



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

G.1.

12/7/2023

Subject:

Charles Steven Douglas and Debra Kay Douglas, Trustees; and Sandra J. Douglas (Brittany LeCun) request a change of zoning classification from IU-1 to BU-2. (23Z00023) (Tax Account 3010512) (District 3)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

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

Summary Explanation and Background:

The applicants are requesting the Board to reconsider a BDP that was approved in support of the change of zoning classification from IU-1 to BU-2 on a parcel totaling 2.79-acre for the purpose of an RV and boat storage business. On September 7, 2023, the Board approved the request with a BDP retaining all BU-1 uses and limiting the BU-2 uses to mini-storage, and outdoor RV and boat storage. The applicants are requesting the removal of the mini-storage as a permitted use within the BDP.

The Board may wish to consider the removal of mini-storage as a permitted use in the BDP and maintain the previously approved conditions of retaining all BU-1 uses and limiting the BU-2 use to outdoor RV and boat storage are consistent and compatible with the surrounding area.

On June 12, 2023, the Planning and Zoning Board heard the request and voted 10:1 to recommend approval with a BDP limited to all BU-1 uses and the only BU-2 use of mini-storage and boat and RV storage.

On July 13, 2023, the Board of County Commissioners continued the request to the August 3, 2023, meeting.

On August 3, 2023, the Board of County Commissioners continued the request to the September 7, 2023, meeting.

On September 7, 2023, the Board approved the request with a BDP retaining all BU-1 uses and limiting the BU-2 uses to mini-storage, and outdoor RV and boat storage.

On November 14, 2023, the Board approved re-opening the public hearing at the request of the applicant to allow the removal of the mini-storage as a permitted use in the BDP.

Clerk to the Board Instructions:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

23Z00023

**Charles Steven Douglas and Debra Kay Douglas, Trustees; and Sandra Douglas
IU-1 (Heavy Industrial) to BU-2 (Retail, Warehousing and Wholesale Commercial)**

Tax Account Number: 3010512
Parcel I.D.: 30-38-11-00-554
Location: North side of Micco Rd, east of Ron Beatty Blvd (District 3)
Acreage: 2.79 +/- acre

Planning & Zoning Board: 6/12/2023
Board of County Commissioners: 7/13/2023

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	IU-1	BU-2
Potential*	213,897.02	121,532.4 sq ft
Can be Considered under the Future Land Use Map	NO CC	YES* CC

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

Background and Purpose of Request

The applicants are requesting a change of zoning classification from IU (Industrial Use) to BU-2 (Retail, warehousing and wholesale commercial) on 1 parcel totaling 2.79-acre for the purpose of an RV and boat storage business. This property was approved for a zoning change from AU to IU-1 on September 24, 1979 under zoning action Z-5101. Previous zoning action for a zoning change from AU to BU-2 was denied in July 1979 under zoning action Z-4980. The property has frontage on Micco Rd and Ron Beatty Blvd.

At this time, there are no active code enforcement associated with the subject parcels.

Land Use

The subject property is currently designated as Community Commercial (CC) Future Land Use designation (FLU). The existing IU-1 zoning cannot be considered consistent with the existing CC FLU designation under Sec. 62-1255.

The proposed BU-2 zoning classification can be considered consistent with the existing CC FLU designation.

Applicable Land Use Policies

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

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

Criteria:

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

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

Community Commercial (CC) development activities are intended to serve several neighborhoods, sub-regional and regional areas and provide an array of retail, personal and professional uses. Development activities which may be considered within the Community Commercial (CC) Future Land Use designation, provided that the guidelines listed in Table 2.2 are met, include the following:

- a) Existing strip commercial;
- b) Transient commercial uses;
- c) Tourist commercial uses;
- d) Professional offices;
- e) Personal service establishments;
- f) Retail establishments;
- g) Non-retail commercial uses;
- h) Residential uses;
- i) Institutional uses;
- j) Recreational uses;
- k) Public facilities;

- l) Transitional uses pursuant to Policy 2.1; and
- m) Planned Industrial Park development (as permitted by PIP zoning).

The applicant has proposed to develop the site as a RV and boat storage business.

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

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

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

Criteria:

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

The applicant has proposed to use the land for a RV and boat storage business. Hours of operation, lighting, or a traffic analysis has not been provided. Performance standards within Sections 62-2251 through 62-2272 will be reviewed at the site plan review stage should the zoning change be approved. Abutting the subject property are business uses such as the medical care facility to the north, electrical substation to the west and commercial storage tanks to the east. Residential lots are located to the across Micco Rd. It is not anticipated that the existing neighborhoods within the area would be affected in a negative manner by the proposed use.

- 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 (Member Appraisal Institute) appraisal can determine if material reduction has or will occur due to the proposed request.

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

The surrounding area is a mix of professional offices, medical and residential since the adoption of the Brevard County Future Land Use Map. There are three (3) FLU designations surrounding the subject property; NC (west), CC (north and east) and Residential 1 (RES 1) (south). The

predominant FLU designation along this section, on the north side of Micco Rd, is CC.

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

There has been no permitted development within a one-half mile radius over the immediately preceding three years.

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

There is no development approved within the past three years that has not yet been constructed.

FLUM amendments within one-half mile:

There has been no FLUM amendments within one-half mile within the past three years.

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

No material violation of relevant policies has been identified.

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

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

Criteria:

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

The developed character of the surrounding area is developed as professional office and medical to the north, electrical substation to the west, commercial storage tanks to the west and single-family residential on lots one (1) acre in size or larger to the south. There is an existing pattern of commercial and residential zoning surrounding the subject parcel.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Professional offices	BU-1	CC
South	Single-family residential	RRMH-1	RES 1
East	Non-retail Commercial	IU-1	CC
West	Non-retail Commercial	AU	NC

To the north is a 2.06-acre parcel with BU-1 zoning and developed as professional office building.

To the west is a 2.56-acre parcel with AU zoning, developed as an electric substation.

To the east is a 0.83-acre parcel with IU-1 zoning, developed as non-conforming storage tanks.

To the south, across Micco Rd are Single-family one-acre residential lots developed under RRMH-1 zoning.

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

The proposed BU-2 classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. The BU-2 zoning classification allows outside storage of retail items including, but not limited to, motor vehicles, utility sheds, nursery items such as plants and trees, boats and mobile homes.

BU-2 is the county's most intensive commercial zoning classification which may affect the character of the neighborhood. While RV and boat storage may be compatible with the existing character of the neighborhood, some of the other permitted uses in BU-2 may not be.

The closet BU-2 zoning is located approximately 500 feet south on the south side of Micco Rd across the railroad tracks. This site is developed as a mini storage and car wash facility.

BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

AU classification permits single-family residences and agricultural uses on 2.5 acre lots, with a minimum lot width and depth of 150 feet. The minimum house size in AU is 750 square feet. The AU classification also permits the raising/grazing of animals, fowl and beekeeping.

One zoning action has been approved within a half-mile radius of the subject property within the last three years: **22Z00060** approved by the Board on April 7, 2023, was a request to change BU-1 (General Retail Commercial) with a Binding Development Plan to BU-2 (Retail, warehousing and wholesale commercial) limited to all BU-1 uses; RV and boat storage on 4.58 acres located approximately 1.064 feet north of the subject property.

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

Preliminary Concurrency

The closest concurrency management segment to the subject property is Micco Rd between Fleming Grant and US Hwy 1, which has a Maximum Acceptable Volume (MAV) of 17,700 trips per day, a Level of Service (LOS) of D, and currently operates at 45.31% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.56%. The corridor is anticipated to operate at 45.87% of capacity daily. The proposal would not create a deficiency in LOS. Specific concurrency issues will be address at the time of site plan review. This is only a preliminary review and is subject to change.

The concurrency analysis provided above is preliminary and represents an estimate of impacts resulting from the maximum permittable uses under the proposed Future Land Use designation. However, if a site plan for the property is submitted and the development proposal will cause a deficiency of the above-mentioned levels of service, then the County reserves the right to exercise the following options: deny or defer the proposal; cause the proposal to be modified to achieve consistency with the minimum LOS; or process the proposal as a conditional development permit pursuant to Section 62-604 of the Brevard County Code of Ordinances.

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

The parcel is within the Barefoot Bay utilities service area for sewer and potable water.

