages 2165 and 2166; thence run S 68°10'00" W along the North line thereof for 177.04 feet to a point; thence leaving said Northerly line run S 19°15'25"E for 114.87 feet to the Point of Beginning, said Parcel of land contains 0.362 acres.



ABBREV	WPP	WOC
CLF	CHA	DEEL
(D)	DEEL	LB
LB	LICET	ORB
ORB	OFF	POB
POB	POIN	PG
PG	PAGI	WM
WM	WAT	WF
WF	WOC	IRC
IRC	IRON	FND
FND	FOU	ID
ID	IDEN	

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST
24Z00031



AERIAL MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



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: 8/16/2024

— Subject Property

□ Parcels

COASTAL HIGH HAZARD AREA MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



1:2,400 or 1 inch = 200 feet

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Produced by BoCC - GIS Date: 8/16/2024

— Subject Property

□ Parcels

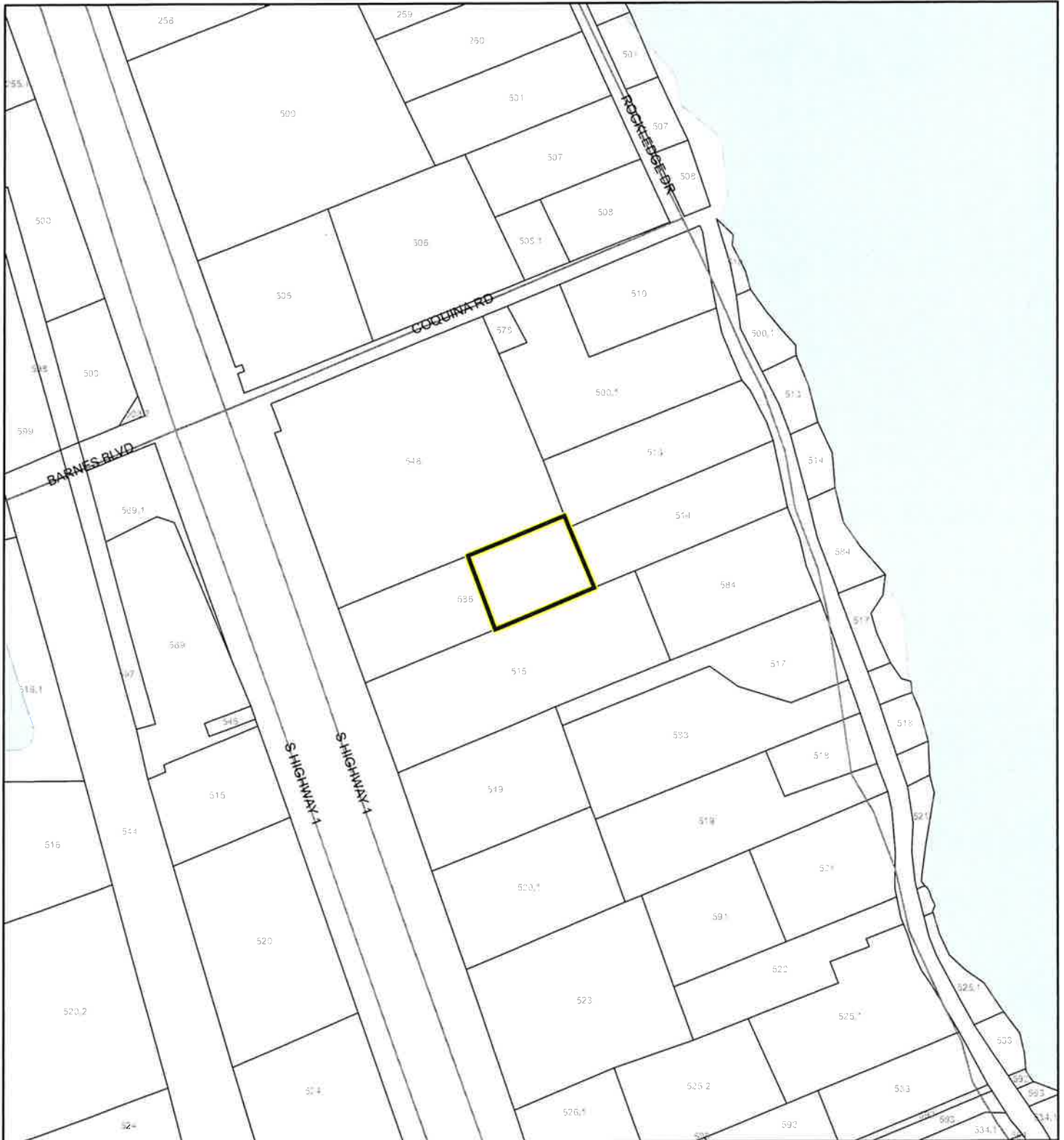
Coastal High Hazard Area

■ SurgeZoneCat1

EAGLE NESTS MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



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Produced by BoCC - GIS Date: 8/16/2024

