



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

9/2/2021

Subject:

Joseph A. Calderone requests change of zoning classification from TR-3 (21Z00021) (Tax Account 2315419) (District 2)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home).

Summary Explanation and Background:

The applicant is seeking a change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home) for the purpose of placing a home on the property. The proposed TR-1-A classification permits both site-built and mobile or manufactured single-family residential homes.

The subject lot was a part of the adjacent mobile home park prior to March 1969, when it was recorded as a separate lot. This resulting lot does not meet the minimum lot size of 10 acres in TR-3, a classification intended for mobile home parks. The proposed TR-1-A zoning classification requires a minimum lot size of 5,000 square feet, with a minimum lot width of 50 feet and depth of 100 feet.

On July 21, 2021, the Board of Adjustment unanimously approved a request by the applicant for a variance of 28 feet from the 100 feet of lot depth required for TR-1-A zoning.

The overall character of the surrounding area is mobile home development, with TR-1 and TR-3 zoning classifications. Should this rezoning request be granted, this would be an introduction of TR-1-A to the area.

The parcels are not serviced by Brevard County sewer. The closest available Brevard County sewer line is approximately 2.4 miles southwest of the parcel. The parcel can be serviced by City of Cocoa water. If sewer is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

The Board may wish to consider whether the request for TR-1-A is consistent and compatible with the surrounding area.

On August 12, 2021, the North Merritt Island Dependent Special District Board heard the request and unanimously recommended approval.

On August 23, 2021, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
2. actual development over the immediately preceding three years; and
3. development approved within the past three years but not yet constructed.

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

Criteria:

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

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

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

CONDITIONAL USE PERMITS (CUPs)

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

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon

a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
 - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
 - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
 - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
 - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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

STAFF COMMENTS

21Z00021

Joseph A. Calderone

TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home)

Tax Account Number: 2315419
Parcel I.D.: 23-36-14-00-517
Location: Northeast corner of Whaley Road and Mangrove Drive (District 2)
Acreage: 0.14 acres

North Merritt Island Board: 08/12/2021
Planning & Zoning Board: 08/23/2021
Board of County Commissioners: 09/02/2021

Consistency with Land Use Regulations

- Current zoning cannot be considered under the Future Land Use Designation, Section 62-1255.
- The proposed zoning cannot 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	TR-3	TR-1-A
Potential*	0 units	One single-family unit
Can be Considered under the Future Land Use Map	No	Yes, RES 1**

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

**Nonconforming lots of record are allowed to use a zoning classification consistent with lot dimensions even if inconsistent with the FLU designation per Sec. 62-1188(7).

Background and Purpose of Request

The applicant is seeking a change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home) for the purpose of placing a home on the property.

The subject parcel was determined to be a nonconforming lot of record. The lot received verification of nonconforming status on July 1, 2021, as part of zoning action **21AA00043**. The lot was recorded in Official Records Book 1068, Page 456 in March 1969 excluding Official Records Book 1329, Page 901 recorded in April 1973, prior to the existence of the County's Comprehensive Plan in 1988. The subject lot is 5,971 square feet in size.

Section 62-1188(7) of the code allows nonconforming lots of record to use a zoning classification consistent with the lot dimensions even if inconsistent with the FLU designation.

The subject lot was a part of the adjacent mobile home park prior to March 1969, when it was recorded as a separate lot. This resulting lot does not meet the minimum lot size of 10 acres in TR-3, a classification intended for mobile home parks. The proposed TR-1-A zoning classification requires a minimum lot size of 5,000 square feet.

The owner of the lot has also requested a variance of 28 feet to the 100 feet of lot depth required in TR-1-A (**21PZ00034**). This request is scheduled to be heard by the Board of Adjustment (BOA) on July 21, 2021, and must be approved in order for the rezoning request to be heard.

The original zoning of the property was Agricultural Use, the predecessor to Agriculture Residential (AU) zoning. The property was rezoned to Trailer Park & Trailer Subdivision zoning, the predecessor to TR-3 zoning, on February 24, 1964 as part of zoning action **Z-1303**.

Land Use

The subject property is currently designated as RES 1 (Residential 1). The proposed TR-1-A zoning classification can be considered with RES 1 FLU as the lot is a nonconforming lot of record per zoning action **21AA00043**.

Applicable Future Land Use Policies

FLUE Policy 1.9 – The Residential 1 land use designation permits low density residential development with a maximum density of up to one (1) unit per acre, except as otherwise may be provided for within this element. The Residential 1 land use designation may be considered for lands within the following generalized locations, unless otherwise limited by this Comprehensive Plan.

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.

The subject parcel retains a FLU designation of RES 1, which is consistent with other parcels in the area. The abutting parcels to the north, east, and south have a FLU designation of RES 1. Bordering the subject parcel on the west is a road (Whaley Road), the other side of which contains parcels with RES 1 FLU.

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

The parcel to the east and south is occupied by the Colony Park Mobile Home Village, a 27.24-acre mobile home park zoned TR-3 that is nonconforming in regards to its FLU designation of RES 1 (**NMH-17**). The parcel to the north and the parcels across Whaley Road to the west also contain manufactured homes.

Apart from the adjacent mobile home park zoned TR-3, the developed character of the area along Whaley Road consists primarily of parcels zoned TR-1 developed with single-family residential homes. The applicant is seeking TR-1-A zoning instead of TR-1 due to the minimum lot size requirement in TR-1 being 7,500 square feet, which this lot does not meet.

The current TR-3 classification is intended for lands devoted for mobile home parks, with a minimum lot size of 10 acres.

The proposed TR-1-A classification permits both site-built and mobile or manufactured single-family residential land uses on lots of at least 5,000 square feet in size, with a minimum lot width of 50 feet and depth of 100 feet.

The TR-1 classification also permits both site-built and mobile or manufactured single-family residential land use, but requires a minimum lot size of 7,500 square feet with a minimum lot width of 65 feet and depth of 100 feet.

There have been no rezoning applications in the surrounding area in the past 5 years.

Surrounding Area

The abutting parcel to the north is zoned TR-1 with a manufactured home. The abutting parcel to the east and south is zoned TR-3 and is developed as a mobile home park. The parcel to the west across Whaley Road is zoned TR-1 and developed with a manufactured home. Should this rezoning request be granted, this would be an introduction of TR-1-A to the surrounding area.

