



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

G.3.

7/13/2023

### Subject:

James H. and Kristine F. Sanford request a CUP for Alcoholic Beverage (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a BU-1 zoning classification. (23Z00013) (Tax Accounts 2316090 & 2316106) (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 CUP (Conditional Use Permit) for Alcoholic Beverage (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a BU-1 (General Retail Commercial) zoning classification.

### Summary Explanation and Background:

The applicant is seeking a CUP for Alcoholic Beverages for On-Premises Consumption accessory to a beer & wine only bar on 0.69 acres. The property is developed with a commercial building that was previously used as a restaurant and bar. Since the applicant is not utilizing the property as restaurant, a CUP is required. The applicant is seeking to utilize a vacant parcel to the south across Cottrell Avenue for overflow parking. The owner/applicant has provided a survey which states that there are no churches or schools within 400 feet of the area within the CUP request.

The subject property is surrounded to the north by GML(U) zoning with a use of utility, electric power company. The parcels to the east and south are RU-2-10 (Multi-Family Residential) zoned and are developed as residential units. To the west is U.S. Highway 1.

The Board may wish to consider the compatibility of the proposed CUP with the surrounding area. The Board may also wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential offsite impacts to the abutting properties, such as:

- No amplified sound system.
- Limit the hours of operation.
- Additional buffering to adjacent residential property.
- Site plan, onsite parking and offsite parking shall comply with Brevard County code and regulations.
- Limit the consumption of alcoholic beverages to the northern parcel only (Tax Account 2316090).

On June 7, 2023, the Port St. John Dependent Special District Board heard the request and unanimously recommended approval.

**Clerk to the Board Instructions:**

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

**Resolution 23Z00013**

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

**WHEREAS, James H. and Kristine F. Sanford** have requested a CUP (Conditional Use Permit) for Alcoholic Beverage (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a BU-1 (General Retail Commercial) zoning classification, on property described as Lots 2 and 2.3, Burchfield Subdivision, as recorded in ORB 9122, Pages 98 - 99, of the Public Records of Brevard County, Florida. Section 19, Township 23, Range 36. (0.69 acres) Located on the northeast and southeast corners of U.S. Highway 1 and Cottrell Ave. (5800 N. U.S. Highway 1, Cocoa); and

**WHEREAS**, a public hearing of the Port St. John Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Port Saint John Dependent Special District Board recommended that the application be approved; and

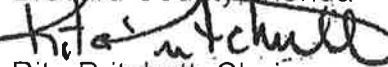
**WHEREAS**, the Board, after considering said application and Port St. John Dependent Special District Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested CUP for Alcoholic Beverage (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a BU-1 zoning classification, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of July 13, 2023.

BOARD OF COUNTY COMMISSIONERS

Brevard County, Florida



Rita Pritchett, Chair

Brevard County Commission

As approved by the Board on July 13, 2023.

ATTEST:



RACHEL M. SADOFF, CLERK

(SEAL)

Port St. John Dependent Special District Board Hearing – June 12, 2023

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

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

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

### **Administrative Policy 1**

The Brevard County zoning official, planners and the Director of the Planning and Development, 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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Building A, Room 114  
Viera, Florida 32940  
(321)633-2070 Phone / (321)633-2074 Fax  
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS**

**23Z00013**

**James H. and Kristine F. Stanford**

**A CUP for Alcoholic Beverages for On-Premises Consumption accessory to a Bar  
(Beer & Wine only) on 0.69 acres.**

Tax Account Number: 2316090 & 2316106  
Parcel I.D.s: 23-36-19-02-\*-2 & 23-36-19-02-\*-2.23  
Location: Northeast and Southeast corners of Highway US-1 and Cottrell Avenue  
(District 1).  
Acreage: 0.69 acres CUP request  
  
Planning & Zoning Board: 06/12/2023  
Board of County Commissioners: 07/13/2023

**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)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-1	BU-1 with CUP for Alcoholic Beverages for On-Premises Consumption
<b>Potential*</b>	30,056 sq. ft. Per FAR with CC FLU	30,056 sq. ft. Per FAR with CC FLU
<b>Can be Considered under the Future Land Use Map</b>	YES CC	YES CC

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

**Background and Purpose of Request**

The applicant is seeking a Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption accessory to a Bar for Beer & Wine only on 0.69 acres. This property is developed with a commercial building that was previously used as a bar and a restaurant. Since the applicant wishes to remove the abandon restaurant use, a CUP is required. The parcel to the south across Cottrell Avenue is currently vacant and will be used for overflow parking.

Section 62-1906 requires an application for a CUP for Alcoholic Beverages for On-Premises Consumption in conjunction with a bar.

The applicant included sketch plans in their CUP application showing the proposed overall site along with parking on the parcel to the south across Cottrell Avenue. The applicant plans to access Cottrell Ave. to Highway US-1. The sketch plans have not been reviewed for compliance with other County departments except Brevard County Natural Resources Management Department. Site plan will need to demonstrate compliance with Brevard County code, Section 62-3206(f)(1) Offsite and shared parking requirements.

Parcel on Northeast corner of Highway US-1 and Cottrell Avenue:

On October 31, 1966 zoning action **Z-2001** approved a change of zoning classification from RU-3 (Multi-Family Residence) to BU-1 (Neighborhood Retail Business) with a SUP (Special Use Permit) for On Premises Consumption of Beer and Wine with Food Service only.

On February 1, 1968 zoning action **Z-2199** approved a permit for On Premises Consumption of Beer and Wine.

On August 3, 1972 zoning action **Z-3034** approved a SUP (Special Use Permit) to add Liquor to an existing for Consumption on Premises of Beer and Wine.

Brevard County Property Appraiser accessed the property use as, "Commercial Building not suitable for occupancy". The building has been in disrepair for nine years and the SUP was removed.

Parcel on Southeast corner of Highway US-1 and Cottrell Avenue:

On March 19, 1964 zoning action **Z-1304** approved a change of zoning classification from BU-1 (Neighborhood Retail Business) and RU-3 (Multi-Family Residence) to BU-2 (General Retail & Wholesale Business).

On July 03, 1975 Administrative zoning action **AZ-27** approved a change of zoning classification from BU-2 to BU-1.

## **Land Use**

The subject properties are currently designated Community Commercial (CC). The BU-1 zoning classification can be considered consistent with the Community Commercial 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;

**Staff analysis: The owner proposes a CUP for Alcoholic Beverages for On-Premises Consumption accessory to a Bar for Beer & Wine only.**

**The Board should consider the compatibility of the proposed CUP with surrounding development. To the north of these parcels is Florida Power and Light Utilities Plant. To the east and south are residential units.**

B. Existing commercial zoning trends in the area;

**Staff analysis: There have been no recent commercial zoning requests within the area.**

C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

**Staff analysis: Due to the close proximity of the adjacent residential use, the Board may desire that additional buffering and parking be added to the property and/or use limitations created in order to reduce those concerns.**

D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

**Staff analysis: LOS criteria will be reviewed at the site plan review stage.**

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

### **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;

**Regarding the hours of operation, lighting, odor, noise levels, traffic or site activity. The proposed CUP will need to comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. The Board may consider other conditions to minimize off-site impacts.**

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

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

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

1. historical land use patterns;

***The subject property is currently developed with a commercial building that was previously used as a bar and a restaurant. To the north of these parcels is Florida Power and Light Utilities Plant. To the east and south are residential houses.***

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

***There has not 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 has not been any development approved but not yet constructed within a half mile in the preceding three (3) 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.**

There is an existing pattern of BU-1 zoning on parcels abutting Highway US-1 with RU-2-10 zoning east of the BU-1.

**Administrative Policy #5 - the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered.**

*The proposed CUP will access Highway US-1 segment between Broadway Blvd. to Fay Blvd. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 0.45%. The corridor is anticipated to operate at 71.23% of capacity daily. The request is not anticipated to create a deficiency in LOS.*

#### **Surrounding Area**

	Existing Use	Zoning	Future Land Use
<b>North</b>	Power Utility	GML(U)	NC/RES12_DIR
<b>South</b>	Residential Single-Family	RU-2-12	CC
<b>East</b>	Residential Single-Family	RU-2-10	RES 12_DIR
<b>West</b>	Highway US-1	N/A	N/A

The subject property is surrounded to the north by GML(U) zoning with a use of Utility, electric power company. The parcels to the east and south is RU-2-10 (Multi-Family Residential) zoning and are being used as residential units. The parcel to the west is Highway US-1.

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.

RU-2-10 classification permits multiple-family residential development or single-family residences at a density of up to 10 units per acre on minimum lot sizes of 7,500 square feet.

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

The GML(U) the utility designation shall include electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission.

There has been one (1) zoning action within a half-mile radius of the subject property within the last three years.

**20Z00036**, July 08, 2021, rezoned from RU-1-11, TR-2 & BU-1 to TR-1 with BDP limited to 150 units.

### **Preliminary Concurrency**

The closest concurrency management segment to the subject property is Highway US-1, between Broadway Blvd. to Fay Blvd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 70.78% of capacity daily. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 0.45%. The corridor is anticipated to operate at 71.23% of capacity daily. The request is not anticipated to create a deficiency in LOS.