Environmental Constraints

- Hydric Soils
- Aquifer Recharge
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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

For Board Consideration

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

NATURAL RESOURCES MANAGEMENT (NRM) DEPARTMENT
Zoning Review & Summary
Item #23Z00023

Applicant: Douglas Trust

Zoning Request: IU-1 to BU-2

Note: For future RV and boat storage

P&Z Hearing Date: 06/12/23; **BCC Hearing Date:** 07/13/23

Tax ID No: 3010512

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

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Hydric Soils
- Aquifer Recharge
- Floodplain Protection
- Indian River Lagoon Nitrogen Reduction Overlay
- Land Clearing and Landscape Requirements
- Protected Species

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

Land Use Comments:

Hydric Soils

The subject parcel contains an area of hydric soils (Anclote sand) on the southwest portion of the parcel. This is an indicator that wetlands may be present on the property. A wetland determination will be required prior to any land clearing activities, site plan design or building permit submittal. Section 62 3694(c)(3)b has allowances for wetland impacts for commercial land development activities along Mitigation Qualified Roadways (MQRs). Micco Road is an MQR in this location. Prior to the allowance of any wetland impacts, the applicant shall complete High Function and Landscape Level wetlands assessments. Approval by the Brevard County Board of County Commissioners may be required for impacts. Any permitted wetland impacts must

meet the requirements of Section 62 3694(e) including avoidance of impacts, and will require mitigation in accordance with Section 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any site plan design or permit submittal.

Aquifer Recharge Soils

The remainder of the subject parcel contains mapped aquifer recharge soils (Pomello sand) as shown on the USDA Soil Conservation Service Soils Survey map. Mapped topographic elevations indicate the soils may consist of Type 3 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.

Floodplain Protection

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

Indian River Lagoon Nitrogen Reduction Overlay

The southwest corner of the parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If adequate sewer for the development is not available, then the use of an alternative septic system, designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes, shall be required. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts.

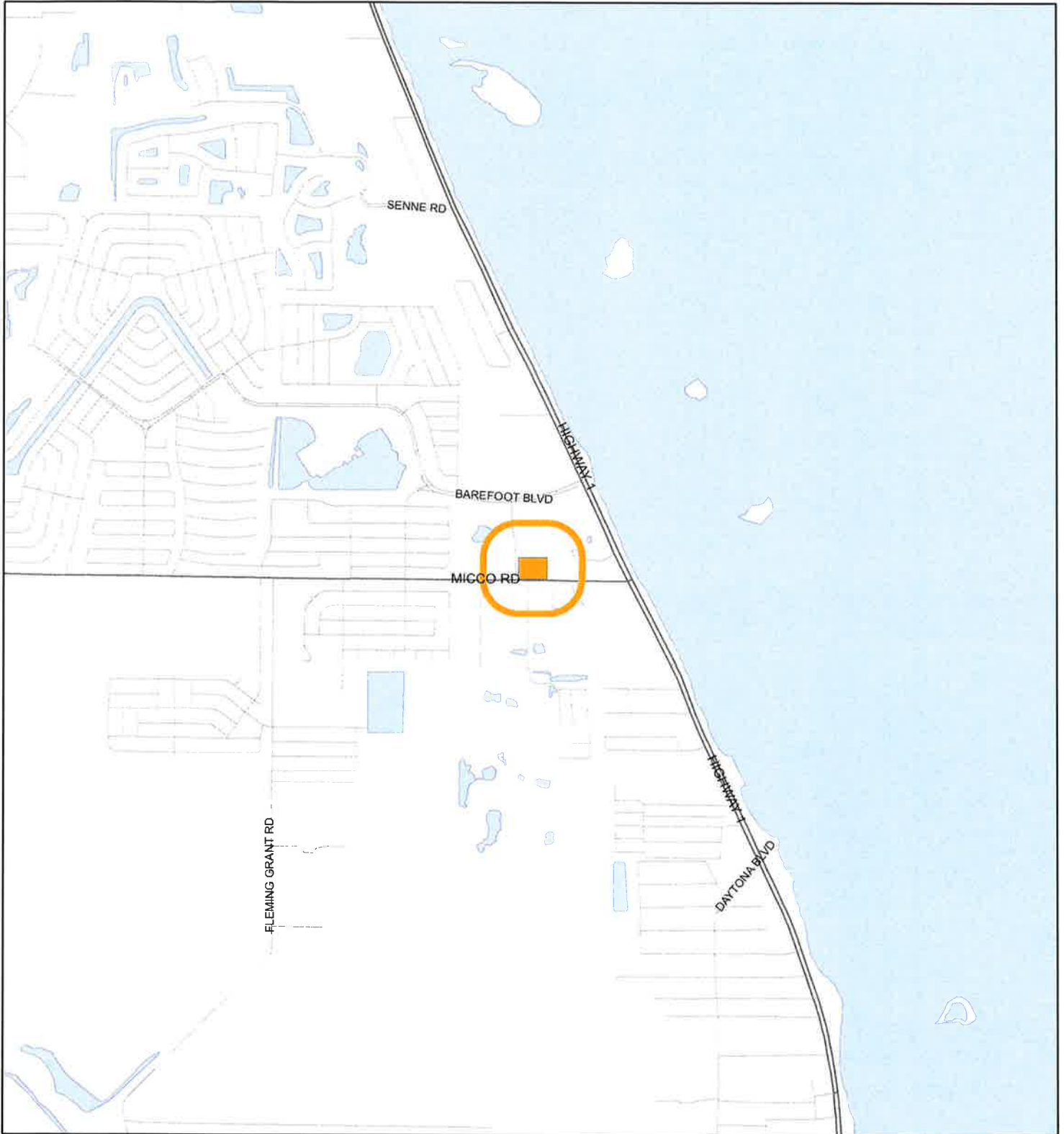
Land Clearing and Landscape Requirements

Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), a purpose and intent of the ordinance is to encourage tree protection. A tree survey will be required at time of a site plan submittal. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for Protected and Specimen tree preservation, and canopy coverage requirements. Land clearing is not permitted without prior authorization by NRM.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

LOCATION MAP
DOUGLAS, DEBRA & CHARLES & SANDRA
23Z00023



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

Buffer Distance: 500 feet

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

Produced by BoCC - GIS Date: 4/19/2023

-  Buffer
-  Subject Property

ZONING MAP

DOUGLAS, DEBRA & CHARLES & SANDRA
23Z00023



1:4,800 or 1 inch = 400 feet

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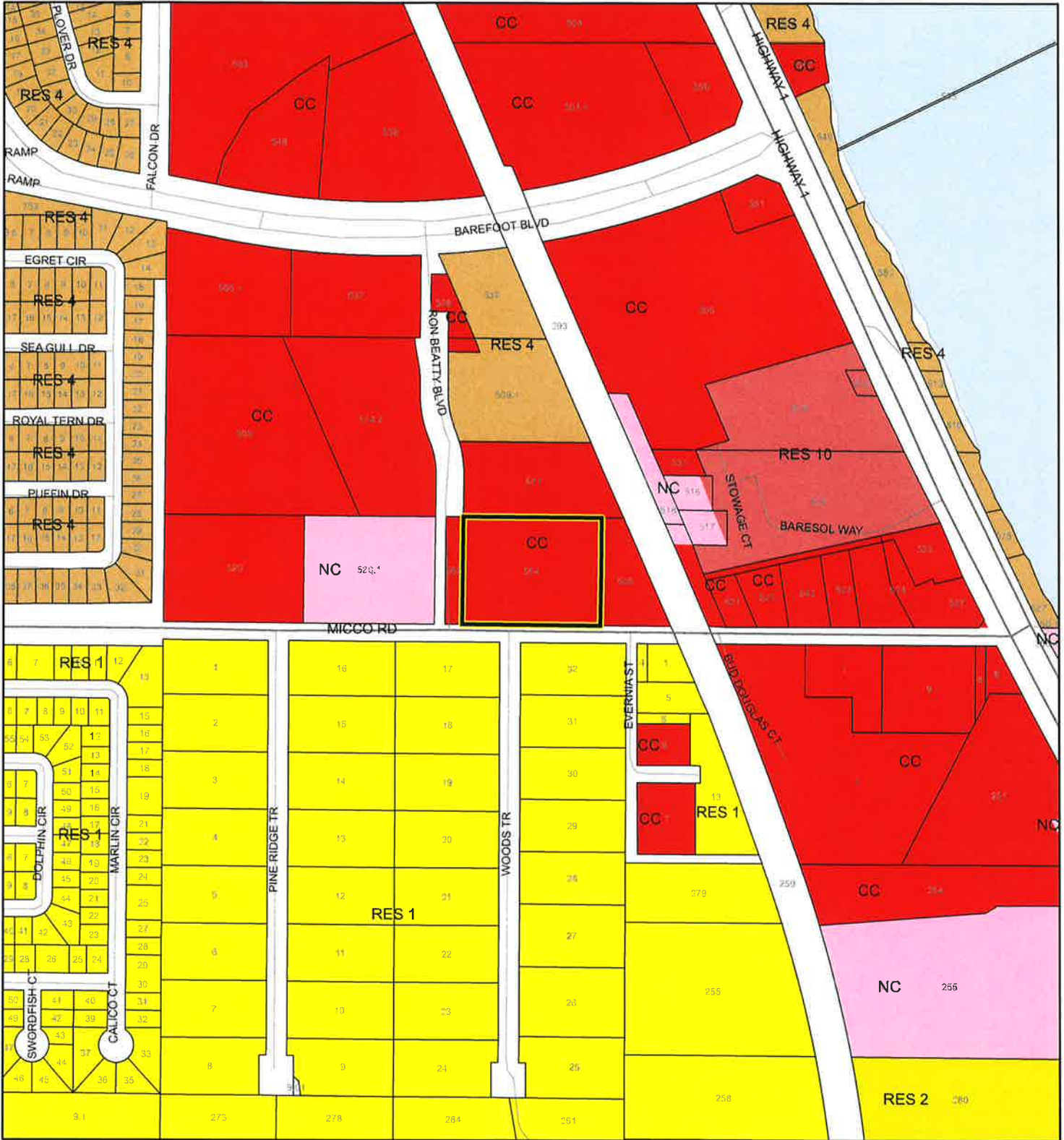
Produced by BoCC - GIS Date: 4/19/2023