The subject property is located within the 2018 North Merritt Island Small Area Study (SAS) boundary.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Land Clearing and Landscape Requirements
- Protected Species

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. If sewer is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

The subject parcel is located north of Hall Road in Merritt Island and may be subject to Section 62-3724(4) of the floodplain ordinance should it be determined that any area of the parcel is within the floodplain.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Courtenay Parkway, between N. Tropical Trail and Space Commerce Way, which has a Maximum Acceptable Volume of 40,300 trips per day, a Level of Service (LOS) of D, and currently operates at 22.28% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.03%. The corridor is anticipated to continue to operate at 22.31% of capacity daily (LOS D). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development potential of this site falls below the minimum number of new residential lots that would require a formal review.

The parcels are not serviced by Brevard County sewer. The closest available Brevard County sewer line is located approximately 2.4 miles southwest of the parcel. The parcel can be serviced by City of Cocoa water.

For Board Consideration

The Board may wish to consider whether the request to TR-1-A is consistent and compatible with the surrounding area given the surrounding area consists of TR-1 zoning.

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

Item # 21Z00021

Applicant: Joseph Calderone

Zoning Request: TR-3 to TR-1-A

Note: Applicant wants to conform a substandard lot.

NMI Hearing Date: 8/12/21; **P&Z Hearing Date:** 8/23/21; **BCC Hearing Date:** 9/2/21

Tax ID Nos: 2315419

- 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:

- Indian River Lagoon Nitrogen Reduction Overlay
- Floodplain
- Land Clearing and Landscape Requirements
- Protected Species

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay. If sewer is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required.

The subject parcel is located north of Hall Road in Merritt Island and may be subject to Section 62-3724(4) of the floodplain ordinance should it be determined that any area of the parcel is within the floodplain.

Land Use Comments:

Indian River Lagoon Nitrogen Reduction Overlay

The parcel is mapped within the Indian River Lagoon Nitrogen Reduction Overlay per Chapter 46, Article II, Division IV - Nitrogen Reduction Overlay. If sewer is not available, then the use of alternative septic systems designed to provide at least 65% total nitrogen reduction through multi-stage treatment processes shall be required. If a septic system is required, the applicant shall contact the Florida Department of Environmental Health at 321-633-2100. NRM requires a Septic Maintenance Notice be filed with the Brevard Clerk of Courts at time of building permit.

Floodplain

If it is determined that any area of the parcel is within the floodplain, then per Section 62-3724(4) of the floodplain ordinance, any development, land alteration, or grading on North Merritt Island in the area from Hall Road, north to State Road 405, herein after referred to as "Area," is subject to compensatory storage, and written certification from the engineer of record that there will be no adverse flooding impacts upon properties within the Area resulting from the proposed development. Delineation of floodplains, shall use best available pre-alteration ground elevation data. Sealed pre-existing topographic survey or engineered site plan delineating floodplain limits on the property, if any, with base flood elevation using best available flood elevation data. The engineer shall provide a report that includes full engineering data and analysis, including the hydraulic and hydrologic modelling and analysis demonstrating that there is no impact. Any engineered compensatory storage shall be maintained by the owner in perpetuity. Please call NRM at 321-633-2016 prior to any grading, filling or land alteration activities.

Land Clearing and Landscape Requirements

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for tree preservation and canopy coverage requirements. Land clearing or tree removal is not permitted without prior authorization by NRM.

Protected Species

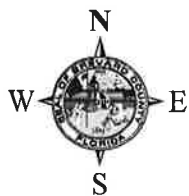
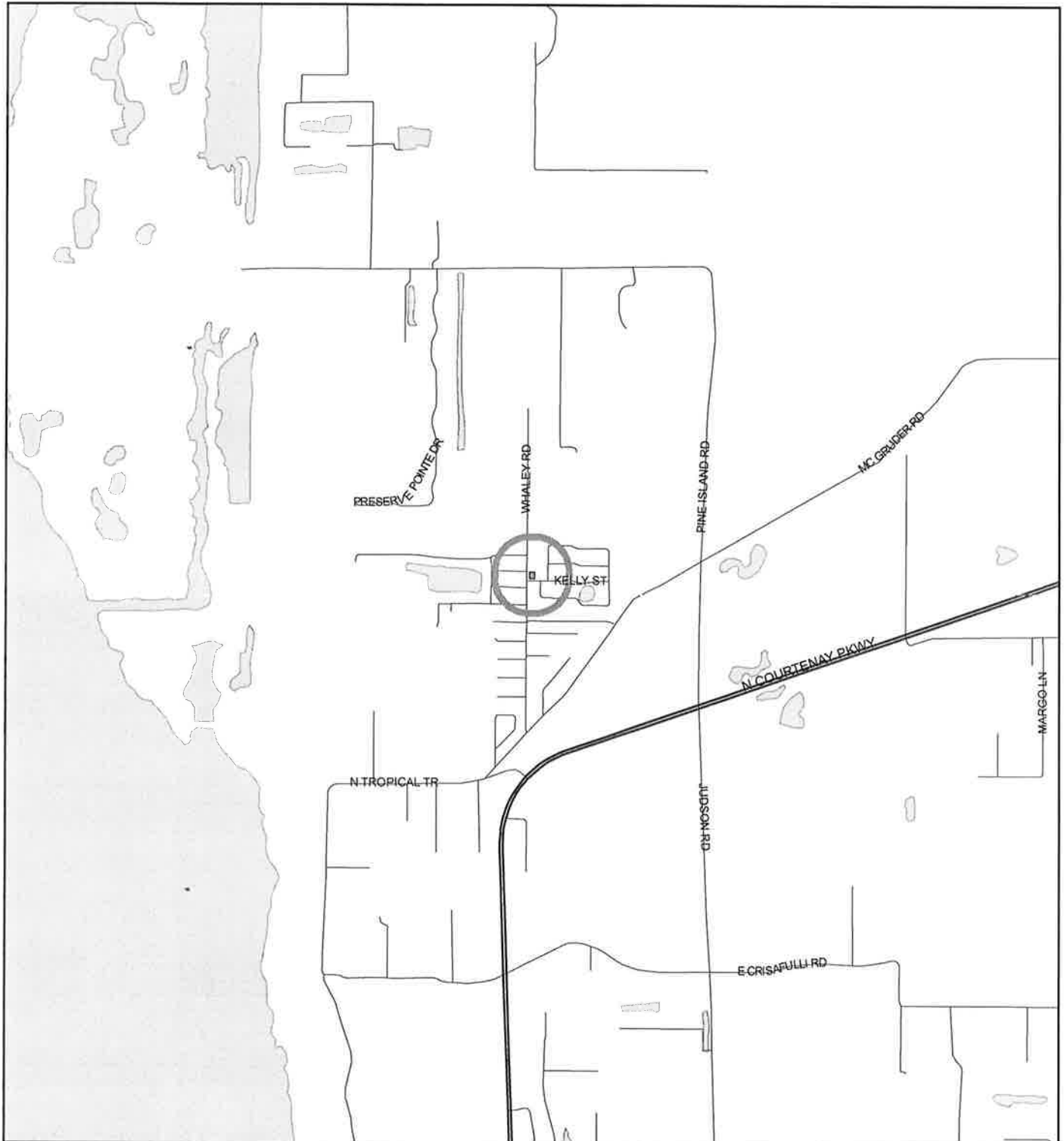
Information available to NRM indicates that federally and/or state protected species may be present on the property. A Scrub Jay Occupancy polygon is mapped across the street from the subject parcel.

