



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.2.

10/6/2022

Subject:

CGCR Holdings, LLC (Kelly Hyvonen) request a Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC and RES 4 to CC. (22SS00009) (Tax Account 2400719) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning & Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC (Neighborhood Commercial) and RES 4 (Residential 4) to CC (Community Commercial).

Summary Explanation and Background:

The applicant is seeking to amend the Future Land Use designation on the eastern 350 feet of the property encompassing 4.83 acres from RES 4 and NC to CC to match the Future Land Use designation on the remainder of the property to the west. The NC portion of the subject property encompasses 2.63 acres. The RES 4 portion of the subject property encompasses 2.20 acres.

A companion rezoning application (22Z00045) was submitted accompanying this request for a zoning change from IN(L) to BU-2. BU-2 and CC currently exist on the western portion of the newly acquired property which has Grissom Parkway frontage. Amending the Future Land Use Map to CC would create a unified designation for development purposes.

To the north and east of the subject property is vacant residential land. To the west is vacant commercial land along the east side of Grissom Parkway and single-family residential to the west of Grissom Parkway (Canaveral Groves), on the south side of the private driveway is a religious institution. The area farther south is within the City of Cocoa. The property adjacent to the church on the south is owned by a Not for Profit corporation that leases space to organizations engaged in behavioral health therapy. Further to the south, within the City of Cocoa, land uses shift to warehousing and distribution facilities.

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

On September 12, 2022, the Local Planning Agency heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Once the ordinance is filed with the State, please return a copy to Planning and Development.



October 7, 2022

M E M O R A N D U M

TO: Tad Calkins, Planning and Development Director

RE: Item H.2., Small Scale Comprehensive Plan Amendment (22S.12)

The Board of County Commissioners, in regular session on October 6, 2022, conducted the public hearing and adopted Ordinance No. 22-30, setting forth the sixteenth Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC and RES 4 to CC. (22SS00009). Enclosed is the fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, appearing to read "Kimberly Powell", is written over the typed name.

Kimberly Powell, Clerk to the Board

Encl. (1)



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

October 10, 2022

Honorable Rachel M. Sadoff
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Honorable Rachel Sadoff:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2022-30, which was filed in this office on October 7, 2022.

Sincerely,

Anya Owens
Program Administrator

ACO/rra

ORDINANCE NO. 22- 30

AN ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY, ENTITLED "THE 1988 COMPREHENSIVE PLAN", SETTING FORTH THE SIXTEENTH SMALL SCALE PLAN AMENDMENT OF 2022, 22S.12, TO THE FUTURE LAND USE MAP OF THE COMPREHENSIVE PLAN; AMENDING SECTION 62-501 ENTITLED CONTENTS OF THE PLAN; SPECIFICALLY AMENDING SECTION 62-501, PART XVI (E), ENTITLED THE FUTURE LAND USE MAP APPENDIX; AND PROVISIONS WHICH REQUIRE AMENDMENT TO MAINTAIN INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

WHEREAS, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

WHEREAS, Sections 163.34 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

WHEREAS, Brevard County initiated amendments and accepted application for small scale amendments to the Comprehensive Plan for adoption in calendar year 2022 as Plan Amendment 22S.12; and

WHEREAS, Brevard County established Technical Advisory Groups consisting of County technical employees grouped according to their operational relationship to the subject of a plan element or sub-element being prepared or amended, and these Technical Advisory Groups have provided technical expertise for the Amendment 22S.12; and

WHEREAS, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

WHEREAS, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and
OFFICIALLY FILED WITH THE SECRETARY OF STATE ON OCTOBER 7, 2022.

WHEREAS, on September 12, 2022, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 22S.12, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

WHEREAS, on October 6, 2022, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations of the Technical Advisory Group, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for adoption Plan Amendment 22S.12; and

WHEREAS, Plan Amendment 22S.12 adopted by this Ordinance comply with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

WHEREAS, Plan Amendment 22S.12 adopted by this Ordinance is based upon findings of fact as included in data and analysis.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:

Section 1. Authority. This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

Section 2. Purpose and Intent. It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

Section 3. Adoption of Comprehensive Plan Amendments. Pursuant to Plan Amendment 22S.12 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended based on documentation shown in Exhibit A and as specifically shown in Exhibit B. Exhibits A and B are hereby incorporated into and made part of this Ordinance.

Section 4. Legal Status of the Plan Amendments. After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 22S.12, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

Section 5. Severability. If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair,

invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 6. Effective Date. The effective date of this small scale plan amendment shall be 31 days after adoption, unless the amendment is challenged pursuant to Section 163.3187(3), Florida Statutes. If challenged, the effective date of this amendment shall be the date a final order is issued by the Department of Economic Opportunity, or the Administration Commission, finding the amendment in compliance with Section 163.3184, Florida Statutes. A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this 6 day of October, 2022.

ATTEST:


Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA


By: Kristine Zonka, Chair

As approved by the Board on Oct. 6, 2022.

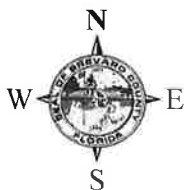
EXHIBIT A
22S.12 SMALL SCALE
COMPREHENSIVE PLAN AMENDMENT

Contents

1. Proposed Future Land Use Map

PROPOSED FUTURE LAND USE MAP

CGCR Holdings, LLC
22SS00009 Small Scale Amendment 22S.12



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: 7/1/2022

EXHIBIT B

Contents

1. Legal Description

PUBLIC HEARING NOTICE

NOTICE is hereby given pursuant to Chapters 125 & 163, FLORIDA STATUTES, and Chapter 62, Article VI of the Brevard County Code, that the Brevard County Planning and Zoning Board (Local Planning Agency) and the Board of County Commissioners will consider the following requests on MONDAY, SEPTEMBER 12, 2022, and THURSDAY, OCTOBER 6, 2022. DISTRICT 1 1. (22200036) MARK A. AND REBECCA L. OOSTDYK request a change of zoning classification from RR-1 (Rural Residential) to AU (Agricultural Residential), on property described as Tax Parcel 769, as recorded in ORB 7096, Pages 931 - 932, of the public records of Brevard County, Florida. Section 14, Township 24, Range 35, (10.89 acres) Located on the west side of Cox Rd., approx. 820 ft. north of Rayburn Rd. (2030 Cox Rd., Cocoa) 2. (225500009) CGCR HOLDINGS, LLC (Kelly Hyvonen) requests a Small Scale Comprehensive Plan Amendment (225.12) to change the Future Land Use designation from NC (Neighborhood Commercial) and RES 4 (Residential 4), to CC (Community Commercial), on property described as follows: Commence at the iron rod located at the corner of Grissom Pkwy. And Al Kleinfeldt Way, an unimproved 60-ft. right-of-way; thence run N89deg11'51"E, a distance of 350 ft. to the point of beginning; thence run N0deg48'09"W, a distance of 601.57 ft.; thence run N89deg11'51"E, a distance of 350 ft.; thence run S0deg48'09"E, a distance of 601.57 ft.; thence run S89deg11'51"W, a distance of 350 ft. to the point of beginning. Section 01, Township 24, Range 35, (4.83 acres) Located approx. 500 ft. east of Grissom Pkwy., and approx. .80 miles south of Canaveral Groves Blvd. (part of 3925 Grissom Pkwy., Cocoa) The following ordinance will also be considered in conjunction with the Small Scale Plan Amendment, 225.12: an ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501, Part XI, entitled Future Land Use Element and Future Land Use Map Series; and provisions which require amendment to maintain internal consistency with these amendments; providing legal status; providing a severability clause; and providing an effective date. 3. (22200031) CGCR HOLDINGS, LLC (Kelly Hyvonen) requests a change of zoning classification from IN(L) (Institutional Use, Low-intensity) to BU-2 (Retail, Warehousing, and Wholesale Commercial), on property described as follows: Commence at the iron rod located at the corner of Grissom Pkwy. And Al Kleinfeldt Way, an unimproved 60-ft. right-of-way; thence run N89deg11'51"E, a distance of 350 ft. to the point of beginning; thence run N0deg48'09"W, a distance of 601.57 ft.; thence run N89deg11'51"E, a distance of 350 ft.; thence run S0deg48'09"E, a distance of 601.57 ft.; thence run S89deg11'51"W, a distance of 350 ft. to the point of beginning. Section 01, Township 24, Range 35, (4.83 acres) Located approx. 500 ft. east of Grissom Pkwy., and approx. .80 miles south of Canaveral Groves Blvd. (part of 3925 Grissom Pkwy., Cocoa) DISTRICT 3 4. (22200039) DIETER TYTKO (Kim Rezanka) requests a change of zoning classification from RR-1 (Rural Residential) to RU-2-4 (Low Density Multi-Family Residential), on property described as Tax Parcel 3.1, as recorded in ORB 6595, Page 1552, of the Public Records of Brevard County, Florida. Section 23, Township 29, Range 38, (1.01 acres) Located on the east side of Highway A1A, approx. 700 ft. north of Cortez St. (6345 Highway A1A, Melbourne Beach) DISTRICT 2 5. (22200038) WAYNE FRANK CRISAFULLI AND SONIA ANETTE CRISAFULLI LIVING TRUST (Kim Rezanka) - request a change of zoning classification from AU (Agricultural Residential) to RR-1 (Rural Residential), on property described as follows: A parcel of land lying within the NW ¼ of Section 23, Township 23S, Range 36E, of Brevard County, Florida, also being a portion of lands described in ORB 8619, Page 738 of said County; being more particularly described as follows: Commence at the W ¼ corner of Section 23, Township 23S, Range 36E, of Brevard County, Florida; thence S89deg56'56"E, along the south line of the NW ¼ of said Section 23, a distance of 160.19 ft. to the SW corner of lands described in ORB 8619, Page 738, as recorded in the Public Records of said County; thence departing said south line of the NW ¼ of said Section 23, run along the west line of said lands described in ORB 8619, Page 738, the following two (2) courses: N0deg05'32"E, a distance of 363.50 ft. for a point of beginning; thence continue N0deg05'32"E, a distance of 260.34 ft. to a point on a curve concave southeasterly having a radius of 1,342.39 ft., with a chord bearing of N51deg41'07"E and a chord length of 142.98 ft., said point lying on the south right-of-way line of North Courtenay Parkway, per North Courtenay Parkway Widening Project, County Project Number 89-014, as prepared by Stottler Stagg & Associates, last dated February 9, 1990, Job Number 89143; thence along said south right-of-way line the following two (2) courses: run northeasterly along the arc of said curve 143.05 ft. through a central angle of 6deg06'20" to a non-tangent point; thence N61deg17'00"E, a distance of 49.37 ft.; thence departing said south right-of-way line, run S0deg05'32"W, along the west line of land described in ORB 8619, Page 734 of said Public Records, a distance of 372.85 ft. to the southwest corner of said lands described in ORB 8619, Page 734; thence N89deg56'56"W, along a westerly projection of the south line of said lands described in ORB 8619, Page 734, a distance of 15.30 ft. to the aforesaid west line of lands described in ORB 8619, Page 738, to the point of beginning. (1.15 +/- acres) Located on the south side of N. Courtenay Parkway, approx. 104 ft. east of N. Tropical Trail. (No assigned address. In the North Merritt Island area.) 6. (22200015) Andrea Bedard and Nicholas Boardman (Kim Rezanka) request a change of zoning classification from AU (Agricultural Residential) to RU-2-4 (Low Density Multi-Family Residential) and RU-2-6 (Low Density Multi-Family Residential) on property described as follows: Part of Government Lot 3, Section 23, Township 25S, Range 36E, Brevard County, Florida, and described as follows: begin at an iron pipe on the north line of the 20-ft. right-of-way of the public road in Government Lot 3, Section 23, Township 25S, Range 36E, also known as Coquina Rd., which is N68deg10'00"E, 200 ft. from the intersection of the north line of said County road with the east right-of-way of U.S. Highway 1; thence continue N68deg10'00"E along the north line of said County road 232.48 ft. to an iron pipe; thence 25deg37'00"W, 200.42 ft. to an iron pipe; thence S68deg10'00"W, 210.81 ft. to an iron pipe; thence S19deg25'00"E, 200.18 ft. to the point of beginning. Lot A (proposed RU-2-6): From said point of beginning commence N68deg10'00"E along said right-of-way a distance of 150.87 ft.; thence continue N21deg59'58"W a distance of 199.97 ft.; thence continue S68deg10'00"W a distance of 142.43 ft.; thence continue S19deg25'00"E to the point of beginning for Lot A. Lot B (proposed RU-2-4): From said point of beginning of combined lots commence N68deg10'00"E along said right-of-way a distance of 150.87 ft. to the point of beginning for Lot B; thence continue N68deg10'00"E along said right-of-way a distance of 81.14 ft.; thence continue 68.38 ft.; thence continue S21deg59'58"E a distance of 199.97 ft. to the point of beginning for Lot B. (1.02 acres) Located on the north side of Coquina Rd., approx. 214 ft. east of U.S. Highway 1. (23 Coquina Rd., Rockledge). Public Hearing before the Planning and Zoning Board (Local Planning Agency) will be held at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Bldg. C, Viera, Florida on MONDAY, SEPTEMBER 12, 2022, at 3:00 p.m. A Public Hearing will be held by the Board of County Commissioners at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Commission Room, Bldg. C, Viera, Florida, on THURSDAY, OCTOBER 6, 2022, at 5:00 p.m. All interested parties can be heard at said time and place. If a person decides to appeal any decision of this Board, agency or commission (as appropriate) with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of the proceedings is made, at his own expense, which record includes testimony and evidence upon which any such appeal is to be based. The Board may grant such other less intense zoning or land use classification as may be deemed appropriate. Final report of the above referenced agenda will be heard at this meeting. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in this proceeding should contact the Planning & Development Department no later than 48 hours prior to the meeting at 321-639-2069 for assistance. Brevard County Planning & Development Department, per: Tad Calkins, Planning and Development Director. By: Jennifer Jones, Special Projects Coordinator.