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

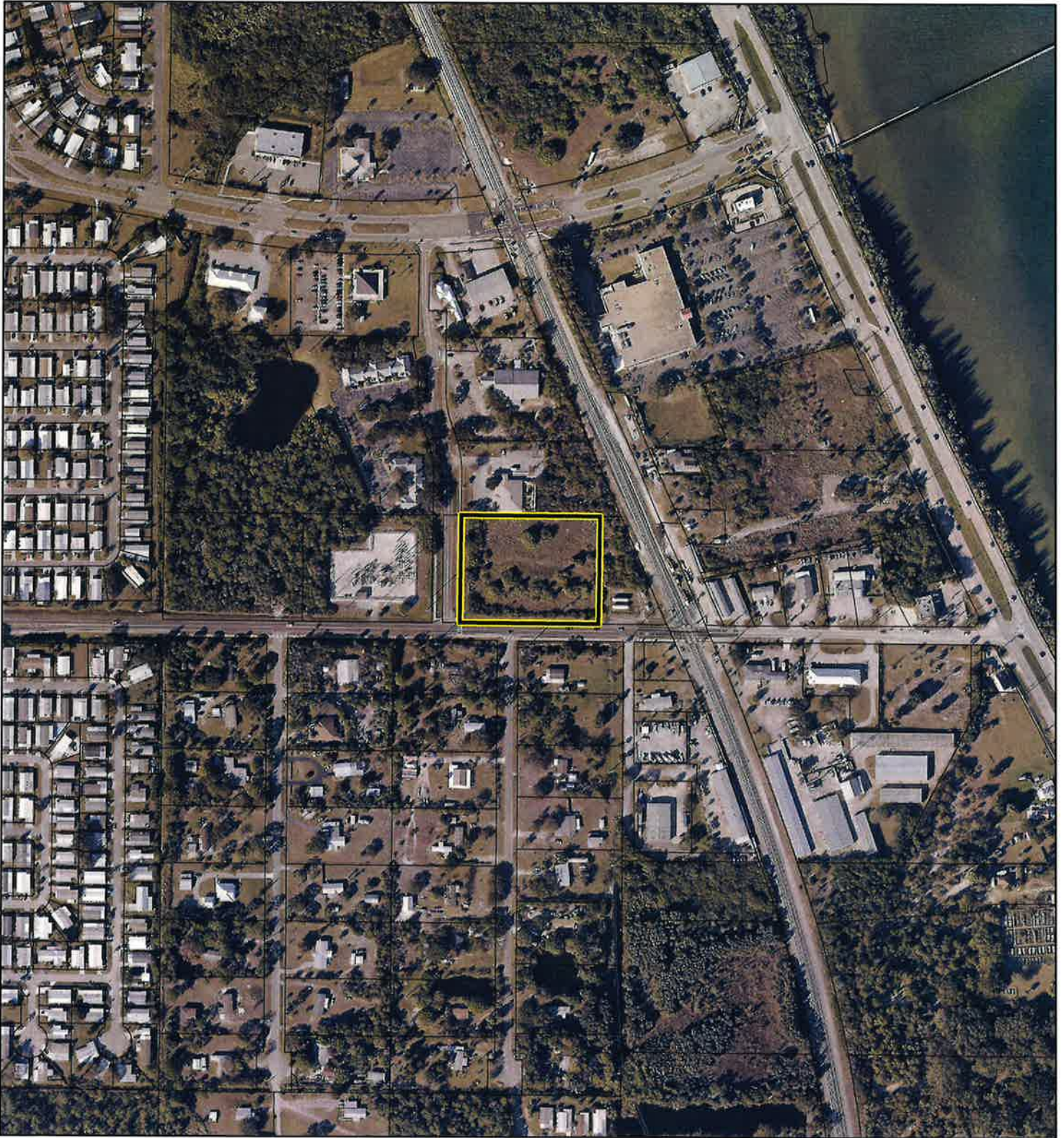
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 4/3/2023

AERIAL MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

PHOTO YEAR: 2022

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Produced by BoCC - GIS Date: 4/3/2023

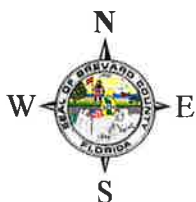
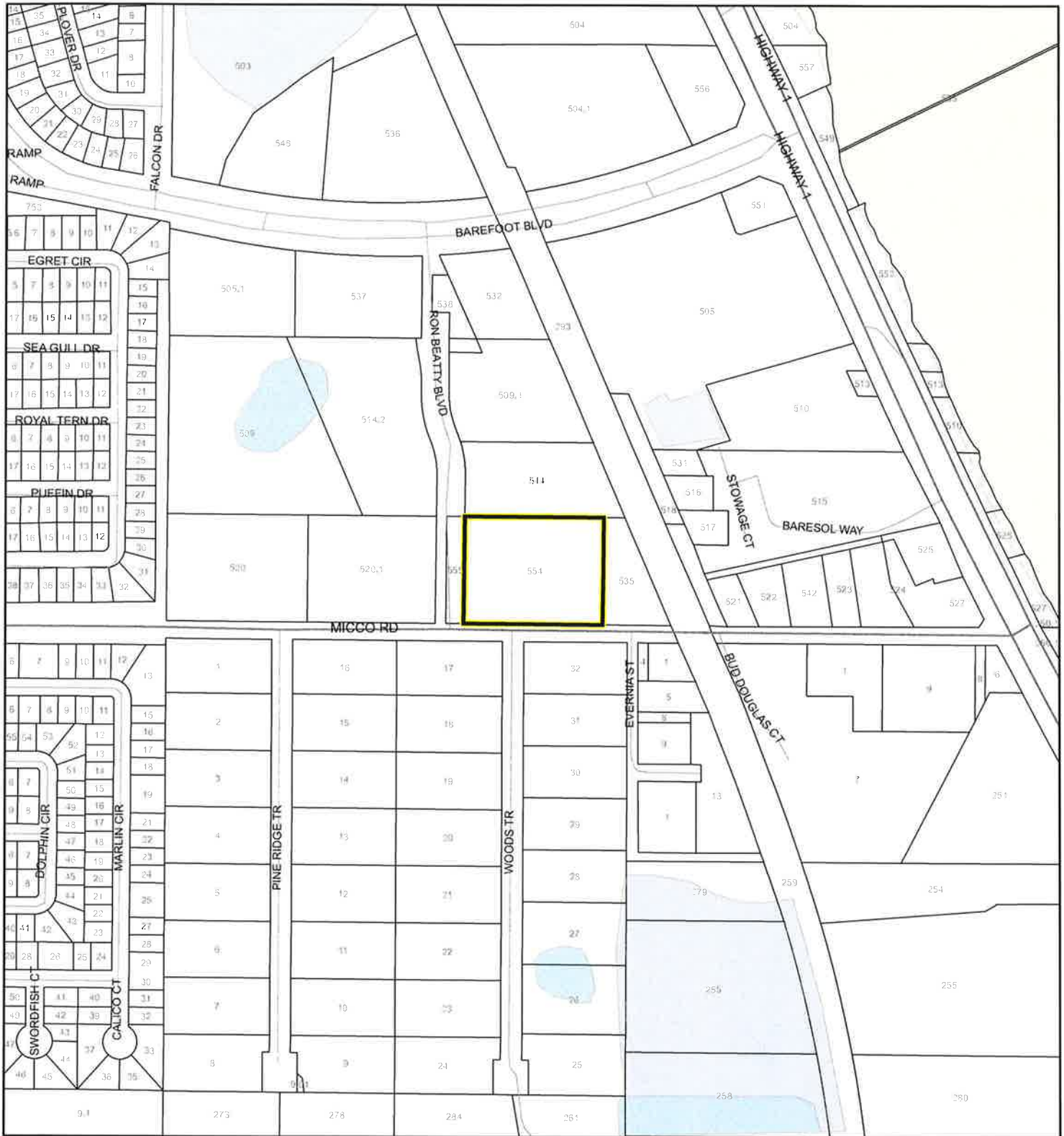
 Subject Property

