



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

G.4.

5/2/2024

### Subject:

William & Jeanette Gonedridge requests a changes of zoning classification from RR-1 to AU(L) and removal of an existing BDP. (24Z00003) (Tax Account 2000372) (District 1)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RR-1 (Rural Residential) to AUL (Agricultural Residential Low Intensity) with the removal of an existing BDP (Binding Development Plan).

### Summary Explanation and Background:

The applicants are requesting to rezone the property from RR-1 (Rural Residential) to AU(L) (Agriculture Residential Low Intensity) with the removal of an existing BDP limiting the development to two (2) lots. The applicants propose to construct a barn for personal use without an existing principal structure.

In 2022, the home on the property was demolished and the subject parcel was rezoned from AU to RR-1 (via 22Z00018) for the purpose of having two lots. The applicants are now requesting the removal of the existing Binding Development Plan (BDP) and a change to AU(L) on the 3.33-acre site.

The requested zoning of AU(L) zoning classification permits single-family residences and agricultural pursuits on a minimum 2.5 acre lot. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities.

The predominate zoning classification in the surrounding area is RR-1 with AU zoning to the west and SR (Suburban Residential) and RU-1-9 (Residential Single-Family) zoning to the east.

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

On April 15, 2024, the Planning and Zoning Board heard the request and unanimously recommended approval.

### Clerk to the Board Instructions:

None

## **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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(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS  
24Z00003**

**William and Jeanette Gonedridge**

**RR-1 (Rural Residential) with BDP to AU(L) (Agricultural Residential Low Intensity) and  
removal of BDP**

Tax Account Number: 2000372  
Parcel I.D.: 20-35-31-00-519  
Location: 3660 Lionel Rd, Mims, FL 32754 (District 1)  
Acreage: 3.33 acres

Planning & Zoning Board: 04/15/2024  
Board of County Commissioners: 05/02/2024

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	RR-1 with BDP	AU(L) and removal of BDP
<b>Potential*</b>	2 single-family	1 single-family
<b>Can be Considered under the Future Land Use Map</b>	YES RES 2	YES RES 2

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

**Background and Purpose of Request**

The applicants are requesting to rezone the property from RR-1 (Rural Residential) to AU(L) (Agriculture Low Intensity) and the removal of existing BDP limiting development to two (2) lots. The applicants propose to construct a barn for personal use without an existing principal structure.

In 2022, the home on the property was demolished and the subject parcel was rezoned from AU to RR-1 (via 22Z00018) for the purpose of having two lots. The applicants are now requesting the removal of the existing Binding Development Plan (BDP) and a change to AU(L) on the 3.33 acre site.

The subject parcel was recorded into the Official Record Book 882, page 584, in July 1966.

The 3.33 acre subject parcel meets the requirements for the RES 2 FLU designation as residential densities in residential land use designations cannot exceed two dwelling units per 1 acre.

The subject property is undeveloped and has frontage on Lionel Rd, a county-maintained roadway. At this time, there are no active code enforcement cases associated with the subject parcel.

### Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single Family Residential	RR-1	RES 2
South	Road Right-of-Way/ Public School	GML(I)	RES 2
East	Single Family Residential	SR & RU-1-9	RES 2
West	Vacant	AU	RES 2

The subject property's current zoning of RR-1 permits single-family residential land uses on a minimum one-acre lot, with a minimum lot width and depth of 125 feet. The RR-1 classification permits horses, barns, and horticulture as accessory uses to a single-family residence. The minimum house size is 1,200 square feet.

The requested zoning of AU(L) zoning classification permits single-family residences and agricultural pursuits on 2 ½ acre lots for personal use, with a minimum lot width and depth of 150 feet. The minimum house size in AU(L) is 750 square feet. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities.

The 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 permits all agricultural pursuits, including the raising/grazing of animals, plant nurseries, and the packing and processing of commodities raised on site. Conditional uses in AU include hog farms, zoological parks, and land alteration. The keeping of horses and agricultural uses are accessory to a principal residence within RR-1 zoning.

Florida Statute 570.86 defines "agritourism activity" as "any agricultural related activity consistent with a bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions." Local government is prohibited from adopting ordinances,

regulations, rules, or policies that prohibit, restrict, regulate, or otherwise limit an agritourism activity on land that has been classified as agricultural land. At this time, there is no agricultural exemption on the subject property.

The SR zoning classification permits single-family residential land uses on a minimum one-half acre lot, with a minimum width of 100 feet and minimum depth of 150 feet. The minimum house size is 1,300 square feet. The SR zoning classification permits one single-family residential detached dwelling.

The RU-1-9 zoning classification permits single-family residential land uses on a minimum area of 6,600 square feet, with a minimum width of 66 feet and a minimum depth of 100 feet. The minimum house size is 900 square feet. The RU-1-9 zoning classification permits one single-family residential detached dwelling.

The GML(I) zoning classification for government managed lands designated as institutional, permits schools, hospitals, and fire stations. The minimum lot size required is 7,500 square feet, with a width and depth of 75 feet. The minimum building area required is 300 square feet.

## **Land Use**

The subject property is currently designated as Residential 2 (RES 2) FLU. The proposed AU(L) zoning can be considered consistent with the existing RES 2 FLU designation.

**FLUE Policy 1.8** –The Residential 2 Future land use designation. The Residential 2 land use designation permits lower density residential development with a maximum density of up to two (2) dwelling units per acre, except as otherwise may be provided for within the Future Land Use Element.

The applicants' request can be considered consistent with the existing Future Land Use.

## **Applicable Land Use Policies**

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

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

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

### **Criteria:**

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

**The proposal is not anticipated to diminish the enjoyment of, safety, or quality of life in existing neighborhoods within the area.**

**In the RR-1 zoning classification, the raising of farm animals and fowl for personal, non-commercial use is allowed as a conditional use. On lots larger than 2 ½ acres, cattle, fowl, goats, bees, rabbits, and one hog are permitted.**

**In the AU(L) zoning classification, agricultural pursuits of a personal, non-commercial nature are permitted. Structures for the housing of livestock and animals is permitted a maximum of 100 feet from an existing residence under a different ownership.**

- 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.

