



AGENDA REPORT  
February 7, 2019

**Peggy Townsend (Dale Townsend) requests a change of zoning classification from AU and RU-1-9 to RU-1-7. (18PZ00123) (District 2)**

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**SUBJECT:**

Public Hearing, Re: Peggy Townsend (Dale Townsend) requests a change of zoning classification from AU (Agricultural Residential) and RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential). The property is 0.69 acres, located on the south side of Bevis Road, approximately 540 feet south of Lucas Road. (No assigned address. In the Merritt Island area.) (18PZ00123) (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 the request for a change of zoning classification from AU and RU-1-9 to RU-1-7.

**SUMMARY EXPLANATION and BACKGROUND:**

The applicant is seeking to rezone the property from Agricultural Residential (AU) and Single-family Residential (RU-1-9) to all Single-family Residential (RU-1-7) for the purpose of creating one single-family residence, but wishes to reserve the right to subdivide the lot sometime in the future. The AU zoned portion of the property does meet the lot standards established in the zoning classification and would need to be rezoned to be developed. The subject property abuts AU and RU-1-9 zoning classifications; while the surrounding area contains a mixture of zoning classifications ranging EU to BU-1-A. The development patterns in the area are primarily residential.

The Board may also wish to consider whether the 700 square foot minimum living area requirement is compatible with the surrounding area as AU zoning requires a minimum living area of 750 square feet; the RU-1-9 zoning classification requires a minimum living area of 900 square feet and the RU-1-11 zoning classification requires a minimum living area of 1,100 square feet. Both the nearby zoning actions (**17PZ00138 & 17PZ00051**) approved in 2017/2018 were for the RU-1-11 zoning classification requiring a minimum living area of 1,100 square feet.

On January 7, 2019, the Planning and Zoning Board voted unanimously to approve the

request.

**ATTACHMENTS:**

**Description**

- ▢ **Administrative Policies**
- ▢ **Staff Comments**
- ▢ **GIS Maps**
- ▢ **P&Z Minutes - January**

## **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 and 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 zoning, conditional uses, comprehensive plan appeals, 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 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 per cent 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 an 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 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.
- 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the 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 MPO 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 (ALOS):** Acceptable Level of Service currently adopted by the County.

**Current 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 LOS that a proposed development may generate on a roadway.

**RESOLUTION NO. 18PZ00123**

On motion by Commissioner Lober, seconded by Commissioner Pritchett, the following resolution was adopted by a unanimous vote:

**WHEREAS, PEGGY TOWNSEND**, has applied for a change of zoning classification from AU (Agricultural Residential) to RU-1-9 (Single-Family Residential), on property described as Tax Parcel 301, as recorded in ORB 8252, Pages 2781 – 2782, of the Public Records of Brevard County, Florida. (0.69 acres) Located on the south side of Bevis Road, approx. 540 ft. south of Lucas Rd. (No assigned address. In the Merritt Island area.); and

**Section 26,**

**Township 24S,**

**Range 36E, and,**


**WHEREAS**, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved; and,

**WHEREAS**, the Board, after considering said application and the Brevard County Planning & Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be Approved; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested change of zoning classification from AU to RU-1-9, be APPROVED, and that the zoning classification relating to the above described property be changed to RU-1-9. The Planning & Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of February 7, 2019.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

  
by Kristine Snardi, Chair

Brevard County Commission

Approved by Brevard County Commission on February 7, 2019.

ATTEST:



SCOTT ELLIS, CLERK  
(SEAL)

(P&Z Hearing – January 7, 2019)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD Preliminary Development Plan expires if a final development plan is not filed within three years.

THE GRANTING OF THIS ZONING DOES NOT GUARANTEE PHYSICAL DEVELOPMENT OF THE PROPERTY. AT THE TIME OF DEVELOPMENT, SAID DEVELOPMENT MUST BE IN ACCORDANCE WITH THE CRITERIA OF THE BREVARD COUNTY COMPREHENSIVE PLAN AND OTHER APPLICABLE LAWS AND ORDINANCES.

## REZONING REVIEW WORKSHEET

**18PZ00123**

Commission District # 2

Hearing Dates: P&Z 01/07/19

BCC 02/07/19

Owner Name: PEGGY TOWNSEND

Request: AU and RU-1-9 to RU-1-7

**Subject Property:**

Parcel ID# 24-36-26-00-301

Tax Acct.# 2458556

Location: South side of Bevis Road, approx. 540 feet south of Lucas Road.