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



The parcel is serviced by the City of Cocoa utilities for public water. The property is not serviced by Brevard County sewer. The closest Brevard County sewer line to the parcel is approximately 0.3 miles away to the northwest on the west side of Highway US-1, along the south side of the Winn-Dixie shopping plaza.

### **Special Considerations for CUP (Conditional Use Permit)**

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that 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.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1936, Land Alteration.

This request should be evaluated in the context of **Section 62-1906** which governs alcoholic beverages for on-premises consumption which states in, specifically 62-1906 (3) and (5):

- 3) Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes.

***Staff analysis: The owner/applicant has provided a survey which states that there are no churches or schools within 400 feet of the area within this CUP request.***

- 5) Imposition of additional operational requirements. When deemed appropriate, as based upon circumstances revealed through the general and specific standards of review set forth in this division, the Board shall have the option of imposing operational requirements upon an establishment approved for a conditional use for alcoholic beverages for on-premises consumption. Requirements may include, but are not limited to, the following: maximum number of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations. Additional requirements shall not exceed the limits of regulatory authority granted to local governments in the State Beverage Law, F.S. § 562.45.

**Staff analysis:** *The applicant is requesting outdoor seating area as shown on their site plan.*

## **General Standards of Review**

Section 62-1901(c)(1)(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.

*Applicant's Response: Prior to purchase, this property was a bar with a full liquor license. Currently, the property is under renovation, proposed to become a beer and wine garden with limited seating capacity of 30 people and maximum capacity of 75 people. It will also be a plant boutique for retail plant and garden related décor sales. This will be a relaxed setting with the intent for patrons to sit in a beautiful garden while enjoying a glass of wine or a beer. There will be no loud outdoor music. No fumes, smoke, particulates, or odor will be created. The property is located on US 1. There will be a negligible increase to traffic as the traffic passing the building currently is greater than 20,000 cars/day. There is a gas station/convenience store across US 1 to the west, a power plant to the north and a vacant lot to the south. There are 10 houses to the east which are on a dead-end road. Therefore, this change will not negatively impact the neighbors.*

**Staff analysis:** The owner/applicant states there will be no adverse impacts such as noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use. The applicant also states the number of patrons has been identified and should not affect the traffic parameters. The Board may desire that additional buffering be added to the property and/or use limitations created in order to reduce those concerns.

Section 62-1901(c)(1)(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.

*Applicant's Response: This property is US 1 frontage. The adjacent property to the north is a power plant. There is a gas station/convenience store across US 1 to the west. There is a vacant lot to the south, also owned by the applicants. There are 10 houses to the east which are on a dead-end road. Traffic will not impact these homeowners as this is a dead end and no patrons of the business will have to drive past those homes to reach the location.*

**Staff analysis:** The parcel is a commercial property that is bounded by right-of-way Highway US-1 and Cottrell Ave. with residential abutting the parcel to the east. During site plan review, the proposed outdoor patio will need to comply with the noise ordinance. Noise alleviation measures may be required to meet these standards.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebutably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a reputable 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 a MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

*Applicant's Response: Currently, the building is in disrepair and has been sitting vacant for 9 years. Vandals had poured paint on the roof and busted the front glass door out. The windows were all boarded up. Since the purchase, we have removed invasive Brazilian pepper trees that were growing through the roof of the building, cleaned the property of trash and debris, and removed the boards covering the windows. There was absolutely no landscaping on the property, only 1 palm tree. We are in the process of planting trees and palms and landscaping the entire property with the intent of making it an inviting tropical paradise. An 8-foot vinyl, permitted, fence has been installed. A new, permitted, septic tank has been installed. The building is under renovation to include new paint, new roof, new windows and doors, and an entire interior remodel. From an aesthetic perspective, the entire property will be landscaped. The proposed use will significantly increase the property value of the abutting residential property.*

**Staff analysis: Competent and substantial evidence by a MAI certified appraiser has not been provided by the applicant.**

Section 62-1901(c)(2)(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.

Note: Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent 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 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.

*Applicant's Response: The impact on the percentage of traffic will be minimal as to be unmeasurable. The property is located on the corner of US-1 and Cottrell Ave. From Cottrell, patrons can park directly in the parking area without passing any home on Cottrell. There is vacant land to the south which is also owned by the applicants which can be used for overflow parking without burdening adjacent homes.*

**Staff analysis: This property has access to Highway US-1 from Cottrell Ave. as identified on the concept plan. If needed, additional improvements can be addressed at the site plan review stage for the outdoor patio inclusion.**

Section 62-1901(c)(2)(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.

*Applicant's Response: There will be no odor, particulates, smoke, or fumes from the property. The only emissions that will be present is the Oxygen emitted from all of the beautiful trees and plants that will be growing. The power plant emits CO2 from its stacks. The plants and trees will also be beneficial as they will help to absorb this CO2. The building was built in 1954 and is a block building with a high peaked roof construction. It will be well insulated per county code which will reduce noise within the building. An 8-foot vinyl privacy fence has been installed to the south, east, and west. A 12-foot concrete fence is currently in place to the north as the property barrier of the FPL power plant. There will be a border of various trees and palms along the fence lines that will additionally absorb any potential noise.*

**Staff analysis: This project must be compliance with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Any proposed outdoor lighting and noise standards should remain within code parameters or a violation will be created.**

Section 62-1901(c)(2)(c): Noise levels for a conditional use are governed by section 62-2271.

*Applicant's Response: The intended use of the building is a relaxed setting where patrons can come to sit and relax while sipping a glass of wine or a beer. There will be a beautiful garden with pathways, fountains, archways, and pergolas with relaxed seating scattered throughout. There will be no loud music. The noise levels will not exceed allowable levels. The construction of the building is block and will be insulated well to reduce noise levels within the building. An 8-foot vinyl privacy fence has been installed to the south, east, and west. A 12-foot concrete fence is currently in place to the north as the property barrier of the FPL power plant. There will be a border of various trees and palms along the fence lines that will additionally absorb any potential noise.*

**Staff analysis: The concept plan's "noise standards" will be reviewed as part of the site plan review process. Proposed outside seating must comply with noise ordinance.**

Section 62-1901(c)(2)(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.

*Applicant's Response: The solid waste disposal will not be exceeded. A new, permitted septic system has been installed to meet the max capacity load. A business account with Brevard County Waste Management will be obtained and a dumpster will be onsite to meet the needs of the business will meeting alt county regulations. The dumpster will be placed in an inconspicuous place as far from homes as possible.*

**Staff analysis: The adopted level of service for solid waste disposal will be reviewed as part of the site plan review process.**

Section 62-1901(c)(2)(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.

*Applicant's Response: The level of service for potable water or wastewater for the property will not be*

exceeded. A new, permitted septic system has been installed to meet the max capacity load. The landscaping on the property has been designed to ensure water is directed to landscaped areas to prevent any runoff to adjacent properties.

**Staff analysis:** *The adopted level of service for potable water or wastewater will be reviewed by utilities as part of the site plan review process.*

Section 62-1901(c)(2)(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.

*Applicant's Response: An 8 foot vinyl privacy fence has been installed to the south, east, and west. A 12-foot concrete fence is currently in place to the north as the property barrier of the FPL power plant. There will be a border of various trees and palms along the fence lines that will additionally absorb any potential noise. From an aesthetic perspective, the entire property will be landscaped. In addition, the remodel of the building with a new roof, new paint, new windows, and new doors will improve the property aesthetically.*

**Staff analysis:** The project is buffered by two right-of-way's, screening or buffering has been identified on the concept plan. Note, the outdoor patio area will have screening or buffer when seen from the public roadway. Should the Board determine that additional measures become necessary, the Board may wish additional conditions as part of the request.

Section 62-1901(c)(2)(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.

*Applicant's Response: The exterior lighting will not cause a hazard to traffic. Once permitted, a new sign will be installed and will be a backlit sign that will meet all current county codes. The external lighting will be in place to provide safe conditions for patrons and security for the building. All county codes will be met. There will be no lights directed toward house or directed into traffic.*

**Staff analysis:** A sign has been identified on the concept plan will require a separate permit. No exterior lighting has been identified on the concept plan. Should the Board determine that additional measures become necessary, the Board may wish to request the applicant submit a Binding Development Plan (BDP) to provide for those additional measures.

Section 62-1901(c)(2)(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.

*Applicant's Response: The building was formerly a bar with hours of 11a.m.-2a.m. The proposed plan is to open at 10 a.m. and close at midnight or before.*

**Staff analysis:** *The hours of operation has been addressed. Should the Board determine that additional measures become necessary, the Board may wish additional conditions as part of the request.*

Section 62-1901(c)(2)(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.

*Applicant's Response: The structure of the existing building will not change. There will only be improvements made to the existing building which will not affect the height.*

**Staff analysis: The existing commercial building appears to be constructed as a single floored structure.**

Section 62-1901(c)(2)(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.

Note: 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.