**Only a certified MAI (Master Appraisers 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) FLU designations (RES 1, RES 1:2.5, RES 2, RES 4, CC, and NC) within one-half mile of this site. The predominant FLU designation is RES 2. There is one (1) pending FLU change within one-half mile, recorded as 22SS00013 to CC.**

**Property sizes in the immediate area range from 0.5 acres to 19 acres. The immediate surrounding area is developed as single-family residential homes, with a school to the south and general retail to the south and west.**

**There has been one (1) zoning change approved within one-half mile over the preceding three (3) years:**

**22Z00050 was a zoning change from AU and RU-1-9 to SR, for the purpose of a single-family home, with a resolution date of December 1, 2022.**

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

**There have been two (2) single-family residences constructed in this area within the preceding three (3) years, one of which directly abuts the subject parcel to the east. There has been one retail store and one warehouse constructed within this area within the preceding three (3) years.**

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

**There has not been any development approved but not yet constructed within this area in the preceding three (3) years.**

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

**No material violation of relevant policies has been identified.**

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

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

Criteria:

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

**The predominate zoning classification in the area is RR-1. The proposed use, a barn for personal use, is not anticipated to adversely impact the area.**

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

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

**The area does not have clearly defined boundaries to establish a residential neighborhood. The area is predominantly developed as residential with RR-1 zoning.**

- 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 subject parcel is not requesting to be rezoned for commercial uses.**

- 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 subject parcel is not requesting to be rezoned for commercial, industrial, or other non-residential uses.**

**Analysis of Administrative Policy #7**

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

The subject parcel contains mapped wetlands; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal. The wetland delineation shall be verified at time of building permit.**

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is US-1, from Lionel Rd. to Burkholm Rd., which has a Maximum Acceptable Volume (MAV) of 40,300 trips per day, a Level of Service (LOS) of C, and currently operates at 25.91% of capacity daily. The maximum development potential from the proposed rezoning decreases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 25.89% of capacity daily. The proposal is not anticipated to create any 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 located in the Mims Water service area for potable water. The subject property is not serviced by Brevard County sewer. The closest sewer line is approximately 0.7 miles to the west.

### **Environmental Constraints**

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

The subject parcel contains mapped wetlands; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.** The wetland delineation shall be verified at time of site plan submittal.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands **provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use, with state-approved Best Management Practices, on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.**

**Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres** unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. **This**

**density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 65-3694(c)(6).** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

#### **Aquifer Recharge Soils**

This property contains Candler fine sand and Pomello sand, classified as aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 or 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 ( $\geq 10$  inches in diameter) and Specimen ( $\geq 24$  inches in diameter) trees may exist on the parcel. A tree survey may be required at time of building permit submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. 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.**

**Information available to NRM indicates that unpermitted land clearing and alteration activities have occurred on the property, and potentially in wetlands, between 2022 and 2023. The discovery of unpermitted activities may result in code enforcement action.**

#### **For Board Consideration**

The Board should consider if the request is consistent and compatible with the surrounding area.



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

**Item No. 24Z00003**

**Applicant:** William and Jeanette Gonedridge (Owners: William and Jeanette Gonedridge)

**Zoning Request:** RR-1 to AU(L) and removal of existing BDP

**Note:** To have barn on parcel without principal structure and remove BDP (limiting development to total of two lots)

**Zoning Hearing:** 3/18/2024; **BCC Hearing:** 4/04/2024

**Tax ID No.:** 2000372

- 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:**

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

The subject parcel contains mapped wetlands; an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.** The wetland delineation shall be verified at time of site plan submittal.

Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands **provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of

impacts and will require mitigation in accordance with Section 62-3696. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use, with state-approved Best Management Practices, on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification. **The applicant is encouraged to contact NRM at 321-633-2016 prior to any site plan design or permit submittal.**

**Per Section 62-3694(c)(1), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres** unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. **This density may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total residential acreage as set forth in Section 65-3694(c)(6).** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

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**Information available to NRM indicates that unpermitted land clearing and alteration activities have occurred on the property, and potentially in wetlands, between 2022 and 2023. The discovery of unpermitted activities may result in code enforcement action.**

## **Land Use Comments:**

### **Wetlands**

The subject parcel contains mapped National Wetlands Inventory (NWI); an indicator that wetlands may be present on the property. **A wetland delineation will be required prior to any land clearing activities, site plan design, or building permit submittal.** Section 62-3694 states that non-bona fide agricultural and forestry operations utilizing best management practices are permitted in wetlands **provided they do not result in permanent degradation or destruction of wetlands, or adversely affect the functions of the wetlands.** Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts and will require mitigation in accordance with Section 62-3696. Pursuant to the Florida Agricultural Lands and Practices Act (Chapter 163.3162(4), Florida Statutes), any activity of a Bona Fide Agricultural Use, with state-approved Best Management Practices, on land classified as agricultural land pursuant to Section 193.461, Florida Statute is exempt. The Brevard County Property Appraiser's Office establishes Bona Fide Agricultural land classification.

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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.