 Subject Property

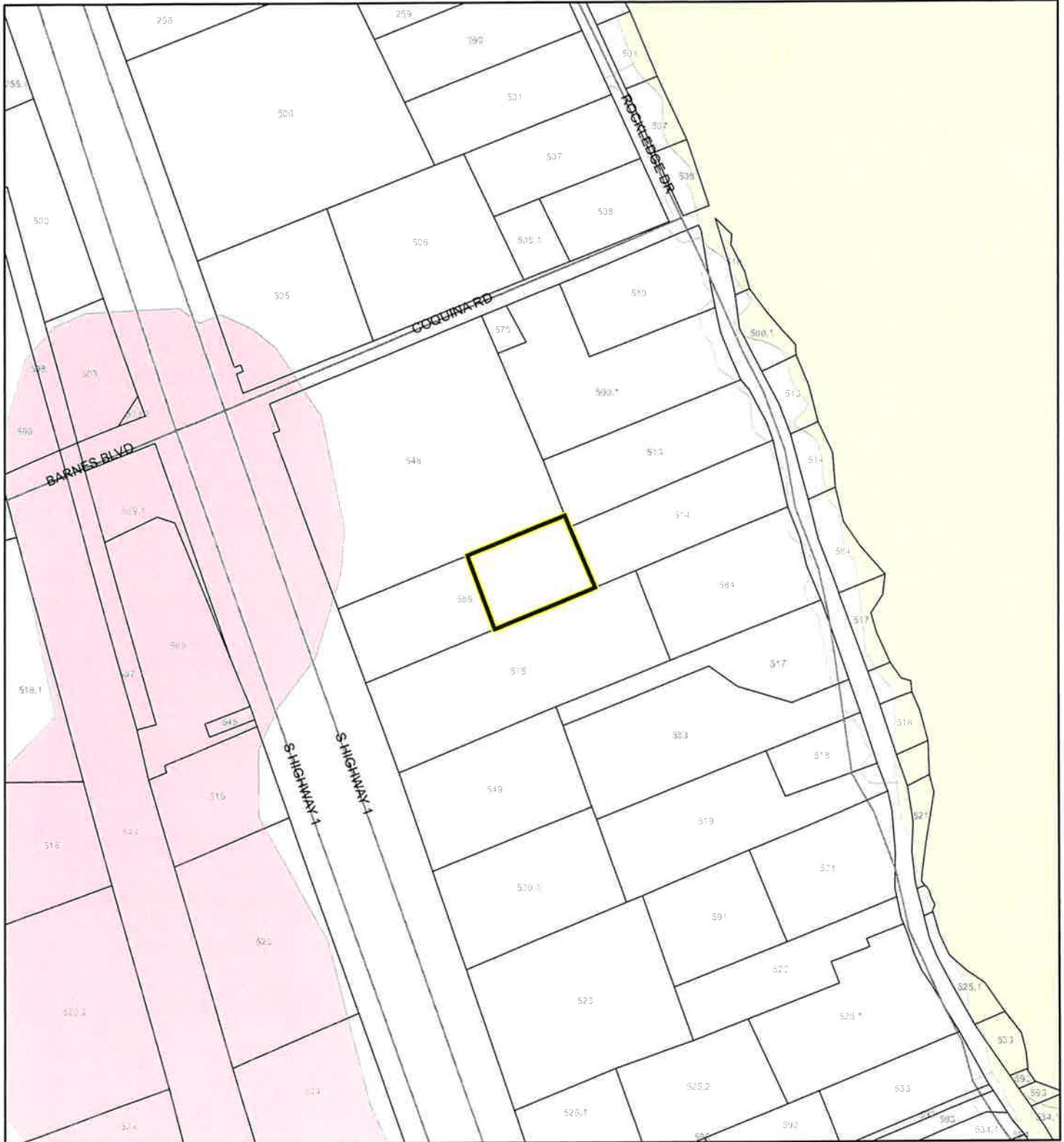
 Parcels

 Eagle Nests
FWS

FEMA FLOOD ZONES MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



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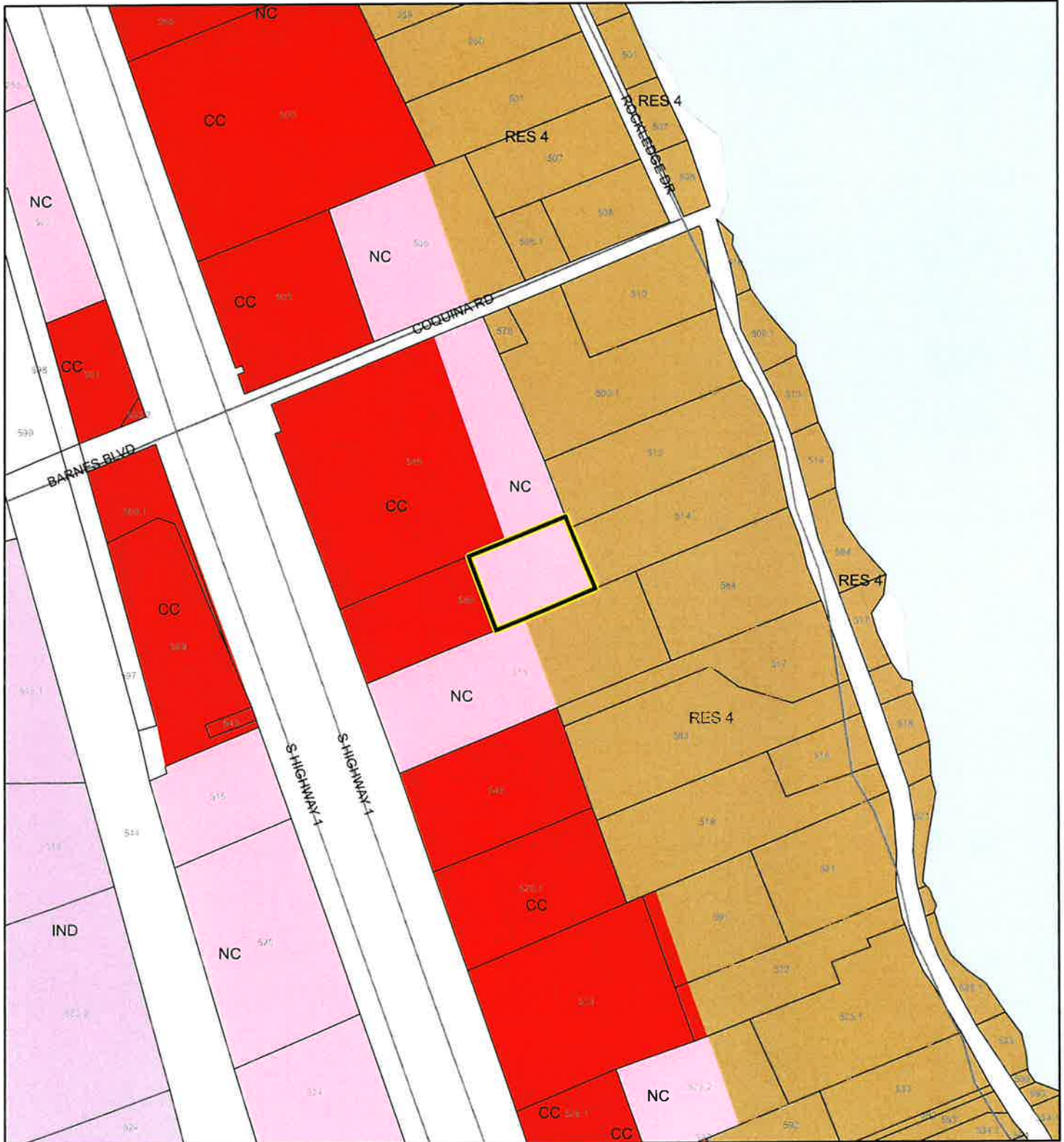
FEMA Flood Zones

 A	 AO	 X
 AE	 Open Water	
