



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.3.

12/2/2021

Subject:

DeRosa Holdings, LLC (Bruce Moia) requests an amendment to an existing BDP in a RU-2-12 zoning classification. (21PZ00059) (Tax Account 2534267) (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 an amendment to an existing BDP in a RU-2-12 (Medium Density Multi-Family Residential) zoning classification.

Summary Explanation and Background:

The applicant's request is to remove the existing BDP and create a new BDP to restrict the property to two detached residential units. The existing BDP allows for the development of a luxury townhouse project of 13-units on 1.41 acres; this lot area represents only a portion of the overall BDP area. There is an exhibit detailing the relationship with the existing BDP area and the proposed BDP.

Development under the current BDP would require the development of a townhouse project on this 0.24-acre lot which would require that the owner subdivide this parcel into two platted lots each limited to the development of one attached living unit per lot. If allowed to amend the BDP stipulation, the owner proposes to develop two detached units upon the existing parcel and not to require a new subdivision plat/review. The RU-2-12 zoning classification and a Community Commercial Future Land Use designation allows up to 12 units per acre.

The adjacent lots within this block all carry the same RU-2-12 with BDP restrictions. Across the street to the north is BU-2 zoning developed as a self-storage mini-warehouse facility. To the east lying east of S. Atlantic Avenue is vacant property zoned GML (Government Managed Lands) and owned by Brevard County. To the south across Summer Street is another storage facility. To the west across of S. Orlando Avenue is the 77-unit Magnolia Bay condominium.

The parcel has access to public water by the City of Cocoa and centralized sewer may be available from the City of Cocoa Beach. Without connection to sewer, this site should limit development to 4-units per acre which would limit the site development potential to 1 unit.

The Board may wish to consider whether the requested action to remove the existing BDP and replace it with

a new BDP is consistent and compatible with the surrounding area.

On November 15, 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 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

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

21PZ00059

Derosa Holdings, LLC

Amendment to an Existing Binding Development Plan (BDP) in RU-2-12

Tax Account Number: 2534267

Parcel I.D.: 25-37-26-25-H-2.01

Location: 2050 S Atlantic Ave Cocoa Beach FL 32931; West side of S. Atlantic Avenue, 83.62 feet south of 20th Street and S. Atlantic Avenue, Cocoa Beach (District 2)

Acreage: 0.24 acres

Planning and Zoning Board: 11/15/2021

Board of County Commissioners: 12/02/2021

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	RU-2-12 with BDP	RU-2-12 with removal of existing BDP with new BDP
Potential*	2-units (attached on 2-lots)	2-units (detached on 1-lot)
Can be Considered under the Future Land Use Map	YES CC	YES CC

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

Background and Purpose of Request

The applicant's request to remove the existing BDP recorded in ORB 5422, Pages 5613 – 5619 and create a new BDP to restrict the property to two (2) detached residential units for residency or rental. The existing BDP allows for the development of a luxury townhouse project of 13-units upon 1.41 acres; this lot area represents only a fraction of the overall BDP area. Remaining lots within this block would remain bound to the existing BDP restrictions. A prior zoning action request was denied on August 2, 2012 under **12PZ-00038**. That request attempted to change the RU-2-12 with BDP zoning to BU-1-A (Restricted Neighborhood Retail Commercial) with removal of the existing BDP.

Development under the current BDP would require the development of a townhouse project on this 0.24-acre lot which would require that the owner subdivide this parcel into two platted lots each limited to the development of one attached living unit per lot. If allowed to amend the BDP stipulation, the owner proposes to develop two detached living units upon the existing parcel and not to require a new subdivision plat/review.

The current BDP was approved as part of Zoning action **Z-11033** on May 25, 2005 and provided a development limitation of thirteen (13) luxury townhome lots upon 1.41 acres. Under this BDP, this lot (0.24 acres) would be allowed to develop two attached units.

Land Use

The subject property is currently designated as Community Commercial FLU. The RU-2-12 zoning classification is consistent with the Community Commercial FLU designation. The amendment of the BDP does not impact the FLU designation and does not increase the development density of this site.

Applicable Land Use Policies

The Board should evaluate the compatibility of this application within the context of Administrative Policies 3 - 5 of the Future Land Use Element.

Public Facilities and Services Requirements

Policy 1.2

Minimum public facilities and services requirements should increase as residential density allowances become higher. The following criteria shall serve as guidelines for approving new residential land use designations:

Criteria:

- E. In the Residential 30, Residential 15, Residential 10, Residential 6 and Residential 4 land use designations, centralized potable water and wastewater treatment shall be available concurrent with the impact of the development.
- F. Where public water service is available, residential development proposals with densities greater than four units per acre shall be required to connect to a centralized sewer system.
- G. Where public water service is not available, residential development proposals with densities greater than two units per acre shall be required to connect to a centralized sewer system.
- H. The County shall not extend public utilities and services outside of established service areas to accommodate new development in Residential 2, Residential 1 and Residential 1:2.5 land use designations, unless an overriding public benefit can be demonstrated. This criterion is not intended to preclude acceptance of dedicated facilities and services by the County through MSBU's, MSTU's and other means through which the recipients pay for the service or facility.

As the project's intensity is 12 units per acre, connection to centralized sewer and potable water is required under Criterion E, above. Site is currently unimproved and not connected to utilities. Without

connection to sewer, this site should limit development to 4-units per acre, which would limit the site development potential to 1-unit.

Residential Development in Neighborhood Commercial and Community Commercial Land Use Designations

Policy 2.13

Residential development or the integration of residential development with commercial development shall be permitted in the Neighborhood Commercial and Community Commercial land use designations, provided that the scale and intensity of the residential/mixed use development is compatible with abutting residential development and areas designated for residential use on the Future Land Use Map. Residential development is permissible in these commercial land use designations at density of up to one category higher than the closest residentially designated area on the Future Land Use Map (FLUM) which is on the same side of the street. Increases in density beyond this allowance may be considered through a public hearing. In the CHHA, however, residential development is strictly limited to the density of the closest residentially designated area on the FLUM that is on the same side of the street. Such residential development, as described above, shall be allowed to utilize the following characteristics:

- a) Residential uses within Neighborhood Commercial and Community Commercial designations shall be encouraged to utilize neotraditional neighborhood development techniques, such as narrower road rights-of-way, mid-block pedestrian pass-throughs, alleys, smaller lot sizes, on-street parking, reduced lot line setbacks and public transit facilities.
- b) Residential density bonuses as set forth in Policy 11.2 may be considered in addition to the bonus stated in the above policy within Neighborhood Commercial and Community Commercial designations as an incentive for redevelopment and regentrification if the proposed development will address serious incompatibility with existing land uses, is adequately buffered from other uses, is located along major transportation corridors, and meets the concurrency requirements of this Comprehensive Plan.

Although the RU-2-12 zoning classification is consistent with the Community Commercial FLU designation, the proposed development of this lot will be out of character with the abutting lots still constrained by the current BDP condition requiring townhouse style development.

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

The subject property lies within the Community Commercial Future Land Use (FLU) designation. With nearby Residential 15 FLU in the area, this site can utilize the same residential density allowance (15 units per acre) based upon Policy 2.13 stated above. The current RU-2-12 zoning density is established at 12-units per acre which is less than the current Residential 15 FLU designation. Due to that factor, the amendment of the current BDP remains compatible and consistent with the residential density allowance under the current FLU designation.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The character of the surrounding area is a mixture of commercial and residential uses. Surrounding commercial uses

are mixed with a self-storage mini-warehousing and a church to the north. The property to the west across Atlantic Avenue is developed as a Condominium and to the east, across highway A1A is an undeveloped recreational land zoned GML and owned by Brevard County. The character of the area is mostly multi-family residential use with supportive commercial establishments servicing the area.

Surrounding Area

The adjacent lots within this block all carry the same RU-2-12 with BDP restrictions. RU-2-12 zoning classification is a 12 unit per acre multiple-family residential zoning classification. It permits multi-family residential development or single-family residences at a density of up to 12 units per acre on 7,500 square foot lots. The BDP restriction requires that the development style for this area is to be as attached luxury townhouses (fee-simple ownership). In this scenario, the BDP doesn't require all buildings to be attached in one building, only that thirteen (13) such units can be created over the property. It is unknown whether a site plan will be submitted for individual attached duplex style townhomes or whether a single 11-unit townhouse building will be proposed upon the remaining lot area.

Across the street to the north is BU-2 zoning developed as a self-storage mini-warehouse facility. To the east lying east of S. Atlantic Avenue is vacant property zoned Government Managed Lands (GML) and owned by Brevard County. To the south across Summer Street is another storage facility. To the west across of S. Orlando Avenue is a 77-unit residential condominium called Magnolia Bay.

RU-2-15 classification permits multiple-family residential uses or single-family residences at a density of up to 15 units per acre on 7,500 square foot lots.

RU-2-30 classification permits high density multi-family residential development of up to 30 unit per acre. Multiple-family residential structures may be constructed on a minimum lot size of 10,000 square feet, with at least 100' of lot width and 100' of lot depth. Single-family residences are also permitted on minimum lot sizes of 7,500 square feet with at least 75' of lot width and 75' of lot depth.

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

BU-2 zoning classification permits retail, wholesale and warehousing commercial land uses on minimum 7,500 square foot lots. Possible incompatibilities are due to the intensive nature of commercial activities permitted by the BU-2 classification and possible noise, light, traffic and other nuisance factors potentially associated with BU-2 activities.

GML zoning is to recognize the presence of lands and facilities which are managed by federal, state and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities. This site is undeveloped at this time but may be utilized for its beach frontage as a passive park.

There has been no zoning actions within a half-mile radius of the subject property within the last three years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is US Highway A1A, between South end of One-way pairs to Minutemen Causeway, which has a Maximum Acceptable Volume (MAV) of 19,440 trips per day, a Level of Service (LOS) of D, and currently operates at 48.08% of capacity daily. The maximum development potential from the proposed rezoning does increase the percentage of MAV utilization by 0.06%. The corridor is anticipated to operate at 48.14% 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 parcel has access to public water by the City of Cocoa and centralized sewer may be available from the City of Cocoa Beach. Without connection to sewer, this site should limit development to 4-units per acre which would limit the site development potential to 1-unit. A septic system would need to meet FDOH requirements. Additionally, the septic system would need to utilize the more stringent system capable of limiting the nitrogen level output into the ground water table.

Environmental Constraints

- Aquifer Recharge Soils
- Indian River Lagoon Nitrogen Reduction Overlay

The subject parcel appears to contain aquifer recharge soils and is located within the Indian River Lagoon Septic Overlay Map. 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 and/or U.S. Fish and Wildlife Service, as applicable.