Address: No assigned address. In the Merritt Island area.

Acreage: 0.69

### Consistency with Land Use Regulations

YES Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255  
YES Proposal can be considered under the Future Land Use Designation. Sec. 62-1255  
YES Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Undeveloped or Developed	Undeveloped	
Zoning	AU & RU-1-9	RU-1-7
Potential*	1 SF unit	3 SF units
Can be Considered under FLU MAP	YES Residential 15	YES Residential 15

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

	ADT	PM PEAK		
Trips from Existing Zoning	10	1	Segment Number	188
Trips from Proposed Zoning	29	3	Segment Name	Lucas Road
Maximum Acceptable Volume (MAV)	15,600	1,404	Acceptable LOS	E
Current Volume	3,573	322	Directional Split	0.52
Volume With Proposed Development	3,602	325	ITE CODE	
Current Volume / MAV	22.90%	22.90%	210	
Volume / MAV with Proposal	23.09%	23.12%		
Current LOS	C	C		
OS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

## **Background & Purpose of Request**

The applicant is seeking to rezone the property from Agricultural Residential (AU) and Single-family Residential (RU-1-9) to all Single-family Residential (RU-1-7) for the purpose of creating one single-family residence, but wishes to reserve the right to subdivide the lot sometime in the future.

The northern portion of the lot zoned AU is a substandard lot and by itself is unbuildable. If rezoned, there is a potential to create from one to two lots depending upon the proposed lot configuration.

The southern portion of the lot zoned RU-1-9 fails to abut a public roadway. If this property were to be developed independently, an easement pursuant to Section 62-102 (a) of Brevard County Code would be needed to access the public roadway.

The AU zoning in this community is original zoning and is a mixture of old recorded lots of record and substandard sized lots. Some of the AU properties have not been utilized for agriculture operations and remain vacant. In order to develop these small acreage sites, each one will need to be rezoned to a residential classification which its size is consistent or in order to retain those potential agricultural rights receive variances to allow the current width, depth and area requirements to be legalized.

## **Land Use Compatibility**

The subject property retains the Residential 15 (RES 15) Future Land Use (FLU) designation.

**FLUE Policy 1.4** – addresses the Residential 15 FLU designation; it affords the second highest density allowance, permitting a maximum residential density of up to fifteen (15) units per acre. This land use category allows single and multi-family residential development. All three of the above mentioned zoning classifications: AU, RU-1-9 and RU-1-7 are consistent with this Future Land Use designation.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

## **Environmental Constraints**

Please refer to comments provided by the Natural Resource Management Department.

## **Applicable Land Use Policies**

The AU zoned northern portion of this site fails to meet current code provisions (150 foot minimum width and a minimum lot area of 2.5 acres. The RU-1-9 portion of the lot meets lot width and depth requirements, but doesn't have direct access to a public road except through the AU portion. By rezoning the entire site to RU-1-7, the lot will meet current code requirements and be able to support the development of a single-family residence. The maximum potential development of this property is three (3) residential sites if a variance to lot depth is granted and an access easement pursuant to Section 62-102 (a) of Brevard County Code is administratively approved by Zoning, Land Development, Address Assignment and the Natural Resources Management Department (no public hearing is required for this administrative action).

The AU zoning classification permits single-family residences and agricultural pursuits on 2 ½ 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. The RU-1-9 classification permits single family residential development on lots of 6,600 square feet with minimum widths of 66 feet and depth of 100 feet. The minimum house size is 900 square feet. The RU-1-7 classification permits single-family

residences on minimum 5,000 square foot lots with minimum widths of 50 feet and depth of 100 feet. The minimum house size is 700 square feet.

Property to the north of this lot is zoned AU and appears to be vacant. Property to the east is zoned AU and RU-1-9. Property to the west is zoned AU and RU-1-9. Property to the south is zoned RU-1-9. The owners wish to retain the right to subdivide the lot in the future, but are requesting a single lot development at this time. No Binding Development Plan (BDP) is proposed at this time.

