



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.13.

7/11/2024

Subject:

Jamine Kent, Carlene Sapp-Kent, & Jermaine Kent request a change of zoning classification from AU to RU-1-11. (24Z00013) (Tax Account 2103548) (District 1)

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 AU (Agricultural Residential) to RU-1-11 (Single-Family Residential).

Summary Explanation and Background:

The applicants are requesting a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-family Residential) to develop a single-family residence.

The subject property was split out from lot G on October 28, 1987, and was recorded in ORB 2858 Pg 2108, thus creating a substandard lot. The subject property's dimensions for minimum lot width, lot depth and lot area each fail to meet current AU zoning standards. If the lots were recorded before May 22, 1958, the minimum lot size would have been 50 feet in width; 75 feet in depth; and 5,000 square foot lot areas. Since the lot was split after March 1975, it cannot be considered a non-conforming lot of record.

The applicants are requesting the RU-1-11 zoning classification which can be considered consistent with the RES 4 Future Land Use designation and meet the current lot dimensions.

The property to the north is improved with a single-family home built in 1987; zoned AU. The property to the south is developed with a single-family home built in 1990; zoned AU. To the southeast of the subject property, across Myrtle Avenue, is a single-family home constructed in 1944; zoned RU-1-7. The property west of the subject property is a vacant lot zoned AU. The request can be considered an introduction of RU-1-11, however it would recognize existing development trends.

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

On June 10, 2024, the Planning and Zoning Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

Upon receipt of resolution, please execute and return a copy to Planning and Development.

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

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

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

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

Criteria:

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

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

(c) General Standards of Review.

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

**STAFF COMMENTS
24Z00013**

Jamine Kent, Jermaine Kent and Carlene Sapp-Kent

AU (Agricultural residential) to RU-1-11 (Single-family residential)

Tax Account Number: 2103548
Parcel I.D.s: 21-35-17-02-*G.05
Location: West side of Myrtle Ave 270 feet south of Cypress Ave (District 1)
Acreage: 0.34 acres

Planning & Zoning Board: 06/10/2024
Board of County Commissioners: 07/11/2024

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	AU	RU-1-11
Potential*	0**	1 Single-Family
Can be Considered under the Future Land Use Map	YES RES 4	YES RES 4

* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations. ** This parcel fails to meet AU zoning requirements in order to receive development rights.

Background and Purpose of Request

The applicants are requesting a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-family Residential) to develop a single-family residence.

The subject property was split out from lot G on October 28, 1987, and was recorded in ORB 2858 Pg 2108, thus creating a substandard lot. The subject property's dimensions for minimum lot width, lot depth and lot area each fail to meet current AU zoning standards. There are six (6) other parcels identified within the current deed as less and excepts/outparcels. If the lots were recorded before May 22, 1958, the minimum lot size would have been 50 feet in width; 75 feet in depth; and 5,000 square foot lot areas. From May 22, 1958, to March 6, 1975, the AU zoning classification had minimum lot criteria of 125 feet width, 125 feet depth and a minimum lot area of 1.0 acres. Since the lot was split after March 1975, it can not be considered a non-conforming lot of record. The current lot has a width of 89 ft. and a depth of 145 ft.

The applicants, therefore, are requesting the RU-1-11 zoning classification which can be considered consistent with the RES 4 Future Land Use designation and current lot dimensions.

Surrounding Area

	Existing Land Use	Zoning	Future Land Use
North	Single-family residence	AU	RES 4
South	Single-family residence	AU	RES 4
East	NE – Vacant SE – Single-family residence	RU-1-7	RES 4
West	Vacant	AU	RES 4

The property to the north of the subject property is a 0.27 acre lot improved with a single-family home built in 1987; zoned AU. The property to the south is 0.30 acre parcel developed with a single-family home built in 1990; zoned AU. To the southeast of the subject property, across Myrtle Avenue, is a single-family home built on a 0.5 acre lot and constructed in 1944; zoned RU-1-7. The property west of the subject property is a vacant lot zoned AU and is 0.29 acres in size. All of the properties described are within the RES 4 FLUM.

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

RU-1-7 classification permits single family residences on minimum 5,000 square foot lots with minimum width of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

RU-1-11 classification permits single family residences on a minimum 7,500 square foot lot, with a minimum width and depth of 75 feet. The minimum house size is 1,100 square feet. RU-1-11 does not permit horses, barns or horticulture.

Land Use

The subject property is currently designated on the FLUM as RES 4. Both the current AU zoning and the proposed RU-1-11 zoning classifications can be considered consistent with RES 4. This land use designation encompasses the majority of the area within proximity of the subject property.

Applicable Land Use Policies

FLUE Policy 1.7 – The Residential 4 Future land use designation affords an additional step down in density from more highly urbanized areas. This land use designation permits a maximum density of

up to four (4) units per acre, except as otherwise may be provided for within the Future Land Use Element. The applicants request can be considered consistent with the existing Future Land Use.

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;

This request is not anticipated to significantly diminish the enjoyment or safety or quality of life if developed with a single-family home. Development would need to meet Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, odor, noise levels, traffic, or site activity.

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

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

1. historical land use patterns;

There are three (3) FLUM designations within a half-mile radius of the subject property. They include RES 4, Community Commercial (CC) and Neighborhood Commercial (NC). The subject property is surrounded Res 4 and is the predominate FLUM designation. The existing commercial is along Highway 1.

Within the past three years there have been two (2) FLUM changes within the defined radius. They are 23SS00007 and 23SS00021. Both requests were for a CC FLUM.

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

Within the half-mile radius of the subject property there has been one zoning action approved by the Board of County Commissioners which was developed.

20Z00023 changed the zoning of BU-1 to BU-1-A and included a BDP for the RU-1-9 portion with a maximum density of 4 units per acre. Developed under Site Plan # 21SP00005 for a retail store.

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

1. 21Z00029 changed a 0.55 acre parcel zoned AU to RU-1-13. Proposed development under 24BC02409 for a single-family home.
2. 23Z00006 is a rezoning action from BU-1 to BU-2 with a BDP. Pending proposed development under 23SP00034.
3. 23Z00041 is a rezoning of 2.17 acres from a combined zoning of BU-1 and AU to a single BU-2 zone. Pending proposed development under 23SP00034.
4. 23Z00072 rezoned a combined BU-1 and AU zoning to a single BU-2 zone. No site plan proposal has been submitted.

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 of the Comprehensive Plan has been identified.

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

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

Criteria:

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

The proposed change would have minimal impact on the overall character of the area. The request, if approved, would generate trips for one household.

- 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.

This lot is within SF Grays Subdivision, a subdivision platted in PB 1 PG 2 with Lot G divided into multiple parcels by metes and bounds descriptions. Much of the area fails to meet AU zoning standards and remains undeveloped. The request can be considered an introduction of RU-1-11, however it would recognize existing development trends.

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.

There is no neighborhood commercial use in the general vicinity.

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.

The area is primarily residential as there are no commercial, industrial or other non-residential uses in the immediate one block radius around this site.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway 1, between SR 46 and Lionel Rd which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 27.29% of capacity daily. The maximum development potential from the proposed rezoning increases the percentage of MAV utilization by 0.02%. The corridor is anticipated to operate at 27.31% of capacity daily. 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 subject property has access to potable water through Brevard County. The nearest sewer connection is approximately 1,445 feet southwest at US Highway 1 and Main Street.

