



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

11/4/2021

Subject:

Timothy and Diane Lystlund request a change of zoning classification from RU-1-7 to SR. (21Z00014) (Tax Account 3009665) (District 3)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential).

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential) for the purpose of legitimizing the vacant parcel to be able to build a single-family home. The applicants have applied for a Small Scale Comprehensive Plan Amendment to change the FLU (Future Land Use) designation from RES 1 (Residential 1) to RES 2 (Residential 2).

The applicants also applied for a variance to the 150-ft. minimum lot depth requirement for SR zoning. On June 23, 2021, the Board of Adjustment unanimously approved the request.

The developed character of the surrounding area along Hibiscus Avenue is RU-1-7-zoned parcels developed with single-family homes. The development trend for the surrounding area has been single-family residential for the past 50 years. There have been no Future Land Use changes within the past 20 years.

The proposed SR classification permits single-family residences on minimum half-acre lots, with a minimum width of 100 feet and depth of 150 feet, and a minimum house size of 1,300 square feet.

The Board may wish to consider whether the request to SR is consistent and compatible with the surrounding area. Although there is no SR zoning in the immediate area, the Board may wish to recognize the existing development pattern which has been SFR's 0.5 acre parcels.

On July 12, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval.

On August 5, 2021, at the Applicant's request, the Board tabled this item to November 4, 2021 meeting, along with the companion application for the Small Scale Plan Amendment.

Clerk to the Board Instructions:

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

Resolution 21Z00014

On motion by Commissioner Tobia, seconded by Commissioner Lober, the following resolution was adopted by a unanimous vote. (Commissioner Tobia absent):

WHEREAS, Timothy and Diane Lystlund have requested a change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential) on property described as Lot 25, Block HM, Camerons 500 A Tract, as recorded in ORB 8669, Page 2237, of the Public Records of Brevard County, Florida. **Section 20, Township 30G, Range 38.** (0.55 acres) Located on the west side of Hibiscus Ave., approx. 240 ft. south of Jonquil Lane. (9555 Hibiscus Ave., Micco); and

WHEREAS, a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from RU-1-7 to SR be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of August 5, 2021.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida



Rita Pritchett, Chair

Brevard County Commission

As approved by the Board on August 5, 2021.

ATTEST:



RACHEL SADOFF, CLERK

(SEAL)

Planning and Zoning Board Hearing – July 12, 2021

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development staff, 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 Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all 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 re-zoning 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:

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

21Z00014

Timothy and Diane Lystlund

RU-1-7 (Single-Family Residential) to SR (Suburban Residential)

Tax Account Number: 3009665
Parcel I.D.: 30G-38-20-HM-*-25
Location: East side of Hibiscus Avenue, 240 feet south of Jonquil Lane (District 3)
Acreage: 0.55 acres

Planning and Zoning Board: 07/12/2021

Board of County Commissioners: 08/05/2021

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 proposed Future Land Use Designation, Section 62-1255, per Policy 2.13 of the Future Land Use Element.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	RU-1-7	SR
Potential*	No units, parcel size is sub-standard	One single-family unit
Can be Considered under the Future Land Use Map	No RES 1	YES** RES 2

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

There is a Small-Scale Future Land Use Map (FLUM) amendment companion application under **21PZ00026 which proposes to change the RES 1 (Residential 1) Future Land Use (FLU) designation to RES 2 (Residential 2) FLU.

Background and Purpose of Request

The applicant is seeking a change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential) for the purpose of legitimizing the parcel to be consistent with the proposed RES 2 Future Land Use change and to be able to build one single-family home. The parcel is vacant. The applicant has a building permit (21BC03715) for a proposed single-family home.

The RU-1-7 zoning of the parcel was adopted May 30, 1972 per zoning action **Z-2980** to replace the RU-1 single-family zoning. The parcel was subdivided into its current configuration on August 01, 1996, per Official Records Book 3594, Page 1459. When the parcel was subdivided in 1996, the RU-1-7 zoning was not compatible with the RES 1 FLU and does not qualify as nonconforming status under the provision of section 62-1188 Nonconforming lots of record.

The applicants have also applied for a variance **21PZ00025** to the 150 minimum lot depth requirements for SR zoning. This variance application will be heard on June 23, 2021.