*Applicant's Response: The parking area as drawn on the sketch, will be the same as the previous business. There will be additional overflow parking in the vacant lot, also owned by the applicants, to the south.*

**Staff analysis: The CUP concept plan has 15 parking spaces with an additional 30 parking spaces on the south parcel for a total of 45 parking spaces. Site plan will need to demonstrate compliance with Brevard County code, Section 62-3206(f)(1) Offsite and shared parking requirements.**

## **Environmental Constraints**

No formal review by the Natural Resources Management Department is required for a CUP for on-premises consumption of alcoholic beverages. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

## **For Board Consideration**

The Board may wish to consider the compatibility of the proposed CUP with the surrounding area. The Board may also wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential offsite impacts to the abutting properties.

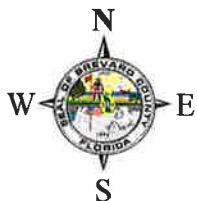
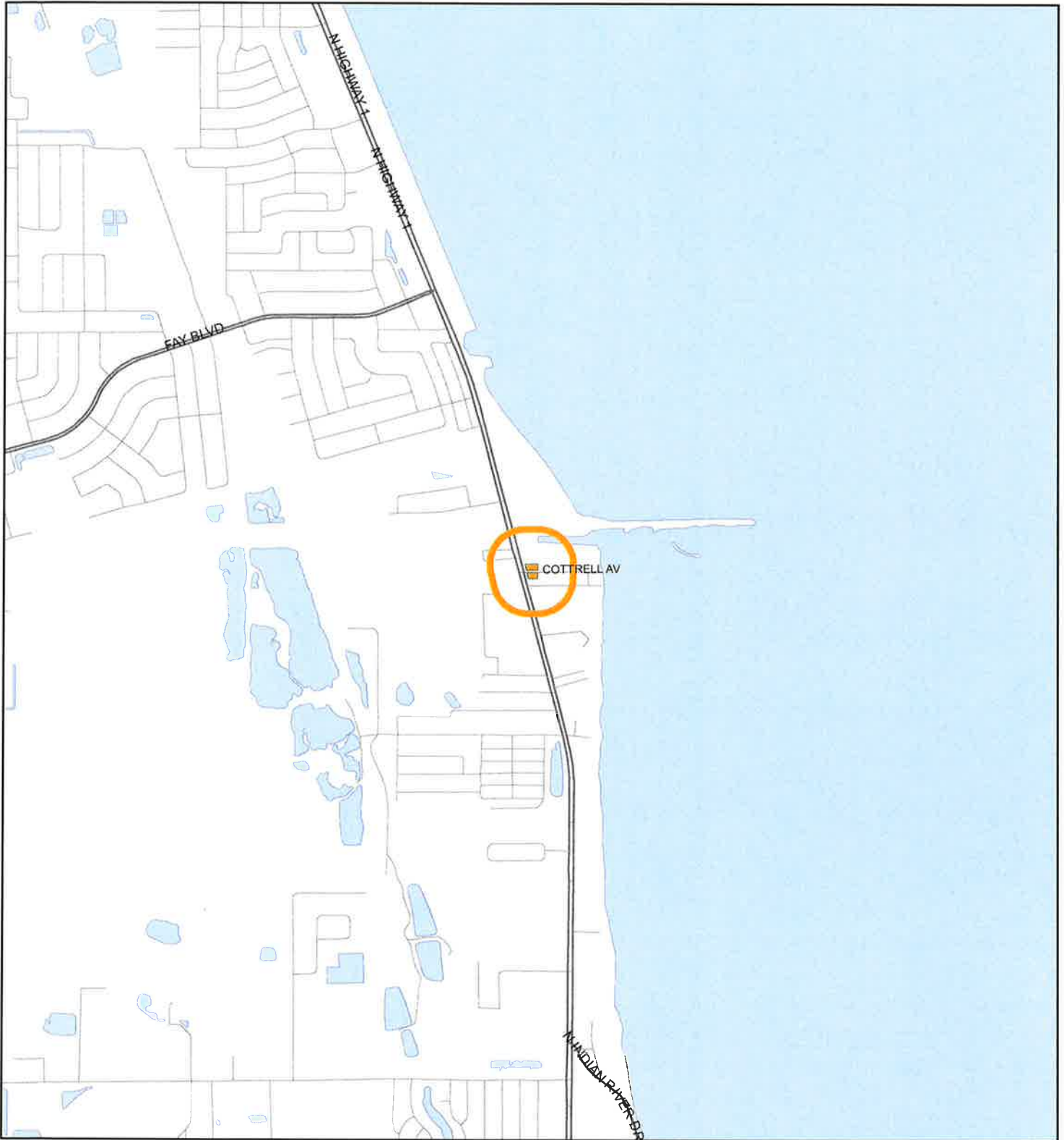
Such as:

- No amplified sound system.
- Limit the hours of operation.
- Additional buffering to adjacent residential property.
- Site plan shall comply with Brevard County code and regulations.
- Limit the consumption of alcoholic beverages to the northern parcel only (Tax Account 2316090).

# LOCATION MAP

SANFORD, JAMES H

23Z00013





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: 4/3/2023

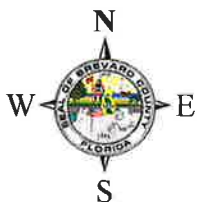
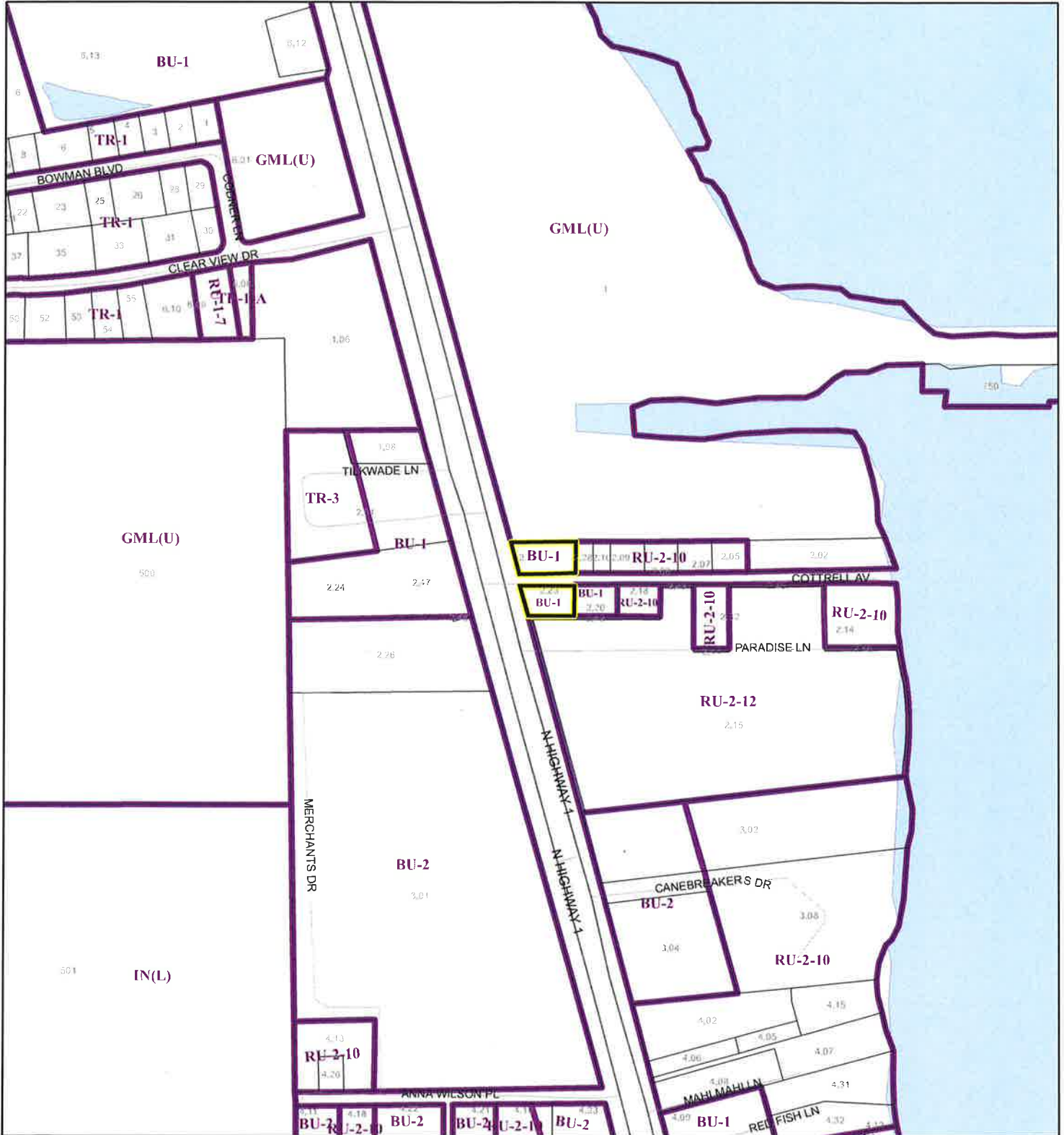
-  Buffer
-  Subject Property



