



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.5.

2/2/2023

Subject:

KVK Management & Remodeling Services, LLC; and JJ's Design & Construction request a change of zoning classification from RU-1-9 to RU-1-11. (22Z00061) (Tax Account 2320171) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential).

Summary Explanation and Background:

The applicant is requesting a change of zoning classification from RU-1-9 to RU-1-11 on a 0.27-acre parcel to establish consistency with the Comprehensive Plan for the purpose of constructing one single-family residence. The subject parcel is currently vacant and cleared of vegetation. The property has frontage on Marlbrook Lane. The subject property is currently designated as Residential 4 (RES 4) Future Land Use. The existing RU-1-9 zoning cannot be considered consistent with the existing RES 4 designation; however, the requested RU-1-11 zoning classification can be considered consistent with the existing RES 4 Future Land Use.

The developed character of the surrounding area is single-family residential on lots approximately one-quarter acre or larger in size with RU-1-9 zoning. The closest RU-1-11 is located approximately 0.2 miles southeast of the subject property on Golfview Avenue. This request can be considered a down-zoning, as the RU-1-11 zoning classification requires larger lot sizes than the RU-1-9 zoning classification.

The Board may wish to consider if the request is consistent and compatible with the surrounding area, and if the development of the property addresses wetland impacts.

On January 4, 2023, the Port St. John Dependent Special District Board heard the request and unanimously recommended approval.

There are unpermitted wetland impacts on the property. The applicant is aware that wetland restoration is required pursuant to Sec. 62-3695(e). The applicant will need to include a wetland restoration plan which demonstrates compliance with Sec. 62-3694(c)(2) concurrent with (or prior to) the submittal of a building permit application. Otherwise, failure to restore the wetlands would result in Code Enforcement action.

Clerk to the Board Instructions:

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

Resolution 22Z00061

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

WHEREAS, KVK Management & Remodeling, LLC; and JJ's Design & Construction has requested a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential), on property described as Lot 14, Block D, Port St. John, Unit 6, First Replat, as recorded in ORB 9439, Pages 701 - 702, of the Public Records of Brevard County, Florida. Section 21, Township 23, Range 35. (0.27 acres) Located on the south side of Marlbrook Lane, approx. 138 ft. east of Muller Ave. (6551 Marlbrook Lane, Port St. John); and

WHEREAS, a public hearing of the Port St. John Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Port Saint John Dependent Special District Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and Port St. John Dependent Special District 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; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-1-9 to RU-1-11, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of February 2, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair

Brevard County Commission

As approved by the Board on February 2, 2023.

ATTEST:

RACHEL M. SADOFF, CLERK

(SEAL)

Port St. John Dependent Special District Board Hearing – January 4, 2023

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

22Z00061

KVK Management & Remodeling Services, LLC and JJ's Design & Construction

RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential)

Tax Account Number: 2320171
Parcel I.D.: 25-35-21-LJ-D-14
Location: South side of Marlbrook Lane approximately 138 feet west of Muller Avenue (District 1)
Acreage: 0.27 acres

PSJ DSD Board: 01/04/2023
Board of County Commissioners: 02/02/2023

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-1-9	RU-1-11
Potential*	0 SF units	1 SF unit
Can be Considered under the Future Land Use Map	NO RES 4	YES RES 4

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

Background and Purpose of Request

The applicant is requesting a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential) on a 0.27-acre parcel to establish consistency with the comprehensive plan for the purpose of constructing one single-family residence. The subject parcel, currently vacant and cleared of vegetation, has frontage on Marlbrook Lane. There is currently a building permit application (22BC03754) pending for this site.

The 0.27-acre subject parcel was subdivided into the current configuration on March 22, 1996 per Official Records Book 3554, Page 1168. The 5.90-acre parent parcel, recorded as Tract D of the First Replat in Port St. John Unit Six on March 17, 1977 in Plat Book 24, Page 137, was originally zoned GU. The parcel was rezoned from GU to RU-1 on October 6, 1960, as zoning action **Z-0414** and administratively rezoned from RU-1 to RU1-9 on June 1, 1972, as zoning action **Z-2980**. The subject property is within the Port St. John Dependent Special District boundary.

Land Use

The subject property is currently designated as Residential 4 (RES 4) FLU. The existing RU-1-9 zoning cannot be considered consistent with the existing RES 4 FLU designation, as provided in Sec. 62-1255.

The applicant's request can be considered consistent with the existing RES 4 Future Land Use.

Applicable Land Use Policies

FLUE Policy 1.7 - Residential 4 (maximum of 4 dwelling units per acre)

The Residential 4 land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of up to four (4) units per acre, except as otherwise may be provided for within the Future Land Use Element.

FLUE Policy 1.2 - Public Facilities and Services Requirements

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- C. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.
- D. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.
- E. Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system.
- F. The County shall not extend public utilities and services outside of established service areas to accommodate new development in Residential 2, Residential 1 and Residential 1:2.5 land use designations, unless an overriding public benefit can be demonstrated. This criterion is not intended to preclude acceptance of dedicated facilities and services by the County through MSBU's, MSTU's and other means through which the recipients pay for the service or facility.

The parcel has access to Cocoa City Water Distribution per information provided by the City of Cocoa. The closest Brevard County sewer line is approximately 0.7 miles east on Homestead Avenue.

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

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

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

Criteria:

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

The applicant requests to rezone 0.27 acres to RU-1-11 zoning classification for the purpose of developing a single-family residence. Development would need to meet performance standards set forth in code sections 62-2251 through 62-2272. The proposal is not anticipated to diminish the enjoyment of, safety or quality of life in existing neighborhoods within the 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 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 surrounding area is single-family residential in character on lots 0.23 acre or larger in size. There are two (2) FLU designations within 500 feet of the subject site: RES 4 and PUB CONS. The predominant FLU designation in this area of Port St. John is RES 4.

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

There has not been any actual development within this area in 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.

The developed character of the surrounding area is single-family residential on lots approximately one-quarter acre or larger in size with RU-1-9 zoning. The closest RU-1-11 is located approximately 0.2 miles southeast of the subject property on Golfview Avenue. This request can be considered a down-zoning, as the RU-1-11 zoning classification requires larger lot sizes than the RU-1-9 zoning classification.

