



Brevard County Board of County Commissioners

4:12
2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 1749, Version: 1

Subject:

William Clarke (Kim Rezanka) requests a change of zoning classification from BU-1-A and BU-1 to BU-2. (20PZ00038) (Tax Account 2410519) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from BU-1-A (Restricted Neighborhood Commercial), BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial).

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from BU-1-A (Restricted Neighborhood Commercial), BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial) for the purpose of using the existing 4,012 square-foot building for wholesale distribution of marine fasteners, and storage of fasteners in shipping containers to the rear of the building. The property is 0.80 acres, located at 4140 North Courtenay Parkway.

The developed character of the surrounding area along both sides of North Courtenay Parkway is a mixture of BU-1-A, BU-1 and BU-2, developed with various commercial uses. The parcel to the north, south, and to the west have a Community Commercial Future Land Use designation; the parcel to the east has a Residential 2 Future Land Use designation. The subject property is serviced by Brevard County water and has an existing septic system.

The Board may wish to consider whether the intensity and types of uses proposed are consistent and compatible with surrounding development.

On June 11, 2020, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

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

WHEREAS, William Clarke has requested a change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) and BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial) on property described as part of the NW ¼ of the NW ¼ of Section 2, Township 24S, Range 36E, lying east of State Highway A1A, more particularly described as follows: Commence at the intersection of the north line of the said NW ¼ and the east right-of-way line of State Highway A1A; thence run S04deg28'00"E, along the east right-of-way line of said State Highway A1A a distance of 975 ft. to a point, which is the point of beginning of the land herein described; thence run S89deg59'35"E, parallel to the north line of the said NW ¼ a distance of 275 ft. to a point; thence run N04deg28'00"W, a distance of 12 ft. thence run S89deg59'35"E, a distance of 150 ft.; thence run S04deg28'00"E, a distance of 37 ft.; thence run N89deg59'35"W, a distance of 150 ft.; thence run S04deg28'00"E, a distance of 100 ft.; thence run N89deg59'35"W, a distance of 275 ft. to the east right-of-way line of State Highway A1A; thence run N04deg28'00"W, along the east right-of-way line of State Highway A1A, a distance of 125 ft. to the point of beginning of the land herein described. Less & except the west 40-ft. (by perpendicular measurement) for road right-of-way, per ORB 3106, Page 4554, as recorded in the Public Records of Brevard County, Florida. (0.80 acres) Located on the east side of N. Courtenay Pkwy., approx. 0.18 mile south of Hall Rd. (4140 N. Courtenay Pkwy., Merritt Island); and

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

WHEREAS, the Board, after considering said application and North Merritt Island Dependent Special District Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from BU-1-A and BU-1 to BU-2, 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 July 9, 2020.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Bryan Andrew Lober

Bryan Lober, Chair

Brevard County Commission

As approved by the Board on July 9, 2020.

ATTEST

Scott Ellis
SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – June 11, 2020

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

The Brevard County zoning official, planners and the director of the Planning and Development 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

20PZ00038

William Clarke

**BU-1 (General Retail Commercial) and BU-1-A (Restricted Neighborhood Commercial) to
BU-2 (Retail, Warehousing, and Wholesale Commercial)**

Tax Account Number: 2410519
Parcel I.D.: 24-36-02-00-283
Location: East side of North Courtenay Parkway, approximately 950 feet south of
Hall Road (4140 North Courtenay Parkway, Merritt Island) (District 2)
Acreage: 0.80 acres

North Merritt Island Board: 06/11/20

Board of County Commissioners: 07/09/20

Consistency with Land Use Regulations

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1 and BU-1-A	BU-2
Potential*	4,012 sq. ft.	10,611 sq. ft.
Can be Considered under the Future Land Use Map	YES Community Commercial	YES Community Commercial

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

Background and Purpose of Request

The applicant is seeking a change of zoning classification from General Retail Commercial (BU-1) and Restricted Neighborhood Retail Commercial (BU-1-A) to all Retail, Warehousing, and Wholesale Commercial (BU-2) for the purpose of using the existing building for wholesale distribution of marine fasteners and to allow for storage of fasteners in shipping containers to the rear of the building. The parcel is currently developed with a 4,012 sq. ft. warehouse building. The structure received a building permit (12BC01731) for a single-family residence. Wholesale salesroom and storage rooms are a permitted use in BU-2.

The applicant plans to use shipping containers for additional storage. Per Sec. 62-2100, these must meet all setback requirements for a principal structure and maintain a minimum spacing distance of 15 feet between structures.

BU-1 is the original zoning classification of the western section of the parcel. **Z-3226**, a zoning action to rezone this part of the property from BU-1 to BU-2 was denied on March 26, 1973. The eastern section of the parcel was rezoned administratively rezoned from BU-1 to BU-1-A by **Z-10241F** on April 5, 1999.

Land Use

The subject property retains the CC (Community Commercial) FLU (Future Land Use) designation. The existing zoning classifications, BU-1 and BU-1-A, and the proposed BU-2 zoning classification are all consistent with the Future Land Use designation.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Indian River Lagoon Septic Overlay
- Protected Species
- Landscaping and Tree Preservation Requirements

Information available to NRM indicates that wetlands may be present on the property, and that that impacts to previously existing wetlands may have occurred around the year 2000 fill was brought onto the site. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Preliminary Concurrency

The closest concurrency management segment to the subject property is North Courtenay Pkwy, between SR 528 and the KSC Gate, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 49.87% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.06%. The corridor is anticipated to continue to operate at 49.96% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

The proposed request is anticipated to have no school impacts because it is commercial.

This parcel is serviced by Brevard County water. The site contains an existing septic system.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 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 currently developed with a structure containing warehousing and a single-family residence and lies within the Community Commercial

Future Land Use designation. The parcel abuts BU-1-A and BU-1 zoning to the north, BU-1 and BU-2 zoning to the south, RR-1 zoning to the east, and North Courtenay Parkway to the west. The parcels west across North Courtenay Parkway are zoned BU-1 and BU-2. The proposed BU-2 zoning may be considered to be consistent with the Community Commercial Land Use designation.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area along North Courtenay Parkway is developed with retail, single-tenant office buildings, and storage/distribution terminals. The subject parcel and the surrounding area along North Courtenay Parkway have a Future Land Use (FLU) designation of CC which may be considered to be consistent with the BU-1-A, BU-1, and BU-2 zonings. The proposed BU-2 zoning may be considered to be consistent with the Future Land Use designation CC.

Surrounding Area

The developed character of the surrounding area along both sides of North Courtenay Parkway is a mix of BU-1-A, BU-1, and BU-2 zoning developed with various commercial uses. To the south of the subject property is a parcel zoned BU-1 and BU-2 containing a repair service shop on the BU-2 section. To the north is an undeveloped parcel zoned BU-1-A. To the east is an undeveloped parcel zoned Rural Residential (RR-1). To the west is North Courtenay Parkway. The parcels to the north, south, and across the street to the west have a CC FLU designation while the parcel to the east has a Residential 2 FLU designation.

There has been one zoning action within a half-mile of the property within the last five years. On July 26, 2018, **18PZ00018** rezoned a 70.46 acre parcel located approximately 2,148 feet northeast of the property from Agricultural Residential (AU) to Estate Use Residential (EU) with a Binding Development Plan limiting the development to 34 units.