 AH	 VE	
 Subject Property		 Parcels

FUTURE LAND USE MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



1:2,400 or 1 inch = 200 feet

— Subject Property

□ Parcels

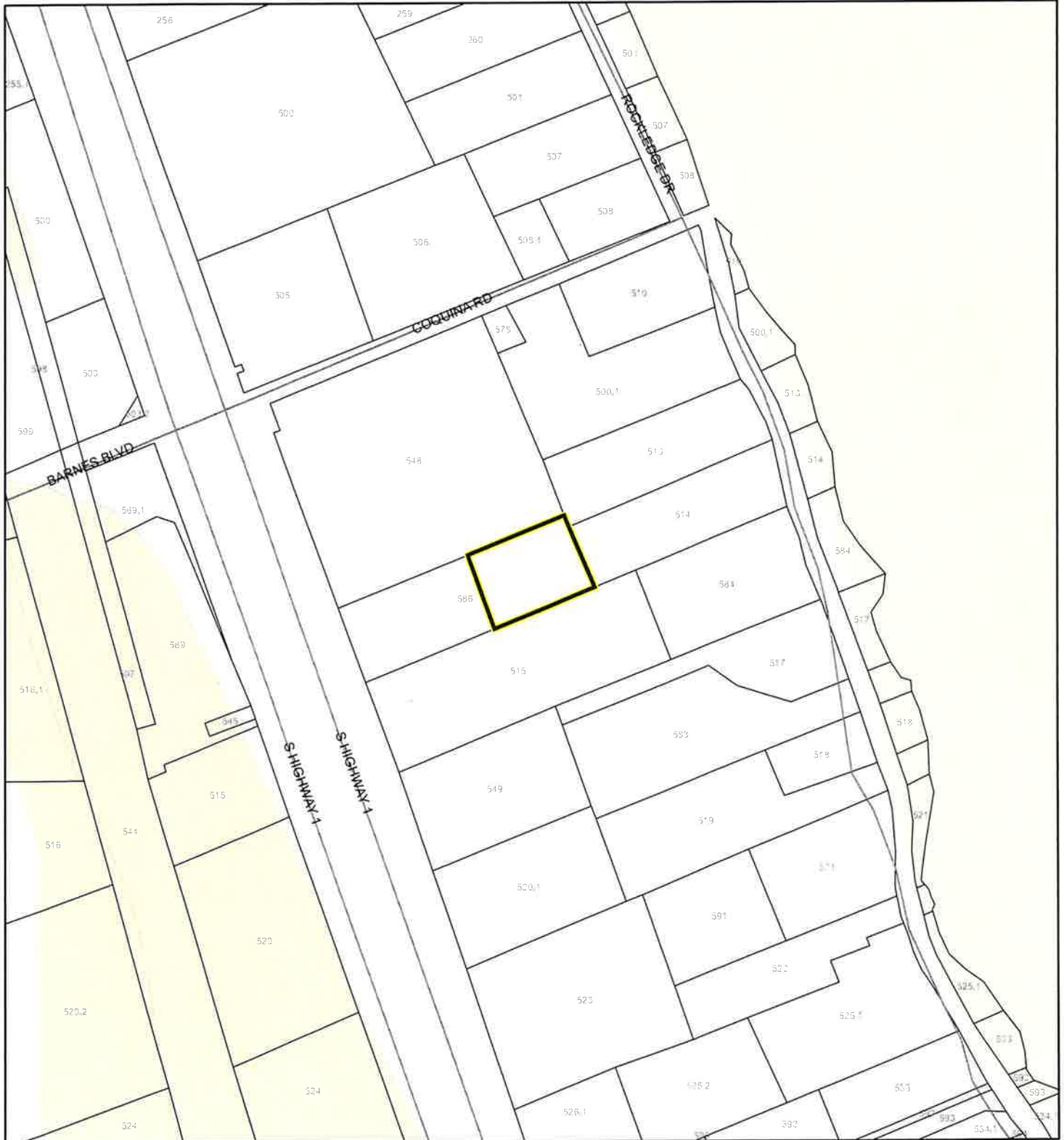
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Produced by BoCC - GIS Date: 8/16/2024