There have been no zoning actions within a half-mile radius of the subject property within the last three years. There are no pending zoning actions within one-half mile radius of the subject property.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Single-family residence	RU-1-9	RES 4
South	Vacant	RU-1-9	RES 4
East	Vacant	RU-1-9	RES 4
West	Single-family residence	RU-1-9	RES 4

To the north (across Marlbrook Lane) and west are single-family residences, each on 0.23-acre lots with RU-1-9 zoning. To the south and east is a vacant 1.25-acre parcel with RU-1-9 zoning.

The current RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

The proposed RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Fay Boulevard, from Golfview Avenue to Homestead Avenue, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 21.86% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 21.92% of capacity daily. The maximum development potential of the proposal is not anticipated to create a deficiency in LOS. This is only a preliminary review and is subject to change.

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 parcel has access to Cocoa City Water Distribution per information provided by the City of Cocoa. The closest Brevard County sewer line is approximately 0.7 miles east on Homestead Avenue.

Environmental Constraints

- Hydric Soils/Wetlands
- Protected and Specimen Trees
- Unpermitted Wetland Impacts

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils (Terra Ceia muck, frequently flooded), as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively.

There are unpermitted wetland impacts on the property. The impacted wetlands must be restored prior to the approval of any development order. Failure to restore the wetlands will also result in Code Enforcement action.

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

For Board Consideration

The Board may wish to consider if the request is consistent and compatible with the surrounding area, and if the development of the property addresses wetland impacts.

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #22Z00061

Applicant: Keleon Watkins

Zoning Request: RU-1-9 to RU-1-11

Note: Doesn't meet minimum lot size requirement for current zoning.

PSJ Hearing Date: 01/04/23; **BCC Hearing Date:** 02/02/2023

Tax ID Nos: 2320171

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management Department (NRM) and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils/Wetlands
- Protected and Specimen Trees
- Unpermitted Wetland Impacts

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils (Terra Ceia muck, frequently flooded), as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively.

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. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis 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.

Land Use Comments:

Hydric Soils/Wetlands

The subject parcel contains mapped National Wetlands Inventory (NWI) wetlands, St. Johns River Water Management District (SJRWMD) wetlands, and hydric soils (Terra Ceia muck, frequently flooded), as shown on the NWI Wetlands, SJRWMD Florida Land Use & Cover Codes, and USDA Soil Conservation Service Soils Survey maps, respectively. A wetland delineation was provided.

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. For multi-family parcels greater than five acres in area, the preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts to not more than 1.8% of the total non-commercial and non-industrial acreage on a cumulative basis 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 parcel was legally established after September 9, 1988. Therefore, five acres are required to mitigate wetlands impacts. There are unpermitted wetland impacts on the property. The impacted wetlands must be restored prior to the approval of any development order. Failure to restore the wetlands will also result in Code Enforcement action.

Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per 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.

The wetland impacts discussed above also constitute a violation of Article XIII, Division 2; and must be resolved prior to the approval of any development order. Failure to comply will result in Code Enforcement action.

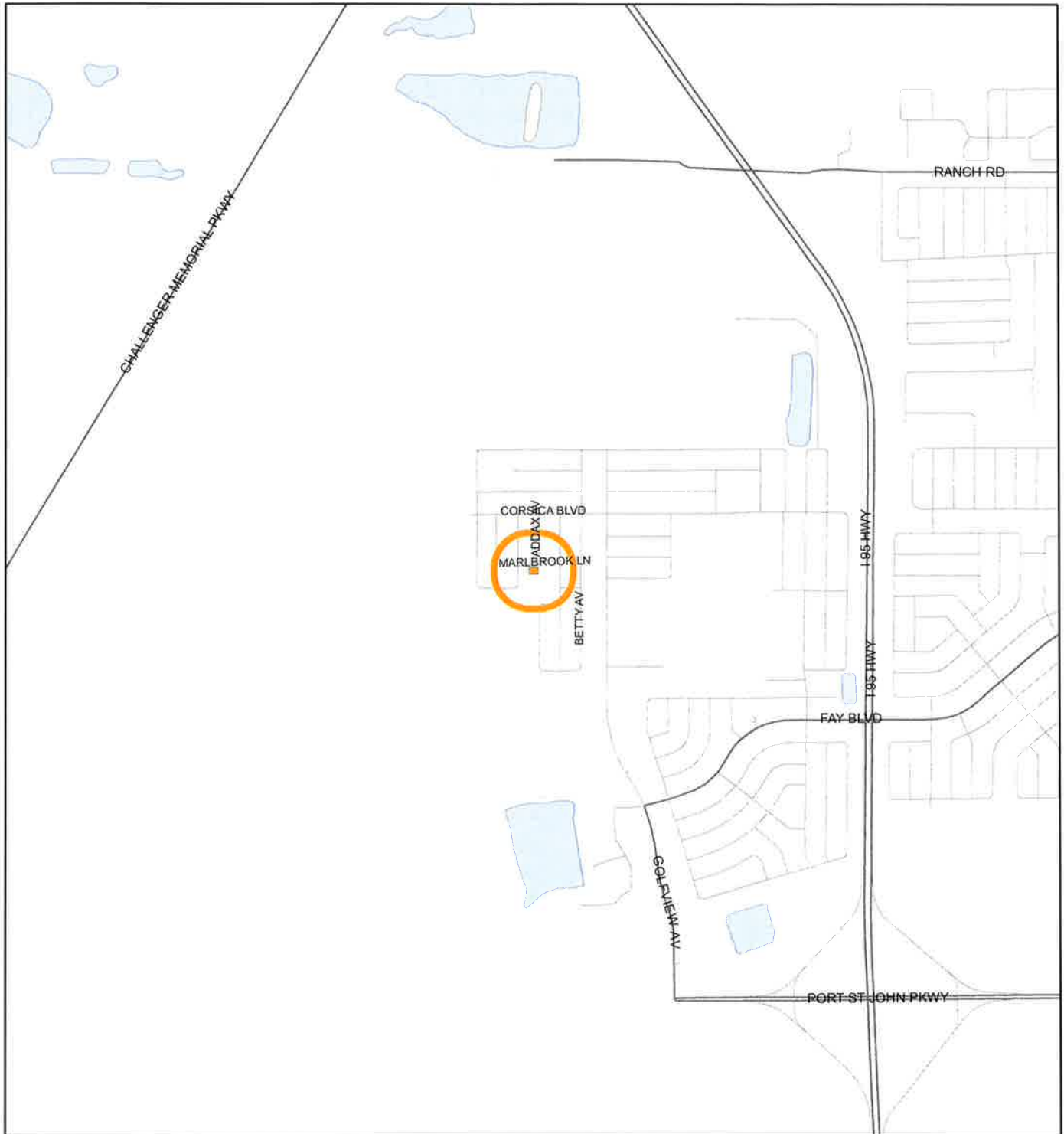
Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is potential for the presence of Gopher Tortoises on site. 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 and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

KVK MANAGEMENT & REMODELING SERVICES LLC

22Z00061





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.

