



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.3.

3/13/2025

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### Subject:

Robert and Michelle Matthias (Thomas Brandon) request a change in zoning classification from EU and AU to all EU (24Z00067) (Tax Account 2511107) (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 EU (Estate Use Residential) and AU (Agricultural Residential) to all EU (Estate Use Residential).

### Summary Explanation and Background:

The applicants are requesting to rezone a 0.91-acre parcel from EU (Estate Use) & AU (Agricultural Residential) to all EU. The subject property is developed with a 2-story single-family house built in 1953. There is an active building permit, 23BC16356, for an addition to the existing principal structure. Approval of this request will provide consistent zoning across the entire property.

The EU and AU zoned portions were combined to create the subject property's current configuration in May 1975 and recorded in ORB 1525 PG 395. The subject property is bifurcated by Rockledge Dr. The westerly 0.3 acre, (approximately), portion of the subject property is established with the AU zoning classification. The eastern portion and the portion bifurcated by Rockledge Dr. is approximately 0.5 acre and 0.1 acre, respectively, with EU zoning.

Pursuant to Sec. 62-2116(2), the parcel should be considered one (1) lot despite being bifurcated by a public right of way because neither portion separately meets the minimum lot size of 15,000 square feet for the current EU zoning. The principal structure shall be located on the side with the greater land area.

Zoning action Z-1778 administratively rezoned multiple parcels (including a portion of the subject property) from AU to EU. The effective date of this action is August 8, 1965.

There are no current code enforcement cases attached to the subject property. The subject property is located on a County maintained road.

North of the subject property is a 0.68-acre property improved as a single-family residence with AU and EU

with RES 4 FLU. South of the subject property is a 0.55-acre lot developed as a single-family residence with AU and EU zoning and RES 4 FLU. East of the subject property is the Indian River. West of the subject property is a vacant parcel with BU-2 zoning and CC FLU.

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

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

**Clerk to the Board Instructions:**

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

**Resolution 24Z00067**

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

**WHEREAS, Robert and Michelle Matthias (Thomas Brandon)** request a change in zoning classification from EU (Estate Use Residential) and AU (Agricultural Residential) to EU (Estate Use Residential), on property described as Tax Parcel 260, as recorded in ORB 5424, Pages 7753-7754, of the Public Records of Brevard County, Florida. **Section 23, Township 25, Range 36.** (0.91 acres) Located on the east and west side of Rockledge Dr. and approx. 300 ft. north of Coquina Rd. (1967 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 EU and 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 March 13, 2025.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

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

ATTEST:

  
RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – February 17, 2025

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

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

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

### **Administrative Policy 1**

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

### **Administrative Policy 2**

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

#### **Criteria:**

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

### **Administrative Policy 3**

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

#### **Criteria:**

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

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

#### **Administrative Policy 4**

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

##### **Criteria:**

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

#### **Administrative Policy 5**

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

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

**Criteria:**

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

**Administrative Policy 6**

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

**Administrative Policy 7**

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

**Administrative Policy 8**

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

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

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

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

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

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

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

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

(c) General Standards of Review.

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



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

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

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

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

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

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

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

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

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

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

## DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

## Planning and Development Department

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

### STAFF COMMENTS 24Z00067

**Robert and Michelle Matthias**

#### **EU (Estate Use Residential) and AU (Agricultural Residential) to all EU (Estate Use Residential)**

Tax Account Number: 2511107  
Parcel I.D.: 25-36-23-00-260  
Location: 1967 Rockledge Dr., Rockledge, FL 32955 (District 2)  
Acreage: 0.91 acres

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

#### **Consistency with Land Use Regulations**

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

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	EU & AU	EU
<b>Potential*</b>	0 Single family	1 Single family
<b>Can be Considered under the Future Land Use Map</b>	YES RES 4	YES RES 4

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

#### **Background and Purpose of Request**

The applicants are requesting to rezone a 0.91 acre parcel from EU (Estate Use) & AU (Agricultural Residential) to all EU. The subject property is developed with a 2-story single-family house built in 1953. There is an active building permit, **23BC16356**, for an addition to the existing principal structure. Approval of this request will provide consistent zoning across the entire property.

The EU and AU zoned portions were combined to create the subject property's current configuration in May 1975 and recorded in ORB 1525 PG 395. The subject property is bifurcated by Rockledge Dr. The westerly 0.3 acre, (approximately), portion of the subject

property is established with the AU zoning classification. The eastern portion and the portion bifurcated by Rockledge Dr. is approximately 0.5 acre and 0.1 acre, respectively, with EU zoning.

Pursuant to Sec. 62-2116(2), the parcel should be considered one (1) lot despite being bifurcated by a public right of way because both portions do not meet the minimum lot size of 15,000 square feet for the current EU zoning. The principal structure shall be located on the side with the greater land area.

Zoning action **Z-1778** administratively rezoned multiple parcels (including a portion of the subject property) from AU to EU. The effective date of this action is August 8, 1965.

There are no current code enforcement cases attached to the subject property. The subject property is located on a County maintained road.

### **Surrounding Area**

	<b>Existing Land Use</b>	<b>Zoning</b>	<b>Future Land Use</b>
<b>North</b>	Single-family residence	AU & EU	RES 4
<b>South</b>	Vacant land	EU	RES 4
<b>East</b>	Indian River	N/A	N/A
<b>West</b>	Vacant Land	BU-2	CC

North of the subject property is a 0.68 acre property improved as a single-family residence with AU and EU with RES 4 FLU.

South of the subject property is a 0.55 acre lot developed as a single-family residence with AU and EU zoning and RES 4 FLU. .

East of the subject property is the Indian River.

West of the subject property is a vacant parcel with BU-2 zoning and CC FLU.

EU zoning classification encompasses lands devoted to single-family residential development of a spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surrounding. 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.

AU 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.

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

### **Future Land Use**

The subject property is designated as RES 4 on the Future Land Use Map (FLUM). The EU and AU zoning classifications are consistent with RES 4. The applicant's request can be considered consistent with the proposed Future Land Use.