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.

**FUTURE LAND USE MAP SERIES
PLAN AMENDMENT**

STAFF COMMENTS

*Small Scale Plan Amendment 21S.12 (22SS00009)
Township 24, Range 35, Section 01*

Property Information

Owner / Applicant: CGCR Holdings, LLC

Adopted Future Land Use Map Designation: Residential 4 (RES 4) and
Neighborhood Commercial (NC)

Requested Future Land Use Map Designation: Community Commercial (CC)

Acreage: 4.83

Tax Account #: part of 2400719

Site Location: Approximately 350 feet west of Grissom Parkway right-of-way on the
north side of a private driveway for a religious institution.

Commission District: 1

Current Zoning: Institutional Use – Light Intensity IN(L)

Requested Zoning: Retail, Warehousing and Wholesale Commercial (BU-2)

Background & Purpose

The property has frontage on Grissom Parkway and lies north of a private driveway for an existing religious institution. The applicant is seeking to amend the Future Land Use designation on the eastern 350 feet of the property encompassing 4.83 acres from Residential 4 (RES 4) and Neighborhood Commercial (NC) to Community Commercial (CC) to match the Future Land Use designation on the remainder of the property that is adjacent to the subject property to the west. The Neighborhood Commercial (NC) portion of the subject property encompasses 2.63 acres. The Residential 4 (RES 4) portion of the subject property encompasses 2.20 acres.

A companion rezoning application was submitted accompanying this request for a Zoning change from IN(L) to BU-2. BU-2 and CC currently exist on the western portion of the newly acquired property which has Grissom Parkway frontage. Amending the Future Land Use Map to CC would create a unified FLUM designation for development purposes.

Surrounding Land Use Analysis

	Existing Use	Zoning	Future Land Use
North	Vacant	GU	NC & RES 4
South	Institutional	IN(L)	NC & RES 4
East	Vacant	GU	RES 4
West	Vacant	BU-2	CC

To the north and east of the subject property is vacant residential land. This area is a part of the Canaveral Groves subdivision but lacks County maintained road infrastructure that is necessary to facilitate development. To the west is vacant commercial land along the east side of Grissom Parkway and low density, single family residential to the west of Grissom Parkway (Canaveral Groves), on the south side of the private driveway is a religious institution. The area farther south is within the City of Cocoa. The property adjacent to the church on the south is owned by a Not for Profit corporation that leases space to other Not for Profit organizations engaged in behavioral health therapy. Further to the south within the City of Cocoa land uses shift to warehousing and distribution facilities.

Comprehensive Plan Policies/Comprehensive Plan Analysis

Comprehensive Plan Policies are shown in plain text; Staff Findings of Fact are shown in **bold**.

Notice: The Comprehensive Plan establishes the broadest framework for reviewing development applications and provides the initial level of review in a three layer screening process. The second level of review entails assessment of the development application's consistency with Brevard County's zoning regulations. The third layer of review assesses whether the development application conforms to site planning/land development standards of the Brevard County Land Development Code. While each of these layers individually affords its own evaluative value, all three layers must be cumulatively considered when assessing the appropriateness of a specific development proposal.

FLUE 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 proposes to develop the subject property as a commercial development. Until a specific use is identified, the impact on Grissom Parkway cannot be determined. Certain uses could diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area.

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

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

- 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;

On the west side of Grissom Parkway, the historical land use pattern is single family residential platted as a part of the Canaveral Groves subdivision with one acre lots and RES 1:2.5 Future Land Use Map (FLUM) designation . On the east side of Grissom Parkway to the north and east is vacant residential property platted as a part of the Canaveral Groves subdivision with one acre lots with RES 4 FLUM designation. On the east side of Grissom Parkway to the south is within the City of Cocoa and has been developed primarily with warehousing and distribution facilities.

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

There does not appear to have been any actual development within this area in the preceding three (3) years.

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

There have not been any development approvals immediately adjacent to the subject parcel within the past three (3) years that have not been constructed.

FLUE 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.

In general, the character of the area is residential and transitions from 1 unit per acre on the west side of Grissom Parkway to vacant residential land platted at 1 unit per acre but that has a RES 4 FLUM designation. Existing single-family residential development within the Canaveral Groves subdivision encompasses a large area with limited access to commercial opportunities in the immediate vicinity. Three (3) FLUM designations are located within 500 feet of the subject property: RES 4, NC, and CC.

- 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.

The Canaveral Groves Subdivision, west of Grissom Parkway, is an established single-family, residential neighborhood. This subdivision is located west of the subject property.

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

The closest retail uses which include a convenience store with gas pumps and a restaurant are near Grissom Parkway at Canaveral Groves Boulevard which is approximately 0.75 miles north of the subject property.

Role of the Comprehensive Plan in the Designation of Commercial Lands FLUE Policy 2.1

The Comprehensive Plan takes into consideration broad criteria for evaluating requests for commercial land use designations within Brevard County. At a minimum, these criteria address the following:

Criteria:

- A. Overall accessibility to the site;

The subject property is the easternmost 350 feet of a larger parcel that has 316 feet of frontage on Grissom Parkway, an urban minor arterial operating at 60.76% of Maximum Acceptable Volume. A private driveway is located along the south property line and could also provide access to Grissom Parkway. Depending on the commercial use ultimately established on the site, there may not be sufficient roadway capacity to accommodate some commercial uses. Please refer to the preliminary concurrency section for more details.

- B. Compatibility and inter-connectivity with adjacent adopted Future Land Use designations and land uses;

There are NC and CC future land use map designations adjacent to the subject property. Those properties are vacant at this time. To the north and east of the subject property, the area is platted with one acre lots and has a FLUM designation of Residential 4 (RES 4). The current FLUM designation of Neighborhood Commercial (NC) on the subject property serves a buffer to the more intensive Community Commercial land use designation adjacent to it on the west. Amending the NC designation to CC could be considered an encroachment into the residential area to the east of the subject property.

- C. Existing commercial development trend in the area;

Existing commercial development along this segment of Grissom Parkway is very limited at this time.

- D. Fundamental changes in the character of an area prompted by infrastructure improvements undertaken by the County;

Although the County has improved Grissom Parkway and established a connection to Interstate 95 at the Port St. John interchange, the character of the area has changed very little in that time.

- E. Availability of required infrastructure at/above adopted levels of service;

The subject property has roadway access and potable water service is provided to the site by the City of Cocoa. There is no centralized sanitary sewer service available. Solid Waste collection and disposal can be provided by Brevard County once the property is developed. The site will need to provide on-site surface water management. Emergency services will be provided by Brevard County Fire/Rescue and the Brevard County Sheriff's Office.

- F. Spacing from other commercial activities;

On Grissom Parkway the closest other Community Commercial facilities are located approximately 0.75 miles to the north near its

intersection with Canaveral Groves Boulevard. Grissom Parkway will intersect with US Highway 1 approximately 2.5 miles to the south. Additional commercial activities can be found along the US Highway 1 corridor.

- G. Size of proposed commercial designation compared with current need for commercial lands;

Relative to the extent of the existing single-family residential development in Canaveral Groves, there appears to be a current need for additional commercial development in the area.

- H. Adherence to the objectives/policies of the Conservation Element and minimization of impacts upon natural resources and systems;

The provisions of this Criterion will be addressed at the site plan stage.

- I. Integration of open space; and

Open space has been conserved on the east side of Grissom Parkway because there are no County maintained roads which prevents development from occurring. Extensive natural resource constraints may also play a role in conserving open space.

- J. Impacts upon strip commercial development.

On the west side of Grissom Parkway, residential lots have internal access to the Canaveral Groves Subdivision and have been substantially built out with single-family residences.

On the east side of Grissom, the area has been platted as one acre lots with Residential 4 (RES 4) FLUM designation but remains substantially vacant due to the lack of County maintained roads serving the interior platted lots.

To the north of the subject property near Grissom's intersection with Canaveral Groves Boulevard, a commercial strip is beginning to emerge along the east side of Grissom. The FLUM designations on several lots with Grissom frontage has been amended to Community Commercial and they have established direct access to Grissom.

To the south of the subject property along Grissom, the frontage is within the City of Cocoa and has been substantially developed with warehousing and distribution facilities.

Locational and Development Criteria for Community Commercial Uses FLUE Policy 2.8

Locational and development criteria for community commercial land uses are as follows:

Criteria:

- A. Community Commercial clusters of up to ten (10) acres in size should be located at arterial/arterial intersections. Collector/arterial intersections are acceptable for clusters of up to ten (10) acres in size, however, the collector roadways must serve multiple residential areas. Intrusion of these land uses into the surrounding residential areas shall be limited. For Community Commercial clusters greater than ten (10) acres in size, they must be located at principal arterial/principal arterial intersections.

A private driveway runs along the south property line and provides access to Grissom Parkway for the existing religious institution. It is not a County maintained road and therefore is not classified as an arterial or collector.

- B. Community commercial complexes should not exceed 40 acres at an intersection.

The subject property together with the two adjacent Community Commercial properties on the west total less than 10 acres.

- C. Community commercial clusters up to 10 acres in size should be spaced at least 2 miles apart and community commercial clusters up to 40 acres in size should be spaced at least five (5) miles apart.

There are four other parcels with Community Commercial land use designation within 0.75 miles of the subject property. Two of these are vacant.

- D. The gross floor area of community commercial complexes should not exceed 150,000 square feet for commercial clusters up to 10 acres in size and shall not exceed 400,000 square feet for commercial clusters greater than 10 acres but less than 40 acres in size unless within a Planned Unit Development (PUD) zoning classification. The square footage may be increased if it is located within a PUD zoning classification.

The gross floor area cannot be determined until the site plan stage.

- E. Floor Area Ratio (FAR) of up to 1.00 will be permitted for Community Commercial sites unless accompanied with a PUD zoning classification wherein the FAR may be increased up to 1.75.

The Floor Area Ratio cannot be determined until the site plan stage. The applicant has not requested PUD zoning.

- F. Recreational vehicle parks shall be located in areas which serve the needs of tourists and seasonal visitors to Brevard County. The location of recreational vehicle parks shall have access to interstate interchanges via arterial and principal collector transportation corridors or the property shall be located on a major multi-county transportation corridor.

The requested zoning classification is BU-2 and does not permit recreational vehicle parks.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Grissom Parkway, from Industry to Canaveral Groves, which has a Maximum Acceptable Volume (MAV) of 15,600 trips per day, a Level of Service (LOS) of E, and currently operates at 60.76% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 99.70%. The corridor is anticipated to operate at 160.46% of capacity daily. The proposal is anticipated to create a deficiency in LOS. Specific concurrency issues 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 is within the City of Cocoa utilities service area for potable water. The closest Brevard County sewer line is approximately 2.8 miles southwest on Adamson Road.

Environmental Constraints

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

A portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as 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 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 plan or permit submittal.

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

Historic Resources

The Florida Master Site File does not contain any record of historical or cultural resources on this site.

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT DEPARTMENT
Zoning Review & Summary
Item #22Z00031

Applicant: Hyvonen for Mitchell

Zoning Request: IN(L) to BU-2

Note: Applicant wants to unify zoning across parcel for future development

P&Z Hearing Date: 09/12/22; **BCC Hearing Date:** 10/06/22

Tax ID No: 2400719

- 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.
- A rezoning zoning or Future Land Use approval by the Board of County Commissioners does not vest the property from meeting the current wetland ordinance. A formal review of current proposed wetland impacts at time of building permit or site plan review is required, regardless of any previously approved wetland impacts from any Federal, State or local agency. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Protected Species
- Protected and Specimen Trees

A portion of the project area is mapped with National Wetlands Inventory (NWI) wetlands and SJRWMD wetlands; indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as 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 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 plan or permit submittal.

The subject parcel contains mapped aquifer recharge soils. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at (561)882-5714 (O) or (561)365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

Land Use Comments:

Wetlands

A large portion of the project area is mapped with NWI wetlands and SJRWMD wetlands (freshwater marshes); indicators that wetlands may be present on the property. A wetland determination was performed by Toland Environmental Consulting, and found the parcel to contain an area of wetlands. Section 62-3694(c)(3)b has allowances for wetland impacts for properties with commercial uses and located with frontage along "Mitigation Qualified Roadways" (MQRs). Grissom Parkway is classified as 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 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 plan or permit submittal.