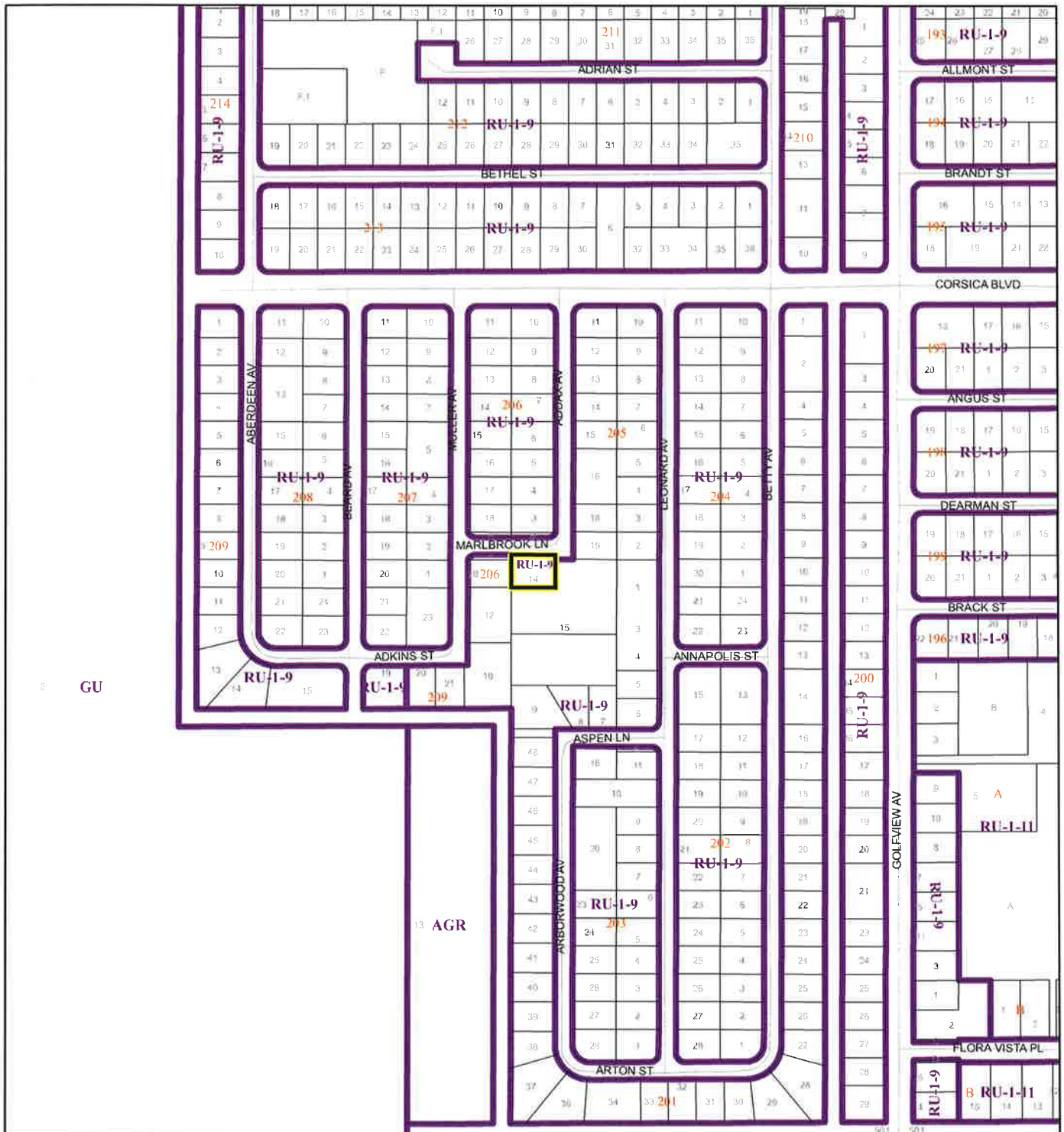
Produced by BoCC - GIS Date: 11/18/2022

-  Buffer
-  Subject Property

ZONING MAP

KVK MANAGEMENT & REMODELING SERVICES LLC

22Z00061



1:4,800 or 1 inch = 400 feet

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- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP



KVK MANAGEMENT & REMODELING SERVICES LLC
22Z00061



1:4,800 or 1 inch = 400 feet

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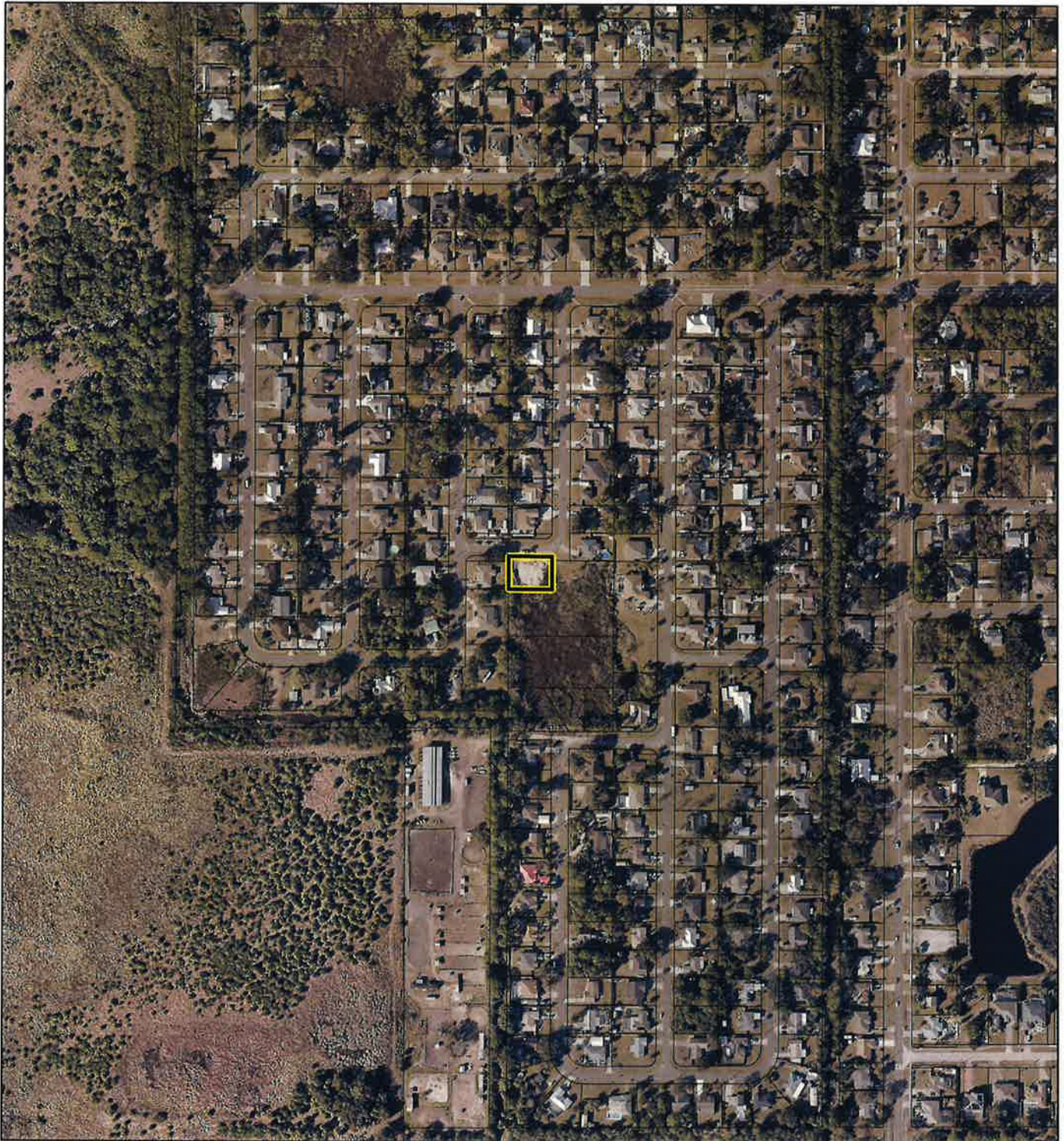
Produced by BoCC - GIS Date: 11/3/2022

 Subject Property
 Parcels

AERIAL MAP

KVK MANAGEMENT & REMODELING SERVICES LLC

22Z00061



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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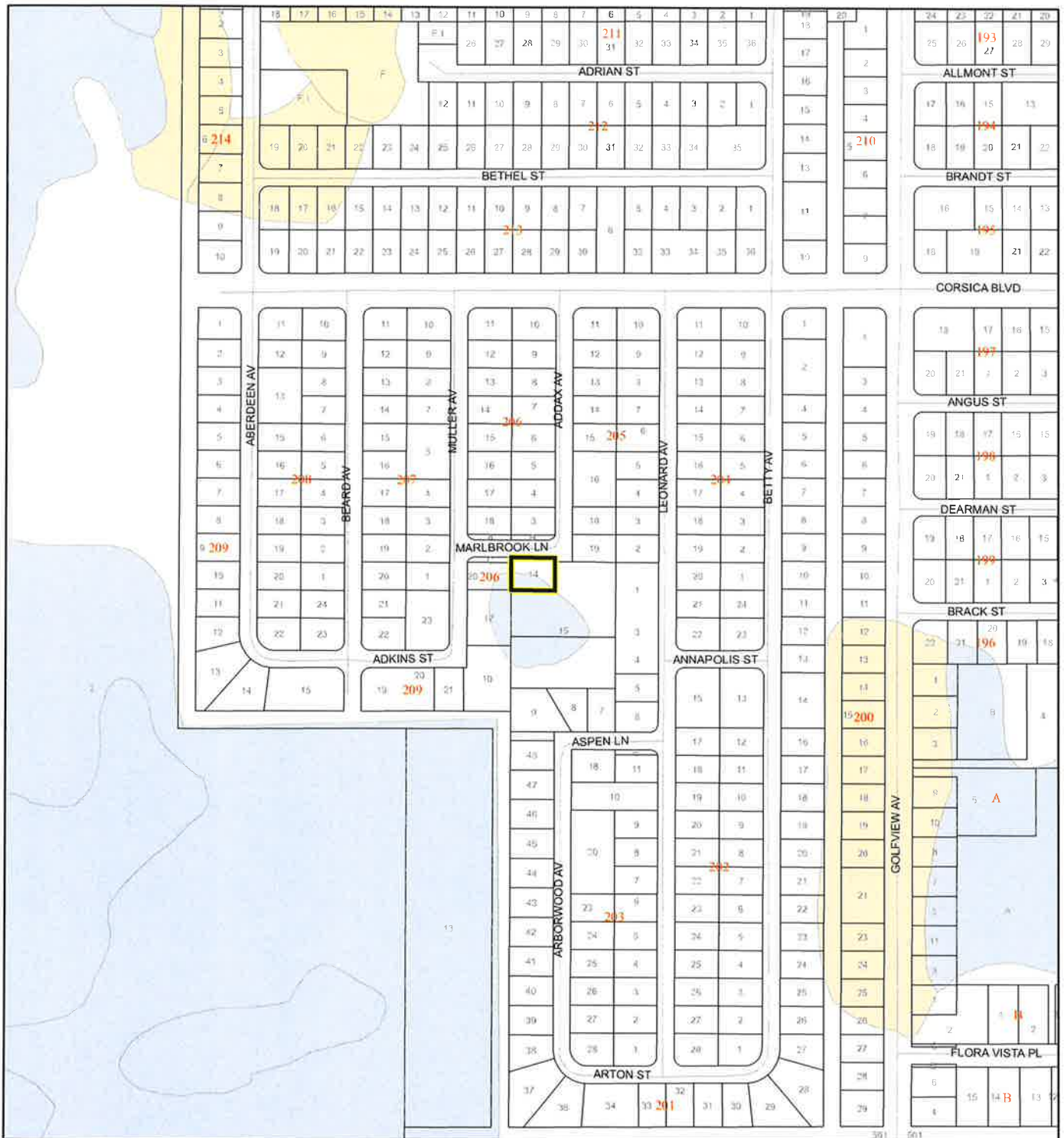
Produced by BoCC - GIS Date: 11/18/2022