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

CALDERONE, JOSEPH A.

21Z00021



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.

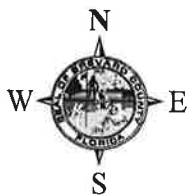
Produced by BoCC - GIS Date: 6/10/2021

— Buffer
■ Subject Property

ZONING MAP

CALDERONE, JOSEPH A.

21Z00021



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.

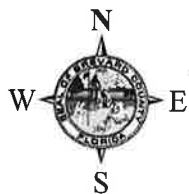
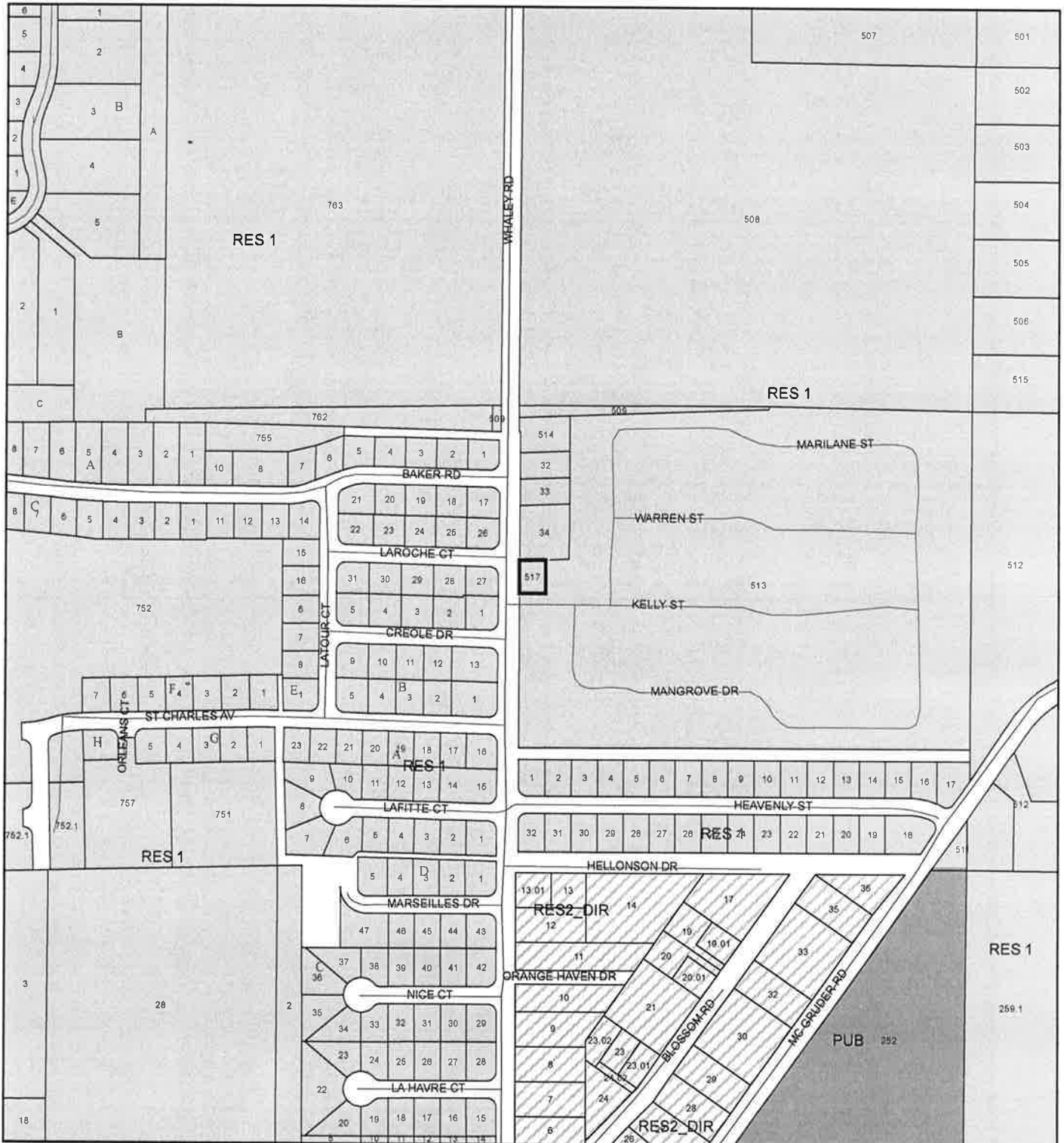
Produced by BoCC - GIS Date: 6/10/2021

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

— Subject Property
 — Parcels

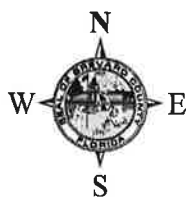
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 6/10/2021

AERIAL MAP

CALDERONE, JOSEPH A.

21Z00021



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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Produced by BoCC - GIS Date: 6/10/2021

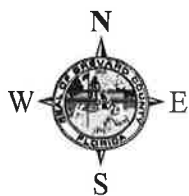
— Subject Property

□ Parcels

NWI WETLANDS MAP

CALDERONE, JOSEPH A.