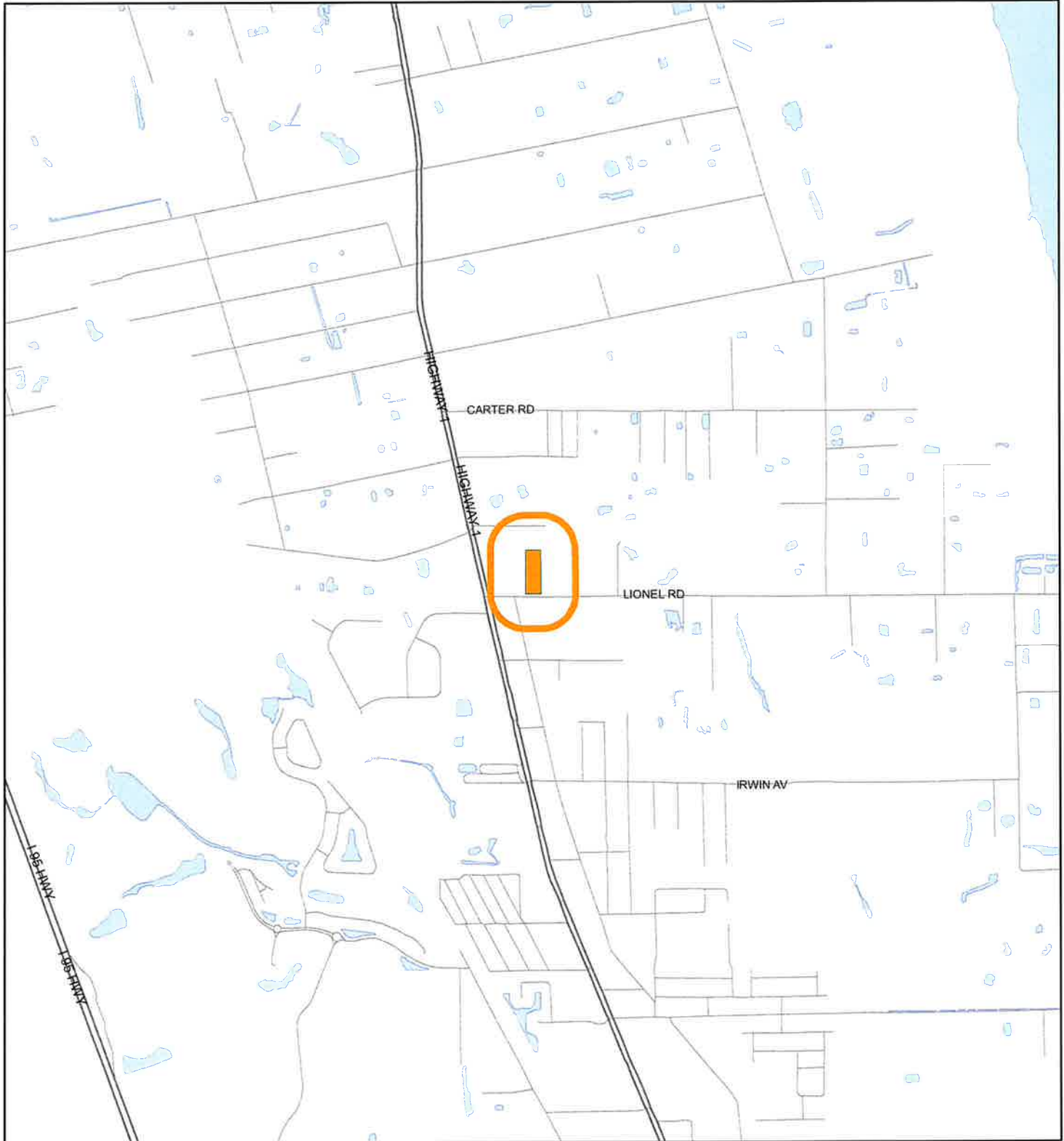
**Information available to NRM indicates that unpermitted land clearing and alteration activities have occurred on the property, and potentially in wetlands, between 2022 and 2023. The discovery of unpermitted activities may result in code enforcement action.**

### **Protected Species**

Information available to NRM indicates that 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. **Gopher tortoises may have been impacted as a result of the land alteration activities. The applicant is advised to call Valeria Guerrero at 561-882-5714 or 561-365-5696 with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.**

