



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.11.

4/6/2023

Subject:

QW Trust Agreement (Carolyn Haslam) requests a change of zoning classification from GU and IU-1 to BU-1. (23Z00003) (Tax Accounts 2407572 & 2407578) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial).

Summary Explanation and Background:

The applicant is requesting to change the zoning classification from GU and IU-1 to BU-1 on 13.36 acres to develop the site as a grocery store and retail commercial. The subject property consists of Tax Accounts 2407572 and 2407578. Currently, Tax Account 2407572 (approximately 0.19 acres) is classified as GU zoning, and Tax Account 2407578 (approximately 13.17 acres) retains IU-1 and GU zoning classifications. The subject property is currently undeveloped and has frontage on Lake Drive as well as Cox Road (50 feet in width).

The proposed BU-1 classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community and allows for retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling. A companion application, 23SS00001, if approved, would amend the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) to all Community Commercial (CC).

The developed character of the surrounding area is commercial and government managed lands, with a mix of residential to the north and further east. Industrial use is located along the west side of Cox Road (City of Cocoa). Cox Road and Lake Drive both connect to W. King Street (SR 520), a commercial corridor that serves regional and tourist markets.

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

On March 13, 2023, the Planning & Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 23Z00003

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

WHEREAS, QW Trust Agreement have requested a change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial), on property described as Tax Parcels 512 & 519, as recorded in ORB 8483, Pages 2310 - 2311, of the Public Records of Brevard County, Florida. **Section 25, Township 24, Range 35.** (13.36 acres) Located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa); 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 the 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 GU and IU-1 to BU-1 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 April 6, 2023.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida

Rita Pritchett, Chair
Brevard County Commission

As approved by the Board on April 6, 2023.

ATTEST:

RACHEL SADOFF, CLERK

(SEAL)

P&Z Board Hearing – March 13, 2023

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, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

23Z00003

QW Trust

GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial)

Tax Account Numbers: 2407578 and 2407572
Parcel I.D.: 24-35-25-00-512 and 24-35-25-00-519
Location: North side of Lake Drive, approximately 171 feet east of Cox Road
(District 2)
Acreage: 13.36 acres
Planning & Zoning Board: 3/13/2023
Board of County Commissioners: 4/06/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	GU and IU-1	BU-1
Potential*	0	581,962 sq. ft. commercial
Can be Considered under the Future Land Use Map	NO RES 15, NC, and CC	YES** CC

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. **Approval is pending approval of companion request 23SS00001 which proposes to amend the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) to all Community Commercial (CC).

Background and Purpose of Request

The applicant is requesting to change the zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial) on 13.36 acres to develop the site as a grocery store and retail commercial. The subject property consists of two parcels, 24-35-25-00-512 and 24-35-25-00-519. Currently, parcel 24-35-25-00-512 (approximately 0.19 acres) is classified as GU zoning, and parcel 24-35-25-00-519 (approximately 13.17 acres) retains IU-1 and GU zoning classifications. The subject property is currently undeveloped and has frontage on Lake Drive as well as Cox Road (50 feet in width).

The subject property was originally zoned GU and was rezoned to BU-2 on September 8, 1960 as zoning action **Z-396**. The property was rezoned from BU-2 to TR-3 on November 8, 1962, as zoning action **Z-858** and then reverted back to GU in July 8, 1963, as referenced in zoning file Z-858. A 12-acre portion of the subject property was rezoned from GU to IU-1 on June 5, 1975, as zoning action **Z-3892**.

A CUP renewal for temporary trailer for security purposes was approved on October 11, 1984 as zoning action **Z-6858**. The original CUP was approved on June 16, 1983 as zoning action **Z-6379**. There is no CUP associated with the subject property currently.

Land Use

The subject property is currently designated as Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) FLU. The existing GU zoning classification can be considered consistent with the existing RES 15, NC and CC Future Land Use designations. However, the existing IU-1 zoning classification may not be considered consistent with the existing RES 15, NC and CC Future Land Use designations.