Land Use

The subject property is currently designated as RES 1 (Residential 1). The companion application **21PZ00026** proposes to change the RES 1 FLU to RES 2 Future Land Use designation. The RU-1-7 zoning classification is not consistent with the RES 1 FLU; the proposed SR zoning is consistent with the proposed RES 2 FLU.

Applicable Future Land Use Policies

The Current FLU follows: FLUE Policy 1.9 –The Residential 1 Future land use designation. The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) dwelling unit per acre, except as otherwise may be provided for within the Future Land Use Element.

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

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.

The subject property is vacant land and lies within the Residential 1 Future Land Use designation. The abutting parcels and the surrounding area have a Residential 1 Future Land Use designation which is not compatible with the current RU-1-7 zoning. The proposed SR zoning is consistent with the proposed RES 2 Future Land Use designation.

Existing development of the surrounding area is generally described as single-family homes on lots that are undersized to meet the one dwelling unit per acre (1du/ac) density allowed by the RES 1 future land use. The applicant intends to build one, single-family home, and a FLU designation of RES 2 is necessary to legitimize the parcel to meet development requirements of RES 2.

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

The subject parcel is zoned RU-1-7 and is vacant.

The developed character of the surrounding area along Hibiscus Avenue is RU-1-7 (Single-Family Residential) zoned parcels which are developed with single-family houses.

Properties along Hibiscus Avenue are single-family residential in nature. The development trend for the surrounding area has been single-family residential homes for the past 50 years. There have been no Future Land Use changes within the past 20 years.

The current RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet

The proposed SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

There have been no rezoning applications in the surrounding area in the past 5 years.

Surrounding Area

The abutting parcels to the north, east and south are zoned RU-1-7 and are developed with single-family residences. The parcels along the west side of Hibiscus Avenue are zoned RU-1-7 and are developed with single-family residences.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Preliminary Transportation 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 of 15,600 trips per day, a Level of Service (LOS) of D, and currently operates at 14.36% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.06%. The corridor is anticipated to continue to operate at 14.42% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

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

The parcel is not serviced by Brevard County sewer or water. The closest available Brevard County sewer line is located approximately 1.4 miles northwest of the parcel. The closest available Brevard County water line is located approximately 0.7 miles northeast of the parcel.

For Board Consideration

The Board may wish to consider whether the request to SR is consistent and compatible with the surrounding area given the fact that RU-1-7 zoning has been established.

The current RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet

The proposed SR classification permits single family residences on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

Although there is no SR zoning in the immediate area, the Board may wish to recognize the existing development pattern which has been on 0.5 acre parcels.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Request Review & Summary
Item # 21Z00014**

Applicant: Timothy and Diane Lystlund

Zoning Request: RU-1-7 to SR

Note: Legitimize lot to build a single-family residence

P&Z Hearing Date: 07/12/21; **BCC Hearing Date:** 08/05/21

Tax ID No: 3009665

- 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:

- Protected and Specimen Trees
- Protected Species

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Protected and Specimen Trees