 Subject Property

 Parcels

NWI WETLANDS MAP

KVK MANAGEMENT & REMODELING SERVICES LLC
22Z00061



1:4,800 or 1 inch = 400 feet

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National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

KVK MANAGEMENT & REMODELING SERVICES LLC

22Z00061



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

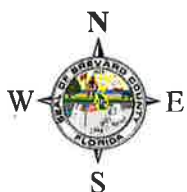
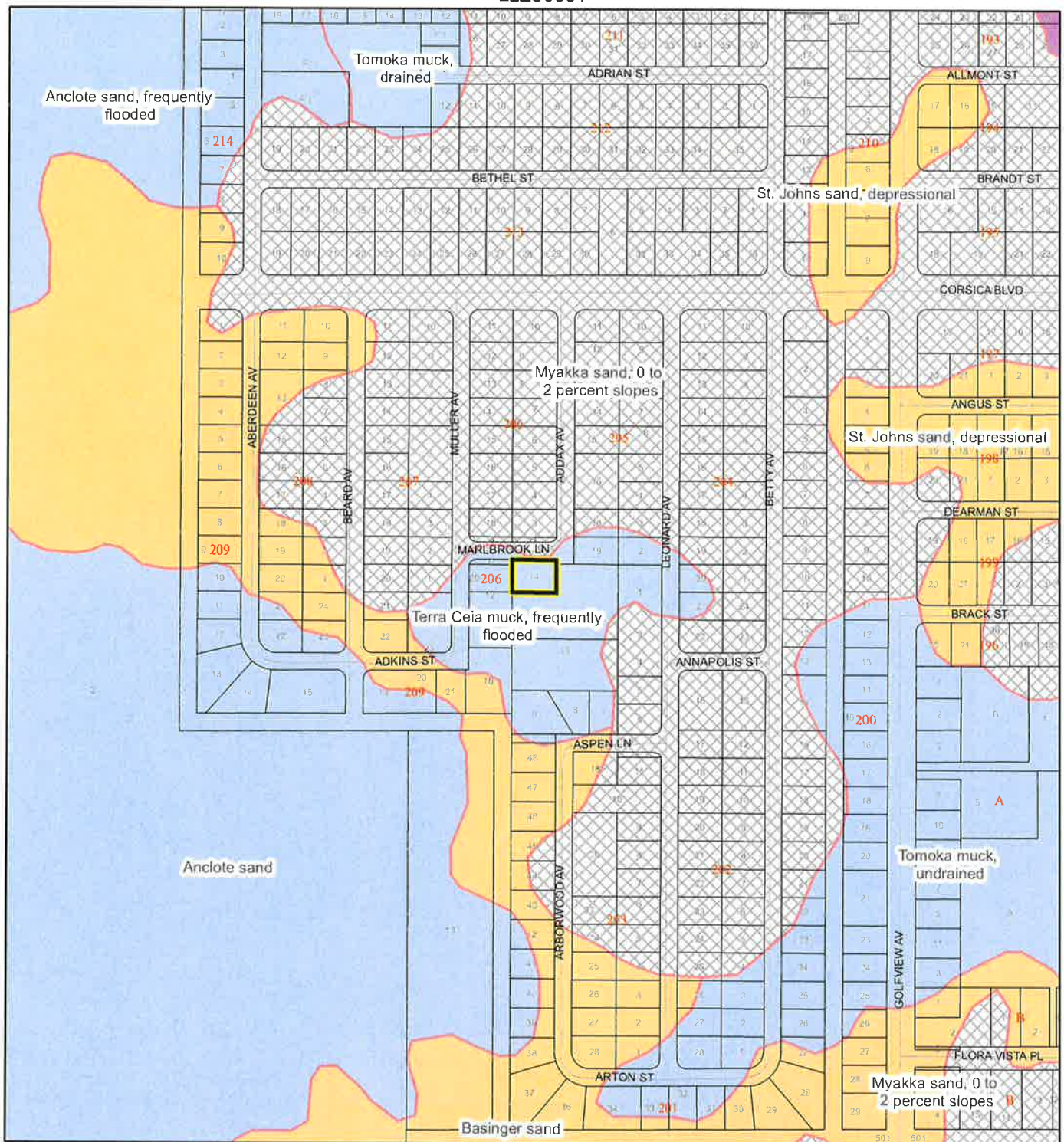
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