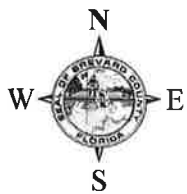
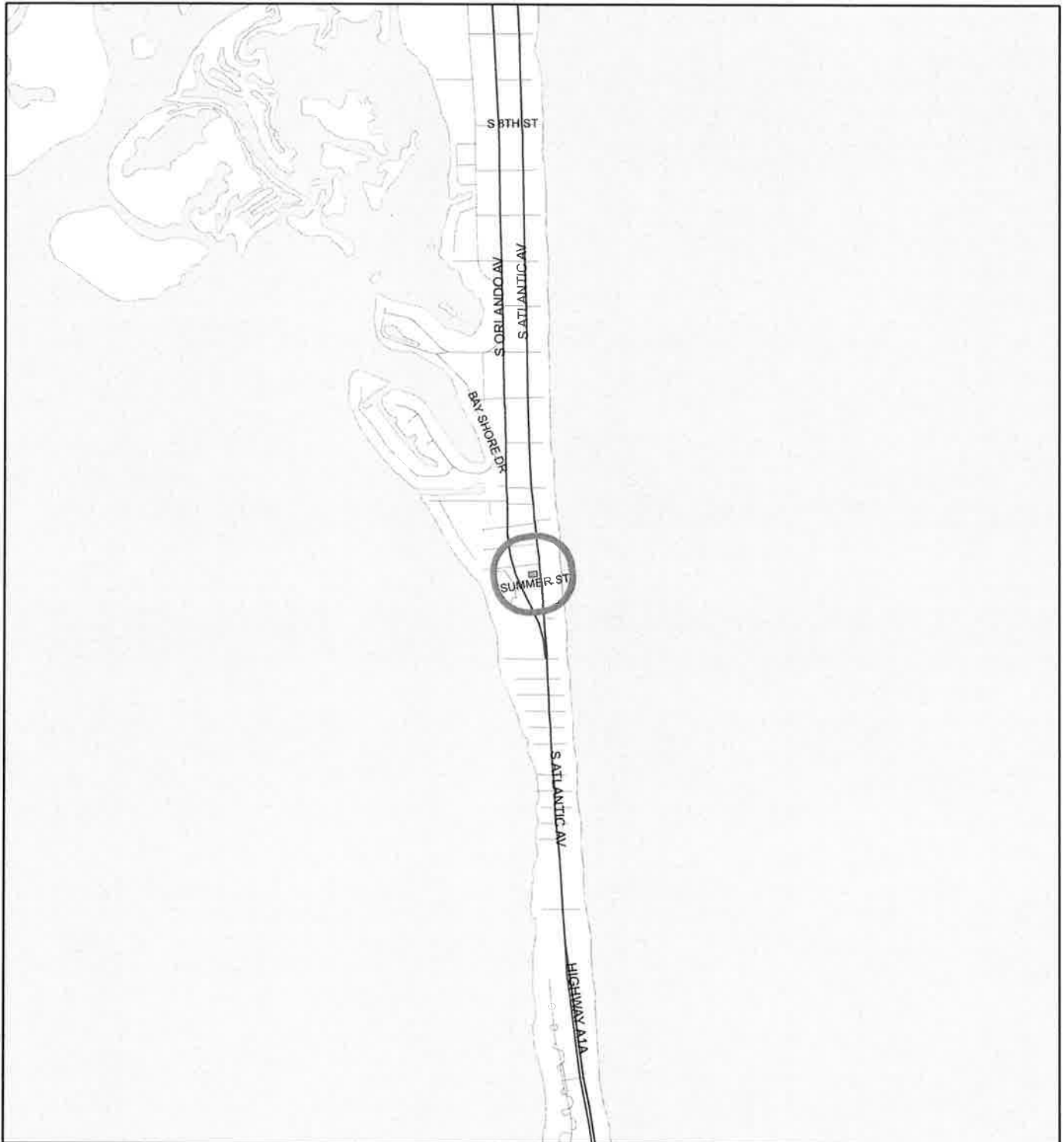
No formal review by the Natural Resources Management Department is required for this change to Binding Development Plan (BDP). Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plans.

For Board Consideration

The Board may wish to consider whether the requested action to remove the existing BDP and replace it with a new BDP is consistent and compatible with the surrounding area.

LOCATION MAP

DeROSA HOLDINGS, LLC
21PZ00059



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.

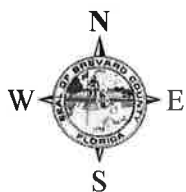
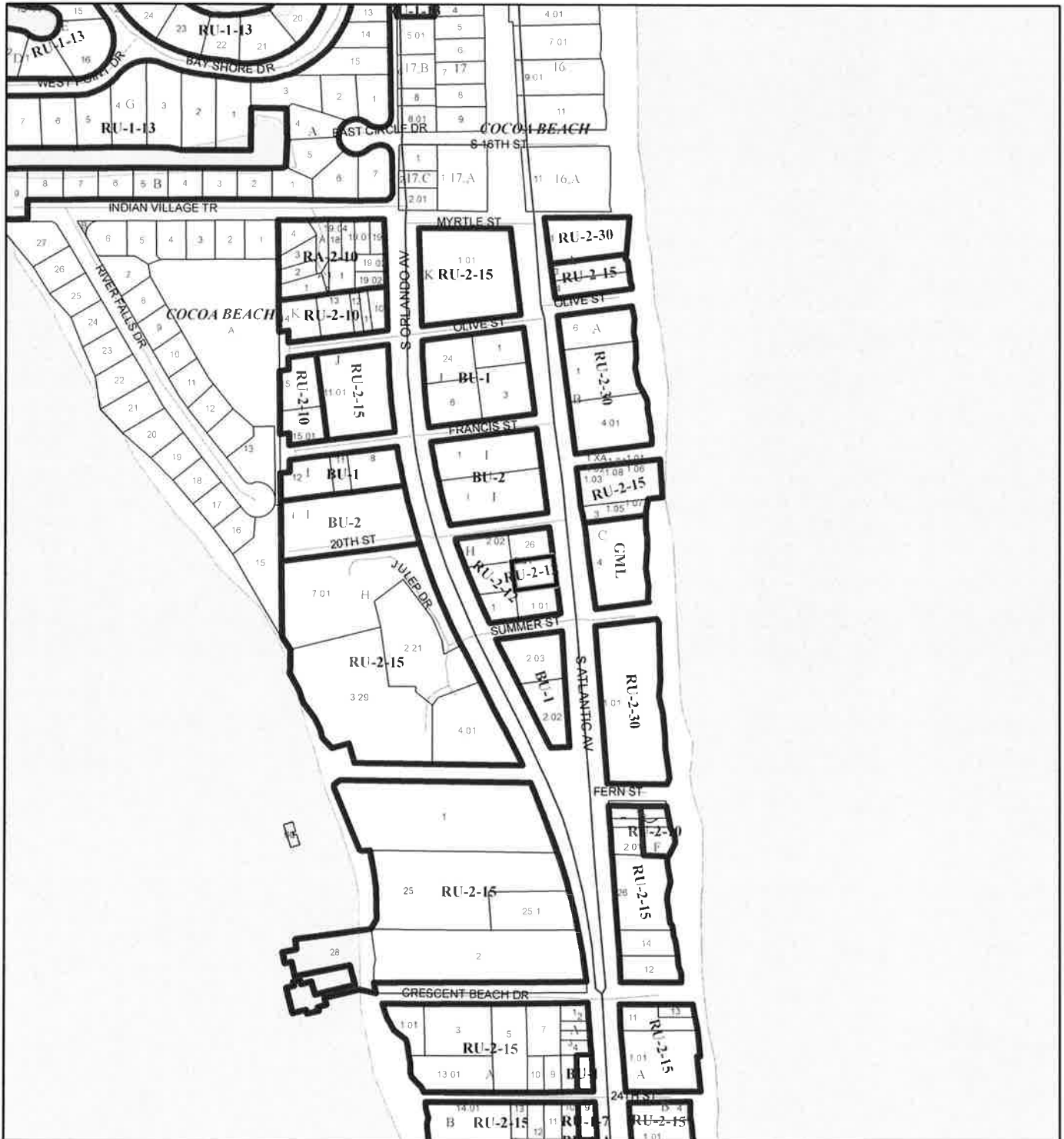
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Buffer
Subject Property

ZONING MAP

DeROSA HOLDINGS, LLC

21PZ00059



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: 8/31/2021

 Subject Property

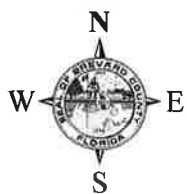
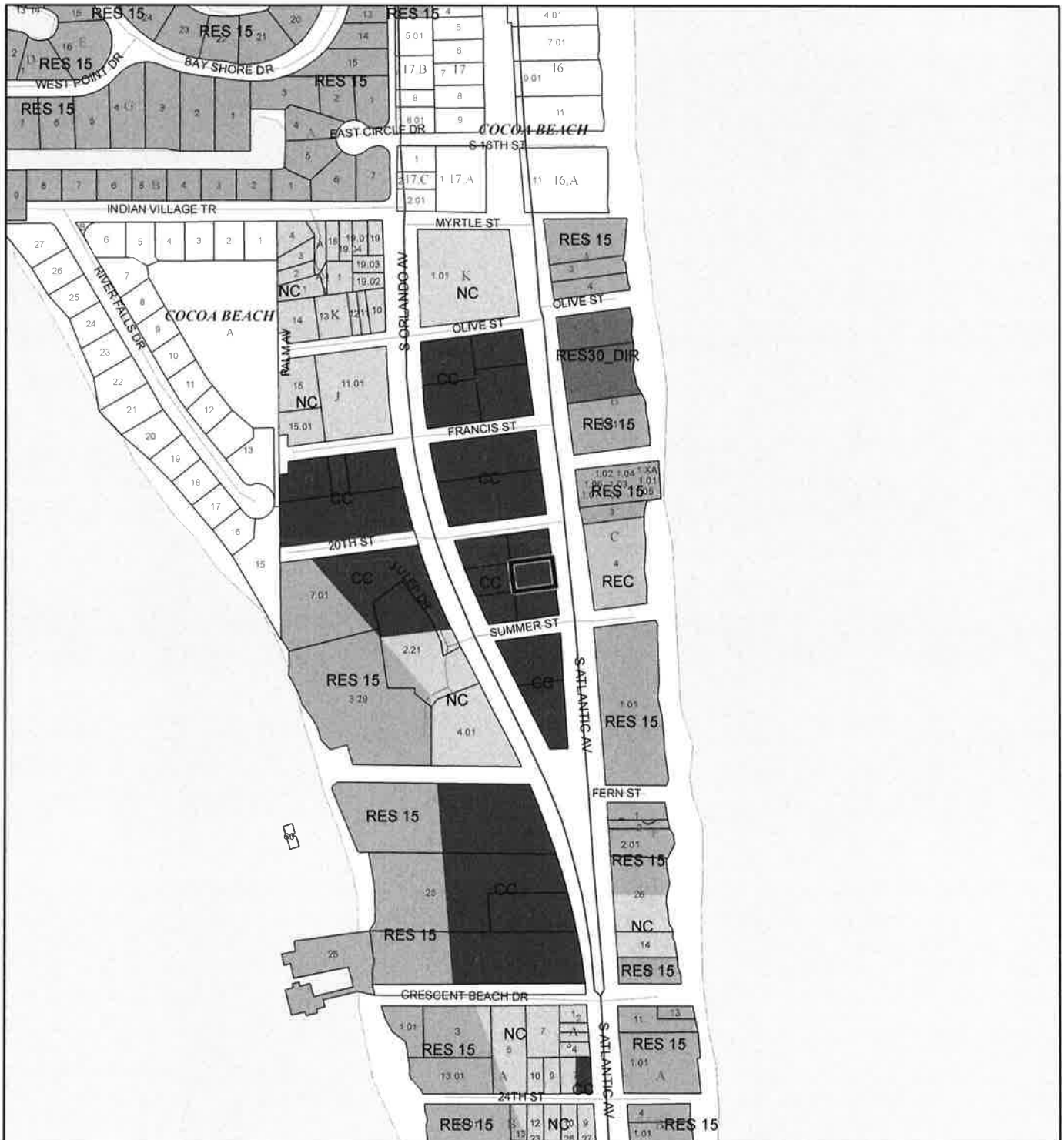
 Parcels