# ZONING MAP

SANFORD, JAMES H

23Z00013



1:4,812 or 1 inch = 401 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: 4/24/2023

Subject Property

Parcels

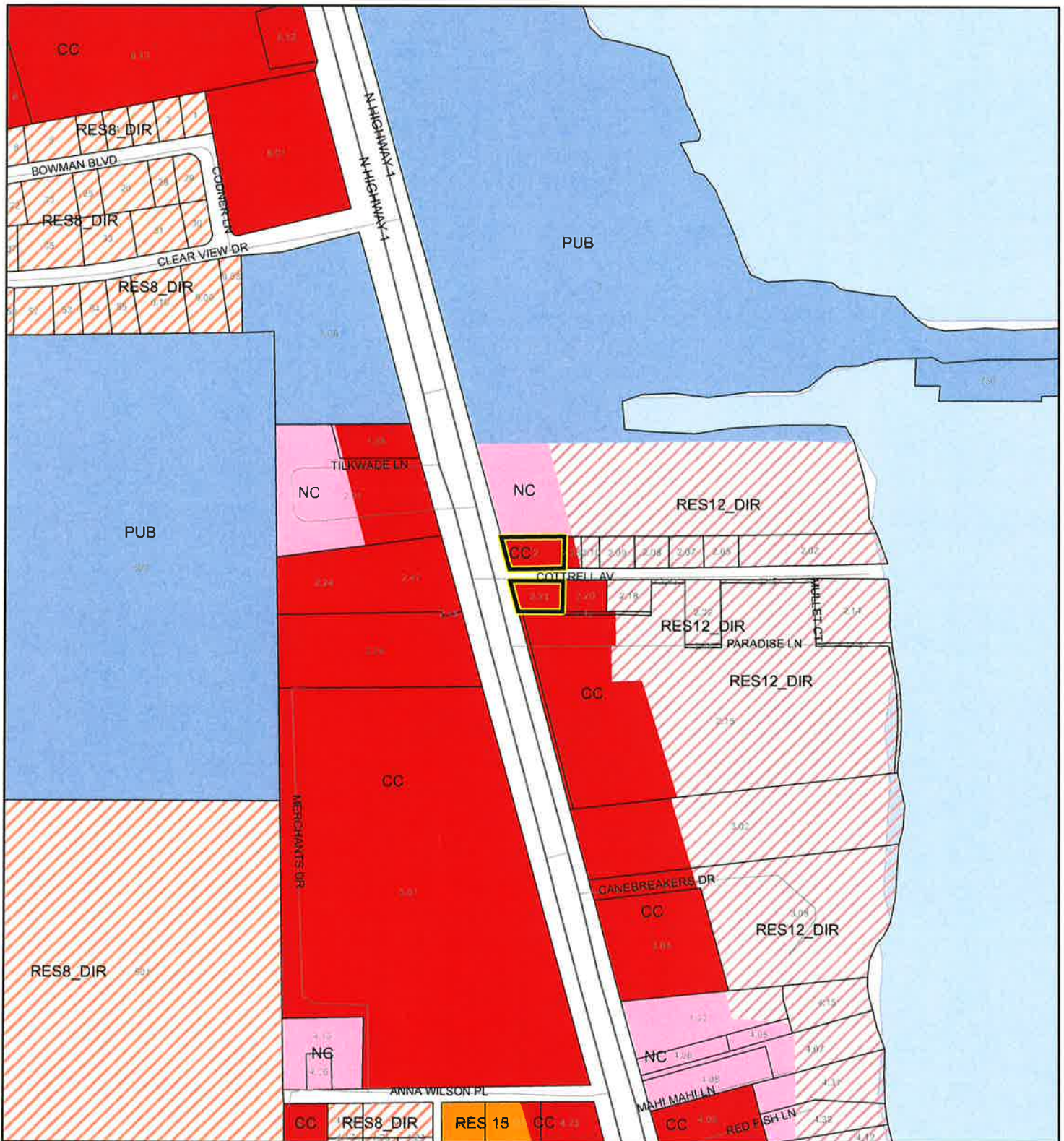
Zoning



# FUTURE LAND USE MAP

SANFORD, JAMES H

23Z00013



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

SANFORD, JAMES H

23Z00013



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2022

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Produced by BoCC - GIS Date: 4/24/2023