For Board Consideration

The applicant is seeking a change of zoning classification from General Retail Commercial (BU-1) and Restricted Neighborhood Retail Commercial (BU-1-A) to all Retail, Warehousing, and Wholesale Commercial (BU-2) for the purpose of using the existing building for wholesale distribution of marine fasteners and to allow for storage of fasteners in shipping containers to the rear of the building. The parcel is currently developed with a 4,012 sq. ft. building being used as a single-family residence. Wholesale salesroom and storage rooms are a permitted use in BU-2.

The Board may wish to consider whether the intensity and types of uses proposed are consistent and compatible with surrounding development.

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

Item # 20PZ00038

Applicant: Rezanka for Clarke

Zoning Request: BU-1 and BU-1-A to BU-2

Note: Applicant wants warehouse for distribution of marine fasteners, and to have storage in shipping containers.

NMI Hearing Date: 06/11/20; **BCC Hearing date:** 07/09/20

Tax ID No: 2410519

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Indian River Lagoon Septic Overlay
- Protected Species
- Landscaping and Tree Preservation Requirements

Information available to NRM indicates that wetlands may be present on the property, and that that impacts to previously existing wetlands may have occurred around the year 2000 fill was brought onto the site. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped Basinger sand as shown on the USDA Soil Conservation Service Soils Survey map; an indicator that hydric soils and wetlands may be present on the property. Other information available to NRM indicates that wetlands may be present on the property, and that that impacts to previously existing wetlands may have occurred around the year 2000 when fill was brought onto the site. A wetland determination/delineation will be required prior to any plan design or permit submittal. The discovery of unpermitted wetland impacts may result in enforcement action. Section 62-3694(c)(3)b has allowances for wetland impacts for commercial uses along "Mitigation Qualified Roadways" (MQRs). North Courtenay Parkway is an MQR at this location. The applicant shall complete High Function and Landscape Level wetlands assessments prior to the allowance of any impacts. Board approval may be required for impacts. Any permitted wetland impacts must meet wetland impact avoidance, minimization and mitigation requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at 321-633-2016.

Aquifer Recharge Soils

Basinger sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Septic Overlay

The site is mapped within the Indian River Lagoon Septic Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. The change in use may require septic system upgrade to the use of an alternative septic system designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. The Applicant shall contact the Florida Department of Environmental Health at 321-633-2100.

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.

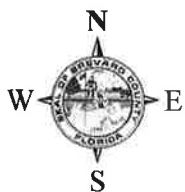
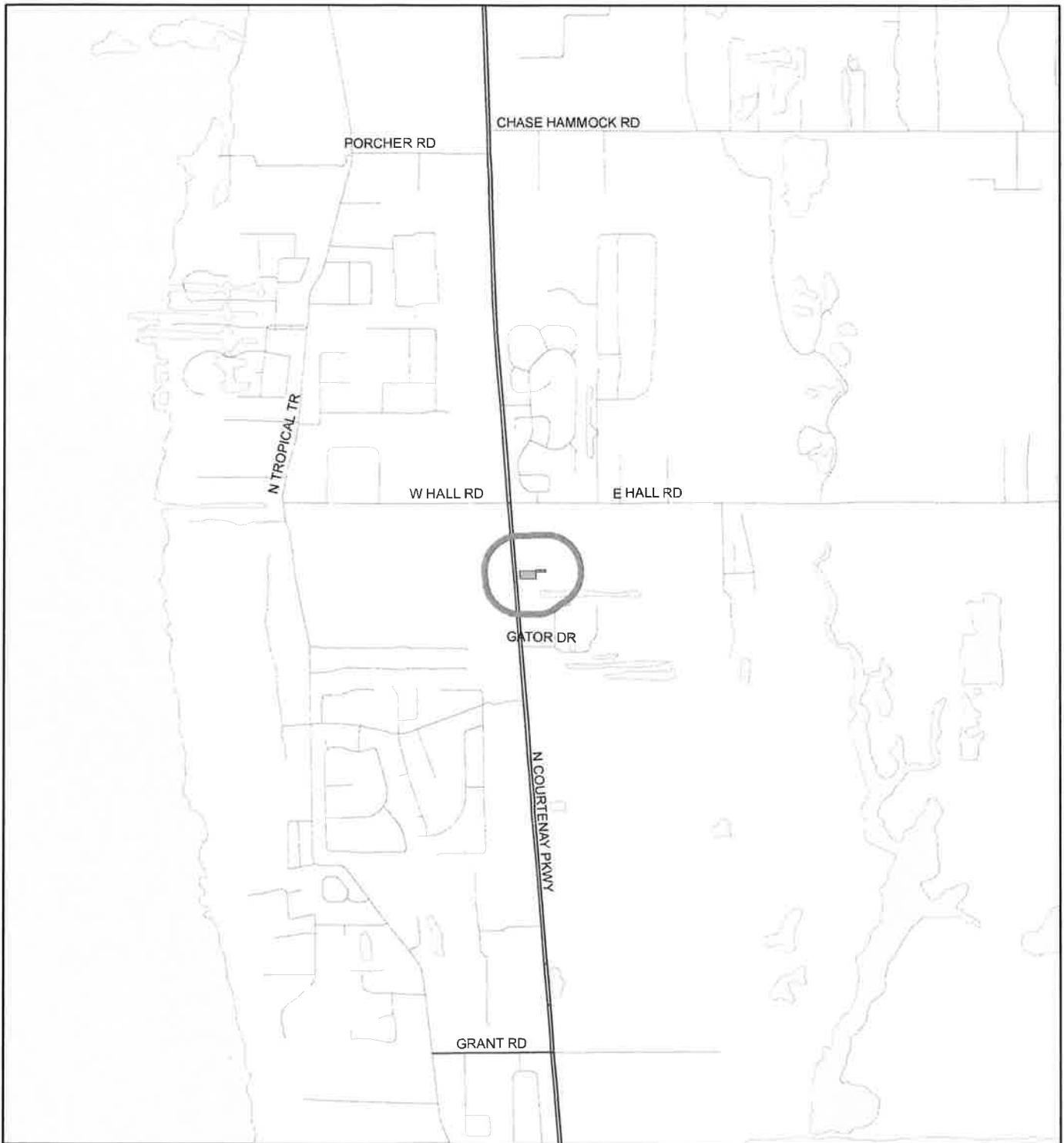
Landscaping and Tree Preservation Requirements

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 permitted without prior authorization by NRM.