Environmental Constraints

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

For Board Consideration

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

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

Item No. 24Z00013

Applicant: Jermaine Kent (Owners: Jamine Kent, Carlene Kent, and Jermaine Kent)

Zoning Request: Rezone from AU to RU-1-7

Note: to permit the construction of a single-family home

Zoning Hearing: 06/10/2024; **BCC Hearing:** 07/11/2024

Tax ID No.: 2103548

- 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:

- Aquifer Recharge Soils
- Protected and Specimen Trees
- Protected Species

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

Land Use Comments:

Aquifer Recharge Soils

The entire property contains Orsino fine sand, classified as an aquifer recharge soil. Mapped topographic elevations indicate the soils may consist of Type 2 Aquifer Recharge soils that have impervious area restrictions. **The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.**

Protected and Specimen Trees

Protected and Specimen Trees may exist on the parcel. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), encourages the protection of Specimen

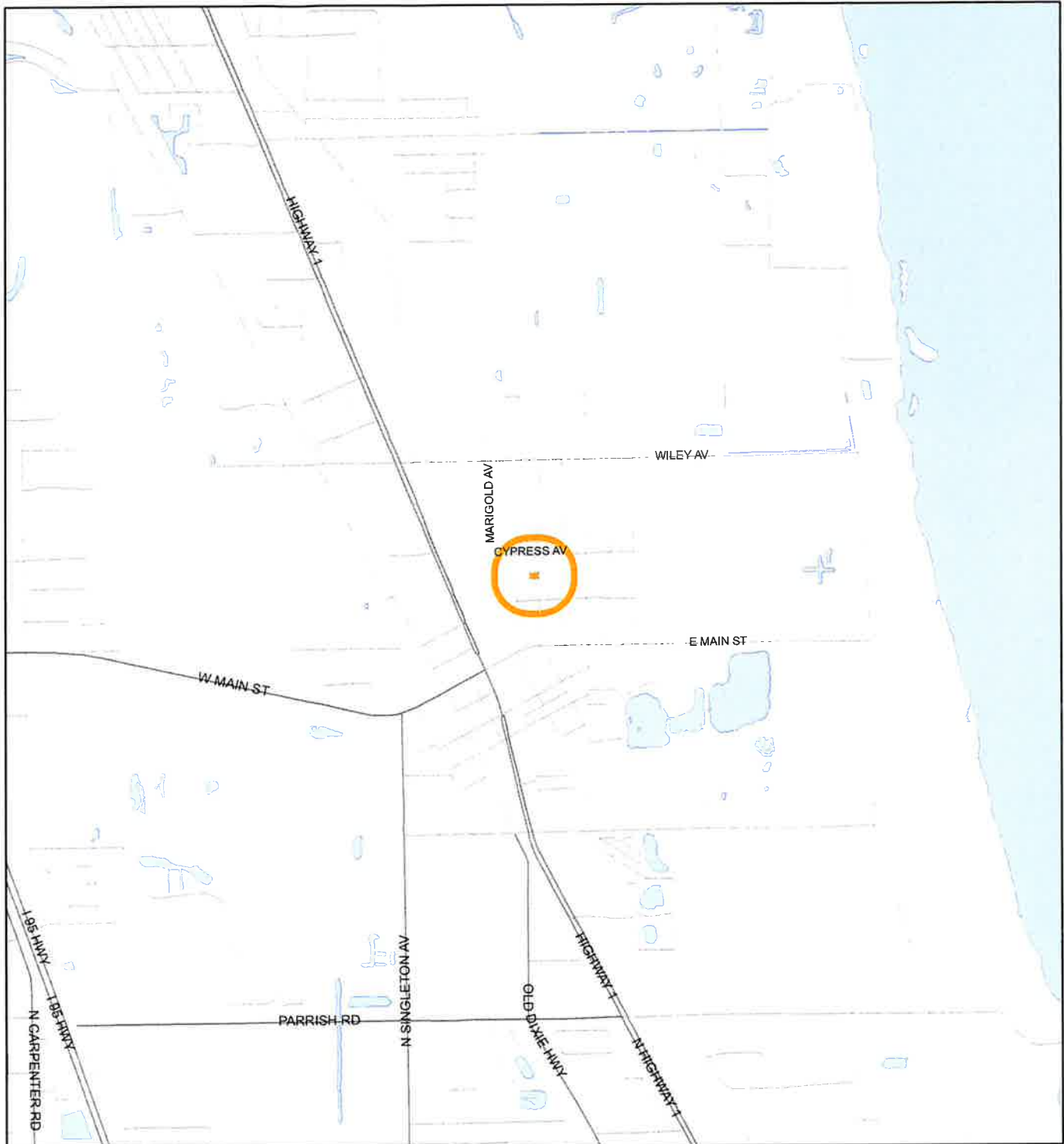
Trees. The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. **Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.**

Protected Species

Federally and/or state protected species may be present on the property. Specifically, Gopher Tortoises can be found in areas of aquifer recharge soils. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission (FWC), and/or U.S. Fish and Wildlife Service, as applicable. The applicant is advised to call Valeria Guerrero at 561-882-5714 (O) or 561-365-5696 (C) with the FWC to obtain any necessary permits or clearance letters for Gopher Tortoises.

LOCATION MAP

Kent, Jamine & Carlene
24Z00013





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.

