



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.7.

2/5/2026

Subject:

Lazy River Investments LLC requests a zoning classification change from RU-1-13 to AU(L). (25Z00049) (Tax Account 3008729) (District 3)

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-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential (Low Intensity))

Summary Explanation and Background:

The applicant, Lazy River Investments, LLC, purchased the subject 20.13-acre property on May 9, 2019. In 2019, the Brevard County Comprehensive Plan Future Land Use Map (FLUM) designation for the property was Residential 1 unit per 2.5 acres (RES 1:25) and has not been changed. Under the density restriction of the FLUM the maximum allowable density of the subject property is 8 dwelling units. The subject property's existing zoning of RU-1-13 allows a density of greater than 1 unit per 2.5 acres and, therefore, it is inconsistent with the FLUM. The applicant is requesting to rezone the property from Single-Family Residential (RU-1-13) to Agricultural Residential - Low Intensity (AU(L)) which allows 1 unit per 2.5 acres to be consistent with the Residential 1:2.5 (RES 1:2.5) Future Land Use (FLU) designation.

The applicant has included a concept plan for seven (7) single-family residential parcels (units), which is attached. This concept plan is non-binding and has not been reviewed for consistency with all Land Development Regulations; additionally, the Board should note that approval of this application could potentially result in a future subdivision with a significantly altered configuration than what is depicted in the concept plan.

According to the provided survey, Lots 10 and 11 total approximately 20.13 platted acres. Both lots were created prior to the County's Code of Ordinances (1958) and Comprehensive Plan (1988); therefore, they qualify as Nonconforming Lots of Record. The property is currently vacant.

Under Administrative Policy 2, staff is required to review the request for consistency with the Comprehensive Plan, zoning criteria, and other applicable standards. Objective 15 of the Future Land Use Element seeks to reduce inconsistencies between zoning and the Comprehensive Plan, but Policy 15.5 specifically allows development of nonconforming lots without requiring rezoning if certain criteria are met. Lots 10 and 11 meet

these criteria, including dimensional requirements, and may each be developed with a single-family dwelling pursuant to Section 62-1188.

However, environmental constraints significantly affect the site. The southern portion of the property lies within both the Coastal High Hazard Area (CHHA) and the Special Flood Hazard Area (SFHA). Objective 7.0 of the Coastal Management Element discourages increasing density within the CHHA. The applicant proposes three dwelling units in this area and has not agreed to staff's recommendation to limit development within the CHHA in order to comply with the Objective. If such a limitation were pursued, it could be formalized through a Binding Development Plan (BDP).

Development within the Special Flood Hazard Area also triggers Section 62-3723, requiring avoidance of adverse impacts, protection of receiving waters, and elevating development above the 100-year flood elevation (approximately 6.3 feet). Therefore, substantial filling would likely be required.

The site is mapped as Upland Mixed Coniferous/Hardwood (FLUCCS) and contains Protected and Specimen Trees. Extensive fill needed to elevate the site could impact these resources and reduce natural ecological functions. Additionally, National Wetland Inventory (NWI)-mapped wetlands exist along the shoreline, indicating potential jurisdictional wetlands; a delineation will be required prior to any development activity. Residential uses within wetlands are restricted under Section 62-3694(c)(1).

On May 30, 2019, the Board of County Commissioners conducted a public hearing for a Large-Scale Comprehensive Plan Amendment and a companion Zoning action for the acceptance of Binding Development Plan (BDP) for consistency with FLU of Residential 1 (**18PZ00167**). The result of that hearing was that the Large-Scale Amendment was denied, and the applicant withdrew the BDP request.

On December 5, 2019, the Board conducted a public hearing to consider the approval of Zoning action **19PZ00093**. At this hearing the applicant presented a BDP limiting the development of property to 8 lots with other stipulations offered to help mitigate the proposed development. The Board also denied this request.

On February 04, 2021, the Board of County Commissioners conducted a public hearing to consider the approval of Zoning action **20Z00030** to rezone the subject parcel from RU-1-13 to AU(L). The applicant proposed 8 single-family units. The request, which is essentially identical to the request at hand, was denied after a public hearing.

On March 23, 2021, the Board of County Commissioners adopted Resolution **No. 21-032**, approving setting forth the Findings of Facts and conclusion of the denial of the request for rezoning from Residential, RU-1-13 to Agricultural Low Intensity AU(L). These adopted Findings state that "In Conclusion the Board of County Commissioners hereby finds the proposed rezoning to AU(L) fails to meet the requirements of the Future Land Use Element, the Conservation Element and the Coastal Element of the Brevard County Comprehensive Plan. Accordingly, the rezoning request to AU(L) is denied." The applicant then challenged the County's Findings by requesting relief under the Florida Land Use and Environmental Dispute Resolution Act, also known as FLUEDRA. Despite the County expending time, effort, and resources to address the challenge, including going through mediation, no formal resolution was reached.

The Board may consider if:

1. The proposed 7-unit development, including 3 units in the CHHA, satisfies the Coastal Management Element's directive to limit densities in hazardous areas.
2. Whether required floodplain fill and resulting environmental impacts comply with the Conservation Element and Section 62-3723.
3. Whether the request remains consistent with prior Board findings in Resolution 21-032.
4. The applicant is willing to take measures necessary to ensure:
 - o Limits on CHHA development,
 - o Tree/wetland protection,
 - o Flood hazard mitigation.

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

On January 12, 2026, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

25Z00049

Lazy River Investments, LLC

RU-1-13 (Single-Family Residential) to AU(L) (Agricultural Residential (Low Intensity))

Tax Account Number: 3008729
 Parcel I.D.: 30G-38-19-HP-*-10
 Location: Southwest corner of Fleming Grant Road and Seabird Lane (District 3)
 Acreage: 20.39 acres

Planning and Zoning Board: 1/12/2025
 Board of County Commissioners: 2/05/2025

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-1-13	AU (L)
Potential*	Two (2) single-family residential units	Eight (8) single-family residential units
Can be Considered under the Future Land Use Map	NO Residential 1:2.5	YES Residential 1:2.5

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

Background and Purpose of Request

The applicant, Lazy River Investments, LLC, purchased the subject 20.13 acre property on May 9, 2019. In 2019, the Brevard County Comprehensive Plan Future Land Use Map (FLUM) designation for the property was Residential 1 unit per 2.5 acres (RES 1:205) and has not been changed. Under the density restriction of the FLUM the maximum allowable density of the subject property is 8 dwelling units. The subject property’s existing zoning of RU-1-13 allows a density of greater than 1 unit per 2.5 acres and, therefore, it is inconsistent with the FLUM. The applicant is requesting to rezone the property from Single-Family Residential (RU-1-13) to Agricultural Residential - Low Intensity (AU(L)) which allows 1 unit per 2.5 acres to be consistent with the Residential 1:2.5 (RES 1:2.5) Future Land Use (FLU) designation. The applicant has included a proposed plan for seven (7) single-family residential parcels (units).

The property is located on the southwest corner of Fleming Grant Road and a private driveway, Seabird Lane. This property has dual frontage on Grant Fleming Road and the Sebastian River. The subject consists of Lot 10 and Lot 11 of Allen Et Al Subdivision, Plat Book 1 Page 77 which was recorded on May 23, 1894. According to the Plat, Lot 10 contains 10.25 acres and Lot 11 has 9.88 acres totaling 20.13 acres. The survey provided by the applicant notes Lot 10 as 9.91 acres and Lot 11 as 10.75 acres (including the Road Right of Way) totaling 20.66 acres. Since the recording of the plat creating these lots predates the County's Zoning Regulation (adopted in 1958) and effective date of the County's Comprehensive Plan (adopted in 1988), Lots 10 and 11 are Nonconforming Lots of Record. The property is currently vacant.

Administrative Policy 2 of the Comprehensive Plan effectively authorizes staff to analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.

Staff provides the following analysis:

Objective 15 of the Future Land Use Element of the Comprehensive Plan states, "Brevard County shall eliminate inconsistencies between the Comprehensive Plan and the zoning regulations of the Land Development Regulations, and thereafter, shall reduce the number of existing land uses which are non-conforming to the Comprehensive Plan". There are several Policies and Criteria relating to the need for rezoning properties that are not inconsistent with the Comprehensive Plan. However, **Policy 15.5** specifically allows the development of non-conforming lots without the necessity of rezoning to be consistent with the Comprehensive Plan. (See attached Objective 15 and Policies.) This policy contains the following criteria:

- A. Non-conforming lots of record are those properties which meet the non-conforming provisions of the Brevard County Zoning Code but which are non-conforming to this Comprehensive Plan and/or Zoning regulations.
- B. Non-conforming lots of record may be developed to a use permitted by Chapter 62, Article VI, Division 2, Subdivision II, "Non-Conforming Uses" of the Brevard County Land Development Regulations, provided that it is also a use permitted by the Future Land Use Map of this Comprehensive Plan.
- C. The Land Development Regulations should continue to include provisions for minimum lot dimensions and setbacks for non-conforming lots of record to ensure that these uses will be compatible with surrounding land uses.
- D. If an existing non-conforming lot does not meet the minimum lot size established by this element, relief may be obtained in accordance with the Zoning Code of Brevard County.

Furthermore, **Section 62-1188**, stipulates that dwellings, structures or buildings may be constructed on a Nonconforming Lot of Record in any zoning classification which allows such dwellings, structures, and buildings. This section further requires that the lot have a width of not less than 50 feet, a depth of not less than 75 feet, and an area of not less than 5,000 square feet for the construction of a single-family dwelling. Both Lots 10 and 11 exceed these requirements and would be eligible to have a single-family dwelling on each of them.

Administrative Policy 7 states, "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 Coastal Management Element, **Objective 7.0**, directs development away from the Coastal High Hazard Area (CHHA) and seeks to limit densities within it. The Comprehensive Plan's Coastal Element indicates the CHHA is an area which is subject to storm surges and flooding in a Category 1 hurricane. As noted in the Environmental Constraints section, several natural features constrain the development potential of the property, including the presence of CHHA on the southern portion where three single-family units are proposed. In order to meet this mandate, staff has suggested to the applicant agreeing to limit units constructed within the Coastal High Hazard Area. To date, the applicant has not agreed to such a limitation. As such, the Board may wish to consider whether this request meets the direction of this Objective, given that it would represent an increase in the potential amount of units that could be constructed within the Coastal High Hazard Area. Should the applicant agree to limit development within the Coastal High Hazard Area, staff suggests that this could be made binding by memorializing it in a Binding Development Plan (BDP) to ensure it can be clearly tracked and enforced throughout the development review process.

This same area also lies within the Special Flood Hazard Area (SFHA) as identified by FEMA, with the CHHA and SFHA largely overlapping. Pursuant to **Section 62-3723(2)(a)–(b)**, development within an estuarine floodplain must avoid adverse impacts to adjacent properties and receiving waters and must provide a contiguous, elevated area for all principal and accessory structures, onsite sewage disposal systems, and buffers, meeting or exceeding the 100-year base flood elevation. In other words, the property would have to be filled to 6.3 feet to be above the 100-year floodplain in order to accommodate development.

The property is mapped as Upland Mixed Coniferous/Hardwood (FLUCCS), containing Protected Trees (≥ 10 inches DBH) and Specimen Trees (≥ 24 inches DBH). Elevating development within the SFHA and CHHA would require substantial fill, which may negatively affect these trees and diminish natural ecological functions.

Additionally, National Wetland Inventory (NWI) wetlands are mapped along the shoreline, indicating potential jurisdictional wetlands. A wetland delineation will be required prior to site plan design, land clearing, or building permit submittal. **Per Section 62-3694(c)(1)**, residential uses within wetlands are limited.

On May 30, 2019, the Board of County Commissioners conducted a public hearing for a Large-Scale Comprehensive Plan Amendment and a companion Zoning action for the acceptance of Binding Development Plan (BDP) for consistency with FLU of Residential 1 (**18PZ00167**). The result of that hearing was that the Large-Scale Amendment was denied, and the applicant withdrew the BDP request.

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applicant proposed 8 single-family units. **The request, which is identical to the request at hand, was denied after a public hearing.**

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There are no active code enforcement actions on the subject property.

Surrounding Properties

	Existing Land Use	Zoning	Future Land Use
North (across Flemming Grant Rd.)	Single-family residence	RR-1	RES 1
South	Sabastian River	None	None
East	Single-family residence	RR-1	RES 1:2.5
West	Single-family residences	RU-1-13	RES 1:2.5

The surrounding area is characterized as low density with some residential lots developed at less than 1 acre prior to the adoption of the Comprehensive Plan in 1988.

The surrounding properties are zoned RR-1 to the east, RU-1-13 to the west, RR-1 across Fleming Grant Road to the north and General Use (GU) on the islands in the San Sebastian River to the south.

There have been no approved zoning actions approved in the last three (3) years within half mile of the subject property.

Directly to the east of the subject property lies a thirty foot (30') unimproved right of way and to the east of that lies the private drive Seabird Lane, which per AA-1581 and AA-1583, provides access to two three-acre riverfront parcels.

The current RU-1-13 permits encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum 7,500 square foot lots, with minimum widths and depths of 75 feet. The minimum house size is 1,300 square feet. RU-1-13 does not permit horses, barns or horticulture.

The proposed AU(L) zoning classification encompasses lands devoted to agricultural pursuits and single-family residential development of spacious character 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.

RR-1 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings 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. Keeping of horses and agricultural uses are accessory to a principal residence within the RR-1 zoning district.

FLUE Policy 1.10 The Residential 1:2.5 land use designation, which establishes the lowest density of all the residential future land use designations, permits a maximum density of up to one (1) unit per 2.5 acres, except as otherwise may be provided for within this element. Development in the Residential 1:2.5 land use designation should seek to maximize the integration of open space within the development and promote inter-connectivity with surrounding uses.

Future Land Use

The property is currently designated RES 1:2.5 by the Future Land Use Map (FLUM). The existing zoning of RU-1-13 is inconsistent to the FLUM. The proposed zoning of AU(L) would allow consistency with the FLUM.

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 parcel is vacant undeveloped land. The proposed rezoning will need to comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272.

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

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

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

1. historical land use patterns;

The historical land use patterns of the surrounding development can be characterized as single-family residences on properties 0.3 acre to 21 acres in size.

There are two (2) FLU designations (RES 1:2.5 and RES 1) within a 0.5-mile radius of the subject property. RES 1:2.5 is the prominent FLU in this area.

There are six (6) zoning classifications (GU, AU, RR-1, RU-1-13, RU-1-7 and GML(P) within a 0.5-mile radius of the subject property. AU and RR-1 are the prominent zoning classifications in this area.

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

There has been no development within 0.5 miles approved within the past three years.

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

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

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 area is characterized primarily by low-density single-family zoning and rural development. As mentioned above, the area contains a mixture of lot sizes and zoning classifications (i.e., GU, AU, RR-1, RU-1-13 and RU-1-7). The majority of the AU zoned

land is approximately 360 feet west of the subject property and has a mixture of the residential and residential/agricultural. The more intense uses allowed within the AU zoning classification do not appear to be occurring in the area. The parcels to the east and north of the subject property are primarily developed as single family residential within RR-1 zoning classification. The RR-1 zoning classification allows horses as accessory to a residential use.

The proposed AU(L) is considered to be a lower intensity sub-classification of AU and to be suited for smaller lots where the neighborhood has a more residential than agricultural character. The AU(L) classification allows the raising/grazing of animals, fowl and beekeeping for personal use, while prohibiting the more intense “commercial” agricultural activities.

Based on staff analysis, the proposed rezoning from RU-1-13 to AU(L) zoning classification request is not anticipated to have a measurable impact on the area in terms of trip generation, or parking. No commercial or industrial activity is proposed.

- B. In determining whether an established residential neighborhood exists, the following factors must be present:
1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.

Staff analysis has determined the property is located in an existing residential area.

The area, known as Fleming Grant, can be characterized as a single-family residential area with spacious lot sizes and roadways.

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

The request is not for commercial use. It is located in an existing single-family residential neighborhood. There are no neighborhood commercial land uses established in this area.

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

The area is single-family residential use. There has not been commercial, industrial, or other non-residential uses approved in this area during the previous five (5) years. This area is not transitional.

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.

Natural Resources has noted The Environmental Constraints section of the reports identify several environment limitations effecting the development potential of the property. The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

Please review all comments from the Natural Resources Management Department found at the end of this report.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Main Street, between Highway US-1 and Central Avenue, which has a Maximum Acceptable Volume (MAV) of 22,400 trips per day, a Level of Service (LOS) of E, and currently operates at 9.82% of capacity daily. The parcel is undeveloped. The maximum development potential from the proposed rezoning increases the proposed trip generation 0.36%. The corridor is anticipated to operate at 10.18% of capacity daily. The proposal is not anticipated to create a deficiency in LOS E.

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 not served by potable water. The subject property would be served by well and septic. Brevard County Division 46, Article II, Division 4 establishes a nitrogen reduction overlay area (Overlay) that requires advanced OSTDS that reduces total nitrogen by at least 65%. A portion of the property lies within this Overlay and septic systems within this Overlay are subject to said regulations.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Protected and Specimen Trees
- Protected Species

For Board Consideration

The Board may consider whether the proposed rezoning to AU(L) is consistent and compatible with the surrounding area. The Board may also consider whether the request is consistent with all Policies and Objective of the Brevard County Comprehensive Plan including, but not limited to, Objective 7 of the Coastal Management Element.