# LOCATION MAP

Gonedridge, William & Jeanette  
24Z00003



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

Buffer Distance: 500 feet

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

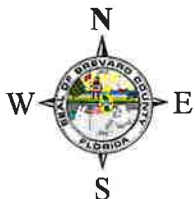
Produced by BoCC - GIS Date: 1/29/2024

Buffer  
Subject Property

# ZONING MAP

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

Subject Property

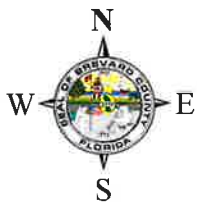
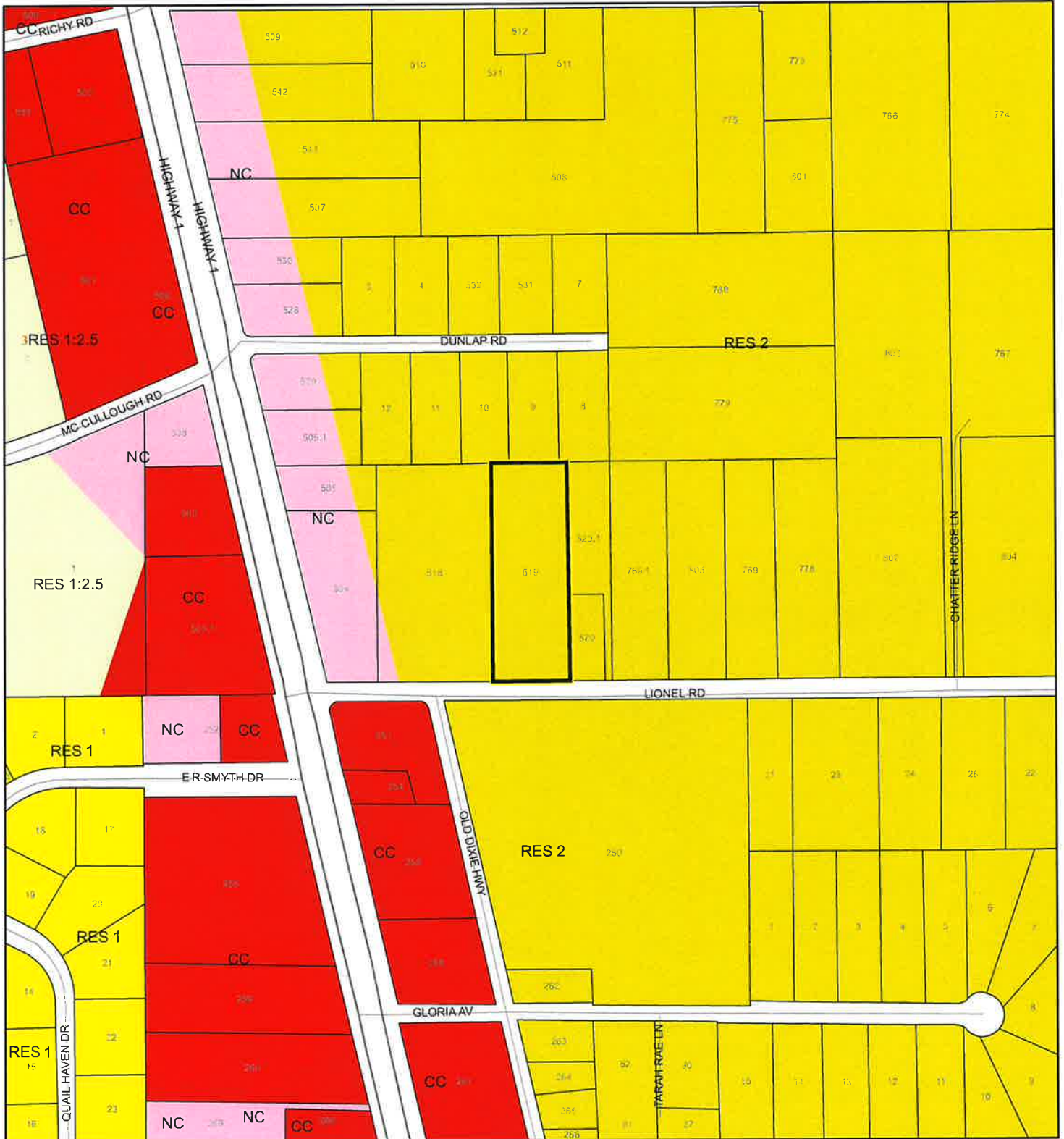
Parcels

Zoning



# FUTURE LAND USE MAP

Gonedridge, William & Jeanette  
24Z00003



1:4,800 or 1 inch = 400 feet

Subject Property  
Parcels

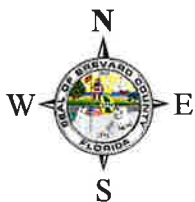
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/29/2024



# AERIAL MAP

Gonedridge, William & Jeanette  
24Z00003



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

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Produced by BoCC - GIS Date: 1/29/2024