Several recent zoning actions have occurred in this area; the most recent being **18PZ00051** approved on 9/6/2018 for an 11.88 acre parcel located 2,170 feet in a SE direction from this lot. That action changed the zoning from inactive PUD to RU-1-15. Zoning action **17PZ00138** approved on 2/1/2018 for a 0.83 acre parcel located 610 feet in a NW direction from this lot was rezoned from AU to RU-1-11. The last action to be heard within the three year recent zoning trend is under **17PZ00051** approved on 8/3/2017 for a 0.567 acre parcel located 700 feet in a NW direction from this lot and was rezoned from Single-family Residential (RU-1-11) to RU-1-9. The RU-1-11 classification permits single family residences on minimum 7,500 square foot lots, 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.

The area of this zoning request (0.69 acres) was part of previously denied zoning action **Z-2052** denied on March 9, 1967. This prior action was a request to change AU and RU-1 to the RU-3 (Multi-Family Residential zoning classification) on a 10+ acre parcel. The proposal in file depicted 89 units in buildings of 6 or 7 units per building.

### **For Board Consideration**

The applicant is seeking to rezone the property from Agricultural Residential (AU) and Single-family Residential (RU-1-9) to all Single-family Residential (RU-1-7) for the purpose of creating one single-family residence, but wishes to reserve the right to subdivide the lot sometime in the future.

The Board may also wish to consider whether the 700 square foot minimum living area requirement is compatible with the surrounding area as AU zoning requires a minimum living area of 750 square feet; RU-1-9 zoning classification requires a minimum living area of 900 square feet and the RU-1-11 zoning classification requires a minimum living area of 1,100 square feet. Both the nearby zoning actions (**17PZ00138 & 17PZ00051**) approved in 2017/2018 were for the RU-1-11 zoning classification requiring a minimum living area of 1,100 square feet.

**NATURAL RESOURCES MANAGEMENT DEPARTMENT**  
**Rezoning Review**  
**SUMMARY**

<b>Item #: 18PZ00123</b>	<b>Applicant: Dale and Peggy Townsend</b>
<b>Zoning Request: AU &amp; RU-1-9 to RU-1-7</b>	
<b>P&amp;Z/LPA Hearing Date: 1/07/19;</b>	<b>BCC Hearing Date: 2/07/19</b>

This is a preliminary review based on environmental maps available to the Natural Resources Management (NRM) Department at the time of this review and does not include a site inspection to verify the accuracy of this information. This review does not ensure whether or not a proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations. In that this process is not the appropriate venue for site plan review, specific site designs that may be submitted with the rezoning will be deemed conceptual and any comments or omissions relative to specific site design do not provide vested rights or waivers from these regulations, unless specifically requested by the owner and approved by the Board of County Commissioners. If the owner has any questions regarding this information, he/she is encouraged to contact NRM prior to submittal of any development or construction plans.

<b>Natural Resource</b>	<b>Preliminary Assessment</b>	<b>Natural Resource</b>	<b>Preliminary Assessment</b>
Hydric Soils/Wetlands	Mapped	Coastal Protection	N/A
Aquifer Recharge Soils	Not mapped	Surface Waters	N/A
Floodplains	Not Mapped	Wildlife	Potential

**Comments:**

**This review relates to the following property: Twp. 24, Rng. 36, Sec. 26;  
Tax ID No. 2458556**

The subject parcel contains mapped SJRWMD wetlands and hydric soils (Anclote sand, frequently flooded 2%) as shown on the SJRWMD Florida Land Use & Cover Codes and USDA Soil Conservation Service Soils Survey maps, respectively; indicators that wetlands may be present on the property. Per Section 62-3694(c)(2), residential land uses within wetlands shall be limited to not more than one (1) dwelling unit per five (5) acres unless strict application of this policy renders a legally established parcel as of September 9, 1988, which is less than five (5) acres, as unbuildable. The preceding limitation of one dwelling unit per five (5) acres within wetlands may be applied as a maximum percentage limiting wetland impacts as described in Sec. 65-3694 (c)(1)a above. Application of the one-unit-per-five-acres limitation shall limit impacts to wetlands for single family residential development on a cumulative basis, to not more than 1.8% of the total property as defined in Sec. 65-694(c)(6). Any permitted wetland impacts must meet the requirements of Sections 62-3694(e) and 62-3696. The applicant is encouraged to contact NRM at (321) 633-2016 prior to any plan or permit submittal.