Should the Board be concerned with agriculture activity between RU-1-13 and RR-1 zoning classifications, an alternative residential zoning classification, Rural Estate Use (REU) could be considered in lieu of the applicant's AU(L) zoning request. The Rural Estate Use (REU) zoning classification is similar to AU(L) and requires a minimum lot area of 2.5 acres and may be considered consistent with the RES 1:2.5 FLUM but limits agricultural uses as a conditional use. The keeping of horses or other farm animals would require a separate zoning action in order to identify and limit their usage upon the property. Additionally, REU with minimum lot width and depth of 200' would limit the number of new lots fronting Fleming Grant Road or the river, plus a small left-over area for possible flag stems accessing Fleming Grant Road or providing access to the water. Minimum floor area is 1,200 square feet of living area, which is larger than the 750 square feet required in AU(L). Although REU zoning is not currently located in the surrounding area, this zoning classification could offer additional protections that the AU(L) zoning classification does not.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item No. 25Z00049

Applicant: Lazy River Investments LLC (Owner: Lazy River Investments LLC)

Zoning Request: RU-1-13 to AU(L)

Note: for consistency with FLU

Zoning Hearing: 01/12/2026; **BCC Hearing:** 02/05/2026

Tax ID No.: 3008729

- 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:

- National Wetland Inventory (NWI) Wetlands
- Aquifer Recharge Soils
- Coastal High Hazard Area
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Septic Overlay
- Surface Waters of the State
- Protected and Specimen Trees
- Protected Species

The subject parcel contains mapped NWI wetlands on the shoreline of the site. A wetland delineation will be required prior to any site plan design, land clearing activities, or building permit submittal.

The southern portion of the property is in the Coastal High Hazard Area (CHHA). The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

The southern portion of the subject parcel is located within the Special Flood Hazard Area (SFHA) as identified by Federal Emergency Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality. Development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year base flood elevation (BFE) as described below.

Portions of the site are mapped within the Indian River Lagoon Nitrogen Reduction Septic Overlay. The project is not located within the Brevard County's sanitary sewer service area. Therefore, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multistage treatment processes shall be required. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

The entire subject property is mapped within Upland Mixed Coniferous/Hardwood trees FLUCCS code. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are found in the project area. While developing in the SFHA and CHHA to a higher elevation would provide more protection from flooding, the additional fill is detrimental to the preservation of Specimen Trees, natural function and biodiversity.

If the owner/applicant has questions regarding any potential limitations, s/he is encouraged to contact NRM at 321-633-2016 prior to design of any plans.

Land Use Comments:

Wetlands

The subject parcel contains mapped NWI wetlands on the shoreline of the site; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any site plan design, land clearing activities, or building 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. For subdivisions 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 Sections 62-3694(e) including avoidance of impacts, and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016 prior to any plan or permit submittal.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand and Orsino fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Additionally, the mapped topographic elevations show that the property falls within a Type 3 Aquifer Recharge area, which is subject to impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Coastal High Hazard Area

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

Objective 7 of the Coastal Management Element aims to limit densities within the coastal high hazard area and direct development outside of this area.

Floodplain Protection

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

Indian River Lagoon Nitrogen Reduction Septic Overlay

The southern portion of this property is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. Per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay, if adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. Septic tanks and drain fields in the SFHA are subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

Surface Waters of the State

The subject property is located on the Indian River Lagoon, designated as an Aquatic Preserve in this location. A 50-foot Surface Water Protection Buffer is required. Except as allowable under Section 62-3668 (7), primary structures shall be located outside the Buffer. Accessory structures are permissible within the Buffer with conditions (e.g., storm water management is provided, avoidance/minimization of impacts, and maximum 30% impervious). The removal of native vegetation located within the Buffer is prohibited unless approved through an active development order. Temporary impacts to native vegetation require in-kind restoration. Per Section 62-3666(4), all alterations shall demonstrate avoidance and minimization of surface water protection buffer impacts, including the location of the alteration within the most landward portion of the Buffer, as practicable. The remainder of the surface water protection Buffer shall be maintained in unaltered native vegetation. The Florida Department of Environmental Protection (FDEP) regulates mangrove trimming and can be reached at 407-897-4101. The applicant is encouraged to contact NRM at 321-633-2016 prior to any activities, plan, or permit submittal.

Protected and Specimen Trees

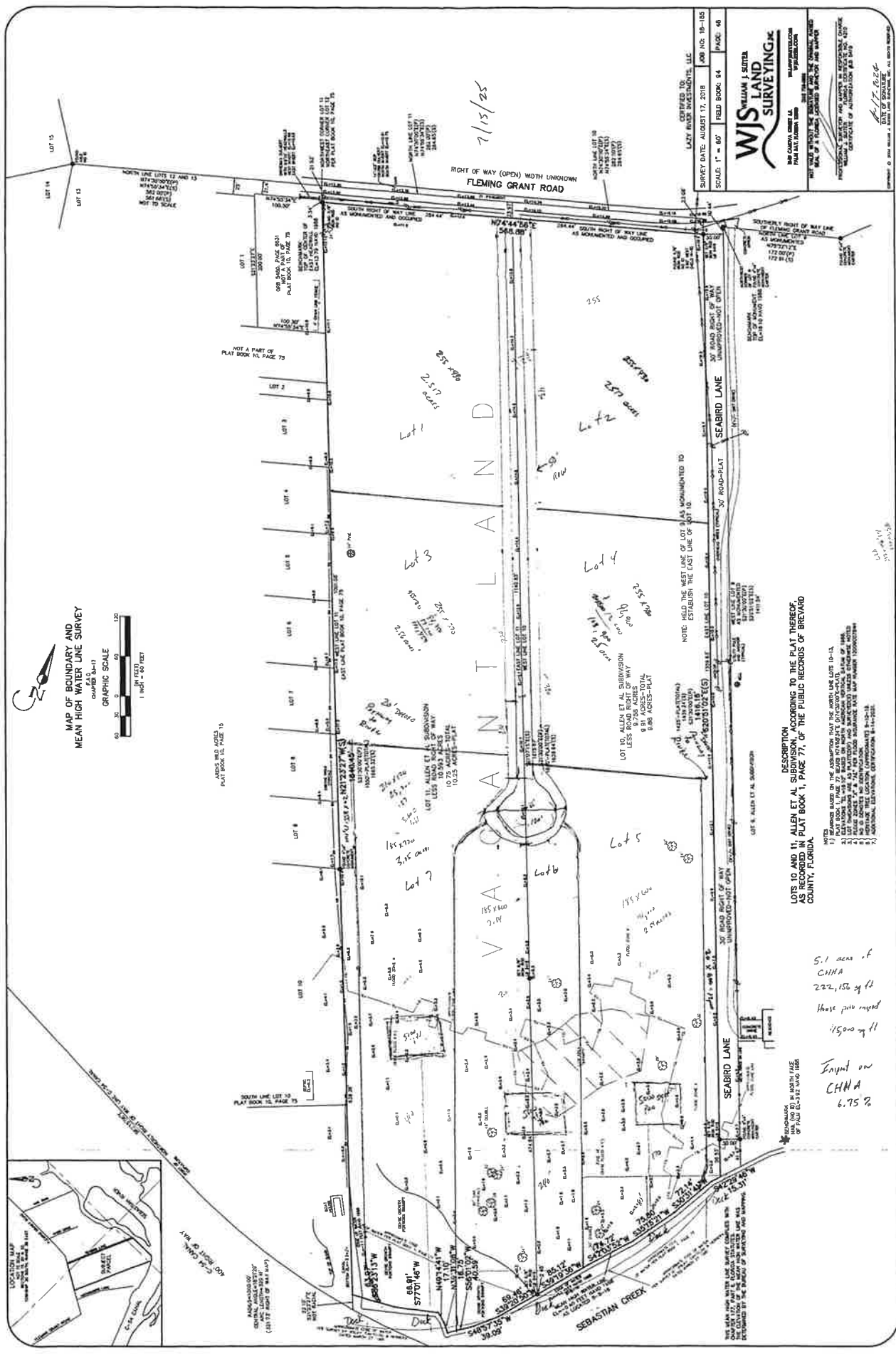
The entire subject property is overlaid in a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and are likely found on the project area. The applicant shall perform a tree survey prior to any site plan design to incorporate valuable vegetative communities or robust trees into the design. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, 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.

While developing to a higher elevation provides more protection from flooding, the additional fill is detrimental to the preservation of Protected and Specimen Trees, especially those located at the lower elevations within the SFHA floodplain and the CHHA. If units are developed in the lower elevations of the property, closer to the shoreline, more fill will be required to satisfy Land Development Regulations relating to the FFE. The Applicant shall contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

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



MAP OF BOUNDARY AND MEAN HIGH WATER LINE SURVEY
 DATE: 7/15/25
 GRAPHIC SCALE
 1" = 60 FEET

WISLAND SURVEYING
 WISLAND SURVEYING, LLC
 1000 W. US HWY 1, SUITE 100
 TAMPA, FLORIDA 33606
 PHONE: 813.288.1111
 FAX: 813.288.1112
 WWW.WISLANDSURVEYING.COM

CERTIFIED TO: LACY INVESTMENTS, LLC
 SURVEY DATE: AUGUST 17, 2018 JOB NO: 19-105
 SCALE: 1" = 60' FIELD BOOK: 94 PAGE: 46

NOTES:
 1) TO BE ADDED TO THE SUBDIVISION RECORDS OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.
 2) TO BE ADDED TO THE RECORDS OF THE BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, TAMPA, FLORIDA.
 3) TO BE ADDED TO THE RECORDS OF THE BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, TAMPA, FLORIDA.
 4) TO BE ADDED TO THE RECORDS OF THE BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, TAMPA, FLORIDA.
 5) TO BE ADDED TO THE RECORDS OF THE BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, TAMPA, FLORIDA.

5.1 acres of CHNA
 222,156 sq ft
 these plus more 15,000 sq ft
 Engr on CHNA 6.75%

7/15/25

153-119
 257-10258



**School Board of Brevard County
School Facility Planning and Concurrency Application
(School Impact Analysis)**

III. Development Information

Current Land Use Designation		Proposed Land Use Designation		
Current Zoning		Proposed Zoning		
Project Acreage				
Total Dwelling Units Proposed				
Dwelling Unit Breakdown (Qty)	Single Family or Town Homes:	Multi-Family or Apartments:	Condo:	Mobile Home / Manufactured:

Year of Project or Phase Completion: Total Dwelling Units by Type / Year

Year End 20XX					
Unit Type	Year 1	Year 2	Year 3	Year 4	Year 5+
Single Family / Town Homes					
Multi-Family / Apartments					
Condominium					
Mobile Home / Manufactured					
Totals by Year					

NOTE: This application will not be deemed complete until all required information has been submitted to the School Board of Brevard County. Submittal requirements include completed application, phasing information, review fee(s), agent authorization (if applicable) and location map. Please be advised that additional documentation/information may be requested during the review process.

SCHOOL BOARD USE ONLY Date / Time Stamp: _____

School Board of Brevard County

2700 Judge Fran Jamieson Way • Viera, FL 32940-6699
 Dr. Mark Rendell, Ed.D., Superintendent



October 2, 2025

Paul Body, Senior Planner
 Planning & Development Department
 Brevard County Board of County Commissioners
 2725 Judge Fran Jamieson Way Bldg. A-114
 Viera, Florida 32940

**RE: Proposed Lazy River Investment Development
 School Impact Analysis – Capacity Determination CD-2025-16**

Dear Mr. Body,

We received a completed *School Facility Planning & Concurrency Application* for the referenced development. The subject property is Tax Account 3008729 (Parcel ID: 30G-38-19-HP-*-10), containing a total of approximately 20.39 acres in District 3, Brevard County, Florida. The proposed development includes a maximum of 7 Single-family units. The School Impact Analysis of this proposed development has been undertaken, and the following information is provided for your use.

The calculations used to analyze the prospective student impact are consistent with the methodology outlined in Section 13.2 and Amended Appendix "A"-School District Student Generation Multiplier (approved April 11, 2022) of the *Interlocal Agreement for Public School Facility Planning & School Concurrency (ILA-2014)*. The following capacity analysis is performed using capacities/projected students as shown in years 2025-26 to 2029-30 of the *Brevard County Public Schools Financially Feasible Plan for School Years 2024-25 to 2029-30* which is attached for reference.

Single Family Townhomes		7	
Students Generated	Student Generation Rates	Calculated Students Generated	Rounded Number of Students Generated
Elementary	0.24	1.68	2
Middle	0.07	0.49	0
High	0.12	0.84	1
Total	0.43		3

Planning & Project Management
 Facilities Services
 Phone: (321) 633-1000, ext. 11418



School Board of Brevard County

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Dr. Mark Rendell, Ed.D., Superintendent



FISH Capacity (including relocatable classrooms) from the Financially Feasible Plan (FFP) Data and Analysis for School Years 2025-26 to 2029-30

School	2025-26	2026-27	2027-28	2028-29	2029-30
Sunrise	1,001	1,045	1,133	1,243	1,353
Southwest	1,281	1,281	1,281	1,439	1,459
Bayside	2,358	2,358	2,429	2,572	2,786

Projected Student Membership

School	2025-26	2026-27	2027-28	2028-29	2029-30
Sunrise	984	1,029	1,120	1,236	1,338
Southwest	1,046	1,073	1,224	1,403	1,448
Bayside	2,173	2,304	2,427	2,554	2,784

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2025-26	2026-27	2027-28	2028-29	2029-30
Sunrise	-	1	126	322	1,522
Southwest	-	-	34	89	131
Bayside	-	-	61	159	753

Cumulative Students Generated by Proposed Development

School	2025-26	2026-27	2027-28	2028-29	2029-30
Sunrise	-	2	2	2	2
Southwest	-	0	0	0	0
Bayside	-	1	1	1	1

Total Projected Student Membership (includes Cumulative Impact of Proposed Development)

School	2025-26	2026-27	2027-28	2028-29	2029-30
Sunrise	984	1,032	1,248	1,560	2,862
Southwest	1,046	1,073	1,258	1,492	1,579
Bayside	2,173	2,305	2,489	2,714	3,538

Projected Available Capacity = FISH Capacity - Total Projected Student Membership

School	2025-26	2026-27	2027-28	2028-29	2029-30
Sunrise	17	13	(115)	(317)	(1,509)
Southwest	235	208	23	(53)	(120)
Bayside	185	53	(60)	(142)	(752)

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At this time, Sunrise Elementary School and Bayside High School are not projected to have enough capacity for the total of projected and potential students from the Lazy River Investment development. Because there is a shortfall in the concurrency service areas of development, the capacity of adjacent concurrency service areas must be considered.

The adjacent elementary school concurrency service areas are Westside, Port Malabar and Columbia Elementary Schools. The adjacent middle school concurrency service area is Stone Magnet Middle School. The adjacent high school concurrency service area is Palm Bay Magnet High School. A table of capacities of the adjacent school's concurrency service areas that could accommodate the impacts of the Lazy River Investment development is shown on the following page:

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Facilities Services
Phone: (321) 633-1000, ext. 11418



School Board of Brevard County

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 Dr. Mark Rendell, Ed.D., Superintendent



**FISH Capacity (including relocatable classrooms) from the
 Financially Feasible Plan (FFP) Data and Analysis for School Years 2025-26 to 2029-30**

School	2025-26	2026-27	2027-28	2028-29	2029-30
Westside	1,051	1,117	1,227	1,337	1,425
Columbia	751	751	751	795	839
Port Malabar	852	852	852	852	852
Stone	1,076	1,076	1,076	1,076	1,076
Palm Bay	2,642	2,642	2,642	2,642	2,642

Projected Student Membership

School	2025-26	2026-27	2027-28	2028-29	2029-30
Westside	1,041	1,112	1,208	1,296	1,411
Columbia	638	682	732	792	836
Port Malabar	662	679	725	797	820
Stone	523	584	612	651	786
Palm Bay	1,326	1,307	1,325	1,410	1,435

Students Generated by Newly Issued SCADL Reservations Since FFP

School	2025-26	2026-27	2027-28	2028-29	2029-30
Westside	-	-	-	-	-
Columbia	-	-	-	-	-
Port Malabar	-	-	-	-	-
Stone	8	10	12	12	12
Palm Bay	13	19	23	23	23

**Cumulative Students Generated by
 Proposed Development**

School	2025-26	2026-27	2027-28	2028-29	2029-30
Westside	-	2	2	2	2
Columbia	-	2	2	2	2
Port Malabar	-	2	2	2	2
Stone	-	0	0	0	0
Palm Bay	-	1	1	1	1

**Total Projected Student Membership (includes
 Cumulative Impact of Proposed Development)**

School	2025-26	2026-27	2027-28	2028-29	2029-30
Westside	1,041	1,114	1,210	1,298	1,413
Columbia	638	684	734	794	838
Port Malabar	662	681	727	799	822
Stone	531	594	624	663	798
Palm Bay	1,339	1,327	1,349	1,434	1,459

**Projected Available Capacity =
 FISH Capacity - Total Projected Student Membership**

School	2025-26	2026-27	2027-28	2028-29	2029-30
Westside	10	3	17	39	12
Columbia	113	67	17	1	1
Port Malabar	190	171	125	53	30
Stone	545	482	452	413	278
Palm Bay	1,303	1,315	1,293	1,208	1,183

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 Dr. Mark Rendell, Ed.D., Superintendent



At this time, considering the adjoining concurrency service areas, **there is sufficient capacity for the total projected student membership to accommodate the Lazy River Investments development.**

This is a **non-binding** review; a *Concurrency Determination* must be performed by the School District prior to a Final Development Order and the issuance of a Concurrency Evaluation Finding of Nondeficiency by the Local Government.