NWI WETLANDS MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



1:2,400 or 1 inch = 200 feet

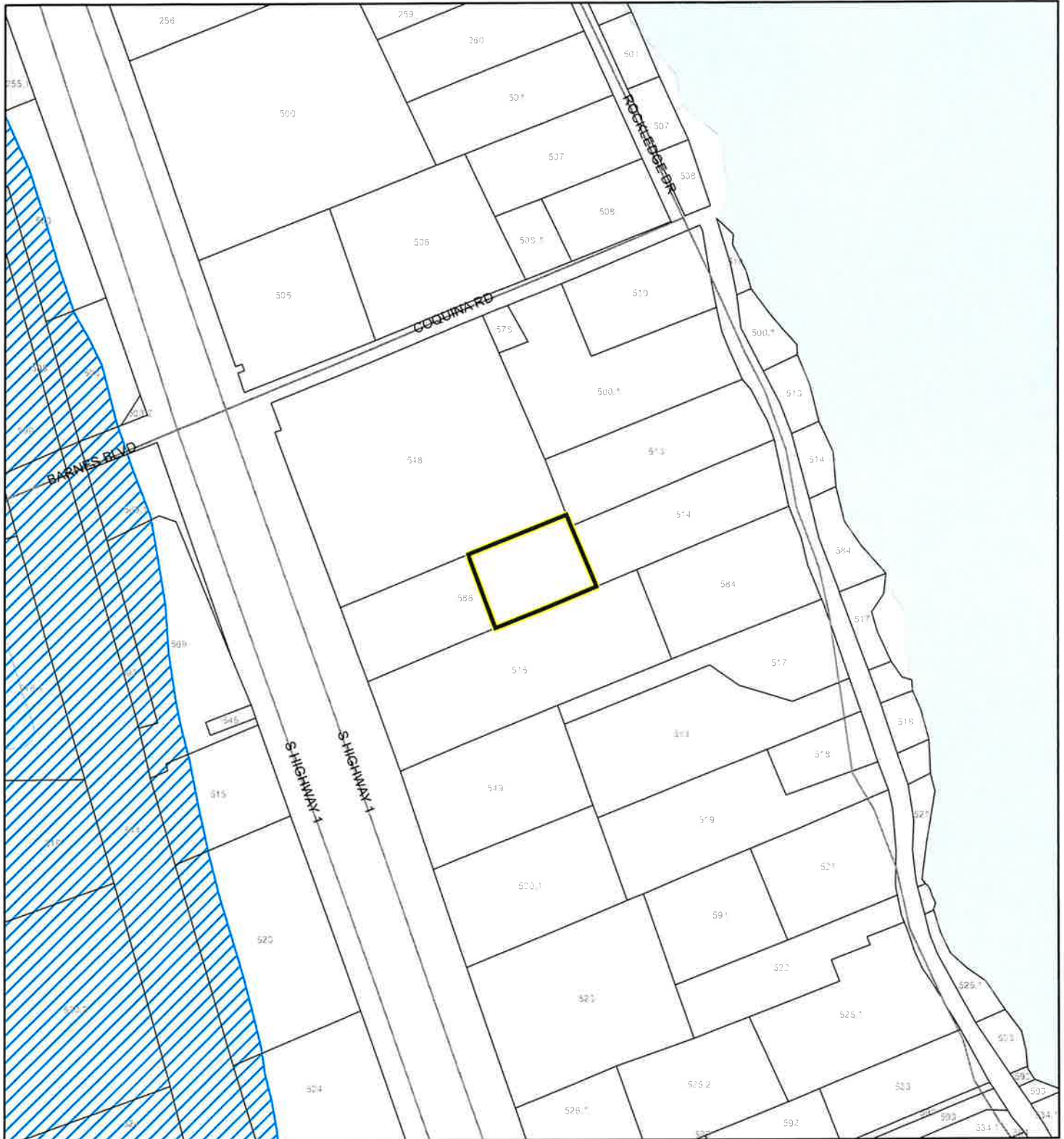
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National Wetlands Inventory (NWI)