 Parcels

NWI WETLANDS MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/3/2023

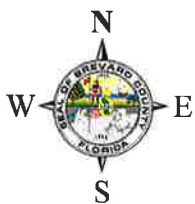
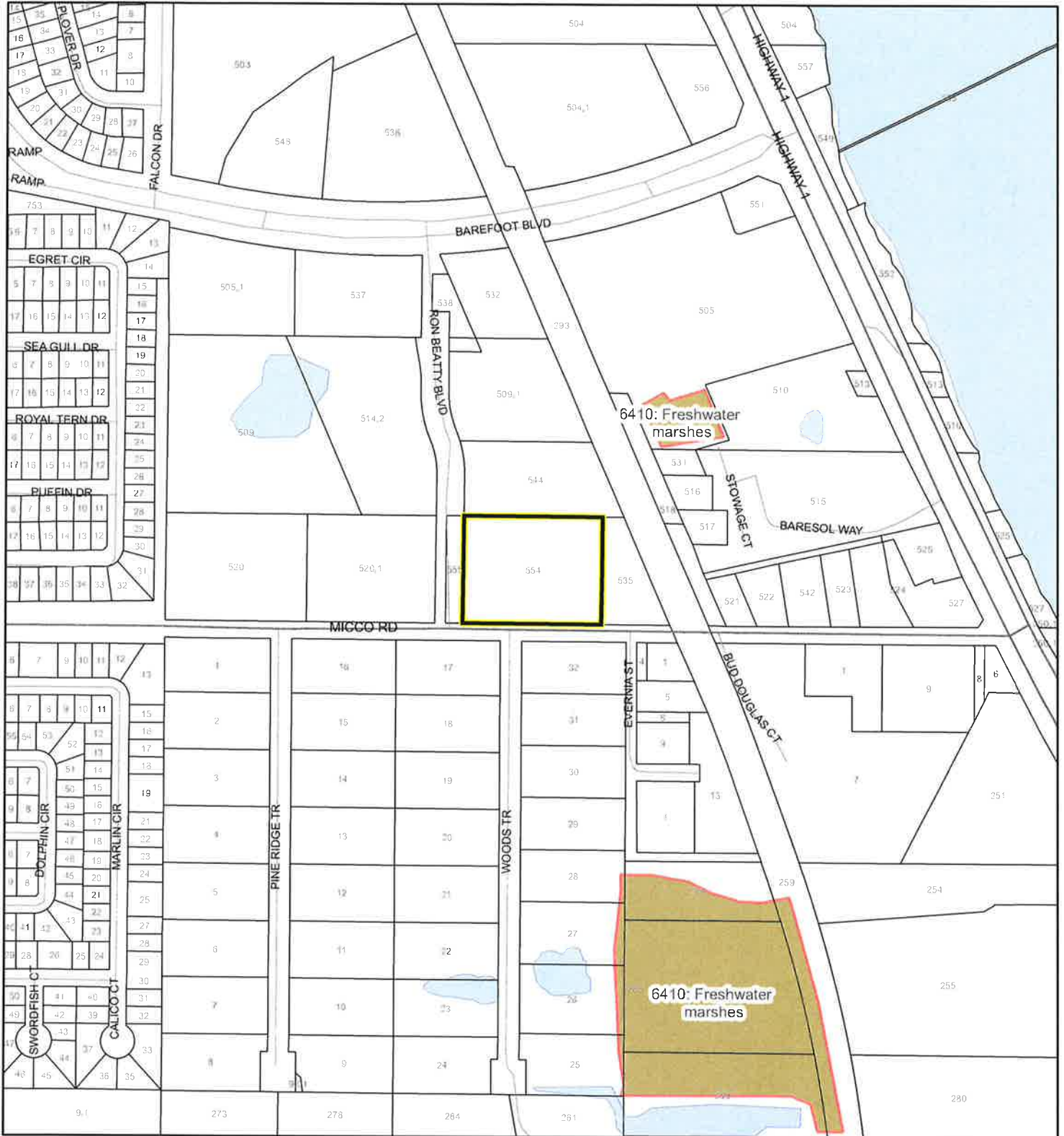
National Wetlands Inventory (NWI)

Estuarine and Marine Deepwater	Freshwater Pond
Estuarine and Marine Wetland	Lake
Freshwater Emergent Wetland	Other
Freshwater Forested/Shrub Wetland	Riverine
	Subject Property
	Parcels