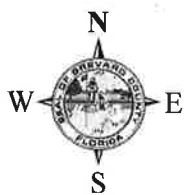
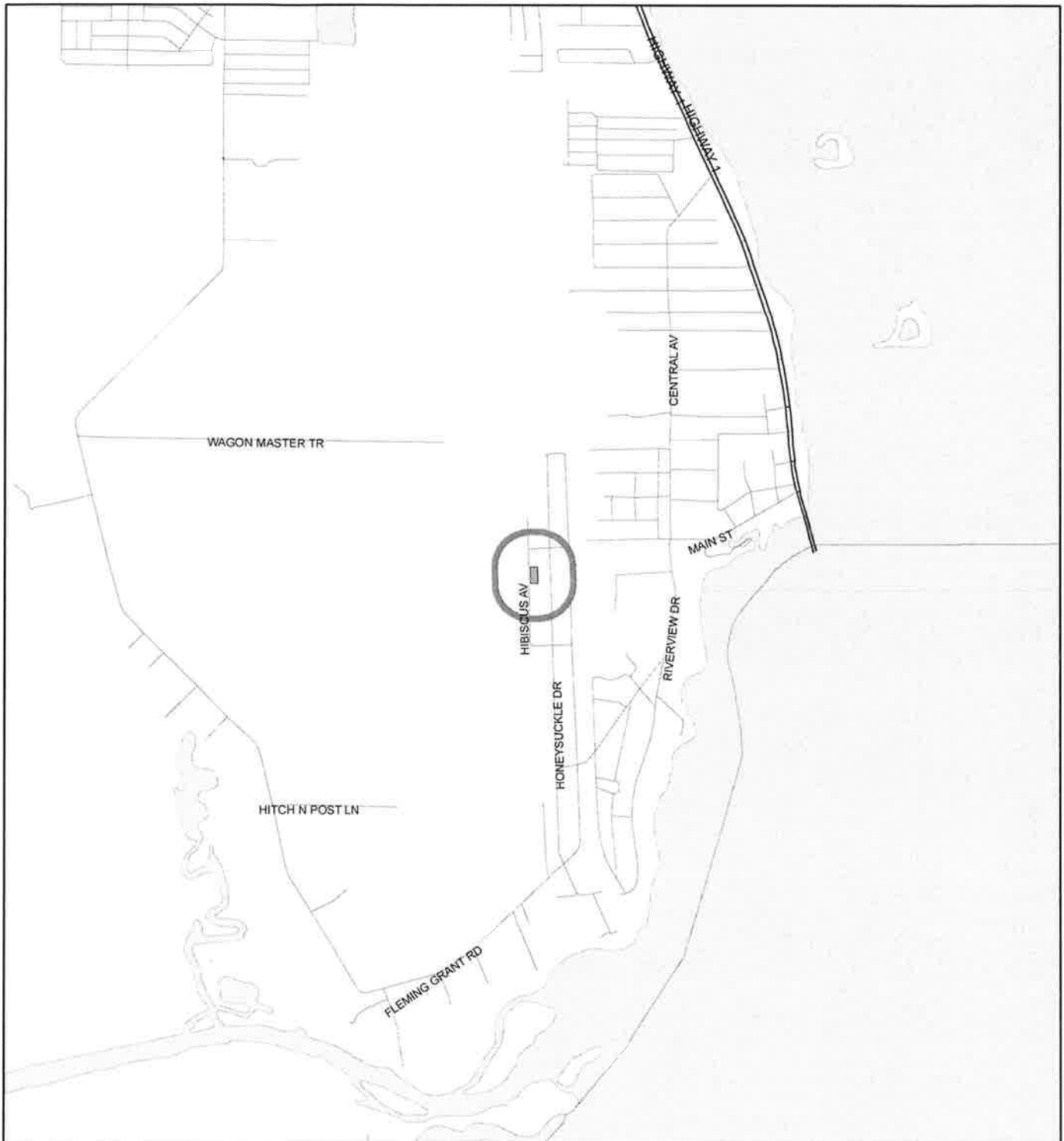
Aerials show the parcel to be heavily wooded. Specimen Trees (greater than or equal to 24 inches in diameter) may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage the protection of Specimen Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Land clearing is not permissible without prior authorization from NRM. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Protected Species

Information available to NRM indicates that 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 and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP

LYSTLUND, TIMOTHY AND DIANE
21Z00014



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

Buffer Distance: 500 feet

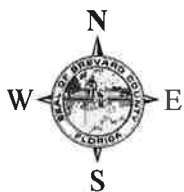
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/22/2021

Buffer
Subject Property

ZONING MAP

LYSTLUND, TIMOTHY AND DIANE
21Z00014



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.