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




SCRUB JAY OCCUPANCY MAP
SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST
24Z00031



1:2,400 or 1 inch = 200 feet

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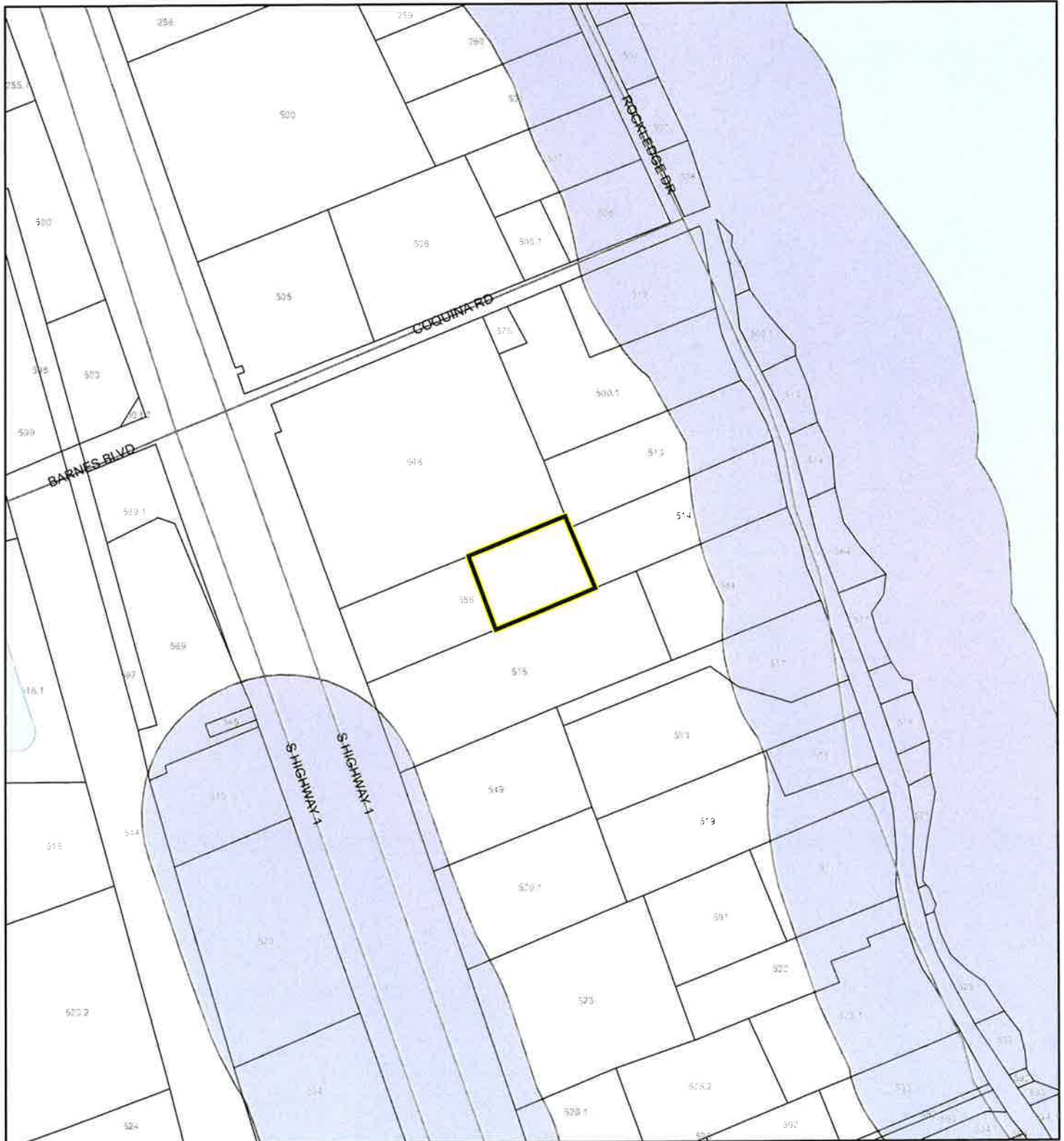
Produced by BoCC - GIS Date: 8/16/2024

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



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Produced by BoCC - GIS Date: 8/16/2024