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/3/2023

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

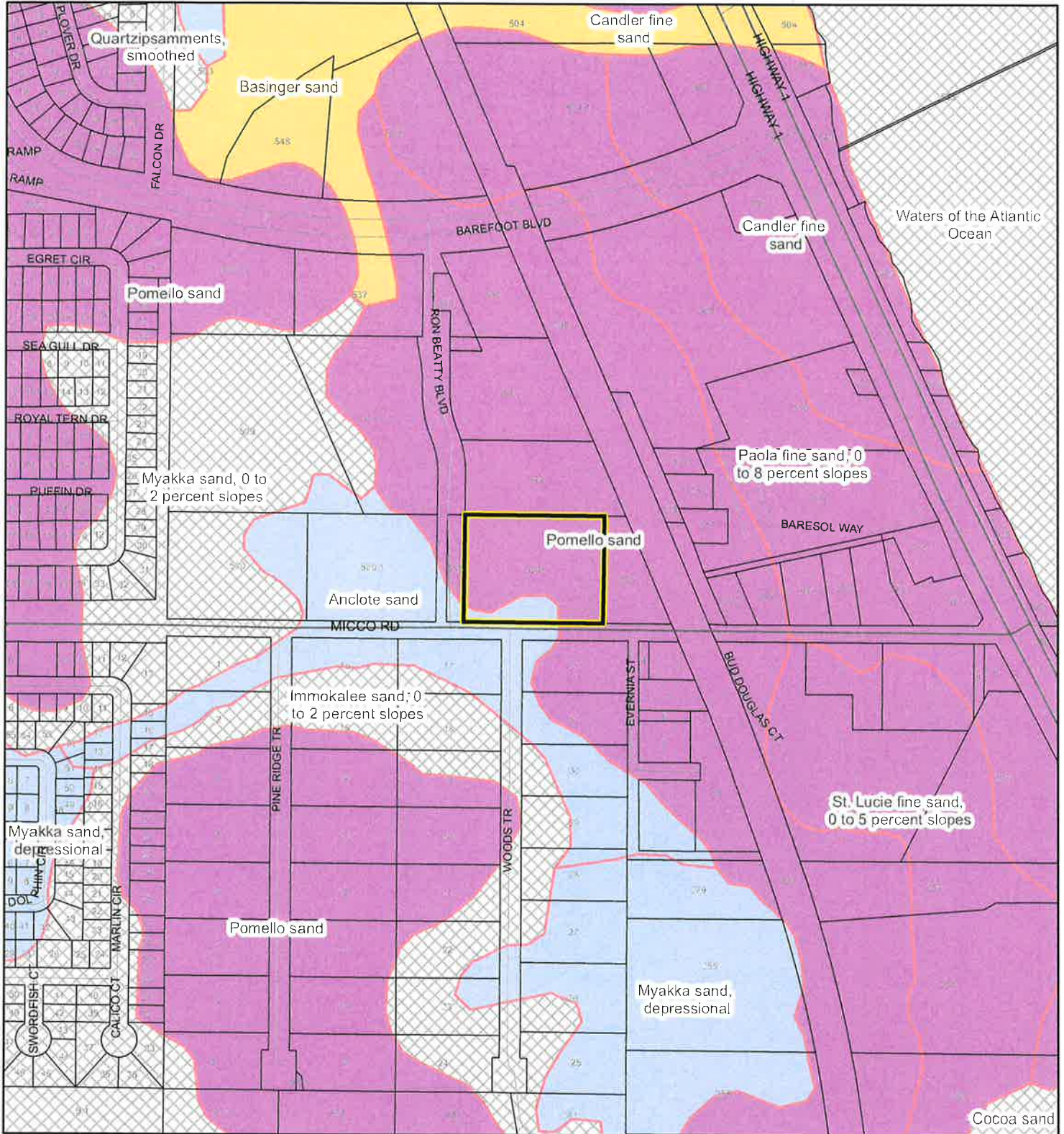
Subject Property

Parcels

USDA SCSSS SOILS MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/3/2023

USDA SCSSS Soils

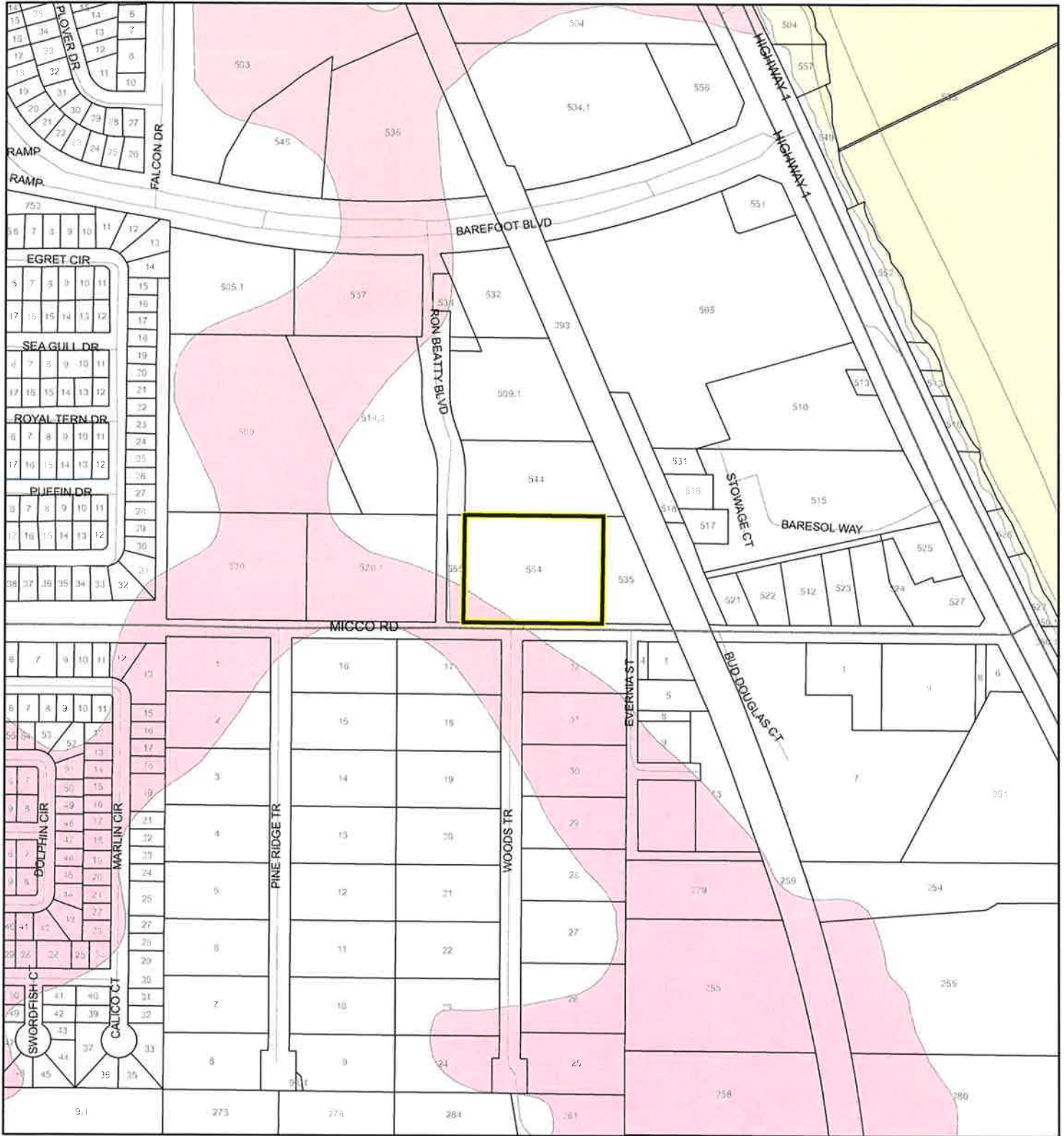
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/3/2023

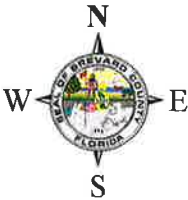
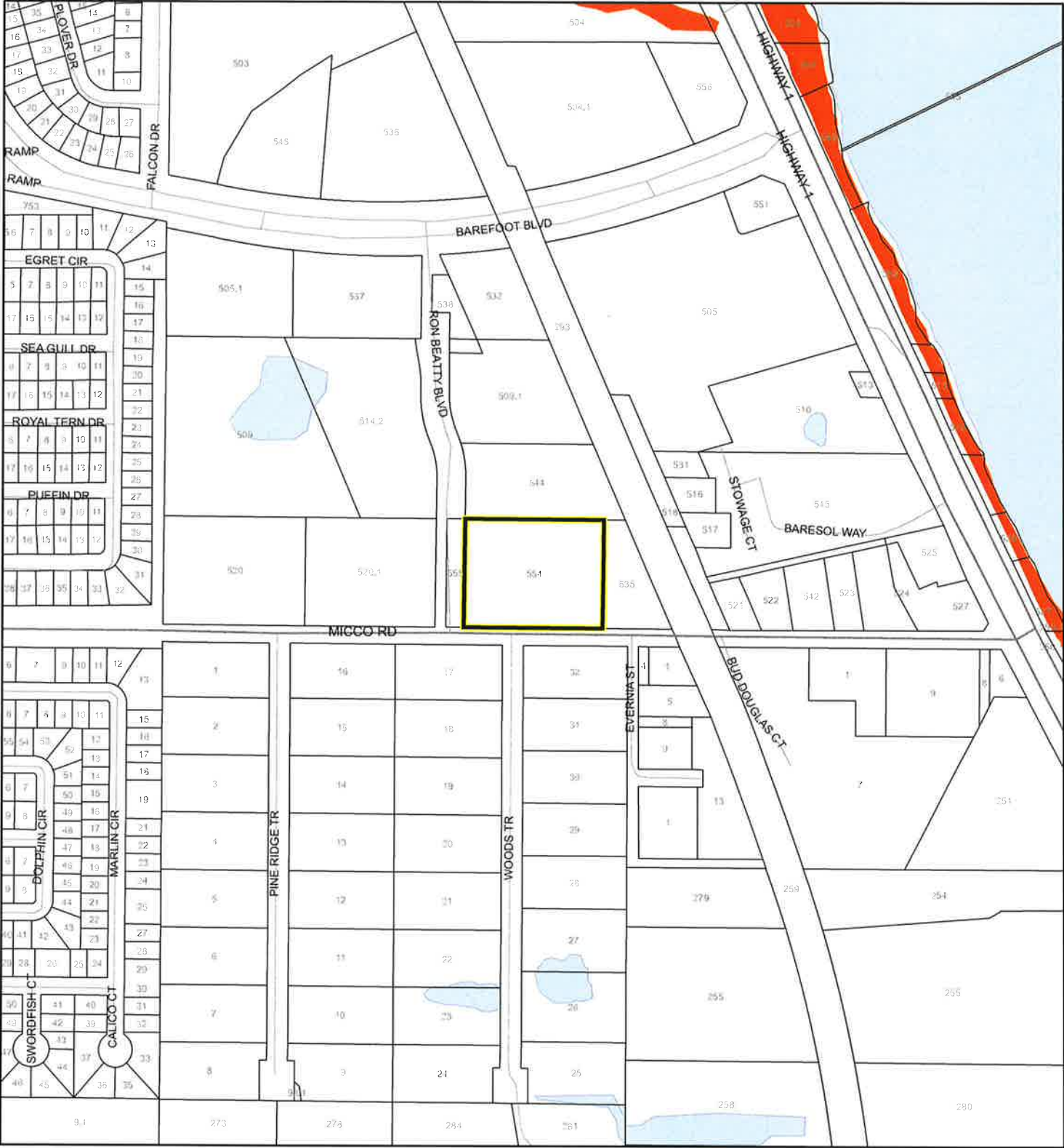
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/3/2023