 Zoning

FUTURE LAND USE MAP

DeROSA HOLDINGS, LLC

21PZ00059



1:4,800 or 1 inch = 400 feet

— Subject Property
 □ Parcels

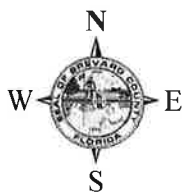
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 8/31/2021

AERIAL MAP

DeROSA HOLDINGS, LLC

21PZ00059



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2021

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: 8/31/2021

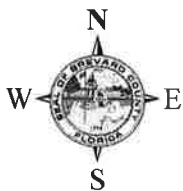
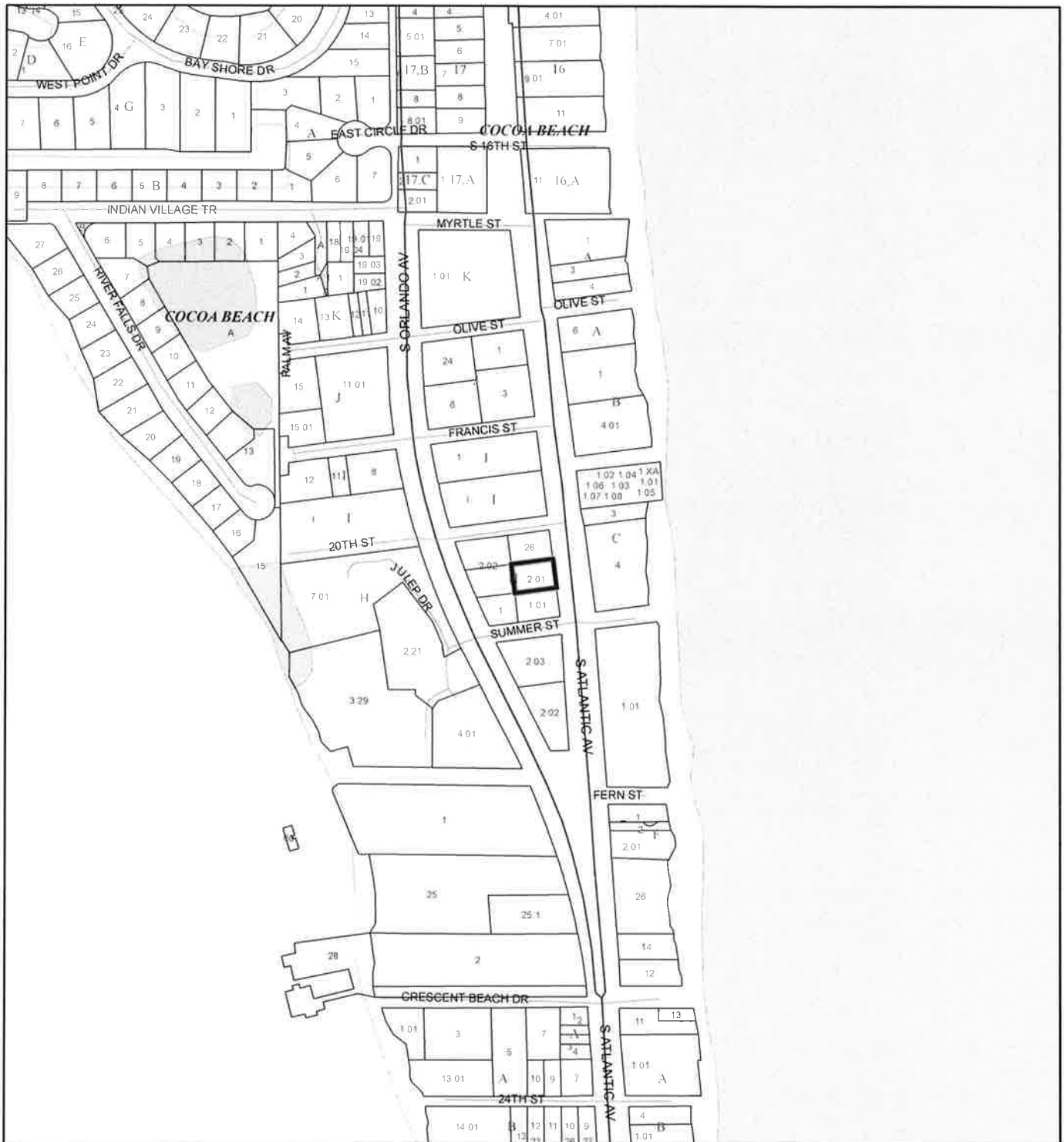
— Subject Property

□ Parcels

NWI WETLANDS MAP

DeROSA HOLDINGS, LLC

21PZ00059



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/31/2021

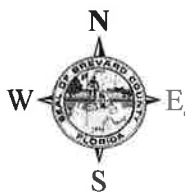
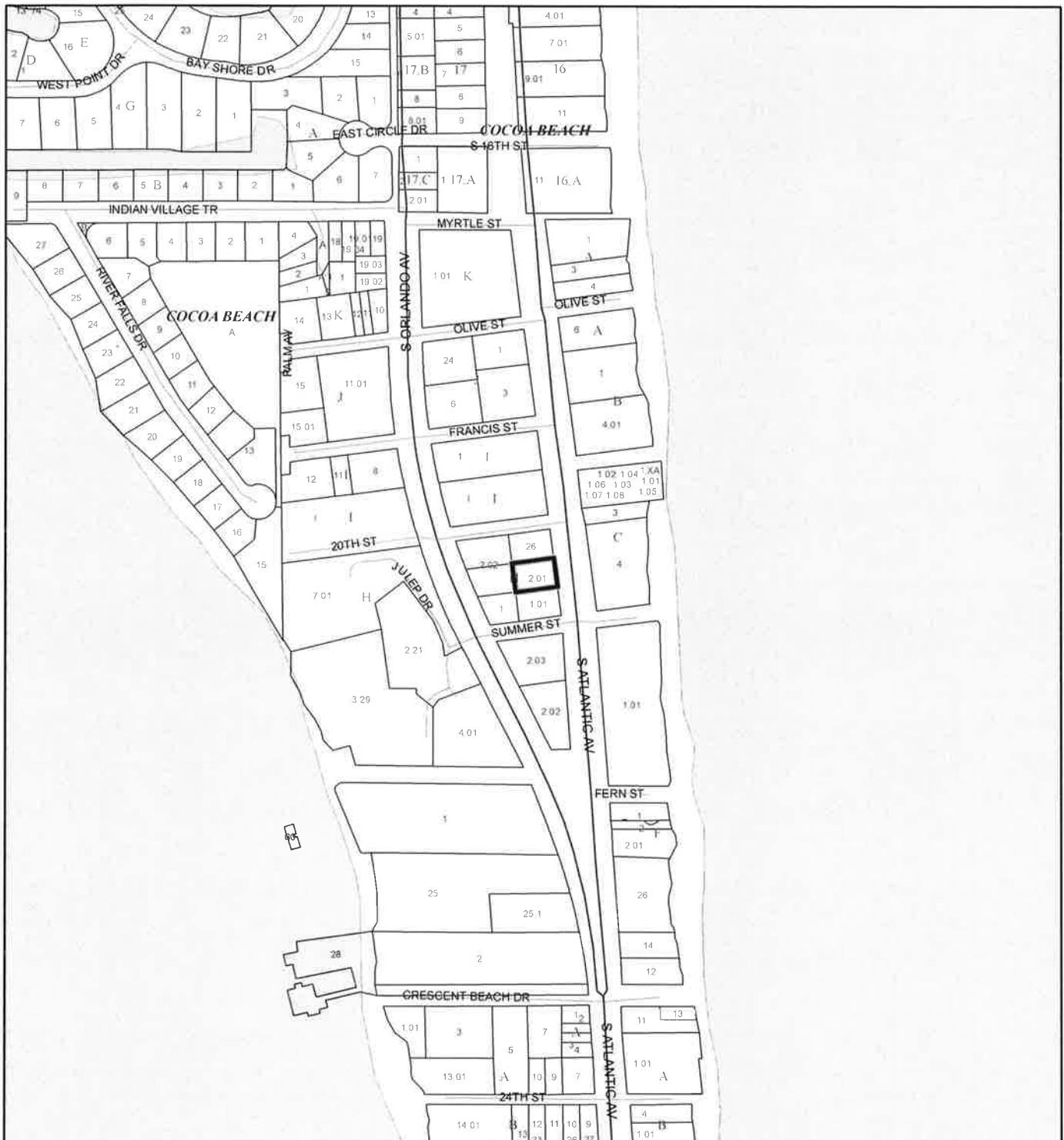
National Wetlands Inventory (NWI)