The proposed BU-1 zoning classification cannot be considered consistent with the existing RES 15 and NC Future Land Use designations; however, the proposed BU-1 zoning classification can be considered consistent with the requested CC Future Land Use designation.

A companion application, **23SS00001**, if approved, would amend the Future Land Use designation from Residential 15 (RES 15), Neighborhood Commercial (NC) and Community Commercial (CC) to all Community Commercial (CC).

Applicable Land Use Policies

FLUE Policy 2.2 - Role of Zoning Regulations in the Designation of Commercial Lands

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility shall include consideration of the following standards:

Criteria:

- A. Permitted/prohibited uses;
- B. Existing commercial zoning trends in the area;
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
- F. Other issues which may emerge specific to a particular property which may be addressed through performance based zoning criteria.

FLUE Policy 2.7 – Activities Permitted in Community Commercial (CC) Future Land Use Designations

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community

Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;
- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant has proposed to develop the site as a grocery store and retail commercial use.

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

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

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

Criteria:

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

The applicant is proposing the development of a grocery store and retail commercial. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning and Future Land Use change be approved.

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

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

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

- 1. historical land use patterns;

The surrounding area is commercial in character with government facilities and residential land uses north and east of the subject site. The west side of Cox Road is within the City of Cocoa and is designated as Industrial FLU. There are four (4) FLU designations within 500 feet of the subject site: RES 15, CC, NC, and PUB. The predominant FLU designation in this area is CC.

Cox Road and Lake Drive both connect to W. King Street (SR 520) which has a historic pattern of strip commercial development.

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

There has not been any new development immediately adjacent to the subject property in the preceding three (3) years.

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

While there has not been any new development in the preceding three (3) years, one zoning action has been approved within one-half mile.

21Z00031, approved by the Board on December 2, 2021, was a request to rezone from RU-1-9 and RU-2-10 to all RU-2-10 on a 9.19-acre parcel located approximately 0.4 miles south of the subject property on the north side of Parrish Road.

There are no pending zoning actions within one-half mile of the subject property.

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

No material violation of relevant policies has been identified.

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

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

Criteria:

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

The developed character of the surrounding area is commercial and government managed lands, with a mix of residential to the north and further east. Industrial use is located along the west side of Cox Road (City of Cocoa). Cox Road and Lake Drive both connect to W. King Street (SR 520), a commercial corridor that serves regional and tourist markets.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Commercial mixed use; Single-family	BU-2; AGR	CC; RES 15
South	Commercial undeveloped; Commercial retail	BU-2; BU-1	CC
East	Warehousing	GML	PUB
West	Commercial retail; Commercial warehousing; Commercial undeveloped; Two (2) single-family residences	GU; BU-1-A; BU-1; BU-2	RES 15; CC

To the north is a 1.13-acre parcel with BU-2 zoning and developed as a mixed use commercial property with an office building and residence. Also, to the north is an 8.68-acre parcel with AGR zoning and developed as a single-family residence (built in 1910) with horse stables (built in 2005).

To the south, across Lake Drive, is a 2.42-acre undeveloped parcel with BU-2 zoning. Further to the south, across W. King Street (SR 520), are two parcels (8.27-acres and 1.2-acres) both with BU-1 zoning and each developed as retail commercial stores.

To the east is 20-acre parcel owned by Brevard County with GML zoning and developed as warehousing and storage.

To the west, along Cox Road, are several commercial properties, including a 0.8-acre parcel with BU-2 zoning developed as convenience store/gas station; a 1.46-acre parcel with BU-2 zoning developed as warehousing; a 0.67-acre parcel with BU-2 zoning developed as warehousing; and a 0.38-acre undeveloped commercial parcel with BU-1 zoning. There is one commercial parcel (0.77-acres) with BU-1-A zoning developed as a retail store.

Also, to the west, along Cox Road, is a 0.69-acre parcel developed as a single-family residence (built in 1959) with BU-2 zoning; and a 0.38-acre parcel developed as a single-family residence (built in 1962) with GU zoning. Further west, across Cox Road, is the City of Cocoa.