We appreciate the opportunity to review this proposed project. Please let us know if you require additional information.

Sincerely,

Karen M. Black, AICP
 Manager – Facilities Planning & Intergovernmental Coordination
 Planning & Project Management, Facilities Services

Enclosure: *Brevard County Public Schools Financially Feasible Plan for School Years 2024-25 to 2029-30*

Copy: Susan Hann, P.E., AICP, Assistant Superintendent of Facility Services
 File CD-2025-16

David G. Lindemann, AICP
 Director of Planning & Project Management, Facilities Services
 File CD-2025-16

Planning & Project Management
 Facilities Services
 Phone: (321) 633-1000, ext. 11418





Lazy River Investments, LLC Location Map

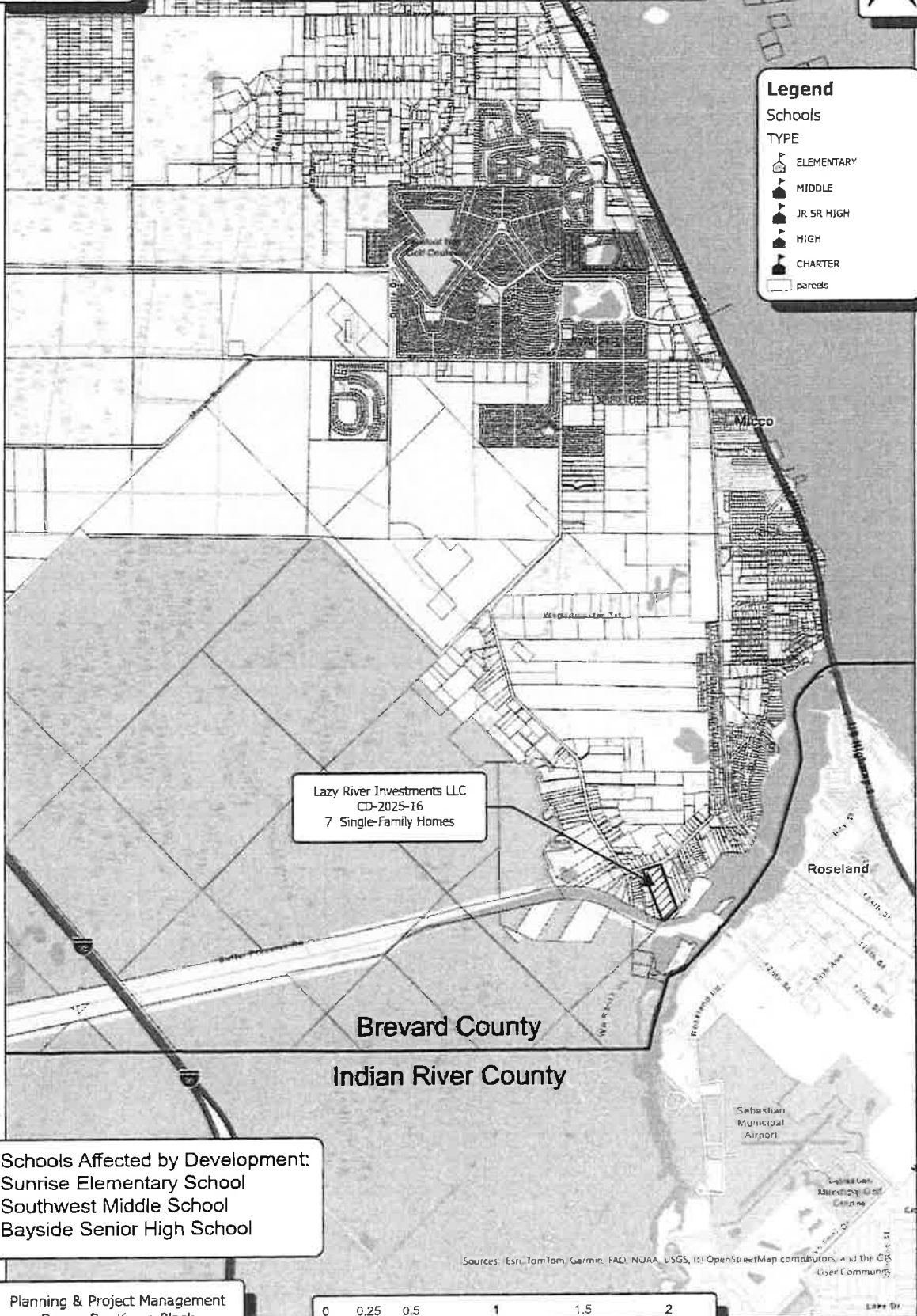


Legend

Schools

TYPE

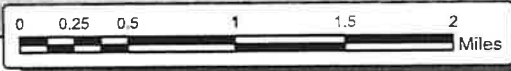
- ELEMENTARY
- MIDDLE
- JR SR HIGH
- HIGH
- CHARTER
- parcels



Lazy River Investments LLC
CD-2025-16
7 Single-Family Homes

Schools Affected by Development:
Sunrise Elementary School
Southwest Middle School
Bayside Senior High School

Planning & Project Management
Drawn By: Karen Black



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, iD, OpenStreetMap contributors, and the GIS User Community



Brevard County Public Schools

Financially Feasible Plan To Maintain Utilization Rates Lower than the 100% Level of Service

Data and Analysis for School Years 2024-25 to 2029-30

School	Type	Grades	Utilization Factor	2024-25			2025-26			2026-27			2027-28			2028-29			2029-30		
				FBSH Capacity	10/1474 Member-ship	Total Capacity Utilization	FBSH Capacity	Student Projection	Total Capacity Utilization	FBSH Capacity	Student Projection	Total Capacity Utilization	FBSH Capacity	Student Projection	Total Capacity Utilization	FBSH Capacity	Student Projection	Total Capacity Utilization	FBSH Capacity	Student Projection	Total Capacity Utilization
Elementary School Concurrency Service Areas																					
Adrian	Elementary	PK-6	100%	751	620	83%	751	650	87%	751	580	77%	751	510	68%	751	440	59%	751	370	49%
Andersen	Elementary	K-6	100%	757	461	61%	757	456	60%	757	416	55%	757	350	46%	757	290	38%	757	230	30%
Apollonia	Elementary	PK-6	100%	902	598	66%	902	550	61%	902	513	57%	902	494	55%	902	480	53%	902	460	51%
Atlanta	Elementary	PK-6	100%	738	653	88%	738	613	83%	738	588	80%	738	568	77%	738	550	74%	738	538	73%
Audubon	Elementary	PK-6	100%	781	415	53%	781	422	54%	781	411	53%	781	388	50%	781	366	47%	781	344	44%
Cambidgo	Elementary	PK-6	100%	787	437	56%	787	407	52%	787	350	45%	787	277	35%	787	216	28%	787	155	20%
Cape View	Elementary	PK-6	100%	570	273	48%	570	264	46%	570	248	43%	570	237	42%	570	226	40%	570	216	38%
Carroll	Elementary	K-6	100%	751	838	112%	751	897	119%	751	976	130%	751	1055	141%	751	1134	151%	751	1213	160%
Challenger 7	Elementary	PK-6	100%	573	431	75%	573	393	69%	573	340	59%	573	283	50%	573	226	40%	573	169	30%
Columbia	Elementary	PK-6	100%	761	573	75%	761	662	87%	761	739	97%	761	816	107%	761	893	117%	761	970	126%
Coquina	Elementary	K-6	100%	1,114	486	44%	1,114	464	42%	1,114	443	40%	1,114	422	38%	1,114	401	36%	1,114	380	34%
Croton	Elementary	PK-6	100%	795	464	58%	795	470	59%	795	468	58%	795	466	58%	795	464	58%	795	462	58%
Discovery	Elementary	PK-6	100%	980	680	70%	980	792	81%	980	816	83%	980	840	86%	980	864	88%	980	888	91%
Enterprise	Elementary	PK-6	100%	862	744	86%	862	753	87%	862	763	88%	862	773	89%	862	783	90%	862	793	91%
Enterprise	Elementary	K-6	100%	729	557	76%	729	563	77%	729	569	78%	729	575	79%	729	581	80%	729	587	81%
Fairfax	Elementary	PK-6	100%	788	466	59%	788	470	60%	788	472	60%	788	474	60%	788	476	60%	788	478	60%
Gannett	Elementary	K-6	100%	711	410	58%	711	374	53%	711	349	49%	711	324	46%	711	300	42%	711	276	39%
Gateway	Elementary	PK-6	100%	777	438	56%	777	440	57%	777	442	57%	777	444	58%	777	446	58%	777	448	59%
Harbor City	Elementary	PK-6	100%	829	390	47%	829	329	40%	829	268	32%	829	207	25%	829	146	18%	829	85	10%
Holland	Elementary	PK-6	100%	605	444	73%	605	408	67%	605	378	63%	605	348	58%	605	318	53%	605	288	48%
Imperial Estates	Elementary	PK-6	100%	720	507	70%	720	607	84%	720	697	97%	720	787	109%	720	877	122%	720	967	134%
Indian Creek	Elementary	K-6	100%	798	894	112%	798	946	118%	798	998	125%	798	1050	131%	798	1102	138%	798	1154	145%
Judith	Elementary	PK-6	100%	802	573	71%	802	568	71%	802	563	70%	802	558	70%	802	553	69%	802	548	69%
Lakeland	Elementary	PK-6	100%	760	578	76%	760	595	78%	760	622	82%	760	649	86%	760	676	89%	760	703	92%
Longleaf	Elementary	PK-6	100%	941	810	86%	941	899	96%	941	957	102%	941	1,015	108%	941	1,079	115%	941	1,143	122%
McCallie	Elementary	PK-6	100%	838	657	78%	838	729	87%	838	820	98%	838	911	109%	838	992	118%	838	1,073	127%
Northwest	Elementary	PK-6	100%	1,004	776	77%	1,004	824	82%	1,004	942	94%	1,004	1,060	106%	1,004	1,178	117%	1,004	1,356	135%
Reaunawana Intermediate	Elementary	3-6	100%	824	504	61%	824	555	67%	824	606	74%	824	657	80%	824	708	86%	824	759	92%
Reaunawana Primary	Elementary	K-6	100%	707	352	50%	707	377	53%	707	402	57%	707	427	60%	707	452	64%	707	477	68%
Riviera	Elementary	PK-6	100%	926	626	68%	926	584	63%	926	542	59%	926	500	54%	926	458	50%	926	416	45%
Sea Park	Elementary	PK-6	100%	956	496	52%	956	483	51%	956	470	50%	956	457	48%	956	444	47%	956	431	45%
Seaside	Elementary	PK-6	100%	983	683	70%	983	693	71%	983	703	72%	983	713	73%	983	723	74%	983	733	75%
Satton	Elementary	PK-6	100%	613	501	82%	613	536	87%	613	561	92%	613	586	97%	613	611	102%	613	636	107%
Port Manatee	Elementary	PK-6	100%	657	528	80%	657	679	103%	657	735	112%	657	811	123%	657	887	135%	657	963	146%
Quest	Elementary	PK-6	100%	932	690	74%	932	748	80%	932	866	93%	932	994	107%	932	1,122	120%	932	1,310	139%
Roseville	Elementary	PK-6	100%	733	731	100%	733	821	112%	733	907	124%	733	983	134%	733	1,059	144%	733	1,135	154%
Seaside	Elementary	PK-6	100%	990	376	38%	990	384	39%	990	392	40%	990	400	41%	990	408	42%	990	416	43%
Seaside	Elementary	K-6	100%	765	468	61%	765	465	61%	765	462	60%	765	459	60%	765	456	60%	765	453	59%
Seminole	Elementary	PK-6	100%	920	622	68%	920	634	69%	920	646	70%	920	658	72%	920	670	73%	920	682	74%
Seaside	Elementary	PK-6	100%	461	308	67%	461	313	68%	461	318	69%	461	323	70%	461	328	71%	461	333	72%
Seaside	Elementary	PK-6	100%	600	404	67%	600	411	69%	600	418	71%	600	425	73%	600	432	75%	600	439	77%
Seaside	Elementary	PK-6	100%	507	304	60%	507	311	62%	507	318	64%	507	325	66%	507	332	68%	507	339	70%
Seaside	Elementary	K-6	100%	755	555	74%	755	560	74%	755	565	75%	755	570	76%	755	575	77%	755	580	78%
Seaside	Elementary	K-6	100%	541	404	75%	541	412	76%	541	420	77%	541	428	79%	541	436	81%	541	444	83%
Seaside	Elementary	PK-6	100%	310	258	83%	310	266	86%	310	274	89%	310	282	92%	310	290	95%	310	298	98%
Seaside	Elementary	PK-6	100%	874	568	65%	874	576	66%	874	588	67%	874	600	69%	874	612	70%	874	624	72%
Seaside	Elementary	PK-6	100%	911	529	58%	911	541	60%	911	553	62%	911	565	64%	911	577	66%	911	589	68%
Seaside	Elementary	PK-6	100%	1,030	645	63%	1,030	678	66%	1,030	711	69%	1,030	744	72%	1,030	777	75%	1,030	810	78%
Seaside	Elementary	K-6	100%	941	434	46%	941	441	47%	941	448	48%	941	455	49%	941	462	50%	941	469	51%
Seaside	Elementary	PK-6	100%	715	450	63%	715	467	65%	715	484	68%	715	501	71%	715	518	74%	715	535	77%
Seaside	Elementary	PK-6	100%	42,105	30,023	71%	42,145	30,083	71%	42,185	30,143	71%	42,225	30,203	71%	42,265	30,263	71%	42,305	30,323	71%

School	Type	Grades	Utilization Factor	2024-25			2026-27			2028-29			2030-31		
				FISH Capacity	Member-ship	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization	Future FISH Capacity	Student Projection	Total Capacity Utilization

Middle School Concurrency Service Areas															
Colonia	High	9-12	95%	1,614	1,058	70%	1,514	1,045	69%	1,414	1,001	71%	1,314	988	75%
Delaware	High	9-12	95%	960	944	98%	860	849	93%	760	749	99%	660	649	99%
Frederick	High	9-12	95%	860	844	98%	760	749	99%	660	649	99%	560	549	99%
Harrogate	High	9-12	95%	860	844	98%	760	749	99%	660	649	99%	560	549	99%
Johnston	High	9-12	95%	860	844	98%	760	749	99%	660	649	99%	560	549	99%
Kenilworth	High	9-12	95%	860	844	98%	760	749	99%	660	649	99%	560	549	99%
Madison	High	9-12	95%	860	844	98%	760	749	99%	660	649	99%	560	549	99%
Northway	High	9-12	95%	860	844	98%	760	749	99%	660	649	99%	560	549	99%
Southwest	High	9-12	95%	860	844	98%	760	749	99%	660	649	99%	560	549	99%
Union	High	9-12	95%	860	844	98%	760	749	99%	660	649	99%	560	549	99%
West Middle	High	9-12	95%	860	844	98%	760	749	99%	660	649	99%	560	549	99%
Middle Totals				11,370	7,085	70%	11,370	7,085	62%	11,370	7,085	62%	11,370	7,085	62%

Junior / Senior High School Concurrency Service Areas															
Coosa	Jr / Sr High	PK, 7-12	90%	2,085	1,330	64%	2,085	1,330	63%	2,085	1,330	63%	2,085	1,330	63%
Coosa Beach	Jr / Sr High	PK, 7-12	90%	1,464	1,040	71%	1,464	1,040	71%	1,464	1,040	71%	1,464	1,040	71%
Space Coast	Jr / Sr High	PK, 7-12	90%	1,852	1,505	81%	1,852	1,482	80%	1,852	1,482	80%	1,852	1,482	80%
Jr / Sr High Totals				5,401	3,875	72%	5,401	3,783	70%	5,401	3,683	68%	5,401	3,683	68%