Subject Property

Parcels

Septic Overlay

40 Meters

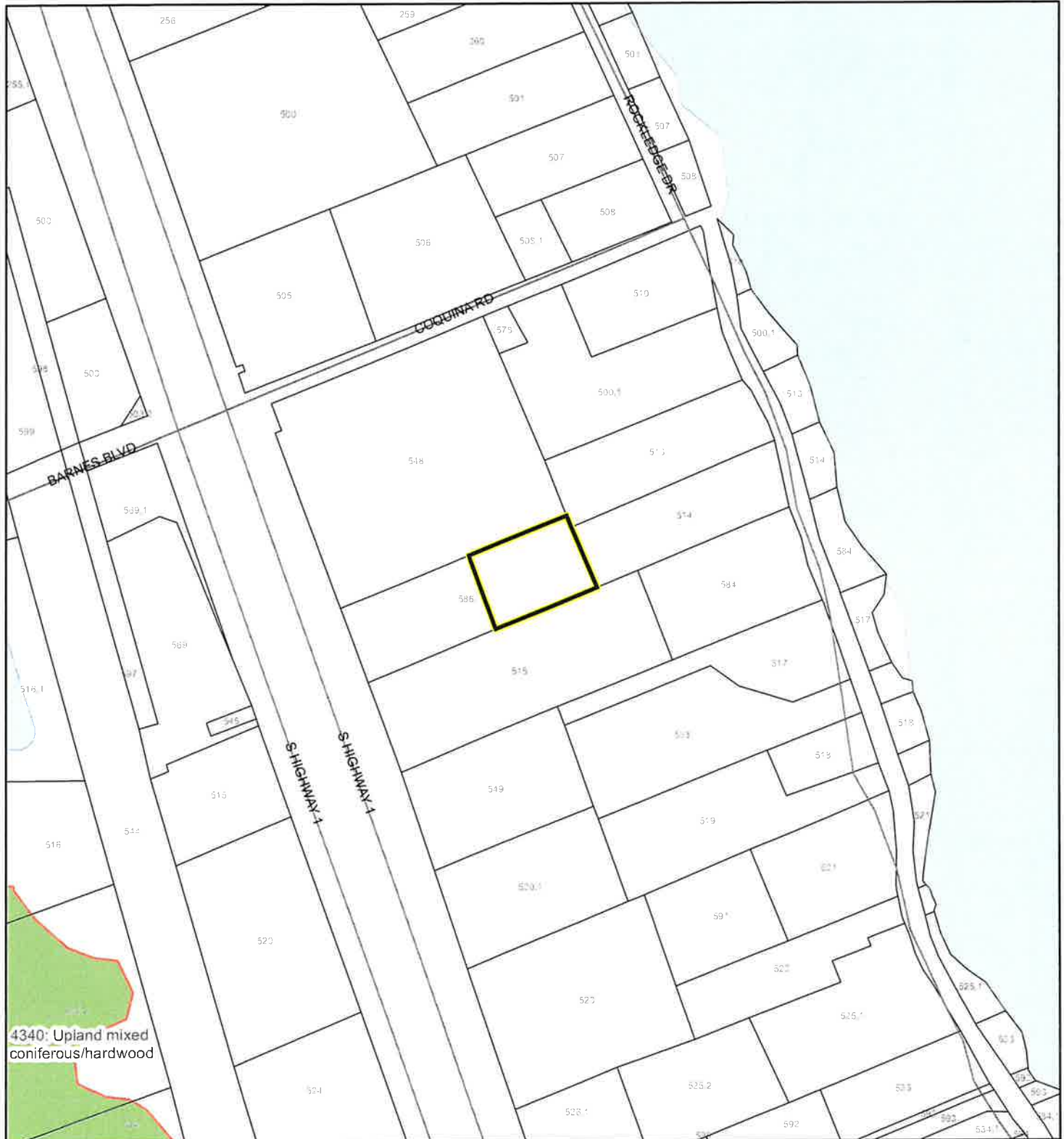
60 Meters

All Distances

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



4340: Upland mixed
coniferous/hardwood



1:2,400 or 1 inch = 200 feet

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Produced by BoCC - GIS Date: 8/16/2024