The current GU classification is a holding category, allowing single-family residences on five acre lots with a minimum width and depth of 300 feet. The minimum house size in GU is 750 square feet.

The current IU-1 classification is the heaviest industrial zoning classification in the Code. It permits heavy manufacturing, including outside activities such as livestock yards and commercial incinerators. The minimum lot size is 40,000 square feet with a minimum width and depth of 200 feet.

The proposed BU-1 classification encompasses land devoted to general retail shopping, offices and personal services to serve the needs of the community and allows for retail commercial land uses on

minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

The GML government managed lands zoning classification recognizes the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities.

The BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities. Resort dwelling use is allowed as a permitted use in the BU-2 classification.

The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

One zoning action has been approved within a half-mile radius of the subject property within the last three years: **21Z00031**, approved by the Board on December 2, 2021, was a request to rezone from RU-1-9 and RU-2-10 to all RU-2-10 on a 9.186-acre parcel located approximately 0.4 miles south of the subject property on the north side of Parrish Road.

There are no pending zoning actions within a half-mile radius of the subject property.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Lake Drive, from Cox Road to Range Road, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 18.64% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 140.40%. The corridor is anticipated to operate at 159.05% of capacity daily. Specific concurrency issues and operational improvements will be addressed at the time of site plan review.

No school concurrency information has been provided as the development proposal is for commercial and not residential use.

The parcel has access to Cocoa City Water Distribution per information provided by the City of Cocoa. The closest Brevard County sanitary sewer line is approximately 350 feet to the south at Lakeview Boulevard and W. King Street (SR 520).

Environmental Constraints

- Wetlands/Hydric Soils
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

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

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #23SS00001

Applicant: Carolyn Haslam

FLU Request: GU & IU-1 to BU-1

Note: Applicant wants to develop a grocery and retail site.

Zoning Hearing Date: 03/13/23; **BCC Hearing Date:** 04/06/2023

Tax ID Nos: 2407578 & 2407572

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Protected and Specimen Trees

The subject parcel contains mapped hydric soils, and National Wetlands Inventory (NWI) and St. Johns River Water Management District (SJRWMD) wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Lake Drive is an MQR in this location; Cox Road is not. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Protected (≥ 10 inches in diameter) and Specimen (≥ 24 inches in diameter) trees may exist on the parcel. A tree survey will be required at time of a site plan submittal. The applicant is encouraged to perform a tree survey prior to any site plan design in order to incorporate valuable vegetative communities or robust trees into the design. Per Section 62-4341(18), Specimen and Protected Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article

XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped hydric soils (Anclote sand, frequently ponded, 0 to 1 percent slopes and Anclote sand), and NWI and SJRWMD wetlands. These are indicators that wetlands may be present on the property. A wetlands delineation will be required prior to any land clearing activities.

Section 62-3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Lake Drive is an MQR in this location; Cox Road is not. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must meet the requirements of Section 62-3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Protected and Specimen Trees