 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

DeROSA HOLDINGS, LLC

21PZ00059



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: 8/31/2021

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

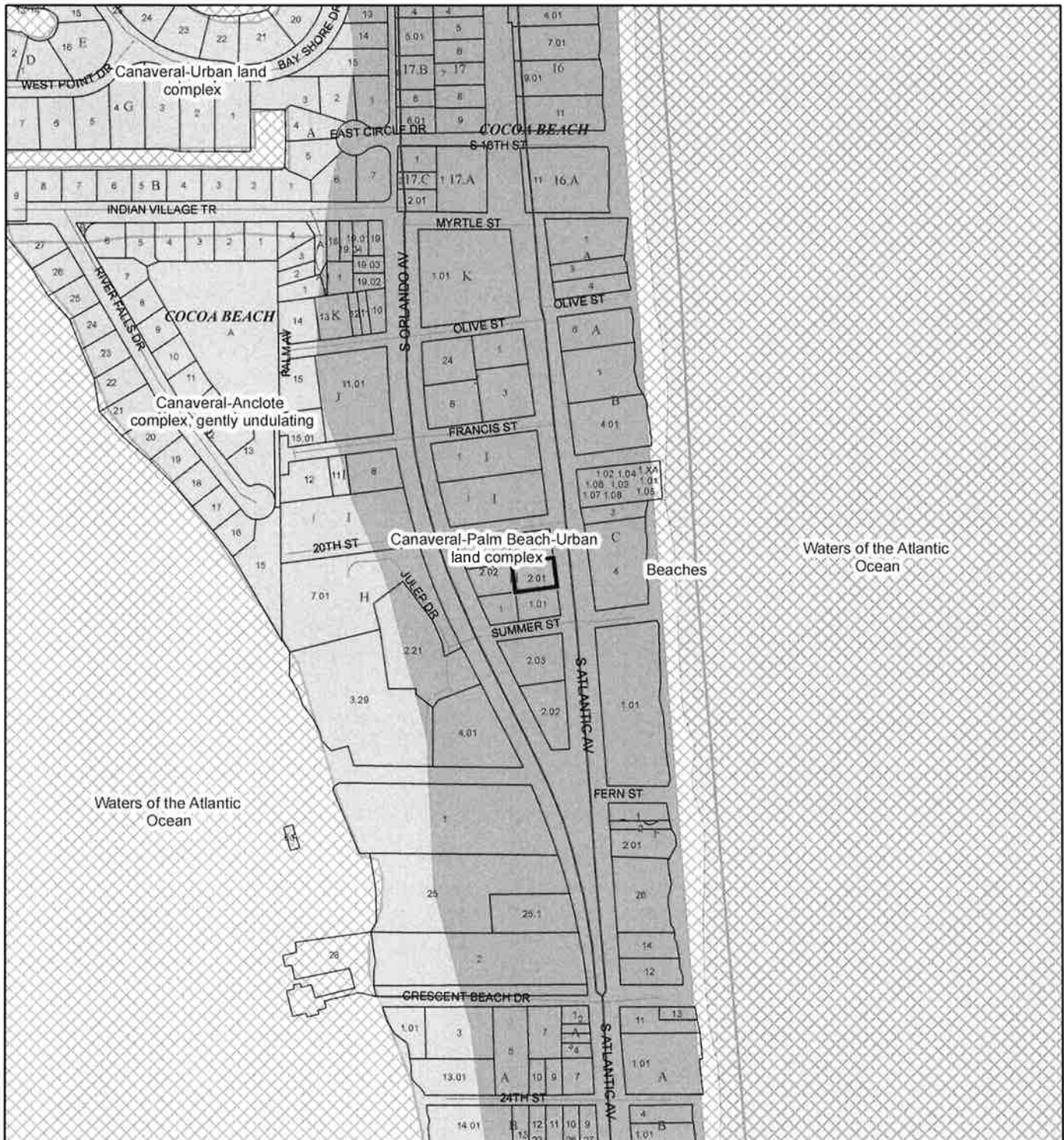
 Subject Property

 Parcels

USDA SCSSS SOILS MAP

DeROSA HOLDINGS, LLC

21PZ00059



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/31/2021

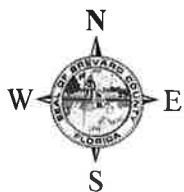
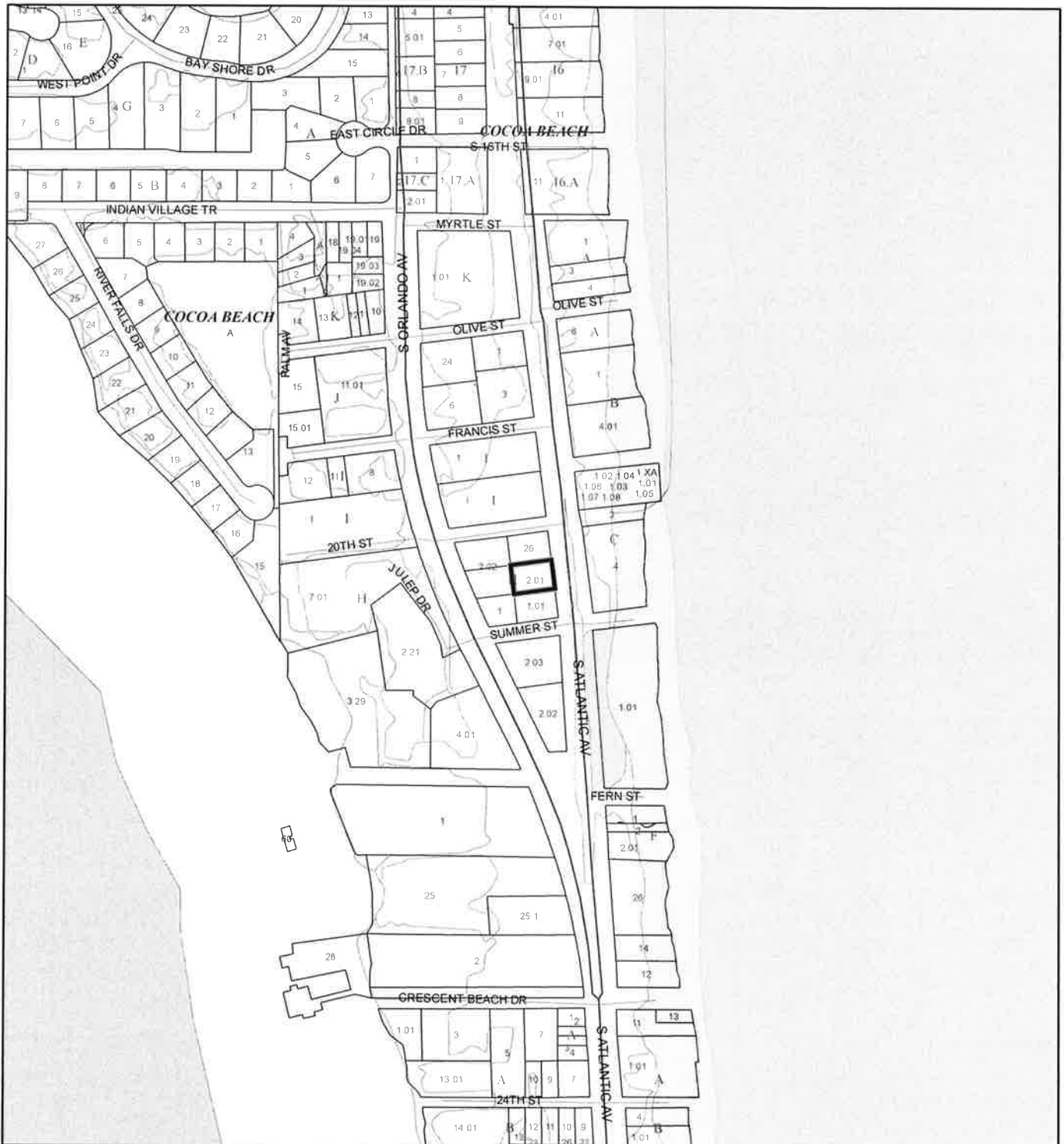
USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None
- Subject Property
- Parcels

FEMA FLOOD ZONES MAP

DeROSA HOLDINGS, LLC

21PZ00059



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/31/2021

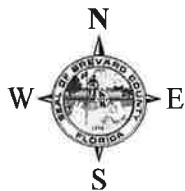
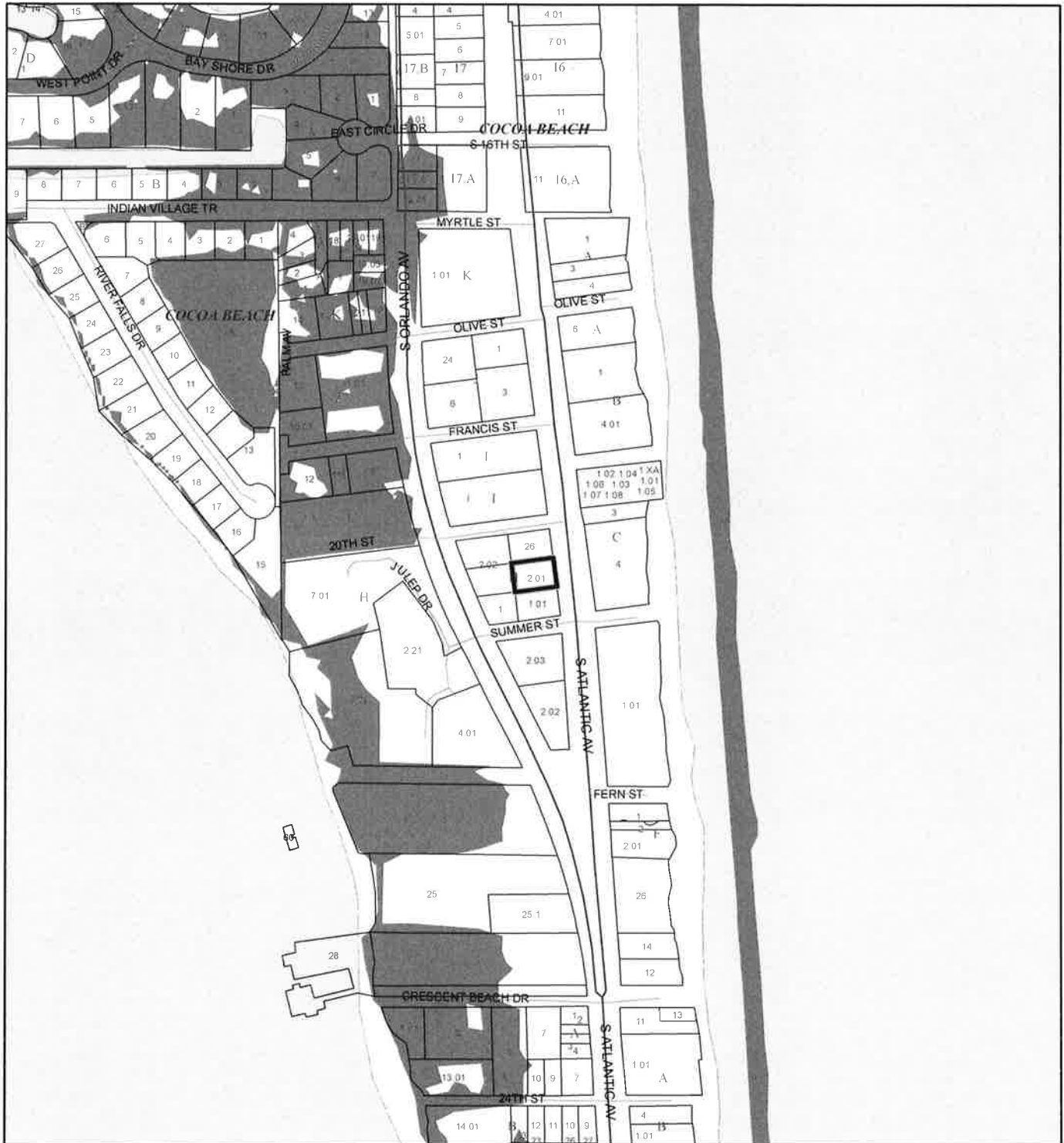
FEMA Flood Zones