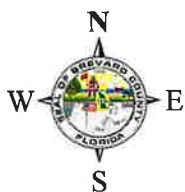
Produced by BoCC - GIS Date: 5/14/2024

-  Buffer
-  Subject Property

ZONING MAP

Kent, Jamine & Carlene

24Z00013



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/14/2024

Subject Property

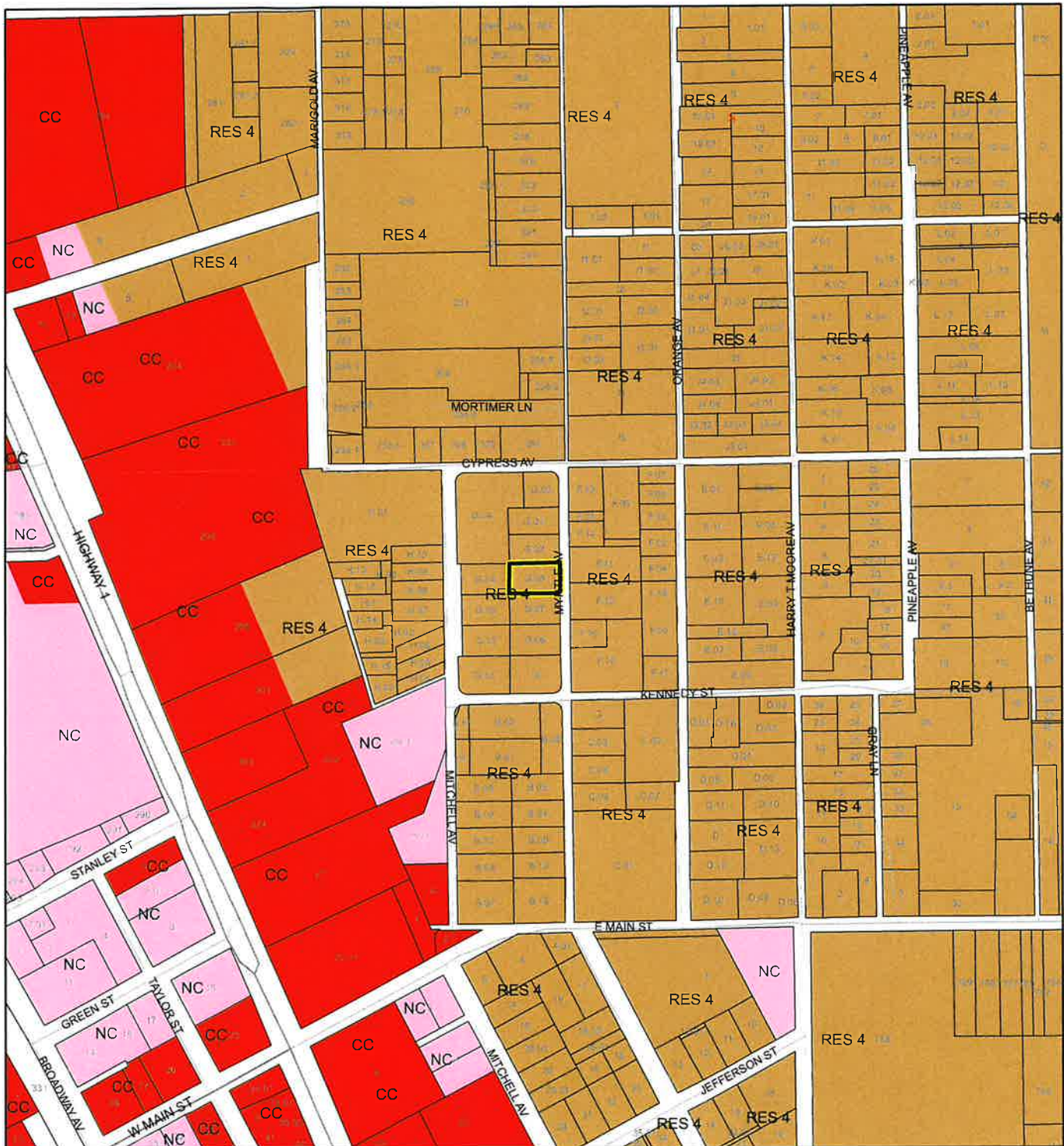
Parcels

Zoning

FUTURE LAND USE MAP

Kent, Jamine & Carlene

24Z00013



1:4,800 or 1 inch = 400 feet

Subject Property

Parcels

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Produced by BoCC - GIS Date: 5/14/2024

AERIAL MAP

Kent, Jamine & Carlene
24Z00013



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

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.

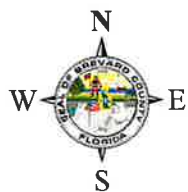
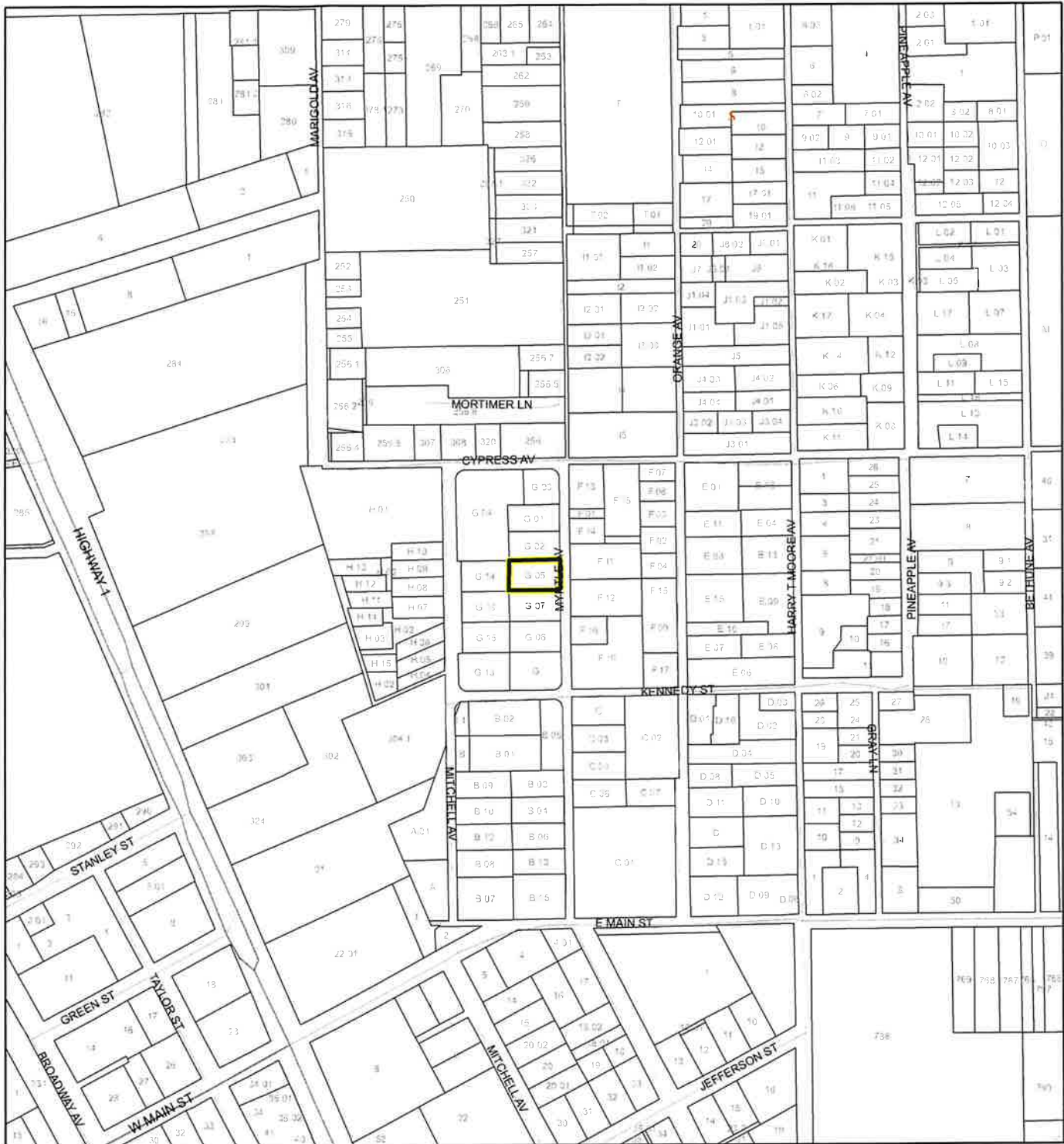
Produced by BoCC - GIS Date: 5/14/2024