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

### **Analysis of Administrative Policy #3 - Compatibility between this property and the existing or proposed land uses in the area:**

Compatibility shall be evaluated by considering the following factors, at a minimum:

#### **Criteria:**

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

**The subject property is developed as a single-family residence. Any new development would need to meet Performance Standards defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity. The applicant intends to enlarge the existing primary structure, therefore it is neutral in regards to the enjoyment of safety or quality of life in the existing residential area.**

- 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 area can be categorized as single-family residential with RES 4 FLU designation along the Indian River and Rockledge Dr. Parcels range in size from 0.50 acres to 3.0 acres.**

**To the west is primarily commercial with infrequent residential zoning with NC and CC FLU designations located along US Hwy 1. Parcels range from 0.46 acres to approximately 7 acres in size.**

**There are five (5) FLU designations (RES 4, NC, CC, PUB-CONS and IND) within a 0.5-mile radius of the subject property. RES 4 is the prominent FLU along the Indian River residential corridor.**

**There have been no FLU changes within the past three years or within a 0.5 mile radius of the subject property. The proposed use can be considered consistent with the existing pattern of surrounding development.**

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

**The property located approximately 650 feet north of the subject property on US Highway 1 was approved a rezoning from BU-1 to BU-2 under 22Z00004 on January 22, 2022. The property is being developed with a mini storage facility and includes a BDP (Binding Development Plan) limiting improvements to a single-story building with no outside storage.**

**There has been no other new development within the past three years or within a 0.5 mile radius.**

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

**There have been two rezoning applications approved within the past three years.**

**22Z00015 was rezoned from AU to BU-1 with a Binding Development Plan (BDP) on March 23, 2023. The conditions restrict the owner/developer to two (2) new duplexes with high nutrient septic. The property is approximately 370 feet south of the subject property.**

**24Z00031 was rezoned from AU to EU October 03, 2024. The parcel is approximately 700 feet south of the subject property.**

- 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.

**Zoning classifications within a 0.5 mile radius of the subject property and east of US Highway 1 include AU (Agricultural residential), RR-1 (Rural residential), EU (Estate use residential), EU-2 (Estate use residential 2), RU-1-13, (Single-family residential), RP (Residential Professional), RU-2-10 (Multi-family residential), TU-1 (Tourist commercial), BU-1 (General retail commercial), and BU-2 (Retail, warehousing and wholesale commercial).**

**Zoning classifications west of US Highway 1 include RRMH-1 (Rural residential mobile home), GU (General use), RR-1 (Rural residential), IU (Light industrial) and TR-1 (Single-family mobile home).**

**A preliminary concurrency analysis does not indicate that the proposed request would materially or adversely impact the surrounding residential area. Enlarging the existing single-family residence does not increase the corridor's operating capacity.**

- 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 the subject property is not located in an established residential neighborhood. However, it can be considered a residential area with clearly established roads and residential lot 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 is not for commercial use.**



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

**The applicant is not requesting a rezoning for commercial, industrial or other non-residential uses. One (1) commercial rezoning from BU-1 to BU-2 was approved during the previous five (5) years located in the existing commercial corridor along US Highway 1.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US Highway 1 located between Barnes Boulevard and Eyster 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 73.14% of capacity daily. The maximum development potential from the proposed rezoning has no impact as the use remains one single-family residence. The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is within the City of Cocoa public potable water service and septic service.

### **Environmental Constraints**

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

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

### **For Board Consideration**

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

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item No. 24Z00067**

**Applicant:** Thomas Brandon (Owners: Robert and Michelle Matthias)

**Zoning Request:** AU and EU to all EU

**Note:** for zoning consistency (to correct split zoning)

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

**Tax ID No.:** 2511107 (0.91 ac)

- 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:**

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

**Land Use Comments:**

**Coastal High Hazard Area**

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

## **Floodplain Protection**

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

## **Indian River Lagoon Nitrogen Reduction Septic Overlay**

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

## **Surface Waters of the State**

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

## **Protected and Specimen Trees**

Protected ( $\geq 10$  inches in diameter) and Specimen Trees ( $\geq 24$  inches in diameter) may 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.**



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

2725 Judge Fran Jamieson Way

Building A, Room

114 Viera,

Florida 32940

(321)633-2070 Phone / (321)633-2074 Fax

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

**Addendum #1 To 24Z00067 Robert and Michelle Matthias (Thomas Brandon) Staff Comments**

This addendum provides a clarification to the staff analysis provided in the Staff Comments presented to Local Planning Agency (LPA) for the February 17, 2025 hearing.

The applicants are requesting to rezone a 0.91-acre parcel from EU (Estate Use) & AU (Agricultural Residential) to all EU. The subject property is developed with a 2-story single-family house built in 1953. There is an active building permit, 23BC16356, for an addition to the existing principal structure.

**Staff changes:**

The following changes to the Natural Resources Management Staff Comments:

- Sentence removed under Land Use Comments: Coastal High Hazard Area - The parcel may be susceptible to nuisance flooding.
- Sentence added under Land Use Comments: Coastal High Hazard Area - Objective 7 of the Coastal Management Element aims to limit densities within the Coastal High Hazard Area and direct development outside of this area.

The *revised* NRM comments are attached.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Zoning Review & Summary**  
**Item No. 24Z00067**

**Applicant:** Thomas Brandon (Owners: Robert and Michelle Matthias)

**Zoning Request:** AU and EU to all EU

**Note:** for zoning consistency (to correct split zoning)

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

**Tax ID No.:** 2511107 (0.91 ac)

- 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:**

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

**Land Use Comments:**

**Coastal High Hazard Area**

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

**Floodplain Protection**

The very eastern portion of the property, on the IRL shoreline, is mapped as Special Flood Hazard Area (SFHA) AE, as identified by the Federal Emergency Management Agency (FEMA), and as shown on the FEMA Flood Map. The parcel is subject to the development criteria in Conservation Element Objective 4, its subsequent policies, and the Floodplain Ordinance. Chapter 62, Article X, Division 6 states, "No site alteration shall adversely affect the existing surface water flow pattern." Chapter 62, Article X,

Division 5, Section 62-3723 (2) states, "Development within floodplain areas shall not have adverse impacts upon adjoining properties."

#### **Indian River Lagoon Nitrogen Reduction Septic Overlay**

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

#### **Surface Waters of the State**

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

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

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

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

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

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

### **Excerpt of complete agenda**

#### **Item H.3. Robert and Michelle Matthias (Thomas Brandon) request a change in zoning classification from EU and AU to all EU (24Z00067) (Tax Account 2511107) (District 2)**

Trina Gilliam read the application into the record.

Thomas Brandon spoke to the application. His clients currently have a house that's on Rockledge Drive that's about .98 acres. The zoning is split on this site, where it is part EU and part AU. We can not go forward with permitting until we've consolidated the zoning to all EU. They're looking to do a large addition to the home on the property.

There was no public comment.

Henry Minneboo inquired if it goes across Barnes and becomes Coquina.

Mr. Thomas responded that it is right behind the old Harvey's Road, right there on the river.

Henry Minneboo asked how large the parcel is.

Mr. Thomas responded it is about 0.9 acres. Just under an acre.