 Subject Property

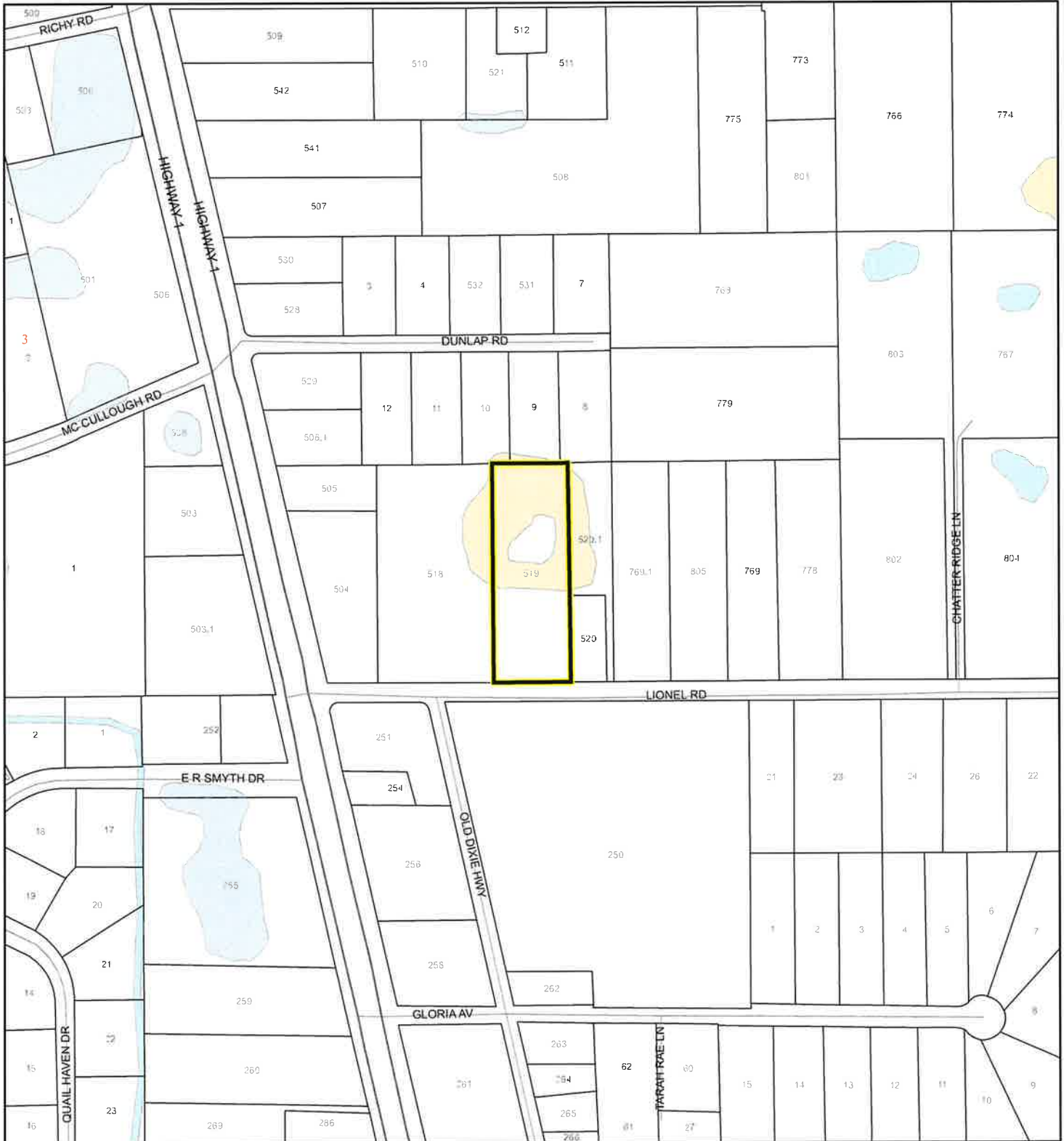
 Parcels



# NWI WETLANDS MAP

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

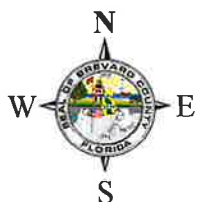
## National Wetlands Inventory (NWI)