Senior High School Concurrency Service Areas															
Astronaut	High	9-12	95%	1,461	1,054	72%	1,461	1,034	71%	1,461	1,034	71%	1,461	1,034	71%
Bayside	High	9-12	95%	2,358	1,715	73%	2,358	1,715	73%	2,358	1,715	73%	2,358	1,715	73%
Equi Gallop	High	9-12	95%	2,211	1,416	64%	2,211	1,426	65%	2,211	1,436	65%	2,211	1,446	66%
Heritage	High	9-12	95%	2,314	1,689	73%	2,314	1,699	73%	2,314	1,709	74%	2,314	1,719	74%
Marblehead	High	9-12	95%	2,370	1,610	68%	2,370	1,620	68%	2,370	1,630	69%	2,370	1,640	70%
Marriott Island	High	9-12	95%	1,868	1,445	77%	1,868	1,455	78%	1,868	1,465	79%	1,868	1,475	80%
Palm Bay	High	9-12	95%	2,842	1,856	65%	2,842	1,866	66%	2,842	1,876	67%	2,842	1,886	68%
Rockledge	High	9-12	95%	1,638	1,177	72%	1,638	1,187	73%	1,638	1,197	74%	1,638	1,207	75%
Seaside	High	9-12	95%	1,661	1,158	70%	1,661	1,168	71%	1,661	1,178	72%	1,661	1,188	73%
Thurston	High	9-12	95%	1,201	1,277	106%	1,201	1,287	107%	1,201	1,297	108%	1,201	1,307	109%
Vero	High	9-12	95%	2,461	2,333	95%	2,461	2,373	97%	2,461	2,423	99%	2,461	2,483	101%
High Totals				22,981	16,916	73%	22,981	16,914	73%	22,981	16,912	73%	22,981	16,910	73%

Schools of Choice (Not Concurrency Service Areas)															
Freedom 7	Elementary	K-5	100%	478	403	84%	478	414	87%	478	414	87%	478	414	87%
Stevenson	Elementary	K-5	100%	450	450	100%	450	450	100%	450	450	100%	450	450	100%
South Lake	Elementary	K-5	100%	450	450	100%	450	450	100%	450	450	100%	450	450	100%
West Melbourne	Elementary	K-5	100%	450	450	100%	450	450	100%	450	450	100%	450	450	100%
Edgewood	Jr / Sr High	7-12	90%	1,077	845	78%	1,077	845	78%	1,077	845	78%	1,077	845	78%
West Shore	Jr / Sr High	7-12	90%	1,284	945	73%	1,284	945	73%	1,284	945	73%	1,284	945	73%
Schools of Choice				4,878	3,850	79%	4,878	3,811	78%	4,878	3,811	78%	4,878	3,811	78%
Elementary Totals				95,416	83,174	87%	95,423	83,325	87%	95,423	83,476	87%	95,423	83,627	87%

Notes

- FISH Capacity is the sum of the factored permanent capacity and the factored relocatable capacity. Permanent and relocatable capacities for 2024-25 are reported from the FISH Database as of November 13, 2024.
- Student Membership is reported from the Fall Final Membership Count (10/14/2024).
- Development Projections from Broward County Local Government Jurisdictional:
 - Broward County School Concurrency Student Enrollment Projections (SOM)
 - Full Membership student addresses and corresponding concurrency service areas:
 - Student Mobility Rates / Cohort Survival Rates
 - Broward County Birth rates by age code
- Davis Demographics estimates are then adjusted using the following factors:
 - PK (Pre Kindergarten) and AH (daycare for students with infants) enrollment number are assumed to be constant
 - Current FISH attendance patterns are assumed to remain constant.
 - Nonrelocated student addresses are assumed to continue in their attendance schools.
 - Charter School Growth.
- In order to maintain utilization rates lower than the 100%, Level of Service, Permanent Capacity and Relocatable Classrooms are assumed to add future student stations as necessary.
- If student projections are accurate, the school board could add additional classroom capacity. Inherent attendance capacity changes of add relocatable classrooms. A sixth area elementary school is planned for the future growth, but the exact timing hasn't been established. If student projections are accurate, the school board could add additional classroom capacity. Inherent attendance capacity changes of add relocatable classrooms. A sixth area elementary school is planned for the future growth, but the exact timing hasn't been established.
- Primary relocatable classrooms (Grades K-3) in student stations, immediate (Grades 4-6) relocatable classrooms = 22 student stations, and High School (Grades 9-12) relocatable classrooms = 25 student stations

For school year 2026-27: a total of 13 immediate classrooms are projected for Jupiter (2), Riviera (2), Sunrise (2), and Westside (3) Elementary Schools and Vista Middle School (3).

For school year 2027-28: a total of 19 immediate classrooms are projected for Jupiter (2), Riviera (3), Sunrise (3), Turner (1) and Westside (5) Elementary Schools.

For school year 2028-29: a total of 29 immediate classrooms are projected for Colonia (2), Jupiter (2), Sunrise (5), Turner (3), and Westside (6) Elementary Schools, Southwest Middle School (1) and 9 High School relocatable classrooms are proposed for Bayside High School.

For school year 2029-30: a total of 17 immediate classrooms are projected for Colonia (2), Jupiter (2), Sunrise (5), Turner (3), and Westside (6) Elementary Schools, Southwest Middle School (1) and 9 High School relocatable classrooms are proposed for Bayville.

9. A classroom addition is planned to open at West Melbourne School of Science for 2028-29. The factored capacity is adjusted for this proposed 100 student stations.



Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Kimberly.Powell@brevardclerk.us

March 24, 2021

M E M O R A N D U M

TO: Eden Bentley, County Attorney

RE: Item F.17., Resolution Setting Forth the Lazy River Investments, LLC Finding of Facts, Rezoning

The Board of County Commissioners, in regular session on March 23, 2021, adopted Resolution No. 21-032, approving setting forth the Findings of Facts and conclusions of the denial of request for rezoning from Residential, RU-1-13 to Agricultural Low Intensity, AU(L) zoning on property owned by Lazy River Investments, LLC. Enclosed is a certified copy of the Resolution.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script that reads "Kimberly Powell".

Kimberly Powell, Clerk to the Board

/ds

Encl. (1)

cc: Planning and Development

RESOLUTION NO. 21--032

A RESOLUTION SETTING FORTH THE FINDINGS OF FACT AND CONCLUSIONS OF THE BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS PERTAINING TO THE DENIAL OF REQUEST FOR REZONING FROM RESIDENTIAL, RU-1-13 TO AGRICULTURAL LOW INTENSITY, AU(L) ZONING ON PROPERTY OWNED BY LAZY RIVER, INVESTMENTS, LLC.

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida as follows:

STATEMENT OF THE CASE AND FACTS

This item came before the Brevard County Planning and Zoning Board (P&Z) on November 9, 2020. The Planning and Zoning Board recommended approval. The item came before the Brevard County Board of County Commissioners on December 3, 2020 and was tabled until February 4, 2021. On February 4, 2021, the request was denied after a public hearing.

The record is attached as Exhibit "A." It consists of the documents maintained by the Planning and Development Department, and provided to the Planning and Zoning Board and Board of County Commissioners, relevant code sections, Comprehensive Plan provisions and minutes. The pages will be referred to as R-_____.

Description	Page Numbers
Agenda Report	R-0002
Administrative Policies of the Future Land Use Element	R-0004
Staff Comments	R-0011
GIS Maps	R-0020
Application	R-0034
Sign Posting Affidavit	R-0058
Minutes of Planning and Zoning Board, November 9, 2020	R-0060
Public Comment	R-0062
Disclosures	R-0088
Addendum to Staff Comments	R-0090

Chapter 01 Conservation Element, Brevard County Comprehensive Plan	R-0097
Chapter 02 Surface Water Management, Brevard County Comprehensive Plan	R-0145
Chapter 10 Coastal Management Element, Brevard County Comprehensive Plan	R-0159
Section 62-1334, Code of Ordinances of Brevard County, Florida, Agricultural Residential-Low Intensity (AU(L)); Section 62-1340, Code of Ordinances of Brevard County, Florida RU-1-13	R-0209
Section 62-1335, Code of Ordinances of Brevard County, Florida Rural Estate Use (REU)	R-0215
Section 62-1255 – Code of Ordinances of Brevard County, Florida – Establishment of zoning classifications and consistency with comprehensive plans	R-0217
Minutes Brevard County Commission Meeting February 4, 2021 Item H.1 Lazy River Investments	R-0222
Minutes of the Brevard County Commission Meeting December 3, 2020 Item H.6., Lazy River Investments	R-0237
Section 62-1188 – Code of Ordinances of Brevard County, Florida	R-0238

The applicant, Lazy River Investments, LLC (Lazy River), purchased the subject 20.13 acre property on May 9, 2019 (R-0045). In 2019, the Brevard County Comprehensive Plan Future Land Use Map (FLUM) designation for the property was Residential 1 unit per 2.5 acres (RES 1:2.5) and has not been changed (R-0022, R-0011, R-0012). Under the density restriction of the Future Land Use Map the maximum allowable density on the subject property is 8 dwelling units. The subject property's existing zoning of RU-1-13 allows a density of greater than 1 unit per 2.5 acres and, therefore, it is inconsistent with the Future Land Use Map. The applicant requested rezoning to Agricultural Residential Low Intensity Zoning AU(L), which allows 1 unit per 2.5 acres, to be consistent with the Future Land Use Map (R-0011).

The property consists of two vacant platted lots, one of 10.25 acres and one of 9.88 acres based on a plat recorded in 1894 (R-0055, R-0090). The two lots have water frontage along the Sebastian River and road frontage on Fleming Grant Road (R-0021). At the time of the application for rezoning, the property development potential was 2 lots or 2 dwelling units. The proposed rezoning request for AU(L) would allow 8 units, an increase in a density of 6 units (R-0011). AU(L) zoning has a minimum lot size of 150 feet (R-0209). Although RU-1-13 would allow a density greater than two units and in excess of 8 units, the Comprehensive Plan's Future Land Use Map limits density to 8 units [based on the cap on density of 1 unit per 2.5 acres on 20.13 acres.] Accordingly, the property's zoning classification is inconsistent with the Future Land Use Map of the Comprehensive Plan (R-0011). However, the text of the Comprehensive

Plan, in Objective 15, specifically allows the development of nonconforming lots without the necessity of rezoning to be consistent with the Comprehensive Plan. The two lots are nonconforming lots of record because they were in the current two lot configuration when the County's Comprehensive Plan was adopted in 1988 (R-0090). Accordingly, the two lots have had the potential for development as two lots since 1988. (R-0090)

According to the staff report, the southern portion of the property is in the Coastal High Hazard Area (CHHA) (See Map R-0028, R-0012). The Comprehensive Plan's Coastal Element indicates the CHHA is an area which is subject to storm surges and flooding in a Category 1 hurricane (R-0018). Objective 7 of the Coastal Element of the Brevard County Comprehensive Plan seeks to "limit densities within the coastal high hazard zone and direct development outside of this area." (R-0185) The southern portion of the property is also in the Special Flood Hazard Area (SFHA) (See Map R-0027). Development in the SFHA must be elevated to or above the 100-year base flood elevation (BFE) (R-0012). In other words, the property would have to be filled to 6.3 feet to be above the 100-year floodplain in order to accommodate development. The SFHA and the CHHA overlap significantly (See Maps R-0027 and R-0028).

In the staff report, concurrency issues involving transportation and school capacity were addressed and found to be adequate as no deficiency levels were reported (R-0013). The staff report further stated:

The subject property is not served by potable water. The subject property would be served by well and septic. Brevard County Division 46, Article II, Division 4 establishes a nitrogen reduction overlay area (Overlay) that requires advanced OSTDS that reduces total nitrogen by at least 65%. A portion of the property lies within this Overlay and septic systems within this Overlay are subject to said regulations.

(R-0013)

Other significant environmental issues were addressed in the staff report by the County's Office of Natural Resources which provided a summary of issues followed by extended discussion. The summary is provided below along with portions of the extended discussion (beginning at R-0016).

Summary of Mapped Resources and Noteworthy Land Use Issues:

- *National Wetland Inventory (NWI) Wetlands*
- *Aquifer Recharge Soils*
- *Coastal High Hazard Area*
- *Floodplain*
- *Surface Water Classification*

- *Indian River Lagoon Nitrogen Reduction Septic Overlay*
- *Protected and Specimen Trees*
- *Protected Species*

The southern portion of the subject parcel is located within the Special Flood Hazard Area (SFHA) as identified by Federal Emergency Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality. Development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year base flood elevation (BFE) as described below.

Wetlands

The subject parcel contains an area of mapped NWI wetlands on the southwest portion of the site as shown on the NWI Wetlands Map; an indicator that wetlands may be present on the property. A wetland delineation will be required prior to any site plan design, land clearing activities, or building 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. For subdivisions 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).

Coastal High Hazard Area

The southern portion of the property is in the CHHA. The Coastal Management Element of the Comprehensive Plan, Objective 7.0, seeks to limit densities within the coastal high hazard zone and direct development outside of this area. Policy 7.6 states that existence of sewer, water, roadways or other public infrastructure shall not be considered adequate rationale for an increase in zoning density or intensity within the CHHA. Policy 6.1 designates CHHAs to be those areas below

the elevation of the Category 1 storm surge elevation as defined in Chapter 163, Florida Statute.

Floodplain

The southern portion of the subject parcel is located within the SFHA as identified by FEMA in yellow on the FEMA Flood Zone Map. A comparison of the SFHA and the CHHA on the corresponding maps, reveals a similar overlay. Per Section 62-3723(2)(a) and (b), development within an estuarine floodplain shall not negatively impact adjacent properties or receiving water body quality, and development shall provide a contiguous area that includes the primary structure and perimeter buffer, accessory structures, onsite sewage disposal system and buffer, and access to the primary and accessory structure. This contiguous, developed area shall be elevated to or above the 100-year BFE as described below.

The FEMA determined BFE within the SFHA for the parcel is anticipated to increase from 4.5 feet NAVD to 5.3 feet NAVD, becoming effective January 29, 2021. Both the Florida Building Code and County Code require that for any structure proposed within the SFHA, the lowest floor elevation (FFE) of structures must be a minimum of 1 foot above the BFE, or 6.3 feet NAVD upon effective date. The LiDAR map provided in this package shows the 6.3 feet NAVD contour line. Elevations below 6.3 feet NAVD will either require fill, or an alternative option to slab-on-grade construction (i.e. stem wall construction), to bring the FFE up to 6.3 feet NAVD.

Construction in the SFHA of onsite septic tank and drain field with buffers, access to the primary and accessory structures, and all accessory structures such as pools, decks, detached garages, sheds, require a constructed elevation at or above the BFE (5.3 feet as of January 2021); which may likely result in fill used in conjunction with a stem wall/retaining wall.

Surface Water Classification

The property is located on surface waters designated by the State as an Aquatic Preserve. A 50-foot surface water protection buffer (Buffer) is required. Except as allowable under Section 62-3668 (7), primary structures shall be located outside of the Buffer. Accessory structures such as pools, decks, sheds, cabanas, etc., are permissible within the Buffer provided that stormwater management is provided. Impervious areas shall not exceed 30% of Buffer area.

Avoidance/minimization of Buffer impacts is required so that surface water quality and natural habitat is not adversely affected.

Indian River Lagoon Nitrogen Reduction Septic Overlay

Portions of the site are mapped within the Indian River Lagoon septic overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. The project is not located within the Brevard County's sanitary sewer service area. Thus, use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. Septic tanks and drain fields in the SFHA are be (sic) subject to flooding, and per Section 62-3723(b) will require fill to be elevated to or above the BFE.

Heritage Specimen Trees

The entire subject property is overlaid in a mapped polygon of SJRWMD FLUCCS code 4340-Upland Mixed Coniferous/Hardwood trees. Protected Trees (greater than or equal to 10 inches in diameter) and Specimen Trees (greater than or equal to 24 inches in diameter) are included in this FLUCCS code and are found on the project area. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, 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.

While developing to a higher elevation provides more protection from flooding, the additional fill is detrimental to the preservation of Protected and Specimen Trees, especially those located at the lower elevations within the SFHA floodplain and the CHHA. If units are developed in the lower elevations of the property, closer to the shoreline, more fill will be required to satisfy Land Development Regulations relating to the FFE.

(R-0016, R-0017)

The staff provided a general description of surrounding properties as follows:

The surrounding area is characterized as low density with some residential lots developed at less than 1 acre prior to the adoption of the Comprehensive Plan in 1988.

The surrounding properties are zoned RR-1 to the east, RU-1-13 to the west, AU across Fleming Grant Road to the north and General Use (GU) on the islands in the Sebastian River to the south.

There have been no approved zoning actions approved in the last three (3) years within half-mile of the subject property.

Directly to the east of the subject property lies a 30-foot unimproved right-of-way, and to the east of that lies the private drive Seabird Lane, which per AA-1581 and AA-1583, provides access to two three-acre riverfront parcels.

(R-0015)

The staff comments also addressed Administrative Land Use Policies of the Brevard County Comprehensive Plan.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area. (R-0013 – R-0014)

All of the properties between Fleming Grant Road and the Sebastian River have the RES 1:2.5 Future Land Use designation. This segment of Fleming Grant Road is considered to be low density residential and rural in character. The area contains a mixture of lot sizes and zoning classifications. Lots within ½ mile of the property range in size from 0.17 acres up to 4.5 acres with the majority being an acre or larger, and are zoned AG (Agricultural), GU (General Use), RR-1 (Rural Residential) and RU-1-13 (Single-Family Residential). The AG and GU classifications may be considered consistent with RES 1:2.5; however, the RR-1 and RU-1-13 classifications are not considered to be consistent with the RES 1:2.5. The majority of these parcels were created prior to the adoption of the Comprehensive Plan in 1988.