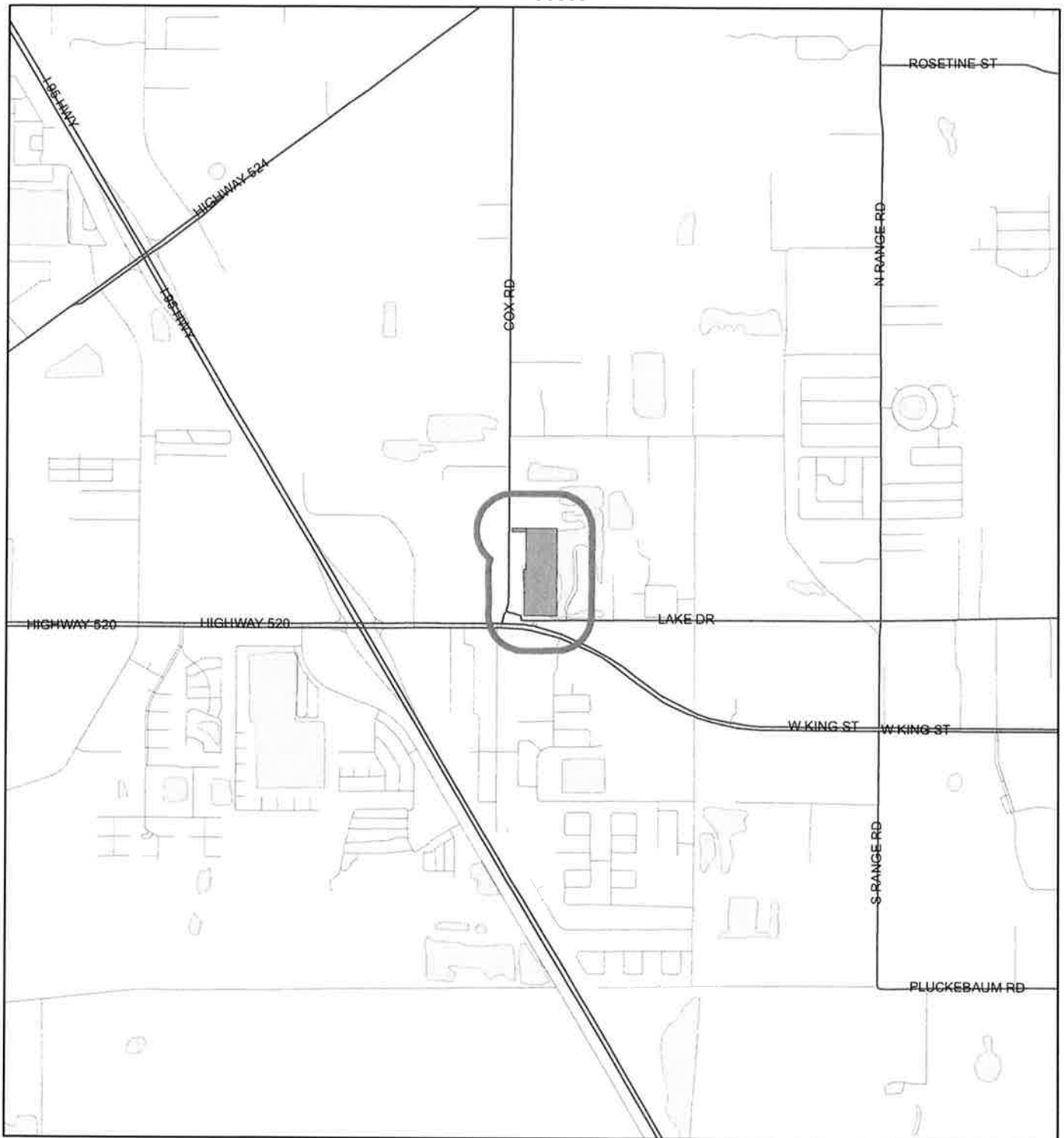
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Protected Species

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

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



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

Buffer Distance: 500 feet

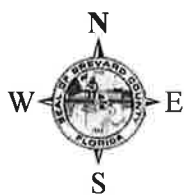
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/11/2023