KVK MANAGEMENT & REMODELING SERVICES LLC
22Z00061



1:4,800 or 1 inch = 400 feet

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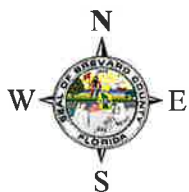
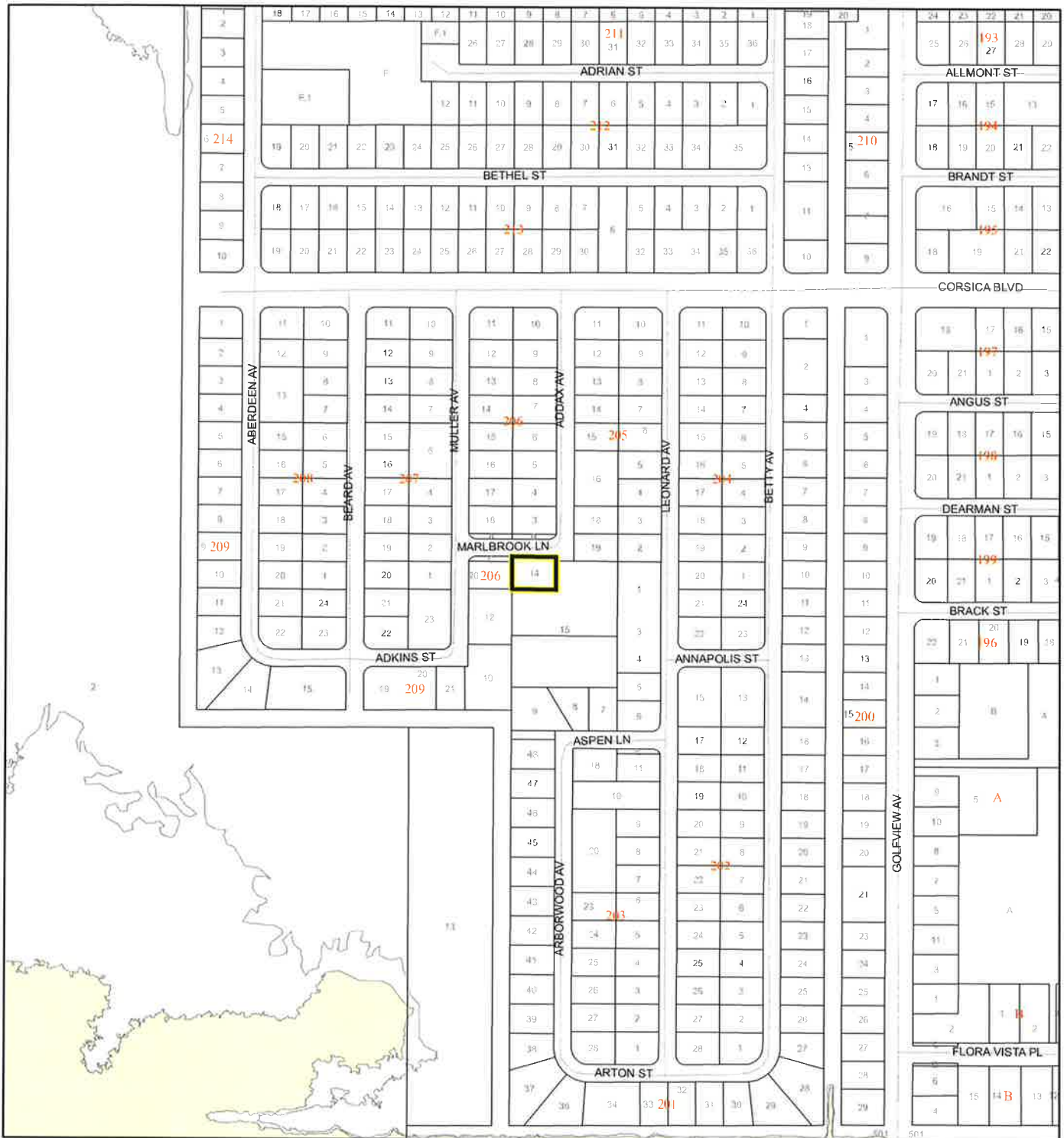
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

KVK MANAGEMENT & REMODELING SERVICES LLC
22Z00061



1:4,800 or 1 inch = 400 feet

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FEMA Flood Zones

- A
- AE
- AH
- AO
- Open Water
- VE
- X
- Subject Property
- Parcels

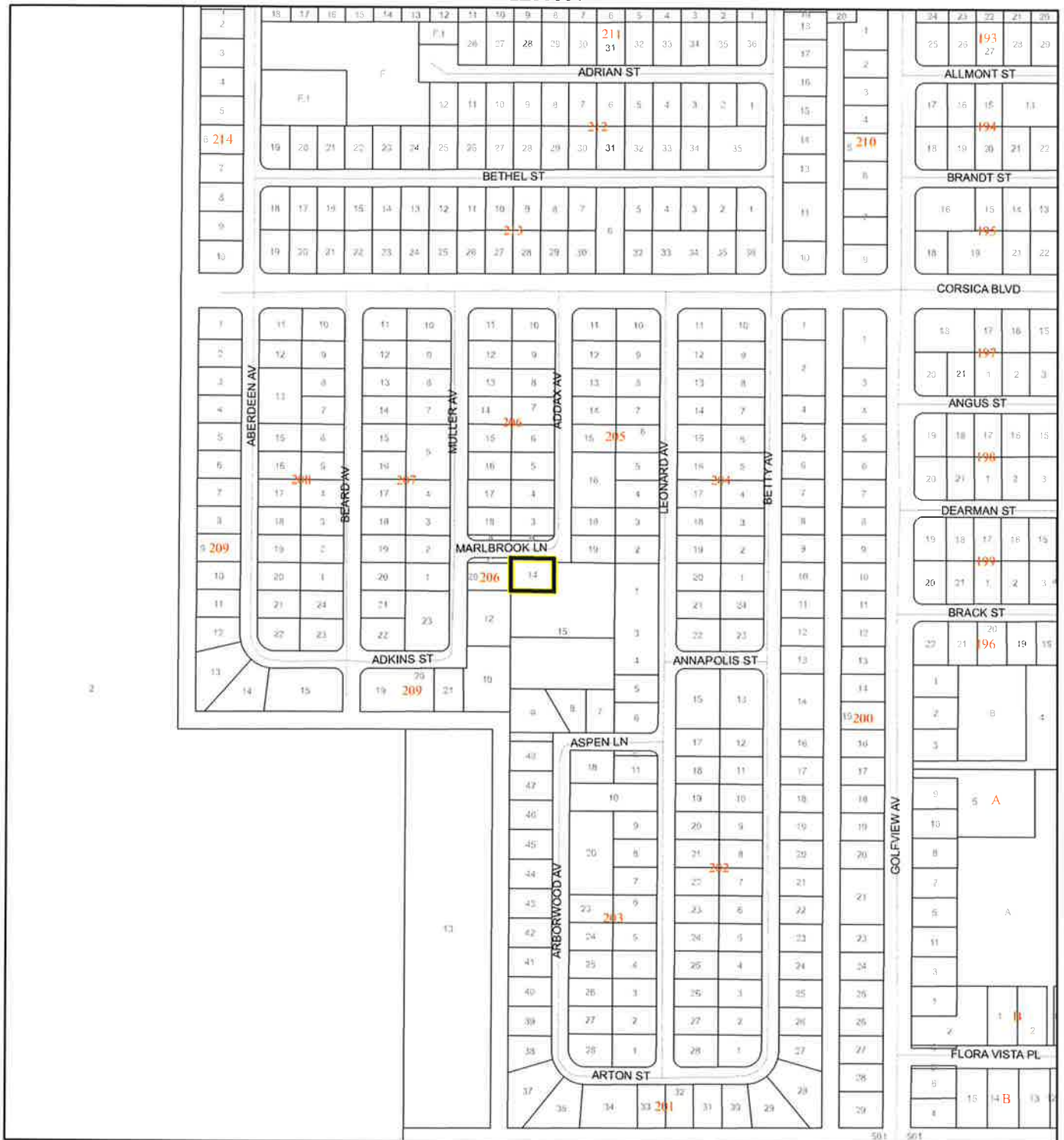
22Z00061



INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

KVK MANAGEMENT & REMODELING SERVICES LLC

22Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/3/2022

 Subject Property

 Parcels

Septic Overlay

 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

KVK MANAGEMENT & REMODELING SERVICES LLC
22Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/3/2022