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

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. Per Brevard County Landscaping, Land Clearing and Tree Protection ordinance, Section 62-4331(3), the purpose and intent of the

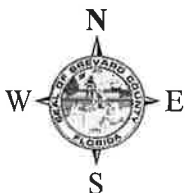
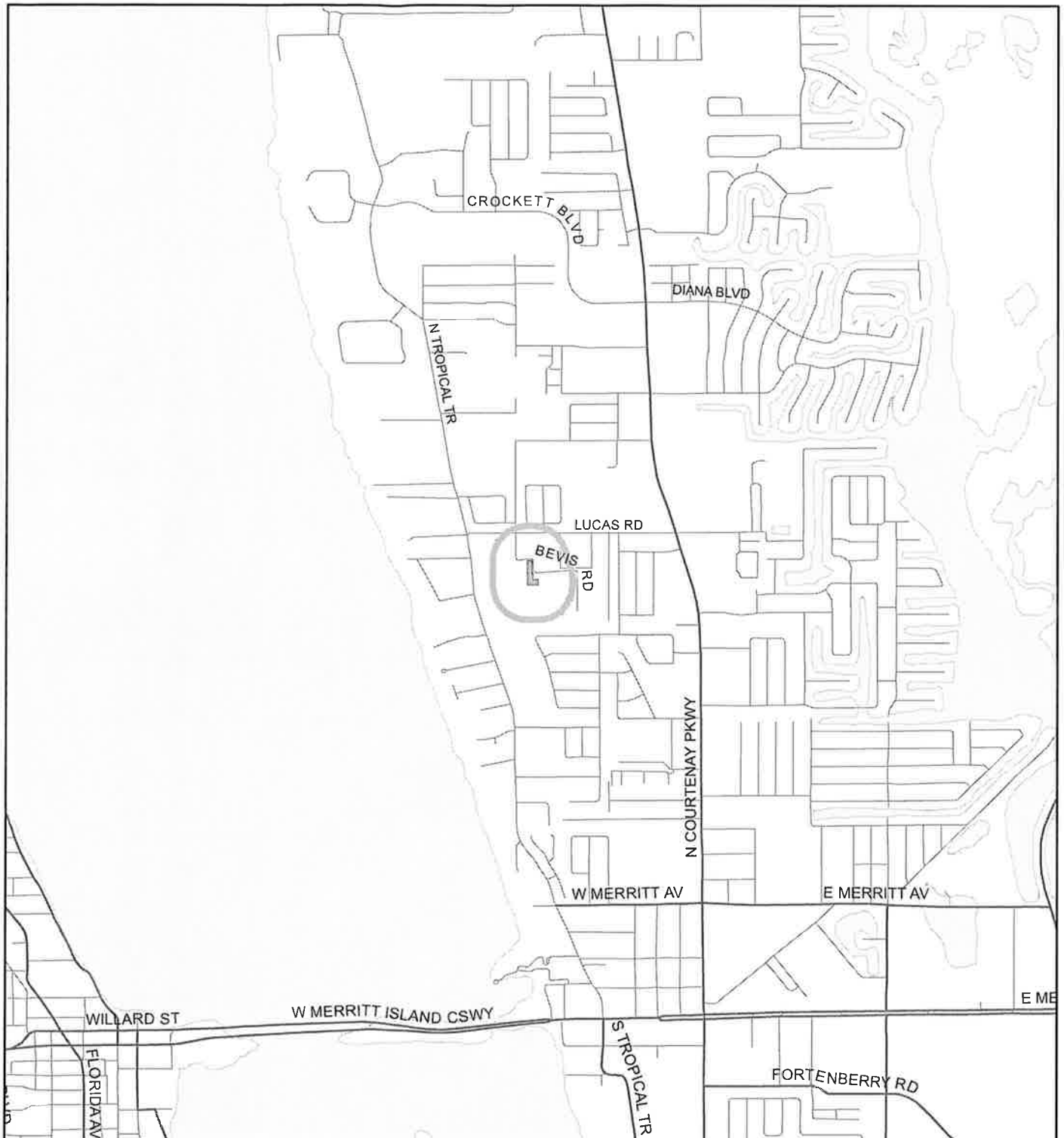
Staff Comments: Page 5  
(18PZ00123)  
01/07/19 PZ // 02/07/19 BCC

ordinance is to encourage the protection of heritage Specimen Trees. In addition, per Section 62-4341(18), Specimen Trees shall be preserved or relocated on site to the Greatest Extent Feasible. Per Section 62-4332, Definitions, Greatest Extent Feasible shall include, but not be limited to, relocation of roads, buildings, ponds, increasing building height to reduce building footprint or reducing Vehicular Use Areas. Applicant should contact NRM prior to performing any land clearing activities.