 Subject Property

 Parcels

NWI WETLANDS MAP

Kent, Jamine & Carlene
24Z00013



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/14/2024

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

Kent, Jamine & Carlene
24Z00013



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/14/2024

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

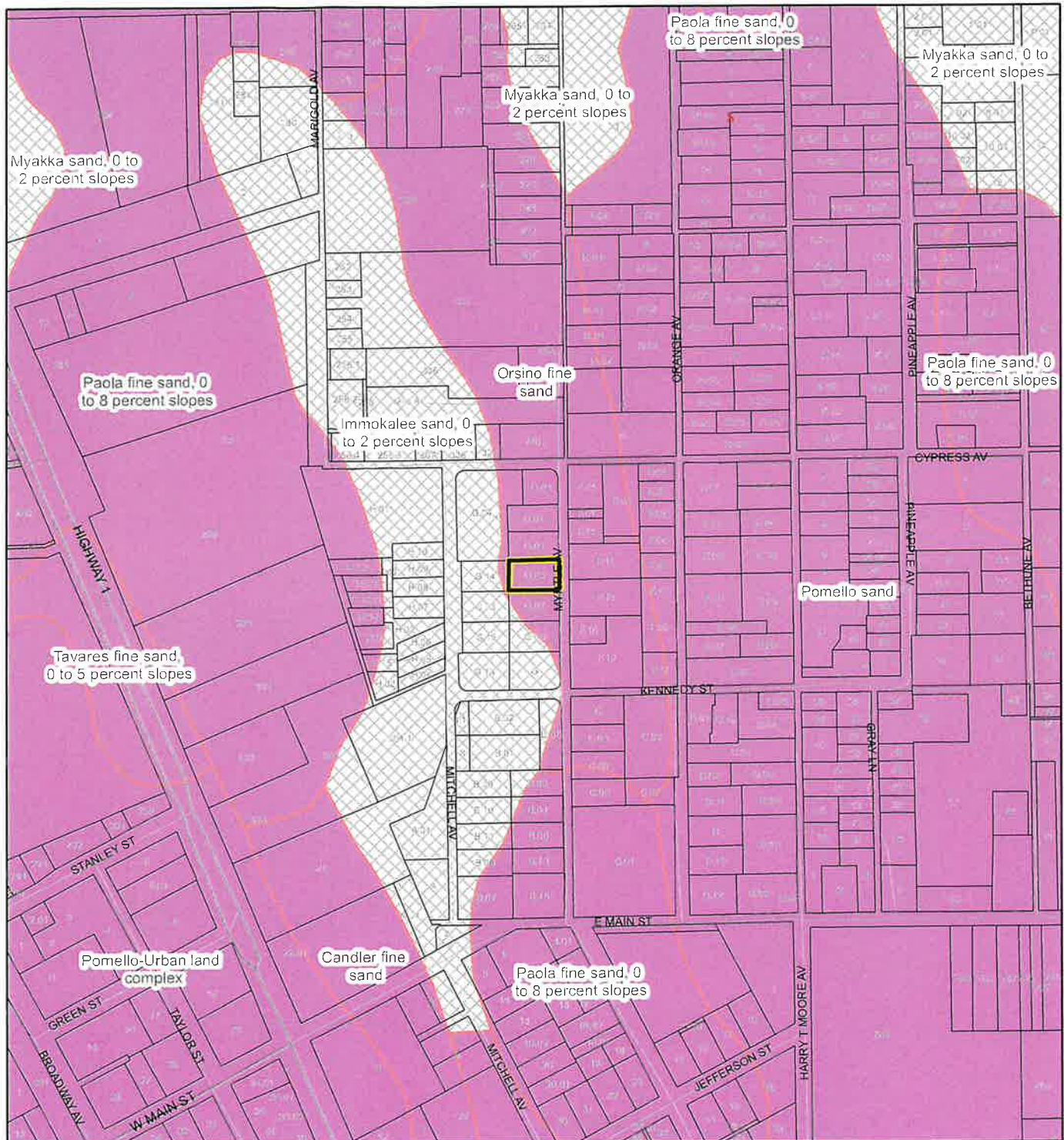
Subject Property

Parcels

USDA SCSSS SOILS MAP

Kent, Jamine & Carlene

24Z00013

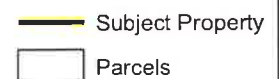


1:4,800 or 1 inch = 400 feet

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.