	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

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

## 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

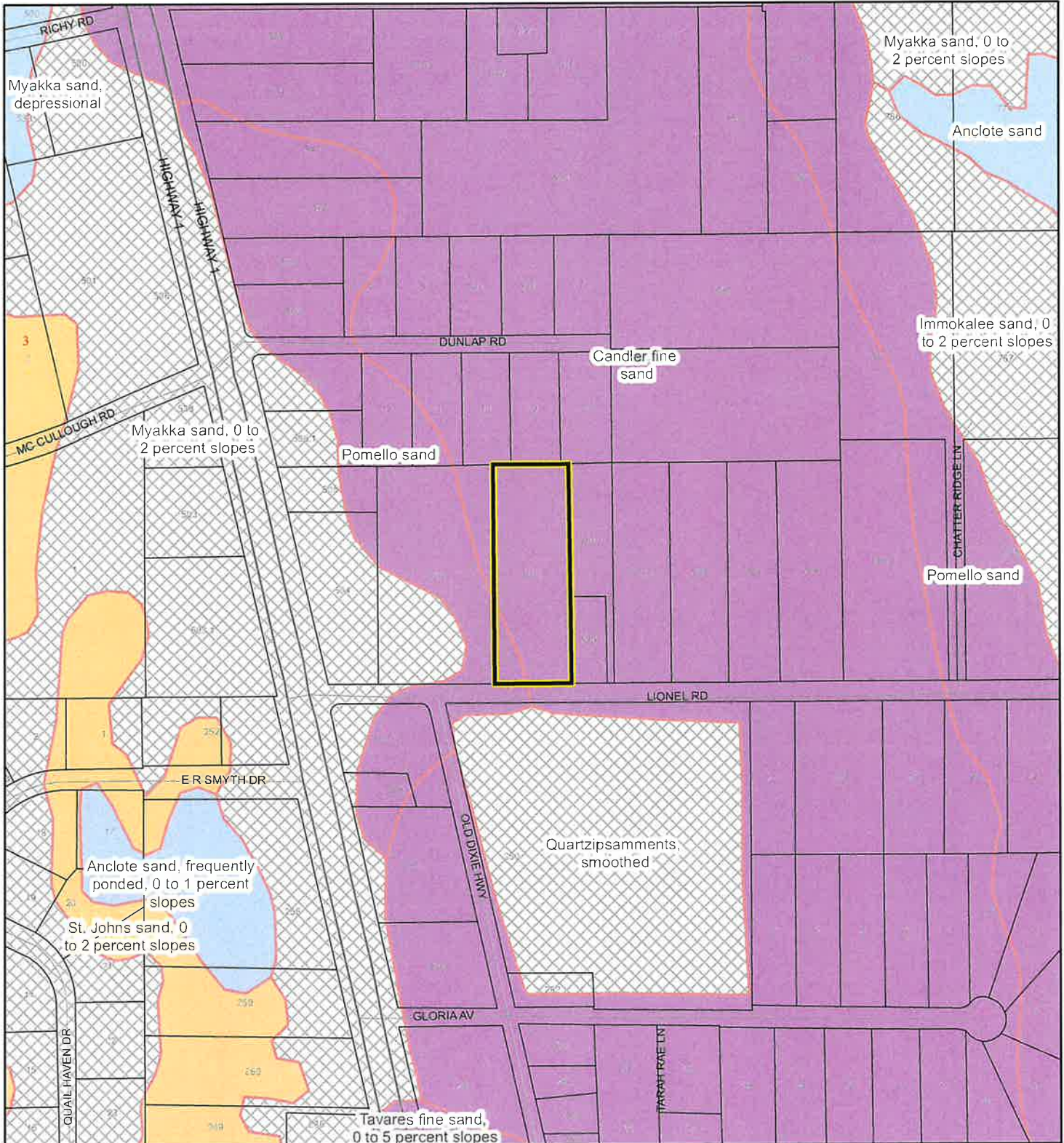
Parcels



# USDA SCSSS SOILS MAP

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

## USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

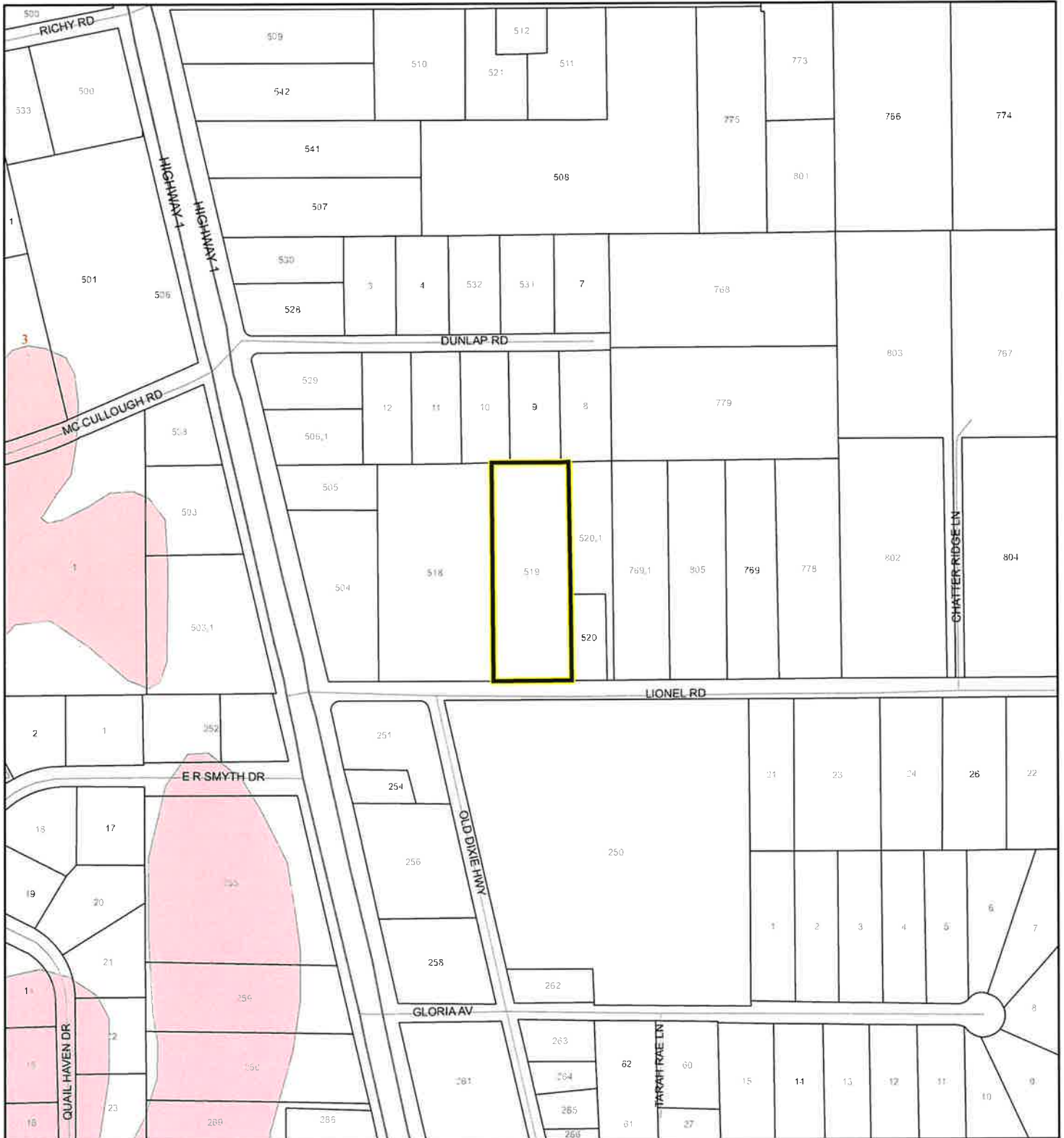
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

## FEMA Flood Zones

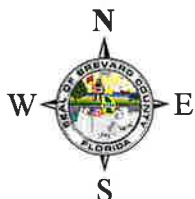
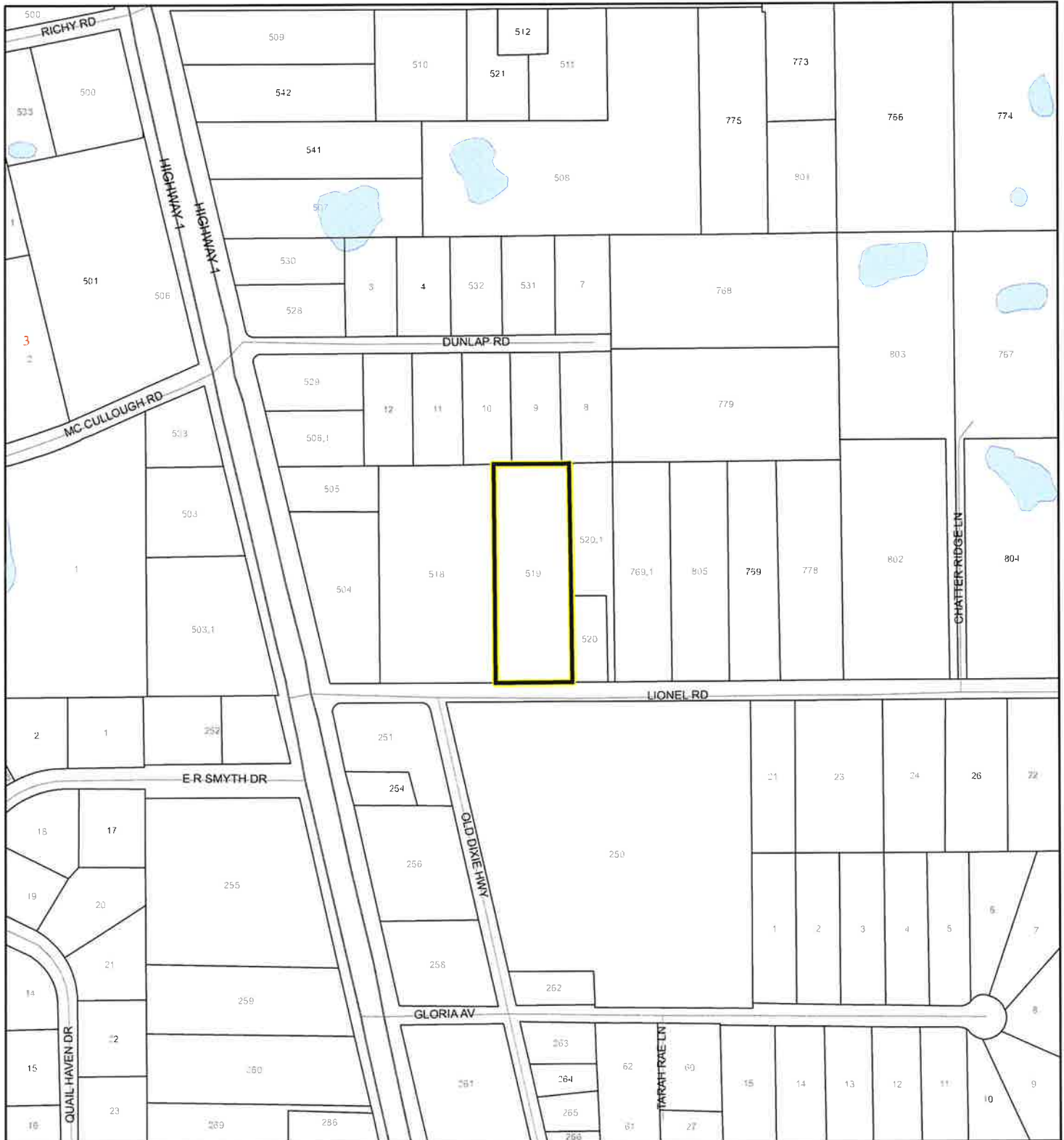
A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	