A	AO	X
AE	Open Water	
AH	VE	
Subject Property	Parcels	

COASTAL HIGH HAZARD AREA MAP

DeROSA HOLDINGS, LLC

21PZ00059



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/31/2021

— Subject Property

□ Parcels

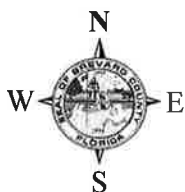
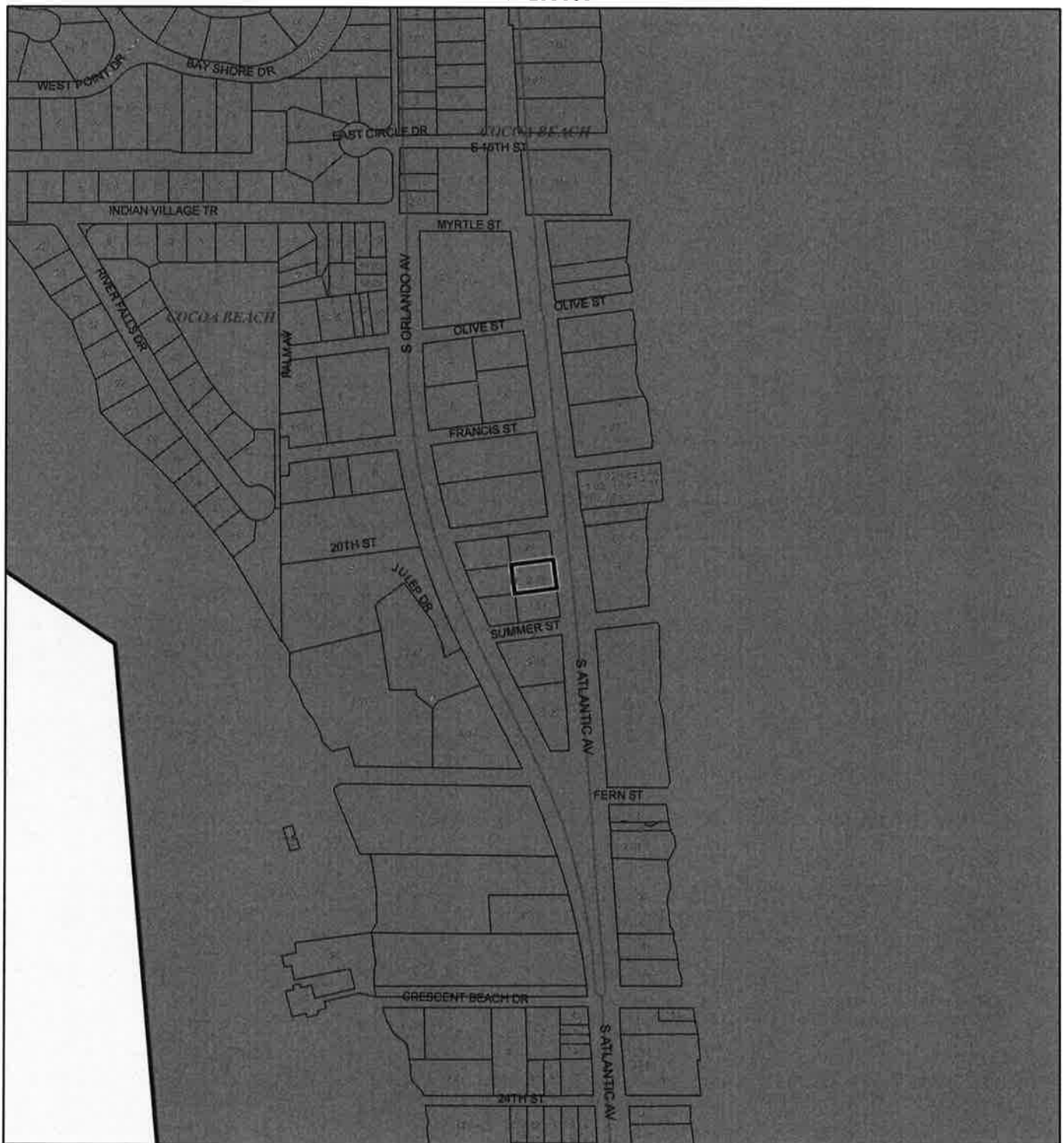
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

DeROSA HOLDINGS, LLC

21PZ00059



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/31/2021

— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

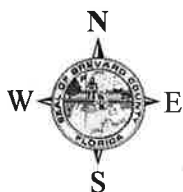
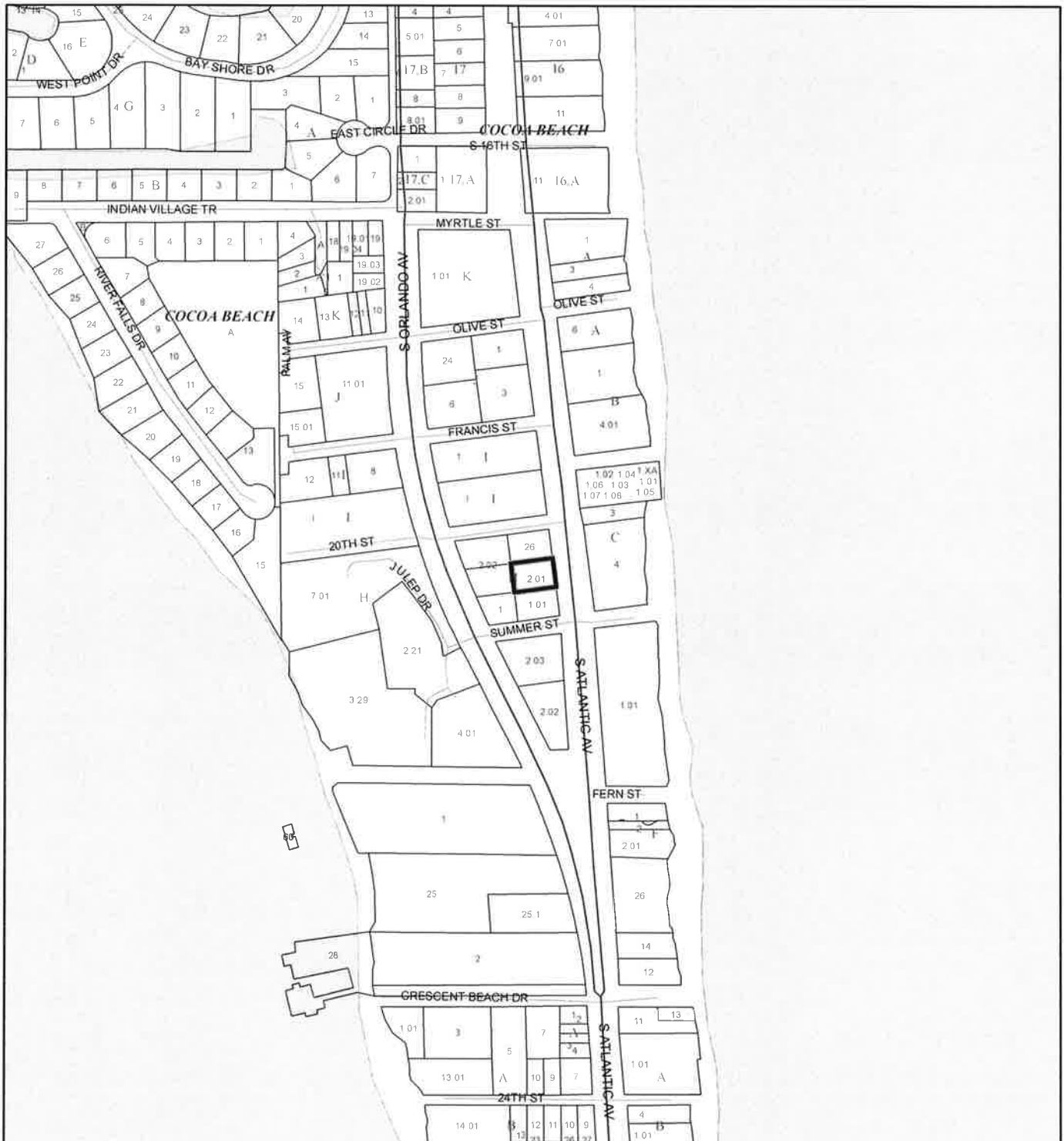
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