— Buffer
■ Subject Property

ZONING MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



1:4,800 or 1 inch = 400 feet

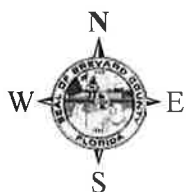
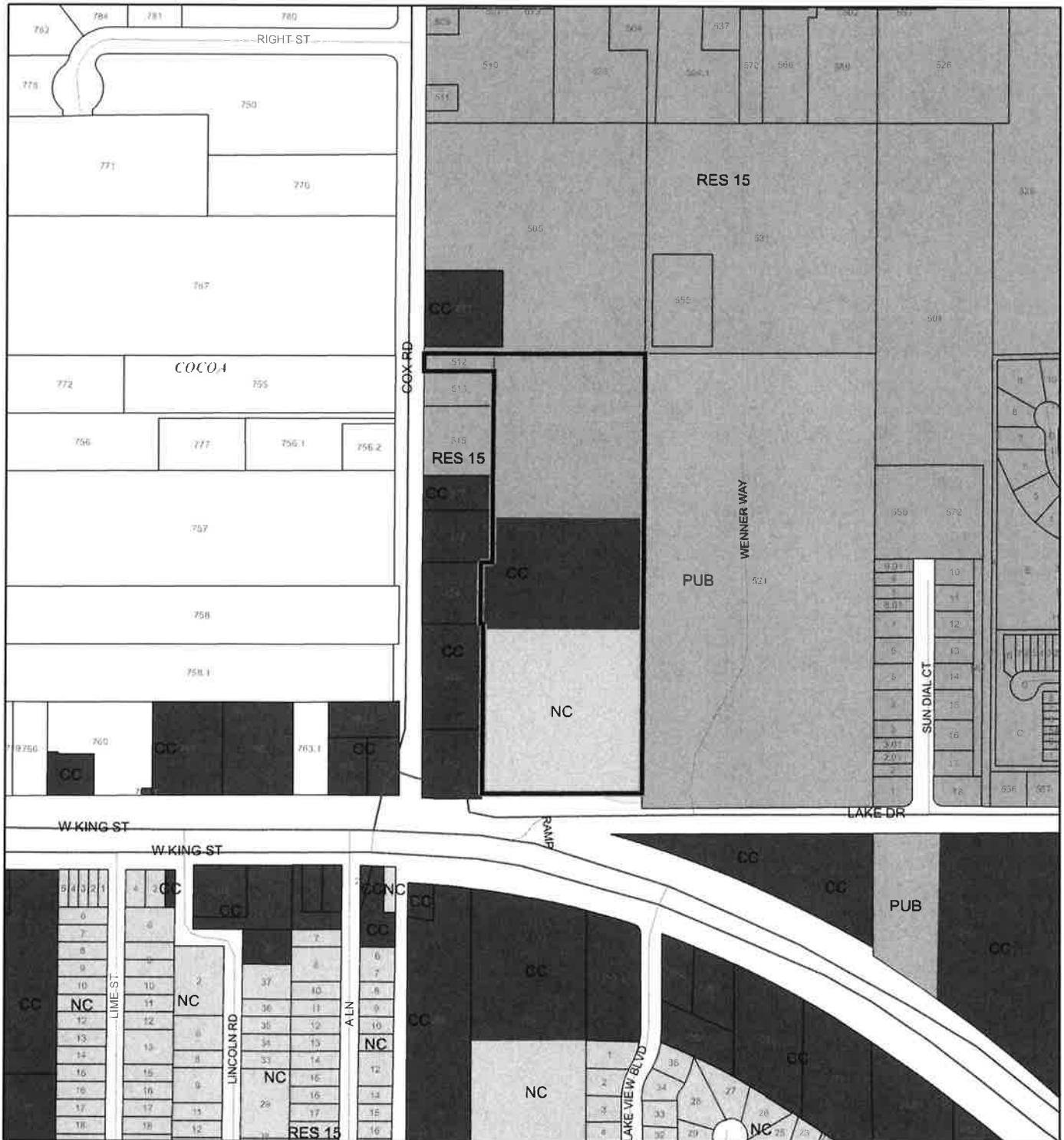
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



1:4,800 or 1 inch = 400 feet

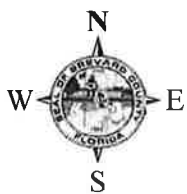
— Subject Property
□ Parcels

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

Produced by BoCC - GIS Date: 1/11/2023

AERIAL MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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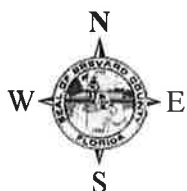
Produced by BoCC - GIS Date: 1/11/2023

— Subject Property

□ Parcels

NWI WETLANDS MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



1:4,800 or 1 inch = 400 feet

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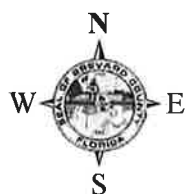
Produced by BoCC - GIS Date: 1/11/2023

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

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



1:4,800 or 1 inch = 400 feet

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SJRWMD FLUCCS WETLANDS

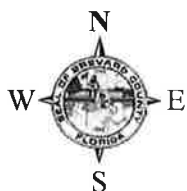
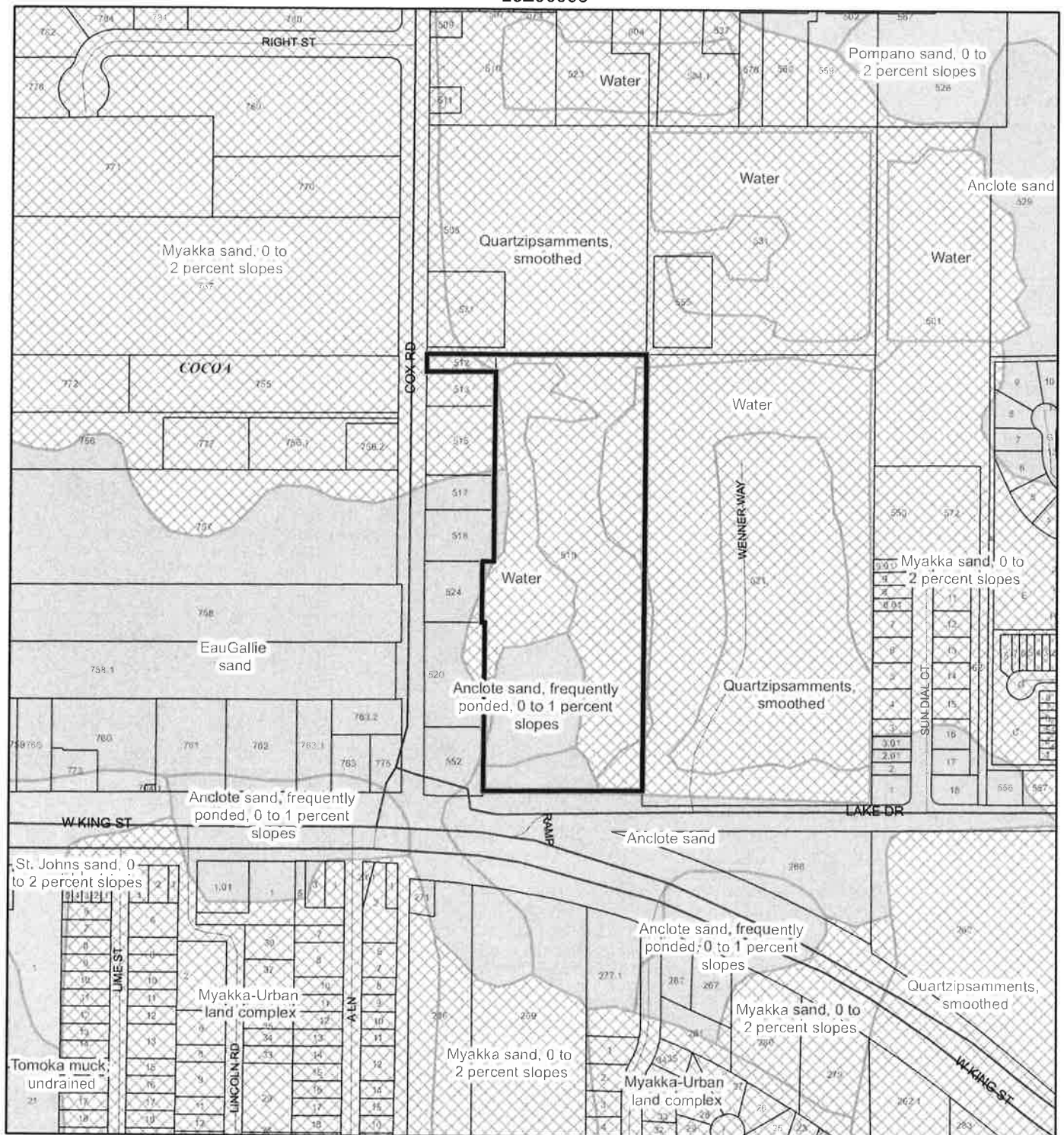
- Wetland Hardwood Forests - Series 6100
- Wetland Coniferous Forest - Series 6200
- Wetland Forested Mixed - Series 6300
- Vegetated Non-Forested Wetlands - Series 6400
- Non-Vegetated Wetland - Series 6500