Subject Property

Parcels

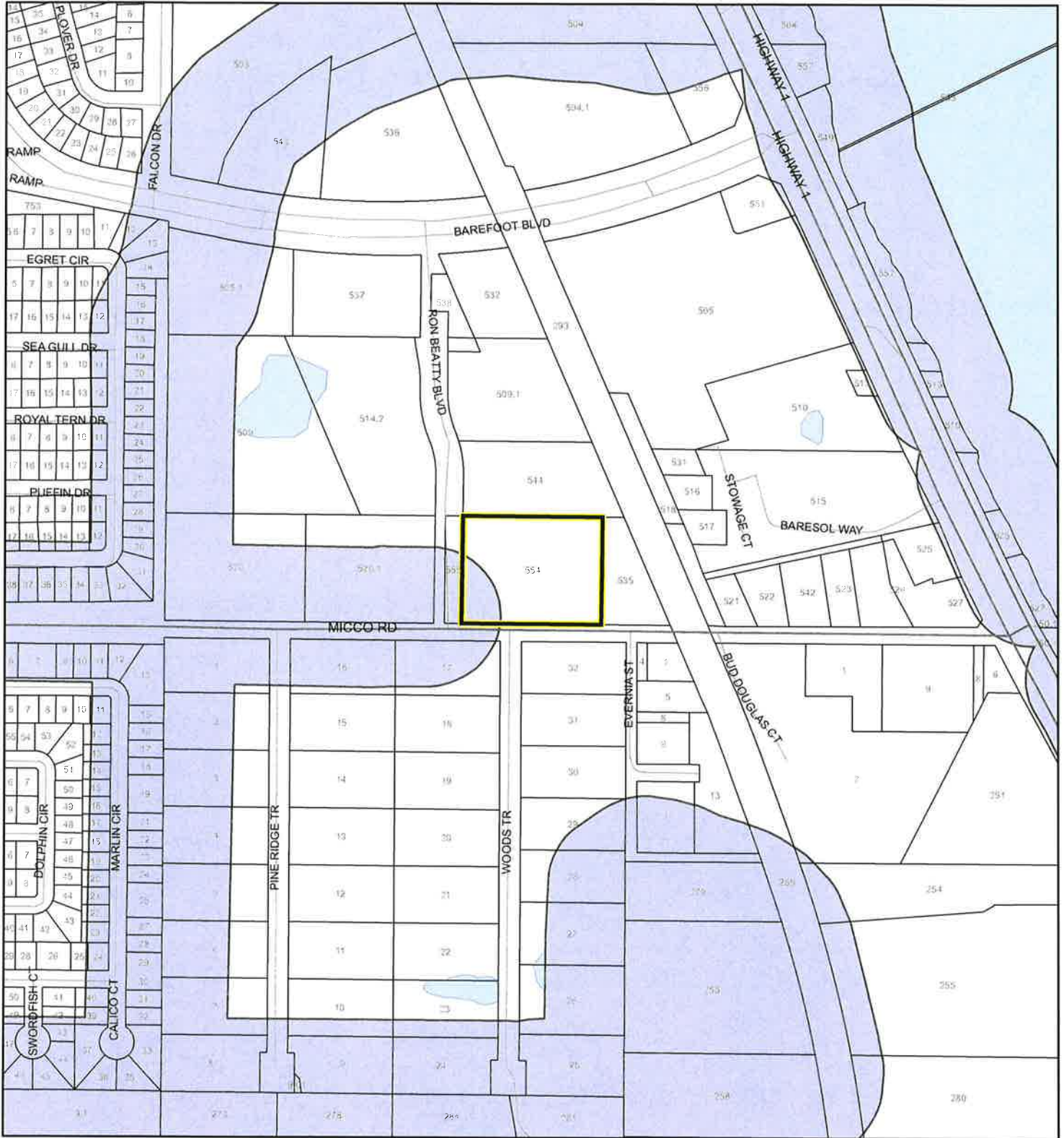
Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 4/3/2023