21Z00021



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: 6/10/2021

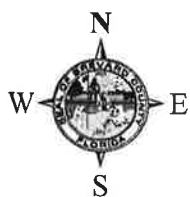
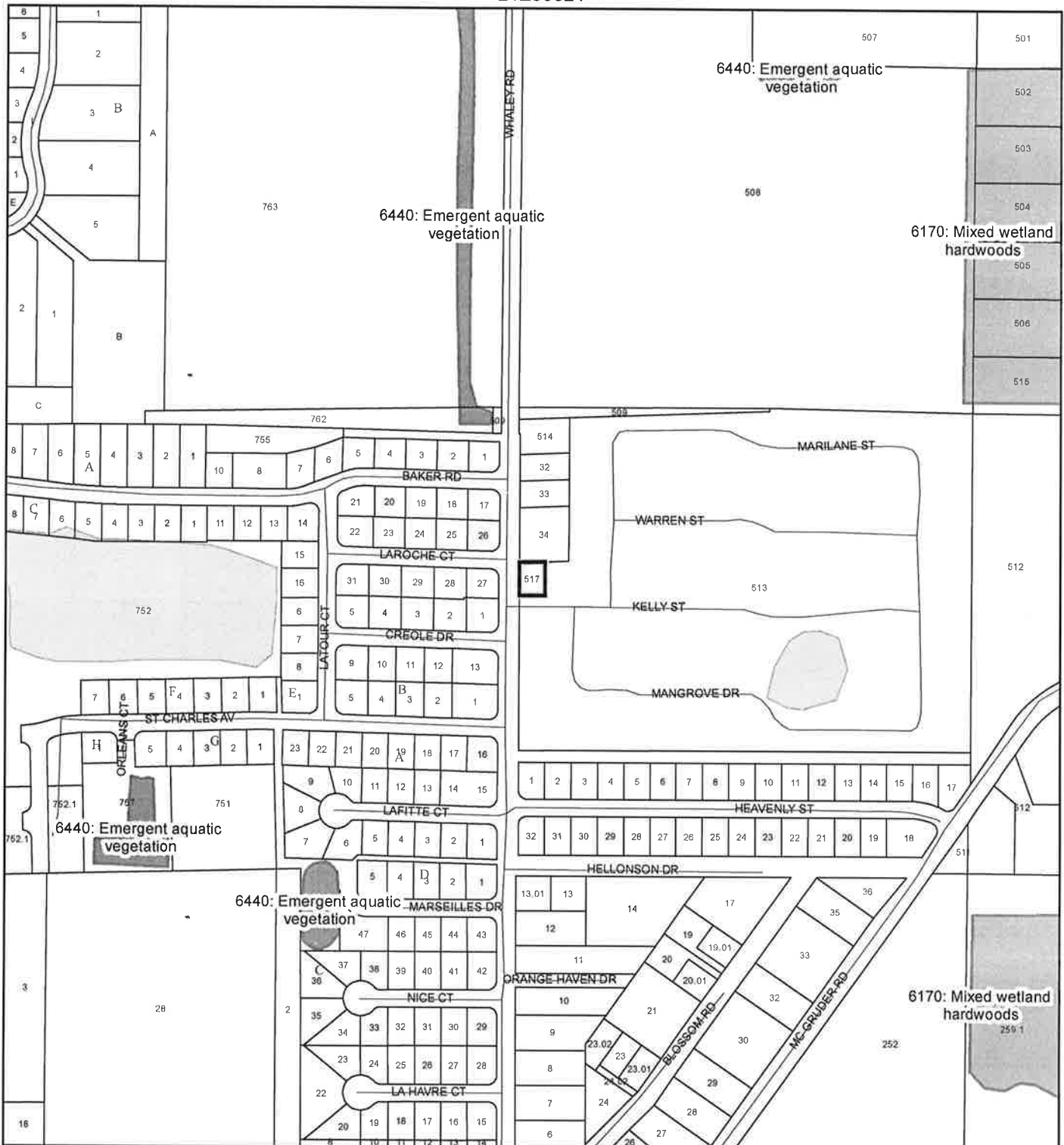
National Wetlands Inventory (NWI)

	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

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

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

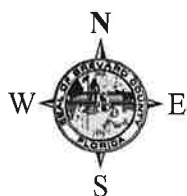
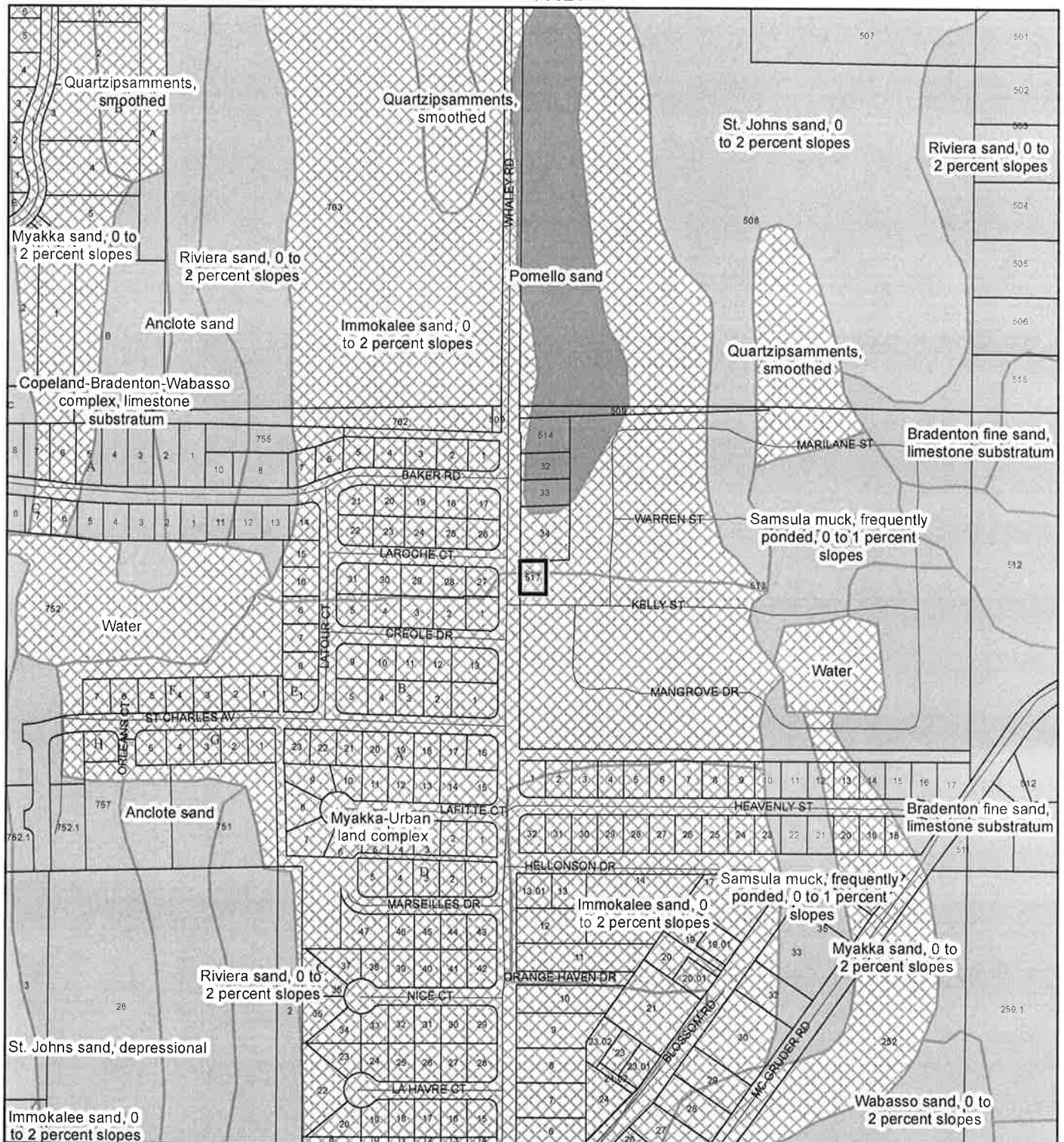
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