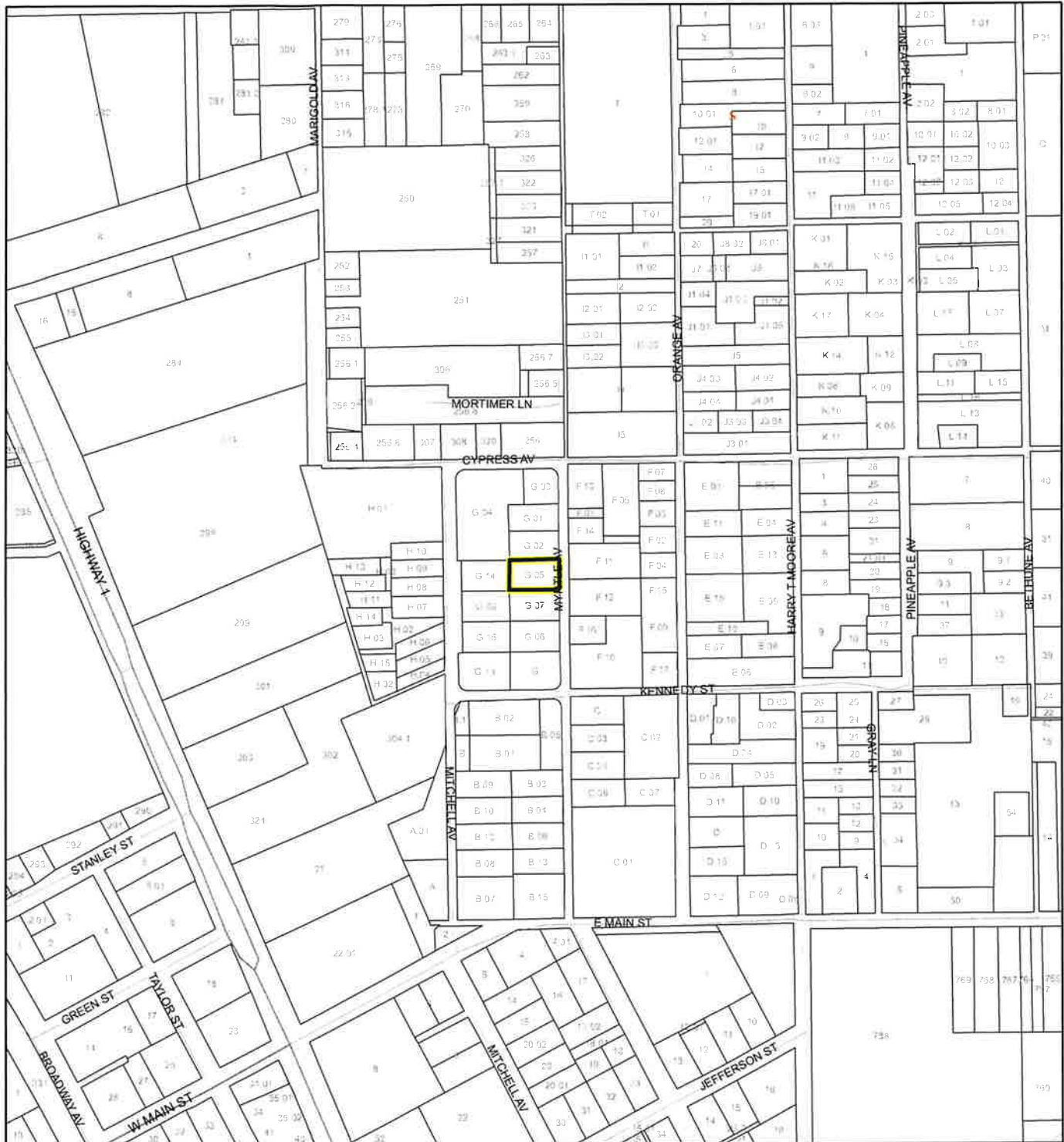
Produced by BoCC - GIS Date: 5/14/2024

USDA SCSSS Soils



FEMA FLOOD ZONES MAP

Kent, Jamine & Carlene
24Z00013



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/14/2024

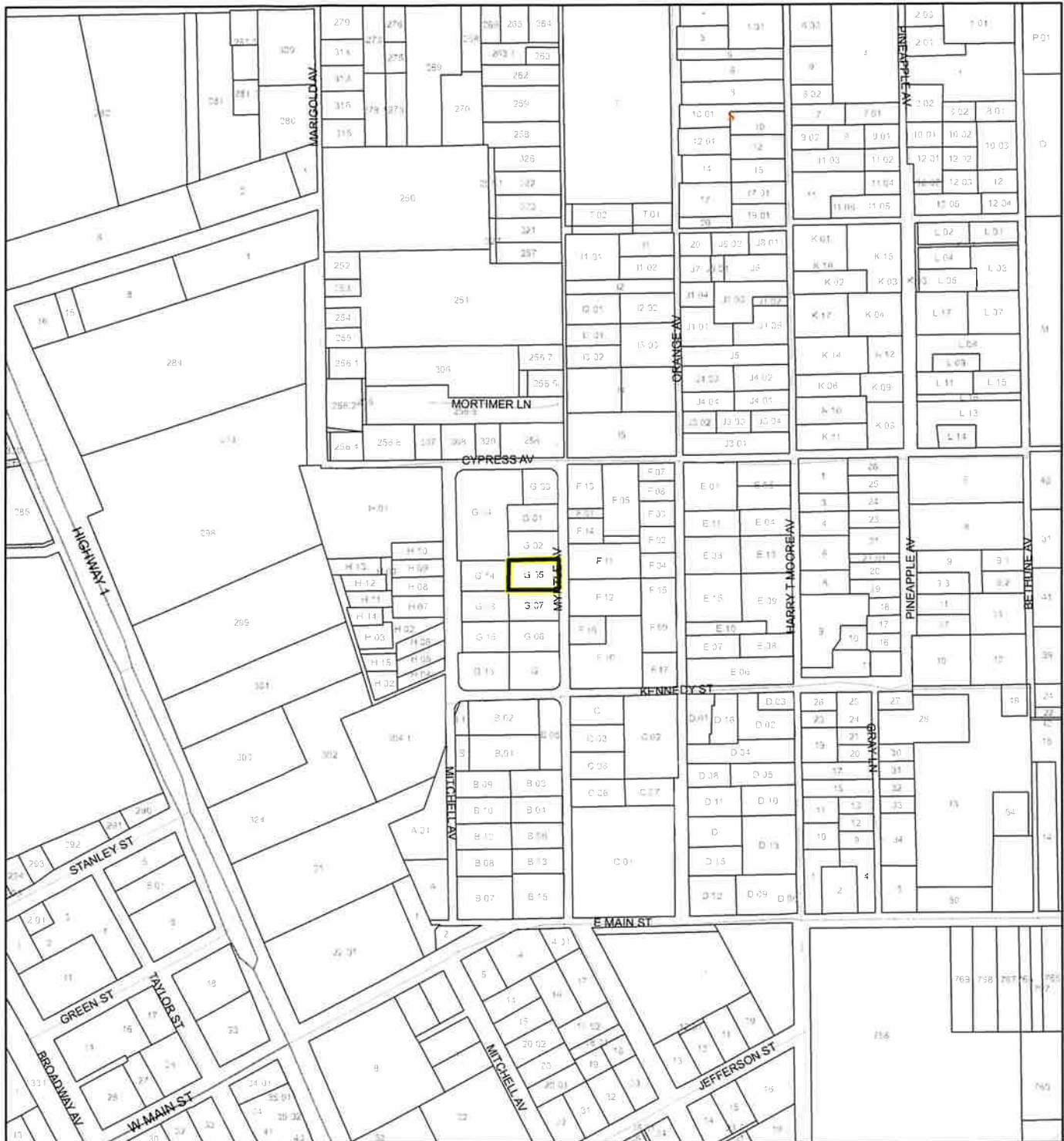
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