# LOCATION MAP

TOWNSEND, PEGGY  
18PZ00123



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

Buffer Distance: 500 feet

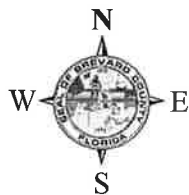
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/22/2018

— Buffer  
■ Subject Property

# ZONING MAP

TOWNSEND, PEGGY  
18PZ00123



1:4,800 or 1 inch = 400 feet

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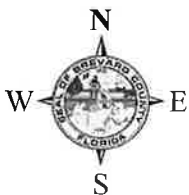
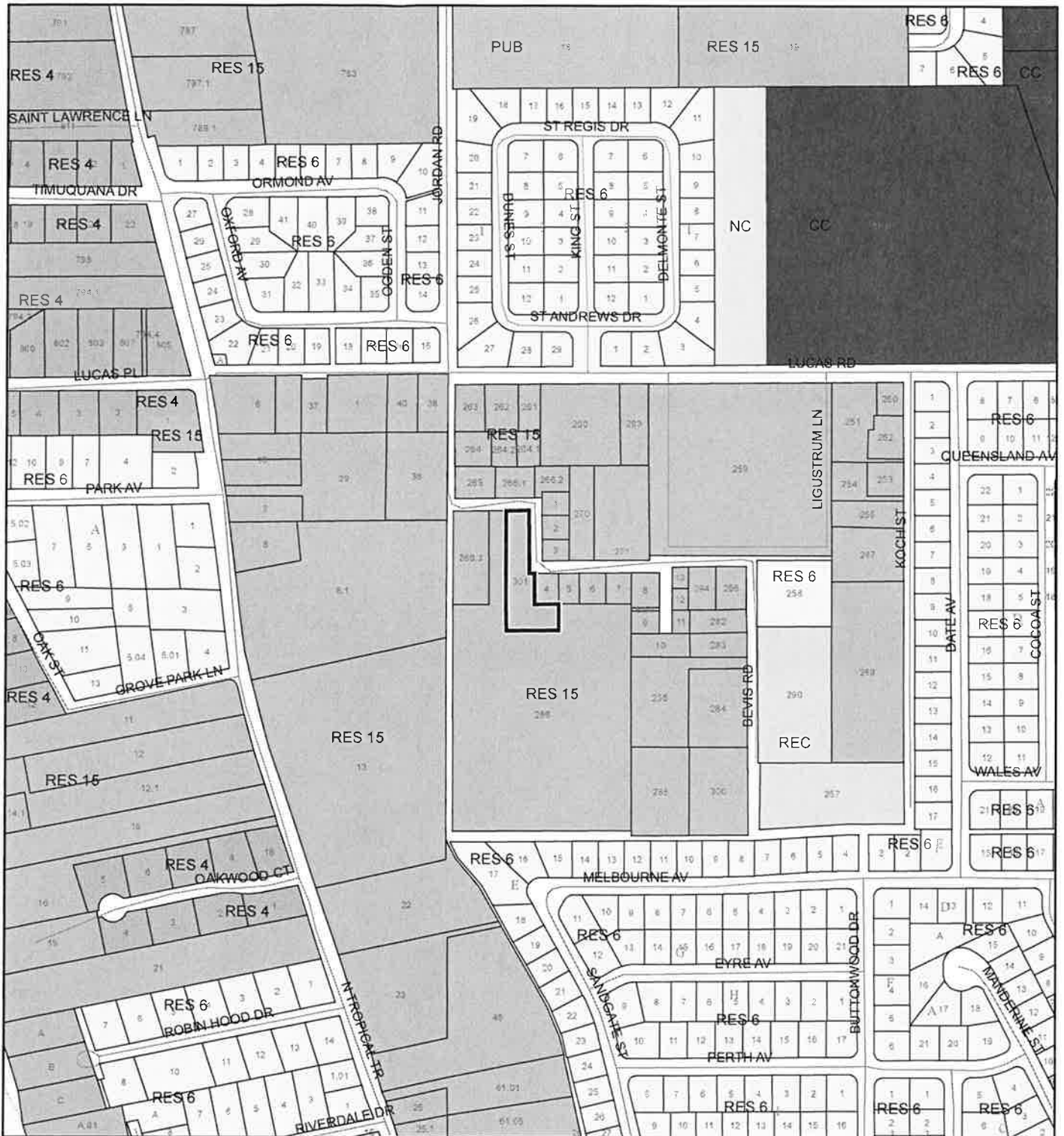
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- Subject Property
- Parcels
- Zoning