Subject Property

Parcels

USDA SCSSS SOILS MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

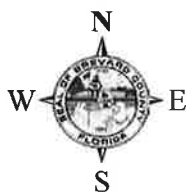
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



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Produced by BoCC - GIS Date: 1/11/2023

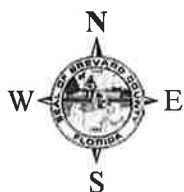
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003



1:4,800 or 1 inch = 400 feet

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— Subject Property

□ Parcels

Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018

23Z00003



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— Subject Property

□ Parcels

Septic Overlay

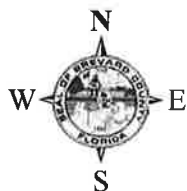
■ 40 Meters

■ 60 Meters

■ All Distances

EAGLE NESTS MAP

RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



1:4,800 or 1 inch = 400 feet

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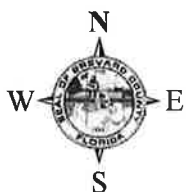
 Subject Property

 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
23Z00003



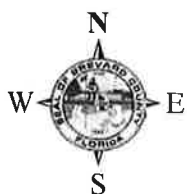
1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP
 RALPH ARTHUR SEIFERT II, KATHLEEN DIANE SEIFERT AS CO-TRS OF THE QW TRUST AGRMT u/t/d October 17, 2018
 23Z00003



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 1/11/2023

SJRWMD FLUCCS Upland Forests

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

 Subject Property  Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, March 13, 2023**, 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: Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Robert Sullivan (D2); Lorraine Koss (D2-Alt.); Ben Glover, Vice Chair (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Bruce Moia; and John Hopengarten (BPS).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Jane Hart, Planner III; Paul Body, Planner III; Trina Gilliam, Planner II; Melissa Wilbrandt, Associate Planner; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Agenda

QW Trust Agreement (Carolyn Haslam)

A Small Scale Comprehensive Plan Amendment (23S.01) to change the Future Land Use designation from RES 15 (Residential 15), NC (Neighborhood Commercial), and CC (Community Commercial) to all CC, on 13.36 acres, located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) (23SS00001) (Tax Accounts 2407572 & 2407578) (District 2)

QW Trust Agreement (Carolyn Haslam)

A change of zoning classification from GU (General Use) and IU-1 (Heavy Industrial) to BU-1 (General Retail Commercial), on 13.36 acres, located on the north side of Lake Dr., approx. 171 ft. east of Cox Road (Tax Parcel 512 = 495 Cox Rd., Cocoa; Tax Parcel 519 = 3900 Lake Dr., Cocoa) (23Z00003) (Tax Accounts 2407572 & 2407578) (District 2)

Bruce Moia disclosed he had a brief conversation with the applicant about the property.

Carolyn Haslam, 420 S. Orange Avenue, Orlando, stated the reason for the Small Scale Plan Amendment and rezoning is so the property can be unified as Community Commercial and BU-1. She said the proposed use is a high-quality retail development that will include a grocery store. The proposed amendments will allow for the development to be consistent with the comp plan policies, and they are compatible with the area, which is a mix a commercial and industrial. She stated the proposed commercial use will benefit the community, and we ask for your approval of both requests.

No public comment.

Henry Minneboo asked what is the final plan for the property. Ms. Haslam replied the plan is for commercial, including a grocery store, drug store, and retail. Mr. Minneboo asked if the project will have access to Cox Road. Ms. Haslam replied yes, there will be access on Cox Road and Lake Drive.

Ben Glover asked how much of the property can be filled.

Bruce Moia stated if the lake is surface water then it is not an impact as far as the permitting agencies are concerned.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the Small Scale Comprehensive Plan Amendment to change the Future Land Use designation from RES 15, NC, and CC, to all CC. The motion passed unanimously.

Motion by Bruce Moia, seconded by Henry Minneboo, to recommend approval of the change of zoning classification from GU and IU-1, to BU-1. The motion passed unanimously.