DeROSA HOLDINGS, LLC

21PZ00059



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/31/2021

 Subject Property

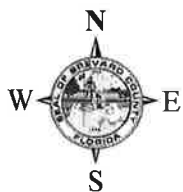
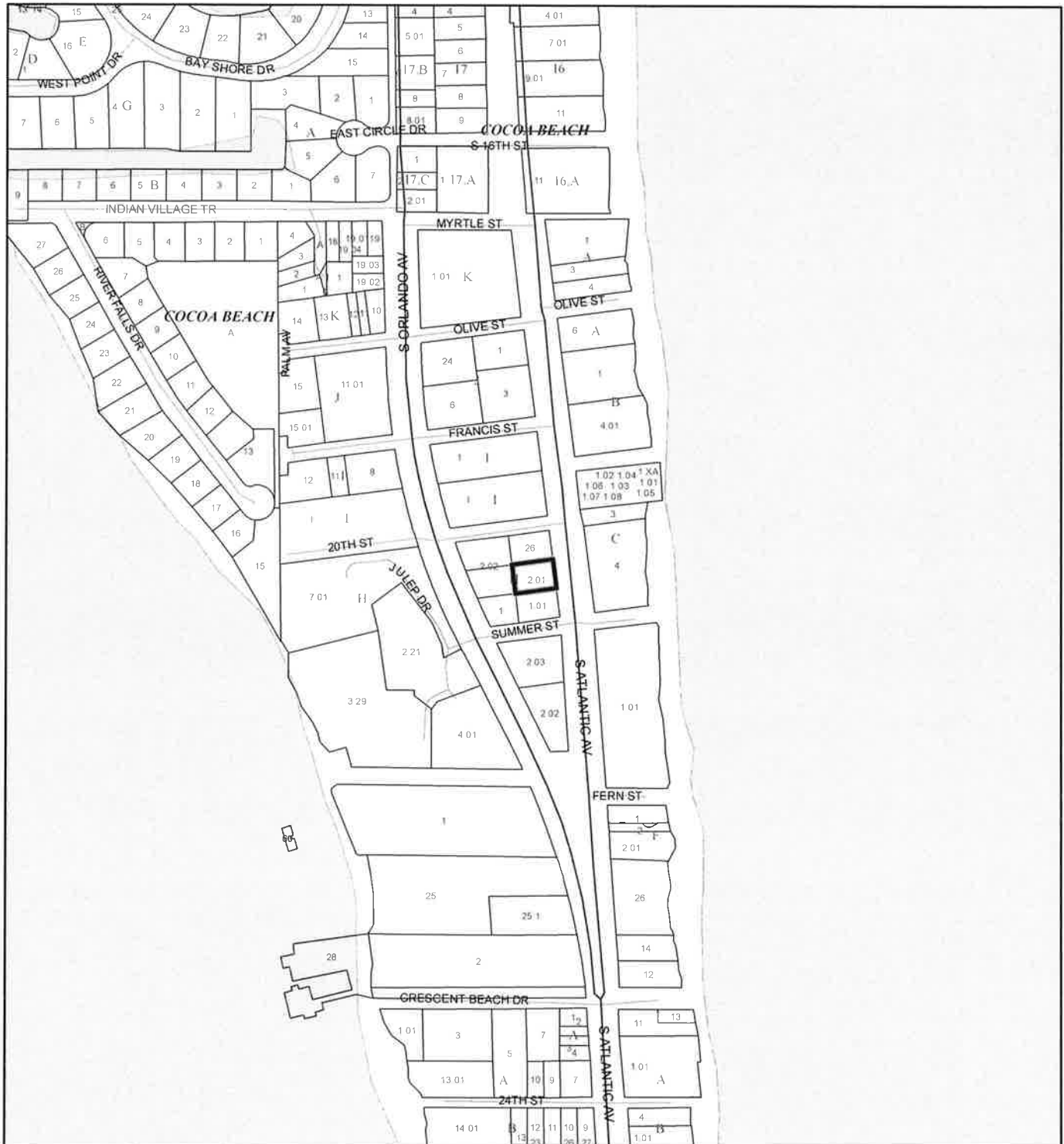
 Parcels

 Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

DeROSA HOLDINGS, LLC

21PZ00059



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 8/31/2021

 Subject Property

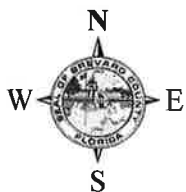
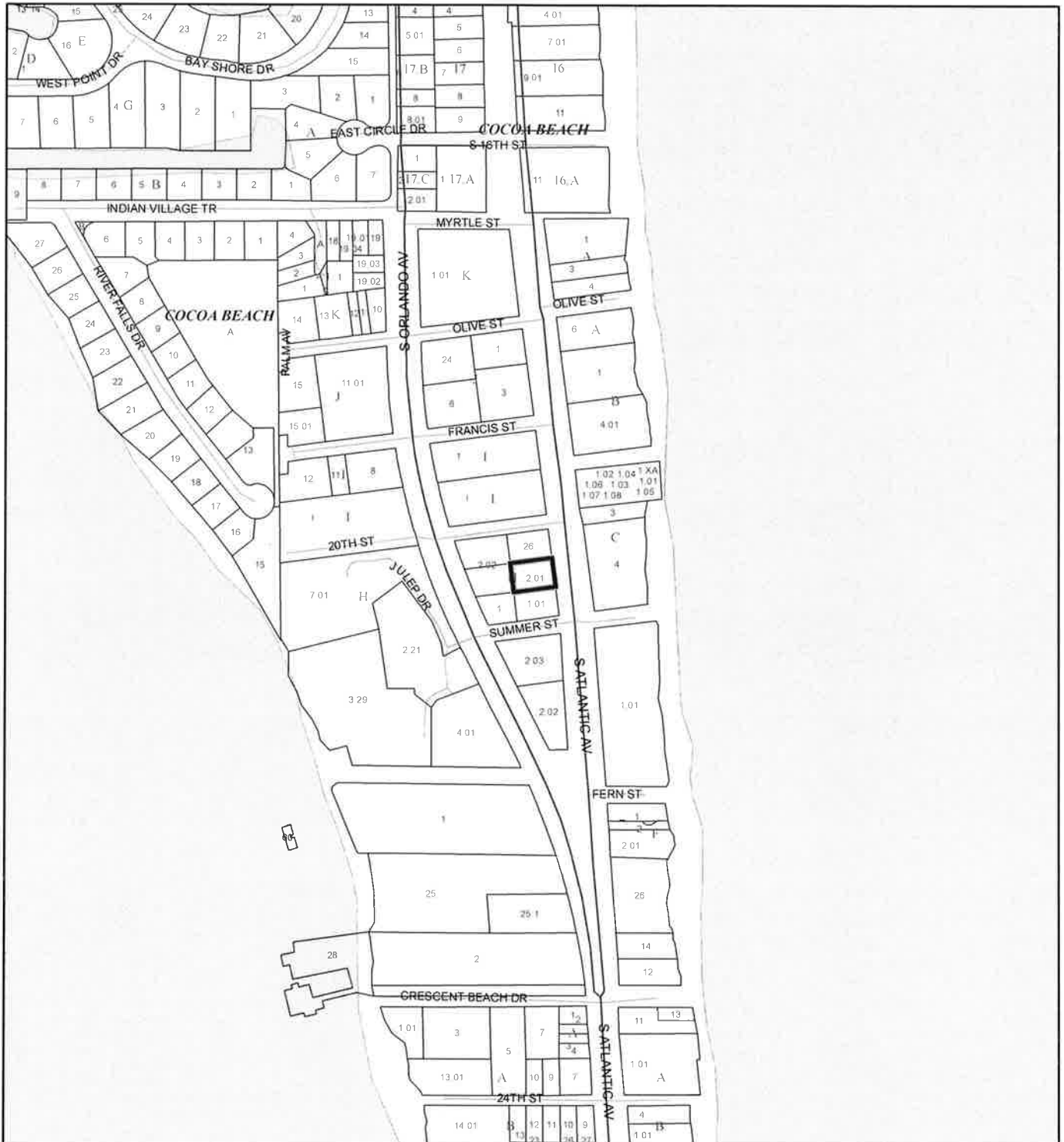
 Parcels

 Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

DeROSA HOLDINGS, LLC

21PZ00059



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.