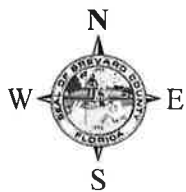
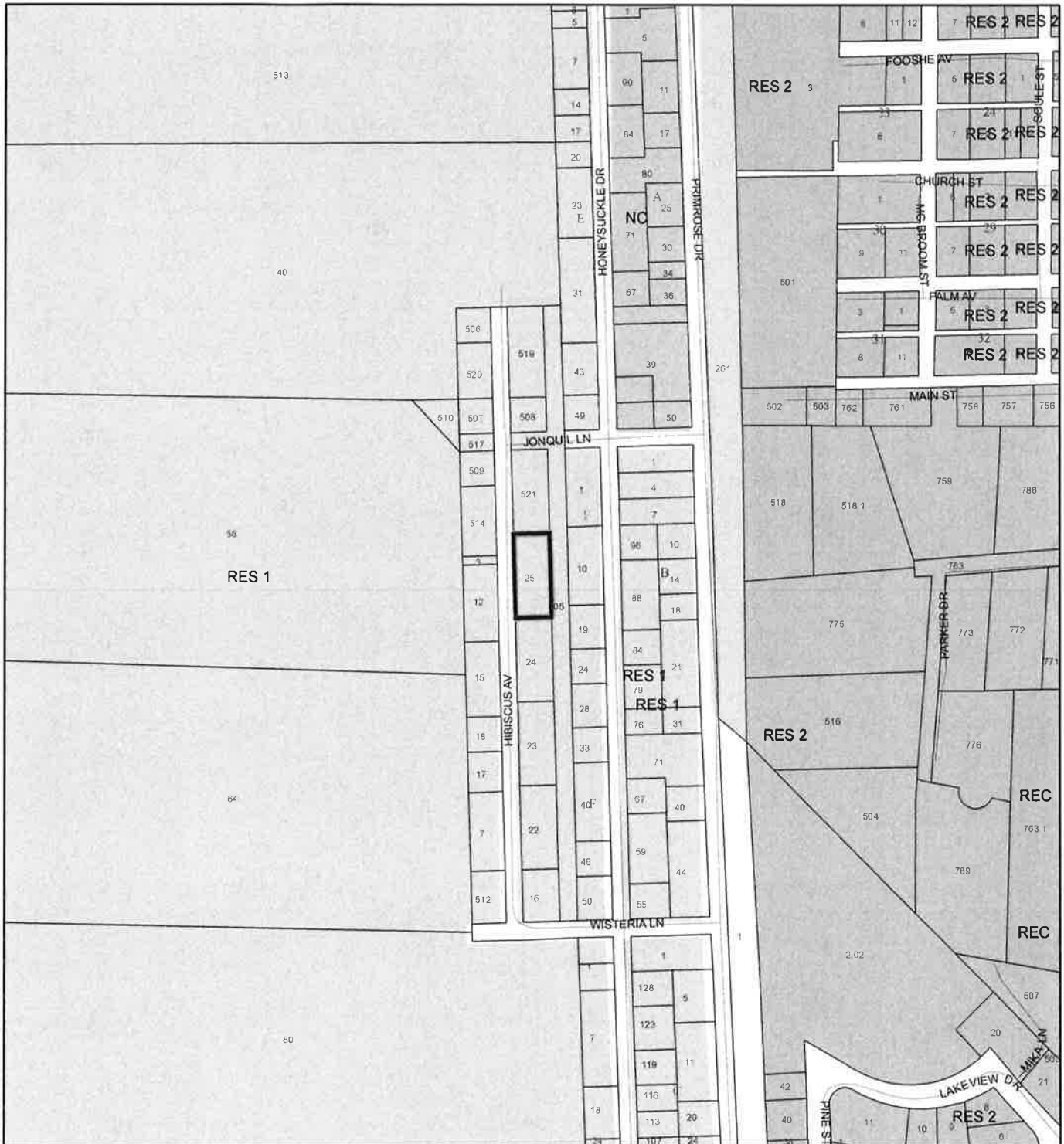
Produced by BoCC - GIS Date: 4/22/2021

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

Subject Property

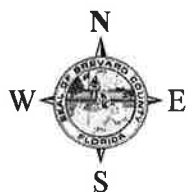
Parcels

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

Produced by BoCC - GIS Date: 4/22/2021

AERIAL MAP

LYSTLUND, TIMOTHY AND DIANE
21Z00014




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2020

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.

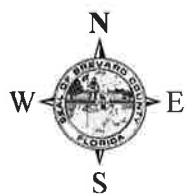
Produced by BoCC - GIS Date: 4/22/2021

 Subject Property

 Parcels

NWI WETLANDS MAP

LYSTLUND, TIMOTHY AND DIANE
21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