— Subject Property

□ Parcels

Septic Overlay

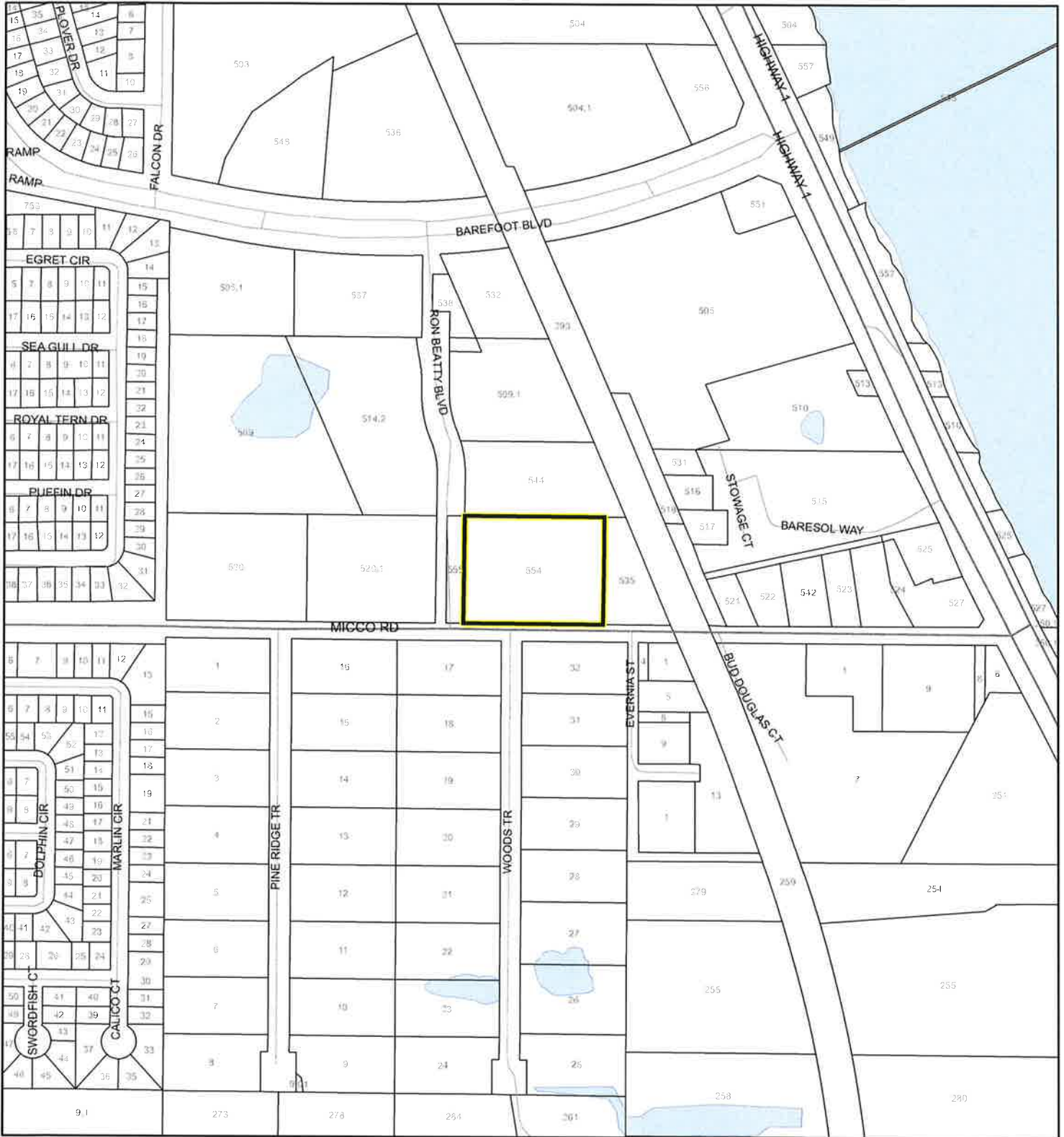
40 Meters

60 Meters

All Distances

EAGLE NESTS MAP

DOUGLAS, DEBRA & CHARLES & SANDRA
23Z00023



1:4,800 or 1 inch = 400 feet

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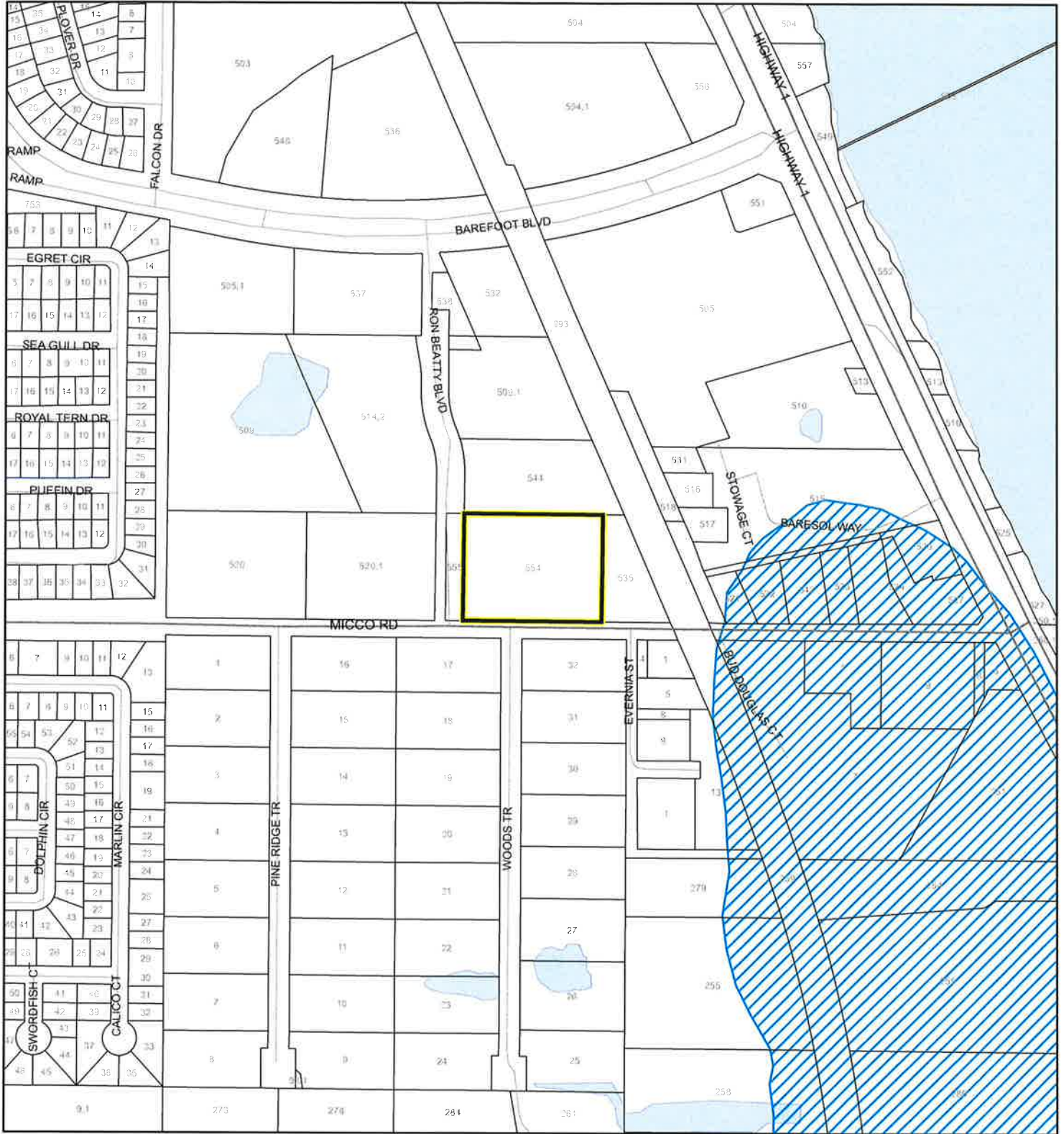
Produced by BoCC - GIS Date: 4/3/2023

- Subject Property
- Parcels
- Eagle Nests FWS

SCRUB JAY OCCUPANCY MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

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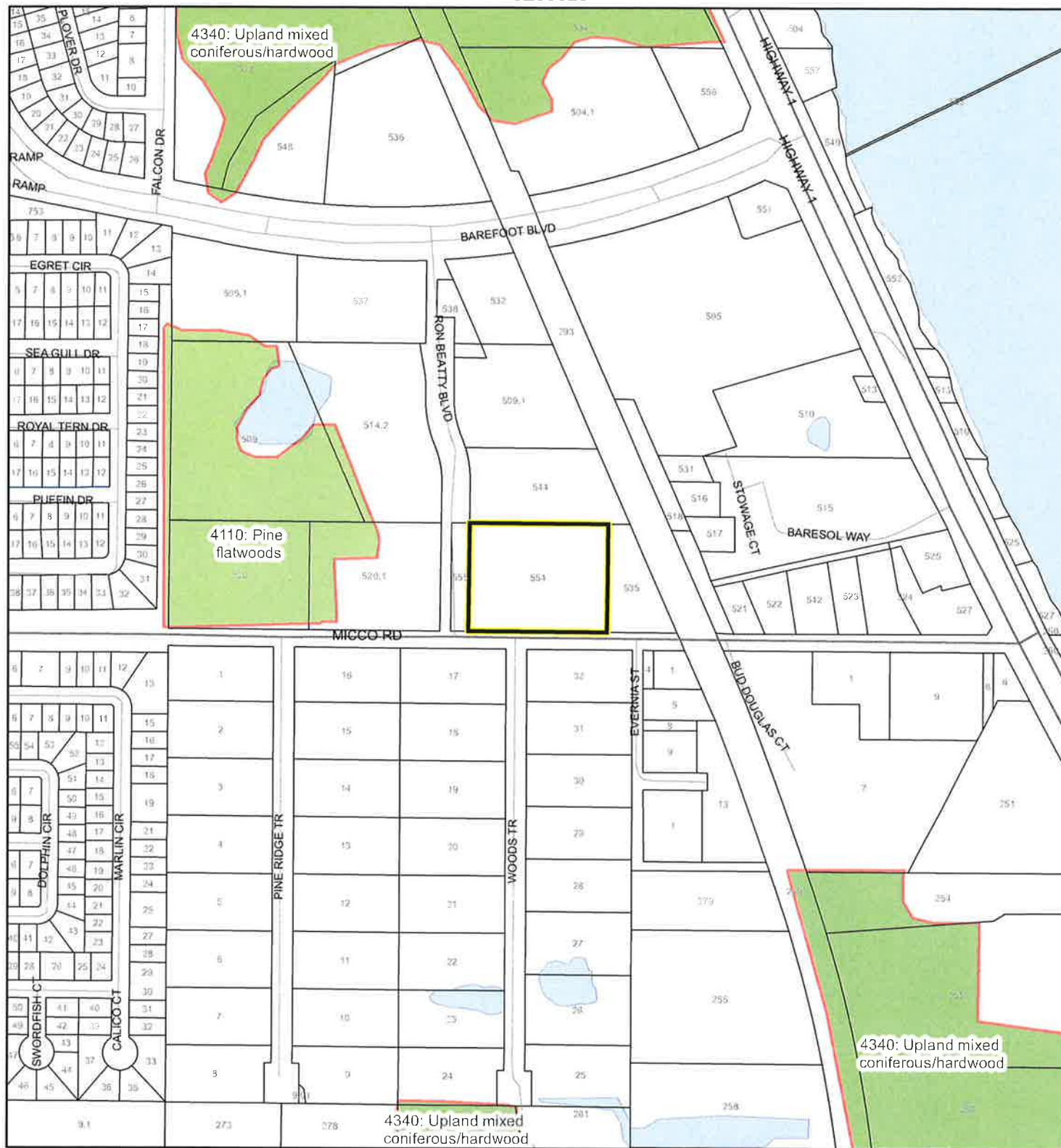
Produced by BoCC - GIS Date: 4/3/2023

- Subject Property
- Parcels
- Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DOUGLAS, DEBRA & CHARLES & SANDRA

23Z00023



1:4,800 or 1 inch = 400 feet

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

Produced by BoCC - GIS Date: 4/3/2023

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, June 12, 2023**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Board members present were: Henry Minneboo, (D1); Ron Bartcher (D1); Robert Sullivan (D2); Brian Rodgers (D2); Lorraine Koss (D2-Alt.); Ben Glover (D3); Debbie Thomas (D4); Mark Wadsworth, Chair (D4); Logan Luse (D4-Alt.); Robert Brothers (D5); and John Hopengarten (BPS).