# FUTURE LAND USE MAP

TOWNSEND, PEGGY

18PZ00123



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

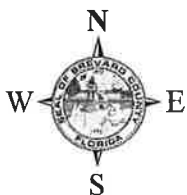
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# AERIAL MAP

TOWNSEND, PEGGY

18PZ00123



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2018

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— Subject Property

□ Parcels

# NWI WETLANDS MAP

TOWNSEND, PEGGY  
18PZ00123



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/22/2018

## 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

TOWNSEND, PEGGY  
18PZ00123





1:4,800 or 1 inch = 400 feet

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## 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

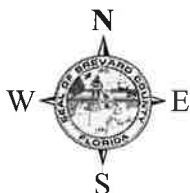
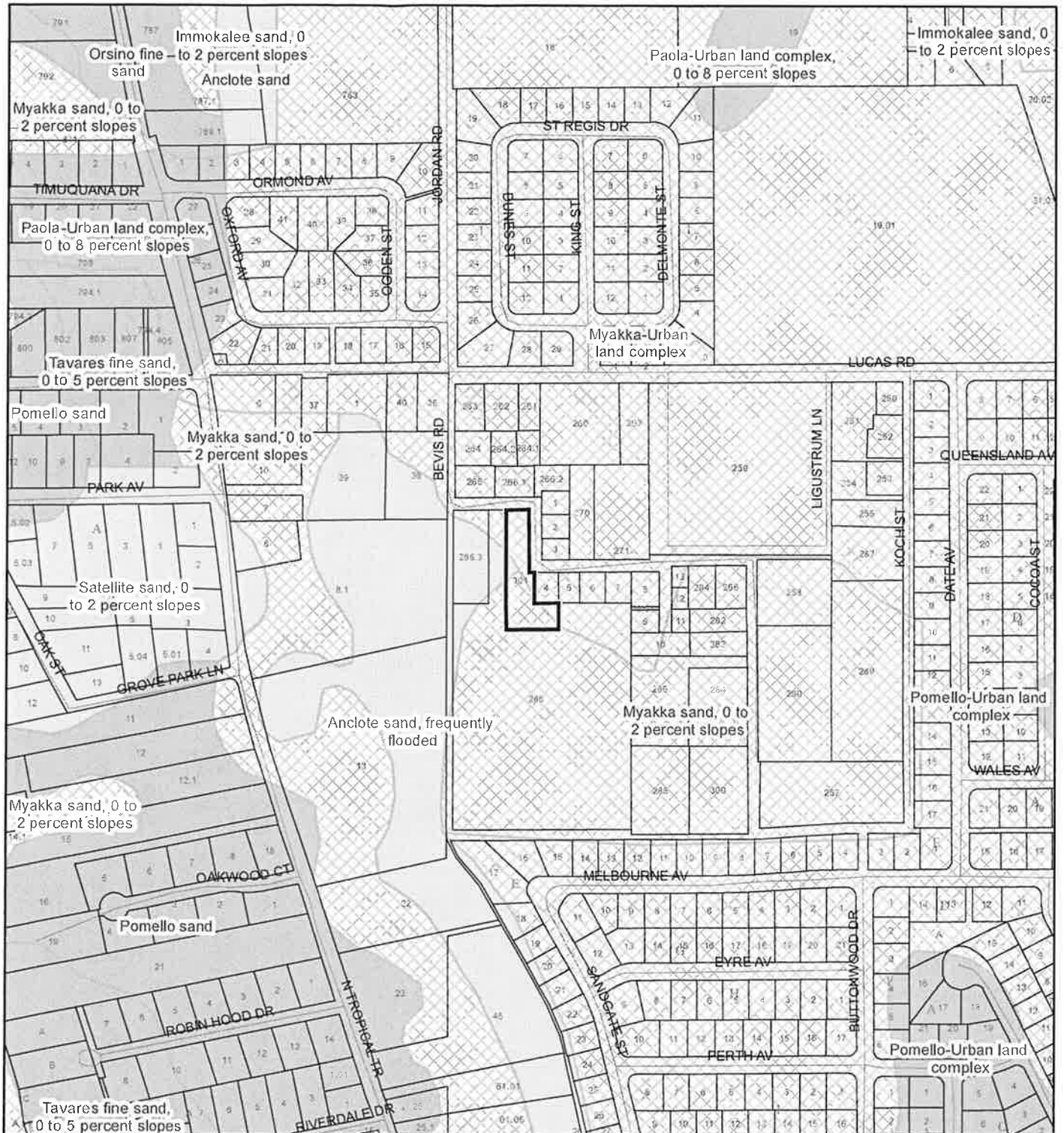
 Subject Property