LOCATION MAP

CLARKE, WILLIAM

20PZ00038



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: 3/11/2020

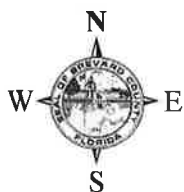
— Buffer

■ Subject Property

ZONING MAP

CLARKE, WILLIAM

20PZ00038



1:4,800 or 1 inch = 400 feet

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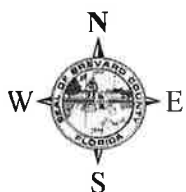
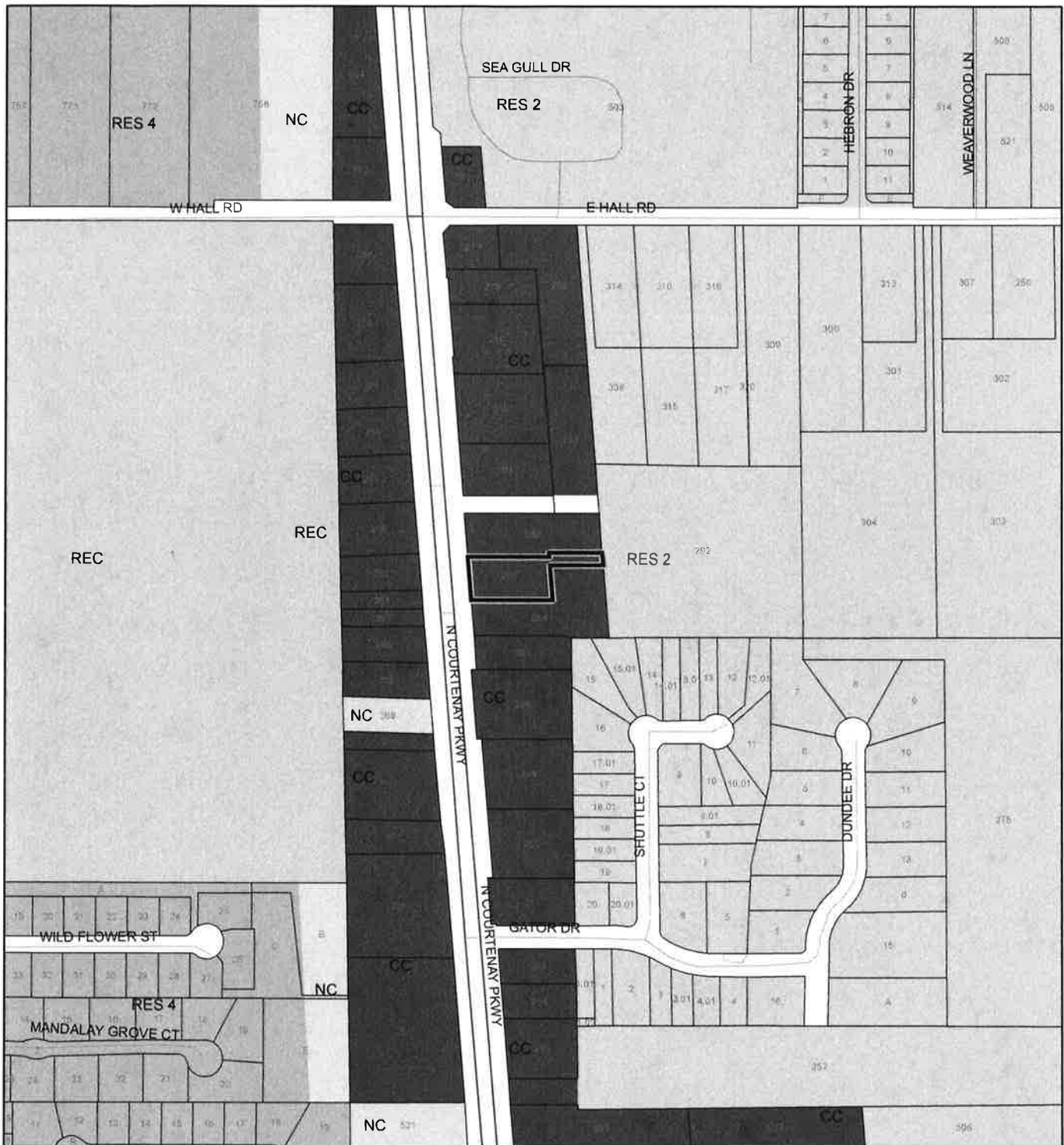
Produced by BoCC - GIS Date: 3/11/2020

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

CLARKE, WILLIAM

20PZ00038



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

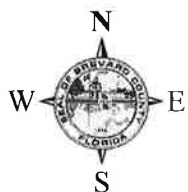
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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AERIAL MAP

CLARKE, WILLIAM

20PZ00038



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2019

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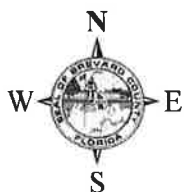
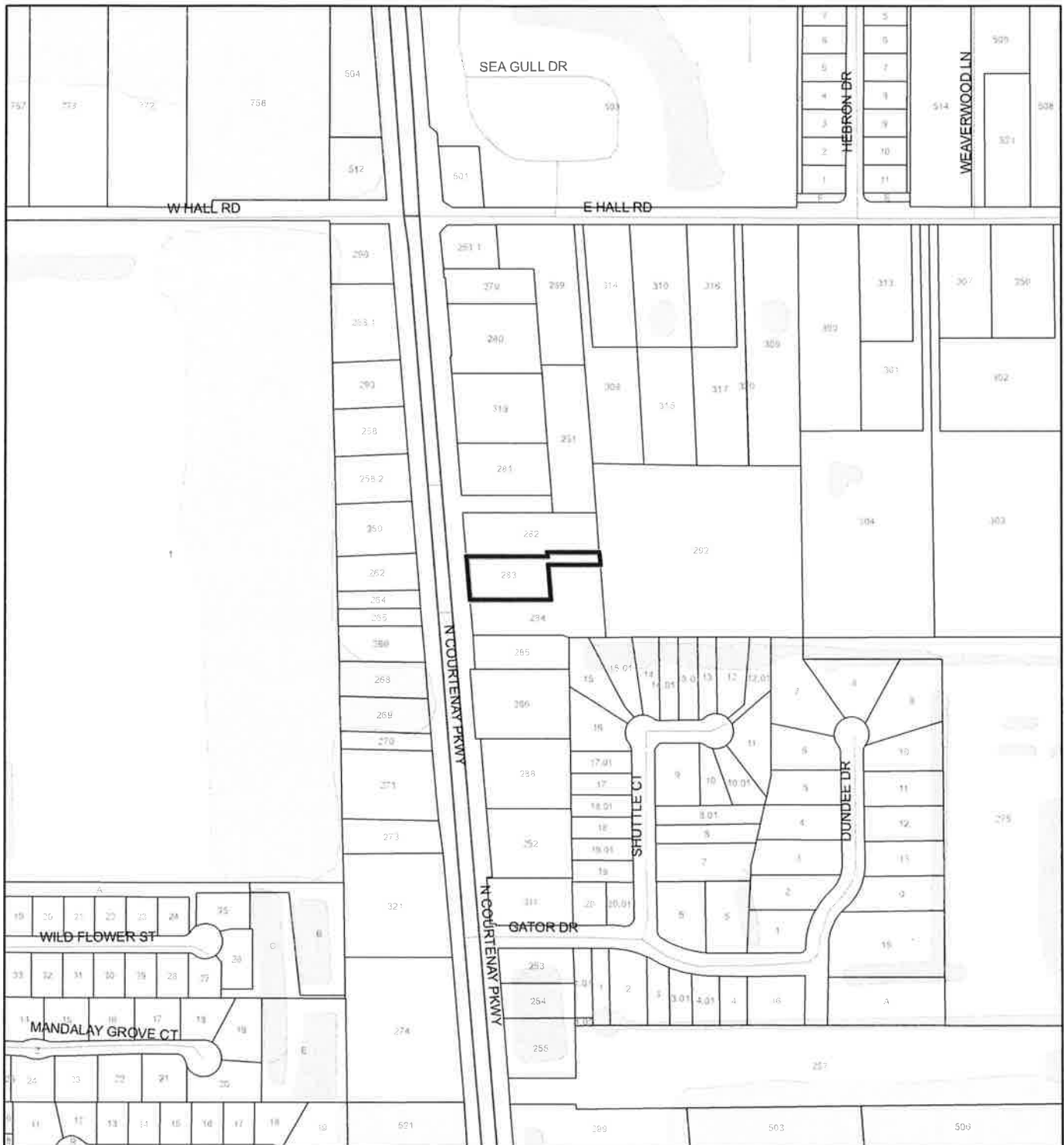
— Subject Property