The proposed AU(L) zoning may be considered to be consistent with RES 1:2.5 as it has a minimum required lot size of 2.5 acres. The AU (Agricultural Residential) zoning classification is generally intended to encompass lands devoted to agricultural pursuits and single-family residential development of spacious character. The classification is divided into two types, AU and AU(L). AU is the standard agricultural residential classification, while AU(L) is a low intensity sub-

classification more suited to smaller lots where the neighborhood has a more residential than agricultural character. The AU(L) classification also permits the raising/grazing of animals, fowl and beekeeping for personal use and prohibits commercial agricultural activities. The AU(L) zoning classification requires a minimum lot size of 2 ½ acre lots, with a minimum lot width and depth of 150 feet, and a minimum house size of 750 square feet. There are parcels in the area that have the AU zoning classification; however, the Board's approval of the request would introduce AU(L) to the area.

The properties along the eastern boundary of the subject property and most of the north side of Fleming Grant Road from the subject property are zoned RR-1. The RR-1 zoning classification is generally intended to encompass lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings, and at the same time permits uses which are conducted in such a way as to minimize possible incompatibility with residential development. The RR-1 classification permits horses, barns, and horticulture as accessory uses to a single-family residence subject to the standards in Section 62-2100.5(2). The minimum lot size for RR-1 is one acre, with a minimum lot width and depth of 125 feet, and a minimum house size of 1,200 square feet.

The subject property and the properties along the western property line are zoned RU-1-13. The RU-1-13 classification is generally intended to encompass lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings. RU-1-13 does not permit horses, barns, or horticulture. The minimum lot size is 7,500 square feet, with a minimum width and depth of 75 feet, and a minimum house size of 1,300 square feet.

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

The area is characterized primarily by low-density single-family zoning and rural development. As mentioned above, the area contains a mixture of lot sizes and zoning classifications (i.e., AG, GU, RR-1 and RU-1-13). The majority of the AU-zoned land is approximately 360 feet west of the subject property and has a mixture of residential and residential/agricultural. The more intense uses allowed within the AU zoning classification do not appear to be occurring in the area. The parcels to the east and north of the subject property are zoned RR-1 and are primarily developed as single family residences.

Should the Board be concerned with agriculture activity between the RU-1-13 and RR-1 zoning classifications, an alternative residential zoning classification, REU (Rural Estate Use), could be considered in lieu of the applicant's AU(L) request. The REU zoning classification is similar to AU(L) and requires a minimum lot size of 2.5 acres and may be considered consistent with the RES 1:2.5 Future Land Use, but limits agricultural uses as a conditional use. The keeping of horses or other farm animals would require a separate zoning action in order to identify and limit their usage upon the property. Additionally, REU, with minimum lot width and depth of 200 feet, would limit the number of new lots fronting Fleming Grant Road or the river, plus a small left-over area for possible flag stems accessing Fleming Grant Road, or providing access to the water. The minimum living area is 1,200 square feet, which is 450 square feet larger than the 750 square feet required in AU(L). Although REU zoning is not currently located in the surrounding area, this zoning classification could offer additional protections the AU(L) does not.*

(R-0013, R-0014) (*Examination of the maps in the record indicates the two lots together have water frontage in excess of 600 feet)

At the Planning and Zoning Board hearing on November 9, 2020, Ms. Laura Young, attorney for the applicant, presented the item. She stated the property zoning on the property is inconsistent with the current Future Land Use and it would be a downzoning of the property to rezone from RU-1-13 to AU(L). She stated the property had been before the Board on two separate occasions. The first request was to amend the Comprehensive Plan to allow a greater density RES 1 (which allows 1 unit per acre) instead of RES 2.5 (which allows 1 unit per 2.5 acres) and to allow 20 units. That item was denied by the Board. The second request was for the approval of a Binding Development Plan to reduce density to 8 units with the zoning classification remaining RU-1-13. That request was also denied. She stated her clients chose a zoning classification that is consistent with the Comprehensive Plan, AU(L) and requires a minimum of 2.5 acres. She noted AU(L) affords some flexibility for lot configurations. Bruce Moia, P.E. of MBV Engineering spoke and stated there were ways to make the property buildable; one is to change the zoning and one is to change the land use. He said AU(L) will make the zoning consistent with the Comprehensive Plan and "this is the last way the property can be brought into conformance and it's the simplest." The Planning and Zoning Board voted to recommended approval of the item. (R-0060)

After the Planning and Zoning meeting but before the zoning hearing scheduled for December 3, 2020 before the Board of County Commissioners, the Micco Homeowners Association filed a comment letter. The letter requested that all homes be located outside the Coastal High

Hazard Area, all stormwater be captured outside the Coastal High Hazard Area, that advanced septic be required for all homes near the Coastal High Hazard area and that no fill dirt be allowed in the AE flood zone. In the letter, the Association questioned what would happen to flood waters and cited the continuing need to protect the Indian River Lagoon by limiting the flow of contaminants into the Sebastian River. (R-0062)

At the County Commission meeting on December 3, 2020, the Board tabled the item to February 4, 2021 after a limited discussion (R-0237).

At the County Commission meeting on February 4, 2021, the Board first heard comments from the public, with the applicant's permission, and then heard comments from the applicant's new attorney, Anna Long.

Mary Sphar spoke and stated a huge amount of fill would be required - up to 6.3 feet for development to occur in the CCHA and SFHA. She asked that no structures be permitted in the CHHA. She noted the area in the CHHA is approximately 5 acres and that area is subject to storm surge in a category one hurricane. She also requested that the applicant provide a Binding Development Plan and stated her concern for the existing specimen trees in that "putting several feet of fill on the roots of trees would kill them, losing their service of absorbing stormwater and runoff. So, the fact is, there is no good way to develop as usual, clear cut and fill in the Coastal High Hazard Area and protect the Indian River Lagoon at the same time. Sierra Club's recommendation for a BDP guarantees no homes in the Coastal High Hazard Area and matches the request from Micco Homeowners Association...We are spending millions of tax dollars on public safety related to storms and we're also investing nearly \$500 million on Lagoon cleanup over a 10-year period. Sierra Club urges you to make a responsible decision that is not counterproductive to the County's huge investments. Please ask the applicant to provide an adequate BDP to protect the health of our precious Indian River Lagoon, and please choose to defer your decision on the zoning until you see such a BDP." (R-0224)

David Monty Montgomery spoke to object to the rezoning without a Binding Development Plan to protect the CHHA. He stated, "The property was purchased, here's a survey by William Suter, Bill Suter, a guy down in Malabar, and it was known that there were, was ability to build two homes on this property and now there's a request to build eight homes on this property." He went on to say, "its very sandy soil, to go to eight homes would have issues even with improved septic, you'd still have the pollution of three to four septic tanks even with advanced septic but, my main issue is not to approve this without some sort of commitment or Binding Development Plan that protects from structures being built in the Coastal High Hazard Area...here's one NOAA map that shows, basically most of that area being flooded by four foot storm surge, and here's a NOAA that shows basically, a third of the property being covered by

water.. fill dirt is not going to solve that problem, it's a, a pollutant that'll get washed away with severe, severe weather events." (R-0225)

Terry LaPlante spoke and read the letter from the Micco Homeowners Association into the record, presenting concerns regarding CHHA, floodplains, and contaminants in the river as previously stated. (R-0226)

Lorraine DeMontigny spoke in support of the project and said: "I'm here to support the applicant's request. I think that it's very important that we do protect the environment and I know that one of the applicants resides very close to this property, and I'm sure has the same concerns of protecting the environment. All these items, I think are going to be addressed by the restrictions that are already in place for development in our area...We're all potentially subject to flooding, that's just part of living in Florida and it could really happen anywhere in the United States. I think the constitutional protection of our God-given rights is being a little trampled on, so we have to keep that in mind and we, we shouldn't allow one person to be punished for the mistakes or crimes of another person and we can't predict what's going to happen in the future. So, I think that this, this is going to be a great project." (R-0226, R-0027)

Nine emails in opposition to the proposed rezoning were sent to the Board of County Commissioners. The emails repeatedly stated that there should be no development in the Coastal High Hazard Area. Concerns were raised regarding contaminants from septic tanks, fertilizers and pesticides flowing into the Sebastian River if homes are constructed in the CHHA. Other emails also addressed the problems presented by filling the area due to increased runoff into the river and the need to protect trees and species on the property. The emails also noted the 5 acres in the CHHA overlaps the FEMA maps and is vulnerable to storm surge and flooding. (R-0066 – R-0086)

Ms. Long, the applicant's attorney from the law firm of Dean Mead, requested approval of the Planning and Zoning Board's recommended action to approve the AU(L) rezoning request. She stated she reviewed the information and there was an addendum to staff comments at 8:50 am the day before the meeting which indicated there was no need for rezoning, but she disagreed. She stated two lots would be a de minimis use of the 20 acres at issue and investment backed expectations would not be met. She stated, "This is not an example of down-zoning, it's an example of a taking. The property owner in this matter, they are not asking for special treatment, they are moving forward and have been working with staff over 17 months to obtain compatible zoning for their property, compatible zoning that, per State law, should have been addressed by the County within a year of adopting its Comprehensive Plan in 1988. Nonetheless, the owners are ready to do what they must do, what they are being required to do. They have submitted the rezoning application, the application was reviewed by staff, it was deemed complete, transmitted to the County's Planning and Zoning Board. The Planning and

Zoning Board, after reviewing the application as submitted, along with staff's comments, recommended approval for the rezoning. Per the County Code, nothing additional is required, nothing additional should be expected. Future development or future permitting issues are just that, future issues... we've reviewed all of the written public comments submitted to the County last November and December... There were nine letters or emails, of the nine, one writer did not provide an address, five were written by folks that reside a minimum of 17.2 miles away, and one lived as far as 47.3 miles. The remaining letters, one was, was a person who lived about a mile away, another one, point mile, one mile, and the other across the street... One of the writers and speakers this evening referenced previous comments submitted to the County regarding the property from several agencies including the water management district, DEP, and DO... DEO. All of those agency comments had to do with the previous owner's request for a Comp Plan Amendment, the issue before you, in May 2019. None of those comments had anything to do, nor do they have anything to do, with the requested rezoning here this evening. We asked, there have been no negative comments, or positive, or indifferent, or asked, or received from any of the other environmental agencies, none... While the agencies may have comments during the actual permitting process, the development process, the approval process, those comments right now would be premature, there's nothing to give them, there's nothing for them to comment on... It's simply a straight request for a rezoning...Commissioner Tobia asked us to look into the SLOSH model as was mentioned this evening. Thank you, I had not heard of the SLOSH model. We did do our due diligence. I spoke directly to the National Hurricane Center, and the SLOSH model is updated every three to six years. It was just updated in January of 2020."

Ms. Long provided an extended description of permitting procedures that would be followed after the property is rezoned. She then addressed the BDP as follows: "Let's get to the BDP, a BDP per the County's Code is something that an applicant may voluntarily submit when requesting a rezoning for its property, a BDP is not something that the applicant must request. To reiterate, the rezoning is being required by the County, not truly requested by the applicant. The owner as acquiescent to the process because without it, as noted above, the property value is nearly worthless, certainly falling well short of the investment-backed expectations. In addition, while the current property owners are seeking the requested rezoning, they may not be the ones to develop the property, that's part of the problem they may want to sell it just as vacant lot, and it's very difficult to do right now because when somebody does their due diligence they recognize that the zoning doesn't match the underlying, excuse me, land use provisions. The new owners would be best suited to explore development options and constraints, not the current owners unless they become the developers...The requested AU zoning will allow for eight homes. This is a decrease of 97 percent of the development density permitted under the current noncompatible zoning district. If forced to settle for the nonconforming option, provided in the addendum, then it's a decrease of 99.5 percent...Eight

homes being developed if you approve, down to two would be 75 percent removal of their development rights. The owners have spent thousands of dollars to fix a problem they didn't create. They've listened to staff, they've listened to the property owners around them, and they've submitted everything necessary to support the AU zoning. They've completed everything required of them and the zoning is compatible. We respectfully request that the Board confirm the recommendation of the Planning and Zoning board and re, approve the AU zoning, anything less would result in a taking, punishing the current owners for a situation resulted through no fault of their own."

R-0227 – R-0230

A discussion about allowing additional time occurred. The applicant did not request additional time. Thereafter, the discussion moved to the Board members. (R-0230)

Commissioner Tobia mentioned the Coastal High Hazard Area and indicated he spoke with Laura Young, attorney for the applicant, on or around November 25th and discussed his four primary concerns with the development. (R-0231)

Mr. John Denninghoff, Professional Engineer was asked about impact on neighbors in the event there was an elevation change in the CHHA. He indicated that there would be an impact to neighbors if the area was filled in the future. (R-0231 – R0232) Commissioner Tobia asked Ms. Long for her client's response to the concern regarding fill displacing water during storms and impacting neighbors in a storm event the storm surge would have to go elsewhere, perhaps on neighboring property. (R-0232)

Commissioner Tobia then stated, "the Coastal Management Element of the Comp Plan, and specifically states the County should and I quote here, "Limit densities within the Coastal High Hazard Zone and direct development outside of this area." Uh, Ms. Long, uh, what would you have to say about the Comp Plan, clearly and specifically directing, uh, the Board to, uh, make sure that this type of development doesn't happen in that area?" (R-0232)

Ms. Long responded, "The Comp Plan requires that zoning be compatible with the underlying land use. AU(L) zoning is compatible with the underlying land use, to deal with the other provisions of the Comp Plan, you deal with it as you're moving along in the development process, and apply it accordingly." (R-0232)

Ms. Long also indicated that the client's engineer would work with the County and St. Johns Water Management District. She stated, "I can't really answer the question in the manner in which, I think you might want me to because it's premature." (R-0232)

Commissioner Tobia then stated, "Madam Chair. Can I. Can I read that quote again? 'Limit densities within the Coastal High hazard Zone.' If we were to grant this, we would in effect not be following Coastal High Hazard Zone because your client or whoever they decided to sell it, could directly, uh, develop it outside/inside this area, and it would not come back to the Board." (R-0232)

Ms. Long then stated, "And they could easily develop outside of it, you're giving a compatible zoning to allow for up to eight units... Whether or not those units are located with or outside of the Coastal High Hazard area, is not the point of the discussion this evening." (R-0232 – R-0233)

Commissioner Tobia then stated, "A SLOSH model was mentioned, um, by uh, Ms. Long... Ms. Long because it's a conversation I had with Ms. Young. While these are traditionally done on larger scales, they can be done on smaller scales. Uh, Ms. Young, or sorry, Ms. Long, I apologize, um, and my conversation was via the phone." (R-0233)

Ms. Long stated, "That's fine." (R-0233)

Commissioner Tobia then stated, "So, I didn't see either one of you, uh, um, did you, uh, did you do a SLOSH study?" (R-0233)

Ms. Long stated, "No, sir... And when I asked the National Hurricane Center how it, you know, or, how many SLOSH models are performed by the private sector or by private individuals, I got transferred. I can't even tell you how many times, because they really didn't understand why I was asking. So, I would more than be happy after the rezoning to discuss how that might occur, but as it was explained to me, by the people that currently produce the model that it's a model done by the National Hurricane Center in cooperation with FEMA, NOAA, and the Army Corps of Engineers." (R-0233)

Commissioner Tobia then stated, "Okay. Finally, um, and this would go back to Mr. Denninghoff, and your expert opinion. Will the health of the Indian River Lagoon be adversely impacted should homes be built in the Coastal High Hazard Zone?" (R-0233)

Mr. Denninghoff stated, "Given that we're talking about new development while the development standards are in some cases high, they do not reach the level that's necessary to preclude a negative impact to the Lagoon. So, the answer is that there would be an impact to Lagoon." (R-0233)

Commissioner Tobia stated, "Thank you. Uh, one final question. Ms. Long, would you agree it would be legally appropriate for this Board to consider adverse impacts on the Indian River Lagoon when making decisions, such as this?" (R-0233)

Ms. Long stated, "I think it would be appropriate for this Board to determine whether or not the request before you meets the current criteria of your Code and if what I heard your Assistant Manager say was, that your current Code is inadequate to allow new development, and that's an entirely different issue and again, you would be punishing this applicant for something that the County should be addressing on a consistent basis." (R-0234)

Commissioner Tobia commented on due diligence and zoning in effect at the time of purchase along with potential BDP opportunities and then said, "I think there were many opportunities, but certainly right now, the blatant disregard, uh, of actions of, of the Board, and disregard of, of, I, I would say that the neighbors and it appears as though that is as the, the case. Um, right now, I, I don't see how I could, vote in favor of this. Um, I'm actually on the fence right now of whether or not this should, uh, be denied, or tabled again? If it's tabled again, it would give the applicant, you know, 30 or 60 days to, uh, come back to us. Uh, if it was denied the applicant... My understanding is, could come back to us, however, there would a six-month, uh, moratorium on it, but given the fact that there was no communication with my office up until yesterday. I'm probably leaning to the former, uh, than the latter, but I would like to hear from, uh, the rest of the this Board, Madam Chair..." (R-0234)

Commissioner Smith stated, "...Thank you, Madam Chair. I'm very concerned, being a water guy myself, and, and an environmentalist to some degree. I don't want to see anything built in that High hazard Zone either, so if we can do something that is legally, uh, available to us to prevent that. But, while at the same time giving the, the owner the opportunity to build the number of houses that can, can adequate adequately be provided on the rest of that property, I think that's the way we should go. So, I will be supporting you, as well." (R-0235)