— Subject Property

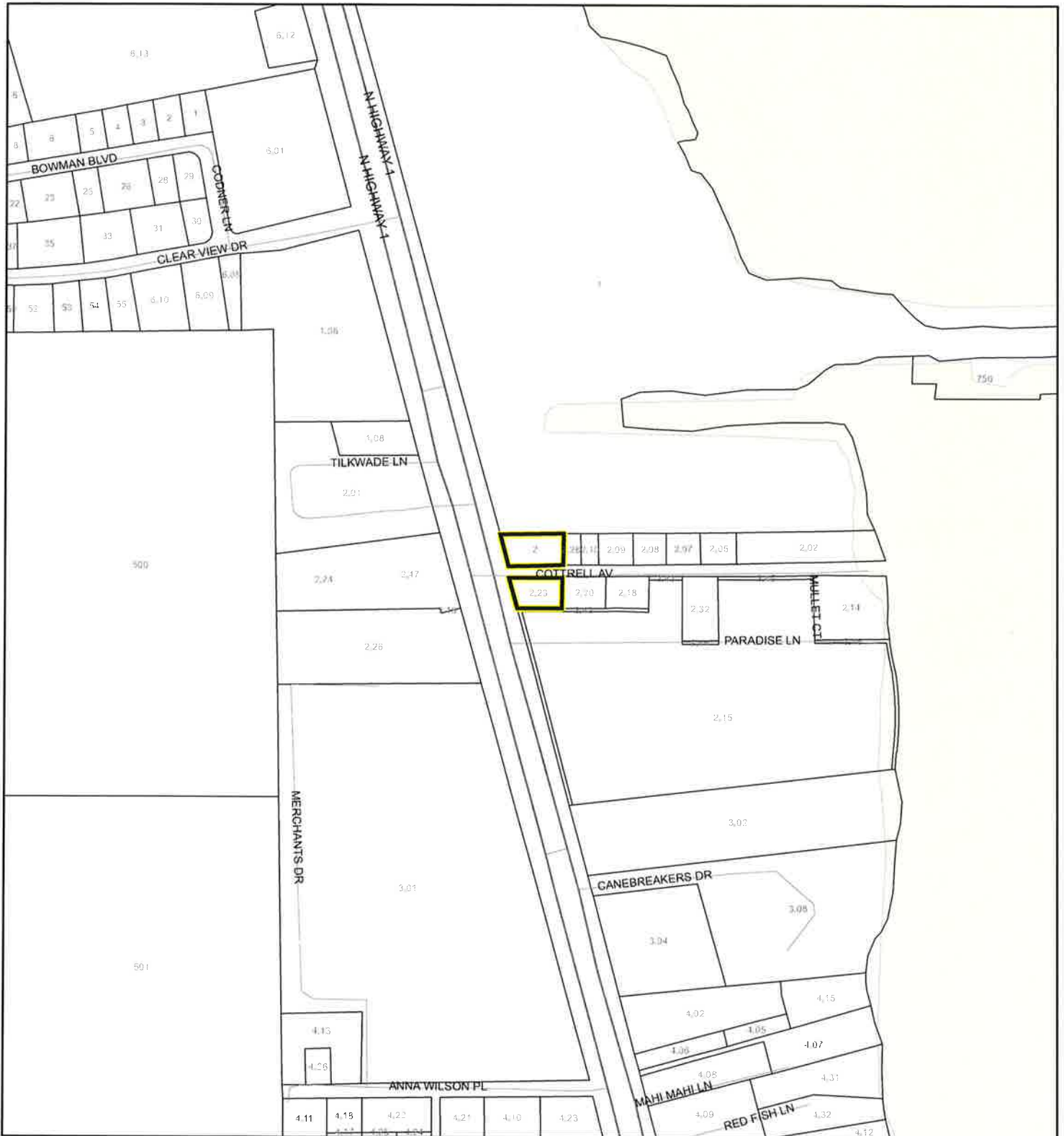
□ Parcels



# NWI WETLANDS MAP

SANFORD, JAMES H

23Z00013



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

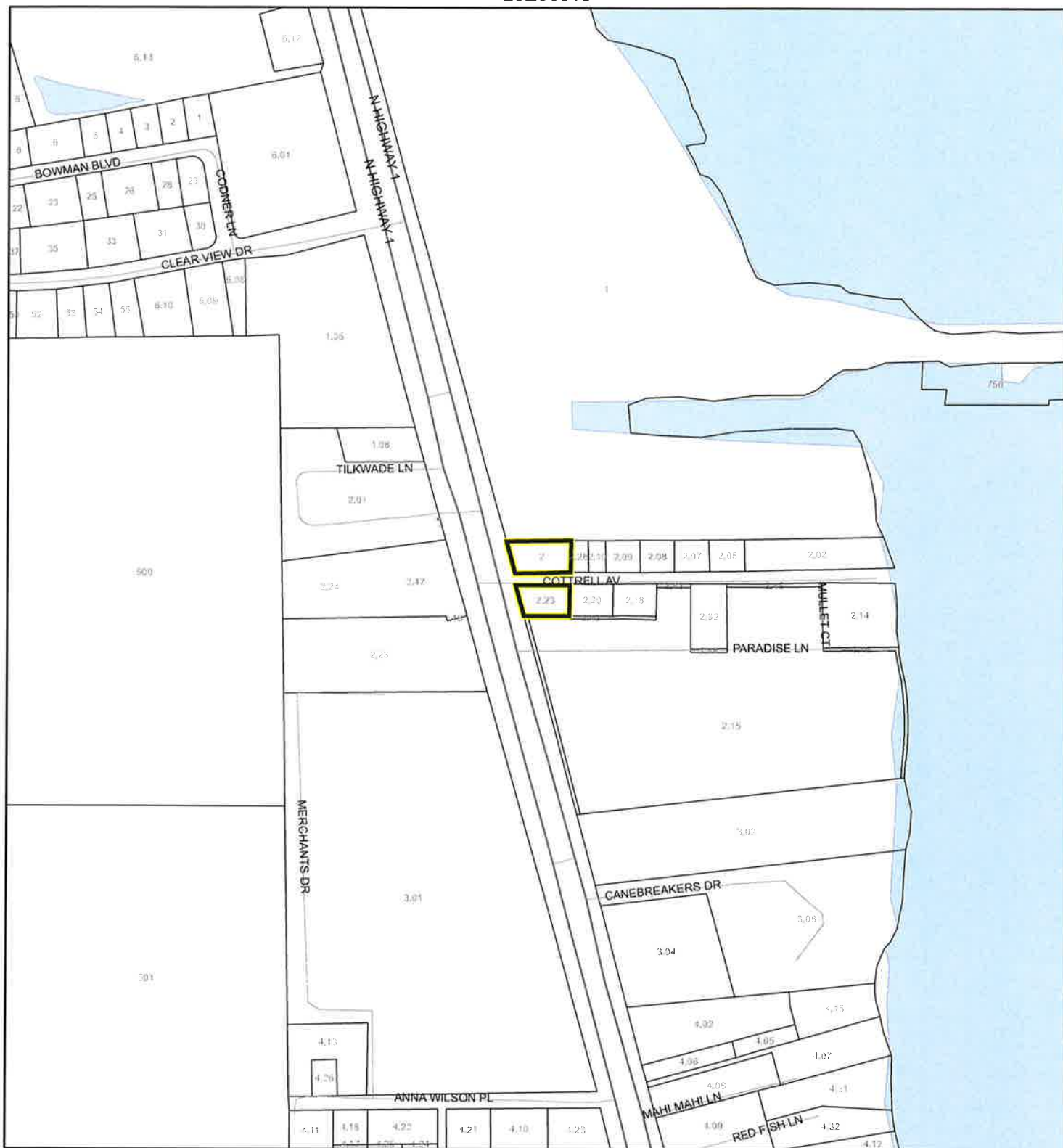
## National Wetlands Inventory (NWI)