# COASTAL HIGH HAZARD AREA MAP

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

 Subject Property

 Parcels

**Coastal High Hazard Area**

 SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

 Subject Property

 Parcels

## Septic Overlay

 40 Meters

 60 Meters

 All Distances

# EAGLE NESTS MAP

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

 Subject Property

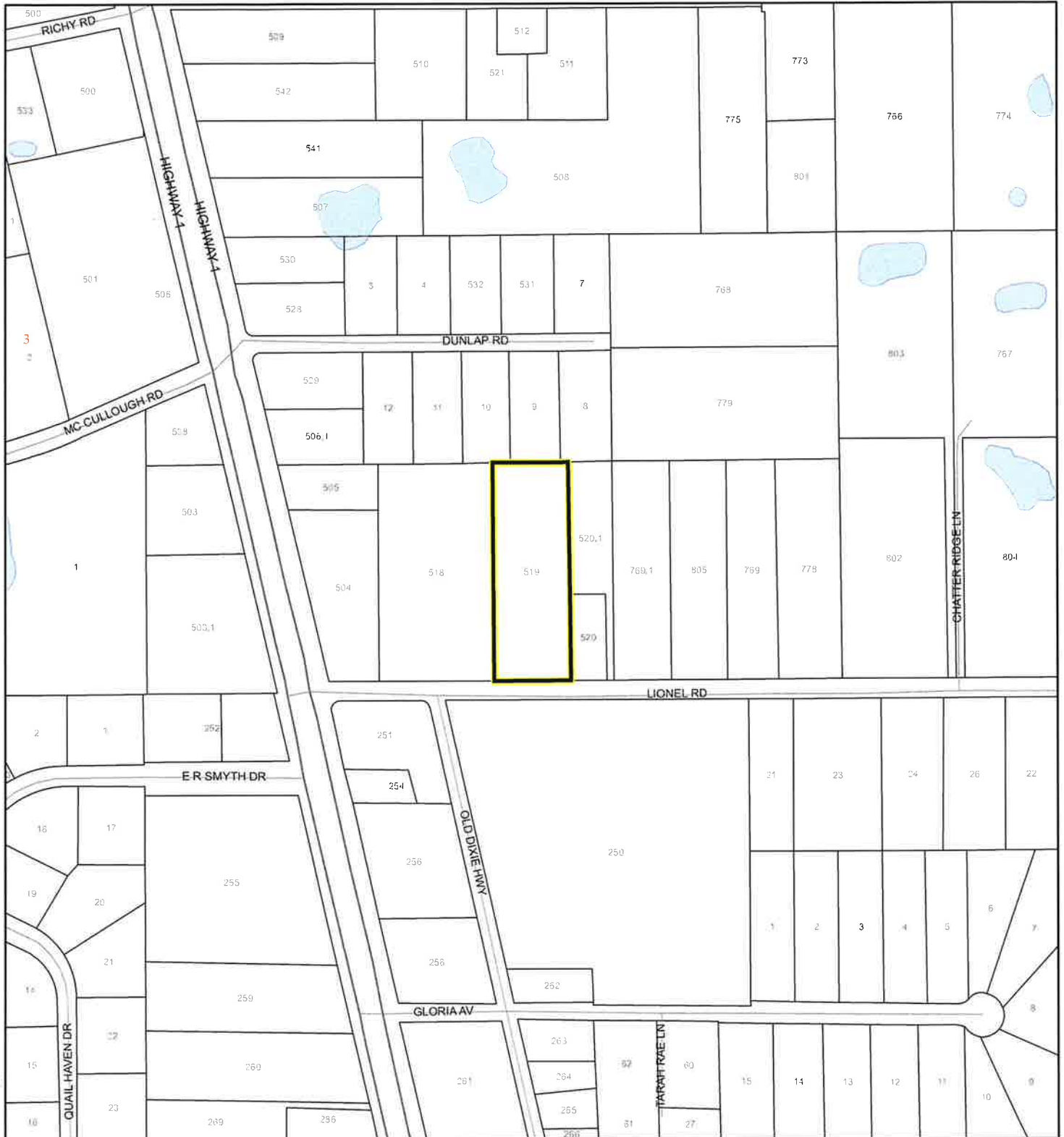
 Parcels

 Eagle Nests FWS

# SCRUB JAY OCCUPANCY MAP

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

- Subject Property
- Parcels
- Scrub Jay Occupancy



# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Gonedridge, William & Jeanette

24Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/29/2024

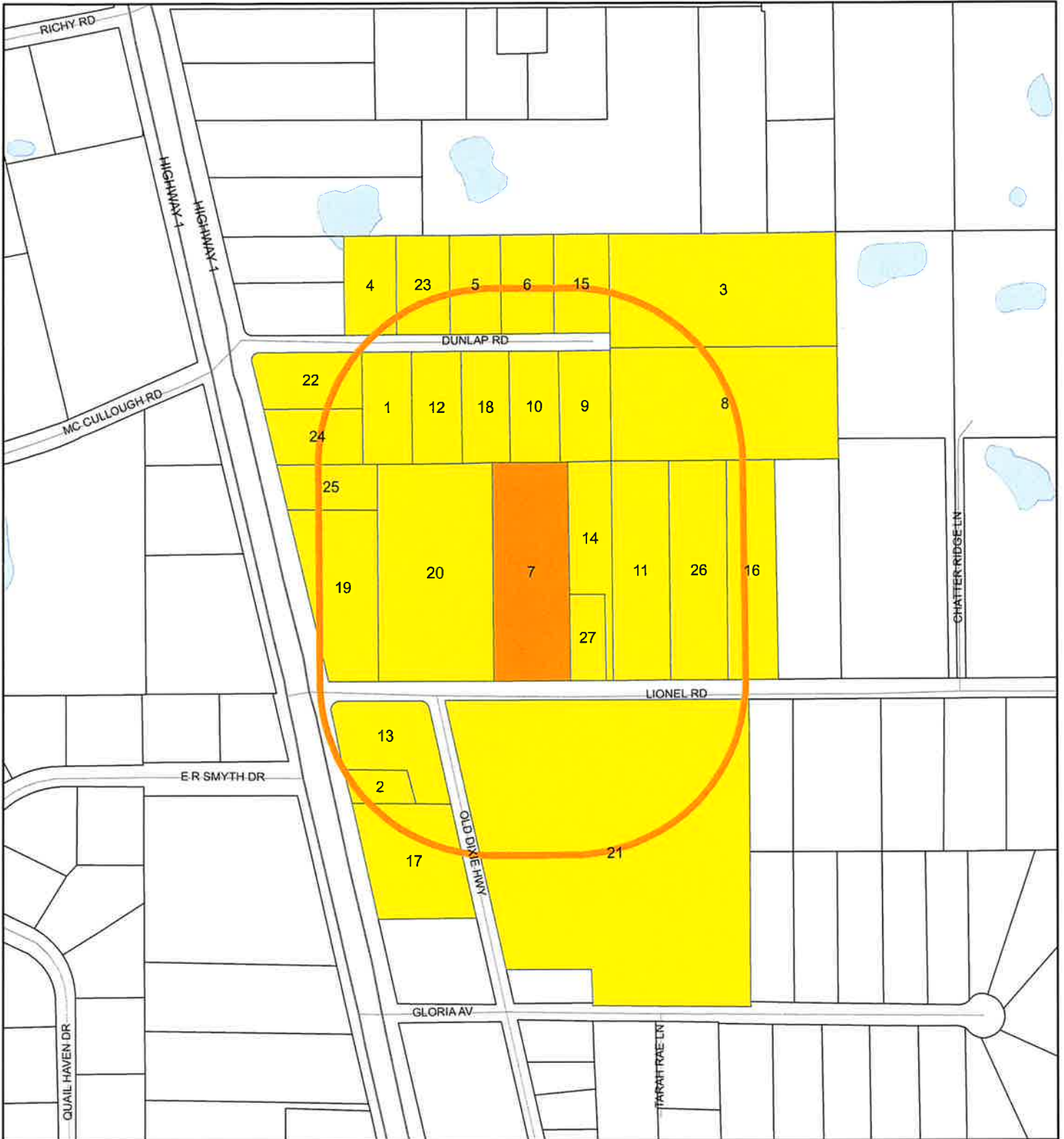
## SJRWMD FLUCCS Upland Forests

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

Subject Property  Parcels

# RADIUS MAP

Gonedridge, William & Jeanette  
24Z00003



1:4,800 or 1 inch = 400 feet

Buffer Distance: 500 feet

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Produced by BoCC - GIS Date: 1/29/2024

- Buffer
- Subject Property
- Notify Property
- Parcels

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

The Brevard County Planning & Zoning Board met in regular session on **Monday, April 15, 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 (D1); Ron Bartcher (D1); Robert Sullivan (D2); Mark Wadsworth, Chair (D4); Debbie Thomas (D4); Logan Luse (D4 Alt); Bruce Moia (D5); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Tad Calkins, Planning and Development Director; Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Paul Body, Senior Planner; Sandra Collins, Planner I, and Kristen Champion, Special Projects Coordinator.

### **Excerpt of Complete Agenda**

**William & Jeanette Gonedridge** request a change of zoning classification from RR-1 (Rural Residential) to AUL (Agricultural Residential Low Intensity) and the removal of an existing BDP. The parcel is 3.33 acres, located on the north side of Lionel Rd., approx. 479 ft. east of Highway U.S. 1 (3660 Lionel Rd., Mims) (24Z00003) (Tax Account 2000372) (District 1)

Jeffrey Ball read the application into the record.

Mr. Gonedridge stated he would like to rezone the property to be able to build an agricultural building in the back.

Ron Bartcher asked Mr. Gonedridge since there's no principal structure, what is the purpose of the barn?

Mr. Gonedridge stated he has a tractor that he'd like to store there. Ron Bartcher asked if it's for his business and Mr. Gonedridge responded with no, it's for his personal use.

Motion to approve rezoning from RR-1 to AU(L) with the removal of the BDP by Ron Bartcher.

Mark Wadsworth asked to hold on the motion for a moment to give John Hopengarten a chance to ask a question.

John Hopengarten stated that he did not receive a copy of the BDP in his agenda packet.

Staff informed John Hopengarten that it is the removal of an existing BDP, not a new BDP.

Jeffrey Ball stated that for the Board's edification, the BDP limited the development of the property under the RR-1 classification to two lots. So this application would remove that restriction of two lots to allow for agricultural uses on the property.

Motion to approve rezoning from RR-1 to AU(L) with the removal of the BDP by Ron Bartcher, seconded by Logan Luse. The vote was unanimous.