Ms. Long stated, "You know, I really need to understand what, why it's being denied. I really do. Um... Before I can answer that question. So, again, if you're denying it because there was not a BDP submitted. Is that what I'm hearing? Excuse me, you're offering to table it, so that a BDP could be prepared and submitted, because without a BDP your motion will be to deny." (R-0235)

Commissioner Pritchett stated, "I think on my part that unless you can address the concern of the High Coastal Hazard Area that is in line with the Comp Plan Agreement and, I think a BDP would do that. I don't think that would be that, that hard for you guys to come back with. Am I right Commissioner Lo, uh Commissioner Tobia on that?" (R-0235)

Commissioner Tobia stated, "The impact on neighbors. Uh... The issues with the Comp Plan, uh, potential alternative paths, uh, that, and, and the health of the Indian, uh, River Lagoon. I think, what Commissioner Lober said, uh, produce findings. Um... But, you know, past what I've

said here, I don't know that that puts us in a position. The more we speak, I think this is... I'm surprised. In all honesty, um, you don't have a court reporter here." (R-0236)

Ms. Long, "We do have a court reporter here..." (R-0236)

Commissioner Tobia, "...I would, uh, make a motion to deny and ask that there, uh, we produce findings, Madam Chair." (R-0236)

Commissioner Lober, "I'll second that." (R-0236)

Commissioner Pritchett, "Thank you. I have a motion by Commissioner Tobia, second by Commissioner Lober. All in favor say aye." (R-0236)

Commissioner Lober, "Aye." (R-0236)

Commissioner Tobia, "Aye." (R-0236)

Commissioner Smith, "Aye." (R-0236)

Commissioner Zonka, "Aye." (R-0236)

Commissioner Pritchett, "Aye. Opposed? Denied 5:0." (R-0236)

Commissioner Lober, "Madam Chair, if I may just have a brief moment?" (R-0236)

Commissioner Pritchett, "Yes, sir." (R-0236)

Commissioner Lober, "I just want to put out there, in case there's any question. My issue is not one with respect to the BDP. I think a BDP would cover some of the concerns that were raised, but from my perspective as, as one out of five, a BDP isn't necessarily the, the, um, the only issue. I think, with or without a BDP, there are other ways to make this go forward, but the concerns simply weren't addressed to my satisfaction." (R-0236)

FINDINGS OF FACT

The Board of County Commissioners finds:

1. The subject property was purchased by the current owner on May 9, 2019 per the Special Warranty Deed recorded in Brevard County Official Records at Book 8435, Page 416.
2. The subject property is currently vacant and consists of two platted lots totaling 20.13 acres running from Fleming Grant Road to the Sebastian River.

3. The property has a development potential of two units based on two existing lots. The two lots are currently zoned RU-1-13. The lots were platted in 1894, per Plat Book 1, Page 77. The property is considered to contain two nonconforming lots of record, however, per the text of the Comprehensive Plan Objective 15, the lots are not required to be rezoned to be considered consistent with the Brevard County Comprehensive Plan.
4. In this case, each lot is eligible for a building permit. As there are two lots, a total of two single-family residential units are allowed, provided that all other Brevard County Code regulations, state and federal regulations are met.
5. The surrounding area is characterized as low density residential.
6. Brevard County Comprehensive Plan Administrative Policy 6 requires that 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.”
7. Brevard County Comprehensive Plan Administrative Policy 7 of the Future Land Use Element provides that proposed uses “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 Brevard County Comprehensive plan has elements required by Chapter 163, Florida Statutes, addressing conservation, flood plains, wetlands and coastal high hazard areas.
8. The staff comments indicate the lots proposed for rezoning are in the coastal high hazard area, the estuarine flood plan, and contain wetlands and protected species of trees.
9. One quarter to one third of the subject property or the southern portion of the subject property is in the Coastal High Hazard Area (CHHA), which, according to the SLOSH map model will be flooded by storm surge in a Category 1 hurricane.
10. Objective 7 of the Coastal Management Element of the Comprehensive Plan, seeks to limit densities within the coastal high hazard zone and direct development outside of this area.

11. The southern portion of the subject property is also located with the Special Flood Hazard Area (SFHA) as identified by the Federal Management Agency (FEMA) in yellow on the FEMA Flood Zone Map. The SFHA overlaps the CHHA to a significant degree.
12. The subject property abuts the Sebastian River which is part of Indian River Lagoon.
13. The subject property is not located with the Brevard County's sanitary sewer service area. Accordingly, septic tanks will be used if the property is developed.
14. Increasing density could increase the potential number of septic tanks in the Coastal High Hazard Area, which is, as stated previously, the location of the anticipated surge of water from a Category 1 hurricane.
15. Objective 3 of the Conservation Element of the Brevard County Comprehensive Plan provides the objective to "Improve the quality of surface waters within Brevard County and protect and enhance the natural function of these waters."
16. Objective 4 of the Conservation Element of the Brevard County Comprehensive Plan is entitled "Floodplains" and provides the objective to "Reduce loss of flood storage capacity and reduce risk to life and property by continuing to apply regulations which minimize the impact of development within flood hazard areas." Policy 4.5 of the Conservation Element states: "Brevard County shall continue to protect the estuarine floodplains by creating the following minimum criteria: A) Development within the one-hundred-year estuarine flood plain shall not adversely impact the drainage of adjacent properties or the quality of the receiving surface water body." The subject property contains acreage within the estuarine floodplains.
17. The proposed change in zoning increases density by 6 units. A portion of the increased density could increase the density in the Coastal High Hazard area protected under the Brevard County Comprehensive Plan Coastal Element Objective 7. The additional dwelling units could also be placed in the Special Flood Hazard Area if the rezoning is granted.
18. The proposed rezoning to AU(L) could allow additional units and additional fill in the CHHA and the SFHA which could aggravate drainage issues and cause significant unmitigable impacts on water bodies.
19. The proposed rezoning to AU(L) is inconsistent with the Coastal Management Element and the Conservation Element of the Brevard County Comprehensive Plan.

CONCLUSION

Based on the foregoing, the Board of County Commissioners hereby finds the proposed rezoning to AU(L) fails to meet the requirements of the Future Land Use Element, the Conservation Element and the Coastal Element of the Brevard County Comprehensive Plan. Accordingly, the rezoning request to AU(L) is denied.

DONE AND RESOLVED this 23 day of March, 2021.

ATTEST:

By: 
Rachel Sadoff, Clerk

By: 
Rita Pritchett, Chair
As approved by the Board
on: 3/23/21

LOCATION MAP

LAZY RIVER INVESTMENTS LLC

25Z00049



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

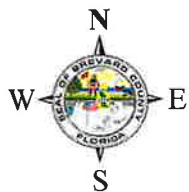
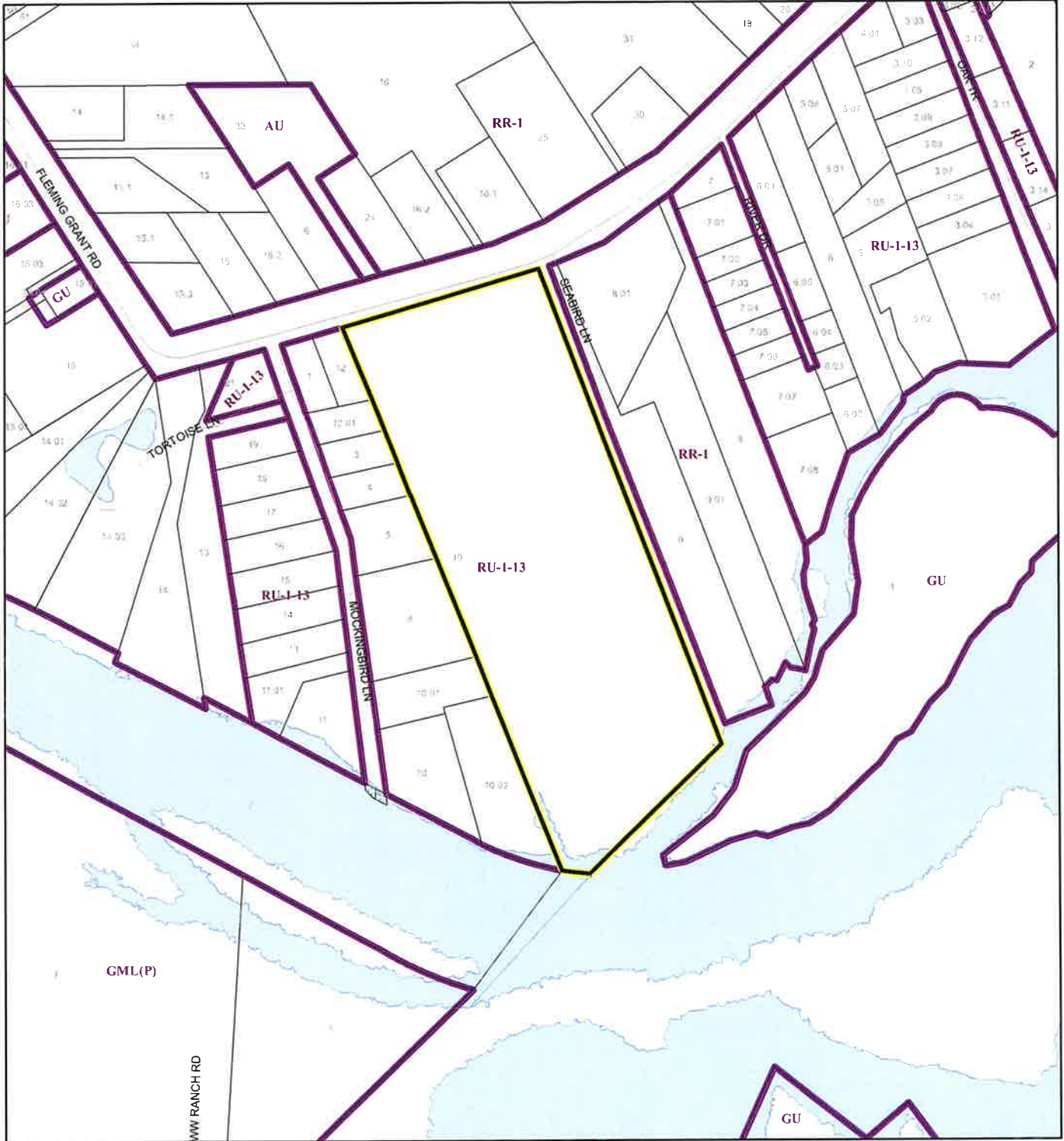
Buffer Distance: 500 feet

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: 10/30/2025

- Buffer
- Subject Property

ZONING MAP
LAZY RIVER INVESTMENTS LLC
25Z00049



1:4,800 or 1 inch = 400 feet

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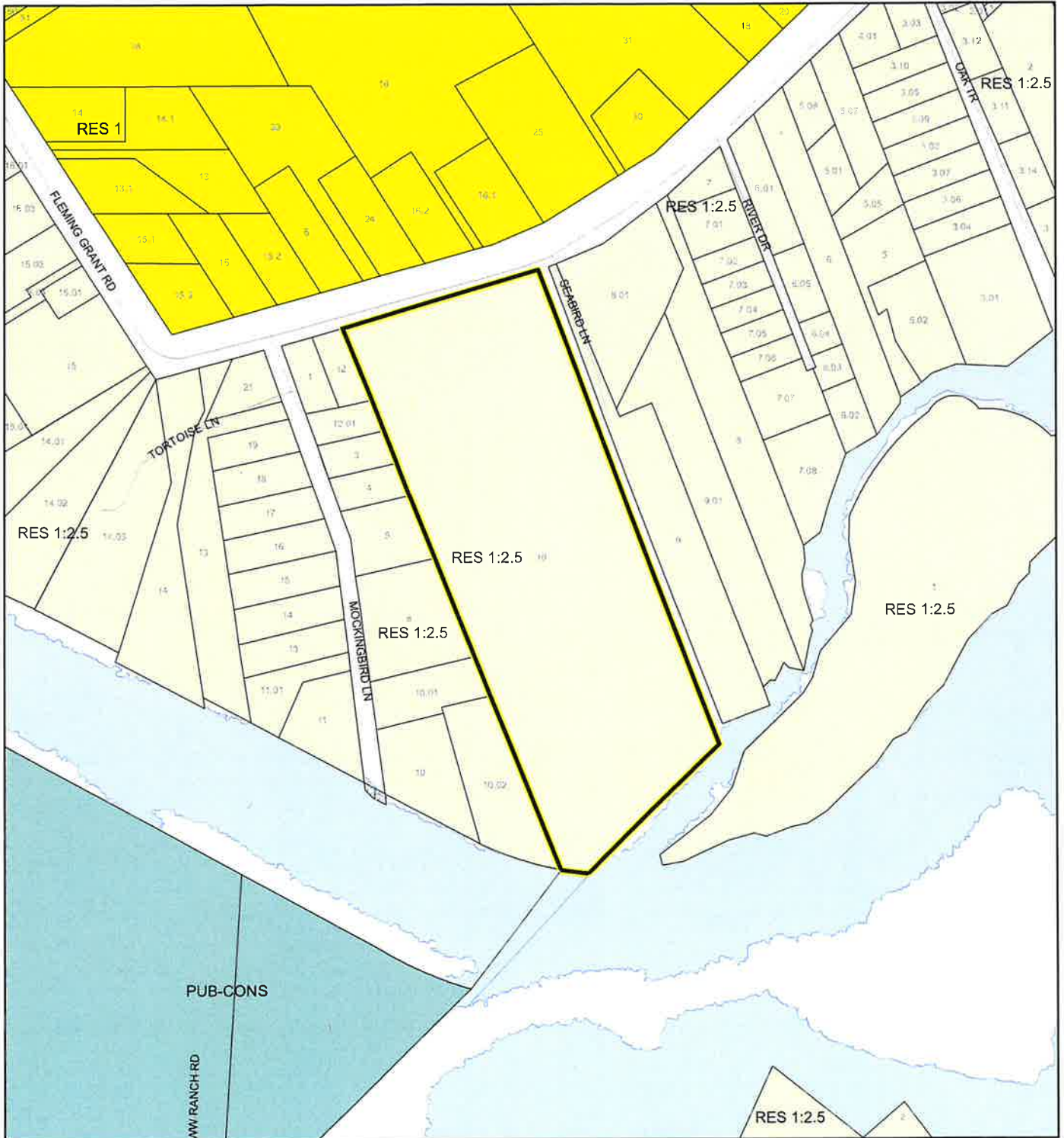
Produced by BoCC - GIS Date: 10/30/2025

- Subject Property
- Parcels
- Zoning



FUTURE LAND USE MAP

LAZY RIVER INVESTMENTS LLC

25Z00049



1:4,800 or 1 inch = 400 feet

-  Subject Property
-  Parcels

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AERIAL MAP
LAZY RIVER INVESTMENTS LLC
25Z00049





1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2025

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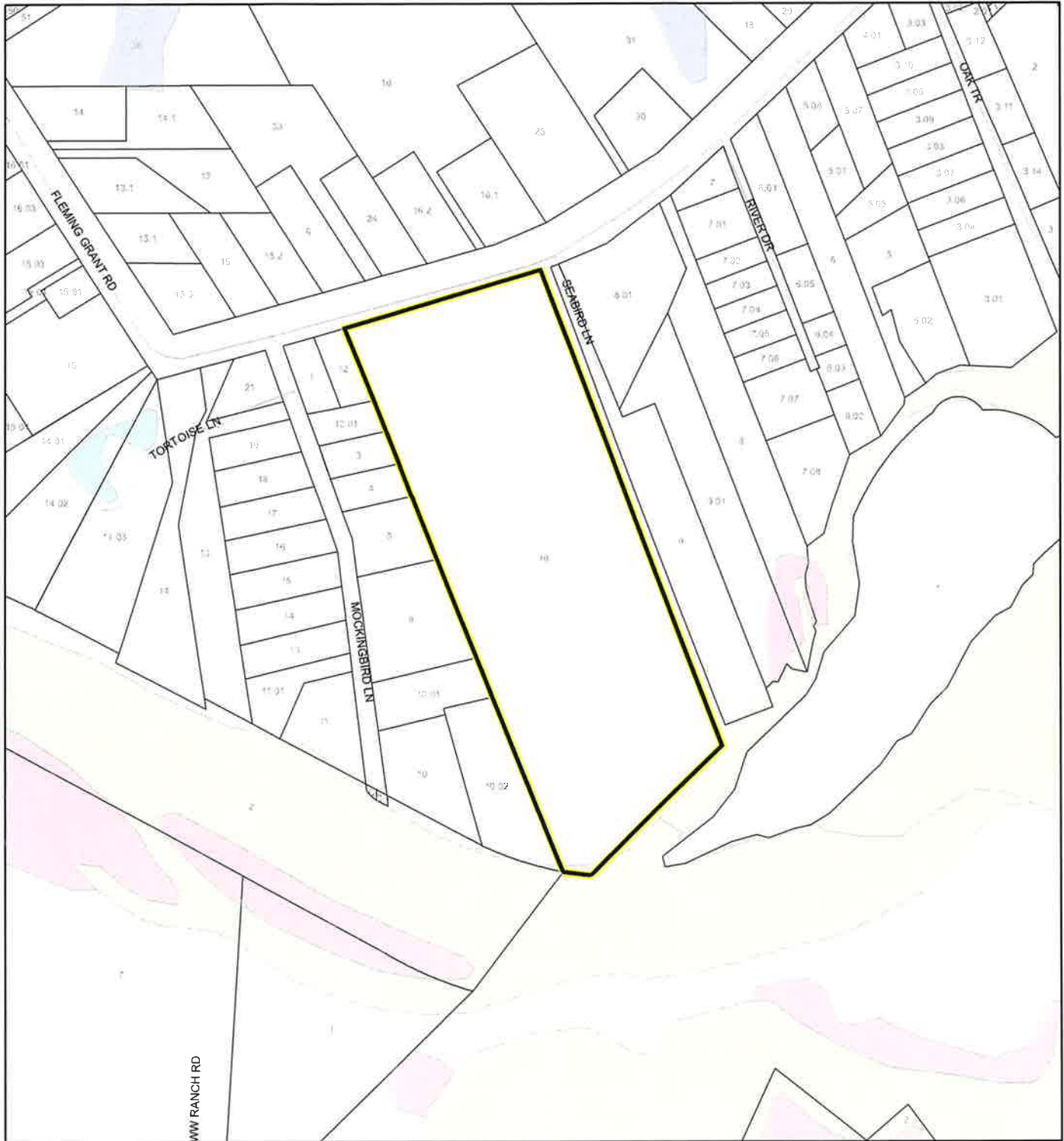
Produced by BoCC - GIS Date: 10/30/2025