Aquifer Recharge Soils

The subject parcel contains mapped aquifer recharge soils (Pomello sand & St. Lucie fine sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. There is a large area of mapped Florida Scrub Jay occupancy on the project site, and there is potential for existence of Gopher Tortoises on site. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the

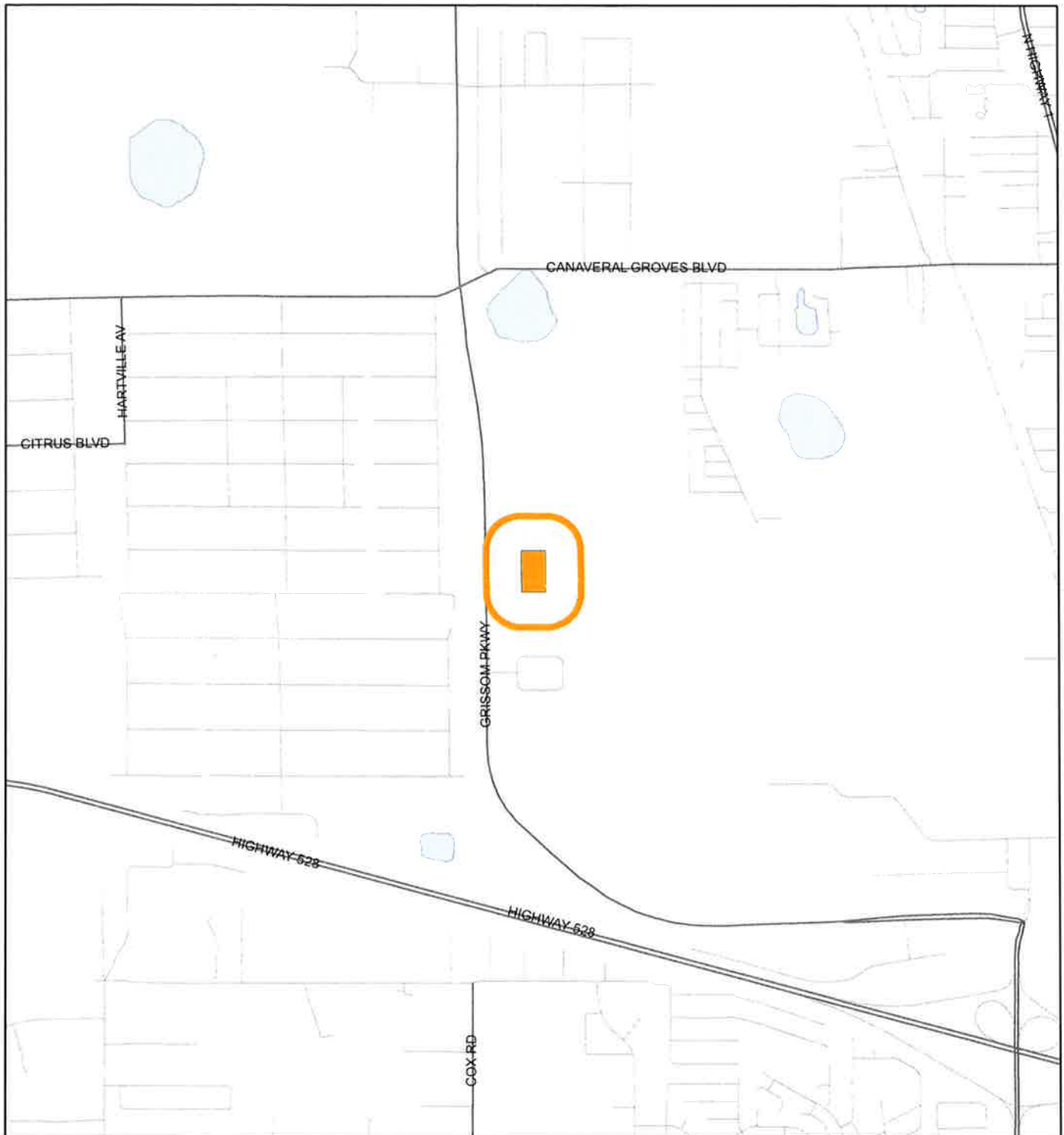
Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. If applicable, the applicant is advised to call the FWC at 561-882-5714 (O) or 561-365-5696 (C) with to obtain any necessary permits or clearance letters for Gopher Tortoises.

Protected and Specimen Trees

A large portion of the subject property is mapped with SJRWMD FLUCCS code 4100-Pine Flatwoods. Protected Trees (≥ 10 inches in diameter) and Specimen Trees (≥ 24 inches in diameter) are included in this FLUCCS code, and may be found on the project area. A tree survey is required prior to any land clearing activities, site plan design or site plan submittal. The applicant is encouraged incorporate valuable vegetative communities or robust trees into the site plan design. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the ordinance is to encourage the protection of Heritage Specimen trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM. The applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.

LOCATION MAP

CGCR Holdings, LLC
22SS00009 Small Scale Amendment 22S.12





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: 7/1/2022

-  Buffer
-  Subject Property

ZONING MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/1/2022

— Subject Property

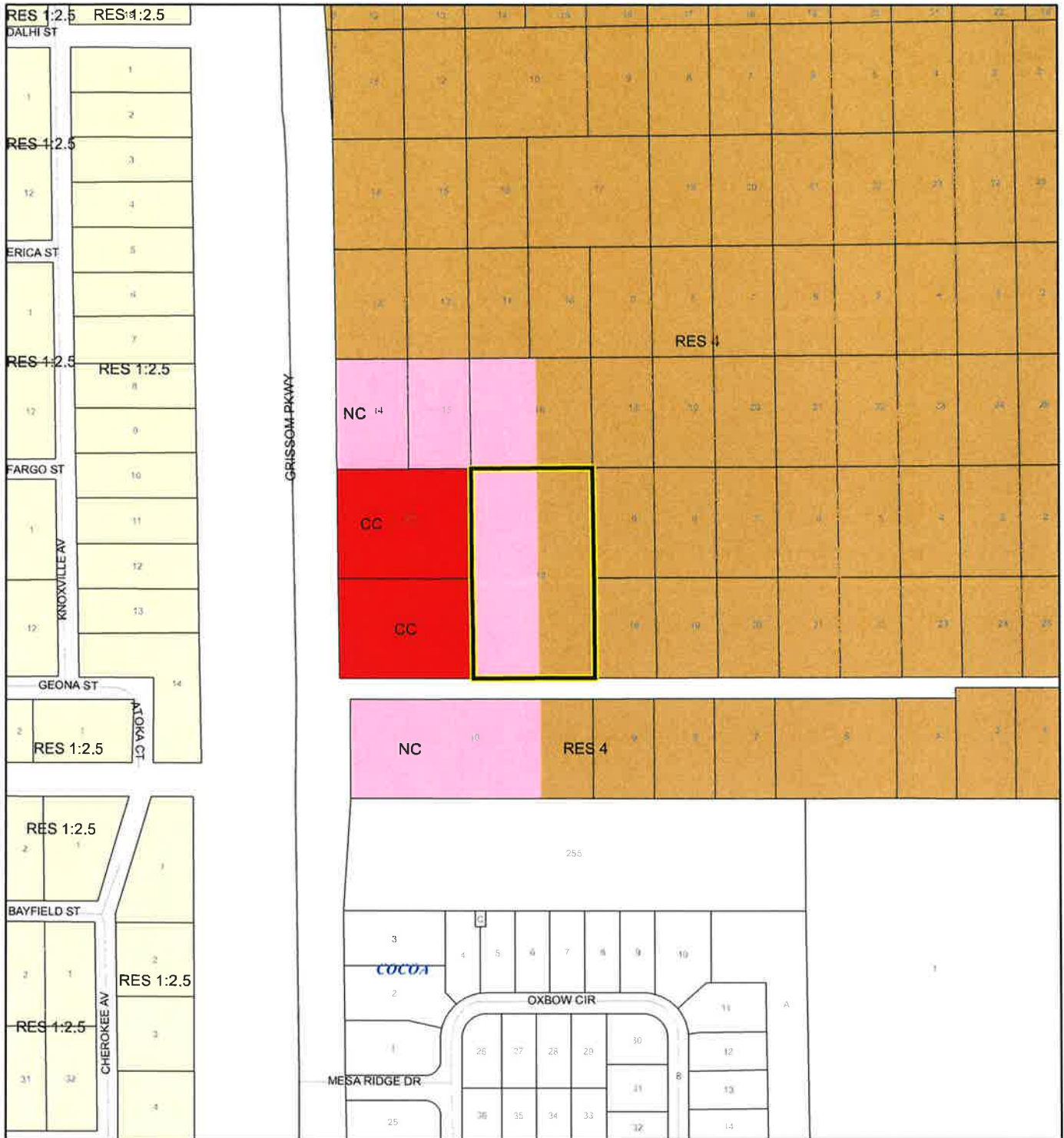
□ Parcels

□ Zoning

FUTURE LAND USE MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

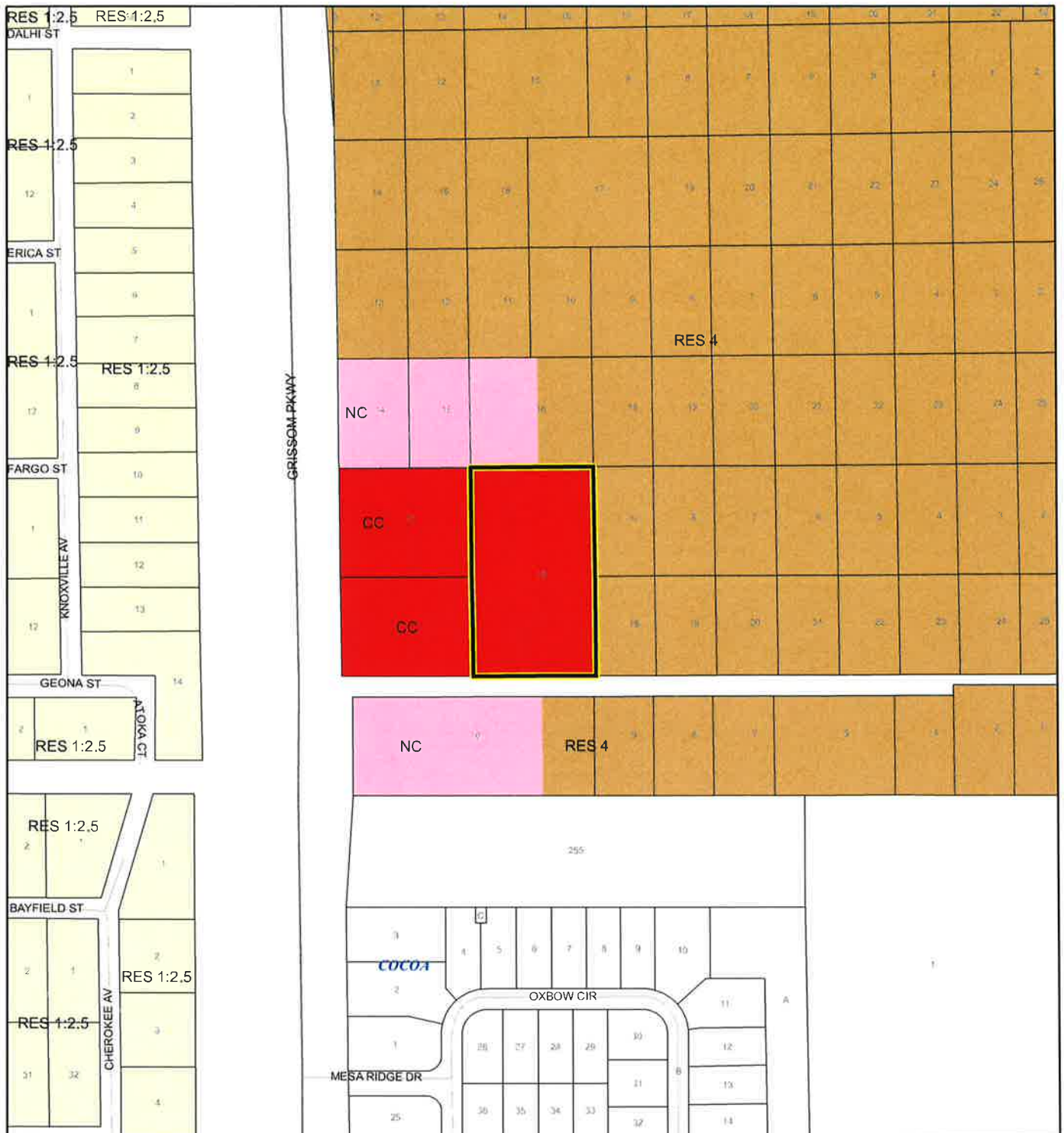
— Subject Property
 □ Parcels

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Produced by BoCC - GIS Date: 7/1/2022