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

Excerpt of Complete Agenda

Charles Steven Douglas and Debra Kay Douglas, Trustees; and Sandra J. Douglas (Brittany LeCun)

A change of zoning classification from IU-1 (Heavy Industrial) to BU-2 (Retail, Warehousing, and Wholesale Commercial). The property is 2.79 acres, located on the northeast corner of Micco Rd., and Ron Beatty Blvd. (No assigned address. In the Micco area.) (23Z00023) (Tax Account 3010512) (District 3)

Brittany LeCun, 5165 Wilden Road, Micco, Florida, stated she is interested in purchasing the property, but as of right now, it has no future use, and she would like to have it rezoned in order to have as RV and board storage and rental business.

Mark Wadsworth asked if it would be outdoors. Ms. LeCun replied yes, it will be open storage.

Ben Glover noted storage would be reducing the intensity of use. Ms. LeCun stated that is what was recommended by staff.

No public comment.

Ron Bartcher asked if Ms. LeCun would be willing to enter into a binding development plan restricting the BU-2 uses to only the RV outdoor storage. Ms. LeCun replied yes, as long as she is able to rent RV's from the property.

Mr. Bartcher asked staff if RV rentals would be permitted.

Jeffrey Ball stated the Code doesn't restrict the renting of RV's, it just states that the storage would require BU-2 zoning. If the board wants to further restrict the use to just RV and boat storage, there's nothing in the code that would prohibit renting them.

Mr. Bartcher stated his concern is that there are some other BU-2 uses that if she decides she doesn't want to do that use and wants to sell the property, and it's BU-2, somebody else could have another use.

Ms. LeCun stated as long as she can rent and store RV's and boats, that's all she wants to do.

Brian Hodgers stated Mr. Bartcher is trying to convey that the property may be sold in the future and whatever is put in the BDP is going to stick with the property, and a future buyer may not want to buy it with a BDP.

Ms. LeCun stated if that is the case, she would not want a BDP, but right now the property cannot be sold because it has no use. She asked what other uses are permitted in BU-2 zoning.

Mr. Bartcher noted a crematorium is a permitted use.

Robert Brothers stated to limit the use of the property to only ever being for boat and RV storage is a disservice to the town of Micco and to the corridor. He said if the RV and boat storage doesn't work out, and there is a BDP that says it can only be RV and boat storage, then the land is completely useless and derelict.

Mr. Bartcher stated any future owner would have the right to come back to the board to ask that the BDP be removed. The whole purpose of a BDP is to give the board, and the people around the property, a voice on what is going happen.

Ms. LeCun stated one reason why the owners have not been able to sell it is because no one wants to go through the rezoning process, and the only reason she's doing it is because she knows the property owner and she can use the property.

Mr. Ball explained currently, the property has a Community Commercial (CC) Future Land Use designation, and IU-1 zoning, which is an industrial classification and is a higher intensification; however, the CC land use is not compatible with the IU-1 zoning, so the property needs to be rezoned to be consistent. He stated he understands the board is reluctant to some of the uses in BU-2, but the existing zoning has some pretty intense uses that are already on the property by right. If the board decides to add a BDP, he suggests it allow the BU-1 uses and the BU-2 use of RV and boat storage, or some kind of compromise to some of the non-noxious uses to give the applicant as much flexibility as she thinks she may need.

Mr. Bartcher stated he would prefer a BDP to restrict the BU-2 uses.

Ms. LeCun asked if a BDP can be removed in the future. Mr. Bartcher replied yes, through a public hearing. Ms. LeCun stated as long as she can store trailers and rent trailers and boats.

Mr. Brothers stated it is harder to take a BDP off of a property than it is to put it on a property.

Mr. Hodgers stated a BDP will make the property harder for someone to buy.

Ms. LeCun noted staff has said the right already exists to use it as BU-2.

Mr. Ball clarified that the existing zoning is IU-1, which is an industrial zoning classification; however, with CC land use, there is an incompatibility between commercial and industrial, but from a use perspective, there is some intensification of uses.

Mr. Glover stated that is probably why the property has been for sale for so long.

Mr. Wadsworth asked if the IU-1 zoning would give her the opportunity to do outdoor storage. Mr. Ball replied yes, but it also allows for industrial uses on the property that the Future Land Use doesn't allow.

Mr. Glover stated he can agree to the zoning change with a BDP. He said the applicant doesn't know if she's going to sell, but if BU-2 with a BDP gets her what she wants, she can come back to the board later to change it.

Motion by Ron Bartcher, seconded by Ben Glover, to approve the change of zoning classification from IU-1 to BU-2 with a BDP limited to all BU-1 uses, and the only BU-2 use of mini-storage, and boat and RV storage. The motion passed 10:1, with Brian Hodgers voting nay.

From: bartcher@cfl.rr.com
To: [Commissioner, D3](#)
Subject: Tonight's Zoning Meeting item G.15
Date: Thursday, July 13, 2023 7:08:34 PM

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

Dear Commissioner Tobia,

Referring to tonight's Zoning Meeting Item G.15 – had the applicant said in her presentation to the P&Z Board that she wanted to do truck rental as well as a mini-warehouse storage facility, I would have had no objection to that – as long as she agreed to a BDP that that restricted the BU-2 use just to a mini-warehouse and truck rental.

Regards,

Ron Bartcher

Member of P&Z Advisory Board

From: [Brittany Lecun](#)
To: [Commissioner, D3](#)
Subject: Re: Property rezoning
Date: Monday, July 24, 2023 4:00:27 PM

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

Thank you for this information. I have already rescheduled for planning and zoning again.

[Sent from Yahoo Mail for iPhone](#)

On Monday, July 24, 2023, 12:56 PM, Commissioner, D3 <d3.commissioner@brevardfl.gov> wrote:

Good afternoon,

Commissioner Tobia would be more than willing to meet with you or your client however, the burden is on you to explain why the decision of the Planning and Zoning Board needs to be amended or changed. Unfortunately, Commissioner Tobia will not be at the August 3rd zoning meeting scheduled for 5:00 pm.

Thank you,

image002



Brian Bond
Legislative Aide
County Commissioner John Tobia, District 3
PH: (321) 633-2075 * Fax: (321) 633-2196
2539 Palm Bay Road NE, Suite 4
Palm Bay, FL 32905

From: Brittany Lecun <blecun49@yahoo.com>
Sent: Monday, July 24, 2023 12:21 PM
To: Commissioner, D3 <d3.commissioner@brevardfl.gov>
Cc: Prasad, Bethany <Bethany.Prasad@brevardfl.gov>

Subject: Property rezoning

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

Good Afternoon Mr. Tobia,

I wanted to follow up with you on the rezoning of Charles Steven Douglas and Debra Kay Douglas, Trustee; and Sandra J. Douglas (Brittany Lecun) request for changing the zoning classification from IU-1 to BU-2. Tax Account 3010512. I would like to rezoning to a Bu2 with the purpose of an open rv and boat storage location, in attention to having the proper permit or document for Rv and trailer rentals. I believe the proper code is for truck and trailer rentals per Brevard County. I wanted to follow up to see if you have any questions regarding this request. Also wanted to confirm the time and date of the next Commissioners meeting. I thank you for your time and have a great week.

Brittany Lecun
321.305.2732

From: [Brittany Lecun](#)
To: [Commissioner, D3](#)
Subject: Re: Property rezoning
Date: Monday, July 31, 2023 4:42:58 PM

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

Brian,

Can I schedule a time to talk to him on the phone or come meet with him? I'm sorry from my understanding the planning and zoning board was putting the rentals of trailer and trucks in the bdp as well. Is there anyway you can listen to the tape from the meeting and see where the miss communication is? I appreciate your time.

Brittany Lecun

[Sent from Yahoo Mail for iPhone](#)

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image002



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Cc: Prasad, Bethany <Bethany.Prasad@brevardfl.gov>
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Brittany Lecun
321.305.2732



BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
COMMISSIONER JOHN TOBIA, DISTRICT 3

2539 Palm Bay Rd NE, Suite 4
Palm Bay, FL 32905
www.Brevardfl.gov

Phone: (321) 633-2075
Fax: (321) 633-2196
John.Tobia@Brevardfl.gov

September 5, 2023

To: Jennifer Jones
From: John Tobia, Brevard County Commissioner, District 3
Re: Phone Disclosure

Ms. Jones,

Regarding the upcoming agenda item G.1 on the Brevard County Zoning meeting on September 7, 2023, please be advised in advance that I met with Ms. Brittany LeCun in my district office on August 14, 2023.

The meeting lasted approximately thirty minutes, during which Ms. LeCun provided information regarding the application.

Sincerely,

John Tobia
County Commissioner, District 3



BOARD OF COUNTY COMMISSIONERS

District 3 Includes:

Palm Bay, Melbourne Beach, Melbourne, Malabar, Grant-Valkaria, West Melbourne, Micco