▭ Parcels

NWI WETLANDS MAP

CLARKE, WILLIAM

20PZ00038



1:4,800 or 1 inch = 400 feet

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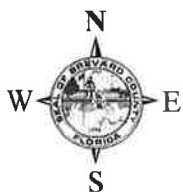
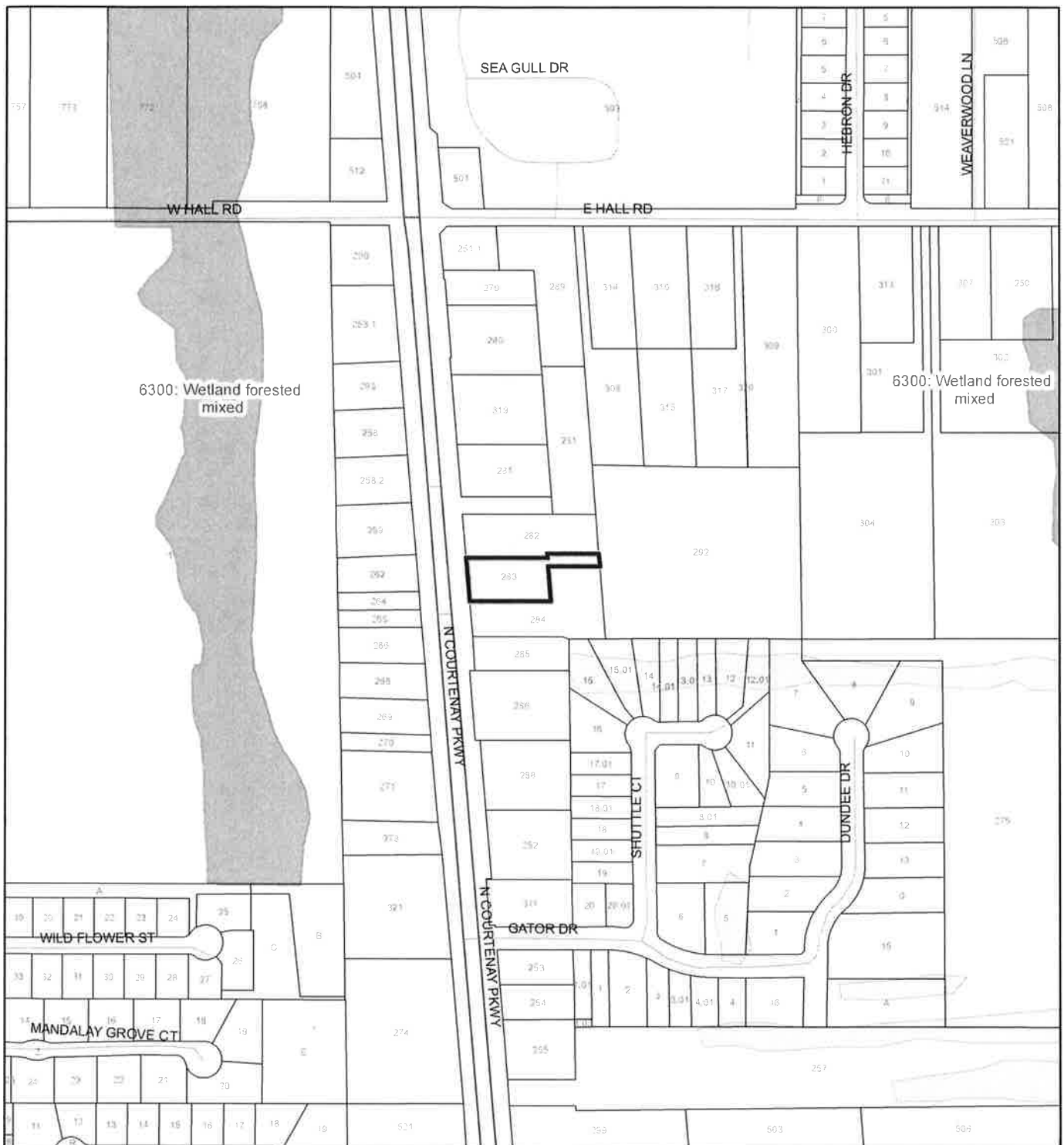
Produced by BoCC - GIS Date: 3/11/2020

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

CLARKE, WILLIAM
20PZ00038



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

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

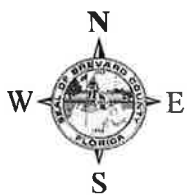
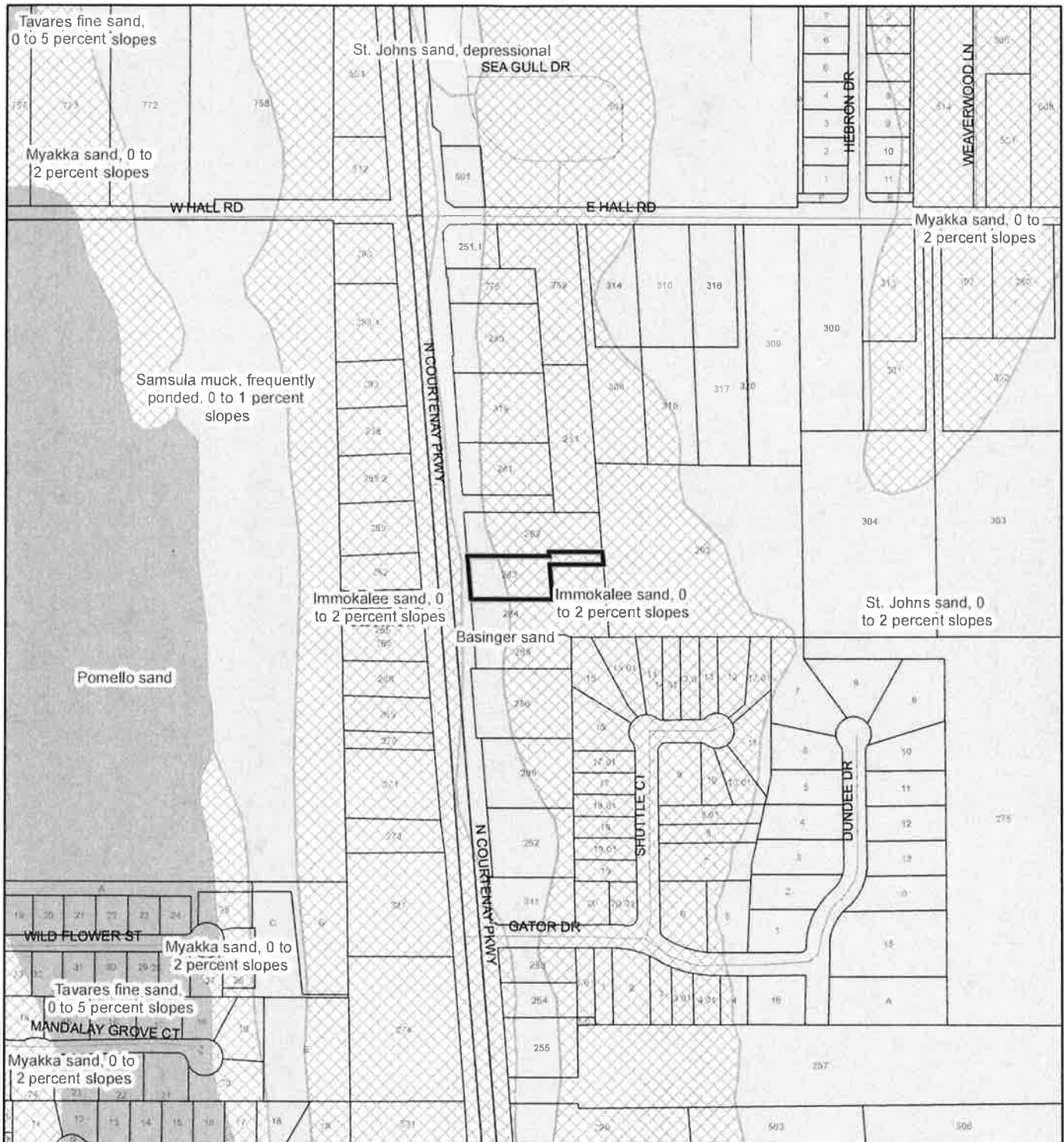
Subject Property