Kent, Jamine & Carlene

24Z00013



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/14/2024

Subject Property

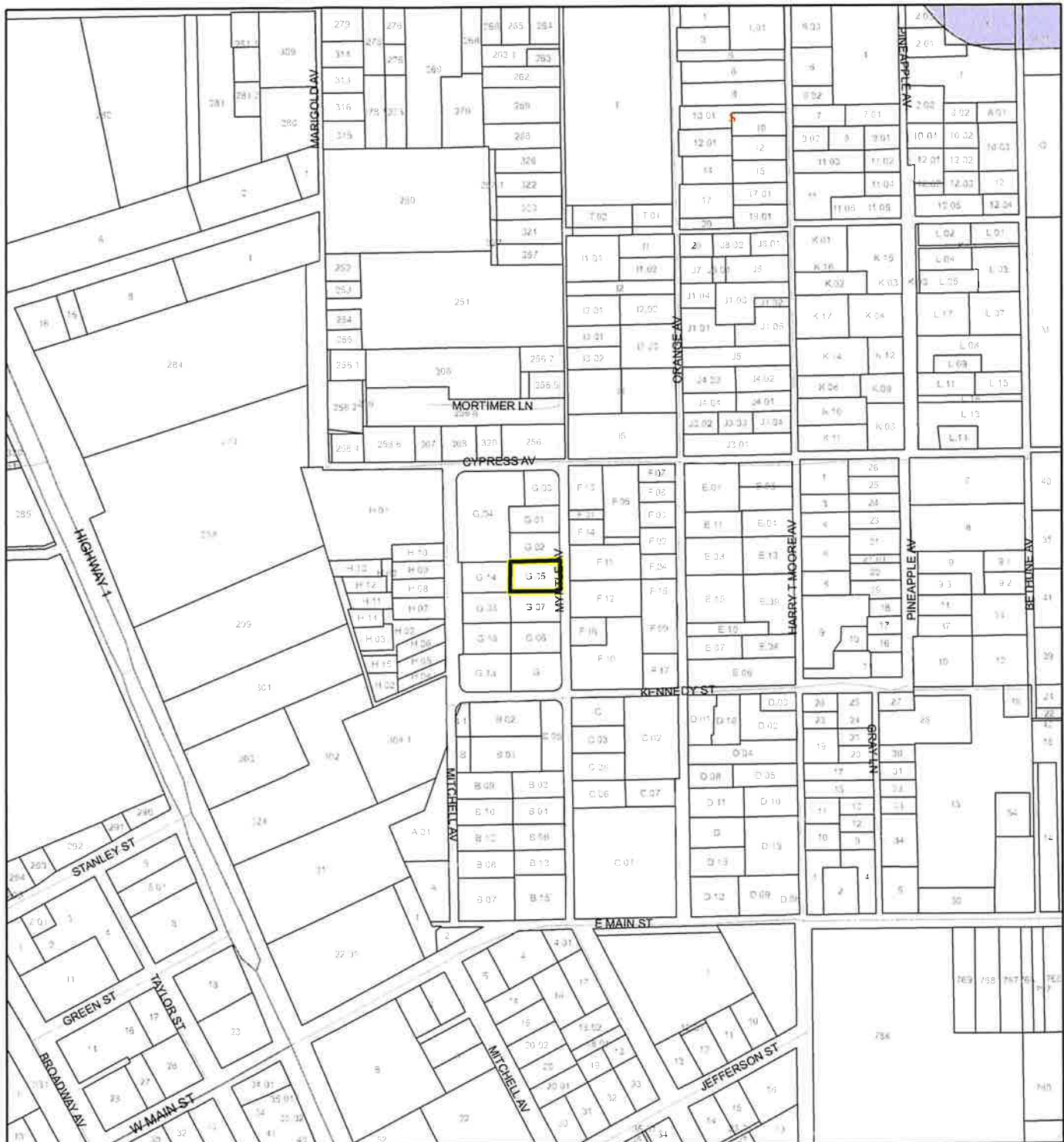
Parcels

Coastal High Hazard Area

SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

Kent, Jamine & Carlene
24Z00013



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/14/2024

 Subject Property

 Parcels

Septic Overlay

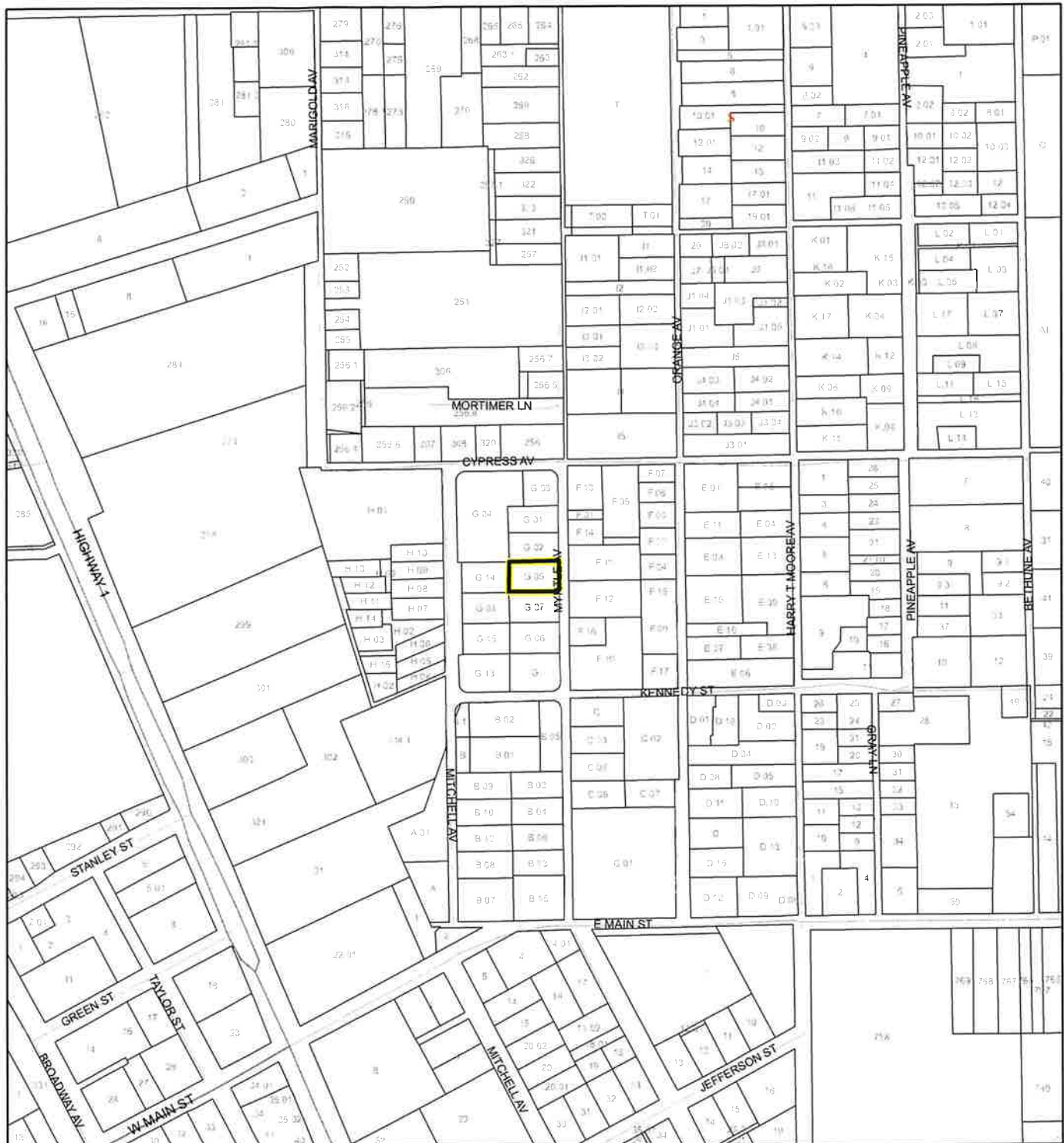
 40 Meters

 60 Meters

 All Distances

EAGLE NESTS MAP

Kent, Jamine & Carlene
24Z00013



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/14/2024

 Subject Property