 Subject Property

 Parcels

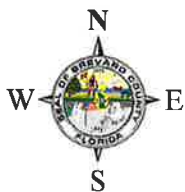
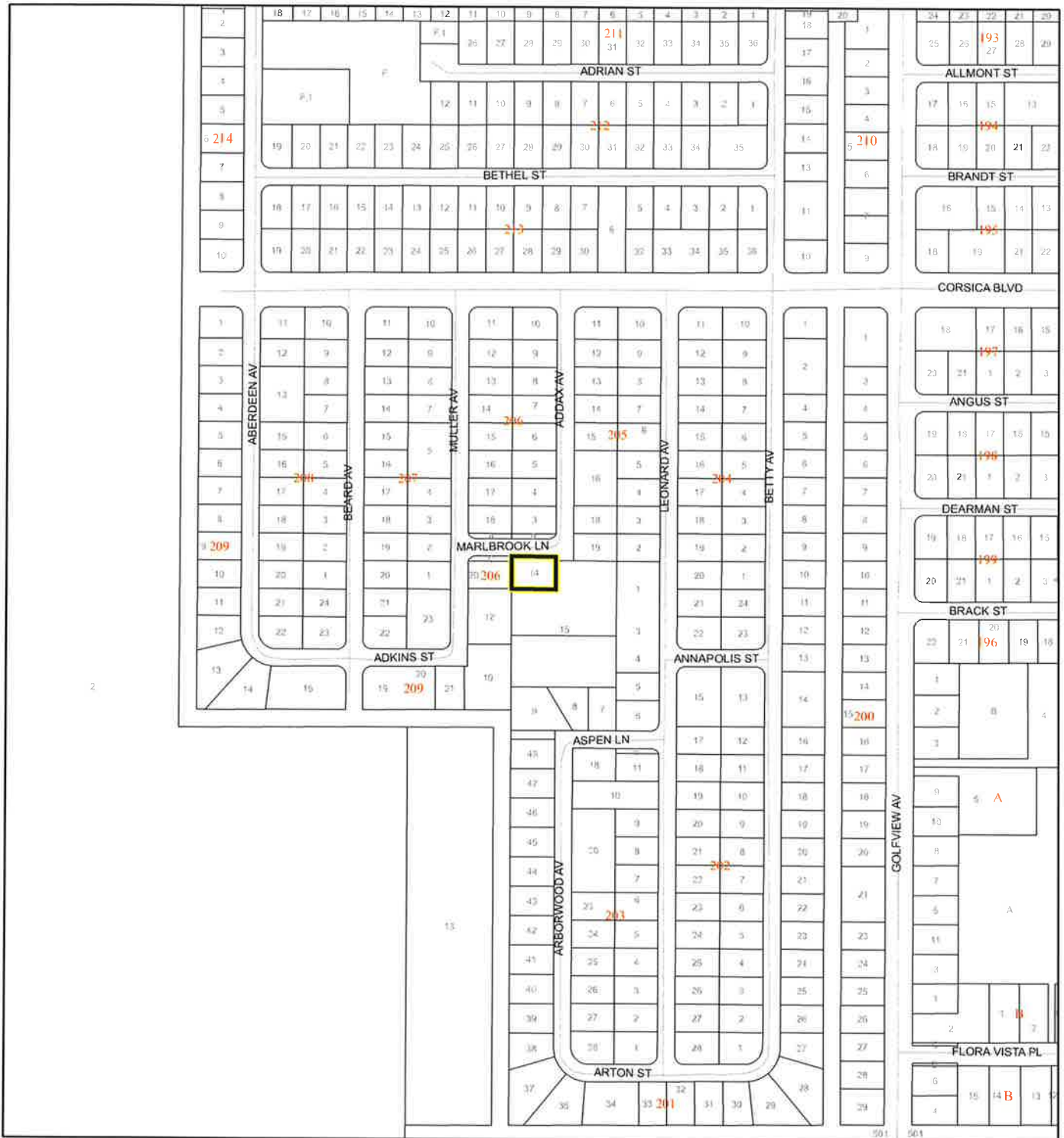


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

KVK MANAGEMENT & REMODELING SERVICES LLC

22Z00061



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/3/2022

 Subject Property

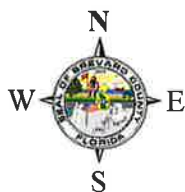
 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

KVK MANAGEMENT & REMODELING SERVICES LLC

22Z00061



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: 11/3/2022

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

1. BEARINGS ARE FROM PLAT, THE CENTER LINE OF MARLBROOKE LANE BEING S. 69°32'10" E.
2. THE ACCURACY OF FIELD MEASUREMENTS FOR THIS SURVEY MEETS OR EXCEEDS 1 FT. IN 7,500 FT.
3. FLOOD ZONE - "X" - MAP # 12009C035C
4. SEE REVERSE
5. EXISTING SPOT ELEVATIONS SHOWN THUS — ARE TO ASSUMED DATUM.
6. PROPOSED ELEVATIONS SHOWN THUS — 

BOUNDARY SURVEY OF: (DESCRIPTION AS FURNISHED)

A PARCEL OF LAND BEING A PART OF TRACT "D" AS SHOWN ON THE FIRST REPLAT IN PORT ST. JOHN UNIT SIX, AS RECORDED IN PLAT BOOK 24, PAGE 137, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 20, BLOCK 206 AS SHOWN ON THE PLAT OF PORT ST. JOHN UNIT SIX AS RECORDED IN PLAT BOOK 23, PAGE 53, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, AND SAID POINT BEING A CORNER OF AFORESAID TRACT THENCE ALONG THE BOUNDARIES OF TRACT "D" FOLLOWING TWO COURSES AND DISTANCES; THENCE N. 02°50' E. 95.00 FEET; THENCE S. 89°27'10" W. 25.00 FEET; THENCE N. 89°27'10" W. 25.00 FEET TO THE POINT OF BEGINNING.