	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

SANFORD, JAMES H

23Z00013



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

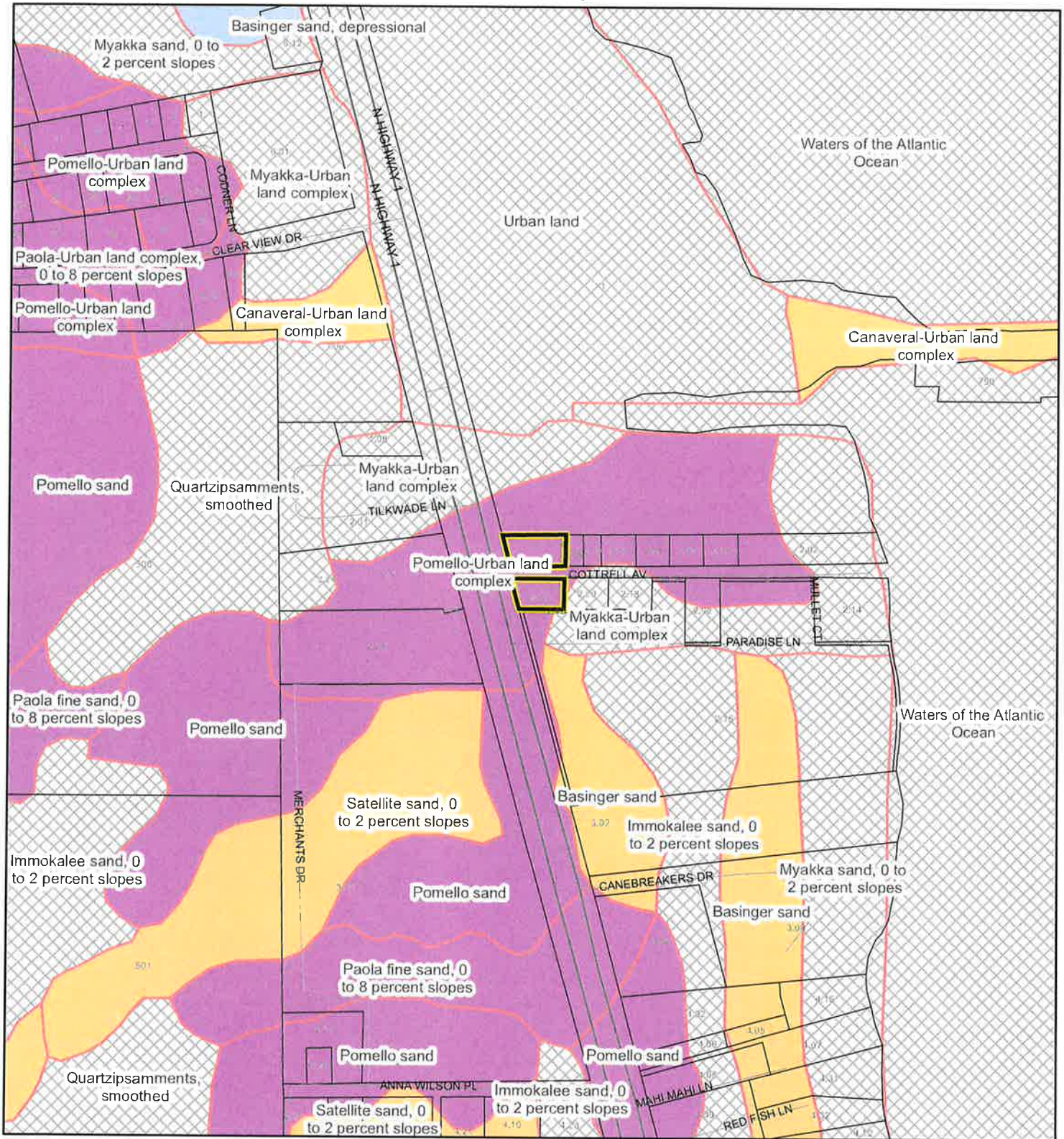
Parcels



# USDA SCSSS SOILS MAP

SANFORD, JAMES H

23Z00013



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

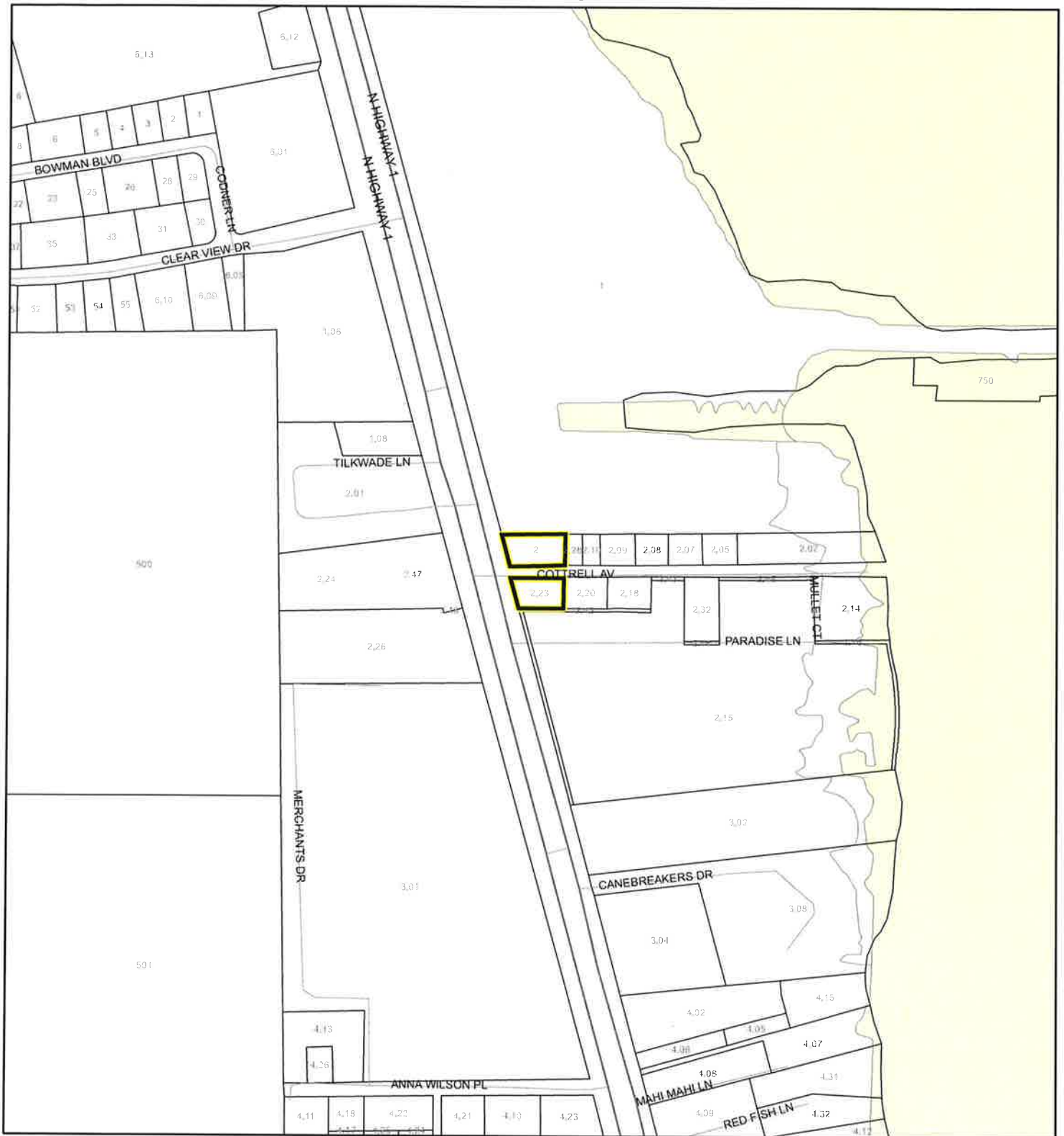
- Subject Property
- Parcels



# FEMA FLOOD ZONES MAP

SANFORD, JAMES H

23Z00013



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

## FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

# COASTAL HIGH HAZARD AREA MAP

SANFORD, JAMES H

23Z00013



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

— Subject Property

□ Parcels

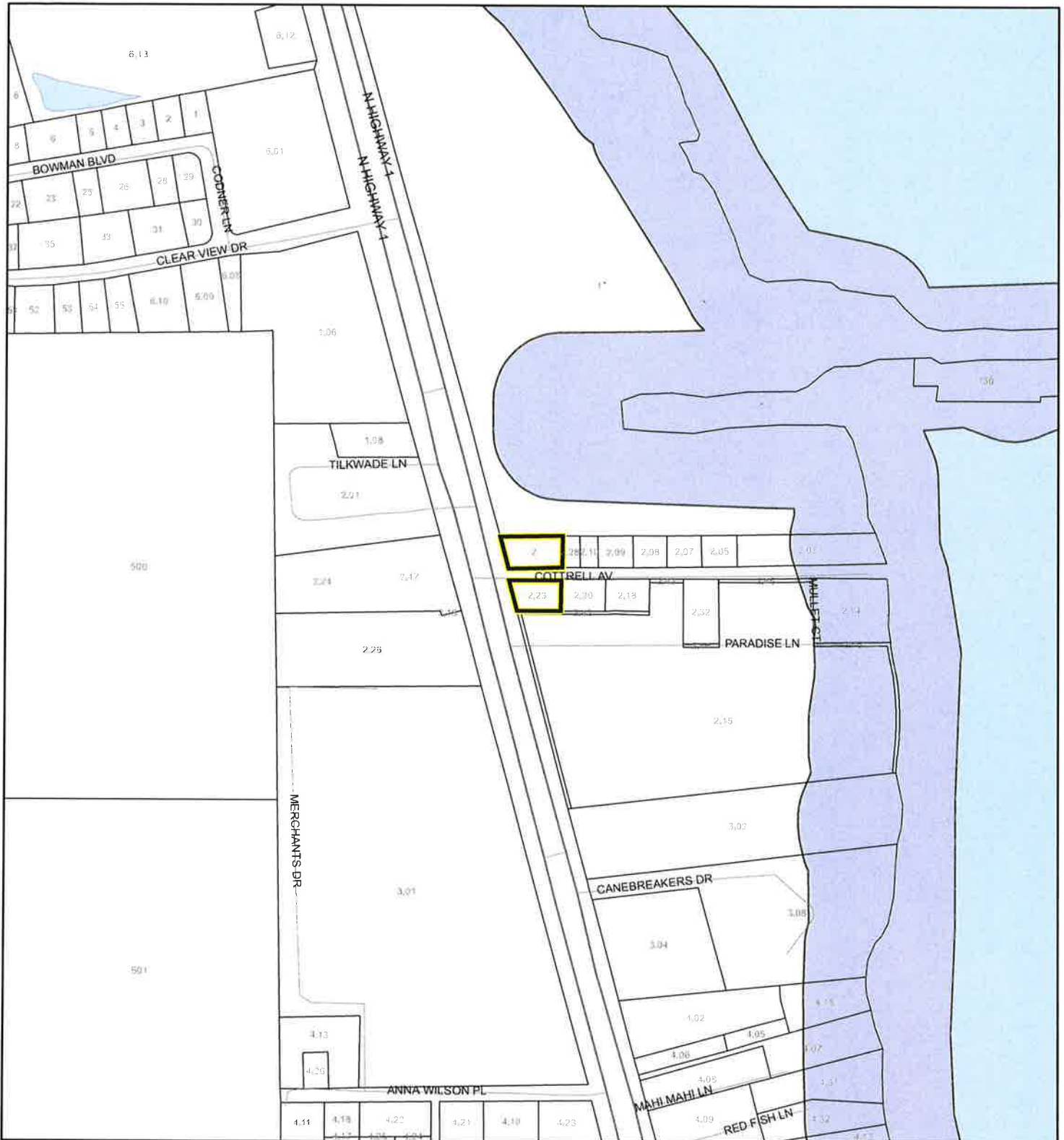
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