Parcels

USDA SCSSS SOILS MAP

CLARKE, WILLIAM

20PZ00038



1:4,800 or 1 inch = 400 feet

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USDA SCSSS Soils

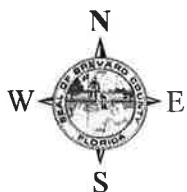
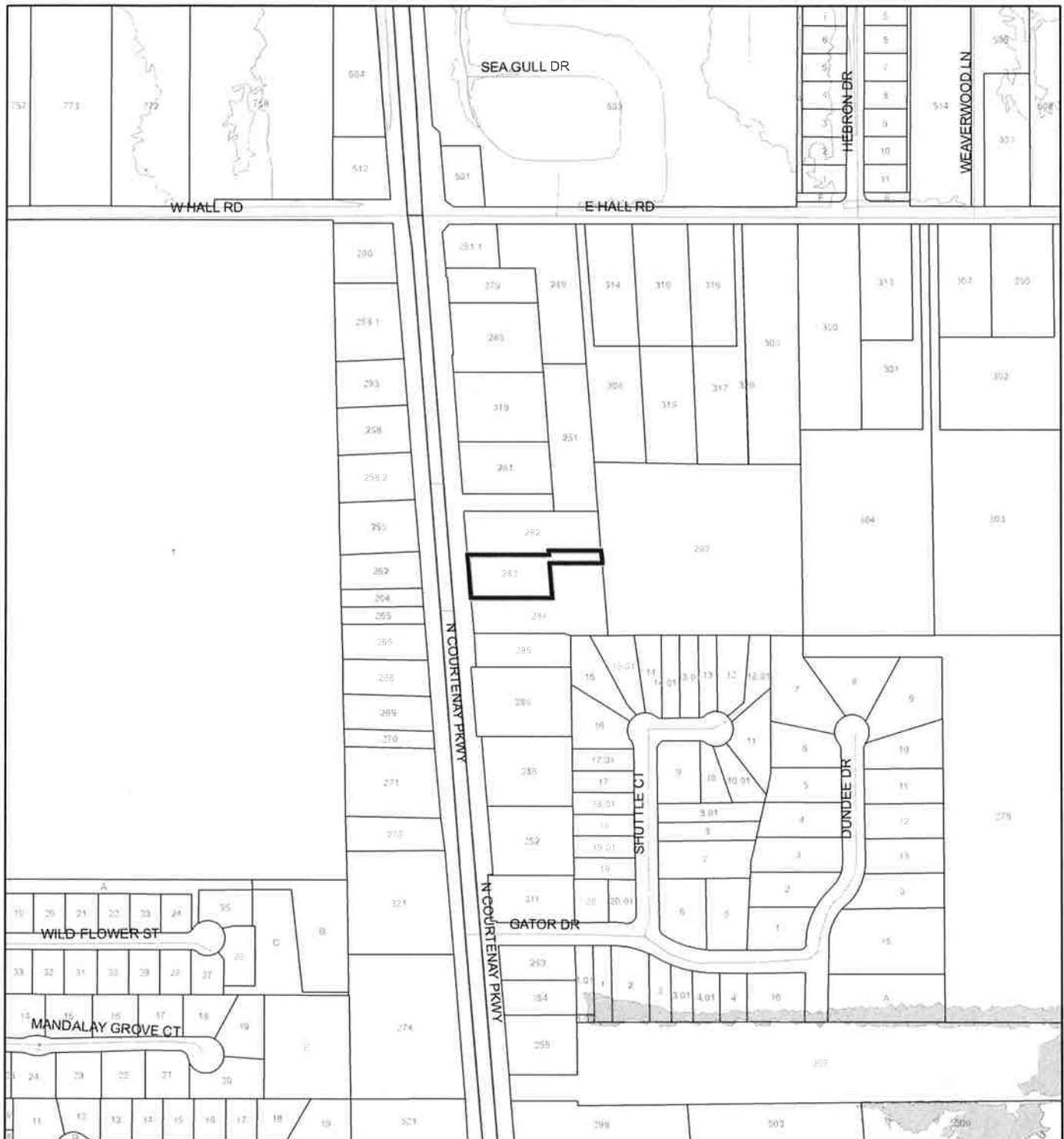
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