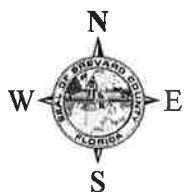
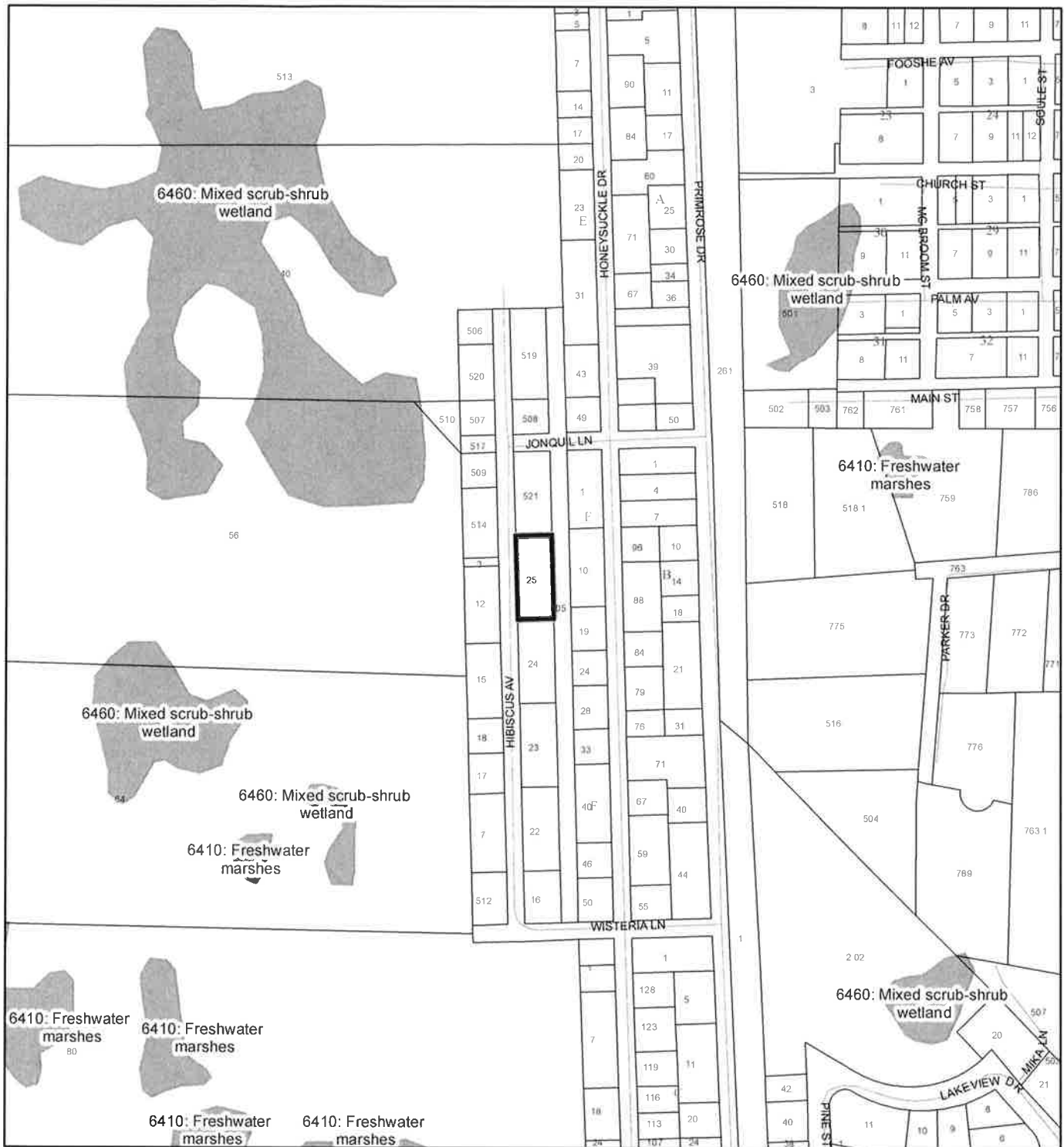
National Wetlands Inventory (NWI)