SANFORD, JAMES H

23Z00013



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

SANFORD, JAMES H

23Z00013



1:4,800 or 1 inch = 400 feet

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

— Subject Property

□ Parcels

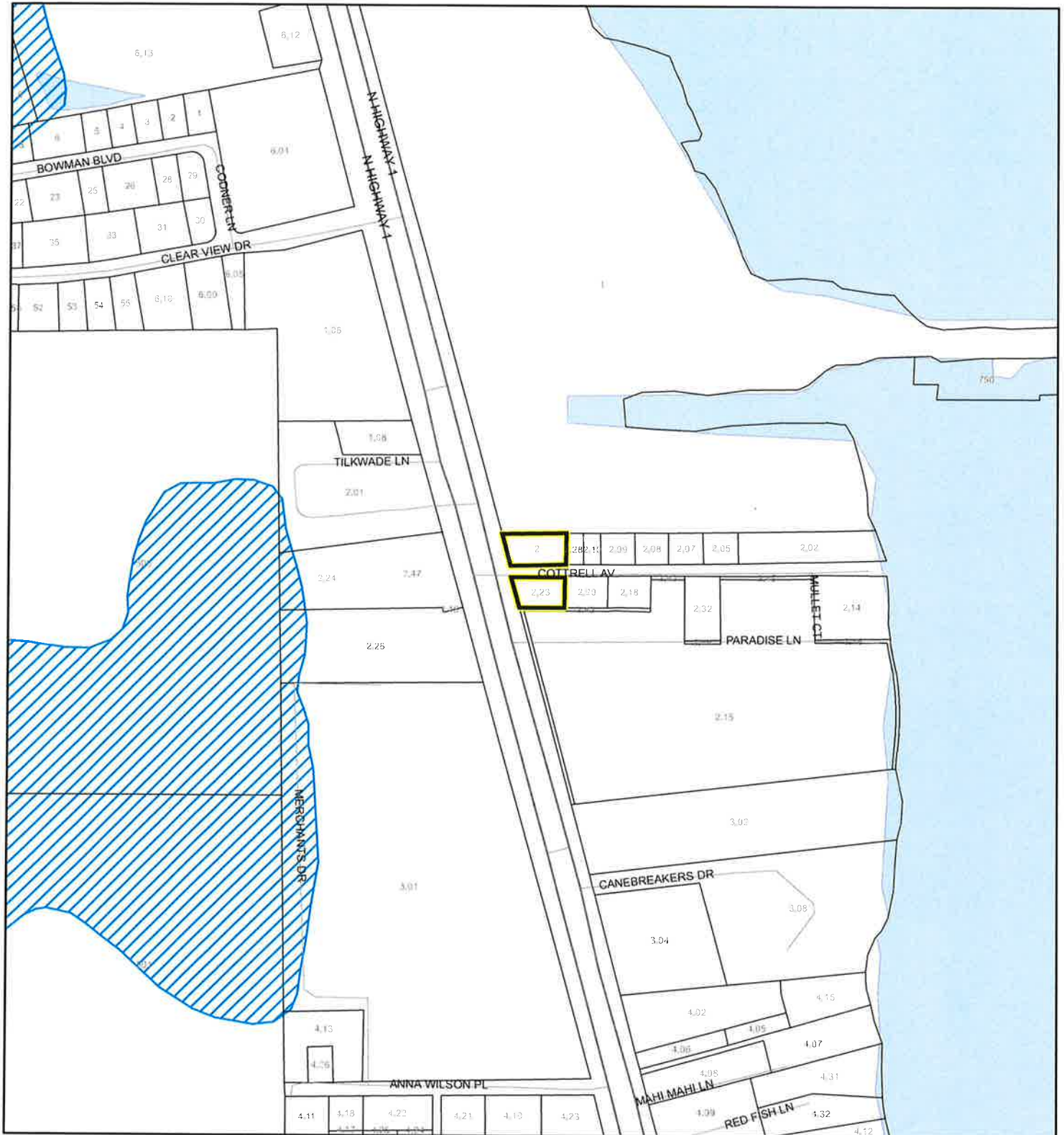


Eagle Nests  
FWS

# SCRUB JAY OCCUPANCY MAP

SANFORD, JAMES H

23Z00013




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

 Subject Property

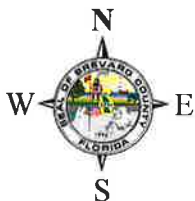
 Parcels

 Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

SANFORD, JAMES H

23Z00013



1:4,800 or 1 inch = 400 feet

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

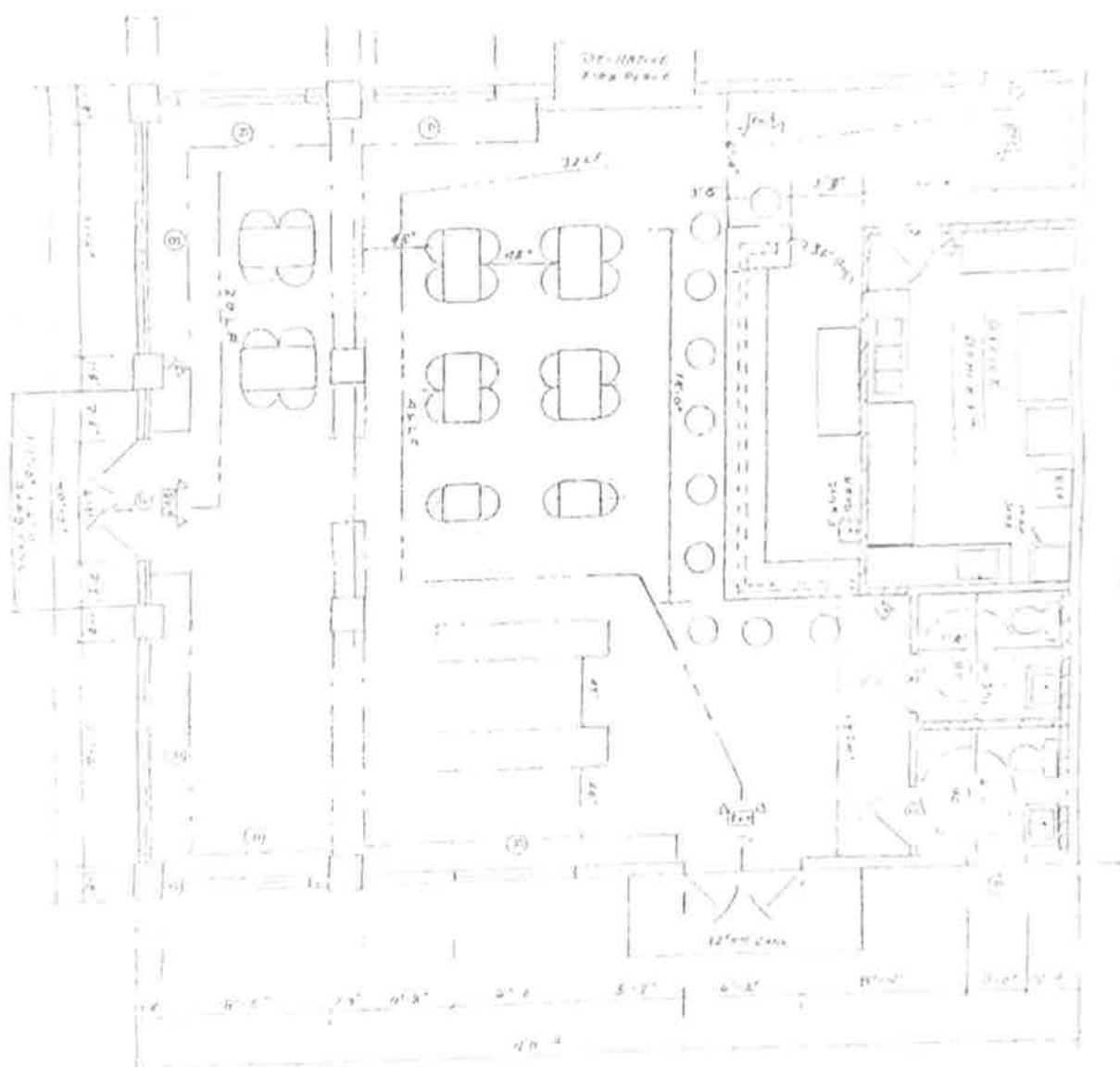
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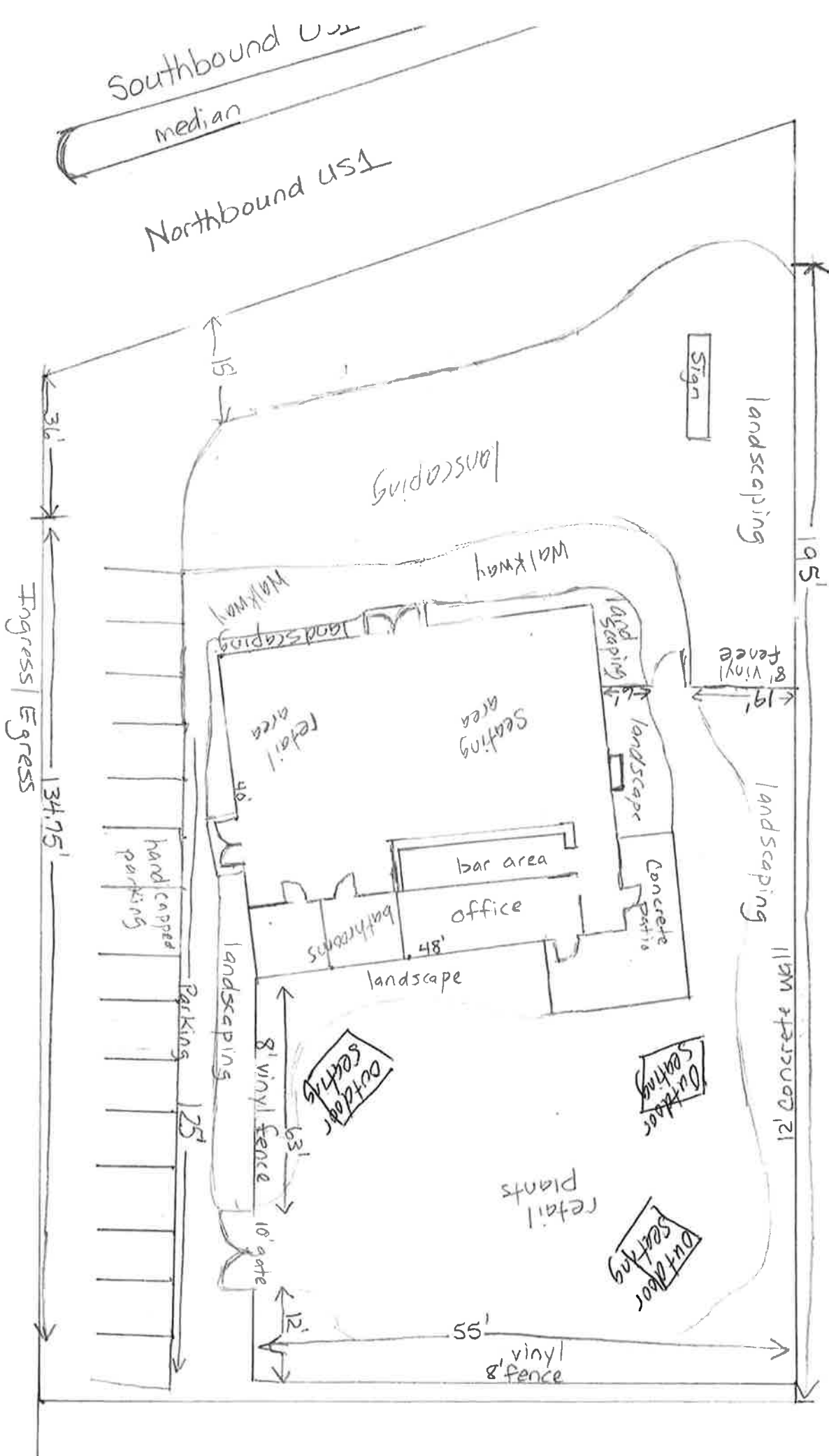
## SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels





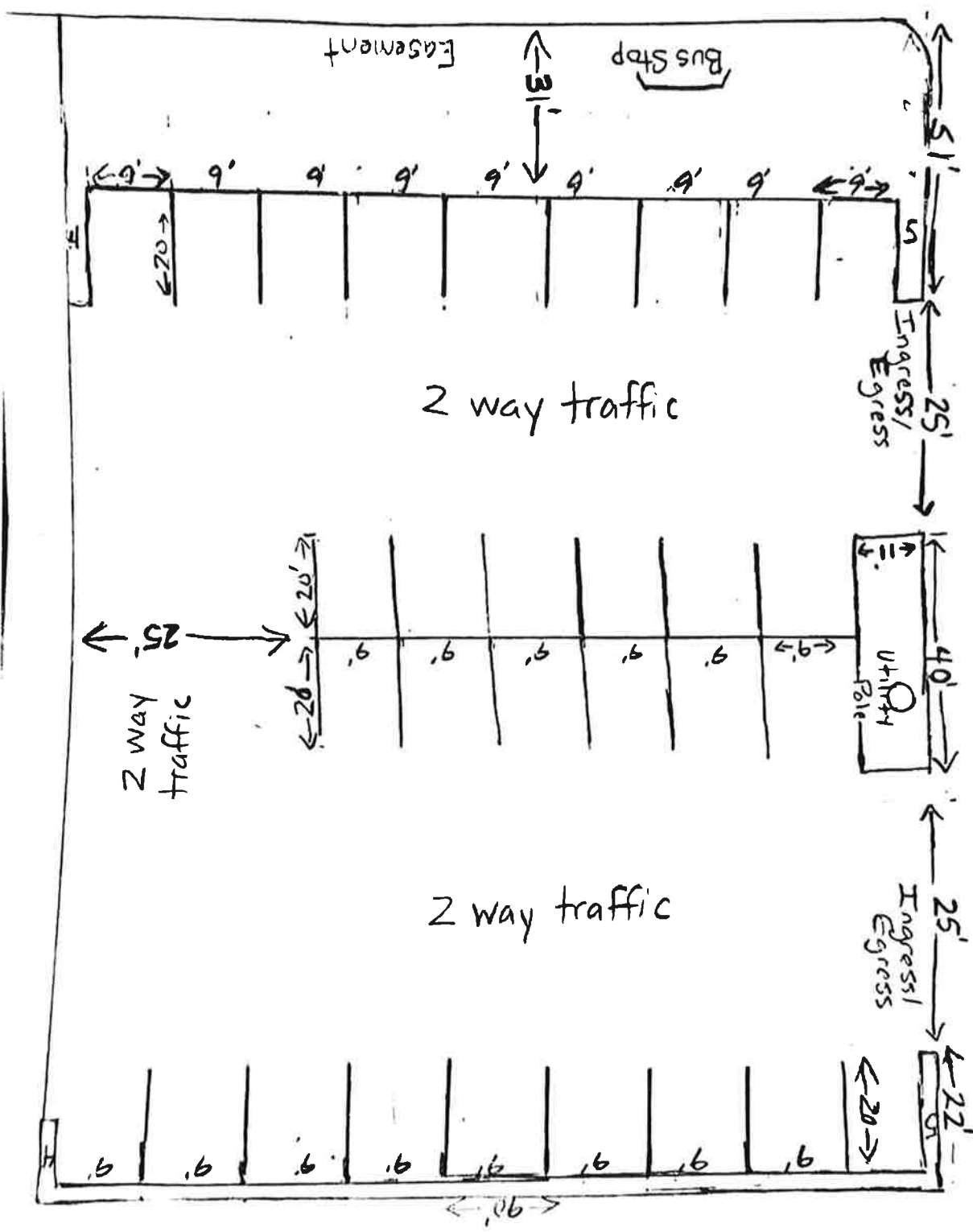


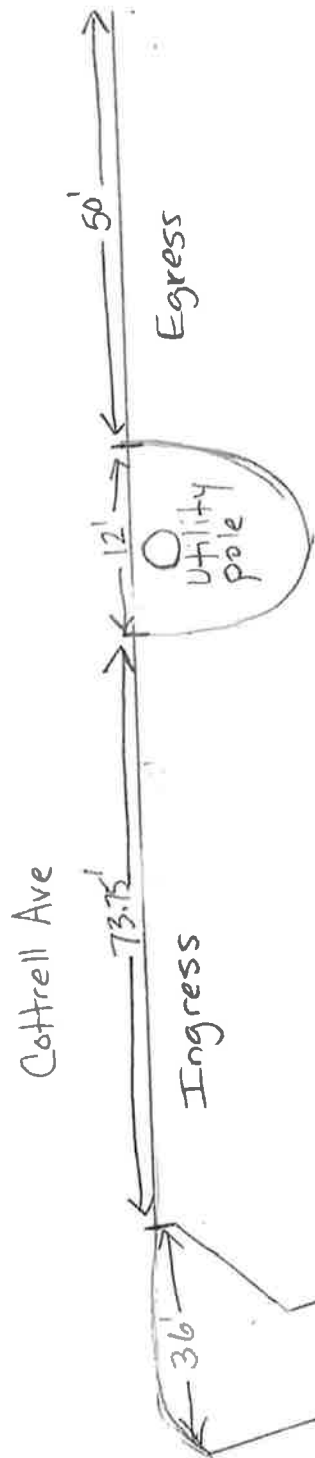
Thompson N 0085

Cottrell Ave.

Northbound US 1

Median





open field  
overflow parking

Northbound US1

Median

Southbound US1

Median

## **PORT ST. JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES**

The Port St. John Dependent Special District Board met in regular session on Wednesday, June 7, 2023, at 6:00 p.m., at the Port St. John Library, 6500 Carole Ave., Port St. John, Florida.

Board members present were: Vaughan Kimberling, Chair; Kevin Shropshire, Vice Chair; Randy Rodriguez; Wendy Porter-Hyde; Maureen Rupe; and Greg Messer.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; and Jennifer Jones, Special Projects Coordinator.

The meeting was called to order by the Vice Chair at 6:00 p.m.

### **Excerpt of Complete Agenda**

**James H. and Kristine F. Sanford** request a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a BU-1 (General Retail Commercial) zoning classification, on 0.69 acres, located on the northeast and southeast corners of U.S. Highway 1 and Cottrell Ave. (5800 N. U.S. Highway 1, Cocoa) (23Z00013) (Tax Accounts 2316090 & 2316106) (District 1)

Kristine Sanford stated she and her husband bought the property in 2021 after the previous business had been closed for quite some time. The former business was the Highway Inn, a full-liquor bar, and it was zoned for consumption of alcohol on premises. She said after they bought it, the zoning was changed to 'business not inhabitable', and she was told that in order to get a beer and wine license, the zoning had to be restored. She said the intention for the property is to have a plant boutique, where she will sell plants and macramé wall hangings, and have a place for people to relax after work to have a beer or glass of wine, with the back area being like a botanical garden. She noted they intend to use the lot across from Cottrell Avenue for parking.

Vaughan Kimberling stated there is handicapped parking on the property where the building is located, with regular parking across the street, and asked if there will be lighting. Ms. Sanford replied there is a utility pole with lighting on the parking lot, and the County is putting in lighting in the medians. She stated on the portion with the building there will be outdoor lighting around the outside.

Randy Rodriguez asked staff if the zoning changed on the property before it was bought by the applicants.

Jeffrey Ball replied the previous use on the property was a restaurant, and alcohol use with a restaurant is allowed on the property, but since the restaurant is no longer there, the new use is considered a bar and a CUP is required for bars. He stated the zoning wasn't changed, but there was a previous CUP that allowed alcohol, but without the restaurant use, the new applicants needed to re-apply.

Greg Messer asked if the applicants are planning to serve food. Ms. Sanford replied she plans to have food trucks on the premises.

Jim Sanford stated they have been doing renovations, and a kitchen would have been too expensive, because the old kitchen was not salvageable.

Wendy Porter-Hyde asked if the applicants intend to have a full-liquor license in the future. Ms. Sanford replied no, that is not the intent, as that license is very expensive.



Public comment.

Mitch Bromwell, 132 Cottrell Avenue, Cocoa, stated in the past couple of years there have been some nice food trucks that come there, and it has worked out. He said the neighborhood is developing and coming back together as a family-friendly neighborhood.

Maureen Rupe asked if the emphasis will be on the plants. Ms. Sanford replied yes, the emphasis is on the atmosphere, as a place to relax, buy a plant, and have a drink. She said it is not to be an establishment where people come and sit and drink all day.

Motion by Randy Rodriguez, seconded by Maureen Rupe, to recommend approval of a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Bar, in a BU-1 (General Retail Commercial) zoning classification. The motion passed unanimously.

Upon consensus, the meeting was adjourned at 6:08 p.m.