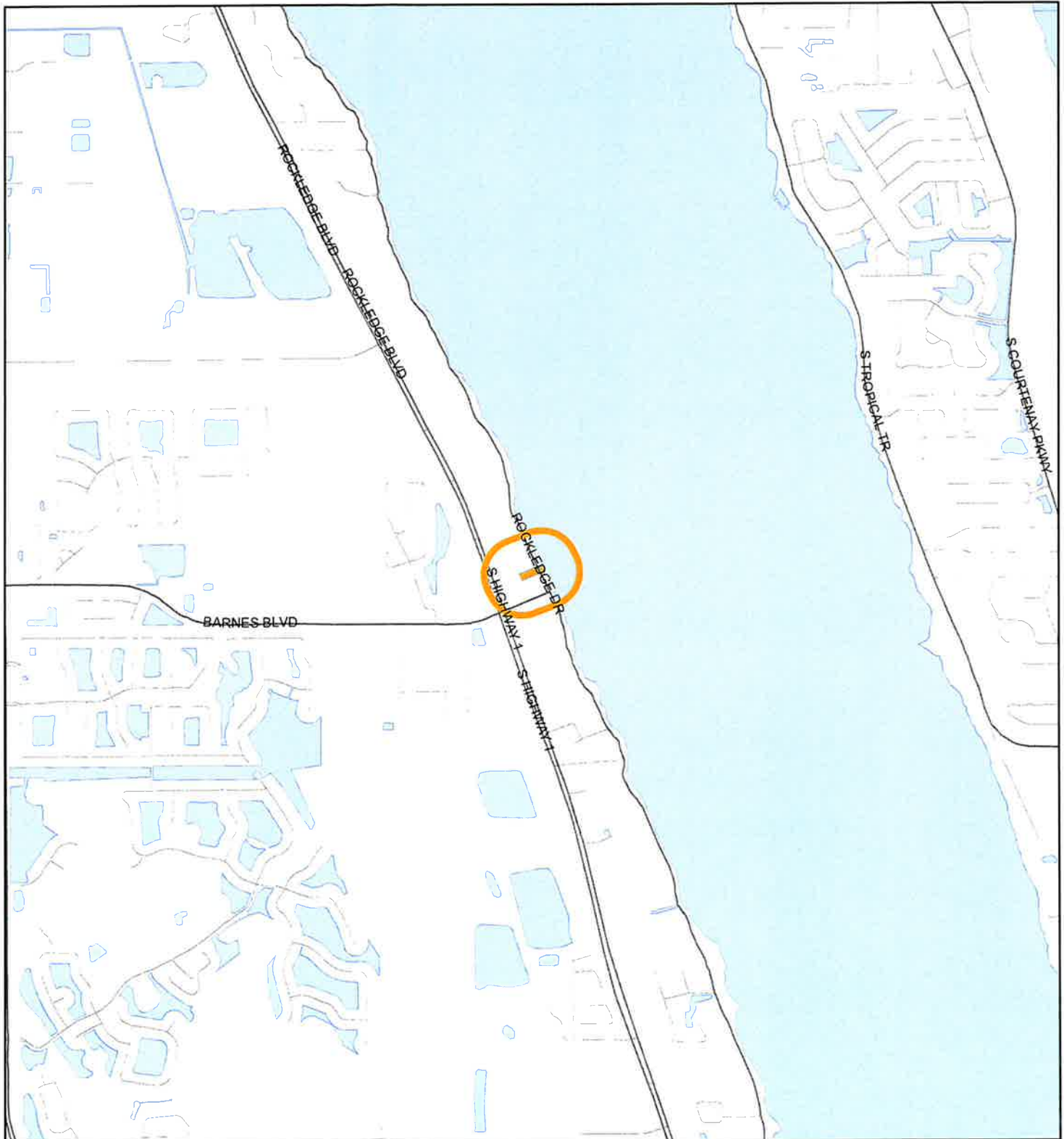
Motion to recommend approval of Item H.3. by Henry Minneboo, seconded by John Hopengarten. The motion passed unanimously.

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



# LOCATION MAP

Matthias, Robert & Michelle  
24Z00067



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

Buffer Distance: 500 feet

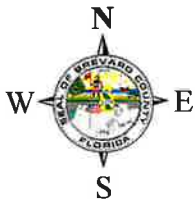
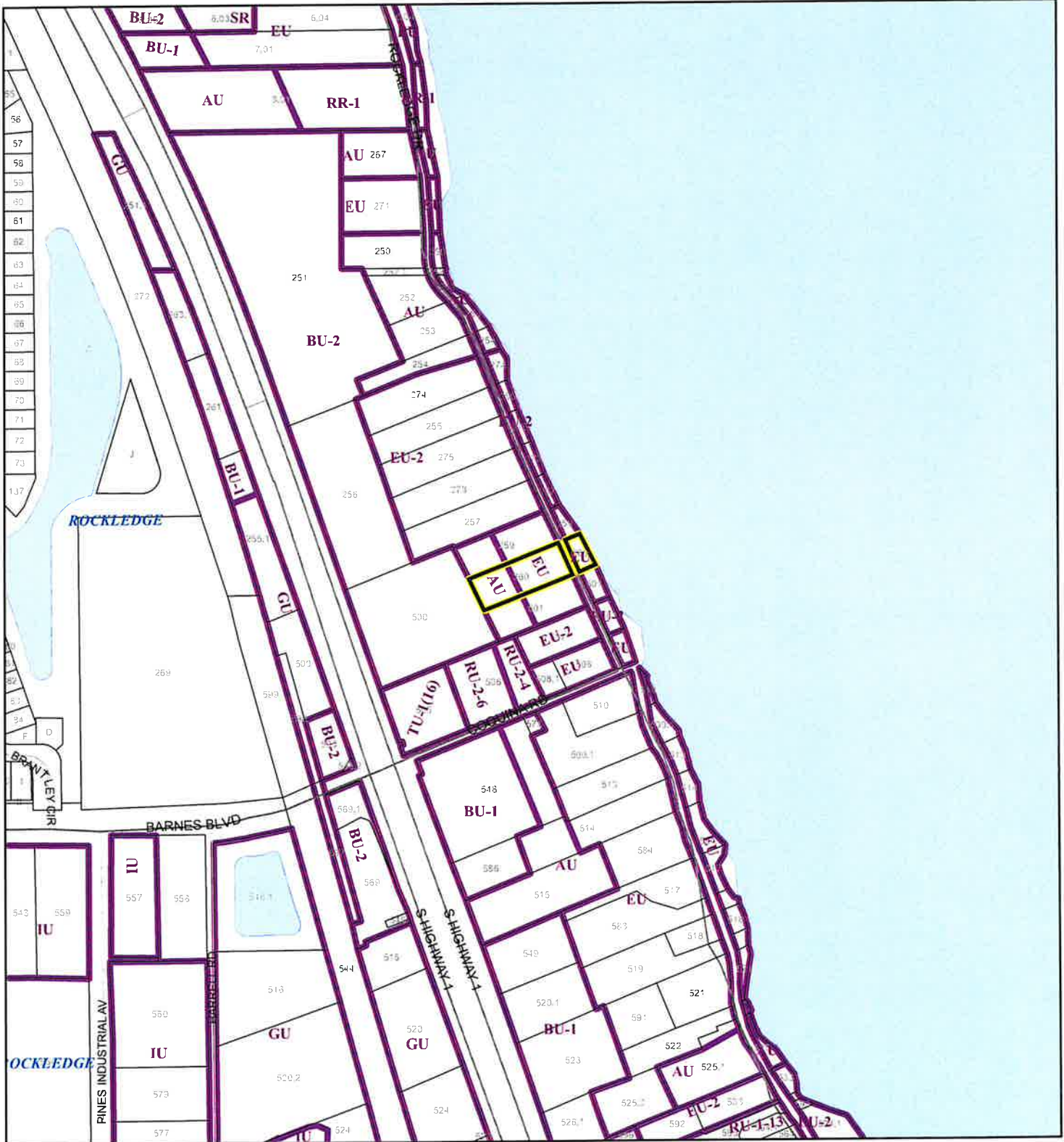
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 12/6/2024