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

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

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

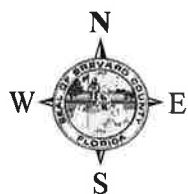
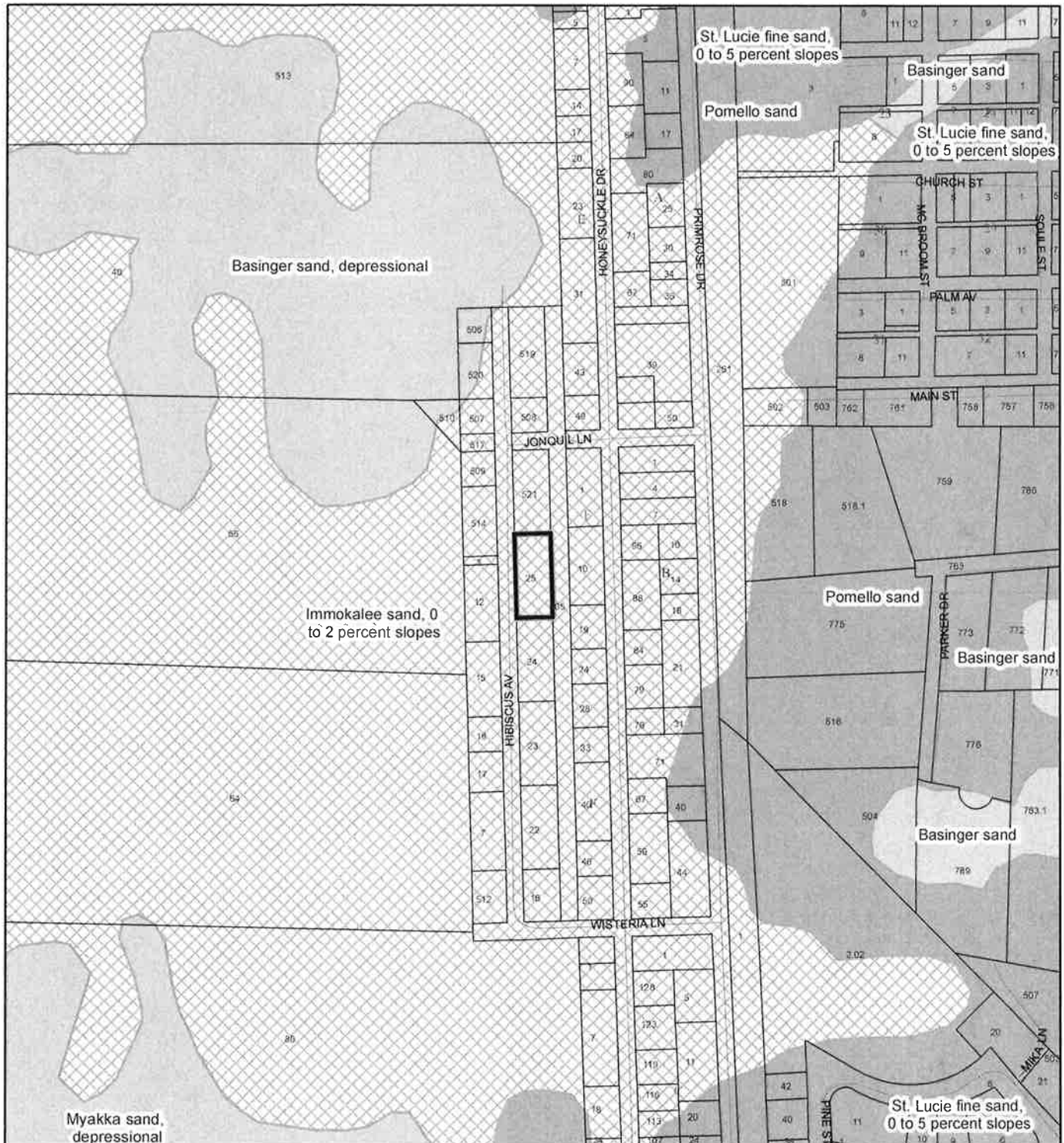
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

National Flood Hazard Layer FIRMette



80°30'32"W 27°51'28"N



0 250 500 1,000 1,500 2,000 Feet 1:6,000

Basemap: USGS National Map: Orthoimagery. Data refreshed October, 2020

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS

OTHER AREAS OF FLOOD HAZARD

OTHER AREAS

GENERAL STRUCTURES

OTHER FEATURES

MAP PANELS

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

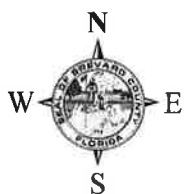
The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 4/21/2021 at 2:18 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

COASTAL HIGH HAZARD AREA MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

— Subject Property

□ Parcels

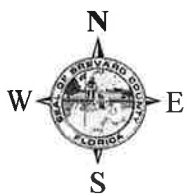
Coastal High Hazard Area

■ SurgeZoneCat1

EAGLE NESTS MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

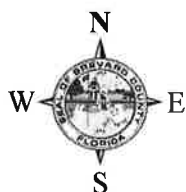
 Subject Property

 Parcels





Eagle Nests
FWS 2010

LYSTLUND, TIMOTHY AND DIANE
21Z00014



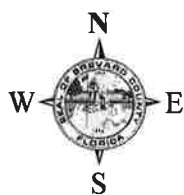
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