SJRWMD FLUCCS Upland Forests

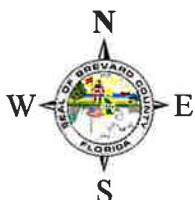
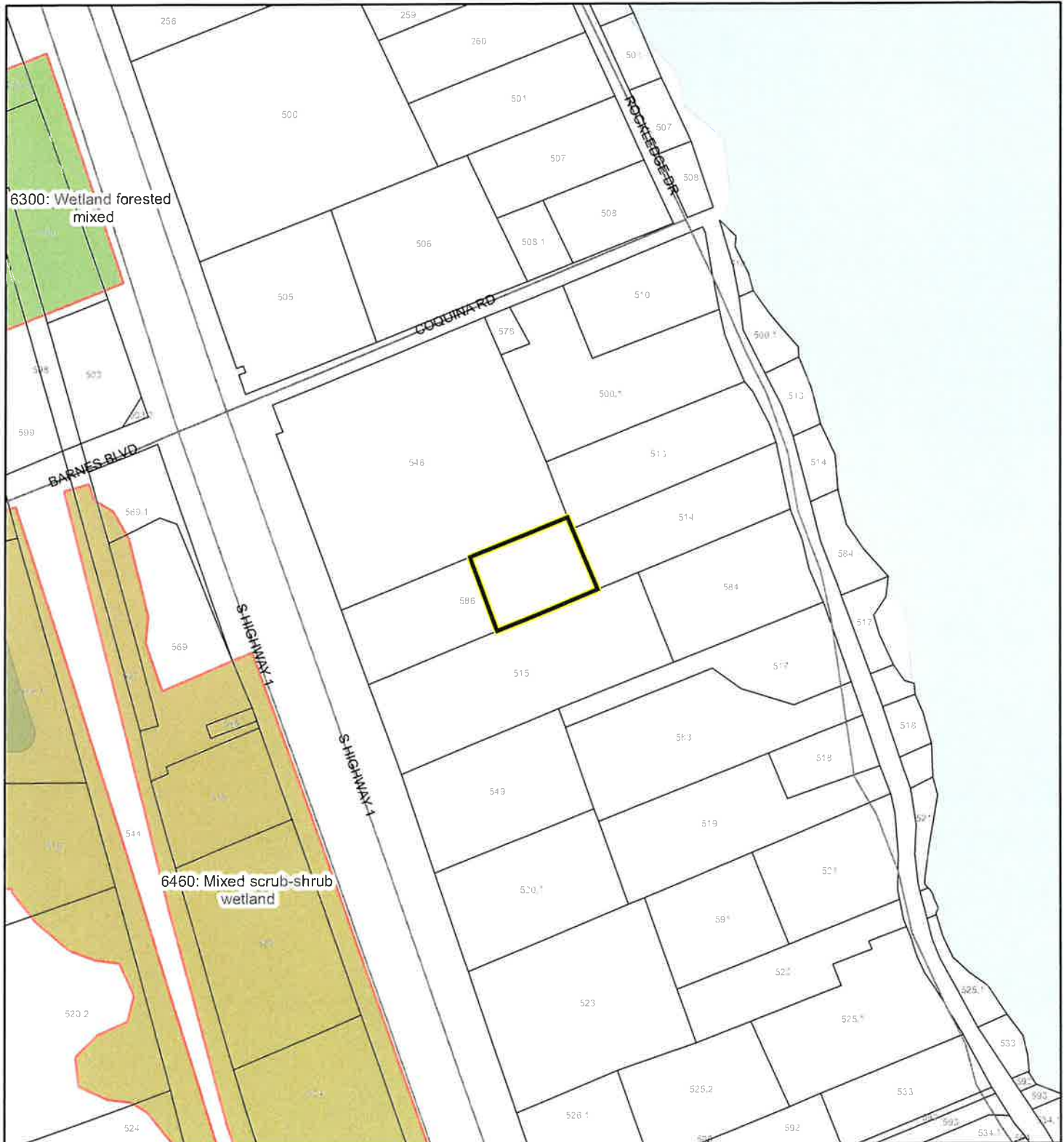
- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



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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