PROPOSED FUTURE LAND USE MAP

CGCR Holdings, LLC
22SS00009 Small Scale Amendment 22S.12



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

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 8/10/2022

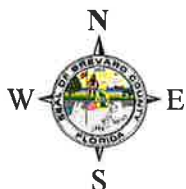
 Subject Property

 Parcels

NWI WETLANDS MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 7/1/2022

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

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/1/2022

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

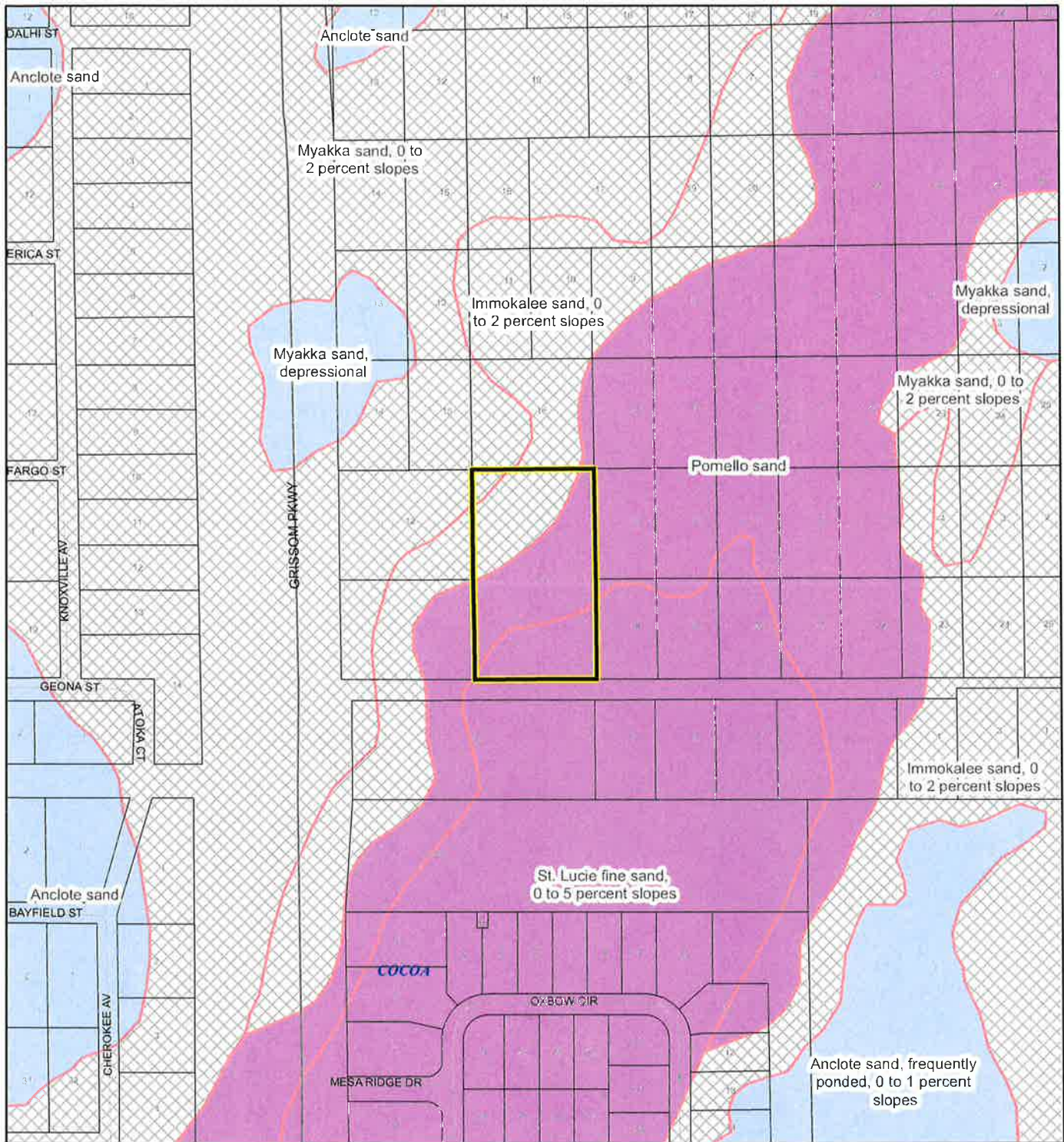
Subject Property

Parcels

USDA SCSSS SOILS MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/1/2022

USDA SCSSS Soils

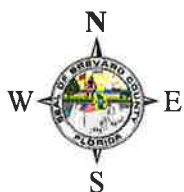
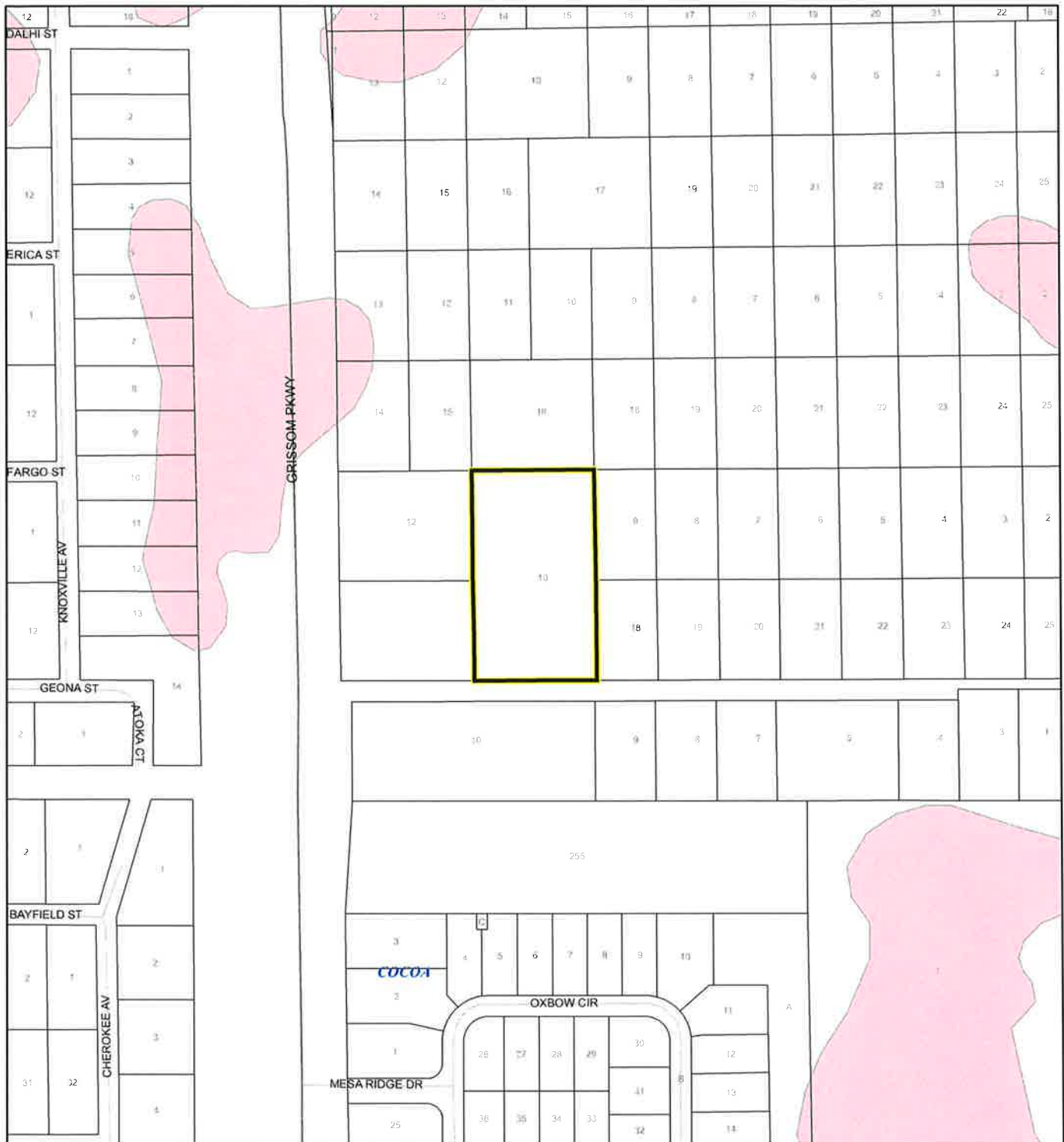
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

CGCR Holdings, LLC

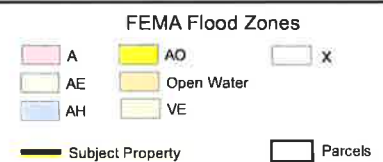
22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/1/2022



COASTAL HIGH HAZARD AREA MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



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 herein.

Produced by BoCC - GIS Date: 7/1/2022

 Subject Property

 Parcels

Coastal High Hazard Area

 SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/1/2022

Subject Property

Parcels

Septic Overlay

40 Meters

60 Meters

All Distances

EAGLE NESTS MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/1/2022

 Subject Property

 Parcels

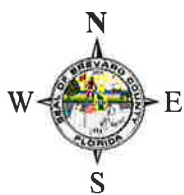


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/1/2022

 Subject Property

 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

CGCR Holdings, LLC

22SS00009 Small Scale Amendment 22S.12



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 7/1/2022

SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels



June 7, 2022

Jim Ford
Watson Commercial Real Estate
335 S Plumosa Street, Suite J
Merritt Island, FL 32952

RE: Environmental Assessment
For Three Parcels of Property totally 10.8 acres
Located near Grissom Parkway in Cocoa, Brevard County, Florida
With Tax and Parcel Identification Numbers:
1. 2400719 & 24-35-01-25-13-10: 7.31-Acres (Northern Tract Only)
2. 2400700 & 24-35-01-25-12-16: 2.30-Acres
3. 2400694 & 24-35-01-25-12-10: 1.15-Acres

Dear Mr. Ford:

The following is a summary of Toland Environmental Consulting's (TEC) environmental assessment for three lots located adjacent to Grissom Parkway in Cocoa, Florida whose tax and parcel identification numbers are listed above. The lots are bounded to the north, east and west by undeveloped single family residential lots, and to the south by an access driveway to an existing church (Figure 1).

The purpose of the site inspection was to identify environmental resources on the site and to evaluate whether consideration needs to be made during the acquisition or conceptual design process to address environmental restrictions on the property's development. To prepare this ecological assessment, TEC reviewed natural resource maps including GIS database coverages of the Brevard County Soil Survey as maintained by the National Resources Conservation Service (NRCS), the National Wetland Inventory (NWI) as maintained by the US Fish and Wildlife Service (USFWS), Brevard Natural Communities Cover maps maintained by the St. Johns River Water Management District (SJRWMD) using the Florida Department of Transportation's (FDOT) Florida Land Use, Cover and Forms Classification System (FLUCCS) as last amended in 1999, the United States Geological Survey's (USGS) Topographic Quadrangle Maps, the 2008 Brevard County Florida Scrub- Jay Occupancy Polygon Maps as maintained by USFWS, the Florida Fish and Wildlife Conservation Commission's (FWC) Bald Eagle Nest Site Locator Map, USFWS Wood Stork (*Mycteria americana*) Nesting Colonies and Core Foraging Areas Maps, and the USFWS Audubon's Crested Caracara (*Polyborus plancus audubonii*) Consultation Area Map, and other listed species databases, as appropriate.

In addition, on March 07, 2022, TEC ground-truthed, delineated and described the natural communities present within the study area with reference to Florida's Cooperative Land Cover (CLC) classification system as maintained by FWC as well as by FDOT FLUCCS codes. The property would be classified by CLC as having 9.86 acres of CLC 1312 Scrubby Pine Flatwoods (FLUCCS 4110 - Pine Flatwoods)(Photograph 1), and 0.942 acres of CLC 21211 - Depression Marsh (FLUCCS 6410 - Freshwater Marsh)(Figure 2).