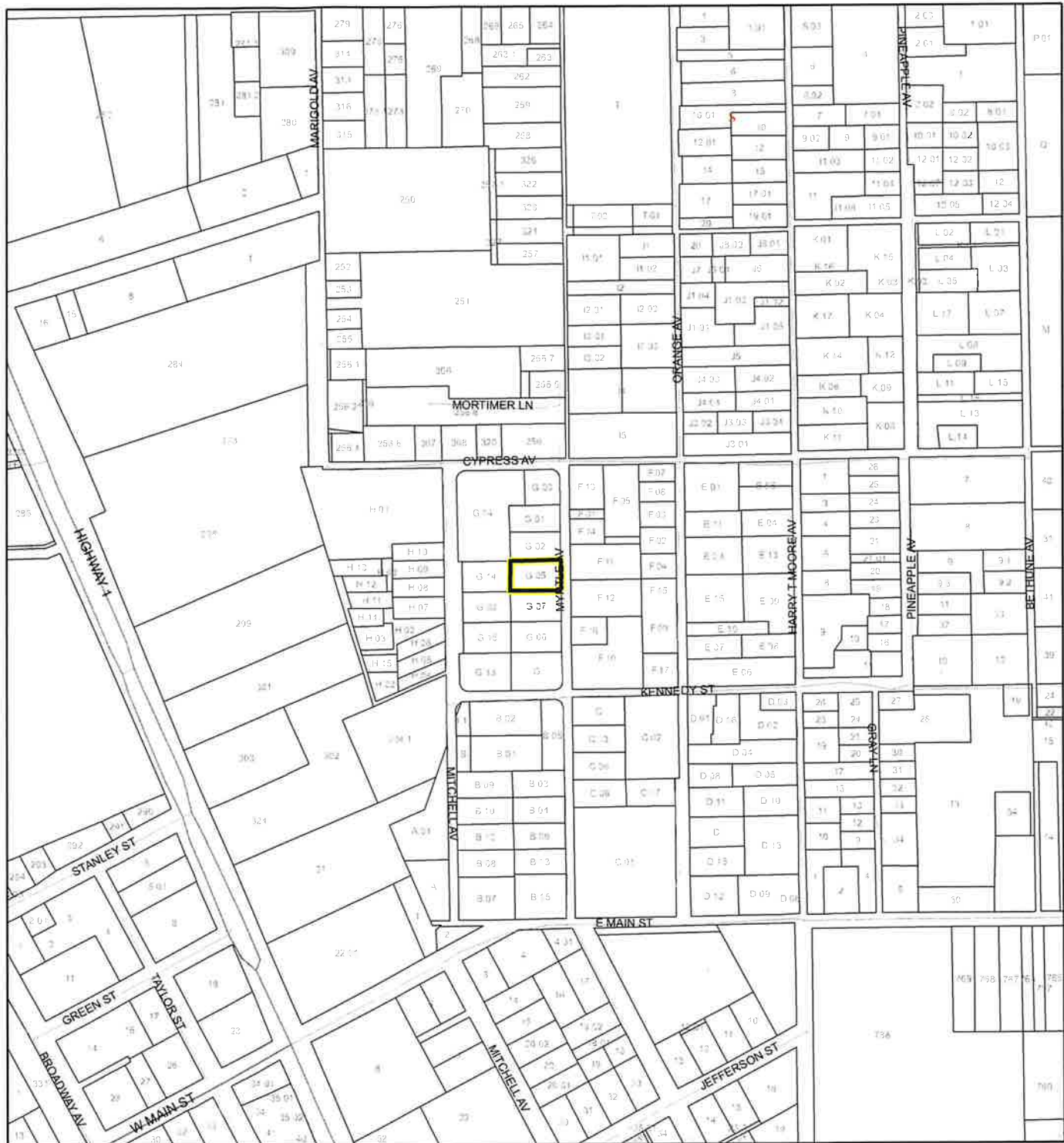
 Parcels



Eagle Nests
FWS

SCRUB JAY OCCUPANCY MAP

Kent, Jamine & Carlene
24Z00013



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 5/14/2024

— Subject Property

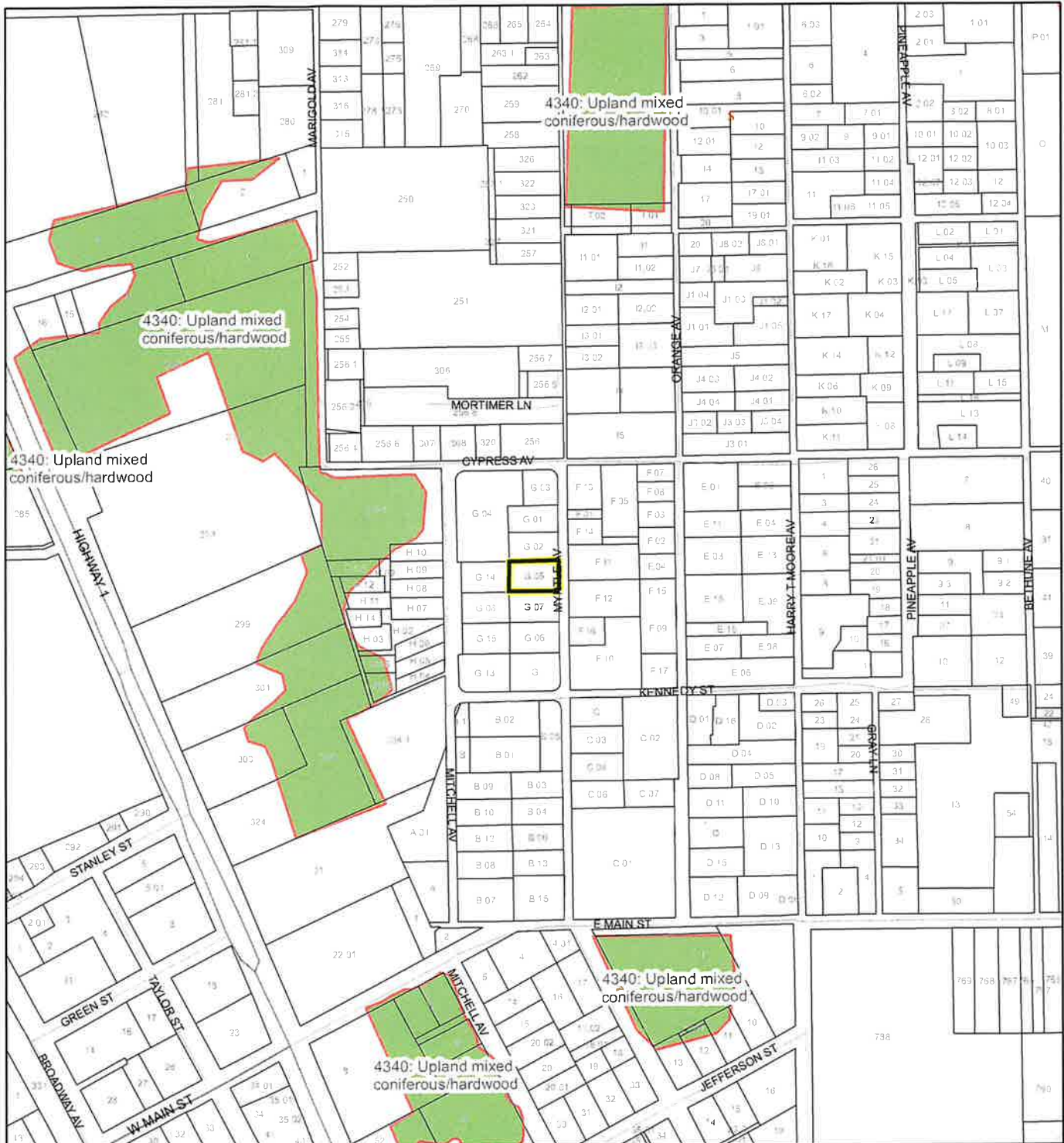
□ Parcels

▨ Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

Kent, Jamine & Carlene

24Z00013



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: 5/14/2024

SJRWMD FLUCCS Upland Forests

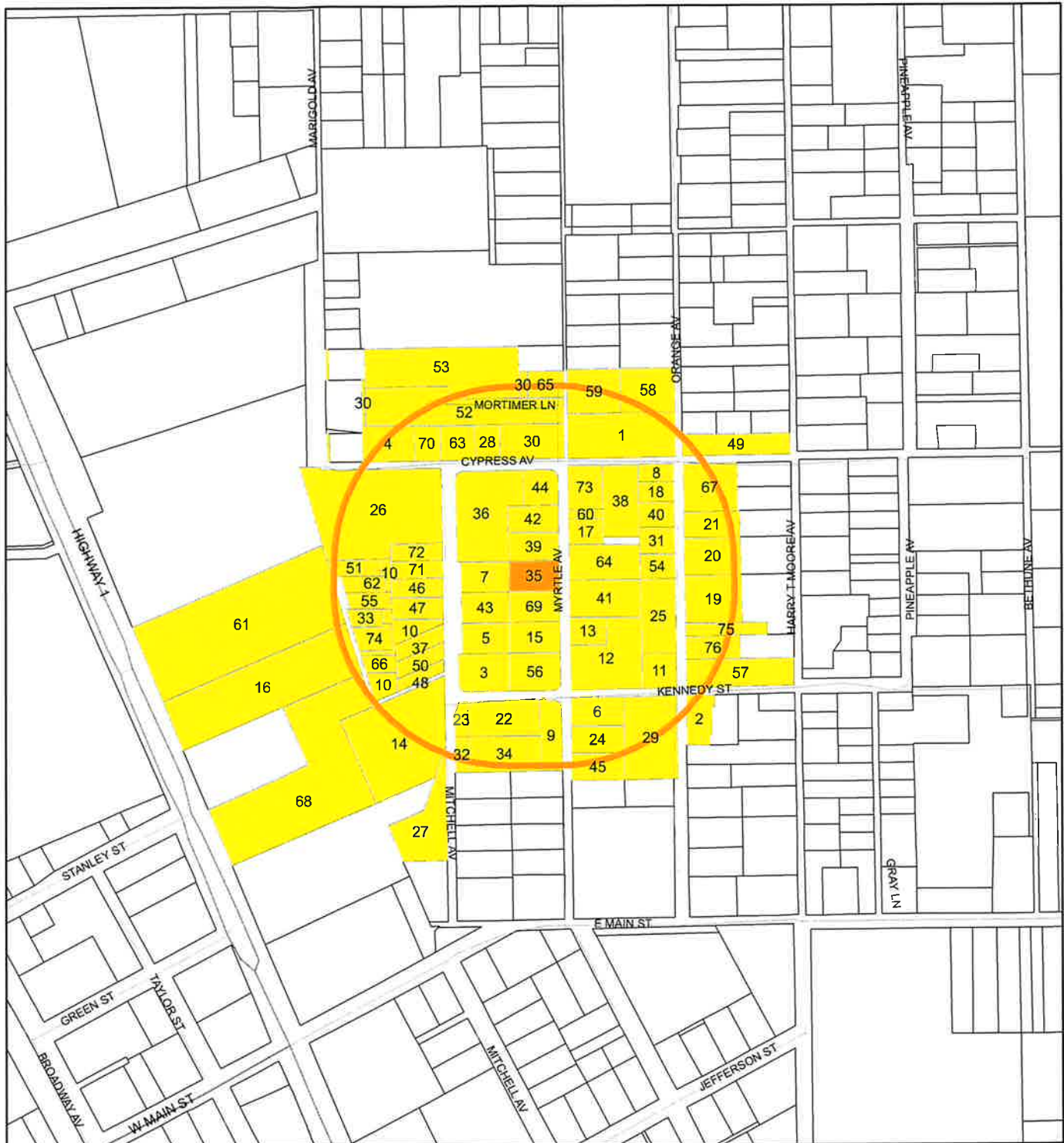
- Upland Coniferous Forest - 4100 Series
- Upland Hardwood Forest - 4200 Series
- Upland Mixed Forest - 4300 Series
- Tree Plantations - 4400 Series