CLARKE, WILLIAM

20PZ00038



1:4,800 or 1 inch = 400 feet

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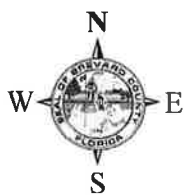
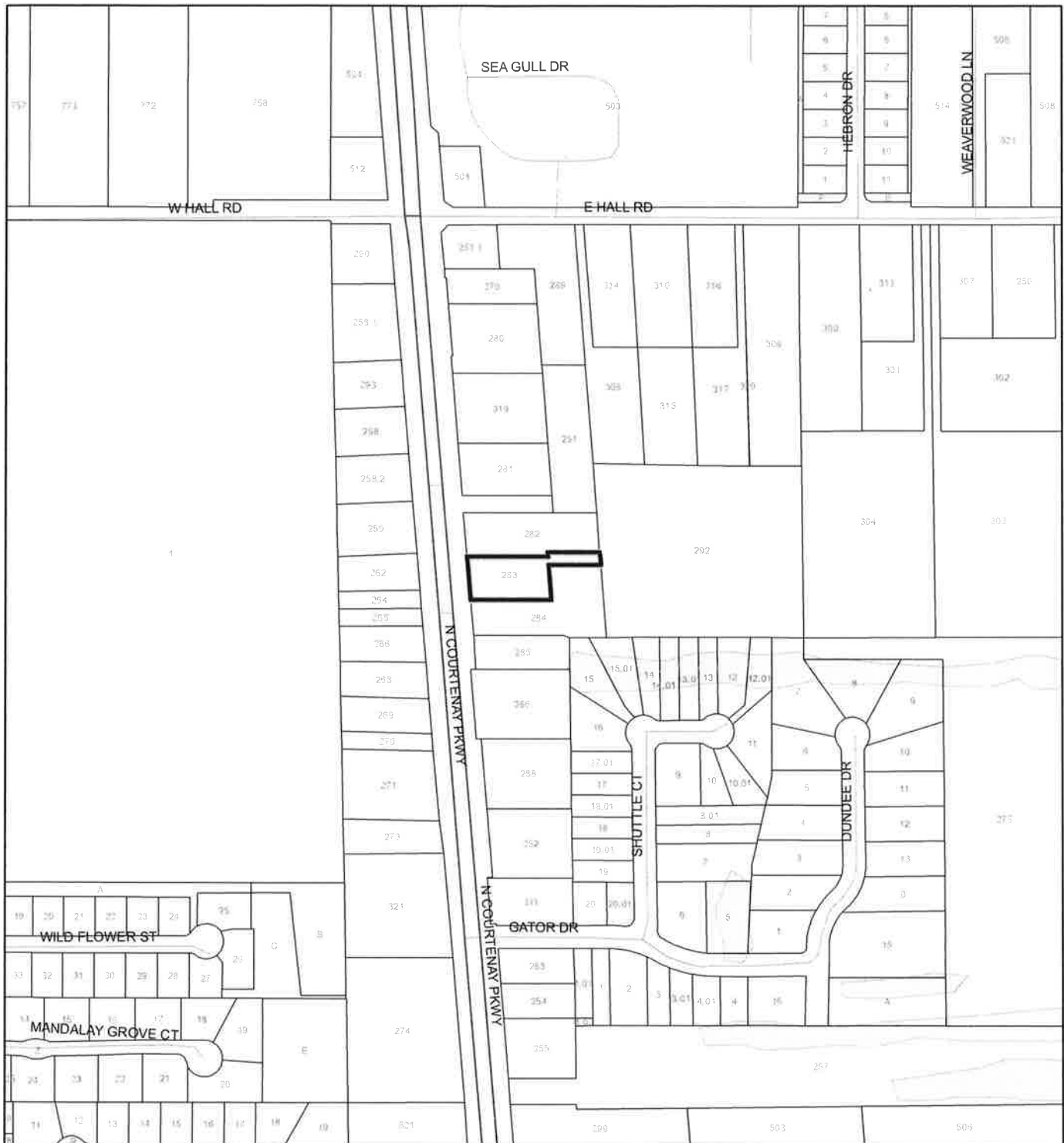
Produced by BoCC - GIS Date: 3/11/2020

FEMA Flood Zones

- | | | |
|---|------------|----------------------|
| A | AO | X |
| AE | Open Water | X Protected By Levee |
| AH | VE | |
| 0.2 Percent Annual Chance Flood Hazard | | |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel | | |
| Subject Property | | Parcels |

COASTAL HIGH HAZARD AREA MAP

CLARKE, WILLIAM
20PZ00038



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/11/2020

— Subject Property

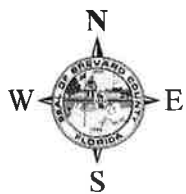
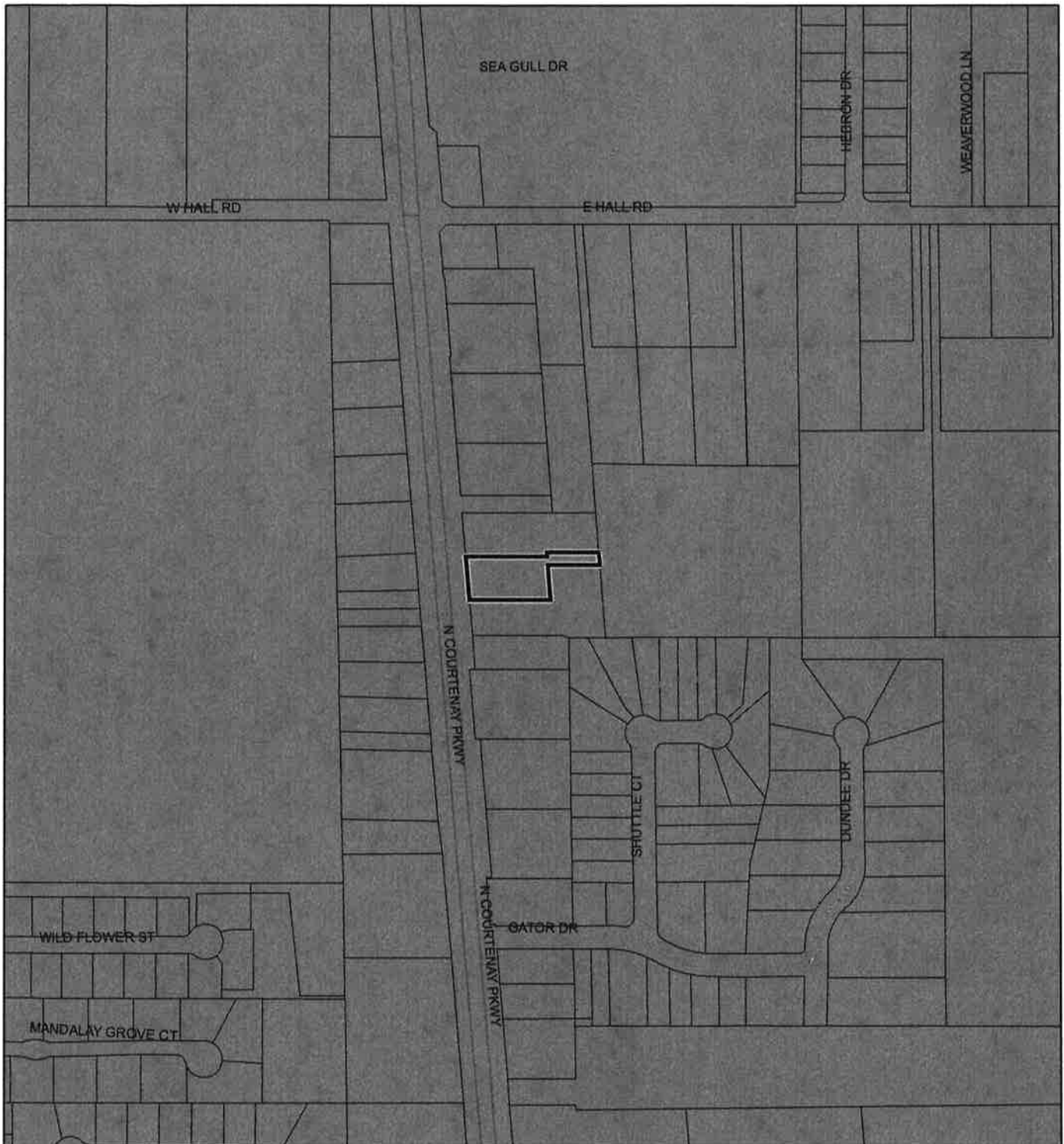
□ Parcels

Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CLARKE, WILLIAM
20PZ00038



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/11/2020

— Subject Property

□ Parcels

Septic Overlay

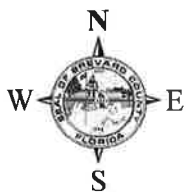
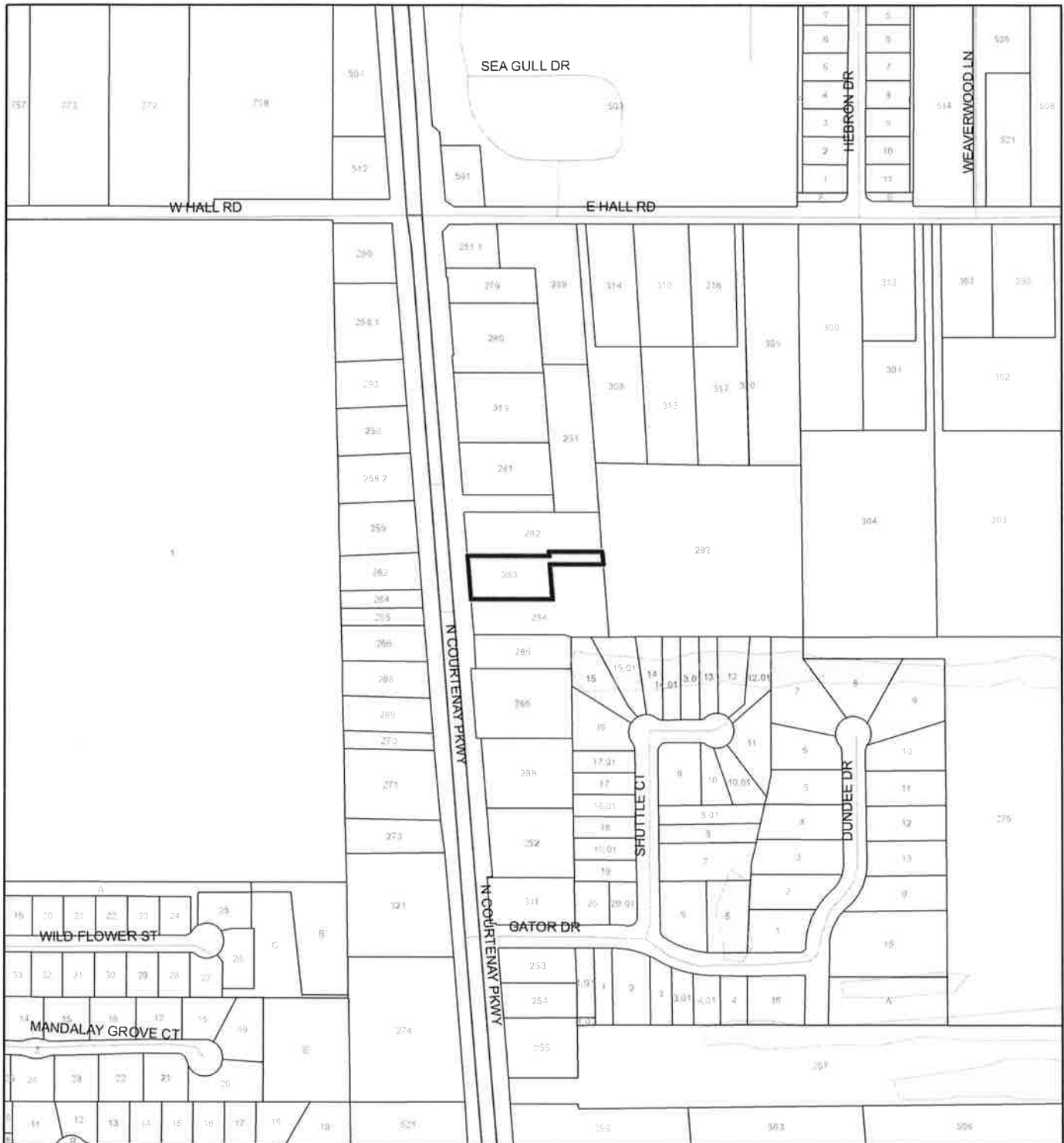
■ 40 Meters

□ 60 Meters

■ All Distances

EAGLE NESTS MAP

CLARKE, WILLIAM
20PZ00038



1:4,800 or 1 inch = 400 feet

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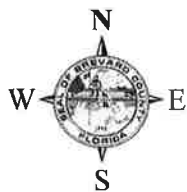
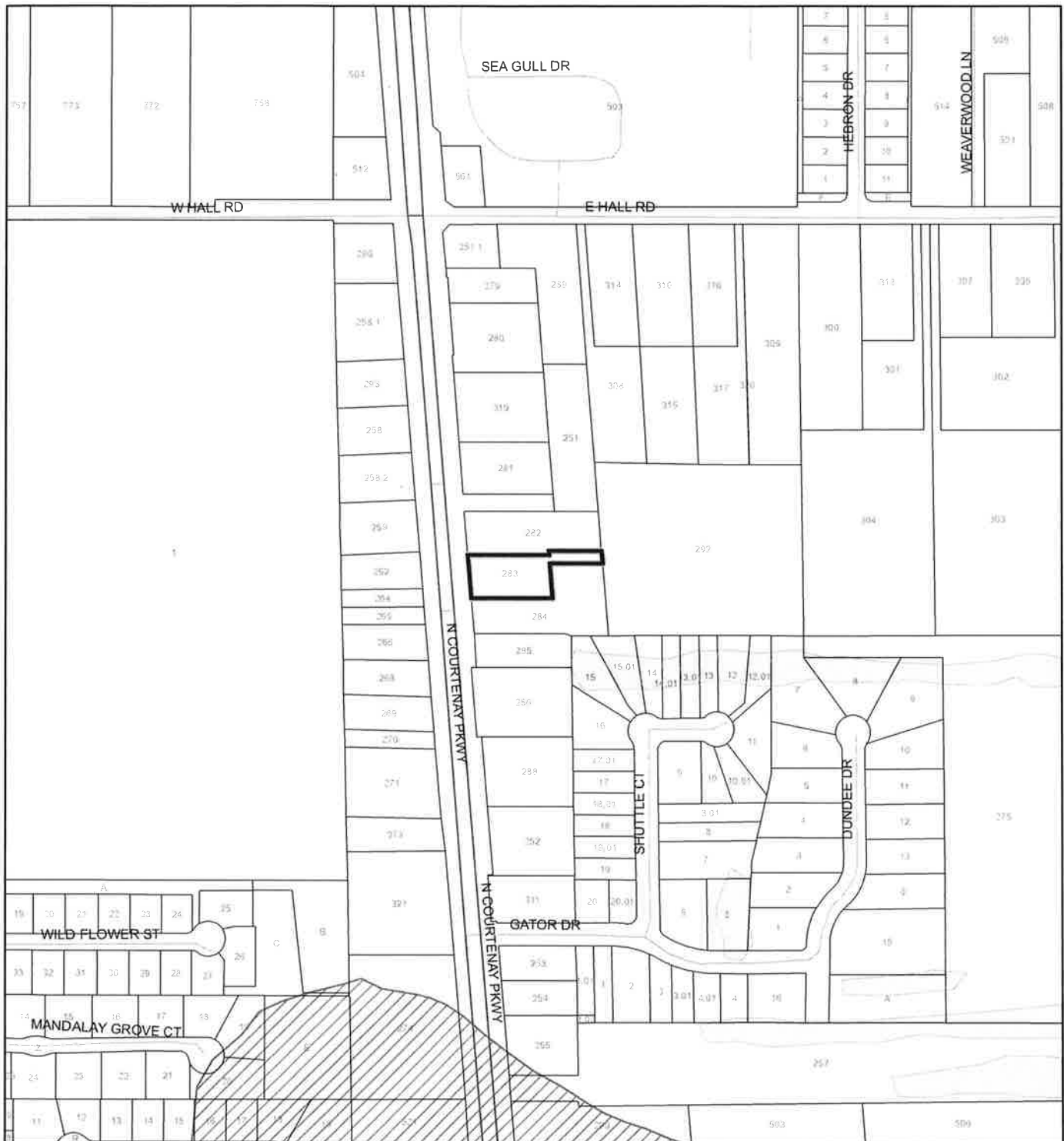
 Subject Property