-  Subject Property
-  Parcels

NWI WETLANDS MAP

LAZY RIVER INVESTMENTS LLC

25Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/30/2025

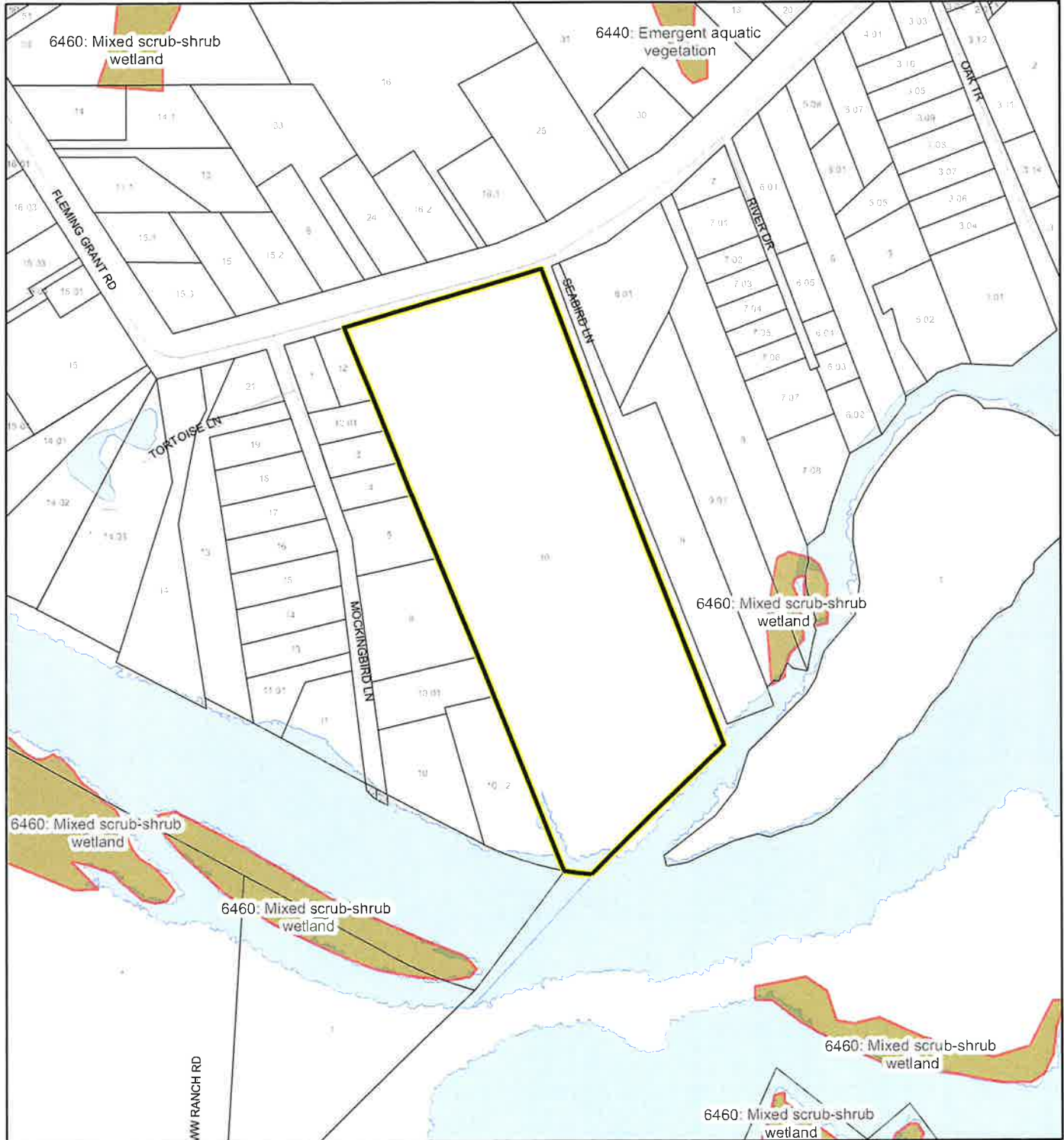
National Wetlands Inventory (NWI)

- | | |
|-----------------------------------|------------------|
| 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

LAZY RIVER INVESTMENTS LLC

25Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/30/2025

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

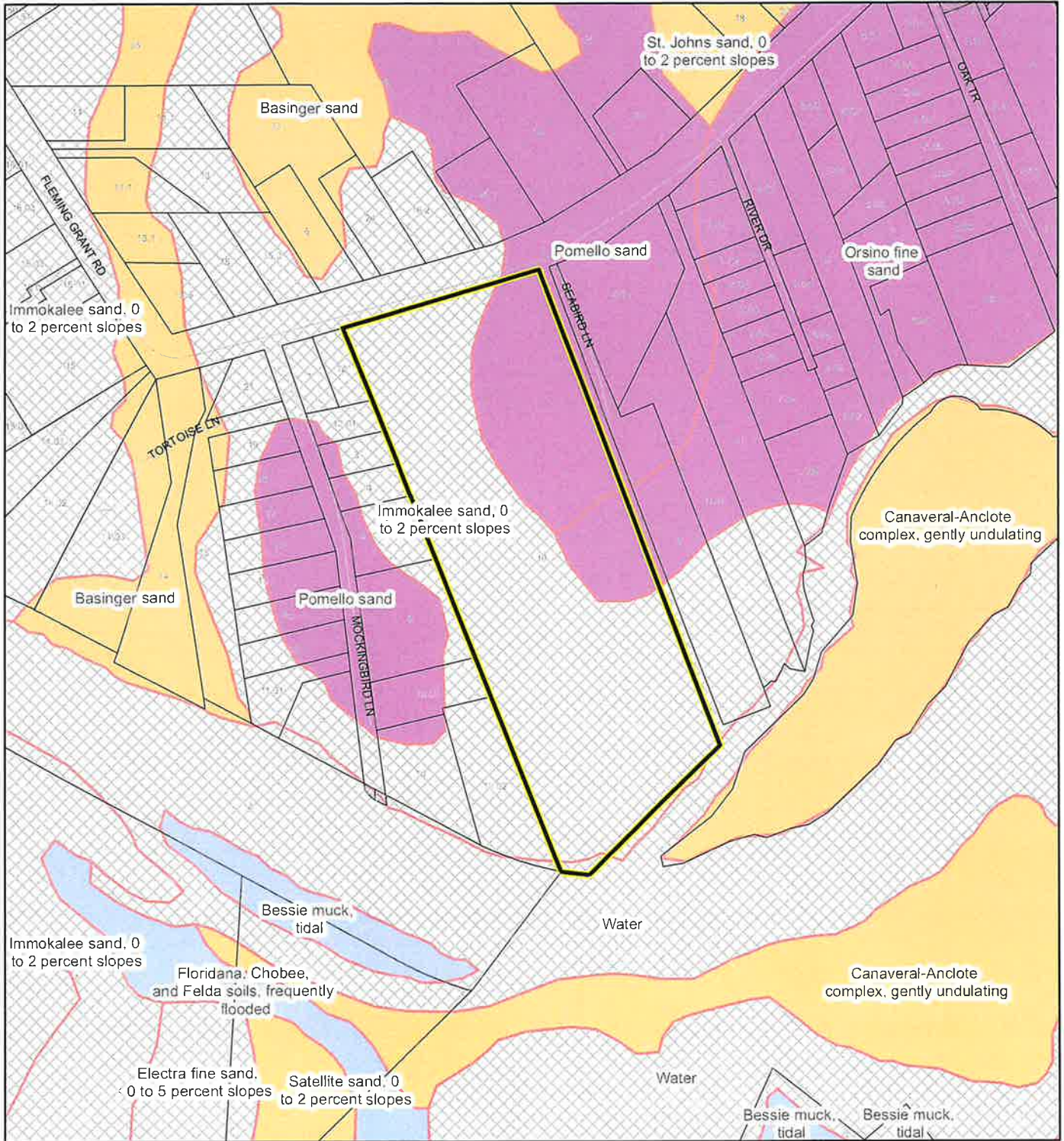
Subject Property

Parcels

USDA SCSSS SOILS MAP

LAZY RIVER INVESTMENTS LLC

25Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/30/2025

USDA SCSSS Soils

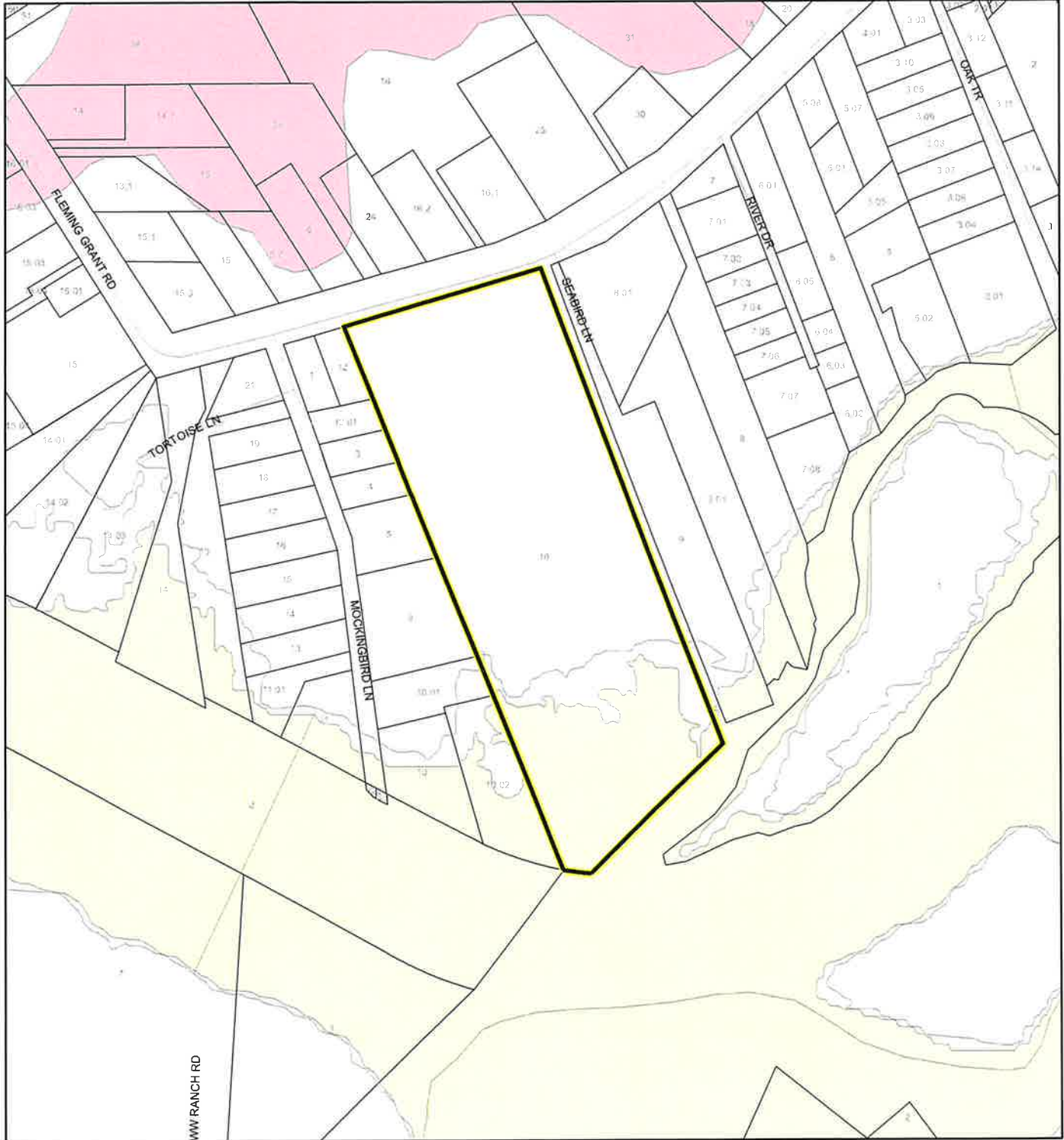
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

LAZY RIVER INVESTMENTS LLC

25Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/30/2025

FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

LAZY RIVER INVESTMENTS LLC

25Z00049



1:4,800 or 1 inch = 400 feet

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— Subject Property

— Parcels

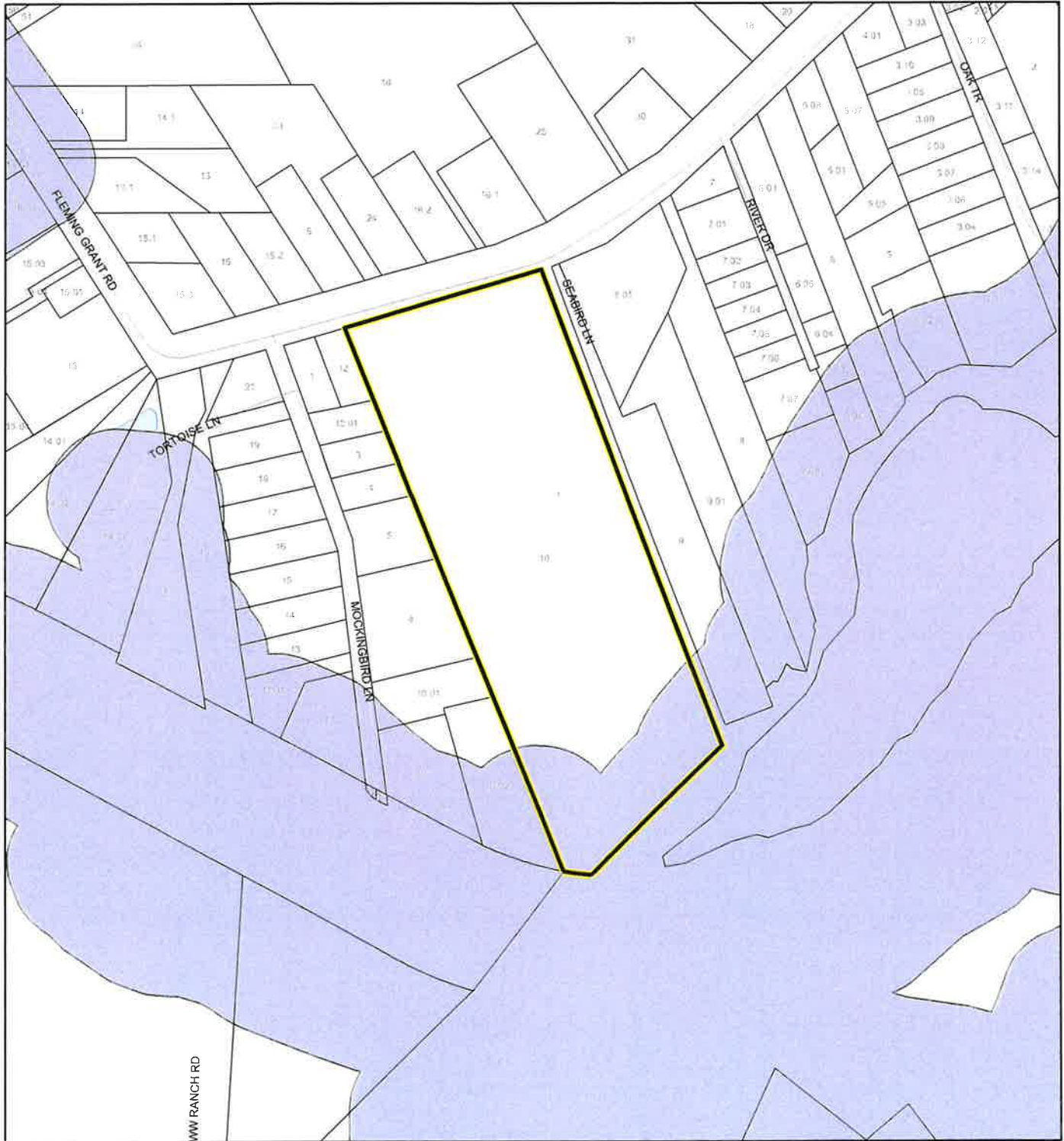
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