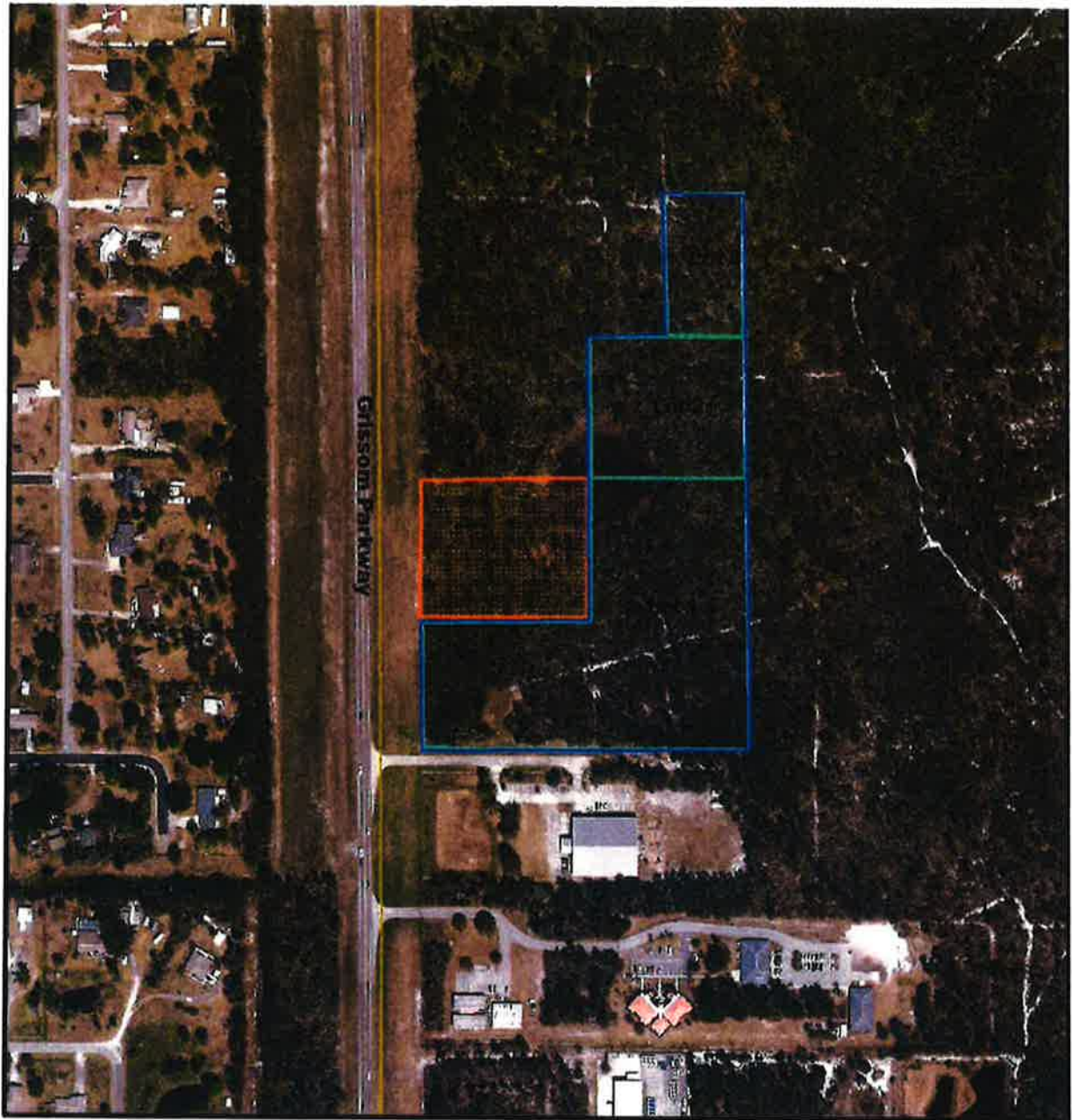


Photograph 1:
Typical Site Interior - Facing North




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Page 1 of 8

Figure 1: Regional Location Map



Legend

-  Properties
-  Individual Lot Lines
-  Property Excluded by USFWS for Scrub-Jays



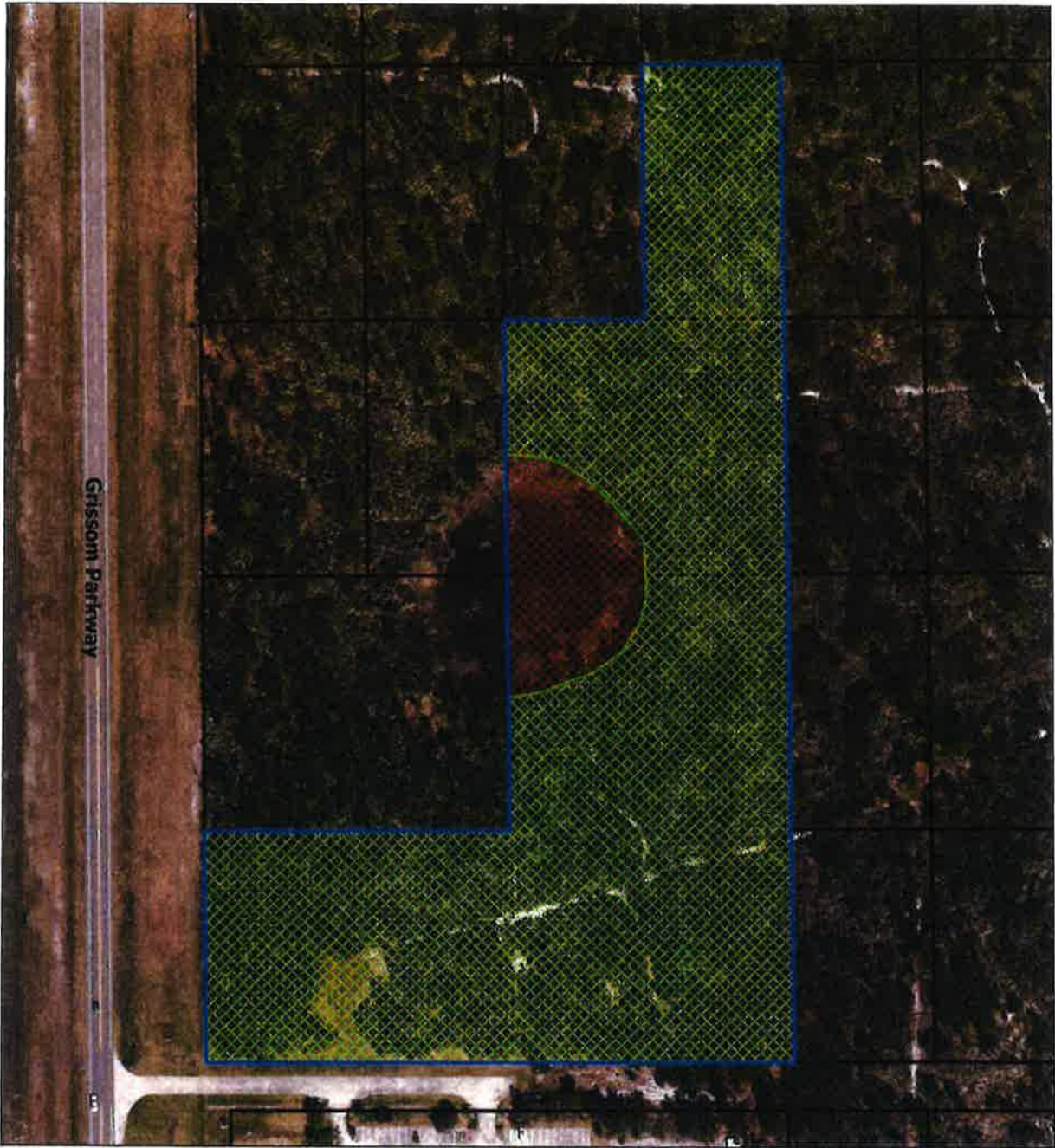
0 110 220 440 660 880
Feet

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

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Page 2 of 8



Figure 2: Natural Communities Cover Map



Legend

- | | |
|---|---|
|  Property Location | CLC 1312 - Scrubby Flatwoods (FLUCCS 4110 - Pine Flatwoods) |
|  CLC 21211 - Depression Marsh (FLUCCS 6410 - Freshwater Marsh) | |

0 62.5 125 250 375 500
US Feet



Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

The depression marsh extends offsite, and the onsite portion of the system is split between the northern reaches of parcel #2400719 with 0.484 acres and the southwest corner of lot #2400700 with 0.458 acres. (Figure 2).

Fire suppression has resulted in the canopy of the scrubby pine flatwoods to become dominated by sand pines (*Pinus clausa*), with lesser amounts of longleaf pines (*Pinus palustris*) and occasional Live oak (*Quercus virginiana*). The lack of fire has also resulted in a dense and overgrown mid-story and understory with rank saw palmetto (*Serenoa repens*), tall, dense sand live oak (*Quercus geminata*), intermittent dwarf live oak (*Quercus minima*), runner oak (*Quercus pumila*), and rusty lyonia (*Lyonia ferruginea*). The depression marsh shows damage from wild hogs with groundcover including chalky bluestem (*Andropogon capillipes*), redroot (*Lachnanthes caroliniana*), soft rush (*Juncus effusus*), and wax myrtle (*Myrica cerifera*) around the perimeter.

In order of relative abundance, the onsite soils are classified by NRCS as Immokalee sand, Pomello sand, Myakka sand and St. Lucie fine sand (Figure 3). As would be expected in scrubby pine flatwoods, all onsite soils are classified as upland soils within the "Hydric Soils of Florida Handbook, fourth edition" prepared by Florida Association of Environmental Soil Scientist. Immokalee sand may be a hydric soil or an aquifer recharge soil depending upon its position in the landscape. Hydric soils form under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile. Hydric soils are usually associated with wetlands while non-hydric soils are generally associated with upland habitats. Two of the soils, Pomello sand and St. Lucie fine sand are also classified as aquifer recharge soils which have very high vertical conductivity (Ksat) values that reflect the rapid vertical movement of water through the groundwater table. Brevard County classifies recharge soils as any soil with a Ksat value of more than 20 inches per hour.

Within the scrubby flatwoods, TEC reviewed representative samples of the onsite soils and found they lacked the required features to be classified as hydric or indicative of having been formed under aerobic conditions by exhibiting signs of stripping, redox concentrations, or substantial organic accumulations within the first six inches of the soil profile. Soils within the depression marshes showed organic accumulations within the first six inches of the soil profile including mucky minerals (A7 indicator) and muck (A9 indicator) that demonstrated the soils formed under anaerobic conditions and would meet the criteria found within the Handbook and Florida's wetland delineation rules to be classified as hydric.

TEC observed signs of hydrology within the depression marsh that would indicate that the property flooded or had water ponding on it. Signs of hydrology included algal matting, standing water, and vegetative adaptations.

The depression marsh is mapped by both the NWI and the SJRWMD as wetlands. Within the depression marsh, TEC's onsite field review found the property displayed the proper combinations of hydric soils, wetland vegetation and signs of hydrology to meet the criteria for classification as wetlands according to the delineation criteria found within Chapter 62-340, Florida Administrative Code or Section 404 of the Clean Water Act (33U.S.C. 1344) (Figure 2).

Figure 3: NRCS Soils Map



Legend

- | | |
|---|------------------------------|
| Property Location | Immokalee Sand |
| Myakka Sand | Pomello Sand - Recharge Soil |
| St Lucie Fine Sand, 0 to 5 percent slopes - Recharge Soil | |

0 62.5 125 250 375 500
US Feet



Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

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Page 5 of 8

Impacts to wetlands are regulated by the federal, state and local governments through the Clean Water Act, Chapter 62-340, Florida Administrative Code (FAC) and local land development regulations. Recently, the State of Florida assumed part of the federal 404 Wetland Permitting Program (404 Permit) allowing Florida to issue both the state's Environmental Resource Permit (ERP) and the federal 404 Permit within areas that are not retained for jurisdiction by the US Army Corps of Engineers (ACOE) or federal retained waters. The Applicant's site does not lie within 300-feet of a retained water. Therefore, commercial development for the two lots containing the depression marsh would be subject to the jurisdiction of the SJRWMD issuing the permit for the State of Florida and the Florida Department of Environmental Protection (FDEP) permits for ACOE. Both agencies, will require mitigation for primary and secondary impacts that cause a loss of functional wetland systems that are isolated and bigger than one-half acre and do not provide habitat for listed species or are wetlands connected to the St. Johns River or Indian River Lagoon System and larger than 0.1-acres. Primary impacts are direct impacts to wetland areas within an approved jurisdictional line, and secondary impacts are alterations within an average of 25-feet of a wetland jurisdictional line where the 25-feet may be reduced to 15-feet in some areas so long as larger buffers are provided elsewhere adjacent to the jurisdictional line that net in an average 25-foot buffer.

The study contains approximately 0.942 acres of isolated wetlands. To issue the permit, FDEP will require that any impacts to wetlands be avoided by directing development into uplands, whenever possible, and minimized as much as is reasonably practical. If development does not occur within 25-feet of the jurisdictional boundary of the freshwater marsh, no mitigation would be required. However, if impacts can't be avoided an ERP and 404 Permit from FDEP for any primary or secondary impacts will be required.

Brevard County will be the local regulating agency for wetland impacts. The Conservation Element and its implementing Land Development Regulations require that the County avoid duplication of wetland regulation. Chapter 5.3 of the Conservation Element states: "Where the wetland degradation or destruction has been permitted by FDEP or SJRWMD based on FDEP and SJRWMD professional staff application of criteria and evaluation, the County shall apply the land use and density requirements of Policy 5.2 and the avoidance, minimization of impacts, and mitigation priorities established by Objective 5. Any permitted wetland degradation or destruction shall provide for mitigation as designated in the Conservation Element." Since FDEP does an avoidance and minimization analysis as part of their standard permit review, any development impacts to wetlands on this site that are permitted under an ERP permit obtained from FDEP which requires mitigation for the loss of those wetland impact, will not be duplicated for regulation by Brevard County. The County can only apply the County's land use and density restrictions on development proposals for wetlands permitted by the State that result in a no net loss of wetlands. In situations where the state issues an ERP but does not require mitigation for the loss of wetlands, the County can require mitigation consistent with the standards found within Florida's Unified Mitigation Assessment Method, Chapter 62-345 FAC.

Scrubby pine flatwoods can potentially support federal, or state species listed as endangered, threatened, or species of special concern including gopher tortoises (*Gopherus polyphemus*), Florida scrub-jays (*Aphelocoma coerulescens*), eastern indigo snakes (*Drymarchon corais couperi*), and bald eagles (*Haliaeetus leucocephalus*). The property is mapped as having a scrub-jay occupancy polygon present. TEC prepared a request for a Letter of Clearance from the USFWS and was granted clearance on May 9, 2022 (Attachment A). TEC's review of FWC's eagle nest maps found that this agency did not map the three properties as having eagles present on the property or within the protection limits required for this species. In addition, TEC did not observe eagles on the site or any of their sign that indicated occupation was possible on the property.