USDA SCSSS Soils

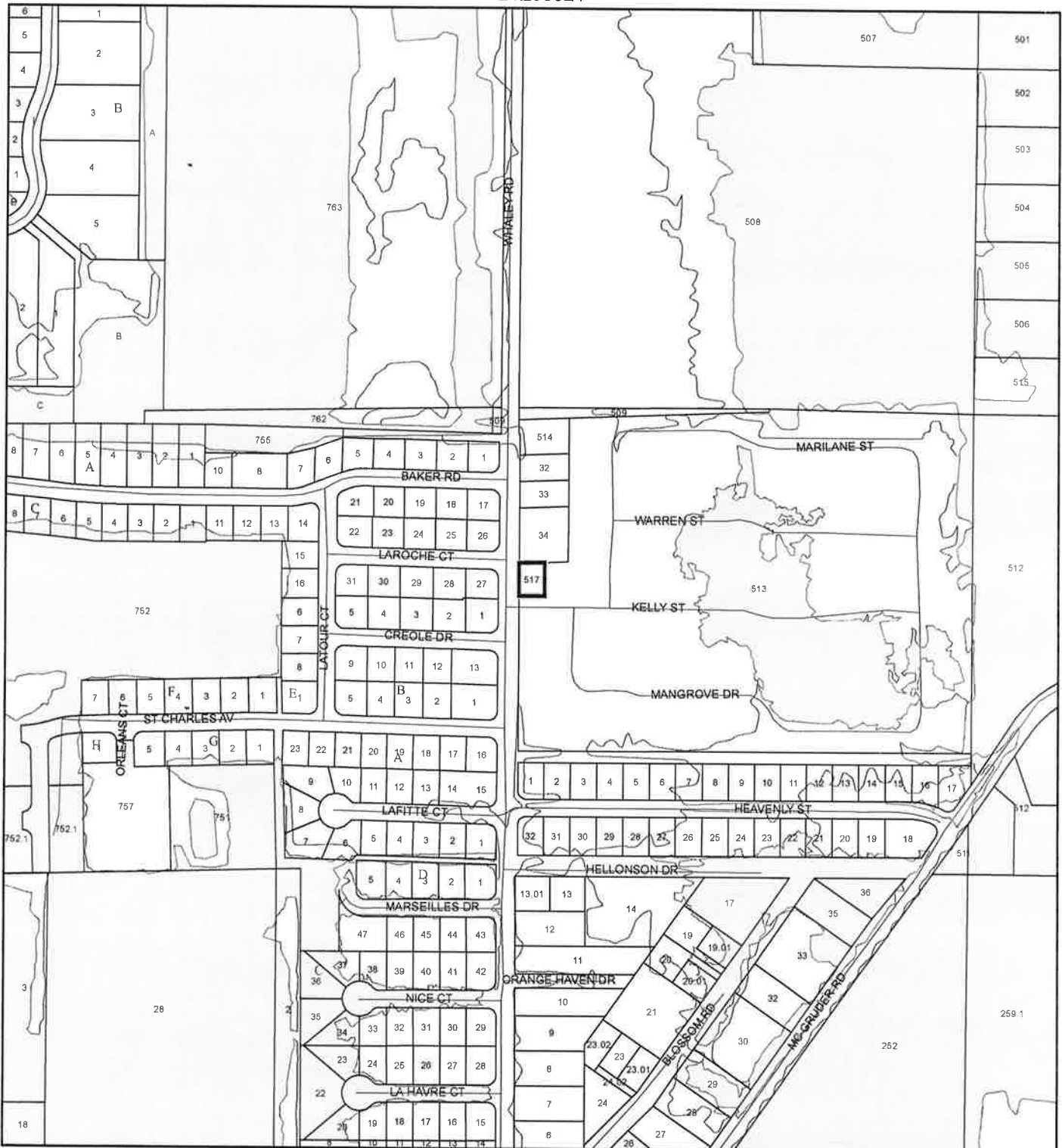
- Aquifer and Hydric
- Aquifer
- Hydric
- None

- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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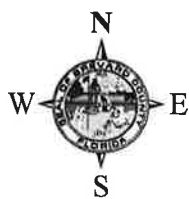
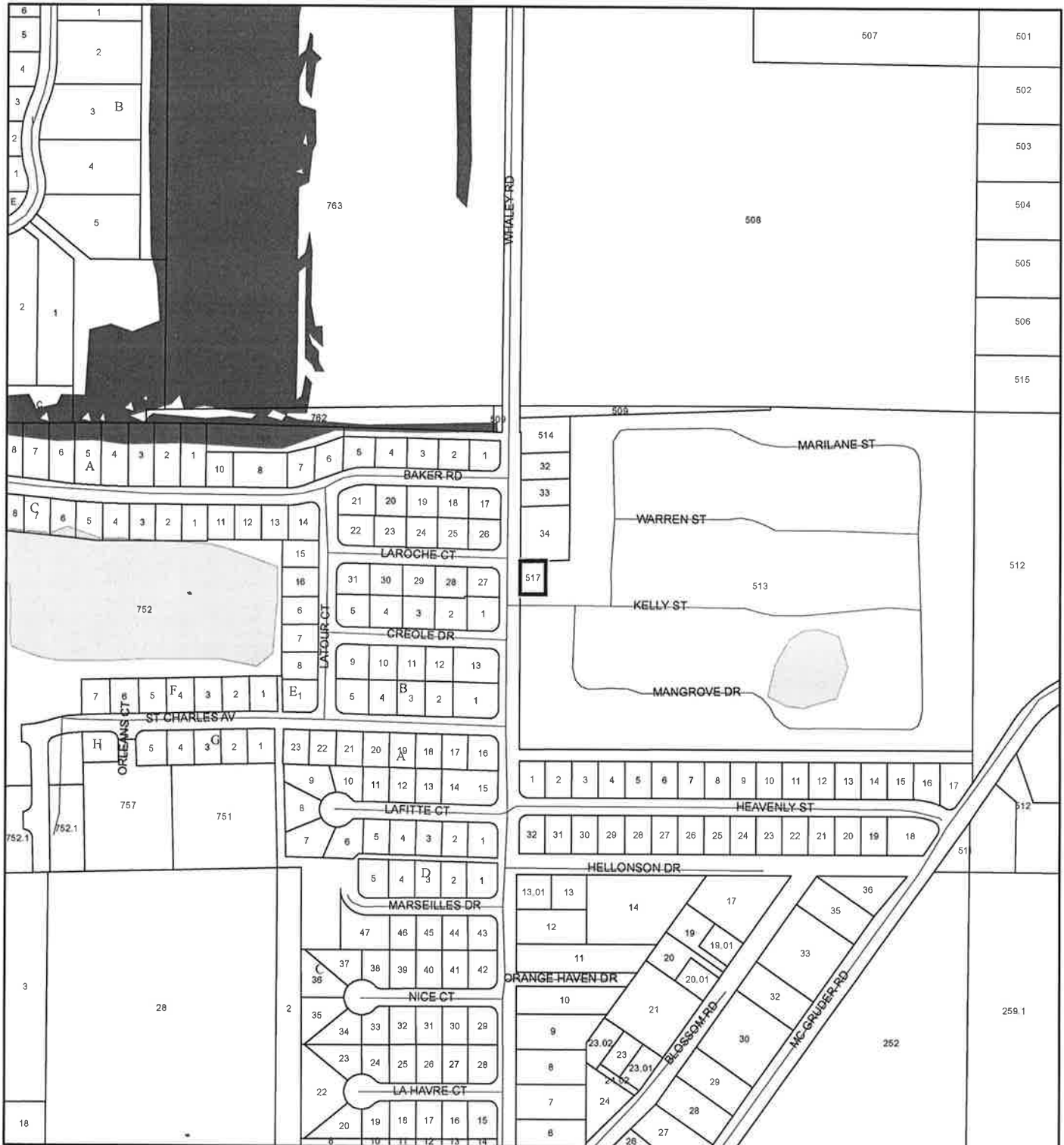
Produced by BoCC - GIS Date: 6/10/2021

FEMA Flood Zones		
	A	
	AE	
	AH	
	Subject Property	
	X	

COASTAL HIGH HAZARD AREA MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

— Subject Property

□ Parcels

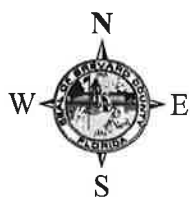
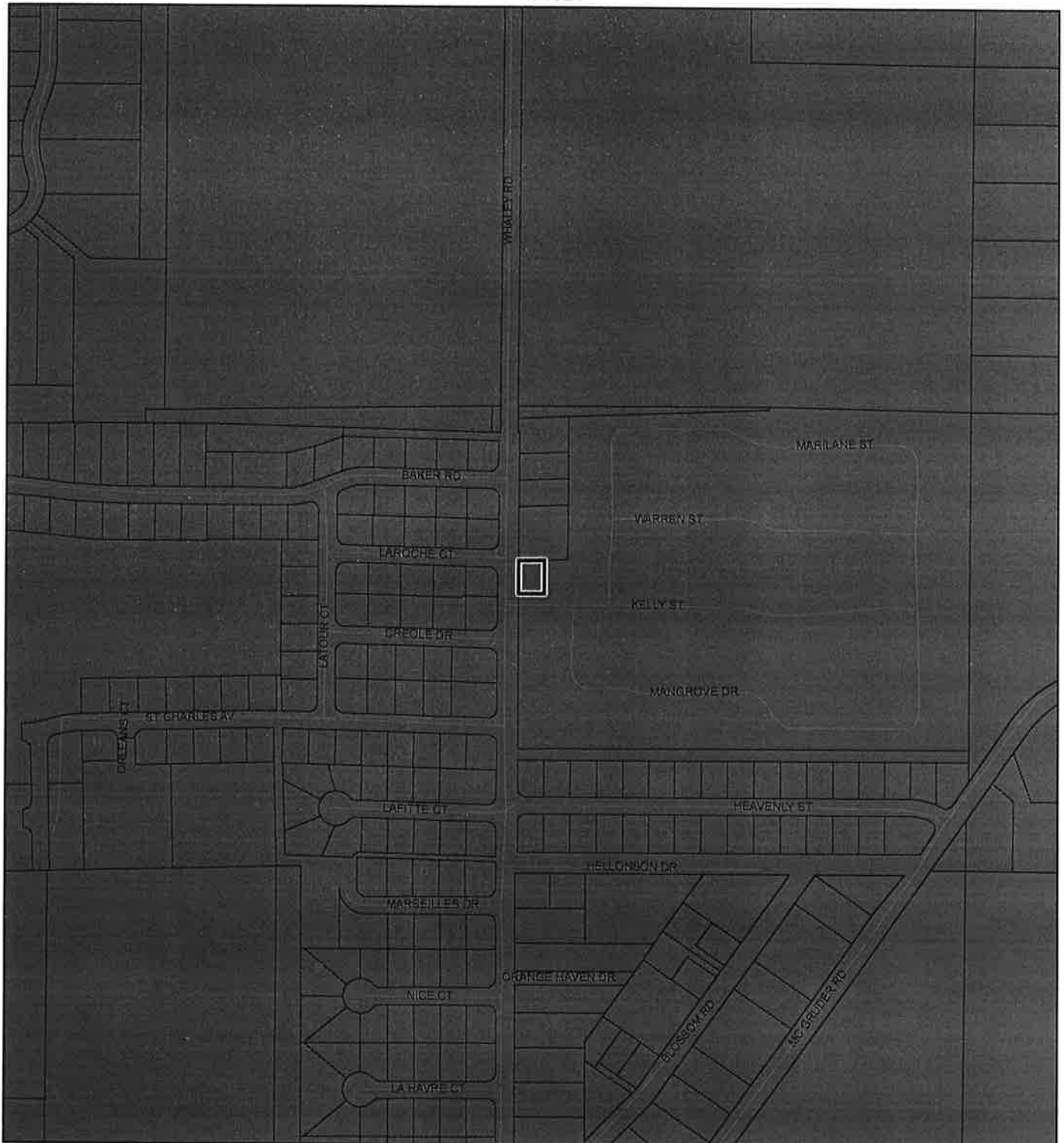
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

CALDERONE, JOSEPH A.