 Parcels

# USDA SCSSS SOILS MAP

TOWNSEND, PEGGY

18PZ00123



1:4,800 or 1 inch = 400 feet

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## USDA SCSSS Soils

	Aquifer and Hydric
	Aquifer
	Hydric
	None

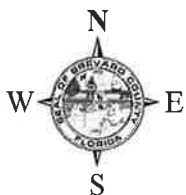
Subject Property

Parcels

# FEMA FLOOD ZONES MAP

TOWNSEND, PEGGY

18PZ00123



1:4,800 or 1 inch = 400 feet

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## FEMA Flood Zones

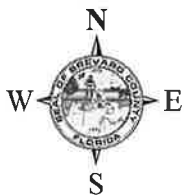
- |   |            |                      |
|---|------------|----------------------|
| A   | AO         | X                    |
| AE  | Open Water | X Protected By Levee |
| AH  | VE         |                      |
| 0.2 Percent Annual Chance Flood Hazard                      |            |                      |
| 0.2 Percent Annual Chance Flood Hazard Contained in Channel |            |                      |
| Subject Property  | Parcels    |                      |



# EAGLE NESTS MAP

TOWNSEND, PEGGY

18PZ00123



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/22/2018

 Subject Property

 Parcels

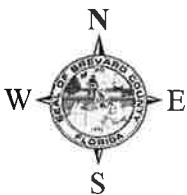


Eagle Nests  
FWS 2010

# SCRUB JAY OCCUPANCY MAP

TOWNSEND, PEGGY


18PZ00123



1:4,800 or 1 inch = 400 feet

 Subject Property

 Parcels

 Scrub Jay Occupancy

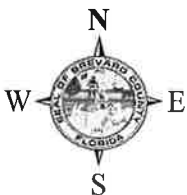
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 10/22/2018

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

TOWNSEND, PEGGY

18PZ00123



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 10/22/2018

## SJRWMD FLUCCS Upland Forests

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

Subject Property

Parcels

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 7, 2019**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Scott Langston; Mark Wadsworth; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner II; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 7, 2019, at 5:00 p.m.

Excerpt from complete agenda.

### **7. Peggy Townsend:**

(Dale Townsend) requests a change of zoning classification from AU (Agricultural Residential) and RU-1-9 (Single-Family Residential) to RU-1-7 (Single-Family Residential). The property is 0.69 acres, located on the south side of Bevis Road, approximately 540 feet south of Lucas Road. (No assigned address. In the Merritt Island area.) (18PZ00123) (District 2)

Dale Townsend, Jr. – My name is Dale Townsend, Jr., 1435 Taurus Court, Merritt Island, Florida. Right now, this property is two different zonings, RU-1-9 and AU, and neither one of them conform. The AU doesn't fit the acreage and RU-1-9 doesn't fit the lot size, so we're trying to rezone it to RU-1-7 to make it fit and make it all uniform into one lot, and then we want to build an 800 square-foot, two-bedroom house for my mother. The area has five houses around it, two houses are under 800 square feet, and the other three are over 800 square feet, so that's pretty much what the area is supporting.

Dane Theodore – What is the minimum square footage?

Dale Townsend, Jr. – 700 square feet, but she's trying to build an 800 square-foot house. We're just wanting a house so my mom can be closer, right now she's in Texas.

No public comment

Ben Glover – I'll make a motion to approve the applicant's request.

Brian Hodgers – Second.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.