Buffer  
Subject Property

# ZONING MAP

Matthias, Robert & Michelle  
24Z00067



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: 12/6/2024

Subject Property

Parcels

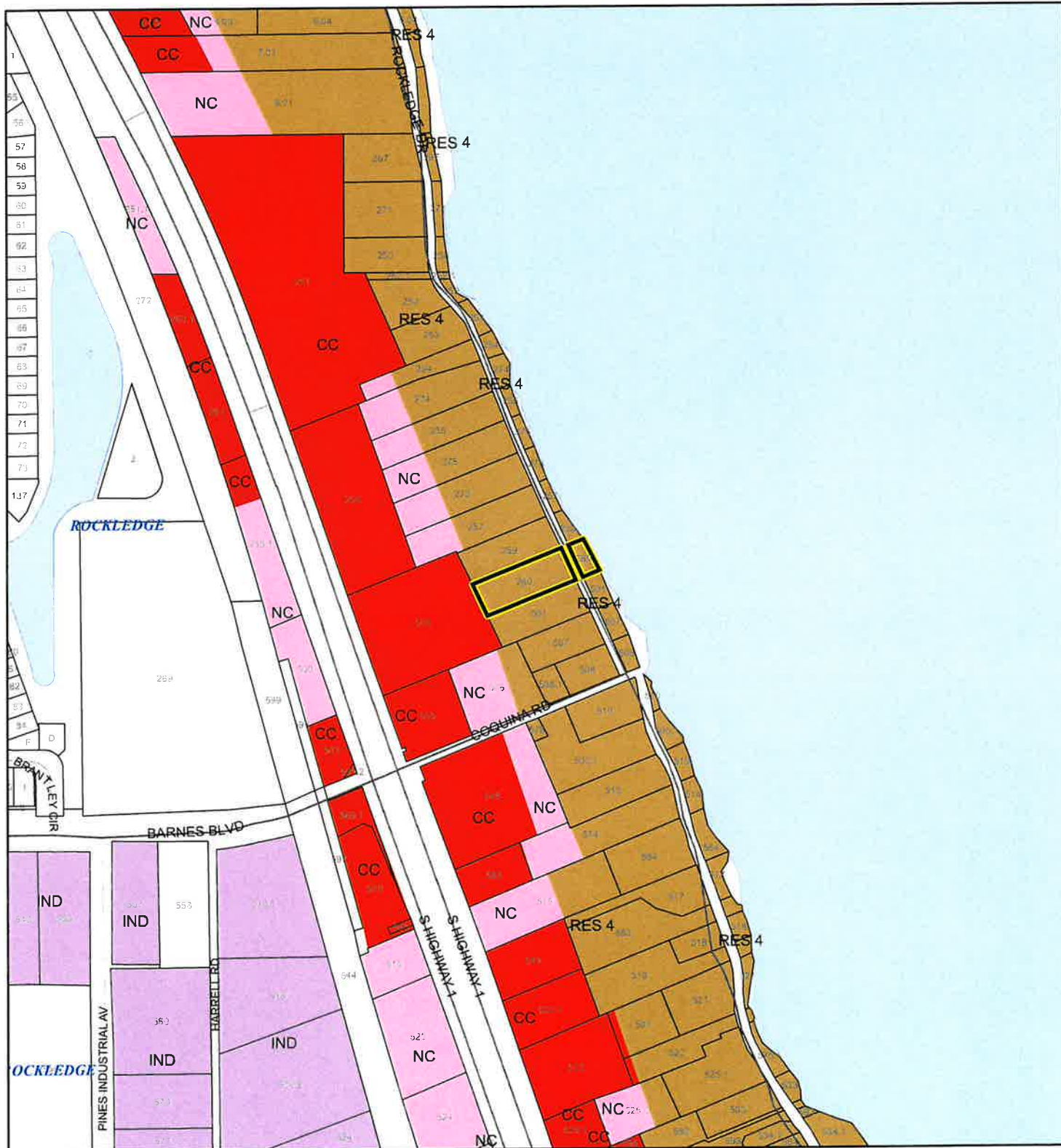
Zoning



# FUTURE LAND USE MAP

Matthias, Robert & Michelle

24Z00067



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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Produced by BoCC - GIS Date: 12/6/2024



# AERIAL MAP

Matthias, Robert & Michelle

24Z00067



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2024

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Produced by BoCC - GIS Date: 12/6/2024