21Z00021



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

 Subject Property

 Parcels

Septic Overlay

 40 Meters

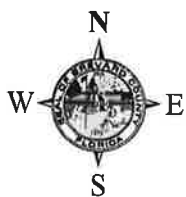
 60 Meters

 All Distances

EAGLE NESTS MAP

CALDERONE, JOSEPH A.

21Z00021




1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

 Subject Property

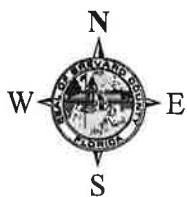
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

CALDERONE, JOSEPH A.




21Z00021



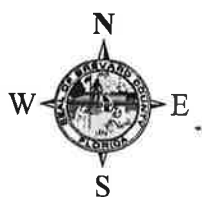
1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 6/10/2021

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

21Z00021



— Subject Property □ Parcels



BOARD OF COUNTY COMMISSIONERS

Rezoning

Application Pages
21Z00021
Calderone

Planning and Development

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
321-633-2070

**Application for Zoning Action, Comprehensive Plan Amendment, or
Variance**

Applications must be submitted in person. Please call 321-633-2070 for an appointment at least 24 hours in advance. Mailed, emailed, or couriered applications will not be accepted.

PZ # 21Z00021

Existing FLU: RES 1 Existing Zoning: TR-3

Proposed FLU: NA Proposed Zoning: TR-1-A

PROPERTY OWNER INFORMATION

If the owner is an LLC, include a copy of the operating agreement.

JOSEPH A. CALDERONE
Name(s) Company
637 Orange Ct Rockledge FL 32955
Street City State Zip Code
jcalderonecher@gmail.com 321-544-2118
Email Phone Cell

APPLICANT INFORMATION IF DIFFERENT FROM OWNER:

☐ Attorney ☐ Agent ☐ Contract Purchaser ☐ Other _____

Name(s) Company

Street City State Zip Code

Email Phone Cell

APPLICATION NAME

- ☐ Large Scale Comprehensive Plan Amendment (CP) (greater than 10 acres)
- ☐ Small Scale Comprehensive Plan Amendment (CP) (less than 10 acres)
- ☐ Text Amendment (CP): Element _____
- ☐ Other Amendment (CP): _____
- ☒ Rezoning Without CUP (RWOC)
- ☐ Combination Rezoning and CUP (CORC)
- ☐ Conditional Use Permit (CUP)
- ☐ Binding Development Plan (BDP)
- ☐ Binding Development Plan (BDP) (Amendment)
- ☐ Binding Development Plan (BDP) (Removal)
- ☐ Variance(s) (V) (building permits will not be approved until 30 days after the date the order is signed)
- ☐ Administrative Approval of Setbacks, Lot Size, or Accessory Structures
- ☐ Administrative Approval of Flag Lot or Easement
- ☐ Administrative Approval of On-Premises Consumption of Alcoholic Beverages for Restaurants / Snack Bars
- ☐ Other Action: _____

Acreage of Request: 0.14 = 6,098 #

Reason for Request:

TR-3 to TR-1-A

The undersigned understands this application must be complete and accurate prior to advertising a public hearing:

- ☒ I am the owner of the subject property, or if corporation, I am the officer of the corporation authorized to act on this request.
- ☐ I am the legal representative of the owner of the subject property of this application. (Notarized Authorization to Act must be submitted with application)
- ☐ An approval of this application does not entitle the owner to a development permit.
- ☐ For Variances, I understand that building permits will not be approved until 30 days after the date the order is signed, in order to comply with the appeal procedure.
- ☒ I certify that the information in this application and all sketches and data attached to and made part hereof are true and accurate to the best of my knowledge.

Joseph Calderone
Signature of Property Owner or
Authorized Representative

06/04/2021
Date

State of Florida

County of Brevard

Subscribed and sworn before me, by X physical presence or _____ online notarization,
this 4th day of, June, 20 21, personally appeared

Joseph Calderone, who is personally known to me or produced

FDL C436-481-62-0020 as identification, and who did / did not take an oath.

Angel Morales
Notary Public Signature

Seal



Office Use Only:

Accela No. 21200021 Fee: 588.00 Date Filed: 6/4/21 District No. 2

Tax Account No. (list all that apply) 2315419

Parcel I.D. No.

23 36 14 00 517
Twp Rng Sec Sub Block Lot/Parcel

Planner: NH Sign Issued to: Code Enforcement Notification Radius: 500ft

MEETINGS

DATE

TIME

☐ P&Z

☐ PSJ Board

☒ NMI Board

☒ LPA

☐ BOA

☒ BCC

8/12/21

8/23/21

9/2/21

6:00pm

3:00 p.m

5:00pm

Wetland survey required by Natural Resources ☐ Yes ☒ No Initials PB

Is the subject property located in a JPA, MIRA, or 500 feet of the Palm Bay Extension?

☒ Yes ☐ No

If yes, list North Merritt Island

Location of subject property: Northeast corner of
Whaley Road and Mangrove Drive

Description of Request:

TR-3 → TR-1-A

Notice to Applicants for Change of Land Use

The Planning and Zoning Office staff will be preparing a package of written comments concerning your request. These comments will be provided to the Planning and Zoning Board and Board of County Commissioners. The comments will address the following:

The current zoning of the property along with its current development potential and consistency with the Brevard County Comprehensive Plan use and density restrictions.

The proposed zoning of the property along with its development potential and Consistency with the Board County Comprehensive Plan use and density restrictions.

The proposal's impact on services, such as roads and schools.

The proposal's impact upon hurricane evacuation, if applicable.

Environmental factors.

Compatibility with surrounding land uses.

Consistency with the character of the area.

You may place your own written comments regarding these items into the record. Up to two typewritten pages can be included in the package if received 10 working days prior to the Planning and Zoning Board hearing. You are not required to provide written comments. *An Applicant presentation to the Planning and Zoning Board is required regardless of written submittals.* The board may approve the requested classification or a classification which is more intensive than the existing classification, but less intensive than the requested classification.