 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




CLARKE, WILLIAM
20PZ00038



1:4,800 or 1 inch = 400 feet

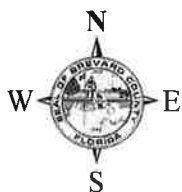
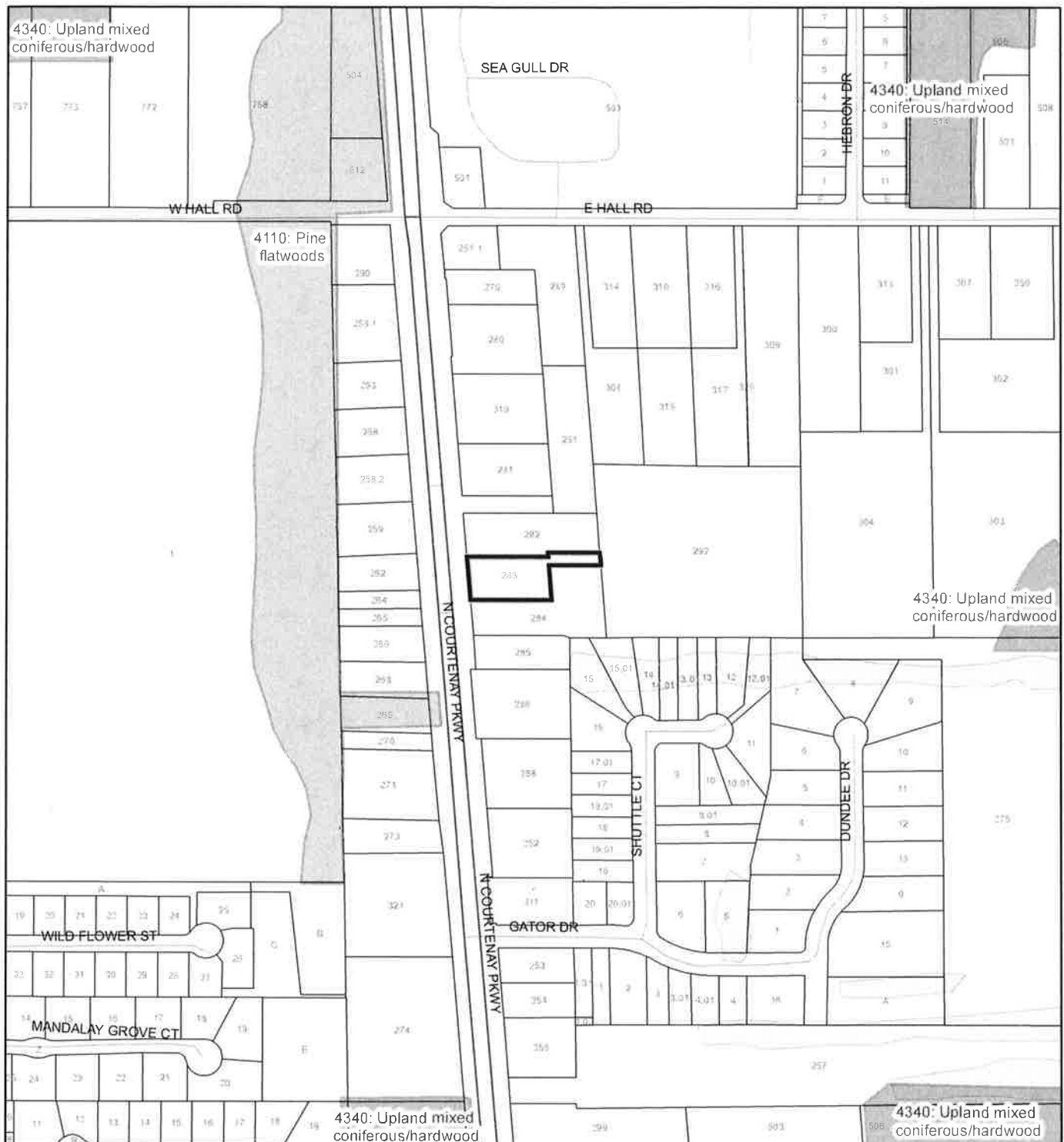
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Produced by BoCC - GIS Date: 3/11/2020

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CLARKE, WILLIAM
20PZ00038



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 3/11/2020

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

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, June 11, 2020**, at 6:00 p.m., at the Brevard County Government Complex, 2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida.

Board members present were: Mary Hillberg, Chair; Jack Ratterman, Vice Chair; Gina Lindhorst; Chris Cook; Jim Carbonneau; and Catherine Testa.

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

William Clarke (Kim Rezanka)

A change of zoning classification from BU-1-A (Restricted Neighborhood Commercial) and BU-1 (General Retail Commercial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 0.80 acres, located on the east side of North Courtenay Parkway, approximately 0.18 mile south of Hall Road. (4140 North Courtenay Parkway, Merritt Island) (20PZ00038) (Tax Account 2410519) (District 2)

Kim Rezanka – My name is Kim Rezanka, with Cantwell and Goldman, and I'm here on behalf of Mr. Clarke. This is a rezoning of an existing building that was built in 2012. It's in an area that has BU-1, BU-2, and BU-1-A; the reason for the change of zoning to BU-2 is because Mr. Clarke wishes to do wholesale, a sales room, and storage rooms for marine fabricated materials. I have some information for you so you know exactly what that is. (The information submitted by the applicant can be found in File 20PZ00038, located in the Planning and Development Department). He owns a company called Transworld Distributing International, Inc., and I have pictures of the building and what he's planning to distribute. What I've provided to you is the property detail card for Mr. Clarke's property that shows this was built in 2012; also, his company's Sunbiz Transworld Distributing International, Inc. record, and pictures of his building currently zoned BU-1. This area, I know you're all familiar with, to the north of this is vacant property; to the south of it is Standard Marine, and they do fabricating and shift repair; to the south of that is Ivey's Construction; on the other side is an electrical company, a pest control company, warehousing, KDI, and Santa Cruz Construction. The reason this is requested is so he can distribute wholesale his fasteners, and that's only allowed in BU-2. With that, I would request that you approve the rezoning from BU-1 to BU-2.

Mary Hillberg – Does anyone have any questions of the applicant?

Jim Carbonneau – This is just for storing and distributing, no manufacturing?

Kim Rezanka – Correct.

Mary Hillberg – It says here there are wetlands and it says in the outline there are wetlands, hydric soils, aquifer recharge, protected species, and landscaping and tree preservations reservations. I don't think all of those are applicable, but the aquifer recharge, the wetlands, and the hydric soils, are they a lot?

Kim Rezanka – This is already a built building, so there's nothing new going on the property. He is not putting in new warehouses or containers; it's an existing building and he's just using what's there, and trying to zone it appropriately to do what he would like to do.

Kim Smith – Kim Smith, North Merritt Island Homeowners Association, PO Box 542372, Merritt Island. If, as specified, all storage is in the back, to the east of the property, then there is no objection.

Mary Hillberg – Is there anyone else who would like to speak to this item? Seeing none, I bring it back to the board.

Jim Carbonneau – Motion to approve. I don't think there is anything strange about this, it meets the uses in the area.

Catherine Testa – I second.

Mary Hillberg – Open to discussion from the board.

Gina Lindhorst – I have no issues.

Chair Mary Hillberg called for a vote on the motion as stated, and it passed unanimously.