 Subject Property

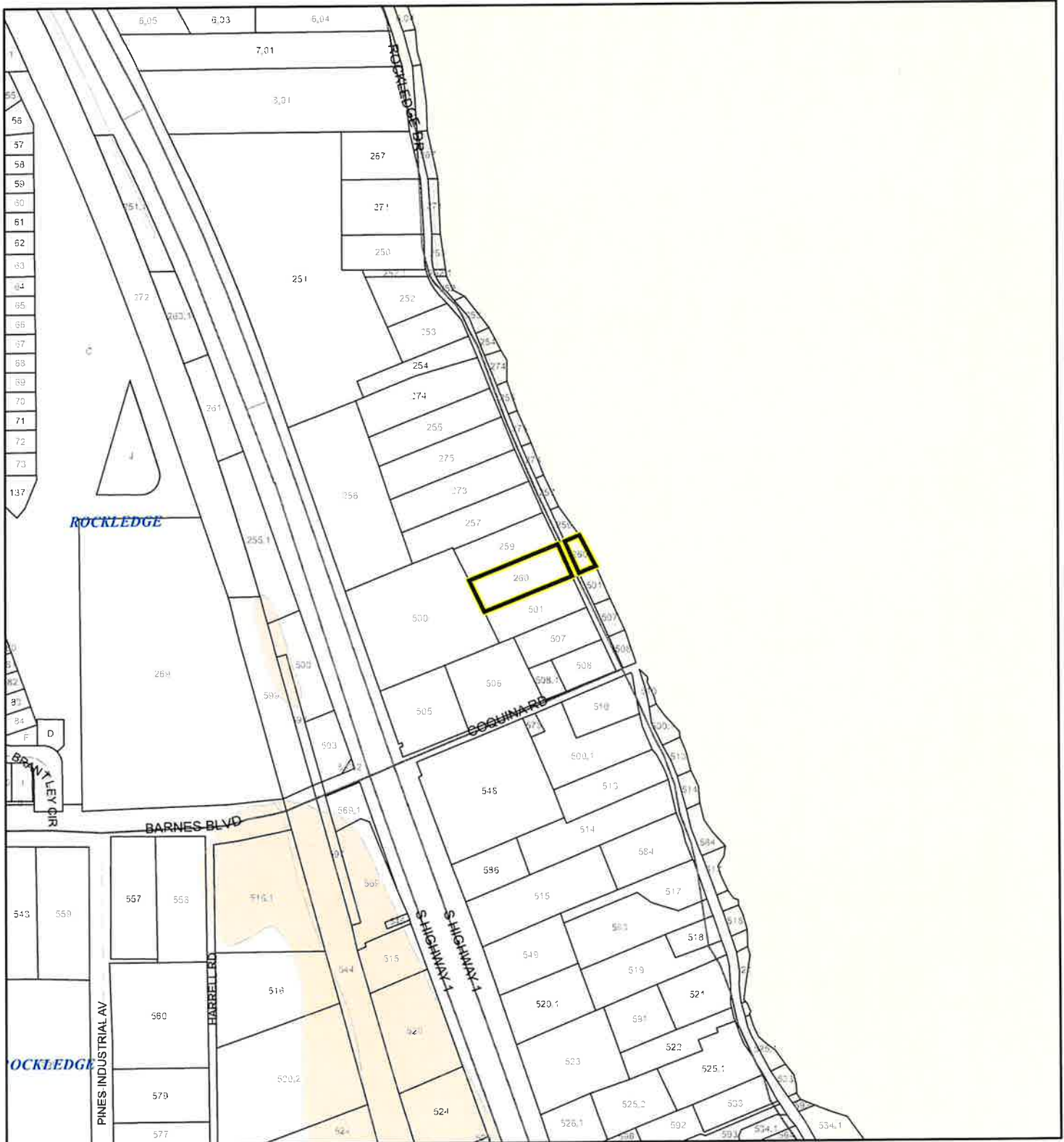
 Parcels



# NWI WETLANDS MAP

Matthias, Robert & Michelle

24Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/6/2024

## National Wetlands Inventory (NWI)

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

# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

Matthias, Robert & Michelle

24Z00067



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

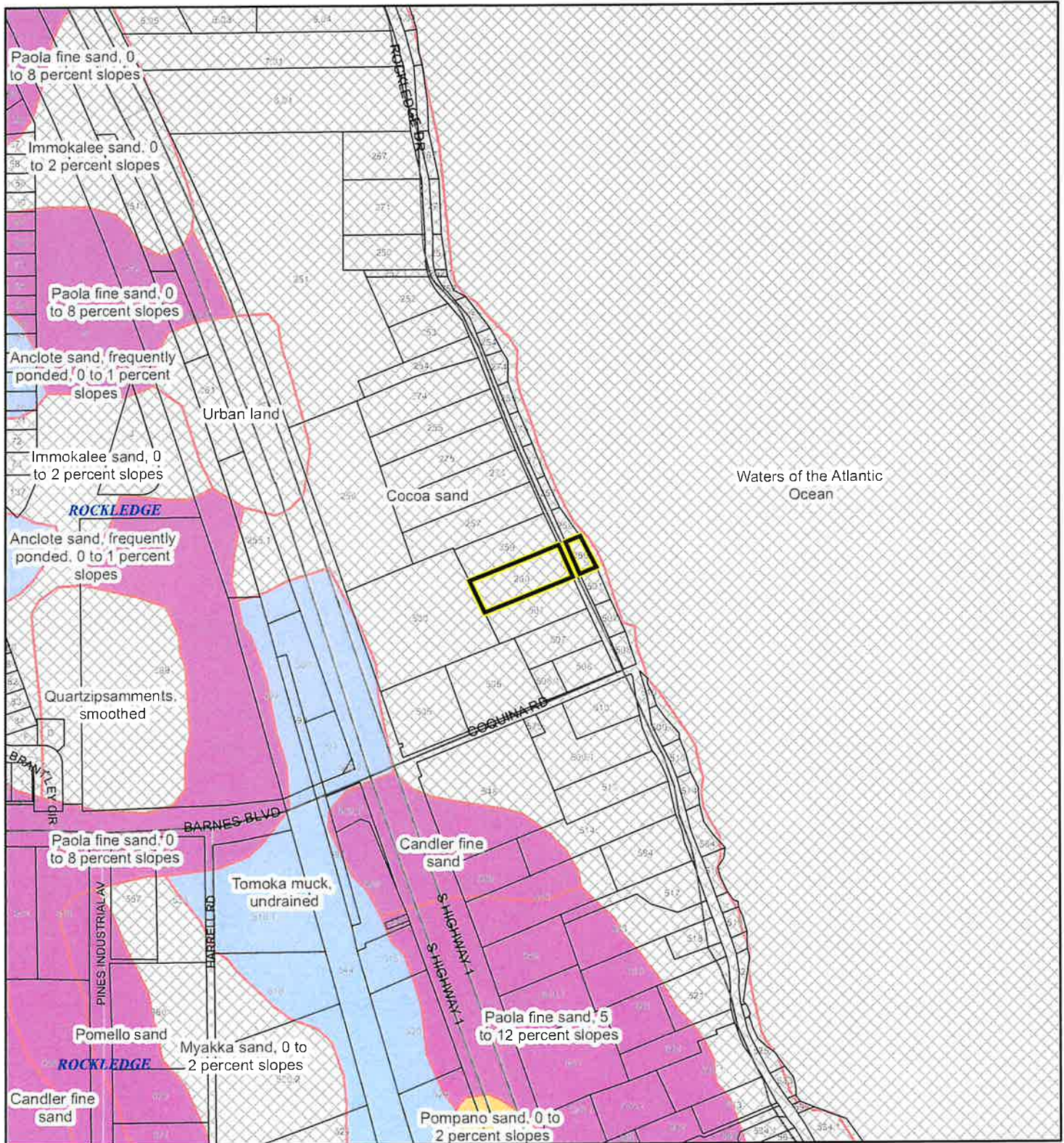
Parcels



# USDA SCSSS SOILS MAP

Matthias, Robert & Michelle

24Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/6/2024

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

Subject Property

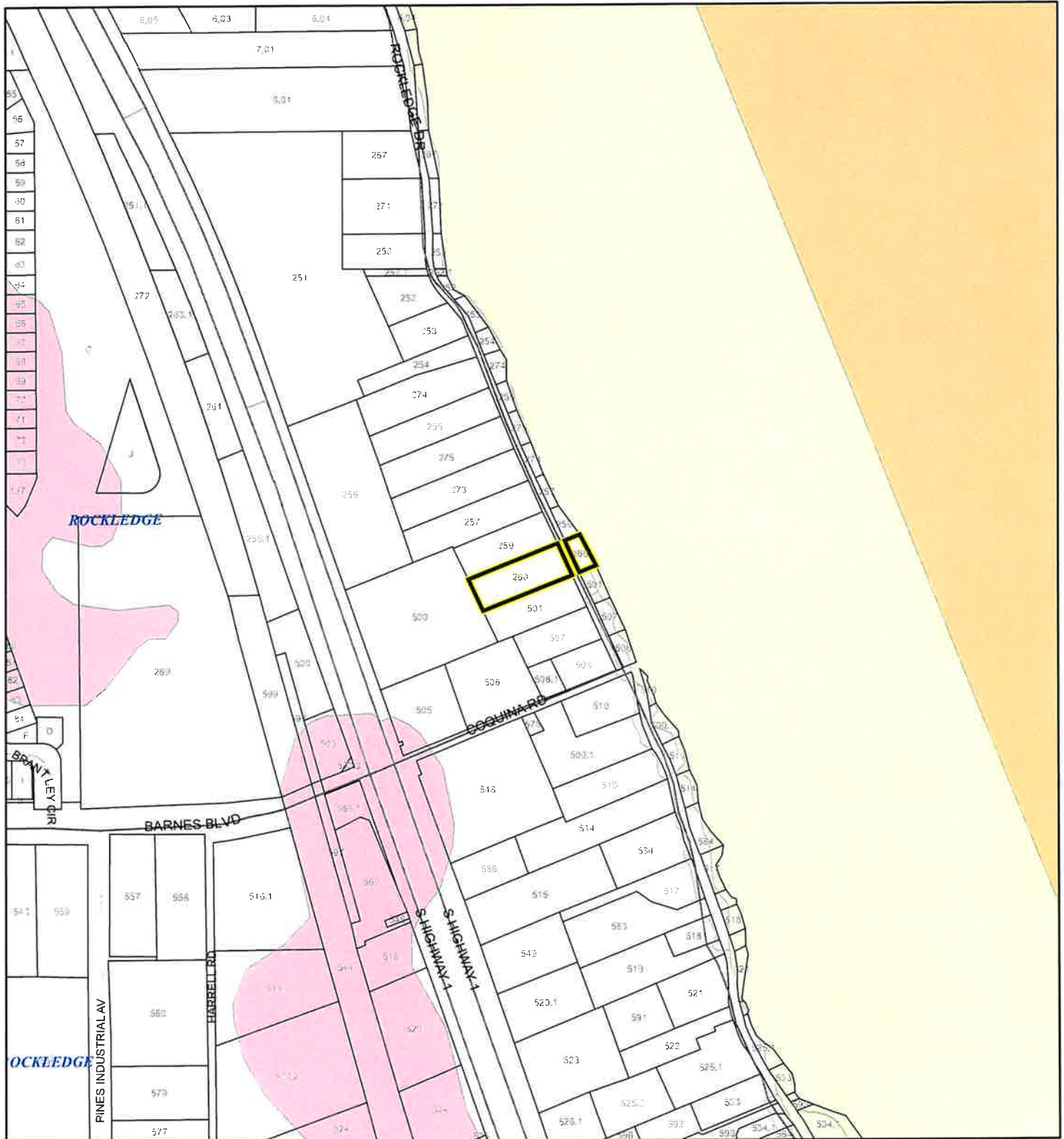
Parcels



# FEMA FLOOD ZONES MAP

Matthias, Robert & Michelle

24Z00067












1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/6/2024

**FEMA Flood Zones**

 A	 AO	 X
 AE	 Open Water	
 AH	 VE	

 Subject Property
  Parcels



# COASTAL HIGH HAZARD AREA MAP

Matthias, Robert & Michelle

24Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/6/2024