LAZY RIVER INVESTMENTS LLC

25Z00049



1:4,800 or 1 inch = 400 feet

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 Subject Property

 Parcels

Septic Overlay

 40 Meters

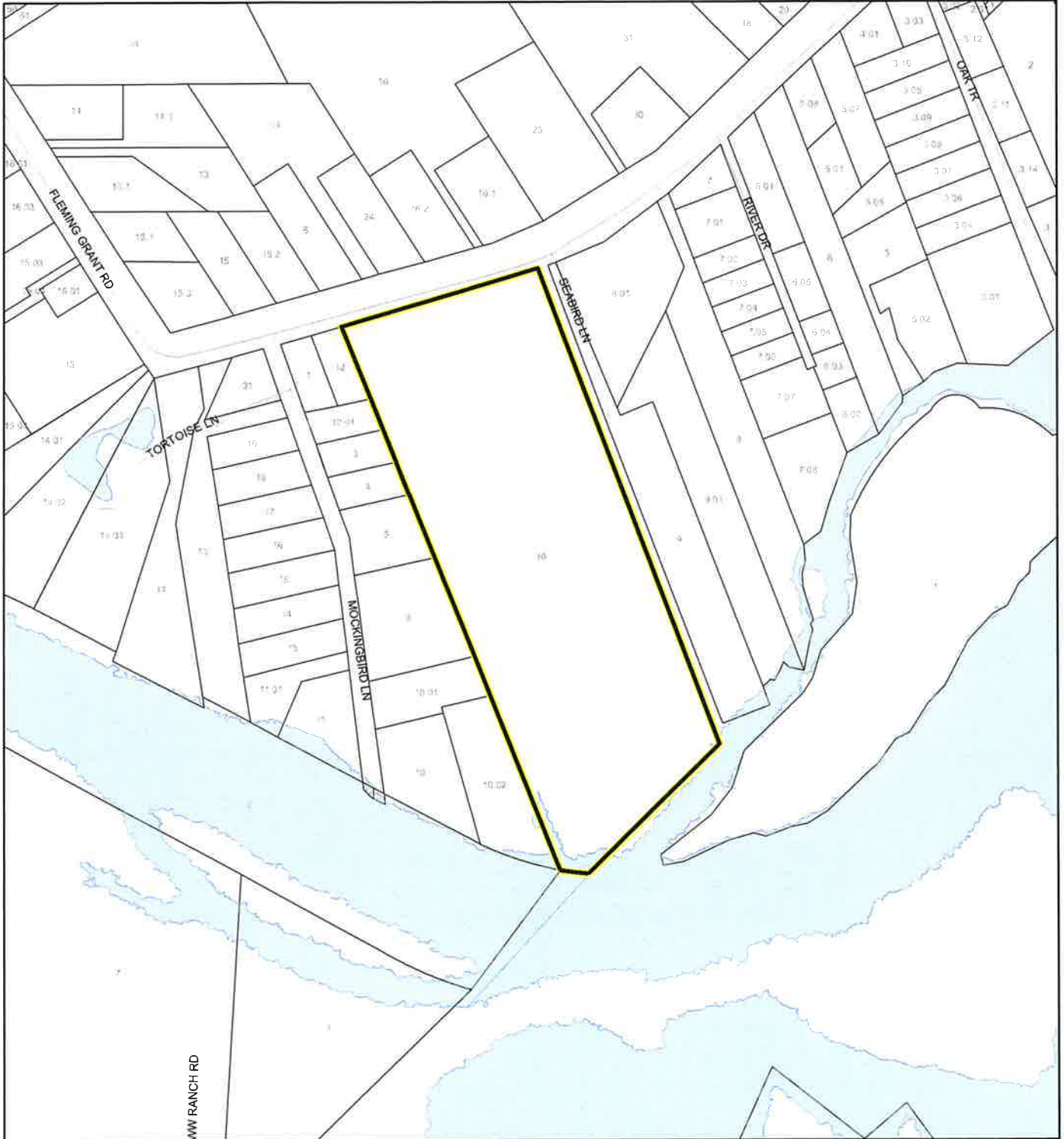
 60 Meters

 All Distances

EAGLE NESTS MAP

LAZY RIVER INVESTMENTS LLC

25Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/30/2025

 Subject Property

 Parcels

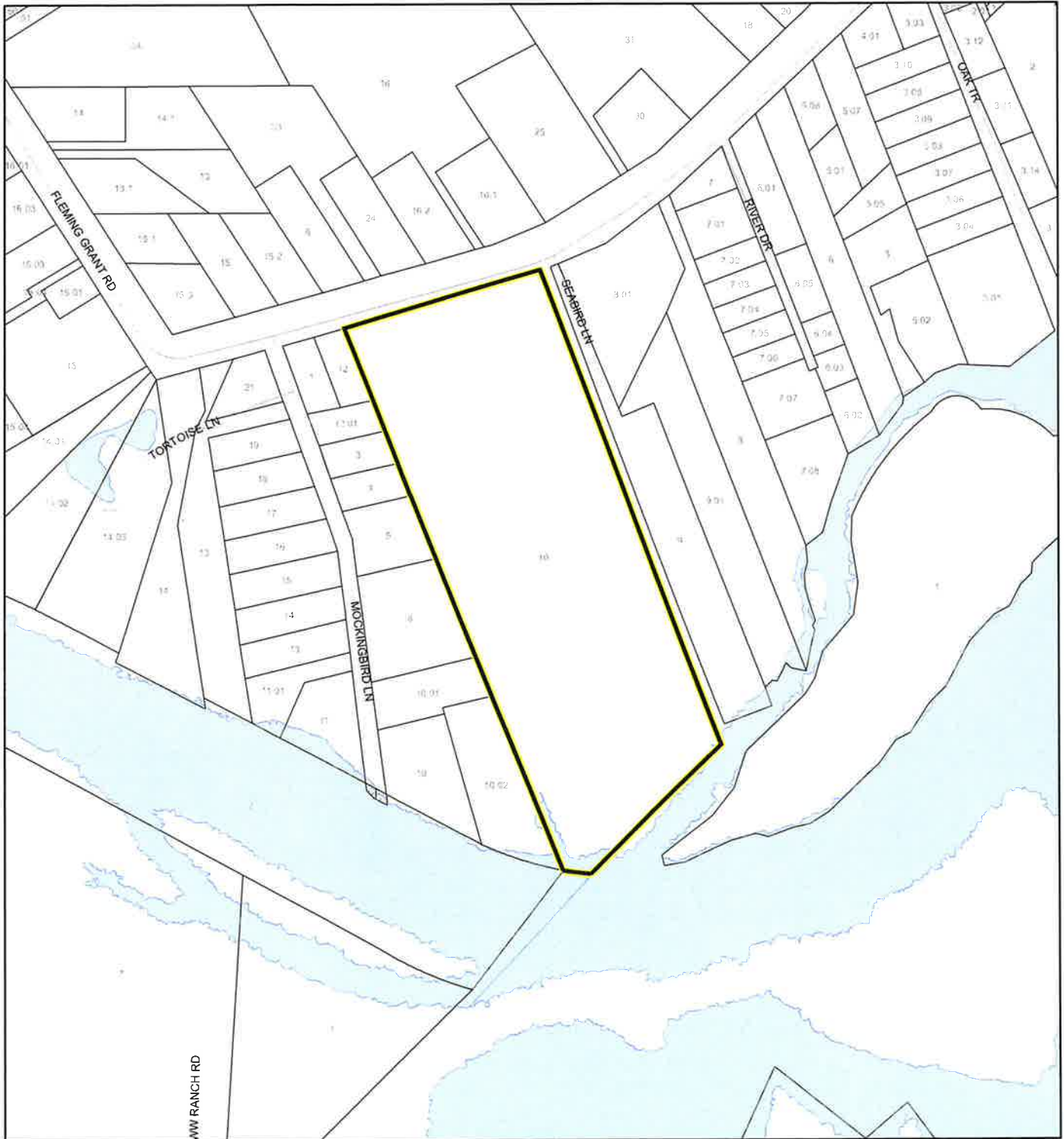


Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

LAZY RIVER INVESTMENTS LLC




25Z00049



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/30/2025

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LAZY RIVER INVESTMENTS LLC

25Z00049



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: 10/30/2025

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 12, 2026**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

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

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

EXCERPT OF COMPLETE MINUTES

H.7. Lazy River Investments LLC requests a zoning classification change from RU-1-13 to AU(L). (25Z00049) (Tax Account 3008729) (District 3)

Paul Body read the item into the record.

David Bistarkey spoke to the application. We want to change the zoning from RU1-13 to AU light, which is compatible with the FLUM.

PUBLIC COMMENT

Linda Brannan stated she is right across the street from Mr. Bistarkey's application. I came to say that I'm in favor of it. I live on two and a half acres now and he's wanting to rezone this to two and a half, one unit per two and a half. And I also own two half acre vacant buildable lots that back up to his property on Mockingbird Lane, which would be impacted by whatever he does. I have no problem with it. 2 and a half acres will keep the density down in our area. Most of my neighbors are on quarter acre, half acre, or 1 acre. There are a few on larger pieces, but most of them are on smaller. So, I would like to see this property be developed in the least impact. It's a wooded, beautiful area of land. And like I say, I live right across the street from it. I've been there 36 years. So, I'm in favor of the zoning being as high as it can go to where there's less houses.

Lorraine Demontigny stated she is here to speak in favor of Mr. Bistarkey's request. I also would like to see the zoning be less dense, so I think we're going to accomplish that with this change. I've lived there for 24 years. I have a little bit more acreage than Linda, but not more than he does. So, I love the rural nature of the neighborhood, and I feel like these two-and-a-half-acre home sites would be a definite plus for the neighborhood and keeping with the consistency of the area.

David Conner stated he has a piece of property that he just purchased in June of 24 that's right next to his 20 acres. I totally agree with what he's going to do. We've sat down and talked to him, and I agree with the density and the 2- and 1/2-acre thing that he's proposing, and I think it will really enhance the neighborhood.

END PUBLIC COMMENT

Mr. Hopengarten stated it's the first time I've sat here, and we've had people for a development.

Mr. Bistarkey responded I have some good neighbors.

Motion to recommend approval of Item H.7. by John Hopengarten, seconded by Ruth Amato. Motion passed unanimously.

Meeting adjourned at 6:28 p.m.

DRAFT

From: [Richard Budalich](#)
To: [AdministrativeServices](#)
Subject: ID# 25Z00049
Date: Monday, December 29, 2025 10:21:07 AM

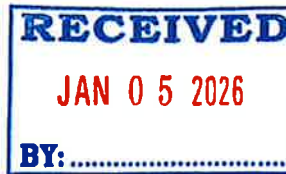
[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Good day. I received your notice regarding rezoning. The ID# is 25Z00049. I purchased that property a few years ago with the plan on building a home in the future. I would not have purchased it if the neighboring property was zoned AU(L) instead of single family residential. I believe this rezoning would reduce property values. I also have zero desire to live next to horses, donkeys, pigs, roosters, etc. and the noise and smells associated with them. Either side of their property is surrounded by residential streets. I believe it would be absurd to allow a rezoning for this property. Unfortunately I am not able to make the Zoning Board meetings in person, so I hope this message gets to the board. I spoke with several neighbors last week. None of them are for this change.

Thank you,

Richard Budalich
rbudalich@gmail.com

12/24/25



ID# 25Z00049

TO WHOM IT MAY CONCERN:

This letter is in reference to property ID # 25Z00049. We reside extremely proximally to said property. A change of zoning classification poses a very serious concern, not only for us individually, but for the entire community. Our understanding is that this property will be subdivided into multiple parcels which will introduce a significant increase in residential housing and roadways. This increase will implicate numerous septic systems, runoff, fertilizers and pesticides which will ultimately adversely affect our waterways. There already exist legitimate concerns regarding our current water quality. We have witnessed fish kills, reduced food sources for manatees, and unpleasant odors over the years. Any significant increase in housing/development will only add to our current issues. There also exists concern with excessive traffic and overcrowded roads. Our area already has significant challenges when leaving our neighborhood to enter US Hwy 1. This type of project will further complicate our traffic situation. Additionally, this zoning reclassification poses serious threats to our pre-existing wildlife. There are numerous gopher tortoises in this area which are currently protected by law. There are also wild turkeys that will be displaced.

We understand progress and development, but within reason. A change in zoning classification allows for building to occur without concern for the current law, environmental issues, and the overall well-being of this community. We are writing this letter to inform you of our position on this matter and hope you will seriously and thoughtfully decline the said request. Thank you for your time and cooperation.

Sincerely,

Very concerned, tax paying neighbors

A handwritten signature in black ink, consisting of a stylized, cursive name that is difficult to decipher. The signature is written over two horizontal lines.

Neighborhood Petition Regarding Rezoning Request

Property Address/Parcel Number: 20.39 acre parcel on Fleming Grant Road, Parcel #30G3819-HP*-10

Current Zoning: RU-1-13 (allows 13 units per acre)

Proposed Zoning: AU (L) (allows 1 unit per 2.5 acres)

I will be going before Brevard County Planning and Zoning and the Brevard County Commissioners in January and February 2026. I am requesting this proposed rezoning so that it is consistent with the future land use map that was established in 1988. With this rezoning request I will be asking that I am able to plat the property into seven 2.5 acre plus lots.

Petitioner Name: David Bistarkey 321.508.8860

Please indicate your position on the above referenced rezoning request below.

Address/Name	I Support	Do Not Support
9600 Mockingbird Lane <i>William Gray</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9606 Mockingbird Lane <i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9602 Mockingbird Lane <i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
x 9610 Mockingbird Lane <i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9620 Mockingbird Lane <i>DECLINED TO SIGN</i>	<input type="checkbox"/>	<input type="checkbox"/>
✓ 9630 Mockingbird Lane <i>UNDECIDED going to meeting</i>	<input type="checkbox"/>	<input type="checkbox"/>
9640 Mockingbird Lane <i>NOT HOME x 2</i>	<input type="checkbox"/>	<input type="checkbox"/>
9650 Mockingbird Lane <i>Ad. Perry</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9660 Mockingbird Lane <i>Leslie Ann Seiler</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
mt 9670 Mockingbird Lane <i>[Signature]</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

mt line

9690 Mockingbird Lane	Robert K. Auletto	✓	✓
9680 Mockingbird Lane	Ruth Duffin	✓	✓
9605 Mockingbird Lane	Lynne Barnes	✓	✓
9615 Mockingbird Lane	VACANT LAND	VACANT LAND	✓
9625 Mockingbird Lane	declined to sign		✓
9635 Mockingbird Lane	Doug S. Moore	X	✓
30G-38-19-75-*5(Brannan)	Rinda Branna	✓	✓
9675 Mockingbird Lane	Richard M. Jones Jr.	✓	✓
9685 Mockingbird Lane	[Signature]	✓	✓
9695 Mockingbird Lane	LARGE HOUSE UNDER CONSTRUCTION		✓
9691 Mockingbird Lane	NOT HOME (SECURE HOME)		✓
9640 Fleming Grant Rd	declined to sign		✓
30G-38-19- ^{HP} HA-13.1 (James)	VACANT LAND		✓
9575 Fleming Grant Rd	Charles J. Carroll	✓	✓
9585 Fleming Grant Rd	Declines to sign		✓
9617 Fleming Grant Rd	A. Ruth Weston		✓
9621 Fleming Grant Rd	[Signature]	✓	✓
9625 Fleming Grant Rd	Clle Kue	✓	✓
9629 Fleming Grant Rd	DECLINED TO SIGN		✓
9645 Fleming Grant Rd	Robert W. [Signature]	✓	✓
9659 Fleming Grant Rd	Nancy [Signature]	X	✓
9669 Fleming Grant Rd	PHONE CONVERSATION (BENIE)	✓	✓
9673 Fleming Grant Rd	[Signature]	✓	✓
9675 Fleming Grant Rd	Rinda Branna	✓	✓
9679 Fleming Grant Rd	Georgie K. Combs	✓	✓
30G-38-20-HR-30 (Brannan)	Lynna	✓	✓
9670 Fleming Grant Rd	[Signature]	✓	✓

9690 Fleming Grant Rd	not home x2	-	-
3400 Seabird Lane	Ed Boy	✓	-
3401 Seabird Lane		-	-
9800 River Dr	Lisa Wallace	✓	-
9810 River Dr	Mary Jane	✓	-
9820 River Dr	Declines to sign	-	-
9830 River Dr	not home x2	-	-
9840 River Dr	[Signature]	✓	-
9850 River Dr	Declines to sign	-	-
9860 River Dr	not home x2	-	-
9870 River Dr	Geni Z. Chapman	✓	-
9880 River Dr	rental house	-	-

This petition is intended to document neighborhood feedback for submission to the Planning and Zoning Board and the Board of County Commissioners.

9880 owners PH #