 Subject Property
 Parcels
 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

LYSTLUND, TIMOTHY AND DIANE

21Z00014



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/22/2021

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

Objection
21PZ00026 &
21Z00014
Lystlund

From: [-Ashley -Harris](#)
To: [Jones, Jennifer](#)
Subject: 21PZ00026 & 21Z00014
Date: Saturday, July 10, 2021 4:52:05 PM

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

ID 21PZ00026 & 21Z00014

I'm writing in regards to the request for change of zoning for the property located at 9555 Hibiscus Ave in Micco, FL. I am a resident of the neighborhood and purchased a home in the area because it is not a busy neighborhood. Micco is the unique place it is because houses are not on top of each other. I vote no in regards to the request for change of zoning classification.

Sincerely,
Ashley Harris

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, July 12, 2021**, 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: Ron Bartcher (D1); Brian Hodggers (D2); Mark Wadsworth, Chair (D4); Joe Buchanan (D4 Alt); Peter Filiberto (D5); and David Bassford (D5 Alt).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Kyle Harris, Planner I; Abigail Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

At the outset of the meeting, David Bassford announced he had a conflict of interest on Items H.1., H.7., and H.8., and would need to abstain from voting.

Excerpt of Complete Minutes

Timothy and Diane Lystlund

A Small Scale Comprehensive Plan Amendment (21S.03) to change the Future Land Use designation from RES 1 (Residential 1) to RES 2 (Residential 2). The property is 0.55 acres, located on the west side of Hibiscus Ave., approx. 240 ft. south of Jonquil Lane. (9555 Hibiscus Ave., Micco) (21PZ00026) (Tax Account 3009665) (District 3)

Timothy and Diane Lystlund

A change of zoning classification from RU-1-7 (Single-Family Residential) to SR (Suburban Residential). The property is 0.55 acres, located on the west side of Hibiscus Ave., approx. 240 ft. south of Jonquil Lane. (9555 Hibiscus Ave., Micco) (21Z00014) (Tax Account 3009665) (District 3)

Timothy Lystlund, 1501 East Lake Lane, Sebastian, stated when they purchased the property they found out the zoning was incorrect for the size of the lot, and so they would like to change the zoning.

Mark Wadsworth asked the approximate square footage of the house they want to build. Mr. Lystlund replied the house would be a little under 2,300 square feet.

No public comment.

Mr. Lystlund stated he is familiar with one letter in opposition to our request.

Brian Hodggers asked if the board should consider the letter if the person is not present to speak. Abby Jorandby replied that the board can consider it.

Mr. Hodggers pointed out there are several RU-1-7-zoned properties in the area with houses on them that were built before the zoning changed.

Paul Body explained the problem is that the subject property was subdivided in 1996; the abutting properties were subdivided around the same time, so the Future Land Use is the problem, at Residential 1. When it was subdivided, it did not meet the requirements for Residential 1. The abutting properties should have also rezoned. The subject property is a little over a half-acre and the SR zoning seemed to be the better fit because it requires a half-acre and cannot be re-subdivided.

Mr. Wadsworth asked if the neighbor who wrote the letter of objection lives in the neighborhood. Mr. Lystlund replied the neighbor who wrote the letter lives on Honeysuckle, behind the subject property, four lots down, on a quarter-acre lot.

Mr. Wadsworth stated in looking at the neighborhood, there are three streets. There are approximately five or six lots that are roughly the same size as the subject property and the rest of the lots in the area are smaller.

Mr. Body replied most of the lots in the area were subdivided before Comprehensive Plan was adopted, mostly to the west. The lots to the east and abutting the subject property were all subdivided at the same time and did not meet the Comprehensive Plan.

Peter Filiberto stated it seems like this is the last lot to be built out in the three-street area, so he doesn't see a domino effect happening if the board approves the request.

Motion by Peter Filiberto, seconded by Joe Buchanan, to approve the requested Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 1 to RES 2. The motion passed unanimously.

Motion by Peter Filiberto, seconded by Joe Buchanan, to approve the requested change of zoning classification from RU-1-7 to SR. The motion passed unanimously.