Subject Property

Parcels

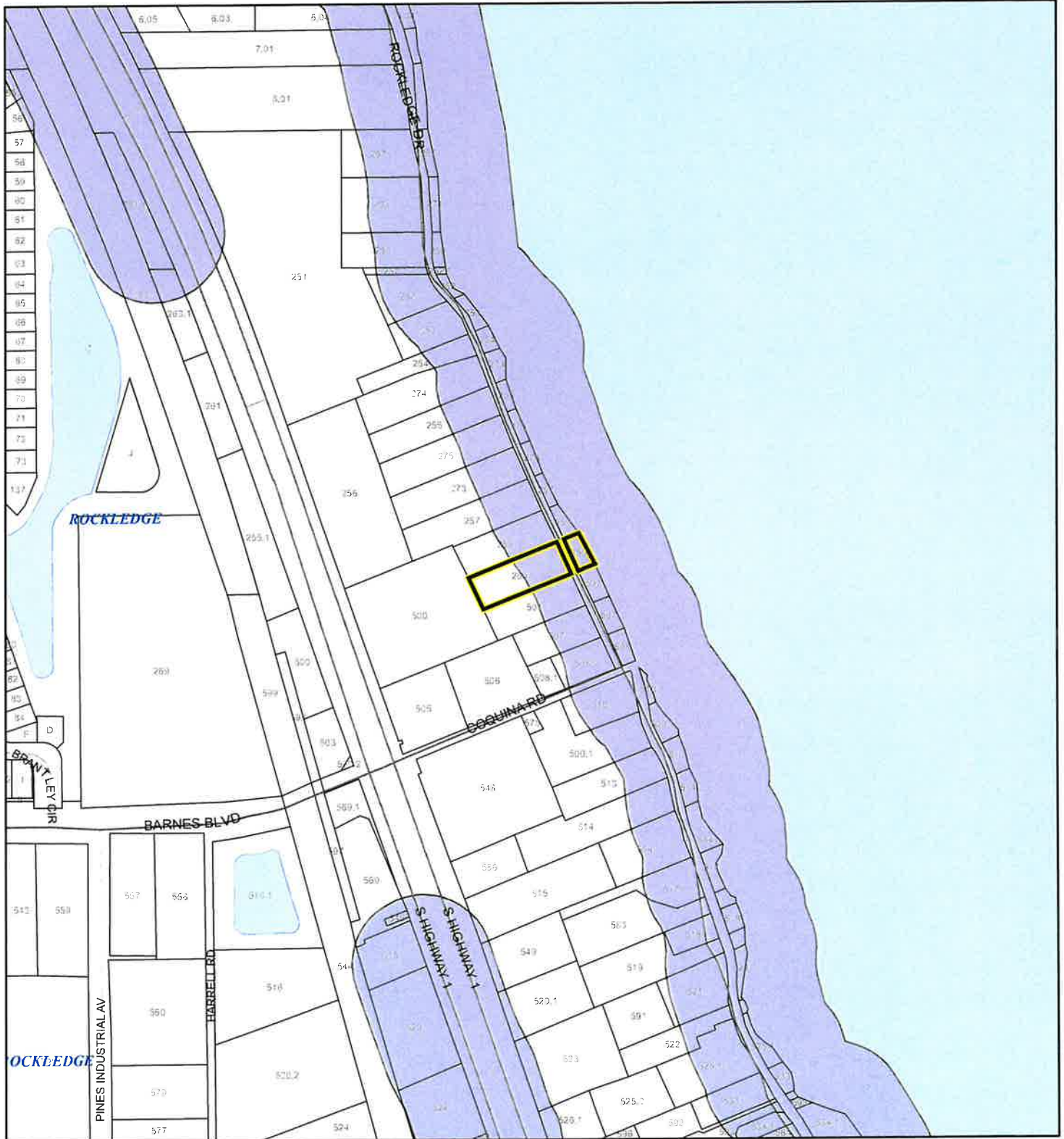
Coastal High Hazard Area

SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Matthias, Robert & Michelle

24Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/6/2024

 Subject Property

 Parcels

## Septic Overlay

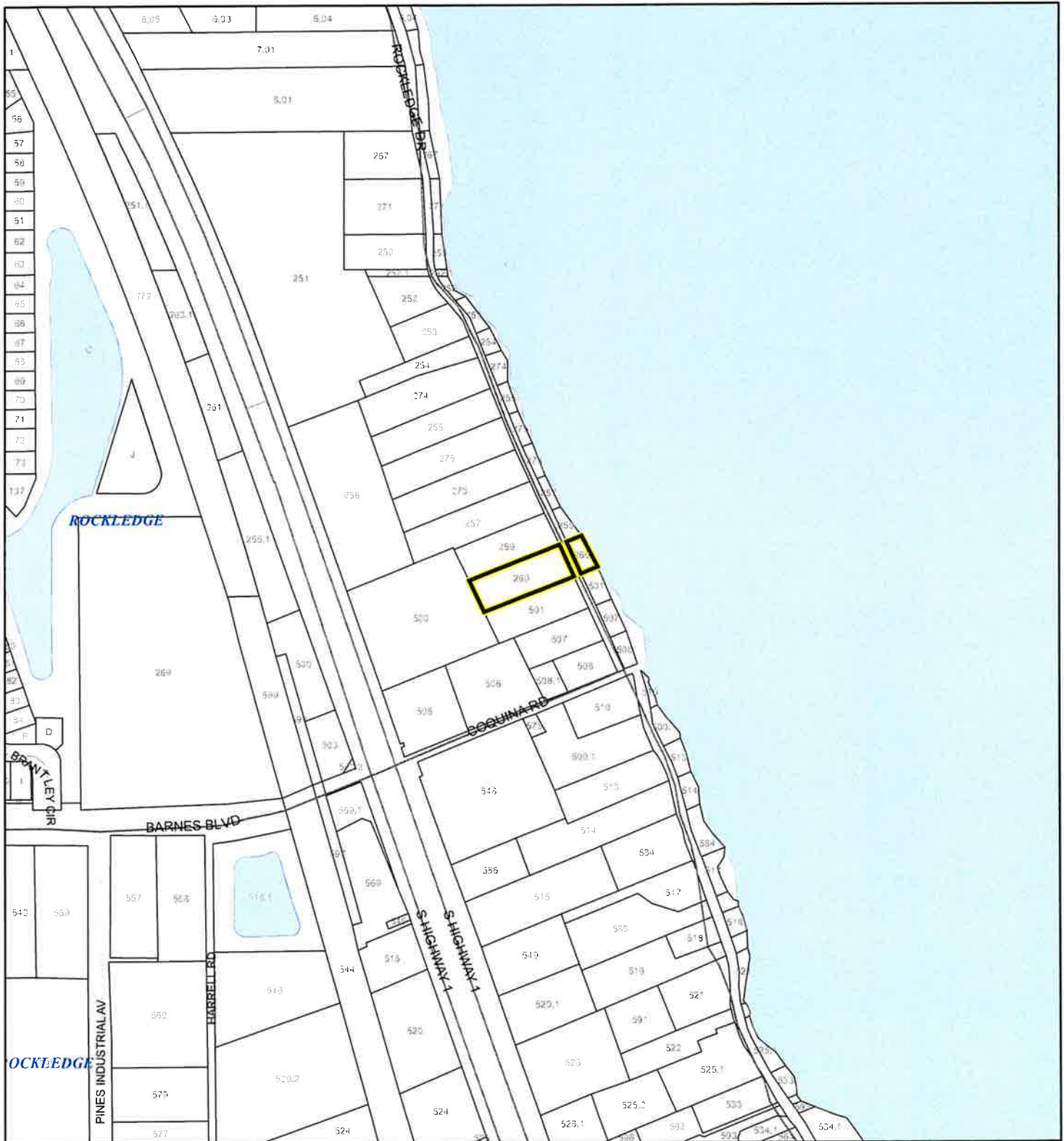
 40 Meters

 60 Meters

 All Distances



24Z00067



1:4,800      or 1 inch = 400 feet

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Produced by BoCC - GIS    Date: 12/6/2024