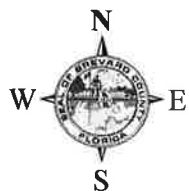
Produced by BoCC - GIS Date: 8/31/2021

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

21PZ00059



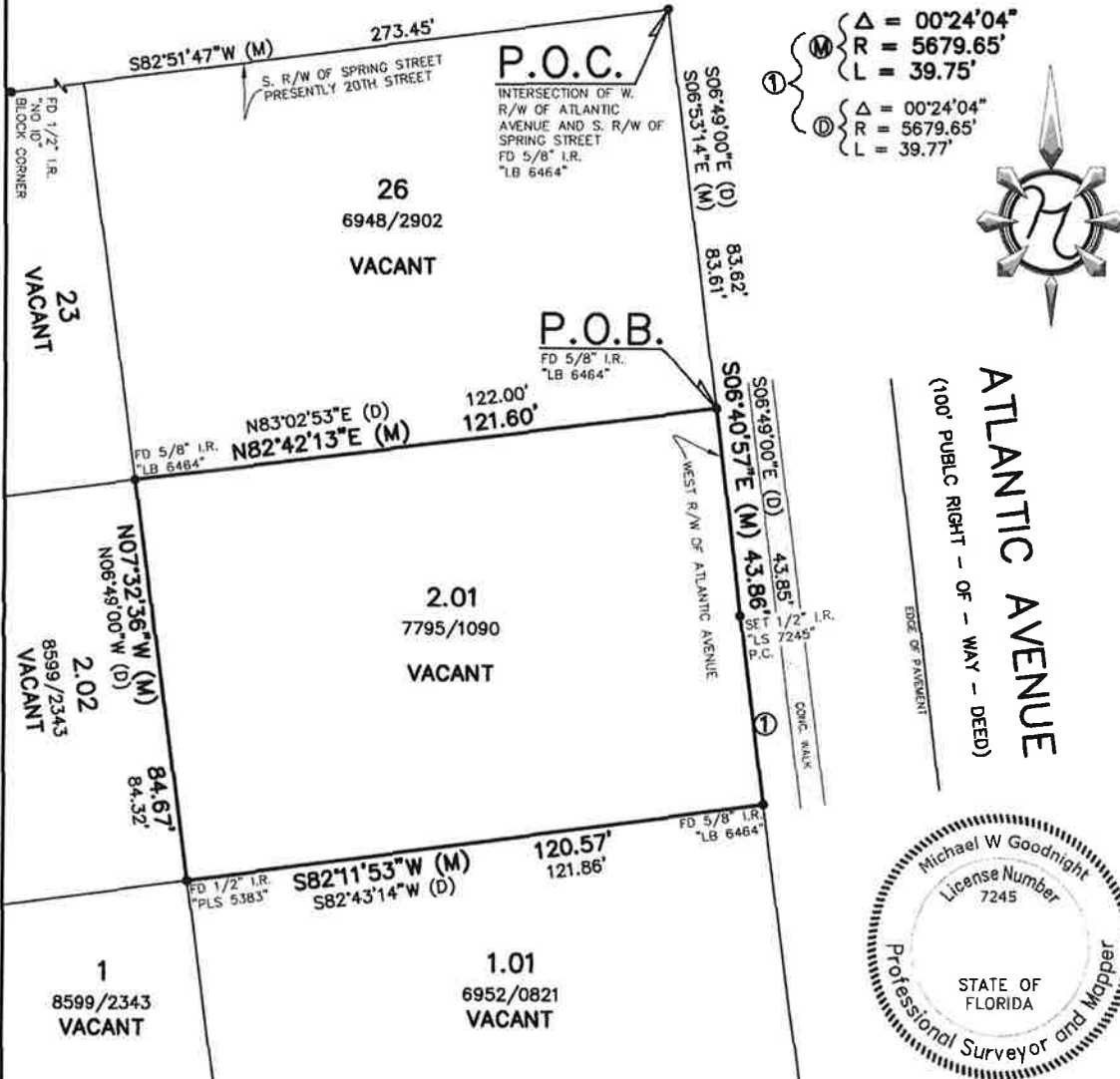
Produced by BoCC - GIS Date: 11/18/2021

-  Parcels
 BDP Amendment
 Existing BDP
 Zoning for All Others

GOODNIGHT SURVEYING AND MAPPING, LLC**BOUNDARY SURVEY OF:**

A PARCEL OF LAND BEING A PORTION OF BLOCK H OF A. & B. BRUNERS RE-SUBDIVISION OF BLOCKS A, H, J, K, AND PARTS OF BLOCKS C & I OF A. L. BRUNERS RE-SUB OF BURCHFIELD & BRUNERS ADDITION TO CRESCENT BEACH, RECORDED IN PLAT BOOK 9, PAGE 4, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT AN IRON ROD MONUMENTING THE INTERSECTION OF THE WEST RIGHT OF WAY LINE OF ATLANTIC AVENUE, AS PRESENTLY LOCATED (A 100 FOOT WIDE RIGHT OF WAY) WITH THE SOUTH RIGHT OF WAY LINE OF SPRING STREET (A 42 FOOT WIDE RIGHT OF WAY) AND RUN S.06°49'00"E., ALONG SAID WEST RIGHT OF WAY OF ATLANTIC AVENUE, A DISTANCE OF 83.62 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE CONTINUE S.06°49'00"E., ALONG SAID WEST RIGHT OF WAY LINE OF ATLANTIC AVENUE, A DISTANCE OF 43.85 FEET TO THE POINT OF CURVATURE OF 5679.65 FOOT RADIUS CURVE TO THE LEFT; THENCE CONTINUE SOUTHEASTERLY ALONG SAID WEST RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THRU A CENTRAL ANGLE OF 00°24'04", A DISTANCE OF 39.77 FEET; THENCE LEAVING SAID WEST RIGHT OF WAY LINE RUN S.82°43'14"W., A DISTANCE OF 121.86 FEET; THENCE N.06°49'00"W., A DISTANCE OF 84.32 FEET; THENCE N.83°02'53"E., A DISTANCE OF 122.00 FEET TO THE POINT OF BEGINNING.



SCALE: 1" = 30'
DATE: 04/28/2021
PROJECT: 21-107
REVISION:

CERTIFIED TO: MARINE BANK & TRUST COMPANY, ITS SUCCESSORS
AND/OR ASSIGNS, AS THEIR INTERESTS MAY APPEAR

DEROSA HOLDINGS, LLC, A FLORIDA LIMITED LIABILITY COMPANY
INTERNATIONAL TITLE AND ESCROW CO., LLC
ALLIANT NATIONAL TITLE INSURANCE COMPANY

SURVEYOR'S NOTES:

- 1) THE BEARING SYSTEM SHOWN HEREON IS BASED ON AN ASSUMED BEARING OF N.06°49'00"E., ALONG THE WEST R/W LINE OF ATLANTIC AVENUE.
- 2) AS PER FLOOD INSURANCE RATE MAP NO.12009C 0461 H, INDEX DATED 01-29-2021, THE ABOVE DESCRIBED PROPERTY LIES IN ZONE X.
- 3) THIS SURVEY WAS PREPARED FROM TITLE INFORMATION PROVIDED TO THE SURVEYOR. THERE MAY BE ADDITIONAL RESTRICTIONS OR EASEMENTS THAT AFFECT THE PROPERTY.
- 4) THIS TRACT CONTAINS 10,181 SQUARE FEET OR 0.23 ACRES OF LAND MORE OR LESS.
- 5) UNDERGROUND UTILITIES AND FOUNDATIONS HAVE NOT BEEN SHOWN.
- 6) NOT VALID WITHOUT SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

LIABILITY SHALL NOT EXCEED THE TOTAL AMOUNT PAID TO THE SURVEYOR BY THE CLIENT.

GOODNIGHT SURVEYING & MAPPING
1520 TARPON STREET
MERRITT ISLAND, FL 32952
PHONE: 321-720-9990
www.goodnightsurveying.com
michael@goodnightsurveying.com

CERTIFIED BY: Michael W Goodnight
2021.06.07 15:28:26
-04'00'

MICHAEL W GOODNIGHT
FLORIDA P.S.M. #7245
(NOT VALID UNLESS SIGNED & SEALED)

SHEET: 1 OF 1

Existing BDP
21PZ00059
DeRosa

CFN:2005051666 02-15-2005 12:25 pm
OR Book/Page: 5422 / 5613

Prepared by: J. Mason Williams, Esq.
GrayRobinson
1800 W. Hibiscus Blvd, Ste 138
P.O. Box 1870
Melbourne, FL 32902-1870

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this 8th day of Februaury 2005 between
THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY,
FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as
"County") and STEVEN J. & BETH M. HOSKINS, JASON CARMINE UVARO,
MICHAEL FRANCIS DUFFIELD & CARL UVARO (hereinafter referred to as
"Developer/Owner"):

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to a the
"Property") in Brevard County, Florida, as more particularly described in Exhibit "A"
attached hereto and incorporated herein by this reference; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner
wishes to mitigate negative impacts on abutting land owners and affected facilities or
services; and

WHEREAS, the County is authorized to regulate development of the Property;
and

WHEREAS, Developer/Owner desires to develop the Property as a luxury
townhome subdivision under RU-2-12 zoning and to submit to this Binding Development
Plan pursuant to Brevard County Code, Section 62-1157.

Scott Ellis
Clerk Of Courts, Brevard County
#Pgs: 7 #Names: 6
Trust: 4.00 Rec: 59.00 Serv: 0.00
Deed: 0.00 Excise: 0.00
Mtg: 0.00 Int Tax: 0.00

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.

2. Developer/Owner shall develop the Property as a luxury townhome subdivision under RU-2-12 zoning with density limited to thirteen (13) units on the Property, and may be further restricted by any changes to the Comprehensive Plan or the Land Development Regulations.

3. Developer/Owner shall pay all impact fees required by the County to be paid in connection with Development of the Property.

4. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the comprehensive plan or land development regulations as they may apply to this Property.

5. Developer/Owner, upon execution of this Agreement, shall pay to the County the cost of recording this Agreement in Brevard County, Florida.

6. This Agreement shall be binding upon and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

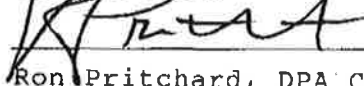


Scott Ellis, Clerk
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

2725 Judge Fran Jamieson Way

Viera, FL 32940



Ron Pritchard, DPA Chairman

As approved by Board on February 8, 2005

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 8th day of February 2005 by Ron Pritchard, DPA, Chairman of the Board of County Commissioners of Brevard County, Florida, who is personally known to me or who has produced _____ as identification.

My commission




Notary Public

SEAL

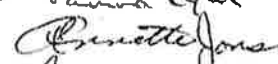
Commission No.:

(Name typed, printed or stamped)

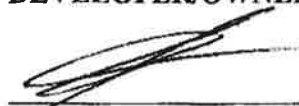
WITNESSES:

DEVELOPER/OWNER



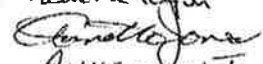
Tamara Ryan


Bernadette Jones
ANNETTE JONES



STEVEN J. HOSKINS



Tamara Ryan


Bernadette Jones
ANNETTE JONES



BETH M. HOSKINS

Loe Kalagichy
Jordana Kalschky
Eileen Clark
Eileen Clark

[Signature]
JASON CARMINE UVARO

[Signature]
MICHAEL FRANCIS DUFFIELD

[Signature] Tammie Ryan
[Signature]
of ANNETTE JONES

[Signature]
CARL UVARO

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 15 day of November, 2004, by STEVEN J. HOSKINS, who is personally known to me or who has produced FLDL#H252790621670 as identification.

My commission expires 10/16/07



Margaret C. Hancock
Notary Public
MARGARET C. HANCOCK
(Name typed, printed or stamped)

RETURN: Clerk to the Board #27



STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 15 day of
November, 2004, by BETH M. HOSKINS, who is personally known to me or who has
produced FLDL#H252073637110 as identification.

My commission expires



Margaret C. Hancock

Notary Public

MARGARET C HANCOCK

(Name typed, printed or stamped)

STATE OF FLORIDA
COUNTY OF BREVARD

December The foregoing instrument was acknowledged before me this 2nd day of
~~November~~, 2004, by JASON CARMINE UVARD, who is personally known to me or
who has produced Florida Deed Lien as identification.
0160-42374-410-0

My commission expires

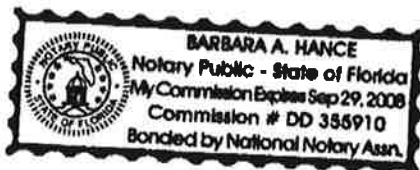
SEAL

Commission No.:

Barbara A. Hance

Notary Public

(Name typed, printed or stamped)



RETURN: Clerk to the Board #27

STATE OF FLORIDA
COUNTY OF BREVARD

~~December~~ The foregoing instrument was acknowledged before me this 2nd day of ~~November~~ November, 2004, by MICHAEL FRANCIS DUFFIELD, who is personally known to me or who has produced FLORIDA Deed Lit. # as identification.
D143-546-78-421-0

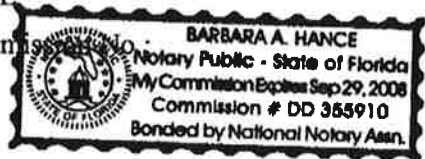
My commission expires

Barbara A. Hance

Notary Public

SEAL

Commission Expires



(Name typed, printed or stamped)

STATE OF FLORIDA
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me this 15 day of November, 2004, CARL UVARO, who is personally known to me or who has produced FIDLE 160 126 47 1900 as identification.