Staff comments will be available approximately one week prior to the Planning and Zoning Board hearing. These comments will be made available to you at that time. In order to expedite receipt of staff's comments, please provide an e-mail address or fax number below. Alternatively, a copy of staff's comments will be mailed via the U.S. Postal Service.

NOTES:

- ☐ If your application generates public opposition, as may be expressed in letters, petitions, phone calls, testimony, etc., you are advised to meet with concerned parties in an effort to resolve differences prior to the BCC taking final action on the request; therefore, you are encouraged to meet with affected property owners prior to the public hearing by the Planning & Zoning Board/Local Planning Agency (P&Z/LPA). During the course of conducting the public hearing, if the P&Z/LPA finds the application is controversial, and the applicant has not met with affected property owners, the item shall be tabled to the next agenda to allow such a meeting to take place. If the item is controversial, despite the applicant's efforts to meet with affected property owners, the P&Z/LPA may include, in their motion, a requirement to meet with interested parties again prior to the BCC public hearing. The BCC may also table your request in order for you to meet with interested parties, if this has not occurred prior to the public hearing before the BCC. If you need assistance to identify these parties, please contact the Planning & Zoning Office.
- ☐ BCC approval of a zoning application does not vest a project nor ensure issuance of a permit. At the time of permit application, land development regulations and concurrency-related level of service standards must be met.

Please transmit staff's comments via:

calderone.cher@gmail.com () _____ or U.S. Mail _____
e-mail address fax number

Yes/No

I have received a copy of this notice:


(APPLICANT SIGNATURE)

NORTH MERRITT ISLAND

DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The North Merritt Island Dependent Special District Board met in regular session on **Thursday, August 12, 2021**, at 6:00 p.m., at the Merritt Island Service Complex, 2575 N. Courtenay Parkway, 2nd Floor, Merritt Island, Florida.

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

Planning and Development staff present were: Jeffrey Ball, Planning and Zoning Manager; Kyle Harris Planner I; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

Joseph A. Calderone

A change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home). The property is 0.14 acre, located on the northeast corner of Whaley Road and Mangrove Drive. (6810 Whaley Road, Merritt Island) (21Z00021) (Tax Account 2315419) (District 2)

Joseph Calderone - My name is Joseph Calderone, I'm the owner of this property and my address is 637 Orange Court, Rockledge. The property was originally presented to me as buildable, but I ended up getting into this to convert it, so that's what I'm doing. The zoning is currently TR-3 and I was told it needs to be TR-1-A to make it buildable. I applied, and was approved, for a variance so that something can be put on the property. It has power and water and sewer line that hook into the sewage that exists for the Colony Park Mobile Home Park, so there are no improvements that need to be done on the property. I spoke to the sewer company already and I can hook up whenever something is built there.

Ted Balke - What is your potential future plan?

Joseph Calderone - To put a small building on the property. The property is about 6,000 square feet and is comparable to Colony Park.

Jim Carbonneau - What is your intended use of the building?

Joseph Calderone - A single-family residence.

Chris Cook - The building next to it on the aerial map, is that the old sewage treatment plant that was there? Just to the east.

Joseph Calderone - That was a laundromat, but it has been torn down.

Jack Ratterman - That laundromat used to serve Colony Park.

Jeffrey Ball - This property was part of Colony Park, and sometime in 1969 it was broken off, and TR-3 requires 10 acres minimum, and that was one of the reasons Mr. Calderone has to rezone it, and also because of the size of the property. I want to provide clarification for you all, part of the building permit process is that Mr. Calderone will have to get a permit from the Health Department for the septic system.

Mary Hillberg - So, he isn't going onto sewer?

Jeffrey Ball - There is no central sewer there.

Joseph Calderone - There is sewer that services Colony Park.

Jeffrey Ball - That is a package plant, it's not central sewer.

Joseph Calderone - I spoke to the supervisor of the sewage plant and he said there is a hook up to the main and as far as he's concerned there is no problem with hooking up to the sewage system as long as I'm paying the town, which I'm doing right now.

Jeffrey Ball - It's up to the Health Department to issue the permit.

Joseph Calderone - I don't see why they wouldn't.

Jack Ratterman - I know there has been a great effort in trying to redevelop that area.

Jeffrey Ball - This is a unique request; staff worked with the applicant to bring this property into a usable property. The next step after zoning is the building permit process.

Jack Ratterman - Will it be a building or will it be pre-fabricated?

Jeffrey Ball - That's up to the applicant. The zoning allows for both a site built and a mobile home.

Public Comment.

Kim Smith - My name is Kim Smith, P.O. Box 542372, Merritt Island. I'm speaking for the North Merritt Island Homeowners Association, and in regards to this zoning change, the HOA had no objections.

Mary Hillberg - I bring it back to the board. Is there a motion?

Jack Ratterman - I make a motion that we accept Item H.3.

Jim Carbonneau - I'll second.

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

Upon consensus, the meeting adjourned at 6:20 p.m.

LOCAL PLANNING AGENCY/PLANNING AND ZONING BOARD MINUTES

The Brevard County Local Planning Agency/Planning & Zoning Board met in regular session on Monday, August 23, 2021, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by Chair Mark Wadsworth, at 3:00 p.m.

Board members present were: Ron Bartcher (D1); Ben Glover (D3); William Capote (D3); Mark Wadsworth, Chair; Joe Buchanan (D4); Bruce Moia (D5); Peter Filiberto, Vice Chair (D5); and David Bassford (D5).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Kyle Harris, Planner I; Abby Jorandby, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

Excerpt of Complete Minutes

3. Joseph A. Calderone

A change of zoning classification from TR-3 (Mobile Home Park) to TR-1-A (Single-Family Mobile Home), on property described as Tax Parcel 517, as recorded in ORB 9056, Pages 710 - 711, of the Public Records of Brevard County, Florida. **Section 14, Township 23, Range 36.** (0.14 acre) Located on the northeast corner of Whaley Road and Mangrove Drive. (6810 Whaley Road, Merritt Island) (District 2)

Joseph Calderone, 637 Orange Court, Rockledge, stated when the property was cut out years ago it was never addressed to be rezoned, and when he recently purchased the property he thought it was buildable, but later found out it wasn't. He would like to rezone the property in order to be able to build on it.

No public comment.

Ben Glover stated the requested zoning appears to be less intense and he is in favor of the request.

Motion by Ben Glover, seconded by Joe Buchanan, to approve the requested change of zoning classification from TR-3 to TR-1-A. The motion passed unanimously.