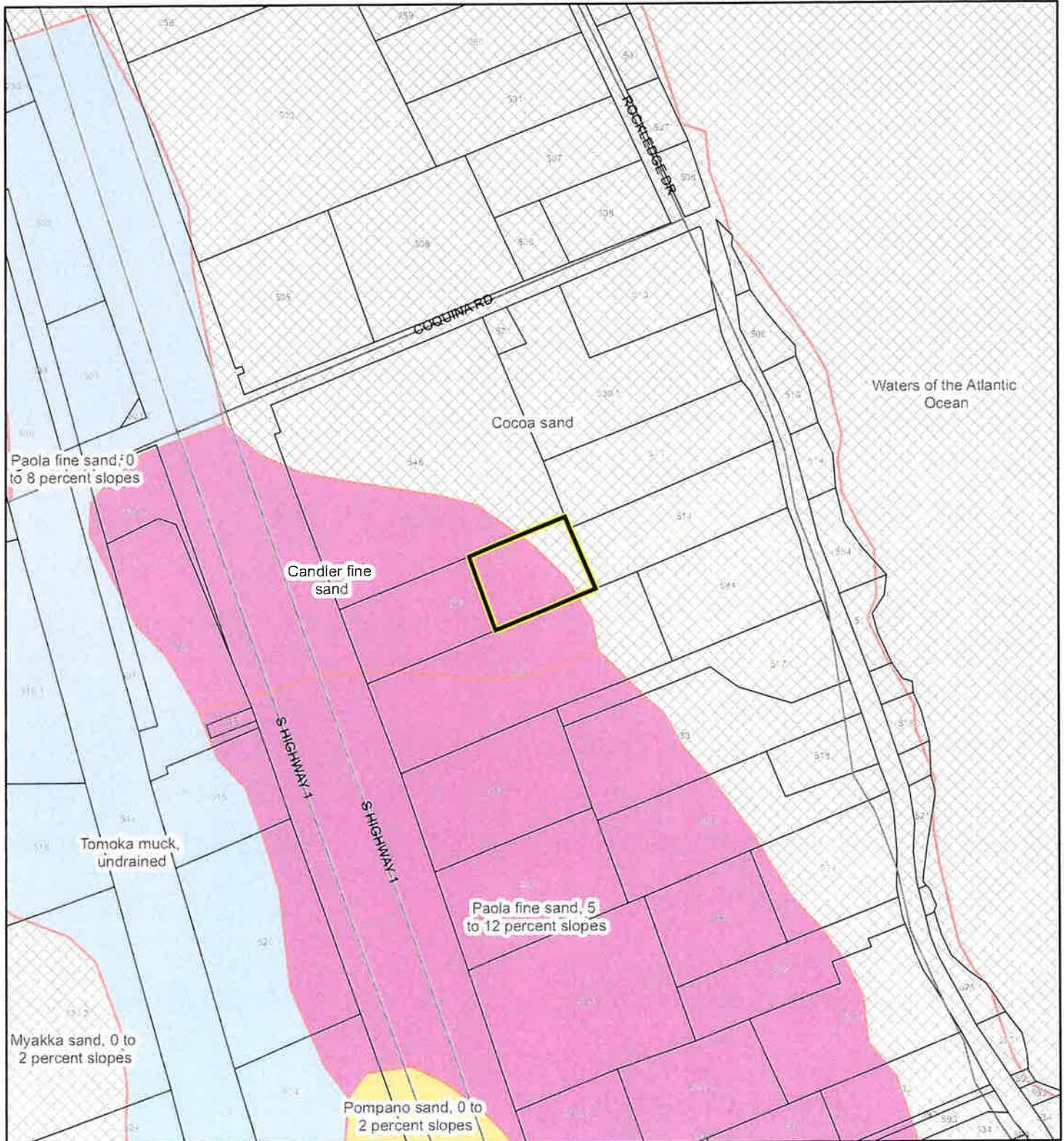
Subject Property

Parcels

USDA SCSSS SOILS MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



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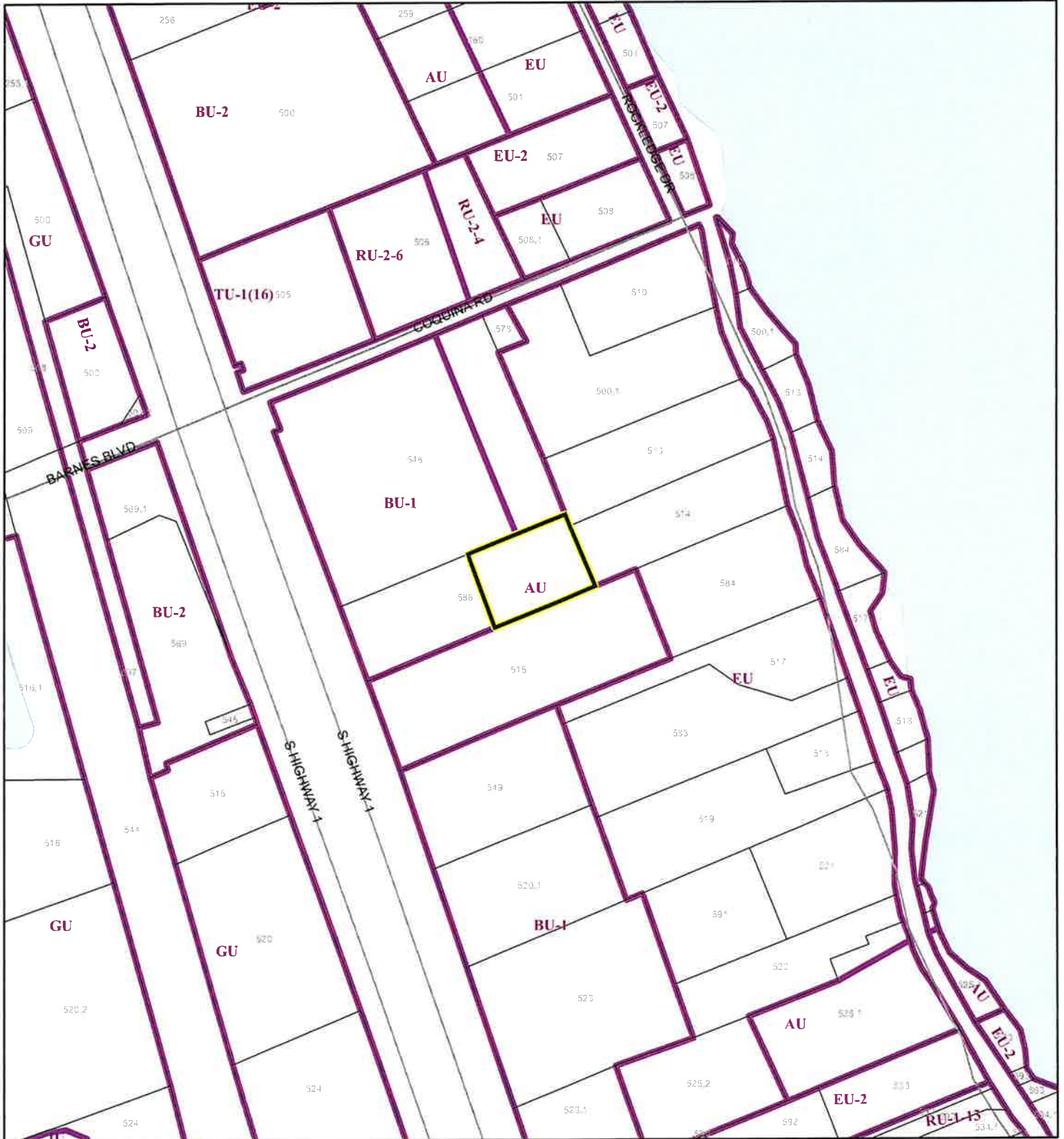
USDA SCSSS Soils

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

ZONING MAP

SEIICHI NODA & KIMBERLY A NODA JOINT REVOCABLE TRUST

24Z00031



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Produced by BoCC - GIS Date: 8/16/2024

- Subject Property
- Parcels
- Zoning