My commission expires

Margaret C. Hancock

Notary Public

SEAL

Commission Expires



MARGARET C. Hancock

(Name typed, printed or stamped)

RETURN: Clerk to the Board #27

A parcel of land being a portion of Block "H" of A & B Bruner's Re-Subdivision of Blocks A, H, J, K and parts of Blocks, C and I of A.L. Bruner's Re-Sub of Burchfield & Bruner's Addition to Crescent Beach, recorded in Plat Book 9, Page 4 of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at an iron rod monumenting the intersection of the Westerly Right-of-Way line of Atlantic Avenue, as presently located (a 100 foot wide Right-of-Way) with the South Right-of-Way line, of Spring Street (a 42 foot wide Right-of-Way) and run South 83°22'56" West along said South Right-of-Way line, a distance of 122.00 feet to an iron rod, the Point of Beginning; thence continue South 83°22'56" West, along said South Right-of-Way line, a distance of 149.37 feet to an iron rod on the Easterly Right-of-Way line of Orlando Avenue, as presently located (a 100 foot wide Right-of-Way), said point being on an 1860.08 foot radius curve to the left having a tangent bearing of South 17°34'14" East; thence Southeasterly, along the arc of said curve and along said Easterly Right-of-Way line, thru a central angle of 08°07'18" a distance of 263.67 feet to an iron rod on the North Right-of-Way line of Summer Street (a 50 foot wide Right-of-Way), thence North 82°23'26" East, along said North Right-of-Way line, a distance of 82.02 feet to an iron rod; thence North 06°49'00" West, a distance of 253.02 feet to the Point of Beginning.

LEGAL DESCRIPTION: (Parcel A-3) J

A parcel of land being a portion of Block "H" of A & B Bruner's Re-Subdivision of Blocks A, H, J, K and part of Blocks, C & I of A.L. Bruner's Re-Sub and Bruner's Addition of Crescent Beach, Recorded in Plat Book 9, Page 4, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at an iron rod monumenting the intersection of the West right of way line of Atlantic Avenue, as presently located (a 100 foot wide right of way) with the South right of way line of Spring Street (a 42 foot wide right of way), and run South 06°49'00" East along said West right of way line of Atlantic Avenue, a distance of 127.47 feet to the point of curvature of a 5679.85 foot radius curve to the left; thence continue Southeasterly along said West right of way line and along the arc of said curve thru a central angle of 00°24'04", a distance of 39.77 feet to the Point of Beginning of the herein described parcel; thence continue Southeasterly along said West right of way line and along the arc of said curve thru a central angle of 00°20'40", a distance of 83.70 feet to the North right of way line of Summer Street (a 50 foot wide right of way); thence South 82°23'26" West along said North right of way line, a distance of 120.67 feet; thence North 06°49'00" West, a distance of 84.32 feet; thence North 82°43'14" East a distance of 121.86 feet to the Point of Beginning.

LEGAL DESCRIPTION: (Parcel A-1) C

A parcel of land being a portion of Block "H" of A & B Bruner's Re-Subdivision of Blocks A, H, J, K and part of Blocks, C & I of A.L. Bruner's Re-Sub and Bruner's Addition of Crescent Beach, Recorded in Plat Book 9, Page 4, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Begin at an iron rod monumenting the intersection of the West right of way line of Atlantic Avenue, as presently located (a 100 foot wide right of way) with the South right of way line of Spring Street (a 42 foot wide right of way), and run South 06°49'00" East along said West right of way line of Atlantic Avenue, a distance of 83.62 feet; thence leaving said West right of way line run South 83°02'53" West a distance of 122.00 feet; thence North 06°49'00" West parallel to said right of way of Atlantic Avenue, a distance of 84.33 feet to the aforesaid South right of way line of Spring Street; thence North 83°22'56" East a distance of 122.00 feet to the Point of Beginning.

LEGAL DESCRIPTION: (Parcel A-2) M

A parcel of land being a portion of Block "H" of A & B Bruner's Re-Subdivision of Blocks A, H, J, K and part of Blocks, C & I of A.L. Bruner's Re-Sub and Bruner's Addition of Crescent Beach, Recorded in Plat Book 9, Page 4, of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at an iron rod monumenting the intersection of the West right of way line of Atlantic Avenue, as presently located (a 100 foot wide right of way) with the South right of way line of Spring Street (a 42 foot wide right of way), and run South 06°49'00" East along said West right of way line of Atlantic Avenue, a distance of 83.62 feet to the Point of Beginning of the herein described parcel; thence continue South 06°49'00" East along said West right of way line of Atlantic Avenue, a distance of 43.85 feet to the point of curvature of a 5679.85 foot radius curve to the left; thence continue Southeasterly along said West right of way line and along the arc of said curve thru a central angle of 00°24'04", a distance of 39.77 feet; thence leaving said West right of way line run South 82°43'14" West a distance of 121.86 feet; thence North 06°49'00" West, a distance of 84.32 feet; thence North 82°43'14" East a distance of 121.86 feet to the Point of Beginning.



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RETURN: Clerk to the Board #27

Prepared by: MBV Engineering, Inc.
Address: 1250 W. Eau Gallie Blvd., Melbourne, FL 32935

BINDING DEVELOPMENT PLAN

THIS AGREEMENT, entered into this _____ day of _____, 20__ between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as "County") and DeRosa Holdings LLC (hereinafter referred to as "Developer/Owner").

RECITALS

WHEREAS, Developer/Owner owns property (hereinafter referred to as the "Property") in Brevard County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer/Owner has requested the RU2-12 zoning classification(s) and desires to develop the Property as two detached Town Homes , and pursuant to the Brevard County Code, Section 62-1157; and

WHEREAS, as part of its plan for development of the Property, Developer/Owner wishes to mitigate negative impact on abutting land owners and affected facilities or services; and

WHEREAS, the County is authorized to regulate development of the Property.

NOW, THEREFORE, the parties agree as follows:

1. The County shall not be required or obligated in any way to construct or maintain or participate in any way in the construction or maintenance of the improvements. It is the intent of the parties that the Developer/Owner, its grantees, successors or assigns in interest or some other association and/or assigns satisfactory to the County shall be responsible for the maintenance of any improvements.
2. The Developer/Owner shall develop the property as two (2) detached residential units for residency and/or rental. The property shall remain under one ownership.

3. Developer/Owner shall comply with all regulations and ordinances of Brevard County, Florida. This Agreement constitutes Developer's/Owner's agreement to meet additional standards or restrictions in developing the Property. This agreement provides no vested rights against changes to the Comprehensive Plan or land development regulations as they may apply to this Property prior to issuance of an approved development order.
4. Developer/Owner, upon execution of this Agreement, shall pay to the Clerk of Court all costs of recording this Agreement in the Public Records of Brevard County, Florida.
5. This Agreement shall be binding and shall inure to the benefit of the successors or assigns of the parties and shall run with the subject Property unless or until rezoned and shall be binding upon any person, firm or corporation who may become the successor in interest directly or indirectly to the subject Property, and shall be subject to the above referenced conditions as approved by the Board of County Commissioners on _____. In the event the subject Property is annexed into a municipality and rezoned, this Agreement shall be null and void.
6. Violation of this Agreement shall constitute a violation of the zoning classification and of this Agreement. This Agreement may be enforced by Sections 1-7 and 62-5 of the Code of Ordinances of Brevard County, Florida, as may be amended.
7. Conditions precedent. All mandatory conditions set forth in this Agreement mitigate the potential for incompatibility and shall be satisfied before Developer/Owner may implement the approved use(s), unless stated otherwise. The failure to timely comply with any condition is a violation of this Agreement and constitutes a violation of the Zoning Classification and is subject to enforcement action as described in Paragraph 14 above.
8. Severability clause. If any provision of this BDP is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provision shall continue in full force and effect without being impaired or invalidated in any way.

IN WITNESS THEREOF, the parties hereto have caused these presents to be signed all as of the date and year first written above.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA
2725 Judge Fran Jamieson Way
Viera, FL 32940

Rachel Sadoff, Clerk
(SEAL)

Kristine Zonka, Chair
As approved by the Board on _____

(Please note: You must have two witnesses and a notary for each signature required. The notary may serve as one witness.)

WITNESSES:

DeRosa Holdings LLC
1173 N.E. 103rd. Street
Miami Shores, Florida, 33138

(Witness Name typed or printed)

(Witness Name typed or printed)

President

Jamie DeRosa

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of ____ physical presence or ____ online notarization, this ____ day of _____, 20____, by _____, President of _____, who is personally known to me or who has produced _____ as identification.

My commission expires
SEAL
Commission No.:

Notary Public

(Name typed, printed or stamped)

PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, November 15, 2021, 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: Ron Bartcher (D1); Brian Hodgers (D2); Ben Glover (D3); William Capote (D3); Mark Wadsworth, Chair (D4); Liz Alward (D4 - Alt); Bruce Moia (D5); Peter Filiberto, Vice Chair (D5); and David Bassford (D5 - Alt).

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; George Ritchie, Planner III; Paul Body, Planner II; Peter Martin, Planner II Kyle Harris, Associate Planner; Alex Esseeesse, Assistant County Attorney; and Jennifer Jones, Special Projects Coordinator.

At the outset of the meeting, David Bassford recused himself from voting on Item H.3.

Excerpt of Complete Minutes

DeRosa Holdings, LLC (Bruce Moia)

An amendment to an existing BDP in a RU-2-12 (Medium Density Multi-Family Residential) zoning classification. The property is 0.24 acres, located on the west side of S. Atlantic Ave., approx. 83 ft. south of 20th St. (2050 S. Atlantic Ave., Cocoa Beach) (Tax Account 2534267) (District 2)

Bruce Moia, MBV Engineering, stated the vacant property is located just north of where A1A splits in Cocoa Beach, and it used to be part of an overall property that has been now split into six different parcels. The current BDP was proposed for the entire property for an attached townhome development, but nothing was ever built and the property was sold off and split. The owner of this property wants to expunge the BDP so he can build detached homes. He stated he has submitted a new BDP to replace the current BDP that stipulates two detached units instead of attached units. He said he knows there's some interest in some of the other property owners to do the same in the future, but his client would like to move forward now.

Peter Filiberto asked if the proposed homes would connect to sewer. Mr. Moia replied yes.

Public Comment.

Michael R. Stewart stated he is the owner of the adjacent lot to the south, and he would like the record to reflect that the current BDP is preventing him and the other owners from building a detached home on their properties. He asked if the board would consider absolving the BDP in its entirety as a result of Mr. DeRosa's request.

John Freeman, 2012 Julep Drive, Cocoa Beach, stated he agrees with Mr. Stewart that the BDP should be dissolved on all of the properties because there are some restrictions in it that seem to limit what can or can't be done.

Jeffrey Ball stated since this application is for one specific property, the board is only taking action and making a recommendation on that property. If the other property owners included in the existing BDP want to get together and amend the BDP they can contact staff to submit an application.

Ben Glover asked if the new BDP would be attached to all of the lots. Mr. Ball replied no, it is just on the subject property. The owners of the other properties would have to submit applications and go through the public hearing process.

Motion by Ben Glover, seconded by Peter Filiberto, to recommend approval of an amendment to an existing BDP in a RU-2-12 zoning classification. The motion passed unanimously, with David Bassford abstaining.