The property lies within the consultation area for crested caracaras; however, no crested caracaras were observed, and the site lacks the open, suitable habitat for this species. Accordingly, no further action should be required with respect to crested caracaras.

The property lies within a core foraging area for wood stork and is approximately 4 miles to the nearest active wood stork nesting colony site. According to the ACOE and USFWS' Effect Determination Key for Wood Storks In Central and North Peninsular Florida as last updated in September 2008, the property does not provide

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suitable foraging habitat (SFH) for wood storks and therefore would keyed to "no effect" determination and would not require additional consultation or coordination with these agencies. SFH is described within the Determination Key as "any area containing patches of relatively open (< 25% aquatic vegetation), calm water, and having a permanent or seasonal water depth between 2 and 15 inches (5 to 38 cm). SFH supports and concentrates, or is capable of supporting and concentrating small fish, frogs, and other aquatic prey".

As an authorized gopher tortoise agent for FWC to survey for gopher tortoises, TEC surveyed 15 percent of all suitable gopher tortoise habitats on the property using the surveying protocols outlined in FWC's Gopher Tortoise Permitting Guidelines as last updated in July 2019. During the site visit, TEC did not observe any potentially occupied gopher tortoises' burrows or their sign on the property. This lack of utilization on the property by gopher tortoises is attributed to fire suppression and the overgrown nature of the properties that has allowed dense saw palmetto to crowd out the traditional understory plants that tortoises normally forage upon including wiregrass (*Aristida stricta*), dwarf wild blueberry (*Vaccinium myrsinites*), prickly pear cactus (*opuntia humifusa*), blackberries (*Rubus spp.*), paw-paws (*Asimina obovata*) and other seasonal fruits which support gopher tortoise populations.

If you have any questions or require additional information regarding this initial site inspection, please contact me on my office phone at 321-242-7173 or by e-mail [at teclisa@cfl.rr.com](mailto:teclisa@cfl.rr.com).

Sincerely,

Lisa J. Toland

Lisa Toland, President



ATTACHMENT A

FWS Letter of Clearance for Florida Scrub-Jays

From: [Gawera, Erin](#)
To: [Toland Environmental Consulting](#)
Subject: Re: [EXTERNAL] Revised request for letter of clearance
Date: Monday, May 9, 2022 4:24:10 PM

Hi Lisa,

You are all good to go! The Service accepts the results of your surveys. Florida scrub-jays are not currently occupying these properties:

Tax and Parcel Identification Numbers:

1. 2400719 & 24-35-01-25-13-10: 7.31-Acres (Northern Tract Only)
2. 2400700 & 24-35-01-25-12-16: 2.30-Acres
3. 2400694 & 24-35-01-25-12-10: 1.15-Acres

No further coordination with the Service is needed at this time and development of these properties will not impact scrub-jays. Should you discover scrub-jays in the future, please come back to us for re-evaluation.

Thank you so much,

Erin

Log #2022-0028513 Grissom Road_Toland_Brevard

Erin M. Gawera, Fish and Wildlife Biologist
US Fish and Wildlife Service
Email: erin_gawera@fws.gov
<https://www.fws.gov/office/florida-ecological-services>
Florida Ecological Services Field Office
7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7517
904/731-3121 (direct)
904/731-3336 (main)
Fax: 904/731-3045 or 3048

From: Toland Environmental Consulting <teclisa@cfl.rr.com>
Sent: Monday, May 9, 2022 7:16 AM
To: Gawera, Erin <erin_gawera@fws.gov>
Subject: RE: [EXTERNAL] Revised request for letter of clearance



May 05, 2022

Ms. Erin Gawera
Fish and Wildlife Biologist
US Fish and Wildlife Service
Florida Ecological Services Field Office
7915 Baymeadows Way, Suite 200
Jacksonville, FL 32256-7517
Sent Via Email: erin_gawera@fws.gov



RE: Request for a Letter of Clearance for Florida Scrub-Jays (*Aphelocoma coerulescens*)
For Three Parcels of Property totally 10.8 acres
Located near Grissom Parkway in Cocoa, Brevard County, Florida
With Tax and Parcel Identification Numbers:
1. 2400719 & 24-35-01-25-13-10: 7.31-Acres (Northern Tract Only)
2. 2400700 & 24-35-01-25-12-16: 2.30-Acres
3. 2400694 & 24-35-01-25-12-10: 1.15-Acres

Dear Ms. Gawera:

I am writing to request a Letter of Clearance for Florida Scrub-jays (*Aphelocoma coerulescens*) for three lots located adjacent to Grissom Parkway in Cocoa, Florida whose tax and parcel identification numbers are listed above. The parcels lie between Canaveral Groves Boulevard and State Road 528 in Brevard County (Figure 1). The lots are bounded to the north, east and west by undeveloped single family residential lots, and to the south by an access driveway to an existing church (Figure 1). In addition, the properties are adjacent to a 2.3-acre tract of land recently cleared for scrub jays by U.S. Fish and Wildlife Service's (USFWS) Jacksonville Field Office (Log #04EF1000-2022-TA-0391) (Figure 1).

The subject properties lie within the southwest edge of a larger USFWS Florida Scrub-Jay Occupancy Polygon along the Grissom Parkway corridor as last established for Brevard County in 2008 (Figure 2). Fire exclusion has created an unnaturally rare to absent fire regime within the onsite scrub habitats that has resulted in the succession of the oak scrub into scrubby sand pine flatwoods that lack optimal habitat features to sustain scrub-jay populations.

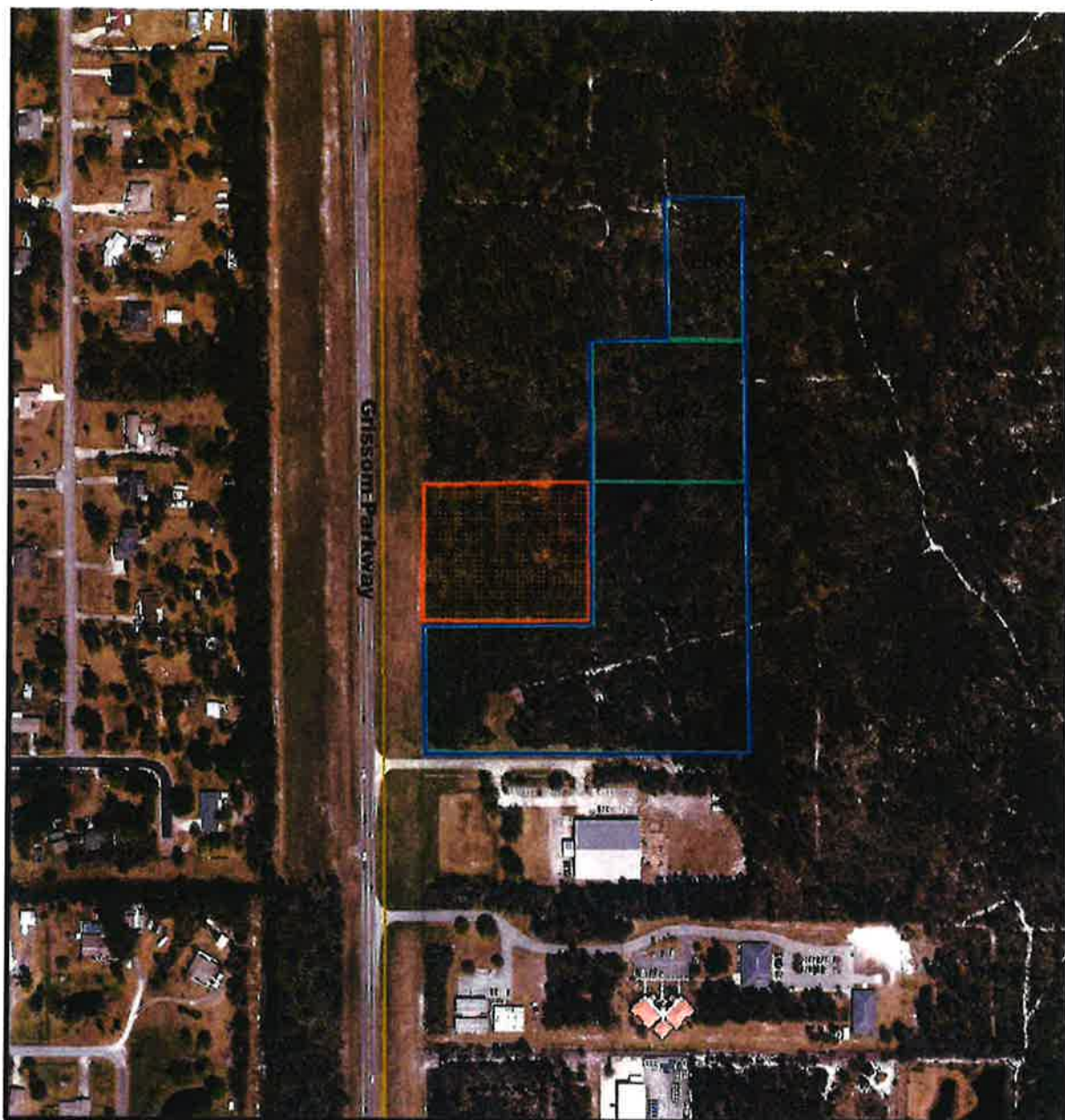
Optimal habitat criteria have been compiled by Florida's Fish and Wildlife Conservation Commission (FWC) gathered from a compendium of studies produced by numerous scrub-jay researchers under FWC's Scrub Management Guidelines. Florida scrub-jay territories ideally occupy twenty-five acres of optimal scrub habitat with a vegetative structure made up of a patchy mosaic of treeless expanses of low shrubs that provide cover, nest sites and acorns interspersed with open, bare sandy patches needed for caching acorns. Typically, in optimal habitat, oaks and other shrubs have an average height of 4 to 5.5 feet. When the tree densities exceed one tree per acre or vegetation exceeds 5.5 feet, scrub-jay numbers decline, and sandy openings disappear.

On March 7, 2022, Toland Environmental Consulting (TEC) conducted an onsite review of existing habitat within the three parcels. TEC ground-truthed, delineated and described the natural communities present within the study area with reference to Florida's Cooperative Land Cover (CLC) classification system as maintained by FWC and last updated in September 2018 as well as classifications established by the Florida Department of Transportation's FLUCCS codes. In its present state, the property would be classified by CLC as having 9.38




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Figure 1: Regional Location Map



Legend

-  Properties
-  Individual Lot Lines
-  Property Excluded by USFWS for Scrub-Jays

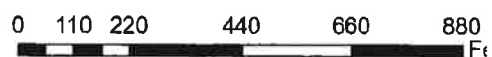
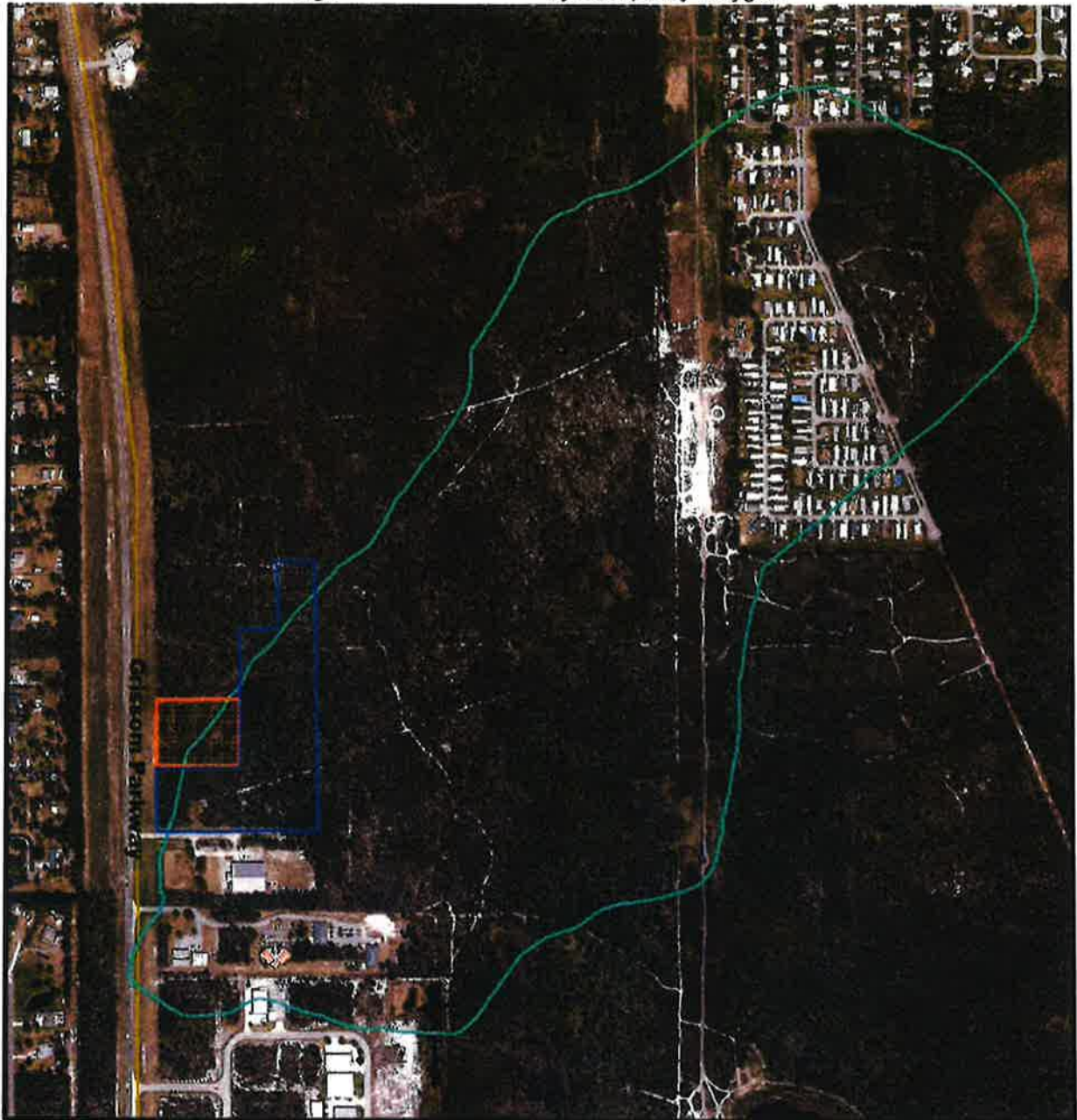





Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

Figure 2: Florida Scrub-Jay Occupancy Polygon



Legend

-  Properties
-  Property Excluded by USFWS for Scrub-Jays
-  2008 Florida Scrub Jay Occupancy Polygon



0 245 490 980 1,470 1,960 Feet

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery



acres of 1213 – Sand Pine Scrub (FLUCCS 4130 Sand Pine), 0.6 acres of isolated patches of overgrown 1210-Scrub (FLUCCS 3200 – Shrub and Brushlands) and 0.82 acres of Depression Marsh (FLUCCS – 6410 Freshwater Marsh) (Figure 3). Outside of the depression marsh, canopy coverage exceeds 15 trees per acre, a density that significantly surpasses one tree per acre for optimal habitat and two trees per acre for habitat that would be sufficiently suitable to allow scrub-jays to persist in the short-run (Photograph 7, Appendix 1). Canopy coverage is dominated by sand pines (*Pinus clausa*) that transition into slash pine (*Pinus elliottii*) along the edges of the depression marsh as well as occasional cabbage palms (*Sabal palmetto*) (Figure 4, Appendix 1). The oak scrub is limited to very small patches that are surrounded by curtains of tall pine making predation of jays by hawks easier in these areas. The scrub also exceeds the optimal height standard of 4 to 5.5 feet. Within the scrub, oaks consist of sand live oak (*Quercus geminata*) that are sparse within the landscape and often exceed ten feet in height, well above the maximum suitable height standard of eight feet. In addition, fire suppression has allowed the saw palmetto (*Serenoa repens*) to become rank, exceed recommended heights for suitable scrub and to fill in open sandy areas (Appendix 1). Finally, as a forested area, the properties lack the non-forested buffer of less than two tree per acre between optimal or suitable scrub-jay habitat and forested areas (Photograph 7, Appendix 1).

Although scrub habitats were not suitable or optimal for scrub-jays, to ensure no jays were lingering in unsuitable habitat, TEC conducted a five-day presence/absence survey for scrub-jays beginning on April 11, 2022 and continuing through April 18, 2022. These surveys were performed within all scrub habitats whether optimal, suitable, or unsuitable. TEC's methodology followed the USFWS's "Scrub-Jay Survey Guidelines, as last updated on 08/24/2007" which employed the systematic broadcast of high-quality taped vocalizations of Florida scrub-jay territorial scolding's from twelve established playback stations designed to elicit responses from scrub-jays in territorial defense of their occupied habitat areas (Figure 5). The density of saw palmetto restricted movement into the interior of the northern parcel. Here an offsite playback station #12 was established to potentially capture jays moving from suitable habitat to the northeast into the inaccessible areas within the study site (Figures 2 and 5). The survey was conducted during the spring activity period of scrub-jays when territorial displays are more frequent. No jays were observed within the proposed development site for which this letter of clearance is being sought (Attachment 2). This lack of utilization by scrub-jays is attributed to the continued decline of the scrub habitat because of ongoing fire suppression.

Given the existing site conditions and lack of responses during the presence/absence survey, TEC is requesting that the USFWS clear the three lots for Florida scrub-jays.

If you have any questions or require additional information regarding this request for clearance, please contact me on my office phone at 321-242-7173 or by e-mail [at teclisa@cfl.rr.com](mailto:teclisa@cfl.rr.com).

Sincerely,

Lisa J. Toland

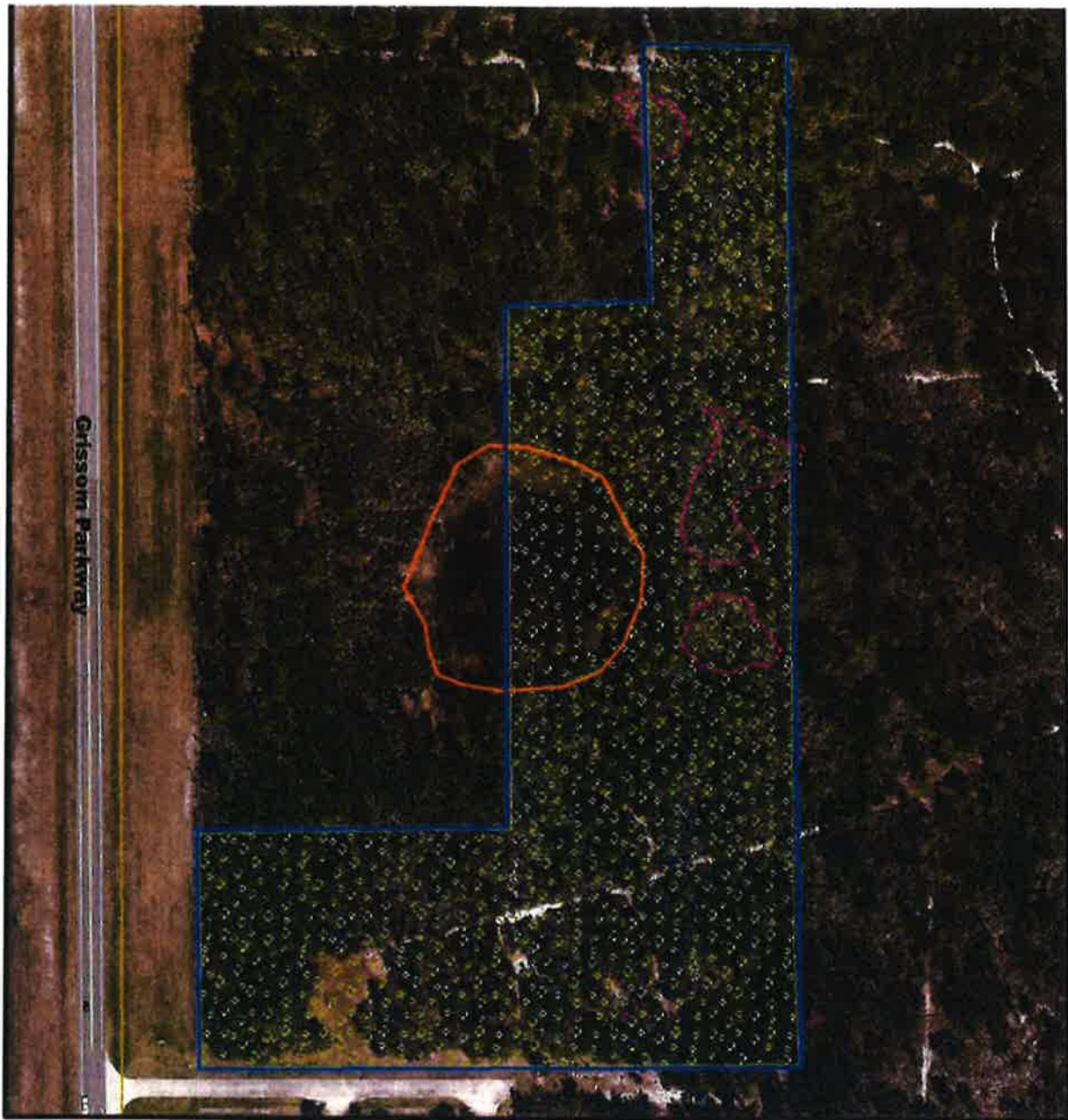
Lisa Toland, President

References

Florida Fish and Wildlife Conservation Commission, 2019. Scrub Management Guidelines. FWC - Tallahassee, Florida.

Lacy, R.C., and Breininger D.R. (2021). Population Viability Analysis (PVA) as a platform for predicting outcomes of management options for the Florida Scrub-Jay in Brevard County. The Nature Conservancy contract: FL Scrub-Jay MOU/Research Period of work covered: 1 January 2019 – 31 January 2021. Chicago Zoological Society, Herndon Solutions Group LLC, and University of Central Florida.

Figure 3: Natural Communities Cover Map



Legend

- Properties
- CLC 1210-Scrub (FLUCCS 3200 Shrub and Brushland)
- CLC 1213-Sand Pine Scrub (FLUCCS 4130-Sand Pine)
- CLC 21211-Depression Marsh (FLUCCS 6410 Freshwater Marsh)



0 50 100 200 300 400 Feet

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

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Figure 4: Photo Station Location Map



Legend

- Properties
- Photostation

—→ Direction Photo Was Taken



0 60 120 240 360 480 Feet

Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

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Figure 5: FSJ Playback Locations and Station Coverage Map for Presence/Absence Survey



Legend

Property Location

Playback Station Coverage

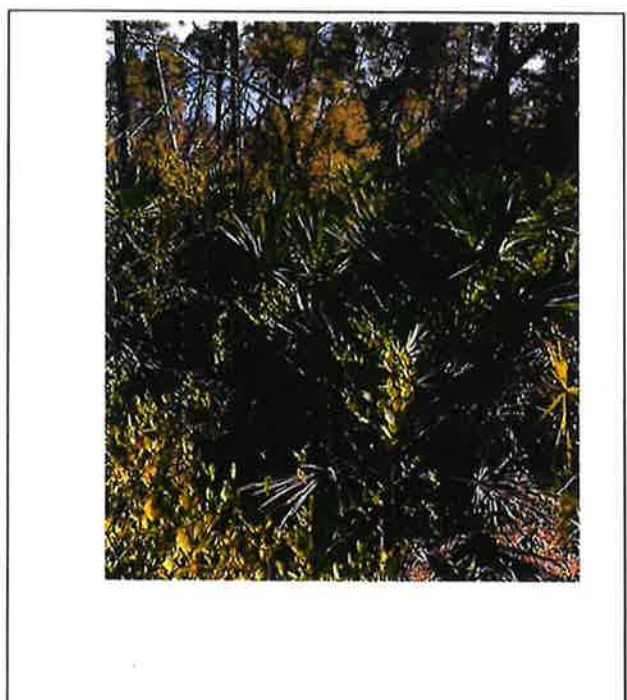
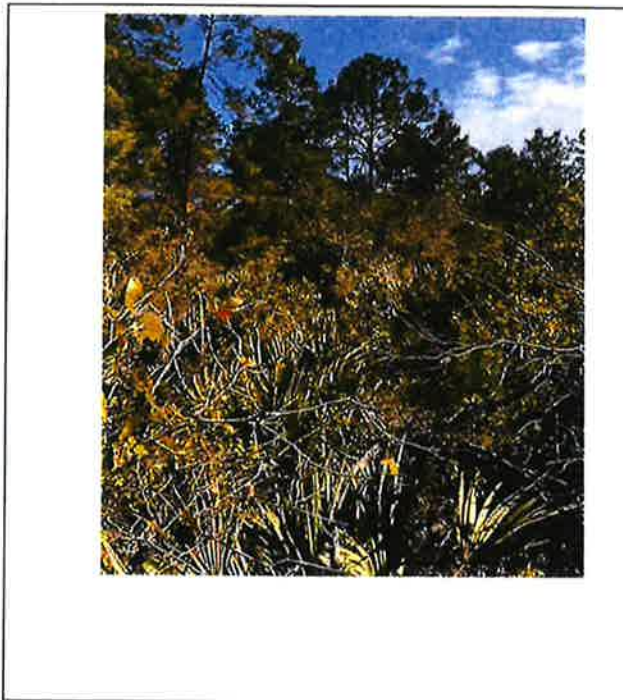
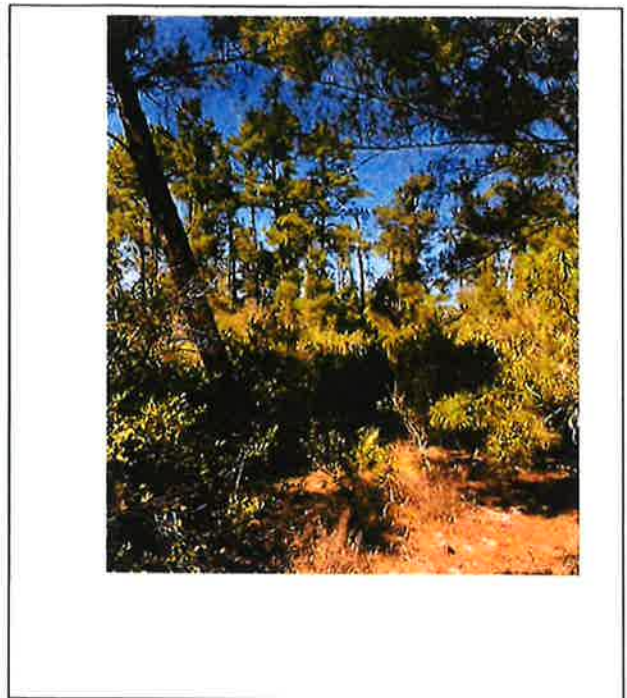
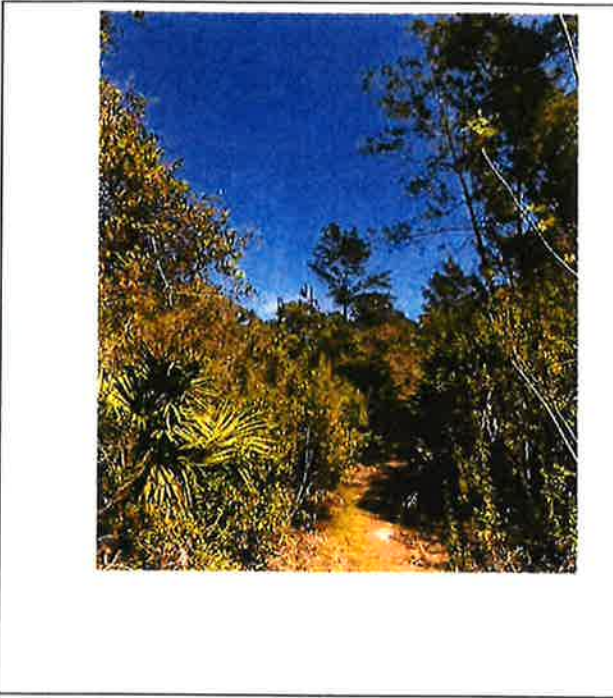
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US Feet