SCALE: 1" = 20'

21, MAY, 2021

THE FOREGOING PLAT IS HEREBY CERTIFIED AS BEING A CORRECT REPRESENTATION OF THE LAND SURVEYED AND MEETS OR EXCEEDS THE MINIMUM STANDARDS ESTABLISHED PURSUANT TO FLORIDA STATUTE 472.027.

PROPOSED RESIDENCE ADDED TO PLAT — 08/19/21
 PROPOSED RESIDENCE REVISED — 11/01/21
 PROPOSED RESIDENCE REVISED — 05/09/22
 HOLE BORING FLAGS AND NEW WETLAND FLAGS LOCATED — 02/05/22

JOHN T. DONNELLY

JOHN T. HOLLYFELP.S.M. # 5050
"NOT VALID WITHOUT THE ORIGINAL SIGNATURE
AND RAISED SEAL OF A FLORIDA LICENSED
SURVEYOR AND MAPPER")

(OVER)



PORT SAINT JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The Port St. John Dependent Special District Board met in regular session on Wednesday, January 4, 2023, at 6:00 p.m., at the Port St. John Library, 6500 Carole Ave., Port St. John, Florida.

At the outset of the meeting, board members present were: Randy Rodriguez; Wendy Porter-Hyde; Maureen Rupe; Carmella Chinaris; and Kevin Shropshire, Vice Chair.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator.

The meeting was called to order by the Vice Chair at 6:05 p.m.

Vaughan Kimberling's presence was noted at 6:13 p.m.

Excerpt of Complete Agenda

(22Z00061) KVK Management & Remodeling Services, LLC; and JJ's Design & Construction (Keleon Watkins) requests a change of zoning classification from RU-1-9 (Single-Family Residential) to RU-1-11 (Single-Family Residential). The property is 0.27 acres, located on the south side of Marlbrook Lane, approx. 138 ft. east of Muller Ave. (6551 Marlbrook Lane, Port St. John) (Tax Account 2320171) (District 1)

Keleon Watkins, representing JJ's Design and Construction, stated he is trying to build a single-family home, and he was told that because of the wetlands on the back of his .27-acre lot, he needs more land in order to build.

Kevin Shropshire stated according to the staff comments, a house can be built in RU-1-9 zoning.

Jeffrey Ball stated the entire area was designated as RU-1-9, but that doesn't allow for this property to be developed with those current standards. The applicant is requesting to change the zoning to RU-1-11, which allows for a 7,500 square-foot lot versus 6,600 square feet in RU-1-9, so it is a bigger lot area.

Mr. Shropshire stated the only difference he noticed was that RU-1-11 was a larger house on a larger lot, and asked why the applicant would ask for a larger lot and a larger house.

Carmella Chinaris asked the difference between RU-1-9 and RU-1-11. Mr. Ball replied, the size of the house and the lot.

Randy Rodriguez noted the majority of Port St. John is RU-1-9.

Mr. Ball stated it is not about the size of the lot, it is the fact that RU-1-9 is not consistent with the Future Land Use.

Ms. Chinaris asked if RU-1-9 is inconsistent with the land use.

Mr. Ball stated the RU-1-9 zoning classification requires at least a RES 6 Future Land Use designation. The area of the subject property was designated as RES 4, and that is the reason for the rezoning. It's not for the lot size, setbacks, or depth, it is to provide for consistency with the RES 4 land use and RU-1-11. He explained RU-1-9 allows for a smaller lot and that is why he would need the RES 6. He said based on the 6,500 square-foot lot, there is a potential to get 6 units per acre, and that is why RES 4 is not consistent with RU-1-9 and the next higher zoning is required as far as lot

size. He said RU-1-11 is a larger lot which could only get 4 units per acre, so it provides consistency between the land use and the zoning.

Ms. Chinaris asked if the zoning change would affect just that one lot. Mr. Ball replied yes, it just affects that one lot.

Mr. Shropshire stated his confusion is because according to the staff comments RU-1-11 requires a minimum 7,500 square-foot lot, and he could understand if someone was down-zoning to RU-1-7 with a smaller lot size, but to go up in lot size for larger house, making it RES 6, which is 6 units per acre instead of 4 units per acre, it seems the applicant needs more of a waiver because he wants to change the zoning to RU-1-11.

Mr. Ball stated there is no waiver process to provide consistency, the only opportunity would be to change the land use, and that is a bigger deal than changing the zoning. Everything around the subject property is RES 4, so RES 6 would be an introduction, and it is more appropriate to change the zoning than to change the land use. He stated the request does not change the land use.

Wendy Porter-Hyde asked if that is that problematic in any way. Mr. Ball replied, from an aesthetic standpoint, no, RU-1-11 requires a larger lot and a larger structure. He said what the request does is provide consistency between land use and zoning regulations.

Mr. Shropshire noted the staff comments already state that no development shall be done without mitigation. Mr. Ball replied the applicant is going through Natural Resources to correct some wetland impacts that were done, but that will be done in a separate process through Natural Resources.

Mr. Rodriguez asked the applicant if the proposed house is larger than 1,100 square feet. Mr. Watkins replied yes, it is proposed to be 1,800 square feet.

Mr. Shropshire noted the applicant has submitted a proposed site plan for the house. Mr. Ball stated the proposed site plan has been provided as a courtesy, but it is not tied to rezoning.

Public comment.

Tim Roach, 6420 Addax Ave., asked the size of the proposed house. Mr. Watkins replied 1,800 square feet, but the problem is the setbacks from the wetlands.

Mr. Ball noted that Natural Resources will help with the wetland setbacks.

Mr. Roach stated at one time, the subject property was joined with several lots as part of the St. Johns River Water Management District, and asked how it became re-platted as one lot.

Mr. Shropshire stated the lot was legally established after 1988.

Mr. Ball stated someone has created several lots out of the original Tract D.

Motion by Randy Rodriguez, seconded by Carmella Chinaris, to approve the change of zoning classification from RU-1-9 to RU-1-11. The motion passed unanimously.