**Subject Property**

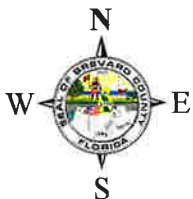
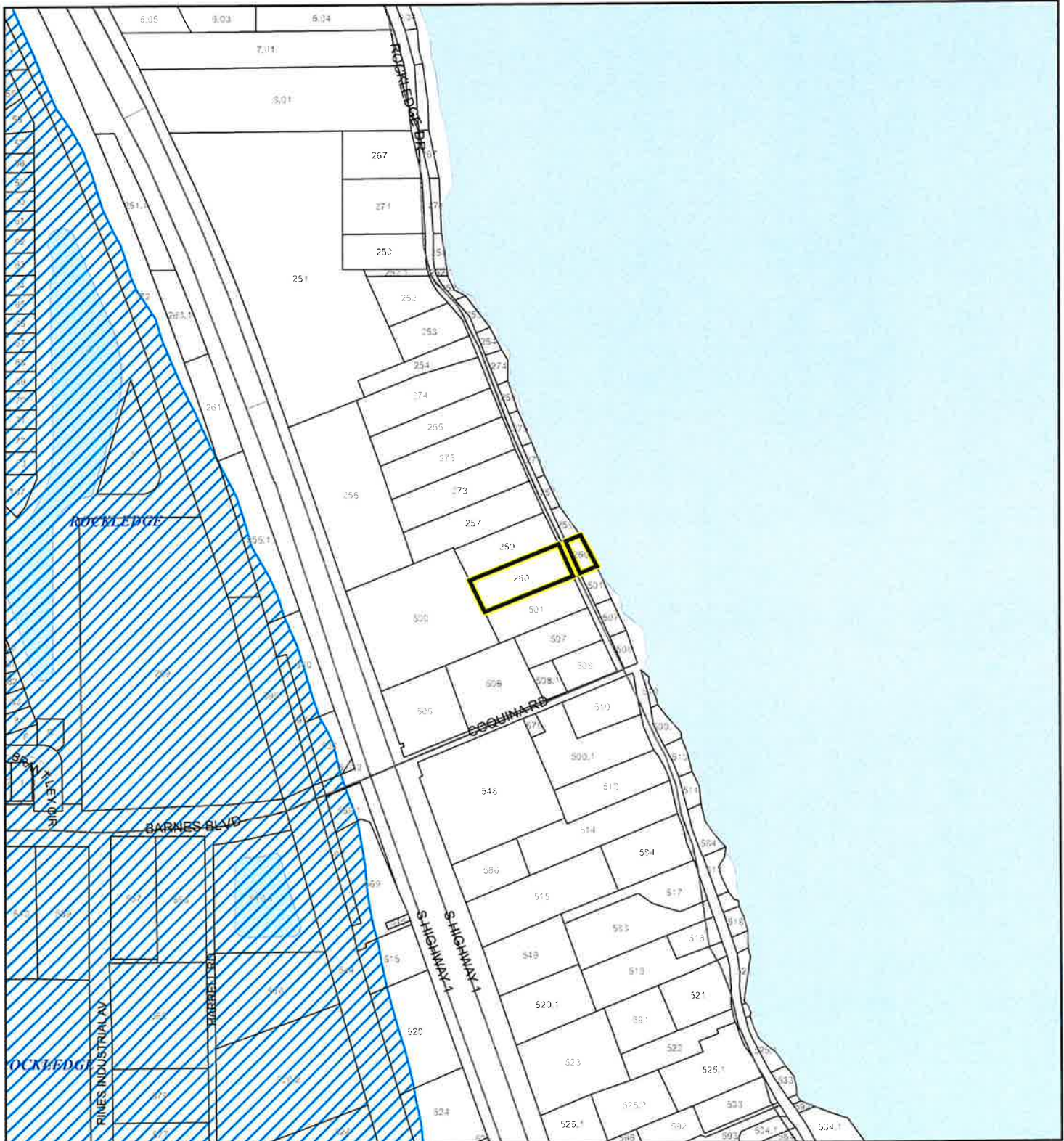
☐ Parcels

Eagle Nests  
FWS

# SCRUB JAY OCCUPANCY MAP

Matthias, Robert & Michelle




24Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/6/2024

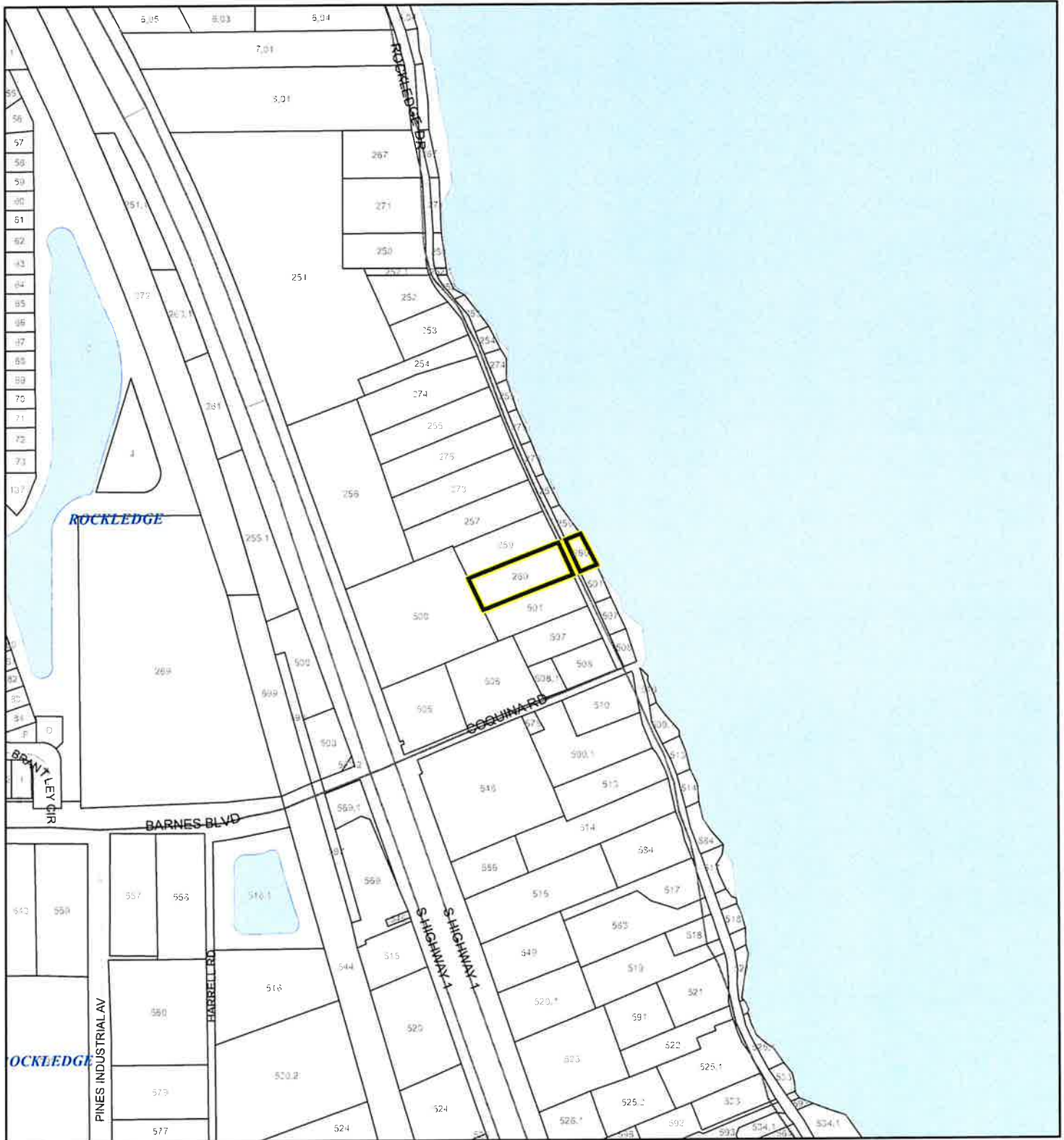
-  Subject Property
-  Parcels
-  Scrub Jay Occupancy



# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Matthias, Robert & Michelle

24Z00067



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 12/6/2024

## SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

**Board Meeting Date**

March 13, 2025

Item Number: H.3

Motion By: TG

Second By: KA

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

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