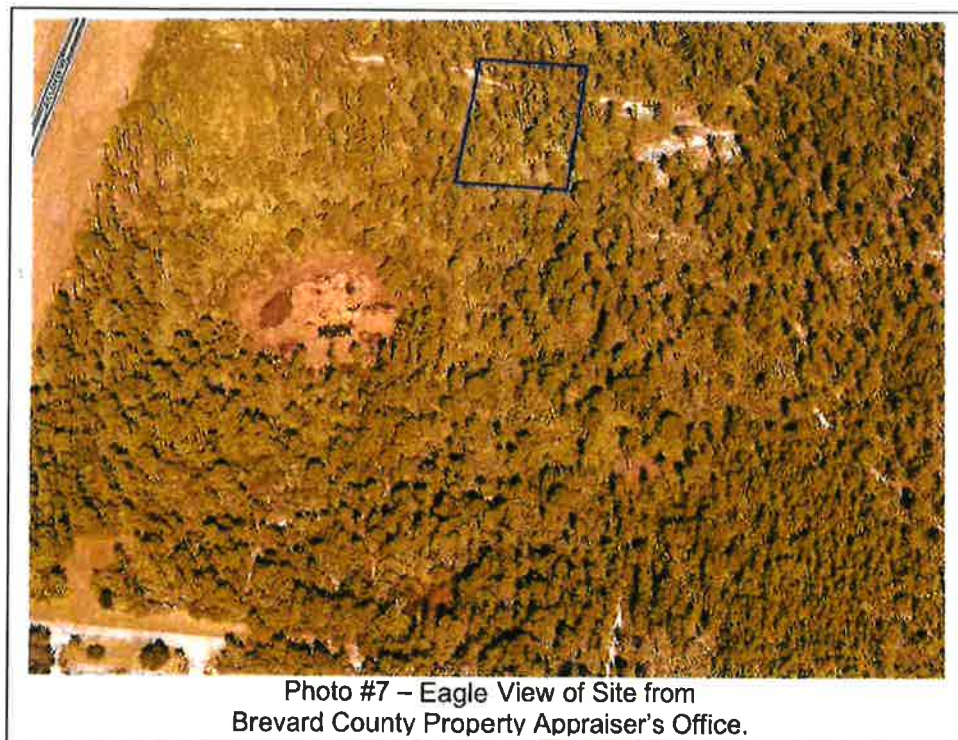
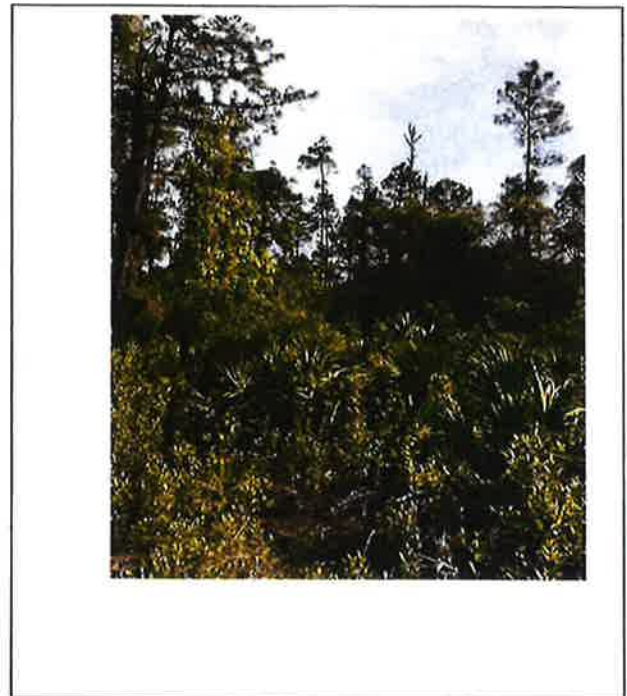
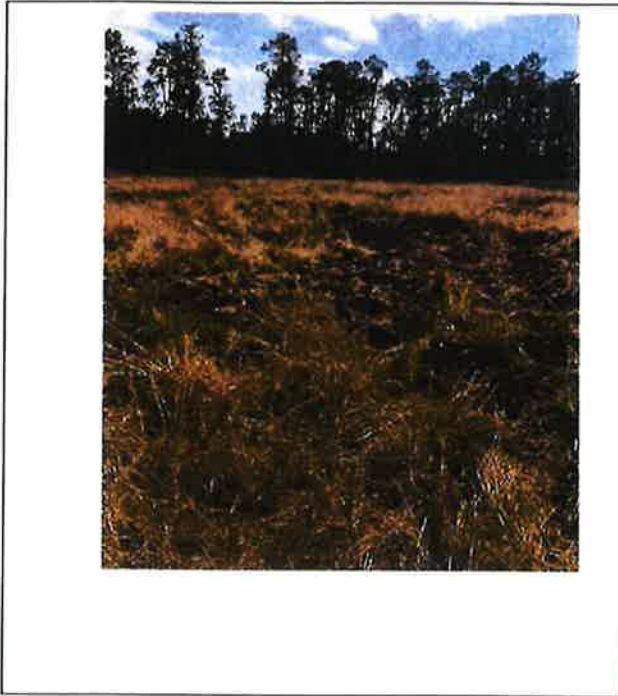


Figure Prepared by Toland Environmental Consulting Using FDOT 2018 Aerial Imagery

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APPENDIX 1
PHOTOSTATION LOG





APPENDIX 2: FIELD SHEETS

Start Stop
 Weather Sunny Clear / Sunny Clear
 Temperature 67° 75°
 Winds < 5 from east / 9 mph from east

Date 4-11-22
 Surveyors L. Toland

Playback Station	Time	Comments
1	8:30	No response
2	8:32	" "
3	8:37	" "
4	8:45	" "
5	9:00	" "
6	9:11	No response
7	9:32	" "
8	9:40	" "
9	9:55	" "
10	10:04	No response
11	10:30	" "
12	10:35	" "
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

Birds Observed:
 - GRC
 - BCSA
 - RBWO
 - NOCA

Sunrise: 7:02

Start / End

Weather Sunny / Partly Cloudy

Temperature 70° F / 76°

Winds < 5 mph / 10 mph
< 50° E / < 50° E
Gust 5 / 15 mph

Date 4-12-22

Surveyors L. Toland
J. Toland

Playback Station	Time	Comments
1	8:15	No response
2	"	"
3	"	"
4	"	"
5	"	"
6	"	"
7	"	"
8	"	"
9	"	"
10	"	"
11	"	"
12	10:33	No response
13	"	"
14	"	"
15	"	"
16	"	"
17	"	"
18	"	"
19	"	"
20	"	"
21	"	"
22	"	"
23	"	"
24	"	"
25	"	"

Sunrise: 7:01 am

Start / End
 Weather Partly Cloudy / Sunny
 Temperature 75 / 78°F
 Winds 10 mph / 12 mph
 Gusts to 18 mph

Date 4-13-22
 Surveyors L. Toland

Playback Station	Time	Comments
1	9:02	No Response
2		"
3		"
4		"
5		"
6		"
7		No Response
8		"
9		"
10		"
11		"
12		No Response
13		
14		
15		
16		
17		
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19		
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22		
23		
24		
25		

Sunrise: 7:00

Start End
 Weather Partly Cloudy / Mostly Cloudy
 Temperature 75°F / 78°F
 Winds 18 mph / 14 mph
 ← E ← E

Date 7-15-22
 Surveyors L. Toland
J. Toland

Playback Station	Time	Comments
1	8:30	
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12	10:40	
13		
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22		
23		
24		
25		



Start End
 Weather Sunny / Partly Cloudy
 Temperature 75.0 / 83.0 F
 Winds 9 mph / 9 mph
 ← W ← W

Date 7-18-22
 Surveyors L. Blend

Playback Station	Time	Comments
1	9:36	No response
2		"
3		"
4		"
5		"
6		"
7		No response
8		"
9		"
10		"
11		"
12	11:23	No Response
13		
14		
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25		

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, September 12, 2022, 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); Brian Rodgers (D2); Robert Sullivan (D2); Lorraine Koss (Alt. D2); Ben Glover, Vice Chair (D3); Mark Wadsworth, Chair (D4); Logan Luse (Alt. D4); Bruce Moia (D5); Peter Filiberto (D5); and John Hopengarten (BPS). *Per Section 62-183(2), the District 2 Alternate member was not eligible to vote.*

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

Excerpt of Complete Agenda

CGCR Holdings, LLC (Kelly Hyvonen)

A Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC (Neighborhood Commercial) and RES 4 (Residential 4), to CC (Community Commercial). The property is 4.83 acres, located approx. 500 ft. east of Grissom Pkwy., and approx. .80 miles south of Canaveral Groves Blvd. (part of 3925 Grissom Pkwy., Cocoa) (22SS00009) (Tax Account 2400719) (District 1)

CGCR Holdings, LLC (Kelly Hyvonen)

A change of zoning classification from IN(L) (Institutional Use, Low-Intensity) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 4.83 acres, located approx. 500 ft. east of Grissom Pkwy., and approx. .80 miles south of Canaveral Groves Blvd. (part of 3925 Grissom Pkwy., Cocoa) (22Z00031) (Tax Account 2400719) (District 1)

Kelly Hyvonen, Land Development Strategies, 355 Spoonbill Lane, Melbourne Beach, stated the entire parcel is 10.70 acres, with the western portion having a Community Commercial land use designation and a zoning of BU-2. Her client is seeking the same for the eastern portion of the subject property in order to provide some heavy commercial uses consistent with the industrial uses to the south in the City of Cocoa, as well as further to the north on Grissom Parkway. The entire parcel has access to Grissom Parkway. The property will have City of Cocoa water, but not sewer. The specific use for the property has not been determined yet, but it will go through the site plan process. She noted there was an environmental assessment on the property and there are no protected species on site, but there is a small area of wetland in the northwest corner that is just under a half-acre. The future use will not encroach on the pre-existing uses to the east, and though there is Residential 4 land use to the east, it is not developable property.

Public comment:

Terrence Mulreany, 1649 Pineapple Avenue, Melbourne, stated he owns 8.5 acres of property near the subject property and he supports the rezoning because it would benefit his property as well as the applicant's.

Bruce Moia asked what Ms. Hyvonen's client plans for the property.

Ms. Hyvonen replied they want to keep the options open, but because the Amazon distribution center is to the south, they are considering some type of office or warehousing, or possibly a distribution center themselves. She said they understand traffic volumes are nearing capacity on Grissom Parkway, and they are keeping that in mind.

Ron Bartcher stated there is warehousing to the south, so approving the request will extend the warehousing area into a potential residential area, and that is a concern; however, because there is no infrastructure in the residential area, it would be difficult to develop.

Motion by Ron Bartcher, seconded by Bruce Moia, to recommend approval of a Small Scale Comprehensive Plan Amendment (22S.12) to change the Future Land Use designation from NC and RES 4, to CC. The motion passed unanimously

Motion by Ron Bartcher, seconded by Bruce Moia, to recommend approval of a change of zoning classification from IN(L) to BU-2. The motion passed unanimously.