Subject Property

Parcels

RADIUS MAP

Kent, Jamine & Carlene
24Z00013



1:4,800 or 1 inch = 400 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: 5/14/2024

- Buffer
- Subject Property
- Notify Property
- Parcels

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, June 10, 2024**, at **3:00 p.m.**, in the Florida Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

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

Board members present were: Henry Minneboo (D1); Ron Bartcher (D1); Ian Golden (D1 Alternate); Robert Sullivan (D2); Brian Hodggers (D2); Ben Glover (D3); Mark Wadsworth, Chair (D4); Debbie Thomas (D4); Bruce Moia (D5); Robert Brothers (D5); and John Hopengarten (BPS).

Staff members present were: Tad Calkins, Planning and Development Director; Jeffrey Ball, Planning and Zoning Manager; Alex Esseeesse, Deputy County Attorney; Trina Gilliam, Senior Planner; and Kristen Champion, Special Projects Coordinator.

Excerpt of complete agenda.

Jamine Kent, Carlene Sapp-Kent, & Jermaine Kent request a change of zoning classification from AU (Agricultural Residential) to RU-1-11 (Single-Family Residential). The property is 0.34 acres, located on the west side of Myrtle Ave, approx. 280 ft. south of Cypress Ave. (2576 Myrtle Ave., Mims) (Tax Account 2103548) (District 1)

Jeffrey Ball read the application into the record.

Mark Wadsworth asked if the applicant was in attendance and then brought it back to the Board after it was determined that applicant was not present.

Ron Bartcher asked if we need a motion to table and Mark Wadsworth replied that he believed we can still vote on the application.

Alex Esseeesse responded that that is correct, the Board can still vote to approve or deny the request.

No public comment.

No other Board comment.

Motion to approve rezoning from AU to RU-1-11 by Bruce Moia, seconded by Brian Hodggers. The vote was unanimous.

From: [Schmadeke, Adrienne](#)
To: [Champion, Kristen](#)
Cc: [Pritchett, Rita](#); [Alward, Keith A](#)
Subject: Public Comments 24Z00013
Date: Tuesday, July 9, 2024 9:15:54 AM
Attachments: [Concerns on zoning change in MIMS.pdf](#)

Good morning Ms. Champion,

On behalf of Commissioner Pritchett, attached is a public comment received regarding Agenda H.13, 24Z00013.

Thank you for your support of her office.

Kind Regards,

Adrienne Schmadeke



Adrienne Schmadeke
Legislative Aide
Brevard County Commission, District 1
Commissioner Rita Pritchett
[321.607.6901](tel:321.607.6901) | Adrienne.Schmadeke@brevardfl.gov
7101 S. US Hwy 1
Titusville, FL 32780

Please note:

Florida has a very broad public records law. Most written communications to or from the offices of elected officials are public records available to the public and media upon request. Your email communications may, therefore, be subject to public disclosure.

From: [VALERIE ALTIERY](#)
To: [Commissioner, D1](#)
Subject: Concerns on zoning change in MIMS
Date: Tuesday, May 28, 2024 6:50:03 PM

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

To whom it may concern. My name is Valerie Altiery, I live at 3030 Kennedy st and there is a property connecting behind my property on Myrtle Street . I received a letter stating that someone is partitioning to have our zoning changed from agricultural to single family and I am not interested in having this change made. My neighbors and I are happy with the current zoning and would like to keep it agricultural please and thank you!

Val Altiery
386-334-0306
3030 Kennedy st
MIMS, fl 32754

From: [issuesinb](#)
To: [Commissioner, D2](#); [Slocum, Kerensa](#); issuesinb@yahoo.com
Subject: RE: Seminary Church. 1260 S Courtney Parkway Approval
Date: Thursday, June 13, 2024 4:51:26 PM

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

Dear Mr. Goodson,

Speaking with Kerensa was uplifting. You have a great staff. She is aware of this agenda item.

My concerns that the Zoning Board approved the above cited project with only a single member dissenting seems problematic. I won't use my questions as to why the board made a surprise decision to move this agenda item to the end when only three 3 individuals remained in the audience; or why the agenda item was presented by a board member, Moia ; and both Moia and Rusbury (the individual requesting the zoning change), couldn't really confirm why the change was necessary, and what they envision if the change is confirmed. Is it a group home, mini homes, 45 residential units, and i even heard affordable housing raised. I think post foster care is important but I do not agree that this location is the only option.

My three big concerns and validated in the agenda packet under staff comments (at least two) is the identification that this is a floodplain that serves a very specific hydrologic part regarding flood mitigation. Part of the property is classified as Coastal Hazard Wetlands and the eastern boundary is classified as such and owned by Brevard County. Per the agreement with Fema, Brevard is bound to mitigate flooding and not engage in development projects that could expand flooding concerns leading to increased costs and damage. FEMA would be within their rights to deny any coverage should claims be filed and if FEMA deems the damage is due to loss of floodplains or overdevelopment. Brevard has an agreement with FEMA that provides flood insurance discount incentives, mitigation grants, and access to tools to make better decisions.

The third concern is the location on S Courtney Pkwy. Not only is the property nestled between two schools but as it is on one of only two roadways that serve all residents in South Merritt Island, how does that work in all situations particularly storm surges. When the single dissenter works for emergency management and agrees with my concerns, I hope you vote against this project at the 7/11 CC Zoning Meeting.

Thank you for taking time to consider my concerns. This is more pressing than my previous request; and I am certainly affected by any decisions impacting population density, loss of wetlands, increased LOS, and safety concerns if we do not see the big picture. We have the information to better help us reduce homeowner insurance, reduce stressors upon aging infrastructure, and rethink that wetlands protections are not just environmental talking points. It is about consequences.

Thank you,

Elizabeth Michelman

898 S Tropical Trail
Merritt Island

Sent from my Galaxy

----- Original message -----

From: Elizabeth Michelman <issuesinb@yahoo.com>

Date: 6/10/24 1:29 PM (GMT-05:00)

To: issuesinb@yahoo.com

Subject: